UNITED STATES OF AMERICA

Congressional Record

PROCEEDINGS AND DEBATES OF THE 105th CONGRESS
FIRST SESSION

VOLUME 143—PART 9

JUNE 24, 1997 TO JULY 7, 1997
(PAGES 11891 TO 13463)

UNITED STATES GOVERNMENT PRINTING OFFICE, WASHINGTON, 1997

For sale by the Superintendent of Documents, U.S. Government Printing Office
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HOUSE OF REPRESENTATIVES—*Tuesday, June 24, 1997*

The House met at 9 a.m.

MORNING HOUR DEBATES

The SPEAKER. Pursuant to the order of the House of January 21, 1997, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member except the majority and minority leader limited to not to exceed 5 minutes.

The Chair recognizes the gentleman from Michigan [Mr. BONIOR] for 5 minutes.

UNFAIR LABOR PRACTICES CHARGE UPHELD BY FEDERAL COURT

Mr. BONIOR. Mr. Speaker, I want to show a headline in the Detroit Sunday Journal. It says, "Guilty, Judge Rules Paper Calls Strike. Ten Unfair Labor Practices Charge Upheld."

For almost 2 years now, over 2,000 families in Detroit have been on strike or have been locked out by the two largest newspaper chains in the country, the Detroit News and the Detroit Free Press, represented by Gannett and Knight-Ridder, 2,500 families, not able to support their families, feed their families, live a normal life. This strike has torn apart our community.

But it is the community that came together over this period of time culminating in the verdict that was handed down by this Federal judge that said that these two large national corporations, Knight-Ridder and Gannett, violated, violated and were guilty of breaking the law and unfair labor practices.

What was the response to that? Well, the response, Mr. Speaker, was that last weekend Action Motown put together a teach-in at Wayne State University that was packed, overflowing crowds. The next morning we went out and we protested at the homes of the CEO's who lived in Grosse Pointe. We protested at the police station in Sterling Heights, MI, where those police officers engaged in brutality against the workers who were striking at the plant.

Then, Mr. Speaker, after these actions, over 100,000 people, we expected 50,000, but over 100,000 came out and marched in the streets of Detroit culminating in a rally in downtown Detroit where speakers from all over and workers from all over the country came. They came from Hawaii; farm workers came from California; steelworkers came from Pennsylvania; teachers came from New York, standing together in solidarity with their brothers and sisters who are trying to give their children the hope and the dignity of being afforded the opportunity to be represented in this society.

We are losing our economic democracy, if we indeed have ever had it in this country. Little by little, benefits for people are being chipped away. They are being taken away in terms of health benefits. Mr. Speaker, 3,500 kids a day in America lose their health insurance because these types of corporations, the transnationals, the multinationals, the big corporations, are dropping health insurance. They are losing their pension benefits. Wages for 80 percent of our people in this country have been frozen for about the last 20 years. The top 20 percent are doing well, but the rest are lagging behind.

So, Mr. Speaker, we said in this march and in this rally that we are coming together. It is happening all over the country. It is an untold story out there that people are organizing, whether it is in California with the strawberry workers or the poultry workers in North Carolina. Mr. Speaker, whether it is textile workers in the South or manufacturing workers or steelworkers in West Virginia or Ohio, or those at Caterpillar in Decatur and in western Illinois, people are coming together to recognize what is happening in this economy. Those in the top are doing very, very well, but the other 80 percent of America is struggling.

So, I want to commend those who put on Action Motown, those who came together to organize on behalf of their brothers and sisters. They made a difference. They made a big difference. The Free Press' and the News' circulation has dropped by more than 50 percent since the strike began. Since the strike began, it has dropped more than 50 percent. They have lost over a half a billion dollars.

When people act in unison, they have power. What we have to do is empower the people, the workers. They have a voice and they should be heard and they were heard this past weekend.

So, I want to say to the Tom Bray's and the Joe Stroud's and the Jaske's and the Vega's and the Giles's and all the top executives at Knight-Ridder and Gannett: Obey the law, obey the law; you have been found guilty. Put those people back to work so they can take care of their families so we can bind the wounds in our community.

Mr. Speaker, this is not me speaking; these were community leaders that were there. There were religious leaders there. There were labor leaders there. There were people who want to bind the wounds in our community. Obey the law. They were proven guilty. They should obey the law and put these people back to work.

TRIBUTE TO IDAHO NATIONAL GUARDSMEN KILLED OR INJURED IN FLOOD RELIEF EFFORTS

The SPEAKER pro tempore (Mr. COLLINS). Under the Speaker's announced policy of January 21, 1997, the gentleman from Idaho [Mr. CRAPO] is recognized during morning hour debates for 3 minutes.

Mr. CRAPO. Mr. Speaker, in recent weeks, Idahoans have banded together to save homes and neighborhoods and communities from encroaching flood waters. We face what is literally the flood of the century and maybe the flood of the last 200 or 300 years.

But, Mr. Speaker, I am saddened to report that last week during the assistance efforts, two Idaho Air National

Guardsmen were killed and one seriously injured when the helicopter they were in crashed. Maj. Don Baxter and 1st Lt. Will Neal were killed when the helicopter they were in went down. CWO Shelby Wuthrich survived the crash and was pulled from the wreckage by a local citizen, Sherry Lang.

Major Baxter had just taken command of the Idaho National Guard operations to assist in the flooded areas. His brother tells me that Don died doing what he loved most, flying and serving other people.

Will Neal also was an exemplary guardsman and was enthusiastic about assisting others in trouble. I was able to visit with Shelby in the hospital this last weekend, and the doctors are still determining the extent of his injuries and rehabilitative efforts; but he has a tremendous will and spirit, one that will help him to come to resolution with this tragedy.

I also want to commend all the others who responded to the crash site. Their quick response is a strong testament to the community's spirit.

The thoughts and prayers of all Idahoans are with the families of these three men. They were performing a great service, working for the good of the community and helping others in trouble when this tragedy occurred. I know that all the Members of the U.S. House of Representatives will join me in sending their prayers and in keeping their thoughts and prayers focused on these men and sending our condolences to the Baxter, Neal, and Wuthrich families. Truly, this is the kind of rugged individualism, the kind of integrity and character that Idahoans and Americans exemplify when facing disaster threats.

AMERICANS FAVOR TAX RELIEF FOR MIDDLE CLASS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from California [Mr. MILLER] is recognized during morning hour debates for 3 minutes.

Mr. MILLER of California. Mr. Speaker, later this week, this Congress will make a choice about the future of America. As we debate the tax bill, we will have to make a choice between the Republican plan that assumes that the rich do not have enough money and that working families have too much, or we can choose the Democratic plan that believes what we ought to do with the tax cuts is try to help working families educate their children, take care of their children, provide for child care, and reinvest in America. Those are the two visions: The Republican plan that will give people who earn more than $250,000 an average benefit of $27,000 and will cost people that are earning $17,000, $18,000, and $20,000 real money.

That is the difference in a vision of America. To take people who now have done very well in the stock market and decide that, when they had no expectations of capital gains, we should provide them a reduction on the profits that they make, while we should not provide tax relief to low-income working Americans.

That is the choice and a vision of America. We have got to decide whether or not we are going to use the resources that we have saved as a result of the balanced budget efforts that we have made over the last 5 years, whether or not those should be shared with working families in this country, or whether or not they ought to be lavished on the rich who simply do not need it. It is a matter of how we use those resources and how we promote families.

We clearly know in this Congress what the American people want. They have said it over and over again in the polls that they want us to use the resources of the country to improve the educational opportunities for their children, to reduce crime, to protect the Medicare benefits for the elderly, and to balance the Federal budget. But that is not the choice that the Republicans are taking this week.

In fact, what they are doing is racing to pay back those who have supported their campaigns by lavishing reductions in capital gains tax, estate tax and getting rid of the corporate alternative minimum tax which says that for those large corporations that have huge write-offs, even they must pay something for the privilege of being in America. Then we will go back to the days when corporations pay no taxes no matter how much money they make. That is not equity. That is not fairness. That is the not the choice of the American people.

Mr. Speaker, we need to provide more equity, we need to provide more fairness. The No. 1 thing that the Americans demand of their Tax Code is fairness so that we know that everybody is contributing their fair share to making this the greatest country in the world. But that is not what the Republican tax bill does. The Republican tax bill heads off in another direction. It decides that those who are the wealthiest, those who are the richest should get the most, and those who are working hard, young families to raise children, should get the least. Somehow that just is not fair.

TAX CUTS SHOULD GO TO MIDDLE CLASS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentlewoman from Michigan [Ms. STABENOW] is recognized during morning hour debates for 3 minutes.

Ms. STABENOW. Mr. Speaker, I rise also to strongly support the middle-class working families of my district in Michigan getting a tax cut at the end of this week. When all is said and done and we have debated fully the question of who should receive tax relief this week, my vote will be with the middle-class working families in my district.

Mr. Speaker, I am very pleased as a new Member from Michigan to have been a part of this historic balanced budget agreement, and in that agreement we carved out a net $85 billion to be given in tax relief. The question now before us is where that goes. While we came together in a bipartisan way on the issue of balancing the budget, we now see great philosophical differences as to where to put tax relief. This is where the big split in terms of vision between the parties comes.

The Republicans voted a bill out of committee that targets the relief, the majority of the relief, to those receiving more than $250,000 a year with the outdated notion that, if you give to the wealthy, it will trickle down to all of us. That happened in the 1980's and did not work.

The policies of the 1990's under President Clinton have been to focus dollars directly into the pockets of middle-class workers and those who are working hard to get into the middle class, and I truly believe that is how we provide economic stimulus in the country and that is how we make sure that those who need tax relief receive it.

Mr. Speaker, the people in my district would like some tax relief help in sending their children to college. They want to make sure once they are there, they are not penalized; that they can protect the equity in their home and, if they sell it, they will not be taxed. They are concerned about child care for their children, that they receive some help for child care; that if they have a small business that they have worked all their life for, that the capital gains relief will be targeted to small businesses; and, if they pass away, that the estate tax relief will be targeted to small businesses, family-owned businesses and family-owned farms.

Mr. Speaker, I want very much to take that tax relief and put it directly in the pockets of people who are working hard to care for their families, working hard for a good quality of life and people who have worked hard all of their lives to contribute to create jobs in the community and to contribute to a business or a family-owned farm. That is the way we will keep this economy in America going. If we do not have a strong middle class, we will not have a strong economy.

The people in my district are tired of seeing the majority of tax breaks go to those at the top. People working hard every day deserve tax relief, and I am going to be fighting all this week to help make sure that they are the ones that receive it.

DEFICIT REDUCTION

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from Michigan [Mr. STUPAK] is recognized during morning hour debates for 3 minutes.

Mr. STUPAK. Mr. Speaker, when I first got here back in 1993, it was August of 1993, the Democratic President and the Democratic House put forth a deficit reduction plan. At that time we did not receive any votes from our friends on the other side of the aisle. We received no Republican votes.

Mr. Speaker, that deficit reduction plan that we passed in 1993 has worked. The deficit of this country was 290-some billion dollars. We are now down to $67 billion. We are on the verge of finally balancing this budget. Many of us feel, since we are so close to balancing this budget, that there should be no tax breaks until we actually balance the budget. Unfortunately, because of agreements made, we are going to have a balanced balance agreement, at least we have a blueprint, and now we can see the problems developing in that blueprint. Now we have two tax bills. One would give huge breaks to the wealthiest 5 percent of this country while working families struggle to make ends meet.

Mr. Speaker, underneath this 5-year balanced budget plan we have one bill for entitlement reform and one bill for tax breaks. But if we are going to give tax breaks, they must be limited, they must be targeted, and they must benefit families. Unfortunately, the GOP tax plan benefits the wealthiest 5 percent of this country. By that I mean those people who make more than $250,000 a year.

On Monday, Mr. Speaker, the New York Times warned that the GOP plan would, and I quote, "Shower tax cuts on the Nation's wealthiest families." But as conservative political commentator Kevin Phillips, who worked in the Reagan White House, warned last week, he said that the Republicans are determined, quote, "to slash the capital gains tax, the estate tax, the corporate alternative minimum tax, and some other provisions important to those people who write campaign checks." He said that on the Morning Edition of National Public Radio on June 19.

Last Sunday, this past Sunday, President Clinton urged Republicans instead to work with Democrats and pass a tax bill that, quote, "meets the real needs of middle-class families providing help for education, for child rearing, and for buying and selling a home. That is the kind of targeted tax relief we should have."

Unfortunately, Mr. Speaker, the Republican tax bill has and will have a devastating impact on working families. This week we are probably going to have this debate even more on the House floor. This week the Center for Budget and Policy Priorities finds that the combined GOP tax bill and budget bill gives a $27,000 a year annual windfall to the top 1 percent of this country. The top 1 percent gets a $27,000 windfall, and the bottom 20 percent of American families will lose, will lose, Mr. Speaker, $63 under the Republican tax plan.

TAX FAIRNESS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from Massachusetts [Mr. OLVER] is recognized during morning hour debates for 3 minutes.

Mr. OLVER. Mr. Speaker, in the next few days we are going to learn something about tax fairness here in America. We are going to learn something about the heart and soul of the two major political parties, my party, the Democratic Party, and the other party, the Republican Party. We are going to learn who each of those parties defends and who each of those parties serves and who each of those parties is willing to fight for.

Mr. Speaker, almost 2 months ago, the President and the budget leadership from the two major parties reached agreement on a balanced budget by the year 2002, and they agreed on a tax cut, to boot, in that process. Now there is a lot of disagreement as to exactly who is supposed to get that tax cut, but the amount of the tax cut is agreed upon by both parties over a 5-year period and a 10-year period.

Let me put that at family level. There are roughly 100 million families in America, and the agreement calls for roughly $100 billion of tax cut over 5 years. That is roughly $1,000 per family.

Now, the Democratic Party and the Republican Party have different plans for how that tax cut is supposed to be given to the American people, and I want to compare the Republican plan with the Democratic plan by treating 20 families, just 20 families across the income scales, from the lowest income level to the highest income level, where under the agreed plan there is roughly $2,000 to be distributed to 20 families.

Mr. Speaker, in the Republican plan, the highest income single family among those 20 families, out of the $20,000 that is to be distributed, would get about $8,000 out of that. And if we add the next three families to it, so we have the four highest income families out of the 20 spread across the whole spectrum of American life, they would get almost two-thirds of the tax reduction. Four families out of 20, 20 percent of the families, would get two-thirds of all of the tax reduction.

In the Democratic plan those same four families would get $6,000 among those four families, or about 30 percent of the tax reduction. At the other end of the scale, the eight families at the lower end of the income brackets, which represent 40 percent of all Americans, they would get zero out of the Republican tax reduction plan. In the Democratic tax reduction plan, they would get almost 25 percent of the tax reduction.

TAX BREAKS FOR THE WEALTHY

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from New Jersey [Mr. PALLONE] is recognized during morning hour debates for 3 minutes.

Mr. PALLONE. Mr. Speaker, sometimes a cartoon says it all, and over the weekend a cartoon appeared in the Home News and Tribune and the Asbury Park Press in New Jersey and its message was right on target. It shows two characters from the TV show "The Simpsons" both reading the newspaper with the headline, "GOP Tax Plan"; but Mr. Burns, as a representative of the rich, says, "Excellent," while Homer Simpson, as the symbol for the middle class, can only respond by saying "Duh."

This really sums up the way the American people will react to the tax bill being pushed by our Republican colleagues. If taxpayers happen to be wealthy, if they are somebody who does not have to worry too much about making ends meet or paying for their kids's education, then this plan is for them. If, on the other hand, they are part of the vast majority of the American people in the middle class or the lower end of the income scale and they could use a little help, well, under the GOP plan they are just out of luck.

Another generalistic analysis appeared in yesterday's New York Times under the headline "Study Shows Tax Proposal Would Benefit the Wealthy," with the subhead, "Wider gap is seen between rich and poor." The Times reports that the 5 million wealthiest families in our country would gain thousands of dollars, while the 40 million families with the lowest incomes would actually lose money, with the effect of widening the already growing gap between the richest and the poorest families as a result of the Republican tax plan.

The Times article cites a study that was conducted by the Center on Budget and Policy Priorities of the tax plan approved by the Republicans last month in the House Committee on Ways and Means. And although the Committee on Ways and Means' Republican staff disputes the Center's study, the Republican staff calculations conveniently cover only the first 5 years before the big tax breaks for the wealthy start to kick in well into the next century.

The rapid growth of these provisions favoring the wealthy, phased in later to hide their true extent, indicates that the revenue cost for this Republican tax scheme will explode in the outyears threatening not only the balanced budget that the Republicans claim to support, but also threatening vulnerable programs such as Medicare and Medicaid.

Mr. Speaker, I have to say that far more outrageous than these tax breaks for the wealthy is what the Republican tax plan does to the least affluent working families, those struggling just to get in or stay in the middle class. The Republican bill denies a $500 child tax credit to more than 15 million working families because it does not let them count the credit against their payroll taxes. Those are the taxes that are deducted from a worker's paycheck.

Some of our Republican colleagues have claimed that working families who qualify for the earned income tax credit are welfare recipients and, Mr. Speaker, this is an outrage. The people who qualify for the earned income tax credit are working people, as the words "earned income" attest.

No less a conservative than Ronald Reagan himself praised the EITC as a great incentive for helping people make the transition from welfare to work. And I have to say, Mr. Speaker, this week we are trying to illustrate, as Democrats, in human terms the implications of the Republican tax scheme.

I have in New Jersey a woman named Debra Hammarstrom, a resident of Toms River, NJ. She is the divorced mother of two children. I am going to continue this later, Mr. Speaker, because I am very opposed to this tax plan.

HOW RELIABLE IS THE CONSUMER PRICE INDEX?

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from Florida [Mr. STEARNS] is recognized during morning hour debates for 5 minutes.

Mr. STEARNS. Mr. Speaker, I rise today to talk about something that has received a great deal of attention today, and that is the consumer price index, or CPI. Basically, what I am doing today is calling for a hearing here in Congress so that we may better understand it.

The CPI is known to most Americans as the most notable measure of inflation. A number of Federal Government programs are regularly adjusted to account for changes in the CPI, including the Social Security, veterans' benefits, Federal retirements, and the income tax rate schedule. The CPI is also employed in the private sector as a price or lease escalator.

Unfortunately, the CPI, which has so many important consequences for all Americans, is also greatly misunderstood. Most Americans do not know what the CPI stands for, much less how it is calculated and what its consequences are.

As a matter of brief instruction, the CPI is a Bureau of Labor Statistics measure of inflation. Established by the BLS in 1913, the CPI is based on a number of sample surveys. The surveys estimate the purchasing power and patterns of typical households, the shopping patterns, the prices on goods and services purchased by these households. In short, it is a Labor Department check on 71,000 different items at 22,000 different retail outlets.

Because of its enormous base and its political neutrality, the CPI has always been considered reliable. As a result, the CPI permeates every aspect of our daily lives and is embedded in nearly every essential Federal budgetary matter. It is estimated that changes in the CPI affect the incomes of over 70 million Americans.

Mr. Speaker, given this far-reaching effect, consensus over the accuracy of the CPI results in inevitable turmoil. All of a sudden Americans are either richer or poorer, benefits are either overstated or understated, income taxes are maladjusted, the poverty line is incorrect, and on and on and on.

Such a scenario is not only confusing but troubling. Unfortunately, such is the current climate. Last year the celebrated Boskin Advisory Commission issued a Senate-ordered report that estimated the CPI overestimates inflation by 1.1 percent per year. Instantly, Americans are wealthier, taxes are too low, the economy has been growing faster than we thought, and the budgetary world is just a little bit rosier.

Or is it, Mr. Speaker?

Certainly, the CPI is not perfect. How can the commission measure inflation without an error? The answer is simple. They cannot. It is generally understood that the CPI is not perfect, that it does, in fact, overstate inflation to some degree. Nevertheless, it is foolish to assume that the error is fixed at 1.1 percent. Probably it is much lower some years; much higher in other years.

The CPI is a complex measure of the real rate of inflation. As such, it is not an accurate cost-of-living measure. Put simply, the CPI is not subjective, while the cost or benefit of living is.

Economists cannot put a price or a cost on quality-of-life issues. For example, it is obvious that medical care is more expensive than it was 30 years ago, but it is also better. Diseases are better understood and easier to diagnose. Surgery is less dangerous and we simply live longer and healthier lives. So while the costs may have increased, so did the benefits or goods.

In simple terms many of the goods, although the same in theory, are truly quite different; a comparison of apples to oranges.

This is just one of a number of apparent blind spots on the CPI, blind spots that are recognized by everyone including the Boskin Commission. So while the Boskin report certainly recognizes deficiencies of the CPI, it also notes the folly in attempting to put an exact figure in the change in the cost and quality of living. Those who point to the report as evidence of a need to adjust the CPI are quick to point to the CPI's admitted deficiencies, but are slow to point out that the discrepancy is inherently subjective and impossible to calculate.

Lawrence Katz, a Harvard University economist and the former top economist at the Labor Department, warns against quick adjustments in either direction. He warns that it is "logically inconceivable" that the bias has been a consistent 1.1 percent for an extended period of time. In other words, inflation and the standard of living are going up but not at the same rate and not even at the same pace.

To say the least, we should be very careful about what we are doing. It would be far better for our country if we were to return the debate surrounding CPI revision to the economists and to the universities where it belongs. Congress should instead address the real problems that face our Nation by balancing the budget and paying off the national debt.

Nevertheless, Mr. Speaker, I urge my colleagues to consider and to study the CPI in great depth and, Mr. Speaker, I call for a hearing here in Congress so that the American people can better understand the experts.

WHO BENEFITS FROM THESE TAX CUTS?

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentlewoman from Connecticut [Ms. DELAURO] is recognized during morning hour debates for 5 minutes.

Ms. DELAURO. Mr. Speaker, this is an important week in the House of Representatives. There is going to be a discussion and a debate and a vote on a tax cut. Democrats and Republicans are supporting tax cuts. I will repeat that. Democrats and Republicans are supporting tax cuts. The issue and the discussion and the debate will be about, from these tax cuts, who benefits? Who are the people in this country who are going to be the beneficiaries of this tax relief or these tax cuts?

In fact, Mr. Speaker, there is a difference between the Republican tax cut proposal and the Democratic tax cut proposal. The Republican tax proposal hurts working, middle-class families. That is the truth, plain and simple. While my colleague on the other side of the aisle will stand in the well of this House and say otherwise, it is not, in fact, the truth.

Here are the facts about the Republican tax proposal. Let me just mention recent, within the last couple of days, newspaper articles that talk about these tax proposals. Quote: Before Congress votes on anything, however, it should get its facts right. The Republicans present bogus, false, bogus, wrong tables suggesting that their tax package is fair. The tables stop before the cuts that favor the wealthy on capital gains, inheritance taxes, and retirement accounts take hold. The tables suggest that the middle-class reaps most of the benefits, but independent analysts say that about 50 percent of the cuts will go to the richest 5 percent of taxpayers.

Further newspaper account: The changes in Federal tax and benefit policies now working their way through Congress would eventually be worth thousands and thousands of dollars a year to the 5 million wealthiest families in America, while the 40 million families with the lowest incomes would actually lose money, a new study shows. The effect would be to widen the gap between the richest and the poorest families, a division that has been growing for the past 20 years.

Mr. Speaker, working and middle-class families are going to be given the short end of the stick from the Republican tax cut proposal. Two-wage-earner families who now have a child care tax credit, these folks are going to be penalized. These are two people in the work force who take advantage of a child care tax credit because they have to send their children for child care. They are going to be penalized by the Republican tax cut proposal.

The Republican bill hurts working families by denying minimum wage to those who are struggling to make the transition from welfare to work. Instead of being rewarded for work, people are going to be treated as second class citizens and not be paid the minimum wage. The Republican bill hurts students by providing $15 billion less for the education initiatives, for the HOPE scholarships, that were promised in the budget agreement. Middle-class working families are going to be hurt.

Mr. Speaker, who is benefiting from these tax cuts? Big business and the wealthy under the Republican tax proposal. It helps big business by scaling back something called the alternative minimum tax by $22 billion. This was a tax that was supposed to ensure that the largest corporations in this country pay at least some tax. But now the Republicans want to scale it back and phase it out completely for some businesses. That means that some businesses would have a zero tax obligation.

Further, over half of the benefits, as I have said, go to the top 5 percent of America. These are the facts. Again, Mr. Speaker, do not take my word. Republican pundit Kevin Phillips, a conservative political commentator, has said, "Republicans are determined to slash the capital gains tax, the estate tax, the corporate alternative minimum tax and some other provisions important to the people who write the campaign checks." Mr. Speaker, it clearly identifies who they want to help.

The Democratic package is focused on middle-class families. It provides the majority of its benefits to families who are making less than $100,000 a year. It also includes $37 billion for tax credits to help students to pay for college. It provides relief to small businesses, homeowners, and farmers in the form of targeted capital gains and estate tax cuts. Finally, the bill does not allow for the explosion of the deficit in later years.

Mr. Speaker, in this budget debate, it is clear whose side the Republicans are on: big business and the wealthy. In fact, it is the Democrats who can say and stand with pride and talk about how we are trying to provide tax relief for those people, working middle-class American families, who every single day are getting up and going to work and paying taxes and therefore need to have tax relief so that they can afford to raise their kids, educate them, pay for their health care, and help to pay for their retirement security.

RECESS

The SPEAKER pro tempore. There being no further requests for morning hour debates, pursuant to clause 12, rule I, the House will stand in recess until 10 a.m.

Accordingly (at 9 o'clock and 37 minutes a.m.) the House stood in recess until 10 a.m.

□ 1000

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. RADANOVICH] at 10 a.m.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Help us, O God, to experience anew the gift of Your blessing so that each hour becomes an hour of grace and each day becomes a day when our spirits are refreshed. Enable us, O gracious God, to put aside the burdens and difficulties and errors that have held our spirits captive and free us to be good custodians of the resources of our land and be faithful guardians of the worth of every person. With gratefulness and with thanksgiving, we offer these words of prayer. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. HEFLEY. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Chair's approval of the Journal.

The SPEAKER pro tempore. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HEFLEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, further proceedings on this question are postponed.

The point of no quorum is considered withdrawn.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Ohio [Mr. TRAFICANT] come forward and lead the House in the Pledge of Allegiance.

Mr. TRAFICANT led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain ten 1-minutes from each side of the aisle.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1515

Mr. JACKSON of Illinois. Mr. Speaker, I ask unanimous consent to remove my name as a cosponsor of H.R. 1515, the Expansion of Portability and Health Insurance Coverage Act of 1997.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

CHINA MFN

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, I rise this morning to urge my colleagues to join me in support of House Joint Resolution 79, to disapprove the extension of most-favored-nation status to China.

The Chinese have enjoyed most-favored-nation status for more than 17 years, yet they continue to turn a blind eye to unspeakable human rights violations; they continue to proliferate weapons of mass destruction to countries such as Pakistan and Iran and other countries which support terrorism. They continue to blatantly violate our existing trade agreements. Still, there are those who would argue that the way to solve these problems is to extend MFN status and to maintain the status quo.

Mr. Speaker, we have tried leading by example and the Chinese Government has made it abundantly clear that they are not willing to change. Mr. Speaker, Americans should not be forced to accept the cavalier conduct of the People's Republic of China. I rise to urge my colleagues to vote yes on House Joint Resolution 79.

ALS RESEARCH

(Mr. CAPPS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CAPPS. Mr. Speaker, yesterday, along with my colleague, the gentleman from New York [Mr. GILMAN], I introduced a bill to help persons suffering with ALS, or as it is more commonly known, Lou Gehrig's disease.

ALS is a progressive disease that currently afflicts 30,000 Americans each year. Our bipartisan bill will make Medicare more accessible to them, covering drugs to treat ALS symptoms. The bill will also double Federal funding for research.

The terrible nature of ALS was brought home to me recently through a very close friend of mine, Tom Rogers of Santa Barbara, CA, who is courageously fighting this disease. Tom was an inspiration to me well before this ever happened, but he is an able and compelling legislator whose heroism during this time has been an inspiration to our entire community.

It is to my good friend Tom Rogers and others suffering with ALS across the country that the gentleman from New York [Mr. GILMAN] and I dedicate this effort. Mr. Speaker, I ask my colleagues to support this critically important legislation.

IN SUPPORT OF THE BUDGET RECONCILIATION PACKAGE

(Mr. BLILEY asked and was given permission to address the House for 1 minute.)

Mr. BLILEY. Mr. Speaker, I rise today to speak in favor of both the balanced budget and tax cuts. In other words, I am here to speak in favor of the reconciliation package which we will be considering later this week.

Before Republicans took control of Congress, it was thought impossible to both balance the budget and cut taxes. However, this week we will begin to consider the excellent tax bill of the gentleman from Texas, Chairman ARCHER, which accomplishes both objectives. This bill provides for a $400-per-child tax credit next year which will increase to $500 per child in 1999.

My colleagues remember this $500-per-child tax credit, do they not? It is the same tax cut that President Clinton campaigned on in 1992 just before he passed, without one Republican vote, the largest tax increase in American history. It is also the same tax cut which Republicans campaigned on in the Contract With America in 1994. However, unlike the President, we made good on our promises. We made good last year, when the President vetoed the first balanced budget in more than 25 years and we are making good on this promise this week when the House votes on the spending reconciliation bill.

TAX CUTS SHOULD TARGET WORKING FAMILIES

(Mr. MCGOVERN asked and was given permission to address the House for 1 minute.)

Mr. MCGOVERN. Mr. Speaker, this week Congress will be voting on two very different tax proposals, a Republican bill and a Democratic bill. As we debate the substance of these bills, we must answer a very simple question: Who benefits?

The Republican tax bill directs nearly 60 percent of its benefits to the top 5 percent of all taxpayers, those with an average income of $250,000. At the same time, the GOP bill eliminates the minimum tax that corporations are required to pay, denies the per-child tax credit to 15 million working families, and skimps on tax relief for college students. The New York Times has noted that the Republican bill "barely eases the strain on middle-class families, while showering the rich with benefits."

I support the Democratic alternative tax cut. The Democratic tax cut targets nearly three-fourths of its benefits to middle-income working families, those with incomes less than $58,000 per year. Most important, it provides the full $1,500 education tax credit that President Clinton has requested.

Mr. Speaker, I urge my Republican colleagues to abandon their massive windfall for the wealthy, and to target tax cuts to the middle-income working families who deserve a break.

FIGURES PUBLISHED BY JOINT COMMITTEE ON TAXATION

(Mr. HUTCHINSON asked and was given permission to address the House for 1 minute.)

Mr. HUTCHINSON. Mr. Speaker, every time there is a tax cut proposal, Republicans stand up and explain that the tax cuts would mainly go to the middle class, while the liberals argue exactly the opposite, that the tax cuts go mainly to the rich. Who is right?

I will explain the arguments and let the American people decide. According to Republican figures and according to the figures published by the nonpartisan Joint Committee on Taxation, 76 percent of the tax cuts in the Republican tax cut proposal go to people earning less than $75,000. I will repeat that. Seventy-six percent of the tax cuts go to people earning less than $75,000 a year.

Now, it is important to look at the assumptions used in this calculation. If the household earns $75,000 a year, that should be scored as a household earning $75,000. But according to liberal thinking, and scoring using tricks and bogus numbers, a household only earning $45,000 a year is scored as earning $75,600 per year. That is imputed earnings that cooks the numbers. Now, you decide who is right.

IRS MICROMANAGING AMERICA'S UNDERWEAR

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, an IRS manager in Florida has imposed a new rule: No cotton clothing below the waist. One IRS agent said, "It is so hot down here, I am roasting my buns off." Unbelievable, the IRS is now micromanaging America's underwear. Think about it. Liens on leotards, the seizures of BVD's, foreclosures on pantyhose, on and on and on.

There is one good thing, Mr. Speaker: Now the IRS is finally getting a dose of their own medicine. How does it feel? How do they like losing their shorts, like the rest of us? Maybe now the IRS will realize that having your assets seized is not all it is cracked up to be, Congress.

In closing, I recommend the following therapeutic advice to the IRS: Take two aspirins and two trays of ice cubes down your jockey shorts and see what it is really like. You will have a better sleep and you will feel better in the morning.

LIBERAL DEMOCRATS, MEET SEINFELD

(Mr. HEFLEY asked and was given permission to address the House for 1 minute.)

Mr. HEFLEY. Mr. Speaker, can my colleagues imagine a conversation between George Kastanza and Jerry Seinfeld about tax cuts? The level of absurdity would compare to what I am hearing on the House floor today about trying to give a tax cut to those who do not pay any taxes.

Now, everyone familiar with Seinfeld knows that George can have a rather warped view of reality at times and Jerry likes nothing better than to point out his distorted views. Can you just imagine out-of-work George, before he got hired by the Yankees, saying how he feels cheated because he is not getting a tax cut? Then Jerry would ask, "How could that be?" He would ask, "How much taxes do you currently pay?" And George would say, "Zero." And Jerry would say, "In other words, you pay no taxes but you want a tax cut." And George would say, "Exactly." And that is when Jerry would say, "Oh, boy."

And there we have it: Liberal Democrats, meet Jerry Seinfeld.

REPUBLICAN TAX PLAN BENEFITS WEALTHY

(Mr. MILLER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MILLER of California. Mr. Speaker, I think the Republicans have finally discovered what their tax cut plan does and they are going through contortions this morning to try to explain it otherwise.

As the New York Times said yesterday, the study shows that the proposal would benefit the wealthy. Five million of America's wealthiest families would get most of the benefit, and 40 million working families would lose money at the end of the year or get little or no benefit.

These are families who wake up and go to work every morning and try to provide for their family and pay taxes. But under the Republican plan, they would not be entitled to share in the tax cut, they would not be entitled to share in the benefits of the struggle to balance the budget in this country.

Instead, what the Republican plan would do and what every study shows, it would take most of the money and give it to families who are earning over $250,000 a year, who would get $27,000 in benefits. In fact, they would get more benefits than the salary of the 40 million families at the lower end.

TAXPAYERS OF AMERICA WANT TAX RELIEF

(Mr. JONES asked and was given permission to address the House for 1 minute.)

Mr. JONES. Mr. Speaker, most Americans do not feel that they are getting good value for their tax dollar. If people felt that the Government used their tax dollar wisely, to benefit those that truly need the help, they would not resent paying their share of the taxes.

But when the Government takes more and more of our money each year and all we get in return are more failed programs, more Government waste, and more money that goes straight into the pockets of special interests, that is when the taxpayer feels cheated.

The liberals have forgotten that the average working family spends more on taxes than the same average working family spends on clothing, housing, and food combined. The taxpayers want to be sure that their hard-earned tax dollars are being spent wisely and that they are helping their fellow citizens, who truly need the help.

Mr. Speaker, the taxpayers of America deserve tax relief. It is time to give the taxpayers tax relief.

□ 1015

FICA TAXPAYERS SHOULD BE INCLUDED IN TAX RELIEF

(Mr. HOYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOYER. Mr. Speaker, I rise to talk about Jerry Seinfeld and George Kastanza and those people who do not pay taxes. The Republicans believe if you do not pay income taxes, you do not pay taxes. I ask 50 percent of the working Americans, hard-working Americans who only pay FICA, 7 percent off the top gross, "Do you pay taxes?"

Mr. Speaker, I have three daughters, two of whom are in that category. They pay taxes. That is what the President is talking about. That is what Democrats are talking about. Yes, they ought to be included in tax relief, because those hard-working Americans are earning just enough to stay above water, and they need help; not the folks who are making $75,000, $150,000, $275,000 and $500,000. But in addition to that, Mr. Speaker, watch out. Watch out. Because what this tax bill does is it starts to really hit in the seventh year in terms of undermining our ability to get the deficit under control. In the second 10 years, it explodes in terms of tax benefits for the wealthiest in America and the deficit will be paid by the poorest working Americans in America.

AMERICA NEEDS TAX RELIEF TO REMAIN LAND OF OPPORTUNITY

(Mr. TIAHRT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TIAHRT. Mr. Speaker, few issues are more closely linked to the idea of freedom than the issue of taxation. If America is to remain the land of opportunity, it can only be so if the people are free, free from a government that stands in the way of Americans pursuing their dreams. My family came to Kansas as immigrants in 1893. They arrived virtually penniless. But they knew that through hard work, the sky was the limit. They followed the Kansas motto, "Ad astra per aspera," to the stars through difficulty. Like others, they came to America to escape limits on their freedoms, whether religious, economic, or political, and they came to pursue their dreams.

But when a government takes more and more of the fruits of our labor, it becomes more and more difficult to pursue our dreams. The Government's power to tax Americans, to take away from our dreams, has grown too great. It is time to cut back on the Government's power. It is time to bring back the idea that America is the land of opportunity.

TAX CUTS FOR ALL AMERICANS

(Mr. GEJDENSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEJDENSON. Mr. Speaker, the debate here is rather simple. The question is, as the elected representatives of the people of this country, is it our responsibility to make it easier for those who are walking into the showrooms where they sell Mercedes or people who are trying to buy a Ford Escort and send their kids to school?

If we listen to our friends in the majority party, the Republicans, they believe that we were sent here to cut taxes for the top 1 percent by tens of thousands of dollars. The estimates are in news reports that the top 1 percent will get a $27.000 tax cut while the bottom 20 percent will actually lose money on the proposal that came out of the Committee on Ways and Means.

Mr. Speaker, this country is the most productive, wealthiest country in the world because we have provided opportunity at all levels of our economy, not just continuously shifting the burden to the poorest working people in America. Tax cuts and making it easier for middle-class and working people are what this Congress ought to be about.

REJECT MFN FOR CHINA

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Mr. Speaker, I urge my colleagues to reject most-favored-nation trade status for China. An increasing volume of evidence signals that this policy of engagement has failed to create democratic changes in China, nor has it helped our own national interest.

While we blindly extend MFN to China, that Communist regime continues its aggressive foreign policy. China challenges all measures of civilized international behavior. It has sold chemical weapons and missiles to terrorist nations. Domestically, the Communist regime that rules China continues to treat its citizens with ruthless brutality. Any type of religious events are brutally brought down by the regime. Catholic priests have been murdered; women are forced to have abortions.

Even President Clinton admits that the human rights situation has not improved despite assurances that engagement will improve the lives of the Chinese.

While China reaps the benefits from trade with the United States, we have a $40 billion trade deficit with Communist China with no evidence that it will decrease in the near future. Both Democrat and Republican administrations continue to stubbornly praise a one-way engagement by the United States. The United States can do much better.

COMPETING TAX CUT PROPOSALS

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, the Democratic tax cut program says to families who work and who pay taxes, "Yes, you are entitled to a tax cut, to a child tax cut." That is what we will provide for you. The Republican tax proposal says to the richest corporations of this country, "We will lower your tax obligation and in fact many of you will have a zero tax obligation." That is what the Republican tax proposal says.

Do not take my word for it. Listen to conservative political commentator Kevin Phillips:

"Republicans are determined to slash the capital gains tax, the estate tax, the corporate alternative minimum tax, and some other provisions important to the people who write the campaign checks."

Mr. Speaker, those are not my words but a conservative Republican political pundit who says those. In addition to that, tonight my Republican colleagues have scheduled a million-dollar fundraising dinner on the eve of the vote for their tax cut proposal. It makes perfect sense. Rich contributors will be able to thank the Republicans for crafting a program that helps them.

REPUBLICAN TAX PROPOSAL

(Mr. MICA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICA. Mr. Speaker, we hear countless speeches today about taxes. We hear that the debate over taxes is about fairness, it is about special interests, about the struggles of the middle class, about the American dream, about compassion and about justice. Yes, this debate is about all those things. But from my way of looking at things, this debate is principally about freedom. It is not a difficult concept. It is not an idea that requires an advanced degree or lengthy training. It is simply this. If you let people keep more of their own money, they will have more freedom to live their lives as they see fit. Letting people keep more of what they earn will allow Americans to save, to build a better future for themselves and their families, and to realize the American dream. That is what the Republicans have proposed. No more, no less.

PASS TAX RELIEF BILL FOR TAXPAYERS

(Mr. WELDON of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WELDON of Florida. Mr. Speaker, I have heard of people with a poor sense of direction, but this is ridiculous. Apparently there are some people in Washington who cannot tell the difference between money that comes out of your pocket and to Washington, and money that comes from Washington and into your pocket.

Taxpayers send money to Washington. Washington sends money to people on welfare. In the first case, the direction of the money is out of your pocket. In the second case, the direction is into your pocket. A tax cut is when less money comes out of your pocket and goes to Washington. If no money is coming out of your pocket, you are not sending money to Washington, DC.

I almost feel I am in the middle of an idiot test. Taxpayers are never confused about the direction their tax money is going. Let us stop this nonsense about giving a tax cut to people who do not pay income tax. Let us pass the tax relief bill for American taxpayers.

SUPPORT A BILL TO PROTECT KIDS AGAINST TOBACCO USE

(Mr. BISHOP asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BISHOP. Mr. Speaker, today we will introduce a bill to protect our kids against tobacco use. It is called the Tobacco Use by Minors Deterrence Act and it will stop access by children to tobacco. It is a model law tying health funds for States to their efforts to keep tobacco away from our kids. It outlaws the sale to or possession by kids of tobacco products. It requires parental notification of violations by kids. It provides civil fines and loss of driver's license for kids who are caught. It provides loss of license to sell by retail outlets for repeated infractions. It requires training of employees, posting of notices, lock-out devices for vending machines. In short, it provides for a shared responsibility by kids, families, law enforcement, and retailers to protect the health, safety, and welfare of our kids against tobacco use while protecting the right of informed adults to make a choice.

Mr. Speaker, I urge my colleagues to consider supporting this. It is a win-win situation. It protects our kids against tobacco but at the same time it protects a legal product with adult choice.

TIME TO CELEBRATE FIRST TAX CUT IN 16 YEARS

(Mr. SMITH of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Michigan. Mr. Speaker, 4 years ago when I first came to this Chamber, the debate was whether or not to increase taxes on Americans in this country by $250 billion over that 5-year period? Tomorrow I think we all should celebrate, Republicans and Democrats, because Congress is passing the first tax cut in 16 years. We talk about whether it is for the rich or the poor, but it seems to me that some of our focus should be on what is going to be the kind of tax incentives that result in better and more jobs that pay more, that allow the individual to have a larger paycheck and increase their standard of living.

Here is my opinion. This country became great because we had a system where those that worked hard and tried and made an effort and saved and invested ended up better off than those that did not. Now we have got people suggesting we should have a tax system to level the playing field, to punish those that saved and invested and to reward those that did not. We should celebrate our tax cut tomorrow. That gives tax cuts to working American families.

INTRODUCTION OF BILL ENCOURAGING TECHNOLOGY IN THE CLASSROOM

(Mr. VENTO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VENTO. Mr. Speaker, today I rise to recognize the fact that along with the gentlewoman from Maryland [Mrs. MORELLA], I am joining in cosponsoring a bill dealing with technology, technology in the classroom for the 21st century.

I am pleased to join in this bill. I think it is very important, not just to have the computers and the hardware there. Of course, I think so many classrooms across the country do not even have a telephone in them these days when we talk about computers. The fact is that having the hardware and having this good hardware in the classroom is important, but we also need to teach teachers to use that particular technology, teach both those that are in college today and those that are in the classroom.

I noticed one of the most important experiences I had as a young educator fresh out of college after doing well enough in college was the fact that I was awarded National Science Foundation scholarships. That enabled me to teach in many areas and to improve my ability to teach at that time in the 1960's. Those experiences were very valuable to me, and I think this bill that we are introducing, the Teacher Technology Act, will be valuable to students in the 21st century and teachers.

REPORT ON H.R. 2016, MILITARY CONSTRUCTION APPROPRIATIONS ACT, 1998

Mr. PACKARD, from the Committee on Appropriations, submitted a privileged report (Rept. No. 105–150) on the bill (H.R. 2016) making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 1998, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

The SPEAKER pro tempore (Mr. RADANOVICH). All points of order are reserved on the bill.

RIEGLE-NEAL CLARIFICATION ACT OF 1997

Mrs. ROUKEMA. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 1306) to amend the Federal Deposit Insurance Act to clarify the applicability of host State laws to any branch in such State of an out-of-State bank, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Senate amendments:

Page 2, lines 2 and 3, strike out "Clarification" and insert "Amendments".

Page 2, line 5, before "Subsection" insert:

(a) ACTIVITIES OF BRANCHES OF OUT-OF-STATE BANKS.—

Page 3, strike out lines 3 through 7 and insert:

"(3) SAVINGS PROVISION.—No provision of this subsection shall be construed as affecting the applicability of—

"(A) any State law of any home State under subsection (b), (c), or (d) of section 44; or

"(B) Federal law to State banks and State bank branches in the home State or the host State.

Page 3, after line 10 insert:

(b) LAW APPLICABLE TO INTERSTATE BRANCHING OPERATIONS.—Section 5155(f)(1) of the Revised Statutes (12 U.S.C. 36(f)(1)) is amended by adding at the end the following:

"(C) REVIEW AND REPORT ON ACTIONS BY COMPTROLLER.—The Comptroller of the Currency shall conduct an annual review of the actions it has taken with regard to the applicability of State law to national banks (or their branches) during the preceding year, and shall include in its annual report required under section 333 of the Revised Statutes (12 U.S.C. 14) the results of the review and the reasons for each such action. The first such review and report after the date of enactment of this subparagraph shall encompass all such actions taken on or after January 1, 1992.".

Page 3, after line 10 insert:

SEC. 3. RIGHT OF STATE TO OPT OUT.

Nothing in this Act alters the right of States under section 525 of Public Law 96–221.

Amend the title so as to read: "An Act to amend Federal law to clarify the applicability of host State laws to any branch in such State of an out-of-State bank, and for other purposes.".

Mrs. ROUKEMA (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from New Jersey?

There was no objection.

The SPEAKER pro tempore. Is there objection to the original request of the gentlewoman from New Jersey?

Mr. VENTO. Mr. Speaker, reserving the right to object, I would take this opportunity to acknowledge changes that were made in this time-sensitive legislation by the other body.

I yield to the gentlewoman from New Jersey [Mrs. ROUKEMA], the subcommittee chairman, for an explanation.

□ 1030

Mrs. ROUKEMA. Mr. Speaker, on May 21, 1997, the House considered H.R. 1306, the Riegle-Neal Clarification Act of 1997. It was considered under suspension of the rules. The bill passed the House unanimously and without controversy. This bill had strong bipartisan support and clarifies the ambiguities of the Riegle-Neal interstate bill and preserves the dual banking system by allowing an out-of-State branch of a State bank to offer the same products allowed in its home State as long as the host State banks or national bank branches in the State may exercise those same powers.

In addition, the bill provides that the host State law will apply to those out-of-State branches to the extent that it also applies to national banks.

This bill does not authorize, and I stress this, does not authorize new powers for State banks. It preserves the right of a State to decide how banks it charters and supervises are operated and what activities those banks can conduct.

On June 12, 1997, the Senate passed H.R. 1306 with the following amendments: First, retitles the bill as the Riegle-Neal Amendment Act of 1997; second, ensures that a Federal law that applies to a State chartered bank also applies to branches of that bank and other States; third, requires the Comptroller of the Currency to include in its annual report to Congress a review and report of actions taken with regard to the applicability of State law to branches of national banks, including a review of all such actions taken since January 1, 1992; and fourth, and finally, it preserves a State's right to opt out of the Depository Institutions Regulatory and Monetary Control Act of 1980. That act authorized State chartered banks to charge interest rates comparable to those available to federally chartered banks.

H.R. 1306's intent was to provide parity between national and State chartered banks in an interstate environment as well as to ensure the viability of the dual banking system is unaffected by the Senate's changes and those changes are acceptable, it is my understanding, to both the majority and the minority members of the Committee on Banking and Financial Services.

It is essential that this legislation be enacted into law as soon as possible. On June 1, interstate branching became effective in 48 of the 50 States. In the interstate environment that now exists, State banks will be at a distinct disadvantage to national banks if we fail to take this action today. Failure to remedy this disadvantage will certainly have a negative and counterproductive effect on our dual banking system.

Mr. VENTO. Further reserving the right to object, Mr. Speaker, the House passed H.R. 1306 on suspension calendar on June 1. The deadline for State action to limit interstate branching within the States was June 1, and although we are a bit tardy, this bill is no less important to maintain the viability of State bank charters today, than it was in May.

As has been explained by the subcommittee chairman, the title was changed, the application of Federal law to out-of-State State banks is further clarified. A State's right to opt out of the Depository Institutions Deregulation and Monetary Control Act was preserved, and, importantly, as this measure does not impact the Comptroller of the Currency's administration of national banking law resulting in the preemption of State laws when such preemption is warranted for national banks, thus opening up preemption capabilities for out-of-State State banks, the Senate amendments propose that an annual report be required of the OCC to show when and where preemption of State law took place in a previous year.

Mr. Speaker, I have no objection to this, and I urge support for the bill.

Mr. Speaker, reserving the right to object, I would like to take this opportunity to acknowledge that changes were made to this time-sensitive legislation by the other body, and would yield to the subcommittee chairwoman, Mrs. ROUKEMA from New Jersey, for an explanation.

Continuing my reservation, the House passed H.R. 1306 on the suspension calendar in an attempt to enact law prior to June 1, 1997, the deadline for State action to limit interstate branching with the States. Although we are a bit tardy, this bill is no less important to maintain the viability for the State bank charter today, than it was in May.

As has been explained, the title was changed; the application of Federal law to out-of-State State banks was further clarified; a State's right to opt out of the DIDA [the Depository Institutions' Deregulation and Monetary Control Act] was preserved; and, importantly, as this measure will not impact the Comptroller of the Currency's administration of national bank law resulting in the preemption of State laws when such preemption is warranted for national banks—thus opening up preemption capabilities for out-of-State State banks—the Senate amendments propose that an annual report will be required of the OCC to show when and where preemption of State law took place in the previous year.

Mr. Speaker, I will not object to moving this bill which will help preserve a healthy dual banking system. I withdraw my reservation to object and ask my colleagues for their support on this measure, H.R. 1306 as amended.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. RADANOVICH). Is there objection to the original request of the gentlewoman from New Jersey?

There was no objection.

A motion to reconsider was laid on the table.

AUTHORIZING EXTENSION OF AUTHORITY TO USE THE ROTUNDA FOR CEREMONY COMMEMORATING THE PLACEMENT OF THE PORTRAIT MONUMENT

Mr. THOMAS. Mr. Speaker, I ask unanimous consent that the authorization contained in House Concurrent Resolution 216, which was passed in the 104th Congress, relating to the use of the rotunda for a ceremony to commemorate the placement of the Portrait Monument in the Capitol rotunda, be extended into this, the 105th Congress, subject to concurrence by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. HOYER. Reserving the right to object, Mr. Speaker, and I will not object, but if there is any further explanation necessary, I will yield to the gentleman from California.

Mr. THOMAS. Mr. Speaker, since the Portrait Monument was actually placed in the rotunda in the 105th Congress we had created an opportunity for a ceremony in the 104th. Given the rules since the 104th expired, there is no current ability to hold a ceremony. What we are asking for is to bring that ceremony authorized in Concurrent Resolution 216 into the 105th, based upon concurrence by the Senate.

Mr. HOYER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

CORRECTIONS CALENDAR

The SPEAKER pro tempore. This is the day for the call of the Corrections Calendar.

The Clerk will call the bill on the Corrections Calendar.

FEDERAL BENEFICIARY CLARIFICATION ACT

The Clerk called the bill (H.R. 1316) to amend chapter 87 of title 5, United States Code, with respect to the order of precedence to be applied in the payment of life insurance benefits.

The Clerk read the bill, as follows:

H.R. 1316

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DOMESTIC RELATIONS ORDERS.

Section 8705 of title 5, United States Code, is amended—

(1) in subsection (a) by striking "(a) The" and inserting "(a) Except as provided in subsection (e), the"; and

(2) by adding at the end the following:

"(e)(1) Any amount which would otherwise be paid to a person determined under the order of precedence named by subsection (a) shall be paid (in whole or in part) by the Office to another person if and to the extent expressly provided for in the terms of any court decree of divorce, annulment, or legal separation, or the terms of any court order or court-approved property settlement agreement incident to any court decree of divorce, annulment, or legal separation.

"(2) For purposes of this subsection, a decree, order, or agreement referred to in paragraph (1) shall not be effective unless it is received, before the date of the covered employee's death, by the employing agency or, if the employee has separated from service, by the Office.

"(3) A designation under this subsection with respect to any person may not be changed except—

"(A) with the written consent of such person, if received as described in paragraph (2); or

"(B) by modification of the decree, order, or agreement, as the case may be, if received as described in paragraph (2).

"(4) The Office shall prescribe any regulations necessary to carry out this subsection, including regulations for the application of this subsection in the event that 2 or more decrees, orders, or agreements, are received with respect to the same amount.".

The SPEAKER pro tempore. Pursuant to the rule, the bill is considered read for amendment.

COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

The SPEAKER pro tempore. The Clerk will report the amendment recommended by the Committee on Government Reform and Oversight.

The Clerk read as follows:

Committee amendment in the nature of a substitute: strike out all after the enacting clause and insert:

SECTION 1. DOMESTIC RELATIONS ORDERS.

Section 8705 of title 5, United States Code, is amended——

(1) in subsection (a) by striking "(a) The" and inserting "(a) Except as provided in subsection (e), the"; and

(2) by adding at the end the following:

"(e)(1) Any amount which would otherwise be paid to a person determined under the order of precedence named by subsection (a) shall be paid (in whole or in part) by the Office to another person if and to the extent expressly provided for in the terms of any court decree of divorce, annulment, or legal separation, or the terms of any court order or court-approved property settlement agreement incident to any court decree of divorce, annulment, or legal separation.

"(2) For purposes of this subsection, a decree, order, or agreement referred to in paragraph (1) shall not be effective unless it is received, before the date of the covered employee's death, by the employing agency or, if the employee has separated from service, by the Office.

"(3) A designation under this subsection with respect to any person may not be changed except——

"(A) with the written consent of such person, if received as described in paragraph (2); or

"(B) by modification of the decree, order, or agreement, as the case may be, if received as described in paragraph (2).

"(4) The Office shall prescribe any regulations necessary to carry out this subsection, including regulations for the application of this subsection in the event that 2 or more decrees, orders, or agreements, are received with respect to the same amount.".

SEC. 2. DIRECTED ASSIGNMENT.

Section 8706(e) of title 5, United States Code, is amended——

(1) by striking "(e)" and inserting "(e)(1)"; and

(2) by adding at the end the following:

"(2) A court decree of divorce, annulment, or legal separation, or the terms of a court-approved property settlement agreement incident to any court decree of divorce, annulment, or legal separation, many direct that an insured employee or former employee make an irrevocable assignment of the employee's or former employee's incidents of ownership in insurance under this chapter (if there is no previous assignment) to the person specified in the court order or court-approved property settlement agreement.".

Mr. MICA (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida [Mr. MICA] and the gentleman from Maryland [Mr. CUMMINGS] each will control 30 minutes.

The Chair recognizes the gentleman from Florida [Mr. MICA].

Mr. MICA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today and at this time is a time we have designated for technical corrections. This is a procedure that was instituted by the Republican leadership when we assumed majority control of the Congress, and it is an effort to try to expedite legislation technical in nature but necessary for the conduct of business both for the Congress and in the operation of our Federal Government, and that is the purpose of our proceedings here this morning.

Today we take up a bill in rapid order. It has moved through our Subcommittee on Civil Service and through the full Committee on Government Reform and Oversight to the floor today in rapid time and was introduced by the distinguished gentleman from Georgia [Mr. COLLINS]. And let me say, Mr. Speaker, that this bill, H.R. 1316, addresses an inequity in the Federal Government Employees Group Life Insurance program.

Under current law, domestic relations orders such as divorce decrees or property settlement agreements do not affect the payment of life insurance proceeds. Instead, distribution of the proceeds is controlled by statute. When the policyholder dies, the proceeds are paid to the beneficiary designated by the policyholder, if there is one, or to other individuals specified by statute.

H.R. 1316, which again is introduced by the gentleman from Georgia [Mr. COLLINS], amends the law to require that the Office of Personnel Management should pay the proceeds in accordance with certain domestic relations orders or court-approved property settlements. This is similar to the law's treatment of retirement annuities, which the Office of Personnel Management must also allocate in accordance with divorce decrees.

The bill also allows courts to direct an employee to assign the policy to a specific individual identified in a domestic relations order or court-approved property settlement agreement. Thus, employees will not be able to frustrate these orders by terminating the policy.

Mr. Speaker, the technical corrections made in this legislation, H.R. 1316, provide a greater protection for former spouses of Federal employees and children of previous marriages.

This bill has a broad bipartisan support, and I want to take just a moment to commend the gentleman from Maryland [Mr. CUMMINGS], the distinguished ranking member of the Subcommittee on Civil Service, for his work and leadership in expediting this legislation. I also want to thank other members of the committee, including the gentlewoman from Maryland [Mrs. MORELLA], the gentleman from New Jersey [Mr. PAPPAS], our vice chairman, and others who are not on the committee, the gentleman from Virginia [Mr. WOLF], the gentleman from Virginia [Mr. DAVIS], and others who have supported expediting of this legislation to benefit our Federal employees.

Mr. Speaker, I reserve the balance of my time.

Mr. CUMMINGS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support H.R. 1316, which does nothing more than make a technical correction in the Federal Employees Group Life Insurance Program. I want to thank the gentleman from Georgia [Mr. COLLINS] and the gentleman from Florida [Mr. MICA], our distinguished chairman, for their leadership in bringing this very important measure to the House floor today.

As the gentleman from Florida [Mr. MICA] indicated, this bill simply ensures that a domestic relations order issued by a court is considered a binding designation of a beneficiary by an employee's agency or the Office of Personnel Management. Under current law, domestic relations orders such as divorce decrees or property settlement agreements do not affect the payment of life insurance proceeds. Instead, when the policyholder dies, the proceeds are paid to the beneficiary designated by the policyholder, if any, or to other individuals as specified by statute.

Because an employee could still frustrate the court order by terminating the policy, the bill was amended in committee to allow courts to direct the employee to assign the policy to a specific individual.

I also want to take time, Mr. Speaker, to recognize those people in our committee on our side. Of course, the gentleman from Florida [Mr. MICA] has already recognized the members on the Republican side, but the gentleman from Tennessee [Mr. FORD] and the gentlewoman from the District of Columbia [Ms. NORTON] were also very instrumental in bringing this resolution to the House floor as swiftly as we have.

Mr. Speaker, I reserve the balance of my time.

Mr. MICA. Mr. Speaker, I yield 3 minutes to the gentleman from Georgia [Mr. COLLINS], the distinguished author of this legislation.

Mr. COLLINS. Mr. Speaker, I thank the gentleman from Florida for yielding me this time.

Mr. Speaker, H.R. 1316 will amend the Federal Employee Group Life Insurance Act and ensure that there is a level playing field between State laws that govern private insurance and Federal statute that provides guidelines for life insurance policies held by Federal employees.

This legislation will clarify that a domestic relations order, issued by a court, is considered a designation of beneficiary in the event that no designation of beneficiary has been filed.

Currently, if a Federal employee dies without properly naming a beneficiary for their life insurance policy, the law provides a strict prioritized list of individuals that are eligible to receive the benefits of that policy. Unlike most State laws, the Federal Code does not provide for consideration of an existing court decree that may link that policy to a beneficiary as a part of a settlement agreement. There are real instances where this inequity in Federal law is causing confusion for Federal employees who are beneficiaries. This legislation will correct this inconsistency and ensure that a court decree is given appropriate consideration.

The Department of Health and Human Services, the Child Support Division and the Office of Personnel Management have reviewed the legislation and do not oppose this change. I have appeared before the Corrections Advisory Group chaired by the gentleman from Michigan [Mr. CAMP] and have their support, and during the 104th Congress this is actually part of the Omnibus Civil Service Reform Act as reported by the committee, and additionally the legislation was favorably reported by the Subcommittee on Civil Service, Committee on Government Reform and Oversight.

My thanks to the gentleman from Florida [Mr. MICA], the gentleman from Indiana [Mr. BURTON], and the gentleman from Maryland [Mr. CUMMINGS] and the committee group, committee members, for their support and work on this bill at the subcommittee and committee levels.

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I appreciate the opportunity to bring this bill, H.R. 1316, before the House for consideration and urge my colleagues to support this important legislation.

Mr. Speaker, I yield back the balance of my time.

Mr. CUMMINGS. Mr. Speaker, I yield 3 minutes to the gentleman from Maryland [Mr. HOYER], dean of the Maryland delegation, who has worked over the years on these issues and played a major, major role in this House.

Mr. HOYER. Mr. Speaker, I thank the gentleman from Maryland [Mr. CUMMINGS], the distinguished ranking member, for yielding.

Mr. Speaker, I rise in strong support of this legislation and congratulate the gentleman from Georgia for bringing this forward. I regret that I did not focus on it earlier, for I would, and have discussed with the committee, an additional what I believe to be also a technical correction.

This deals with life insurance; it does not, however, impact the annuity payment of a survivor that would also be part of a domestic relations divorce or domestic agreement resolution. As a result, I want to thank the gentleman from Florida [Mr. MICA], chairman of the committee, and the staff, as well as the gentleman from Maryland [Mr. CUMMINGS], both of whom I have talked to about this problem.

It was too late in the cycle and we would have slowed this bill down, but we did not want to do that, because this is effecting an excellent solution to an existing problem. But I want to thank the chairman for agreeing to address this issue in future legislation. It is my understanding that there will be some legislation coming along, either in July or shortly thereafter, and I believe this is an important step forward, but I believe the spouse, in a resolution of a case dealing with the annuity as opposed to life insurance, finds themselves in exactly the same situation as it relates to their ability, pursuant to court order, and/or pursuant to agreement, particularly when that court order incorporates an agreement of the parties. It seems perverse that we do not have the same kind of positive dealing in that instance.

So I congratulate the gentleman from Georgia. I thank the chairman and the ranking member for their agreement to address that issue as soon as possible.

Mr. CUMMINGS. Mr. Speaker, I reserve the balance of my time.

Mr. MICA. Mr. Speaker, I yield myself such time as I may consume.

I would like to comment that I have committed to the gentleman from Maryland [Mr. HOYER] who indeed is a leader in civil service issues, to address the problem he has enumerated on the floor today. We look forward to working with him as we move new legislation through the Congress.

Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Michigan [Mr. CAMP].

Mr. CAMP. Mr. Speaker, as chairman of the Corrections Advisory Group, I am pleased to again appear before the House under the Corrections Calendar to correct an unintended consequence of current law.

Passage of this bill will once again place the scissors of efficiency on the hunt for redtape.

My distinguished colleague from Georgia, Mr. COLLINS, a fellow member of the Committee on Ways and Means, introduced H.R. 1316 on April 14, 1997, to correct what we all agree was an unintentional byproduct of Federal law affecting Federal employees.

There is a law of physics that says for every action there is an equal and opposite reaction. Unfortunately, there is no law that says these reactions must be beneficial.

Currently when a Federal beneficiary dies, the Federal life insurance benefits are granted to the individual named as beneficiary. If, however, no beneficiary has been named, there may be uncertainty and turmoil that can result. So in these trying times, families are often faced with difficult decisions on benefits and are made to face court challenges from others who seek to take advantage of the Federal employee's inaction in naming a beneficiary.

Unfortunately, under current law, State domestic relations orders such as divorce decrees or property settlements do not affect the life insurance payments of Federal employees if no beneficiary has been named. So the net effect of current law can punish children and family members because of the benefactor's failure to designate a new beneficiary.

H.R. 1316 could require the Office of Personnel Management to pay the Federal employee's insurance proceeds in accordance with State domestic relations orders. This would make sure that, in the event that no beneficiary had been named, the life insurance benefits are granted to family members and children as based on State court orders. This small change will ensure that family and children are cared for.

I want to thank the chairman and ranking member of the subcommittee and I want to thank my colleague, the gentleman from Georgia [Mr. COLLINS]. This is the second bill reported by the corrections committee to be considered on the House floor. The first, the nurse aide training bill, was introduced, passed by the House and Senate and signed into law in 2 months.

It is the unique quality of the corrections committee that brings these bills to the floor in a streamlined way.

The committee works in a bipartisan manner. We work with the committee chairs who handle these issues and we are able to forge a consensus among Members and bring needed improvements and changes to the House floor. This legislation before us today enjoys strong bipartisan support, and again I commend my colleagues for introducing this improvement to our Nation's laws.

Mr. Speaker, I urge my colleagues to adopt this bill.

Mr. CUMMINGS. Mr. Speaker, I yield myself such time as I may consume.

I want to address a few issues that the gentleman from Florida [Mr. MICA] spoke on. First of all, I want to thank the chairman for the bipartisan way in which he has worked with myself and the gentleman from Maryland [Mr. HOYER]. I think it is extremely important, the issues that he has brought up. And in that spirit of bipartisanship which we have shared since I have been the ranking member, I just want to thank the gentleman again for his cooperation, because I know it is a major issue for the gentleman from Maryland [Mr. HOYER] and many other people throughout the Nation.

Mr. Speaker, this noncontroversial legislation passed the House last year as part of the omnibus civil service bill. That comprehensive legislation was not enacted. Therefore, it is appropriate that we bring forward this bipartisan bill, and I urge my colleagues on both sides of the aisle to vote favorably.

Mr. Speaker, I yield back the balance of my time.

Mr. MICA. Mr. Speaker, I yield myself the balance of my time.

Just in closing, I would like to also thank again our ranking member, the gentleman from Maryland [Mr. CUMMINGS], for the bipartisan manner in which this legislation has been handled. I am pleased that we could participate in this Corrections Day in this manner and make a correction to legislation in a bipartisan fashion. It shows, first, that the Congress does work; and, second, that the government system does function when we see a problem that can be corrected, when we are all rowing in the same direction.

So I am pleased again for the leadership provided by the gentleman from Georgia [Mr. COLLINS] in introducing this legislation and the bipartisan support we have had in passing this legislation today, bringing it before the House.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. RADANOVICH). Pursuant to the rule, the previous question is ordered on the amendment recommended by the Committee on Government Reform and Oversight and on the bill.

The question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and (three-fifths having voted in favor thereof) the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MICA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 1316, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

DISAPPROVAL OF MOST-FAVORED-NATION TREATMENT FOR CHINA

Mr. CRANE. Mr. Speaker, pursuant to the order of yesterday, I call up the joint resolution (H.J. Res. 79) disapproving the extension of nondiscriminatory treatment—most-favored-nation treatment—to the products of the People's Republic of China, and ask for its immediate consideration in the House.

The Clerk read the title of the joint resolution.

The text of House Joint Resolution 79 is as follows:

H.J. RES. 79

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress does not approve the extension of the authority contained in section 402(c) of the Trade Act of 1974 recommended by the President to the Congress on May 29, 1997, with respect to the People's Republic of China.

The SPEAKER pro tempore [Mr. LAHOOD]. Pursuant to the order of the House of Monday, June 23, 1997, the gentleman from Illinois [Mr. CRANE], and a Member in support of the joint resolution each will control 1 hour and 45 minutes.

The Chair recognizes the gentleman from Illinois [Mr. CRANE].

GENERAL LEAVE

Mr. CRANE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous matter on House Joint Resolution 79.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. CRANE. Mr. Speaker, I ask unanimous consent to yield one-half of my time to the gentleman from California [Mr. MATSUI] in opposition to the resolution, and I further ask that he be permitted to yield blocks of time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER pro tempore. Is the gentleman from California [Mr. STARK] in favor of the resolution?

Mr. STARK. I am, Mr. Speaker.

I ask unanimous consent that I be yielded half of the time and that I be permitted to control that time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. STARK. Mr. Speaker, I ask unanimous consent to yield half of my time to the distinguished gentleman from Kentucky [Mr. BUNNING], and that he in turn be permitted to control that time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. BUNNING. Mr. Speaker, I ask unanimous consent to yield 15 minutes to the gentleman from New York [Mr. SOLOMON], chairman of the Committee on Rules and that he be permitted to control that time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Illinois [Mr. CRANE].

Mr. CRANE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to House Joint Resolution 79 because revoking China's MFN trade status would have the effect of severing trade relations between our two countries. My firm belief is that the free exchange of commerce and ideas offers the best hope we have to project the light of freedom into Communist China.

In deciding whether to continue MFN trade treatment for China, we must keep two objectives firmly in mind: First, improving the well-being of the Chinese people; and, Second, protecting the U.S. national interests with respect to a country that possesses one-fifth of the world's population and exploding economic growth.

This year we have the added responsibility of ensuring that United States policy does not undermine the transition of Hong Kong from British to Chinese sovereignty. All would agree some of the world's most flagrant abuses of human rights and violations of religious and political freedom occur in China.

My message today is simple. Change is not coming quickly to this huge nation, but historic advancements are being made. For 20 years after the Communists seized power in 1949, China was largely isolated. This was the era of the Great Leap Forward, when 35 million died of starvation and the Cultural Revolution, which saw hundreds of thousands of Chinese killed in political purges and forced internal exile.

Since the economic opening of China by Deng Xiaoping in 1980, living conditions in China have improved vastly. To give some perspective, in 1980, 260 million of China's 1.2 billion people lived in absolute poverty.

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In 1993 that figure was reduced by about 40 or over 40 percent to $160 million. Chinese citizens can now seek out their own jobs, move around the country, and discuss political matters, as long as they do not directly challenge the Government.

Focusing on freedom of worship for a moment, the virulently antireligious policies of the 1960's and 1970's have given way to a society that is open in large measure to the Christian message. Concerned that a few United States Christian organizations are actively advocating the revocation of MFN, a huge coalition of Christian missionaries and evangelical groups with years of experience actually serving in China have sent a powerful message to Congress. Their view is that by severing trade relations in China, it would result in a backlash against the Christian ministry in China, seriously harming their ability to reach the Chinese people.

Many would say today that preserving most-favored-nation status puts profit ahead of principle. This viewpoint contradicts what can be observed in the relationship between economic development and the expansion of democracy. Taiwan, South Korea, Singapore, and Hong Kong, to name a few Asian tigers, experienced economic success and rising living standards after opening their economies to international trade. In these countries, the elimination of severe poverty and the emergence of a middle class came well ahead of democratic political reform.

President Lee Teng-Hui of Taiwan has said:

> Vigorous economic development leads to independent thinking. People hope to be able to fully satisfy their free will and see their rights fully protected. And then demand ensues for political reform . . . the model of our quiet revolution will eventually take hold on the Chinese mainland.

Clearly China is a special case, but expanding United States commercial relations with China makes Chinese citizens less dependent on the central government for their livelihoods and in a better position to strive for freedom. As wealth is distributed throughout Chinese society, so is political power, away from the central government. Americans doing business in China have contributed to prosperity and at the same time they are continually able to transfer the values and ideals of freedom and democracy through direct contacts.

While preserving MFN trade status for China offers hope for improving the welfare of the Chinese people, it is also squarely in the United States national interest. With a fifth of the world's population, China's emergence as a global power early in the next century is a development of immense historical significance. Sharing borders with more countries, 14 to be exact, than any other country in the world, a peaceful China will be key to preserving stability in the Asia-Pacific region.

In order to protect national security interests into the next century, the United States must develop a policy that encourages China to be a friend and a valued trading partner, rather than an adversary isolated by comprehensive economic sanctions. Confronting China by revoking MFN would be interpreted by the Chinese leadership as an act of aggression. This would further strengthen the hand of those in China who oppose further reform, prompting behavior we seek to avoid.

If House Joint Resolution 79 were enacted into law, relations with the Government of China would deteriorate to the point that virtually all United States influence for the good would be lost. United States businesses which need a presence in China to support a successful Asian strategy would withdraw. Mirror trade sanctions would threaten the paychecks of 180,000 U.S. workers whose jobs are directly dependent on exports to China. Our foreign competitors in Japan and Europe would move briskly into the void created by this bill.

The alternative strategy which I support is to maintain trade relations and preserve a basis upon which to negotiate improvements in our relationship with China. Ambassador Barshefsky's successful resolution of the section 301 case against China for failing to protect United States intellectual property rights illustrates the value of preserving normal trade relations. Armed with the authority to raise tariffs in a selective, calibrated manner, Ambassador Barshefsky threatened $2 billion in targeted trade sanctions directly tied to specific, well substantiated violations. The result was an agreement by the Chinese Government to shut down 32 pirate plants and a commitment to undertake expanded enforcement drives in regions where violations of United States intellectual property rights are known to be the highest.

Finally, the unanimous view of leaders in Hong Kong, from Governor Chris Patten to the respected activist and chairman of the Hong Kong Democratic Party, Martin Lee, is that any reversal in China's MFN status would strike a devastating blow to the territory.

In 1996, over 56 percent of China's exports to the United States and 49 percent of United States exports to China passed through Hong Kong. Denying MFN to China would threaten 70,000 jobs in Hong Kong. At this extraordinarily delicate time, the people of Hong Kong deserve our steady and strong support for renewing China's MFN status.

Mr. Speaker, we should continue to participate in the dramatic and historic change that is taking place in China, so we can help shape it in our favor and in a way that supports our allies in Hong Kong and Taiwan in their struggle to preserve freedom. The Reverend Billy Graham, whose son Ned labors as a missionary in China, wrote last week:

> I am in favor of doing all we can to strengthen our relationship with China and its people. China is rapidly becoming one of the dominant economic and political powers of the world, and I believe it is better to keep China as a friend than to treat it as an adversary.

I urge my colleagues to vote "no" on House Joint Resolution 79.

Mr. Speaker, I reserve the balance of my time

Mr. STARK. Mr. Speaker, it is my privilege to yield 9 minutes to the gentlewoman from California [Ms. PELOSI], who has been a leader on the issue of trying to bring human rights and reasonable policy to China.

Ms. PELOSI. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I will start by saying that we all agree that the United States-China relationship is an important one, and that we want a brilliant future with the Chinese people, diplomatically, culturally, economically, politically, and in every way. However, the administration's policy of so-called constructive engagement is neither constructive nor true engagement.

President Clinton has said promoting Democratic freedom, stopping the proliferation of weapons of mass destruction, and promoting U.S. exports are pillars of our foreign policy. In each of these important areas, the administration's policy of so-called constructive engagement has not succeeded. In fact, there has been a marked deterioration, not improvement, under the administration's policy.

Certainly, we must have engagement. But I contend that our engagement must be sustainable engagement, engagement that enables us to sustain our values, sustain our economic growth, and sustain international security.

In my remarks this morning, Mr. Speaker, I want to debunk three myths about MFN and trade and human rights.

The first myth is that United States-China trade is a job-winner for the United States. This is an out-and-out hoax. This year President Clinton stated trade with China supports 170,000 United States jobs. That is the exact same number he cited last year. In 1995, it was 150,000 jobs, in 1994, it was 150,000 jobs, in 1993, it was 150,000 jobs. This is an economy with 127,850,000 people. This represents one-eighth of 1 percent of jobs in America and it is not growing, while our trade deficit continues to grow.

United States jobs are being lost through the Chinese Government's practices of requiring technology and production transfer. The Chinese Government is carefully and calculatingly building its own economic future by acquiring United States technological expertise. It allows into China only the goods it wants, and then through mandatory certification of the technology by Chinese research and design institutes, the technology is disseminated to Chinese domestic ventures. Not only does this practice not benefit U.S. workers who are left behind as the companies lose their own market share, but we are surrendering our own technology in the meantime.

As a condition of doing business in China, United States companies are often required to agree to export 70 to 80 percent of their production there. This, too, translates into a loss of U.S. jobs.

In the realm of intellectual property piracy, as Members know, despite the agreement the piracy is rampant, to the cost of $2.6 billion in 1996 alone. And that is not even figured into the huge trade deficit, which is projected to be $53 billion this year.

Others say that the jobs that are created in the United States are in the production here that goes to China for assembly. Not so. Do not take my word, but the word of Ken Lodge, the manager of Hewlett-Packard's Beijing subsidiary, when he says, "Over time, the use of North American suppliers will be turned off."

Experts tell us our intellectual property is our competitive advantage. We see what the Chinese are doing to our intellectual property. It is estimated that 97 percent of the entertainment software available in China is counterfeit. It is interesting that since 1996, Chinese capacity to produce pirated products has increased dramatically. In conclusion, the United States-China trade relationship is a job loser for the American worker.

Second, China is halting its proliferation of weapons of mass destruction, myth No. 2. The truth is that China continues to proliferate dangerous weapons of mass destruction technology to Iran, Libya, Iraq, Syria, and other dangerous countries, destabilizing regions of strategic importance to the United States. The transfer of this technology is a threat to United States troops based in the Persian Gulf, and a threat to the security of Israel. We spend billions of dollars to promote the Middle East peace, and that peace is jeopardized by this export policy on the part of China, which we are choosing to ignore.

In the case of Iran, 15,000 service men and women are within range of the C–802 missiles recently transferred by China to Iran. The C–802 batteries will give Iran a weapon of greater range, reliability, accuracy, and mobility than anything in their current inventory. This missile technology is in addition to biological and chemical warfare technologies recently transferred to Iran from China.

Mr. Speaker, I want to call to my colleagues' attention this quote, this cover piece from a report from the Office of Naval Intelligence, March 1997. It states:

> Discoveries after the gulf war clearly indicate that Iraq maintained an aggressive weapons of mass destruction procurement program. A similar situation exists in Iran, with a steady flow of materials and technologies from China to Iran. This exchange is one of the most active weapons of mass destruction programs in the Third World and is taking place in a region of great strategic interest to the United States.

In terms of Pakistan, the administration continues to turn a blind eye on China's proliferation of missiles to Pakistan. For 5 years the CIA has been carefully tracking the flow of China's M–11 missile components to Pakistan. The agency, the CIA, concluded that not only is China selling missiles, but it is also helping Pakistan build a factory to manufacture them. For the CIA, uncovering the plant represented a "first-class piece of spying," says a senior agency official, but because it does not want to disrupt the so-called improving relationship, the Clinton administration does not want to deal with this secret.

The CIA also turned up evidence that Beijing was reneging again on its promise not to spread these missiles into Pakistan. The agency maintains a vast network of informants in Asia who report on the movement of these weapons into the region. Last summer the CIA concluded that China had delivered to Pakistan not just missile parts, but also more than 30 ready-to-launch M-11's that are stored in cannisters at Sargodha Air Force base west of Lahore.

There is more on this I will submit for the RECORD, but other agencies of the intelligence community have all agreed on a Statement of Fact: A top secret document that has recently been in the press that concludes that China is helping to build this missile technology.

The third myth to debunk, Mr. Speaker, is that trade is improving human rights in China. Pro-MFN advocates continue to advance this notion of trickle-down liberty, even though the facts are to the contrary. Since Tiananmen Square, the State Department's own country reports have been dismal on this subject, and its own report in 1996, which was released this spring of 1997, contains an excellent description of the current state of human rights in China, but it is a sad one.

Mr. Speaker, I would draw Members' attention particularly to the statements in that report that—

> The (Chinese) government continued widespread and well-documented human rights abuses, in violation of internationally accepted norms, stemming from the authorities' intolerance of dissent * * *.

Overall in 1996, the authorities stepped up efforts to cut off expressions of protest or criticism. All public dissent against the party and government has been effectively silenced * * * even those released from prison were kept under tight surveillance and often prevented from taking employment or resuming a normal life.

Mr. Speaker, there is a report on religious persecution which the administration is sitting on until after this vote, which documents the violations of religions of the Buddhists, Catholics, Christians, Muslims, and the people of Tibet.

On MFN, the debate today is necessary because the administration has refused to use the tools at its disposal, and because the Chinese ship one-third of their exports to the United States, while allowing only 2 percent of our products into China. We have leverage. The Chinese regime cannot take their business elsewhere. One-third of all of their exports cannot find another market.

A vote for MFN today is a vote of confidence in a failing policy. Opposing MFN says that you believe that the status quo is not acceptable. Instead, we must have a policy of sustainable engagement with China, engagement which makes the trade fairer, the world safer, and the people freer. I urge my colleagues to oppose MFN by voting "yes" on House Joint Resolution 79.

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Mr. STARK. Mr. Speaker, will the gentlewoman yield?

Ms. PELOSI. I yield to the gentleman from California.

Mr. STARK. Mr. Speaker, I just want to see if there is not one other myth. There has been a myth that we have a different policy for Cuba than we do for China. But I do not think that is true, because I think the President continues to deny medicine and food to the children in Cuba at the same time that the President countenances children who are selected for starvation in China. So I see a very consistent policy in our administration toward both Cuba and China, and that is to ignore the plight of children in both of those countries.

Mr. Speaker, would the gentlewoman agree?

Ms. PELOSI. Mr. Speaker, I would agree. I want to emphasize that we are not advocating an embargo on China but threat of increased tariffs.

Mr. MATSUI. Mr. Speaker, I yield 3 minutes to the gentlewoman from Connecticut [Mrs. KENNELLY], who has been a leader on welfare reform, tax policy, trade policy, and health care.

Mrs. KENNELLY of Connecticut. Mr. Speaker, I rise in opposition to House Joint Resesolution 79 and speak in favor of our normal trading relationship with the People's Republic of China. Today's debate will have a complexity that goes far beyond what is in front of us, trade and emigration. On both sides, economic, political, strategic, and humanitarian differences abound, and yet we have allowed this one issue, most-favored-nation status, to be a referendum on U.S.-China relationship.

It has become the lens through which most Americans look and view the entire United States-China policy. Mr. Speaker, this is indeed unfortunate, because not only is China the largest emerging market in the world, it is also a potent political and military force. China's new leadership will shape, whether we like it or not, for better or worse, what happens in the Pacific rim, from Indonesia to Korea, from Australia to Japan, the course of events will be influenced daily by China.

So we must influence what happens in China. We will undermine our ability to shape not only our future but China's future if we withdraw from this situation. Without our influence, how will democratic values come to be accepted in China? Without our example, how will dissent come to be tolerated? Without our presence, how will religious liberties come to exist, without our active engage? How will human rights come to be respected? To the extent the United States has been a positive influence on China, it is because we have been there. We have been on the ground. We have been there to demonstrate to people who have been isolated from the world that there is another way.

And just as surely, Mr. Speaker, if we isolate China, so the Chinese people will lose, because they have benefited from a more open market, from exposure to cultural and ideological differences, from experience with Western business with better working conditions. There is no debate here today whether we must continue to highlight human rights abuses or point out that China will never be the world leader that it so craves to be if it continues to persecute its own people. Of course we must debate this. The debate though is how best to do it.

My answer is, we do it best by engaging with the Chinese, not from withdrawing from them. Change is occurring in China. Mr. Speaker, I was there earlier this year. I saw a nation, a nation that is vibrant, a nation that is colorful, a nation that is on the move. I saw people who were demanding, millions and millions of people demanding to be part of the marketplace.

Mr. Speaker, China is emerging. China is going to be a power. We have a duty here in this body to make sure we are an influence on China. We cannot withdraw from this debate. We cannot withdraw from China. Mr. Speaker, we might not like what is going on in all ways and aspects, but, Mr. Speaker, we have a duty to influence China.

Mr. BUNNING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Joint Resolution 79, the resolution of disapproval. We should definitely deny most-favored-nation trading status to China. The debate today is not just about China and the Chinese Government and its failure to live up to accepted standards of civilized nations. This debate is also about our own country, about what we are willing to stand up for. This debate is about principles, human rights, human decency. This debate today is about whether or not we as a Nation put trade before people and profits above principles. Where do we start a debate like this? Since the President initiated the recommendation to renew most-favored-nation trade status for China, let us start with his own State Department's findings.

In the country report on human rights for 1996, the State Department said, and I quote, the Chinese Government continued to commit widespread and well-documented human rights abuses in violation of internationally accepted norms, stemming from the authority's intolerance of dissent, fear of unrest and the absence or inadequacies of laws protecting the basic freedoms, unquote. It starts out pretty bad and things go downhill from there.

The supporters of MFN for China insist that we must stay engaged with China. We must be patient and engage China through continued trade. They will also be bringing up Hong Kong and the Chinese takeover on July 1 as a reason to stay engaged. From where I sit, China is a little too engaged already. It is engaged in transferring dangerous technology, enabling rogue nations to develop weapons of mass destruction.

The Chinese Government is engaged in providing Iran's advanced missile and chemical weapons technology, providing Iraq and Libya materials to produce nuclear weapons. It is engaged in providing missile related components to Syria and providing Pakistan's advanced missile and nuclear weapons technology. It is engaged in selling over $1.2 billion in arms to the military rulers of Burma. How much engagement do we need? But it does not stop here. There is much more.

The Chinese Government is engaged in a massive expansion of its own military machine, taking up where the Soviet Union left off, using the profits from trade with us to pay for it. The Chinese Government is engaged in brutal suppression of human rights at home. Evangelical Protestants and Catholics who choose to worship independently of state-sanctioned churches are harassed and in prison. The Chinese Government continues its brutal repression of the religion, people and culture of Tibet; slave labor, prison camps, forced abortions. If the government of China were any more engaged, the people of China simply would not be able to take it.

Nobody really disputes any of this. The big question is, what do we do about it? No one believes that simply denying most-favored-nation status is going to solve everything. Let us be honest about it. Denying MFN might not solve anything. But I do know that, if we believe in human rights, if we believe in human decency, we must respond somehow. We cannot allow such abysmal treatment and such callous disregard for human rights to go unnoticed or unanswered.

Denying MFN might not be a great answer, but it is the only one we have at hand today. We have to send a very strong message, even if it is a weak one; we have to stand for something, even if it is imperfect. And MFN is the only game in town.

This debate is not really that hard for the American people. In a poll taken by the Wall Street Journal and NBC news on June 10, it was discovered that 67 percent of American adults believe that the United States should demand improvement in Chinese human rights policy before granting an extension of MFN trading status to China. If Members choose today to oppose this resolution, if they choose today to vote for renewal of MFN, they have to first ignore the pain of the Chinese people and then they have to ignore the opinion of the American people.

Please do not put profits over principle, vote for the resolution of disapproval.

Mr. Speaker, I include for the RECORD the following:

U.S. IS FINANCING CHINA'S WAR PLAN

(By Timothy W. Maier)

Recent intelligence reports obtained by Insight indicate China's People's Liberation Army is picking up where the Soviets left off, moving to create a military leviathan designed for fighting in the South China Sea and built to destroy U.S. ships and aircraft. The Red Chinese are using the U.S. bond market to finance their military expansion.

China is making a statement in the Pacific that threatens several of America's most important allies and could force a showdown with the United States. The Red Chinese plan, say U.S. intelligence sources, is to expand its military hegemony to dominate trade in the South China Sea. It's called "power projection," and Pentagon officials, China experts and senior intelligence specialists privately are saying that it could erupt in bloodshed on the water.

These experts say the United States is facing a multibillion-dollar military threat. And, to complicate matters, it is being subsidized by the U.S. bond market, senior national-security officials tell Insight. It is money from American pension funds, insurance companies and securities that may never be paid back.

China's plan is militarily to dominate the first tier of islands to the west of Japan and the Philippines and then project its force to the next "island tier," leaving America's most important allies in the Pacific surrounded by the Chinese military and, short of nuclear war, defenseless.

Foreign diplomats tell Insight the move toward the second tier started two years ago when China's People's Liberation Army, or PLA, set up command posts on uninhabited islands near the Philippines. "They are drawing their line, basically saying this area is Chinese territory," a Philippine diplomat who is monitoring Chinese military movements warns.

An ancillary motive behind China's plan to expand its military hegemony by more than 1,000 miles to the southern part of the South China Sea, say regional experts, revolves around the Spratly Islands, believed to be rich in oil and natural gas. Countries already claiming part of the Spratlys include Taiwan, the Philippines, Malaysia and Vietnam. In addition, China has shown interest in Guam and a set of islands north of the Spratlys, which Japan claims. A further target, says the Philippine diplomat, is control of the Kalayaan Island group, dominating the supply routes to the Philippines and important logistically to resupply other islands.

"They are setting the building blocks to eventually make that power projection," says the diplomat, who asked not to be named. "These are the building blocks for controlling the sea lines on which all the countries in the region such as Taiwan and Japan rely for economic vitality. The Chinese want to constrict trade to break Taiwan and Japan be being able to cut off the oil supply. While they may not be a direct threat to the U.S., they are more than enough of a threat to smaller weaker countries including ourselves and Japan. . . . The U.S. has done nothing because there is no blood on the water—yet."

A Japan Embassy official, who spoke for the record but asked not to be named, says Japan has no intention of surrendering claims to its islands in the region. "It is clear the islands [Beijing wants] belong to us," the official says, adding that if China moves in this way Japan expects the U.S. to intervene. "We have been watching China's military very closely," says the official.

Arthur Waldron, a China strategy expert at the U.S. Naval War College in Newport, RI, says China has wanted to reclaim the South China Sea since 1950, but placed that mission on the back burner because it was trying to defend itself from a possible Soviet invasion. Most of China's troops were deployed along the Soviet border or near Tibet and Vietnam, countries that were armed by Moscow. But now that the Russian threat has been greatly reduced, Beijing strategically has revised its military strategy and reorganized the PLA aggressively to pursue its maritime expansion mission, as was evident last year when Red Chinese missiles were fired over Taiwan as a means of intimidating both Taipei and Washington.

"I think it's absolutely delusionary to think they can achieve that goal by military force, but for us not to take China's military seriously is extremely dangerous," Waldron warns. "That is exactly what the Chinese want us to do. This is such a very dangerous situation that [protection of the South China Sea] should be negotiated and settled by all the parties concerned."

In April, the House Intelligence Committee released a Department of Defense report called "Selected Military Capabilities of the People's Republic of China" which highlights similar concerns. The report claims China has focused on developing nuclear-weapons systems and advanced intelligence, surveillance and reconnaissance capabilities to "develop a capability to fight short-duration, high-intensity wars in the region" and defeat the U.S. Navy.

The report concludes that China will have the capacity "to produce as many as 1,000 new [ballistic] missiles within the next decade" and is developing land-attack cruise missiles as a high priority for strategic warfare.

A naval-intelligence report released in February warned of Beijing's emphasis on obtaining a sophisticated blue-water navy technology to achieve four objectives: First, safeguard what the PRC calls China's territorial integrity and national unity—this includes China's claim over Taiwan; second, conduct a possible blockade of Taiwan; third, defeat seaborne invasions; and fourth, create intercontinental nuclear retaliatory forces. Meanwhile, two Red Chinese fleets patrol the area—one within 20 nautical miles of the coast targeting the first tier of islands, and another patrolling the outer reaches of the East China Sea in the area of the Taiwan Strait, the February report says.

In a country with nuclear attack submarines, this could mean trouble. Also, China possesses accurate and stealthy ballistic and cruise missiles with multiple warheads—some of which are aimed at Los Angeles and either Alaska or Hawaii, according to U.S. intelligence officials. China's force-projection plans also include building modern aircraft carriers.

The architect behind this buildup, say Western intelligence sources, is the Soviet-educated Chinese navy commander, Gen. Liu Huaqing, 79, a hardliner whose family is reported to be heavily involved in international power-projection through trade with the West in the manner of V.I. Lenin's New Economic Plan. To China's neighbors Liu is the "power broker who calls the tunes," which fits with the widespread opinion among security experts that the PLA is the power behind the Chinese government.

Former Time journalists Ross Munro and Richard Bernstein claim in their recently published book, "The Coming Conflict With China", that Beijing's primary objective is to become "the paramount power in Asia" by tapping U.S. technology and using Russian military experts. The authors contend China has proceeded in its plan with the help of about 10,000 Russian scientists and technicians—some of them in China and others communicating through the Internet. Though some of this is official, the Russian government is known to be sharing some very sophisticated weapons technology to assist the PLA, not all of it is. "The Russian military-industrial complex, staffed by some of the world's best (suddenly underemployed and underpaid) minds in military technology, is so corrupt and so desperate for cash that everything seems to be for sale," Munro and Bernstein write. "In 1995, for example, there were reports that Chinese agents, paying bribes to staff members of a Russian base near Vladisvostok, obtained truckloads of plans and technical documents for Russia's two most advanced attack helicopters." The Chinese since have obtained intact nuclear weapons from Russia, according to intelligence reports.

Adm. Joseph W. Prueher, chief of the U.S. Pacific Command, testified before a House National Security Committee in March that China is not yet a threat because its military is about 15 years behind that of the United States. In light of the blow that the U.S. military might have delivered even 15 years ago, say defense experts, that hardly is comforting. And, Waldron says, this can be a dangerous presumption because history indicates it didn't stop Japan in 1941 or Saddam Hussein during the Persian Gulf War. In 1994, a war game at the Naval War College conceptualized a sea battle between the U.S. Navy and the PLA navy off of China's shores in the year 2010. The battle hypothesized that China continued to acquire military technology at a rapid pace. The game, which Pentagon officials have refused to talk about, ended with a PLA victory, according to reports in Navy Times.

"The U.S. Navy is very angry at the Clinton administration for not taking a more robust approach," Waldron says. "We should pay a lot more attention. It's a great mistake to think a country with a military only comparable to ours will not attack. I worry very much about what China will do."

China analysts and national-security officials say the operating officer at the heart of Beijing's master plan to seize hegemony over Taiwan, Japan, Okinawa, Iwo Jima, Saipan, Guam and the Philippines is Wang Jun—Clinton's Feb. 6, 1996, coffee-klatsch guest who has taken advantage of corporate greed by persuading American investors to pour billions of dollars into joint-venture projects that allow Wang to tap into the U.S. bond market, borrowing millions from American mutual funds, pension funds and insurance companies to support the war chest.

Wang chairs both PolyTechnologies, or Poly, the arms-trading company of the PLA, and China International Trust and Investment Corp., or CITIC, a $23 billion financial conglomerate that Wang says is run by China's government, or State Council. His dual control of CITIC and Poly (the PLA company caught last year allegedly smuggling 2,000 AK-47 assault rifles to U.S. street gangs) makes it difficult for American firms to know whose hand they are shaking. "He's a master of muddying the waters," says James Mulvenon, a China researcher at California-based Rand Corp. "American companies are playing a shell game."

Not surprisingly, CITIC officially has controlled Poly. The relationship dates back to 1984 when the PLA created Poly for arms trading and structured it under the ownership of CITIC in part to conceal Poly's link to the PLA, according to Western analysts. Wang is the son of Red China's late vice president and Long March veteran Wang Zhen. The president of Poly is Maj. Gen. He Ping, son-in-law of the late Deng Xiaoping. A former defense expert for the Chinese Embassy in Washington, He Ping is director of PLA arms procurement and chairs CITIC-Shanghai. A second major subsidiary of CITIC is CITIC-Pacific in Hong Kong, chaired by Rong Yung, son of China's vice president, Rong Yiren, who founded CITIC. In short, this is a high-level operation of the Beijing government directly connected to the men in charge.

With the help of CITIC-Beijing, He Ping engineered the billion-dollar sale of Chinese arms that included missiles to Saudi Arabia and short-range cruise missiles to Iran during the mid-1980s. That deal was assisted by the government-controlled China Northern Industrial Corp., or Norinco, which now is under investigation in the West for selling chemical-weapons materials to Iran for weapons of mass destruction, according to April testimony before a Senate Governmental subpanel. China's sale of nuclear and chemical weapons to the Middle East all are part of a strategic plan to spread out deployment of the U.S. Navy so the PLA can concentrate on the South China Sea, according to intelligence and diplomatic officials.

But take Wang's word for it, he is far removed from Poly, according to a rare and exclusive interview he gave to the Washington Post. The Post did not question Wang's assertion that he only spend 5 percent of his time with Poly. But Mulvenon, who is researching the PLA empire, laughs at that estimate. "It is more likely 15 to 20 percent," he says. And some defense-intelligence sources tell Insight CITIC is so closely linked to the PLA that professional observers have little doubt that the PLA is calling the shots.

Wang's ability to mask Poly by show-casing CITIC has paid off handsomely for his other enterprises on behalf of Beijing's war plans. In particular, the U.S. bond market already has been an attractive target for CITIC to the tune of $800 million in borrowing. That, of course, begs the question: Why is the high-level Beijing operative Wang Jun allowed to borrow huge sums from Americans when President Clinton says it is "clearly inappropriate" even to meet with this PLA arms dealer? The White House assures that questionable visitors such as Wang no longer will have access to the president because FBI and National Security Council background checks now will expose them in advance. Yet, there is no national-security screening of foreign borrowers in U.S. securities markets from which huge sums are being allowed to float into China's war chest.

Sound incredible? A new booked called Dragonstrike: The Millennium War, by British Broadcasting Corp. and Financial Times journalists Humphrey Hawksley and Simon Holberton, presents a scenario on how the Red Chinese military might manipulate the international financial market to raise capital. It's what Roger Robinson, former senior director of International Economic Affairs at the National Security Council, warns already is happening. Robinson, described by President Reagan as "the architect of a security-minded and cohesive U.S. East-West economic policy," claims that these enormous sums may never be paid back.

"This is cash on the barrel," Robinson says. "This totally undisciplined cash with no questions asked concerning the purpose for the loans. This could be used to fund supplier credits, strategic modernization, missiles to rogue states like Iran and to finance espionage, technology theft and other activities harmful to U.S. securities interests."

Some of the bond money "undeniably" is supporting PLA enterprises, says Orville Schell, a China expert who is dean of the journalism school at the University of California at Berkeley. Schell says that's because "there is no division between government and business" in the PRC, making it nearly impossible to distinguish PLA companies from government-controlled companies. "It means China is going to be exporting and docking at facilities in Long Beach [Calif.]" at the former U.S. Navy base there, notes Schell in reference to what some regard as a military concession to go along with its acquisition of control of ports at both ends of the Panama Canal. "It means China is going to be buying U.S. companies. It is going to be doing all of the things that everyone else does. Whether it is a security risk depends on your assessment of China," says Schell. "But one thing for sure. China is the most unsettled country in Asia."

Thomas J. Bickford, a PLA expert and political-science professor at the University Wisconsin at Oshkosh says accessing the U.S. bond market is just one way the PLA can rise the money to purchase the most modern military equipment. "But it's not in just the bond market, it's also in consumer sales," with 10,000 to 20,000 companies, he says (see "PLA Espionage Means Business," March 24). Many of those PLA enterprises are losing money and in essence promoting corruption in the ranks, says Bickford, as some PLA business operatives personally are pocketing profits to purchase luxury cars or resorts, while others are fully engaged in smuggling operations. "The corruption is so high it goes all the way up to the generals," Bickford says. "That gives you an idea how much rot exists."

Where large profits from PLA companies do occur, much goes toward purchasing food and housing for some 3.2 million Red troops, says Bickford. This suggests the bond market may play a bigger role for the PLA than most people expect because that money could be going to support a defense budget the U.S. government claims to be as high as $26.1 billion a year. And Munro and Bernstein claim it really is about $87 billion a year when profits from PLA businesses are calculated in the total.

Deeply concerned about all of this, Robinson advocates creating a nondisruptive national-security screening process to help the Securities and Exchange Commission identify and exclude PRC fund-raising operations disguised as business ventures. The process would be similar to security checks now conducted at the White House, or the seven-day waiting period for a background review required to purchase a handgun. He says it would weed out dangerous foreign business partners such as PLA gunrunning companies and the Russian Mafia.

"Russia thinks the water is fine," Robinson says. "They are going to have as many as 10 to 12 bond offerings in the next 18 months—and some of those might involve organized crime. So there is every reason to be concerned because there might be bad actors among the Russian bond offering. We don't want terrorists, drug dealers, an organized criminal syndicate, gun smugglers or national military establishments borrowing on the U.S. securities markets with impunity."

Bickford says Robinson's solution would "catch the obvious" PLA players, but it won't stop all the diverting of money to the military because many of the PLA enterprises have joint ventures with Chinese government-controlled companies—making it nearly impossible to track the bad seed. "The PLA businesses are very good about hiding themselves," Bickford warns.

But Robinson says the National Security Council knows who the bad actors are and could effectively knock out the threat. "We need to get national security back in the picture," Robinson insists. "We are not trying to discourage investing in the market, but this is too fertile a territory for potential abuse. We just need to get additional protection for the American investment community via U.S. intelligence in a secure, nondisruptive manner."

Robinson has uncovered $6.75 billion in Chinese government-controlled bonds floated on the U.S. and international securities markets between September 1989 and December 1996. China also has placed $17.2 billion in bonds with Japan. About 65 percent of the U.S. money, or $4.4 billion, was issued to the PRC, the Bank of China and Wang's CITIC. The PRC raised $2.7 billion on six bond issues from October 1993 to July 1996. The Bank of China raised $850 million on four bond issues from October 1992 to March 1994. CITIC raised $800 million on five bond issues from March 1993 to October 1994.

Robinson says all three areas could be suspect: The PRC because that money could go anywhere, Wang because of his direct link to the PLA and the Bank of China—a company that has flooded the Washington radio market with an advertising and public-relations campaign—because it now has been directly linked into the Clinton fund-raising scandal.

What is the link? For one, the Wall Street Journal recently reported that the Bank of China transferred hundreds of thousands of dollars in $50,000 and $100,000 increments to Clinton friend Charlie Trie in 1995–96. Trie and Harold Green, another Clinton friend who assisted Wang with getting security clearance, dumped similar amounts of cash into the Democratic National Committee and Clinton's legal defense fund shortly after Wang was permitted access to the president.

John N. Stafford, chief judge of the Department of Interior in the Reagan administration who publishes a highly respected national investment newsletter, says the relative ease with which China can tap into the U.S. bond market by using intermediaries such as the Bank of China is based largely on American greed. Stafford says businessmen are following the lead of Henry Kissinger and Alexander Haig who are players in U.S.-China trade (see "Lion Dancing With Wolves," April 21).

Stafford says, "We are providing funding for our own self-destruction, especially when money is being used to facilitate efforts to build up China's military and provide weapons of mass destruction to known terrorist countries and sworn enemies of the U.S." A onetime supporter of Robert Kennedy and Scoop Jackson, Stafford turned his support to the Republican Party because he says under President Carter the Democrats gutted national security and had a dismal economic record. He compares China's activity in the bond market to Soviet operations during the Cold War, when he says the USSR diverted billions of dollars of borrowed Western funds to support military activities contrary to U.S. interests.

"This is a replay of Russia in the mid-seventies," he says. "This is business vs. national security. It is a case where money is more important than human rights. Lenin was right when he said the capitalists will sell us the rope with which we will hang them. That's what is happening here."

[From the Wall Street Journal June 10, 1997]

CHINA CLASH

Question: Should we maintain good trade relations with China despite disagreements over human rights, or demand that China improve its human rights policies if it wants to continue to enjoy its current trade status with the United States?

Percentages of groups saying the U.S. should first demand improvement in human rights policies.

All adults, 67 percent.
Men, 63 percent.
Women, 70 percent.
Age 35–49, 64 percent.
Age 65+, 72 percent.
Under $20,000 income, 76 percent.
Over $50,000 income, 63 percent.
Democrats, 73 percent.
Republicans, 61 percent.

U.S.-CHINA TRADE: THE STATUS QUO

1996 trade deficit: $40 billion.
1997 trade deficit: $53 billion.

TARIFFS

Average U.S. MFN tariff on Chinese goods: 2 percent.

Average Chinese MFN tariff on U.S. goods: 35 percent.

EXPORTS

Percent of U.S. Exports allowed into China: 1.7 percent.

Percent of Chinese Exports to the U.S.: 33 percent.

JOBS

Chinese jobs supported by U.S. trade: 10,000,000.

U.S. jobs supported by Chinese trade: 170,000.

TRADE GROWTH

Exports to China have grown: 3 times.
Imports from China have grown: 13 times.

CHINA'S PROLIFERATION OF WEAPONS OF MASS DESTRUCTION

The Chinese government is engaged in transferring dangerous technology enabling rogue nations to develop weapons of mass destruction, including: providing to Iran advanced missile and chemical weapons technology; providing to Iraq and Libya materials to produce nuclear weapons; providing missile-related components to Syria; providing to Pakistan advanced missile and nuclear weapons technology; and selling over $1.2 billion in arms to the military rulers of Burma.

THE CHINESE GOVERNMENT'S VIOLATIONS OF HUMAN RIGHTS

The State Department's "Country Reports on Human Rights for 1996", states that "The (Chinese) Government continued to commit widespread and well-documented human rights abuses, in violation of internationally accepted norms, stemming from the authorities' intolerance of dissent, fear of unrest, and the absence of inadequacy of laws protecting basic freedoms."

The report also notes that: "Overall in 1996, the authorities stepped up efforts to cut off expressions of protest or criticism. All public dissent against the party and government was effectively silenced by intimidation, exile, the imposition of prison terms, administrative detention, or house arrest. No dissidents were known to be active at year's end. Even those released from prison were kept under tight surveillance and often prevented from taking employment or otherwise resuming a normal life." (emphasis added).

Since the State Department report was released in February, additional information has been provided to Congress about the Chinese government's repression of basic freedoms and human rights, including: The persecution of evangelical Protestants and Roman Catholics in China who choose to worship independently of the government sanctioned (and controlled) church; forcibly closing and sometimes destroying "house churches," and harassing and imprisoning religious leaders; the threat to currently-existing democratic freedoms in Hong Kong. The takeover of Hong Kong by China is scheduled for July 1, 1997. Already, the Chinese government has moved to disband Hong Kong's democratically elected legislature and to repeal its bill of rights; the brutal repression of the religion, people and culture of Tibet; and the regulation of the free flow of information, including restricting access to and use of the Internet and restricting basic economic and business data.

OPEN LETTER ON CHINA'S PERSECUTION OF CHRISTIANS

DEAR MEMBERS OF CONGRESS: Recently, letters have circulated on Capitol Hill from some groups and leaders involved in missions in China. These letters urge Members not to vote to revoke China's Most-Favored-Nation (MFN) trade status. They cite potential dangers to the missions if the U.S. responds to Beijing's terrible record on human rights, national security and workers' rights.

There are points of agreement between us and those missions organizations. We can agree, for example, to put no individual at risk of retaliation. We should take great care in dealing with a regime that has demonstrated its willingness to settle disagreements with tanks and with bullets in the back of the head. We can also agree that those Christians directly involved in work in China are not necessarily the ones to lead the fight against MFN. They may be too close to the situation for prudence or safety to permit open opposition to the regime.

But the letters make other arguments. They suggest that a forceful response by the United States government to what everyone acknowledges is an appalling Chinese government record would be counter-productive. We cannot accept those arguments. As deeply as we respect Christian missionaries in China and throughout the world, we must disagree with a policy which allows China's rulers to manipulate the United States of America simply by threatening reprisals against these innocent, godly people. It is a form of hostage-taking.

For the U.S. to surrender to such threats would be to assure that Beijing will use threats whenever Americans cry out against the cruelty and injustice of the communist Chinese regime. Should we all keep silent about China's massive campaign of forced abortions and compulsory sterilizations? Should we avoid criticizing China's use of slave labor in the Laogai? Should we turn aside from China's latest violations of chemical weapons agreements, including shipment to Iran of poison gas? Is the United States truly the leader of the Free World? Or are we merely the "moneybag democracy" the Chinese rulers contemptuously call us?

There is a real danger that the arguments made by some U.S.-based missions may be seized upon by those whose only interest in China is profits. Some multi-national corporations have allowed the brutal Chinese birth control policies to be run in their factories. Some have also accommodated Chinese repression by banning religion in the workplace. And some have exploited prison laborers.

We wholeheartedly support missions throughout the world, and especially in China. We think it's necessary, however, to take a clear-eyed view of the conduct of the Chinese government. While missionaries seek no conflict with the government, the reality is that China's rulers do not view Christians so benignly.

Paul Marshall, in his well-received book "Their Blood Cries Out," describes the attitude of China's elites. "In 1992, Chinese state-run press noted that 'the church played an important role in the change' in Eastern Europe and warned, 'if China does not want such a scene to be repeated in its land, it must strangle the baby while it is still in the manger.'"

We are proud to note the consistent and principled stance of the U.S. Catholic Conference in opposing MFN for China. Catholics are brutally repressed in China, as are Evangelicals, Muslims and Buddhists. But the USCC has never allowed Beijing's threats to deter it from its duty to speak up for the oppressed. Nor should we.

We know that we are not on "the front line" in confronting Chinese repression. Because we have a freedom to speak out that is not granted to those on the Mainland, we must use our God-given freedom to speak out for those who cannot speak for themselves. When it is argued that the situation will be worsened if America takes action, we must ask candidly, how can it be worse for the Chinese dissidents? Our own State Department reports that all dissidents have been either expelled, jailed or killed.

We rejoice in the fact that American missionaries hold U.S. passports. We pray that a strong United States will help to safeguard our fellow Americans' lives while they do the Lord's work in China. But Chinese Christians are not so protected. For Pastor Wong, leader of 40 Evangelical churches, MFN has brought no benefits. He has been arrested four times for spreading the Gospel. The last time he was jailed, his fingers were broken with pliers. While Vice President Gore was preparing to visit Beijing in March, Chinese secret police invaded the apartment of Roman Catholic Bishop Fan Zhongliang in Shanghai, seizing Bibles and other religious articles. The move against the nation's highest Catholic prelate was clearly intended to intimidate millions of faithful Chinese Catholics. MFN has only made the Chinese police more efficient in denying basic human rights to Bishop Fan and his flock.

President Clinton's 1994 "delinking" of trade and human rights concerns has actually increased repression in China. Now, even if missionaries plant churches, the Chinese secret police can disrupt them. This view is affirmed by New York Times editor A.M. Rosenthal. He has written:

"Knowing Washington would not endanger trade with China, even though it is mountainously in China's favor, Beijing increased political oppression in China and Tibet—and its sales of missiles, nuclear material and chemical weaponry."

Rosenthal refers to the president as Beijing's "prisoner." Let us assure, by our steadfastness, that the rest of us do not wear such chains.

From the beginning of this debate, we have recognize that the argument over MFN is not just about what kind of country China is, it is also a dispute about what kind of country America is. We believe Americans have a moral obligation to stand up for human rights, for the rule of law and for the rights of workers. We know, from long and tragic experience in this blood-stained century, that a regime which brutalizes its own people is virtually certain to threaten its neighbors.

Sincerely yours,

Gary L. Bauer, President, Family Research Council; Ralph E. Reed, Executive Director, Christian Coalition; Rev. Richard John Neuhaus, President, Institute for Religious and Public Life; Keith A. Fournier, Esq., President, Catholic Alliance; D. James Kennedy, President, Coral Ridge Ministries; Joseph M. C. Kung, President, Cardinal Kung Foundation; James C. Dobson, Ph.D., President, Focus on the Family; Phyllis Schlafly, President, Eagle Forum.

Chuck Colson, President, Prison Fellowship Ministries; Gov. Robert P. Casey, Chairman, Campaign for the American Family; Steve Suits, South Carolina Family Policy Council; William Donohue, President, Catholic League for Civil and Religious Rights; Richard D. Land, President, Christian Life Commission; Steven W. Mosher, President, Population Research Institute; Gerard Bradley, Professor, Notre Dame Law School; John DiIulio, Professor, Princeton University.

Robert P. George, Professor, Princeton University; John Davies, President, Free the Fathers; Kent Ostrander, Director, The Family Foundation (KY); Matt Daniels, Executive Director, Massachusetts Family Institute; Rev. Donald E. Wildmon, President, American Family Association; Deal W. Hudson, Publisher & Editor, Crisis Magazine; Bernard Dobranski, Dean, Columbus Law School; Rev. Steven Snyder, President, International Christian Concern.

Ann Buwalda, Director, Jubilee Campaign; P. George Tryfiates, Executive Director, The Family Foundation (VA); Randy Hicks, Executive Director, Georgia Family Council; Marvin L. Munyou, President, Family Research Institute (WI); William T. Devlin, Executive Director, Philadelphia Family Policy Council; William Held, Executive Director, Oklahoma Family Council; William A. Smith, President, Indiana Family Institute; Thomas McMillen, Executive Director, Rocky Mountain Family Council.

Michael Heath, Executive Director, Christian Civic League of Maine; David M. Payne, Executive Director, Kansas Family Research Institute; Gary Palmer, President, Alabama Family Alliance; Jerry Cox, President, Arkansas Family Council; Dennis Mansfield, Executive Director, Idaho Family Forum; Michael Howden, Executive Director, Oregon Center for Family Policy; William Horn, President, Iowa Family Policy Center; Joseph E. Clark, Executive Director, Illinois Family Institute; John H. Paulton, Executive Director, South Dakota Family Policy Council; Mike Harris, President, Michigan Family Forum; Mike Harris, President, Michigan Family Forum.

INDEPENDENT FEDERATION OF
CHINESE STUDENTS AND SCHOLARS,
Washington, DC, April 25, 1997.

U.S. Congress,
Washington, DC.

DEAR MEMBERS OF CONGRESS: The Independent Federation of Chinese Students and Scholars (IFCSS), the sole national umbrella organization of Chinese students and scholars in the U.S., is taking this opportunity to express its opinion on the extension of most-favored-nation (MFN) status to China. The IFCSS reiterates its support for the U.S. and other western countries in conducting trade with China. We believe economic exchange and commerce will mutually benefit people in all countries conducting such trade; however, China is governed by an authoritarian and repressive regime, lacking in fundamental respect for the basic rights and freedoms which U.S. citizens so highly value.

The IFCSS, therefore, urges the U.S. to adopt a more responsible trade policy. The rights and freedoms cherished in this nation should be linked to trade in order to make U.S. trade policy more responsible and accountable.

We believe human rights is a fundamental issue, inseparable from the construction of a modern and humane society in our country. The Chinese government must learn to respect the rights of its 1.2 billion citizens as they strive for economic prosperity in the 21st century.

That the Chinese government has increased its control of Chinese society, both politically and ideologically, is well documented. For instance, the government has cracked down severely on dissidents, curtailing their activities and depriving them of their right to earn a living, as reported in U.S. State Department Report '96. The result is that no single active political dissident's voice remains in China: leading dissidents Liu Gang and Wang Xi-zhe were forced to flee the country after consistent torture, harassment, and nationwide pursuit by the police; Liu Xiaobo, Li Hai, Guo Haifeng and a dozen other dissidents have been imprisoned once again for their peaceful expression of opinions and criticisms; Nobel Peace Prize nominee and the most prominent dissident Wei Jingsheng is still in jail, with deteriorating health. We were outraged to see student leader Wang Dan, who gained prominence in the prodemocracy movement of 1989, held in illegal detention for 16 months, finally charged with conspiracy to overthrow the government and sentenced to 14 years in prison. This was done without solid evidence or a fair trial, by a legal system at the beck and call of the Communist Party, and in defiance of the international community's concerns.

While ordinary Chinese citizens are encouraged to become rich, they cannot express political views dissenting from the government. Freedom of the press, expression, association and assembly remain extremely forbidden. Like all authoritarian regimes, the government of China keeps its citizens under tight control in these aspects in order to maintain its governance.

Unfortunately, the weakening of pressure from foreign governments in the past several years, as evinced by President Clinton's decision in 1994 to delink human rights from MFN, has encouraged the Chinese government to increase political repression. President Clinton has admitted the failure of this policy but the U.S. government continues to pursue it. Further proof of this lack of concern over human rights abuses in China can be seen by the collapse of the coordinated efforts by democratic allies to condemn the Chinese government at the 1997 U.N. Human Rights Commission. We strongly denounce China's blatant retaliation threats against those western countries supportive of the resolution. We also urge the U.S. government to reconsider its weak and passive policy toward China, which gravely undermines its commitment and obligation, as the most powerful nation in the world, to work to advance human rights and democracy globally.

The IFCSS stresses its belief that the conditional MFN was an effective policy in the past. Unfortunately, we've all seen how aggressively the business community attacked this policy for their own commercial interests and, worst of all, how successfully they were able to influence both the Congress and the Administration. Despite assurances to the contrary, however, the unparalleled economic growth in our country has not in any way resulted in a more humane society, more respect for basic rights or less repression. Sadly, the opposite has occurred. China's leaders have learned a lesson from the collapse of the Soviet Union and the Eastern-Europe bloc and the result is a mutant form of communism, but communism nonetheless. China is now a nation that encourages economic prosperity through foreign investment, the use of advanced technology and capitalist management styles. On the other hand, the Communist party continues to exert political and ideological control through its one-party monopoly. This clearly demonstrates that economic prosperity does not bring about "automatic" democracy, as predicted by so many.

Whether or not this hybrid eventually succeed remains uncertain. What is certain is the continuing political repression, depriving Chinese citizens of basic rights and denying the international community's effort on behalf of human rights and freedom in China. With increasing wealth, the Chinese government is becoming less, rather than more, accountable. International pressure has played a critical role in pushing China to be more open, but western nations are also morally obliged to keep applying this pressure, particularly at a time when the system in China has become more intolerant and repressive. It is shameful to see western business interests being held hostage by the Chinese government in order to evade international condemnation for its repressive policies.

We hereby urge the members of Congress to give this issue the serious consideration it deserves. The IFCSS particularly appreciates the U.S. government's consistent claim that human rights issue is one of the cornerstones of its foreign policy. We respectfully appeal to the members of Congress to make improvements in human rights a condition of extending MFN status to our country.

Sincerely,

XING ZHENG,
President.

STATEMENT OF JOHN CARR, SECRETARY, DEPARTMENT OF SOCIAL DEVELOPMENT AND WORLD PEACE, U.S. CATHOLIC CONFERENCE

CATHOLIC BISHOPS OPPOSE RENEWING MFN

The U.S. Catholic Bishops lead a community of faith, not a political or economic interest group. The Bishops' Conference opposes renewal of MFN for China because it is the only available means to send a clear signal to the Chinese government that the United States will not ignore pervasive violations of religious liberty, human dignity and workers rights.

The Bishops are not newcomers to this important cause and we welcome those who join with us from diverse political, religious and ideological communities. We come together, despite our differences, to insist that U.S.-China policy must more clearly reflect fundamental moral principles. From across the political spectrum, we are affirming that there are ties of common humanity that are deeper and stronger than those of trade. We are joining in solidarity with those who are persecuted for their faith or their political courage; we are affirming the rights of workers to labor freely; we are standing profiteering from slave labor, and we are defending married couples from the inhumanity of coercive abortion policies.

In urging the Congress not to renew MFN for China, the U.S. Catholic Conference recalls that religious liberty is a foundation of our freedom, and that hard experience has shown that a free society cannot exist without freedom of conscience. Freedom for markets without freedom of worship is not really freedom at all. Despite the claims and hopes of the Administration and others, religious persecution in China is serious and apparently growing. As a result of recent laws, regulations and practice, many believers in China—underground Catholics, Tibetan Buddhists, Protestant House Churches and others—are denied their right to practice their faith without government interference, harassment or persecution.

Our Church seeks a constructive and positive relationship with China and its people. We support reconciliation and dialogue between the U.S. and China and among the Chinese, but these vital tasks must reflect fundamental respect for human life, dignity and rights. The U.S. must reorder its priorities in China policy insisting that protecting the rights of believers, workers and dissidents is as important as combating piracy of CD's and videos. Let us send a message so clear that those who wish to do business in China will spend less effort lobbying the U.S. Congress to protect their economic interests and more effort to help China understand that U.S. concern for human rights will not go away.

Current policies have failed; it is time to send a clear message. MFN may not be the perfect vehicle but it is our best chance to insist we will no longer ignore religious persecution, violation of worker and human rights, and coercive abortion policies.

INTERNATIONAL CAMPAIGN FOR TIBET,
Washington, DC, May 21, 1997.

Hon. NANCY PELOSI,
House of Representatives,
Washington, DC.

DEAR CONGRESSWOMAN PELOSI: I wish to submit, for the May 21 press conference on most-favored-nation (MFN) trade status for China, a brief description of the difficult situation in Tibet and, in particular, China's repression of religious freedom which has worsened in recent years.

In 1994, President Clinton abandoned the use of trade privileges as a mechanism to move China into compliance with internationally-recognized human rights norms. It is now evident that China consequently accelerated its course of repression in Tibet from a negative direction to an extreme degree. In the place of linkage, the Clinton administration has chosen to pursue a policy of "engagement" with China while, ironically, China has taken up the policy of linkage and blatantly doles out significant economic favors to all who are willing to halt criticism of its human rights record. At this year's U.N. Human Rights Commission meeting in Geneva, important U.S. allies in previous efforts to condemn China's human rights record, withdrew their support for lucrative trade contracts with China. Three years after the U.S. delinkage of trade and human rights, President Clinton himself has judged the U.S. engagement policy a failure as China has completely silenced its dissidents and has given up all pretense of tolerance for the distinct cultural, linguistic and religious traditions of the Tibetan people.

We do not know how many political prisoners there are in Tibet today, although some 700 have been at least partially documented. One young Tibetan, Ngawang Choephel, was sentenced in December 1996 to 18 years for videotaping traditional Tibetan music. This extremely harsh sentence was handed down in spite of personal appeals to the Chinese leadership by U.S. Government officials, including Members of the U.S. Congress. It even appears that Ngawang Choephel's status as a Fulbright scholar was used against him by the Chinese authorities who, on this basis, added collusion with the West to his list of so-called espionage charges.

There are reports from Tibet that popular and successful Tibetan language programs at middle schools and universities have been discontinued. While these programs were few in number, they removed the enormous and unfair obstacle of Chinese language proficiency for some Tibetans. Indeed, those children in Tibet who are schooled in their mother tongue in the primary grades are blocked from continuing education by obligatory tests administered in Chinese only. This Chinese language-only policy exacerbates the increasingly high drop-out rate for Tibetan children whose schools have taken the brunt of government cut-backs and must operate without resources, including heat. Money for blankets has come to mean no money for food in most Tibetan schools.

It is, however, the lack of religious freedom that is the most revealing of China's malicious intentions in Tibet. The State Department, in its "Country Report on Human Rights Practices for 1996" mistakenly qualifies China's actions in Tibet by stating that "the Government does not tolerate religious manifestations that advocate Tibetan independence." The trust is that China has determined to eradicate completely Tibetan Buddhism as an enduring threat to the Chinese communist state. This was China's original motivation for going into Tibet, temporarily laid aside by the threat of international scrutiny, and taken up with renewed verve at the time of delinkage in 1994. The abduction of the child Panchen Lama is yet the most recent symbol of a conscious choice by Li Peng and Jiang Zemin articulated over the last three years, to crush Tibetan Buddhism.

Last month, His Holiness the Dalai Lama visited Washington where he was received in the Congress, the State Department and the White House. At each stop, he was given assurances of support for his proposed negotiations with China on the future of Tibet. Thus far, China has resisted calls for negotiations, and the United States has demonstrated a lack of resolve in pushing China to make concessions in the area of human rights. I would urge the U.S. Government in 1997 to take the kind of stand against China's policy in Tibet that would be experienced in Beijing with the same intensity as was the President's MFN delinkage in 1994. If it is the case that U.S. dollars fuel China's power and its powerful, then U.S. leverage must be of the economic kind to be appreciated.

While the world's sole superpower pursues a China policy that takes the position that the engagement of Western and Chinese businesses will bring about gradual changes in China's human rights policies, it is providing a fig leaf for every Western nation to do business with China regardless of its human rights practices. I urge the United States to go beyond its diplomatic rhetoric, assert its world leadership and elicit significant and positive changes in China's Tibet policy.

Sincerely,

LODI G. GYARI,
President.

[From the Freedom House News, June 3, 1997]

China's Persecution of Underground Christian Churches Continues to Intensify as Authorities Seek Their Eradication Finds Human Rights Mission

NEW TREND NOTED TO ARREST HOUSE CHURCH LEADERS; TORTURE REPORTED; ANNUAL UNDERGROUND CATHOLIC PROCESSION SUPPRESSED

WASHINGTON, D.C.—Today (June 3, 1997) Freedom House released the findings of its mission to China during the last two weeks of May that investigated state persecution against underground Christian churches. The investigation revealed that China is continuing and intensifying its campaign against the Christian underground.

"Some Provinces are more repressive than others, but repression has intensified in all the Provinces from where we received reports," reported Dr. Marshall who conducted the fact-finding in China for the Puebla Program on Religious Freedom of Freedom House. In addition to closing unregistered churches (Christian gatherings that occur without government sanction), authorities are now aggressively seeking out and arresting members and leaders of the Christian underground. Eighty-five house-church Christians were arrested in May in Henan Province alone. New incidents of torture by beatings, binding in agonizing positions, tormenting by cattle prods and electric drills and other brutal treatment by Public Security Bureau police against Christians were reported to the Freedom House representatives.

Ninety percent of the underground Protestant church members interviewed by Dr. Marshall said the repression is the worst since the early 1980's. Repression against the underground churches began to rise in 1994 after Beijing issued decrees 144 and 145 mandating the registration of religious groups, with a marked increase from the summer of 1996.

Puebla Program Director Nina Shea observed, "The ferocity of China's crackdown against the underground Christian community can be explained by the fact that these churches constitute the only civic grouping that has survived outside of government control in China proper. Even in the underground in China there are no independent human rights groups, labor unions or samizdat presses. These underground churches by their very existence defy the state and cannot be tolerated by the aging communists in power."

The Freedom House team met with 15 underground church members, 12 of whom are pastors or in other leadership positions and are viewed as highly credible. It received reports from over half of China's Provinces and regions (Henan, Hubei, Sichuan, Heilongjiang, Xisang, Shanxi, Guangdong, Anhui, Hunan, Shandong, Liaoning, Hebei, Inner Mongolia, Jilin, Guizhou, Beijing and Shanghai.)

House church leaders interviewed by Freedom House representatives reported the following:

The standard sentence for illegal church activities is now three years of "re-education through labor" in a labor camp. This is applied on the third offense for ordinary church members, often to leaders on the first offense, and is usually applied to preachers who are out of their home area.

In Henan Number One Labor Camp (laojiao) approximately 50 out of the 126 inmates are imprisoned for underground church activities. A ratio of about forty percent holds for Henan generally, evidencing that Henan Province is where house-church evangelicals are experiencing some of the harshest repression.

In Louyang, approximately 300 underground Protestants have been detained since July 1996.

On September 24, 1996 in Tenghe, Henan, a Public Security Bureau raid arrested Elder Feng, Brother Zheng, Brother Xin, Sister Li and Sister Luo. Several of these who were in leadership positions were beaten and tortured during interrogation to force them to reveal more names of those involved in the house-church organizations. Sister Luo had her arms tied tightly behind her back in an excruciating position, and was beaten unconscious, leaving her in a coma for several hours. One of the other detainees was beaten almost to death over a period of nine days. They were also abused with electric cattle prods, often in a bound position. Since Elder Feng is 72-years-old and not able to perform hard labor, he is being detained indefinitely. The other four have been sentenced to three years of "reeducation through labor" in Luoyang, Henan.

Other forms of torture widely used by police against Christians entail forcing underground Christians to kneel while police stomp on their heels. One detained underground church member in Shanxi was beaten with an instrument that pulled out flesh. He was also bound and tormented with an electric drill. In December 1996, in Langfang, Hebei, several underground Christians were caught at the train station carrying imported Bibles. They suffered crippling beatings at the hands of the Public Security Bureau police and they remain unable to walk without assistance.

In Zhoukou, Henan, 65 underground Christians were arrested on May 14, 1997. An accompanying raid resulted in the arrest of 20 other Christians. Since all 85 underground evangelicals had been previously arrested at least two other times, their fellow congregants anticipate that their sentences will be three years of "reeducation through labor."

The annual pilgrimage to the Marian Shrine at Dong Lu in Hebei Province by underground Catholics was prevented by government authorities from occurring this year. In 1995, according to the Far Eastern Economic Review, the procession attracted some 10,000 Catholics loyal to the Holy Father. The event was crushed in 1996 and the priest in charge of the Shrine, Rev. Xingang Cui, remains in prison after his arrest in Spring 1996. The Shrine itself has been desecrated. A foreign journalist who attempted to visit the area was immediately stopped and detained for nearly a day before being expelled from the area.

The underground Catholic bishop of Shanghai, Bishop Joseph Fan Zhongliang, whose home was raided before Easter is under virtual house arrest with heavy police surveillance. He is effectively prevented from meeting with foreigners. [As has previously been reported, four other underground Catholic bishops are detained, imprisoned or their whereabouts are unknown at this time.]

All the church representatives (both registered and unregistered, Catholic and Protestant) gave reports of a three- to four-fold increase of members since 1990, and a greater than ten-fold increase since 1980. Freedom House estimates that China's Christian population numbers about 60 million. In many areas, the boundaries between registered and underground churches are blurred, as members and even leaders move back and forth between both. Dr. Marshall observes: "Ironically, the very campaign to eradicate the underground churches by the government may be spurring their growth. Underground leaders say the commitment required to practice one's faith in China leads to a strong, disciplined and growing church."

Mr. BUNNING. Mr. Speaker, I reserve the balance of my time.

Mr. CRANE. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota [Mr. RAMSTAD], our distinguished colleague.

Mr. RAMSTAD. Mr. Speaker, I thank my distinguished chairman for yielding me the time.

Mr. Speaker, I strongly support the bipartisan effort to renew normal trade relations with China and oppose the disapproval resolution we are considering today. United States engagement in China through continued trading relationships is clearly, clearly the best way to influence China's policies. How can we be a force for change in China's human rights policies if we are not there?

We learned during our Committee on Ways and Means hearing last week that many evangelical Christians and humanitarian groups which actually work in China strongly support MFN renewal. Let me quote from two.

First, Joy Hilley of Children of the World, which is a nonprofit international relief and adoption agency operating in China, said that her group's concern for continued access to China is based on their belief that their presence in China has not only enriched the lives of the children who have been adopted but has actually helped save the lives of those children who remain in orphanages in China.

MFN renewal is also supported by the Rev. Ned Graham, son of another well-known minister, the Rev. Billy Graham, who heads a ministry which works with the churches in China.

With all that in mind, Mr. Speaker, I must say that we do not need to apologize for recognizing that the United

States-China trade relationship is also very important to jobs and to businesses in this country.

An aggressive free trade policy is absolutely essential to our economy and our workers. We in Minnesota know what this means. In 1996, we exported over $60 million worth of goods to the growing Chinese market. We are currently working on improving that figure through the Minnesota Trade Office's Minnesota China Initiative. In fact our State legislature just authorized $350,000 for this effort to establish Minnesota companies as known and preferred vendors in China.

The workers understand what this MFN means in terms of jobs. Let us hope the Congress understands. Vote down this disapproval motion.

Mr. STARK. Mr. Speaker, I yield 3 minutes to the gentleman from Maryland [Mr. CARDIN].

Mr. CARDIN. Mr. Speaker, I thank the gentleman for yielding me this time and congratulate him on his leadership on this issue.

Mr. Speaker, I heard all these arguments before against United States involvement on human rights issues. We were told with the Soviet Union that the United States would be alone. Just the opposite was the case when we stood up and denied most-favored-nation status to the Soviet Union. Other countries followed the United States leadership. I heard the same arguments about South Africa, that would hurt the blacks of South Africa. By standing up for human rights, we have brought down that apartheid government of South Africa. We said that we were going to hurt our own interests because of the richness of South Africa and their natural resources. We stood up and we changed South Africa. When the United States leads, the world will follow.

China's human rights record is horrible. Listen to our own State Department. I quote:

> Overall in 1996, the authorities stepped up efforts to cut off expressions of protest or criticism. All public dissent against the party and government was effectively silenced by intimidation, exile, the imposition of prison terms, administrative detention, or house arrest. Nonapproved religious groups, including Protestant and Catholic groups, also experienced intensified repression as the government enforced the 1994 regulations. Discrimination against women, minorities, and the disabled, violence against women, and the abuse of children remain problems.

China's human rights records are horrible. Listen to what Professor Nathan of Columbia said: Human rights in China are of our national interest to the United States. Countries that respect the rights of their citizens are less likely to start wars, export drugs, harbor terrorists, produce refugees. The greater the power of the country without human rights, the greater the danger to the United States.

I have heard all the arguments against involvement. MFN is supposed to be for immigration only. MFN is for nations that respect human rights. China does not respect human rights.

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We never have to apologize for this Nation standing strong against nations that abuse human rights. Let us stand up for what this Nation believes in. Vote to deny China MFN. They do not deserve it.

Mr. MATSUI. Mr. Chairman, I yield 3 minutes to the gentleman from Massachusetts [Mr. NEAL].

Mr. NEAL of Massachusetts. Mr. Speaker, I rise in opposition to House Joint Resolution 79, disapproval of most-favored-nation trade treatment for China.

Mr. Speaker, this is one of those fascinating arguments that confronts this institution, where there is some truth to what everybody says. But it is ironic that we opened this century with the Boxer rebellion and now we close the century with MFN; and it highlights how this relationship between our Nation and China has been mishandled for the better part of one century.

I think that the issue for us today is really to take the long view of our relationship with China. Every year since 1980, Presidents have requested waivers from Jackson-Vanik in an effort to discuss MFN status as it relates to China. The Jackson-Vanik amendments were enacted to address the freedom of immigration issue. But through most of the 1980's, Presidents have indeed requested this waiver of MFN for China and the waivers, for the most part, were noncontroversial.

Now, I acknowledge that after 1989 and the massacre of Tiananmen Square that the situation changed. But, as we all know, the United States-China relationship remains precarious, and we have to decide the best manner in which to improve this relationship.

In May 1994, President Clinton decided to delink human rights from China's MFN status and to establish new programs to improve human rights in China. This decision was based upon the belief that linkage was no longer useful. I agree with President Clinton's decision.

This does not mean that we have forgotten about the students in Tiananmen Square and we have not forgotten about China's human rights record. We constantly raise these issues with China, and the Tiananmen Square sanctions are still in place. We continue to enforce United States laws banning prison imports.

But the sincere question in front of this House today is, how do we best engage China and to encourage those structural reforms that will retain and bring China further into the relationship of civilized nations? We have gotten away from the original intent of the Jackson-Vanik amendment. None of us endorse all of our actions as they relate to China. But if we want to improve our relationship with China, the best way to do it is to continue to engage them through current actions of trade.

We are not asking to condone China's egregious actions of the past, but we need to remember that renewing MFN is not providing China with special trade provisions. MFN is the normal trade treatment we provide to almost every other country. I believe that if we engage China, we can make China take actions and move toward familiarizing them with international standards.

In recent Chinese history, the worst human rights violations occurred in times of international isolation. Engagement is working. China is making improvements. Even though it seems as though these steps are baby ones toward conforming to international standards, these are steps in the right direction.

I am going to close the way I opened. In this argument, there is truth to what everybody says in this institution. But let us not retreat today from MFN status for China.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in rising in support of the Solomon resolution, let me just say that enough is enough is enough. If ever there was a policy out of touch with reality, it is our current policy of appeasement toward Communist China. And, of course, the continuous unlinked granting of MFN is the cornerstone of that appeasement policy; and that is why I have introduced this legislation, which would revoke MFN for China temporarily until the communist Chinese Government decides to change it, to change its ways by stopping its religious persecution, its human rights atrocities, and selling deadly missiles and poison gas factories to rogue nations like Iran. That does not even mention its trade discrimination, costing hundreds of thousands of American jobs.

Mr. Speaker, hardly a day goes by when the economic and trade picture with China does not get worse. We have heard it alluded to earlier today. China's refusal to grant fair and open access to American goods has resulted in our trade deficits with that country skyrocketing to $38 billion last year, and it is going toward $50 billion this year because our goods are not allowed in China.

Mr. Speaker, engagement theorists claim that United States exports to China currently support 170,000 United States jobs, which they say would be jeopardized if we cut off most favored trade status for China and China then retaliated against us. Well, Mr. Speaker, leaving that aside, this 170,000 figure has not changed since last year and the year before and engagement theorists say it should be going up, it should be creating more U.S. jobs. Considering that over one-third of China's exports come to us, versus 2 percent of ours going to them, does it not seem rather odd for us to be afraid of a trade spat with China? Two percent of our total exports go to China, and 33 percent of theirs come here. We clearly have the upper hand, my colleagues. But the engagement theorists do not have the guts to truly engage China and let them know that their behavior is disgusting.

More importantly, hardly a day goes by without reading of yet another act of aggression, another act of duplicity, or another affront to humanity committed by the dictatorship in Beijing. Consider human rights, the same people who conducted the massacre in Tiananmen Square and the inhumane oppression of Tibet have been busily eradicating the last remnants of democracy in China. And as we speak, they are preparing to squash democracy in Hong Kong.

I invite all my colleagues to go with me in about 3 or 4 months and see what is over there. According to the U.S. State Department's annual human rights report, and I quote, and my colleagues ought to hear this because it is coming from this administration.

> Overall in 1996, the authorities stepped up efforts to cut off expressions of protest and criticism. All public dissent against the party and government was effectively silenced by intimidation, by exile, the imposition of prison terms, administrative detention, or house arrest.

That is what they say, Mr. Speaker. And I emphasize the words "stepped up" because human rights violations in China are getting worse, according to the report I just read you. And that is the exact opposite of what is supposed to be occurring, according to the proponents of engagement theory.

China has also ramped up its already severe suppression of religious activity having, among other things, recently arrested the co-adjutor Bishop of Shanghai. We all know this is happening. Engagement theorists on both sides of this aisle know it. They know that this is happening, and all they can talk about is dollars for multinational corporations. It is enough to make you throw up sometimes.

Just read all these newspaper ads that have been appearing all over the country. We have a right to stand up for America and not business interests in this country, Mr. Speaker.

And even worse, in the field of national security, and I would hope that everybody is listening to this, in the field of national security, the engagement theorists completely ignore our national interests by appeasing the communists in Beijing. They totally ignore the relentless Chinese military buildup, ever more frequent exports of technology for weapons of mass destruction, and an increasingly belligerent Chinese foreign policy.

While every other major country has reduced its military spending, Communist China has increased its military spending by double digits each year, increasing their military budget by more than 50 percent in the 1990's alone, when every other country in the world has been cutting back.

What are they buying with all that money that is being financed by the trade deficits in this country? Soviet-made Sunburn missiles from Russia, that is what. We debated that on the floor here last night. The Sunburn was designed with the express purpose of taking out United States ships and killing American sailors, and Communist China is buying it with the express purpose of intimidating the United States Navy in the Taiwan Strait and in the Asian-Pacific theater. Or they are going to give it to Iran to attack American ships, as Iran did when they killed 37 American sailors aboard the *USS Stark* a few years ago.

Meanwhile, China's irresponsible missile proliferation activities continue unabated. Are my colleagues not concerned about that? I know some of them are. I have talked to some on that side of the aisle who are formerly for MFN and now they have changed their mind for this very reason. Despite engagement, or because of it, China continues to export ballistic missiles and nuclear technology to Pakistan—do my colleagues not think something is going to happen over there?—and missile, nuclear and chemical weapons technology to the avowed enemy of America, Iran. I did not say they are our enemy. They said they are our enemy.

Let me repeat. Has anyone around here thought about who these missiles that the Iranians are buying, who they will be used against? They will be used against the U.S. Navy because we will be called in over there, the same as we were in the Persian Gulf. And it is going to be used against Israel and a lot of other decent human beings over in the Mideast who will not be able to protect themselves against this nerve gas and the poison gas and the missiles.

Every Member of this body that claims to be a supporter of Israel should come over here today and vote for this resolution. Because if they do not, Iran's chief weapons supplier, Communist China, will be off the hook once again, and once again we will be back here next year, as we were last year and the year before.

Let me just note that the denial-inducing effects of the engagement theory are especially visible in the case of China's nuclear transfers and C–802 missile sales to Iran. These transactions are in clear violation of the 1992 Iran-Iraq Nonproliferation Act and should initiate sanctions against China, not more appeasement.

The principal author of this legislation is none other than Vice President AL GORE, but the numbing effects of the engagement theory have precluded the administration from invoking the Vice President's own legislation.

If it were not so serious and so sad, Mr. Speaker, it would be a laughable matter. These are the very bitter fruits of engagement. And I want to know just how long it is going to take for the engagement theorists to wake up. We will be going on here for another 5 years.

To show just how much the engagement theory seals its proponents off from reality, Mr. Speaker, I would like to quote from a recent "Dear Colleague" signed by four senior members of the Committee on Ways and Means, all of whom are card carrying engagement theorists. They say, and I quote, "The Chinese would interpret the severing of normal trade relations as an unfriendly act."

Mr. Speaker, I do not know whether to laugh or to explode in anger when I hear such statements. This rogue, vicious dictatorship commits murder, it commits rape, and intimidates countries with missiles. It makes aggressive land grabs, makes veiled threats of nuclear attacks against Los Angeles. Did we just overlook that? It sells deadly missiles to our archenemy Iran and buys missiles designed to kill Americans.

And the proponents of engagement are worried about us making unfriendly acts. What an outrage, Mr. Speaker. What a deep offense against the victims of this regime, both inside China and, God forbid, without. And what a deep offense against the United States military personnel that are on watch in the Pacific and in the Middle East, who may one day be a victim of China's military aggression or of China's irresponsible missile proliferation policy.

What has to happen? Does China need to commit a second Tiananmen Square in Hong Kong or elsewhere? Do they have to invade Taiwan? And if so, what is Congress going to do about it, Mr. Speaker? More appeasement? Do they have to take out American ships and kill American sailors with Sunburn missiles? Then what are we going to say? "Oh, my goodness, you should not have done that, China"?

Mr. Speaker, it is nothing short of a disgrace that we would even consider waiting that long. But that is exactly the fix that the engagement theorists have put us in. And I resent it. Mr. Speaker, we owe it to this country to temporarily cut off MFN, now it does not have to be permanently, to temporarily cut it off until China becomes a responsible member of the international community. Is that not what we want?

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Is that not what we want? Because if we do not, Mr. Speaker, the proponents of engagement may very well be responsible for the lives of Americans 5 or 6 or 7 years down the line. I do not want Members coming back to me and saying, "Oh, my gosh, I made a mistake," because then it is too late.

Mr. Speaker, no MFN was given to the Soviets under Ronald Reagan. Peace through strength brought down the Iron Curtain and brought an end to that deadly atheistic communism in that part of the world. At the same time we were giving most-favored-nation treatment to China. Some of my colleagues will say, "Well, we were playing the China card" and, yes, maybe we were but the China card is over. Now is the time to stand up to this rogue regime in Beijing and let them know we are not going to take it anymore.

That is why Members ought to come over here and vote to send a message that we are going to protect American lives and American interests around the world and that China had better become a decent actor in the world.

Mr. Speaker, I reserve the balance of my time.

Mr. CRANE. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from Pennsylvania [Mr. ENGLISH].

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LAHOOD). The Chair will remind all persons in the gallery that they are here as guests of the House and that any manifestation of approval or disapproval of proceedings is a violation of the rules of the House.

Mr. ENGLISH of Pennsylvania. Mr. Speaker, in the debate on whether to continue normal trade relations with China, the opponents of trade have failed fundamentally to answer one question: What will ending our engagement with China accomplish? It will not improve human rights or political rights on the mainland. It will not benefit American security interests in Asia or stabilize the Pacific rim. It certainly will not improve trade opportunities for American companies and American workers in the world's largest and fastest growing market. Our severing of normal trade relations with China would be the greatest windfall that we would have bestowed on our European competitors since the Marshall plan. American companies would likely lose their favored position in the Chinese market permanently.

So what would ending normal trade relations with China achieve? For one thing it would devastate our longtime trading partners in Hong Kong at a sensitive time when they are returning to Chinese sovereignty but seeking to retain their autonomy. Ending MFN would undermine Hong Kong's economy and potentially their liberties as well.

Mr. Speaker, the best way for America to influence Chinese society is to pursue a policy of constructive and comprehensive engagement with China utilizing our economic role to leverage reforms that benefit individuals on the mainland. In this way we can stimulate market activity and growth on the mainland which has proven subversive of totalitarian bureaucracies worldwide.

Oppose this resolution.

Mr. STARK. Mr. Speaker, I yield 2½ minutes to the distinguished gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Speaker, I rise in support of the resolution of disapproval. For me it is a very difficult decision and a very close call. I regret having to oppose the administration on this issue. As a general proposition, I favor engagement over containment. While we have many contentious issues with the Chinese in the area of treatment of political dissidents and religious minorities and the curtailment of democracy and civil liberties in Hong Kong and the treatment of Tibet and our growing trade deficit and the creation of artificial trade barriers, none of these cause me to reach the conclusion that I should oppose the continuation of MFN. My decision instead is really based on the Chinese failure to abide by their international commitments in the area of the proliferation of weapons of mass destruction, a proliferation which threatens world peace and stability. I am voting against MFN because China has not lived up to its commitments not to promote the export of these weapons. I am voting against MFN because preventing the proliferation of weapons of mass destruction is the most serious immediate challenge for the future for all of us.

China has ratified the Nuclear Non-Proliferation Treaty, the Chemical Weapons Convention, and the Biological Weapons Convention. They have announced stronger nuclear export controls and adherence to the Missile Technology Control Regime. But commitments without compliance mean nothing. They have made many excuses for their failure to keep these international commitments. "How can we monitor every businessman exporting millions of dollars of chemical weapon production materials to Iran?" But they can find every dissident working secretly on a subversive pamphlet and imprison that person.

"We adhere to the Missile Technology Control Regime. We just don't recognize the Annexes" which give that commitment any meaning whatsoever.

Mr. Speaker, what I want is for this administration to scream as loudly about the proliferation of weapons of mass destruction as it has about the manufacturing of counterfeit CD's and stolen computer software and video games. I want this administration to threaten the import controls and higher tariffs on key products imported here from China as forcefully and effectively as it has waved and wielded that weapon to remedy violations of intellectual property agreements. What I want this administration to do is to hound and to badger our key allies like Japan and Germany and France and Britain to pursue meaningful multilateral export controls that tell China that their movement to a fully modern society depends on stopping the weapons of mass destruction and their export.

Mr. MATSUI. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin [Mr. KLECZKA].

Mr. KLECZKA. Mr. Speaker, I rise in opposition to the resolution before us today. I think this annual debate on trade with China is healthy, for through our voicing our dissatisfaction with not only human rights but other activities in that country, I think we make them aware of our posture as a nation. However, I think it is important to restate that this is not a special privilege to China. This is the same type of trade relations that we give to 184 other nations around the world. Let us set that out and it should be repeated over and over again. This is not privileged trade for that country.

Know full well that in the last decade, we have had some $12 billion in exports to China and the author of the resolution indicates that this might not be accurate but, yes, there are 170,000-plus jobs, American jobs, connected to those exports.

In my State of Wisconsin, major companies like ABB Drives and Rockwell—Allen-Bradley—have penetrated the Chinese market and over the last year we have seen a 29-percent increase in exports to China. Our colleagues in support of the resolution indicate that going it alone will work, and I say to them, it will not and it has never worked on behalf of this country. I cite the grain embargo against Russia because of their activities in Afghanistan. Know full well that there were countries waiting at the door to pick up those grain sales, grain sales that to this day we have not gotten back. The same is true for any and every export to China. The European Community is just waiting at the door. Japan is waiting at the door. Those trading items are lost. Those American jobs connected to that trade is lost forever. Let us continue the engagement like we have over the years. Let us keep the pressure on, but let us look to people on the ground in China like missionary groups which indicate that it would hinder the cause of human rights if we were to stop our trading activity.

The China Service Coordinating Office, an organization serving over 100 Christian organizations in service and witness there, fear that ending MFN would close the doors to China through all sorts of educational and cultural reforms. Let us defeat the resolution. Let us continue normal trade with this country.

Mr. BUNNING. Mr. Speaker, I yield 2 minutes to the gentleman from Colorado [Mr. HEFLEY].

Mr. HEFLEY. Mr. Speaker, those who support most-favored-nation status for China argue that maintaining open trade with China would spur economic growth, as well, and have a consequence of social reform. While I sympathize with this position, I am opposed to extending MFN status to China, and instead favor imposing conditions upon our future trade designation.

China has a continuing legacy of human rights violations and oppression of its citizens which cannot be ignored. The events of Tiananmen Square provided the world with a clear picture of the Chinese Government's ruthless and immoral nature. Year after year we have been told, "Give most-favored-nation status to China and we can win them over." We heard that during the Bush years. We hear it during the Clinton years.

Let us look at the score card a little bit regarding this strategy. We gave most-favored-nation status and they continue their policy of population planning with forced abortion. We gave most-favored-nation status and they continue not to tolerate any dissent of any kind, and the imprisonments, the torture, and the killings go on. We gave most-favored-nation status and they continue to try to stamp out any religion that is not state-supported religion, and the murders of priests and ministers continue.

We gave most-favored-nation status and they throw out the elected legislators in Hong Kong and replace them with handpicked Beijing lackeys. We gave most-favored-nation status and they made plans to invade Taiwan. When we stood in their way of that, they threatened to send nuclear missiles to our west coast.

We gave most-favored-nation status and they tried to smuggle automatic weapons into the United States to supply gangs in this country. We gave most-favored-nation status to them, and they have the biggest buildup of nuclear missile development of any country on the face of the earth.

Let us look at the score card. Do my colleagues suppose maybe that strategy is not working? How long before we get a new strategy?

Mr. CRANE. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. BOEHNER], our distinguished conference chairman.

Mr. BOEHNER. Mr. Speaker, I come to the floor today to support continued normal trade relations with China. We have heard before the term most-favored-nation status, which I do not think really says the true story. Most nations of the world, almost all the nations of the world, have most-favored-nation trading status. The fact is, what we are looking for is the same status for China.

Mr. Speaker, I understand my friends on both sides of the aisle are concerned about the issue of human rights, religious persecution and other abuses that go on in China. I and those who support MFN and normal trade relations with China are as concerned as they are. The issue is, how do we best address those? By delinking ourselves from China, by walking away from East Asia, or by staying engaged with them economically?

I think the best two examples that I have seen are what has happened in Taiwan and what has happened in South Korea. Twenty years ago both of those countries had brutal dictatorships, lack of religious freedom, lack of any kind of democratic freedom. Today both nations have popularly elected Presidents of their countries, real democracy.

Where did the democracy in those two countries come from? It came through expanded trade, expanded economic freedom that was engaged because the United States was engaged economically with those parts of the world.

Second, I would point out to my colleagues that when we talk about normal trade relations, if we want to delink this and we want to say no, who are we really hurting? Those in East Asia, those in China? Or are we really hurting the people in our own country, the people in my district?

Let us talk about agriculture, our country's No. 1 export, some $50 billion a year of exports going all over the world, and China being one of the main customers of our agricultural products. How about Procter & Gamble in Cincinnati? It has a huge presence in my district. Or Parker Hannifan in Eaton. French Oil Co. These are jobs in my district. Let us not hurt our people in order to raise our case about human rights in China.

Mr. STARK. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from Stark County, OH [Mr. TRAFICANT], one of the experts on foreign trade in this House.

Mr. BUNNING. Mr. Speaker, I yield 1 minute to the gentleman from Ohio [Mr. TRAFICANT].

Mr. SOLOMON. Mr. Speaker, I also yield 30 seconds to the gentleman from Ohio [Mr. TRAFICANT].

Mr. STARK. Mr. Speaker, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from California.

Mr. STARK. I thank the gentleman for yielding to me.

Mr. Speaker, I just wanted to point out, as I listen to this debate, that it becomes very clear what the issues are. The issues are, do you believe in human rights? And everybody does. But there are some who believe in making money more, and feeling that trade and money and campaign contributions from major corporations in this country are more important than human rights. So that while we all believe in human rights, are you willing to forgo the money to enforce them?

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Mr. TRAFICANT. Mr. Chairman, China sells missiles to our enemies, China threatened to nuke Taiwan and Los Angeles. China is buying intercontinental ballistic missiles, attack aircraft, and nuclear submarines. Congress, China is literally building a military juggernaut with American dollars.

China enjoys a $50 billion trade surplus, they have a 17-cent an hour labor wage, they deny most American products, and they impose up to 30 percent tariffs on nearly all of our products.

In addition, China shoots their own citizens, treats their women like cattle, laughs in the face of the United States.

And finally, China is a Communist dictatorship, and American law, current law, says no Communist nation shall get MFN.

Now the President wants to waive that. I ask the Congress, what did China do to deserve this waiver?

Now the President talked about building a new bridge to the future. I was always under the impression that new bridge was in America. It is evident to me the President was talking about building a new bridge over the River Kwai here.

I am opposed to this madness. We are, in fact, empowering a super dragon that is powerful enough some day to eat our assets. I think we are foolish.

China has become a powerful military problem. We better recognize it now before we arm them to a degree where we may have trouble reinforcing our freedom and national security in the future.

I commend the gentleman from New York [Mr. SOLOMON], proud to join forces with him. Vote "no" on MFN, vote "aye" on the resolution.

Mr. MATSUI. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. LEVIN].

Mr. LEVIN. Mr. Speaker, I rise in opposition to the disapproval resolution. On critical issues relating to China we need a policy, not a protest.

We do have serious problems with China; let us not paper them over: human rights, national security, trade. But for too long we have gone through the annual spasm over MFN only to more or less forget about China the rest of the year. It is time for more sustained and serious effort. Congress needs to roll up its sleeves, not throw up its hands.

On economics and trade, our problems with China are rooted in a fundamental change that has taken place in the nature of international trade. In earlier decades trade was mainly among industrialized nations, and the focus of trade negotiations was on tariffs and later market access. But today economic competition is increasingly between industrialized and developing nations, often with centrally managed economies with dramatically lower wage and salary levels sustained by government intervention.

These fundamental economic issues with China cannot be addressed through the annual MFN debate; they can be addressed directly through negotiations about China's accession to WTO, and they can be addressed as to other developing nations through comprehensive, hardheaded fast track legislation.

I urge all of my colleagues to confront these key issues, persuade the media to shine the light on them and help the administration play a central role by addressing them as we take up fast track and China's WTO accession. MFN has become a diversion rather than an answer. I oppose this resolution.

Mr. BUNNING. Mr. Speaker I yield myself 30 seconds to respond.

It has been brought up that we have normal trade relations with China. That is absolutely not true. We did not have normal trade relations with the Soviet Union because we did not grant most-favored-nation status, and we do not have a normal trade relationship with Cuba because we do not grant most-favored-nation status to Cuba. So it is not true when people talk about normal trade relations.

Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. ROHRABACHER].

Mr. SOLOMON. Mr. Speaker, I yield 30 additional seconds as well to the gentleman from California.

The SPEAKER pro tempore. The gentleman from California [Mr. ROHRABACHER] is recognized for 2½ minutes.

Mr. ROHRABACHER. First and foremost, Mr. Speaker, we are not talking about severing our trade ties with China, or talking about walking away from China, or talking about isolating China. That rhetoric does not meet the reality. What is being argued today is whether we should extend most-favored-nation status to China.

Now we have heard today that we are really talking about normal trade relations with China. Well, I too do not think it is normal trade relations. What we have is an unfair trading relationship with China. But, OK, a normal trading relationship with Communist China, yes, it is an unfair, irrational, unbalanced relationship that is unfair, yes, to the American people and putting our own country at risk. Why our corporate elite keeps pushing to maintain MFN is easy to see, but we have to get a little bit below the surface.

This is not about whether we should sell our products to China or corporations can still sell their products to China. Extending MFN means that these corporations will continue to get taxpayer subsidies. That is what it is about. When these big corporations go to China to use their slave labor or near slave labor, what they want is the taxpayers of the United States to guarantee their interests on their loans and guarantee the loans so it is easier for them to set up manufacturing units using slave labor in China than to do it in the United States.

This is an abomination, an attack against the well-being of the people of the United States who are paying those taxes. We end up putting them out of work so they can set up these companies and make a bigger profit in China. It is a terrible policy; it is unfair to our own people.

By the way, this unfair trading relationship burdens our goods when we want to sell over there that are made by our laboring people with a 35-percent tariff. Their goods flood into the United States of America with a 2-percent tariff. Yes, that is what we are talking about today, not most-favored-nation status. What we are talking about is an unfair trading relationship that we want to end by ending most-favored-nation status with China.

The trade deficit with Communist China is expected to be $50 billion this year. What are they using that money for? Again they are using that money directly against the interests of the people of the United States. They are buying weapons that could some day be used to kill Americans.

This is an abominable policy. Our policy makers should have their head examined for kowtowing to a Chinese dictatorship that is working against the interests of the American people. Vote for this resolution.

Mr. CRANE. Mr. Speaker, I yield 2½ minutes to the gentleman from Arizona [Mr. KOLBE], our distinguished colleague.

Mr. KOLBE. Mr. Speaker, I rise today in opposition to House Joint Resolution 79, the resolution calling for the United States to revoke the so-called most-favored-nation status with China. I oppose it so we can send a message to that nation about American principles and American values. I agree with the proponents of this resolution, let's send a message. Let us send a message to China, let us send a message about hope, let us send a message about freedom and democracy, let us send a message about prosperity, individual liberty, and the rules of law.

I strongly support institutions and organizations that promote American values abroad. I always have. I do so because I think America can be a shining example to the world, and I think these groups send powerful messages about America. When our people work abroad, they carry with them the best of what America has to offer, principles of fairness, of individual responsibilities and individual choice. Those are embodied with American businesses and organizations when they work abroad.

This is the best way for America to carry its message. Let us not isolate ourselves. But do not listen just to my words. Listen to those of others who have argued that a vote for MFN is a vote for religious freedom in China. Listen to these words of Reverend Sirico, a Paulist priest in China. Quote:

> Sanctions won't bring freedom for religious expression in China. They can only further isolate China and close off avenues for greater Western influence.

A vote for MFN is a vote for the people of Hong Kong. Listen to the words of Chris Patten, Governor of Hong Kong:

> Unconditional most-favored-nation trade status is unequivocally the most valuable insurance America can present to Hong Kong during the handover period.

A vote for MFN is the best hope for democracy. Listen to these words of Nick Liang, a former student leader in Tiananmen:

> The spirit of the Tiananmen Movement is not one of confrontation, not one of hatred, not one of containment, but of engagement. As one of the students from Tiananmen carrying on this spirit, I support MFN trade status, which is a very primary and effective vehicle of engagement.

Mr. Speaker, let me end with this quote by Daniel Su, an evangelical minister who spoke privately to some of us last week, and his words rang in my ears then and they ring here today. He was talking about why this debate and the motives of those, who support or oppose MFN. Either way, we should not question those motives. They are honorable, but Daniel Su also urged opponents of MFN to think about the consequences of their opposition. He said these words:

> To sacrifice ourselves for a principle is heroic. To sacrifice others for that same principle is insensitive.

Mr. Speaker, let us not sacrifice the Chinese people on our principles. Let us support MFN. Oppose this resolution.

This past January 1 led a 22-member, bipartisan congressional delegation on a fact-finding mission to Hong Kong and China to see first hand the impact that the United States policy of engagement is having on the Chinese economy and the Chinese people. I was truly astounded to see all the positive changes that have occurred since my first visit to that country in 1994, and I returned more committed than ever to our policy of economic and political engagement.

The changes we witnessed in China reflect many of the changes we have seen grip other Asian nations. Over the past decade, economic liberalization has generated powerful currents of democracy and freedom that have rippled throughout Asia. These currents have reshaped the socioeconomic landscape of the region.

Economic growth, driven by United States policies of free markets, free trade, and peaceful dialog among nations, has allowed countries like Japan, South Korea, and Taiwan to emerge as prosperous industrialized nations. Invariably, economic growth in these nations has led to expansion of individual freedom and liberty. Today, these countries have developed into true democracies characterized by political pluralism, functioning independent political parties, and greater respect for the rights of the individual.

Admittedly, these changes did not occur overnight. They were part of a long-term, evolutionary process. I believe we are seeing the same forces of change at work today in China. I am convinced that if we remain steadfast in our policy of engagement, with confidence that American values of freedom and democracy will ultimately prevail over the tyranny of repression and the economic stagnation that accompany state controlled economies, we will ultimately see the same economic and political transformation in China that we have seen in Japan, South Korea, and Taiwan.

Two decades ago, virtually every aspect of Chinese society was under state control. Today, more than half of China's output is generated by private enterprise. The development of a strong, vibrant, private sector—particularly in southern China—continues to weaken centralized control. This, I think, continues to represent the best hope for political freedom to spring full-blown in China.

Economic liberalization and growth of trade and economic links with the United States over the past two decades already have enhanced freedom for the Chinese people. That is undeniable. Millions of Chinese citizens are now employed in non-state enterprises, and they have the basic freedom to select their own employment and to change jobs when they are dissatisfied with working conditions or wages. This environment is the direct result of our policy of engagement.

Clearly, civil liberties and personal space have increased over the past two decades as the Chinese economy has improved. In my view, the ongoing process of political reform in China would be severely compromised if we were to erect barriers to trade and economic exchange between our two countries. This is reason enough to support renewal of China's most-favored-nation trading status.

But there are other reasons. In just a few weeks the world will watch as Hong Kong undergoes the peaceful transfer of sovereignty from Britain to China. If we pass the resolution of disapproval in the House of Representatives on the very eve of this transfer, what message will we send to the world and the people of Hong Kong? That America wants to turn its back on them, break economic and political ties with that region, and abandon its citizens at the precise hour of their greatest need? I do not think that is what the United States stands for.

I also fear that passing the resolution of disapproval in the House will result in a backlash against American goods and American values. It would be nothing less than a unilateral declaration of political and economic war, providing just cause to hard-line elements in the Chinese Government who advocate more state control and less foreign influence.

I fear the result will be the exile of groups associated with the United States who promote western values. Groups such as the International Republican Institute, which works to develop the rule of law in China and strengthen the nascent village democracy movement, would be discredited. Missionary organizations, like the Evangelical Fellowship, would no longer be welcome. We would be extinguishing some of the brightest rays of hope to the Chinese people, ultimately hurting the very people we are trying to help.

Maintaining normal trading relations with China does not mean that we can't also speak frankly and firmly to the Chinese Government about issues and values important to us. There are opportunities where we can and should let our concerns about human rights, trade, and nuclear proliferation be known. I have certainly done so in my meetings with top Chinese leaders. But if we disengage, if we pull back our most effective resources, what incentive will those Chinese leaders have to listen to, or care about, what we have to say?

I certainly think there is more that we can do. For example, I favor bringing China into the World Trade Organization on commercially viable terms. I think doing so would oblige the Chinese leadership to implement difficult domestic economic reforms while providing the United States with a strong multilateral vehicle for dealing with issues such as market access in China.

I also favor accelerating and funding efforts to work with the Chinese to promote the rule of law and encourage and support the village election process. In fact, I am currently working with Representatives JOHN PORTER of Illinois and DAVID DREIER of California to examine just such an approach.

But one thing is clear. The United States must remain a major influence in Asia. We must strengthen our relations with our allies and maintain a strong military presence in the region. And we must be clear and consistent in our message to the Chinese Government. This annual debate over whether we will continue our political and economic relations with China destructive and counterproductive. It hampers our ability to formulate a comprehensive and effective policy toward the region. And I think it is time for it to end.

Thus, I strongly urge my congressional colleagues to renew MFN status for China. History has shown that economic growth is the most effective catalyst for political change. The principles of freedom and individual liberty embodied in economic liberalization will ultimately prevail—but only if we have the political courage to allow them to flourish.

Mr. STARK. Mr. Speaker, I yield 1 minute to the gentleman from Rhode Island [Mr. KENNEDY].

Mr. KENNEDY of Rhode Island. Mr. Speaker, let us see what the appeasement strategy of MFN has gotten us.

On military aggression China sales of weapons to Iran are well-documented. But even worse than being well-documented, China defends their sale of weapons to Iran.

We have heard about the trade deficit approaching nearly $50 billion a year. Those are jobs, my colleagues. Between 1989 and 1994, our trade deficit with China increased tenfold. I wonder why. Well, maybe it is because despite the fact that they have agreed to end trade and prison labor it is estimated that between 6 and 8 million Chinese are enslaved in labor camps. I thought they said they gave us their word they were not going to engage in slave labor any more. Whoops, small detail there. Well, according to Amnesty International, this is continued every year. In addition, over 3,500 documented executions occur every year in jails in China.

My colleagues, vote "yes" on the resolution and "no" on MFN.

Mr. MATSUI. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri [Mr. SKELTON].

Mr. SKELTON. Mr. Speaker, I rise to speak against the resolution to disapprove. It boils down to whether my colleagues want China inside the tent or outside the tent.

Now all of this China business, there is one segment of trade that has not been discussed as thoroughly as it should, and that segment is agricultural exports. So today I speak for the American farmer, I speak for the rural Missourians who sell products abroad.

United States should again extend normal trade status to China. Failure to do so will jeopardize American agricultural sales to that country that last year topped $3 billion. Overall, our country enjoys a substantial agricultural trade surplus with China of $2½ billion. Moreover, agricultural exports to China stand to gross significantly in the coming years as income growth in China leads to continuing dietary improvement.

Let us look at some of the sales statistics that we have. Nineteen hundred ninety-six, corn sales to China topped 90 million bushels; fertilizer, $1.1 billion; wheat, $426 million; cotton, $736 million; soy beans, $414 million; soybean meal, $116 million; soybean oil, $104 million, and poultry, $408 million.

China is already a major market for American agricultural exports and has the potential to become an even bigger customer as the economy continues to grow. So for the American farmer, for the Americans and those who live in rural Missouri and rural America, I say let us continue to sell agricultural products to that country.

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Mr. BUNNING. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New York [Mr. PAXON].

Mr. PAXON. Mr. Speaker, it is with great sadness that I rise today to oppose the renewal of MFN for China. This decision has been a difficult one for me. I am a firm believer in free trade.

Trade is of vital importance to American jobs and the world economy, but our foreign policy is about more than simply trade. There are sound arguments on both sides of this debate. There are no black and whites here, there are no absolutes, except one: the absolute failure of the Clinton administration to effectively represent American interests and values on the world stage.

I wish I could stand here today and support MFN. Each of the four times that President Clinton has asked this body to renew, I have given him my vote. But when the Clinton-Gore administration fails to use our trade relationship to promote free and fairer trade, encourage human rights improvements, or to limit the proliferation of arms, it is time to try something else.

I will admit it: Trade for trade's sake is the closest thing this administration has to a consistent foreign policy, but the world is more complex than that, and American foreign policy is about more than champagne toasts and caviar receptions.

This administration's failures are not limited to Asia. Their debacles litter the globe from the Middle East to central Africa. Clinton-Gore foreign policy has made a mockery of this Nation in the eyes of the world. We have gone from being the world's policeman to its Keystone cops. Today, bumper sticker slogans substitute for honest dialog and fundraisers have replaced fact-finding.

America is best represented, I believe, by a cohesive, coherent, and disciplined foreign policy executed by the President of the United States. Sadly, the current administration refuses to address seriously even the most basic of human rights, trade, and national security concerns when it comes to United States-China relations.

I will be the first to admit it: Denial of MFN to China would be at best a blunt, imprecise instrument, but I believe it would send a message to China that the United States believes in something more than the blind pursuit of trade.

Do I wish the President would step up to the plate and do his job? Absolutely, yes. But absent that leadership, what choice does Congress have? Denying MFN will not solve all of our problems with China, but at least someone will have signaled to the leadership in Beijing that trade with America is not just a right, but a privilege.

Mr. CRANE. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Florida [Mr. FOLEY].

Mr. FOLEY. Mr. Speaker, I rise in opposition to this resolution to deny MFN trading status for China. Many of us share great reservations about the fate of Hong Kong under Chinese rule. Most of us also share deep concerns about human rights abuses, whether those abuses are in China or elsewhere. But denying MFN to China is the wrong way to address these issues.

Hong Kong Governor Chris Patten has made it crystal clear that denying MFN status will only hurt Hong Kong. His quote: "For the people of Hong Kong," he said, "there is no comfort in the proposition that if China reduces their freedoms, the United States will take away their jobs."

Christian missionaries are also pleading with us not to endanger their work and their people by denying MFN. We cannot address the issue of human rights in China, or anywhere, if we are not engaged, and we cannot help Hong Kong retain its freedoms and its status as the center of trade if we undercut our influence there and undercut Hong Kong's economic health.

From my days as a real estate broker I can tell my colleagues that we gain nothing if we are not at the table. We cannot serve our interests or those of our clients by being absent during a closing. If we are not in the room, we are not a player, period, and that goes for trade as well.

I urge opposition to this resolution denying MFN trading status for China.

Ms. PELOSI. Mr. Speaker, I yield 1 minute to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DeLAURO. Mr. Speaker, I want to build a strong relationship between the United States and China, but the most-favored-nation status that China enjoys has done little to build a strong and mutually beneficial relationship between our two Nations.

China has engaged in unfair trade practices, pirated intellectual property, spread weapons and dangerous technology to rogue nations, suppressed democracy, encroached on democratic reforms in Hong Kong, and engaged in human rights abuses.

They have profited. They send one-third of their exports to the United States and allow only 1.7 percent of American exports to crack the Chinese market. The result? A $40 billion trade deficit which is expected to reach a staggering $50 billion by the end of this year.

The United States should use our trade laws to pressure China for greater access for American companies and goods. I am voting against MFN for China because we need to let China and our trade leaders know that more of the same from China is not acceptable. If our Government wants support for free trade, then it must insist on fair and equal standards and compliance with our trade laws. When that happens, there will be broader support for MFN.

Mr. MATSUI. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from New York [Mr. RANGEL].

Mr. RANGEL. Mr. Speaker, I rise in support of the President's decision to extend most-favored-nation status to the products of China for another year, and urge my colleagues to vote "no" on House Joint Resolution 79.

As most of my colleagues know, we are not really talking about giving privilege or favorable treatment to the Republic of China; what we are talking about is treating them as we would normal trading partners.

I think, too, one of the reasons I support it is because this is not just a trade issue, it is a foreign policy issue, and I think the President and the State Department should have more information as to where we can go as a nation and what proper tools we have available to use in order to bring the entire free world around to understanding that democracy really and truly works.

It seems to me that boycotts and using trade as a weapon can only work if we have a consensus among the world leaders that we are going to be working collectively. Here we see a situation which should be proven to us by the embargo against Cuba that there are too many countries willing to fill the vacuum that America would leave, if we just decided unilaterally that we had a higher sense of human rights than the people that we were dealing with.

It is just hard to see what our history of doing business with dictators in South America and around the world, including the former Soviet Union, than how with China we find this new high moral standard in dealing with them. It is not as though withdrawing and not communicating is going to improve the situation. Most no one denies that job creation in our country can be the difference in whether we trade or whether we do not, or whether someone else gets the jobs.

Mr. Speaker, on the question of human rights, I would just like to say that our great Nation exceeds the world in the number of humans that we have incarcerated per capita. If we take a look at the profile of those people that are locked up and have had their liberties taken away from them, and knowing the fact that statistically people who look like them will be ending up in jail, we would be hardpressed on American soil to explain that we are not talking about political prisoners.

Most all of these people, at least 80 percent of them, come from poor communities; one way or the other they have been affected by drugs; most of them of color; most all of them are uneducated, untrained, and most of them do not think much about their lives and the lives of other people. It would seem to me that if we really were concerned, we would find out the source, the poverty that exists in communities, the failure of our school system to work, and to see how close to 2 million people could possibly enjoy the benefits of expanded trade which we hope this great Nation will be looking forward to.

What I am saying is that we all are seriously concerned about the human rights of every individual, and we should be, but I do not want any country ridiculing or telling my country, the greatest republic in the free world, what we are doing wrong. I do not want anyone setting these standards for my country.

I think that the fights that we have, we are able to fight back because we have the opportunity to do it. We have the ability to try to impress each other, to make America better, and I think the only way we can get this idea across to other countries is to be there and let them see who we are, how we succeed to have a better life. I think it is true in Cuba, if we went there and showed them what American capitalism is like, and I think that the United States as an economic showcase has changed the lives of many people in China.

Mr. Speaker, by continuing the dialog and creating the jobs on this side of the ocean, I truly believe that is a better solution to the problem than us determining what human rights should be in the Republic of China.

Mr. BUNNING. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. HUNTER].

Mr. HUNTER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, this Tickle-Me-Elmo made in China is more coherent than the trade policy of the Clinton administration.

Let me turn this fellow off.

Trade is a balancing of interests. Whether we engage with a nation with respect to trade is a balancing of interests.

What are we getting? We are getting a smaller export to China than we get to Belgium. They are not a major trading partner except for the one-way street, except for the $50 billion-plus coming back to China, the trade surplus that they enjoy over us, the enormous sales throughout our Wal-Marts and K-Marts with hundreds and hundreds of products, many of which are made by the People's Liberation Army, and what are we getting in return for that?

Have we stopped any of the poison gas sales to Iran by China? Have we stopped any sales of ring magnets that are used to make ICBM's sold to Pakistan? Have we stopped the purchase of the missile destroyers that were purchased from Russia, that have one purpose, and that is to kill American sailors and destroy American ships on the high seas?

My colleagues have spoken of the policy of engagement, but not one CEO, not one president, not one trade negotiator can point to a single case of technology transfer or military transfer that they have stopped by engaging with the Chinese, nor can any of them really point to any attempts that they have made to stop this amassing of military capability in China and the transferring of military capability to outlaw nations around the world.

So in the balancing of interests, we are getting about the same exports that we get to Belgium, which is very little, and in return for that we are making China strong with hard American dollars. They are militarizing with their strength, and the same children, the 5- and 6-year-olds playing with that made-in-China Tickle Me Elmo today, may well be facing us on a battlefield in Korea when they are 17 or 18 years old. Vote against MFN for China.

Mr. DREIER. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Sanibel, FL [Mr. GOSS], chairman of the House Permanent Select Committee on Intelligence.

Mr. GOSS. Mr. Speaker, I thank the distinguished gentleman from California for yielding me this time.

I continue to believe that we must remain engaged in China; clearly the power to be reckoned with both now and in the next century. However, I have to say it is with increasing reluctance this year that I am going to support these normalized trade relations. I have just about had it.

As chairman of the Select Committee on Intelligence, I have two major concerns: First, China's flagrant and inexcusable weapons proliferation activities; no denying it. Specifically, the provision of advanced weapons systems, equipment, and technologies to nations, including some that are hostile to America, that are known to have active programs to develop weapons of mass destruction. I want to be sure President Clinton knows how serious this is; I want to hear him say it, I want to hear him say he is going to do something about it.

The other issue clouding the debate for me is the serious allegation that Chinese officials engaged in improper and possibly illegal activities to influence the outcome of U.S. elections.

□ 1230

This matter is still unresolved, and it deserves cooperation, and I hope also we will get the cooperation of the administration on this.

Mr. STARK. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. PASCRELL].

Mr. PASCRELL. Mr. Speaker, let us not surrender to the China lobby. I rise today to make known my strong support for House Joint Resolution 79, disapproving the extension of most-favored-nation trading status to Communist China. The debate that this body is now engaged in is of the utmost importance for American jobs today and the security of our Nation tomorrow.

Let me say that I know my colleagues in this Chamber want nothing more than for our trade deficit with China to narrow, for human rights to improve, for the grave incidents of nuclear and weapons proliferation to cease, and finally, for democracy to take root in China. Let us be honest about this discussion. There is not a single Member in this body who does not want to achieve these laudable goals.

But I have come to realize that the annual exercise of renewing China's most-favored-nation status has been a complete failure in its annual exercise of futility. In fact, continuing MFN treatment for China has been based upon a series of broken promises. First, we have heard that engagement is critical for the United States to achieve its economic goals with China. We ought to engage the American worker, that is what we need to engage, in America, to protect our jobs and stop shipping them across the ocean.

We ought to visit China, but we should visit the shops and factories in our own districts back home where those folks have to work, where those folks need to be producing products that need to be sent to China, not to have a 35 percent duty or tariff on it, and ours a 2 percent, so China can send goods to us and we cannot send goods to them.

Mr. Speaker, our argument is not with the Chinese people, it is with their authoritarian government. The China lobby which did us in in the end of the Second World War is alive and well in Washington, DC. We should make the decision for our workers and working Americans, instead of shipping jobs across the ocean.

Mr. MATSUI. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Oregon [Mr. BLUMENAUER].

Mr. BLUMENAUER. Mr. Speaker, this is a high water mark for me in the last 2 years I have been able to be in Congress, being able to be a part of this discussion on our relationship with China. It is bipartisan, it makes a difference, it is Congress at its best and its most exciting.

Over the last 25 years, since President Nixon reversed our policy of isolating ourselves from China and the rest of the world, we have seen a safer and more prosperous world. It helped hasten the end of the cold war, it helps keep peace today on the Korean peninsula, where China is one of the few countries that actually exercises some control over the North Koreans. It has pointed toward more prosperity and freedom for the Chinese. Even the progress with American missionaries on the ground in China in the last half dozen years would have been unthinkable 20 or 30 years ago.

Most important, it has planted seeds for a dynamic change in the future with access to information and to markets. The reason it sounds to people today that we are talking about a multiplicity of countries is the fact that

China, although large and with an ancient culture, is complex and it is not monolithic. We cannot treat it as such.

The notion that somehow MFN will force a monolithic Chinese ancient society to change and accommodate us is misguided. It did not work during World War II, when there were over 1 million Japanese soldiers on Mainland China and we were giving them billions of dollars. The Chinese risked nuclear war and fought us to a draw in Korea, and tens of thousands of Americans needlessly died because we thought we could force China. It does not even work with a two-bit dictator 90 miles away with Cuba today.

We need to engage the world to work with us, not cutting ourselves off from China, but to work cooperatively, providing leadership. This Congress needs to support policies that enable the administration to continue the process of engagement and progress. We need to defeat this resolution.

Mr. BUNNING. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. STEARNS].

Mr. STEARNS. Mr. Speaker, the question can be summed up in two words: self-aggrandizement. Is our interest in self-aggrandizement in this Nation more important than the principles involved? Are we a Nation whose purpose is expanding business at all costs, no matter what? Or do we have a Nation where some principles are important to us? Is expanding trade with China more important than the fundamental principles that define the beginning of this Nation? Is the loss of trade harmful to the economy, so harmful that we are willing to sacrifice any principle, or is there a higher good in which to lead our Nation in our trading practices?

I believe there is a much higher purpose today. How can we support trade policy with a Nation that believes in the power of the State rather than the power of the people? We are subsidizing through our trade policy China's economic interests, which is controlled by the State, and the people who are existing in that country get no benefit.

Mr. Speaker, I do not pretend to know all the answers. Maybe there is a compromise. China in the very near future can become a strategic threat, and this strategic threat is more important to us than trade.

The esteemed Frank Gaffney, the director of the Center for Security Policy, this is what he said: "China is utilizing most of the huge trade surplus that it enjoys, thanks to this privileged trading status, to mount a strategic threat to the United States and its vital interests in Asia, the Middle East, and beyond."

The United States trade deficit with China is $40 billion for 1996 alone. Because the State owns nearly all the businesses in China, the hard currency they receive from the United States trade deficit is used to purchase advanced military weaponry, such as advanced naval vessels from Russia that can be a direct threat to the United States in the western Pacific.

Our vote today is very important. Keep the principles in mind.

Mr. DREIER. Mr. Speaker, I am happy to yield 2 minutes to the gentleman from Metairie, LA [Mr. LIVINGSTON], the chairman of the Committee on Appropriations.

Mr. LIVINGSTON. Mr. Speaker, I thank my friend for yielding time to me.

Mr. Speaker, the people of China are light years better off today than they were 15 or 20 years ago. There is a whole world of difference between the way the Chinese people were treated by their own Government back then and the way they are treated today. They are coming out in the open. They are gravitating toward Western styles, and maybe they will not even want to hear that, but to democracy. They are not open, they are not perfect. Everything that everybody has said on the floor today is right about the atrocities committed by the Chinese Government. But they are moving in the right direction, and most-favored-nation status is important to preserve normal trading relations with China.

If we cut them off, isolate them, are we going to enhance the plight of the Chinese people, or all the people they control? Not according to Martin Lee, who is the leader of democracy in Hong Kong; not according to Chris Patten, the former Governor of Hong Kong, who is on his way out; not according to the Dalai Lama from Tibet. These three leaders and proponents for democracy say that cutting off MFN for China is going to increase the probability that people will be oppressed by the Chinese Government.

If MFN is not extended, Hong Kong will stand to lose $20–30 billion in trade and 60,000–85,000 jobs. Moreover, their economy will be cut by over 50 percent and incomes will be reduced by $4 billion.

The United States has an estimated 170,000 jobs dependent on exports to China.

United States exports have more than tripled over the last 10 years and China is now our fifth largest trading partner, accounting for $12 billion of United States exports.

A number of religious groups in and out of China favor MFN. Taking away MFN will only hurt the Chinese people, particularly those who are persecuted because of religious faith.

Engagement does not mean we support all of China's policies. We should, and will continue to, press China on proliferation, human rights, religions freedom, and the rule of law. Revoking MFN?

What in the world are we doing? We have realized sanctions do not work. They have not worked in other places in the world, and they are not going to work against the most populous nation on Earth. The Chinese people deserve to be free. The people in Hong Kong deserve to be free. The worst thing we can be doing is cutting off MFN now, before we find out what happens to the people of Hong Kong.

Six months from now, a year from now, if things go badly, maybe then, maybe then we can cut off MFN, but not now. Let us give the only hope for freedom to the people of Hong Kong that we have. Let us extend normal trading relations.

Mr. STARK. Mr. Speaker, I yield myself such time as I may consume.

I would like to comment, I have been informed that the Dalai Lama did not endorse MFN and suggest that it was necessary. Quite the contrary, he supports our position.

Mr. Speaker, I yield 1 minute to the gentleman from Ohio [Mr. KUCINICH].

Mr. KUCINICH. Mr. Speaker, I rise in opposition to most-favored-nation status for China. The American people have heard that trade at all costs with China serves United States interests, but here are the figures. The United States trade deficit with China has grown at a faster rate than that of any other major United States trading partner. The level of United States imports from China more than doubled between 1992 and 1996. The United States trade deficit was nearly $40 billion in 1996, and it is on its way to surpassing that mark in 1997.

These figures mean lost jobs in the United States, and it is just beginning, because United States-based multinational corporations are investing to build new plants and new equipment in China. Contractual agreements with the Chinese Government require that the supply of goods for those new factories will have to come from China as well, and that means more United States jobs lost.

Human rights are important in this. Why have we tolerated for so long the United States double standard of fierce commitment to the rights of intellectual property, important to multinational business, while the rights of workers in the United States and independent thinkers in China are cast aside?

Mr. Speaker, I say human rights are as important as copyrights.

Mr. MATSUI. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from California [MRS. TAUSCHER].

Mrs. TAUSCHER. Mr. Speaker, this debate is what makes us different. It is exactly what should be happening in this great country of ours. America should never base its decisions solely on the power of economics. I commend those Americans, particularly those Members of Congress, particularly my good friend, the gentlewoman from California, Ms. NANCY PELOSI, for raising so many of the important issues related to extension of normal trade relations to China.

So it is with some reluctance that I oppose this resolution and support extension of MFN to China. Secretary

Madeleine Albright has stated, "Engagement does not mean endorsement." I believe engagement does mean opportunity, opportunity to export our values and lifestyle, and an opportunity to promote a better and more secure world for our children and the children of China.

I worked on Wall Street for 14 years before I left to raise my family. I recognize the opportunities economic integration can provide. I believe there is no greater opportunity or challenge in American foreign policy today than to secure China's integration into the international system as a fully responsible member, not just in economic terms, but in terms of human rights, the environment, weapons proliferation, intellectual property protection, and other issues.

I believe we can better influence China's direction by exposing them to our Democratic ideals through engagement. We can effectively move the Chinese to change by increasing their exposure to the alternative model. We can work to end human rights abuses by continuing the dialog through trade and exchange. Revoking MFN would severely damage American interests and undermine our ability to influence China's direction. I urge my colleagues to vote "no" on this resolution and support extension of normal trade relations to China.

Mr. BUNNING. Mr. Speaker, I have the distinct privilege of yielding 3 minutes to the gentleman from New York [Mr. GILMAN], the chairman of the Committee on International Relations.

Mr. GILMAN. Mr. Speaker, I rise in strong support of this resolution, House Joint Resolution 79, offered by the distinguished chairman of the Committee on Rules, the gentleman from New York [Mr. SOLOMON], disapproving the extension of MFN trading status to China.

Mr. Speaker, this legislation sends a clear signal to Beijing that our Nation does not reward unsavory economic and political practices. Our Nation must do right and value principle over practice.

The regime in Beijing repeatedly has violated international trade agreements, spread weapons of mass destruction, committed terrible human rights abuses, both in China and in occupied Tibet, and persecuted all those who pursue religious freedom, while at the same time enjoying the privilege of an open trade agreement with our own Nation.

The so-called constructive engagement policy favored by the administration I think has been ineffective in moderating the Chinese Government's policies. It has not brought about a level economic playing field for American businesses and exports. The situation shows no sign of improvement.

What have we achieved in return? A $40 billion trade deficit, which, by the way, is likely to top $50 billion this year.

□ 1245

Chinese tariffs on American exports average 23 percent, a bewildering array of nontariff barriers to United States goods. The piracy of our intellectual property and the intentional diversion and illegal transfer of American dual use technology. The key to a successful policy of engagement is supposed to be reciprocity. The administration's advocacy for renewing MFN is a policy of appeasement, not reciprocity. China's weapons proliferation practices are a source of international concern and serve to embroil regional turmoil.

We must be willing to use our tremendous economic influence in order to stop any nation from violating international nonproliferation agreements. We should be willing to use our economic power to foster measurable progress on human rights around the world. The government in Beijing has a deplorable human rights record, and the administration's decision to delink human rights from the MFN debate has not helped but has contributed to a worsening condition in China.

A recent poll by a major United States news outlet showed that nearly two-thirds of Americans believe that we should demand progress from China on its human rights practices before extending any trade privileges. I agree.

We should base our foreign policy on the values that have made a great Nation of America: democracy, freedom, universal human rights, and the rule of law. Accordingly, I strongly encourage my colleagues to support this resolution. I invoke the words of the great American, Dwight D. Eisenhower, who said a people that values its privileges above its principles soon loses both.

Mr. STARK. Mr. Speaker, I yield 1 minute to the gentleman from Minnesota [Mr. STUPAK].

Mr. STUPAK. Mr. Speaker, how can we endorse products manufactured by slave labor, child labor, and prisoners? We as United States citizens and as citizens of the international community, we cannot, we should not endorse these Chinese labor practices. We must reject trade agreements whereby low-cost products of countries which lack effective labor laws are sold in the United States at considerable profit for these countries.

My second concern involves the trade deficit with China. This trade deficit now stands at $40 billion. It is expected that our trade deficit with China will exceed Japan's within the next 12 months. In 1989, it was only $3 billion. Less than 10 years later, it is now $53 billion.

Mr. Speaker, that is not a trade policy. It is a trade giveaway. I hope we will all vote in favor of House Joint Resolution 79.

Mr. MATSUI. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California [Mr. DOOLEY].

Mr. DOOLEY of California. Mr. Speaker, every year that I have been in Congress we have had this debate regarding China. The one thing that has been very consistent and very constant is that all Members, regardless of what their position is on China MFN, do agree that there are serious problems with human rights in China, with nuclear proliferation, with religious freedom. And there certainly are trade barriers. But what there is great disagreement on is, how can this country be most effective in addressing and improving upon those problems?

I agree with what every President since the 1980's has agreed to, that it is by maintaining economic engagement with China that we are going to be more successful in empowering the citizens of China to be able to be more successful in improving their human rights situation.

Since many of my colleagues have discussed many issues surrounding the China debate, I want to spend a little bit of time talking about agriculture. As a farmer from the most productive agriculture region in the country, I believe that the most useful action the Federal Government can undertake is to expand market access for agriculture products.

Few people realize that China is currently the sixth largest export market for United States agriculture goods. In 1996, China bought over $1.9 billion of United States agriculture products. When we look to the future with 1.2 billion people in China, with limited arable land, it is now expected that China will consume almost 50 percent of the increases in United States agricultural exports in the coming decades.

China is already No. 1, the world's largest wheat importer, and in the last 4 years China's feed grain consumption has increased by over 50 million tons. We must ensure that this country can be a reliable supplier to China. We must not repeat some of the mistakes of the past when this country put in place a grain embargo, when we acted unilaterally. The only people who suffered when we put in the grain embargo were United States farmers. If we do not choose to go forward with China MFN policy, we will in fact be putting another embargo that will also be unilateral which will ensure that it be will the United States farmers who will have the most to suffer. Let us vote against this resolution.

The SPEAKER pro tempore (Mr. LAHOOD). The Chair would advise all Members that the gentleman from Illinois [Mr. CRANE] has 32½ minutes remaining; the gentleman from California [Mr. STARK] has 30 minutes remaining; the gentleman from California [Mr. MATSUI] has 30½ minutes remaining; the gentleman from Kentucky [Mr. BUNNING] has 17 minutes remaining; and and gentleman from New York [Mr. SOLOMON] has 3½ minutes remaining.

The Chair recognizes the gentleman from Kentucky [Mr. BUNNING].

Mr. BUNNING. Mr. Speaker, I yield 2 minutes to the gentlewoman from Florida [Mrs. FOWLER].

Mrs. FOWLER. Mr. Speaker, almost exactly a year ago, I stood before this body to oppose extension of most-favored-nation trading status for the People's Republic of China. I did so with reluctance because I am a strong supporter of business and I have a fundamental commitment to free trade, also because I believe that the United States should remain engaged with China, which is an emerging superpower.

However, I do not believe in commerce at all cost. I could not in good conscious support normal trade relations with the PRC in view of a number of the Chinese Government's activities. I had hoped to be able to support MFN this year. But unfortunately, the actions of the Chinese Government over the last 12 months and this administration's lack of a coherent response to those actions leave me no choice but to oppose MFN once again.

In addition to its egregious human rights violations, including the use of slave labor, outrageous abuse and neglect of baby girls and persecution of Christians, the PRC continues to actively engage in weapons proliferation activities around the globe and to be a one-stop shopping center for Third World nations hoping to acquire or develop weapons of mass destruction. These proliferation activities pose a clear and present danger to our national security and to our young men and women in uniform, and the current administration has done little or nothing to address this situation.

I believe that supporting MFN would amount to tacitly approving both China's dangerous weapons and technology sales and this administration's lack of a coherent policy for dealing with the PRC. I can do neither and I will vote in favor of this resolution as a way of sending a message that this Congress will no longer tolerate the current state of affairs.

I urge my colleagues to do the same.

Mr. CRANE. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey [Mr. FRELINGHUYSEN].

Mr. FRELINGHUYSEN. Mr. Speaker, I rise in support of MFN for China. I rise in support of the common sense proposition that we continue to normalize trade relations with the People's Republic of China. We live in a global economy and it simply makes no sense to turn our back on a nation of a billion people. It is in our own national security interest as well as our economic interest that we have normal relations.

We are all concerned about human rights and individual freedom, but the best way to promote those causes is to be present in China with our values and our products. In my district alone I have heard from large and small companies whose futures for products and jobs largely depend on new markets. Mr. Speaker, I can think of no more important export to China than each and every example of the American success story.

I urge my colleagues to oppose this resolution and to support MFN for China.

Mr. STARK. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. BROWN].

Mr. BROWN of Ohio. Mr. Speaker, every year China promises to open its market to American products. Every year Congress grants most-favored-nation status to China. Yet nothing seems to change and we are about to do it again.

MFN is a job killer for America. MFN is a job killer for America because China refuses to open its markets to us. MFN is a job killer for America because China uses slave labor in prison labor camps. MFN is a job killer for America because it uses child labor to make things like these Spalding golf balls or this Mattel Barbie doll. Twelve-year-old Tibetan boys and girls in slave labor camps in China make these soft balls for 12-year-old kids to play with on America's playgrounds. Chinese children make these Barbie dolls in sweatshops—12-year-old Chinese children make these Barbie dolls in sweatshops—so America's 12-year-olds can play with these Barbie dolls in their bedrooms.

Mr. Speaker, repression in China today is much more than an isolated mock trial here, a closed newspaper there. Instead it encompasses the arbitrary arrest, torture, and execution of thousands of prisoners of conscience. It is systematic. It is wholesale. It is thorough, it is complete.

When I hear the State Department say that no dissidents are known to be active in the People's Republic of China, as it did in its 1996 human rights report, I am reminded of a line from Star Wars which is chillingly applicable to China. It is as if millions of voices cried out in terror and were suddenly silenced.

Mr. MATSUI. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from New York [Mr. LAFALCE], ranking member of the Committee on Banking and Financial Services.

Mr. LAFALCE. Mr. Speaker, in January 1979, I was fortunate to be a part of the United States congressional delegation that represented the United States at the ceremonies reestablishing relations between the United States and China. That was the first time I was in China. We met extensively with Deng Xiaoping; we viewed China. It was a drab, terrible place. But it was good that we reestablished relations.

This year, 18 years later, January 1997, I had occasion to go to China again, met with President Jiang Zemin and saw China 1997.

Mr. Speaker, I doubt that any country in the history of the world has advanced as much in an 18-year period as China has. I doubt that the human rights condition of a people has advanced in any country in the world as much in 18 years as China has. That would not have happened had we not reestablished relations. That would not have happened had we not established normal trading relations with China. So if Members want to pursue the cause of human rights in China, continue normal relations with China, do not make the single largest foreign policy mistake in the history of the United States.

Mr. BUNNING. Mr. Speaker, I yield 1½ minutes to the gentleman from Iowa [Mr. GANSKE].

Mr. GANSKE. Mr. Speaker, in 1995 and 1996, I voted for MFN. This year I will not. I will support this resolution.

Why the change? Well, it is not just one reason. I think that China's human rights record is no better and it may be worse. Second, I know for sure that our trade deficit is worse because we are not making any progress on bringing down their import tariffs. And we are losing American jobs because of it.

Third, we just learned that the Chinese sold cruise missiles to Iran. This places American troops in harm's way. And how about Chinese sales of nerve gas technology to Iran?

Finally it appears that the Chinese have tried to influence our own elections with illegal contributions. United States-China policy made in China.

Mr. Speaker, we need to send China a message. First, lower your tariffs. Second, stop persecuting religious freedom of speech. Third, stop selling weapons of mass destruction to terrorist states and, fourth, do not ever meddle in our elections again. Vote "yes" for this resolution.

Mr. Speaker, I include the following for the RECORD:

Today I vote on whether to extend most-favored-nation [MFN] trade status to China. Everyone agrees that the United States-China relationship is very important and I have spent much time thinking about our country's relationship with the most populous nation on Earth. I voted for China MFN the last time. This year I will not. Why the change?

I believe our foreign policy should promote democratic freedoms, stop the proliferation of weapons of mass destruction, and promote U.S. exports. Indeed, since the Tiananmen Square massacre of 1989, Congress has been concerned about China's violation of trade agreements, sales of weapons of mass destruction, and human rights violations. There is new information available on abuses in each of these areas. In addition, it appears that the Communist Chinese Government tried to influence the outcome of our election in 1996. United States-China policy made in China.

I believe that free markets around the world lead to higher standards of living for all. However, free markets mean free markets. The

United States, under MFN for China, levies an average 2 percent tariff on Chinese goods coming into the United States. The Chinese levy a 35 percent tariff on United States goods exported to China. Is it any wonder that the United States trade deficit with China has soared from $6 billion in 1989 to $50 billion projected in 1997? In January 1997 alone, imports from China were up 18 percent over the month before and United States exports to China were down 28 percent.

Despite the 1995 and 1996 intellectual property rights agreements, piracy of United States software and CD's continues in China. In 1996, that piracy cost our economy over $2.3 billion. China wants our technology, requires a "certification" of that technology by Chinese research and design institutes, and then disseminates that technology to Chinese domestic ventures. Is it any wonder that the CEO of one of Iowa's largest seed companies told me that they won't do business with China until his company's intellectual property is better protected?

Congress has had concerns about Chinese sales of arms, but just this past week the State Department officially informed Congress that the Chinese Government has sold cruise missiles to Iran that enhance Iran's ability to disrupt Persian Gulf shipping and strike United States forces there. In addition Chinese companies have recently sold Iran chemicals and technology that help Iran make nerve gas. China has provided Iraq and Libya with materials to produce nuclear weapons, have provided missile-related components to Syria and have provided Pakistan with advanced missile and nuclear weapons technology.

United States companies have sold supercomputers to China that allow the Chinese to do small underground nuclear tests at the same time that Chinese companies have exported AK–47's to be used by gangs in Los Angeles.

The United States should not ignore Chinese transfer of weapons technology to rogue nations like Iran when we are spending billions of dollars a year to promote Middle East peace. Furthermore, just last week United States military intelligence reported that the Chinese are developing an intercontinental ballistic missile that will give Beijing a major strike capability against the Western United States within 3 years.

In the human rights area, there was a recent report released by the State Department in January 1997 stating, "The (Chinese) Government continued to commit widespread and well documented human rights abuses, in violation of internationally accepted norms, stemming from the authorities' intolerance of dissent, fear of unrest, and the absence of laws protecting basic freedoms."

Since the State Department release, additional information has been provided to Congress about the Chinese Government persecuting evangelical Protestants and Roman Catholics who choose to worship independent of the government church, promoting a policy of forced abortions, and brutally repressing the people of Tibet. The takeover of Hong Kong by China is scheduled for July 1, 1997. Already, the Chinese Government has moved to disband Hong Kong's democratically elected legislature and to repeal its bill of rights.

The current policy of so-called constructive engagement has bolstered the Chinese Government and has made little progress in promoting Chinese-United States fair trade, stopping Chinese nuclear proliferation to countries which are dangerous to us, and in promoting the political freedoms we will be celebrating ourselves this 4th of July. A "no" vote by the House of Representatives on MFN would send a message to the Chinese regime and also to the Clinton administration that the status quo is not acceptable.

□ 1300

Mr. CRANE. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. OXLEY].

Mr. OXLEY. Mr. Speaker, I rise in support of a productive engagement with China, support of American jobs, in support of the people of Hong Kong, in support of human rights, in support of religious freedom, and against the resolution disapproval.

I have had an opportunity to visit China on three different occasions. And as my learned friend, the gentleman from New York [Mr. LAFALCE], had said earlier, China has changed dramatically, has changed dramatically much more than any of us could have anticipated in so many ways.

I remember having a discussion with a young lady who was working in this case for an American company in China on our most recent visit. She had been educated here in the United States at a rather prestigious university and then went back to China and began working for an American company based there. She told me that about 20,000 Chinese students are educated in the United States, a total now of over 250,000 of the bright, elite people in China, the people who are the future of China, and that they have been educated in the United States, have gone back to their home country, and have participated in changing China in so many ways.

And I thought to myself as I spoke to this young lady that she really represented the future of China, that China is changing dramatically and continues to change in a positive way. And the fact that these students are going back and working for American companies based in China providing modern telecommunications, modern pharmaceuticals, and the like, I think was a real eye opener for all of us who were part of that delegation.

It would be a mistake, a huge mistake, if we are going to think somehow that by revoking normal trade relations with China, the same relations we have with everybody else, if we reject MFN, that we in fact have made a huge mistake in our trading relationships with the largest country in the world.

Mr. STARK. Mr. Speaker, I yield 2 minutes to the gentleman from Oregon [Mr. DEFAZIO].

Mr. DEFAZIO. Mr. Speaker, no one will stand on this floor today to defend China's arms trafficking to terrorist nations, Iran, Iraq, Libya, Syria, America's enemies. But the apologists also say MFN is not a tool to stop illegal traffic and weapons of mass destruction. No one will stand on this floor today to defend the human rights atrocities of the Chinese regime. But the apologists will say MFN should not be used to defend human or labor rights. The apologists say MFN for China is just normal trade relations. How can you have normal trade relations with an outlaw regime? How can we have normal trade relations with the most unfair trading nation on Earth?

The Chinese systematically exclude nonstrategic United States goods. First, there is a 23 percent tariff, on average. Then they have their discriminatory 17-percent value-added tax, which often only gets added to United States goods, not Chinese goods. Then, if that is not enough, they have nontariff barriers that make the Japanese nontariff barriers look like the work of amateurs. And finally, something might somehow get past that they have unwritten rules that change day-to-day, port-to-port in China to keep out anything that might get past those barriers.

The bottom line is, the only United States goods allowed in are those that enrich China's corrupt leaders or add to their store of critical technology and military weaponry. Yeah, it is about jobs. It is about Chinese jobs, not American jobs.

With a $50 billion trade deficit this year, according to the Commerce Department's own way of figuring exports and imports, we will export 1 million United States' jobs to China. Yes, this is free trade. One-way Chinese free trade into America, the largest consumer market on Earth, and not through their protected barriers into China.

Stop the apologies. Stop the appeasement. Send the Chinese a tough message they will respect.

Mr. MATSUI. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana [Mr. ROEMER].

Mr. ROEMER. Mr. Speaker, I rise in favor of normal trade status with the Chinese. Back in 1919, then-President of the United States Woodrow Wilson said this, and I quote,

> We set this Nation up to make men free and we did not confine our conception and purpose to America.

Now I say that for two reasons. One, because in 1920, the United States, after 140 years, extended the right to vote to women; 140 years. We did the right thing. We are still having problems in this Nation at times doing the right thing. Yet Members of Congress parade down here and they want to see China do the right thing in 1 year, in 6 months, in 2 weeks.

I think what Woodrow Wilson said in that quote was not only recognizing that we stand up for human rights in this country, but we should insist on it in other countries. And that is what constructive engagement is doing slowly, day by day. And if we go back to when we recognized China, they can now vote for somebody that is not a Communist and not be thrown in jail. There is tangible progress.

Now I know we have a lot of experts here in this body on foreign relations. But when we go to the real experts on foreign relations and we are concerned about religious freedom, Billy Graham, the Reverend Billy Graham has written, "Do not treat China as an adversary but as a friend."

If my colleagues were concerned about human rights, ask Martin Lee, who is over there in the trenches. "Do not take away MFN," he says. If my colleagues are concerned about Hong Kong, Gov. Chris Patten says, "Do not take away MFN for Hong Kong or China."

Finally, for us, if we go forward and revoke MFN, we will spend billions of dollars in defense, with a new cold war era, we will spend billions on environmental problems, and we will give up billions to trade for the Japanese and the Koreans.

Mr. BUNNING. Mr. Speaker, I yield 2 minutes to the gentlewoman from Washington, Mrs. LINDA SMITH.

Mrs. LINDA SMITH of Washington. Mr. Speaker, I rise today to give voice to millions of Americans who have grave concerns about America's relationship with China. I guess the rainbow to this long debate over most-favored-nation status for China has ended with Americans realizing that something is wrong, deeply wrong.

Americans know in their hearts and minds the difficult social, moral, and economic issues involved. We knew something was wrong when we watched our President change his mind and turn his back on the issue of slave labor, which he said he would change if he were elected. We knew something was wrong when he decided that it no longer made any difference that we saw more labels "Made in China" that used to be carrying proudly the "Made in U.S." label.

Americans are weighing this issue, and they are thoughtfully, thoughtfully but adamantly, against giving MFN to China. Just this week, a poll came out and it is growing the opposition. It is now 67 percent against giving most-favored-nation status. It is not a third for. Only 18 percent would support it at this point after this long debate.

Furthermore, Americans are dissatisfied with the current status quo. Recently, I got another letter from a union in my area, the Machinist Union, and they echoed the concerns of this poll. They echoed the concerns that China has to open up its markets. We have very few products and very few commodities now going into China. But they really had a loud voice in this letter, and also in the poll, that said a country that tortures its own to keep the rest terrified is not acceptable.

I would urge my colleagues to join the American people and vote "yes" on this resolution.

Mr. CRANE. Mr. Speaker, I yield 1 minute to our distinguished colleague, the gentleman from Illinois [Mr. EWING].

Mr. EWING. Mr. Speaker, I am here today, of course, to talk about most-favored-nation status. Much has been heard about our bilateral trade deficit with China. It is the same argument that protectionists use as a reason not to trade with Japan. These protectionists argue that because we have a large trade deficit with a specific country, we should erect trade barriers or force them to purchase more American goods to level the playing field.

In the 1980's, Japan was the culprit. Today it is China. And if China is treating us unfairly simply because of our trade deficits, then we are treating nations like Australia, Argentina, Egypt, and Poland unfairly and they should erect trade barriers to level the playing field with American products.

The fact is, all Americans run up lifelong trade deficits with their local restaurants, grocery store, department store. We do not demand that our local grocer or retailer purchase something from us in return for patronage. Of course, that is where I believe the so-called fair traders are incorrect. It is difficult to find a majority of economists who agree on anything, but they do agree erecting trade barriers hurts the nation doing it.

Ms. PELOSI. Mr. Speaker, I yield 1 minute to the gentlewoman from Ohio [Ms. KAPTUR], a champion on this issue.

Ms. KAPTUR. Mr. Speaker I rise in support of the motion of disapproval and ask the question: Why renew the terms of an abnormal relationship that is not working? Have freedom and liberty of the Chinese people expanded? No. Repression has increased. Has the United States earned income from this trade deal? No. Our trade deficits with China have exploded, as we watch China spend their dollar reserves to arm themselves militarily while they keep their tariffs against our goods at 40 percent, and give us no reciprocity in their market. For America, freedom should mean more than selling fertilizer.

John F. Kennedy inspired the world when he said that human progress is more than a doctrine about economic advance. Rather, it is an expression of the noblest goals of our society. It says that material advance is meaningless without individual liberty and freedom.

Exercising economic sanctions against South Africa's repressive regime resulted in an advance of freedom. But in our Chinese engagement, America's efforts have resulted in creating more powerful oligarchs that feast off our misdirected trade policies.

Upend this abnormal trade relationship, support the motion to disapprove.

Mr. MATSUI. Mr. Speaker, I yield 1½ minutes to the gentleman from Tennessee [Mr. CLEMENT].

Mr. CLEMENT. Mr. Speaker, I thank the gentleman from California [Mr. MATSUI] for yielding me the time.

Mr. Speaker, I cannot think of a more compelling argument made in the U.S. House of Representatives today than the words of a very dear friend and inspiration of mine, Dr. Billy Graham. As many of my colleagues remember, last February we bestowed a great honor on Dr. Graham and his lovely wife Ruth, the highest award, the Congressional Gold Medal.

Dr. Graham is not a politician or a policymaker. He is not going to be pulled into the political debate. But he understands China and he understands the world because he has traveled it extensively. He said recently, and I think he said it so well, "In my experience, nations respond to friendship just as much as people do."

Dr. Graham is exactly right. MFN approval is not a vote or a referendum on China's behavior. It is a vote on how best to promote U.S. values. The only way to change China is to continue to engage China, not to declare economic warfare.

Mr. Speaker, please look at the big picture. I firmly believe that without MFN, human rights abuses will worsen and the dream of achieving democracy in America will dim. Vote "no" on House Joint Resolution 79 and "yes" to the rising voices and change in China.

Mr. BUNNING. Mr. Speaker, I yield such time as he may consume to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, I strongly oppose MFN for China.

My reasons to defeat MFN.

HUMAN RIGHTS

Every year since 1980, when President Carter first extended China MFN, supporters have argued that this action will help the United States promote human rights in China.

It has failed. State Department's own Country Reports on Human Rights (January 1997) admits:

> The Chinese Government continued to commit widespread and well-documented human rights abuses, in violation of internationally accepted norms, stemming from the authorities' intolerance of dissent, fear of unrest, and the absence or inadequacy of laws protecting basic freedoms. * * * Overall in 1996, the authorities stepped up efforts to cut off expressions of protest or criticism.

And from Clinton's Assistant Secretary for Asia:

> Frankly, on the human rights front, the situation has deteriorated * * * They're rounding up dissidents, harassing them more.

In addition: Over 1,000 forced labor camps; harvest and sale of organs from executed prisoners; forced abortions; and persecution of religious believers.

Nongovernment churches are outlawed.

Independent worshipers of the government church are harassed and imprisoned.

Their house churches are being forcibly closed or destroyed.

NATIONAL SECURITY

Selling nuclear material, weapons and military technology to rogue states (ex: Iran)

Purchased 46 American-made supercomputers which could design nuclear warheads for missiles capable of reaching the United States.

COSCO lease of Long Beach Port gives PLA base of operations in the United States.

TRADE

Economic espionage: U.S. workers lose when U.S. technology is stolen.

Violations of intellectual property rights: $40 billion trade deficit; 2 percent of United States exports are allowed in China, 33 percent of China's exports come to United States.

China charges American products with huge tariffs:

Even if we would extend least-favored-nation [LFN] status to China, their tarrifs would still tower ours.

China import tax on United States cars: 50 percent. United States import tax on LFN cars: 25 percent, that is one-half the rate charged by China.

China duty on shoes: 50 to 60 percent. United States duty on LFN shoes: 35 percent.

Allegations of attempting to influence our Presidential elections through campaign contributions. Vote "yes" for House Concurrent Resolution 79.

Yet, the administration has chosen to stand up to China on only one issue: intellectual property rights.

When they were faced with trade sanctions over this issue, they backed down.

If this type of muscular action is justified for the music industry, then it is justified for persecuted Christians, murdered infants, and nuclear proliferation. We need to put away the carrots and break out the sticks. The President's policy isn't just one of engagement, it's a see-no-evil strategy.

□ 1315

Mr. CRANE. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Speaker, as chairman of the Subcommittee on Asia and the Pacific, I oppose House Joint Resolution 79.

There is perhaps no more important set of related foreign policy issues for the 21st century than the challenges and opportunities posed by the emergence of a powerful and fast-growing China. However, today we are not having a debate focused on those challenges. Instead, we are debating whether to impose 1930-era Smoot-Hawley trade tariffs on China that the rest of the world and China knows we will never impose.

This particular annual debate has become highly counterproductive. It unnecessarily wastes our precious foreign policy leverage and seriously damages our Government's credibility with the leadership of the PRC and with our allies. It hinders our ability to coax the PRC into the international system of world trade rules, nonproliferation norms, and human rights standards. Moreover, Beijing knows the United States cannot deny MFN without severely harming American companies and workers, or without devastating the economy of Hong Kong or Taiwan.

It is true, as MFN opponents argue, that ending normal trade relations with China would deliver a very serious blow to the Chinese economy, but the draconian action of raising the average weighted tariff on Chinese imports to 44 percent instead of the current average of 4 to 5 percent would severely harm the United States economy as well. And after China's certain retaliation, many of the approximately 175,000 high-paying export jobs related to United States-China trade would disappear while France, Germany, Canada, and other major trading nations would rush to fill the void.

But MFN is about much more than trade. China is an emerging power with a potentially wide range of interests and influence around Asia. Ending normal trade relations with the PRC would not only send that economy into a tailspin, making China's neighbors especially nervous, but would have a devastating impact upon Hong Kong and Taiwan. For example, the Hong Kong Government estimates that as many as 86,000 Hong Kong workers would lose their jobs.

Mr. Speaker, ever since President Nixon traveled to China, United States policy has sought to promote a stable and peaceful Asia where America's trade interests could be advanced without sacrificing security. Successive administrations have made expansion of trade relations and economic liberalization key tenets of our China policy. The goal has been not only to expand United States trade, but also to provide a means of giving China a stake in a peaceful, stable, economically dynamic Asia-Pacific region. This approach has worked well and protected not only our national interests, but also those of our friends and allies. Immediately, U.S. dock workers, transportation workers, and retail workers would be harmed until alternative sources for Chinese manufactured goods could be found.

For example, the Hong Kong Government estimates that as many as 86,000 Hong Kong workers would lose their jobs if the United States ended normal trade relations with China and, almost incredibly, they project that Hong Kong's gross domestic product would decline by nearly half. That is why Governor Patten recently stated in a letter to Members of Congress that "unconditional renewal of MFN is the most valuable gift that America has within its power to deliver to Hong Kong at this critical moment in its history." And Hong Kong is not alone—Taiwan also quite appropriately, but too quietly, recognizes the importance of MFN. Last year, key business leaders publicly supported normal trade relations between the United States and China.

Mr. Speaker, the United States has convinced nearly every other country in the region that the best way to avoid conflict is to engage each other in trade and closer economic ties. Abandoning this basic tenet of our foreign policy with China would be a serious shock and set back what we have been trying to achieve in the entire Asia-Pacific region. It would send many countries scrambling to choose between China or the United States.

Opponents of MFN say that human rights in China have not improved and that the human rights situation in China has deteriorated. I certainly do agree that very serious human rights problems remain including arbitrary detentions, widespread religious persecution, suppression of nearly all political dissent, and coercive abortion practices. But, it is simply wrong to ignore the fact that since the United States embarked on normal trade with China, the day-to-day living standard of the Chinese people has improved dramatically. Moreover, the denial of normal trade relations with China will not directly improve the plight of those courageous advocates of democracy and reform in China—indeed it may worsen their plight and cause repressive action on many more Chinese citizens.

In making somewhat of an exit assessment on January 1, 1994, then-United States Ambassador Stapleton Roy said that in the history of China "[t]he last two years are the best in terms of prosperity, individual choice, access to outside sources of information, freedom of movement within the country and stable domestic conditions." Now, 3½ years after Ambassador Roy's observations, those general trends continue; the Chinese people enjoy even more personal choice concerning their career, education, or place of abode. Just last year modest legal reforms were advanced in the area of criminal procedures which make it more likely that individuals will be considered innocent until proven guilty, will have a right to a lawyer at the time of detention, and will be able to challenge the arbitrary powers of the police. Although these reforms have far too many caveats that permit the government to suppress political dissent, they nonetheless represent progress toward a rule of law in China.

There have been other positive developments in China. The National People's Congress showed small but encouraging signs of assertiveness by attacking a government report that failed to adequately address corruption. Village elections, once the sole domain of local Communist party functionaries, have suddenly become contested events—with noncommunists elected in many places.

For these reasons, many human rights leaders support normal trade relations. For example, Wei Jingsheng, a prominent dissident still jailed for his eloquent and strongly held democratic beliefs, urges the United States to continue MFN. Similarly, Martin Lee, a democratic leader in Hong Kong, argued for unconditional renewal of MFN on his recent visit to the United States.

Mr. Speaker, as the chairman of the Asia and the Pacific Subcommittee, this member has become convinced that the annual MFN process is counterproductive and undermines

United States foreign policy interests with respect to China. However, the United States has other points of leverage where we can encourage China's leaders to be responsible actors in the world community.

For example, China's leaders will be faced with many difficult economic reform decisions in the next several decades; Therefore, rather than devoting attention to MFN, the United States should focus on one of the most important foreign policy decisions for the United States: China's accession to the World Trade Organization [WTO]. A good way to maximize our trade leverage is embodied in legislation that this Member and the gentleman from Illinois, Representative TOM EWING recently introduced. That legislation, the China Market Access and Export Opportunities Act, requires China to pledge adherence to the world's trade rules and accede to the World Trade Organization or face "snap-back" tariffs on goods imported to the United States. It would induce China's leaders to join the WTO by eliminating our annual MFN review upon China's membership in the World Trade Organization. Alternatively however, the China Market Access and Export Opportunities Act would require the President to impose realistic, pre-Uruguay Round tariff increases—4–7 percent—on Chinese imports if the PRC continues to deny United States exporters adequate market access or if it does not make significant progress to become a member of the WTO.

The PRC's desire to get into the World Trade Organization represents a historic opportunity for the United States to level the playing field for United States companies and workers wanting to sell their products in China. But we should act now. Recent press reports indicate that the PRC's trade negotiators may be walking away from the currently unproductive negotiating table. This news is especially disturbing given that last year's U.S. trade deficit with China was nearly $40 billion and this year's imbalance has risen by 37 percent Secretary of Commerce, William Daley, recently said that "China remains the only major market in the world where U.S. exports are not growing and this despite significant economic growth in China."

The China Market Access and Export Opportunities Act is a tough but fair approach to China's WTO accession. The Congress should immediately consider this legislation to accelerate the forces of change that have been unleashed by the PRC's desire to become a part of the world trade community. Economic and trade liberalization reforms in China, which this legislation will promote, not only will reduce our enormous bilateral trade deficit and benefit United States workers and consumers, it will also continue to provide the most positive forces of political and social change in China.

Mr. Speaker, I urge opposition to House Joint Resolution 79.

Mr. CRANE. Mr. Speaker, I yield 2 minutes to the gentlewoman from Kentucky [Mrs. NORTHUP].

Mrs. NORTHUP. Mr. Speaker, I rise to speak against the resolution and in behalf of continuing normal trading relationships with China.

We are all here today for one reason, because we are very concerned about China. We are very concerned about human rights and civil rights, and we are wondering in what way we can best reach out and change China's current policy. The fact is that we recognize that China is a growing power, and there are some things, Mr. Speaker, that no matter what we do today in our vote, we are not going to change.

We are not going to change the fact that China is growing militarily. We are not going to change the fact that technologically China is advancing at a very rapid pace. We are not going to change the fact that China is going to have a profound impact on our world in the coming years.

And so, Mr. Speaker, the question before us is not how do we stop those things which we cannot stop, but how do we most influence them? Over the last 20 years, China has changed, China has grown, it has become more aware of civil and human rights, and their citizens have demanded more than they ever have before. Is it fast enough for us? No, it is not. But the fact is, it is that relationship, it is that continued relationship that gives us the most chance to affect China as it inevitably grows and advances.

Mr. Speaker, we can do a lot from the outside, demanding and asking for civil and human rights in China. But the way it will most change is when the Chinese people begin to be able to think, because of prosperity, about something more than where their next meal is coming from and how to meet their basic needs. When they begin realizing what is available in other countries in terms of their own civil rights and human rights, they will also demand more from within as we are demanding from without. Please, let us continue this relationship so that they will be able to enjoy the civil and human rights that we do.

Ms. PELOSI. Mr. Speaker, I yield 3 minutes to the gentleman from Georgia [Mr. LEWIS], a champion for human rights throughout the world.

Mr. SOLOMON. Mr. Speaker, I yield 30 seconds to the distinguished gentleman from Georgia [Mr. LEWIS].

Mr. LEWIS of Georgia. Mr. Speaker, I do not propose cutting off relations with China, but I simply cannot accept the situation as it is with China today. We cannot stand by while innocent people in China and Tibet are fighting and dying for democracy. Thousands of innocent Christians, Muslims, and Buddhists are dying in Chinese gulags. Millions of Chinese women are not allowed to plan their own families. They are not allowed to make the most basic, the most private decisions. The Chinese Government intrudes on families, their beliefs, their lives. They are desperate for our help. Yet we do not help. We continue business as usual. The abuse of human rights continues. And the United States renews MFN. China will not work with the community of nations to stop nuclear proliferation. And the United States renews MFN. Business as usual. Trade as usual.

We cannot accept and we must not accept what is happening in China. To quote Gandhi, "Noncooperation with evil is as much a duty as is cooperation with good." We can never forget Tiananmen Square. Those students bravely stood for democracy, and they were slaughtered. I was a student once, fighting for what I believed, I was fighting for a nation free of racism, free of segregation. During the 1960's, some among us were jailed and beaten during that struggle. Some even died. Schwerner. Goodman. Chaney. Three young men gave their lives so that others could register and vote, so that others could participate in the democratic process. They did not die in vain.

Now it is the 1990's and China is on the other side of the world from us but their struggle is just as important. Their lives and their struggle must not be in vain. In a real sense, Mr. Speaker, our foreign policy, our trade policy must be a reflection of our own ideals, our own shared values.

What does it profit a great nation, a compassionate and caring people, to close our eyes and look the other way? As Martin Luther King said, "There comes a time when a Nation and a people must stand for something or we will fall for anything." I feel that the spirit of history is upon us. We must make a decision today and it should be on the right side of history. We must stand with the people who are struggling for freedom, struggling for democracy. If we fail to act, no one will act. They are our brothers and our sisters.

Yes, Mr. Speaker, I believe in trade, free and fair trade, but I do not believe in trade at any price. I ask my colleagues on both sides of the aisle, how much are we prepared to pay? Are we prepared to sell our souls? Are we prepared to butcher our conscience? Are we prepared to deny our shared values of freedom, justice and democracy? Today I cast my lot with the people in the streets, with the students of Tiananmen Square, and with the people of this country who understand that a threat to justice anywhere is a threat to justice everywhere.

I urge and I beg of my colleagues to oppose MFN for China. I thank the gentlewoman from California and the gentleman from New York for yielding me this time.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LAHOOD). The Chair will remind all persons in the gallery that they are here as guests of the House and that any manifestation of approval or disapproval of proceedings is a violation of the House rules.

Mr. MATSUI. Mr. Speaker, I yield 1½ minutes to the gentleman from Texas [Mr. GREEN].

Mr. GREEN. I thank the gentleman from California for yielding me this time.

Mr. Speaker, I rise in opposition to the disapproval resolution and I reluctantly do so. In previous Congresses, I voted for the extension of MFN for China with the belief that more engagement on economic and diplomatic fronts would yield gradual but positive changes within China. But as our trade deficit has worsened, I know that has not been the case. I know things have changed in China. In fact, there are elections that are going on on the local level, so there has been progress. But the concern I have is the tariff disparity between the United States and the People's Republic of China, so I was seriously considering voting in favor of the disapproval resolution. But I am going to vote against it today, because I do not think it would improve our trade deficit if we pass this resolution. I do not think it would give us more access to the China market. I do not think it would improve the treatment of Christians in China, although I know we have heard today both people who said they are persecuted and people who have said, including Reverend Billy Graham, that it would be bad not to have most-favored-nation. I do not think it would prevent China from selling weapons to Iran if we disapprove most-favored-nation.

I think the best choice we have is to continue to work with China and respect their culture and respect their country, and to say we are two great nations and we need to work together. That is why China's desire for WTO membership requires more open markets. I hope we will see that in China. I hope we will see a lessening of the tariffs on our products going to China because then this will come up again next year. That is why I have cosponsored our Democratic leader's bill asking for China's accession to WTO be subject to a vote in Congress.

Mr. BUNNING. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. SCARBOROUGH].

Mr. SCARBOROUGH. Mr. Speaker, yesterday in the New Republic we had this headline talking about persecution of Christians. It is in stark contrast to what we read about and hear about from apologists for China, whether it is in Wall Street, Washington, or in Hollywood.

The New Republic reported that persecution is real and by all reports getting worse. Attacks of Catholics and of Protestants continue, and the Far East Economic Review stated that police destroyed 15,000 religious sites in one province last year alone. Priests were sent to re-education camps for 2 years for simply saying mass, and 40 percent of all inmates in labor camps are members of the Christian underground. The New Republic went on to say that

> The methods used to re-educate Christians include starving and beating detainees, binding them in excruciating positions, hanging them from their limbs and torturing them with electronic cattle prods and drills. Sometimes, relatives are forced to watch the torture sessions.'

When I hear the gentleman from Georgia [Mr. LEWIS] speak about what happened in the 1960's in America, it reminds us too much of what is happening today even in a country that has killed 60 million of their own people in the past 50 years. We have to stop apologizing for China and stand up to this tyranny.

The SPEAKER pro tempore. The Chair would advise all Members that the gentleman from Illinois [Mr. CRANE] has 24½ minutes remaining; the gentlewoman from California [Ms. PELOSI] has 22 minutes remaining; the gentleman from California [Mr. MATSUI] has 24 minutes remaining; the gentleman from Kentucky [Mr. BUNNING] has 10½ minutes remaining; and the gentleman from New York [Mr. SOLOMON] has 3 minutes remaining.

The Chair recognizes the gentleman from Illinois [Mr. CRANE].

Mr. CRANE. Mr. Speaker, I yield 2½ minutes to the gentleman from Texas [Mr. ARCHER], the distinguished chairman of the Committee on Ways and Means.

Mr. ARCHER. I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in strong opposition to House Joint Resolution 79 which would strip most-favored-nation trading status from China. At the outset, I want to make it clear, and I am sure it has been said before but it bears repeating, that the term most-favored-nation is a misnomer. It implies that we are somehow giving a country special treatment. Rather, when we provide MFN, we are only giving the same normal standard treatment that we give almost every country in the world; well over 100 countries. The only countries to whom we do not give MFN are Afghanistan, Cuba, Laos, North Korea, and Vietnam. We give better than MFN treatment to another very select group of countries, Canada, Israel, and Mexico. What we are considering today is whether we should continue giving China average treatment.

□ 1330

Now a move to the substance of the resolution. Quite apart from the benefits enjoyed by our companies by continuing to do business with China, our ability to win this vote affects whether United States values will continue to be of influence in China. Shutting down trade with China or making the terms of trade impossibly restrictive would put in place a policy of unilateral confrontation that would not change China's behavior. Maybe MFN for China is not a good policy until, as Churchill would have said about democracy, "You consider all of the other alternatives." And those who oppose MFN for China do not really consider the other less attractive, by far, alternatives. If we remove MFN from China, we would disengage our Government from a leadership role in the region and would remove the positive influence that our business community has in China.

At the same time, I hope that China will continue to pursue accession to the WTO and will be able to agree to take on the rights and obligations that make membership. At that point I believe that the United States should be in a position to provide China with full MFN treatment uncluttered by any conditions, a relationship identical to that which we have with almost all of the world. Once China becomes a WTO member we will be able to utilize the highly effective dispute settlement mechanism of the WTO to resolve our trade disputes with China.

As I understand it, China still has a long way to go in that accession bid. In the meantime, I urge my colleagues to vote a strong no on this disapproval resolution.

Ms. PELOSI. Mr. Speaker, I yield 1 minute to the gentleman from Maryland [Mr. HOYER], who in his capacity and his work on the Helsinki accords and Commission has been a champion of human rights throughout the world.

Mr. HOYER. Mr. Speaker, one cannot discuss this issue in 1 minute. Everybody on this floor knows this, and in fact perhaps in 5 or 50 minutes.

For over a decade and a half as chairman of the Helsinki Commission, I was not for most-favored-nation status for the Soviet Union. Why? Because they did not meet international norms. America has been, is now and hopefully always will be the beacon of freedom and justice for all the world. I am for constructively engaging on those premises, but I am also for principled engagement, for an engagement that says we will not do business as normal with those who do not treat their own people as international norms would demand. And not only do international norms demand that, but the peace and security and stability of all the world demands that.

My colleagues, let us stand up, let us lift that torch high of liberty and justice and say not business as usual.

Mr. MATSUI. Mr. Speaker, I yield 1½ minutes to the gentleman from California [Mr. CAPPS].

Mr. CAPPS. Mr. Speaker, I rise in opposition to the resolution. I do so with profound respect for the gentlewoman from California [Ms. PELOSI], the gentleman from Georgia [Mr. LEWIS] and my good friends on the other side. I want to make two points briefly.

First, the very term "most favored nation" is inaccurate. MFN is not a privileged status according to close friends, but an ordinary tariff treatment extended to all but 11 countries. Today I will introduce a bill to replace

MFN in our trade law with a more suitable and accurate term, "normal trade relations."

Second point: I have a heart full of thoughts on this issue, Mr. Speaker. I had the privilege of being in China in December and lecturing at Peking University. While I would not call myself an expert on this subject, I do recognize that the underlying subject here is about culture, about cultural difference, cultural clash, cultural change. United States culture is not Chinese culture.

We talk about human rights. China, with a cultural tradition of more than 5,000 years, talks more about stability. We are dedicated to Judeo-Christian values. They for their part owe more to Confucius, to Lao Tzu, to the I Ching. We talk proudly of democracy. China has had centuries of feudalism, of emperors and empresses and are moving toward democracy. Consequently, it is difficult to translate across cultural lines. It is impossible to read their history according to our vectors.

But we must live together in the 21st century, and we must strive together to find ways to do this. This is not the time to isolate China, this is not the time to isolate ourselves against China. I plead a no vote on the pending resolution.

During my recent visit to China, I witnessed the promise of leadership among the emerging generation of active, intelligent, responsible young people. I am confident that they want to be active participants in the 21st century, not as enemies of the United States but as partners. I don't want to close the door on them right now. I want to encourage them as I have been encouraged by them. Democracy is a very delicate plant in China today. But we can help nurture and strengthen it.

Mr. CRANE. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. PITTS].

Mr. PITTS. Mr. Speaker, I rise today to call for an end to the many human rights abuses in the People's Republic of China, and I rise in support of renewing China's most-favored-nation trading status because, Mr. Speaker, these two goals are not mutually exclusive. In fact, renewing MFN for China will enable us to address the abuses we find so objectionable, first by keeping the lines of communication open with those leaders in China who have the power to change persecution and the climate there through private and tough diplomacy and, second, by allowing the many human rights, mission and Christian agencies in China to continue their work with the Chinese people.

Mr. Speaker, revoking China's MFN trade status and essentially declaring economic warfare on China is not the best way to achieve our goal of improving the human condition for the Chinese people. In fact, it would exacerbate the problem. Since this debate began I have spoken with many in the mission and Christian community who live and work in China, missionaries and Christian leaders whose whole lives are committed to the Chinese people. What they have told me is that if MFN status is revoked they feel that they would feel the effects of retribution on themselves and on Chinese Christians and on human rights activists. They told me that the hand of the hard liners would come down upon the people of China and especially anyone who is perceived as representing the West.

Rev. Daniel Su, a former member of the Chinese Red Guard who now works for China Outreach Mission Ministry, has said, quote:

> The Chinese people are better off if MFN status is maintained. People suffer when China becomes isolated and hostile. Isolating China will do nothing for human rights in China particularly the rights of Chinese Christians. Like Rev. Daniel Su has said, Cutting off ties with China is like setting your car on fire when it stalls.

Dr. Samuel Ling, the Institute for Chinese Studies said this:

> History has proven that as the United States engages China, a more pluralistic atmosphere develops, and both the standard of living and human rights and freedoms stand to improve.

Others have made other quotes, Mr. Speaker. I urge the Members to support MFN.

Ms. PELOSI. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts [Mr. DELAHUNT], a member who has worked very hard on this issue.

Mr. DELAHUNT. Mr. Speaker, this vote is about American credibility.

Yesterday a bill was on the calendar which would have prohibited financial transactions with terrorist countries. It would have passed without debate. Yet China has sold chemical weapons to Iran and missile components to Syria, and what of human rights? Last year Congress enacted the Helms-Burton Act because of human rights abuses in Cuba. Yet when it comes to China we ignore our own State Department report that the human rights situation actually worsened in 1996.

Then of course there is trade. We criticize the unfair trade practices of the Japanese, yet according to the last Sunday's L.A. Times, China has developed barriers to United States goods and services that would make the Japanese blush.

This vote is fundamentally about American credibility. We cannot demand respect for our values from the rest of the world and set a different standard for China. Please vote yes on the resolution.

Mr. MATSUI. Mr. Speaker, I yield 2 minutes to the gentlewoman from Missouri [Ms. MCCARTHY].

Ms. MCCARTHY of Missouri. Mr. Speaker, I rise in opposition to House Joint Resolution 79 and in support of the President's decision to extend normal trade relations with the People's Republic of China. Terminating our current trade relationship with China would undermine America's economic interests in those States such as my own. The American consumer would be burdened with dramatic price increases. Thousands of American trade and investment jobs would be lost.

Chinese retaliation would likely exclude companies from opportunities in one of the world's fastest grow economies. Last year Missouri companies alone exported over $80 million in goods to China, an increase of over 64 percent from the previous year. United States exports to China currently support over 200,000 American jobs. The jobs which have been created have been good, high paying jobs.

In my home State of Missouri employment by foreign subsidiaries has risen 165 percent since 1980. Manufacturing jobs created by foreign investment have risen 51 percent. In my district MFN for China means that agribusinesses, high technology, and avionics industries are able to export their goods to one of the world's largest markets. From national firms like Farmland Industries to regional companies like Hanna Rubber Co. and small family-owned businesses such as Sun Electronics in Raytown, MO, MFN for China means jobs, revenue and business.

I have grave concerns over China's human rights record, particularly the practice of female infanticide, which has no place in any society. I have a constituent, Mattie, who was born in China just 2 years ago. She was adopted by loving Missouri parents and is living the American dream of freedom unknown in her native land. I want to advance our values within China so that future Chinese baby girls like Mattie can live proud and free within China as well.

We cannot walk away from this or any other problem that China faces. We have a moral obligation to remain engaged with China so that they can learn our values of democracy. I urge this body to reject the resolution and extend normal trade relations to the People's Republic of China.

Revoking trade privileges will reverse the progress that the Chinese people have made in their struggle for basic political, religious, and economic freedoms.

The power of our democratic principles and ideals eventually led to the fall of communism in Eastern Europe. It is important that we continue to engage in debate with China until we achieve victory in Asia as well.

Mr. Speaker, for these reasons, I support extending normal trade relations to the People's Republic of China, and I urge my colleagues to reject House Joint Resolution 79.

Mr. BUNNING. Mr. Speaker, I reserve the balance of my time.

Mr. CRANE. Mr. Speaker, I yield 3 minutes to the gentlewoman from Washington [Ms. DUNN], our distinguished colleague on the Committee on Ways and Means.

Ms. DUNN. Mr. Speaker, for the past 7 years this body has gone through the annual ritual of debating MFN status for China because the minority of our membership thinks that China needs to be taught a lesson. This may make some of my colleagues feel good, but I believe it is a misguided response that hinders the development of human rights and democracy in China.

Before rushing headlong into the mistake of adding China to the list of nations denied MFN, there are two points to consider. First of all, who would be penalized by denying China MFN? Our compassion for the suffering in China is useless if the policy has no effect other than to put our own people out of work. Indeed, then the compassion is misplaced. We have made no difference in the life of those suffering overseas while only increasing the numbers of those suffering without jobs here at home. By terminating MFN to China, this is exactly what I believe will occur. The loss of MFN will not change China. It will, however, cost our Nation and Washington State billions of dollars in aircraft, lumber, software, and agricultural sales and tens of thousands of jobs to our European and our Asian competitors.

The second point to consider is will revoking MFN accomplish our goal of improved human rights and democracy. I do not believe it will. United States trade and investment teach the skills of free enterprise that are fundamental to any free society.

For instance, in my home State of Washington we export a number of United States products from aircraft to software, and every single airplane and every single CD carries with it the seeds of change.

It has already been noted that the Reverend Billy Graham recently observed that Christian love and integrity are now being delivered to millions of people in China who were denied this opportunity during the darkest days of China. This sentiment is shared not only by the Reverend Billy Graham, but by his son who is my constituent, Ned Graham. His organization, East Gate Ministries, is based in Sumner, WA, and it has shipped 1½ million Mandarin language Bibles to China and 4 million more will be delivered before the end of the century under an agreement with the Chinese Government.

Just last weekend I had the opportunity to meet with the younger Graham to discuss his organization's work in China and the current debate here in the United States Congress. He expressed concern about this debate and that the crusade against MFN may harm the ability of his ministry to get Bibles into the hands of the Chinese people.

□ 1345

The message was clear, Mr. Speaker. Revocation of China MFN is in the interests of no one, particularly the Chinese people themselves. If we want to affect Chinese behavior and trade policy in civil liberty areas we all care about, we should increase our mutual contact.

I urge my colleagues to oppose the resolution of disapproval.

Mr. Speaker, for the past seven summers, this body has gone through the annual ritual of debating MFN status for China because a minority of our membership thinks that China needs to be taught a lesson.

This may make some of my colleagues feel good, but I believe it is a misguided response that hinders the development of human rights and democracy in China. Before rushing headlong into the mistake of adding China to the list of nations denied MFN, there are two points to consider.

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Just last weekend, I had the opportunity to meet with the younger Graham to discuss his organization's work in China and the current debate here in the Congress. He expressed concern about this debate and that the crusade against MFN may harm the ability of his ministry to get Bibles into the hands of the Chinese people. The message was clear, Mr. Chairman—revocation of China MFN is of interest to no one, particularly the Chinese people themselves.

If we want to affect Chinese behavior in the trade policy and civil liberties areas we care about, we should increase our mutual contact, make MFN status permanent, and eventually, bring China within the disciplines of the World Trade Organization.

I urge my colleagues to oppose the resolution of disapproval.

Mr. STARK. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, I thank the gentleman for yielding. I rise today in opposition of extending MFN to China because I believe the United States policy of constructive engagement has failed.

Mr. Speaker, selling goods into the United States market is not a right, it is a privilege, and it is a privilege that should be restricted to dictatorships like China. Despite the promises of the White House, big business, and the MFN supporters, the United States trade relationship with China has failed to move that nation toward democratic reform in order to reduce the threat China poses to world security.

China's Government continues to brutally repress all dissent in that country and violate religious freedoms. Meanwhile it exports to rogue nations like Iran, Iraq, Libya, and Burma the technology to make weapons of mass destruction. China continues to close its market to United States goods and services and allows American products to be pirated, costing us billions of dollars. Faced with the evidence that our current policy of engagement toward China has failed, supporters of MFN then argue that we should ignore all those problems and extend this privilege to save American jobs.

Mr. Speaker, I oppose the extension of most-favored-nation status for China.

Mr. MATSUI. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Guam [Mr. UNDERWOOD].

Mr. UNDERWOOD. Mr. Speaker, I stand for human rights progress and a secure Asian-Pacific region and against House Joint Resolution 79. This is fundamentally an issue which asks whether we want to engage in as normal relations as possible with an emerging world power in order to shape their future direction, in order to shape a safer and more secure Asian-Pacific world.

This is not a one-shot process, and there is no one-shot solution. Engaging, shaping, relating to China requires difficult decisions and fully understanding what is at stake, a secure Asian-Pacific world in which the forces of democracy arise from local experiences under our encouragement, and is not forced by well-intentioned but misguided foreign policies.

The issue is not human rights today but making it possible to have progress in human rights over the long haul. The issue is not Chinese hostility today, but whether we want to allow hostility to shape our and their policy. Some would have us believe that putting China on notice today through denial of MFN somehow brings their abuses to a halt.

I urge my colleagues to reject House Joint Resolution 79.

Mr. Speaker, many arguments have been offered from both sides of the issue: Supporters of House Joint Resolution 79 believe that withholding most-favored-nation status from China will send a strong, clear message that the United States will no longer kowtow to Chinese interests. Many cite purported Chinese meddling in America's election campaigns as further proof of just how far the Chinese lobby has extended its reach into our domestic affairs. There are also arguments relating to China's nuclear capabilities and its sales of equipment to Iran. The strongest contention so far in this debate over MFN status has been the human rights issue. China's curtailing of political and religious freedoms, sterilization, laogai institutions, and list goes on and on.

Despite these points, I adhere to the belief that extending MFN to China will be a wise policy decision for the United States. As we all know, MFN is not a special status, it is one conferred to our regular economic partners throughout the world. According China MFN status will be the avenue through which we can influence China's discriminatory practices against some segments of its society. Political and religious freedom will follow greater economic freedom.

As part of the Congressional Human Rights Caucus, I am knowledgeable of the various human rights abuses committed against political dissidents and jailed inmates in China. It is a deplorable situation, but I do not believe revoking MFN will be the solution. Increasing diplomatic contact and applying pressure through international organizations is a wiser decision that unilaterally isolating one quarter of the world's population. Democratic principles are transmitted through the free flow of ideas between nations in close interaction with one another. Isolating China is not the answer to curbing human rights abuse.

Those who support House Joint Resolution 79 have mainly focused on the human rights question, but I believe that MFN is an economic issue. Using trade as a tool of engagement is a mutually constructive way for us to improve relations with China. In 1996, United States exports to China totaled $14 billion, and exports to China generated some 200,000 American jobs.

I wish to emphasize that the MFN debate is ostensibly about trade and should be limited to a discussion about whether we want to engage in normal trade relations with the fastest growing economy in the world. This seems to be a no-brainer and the answer is yes. This is fundamentally an issue which asks whether we want to engage in as normal relations as possible with an emerging world power, in order to help shape their future direction; in order to help shape safer and more secure relations in the Asia-Pacific world. this is not a one-shot process and there is no one-shot solution. Engaging, shaping, relating to China requires difficult decisions and fully understanding what is at stake—a safer, more secure Asia-Pacific world in which the forces of democracy arise from local experiences under our encouragement and not forced by well-intentioned, but misguided foreign policies.

But many have added other issues to this debate to alleviate its focus as a trade issue, rather, they have converted it into a form of political theatre designed less to influence the eventual outcome which is well-known to everyone, but designed to assuage various constituencies in this country.

Contrast this with the reaction in the Asia-Pacific region. Nearly everyone in the region who is directly affected by China does not see the extension of MFN as weakness or a toleration of abuses inside China; but as a way to constructively engage China.

The issue is not human rights today, but making it possible to progress in human rights over the long haul; the issue is not Chinese hostility today, but whether we want to inadvertently allow hostility to shape our and their policy. There is implicit in the debate today the sentiment that failure to put China on notice today through denial of MFN somehow will bring their human rights abuses to a halt and stem their growth towards being a competitive and hostile world power.

It seems to me that the denial of MFN will bring help facilitate the very thing the opponents of MFN decry—moving China to rogue status as a state. Let us bring a little common sense and not emotion to this discussion and let us engage China within a system of trade and security in which we have primary influence rather than make China an outcast state intent on destabilizing the Asia-Pacific region.

As we approach the new millennium, we find that tools such as the Internet and monetary policies are helping draw the nations of the world in an ever tighter web. Events such as American normalization of ties with Vietnam, Burma and Laos's guaranteed admittance into ASEAN, NATO extension, and the future establishment of the Euro relate just how tight this version of the World Wide Web is contracting. The United States will take a great leap backward if it chooses to revoke MFN for China. At a time when competition is steep for the Chinese market, at a time when China's human rights situation is still problematic, the United States should be at the forefront of engaging China's political and economic policies.

Mr. BUNNING. Mr. Speaker, I reserve the balance of my time.

Mr. DREIER. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WELDON].

Mr. WELDON of Pennsylvania. Mr. Speaker, my comments today are aimed at our newer Members.

I am unusual in this debate, because I have opposed MFN in the past. In fact I voted against NAFTA because I was not happy with the side agreements. In fact, I am concerned about China's human rights record. I am a member of the Human Rights Caucus and take great pride in my involvement there. And on missile proliferation, I probably spend as much time on that issue as any Member in this body as the chairman of the Subcommittee on Military Research and Development of the Committee on National Security. As a matter of fact, I wish I had as much interest as demonstrated today by Members on both sides on missile proliferation on the debate on our defense bill as I have heard today in this debate.

Mr. Speaker, I would remind our colleagues when we heard about the attack on the *Stark*, the U.S.S. *Stark*, it was not a Chinese missile, it was a French-made Exocet missile. In fact, we have our own allies exporting missiles that are being used against our troops by rogue nations around the world.

Now, I am not happy with China's actions in many areas, but I do not want to isolate China; I think that is the worst thing we can do now. I fault this administration for a lack of enforcement of existing arms control agreements. The MCTR violations, the Garrett rocket engines that were sent to China, the M-11 missile transfers, the ring magnet transfers, the chem-bio transfers, they are all wrong; but we do not just talk about those on the MFN debate alone. We deal with those issues all year long, and I do that all year long, and all of us should do that all year long.

I am appalled by the statement that has been said numerous times here of Gen. Xian Guang-Kai, but I say to my colleagues, I confronted him personally. I went to Beijing and sat across the table from him, and I said, General, those statements are unacceptable. That is what we need to do, Mr. Speaker, is aggressively engage the Chinese leadership.

I spoke this past year twice at the National Defense University in Beijing, and I told Chinese military leaders what I am telling our Members today. We are not happy with China's policies in many areas, we are not happy with human rights improvements in China, and we are not happy with arms control violations; but we have to do that in an effective way and not isolate China and make it a demon. That is the wrong signal to be sending.

Oppose this resolution and support the status of trade relations normally with China.

Mr. STARK. Mr. Speaker, I yield 1 minute to the distinguished gentlewoman from California [Ms. SANCHEZ].

Ms. SANCHEZ. Mr. Speaker, we have a very important choice to make here today, but that choice is not between engagement or isolation. Certainly we will continue engagement with China, but that engagement must be constructive.

The debate over China MFN is an important one for Americans. Nothing less is at stake than our economic future, our national security, and our democratic principles.

Proponents of continuing MFN status for China say it merely normalizes trade in the same way that we have done so with many other countries. But trade relationships between the two countries is anything but normal. China does not play by the rules. China should not receive most-favored-nation status because it does not reciprocate the trade benefits that we grant them with MFN.

Besides not following trade rules, China violates international arms control treaties and protocols, but the most disturbing violations in China are the gross negligence of human rights in that nation. China persecutes millions of religious believers of the Christian, Muslim, Buddhist and Jewish faith. These appalling human rights must stop. I urge my colleagues to vote "yes" on the resolution.

Mr. Speaker, we have a very important choice to make here today. But that choice is not between engagement or isolation. Certainly we will continue engagement with China. But that engagement must be constructive.

The debate over China MFN is an important one for the American people. Nothing less is at stake than our economic future, our national security and our democratic principles.

Proponents of continuing MFN status for China say it merely normalizes trade in the same way that is done with many other countries. But trade relations between the two countries is anything but normal.

China does not play by the rules. China should not receive most favored nation status because it does not reciprocate the trade benefits that we grant them with MFN.

But the most disturbing violations in China are the gross negligence of human rights in that nation. China persecutes millions of religious believers of the Christian, Muslim, Buddist and Jewish faiths. The severity of this religious persecution has been well-documented by the international human rights community.

Chinese Christian women are hung by their thumbs from wires and beaten with heavy rods. They are denied food and water, and shocked with electric probes for simply seeking to openly practice Christianity.

Freedom House reports that there are more Christians imprisoned for religious activity in China than in any other nation in the world. Four Roman Catholic bishops have been imprisoned by the Chinese Government for celebrating mass without official authorization.

Evangelical Protestants are arrested and tortured for holding prayer meetings, preaching and distributing Bibles without state approval. Churches of all faiths have been officially banned and replaced by "patriotic associations" created by the Communist government.

These appalling human rights violations in combination with their arms control violations and high tariff barriers are very powerful reasons to deny MFN for China. I urge my colleagues to vote "Yes" on this resolution.

Mr. MATSUI. Mr. Speaker, I yield 1½ minutes to the gentleman from Arkansas [Mr. BERRY].

Mr. BERRY. Mr. Speaker, I rise today in support of most-favored-nation status for China. Only last year, the U.S. Congress told the American farmer, we want you to compete in a free market situation. In the 1970's the American farmer was successfully doing that and the U.S. Government unilaterally embargoed its markets to the point that they destroyed those markets and precipitated the agriculture crisis of the 1980's.

I beg my colleagues not to allow this to happen again. China has 25 percent of the world's population and 7 percent of the arable lands. We sell them 4 billion dollars' worth of agricultural products each year. Even Rev. Billy Graham says, this is a good idea to trade with China and it will improve their country and ours. We must have access to the international marketplace if we expect our farmers to succeed. I urge my colleagues to vote for MFN for China and against the resolution.

Mr. DREIER. Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. KNOLLENBERG], my very good friend and one of the hardest workers in the cause for MFN.

Mr. KNOLLENBERG. Mr. Speaker, I rise today to support normal trade relations for China. American workers benefit most from the trading status with China.

The facts I think are very clear. If we reject MFN, we do not improve the trade deficit, but we do lower or approve the loss of exports to China. In my State of Michigan alone, there is some $215 million in exports and over 5,000 jobs. If we translate that into the USA entirely, it is 228,000 jobs. China has been reported as the world's third largest economy, after the United States and Japan. It has, by far, the world's highest annual growth rate of 9 percent. We cannot exclude American companies, farmers, workers, goods, and services from this large market.

For the sake of our businesses, our jobs, and our workers, we must reject this resolution. We must not slam the door on one-fourth of the world's population. If we really want to promote human rights and civil rights, and I do, and we want to plant the seeds of mutual understanding, then continue normal trade relations. I urge opposition of this resolution.

Mr. STARK. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. ENGEL].

Mr. ENGEL. Mr. Speaker, I thank my colleague for yielding me this time. I rise in strong support of the resolution denying MFN for China.

Those who argue against it say this is not the right vehicle. I would say to my colleagues, what is the right vehicle? If I had another vehicle, I would try it, but the Chinese Government has thumbed its nose. They do not even give us a hook to hang our hat on.

We talk to them about human rights. A recent report said that there is no dissident activity in China anymore. They have suppressed all of it. We know what they are doing with Hong Kong now. We know what they are doing with the trade deficit in selling weapons to Iran; what they did in Taiwan, what they have done in Tibet. The list goes on and on and on.

When does it end? When does our Government stand for something? When is the almighty dollar not the most important thing?

I think that we in this country say that we stand for human rights and democracy and self-determination. There are more than 1 billion Chinese people who are looking toward us, they are looking toward us, they are looking for us to stand for something. They are looking for us to help them throw off oppression of their Government. When does this end? No dissident activity? We cannot tolerate this. Support the resolution. Reject MFN for China.

Mr. MATSUI. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Tennessee [Mr. FORD].

Mr. FORD. Mr. Speaker, today I rise to oppose this resolution. In my estimation, this debate boils down to a simple question. Will we choose to isolate China, or will we remain actively engaged?

I believe that a policy of engagement and not isolation is a powerful tool for change and will enhance our ability to positively influence China's policy. China is the world's most populous nation and has the potential to be the world's most dynamic economic power in the 21st century. Continuing MFN will further our national interests of helping China into the community of nations as a stable partner which respects human rights and contributes to our global economic trading system.

My colleagues on both sides of the aisle have raised valid and legitimate concerns about the unfair trade practices, but revoking MFN status is not the way to go about it. Enforcing existing international trade laws and targeting sanctions might be a more prudent course.

Mr. Speaker, the 20th century will be recorded as America's century. As we move into this next century to maintain our position of economic preeminence and economic dominance, it would be unwise and imprudent at this point for us to revoke MFN.

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Mr. BUNNING. Mr. Speaker, I reserve the balance of my time.

Mr. DREIER. Mr. Speaker, I yield 2 minutes to the gentleman from Nebraska [Mr. CHRISTENSEN], a very valued member of the Committee on Ways and Means.

Mr. CHRISTENSEN. Mr. Speaker, I have thought a lot about this issue. There are people on both sides of this issue who have struggled over it, people of faith, people that I respect immensely. There is not a right or wrong answer on this decision. Nobody knows what the right answer is, but I support MFN this year and I supported it last year because I believe that taking MFN status away is going to do more to harm than help for Christians in China.

This past week we had an opportunity to talk to some Wycliffe Bible translators. They said:

> Taking MFN away is going to cause every one of our Bible translators to be viewed as a suspect of the government, an agent of the State. You take MFN status away from China, you are going to cause real persecution upon all the Bible translators and missionaries in China.

So people of faith are in disagreement over this issue. Yes, everything that has been said is true about the persecution, about the human rights abuses. But the correct answer has not been resolved yet. Taking it away, taking MFN status away, is not clear and conclusive evidence that it is going to improve things over there. I believe what Billy Graham has said and other missionary organizations have said is, "Stay engaged, keep the process going, stay involved, keep the dialogue open. We can bring them around to our way of thinking."

When I was over in Hong Kong I talked to a man who said, JON, we are moving in the right direction. Yes, we are not moving as quickly as we want to move. But your culture is not any better. You have allowed abortions out of convenience. Yes, we have had them also, but you have allowed abortions out of convenience. You are the largest exporters of pornography. You have the largest murder rate, the highest percentage of murder rate and rate of teenage dropout in high school. Your culture is not any better than in China.

When we get over this debate and people of faith disagree on this issue, let us turn our focus back on America and start cleaning up our own backyard before we continue to look at China. Renewing MFN is the best way of solving the persecution over there; staying engaged, staying involved, and moving the ball forward. Vote for MFN.

Mr. STARK. Mr. Speaker, I yield 1 minute to the gentleman from Hawaii [Mr. ABERCROMBIE].

Mr. ABERCROMBIE. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I am speaking today near the end of this debate as a member of the Committee on National Security. I think that before we cast any vote we should think about the national security implications.

In today's Washington Post, to go no further than the most contemporary moment, Mr. Speaker, "U.S. is big market for firms owned by the Chinese military." The People's Liberation Army is now being called in some quarters the People's Liberation Army, Incorporated. We find ourselves in circumstances where military-related firms now are working in our seaports, they are involved in shipping.

The military is pervasive throughout China. It is against our national security interests to go forward with most-favored-nation status for China at this point. It reminds me of the 1960's. We find ourselves walking down a path toward confrontation with China which need not occur if we are able to see today that we should not grant most-favored-nation status.

Mr. MATSUI. Mr. Speaker, I yield 1½ minutes to the gentleman from Texas [Mr. BENTSEN].

Mr. BENTSEN. Mr. Speaker, I rise today in support of extending MFN trading status with China and against the resolution. All of us are concerned about China and their actions, whether it be religious persecution, treatment of Taiwan, weapons proliferation, their human rights violations, or their questionable trade and copyright practices.

The fact is, do we really believe, if we pull out of normal trading relations with China, that our industrial allies and other trading allies that we just met with in Denver are going to follow our action and pull out as well? Of course not. What they are going to do is fill the void and turn a blind eye to the concerns we have as a Nation. What we will do is to cut off our nose to spite our face, and walk away from one of the largest markets at the expense of American jobs.

We have heard a lot about security concerns, and there are some things we should be concerned about. There is no question about that. But we also should consider some facts: that China has adhered to the Nonproliferation Treaty of 1992, and it supported the indefinite nonconditional extension in 1995. It ratified the Chemical Weapons Convention. It has signed the Comprehensive Test Ban Treaty.

Yes, there are problems with that, but we have other ways we deal with that. Time and again, the administration has taken actions to impose sanctions against the Chinese for proliferation activities. We have put the laws on the books to do that. We have the laws to deal with copyright and other trade violations. What this says is that we will have normal trading practices to open the doors to deal with the Chinese, and on individual cases we can impose laws to deal with them. Let us not shut the door. It will do nobody any good.

Mr. DREIER. Mr. Speaker, I am happy to yield 2 minutes to the gentleman from Arizona [Mr. SALMON], one of our greatest and hardest working champions and one of the initiators of the whole plan to deal with democracy and human rights in China.

Mr. SALMON. Mr. Speaker, this has been a very tumultuous year, especially for our relations with China. As we go forward and have this debate yet one more time on whether or not we should extend most-favored-nation status with China, Members, look deep inside.

I have to say that those who are opposing the most-favored-nation status, people like the gentleman from New Jersey, Mr. CHRIS SMITH and the gentleman from Virginia, Mr. FRANK WOLF, to me are heroes by every stretch of the imagination. I have watched them before I came to Congress and since I have been here, and I have been amazed at their ability to articulate passionate beliefs which they care deeply about.

There are some, however, not necessarily just within this body but without, as well, who would like to have us believe that this issue is simply cut and dried, that those who support most-favored-nation trading status are profiteers, that they are out there working for the interests of corporate America, and that those who are against it care deeply about human rights and that is the end of the story. In fact, I have heard slogans that say something like profit over substance, or profit over principle.

The fact of the matter is, nothing could be further from the truth. When I served a mission for my church in that region of the world in the 1970's, I grew to love the Chinese people. I grew to love them deeply. When I saw the massacre at Tiananmen Square, part of me died that day, because people who cared deeply about freedom, people who cared deeply about their convictions, were wasted away. We want to do something. We want to thump China in the nose. We want to do the right thing.

But the answer is not to walk away from this relationship, because if we do nobody will be at the table articulating the things we care about so deeply. It will not be France, Germany, Japan. They will not be there. There will be a big silent spot. Does that mean we have been 100 percent accurate and good in everything we have done in our dealings with China? No. We have not. We should speak up. We should do some things. We crafted a bill which will do that. But the answer is not to throw the baby out with the bath water. The answer is not to walk away from this relationship.

Ms. PELOSI. Mr. Speaker, I am pleased to yield 1 minute to the gentleman from California [Mr. LANTOS], a cochair of the Human Rights Caucus of the Congress of the United States.

Mr. LANTOS. Mr. Speaker, there are a dozen good reasons to deny most-favored-nation treatment for China, ranging from the persecution of Christians to the selling of weapons of high-technology to despicable countries, to the theft of our intellectual property, to discrimination against American exports. But we all know what is going to happen here. They will get MFN because even if this body should approve this resolution, the administration will veto it, and we do not have the votes to override it.

So my plea is to my undecided colleagues, the only thing we are dealing with is the sending of a message to the Communist totalitarian regime in Beijing. Let us send a strong message. Let us tell them that we can stand on principle.

When a year ago this body unanimously approved my resolution giving the right to the President of Taiwan to visit his alma mater in Cornell, we stood on principle. When we voted not to move the Olympics to Beijing, we stood on principle. Today at least we should stand on principle.

The SPEAKER pro tempore (Mr. LaHood). The Chair announces that when we get close to closing, we will go in this order of closing: The gentleman from New York [Mr. Solomon] will go first; the gentleman from Kentucky [Mr. Bunning] will go second; the gentleman from California [Mr. Matsui] will go third; the gentleman from California [Mr. Stark] will go fourth; and the gentleman from Illinois [Mr. Crane] will close the debate.

The Chair recognizes the gentleman from California [Mr. Matsui].

Mr. MATSUI. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from Florida [Mr. Davis].

Mr. DAVIS of Florida. Mr. Speaker, today I rise in strong opposition to the motion of disapproval, and in support of continuing our normal trade status with China. Opponents of most-favored-nation status say we must send a statement to China, a message.

In some respects I agree with that. China must know as a nation we will be vigilant in our efforts to fight human rights abuses, and we will watch closely the transition of power with respect to Hong Kong, that we will not tolerate acts of aggression toward their neighbors, and most importantly, we will continue to work to open their market to exporters.

But the real question today is whether MFN is the proper vehicle to send this message, and whether revoking MFN advances our interests on these issues. The answer to both these questions is no. MFN is not a referendum on China's policies. It is not a sense-of-the-Congress resolution that we have serious differences with China. It is not just a symbolic vote, allowing us to send a message to the Chinese that we are unhappy with their leadership. It is a real vote with real implications, both at home and abroad.

If we are concerned about Hong Kong, we must not undermine their economic stability at a point when that leverage is vital to protecting their freedoms. If we are concerned about religious persecution in China, let us listen to the missionaries who fear serious repercussions if we revoke MFN. If we are concerned about market access to our exports, we should not set off a trade war which could raise tariffs up to 70 percent and effectively cut off our economic relationship, estimated to cost consumers nearly $30 billion.

Indeed, if we want China to act in accordance with established international principles, let us not isolate them from commercial, cultural, and religious exchanges.

Mr. Speaker, I urge my colleagues to vote against the motion for disapproval, and to support continued MFN status for China.

Mr. BUNNING. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan [Mr. Upton].

Mr. UPTON. Mr. Speaker, I rise in support of the motion to deny most-favored-nation trading status.

Mr. Speaker, I rise today in opposition to renewal of most-favored-nation trading status for China. I supported MFN renewal last year believing that I should try the theory of engagement for 12 months and see what happens.

Well, it's now 12 months later and what actions has the Chinese leadership undertaken. Allow me to read some headlines for some of our Nation's papers this year:

"U.S. Confirms China Missile Sale to Iran",

"China called Obstinate over talks about Tibet",

"China Buys U.S. Computers, Raising Arms Fears",

"China joins forces with Iran on short-range missile".

The United States has given the Chinese 8 years of warnings and demands for improved human rights and to stop selling weapons and advanced missile and nuclear weapons technology to rogue nations like Iran or Pakistan. It's time to act now and take decisive action. No more carrot and stick approach. Just as the United States brought pressure on the Soviet Union to allow Jews to emigrate and on South Africa to end apartheid, and on South Korea to become more democratic, we must keep up our pressure on China.

Conditioning MFN for China provides the United States with the best leverage to improve human rights and send a strong signal about its weapons sales because preferential access to the United States market is critical to China's authoritative regime. Societies based on democratic principles and respect for basic human rights and freedoms make the best neighbors and the best trading partners.

I'm aware that United States business exports to China in 1993 totalled $8.8 billion. In the meantime, China's trade surplus with the United States has grown from $6 billion in 1989 to $45 billion last year with many of the Chinese products being produced by forced labor.

While I recognize the importance of MFN renewal to my home State of Michigan and its businesses, this must be weighed with the overriding goal of trying to foster a more humane way of life for the Chinese people, particularly as it impacts the rest of the world.

Last week the Spence amendment restricting supercomputers to those countries that violate nonproliferation agreements passed by a 332 to 88 vote.

Last night, this House passed the Rohrabacher amendment restricting funds to Russia if they transfer certain missile systems.

Mr. Speaker, this is the people's House. We need to send a message to the people around this globe that human rights violations and the transfer of horrific technology-chemical and nuclear proliferation must end today.

China MFN will continue. The President has the votes, but we can send a message that this practice of so many bad things must end.

Mr. STARK. Mr. Speaker, I yield 1 minute to the gentleman from North Carolina [Mr. Watt].

Mr. WATT of North Carolina. Mr. Speaker, the last time this issue came before Congress I voted to extend MFN trading status to China. I felt that engagement was our best hope for getting China to act more responsibly on issues of human rights, international affairs, and international trade.

Since that vote, however, China has shown no progress on any of these issues. On human rights the State Department's 1996 report confirms that China continues to commit widespread human rights abuses, and in 1996 China actually stepped up efforts to cut off protest and criticism.

On international affairs, China is transferring dangerous weapons and technology to Iran, Iraq, Libya, Syria, Pakistan, and Burma. On international trade, Chinese tariffs on our exports average 35 percent, while our tariffs on Chinese imports average 2 percent, and our 1996 trade deficit with China was $40 billion. In the face of this, Mr. Speaker, I simply cannot be in support of extending MFN status, and I urge a vote in support of that proposition.

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Mr. MATSUI. Mr. Speaker, I yield 1 minute to the gentlewoman from New York [Mrs. Maloney].

Mrs. MALONEY of New York. Mr. Speaker, often in this Congress we are faced, as we are today, with two imperfect choices. As a delegate to the U.N. conference in Beijing, China, I spoke out against China's human rights abuses, and I will continue to do so. I also know that, since beginning negotiations, changes have taken place. Normal trade relations are importing and exporting more products. They are exporting an understanding of our democratic standards.

In 1994, the state compensation law was passed allowing Chinese citizens to sue Government officials and collect damages. Similar laws have passed but they would not have occurred without U.S. influence. Denying normal trade status to China would do nothing more than transfer trade to our international competitors and give ammunition to anti-American hard liners within China who will use our denial as an excuse to reverse advances that have already been made. I urge a vote against the resolution.

Mr. BUNNING. Mr. Speaker, I reserve the balance of my time.

Mr. CRANE. Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. DeLay], our distinguished whip.

Mr. DELAY. Mr. Speaker, I understand the deep feelings of the opponents of MFN and I have deep sympathy with those feelings. But the question before us is very simple. Will revoking MFN lead to more freedom in China? In my view, the answer is a resounding no. I want to send the Communist Chinese Government a message regarding human rights and religious freedom. But I believe that cutting off MFN is a very ineffective way to send that message, and in sending that message, we are taking freedom away from Americans.

Mr. Speaker, free trade leads to freedom, and capitalism is a synonym for freedom.

Will revoking MFN help those Chinese who are being persecuted by their Government? Will revoking MFN stop the Chinese Government from selling dangerous weapons to unstable countries? Will revoking MFN end barbaric social practices within China? I fear that the answer to all those questions is a big no. Instead of closing the door on China, we should be forcing that door open to open even wider. Instead of taking away freedom from Americans, we should empower our citizens to fully engage China.

We should have congressional delegations going to China demanding that the Chinese Government free political and religious prisoners. We should disallow visas for any member of the Chinese Government who is a known human rights violator, and we should press on many different fronts to make our views known to the Chinese Government that we care how they treat their citizens. But we should not cut the strongest link we have with the people of China especially now that Hong Kong is falling under the control of the Beijing regime.

That link is trade. And the trade link is the lifeline for many Chinese who see America not as an adversary but as a friend. And this is not just my view. In a statement supporting MFN for China, Dr. Samuel Ling, who happens to be program director of the Institute for Chinese Studies at Wheaton College's Billy Graham Center, said: History since 1979 has proved that as the United States engages China, a more open, pluralistic atmosphere develops, and both the standard of living and human rights and freedoms, including religious freedom, tend to improve. Washing our hands of China is simply irresponsible. Let us not impose a false isolation of China that diminishes our influence, hurts the very people we want to help and takes freedom away from American citizens.

I urge my colleagues to vote down this disapproval motion, and let us give a helping hand to those who are now being persecuted in China.

Mr. STARK. Mr. Speaker, I yield 5 minutes to the gentleman from Michigan [Mr. BONIOR], distinguished minority whip.

Mr. BONIOR. Mr. Speaker, brutal efficiency, prison, torture, executions, these are the tools of the Chinese leaders. These are the tools they use to muffle the voice of anybody who dares speak out against basic liberties. Tariffs, regulations, piracy, these are the tools Chinese leaders use to keep American goods out of China. They are effective tools, tools that have been sharpened into economic and political weapons, weapons that cut at the very heart of our belief in fairness, freedom, and democracy.

As we speak today, every Chinese activist, every voice of dissent, every advocate of freedom and democracy in a country of 1 billion people is either in jail or in exile. According to the State Department, not a single dissident is free in all of China.

I want to talk briefly about one brave voice who languishes in Chinese prison. His name is Wei Jing Sheng. Because he spoke out for democracy, he has been forced to endure two decades of prison, labor camps, and solitary confinement. Mr. Wei's message, that China needs democracy, frightens the Government so much that his guards will not allow him to even have a pen and paper. To dictators who fear the truth, this humble electrician is a dangerous man. But Mr. Wei is not the first electrician to stand up to cruel corrupt regimes. In the early 1980's, Lech Walesa said enough is enough and launched a fight for freedom that spread across eastern Europe and eventually the Soviet Union itself.

Like Lech Walesa, Mr. Wei is a simple, direct man. He stands firm in his belief in democracy. But, for now, his voice has been silenced. So we must speak for him and for all the people in prison who have been speaking their conscience, just as we spoke for Lech Walesa a decade ago.

For 8 years we followed a policy of engagement with China, and the human rights situation has only gotten worst. The same is true for our trade deficit with China, which continues to soar out of control. In the past 5 years it has more than doubled. This year it is expected to hit about $53 billion.

Supporters of the status quo claim that revoking most-favored-nation status will hurt our exports to China. Let us take a look at the numbers. China exports about a third of their goods here, a third of what they produce comes here. What percentage of American exports make it to China? Less than 2 percent, 1.7 percent. We export more to Belgium.

What kind of things are we exporting to China? A lot of high technology equipment and machinery that China is using for questionable ends, ends like stealing intellectual property, building up their military and spreading weapons of mass destruction.

Is this the behavior we are supposed to reward with most-favored-nation status? Is this the behavior we take as evidence of a growing respect for human rights? Is this what we call engagement?

If America grants most-favored-nation status to China, we should call it what it is: It is looking the other way. Revoking most-favored-nation status will not signal disengagement from China or that China is the enemy, but revoking that status will send a strong message to China's leaders. If they want the best possible access to these markets which they have a third of their exports going to now, they have to uphold their end of the deal.

Looking the other way does not make the problem go away. Looking the other way only makes the problem worse, and looking the other way at injustice wherever it is undermines our credibility, our leadership and our moral authority in a world that needs it more than ever.

This is a vote about what our future is going to look like. If we do not stand up for the principles of democracy and human rights in China, we risk losing those principles here at home. If we do not stand up for decent wages and safe working conditions and environmental protections in China, we risk losing the quality of life we have worked so hard for here at home. We cannot designate China as one of our most favored nations without debasing our standards, damaging our credibility, and betraying the ideals on which America stands.

Mr. MATSUI. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. DEUTSCH].

Mr. DEUTSCH. Mr. Speaker, there is a fundamental choice that we are making today. That is a choice of engagement versus nonengagement with China. It is unfortunate that most-favored-nation status is called most-favored-nation status. It would much more appropriately be called trading status. Among the countries today in the world that have most-favored-nation status with the United States of America are Syria, Iran, and Iraq. It is a choice that we are making to isolate ourselves. Into the next century there is no question that China will be, and is today, but will only continue in its status as a world power. And in that economy we will have a choice in terms of whether we want to be part of that growth and part of that synergy of the world economy or not.

I urge my colleagues to reject this resolution in terms of the opportunity to continue just the normal trading status, not really a most favored status at all.

The SPEAKER pro tempore (Mr. LAHOOD). The Chair would advise all Members that the gentleman from Illinois [Mr. CRANE] has 7 minutes remaining; the gentleman from California [Mr. STARK] has 9 minutes remaining; the gentleman from California [Mr. MATSUI] has 12 minutes remaining; the gentleman from Kentucky [Mr. BUNNING] has 10½ minutes remaining; and the gentleman from New York [Mr. SOLOMON] has 3 minutes remaining.

The Chair recognizes the gentleman from Kentucky [Mr. BUNNING].

Mr. BUNNING. Mr. Speaker, I reserve the balance of my time.

Mr. CRANE. Mr. Speaker, I yield such time as he may consume to the gentleman from Iowa [Mr. LEACH].

Mr. LEACH. Mr. Speaker, there is probably no bilateral relationship more important than that between China and the United States. The evolution of Sino-American relations over the next decade will be of profound import not only for stability in the Asia-Pacific region, but for the world.

In this regard it must be understood that most favored nation [MFN] trade status—that is, normal trade relations—is the linchpin of Sino-American economic relations. it is also a natural extension of the open door policy that hallmarked American involvement in China at the end of the 19th century. By contrast, revocation of MFN would effectively drive a stake through the heart of our economic ties with China and place in grave jeopardy our future relationship with one-fifth of the world's population.

Hence it is crucial that the issue of extending MFN be delinked from the aberrational issue of the moment, in this case ongoing campaign finance investigations.

These issues—MFN which is fundamentally about relations between two peoples, and campaign finance abuses which likely involve the foolish actions of a few—are distinct. While Congress has a profound obligation to review the allegations of illegal involvement by foreigners and perhaps their governments in the American political process, perspective must be maintained. Campaign indiscretions are about deal-making conflicts of interest; MFN is about the future of the planet.

In the context of the recent Presidential campaign, it must be understood that the most appropriate antidote to campaign finance violations is for the Justice Department to uphold vigorously current law and the Congress to work forthrightly on campaign finance reform.

As for the Chinese, Beijing would be well advised to conduct its own inquiry into this affair, encourage openness and full disclosure and not shield any potential witnesses from the accountability required by United States law enforcement and congressional oversight.

By way of background, this Member has long believed that when confronted with the choice of high walls versus open doors in Sino-American relations, open doors are preferable. Hence my historically strong support for maintaining MFN. Though I favor unconditional MFN for China at this time, I do not favor MFN unconditionally for all countries at all times. MFN is all about reciprocity. The best way for countries to have good sustainable economic relations is to have reciprocal open markets, and the best way to achieve reciprocity in trade is to get politics out of economics into the market.

With this in mind, Congress should not hesitate to renew China's MFN status, preferably on a multiyear basis in conjunction with China's entrance into the World Trade Organization [WTO] on commercially acceptable terms. In this regard, it is my view that in the next century relations between states will relate more to the capacity of the business community to advance mutuality of interest than to the efforts of public officials to advance a civil dialog. Public policy is nonetheless crucial, for what is at stake is the advancement of the rule of law—whether it relates to U.N. Charter ideals, arms control, or rules of trade.

With regard to the latter issue, the obvious deserves repetition: Common rules of trade are in the vested interest of all countries which want to be part of the modern world. Those nations which want privileged status to protect their own industries, usually on grounds of the old infant industries argumentation, generally hurt themselves. As recently pointed out by perhaps the most erudite 20th century head of state, Vaclav Havel, there is little more counterproductive for developing economies than protectionism. Financial services is a classic example. While China has become dramatically more integrated into the international financial system over the last decade and a half, it has only taken modest steps to open up its banking, insurance, and financial service industries to foreign competition. Yet in my view China and its economy would be far better off to welcome United States and other foreign financial institutions and their panoply of low-cost commercial and investment banking products.

As for Hong Kong's return to China, this is clearly one of the seminal events of our time. For the West, it marks the end of a transition from colonial rule that began at the end of the Second World War and the end of an imperial presence in Asia. For China, in conjunction with the return of the Portuguese colony in Macao in 1999, Hong Kong's transfer marks the end of its traumatic colonial experience. In the short run, China has made its intentions clear. It intends to hold the reigns of freedom in Hong Kong rather more tightly than Gov. Chris Patten. In the long run, one's confidence in the future of Hong Kong depends on one's confidence in China and its ability to learn both from its own experience and the experience of others. Clearly, it's in China's interest to see the one country, two systems, concept successfully implemented. After all, Hong Kong's financial and managerial expertise is crucial to China's modernization drive and Hong Kong companies have accounted for over half of all outside investment in China, while Chinese concerns have invested over $60 billion in Hong Kong.

Will China honor its agreements with the British and allow a two-systems approach to internal government? We cannot know the answer to this question. But this Congress can certainly point out to Beijing the enormously destabilizing consequences of any substantial mishandling of the Hong Kong transition.

Clearly, the United States has important and financial as well as philosophical interests at stake in Hong Kong's smooth and successful transition to Chinese sovereignty on July 1. It is certainly the hope and expectation of the Congress that Hong Kong will remain one of the world's most vibrant and productive societies, that it will enjoy the substantial autonomy promised to it by the People's Republic of China, and that fundamental freedoms of its people will be fully protected and respected after 1997. In addition, it is self-evident that China's handling of the Hong Kong transition will powerfully affect attitudes toward the mainland in Taiwan.

In this regard, it is interesting to note that perhaps the only revolutionary leader held in high esteem by China, as well as Hong Kong and Taiwan, is Sun Yat-sen, whose principal contribution to Chinese political theory, beyond nationalism, is the precept of a three stage, guided evaluation to political democracy. Perhaps because it has a manageable population base, perhaps because it is located in the currents of trade and sits as a cultural and commercial island-bridge between China, Japan, and the Americas, Taiwan has led the way with political and economic democracy and the least divisions of wealth of any industrializing society. A generation ago its leading party, the Kuomintang, while rightist, resembled in organization the Communist Party of China. Today it looks more like Margaret Thatcher's Conservative Party. Tomorrow, who knows? The only thing that is certain is that the future of Hong Kong will have a bearing.

Deng Xiaoping underscored the new Chinese pragmatism with his cat and mice metaphor, and by promoting "socialism with Chinese characteristics." That pragmatism has led to unprecedented social and economic change in China. Indeed, despite continued political repression, China may be changing more rapidly that any other country in the world. Not only is it looking outward to trade and establishing a market-oriented internal economy, but in terms of private discussion there is much more freedom of expression than existed two decades ago. Privately, one can criticize the Government without repercussion; it is public criticism that remains shackled. This latter circumstance is indefensible, but the looseness of controls on the farmer is not without significance. Nonetheless, China's social and economic transformation can't proceed in the long run without effecting political change. At some point Beijing's new leaders must recognize the incompatibility of free enterprise and an authoritarian political system, and must recognize as well that instability can be unleashed in society when governments fail to provide safeguards for individual rights and fail to erect political institutions adaptable to change and accountable to the people.

Whether the 21st century is peaceful and whether it is prosperous will most of all depend on whether the world's most populous country can live with itself and become open to the world in a fair and respectful manner. How the United States, its allies, and the international system responds to the complexities and challenges of modern China is also one of the central foreign policy challenges of our time.

Revocation of MFN would not be responsive to that challenge. It would not effectively address our legitimate concerns on human rights, nonproliferation, Taiwan, or trade. On the contrary, it would constitute a supremely self-destructive act.

The United States would be far better to develop a bipartisan and biinstitutional approach that maintains the open door to China and with it a relationship that could be key to peace, stability, and prosperity in the 21st century than to annually threaten this political brinksmanship on the House floor. I urge the defeat of this self-defeating legislation.

Mr. CRANE. Mr. Speaker, I yield 1 minute to the gentleman from Illinois [Mr. MANZULLO].

Mr. MANZULLO. Mr. Speaker, this is not a vote about who is more against religious persecution in China. We all deplore violations of human rights not just in China but in the entire world. Defeating MFN will not stop human rights abuses in China. Many Christian ministries with an outreach to China believe that religious persecution will get worse in China if MFN is defeated. For these Christian missionaries it is their life's work. They are the experts on religious freedom. The Rev. Billy Graham, his son Ned, the president of the National Association of Evangelicals, the President of Moody Bible Institute, Fr. Robert Sirico, president of the Acton Institute, and Bob Grant of Christian Voice, they all encourage us to remain engaged with China.

MFN is at the heart of America's engagement policy with China. MFN, if it is revoked, is the wrong vehicle to protest China's behavior. If Chinese goods are being illegally dumped here, we have laws against that and the same with goods that may be made in slave labor camps. We can stop that here with existing laws.

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Mr. STARK. Mr. Speaker, I yield 1 minute to the gentleman from Maryland [Mr. WYNN].

Mr. WYNN. Mr. Speaker, I rise in opposition to renewal of most-favored-nation status for the People's Republic of China. This is, basically, a question of fairness and of common sense. The fact of the matter is that we have a tremendous trade deficit with China. China does not allow U.S. products in. China imposes tremendously high and unfair tariffs.

Mr. Speaker, this is simply a question of common sense. Our choice is not either isolate or engage. We also have the choice to negotiate, to say to China, "We want to trade but on fair terms. You should not have such a trade imbalance. You should not block our products. You should not pirate our intellectual property. You should not trade arms to our enemies." These are things that we can negotiate while maintaining a relationship.

People say, well, MFN will give us a better situation in all these areas. The fact of the matter is, we granted MFN last year and the situation got worse. In fact, our trade deficit this year is 41 percent worse than it was last year. So there is no empirical evidence that MFN has yielded results. We need trade, but we need fair trade and a measure of common sense.

Mr. MATSUI. Mr. Speaker, I yield 1 minute to the gentleman from America Samoa [Mr. FALEOMAVAEGA].

Mr. FALEOMAVAEGA. Mr. Speaker, I have been a member of the House Committee on International Relations now for about 9 years, and I have long been a strong supporter of maintaining broad, comprehensive ties with the People's Republic of China.

This policy of engagement has been upheld in a bipartisan fashion by five previous administrations, and I support President Clinton in his efforts now for continued engagement with China. We cannot allow America's broad range, multi-faceted relationship with China to be held hostage to any particular interest or issue.

Mr. Speaker, I do not know if my colleagues realize that when the People's Republic of China was founded in 1949, this government had to provide for some 400 million people living in China in 1949. Now we have got enough problems already on our own. Two hundred years it has taken us to provide for the needs of 264 million Americans. I think we need to leave a little slack here in realizing that this is not whether it is a dogma, it is a Communist, or what, but to provide for the needs of 1.2 billion people.

Mr. Speaker, we need engagement. We need MFN with China.

Mr. BUNNING. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Speaker, I thank my good friend, the gentleman from Kentucky [Mr. BUNNING], for yielding me the time.

Mr. Speaker, whatever decision we make today, the American people will see it as a decision about the role of morality in U.S. foreign policy, and they will be right. Mr. Speaker, this is a vote about whether a government which practices forced abortion and forced sterilization on a massive scale should be rewarded or punished. It is a vote about how a government treats its own people, especially people of faith, Catholic bishops, priests and Protestant ministers and Tibetan monks and nuns. This is a vote about a government that routinely uses slave labor and does so with impunity.

I have held six hearings in my Subcommittee on International Relations and Human Rights on various aspects of human rights in China. We heard from people who survived the Laogai, the gulag system, people like Harry Wu. And I can tell my colleagues, the victims are not in favor of continuing most-favored-nation status with China because they know a butcher when they see one.

Today's vote is about dying rooms and inhumane orphanages, where baby girls and handicapped children are left to die simply because they are unwanted by the dictatorship. Today's vote is about what happened in Tiananmen Square—because what was overt in 1989—the silence of dissent—is more covert and sophisticated today. But the repression remains pervasive and brutal.

Last December, Mr. Speaker, the President coddled the dictatorship's hit man General Chi Haotian, the Defense Minister for the People's Republic of China, and gave him the red carpet treatment. The man who ordered the massacre at Tiananmen Square was the President's honored guest and during his visit to the U.S. said "nobody died" at Tiananmen Square. Does anybody in this room believe that? Of course not. It is utter nonsense, an unmitigated lie; but that is what the Beijing dictatorship is all about—lies.

Let me just ask my friends and colleagues, how long are we going to continue this misguided strategy of constructive engagement? As the previous speaker pointed out, things have gone from bad to worse. During the China human rights period of time when President Clinton had his executive order in place, we saw a significant regression, not progress but regression in every category of human rights.

As a matter of fact, one of three human rights missions to the PRC, I was there at the halfway point during the life of the executive order. During the trip I met with Wei Jingsheng, the father of the democracy movement in the People's Republic of China. A couple of weeks later, he met with John Shattuck, Assistant Secretary of Democrat and Human Rights—Bill Clinton's point man on human rights. How did the Chinese Government respond to those meetings, especially to the one with Secretary Shattuck? They arrested Wei, the dictatorship put him in prison where he is today—another victim of this brutal dictatorship.

Let me also remind my colleagues that if they think trade will trigger democracy and respect for human rights—they are sadly mistaken. The government of China has gone from communism to fascism. And respect for human rights have deteriorated. Who is making big profits in the PRC? The generals and officers affiliated with the People's Liberation Army and those who are connected to the power structure of the dictatorship. And again, we have seen significant regression in the area of human rights.

On religious freedom, I beg to differ vehemently with Billy Graham and others and especially with his son Ned Graham, who have suggested we should continue most-favored-nation status as a way of assisting religious liberty. Nothing could be further from the truth. The only people that can practice their religion in the PRC today are those who are part of the official Communist controlled church, and that is it. Step outside the boundaries of the government church and the full weight of the totalitarian state is visited upon you.

If you're a pastor in the underground church—you go to prison. If you meet for Bible study in a setting not approved by Beijing, you are harassed—and you may go to a concentration camp. I met with Bishop Su of the Baoding Province. Bishop Su—who is part of the "illegal" Roman Catholic Church aligned with Pope John Paul

II—celebrated mass for our delegation. What happened to him? He was arrested by the secret police and is now back in prison for meetings with us. Bishop Su is no stranger to persecution, having suffered more than 12 years for his faith. Now the bully boys have sent this good man back to the gulag. There is no religious freedom in the PRC. Let us stop kidding ourselves.

To those who think trade equals progress in human rights, can you at least provide some evidence of that? Let me remind members that there were business men during the Nazi years, in the 1930's, who went and traded with the Nazis. But at least they did not have the temerity to stand up and say somehow that human rights were going to break out because the trains were running on time.

MFN is empowering a brutal dictatorship. The oppressor is getting bolder and stronger. And meaner. The dictator will soon begin to project its power to its neighbors—the signs are all there. The dictatorship will soon leave a bristling blue water navy to project power and influence and to intimidate.

Let me just note at this point that my business friends are not adverse to using sanctions when intellectual property rights are involved. Hollywood will go to war to protect pirated movies and CD's. But they shrink like violets when people's lives are on the line. When people, when torture, when forced abortion and religious freedom are the issue—they walk away and spout "constructive engagement." Vote for the Solomon resolution and against MFN for this dictatorship.

Mr. CRANE. Mr. Speaker, I reserve the balance of my time.

Mr. MATSUI. Mr. Speaker, I yield 1 minute to the gentlewoman from California [Ms. MILLENDER-McDONALD].

Ms. MILLENDER-McDONALD. Mr. Speaker, this MFN status, as it is called, is nothing more than according normal trading status to China to facilitate commerce between the two nations. It is in no way preferential to China. MFN keeps tariffs from skyrocketing, and it retains a working relationship between our two countries.

However, some Members of Congress want to take MFN status away from China, citing human rights violations as an excuse to deny them the equal trading status that we provide most countries in the world. I understand these Members' concerns and want to see improvements in China's human rights record myself. However, only through continuous engagement in dialogue will we have an opportunity to effect change.

It is important to note, however, that from 1990 to 1996, United States exports to China rose by 90 percent, the fastest growing rate of any major export market. This has been a direct benefit to southern California, given its recovery from a recession. One quarter of all cargo entering the United States comes from China.

I urge my colleagues to support MFN and to reject this resolution.

Mr. MATSUI. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I would like to point out to the Members of this body that three of the four former Presidents have endorsed most-favored-nation status for China: George Bush, Jimmy Carter, and Gerald Ford. All three of them have for this vote today.

In addition, every former Secretary of Defense, Democrat and Republican, over the last 12 years has supported MFN for China. We have every Secretary of the Treasury over the last 16 years supporting most-favored-nation status for China. We have every Secretary of Agriculture and every Secretary of Commerce also supporting MFN for China, as well as every Secretary of State and every USTR, United States Trade Representative, that currently is alive.

I might also mention, in terms of the issue of the trade deficit, many are making much out of the $40 billion trade deficit. One needs to look at the entire region, however. Because if we look at Taiwan, Singapore, Hong Kong, and South Korea, what we have seen is a commensurate reduction in their trade surplus with the United States as the trade deficit with China has gone up. So it is not a loss of United States jobs, it is a transfer of jobs from these four countries to China. That is exactly what is happening in that particular area.

In addition, I might say that this really is not any longer an issue of trade, this is an issue of diplomacy. If we cut off most-favored-nation status with the Chinese, we will, in essence, cut off diplomatic relationship with the Chinese. What we are really talking about is what the United States-China relationship will be 10, 15, 20 years from now. I think that is what we should be focusing on.

China has 21 percent of the world's population. As a result of that, that relationship will be the most critical relationship the United States will have. I urge a rejection of the resolution by the gentleman from New York [Mr. SOLOMON].

Mr. BUNNING. Mr. Speaker, I yield 1 minute to our distinguished colleague, the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. Mr. Speaker, I rise in strong opposition to this resolution. Our goal must be to strengthen our engagement with China to bring her into the international trading system, whose rules seek to assure mutual benefit for all trading nations, to bring her into the international web of agreements, whose goal it is to prevent the proliferation of nuclear weapons and create the maximum opportunity to resolve conflicts without war.

As to the important issue of human rights, we know more about today's problems in China then we did during the terror of the cultural revolution precisely because China is far more open and allows far more personal freedoms than in the past. Greater individual economic opportunity has always fostered over time greater individual freedom and respect for human rights.

We should continue to press China toward international human rights standards. But engagement, not disengagement, will achieve these goals.

The SPEAKER pro tempore. The gentleman from Illinois [Mr. CRANE] has 5 minutes remaining; the gentleman from California [Mr. STARK] has 8 minutes remaining; the gentleman from California [Mr. MATSUI] has 8 minutes remaining; the gentleman from Kentucky [Mr. BUNNING] has 6½ minutes remaining; and the gentleman from New York [Mr. SOLOMON] has 3 minutes remaining.

Mr. BUNNING. Mr. Speaker, I reserve the balance of my time.

Mr. MATSUI. Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Speaker, today we will decide whether to maintain the normal trading relations we have had with China since 1980. This vote is critical to agriculture in the rural areas of our country that have made us the No. 1 exporter of agricultural products in the world.

In 1996 alone, we exported over $60 billion in agricultural products. Last year we had a $1.4 billion trade surplus with China in agricultural trade. We sold over $2 billion of agricultural products to China. Ending normal trading relations will jeopardize this trade.

As China reaches out to the rest of the world to meet more of its food needs, the last thing we should do is pull out of the market. While we clearly lead the world in agricultural exports today, many of our friends in Europe and Central and South America would relish the opportunity to supply the Chinese market. Agriculture is one of those things we Americans do best. And the jobs that it provides in rural areas are good jobs that are performed with pride by the American farmer and the workers who supply them; and that is why it is so critical that we maintain the markets that we have worked so hard to create.

China has opened its markets to live cattle, cherries and apples from Washington and grapes from California. Because we remain engaged in trade with China, we are closer to gaining access for other important commodities. If we vote to end normal trading relations today, China will see us as an unreliable supplier of a very important commodity, the food it needs to feed its people.

And finally, if we vote against normal trading relations with China today, we can forget about China's accession to the World Trading Organization. We have only begun to gain marketing access to China's agricultural markets.

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With accession to the WTO based on a commercially viable package, China's state trading enterprises which control imports of agricultural commodities will fall.

In the brief time allotted to me, I cannot address all of the reasons we should continue normalized trade relations with China. There are certainly legitimate concerns about human rights, religious freedom, international cooperation, U.S. jobs, Hong Kong and Taiwan. I believe, however, that progress in all of these areas will best be made, particularly in the area of human rights and religious freedom, by pursuing ever-increasing dialog and constructive engagement rather than reverting to isolationism.

The choices are clear. We can do what America does best or we can revert to those things that have been tried and proven to be wrong for America and wrong for those that we perceive to be helping.

I ask that we vote to continue normal trading relations. Vote against this resolution before us today.

Mr. STARK. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I suggest for those of us who live in such grandeur and have the most productive Nation in the world, why not risk? Why not risk ending slave labor?

Why not? Because the other side will say that we cannot offend Boeing who wants to sell jets to China, and Motorola their cell phones. Why do we not risk stopping the murder of female babies? No way. Wal-Mart needs those cheap T-shirts and sneakers. Or why not encourage religious freedom? Forget it. Agriculture needs to sell grain and cotton to China, those small family farmers like Archer and Daniels and Midland.

Why did it work in South Africa? They tell us we were not alone in South Africa. We were all alone when we voted the Helms-Burton bill, were we not? And why is it that Cuba is treated real tough and China is not? Maybe it is because Cuba did not make big political contributions to Clinton-Gore and other campaigns. Maybe that is why. And maybe that, Mr. Speaker, is why we are seeing human decency sell out to big money.

If Members believe that they can stand up for human decency, and if Members believe that this country is strong enough to compete with anyone based on its human values, then they will vote for this resolution and send a message to China that may get them to change.

Ms. PELOSI. Mr. Speaker, will the gentleman yield?

Mr. STARK. I yield to the gentlewoman from California.

Ms. PELOSI. Mr. Speaker, it has been 8 years since the Tiananmen Square massacre. Every year at this time the President gives the regime an anniversary present requesting a special waiver to grant most-favored-nation status to China. No wonder the former Presidents and Secretaries of State support renewing MFN. They are the ones who brought us this failed policy in the first place.

What do we have to show for it? Lost jobs, lost freedom, and a more dangerous world. The American people know it. That is why in a poll yesterday, a Business Week poll, the American people support, 67 to 18 percent, revoking MFN for China.

The President and the regime in Beijing should take no comfort from this vote on the floor today. The American people want a change in policy. Our colleagues have thoughtfully spoken out to say that if they vote for MFN, they still want to see stronger actions taken by the Clinton administration. But in order for the administration to do that, we need a strong vote in support of the Solomon resolution today.

I urge my colleagues to oppose most-favored-nation status for China by supporting the Solomon resolution.

Mr. MATSUI. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California [Mr. FAZIO].

Mr. FAZIO of California. Mr. Speaker, I rise today in opposition to the resolution to disapprove most-favored-nation status and in support of normalized trade relations with China.

Like many of my colleagues, I am concerned and often as outraged as many here on the floor have been about China's continued unfair trade practices, proliferation of nuclear and chemical arms, and human rights abuses. But unlike my colleagues who support this resolution, I believe that cutting normal trade relations will not change China for the better, but will, in fact, slow the pace of democratic and economic reforms in that country while penalizing the United States in the process.

Rather than restricting trade, we should be concentrated on opening China's markets. We can do this by using targeted trade sanctions to persuade China to lower import barriers and end unfair trade practices. Last June, the United States and China reached an agreement that has shown how we can shut down illegal factories; 39 of them were done so. They were producing pirated software and computer disks. We need to take more of this kind of tough action.

Since we have begun our policy of engagement, China has made progress toward halting the proliferation of nuclear, chemical and biological weapons technology, and China just recently ratified the chemical weapons treaty. In addition, China has agreed to a moratorium on nuclear testing and signed the comprehensive test ban treaty.

Progress will continue to be made if we use diplomatic pressure and the prospect of economic sanctions to secure commitments by China. Revoking normalized trade relations will not achieve our human rights goals.

Two nations in the region that once had authoritarian regimes, South Korea and Taiwan, now are among our strongest allies. Why? Because we built our relationships on trade and thereby had direct influence in improving human rights.

Let us build on our relationships, let us not tear them apart. Keeping China as a strong trading partner is the most effective way of preserving our interest in a nation that has undergone massive change during the last 25 years. Please support the position the gentleman from California [Mr. MATSUI] has advocated so effectively today.

Mr. CRANE. Mr. Speaker, I yield such time as he may consume to the gentleman from Alabama [Mr. CALLAHAN].

Mr. CALLAHAN. Mr. Speaker, being the foremost authority on foreign aid in the entire House, I rise in opposition to the proposal today.

Mr. Speaker, I want to thank my colleague for allowing me this opportunity to address the House.

I rise today in opposition to the resolution under consideration and in favor of normal trade relations with the People's Republic of China.

Let me begin by stating that I have many problems with the recent conduct of the People's Republic of China.

From their abysmal human rights record, to nonadherence on nuclear nonproliferation, to its engagement in discriminatory and unfair trading practices, and China has a long way to go before this conduct earns the respect of the United States.

That said, however, I am also concerned that disapproving a trade agreement which simply extends to China the same privileges granted to all other nations with the exception of only seven rogue terrorist nations is not the most effective way for the United States to influence policy in China.

While I understand and share the concerns of conservative Christians regarding religious persecution in China, I believe a policy of disengagement could potentially worsen the situation for religious minorities there, resulting in more, rather than less, persecution, and human rights violations.

Passage of this resolution will have a seriously damaging effect on American business interests both here and abroad. Enacting a policy of trade isolationism with China would roll back the progress which has been made to this point, and would further undermine our diplomatic and economic influence in the region.

By engaging China to open markets and supporting progressive democratic reforms, the United States foreign policy regarding China has had an impact.

The people of China will only realize full democratization and liberalization of rights with the long-term, consistent involvement and encouragement of the United States.

I urge my colleagues to vote no on this resolution and support our continued engagement with China.

Mr. CRANE. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Illinois [Mr. PORTER].

Mr. PORTER. Mr. Speaker, China is one of the world's major human rights abusers. It ranks right up there with Nigeria, Burma, Turkey, and the Sudan. There is no doubt whatsoever about this. Each year we debate MFN, we vent our anger and frustration with China and we send messages. I have consistently, Mr. Speaker, voted to cut off MFN. But nothing ever happens. And nothing will happen this year. The MFN approach is a legislative and policy dead end. If MFN were eliminated, surely it would cut off American influence in China. It might well slow the pace of economic freedom in China that ultimately, I believe, will lead to political freedom. And clearly it would hurt the common people of Hong Kong who have lived in freedom and under the rule of law and face an uncertain future under Chinese sovereignty.

Mr. Speaker, we must move beyond the MFN exercise to a positive agenda for the values we believe in for all people. The gentleman from California [Mr. DREIER] and I have joined together with a number of our colleagues and will introduce later this week the China Human Rights and Democracy Act of 1997. It will focus on increasing our broadcasts through Voice of America and Radio Free Asia to China to 24 hours a day. It will bring the truth to the Chinese people about their own country and about ours and about the world. It will build democracy in China through the National Endowment for Democracy. It will provide a voluntary code of conduct for U.S. businesses. It will cut off visas for human rights abusers and proliferators. It will provide new reports on human rights; a prisoner information registry; more human rights officers in our embassy in Beijing; a report on Chinese intelligence activities; and a disclosure regarding the People's Liberation Army and its commercial activities.

Mr. Speaker, I commend my colleagues who are so passionately for the rights of the Chinese people. I am still very much with them. I believe this exercise, however, leads nowhere and hope they will join us all in an effort that will really impact Chinese society and advance the cause of democracy, human rights, and the rule of law.

Human rights, democracy, freedom and equality of opportunity are the values that define us as Americans and they should be reflected in our foreign policy.

Unfortunately, the MFN debate, as well as the administration's policy, pits these principles against one another, dividing Congress and the American people, and sending a mixed message to the Chinese.

As cochairman of the Congressional Human Rights Caucus, I have been a consistent and outspoken critic of the Chinese Government and its horrendous human rights record.

I have always used my MFN vote to protest China's treatment of its citizens and its renegade foreign policy of market exploitation and weapons proliferation.

Since 1994 when President Clinton formally de-linked human rights and MFN, the MFN debate has been an empty threat and has ceased to be an effective means of advancing our values within China.

Today, we have again engaged in a heated debate that allows Members to vent their anger at Beijing, but does little to change Chinese society for the better.

I believe that we must move beyond this annual exercise in futility toward a real policy which more accurately reflects and more vigorously promotes American ideals within China.

For this reason, my colleague DAVID DREIER and I have sought out positive and pro-active ideas from many of the leading voices on all sides of this issue on how we can move our China policy in a more productive direction.

The legislation that has resulted from this consultation—the China Human Rights and Democracy Act of 1997—includes funding for 24-hour broadcasts into China by Radio Free Asia and the Voice of America in multiple languages.

It would promote democracy-building activities in China, such as legal and judicial training, and expand reporting on human rights by the administration. Our legislation prohibits visas for human rights abusers and those who carry out China's irresponsible policies of weapons proliferation. The bill also includes a voluntary code of conduct for United States businesses operating in China. We would require expanded reporting on human rights and other important concerns that Members of this body have enunciated today, and increase public and private exchanges between the United States and China. Finally, we would begin the process of creating a Commission on Security and Cooperation in Asia—based on the successful model of the Helsinki Commission.

The premise behind all these initiatives is that we can best promote our values by increasing our contact with the Chinese people, and concerns about human rights and democracy should be dealt with in a way that responds directly to those issues.

The China Human Rights and Democracy Act attacks China's abusive policies at their roots by giving the Chinese people the tools to build a civil society and decrease their dependence on the Chinese Government.

Economic freedom and opportunity can provide a catalyst to increased political freedoms, but we must not just sit around waiting for this to happen. We must take positive steps to bring these changes along, such as the China Human Rights and Democracy Act.

Revoking MFN, however, would do nothing to accomplish this goal, and would make it difficult to take the kinds of actions which will bring China into the community of nations as a responsible member.

Moreover, MFN revocation would devastate one of our best chances at changing China from within—Hong Kong, which will come under Chinese control this time next week. I firmly believe that Hong Kong—a place of freedom, the rule of law and a nascent democracy—has the potential to change China far more than China will change Hong Kong. If we take away MFN, Hong Kong will be the first casualty.

If we want to improve the lives of the Chinese people and improve the human rights situation in China, we cannot promote our values selectively.

Members of Congress have spoken forcefully against MFN today from their hearts—I respect no one in this Congress more than my colleagues from California, Virginia, New York, and New Jersey who have passionately addressed this issue today, and we have worked on these issues together for many years.

I know that I will not change their minds today, but I ask that after this vote ends today, that we work together to end this annual debate and promote a more realistic approach.

MFN revocation is a dead-end for Congress, and we have to move beyond sending messages to move China in the right direction. I will support MFN today and continue to work with all my colleagues to build a better approach to China. I hope that I can count on their support.

Mr. Speaker, I include the following op-ed from the Wall Street Journal for the RECORD:

[From the Wall Street Journal, June 24, 1997]

WHY I CHANGED MY MIND ON MFN

(By John Edward Porter)

Human rights, freedom, democracy, free-market economics and the rule of law are the values that define America and that must be reflected in our foreign policy. Unfortunately, the current MFN debate pits these principles against one another, dividing Congress and the American people and sending a mixed message to the Chinese leadership.

I have been a consistent and outspoken critic of the Chinese government and its deplorable human rights record. China's egregious behavior is clear, and I have voted repeatedly to revoke most-favored-nation trade status for China to convey America's outrage over Beijing's abuses and to pressure China to mend its ways. What's also become clear to me, however, is that the threat of MFN withdrawal is not the most effective way to advance our values within China.

With support from successive U.S. presidents for MFN renewal, the Chinese have concluded that our trade threat is an empty one. Nonetheless, we continue to pursue an annual debate that allows Congress to vent its anger against Beijing but that does nothing to change Chinese society and move it toward basic freedoms.

Yes, a vote for MFN withdrawal sends a message. But with a president committed to vetoing such a resolution, it is a pointless exercise that cannot affect China's conduct. Clearly, we need a new, active policy toward China and should drop this annual debate.

With this in mind, I began working six months ago to develop a list of policy initiatives that could make a difference within China, primarily expanded broadcasts through the Voice of America and Radio Free Asia, a new radio service that brings uncensored news directly to the Chinese people. For the past 10 years, I've also worked closely with Martin Lee and other domestic leaders in Hong Kong to ensure that basic rights are protected there after June 30. I've voted for legislation to establish direct U.S. ties with Hong Kong in those areas where it maintains autonomy and have introduced a bill to help protect Hong Kong journalists, who are the first line of defense against erosion of the freedoms enumerated in the Sino-British Joint Declaration.

When Speaker Newt Gingrich returned from his recent trip to China, he addressed the Congressional Human Rights Caucus and emphasized his support for this kind of initiative. My discussions with the speaker led to formation of an MFN Working Group, which has brought together a group of House members who share a strong commitment to human rights but who have divergent views on MFN. Our goal was to come up with legislative proposals that would help define an effective U.S. policy toward China.

The group is planning to introduce legislation—the China Human Rights and Democracy Act—that we believe will be more effective than the annual MFN debate in moving China toward democracy. Passing this measure would make Congress a more forceful player in the U.S.-China policy debate and encourage the administration to integrate concerns about human rights and democratic development into all our dealings with China.

Our bill would increase funding for broadcasting by Radio Free Asia and Voice of America, with a goal of 24-hour broadcasts into China in Mandarin, Cantonese, Tibetan and other Chinese dialects; increase funding for democracy-building activities, such as legal and judicial training, in China through the National Endowment for Democracy; expand State Department reporting on human rights violations and political prisoners; and require disclosure of Chinese companies' ties to the People's Liberation Army. Our initiative also suggests the formation of a congressional commission on human rights abuses in China and in other repressive societies, including Vietnam, Laos, Burma and North Korea.

Furthermore, our legislation would increase both public and private exchanges between the American and Chinese peoples, but it would deny visas for U.S. travel to those whom the State Department determines to have committed human rights violations or who are involved in proliferation of weapons or other sensitive technologies. Also, U.S. companies would be encouraged to adopt a voluntary code of conduct, to show how they treat Chinese workers and foster our values.

The premise of these initiatives is that we can best advance our values through continued contact with China. This is especially true as China is about to regain sovereignty over Hong Kong, a center of robust economic freedom that would be devasted by MFN revocation. As we have seen in Taiwan and South Korea, economic freedom ultimately leads to political freedom. I believe that Hong Kong, a place of freedom and the rule of law and, more recently, a place of democracy, will ultimately change China much more than China will change Hong Kong.

If we want to bring China into the community of nations, we cannot promote our values selectively. It is time to recognize that revoking MFN is a dead-end policy that cannot succeed in bringing us closer to our hopes for China. Members of Congress have in past years spoken forcefully from their hearts in voting to deny MFN for China. But now our minds tell us that we must go beyond sending messages to move China in the right direction.

Mr. CRANE. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from California [Mr. DREIER].

Mr. DREIER. Mr. Speaker, there has been an awful lot of talk throughout this debate over the issue of sending a signal. "Let's send a signal." They are absolutely right. There are several very important signals that we should be sending. For starters, in just a few days, we are going to see Hong Kong revert to China. We need to send a signal to the freedom-loving people in China that we want to maintain United States-China relations. In fact, the greatest apostle for freedom there, Martin Lee, has made it very clear in his statement that the nonrenewal of MFN would hurt us badly. We also need to send a signal to the international community, especially our closest allies in Asia.

Bob Dole made it very clear in a piece that he wrote today in the Washington Times:

> Revoking MFN would engender grave doubts in all Asian capitals about the wisdom of American policymakers and undermine their respect for us as the guarantor of Asian stability.

We also, Mr. Speaker, need to send a very important signal to American citizens, American private citizens who are in China, American citizens there who are spreading the gospel, American business men and women who are on the front line pursuing capitalism and pushing our western values into China, and also to democratic activists, like our International Republican Institute, out there encouraging democratization at the village level It is very important that these signals be sent, and the most important signal is to the people of China, the 1.2 billion people of China who should know that we stand with them. The single most powerful force in the 5,000-year history of China has been the economic reforms. We need to stand for MFN and in opposition to this resolution.

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman from Illinois [Mr. CRANE] has 1½ minutes remaining; the gentleman from California [Mr. STARK] has 5 minutes remaining; the gentleman from California [Mr. MATSUI] has 3 minutes remaining; the gentleman from Kentucky [Mr. BUNNING] has 6½ minutes remaining; and the gentleman from New York [Mr. SOLOMON] has 3 minutes remaining.

The first Member to close will be the gentleman from New York [Mr. SOLOMON], followed by the gentleman from Kentucky [Mr. BUNNING], followed by the gentleman from California [Mr. MATSUI], followed by the gentleman from California [Mr. STARK]. The gentleman from Illinois [Mr. CRANE] will close the debate.

The Chair recognizes the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, we need to send signals all right, but we do not need to send do-gooder signals and we do not need to send feel-good signals. We need to send signals that the Chinese Government understands.

Let us get one thing straight. It is important to note right now that nobody is talking about severing relations with China. Nobody. Nobody is talking about severing trade relations with China. Nobody. In fact, we are not even advocating permanent revocation of MFN. If we pass this resolution into law, there is nothing whatsoever to stop this Congress from renewing MFN, and I would be one of the first to help do it at a later date, maybe 3 months from now, 6 months from now, 7 months from now. That is why there is really no good reason for us to oppose this resolution.

Mr. Speaker, the status quo is simply unacceptable. As I think our side has outlined very forcefully here today, China's behavior remains repugnant, it remains dangerous to this country, and it is certainly unacceptable. Our current policies simply are not working.

To recap, even the State Department says that human rights abuses are getting worse in China, not better. Let us not fool ourselves. A new round of religious persecutions is under way. That is unforgivable.

China itself announced that its military spending will increase 15 percent this year, and that is 50 percent over the last 4 or 5 years. It was just 6 months ago that China concluded a deal with Russia to purchase a missile which is specifically designed to kill American sailors.

Mr. Speaker, would it not be worth it to delay renewing MFN for China for 3 months if China decided to stop buying deadly missiles from Russia? Would it not be worth it if China stopped religious persecution, even made a step in that direction? Would it not be worth it if a 3-month delay saved a few hundred lives? Would it not be worth it? Lives are precious.

I would ask my colleagues to come over here and vote, not to cut off MFN for China but to delay it, so that we can sit down. The Chinese are the smartest people in the world. Let me tell my colleagues, we send this temporary measure to them, and they will sit down and we will see a difference. My God, would we not have a great feeling in our conscience if that happened?

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Please come over and vote for this resolution.

Mr. BUNNING. Mr. Speaker, to close the debate I yield 6½ minutes to the gentleman from Virginia [Mr. WOLF].

Mr. WOLF. Mr. Speaker, I feel more strongly about this issue than any vote I have cast since I have been in this body. I want to thank all of the groups.

I wish I can mention all of the names, but I want to thank the Family Research Council, I want to thank the Catholic bishops and the Catholic conference, I want to thank the Christian Coalition, and I want to thank the AFL–CIO for coming together and making this point. I will tell them we have won this debate, we have won it outside of this Chamber, and next year we will win it inside of this Chamber. The American people are with us. The Congress may not be with us, but the people are with us.

Why should we support the Solomon resolution? The administration's policy is fundamentally failed. It is not true to American values. I will tell my colleagues it is amoral, and I personally believe that it is immoral.

Why? The Catholic priests and bishops that are in jail, some for saying holy communion. The next time my colleagues approach the rail and when the pastor or the priest says we break the bread of the body of Christ, he remembers us and the wine for the blood of the Christ, think of the bishops and the priests that are in jail for doing this, for this very, very thing. There are Protestant pastors that are in jail. None of my colleagues go to house churches when they go there, none of my colleagues visit the prisons. The gentleman from New Jersey [Mr. SMITH] and I were in Beijing Prison No. 1. We met with the underground church. If we can be with a church, my colleagues can be with a church, too.

And what about the Buddhists, the Buddhists who have been raped, the nuns? Raped with a cattle prod and tortured? And what about the Moslems? We are a diverse country. There are 80 million Moslems in that country that are being persecuted, and they have more slave labor camps in China then thay had in the Soviet Union when Gulag Archipelago was written by Solzhenitsyn.

And they have programs where they shoot prisoners and when they drop they cut their kidneys out and they sell them for 35 to $50,000.

They have forced abortions. The gentleman from New Jersey [Mr. SMITH] and I can tell our colleagues we talked to the people where they were told that they were tracked down and women were forced to have abortions.

So why is this an immoral policy or at least an amoral policy? Because of those things.

Second, the long arm of the Chinese Government has reached into our Government. Charlie Trie, a friend of the President has influenced this policy. Charlie Trie is in Beijing, probably watching this debate as the foreign ministry is watching this debate in Beijing. Where are the Riady family? They have had an influence on this policy. They have with money attempted and have been successful, successful in influencing this Government and, indirectly, this body.

And where is John Huang? He will not come forward, and he will not come forward, but after my colleagues cast their vote 6 or 7 months from now the story will come out with regard to the influence of John Huang when he worked for the Government and then when he raised money for the Democratic National Committee.

And major companies, read today's Wall Street Journal. Major companies, and I am not going to mention them, I do not want to embarrass anybody or mention any names, have been pressured, pressured with fear of losing business.

So this Government has been directly influenced and this Congress has been indirectly influenced by the Chinese Government.

I fear what would have happened if the same thing had been done during the 1970's and the 1980's with regard to the Soviet Union. What? Are we giving the Soviet Union MFN?

Third, third, in the light of the military buildup the administration's policy is one of appeasement. It is a policy of appeasement that I believe with every fiber of my body. Now the Secretary of State will not like that because she knows better because she lived in Eastern Europe, she saw what communism can do. But let there be no mistake. This Clinton policy is a policy of appeasement.

Now do my colleagues remember the debates in the House of Commons when Winston Churchill got up in the 1930's and talked about what was taking place in Nazi Germany. Chamberlain never listened to him, and the House of Commons never listened to him, and finally it was too late and millions of Americans and millions of British died. The same thing is happening with regard to this. We are going through the same policies that Winston Churchill went through.

I had a briefing, and not many of my colleagues have had it. I had the briefing from the CIA, I have had the briefing from the DIA, and I have had the briefing from the Office of Naval Intelligence, and I will not say what one, but I said, "Sir, can you tell me how many Members have had this briefing?" I wanted him to tell me 25 or 40.

He said, "There were three, and you are the third." One is sitting in this Chamber now, and the other one is in the other body.

If my colleagues have not had the DIA briefing and the CIA briefing and Office of Naval Intelligence, frankly those colleagues are voting in ignorance because all the material that they told me, and much of what was said on the floor, that I cannot say, really is true with regard to sales, the missiles, with regard to Iran and many of the other things. They are endangering our country, they are endangering our men.

Imagine for just 1 minute being a priest, a minister or dissident in jail and having heard that tomorrow morning that the House of Representatives, the people's House, had voted to grant MFN. Can my colleagues imagine how demoralized they would be? The guard will probably come by, and I was in Beijing prison to see the conditions, and I was with the gentleman from New Jersey [Mr. SMITH] in Perm Camp 35. There are terrible conditions. Very few people have gone to those places. The guard will probably mock. The guard will say to the four bishops, "Your American friends forgot you." Imagine how it would feel.

But on the other hand, imagine hearing the U.S. Congress had voted to deny MFN, and we are not denying MFN, we are sending a message. Can my colleagues imagine how encouraged they would feel? Natan Shcharansky has said he knew that the U.S. people and the Congress and the Government stood with him.

Let me just end by turning to my side. They can take care of their problem. We ought not be bailing out this fundamentally corrupt policy of this fundamentally corrupt administration. Vote to send a message to this administration, vote to send a message to the Chinese people, vote to send a message to the dissidents. Be true to American values. Ask, my colleagues, does this policy fit into American values? Be with the American people, 67 to 18. Be on the side of freedom.

Do my colleagues remember, those who were here when Ronald Reagan gave the Evil Empire speech? In Orlando, FL, he was criticized by many on that side and many in the press, but it was the right speech, where he stood out with regard to religious freedom and evangelicals. And do my colleagues remember when Ronald Reagan gave his speech at the Berlin Wall? The State Department said, "Mr. Reagan, don't mention the Berlin Wall," and Ronald Reagan said in that speech because he knew what he believed in and he knew the values; Ronald Reagan said:

"Mr. Gorbachev, tear down the wall."

And the wall came down.

When Thomas Jefferson wrote the words in the Declaration of Independence, he said,

> We hold these truths to be self-evident, that all men and women are created equal and endowed by their Creator, by God, with certain inalienable rights: life, liberty and the pursuit of happiness.

Those words were not only meant for Virginians, they were not only meant for Americans, they were meant for people in the gulags of China, they were meant for the dissidents, they were meant for the entire world.

I beg of my colleagues if they are undecided, I plead with them, support the Solomon amendment so when the priests tomorrow hear, when the bishops tomorrow hear, when the dissidents tomorrow hear, they will know that the people's House has sent a message to the Chinese Government: We will no longer permit this to take place, and I strongly urge the support of the Solomon amendment.

Mr. Speaker, I rise in strong support of House Joint Resolution 79 to revoke most-favored-nation status for China. Unconditional MFN forms the backbone of the President Clinton's China policy—a policy which I believe has been a failure. The administration's policy is fundamentally amoral and not true to American values.

Why?

First, human rights abuses continue and are worsening. They have not improved despite our so-called policy of engagement * * * not that there has been much engagement.

Catholic priests and bishops are in jail—more and more go in each day for practicing their faith outside of Government control. Many have been arrested just for giving mass or administering the sacraments. In April, just before the visit to China of the congressional delegation headed by the Speaker and the visit by Vice President AL GORE, the Chinese arrested the bishop of Shanghai, ransacked his house and confiscated all his religious material.

Protestant pastors and house church leaders are still being thrown in jail in record numbers. Beatings and torture are routine. Some reports indicate that Christians are being tortured in a prayerful position—they are forced to kneel in a praying position which they are viciously beaten and their feet are crushed.

Buddhist monks and nuns are tortured and killed. Tibet has been plundered. The Panchen Lama has been kidnapped and replaced by a puppet from Beijing.

Muslims in the northwest corner of China are being persecuted.

All dissidents are behind bars, in exile, in labor camps or under house arrest. The Chinese Government has stifled all dissent.

There are more slave labor camps in China than in the Soviet Union when Alexander Solzehnitsyn wrote his famous book "The Gulag Archipelago."

The Chinese Government shoots prisoners and takes their kidneys and corneas for transplantation.

Forced abortions and sterilizations continue. There is more.

The long arm of the Chinese Government has directly influenced the Clinton administration and has indirectly influenced this Congress.

Charlie Trie is an Arkansas friend of President Clinton's. He is now in Beijing and doesn't seem to be coming back. He helped raise political contributions and sway policy. Big time.

The Riady family left the country after allegations of campaign finance improprieties. They attempted to sway policy. Maybe they did sway it. They surely spent enough money trying.

John Huang worked in the Clinton administration and raised money for President Clinton's 1996 campaign. Many think he passed information on to those closest to the Chinese Government. He helped sway policy.

Big companies have been silent on human rights, religious freedom and democracy and are being directly pressured by the Chinese Government. These companies are afraid to lose business so they exert pressure on the U.S. political process in favor of American silence on human rights.

The Chinese Government bought the world's silence at the U.N. Human Rights Commission in Geneva by doling out lucrative contracts to countries that refuse to support an EU-sponsored resolution condemning China's human rights practices.

Imagine if the Soviet Union had tried to exert this kind of influence on our Government. Would we have turned around and given them MFN?

Third, the policy the United States is pursuing toward China, in light of China's massive military buildup and weapons proliferation, is one of appeasement. We are closing our eyes just as Neville Chamberlain did in England in the 1930's when faced with another aggressive power.

Winston Churchill spoke up in the Parliament, but the Chamberlain government did not listen. Now there is a new bully in town.

The Chinese Government is building up its military—some say United States trade and technology are helping provide needed resources. China is selling chemical weapons, missiles, and nuclear technology which could pose a future threat to the United States and its allies.

If you did not get the briefing by the Defense Intelligence Agency and the Office of Naval Intelligence—you don't have all the information. I strongly urge all my colleagues to get these briefings. You owe it to yourself and your country to know exactly what China is doing.

China sold chemical weapons and cruise missiles to Iran. China sold nuclear technology to Pakistan.

China is engaged in a military buildup and becoming a threat to our future security. It is developing ICBM missiles capable of hitting the United States, our allies in Asia, or our military installations in the Pacific. China also purchased 46 American supercomputers which intelligence experts say can be used to design nuclear warheads to put on the long-range missiles.

I believe that American men and women may soon be in danger because of our current policy of appeasement toward the Beijing regime. Appeasement didn't work for Neville Chamberlain in the 1930's and it will not work for the United States in the 1990's.

MFN is the backbone of a failed policy. A policy of appeasement. A policy that is amoral because it suggests engagement and yet, does not engage. And a policy that is, and will continue to be, dangerous to our national security.

What is needed is real backbone, not appeasement.

Imagine if you were a priest or pastor who was in jail. You had been beaten or tortured or starved. You had been forced to endure backbreaking labor. Imagine you heard that the United States Congress had again granted MFN to China—imagine how discouraged you would feel.

But what if you, a jailed pastor or priest, hear tomorrow on your crystal radio set that the United States House of Representatives, the People's House, voted to deny MFN to China. Wouldn't you feel encouraged? I would and that's why I'm voting for the Solomon resolution.

To my colleagues on my side of the aisle. I hope you will vote to deny MFN to China.

It is important to be true to American values.

It is important to be with the American people who overwhelmingly, in poll after poll, support linking trade to human rights improvements. The most recent poll, a Harris poll released yesterday in Business Week magazine, found that 67 percent of Americans oppose MFN for China. Only 18 percent favor it. A vote against MFN is a vote on the side of the American people.

I encourage those on my side of the aisle to be with the legacy of Ronald Reagan who refused to grant MFN to the Soviet Union while it persecuted people of faith. He engaged but he didn't appease. He spoke out for American values and stood with the persecuted when he called the Soviet Union the evil empire and demanded Mr. Gorbachev, tear down this wall.

Be on the side of history. Vote to deny MFN to China and send a message to the Chinese Government, to the Chinese people, and to all persecuted people around the world that the words of Thomas Jefferson in the Declaration of Independence are for them.

These principles of freedom, "We hold these truths to be self-evident that all men are created equal, that they are endowed by their Creator with certain unalienable rights among them life, liberty and the pursuit of happiness" apply to all people. Not just Virginians or Americans or Westerners. These rights are for all people, including the people of China. That's the message we would send by voting to deny MFN in the House.

Vote "no" on MFN for China.

Mr. MATSUI. Mr. Speaker, I yield 3 minutes, the balance of our time, to the gentleman from Indiana [Mr. HAMILTON], the ranking member of the Committee on International Relations.

Mr. HAMILTON. Mr. Speaker, I thank the gentleman from California for yielding this time to me.

I rise in opposition to the Solomon resolution of disapproval. The resolution before us today presents a fundamental choice about our relationship with China. Do we choose a policy of engagement, or do we choose a policy of isolation?

Now some have argued in this Chamber today to end normal trade relations with China and still pursue a relationship with China. I do not think that argument can be sustained. To withdraw normal trade relations is to declare economic warfare against China. We cannot declare economic war against China and then expect China to play by our rules on political security and proliferation and human rights matters. Political engagement and economic cooperation with China go hand in hand. We cannot separate them.

Now I support an engagement policy because I think it is in the American national interests, and I yield to no person in this Chamber in my concern for human rights. Engagement is not appeasement. It does not mean ignoring our differences with China. It means actively engaging China to resolve the differences. It means hard bargaining. It means, as the administration did, sending two aircraft carrier groups into the Taiwan Straits last year. It means threatening to impose sanctions because of Chinese violations of intellectual property rights. It means imposing sanctions on Chinese companies because of their violation of nonproliferation laws.

Engagement works. Engagement has produced a number of successes in the nonproliferation area. They have been identified here during the afternoon.

Engagement works. China was instrumental in convincing North Korea to sign the agreed framework freezing North Korea's nuclear program.

Engagement works. Every Member of this Chamber is proud of what happened in the gulf war and how this body conducted itself. Without China's cooperation in the U.N. Security Council, it would not have been possible to fashion the international coalition that defeated Iraq in that war.

Engagement works. Millions of Chinese have had their lives improved because of this engagement. Exposure to the outside world and the accompanying exchange of goods and ideas and people have brought increased openness, social mobility and personal opportunities to the Chinese. It is not a perfect country, it is far from it, we got plenty of concerns about their human rights, and they are valid concerns. But we got to get a perspective of a couple of decades here and see how China has evolved. Four hundred million new people in China since Nixon went to China in 1972.

Engagement works. It is meant that we use our trade laws to attack Chinese trade barriers and to help American enterprises export.

Engagement works. Our law enforcement authorities work together to combat terrorism and alien smuggling and illegal narcotics, trafficking.

Engagement works on environmental and public health issues.

Engagement has not solved all the problems, of course not. We got plenty of concerns left with China, but it has a proven record of bringing China, moving China, toward international norms. It offers a better prospect of achieving our policy objectives, including a respect for human rights, than isolation or containment. If we vote today to revoke China's normal trading status, we will undermine our ability to work with China in the future and we will damage a broad range of interests that this country has at home, in China, in the region and around the world. Revoking MFN will almost certainly make the human rights situation in China worse, not better. It will undermine the reformers. It will strengthen the hard liners. It will slow the flow of Western culture and ideas.

□ 1515

Our influence would be reduced. If we revoke MFN, we undermine our stature throughout Asia; Hong Kong's transition will be more difficult. Let us, my friends in this Chamber, follow the advice of three former Presidents, six former Secretaries of State, 10 former Secretaries of Defense, and support normal trading status for China. I urge the defeat of the Solomon resolution.

Mr. STARK. Mr. Speaker, I yield 5 minutes, the remaining time, to the gentleman from Missouri [Mr. GEPHARDT], the distinguished minority leader.

Mr. GEPHARDT. Mr. Speaker, this is a debate today that is not simply about economics and trade, it is a debate about principle and value and belief. This country was founded not on economic principles and not on economic ideas, but on moral beliefs that have for over 200 years radiated out of this country. As the gentleman from Virginia [Mr. WOLF] said a moment ago, the revolutionary words that appear in our Declaration of Independence was the starting place of this country, which is an idea for all people.

We said, "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their creator with certain inalienable rights; that among these are life, liberty, and the pursuit of happiness." When we made those words, we did not say they were American rights, we said they were universal rights.

And almost 50 years from the date those words were signed, Thomas Jefferson said this: "May it be to the world what I believe it will be to some parts sooner, to others later, but finally, to all, the signal of arousing men to burst their chains."

In 1986 on the floor of this House a Member who is on the floor today said these words: "I would suggest, Mr. Chairman, Members of this body, human beings do not live by bread alone, that there are spiritual values, the right to stand as a dignified human being, the right to stand as an equal person. I would suggest that wherever you are on the political spectrum you should join me in this effort, not to make a statement that is measured, not to make an incremental step, not to make a step that is a political step, but to make the statement at this point based upon what is right."

He said, "I am simply saying that every human being on this planet should have control over their human destiny."

The Member who said those words is the gentleman from California [Mr. DELLUMS], and he was not saying those words about China, he said them about South Africa. The freedom movement in South Africa started on this floor, and Members of this House of Representatives stood in this well time and time again and argued for the end of apartheid and the beginning of freedom in South Africa. I dare say had they not stood in this place and made that argument over and over again, Nelson Mandela would be in prison today. And all the arguments we are hearing now were made then.

The policy we had with South Africa was called constructive engagement. People said we would lose contracts; people said other countries would never follow; people said it would hurt the good people in South Africa who were trying to break free; people said our businesses would not be there to change that government. But the gentleman from California [Mr. DELLUMS] and Bill Gray and other Members of this body stood tall and fought for sanctions against South Africa, and Nelson Mandela stood at that podium, the president of the country, and talked about freedom.

I say to my colleagues, the policy that we are following is not working. We need firm engagement, not constructive engagement. I know all of the good arguments that are made, and I respect the people who make them very much. First of all they say, well, trade helps us with human rights.

Listen to what our own State Department says about what is happening in China. They say, "All public dissent against the party and the government was effectively silenced by intimidation, exile, the imposition of prison terms, administrative detention or house arrest. No dissidents were known to be active at year's end." This is at the end of last year.

"Even those released from prison were kept under tight surveillance and often prevented from taking employment or otherwise resuming a normal life." That is our own government, our own State Department saying whether or not the policy is working.

Then they say human rights and trade should be separated. They are different issues. We have to trade, and then we can talk about human rights. Does anybody argue that we should separate intellectual property protection from trade? Has any businessperson stood up and said, forget about my intellectual property rights, let us just go ahead and trade. Of course they do not.

Mr. Speaker, do we not understand trade issues are human rights issues? What are we trying to do? We are trying to build a world trading system. How can we ever do that if people do not have human rights? Who is going to ever be in China to buy any of our products? They will never have enough money to do it. And we expose our businesses and our people to this unfair competition. You bet human rights is a trade issue.

Then we hear, do not make China an enemy. What a crazy argument. I do not want China to be our enemy, that is the last thing in the world we want.

But we are saying. By arguing that if we do not give MFN, most-favored-nation treatment, the treatment we give to the most favored nations, that somehow we have made them an enemy. That is ridiculous. We can trade with China.

Do my colleagues think China is not going to trade with the United States? They have a $40 billion trade surplus with us. We are carrying China. They have a trade deficit with every other country in the world. We are literally financing their form of government by our insistence on giving them most-favored-nation treatment.

Finally, we say we will lose business. We will lose business. Let me end where I started. This country is not just about business. This country is about an idea, a moral belief that every human being in the world is created with liberty and freedom. If we do not stand for freedom in China, who will? If we do not lead for freedom in China, who will follow? When will we start this fight as we started it with South Africa? Maybe we start it today.

Listen to this letter that was sent by the parents of a third grade young girl, near here in Baltimore, Maryland. She was writing about Wei Jingsheng. As you know, Wei Jingsheng has been in jail for 14 years in China because he dared to speak out. He spoke in the universal language of the Declaration of Independence and said human rights, like freedom of speech, press, assembly, and appeal to the government, are inalienable rights belonging to the people, the masters of the country. For saying that he was put in jail and he has been in jail for 14 years, like Nelson Mandela was in jail.

Mr. Speaker, this girl said, "I wish all American citizens would help in this struggle for what is right. I want him to get out of prison and return to his family and get healthy soon." A third grader speaking of the moral beliefs and ideas that are the founding wellspring of this greatest country that has ever existed on earth.

Six days after the Berlin Wall fell in 1989, Lech Walesa spoke here to a joint session and he said, "We, the people. I do need not remind anyone here where those words come from. And I do not need to explain that I, an electrician from Gdansk, am also entitled to invoke them."

I say to my colleagues there is as an electrician this afternoon in a jail in Beijing, and his name is Wei Jingsheng, and he wants to get out and be free just like Lech Walesa did and just like Nelson Mandela did. De Toqueville said America is great because America is good, and if we cease being good, he said we will cease being great.

Representatives of the people of this country, stand today and be good, and stand for what is right and stand for the founding principle of this country, and we will bring freedom to China as we brought it to Lech Walesa and Nelson Mandela. Stand against most-favored-nation treatment. Stand to send a message to the leaders in Beijing. I urge my colleagues to vote for this resolution.

Mr. CRANE. Mr. Speaker, I yield myself such time as I may consume.

We have listened to some very eloquent testimony on both sides, and I think this Chamber has represented that today more than maybe most days, evidence of what our system is all about in terms of our exchanges on a bipartisan basis. But let me focus very briefly on why I think extension of normal trade relations with China is so important.

If we go back to the Great Leap Forward, and that was with total government-managed control of that economy, there were 60 million Chinese that starved to death. We can condemn Deng Xiaoping for a lot of things, but one thing that he will be most remembered for is as the initiator of what he called Leninist capitalism, the ultimate oxymoron. But he did advance free enterprise in mainland China, and free enterprise has expanded so dramatically that our concern as a people, which is not the government, it is the Chinese people over there, and bear in mind that of 1.2 billion, only 40 million of them are allegedly Communists, and I think they are too bright even to be Communists, I think they are just bright pragmatists that have got a good thing going for themselves.

But the fact of the matter is, more Chinese people today are enjoying a higher standard of living than ever before in the history of China, in its 5,000 years, and that is continuing to expand dramatically, and it is because of their commitment to free enterprise.

Now, we want to aid and abet and help them in that effort, to be sure, and that is why maintaining our contacts and our business contacts is a good idea. As Ben Franklin said, a good example is the best sermon. We are providing the best sermon by our presence over there in mainland China, and that is continuing to improve the lot for all of the Chinese people.

I would urge my colleagues to recognize that there are alternative ways to address legitimate questions that have come up about arms transfers, legitimate questions that come up about human rights violations, but harking back to the original reference to our inalienable rights to life, liberty and property, Thomas Jefferson was absolutely correct. I mean he used that phrase, "pursuit of happiness," but it was property.

□ 1530

The fact of the matter is, how do you enjoy life if you do not eat? That means having access to property and expanding and improving that access, especially in terms of food, shelter, and clothing. That is happening at an unprecedented rate over there.

The last remaining issue to be addressed through that is liberty, but that is where our presence can set that good example. I would urge my colleagues to vote down the well-intentioned resolution of disapproval, and to guarantee that we continue what is sound policy into the future, and holds the greatest hope we have ever had in our post-World War II relations with mainland China; namely, normal trade relations.

Mr. ETHERIDGE. Mr. Speaker, I rise in opposition to House Joint Resolution 79, the resolution to disapprove extension of MFN for China. I have serious concerns about China's overall human rights record. However, if we do not have engagement we will be doing more harm than good—how do we isolate 1.2 billion people? We have tried isolation and it did not work. In arriving at this decision, I found particularly compelling the words of Rev. Billy Graham who said "we must do all we can to strengthen our relationship with China. It is far better to treat it as a friend, than to treat it as an adversary." I believe it is in North Carolina's best interest to engage China and build on our strengths rather than damage a trade relationship which other nations will vigorously pursue in our absence.

Exports, especially in the agriculture sector, are essential to North Carolina's economy. China represents a large and growing market for our goods and services. This market supports thousands of jobs here at home. Agricultural exports to China from the United States have grown from $333 million in 1993 to $2 billion in 1996 and the prospect of future growth is tremendous. Every $1 billion in additional exports creates nearly 20,000 new, high-wage jobs in the United States. For North Carolina, which exports $544 million—ninth among U.S. States—in goods a year to China—$297 million—and Hong Kong—$247 million—engaging China through trade will provide jobs for North Carolina's workers and help ensure our economic success into the next century. I also believe it will allow us to press for better human rights policies as we increase our economic involvement.

Mr. RUSH. Mr. Speaker, I rise today in opposition to House Joint Resolution 79, China, disapproval of most-favored-nation [MFN] trade treatment for China.

My vote against this resolution—a vote to continue MFN for China—is not without deliberation.

I am deeply concerned about the continuing allegations that China has not made sufficient progress in their human rights and democracy reform efforts. Both the State Department and prominent international organizations such as Amnesty International cite the persistence of jailed and exiled Chinese dissidents. However, I believe that the human rights issues must be approached independently of our trade relationship with China.

MFN is not foreign aid. The United States grants MFN—which is normal trade status—to nearly 100 countries, and every President since 1980 has annually renewed MFN for China. MFN to China means that we grant them normal tariff status. This is a policy that the United States grants to all but a handful of countries—Cuba, North Korea, Afghanistan, Laos, and Vietnam. In fact, countries such as Iran, Iraq, Libya, Syria, and Burma—where many believe there continues to be abuse of human rights—receive MFN treatment.

I want to see the administration work more aggressively to encourage human rights and religious freedom in China. But I do not believe that denying MFN to China will achieve that goal. Cutting off normal trade relations with China will only further isolate a country with one-quarter of the world's population.

China continues to grow as one of the United States' main trading partners. U.S. exports to China have almost quadrupled in the last 10 years. Exports to China support more than 17,000 jobs in the United States that, on average, pay 13 to 16 percent more than nonexport jobs. As key industries in the United States, such as telecommunications, grow, we need to maintain trade policy that will increase market access and ensure that U.S. companies have opportunities in those emerging markets. Illinois, for example, has benefited from trade with China. Over the last 2 years, exports from Illinois to China have increased 9 percent to $1.6 billion. And this trade growth contributes to nearly 600,000 export-related jobs in the State.

And while these benefits are significant, I continue to be concerned about the data regarding China's reliance on prison labor to manufacture many of its exports. Since the early 1990's, in responses to charges that Chinese political prisoners were used to manufacture goods for export to the United States, the administration—through the Customs and State Department—began investigating these charges. Our Government signed a memorandum of understanding [MOU] with China in 1992 to facilitate inspection of Chinese prisons. And continued allegations of using prison labor led the administration to tighten procedures for investigations and visits under the memorandum. I am aware that Chinese cooperation in implementing the memorandum falls short of being satisfactory. But the administration is committed to fully enforce the terms of the agreement. Since the MOU took effect, U.S. Customs officials have made 58 referrals to the Chinese Ministry of Justice for further investigation. And according to the administration, Customs has obtained two prison labor-related convictions. I believe that continuing normal MFN for China will facilitate the enforcement of the MOU.

As a Member of Congress, I will vigilantly monitor the progress of human rights, workers' rights, and political democracy in China. I am deeply committed to these values. However, I do not believe that the resolution we are voting on today, is the proper arena to debate these issues; nor is revocation of MFN the most effective way to influencing internal Chinese policies. I believe that a more comprehensive approach will serve as a better means to bringing about a change in Chinese policy, particularly in terms of human rights. In America's dealings with China, history has shown that a more moderate approach is most effective.

Ms. JACKSON-LEE of Texas. Mr. Speaker, fellow colleagues, I rise in opposition to the resolution and in support of extending MFN treatment to China. The term MFN refers to the normal, nondiscriminatory tariff treatment that the United States provides to all its trading partners. It is the cornerstone of commercial relations between the United States and any foreign country. MFN status is not a concession and does not mean that China is getting preferable treatment. Rather, MFN status means that China and the United States grant each other the same—no less favorable—tariff treatment that they provide to other countries with MFN status. The United States provides special tariff preferences to a few selected trading partners under the NAFTA, United States-Israel Free Trade Agreement, Caribbean Basin Initiative, Andean Pact, and the Generalized System of Preferences program. Eligible imports from these countries enter the United States duty-free or are subject to duties lower than the MFN rate. China is not eligible for any form of preferential or special treatment. It is only getting the same type of treatment that we extend to other countries.

Terminating China's MFN status would seriously affect virtually all trade between the two countries, eliminate some of it, and result in higher prices for U.S. consumers and possible losses for U.S. exporters and lead to a significant downgrading of bilateral relations. Hence, carrying out a threat to terminate China's MFN status could significantly damage United States-China economic as well as political relations. The United States is the only country that conditions MFN status for China. If the United States terminated China's MFN status, it is highly doubtful United States allies would follow suit. Furthermore, American workers benefit most from an extension of most-favored-nation status for China. In 1996, United States exports to China were valued at $12 billion, and of almost 200 United States trading partners, China ranked 15th as an export market for American goods. If MFN were conditioned or withdrawn, the United States would unilaterally impose higher tariffs on Chinese goods, and Beijing would almost likely take its business elsewhere. Thus, because every 1 billion dollars' worth of exports creates approximately 19,000 jobs in the U.S., the loss of exports to China would put 228,000 American jobs directly at risk. Also, MFN revocation would increase tariffs on imports from China trade-weighted average of about 6 percent to an estimated 44 percent. MFN revocation, even accounting for changes in trade flows, will require U.S. consumers to pay upward of half-a-billion dollars more each year for goods such as shoes, clothing, and small appliances subject to increased tariffs. In addition, the costs of goods manufactured in the United States with Chinese components could increase, reducing the competitiveness of the finished goods.

I sympathize with the victims of the many atrocious practices that China has engaged with in the past. I also agree with the rationale of many of my colleagues who seek to revoke China's MFN status due to its human rights violations. However, revoking China's MFN status is too drastic and most likely would prove to be counterproductive.

I would like to remind my colleagues of an old maxim, "Judge not, that ye be not judged. For with what judgment ye judge, ye shall be judged: and with what measured ye mete, it shall be measured to you again."

If we want a more humane, China that shows respect for her own people, who are some of the most creative, artistic, brilliant people on this Earth, we had better be prepared to lead by first showing China what it takes to be a superpower. Power is not dictated by the ability to say no, most often it is the ability to say yes under the most difficult circumstances. We must pause to consider that the measure of the right of our social, political, and economic systems are far greater than the sum of all of our arguments regarding the atrocities in that distant land. By the sheer force of this country united under God we will teach, preach, and reach every corner of China with the messages and symbols that translate into over 200 years of success that the American experience has been.

MFN is not a reward; nor is it a special treatment that results in special trade privileges. MFN simply refers to the nondiscriminatory treatment of trading partners, which has long been a basic principle of international trade. While China clearly has violated numerous trade agreements in the past, the best way to secure Chinese compliance is to engage the Chinese Government, not isolate it.

Furthermore, the strongest case for keeping United States trade relations with China is made by Hong Kong and Taiwan's political and business leadership. They argue, if the United States breaks the trade tether to Beijing, it will undermine future economic and human rights for the Chinese people for years to come. Hong Kong's British Governor Chris Patten and prodemocracy leader Martin Lee have come out forcefully against using China's trade status as a way of showing United States displeasure with its human rights abuses. Chinese human rights leaders elsewhere are opposed to using trade as leverage against their country because they believe; First, it will not work, and second, stronger economic ties to the West and private-sector expansion will lead to an expanded middle class, greater political freedoms, and eventually a democratic system of government.

MFN status for China cannot be compared to the decision by the Congress to place sanctions on South Africa. South Africa's regime was based on a policy of discrimination based on race and race alone. In China the battle is of tolerance of thoughts and ideas, not of skin color or complexion.

We must consider that Hong Kong and Taiwan have been investing heavily in China's emerging capitalist system and they see increased United States trade ties as the linchpin in the dramatic economic changes going throughout the mainland. Now that historic transfer is at hand we should not abandon the people of Taiwan during this critical transition period.

Extension of MFN is an importnt step in preserving Hong Kong's prosperity and freedom. Today, the Chinese economy is the fastest growing in the world. While many Chinese remain poor peasants, few go hungry and hundreds of millions of Chinese have seen their lives substantially improved through economic reform. Many Chinese people enjoy greater material wealth and a greater degree of personal economic freedom. Market reform is the single most powerful force for positive change in China in this century and possibly in the country's long history. In fact, economic reform has helped to lift hundreds of millions of hardworking people from desperate poverty, giving them choices and opportunities never available before. Thus, hundred of millions of hardworking people have access to information and contact with Western values through technologies spreading across the country, thanks to economic reform and the growth it created.

China has made good faith efforts to comply with the concerns of the United States. For example, in 1995, the United States reached a historic agreement with China on the enforcement of Intellectual Property Rights, particularly copyrights, trademarks, and improved market access for United States copyright industries ranging from computer software and motion pictures to publishing and sound recordings. China has also made commitments to strengthen the enforcement at its borders and to close plants engaged in piracy.

The people of Hong Kong strongly support a full one-year extension of MFN. If China loses MFN, Hong Kong would lose a colossal amount of business. United States economic growth in international trade would be halved and our unemployment would be doubled. Also, business confidence would be hit hard. If the United States is concerned about the handover, then the best thing is to assure the community by making sure that nothing happens to Hong Kong. The fundamental question for renewing MFN treatment to China is, if China's trade status were denied, would the impact in the long run be good or harmful for the Chinese and American people and, in particular, for improving China's human rights?

My fellow colleagues, I have debated long and hard over this issue, and while I do have reservations about providing MFN treatment to China while they continue to engage in abusive actions, I believe that the most efficient way to combat these abuses is to ensure that the grassroots of the Chinese population is exposed to Western ideals and financial stability. I urge my colleagues to vote in favor of extending MFN treatment to China.

Mr. VENTO. Mr. Speaker, I rise today in support of House Joint Resolution 79, and in opposition to the extension of most-favored-nation [MFN] status to China. The failure of current policies to yield significant improvements in Chinese behavior, both at home and abroad, signals the need for Congress to chart a new course. MFN may not be the ideal vehicle but it is the most powerful mechanism we have to move China into compliance with internationally accepted norms. The United States represents 40 percent of China's export market, an amount equal to 2 or 3 percent of its gross domestic product. U.S. markets and purchasing power are irreplaceable. Because trade is the only weapon in our arsenal that China still pays attention to, we must use our economic power and influence as leverage to positively impact Chinese behavior and to advance fundamental United States interests in China.

As the world's most populous country, China boasts one of the most rapidly growing markets in the entire world. Yet despite MFN status, China remains a dictatorial society governed by a Communist oligarchy hardly a monolith but China uniformly continues to deny market access to the majority of American goods and products. Countries that do not abide by universally accepted rules and regulations forfeit privileges and rights in the global trading arena. MFN would grant Chinese goods the normal level of access and protection afforded to members of the World Trade Organization [WTO]. With rights and privileges come responsibilities, particularly the need to abide by international norms. China's behavior—whether through the abuse of human rights or worker protections or through the erection of trade barriers—has indicated that it fails to merit a normal trading relationship with other members of the WTO. Regular trade with the United States is not the right of a nation that violates basic economic and human rights standards.

However, the numbers bear witness to the fact that our trading relationship with China is anything but normal or reciprocal. The average United States MFN tariff on Chinese goods is 3 percent while the average Chinese MFN tariff on United States goods is a staggering 35 percent. Granting MFN year after year has unfortunately produced no reciprocity in trade policy. It has however, produced an enormous trade deficit, that is on target to surpass our trade deficit with Japan sometime this year. China has argued that as a developing country it should be granted special exemptions and allowances; however, a developing country that registered a $40 billion trade surplus with the United States in 1996, should not be the recipient of such markedly underserved charity, especially in consideration of their total behavior.

China's one-way trade policy and the accelerating trade deficit highlight that the promise of future massive payoffs is a mirage. In 1996, the United States exported fewer goods to China than it did to relatively small markets such as Belgium and the Netherlands. Our exports are increasing at a more rapid rate in the stagnant economies of the European Union than they are in the dynamic Chinese economy. The situation in Japan has shown how difficult overcoming protectionist policies and reducing trade deficits can be. It is in our interest to avoid similar problems with China, which potentially will represent a far larger market than Japan.

America businesses are being forced to offer major concessions to Chinese state planners, often technology and investment, in order to gain access to potential Chinese customers. By supplying China with state-of-the-art technology, United States firms are shipping jobs overseas that would otherwise remain at home if China were to allow the unfettered entry of foreign goods. Through the extension of MFN we are exporting to China the capability to develop domestic industries establishing export platforms of what are today United States products will be sent around the world.

The technologies of American business partners, means that even the limited United States goods and products will be abandoned in favor of indigenous enterprises that are being made in China. Trade policy should be facilitating the export of goods, not jobs, and a fundamental message policymakers must bear in mind, is that the current trade phenomena threatens the job security of American workers and means that United States investment in China receive the safe harbor treatment, positive trade status insures and encourages yet more United States investment to the point that action to counter isn't possible.

All workers and members of Chinese society should equally share in the profits of economic growth in China. However, the reality is that the benefits are reserved for the few in order to suppress the freedoms of the many. Accordingly, human rights violations have actually increased—not decreased—since we have adopted the policy of constructive engagement. China continues to deliberately and consciously deny its citizens basic human rights. Virtually all dissidents are either in exile, in jail, or under house arrest. Workers still cannot form an employee union of their own choosing, nor undertake any legal action to challenge abysmal working conditions. Instead of investing in its people, the Chinese Government is using the added income from the burgeoning United States-China trade surplus to consolidate its stronghold on the diverse cultures of the Chinese people. China's $40 billion trade surplus has enabled the Government to increase national defense spending by 40 percent since 1990. As the United States and Russia are cutting military expenditures, China is pursuing efforts to purchase new generations of high-technology weaponry and exporting outside their borders to terrorist countries helping such as Iran to realize its dreams of nuclear capabilities. Only China has nuclear missiles aimed toward the United States, yet we continue to reward the Chinese Government committed to building military capabilities rather than individual liberties with MFN status.

In the race for the fabled profits of the Chinese market, we have cast away both United States national interests and principles. Trade policy without conscience has not satisfied the Chinese population's hunger for personal and civil liberties. There is no question that granting China MFN status will benefit larger American companies; however, it will adversely impact small businesses and accelerate the decline of the United States manufacturing base. United States economic and trade policy clearly is the ugly American theme revisited in China. And at home no amount of profit can replace a job lost or restore the damage done to U.S. communities. We need a trade strategy with China that balances the interests and values of companies, workers, families, and communities. We must solidify our commitment to upholding democracy and human rights and abandon policies that assume the interests of international corporations are identical to the U.S. national interest as a whole.

Many lament that trade policy alone will not bring about the changes sought that it is inadequate, but we must try to isolate and lead, unless the United States of America. The global leader is ready to led others will fall into our economic shadow of indifference.

Trade relations with China are so complex that they understandably defy easy solutions. In order to craft an effective and comprehensive trade policy with China, we need more options and flexibility than the yes/no decision being made today. Extending MFN for a year sends to China the dangerous signal of business as usual: That there are no consequences for irresponsible, inhumane, and unfair behavior. Denial of MFN trade status is a dramatic step, on the other hand, could result in the reciprocal and humane treatment that past policies have failed to produce. The most effective way to forcefully advance United States interests and to embark upon a new era of United States-China relations is to vote "yes" on this resolution and not extend normal trade status to China and then back that up with action not rhetoric.

Mr. SKAGGS. Mr. Speaker, I want to see China change. I am tired of waiting for China to improve its human rights record, to stop repressing the people of Tibet, to allow civil liberties and public dissent, and to stop persecuting religious minorities. I'm deeply disturbed by China's arms sales to Pakistan and Iran. If I could, I would push a button, cast my vote, and make the Chinese Government change its ways.

So I understand the appeal of voting for this resolution. It would be very satisfying, for a few minutes, to feel that I did something, that the Congress did something, to make China change.

But I have to step back and ask whether revoking most-favored-nation [MFN] trading status to China would have the desired effect, and if not, what will. I don't think passing this resolution will make China change.

This cannot be just a one-sided debate. We must consider not only the areas where we have real and heartfelt disagreement with the Chinese Government's actions and policies, but also those often complex areas where Chinese cooperation with the United States has had and will have enormous consequences. And there are important areas where China has cooperated with us: Working with us to stop North Korea's nuclear weapons development; helping us in the U.N. Security Council on the war against Iraq and subsequent sanctions; and assisting United States efforts to implement the nuclear test ban and extend the nuclear nonproliferation treaty. In these areas, cooperation and engagement with China made all the difference in policies that are vital to our national security.

In just 1 week, Hong Kong will be transferred from British to Chinese sovereignty. We in the Congress have pressed China to live up to its promise of "one country, two systems" for Hong Kong. I have joined with other Members of Congress in calling on the Chinese Government to respect the political and economic freedom of the citizens of Hong Kong. Yet, once Hong Kong is under Chinese rule, trade with Hong Kong would also be subject to stiff tariff increases if MFN trading status is revoked. So, at the very time the Congress is pushing China to safeguard freedoms in Hong Kong, Congress would be undermining Hong Kong's independence and autonomy by severely damaging its economy. It's estimated that revoking MFN would cut Hong Kong's economic growth in half, reduce trade by $30 billion, and cost 85,000 Hong Kong workers their jobs—making Hong Kong dependent on the Chinese regime during this critical transition period.

I have long advocated improved human rights in China. After the 1989 massacre in Tiananmen Square, I organized a protest march of more than two dozen Members of Congress who walked across Washington from the United States Capitol to the Chinese Embassy, where we met with the Chinese Ambassador and presented in the strongest possible terms our views that the Chinese Government needed to change its ways.

I have also been very concerned about the persecution of Christians, and other religious minorities in China. Yet activists working to stop the persecution of Christians are of two minds on this issue. Many, including Rev. Billy Graham and a number of Chinese Christians, have said that they feel engagement with China is the better course.

Revoking MFN trading status means in effect that the United States would be imposing a huge unilateral increase in tariffs on Chinese goods. No other country is expected or likely to join us in raising tariffs, and that means revocation of MFN would be a unilateral economic sanction. Given the particular culture of the Chinese, I do not believe that this kind of sanction will be any more successful against China than unilateral trade sanctions have been against any other country. And many of our international competitors are quite ready to take over the United States share of the Chinese market.

The debate suffers from semantics, the misunderstandings of "most favored nation" as implying something special and concessionary. Actually, of course, "most favored nation" trading status is just "normal" trading status—it is the tariff schedule that applies to almost every other nation we trade with, even countries with human rights records far from our liking. There are only five countries to which we deny MFN status: Afghanistan, Cuba, Laos, North Korea, and Vietnam. Even the "rogue states" of Iran, Iraq, and Libya, although subject to other economic sanctions, are technically eligible for MFN. Countries like Syria or Indonesia, whose human rights records we often decry in the Congress, have MFN trading status.

Cutting off MFN status would mean that we would lose the opportunity to expose China to free market principles and values. I spoke recently with a constituent who has worked with Chinese mining companies. He told me that China has averaged 10,000 deaths per year in mining accidents. Yet to work with this American company meant that the Chinese had to accept American standards of worker safety that tolerate virtually no worker fatalities. This seems a most basic lesson—that workers should not have to risk their lives to earn a living. American business men and women, interacting with their Chinese counterparts, will be able to expose the Chinese to many such standards and principles. Over time, it will make a difference, not just in economics, but in human dignity and human rights.

The globalizing world economy and the revolution in information exchange and technology offers an unprecedented set of circumstances that will tend to push all but the most isolated of nations toward integration with the international community. To finance expanding trade, China needs foreign capital and investment. With that investment comes exposure to internationally recognized values and freedoms. With advances in information technology, such as the Internet, electronic mail, and fax machines—most of which are essential for doing business today—repressive governments like China's are fast losing their ability to control what people can read, learn, and think.

There are other, more positive, levers we can use to encourage China to loosen its repressive policies. One of those levers is Chinese accession to the World Trade Organization [WTO]. I expect our negotiators to drive a hard bargain for market access and improved business practices before we can agree to China joining the WTO, a body China feels is essential for its trade expansion policies.

Engagement will take time, and it is hard to be patient. It will take time for trade, investment, and foreign enterprise to break the iron grip the Chinese regime has over its people. But American trade, products, and most importantly exposure to American values and people carry the seeds of change. Ultimately, China cannot sustain the economic liberalization supporting its trade with the United States without seeing an inevitable erosion of its political isolation and its authoritarian regime.

Mr. PORTMAN. Mr. Speaker, I rise today in support of renewing most-favored-nation [MFN] trading status to China. MFN status is extended to virtually every country in the world and permits a normal trading relationship with China. There's nothing "special" or "favored" about MFN.

I believe that continuing this normal trading relationship is critical to advancing U.S. interests. First, of course, revoking MFN, would significantly raise tariffs on Chinese imports—costing United States consumers more of their hard earned money. Failure to extend MFN would also hurt our exports which has been steadily growing every year and support thousands of U.S. jobs. The Chinese would undoubtedly retaliate, putting our jobs and exports at risk. We would be giving our global competitors an open shot at the one of the world's biggest markets.

But even more important, if we are to disengage from China and walk away from the table, the very problems we have with China will worsen—especially in the important area of human rights.

Because we engage with China does not mean that we approve of its practices. As an example, I have grave concerns about its human rights record. But the question is how disengaging will help. Instead, we should want the Chinese to become increasingly familiar with American ideals through our contact with them.

Mr. Speaker, renewal of MFN has been supported by every President who has faced this issue, and is supported throughout Asia, including in Hong Kong, Taiwan, and Japan. I strongly urge my colleagues to oppose the disapproval resolution and support renewing most-favored-nation trading status to China. Simply put, continued engagement with China is the only way to help China become a constructive force for stability and prosperity in Asia, and advance important American interests.

Mr. BISHOP. Mr. Speaker, I rise today to support House Joint Resolution 79, disapproving most-favored-nation status for China. While I am an ardent supporter of free trade, and have voted consistently for continuation of MFN for China, my recent trip there has changed my position on this issue as it provided me with first-hand information on what is really going on in China. I left that country with the overwhelming impression that the Chinese do not care what the United States thinks about their behavior. I have voted on four previous occasions to give China the benefit of the doubt about its intention to open its markets to United States businesses and farmers but the Chinese continue to thumb their noses at the United States. While I would like to support a policy aimed at opening markets and expanding trade, there has to be a level playing field for such a policy to work. Instead, China continues to raise artificial barriers and place high tariffs on American goods and commodities, including United States-grown peanuts. The trade deficit last year alone with China was $40 billion.

In addition, China's human rights record, particularly against Tibet and Taiwan, is abysmal. Along with its disregard for human rights, the Chinese strategically ignore numerous international treaties they have signed on arms proliferation. We have seen numerous well documented reports where China is selling highly sophisticated nuclear technology to Iran. Additionally, it continues to transfer advanced ballistic missile technology to Syria and Pakistan.

The business community genuinely hopes to influence positive change in China but I did not see that during my visit. There is no American-style democracy, free enterprise, or human rights. Rather, I saw a government that controlled every aspect of life. The Chinese consistently violate workers' rights with many workers laboring under slave-like conditions. American companies that wish to sell their products in China must locate production in that country and share ownership with the Chinese Government. We are currently transferring very sophisticated technology to China who hen turn around and use our technology against us.

It's time to send China a message by withholding MFN status for China. I would be derelict in my duty to ignore neglect, which I do not believe is benign neglect.

Each year when I voted for MFN for China I did it with the hope that this is the year the Chinese will pay some attention to our concerns more specifically, stop violating the provisions of the general agreement on tariffs and trade, and be shamed into improving its human rights record. Sadly, this has not been the case and I have no choice but in clear conscience to vote NO for MFN for China.

Mr. PAUL. Mr. Speaker, as a physician, I know that what, at first, might seem to be a cure for a particular ailment is, in actuality, not a cure at all. In fact, going with a gut reaction to prescribe a treatment can do more harm than the original ailment may have. The same can be true for matters of government. The initial reaction to a problem in society, or the world will often lead us to make a conclusion about a course of action. Unfortunately, that first reaction can be wrong, even though guided by the best of intentions.

We have such a case before us now. It is the dilemma of whether or not China should be granted the same trade relationship granted to almost every other nation of the world, a status misleadingly referred to as most favored nation, or MFN. We all know the charges: The Chinese Government violates basic human rights of its citizens, it is hostile towards Christianity, and its system of government runs contrary to our most fundamental beliefs, therefore MFN status should be denied. The initial reaction of our collective national psyche is to oppose MFN, to be tough, and say, "No way, no special deals for China." But is this the proper solution?

To clear up a misconception, MFN is not a special status at all. In fact, MFN status granted to a country simply means that U.S. citizens can trade with citizens of that nation without erection of extraordinary government barriers to entering our marketplace. Free trade is not something to be lightly dismissed. And MFN is nothing more than an attempt, albeit imperfect, to move towards free trade by lowering tariffs.

Eliminating MFN status for China does not hurt the Chinese Government. But it does hurt Americans in two ways. First, by imposing what is essentially a tax on our people. It is a tax because it is the American consumer who will pay higher prices on goods coming from China. This means higher prices on many items and not just items which come directly from China. If the tariffs on Chinese goods increase, people will be forced to find replacement products. As the demand for those products increase, so will prices of those goods.

The second means by which eliminating MFN status hurts Americans can be found in the reciprocal barriers China will likely erect. It will become much more difficult for farmers and businessmen in the United States to sell their products in China. Nearly every farmer and every agricultural group I have heard from supports MFN status for China.

But the critics of MFN for China do not address the free-trade aspect of the debate, or the very real cost eliminating MFN would impose upon the American people. Instead, they focus on the real persecution of religious minorities' often practiced by the government in China. And for that I defer to those who are on the ground in China: the missionaries.

According to Father Robert Sirico, a Paulist priest who recently discussed this topic on the Wall Street Journal's opinion page, Americans in China working to help the Chinese people are very frightened of what ending MFN might do to their efforts and the people to whom they minister. After all, ending MFN will not bring about the freedoms we hope China may confer upon its people, nor will ending MFN mean more religious freedom or fewer human rights violations. In fact, those working in China to bring about positive change fear only the worst if MFN is withdrawn.

"As commercial networks develop, Chinese business people are able to travel freely, and Chinese believers have more disposable income with which to support evangelistic endeavors," Sirico writes. Even worse, the missionaries have been reporting that "such action would endanger their status there, and possibly lead China to revoke their visas. It would severely limit opportunities to bring in * * * religious materials. These missionaries understand that commercial relations are a wonderfully liberating force that allow not only mutually beneficial trade but also cultural and religious exchanges."

And so the critical question remains: MFN, or no MFN? Idealogically, revoking MFN is a step in the wrong direction, a step away from free trade. It is equally clear that revoking MFN is harmful to our people, and likely to be harmful to the Chinese. The ones to suffer will be the very individuals we seek to help, not the powerful elite in Beijing.

I have long held that governments do not solve problems. Rather, governmental action often creates more problems than existed previously. It is the individual people who are able to bring about positive change in this world; it is individuals who solve problems. China's government is indeed a concern: for us and its people. But it is a problem we can only resolve by changing the hearts of the Chinese leaders. And whether we like it or not, the way we can do that is through trade with China.

By rushing quickly for the "pills" of government-enforced sanctions, we may have the best of intentions to cure the Chinese Government of its persecution of human rights. But unfortunately, those pills will only harm the patient. We must swallow our pride and admit that perhaps the best remedy is not the first solution.

It is only through the open dialogue of individuals that the Chinese Government will ever be convinced it is wrong. By closing the door now, when we have the opportunity to allow to grow the seeds of change which have been so firmly planted in China, we will be damning that nation's people to a return to their darker days.

We will lose the patient if we act hastily or imprudently and that cannot be the correct option. It is never an option when I have a patient on the operating table, and it cannot be an option when dealing with the situation in China.

Mr. CUNNINGHAM. Mr. Speaker, China is a rogue nation, ruled by totalitarians and Communists. It oppresses its people, and denies them basic freedoms and religious liberty. It fails to abide by standards of good citizenship in the community of nations. Its officials have been tied with attempts to influence the 1996 elections in the United States through contributions to the Democratic National Committee.

In this environment, now Congress must decide whether continuing or essentially canceling regular American commerce with China will advance or damage America's national interests. These interests include national security, human rights and religious liberty, and commerce and American jobs.

I take a back seat to no one as a defender of liberty, and as an opponent of communism and tyranny. I understand that this issue generates well-considered and strongly held opinions on all sides. I believe that the Clinton administration has badly mishandled our relationship with China, and that Congress has no choice but to fill the vacuum of leadership left by the President.

With very few measures have I so deeply struggled with determining the best course of action, and with identifying what is right and wrong for America. After having carefully considered all of the facts, and reviewed all of the notes and letters and calls from my constituents, I conclude that our best hope for progress of American national interests in China is best fulfilled by extending China's regular trade status, and taking further actions that demonstrate a more robust American policy in that part of the world. I further conclude that blocking the renewal of MFN for China would damage America's national interests, in national security, human rights and religious freedoms, and American commerce and jobs.

History and recent experience tells us that MFN gives the United States some leverage to advance our interests in China—but not a great deal of leverage. But if we cancel MFN, America's small leverage will become zero leverage. And China will turn away from America, and have no incentive to heed any of America's desires and interests.

Let me first address the matter of American national security. Beijing has exhibited poor citizenship in the world. It tested missiles in the Taiwan Straits on the eve of free elections in Taiwan in 1996. It sold weapons and nuclear and other weapons materials to rogue terrorist nations. It attempted to expand its maritime presence in former United States military facilities, as in the case of COSCO at Long Beach Naval Station, and has effectively established beachheads at both ends of the strategically important Panama Canal through governmental industry subsidiaries. It smuggled AK–47 rifles into the United States, bound for Los Angeles street gangs. It increased its defense budget 40 percent over the past couple of years. In light of this current and emerging national security interest, it becomes clear that only by extending MFN for China can we hope to preserve the American interest and the American presence in China and East Asia. For this reason, several of our recent United States Secretaries of Defense have agreed to support continuing China's MFN status.

Having nearly lost my life fighting communism in Vietnam, this matter of what action best represents America's national security interests is a matter I take very seriously. I assure you that I am under no illusion that extending MFN for China will work miracles in the advancement of our national security. It will not.

But the penalty for terminating MFN for China is slightly greater than its reward. Terminating MFN with China simply drives the Beijing regime away from the United States, away from the community of law-abiding countries, into the arms of the world's terrorist nations.

Let me address the matter of human rights and religious liberty in China. Again, Beijing's record in this field is repugnant to the cause of freedom. The bill of particulars goes on and on. Beijing oppresses the Buddhist people of Tibet, and the Muslims of Xinjiang. It practices a population policy that includes forced abortions. It has detained, jailed, and killed its dissidents. It severely restricts the activities of Christians and other people of faith, and imprisons priests and ministers, and closes house churches that attempt to teach the Gospel free from the reach of the Beijing regime.

What action advances America's national interest in this area? Extending MFN continues the reach of Americans, through commerce and other outreach, into the lives of Chinese citizens. I recognize that the Christian Coalition and other United States family organizations strongly oppose extending MFN for China. But United States organizations that support Christian missionaries in China are supporting MFN for China. One of the titans of the Christian faith supports extending MFN trade status: Rev. Billy Graham. He says that "I am in favor of doing all we can to strengthen our relationship with China and its people. China is rapidly becoming one of the dominant economic and political powers in the world, and I believe it is far better for us to keep China as a friend than to treat it as an adversary."

Continuing MFN for China, again, does not work miracles for the people of China. Continuing it thus far has not freed opponents of China's communist government from prisons, according to the United States State Department. However, American commerce with China has given the Chinese people a taste of economic freedom, and economic freedom may pave a path toward more political and religious freedom.

Again, the penalty for terminating MFN for China exceeds its reward—particularly for China's oppressed people. If we terminate MFN for China, China will have no reason whatsoever to improve the human rights and religious freedom of its people, or to accommodate American visiting missionaries to China.

Last, I would like to address the matter of commerce and American jobs. Extending China's MFN status simply continues regular commerce with the world's most populous nation. Companies in San Diego engage in significant exports in China. Among these are Solar Turbines, power plants, Cubic, mass transit systems, Jet Products, manufacturing, and many others. Furthermore, many American jobs are dependent on imports from China. These include hundreds of thousands of retailers. And American consumers regularly purchase goods made in China.

Once again, the risks associated with terminating China's MFN status exceed their reward. If we terminate MFN for China, American jobs are endangered, and China will simply approach the employers of other nations to fulfill its market of 1.3 billion people.

Following the continuation of MFN for China, and the failures and vacillations of the Clinton administration's China policy, I believe Congress has a responsibility to exercise leadership in the United States relationship with the world's most populous country.

We can begin this by enacting the China Human Rights and Democracy Act, a measure soon to be introduced by Rep. JOHN EDWARD PORTER and others. Chairman PORTER formerly opposed China's MFN status, but is supporting it this year in hopes that we can make real progress in other areas. Chairman PORTER described this measure in today's Wall Street Journal to increase funding for Radio Free Asia and the Voice of America, expand democracy-building activities through the National Endowment for Democracy, require additional United States State Department report on human rights violations and political prisoners in China, and greater disclosure of Chinese companies' ties to the People's Liberation Army.

As we did with the USSR and Eastern Europe, we can blanket the Chinese people, and all freedom-loving peoples of Southeast Asia, with broadcasts about freedom and democracy in the outside World. We can also pursue other aggressive initiatives to stand tall and strong for freedom in East Asia—initiatives which thus far have not been part of the Clinton administration's weak American policy toward China.

Congress can and should take further action to send China powerful signals of our intention to advance our interests. The fiscal year 1998 national defense authorization includes the Hunter-Cunningham language from H.R. 1138, prohibiting the leasing of former U.S. military facilities to foreign state-owned enterprises. Specifically, this will block COSCO, the maritime arm of the communist Chinese regime in Beijing, from leasing a large beachhead at the former Long Beach Naval Station.

And the House has already voted to establish direct United States ties with Hong Kong, which reverts from British to Chinese control in just a few days.

Extending China's regular MFN trade status does not work miracles. We should extend MFN because it helps advance our national interests in China in freedom and religious liberty, in national security, and in commerce and jobs. We should extend China's MFN status because blocking MFN would hurt, not help, our national interests in China.

But we cannot stop there. Congress has a responsibility to take the sure and strong actions that implant backbone into United States-China relations, a spine that is thus far missing from the Clinton administration's own policy. We can act. And we will.

Mr. LIPINSKI. Mr. Speaker, I rise today in support of House Joint Resolution 79, a resolution to disapprove most-favored-nation [MFN] treatment to the People's Republic of China.

Our trade deficit with China in 1996 was $40 billion. By the end of 1997, the trade deficit is projected to be $53 billion, which averages out to the staggering sum of $1 billion a week. A large part of this is due to the fact that China charges American products with extremely high tariffs. For instance, China levies a 50 to 120 percent tariff on imported cars, a 50 percent tariff on imported athletic shoes, a 60 percent tariff on imported leather shoes, and a 40 percent tariff on imported toys. In all instances, United States tariffs on Chinese imports are substantially lower. China sells millions and millions of bikes in the United States, because we only levy a 11 percent tariff, while China charges us 50 percent. On average, the United States levies a tariff rate of 2 percent on Chinese goods. The Chinese have levies a 35 percent tariff rate on United States goods. We hear so much about free trade, but our trade relationship with China certainly isn't free, and it certainly isn't fair. It costs American jobs. It's just plain wrong for the American working men and women.

We constantly hear from China and the administration that trade and foreign policy should be separate issues. They should not be linked. That is a very interesting argument coming from China considering they are one of the most skilled practitioners of such a policy. They reward friends and punish enemies with economic carrots and sticks in the form of huge government contracts.

Moreover, the use of trade sanctions is not without precedent. It has been a vital component of U.S. foreign policy. We sanctioned the

Soviet Union by the restriction of technology transfers, denial of MFN under the Jackson-Vanik amendment, and embargoes on Soviet purchases of American wheat. We maintain a trade embargo against Cuba. We deny MFN to North Korea and Afghanistan. We will soon impose sanctions on Burma. Why should we treat China and different? The answer is that we shouldn't. We should treat China a totalitarian regime in every sense, as we have treated totalitarian regimes in the past. We must not coddle them. We must not appease them. We must not assist them.

Mr. Speaker, a vote for this resolution will be a vote for democracy it will be a vote for the ideals that founded this Republic. The ideals that make this Nation truly great. As the sole remaining superpower in the world, we must send a strong message to the totalitarian regime in Beijing that her actions will not be tolerated any longer. Enough is enough. I strongly urge my colleagues to support House Joint Resolution 79.

Mr. ROHRABACHER. Mr. Speaker, I am submitting for the RECORD an article by Frank Gaffney, executive director of the Center for Security Policy, that appeared in today's Washington Times, titled "Dealing with China." I believe that this insightful article should be read by all Members of Congress and American citizens who are concerned that the United States Government develop a comprehensive strategy to deter aggression by Communist China.

[From the Washington Times, June 24, 1997]

DEALING WITH CHINA

(By Frank Gaffney, Jr.)

As the House of Representatives prepares to vote on President Clinton's decision to renew Most Favored Nation (MFN) status for China, it is being flooded with free advice. Lobbyists representing firms doing business with the People's Republic—or hoping to do so—are aggressively warning Congress of the economic costs of failing to "re-up"; human rights and religious groups are emphasizing the costs in terms of freedom and religious tolerance for the Chinese people if the United States continues to turn a blind eye to Beijing's repressive policies.

Yesterday, five of the finest public servants I have had the privilege of knowing—Jeane Kirkpatrick, Jack Kemp, Lamar Alexander, Steve Forbes and Donald Rumsfeld—weighed in with their own take. Much of what they say should be done with respect to U.S. policy apart from the question of MFN I find compelling, as I am sure, will many members of Congress. I think we could agree, for example, that the following sorts of steps should be taken irrespective of one's views about renewing China's Most Favored Nation status:

Intensify efforts to provide truthful information and encouragement of those resisting communist repressing (including greatly expanding the operations of Radio Free Asia; enforcing the existing bans on importing slave-labor-produced goods; imposing penalties for religious intolerance, etc.). After all, how a nation treats its own people is a good indicator of how it is likely to deal with those of other states.

Such steps can help make clear that the United States is not an enemy of the Chinese people, but that it steadfastly opposes the totalitarian government that brutally rules them. It can also help undercut the nationalist xenophobia that the Chinese leadership promotes in its bid to retain power.

Deny front companies and banks associated with the People's Liberation Army and other inappropriate Chinese borrowing entities the opportunity to sell bonds in the U.S. market. This step can be taken in a non-disruptive fashion (for example, by creating a security-minded screening mechanism for these prospective bond issues) without fear of jeopardizing U.S. exports, jobs or "people-to-people" contacts unaffected by such cash transactions.

Block Chinese access to strategic facilities—in the United States and elsewhere in the Western Hemisphere; notably at the eastern and western ends of the Panama Canal.

Prohibit the sale of American military production facilities and equipment to China.

Terminate the "anything goes" policy with respect to the export of dual-use technology to Chinese end-users. In the interest of obtaining maximum pressure for change in China, U.S. allies should be offered the same choice they are currently given under the D'Amato legislation on Iran and Libya—foreign companies and nationals must decide whether to export militarily-sensitive equipment and technology to China or risk losing their unfettered access to the American marketplace.

Develop and deploy effective global missile defenses to counter China's own growing ballistic missile capabilities and those Beijing is transferring to rogue states like North Korea, Iran and Syria.

Rigorously enforce existing U.S. laws penalizing those who engage—as the Chinese government and its ostensibly private companies have been doing—in the proliferation of weapons of mass destruction and various menacing conventional arms.

And increase significantly the resources dedicated to uncovering and thwarting Chinese espionage, technology theft and influence operations in the United States.

Where I must respectfully disagree with my friends from Empower America, however, is about the reason why such steps are needed. They declare we "should not demonize China" and assert "there is no new Cold War, and China is not a new Cold War enemy." The truth is that the reversion of Hong Kong next week to communist control may prove to be the first battle lost by the force of freedom in a new and far more difficult phase of what Winston Churchill once called "the Twilight Struggle."

In any event, as noted in this space two weeks ago, it is not entirely up to us whether China becomes an enemy. The critically acclaimed book "The Coming Conflict with China" observes: "Before, Beijing saw American power as a strategic advantage for the PRC; now it has decided that American power represents a threat, not just to China's security but to China's plans to grow stronger and to play a paramount role in the affairs of Asia."

What is more, if it is true, strictly speaking, that "China is not a new Cold War enemy," it may not be good news. The level of engagement with China—the many billions of dollars in bilateral trade, the hundreds of PLA companies operating in this country, the tens of thousands of Chinese students and unknown numbers of Overseas Chinese with families still subject to Beijing's control—make the challenge of countering, let alone containing, the PRC infinitely more difficult that any we faced in dealing with the Soviet Union during the Cold War. We disregard or discount this problem at our peril.

The bottom line is the bottom line: The massive trade surpluses that MFN status is allowing the PRC to accrue are directly underwriting activities that will enable Beijing to become an even more formidable threat to the United States and American interests down the road. Despite its drawbacks, revoking China's Most Favored Nation status is the only measure now on the table that is fully responsive to this reality—and proportionate to the magnitude of the problem it presents.

Mr. MATSUI. Mr. Speaker, attached is a letter from the Business Council for United States-China Trade which I would like included in its entirety in the appropriate section of the CONGRESSIONAL RECORD.

BUSINESS COALITION FOR
U.S.-CHINA TRADE,
Washington, DC, June 23, 1997.

HON. NEWT GINGRICH,
House of Representatives, Washington, DC.

DEAR MR. SPEAKER: We urge Congress and the President to work together on a bipartisan basis to renew China's MFN status for one-year without conditions. We strongly oppose legislation which would impose new conditions on MFN, impose targeted trade sanctions, or result in anything less than a full one-year extension of MFN, or otherwise disrupt U.S.-China commercial ties.

Unconditional renewal of China's MFN trading status is in America's interest. MFN is the cornerstone of stable U.S.-China commercial relations. It is also the foundation for continued dialogue and cooperation between the United States and China over such vital concerns as security, human rights, and Hong Kong's transition.

In the next century, America's prosperity will be even more closely tied to our leadership in international trade and the Asia-Pacific region.

China is the world's largest emerging market. It is at the center of a vibrant Asia-Pacific regional economy, which will support continued growth of American trade and jobs for decades to come.

In 1996, the United States sold over $14 billion of goods and services to China. U.S.-China trade already supports over 200,000 export-related jobs, as well as tens of thousands of jobs in American retail establishments, ports, services companies, and transportation firms. It ensures American consumers a wide choice of quality goods.

China is the sixth-largest market in the world for American agriculture, and has by far the most potential. in 1996, China bought over $3.6 billion of U.S. farm products, such as wheat, grains, vegetable oil, poultry, corn, soybeans, and meat.

American trade with China helps to promote values we cherish. Ending MFN would harm the very Chinese entrepreneurs and workers whose prosperity and jobs depend on trade and access to the outside world. China's private enterprises and joint ventures are beachheads of free enterprise, which have driven the sweeping economic and political reforms of the last decade. We should support, not isolate, the segments of Chinese society which offer the best hope for further progress toward greater freedom and the rule of law for all of China.

Revoking or conditioning MFN would be a devastating blow to Hong Kong, whose economy depends on its role as the economic gateway to China and as a financial and commercial center for companies doing business in Asia. The United States should strive to bolster confidence in Hong Kong and to maintain it as a vibrant model of entrepreneurial capitalism and political freedom, as it faces an historic reversion to Chinese sovereignty.

While renewal of MFN is an important task, an equally important challenge is continuing a fundamental restructuring of U.S-China commercial relations that is essential to open new markets for American products, subject China to the rules and disciplines of the World Trade Organization (WTO), and end the destructive annual battles over MFN renewal. We urge the Administration, in close consultation with Congress, to push ahead with negotiations over China's accession to the WTO under a commercially sound market access protocol which expands sales of American goods, services, and farm products; locks in free market reforms, and advances long-term economic and political change. We look forward to working with the Congressional leadership and the Administration to achieve all of these vital goals.

Sincerely,

A & C Trade Consultants, Inc., A & D Precision Manufacturing, Inc., A. Eddy Goldfarb & Associates, A.A.A. Aircraft Supply Co., Inc., A.N. Deringer, Inc., A.O. Smith Corporation, A–1 Signal Division, ABB, Inc., Abbotec Inc., Abbott Laboratories, ABC Companies, Inc., The, ACCEL Graphics, Inc., ACCEL Technologies, Inc., ACI Int'l, Acme Foundry, Acme-Monaco Corporation, Action Instruments Inc., Action Products International Inc., ACTS Testing Labs, Inc.

Adams Air & Hydraulics, Inc., Adaptec, Inc., ADC Technologies, Inc., Adidas America, Advanced Data Management, Inc., Advanced Hardware Architectures, AEA Credit Union, AEA International, Aerex Manufacturing Inc., Aero Comm Machining, Aero Gear Inc., Aero Machine Co., Inc., Aerochem, Inc., Aeroelectronics Incorporated, Aerospace Dynamics International, Inc., Aerospace Industries Association of America, Inc., Aerospace Manufacturing Corp., Aerospace Products, Aerospace Services & Products, AETNA, Inc., Agrifos, L.L.C., AIMCO, Air Capitol Plating Inc., Air Conditioning & Refrigeration Institute, Air Industries Corporation, Air Products and Chemicals, Inc., Air Structures, Inc., Aircraft Tool Inc., AirNet Communications Corp., AirSep Corporation, Akro Fire Guard, Albany International Corp., Albemarle China Corporation, ALCOA, Alcone Marketing Group, Alexander Doll Company, Inc., ALJO Precision Prod., Allen's Concrete, AlliedSignal Inc., AlliedSignal-General Aviation Avionics, AMCO Brokers & Forwarders, Inc., Amer-China Partners, Ltd., American Association of Exporters and Importers, American Association of Port Authorities, American Automobile Manufacturers Association.

American Building System Inc., The American Chamber of Commerce in Hong Kong, The American Chamber of Commerce in New Zealand, The American Chamber of Commerce in Singapore, The American Chamber of Commerce PRC in Beijing, American Commercial Lines, Inc., American Crop Protection Association, American Electronics Association, American Electronics Association—Texas Council, American Electronics Group, Inc., American Express Company, American Farm Bureau Federation, American Feed Industry Association, American Forest & Paper Association, American Home Products Corporation, The American Import Co./Taico Trading Corp., American International Foods, American International Group, Inc., American League for Exports and Security Assistance, American Pacific Enterprises, American Racing Custom Wheels, American River International, American Seed Trade Association, American Standard Companies, Inc., Ameritech International, Amersham Corporation, Ames Department Stores, Inc., AMF Bowling Products, AMI Metals Inc., Amicale Industries, Inc., AMOCO, Amoco Chemical, AMP Incorporated, AmPro Corp., AMS Industries Inc., AMT—The Association for Manufacturing Technology, Amway Corporation, Andreae, Vick & Associates, Anheuser-Busch Companies, Inc., Anjar Co., Anwo Machine and Tool Co. Inc., APL Limited, Apparel Unlimited, Inc., Apple Computer, Inc., Applied Materials, Inc.

Applix, Aquafine Corporation, Arcadia Supply Inc., ARCO, ARCO Chemical Company, Arizona Coalition for US/China Trade, Armstrong Global, Armstrong Holdings, Armstrong World Industries, Inc., ARR–MAZ Products, Arrow Electric, Inc, Arthur Andersen LLP, ASI Aerospace Group, Asian Strategies Group, Asset Intertech, Inc., Associated Company, Inc., Associated General Contractors of America, Associated Industries, Associated Industries of Missouri, Associated Merchandising Corporation, Association of American Railroads, Association of National Advertisers, Inc., AT & T, Athens Industries, Atlas Aero Corporation, Atsco Footwear Inc., Autozone, Avco Financial Services, Inc, AVO International, Avon Products Inc., Award Software International, Inc., B & B Machine & Tooling, B & F Sales Corp., B & J International Supply, B & S Steel of Kansas, Inc., B.G. Imaging Specialties, Inc., B.J. Rocca Jr. and Co., Babcock Mfg. Co., Bachmann Industries, Inc., Baker & Daniels, Bakery Crafts, BalcoMetalines, Ball Hortculture Company, Bank of America NT & SA, Bank of New York.

Bank of Oklahoma, Barbara Franklin Enterprises, Barbis International, Barringer Technologies, Inc., Barron Transworld Trading Ltd, Barton Solvents, Inc., Bartow Chamber of Commerce, Bartow Steel, Inc., BCI Engineering Group, Inc., BCI Engineers & Scientists, Bechtel Corp., Bedford Sportswear, Inc., Beijing Development Area (USA) Inc., Belkin Components, BellSouth Corporation, Benecor Honeycomb Corp., Benner China & Glassware, Inc., Bennett Importing, Inc., Berger & Eiss, Berger Company, Beta Shim Company, BFGoodrich Company, BGW Systems, Inc., Bien Internationale Corp., Bindicator Company, Bivar, Inc., BJG Electronics, Black & Veatch, The Blackstone Group, Blistex Inc., Blue Box Toys Inc., Boca Research, Inc, The Boeing Company, Boston Technologies, Inc., Boullian Aviation Services, BP America, BP Chemicals Inc., Bradbury Co., Inc., Bradford Novelty Co., Inc., Bradlees, Inc., Bradley Machine, Inc., Brass Key, Inc., Braun Intertec Corporation, Breslow Morrison Terzian & Assoc., Brimms Inc.

Brisa, Inc., Bristol-Myers Squibb Company, Brooklyn Chinese-American Association, Brooklyn Goes Global, Brown Group, Inc., Budd Company, The, Budney Industries, Inc., Bunge Corporation, Burlington Northern & Santa Fe Railway, Burnett Contracting & Drilling Co., Inc., Burnham Products, Burson-Marsteller, Burton Co., Business Research Institute, Inc., Buxton Co., C.J. Bridges Railroad Contractor, Inc., Cactus Mat Manufacturing, Co., Cadaco, Inc., Caleb Corporation, California Chamber of Commerce, California Instruments Corp., California Mop Mfg. Co., California Portland Cement Company, California R&D Center, California Sunshine Inc., Caltex Petroleum Corp., Cambridge Specialty Company, Cange & Associates International, Capital Region World Trade Council, Capps Machines, Inc., Capstone Electronics Corp., Carco Electronics, Cardinal Industries, Inc., Career Explorers, Inc., Cargill Fertilizer, Inc., Cargill Flour Milling, Cargill, Inc., Carl Cox & Associates, Inc., Carrier Corporation, Catalina Lighting, Inc., Caterpillar Inc., CBIA, CDI Corporation Midwest, Cedar Rapids Chamber of Commerce, Celestaire, Inc.

CENEX, Inc., Center Industries Corp., Centigram Communications, Central Purchasing Inc., Century Bank, Cerion Technologies, Cessna Aircraft Company, CF Industries, Inc., Chaco International, Chance Industries, Charles Engineering, Inc., Charming Shoppes, Inc., The Chase Manhattan Corporation, Chemical Manufacturers Association, Chemifax, Division of Namico, Inc., Chevron Corporation, Chicago Council on Foreign Relations, China Books & Periodicals, Inc., China Human Resources Group, China Products North America, Inc., China Trade Development Corp., Chrysler Corporation, Chubb & Son, Inc., Chubb Corporation, The, CIGNA Corporation, CIT Group/Commercial Services, Inc., Citicorp/Citibank, Citifor Inc., Citizens for a Sound Economy, Claire's Stores Inc., CLARCOR, Clark Companies, N.A., The, Clark Manufacturing, Claude Mann & Associates, Inc., Cliffstar Associates, Inc., Coastal Corporation, The, Coastal Power Company, Coastcom, Cobra Electronics Corporation, Coca-Cola Company, The, Coffeyville Sektam, Inc., Coiltronics, Inc., Cole Haan, Coleman Company, Inc.

Collum International, Inc., Colorworks, Columbia 300 Incorporated, Columbus McKinnon Corporation, COMET INT'L, Commercial Bank of San Francisco, Commonwealth Toy & Novelty, Compaq Computer Corporation, Compressed Air Products, Inc., Computalog, Computer & Communications Industry Association (CCIA), Computing Devices International, Comtech Communications, ConAgra, Inc., Concept Resources, Inc., Concurrent Computer Corp., Conductive Rubber Technology, Inc., CONECT-Coalition of New England Companies, CONMED Corporation, Connections International, Conoco, Consolidated Industries Inc., Consumers for World Trade, Continental Grain Company, Continental Machine Inc., Continental-Agra Equipment, Inc., Contour Aerospace Inc., Coopers & Lybrand L.L.P., Corning Incorporated, Corporation for International Trade, Cox Machine, Inc., CPC International Inc., Creative Computer Solutions, Inc., Creative Production Resources, Crowley Sales & Export Inc., Crown Cork & Seal Co., Inc., CSX Corporation, CTL Distribution, Inc., Cubic Corp., Cutter & Buck, Cyberkom, Dale C. Rossman, Inc., Darling Abrasive & Tool Co., Data Instruments, Inc., Dataforth Corp.

Davis Wright Tremaine, De La Rue Giori, Decora Industries Inc., Deere & Company, DEKALB Genetics, Delagar Division Belcam, Inc., Delson International, Inc., Des Moines Chamber of Commerce, Dexter Aerospace Materials Division, DeYoung Mfg., Inc., DF Corporation, Diamond V Mills, Digital Equipment Corporation, Digital Recorders, Digital Transmission Systems, Inc., DIGIVISION, Diversified Computer Remarketing, Dixon Area Chamber of Commerce, D-J Engineering, Dodge City Chamber of Commerce, Don's Leather Cleaning, Inc., Doron Precision Systems, Inc., Dover Technologies, Dow Chemical Co., The Dow Corning Corporation, Dowty Aerospace, Dresser Industries, Inc., DS Technologies, Inc., DSC Communications Corp., DSP Technology, Inc., Du-Pont, Duracell, Dynamic Systems, Inc., E & O Mari, Inc., E.E. International, E.S.T. International, Easter Unlimited/Fun World, Eastern Sea Consulting, Eastman Chemical Company, Eastman Export Corporation, Eastman Kodak Company, EBM Tours, Eck & Eck Machine Co., Inc., Ecology and Environment, Inc., Economy Forms Corp.

Econo-Power International Corp., EDAWN, Edelman Public Relations, Eden, LLC, Edison Electric Institute, EDS, Educational Design, Inc., Educational Hindsights, Inc., Edutainment for Kids, Inc., Efratom Time & Frequency Products, Inc., Eikon Strategies, Inc., Elan-Polo, Inc., Electro Scientific Industries, Inc., Electromedical Products International, Inc., Electronic Industries Association, Elkay Plastics Co., Inc., Ellanef Manufacturing Corporation, Ellicott International, Elliot Kastle, Inc., Ellsworth Adhesive Systems, Emergency Committee for American Trade, Emerson Electric (Asia) Ltd., Emerson Electric Co., Empire Industries, Inc., Endgate Corp., Endicott Johnson Corporation, Energy-Onix Broadcast Equipment Co., Enertech, Engineered Machine Tool Co., Enron Corp., Enron Oil & Gas, Inc., Epperson & Company, Essex Group, Inc., ETEC Systems, Inc., Excel Manufacturing, Inc., Executive Aircraft, Expeditors International, The Exporter, EXXESS Electronics, Exxon Corporation, F.H Kaysing, Family Dollar Stores Incorporated, Farmland Hydro, L.P., Farmland Industries, Inc., Fastenair Corporation.

FaxTrieve, Inc., Federal-Mogul Corporation, The Fertilizer Institute, Feuz MFG, Inc., Fiberite Inc., Fieldcrest Cannon, Inc., Fiesta, Fife Florida Electric Supply, Inc., Fila-USA Inc., Firstar Banks, Fisher-Price, Inc., Fleet Bank, Fleet Street Ltd., Flight Safety International—Cessna, Flight Safety International—Raytheon, Flight Safety International—Learjet, Florida Handling Systems, Inc., Florida Phosphate Council, Florida-China Trade Task Force, Fluke Corporation, Fluor Corporation, FMC Corporation, FMI, Inc., Footstar, Inc., Ford Motor Company, Forte Cashmere Co., Inc., ForTrade International, Foster Design, Foster Pepper & Shfelman, Foster Wheeler Energy International, Inc., Four Dimensions, Inc., Four Star Distribution, The Foxboro Company, FPA Customs Brokers, Inc., Frank Russell Company, Freeport-McMoRan, Inc., Fulfillment Systems International, Funopolis, Gaines Metzler Kriner & Co., Galamba Metals, Galoob Toys, Inc., GAYLA Industries, Inc., Gaymar Industries, Inc., GEC Precision Corporation, Genecar International, Inc.

Genemed Biotechnologies, Inc., Genemed Synthesis, Inc., General DataComm Industries, Inc., General Electric Company, General Motors Corporation, Genesco Inc., Georgia-Pacific Corporation, Gillette Company, The, Global Business Systems, Global Group, Globe Engineering, GM Nameplate, Inc., Goldsmiths, Goodyear Tire & Rubber Company, The, Grand Imports, Inc., Granny's Kitchens, LTD., Grant Thorton, Granton Shoo Imports, Graphic Controls Corporation, Graybar Electric, Great American Incentives, Great Lake Group, The, Great Plains Industries, Great Plains Manufacturing, Great Plains Ventures, Greater Austin Chamber of Commerce, Greater Bristol Chamber of Commerce, Greater Dallas Chamber of Commerce, Greater Hartford Chamber of Commerce, Greater Kansas City Chamber of Commerce, Greater North Dakota Association, Greater Philadelphia Chamber of Commerce, Greater Plant City Chamber of Commerce, Greater Topeka Chamber of Commerce, Greater Waterbury Chamber of Commerce, Greenfield Industries, Greer Auto, Grocery Manufacturers of America, Inc., GT Sales & Manufacturing, GTE Corporation, Guardian Industries Corp., Guerra Press, The, Guess Leather—Jones New York Leather—Avanti, Gund, Inc., H&H Tool.

H.O. Mohr Research & Engineering, Inc., Haight, Gardner, Poor and Havens, Halliburton Co., Halliburton Energy Services, Hallmark Cards, Inc., Hallum Tooling, Inc., Hamilton Standard, Hannay Reels, Inc., Hard Manufacturing Co., Inc., Harlow Aircraft Manufacturing, Harris Corporation, Harry B. Gudsley & Associates, Harry Sello & Associates, Harsco Corporation, Hartford Despatch Int'l, Harwood Capital Incorporated, Hasbro Interactive, Hasbro, Inc., Havens Steel Company, Heart to Heart International, Hedstrom Corporation, HEICO Corporation, Heilig-Meyers Company, Hermach Machine, Inc., Hewlett-Packard Company, Hill's Pet Nutrition, Inc., Hills & Company, HiRel Labs, Hirsch Pipe & Supply, HMS Productions, Inc., Hoechst Corporation, Holland Pump Manufacturing, Inc., Honeywell Asia Pacific, Honeywell Inc., Hong Kong City Toys, The Hongkong and Shanghai Banking Corporation Limited, Horton International Inc., Howden Fan Company, The, HSQ Technology, Hub Tool & Supply, Hudson Pump and Equipment Associates, Inc., Hughes Electronics, Hydroform USA, Inc., HYI, I&J Machine Tool Company.

Ibberson Inc., IBM Corporation, Ice Holdings, Inc., IES Industries, Inc., Illinois Beef Association, Illinois Coalition to Support US-China Commercial Relations, Illinois Farm Bureau, Illinois Manufacturer's Association, Illinois Pork Producers, Illinois State Chamber of Commerce, Imaging and Sensing Technology, Inc., IMC Global Inc., IMC Global Operations Inc., IMC Kalium, IMC-Agrico Company, IMCO Recycling Inc., IMPAC International, Imperial Toy Corporation, Indoor Air Professionals, Inc., Inductor Supply, Inc., INET Corporation, Infinity Financial Technology, Inc,. Ingersoll-Rand Company, Innotec Group Inc., Innovative USA, Inc., Integrity Technology Corporation, Intel Corporation, Intelidata, Interex, Inc., Interface Consulting International, Inc., Inter-Global Inc., Intermetrics, Inc., International Business Development, International Components Corp., International Dairy Foods Association, International Development Planners, International Mass Retail Association, International Paper, International Trade Services, Inc., Inter-Pacific Corporation, Intertrade Ltd., Intool Incorporated, Intrust Bank, Iowa Association of Business & Industry, Iowa Beef Packers.

Iowa Business Council, Iowa Department of Economic Development, ITT Corporation, ITT Industries, J.F. Fredericks Tool Co., Inc., J.H. Ham Engineering, Inc., J.R. Custom Metal Products, Jacobs Engineering Group, Inc., Jacobs Vehicle Systems, Jade Enterprises, Inc., Jamestown Container Companies, Jamie Brooke, Inc., Janco Corp., Janex Corporation, JBC International, Jenoptik Infab InTrak, Inc., Jensen Technology Development, Inc., Jerry Eisner Co., Inc., Jewett Refrigerator Co., Inc., John Hancock Financial Services, John Weitzel, Inc., Johnson & Johnson, Johnson and Higgins, Jones and Company, Inc., Joseph Krow Fur and Leather Co., J-Tec Associates, Juans (USA) Corp., Juno Industries, Inc., K.Swiss, Kagie/Newell Inc., Kaifa Technology, Inc., Kairos Consultants, Kaman Aerospace Corporation, Kamen Wiping Materials, Kane Industries Corp., Kansas Association for Small Business, Kansas Chamber of Commerce & Industry, Kansas City, KS Chamber of Commerce, Kansas Dry Stripping, Inc., Kansas Farm Bureau, Kansas Livestock Association, Kansas Plating, Inc., Kansas World Trade Center, Kasper Machine Company, Kavinoky & Cook, LLP.

Kent Audio Visual, Kimoto & Company, Custom Brokers, Kingsbury, Inc., Kirk's Suede Life, Inc., Kmart Corporation, KMG Too & Machine Company, Knipp Equipment, Knowledge Universe, L.L. C., KOA Speer Electronics, Inc., Koch Industries, Koch Materials, Kohler Co., Koogier & Assoc. Environmental Services, KPI/Heurikon Corp., Kraft Foods, Inc., K-Sport, Ltd., L & M Enterprises, L & S Machine Co., LD Supply, Inc., LA Gear, Inc., Laird Ltd., Lamar Electro-Air, Lampton Welding Supply Company, Latin American Pacific Trade Association, Leach International Corporation, Leading Edge Concepts Inc., Learjet, Learning Curve International, Leather Apparel Association, Inc., Leathercraft Process, Leawood Export Finance, Inc., Ledford Machine-Gage Labz, LeFebure Corp., Leon Cohen Sales, Inc., Leonard's Metal, Inc., LGB of America, Liberty Classics, Inc., Liberty International, Licata Associates, Inc., Liquidynamics, Inc., Liz Claiborne, Inc., LJO, Inc., L–M International, LOBOB LABORATORIES, Inc., Lockheed Martin.

Logical Services, Inc., Louis Dreyfus Corporation, Louis Lau AsianInfo Holdings, Lucent Technologies, Lucid Corp., Luis Alvear, Lyons Manufacturing Co., M. Hidary & Co., Inc., M.A. Hanna Company, Maersk Inc., Maisto International, Inc., Malichi International, Ltd., Mallinckrodt Inc., Mans & Mans Machine & Tool Co., Manufacturing Development, Inc., Manufacturing Tool & Supply, Manzella Productions, Inc., Marco Polo, MarketSource Direct, Mary Kay Inc., Matrix Integrated Systems, Mattel, Inc., Maurer Metalcraft Inc., Maury Microwave Corporation, Maytag Corporation, McDermott, Inc./Babcock & Wilcox, McDonald Construction Corporation, McDonnell Douglas Corporation, McFerrin Engineering & Manufacturing Company, McGinty Machine Company, The McGraw-Hill Companies, Inc., MCI, McStarlite Co., McWilliams Forge Company, Measurement Specialties, Inc., Medexel, Inc., Medtronic, Inc., Meeks & Sheppard, Meldisco A. Footstar Company, Melloor-Puritan-Bennett Corporation, Memorial Health System, Merck & Co., Inc., Meredith Corporation, Meritus Industries, Inc., Metal Forming, Inc.

Methode Electronics, Metholatum Company, The, Metratek, MetroBank, Metropolitan Milwaukee Association of Commerce, Metropolitan Tulsa Chamber of Commerce, Mezzullo & McCandlish, Miami Valley Marketing Group, Inc., Michigan-China Coalition, Michigan Retailers Association, Microscan Systems, Inc., Microscript Corp., Mid-America International Trade Services, Mid-America Overseas, Mid-America, International Agri-Trade Council, MidAmerican Energy Corp., Mid-Central Manufacturing, Inc., Mid-Continent Fire & Safety, Middle East Rug Corporation, Midwest of Cannon Falls, Inc., Midwest Plastic Supply, Inc., Mighty Star, Inc., Milford Fabricating Company, Inc., Milling Precision Tool, Inc., Mine & Mill Supply Co., Minnesota Agri-Growth Council, Inc., Mires Machine Company, Mize & Company, Mobil Corporation, Monde Group, L.L.C., Monitor Aerospace Corporation, Monogram Aerospace Fasteners, Monogram Sanitation, Monsanto, Motor & Equipment Manufacturers Association, Motorola, Inc., Moy, Cheung and Company, MRS Technology, Inc., MTS Systems Corp., Mulberry Corporation, Mulberry Motor Parts, Inc., Mulberry Railcar Repair Co., Multipoint Networks, Inc., Mustang International Groups, Inc., Mutual Travel.

MVE, Inc., Nadel & Sons Toy Corp., Naico, Nantucket Distributing Co., Inc., National Association of Manufacturers, National Association of Purchasing Managers, National Concrete Masonry Association, National Foreign Trade Council, National Grain and Feed Association, National Institute for World Trade, National Marine Manufacturers Association, National Oilseed Processors Association, National Plastics Color, National Retail Federation, Nations Bank, Natural Science Industries, NBBJ, NCAI, NDE, Inc., Network Computing Devices, Inc., New England Financial Group, New Planet Sourcing, New York City Partnership and Chamber of Commerce, New York for US-China Trade, Newman Government Services, NextWave Design Automation, Niagara Lubricant, Nike, Inc., Nikko America, Inc., Nimbus Water Systems Inc., Nintendo of America Inc., Noon International, Norand Corporation, NORBIC, Nordstrom, Inc., Norman Krieger, Inc., Norris Education Innovations, Inc., Nortel, North American Export Grain Association, Inc., Northrop Grumman Corporation, Northwest Horticultural Council, Norwest Banks, Nottingham Co., Nuclear Energy Institute, NuDimensions.

Number Nine Visual Technology, Nylint Corporation, O'Keefe's Incorporated, Occidental Chemical Corporation, Octel Communications, Octus, Inc., ODS Networks, Inc., Off Shore Consulting, Ohio Alliance for U.S.-China Trade, The Ohio Art Company, Olem Shoe Corp., Open Engineering, Inc., Optek Technology, Inc., Optical Coating Lab, Optima Technologies Group, Inc., Oracle Corporation, OrCAD, Inc., The Oriental Rug Importers Association, Inc., Oshman & Sons, Otis Elevator Company, Otis McAllistar, Inc., Outboard Marine Corporation, Overhead Door Company, Overland Park Chamber of Commerce P.T. Express International Inc., PAC AM INTERNATIONAL, PACCAR Inc., The Pacific Basin Economic Council, U.S. Member Committee, Pacific Market International, Pacific Northwest Advisors, Pacific Rim Resources, Inc. PackAir AirFreight, Inc. PASCO scientific, Paul Davril Inc., Payless ShoeSource, Inc., PCI Newco, PCS Phosphate—White Springs, Pella Corporation, PEPBOYS, PepsiCo, Inc., J.C. Penney Co., Inc., Petroleum Equipment Suppliers Association, Pfizer Inc, Pharmacia & Upjohn, Philip Morris International Inc.

Philips Electronics, Phillips Petroleum Company, Phoschem Supply Co., PhRMA, Phsio-Control Corp. Pic'n Pay Stores, Inc., Pico Design Inc./Motorola, Pillowtex Corporation, Pioneer Balloon Company, Pioneer Hi-bred International, Inc., Pizza Hut, Plastic Fabricating Co., Plastic-View A.T.C., Playing Mantis,Play-Tech Inc., Plesh Industries, Inc., Polaroid Corporation, Polk Equipment Company, Inc., Polk Pump and Irrigation Co., Inc., Pollard Dental products, Inc., Polotec, Inc., Poolmaster Inc., Port of Houston Authority, Port of Seattle, Port of Tacoma, Portman Holdings, Portman Overseas, Post Glover Resistors, Power Link, Inc., Power Process Controls, PPG Industries Asia/Pacific Ltd., PPG Industries, Inc., Praegitzer Industries, Inc., Pratt & Whitney, Precious Kinds/Activatoys, Precision Filters, Inc., Precision Machining, Inc., Precision Products, Inc., Precision Profiling, Inc., Preco Industries, Pressman Toy Corp., Price Brothers Company, Price Waterhouse LLP, The Principal Financial Group, Printronix, Inc.

The Pro Trade Group, Processed Plastic Company, The Procter & Gamble Company, Professional Machine & Tool, Progressive, Inc., Pro-Mill Company, PTX-Petronix, Inc., Pulizzi Engineering, Inc., Puritan Industries, Inc., Puritan-Bennett Aerospace Systems, Quaker Oats Company, Quality Petroleum Corporation, Quality Tech Metals, QUANTUM DYNAMICS, Inc., QuickLogic Corp., Quinnipiac Chamber of Commerce, R. Dennis & Associates, R.A. Hanson Company, Inc., R.A. Lalli Company, Raco Machine, Inc., Rae Manufacturing Inc., Ragen & Cromwell, P.S., Rainfairn, Inc., Ralee Eng. Co., Ray World Trading, Ltd., Raytek Corp., Raytheon Aircraft Company, RB International, The Reader's Digest Association, Inc., Recognition Systems, Inc., Recoton Corporation, Recreation Vehicle Products, Reebok International, Reed Sportswear Manufacturing Co., Reeves International, Inc., Regal Plastics Company, Reliable Manufacturing Inc., Reliance Metalcenter, RENDER, Revell-Monogram, Inc., RF Group, Inc., Richard Manufacturing Company Inc., Richmont, Riggs Tool Company, Inc., Right Stuff, Inc.

RJM2 LTD, RNS Healthcare Consultants, Inc., Roanoke Companies, Inc., The, Robinson Fans Florida, Inc., ROCKPORT, Rockwell, Rockwell Collins, Inc., Rohm and Haas Company, Rolls-Royce North America Inc., Roof Coatings Manufacturers Association, Roundhouse Products, Inc., RRE Investors, LLC, RSI, Inc., Rubber & Accessories, Inc., Russ Berrie & Co., Inc., RxL Pulitzer, Ryan International Airplines, S.M.S. Group Incorporated, S.R.M. Co., Inc., S.R.M. Toys, Ltd., Saitek Industries, Salant Corporation, Saline Area Chamber of Commerce, Samsonite, Santana Ltd., Sauder Custom Fabrication, Inc., The Savings Bank of Rockville, Saxony Sportswear Co., Scarbroughs, Schenker International, Schottenstein Stores Corporation, Scientific Technologies, Inc., Scope Imports, Seafirst Bank, Sea-Land Service, Inc., Sears, Roebuck & Co., Securities Industry Association, Security Chain Co., Sellers Tractor Co., Semiconductor Industry Association, Sensormatic Electronic Corp., Separation & Recovery Systems, Integration, Service Merchandise Co., Inc., Shamash and Sons, Inc., Shanghai Industrial Consultant, Inc.

Shelcore Toys, Shelter Bay Leathers, Inc., Shoe Corporation of America, Shonac Corporation, Shultz Steel Company, Siebe Environment Controls, Siemans Corporation, Siemens Medical Systems, Inc., Sierra Machinery, Inc., Sierra Semiconductor Corp., SIFCO Industries, Inc., SigmsTron International, Inc., Sijo Enterprises, Inc., Sikorsky Aircraft Corporation, Silicon Graphics, Simco Electronics, Simmons and Simmons, Simmons Machine Tool Corporation, Skarda Equipment Co., Skyway Luggage Company, SLJ Retail LLC, SmarTrunk Systems, Inc., Soletek, Corp., Solid State Measurements, Inc., Soundprints (TMC), Southern Tier World Commerce Association, Southwest Manufacturing, Southwest Paper Co., Specialty Tool Company, Spectrum Associates Inc., SpeedFarm International Inc., Sperry Sun Drilling Services, Sporting Goods Manufacturers Association, Standard Parts & Equipment, Star Cutter Company, StarBase, Starbucks Coffee International, Starter-Galt Sand Co., State Fish Co., Stearman Aircraft Products Corporation, Sterling International, Sterling Machine Company Inc., Stern International, Inc., Stetron International, Inc., Stratedge Corp.

Stride Rite Corporation, The, Stride Tool, Inc., Strippit, Inc., Strombecker Corporation, Summit Financial Strategies, Sun Microsystems, Inc., Sundstrand Corporation, Sundstrand Fluid Handling Corp., Sunkist Growers, Sunshine Metals, Superior Boiler Works, Inc., Superior Coatings, Inc., Sutlu Imports Int'l Inc., Sweepster Inc., Sy Quest Technology, Inc., Symbios Logic, T.L.I. International Corporation, Talarian, Tampa Armature Works Inc., Tampa Electric, Tampa Port Authority, Taplin Design Group, Inc., Target Stores, TD Materials, Inc., Team Concepts North America, Ltd., Technitrol, Inc., Ted L. Rausch Co., Tegal Corp., Tektronix, Inc., Teleglobe International, Telemind Capital Corporation, TeleProcessing Products Inc., Temcor, TENNECO, Tennessee Association of Business, Tens Machine Co., Inc., Terra-Mar Resource Information Service, Texaco, Texas Association of Business & Chambers of Commerce, Texas Coalition for U.S.-China Commercial Relations, Texas Farm Bureau, Texas instruments Incorporated, Textron Inc., 3-G Inernational, Inc., 3M Company

Thornley & Pitt, Inc., Three Way Pattern, Inc., Tierney Metals, Time Warner Inc., The Timken Company, TMR Materials Co., Inc., Toledo Area International Trade Association (TAITA), Tomy America, Inc., Tone Commander Systems, Topline Imports, Inc., Toy Manufacturers of America, Toys 'R' Us, Inc., Tradehome Shoe Stores, Inc., Tramco, Inc., Transammonia, Inc., Trans-Ocean Import Co., Inc., Trans-Phos, Inc., Triangle Coatings, Inc., Trident Microsystems, TRIG, Trio Machine, TRW Inc., TSC Engineering Co., TSI, Inc., Tube Sales, Inc., Tucker MFG., Turner Electric Works, Twin Cities Airports Task Force, Tyco Preschool Inc., U.S. Agri-Chemicals Corp., U.S. Association of Importers of Textiles and Apparel (USA-ITA), U.S. Bank, U.S. Chamber of Commerce, U.S. Council for International Business, U.S.-China Industrial Exchange, Inc., U.S.-China People's Friendship Association, UNC Aerostructures, Uncle Milton Industries, Inc., UNIAX Corp., Union Camp Corporation, Union Carbide Asia Ltd., Unirex, Inc., Unisource, Unisys Corporation, United Airlines, United Machine Co., United Parcel Service, United Silicon, Inc., United States Council for International Business, United Technologies Corporation, Unitek Miyachi Corp., Universal Marketing Group, Unocal Corporation, US Export, Inc., US Trade Center, US Trading and Investment Company, US West, Inc., US-China Business Council, V7S Corporation, Valve Manufacturers Association, Varian Associates, Vector Corp., Vector Products Inc., Venture Search, Vermillion, Inc., Viewlogic Systems, Inc., Virco Mfg. Inc., Vtech (OEM), Inc., Vtech Industries, LLC, VXI Electronics, WACCO, Wacker Sitronic Corp., Wagman Construction, Inc., Warner-Lambert Corporation, Washington Council on International Trade, Washington Public Ports Association, Washington State China Relations Council, Water Magic International, Watkins-Johnson Company, The Weathervane, Weaver Manufacturing, The Westchester City, NY County Chamber of Commerce, Western Bank/Bellevue, Western Resources, Westinghouse Electric Corporation, Westvaco, Weyerhaeuser Company, Whirlpool Asia, Inc., Whirlpool Corporation, White Cap International, Whittaker Aerospace, Wichita Area Chamber of Commerce, Wichita Machine Products, Wichita Tool, Wichita Wranglers, Wicon International Ltd., Wilcox Brothers Sign Co., William Kent International, Wind River Systems, Inc., Windmere-Durable Holdings, Inc., Wm. F. Hurst Co., Inc., Wm. Wrigley Jr. Company, Woolworth Overseas Corp., World Association of Children and Parents (WACAP), World Trade Center Denver, World Trade Council, Worldports Inc., Worldwide Contacts Connections Contracts, Xerox Corporation, XILINX, Inc., YES! Entertainment Corporation, Zak, Incorporated, ZB Industries, Inc., Zellweger Analytics, Inc., Zycad Corp., Zymed Laboratories, Inc.

Ms. DELAURO. Mr. Speaker, we are considering the important matter of whether the United States should extend China's most-favored-nation trading status.

I want to build a strong relationship between the United States and China—a relationship under which American businesses and workers can prosper, a relationship which will encourage China to embrace international norms and human rights. But the MFN status China enjoys has done little to build a strong mutually beneficial relationship between our two nations.

Under MFN, China has engaged in unfair trade practices, pirated intellectual property, spread weapons and dangerous technology to rogue nations, suppressed democracy, encroached on democratic reforms in Hong Kong, and engaged in human rights abuses. Many sing the praises of MFN, but as we consider this issue, we must focus on the facts.

China has gladly profited from MFN while continually flaunting international agreements and standards of conduct. China sends one-third of its exports to the United States while only 1.7 percent of American exports can crack the Chinese market. The result: We now have a $40 billion trade deficit with China which is expected to reach a staggering $50 billion by the end of this year.

And this trade deficit will not go away as long as China rigs its laws to block goods from the United States. Chinese goods enter our country at an average tariff rate of 2 percent while our exports face an average tariff of 35 percent. Worse, China extorts technology and expertise from American firms as the price of doing business in China.

Congress has limited means to address our many and serious concerns regarding China. But China's exports to the United States of more than $50 billion per year give us leverage that we must use to further American interests—interests affecting trade, foreign policy, and American workers.

The United States must not give China a pass on the tough issues. We need to use our trade laws to pressure China for greater access for American companies and goods. We need to take action when China knowingly aids in the proliferation of weapons and weapons technology. And we need to take steps to shield American workers from unfair and inhumane prison labor.

I am voting against MFN for China because we need to let China and our trade leaders know that more of the same from China is not acceptable. If our Government wants support for free trade, then it must insist on fair and equal standards and compliance with our trade laws. When that happens there will be broader support for MFN.

Mr. BALLENGER. Once again, Mr. Speaker we find ourselves debating the renewal of most-favored-nation status for the People's Republic of China. It has become an annual exercise, one that exposes the deep division in our Nation over our relationship with the most populous nation in the world.

I am reluctantly going to vote against the resolution of disapproval, House Joint Resolution 79, authored by my esteemed colleague from New York, Mr. SOLOMON. I am reluctant because China is governed by an authoritarian regime which represses its people and brutally cracks down on dissent. I, like so many of my colleagues, want to take action to force China to change, to become democratic and to ensure that all the people of that nation have the opportunity to participate fully in economic social, political, and religious freedom. But, how do we accomplish this? Will terminating MFN status achieve these ends? I must reluctantly conclude that it will not.

I believe that the United States can do more to advance the cause of human rights and foster religious, economic and political freedom if we continue to engage the Chinese in economic cooperation. Social freedoms—like freedom of religion—are a direct result of economic liberalization. If we remove all of China's trade privileges, we are not only isolating that country, but we are losing any opportunity to improve human rights there. Let's not forget that many of the students that took to Tiennamen Square to protest against their Government were educated in the United States. Termination of MFN status would curtail the education of Chinese students in the United States and thus hinder future democratization in China.

I also believe that by terminating MFN we will hurt the American worker and consumer. Perhaps as much as $9 billion in United States exports to China might be affected by removing MFN privileges. In one company alone in my congressional district, 500 jobs would be at risk.

However, we must continue to pursue human rights in China and around the globe as an important foreign policy objective. Currently, some of my colleagues are drafting positive steps to influence more directly the domestic situation in China. An expansion of Radio Free Asia and other democracy-building efforts in China are among United States policy options. In addition, Congress is discussing the restriction of visas for Chinese nationals involved in Human rights violations and/or arms proliferation. It is my belief that these aggressive efforts to promote human rights are more likely to encourage constructive change in China.

Mr. Speaker, we must stay engaged with China to effect the economic and political situation there. Terminating MFN status will only be a useless gesture that will hurt the American worker. I urge my colleagues to vote down House Joint Resolution 79.

Mr. PACKARD. Mr. Speaker, I rise today in support of an issue that is of grave importance to me and to our Nation as a whole—most-favored-nation [MFN] status for China. Continuing normalized relations with China is not an affirmation of their record on human rights. It is, however, our best hope of maintaining a channel of democratic ideals and principles of freedom to China's citizens. Ending MFN would be a terrible loss for those fighting for freedoms in China.

If MFN were revoked, manufactured goods from China would be subject to high tariffs upon entering the United States, possibly triggering a retaliatory response. If we close our door, they will close theirs. That means American farmers and manufacturers will pay the price. For every product we sell, there is a supplier in Europe or Asia that can quickly pick up our discarded opportunities. We would literally be handing our global markets to our competitors.

Mr. Speaker, there has been a lot of speculation concerning the possible repression of freedom in Hong Kong when China reclaims its authority. I too am concerned and will be watching closely. But I am hopeful that Hong Kong's free and prosperous economy will actually further market reforms in mainland China. Revoking MFN now would be tragic for Hong Kong and would destroy any hopes for positive results.

Democratic and Western values often ride on the heels of American goods and products. Cutting our economic ties with China would turn the clock back and strengthen the hands of extreme nationalists and those who wish to repress freedoms. I strongly encourage all of my colleagues to support the continuation of MFN status for China.

Mrs. MINK of Hawaii. Mr. Speaker, I rise today to oppose the renewal of the most-favored-nation [MFN] trade status of the People's Republic of China because China continues to deny the greater part of its citizenry the most basic human rights; engages in the worst kinds of religious, political, and ethnic persecution; bullies neighboring countries; and undermines international stability by exporting missiles and nuclear technology to some of the world's leading rogue nations.

Every year, we are told that MFN promotes continued economic growth and human rights in the People's Republic of China. While MFN has helped China expand its economy, and improve the living standards of a relatively small number of its citizens, I believe it is an absolute leap of faith to argue that China's economic growth has benefited the vast majority of its 1.4 billion citizens who continue to be denied—sometimes forcibly—the freedom to think, speak, read, worship, and vote as they wish.

I simply cannot agree with those who argue that MFN will one day—some day—result in improved human rights in China as the Government of that vast nation continues to violate human rights on a massive scale.

For example, the people of Tibet have been subject to especially harsh treatment by the Chinese Government. Why? Because their culture and religion are inseparable from the movement that seeks full Tibetan freedom from China—a movement that has been brutally suppressed by the Chinese Government since the late 1940's, when armed Chinese forces drove the Dalai Lama, the head of Tibet's ancient theocracy, into exile.

Since then, the Chinese Government has stepped up its efforts to discredit the Dalai Lama as well as its campaign to eradicate the ancient culture and traditions of Tibet. In May 1994, a new ban on the possession and display of photographs of the Dalai Lama, resulted in a raid of monasteries in which Buddhists priests were brutally beaten by Chinese military personnel.

The child recognized by the Dalai Lama, but rejected by the Chinese Government, as the Pansen Lama, the second highest individual in the Tibetan Buddhist hierarchy, is currently being held in "protective custody" by Chinese authorities.

Since 1996, all religious institutions in China must register with the state. The failure to do so results in the closure of such institutions—or worse. For example, Human Rights Watch—Asia reports that unofficial Protestant and Catholic communities have been harassed, with congregants arrested, fined, sentenced, and beaten.

The sad fact is that after two decades after the United States and China normalized relations, China has persisted—no, insisted—on following policies that threaten to make it an increasingly disruptive force among the family of nations. China's continuing and growing practice of selling advanced weapons and nuclear technology to Iran, Iraq, and other rogue nations is already a threat to world peace.

Supporters of continued MFN for China argue that continued economic development in China will lead inevitably to a more open Chinese society and polity. Unfortunately, the current Chinese leadership seems willing and able to delay what MFN proponents insist is the inevitable.

It should be remembered that like China today, the old South Africa had a growing economy, a growing—albeit racially limited—middle class, a significant United States business presence, and a repressive government. And, just like the arguments supporting continued and increased trade with China, it was argued that continued and increased United States trade with the old South Africa would bring about the economic, social, and political reforms that would inevitably force the South African Government to dismantle apartheid—the policy of segregation and economic and political discrimination against non-European groups.

As we all know, the Government of the old South Africa continued—in fact, stepped up—its campaign of repression and terror, including kidnaping, torture, jailing, and murder, to maintain apartheid until 1987—that is, the year the Western World finally lost patience with the promises of progress made by the South African Government.

Just as constructive engagement failed to reform the old South Africa, continued MFN will fail to reform China. Because I believe only the strongest trade sanctions, including a worldwide trade embargo on China, will encourage China's leaders to change the policies that promise to transform China into the world's leading rogue nation, I will continue to work to suspend China's MFN status.

Mr. COYNE. Mr. Speaker, I rise in support of House Joint Resolution 79, the resolution of disapproval and against most-favored-nation status for China.

The Country Reports on Human Rights Practices for 1996 issued by the Department of State states that: "The Government—of China—continues to commit widespread and well-documented human rights abuses in violation of internationally accepted norms, stemming," among other reasons from "* * * the absence or inadequacy of laws protecting basic freedoms." And the report continues: "No dissidents were known to be active at year's end."

Every year when MFN is before the Congress for renewal we are told that it is only through engagement with China that conditions will improve and every year the State Department's report seems to indicate that conditions, engagement to the contrary notwithstanding, have changed little.

Further, the United States' trade deficit with China was close to $40 billion in 1996. And it is only recently and with an absence of enthusiasm that the Government of China has moved to protect the intellectual property rights of United States citizens. Also, the Chinese markets are not entirely open to United States exports and trade barriers prohibit the full flow of trade.

In summary, continued human rights violations, failure to protect intellectual property rights, and failure to permit United States goods greater access to China's markets leads me to conclude that renewal of MFN for China at this time is not warranted.

Mr. POMEROY. Mr. Speaker, I rise in opposition to House Joint Resolution 79, a resolution to revoke most-favored-nation [MFN] for the People's Republic of China.

First, it is important to be clear about the terms of this debate so it is well understood what is proposed by this resolution. Most-favored-nation is not preferential treatment, rather, it is the normal trade status that the United States extends to all but eight nations in the world. Revocation of MFN, on the other hand, is not the withdrawal of special trade concessions but the imposition of economic sanctions that would potentially sever our ties with the world's most populous nation.

With that understanding, we can have an honest debate about whether employing unilateral sanctions and ending our trade relationship with China will bring about the changes in Chinese behavior that we all wish to see—greater respect for human rights, adherence to trade agreements, and support for nonproliferation controls. In my view, revoking MFN in an attempt to isolate China is highly unlikely to induce positive change in China and is certain to harm United States economic and strategic interests.

Since China's opening to the West in the late 1970's, the political and economic conditions of the Chinese people have improved significantly. Through trade and contact with American business partners, individuals and communities in China, especially in the coastal regions, have gained substantial freedom from central government planners in Beijing. Severing those contacts would reverse that progress and have the effect of increasing Beijing's authority over the lives of the Chinese people.

Mr. Speaker, not only would revoking MFN fail to advance human rights in China, it would seriously injure United States economic interests. I am especially concerned about the effect revoking MFN would have American agriculture. China is expected to account for 37 percent of future growth in United States agriculture exports, making it the most important growth market for United States commodities. In last year's farm bill, Congress eliminated the safety net and told family farmers they would have to earn their income solely from the marketplace. It would be unfair to the farmers in my State and around the country to now close down perhaps their most important export market.

Mr. Speaker, I ask my colleagues to join me in advancing the interest of both the people of the United States and the people of China by opposing the resolution and continuing normal trade relations with China.

Mr. BARRETT of Nebraska. Mr. Speaker, I rise in strong opposition to this resolution which would end normal trade relations with China.

Trade with China is about trading goods and trading ideas—ideas of religious freedom, free speech, and a free-market economy. Ending trade means an end to this exchange of ideas, and an end to the freedoms we hope the Chinese people may one day have.

While the biggest losers of ending trade with China may be the Chinese people, we here at home also stand to lose. And this is so clearly illustrated in agriculture trade.

We will lose our sixth biggest agriculture export market and $2.6 billion in annual trade. Our farmers here at home would lose more than $4 billion in income in the next 3 years. While we would have to work doubly hard to expand our markets elsewhere, the average Chinese citizens would end up having to pay a higher price at the store for food.

And that's what this debate is about today—how can we help improve the living conditions of the average Chinese citizen. We can cease trade, cease our exchange of ideas and know that the practioners of abhorrent human rights abuses will use this vote as an excuse to further punish supporters of trade with America.

Or we can stand tall and know that trade with China is the biggest opportunity we have to move China in the direction we want. I encourage my colleagues to vote against this misguided resolution.

Mr. MARKEY. Mr. Speaker, I wish to convey my strong support for the disapproval of most-favored-nation status for China.

Six days from now, China will gain considerable strength nationally and internationally with the inclusion of Hong Kong. By approving most-favored-nation status, we will be using the power of the United States of America to condone their misbehavior not only in China, but its extension into Hong Kong as well. Let's just review China's record.

First on nonproliferation, in the 1980's, we received information that China was covertly assisting Pakistan's shadowy nuclear program. China promised it would mend its ways, and in return we signed a Nuclear Cooperation Agreement in 1985—an agreement which has never been implemented throughout its 12 year existence because no U.S. President has ever been able to certify that China is being a responsible member of the international nonproliferation community.

In the 1980's, the Chinese National Nuclear Corporation secretly built a nuclear reactor in Algeria. After a multitude of denials, China finally admitted its involvement in the reactor construction—only after aerial photographs identified it in 1991. Another lie exposed.

In 1994, after China had signed the Nuclear Nonproliferation Treaty, press reports indicated that the Chinese National Nuclear Corporation was building a secret military reactor in Pakistan, as well as two reactors and a uranium facility in Iran. More promises broken.

In 1996, the transfer of 5,000 ring magnets from the Chinese National Nuclear Cooperation to Pakistan for use in a uranium enrichment facility was leaked to the press. China promised that it wouldn't do it again, and the Clinton adminsitration chose to believe those promises, despite the years of deception that should have called the nature of China's assurances into question.

In the area of missile proliferation, a press report published just last week described a new short-range missile being developed by Iran with the help of technology and assistance from the China Precision Engineering Institute New Technology Corporation. China has been selling M–11 missiles to Pakistan for 5 years, according to a June 30 article in Time magazine, and recent satellite photos indicate that not only are missiles being transferred, but that an entire missile factory is being built. This latest information comes after the all too familiar series of promises Beijing made in 1994 not to do it anymore.

Years of lies, years of broken promises—what we have here is a proliferation pathology. China is as hooked on selling weapons of mass destruction as an alcoholic is to his scotch. We need to prescribe the appropriate therapy, and as with alcoholism, it will take more than a 12-step self-help program at a proliferators anonymous group. The alcoholic will first promise to cut down on his drinking. When he gets caught, he'll make the same promise. If he keeps getting caught, he'll up the ante and promise to stop cold turkey. When does the alcoholic really stop drinking? When an intervention take place. When his family and friends tell him that they will no longer support, accept, or tolerate his behavior, and he is forced to confront his addiction honestly in order to regain their love and trust. Mr. Speaker, what we need to do with China is undertake a proliferation intervention.

On trade, every year we are told that renewing China's most-favored-nation status would help reduce our trade deficit with China; however, we have seen that trade deficit rise from $2.8 billion in 1987 to $39.5 billion in 1997.

Supporters claim that MFN is normal trade relations. These so-called normal relations produce a 2-percent tariff on Chinese goods, but the Chinese levy a 35-percent average tariff rate on United States goods.

In 1996, Chinese piracy of United States intellectual property cost our economy over $2.3 billion.

The Chinese have continually used this status to their advantage, including the most recent development of Chinese military owned business' selling enormous amounts of goods to the United States, all because we allow it.

These normal trade relations produce nothing but negative effects on our economy, and we can no longer stand idly by and let our country move further into debt.

Finally on human rights, we have an obligation to promote human rights throughout the world. To support China in its practice of suppressing democracy, and encouraging slave labor would be a contradiction of everything our country stands for.

The State Department Country Report on Human Rights from this year states that the Chinese Government continued to commit widespread and well-documented human rights abuses, in violation of internationally accepted norms, stemming from the authorities' intolerance of dissent, fear of unrest, and the absence or inadequacy of laws protecting basic freedoms.

Mr. Speaker, we can not continue to support the abhorrent practices in China, economically or abstractly.

We are told to wait and see what happens when Hong Kong changes hands, but the players have already moved to centerfield. Already the hand picked legislature for Hong Kong has given the police broad new powers to ban even peaceful demonstrations, and any group wishing to hold a protest march or rally must get prior approval from the police.

Granting MFN status to China now would be like buying your 16-year-old a Porshe for flunking out of high school. It only reinforces bad behavior and leads to big trouble down the road.

China is speeding up down the runway, ready to take off with Hong Kong. There is no justification for renewing China's most-favored-nation status until they have proven to abide by international standards and practices. We should not be handing them MFN on a silver platter, they must earn it.

Every year on the day after we grant China MFN status, the Chinese Government votes to grant the United States MFN for most-foolish-nation status for being duped again on nonproliferation, trade, and human rights.

Mr. Speaker, I rise in opposition to granting China most-favored-nation status.

Back in the 1980's, we received information that China was covertly assisting Pakistan's shadowy nuclear program. China promised it would mend its ways, and in return we signed a nuclear cooperation agreement in 1985—an agreement which has never been implemented throughout its 12 years existence because no United States President has ever been able to certify that China is being a responsible member of the international nonproliferation community.

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In 1996, the transfer of 5,000 ring magnets from the Chinese National Nuclear Cooperation to Pakistan for use in a uranium enrichment facility was leaked to the press. China promised that it wouldn't do it again, and the

Clinton administration chose to believe those promises, despite the years of deception that should have called the nature of China's assurances into question.

In the area of missile proliferation, a press report published just last week described a new short-range missile being developed by Iran with the help of technology and assistance from the China Precision Engineering Institute New Technology Corporation. China has been selling M–11 missiles to Pakistan for 5 years, according to a June 30 article in Time magazine, and recent satellite photos indicate that not only are missiles being transferred, but that an entire missile factory is being built. This latest information comes after the all too familiar series of promises Beijing made in 1994 not to do it anymore.

Years of lies, years of broken promises—what we have here is a proliferation pathology. China is as hooked on selling weapons of mass destruction as an alcoholic is to his scotch. We need to prescribe the appropriate therapy, and as with alcoholism, it will take more than a 12 step self-help program at a proliferators anonymous group. The alcoholic will first promise to cut down on his drinking. When he gets caught, he'll make the same promise. If he keeps getting caught, he'll up the ante and promise to stop cold turkey. When does the alcoholic really stop drinking? When an intervention takes place. When his family and friends tell him that they will no longer support, accept, or tolerate his behavior, and he is forced to confront his addiction honestly in order to regain their love and trust.

Mr. Speaker, what we need to do with China is undertake a proliferation intervention. We need to exercise some tough love, and tell China that we have had enough of the empty assurances and broken promises. Let's get China onto the nonproliferation wagon—vote to revoke MFN status.

Mr. COSTELLO. Mr. Speaker, I rise today in support of the resolution to disapprove most-favored-nation status for China. Last year, I opposed efforts to grant this privilege to China, and following a trip I made to China earlier this year, I continue to have reservations about extending this status.

Since the 1989 Tiananmen Square massacre, concern in Congress about the United States-China relationship has focused on three areas: China's violations of our trade agreements, proliferation of weapons of mass destruction, and human rights abuses. During last year's debates on China MFN status, a resolution was passed urging the appropriate House committees to hold hearings and offer recommendations on these areas. While congressional hearings and commissions have met and many reports been issued, in each of these areas where Chinese violations have occurred, it is clear that our national policies of constructive engagement have failed. In fact, there has been marked deterioration, not improvement, under recent policies.

Looking from the economic perspective, the United States deficit with China has steeply climbed from $3 billion at the time of the Tiananmen Square massacre in 1989 to over $50 billion projected for 1997. Less than 2 percent of United States exports are allowed into China, while over 33 percent of China's exports come into the United States. China's high tariffs and nontariff barriers limit access to the Chinese market for most United States goods and services and violate the GATT agreement. We must take action to assure that from the economic standpoint we have a level playing field.

Second, I am concerned about Chinese efforts to transfer nuclear, advance missile, chemical, and biological weapons technology to nations like Iran and nonsafeguarded nations like Pakistan. China is the largest nuclear power in the world and the only nation which produces long-range nuclear missiles. The United States spends billions to promote Middle East peace, and Iran is a threat to that peace. We cannot continue to ignore China's transfer of dangerous technology to that region. Such activity threatens to destabilize not only our Nation but other regions of the world.

Most importantly, human rights issues continue to concern me. The State Department's most recent issue of the Country Reports on Human Rights reveal that Chinese authorities have increased efforts to curtail public protests or criticism of the government. There has been increased persecution of evangelical Protestants and Roman Catholics in China who choose to worship independently of the government-controlled church. In addition, officials there ruthlessly enforce laws limiting families to having one child. It is well-documented that individuals who gave birth to a second child there experienced loss of job or government benefits, fines and in some cases forced sterilization. The freedoms we often take for granted in America are what makes this Nation such a wonderful place to live. As a national policy, I do not support offering economic incentives to a nation which discourages and disallows the freedom for individuals to express themselves.

Our Nation has a responsibility to use its leverage to act on behalf of fairness and must insist on a reciprocal relationship with China. It is my strong desire that once and for all these three issues can be addressed so that both countries can have a satisfactory trade relationship. However, this will not happen by once again overlooking the serious problems that are occurring in China. A recent poll by *Business Week* magazine shows that 67 percent of the American people oppose MFN for China. Let's do what the American people want and deny MFN status for China.

Mr. METCALF. Mr. Speaker, today I will cast one of the most difficult votes during my tenure in Congress when I vote to grant most-favored-nation status to China. "Most-favored-nation status" is a misnomer, the vote is actually whether or not to continue a normal trading relationship with China.

There are many reasons to deny even a normal trading relationship with China. The lack of respect for the sanctity of human life, the lack of free speech or assembly, and the targeting and persecution of Christians are all good reasons to deny a normal trading status.

But there is another side. To stop trade with China will further isolate and remove any pressure the United States has to improve their system. The vote on a normal trading status with China is a decision that will dictate how the United States chooses to support and help bring the citizens of China out of the oppressive world they are born into and show them the light of democracy. It is a decision that will affect the stability of Asia for the foreseeable future. This decision is a choice between supporting the economic miracles in Taiwan and Hong Kong or walk away from the situation entirely. It is a decision to protect American jobs in Puget Sound or threaten their very existence.

I will cast my vote in favor of a normal trade relationship with China for many reasons including the ones detailed below.

WASHINGTON STATE

Washington State is the most trade dependent State in the United States. Recent studies have concluded that 1 out of every 4 jobs in Washington State are dependent on trade. In fact, trade between Washington State and China represented over 20 percent of the total trade between the two countries. The economic well being and continued growth of the State economy are closely linked to a continuation of trade with China.

Mr. Speaker, over 30,000 employees work in my district for the Boeing Co. Many on this floor have targeted the Boeing Co. as a reason to deny MFN from China. In a letter that I requested from Boeing asking the hard questions about the welfare of American workers in Puget Sound, I was informed that in this year alone over $1 billion in contracts for American-made Boeing aircraft have been solidified with China. Further, 70 percent of all commercial sales of Boeing aircraft are sold overseas.

However, impressively over 85 percent on average of the contents of these aircraft are from the United States and they are all assembled in the Puget Sound region. These are impressive statistics and I intend to follow through on these numbers—and Mr. Speaker, I include the letter for the RECORD.

RELIGIOUS FREEDOM

Finally, religious freedom demands the continuation of a normal trade relationship. China is guilty of the persecution of Christians and I condemn their behavior. However, to walk away from the success that Christian missions have enjoyed in China will not help curb this practice. The Reverend Billy Graham has stated that he is "in favor of doing all we can to strengthen our relationship with China and its people." He continues, "nations respond to friendship just as much as people do."

The China Service Coordinating Office, an organization that represents more than one hundred Christian organizations in China believes that the revocation of MFN will threaten Christian outreach to the mainland. I must look to those missionaries who are carrying out their Christian ministry every day on the ground, in the trenches and trust they understand what is best for the persecuted Christian minority in China. They support the continuation of a normal trading relationship with China.

OUR FUTURE RELATIONSHIP WITH CHINA

The United States of America must pursue a new policy with China. In order to effect real change, we must end this yearly debate on a normal trading relationship and pursue a pragmatic policy that reacts swiftly and certainly against Chinese infractions against its citizens and the global community.

We must enact legislation to prohibit business with Chinese companies tied to the Chinese Red Army. We must deny visas to human rights abusers in China to enter the United States. We must increase funding to democratic institutions dedicated to bringing the message of democracy to the Chinese people. We must react swiftly to any violation of trade agreements by enacting targeted sanctions against China. Only through bringing about change such as these will we support real change in China.

THE BOEING COMPANY,
Arlington, VA, June 20, 1997.
Hon. JACK METCALF,
Longworth House Office Building, U.S. House of Representatives, Washington, DC.

DEAR CONGRESSMAN METCALF: I want to take the opportunity to respond to your recent inquiry concerning the Boeing Company and how our relationship with China affects jobs at our Everett, Washington facility.

We are an American company with a global presence competing in a global market. We sell our products worldwide and support hundreds of thousands of American aerospace jobs. Today, about 70% of our sales are international. In the future, $3 out of every $4 we make will be from customers outside the United States.

The Boeing Company considers China to be the single most important international market for commercial airplane sales in the next 20 years. China has need for about 1,900 new airplanes, valued at $124 billion. This year alone we've signed orders for over a billion dollars worth of airplanes to China, including five 777s and two 747s—all made at our Everett facility.

We have 32,000 employees working in Everett, including engineers, machinists, pilots and technicians. Their jobs are dependent on our ability to sell airplanes. The Boeing Commercial Airplane Group also has approximately 5,000 U.S. suppliers who help contribute to building our airplanes. A small percentage of our suppliers are located outside the United States, including six in China.

While Chinese suppliers are responsible for a portion of the work done by our international suppliers, the majority of the work on our airplanes occurs here in the United States. In fact, 86% of the dollar value (parts, tools and labor) of Boeing commercial aircraft in 1996 was provided by Boeing and U.S. aerospace suppliers.

It is important to note that Boeing will retain the key engineering, design and product-integration expertise that has made us the world's leading producer of commercial jetliners. We will not transfer any technologies or core competencies that would help a supplier become a competitor.

A stable relationship between China and the United States will directly affect our ability to sell airplanes in China—which in turn affects jobs at Boeing.

Beyond jobs, trade is a powerful force for human progress, representing the free exchange of goods, services and ideas. MFN extension will help to assure that we can remain engaged and competitive in China, and will also lay the groundwork for concluding World Trade Organization (WTO) negotiations that will help lock in China's economic reform process, improve the rule of law and improve market access for U.S. workers and farmers. In our view, trade is the best tool we have for promoting American values in China.

I want to thank you for the opportunity to address some of your questions, and your continued interest and efforts on behalf of the Boeing Company and its employees.

Sincerely,
CHRISTOPHER W. HANSEN,
Vice President,
U.S. Government Affairs.

Mr. CONDIT. Mr. Speaker, I rise today to cast my vote against most-favored-nation trade status for China. We have hoped that a policy of trade engagement with China would lend to greater democracy in China and greater responsibility from the Chinese government. It has not.

China's human rights record leaves much to be desired. There is clear evidence of persecution of religious belief, persecution of the people of Tibet, use of prison labor, and a restricted press. Additionally, our dialogue and willingness to engage China in trade has made no discernible impact in the area of human rights.

China continues to engage in predatory trade practices that have led to our $40 billion trade deficit with China. China refuses to enforce laws against the piracy of intellectual property and patents, continues to ship products made with prison labor, evades United States restrictions on China textile exports by transshiping pieces through Hong Kong, and effectively prohibits thousands of foreign products from entering the Chinese market through a maze of regulations which run counter to the General Agreement on Tariffs and Trade. Our trade deficit with China has been rising at a faster rate than that of any other major trading partner. How many more American jobs are we going to let China's repressive government destroy?

It is clear that countless extensions of the MFN trading privilege—a privilege China needs more than we do—have not worked. Our yearning for friendship and our attempts to persuade Beijing to conform to international norms have been met with failure.

China continues to increase spending on the military, and seems intent on developing an offensive military capability—financed by billions of dollars the regime makes through its managed trade with us. Beijing refuses to join international efforts to stem the proliferation of nuclear arms, continues to transfer advanced ballistic missile technology to Syria and Pakistan, provides nuclear and chemical weapons technology to Iran, and refuses to comply with the Nuclear Non-Proliferation Treaty.

The United States has a responsibility to use whatever leverage it has—military, diplomatic, or economic—to send this message. We have a responsibility to speak out for democracy wherever possible. For in the end, the argument over MFN is not just about what kind of country China is, it is about what kind of nation we are. China needs to be sent a loud, unequivocal message—a message that can only be delivered by revoking Beijing's MFN status.

Mr. FRELINGHUYSEN. Mr. Speaker, I rise in support of MFN for China. I rise in support of the common sense proposition that we continue to normalize trade relations with the People's Republic of China.

We live in a global economy and it simply makes no sense to turn our back on a nation of 1 billion people. It is in our national security interests as well as our economic interest that we have normal relations.

We are all concerned about human rights and individual freedom, but the best way to promote those causes is to be present in China with our values and our products.

In my district alone, I have heard from large and small companies whose future for products and jobs largely depends on new markets.

I can think of no more important export to China than each and every example of the American success story.

Mr. Speaker, I agree with the statements of the President in his letter to Congress of June 11, 1997:

> Our engagement with China does not mean that we endorse all of its policies. Where China has acted contrary to our interests and the standards of international behavior, we have made clear our differences. We successfully pressed China to end its assistance to unsafeguarded nuclear facilities in third countries. We insisted that it take strong steps to protect the intellectual property rights of American videotape and compact disc makers from piracy. When China carried out provocative military exercises in the Strait of Taiwan, we sent our aircraft carriers to the region as a reminder of our commitment to stability and a peaceful resolution to the Taiwan issue. And repeatedly, we have stood up for human rights in China—at the United Nations Human Rights Commission in Geneva; through the State Department's unvarnished annual human rights reports; in our meetings with China's leaders. We will continue to use all the tools at our disposal—cooperation, diplomacy, targeted sanctions, when appropriate—to narrow our differences.
>
> Ending normal trade treatment for China would end our strategic dialogue—blocking cooperation on issues important to America's interests and destroying our ability to promote China's fuller observation of international norms. Rather than advancing human rights, revocation would cut off our contact with the Chinese people. It would eliminate, not facilitate, further cooperation on preventing weapons proliferation, promoting stability on the Korean peninsula, and combating transnational threats to both our countries. It would close one of the world's emerging markets to our exports and endanger an estimated 170,000 American jobs. It would make China more isolated and less likely to play by the rules of international conduct.
>
> Most of the opponents of normal trade treatment for China seek goals that I share—respect for human rights and religious freedom in China; fair and open trade; responsible policies on weapons proliferation. But I am convinced the path they have chosen to advance those goals is the wrong path. Further change in China is necessary and inevitable, but it will not come overnight. It most assuredly will not come if we isolate ourselves and cut off our relationship with one quarter of the world's population.

I urge my colleagues to oppose this resolution and support MFN for China.

Mr. RYUN. Mr. Speaker, I rise today to address a very difficult issue that we've been wrestling with for some months now. As a freshman, this is my first vote on most-favored-nation status for China. And I have listened very carefully to both sides on this matter.

This has been a very healthy debate. It is a debate about religious freedom and human rights in China as well as about how to promote democracy and economic freedom throughout the world.

I agree with the many missionaries in China who have told me personally that denying MFN status to China would only isolate that country, pushing it further from our ideals of religious freedom and democracy. I do not believe that slamming the door to freedom and trade would improve human rights in China. Instead, it would close off the avenues of greater Western influence.

In a recent memo, a group opposing the renewal of MFN to China quoted an editorial from the Economist which stated:

> If you hear your neighbor beating up his children, do you give a shrug and say it is none of your business?

My answer is absolutely no. And I hope that all of us here would go next door and try to stop the abuse. That's how the United States should deal with China. To deny MFN would be to shrug and say that the human rights abuses are not our problem. Some have argued that we should ignore the violations, pull up our drawbridge, put on our blinders and turn inward, leaving China to continue its policies of persecution and population control. We have been down that road. And what did it produce? A decade-long terror called the Cultural Revolution.

I believe the best way to affect change in China—morally, economically and politically—is through interaction with the Chinese. We should demonstrate the American way of integrity, honesty, and openness.

Today, United States exports of goods and services to China total about $14.4 billion and support over 200,000 jobs. Kansas exports to China in 1996 were $53.2 million, up from $6 million in 1990. And China is my State's 13th largest trading partner.

Let's make sure that in our zeal to rap the knuckles of the Chinese Government, that we do not slam the American farmer and manufacturer with a 2 by 4 and cause the loss of thousands of American jobs. We need only be reminded of the Soviet grain embargo imposed by President Carter in the 1980's. I can assure you that Kansas wheat farmers have not forgotten it.

I believe there are more effective ways to foster freedom and curb human rights abuses in China. We should: First, ban companies controlled by the Chinese military from commercial activity in the United States; second, deny visas to Chinese officials involved in human rights abuses, religious repression or population control or who engage in selling high-tech weaponry; and third, increase exchange programs for Chinese students to come to the United States.

So, by renewing MFN status, we choose to go next door and persuade our neighbor to treat his children lovingly. The United States should remain a positive influence on its neighbor by keeping our doors open to demonstrate how families in a free and prosperous nation live together in peace.

Let us remember the words of President Reagan in his last State of the Union Address:

> One of the greatest contributions the United States can make to the world is to promote freedom as the key to economic growth. A creative, competitive America is the answer to a changing world, not trade wars that would close doors, create great barriers, and destroy millions of jobs . . . Where others fear trade and economic growth, we see opportunities for creating new wealth and undreamed-of opportunities for millions in our own land and beyond. Where others seek to throw up barriers, we seek to bring them down; where others take counsel of their fears, we follow our hopes.

After much prayerful thought, I will vote in favor of extending most-favored-nation status to China.

I urge my colleagues to support normal trade relations with China in hopes of continuing our influence of religious and economic freedom.

Mr. SMITH of Oregon. Mr. Speaker, I rise in opposition of House Joint Resolution 79, a resolution of disapproval of most-favored-nation [MFN] status for products from China. I believe that it is in the best interest of United States agriculture to continue, and eventually expand, the current trading relationship with China.

United States agriculture exports to China were $2 billion last year, a significant increase over 1993 United States exports of less than one-half of $1 billion. China represents an agriculture market that is vital to the success of our farmers and ranchers. Our agriculture trade with China can strengthen development of private enterprise in that country and bring China more fully into world trade membership.

There are few countries that do not have unconditional MFN status with the United States. MFN status allows a country's products to enter into the United States at the same tariff rates that apply to other trading partners. In fact, MFN provides no special treatment. It allows us to treat all countries' imports in the same manner. Failure to do so often has a serious negative impact on American agriculture, the first to feel the impact of embargoes and retaliation.

It is my intention to work toward the goal of ensuring regular and ongoing trade with China. In fact, the committee has been working closely with the Secretary of Agriculture and the United States Trade Representative on matters related to China's accession to the World Trade Organization. Several issues related to nontariff trade barriers must be resolved prior to any accession.

International trade is important for American agriculture and for the success and prosperity of American farmers and ranchers. I urge my colleagues to reject House Joint Resolution 79.

Mr. KIM. Mr. Speaker, I rise in strong opposition to the resolution.

Earlier this year, I traveled to China, Hong Kong and Taiwan with Speaker GINGRICH and a dozen of my colleagues. At each stop, it was impressed on us how important MFN for China is. People in both Taiwan and Hong Kong pleaded with us not to cut off trade with China. It is extremely important to them.

Why? Because they have billions of dollars worth of investment in China and Hong Kong. So do we.

What do we gain by denying trade with China? Yes, some countries don't have MFN—such as Iran, Iraq, Libya, North Korea and Cuba—countries that the State Department has listed as sponsors of international terrorism.

Do we want to include China in the same category? Maintaining strong relations with China is of great importance to providing long-term stability to the Asia-Pacific region. MFN is not a privilege, it is to maintain normal trade relations.

The SPEAKER pro tempore (Mr. LAHOOD). All time has expired.

Mr. DREIER. Mr. Speaker, I ask unanimous consent that if proceedings on the Journal resume immediately after an electronic vote on another question, then the minimum time for any electronic vote on agreeing to the Speaker's approval of the Journal may be 5 minutes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. Pursuant to sections 152 and 153 of the Trade Act of 1974, the previous question is ordered on the joint resolution.

The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the joint resolution.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. BUNNING. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to the order of the House of earlier today, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of the Speaker's approval of the Journal.

The vote was taken by electronic device, and there were—ayes 173, noes 259, not voting 3, as follows:

[Roll No. 231]

AYES—173

Abercrombie
Aderholt
Barcia
Barr
Bartlett
Barton
Berman
Bishop
Blunt
Bonior
Bono
Borski
Brown (OH)
Bunning
Burr
Burton
Cardin
Carson
Chambliss
Chenoweth
Clay
Clayton
Clyburn
Coburn
Collins
Condit
Cook
Costello
Coyne
Crapo
Cubin
Cummings
Danner
Davis (IL)
Deal
DeFazio
Delahunt
DeLauro
Dellums
Diaz-Balart
Dickey
Doolittle
Duncan
Ehrlich
Engel
Ensign
Evans
Everett
Forbes
Fowler
Frank (MA)
Ganske
Gejdenson
Gephardt
Gibbons
Gillmor
Gilman
Gonzalez
Goode
Goodling
Gordon
Graham
Gutierrez
Hall (OH)
Hastings (FL)
Hefley
Hefner
Hilleary
Hilliard
Hinchey
Hobson
Horn

Hostettler
Hoyer
Hunter
Hyde
Inglis
Jackson (IL)
Jones
Kaptur
Kasich
Kennedy (MA)
Kennedy (RI)
Kildee
Kilpatrick
King (NY)
Kingston
Klink
Klug
Kucinich
Lantos
Lewis (GA)
Lewis (KY)
Lipinski
LoBiondo
Maloney (CT)
Markey
Mascara
McCarthy (NY)
McInnis
McIntyre
McKinney
Menendez
Miller (CA)
Mink
Molinari
Mollohan
Myrick
Nadler
Norwood
Obey
Olver
Owens
Pallone
Pappas
Parker
Pascrell
Paxon
Payne
Pelosi
Pickering
Pombo
Rahall
Riley
Rivers
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Royce
Sabo
Sanchez
Sanders
Sanford
Scarborough
Schaffer, Bob
Scott
Sensenbrenner
Sisisky
Smith (MI)
Smith (NJ)
Smith, Linda
Solomon
Souder
Spence
Spratt
Stark
Stearns
Stokes
Strickland
Stupak
Taylor (MS)
Thompson
Tiahrt
Tierney
Torres
Traficant
Upton
Velázquez
Vento
Visclosky
Wamp
Waters
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Wexler
Weygand
Wolf
Woolsey
Wynn

NOES—259

Ackerman
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barrett (NE)
Barrett (WI)
Bass
Bateman
Becerra
Bentsen
Bereuter
Berry
Bilbray
Bilirakis
Blagojevich
Bliley
Blumenauer
Boehlert
Boehner
Bonilla
Boswell
Boucher
Boyd
Brady
Brown (CA)
Brown (FL)
Bryant
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Castle
Chabot
Christensen
Clement
Coble
Combest
Conyers
Cooksey
Cramer
Crane
Cunningham
Davis (FL)
Davis (VA)
DeGette
DeLay
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Dreier
Dunn
Edwards
Ehlers
Emerson
English
Eshoo
Etheridge
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Flake
Foglietta
Foley
Ford
Fox
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Gekas
Gilchrest
Gingrich
Goodlatte
Goss
Granger
Green
Greenwood
Gutknecht
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Herger
Hill
Hinojosa
Hoekstra
Holden
Hooley
Houghton
Hulshof
Hutchinson
Istook
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Kanjorski
Kelly
Kennelly
Kim
Kind (WI)
Kleczka
Knollenberg
Kolbe
LaFalce
LaHood
Lampson
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Linder
Livingston
Lofgren
Lowey
Lucas
Luther
Maloney (NY)
Manton
Manzullo
Martinez
Matsui
McCarthy (MO)
McCollum
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McIntosh
McKeon
McNulty
Meehan
Meek
Metcalf
Mica
Millender-McDonald
Miller (FL)
Minge
Moakley
Moran (KS)
Moran (VA)
Morella
Murtha
Neal
Nethercutt
Neumann
Ney
Northup
Nussle
Oberstar
Ortiz
Oxley
Packard
Pastor
Paul
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickett
Pitts
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Rodriguez
Roemer
Roukema
Roybal-Allard
Rush
Ryun
Salmon
Sandlin
Sawyer
Saxton
Schaefer, Dan
Schumer
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Skaggs
Skeen
Skelton
Slaughter
Smith (OR)
Smith (TX)
Smith, Adam
Snowbarger
Snyder
Stabenow
Stenholm
Stump
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Thurman
Towns
Turner
Walsh
Watkins
Weldon (PA)
Weller
White
Whitfield
Wicker
Wise
Young (AK)
Young (FL)

NOT VOTING—3

Cox
Schiff
Yates

□ 1550

Mr. GILCHREST, Ms. PRYCE of Ohio, and Messrs. SUNUNU, LARGENT, TAUZIN, LEWIS of California, and BECERRA changed their vote from "aye" to "no."

Mr. BURTON of Indiana, Mrs. McCARTHY of New York, and Mr. TORRES changed their vote from "no" to "aye."

So the joint resolution was not passed.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. TAYLOR of North Carolina. Mr. Speaker, on rollcall vote 231, House Resolution 79, to disapprove most-favored-nation treatment to the products of the People's Republic of China, I was recorded as voting "no", it was my intention to vote "yes", to deny MFN to China.

THE JOURNAL

The SPEAKER pro tempore (Mr. LAHOOD). Pursuant to clause 5 of rule I, the pending business is the question of the Speaker's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. UPTON. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 369, noes 59, not voting 6, as follows:

[Roll No. 232]

AYES—369

Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Boswell
Boucher
Boyd
Brady
Brown (FL)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Coyne
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeGette
Delahunt
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
Eshoo
Etheridge
Evans
Ewing
Farr
Fattah
Fawell
Flake
Foley
Forbes
Ford
Fowler
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Greenwood
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Herger
Hill
Hilleary
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
Meehan
Meek
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Obey
Ortiz
Owens
Oxley
Packard
Pappas
Parker
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Rangel
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Ryun
Salmon
Sanchez
Sanders

Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schumer
Scott
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stearns
Stenholm
Stokes
Stump
Talent
Tanner
Tauscher
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Vento
Walsh
Wamp
Watkins
Waxman
Weldon (FL)
Weldon (PA)
Wexler
Weygand
White
Whitfield
Wise
Wolf
Woolsey
Wynn
Young (AK)
Young (FL)

NOES—59

Abercrombie
Borski
Brown (CA)
Brown (OH)
Clay
Clayton
Costello
Cummings
DeFazio
English
Ensign
Everett
Fazio
Filner
Foglietta
Fox
Gephardt
Gibbons
Green
Gutknecht
Hastings (FL)
Hefley
Hefner
Hilliard
Hulshof
Johnson, E. B.
Kilpatrick
Kucinich
Lewis (GA)
LoBiondo
Maloney (NY)
McDermott
McNulty
Moran (KS)
Oberstar
Olver
Pallone
Pascrell
Pickett
Pombo
Poshard
Ramstad
Redmond
Rush
Sabo
Schaffer, Bob
Sessions
Stark
Stupak
Sununu
Taylor (MS)
Thompson
Velazquez
Visclosky
Waters
Watt (NC)
Watts (OK)
Weller
Wicker

NOT VOTING—6

Bass
Cox
Leach
Schiff
Strickland
Yates

☐ 1559

The Clerk announced the following pairs:

So the Journal was approved.

The result of the vote was announced as above recorded.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1998

The SPEAKER pro tempore (Mr. LAHOOD). Pursuant to House Resolution 169 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 1119.

☐ 1600

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 1119) to authorize appropriations for fiscal years 1998 and 1999 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal years 1998 and 1999, and for other purposes, with Mr. YOUNG of Florida in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Monday, June 23, 1997, the amendments en bloc offered by the gentleman from South Carolina [Mr. SPENCE] had been disposed of.

It is now in order to debate the subject matter of United States forces in Bosnia.

The gentleman from South Carolina [Mr. SPENCE] and the gentleman from California [Mr. DELLUMS] each will control 30 minutes.

The Chair recognizes the gentleman from South Carolina [Mr. SPENCE].

Mr. SPENCE. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, today Congress will cast its first significant votes on our United States policy in Bosnia since the President extended deployment of our United States ground troops to that war-torn land last winter.

Today's votes will not be an expression of support for the mission, although our troops are doing well and we surely all support them. Nor will today's votes express the sense of the House or sense of the Congress. Rather, today's votes will call for the withdrawal of U.S. ground troops from a peacekeeping operation of growing expense and seemingly unending duration.

Our Armed Forces have done all that they can to help bring peace to Bosnia and in the Balkans. With consummate professionalism under trying circumstances, our troops and NATO troops have enforced the military provisions of the Dayton peace agreement. As a result of their efforts, the military tasks required by the Dayton accord, the separation of the warring parties, the collection and destruction of heavy weapons, and the transfer of territories have all been completed.

But the remaining tasks, the civilian, humanitarian and political reconstruction of Bosnia, are beyond the capabilities of our troops, unless we are prepared to remain in Bosnia for decades. In recent months, our military commanders have added tanks to the stabilization force in Bosnia and have made plans to postpone the transition to the smaller, lighter deterrent force that was supposed to take over when the United States ground mission ended in fiscal year 1998.

Just last month, a top NATO commander told the New York Times, and I quote: "It would be a mistake to say that there is peace in Bosnia. We have only the absence of war. We gave the civilian officials the time and the space it carry out the Dayton agreement, but they failed. Nothing has been accomplished."

This is a startling and frank admission. But we have not failed for want of effort. Since the United States military involvement in Bosnia and the Balkans began with the imposition of Operation Sharp Guard blockade back in 1992, more than 100,000 American soldiers, sailors, airmen and marines have seen duty in that theater of operations. That is the largest deployments of our forces since the Gulf War.

Not only have we deployed tens of thousands of troops, we have spent a lot of money in doing it. By the end of the year, fiscal year 1998, the Department of Defense will have spent at least $7.3 billion on Bosnia and supporting operations. That is $7.3 billion over and above normal operating and personnel budgets. And $7.3 billion that has been and will continue to be diverted from already underfunded modernization, quality of life, readiness and training programs.

I suspect, of course, that the true costs of our Bosnian involvement have been much larger. And based upon the highly optimistic political and operational assumptions that underlie the President's budget request for fiscal year 1998 in Bosnia, the cost will continue to rise dramatically.

By any measure, Bosnia is too large an issue for our United States foreign policy to be decided exclusively by Presidential fiat. This would be true even if the administration's Bosnia policy were not marked with broken promises about the duration the mission, its scope, and its cost.

The administration has lost the confidence of the American people when it comes to Bosnia. Nearly 2 years ago the Chairman of the Joint Chiefs of Staff, General Shalikashvili, said that he could not, and I quote, "imagine circumstances changing in such a way that we would remain in Bosnia."

More than 1 year. Just 2 months ago, Secretary of Defense Cohen stated, and I quote, "It is very clear that by June of 1998 we will be on our way out." I hope both of these gentlemen's statements have taken especially into account the administration's proclivity to say one thing one day and change its tune the next day.

And the President is at it again. When he announced extension of the Bosnia mission following last November's elections, he said that he would propose to our NATO allies that by June of 1998 the work would be done and the forces would be able to be withdrawn.

Yet last month, the President began to reverse himself again, as anticipated, when he said, and I quote: "We just can't sort of hang around and then disappear in a year. . . I want to stop talking about what date we're leaving on."

The time is long overdue for Congress to express its will on behalf of the American people. It is important that the Clinton administration be held accountable for the Nation's foreign policy and in this case for Bosnia policy, a policy initiated without the consent or even support of Congress and predicated on the early withdrawal of United States ground troops. In my opinion, the sooner our ground troops are withdrawn, the better.

But the withdrawal of our ground troops from Bosnia need not and should not mean the end of NATO operations in and around Bosnia. The United States has an obligation to support alliance operations. But I believe that our support should be focused on providing those capabilities which we alone possess or can best provide, things such as logistics support over large areas in long distances, intelligence, communication and a list of all kinds.

No one should characterize our U.S. contributions as undermining the alliance, for these contributions will continue to involve thousands of troops at a cost to our taxpayers of billions of dollars. I am not suggesting that the Nation revert to isolationism; rather, a more practical and proper sharing of responsibilities and burdens of what appears to be a long-term NATO peacekeeping operation.

I do not disagree with the approach that our allies call "in together, out together" when it comes to NATO operations in Bosnia. But unless we can take a more nuanced approach to that policy, one that allows the United States to participate without performing each and every task, our allies will simply continue to hold us hostage.

If the withdrawal of our ground troops from Bosnia is followed by the collapse of the NATO mission, as the administration asserts will occur, then the alliance will have proven itself far more fragile than anyone anticipated, perhaps too fragile for the stresses of post-Cold War missions and certainly too fragile for NATO expansion.

I urge my colleagues to study both amendments very closely. More fundamentally, I urge all Members to vote in favor of withdrawing our ground troops from a Bosnia mission with no end in sight.

Mr. Chairman, I reserve the balance of my time.

Mr. DELLUMS. Mr. Chairman, I yield 5 minutes to my distinguished colleague, the gentleman from Indiana [Mr. HAMILTON].

Mr. HAMILTON. Mr. Chairman, I thank the gentleman from California [Mr. DELLUMS] for yielding me the time.

Mr. Chairman, I rise in opposition to both the Hilleary and the Buyer-Skelton amendments. The primary difference between the two amendments, as I understand it, is the date of withdrawal. The concept is the same, but so are the defects.

Both amendments I think are unwise, for several reasons. First all, these amendments pose a risk to the United States troops in Bosnia. That is not my judgment. We should pay attention to the military commanders and to the Secretary of Defense. They have said that if we have a statutorily mandated requirement of redeployment, then that will jeopardize the safety of our personnel. Why would anybody in this Chamber want to jeopardize the safety of our troops by mandated date of withdrawal?

Second, these amendments threaten the Bosnia peace process. When United States troops leave Bosnia, our allies are sure to go. They have said that loud and clear. If NATO-led peacekeepers leave too soon, Bosnia will likely return to chaos and to war. That is precisely what Bosnian President Izetbegovic says and thinks.

These amendments send the opponents of the peace process the message they want to hear: Just wait; the U.S. troops are going to go. And we are going to be playing into the hands of the hardliners and the warmongers. Whether we like it or not, we are the key to stability in Bosnia. We are the central player. We are the leader. If we mandate a date certain for withdrawal, we help the opponents of peace and we make it more difficult to fulfill the promise of the Dayton accords.

□ 1615

We cannot build stability in Europe by simply walking away from U.S. commitments.

Third, these amendments threaten the cohesion of NATO. The peace process in Bosnia has always been about more things than just Bosnia. It is also about the future of NATO and the stability of Europe.

The NATO-led operation in Bosnia is the largest, most complex military mission that NATO has ever undertaken. Our allies have looked to us for leadership and we have supplied it. Both of these amendments tell the President to withdraw U.S. troops by a fixed date, without prior consultation, without agreement. The message is, we are pulling out. It does not matter what our NATO allies think. We are leaving, no matter what.

If we act unilaterally in Bosnia, it undercuts United States leadership in NATO. This is the very moment of the most momentous change in NATO, enlargement, and we are saying by these amendments, NATO be damned, we are leaving when we want to without consulting them. What kind of an alliance partnership is that?

Fourth, these amendments shut out the options and deny the President flexibility. That is obvious. It does not need to be elaborated on.

Instead of locking ourselves in by passing either amendment, let us keep the options open. There are many ways that can be done. I do not have time to go into that.

And, fifth, these amendments undermine the credibility of U.S. leadership because they cast a serious doubt on our ability to keep our commitments. We made a political commitment to the parties in Dayton that we would try to help them form a unified, decentralized Bosnia. We have lived up to that commitment. We have spent about $6 billion or $7 billion, and brave Americans have risked their lives. So far, let it be noted, not one American soldier has been killed by hostile fire.

We knew that peace in Bosnia would not come easy. What does it say about American steadfastness, American reliability, American credibility if we mandate a pullout before the job is done? Congress should not, I think, force the President's hand.

I understand the President considers a legislatively mandated withdrawal date from Bosnia a veto item. No one in this Chamber can predict today what the circumstances in Bosnia will be on a date in the future. That being the case, it is folly to require American forces to be out of there by a date certain.

I urge my colleagues to vote against both of these amendments.

Mr. SPENCE. Mr. Chairman, I yield 2 minutes to the gentleman from Colorado [Mr. HEFLEY].

Mr. HEFLEY. Mr. Chairman, I do not recall the gentleman from Indiana [Mr. HAMILTON] when the President set a date certain when we went into Bosnia that we would be out by November of 1996 saying, "Mr. President, that is folly for you to set that date." We all accepted that date. The President assured me we would be out by that date. That was our commitment. We would be there until November and get the shooting stopped, get the killing stopped, and then we would come out.

We also had a commitment to spend $1.2 billion at that time. I want to refer my colleagues to this chart here. By 1998, we will be at $7.3 billion. So do not talk to me about us backing down on our commitments. We have kept our commitments.

Recently, at a meeting of the North Atlantic Assembly, it was quite clear to me that all of our allies sitting out there at the assembly were convinced that we were there for the duration; that we were going to be there forever, if necessary; that we were going to have another Korea, if necessary. Fifty years later, we might still be in Bosnia as we are still in Korea.

I told them then as I tell Members now, so far as I am concerned, we are bringing our troops home from Bosnia, and we need to set a date certain to do that so that we can do it in an orderly kind of fashion, so it is not precipitous, so that our European allies know that this is what is going to be done, so that they can make preparations.

Most of us felt this is primarily a European problem, but we wanted to be helpful. We still want to be helpful. As the gentleman from South Carolina [Mr. SPENCE], the chairman, enumerated, and I will not go over it, there are many things we can continue to do without having our ground troops on the ground in Bosnia. My colleagues can decide what is the right date, whether the date is December, whether the date is next June, but we need to set a date certain and say at that date our troops are out of there and we are bringing them home.

Mr. DELLUMS. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Ohio [Mr. KUCINICH].

Mr. KUCINICH. Mr. Chairman, Branjevo Farm in eastern Bosnia was an ordinary livestock farm. Then, in the course of war, this ordinary place became extraordinary. The banality of evil reared its ugly head in July 1995 when more than 1,000 Muslims were bused to the farm, shot in groups of 10, and then bulldozed over. Months later when then U.N. Ambassador Madeleine Albright visited the mass grave, as she walked along this mass grave area, the bones crunched underneath her feet.

This chart, Mr. Chairman, of the mass burial at Branjevo Farm in the Donje Pilica area in Bosnia and Herzegovina shows Members the general area of the farm where livestock was raised and the area where the bodies were put into a pit and then covered over. Some of my colleagues have seen photos of that in the papers.

Today the ghosts of Branjevo and the ghosts of Srebrenica and other places soar and drop over our consciousness and they challenge our sensibilities and they ask us, where we were when, did we take a stand, did we speak out, did we come forward to say no more killing, do we say no more killing today? Do we say the United States will continue to share the burdens of keeping the peace in the world as the most powerful Nation in the world, stepping up to our responsibility?

Let us remember why we sent troops to Bosnia in the first place. Exactly 50 years after the Nazis and their atrocities, another genocide occurred in Europe as a result of nationalism, racial and religious hatred, and the obsession to create ethnically pure states. The international community stood silently by as more than 2 million people were displaced and more than 200,000 human beings were killed, and horrendous acts of torture, systematic rape, and similar expressions of barbarity ensued. There is universal consensus that to protect human beings against gross violations of their basic human rights is no longer considered interfering with the internal affairs of the state. It is no longer a European problem, it is a world problem, it is a world responsibility and as the most powerful Nation in the world it is also our responsibility.

If incidents like these can continue, albeit on a drastically reduced scale, where for example in Mostar recently, a 70-year-old woman's door was kicked in, she was torn from her bed, killed, wrapped in sheets and dumped in a field along the highway. Within days, a soldier and his family moved into her apartment. No charges filed. No arrests made.

If incidents like these can continue, what will happen if we pull out of an area? What will happen to the peace? What will happen to our troops? What will happen to the survivors of genocide? The ghosts of Branjevo are watching. The ghosts of Srebrenica are watching.

Mr. SPENCE. Mr. Chairman, I yield 3 minutes to the gentleman from Indiana [Mr. BUYER] who is the chairman of the Subcommittee on Military Personnel and the author of one of the amendments today.

Mr. BUYER. Mr. Chairman, on October 30, 1995, the House overwhelmingly passed House Resolution 247, a nonbinding resolution which urged the President to obtain prior authorization for any deployment of United States forces to Bosnia and that the Dayton peace agreement should not be predicated on United States ground troops but really focus on the parties so that they can discuss about the real reasons they are killing each other.

On November 21, 1995, the House passed H.R. 2606 offered by the gentleman from Colorado [Mr. HEFLEY] which would deny funds for the Bosnian mission unless specifically appropriated by Congress. The bill passed 243 to 171, but the measure failed in the U.S. Senate.

Finally on December 13, 1995, the House passed the Buyer-Skelton measure which reiterated the body's opposition to the deployment of ground troops. At that time the President indicated that the Bosnian deployment would last about 1 year. On September 15, 1996, the Committee on National Security heard testimony from former Assistant Secretary of Defense John White who stated, "IFOR will complete the withdrawal of all troops in the weeks immediately after December 20, 1996 on a schedule set by the NATO commanders."

As we now know, immediately following the Presidential election, the President extended the mission in Bosnia until June of 1998 and renamed from IFOR to SFOR which stands for sustainment force.

On November 22, 1996, I attended a hearing of the Committee on International Relations. At that hearing the administration officials testified concerning the lack of progress in the civilian reconstruction efforts that have been experienced since the Dayton accords were signed. IFOR and now SFOR has accomplished the military mission of ceasing hostilities in the region. However, a May 1997 GAO report indicates that "while the task of implementing the civil aspects of the Dayton agreement has begun, transition to an effective multi-ethnic government has not occurred."

The report goes on to say that Bosnia remains politically and ethnically divided. The limited progress to date has been due principally to the failure of the political leaders of Bosnia's three major ethnic groups to embrace political and social reconstruction and to fulfill their obligations under the Dayton agreements.

IFOR and SFOR has accomplished their mission, but the civilian leadership of the region and the international community in general have failed to make sufficient progress on reconstruction and reconciliation. The time is near for the United States to withdraw its ground forces from the region. Likewise, the time has come for the European nations to meet the challenge of rebuilding the Balkans.

We in Congress have a dual responsibility. We must ensure the support of the peace process with the military forces and what I envision we will discuss here this afternoon is the over-the-horizon case. We want to work with our European allies to do exactly that.

Mr. Chairman, I want to share with all my colleagues that I believe some of the problems that we are facing today in fact was inked in the Dayton accords. When the Dayton accords were signed, we came in and we just separated the parties. Rather than focusing on some of the problems, we said, "Well, we'll delay them, we'll deal with them later." The parties right now are hunkered down and they are in the posture of deny and delay. That is why the Dayton accords has set forth a problem that we are facing today. When it is ill-conceived, improperly defined, and highly dangerous, it leads to the open commitment of ground troops.

Mr. DELLUMS. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Pennsylvania [Mr. MURTHA].

Mr. MURTHA. Mr. Chairman, as most Members know, I have been involved in this issue for the entire length of time that the United States became aware of what was going on in Bosnia, and I realize there is an amazing difference between all of us about when troops should have been deployed and when they should not. I can remember vividly the debate on the floor of the House after the Dayton accord. There were predictions there would be American troops brought back in body bags. There were predictions that there would be a disastrous deployment for U.S. forces. When it started out, it looked like that was going to happen. President Clinton, against a lot of advice, made one of the most courageous decisions of his Presidency. He worked out an agreement, he put U.S. forces in conjunction with other forces under NATO on the ground.

I am not one that believes that U.S. forces could have stopped this fighting before an agreement. I believe we had to have an agreement. But the truth has been that everything that has happened since the agreement has been positive. We have not lost one single American soldier from hostile fire. We have not had one person come back in a body bag from hostile fire. What happened before was just unmitigated killing by both sides. They hated each other. Once the accord was done, they were worn out, they decided that the territory was settled by the war itself and they are trying to reassimilate themselves.

□ 1630

The last time I was there, more agriculture than we had ever seen before, unemployment was down 50 percent in Sarajevo. Employment is coming back. People are starting to renew their lives.

The day that I went in, one of the last times I went in, the Dayton Accord was just signed, and it was a quiet night, and I stayed in the hotel there because we could not get out of Sarajevo before dark. They said, well, only 4000 rounds were fired. Now that was the day before the Dayton Accord. Since that time there has not been any rounds fired, there has been nobody killed. It is almost at if some Members or some people wish something would happen.

And I know that I am not suggesting that anybody has that motive. I know that all of us are trying to protect American forces. The thing that worries me: If we put into place either of these amendments that we say firmly under the law we take away the flexibility of the President of the United States.

And we cannot argue with the results of what the President has done; the President has been successful. One of the reasons is because of the tremendous work of the troops. We have given the troops the responsibility to carry out their mission, we have not interfered. We do not want to interfere in this. Do they understand what they are doing? Do they appreciate what they are doing?

I went to an outpost, one of the foremost outposts in Bosnia, and I went into what they called the slaughter house, and they showed me a room where nothing but bodies was in when they first went in there. There had been a mass killing in that particular room. They had cleaned it up, they put whitewash on the walls, but they left one small bloody hand print on that porous wall, and they took every single soldier that came to that outpost to see that small bloody hand print because they wanted the soldiers to know why they were there.

I believe that the Europeans should be able to handle this themselves. I said it for 4 or 5 years while the fighting was going on. But they begged us to take a leadership position.

Nobody else has logistics capability, the administrative capability or the leadership and experience capability the United States has, and our military has done a marvelous job. I think we make a substantial mistake if we put any kind of a time limitation in law.

There is nobody wants to get them out more than I do. Nobody believes that the June date should be adhered to more than I do. I just do not believe we should put an arbitrary time limit, and I would request that the Members think very seriously, whatever motive we have, think very seriously about putting in law a time limitation, and I would ask the Members to vote against this time limitation.

Mr. SPENCE. Mr. Chairman, I yield 2 minutes to the gentleman from Tennessee [Mr. HILLEARY].

Mr. HILLEARY. Mr. Chairman, we have all heard about how difficult it is for Congress to get clear answers from the administration on the current situation or exit strategy in Bosnia. Congress needs to regain control of this situation. The compromise substitute amendment I am offering, the Hilleary-Condit-Kasich-Jones-Frank amendment, would accomplish three major objectives:

It commits the United States to leave Bosnia by December 31, 1997, unless the President requests and Congress approves a 180-day extension. Should that happen, and I find it likely that it would, frankly, the date for the final withdrawal of all U.S. Armed Forces would be June 30, 1998. It also prohibits DOD spending for law enforcement and related activities by U.S. troops. This averts the mission creep that caused heavy casualties against United States soldiers in Somalia. It also prepares the Europeans to assume the mission. Rather than accept the self-fulfilling prophecy that the Europeans cannot do the mission, the legislation will require the executive branch to report on steps being taken to restore the Europeans to their appropriate role, deficiencies in our allies' capabilities and steps being taken to remedy those deficiencies.

It is way past time, Mr. Chairman, for Congress to get a handle on this spending and to protect the men and women in the military who signed up to defend our national security, not police the world. Let us bring our troops home from Bosnia. I urge all my colleagues to vote for the Hilleary-Condit-Kasich-Jones-Frank bipartisan compromise amendment later this afternoon.

Mr. DELLUMS. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, let us slow it down and think about what it is we are doing. There are two amendments before the body that call for a date certain of withdrawing Americans troops. The previous speaker in the well said we should not be the police officer to the world. I agree. Let us talk about where we are.

We are in a period that is so unique we have not come up with a name for it. We simply call it the post-cold war era. But it is an era that is defined by change and difference and transition, and, as I have said on more than one occasion, both challenge and opportunity. In this period America has just begun to internalize and learn about, accept, play the role of peacekeeper, peacemaker, peace enforcer. This has not been part of the American lexicon: peacekeeping, peacemaking. This is all new to us. We are learning and evolving.

The first practical reality of setting a date, I would challenge anyone here: Does the human condition lend itself to a date certain? Does it?

What was happening that caused us to be in Bosnia in the first place?

I want to remind my colleagues 250,000 people were killed, 13,000 of them children, women raped, beaten and brutalized, and I said, Mr. Chairman, to many of my colleagues who did not want America to play the role of peacekeeper in Bosnia because it, A, was not in our national security interests, and I went back and looked at the record of the discussion and debate when 6 million Jews were being killed in the context of Nazi Germany. People were saying, "There is nothing we should do; it's not in our national security interests."

But Members who were on the floor in the context of this debate said, "If I were there during that period of time, I would have stood up and challenged the murder of 6 million people."

Well, do my colleagues know what that did? That let me know where my colleagues' moral compass is. If 6 million people die, one could be morally outraged. So now we are dickering at what the bottom line is: Five million? Three million? Two million? Can we get outraged morally because 250,000 people died and we are the major, the one, superpower standing?

So some of us said, yes, we have a moral obligation, that that is in our national interest to stop the killing and the maiming. At what point do human beings move beyond the folly of murdering and killing each other as a way of solving problems? At what point do we move beyond that bizarre and barbaric way of solving human problems as a civilized society?

So we said yes, peacekeeping. But remember we did not walk in. What happened? The parties to the killing and the maiming came to this country, in Dayton, Ohio, sat down around a table for days, and they worked out a peace agreement. Maybe not perfect; who am I to know? But these are people who were killing each other, maiming each other, murdering and raping each other, and they went to the table and they hammered out a peace agreement.

And then they came to us as the great superpower committed to compassion, human rights, justice and peace and all the things we write down, and they said, "Look. Here is a peace agreement. It's not perfect, but we hammered it out in your country on your soil. But we don't quite still trust each other. This is because they killed my parents, I killed theirs; they killed my children, I killed theirs; we killed each others' neighbors. And so for a while we do not quite trust each other. So will you and other nations in the world help us to make the peace real? Be peacemakers? Peacekeepers? Keep us apart for a while? Let us begin to build the necessary conditions that would allow a warm peace, a real peace."

As my colleagues know, as someone much more eloquent than this gentleman once said, the fascinating thing about peace is we do not have to make peace with our friends, we make peace with our enemies, and peace is hard because it is about making peace with somebody that killed and maimed people, and killed and maimed their children, their parents, their friends, their relatives, their neighbors. So we need some help.

So we stood up for this country, but if I remember the circumstances, my colleagues, this body did not. This body went on record, as one of my colleagues pointed out, saying that the President should come to the Congress for prior approval. As my colleagues know, I believe in that. I am a man of peace. I believe in peace. But I am a hawk when it comes to preserving Congress' prerogatives on the issue of the deployment of our troops.

I sued President Bush when he thought he could go to the Persian Gulf and violate the rights of the Congress to declare and to make war, rendering impotent 500,000 people that I represent. And thank God that Members joined with us and a decision was made, not in the court, but a ruling that made the President say maybe on sober reflection I ought to come to the Congress. Even the most incredible pundits in America said this was Congress' greatest moment when it stood up and debated whether we should or should not go. We did not do this on Bosnia; we let the President go, we passed the thing, a piece of paper that said we support the troops.

I believe that this is the wrong debate, it ought to be Congress militant about congressional powers when it comes to the deployment of troops, but we ought to be there on the front end, have heart, have courage, stand up and say, yes, they ought to go; no, they should not go. But do not wait until they are there and then say date certain, withdrawal. That is on the tail-end of the discussion. Where is the courage in all of that?

I join my colleagues in standing here saying, "Mr. President, whenever you're going to put troops out there in harm's way, you come to us. Article I, Section 8, the Constitution, gives us that right," and if that is not clear in the context of the post-cold war world, then let us pick up the War Powers Act, which I think is an impotent and incompetent instrument to guide us through the post-cold war era. Let us rewrite it so that it speaks to the reality of the world that we presently live in.

But this is not the way, at the end to pick out a date, to say we have got to withdraw. We did not have the courage to step up to it in the first place; that is where Congress should assert itself; that is the correct debate.

Now, Mr. Chairman, there are practical realities. This is not just a struggle between the President and the Congress. There are practical realities to our withdrawal. I cite one.

The Chair of the Joint Chiefs of Staff that many of us talk about, we want to speak about the troops. This is our highest-ranking military person who wrote with respect to date certain the following, and I quote in part from a letter, a joint letter, dated May of this year:

"We remain committed to a June 1998 withdrawal date. However we strongly oppose statutorily mandating withdrawal of United States forces from the NATO-led stabilization force by that date or indeed any specific date."

I go further. "A fixed withdrawal date will restrict U.S. commanders' flexibility, encourage our opponents, opponents meaning people who oppose the peace process who want to pursue violence and undermine the important psychological advantage U.S. troops enjoy. Our forces must be able to proceed with the minimum of risk to U.S. personnel. Legislating their redeployment schedule would completely change the dynamics on the ground and could undercut troop safety."

Now we are in the wrong part of the debate; my colleagues want to micromanage the discussion, did not have the heart to step up to it in the first place and say they should go or they should not go. So now we want to take political shots.

I walked in the door, heard people saying that our foreign policy ought to be nonpartisan. Our foreign policy ought to be bipartisan. We fight here, but when we leave these shores, we join hands and we have a bipartisan foreign policy.

What is this? What is this? Our own military people are saying, "You are micromanaging, you are putting troops in harm's way"; these are our own military saying this.

□ 1645

We should debate it up front, go or do not go, but do not leave the micromanaging to the wrong side of the debate.

I would conclude with this. We went there on moral grounds, we went there to save human life. I thought that was a dignified, courageous and lofty thing to do. Now that we are there, they are going to go out in June of next year; I did not agree, the gentleman from Colorado said anybody who says we should not have a date certain, I did, because I knew that we were learning about peacekeeping. And that date certain may play a political game, but it does not deal with the reality. If one is about peace, one is about peace. If it takes 1 month, 1 year, 18 months, 2 years, we do it if we are committed to peace. Or if we are just committed to do a little political dance, then we walk away whenever we choose to walk away but not because we are committed to these ideals.

Mr. SPENCE. Mr. Chairman, I yield myself 20 seconds.

Mr. Chairman, I would like to try to see if we cannot put this whole thing in perspective, with all of the rhetoric on both sides of the issue here today in debating this question. The President of the United States set this date himself for withdrawal in the Dayton accords. Both of these amendments propose to give that same date as the date for withdrawal. One gives a different plan for getting up to the date.

Mr. Chairman, I yield 1 minute to the gentleman from North Carolina [Mr. JONES].

Mr. JONES. Mr. Chairman, United States troops in Bosnia have been forgotten. Clearly the saying, out of sight, out of mind, applies to our men and women in Bosnia. While many Americans were opposed to deploying United States troops to Bosnia, we found some comfort in knowing that our troops were to come home at the end of 1 year.

Well, Mr. Chairman, as we know, the President has broken his promise time and again and still will not commit to a withdrawal date. Enough is enough.

I am a supporter of national defense, and I believe our men and women in Bosnia are doing an extraordinary job under tough circumstances; but I am troubled by an operation with no congressional authorization, no congressional consultation. In fact, our only function is to pay the bill. It is time for Congress to play a role and support the Hilleary amendment to ensure the safe and orderly withdrawal of United States troops from Bosnia.

America has done its duty. Let us bring our troops home.

Mr. DELLUMS. Mr. Chairman, I yield myself 30 seconds.

I would simply yield myself 30 seconds to say that this is a debate that takes us beyond rhetoric, and I think to use the term rhetoric is not advisable in the context of this debate. We are talking about life and death here, and to demean anyone's comments as rhetoric I think does not bode well.

We are intelligent people here. Let us lift the level of the discussion and the debate. I am not prepared to challenge anyone on rhetorical grounds here. I am prepared to challenge any Member of Congress on substantive grounds, and I would hope that my distinguished colleague on the other side of the aisle would move beyond using the term rhetoric. It is demeaning and it is inappropriate in the context of the debate that ought to take us to a much higher level.

Mr. SPENCE. Mr. Chairman, I yield 2 minutes to the gentleman from Washington [Mr. METCALF].

Mr. METCALF. Mr. Chairman, I opposed sending the troops to Bosnia. There was no critical U.S. interest involved, or, if there was, it escaped the notice of the President. He was never able to state it clearly.

I said over a year ago, it is easy to send troops in but very difficult to accomplish stability and exit in a safe, honorable, and timely way.

The President promised the troops out by December 1996. Now he says June 30, 1998. Why should this Congress not set a date certain and hold him to it? I support bringing the troops home December 1997, that is the Hilleary amendment. If that fails, then I think we should set an absolute deadline of June 1998.

Congress must not continue to acquiesce to the President and allow him to leave our troops in Bosnia indefinitely. Both amendments give the President and our allies ample flexibility and notice that U.S. troops will be withdrawn.

I urge every one of my colleagues to support the Hilleary amendment, of which I am a cosponsor; and if that is unsuccessful, support the Buyer amendment.

There are many good reasons, but the cost alone, $7 billion already, demands that Congress do its duty, support the troops by bringing them home by a date certain.

Mr. DELLUMS. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. ENGEL], my distinguished colleague.

Mr. ENGEL. Mr. Chairman, I thank my colleague for yielding me this time.

I want to just say that I think that we ought not to tie the President's hands, and we ought not to say that beyond a certain date certain our troops ought to go home.

The people, our colleagues who are now saying that we ought to set a fixed date, are the same people who predicted dire disaster and dire consequences if the President sent troops to Bosnia. That has not happened. In fact, we can be proud of what our American troops have done in Bosnia. We have saved thousands upon thousands upon thousands of lives.

Until the United States got involved, people were killing each other, men, women, children; there was no end to the carnage. Since the United States has been there, we have helped bring peace to the region. It was only when the United States got involved that peace came. When our European allies were doing it, peace did not come; it was elusive. It was only when the United States got involved that we put an end to the carnage.

I am proud of the role that we play. The United States is the leader of the free world, and sometimes we have to act like leaders of the free world. It does not mean that we need to be the policeman of the world or we need to rush to every incident in the world, but here, in Bosnia, it became crystal clear that, without United States help and intervention, the carnage was not going to end.

So my colleagues who are now saying, let us get out, let us pull people out, are the ones that did not want us to go there in the first place. They said that there would be many, many American casualties; they said that it would be a disaster; they said that we would not be able to do the job. We have proven them wrong. It has not been a disaster. Thankfully, there have not been tremendous amounts of American casualties, virtually no American casualties.

I went to Bosnia last year with then-Secretary of Defense Bill Perry; I saw firsthand how our troops were doing. I saw firsthand the precautions that were being taken to ensure the safety of American troops. I was proud to walk with our soldiers. I was proud to see the role we were playing and the job we were doing.

The naysayers said it could not happen. They were wrong. Let us leave it the way it is. The President has done a very good job. He is not going to let our troops stay 1 day more than they have to stay. He is thinning down the amount of troops that will be there. He is saying that we intend to get out by June 1998. But we cannot foresee the consequences of what might happen down the road.

Do we need to set a date certain to send a message to the parties there that we are definitely getting out come hell or high water? No. We cannot do that, and we should not do that, and it would be imprudent to do that.

I have letters here that I am sure my colleagues got from General Shalikashvili, from Secretary of Defense Cohen, from Secretary of State Madeleine Albright, and they all say the same thing: Do not tie our hands. We are thinning out the troops. There are going to be less American troops. Our allies in Europe are going to be playing a major role. This is not the time to do it.

I am proud of the role that the United States has played. Let us not tie the President's hands.

Mr. SPENCE. Mr. Chairman, I yield 2 minutes to the gentleman from Tennessee [Mr. BRYANT].

Mr. BRYANT. Mr. Chairman, I thank the gentleman for yielding me time on this very serious debate.

First of all, let me say that I join in all of my colleagues in this House in support of our troops, the 8,000-plus soldiers in Bosnia and for the outstanding job they are doing. We are hearing testimony to that today of the record they have there and the job they are doing, and again, without war-related casualties. That is great.

I think, though, that when many of us considered this debate in the beginning, we had great hesitancy and philosophical differences in sending our soldiers over there when we felt that America's national interests were not at stake. Many of us continue to have those doubts, but yet, we received some comfort when we made that vote and when ultimately our soldiers were sent over there that there would be deadlines. There would actually be goals to be accomplished with our troops over there, putting their lives and limbs at issue. But yet, we seem to be going down that path of open-endedness. We do not see that goal, that end in sight any longer.

We resist the idea that our soldiers ought not have that, especially when we are carrying the heavy weight there. We are carrying the water over there. At a time when we are having to downsize our military forces, our national defense; at a time when we are having to go back in and work on salvaging the morale of our soldiers and we have soldiers in some cases that are being paid so little they are on food stamps, and when they are training in this country, the training for the job they are supposed to be doing, not just being a policeman in Bosnia, but they are actually trained to do other jobs in case we have to defend ourselves. That is suffering. The equipment that we give these soldiers, we have to pay for that.

When we are having to divert money from those types of good things to support a police-keeping effort that seems to be endless in Bosnia, many of us have great concerns there. We believe it is the right thing to do at this point. We do not want to tie hands, but we want a definite date certain for our soldiers and our taxpayers.

Mr. SPENCE. Mr. Chairman, I yield 2 minutes to the gentleman from New Hampshire [Mr. BASS].

Mr. BASS. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Indiana [Mr. BUYER] and the amendment offered by the gentleman from Tennessee [Mr. HILLEARY] concerning the need to set a schedule to get our troops out of Bosnia by a date certain. I just want to say that this position in no way diminishes my outrage at the alleged atrocities that have been committed in this region, as was so eloquently described by my colleague, the gentleman from

California [Mr. DELLUMS], and it in no way diminishes my concern and commitment to ensure that our troops remain safe and secure as they defend our interests over in that area.

But let me just point out that the United States has never been able to successfully mediate civil wars around the world. I would only point out, for example, what happened to us in Bosnia, what happened to us in Lebanon and, as we all know, what happened to us in Vietnam. We are good at stopping incursions and defending countries and then leaving, but we are not good at mediating civil wars, and that is precisely what is going on in the Balkan region.

I know the President wants to get us out of Bosnia in a reasonable period of time, but it just is not going to be possible without the help and support of Congress. Now, the Buyer amendment gets us out in the middle of next year, which is when the President now says he is going to get us out of the area. The Hilleary amendment calls for a date certain at the end of this year with a congressional resolution thereafter. This will get us out of a situation that is costing us anywhere from $5 million to $10 million a day. We can work together with the President to end this incursion and do so in an orderly and successful fashion.

So I support both the Buyer amendment and the Hilleary amendment. I think that it is time for Congress to step forward and definitively provide an exit strategy for our troop involvement in the Balkan region.

Mr. SPENCE. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio [Mr. KASICH], the chairman of the Committee on the Budget.

□ 1700

Mr. KASICH. Mr. Chairman, I was in the Congress the weekend when the bombing of our barracks in Beirut took place. It was a sobering event for all the American people. I think it was during that period that we began to determine that we needed a good set of rules that the country could follow when it came to putting our people in harm's way.

Soon after the tragedy in Beirut, then-Secretary of Defense Casper Weinberger came out with more or less a set of rules that would guide the United States as they intervened around the world: Is there an achievable goal; is there an exit strategy; does it have public support; and is it in the direct, vital national interest of the United States? One thing he did not ask is what is the role of our allies. But in the post-cold war period, it is absolutely essential that we ask, what is the role of our allies?

First of all, in regard to Bosnia, is there an achievable goal? Let me maintain that I do not believe there is. In fact, when we study the region of Bosnia-Herzegovina, it is pretty clear that pre-19th century, the parties had engaged in warfare. The region has not been stable since before the 19th century. Pre-19th century all the way up to the end of the 20th century has indicated that the parties in that region have not been able to create a stable environment. In fact, it was only under the brutal iron fist of President Tito that the parties were able to remain in some kind of a stable relationship.

I am uncertain as to whether there is a stable goal of being able to provide some kind of a Democratic environment in this region. But nevertheless, the United States intervened and separated the warring parties and stopped the slaughter that was going on, so the United States has done its job, the job it set out to do, to separate the warring parties. Many of us had a lot of questions about whether that was right at the time, but nevertheless, we went, we did our job. Now what remains to keep the peace is for our allies who we have protected for 50 years to continue to patrol the streets of Sarajevo and Bosnia.

If we worked with our allies for the last 50 years to put them in a position to be able to stop the advance of Soviet tanks across the Fulda Gap in a major armored invasion, is it not likely that our European allies would be able to patrol the streets of Sarajevo and keep the peace? I say yes. But I say they will not do it until we make sure that they are in the place of being forced to do it.

Of course they want us to do their job. The fact is, this is a vote on telling our allies to step up to the plate and do what they were intended to do, what we trained them to do over the course of the last 50 years.

Is it in the direct national interest? I have not heard that case made. I have not heard that case made by the administration, I have not heard that case made by any of our defense intellectuals as to how the United States being in Sarajevo today is in the direct national interest of the United States.

We want the President to have that opportunity. Under the Hilleary amendment he would be forced to make the case as to why we should be there. He should do it, he must do it, the same way George Bush made the case. As we got ready to go to war against Saddam Hussein, Secretary Baker called me at home and said, what is your view as to whether we should have a vote in the Congress? I said absolutely, we must have the vote. So if it is in the direct national interest, let us have the President lay it out and let us vote on it.

Now, what about the question of allies? I think they can do the job, Mr. Chairman. The United States under the Hilleary amendment is prepared to offer the logistical and technical support they need in order to do the job, for them to be able to accomplish their objective in Bosnia-Herzegovina.

Mr. Chairman, let me suggest I worry about our troops. I worry about the military being sent into a mission that is not well-defined, that I question is achievable, that is fuzzy.

Mr. DELLUMS. Mr. Chairman, I yield 2 minutes to my distinguished colleague, the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Chairman, I thank the ranking member, the gentleman from California [Mr. DELLUMS] for yielding time to me.

I understand the frustration the gentleman from Ohio [Mr. KASICH] had in trying to explain his position in 5 minutes. All of us are constrained by time, but we ought to be constrained by good judgment on this issue as well.

Yes, there was an issue as to whether or not we ought to deploy troops in Bosnia. There was concern. The President brought together at Dayton a new paradigm, if you will, to borrow from the Bush administration, and that paradigm was that we were going to be peacekeepers and peacemakers. We obviously have the ability to make war, but we were going to use our might to, yes, as Chairman KASICH has indicated, separate the parties, bring genocide to a close, and to, yes, put at risk some of our people.

We did so in the context of large force so our people would be protected. That, in my opinion, made sense. I believe, Mr. Chairman, however, that it would not make sense at this point in time to set dates certain. Many Members in this body have talked to General Joulwan and other leaders of our military in NATO and in our own forces.

They do not believe, as I think perhaps the gentleman from California [Mr. DELLUMS] and the gentleman from Pennsylvania [Mr. MURTHA] have already stated, that a date certain is in the best interests of the United States, of the date on peace accords, or the people of Bosnia-Herzegovina, or, in fact, the Serbska Republic.

I would urge my colleagues to continue to express their desires that we, as the President wants to do, extricate ourselves in a timely fashion, but let us not set a date certain so that we will in fact freeze in place the opponents of a Democratic, peaceful resolution of the conflict in the Balkans and simply try to outwait the United States.

Mr. Chairman, I again I thank the ranking member, the chairman in exile, for yielding me the time.

Mr. DELLUMS. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentleman from California [Mr. DELLUMS] is recognized for 2 minutes.

Mr. DELLUMS. Mr. Chairman, if you believe in one of the notions that one of my colleagues asserted, that people cannot move to peace because for years they have been killing each other, then we would still believe in the divine right of kings and the right of people to buy and sell other human beings as chattel. We have moved beyond that. People can evolve. The human condition can evolve. People can grow. People can move, Mr. Chairman, and I believe that very sincerely.

Mr. Chairman, at one point war was the dominant paradigm on this planet. The great gift we can give to our children and our children's children is to move beyond that war-making paradigm. I believe that in the context of the post-cold war world, the scenarios we are more likely to encounter are the Somalias, the Haitis, the Rwandas, the Bosnias of the world. I believe right before our very eyes our warriors are transitioning to peacekeepers and peacemakers and peace enforcers.

It may be difficult for us to put our minds around that idea because our peacekeepers still look like warriors, they still dress as warriors, they still carry warriors' weapons, and in many ways they are trained like warriors. But this is a new world, a new day. We are moving beyond the paradigm of bombing and killing and maiming.

The world is more likely to be peacekeeping, peacemaking, peace enforcement. Because of that transition it is imperative that we as a major power on this planet learn about peacekeeping, peacemaking. Mr. Chairman, one thing we learned in our hearings, in looking at the question of peacekeeping in a post-cold war world, was that an important set of principles as a peacekeeper were make no enemies, take no sides. In Somalia we learned that the hard way. In Bosnia we have learned. No one has died.

I find it incredible that many of the same people who want to pull us out of peacekeeping would like, would be much quicker to carry us into war, where we really would harm and kill and maim. I do not understand that concept.

Mr. SPENCE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I will sum up. This whole question of Bosnia comes down to this. If we look at history, this thing first got started, and our President said all along, on numerous occasions over a period of years, that we would put no ground troops in Bosnia. We were doing different things, as Members know, on and off in that effort. But he kept reiterating, we would not ever put ground troops in Bosnia.

Then, of course, he did, along with the Dayton accord, so-called, the agreement was made that we would go and send ground troops along with NATO troops to Bosnia. That was back in 1996. He said at that time that we would be out in a year, and that year passed, and then the election came about and he transferred it on out another year, and said we would be out then, this time, in June of 1998.

That is the date we are talking about in both of these amendments, as I was trying to say earlier. With the talk that we hear back and forth on both sides, the fact still remains we have two amendments to consider today. Both of them just hold the President to his own date to withdraw in June of 1998. One of them is just a plain vote on getting out in June 1998, with some follow-on efforts being made by our people after that time.

The other one starts back 6 months before June 1998 and it tells the President to tell us what your plans for withdrawal are during the next 6 months in getting our people out, so you have a withdrawal plan and we would know about it. But both amendments, I reiterate, hold the President to his own declared deadline.

The reason this comes up today, this issue, is because on so many occasions before, the President has set a deadline and then did not go by it. As a matter of fact, he went into Bosnia in the first place without the agreement of Congress and the American people. All the polls showed overwhelmingly that the American people were opposed to it. Congress was opposed to it. He did it anyway. This is the first meaningful vote we will have, the Congress will have, to express itself on this whole issue. In the meantime, we have spent a lot of money and a lot of effort, and we still have a real problem before us.

The CHAIRMAN. It is now in order to consider amendment No. 8 printed in part 1 of House Report 105–137.

AMENDMENT NO. 8 OFFERED BY MR. BUYER

Mr. BUYER. Mr. Chairman, I offer amendment No. 8.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment numbered 8 offered by Mr. BUYER:

Strike out section 1201(b) (page 373, line 4, through page 375, line 15).

At the end of title XII (page 379, after line 19), insert the following new sections:

SEC. 1205. UNITED STATES ARMED FORCES IN BOSNIA.

(a) LIMITATION.—Funds appropriated or otherwise made available for the Department of Defense may not be obligated for the deployment of any ground elements of the United States Armed Forces in the Republic of Bosnia and Herzegovina after——

(1) June 30, 1998; or

(2) such later date as may be specifically prescribed by law after the date of the enactment of this Act, based upon a request from the President or otherwise as the Congress may determine.

(b) EXCEPTIONS.—The limitation in subsection (a) shall not apply to the extent necessary to support (1) a limited number of United States military personnel sufficient only to protect United States diplomatic facilities in existence on the date of the enactment of this Act, and (2) noncombat military personnel sufficient only to advise the commanders North Atlantic Treaty Organization peacekeeping operations in the Republic of Bosnia and Herzegovina.

(c) CONSTRUCTION OF SECTION.—Nothing in this section shall be deemed to restrict the authority of the President under the Constitution to protect the lives of United States citizens.

SEC. 1206. LIMITATION ON SUPPORT FOR LAW ENFORCEMENT ACTIVITIES IN BOSNIA.

None of the funds appropriated or otherwise made available to the Department of Defense may be obligated or expended after the date of the enactment of this Act for the conduct of, or direct support for, law enforcement activities in the Republic of Bosnia and Herzegovina, except for the training of law enforcement personnel or to prevent imminent loss of life.

SEC. 1207. PRESIDENTIAL REPORT ON POLITICAL AND MILITARY CONDITIONS IN BOSNIA.

(a) REPORT.—Not later than December 15, 1997, the President shall submit to Congress a report on the political and military conditions in the Republic of Bosnia and Herzegovina (hereafter in this section referred to as Bosnia-Herzegovina). Of the funds available to the Secretary of Defense for fiscal year 1998 for the operation of United States ground forces in Bosnia-Herzegovina during that fiscal year, no more than 60 percent may be expended before the report is submitted.

(b) MATTERS TO BE INCLUDED.—The report under subsection (a) shall include a discussion of the following:

(1) An identification of the specific steps taken by the United States Government to transfer the United States portion of the peacekeeping mission in the Republic of Bosnia and Herzegovina to European allied nations or organizations.

(2) A detailed discussion of the proposed role and involvement of the United States in supporting peacekeeping activities in the Republic of Bosnia and Herzegovina following the withdrawal of United States ground forces from the Republic of Bosnia and Herzegovina pursuant to section 1205.

(3) A detailed explanation and timetable for carrying out the President's commitment to withdraw all United States ground forces from Bosnia-Herzegovina by the end of June 1998, including the planned date of commencement and completion of the withdrawal.

(4) The date on which the transition from the multinational force known as the Stabilization Force to the planned multinational successor force to be known as the Deterrence Force will occur and how the decision as to that date will impact the estimates of costs associated with the operation of United States ground forces in Bosnia-Herzegovina during fiscal year 1998 as contained in the President's budget for fiscal year 1998.

(5) The military and political considerations that will affect the decision to carry out such a transition.

(6) Any plan to maintain or expand other Bosnia-related operations (such as the operation designated as Operation Deliberate Guard) if tensions in Bosnia-Herzegovina remain sufficient to delay the transition from the Stabilization Force to the Deterrence Force and the estimated cost associated with each such operation.

(7) Whether allied nations participating in the Bosnia mission have similar plans to increase and maintain troop strength or maintain ground forces in Bosnia-Herzegovina and, if so, the identity of each such country and a description of that country's plans.

(c) STABILIZATION FORCE DEFINED.—As used in this section, the term "Stabilization Force" (referred to as "SFOR") means the follow-on force to the Implementation Force (known as "IFOR") in the Republic of Bosnia and Herzegovina and other countries in the region, authorized under United Nations Security Council Resolution 1008 (December 12, 1996).

Page 371, line 25, strike out "(1)".

Page 372, line 8, strike out "(2) For purposes of this paragraph," and insert in lieu thereof "(b) COVERED UNITED STATES FORCES.—For purposes of this section,".

Page 372, line 15, strike out "(3) and insert in lieu thereof "(c) MATTERS TO BE INCLUDED.—".

Page 372, beginning on line 16, strike out "paragraph (1), for each activity identified in that paragraph" and insert in lieu thereof "subsection (a), for each activity identified under that subsection".

Page 372, line 18, strike out "(A)" and insert in lieu thereof "(1)".

Page 372, line 20, strike out "(B)" and insert in lieu thereof "(2)".

Page 372, line 23, strike out "(C)" and insert in lieu thereof "(3)".

Page 373, line 1, strike out "(4) The first report under paragraph (1)" and insert in lieu thereof "(d) SUBMISSION OF REPORTS.—The first report under subsection (a)".

The CHAIRMAN. Pursuant to the rule, the gentleman from Indiana [Mr. BUYER] and a Member opposed each will control 10 minutes.

The gentleman from California [Mr. DELLUMS] will control the 10 minutes in opposition.

The Chair recognizes the gentleman from Indiana [Mr. BUYER].

Mr. BUYER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I have enjoyed the substance of this debate. I would like to comment to the ranking member when he made mention that people have the capacity to evolve and that the human condition can change. I agree. What we are trying to do here is change the way the United States and our allies in Europe have had a relationship over the last 50 years.

They are in a comfort zone. They like the United States' security blanket. They like that. What we are trying to do here and say, as the United States is the sole remaining superpower, I believe as a foreign policy that we should be there to provide regional stability, and our regional allies should be there to ensure stability within their region when there is no possibility of destabilizing that region.

We can debate whether or not Bosnia in fact would destabilize Europe. That is debatable. But what we are trying to do here is evolve that human change the gentleman is talking about: How do we get our allies to be major players in this one?

When I mentioned earlier about an over the horizon, 18 months ago when we had this debate I also wanted durable peace in Bosnia. We can get into the moral obligation and talk about the peace. There is not anybody who wants the killing or the ethnic cleansing.

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What we want is for Europe to take the lead. We have learned, and the gentleman from Pennsylvania [Mr. MURTHA] was very articulate, that Europe was not able to take the lead there. They were there with the United Nations and they felt inept.

So when the United States exercised some leadership, compliments to Bill Clinton. But I find myself in a very awkward position. I led the debate on the House floor saying no to ground troops. Now I come to the House floor saying, Mr. President, I will move to codify his date to withdraw. There are some Members on this side of the aisle and on that side of aisle that say, let us get them out in December. I now have to come to the House floor and say, whoa, time out. I think what we should do is be rational here. We want to send a message to our European allies, keep our commitments to our international agreements, and how do we move toward the President's date of June 30, 1998? It is the President's date. It is not my date. But I want to back up the President with his foreign policy and his commitments, and I want our allies in Europe to take the lead. You say, this is NATO. You are right. But over the horizon what I mean is for the U.S. presence, for us to be there with our air power, our sea power, our logistics by air and sea to provide our intelligence through our architecture. We are right there in Hungary.

But when we talk about what will we envision, two things I wanted to ask of this President. First, I want his plan for withdrawal. And second, after June 30, 1998, what is his plan for the follow-on force? What is there after SFOR? And under Dayton, it asked for an international police force. Are the U.S. troops going to participate in that? That gets into the mission creep issues at hand.

So I have got some pretty strong concerns. That is why we want that plan, and that is what the Buyer amendment is about, codifying, and for those two reports.

Mr. Chairman, I reserve the balance of my time.

Mr. DELLUMS. Mr. Chairman, I yield myself 30 seconds to respond.

The last comment the gentleman made, I totally agree. I think the report requirements here are important. I believe that there ought to be consultation. The President ought to be forthcoming with us about what is on the other side. What I am arguing is that we should not codify a date certain for both the political and the practical and the diplomatic reasons that I have already enunciated several different times.

I do not disagree with the gentleman's last statement. We ought to know what is on the other side of June 1998. I am simply saying, putting a date certain into legislation raises a number of significant and serious problems, but I think what the gentleman is trying to do is valid. I just think this particular vehicle is inappropriate. I am not challenging the gentleman at that level.

Mr. Chairman, I yield 4 minutes to the distinguished gentleman from California [Mr. LANTOS].

Mr. LANTOS. Mr. Chairman, I thank my friend for yielding the time to me.

I would like to put this debate in somewhat of a historic perspective. When the history of the 20th century will be written from the vantage point of 100 years from now, the Bush administration will deserve and will get a great deal of credit for its performance in the Persian Gulf. It represented American leadership at its best. And the Bush administration will get enormous blame for its pathetic failure in preventing this tragedy that has unfolded in Yugoslavia, following the great victory in the Persian Gulf war.

Publicly, publicly and privately, many of us cautioned the administration that what was called for in 1991 was to use the deterrent capability of NATO which would have prevented the death of a quarter million innocent human beings, the creation of 1½ million refugees, and material damage running into the tens of billions of dollars.

The Clinton administration, after a wobbly start, got it right. We are now in the process of destroying what has been gained since Dayton.

You do not telegraph your punches. This region is not inherently unstable. It is a misreading of history that these people have been at each other's throats for centuries. That is simply not the case. Throughout most of the period, there was stability and peace. There are ethnic complexities which create great difficulties, but it is a myth which is being perpetuated on the floor of the House today that these people simply cannot live together.

Just a few days ago, some of us advocated that one of the constituent republics of the former Yugoslavia, Slovenia, be admitted to NATO now. I look forward to the time that all of the former constituent republics of Yugoslavia will be admitted into NATO and they will be admitted into the European Union.

To telegraph our punch now, that on June 30, 1998, everything ceases, is guaranteed to undermine NATO cohesion, NATO solidarity, the participation of our friends and allies, and, the most likely, outbreak of violence, hostility, and bloodshed again.

Have we not learned enough from the tragedy of the last few years? Did we not see enough pictures on television of children being massacred in Yugoslavia in the very heart of Europe so as not to advocate neoisolationism, which this proposal is. It is obvious that all those who want to break the peace which exists in the region would love to see nothing more than every single American soldier withdrawn on June 30, 1998.

That would be the guaranteed commencement of the new outbreak of hostilities. To tell our NATO allies that this is your job completely misunderstands the nature of NATO. NATO is a collective security system. We do not unilaterally tell our NATO allies what we will and will not do. We have assumed some obligations when we joined NATO. It is now our responsibility to carry through with our obligation.

Mr. BUYER. Mr. Chairman, I yield 3 minutes and 30 seconds to the gentleman from Missouri [Mr. SKELTON], a member of the committee and a coauthor of this amendment.

Mr. SKELTON. Mr. Chairman, we have a very interesting and telling decision before us, the three choices that may be made in all of this Bosnia business today. The first is to adopt an amendment, which I oppose, to take our troops out by the end of December of this year. That would be wrong. No. 1, that is rushing to judgment. No. 2, that would be in violation of what our President has openly stated.

The other is to leave the commitment open. To do so raises the issue as to whether our European allies will be ready, will take up of gauntlet and perform the duties we have been urging them and wanting them to do and take care of the European problems themselves now that we have shown them the way and given them the leadership.

The other problem with the open-ended commitment is the operational tempo of our young troops, and I am immensely, immensely proud of them. But with the downsizing that we have already had of particularly the U.S. Army, the young soldiers will be meeting themselves going and coming.

The middle ground, I believe, is to accept the word of our President and to adopt the date that he suggested.

Mr. Chairman, over the past few years I have addressed this body no less than seven times regarding U.S. involvement in the region in southeast Europe. In March 1993, warning of the 1,000-year-old nature of tension in the region, I advocated American involvement in the form of organizing and leading a concert of nations for a regional peace. I called for a diplomatically focused coalition-building effort and advocated U.S. military involvement, involvement limited to the peripheral but essential roles of logistical support, intelligence, command and control, and communications; in the air and on the sea.

In December 1995, with the impending deployment of 20,000 American grounds troops to that region, I appealed to this body to remember the importance of impartiality. I quoted the U.S. Army Field Manual: "Peacekeeping requires an impartial, even-handed approach." I voiced my angst that, as American peacekeepers, our sons and daughters posited themselves inside a centuries-old, three-sided conflict, just as America pledged to assist, train and equip one faction.

During the spring and summer campaigns of 1995, parity was reached between the armor-heavy Serbs and the infantry-heavy Croat-Muslim Federation. The combined forces of the Federation pushed the enemy from the Bihac region back towards the Sava and the Drina Rivers.

We have been fortunate. In 1997, we can be proud of our military personnel for their efforts and accomplishments. They have been professional and dedicated in their military duties. We have overseen a separation of the warring parties and a cessation of hostilities. We have allowed political reform to begin and refugee settlement to occur. We have led as no other Nation than America can.

Keeping our troops there until the end of June 1998 will be the best and correct thing.

Mr. DELLUMS. Mr. Chairman, how much time remains on both sides in the debate?

The CHAIRMAN. The gentleman from California [Mr. DELLUMS] has 5½ minutes remaining, and the gentleman from Indiana [Mr. BUYER] has 3 minutes remaining. The gentleman from California [Mr. DELLUMS], has the right to close.

Mr. BUYER. Mr. Chairman, I yield the balance of my time to the gentleman from New York [Mr. GILMAN], chairman of the Committee on International Relations.

Mr. GILMAN. Mr. Chairman, I thank the gentleman for yielding time to me, and I rise in support of the amendment by the gentleman from Indiana [Mr. BUYER].

Mr. Chairman, in debating United States policy toward Bosnia, we have to begin with a candid assessment of where current administration policy is taking us. It is leading us apparently to another Cyprus.

Since 1974, U.N. peacekeepers have been deployed along the so-called green line in Cyprus, an artificial boundary separating Christian and Muslim communities that used to be able to live together as one nation. There is no end in sight of that peacekeeping operation.

Mr. Chairman, we do not want to be involved in another Cyprus, this time in the infamous tinderbox of Europe, the Balkan peninsula. As everyone knows, the President disregarded the deadline he initially set for the withdrawal of United States forces from Bosnia and predictably we now see signs that the second deadline is beginning to slip.

None of us should have any doubt that in the end the President may have to renege on his second deadline, just as he did on the first, unless we step in and hold him to his word. He will renege not because he is trying deliberately to mislead us but because he has become a prisoner of a policy that just will not work, a policy that can lead our Nation to only one place, to a Cyprus in the Balkans.

We need to help the President out of this quagmire. We need to help him remain true to his word. I know that some say that June 1998 is too far in the future. So the gentleman from Tennessee [Mr. HILLEARY] has offered a perfecting amendment to move the deadline up to January 1998.

While I am sympathetic to the Hilleary amendment, ultimately we must recognize that it is unrealistic. It is going to be very hard to enact any funding cutoff for United States forces in Bosnia. We do stand a reasonable chance of enacting the withdrawal date that the President himself has promised. An earlier date almost certainly could not be enacted.

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We should not pick a fight that we cannot win. Instead, let us defy opponents of the June withdrawal date to explain to us today why the President must have flexibility to break for the second time his solemn commitment.

Accordingly, Mr. Chairman, I urge my colleagues to defeat the Hilleary amendment and approve the Buyer amendment.

Mr. Chairman, I rise in support of the amendment offered by Mr. BUYER, and I ask unanimous consent to revise and extend my remarks.

In debating United States policy toward Bosnia, we have to begin with a candid assessment of where the current administration policy is leading us. It is leading to another Cyprus.

Since 1974, U.N. peacekeeping have been deployed along the so-called Green Line in Cyprus, an artificial boundary separating Christian and Muslim communities that used to be able to live together in one country. Every day since 1974, soldiers from Britain, Austria, and other countries have patrolled the Green Line. Every day for the last 23 years, these soldiers have been exposed to great risks, and many have been killed.

Even though no U.S. forces have participated in this operation, American taxpayers have paid approximately $250 million over the years to keep the operation going. And worst of all, there's no end in sight. No one today can tell you when, if ever, the Cyprus peacekeeping mission will end.

Mr. Chairman, we not want to be involved in another Cyprus, this time in the infamous "tinderbox of Europe"—the Balkan Peninsula—and this time involving a permanent commitment of United States ground forces.

Many of us in this chamber have struggled mightily for many years to avoid precisely this outcome.

Four years ago last month, in May 1993, I was proud to join the gentleman from Illinois, Mr. HYDE, as an original cosponsor of the first bill to end the unjust and illegal international arms embargo of Bosnia. We offered that legislation because we believed that the only way to stop the aggression and the violation of human rights that we were then witnessing in Bosnia was to create a military balance between the aggressors and the victims of aggression. We were confident that, in the absence of such a military balance, U.S. military intervention to stop the fighting would become inevitable.

For more than 2 years, we tried to pass that legislation. Finally, during the summer of 1995, we succeeded. Both we and the other body passed legislation ending the arms embargo, and in both bodies the legislation was approved by veto-proof margins.

So when the Congress left Washington for the August recess in 1995, the President had a problem. Congress had just repudiated his policy, and our legislation was sitting on his desk. Even though he had promised to veto it, he needed to do something to make sure that his veto would not be overridden.

His solution was to launch a simultaneous military and diplomatic offensive. NATO bombers were called into action in Bosnia, and Mr. Holbrooke was dispatched to bring the parties to the negotiating table.

The result was the Dayton Peace Accords.

The problem with the Dayton Accords was that they provided for precisely the result that so many of us had feared—a massive United States military intervention in Bosnia.

Many of us predicted that if our forces faithfully carried out their mandate under the Dayton Accords, they would end up in armed conflict with the parties and likely sustain significant casualties.

This prediction was never tested because in fact our forces never carried out those portions of their mandate that could have led to conflict with the parties, such as arresting war criminals and facilitating the return of refugees. Indeed, the failure to do these things, and similar things collectively referred to as "civilian implementation" of the Dayton Accords, is one of the main reasons why we are told that we cannot bring our forces home from Bosnia today.

Of course, many of us predicted at the time that once our forces went into Bosnia they would never get out.

The President solemnly assured us that we were wrong about this. He promised us that our forces would stay in Bosnia no more than 1 year. Indeed, in a letter to us dated December 13, 1995, he stated:

> IFOR's basic military tasks should be completed within six months. During the remainder of the year, IFOR will continue to facilitate implementation of the peace agreement while preparing for and undertaking an orderly drawdown of forces.

Of course, 1 year later, the President had to take all this back. In a letter to us dated November 27, 1996, he stated:

> . . . our achievements on the military side have not been matched by progress on the civilian side. It will take longer than we and our Allies anticipated for Bosnia's economic and political life to reach the point where an outside security presence is no longer required.

It would be necessary to extend the United States military presence in Bosnia by another 18 months, the President said, to June 1998. But this time he was serious about the deadline for withdrawing our forces. We know because he told us so in the letter: "The new mission in Bosnia should end in June of 1998, and the remaining forces will completely withdraw from Bosnia quickly thereafter."

We already see signs, of course, that this second deadline is slipping. The President's advisors are said to be in disagreement about whether and how to renege on the President's commitment. And none of us should have any doubt, that, in the end, the President will renege on his second deadline, just as he did on his first—unless we step in to hold him to his word.

He will renege, not because he is trying to deliberately mislead us, but because he has become a prisoner of a policy that will never work. A policy that can lead our nation to only to one place—to a Cyprus in the Balkans.

We need to help the President out of this quagmire. We need to help him remain true to his word, or at least his second word. That's what the Buyer amendment is about, and that's why I urge its adoption.

Now I know that some say that June 1998 is too far in the future. We would like to bring our forces home sooner than that. So the gentleman from Tennessee [Mr. HILLEARY] has offered a perfecting amendment to move up the deadline to January of 1998.

While I am sympathetic to the Hilleary amendment, ultimately we must recognize that it is unrealistic.

The fact is that we are embarked on a very difficult enterprise. Congress is understandably reluctant to impose mandatory deadlines on U.S. force deployments abroad. And the President is even more reluctant to accept them. This means that it is going to be very hard to enact any funding cutoff for United States forces in Bosnia.

We stand a reasonable chance of enacting the withdrawal date that the President himself has promised. Any earlier date almost certainly cannot be enacted.

We should not pick a fight that we cannot win. Instead, we should defy opponents of the June withdrawal date to explain to us today why the President must have flexibility to break for a second time his solemn commitment to withdraw United States from Bosnia by a date certain.

Accordingly, I urge my colleagues to defeat the Hilleary amendment and approve the Buyer amendment.

Mr. DELLUMS. Mr. Chairman, hopefully, using the same clock, I yield myself the balance of the time.

Let me make a very few observations, if I might have the attention of my colleague, the gentleman from Indiana [Mr. BUYER]. First of all, if we accept the argument by the previous speaker, then we would not be in the Sinai, we would not be in Korea. And if that is their position, step up to it and be real, step up to it and be consistent. But that argument is not a consistent argument. We are talking about keeping the peace, preventing war for tens of thousands of people not dying. That seems to me an appropriate role to play.

Now, Mr. Chairman, my position in this whole thing is we ought to stay there until the job is done. As Martin Luther King said, probably more eloquent than anyone, that peace is more than simply the absence of war, it is the absence of conditions that give rise to war. So our military people may only win a marginal role in the whole issue of peace, because peace is about economics and it is about human rights and it is about democracy and a whole range of things.

But sometimes people are so much adverse to each other that they need someone to come in to hold them off. Now the allies, my colleagues recall, we were all at some point in these chambers students of history, our allies tried to keep the peace on the ground; and it failed, not because the leadership failed, but because the circumstances did not provide for success.

What provides us with some opportunity for success? Because the parties to the killing and the dying came to this country, sat down, negotiated a peace plan, and said, as imperfect as it is, help us to achieve that peace. We do not trust each other. We have been killing and maiming each other. Give us a hand until we create the conditions that evolve a war and peace.

As I said earlier, we make peace with our enemies; we do not make peace with your friends. Peace is hard. Peace is difficult. I would like to say to my colleague, the gentleman from Indiana [Mr. BUYER], who I think is sincere and genuine in his effort, if he recalls on his reporting requirements in this bill. In this bill, on page 373, under the heading Presidential Report on Political and Military Conditions in Bosnia, "The President shall submit to Congress," I read in part, under section (2) paragraph (A), "the date on which the transition from the multinational force," and my colleagues all know that we only are providing 25 percent of the troops here, not all of them, no one said that in this debate, the multinational force known as the Stabilization Force to the planned multinational successor force to be known as the Deterrent Force. Now we asked for this report.

Further, paragraph (F),

> Any plan to maintain or expand other Bosnia-related (such as the operation designated as Operation Deliberate Guard) if tensions in Bosnia-Herzegovina remain sufficient to delay the transition from the Stabilization Force to the Deterrent Force and the estimated cost associated with each such operation.

What I am saying to the gentleman from Indiana [Mr. BUYER], I think in the context of the conference, we can take what is already in the bill before us and we can work this in order to accommodate the concerns of the gentleman and this gentleman. We meet on common ground.

The place where we do not meet is when you take the extra step of putting in the date certain into legislative form, for all the reasons that the Chair, the Joint Chiefs, the Secretary of Defense, I, and others have enunciated. The gentleman from Indiana

[Mr. HAMILTON], all have raised these questions.

I think that this can be accommodated. I know the gentleman is sincere in what he is attempting to do. But I think that there are other Members who, rather than, as I said earlier in the debate, Mr. Chairman, asserting our congressional prerogatives on the front end of the debate, where we should be, and that is should we go or should we not go. That is our responsibility. That is why we are getting paid. Step up to that constitutional responsibility.

But more often than not, in the 26-plus years I have been here, Mr. Chairman, we back off that, we do not have the heart or courage to stand up to that. We wait until the President walks out on a limb and then we come in the dead of the night, on the tail-end, saying no funds shall be used to cut off at a date certain on the end where we are micromanaging, putting troops in harm's way.

But I think we ought to step up to it earlier on and assert our constitutional prerogative. If you do not want troops some place, step up and say that. If we do, step up and say that. I came here opposing every military adventure that we engaged in. I am a man of peace. Now here I am advocating that we stay in Bosnia.

The world has turned completely in a flip. The people who wanted to go anywhere in the world bombing and killing and maiming do not want our troops in Bosnia. Now if people are smart, they realize that that means that the world has changed. Bosnia is about peacekeeping, not war-making.

The CHAIRMAN. The gentleman's time has expired. All time for debate on the Buyer amendment has expired.

It is now in order to consider amendment No. 9, printed in part 1 of House Report 105–137, as a substitute for the pending amendment.

AMENDMENT NO. 9 OFFERED BY MR. HILLEARY AS A SUBSTITUTE FOR THE AMENDMENT NO. 8 OFFERED BY MR. BUYER

Mr. HILLEARY. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The CHAIRMAN. The Clerk will designate the amendment offered as a substitute for the amendment.

The text of the amendment offered as a substitute for the amendment is as follows:

Part one, Amendment No. 9 offered by Mr. HILLEARY as a substitute for Part 1, amendment No. 8 offered by Mr. BUYER:

Page 379, after line 19, add the following:

TITLE XIII—UNITED STATES ARMED FORCES IN BOSNIA AND HERZEGOVINA

SEC. 1301. SHORT TITLE.

This title may be cited as the "United States Armed Forces in Bosnia Protection Act of 1997".

SEC. 1302. FINDINGS AND DECLARATIONS OF POLICY.

(a) FINDINGS.—The Congress finds the following:

(1)(A) On November 27, 1995, the President affirmed that United States participation in the multinational military Implementation Force in the Republic of Bosnia and Herzegovina would terminate in one year.

(B) The President declared the expiration date of the mandate for the Implementation Force to be December 20, 1996.

(2) The Secretary of Defense and the Chairman of the Joint Chiefs of Staff likewise expressed their confidence that the Implementation Force would complete its mission in one year.

(3) The exemplary performance of United States Armed Forces personnel has significantly contributed to the accomplishment of the military mission of the Implementation Force. The courage, dedication, and professionalism of such personnel have permitted a separation of the belligerent parties to the conflict in the Republic of Bosnia and Herzegovina and have resulted in a significant mitigation of the violence and suffering in the Republic of Bosnia and Herzegovina.

(4) On October 3, 1996, the Chairman of the Joint Chiefs of Staff announced the intention of the United States Administration to delay the removal of United States Armed Forces personnel from the Republic of Bosnia and Herzegovina until March 1997 due to operational reasons.

(5) Notwithstanding the fact that the President, the Secretary of Defense, and the Chairman of the Joint Chiefs of Staff assured the Congress of their resolve to end the mission of United States Armed Forces in the Republic of Bosnia and Herzegovina by December 20, 1996, in November 1996 the President announced his intention to further extend the deployment of United States Armed Forces in the Republic of Bosnia and Herzegovina until June 1998.

(6) Before the announcement of the new policy referred to in paragraph (5), the President did not request authorization by the Congress of a policy that would result in the further deployment of United States Armed Forces in the Republic of Bosnia and Herzegovina until June 1998.

(b) DECLARATIONS OF POLICY.—The Congress—

(1) expresses its serious concerns and opposition to the policy of the President that has resulted in the deployment after December 20, 1996, of United States Armed Forces on the ground in the Republic of Bosnia and Herzegovina without prior authorization by the Congress; and

(2) urges the President to work with our European allies to begin an orderly transition of all peacekeeping functions in the Republic of Bosnia and Herzegovina from the United States to appropriate European countries in preparation for a complete withdrawal of all United States Armed Forces by December 31, 1997.

SEC. 1303. PROHIBITION OF USE OF DEPARTMENT OF DEFENSE FUNDS FOR CONTINUED DEPLOYMENT ON THE GROUND OF ARMED FORCES IN THE TERRITORY OF THE REPUBLIC OF BOSNIA AND HERZEGOVINA.

(a) PROHIBITION.—None of the funds appropriated or otherwise available to the Department of Defense may be obligated or expended for the deployment on the ground of United States Armed Forces in the territory of the Republic of Bosnia and Herzegovina after December 31, 1997, in connection with peacekeeping operations conducted by the Implementation Force, the Stabilization Force, or any successor force.

(b) EXCEPTION TO ENSURE SAFE AND TIMELY WITHDRAWAL.—The prohibition contained in subsection (a) shall not apply with respect to the deployment of United States Armed Forces for the express purpose of ensuring the safe and timely withdrawal of such Armed Forces from the Republic of Bosnia and Herzegovina, but such a deployment may not extend for a period of more than 30 days beyond the date specified in subsection (a) (or the date otherwise applicable to the limitation under that subsection by reason of an extension of that date pursuant to subsection (c)).

(c) EXTENSION OF REQUIRED WITHDRAWAL DATE.—The date specified in subsection (a) for the applicability of the limitation under that subsection may be extended by the President for an additional 180 days if—

(1) the President transmits to the Congress a report containing a request for such an extension; and

(2) a joint resolution is enacted, in accordance with section 1304, specifically approving such request.

SEC. 1304. CONGRESSIONAL CONSIDERATION OF REQUEST BY PRESIDENT FOR 180-DAY EXTENSION OF DEPLOYMENT.

(a) TERMS OF THE RESOLUTION.—For purposes of section 1303, the term "joint resolution" means only a joint resolution that is introduced within the 10-day period beginning on the date on which the President transmits the report to the Congress under such section, and—

(1) which does not have a preamble;

(2) the matter after the resolving clause of which is as follows: "That the Congress approves the request by the President for the extension of the deployment on the ground of United States Armed Forces in the territory of the Republic of Bosnia and Herzegovina for a period ending not later than June 30, 1998, as submitted by the President on ————", the blank space being filled in with the appropriate date; and

(3) the title of which is as follows: "Joint resolution approving the request by the President for an extension of the deployment on the ground of United States Armed Forces in the territory of the Republic of Bosnia and Herzegovina for a period ending not later than June 30, 1998.".

(b) REFERRAL.—A resolution described in subsection (a) that is introduced in the House of Representatives shall be referred to the Committee on International Relations and the Committee on National Security of the House of Representatives. A resolution described in subsection (a) introduced in the Senate shall be referred to the Committee on Foreign Relations and the Committee on Armed Services of the Senate.

(c) DISCHARGE.—If the committee to which a resolution described in subsection (a) is referred has not reported such resolution (or an identical resolution) by the end of the 20-day period beginning on the date on which the President transmits the report to the Congress under section 1303, such committee shall be, at the end of such period, discharged from further consideration of such resolution, and such resolution shall be placed on the appropriate calendar of the House involved.

(d) CONSIDERATION IN THE SENATE.—(1) On or after the third day after the date on which the committee to which such a resolution is referred in the Senate has reported, or has been discharged (under subsection (c)) from further consideration of, such a resolution in the Senate, it is in order (even though a previous motion to the same effect has been disagreed to) for any Member of the Senate to move to proceed to the consideration of the resolution. A Member may make the motion only on the day after the calendar day on which the Member announces to the Senate the Member's intention to make the motion. All points of order against the resolution (and against consideration of the resolution) are waived. The motion is privileged in the Senate and is not debatable. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the Senate shall immediately proceed to consideration of the joint resolution without intervening motion, order, or other business, and the resolution shall remain the unfinished business of the Senate until disposed of.

(2) Debate on the resolution in the Senate, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 2 hours, which shall be divided equally between those favoring and those opposing the resolution. An amendment to the resolution is not in order. A motion further to limit debate is in order and not debatable. A motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to is not in order.

(3) Immediately following the conclusion of the debate on a resolution described in subsection (a) and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the Senate, the vote on final passage of the resolution shall occur.

(4) Appeals from the decisions of the Chair relating to the application of the rules of the Senate, as the case may be, to the procedure relating to a resolution described in subsection (a) shall be decided without debate.

(e) CONSIDERATION IN THE SENATE AFTER CONSIDERATION BY THE HOUSE OF REPRESENTATIVES.—(1) If, before the passage by the Senate of a resolution of the Senate described in subsection (a), the Senate receives from the House of Representatives a resolution described in subsection (a), then the following procedures shall apply:

(A) The resolution of the House of Representatives shall not be referred to a committee and may not be considered in the Senate except in the case of final passage as provided in subparagraph (B)(ii).

(B) With respect to a resolution described in subsection (a) of the Senate—

(i) the procedure in the Senate shall be the same as if no resolution had been received from the House of Representatives; but

(ii) the vote on final passage shall be on the resolution of the House of Representatives.

(2) Upon disposition of the resolution received from the House of Representatives, it shall no longer be in order to consider the resolution that originated in the Senate.

(f) RULES OF THE SENATE AND HOUSE.—This section is enacted by the Congress—

(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a resolution described in subsection (a), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

SEC. 1305. PROHIBITION OF USE OF DEPARTMENT OF DEFENSE FUNDS FOR LAW ENFORCEMENT OR RELATED ACTIVITIES IN THE TERRITORY OF THE REPUBLIC OF BOSNIA AND HERZEGOVINA.

None of the funds appropriated or otherwise available to the Department of Defense for any fiscal year may be obligated or expended after the date of the enactment of this Act for the following:

(1) Conduct of, or direct support for, law enforcement activities in the Republic of Bosnia and Herzegovina, except for the training of law enforcement personnel or to prevent imminent loss of life.

(2) Conduct of, or support for, any activity in the Republic of Bosnia and Herzegovina that may have the effect of jeopardizing the primary mission of the United Nations-led Stabilization Force in preventing armed conflict between the Federation of Bosnia and Herzegovina and the Republika Srpska ("Bosnian Entities").

(3) Transfer of refugees within the Republic of Bosnia and Herzegovina that, in the opinion of the commander of the Stabilization Force involved in such transfer—

(A) has as one of its purposes the acquisition of control by a Bosnian Entity of territory allocated to the other Bosnian Entity under the Dayton Peace Agreement; or

(B) may expose United States Armed Forces to substantial risk to their personal safety.

(4) Implementation of any decision to change the legal status of any territory within the Republic of Bosnia and Herzegovina unless expressly agreed to by all signatories to the Dayton Peace Agreement.

SEC. 1306. REPORT.

(a) IN GENERAL.—Not later than October 31, 1997, the President shall prepare and transmit to the Congress a report on the deployment on the ground of United States Armed Forces in the territory of the Republic of Bosnia and Herzegovina. The report shall contain the following:

(1) A description of the extent to which compliance has been achieved with the requirements relating to United States activities in the Republic of Bosnia and Herzegovina contained in Public Law 104–122 (110 Stat. 876).

(2)(A) An identification of the specific steps taken, if any, by the United States Government to transfer the United States portion of the peacekeeping mission in the Republic of Bosnia and Herzegovina to appropriate European organizations, such as a combined joint task force of NATO, the Western European Union, or the Conference on Security and Cooperation in Europe.

(B) A description of any deficiencies in the capabilities of such European organizations to conduct peacekeeping activities in the Republic of Bosnia and Herzegovina and a description of the actions, if any, that the United States Government is taking in cooperation with such organizations to remedy such deficiencies.

(3) An identification of the following:

(A) The goals of the Stabilization Force and the criteria for achieving those goals.

(B) The measures that are being taken to protect United States Armed Forces personnel from conventional warfare, unconventional warfare, or terrorist attacks in the Republic of Bosnia and Herzegovina.

(C) The exit strategy for the withdrawal of United States Armed Forces from the Republic of Bosnia and Herzegovina in the event of civil disturbances or overt warfare.

(D) The exit strategy and timetable for the withdrawal of United States Armed Forces from the Republic of Bosnia and Herzegovina in the event the Stabilization Force successfully completes its mission, including whether or not a follow-on force will succeed the Stabilization Force after the proposed withdrawal date announced by the President of June 1998.

(b) FORM OF REPORT.—The report described in subsection (a) shall be transmitted in unclassified and classified versions.

SEC. 1307. DEFINITIONS.

As used in this title:

(1) BOSNIAN ENTITIES.—The term "Bosnian Entities" means the Federation of Bosnia and Herzegovina and the Republika Srpska.

(2) DAYTON PEACE AGREEMENT.—The term "Dayton Peace Agreement" means the General Framework Agreement for Peace in Bosnia and Herzegovina, initialed by the parties in Dayton, Ohio, on November 21, 1995, and signed in Paris on December 14, 1995.

(3) IMPLEMENTATION FORCE.—The term "Implementation Force" means the NATO-led multinational military force in the Republic of Bosnia and Herzegovina (commonly referred to as "IFOR"), authorized under the Dayton Peace Agreement.

(4) NATO.—The term "NATO" means the North Atlantic Treaty Organization.

(5) STABILIZATION FORCE.—The term "Stabilization Force" means the United Nations-led follow-on force to the Implementation Force in the Republic of Bosnia and Herzegovina and other countries in the region (commonly referred to as "SFOR"), authorized under United Nations Security Council Resolution 1088 (December 12, 1996).

The CHAIRMAN. Pursuant to the rule, the gentleman from Tennessee [Mr. HILLEARY] and a Member opposed, [Mr. BUYER] each will control 10 minutes.

The Chair recognizes the gentleman from Tennessee [Mr. HILLEARY].

Mr. HILLEARY. Mr. Chairman, for the purposes of debate only, I yield 5 minutes to my colleague on the other side of the aisle, the distinguished gentleman from California [Mr. CONDIT] and I ask unanimous consent that he be permitted to control that time.

The CHAIRMAN. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

Mr. HILLEARY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, there are several different important differences between the two amendments on Bosnia that are being offered here today.

First, the Hilleary-Condit-Kasich-Jones-Frank amendment is a bipartisan compromise; and with all those names, we know it is a bipartisan amendment. It is a bipartisan compromise of the much tougher H.R. 1172, the U.S. Armed Forces in Bosnia Protection Act, which has 148 bipartisan cosponsors.

Our bipartisan compromise amendment would bring our troops home by December 31, 1997, but would still give the President some flexibility by allowing him to make a written request to Congress to extend the exit date to June 30, 1998, his present exit date.

Second, the Hilleary-Condit-Kasich-Jones-Frank amendment is the only vote we will have to show that we did everything we could to bring our troops home as soon as possible. Voting only for the Buyer amendment, although it is a worthy amendment, demonstrates that we are accepting the President's present exit date of June 1998, and accepting the responsibility for all the harm that may come to our troops the longer that they are there.

Think about this, Mr. Chairman: As it becomes apparent to the warring factions in Bosnia that the President has no intention of pulling our troops out, they will be increasingly motivated to perpetrate a heinous terrorist act on our troops to get our troops out, just like at Khobar Towers in Saudi Arabia or the car bomb in Beirut, Lebanon. The later we set the exit date and the longer our troops are in Bosnia, the greater the odds are that this type of act will occur.

This is serious business, Mr. Chairman. Let us get them out as soon as possible. Let us support the Hilleary-Condit-Kasich-Jones-Frank amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. BUYER. Mr. Chairman, I yield 3 minutes to the gentleman from Missouri [Mr. SKELTON].

Mr. SKELTON. Mr. Chairman, I rise in opposition to the Hilleary amendment. To do so, to adopt that I think would be a travesty in this House and a travesty for our country. We have deployed our troops. And I might say I am immensely proud of what they have done in Bosnia. But we have been fortunate.

We should be proud that our military personnel and their efforts have been successful in their accomplishments. They have overseen a separation of warring parties. They have been professional. They have caused the hostilities to cease. We have allowed political reform to begin. Refugee resettlement is occurring, and we have led as no other nation can. We have relished support among Europeans and throughout other nations of the world to follow our deeds.

Today I ask my colleagues to help our uniformed personnel complete their mission in a timely, efficient, and professional manner. In doing so, we must follow in honor of the word of the President of our Nation. He said some time ago that we should be out of there by June 1998. To cut if off at this time would be improper for our troops, to rush them out and not give them sufficient time to make plans to leave, to cause us to break our word as a nation, and to not give the former warring parties the time to complete their reconciliation, which the end of June 1998 will do.

We should honor the commitments of our Nation. We should honor the commitment of our President. We should honor the commitment of his word when he said June 1998. We must stick to that. We, as this Congress, should back him up and allow our troops to remain until that time.

I oppose the Hilleary amendment. It would be wrong for this body. It would be wrong for our Nation.

Mr. CONDIT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, as we stated, this amendment will require the withdrawal of our Armed Forces from Bosnia by December 31, 1997. In October 1995, the administration stated that our presence in Bosnia would last for 12 months.

Well, here it is a year and a half later, and the troops are still there; and now the withdrawal date is June 1998. Their mission is unclear. Their objective is uncertain. Our commitment changes as every deadline for withdrawal passes. Let us end the charade. If the troops cannot come home by December of this year, let the administration tell us why, let us execute our constitutional authority of either supporting the administrative policy or rejecting it. That is quite simple. Let them submit to us a plan. Let us approve it, or let us reject it.

This will force all of us to define our purpose and our objective in Bosnia. It will also force us to do something that is extremely important, and that is to have a discussion of what the role is of the Europeans, what role must they play in safeguarding Europe.

The Vietnam war, the Persian Gulf taught us a valuable lesson: Give our troops clear, definable, and achievable missions. To do less than this is to put them at risk, without full regard for the consequences.

Mr. Chairman, I reserve the balance of my time.

Mr. BUYER. Mr. Chairman, I yield myself 1 minute.

Actually, I would like to say to the gentleman from California [Mr. DELLUMS], earlier when he was referring to the ellipsis as the actual bill itself, some report language with the President, if he would note from the amendment that I have before the committee, it is now the perfecting amendment, we kind of beefed that up. In his request for the spirit to work that in the conference, I would join him to do that.

Mr. Chairman, I yield to the gentleman from gentleman from California [Mr. DELLUMS].

Mr. DELLUMS. Mr. Chairman, I believe the gentleman is absolutely correct, he has beefed up these provisions and I think appropriately. I would be more than happy to work with the gentleman in the context of the conference to move it in the direction of the gentleman, because I think it strengthens these report requirements.

Mr. BUYER. I thank the gentleman in that spirit.

Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. HOBSON], who had an important meeting and could not be here during the general debate.

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Mr. HOBSON. I appreciate the gentleman yielding me this time.

Mr. Chairman, I rise today in support of the Buyer-Skelton amendment to terminate our mission in Bosnia by June of next year, the President's date.

Only through the leadership, good will, and commitment of our Nation has the fighting stopped in Bosnia. The peace accord that ended the Bosnian conflict was written and agreed upon in my district. I have made two trips to the Balkans and seen first hand the mess into which these people have gotten themselves.

Considering that the history of hatred in the Balkans dates back at least a millennium, 2 years of American presence there will not turn the situation around. We have been able to see a pause in this fighting that will hopefully endure, but the people of Bosnia, Croatia, and Serbia ultimately must be the architects of, frankly, their own peace.

I want to see our troops out of Bosnia as soon as possible, and I frankly was very disappointed when the President broke his word to all of us to have our troops out last year. This amendment that I am supporting will make sure that our troops come home by next June, and also ensure that sufficient planning takes place between now and then so that when they are withdrawn, it will be done in an organized fashion and a secure fashion.

If it were up to me, the troops would be out now, and I might not have sent them to begin with, but my first and foremost concern is their safety. Preserving that safety means that we get them out, and that our pullout is planned, organized, and well executed.

When I was last there, I met with the NATO Ambassador and some of their people. They said one of the problems they were having is getting the people to begin moving on with the accords in the civil side of this. We have done the military job. The longer they think we are going to stay there, the less they are going to move on the civil side.

That is why we need to set a date certain and get our troops out, get them home, let the people of the area get on with their lives, hopefully in a peaceful fashion. We are not going to solve this peace. We should get out, come home, and let the people do their job.

PARLIAMENTARY INQUIRIES

Mr. HILLEARY. Parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. HILLEARY. Mr. Chairman, do I have the right to close this debate?

The CHAIRMAN. The gentleman has the right to close.

Mr. BUYER. Parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. BUYER. As I understand, this is a perfecting substitute amendment to my amendment and I rise in opposition. Therefore, would I not have the right to close?

The CHAIRMAN. The Chair would advise that neither gentleman represent the position of the committee and, therefore, the sponsor of the substitute amendment would have the right to close.

Mr. BUYER. I thank the chairman.

Mr. CONDIT. Mr. Chairman, I yield 1½ minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Chairman, I differ with some of those, and I support the Hilleary amendment, I differ with some of those who join me in supporting it. I think the mission has been successful. I think it was a good idea. I was glad the gentleman from California decried the argument that these are somehow subhuman people who cannot get along.

This is a mission that ought to be done but America should not be doing it. Where are our European allies? Yes; they are there with us. We are alone in South Korea with the Koreans, standing up to North Korea. We are essentially alone in the Middle East, standing up to Iran and Iraq. We do our part in Latin America and in Haiti. Is it never Europe's turn? Bosnia is in Europe. It is close to Germany, close to France. Can they do nothing by themselves?

We are the great enablers of dependency in this House, not of welfare but of a Europe that simply will not stand up for its own interests. Indeed, I think maybe we should send out an investigating committee, Mr. Chairman. I am not sure there is a Europe. I think that France and Germany and Italy and Denmark and Belgium, at least for military purposes, are a fraud that has been perpetuated on us. Because the fact is that when it comes to their own interests, when we are talking about problems 100, 200, 300 miles from their own border, this collection of wealthy, powerful democratic nations acts like a bunch of immature teenagers that have to hide behind the United States.

Yes; it was a good thing that the President did. Yes; it has been more successful than people thought. And there is a reason for people to stay. But with America in South Korea, America in the Middle East, America elsewhere, we have a right to tell our European allies this one is theirs.

At the recent summit meeting, the Europeans complained to the President that he was thinking of leaving. Sometimes people have to learn to do things on their own. This is a job for the Europeans. We should adopt the Hilleary amendment and let the Europeans show that they can defend their own interests.

Mr. BUYER. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentleman from Indiana is recognized for 4½ minutes.

Mr. BUYER. Mr. Chairman, I rise in opposition to the perfecting amendment of my good friend because what I want to do is accept the President's date. That is June 30, 1998.

I am from Indiana. It is corn country. We accept people at face value. Your word is your honor, is your bond. You do that until somebody has a little slippage in their word. The President slipped once. He slipped twice. Our Secretary of State, Madeleine Albright, now is kind of hinting that there may be in fact a third slippage. Fool me once, fool me twice, but pretty soon it becomes shame on me.

What I have done is to step forward and codify the June 30 date. I have been a good listener to the gentleman from California [Mr. DELLUMS], the gentleman from Pennsylvania [Mr. MURTHA], and some others about codifying that date. I understand. It still is a little tough saying ill-defined, not providing flexibility and those kind of words, but I want to hold firm. I want to hold firm on the date and back up the President so he can move to our allies within the region so they can begin to accept those greater responsibilities, because I support the gentleman from California [Mr. DELLUMS] when he says, let us change human condition. I want to change human condition with our allies and how we interact. I understand also we are talking about NATO and U.S. leadership, I say to the gentleman from Pennsylvania [Mr. MURTHA]. But let us talk about what is happening. We always focus on the military. It is the civil implementation of the Dayton accords that has got us in this mess. The military always meets their deadlines. They do a great job. IFOR was highly complementary. SFOR will be highly complementary.

The concern and our focus should be on the civilian implementation. Right now when we look at the implementation of the subregional arms limitations, it is to be complete in November 1997. I do not know if we are going to make that date.

The train, arm, and equip of the Bosnian Muslims is only half complete. I expect claims of compliance to be contested. Verification will be necessary on the checking to ensure that the checks and the balances are there for the stability of the region. Who is going to do that? That is where I believe, yes, the United States still needs to have our presence in the over-the-horizon, but on the ground I actually want our NATO allies there. I want them to have a greater role and presence in the peace and the stability within their region, that is, the continent of Europe.

We also have the issue of war criminals. There are some that say that no lasting peace will be possible in Bosnia until the war criminals are brought to justice. Right now to date only 8 of 74 currently under indictment are in custody of The Hague. Only 2 of the 8 have been convicted. When we talk about two of the most prominent indicted persons, former Bosnian Serb leader Radovan Karadzic and former Bosnian Serb military chief Ratko Mladic, they are still at large. Who is going to go after them?

If we are talking about after the June 30, 1998, date and they are still in place and threaten the region's stability, what type of force? That is why I join with the gentleman from California to have it defined what will be the U.S. role and presence after the President's June 30 date. Let us not rush to judgment here.

We also have the concerns of the nation building. When I talk about that, it is the humanitarian, the political, and the reconstruction. The nationwide elections have been held, but what about the municipal elections? The multi-ethnic political institutions are still segregated. It is also, as I earlier had stated, and this is what pains me the most is it is questionable if the Dayton agreement has in fact created the durable peace because the only way I think that we can have the durable peace is because of this open-ended commitment.

The question is, how long will we be there? When I have heard this today, we have to be there until the job is done. It was Dayton that set up these parameters that has an open-ended commitment. What I want to do is set a date certain so we can work in mutuality with our regional allies in Europe, so we can have a plan to withdraw and we can have the assurance of a durable peace. That is in fact what we want.

Mr. Chairman, I yield back the balance of my time.

Mr. CONDIT. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. HALL].

Mr. HALL of Texas. Mr. Chairman, I rise today to voice strong support for the Hilleary amendment and for ending deployment of our United States ground forces in Bosnia.

I did not support the administration's decision to send troops to Bosnia a year and a half ago, and I would vote to bring our troops home today if I could.

The best we can do, however, is to bring them home as soon as possible. The administration has stated repeatedly that our troops would be in Bosnia for no longer than 12 months. It has been well over a year since our troops were deployed there—and there still is no end in sight. The amendments offered today will require a ate certain for troop withdrawal, require development of an exit plan, and require a defined policy concerning the role of the United States and our allies in Bosnia following withdrawal of United States troops.

We have been most fortunate that in the past 18 months, no Americans have died from hostile fire in Bosnia. However, as frictions continue to get more heated and ethnic divisions continue to erupt in human rights violations, the dangers to our troops will intensify. Our mission in Bosnia still remains unclear—and without a clear policy, the future of our troop involvement also remains uncertain.

It is imperative that we have a clearly defined exit policy and that we stick to it. Today, we have an opportunity to express our support for our troops by voting our desire to bring them home, and I urge my colleagues' support.

Mr. CONDIT. Mr. Chairman, I yield 1 minute to the gentlewoman from Missouri [Ms. DANNER].

Ms. DANNER. Mr. Chairman, I rise in support of the Hilleary amendment.

Before United States troops were deployed to Bosnia, I expressed skepticism that we would be there for only 1 year and that it would cost $1.5 billion. We have been there 2 years already, we are up to $6.5 billion, and the whole object is escalating. We are going to be there now perhaps as many as 3 years, and we could be up to we do not even know how many billions of dollars.

I think this has become a quagmire that we have to withdraw from. The American public believes, and I totally agree with them, that our European friends should be handling this. It should be something that they do. It is on their continent, and it has been proven that they have the ability to provide for their own common defense and to handle the issue of Bosnia.

Mr. HILLEARY. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. STEARNS].

Mr. STEARNS. Mr. Chairman, I rise in support of the amendment to put an end to this unauthorized operation by creating a date certain.

Mr. HILLEARY. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. CAMPBELL].

Mr. CAMPBELL. Mr. Chairman, I rise in support of the Hilleary amendment.

Mr. CONDIT. Mr. Chairman, I yield the balance of my time to the gentleman from Tennessee [Mr. HILLEARY].

The CHAIRMAN. The gentleman from Tennessee is recognized for an additional 30 seconds.

Mr. HILLEARY. Mr. Chairman, I yield the balance of my time to close this debate to the distinguished gentleman from Ohio [Mr. KASICH] who has helped lead the effort to bring our troops home from Bosnia.

The CHAIRMAN. The gentleman from Ohio is recognized for 3½ minutes.

Mr. HILLEARY. Mr. Chairman, will the gentleman yield?

Mr. KASICH. I yield to the gentleman from Tennessee.

Mr. HILLEARY. I thank the gentleman for yielding.

Mr. Chairman, I am holding a letter from Maj. Gen. Jim Pennington, retired U.S. Army, president of the National Association of Uniformed Services, expressing his strong support for the Hilleary-Condit amendment to H.R. 1119.

Mr. KASICH. Mr. Chairman, let me just suggest to the Members that are listening, the President said that we should withdraw our forces in December 1996. The Hilleary amendment says that they can be there until December 1997. And at that point in time, our allies will assume the additional burden of patrolling the streets of the communities in Bosnia. We worked with them for 50 years to stop the advance of the Soviet military and an invasion of Europe. Surely they can in fact keep the peace and patrol the streets. If they have difficulty, we will help them, not with our soldiers but with all of our technical expertise and all of the logistics.

I look at the gentleman from Pennsylvania [Mr. MURTHA] who has been in the Chamber longer than I have, but I have been here now for 15 years, and I want to tell my colleagues when the U.S. military gets in trouble is when we send our troops into a circumstance that is not clear and a mission that is fuzzy and a mission that confuses the nature of what the mission is for our soldiers.

We have done our job. We went to separate the warring parties and we did it. It is not our job to build the infrastructure and the Government of Bosnia. We will not be successful in that. And so what I would suggest is if Members believe that the President has not made the case about the vital interests of the United States, if Members believe the President has not articulated a clear exit strategy, if Members believe that our allies should do more, if Members believe that the American people do not stand behind this mission, if Members believe that this entire role ought to be clarified, if Members believe we have done our job and we ought to come home, and if Members share the concern that our soldiers could find themselves in a fuzzy mission and the consequences that are related to that, they must support the Hilleary amendment.

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And then what happens? The President should come to this House and make his case. He has not yet done it. The only way that we will force the President to spell out the mission, to give us the achievable objectives, to call to task our allies, and to prove to the American people and to prove to the American people that this is a just mission, then my colleagues must vote for the Hilleary amendment and force the President to come here and tell us precisely what we are doing in Bosnia, what the mission is. Anything short of that leaves our troops in a confusing role with a dubious mission, without the kind of total support we need from allies who we supported for 50 years.

This is a support to get us on the road to clarifying U.S. military policy in the post Cold War period. This is a chance for my colleagues to stand up for the men and women who have put their lives on the line in Bosnia, and let us bring them home, and if not in December, force the President to make his case.

Support the Hilleary amendment.

The CHAIRMAN. All time has expired.

Mr. DELLUMS. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. Under the rule, the gentleman, as the ranking minority member, is entitled to 5 minutes and is recognized for 5 minutes.

Mr. DELLUMS. Mr. Chairman, I understand where the majority of this body is going on a date certain; that is the easy political thing to do. But I think we ought to be part of the educative process, and I choose to try to do that.

First of all, to this notion, Mr. Chairman. To this notion, Mr. Chairman, this is important to the Europeans; let them do it. Does that mean we do not care about human life, Mr. Chairman?

We had this debate this morning about China. We care about human life in China. A few years ago we were concerned about human life in South Africa. We had a discussion about that. What are we talking about it is only Europeans should be concerned about European life? If this had been in the context of Nazi Germany, would Members have gotten up and said let Europe do it?

Mr. Chairman, we have a moral obligation to stand up and to care about human life. A quarter of a million people were being killed, raped, maimed and murdered; 13,000 of them were children.

So we say let the Europeans do it, we have no responsibility?

I heard speeches down here when we talked about the Preamble to the Constitution, and they said it was not just about America. Read the RECORD tomorrow. We said that on the floor just a couple of hours ago. This is about the whole planet. Now, when we talk about people dying in another place, let Europeans do it.

I want my colleagues to recall history, Mr. Chairman. Europeans did try to solve this problem, and they died there. Historically they died. They left blood on the soil of Bosnia trying. They spent money trying. It did not work. But what did work is when we stood up as a moral leader in the world and we said to the parties:

"Come to the United States, come to Dayton; sit down around the table, work out a peace plan," and when they did, they came to us, they invited us. That is the difference.

This is not some Vietnam quagmire. This is the United States standing up, caring about thousands of children not dying, women not being raped, mothers and fathers not dying because people could not figure out how to solve a problem. And they came to us and they said:

"Look, help us. Help us be peacekeepers."

I challenge anyone in this Chamber with their commitment to peace. I am committed to it. Mr. Chairman, I have given my whole life to peace. Peace is my passion, and this is what we are trying to do in the context of Bosnia. Europeans, they did not do it. It was not because they did not try, and somebody ought to stand up here and set the record straight; I would do that.

Mr. Chairman, in just 1 second I will be happy to yield to my colleague from Massachusetts.

Mr. Chairman, I understand all the date certain business. I am simply saying let us be proud of being peacekeepers and peacemakers. As my colleagues know, it is like there are people in the Chamber who would like to paint a big sign on the Pentagon. Do my colleagues know what the sign would say? "Hey, we only do the big ones. We don't do the peacekeeping, the peacemaking. We don't do the humanitarian assistance. We do the biggies."

But I think that our war years are transitioning, and I think the world is changing, and I think war is not the paradigm, and maybe I am ahead of my time, but I think we are changing, we are moving, we are growing, we are evolving, and, Mr. Chairman, we need to learn about the Bosnias. We need to learn how to be peacekeepers.

As I said, we did not do well in Somalia. We did better in Haiti, we are doing better in Bosnia, and maybe in some other place where we are called to be peacekeepers we can do it.

Final point and I yield to the gentleman:

All I say to my colleagues is that both of these resolutions do not give us the flexibility to dial down the 25 percent of our troops. We can dial down to 5 percent, 2 percent, special group of people. The gentleman's resolution does not give us that kind of flexibility. Rational, intelligent people in a changing and transitioning world ought to always be committed to enough flexibility to learn to grow and to evolve. That is all I am saying.

Mr. Chairman, I yield to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Chairman, I agree that America should have gone in. I may differ with some of the others on this resolution. I think it was essential because only we could do it. But we have been in, and the fighting has stopped, and it is one thing to say, well, the Europeans should have been able to do it from the beginning. I never said that. The question is now are the Europeans capable of maintaining this kind of maintenance force?

And the point I make is this. Of course I care about Europeans, I care about a lot of people, but there are limited resources, and for the United States to continue to encourage on the Europeans the notion that they do not have to do very much while we do it all I think is ultimately damaging to the values the gentleman is seeking. I think precisely because America does have important roles to play in various parts of the world where the mission has now been reduced to a more easily accomplished one than originally when we had to go in, we have a right to ask the Europeans to do a hand-off from now.

The CHAIRMAN. The time of the gentleman from California [Mr. DELLUMS] has expired.

Mr. SPENCE. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. Under the rule, as chairman of the committee the gentleman from South Carolina [Mr. SPENCE] is entitled to 5 minutes and is recognized for 5 minutes.

Mr. SPENCE. Mr. Chairman, I hesitate to do this because I hate to get 5 more minutes for one side in one amendment and the other amendment did not have that like amount of time, but that is the way things work out.

Mr. Chairman, I yield to the gentleman from Florida [Mr. STEARNS].

Mr. STEARNS. Mr. Chairman, the gentleman from California [Mr. DELLUMS] said this afternoon let us be proud to be peacekeepers.

Mr. DELLUMS. Mr. Chairman, will the gentleman yield?

Mr. SPENCE. I yield to the gentleman from California.

Mr. DELLUMS. Absolutely.

Mr. STEARNS. Mr. Chairman, I say to the gentleman from California let us also be proud to abide by the Constitution.

Mr. DELLUMS. Absolutely.

Mr. STEARNS. Where in the U.S. Constitution does a President have the power to unilaterally place U.S. troops in combat environment without any congressional approval, let alone without notifying Congress?

Mr. DELLUMS. Mr. Chairman, the Constitution is clear about war making. The Framers of the Constitution did not contemplate the post-cold war world where we are talking about peacekeeping, peacemaking, and peace enforcement, and I would dare say to the gentleman that the War Powers Act is an inept and impotent act in dealing with these conditions as well.

So the gentleman's point is not well-taken. The Constitution did not envision the Bosnias, the Somalias, and the Haitis of the world.

Mr. STEARNS. Mr. Chairman, I would say to the gentleman from California [Mr. DELLUMS] it is clear under Desert Storm when President Bush came here and asked Congress for approval for that conflict, and every President eventually came to Congress to do that, yet here we are, the law is not changed, the President does not have the constitutional authority to send U.S. combat troops into an indefinite situation, and even the President agreed they would be out far ahead of this time, yet it is not true.

Mr. MURTHA. Mr. Chairman, would the gentleman from South Carolina yield for 10 seconds?

Mr. SPENCE. I yield to the gentleman from Pennsylvania.

Mr. MURTHA. Mr. Chairman, let me just state to the gentleman from Florida [Mr. STEARNS], President Bush did not ask for authorization. As a matter of fact, he did not think he needed authorization. The Congress forced that on the President.

Mr. STEARNS. Mr. Chairman, would the gentleman yield and let me reply to that?

Mr. SPENCE. I yield to the gentleman from Florida.

Mr. STEARNS. Mr. Chairman, I ask the gentleman from Pennsylvania [Mr. MURTHA], did not President Bush come here, get a vote?

Mr. MURTHA. I led the fight.

Mr. SPENCE. Mr. Chairman, I yield to the gentleman from Florida [Mr. STEARNS].

Mr. STEARNS. Mr. Chairman, the bottom line here is this is going on and on with no definite time when this is going to end.

Let me read quickly what Corp. Zechariah Gransbury of Orlando said. He is in Bosnia, he should know:

It is getting worse and worse. The repetition is awful. Morale in my battalion is terrible. Most soldiers do not do the job they are trained to do. No one is motivated. I think a lot of us concluded that we are not making any real change in Bosnia.

Now this is someone that is in Bosnia, not somebody on the House floor. It is time Congress put an end to this unauthorized operation by creating a date certain for the exit of United States combat troops on the ground in Bosnia, and that is why I support the Hilleary amendment.

Mr. DELLUMS. Mr. Chairman, will the gentleman yield 10 seconds to me?

Mr. SPENCE. I yield to the gentleman from California.

Mr. DELLUMS. Mr. Chairman, I took President Bush to court, I sued in the Federal court to guarantee Congress' prerogative in warmaking, and I went out there initially alone, my colleague. The gentleman was not there, there were no other people. I went alone initially to the courts of this country to preserve Congress' warmaking prerogatives on the issue——

Mr. STEARNS. President Clinton, will the gentleman take President Clinton to court?

Mr. DELLUMS. He has not violated the Constitution as I envision it.

Mr. SPENCE. Mr. Chairman, I yield the balance of my time to the gentleman from California [Mr. CUNNINGHAM].

The CHAIRMAN. The gentleman from California is recognized for 30 seconds.

Mr. CUNNINGHAM. Thirty seconds to get us out of Bosnia.

Mr. Chairman, let me just say that the President told us a year ago that we are going to be out of Bosnia. Look at Somalia, the extension we got, 22 Rangers killed. Haiti; Aristide is still there, and so are the same problems. Billions of dollars.

Izetbegovic is aligning himself with Iran because he knows the United States is eventually pulling out. There are thousands of mujaheddin and Hamas sitting there.

Will there be peace in Bosnia? Not in our lifetime, nor the Middle East, and we need to let Europe do it and let us get out of Dodge.

Mr. LEVIN. Mr. Chairman, I rise in strong opposition to the Buyer and Hilleary amendments.

What is the purpose of these amendments?

Why should Congress get involved at this point?

Clearly United States actions in the NATO-led Bosnia mission have saved lives and not lost lives.

A target date for withdrawal has been set. Yesterday, the President reiterated that he expects the mission should be completed on schedule by June 1998. Do we want to eliminate any flexibility, even though the Secretary of Defense and the Chairman of the Joint Chiefs of Staff say it would be harmful to both the military and civilian effort in Bosnia? Secretary Cohen and General Shalikashvili have stated that a fixed, statutorily mandated date for the withdrawal of U.S. forces could undercut the safety of our troops.

When the consequences of a false step could be severe, Congress should be extremely careful how and where it treads. In this case, the stakes are high: the danger of renewed genocide. We speak out on this floor about the horrors of genocide. Let's not take an action that might increase the chances of a renewed nightmare.

Mrs. FOWLER. Mr. Chairman, I rise in support of both of the pending amendments.

Both these amendments would merely compel the administration to live up to its pledge to withdraw United States ground forces from Bosnia by June 30, 1998, at the latest.

To date, we have spent some $6.5 billion on our peacekeeping mission in Bosnia. Meanwhile, we rob our training, maintenance, and other operational accounts to pay for this mission. Our service people must do more and more with less and less, while readiness suffers and our military families are strained to the limit by overseas deployments.

I strongly support peace in Bosnia, but we cannot perform the peacekeeping mission there indefinitely. Our forces have provided a significant period of tranquility for implementation of the Dayton accords. We have provided aid to help rebuild. Fundamentally, however, it is up to the people there to decide whether they will work for peace. If Bosnia's factions have not moved significantly toward resolving their problems by June 1998, how long will it take?

I urge my colleagues to support these amendments.

Mr. CAMPBELL. Mr. Chairman, article I, section 8, of the U.S. Constitution gives the Congress, not the President, the right to declare war. We will have learned nothing from America's experience in Vietnam if we allow U.S. military to take part in a war without the explicit approval of Congress. At the very least, the war powers resolution should be honored. That law permits the insertion of U.S. troops into a circumstance where hostilities are imminent only for a maximum of 120 days before the explicit approval of Congress is obtained. In open hearings of the International Relations Committee, I asked of the Secretary of State why the President had not complied with this law in Bosnia. She answered in a way that brought me great sorrow—she claimed that hostilities were not imminent in Bosnia. Yet, allied troops have died in Bosnia. United States troops have been subject to sniper fire, and wounded, in Bosnia. To say this is not a situation of hostilities is to play with words—and that we must not do when American lives and the terms of the U.S. Constitution are at stake. The President has not obtained approval of the U.S. Congress for our troops to be in Bosnia. The Constitution compels they be brought home.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Tennessee [Mr. HILLEARY] as a substitute for the amendment offered by the gentleman from Indiana [Mr. BUYER].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. HILLEARY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. The Chair announces that pursuant to clause 2(c) of rule XXIII the Chair will reduce to 5 minutes the minimum time for any electronic vote on the underlying Buyer amendment.

The vote was taken by electronic device, and there were—ayes 196, noes 231, not voting 7, as follows:

[Roll No. 233]

AYES—196

Aderholt
Archer
Bachus
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bereuter
Berry
Bilbray
Bilirakis
Bonilla
Boyd
Brady
Bunning
Burr
Burton
Calvert
Camp
Campbell
Canady
Cannon
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Crane
Crapo
Cubin
Cunningham
Danner
Deal
DeFazio
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehrlich
English
Ensign
Evans
Everett
Ewing
Filner
Foley
Forbes
Fowler
Frank (MA)
Franks (NJ)
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Green
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hulshof
Hutchinson
Inglis
Istook
Jenkins
John
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
Kingston
Klug
LaHood
Largent
Latham
LaTourette
Lewis (KY)
Lipinski
LoBiondo
Lucas
Manzullo
Markey
McCollum
McCrery
McDade
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Mink
Moran (KS)
Myrick
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Portman
Pryce (OH)
Radanovich
Ramstad
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanders
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Serrano
Sessions
Shadegg
Shays
Shimkus
Shuster
Smith (OR)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Tierney
Traficant
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weller
Whitfield
Young (AK)

NOES—231

Abercrombie
Ackerman
Allen
Andrews
Armey
Baesler
Baldacci
Barrett (WI)
Bateman
Becerra
Bentsen
Berman
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonior
Bono
Borski
Boswell
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Buyer
Callahan
Capps
Cardin
Carson
Castle
Clay
Clayton
Clement
Clyburn
Conyers
Costello
Coyne
Cramer
Cummings
Davis (FL)
Davis (IL)
Davis (VA)
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Ehlers
Emerson
Engel
Eshoo
Etheridge
Farr
Fattah
Fawell
Fazio
Flake
Foglietta
Ford
Fox
Frelinghuysen
Frost
Furse
Gejdenson
Gephardt
Gillmor
Gilman
Gonzalez
Gordon
Greenwood
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hostettler
Houghton
Hoyer
Hunter
Hyde
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
King (NY)

Kleczka
Klink
Knollenberg
Kolbe
Kucinich
LaFalce
Lampson
Lantos
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Linder
Livingston
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McHugh
McIntyre
McKinney
McNulty
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Minge
Moakley
Molinari
Mollohan
Moran (VA)
Morella
Murtha
Nadler
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pelosi
Pickett
Pomeroy
Porter
Poshard
Price (NC)
Quinn
Rahall
Rangel
Redmond
Regula
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sandlin
Sawyer
Scott
Shaw
Sherman
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson
Thurman
Towns
Turner
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Weldon (PA)
Wexler
Weygand
White
Wicker
Wise
Wolf
Woolsey
Wynn
Young (FL)

NOT VOTING—7

Bryant
Cox
Schiff
Schumer
Torres
Weldon (FL)
Yates

□ 1833

Messrs. STOKES, MOAKLEY, OWENS, WHITE, Callahan, and FOX of Pennsylvania changed their vote from "aye" to "no."

Mr. ISTOOK and Mr. PACKARD changed their vote from "no" to "aye."

So the amendment offered as a substitute for the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. WELDON of Florida. Mr. Chairman, on rollcall No. 233, I was unintentionally delayed. Had I been present, I would have vote "aye."

PERSONAL EXPLANATION

Mr. BRYANT. Mr. Chairman, on rollcall No. 233, I was inadvertently detained. Had I been present, I would have vote "aye."

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana [Mr. BUYER].

The question was taken; and the chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. BUYER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 278, noes 148, not voting 8, as follows:

[Roll No. 234]

AYES—278

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Berry
Bilbray
Bilirakis
Bishop
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Boyd
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Davis (VA)
Deal
DeFazio
DeLay
Diaz-Balart
Dickey
Doggett
Dooley
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Eshoo
Evans
Everett
Ewing
Fawell
Filner
Flake
Foley
Forbes
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Green
Greenwood
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee (TX)
Jenkins
John
Johnson (CT)
Johnson, Sam
Jones
Kaptur
Kasich
Kelly
Kildee
Kim
Kingston
Kleczka
Klug
Knollenberg
Kolbe
LaHood
Lampson
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lucas
Maloney (CT)
Manton
Manzullo
McCarthy (MO)
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McIntyre
McKeon
Menendez
Metcalf
Mica
Miller (CA)
Miller (FL)
Minge
Mink
Molinari
Moran (KS)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Ortiz
Owens
Oxley
Packard
Pappas
Parker
Pascrell
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Poshard
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Rivers
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanchez
Sanders
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stump
Sununu
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Tiahrt
Tierney
Traficant
Turner
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOES—148

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barrett (WI)
Becerra
Bentsen
Berman
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Conyers
Coyne
Cummings
Davis (FL)
Davis (IL)
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dicks
Dixon
Doyle
Engel
Etheridge
Farr
Fattah
Fazio
Foglietta
Ford
Frost
Furse
Gejdenson
Gephardt
Gordon
Gutierrez
Hamilton
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Houghton
Hoyer
Jackson (IL)
Jefferson
Johnson (WI)
Johnson, E. B.
Kanjorski
Kennedy (MA)
Kennedy (RI)
Kennelly
Kilpatrick
Kind (WI)
King (NY)
Klink
Kucinich
LaFalce
Lantos
Levin
Lewis (GA)
Lowey
Luther
Maloney (NY)
Markey
Martinez
Mascara
Matsui
McCarthy (NY)
McDermott
McGovern
McHale
McKinney
McNulty
Meehan
Meek
Millender-McDonald
Moakley
Mollohan
Moran (VA)
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Pallone
Pastor
Payne
Pelosi
Pickett
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Rothman
Roybal-Allard
Rush
Sabo
Sandlin
Sawyer
Scott
Sisisky
Skaggs
Slaughter
Smith, Adam
Snyder
Stabenow
Stark
Stokes
Strickland
Stupak
Tanner
Tauscher
Thurman
Torres
Towns
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn

NOT VOTING—8

Brady
Bryant
Cox
Dingell
Schiff
Schumer
Talent
Yates

□ 1840

Mr. WYNN changed his vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote announced as above recorded.

PERSONAL EXPLANATION

Mr. BRADY. Mr. Chairman, on rollcall No. 234, I was inadvertently detained. Had I been present, I would have voted "aye."

PERSONAL EXPLANATION

Mr. BRYANT. Mr. Chairman, on rollcall No. 234, I was inadvertently detained. Had I been present, I would have voted "aye."

Mr. SAXTON. Mr. Chairman, I rise today to thank Chairman SPENCE and the committee for adding language to the Defense Authorization Act that would help resolve United States commercial disputes against the Kingdom of Saudi Arabia.

As many of my colleagues are aware, in the late 1970's and early 1980's, the Kingdom of Saudi Arabia refused to pay hundreds of millions of dollars owed to American firms. After years of inaction on the claims filed on behalf of these companies, language was included in the fiscal year 1993 defense appropriations bill establishing a claims resolution process for these cases. It charged the Secretaries of Defense, State, and Commerce with issuing periodic reports on the status of pending claims.

While many of these claims were resolved under this process, there are still debts outstanding. The directive language included in this bill is intended to re-open the claims process set up in 1993 and require the Department of Defense to conduct a broad and comprehensive search into any remaining claims.

With Saudi Arabia now seeking admission into the World Trade Organization, I believe it unconscionable that they refuse to settle their debts with private businesses. over the years, at least 50 Members of Congress have urged the Saudis to pay their debt, but nothing has happened. Mr. Chairman, I am hopeful this directive and the ensuing report will illustrate to the Kingdom of Saudi Arabia the importance of honoring debts. I am also prepared to offer this language every year if necessary until each claim outstanding is resolved.

I want to thank Chairman SPENCE again for his time.

Mr. SPENCE. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. JONES] having assumed the chair, Mr. YOUNG of Florida, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1119) to authorize appropriations for fiscal years 1998 and 1999 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal years 1998 and 1999, and for other purposes, had come to no resolution thereon.

PERSONAL EXPLANATION

Mr. GOSS. Mr. Speaker, on Friday, June 20, I was absent for rollcall votes 218 through 224. Had I been present, I would have voted "aye" on votes 218, 219, 220, 222, 223, and 224. I would have voted "no" on rollcall No. 221.

COMMUNICATION FROM STAFF MEMBER OF HON. JIM McDERMOTT, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from Charles M. Williams, staff member of the Honorable JIM MCDERMOTT, Member of Congress:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, June 23, 1997.

Hon. NEWT GINGRICH, SPEAKER,
U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you pursuant to Rule L (50) of the Rules of the House that I have been served with a subpoena issued by the United States District Court for the District of Columbia.

I will make the determinations required by Rule L.

Sincerely,
CHARLES M. WILLIAMS.

COMMUNICATION FROM STAFF MEMBER OF THE HONORABLE JIM McDERMOTT, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from Wilda E. Chisolm, staff member of the Honorable JIM MCDERMOTT, Member of Congress.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, June 23, 1997.

Hon. NEWT GINGRICH, SPEAKER,
U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you pursuant to Rule L (50) of the Rules of the House that I have been served with a subpoena issued by the United States District Court for the District of Columbia.

I will make the determinations required by Rule L.

Sincerely,
WILDA E. CHISOLM.

□ 1845

APPOINTMENT AS MEMBERS OF COMMISSION ON SECURITY AND COOPERATION IN EUROPE

The SPEAKER pro tempore (Mr. JONES). Without objection, and pursuant to the provisions of section 3 of Public Law 94–304, as amended by section 1 of Public Law 99–7, the Chair announces the Speaker's appointment of the following Members of the House to the Commission on Security and Cooperation in Europe:

Mr. HOYER of Maryland,
Mr. MARKEY of Massachusetts,
Mr. CARDIN of Maryland, and
Ms. SLAUGHTER of New York.

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

TRIBUTE TO DR. BETTY SHABAZZ

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. DAVIS] is recognized for 5 minutes.

Mr. DAVIS of Illinois. Mr. Speaker, I rise today to pay tribute to Dr. Betty Shabazz, a woman of great courage, strength, and tenacity.

On Monday, June 23, a great presence in the lives of countless citizens of the world left this Earth. She was not just an inspiration to the African-American community, or just an advocate of equality for women or primarily a proponent of children's rights. She was so much more than that. Dr. Betty Shabazz was an inspiration to the human community, she was an advocate of equality for all people, indeed she was a proponent of every ideal upon which this Nation was founded, but often had difficulty adhering to.

Therein lies the inherent greatness of Dr. Shabazz. Despite the firebombing of her home in 1965 and the brutal murder of her husband, civil rights leader Malcolm X less than 3 weeks later, she refused to turn what must have been inconsolable anger into motivation for retribution against those who took the father of her children. Instead, Dr. Shabazz turned inward, furthering her education and strengthening her resolve as she embarked upon her mission to raise six children alone.

Dr. Shabazz possessed hope even in the midst of hopelessness. She refused to quit, and epitomized the American spirit. And what Dr. Shabazz accomplished should encourage all of us to greater heights. She lived her life making a difference, and she died trying to make a difference.

She received her undergraduate, master's and doctoral degrees from the University of Massachusetts. She became a college professor and radio talk show host, all the while providing a stable and sheltered home for her six daughters. She was the model of motherhood, without calling attention to her actions. She turned tragedy into triumph. Dr. Shabazz led by example and exemplified what we all might be able to do if we were willing to make sacrifices, which she did.

Soon after the death of her husband, and for many years thereafter, Dr. Shabazz was viewed by many as an extension of Malcolm X and his views. Someone who, like Coretta Scott King and Myrlie Evers, could be called upon to tender an opinion on what Malcolm's views on various issues of the day might be. But something happened along the way. Dr. Shabazz herself became the authority, and the questions initially directed toward the widow of Malcolm X became inquiries of Dr. Betty Shabazz. Only a woman of this intellectual and academic magnitude could overshadow the mystique of such a historical figure as Malcolm X.

Mr. Speaker, a college bearing the name of Malcolm X is located in the Seventh Congressional District of Illinois. I came to know Dr. Shabazz very well during her many visits to Chicago. She was truly one of the most dynamic and engaging people that I have ever met. Her command of the issues affecting the many different people of the world was, in a word, extraordinary. Her passing at this time and in this way is terribly unfortunate. It speaks to the human condition in a way that only an event this tragic and unwarranted can. It begs for another figure like Dr. Shabazz to stand and say something to put right this egregious wrong. Yet she is still gone, and it seems that we are without recourse.

When her husband was murdered, he was eulogized by Ossie Davis, the great African-American actor. Mr. Davis referred to Malcolm X as our shining black manhood. Mr. Speaker, I submit to you that Dr. Betty Shabazz, through her countless achievements, has transcended Mr. Davis's description of her husband. She belongs to all of us and stands as a tribute to what we all must strive to become. While she may have left this Earth on the 23d of June, her legacy lives on and will undoubtedly influence many more generations to come.

I ask all of us to join today in paying tribute to Dr. Betty Shabazz. Having known her is an honor which words cannot convey, and her earthly presence will be sorely missed.

THE POINT REYES NATIONAL SEASHORE FARMLAND PROTECTION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California [Ms. WOOLSEY] is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, I rise today to mark the introduction of a bill that is crucial to my district. It is very important. It is the Point Reyes National Seashore Farmland Protection Act, H.R. 1995.

Just 45 miles north of San Francisco lies the Point Reyes National Seashore, a peninsula containing 71,000 acres of the most beautiful vistas and pristine wilderness in America. Across Tomales Bay from the seashore lie 38,000 acres of privately held land that is used for agriculture, primarily for dairy ranching.

In Marin and Sonoma Counties, we like it that way, since we know that farmland makes our community economically strong and economically diverse. The national seashore likes it that way because the careful stewardship of these lands by ranchers has helped to safeguard the seashore and the bay, keeping it one of the most pristine areas in our Nation.

The ranchers like it that way because ranching is their livelihood, and they like what they do.

And the community likes it that way, because local residents know that agriculture plays an important role in the mix that gives the north bay a strong economy and makes it a wonderful place to live.

No one, Mr. Speaker, absolutely no one in the community wants to see the land turned into housing developments or casinos, except possibly developers who are putting pressure on the area to change.

So that is what I have set out to do in the Point Reyes National Seashore Farmlands Protection Act, keep everything the way it is now. That means keeping those 38,000 acres in private ownership and productive agriculture, safeguarding the livelihood of the farmers who live there along with protecting the park and the bay that are nearby.

The way we would do this is through a public-private partnership, a partnership to purchase conservation easements, instead of outright purchase of the land, an innovative and cost-effective, cost-saving method that can serve as a model for farmland protection around this Nation.

My bill establishes a boundary, a boundary that allows Federal matching funds to be available to willing local farmers who volunteer to sell their conservation easements.

Participation in the program is 100 percent voluntary. The easements would be managed by a local nonprofit land trust or open space districts. These are groups that already have experienced managing 11,000 of the 38,000 acres in question, meaning that the Federal role will be limited and administrative costs will be kept low.

Now, I knew that the local landowners would have some concerns about a proposal that involved the Federal Government. So I sat down with them, not the Federal Government, but with the local farmers. I sat down one on one at their ranches, around the kitchen tables, and we talked the program through. I listened carefully, and the results of those talks is the bill that I am confident will fully protect the private property rights.

In fact, the way this bill is crafted, ranchers who do not choose to participate in the program will go on living their lives exactly as they do now, and those who do choose to participate will also see little change, except that their land, once they have negotiated their easements, will be protected as farmland in perpetuity.

This idea, Mr. Speaker, is so powerful that it has already attracted some very influential bipartisan supporters, and it has also attracted some serious interest at the committee level. I am proud to announce that the original cosponsors of my bill are the gentleman from Maryland [Mr. GILCHREST], the gentleman from Michigan [Mr. DINGELL], the gentleman from California [Mr. CAMPBELL], the gentleman from California [Mr. DOOLEY], and the gentleman from California [Mr. CONDIT].

Mr. Speaker, H.R. 1995 is a way to preserve farmland and protect neighboring park land at the same time, in a private-public partnership with a very limited Federal role. It is a win/win solution for my district, and it is a win/win solution for the Nation. H.R. 1995 makes a difference. I urge all of my colleagues to join me in supporting it.

DISNEY VERSUS THE BAPTISTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. PAUL] is recognized for 5 minutes.

Mr. PAUL. Mr. Speaker, I was recently asked who is right, the Southern Baptists or Disney, in their argument regarding homosexuality. The question was pointedly directed to me because it is known that my political positions do not exactly conform to Washington's conventional wisdom.

As a Congressman, the answer for me was easy: both. Neither party is incorrect in stating their position. Both are permitted their viewpoint and neither has violated the other's rights.

Disney has chosen to use its own property to express a view. Although not endorsed by everyone, Disney has every right to do so. The Government did not tell them they must nor did Disney ask for any Government pressure to be applied to those disinterested in Disney's message. Moreover, no Government money was involved. Disney's right of free expression is achieved in this case through its constitutional right to own and use its own property. This is an easy call when private property is involved and property rights are acknowledged.

If this incident occurred using governmental funds or on Government property, as in a Government school, and only the concept of free speech was taken into consideration, it would have been virtually impossible to satisfy everyone's demands.

□ 1900

One set of taxpayers claiming free speech on public property only opens the floodgates of controversy in an attempt to permit everyone to express any viewed desire. But it is this very fuzziness injected by government control of property that today is the source of so many hard feelings and difficult problems.

Some argue that the freedom to express the views of secular humanism and even communism are perfectly acceptable in government schools, while at the same time, it is necessary to exclude voluntary prayer and all religious programs. Recognizing that atheistic humanism is a substitute for religious beliefs, this argument falls far short of satisfying any group desiring to use government property for religious reasons.

Such conflicts do not occur on private property. No one argues the right of Protestants to invade Catholic-owned premises to preach the Protestant doctrine as a right under the first amendment. The access to a newspaper, television station, or radio station should only come with the permission of the owner. Who owns the property becomes the overriding issue and the right of free expression is incidental to that ownership.

Essentially, all conflicts as to who could say what could easily be resolved with a greater respect for private property ownership. This is this principle that protects us in our homes from those that would lecture us in the name of free speech in public places.

Thus, it is easy to argue for the Baptists' right to boycott. They are expressing their disgust by withholding their support and their property, that is, their money. And that is perfectly appropriate. As far as I am concerned, the more voluntary nonviolent boycotts, the better. The boycott is the free society's great weapon and was well understood by Martin Luther King. The evil comes when a boycott or any objection is made illegal by the State and the participants are jailed. When laws such as these exist, only jury nullification or even civil disobedience can erase them if the legislatures and the courts refuse to do so.

Quite clearly, both sides of the Disney flap are correct in asserting their rights. The proper view on homosexuality and tolerance is a moral and theological question, not a political one.

Problems like this can be voluntarily sorted out by the marketplace, but only when property rights are held in high esteem and there is an acknowledgment that government and individual force have no role to play. Imposing one's view upon another, through any type of force, should always be forbidden in a free society.

Actually, the Disney-Baptist skirmish is a wonderful example of how freedom can work without Congress sticking its nose into each and every matter. Both sides have a right to stand up for their respective beliefs.

By using the rules of private property ownership to guide our right of free expression and religion, it is not difficult to find an answer, for instance, to the conflict between unwelcomed speeches in privately-owned malls and mall owners. Because most of the difficult and emotional problems occur on Government-owned and Government-regulated property, we should, here in the Congress, do whatever we can to reinstate the original intent of the Constitution and honor and protect property ownership as an inalienable human right.

LA MUJER OBRERA: THE WORKING WOMAN

The SPEAKER pro tempore (Mr. JONES). Under a previous order of the House, the gentleman from Texas [Mr. REYES] is recognized for 5 minutes.

Mr. REYES. Mr. Speaker, first a few remarks in Spanish.

(The following paragraph was delivered in Spanish.)

Mr. Speaker, a lot of people have come to this floor in recent weeks to talk about NAFTA. And several of those Members have talked about what is going on in my district, El Paso, TX. Tonight, I want to talk about my district.

The reason I have opened my remarks in Spanish, Mr. Speaker, is because it is important to the story that I want to tell my colleagues this evening. The district that I represent, El Paso, TX, has experienced more NAFTA-related job losses than any other community in the country, more than 5,600 jobs.

This week, a delegation of dislocated workers from my district, who call themselves the La Mujer Obrera, or The Working Woman, are here in Washington, DC to tell their story and share it with Members of Congress and administration officials. They are here this evening in this House to listen to my remarks.

La Mujer Obrera is a community-based, nonprofit organization dedicated to working to improve the social and economic conditions of low-income Hispanic workers and their families in the El Paso area. Many of these workers had jobs in El Paso in the garment industry. And as most of my colleagues know, a lot of those jobs have now gone to Mexico, leaving these workers and others like them without jobs and without the skills needed to get new ones.

When Congress passed NAFTA, it provided training assistance for workers dislocated by NAFTA. The workers of the La Mujer Obrera in El Paso were eligible for training assistance. What they got instead was remedial English lessons. It is important to understand that many of the people I am talking about have been working and paying taxes for 20 and 30 years.

While you and I probably agree that the ability to speak English will help, it will not by itself secure jobs for these workers. Since I became a Member of Congress 6 months ago, I have been working with La Mujer Obrera and the Texas Workforce Commission to provide the kind of assistance that will make a difference.

As a result, a pilot project was launched in El Paso that we hope should effectively address the needs of dislocated workers. This pilot project will provide bilingual job training and prepare dislocated workers for new jobs. Approximately 1,200 dislocated workers will benefit from this project. Some Members of this body will listen to the story of La Mujer Obrera and conclude that NAFTA is bad. Others will point to the fact that the new jobs have been created by NAFTA and conclude that NAFTA is good.

I think the truth lies somewhere in between. NAFTA was and is a bold initiative. But as with all great experiments, we should not be surprised when we hit some problem spots. We must be willing to make corrections along the way. This is especially true when it affects people like Armida Arriaga, a 56-year-old woman in El Paso who worked in the garment industry for 18 years before losing her job. Ms. Ariaga has used the NAFTA benefits, but she would rather have a job.

In a recent report, the Forum for International Policy, whose members include Brent Scowcroft, Carla Hills, Colin Powell and Robert Strauss, said it best:

"Increased international trade may well lead to U.S. job losses for certain companies in certain sectors. The response should not be to impede greater trade, but rather to develop effective programs to provide American workers with training to acquire new skills and develop new business. Of course, meeting this challenge cannot be underestimated. Some workers may find developing new skills difficult, if not impossible. But dealing creatively with job transitions is preferable, for the people concerned and society as a whole, to denying ourselves increased trade opportunities."

I think it is appropriate that on this date in 1647 Margaret Brent proclaimed herself as America's first feminist by demanding a voice and vote for herself in the Maryland Colonial Assembly. Brent came to America in 1638 and was the first woman to own property in Maryland.

Mr. Speaker, the workers of the La Mujer Obrera are here today to demand a voice in the decisions that we make that affect their lives. As this body ponders serious policy questions, I encourage all of my colleagues to listen carefully to the voices of these people, the dislocated workers, and remember that what we are here to do is the people's business. They expect and deserve this.

RECOGNITION AND COMPENSATION FOR FILIPINO VETERANS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California [Ms. ROYBAL-ALLARD] is recognized for 5 minutes.

Ms. ROYBAL-ALLARD. Mr. Speaker, in my district, on June 14, at MacArthur Park, located in the heart of downtown Los Angeles, three brave, elderly, former soldiers renewed a battle first begun in World War II.

In an unprecedented display of determination, Percy Javellana, age 74, Angel De La Cruz, age 71, and Orcencio Salem, age 71, chained themselves to the statue of their former commander, General Douglas MacArthur. They have vowed to remain there for 24 hours a day in protest of our Government's denial of benefits for Filipino veterans of World War II.

Mr. De La Cruz took his personal sacrifice one step further by beginning a hunger strike he has promised will not end until Federal legislation to restore these promised benefits is enacted.

Let there be no mistake, their symbolic act of protest, which is gaining national media attention, is not merely motivated by a desire for monetary compensation. Instead, their struggle is about honor, dignity, and respect for their sacrifices as soldiers. More importantly, it is about the moral obligation of our Government to live up to its promises once made.

In 1941, recognizing the critical strategic value of the Philippines to the allied forces, President Roosevelt called upon Filipino soldiers and civilians to join United States forces in retaking the Philippines. In exchange for their volunteer military service, they were promised pay and benefits equal to that provided to United States troops.

In response, during almost 4 years of the most intense and critically important phases of World War II, more than 200,000 Filipinos fought side by side with allied forces and won a strategic forward position vital to our success in the Pacific Theater.

Willingly, these brave men sacrificed their well-being and their lives in defense of freedom. They fought, believing in our country's promise that they would earn the right to the same compensation and benefits given to American men and women with whom they fought side by side in defense of the free world.

To the ultimate shame of our Nation, not one promise was honored. Instead, in 1946, the United States Congress passed legislation severely restricting the veterans' benefits that members of the Phillipine Commonwealth Army and the Special Scouts could receive. Ever since that betrayal, Filipino veterans and their survivors have fought an uphill battle to restore these hard-earned benefits.

In their support, I am proud to be a cosponsor of H.R. 836, a bipartisan bill introduced by the gentleman from New York [Mr. GILMAN] and the gentleman from California [Mr. FILNER] to extend full benefits to these Philippine veterans.

I support not only its passage but the efforts of the Filipino veterans to have congressional hearings to illuminate the unkept promises and the impact it has had on the lives of these aging veterans.

As our Nation focuses increased attention on World War II through the creation of a memorial recognizing the contributions of all World War II veterans, and as we continue to celebrate the recent dedication of the Franklin Delano Roosevelt Memorial, a great portion of which focuses on his leadership during the Second World War, there is no better time than now to correct this injustice.

Clearly, the Filipino veterans who fought, bled, and suffered alongside American troops deserve the recognition and compensation they were promised and then denied for over 50 years. I urge my colleagues and the American public to recognize that correcting this injustice is a matter of national honor.

REMARKS ON THE RENEWAL OF CHINA'S MFN TRADE STATUS WITH THE UNITED STATES

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California [Ms. MILLENDER-MCDONALD] is recognized for 5 minutes.

Ms. MILLENDER-McDONALD. Mr. Speaker, let me tell you why the resolution to disapprove China's Most-Favored-Nation status failed today on this House floor. This Congress did its homework and learned from the past how such protectionist action can backfire on a strong nation such as the United States.

The United States has been in a trade posture with China since China's trade liberalization policies in the early 1980's, with the exception of the period after the Tiananmen Square incident when China briefly retreated into a period of isolation.

Historically, China has taken protectionist action against the rest of the world. During the period from 246 to 209 B.C., China built the "Great Wall" to defend its northern frontier against outsiders. Now, the wall serves no purpose except as a tourist attraction. In the 1950's China's inward-oriented development policies culminated in the Great Leap Forward, a disastrous attempt to create a self-sufficient economy. That failed as well.

Today, China is experiencing the Great Awakening, where a plan for enterprise reform, trade reform, and tax reform as well as a fundamental restructuring of the country's macroeconomic management is being pursued. This kind of action is working.

China's economy is booming, and the United States is taking advantage of our trade relations to boost our own economy.

America was built not only on the ideal of freedom and democracy, but on the economic base of free enterprise from which such ideals flow. Remember the Boston Tea Party? The Stamp Tax? Only by opening our minds and our markets can we help China reform its human rights policies, its intellectual property rights infringements, and its arms sales. Should we turn our heads to these practices? Certainly not. Should we have turned our back on them? Certainly not. Only through continuous engagement in dialogue will we have an opportunity to affect change.

From 1990 to 1996, U.S. exports to China rose by 90 percent, the fastest growth rate of any major export market. This has been a direct benefit to Southern California given its recovery from a recession.

China's economy is expected to be the world's largest by the year 2012. We cannot afford to turn our backs on the opportunities offered through trade with China, particularly in light of the higher paying jobs directly supported by trade opportunities. That is the kind of protectionist action that would isolate the United States from the incredible market that is China. That would be cutting off our nose to spite our face.

China is in need of 750 billion dollars' worth of infrastructure, most of which they will buy from the United States. Those who argued today for the revocation of MFN status by reason of a trade deficit—I ask you, how are we going to reverse the current trade deficit by blocking chances for U.S. export growth? The simple fact is, we cannot.

A full one-quarter of all cargo entering the United States comes from China. My 37th Congressional District benefits from the Ports of Los Angeles and Long Beach, two of the biggest ports in the United States. In 1996, the Port of Long Beach alone handled $15.2 billion in United States-China trade. Companies such as Jackson Aerospace in Gardena, Alson Manufacturing in Compton, and Fisher Forging in Carson are all dependent on continued trade with China to maintain growth in the tremendous aerospace industry within Southern California.

Exports of U.S. goods and services now total about $14.4 billion and support over 200,000 American jobs. My fellow Americans, these are a lot of jobs which would have been in jeopardy should we have not renewed China's MFN status.

This House did the right thing by renewing China's MFN status today, and I applaud all of my colleagues who voted with me to sustain it.

TAX FAIRNESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts [Mr. OLVER] is recognized for 5 minutes.

Mr. OLVER. Mr. Speaker, I had spoken earlier today and got part way through some data that I was trying too give out, so I am going to pick up somewhere close to where I had been at that time because I did not have time to finish what I had been talking about.

Let me go back and point out that, in the next few days, we are going to be entering into an extremely important debate; and in those next couple of days, we are going to learn a good deal about tax fairness in America and we are going to learn something about the heart and soul of the two major parties, mine, the Democratic Party, and the Republican Party, the other party here in this body of Congress.

□ 1915

We are going to find out who the two parties are willing to defend, who each of the parties serves and who each of the parties is willing to fight for.

The debate is going to be a long and very controversial, very acrimonious one, I would guess, because it has to do with exactly how we reach a balanced budget in this country.

I thought it would be instructive to speak about something that had appeared in USA Today, on the front page of USA Today, the weekend edition, where the front page cover story of the weekend edition is entitled, "So How Much Money Does It Take To Be Rich?"

Basically, it is a story of what it is like, the struggle that families at the upper end of the scale have to go through in order to become wealthy in this country. They use a number of examples. I would just like to mention some things out of this story.

One of the things that really struck me as quite remarkable is that in 1997 there are now 3.5 million American families who have assets of $1 million or more. That is 3.5 percent of all families. Only 20 years ago, there were only 350,000 families who, in inflation-adjusted dollars, had that kind of income.

In any case, I want to just mention several of the families who were given as examples here. One is a gentleman from California who has $1 million in stocks and bonds, and who lives in a $500,000 house and drives a Lexus and takes several expensive vacations, the paper lists that he takes several $8,000 vacations each year. He comments that it is not yet to the point where he can take a trip to Europe or Canada for a whole summer. "A real millionaire would be able to do such things."

And then there is another, a couple from Oregon who have about $2 million in liquid assets, plus $2 million in a 6,000-square-foot city house and a beach front home as well. Each year they take vacations. The gentleman in that family says with another $2 million in assets, he would worry less and travel a bit more and do more charitable work.

And then there is a family, as an example, who happen to be in South Carolina, who sold their personnel staffing company last year and now have about $3.5 million in investable assets, plus $3.5 million in nonliquid stock, and they own two homes, one a beach home. They own a Porche, a BMW, and a $120,000 sailboat. The man in this family says that they do not consider themselves rich. They are just not there yet. He says he probably would reach that magical mark where he could admit that he was rich when he could afford a $5 million jet.

And then there is another family where the gentleman here had $7 million worth of stock and bought a $3 million custom built yacht, and then a year later he sold his stock for $35 million and bought a $2.5 million personal jet.

That is an indication of the people who are in that upper 3.5 percent, those people who have million-dollar incomes. I use that as an indication merely to highlight the fact that the Republicans and the Democrats have very different ways that they would give their tax reduction.

The two parties have agreed that we should balance the budget by 2002. The two parties have agreed what the total amount of tax reduction ought to be. What is now the question is how we would distribute those tax breaks.

The fact of the matter is that if we break it down to six families, with one of those families being a family that has over $100,000 a year in income, and that includes all of the examples that I gave, out of those six families, the Republican plan would give one family two-thirds of all the tax reduction. Those other five families, two of those families have incomes of less than $25,000 a year. Under the Republican tax plan, they would get exactly zero out of the tax reduction program.

The remaining three families, with incomes lying between $25,000 and $100,000, the great middle class in this country; and, by the way, a lot of us believe that we are middle class if we have lower income than $25,000, and some believe they are in the middle class if they have income above $100,000. But that half of the total population between $25,000 of income and $100,000 of income would get one-third of the total tax cut.

That is what the argument is about. Because on the part of the Democratic proposal as opposed to the Republican proposal, the one family which in the Republican plan gets two-thirds of all the tax cut, all those families which have over $100,000 of income a year and include the hundreds of thousands of millionaires in this country, the 3.5 million millionaires, that one family under the Democratic plan would get 25 percent of the tax reduction. They would get $1,500 on average per year.

The two families at the lower end of the scale, with income less than $25,000 a year, and they pay all kinds of taxes, they pay payroll taxes and sales taxes and excise taxes and gasoline taxes and all sorts of things, they would get, those two, one-third of the American population with incomes under $25,000 a year, they would get about 20 percent of the tax breaks that come from the Democratic plan.

And the three, the great middle class between $25,000 an $100,000 of income per year, under the Democratic plan that group of half of the American population, that group would receive 55 percent of the tax reduction that would come from the agreed-on tax plan that both parties have agreed, but we are just arguing about who should get it.

I have to ask America, because this question is going to be asked again and again and again over the next few days, whether we should give two-thirds of all the tax breaks to the families with more than $100,000 of income per year; or whether we should give the middle, the great middle class, between $25,000 and $100,000 a year, 55 percent of the tax breaks that are to be given under the plans that are going to be debated over the next few days; and whether in fact it is fair for us to give no tax break at all for the one-third of all Americans who have incomes below $25,000 a year but represent working families with kids, young families, families and households that are headed by women, whether it is fair to give them nothing as the Republican plan would do, or whether it is fair to give them some of the tax break as well.

EXTENDING ORDER OF THE HOUSE OF MAY 7, 1997, THROUGH TUESDAY, JULY 15, 1997

Mr. HASTERT (during special order of the gentleman from New Jersey, Mr. PALLONE). Mr. Speaker, I ask unanimous consent that the order of the House of May 7, 1997, as extended on June 12, 1997, be further extended through July 15, 1997.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

DEMOCRATIC TAX CUT PROPOSAL

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from New Jersey [Mr. PALLONE] is recognized for 60 minutes as the designee of the minority leader.

Mr. PALLONE. Mr. Speaker, following up on the gentleman from Massachusetts who just addressed the House previously, I think that I need to stress that the unfairness of the Republican tax scheme really has not gone unnoticed out in the real world, beyond the city of Washington. People have really caught on to the fact that the Republican plan is blatantly skewed to help the rich, and the bad news for the Republican leadership here in Washington is that the grassroots really understands what is happening and what we will be voting on in the next 2 days here in the House of Representatives.

The people are asking us to do the right thing. I would maintain that the Democratic tax cut alternative is far superior when you deal with the concerns of the average American working family.

This week as Democrats we are trying to illustrate in human terms the implications of the Republican tax scheme since we are going to be voting on this over the next 2 days. I wanted to start out this evening by using the example of a woman from New Jersey, Debra Hammarstrom, who is a resident of Toms River, NJ, in Ocean County. She is a divorced mother of two children living on a single income. I actually have photographs of her daughter here and also of her son. These are her two children, Ms. Hammarstrom's two children. She recently wrote, and I want to quote a section from her letter, the reason was, quote, to stress the importance of how a child tax credit would help to offset some of the financial burdens that come with raising a family on a single income.

She is concerned that the child tax credit that the Republicans have proposed here will simply not help her even though it should. Ms. Hammarstrom earns $21.500 in her job as the benefits coordinator for Visiting Home Care Service of Ocean County, NJ. She pays for child care, $105 a week, or $5,460 a year, so that she can work.

To quote again from Ms. Hammarstom's letter, she says, "Unfortunately the Republican child tax credit proposal is targeted against those who need it most, those who are just one step away from falling into the welfare system. We are working poor who work to pay for child care, food and a roof over our family's head and nothing more. The child tax credit should be given to financially benefit the child, and I think a child from a lower income family would benefit greatly by receiving the credit. However, my family would receive no benefit at all from the proposed child tax credit."

That is the Republican tax credit. They do not give it to her in her case, another member of another working family.

The Republican bill denies the $500 child tax credit to more than 15 million working families because it does not let them count the credit against their payroll taxes. These payroll taxes are the taxes that are deducted from a worker's paycheck. Everyone understands that. But some of our Republican colleagues, including Speaker GINGRICH and the chairman of the Committee on Ways and Means, the gentleman from Texas [Mr. ARCHER] have claimed that working families who qualify for the earned income tax credit are welfare recipients.

Mr. Speaker, I maintain this is an outrage. The people who qualify for the earned income tax credit are working people as the words "earned income" attest. No less a conservative than President Ronald Reagan himself praised the EITC program as a great incentive for helping people make the transition from welfare to work. To call these families welfare recipients is simply dishonest. To deny the $500 child tax credit to these families who need it the most is cruel and shows that the Republicans do not care about giving tax relief to millions of moderate income families. We are going to be highlighting some of these families like Debra Hammarstrom and her children tonight and over the next 2 days as this Republican tax proposal comes forward.

Mr. Speaker, I am very pleased to see that our Democratic leader the gentleman from Missouri [Mr. GEPHARDT] is here tonight to join with this special order and I would like to yield to him at this time.

Mr. GEPHARDT. I thank the gentleman from New Jersey and appreciate the opportunity to be able to participate in his special order on this very important question.

As the gentleman knows, we are here today to illustrate why the vote we will cast on the Republican tax cut plan this week is one of the most important votes that will be taken in this Congress and for many years.

When the House takes up the Republican vision of tax relief, we will oppose it because well over half the benefits go to the top, or wealthiest 5 percent of taxpayers.

We ask the Republicans to simply listen to the words of the people that they profess they are helping, the hard-working, middle-class taxpayers instead of wealthy contributors and corporate special interests.

There is a different way to provide tax relief than rewarding traders of stocks and bonds for a bull market brought on by the Democrats' economic recovery. The Democratic tax cut targets tax relief to the people who are raising children and agonizing over how they will be able to send them to college when they are ready.

□ 1930

The Democratic tax cut targets tax relief to people who are selling their homes, the biggest investment, I might add, for most middle income taxpayers.

The Democratic tax cut gives tax relief to families who are struggling to keep the family business and the family farm in the family to succeeding generations, and the Democratic tax cut responsibly holds down the cost of this targeted tax relief that our children and our families will not have to bear the burden for paying for it later. We do not want to explode the deficit down the road as we once did. We want to keep the budget in balance.

Beyond all of the complex statutory language that goes into the Tax Code, the spread sheets and the revenue estimates from congressional scorekeepers, we have to ask ourselves what this bill is really for, what is it all about? Is it an economic experimentation giving the wealthy, who already have a huge advantage over middle class taxpayers, the lion's share of the benefit with the hopes that it would trickle down eventually to the rest of the people in the economy, or should it be about offering average ordinary taxpayers a helping hand by putting more money back in their pockets to raise their kids and send them to college?

I think the Democratic tax cut is fair because it targets tax cuts on those who need them the most. More than two-thirds of the Democratic tax cut goes to the truly struggling middle income and lower income families who make less than $57,000 a year.

In sharp contrast, 57 percent of the tax cut in the Republican bill goes to the top 5 percent; that is, people making over a $109,000 a year. Let me repeat that: 57 percent, more than two-thirds, in fact 66 percent, of our tax cut goes to families who earn less than $57,000 a year, but 57 percent of the Republican tax cut goes to the top 5 percent of wage earners; that is, people earning over a $109,000 a year.

The Democratic tax cut alternative is better for working families, as the gentleman from New Jersey [Mr. PALLONE] has said. For example, it targets the per child tax credit on hard pressed families making less than $57,000 a year and ensures that millions more children will qualify for the credit than under the GOP bill.

The Democratic tax cut is better for education. It provides $37 billion in education tax credits for working families compared to only $22 billion in the GOP bill and larger education tax credits for millions of working families than the GOP plan.

The Democratic tax cut alternative is better for the deficit. Unlike the GOP bill, the Democratic alternative does not have a lot of backloaded provisions such as the indexing of capital gains and backloaded individual retirement accounts that will explode the deficit in later years.

The Republican rush to a vote this week leaves precious little opportunity for the American people to react to these competing visions for tax relief, but before we cast this vote I really believe that every Member should engage in a dialog with our constituents and ask them how these two very different tax plans would help them. If we would do that, I am confident that the majority of those in the middle class and at the lower income levels who comprise 90 percent of America's taxpayers will find that the Democratic tax cut plan offers the greatest tax relief for America's middle-income families.

Now before I end I would like to pay attention for a moment here to a gentleman who lives in my district. His name is Ben Naes. He is an impressive young man from Barnhart, MO. He is a 21-year-old student. He graduated just a couple of weeks ago from Jefferson Community College. He majored in chemistry and hopes to pursue a career in either chemistry or biochemistry. He worked his way through community college over the past 2 years with the support of his parents, his father Roger, who is an iron worker, and his mother Tony is a retailer at Grandpa's Department Store. His parents are very proud of him, as they should be because he worked summers as an iron worker's apprentice, and while his parents financially supported him he earned a 3.9 grade point average and recently was accepted to Southeast Missouri State University so he could go on and get his 4 year degree.

The question we ask tonight is how would Ben Naes fare under the two tax proposals that will be before the House later this week. As a community college student Ben's family paid $1,500 a year for 30 credit hours to the community college. Under the Democratic alternative tax cut proposal Ben's family would have received $1,100 a year tax credit this year if it had been in effect to defray Ben's education costs. The Republican plan would have only given $750 a year credit. So under the Democratic plan, $1,100 for Ben Naes and his family; under the Republican plan, $750 for Ben Naes and his family. The Democratic plan would mean that Ben's family would have more money for school supplies, expenses and ultimately more time to spend together as a family because they would not have to go out and earn that $600 difference.

Now when Ben begins attending Southwest Missouri State this next fall, his family will pay $2,900 a year for tuition to that State institution. Under the democratic tax cut proposal Ben's family would receive a tax credit of $580 toward that $2,900 of tuition, but under the Republican plan there would be no benefit at all because, as the gentleman knows, under the Republican plan there is no help for the third and fourth years of college, only for the first two.

Now as a parent of several children who are attending college right now I can tell you that $600 a year is a big deal. It makes a significant impact in paying for higher education and assuring that your child is going to get that much needed educational degree which has a direct benefit in terms of how much money they can earn after college.

So the contrast, I would conclude to the gentleman, could not be clearer. For Ben Naes the Democratic bill is much, much better. For community college, for going on to State college, he gets real tangible benefits, as does his family. The Republican bill, much less advantage, and in the third and fourth year of college, nothing, absolutely a big goose egg while people at the top who are earning $200,000 and $300,000 and $400,000 a year would get thousands of dollars of tax benefits that frankly they have not asked for and that certainly they do not need as much as Ben Naes and his family in Barnhart, MO.

So the gentleman is, I think, bringing a very clear and cogent and important message tonight in this special order to the American people and our constituents who really need to know the difference between these two competing tax cut visions, the Democratic tax cut or the Republican tax cut, and I certainly hope that we can convince a majority in the House to vote for the Democratic tax cut plan which would be much, much better for my constituents back in the Third District of Missouri.

Mr. PALLONE. Mr. Speaker, I certainly want to thank our Democratic leader for being here tonight and pointing out the major differences between this Republican tax cut plan and the Democratic alternative tax cut plan, and what we are really trying to do tonight, which the gentleman from Missouri did very well, is to bring this home and explain how it affects real people, and I think that the word is getting out to the country about the differences here and why this Republican tax plan is basically bad for the average working person.

I just want to say briefly, and then I want to yield to the gentlewoman from Connecticut, I just received a letter today from the president of Rutgers University, which is the State university in New Jersey, the major university in the State and the main campus of which is in New Brunswick in my district, and the president, the Rutgers president, expressed deep concern over the Republican bill, the one that came out of the House Committee on Ways and Means, and if I could just read a couple lines from this? He goes into very great detail about how it impacts a lot of students, but he says, and I quote, "that the higher education community was encouraged by the bipartisan budget agreement reached by the President and congressional leaders because it put the country on track to a balanced budget while targeting tax relief to families struggling with the cost of higher education. Chairman Archer's bill, however, reduces this tax relief and imposes new burdens on students and families," and he goes into the details which I will not get into at this point.

But it is real. These are real people. There are thousands of students at Rutgers in my home State of New Jersey who are impacted by this and really had hopes based on what was agreed to that this was going to be something that was really going to help the average working family meet the costs of a college education, and now the President and many others are very disappointed when they read what the Republicans have in mind here.

I yield now to the gentlewoman from Connecticut.

Ms. DeLAURO. Mr. Speaker, I thank my colleague from New Jersey, Mr. PALLONE, and I am proud to be here before the House of Representatives with you tonight and the minority leader of the House, Mr. GEPHARDT and my colleague from Texas, Ms. JACKSON-LEE, and we also have the gentleman from Massachusetts, Mr. OLVER here, and there may be several others joining.

I think it is important to keep repeating over and over again that in fact there are two tax cut proposals that are on the table that are up for discussion. There is a Democratic proposal and a Republican proposal, and it is important for the country, and I was happy to hear my colleague from New Jersey say, because I, too, believe that the word is beginning to get through of, in fact, who benefits from these two tax cut proposals, working middle class families, which are the center and the core of what the Democratic tax cut proposal is all about, or the wealthiest 5 percent of the people in this country, which is where the Republican proposal focuses its time, its attention and the bulk of its resources.

And I am delighted that the minority leader focused on the issue of education. It is my firm belief that any budget proposal that is passed by this body should help working middle class families, families who are striving or those families who are striving to make the leap into the middle class. These are families who are working hard, they do play by the rules, they scramble every week to pay their bills. They want what every family wants in this country, that shot at the American dream. That is what all our parents looked at and worked so hard for, a chance to make their kids' life a little bit better than their own, and the center of all of that, and I know in so many families, was the ability to be able to get your child an education, a decent education. It was the great equalizer. It could make a difference in what your child's future would be all about because it is education that opens doors to people in this country. It is the key to the opportunity. And it is more probably, particularly more important now in this global economy which requires up-to-date skills and lifelong learning so that when American families are looking for tax relief, they are hoping for a few more dollars to help send their kids to school and give them the shot at that American dream.

The Democratic Members of this body are in favor of tax relief, and I am going to repeat that over and over and over again. We support tax cuts that would mainly benefit the folks who need them, working American families, and that is why the bulk of benefits under the Democratic tax proposal go to families making under $75,000 a year and why we are committed to giving average families the tools that they need to be able to afford to send their kids to school.

We have talked a lot on this floor in the last several months, in the last couple of years in fact, that government cannot do everything for people. But in fact what government can do is to help to provide the tools to working families in this country to help them to meet the challenges that they face in their lives. And education of their kids is one of those challenges. Republicans talk the talk on education tax cuts, but they simply do not walk the walk.

In the balanced budget agreement the Republicans agreed to $35 billion for the President's education initiatives. Instead, they have provided $22 billion to education proposals to help middle class families. The remaining funds are reserved for families who can already afford to set money aside for their kids' education.

Let me just tell my colleagues about one of these American families who needs help in sending their kids to school.

This picture here is of a young woman who lives in my district, Angela Salay. Angela comes from a middle class family in a small town in my district, Durham, CT. Angela graduated from high school just last week, and she is looking forward to attending Middlesex Community College in the fall, and she plans to transfer to a 4-year college after her first year. Angela and her family are looking forward to the help that she might be able to get from a HOPE scholarship, $1,500 to help pay for the cost of college.

□ 1945

Angela's mom has already paid to send Angela's two older sisters to college. The family estimates that the cost of her tuition will be approximately $1,800. Under the Democratic bill, when the law is fully phased in, Angela would get a HOPE scholarship for $1,500. Even next year, when the bill is partially phased in, Angela would receive an $1,100 HOPE scholarship.

Under the Republican bill, Angela's scholarship would only be $900, $600 less than what she could receive under the Democratic proposal.

Let me also show my colleagues another photograph. How about these young people celebrating that they graduated from high school. From left to right they are Gill Hissan, Sara Hansen, Darcey Knoll, Stephanie Morris, Eiador Ciatta, and Tony Capiello, and they graduated last week from high school. They are now beginning to plan, and their families are trying to plan, for how to get them to college.

The average tuition for a 2-year public college in Connecticut is $1,646. Ninety-one percent of the cost of this tuition, $1,500, would be covered under the Democrat's plan and the HOPE scholarship. Under the Republican bill, the average student in Connecticut would only be eligible for an $824 tax credit, which is only 50 percent of the cost of tuition.

Mr. Speaker, these differences might not seem that big to my friends on the other side of the aisle or their wealthy friends, but a few hundred dollars is a lot of money to their parents, to Angela Salay's parents, especially teenagers who are spending their summers working, trying to make some money for college. These are the kids who are flipping burgers, bagging groceries, and probably only making the minimum wage. These are the people that we need to be helping.

When we take a look at why our colleagues on the other side of the aisle are only willing to pay half the cost on the HOPE scholarship, on an education tax cut, it is because what they want to do is to be able to phase out an alternative minimum tax, the alternate minimum tax, which allows the richest corporations in this country to come out with a zero tax obligation, the richest corporations.

That is what they have proposed, and the bulk of their tax breaks are focused on the 5 percent of the richest people in this country, people who make over $250,000 a year. That is why the tax cuts for working middle-class families have been cut back or restricted in order to be able to make it easy for the people at the higher end of the scale. That is wrong. It is simply wrong to do that.

We need to be providing working middle-class families with those tools that they need to help their kids and themselves meet the challenges in their lives. These folks, quite honestly, they are not asking to wipe out their tax obligation. That is not what they want. Some of the richest corporations in this country would like to have a zero tax obligation. They want to pay their fair share of taxes. They want the opportunity to get some help, to make sure their kids can compete and succeed.

Like my parents and the parents of my colleagues who are here tonight, someday they might see Gill or Sara or Angela have the opportunity to serve in the House of Representatives and be able to represent people and be able to pass on and give some help to others. That is what they want for their kids. We owe them no less, to pass the Democratic alternative on a tax cut plan.

Mr. Speaker, I want to thank my colleague, the gentleman from New Jersey [Mr. PALLONE] for this special order tonight.

Mr. PALLONE. Mr. Speaker, I thank the gentlewoman. I notice that she and our Democratic leader constantly refer to the working middle class, and that is really what this is all about. The Democratic tax cuts would basically target the working middle class. That is the way it should be.

We have mentioned, the gentlewoman has mentioned over and over again, this is a balanced budget bill where we have limited resources, because we are trying to balance the budget. Those resources need to go to the working middle class, not to the big corporations, not to the top 1 percent of the people in this country.

One of the things that really bothers me, and I just wanted to mention it, and then I will yield to our friend from Texas, is that the strength, if you will, of America, I was always taught, was the fact that we have a large and growing middle class; that we do not have this huge gap, if you will, between the rich and the poor. And I think that we need to encourage the middle class. We need to help people who are working in the middle class.

One of the things, if I could just mention briefly, because again I think that now the media is giving this Republican tax plan some very serious analysis, there was an article that appeared in yesterday's New York Times under the headline, "Study Shows Tax Proposal Would Benefit the Wealthy," with the subhead, "Wider Gap Is Seen Between Rich and Poor."

In that editorial, or in that article, the Times reports that the 5 million wealthiest families in our country would gain thousands of dollars, while the 40 million families with the lowest incomes, now these are still working people, that those 40 million at the lower end of that middle-class spectrum would actually lose money, with the effect of widening the already growing gap between the richest and poorest families.

That has been one of the real problems we have had in the last few years, is this gap between the rich and the poor keeps getting bigger and people drop out of the middle class. We cannot let that happen.

Ms. DELAURO. Mr. Speaker, if I could make one more comment, because my colleague is right, the press is beginning to report these stories and to show this Republican tax proposal for what it is.

Just so that people do not think that it is just from a Democratic perspective that this tax proposal is being described, I just would like to quote a conservative political commentator, Kevin Phillips. This is what he has said, and he said this just last week on June 19:

> Republicans are determined to slash the capital gains tax, the estate tax, the corporate alternative minimum tax and some other provisions important to the people who write the campaign checks.

I thank my colleague for letting me get that in.

Mr. PALLONE. Mr. Speaker, I yield now to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentleman from New Jersey. I am going to ask as we proceed with this debate, I am going to ask the American people to do something that we always try to encourage our children not to do, and that is I am going to encourage them to leave their television sets on for the next 48 hours. If I could, I will ask them to stay tuned to this debate. This is one of the most important discussions in this century.

I want them to reflect as we debate on the gentlewoman from Texas, the West, New Jersey and Connecticut, Massachusetts, and the Midwest; I do not want anyone to perceive this as a narrowly defined discussion of your special interests or my special interests.

One of the things that has concerned me greatly as we have proceeded to work on this tax bill, and let me give great compliment to the process of the Democratic Caucus under the leadership of the gentleman from Missouri [Mr. GEPHARDT], our leader, and the gentleman from New York [Mr. RANGEL] on the Committee on Ways and Means and that team, there was a definitive effort to come out on the side of all working Americans.

What has saddened me in this debate, even Members that I have had the opportunity to talk with, define this as

Democrats not wanting to work with those individuals who have made themselves prosperous, and that is not correct. I want to set the record straight. The record is very, very clear. The economy is booming. The deficit is down. A Member was quoted as having stated that, if we do nothing, the deficit will continue to go down.

Many of our large corporations are extremely prosperous, and I am not envious; I am gratified that we have proven under the Democratic President that our economic policies do work. Let me emphasize that, a Democratic President with Democratic policies, we have come together to balance the budget. But yet, now, we have a time to move away from the class warfare that has been defined, categorizing people in one pocket versus another, instead of respecting them for working.

We have now set aside those who make a certain income and have classified them as on welfare. I know there are people in the midwestern belt, the western belt who go to work every day and make $22,000 and are proud, working, middle-income Americans. We need to applaud that.

In the Republican bill, those folk are not being helped. If we just simply look at the Republican bill, 19 million families making over $100,000, that is who gets the bulk of the money. And the poor folk that are working, and when I say poor folk, I am saying the ones who are out there every day making the engine of this economy work, right over here, not getting the benefit of a tax cut.

Mr. Speaker, I am saddened when we say that working Americans making less than $15,000 a year, there are 15 million of them, they are taxpaying wage earners. They pay Social Security tax. How many of us have opened our envelope and said, my goodness, I cannot take it anymore. Those folk who work are paying Social Security taxes, payroll taxes.

Our Republican friends think these folks are not credible, are not worthy of a tax cut, that they should not be given the $500 per child tax credit and that those who make over $250,000 a year should get the benefit. And I am not trying to suggest that we should not be complimentary, if you will, of those who have toiled and may have benefited by investments or benefited by tenure on their job and making $250,000 a year, but we should not take away from those hard-working folk, wage earners.

This Democratic alternative responds to them; 91 million families benefit under the Democratic alternative, individuals making under $100,000 a year, and over here we see where the balance really comes.

The Republicans' math is not really good, for those who make less than $15,900, they say, they do not need a $500 a year child tax credit, but those making $250,000 should get it.

Let me personalize this. In my own district, in the 18th Congressional District in Texas, the median household income is about $22,000 a year, but these are hard-working folk who go to our colleges and our community colleges. Will the Republican bill help them? No, it will not. Will the tax cuts they are proposing help the majority of my constituents? Will the Republican cuts help the majority of Americans? How much and how long do we have to call out for Republicans to stand with Americans?

This is where the American people must leave their television sets on and they must forcefully and effectively decipher what the engine is that drives this economy. It is including all of the people. It is putting everybody inside the bowl. It is letting everybody come to the table. That is the distinction between what we have.

The Democratic alternative calls for three-quarters of their tax breaks going to people making less than $100,000 a year. There are tax cuts for small businesses, there are tax credits for parents for all of our children. There are tax breaks for families that are trying to send their children to college.

Interestingly enough, one of my universities, colleges that serves the working constituents in my district, the University of Houston downtown campus opened up a new facility today. How excited Dr. Max Costelia was that he was going to have greater opportunity for youngsters from working families to go to the University of Houston downtown campus.

□ 2000

But yet, the Republican plan does not allow for the benefit of the $1,500 HOPE scholarship, which would help a college like the University of Houston downtown, and most of our other community colleges.

This is a time when we have to listen. I am asking that that television set dial stay on this debate, and that we explore this together as Americans.

I am gratified to be working with some 59 Members who are part of the Congressional Children's Caucus that I am privileged to now chair. I realize that education is the equalizer in America; that once we take away the opportunities of education, once we say those working families making $22,000 cannot get the kind of HOPE scholarship, the kind of $1,500 infusion of capital to help their young people rise up the ladder of success, then, yes, we are bending, yielding, being crushed under the class warfare that is being raised up by the Republican tax bill.

I want a bipartisan approach. With that, I would ask that my Republican friends begin to look at the discrepancy: 91 million families with the Democratic alternative, the complete opposite with the Republican alternative. Do not turn your television sets off. Join us in this debate. I thank the gentleman from New Jersey for his leadership, but I am crying out for those to listen. This is now a time when we can debate for the future, but we can move forward together.

I would hope that this Democratic alternative would be the one that my Republican friends will see is the one that really carries America over into the 21st century across the bridge, but it carries us together. I think that is the key of what we want in passing tax legislation and keeping this economy going.

Mr. PALLONE. Mr. Speaker, I want to thank the gentlewoman from Texas, and particularly because she really is pointing out the distinction between these two plans. I think it is important to stress that Democrats want tax cuts, but we want them to benefit the working middle class. That is what this debate is all about, because the Republican tax cuts are mainly going to the wealthy.

Mr. Speaker, I yield to the gentleman from Massachusetts [Mr. OLVER].

Mr. Olver. Mr. Speaker, I thank the gentleman for yielding. I appreciate that very much. I wanted to follow, because my colleague, the gentlewoman from Texas, has raised some issues here on the fairness aspect.

It has to be stressed again and again, people do not understand here that this debate is not about whether we are going to have a tax cut or not going to have a tax cut. It is a debate about who it is that is going to get the tax cut. The balanced budget agreement, the agreement, that has been reached. The two alternatives that will be before us in the next couple of days have equal amounts in terms of tax cuts over a 5-year period. It comes to roughly $100 billion of tax cuts available for roughly 100 million families in total. The charts that the gentlewoman from Texas has show 110 million, but that is in roughly the right form.

We are both for the tax cuts, the size of the tax cuts, but not as to exactly where it goes. We need to stress again, though, that of that 19 million families that have over $100,000 a year, that represents one out of every six families in this country.

Every one of us, and everyone who is watching here tonight and everyone who is in the gallery still at this hour, knows families whose incomes fall across the scale, families who have over a $100,000 income available, and families who have, at the other end of the scale, between $25,000 and that $100,000, and families who are below the $25,000 of income.

What is hidden in that Republican chart there is that while one out of six families get two-thirds of the tax break that would come, among the 91 million families, and the gentlewoman from Texas has already mentioned it, there are 40 million families among those 91 million families who get zero, they get no tax cut at all, and in many cases they are going to end up with a tax increase.

Mr. Speaker, those are working Americans, in most instances. They are families that are headed by women, with a single parent. They are young families starting out at early jobs with relatively low wages who would like to raise a family, who would like to have children, and give those children the best of everything that America has to offer. They are blue collar families. They are families with under $25,000 of income a year. They get exactly zero.

Mr. GEPHARDT. If the gentleman will continue to yield, Mr. Speaker, on the point the gentleman from Massachusetts is making, a lot of people in this debate have said that the Democrats are calling for class warfare in the way we argued this tax bill.

If Members think about what the gentleman just said, that we have people earning $20,000 and $18,000 and $17,000 a year, and under the Republican bill they would not only maybe not get a tax cut, it would even increase their taxes, while families earning over $200,000, $300,000, and $400,000 a year would get the lion's share of the tax cut, I say that is class warfare. We are not raising class warfare, we are commenting on the class warfare that exists in the Republican bill.

It is mindless to me that in 1997, after the last 10 years of economic history in this country when the top 1 percent have seen huge increases in their income, and God bless them, I am happy they have been able to earn that income, but when they have had that kind of income increase, to say they get the lion's share of the tax cut, but people at the bottom and in the middle who have been working very hard and standing in place over these last 10 years and have not seen income increases, they should get very little or nothing, that is class warfare. That is what we are trying to comment on and bring to the attention of the American people.

As the gentlewoman from Texas has said, we are going to make a big decision here in the next 48 hours. It is a decision that will affect every American family in a profound way. Often we say what we do here does not have a direct connection to the people. The decision that is made in this Congress in the next 48 hours will have a direct connection with families all over this country, and we are up on our feet tonight because we want the American people to be engaged in this dialogue.

If people who are watching this and listening to it will simply talk to their Representatives in the next 48 hours, they can have an impact on the outcome of this bill. This bill is not decided. The Democratic alternative might pass. It might get more votes than the Republican alternative. So if people want to be part of representative government, they have a chance in this 48-hour period to be part of making this decision which will affect every one of their lives in a profound way.

I think the gentleman from Massachusetts has made a very profound point, and I thank him for it.

Mr. OLVER. To follow up on that, Mr. Speaker, to go back to where I was, in fact, polling, which is something that is continually being done, the people at the top do not express with any strength that they need great tax cuts. They are already making very large incomes, doing extremely well in the economy that we have been seeing.

The people who are telling us that they really need tax cuts are in fact those folks with under $35,000 a year of income, under the middle income in this country, and particularly young families trying to start out, and particularly those who are working mothers, who are the heads of their own households. Those are the families that need the tax reduction, the tax break, the tax cuts that we have.

Our plan, the Democratic plan, among those five out of six families that fall into the 91 million families, our plan gives to those 40 million families that have less than $25,000 or so of income, we give them a substantial tax cut that will help them, exactly the people who need it the most.

Really, I had to smile at the leader's comment about this being class warfare. In fact, it is exactly the opposite. It is the Republican plan which is conducting class warfare, and we have merely, as the gentleman said, commented on it. We have made it public, in essence.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I see other colleagues have joined us, if the gentleman will yield for a moment.

I think that the singular mark we would make in these 48 hours, I would just simply like to emphasize the people we are trying to help, they work, they work, they work. I think it is unfair that people who shop in stores that we may not shop in, or may not shop in because you are at certain levels, but buy groceries where you do not have to buy groceries, live in places where you may not have to live, but pay their rent, buy the groceries, and buy the clothes for their children, should not be considered people who work every single day, even though their salaries are under $25,000. They contribute to the economic engine of this Nation. I think that is very important.

Mr. Speaker, I rise today because we are about to take up a bill called by the Republicans the Taxpayer Relief Act. If you look closely at this bill, a better name would be the Rich get Richer Act.

This is no secret, Mr. Speaker. It's in all the newspapers, it's Republican payback time. It's no secret who the Members on the other side of the aisle represent. More than half the benefits of the Republican tax plan go to people who make an average of $250,000 a year. The next 25 percent of their tax breaks go to those making more than $100,000.

And who gets the crumbs, Mr. Speaker. Who is shortchanging the American working families? As is the usual case when the Republicans talk about relief, they talk about helping their wealthy friends. They are now working to cut the taxes on the profits made from the sale of stocks and bonds beyond the amount of taxes paid on wages, they are working to end the corporate alternative minimum tax, they are working to give IRA tax preferences to the top 20 percent of taxpayers, and they are working hard to cut the taxes on estates that would benefit the top 2 percent of estates.

Mr. Speaker, the numbers are clear for the Republicans. Help the high incomes, help those in the highest tax brackets and the Republicans know that they can help themselves. They know that the big corporations will help them if they end the alternative minimum tax so some of our largest corporations can avoid paying any taxes again. We closed this loophole some time ago and now they want to open it up again. It is no secret who is dancing with the Republicans, where their bread is buttered.

This is the part that cuts out working Americans making less than $15,900, 15 million working, tax paying wage-earners who the Republicans say are getting welfare if they are given the same $500 per child tax credit that Republicans say their friends making more than $250,000 should get.

Let's do the Republican math—make less than $15,900 and you don't need a $500 per child tax credit—make more than $250,000 and you do need the same tax credit. It doesn't take a rocket scientist to see where the Republicans are coming from.

In my own district, in the 18th Congressional District in Texas, the median household income is about $22,000 a year. Will the Republican bill help most of them? Will the tax cuts they are proposing help the majority of my constituents? Will the Republican cuts help the majority of American? How much do the Republicans think the American people will stand for?

This is where the American people can see the clear differences between the Democrats and the Republicans. The Democratic plan—the plan authored by the distinguished ranking member of the Ways and Means Committee, Representative CHARLES RANGEL—is a plan that gives tax relief where it is needed—to working families, hard working taxpaying families.

The Democratic alternative calls for three-quarters of their tax breaks going to people making less than $100,000 a year. There are tax cuts for small business owners, there are tax credits for the parents of all of our children, there are tax breaks for families that are trying to send their children to college. Sure, the Republicans have their education tax plan, but it wouldn't help those going to our community colleges much.

Democrats have a fairer plan for capital gains cuts—the Republican plan now means that for wealthy investors, they will pay a lower effective rate on the profits of the sale of their stocks than a moderate income family pays on their wages. Democrats would allow those who are forced to sell their home at a loss some tax relief—the Republicans don't. Democrats target a fairer capital gains cut for small businesses and farmers. Our estate tax relief is aimed at giving families who want to pass on their small businesses a break rather than the well off who don't really need these kinds of tax cuts.

Mr. Speaker, it is time for the American people to draw the line in the sand. It is time for the working families out there to be heard. It is time to stand up and be counted. Who does this House of the People stand for? There is nothing more basic than taxes and the difference between the Republican tax package and the Democratic tax package is plain for Americans to see. It is time to stand up and really be counted.

Mr. PALLONE. I just wanted to stress again, all this is in the context of balancing the budget. We have very limited resources here because we are trying to balance the budget. It is a question of fairness. We have to be helping the middle class. We have to be helping working people, not primarily the wealthy, because we have limited resources.

Ms. DELAURO. Mr. Speaker, if the gentleman will yield, just to add about the importance of the debate and the critical nature of it and why we ought to be spending a lot of time talking about this and debating it is because those tax cuts that are going to be provided to the wealthiest 5 percent, people making over $250,000, or to the largest corporations in this country, some of the capital gains taxes that are talked about, not targeted to a small businesses and small farmers, small farmers that the Democratic alternative talks about, these are irreversible.

So that the gains for these folks at the top end will keep exploding, as the leader pointed out a little while ago, and they cannot be changed midstream. So that it would then continue and follow that those folks who are not at that level, who are making $25,000 or under, they are going to be frozen in ways in which we can never help them to move from, because we have, from this tax cut proposal that the Republicans have offered, locked in these enormous profits for people at the other end of the scale. It is indeed a very critical debate that is going to occur here in the next several days.

Mr. PALLONE. It could, in effect, result in the budget, the deficit, ballooning, once again. So we would actually defeat the very purpose of this bill, which is to balance the budget.

Mr. Speaker, I yield to the gentleman from Ohio [Mr. STRICKLAND].

Mr. STRICKLAND. I do not come to this Chamber for special orders very often, Mr. Speaker, but there are some times when I think those of us who have been sent here to represent our constituents have a responsibility to speak out. This is one of those times.

My friend, the gentleman from New Jersey, indicated that the Republican plan could explode the deficit. We have worked hard as Democrats. In 1993 in this Chamber, Democrats took the tough action that reduced our deficit from nearly $300 billion a year down to less than $60 billion a year now. Democrats did that. We were the fiscally responsible party. If the Republicans have their way with this tax bill, after the year 2002 the deficit can explode. These are irresponsible plans that the Republicans have.

I come from a poor district. The average family income in my district is less than $22,000 a year, and the Republican plan will do almost nothing for the people that I represent. Not many of my constituents earn $200,000 or $300,000 or $400,000 a year, and yet tomorrow in this Chamber we will make decisions that will redistribute wealth.

The rap on Democrats has been that we want to redistribute wealth, just as they have called us the party that engages in class warfare. But as my friend, the gentleman from Missouri [Mr. GEPHARDT], has said, this is not class warfare, but the fact is that the Republican plan will redistribute the wealth of this country, and this growing gap between the super rich and the rest of America will get ever greater, and it will be accelerated.

So I am here tonight to join with my friends just to say that I am very concerned about this tax plan that the Republicans have put forth, because it is deceptive. It is attractive in certain ways, and they can stand on this floor and they can say we are giving a tax break to the American people, but they are not specific about who benefits.

I think as Democrats we have a responsibility to talk about the fact that we need to advocate and work for and stand up for America's working families, those families in my district. Represented by the pictures here tonight are people who deserve a break, and they need Representatives who will be willing to stand for them. So I am here tonight just to say that I am proud to be a Democrat tonight. I am proud that when we compare our tax plan to the Republican tax plan, it is very clear that our tax plan gives tax breaks to working Americans, and their tax plan will give most of the benefits to the super rich, and that is just simply unfair.

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Mr. PALLONE. Mr. Speaker, I appreciate the gentleman's comments.

I yield to the gentlewoman from California [Ms. MILLENDER-MCDONALD].

Ms. MILLENDER-McDONALD. I came in to speak on the special orders about one thing, but when I got here and I looked at these charts, I am forced to speak with my colleagues and the Democratic leader in support of the Democratic tax cuts. I am so proud that the Democrats put forth a tax cut that spoke to tax cuts for the working-class families, those families I represent in California. My families do not make much more than $26,000 a year. The Democratic tax cut speaks to that. But these charts really do show the disparity between the Democratic tax cuts and the Republican tax bill that absolutely does not speak to the working-class families who I represent.

I was really taken aback as I looked at the Republican tax bill and saw that they had really snuffed out the $16 billion that we had put in for the children's health plan to really support at least half of the 10 million children who are uninsured. And we had initially said the $16 billion would at least help 5 million of those children. Now the Republican tax bill has taken that away, and the amount of money that will go for the few uninsured children, which is only about 100,000, will be sent to the States to let the Governors take hold of this. That is criminal at best because the Governors will not give that money to the children who need the health care.

I am proud to stand with my colleagues today to look at the disparity of these two tax plans. The Democratic tax cut speaks to the working-class families, the ones whom I represent. The Republican tax bill is a disaster, not only for those working-class families in my district but for the country as well. I stand with the Democrats on our tax cut bill, and I will be here to vote against the Republican tax bill.

Mr. PALLONE. Mr. Speaker, I thank the gentlewoman and yield again to the gentleman from Missouri [Mr. GEPHARDT], the Democratic leader.

Mr. GEPHARDT. Mr. Speaker, I want to go back to the issue of education for a moment and say that in my view, and I think in all Democrats' views, and I hope in many Republicans' views, education is the most important issue in front of our country. I was recently talking to some people from Silicon Valley, and they told me that they are right now unable to hire the people that they need. One executive told me he has had an ad in the paper all over the country to find people who are computer literate and can work in their plants, and he has not gotten an answer for the ad.

He is now going to high schools because he needs college graduates. He is literally going to high schools and trying to find well-qualified high school students to try to draft them into his company before they can go to college. It is kind of like with basketball players that are drafted into the pros before they can go to college.

I have labor unions in St. Louis that are going into the high schools and recruiting young people to come to apprenticeship programs, something that has not happened in our country, certainly in St. Louis, in probably 40 years, maybe longer. We have a 4.9 percent unemployment rate nationally. In some States we have a 2-percent unemployment rate right now tonight in June 1997.

The great shortage in the country is not tax breaks for people who have done very well and are doing well. The great shortage in the country is mentally capable human beings who can take the productive jobs in our companies and create more economic growth and productivity so that our economy does even better in the future. And so the reason the President feels so strongly about these education tax cuts is they go to the heart of what is most needed in our country. And to go back to our people that we have talked about tonight, we, the kids in the middle class, kids trying to get in the middle class need tax breaks in order to go to college and to go to community college so they can get the mental capabilities, so they can be productive citizens and take these jobs that our corporations so desperately are looking for talent to fill.

When the President said that he would not sign a tax bill, that does not have $35 billion of education tax cuts, he said it because of that fact. Our bill has $37 billion of tax cuts for education. The Republican bill has $22 billion of tax cuts for education. It is not going to be signed by this President because it should not be signed.

Again, the No. 1 need in the country is education, education, education is what we need. And we need our tax cuts to go to people so they can get education.

When I was a young person, my dad was a milk truck driver in St. Louis. We were of those lower middle income families. My mom was a secretary. Every month they would take their money and put it in a savings account so my brother and I could go to college, the first ones in our family that had been able to go to college. When we finally got into college, we had to borrow money from the church, Third Baptist Church in St. Louis.

I will never forget, my mother and I went down and saw the pastor of the church and we asked for a loan. They had a little scholarship fund, and they gave us a loan so that I could pay my tuition at the university. We did not have tax cuts then. And we did not have student loans, and we did not have Pell grants then. It was a long time ago. I am getting up there. But the only way we could do it is if we go to the church and borrow the money. And tuition at Northwestern University, where I went, was $1,500 a year.

What does a family today who is earning $25,000 and $20,000 and $30,000 and $17,000 do to get their child even to community college or to State college, much less a private university that might cost 5 or 10 or 20 or $30,000 a year?

When we are talking about this conversation that we are having, I say to the gentlewoman from Houston, with the American people tonight, and I hope we will have over the next 48 hours, this is what is at stake. It is whether or not the kids of this country who come from middle income and lower middle income and poor working American homes will have the ability to go borrow the money and get the money together to go to college so they can be productive citizens. That is what is at stake.

There are not enough churches out there to do what happened to me. I hope there are some and I hope they can give loans to kids like I got a loan, but I am sure that there are not enough out there to get this done.

This is a big deal. It is a big deal for the future of the American economy and the American people. I hope and pray that we can get this point across to the American people in these next 48 hours, and they will stay tuned in, as the gentlewoman from Houston has said, and that we will get their attention and they will respond. They will pick up the phone and they will write or they will send e-mail or they will send a letter or they will go to the office of their Congressperson, whether they are Republican or Democrat and say, we want a tax bill that helps average families and helps education and really helps the future of this country.

I thank the gentleman.

Mr. PALLONE. Mr. Speaker, I want to thank our Democratic leader for saying it so well. I think we only have another minute or so left. I yield to the gentleman from Ohio [Mr. STRICKLAND].

Mr. STRICKLAND. Mr. Speaker, I want to respond to my friend from Missouri. I taught at a small State school before I was elected to this body. Under the Democratic plan, students going to that school would qualify for $1,500 per year for the first 2 years of college which would basically pay for the cost of tuition at that institution. But under the Republican plan, that student would get probably $600. That just simply is wrong. It is breaking the agreement. As I understand it, the President was assured that we would have a $1,500 per year tax credit for the first 2 years of college. I urge my colleagues to make an issue out of the fact that education is important and the education part of this deal has been broken by the Republicans.

THE ECONOMY

The SPEAKER pro tempore (Mr. Jones). Under the Speaker's announced policy of January 7, 1997, the gentleman from Wisconsin [Mr. NEUMANN] is recognized for 60 minutes as the designee of the majority leader.

Mr. NEUMANN. Mr. Speaker, I planned on rising tonight to talk about our debt and deficit and how we will balance the budget and how important it is to our children's future that we do balance the budget and talk also about a bill that we will be introducing about paying down the debt, but before I do that, I have been listening to the debate here tonight and I would like to open this evening by reminding the American people that 3 or 4 short years ago this debate was not about how much we could reduce taxes.

In 1993, I hope everyone remembers, the other side was in control. But the discussion was not about how much and which taxes should be reduced. In 1993, we passed the largest tax increase in American history. This debate has changed entirely. And whether we agree or disagree with all the different aspects of the tax bill, I think it is very, very important that when we look back on 1993 and we remember the other side was in control at that time, the debate was about entirely different topics.

It was not about how much or which taxes to cut. Instead it was about which taxes to increase and how far should we raise them.

You remember the gasoline tax? They said it was only a tax increase on the wealthy, but you were wealthy if you had an automobile and you stopped at the gas pump and filled up your car. Or if you were on Social Security earning $34,000 a year, your taxes were increased.

Somehow in this debate tonight we have totally lost sight of the fact that a few short years ago, with the other side in control, the entire debate was about how much higher taxes had to be to even begin to reduce the deficit. The debate tonight is about which taxes we should reduce and how much should they go down as we reach a balanced budget.

How far we have come in 4 short years, really since 1995, when there was a change out here. The American people dictated that there was to be a change. I think in the next election the American people should really remember this difference and remember this debate tonight and remember the entire discussion out here and think about whether they want to go back to the 1993 model, where the debate is about how much your taxes should be raised and which ones should be raised, or whether they like this 1997 debate much better.

As we get into this debate and even as we may disagree with each other a little bit, would you prefer the 1997 debate? We are actually balancing the budget. And at the same time we are balancing the budget, we have curtailed the growth of government spending to a point where we can both balance the budget and reduce taxes at the same time.

So in my opinion this is a great debate to have and we should be having this sort of debate before the American people. Which taxes should be reduced and how far should they be did reduced.

I heard a lot of numbers over there. They talked about 91 million and this million and that million and these people and those people. I guess I have to look at the tax cuts in a little different way. When I go to church on Sunday and I talk to my friends on the way out from church and they have got three kids, one of them is heading off to college, we had this discussion recently, one of them is heading off to college and when they go to college they qualify for the college tax tuition credit. They get half of up to $3,000 of the tuition. That means $1,500 coming back in their family. They have still got two kids at home.

These are middle income folks that get up every morning and go to work for a living. They are earning $40-, and $50,000 between the two incomes in their house. They get that $1,500 to send the oldest to college, but the oldest is still expected to work and earn part of the money that it costs to go to college. That is called personal responsibility. And for the two kids they still have at home, they are going to get another $1,000 back.

I do not understand all that stuff about 91 million or this many million or that many million. But I sure as shootin' understand that when I am talking about folks back home that are getting up every morning and going to work with $40- or $50,000 or $30,000 coming into their house, the concept of being able to keep $1,500 to send that oldest kid to school and another $1,000 for the other two that are still at home, they understand that they are going to get to keep $2,500 more, and they do not understand all this class warfare rhetoric about who is rich and who is not rich. But they sure understand that their hard work is going to pay off by being allowed to keep more of their own money in their own pocket instead of sending it on out here to Washington. That really is the framework this whole debate should be in.

Part of this debate also tonight, and I think it is real important for the American people to understand, we were hearing things like if you are earning $20,000 a year that you are not going to get a tax cut. There is a very good reason that a family of four earning $20,000 a year is not going to get a tax cut. They do not pay any Federal taxes.

This entire debate is about whether or not people who pay no taxes can get a tax cut. In Wisconsin we have a little hard time with this. When we think about this situation in Wisconsin and when I ask the people back home, do you think somebody who is not paying any Federal taxes can get a tax cut? And they start laughing at the question, because they understand that if you are not paying any taxes you cannot get a tax cut.

So what is this debate really about? This debate is really about whether or not people who are paying no taxes to start with should receive an additional check. Some people would say if you are not paying any taxes to start with and you get a check that, in fact, that is not a tax cut but that is a form of welfare.

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So I have to put this debate again in the proper context. There are some people in this country, as a matter of fact, if you are a family of four and you are at minimum wage or thereabouts earning over $12,000 a year, not only do you not pay tax into the Federal Government, but the Federal Government writes your family a check for $2,500 already.

So when we put this debate into proper context, the debate is not about who qualifies for the tax cut but the debate is rather about, if you are not paying any taxes to start with, is it reasonable to think you are going to get a tax cut? And forgive me, I am here in Washington, this question is being asked. Out in Wisconsin, we kind of laugh at that question. Because it is pretty obvious, if you are not paying any taxes, it is pretty tough to get a tax cut. So again, I think we need to put that part of the debate into proper perspective.

I think I have heard a lot about children and how important the children are in this Nation, and I am going to devote a lot of the rest of the hour to that particular discussion. Because when I look at this picture and I think of our families of five today, with our national debt being what it is, being responsible to pay $580 a month to do nothing but pay interest on the Federal debt, let us think that number again. It is $580 a month to do nothing but pay interest on the Federal debt.

I feel a lot of people out there going "I do not pay that much in taxes." But the reality is, every time you walk in a grocery store and buy a loaf of bread, the store owner makes a small profit on that loaf of bread and part of that profit gets sent on out here to Washington.

So one way or the other, when you add up all the taxes you are paying between the gasoline tax and when you buy your groceries at the store and store owners makes a small profit, you send some of that profit out here to Washington, when you are done adding all that up, one way or the other, you are in fact, as a family of five, are paying $580 to do nothing but pay interest on the Federal debt.

So when I think about the children of this Nation, I like to think about our kids as they start their own families, as they get married and start having their own families; and I think the best thing we can do for this Nation is pay off the Federal debt so they do not have an interest payment.

So instead of sending that money down here to Washington to do nothing but pay interest on the Federal debt, instead they can keep it in their own homes and maybe buy a better home or better car or provide a better education for their children.

I was just talking, too, to a single mother who happened to be here on the House floor this evening, and she is in the room just off the House floor, and she was just telling me her story. Single mom, raised her kids by herself. And she was looking at this tax bill and she was saying, "I am not sure there is anything in this tax bill that is going to actually benefit me."

She is not 55 yet, so she is not at retirement age. Her 21-year-old means she does not qualify for the $500-per-child tax credit. And she said to me, "Mark, what I really want to do is I want to sell my house, because with my son gone, I no longer have to own that house and I can cut back on my expenses and start saving up for my retirement. That is really what I want to do. I wish the tax package would have done something for me."

When I talked to her and I noted the fact that if you are in that case, where you raised your children and maybe they are gone now but you decided you are not 55 but maybe you would like to sell your home and you feel kind of trapped in that home because if you sell the home, you got to pay the tax on the profit and if you wait until 55 you do not have to.

And I explained to her in this tax bill, the way it is currently written, instead of having the 55 age bracket in there, where the Government dictates what year you can have this tax benefit, you can now sell it at any age. And she perked up considerably, understanding that this tax bill would have something for her too.

And I would suggest she has got a pension plan, and in that pension plan there are probably some mutual funds; and when she cashes that pension fund in, those mutual funds are going to have gained a profit of some sort. We are not talking about wealthy people here. We are talking about hard-working people.

I know how many hours they put in back there. We are talking about the hard-working people that come to work every day of the week and they have got a pension fund of some sort. So when they reach retirement and they sell that pension fund, the capital gains reduction, of course, is going to benefit them directly.

There is one other thing that I think we ought to turn our attention to, and that is that discussion before about whether people not paying taxes should in fact receive a tax cut. I think, instead of having that debate, what we should have a debate about is whether it is fair for people that get married should pay more taxes than people who do not get married.

Did you know that, in the United States of America today, if you have got four people working in the same job, earning exactly the same money, and two of those people are married to each other, and the other two people are not married to each other, the two people that are married to each other earning exactly the same money pay more taxes than the two people that are not married to each other. There is something wrong with that.

So if we want to talk about reallocating this, I will give you one of my personal preferences; and that would be that we eliminate the marriage tax penalty. So rather than talk about giving tax cuts to people who are not giving any taxes, why do we not talk about strengthening the family ties in our Nation and end the marriage tax penalty. If we can improve on this bill, certainly that should be one we ought to think about improving upon.

I could spend the rest of the night talking about tax cuts, but I really came over this evening to talk about some other issues that are really very, very important to the future of this country.

This chart really shows why I left the private sector and came out here. Before 1989, I had never been to a political event. I voted pretty regular, but really was not actively involved in politics at all. But we started watching the growth of the Federal debt, and that is what this chart shows.

My colleagues will notice that from 1960 to 1980, the debt did not grow very much. But from 1980 forward, that debt just started growing right off the chart. I would point out that we are about here in this picture right now tonight as we speak. It is a very serious situation.

By the way, for all the Democrats listening tonight, when I said 1980 and you all started nodding your heads and you said that was the year Reagan took over and for all the Republicans listening and I said 1980 and you started nodding your heads and said that is when the Democrats were still in control of this place, well, I would like to point out that in 1980 we did have a Republican President and a Democrat Congress. And rather than pass the blame to one party or the other, do my colleagues not think it is time that we, as the American people, recognize this problem and do something about it?

And that really is what I would like to devote the rest of my hour here this evening, or at least most of it. This is a very serious problem. I would like to point out how big that number is to help us comprehend just exactly how large and how significant the problem is.

We currently stand $5.3 trillion in debt. The number looks like this. And that number is too big for anybody to understand, it really is. So what I did, and this is what we used to do in my old math class back when I was teaching math, I divided the debt by the number of people. For every man, woman, and child in the United States of America, our Government has borrowed $20,000. For a family of five, like mine, they borrowed $100,000.

Let me put that another way. Our Federal Government has effectively spent $100,000 more than it collected in taxes, basically, over the last 15 years for a family of five, like mine. They have spent $100,000 more than they collected in taxes, basically, over the last 15 years.

Here is the kicker. I mean, those are still all numbers on this board. This bottom one is what really means something. This is what we mentioned before. A family of five in the United States of America today, to do nothing but pay the interest on this debt, needs to send a check to the Federal Government, $580 a month.

Again I go back to, a lot of folks do not think they are paying that much. But every time you walk in a store and buy anything, whether it is at a gas station and you are buying gas or whether at a clothes store and you are buying an article of clothing or at a food store and you buy a loaf of bread, when you buy something, that store owner makes a small profit on what you bought. And when they make that profit, part of that profit gets sent out here to Washington. One you way or another, this Government is collecting an average of $580 a month to do nothing but pay the interest on the Federal debt for an average family of five.

Well, what has been done about this? I think that is a reasonable question for folks to start asking. And I want to start with the past. Then I want to move into the present. And then I want to talk about the future. And I want to start talking about the past.

I heard my colleagues on the other side of the floor this evening doing an awful lot of class warfare and demagoguing. I am going to start talking about the past and what is going on here, and I will define the past this evening to be before 1995, because in the 1994 election, they sent a whole new group of people here in 1995. So what we are talking about here in the past is pre-1995. Think about pre-1995.

I suspect most everyone listening this evening remembers Gramm-Rudman-Hollings. In middle of the late 1980s, the Gramm-Rudman-Hollings bill promised the American people a balanced budget and they laid out a deficit stream. The deficit stream is this blue line in the chart. They promised the American people they would get to a balanced budget, and that deficit stream would follow the blue line.

The problem is, when they followed that deficit stream, what actually happened is the deficits ballooned and they did not keep their promises to the American people. And, for some reason, the American people got upset. So the people in Washington knew what to do about that. The people in Washington said well, since we cannot keep that one because the deficit is ballooning and we want to keep spending the taxpayers' money because we here in Washington know how to do that better than the people know how to do it for themselves, so what we will do is give them a new Gramm-Rudman-Hollings bill. And they gave us a new one in 1987 and that promised to get to a balanced budget following this blue line and reaching balance in the year 1993.

Except the same thing happened. So you see, when we look at past promises made to the American people, those promises were not kept. And, in fact, while they promised a balanced budget, the deficits exploded and the promises just absolutely were not kept to the American people.

You know what really puzzles me out here in this community. For some reason, the people in Washington have a hard time understanding why the people in America are cynical. I do not have any problem at all. This is what was going on in the late 1980s, when we were making a decision to leave the private sector, to leave a very good business, and to leave a very happy family life, where I could actively be involved in all the things my children were doing. When they went to a basketball game or volleyball game or track meet for Tricia, I could go to those things.

This is what was going on out here in Washington. I was one of those people who got very upset as they promised one thing and did something different. The American people do not believe in Washington because the promises that have been made from Washington have repeatedly been broken in the past. And again I emphasize, this is a picture of the past.

So let us bring us up a little more current. Let us go to 1993. Because in 1993, there were a lot of people who started talking seriously about trying to reduce the deficit. And the discussion in 1993 was this deficit has to be brought under control. And they started wringing their hands in this city, because when the deficit was going to be brought under control, there was really only one of two things they could do. They could either raise taxes, taking more money out of the pockets of the American people and getting it here in Washington so they could control more of your life, that was one option, or they could curtail the growth of Government spending.

We all know what happened in 1993. In 1993, by a single, solitary vote here in the House of Representatives, they passed the largest tax increase in

American history. And over in the Senate it went. And in the Senate also, by one single, solitary vote, they again passed the largest tax increase in American history.

So what are we saying the past is all about here? The past is about a series of promises that were made to the people and they were broken. The past is about a decision that, rather than curtailing the growth of Government spending in Washington, we would allow that Government spending to keep growing and take more money out of the pockets of the people and try to achieve a balanced budget. That is the past, and that ended in 1994.

Because after they have passed that tax increase on the American people, by a single vote in the House and a single vote in the Senate, after they passed that tax increase, the American people said, we have had enough of this. We do not think Washington should take more money out of our pockets. We think Washington already has enough of our money. And, in fact, we honestly believe that, instead of sending the money to Washington we kept it in our own homes, we could do a better job deciding what is in the best interests of our own families and we can make better decisions about education and about what we should be doing to help our children.

So this change that occurred, it occurred in 1994 when the American people said enough is enough. They were sick of the broken promises, and they were tired of the concept that the only way to do anything about the deficit was to reach into their pockets and take more money out.

And I have got to believe that every time they stopped at the gas pump and filled up with gas, knowing that the Government had raised their taxes at the gasoline pump, that they figured out this whole tax debate that you heard so much about earlier this evening about whether this was a tax on the wealthy or not, I think they figured out in 1993, when they said they were only going to raise taxes on the wealthy people, and the wealthy people were anybody that stopped at a gas pump to fill their car up because they paid higher gasoline tax, I think they figured out way back then what this is all about.

What it is all about is getting to a point where, instead of breaking promises and raising taxes, taking more money out the pockets of people and getting it here in Washington, it is all about keeping promises and seeing if we cannot both balance the budget and reduce taxes on the American people by curtailing the growth of Government spending.

They could have done that in 1993. Make absolutely no mistake about it. In 1993, they could have done that. So as we move forward now, 1980s, 1990s, promises made, we were supposed to get to a balanced budget, it did not happen. 1993 conclusion: Raise taxes on American people instead of curtailing the growth of Government spending. That is the past.

Let me kind of move, then, to what we inherited in 1995, when I first was elected and came out here. I see I have been joined by my good friend from Colorado [Mr. BOB SCHAFFER]. The American people have done a great job sending us some wonderful freshmen this time around, also.

But this is what we inherited when we got here. When we got to Washington, we inherited this deficit line. If we had come out here and played golf and basketball instead of doing our job, this is where the deficit was headed if we did absolutely nothing. In the first 12 months, in 1995, we had the 100 days, we had the Contract, we had all of those good things going on; and through the fights that we went through, it came down to this yellow line.

□ 2045

That is if we had done nothing after 1995, the yellow line is where we were going. The green line, that was our promise made to the American people. I would call Members' attention back to this because the American people have almost forgotten that in 1995 the group of people that are here today, we also made a series of promises to the American people. We said we were going to get to a balanced budget because we knew how important that was if we were going to preserve Social Security and Medicare. We knew how important that was to future generations of Americans to not let this debt continue to explode. So we laid a plan into place to balance the budget. It is this green line. But there is a big difference between the Gramm-Rudman-Hollings of the past and what started happening in 1995. The blue line is what actually happened. My colleagues will notice the red line up here where we were. This is where we got after 12 months. This is what we hoped to do. But my colleagues will notice this line is below the green line. It is absolutely different than the Gramm-Rudman-Hollings. In Gramm-Rudman-Hollings the targets were not met and the people were misled. We are in our third year of a 7-year plan to balance the budget and we are not only on track, we are ahead of schedule. Something is different in this community.

I want to show this in another way to make this as crystal clear as I can possibly make it. This red column that I am showing here, this is how much money we promised the American people the deficit would be down to in the year 1996. So when we laid out this plan in 1995, we projected a deficit in fiscal year 1996. That is this red column. This blue column is what we actually achieved. I again point out the difference. This is what was promised, this is what the deficit actually was. Notice in the first year of our 7-year plan to balance the budget, we were not only on target but we were actually about $50 billion ahead of schedule. This is the second year of our plan to balance the budget. What we promised. This was a promise we made back in 1995 to the American people. This is where we said it would be. This is where it is. In fact we were not only $50 billion ahead of schedule in year 2, we were over $100 billion ahead of schedule in year 2.

Let me put this in perspective so it makes little more sense. When the government did not spend this extra $100 billion, that meant that instead of going into the private sector and borrowing this money and getting it out here in Washington, that the money stayed available in the private sector. When there is more money available in the private sector, in this case the $100 billion the government did not borrow, when that money is available out there in the private sector, what happens is the interest rates stay down. In an average State like Wisconsin, 1/50th of that is $2 billion. Translation, 2,000 million dollars was available floating around out there in the State of Wisconsin. With more money available, of course the interest rates stayed down. When the interest rates stayed down, people started buying more houses and cars. When they bought more houses and cars, of course someone had to go to work building the houses and cars. That meant there were job opportunities so they did not have to stay on the welfare rolls. That is the Republican model that was initiated in 1995. Instead of going the route of reaching into your pockets, taking more taxes out here to Washington, the idea was curtail the growth of government spending, and when they spend less, of course, they borrow less. When they borrow less, there is more money available in the private sector. More money available means lower interest rates. Lower interest rates meant people bought more houses and cars. That meant they left the welfare rolls and went to work. That is why we see in year 2 we were ahead of schedule as well.

Here is where we are right now. We are in year 3. Again the red column is what was promised to the American people. The blue column is what is actually happening. My colleagues will notice again in year 3, the third year of this plan, we are once again ahead of schedule. Think back to how different this is from 1988 and the Gramm-Rudman-Hollings bill. We are not only on track but we are ahead of schedule in balancing the budget. Again our model, different than the idea of reaching into the pockets of the American people and getting more money out here in Washington to make it look good, was a very different model. This red column here shows how fast spending was growing before, in the past, before 1995. My colleagues will notice the red column is 5.2 percent. It is bigger than the blue column. We have in fact curtailed the growth of government spending. This is how fast it was growing before. This blue column shows how fast it is growing now. We have in fact curtailed the growth of government spending to get this monster called the deficit under control. Very, very different than what was going on in 1993.

Again think back to 1993. Into your pockets, how much more money can we send to Washington, DC because, after all, Washington, DC could not possibly curtail the growth of government spending. The new people, 1995 and forward, and I am happy to have a freshman join me here, this is the new Republican, the new Republican has balanced the budget by curtailing the growth of government spending. In fact it has been so successful that we are now not only on track to a balanced budget by 2002, we will probably balance the budget even sooner.

Let me translate this into real meaning for real people in the United States of America. What this means for our folks in Wisconsin is that we can not only balance the budget but because we have curtailed the growth of government spending, not draconian cuts like the other side would have my colleagues believe but curtailed the growth of government spending, because we have curtailed the growth of government spending we can both balance the budge and reduce taxes on the American people at the same time. In fact it is happening right now as we speak.

Mr. Speaker, I yield to the gentleman from Colorado, [Mr. BOB SCHAFFER].

Mr. BOB SCHAFFER of Colorado. I thank the gentleman for yielding.

Mr. Speaker, I have been listening to the debate and came over here on the floor because I really wanted to get to this whole issue that we have been hearing day after day after day about how our tax plan supposedly only benefits a small sector of the economy, the taxpayers, and those somehow are the rich. I really wanted to focus in on that because I think when the American people begin to understand the numbers and the statistics that underlie that whole flawed philosophy, this silly notion that our tax cuts benefit only the rich, I think when the American public begins to understand that, first of all they get a glimpse of how things work in Washington, how the deception and the deceit is at an all-time high around here by those on the far left who are really afraid of this tax cut package because they understand the real numbers, I believe, they understand that we really are moving ourselves as a Nation toward a balanced budget, we are doing it not only by exercising fiscal sanity when it comes to balancing and spending but we are also focusing on ways to improve the performance of the economy by allowing those who work hardest and those who are able to apply the principles of the free market and the principles of success, those individuals are in fact becoming more productive, becoming more energetic and they really are becoming liberated by a tax policy which taxes them less and rewards greater productivity, be it in home businesses, small businesses or in the workplace.

Our tax package, the one the gentleman described just a moment ago, distributes 75 percent of those tax cuts to the middle class. These are people who earn $75,000 a year or less. Those are the individuals who are the target of our plan.

Mr. NEUMANN. If you are a family of 5 and you are earning, say, $35,000 a year and let us just say you have got one headed off to college that is going to pay about $5,000 a year, could the gentleman help our colleagues this evening to understand if you are in a family of 5, 3 kids and got one headed off to college, how much would they benefit under this tax package?

Mr. BOB SCHAFFER of Colorado. With the one going to college.

Mr. NEUMANN. That is half of the $3,000, or about $1,500 if they are paying that much, assuming they are paying that much.

Mr. BOB SCHAFFER of Colorado. I actually have the whole rundown here under this paper somewhere. I would love to go through that.

Before I do that, though, and move on from that, I want to focus in on how it is that middle-class taxpayers are considered rich by the liberals and the Democrats here in Washington, because then I think it makes it easier for us to apply the Republican tax package to the average family. Realize that we really are talking about average families in America.

There is a term that we are beginning to hear here. I heard it just a few weeks ago. It is called family economic income. This is an important one for taxpayers to remember, because this is not the income that we earn or that pay taxes on. This is a calculation that is an invention, really, by the Treasury Department, which has been adopted by the liberal Democrats here in Washington because family economic income suggests that we make more money as taxpayers than we really do.

Here is how they do that. Again, I have only learned about this last week when I began looking into this term and this number and hearing these wild statistics that we are somehow only providing tax benefits, tax relief, for the rich.

This category, family economic income, is a way to magically transform a family making $45,000 a year into a family making $75,000 a year. This is how they do it. My father used to warn me about these get-rich-quick schemes; overnight you become wealthy or you become a millionaire. Usually they are not true. In this case it is also the case that it is just not true.

Here is how they do it. They take that $45,000 that a family may make and they add $12,000 for the rent you could get if you did not live in your home and you rented it out. It is $12,000 a year. Since your home, again, may generate $12,000 a year in rental income if you moved out and somebody else moved in, that $12,000 is added to your $45,000 in real income. That is the first step.

Mr. NEUMANN. If you moved out of your house and rented it out so you collected that $12,000 more a year, so that your income went up by $12,000, where would you live? And would that not cost you money?

Mr. BOB SCHAFFER of Colorado. This is a question that did not occur to the Treasury Department, apparently. It is really the fallacy in these numbers. This is imputed income, or imputed rent as they call it. This is just one way they bump up your income.

Right now we are up to $57,000. The $45,000 family now, according to the Treasury Department and liberal Democrats, makes $57,000 a year because they may be able to get rental income on their house if they moved out and rented their home to somebody else. Bear in mind this is not money they are really making; it is just an estimate. I am not kidding. I first thought they were kidding when I heard about this. But let me continue. $12,000 for rent you could get if you did not live in your home. That is the first addition.

Next they add $5,500 for the family health insurance that your employer provides. Again, if you are working and your employer provides a health insurance benefit, they assume that you are making an additional $5,500 over what your paycheck suggests you make.

Next, they add $1,000 for something that they call unreported or underreported income. It is unclear as to what underreported or unreported income might be. It is never really assumed. They just throw that additional $1,000 in to bump the number up more. I continue. There really is more here.

Next they add $10,000 for your share of the Wall Street paper profits. How is that for money you did not even know you had?

Next they add another $5,000 for your teenager's part-time summer job. If the student that you mentioned before happens to work in the summer, that is added to what the Democrats believe to be your family income.

Mr. NEUMANN. Would the gentleman give us the $10,000 Wall Street one again? I have not heard this list before.

Mr. BOB SCHAFFER of Colorado. Paper profits.

Mr. NEUMANN. A pension fund, maybe?

Mr. BOB SCHAFFER of Colorado. Could be pension funds. Could be the savings account that you have or the checking account that you have at home, the notion that there is some financial value in the various savings of the income that you have already earned and paid taxes on. If you save it or invest it in one place or another, just the financial services that you are receiving, the fact that you have got dollars invested, there is an imputed value associated with just finances in general that may or may not affect a family.

Again, it is not treated as income anywhere else except in this tax discussion here on the floor. These are invented revenues that a family supposedly has, according to the liberal Democrats, who are very frustrated that the American public loves our tax relief package that the Republicans are planning.

Next they add $2,000 for your IRA deduction. They add $3,000 for the unrealized buildup in your pension or IRA. Who needs smoke and mirrors when you can just make this stuff up? They add $1,500 for unrealized buildup in your life insurance policy. Unrealized buildups. This is income that you really have not even built up in these funds, but you have the potential to do that over time, so they impute that into your present day income.

Here is the real kicker, proving that those who like to suggest that these tax cuts only occur to the rich have no shame. By taking a family's $45,000 income figure, adding all of the above numbers, and then add on that a final $600 into the calculation for things like your parking space at work, because there is presumably some value associated with a parking space that you have out there. It goes on.

But this is how the Democrats come to suggest that the $45,000 in a family's income is over and above $75,000 in income, and, therefore, you are rich. Everybody who went to bed last night thinking they were middle-class taxpayers wakes up today and finds out that many people in their government believe them to be the beneficiaries of some kind of obscene wealth and therefore unworthy of a tax break. But we really are talking about middle-class families.

People know what their income is. They can see the paycheck when they bring it home. It is those individuals, the middle-class hardworking Americans who go to work every day, who toil to pay their taxes, stay within the confines of the law, go to see an accountant just to make sure they did not make some mistake on their IRS tax form because they are in fear of an IRS tax agent showing up at their homes, those are the folks we have in mind as Republicans.

Those are the folks we want to assist, the folks we want to allow to keep more of their hard-earned income and wealth, not steal it from them and confiscate it from them and bring it here to Washington D.C. so it can be spent on all these goofy programs that we spend millions and billions on every day. We really are concerned about the middle-class families. Seventy-five percent of the individuals who benefit from our Republican tax package are middle-class wage earners earning $75,000 a year or less of real income.

□ 2100

Mr. NEUMANN. Could we talk a little bit more about that family earning $45,000 a year that actually gets paid $45,000 a year, but with their imputed tax under the liberal Democrat plan that goes all the way to $75,000? Would it be fair to say that they would have a very difficult time finding the $75,000 in cash?

Mr. BOB SCHAFFER of Colorado. Well, it does not exist. It truly does not exist.

Now you know people who think I am joking, I would urge them to just call the Treasury Department and get a calculation of their explanation of family economic income. This is the term they use. They have a full description of it. All of these items that I went through, the costs of the parking space, the imputed rent on the home that you do not rent, the $12,000 that they assume you benefit from, things like that; all of that is described and listed there. I would encourage people to call the Clinton White House, the Treasury Department and see it for themselves because I know there are many people who really do not believe it, but when you see it, it is a sad occasion, I assure you.

Mr. NEUMANN. Can I go back again? I keep going back to this family who has actually got $45,000 a year. It probably means both spouses are working in the house and are probably getting up in the morning and doing everything they can to get those kids off to school and in the summertime maybe getting the kids off to work, and they are the folks that we were talking about before where if they got one headed off to college and two kids still home, and I see these families in church every Sunday. I mean they are sitting there with three kids and one of them is off in college and two of them are still home. If their college tuition is $3,000 a year, they get $1,500 tax credit under this proposal, and in addition to that they get to keep $500 per child for the kids that are still at home. The net impact for a family earning 30 or 35 or $40,000 a year, the families that are working, probably both spouses, the net effect is they get to keep $2,500 a year more of their own money in their own home instead of sending it out here to Washington where people here in Washington control what they do with it.

And see, this is really the difference between that discussion you heard earlier this evening from the other side and the liberal Democrat view and the new people that are here, the present, as I was talking about before. The past; we are in the present now, since 1995.

The view goes like this. People are better able to spend their own money in their own homes themselves than people out here in Washington are able to do it for them. It is a very, very simple concept: Who is best able to spend the money that the people at work every day earn? And one side believes that it is the people back there in their own homes, and that is why there is $2,500 a month coming to this $45,000 a year family that we are talking about, this family with 2 kids, that they are working hard to make sure they get a good education and the third one headed off to college. That is why the tax cut is aimed at those folks, and they can talk about millions and billions and all the different people and everything else, but I know for a fact that when I talk to people who are in this middle income, they know they are in the middle income, they understand earning 30 to 45 or $50,000 a year, and they know good and well that when they get to keep an extra $2,500, that is $200 a month, they know that means better things for themselves and their family, that means they can afford a better education for their kids and it means they can afford maybe a better car or better house.

It is all part of the American dream. It is a very basic fundamental belief that the people out there in America are better able to make good decisions of what to do with their own hard-earned money than the people out here in this community in Washington, DC, and that is what this is all about.

Mr. BOB SCHAFFER of Colorado. I met a young woman just right over here off to the side of the Chamber. She is from North Carolina. She is 16 years old. And I asked her—she was observing this debate and watching the whole discussion on tax, on the extent to which Congress ought to provide tax relief to the American taxpayers, and I asked her. I said what do you think about this whole debate? She said that if people are willing to work hard and earn more money and apply themselves in a way that allows them to provide for their family that they ought to be permitted to keep more of their income for themselves.

That is quite a statement. She is 16 years old. She says she expects to major in English and maybe be a writer, possibly a teacher and has hopes and dreams like many 16-year-olds across this country, and she happens to be from North Carolina, and there are millions of young people just like this in Colorado and in your State, I am sure, and throughout the country who really do look forward to a day when they are going to be self-sufficient, be able to work hard, be able to bring home the majority of the income that they earn, put it toward their family, their self-sufficiency, buying a home, buying a car, living the American dream and contributing to our economy.

It is their ambition, it is their hope for the future that helps us get to this balanced budget quite frankly, and I think after generation after generation after generation of people who have entered the work force to be taxed more and more and more, is it any wonder that there are those who choose not to work? Is it any wonder that there are those who in the end do the calculation, as all Americans do, and come to the conclusion that sometimes it is easier not to work than it is to apply yourself and use your God-given talents to bolster an economy like ours?

I think the greatest thing we can do for the future generation is restore hope, restore the energy and the enthusiasm for being a participant in a free market economy by taxing families less by allowing people to keep more of what they earn, to send less money to us here in Washington and allow them to keep it at home and spend it on the private charities of their choice at home, spend it on their church or synagogue, spend it in their school, spend it on their children, spend it in a way that reinvigorates and restores the American dream to all young people and all individuals throughout our country.

Mr. NEUMANN. You know you have kind of moved into a discussion of the future, and earlier this evening before you got into the Chamber here we were discussing the past and the Gramm-Rudman-Hollings and this vision of Republicans of what we do not want right now, Gramm-Rudman-Hollings promises that were not kept, and the deficits exploded, and the promises were not kept to balance the budget in 1993 where the decision was made not to lower taxes or have tax cuts, and it is amazing to see the fight now on both sides of the aisle about which taxes should be cut because in 1993 before that change in 1995 in that past they raised taxes, they did not lower taxes, and the discussion is about which taxes are now high.

That was the past, and then we moved into the present, and we talked about the fact that we are in the third year of a 7-year plan to balance the budget, and we are not only on track, but we are ahead of schedule, and you have kind of turned the discussion now to the future. In the present here we have curtailed the growth of Government spending to a point where we are virtually at a balanced budget or very close to it right now, and we are able to both balance the budget and reduce taxes because we have curtailed the growth of Government spending. This is a Republican vision where we do not want to go back to the broken promises of the past and the tax increases. We are in the present where we have got both a balanced budget, we are on track and ahead of schedule, in our third year here now and we are also reducing taxes at the same time as the President.

Now let us move to the future a little bit and let us talk about this Republican vision for the future of this great Nation we live in. You see even after we balance the budget, after we get it to a balance, whether it is 2000 or 2002, we still have this $5 trillion debt hanging over our heads, and if we do not do anything about that, that means we pass this Nation on to our children with a $5 trillion debt knowing full well that when they have their families, they are going to have to send $600 a month on out here to Washington to pay interest on the debt just like our families today have to do.

Let me give you a new vision for the future. Present vision: Balance the budget, reduce taxes. Vision for the future: Let us pay off the Federal debt. And a lot of people out here go, well, we cannot pay off the Federal debt, but let us just talk about this vision for a minute.

It is a vision of a balanced budget paying off the Federal debt so we can pass this Nation on to our children debt free, and when we pass this Nation on debt free and we pay that debt back we are also putting the money back into the Social Security trust fund. So this new vision is a restored Medicare, a balanced budget and a future that is debt free for our children.

Now a lot of people say I cannot do that, that is not possible, that cannot happen out here. Well, I would like to spend a little bit of the rest of the time here this evening pointing out that we have introduced a bill. It is called a National Debt Repayment Act, and I believe you are an original cosponsor with me on this. The National Debt Repayment Act is a relatively simple bill. It says that after we balance we will simply cap the growth of Government spending at a rate 1 percent below the rate of revenue growth. So once we are in balance we cap the growth of Government spending 1 percent below revenue growth.

Well, if we are in balance and revenues grow by 5 percent, that would mean spending could only grow by 4 percent. That little bit of extra in there, that is the surplus we are talking about, and that surplus is going to allow us to literally pay off the entire debt by the year 2026. So if we just cap the growth of Government spending 1 percent below the rate of revenue growth, we can literally pay off the entire debt by the year 2026 and give this Nation to our children debt free.

The second part of the National Debt Repayment Act, it defines what exactly to do with that surplus. First part, it caps the growth of spending 1 percent below revenue growth. That creates our surplus. The second part of the bill says that one-third of that surplus goes to additional tax cuts. It recognizes that even after this tax cut bill is through the American people are still sending too much money out here to Washington.

So the second thing this bill does is it takes one-third of that surplus and provides for additional tax cuts to our American families, and I would like to suggest that the next tax cut we make, it should be to eliminate the marriage penalty taxes we discussed earlier this evening.

So the first thing then that it does in the second part of the bill is it reduces taxes. One-third of the money goes to additional tax deductions, two-thirds goes to paying off the Federal debt.

So one more time through the National Debt Repayment Act, it caps the growth of Government spending at a rate 1 percent below the rate of revenue growth. If we do that, there will be a surplus. With the surplus we take one-third for additional tax cuts, two-thirds to pay off the Federal debt. If we do this by the year 2026, the entire Federal debt will be paid and we in our generation, the people that have run up this debt, will have done what is right and responsible for future generations of Americans. Since we ran up this bill we are also going to fulfill our obligation and pay it back.

And again under the National Debt Repayment Act we would develop the surplus, one-third for additional tax cuts, two-thirds goes to paying off the debt. The debt would be repaid in its entirety by the year 2026, and we can pass this Nation on to our children debt free.

There is another side thing here that happened that I think is very important. The Social Security system collects more money today than what it pays back out to our senior citizens in benefits. That extra money is supposed to be in a savings account. When it is not collecting enough, it can still make good on its payments to seniors. Well, that money that is supposed to be in a savings account, it is not really theirs, it has been spent, and I guess that is no real surprise to folks that look at Washington, D.C. When Washington saw this extra money coming in, more than what were paid out to seniors in benefits, what they did is spent the money on other Government programs and put IOU's in the trust fund.

Now the trust fund, that IOU is all part of the Federal debt, so under the National Debt Repayment Act, as we are paying off the Federal debt, we would also be restoring the solvency of the Social Security trust fund so our seniors could once again rely on the solvency of the Social Security system and know they are going to keep getting their Social Security checks.

So again I kind of go to the future now on this whole discussion, and we look past the balanced budget. I mean all of the good things that are happening right now, restoring Medicare for a decade, reducing taxes on the American people, a balanced budget; let us move to the next phase now on the Republican vision. Beyond the next phase is to pay off the Federal debt. By implementing the National Debt Repayment Act it caps that. Once we reach balance, it caps the growth of Federal spending at a rate 1 percent below the rate of revenue growth. That creates a small surplus. That surplus, one-third goes to tax cuts, two-thirds goes to repaying the Federal debt. If we enact this bill, we pay off the entire Federal debt by the year 2026 and we get to give our children a nation that is debt free, and what is most important about that is by then they will be having their own families, and they will have a few kids, too, I hope. I hope they will get married, and I hope they are happily married, and I hope they have kids, and instead of sending their money down here to Washington to do nothing but pay the interest on the Federal debt, they will be able to then keep that money because we will have paid the debt off.

Seventeen percent of the entire budget does nothing but pay the interest on the Federal debt. We will not need that money. They can keep it in their own homes and get a better education case for their kids or buy a nicer home, live the American dream.

That is what this should be all about.

So we have got this vision. We have looked at the past, the broken promises of Gramm-Rudman-Hollings and the tax increases of 1993. We have rejected that, and when people rejected that, the American people rejected that in 1994. The new group that came here in 1995 said enough of that stuff. We are going to balance the budget by curtailing the growth of Government spending.

We are now in the third year of our 7-year plan to balance the budget, and we are not only on track, we are ahead of schedule. We have curtailed the growth of Government spending to the point where we are not only going to balance the budget but also reduce taxes on the American people, and that is what this tax cut debate is all about this evening.

The third part of this vision is for the future, and it envisions a future in this great Nation we live in that is debt free, where we pass this country on to future generations without this burden of a debt hanging over their heads, and it envisions a nation where when we collect money for the Social Security system, the money is actually there in the Social Security system as opposed to spent on other programs.

So this vision is passed. We do not want it. Present, it is going pretty good when the third year of a 7-year plan and we are on track and ahead of schedule. We have curtailed the growth of Government spending to a point where we can both balance the budget and reduce taxes in a future where we do not stop at a balanced budget, but we also pay off the Federal debt so we can give this country to our children debt free.

Mr. BOB SCHAFFER of Colorado. Let me contrast that future that you just described to what would happen if we do nothing, if we really do what the left wing in Washington wants, which is no tax cuts, which is not to balance the budget, which is to continue running this Government on auto pilot as if there is not a care in the world and no problems down the road.

You know the statistic that I hope Americans remember is that a child born today owes approximately $20,000 to the debt that we have today. Now as with the Federal debt, it is no different than any debt that anybody has on the mortgage on their home or their car loan or whatever. You have to pay interest on that, the cost of the cash that you use for whatever purpose. There is a cost associated with the debt that we have now, and the interest on the debt just continues to build and build and build unless we decide now to get serious about it.

□ 2115

That $20,000 that a child born today owes to the Federal debt, over the course of that child's working life becomes a debt of upwards of $200,000 once we calculate the interest associated with that.

Now, think of that. A child born today, with the budget scenario that we have in the current law, has an obligation to the Federal Government of $200,000. That is what they are faced with.

Mr. Speaker, we talked a little earlier about the hope and the opportunity and the excitement that we hope to build into the future of every young American, and getting at reducing that $200,000 debt over the course of a child's working life is something that we are very serious about here in Washington. This new wave of conservative budgeting, conservative tax policy that the gentleman mentioned, started in 1994 and really got to work here in 1995; I think was reinforced in the 1996 election with those of us who came in my class; is offering the real prospect of getting a budget balanced.

The numbers that we have seen are very clear. They are very exciting. By seeing these charts and graphs which show us that we are on a glidepath toward not only balancing the budget, but a plan beyond that, even beyond that, to start looking at what do we do with the savings, what do we do with the economic prosperity in America after that? Getting that burden off of every child's back, that $200,000 obligation to the debt, and removing that by 2026, is something that is great cause for optimism to, I am sure, everybody who has children, every middle class family, and certainly those of us here who are dedicated and committed to working so hard, to seeing these three stages of our tax relief, our balanced budget relief and our debt repayment relief plan enacted.

Mr. NEUMANN. Can the gentleman imagine, just go back to the past here for just a second, and let us say that in the past they envisioned a surplus occurring. What does the gentleman suppose the first thought in Washington would have been in the past if a surplus occurred?

Mr. BOB SCHAFFER of Colorado. Where do we spend it?

Mr. NEUMANN. And what new government program can we enact, and how fast can we get it into place to make sure we get the taxpayers' money spent? Because we know if they spend it in Washington, the people in Washington can do a much better job spending the people's money than the people could if they kept it in their own pocket.

Now, contrast that past to where we are today. Instead of talking about spending that money on other government programs, we are here this evening saying that as the surplus develops, one-third for additional tax cuts and two-thirds to do the responsible thing, to start paying down the Federal debt so that our children can inherit this Nation debt-free, and so that the money that is supposed to be in the Social Security Trust Fund actually gets there, that is what this is all about.

What a stark contrast in vision from where we were in the past and what would have happened, to where we are today in our vision for the future that includes a balanced budget, a restored Medicare system; not only a balanced budget, but paying off the Federal debt so that our kids inherit this Nation debt-free, and the hope and the opportunity and all of the things that go with this vision for the future. That is what the future of this country is about, and that is what our service here in Washington should be about. What a wonderful change it is from a couple short years saying.

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, it really is. Again, I have to say, the way we see certain folks responding to this plan, once they realize that it really is going to work, that the numbers are real, that the glidepath towards a balanced budget is something that we really can touch and get our hands around, those who oppose that notion, those who really do want us to spend more and tax more and continue business as usual, they are screaming like a bag of cats on the way to the river, because they realize the power of this particular plan and that the American people really do embrace it.

That is why they come up with these phoney numbers about how our tax cuts only benefit the rich. They do not. They benefit middle class. Those numbers are very clear, very solid. The Joint Committee on Taxation tells us very directly, 75 percent of these tax cuts go to households with incomes below $75,000 in real income, the income that people bring home from their jobs and their work everyday and as calculated from their paychecks, not some phoney income that makes us all millionaires overnight.

Mr. NEUMANN. Mr. Speaker, that is also why in this tax cut package, and we heard the debate earlier in the evening to try to provide tax cuts for people who are not paying any taxes. They have somehow lost sight of this, and we see as this is all developing and we have this bright picture and this very large change from what was going on in the past, from the broken promises and the mistargets and no hope of a balanced budget and the tax increases, we have now moved into the present where we are actually going to balance the budget and we have curtailed the growth of government spending, so that we are not only balancing the budget but reducing those taxes, that change is so substantial and they are struggling to get back to that old way.

So while we do not want to cut taxes for people who are not paying any taxes, they want to create a new social welfare program and give them a check even if they are not paying taxes. Somehow there is something not quite right about that. It just does not flow that one cannot get a tax cut if one is not paying taxes.

Mr. Speaker, one more thing. A lot of the folks viewing this, our colleagues viewing this this evening are struggling to understand just how far we have come from the old Gramm-Rudman-Hollings days and the tax increases, to the present where we are not only on track, we are in the third year of our plan, and we have in fact curtailed the growth of government spending so that we can provide both tax cuts and a balanced budget.

I have brought another chart here with me this evening, and I am going to make another prediction that the budget is balanced by the year 2000, maybe even 1999 unless we go into another recession. To show just how far we have come, the revenue to the Federal Government has grown by an average 7.3 percent. If we look at how much came in last year and then this year, the average growth over the last three years was 7.3. Over the last 5 years the average growth was 7.3. Over the last 10 years it was 6.2, and over the last 17 years it was 6.8.

I throw all of these numbers out there just so the folks can see how fast revenue has been growing. In the budget we are projecting we are only projecting growth, not 7.3 or 6.8, only 4 percent. So I ask the question, the question goes like this: What if revenues grow by 6 percent? Still not as fast as they have been growing at 7.3, but what if revenues grow by 6 percent and we hold the line on spending. We do the spending projections on what we have just agreed to. In fact, if revenues grow by 6 percent and we meet our spending targets, we will in fact have a balanced budget and run our first surplus in the year 2000. What that means, if we can get the National Debt Repayment Act passed, that means in the year 2000, two-thirds of that $40 billion goes to debt repayment and another one-third goes to additional tax reductions.

So the tax cuts are not over. We have the possibility to go the next step and provide additional tax relief to the American people. I personally believe that anything we can do to allow the American people to keep more of their own money in their own homes and in their own decision-making realm, instead of sending it out here to Washington where it gets in the hands of people here to decide what to do with that, the more we can leave it in their own hands to make their own decisions, the better off we are going to be. That is why I find this so exciting, because by the year 2000 if we can get the National Debt Repayment Act into place, and I think we are going to, we can look at the next round of tax cuts for our working families in this great Nation we live in.

That is exciting to think about. I challenge the people that are going to get up early tomorrow morning and go to work, I challenge them to think about the next paycheck that they get, being able to keep an extra 50 bucks for the week in their own home because we reached this goal, because that is what this really means. We are now ready to go the next step and allow the American people to keep even more of their hard-earned money instead of sending it here to Washington. This is a tremendous change from where we were in the past and it is a very bright future for the future generations of America.

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, it is a powerful plan for the Republican Party that is moving this forward. It signals a day when we have moved the politics of pork out of Washington and put the American family first.

We are going to balance the budget in short order. If we have a strong economy, my colleague is right, we are going to see this budget balanced before the turn of the century. We are going to provide tax cuts for middle class families, we are going to offer hope and prosperity for those young children who are saddled today with a $200,000 obligation, long-term, to the current Federal deficit. We are going to resolve that for them before they get into their 30s.

It is a very powerful plan and program that the Republican Party has moved forward, and I hope that those handful of Democrats who are sincere about putting American families ahead of pork barrel politics find the courage to join us in this plan. Mr. Speaker, I am confident that some of them will, but we just need to keep talking about this over and over and over again. The American people are smart enough to figure out that this is to their advantage and they are going to be with us.

Mr. NEUMANN. Mr. Speaker, will it not be great as we go forward now toward the next election cycle, instead of having the discussion of class warfare that we heard earlier this evening, if instead of having that discussion, we talk about the failures of the past and how different it is today.

We are in the third year of our plan to balance the Federal budget. We are not only on track, but we are ahead of schedule. We have in fact curtailed the growth of government spending rather than raising taxes, and by doing that we are now in a position where we reach a balanced budget, probably sooner than projected, probably even sooner than the year 2002, and we are reaching the balanced budget while at the same time letting the American people keep more of their own money that they have earned. This is not a gift from Washington, it is their money.

What a wonderful vision. We have balanced the budget, we have preserved Medicare for future generations, and we are looking at additional tax cuts as we go forward. We look forward to a Nation where we not only have a balanced budget and reduced taxes, but we also pay off the Federal debt so we can pass this Nation on to our children debt free. I can think of no higher goal for our service here in Washington DC.

TAX RELIEF FOR AMERICANS AND SPENDING PRIORITIES FOR AMERICA

The SPEAKER pro tempore (Mr. PEASE). Under the Speaker's announced policy of January 7, 1997, the gentleman from New York [Mr. OWENS] is recognized for 60 minutes.

Mr. OWENS. Mr. Speaker, I suppose I would really be continuing the dialog that was began more than an hour ago by my colleagues in the Democratic Party and was just continued by two of my colleagues in the Republican majority. Nothing is more important than a discussion of the reconciliation package that will be voted on tomorrow, we hope, and the tax package that will be voted on. The budget and appropriations and taxes are the meat of government. Nothing is more important than what we do with the money of the taxpayers, and we cannot discuss it too much. I hate to be redundant, but I think we have to give due attention to that which is most important and hope that the American people understand that the final decision is in their hands.

It is a matter of common sense as to what we want to do with our money. It is the American taxpayers' money. The taxes do belong to them, my colleagues in the Republican majority are correct, and they ought to have more of their money to spend. The taxpayers should have their money.

It is very interesting, though, that my colleagues that were talking a few minutes ago from the Republican majority about guaranteeing that future generations will not be saddled with debt, guaranteeing that we will reduce the large size of government and the size of the budget, they voted for the continued funding of the B–2 bomber.

We just had an historic vote yesterday on the floor of this House where the B–2 bomber, which at a minimum will absorb about $27 billion away from domestic programs in future years, and force us to keep the budget at a higher level than it really should be, force us to give less money back to the American public, the B–2 bomber was discussed, debated on this floor for several hours. It was pointed out that the President says we should not spend our money on the B–2 bomber. The Joint Chiefs of Staff said we should not spend our money on the B–2 bomber. The Air Force says we should not spend our money on the B–2 bomber. The goals, the objectives that would be met by the B–2 bomber program can be met in cheaper ways. We have B–1 bombers, we have other ways to accomplish the same purposes.

All of it was stated quite clearly. But nevertheless, a majority voted to continue spending money on the B–2 bomber, the same people who said they want to save our children from having to live in a world where the Federal debt burdens them unduly.

We have contradictions here. Everything that is said here relates to everything. We cannot separate the statements about protecting children from future debts from the almost phenomenal intent to continue funding the defense budget at levels which are almost as high as they were in the cold war. We are spending more than all of the other nations put together for defense, and that certainly is driving a situation which denies a greater amount of tax relief for the American taxpayer.

On the matter of tax relief, we saw a clear statement here when my Democratic colleagues were on the floor. They had charts here which were really compelling in their simplicity.

□ 2130

They say one picture can say more than a thousand words. Well, those two charts said more than 1 million words. They had two charts here, one which showed the nature of the Republican tax cut package, and the other the nature of the proposed Democratic tax cut package. You would think you were looking at some piece of modern art by Andy Warhol or some other experimental artist, and that some kind of trick was being played when you looked at those two charts. The two charts were mirror images, mirror images of each other.

The figures 91 and 19 stick out, 91 million and 19 million. If you look at the Democratic chart you can see a large chart on one side which says that most of the Democratic tax cut, as opposed to the tax cut package, most of the money goes to the 91 million Americans who are in the middle class. The 91 million who are in the middle class will receive most of the tax cut proposed by the Democrats. Only 19 million of the richest Americans would benefit greatly by the Democratic proposed tax cut package.

When you look at the Republican tax package, it is just the opposite. Nineteen million of the richest Americans would receive two-thirds of the tax cut, and 91 million in the middle class will receive only one-third; one-third, two-thirds, mirror images. For the Democrats two-thirds of the tax cut goes to the middle class, one-third to the richest Americans. The Republicans, two-thirds goes to the richest Americans, one-third to the middle class.

We could not get a more dramatic contrast than that. We could not get a simpler contrast than that. The contrast is obvious. The difference between the two parties, if you want it in summary form, you can see it in summary form right there without going into the details. But of course, there are more details to go into in terms of how do we spend that.

That is how we get the revenue. The tax package talks about revenue that will be no longer be collected. On the other hand, we have a reconciliation package which includes the expenditure side: How should we spend the money that will be spent in this year's budget. Again, we get a display of the difference between the two parties.

But I am not going to be redundant and repeat all of the things that have been said by the previous speakers in the previous 2 hours, but I do want to make it clear that what I have to say is related. It is related very much to it.

I have a hodge-podge of concerns tonight. One is the fact that today, in the New York Times, there were photographs of two very important African-American women, photographs of two very important African-American women. Both are related to very sad occasions.

We are saddened by the death of Betty Shabazz, whose photograph was on the front page of the New York Times today. Betty Shabazz was the wife of Malcolm X, and her life in the last 10 years or perhaps her life since the death of her husband has been like a Greek tragedy. She saw her husband gunned down in front of her eyes while her daughters were sitting there with her, in the great assassination that took place in Harlem when Malcolm X was killed. She has seen a lot of adversity since then.

Finally, the adversity reached its climax when she had received third degree burns over 80 percent of her body. She fought for her life for the past few weeks, and finally she gave up. It is most unfortunate. It is like, as I said before, a Greek tragedy. You would not believe it if you did not see it unfold before your very eyes, the incidents that led up to Betty Shabazz' final death related to her grandson and her daughter.

I will not go into all the details there, but she was a great lady. We will hear a lot about her in the coming next few days and weeks. The things that will be said about her by other people are not quite the same as the things that I have said.

She was a great lady because I saw her in a lot of places where there were no cameras, places where she got no credit, no glamor. There was no glamor there. I saw her in places where very few people bothered to go, for good cause. If there was a good cause there and she could do something to help, she showed up. Little people relied on her to do certain kinds of things, and she was always there.

You can praise people for their intelligence, for their education. She had a Ph.D. She educated herself after her husband's assassination. She raised her daughters, a model mother and all that. You can praise people for many reasons: intellect, education, integrity. There are a number of things you can praise people for.

I am impressed by all of those, but most of all I am impressed when people are good, basically good at heart. She was the kind of person who was basically good at heart. Deep in her fiber she wanted to do the right thing. You do not meet many people like that. Her motivation was to do good. She was a good person. Say all else that you want to say about her to glorify her, and there are many good things you can say, but underneath it what I appreciated most about Betty Shabazz is she was a good person.

There was another photograph of a black woman in the New York Times today. Nobody knows her name across America or in New York City or in the neighborhoods. I had just heard of her for the first time. Her name is Marsha Motipersad. Marsha Motipersad was a workfare worker. She was a workfare worker who died on the job at 50, a 50-year-old workfare participant who had a heart condition. Everybody knew it.

She had formerly been a secretary at the Children's Aid Society, and she had to leave her secretarial job in 1994 because she had had two heart attacks, two heart attacks. Here is a middle-class lady with skills in the work force who, for health reasons, was driven out of the work force, and I do not know what complications took place that led her to the point where all she could get was welfare. She ended up on welfare. The workfare programs come along, and despite her condition they said she had to go out and go to work in the parks department. With her heart condition and all the stress, et cetera, she dropped dead.

I want to talk more about her later, but it is interesting that on this day the New York Times has photographs of two African-American women. I thought that was worth noting.

I would also like to note some good news. On this day there was an announcement that Bill Gates, the millionaire, billionaire, multi-billionaire owner of Microsoft, announced a plan to give $200 million to libraries. He has already given money to libraries. In fact, one in my district in the Flatbush area is the recipient of one of Bill Gates' early grants, the Microsoft early grant.

Bill Gates clearly wants to build on the example set by Andrew Carnegie. Everybody knows that Andrew Carnegie built libraries all over America. More than 2,000 libraries were built by Andrew Carnegie and the Carnegie Corporation. Many are still standing. The legacy of Andrew Carnegie goes on.

Bill Gates wants to take one more step and bring those libraries into the age of cyberspace, and put computers and software in libraries. I can think of no more daring and productive innovation than that, to really put them in public libraries where everybody will have access to them.

I am particularly proud of that because I am a librarian by profession, and I worked in a public library. I spent my first 8 years in the work force in the Brooklyn Public Library. The Brooklyn Public Library is celebrating its 100th anniversary this year.

It all comes together. We go off into cyberspace training, and the complexities of trying to get low-income people in areas like my district the kind of training that they need in the area of computer literacy and computer utilization, nothing is more important than that, than that they are going to be able to be in a position to improve themselves. We need computer literacy in order to be employed, to gain promotions, and to go up in the work force today. What Bill Gates has done is a very practical thing, so it is good news.

I want to tie them all together, Mr. Speaker, the death of Marsha Motipersad, the good news that Bill Gates has, tie it all together in my discussion of the plan outlined by Speaker GINGRICH on June 18.

The Speaker responded to the President, who was taking a new initiative on race relations in America. The President's initiative has been criticized as being hollow and of little meaning because it is all talk. But as I said last week, in the beginning was the word.

Words are very important. Words set in motion a chain reaction. They do not necessarily lead to productive action always, but no productive action takes place without words. There is nothing more practical than a good theory, nothing more practical than an idea. Ideas often take shape and they do not get any fulfillment, they never get realized, but you do not get anything realized unless it starts first as an idea, so words and ideas are very important.

I applaud the President's initiative in launching a discussion of race relations. By discussing, we may solve some problems. By discussing, we may get some new perspectives on the race relations problem in America. Discussion may stimulate some new visions, and certainly the President is to be applauded, because look at the results. Right away you get a reaction and a response from probably the second most powerful politician in America. There is the President first, and then we have Speaker GINGRICH. He responded. So you have the President launching the discussion and now Speaker GINGRICH responding, so we have a focus and a discussion on race relations that could not have been achieved in such a short period of time in any way, any other way.

So I congratulate the President. He is off and running, and I suppose if he has started the discussion and Speaker GINGRICH has responded, no other significant elected official and national leader can afford not to talk about this now. They cannot afford not to be part of the discussion.

Not only did the Speaker choose to respond, but the Speaker set forth a 10-point program, a very fascinating program. I agree with more than 50 percent of it, at least, at least 50 percent of it. The Speaker's 10-point program is worthy of discussion, and it relates directly to our vote tomorrow on the tax package, on the reconciliation package, on the expenditure part of the reconciliation package. It has a direct relationship.

There is a direct relationship to our vote yesterday, the vote on the B–2 bomber, the vote which failed. I voted against the continuing funding of the B–2 bomber. The B–2 bomber drains money out of a budget that now we are trying to balance by the year 2002.

If the B–2 bomber stays in the budget, it is going to offset and push out expenditures for education. It will push out expenditures for health care. It will force the party in power to play tricks with the budget the way the majority is playing tricks now with expenditures.

They say that we have a $16 billion program to provide health care for 5 million children. That was the agreement of the White House. But the way they are playing with those dollars, we have been told now on good authority that only 500,000 children would be covered, and we are not sure of that. Because of the way they choose to pass out the money to the States and the Governors, we cannot be sure that even 500,000 children will be covered by the program.

So those kinds of tricks and that kind of preoccupation with distributing money for political gain, or to reward your friends in your class, in your class, your category, they talk about class warfare, we are passing out money to certain classes of people all the time.

Who are the people benefiting from the B–2 bomber? Why did we have a majority of people on this floor vote to keep funding a B–2 bomber that nobody wants in Government? The President does not want it, as I said before, and the military people do not want it. It all relates.

The Speaker's 10-point program cannot be divorced from what is happening here on the floor.

□ 2145

He is the leader. He has command of the majority of the votes. Very interesting that the New York Times' account of the Speaker's 10-point program states that he gave the program at a meeting related to a foundation to help orphans. I will read from the article.

It appears in the Thursday, June 19, New York Times, if anybody is interested in the entire article. I will begin at the very beginning. It is an article by Stephen Holmes, and I quote:

> In the Republicans' first major response to President Clinton's recent speech on race relations, Speaker Newt Gingrich tonight sketched out a 10-point program to promote racial healing and black achievement that he said relied more on specific steps and less on theory, talk, and affirmative action.

The Speaker has taken a very ambitious step. He is going to promote racial healing and black achievement. I applaud that. That is a positive step forward. Let us join the Speaker in his attempt to promote racial healing and black achievement. I do not debate or doubt his sincerity.

How are we going to get there, is what I would like to see in his 10-point program. He lays out how he wants to promote racial healing and black achievement. Let us talk about that in detail in a few minutes.

Let me read more of the introduction. In his remarks, Mr. GINGRICH sought to outline an upbeat, can-do approach to solving the country's problems of race and poverty by focusing on individual achievement and not necessarily the advancement of any particular group. Mr. GINGRICH'S speech came 4 days after President Clinton used a commencement address at the University of California at San Diego to call on the country to engage in an honest conversation about racial issues.

By announcing his 10-point program, the Republican leader sought to paint a contrasting portrait between his remarks and the President's speech, which was largely devoid of specifics, aside from a defense of affirmative action and the announcement of a blue ribbon Commission to study race relations and make recommendations.

I am reading from the New York Times article of June 19. I continue. We thank the President for wishing to continue the dialog on race last weekend, Mr. GINGRICH said; but frankly, there has been much talk on this issue and very little action of the sort which will dramatically change people's lives.

Later in an interview, Mr. GINGRICH said he hoped to meet with the President's Commission soon and that he would urge its members to focus their attention on what he termed barriers to minority advancement.

I think that is also a very ambitious goal, a very ambitious statement by the Speaker. I applaud that. I certainly would like to do everything to help him accomplish that. He wants to meet with the Commission, just as I would like to meet with the Commission, a lot of other people. And I hope we will have the opportunity and pour out our recommendations to the Commission, but the Speaker is there first. I applaud his timeliness.

To continue quoting from the New York Times article, this is a quote from Speaker GINGRICH himself, what they really should design over the next year is, let us look at the specific pragmatic real changes and real barriers to participation. He said, if we could then knock down the barriers, as people participate, concerns about race will dramatically decline.

I am reading from the New York Times article. That was the Speaker's statement. To continue to quote the Speaker from the article: What I said last year was that we have to put in the context of a broader solution of affirmative outreach to individuals any effort to eliminate quotas and set-asides, he said. And I spent the past year, frankly, working to develop a program that was comprehensive.

In other words, Mr. GINGRICH's 10-point program is his alternative to affirmative action, his alternative to affirmative action and his proposal to do things, I am sure, beyond affirmative action. So the Speaker is to be applauded. He is on board. The President is to be applauded for initiating this activity. Let us all run to catch up with the Speaker.

Welfare reform is on the Speaker's list of 10 points. He proposes, in his 10-point program, that we should take the next step in welfare reform by fostering and promoting innovative local job training, welfare-to-work and entry-level employment programs to move welfare recipients into the work force. We have talked about welfare reform for, this is our third year of discussion.

Unfortunately, we passed, the Congress passed, I voted against it, but Congress passed welfare reform legislation and the President unfortunately signed it. We are off and running. We are off and running now. And I do not find anywhere any details of any innovative local job training program. The assumption was there are jobs out there. You move people from welfare to work. If you are moving them to work, then work is there.

We have a great debate now here in the House and in the Capitol about whether these people who are moved from welfare to work are really employees. Can you imagine? We have talked for years about they should go to work. Once they go to work, we say, well, they are not really employees. Are we moving them from welfare to work, or are we moving them from welfare to some other category, something in between work and welfare? We did not know there was anything that existed. If they are going to work, they are employees.

Why are certain people insisting that they not be considered employees? Because if they are employees in the United States of America, there is a law called the Fair Labor Standards Act. Fair Labor Standards Act says if you are an employee, you have to be paid the minimum wage. If you are an employee, there are certain working conditions that you are entitled to. You fall under the OSHA provisions, Occupation, Safety and Health Administration. If you are an employee, you have certain rights with respect to discrimination in the workplace. You have certain rights with respect to sexual harassment. Employees in America have certain rights.

Part of the definition of being an employee in America is that all that is there to help protect you. The workplace is a place of privilege. The workplace is a place, as a result of the New Deal and all of the legislation that we formulated over the years, the workplace is not just a plantation. The workplace is something we try to make a place of fairness, a place where workers have a chance to earn a living without being oppressed and without being in any danger or harm and also being paid some kind of reasonable wage.

So welfare reform is off and running. Large numbers of people in New York City are on workfare. They are being moved out of welfare. They are already working. People who are adults without children have been forced into a program called WEP, the Work Experience Program. The Work Experience Program refuses to pay minimum wage.

This is a program that Marsha Motipersad was in before she died, Marsha Motipersad, a secretary of the Children's Aid Society until she had two heart attacks. She had to leave her job in 1994, and eventually she had no resource except to go on welfare.

So she died, working in the Work Experience Program, 22 hours a week. The requirement was that she work 22 hours a week to cover her cash and food stamps benefits. The cash and food stamps benefits that she received are equivalent to $250 a month, according to the New York Times article of Tuesday, June 24. I have not calculated this myself. I find it hard to believe, I find it hard to believe that we would require a person to work 22 hours a week for $250 a month; 22 hours a week means, that is 88 hours for the month, 88 hours for the month to earn to be eligible for $250.

So Marsha Motipersad, who dropped dead on her job, was being required to work 22 hours a week for food stamps and her cash benefits, which totaled $250 a month, according to the New York Times. This is the welfare reform that we have at present. The Speaker proposes in his 10-point program that we have a real program, innovative job training, entry-level employment programs. Where are they, Mr. Speaker?

How fast can we move? How rapidly can we put them in place? How many more Marsha Motipersads are out there? How many people have died already? Is there something wrong, Mr. Speaker, with requiring a person who has had two heart attacks to go to work for her food stamps? In the richest country that ever existed on the face of the earth, can we not have some provision to avoid having a woman who has had two heart attacks go to work for her food stamps?

Let me read to you from this article of June 24 in the New York Times. Quote: A 50-year-old workfare participant with heart problems died on the job, prompting questions about the city's ability to determine whether some of its workfare laborers might be too sick to work. The worker, Marsha Motipersad, whose heart disease had forced her to leave her job in 1994 as a secretary with the Children's Aid Society after 17 years, died of a heart attack on June 17. Ms. Motipersad, who had first been categorized as not employable, she had first been called nonemployable by the Human Resources Administration because of her health problems, but she was recently recharacterized as employable and ordered into the city's Work Experience Program.

Mr. Speaker, here is one reason we need to hurry and get a real system in place so we are not brutalizing people and making these kinds of mistakes. What we have is makeshift things happening out there. We rushed the welfare reform program into place so rapidly, it could have been made effective a year after the date of enactment. It could have been all kinds of things to phase it in. But we cared so little about the people on the very bottom, poorest people in America, that we rushed into a program that was bound to generate blunders and hardships of this kind.

Henry Stern, the City Parks Commissioner, reading from the article that appeared in the New York Times, Henry Stern, the City Parks Commissioner, said that Ms. Motipersad has been assigned to light duty and had worked as a timekeeper in the office, but that he had ordered an investigation into what work she had actually been doing.

In a blundering makeshift system, maybe somebody did do the right bureaucratic thing and note that she should not be given the hard work, but it is a blundering new system. People are thrown into the parks department where workers who are there, paid civil servants, are resentful of the fact that workfare people are being brought in to replace their colleagues.

The parks department has been downsized from 7,000 jobs to 4,000 jobs; 3,000 people who were full-time civil servants at one time are no longer there. And they have these thousands of people coming in as workfare participants, welfare recipients, working for almost nothing. So some of the people who are there, they resent these people. So she probably was deliberately not assigned a light job because there was resentment there that she was even there.

He ordered an investigation, the commissioner, into what work she had actually been doing. Others, including the woman's son and some of the workers that she worked with, said Ms. Motipersad had talked of having to occasionally pick up garbage on the beach and the boardwalk, and she said she told them she feared for her health as a result. She had to go out and work like the other workers in terms of picking up trash on the beach and the boardwalk, even though there was a notation in her file that said she should be assigned light duty.

Her son said, I told her not to do it, that I would help pick up the slack with the money; and she said she could not stay at home because she had to pay her rent. Evelyn Selby, a neighbor and WEP worker with Ms. Motipersad in Coney Island, said that they both had to rise at 4:30 each morning and they used to take three buses to get to their assignment.

Quote: I would have to wait for her as she climbed the steps and such. She was always behind.

This is what her friend and companion says about Ms. Motipersad, who had had two heart attacks. She had to get up at 4:30 in the morning. By the time she gets to work catching three buses, she is already so stressed out until it is amazing that she did not die in the first few days with this kind of forced activity.

Officials with H.R.A. said that Ms. Motipersad had within the last several months been reevaluated by a doctor with Health Services Systems, a privatized agency that had a contract from the city agency to evaluate these people to see if they were really sick when they said they were sick.

The official said that Ms. Motipersad had been denied Federal disability benefits, known as Supplemental Security Income, SSI, because she was not deemed disabled. Now, what is our Supplemental Security Income for? If a person who is 50 years old, has had two heart attacks is not eligible for disability, then who is?

□ 2200

A person who is a secretary and was forced to give up her job as a secretary because of a heart condition, if she is not deemed disabled, then who is?

So the Federal bureaucracy has a role in failing Ms. Motipersad also. "She had some health problems but was deemed stable," says Renelda Higgins, a spokeswoman for the Human Resources Administration. "Life and Health Issues are not static." I am quoting the bureaucrat, Ms. Higgins. "Life and health issues are not static. Individuals are reevaluated. She was on medication and she was taking her medication." She had two heart attacks and she was taking her medication. And they sent her out on the beach to pick up trash.

I had heart bypass surgery, and I do not want to go out on the beach and pick up anybody's trash. I know what would happen to me. I never had a heart attack, but I had a situation where I had heart bypass surgery. And I would not risk my life on a beach on a hot day picking up trash.

But she was evaluated by this bureaucrat who said she is taking her medication, let her go to work. Others, including her family and lawyers representing workfare participants and Acorn, a nonprofit group that is working with unionized workfare laborers, called into question both the adequacy of the health evaluation done by the city's contractor, the private contractor, as well as the wisdom of forcing Mrs. Motipersad to work for her benefits.

Mrs. Motipersad, according to Mr. Stern, worked 22 hours a week for her cash and food stamp benefits and they total about $250 a month. The city requires welfare recipients up to age 60 to work for their benefits. It says medical evaluations are done of all recipients in workfare who have a history of health problems. Part of the rationale for making such people work for benefits, city officials have said, is to obtain a straightforward return for their expenditure.

The city, in fact, has created a subcategory of welfare worker. It is called employable with limitations. Such recipients are supposed to be assigned office work. What recipients of workfare have said from its inception, they have complained that the city has hired doctors who did not seriously investigate real and formidable health problems.

People with asthma have been told of being put to work in office basements. And others talk of 3-minute examinations by this city-employed health evaluation agency without any acknowledgment of their own doctors' evaluations. The Legal Aid Society has filed suit on behalf of recipients who were categorized as "employable with limitations," but nonetheless, they were sent to sanitation garages and the like.

Mrs. Motipersad was forced to give up her job at the Children's Aid Society, as I said before, in 1994, after two heart attacks. She briefly collected disability benefits, and her son yesterday produced notes from doctors recommending that she not work because she had coronary artery disease.

Here is an individual whose photo would never have appeared in the New York Times, otherwise a plain and simple person, a member of the middle class, worked 17 years as a secretary in a reputable agency and, because of circumstances related to her health, wound up in the workfare program. She was kicked off. She was told she would be kicked off of welfare, she would not get her $250 a month if she did not go out and work for the Parks Department.

So point No. 1, Mr. Speaker, welfare reform. Take the next step in welfare reform by fostering and promoting innovative local job training, welfare to work and entry-level employment programs to move welfare recipients into the work force, a systematic well-structured program to deal with trying to help poor people move from welfare to work.

We are all in favor of that. But the job has not even begun, Mr. Speaker. I urge you to use your power to implement your recommendation. It is here. It is part of your 10-point program. This is based on a list of the 10 points in the New York Times as excerpts of the prepared text of a speech by the Speaker.

Point No. 2: Civil rights. The Speaker says, "We should clear the existing backlog of discrimination cases at the Equal Employment Opportunities Commission by enforcing existing civil rights laws, rather than trying to create new ones by regulatory decree."

Mr. Speaker, I wholeheartedly agree with you. We should clear the existing backlog of discrimination cases at the

Equal Employment Opportunities Commission. You have the power. You have the power over the appropriations process. The fact that they have a backlog is due to the fact that they have been downsizing, the number of employees have been cut. A proposal from this House could help to solve this problem right away.

I agree with the gentleman from Georgia [Mr. GINGRICH], we do not need to talk about race relations. Let us go ahead and do something practical to promote race relations. Clear up the backlog at the Equal Employment Opportunities Commission. It is a statement of the second most powerful person here in Washington, DC, the gentleman from Georgia, Speaker NEWT GINGRICH. Get on with the business. We will support the Speaker 100 percent.

The Speaker says we should have more home ownership, ease the path toward home ownership by giving local communities and housing authorities the flexibility and authority to more effectively efficiently house low-income Americans. We must also expand faith-based charities, such as Habitat for Humanity, which grow families as well as build homes.

I agree with the Speaker a hundred percent. We would like to ease the path toward home ownership by giving local communities and housing authorities the flexibility that they need. They also have to have increased funding to take care of the repairs, renovations of existing public housing. And we also have a shortage of housing in many cities.

The fact that large numbers of people are homeless can be related to the fact that we have built very little public housing over the last 10 years. As the rate of construction of public housing and the availability of opportunities and publicly subsidized housing went down, the number of homeless people increased. It is also more expensive in many areas to obtain a home either by rental or home ownership.

So this is on target, Mr. Speaker. Let us get on with it. You have the power. Recently we passed a bill here on the floor of this House related to public housing which went in the opposite direction. They reduced the funds available for public housing. And it gave a lot of power away to local housing authorities, but it gave them no new tools to work with, no new appropriations to help with the appropriation. You proposed to dump the problem on localities that are already burdened and could not provide any funding to deal with plugging the gaps in housing in their localities.

Another point, the fourth point made by the Speaker: Violent crime. Make our cities safe and secure places to live and work through community policing, through tougher sentences for violent criminals, and innovative anticrime programs. Dramatically expand the community-based antidrug coalition efforts and create a victory plan for the war on drugs.

We are a thousand percent behind you, Mr. Speaker. Innovative anticrime programs. Many Members of the Republican majority have ridiculed any discussion of crime prevention programs. We call them crime prevention programs. You call them innovative anticrime programs.

I think that, in the final analysis, those people that have expertise in this area would tell you they come pretty close to each other. If you are talking about innovative anticrime programs, you are going to end up with programs that focus on young people, because that is where the greatest volume of crime is.

The crime prevention programs that we proposed focused on young people. Let us have a meeting of the minds right away. If you want to move forward, you have the power, Mr. Speaker, to deal with violent crime in the way you stated should be handled here, you have our full support.

A fourth point made by the Speaker: Economic growth. Expand economic opportunities for all Americans by promoting continued economic growth with low inflation and rising take-home pay through tax cuts, tax simplifications, litigation reform, less regulation, overhaul burden of Government and small businesses.

All in all, for welfare to work to be successful, work needs to be available. That is the point we made on this floor over and over again; work needs to be available. Expand economic opportunities for all America by promoting continued economic growth with low inflation, rising tax, take-home pay, et cetera. We are all in favor of that. Let us go forward.

Urban renewal is another point. The Speaker says create 100 renewal communities in impoverished areas through targeted program tax benefits. Regulatory relief, low-income scholarships, savings accounts, brownfields cleanup, and home ownership opportunities.

That sounds very similar to a program that the President talked about a few days ago when he talked about helping to revitalize our cities. The Speaker and the President seem to be using the same language. I hope they are on the same wavelength. They as the two most powerful people in Washington ought to be able to make things happen in the area of urban renewal. I certainly hope that in this area of 100 renewal communities in impoverished communities we can move off dead center and get an economic empowerment zone for central Brooklyn. We are busily at work trying to focus on putting together all the necessities to make an application for a new urban economic empowerment zone. But the economic empowerment zone has been left out of the budget agreement at the White House. We were brokenhearted, disappointed, to find out when that agreement was completed, there was no discussion of any additional economic empowerment zones.

Economic empowerment zones experiments that were proposed by my colleague from New York, Mr. RANGEL, many years ago, after he and Jack Kemp had worked on it for years and some other people had worked on it, it finally got down to a package that was passed finally which had nine empowerment zones only, six in urban areas and three in rural areas.

So we have right now in America nine empowerment zones, six on urban areas and three on rural areas. Most of them are deemed to be successful. I know of no great failure. If there is a failure, it is not being discussed. So if the economic empowerment zones have been successful, then why do we hesitate? Let us go forward.

The President now, in his speech a few days ago, proposed an additional 15 economic empowerment zones. I heard legislation that was proposed and many more was being drafted by certain people on the Committee on Ways and Means, but all of it has been put on hold, nothing is happening at this point.

An idea that combines government grants with private sector involvement seems to be the ideal that both Republicans and Democrats can agree on. If Republicans and Democrats agree that economic empowerment zones are good for the Nation, then why can we not have more of them? Why can we not in Brooklyn, have one in central Brooklyn, which encompasses my district, have an economic empowerment zone?

We have 2 million people. At least half are poor. We have the space. We have need to revitalize commercial areas, industrial areas. All of the conditions that are necessary, that are required for economic empowerment zones are there. But there is no legislation here. The nine that were created are all given away. We want to compete for whatever new number there is. I hope it is more than 15. But if there are 15, then no neighborhood, no community needs an economic empowerment zone more than central Brooklyn.

It is one of the Speaker's points. He has the power. Let us make certain that the President's 15 economic empowerment zones are combined with the Speaker's 100 renewal communities. And together we ought to, all who live in big cities, be able to get something out of the two packages that are proposed.

What I am talking about is the 10-point proposal of the Speaker designed to deal with race relations. He made the speech on June 18, and I am quoting from an article in the New York Times which talked about his speech. The Speaker proposes to move ahead of the President. He just does not want to talk about these things. He has a program. The President has appointed a commission, what he calls an advisory board. An advisory board will come back within a year with recommendations. The Speaker says you do not need to move so slowly. He sketched out a 10-point program to promote racial healing and black achievements. And he says he relies more on specific steps and less theory. He relies less on talk and less on affirmative action and his 10 points.

I have talked about welfare reform that he proposed. Innovative job training is part of his welfare reform. It is not happening. But he proposed he can make it happen. He has the power. The economic growth, attacking violent crime. Promoting home ownership, promoting civil rights, promoting urban renewal. And he has learning here as one of his 10 points. Learning.

And I will read that part of his speech: "Create better opportunity for all children to learn by breaking stranglehold of teachers' unions and giving urban parents the financial opportunity to choose the public, private, or parochial school that is best for their children."

☐ 2215

I am quoting the Speaker's speech. I want to do justice to what he had to say. Whereas I have agreed with all the points I mentioned before, basically I have agreed with him, I do not agree with his proposal as to how we should promote learning. I applaud the fact that he has put learning on the list, creation of better opportunities for all children to learn. The way he proposes to do it is, of course, what the Republican majority keeps insisting has to be done, that you have to have vouchers and private school choice. I am not going to even discuss that at this point. Let me just challenge the Speaker if he wants to create better opportunities for all children to learn, why not go in the direction where both Democrats and Republicans agree? Why not promote charter schools? Both the President, the Democrats in the House, the Democrats in the Senate, the Republicans in the House and Republicans in the Senate all agree that charter schools are a good idea. So while the great debate about vouchers goes on, why do you not accentuate the positive, Mr. Speaker? Why do you not come forward with an innovative, meaningful program to promote charter schools? The idea is out there, but we only have a handful of charter schools in the country. Only half the States have laws which allow charter schools and in those States that have charter schools, we have very few actual charter schools. It is a very embryonic kind of experiment that is going on. It will take another 20 years to evaluate whether it has any significance or not. There are a lot of innovations that need to take place. I have been on the Committee on Education and the Workforce now for 15 years. The institutional history of what we have tried, what is proposed, what the researchers say is all very much ingrained in my mind. There are a lot of innovative approaches to education which make sense. A lot should be going on right now. I say across the board we should have a comprehensive, overwhelming attack on the problems related to education. Reform and efforts to improve our schools ought to go forward on a massive basis. Maybe in 5 years we can look and sort out what really works best and begin to institutionalize what really works best to develop a first-class system, not a national system but systems which have similar components across the country of things that work. But if we are going to take an idea like charter schools, where everybody agrees that we should have charter schools and then we are going to have only minuscule testing of it, only a few here and a few there, in many States which allow charter schools, there are so many restrictions placed on them until we will not have many developed at all over the next 10 years. There is a need for somebody, and the Federal Government probably is the only entity that could do it, to break it loose and try to give incentives for experimentation on a scale large enough to be significant. We need a critical mass. Charter schools cannot be evaluated as to what impact they can have on the overall education situation unless we have a critical mass. We need enough. One of the versions of charter schools is supposed to be that they will give competition to the traditional public schools.

What is the difference between charter schools and traditional public schools? It is not the funding base, because they both are supposed to be funded by taxpayers' money, fully funded. Charter schools are to receive a per capita amount, which is the same as the local education agency pays for their children. The only difference between charter schools and the local education agency's traditional schools would be in the governance and management. They would have to abide by all the rules and terms of any State requirements, requirements for integration, requirements for curriculum, everything would still be there for the charter schools. It is a matter of how they are governed and who is in charge of the management and what kind of things can you do if you are out from under the local bureaucracy and how much freedom for innovation will lead to real improvements, real change, and how much your freedom to govern as you see fit and manage as you see fit can allow you to do the things that have to be done to improve the schools without the burden of having to get approvals from people in the hierarchy on top of you. The great challenge is governance and management. Let us go on at the Federal level to create some incentives. Let us have a piece of legislation which provides incentives for charter schools. If the Speaker wants to do something about creating better opportunities for all children to learn, there is one area which there is agreement, charter schools, why do we not do something about it.

Opportunities to learn also involve, of course, children having a decent place to study. It is most unfortunate that the Speaker is concerned about creating better opportunities to learn for children and yet in the budget agreement that was made with the President at the White House, the initiative for construction of new schools and renovation of unsafe schools was taken out. $5 billion over a 5-year period. That is all they proposed. $5 billion over a 5-year period to help to renovate and repair and actually construct new schools. It would make a big difference in terms of opportunity to learn for all children. Because across America, according to the General Accounting Office, the GAO, $120 billion is needed for school construction in the next 10 years, to rebuild the infrastructure of public schools. We are not talking about colleges and universities. Just elementary and secondary schools.

Why can we not have in a situation where we are adding billions to the defense budget, and yesterday we voted to continue the B–2 bomber, while we refused to reduce the budget for the CIA even though the cold war is over, why can we not have $5 billion over a 5-year period for school repair, renovation and construction? If the Speaker agrees and if he has on his list of 10 things that need to be done to promote race relations, to provide opportunities for individuals, then why can we not have an agreement to put back into the budget the $5 billion initiative for school construction?

Another point, and I want to finish the Speaker's points and do justice to his points. Small business. Set a goal for tripling the number of minority-owned small businesses. I agree, Mr. Speaker, let us triple the number of minority-owned small businesses. He wants to bring successful small business leaders together to identify and then eliminate the government imposed barriers to entrepreneurship. That is what he says is the cause of the paucity of small businesses in the minority community. I agree with the goal. We need to triple the number of minority-owned small businesses. I do not agree with his concern about government-imposed barriers. I live in a community where small businessmen struggle all the time. I do not get any complaints about government barriers.

The government does more to help than anything else. The complaint is against the private sector capital. They cannot get capital. Or they have to pass scrutiny that other businesses do not have to pass. All kinds of problems I hear about, I do not hear that the government has imposed barriers. That is an ideological blind spot that the Speaker is off into. It is not a minority business problem that we have too much regulation or government barriers. I have heard the speeches a thousand times about what is wrong with America. That has nothing to do with what is really impeding small business development in the minority community.

In summary, I think I have covered all the Speaker's points. His 10 proposals to improve race relations are to create better opportunities for all children to learn, to develop more minority businesses, to create 100 renewal communities, to clear the existing backlog of discrimination cases at the Equal Employment Opportunity Commission. He wants to make America a country, and I missed this one, he wants to make America a country with equal opportunity for all and special privileges for none by taking away all preferences, set-asides, and government contracts. We disagree on that one. That is clearly one we disagree on. I do not have time to explain why. The background of the history of the descendants of African-American slaves has to be considered when we talk about set-asides and special government programs for minorities. Racial classification is another he added here which I find very strange in this set of proposals. Racial classification. A first step should be taken to add a multiracial category to the census. He thinks that is very important to improve race relations in America. I have no problem adding a multiracial category to the census. I do not know how it is going to improve race relations, because in the history of America, they have always insisted that anybody who had one drop of black blood was African-American. If you had one drop of black blood, you were deemed African-American. So these race classifications seem to me to be no solution.

In conclusion, Mr. Speaker, I applaud Speaker GINGRICH for his rapid response to the President's challenge. We need more discussion on race relations. We certainly need powerful people like Speaker GINGRICH to make proposals as to what it is we should do, what we should do concretely. There are people out there who are dying because we are not acting fast enough. The death of Marsha Motipersad is just one example of how there is needless suffering because we have rushed into public policies and programs that are harmful to people. It is more than race relations. It is human relations, it is human rights, it is concern for human welfare. All this goes together.

I want to end on a positive note. Overall, I applaud the Speaker. I hope he will continue the dialogue and he will go and meet with the Commission the President has set up and I will come right behind him. I think that there are many areas that we agree on and that the President's initiative has shown that it has paid off already. The dialogue has begun.

IN HONOR OF THE PRESIDENT OF THE REPUBLIC OF THE MARSHALL ISLANDS, HIS EXCELLENCY IMATA KABUA, AND THE MINISTER OF FOREIGN AFFAIRS, HIS EXCELLENCY PHILLIP MULLER

The SPEAKER pro tempore (Mr. PEASE). Under the Speaker's announced policy of January 7, 1997, the gentleman from American Samoa [Mr. FALEOMAVAEGA] is recognized for 60 minutes.

Mr. FALEOMAVAEGA. Mr. Speaker, I rise today on behalf of our colleagues in the Congress to extend a warm and heartfelt welcome to the President of the Republic of the Marshall Islands, His Excellency Imata Kabua, and the Honorable Minister of Foreign Affairs, His Excellency Phillip Muller. Mr. Speaker, President Kabua and Foreign Minister Muller have been in Washington for meetings with the administration and our colleagues here in the Congress, representing the interests of the good people of the Marshall Islands.

His Excellency Imata Kabua was elected President of the Marshall Islands in January of this year. In his long distinguished career of public service, he has served as Senator in the Parliament or the Nitijela from 1979 to 1996, when he was appointed Minister representing the Ralik Chain of the Marshall Islands. President Kabua presently occupies the rotating chairmanship of the South Pacific Forum of Nations, the preeminent political organization for the nations of the South Pacific.

His Excellency Phillip Muller was elected in 1984 and has likewise been a long-standing member of the Parliament or Nitijela in the Marshall Islands. He served as Minister and assistant to the President from 1984 to 1986, and 8 years as Minister of Education, until his assumption of duties as Foreign Minister for the Marshall Islands in 1994.

Mr. Speaker, on this occasion of their visit, I am extremely honored to salute these distinguished statesmen and leaders from the Republic of the Marshall Islands, one of our most cherished friends and sister democracies in the Pacific region. The people of the Marshall Islands and the United States share a close relationship that extends back over a half century. Our bonds were forged from World War II, when after heavy fighting in the Pacific, the United States liberated the Marshallese people from Japanese occupation.

For the next 4 decades through a United Nations strategic trust territory, the United States, as appointed trustee, provided for the administration of the Marshall Islands and Micronesia. Under the United Nations trust agreement, it was the obligation of the United States to "promote the development of the inhabitants of the trust territory toward self-government or independence, as may be appropriate to the particular circumstances of the trust territory and its peoples of the freely expressed wishes of the peoples concerned."

Pursuing a desire for self-determination, the people of the Marshall Islands entered into a compact, a free association with the United States in 1986, emerging from the trust territory as the independent Republic of the Marshall Islands. Under the compact of free association, the relationship between the Marshalls and the United States is different from that we have with other governments. The United States agreed to provide development funding to the Marshalls for 15 years, and to provide for its defense and security. In exchange, the Marshalls promised the U.S. exclusive access to its islands for military purposes.

As a democratic government, the Marshall Islands has maintained excellent relationships with our country. In the international arena such as the United Nations, the Marshalls has worked closely with the United States and supported us on most important votes, including the Comprehensive Test Ban Treaty and the Nuclear Nonproliferation Treaty.

Mr. Speaker, during the 5 decades of this extraordinary relationship, the people of the Marshall Islands bore a tremendously high burden of the costs of the Cold War to provide for America's defense and our policy on nuclear deterrence.

□ 2230

Between the years 1946 and 1958 our Nation tested approximately 66 atomic and hydrogen nuclear bombs at Bikini and Enewetak Atolls in the Marshall Islands. In their destructive capacity the nuclear blasts literally vaporized six islands in the Marshalls.

Mr. Speaker, the most devastating test was the 15 megaton Bravo shot which is approximately over 1,300 times more destructive than the bombs our Nation dropped on Japan and Hiroshima and Nagasaki in 1945. This single nuclear detonation on March 1, 1954, exceeded the combined strength of all weapons ever fired in the history of mankind. On the morning of the test the wind was blowing in the direction of two inhabited atolls, Rongelap and Utrik. Yet despite this knowledge the

Pentagon chose not to delay the test. It is reprehensible, Mr. Speaker, that for days after the blast the men, women, and the children of the atolls of Rongelap and Utrik were not immediately evacuated but were forced to bathe unknowingly in the radioactive fallout. It is a sad and tragic chapter in our Nation's history what we did to these simple and innocent human beings.

The legacy of the United States nuclear testing program has resulted in a nightmare of health problems for the Marshallese people, including the elevated rates of thyroid cancer. Cervical cancer mortality rates are 60 times the U.S. rate; breast cancer mortality rates, 5 times greater than in the United States, and reproductive complications involving high rates of miscarriage and deformed stillborn babies.

Mr. Speaker, it is no wonder that half a century later the chain of islands is still considered one of the most contaminated places in the world. The residents of the Marshalls who inhabited Bikini Atoll still await a cleanup of the nuclear testsite before they can return to their homes. The residents of Rongelap Island who were forced to abandon their homes since 1954 due to radioactive contamination likewise await cleanup efforts before returning to their island, and the people of Enewetak who have been forced to live in the southern portion of their island await resettlement of the north, which is still radioactive. Although the United States has allotted over $300 million in cleanup and resettlement efforts for the atolls, the funds are substantially less than what is needed to complete the process.

Mr. Speaker, much of the attention was focused on the residents of Bikini, Enewetak, Rongelap, and Utrik Atolls. The radioactive fallout from the U.S. nuclear testing affected people throughout the rest of the Marshall Islands.

The Nuclear Claims Tribunal was created in 1991 to address these radiation victims. The allocated $45 million the Nuclear Claims Tribunal has rejected over 4,000 claims while confirming only 1,000 claims. In so doing, the tribunal has already exhausted its funds and projects valid personal injury claims for cancer and radiation-related illnesses to a total of over $100 million. And not yet considered by the Tribunal are the claims to losses of properties and lands for our nuclear testing program.

Mr. Speaker, in response to this, I would submit that Section 177 of the Marshalls' Compact of Free Association may need to be invoked. Section 177 provides that the United States may consider additional nuclear test compensation in the face of changed circumstances from the information available to compact negotiators in the 1980's. Certainly, the Department of Energy's announced declassification of documents relating to our nuclear testing program in the Marshalls has shed new light on these issues. Moreover, recent scientific studies show that 15 atolls and islands in the Marshalls were exposed to significant amounts of nuclear test fallout, not just the original four atolls considered during the compact negotiations.

And I might also, Mr. Speaker, it does not even relate to the fact that thousands of our own soldiers and sailors were also exposed directly to nuclear contamination during our period of testing at this time in the Marshalls.

Mr. Speaker, the people in the Marshall Islands have made great contributions and sacrifices befitting the people of the United States and the free world. We will never be able to fully compensate them, as we cannot give them back their health or their lives of their unborn children or return to their traditional culture. Nevertheless the United States owes a moral duty and a serious obligation to the people of the Marshall Islands.

In recognition of this duty, the chairman of the House International Relations Committee, the gentleman from New York, [Mr. GILMAN], my good friend, introduced House Concurrent Resolution 92 of which I am a proud cosponsor along with the gentleman from Alaska [Mr. YOUNG], the chairman of the Committee on Resources in the House of Representatives to recognize the tremendous sacrifices that the Marshallese people made during World War II and for the 12 years that they were subjected, not of their own choice, to nuclear contamination during our nation's nuclear testing program in Micronesia.

Mr. Speaker, this resolution emphasizes the value of continuing friendly relations between the United States and the Republic of the Marshall Islands, and the Congress intends to maintain a long term military alliance and strategic partnership between our nations. The resolution further recognizes the importance of addressing nuclear testing damages under Section 177 of the Compact of Free Association, the Congress. In reviewing the compact renegotiations should exercise vigilance in preserving the strategic interests of the United States in maintaining friendship with the Marshall Islands.

Mr. Speaker, I would urge that our colleagues support this worthy measure that underscores the importance of our deep and enduring relationship with the good people of the Marshall Islands, and, Mr. Speaker, it is my sincere hope that in the coming weeks and months I will provide for my colleagues and the American people a series of floor statements to fully explain what took place in that 12-year period of nuclear testing of our nuclear testing program in the Marshall Islands and the need for the Congress to do more to properly compensate the Marshallese people for the harm and suffering that we brought to them.

Mr. Speaker, again I would issue my warmest greetings and best wishes to President Imata Kabua and Foreign Minister Phillip Muller on their visit to Washington and other members of their official delegations, and, Mr. Speaker, I would like to offer for the record additional materials to be submitted and be made part of the RECORD:

H. CON. RES. 92

Whereas on November 3, 1986, President Reagan issued Proclamation 5564, implementing a Compact of Free Association between the United States and the newly formed governments of Pacific island areas which had been administered by the United States since 1947 under a United Nations trusteeship;

Whereas the Compact of Free Association was approved by the United States Congress with overwhelming bipartisan support on January 14, 1986, under the terms set forth in the Compact of Free Association Act of 1985 (P.L. 99-239);

Whereas, in addition to providing the multilateral framework for friendly political relations with the new Pacific island nations, the Compact of Free Association established, on a bilateral basis, a long-term military alliance and permanent strategic partnership between the United States and the Republic of the Marshall Islands;

Whereas for 50 years the Marshall Islands has played a unique and indispensable role in maintaining international peace and security through activities of the United States in the Marshall Islands which were essential to the feasibility and ultimate success of the United States-led strategy of nuclear deterrence during the Cold War era, as well as the United States Strategic Defense Initiative which contributed significantly to the end of the nuclear arms race;

Whereas, the Republic of the Marshall Islands includes Bikini Atoll and Enewetak Atoll, which were the nuclear weapons proving grounds for Operation Crossroads from 1946 to 1958, as well as Kwajalein Atoll, which was the site of the mid-Pacific missile testing range for intercontinental ballistic missiles fired from the Vandenberg facility, a vital installation of the United States Army's ballistic missile systems command and a key support facility for the National Aeronautics and Space Administration and other programs critical to the promotion of vital national interests;

Whereas the people of the Marshall Islands and the United States have a close and mutually beneficial relationship which evolved from liberation and military occupation at the end of World War II to United States administration under the United Nations trusteeship from 1947 to 1986 and which is now maintained on a government-to-government basis under the Compact of Free Association;

Whereas this relationship was forged through a process of self-determination and democratization which reflects the common values and cross-cultural respect that the people of the Marshall Islands and the people of the United States have developed since the middle of the last century when American missionaries first came to the Marshall Islands;

Whereas the people of the United States and its allies paid a high price, including great loss of life and injuries in the heroic battles for Kwajalein and Roi-Namur, to liberate the Marshall Islands during World War II and again made sacrifices as a result of the Cold War nuclear arms race;

Whereas the people of the Marshall Islands suffered great injury and hardship due to the exposure of individuals to nuclear test radiation and the radiological contamination of the Marshall Islands;

Whereas, in recognition of the unique role of the Republic of the Marshall Islands in supporting the United States during the Cold War, the 104th Congress provided additional assistance, pursuant to the Compact of Free Association Act of 1985, to meet the special need of the people of the Marshall Islands arising from the nuclear testing program, including funding for radiological monitoring, island rehabilitation, and community resettlement programs;

Whereas within the framework of the settlement of all legal claims under section 177 of the Compact of Free Association Act of 1985, the Congress continues to monitor and evaluate measures being taken to implement programs authorized under Federal law to promote the recovery, resettlement, health, and safety of individuals and communities affected by the nuclear testing program in the Marshall Islands;

Whereas the special relationship between our nations and our peoples is a bond that has grown strong as a result of our shared history and common struggle and sacrifices in the cause, not of conquest, but to promote international peace and security and secure liberty for future generations; and

Whereas, just as the extraordinary demands of world leadership fell on the United States in this century, among this Nation's allies the Marshall Islands bore an immensely disproportionate share of the burden of the Cold War, and this remote island nation continues to play an important strategic role in the preservation of global peace as well as in the military and scientific programs which promote the United States, the Republic of the Marshall Islands, and the other people of the world: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That Congress——

(1) recognizes the value of continued friendly relations between the United States and the Republic of the Marshall Islands;

(2) intends to maintain, through appropriate mutually agreed political and economic measures, the long-term military alliance and strategic partnership defined by the Compact of Free Association as a primary element of bilateral relations between the United States and the Republic of the Marshall Island in the future;

(3) recognizes the importance of ongoing measures to address, in accordance with the legal settlement set forth in section 177 of the Compact of Free Association of 1985, the impact on the Marshall Islands of the nuclear testing program; and

(4) intends, through its oversight responsibilities and the exercise of its Constitutional authority regarding negotiation and approval of bilateral agreements with respect to those provisions of the Compact of Free Association which expire in 2001, in exercise vigilance in preserving the strategic interests of the United States in ensuring that the friendship between the United States and the Republic of the Marshall Islands is sustained as mutually agreed pursuant to their respective constitutional processes.

BIOGRAPHICAL DATA FOR HIS EXCELLENCY IMATA KABUA, PRESIDENT OF THE REPUBLIC OF THE MARSHALL ISLANDS

His Excellency Iroijlaplap Imata Kabua was elected President of the Republic of the Marshall Islands on January 13, 1997 following the sudden passing of his cousin, the late Iroijlaplap President Amata Kabua, in December 1996. President Imata Kabua is both Head of Government and Head of State.

President Imata Kabua is the current serving chairman of the South Pacific Forum.

Born on May 20, 1943 on Enmat, Kwajalein Atoll in the Marshall Islands, Mr. Kabua first attended the Ebeye Public Elementary School in Kwajalein and later went to Marshall Christian Elementary and Laura Intermediate School, Majuro. Mr Kabua attended the Kauai Technical School, Honolulu Christian College and later Ventura College, California, USA.

President Kabua began his public service career as principal of the Ebeye Christian Elementary School. Later, he served as Postmaster of Ebeye Post Office.

Mr. Kabua's political career began when he first served in 1976 as senator to the Nitijela under the US Trusteeship, followed by his consecutive election as delegate to the first and second Marshall Islands Constitutional Conventions (MICC) in 1978 and 1990 respectively. In 1994, he was elected to the third MICC as delegate Iroij from Ralik. He then served as senator to the Nitijela under the Constitutional Government in 1979, until 1996 when he was appointed as Minister without Portfolio for the Ralik Chain.

As Iroijlaplap, Mr. Kabua is an active leader in cultural affairs. He is presently one of the four major Iroijlaplaps from the Ralik Chain in the Marshall Islands.

President Kabua continues to lead and guide the development work on his constituent island atoll, Kwajalein, where in the past he served in a range of key positions including as president of the Kwajalein Atoll Corporation (KAC), chairman for Kwajalein Atoll Development Authority (KADA), and chairman for Kwajalein Atoll Joint Utility Resource (KAJUR).

President Kabua's hobbies include tennis, chess, table tennis, checkers and fishing. In 1969, Mr. Kabua was awarded a gold medal each for volleyball and table tennis at the 1969 Micronesian Olympic Games in Saipan.

President Kabua is married to the First Lady Hiromi Konou Kabua. They have 8 children.

President Kabua is a member of the Protestant Church.

RECESS

The SPEAKER pro tempore (Mr. PEASE). Pursuant to clause 12 of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 10 o'clock and 37 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 0105

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. MCINNIS) at 1 o'clock and 5 minutes a.m.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2015, BALANCED BUDGET ACT, AND H.R. 2014, TAXPAYER RELIEF ACT

Mr. SOLOMON, from the Committee on Rules, submitted a privileged report (Rept. No. 105–52) on the resolution (H. Res. 174) providing for the consideration of the bill (H.R. 2015) to provide for reconciliation pursuant to subsections (b)(1) and (c) of section 105 of the concurrent resolution on the budget for fiscal year 1998, and for the consideration of the bill (H.R. 2014) to provide for reconciliation pursuant to subsections (b)(2) and (d) of section 105 of the concurrent resolution on the budget for fiscal year 1998, which was referred to the House Calendar and ordered to be printed.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. YATES (at the request of Mr. GEPHARDT), for today, on account of personal reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. ROYBAL-ALLARD) to revise and extend their remarks and include extraneous material:)

Mr. DAVIS of Illinois, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Mr. REYES, for 5 minutes, today.

Mr. GEJDENSON, for 5 minutes, today.

Ms. ROYBAL-ALLARD, for 5 minutes, today.

Mr. MINGE, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Ms. MILLENDER-MCDONALD, for 5 minutes, today.

Mr. OLVER, for 5 minutes, today.

Mrs. CLAYTON, for 5 minutes, today.

(The following Members (at the request of Mr. PAUL) to revise and extend their remarks and to include extraneous material:)

Mr. DREIER, for 5 minutes each day on June 24, 25, and 26.

Mr. BEREUTER, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Ms. ROYBAL-ALLARD) and to include extraneous matter:

Mr. RANGEL.

Mrs. MALONEY of New York.

Mr. SKAGGS.

Mr. STARK.

Mr. PASCRELL.

Ms. WOOLSEY.
Mr. SKELTON.
Mr. MCNULTY.
Mr. BLAGOJEVICH.
Mr. MATSUI.
Ms. EDDIE BERNICE JOHNSON of Texas.
Mr. CONDIT.
Mr. CAPPS.
Mr. KUCINICH.
Ms. NORTON.
Mr. LIPINSKI.
Mr. TRAFICANT.
Mr. TORRES.
Mr. BLUMENAUER.
Mr. MCGOVERN.
Mr. TOWNS.

(The following Members (at the request of Mr. PAUL) to revise and extend their remarks and to include extraneous material:)

Mr. GILMAN.
Mr. JENKINS.
Mr. FORBES.
Mr. GINGRICH.
Mr. BLILEY.
Mr. ARCHER.
Mr. TAYLOR of North Carolina.
Mr. PICKERING.
Mr. SOLOMON.

(The following Members (at the request of Mr. SOLOMON) to revise and extend their remarks and to include extraneous material:)

Mr. HORN.
Mr. COOKSEY.
Mr. WAXMAN.
Ms. SANCHEZ.
Ms. FURSE.
Mr. MCINNIS.

ENROLLED BILL SIGNED

Mr. THOMAS, from the Committee on House Oversight, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 363. An act to amend section 2118 of the Energy Policy Act of 1992 to extend the Electric and Magnetic Fields Research and Public Information Dissemination program.

BILL PRESENTED TC THE PRESIDENT

Mr. THOMAS, from the Committee on House Oversight reported that that committee did on this day present to the President, for his approval, a bill of the House of the following title:

H.R. 363. An act to amend section 2118 of the Energy Policy Act of 1992 to extend the Electric and Magnetic Fields Research and Public Information Dissemination program.

ADJOURNMENT

Mr. SOLOMON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 6 minutes a.m.), the House adjourned until today, Wednesday, June 25, 1997, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3932. A letter from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, transmitting the Service's "Major" final rule—Importation of Beef from Argentina [Docket No. 94–106–5] (RIN: 0579–AA71) received June 24, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3933. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Tebuconazole; Pesticide Tolerance for Emergency Exemption [OPP–300506; FRL–5725–7] (RIN: 2070–AB78) received June 24, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3934. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Bentazon; Pesticide Tolerance for Emergency Exemption [OPP–300496; FRL–5720–4] (RIN: 2070–AB78) received June 24, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3935. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Terbacil; Pesticide Tolerances for Emergency Exemptions [OPP–300348; FRL–5718–7] (RIN: 2070–AC78) received June 24, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3936. A letter from the Secretary of Agriculture, transmitting a report of two violations of the Anti-Deficiency Act, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

3937. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans; Revised Format of 40 CFR Part 52 for Materials Being Incorporated by Reference for Mississippi and South Carolina [FRL–5838–7] received June 24, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

3938. A letter from the Chairman, District of Columbia Financial Responsibility and Management Assistance Authority, transmitting the revised District of Columbia Fiscal Year 1998 Financial Plan and Budget; to the Committee on Government Reform and Oversight.

3939. A letter from the Director, Office of Personnel Management, transmitting the Office's final rule—Intergovernmental Personnel Act Programs; Standards for a Merit System of Personnel Administration (RIN: 3206–AH90) received June 24, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

3940. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Civil Monetary Penalty Inflation Adjustment Rule [FRL–5849–2] received June 24, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

3941. A letter from the Secretary of Veterans Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, to amend provisions of law governing benefits for certain children of Vietnam veterans who are born with spina bifida; to the Committee on Veterans' Affairs.

3942. A letter from the Secretary of Labor, transmitting the quarterly report on the expenditure and need for worker adjustment assistance training funds under the Trade Act of 1974, pursuant to 19 U.S.C. 2296(a)(2); to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. PACKARD: Committee on Appropriations. H.R. 2016. A bill making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 1998, and for other purposes (Rept. 105–150). Referred to the Committee of the Whole House on the State of the Union.

Mr. LIVINGSTON: Committee on Appropriations. Report on the subdivision of budget totals for fiscal year 1998 (Rept. 105–151). Referred to the Committee of the Whole House on the State of the Union.

June 25 (Legislative Day of June 24), 1997

Mr. SOLOMON: Committee on Rules. House Resolution 174. Resolution providing for consideration of the bill (H.R. 2015) to provide for reconciliation pursuant to subsections (b)(1) and (c) of section 105 of the concurrent resolution on the budget for fiscal year 1998, and for consideration of the bill (H.R. 2014) to provide for reconciliation pursuant to subsections (b)(2) and (d) of section 105 of the concurrent resolution (Rept. 105–152). Referred to the House Calendar.

BILLS PLACED ON THE CORRECTIONS CALENDAR

Under clause 4 of rule XIII, the Speaker filed with the Clerk a notice requesting that the following bills be placed upon the Corrections Calendar:

[Omitted from the Record of June 23, 1997]

H.R. 849. A bill to prohibit an alien who is not lawfully present in the United States from receiving assistance under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BISHOP:

H.R. 2017. A bill to amend section 1926 of the Public Health Service Act to encourage States to strengthen their efforts to prevent the sale and distribution of tobacco products to individuals under the age of 18, and for other purposes; to the Committee on Commerce.

By Mr. PAXON (for himself, Mr. TOWNS, Mr. ENGEL, Mr. LAZIO of New York, and Mr. MANTON):

H.R. 2018. A bill to waive temporarily the Medicaid enrollment composition rule for the Better Health Plan of Amherst, NY; to the Committee on Commerce.

By Mr. JONES (for himself, Mr. Ackerman, Mr. Manton, and Mr. McCollum):

H.R. 2019. A bill to amend the Consumer Credit Protection Act to assure meaningful disclosures of the terms of rental-purchase agreements, including disclosures of all costs to consumers under such agreements, to provide certain substantive rights to consumers under such agreements, and for other purposes; to the Committee on Banking and Financial Services.

By Mr. GINGRICH:

H.R. 2020. A bill to amend title XIX of the Social Security Act to provide for coverage of community attendant services under the Medicaid Program; to the Committee on Commerce.

By Mr. ARMEY (for himself, Mr. Moran of Virginia, Mr. Saxton, Mr. Cox of California, and Mr. McIntosh):

H.R. 2021. A bill to provide for competition between forms of motor vehicle insurance, to permit an owner of a motor vehicle to choose the most appropriate form of insurance for that person, to guarantee affordable premiums, to provide for more adequate and timely compensation for accident victims, and for other purposes; to the Committee on Commerce.

By Mr. CAPPS (for himself, Mr. Matsui, Mr. Dreier, Mr. Dooley of California, Mr. Roemer, Mr. Salmon, Mr. Fazio of California, and Mr. Bereuter):

H.R. 2022. A bill to amend trade laws and related provisions to clarify the designation of normal trade relations; to the Committee on Ways and Means.

By Ms. DeLAURO (for herself, Ms. Norton, and Mr. Gephardt):

H.R. 2023. A bill to amend the Equal Pay Act, the Fair Labor Standards Act of 1938, and the Civil Rights Act of 1964 to provide more effective remedies to victims of discrimination in the payment of wages on the basis of sex, and for other purposes; to the Committee on Education and the Workforce.

By Mr. HERGER:

H.R. 2024. A bill to amend the National Kiwifruit Research, Promotion, and Consumer Information Act to provide for proportional representation of kiwifruit producers, exporters, and importers on the National Kiwifruit Board; to the Committee on Agriculture.

By Mr. HINCHEY:

H.R. 2025. A bill to amend part A of title IV of the Social Security Act to allow up to 24 months of postsecondary education or vocational educational training to count as a permissible work activity under the program of block grants to States for temporary assistance for needy families, and for other purposes; to the Committee on Ways and Means.

By Mr. KENNEDY of Massachusetts (for himself, Mr. Bereuter, Mr. Canady of Florida, Mr. Clyburn, Mr. Delahunt, Mr. Dellums, Mr. Evans, Mr. Fattah, Mr. Filner, Mr. Fox of Pennsylvania, Mr. Frost, Ms. Hooley of Oregon, Mr. Kanjorski, Ms. Kilpatrick, Ms. Lofgren, Mrs. Maloney of New York, Mr. Sisisky, and Mr. Torres):

H.R. 2026. A bill to amend the Internal Revenue Code of 1986 to provide assistance to first-time homebuyers; to the Committee on Ways and Means.

By Mr. LaTOURETTE:

H.R. 2027. A bill to provide for the revision of the requirements for a Canadian border boat landing permit pursuant to section 235 of the Immigration and Nationality Act, and to require the Attorney General to report to the Congress on the impact of such revision; to the Committee on the Judiciary.

By Ms. NORTON:

H.R. 2028. A bill to amend the Internal Revenue Code of 1986 to increase the taxes on certain alcoholic beverages and to provide additional funds for alcohol abuse prevention programs; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PAUL (for himself, Mr. Blunt, Mr. Cooksey, Mr. Doolittle, Mr. Hilleary, Mr. Herger, Mr. Hostettler, Mr. Hutchinson, Mr. Sam Johnson, Mr. Manzullo, Mr. Royce, Mr. Souder, Mr. Stump, Mr. Tiahrt, and Mr. Weldon of Florida):

H.R. 2029. A bill to prohibit the Corporation for National and Community Service from receiving information from the Selective Service System or otherwise using the Selective Service System to notify young people of service opportunities with the Corporation or recruit national service participants; to the Committee on Education and the Workforce, and in addition to the Committee on National Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PETRI (for himself and Mr. Sensenbrenner):

H.R. 2030. A bill to require the Federal Government to approve certain waiver requests submitted by the State of Wisconsin under the food stamp and medical assistance programs; to the Committee on Agriculture, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. RANGEL (for himself, Mr. Thompson, Mr. Dellums, Mr. Towns, Ms. Norton, Mr. Clay, Ms. Carson, Mr. Dixon, Mrs. Clayton, Mr. Hilliard, Mr. Hastings of Florida, Mr. Conyers, Mr. Payne, Mr. Lewis of Georgia, Mr. Jefferson, Ms. Christian-Green, Mr. Ford, and Mr. Cummings):

H.R. 2031. A bill to amend the Controlled Substances Act and the Controlled Substances Import and Export Act to eliminate certain mandatory minimum penalties relating to crack cocaine offenses; to the Committee on the Judiciary, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WAXMAN:

H.R. 2032. A bill to make correct certain provisions of the Safe Drinking Water Act; to the Committee on Commerce.

By Mr. BLILEY (for himself, Mr. Goode, Mr. Kolbe, Mr. Deal of Georgia, Mr. Gillmor, Mr. Spence, and Mr. Cook):

H.J. Res. 84. Joint resolution proposing an amendment to the Constitution of the United States to provide a procedure by which the States may propose constitutional amendments; to the Committee on the Judiciary.

By Mr. TRAFICANT:

H. Con. Res. 105. Concurrent resolution expressing the sense of the Congress relating to the elections in Albania scheduled for June 29, 1997; to the Committee on International Relations.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. QUINN introduced a bill (H.R. 2033) to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel *Samakee;* which was referred to the Committee on Transportation and Infrastructure.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 51: Mr. Gutierrez, Mr. Filner, and Mr. Torres.

H.R. 66: Mr. Kleczka.

H.R. 108: Mr. Porter.

H.R. 113: Mr. Blunt.

H.R. 143: Mr. Smith of Texas, Mr. Ney, and Mr. Forbes.

H.R. 216: Mr. McDade and Mr. Gibbons.

H.R. 367: Mr. Hoekstra.

H.R. 450: Mr. Neumann.

H.R. 519: Mrs. McCarthy of New York.

H.R. 695: Mr. Bob Schaffer, Mr. Barton of Texas, Mr. Largent, Mr. Clement, Mr. Hilliard, and Mr. Luther.

H.R. 873: Mr. Ehlers and Mr. Goodling.

H.R. 900: Mr. Rush.

H.R. 947: Mr. Forbes.

H.R. 950: Mr. Miller of California.

H.R. 993: Mr. Taylor of North Carolina.

H.R. 1010: Mr. Talent, Mr. Riggs, Mr. Traficant, Mr. Rohrabacher, Mr. Ryun, Mr. Goodlatte, and Mr. Hayworth.

H.R. 1038: Mr. Stark.

H.R. 1053: Ms. Pryce of Ohio.

H.R. 1080: Mr. LoBiondo.

H.R. 1134: Mr. Etheridge, Ms. Kaptur, Mr. Bonior, Mr. Davis of Illinois, and Ms. Lofgren.

H.R. 1145: Mr. Wicker, Mr. Barton of Texas, Mr. Goode, Mr. Mica, Mrs. Cubin, Mr. Lucas of Oklahoma, Mr. Hefley, Ms. Pryce of Ohio, Ms. Granger, and Mr. Forbes.

H.R. 1158: Mr. Goodling.

H.R. 1165: Mr. Filner.

H.R. 1166: Mr. Ramstad, Ms. Kilpatrick, Ms. Lofgren, Mr. Kennedy of Massachusetts, Ms. Ros-Lehtinen, Ms. Sanchez, Mr. Gilchrest, and Mr. Markey.

H.R. 1204: Mr. Graham.

H.R. 1260: Mr. Watts of Oklahoma and Mr. Hamilton.

H.R. 1302: Mr. Pastor, Mr. Bonior, Ms. Sanchez, and Mr. McGovern.

H.R. 1320: Mr. Adam Smith of Washington and Mr. Klink.

H.R. 1322: Mr. Gekas, Mr. Wexler, Mr. Salmon, Mr. Hayworth, and Mr. Shadegg.

H.R. 1323: Mr. Wynn.

H.R. 1334: Mr. Frost.

H.R. 1348: Mr. Pickering.

H.R. 1375: Mr. Ney.

H.R. 1451: Mr. Jefferson.

H.R. 1494: Mr. Sensenbrenner.

H.R. 1524: Mr. Canady of Florida and Mr. Blumenauer.

H.R. 1531: Mr. Menendez.

H.R. 1556: Mr. Jefferson.

H.R. 1570: Ms. Woolsey.

H.R. 1613: Mr. Graham.

H.R. 1682: Mr. Ford.

H.R. 1711: Mr. Barrett of Nebraska, Mr. Bunning of Kentucky, Mr. Goode, Mr.

HAYWORTH, Mr. LEWIS of Kentucky, and Mr. STUMP.

H.R. 1818: Mr. SAWYER.

H.R. 1859: Mr. KLUG.

H.R. 1903: Mr. GUTKNECHT and Mr. BRADY.

H.R. 1908: Mr. HASTINGS of Florida.

H.R. 1955: Mrs. MORELLA, Mr. GILCHREST, Mr. FOX of Pennsylvania, Mr. WICKER, Mr. CRAMER, Mr. BLILEY, Mr. NEY, Mr. HORN, Mr. HALL of Texas, Ms. DELAURO, Mr. MCINTOSH, Mr. SCHUMER, Mr. SAM JOHNSON, and Mr. HOLDEN.

H.R. 1989: Mr. MICA.

H.R. 2003: Mr. MEEHAN, Mr. DOOLEY of California, Mr. HALL of Texas, Mr. DOYLE, Mrs. MCCARTHY of New York, Mrs. MORELLA, Mrs. ROUKEMA, and Mr. HALL of Texas.

H.J. Res. 71: Mr. GEKAS, Mr. WEXLER, Mr. SALMON, Mr. HAYWORTH, and Mr. SHADEGG.

H.J. Res. 76: Mrs. MINK of Hawaii.

H. Con. Res. 37: Mr. TOWNS and Mr. BURTON of Indiana.

H. Con. Res. 71: Mr. DELLUMS, Mr. ENGEL, Mr. CLAY, and Mr. FORD.

H. Con. Res. 80: Mr. JACKSON, Mr. KLINK, and Mr. PALLONE.

H. Con. Res. 103: Ms. BROWN of Florida, Mr. BROWN of California, Ms. DELAURO, Mr. GONZALEZ, Mrs. MCCARTHY of New York, Mr. MCDERMOTT, Mr. MENENDEZ, and Ms. SLAUGHTER.

H. Res. 38: Mrs. MEEK of Florida, Mr. SNYDER, Mr. DOOLEY of California, and Mr. NADLER.

H. Res. 119: Ms. VELAZQUEZ.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1515: Mr. JACKSON.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2014

OFFERED BY: MR. RANGEL

(Amendment in the Nature of a Substitute)

AMENDMENT NO. 1:

Strike all after enacting clause, and insert the following:

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Revenue Reconciliation Act of 1997".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—

Sec. 1. Short title; amendment of 1986 Code.
Sec. 2. Modifications of certain requirements.

TITLE I—TAX INCENTIVES FOR HIGHER EDUCATION

Sec. 101. Hope scholarship credits.
Sec. 102. Employer-provided educational assistance programs.

TITLE II—PUBLIC-PRIVATE EDUCATION PARTNERSHIPS

Sec. 201. Purpose.
Sec. 202. Incentives for education zones.

TITLE III—FAMILY TAX RELIEF

Sec. 301. Credit for families with young children.

TITLE IV—CAPITAL GAINS RELIEF

Subtitle A—Exemption From Tax for Gain on Sale of Principal Residence

Sec. 401. Exemption from tax for gain on sale of principal residence.
Sec. 402. Capital loss deduction allowed with respect to sale or exchange of principal residence.

Subtitle B—Lifetime Capital Gains Rate Reduction for Nontradable Property

Sec. 411. Lifetime capital gains rate reduction for nontradable property.

TITLE V—ESTATE TAX RELIEF

Sec. 501. Family-owned business exclusion.

TITLE VI—EXTENSION OF EXPIRING PROVISIONS

Sec. 601. Research credit.
Sec. 602. Orphan drug credit made permanent.
Sec. 603. Contributions of appreciated stock.
Sec. 604. Extension and modification of work opportunity credit.

TITLE VII—EMPOWERMENT ZONES, ETC.

Subtitle A—Empowerment Zones

Sec. 701. Additional empowerment zones with current law benefits.
Sec. 702. Designation of additional empowerment zones and enterprise communities.
Sec. 703. Volume cap not to apply to enterprise zone facility bonds with respect to new empowerment zones.
Sec. 704. Modifications to enterprise zone facility bond rules for all empowerment zones and enterprise communities.
Sec. 705. Modifications to enterprise zone business definition for all empowerment zones and enterprise communities.

Subtitle B—Brownfields

Sec. 711. Expensing of environmental remediation costs.
Sec. 712. Use of redevelopment bonds for environmental remediation.

Subtitle C—Welfare to Work Credit

Sec. 721. Welfare to work credit.

Subtitle D—Community Development Financial Institutions

Sec. 731. Credit for qualified equity investments in community development financial institutions.

TITLE VIII—OTHER TAX RELIEF

Sec. 801. Suspension of statute of limitations on filing refund claims during periods of disability.
Sec. 802. Modifications of Puerto Rico economic activity credit.
Sec. 803. Treatment of software as FSC export property.

TITLE IX—INCENTIVES FOR THE DISTRICT OF COLUMBIA

Sec. 901. Tax incentives for revitalization of the District of Columbia.

TITLE X—REVENUES

Subtitle A—Financial Products

Sec. 1001. Constructive sales treatment for appreciated financial positions.
Sec. 1002. Limitation on exception for investment companies under section 351.
Sec. 1003. Modification of rules for allocating interest expense to tax-exempt interest.
Sec. 1004. Gains and losses from certain terminations with respect to property.
Sec. 1005. Determination of original issue discount where pooled debt obligations subject to acceleration.
Sec. 1006. Denial of interest deductions on certain debt instruments.

Subtitle B—Corporate Organizations and Reorganizations

Sec. 1011. Tax treatment of certain extraordinary dividends.
Sec. 1012. Application of section 355 to distributions followed by acquisitions and to intragroup transactions.
Sec. 1013. Tax treatment of redemptions involving related corporations.
Sec. 1014. Modification of holding period applicable to dividends received deduction.

Subtitle C—Other Corporate Provisions

Sec. 1021. Registration and other provisions relating to confidential corporate tax shelters.
Sec. 1022. Certain preferred stock treated as boot.

Subtitle D—Administrative Provisions

Sec. 1031. Reporting of certain payments made to attorneys.
Sec. 1032. Decrease of threshold for reporting payments to corporations performing services for Federal agencies.
Sec. 1033. Disclosure of return information for administration of certain veterans programs.
Sec. 1034. Continuous levy on certain payments.
Sec. 1035. Returns of beneficiaries of estates and trusts required to file returns consistent with estate or trust return or to notify Secretary of inconsistency.

Subtitle E—Excise and Employment Tax Provisions

Sec. 1041. Extension and modification of Airport and Airway Trust Fund taxes.
Sec. 1042. Credit for tire tax in lieu of exclusion of value of tires in computing price.
Sec. 1043. Restoration of Leaking Underground Storage Tank Trust Fund taxes.
Sec. 1044. Reinstatement of Oil Spill Liability Trust Fund tax.
Sec. 1045. Extension of Federal unemployment surtax.

Subtitle F—Provisions Relating to Tax-Exempt Entities

Sec. 1051. Expansion of look-thru rule for interest, annuities, royalties, and rents derived by subsidiaries of tax-exempt organizations.

Subtitle G—Foreign-Related Provisions

Sec. 1061. Definition of foreign personal holding company income.
Sec. 1062. Personal property used predominantly in the United States treated as not property of a like kind with respect to property used predominantly outside the United States.
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Subtitle H—Other Revenue Provisions

Sec. 1071. Termination of suspense accounts for family corporations required to use accrual method of accounting.
Sec. 1072. Allocation of basis among properties distributed by partnership.
Sec. 1073. Repeal of requirement that inventory be substantially appreciated.
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Sec. 1075. Limitation on property for which income forecast method may be used.
Sec. 1076. Repeal of special rule for rental use of vacation homes, etc., for less than 15 days.
Sec. 1077. Expansion of requirement that involuntarily converted property be replaced with property acquired from an unrelated person.
Sec. 1078. Treatment of exception from installment sales rules for sales of property by a manufacturer to a dealer.

SEC. 2. MODIFICATIONS OF CERTAIN REQUIREMENTS.

(a) MODIFICATION OF DEPOSIT OF AIRLINE TICKET TAX REVENUES.—Deposits of taxes imposed by section 4261 of the Internal Revenue Code of 1986 which (but for this subsection) would be required to be made on or after July 1, 2001, and before October 1, 2001, shall be made on October 10, 2001.

(b) MODIFICATION OF ESTIMATED TAX PROVISIONS.—Subparagraph (C) of section 6654(d)(1) of the Internal Revenue Code of 1986 shall not apply in determining the amount of any required installment for a taxable year beginning in calendar year 2001.

TITLE I—TAX INCENTIVES FOR HIGHER EDUCATION

SEC. 101. HOPE SCHOLARSHIP CREDITS.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 23 the following new section:

“SEC. 24. HOPE SCHOLARSHIP CREDITS.

“(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year the amount equal to the sum of—

“(1) the 100-Percent Hope Scholarship Credit, and

“(2) the 20-Percent Hope Scholarship Credit.

“(b) AMOUNT OF CREDITS.—For purposes of this section—

“(1) HOPE CREDIT.—

“(A) IN GENERAL.—The 100-Percent Hope Scholarship Credit is the amount of the qualified higher education expenses paid by the taxpayer during the taxable year for education furnished to an individual during any academic period beginning in such taxable year, but only if this paragraph applies to such individual for such taxable year.

“(B) DOLLAR LIMITATION.—The amount of the 100-Percent Hope Scholarship Credit determined under this paragraph with respect to any individual shall not exceed—

“(i) $1,100 for taxable years beginning in 1997, 1998, or 1999,

“(ii) $1,200 for taxable years beginning in 2000, or

“(iii) $1,500 for taxable years beginning in 2001 or thereafter.

“(C) 100-PERCENT HOPE SCHOLARSHIP CREDIT ALLOWED FOR ONLY 2 TAXABLE YEARS.—This paragraph shall apply for a taxable year with respect to the qualified higher education expenses of an individual only if the taxpayer elects to have this section apply with respect to such individual for such year. An election under this subparagraph shall not take effect with respect to an individual for any taxable year if an election under this subparagraph (by the taxpayer or any other individual) is in effect with respect to such individual for any 2 prior taxable years.

“(D) 100-PERCENT HOPE SCHOLARSHIP CREDIT ALLOWED ONLY FOR FIRST 2 YEARS OF POSTSECONDARY EDUCATION.—This paragraph shall not apply for a taxable year with respect to the qualified higher education expenses of an individual if the individual has completed (before the beginning of such taxable year) the first 2 years of postsecondary education at an institution of higher education.

“(2) 20-PERCENT HOPE SCHOLARSHIP CREDIT.—

“(A) IN GENERAL.—The 20-Percent Hope Scholarship Credit is 20 percent of the qualified higher education expenses paid by the taxpayer during the taxable year for education furnished to an individual during any academic period beginning in such taxable year. Education expenses with respect to an individual for whom a Hope credit is determined for the taxable year shall not be taken into account under this paragraph.

“(B) DOLLAR LIMITATION.—The amount of qualified higher education expenses taken into account under subparagraph (A) for any taxable year shall not exceed—

“(i) $4,000 for taxable years beginning in 1997, 1998, or 1999,

“(ii) $5,000 for taxable years beginning in 2000,

“(iii) $7,500 for taxable years beginning in 2001, or

“(iv) $10,000 for taxable years beginning in 2002 or thereafter.

“(3) CREDIT ALLOWED FOR YEAR ONLY IF INDIVIDUAL IS AT LEAST ½ TIME STUDENT FOR PORTION OF YEAR.—No credit shall be allowed under subsection (a) for a taxable year with respect to the qualified higher education expenses of an individual unless such individual is an eligible student for at least one academic period which begins during such year.

“(c) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

“(1) IN GENERAL.—The amount which would (but for this section) be allowed as a credit under subsection (a) for the taxable year shall be reduced (but not below zero) by the amount determined under paragraph (2).

“(2) AMOUNT OF REDUCTION.—The amount determined under this paragraph is the amount which bears the same ratio to the credit which would be so allowed as—

“(A) the excess of—

“(i) the taxpayer's modified adjusted gross income for such taxable year, over

“(ii) $50,000 ($80,000 in the case of a joint return), bears to

“(B) $20,000.

“(3) MODIFIED ADJUSTED GROSS INCOME.—The term ‘modified adjusted gross income’ means the adjusted gross income of the taxpayer for the taxable year increased by any amount excluded from gross income under section 911, 931, or 933.

“(d) DEFINITIONS.—For purposes of this section—

“(1) QUALIFIED HIGHER EDUCATION EXPENSES.—

“(A) IN GENERAL.—The term ‘qualified higher education expenses’ means tuition and fees required for the enrollment or attendance of—

“(i) the taxpayer,

“(ii) the taxpayer's spouse, or

“(iii) any dependent of the taxpayer with respect to whom the taxpayer is allowed a deduction under section 151,

at an institution of higher education.

“(B) EXCEPTION FOR EDUCATION INVOLVING SPORTS, ETC.—Such term does not include expenses with respect to any course or other education involving sports, games, or hobbies, unless such course or other education is part of the individual's degree program.

“(C) EXCEPTION FOR NONACADEMIC FEES.—Such term does not include student activity fees, athletic fees, insurance expenses, or other expenses unrelated to an individual's academic course of instruction.

“(2) INSTITUTION OF HIGHER EDUCATION.—The term ‘institution of higher education’ means an institution—

“(A) which is described in section 481 of the Higher Education Act of 1965 (20 U.S.C. 1088), as in effect on the date of the enactment of this section, and

“(B) which is eligible to participate in a program under title IV of such Act.

“(3) ELIGIBLE STUDENT.—The term ‘eligible student’ means, with respect to any academic period, a student who—

“(A) meets the requirements of section 484(a)(1) of the Higher Education Act of 1965 (20 U.S.C. 1091(a)(1)), as in effect on the date of the enactment of this section, and

“(B) is carrying at least ½ the normal full-time work load for the course of study the student is pursuing.

“(e) TREATMENT OF EXPENSES PAID BY DEPENDENT.—If a deduction under section 151 with respect to an individual is allowed to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins—

“(1) no credit shall be allowed under subsection (a) to such individual for such individual's taxable year, and

“(2) qualified higher education expenses paid by such individual during such individual's taxable year shall be treated for purposes of this section as paid by such other taxpayer.

“(f) TREATMENT OF CERTAIN PREPAYMENTS.—If qualified higher education expenses are paid by the taxpayer during a taxable year for an academic period which begins during the first 3 months following such taxable year, such academic period shall be treated for purposes of this section as beginning during such taxable year.

“(g) SPECIAL RULES.—

“(1) DENIAL OF CREDIT IF INDIVIDUAL CONVICTED OF DRUG OFFENSE.—No credit shall be allowed under subsection (a) with respect to the qualified higher education expenses of an individual for any taxable year if the individual has been convicted before the end of such year of a Federal or State felony offense consisting of the possession or distribution of a controlled substance.

“(2) DENIAL OF CREDIT IF INDIVIDUAL FAILS TO MAKE SATISFACTORY ACADEMIC PROGRESS.—If—

“(A) if a credit is allowable under this section with respect to the qualified higher education expenses of an individual for any taxable year, and

“(B) such individual failed to make satisfactory academic progress described in section 484(c) of the Higher Education Act of 1965 during such year,

no credit shall be allowed under subsection (a) with respect to qualified higher education expenses of such individual for a succeeding taxable year.

"(3) NO DOUBLE BENEFIT.—No credit shall be allowed under subsection (a) for any taxable year for any expense for which a deduction is allowed under any other provision of this chapter.

"(4) IDENTIFICATION REQUIREMENT.—No credit shall be allowed under subsection (a) to a taxpayer with respect to the qualified higher education expenses of an individual unless the taxpayer includes the name and taxpayer identification number of such individual on the return of tax for the taxable year.

"(5) ADJUSTMENT FOR CERTAIN SCHOLARSHIPS.—The amount of qualified higher education expenses otherwise taken into account under subsection (b) with respect to an individual for an academic period shall be reduced (before the application of any dollar limitation under this section) by the sum of—

"(A) any amounts paid for the benefit of such individual which are allocable to such period as—

"(i) a qualified scholarship which is excludable from gross income under section 117,

"(ii) an educational assistance allowance under chapter 30, 31, 32, 34, or 35 of title 38, United States Code, or under chapter 1606 of title 10, United States Code,

"(iii) a payment which is excludable from gross income under section 127, or

"(iv) a payment (other than a gift, bequest, devise, or inheritance within the meaning of section 102(a)) for such individual's educational expenses, or attributable to such individual's enrollment at an institution of higher education, which is excludable from gross income under any law of the United States, and

"(B) the amount excludable from gross income under section 135 which is allocable to such expenses with respect to such individual for such period.

"(6) NO CREDIT FOR MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—If the taxpayer is a married individual (within the meaning of section 7703), this section shall apply only if the taxpayer and the taxpayer's spouse file a joint return for the taxable year.

"(7) NONRESIDENT ALIENS.—If the taxpayer is a nonresident alien individual for any portion of the taxable year, this section shall apply only if such individual is treated as a resident alien of the United States for purposes of this chapter by reason of an election under subsection (g) or (h) of section 6013.

"(h) INFLATION ADJUSTMENTS.—

"(1) DOLLAR LIMITATION ON AMOUNT OF CREDIT.—

"(A) IN GENERAL.—In the case of a taxable year beginning after 2001, each applicable dollar amount contained in subsection (b) shall be increased by an amount equal to—

"(i) such dollar amount, multiplied by

"(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 2000' for 'calendar year 1992' in subparagraph (B) thereof.

"(B) ROUNDING.—If any amount as adjusted under subparagraph (A) is not a multiple of $50, such amount shall be rounded to the next lowest multiple of $50.

"(2) INCOME LIMITS.—

"(A) IN GENERAL.—In the case of a taxable year beginning after 2000, the $50,000 and $80,000 amounts in subsection (c)(2) shall each be increased by an amount equal to—

"(i) such dollar amount, multiplied by

"(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 1999' for 'calendar year 1992' in subparagraph (B) thereof.

"(B) ROUNDING.—If any amount as adjusted under subparagraph (A) is not a multiple of $5,000, such amount shall be rounded to the next lowest multiple of $5,000.

"(i) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary or appropriate to carry out this section, including regulations providing for a recapture of credit allowed under this section in cases where there is a refund in a subsequent taxable year of any amount which was taken into account in determining the amount of such credit."

(b) EXTENSION OF PROCEDURES APPLICABLE TO MATHEMATICAL OR CLERICAL ERRORS.—Paragraph (2) of section 6213(g) (relating to the definition of mathematical or clerical errors) is amended by striking "and" at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting ", and", and by inserting after subparagraph (H) the following new subparagraph:

"(I) an omission of a correct TIN required under section 24(g)(4) (relating to higher education tuition and fees) to be included on a return."

(c) RETURNS RELATING TO HIGHER EDUCATION EXPENSES.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by inserting after section 6050R the following new section:

"SEC. 6050S. RETURNS RELATING TO HIGHER EDUCATION EXPENSES.

"(a) IN GENERAL.—Any person—

"(1) which is an institution of higher education which receives payments for qualified higher education expenses with respect to any individual for any calendar year, or

"(2) which is engaged in a trade or business which, in the course of such trade or business makes payments during any calendar year to any individual which constitute reimbursements or refunds (or similar amounts) of qualified higher education expenses of such individual,

shall make the return described in subsection (b) with respect to the individual at such time as the Secretary may by regulations prescribe.

"(b) FORM AND MANNER OF RETURNS.—A return is described in this subsection if such return—

"(1) is in such form as the Secretary may prescribe,

"(2) contains—

"(A) the name, address, and TIN of the individual with respect to whom payments described in subsection (a) were received from (or were paid to),

"(B) the name, address, and TIN of any individual certified by the individual described in subparagraph (A) as the taxpayer who will claim the individual as a dependent for purposes of the deduction allowable under section 151 for any taxable year ending with or within the calendar year,

"(C) the—

"(i) aggregate amount of payments for qualified higher education expenses received with respect to the individual described in subparagraph (A) during the calendar year, and

"(ii) aggregate amount of reimbursements or refunds (or similar amounts) paid to such individual during the calendar year, and

"(D) such other information as the Secretary may prescribe.

"(c) APPLICATION TO GOVERNMENTAL UNITS.—For purposes of this section—

"(1) a governmental unit or any agency or instrumentality thereof shall be treated as a person, and

"(2) any return required under subsection (a) by such governmental entity shall be made by the officer or employee appropriately designated for the purpose of making such return.

"(d) STATEMENTS TO BE FURNISHED TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return under subparagraph (A) or (B) of subsection (b)(2) a written statement showing—

"(1) the name, address, and phone number of the information contact of the person required to make such return, and

"(2) the aggregate amounts described in subparagraph (C) of subsection (b)(2).

The written statement required under the preceding sentence shall be furnished on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made.

"(e) DEFINITIONS.—For purposes of this section, the terms 'institution of higher education' and 'qualified higher education expenses' have the respective meanings given such terms by section 24.

"(f) RETURNS WHICH WOULD BE REQUIRED TO BE MADE BY 2 OR MORE PERSONS.—Except to the extent provided in regulations prescribed by the Secretary, in the case of any amount received by any person on behalf of another person, only the person first receiving such amount shall be required to make the return under subsection (a).

"(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section. No penalties shall be imposed under section 6724 with respect to any return or statement required under this section until such time as such regulations are issued."

(2) ASSESSABLE PENALTIES.—Section 6724(d) (relating to definitions) is amended—

(A) in paragraph (1)(B) by redesignating clauses (x) through (xv) as clauses (xi) through (xvi), respectively, and by inserting after clause (ix) of such paragraph the following new clause:

"(x) section 6050S (relating to returns relating to payments for qualified higher education expenses),", and

(B) in paragraph (2) by striking "or" at the end of the next to last subparagraph, by striking the period at the end of the last subparagraph and inserting ", or", and by adding at the end the following new subparagraph:

"(Z) section 6050S(d) (relating to returns relating to qualified higher education expenses)."

(3) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6050R the following new item:

"Sec. 6050S. Returns relating to higher education expenses."

(d) CONFORMING AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 23 the following new item:

"Sec. 24. Hope scholarship credits."

(e) CREDIT ALLOWED AGAINST MINIMUM TAX.—Section 26 is amended by adding at the end the following new subsection:

"(c) Scholarship Credits Allowed Against Minimum Tax.—Subsection (a) shall not apply to the credit allowable under section 24, but the amount of the credit allowed by that section shall not exceed the sum of—

"(1) the regular tax liability for the taxable year reduced by the sum of the credits allowable under this subpart (other than section 24), and

"(2) the minimum tax imposed by section 55."

(f) Effective Date.—The amendments made by this section shall apply to expenses paid after December 31, 1996 (in taxable years ending after such date), for education furnished in academic periods beginning after June 30, 1997.

SEC. 102. EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE PROGRAMS.

(a) Permanent Extension.—Section 127 (relating to exclusion for educational assistance programs) is amended by striking subsection (d) and by redesignating subsection (e) as subsection (d).

(b) Repeal of Limitation on Graduate Education.—The last sentence of section 127(c)(1) is amended by striking ", and such term also does not include any payment for, or the provision of any benefits with respect to, any graduate level course of a kind normally taken by an individual pursuing a program leading to a law, business, medical, or other advanced academic or professional degree".

(c) Effective Dates.—

(1) Extension.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1996.

(2) Graduate education.—The amendment made by subsection (b) shall apply with respect to expenses relating to courses beginning after June 30, 1997.

TITLE II—PUBLIC-PRIVATE EDUCATION PARTNERSHIPS

SEC. 201. PURPOSE.

The purpose of this title is to facilitate the establishment of working partnerships of public school educators, businesses, labor, and community groups to—

(1) enhance the academic curriculum for education and training below the postsecondary level,

(2) increase graduation and employment rates,

(3) better prepare students for the rigors of college and the increasingly complex workforce, and

(4) promote the global leadership position of the United States economy,

by providing a no-cost source of capital to eligible local education agencies for the cost of establishing specialized academies in distressed areas (referred to as "education zones").

SEC. 202. INCENTIVES FOR EDUCATION ZONES.

(a) In General.—Part III of subchapter U of chapter 1 (relating to additional incentives for empowerment zones), as amended by subsection (b), is amended by inserting after subpart B the following new subpart:

"Subpart C—Incentives for Education Zones

"Sec. 1397B. Credit to holders of qualified zone academy bonds."

"SEC. 1397B. CREDIT TO HOLDERS OF QUALIFIED ZONE ACADEMY BONDS.

"(a) Allowance of Credit.—In the case of a taxpayer who holds a qualified zone academy bond on the credit allowance date of such bond which occurs during the taxable year, there shall be allowed as a credit against the tax imposed by this chapter for such taxable year the amount determined under subsection (b).

"(b) Amount of Credit.—

"(1) In general.—The amount of the credit determined under this subsection with respect to any qualified zone academy bond is the amount equal to the product of—

"(A) the credit rate determined by the Secretary under paragraph (2) for the month in which such bond was issued, multiplied by

"(B) the face amount of the bond held by the taxpayer on the credit allowance date.

"(2) Determination.—During each calendar month, the Secretary shall determine a credit rate which shall apply to bonds issued during the following calendar month. The credit rate for any month is the percentage which the Secretary estimates will permit the issuance of qualified zone academy bonds without discount and without interest cost to the issuer.

"(c) Limitation Based on Amount of Tax.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

"(1) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

"(2) the sum of the credits allowable under part IV of subchapter A (other than subpart C thereof, relating to refundable credits).

"(d) Qualified Zone Academy Bond.—For purposes of this section—

"(1) In general.—The term 'qualified zone academy bond' means any bond issued as part of an issue if—

"(A) 95 percent or more of the proceeds of such issue are to be used for a qualified purpose with respect to a qualified zone academy established by an eligible local education agency,

"(B) the bond is issued by a State or local government within the jurisdiction of which such academy is located,

"(C) the issuer—

"(i) designates such bond for purposes of this section,

"(ii) certifies that it has written assurances that the private business contribution requirement of paragraph (2) will be met with respect to such academy, and

"(iii) certifies that it has the written approval of the eligible local education agency for such bond issuance, and

"(D) the term of each bond which is part of such issue does not exceed the maximum term permitted under paragraph (3).

"(2) Private business contribution requirement.—

"(A) In general.—For purposes of paragraph (1), the private business contribution requirement of this paragraph is met with respect to any issue if the eligible local education agency that established the qualified zone academy has written commitments from private entities to make qualified contributions having a present value (as of the date of issuance of the issue) of not less than 10 percent of the proceeds of the issue.

"(B) Qualified contributions.—For purposes of subparagraph (A), the term 'qualified contribution' means any contribution (of a type and quality acceptable to the eligible local education agency) of—

"(i) equipment for use in the qualified zone academy (including state-of-the-art technology and vocational equipment),

"(ii) technical assistance in developing curriculum or in training teachers in order to promote appropriate market driven technology in the classroom,

"(iii) services of employees as volunteer mentors,

"(iv) internships, field trips, or other educational opportunities outside the academy for students, or

"(v) any other property or service specified by the eligible local education agency.

"(3) Term requirement.—During each calendar month, the Secretary shall determine the maximum term permitted under this paragraph for bonds issued during the following calendar month. Such maximum term shall be the term which the Secretary estimates will result in the present value of the obligation to repay the principal on the bond being equal to 50 percent of the face amount of the bond. Such present value shall be determined using as a discount rate the average annual interest rate of tax-exempt obligations having a term of 10 years or more which are issued during the month. If the term as so determined is not a multiple of a whole year, such term shall be rounded to the next highest whole year.

"(4) Qualified zone academy.—

"(A) In general.—The term 'qualified zone academy' means any public school (or academic program within a public school) which is established by and operated under the supervision of an eligible local education agency to provide education or training below the postsecondary level if—

"(i) such public school or program (as the case may be) is designed in cooperation with business to enhance the academic curriculum, increase graduation and employment rates, and better prepare students for the rigors of college and the increasingly complex workforce,

"(ii) students in such public school or program (as the case may be) will be subject to the same academic standards and assessments as other students educated by the eligible local education agency,

"(iii) the comprehensive education plan of such public school or program is approved by the eligible local education agency, and

"(iv)(I) such public school is located in an empowerment zone or enterprise community (including any such zone or community designated after the date of the enactment of this section), or

"(II) there is a reasonable expectation (as of the date of issuance of the bonds) that at least 35 percent of the students attending such school or participating in such program (as the case may be) will be eligible for free or reduced-cost lunches under the school lunch program established under the National School Lunch Act.

"(B) Eligible local education agency.—The term 'eligible local education agency' means any local education agency as defined in section 14101 of the Elementary and Secondary Education Act of 1965.

"(5) Qualified purpose.—The term 'qualified purpose' means, with respect to any qualified zone academy—

"(A) constructing or renovating the public school facility in which the academy is established,

"(B) providing equipment for use at such academy,

"(C) developing course materials for education to be provided at such academy, and

"(D) training teachers and other school personnel in such academy.

"(e) Limitation on Amount of Bonds Designated.—

"(1) National limitation.—There is a national zone academy bond limitation for each calendar year. Such limitation is $10,000,000,000 for 1998, 1999, 2000, 2001, and 2002, and zero thereafter.

"(2) Allocation of limitation.—The national zone academy bond limitation for a calendar year shall be allocated by the Secretary among the States on the basis of their respective populations of individuals below the poverty line (as defined by the Office of Management and Budget). The limitation amount allocated to a State under the preceding sentence shall be allocated by the State education agency to qualified zone academies within such State.

"(3) DESIGNATION SUBJECT TO LIMITATION AMOUNT.—The maximum aggregate face amount of bonds issued during any calendar year which may be designated under subsection (d)(1) with respect to any qualified zone academy shall not exceed the limitation amount allocated to such academy under paragraph (2) for such calendar year.

"(4) CARRYOVER OF USED LIMITATION.—If for any calendar year—

"(A) the limitation amount for any State, exceeds

"(B) the amount of bonds issued during such year which are designated under subsection (d)(1) with respect to qualified zone academies within such State,

the limitation amount for such State for the following calendar year shall be increased by the amount of such excess.

"(f) OTHER DEFINITIONS.—For purposes of this section—

"(1) CREDIT ALLOWANCE DATE.—The term 'credit allowance date' means, with respect to any issue, the last day of the 1-year period beginning on the date of issuance of such issue and the last day of each successive 1-year period thereafter.

"(2) BOND.—The term 'bond' includes any obligation.

"(3) STATE.—The term 'State' includes the District of Columbia and any possession of the United States.

"(g) CREDIT INCLUDED IN GROSS INCOME.—Gross income includes the amount of the credit allowed to the taxpayer under this section."

(b) CONFORMING AMENDMENTS.—

(1) Subchapter U of chapter 1 (as in effect before the amendment made by subsection (a)) is amended by redesignating subpart C as subpart D, and by redesignating sections 1397B, 1397C, and 1397D as sections 1397D, 1397E, and 1397F, respectively.

(2) Subsection (b) of section 1394 is amended—

(A) by striking "section 1397C" in paragraph (2) and inserting "section 1397E", and

(B) by striking "section 1397B" in paragraph (3) and inserting "section 1397D".

(3) The table of subparts for part III of subchapter U of chapter 1 is amended by striking the last item and inserting the following:

"Subpart C. Incentives for education zones.
"Subpart D. General provisions."

(4) The table of sections for subpart D of such part III, as so redesignated, is amended to read as follows:

"Sec. 1397D. Enterprise zone business defined.
"Sec. 1397E. Qualified zone property defined."

(5) The table of sections for part IV of subchapter U of chapter 1 is amended to read as follows:

"Sec. 1397F. Regulations."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after December 31, 1997.

TITLE III—FAMILY TAX RELIEF

SEC. 301. CREDIT FOR FAMILIES WITH YOUNG CHILDREN.

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 (relating to refundable credits) is amended by inserting after section 34 the following new section:

"SEC. 34A. FAMILIES WITH YOUNG CHILDREN.

"(a) ALLOWANCE OF CREDIT.—

"(1) IN GENERAL.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to $500 multiplied by the number of eligible children of the taxpayer for the taxable year.

"(2) PHASE-IN OF CREDIT.—In the case of taxable years beginning before January 1, 2001, paragraph (1) shall be applied by substituting '$300' for '$500'.

"(b) PHASEOUT OF CREDIT.—

"(1) IN GENERAL.—The amount of the credit allowed under subsection (a) shall be reduced (but not below zero) by the amount determined under paragraph (2).

"(2) AMOUNT OF REDUCTION.—The amount determined under this paragraph equals the amount which bears the same ratio to the credit (determined without regard to this subsection) as—

"(A) the excess of—

"(i) the taxpayer's adjusted gross income for such taxable year, over

"(ii) $60,000, bears to

"(B) $15,000.

Any amount determined under this paragraph which is not a multiple of $10 shall be rounded to the next lowest $10.

"(3) ADJUSTED GROSS INCOME.—For purposes of this subsection, adjusted gross income of any taxpayer shall be increased by any amount excluded from gross income under section 911, 931, or 933.

"(c) ELIGIBLE CHILD.—For purposes of this section, the term 'eligible child' means any child (as defined in section 151(c)(3)) of the taxpayer—

"(1) who has not attained age 18 as of the close of the calendar year in which the taxable year of the taxpayer begins,

"(2) who is a dependent of the taxpayer with respect to whom the taxpayer is allowed a deduction under section 151 for such taxable year, and

"(3) whose TIN is included on the taxpayer's return for such taxable year.

"(d) LIMITATION BASED ON AMOUNT OF TAX.—

"(1) IN GENERAL.—The credit allowed by subsection (a) for the taxable year shall not exceed the sum of—

"(A) the tax imposed by this chapter for the taxable year (reduced by the sum of the other credits allowable under this part against such tax other than under this subpart, relating to refundable credits), and

"(B) the taxpayer's social security taxes for such taxable year.

"(2) SOCIAL SECURITY TAXES.—For purposes of paragraph (1)—

"(A) IN GENERAL.—The term 'social security taxes' means, with respect to any taxpayer for any taxable year—

"(i) the amount of the taxes imposed by sections 3101 and 3201(a) on amounts received by the taxpayer during the calendar year in which the taxable year begins,

"(ii) ½ of the amount of the taxes imposed by section 1401 on the self-employment income of the taxpayer for the taxable year, and

"(iii) ½ of the amount of the taxes imposed by section 3211(a)(1) on amounts received by the taxpayer during the calendar year in which the taxable year begins.

"(B) COORDINATION WITH SPECIAL REFUND OF SOCIAL SECURITY TAXES.—The term 'social security taxes' shall not include any taxes to the extent the taxpayer is entitled to a special refund of such taxes under section 6413(c).

"(C) SPECIAL RULE.—Any amounts paid pursuant to an agreement under section 3121(l) (relating to agreements entered into by American employers with respect to foreign affiliates) which are equivalent to the taxes referred to in subparagraph (A)(i) shall be treated as taxes referred to in such subparagraph.

"(e) INFLATION ADJUSTMENTS.—In the case of a taxable year beginning in a calendar year after 2000—

"(1) IN GENERAL.—The $500 and $60,000 amounts contained in subsections (a)(1) and (b)(2) shall each be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 1999' for 'calendar year 1992' in subparagraph (B) thereof.

"(2) INCREASE IN PHASEOUT RANGE.—If the dollar amount in effect under subsection (a)(1) for any taxable year exceeds $500, subsection (b)(2)(B) shall be applied by substituting an amount equal to 30 times such dollar amount for '$15,000'.

"(3) ROUNDING.—If any amount as adjusted under paragraph (1) is not a multiple of $100, such amount shall be rounded to the next lowest multiple of $100.

"(f) SPECIAL RULES.—

"(1) AMOUNT OF CREDIT MAY BE DETERMINED UNDER TABLES.—The amount of the credit allowed by this section may be determined under tables prescribed by the Secretary.

"(2) CERTAIN OTHER RULES APPLY.—Rules similar to the rules of subsections (c)(1)(E) and (F), (d), and (e) of section 32 shall apply for purposes of this section."

(b) CLERICAL AMENDMENT.—The table of sections for subpart C of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 34 the following new item:

"Sec. 34A. Families with young children."

(c) CONFORMING AMENDMENT.—Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting before the period ", or from section 34A of such Code".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

TITLE IV—CAPITAL GAINS RELIEF

Subtitle A—Exemption From Tax for Gain on Sale of Principal Residence

SEC. 401. EXEMPTION FROM TAX FOR GAIN ON SALE OF PRINCIPAL RESIDENCE.

(a) IN GENERAL.—Section 121 (relating to one-time exclusion of gain from sale of principal residence by individual who has attained age 55) is amended to read as follows:

"SEC. 121. EXCLUSION OF GAIN FROM SALE OF PRINCIPAL RESIDENCE.

"(a) EXCLUSION.—Gross income shall not include gain from the sale or exchange of property if, during the 5-year period ending on the date of the sale or exchange, such property has been owned and used by the taxpayer as the taxpayer's principal residence for periods aggregating 2 years or more.

"(b) LIMITATIONS.—

"(1) DOLLAR LIMITATION.—The amount of gain excluded from gross income under subsection (a) with respect to any sale or exchange shall not exceed $250,000 ($500,000 in the case of a joint return where both spouses meet the use requirement of subsection (a)).

"(2) APPLICATION TO ONLY 1 SALE OR EXCHANGE EVERY 2 YEARS.—

"(A) IN GENERAL.—Subsection (a) shall not apply to any sale or exchange by the taxpayer if, during the 2-year period ending on the date of such sale or exchange, there was any other sale or exchange by the taxpayer to which subsection (a) applied.

“(B) Prior sales by spouse not taken into account.—If, but for this subparagraph, subsection (a) would not apply to a sale or exchange by a married individual filing a joint return solely by reason of a prior sale or exchange by such individual's spouse—

“(i) subparagraph (A) shall be applied without regard to the sale or exchange by such individual's spouse or any ownership or use by such spouse, but

“(ii) the amount of gain excluded from gross income under subsection (a) with respect to the sale or exchange by such individual shall not exceed $250,000.

“(C) Pre-effective date sales not taken into account.—Subparagraph (A) shall be applied without regard to any sale or exchange before May 7, 1997.

“(c) Exclusion for Taxpayers Failing To Meet Certain Requirements.—

“(1) In general.—In the case of a sale or exchange to which this subsection applies, the ownership and use requirements of subsection (a) shall not apply and subsection (b)(2) shall not apply; but the amount of gain excluded from gross income under subsection (a) with respect to such sale of exchange shall not exceed—

“(A) the amount which bears the same ratio to the amount which would be so excluded if such requirements had been met, as

“(B) the shorter of—

“(i) the aggregate periods, during the 5-year period ending on the date of such sale or exchange, such property has been owned and used by the taxpayer as the taxpayer's principal residence, or

“(ii) the period after the date of the most recent prior sale or exchange by the taxpayer or his spouse to which subsection (a) applied and before the date of such sale or exchange,

bears to 2 years.

“(2) Sales and exchanges to which subsection applies.—This subsection shall apply to any sale or exchange if—

“(A) subsection (a) would not (but for this subsection) apply to such sale or exchange by reason of—

“(i) a failure to meet the ownership and use requirements of subsection (a), or

“(ii) subsection (b)(2), and

“(B) such sale or exchange is by reason of a change in place of employment, health, or other unforeseen circumstances.

“(d) Special Rules.—

“(1) Joint returns.—For purposes of this section, if a husband and wife make a joint return for the taxable year of the sale or exchange of property, both spouses shall be treated as meeting the ownership requirement of subsection (a) with respect to such property if either spouse meets such requirement.

“(2) Property of deceased spouse.—For purposes of this section, in the case of an unmarried individual whose spouse is deceased on the date of the sale or exchange of property, the period such unmarried individual owned such property shall include the period such deceased spouse held such property before death.

“(3) Tenant-stockholder in cooperative housing corporation.—For purposes of this section, if the taxpayer holds stock as a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), then—

“(A) the holding requirements of subsection (a) shall be applied to the holding of such stock, and

“(B) the use requirements of subsection (a) shall be applied to the house or apartment which the taxpayer was entitled to occupy as such stockholder.

“(4) Involuntary conversions.—

“(A) In general.—For purposes of this section, the destruction, theft, seizure, requisition, or condemnation of property shall be treated as the sale of such property.

“(B) Application of section 1033.—In applying section 1033 (relating to involuntary conversions), the amount realized from the sale or exchange of property shall be treated as being the amount determined without regard to this section, reduced by the amount of gain not included in gross income pursuant to this section.

“(C) Property acquired after involuntary conversion.—If the basis of the property sold or exchanged is determined (in whole or in part) under section 1033(b) (relating to basis of property acquired through involuntary conversion), then the holding and use by the taxpayer of the converted property shall be treated for purposes of this section as holding and use by the taxpayer of the property sold or exchanged.

“(5) Recognition of gain attributable to depreciation.—Subsection (a) shall not apply to so much of the gain from the sale of any property as does not exceed the portion of the depreciation adjustments (as defined in section 1250(b)(3)) attributable to periods after December 31, 1996, in respect of such property.

“(6) Determination of use during periods of out-of-residence care.—In the case of a taxpayer who—

“(A) becomes physically or mentally incapable of self-care, and

“(B) owns property and uses such property as the taxpayer's principal residence during the 5-year period described in subsection (a) for periods aggregating at least 1 year,

then the taxpayer shall be treated as using such property as the taxpayer's principal residence during any time during such 5-year period in which the taxpayer owns the property and resides in any facility (including a nursing home) licensed by a State or political subdivision to care for an individual in the taxpayer's condition.

“(7) Determination of marital status.—In the case of any sale or exchange, for purposes of this section—

“(A) the determination of whether an individual is married shall be made as of the date of the sale or exchange, and

“(B) an individual legally separated from his spouse under a decree of divorce or of separate maintenance shall not be considered as married.

“(e) Election To Have Section Not Apply.—This section shall not apply to any sale or exchange with respect to which the taxpayer elects not to have this section apply.

“(f) Residences Acquired in Rollovers Under Section 1034.—For purposes of this section, in the case of property the acquisition of which by the taxpayer resulted under section 1034 (as in effect on the day before the date of the enactment of this sentence) in the nonrecognition of any part of the gain realized on the sale or exchange of another residence, in determining the period for which the taxpayer has owned and used such property as the taxpayer's principal residence, there shall be included the aggregate periods for which such other residence (and each prior residence taken into account under section 1223(7) in determining the holding period of such property) had been so owned and used.”

(b) Repeal of Nonrecognition of Gain on Rollover of Principal Residence.—Section 1034 (relating to rollover of gain on sale of principal residence) is hereby repealed.

(c) Conforming Amendments.—

(1) The following provisions of the Internal Revenue Code of 1986 are each amended by striking “section 1034” and inserting “section 121”: sections 25(e)(7), 56(e)(1)(A), 56(e)(3)(B)(i), 143(i)(1)(C)(i)(I), 163(h)(4)(A)(i)(I), 280A(d)(4)(A), 464(f)(3)(B)(i), 1033(k)(3), 1274(c)(3)(B), 6334(a)(13), and 7872(f)(11)(A).

(2) Paragraph (4) of section 32(c) is amended by striking “(as defined in section 1034(h)(3))” and by adding at the end the following new sentence: “For purposes of the preceding sentence, the term ‘extended active duty’ means any period of active duty pursuant to a call or order to such duty for a period in excess of 90 days or for an indefinite period.”

(3) Subparagraph (A) of 143(m)(6) is amended by inserting “(as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1997)” after “1034(e)”.

(4) Subsection (e) of section 216 is amended by striking “such exchange qualifies for nonrecognition of gain under section 1034(f)” and inserting “such dwelling unit is used as his principal residence (within the meaning of section 121)”.

(5) Section 512(a)(3)(D) is amended by inserting “(as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1997)” after “1034”.

(6) Paragraph (7) of section 1016(a) is amended by inserting “(as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1997)” after “1034” and by inserting “(as so in effect)” after “1034(e)”.

(7) Paragraph (3) of section 1033(k) is amended to read as follows:

“(3) For exclusion from gross income of gain from involuntary conversion of principal residence, see section 121.”

(8) Subsection (e) of section 1038 is amended to read as follows:

“(e) Principal residences.—If—

“(1) subsection (a) applies to a reacquisition of real property with respect to the sale of which gain was not recognized under section 121 (relating to gain on sale of principal residence), and

“(2) within 1 year after the date of the reacquisition of such property by the seller, such property is resold by him,

then, under regulations prescribed by the Secretary, subsections (b), (c), and (d) of this section shall not apply to the reacquisition of such property and, for purposes of applying section 121, the resale of such property shall be treated as a part of the transaction constituting the original sale of such property.”

(9) Paragraph (7) of section 1223 is amended by inserting “(as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1997)” after “1034”.

(10) Section 1250(d)(7) is amended to read as follows:

“(7) Principal residence.—Subsection (a) shall not apply to a disposition to the extent that gain from the disposition is excluded from gross income under section 121.”

(11) Paragraph (2) of section 6212(c) is amended by striking subparagraph (C) and by redesignating the succeeding subparagraphs accordingly.

(12) Section 6504 is amended by striking paragraph (4) and by redesignating the succeeding paragraphs accordingly.

(13) The item relating to section 121 in the table of sections for part III of subchapter B of chapter 1 is amended to read as follows:

"Sec. 121. Exclusion of gain from sale of principal residence."

(14) The table of sections for part III of subchapter O of chapter 1 is amended by striking the item relating to section 1034.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to sales and exchanges on or after May 7, 1997.

(2) TRANSITIONAL RULE.—At the election of the taxpayer, the amendments made by this section shall not apply to—

(A) a sale or exchange on or before the date of the enactment of this Act, or

(B) a sale or exchange after such date of enactment, if—

(i) such sale or exchange is pursuant to a contract which was binding on such date, and at all times thereafter before such sale or exchange, or

(ii) without regard to such amendments, gain would not be recognized under section 1034 of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of this Act) on such sale or exchange by reason of a new residence acquired on or before such date.

SEC. 402. CAPITAL LOSS DEDUCTION ALLOWED WITH RESPECT TO SALE OR EXCHANGE OF PRINCIPAL RESIDENCE.

(a) IN GENERAL.—Subsection (c) of section 165 (relating to limitation on losses of individuals) is amended by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting "; and", and by adding at the end the following new paragraph:

"(4) losses (not in excess of $250,000) arising from the sale or exchange of the principal residence (within the meaning of section 121) of the taxpayer."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to sales and exchanges on or after May 7, 1997, in taxable years ending after such date.

Subtitle B—Lifetime Capital Gains Rate Reduction for Nontradable Property

SEC. 411. LIFETIME CAPITAL GAINS RATE REDUCTION FOR NONTRADABLE PROPERTY.

(a) IN GENERAL.—Subsection (h) of section 1 (relating to maximum capital gains rate) is amended to read as follows:

"(h) MAXIMUM CAPITAL GAINS RATE.—If a taxpayer has a net capital gain for any taxable year, the tax imposed by this section for such taxable year shall not exceed the sum of—

"(1) a tax computed at the rates and in the manner as if this subsection had not been enacted on the greater of—

"(A) taxable income reduced by the amount of the net capital gain, or

"(B) the amount of taxable income taxed at a rate below 18 percent, plus

"(2) the sum of—

"(A) 18 percent of the lifetime qualified net capital gain (or if lesser, the amount of taxable income in excess of the amount taxed under paragraph (1)), plus

"(B) 28 percent of the excess of the net capital gain (or if lesser, the amount of taxable income in excess of the amount taxed under paragraph (1)) over the lifetime qualified net capital gain for the taxable year.

For purposes of the preceding sentence, the net capital gain for any taxable year shall be reduced (but not below zero) by the amount which the taxpayer elects to take into account as investment income for the taxable year under section 163(d)(4)(B)(iii). In the case of a taxpayer only subject to tax under this section at the 15 percent rate, the amount of the tax under paragraph (1)(B) on net capital gain shall be determined at a rate of 7.5 percent."

(b) DEFINITION.—Section 1 is amended by adding at the end thereof the following new subsection:

"(i) LIFETIME QUALIFIED NET CAPITAL GAIN

"(1) IN GENERAL.—For purposes of subsection (h), the lifetime qualified net capital gain is the qualified net gain for the taxable year.

"(2) LIMITATION.—

"(A) IN GENERAL.—The amount of the qualified net gain taken into account under paragraph (1) for any taxable year shall not exceed $600,000 reduced by the aggregate amount of the qualified net gain taken into account under this subsection by the taxpayer for prior taxable years.

"(B) SPECIAL RULE FOR JOINT RETURNS.—The amount of the qualified net gain taken into account under this subsection on a joint return for any taxable year shall be allocated equally between the spouses for purposes of determining the limitation under subparagraph (A) for any succeeding taxable year.

"(3) QUALIFIED NET GAIN.—For purposes of paragraph (1), the term 'qualified net gain' means the lesser of—

"(A) the net capital gain for the taxable year, or

"(B) the net capital gain for the taxable year determined by only taking into account gains and losses from sales and exchanges on or after May 7, 1997, of qualified assets.

A taxpayer may elect for any taxable year not to take into account under this subsection all (or any portion) of the qualified net gain for such taxable year. Such an election, once made, shall be irrevocable.

"(4) QUALIFIED ASSETS.—For purposes of this subsection, the term 'qualified assets' means any property held for more than 3 years other than—

"(A) stock or securities for which there is a market on an established securities market or otherwise, and

"(B) property (other than stock or securities) of a kind regularly traded on an established market.

Such term shall not include any qualified small business stock (as defined in section 1202) nor the principal residence of the taxpayer.

"(5) SUBSECTION NOT TO APPLY TO CERTAIN INDIVIDUALS.—This subsection shall not apply to any individual who has not attained age 25 before the close of the taxable year.

"(6) SUBSECTION NOT TO APPLY TO CERTAIN TAXPAYERS.—This subsection shall not apply to—

"(A) a married individual (within the meaning of section 7703) filing a separate return for the taxable year, or

"(B) an estate or trust.

"(7) SPECIAL RULES.—

"(A) TREATMENT OF CERTAIN SALES OF INTERESTS IN PARTNERSHIPS, ETC.—For purposes of this subsection, any gain from the sale or exchange of a qualified asset which is an interest in a partnership, S corporation, or trust shall not be treated as gain from the sale or exchange of a qualified asset to the extent such gain is attributable to unrealized appreciation in the value of property described in subparagraph (A) or (B) of paragraph (4) which is held by such entity. Rules similar to the rules of section 751(f) shall apply for purposes of the preceding sentence.

"(B) SPECIAL RULE FOR PASS-THRU ENTITIES.—

"(i) IN GENERAL.—In applying this subsection with respect to any pass-thru entity—

"(I) the determination of when the sale or exchange occurs shall be made at the entity level, and

"(II) any gain attributable to such entity shall in no event be treated as gain from sale or exchange of a qualified asset if interests in such entity are described in subparagraph (A) or (B) of paragraph (4).

"(ii) PASS-THRU ENTITY DEFINED.—For purposes of clause (i), the term 'pass-thru-entity' means—

"(I) a regulated investment company,

"(II) a real estate investment trust,

"(III) an S corporation,

"(IV) a partnership,

"(V) an estate or trust, and

"(VI) a common trust fund."

(c) TREATMENT OF COLLECTIBLES.—

(1) IN GENERAL.—Section 1222 is amended by inserting after paragraph (11) the following new paragraph:

"(12) SPECIAL RULE FOR COLLECTIBLES.—

"(A) IN GENERAL.—Any gain or loss from the sale or exchange of a collectible shall be treated as a short-term capital gain or loss (as the case may be), without regard to the period such asset was held. The preceding sentence shall apply only to the extent the gain or loss is taken into account in computing taxable income.

"(B) TREATMENT OF CERTAIN SALES OF INTERESTS IN PARTNERSHIPS, ETC.—For purposes of subparagraph (A), any gain from the sale or exchange of an interest in a partnership, S corporation, or trust which is attributable to unrealized appreciation in the value of collectibles held by such entity shall be treated as gain from the sale or exchange of a collectible. Rules similar to the rules of section 751(f) shall apply for purposes of the preceding sentence.

"(C) COLLECTIBLE.—For purposes of this paragraph, the term 'collectible' means any capital asset which is a collectible (as defined in section 408(m) without regard to paragraph (3) thereof)."

(2) CHARITABLE DEDUCTION NOT AFFECTED.—

(A) Paragraph (1) of section 170(e) is amended by adding at the end thereof the following new sentence: "For purposes of this paragraph, section 1222 shall be applied without regard to paragraph (12) thereof (relating to special rule for collectibles)."

(B) Clause (iv) of section 170(b)(1)(C) is amended by inserting before the period at the end thereof the following: "and section 1222 shall be applied without regard to paragraph (12) thereof (relating to special rule for collectibles)".

(d) MINIMUM TAX TREATMENT.—Clause (i) of section 55(b)(1)(A) is amended to read as follows:

"(i) IN GENERAL.—In the case of a taxpayer other than a corporation, the tentative minimum tax for the taxable year is the sum of—

"(I) 18 percent of so much of the taxable excess as does not exceed the lifetime qualified net capital gain for the taxable year,

"(II) 26 percent of so much of the ordinary taxable excess as does not exceed $175,000, plus

"(III) 28 percent of so much of the ordinary taxable excess as exceeds $175,000.

For purposes of the preceding sentence, the term 'ordinary taxable excess' means the taxable excess reduced by the lifetime qualified net capital gain. The amount determined under this clause shall be reduced by the alternative minimum tax foreign tax credit for the taxable year."

(e) EFFECTIVE DATE.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years ending on or after May 7, 1997.

TITLE V—ESTATE TAX RELIEF

SEC. 501. FAMILY-OWNED BUSINESS EXCLUSION.

(a) IN GENERAL.—Part III of subchapter A of chapter 11 (relating to gross estate) is amended by inserting after section 2033 the following new section:

"SEC. 2033A. FAMILY-OWNED BUSINESS EXCLUSION.

"(a) IN GENERAL.—In the case of an estate of a decedent to which this section applies, the value of the gross estate shall not include the lesser of—

"(1) the adjusted value of the qualified family-owned business interests of the decedent otherwise includible in the estate, or

"(2) $400,000, increased by the amount (if any) of the limitation under this paragraph not claimed by the estate of a previously deceased spouse of the decedent.

"(b) ESTATES TO WHICH SECTION APPLIES.—

"(1) IN GENERAL.—This section shall apply to an estate if—

"(A) the decedent was (at the date of the decedent's death) a citizen or resident of the United States,

"(B) the sum of—

"(i) the adjusted value of the qualified family-owned business interests described in paragraph (2), plus

"(ii) the amount of the gifts of such interests determined under paragraph (3),

exceeds 50 percent of the adjusted gross estate, and

"(C) during the 8-year period ending on the date of the decedent's death there have been periods aggregating 5 years or more during which—

"(i) such interests were owned by the decedent or a member of the decedent's family, and

"(ii) there was material participation (within the meaning of section 2032A(e)(6)) by the decedent or a member of the decedent's family in the operation of the business to which such interests relate.

"(2) INCLUDIBLE QUALIFIED FAMILY-OWNED BUSINESS INTERESTS.—The qualified family-owned business interests described in this paragraph are the interests which—

"(A) are included in determining the value of the gross estate (without regard to this section), and

"(B) are acquired by any qualified heir from, or passed to any qualified heir from, the decedent (within the meaning of section 2032A(e)(9)).

"(3) INCLUDIBLE GIFTS OF INTERESTS.—The amount of the gifts of qualified family-owned business interests determined under this paragraph is the excess of—

"(A) the sum of—

"(i) the amount of such gifts from the decedent to members of the decedent's family taken into account under subsection 2001(b)(1)(B), plus

"(ii) the amount of such gifts otherwise excluded under section 2503(b),

to the extent such interests are continuously held by members of such family (other than the decedent's spouse) between the date of the gift and the date of the decedent's death, over

"(B) the amount of such gifts from the decedent to members of the decedent's family otherwise included in the gross estate.

"(c) ADJUSTED GROSS ESTATE.—For purposes of this section, the term 'adjusted gross estate' means the value of the gross estate (determined without regard to this section)—

"(1) reduced by any amount deductible under paragraph (3) or (4) of section 2053(a), and

"(2) increased by the excess of—

"(A) the sum of—

"(i) the amount of gifts determined under subsection (b)(3),

"(ii) the amount (if more than de minimis) of other transfers from the decedent to the decedent's spouse (at the time of the transfer) within 10 years of the date of the decedent's death, plus

"(iii) the amount of other gifts (not included under clause (i) or (ii)) from the decedent within 3 years of such date, other than gifts to members of the decedent's family otherwise excluded under section 2503(b), over

"(B) the sum of the amounts described in clauses (i), (ii), and (iii) of subparagraph (A) which are otherwise includible in the gross estate.

For purposes of the preceding sentence, the Secretary may provide that de minimis gifts to persons other than members of the decedent's family shall not be taken into account.

"(d) ADJUSTED VALUE OF THE QUALIFIED FAMILY-OWNED BUSINESS INTERESTS.—For purposes of this section, the adjusted value of any qualified family-owned business interest is the value of such interest for purposes of this chapter (determined without regard to this section), reduced by the excess of—

"(1) any amount deductible under paragraph (3) or (4) of section 2053(a), over

"(2) the sum of—

"(A) any indebtedness on any qualified residence of the decedent the interest on which is deductible under section 163(h)(3),

"(B) any indebtedness to the extent the taxpayer establishes that the proceeds of such indebtedness were used for the payment of educational and medical expenses of the decedent, the decedent's spouse, or the decedent's dependents (within the meaning of section 152), plus

"(C) any indebtedness not described in clause (i) or (ii), to the extent such indebtedness does not exceed $10,000.

"(e) QUALIFIED FAMILY-OWNED BUSINESS INTEREST.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified family-owned business interest' means—

"(A) an interest as a proprietor in a trade or business carried on as a proprietorship, or

"(B) an interest in an entity carrying on a trade or business, if—

"(i) at least—

"(I) 50 percent of such entity is owned (directly or indirectly) by the decedent and members of the decedent's family,

"(II) 70 percent of such entity is so owned by members of 2 families, or

"(III) 90 percent of such entity is so owned by members of 3 families, and

"(ii) for purposes of subclause (II) or (III) of clause (i), at least 30 percent of such entity is so owned by the decedent and members of the decedent's family.

"(2) LIMITATION.—Such term shall not include—

"(A) any interest in a trade or business the principal place of business of which is not located in the United States,

"(B) any interest in an entity, if the stock or debt of such entity or a controlled group (as defined in section 267(f)(1)) of which such entity was a member was readily tradable on an established securities market or secondary market (as defined by the Secretary) at any time within 3 years of the date of the decedent's death,

"(C) any interest in a trade or business not described in section 542(c)(2), if more than 35 percent of the adjusted ordinary gross income of such trade or business for the taxable year which includes the date of the decedent's death would qualify as personal holding company income (as defined in section 543(a)), or

"(D) that portion of an interest in a trade or business that is attributable to—

"(i) cash or marketable securities, or both, in excess of the reasonably expected day-to-day working capital needs of such trade or business, and

"(ii) any other assets of the trade or business (other than assets used in the active conduct of a trade or business described in section 542(c)(2)), the income of which is described in section 543(a) or in subparagraph (B), (C), (D), or (E) of section 954(c)(1) (determined by substituting 'trade or business' for 'controlled foreign corporation').

"(3) RULES REGARDING OWNERSHIP.—

"(A) OWNERSHIP OF ENTITIES.—For purposes of paragraph (1)(B)—

"(i) CORPORATIONS.—Ownership of a corporation shall be determined by the holding of stock possessing the appropriate percentage of the total combined voting power of all classes of stock entitled to vote and the appropriate percentage of the total value of shares of all classes of stock.

"(ii) PARTNERSHIPS.—Ownership of a partnership shall be determined by the owning of the appropriate percentage of the capital interest in such partnership.

"(B) OWNERSHIP OF TIERED ENTITIES.—For purposes of this section, if by reason of holding an interest in a trade or business, a decedent, any member of the decedent's family, any qualified heir, or any member of any qualified heir's family is treated as holding an interest in any other trade or business—

"(i) such ownership interest in the other trade or business shall be disregarded in determining if the ownership interest in the first trade or business is a qualified family-owned business interest, and

"(ii) this section shall be applied separately in determining if such interest in any other trade or business is a qualified family-owned business interest.

"(C) INDIVIDUAL OWNERSHIP RULES.—For purposes of this section, an interest owned, directly or indirectly, by or for an entity described in paragraph (1)(B) shall be considered as being owned proportionately by or for the entity's shareholders, partners, or beneficiaries. A person shall be treated as a beneficiary of any trust only if such person has a present interest in such trust.

"(f) TAX TREATMENT OF FAILURE TO MATERIALLY PARTICIPATE IN BUSINESS OR DISPOSITIONS OF INTERESTS.—

"(1) IN GENERAL.—There is imposed an additional estate tax if, within 10 years after the date of the decedent's death and before the date of the qualified heir's death—

"(A) the material participation requirements described in section 2032A(c)(6)(B) are not met with respect to the qualified family-owned business interest which was acquired (or passed) from the decedent,

"(B) the qualified heir disposes of any portion of a qualified family-owned business interest (other than by a disposition to a member of the qualified heir's family or through a qualified conservation contribution under section 170(h)),

"(C) the qualified heir loses United States citizenship (within the meaning of section

877) or with respect to whom an event described in subparagraph (A) or (B) of section 877(e)(1) occurs, and such heir does not comply with the requirements of subsection (g), or

"(D) the principal place of business of a trade or business of the qualified family-owned business interest ceases to be located in the United States.

"(2) ADDITIONAL ESTATE TAX.—

"(A) IN GENERAL.—The amount of the additional estate tax imposed by paragraph (1) shall be equal to—

"(i) the applicable percentage of the adjusted tax difference attributable to the qualified family-owned business interest (as determined under rules similar to the rules of section 2032A(c)(2)(B)), plus

"(ii) interest on the amount determined under clause (i) at the underpayment rate established under section 6621 for the period beginning on the date the estate tax liability was due under this chapter and ending on the date such additional estate tax is due.

"(B) APPLICABLE PERCENTAGE.—For purposes of this paragraph, the applicable percentage shall be determined under the following table:

"If the event described in paragraph (1) occurs in the following year of material participation:	**The applicable percentage is:**
1 through 6	100
7	80
8	60
9	40
10	20.

"(g) SECURITY REQUIREMENTS FOR NONCITIZEN QUALIFIED HEIRS.—

"(1) IN GENERAL.—Except upon the application of subparagraph (F) or (M) of subsection (h)(3), if a qualified heir is not a citizen of the United States, any interest under this section passing to or acquired by such heir (including any interest held by such heir at a time described in subsection (f)(1)(C)) shall be treated as a qualified family-owned business interest only if the interest passes or is acquired (or is held) in a qualified trust.

"(2) QUALIFIED TRUST.—The term 'qualified trust' means a trust—

"(A) which is organized under, and governed by, the laws of the United States or a State, and

"(B) except as otherwise provided in regulations, with respect to which the trust instrument requires that at least 1 trustee of the trust be an individual citizen of the United States or a domestic corporation.

"(h) OTHER DEFINITIONS AND APPLICABLE RULES.—For purposes of this section—

"(1) QUALIFIED HEIR.—The term 'qualified heir'—

"(A) has the meaning given to such term by section 2032A(e)(1), and

"(B) includes any active employee of the trade or business to which the qualified family-owned business interest relates if such employee has been employed by such trade or business for a period of at least 10 years before the date of the decedent's death.

"(2) MEMBER OF THE FAMILY.—The term 'member of the family' has the meaning given to such term by section 2032A(e)(2).

"(3) APPLICABLE RULES.—Rules similar to the following rules shall apply:

"(A) Section 2032A(b)(4) (relating to decedents who are retired or disabled).

"(B) Section 2032A(b)(5) (relating to special rules for surviving spouses).

"(C) Section 2032A(c)(2)(D) (relating to partial dispositions).

"(D) Section 2032A(c)(3) (relating to only 1 additional tax imposed with respect to any 1 portion).

"(E) Section 2032A(c)(4) (relating to due date).

"(F) Section 2032A(c)(5) (relating to liability for tax; furnishing of bond).

"(G) Section 2032A(c)(7) (relating to no tax if use begins within 2 years; active management by eligible qualified heir treated as material participation).

"(H) Section 2032A(e)(10) (relating to community property).

"(I) Section 2032A(e)(14) (relating to treatment of replacement property acquired in section 1031 or 1033 transactions).

"(J) Section 2032A(f) (relating to statute of limitations).

"(K) Section 6166(b)(3) (relating to farmhouses and certain other structures taken into account).

"(L) Subparagraphs (B), (C), and (D) of section 6166(g)(1) (relating to acceleration of payment).

"(M) Section 6324B (relating to special lien for additional estate tax)."

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter A of chapter 11 is amended by inserting after the item relating to section 2033 the following new item:

"Sec. 2033A. Family-owned business exclusion."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after December 31, 1997.

TITLE VI—EXTENSION OF EXPIRING PROVISIONS

SEC. 601. RESEARCH CREDIT.

(a) IN GENERAL.—Section 41(h)(1) is amended—

(1) by striking "May 31, 1997" and inserting "May 31, 1998", and

(2) by striking the last sentence.

(b) CONFORMING AMENDMENT.—Section 45C(b)(1)(D) is amended by striking "1997" and inserting "1998".

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years ending after May 31, 1997.

SEC. 602. ORPHAN DRUG CREDIT MADE PERMANENT.

(a) IN GENERAL.—Subsection (e) of section 45C is hereby repealed.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts paid or incurred in taxable years ending after May 31, 1997.

SEC. 603. CONTRIBUTIONS OF APPRECIATED STOCK.

(a) IN GENERAL.—Clause (ii) of section 170(e)(5)(D) is amended by striking "May 31, 1997" and inserting "May 31, 1998".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to contributions made after May 31, 1997.

SEC. 604. EXTENSION AND MODIFICATION OF WORK OPPORTUNITY CREDIT.

(a) EXTENSION OF CREDIT.—Subparagraph (B) of section 51(c)(4) (relating to termination) is amended by striking "September 30, 1997" and inserting "September 30, 1998".

(b) PERCENTAGE OF WAGES ALLOWED AS CREDIT.—

(1) IN GENERAL.—Subsection (a) of section 51 (relating to determination of amount) is amended by striking "35 percent" and inserting "40 percent".

(2) APPLICATION OF CREDIT FOR INDIVIDUALS PERFORMING FEWER THAN 400 HOURS OF SERVICES.—Paragraph (3) of section 51(i) is amended to read as follows:

"(3) INDIVIDUALS NOT MEETING MINIMUM EMPLOYMENT PERIODS.—

"(A) REDUCTION OF CREDIT FOR INDIVIDUALS PERFORMING FEWER THAN 400 HOURS OF SERVICES.—In the case of an individual who has completed at least 120 hours, but less than 400 hours, of services performed for the employer, subsection (a) shall be applied by substituting '25 percent' for '40 percent'.

"(B) DENIAL OF CREDIT FOR INDIVIDUALS PERFORMING FEWER THAN 120 HOURS OF SERVICES.—No wages shall be taken into account under subsection (a) with respect to any individual unless such individual has completed at least 120 hours of services performed for the employer."

(c) MODIFICATION OF ELIGIBILITY REQUIREMENT BASED ON PERIOD ON WELFARE.—Subparagraph (A) of section 51(d)(2) (defining qualified IV–A recipient) is amended by striking all that follows "a IV–A program" and inserting "for any 9 months during the 18-month period ending on the hiring date."

(d) CERTAIN OLDER FOOD STAMP RECIPIENTS TREATED AS MEMBERS OF TARGETED GROUP.—Paragraph (8) of section 51(d) (defining qualified food stamp recipient) is amended to read as follows:

"(8) QUALIFIED FOOD STAMP RECIPIENT.—

"(A) IN GENERAL.—The term 'qualified food stamp recipient' means any individual who is certified by the designated local agency—

"(i) as having attained age 18 but not age 25 on the hiring date, and

"(ii) as being a member of a family receiving assistance under a food stamp program under the Food Stamp Act of 1977 for the 6-month period ending on the hiring date.

"(B) CERTAIN OLDER RECIPIENTS.—The term 'qualified food stamp recipient' includes any individual who is certified by the designated local agency—

"(i) as having attained age 18 but not age 50 on the hiring date,

"(ii) as being a recipient of benefits under the food stamp program who is affected by section 6(o) of the Food Stamp Act of 1977 but who has not been made ineligible for refusing to work in accordance with section 6(o)(2)(A) of such Act, or failing to comply with the requirements of a work program under subparagraph (B), (C), or (D) of section 6(o)(2)(A) of such Act, and

"(iii) as having a hiring date which is not more than 1 year after the date of such cessation.

"(C) TERMINATION.—In lieu of applying subsection (c)(4), this subsection shall not apply to amounts paid or incurred with respect to an individual who begins work for the employer after September 30, 2000."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to individuals who begin work for the employer after the date of the enactment of this Act.

TITLE VII—EMPOWERMENT ZONES, ETC.

Subtitle A—Empowerment Zones

SEC. 701. ADDITIONAL EMPOWERMENT ZONES WITH CURRENT LAW BENEFITS.

(a) IN GENERAL.—Paragraph (2) of section 1391(b) (relating to designations of empowerment zones and enterprise communities) is amended—

(1) by striking "9" and inserting "11",

(2) by striking "6" and inserting "8", and

(3) by striking "750,000" and inserting "1,000,000".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act, except that designations of new empowerment zones made pursuant to such amendments shall be made during the 180-day period beginning on the date of the enactment of this Act.

SEC. 702. DESIGNATION OF ADDITIONAL EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES.

(a) IN GENERAL.—Section 1391 (relating to designation procedure for empowerment zones and enterprise communities) is amended by adding at the end the following new subsection:

"(g) ADDITIONAL DESIGNATIONS PERMITTED.—

"(1) IN GENERAL.—In addition to the areas designated under subsection (a)—

"(A) ENTERPRISE COMMUNITIES.—The appropriate Secretaries may designate in the aggregate an additional 80 nominated areas as enterprise communities under this section, subject to the availability of eligible nominated areas. Of that number, not more than 50 may be designated in urban areas and not more than 30 may be designated in rural areas.

"(B) EMPOWERMENT ZONES.—The appropriate Secretaries may designate in the aggregate an additional 20 nominated areas as empowerment zones under this section, subject to the availability of eligible nominated areas. Of that number, not more than 15 may be designated in urban areas and not more than 5 may be designated in rural areas.

"(2) PERIOD DESIGNATIONS MAY BE MADE.—A designation may be made under this subsection after the date of the enactment of this subsection and before January 1, 1999.

"(3) MODIFICATIONS TO ELIGIBILITY CRITERIA, ETC.—

"(A) POVERTY RATE REQUIREMENT.—

"(i) IN GENERAL.—A nominated area shall be eligible for designation under this subsection only if the poverty rate for each population census tract within the nominated area is not less than 20 percent and the poverty rate for at least 90 percent of the population census tracts within the nominated area is not less than 25 percent.

"(ii) TREATMENT OF CENSUS TRACTS WITH SMALL POPULATIONS.—A population census tract with a population of less than 2,000 shall be treated as having a poverty rate of not less than 25 percent if—

"(I) more than 75 percent of such tract is zoned for commercial or industrial use, and

"(II) such tract is contiguous to 1 or more other population census tracts which have a poverty rate of not less than 25 percent (determined without regard to this clause).

"(iii) EXCEPTION FOR DEVELOPABLE SITES.—Clause (i) shall not apply to up to 3 noncontiguous parcels in a nominated area which may be developed for commercial or industrial purposes. The aggregate area of noncontiguous parcels to which the preceding sentence applies with respect to any nominated area shall not exceed 1,000 acres (2,000 acres in the case of an empowerment zone).

"(iv) CERTAIN PROVISIONS NOT TO APPLY.—Section 1392(a)(4) (and so much of paragraphs (1) and (2) of section 1392(b) as relate to section 1392(a)(4)) shall not apply to an area nominated for designation under this subsection.

"(v) SPECIAL RULE FOR RURAL EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES.—The Secretary of Agriculture may designate not more than 1 empowerment zone, and not more than 5 enterprise communities, in rural areas without regard to clause (i) if such areas satisfy emigration criteria specified by the Secretary of Agriculture.

"(B) SIZE LIMITATION.—

"(i) IN GENERAL.—The parcels described in subparagraph (A)(iii) shall not be taken into account in determining whether the requirement of subparagraph (A) or (B) of section 1392(a)(3) is met.

"(ii) SPECIAL RULE FOR RURAL AREAS.—If a population census tract (or equivalent division under section 1392(b)(4)) in a rural area exceeds 1,000 square miles or includes a substantial amount of land owned by the Federal, State, or local government, the nominated area may exclude such excess square mileage or governmentally owned land and the exclusion of that area will not be treated as violating the continuous boundary requirement of section 1392(a)(3)(B).

"(C) AGGREGATE POPULATION LIMITATION.—The aggregate population limitation under the last sentence of subsection (b)(2) shall not apply to a designation under paragraph (1)(B).

"(D) PREVIOUSLY DESIGNATED ENTERPRISE COMMUNITIES MAY BE INCLUDED.—Subsection (e)(5) shall not apply to any enterprise community designated under subsection (a) that is also nominated for designation under this subsection.

"(E) INDIAN RESERVATIONS MAY BE NOMINATED.—

"(i) IN GENERAL.—Section 1393(a)(4) shall not apply to an area nominated for designation under this subsection.

"(ii) SPECIAL RULE.—An area in an Indian reservation shall be treated as nominated by a State and a local government if it is nominated by the reservation governing body (as determined by the Secretary of Interior)."

(b) EMPLOYMENT CREDIT NOT TO APPLY TO NEW EMPOWERMENT ZONES.—Section 1396 (relating to empowerment zone employment credit) is amended by adding at the end the following new subsection:

"(e) CREDIT NOT TO APPLY TO EMPOWERMENT ZONES DESIGNATED UNDER SECTION 1391(g).—This section shall be applied without regard to any empowerment zone designated under section 1391(g)."

(c) INCREASED EXPENSING UNDER SECTION 179 NOT TO APPLY IN DEVELOPABLE SITES.—Section 1397A (relating to increase in expensing under section 179) is amended by adding at the end the following new subsection:

"(c) LIMITATION.—For purposes of this section, qualified zone property shall not include any property substantially all of the use of which is in any parcel described in section 1391(g)(3)(A)(iii)."

(d) SET ASIDE FOR AREAS WITH EMPLOYMENT LOSSES IN FINANCIAL SERVICE INDUSTRIES.—Section 1391 is amended by adding at the end the following new subsection:

"(g) SET ASIDE FOR AREAS WITH EMPLOYMENT LOSSES IN FINANCIAL SERVICE INDUSTRIES.—

"(1) IN GENERAL.—At least 3 of the additional empowerment zones authorized under this section by reason of the enactment of the Revenue Reconciliation Act of 1997 shall be nominated areas described in paragraph (2).

"(2) DESCRIPTION.—A nominated area is described in this paragraph if—

"(A) at least 12 percent of the wages attributable to private, nonagricultural employment in the area during 1989, and subject to tax under section 3301 during such year, were in the financial institution and real estate sectors, and

"(B) the employment in such area in such sectors for the calendar year preceding the calendar year in which such area is nominated for designation is 10 percent (or, if lesser, 5,000 full-time equivalent jobs) less than such employment during 1989.

The requirement of subparagraph (B) shall not be met if substantially all of such decline in employment is attributable to 1 employer. Data for the labor market area which includes the nominated area may be used for purposes of this paragraph if data is not separately available for the nominated area.

"(3) CENTRAL BUSINESS DISTRICT ELIGIBLE.—Subparagraph (D) of section 1392(a)(3) shall not apply to a nominated area described in paragraph (2).

"(4) FINANCIAL SERVICES BUSINESSES ELIGIBLE.—For purposes of this part, the term 'enterprise zone business' includes any entity (or portion of an entity) if substantially all the activities of such entity (or portion thereof) consists of engaging in a banking, insurance, financing, or similar business in an empowerment zone designated by reason of this subsection."

(e) CONFORMING AMENDMENTS.—

(1) Subsections (e) and (f) of section 1391 are each amended by striking "subsection (a)" and inserting "this section".

(2) Section 1391(c) is amended by striking "this section" and inserting "subsection (a)".

SEC. 703. VOLUME CAP NOT TO APPLY TO ENTERPRISE ZONE FACILITY BONDS WITH RESPECT TO NEW EMPOWERMENT ZONES.

(a) IN GENERAL.—Section 1394 (relating to tax-exempt enterprise zone facility bonds) is amended by adding at the end the following new subsection:

"(f) BONDS FOR EMPOWERMENT ZONES DESIGNATED UNDER SECTION 1391(g).—

"(1) IN GENERAL.—In the case of a new empowerment zone facility bond—

"(A) such bond shall not be treated as a private activity bond for purposes of section 146, and

"(B) subsection (c) of this section shall not apply.

"(2) LIMITATION ON AMOUNT OF BONDS.—

"(A) IN GENERAL.—Paragraph (1) shall apply to a new empowerment zone facility bond only if such bond is designated for purposes of this subsection by the local government which nominated the area to which such bond relates.

"(B) LIMITATION ON BONDS DESIGNATED.—The aggregate face amount of bonds which may be designated under subparagraph (A) with respect to any empowerment zone shall not exceed—

"(i) $60,000,000 if such zone is in a rural area,

"(ii) $130,000,000 if such zone is in an urban area and the zone has a population of less than 100,000, and

"(iii) $230,000,000 if such zone is in an urban area and the zone has a population of at least 100,000.

"(C) SPECIAL RULES.—

"(i) COORDINATION WITH LIMITATION IN SUBSECTION (c).—Bonds to which paragraph (1) applies shall not be taken into account in applying the limitation of subsection (c) to other bonds.

"(ii) CURRENT REFUNDING NOT TAKEN INTO ACCOUNT.—In the case of a refunding (or series of refundings) of a bond designated under this paragraph, the refunding obligation shall be treated as designated under this paragraph (and shall not be taken into account in applying subparagraph (B)) if—

"(I) the amount of the refunding bond does not exceed the outstanding amount of the refunded bond, and

"(II) the refunded bond is redeemed not later than 90 days after the date of issuance of the refunding bond.

"(3) NEW EMPOWERMENT ZONE FACILITY BOND.—For purposes of this subsection, the term 'new empowerment zone facility bond' means any bond which would be described in subsection (a) if only empowerment zones designated under section 1391(g) were taken into account under sections 1397B and 1397C."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to obligations issued after the date of the enactment of this Act.

SEC. 704. MODIFICATIONS TO ENTERPRISE ZONE FACILITY BOND RULES FOR ALL EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES.

(a) MODIFICATIONS RELATING TO ENTERPRISE ZONE BUSINESS.—Paragraph (3) of section 1394(b) (defining enterprise zone business) is amended to read as follows:

"(3) ENTERPRISE ZONE BUSINESS.—

"(A) IN GENERAL.—Except as modified in this paragraph, the term 'enterprise zone business' has the meaning given such term by section 1397B.

"(B) MODIFICATIONS.—In applying section 1397B for purposes of this section—

"(i) BUSINESSES IN ENTERPRISE COMMUNITIES ELIGIBLE.—References in section 1397B to empowerment zones shall be treated as including references to enterprise communities.

"(ii) WAIVER OF REQUIREMENTS DURING STARTUP PERIOD.—A business shall not fail to be treated as an enterprise zone business during the startup period if—

"(I) as of the beginning of the startup period, it is reasonably expected that such business will be an enterprise zone business (as defined in section 1397B as modified by this paragraph) at the end of such period, and

"(II) such business makes bona fide efforts to be such a business.

"(iii) REDUCED REQUIREMENTS AFTER TESTING PERIOD.—A business shall not fail to be treated as an enterprise zone business for any taxable year beginning after the testing period by reason of failing to meet any requirement of subsection (b) or (c) of section 1397B if at least 35 percent of the employees of such business for such year are residents of an empowerment zone or an enterprise community. The preceding sentence shall not apply to any business which is not a qualified business by reason of paragraph (1), (4), or (5) of section 1397B(d).

"(C) DEFINITIONS RELATING TO SUBPARAGRAPH (B).—For purposes of subparagraph (B)—

"(i) STARTUP PERIOD.—The term 'startup period' means, with respect to any property being provided for any business, the period before the first taxable year beginning more than 2 years after the later of—

"(I) the date of issuance of the issue providing such property, or

"(II) the date such property is first placed in service after such issuance (or, if earlier, the date which is 3 years after the date described in subclause (I)).

"(ii) TESTING PERIOD.—The term 'testing period' means the first 3 taxable years beginning after the startup period.

"(D) PORTIONS OF BUSINESS MAY BE ENTERPRISE ZONE BUSINESS.—The term 'enterprise zone business' includes any trades or businesses which would qualify as an enterprise zone business (determined after the modifications of subparagraph (B)) if such trades or businesses were separately incorporated."

(b) MODIFICATIONS RELATING TO QUALIFIED ZONE PROPERTY.—Paragraph (2) of section 1394(b) (defining qualified zone property) is amended to read as follows:

"(2) QUALIFIED ZONE PROPERTY.—The term 'qualified zone property' has the meaning given such term by section 1397C; except that—

"(A) the references to empowerment zones shall be treated as including references to enterprise communities, and

"(B) section 1397C(a)(2) shall be applied by substituting 'an amount equal to 15 percent of the adjusted basis' for 'an amount equal to the adjusted basis'."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

SEC. 705. MODIFICATIONS TO ENTERPRISE ZONE BUSINESS DEFINITION FOR ALL EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES.

(a) IN GENERAL.—Section 1397B (defining enterprise zone business) is amended—

(1) by striking "80 percent" in subsections (b)(2) and (c)(1) and inserting "50 percent",

(2) by striking "substantially all" each place it appears in subsections (b) and (c) and inserting "a substantial portion",

(3) by striking ", and exclusively related to," in subsections (b)(4) and (c)(3),

(4) by adding at the end of subsection (d)(2) the following new flush sentence:

"For purposes of subparagraph (B), the lessor of the property may rely on a lessee's certification that such lessee is an enterprise zone business.",

(5) by striking "substantially all" in subsection (d)(3) and inserting "at least 50 percent", and

(6) by adding at the end the following new subsection:

"(f) TREATMENT OF BUSINESSES STRADDLING CENSUS TRACT LINES.—For purposes of this section, if—

"(1) a business entity or proprietorship uses real property located within an empowerment zone,

"(2) the business entity or proprietorship also uses real property located outside the empowerment zone,

"(3) the amount of real property described in paragraph (1) is substantial compared to the amount of real property described in paragraph (2), and

"(4) the real property described in paragraph (2) is contiguous to part or all of the real property described in paragraph (1),

then all the services performed by employees, all business activities, all tangible property, and all intangible property of the business entity or proprietorship that occur in or is located on the real property described in paragraphs (1) and (2) shall be treated as occurring or situated in an empowerment zone."

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning on or after the date of the enactment of this Act.

(2) SPECIAL RULE FOR ENTERPRISE ZONE FACILITY BONDS.—For purposes of section 1394(b) of the Internal Revenue Code of 1986, the amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

Subtitle B—Brownfields

SEC. 711. EXPENSING OF ENVIRONMENTAL REMEDIATION COSTS.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 is amended by adding at the end the following new section:

"SEC. 198. EXPENSING OF ENVIRONMENTAL REMEDIATION COSTS.

"(a) IN GENERAL.—A taxpayer may elect to treat any qualified environmental remediation expenditure which is paid or incurred by the taxpayer as an expense which is not chargeable to capital account. Any expenditure which is so treated shall be allowed as a deduction for the taxable year in which it is paid or incurred.

"(b) QUALIFIED ENVIRONMENTAL REMEDIATION EXPENDITURE.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified environmental remediation expenditure' means any expenditure—

"(A) which is otherwise chargeable to capital account, and

"(B) which is paid or incurred in connection with the abatement or control of hazardous substances at a qualified contaminated site.

"(2) SPECIAL RULE FOR EXPENDITURES FOR DEPRECIABLE PROPERTY.—Such term shall not include any expenditure for the acquisition of property of a character subject to the allowance for depreciation which is used in connection with the abatement or control of hazardous substances at a qualified contaminated site; except that the portion of the allowance under section 167 for such property which is otherwise allocated to such site shall be treated as a qualified environmental remediation expenditure.

"(c) QUALIFIED CONTAMINATED SITE.—For purposes of this section—

"(1) QUALIFIED CONTAMINATED SITE.—

"(A) IN GENERAL.—The term 'qualified contaminated site' means any area—

"(i) which is held by the taxpayer for use in a trade or business or for the production of income, or which is property described in section 1221(1) in the hands of the taxpayer,

"(ii) which is within a targeted area, and

"(iii) at or on which there has been a release (or threat of release) or disposal of any hazardous substance.

"(B) TAXPAYER MUST RECEIVE STATEMENT FROM STATE ENVIRONMENTAL AGENCY.—An area shall be treated as a qualified contaminated site with respect to expenditures paid or incurred during any taxable year only if the taxpayer receives a statement from the appropriate agency of the State in which such area is located that such area meets the requirements of clauses (ii) and (iii) of subparagraph (A).

"(C) APPROPRIATE STATE AGENCY.— For purposes of subparagraph (B), the appropriate agency of a State is the agency designated by the Administrator of the Environmental Protection Agency for purposes of this section. If no agency of a State is designated under the preceding sentence, the appropriate agency for such State shall be the Environmental Protection Agency.

"(2) TARGETED AREA.—

"(A) IN GENERAL.—The term 'targeted area' means—

"(i) any population census tract with a poverty rate of not less than 20 percent,

"(ii) a population census tract with a population of less than 2,000 if—

"(I) more than 75 percent of such tract is zoned for commercial or industrial use, and

"(II) such tract is contiguous to 1 or more other population census tracts which meet the requirement of clause (i) without regard to this clause,

"(iii) any empowerment zone or enterprise community (and any supplemental zone designated on December 21, 1994), and

"(iv) any site announced before February 1, 1997, as being included as a brownfields pilot project of the Environmental Protection Agency.

"(B) NATIONAL PRIORITIES LISTED SITES NOT INCLUDED.—Such term shall not include any site which is on, or proposed for, the national priorities list under section

105(a)(8)(B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (as in effect on the date of the enactment of this section).

"(C) CERTAIN RULES TO APPLY.—For purposes of this paragraph the rules of sections 1392(b)(4) and 1393(a)(9) shall apply.

"(d) HAZARDOUS SUBSTANCE.—For purposes of this section—

"(1) IN GENERAL.—The term 'hazardous substance' means—

"(A) any substance which is a hazardous substance as defined in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and

"(B) any substance which is designated as a hazardous substance under section 102 of such Act.

"(2) EXCEPTION.—Such term shall not include any substance with respect to which a removal or remedial action is not permitted under section 104 of such Act by reason of subsection (a)(3) thereof.

"(e) DEDUCTION RECAPTURED AS ORDINARY INCOME ON SALE, ETC.—Solely for purposes of section 1245, in the case of property to which a qualified environmental remediation expenditure would have been capitalized but for this section—

"(1) the deduction allowed by this section for such expenditure shall be treated as a deduction for depreciation, and

"(2) such property (if not otherwise section 1245 property) shall be treated as section 1245 property solely for purposes of applying section 1245 to such deduction.

"(f) COORDINATION WITH OTHER PROVISIONS.—Sections 280B and 468 shall not apply to amounts which are treated as expenses under this section.

"(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section."

(b) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1 is amended by adding at the end the following new item:

"Sec. 198. Expensing of environmental remediation costs."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures paid or incurred after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 712. USE OF REDEVELOPMENT BONDS FOR ENVIRONMENTAL REMEDIATION.

(a) ENVIRONMENTAL REMEDIATION INCLUDED AS REDEVELOPMENT PURPOSE.—Subparagraph (A) of section 144(c)(3) (relating to redevelopment purposes) is amended by striking "and" at the end of clause (iii), by striking the period at the end of clause (iv) and inserting ", and", and by adding at the end the following new clause:

"(v) costs incurred in connection with abatement or control of hazardous substances at a qualified contaminated site (as defined in section 198(c)) if such costs are incurred pursuant to an environmental remediation plan which was approved by the Administrator of the Environmental Protection Agency or by the head of any State or local government agency designated by the Administrator to carry out the Administrator's functions under this clause."

(b) CERTAIN REQUIREMENTS NOT TO APPLY TO REDEVELOPMENT BONDS FOR ENVIRONMENTAL REMEDIATION.—Subsection (c) of section 144 is amended by adding at the end the following new paragraph:

"(9) CERTAIN REQUIREMENTS NOT TO APPLY TO REDEVELOPMENT BONDS FOR ENVIRONMENTAL REMEDIATION.—In the case of any bond issued as part of an issue 95 percent or more of the proceeds of which are to finance costs referred to in paragraph (3)(A)(v)—

"(A) paragraph (2)(A)(i) shall not apply,

"(B) paragraph (2)(A)(ii) shall not apply to any issue issued by the governing body described in paragraph (4)(A) with respect to the area which includes the site,

"(C) the requirement of paragraph (2)(B)(ii) shall be treated as met if—

"(i) the payment of the principal and interest on such issue is secured by taxes imposed by a governmental unit, or

"(ii) such issue is approved by the applicable elected representative (as defined in section 147(f)(2)(E)) of the governmental unit which issued such issue (or on behalf of which such issue was issued),

"(D) subparagraphs (C) and (D) of paragraph (2) shall not apply,

"(E) subparagraphs (C) and (D) of paragraph (4) shall not apply, and

"(F) if the real property referred to in clause (iii) of paragraph (3)(A) is 1 or more dwelling units, such clause shall apply only if the requirements of section 142(d) or 143 (as the case may be) are met with respect to such units."

(c) PENALTY FOR FAILURE TO SATISFACTORILY COMPLETE REMEDIATION PLAN.—Subsection (b) of section 150 is amended by adding at the end thereof the following new paragraph:

"(7) QUALIFIED CONTAMINATED SITE REMEDIATION BONDS.—In the case of financing provided for costs described in section 144(c)(3)(A)(v), no deduction shall be allowed under this chapter for interest on such financing during any period during which there is a determination by the Administrator of the Environmental Protection Agency (or by the head of any State or local government agency designated by the Administrator to carry out the Administrator's functions under this paragraph) that the remediation plan under which such costs were incurred was not satisfactorily completed."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

Subtitle C—Welfare to Work Credit

SEC. 721. WELFARE TO WORK CREDIT.

(a) ADDITIONAL TEMPORARY INCENTIVES FOR EMPLOYING LONG-TERM FAMILY ASSISTANCE RECIPIENTS.—Section 51 (relating to amount of work opportunity credit) is amended by inserting after subsection (d) the following new subsection:

"(e) ADDITIONAL TEMPORARY INCENTIVES FOR EMPLOYING LONG-TERM FAMILY ASSISTANCE RECIPIENTS.—

"(1) TREATMENT AS MEMBER OF TARGETED GROUP.—A long-term family assistance recipient shall be treated for purposes of this section as a member of a targeted group.

"(2) MODIFICATION TO PERCENTAGE AND YEARS OF CREDIT.—In the case of a long-term family assistance recipient, the amount of the work opportunity credit determined under this section for the taxable year shall be equal to the sum of—

"(A) 50 percent of the qualified first-year wages, and

"(B) 50 percent of the qualified second-year wages.

"(3) MODIFICATION TO AMOUNT OF WAGES TAKEN INTO ACCOUNT.—In the case of a long-term family assistance recipient—

"(A) $10,000 OF WAGES MAY BE TAKEN INTO ACCOUNT.—In lieu of applying subsection (b)(3), the amount of the qualified first-year wages, and the amount of qualified second-year wages, which may be taken into account with respect to any individual shall not exceed $10,000 per year.

"(B) CERTAIN AMOUNTS TREATED AS WAGES.—The term 'wages' includes amounts paid or incurred by the employer which are excludable from such recipient's gross income under—

"(i) section 105 (relating to amounts received under accident and health plans),

"(ii) section 106 (relating to contributions by employer to accident and health plans),

"(iii) section 127 (relating to educational assistance programs) or would be so excludable but for section 127(d), but only to the extent paid or incurred to a person not related to the employer, or

"(iv) section 129 (relating to dependent care assistance programs).

The amount treated as wages by clause (i) or (ii) for any period shall be based on the reasonable cost of coverage for the period, but shall not exceed the applicable premium for the period under section 4980B(f)(4).

"(C) SPECIAL RULES FOR AGRICULTURAL AND RAILWAY LABOR.—If such recipient is an employee to which subparagraph (A) or (B) of subsection (h)(1) applies—

"(i) such subparagraph (A) shall be applied by substituting '$10,000' for '$6,000', and

"(ii) such subparagraph (B) shall be applied by substituting '$825' for '$500'.

"(D) TERMINATION.—In lieu of applying subsection (c)(4), this subsection shall not apply to amounts paid or incurred with respect to an individual who begins work for the employer after September 30, 2000.

"(4) LONG-TERM FAMILY ASSISTANCE RECIPIENT.—For purposes of this subsection, the term 'long-term family assistance recipient' means any individual who is certified by the designated local agency—

"(A) as being a member of a family receiving assistance under a IV-A program (as defined in subsection (d)(2)(B)) for at least the 18-month period ending on the hiring date,

"(B)(i) as being a member of a family receiving such assistance for any 18-month period beginning after the date of the enactment of this subsection, and

"(ii) as having a hiring date which is not more than 2 years after the end of the earliest such 18-month period, or

"(C)(i) as being a member of a family which ceased to be eligible after the date of the enactment of this subsection for such assistance by reason of any limitation imposed by Federal or State law on the maximum period such assistance is payable to a family, and

"(ii) as having a hiring date which is not more than 2 years after the date of such cessation.

"(5) QUALIFIED SECOND-YEAR WAGES.—For purposes of this subsection, the term 'qualified second-year wages' means, with respect to any individual, the qualified wages attributable to service rendered during the 1-year period beginning on the day after the last day of the 1-year period with respect to such individual determined under subsection (b)(2)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to individuals who begin work for the employer after the date of the enactment of this Act.

Subtitle D—Community Development Financial Institutions

SEC. 731. CREDIT FOR QUALIFIED EQUITY INVESTMENTS IN COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits) is amended by adding at the end the following new section:

"SEC. 45E. QUALIFIED EQUITY INVESTMENTS IN COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS.

"(a) GENERAL RULE.—For purposes of section 38, the community development financial institution investment credit for any taxable year is an amount equal to the applicable percentage of the qualified equity investment made by the taxpayer during the taxable year.

"(b) APPLICABLE PERCENTAGE.—For purposes of subsection (a), the term 'applicable percentage' means, with respect to any investment, 25 percent, or, if the CDFI Fund establishes a lower percentage with respect to such investment for purposes of this section, such lower percentage.

"(c) QUALIFIED EQUITY INVESTMENT.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified equity investment' means any stock or partnership interest in a community development financial institution (as defined in section 103 of the Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4702))—

"(A) if such institution is designated for purposes of this section by the CDFI Fund,

"(B) if such stock or partnership interest is acquired by the taxpayer at its original issue from the institution (directly or through an underwriter) in exchange for money or other property, and

"(C) to the extent the amount of such investment is designated for such purposes by such Fund.

Rules similar to the rules of section 1202(c)(3) shall apply for purposes of subparagraph (B).

"(2) CRITERIA FOR DESIGNATING INSTITUTIONS.—Designations under paragraph (1)(A) shall be made in accordance with criteria established by the CDFI Fund. In establishing such criteria, the CDFI Fund shall take into account the requirements and criteria set forth in sections 105(b) and 107 of such Act.

"(3) CDFI FUND.—The term 'CDFI Fund' means the Community Development Financial Institutions Fund established by section 104 of such Act.

"(d) LIMITATION ON AMOUNT OF CREDIT.—

"(1) IN GENERAL.—The amount of credit determined under this section for any qualified equity investment shall not exceed the credit amount allocated to such investment by the CDFI Fund.

"(2) OVERALL LIMITATION.—The aggregate credit amount which may be allocated by the CDFI Fund under this section shall not exceed $100,000,000.

"(e) RECAPTURE OF CREDIT WHERE DISPOSITION OF EQUITY INVESTMENT WITHIN 5 YEARS.—

"(1) IN GENERAL.—If the taxpayer disposes of any investment with respect to which a credit was determined under subsection (a) (or any other property the basis of which is determined in whole or in part by reference to the adjusted basis of such investment) before the end of the 5-year period beginning on the date such investment was made, the tax imposed by this chapter for the taxable year in which such disposition occurs shall be increased by the aggregate decrease in tax of the taxpayer resulting from the credit determined under this subsection (a) with respect to such investment.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply to any gift, transfer, or transaction described in paragraph (1), (2), or (3) of section 1245(b).

"(3) SPECIAL RULE.—Any increase in tax under paragraph (1) shall not be treated as a tax imposed by this chapter for purposes of—

"(A) determining the amount of any credit allowable under this chapter, and

"(B) determining the amount of the tax imposed by section 55.

"(f) BASIS REDUCTION.—The basis of any qualified equity investment shall be reduced by the amount of any credit determined under this section with respect to such investment.

"(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out this section. Such regulations may provide for the recapture of the credit under this section with respect to investments in institutions which cease to satisfy the criteria established by the CDFI Fund for designation under subsection (c)(1)(A).

"(h) TERMINATION.—This section shall not apply to any investment made after December 31, 2006."

(b) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 is amended by striking "plus" at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting ", plus", and by adding at the end the following new paragraph:

"(13) the community development financial institution investment credit determined under section 45E(a)."

(c) CREDIT ALLOWED AGAINST REGULAR AND MINIMUM TAX.—

(1) IN GENERAL.—Subsection (c) of section 38 (relating to limitation based on amount of tax) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) SPECIAL RULES FOR COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION INVESTMENT CREDIT.—

"(A) IN GENERAL.—In the case of the community development financial institution investment credit—

"(i) this section and section 39 shall be applied separately with respect to the credit, and

"(ii) in applying paragraph (1) to the credit—

"(I) 75 percent of the tentative minimum tax shall be substituted for the tentative minimum tax under subparagraph (A) thereof, and

"(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the community development financial institution investment credit).

"(B) COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION INVESTMENT CREDIT.—For purposes of this subsection, the term 'community development financial institution investment credit' means the credit allowable under subsection (a) by reason of section 45E(a)."

(2) CONFORMING AMENDMENT.—Subclause (II) of section 38(c)(2)(A)(ii) is amended by inserting "and the community development financial institution investment credit" after "employment credit".

(d) LIMITATION ON CARRYBACK.—Subsection (d) of section 39 is amended by adding at the end the following new paragraph:

"(9) NO CARRYBACK OF COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION INVESTMENT CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the credit under section 45E may be carried back to a taxable year ending before the date of the enactment of section 45E."

(e) DEDUCTION FOR UNUSED CREDIT.—Subsection (c) of section 196 is amended by striking "and" at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting ", and", and by adding at the end the following new paragraph:

"(8) the community development financial institution investment credit determined under section 45E(a)."

(f) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

"Sec. 45E. Qualified equity investments in community development financial institutions."

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to investments made after the date of the enactment of this Act.

TITLE VIII—OTHER TAX RELIEF

SEC. 801. SUSPENSION OF STATUTE OF LIMITATIONS ON FILING REFUND CLAIMS DURING PERIODS OF DISABILITY.

(a) IN GENERAL.—Section 6511 (relating to limitations on credit or refund) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) RUNNING OF PERIODS OF LIMITATION SUSPENDED WHILE TAXPAYER IS FINANCIALLY DISABLED.—

"(1) IN GENERAL.—In the case of an individual, the running of the periods specified in subsections (a), (b), and (c) shall be suspended during any period of such individual's life that such individual is financially disabled.

"(2) FINANCIALLY DISABLED.—

"(A) IN GENERAL.—For purposes of paragraph (1), an individual is financially disabled if such individual is unable to manage his financial affairs by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. An individual shall not be considered to have such an impairment unless proof of the existence thereof is furnished in such form and manner as the Secretary may require.

"(B) EXCEPTION WHERE INDIVIDUAL HAS GUARDIAN, ETC.—An individual shall not be treated as financially disabled during any period that such individual's spouse or any other person is authorized to act on behalf of such individual in financial matters."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to claims for credit or refund for periods ending after the date of the enactment of this Act.

SEC. 802. MODIFICATIONS OF PUERTO RICO ECONOMIC ACTIVITY CREDIT.

(a) EXTENSION OF CREDIT.—Section 30A(g) (relating to application of credit) is amended by striking ", and before January 1, 2006".

(b) TAXPAYERS OTHER THAN EXISTING CLAIMANTS ELIGIBLE FOR CREDIT.—Section 30A(a)(2) (defining qualified domestic corporation) is amended to read as follows:

"(2) QUALIFIED DOMESTIC CORPORATION.—For purposes of paragraph (1), the term 'qualified domestic corporation' means a domestic corporation with respect to which section 936(a)(4)(B) does not apply for the taxable year."

(c) REPEAL OF BASE PERIOD CAP.—Section 30A(a)(1) is amended by striking the last sentence.

(d) Conforming Amendments.—

(1) Section 30A(a)(3) is amended to read as follows:

"(3) Separate application.—For purposes of determining the amount of the credit allowed under this section, this section (and so much of section 936 as relates to this section) shall be applied separately with respect to Puerto Rico."

(2) Section 30A(e)(1) is amended by inserting "but not including subsection (j) thereof" after "thereunder".

(e) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. 803. TREATMENT OF SOFTWARE AS FSC EXPORT PROPERTY.

(a) In General.—Section 927(a)(2)(B) (relating to excluded property) is amended by inserting "computer software," after "other than".

(b) Effective Dates.—

(1) In general.—Except as provided in paragraph (2), the amendment made by this section shall apply to software licenses granted after the date of the enactment of this Act in taxable years ending after such date.

(2) Exception for existing licenses.—The amendment made by this section shall not apply to software licenses granted by a licensor after the date of the enactment of this Act if, on such date, the person to whom the license is granted (or any related person) held a substantially similar license granted by the licensor (or any related person).

TITLE IX—INCENTIVES FOR THE DISTRICT OF COLUMBIA

SEC. 901. TAX INCENTIVES FOR REVITALIZATION OF THE DISTRICT OF COLUMBIA.

(a) In General.—Chapter 1 is amended by adding at the end the following new subchapter:

"Subchapter W—Incentives for Revitalization of the District of Columbia

"Sec. 1400A. Employment credit.
"Sec. 1400B. Additional expensing.
"Sec. 1400C. Tax-exempt economic development bonds.
"Sec. 1400D. Credit for equity investments in and loans to District of Columbia businesses.
"Sec. 1400E. Definitions.
"Sec. 1400F. Status of Economic Development Corporation for District of Columbia.

"SEC. 1400A. EMPLOYMENT CREDIT.

"(a) Amount of Credit.—For purposes of section 38, the amount of the District of Columbia employment credit determined under this section for the taxable year shall be equal to 40 percent of the qualified first-year wages for such year.

"(b) Qualified First-Year Wages.—For purposes of this section—

"(1) In general.—The term 'qualified first-year wages' means wages paid or incurred by the employer during the taxable year which are attributable to services rendered by an employee of the employer—

"(A) during the 1-year period beginning on the day the employee begins work for the employer, and

"(B) while the employee is a qualified District employee.

"(2) Only first $10,000 of wages taken into account.—The amount of the qualified first-year wages which may be taken into account with respect to any individual for all taxable years of an employer shall not exceed $10,000.

"(3) Coordination with work opportunity credit.—The amount of the credit determined under this section with respect to qualified first-year wages of an individual shall be reduced by the amount of the work opportunity credit determined under section 51 with respect to such wages.

"(c) Qualified District Employee.—For purposes of this section—

"(1) In general.—Except as otherwise provided in this subsection, the term 'qualified District employee' means any employee of an employer if—

"(A) the principal place of abode of such employee throughout the 1-year period described in subsection (b)(1)(A)—

"(i) is within the District of Columbia, and

"(ii) in the case of an individual who is not a member of a targeted group (within the meaning of section 51(d)), is within a population census tract having a poverty rate of at least 15 percent,

"(B)(i) substantially all of the services performed during such period by such employee for such employer are performed within the District of Columbia in a trade or business of the employer, or

"(ii) the principal place of business of the employer is within the District of Columbia, and

"(C) in the case of an individual who is not a member of a targeted group (within the meaning of section 51(d)), as of the beginning of such period it is reasonable to expect that the compensation to be paid to such individual for services performed during such period for the employer will be less than $28,500.

"(2) Certain persons not eligible.—The term 'qualified District employee' shall not include—

"(A) any individual described in subparagraph (A), (B), or (C) of section 51(i)(1) (relating to related individuals),

"(B) any individual described in section 51(i)(2) (relating to nonqualifying rehires), determined by treating qualified District employees as members of a targeted group,

"(C) any 5-percent owner (as defined in section 416(i)(1)(B)),

"(D) any individual employed by the employer unless such individual—

"(i) is employed by the employer for at least 180 days, or

"(ii) has completed at least 400 hours of services performed for the employer, and

"(E) any individual employed by the employer at any facility described in section 144(c)(6)(B).

Rules similar to the rules of section 1396(d)(3) shall apply for purposes of subparagraph (D).

"(d) Definition and Special Rules.—For purposes of this section—

"(1) Wages.—The term 'wages' has the same meaning as when used in section 51, including amounts treated as wages by section 51(e)(3)(B); except that subsections (c)(4) and (e)(3)(D) shall not apply.

"(2) Controlled groups.—All employers treated as a single employer under subsection (a) or (b) of section 52 shall be treated as a single employer, and the credit (if any) determined under this section with respect to each such employer shall be its proportionate share of the wages giving rise to such credit.

"(3) Certain other rules made applicable.—Rules similar to the rules of subsections (j) and (k) of section 51, and subsections (c), (d), and (e) of section 52, shall apply.

"(4) Certification of principal place of abode.—An individual shall not be treated as meeting the requirement of subsection (c)(1)(A) unless requirements similar to the requirements of section 51(d)(11) are met.

"(5) Cost-of-living adjustment of $28,500 limit.—In the case of any period during a calendar year after 1997, the dollar amount contained in subsection (c)(1)(C) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 1996' for 'calendar year 1992' in subparagraph (B) thereof.

"(6) Other incentives.—

"(A) Extension of additional temporary incentive for employing long-term family assistance recipients residing in the District of Columbia.—In the case of a long-term family assistance recipient (as defined in section 51(e)(4)), section 51(e)(3)(D) shall be applied by substituting 'September 30, 2002' for 'September 30, 2000' if—

"(i) such individual's principal place of abode is within the District of Columbia during the period described in section 51(e)(3), and

"(ii) the requirement of clause (i) or (ii) of subsection (c)(1)(B) is met during such period with respect to such individual.

"(B) Extension of work opportunity credit.—In the case of wages paid to a member of a targeted group (within the meaning of section 51(d)) while such member's principal place of abode is within the District of Columbia, section 51(c)(4)(B) shall be applied by substituting 'September 30, 2002' for 'September 30, 1998'.

"(e) Application of Section.—This section shall apply with respect to individuals who begin work for the employer on and after the date of the enactment of this section and before October 1, 2002.

"SEC. 1400B. ADDITIONAL EXPENSING.

"(a) General Rule.—In the case of a qualified District business, for purposes of section 179—

"(1) the limitation under section 179(b)(1) shall be increased by the lesser of—

"(A) $20,000, or

"(B) the cost of section 179 property which is qualified District property placed in service during the taxable year, and

"(2) the amount taken into account under section 179(b)(2) with respect to any section 179 property which is qualified District property shall be 50 percent of the cost thereof.

"(b) Recapture.—Rules similar to the rules under section 179(d)(10) shall apply with respect to any qualified District property which ceases to be used in the District of Columbia by a District business.

"(c) Coordination With Section 1397A.—In no event shall qualified District property be treated as qualified zone property for purposes of section 1397A.

"(d) Application of Section.—This section shall apply to property placed in service after December 31, 1997, and before January 1, 2002.

"SEC. 1400C. TAX-EXEMPT ECONOMIC DEVELOPMENT BONDS.

"(a) In General.—For purposes of part IV of subchapter B of this chapter (relating to tax exemption requirements for State and local bonds), the term 'exempt facility bond' includes any bond issued as part of an issue 95 percent or more of the net proceeds (as defined in section 150(a)(3)) of which are to be used to provide any District facility.

"(b) District Facility.—For purposes of this section, the term 'District facility' means any District property the principal user of which is a qualified District business, and any land which is functionally related and subordinate to such property.

"(c) Limitation on Amount of Bonds.—Subsection (a) shall not apply to any issue if the aggregate amount of outstanding District facility bonds allocable to any person (taking into account such issue) exceeds $15,000,000.

“(d) CERTAIN RULES TO APPLY.—

“(1) IN GENERAL.—Rules similar to the rules of subsections (c)(2), (d), and (e) of section 1394, and subparagraphs (B)(ii), (C), and (D) of section 1394(b)(3), shall apply for purposes of this section.

“(2) REQUIREMENTS AFTER TESTING PERIOD.—A business shall not fail to be treated as a qualified District business for purposes of this section for any taxable year beginning after the testing period (as defined in section 1394(b)(3)(C)) by reason of failing to meet any requirement of subsection (b) or (c) of section 1397B. The preceding sentence shall not apply to any business which is not a qualified business by reason of paragraph (1), (4), or (5) of section 1397B(d).

“(e) APPLICATION OF SECTION.—This section shall apply to bonds issued after the date of the enactment of this section and before January 1, 2003.

“SEC. 1400D. CREDIT FOR EQUITY INVESTMENTS IN AND LOANS TO DISTRICT OF COLUMBIA BUSINESSES.

“(a) GENERAL RULE.—For purposes of section 38, the District investment credit determined under this section for any taxable year is—

“(1) the qualified lender credit for such year, and

“(2) the qualified equity investment credit for such year.

“(b) QUALIFIED LENDER CREDIT.—For purposes of this section—

“(1) IN GENERAL.—The qualified lender credit for any taxable year is the amount of credit specified for such year by the Economic Development Corporation with respect to qualified District loans made by the taxpayer.

“(2) LIMITATION.—In no event may the qualified lender credit with respect to any loan exceed 25 percent of the cost of the property purchased with the proceeds of the loan.

“(3) QUALIFIED DISTRICT LOAN.—For purposes of paragraph (1), the term ‘qualified district loan’ means any loan for the purchase (as defined in section 179(d)(2)).of property to which section 168 applies (or would apply but for section 179) (or land which is functionally related and subordinate to such property) and substantially all of the use of which is in the District of Columbia and is in the active conduct of a trade or business in the District of Columbia. A rule similar to the rule of section 1397C(a)(2) shall apply for purposes of the preceding sentence.

“(c) QUALIFIED EQUITY INVESTMENT CREDIT.—

“(1) IN GENERAL.—For purposes of this section, the qualified equity investment credit determined under this section for any taxable year is an amount equal to the percentage specified by the Economic Development Corporation (but not greater than 25 percent) of the aggregate amount paid in cash by the taxpayer during the taxable year for the purchase of District business investments.

“(2) DISTRICT BUSINESS INVESTMENT.—For purposes of this subsection, the term ‘District business investment’ means—

“(A) any District business stock, and

“(B) any District partnership interest.

“(3) DISTRICT BUSINESS STOCK.—For purposes of this subsection—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the term ‘District business stock’ means any stock in a domestic corporation if—

“(i) such stock is acquired by the taxpayer at its original issue (directly or through an underwriter) in exchange for cash, and

“(ii) as of the time such stock was issued, such corporation was engaged in a trade or business in the District of Columbia (or, in the case of a new corporation, such corporation was being organized for purposes of engaging in such a trade or business).

“(B) REDEMPTIONS.—A rule similar to the rule of section 1202(c)(3) shall apply for purposes of this paragraph.

“(4) QUALIFIED DISTRICT PARTNERSHIP INTEREST.—For purposes of this subsection, the term ‘qualified District partnership interest’ means any interest in a partnership if—

“(A) such interest is acquired by the taxpayer from the partnership solely in exchange for cash, and

“(B) as of the time such interest was acquired, such partnership was engaging in a trade or business in the District of Columbia (or, in the case of a new partnership, such partnership was being organized for purposes of engaging in such a trade or business).

“(5) DISPOSITIONS OF DISTRICT BUSINESS INVESTMENTS.—

“(A) IN GENERAL.—If a taxpayer disposes of any District business investment (or any other property the basis of which is determined in whole or in part by reference to the adjusted basis of such investment) before the end of the 5-year period beginning on the date such investment was acquired by the taxpayer, the taxpayer's tax imposed by this chapter for the taxable year in which such distribution occurs shall be increased by the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted solely from reducing to zero any credit determined under this section with respect to such investment.

“(B) EXCEPTIONS.—Subparagraph (A) shall not apply to any gift, transfer, or transaction described in paragraph (1), (2), or (3) of section 1245(b).

“(C) SPECIAL RULE.—Any increase in tax under subparagraph (A) shall not be treated as a tax imposed by this chapter for purposes of—

“(i) determining the amount of any credit allowable under this chapter, and

“(ii) determining the amount of the tax imposed by section 55.

“(6) BASIS REDUCTION.—For purposes of this title, the basis of any District business investment shall be reduced by the amount of the credit determined under this section with respect to such investment.

“(d) LIMITATION ON AMOUNT OF CREDIT.—

“(1) IN GENERAL.—The amount of the District investment credit determined under this section with respect to any taxpayer for any taxable year shall not exceed the credit amount allocated to such taxpayer for such taxable year by the Economic Development Corporation.

“(2) OVERALL LIMITATION.—The aggregate credit amount which may be allocated by the Economic Development Corporation under this section shall not exceed $95,000,000.

“(3) CRITERIA FOR ALLOCATING CREDIT AMOUNTS.—The allocation of credit amounts under this section shall be made in accordance with criteria established by the Economic Development Corporation. In establishing such criteria, such Corporation shall take into account—

“(A) the degree to which the business receiving the loan or investment will provide job opportunities for low and moderate income residents of the District of Columbia, and

“(B) whether such business is within a population census tract in the District of Columbia having a poverty rate of at least 15 percent.

“(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out this section.

“(f) APPLICATION OF SECTION.—This section shall apply to any credit amount allocated for taxable years beginning after December 31, 1997, and before January 1, 2003.

“SEC. 1400E. DEFINITIONS.

“(a) QUALIFIED DISTRICT BUSINESS.—For purposes of this subchapter, the term ‘qualified District business’ means a corporation, partnership, or proprietorship which would be a qualified business entity (as defined in section 1397B) or a qualified proprietorship (as defined in such section) if—

“(1) the District of Columbia were an empowerment zone (and there were no other empowerment zones or enterprise communities), and

“(2) section 1397B(b)(1) did not apply.

“(b) QUALIFIED DISTRICT PROPERTY.—For purposes of this subchapter, the term ‘qualified District property’ means any property which would be qualified zone property (as defined in section 1397C) if—

“(1) the District of Columbia were an empowerment zone (and there were no other empowerment zones or enterprise communities),

“(2) paragraph (1)(A) of section 1397C(a) referred to the date of the enactment of this section,

“(3) paragraph (1)(B) of section 1397C(a) did not apply, and

“(4) paragraph (2) of section 1397C(a) were applied by substituting ‘an amount equal to 15 percent of the adjusted basis’ for ‘an amount equal to the adjusted basis’.

“(c) ECONOMIC DEVELOPMENT CORPORATION.—For purposes of this subchapter, the term ‘Economic Development Corporation’ means the Economic Development Corporation hereafter established by law for the District of Columbia.

“SEC. 1400F. STATUS OF ECONOMIC DEVELOPMENT CORPORATION FOR DISTRICT OF COLUMBIA.

“(a) IN GENERAL.—For purposes of this title and the Social Security Act, the Economic Development Corporation is an agency of the District of Columbia.

“(b) BOND AUTHORITY.—The Economic Development Corporation shall be allocated 50 percent of the private activity bond volume cap allocated to the District of Columbia under section 146. Notwithstanding section 146(e), the District of Columbia may not alter the allocation under the preceding sentence.”

(b) CREDITS MADE PART OF GENERAL BUSINESS CREDIT.—

(1) Subsection (b) of section 38 is amended by striking “plus” at the end of paragraph (12), by striking the period at the end of paragraph (13) and inserting a comma, and by adding at the end the following new paragraphs:

“(14) the District of Columbia employment credit determined under section 1400A(a), plus

“(15) the District investment credit determined under section 1400D(a).”

(2) Subsection (d) of section 39 is amended by adding at the end the following new paragraph:

“(10) NO CARRYBACK OF DISTRICT OF COLUMBIA EMPLOYMENT AND INVESTMENT CREDITS BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the credit under section 1400A or 1400D may be carried back to a taxable year ending before the date of the enactment of such sections.”

(3) Subsection (c) of section 196 is amended by striking "and" at the end of paragraph (7), by striking the period at the end of paragraph (8) and inserting a comma, and by adding at the end the following new paragraphs:

"(9) the District of Columbia employment credit determined under section 1400A(a), and

"(10) the District investment credit determined under section 1400D(a)."

(c) Clerical Amendment.—The table of subchapters for chapter 1 is amended by adding at the end the following new item:

"Subchapter W. Incentives for revitalization
of the District of Columbia."

(d) Effective Date.—This section shall take effect on the date of the enactment of this Act.

TITLE X—REVENUES

Subtitle A—Financial Products

SEC. 1001. CONSTRUCTIVE SALES TREATMENT FOR APPRECIATED FINANCIAL POSITIONS.

(a) In General.—Part IV of subchapter P of chapter 1 is amended by adding at the end the following new section:

"SEC. 1259. CONSTRUCTIVE SALES TREATMENT FOR APPRECIATED FINANCIAL POSITIONS.

"(a) In General.—If there is a constructive sale of an appreciated financial position—

"(1) the taxpayer shall recognize gain as if such position were sold, assigned, or otherwise terminated at its fair market value on the date of such constructive sale (and any gain shall be taken into account for the taxable year which includes such date), and

"(2) for purposes of applying this title for periods after the constructive sale—

"(A) proper adjustment shall be made in the amount of any gain or loss subsequently realized with respect to such position for any gain taken into account by reason of paragraph (1), and

"(B) the holding period of such position shall be determined as if such position were originally acquired on the date of such constructive sale.

"(b) Appreciated Financial Position.—For purposes of this section—

"(1) In general.—Except as provided in paragraph (2), the term 'appreciated financial position' means any position with respect to any stock, debt instrument, or partnership interest if there would be gain were such position sold, assigned, or otherwise terminated at its fair market value.

"(2) Exceptions.—The term 'appreciated financial position' shall not include—

"(A) any position with respect to straight debt (as defined in section 1361(c)(5)(B) without regard to clause (iii) thereof), and

"(B) any position which is marked to market under any provision of this title or the regulations thereunder.

"(3) Position.—The term 'position' means an interest, including a futures or forward contract, short sale, or option.

"(c) Constructive Sale.—For purposes of this section—

"(1) In general.—A taxpayer shall be treated as having made a constructive sale of an appreciated financial position if the taxpayer (or a related person)—

"(A) enters into a short sale of the same or substantially identical property,

"(B) enters into an offsetting notional principal contract with respect to the same or substantially identical property,

"(C) enters into a futures or forward contract to deliver the same or substantially identical property,

"(D) in the case of an appreciated financial position that is a short sale or a contract described in subparagraph (B) or (C) with respect to any property, acquires the same or substantially identical property, or

"(E) to the extent prescribed by the Secretary in regulations, enters into 1 or more other transactions (or acquires 1 or more positions) that have substantially the same effect as a transaction described in any of the preceding subparagraphs.

"(2) Exception for sales of nonpublicly traded property.—The term 'constructive sale' shall not include any contract for sale of any stock, debt instrument, or partnership interest which is not a marketable security (as defined in section 453(f)) if the contract settles within 1 year after the date such contract is entered into.

"(3) Exception for certain closed transactions.—In applying this section, there shall be disregarded any transaction (which would otherwise be treated as a constructive sale) during the taxable year if—

"(A) such transaction is closed before the end of the 30th day after the close of such taxable year, and

"(B) in the case of a transaction which is closed during the 90-day period ending on such 30th day—

"(i) the taxpayer holds the appreciated financial position throughout the 60-day period beginning on the date such transaction is closed, and

"(ii) at no time during such 60-day period is the taxpayer's risk of loss with respect to such position reduced by reason of a circumstance which would be described in section 246(c)(4) if references to stock included references to such position.

"(4) Related person.—A person is related to another person with respect to a transaction if—

"(A) the relationship is described in section 267 or 707(b), and

"(B) such transaction is entered into with a view toward avoiding the purposes of this section.

"(d) Other Definitions.—For purposes of this section—

"(1) Forward contract.—The term 'forward contract' means a contract to deliver a substantially fixed amount of property for a substantially fixed price.

"(2) Offsetting notional principal contract.—The term 'offsetting notional principal contract' means, with respect to any property, an agreement which includes—

"(A) a requirement to pay (or provide credit for) all or substantially all of the investment yield (including appreciation) on such property for a specified period, and

"(B) a right to be reimbursed for (or receive credit for) all or substantially all of any decline in the value of such property.

"(e) Special Rules.—

"(1) Treatment of subsequent sale of position which was deemed sold.—If—

"(A) there is a constructive sale of any appreciated financial position,

"(B) such position is subsequently disposed of, and

"(C) at the time of such disposition, the transaction resulting in the constructive sale of such position is open with respect to the taxpayer or any related person,

solely for purposes of determining whether the taxpayer has entered into a constructive sale of any other appreciated financial position held by the taxpayer, the taxpayer shall be treated as entering into such transaction immediately after such disposition. For purposes of the preceding sentence, an assignment or other termination shall be treated as a disposition.

"(2) Certain trust instruments treated as stock.—For purposes of this section, an interest in a trust which is actively traded (within the meaning of section 1092(d)(1)) shall be treated as stock.

"(3) Multiple positions in property.—If a taxpayer holds multiple positions in property, the determination of whether a specific transaction is a constructive sale and, if so, which appreciated financial position is deemed sold shall be made in the same manner as actual sales.

"(f) Regulations.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section."

(b) Election of Mark to Market for Securities Traders and for Traders and Dealers in Commodities.—Subsection (d) of section 475 (relating to mark to market accounting method for dealers in securities) is amended by adding at the end the following new paragraph:

"(4) Election of mark to market for securities traders and for traders and dealers in commodities.—

"(A) In general.—In the case of a person—

"(i) who is engaged in a trade or business to which this paragraph applies, and

"(ii) who elects to be treated as a dealer in securities for purposes of this section with respect to such trade or business,

subsections (a), (b)(3), (c)(3), and (e) and the preceding provisions of this subsection (or, in the case of a dealer in commodities, this section) shall apply to all commodities and securities held by such person in any trade or business with respect to which such election is in effect in the same manner as if such person were a dealer in securities and all references to securities included references to commodities.

"(B) Application of paragraph.—This paragraph shall apply to any active trade or business—

"(i) as a trader in securities, or

"(ii) as a trader or dealer in commodities.

"(C) Exception for certain holdings of traders.—In the case of a trader in securities or commodities, subsection (a) shall not apply to any security or commodity (to which subsection (a) would otherwise apply solely by reason of this paragraph) if such security or commodity is clearly identified in the trader's records (before the close of the day applicable under subsection (b)(2)) as being held other than in a trade or business to which the election under subparagraph (A) is in effect. A security or commodity so identified shall be treated as described in subsection (b)(1).

"(D) Commodity.—For purposes of this paragraph, the term 'commodities' includes only commodities of a kind customarily dealt in on an organized commodity exchange.

"(E) Election.—An election under this paragraph may be made separately for each trade or business and without the consent of the Secretary. Such an election, once made, shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary."

(c) Clerical Amendment.—The table of sections for part IV of subchapter P of chapter 1 is amended by adding at the end the following new item:

"Sec. 1259. Constructive sales treatment for
appreciated financial positions."

(d) Effective Dates.—

(1) In general.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to any constructive sale after June 8, 1997.

(2) EXCEPTION FOR SALES OF POSITIONS, ETC. HELD BEFORE JUNE 9, 1997.—A constructive sale before June 9, 1997, and the property to which the position involved in the transaction relates, shall not be taken into account in determining whether any other constructive sale after June 8, 1997, has occurred if, within before the close of the 30-day period beginning on the date of the enactment of this Act, such position and property are clearly identified in the taxpayer's records as offsetting. The preceding sentence shall cease to apply as of the date the taxpayer ceases to hold such position or property.

(3) SPECIAL RULE.—In the case of a decedent dying after June 8, 1997, if—

(A) there was a constructive sale on or before such date of any appreciated financial position,

(B) the transaction resulting in such constructive sale of such position remains open (with respect to the decedent or any related person) for not less than 2 years after the date of such transaction (whether such period is before or after such date), and

(C) such transaction is not closed within the 30-day period beginning on the date of the enactment of this Act,

then, for purposes of such Code, such position (and any property related thereto, as determined under the principles of section 1259(d)(1) of such Code (as so added)) shall be treated as property constituting rights to receive an item of income in respect of a decedent under section 691 of such Code.

(4) ELECTION OF SECURITIES TRADERS, AND FOR TRADERS AND DEALERS IN COMMODITIES, TO BE TREATED AS DEALERS IN SECURITIES.—

(A) IN GENERAL.—The amendment made by subsection (b) shall apply to taxable years ending after the date of the enactment of this Act.

(B) 4-YEAR SPREAD OF ADJUSTMENTS.—In the case of a taxpayer who elects under section 475(d)(4) of the Internal Revenue Code of 1986 (as added by this section) to change its method of accounting for its first taxable year ending after the date of the enactment of this Act, the net amount of the adjustments required to be taken into account by the taxpayer under section 481 of the Internal Revenue Code of 1986 shall be taken into account ratably over the 4-taxable year period beginning with such first taxable year.

SEC. 1002. LIMITATION ON EXCEPTION FOR INVESTMENT COMPANIES UNDER SECTION 351.

(a) IN GENERAL.—Paragraph (1) of section 351(e) (relating to exceptions) is amended by adding at the end the following: "For purposes of the preceding sentence, the term 'investment company' includes any company if more than 80 percent of the value of the assets of such company (other than assets held in the ordinary course of a trade or business for sale to customers) is attributable to—

"(A) money,

"(B) any financial instrument (as defined in section 731(c)(2)(C)),

"(C) any foreign currency,

"(D) any interest in a real estate investment trust, a common trust fund, a regulated investment company, or a publicly traded partnership (as defined in section 7704(b)),

"(E) any interest described in clause (iv), (v), or (vi) of section 731(c)(2)(B) (or which would be so described without regard to any reference to active trading or marketability),

"(F) any other asset specified in regulations prescribed by the Secretary, or

"(G) any combination of the foregoing."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to transfers after June 8, 1997, in taxable years ending after such date.

(2) BINDING CONTRACTS.—The amendment made by subsection (a) shall not apply to any transfer pursuant to a written binding contract in effect on June 8, 1997, that provides for the transfer of a fixed amount of property, and at all times thereafter before such transfer.

SEC. 1003. MODIFICATION OF RULES FOR ALLOCATING INTEREST EXPENSE TO TAX-EXEMPT INTEREST.

(a) PRO RATA ALLOCATION RULES APPLICABLE TO CORPORATIONS.—

(1) IN GENERAL.—Paragraph (1) of section 265(b) is amended by striking "In the case of a financial institution" and inserting "In the case of a corporation".

(2) ONLY OBLIGATIONS ACQUIRED AFTER JUNE 8, 1997, TAKEN INTO ACCOUNT.—Subparagraph (A) of section 265(b)(2) is amended by striking "August 7, 1986" and inserting "June 8, 1997 (August 7, 1986, in the case of a financial institution)".

(3) SMALL ISSUER EXCEPTION NOT TO APPLY.—Subparagraph (A) of section 265(b)(3) is amended by striking "Any qualified" and inserting "In the case of a financial institution, any qualified".

(4) EXCEPTION FOR CERTAIN BONDS ACQUIRED ON SALE OF GOODS OR SERVICES.—Subparagraph (B) of section 265(b)(4) is amended by adding at the end the following new sentence: "In the case of a taxpayer other than a financial institution, such term shall not include a nonsaleable obligation acquired by such taxpayer in the ordinary course of business as payment for goods or services provided by such taxpayer to any State or local government."

(5) LOOK-THRU RULES FOR PARTNERSHIPS.—Paragraph (6) of section 265(b) is amended by adding at the end the following new subparagraph:

"(C) LOOK-THRU RULES FOR PARTNERSHIPS.—In the case of a corporation which is a partner in a partnership, such corporation shall be treated for purposes of this subsection as holding directly its allocable share of the assets of the partnership."

(6) APPLICATION OF PRO RATA DISALLOWANCE ON AFFILIATED GROUP BASIS.—Subsection (b) of section 265 is amended by adding at the end the following new paragraph:

"(7) APPLICATION OF DISALLOWANCE ON AFFILIATED GROUP BASIS.—

"(A) IN GENERAL.—For purposes of this subsection, all members of an affiliated group filing a consolidated return under section 1501 shall be treated as 1 taxpayer.

"(B) TREATMENT OF INSURANCE COMPANIES.—This subsection shall not apply to an insurance company, and subparagraph (A) shall be applied without regard to any member of an affiliated group which is an insurance company."

(6) DE MINIMIS EXCEPTION FOR NONFINANCIAL INSTITUTIONS.—Subsection (b) of section 265 is amended by adding at the end the following new paragraph:

"(8) DE MINIMIS EXCEPTION FOR NONFINANCIAL INSTITUTIONS.—In the case of a corporation, paragraph (1) shall not apply for any taxable year if the amount described in paragraph (2)(A) with respect to such corporation does not exceed the lesser of—

"(A) 2 percent of the amount described in paragraph (2)(B), or

"(B) $1,000,000.

The preceding sentence shall not apply to a financial institution or to a dealer in tax-exempt obligations."

(7) CLERICAL AMENDMENT.—The subsection heading for section 265(b) is amended by striking "FINANCIAL INSTITUTIONS" and inserting "CORPORATIONS".

(b) APPLICATION OF SECTION 265(a)(2) WITH RESPECT TO CONTROLLED GROUPS.—Paragraph (2) of section 265(a) is amended after "obligations" by inserting "held by the taxpayer (or any corporation which is a member of a controlled group (as defined in section 267(f)(1)) which includes the taxpayer)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 1004. GAINS AND LOSSES FROM CERTAIN TERMINATIONS WITH RESPECT TO PROPERTY.

(a) APPLICATION OF CAPITAL TREATMENT TO PROPERTY OTHER THAN PERSONAL PROPERTY.—

(1) IN GENERAL.—Paragraph (1) of section 1234A (relating to gains and losses from certain terminations) is amended by striking "personal property (as defined in section 1092(d)(1))" and inserting "property".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to terminations more than 30 days after the date of the enactment of this Act.

(b) APPLICATION OF CAPITAL TREATMENT, ETC. TO OBLIGATIONS ISSUED BY NATURAL PERSONS.—

(1) IN GENERAL.—Section 1271(b) is amended to read as follows:

"(b) EXCEPTION FOR CERTAIN OBLIGATIONS.—

"(1) IN GENERAL.—This section shall not apply to—

"(A) any obligation issued by a natural person before June 9, 1997, and

"(B) any obligation issued before July 2, 1982, by an issuer which is not a corporation and is not a government or political subdivision thereof.

"(2) TERMINATION.—Paragraph (1) shall not apply to any obligation purchased (within the meaning of section 179(d)(2)) after June 8, 1997."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of enactment of this Act.

SEC. 1005. DETERMINATION OF ORIGINAL ISSUE DISCOUNT WHERE POOLED DEBT OBLIGATIONS SUBJECT TO ACCELERATION.

(a) IN GENERAL.—Subparagraph (C) of section 1272(a)(6) (relating to debt instruments to which the paragraph applies) is amended by striking "or" at the end of clause (i), by striking the period at the end of clause (ii) and inserting ", or", and by inserting after clause (i) the following:

"(iii) any pool of debt instruments the yield on which may be reduced by reason of prepayments (or to the extent provided in regulations, by reason of other events).

To the extent provided in regulations prescribed by the Secretary, in the case of a small business engaged in the trade or business of selling tangible personal property at retail, clause (iii) shall not apply to debt instruments incurred in the ordinary course of such trade or business while held by such business."

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer required by this section to change its method of accounting for its first taxable year beginning after the date of the enactment of this Act—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as made with the consent of the Secretary, and

(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481 of the Internal Revenue Code of 1986 shall be taken into account ratably over the 4-taxable year period beginning with such first taxable year.

SEC. 1006. DENIAL OF INTEREST DEDUCTIONS ON CERTAIN DEBT INSTRUMENTS.

(a) IN GENERAL.—Section 163 (relating to deduction for interest) is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

"(k) DISALLOWANCE OF DEDUCTION ON CERTAIN DEBT INSTRUMENTS OF CORPORATIONS.—

"(1) IN GENERAL.—No deduction shall be allowed under this chapter for any interest paid or accrued on a disqualified debt instrument.

"(2) DISQUALIFIED DEBT INSTRUMENT.—For purposes of this subsection, the term 'disqualified debt instrument' means any indebtedness of a corporation which is payable in equity of the issuer or a related party.

"(3) SPECIAL RULES FOR AMOUNTS PAYABLE IN EQUITY.—For purposes of paragraph (2), indebtedness shall be treated as payable in equity of the issuer or a related party only if—

"(A) a substantial amount of the principal or interest is required to be paid or converted, or at the option of the issuer or a related party is payable in, or convertible into, such equity,

"(B) a substantial amount of the principal or interest is required to be determined, or at the option of the issuer or a related party is determined, by reference to the value of such equity, or

"(C) the indebtedness is part of an arrangement which is reasonably expected to result in a transaction described in subparagraph (A) or (B).

For purposes of subparagraphs (A) and (B), principal or interest shall be treated as required to be so paid, converted, or determined if it may be required at the option of the holder or a related party and there is a substantial certainty the option will be exercised.

"(4) RELATED PARTY.—For purposes of this subsection, a person is a related party with respect to another person if such person bears a relationship to such other person described in section 267(b) or 707(b).

"(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection, including regulations preventing avoidance of this subsection through the use of an issuer other than a corporation."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall apply to disqualified debt instruments issued after June 8, 1997.

(2) TRANSITION RULE.—The amendment made by this section shall not apply to any instrument issued after June 8, 1997, if such instrument is—

(A) issued pursuant to a written agreement which was binding on such date and at all times thereafter,

(B) described in a ruling request submitted to the Internal Revenue Service on or before such date, or

(C) described on or before such date in a public announcement or in a filing with the Securities and Exchange Commission required solely by reason of the distribution.

Subtitle B—Corporate Organizations and Reorganizations

SEC. 1011. TAX TREATMENT OF CERTAIN EXTRAORDINARY DIVIDENDS.

(a) TREATMENT OF EXTRAORDINARY DIVIDENDS IN EXCESS OF BASIS.—Paragraph (2) of section 1059(a) (relating to corporate shareholder's recognition of gain attributable to nontaxed portion of extraordinary dividends) is amended to read as follows:

"(2) AMOUNTS IN EXCESS OF BASIS.—If the nontaxed portion of such dividends exceeds such basis, such excess shall be treated as gain from the sale or exchange of such stock for the taxable year in which the extraordinary dividend is received."

(b) TREATMENT OF REDEMPTIONS WHERE OPTIONS INVOLVED.—Paragraph (1) of section 1059(e) (relating to treatment of partial liquidations and non-pro rata redemptions) is amended to read as follows:

"(1) TREATMENT OF PARTIAL LIQUIDATIONS AND CERTAIN REDEMPTIONS.—Except as otherwise provided in regulations—

"(A) REDEMPTIONS.—In the case of any redemption of stock—

"(i) which is part of a partial liquidation (within the meaning of section 302(e)) of the redeeming corporation,

"(ii) which is not pro rata as to all shareholders, or

"(iii) which would not have been treated (in whole or in part) as a dividend if any options had not been taken into account under section 318(a)(4),

any amount treated as a dividend with respect to such redemption shall be treated as an extraordinary dividend to which paragraphs (1) and (2) of subsection (a) apply without regard to the period the taxpayer held such stock. In the case of a redemption described in clause (iii), only the basis in the stock redeemed shall be taken into account under subsection (a).

"(B) REORGANIZATIONS, ETC.—An exchange described in section 356(a)(1) which is treated as a dividend under section 356(a)(2) shall be treated as a redemption of stock for purposes of applying subparagraph (A)."

(c) TIME FOR REDUCTION.—Paragraph (1) of section 1059(d) is amended to read as follows:

"(1) TIME FOR REDUCTION.—Any reduction in basis under subsection (a)(1) shall be treated as occurring at the beginning of the ex-dividend date of the extraordinary dividend to which the reduction relates."

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to distributions after May 3, 1995.

(2) TRANSITION RULE.—The amendments made by this section shall not apply to any distribution made pursuant to the terms of—

(A) a written binding contract in effect on May 3, 1995, and at all times thereafter before such distribution, or

(B) a tender offer outstanding on May 3, 1995.

(3) CERTAIN DIVIDENDS NOT PURSUANT TO CERTAIN REDEMPTIONS.—In determining whether the amendment made by subsection (a) applies to any extraordinary dividend other than a dividend treated as an extraordinary dividend under section 1059(e)(1) of the Internal Revenue Code of 1986 (as amended by this Act), paragraphs (1) and (2) shall be applied by substituting "September 13, 1995" for "May 3, 1995".

SEC. 1012. APPLICATION OF SECTION 355 TO DISTRIBUTIONS FOLLOWED BY ACQUISITIONS AND TO INTRAGROUP TRANSACTIONS.

(a) DISTRIBUTIONS FOLLOWED BY ACQUISITIONS.—Section 355 (relating to distribution of stock and securities of a controlled corporation) is amended by adding at the end the following new subsection:

"(e) RECOGNITION OF GAIN WHERE CERTAIN DISTRIBUTIONS OF STOCK OR SECURITIES ARE FOLLOWED BY ACQUISITION.—

"(1) GENERAL RULE.—If there is a distribution to which this subsection applies, the following rules shall apply:

"(A) ACQUISITION OF CONTROLLED CORPORATION.—If there is an acquisition described in paragraph (2)(A)(ii) with respect to any controlled corporation, any stock or securities in the controlled corporation shall not be treated as qualified property for purposes of subsection (c)(2) of this section or section 361(c)(2).

"(B) ACQUISITION OF DISTRIBUTING CORPORATION.—If there is an acquisition described in paragraph (2)(A)(ii) with respect to the distributing corporation, the controlled corporation shall recognize gain in an amount equal to the amount of net gain which would be recognized if all the assets of the distributing corporation (immediately after the distribution) were sold (at such time) for fair market value. Any gain recognized under the preceding sentence shall be treated as long-term capital gain and shall be taken into account for the taxable year which includes the day after the date of such distribution.

"(2) DISTRIBUTIONS TO WHICH SUBSECTION APPLIES.—

"(A) IN GENERAL.—This subsection shall apply to any distribution—

"(i) to which this section (or so much of section 356 as relates to this section) applies, and

"(ii) which is part of a plan (or series of related transactions) pursuant to which 1 or more persons acquire directly or indirectly stock representing a 50-percent or greater interest in the distributing corporation or any controlled corporation.

"(B) PLAN PRESUMED TO EXIST IN CERTAIN CASES.—If 1 or more persons acquire directly or indirectly stock representing a 50-percent or greater interest in the distributing corporation or any controlled corporation during the 4-year period beginning on the date which is 2 years before the date of the distribution, such acquisition shall be treated as pursuant to a plan described in subparagraph (A)(ii) unless it is established that the distribution and the acquisition are not pursuant to a plan or series of related transactions.

"(C) COORDINATION WITH SUBSECTION (d).—This subsection shall not apply to any distribution to which subsection (d) applies.

"(3) SPECIAL RULES RELATING TO ACQUISITIONS.—

"(A) CERTAIN ACQUISITIONS NOT TAKEN INTO ACCOUNT.—Except as provided in regulations, the following acquisitions shall not be treated as described in paragraph (2)(A)(ii):

"(i) The acquisition of stock in any controlled corporation by the distributing corporation.

"(ii) The acquisition by a person of stock in any controlled corporation by reason of holding stock in the distributing corporation.

"(iii) The acquisition by a person of stock in any successor corporation of the distributing corporation or any controlled corporation by reason of holding stock in such distributing or controlled corporation.

"(iv) The acquisition of stock in a corporation if shareholders owning directly or indirectly a 50-percent or greater interest in the distributing corporation or any controlled corporation before such acquisition own indirectly a 50-percent or greater interest in such distributing or controlled corporation after such acquisition.

This subparagraph shall not apply to any acquisition if the stock held before the acquisition was acquired pursuant to a plan described in subparagraph (A)(ii).

"(B) ASSET ACQUISITIONS.—Except as provided in regulations, for purposes of this subsection, if the assets of the distributing corporation or any controlled corporation are acquired by a successor corporation in a transaction described in subparagraph (A), (C), or (D) of section 368(a)(1) or any other transaction specified in regulations by the Secretary, the shareholders (immediately before the acquisition) of the corporation acquiring such assets shall be treated as acquiring stock in the corporation from which the assets were acquired.

"(4) DEFINITION AND SPECIAL RULES.—For purposes of this subsection—

"(A) 50-PERCENT OR GREATER INTEREST.—The term '50-percent or greater interest' has the meaning given such term by subsection (d)(4).

"(B) DISTRIBUTIONS IN TITLE 11 OR SIMILAR CASE.—Paragraph (1) shall not apply to any distribution made in a title 11 or similar case (as defined in section 368(a)(3)).

"(C) AGGREGATION AND ATTRIBUTION RULES.—

"(i) AGGREGATION.—The rules of paragraph (7)(A) of subsection (d) shall apply.

"(ii) ATTRIBUTION.—Section 355(d)(8)(A) shall apply in determining whether a person holds stock or securities in any corporation.

"(D) SUCCESSORS AND PREDECESSORS.—For purposes of this subsection, any reference to a controlled corporation or a distributing corporation shall include a reference to any predecessor or successor of such corporation.

"(E) STATUTE OF LIMITATIONS.—If there is an acquisition to which paragraph (1) (A) or (B) applies—

"(i) the statutory period for the assessment of any deficiency attributable to any part of the gain recognized under this subsection by reason of such acquisition shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may by regulations prescribe) that such acquisition occurred, and

"(ii) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.

"(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection, including regulations—

"(A) providing for the application of this subsection where there is more than 1 controlled corporation,

"(B) treating 2 or more distributions as 1 distribution where necessary to prevent the avoidance of such purposes, and

"(C) providing for the application of rules similar to the rules of subsection (d)(6) where appropriate for purposes of paragraph (2)(B)."

(b) SECTION 355 Not To Apply to Certain Intragroup Transactions.—Section 355, as amended by subsection (a), is amended by adding at the end the following new subsection:

"(f) SECTION NOT TO APPLY TO CERTAIN INTRAGROUP TRANSACTIONS.—Except as provided in regulations, this section shall not apply to the distribution of stock from 1 member of an affiliated group filing a consolidated return to another member of such group, and the Secretary shall provide proper adjustments for the treatment of such distribution, including (if necessary) adjustments to—

"(1) the adjusted basis of any stock which—

"(A) is in a corporation which is a member of such group, and

"(B) is held by another member of such group, and

"(2) the earnings and profits of any member of such group."

(c) DETERMINATION OF CONTROL IN CERTAIN DIVISIVE TRANSACTIONS.—

(1) SECTION 351 TRANSACTIONS.—Section 351(c) (relating to special rule) is amended to read as follows:

"(c) SPECIAL RULES WHERE DISTRIBUTION TO SHAREHOLDERS.—

"(1) IN GENERAL.—In determining control for purposes of this section—

"(A) the fact that any corporate transferor distributes part or all of the stock in the corporation which it receives in the exchange to its shareholders shall not be taken into account, and

"(B) if the requirements of section 355 are met with respect to such distribution, the shareholders shall be treated as in control of such corporation immediately after the exchange if the shareholders hold at least a 50-percent interest in such corporation immediately after the distribution.

"(2) 50-PERCENT INTEREST.—For purposes of this subsection, the term '50-percent interest' means stock possessing 50 percent of the total combined voting power of all classes of stock entitled to vote and 50 percent of the total value of shares of all classes of stock."

(2) D REORGANIZATIONS.—Section 368(a)(2)(H) (relating to special rule for determining whether certain transactions are qualified under paragraph (1)(D)) is amended to read as follows:

"(H) SPECIAL RULES FOR DETERMINING WHETHER CERTAIN TRANSACTIONS ARE QUALIFIED UNDER PARAGRAPH (1)(D).—For purposes of determining whether a transaction qualifies under paragraph (1)(D)—

"(i) in the case of a transaction with respect to which the requirements of subparagraphs (A) and (B) of section 354(b)(1) are met, the term 'control' has the meaning given such term by section 304(c), and

"(ii) in the case of a transaction with respect to which the requirements of section 355 are met, the shareholders described in paragraph (1)(D) shall be treated as having control of the corporation to which the assets are transferred if such shareholders hold a 50-percent or greater interest (as defined in section 351(c)(2)) in such corporation immediately after the transfer."

(d) EFFECTIVE DATES.—

(1) SECTION 355 RULES.—The amendments made by subsections (a) and (b) shall apply to distributions after April 16, 1997.

(2) DIVISIVE TRANSACTIONS.—The amendments made by subsection (c) shall apply to transfers after the date of the enactment of this Act.

(3) TRANSITION RULE.—The amendments made by this section shall not apply to any distribution after April 16, 1997, if such distribution is—

(A) made pursuant to a written agreement which was binding on such date and at all times thereafter,

(B) described in a ruling request submitted to the Internal Revenue Service on or before such date, or

(C) described on or before such date in a public announcement or in a filing with the Securities and Exchange Commission required solely by reason of the distribution.

This subparagraph shall not apply to any written agreement, ruling request, or public announcement or filing unless it identifies the unrelated acquirer of the distributing corporation or of any controlled corporation, whichever is applicable.

SEC. 1013. TAX TREATMENT OF REDEMPTIONS INVOLVING RELATED CORPORATIONS.

(a) STOCK PURCHASES BY RELATED CORPORATIONS.—The last sentence of section 304(a)(1) (relating to acquisition by related corporation other than subsidiary) is amended to read as follows: "To the extent that such distribution is treated as a distribution to which section 301 applies, the transferor and the acquiring corporation shall be treated in the same manner as if the transferor had transferred the stock so acquired to the acquiring corporation in exchange for stock of the acquiring corporation in a transaction to which section 351(a) applies, and then the acquiring corporation had redeemed the stock it was treated as issuing in such transaction."

(b) COORDINATION WITH SECTION 1059.—Clause (iii) of section 1059(e)(1)(A), as amended by this title, is amended to read as follows:

"(iii) which would not have been treated (in whole or in part) as a dividend if—

"(I) any options had not been taken into account under section 318(a)(4), or

"(II) section 304(a) had not applied,".

(c) SPECIAL RULE FOR ACQUISITIONS BY FOREIGN CORPORATIONS.—Section 304(b) (relating to special rules for application of subsection (a)) is amended by adding at the end the following new paragraph:

"(5) ACQUISITIONS BY FOREIGN CORPORATIONS.—

"(A) IN GENERAL.—In the case of any acquisition to which subsection (a) applies in which the acquiring corporation is a foreign corporation, the only earnings and profits taken into account under paragraph (2)(A) shall be those earnings and profits—

"(i) which are attributable (under regulations prescribed by the Secretary) to stock of the acquiring corporation owned (within the meaning of section 958(a)) by a corporation or individual which is—

"(I) a United States shareholder (within the meaning of section 951(b)) of the acquiring corporation, and

"(II) the transferor or a person who bears a relationship to the transferor described in section 267(b) or 707(b), and

"(ii) which were accumulated during the period or periods such stock was owned by such person while the acquiring corporation was a controlled foreign corporation.

"(B) APPLICATION OF SECTION 1248.—For purposes of subparagraph (A), the rules of section 1248(d) shall apply except to the extent otherwise provided by the Secretary.

"(C) REGULATIONS.—The Secretary shall prescribe such regulations as are appropriate to carry out the purposes of this paragraph."

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to distributions and acquisitions after June 8, 1997.

(2) TRANSITION RULE.—The amendments made by this section shall not apply to any distribution or acquisition after June 8, 1997, if such distribution or acquisition is—

(A) made pursuant to a written agreement which was binding on such date and at all times thereafter,

(B) described in a ruling request submitted to the Internal Revenue Service on or before such date, or

(C) described in a public announcement or filing with the Securities and Exchange Commission on or before such date.

SEC. 1014. MODIFICATION OF HOLDING PERIOD APPLICABLE TO DIVIDENDS RECEIVED DEDUCTION.

(a) IN GENERAL.—Subparagraph (A) of section 246(c)(1) is amended to read as follows:

"(A) which is held by the taxpayer for 45 days or less during the 90-day period beginning on the date which is 45 days before the date on which such share becomes ex-dividend with respect to such dividend, or".

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 246(c) is amended to read as follows:

"(2) 90-DAY RULE IN THE CASE OF CERTAIN PREFERENCE DIVIDENDS.—In the case of stock having preference in dividends, if the taxpayer receives dividends with respect to such stock which are attributable to a period or periods aggregating in excess of 366 days, paragraph (1)(A) shall be applied—

"(A) by substituting '90 days' for '45 days' each place it appears, and

"(B) by substituting '180-day period' for '90-day period'."

(2) Paragraph (3) of section 246(c) is amended by adding "and" at the end of subparagraph (A), by striking subparagraph (B), and by redesignating subparagraph (C) as subparagraph (B).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to dividends received or accrued after the 30th day after the date of the enactment of this Act.

Subtitle C—Other Corporate Provisions

SEC. 1021. REGISTRATION AND OTHER PROVISIONS RELATING TO CONFIDENTIAL CORPORATE TAX SHELTERS.

(a) IN GENERAL.—Section 6111 (relating to registration of tax shelters) is amended by redesignating subsections (d) and (e) as subsections (e) and (f), respectively, and by inserting after subsection (c) the following new subsection:

"(d) CERTAIN CONFIDENTIAL ARRANGEMENTS TREATED AS TAX SHELTERS.—

"(1) IN GENERAL.—For purposes of this section, the term 'tax shelter' includes any entity, plan, arrangement, or transaction—

"(A) a significant purpose of the structure of which is the avoidance or evasion of Federal income tax for a direct or indirect participant which is a corporation,

"(B) which is offered to any potential participant under conditions of confidentiality, and

"(C) for which the tax shelter promoters may receive fees in excess of $100,000 in the aggregate.

"(2) CONDITIONS OF CONFIDENTIALITY.—For purposes of paragraph (1)(B), an offer is under conditions of confidentiality if—

"(A) the potential participant to whom the offer is made (or any other person acting on behalf of such participant) has an understanding or agreement with or for the benefit of any promoter of the tax shelter that such participant (or such other person) will limit disclosure of the tax shelter or any significant tax features of the tax shelter, or

"(B) any promoter of the tax shelter—

"(i) claims, knows, or has reason to know,

"(ii) knows or has reason to know that any other person (other than the potential participant) claims, or

"(iii) causes another person to claim,

that the tax shelter (or any aspect thereof) is proprietary to any person other than the potential participant or is otherwise protected from disclosure to or use by others.

For purposes of this subsection, the term 'promoter' means any person or any related person (within the meaning of section 267 or 707) who participates in the organization, management, or sale of the tax shelter.

"(3) PERSONS OTHER THAN PROMOTER REQUIRED TO REGISTER IN CERTAIN CASES.—

"(A) IN GENERAL.—If—

"(i) the requirements of subsection (a) are not met with respect to any tax shelter (as defined in paragraph (1)) by any tax shelter promoter, and

"(ii) no tax shelter promoter is a United States person,

then each United States person who discussed participation in such shelter shall register such shelter under subsection (a).

"(B) EXCEPTION.—Subparagraph (A) shall not apply to a United States person who discussed participation in a tax shelter if—

"(i) such person notified the promoter in writing (not later than the close of the 90th day after the day on which such discussions began) that such person would not participate in such shelter, and

"(ii) such person does not participate in such shelter.

"(4) OFFER TO PARTICIPATE TREATED AS OFFER FOR SALE.—For purposes of subsections (a) and (b), an offer to participate in a tax shelter (as defined in paragraph (1)) shall be treated as an offer for sale."

(b) PENALTY.—Subsection (a) of section 6707 (relating to failure to furnish information regarding tax shelters) is amended by adding at the end the following new paragraph:

"(3) CONFIDENTIAL ARRANGEMENTS.—

"(A) IN GENERAL.—In the case of a tax shelter (as defined in section 6111(d)), the penalty imposed under paragraph (1) shall be an amount equal to the greater of—

"(i) 50 percent of the fees paid to all promoters of the tax shelter with respect to offerings made before the date such shelter is registered under section 6111, or

"(ii) $10,000.

Clause (i) shall be applied by substituting '75 percent' for '50 percent' in the case of an intentional failure or act described in paragraph (1).

"(B) SPECIAL RULE FOR PARTICIPANTS REQUIRED TO REGISTER SHELTER.—In the case of a person required to register such a tax shelter by reason of section 6111(d)(3)—

"(i) such person shall be required to pay the penalty under paragraph (1) only if such person actually participated in such shelter,

"(ii) the amount of such penalty shall be determined by taking into account under subparagraph (A)(i) only the fees paid by such person, and

"(iii) such penalty shall be in addition to the penalty imposed on any other person for failing to register such shelter."

(c) MODIFICATIONS TO SUBSTANTIAL UNDERSTATEMENT PENALTY.—

(1) RESTRICTION ON REASONABLE BASIS FOR CORPORATE UNDERSTATEMENT OF INCOME TAX.—Subparagraph (B) of section 6662(d)(2) is amended by adding at the end the following new flush sentence:

"For purposes of clause (ii)(II), in no event shall a corporation be treated as having a reasonable basis for its tax treatment of an item attributable to a multiple-party financing transaction if such treatment does not clearly reflect the income of the corporation."

(2) MODIFICATION TO DEFINITION OF TAX SHELTER.—Clause (iii) of section 6662(d)(2)(C) is amended by striking "the principal purpose" and inserting "a significant purpose".

(d) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 6707(a) is amended by striking "The penalty" and inserting "Except as provided in paragraph (3), the penalty".

(2) Subparagraph (A) of section 6707(a)(1) is amended by striking "paragraph (2)" and inserting "paragraph (2) or (3), as the case may be".

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to any tax shelter (as defined in section 6111(d) of the Internal Revenue Code of 1986, as amended by this section) interests in which are offered to potential participants after the Secretary of the Treasury prescribes guidance with respect to meeting requirements added by such amendments.

(2) MODIFICATIONS TO SUBSTANTIAL UNDERSTATEMENT PENALTY.—The amendments made by subsection (c) shall apply to items with respect to transactions entered into after the date of the enactment of this Act.

SEC. 1022. CERTAIN PREFERRED STOCK TREATED AS BOOT.

(a) SECTION 351.—Section 351 (relating to transfer to corporation controlled by transferor) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) NONQUALIFIED PREFERRED STOCK NOT TREATED AS STOCK.—

"(1) IN GENERAL.—For purposes of subsections (a) and (b), the term 'stock' shall not include nonqualified preferred stock.

"(2) NONQUALIFIED PREFERRED STOCK.—For purposes of paragraph (1)—

"(A) IN GENERAL.—The term 'nonqualified preferred stock' means preferred stock if—

"(i) the holder of such stock has the right to require the issuer or a related person to redeem or purchase the stock,

"(ii) the issuer or a related person is required to redeem or purchase such stock,

"(iii) the issuer or a related person has the right to redeem or purchase the stock and, as of the issue date, it is more likely than not that such right will be exercised, or

"(iv) the dividend rate on such stock varies in whole or in part (directly or indirectly) with reference to interest rates, commodity prices, or other similar indices.

"(B) LIMITATIONS.—Clauses (i), (ii), and (iii) of subparagraph (A) shall apply only if the right or obligation referred to therein may be exercised within the 20-year period beginning on the issue date of such stock and such right or obligation is not subject to a contingency which, as of the issue date, makes remote the likelihood of the redemption or purchase.

"(C) EXCEPTIONS FOR CERTAIN RIGHTS OR OBLIGATIONS.—

"(i) IN GENERAL.—A right or obligation shall not be treated as described in clause (i), (ii), or (iii) of subparagraph (A) if—

"(I) it may be exercised only upon the death, disability, or mental incompetency of the holder, or

"(II) in the case of a right or obligation to redeem or purchase stock transferred in connection with the performance of services for the issuer or a related person (and which represents reasonable compensation), it may be exercised only upon the holder's separation from service from the issuer or a related person.

"(ii) EXCEPTION.—Clause (i)(I) shall not apply if the stock relinquished in the exchange, or the stock acquired in the exchange is in—

"(I) a corporation if any class of stock in such corporation or a related party is readily tradable on an established securities market or otherwise, or

"(II) any other corporation if such exchange is part of a transaction or series of transactions in which such corporation is to become a corporation described in subclause (I).

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) PREFERRED STOCK.—The term 'preferred stock' means stock which is limited and preferred as to dividends and does not participate (including through a conversion privilege) in corporate growth to any significant extent.

"(B) RELATED PERSON.—A person shall be treated as related to another person if they bear a relationship to such other person described in section 267(b) or 707(b).

"(4) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection and sections 354(a)(2)(C), 355(a)(3)(D), and 356(e). The Secretary may also prescribe regulations, consistent with the treatment under this subsection and such sections, for the treatment of nonqualified preferred stock under other provisions of this title."

(b) SECTION 354.—Paragraph (2) of section 354(a) (relating to exchanges of stock and securities in certain reorganizations) is amended by adding at the end the following new subparagraph:

"(C) NONQUALIFIED PREFERRED STOCK.—

"(i) IN GENERAL.—Nonqualified preferred stock (as defined in section 351(g)(2)) received in exchange for stock other than nonqualified preferred stock (as so defined) shall not be treated as stock or securities.

"(ii) RECAPITALIZATIONS OF FAMILY-OWNED CORPORATIONS.—

"(I) IN GENERAL.—Clause (i) shall not apply in the case of a recapitalization under section 368(a)(1)(E) of a family-owned corporation.

"(II) FAMILY-OWNED CORPORATION.—For purposes of this clause, except as provided in regulations, the term 'family-owned corporation' means any corporation which is described in clause (i) of section 447(d)(2)(C) throughout the 8-year period beginning on the date which is 5 years before the date of the recapitalization. For purposes of the preceding sentence, stock shall not be treated as owned by a family member during any period described in section 355(d)(6)(B)."

(c) SECTION 355.—Paragraph (3) of section 355(a) is amended by adding at the end the following new subparagraph:

"(D) NON QUALIFIED PREFERRED STOCK.—Nonqualified preferred stock (as defined in section 351(g)(2)) received in a distribution with respect to stock other than nonqualified preferred stock (as so defined) shall not be treated as stock or securities."

(d) SECTION 356.—Section 356 is amended by redesignating subsections (e) and (f) as subsections (f) and (g), respectively, and by inserting after subsection (d) the following new subsection:

"(e) NONQUALIFIED PREFERRED STOCK TREATED AS OTHER PROPERTY.—For purposes of this section—

"(1) IN GENERAL.—Except as provided in paragraph (2), the term 'other property' includes nonqualified preferred stock (as defined in section 351(g)(2)).

"(2) EXCEPTION.—The term 'other property' does not include nonqualified preferred stock (as so defined) to the extent that, under section 354 or 355, such preferred stock would be permitted to be received without the recognition of gain."

(e) CONFORMING AMENDMENTS.—

(1) Subparagraph (B) of section 354(a)(2) and subparagraph (C) of section 355(a)(3)(C) are each amended by inserting "(including nonqualified preferred stock, as defined in section 351(g)(2))" after "stock".

(2) Subparagraph (A) of section 354(a)(3) and subparagraph (A) of section 355(a)(4) are each amended by inserting "nonqualified preferred stock and" after "including".

(3) Section 1036 is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

"(b) NONQUALIFIED PREFERRED STOCK NOT TREATED AS STOCK.—For purposes of this section, nonqualified preferred stock (as defined in section 351(g)(2)) shall be treated as property other than stock."

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to transactions after June 8, 1997.

(2) TRANSITION RULE.—The amendments made by this section shall not apply to any transaction after June 8, 1997, if such transaction is—

(A) made pursuant to a written agreement which was binding on such date and at all times thereafter,

(B) described in a ruling request submitted to the Internal Revenue Service on or before such date, or

(C) described on or before such date in a public announcement or in a filing with the Securities and Exchange Commission required solely by reason of the distribution.

Subtitle D—Administrative Provisions

SEC. 1031. REPORTING OF CERTAIN PAYMENTS MADE TO ATTORNEYS.

(a) IN GENERAL.—Section 6045 (relating to returns of brokers) is amended by adding at the end the following new subsection:

"(f) RETURN REQUIRED IN THE CASE OF PAYMENTS TO ATTORNEYS.—

"(1) IN GENERAL.—Any person engaged in a trade or business and making a payment (in the course of such trade or business) to which this subsection applies shall file a return under subsection (a) and a statement under subsection (b) with respect to such payment.

"(2) APPLICATION OF SUBSECTION.—

"(A) IN GENERAL.—This subsection shall apply to any payment to an attorney in connection with legal services (whether or not such services are performed for the payor).

"(B) EXCEPTION.—This subsection shall not apply to the portion of any payment which is required to be reported under section 6041(a) (or would be so required but for the dollar limitation contained therein) or section 6051."

(b) REPORTING OF ATTORNEYS' FEES PAYABLE TO CORPORATIONS.—The regulations providing an exception under section 6041 of the Internal Revenue Code of 1986 for payments made to corporations shall not apply to payments of attorneys' fees.

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to payments made after December 31, 1997.

SEC. 1032. DECREASE OF THRESHOLD FOR REPORTING PAYMENTS TO CORPORATIONS PERFORMING SERVICES FOR FEDERAL AGENCIES.

(a) IN GENERAL.—Subsection (d) of section 6041A (relating to returns regarding payments of remuneration for services and direct sales) is amended by adding at the end the following new paragraph:

"(3) PAYMENTS TO CORPORATIONS BY FEDERAL EXECUTIVE AGENCIES.—

"(A) IN GENERAL.—Notwithstanding any regulation prescribed by the Secretary before the date of the enactment of this paragraph, subsection (a) shall apply to remuneration paid to a corporation by any Federal executive agency (as defined in section 6050M(b)).

"(B) EXCEPTION.—Subparagraph (A) shall not apply to—

"(i) services under contracts described in section 6050M(e)(3) with respect to which the requirements of section 6050M(e)(2) are met, and

"(ii) such other services as the Secretary may specify in regulations prescribed after the date of the enactment of this paragraph."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to returns the due date for which (determined without regard to any extension) is more than 90 days after the date of the enactment of this Act.

SEC. 1033. DISCLOSURE OF RETURN INFORMATION FOR ADMINISTRATION OF CERTAIN VETERANS PROGRAMS.

(a) GENERAL RULE.—Subparagraph (D) of section 6103(l)(7) (relating to disclosure of return information to Federal, State, and local agencies administering certain programs) is amended by striking "Clause (viii) shall not apply after September 30, 1998."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 1034. CONTINUOUS LEVY ON CERTAIN PAYMENTS.

(a) IN GENERAL.—Section 6331 (relating to levy and distraint) is amended—

(1) by redesignating subsection (h) as subsection (i), and

(2) by inserting after subsection (g) the following new subsection:

"(h) CONTINUING LEVY ON CERTAIN PAYMENTS.—

"(1) IN GENERAL.—The effect of a levy on specified payments to or received by a taxpayer shall be continuous from the date such levy is first made until such levy is released. Notwithstanding section 6334, such levy shall attach up to 15 percent of any salary or pension payment due to the taxpayer.

"(2) SPECIFIED PAYMENTS.—For the purposes of paragraph (1), the term 'specified payments' means—

"(A) Federal payments other than payments for which eligibility is based on the income or assets (or both) of a payee,

"(B) payments described in subsection (a)(4) (relating to unemployment benefits), and

"(C) payments described in subsection (a)(11) (relating to certain public assistance payments)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to levies issued after the date of the enactment of this Act.

SEC. 1035. RETURNS OF BENEFICIARIES OF ESTATES AND TRUSTS REQUIRED TO FILE RETURNS CONSISTENT WITH ESTATE OR TRUST RETURN OR TO NOTIFY SECRETARY OF INCONSISTENCY.

(a) DOMESTIC ESTATES AND TRUSTS.—Section 6034A (relating to information to beneficiaries of estates and trusts) is amended by adding at the end the following new subsection:

"(c) BENEFICIARY'S RETURN MUST BE CONSISTENT WITH ESTATE OR TRUST RETURN OR SECRETARY NOTIFIED OF INCONSISTENCY.—

"(1) IN GENERAL.—A beneficiary of any estate or trust to which subsection (a) applies shall, on such beneficiary's return, treat any reported item in a manner which is consistent with the treatment of such item on the applicable entity's return.

"(2) NOTIFICATION OF INCONSISTENT TREATMENT.—

"(A) IN GENERAL.—In the case of any reported item, if—

"(i)(I) the applicable entity has filed a return but the beneficiary's treatment on such beneficiary's return is (or may be) inconsistent with the treatment of the item on the applicable entity's return, or

"(II) the applicable entity has not filed a return, and

"(ii) the beneficiary files with the Secretary a statement identifying the inconsistency,

paragraph (1) shall not apply to such item.

"(B) BENEFICIARY RECEIVING INCORRECT INFORMATION.—A beneficiary shall be treated as having complied with clause (ii) of subparagraph (A) with respect to a reported item if the beneficiary—

"(i) demonstrates to the satisfaction of the Secretary that the treatment of the reported item on the beneficiary's return is consistent with the treatment of the item on the statement furnished under subsection (a) to the beneficiary by the applicable entity, and

"(ii) elects to have this paragraph apply with respect to that item.

"(3) EFFECT OF FAILURE TO NOTIFY.—In any case—

"(A) described in subparagraph (A)(i)(I) of paragraph (2), and

"(B) in which the beneficiary does not comply with subparagraph (A)(ii) of paragraph (2),

any adjustment required to make the treatment of the items by such beneficiary consistent with the treatment of the items on the applicable entity's return shall be treated as arising out of mathematical or clerical errors and assessed according to section 6213(b)(1). Paragraph (2) of section 6213(b) shall not apply to any assessment referred to in the preceding sentence.

"(4) DEFINITIONS.—For purposes of this subsection—

"(A) REPORTED ITEM.—The term 'reported item' means any item for which information is required to be furnished under subsection (a).

"(B) APPLICABLE ENTITY.—The term 'applicable entity' means the estate or trust of which the taxpayer is the beneficiary.

"(5) ADDITION TO TAX FOR FAILURE TO COMPLY WITH SECTION.—For addition to tax in the case of a beneficiary's negligence in connection with, or disregard of, the requirements of this section, see part II of subchapter A of chapter 68."

(b) FOREIGN TRUSTS.—Subsection (d) of section 6048 (relating to information with respect to certain foreign trusts) is amended by adding at the end the following new paragraph:

"(5) UNITED STATES PERSON'S RETURN MUST BE CONSISTENT WITH TRUST RETURN OR SECRETARY NOTIFIED OF INCONSISTENCY.—Rules similar to the rules of section 6034A(c) shall apply to items reported by a trust under subsection (b)(1)(B) and to United States persons referred to in such subsection."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns of beneficiaries and owners filed after the date of the enactment of this Act.

Subtitle E—Excise and Employment Tax Provisions

SEC. 1041. EXTENSION AND MODIFICATION OF AIRPORT AND AIRWAY TRUST FUND TAXES.

(a) FUEL TAXES.—

(1) AVIATION FUEL.—Clause (ii) of section 4091(b)(3)(A) is amended by striking "September 30, 1997" and inserting "September 30, 2007".

(2) AVIATION GASOLINE.—Subparagraph (B) of section 4081(d)(2) is amended by striking "September 30, 1997" and inserting "September 30, 2007".

(3) NONCOMMERCIAL AVIATION.—Subparagraph (B) of section 4041(c)(3) is amended by striking "September 30, 1997" and inserting "September 30, 2007".

(b) TICKET TAXES.—

(1) PERSONS.—Clause (ii) of section 4261(g)(1)(A) is amended by striking "September 30, 1997" and inserting "September 30, 2007".

(2) PROPERTY.—Clause (ii) of section 4271(d)(1)(A) is amended by striking "September 30, 1997" and inserting "September 30, 2007".

(c) MODIFICATIONS TO TAX ON TRANSPORTATION OF PERSONS BY AIR.—Subsection (c) of section 4261 (relating to use of international travel facilities) is amended to read as follows:

"(c) USE OF INTERNATIONAL TRAVEL FACILITIES.—

"(1) IN GENERAL.—There is hereby imposed a tax of $10 on any amount paid (whether within or without the United States) for any transportation of any person by air, if such transportation begins or ends in the United States.

"(2) EXCEPTION FOR TRANSPORTATION ENTIRELY TAXABLE UNDER SUBSECTION (a).—This subsection shall not apply to any transportation all of which is taxable under subsection (a) (determined without regard to sections 4281 and 4282).

"(3) SPECIAL RULE FOR ALASKA AND HAWAII.—In any case in which the tax imposed by paragraph (1) applies to a domestic segment, such tax shall apply only on departure.

"(4) INFLATION ADJUSTMENT.—

"(A) IN GENERAL.—In the case of transportation beginning in a calendar year after 1998, the dollar amount contained in paragraph (1) shall be increased by an amount equal to—

"(i) such dollar amount, multiplied by

"(ii) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 1997' for 'calendar year 1992' in subparagraph (B) thereof.

"(B) ROUNDING.—If any increase determined under subparagraph (A) is not a multiple of 10 cents, such increase shall be rounded to the nearest multiple of 10 cents."

(d) EFFECTIVE DATES.—

(1) FUEL TAXES.—The amendment made by subsection (a) shall apply take effect on October 1, 1997.

(2) TICKET TAXES.—

(A) IN GENERAL.—The amendments made by subsections (b) and (c) shall apply to transportation beginning on or after October 1, 1997.

(B) TREATMENT OF AMOUNTS PAID FOR TICKETS PURCHASED BEFORE DATE OF ENACTMENT.—The amendments made by subsection (c) shall not apply to amounts paid for a ticket purchased before the date of the enactment of this Act for a specified flight beginning on or after October 1, 1997.

SEC. 1042. CREDIT FOR TIRE TAX IN LIEU OF EXCLUSION OF VALUE OF TIRES IN COMPUTING PRICE.

(a) IN GENERAL.—Subsection (e) of section 4051 is amended to read as follows:

"(e) CREDIT AGAINST TAX FOR TIRE TAX.—If—

"(1) tires are sold on or in connection with the sale of any article, and

"(2) tax is imposed by this subchapter on the sale of such tires,

there shall be allowed as a credit against the tax imposed by this subchapter an amount equal to the tax (if any) imposed by section 4071 on such tires."

(b) CONFORMING AMENDMENT.—Subparagraph (B) of section 4052(b)(1) is amended by striking clause (iii), by adding "and" at the end of clause (ii), and by redesignating clause (iv) as clause (iii).

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1998.

SEC. 1043. RESTORATION OF LEAKING UNDERGROUND STORAGE TANK TRUST FUND TAXES.

Paragraph (3) of section 4081(d) is amended by inserting before the period ", and before the date of the enactment of the Revenue Reconciliation Act of 1997".

SEC. 1044. REINSTATEMENT OF OIL SPILL LIABILITY TRUST FUND TAX.

(a) IN GENERAL.—Paragraph (1) of section 4611(f) is amended by striking "December 31, 1989, and before January 1, 1995" and inserting "December 31, 1997". Paragraph (2) of section 4611(f) is hereby repealed.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 1998.

SEC. 1045. EXTENSION OF FEDERAL UNEMPLOYMENT SURTAX.

(a) IN GENERAL.—Section 3301 is amended by striking "equal to—" and all that follows through "thereafter;" and inserting "6.2 percent in the case of calendar year 1998 and each calendar year thereafter".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to calendar years beginning after December 31, 1997.

Subtitle F—Provisions Relating to Tax-Exempt Entities

SEC. 1051. EXPANSION OF LOOK-THRU RULE FOR INTEREST, ANNUITIES, ROYALTIES, AND RENTS DERIVED BY SUBSIDIARIES OF TAX-EXEMPT ORGANIZATIONS.

(a) IN GENERAL.—Paragraph (13) of section 512(b) is amended to read as follows:

"(13) SPECIAL RULES FOR CERTAIN AMOUNTS RECEIVED FROM CONTROLLED ENTITIES.—

"(A) IN GENERAL.—If an organization (in this paragraph referred to as the 'controlling organization') receives (directly or indirectly) a specified payment from another entity which it controls (in this paragraph referred to as the 'controlled entity'), notwithstanding paragraphs (1), (2), and (3), the controlling organization shall include such payment as an item of gross income derived from an unrelated trade or business to the extent such payment reduces the net unrelated income of the controlled entity (or increases any net unrelated loss of the controlled entity). There shall be allowed all deductions of the controlling organization directly connected with amounts treated as derived from an unrelated trade or business under the preceding sentence.

"(B) NET UNRELATED INCOME OR LOSS.—For purposes of this paragraph—

"(i) NET UNRELATED INCOME.—The term 'net unrelated income' means—

"(I) in the case of a controlled entity which is not exempt from tax under section 501(a), the portion of such entity's taxable income which would be unrelated business taxable income if such entity were exempt from tax under section 501(a) and had the same exempt purposes (as defined in section 513A(a)(5)(A)) as the controlling organization, or

"(II) in the case of a controlled entity which is exempt from tax under section 501(a), the amount of the unrelated business taxable income of the controlled entity.

"(ii) NET UNRELATED LOSS.—the term 'net unrelated loss' means the net operating loss adjusted under rules similar to the rules of clause (i).

"(C) SPECIFIED PAYMENT.—For purposes of this paragraph, the term 'specified payment' means any interest, annuity, royalty, or rent.

"(D) DEFINITION OF CONTROL.—For purposes of this paragraph—

"(i) CONTROL.—The term 'control' means—

"(I) in the case of a corporation, ownership (by vote or value) of more than 50 percent of the stock in such corporation,

"(II) in the case of a partnership, ownership of more than 50 percent of the profits interests or capital interests in such partnership, or

"(III) in any other case, ownership of more than 50 percent of the beneficial interests in the entity.

"(ii) CONSTRUCTIVE OWNERSHIP.—Section 318 (relating to constructive ownership of stock) shall apply for purposes of determining ownership of stock in a corporation. Similar principles shall apply for purposes of determining ownership of interests in any other entity.

"(E) RELATED PERSONS.—The Secretary shall prescribe such rules as may be necessary or appropriate to prevent avoidance of the purposes of this paragraph through the use of related persons."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

(2) CONTROL TEST.—In the case of taxable years beginning before January 1, 1999, an organization shall be treated as controlling another organization for purposes of section 512(b)(13) of the Internal Revenue Code of 1986 (as amended by this section) only if it controls such organization within the meaning of such section, determined by substituting "80 percent" for "50 percent" each place it appears in subparagraph (D) thereof.

Subtitle G—Foreign-Related Provisions

SEC. 1061. DEFINITION OF FOREIGN PERSONAL HOLDING COMPANY INCOME.

(a) INCOME FROM NOTIONAL PRINCIPAL CONTRACTS AND PAYMENTS IN LIEU OF DIVIDENDS.—

(1) IN GENERAL.—Paragraph (1) of section 954(c) (defining foreign personal holding company income) is amended by adding at the end the following new subparagraph:

"(F) INCOME FROM NOTIONAL PRINCIPAL CONTRACTS.—Net income from notional principal contracts. Any item of income, gain, deduction, or loss from a notional principal contract entered into for purposes of hedging any item described in any preceding subparagraph shall not be taken into account for purposes of this subparagraph but shall be taken into account under such other subparagraph.

"(G) PAYMENTS IN LIEU OF DIVIDENDS.—Payments in lieu of dividends which are made pursuant to an agreement to which section 1058 applies."

(2) CONFORMING AMENDMENT.—Subparagraph (B) of section 954(c)(1) is amended—

(A) by striking the second sentence, and

(B) by striking "also" in the last sentence.

(b) EXCEPTION FOR DEALERS.—Paragraph (2) of section 954(c) is amended by adding at the end the following new subparagraph:

"(C) EXCEPTION FOR DEALERS.—Except as provided in subparagraph (A), (E), or (G) of paragraph (1) or by regulations, in the case of a regular dealer in property (within the meaning of paragraph (1)(B)), forward contracts, option contracts, or similar financial instruments (including notional principal contracts and all instruments referenced to commodities), there shall not be taken into account in computing foreign personal holding income any item of income, gain, deduction, or loss from any transaction (including hedging transactions) entered into in the ordinary course of such dealer's trade or business as such a dealer."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 1062. PERSONAL PROPERTY USED PREDOMINANTLY IN THE UNITED STATES TREATED AS NOT PROPERTY OF A LIKE KIND WITH RESPECT TO PROPERTY USED PREDOMINANTLY OUTSIDE THE UNITED STATES.

(a) IN GENERAL.—Subsection (h) of section 1031 (relating to exchange of property held for productive use or investment) is amended to read as follows:

"(h) SPECIAL RULES FOR FOREIGN REAL AND PERSONAL PROPERTY.—For purposes of this section—

"(1) REAL PROPERTY.—Real property located in the United States and real property located outside the United States are not property of a like kind.

"(2) PERSONAL PROPERTY.—

"(A) IN GENERAL.—Personal property used predominantly within the United States and personal property used predominantly outside the United States are not property of a like kind.

"(B) PREDOMINANT USE.—Except as provided in subparagraph (C) and (D), the predominant use of any property shall be determined based on—

"(i) in the case of the property relinquished in the exchange, the 2-year period ending on the date of such relinquishment, and

"(ii) in the case of the property acquired in the exchange, the 2-year period beginning on the date of such acquisition.

"(C) PROPERTY HELD FOR LESS THAN 2 YEARS.—Except in the case of an exchange which is part of a transaction (or series of transactions) structured to avoid the purposes of this subsection—

"(i) only the periods the property was held by the person relinquishing the property (or any related person) shall be taken into account under subparagraph (B)(i), and

"(ii) only the periods the property was held by the person acquiring the property (or any related person) shall be taken into account under subparagraph (B)(ii).

"(D) SPECIAL RULE FOR CERTAIN PROPERTY.—Property described in any subparagraph of section 168(g)(4) shall be treated as used predominantly in the United States."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall apply to transfers after June 8, 1997, in taxable years ending after such date.

(2) BINDING CONTRACTS.—The amendment made by this section shall not apply to any transfer pursuant to a written binding contract in effect on June 8, 1997, and at all times thereafter before the disposition of property. A contract shall not fail to meet the requirements of the preceding sentence solely because—

(A) it provides for a sale in lieu of an exchange, or

(B) the property to be acquired as replacement property was not identified under such contract before June 9, 1997.

SEC. 1063. HOLDING PERIOD REQUIREMENT FOR CERTAIN FOREIGN TAXES.

(a) IN GENERAL.—Section 901 is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

"(k) MINIMUM HOLDING PERIOD FOR CERTAIN TAXES.—

"(1) IN GENERAL.—No credit shall be allowed to the taxpayer under subsection (a) for any income, war profits, or excess profits tax by reason of a dividend or other inclusion with respect to stock in a foreign corporation or a regulated investment company if—

"(A) such stock is held by the taxpayer for 15 days or less during the 30-day period beginning on the date which is 15 days before the date on which such share becomes ex-dividend with respect to such dividend, or

"(B) to the extent that the taxpayer is under an obligation (whether pursuant to a short sale or otherwise) to make related payments with respect to positions in substantially similar or related property.

"(2) LOWER TIER CORPORATIONS.—To the extent that the credit otherwise allowable under subsection (a) is for taxes deemed paid under section 853, 902, or 960 through a chain of ownership of stock in 1 or more other foreign corporations, no credit shall be allowed under subsection (a) for such taxes to the extent—

"(A) attributable to stock held by any corporation in such chain for less than the period described in paragraph (1)(A), or

"(B) that such corporation is under an obligation referred to in paragraph (1)(B).

"(3) 45-DAY RULE IN THE CASE OF CERTAIN PREFERENCE DIVIDENDS.—In the case of stock having preference in dividends, if the taxpayer receives dividends with respect to such stock which are attributable to a period or periods aggregating in excess of 366 days, paragraph (1)(A) shall be applied—

"(A) by substituting '45 days' for '15 days' each place it appears, and

"(B) by substituting '90-day period' for '30-day period'.

"(4) EXCEPTION FOR CERTAIN TAXES PAID BY SECURITIES DEALERS.—

"(A) IN GENERAL.—Paragraphs (1) and (2) shall not apply to any qualified tax with respect to any security held in the active conduct in a foreign country of a securities business of any person—

"(i) who is registered as a securities broker or dealer under section 15(a) of the Securities Exchange Act of 1934,

"(ii) who is registered as a Government securities broker or dealer under section 15C(a) of such Act, or

"(iii) who is licensed or authorized in such foreign country to conduct securities activities in such country and is subject to bona fide regulation by a securities regulating authority of such country.

"(B) QUALIFIED TAX.—For purposes of subparagraph (A), the term 'qualified tax' means a tax paid to a foreign country (other than the foreign country referred to in subparagraph (A)) if—

"(i) the dividend to which such tax is attributable is subject to taxation on a net basis by the country referred to in subparagraph (A), and

"(ii) such country allows a credit against its net basis tax for the full amount of the tax paid to such other foreign country.

"(C) REGULATIONS.—The Secretary may prescribe such regulations as may be appropriate to prevent the abuse of the exception provided by this paragraph.

"(5) CERTAIN RULES TO APPLY.—For purposes of this subsection, the rules of paragraphs (3) and (4) of section 246(c) shall apply.

"(6) TAXES ALLOWED AS DEDUCTION, ETC.—Sections 275 and 78 shall not apply to any tax which is not allowable as a credit under subsection (a) by reason of this subsection."

(b) NOTICE OF WITHHOLDING TAXES PAID BY REGULATED INVESTMENT COMPANY.—Subsection (c) of section 853 (relating to foreign tax credit allowed to shareholders) is amended by adding at the end the following new sentence: "Such notice shall also include the amount of such taxes which (without regard to the election under this section) would not be allowable as a credit under section 901(a) to the regulated investment company by reason of section 901(k)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to dividends paid or accrued more than 30 days after the date of the enactment of this Act.

SEC. 1064. PENALTIES FOR FAILURE TO DISCLOSE POSITION THAT CERTAIN INTERNATIONAL TRANSPORTATION INCOME IS NOT INCLUDIBLE IN GROSS INCOME.

(a) IN GENERAL.—Section 883 is amended by adding at the end the following new subsection:

"(d) PENALTIES FOR FAILURE TO DISCLOSE POSITION THAT CERTAIN INTERNATIONAL TRANSPORTATION INCOME IS NOT INCLUDIBLE IN GROSS INCOME.—

"(1) IN GENERAL.—A taxpayer who, with respect to any tax imposed by this title, takes the position that any of its gross income derived from the international operation of 1 or more ships or aircraft is not includible in gross income by reason of paragraph (1) or (2) of subsection (a) or paragraph (1) or (2) of section 872(b) (or by reason of any applicable treaty) shall be entitled to such treatment only if such position is disclosed (in such manner as the Secretary may prescribe) on the return of tax for such tax (or any statement attached to such return).

"(2) ADDITIONAL PENALTIES FOR FAILING TO DISCLOSE POSITION.—If a taxpayer fails to meet the requirement of paragraph (1) for any taxable year with respect to the international operation of 1 or more ships or one or more aircraft—

"(A) the amount of the income from the international operation to which such failure relates—

"(i) which is from sources without the United States, and

"(ii) which is attributable to a fixed place of business in the United States,

shall be treated for purposes of this title as effectively connected with the conduct of a trade or business within the United States, and

"(B) no deductions or credits shall be allowed which are attributable to income from the international operation to which the failure relates.

"(3) REASONABLE CAUSE EXCEPTION.—This subsection shall not apply to a failure to disclose a position if it is shown that such failure is due to reasonable cause and not due to willful neglect."

(b) CONFORMING AMENDMENTS.—Paragraphs (1) and (2) of section 872(b), and paragraph (1) and (2) of 883(a), are each amended by striking "Gross income" each place it appears and inserting "Except as provided in section 883(d), gross income".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

(2) COORDINATION WITH TREATIES.—The amendments made by this section shall not apply in any case where their application would be contrary to any treaty obligation of the United States.

(d) INFORMATION TO BE PROVIDED BY CUSTOMS SERVICE.—The United States Custom Service shall provide the Secretary of the Treasury or his delegate with such information as may be specified by such Secretary in order to enable such Secretary to determine whether ships which are not registered in the United States are engaged in transportation to or from the United States.

SEC. 1065. INTEREST ON UNDERPAYMENTS NOT REDUCED BY FOREIGN TAX CREDIT CARRYBACKS.

(a) IN GENERAL.—Subsection (d) of section 6601 is amended by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and by inserting after paragraph (1) the following new paragraph:

"(2) FOREIGN TAX CREDIT CARRYBACKS.—If any credit allowed for any taxable year is increased by reason of a carryback of tax paid or accrued to foreign countries or possessions of the United States, such increase shall not affect the computation of interest under this section for the period ending with the filing date for the taxable year in which such taxes were in fact paid or accrued, or, with respect to any portion of such credit carryback from a taxable year attributable to a net operating loss carryback or a capital loss carryback from a subsequent taxable year, such increase shall not affect the computation of interest under this section for the period ending with the filing date for such subsequent taxable year."

(b) CONFORMING AMENDMENT TO REFUNDS ATTRIBUTABLE TO FOREIGN TAX CREDIT CARRYBACKS.—

(1) IN GENERAL.—Subsection (f) of section 6611 is amended by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and by inserting after paragraph (1) the following new paragraph:

"(2) FOREIGN TAX CREDIT CARRYBACKS.—For purposes of subsection (a), if any overpayment of tax imposed by subtitle A results from a carryback of tax paid or accrued to foreign countries or possessions of the United States, such overpayment shall be deemed not to have been made before the filing date for the taxable year in which such taxes were in fact paid or accrued, or, with respect to any portion of such credit carryback from a taxable year attributable to a net operating loss carryback or a capital loss carryback from a subsequent taxable year, such overpayment shall be deemed not to have been made before the filing date for such subsequent taxable year."

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (4) of section 6611(f) (as so redesignated) is amended—

(i) by striking "PARAGRAPHS (1) AND (2)" and inserting "PARAGRAPHS (1), (2), AND (3)", and

(ii) by striking "paragraph (1) or (2)" each place it appears and inserting "paragraph (1), (2), or (3)".

(B) Clause (ii) of section 6611(f)(4)(B) (as so redesignated) is amended by striking "and" at the end of subclause (I), by redesignating subclause (II) as subclause (III), and by inserting after subclause (I) the following new subclause:

"(II) in the case of a carryback of taxes paid or accrued to foreign countries or possessions of the United States, the taxable year in which such taxes were in fact paid or accrued (or, with respect to any portion of such carryback from a taxable year attributable to a net operating loss carryback or a capital loss carryback from a subsequent taxable year, such subsequent taxable year), and".

(C) Subclause (III) of section 6611(f)(4)(B)(ii) (as so redesignated) is amended by inserting "(as defined in paragraph (3)(B))" after "credit carryback" the first place it appears.

(D) Section 6611 is amended by striking subsection (g) and by redesignating subsections (h) and (i) as subsections (g) and (h), respectively.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to carrybacks arising in taxable years beginning after the date of the enactment of this Act.

Subtitle H—Other Revenue Provisions

SEC. 1071. TERMINATION OF SUSPENSE ACCOUNTS FOR FAMILY CORPORATIONS REQUIRED TO USE ACCRUAL METHOD OF ACCOUNTING.

(a) IN GENERAL.—Subsection (i) of section 447 (relating to method of accounting for corporations engaged in farming) is amended by adding at the end the following new paragraph:

"(7) TERMINATION.—

"(A) IN GENERAL.—No suspense account may be established under this subsection by any corporation required by this section to change its method of accounting for any taxable year ending after June 8, 1997.

"(B) PHASEOUT OF EXISTING SUSPENSE ACCOUNTS.—

"(i) IN GENERAL.—Each suspense account under this subsection shall be reduced (but not below zero) for each taxable year beginning after June 8, 1997, by an amount equal to the lesser of—

"(I) the applicable portion of such account, or

"(II) 50 percent of the taxable income of the corporation for the taxable year, or, if the corporation has no taxable income for such year, the amount of any net operating loss (as defined in section 172(c)) for such taxable year.

For purposes of the preceding sentence, the amount of taxable income and net operating loss shall be determined without regard to this paragraph.

"(ii) COORDINATION WITH OTHER REDUCTIONS.—The amount of the applicable portion for any taxable year shall be reduced (but not below zero) by the amount of any reduction required for such taxable year under any other provision of this subsection.

"(iv) INCLUSION IN INCOME.—Any reduction in a suspense account under this paragraph shall be included in gross income for the taxable year of the reduction.

"(C) APPLICABLE PORTION.—For purposes of subparagraph (B), the term 'applicable portion' means, for any taxable year, the amount which would ratably reduce the amount in the account (after taking into account prior reductions) to zero over the period consisting of such taxable year and the remaining taxable years in such first 20 taxable years.

"(D) AMOUNTS AFTER 20TH YEAR.—Any amount in the account as of the close of the 20th year referred to in subparagraph (C) shall be treated as the applicable portion for each succeeding year thereafter to the extent not reduced under this paragraph for any prior taxable year after such 20th year."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after June 8, 1997.

SEC. 1072. ALLOCATION OF BASIS AMONG PROPERTIES DISTRIBUTED BY PARTNERSHIP.

(a) IN GENERAL.—Subsection (c) of section 732 is amended to read as follows:

"(c) ALLOCATION OF BASIS.—

"(1) In general.—The basis of distributed properties to which subsection (a)(2) or (b) is applicable shall be allocated—

"(A) first to any unrealized receivables (as defined in section 751(c)) and inventory items (as defined in section 751(d)(2)) in an amount equal to the adjusted basis of each such property to the partnership (or if the basis to be allocated is less than the sum of the adjusted bases of such properties to the partnership, in the manner provided in paragraph (3)), and

"(B) to the extent of any remaining basis, to other distributed properties—

"(i) first to the extent of each such property's adjusted basis to the partnership, and

"(ii) then, to the extent any increase or decrease in basis is required in order to have the adjusted bases of such other distributed properties equal such remaining basis, in the manner provided in paragraph (2) or (3), whichever is appropriate.

"(2) Method of allocating increase.—Any increase required under paragraph (1)(B) shall be allocated among the properties—

"(A) first to properties with unrealized appreciation in proportion to their respective amounts of unrealized appreciation before such increase (but only to the extent of each property's unrealized appreciation), and

"(B) then, to the extent such increase is not allocated under subparagraph (A), in proportion to their respective fair market values.

"(3) Method of allocating decrease.—Any decrease required under paragraph (1)(A) or (1)(B) shall be allocated—

"(A) first to properties with unrealized depreciation in proportion to their respective amounts of unrealized depreciation before such decrease (but only to the extent of each property's unrealized depreciation), and

"(B) then, to the extent such decrease is not allocated under subparagraph (A), in proportion to their respective adjusted bases (as adjusted under subparagraph (A))."

(b) Effective Date.—The amendment made by subsection (a) shall apply to distributions after the date of the enactment of this Act.

SEC. 1073. REPEAL OF REQUIREMENT THAT INVENTORY BE SUBSTANTIALLY APPRECIATED.

(a) In General.—Paragraph (2) of section 751(a) is amended to read as follows:

"(2) inventory items of the partnership,".

(b) Conforming Amendments.—

(1) Subsection (d) of section 751 is amended to read as follows:

"(d) Inventory Items.—For purposes of this subchapter, the term 'inventory items' means—

"(1) property of the partnership of the kind described in section 1221(1),

"(2) any other property of the partnership which, on sale or exchange by the partnership, would be considered property other than a capital asset and other than property described in section 1231,

"(3) any other property of the partnership which, if sold or exchanged by the partnership, would result in a gain taxable under subsection (a) of section 1246 (relating to gain on foreign investment company stock), and

"(4) any other property held by the partnership which, if held by the selling or distributee partner, would be considered property of the type described in paragraph (1), (2), or (3)."

(2) Sections 724(d)(2), 731(a)(2)(B), 731(c)(6), 732(c)(1)(A) (as amended by the preceding section), 735(a)(2), and 735(c)(1) are each amended by striking "section 751(d)(2)" and inserting "section 751(d)".

(c) Effective Date.—The amendments made by this section shall apply to sales, exchanges, and distributions after the date of the enactment of this Act.

SEC. 1074. EXTENSION OF TIME FOR TAXING PRECONTRIBUTION GAIN.

(a) In General.—Sections 704(c)(1)(B) and 737(b)(1) are each amended by striking "5 years" and inserting "10 years".

(b) Effective Date.—The amendment made by subsection (a) shall apply to property contributed to a partnership after June 8, 1997.

SEC. 1075. LIMITATION ON PROPERTY FOR WHICH INCOME FORECAST METHOD MAY BE USED.

(a) Limitation.—Subsection (g) of section 167 is amended by adding at the end the following new paragraph:

"(6) Limitation on property for which income forecast method may be used.—The depreciation deduction allowable under this section may be determined under the income forecast method or any similar method only with respect to—

"(A) property described in paragraph (3) or (4) of section 168(f),

"(B) copyrights,

"(C) books,

"(D) patents, and

"(E) other property specified in regulations.

Such methods may not be used with respect to any amortizable section 197 intangible (as defined in section 197(c))."

(b) Depreciation Period for Rent-To-own Property.—

(1) In general.—Subparagraph (A) of section 168(e)(3) (relating to 3-year property) is amended by striking "and" at the end of clause (i), by striking the period at the end of clause (ii) and inserting ", and", and by adding at the end the following new clause:

"(iii) any qualified rent-to-own property."

(2) 4-year class life.—The table contained in section 168(g)(3)(B) is amended by inserting before the first item the following new item:

"(A)(iii) .... 4 "

(3) Definition of qualified rent-to-own property.—Subsection (i) of section 168 is amended by adding at the end the following new paragraph:

"(14) Qualified rent-to-own property.—

"(A) In general.—The term 'qualified rent-to-own property' means property held by a rent-to-own dealer for purposes of being subject to a rent-to-own contract.

"(B) Rent-to-own dealer.—The term 'rent-to-own dealer' means a person that, in the ordinary course of business, regularly enters into rent-to-own contracts with customers for the use of consumer property, if a substantial portion of those contracts terminate and the property is returned to such person before the receipt of all payments required to transfer ownership of the property from such person to the customer.

"(C) Consumer property.—The term 'consumer property' means tangible personal property of a type generally used within the home. Such term shall not include cellular telephones and any computer or peripheral equipment (as defined in section 168(i)).

"(D) Rent-to-own contract.—The term 'rent-to-own contract' means any lease for the use of consumer property between a rent-to-own dealer and a customer who is an individual which—

"(i) is titled 'Rent-to-Own Agreement' or 'Lease Agreement with Ownership Option,' or uses other similar language,

"(ii) provides for level, regular periodic payments (for a payment period which is a week or month),

"(iii) provides that legal title to such property remains with the rent-to-own dealer until the customer makes all the payments described in clause (ii) or early purchase payments required under the contract to acquire legal title to the item of property,

"(iv) provides a beginning date and a maximum period of time for which the contract may be in effect that does not exceed 156 weeks or 36 months from such beginning date (including renewals or options to extend),

"(v) provides for level payments within the 156-week or 36-month period that, in the aggregate, generally exceed the normal retail price of the consumer property plus interest,

"(vi) provides for payments under the contract that, in the aggregate, do not exceed $10,000 per item of consumer property,

"(vii) provides that the customer does not have any legal obligation to make all the payments referred to in clause (ii) set forth under the contract, and that at the end of each payment period the customer may either continue to use the consumer property by making the payment for the next payment period or return such property to the rent-to-own dealer in good working order, in which case the customer does not incur any further obligations under the contract and is not entitled to a return of any payments previously made under the contract, and

"(viii) provides that the customer has no right to sell, sublease, mortgage, pawn, pledge, encumber, or otherwise dispose of the consumer property until all the payments stated in the contract have been made."

(c) Effective Date.—The amendment made by this section shall apply to property placed in service after the date of the enactment of this Act.

SEC. 1076. REPEAL OF SPECIAL RULE FOR RENTAL USE OF VACATION HOMES, ETC., FOR LESS THAN 15 DAYS.

(a) In General.—Section 280A (relating to disallowance of certain expenses in connection with business use of home, rental of vacation homes, etc.) is amended by striking subsection (g).

(b) No Basis Reduction Unless Depreciation Claimed.—Section 1016 is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) Special Rule Where Rental Use of Vacation Home, Etc., for Less Than 15 Days.—If a dwelling unit is used during the taxable year by the taxpayer as a residence and such dwelling unit is actually rented for less than 15 days during the taxable year, the reduction under subsection (a)(2) by reason of such rental use in any taxable year beginning after December 31, 1997, shall not exceed the depreciation deduction allowed for such rental use."

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. 1077. EXPANSION OF REQUIREMENT THAT INVOLUNTARILY CONVERTED PROPERTY BE REPLACED WITH PROPERTY ACQUIRED FROM AN UNRELATED PERSON.

(a) In General.—Subsection (i) of section 1033 is amended to read as follows:

"(i) Replacement Property Must Be Acquired From Unrelated Person in Certain Cases.—

"(1) In general.—If the property which is involuntarily converted is held by a taxpayer to which this subsection applies, subsection (a) shall not apply if the replacement property or stock is acquired from a related person. The preceding sentence shall not apply to the extent that the related person acquired the replacement property or stock from an unrelated person during the period applicable under subsection (a)(2)(B).

"(2) TAXPAYERS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to—

"(A) a C corporation,

"(B) a partnership in which 1 or more C corporations own, directly or indirectly (determined in accordance with section 707(b)(3)), more than 50 percent of the capital interest, or profits interest, in such partnership at the time of the involuntary conversion, and

"(C) any other taxpayer if, with respect to property which is involuntarily converted during the taxable year, the aggregate of the amount of realized gain on such property on which there is realized gain exceeds $100,000. In the case of a partnership, subparagraph (C) shall apply with respect to the partnership and with respect to each partner. A similar rule shall apply in the case of an S corporation and its shareholders.

"(3) RELATED PERSON.—For purposes of this subsection, a person is related to another person if the person bears a relationship to the other person described in section 267(b) or 707(b)(1)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to involuntary conversions occurring after June 8, 1997.

SEC. 1078. TREATMENT OF EXCEPTION FROM INSTALLMENT SALES RULES FOR SALES OF PROPERTY BY A MANUFACTURER TO A DEALER.

(a) IN GENERAL.—Paragraph (2) of section 811(c) of the Tax Reform Act of 1986 is hereby repealed.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

(2) COORDINATION WITH SECTION 481.—In the case of any taxpayer required by this section to change its method of accounting for any taxable year—

(A) such changes shall be treated as initiated by the taxpayer,

(B) such changes shall be treated as made with the consent of the Secretary, and

(C) the net amount of the adjustments required to be taken into account under section 481(a) of the Internal Revenue Code of 1986 shall be taken into account ratably over the 4 taxable year period beginning with the first taxable year beginning after the date of the enactment of this Act.

H.R. 2014

OFFERED BY: MR. ARCHER

AMENDMENT NO. 2: Strike "Revenue Reconciliation Act of 1997" each place it appears and insert "Taxpayer Relief Act of 1997".

Page 13, strike lines 1 through 10, and insert the following:

"(2) REDUCTION FOR DEPENDENT CARE CREDIT.—In the case of taxable years beginning after December 31, 1999—

"(A) IN GENERAL.—The credit allowed by subsection (a) for the taxable year (determined after paragraph (1) but before paragraph (3)) shall be reduced by the amount equal to 50 percent of the credit allowed under section 21 for such taxable year (determined after section 26(c)).

"(B) EXCEPTION BASED ON ADJUSTED GROSS INCOME.—

"(i) IN GENERAL.—Subparagraph (A) shall not apply to a taxpayer whose modified adjusted gross income for the taxable year does not exceed the threshold amount.

"(ii) PHASEIN OF REDUCTION.—If the modified adjusted gross income of the taxpayer for the taxable year exceeds the threshold amount by less than $5,000, the amount of the reduction under subparagraph (A) shall be an amount which bears the same ratio to the amount of such reduction (determined without regard to this clause) as the excess of the taxpayer's modified adjusted gross income over the threshold amount bears to $5,000. In the case of a joint return, the preceding sentence shall be applied by substituting '$10,000' for '$5,000' each place it appears.

"(iii) THRESHOLD AMOUNT.—For purposes of this subparagraph, the term 'threshold amount' means—

"(I) $60,000 in the case of a joint return,

"(II) $33,000 in the case of an individual who is not married, and

"(III) $25,000 in the case of a married individual filing a separate return.

For purposes of this clause, marital status shall be determined under section 7703.

"(iv) MODIFIED ADJUSTED GROSS INCOME.—For purposes of this subparagraph, the term 'modified adjusted gross income' has the meaning given such term by section 26(c)."

Page 13, line 11, strike "(B)" and insert "(C)".

Page 16, after line 5, insert the following new subsections:

(e) NOTICE OF CREDIT.—The Secretary of the Treasury or his delegate shall include in any booklet of instructions for Form 1040, 1040A, or 1040EZ prepared by such Secretary for filing individual income tax returns for taxable years beginning in 1998 a notice which states only the following: "The Taxpayer Relief Act of 1997 which was recently passed by the Congress has fulfilled its promise to provide tax relief to American families. The Act's child tax credit allows American families to reduce their taxes by $400 per child for 1998 and $500 per child after 1998. You may wish to check with your employer about changing your tax withholding."

(f) ADJUSTMENTS TO WITHHOLDING.—

(1) IN GENERAL.—The Secretary of the Treasury or his delegate shall modify the tables and procedures under section 3402 of the Internal Revenue Code of 1986 such that every employer making payment of wages during calendar year 1998 to any specified employee—

(A) shall reduce the amount deducted and withheld as tax under chapter 24 of such Code for any payroll or other period during such year to reflect such period's proportionate share of the child care credit amount, and

(B) shall, before implementing such reduction, provide reasonable notice to such employees that such a reduction will apply to each specified employee who does not provide the employer with the notice referred to in paragraph (5).

(2) SPECIFIED EMPLOYEE.—For purposes of this subsection, the term "specified employee" means any employee—

(A) whose wages from the employer on an annualized basis are reasonably expected to be at least $30,000 but not more than $100,000, and

(B) who claims more than the base number of withholding exemptions on the withholding exemption certificate furnished to the employer.

For purposes of the preceding sentence, the term "base number" means 1 withholding exemption if the certificate reflects withholding for an unmarried individual and 2 withholding exemptions if the certificate reflects withholding for a married individual.

(3) CHILD CARE CREDIT AMOUNT.—For purposes of this subsection, the term "child care credit amount" means the lesser of $800 or the amount equal to the product of—

(A) $400, and

(B) the number of withholding exemptions claimed by the employee on the withholding exemption certificate furnished to the employer to the extent such number exceeds the base number (as defined in paragraph (2)) of such exemptions.

(4) PROPORTIONATE SHARE.—For purposes of this subsection, except as provided by the Secretary of the Treasury or his delegate, a period's proportionate share of the child care credit amount is the amount which bears the same ratio to the child care credit amount as the number of days in such period bears to 365.

(5) NOTICE TO HAVE SUBSECTION NOT APPLY TO EMPLOYEE.—This subsection shall not apply to any employee who provides written notice (in such form as the Secretary shall prescribe) to the employer of such employee's decision not to have this subsection apply to such employee.

(6) DEFINITIONS.—Terms used in this subsection which are also used in chapter 24 of the Internal Revenue Code of 1986 shall have the respective meanings given such terms by such chapter.

Page 99, after line 22, insert the following new paragraph:

(4) APPLICATION OF ESTIMATED TAX RULES FOR 1998.—Clause (i) of section 6654(d)(1)(C) of the Internal Revenue Code of 1986 shall be applied by substituting "105 percent" for "110 percent" where the preceding taxable year referred to in such clause is a taxable year beginning in calendar year 1997.

Page 141, strike lines 4 through 7 and insert the following new section:

SEC. 403. REPEAL OF ADJUSTMENT FOR DEPRECIATION.

(a) IN GENERAL.—Clause (i) of section 56(a)(1)(A) is amended by inserting "and before January 1, 1999," after "December 31, 1986,".

(b) STUDY.—

(1) IN GENERAL.—Because it is the intent of Congress that the amendment made by subsection (a) not have the result of permitting any corporation with taxable income from current year operations to pay no Federal income tax, the Secretary of the Treasury or his delegate shall conduct a study to determine whether such amendment has that result and, if so, the policy implications of that result.

(2) REPORT.—The report of such study shall be submitted to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate not later than January 1, 2001.

Page 173, after line 22, insert the following new section (and amend the table of contents accordingly):

SEC. 605. BUDGETARY TREATMENT OF EXPIRING PREFERENTIAL EXCISE TAX RATES WHICH ARE DEDICATED TO TRUST FUNDS.

(a) IN GENERAL.—Subparagraph (C) of section 257(b)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985 (relating to the baseline) is amended by inserting before the period "; except that any expiring preferential rate (and any credit or refund related thereto) shall be assumed not to be extended".

(b) ESTIMATE OF REVENUE GAIN FROM CORRECTING BASELINE.—For purposes of estimating revenues under budget reconciliation, the impact of the amendment made by subsection (a) on the calculation of the baseline shall be determined in the same manner as if such amendment were an amendment to the Internal Revenue Code of 1986.

(c) BUDGET ACT POINT OF ORDER.—For purposes of section 311(a) of the Congressional

Budget Act of 1974, the appropriate level of revenues shall be determined on the assumption that any expiring preferential rate (and any credit or refund related thereto) of any excise tax dedicated to a trust fund shall expire according to current law.

(d) Effective Date.—The amendment made by subsection (a) shall apply to budget years beginning after the date of the enactment of this Act.

Page 377, strike lines 10 through 15, and insert the following new subsection:

(g) Delayed Deposits of Airline Ticket Tax Revenues.—Notwithstanding section 6302 of the Internal Revenue Code of 1986, in the case of deposits of taxes imposed by section 4261 of the Internal Revenue Code of 1986, the due date for any such deposit which would (but for this subsection) be required to be made—

(1) after August 14, 1997, and before October 1, 1997, shall be October 10, 1997, or

(2) after June 30, 1998, and before October 1, 1998, shall be October 13, 1998.

Page 387, strike line 1 and all that follows through line 6 on page 395 (relating to reduction of incentives for alcohol fuels) and amend the table of contents accordingly.

Page 395, line 7, strike "1044" and insert "1043" (and amend the table of contents accordingly).

H.R. 2015

Offered By: Mr. Kasich

Amendment No. 1: In section 1002, in the amendment made to section 16(h)(1)(B) of the Food Stamp Act of 1977, amend clause (ii) to read as follows:

"(ii) not less than 80 percent of the funds provided in this subparagraph shall be used by a State agency for employment and training programs under section 6(d)(4), other than job search or job search training programs, for food stamp recipients not excepted by section 6(o)(3).

Strike subtitle D of title III and insert the following:

Subtitle D—Communications

SEC. 3301. SPECTRUM AUCTIONS.

(a) Extension and Expansion of Auction Authority.—

(1) Amendments.—Section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) is amended—

(A) by striking paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) General authority.—If, consistent with the obligations described in paragraph (6)(E), mutually exclusive applications are accepted for any initial license or construction permit which will involve an exclusive use of the electromagnetic spectrum, then the Commission shall grant such license or permit to a qualified applicant through a system of competitive bidding that meets the requirements of this subsection.

"(2) Exemptions.—The competitive bidding authority granted by this subsection shall not apply to licenses or construction permits issued by the Commission—

"(A) that, as the result of the Commission carrying out the obligations described in paragraph (6)(E), are not mutually exclusive;

"(B) for public safety radio services, including private internal radio services used by non-Government entities, that—

"(i) protect the safety of life, health, or property; and

"(ii) are not made commercially available to the public;

"(C) for initial licenses or construction permits assigned by the Commission to existing terrestrial broadcast licensees for new terrestrial digital television services; or

"(D) for public telecommunications services, as defined in section 397(14) of the Communications Act of 1934 (47 U.S.C. 397(14)), when the license application is for channels reserved for noncommercial use.";

(B) in paragraph (3)—

(i) by inserting after the second sentence the following new sentence: "The Commission shall, directly or by contract, provide for the design and conduct (for purposes of testing) of competitive bidding using a contingent combinatorial bidding system that permits prospective bidders to bid on combinations or groups of licenses in a single bid and to enter multiple alternative bids within a single bidding round.";

(ii) by striking "and" at the end of subparagraph (C);

(iii) by striking the period at the end of subparagraph (D) and inserting "; and"; and

(iv) by adding at the end the following new subparagraph:

"(E) ensuring that, in the scheduling of any competitive bidding under this subsection, an adequate period is allowed—

"(i) before issuance of bidding rules, to permit notice and comment on proposed auction procedures; and

"(ii) after issuance of bidding rules, to ensure that interested parties have a sufficient time to develop business plans, assess market conditions, and evaluate the availability of equipment for the relevant services.";

(C) in paragraph (4)—

(i) by striking "and" at the end of subparagraph (D);

(ii) by striking the period at the end of subparagraph (E) and inserting "; and"; and

(iii) by adding at the end the following new subparagraph:

"(F) establish methods by which a minimum bid, in an amount that is more than nominal in relation to the value of the public spectrum resource being made available, will be required to obtain any license or permit being assigned pursuant to the competitive bidding.";

(D) in paragraph (8)—

(i) by striking subparagraph (B); and

(ii) by redesignating subparagraph (C) as subparagraph (B);

(E) in paragraph (11), by striking "September 30, 1998" and inserting "December 31, 2002"; and

(F) in paragraph (13)(F), by striking "September 30, 1998" and inserting "the date of enactment of the Balanced Budget Act of 1997".

(2) Conforming amendment.—Subsection (i) of section 309 of the Communications Act of 1934 (47 U.S.C. 309(i)) is repealed.

(3) Effective date.—The amendment made by paragraph (1)(A) shall not apply with respect to any license or permit for which the Federal Communications Commission has accepted mutually exclusive applications on or before the date of enactment of this Act.

(b) Commission Obligation To Make Additional Spectrum Available by Auction.—

(1) In general.—The Federal Communications Commission shall complete all actions necessary to permit the assignment, by September 30, 2002, by competitive bidding pursuant to section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) of licenses for the use of bands of frequencies that—

(A) individually span not less than 25 megahertz, unless a combination of smaller bands can, notwithstanding the provisions of paragraph (7) of such section, reasonably be expected to produce greater receipts;

(B) in the aggregate span not less than 100 megahertz;

(C) are located below 3 gigahertz;

(D) have not, as of the date of enactment of this Act—

(i) been designated by Commission regulation for assignment pursuant to such section;

(ii) been identified by the Secretary of Commerce pursuant to section 113 of the National Telecommunications and Information Administration Organization Act;

(iii) been allocated for Federal Government use pursuant to section 305 of the Communications Act of 1934 (47 U.S.C. 305);

(iv) been designated in section 3303 of this Act; or

(v) been allocated for unlicensed use pursuant to part 15 of the Commission's regulations (47 C.F.R. Part 15), if the competitive bidding for licenses would interfere with operation of end-user products permitted under such regulations;

(E) notwithstanding section 115(b)(1)(B) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 925(b)(1)(B)) or any proposal pursuant to such section, include frequencies at 1,710–1,755 megahertz;

(F) include frequencies at 2,110–2,150 megahertz; and

(G) include 15 megahertz from within the bands of frequencies at 1,990–2,110 megahertz.

(2) Schedule for assignment of 1,710–1,755 megahertz.—The Commission shall commence competitive bidding for the commercial licenses pursuant to paragraph (1)(E) after January 1, 2001. The Commission shall complete the assignment of such commercial licenses, and report to the Congress the total revenues from such competitive bidding, by September 30, 2002.

(3) Use of bands at 2,110-2,150 megahertz.—The Commission shall reallocate spectrum located at 2,110-2,150 megahertz for assignment by competitive bidding unless the Commission determines that auction of other spectrum (A) better serves the public interest, convenience, and necessity, and (B) can reasonably be expected to produce greater receipts. If the Commission makes such a determination, then the Commission shall, within 2 years after the date of enactment of this Act, identify an alternative 40 megahertz, and report to the Congress an identification of such alternative 40 megahertz for assignment by competitive bidding.

(4) Use of 15 megahertz from bands at 1,990-2,110 megahertz.—The Commission shall reallocate 15 megahertz from spectrum located at 1,990-2,110 megahertz for assignment by competitive bidding unless the President determines such spectrum cannot be reallocated due to the need to protect incumbent Federal systems from interference, and that allocation of other spectrum (A) better serves the public interest, convenience, and necessity, and (B) can reasonably be expected to produce greater receipts. If the President makes such a determination, then the President shall, within 2 years after the date of enactment of this Act, identify alternative bands of frequencies totalling 15 megahertz, and report to the Congress an identification of such alternative bands for assignment by competitive bidding.

(5) Criteria for reassignment.—In making available bands of frequencies for competitive bidding pursuant to paragraph (1), the Commission shall—

(A) seek to promote the most efficient use of the spectrum;

(B) take into account the cost to incumbent licensees of relocating existing uses to other bands of frequencies or other means of communication; and

(C) comply with the requirements of international agreements concerning spectrum allocations.

(6) NOTIFICATION TO NTIA.—The Commission shall notify the Secretary of Commerce if—

(A) the Commission is not able to provide for the effective relocation of incumbent licensees to bands of frequencies that are available to the Commission for assignment; and

(B) the Commission has identified bands of frequencies that are—

(i) suitable for the relocation of such licensees; and

(ii) allocated for Federal Government use, but that could be reallocated pursuant to part B of the National Telecommunications and Information Administration Organization Act (as amended by this Act).

(c) IDENTIFICATION AND REALLOCATION OF FREQUENCIES.—The National Telecommunications and Information Administration Organization Act (47 U.S.C. 901 et seq.) is amended—

(1) in section 113, by adding at the end the following new subsection:

"(f) ADDITIONAL REALLOCATION REPORT.—If the Secretary receives a notice from the Commission pursuant to section 3301(b)(3) of the Balanced Budget Act of 1997, the Secretary shall prepare and submit to the President, the Commission, and the Congress a report recommending for reallocation for use other than by Federal Government stations under section 305 of the 1934 Act (47 U.S.C. 305), bands of frequencies that are suitable for the uses identified in the Commission's notice. The Commission shall, not later than one year after receipt of such report, prepare, submit to the President and the Congress, and implement, a plan for the immediate allocation and assignment of such frequencies under the 1934 Act to incumbent licencees described in section 3301(b)(3) of the Balanced Budget Act of 1997."; and

(2) in section 114(a)(1), by striking "(a) or (d)(1)" and inserting "(a), (d)(1), or (f)".

(d) IDENTIFICATION AND REALLOCATION OF AUCTIONABLE FREQUENCIES.—The National Telecommunications and Information Administration Organization Act (47 U.S.C. 901 et seq.) is amended—

(1) in section 113(b)—

(A) by striking the heading of paragraph (1) and inserting "INITIAL REALLOCATION REPORT";

(B) by inserting "in the first report required by subsection (a)" after "recommend for reallocation" in paragraph (1);

(C) by inserting "or (3)" after "paragraph (1)" each place it appears in paragraph (2); and

(D) by inserting after paragraph (2) the following new paragraph:

"(3) SECOND REALLOCATION REPORT.—In accordance with the provisions of this section, the Secretary shall recommend for reallocation in the second report required by subsection (a), for use other than by Federal Government stations under section 305 of the 1934 Act (47 U.S.C. 305), a band or bands of frequencies that—

"(A) in the aggregate span not less than 20 megahertz;

"(B) individually span not less than 20 megahertz, unless a combination of smaller bands can reasonably be expected to produce greater receipts;

"(C) are located below 3 gigahertz; and

"(D) meet the criteria specified in paragraphs (1) through (5) of subsection (a)."; and

(2) in section 115—

(A) in subsection (b), by striking "the report required by section 113(a)" and inserting "the initial reallocation report required by section 113(a)"; and

(B) by adding at the end the following new subsection:

"(c) ALLOCATION AND ASSIGNMENT OF FREQUENCIES IDENTIFIED IN THE SECOND REALLOCATION REPORT.—With respect to the frequencies made available for reallocation pursuant to section 113(b)(3), the Commission shall, not later than one year after receipt of the second reallocation report required by such section, prepare, submit to the President and the Congress, and implement, a plan for the immediate allocation and assignment under the 1934 Act of all such frequencies in accordance with section 309(j) of such Act.".

SEC. 3302. AUCTION OF RECAPTURED BROADCAST TELEVISION SPECTRUM.

Section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) is amended by adding at the end the following new paragraph:

"(14) AUCTION OF RECAPTURED BROADCAST TELEVISION SPECTRUM.—

"(A) LIMITATIONS ON TERMS OF TERRESTRIAL TELEVISION BROADCAST LICENSES.—A television license that authorizes analog television services may not be renewed to authorize such service for a period that extends beyond December 31, 2006. The Commission shall have the authority to grant by regulation an extension of such date to licensees in a market if the Commission determines that more than 5 percent of households in such market continue to rely exclusively on over-the-air terrestrial analog television signals.

"(B) SPECTRUM REVERSION AND RESALE.—

"(i) The Commission shall ensure that, when the authority to broadcast analog television services under a license expires pursuant to subparagraph (A), each licensee shall return spectrum according to the Commission's direction and the Commission shall reclaim such spectrum.

"(ii) Licensees for new services occupying spectrum reclaimed pursuant to clause (i) shall be selected in accordance with this subsection. The Commission shall complete the assignment of such licenses, and report to the Congress the total revenues from such competitive bidding, by September 30, 2002.

"(C) CERTAIN LIMITATIONS ON QUALIFIED BIDDERS PROHIBITED.—In prescribing any regulations relating to the qualification of bidders for spectrum reclaimed pursuant to subparagraph (B)(i), the Commission shall not—

"(i) preclude any party from being a qualified bidder for spectrum that is allocated for any use that includes digital television service on the basis of—

"(I) the Commission's duopoly rule (47 C.F.R. 73.3555(b)); or

"(II) the Commission's newspaper cross-ownership rule (47 C.F.R. 73.3555(d)); or

"(ii) apply either such rule to preclude such a party that is a successful bidder in a competitive bidding for such spectrum from using such spectrum for digital television service.

"(D) DEFINITIONS.—As used in this paragraph:

"(i) The term 'digital television service' means television service provided using digital technology to enhance audio quality and video resolution, as further defined in the Memorandum Opinion, Report, and Order of the Commission entitled 'Advanced Television Systems and Their Impact Upon the Existing Television Service', MM Docket No. 87-268 and any subsequent Commission proceedings dealing with digital television.

"(ii) The term 'analog television service' means service provided pursuant to the transmission standards prescribed by the Commission in section 73.682(a) of its regulation (47 CFR 73.682(a)).".

SEC. 3303. ALLOCATION AND ASSIGNMENT OF NEW PUBLIC SAFETY AND COMMERCIAL LICENSES.

(a) IN GENERAL.—The Federal Communications Commission shall, not later than January 1, 1998, allocate on a national, regional, or market basis, from radio spectrum between 746 megahertz and 806 megahertz—

(1) 24 megahertz of that spectrum for public safety services according to the terms and conditions established by the Commission, unless the Commission determines that the needs for public safety services can be met in particular areas with allocations of less than 24 megahertz; and

(2) the remainder of that spectrum for commercial purposes to be assigned by competitive bidding in accordance with section 309(j).

(b) ASSIGNMENT.—The Commission shall—

(1) assign the licenses for public safety created pursuant to subsection (a) no later than March 31, 1998;

(2) commence competitive bidding for the commercial licenses created pursuant to subsection (a) after January 1, 2001; and

(3) complete competitive bidding for such commercial licenses, and report to the Congress the total revenues from such competitive bidding, by September 30, 2002.

(c) LICENSING OF UNUSED FREQUENCIES FOR PUBLIC SAFETY RADIO SERVICES.—

(1) USE OF UNUSED CHANNELS FOR PUBLIC SAFETY.—It shall be the policy of the Commission, notwithstanding any other provision of this Act or any other law, to waive whatever licensee eligibility and other requirements (including bidding requirements) are applicable in order to permit the use of unassigned frequencies for public safety purposes by a State or local governmental agency upon a showing that—

(A) no other existing satisfactory public safety channel is immediately available to satisfy the requested use;

(B) the proposed use is technically feasible without causing harmful interference to existing stations in the frequency band entitled to protection from such interference under the rules of the Commission; and

(C) use of the channel for public safety purposes is consistent with other existing public safety channel allocations in the geographic area of proposed use.

(2) APPLICABILITY.—Paragraph (1) shall apply to any application that is pending before the Federal Communications Commission, or that is not finally determined under either section 402 or 405 of the Communications Act of 1934 (47 U.S.C. 402, 405) on May 15, 1997, or that is filed after such date.

(d) CONDITIONS ON LICENSES.—With respect to public safety and commercial licenses granted pursuant to this subsection, the Commission shall—

(1) establish interference limits at the boundaries of the spectrum block and service area;

(2) establish any additional technical restrictions necessary to protect full-service analog television service and digital television service during a transition to digital television service; and

(3) permit public safety and commercial licensees—

(A) to aggregate multiple licenses to create larger spectrum blocks and service areas; and

(B) to disaggregate or partition licenses to create smaller spectrum blocks or service areas.

(e) PROTECTION OF QUALIFYING LOW-POWER STATIONS.—After making any allocation or assignment under this section the Commission shall seek to assure that each qualifying low-power television station is assigned a frequency below 746 megahertz to permit the continued operation of such station.

(f) Definitions.—For purposes of this section:

(1) Commission.—The term "Commission" means the Federal Communications Commission.

(2) Digital television service.—The term "digital television service" means television service provided using digital technology to enhance audio quality and video resolution, as further defined in the Memorandum Opinion, Report, and Order of the Commission entitled 'Advanced Television Systems and Their Impact Upon the Existing Television Service', MM Docket No. 87-268 and any subsequent Commission proceedings dealing with digital television.

(3) Analog television service.—The term "analog television service" means services provided pursuant to the transmission standards prescribed by the Commission in section 73.682(a) of its regulation (47 CFR 73.682(a)).

(4) Public safety services.—The term "public safety services" means services—

(A) the sole or principal purpose of which is to protect the safety of life, health, or property;

(B) that are provided—

(i) by State or local government entities; or

(ii) by nongovernmental, private organizations that are authorized by a governmental entity whose primary mission is the provision of such services; and

(C) that are not made commercially available to the public by the provider.

(5) Service area.—The term "service area" means the geographic area over which a licensee may provide service and is protected from interference.

(6) Spectrum block.—The term "spectrum block" means the range of frequencies over which the apparatus licensed by the Commission is authorized to transmit signals.

(7) Qualifying low-power television stations.—A station is a qualifying low-power television station if, during the 90 days preceding the date of enactment of this Act—

(A) such station broadcast a minimum of 18 hours per day;

(B) such station broadcast an average of at least 3 hours per week of programming that was produced within the community of license of such station; and

(C) such station was in compliance with the requirements applicable to low-power television stations.

SEC. 3304. ADMINISTRATIVE PROCEDURES FOR SPECTRUM AUCTIONS.

(a) Expedited Procedures.—The rules governing competitive bidding under this subtitle shall be effective immediately upon publication in the Federal Register notwithstanding section 553(d), 801(a)(3), and 806(a) of title 5, United States Code. Chapter 6 of such title, and sections 3507 and 3512 of title 44, United States Code, shall not apply to such rules and competitive bidding procedures governing frequencies assigned under this subtitle. Notwithstanding section 309(b) of the Communications Act of 1934 (47 U.S.C. 309(b)), no application for an instrument of authorization for such frequencies shall be granted by the Commission earlier than 7 days following issuance of public notice by the Commission of the acceptance for filing of such application or of any substantial amendment thereto. Notwithstanding section 309(d)(1) of such Act (47 U.S.C. 309(d)(1)), the Commission may specify a period (no less than 5 days following issuance of such public notice) for the filing of petitions to deny any application for an instrument of authorization for such frequencies.

(b) Deadline for Collection.—The Commission shall conduct the competitive bidding under this subtitle in a manner that ensures that all proceeds of the bidding are deposited in accordance with section 309(j)(8) of the Communications Act of 1934 not later September 30, 2002.

SEC. 3305. UNIVERSAL SERVICE FUND PAYMENT SCHEDULE.

(a) Acceleration of Payments.—There shall be available in fiscal year 2001 from funds in the Treasury not otherwise appropriated $2,000,000,000 to the universal service fund under part 54 of the Federal Communications Commission's regulations (47 C.F.R. Part 54) in addition to any other revenues required to be collected under such part.

(b) Limitation on Expenditures.—The outlays of the universal service fund under part 54 of the Federal Communications Commission's regulations (47 C.F.R. Part 54) in fiscal year 2002 shall not exceed the amount of revenue required to be collected in such fiscal year, less $2,000,000,000.

SEC. 3306. INQUIRY REQUIRED.

The Federal Communications Commission shall, not later than July 1, 1997, initiate the inquiry required by section 309(j)(12) of the Communications Act of 1934 (47 U.S.C. 309(j)(12)) for the purposes of collecting the information required for its report under each of subparagraphs (A) through (E) of such section, and shall keep the Congress fully and currently informed with respect to the progress of such inquiry.

Amend section 3422 to read as follows (and conform the table of contents of subtitle E of title III accordingly):

SEC. 3422. PAYMENT OF PART OR ALL OF MEDICARE PART B PREMIUM FOR CERTAIN LOW-INCOME INDIVIDUALS.

(a) Eligibility.—Section 1902(a)(10)(E) (42 U.S.C. 1396a(a)(10)(E)) is amended—

(1) by striking "and" at the end of clause (ii),

(2) in clause (iii), by striking "and 120 percent in 1995 and years thereafter" and inserting "120 percent in 1995, 1996, and 1997, and 135 percent in 1998 and years thereafter"; and

(3) by inserting after clause (iii) the following:

"(iv) subject to section 1905(p)(4), for making medical assistance available for the portion of medicare cost sharing described in section 1905(p)(3)(A)(ii) that is attributable to the application under section 1839(a)(5) of section 1833(d)(2) for individuals who would be described in clause (iii) but for the fact that their income exceeds 135 percent, but is less than 175 percent, of the official poverty line (referred to in section 1905(p)(2)) for a family of the size involved; and".

(b) 100 Percent Federal Payment.—The third sentence of section 1905(b) (42 U.S.C. 1396d(b)) is amended by inserting "and with respect to amounts expended for medical assistance described in section 1902(a)(10)(E)(iii) for individuals described in such section whose income is equal to or exceeds 120 percent of the official poverty line and with respect to amounts expended for medical assistance described in section 1902(a)(10)(E)(iv) for individuals described in such section" before the period at the end.

Strike section 3405 (relating to determination of hospital stay), and conform the table of contents of subtitle E of title III accordingly.

In section 3471(c), strike "October" each place it appears and insert "July".

In section 3502, in the section 2101(a) added by such section, amend paragraphs (3) and (4) to read as follows:

"(3) Direct purchase of services for targeted low-income children from providers, such as Federally qualified health centers and rural health clinics.

"(4) Other methods specified under the plan for the provision of health insurance coverage or medical assistance for targeted low-income children.

In section 3502, amend the section 2103(a) (added by such section) to read as follows:

"(a) Total Allotment.—The total allotment that is available under this title for—

"(1) fiscal year 1998 is $2,830,000,000,

"(2) fiscal year 1999 is $2,830,000,000,

"(3) fiscal year 2000 is $2,830,000,000,

"(4) fiscal year 2001 is $2,830,000,000,

"(5) fiscal year 2002 is $2,830,000,000, and

"(6) fiscal year 2003 and each succeeding fiscal year is $2,850,000,000.

In section 3502, in the section 2108(c)(4) added by such section, strike "200 percent" and insert "300 percent".

Add at the end of subtitle F of title III the following new section (and conform the table of contents of such subtitle accordingly):

SEC. 3505. STATE OPTION OF CONTINUATION OF MEDICAID ELIGIBILITY FOR DISABLED CHILDREN WHO LOSE SSI BENEFITS.

Section 1902(a)(10)(A)(ii) (42 U.S.C. 1396a(a)(10)(A)(ii)) is amended—

(1) by striking "or" at the end of subclause (XI),

(2) by striking "or" at the end of subclause (XII), and

(3) by adding at the end the following:

"(XIII) with respect to whom supplemental security income benefits were being paid under title XVI as of the date of the enactment of section 211(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193)) and would continue to be paid but for the enactment of that section;".

In section 4617(a), in the subparagraph (T)(i) inserted by such section, strike "immediately after, or at" and insert "at, or within 48 hours after".

Strike the last sentence of section 403(a)(5)(B)(iv) of the Social Security Act, as proposed to be added by section 5001(a).

Strike subparagraph (H) of section 403(a)(5) of the Social Security Act, as proposed to be added by section 5001(a), and insert the following:

"(H) Funding.—The amount specified in this subparagraph is $1,500,000,000 for each of fiscal years 1998 and 1999.

Strike sections 5002 and 5004, redesignate sections 5003 and 5005 as sections 5002 and 5003, respectively, and insert after section 5003 (as so redesignated) the following:

SEC. 5004. RULES GOVERNING EXPENDITURE OF FUNDS FOR WORK EXPERIENCE AND COMMUNITY SERVICE PROGRAMS.

(a) In General.—Section 407 of the Social Security Act (42 U.S.C. 607) is amended by adding at the end the following:

"(j) Rules Governing Expenditure of Funds for Work Experience and Community Service Programs.—

"(1) In general.—To the extent that a State to which a grant is made under section 403(a)(5) or any other provision of section 403 uses the grant to establish or operate a work experience or community service program, the State may establish and operate the program in accordance with this subsection.

"(2) Purpose.—The purpose of a work experience or community experience program is to provide experience or training for individuals not able to obtain employment in order to assist them to move to regular employment. Such a program shall be designed to improve the employability of participants through actual work experience to enable individuals participating in the program to move promptly into regular public or private employment. Such a program shall not place individuals in private, for-profit entities.

"(3) LIMITATION ON PROJECTS THAT MAY BE UNDERTAKEN.—A work experience or community service program shall be limited to projects which serve a useful public purpose in fields such as health, social service, environmental protection, education, urban and rural development and redevelopment, welfare, recreation, public facilities, public safety, and day care, and other purposes identified by the State.

"(4) MAXIMUM HOURS OF PARTICIPATION PER MONTH.—A State that elects to establish a work experience or community service program shall operate the program so that each participant participates in the program with the maximum number of hours that any such individual may be required to participate in any month being a number equal to—

"(A)(i) the amount of assistance provided during the month to the family of which the individual is a member under the State program funded under this part; plus

"(ii) the dollar value equivalent of any benefits provided during the month to the household of which the individual is a member under the food stamp program under the Food Stamp Act of 1977; minus

"(iii) any amount collected by the State as child support with respect to the family that is retained by the State; divided by

"(B) the greater of the Federal minimum wage or the applicable State minimum wage.

"(5) MAXIMUM HOURS OF PARTICIPATION PER WEEK.—A State that elects to establish a work experience or community service program may not require any participant in any such program to participate in any such program for a combined total of more than 40 hours per week.

"(6) RULE OF INTERPRETATION.—This subsection shall not be construed as authorizing the provision of assistance under a State program funded under this part as compensation for work performed, nor shall a participant be entitled to a salary or to any other work or training expense provided under any other provision of law by reason of participation in a work experience or community service program described in this subsection.".

(b) RETROACTIVITY.—The amendment made by subsection (a) of this section shall take effect as if included in the enactment of section 103(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

SEC. 5005. STATE OPTION TO TAKE ACCOUNT OF CERTAIN WORK ACTIVITIES OF RECIPIENTS WITH SUFFICIENT PARTICIPATION IN WORK EXPERIENCE OR COMMUNITY SERVICE PROGRAMS.

(a) IN GENERAL.—Section 407(c) of the Social Security Act (42 U.S.C. 607(c)) is amended by adding at the end the following:

"(3) STATE OPTION TO TAKE ACCOUNT OF CERTAIN WORK ACTIVITIES OF RECIPIENTS WITH SUFFICIENT PARTICIPATION IN WORK EXPERIENCE OR COMMUNITY SERVICE PROGRAMS.—Notwithstanding paragraphs (1) and (2) of this subsection and subsection (d)(8), for purposes of determining monthly participation rates under paragraphs (1)(B)(i) and (2)(B) of subsection (b), an individual who, during a month, has participated in a work experience or community service program operated in accordance with subsection (j), for the maximum number of hours that the individual may be required to participate in such a program during the month shall be treated as engaged in work for the month if, during the month, the individual has participated in any other work activity for a number of hours that is not less than the number of hours required by subsection (c)(1) for the month minus such maximum number of hours.".

(b) RETROACTIVITY.—The amendment made by subsection (a) of this section shall take effect as if included in the enactment of section 103(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

SEC. 5006. WORKER PROTECTIONS.

Section 407(f) of the Social Security Act (42 U.S.C. 607(f)) is amended to read as follows:

"(f) WORKER PROTECTIONS.—

"(1) NONDISPLACEMENT IN WORK ACTIVITIES.—

"(A) GENERAL PROHIBITION.—Subject to this paragraph, an adult in a family receiving assistance under a State program funded under this part attributable to funds provided by the Federal Government may fill a vacant employment position in order to engage in a work activity.

"(B) PROHIBITION AGAINST VIOLATION OF CONTRACTS.—A work activity shall not violate an existing contract for services or collective bargaining agreement.

"(C) OTHER PROHIBITIONS.—An adult participant in a work activity shall not be employed or assigned—

"(i) when any other individual is on layoff from the same or any substantially equivalent job; or

"(ii) if the employer has terminated the employment of any regular employee or otherwise caused an involuntary reduction if its workforce with the intention of filling the vacancy so created with the participant.

"(2) HEALTH AND SAFETY.—Health and safety standards established under Federal and State law otherwise applicable to working conditions of employees shall be equally applicable to working conditions of participants engaged in a work activity.

"(3) NONDISCRIMINATION.—In addition to the protections provided under the provisions of law specified in section 408(c), an individual may not be discriminated against with respect to participation in work activities by reason of gender.

"(4) GRIEVANCE PROCEDURE.—

"(A) IN GENERAL.—Each State to which a grant is made under section 403 shall establish and maintain a procedure for grievances or complaints from employees alleging violations of paragraph (1) and participants in work activities alleging violations of paragraph (1), (2), or (3).

"(B) HEARING.—The procedure shall include an opportunity for a hearing.

"(C) REMEDIES.—The procedure shall include remedies for violation of paragraph (1), (2), or (3), which may include—

"(i) prohibition against placement of a participant with an employer that has violated paragraph (1), (2), or (3);

"(ii) where applicable, reinstatement of an employee, payment of lost wages and benefits, and reestablishment of other relevant terms, conditions and privileges of employment; and

"(iii) where appropriate, other equitable relief.

"(5) NONPREEMPTION OF STATE NONDISPLACEMENT LAWS.—The provisions of this subsection relating to nondisplacement of employees shall not be construed to preempt any provision of State law relating to nondisplacement of employees that affords greater protections to employees than is afforded by such provisions of this subsection.".

In section 5302(a), strike subsection (c) of section 809 of the new part 8 being inserted thereby.

In section 8013(a), in the section 1729A of title 38, United States Code, proposed to be added by that section, strike paragraph (1) of subsection (c) and insert the following (and redesignate the succeeding paragraph accordingly):

"(c)(1) Subject to the provisions of appropriations Acts, amounts in the fund shall be available, without fiscal year limitation, to the Secretary for the following purposes:

"(A) Furnishing medical care and services under this chapter, to be available during any fiscal year for the same purposes and subject to the same limitations (other than with respect to the period of availability for obligation) as apply to amounts appropriated from the general fund of the Treasury for that fiscal year for medical care.

"(B) Expenses of the Department for the identification, billing, auditing, and collection of amounts owed the United States by reason of medical care and services furnished under this chapter.

"(2) Amounts available under paragraph (1) may not be used for any purpose other than a purpose set forth in subparagraph (A) or (B) of that paragraph.

In section 403(a)(5)(B)(i) of the Social Security Act, as proposed to be added by section 9001(a), strike "2000" and insert "1999".

Strike subparagraphs (H) and (I) of section 403(a)(5) of the Social Security Act, as proposed to be added by section 9001(a), and insert the following:

"(H) FUNDING.—The amount specified in this subparagraph is $1,500,000,000 for each of fiscal years 1998 and 1999.

Redesignate subparagraph (J) of section 403(a)(5) of the Social Security Act, as proposed to be added by section 9001(a), as subparagraph (I).

Strike subparagraph (K) of section 403(a)(5) of the Social Security Act, as proposed to be added by section 9001(a).

Strike section 9004, redesignate section 9005 as section 9007, and insert after section 9003 the following (and amend the table of contents of title IX accordingly):

SEC. 9004. RULES GOVERNING EXPENDITURE OF FUNDS FOR WORK EXPERIENCE AND COMMUNITY SERVICE PROGRAMS.

(a) IN GENERAL.—Section 407 of the Social Security Act (42 U.S.C. 607) is amended by adding at the end the following:

"(j) RULES GOVERNING EXPENDITURE OF FUNDS FOR WORK EXPERIENCE AND COMMUNITY SERVICE PROGRAMS.—

"(1) IN GENERAL.—To the extent that a State to which a grant is made under section 403(a)(5) or any other provision of section 403 uses the grant to establish or operate a work experience or community service program, the State may establish and operate the program in accordance with this subsection.

"(2) PURPOSE.—The purpose of a work experience or community experience program is to provide experience or training for individuals not able to obtain employment in order to assist them to move to regular employment. Such a program shall be designed to improve the employability of participants through actual work experience to enable individuals participating in the program to move promptly into regular public or private employment. Such a program shall not place individuals in private, for-profit entities.

"(3) LIMITATION ON PROJECTS THAT MAY BE UNDERTAKEN.—A work experience or community service program shall be limited to projects which serve a useful public purpose in fields such as health, social service, environmental protection, education, urban and rural development and redevelopment, welfare, recreation, public facilities, public safety, and day care, and other purposes identified by the State.

"(4) MAXIMUM HOURS OF PARTICIPATION PER MONTH.—A State that elects to establish a work experience or community service program shall operate the program so that each participant participates in the program with the maximum number of hours that any such individual may be required to participate in any month being a number equal to—

"(A)(i) the amount of assistance provided during the month to the family of which the individual is a member under the State program funded under this part; plus

"(ii) the dollar value equivalent of any benefits provided during the month to the household of which the individual is a member under the food stamp program under the Food Stamp Act of 1977; minus

"(iii) any amount collected by the State as child support with respect to the family that is retained by the State; divided by

"(B) the greater of the Federal minimum wage or the applicable State minimum wage.

"(5) MAXIMUM HOURS OF PARTICIPATION PER WEEK.—A State that elects to establish a work experience or community service program may not require any participant in any such program to participate in any such program for a combined total of more than 40 hours per week.

"(6) RULE OF INTERPRETATION.—This subsection shall not be construed as authorizing the provision of assistance under a State program funded under this part as compensation for work performed, nor shall a participant be entitled to a salary or to any other work or training expense provided under any other provision of law by reason of participation in a work experience or community service program described in this subsection.".

(b) RETROACTIVITY.—The amendment made by subsection (a) of this section shall take effect as if included in the enactment of section 103(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

SEC. 9005. STATE OPTION TO TAKE ACCOUNT OF CERTAIN WORK ACTIVITIES OF RECIPIENTS WITH SUFFICIENT PARTICIPATION IN WORK EXPERIENCE OR COMMUNITY SERVICE PROGRAMS.

(a) IN GENERAL.—Section 407(c) of the Social Security Act (42 U.S.C. 607(c)) is amended by adding at the end the following:

"(3) STATE OPTION TO TAKE ACCOUNT OF CERTAIN WORK ACTIVITIES OF RECIPIENTS WITH SUFFICIENT PARTICIPATION IN WORK EXPERIENCE OR COMMUNITY SERVICE PROGRAMS.—Notwithstanding paragraphs (1) and (2) of this subsection and subsection (d)(8), for purposes of determining monthly participation rates under paragraphs (1)(B)(i) and (2)(B) of subsection (b), an individual who, during a month, has participated in a work experience or community service program operated in accordance with subsection (j), for the maximum number of hours that the individual may be required to participate in such a program during the month shall be treated as engaged in work for the month if, during the month, the individual has participated in any other work activity for a number of hours that is not less than the number of hours required by subsection (c)(1) for the month minus such maximum number of hours.".

(b) RETROACTIVITY.—The amendment made by subsection (a) of this section shall take effect as if included in the enactment of section 103(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

SEC. 9006. WORKER PROTECTIONS.

Section 407(f) of the Social Security Act (42 U.S.C. 607(f)) is amended to read as follows:

"(f) WORKER PROTECTIONS.—

"(1) NONDISPLACEMENT IN WORK ACTIVITIES.—

"(A) GENERAL PROHIBITION.—Subject to this paragraph, an adult in a family receiving assistance under a State program funded under this part attributable to funds provided by the Federal Government may fill a vacant employment position in order to engage in a work activity.

"(B) PROHIBITION AGAINST VIOLATION OF CONTRACTS.—A work activity shall not violate an existing contract for services or collective bargaining agreement.

"(C) OTHER PROHIBITIONS.—An adult participant in a work activity shall not be employed or assigned—

"(i) when any other individual is on layoff from the same or any substantially equivalent job; or

"(ii) if the employer has terminated the employment of any regular employee or otherwise caused an involuntary reduction if its workforce with the intention of filling the vacancy so created with the participant.

"(2) HEALTH AND SAFETY.—Health and safety standards established under Federal and State law otherwise applicable to working conditions of employees shall be equally applicable to working conditions of participants engaged in a work activity.

"(3) NONDISCRIMINATION.—In addition to the protections provided under the provisions of law specified in section 408(c), an individual may not be discriminated against with respect to participation in work activities by reason of gender.

"(4) GRIEVANCE PROCEDURE.—

"(A) IN GENERAL.—Each State to which a grant is made under section 403 shall establish and maintain a procedure for grievances or complaints from employees alleging violations of paragraph (1) and participants in work activities alleging violations of paragraph (1), (2), or (3).

"(B) HEARING.—The procedure shall include an opportunity for a hearing.

"(C) REMEDIES.—The procedure shall include remedies for violation of paragraph (1), (2), or (3), which may include—

"(i) prohibition against placement of a participant with an employer that has violated paragraph (1), (2), or (3);

"(ii) where applicable, reinstatement of an employee, payment of lost wages and benefits, and reestablishment of other relevant terms, conditions and privileges of employment; and

"(iii) where appropriate, other equitable relief.

"(5) NONPREEMPTION OF STATE NONDISPLACEMENT LAWS.—The provisions of this subsection relating to nondisplacement of employees shall not be construed to preempt any provision of State law relating to nondisplacement of employees that affords greater protections to employees than is afforded by such provisions of this subsection.".

In section 10617(a)(2), in the subparagraph (T) inserted by such section—

(1) strike "(or under the supervision of a physician)" and insert "(or as prescribed by a physician)", and

(2) strike "immediately after, or at" in clause (i) and insert "at, or within 48 hours after".

At the end, add the following new title:

TITLE XI—BUDGET ENFORCEMENT

SEC. 11001. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Budget Enforcement Act of 1997".

(b) TABLE OF CONTENTS.—

TITLE XI—BUDGET ENFORCEMENT

Sec. 11001. Short title; table of contents.

Subtitle A—Amendments to the Congressional Budget and Impoundment Control Act of 1974

Sec. 11101. Amendments to section 3.
Sec. 11102. Amendments to section 201.
Sec. 11103. Amendments to section 202.
Sec. 11104. Amendment to section 300.
Sec. 11105. Amendments to section 301.
Sec. 11106. Amendments to section 302.
Sec. 11107. Amendments to section 303.
Sec. 11108. Amendment to section 305.
Sec. 11109. Amendments to section 308.
Sec. 11110. Amendments to section 310.
Sec. 11111. Amendments to section 311.
Sec. 11112. Amendment to section 312.
Sec. 11113. Adjustments and Budget Committee determinations.
Sec. 11114. Effect of self-executing amendments on points of order in the House of Representatives.
Sec. 11115. Amendment of section 401 and repeal of section 402.
Sec. 11116. Repeal of title VI.
Sec. 11117. Amendments to section 904.
Sec. 11118. Repeal of sections 905 and 906.
Sec. 11119. Amendments to sections 1022 and 1024.
Sec. 11120. Amendment to section 1026.

Subtitle B—Amendments to the Balanced Budget and Emergency Deficit Control Act of 1985

Sec. 11201. Purpose.
Sec. 11202. General statement and definitions.
Sec. 11203. Enforcing discretionary spending limits.
Sec. 11204. Violent crime reduction trust fund.
Sec. 11205. Enforcing pay-as-you-go.
Sec. 11206. Reports and orders.
Sec. 11207. Exempt programs and activities.
Sec. 11208. General and special sequestration rules.
Sec. 11209. The baseline.
Sec. 11210. Technical correction.
Sec. 11211. Judicial review.
Sec. 11212. Effective date.
Sec. 11213. Reduction of preexisting balances and exclusion of effects of this Act from paygo scorecard.

Subtitle A—Amendments to the Congressional Budget and Impoundment Control Act of 1974

SEC. 11101. AMENDMENTS TO SECTION 3.

Section 3 of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 622) is amended—

(1) in paragraph (2)(A), by striking "and" at the end of clause (iii), by striking the period and inserting "; and" at the end of clause (iv), and by adding at the end the following:

"(v) entitlement authority and the food stamp program."; and

(2) in paragraph (9), by inserting ", but such term does not include salary or basic pay funded through an appropriation Act" before the period.

SEC. 11102. AMENDMENTS TO SECTION 201.

(a) TERM OF OFFICE.—The first sentence of section 201(a)(3) of the Congressional Budget

Act of 1974 is amended to read as follows: "The term of office of the Director shall be four years and shall expire on January 3 of the year preceding a Presidential election.".

(b) Redesignation of Executed Provision.—Section 201 of the Congressional Budget Act of 1974 is amended by redesignating subsection (g) (relating to revenue estimates) as subsection (f).

SEC. 11103. AMENDMENTS TO SECTION 202.

(a) Assistance to Budget Committees.—The first sentence of section 202(a) of the Congressional Budget Act of 1974 is amended by inserting "primary" before "duty".

(b) Elimination of Executed Provision.—Section 202 of the Congressional Budget Act of 1974 is amended by striking subsection (e) and by redesignating subsections (f), (g), and (h) as subsections (e), (f), and (g), respectively.

SEC. 11104. AMENDMENT TO SECTION 300.

The item relating to February 25 in the timetable set forth in section 300 of the Congressional Budget Act of 1974 is amended by striking "February 25" and inserting "Within 6 weeks after President submits budget".

SEC. 11105. AMENDMENTS TO SECTION 301.

(a) Terms of Budget Resolutions.—Section 301(a) of the Congressional Budget Act of 1974 is amended by striking ", and planning levels for each of the two ensuing fiscal years," and inserting "and for at least each of the 4 ensuing fiscal years".

(b) Contents of Budget Resolutions.—Paragraphs (1) and (4) of section 301(a) of the Congressional Budget Act of 1974 are amended by striking ", budget outlays, direct loan obligations, and primary loan guarantee commitments" each place it appears and inserting "and budget outlays".

(c) Additional Matters.—Section 301(b) of the Congressional Budget Act of 1974 is amended by amending paragraph (7) to read as follows—

"(7) set forth pay-as-you-go procedures in the Senate whereby committee allocations, aggregates, and other levels can be revised for legislation within a committee's jurisdiction if such legislation would not increase the deficit for the first year covered by the resolution and will not increase the deficit for the period of 5 fiscal years covered by the resolution;".

(d) Views and Estimates.—The first sentence of section 301(d) of the Congressional Budget Act of 1974 is amended by inserting "or at such time as may be requested by the Committee on the Budget," after "Code,".

(e) Hearings and Report.—Section 301(e)(2) of the Congressional Budget Act of 1974 is amended by striking "total direct loan obligations, total primary loan guarantee commitments,".

(f) Social Security Corrections.—Section 301(i) of the Congressional Budget Act of 1974 is amended by—

(1) inserting "Social security point of order.—" after "(i)"; and

(2) striking "as reported to the Senate" and inserting "(or amendment, motion, or conference report on such a resolution)".

SEC. 11106. AMENDMENTS TO SECTION 302.

(a) Allocations and Suballocations.—Subsections (a) and (b) of section 302 of the Congressional Budget Act of 1974 are amended to read as follows:

"(a) Committee Spending Allocations.—

"(1) Allocation among committees.—The joint explanatory statement accompanying a conference report on a budget resolution shall include allocations, consistent with the resolution recommended in the conference report, of the appropriate levels (for each fiscal year covered by that resolution and a total for all such years, except in the case of the Committee on Appropriations only for the first such fiscal year) of—

"(A) total new budget authority;

"(B) total outlays; and

"(C) in the Senate, social security outlays;

among each committee of the House of Representatives or the Senate that has jurisdiction over legislation providing or creating such amounts.

"(2) No double counting.—In the House of Representatives, any item allocated to one committee may not be allocated to another such committee.

"(3) Further division of amounts.—In the House of Representatives, the amounts allocated to each committee for each fiscal year, other than the Committee on Appropriations, shall be further divided between amounts provided or required by law on the date of filing of that conference report and amounts not so provided or required. The amounts allocated to the Committee on Appropriations for each fiscal year shall be further divided between discretionary and mandatory amounts or programs, as appropriate.

"(4) Amounts not allocated.—(A) In the House of Representatives, if a committee receives no allocation of new budget authority or outlays, that committee shall be deemed to have received an allocation equal to zero for new budget authority or outlays.

"(B) In the Senate, if a committee receives no allocation of new budget authority, outlays, or social security outlays, that committee shall be deemed to have received an allocation equal to zero for new budget authority, outlays, or social security outlays.

"(5) Social security levels in the Senate.—

"(A) In general.—For purposes of paragraph (1)(C), social security surpluses equal the excess of social security revenues over social security outlays in a fiscal year or years with such an excess and social security deficits equal the excess of social security outlays over social security revenues in a fiscal year or years with such an excess.

"(B) Tax treatment.—For purposes of paragraph (1)(C), no provision of any legislation involving a change in chapter 1 of the Internal Revenue Code of 1986 shall be treated as affecting the amount of social security revenues or outlays unless such provision changes the income tax treatment of social security benefits.

"(6) Adjusting Allocation of Discretionary Spending in the House of Representatives.—(A) If a concurrent resolution on the budget is not adopted by April 15, the chairman of the Committee on the Budget of the House of Representatives shall submit to the House, as soon as practicable, an allocation under paragraph (1) to the Committee on Appropriations consistent with the discretionary spending limits contained in the most recently agreed to concurrent resolution on the budget for the second fiscal year covered by that resolution.

"(B) As soon as practicable after an allocation under paragraph (1) is submitted under this section, the Committee on Appropriations shall make suballocations and promptly report those suballocations to the House of Representatives.

"(b) Suballocations by Appropriation Committees.—As soon as practicable after a concurrent resolution on the budget is agreed to, the Committee on Appropriations of each House (after consulting with the Committee on Appropriations of the other House) shall suballocate each amount allocated to it for the budget year under subsection (a) among its subcommittees. Each Committee on Appropriations shall promptly report to its House suballocations made or revised under this paragraph.".

(b) Point of Order.—Section 302(c) of the Congressional Budget Act of 1974 is amended to read as follows:

"(c) Point of Order.—After the Committee on Appropriations has received an allocation pursuant to subsection (a) for a fiscal year, it shall not be in order in the House of Representatives or the Senate to consider any bill, joint resolution, amendment, motion, or conference report providing new budget authority for that fiscal year within the jurisdiction of that committee, until such committee makes the suballocations required by subsection (b).".

(c) Enforcement of Point of Order.—(1) Section 302(f)(1) of the Congressional Budget Act of 1974 is amended by—

(A) striking "providing new budget authority for such fiscal year or new entitlement authority effective during such fiscal year" and inserting "providing new budget authority for any fiscal year covered by the concurrent resolution";

(B) striking "appropriate allocation made pursuant to subsection (b) for such fiscal year" and inserting "appropriate allocation made under subsection (a) or any suballocation made under subsection (b), as applicable, for the fiscal year of the concurrent resolution or for the total of all fiscal years covered by the concurrent resolution"; and

(C) striking "of new discretionary budget authority or new entitlement authority to be exceeded" and inserting "of new discretionary budget authority to be exceeded".

(2) Section 302(f)(2) of the Congressional Budget Act of 1974 is amended to read as follows:

"(2) Enforcement of committee allocations and suballocations in the Senate.—After a concurrent resolution on the budget is agreed to, it shall not be in order in the Senate to consider any bill, joint resolution, amendment, motion, or conference report that would cause—

"(A) in the case of any committee except the Committee on Appropriations, the appropriate allocation of new budget authority or outlays under subsection (a) to be exceeded; or

"(B) in the case of the Committee on Appropriations, the appropriate suballocation of new budget authority or outlays under subsection (b) to be exceeded.".

(d) Separate Allocations.—Section 302(g) of the Congressional Budget Act of 1974 is amended to read as follows:

"(g) Separate Allocations.—The Committees on Appropriations and the Budget shall make separate allocations and suballocations under this section consistent with the categories in section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985."

SEC. 11107. AMENDMENTS TO SECTION 303.

(a) In General.—Section 303 of the Congressional Budget Act of 1974 is amended to read as follows:

"CONCURRENT RESOLUTION ON THE BUDGET MUST BE ADOPTED BEFORE LEGISLATION PROVIDING NEW BUDGET AUTHORITY, NEW SPENDING AUTHORITY, OR CHANGES IN REVENUES OR THE PUBLIC DEBT LIMIT IS CONSIDERED

"Sec. 303. (a) In General.—It shall not be in order in either the House of Representatives or the Senate to consider any bill, joint resolution, amendment, motion, or conference report as reported to the House or Senate which provides—

"(1) new budget authority for a fiscal year;

"(2) an increase or decrease in revenues to become effective during a fiscal year;

"(3) an increase or decrease in the public debt limit to become effective during a fiscal year;

"(4) in the Senate only, new spending authority (as defined in section 401(c)(2)) for a fiscal year; or

"(5) in the Senate only, outlays,

until the concurrent resolution on the budget for such fiscal year (or, in the Senate, a concurrent resolution on the budget covering such fiscal year) has been agreed to pursuant to section 301.

"(b) EXCEPTIONS.—(1) In the House of Representatives, subsection (a) does not apply to any bill or resolution—

"(A) providing advance discretionary new budget authority which first becomes available in a fiscal year following the fiscal year to which the concurrent resolution applies; or

"(B) increasing or decreasing revenues which first become effective in a fiscal year following the fiscal year to which the concurrent resolution applies.

After May 15 of any calendar year, subsection (a) does not apply in the House of Representatives to any general appropriation bill, or amendment thereto, which provides new budget authority for the fiscal year beginning in such calendar year.

"(2) In the Senate, subsection (a) does not apply to any bill or resolution making advance appropriations for the fiscal year to which the concurrent resolution applies and the two succeeding fiscal years.

(b) CONFORMING AMENDMENT.—The item relating to section 303 in the table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking "new credit authority,".

SEC. 11108. AMENDMENT TO SECTION 305.

Section 305(a)(1) of the Congressional Budget Act of 1974 is amended by inserting "when the House is not in session" after "holidays" each place it appears.

SEC. 11109. AMENDMENTS TO SECTION 308.

Section 308 of the Congressional Budget Act of 1974 is amended—

(1)(A) in the side heading of subsection (a), by striking "OR NEW CREDIT AUTHORITY," and by striking the first comma and inserting "OR";

(B) in paragraphs (1) and (2) of subsection (a), by striking "or new credit authority," each place it appears and by striking the comma before "new spending authority" each place it appears and inserting "or";

(2) in subsection (b)(1), by striking "or new credit authority," and by striking the comma before "new spending authority" and inserting "or";

(3) in subsection (c), by inserting "and" after the semicolon at the end of paragraph (3), by striking "; and" at the end of paragraph (4) and inserting a period; and by striking paragraph (5); and

(4) by inserting "joint" before "resolution" each place it appears and, in subsection (b)(1), by inserting "joint" before "resolutions".

SEC. 11110. AMENDMENTS TO SECTION 310.

Section 310 of the Congressional Budget Act of 1974 is amended by—

(1) in subsection (a)(1), by inserting "and" after the semicolon at the end of subparagraph (B), by striking "subparagraphs (C) and (D), and by inserting after subparagraph (B) the following new subparagraph:

"(C) direct spending (as defined in section 250(c)(8) of the Balanced Budget and Emergency Deficit Control Act of 1985),"; and

(2) in subsection (c)(1)(A), by inserting "of the absolute value" after "20 percent" each place it appears.

SEC. 11111. AMENDMENTS TO SECTION 311.

Section 311 of the Congressional Budget Act of 1974 is amended to read as follows:

"NEW BUDGET AUTHORITY, NEW SPENDING AUTHORITY, AND REVENUE LEGISLATION MUST BE WITHIN APPROPRIATE LEVELS

"SEC. 311. (a) ENFORCEMENT OF BUDGET AGGREGATES.—

"(1) IN THE HOUSE OF REPRESENTATIVES.—Except as provided by subsection (c), after the Congress has completed action on a concurrent resolution on the budget for a fiscal year, it shall not be in order in the House of Representatives to consider any bill, joint resolution, amendment, motion, or conference report providing new budget authority for such fiscal year or reducing revenues for such fiscal year, if—

"(A) the enactment of such bill or resolution as reported;

"(B) the adoption and enactment of such amendment; or

"(C) the enactment of such bill or resolution in the form recommended in such conference report;

would cause the appropriate level of total new budget authority or total budget outlays set forth in the most recently agreed to concurrent resolution on the budget for such fiscal year to be exceeded, or would cause revenues to be less than the appropriate level of total revenues set forth in such concurrent resolution such fiscal year or for the total of all fiscal years covered by the concurrent resolution, except in the case that a declaration of war by the Congress is in effect.

"(2) IN THE SENATE.—After a concurrent resolution on the budget is agreed to, it shall not be in order in the Senate to consider any bill, resolution, amendment, motion, or conference report that—

"(A) would cause the appropriate level of total new budget authority or total outlays set forth for the first fiscal year in such resolution to be exceeded; or

"(B) would cause revenues to be less than the appropriate level of total revenues set forth for the first fiscal year covered by such resolution or for the period including the first fiscal year plus the following 4 fiscal years in such resolution.

"(3) ENFORCEMENT OF SOCIAL SECURITY LEVELS IN THE SENATE.—After a concurrent resolution on the budget is agreed to, it shall not be in order in the Senate to consider any bill, resolution, amendment, motion, or conference report that would cause a decrease in social security surpluses or an increase in social security deficits derived from the levels of social security revenues and social security outlays set forth for the first fiscal year covered by the resolution and for the period including the first fiscal year plus the following 4 fiscal years in such resolution.

"(b) SOCIAL SECURITY LEVELS.—

"(1) IN GENERAL.—For the purposes of subsection (a)(3), social security surpluses equal the excess of social security revenues over social security outlays in a fiscal year or years with such an excess and social security deficits equal the excess of social security outlays over social security revenues in a fiscal year or years with such an excess.

"(2) TAX TREATMENT.—For the purposes of this section, no provision of any legislation involving a change in chapter 1 of the Internal Revenue Code of 1986 shall be treated as affecting the amount of social security revenues or outlays unless such provision changes the income tax treatment of social security benefits.

"(c) EXCEPTION IN THE HOUSE OF REPRESENTATIVES.—Subsection (a)(1) shall not apply in the House of Representatives to any bill, resolution, or amendment that provides new budget authority for a fiscal year or to any conference report on any such bill or resolution, if—

"(1) the enactment of such bill or resolution as reported;

"(2) the adoption and enactment of such amendment; or

"(3) the enactment of such bill or resolution in the form recommended in such conference report;

would not cause the appropriate allocation of new budget authority made pursuant to section 302(a) for such fiscal year, for the committee within whose jurisdiction such bill, resolution, or amendment falls, to be exceeded.".

SEC. 11112. AMENDMENT TO SECTION 312.

(a) IN GENERAL.—Section 312 of the Congressional Budget Act of 1974 is amended to read as follows:

"POINTS OF ORDER

"SEC. 312. (a) BUDGET COMMITTEE DETERMINATIONS.—For purposes of this title and title IV, the levels of new budget authority, budget outlays, spending authority as described in section 401(c)(2), direct spending, new entitlement authority, and revenues for a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the House of Representatives or the Senate, as the case may be.

"(b) DISCRETIONARY SPENDING POINT OF ORDER IN THE SENATE.—

"(1) Except as otherwise provided in this subsection, it shall not be in order in the Senate to consider any concurrent resolution on the budget (or amendment, motion, or conference report on such a resolution) that would exceed any of the discretionary spending limits in section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985.

"(2) This subsection shall not apply if a declaration of war by the Congress is in effect or if a joint resolution pursuant to section 258 of the Balanced Budget and Emergency Deficit Control Act of 1985 has been enacted.

"(c) MAXIMUM DEFICIT AMOUNT POINT OF ORDER IN THE SENATE.—It shall not be in order in the Senate to consider any concurrent resolution on the budget for a fiscal year under section 301, or to consider any amendment to that concurrent resolution, or to consider a conference report on that concurrent resolution—

"(1) if the level of total budget outlays for the first fiscal year that is set forth in that concurrent resolution or conference report exceeds the recommended level of Federal revenues set forth for that year by an amount that is greater than the maximum deficit amount, if any, specified in the Balanced Budget and Emergency Deficit Control Act of 1985 for such fiscal year; or

"(2) if the adoption of such amendment would result in a level of total budget outlays for that fiscal year which exceeds the recommended level of Federal revenues for that fiscal year, by an amount that is greater than the maximum deficit amount, if any, specified in the Balanced Budget and Emergency Deficit Control Act of 1985 for such fiscal year.

"(d) TIMING OF POINTS OF ORDER IN THE SENATE.—A point of order under this Act may not be raised against a bill, resolution, amendment, motion, or conference report while an amendment or motion, the adoption of which would remedy the violation of this Act, is pending before the Senate.

"(e) POINTS OF ORDER IN THE SENATE AGAINST AMENDMENTS BETWEEN THE HOUSES.—Each provision of this Act that establishes a point of order against an amendment also establishes a point of order in the Senate against an amendment between the Houses. If a point of order under this Act is raised in the Senate against an amendment between the Houses, and the Presiding Officer sustains the point of order, the effect shall be the same as if the Senate had disagreed to the amendment.

"(f) EFFECT OF A POINT OF ORDER ON A BILL IN THE SENATE.—In the Senate, if the Chair sustains a point of order under this Act against a bill, the Chair shall then send the bill to the committee of appropriate jurisdiction for further consideration.".

(b) CONFORMING AMENDMENT.—The item relating to section 312 in the table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking "Effect of point" and inserting "Point".

SEC. 11113. ADJUSTMENTS AND BUDGET COMMITTEE DETERMINATIONS.

(a) IN GENERAL.—Title III of the Congressional Budget Act of 1974 is amended by adding at the end the following new section:

"ADJUSTMENTS

"SEC. 314. (a) ADJUSTMENTS.—When—

"(1)(A) the Committee on Appropriations reports an appropriation measure for fiscal year 1998, 1999, 2000, 2001, or 2002 that specifies an amount for emergencies pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 or for continuing disability reviews pursuant to section 251(b)(2)(C) of that Act;

"(B) any other committee reports emergency legislation described in section 252(e) of that Act;

"(C) the Committee on Appropriations reports an appropriation measure for fiscal year 1998, 1999, 2000, 2001, or 2002 that includes an appropriation with respect to clause (i) or (ii), the adjustment shall be the amount of budget authority in the measure that is the dollar equivalent, in terms of Special Drawing Rights, of—

"(i) increases the United States quota as part of the International Monetary Fund Eleventh General Review of Quotas (United States Quota); or

"(ii) increases the maximum amount available to the Secretary of the Treasury pursuant to section 17 of the Bretton Woods Agreement Act, as amended from time to time (New Arrangements to Borrow); or

"(D) the Committee on Appropriations reports an appropriation measure for fiscal year 1998, 1999, or 2000 that includes an appropriation for arrearages for international organizations, international peacekeeping, and multilateral development banks during that fiscal year, and the sum of the appropriations for the period of fiscal years 1998 through 2000 do not exceed $1,884,000,000 in budget authority; or

"(2) a conference committee submits a conference report thereon;

the chairman of the Committee on the Budget of the Senate or House of Representatives shall make the adjustments referred to in subsection (c) to reflect the additional new budget authority for such matter provided in that measure or conference report and the additional outlays flowing in all fiscal years from such amounts for such matter.

"(b) APPLICATION OF ADJUSTMENTS.—The adjustments and revisions to allocations, aggregates, and limits made by the Chairman of the Committee on the Budget pursuant to subsection (a) for legislation shall only apply while such legislation is under consideration and shall only permanently take effect upon the enactment of that legislation.

"(c) CONTENT OF ADJUSTMENTS.—The adjustments referred to in subsection (a) shall consist of adjustments, as appropriate, to—

"(1) the discretionary spending limits as set forth in the most recently agreed to concurrent resolution on the budget;

"(2) the allocations made pursuant to the most recently adopted concurrent resolution on the budget pursuant to section 302(a); and

"(3) the budgetary aggregates as set forth in the most recently adopted concurrent resolution on the budget.

"(d) REPORTING REVISED SUBALLOCATIONS.—Following the adjustments made under subsection (a), the Committees on Appropriations of the Senate and the House of Representatives may report appropriately revised suballocations pursuant to section 302(b) to carry out this subsection.

"(e) DEFINITIONS.—As used in subsection (a)(1)(A), when referring to continuing disability reviews, the terms 'continuing disability reviews', 'additional new budget authority', and 'additional outlays' shall have the same meanings as provided in section 251(b)(2)(C)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985.".

(b) CONFORMING AMENDMENTS.—(1) Sections 302(g), 311(c), and 313(e) of the Congressional Budget Act of 1974 are repealed.

(2) The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by adding after the item relating to section 313 the following new item:

"Sec. 314. Adjustments.".

SEC. 11114. EFFECT OF SELF-EXECUTING AMENDMENTS ON POINTS OF ORDER IN THE HOUSE OF REPRESENTATIVES.

(a) EFFECT OF POINTS OF ORDER.—Title III of the Congressional Budget Act of 1974 is amended by adding after section 314 the following new section:

"EFFECT OF SELF-EXECUTING AMENDMENTS ON POINTS OF ORDER IN THE HOUSE OF REPRESENTATIVES

"SEC. 315. In the House of Representatives, if a provision of a bill, as reported, violates a section of this title or title IV and a self-executing rule providing for consideration of that bill modifies that provision to eliminate such violation, then such point of order shall not lie against consideration of that bill.".

(b) CONFORMING AMENDMENT.—The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by adding after the item relating to section 314 the following new item:

"Sec. 315. Effect of self-executing amendments on points of order in the house of representatives.".

SEC. 11115. AMENDMENT OF SECTION 401 AND REPEAL OF SECTION 402.

(a) SECTION 401.—Subsections (a) and (b) of section 401 of the Congressional Budget Act of 1974 are amended to read as follows:

"BILLS PROVIDING NEW SPENDING AUTHORITY OR NEW CREDIT AUTHORITY

"SEC. 401. (a) CONTROLS ON LEGISLATION PROVIDING SPENDING AUTHORITY OR CREDIT AUTHORITY.—It shall not be in order in either the House of Representatives or the Senate to consider any bill, joint resolution, amendment, motion, or conference report, as reported to its House which provides new spending authority described in subsection (c)(2)(A) or (B) or new credit authority, unless that bill, resolution, conference report, or amendment also provides that such new spending authority as described in subsection (c)(2) (A) or (B) or new credit authority is to be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

"(b) LEGISLATION PROVIDING ENTITLEMENT AUTHORITY.—It shall not be in order in either the House of Representatives or the Senate to consider any bill, joint resolution, amendment, motion, or conference report, as reported to its House which provides new spending authority described in subsection (c)(2)(C) which is to become effective before the first day of the fiscal year which begins during the calendar year in which such bill or resolution is reported.".

(b) REPEALER OF SECTION 402.—(1) Section 402 of the Congressional Budget Act of 1974 is repealed.

(2) CONFORMING AMENDMENTS.—(1) Sections 403 through 407 of the Congressional Budget Act of 1974 are redesignated as sections 402 through 406, respectively.

(2) The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by deleting the item relating to section 402 and by redesignating the items relating to sections 403 through 407 as the items relating to sections 402 through 406, respectively.

SEC. 11116. REPEAL OF TITLE VI.

(a) REPEALER.—Title VI of the Congressional Budget Act of 1974 is repealed.

(b) CONFORMING AMENDMENTS.—The items relating to title VI of the table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 are repealed.

SEC. 11117. AMENDMENTS TO SECTION 904.

(a) CONFORMING AMENDMENT.—Section 904(a) of the Congressional Budget Act of 1974 is amended by striking "(except section 905)" and by striking "V, and VI (except section 601(a))" and inserting "and V".

(b) WAIVERS.—Section 904(c) of the Congressional Budget Act of 1974 is amended to read as follows:

"(c) WAIVERS.—

"(1) Sections 305(b)(2), 305(c)(4), 306, 310(d)(2), 313, 904(c), and 904(d) of this Act may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.

"(2) Sections 301(i), 302(c), 302(f), 310(g), 311(a), and 315 of this Act and sections 258(a)(4)(C), 258(A)(b)(3)(C)(I), 258(B)(f)(1), 258B(h)(1), 258(h)(3), 258C(a)(5), and 258(C)(b)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985 may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.".

(c) APPEALS.—Section 904(d) of the Congressional Budget Act of 1974 is amended to read as follows:

"(d) APPEALS.—

"(1) Appeals in the Senate from the decisions of the Chair relating to any provision of title III or IV of section 1017 shall, except as otherwise provided therein, be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the resolution, concurrent resolution, reconciliation bill, or rescission bill, as the case may be.

"(2) An affirmative vote of three-fifths of the Members, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under sections 305(b)(2), 305(c)(4), 306, 310(d)(2), 313, 904(c), and 904(d) of this Act.

"(3) An affirmative vote of three-fifths of the Members, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under sections 301(i), 302(c), 302(f), 310(g), 311(a), and 315 of this Act and sections 258(a)(4)(C), 258(A)(b)(3)(C)(I), 258(B)(f)(1), 258B(h)(1), 258(h)(3), 258C(a)(5), and 258(C)(b)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985.".

(d) EXPIRATION OF SUPERMAJORITY VOTING REQUIREMENTS.—Section 904 of the Congressional Budget Act of 1974 is amended by adding at the end the following:

"(e) EXPIRATION OF CERTAIN SUPERMAJORITY VOTING REQUIREMENTS.—Subsections (c)(2) and (d)(3) shall expire on September 30, 2002.".

SEC. 11118. REPEAL OF SECTIONS 905 AND 906.

(a) REPEALER.—Sections 905 and 906 of the Congressional Budget and Impoundment Control Act of 1974 are repealed.

(b) CONFORMING AMENDMENTS.—The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking the items relating to sections 905 and 906.

SEC. 11119. AMENDMENTS TO SECTIONS 1022 AND 1024.

(a) SECTION 1022.—Section 1022(b)(1)(F) of Congressional Budget and Impoundment Control Act of 1974 is amended by striking "section 601" and inserting "section 251(c) the Balanced Budget and Emergency Deficit Control Act of 1985".

(b) SECTION 1024.—Section 1024(a)(1)(B) of Congressional Budget and Impoundment Control Act of 1974 is amended by striking "section 601(a)(2)" and inserting "section 251(c) the Balanced Budget and Emergency Deficit Control Act of 1985".

SEC. 11120. AMENDMENT TO SECTION 1026.

Section 1026(7)(A)(iv) of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking "and" and inserting "or".

Subtitle B—Amendments to the Balanced Budget and Emergency Deficit Control Act of 1985

SEC. 11201. PURPOSE.

This subtitle extends discretionary spending limits and pay-as-you-go requirements.

SEC. 11202. GENERAL STATEMENT AND DEFINITIONS.

(a) GENERAL STATEMENT.—Section 250(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900(b)) is amended by striking the first two sentences and inserting the following: "This part provides for the enforcement of a balanced budget by fiscal year 2002 as called for in House Concurrent Resolution 84 (105th Congress, 1st session).".

(b) DEFINITIONS.—Section 250(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) by striking paragraph (4) and inserting the following:

"(4) The term 'category' means defense, nondefense, and violent crime reduction discretionary appropriations as specified in the joint explanatory statement accompanying a conference report on the Balanced Budget Act of 1997.";

(2) by striking paragraph (6) and inserting the following:

"(6) The term 'budgetary resources' means new budget authority, unobligated balances, direct spending authority, and obligation limitations.";

(3) in paragraph (9), by striking "submission of the fiscal year 1992 budget that are not included with a budget submission" and inserting "that budget submission that are not included with it";

(4) in paragraph (14), by inserting "first 4" before "fiscal years" and by striking "1995" and inserting "2006";

(5) by striking paragraphs (17) and (20) and by redesignating paragraphs (18), (19), and (21) as paragraphs (17), (18), and (19), respectively;

(6) in paragraph (17) (as redesignated), by striking "Omnibus Budgtet Reconciliation Act of 1990" and inserting "Balanced Budget Act of 1997";

(7) in paragraph (20) (as redesignated), by striking the second sentence; and

(8) by adding at the end the following new paragraph:

"(20) The term 'consultation', when applied to the Committee on the Budget of either the House of Representatives or of the Senate, means written communication with that committee that affords that committee an opportunity to comment on the matter that is the subject of the consultation before official action is taken on such matter.".

SEC. 11203. ENFORCING DISCRETIONARY SPENDING LIMITS.

(a) EXTENSION THROUGH FISCAL YEAR 2002.—Section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) in the side heading of subsection (a), by striking "1991–1998" and inserting "1997–2002";

(2) in subsection (a)(7) by inserting "(excluding Saturdays, Sundays, or legal holidays)" after "5 calendar days";

(3) in the first sentence of subsection (b)(1), by striking "1992, 1993, 1994, 1995, 1996, 1997 or 1998" and inserting "1997 or any fiscal year thereafter through 2002" and by striking "through 1998" and inserting "through 2002";

(4) in subsection (b)(1), by striking "the following:" and all that follows through "in concepts and definitions" the first place it appears and inserting "the following: the adjustments" and by striking subparagraphs (B) and (C);

(5) in subsection (b)(2), by striking "1991, 1992, 1993, 1994, 1995, 1996, 1997, or 1998" and inserting "1997 or any fiscal year thereafter through 2002", by striking "through 1998" and inserting "through 2002", and by striking subparagraphs (A), (B), (C), (E), and (G), and by redesignating subparagraphs (D), (F), and (H) as subparagraphs (A), (B), and (C), respectively;

(6) in subsection (b)(2)(A) (as redesignated), by striking "(i)", by striking clause (ii), and by inserting "fiscal" before "years";

(7) in subsection (b)(2)(B) (as redesignated), by striking everything after "the adjustment in outlays" and inserting "for a fiscal year is the amount of the excess but not to exceed 0.5 percent of the adjusted discretionary spending limit on outlays for that fiscal year in fiscal year 1997 or any fiscal year thereafter through 2002; and

(8) by adding at the end of subsection (b)(2) the following new subparagraphs:

"(D) ALLOWANCE FOR IMF.—If an appropriations bill or joint resolution is enacted for fiscal year 1998, 1999, 2000, 2001, or 2002 that includes an appropriation with respect to clause (i) or (ii), the adjustment shall be the amount of budget authority in the measure that is the dollar equivalent, in terms of Special Drawing Rights, of—

"(i) an increase in the United States quota as part of the International Monetary Fund Eleventh General Review of Quotas (United States Quota); or

"(ii) any increase in the maximum amount available to the Secretary of the Treasury pursuant to section 17 of the Bretton Woods Agreement Act, as amended from time to time (New Arrangements to Borrow).

"(E) ALLOWANCE FOR INTERNATIONAL ARREARAGES.—

"(i) ADJUSTMENTS.—If an appropriations bill or joint resolution is enacted for fiscal year 1998, 1999, or 2000 that includes an appropriation for arrearages for international organizations, international peacekeeping, and multilateral banks for that fiscal year, the adjustment shall be the amount of budget authority in such measure and the outlays flowing in all fiscal years from such budget authority.

"(ii) LIMITATIONS.—The total amount of adjustments made pursuant to this subparagraph for the period of fiscla years 1998 through 2000 shall not exceed $1,884,000,000 in budget authority.".

(b) SHIFTING OF DISCRETIONARY SPENDING LIMITS INTO THE BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985.—Section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at the end the following new subsection:

"(c) DISCRETIONARY SPENDING LIMIT.—As used in this part, the term 'discretionary spending limit' means—

"(1) with respect to fiscal year 1997, for the discretionary category, the current adjusted amount of new budget authority and outlays;

"(2) with respect to fiscal year 1998—

"(A) for the defense category: $269,000,000,000 in new budget authority and $266,823,000,000 in outlays;

"(B) for the nondefense category: $252,357,000,000 in new budget authority and $282,853,000,000 in outlays; and

"(C) for the violent crime reduction category: $5,500,000,000 in new budget authority and $3,592,000,000 in outlays;

"(3) with respect to fiscal year 1999—

"(A) for the defense category: $271,500,000,000 in new budget authority and $266,518,000,000 in outlays; and

"(B) for the nondefense category: $261,499,000,000 in new budget authority and $292,803,000,000 in outlays;

"(4) with respect to fiscal year 2000, for the discretionary category: $537,193,000,000 in new budget authority and $564,265,000,000 in outlays;

"(5) with respect to fiscal year 2001, for the discretionary category: $542,032,000,000 in new budget authority and $564,396,000,000 in outlays; and

"(6) with respect to fiscal year 2002, for the discretionary category: $551,074,000,000 in new budget authority and $560,799,000,000 in outlays;

as adjusted in strict conformance with subsection (b).".

SEC. 11204. VIOLENT CRIME REDUCTION TRUST FUND.

(a) SEQUESTRATION REGARDING VIOLENT CRIME REDUCTION TRUST FUND.—Section 251A of the Balanced Budget and Emergency Deficit Control Act of 1985 is repealed.

(b) CONFORMING AMENDMENT.—Section 310002 of Public Law 103–322 (42 U.S.C. 14212) is repealed.

SEC. 11205. ENFORCING PAY-AS-YOU-GO.

(a) EXTENSION.—Section 252 (2 U.S.C. 902) is amended—

(1) by striking subsections (a) and (b) and inserting the following:

"(a) PURPOSE.—The purpose of this section is to assure that any legislation enacted prior to September 30, 2002, affecting direct spending or receipts that increases the deficit will trigger an offsetting sequestration.

"(b) SEQUESTRATION.—

"(1) Timing.—Within 15 calendar days after Congress adjourns to end a session and on the same day as a sequestration (if any) under sections 251 and 253, there shall be a sequestration to offset the amount of any net deficit increase in the budget year caused by all direct spending and receipts legislation (after adjusting for any prior sequestration as provided by paragraph (2)) plus any net deficit increase in the prior fiscal year caused by all direct spending and receipts legislation not reflected in the final OMB sequestration report for that year.

"(2) Calculation of deficit increase.—OMB shall calculate the amount of deficit increase, if any, in the budget year by adding—

"(A) all applicable estimates of direct spending and receipts legislation transmitted under subsection (d) applicable to the budget year, other than any amounts included in such estimates resulting from—

"(i) full funding of, and continuation of, the deposit insurance guarantee commitment in effect on the date of enactment of this section; and

"(ii) emergency provisions as designated under subsection (e); and

"(B) the estimated amount of savings in direct spending programs applicable to the budget year resulting from the prior year's sequestration under this section or section 253, if any (except for any amounts sequestered as a result of any deficit increase in the fiscal year immediately preceding the prior fiscal year), as published in OMB's final sequestration report for that prior year; and

"(C) all applicable estimates of direct spending and receipts legislation transmitted under subsection (d) for the current year that are not reflected in the final OMB sequestration report for that year, other than any amounts included in such estimates resulting from emergency provisions as designated under subsection (e).";

(2) by amending subsection (c)(1)(B), by inserting "and direct" after "guaranteed";

(3) by amending subsection (d) to read as follows:

"(d) Estimates.—

"(1) CBO estimates.—As soon as practicable after Congress completes action on any direct spending or receipts legislation, CBO shall provide an estimate of the budgetary effects of that legislation.

"(2) OMB estimates.—Not later than 5 calendar days (excluding Saturdays, Sundays, or legal holidays) after the enactment of any direct spending or receipts legislation, OMB shall transmit a report to the House of Representatives and to the Senate containing—

"(A) the CBO estimate of the budgetary effects of that legislation;

"(B) an OMB estimate of the budgetary effects of that legislation using current economic and technical assumptions; and

"(C) an explanation of any difference between the two estimates.

"(3) Scope of estimates.—The estimates under this section shall include the amount of change in outlays or receipts, as the case may be, for the current year (if applicable), the budget year, and each outyear.

"(4) Scorekeeping Guidelines.—OMB and CBO, after consultation with each other and the Committees on the Budget of the House of Representatives and the Senate, shall—

"(A) determine common scorekeeping guidelines; and

"(B) in conformance with such guidelines, prepare estimates under this section."; and

(4) in subsection (e), by striking ", for any fiscal year from 1991 through 1998," and by striking "through 1995".

SEC. 11206. REPORTS AND ORDERS.

Section 254 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) by striking subsection (c) and redesignating subsections (d) through (k) as (c) through (j), respectively;

(2) in subsection (c)(2) (as redesignated), by striking "1998" and inserting "2002"; and

(3)(A) in subsection (f)(2)(A) (as redesignated), by striking "1998" and inserting "2002"; and

(B) in subsection (f)(3) (as redesignated), by striking "through 1998".

SEC. 11207. EXEMPT PROGRAMS AND ACTIVITIES.

(a) Veterans Programs.—Section 255(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended as follows:

(1) In the item relating to Veterans Insurance and Indemnity, strike "Indemnity" and insert "Indemnities".

(2) In the item relating to Veterans' Canteen Service Revolving Fund, strike "Veterans'".

(3) In the item relating to Benefits under chapter 21 of title 38, strike "(36–0137–0–1–702)" and insert "(36–0120–0–1–701)".

(4) In the item relating to Veterans' compensation, strike "Veterans' compensation" and insert "Compensation".

(5) In the item relating to Veterans' pensions, strike "Veterans' pensions" and insert "Pensions".

(6) After the last item, insert the following new items:

"Benefits under chapter 35 of title 38, United States Code, related to educational assistance for survivors and dependents of certain veterans with service-connected disabilities (36–0137–0–1–702);

"Assistance and services under chapter 31 of title 38, United States Code, relating to training and rehabilitation for certain veterans with service-connected disabilities (36–0137–0–1–702);

"Benefits under subchapters I, II, and III of chapter 37 of title 38, United States Code, relating to housing loans for certain veterans and for the spouses and surviving spouses of certain veterans Guaranty and Indemnity Program Account (36–1119–0–1–704);

"Loan Guaranty Program Account (36–1025–0–1–704); and

"Direct Loan Program Account (36–1024–0–1–704).".

(b) Certain Program Bases.—Section 255(f) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended to read as follows:

"(f) Optional Exemption of Military Personnel.—

"(1) The President may, with respect to any military personnel account, exempt that account from sequestration or provide for a lower uniform percentage reduction than would otherwise apply.

"(2) The President may not use the authority provided by paragraph (1) unless he notifies the Congress of the manner in which such authority will be exercised on or before the date specified in section 254(a) for the budget year.".

(c) Other Programs and Activities.—(1) Section 255(g)(1)(A) of the Balanced Budget Emergency Deficit Control Act of 1985 is amended as follows:

(A) After the first item, insert the following new item:

"Activities financed by voluntary payments to the Government for goods or services to be provided for such payments;".

(B) Strike "Thrift Savings Fund (26–8141–0–7–602);".

(C) In the first item relating to the Bureau of Indian Affairs, insert "Indian land and water claims settlements and" after the comma.

(D) In the second item relating to the Bureau of Indian Affairs, strike "miscellaneous" and insert "Miscellaneous" and strike ", tribal trust funds".

(E) Strike "Claims, defense (97–0102–0–1–051);".

(F) In the item relating to Claims, judgments, and relief acts, strike "806" and insert "808".

(G) Strike "Coinage profit fund (20-5811-0-2-803)".

(H) Insert "Compact of Free Association (14–0415–0–1–808);" after the item relating to the Claims, judgments, and relief acts.

(I) Insert "Conservation Reserve Program (12–2319–0–1–302);" after the item relating to the Compensation of the President.

(J) In the item relating to the Customs Service, strike "852" and insert "806".

(K) In the item relating to the Comptroller of the Currency, insert ", Assessment funds (20–8413–0–8–373)" before the semicolon.

(L) Strike "Director of the Office of Thrift Supervision;".

(M) Strike "Eastern Indian land claims settlement fund (14–2202–0–1–806);".

(N) After the item relating to the Exchange stabilization fund, insert the following new items:

"Farm Credit Administration, Limitation on Administrative Expenses (78–4131–0–3–351);

"Farm Credit System Financial Assistance Corporation, interest payment (20–1850–0–1–908);".

(O) Strike "Federal Deposit Insurance Corporation;".

(P) In the first item relating to the Federal Deposit Insurance Corporation, insert "(51–4064–0–3–373)" before the semicolon.

(Q) In the second item relating to the Federal Deposit Insurance Corporation, insert "(51–4065–0–3–373)" before the semicolon.

(R) In the third item relating to the Federal Deposit Insurance Corporation, insert "(51–4066–0–3–373)" before the semicolon.

(S) In the item relating to the Federal Housing Finance Board, insert "(95–4039–0–3–371)" before the semicolon.

(T) In the item relating to the Federal payment to the railroad retirement account, strike "account" and insert "accounts".

(U) In the item relating to the health professions graduate student loan insurance fund, insert "program account" after "fund" and strike "(Health Education Assistance Loan Program) (75–4305–0–3–553)" and insert "(75–0340–0–1–552)".

(V) In the item relating to Higher education facilities, strike "and insurance".

(W) In the item relating to Internal revenue collections for Puerto Rico, strike "852" and insert "806".

(X) Amend the item relating to the Panama Canal Commission to read as follows:

"Panama Canal Commission, Panama Canal Revolving Fund (95–4061–0–3–403);".

(Y) In the item relating to the Medical facilities guarantee and loan fund, strike "(75–4430–0–3–551)" and insert "(75–9931–0–3–550)".

(Z) In the first item relating to the National Credit Union Administration, insert "operating fund (25–4056–0–3–373)" before the semicolon.

(AA) In the second item relating to the National Credit Union Administration, strike "central" and insert "Central" and insert "(25–4470–0–3–373)" before the semicolon.

(BB) In the third item relating to the National Credit Union Administration, strike "credit" and insert "Credit" and insert "(25–4468–0–3–373)" before the semicolon.

(CC) After the third item relating to the National Credit Union Administration, insert the following new item:

"Office of Thrift Supervision (20–4108–0–3–373);".

(DD) In the item relating to Payments to health care trust funds, strike "572" and insert "571".

(EE) Strike "Compact of Free Association, economic assistance pursuant to Public Law 99–658 (14–0415–0–1–806);".

(FF) In the item relating to Payments to social security trust funds, strike "571" and insert "651".

(GG) Strike "Payments to state and local government fiscal assistance trust fund (20–2111–0–1–851);".

(HH) In the item relating to Payments to the United States territories, strike "852" and insert "806".

(II) Strike "Resolution Funding Corporation;".

(JJ) In the item relating to the Resolution Trust Corporation, insert "Revolving Fund (22–4055–0–3–373)" before the semicolon.

(KK) After the item relating to the Tennessee Valley Authority funds, insert the following new items:

"Thrift Savings Fund;

"United States Enrichment Corporation (95–4054–0–3–271);

"Vaccine Injury Compensation (75–0320–0–1–551);

"Vaccine Injury Compensation Program Trust Fund (20–8175–0–7–551);".

(2) Section 255(g)(1)(B) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended as follows:

(A) Strike "The following budget" and insert "The following Federal retirement and disability".

(B) In the item relating to Black lung benefits, strike "lung benefits" and insert "Lung Disability Trust Fund".

(C) In the item relating to the Court of Federal Claims Court Judges' Retirement Fund, strike "Court of Federal".

(D) In the item relating to Longshoremen's compensation benefits, insert "Special workers compensation expenses," before "Longshoremen's".

(E) In the item relating to Railroad retirement tier II, strike "retirement tier II" and insert "Industry Pension Fund".

(3) Section 255(g)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended as follows:

(A) Strike the following items:

"Agency for International Development, Housing, and other credit guarantee programs (72–4340–0–3–151);

"Agricultural credit insurance fund (12–4140–0–1–351);".

(B) In the item relating to Check forgery, strike "Check" and insert "United States Treasury check".

(C) Strike "Community development grant loan guarantees (86–0162–0–1–451);".

(D) After the item relating to the United States Treasury Check forgery insurance fund, insert the following new item:

"Credit liquidating accounts;".

(E) Strike the following items:

"Credit union share insurance fund (25–4468–0–3–371);

"Economic development revolving fund (13–4406–0–3);

"Export-Import Bank of the United States, Limitation of program activity (83–4027–0–1–155);

"Federal deposit Insurance Corporation (51–8419–0–8–371);

"Federal Housing Administration fund (86–4070–0–3–371);

"Federal ship financing fund (69–4301–0–3–403);

"Federal ship financing fund, fishing vessels (13–4417–0–3–376);

"Government National Mortgage Association, Guarantees of mortgage-backed securities (86–4238–0–3–371);

"Health education loans (75–4307–0–3–553);

"Indian loan guarantee and insurance fund (14–4410–0–3–452);

"Railroad rehabilitation and improvement financing fund (69–4411–0–3–401);

"Rural development insurance fund (12–4155–0–3–452);

"Rural electric and telephone revolving fund (12–4230–8–3–271);

"Rural housing insurance fund (12–4141–0–3–371);

"Small Business Administration, Business loan and investment fund (73–4154–0–3–376);

"Small Business Administration, Lease guarantees revolving fund (73–4157–0–3–376);

"Small Business Administration, Pollution control equipment contract guarantee revolving fund (73–4147–0–3–376);

"Small Business Administration, Surety bond guarantees revolving fund (73–4156–0–3–376);

"Department of Veterans Affairs Loan guaranty revolving fund (36–4025–0–3–704);".

(d) Low-Income Programs.—Section 255(h) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended as follows:

(1) Amend the item relating to Child nutrition to read as follows:

"State child nutrition programs (with the exception of special milk programs) (12–3539–0–1–605);".

(2) Amend the item relating to the Women, infants, and children program to read as follows:

"Special supplemental nutrition program for women, infants, and children (WIC) (12–3510–0–1–605).".

(e) Identification of Programs.—Section 255(i) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended to read as follows:

"(i) Identification of Programs.—For purposes of subsections (b), (g), and (h), each account is identified by the designated budget account identification code number set forth in the Budget of the United States Government 1996–Appendix, and an activity within an account is designated by the name of the activity and the identification code number of the account.".

(f) Optional Exemption of Military Personnel.—Section 255(h) of the Balanced Budget and Emergency Deficit Control Act of 1985 (relating to optional exemption of military personnel) is repealed.

SEC. 11208. GENERAL AND SPECIAL SEQUESTRATION RULES.

(a) Section Heading.—(1) The section heading of section 256 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking "exceptions, limitations, and special rules" and inserting "general and special sequestration rules".

(2) The item relating to section 256 in the table contents set forth in section 250(a) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended to read as follows:

"Sec. 256. General and special sequestration rules.".

(b) Automatic Spending Increases.—Section 256(a) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking paragraph (1) and redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(c) Guaranteed and Direct Student Loan Programs.—Section 256(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended to read as follows:

"(b) Student Loans.—(1) For all student loans under part B or D of title IV of the Higher Education Act of 1965 made during the period when a sequestration order under section 254 is in effect, origination fees under sections 438(c)(2) and 455(c) of that Act shall be increased by a uniform percentage sufficient to produce the dollar savings in student loan programs (as a result of that sequestration order) required by section 252 or 253, as applicable.

"(2) For any loan made during the period beginning on the date that an order issued under section 254 takes effect with respect to a fiscal year and ending at the close of such fiscal year, the origination fees which are authorized to be collected pursuant to sections 438(c)(2) and 455(c) of such Act shall be increased by 0.50 percent.".

(d) Health Centers.—Section 256(e)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking the dash and all that follows thereafter and inserting "2 percent.".

(e) Federal Pay.—Section 256(g)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by inserting "(including any amount payable under section 5303 or 5304 of title 5, United States Code)" after "such statutory pay system".

(f) Treatment of Federal Administrative Expenses.—Section 256(h)(4) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking subparagraphs (D) and (H), by redesignating subparagraphs (E), (F), (G), and (I), as subparagraphs (D), (E), (F), and (G), respectively, and by adding at the end the following new subparagraph:

"(H) Farm Credit Administration.".

(g) Commodity Credit Corporation.—Section 256(j)(5) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended to read as follows:

"(5) Dairy program.—Notwithstanding other provisions of this subsection, as the sole means of achieving any reduction in outlays under the milk price support program, the Secretary of Agriculture shall provide for a reduction to be made in the price received by producers for all milk produced in the United States and marketed by producers for commercial use. That price reduction (measured in cents per hundred weight of milk marketed) shall occur under section 201(d)(2)(A) of the Agricultural Act of 1949 (7 U.S.C. 1446(d)(2)(A)), shall begin on the day any sequestration order is issued under section 254, and shall not exceed the aggregate amount of the reduction in outlays under the milk price support program that otherwise would have been achieved by reducing payments for the purchase of milk or the products of milk under this subsection during the applicable fiscal year.".

(h) Effects of Sequestration.—Section 256(k) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended as follows:

(1) In paragraph (1), strike "other than a trust or special fund account" and insert ", except as provided in paragraph (5)" before the period.

(2) Strike paragraph (4), redesignate paragraphs (5) and (6) as paragraphs (4) and (5), respectively, and amend paragraph (5) (as redesignated) to read as follows:

"(5) Budgetary resources sequestered in revolving, trust, and special fund accounts, and offsetting collections sequestered in appropriation accounts shall not be available for obligation during the fiscal year in which the sequestration occurs, but shall be available in subsequent years to the extent otherwise provided in law.".

SEC. 11209. THE BASELINE.

Section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) in subsection (b)(2) by amending subparagraph (A) to read as follows:

"(A)(i) Except as provided in clause (ii), no program with estimated current year outlays greater than $50,000,000 shall be assumed to expire in the budget year or the outyears.

"(ii) Clause (i) shall not apply to a program if legislation establishing or modifying that program contains a provision stating 'Section 257(b)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985 shall not apply to the program specified in   of this Act.', the blank space being filled in with the appropriate section or sections of that legislation.

"(iii) No bill, resolution, amendment, motion, or conference report shall be subject to a point of order under section 306 of the Congressional Budget Act of 1974 solely because it includes the provision specified in clause (ii).

"(iv) Upon the expiration of the suspensions contained in section 171 of Public Law 104–193 with regard to a program in such Act with estimated fiscal year outlays greater than $50,000,000, that program shall be assumed to operate under that Act as in effect immediately before reversion to the laws suspended by such Act."

(2) by adding the end of subsection (b)(2) the following new subparagraph:

"(D) If any law expires before the budget year or any outyear, then any program with estimated current year outlays greater than $50 million which operates under that law shall be assumed to continue to operate under that law as in effect immediately before its expiration.";

(3) in the second sentence of subsection (c)(5), by striking "national product fixed-weight price index" and inserting "domestic product chain-type price index"; and

(4) by striking subsection (e) and inserting the following:

"(e) ASSET SALES.—Amounts realized from the sale of an asset other than a loan asset shall not be counted against legislation if that sale would result in a financial cost to the Federal Government.".

SEC. 11210. TECHNICAL CORRECTION.

Section 258 of the Balanced Budget and Emergency Deficit Control Act of 1985, entitled "Modification of Presidential Order", is repealed.

SEC. 11211. JUDICIAL REVIEW.

Section 274 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended as follows:

(1) Strike "252" or "252(b)" each place it occurs and insert "254".

(2) In subsection (d)(1)(A), strike "257(1) to the extent that" and insert "256(a) if", strike the parenthetical phrase, and at the end insert "or".

(3) In subsection (d)(1)(B), strike "new budget" and all that follows through "spending authority" and insert "budgetary resources" and strike "or" after the comma.

(4) Strike subsection (d)(1)(C).

(5) Strike subsection (f) and redesignate subsections (g) and (h) as subsections (f) and (g), respectively.

(6) In subsection (g) (as redesignated), strike "base levels of total revenues and total budget outlays, as" and insert "figures", and "251(a)(2)(B) or (c)(2)," and insert "254".

SEC. 11212. EFFECTIVE DATE.

(a) EXPIRATION.—Section 275(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) by striking "Part C of this title, section" and inserting "Sections 251, 253, 258B, and";

(2) by striking "1995" and inserting "2002"; and

(3) by adding at the end the following new sentence: "The remaining sections of part C of this title shall expire September 30, 2006.".

(b) EXPIRATION.—Section 14002(c)(3) of the Omnibus Budget Reconciliation Act of 1993 (2 U.S.C. 900 note) is repealed.

SEC. 11213. REDUCTION OF PREEXISTING BALANCES AND EXCLUSION OF EFFECTS OF THIS ACT FROM PAYGO SCORECARD.

Upon the enactment of this Act, the Director of the Office of Management and Budget shall—

(1) reduce any balances of direct spending and receipts legislation for any fiscal year under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 to zero; and

(2) not make any estimates of changes in direct spending outlays and receipts under subsection (d) of such section 252 for any fiscal year resulting from the enactment of this Act or the Revenue Reconciliation Act of 1997.

In the table of contents set forth in section 2, after the item relating to title X, add the following new item:

"Title XI—Budget Enforcement.".

SENATE—*Tuesday, June 24, 1997*

The Senate met at 9:30 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Dear God, our motto for this day is the resolution of the psalmist: "I delight to do Your will, O my God."—Psalm 40:8. Lift us above the mandate of duty to the motivation of delight. May a fresh inflow of Your love fill us with the sheer delight of being alive and having the privilege of serving You. Give us a positive attitude toward our work, a profound gratitude for the opportunity to glorify You in our pursuit of excellence, and a renewed sense of the importance of the page of history You will help us write in our efforts together today.

Bless the Senators with a renewed experience of Your presence and Your power. Saturate their minds with Your wisdom, flood their hearts with enthusiasm for the crucial work of political process, and strengthen their wills with high resolve to put first Your will and what's best for our Nation.

May this be a delightful day because we took delight in You and enjoyed the uplifting encouragement of Your inspiring spirit. Through our Lord and Saviour. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader, Senator DOMENICI of New Mexico, is recognized.

SCHEDULE

Mr. DOMENICI. For the information of all Senators, this morning the Senate will resume consideration of S. 947, the budget reconciliation bill. At 9:45 a.m, the Senate will proceed to a rollcall vote on or in relation to Senator GREGG's amendment No. 426. Whereas there are several other pending amendments that need to be disposed of, Senators can expect rollcall votes throughout Tuesday's session of the Senate.

MEASURE PLACED ON THE CALENDAR—S. 950

Mr. DOMENICI. Mr. President, I understand there is a bill at the desk that is due for its second reading.

The PRESIDING OFFICER (Mr. BROWNBACK). The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 950) to provide for equal protection of the law and to prohibit discrimination and preferential treatment on the basis of race, color, national origin, or sex in Federal actions, and for other purposes.

Mr. DOMENICI. Mr. President, I object to further action at this time.

The PRESIDING OFFICER. The bill will be placed on the calendar.

BALANCED BUDGET ACT OF 1997

The PRESIDING OFFICER. The Senate will now resume consideration of S. 947, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 947) to provide for reconciliation pursuant to section 104(a) of the concurrent resolution on the budget for fiscal year 1998.

The Senate resumed consideration of the bill.

Pending:

Gregg modified amendment No. 426, to provide for terms and conditions of imposing Medicare premiums.

Harkin amendment No. 428, to reduce health care fraud, waste, and abuse.

Kennedy/Wellstone amendment No. 429, to strike the provision relating to the imposition of a copayment for part B home health services.

Motion to waive a point of order that section 5611 of the bill violates section 313(b)(1)(A) of the Congressional Budget Act of 1974.

AMENDMENT NO. 426

The PRESIDING OFFICER. There will now be 15 minutes of debate prior to a vote on or in relation to the Gregg amendment No. 426.

Mr. DOMENICI. Parliamentary inquiry. Is it not time for the proponent and opponents to share some time equally in reference to the Gregg amendment?

The PRESIDING OFFICER. That is correct. There are now 15 minutes equally divided on the Gregg amendment No. 426.

Mr. DOMENICI. I yield the floor to Senator GREGG.

Mr. GREGG. Mr. President, I am not sure who rises in opposition to this amendment. I understand there are some concerns that have been raised. Let me review the amendment so people understand what it does.

Essentially, this amendment creates a marketplace, creates competition, and it gives seniors the opportunity to go into the marketplace, be thoughtful purchasers, and the result of being thoughtful purchasers is getting an actual return, a monetary return, for being thoughtful purchasers.

What the amendment does is strike the language in the bill which says that there can be no cash incentives tied to any sort of Choice plan. Now, in the original bill as it was presented by myself, the original Choice bill, the vast majority of which has been incorporated in this bill, we had a section which said that if a senior was able to purchase a plan at less dollars, then the senior would be allowed to keep 75 percent of the savings, and 25 percent of the savings would go into the part A trust fund. Under the bill as it is presently structured, the practical effect was it created more marketplace forces. It meant seniors would be more thoughtful purchasers of health care. This is important.

Second, it meant that the health care provider groups like HMO's, PPO's and the PSO's who are now being empowered to compete for senior dollars, those groups would have a reason to deliver the same benefit structure as Medicare gives today at the same quality but deliver it at less cost. It is called capitalism. It is called a marketplace force. It is what we are trying to put in place to try to control the cost of health care and Medicare, and it is what is working in the private sector.

Under the bill as it is presently structured, that opportunity would be eliminated. Now, we are not suggesting that opportunity has to be pursued. We are just saying let's leave open that opportunity under HCFA's guidance, and by the way, if it was determined this might be a way to create better competition and better health care delivery, it would be available.

Now, I cannot speak for the opposition, but what I have heard from the opposition is that there is a feeling that this cash rebate may in some way affect the Treasury. Well, it does not. Under the present law as it is structured in this bill, if there is no cash rebate, the only beneficiaries of more efficiency are the provider groups. They get to keep the money. They get to keep the money. They do not rebate it to the seniors. They get to keep it, to quote Jerry McGuire.

Then I heard another comment, "Basically what we want to do is encourage the provider groups to supply more benefits, not to supply a financial rebate to senior citizens." I think that makes sense. I think that should be an option. I think provider groups like PPO's that can deliver the services for less might want to throw in eyeglass care, might want to throw in prescription care. I think it is a good public policy decision to encourage that. But at the same time I bet you there are some provider groups today, because we pay so much in insurance for Medicare, who could pay the cost of eyeglass care and some percentage of prescription drug care and still be delivering that service for considerably less than what the basic premium is today that we pay in Medicare. Who is going to keep that difference? The provider groups. They will keep it in profit.

Now, I do find it ironic that people would oppose the concept that we want to open it up to competition in a way that allows the senior citizen to benefit from the cost savings, by putting some pressure on those provider groups to have to say, "We are going to make $100 extra on this contract. Maybe we better return $50 to the senior citizen because, if we do not, our competitor down the street will make that $100 and they will return that $50 and they will get this client."

Right now this is an issue. I understand there are some undercurrents of opposition to this. I am appreciative of that. The fact is that this is an attempt to open the marketplace to more competition and create more cost-conscious purchasers and buyers, and as a result I think it is a good approach. It does not demand that that occur. It does not even allow that to occur in the first instance. It simply makes that additional avenue of competition available by giving HCFA the authority to do it rather than banning HCFA from having the authority to do it.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from New Jersey controls 7½ minutes.

Mr. LAUTENBERG. Mr. President, I will yield myself such time as needed to respond with my opposition to the amendment of the Senator from New Hampshire and rise in support of the provision in the reconciliation package that was developed by Senator ROTH and Senator MOYNIHAN and other members of the Finance Committee.

Mr. President, the reconciliation bill establishes a new program known as Medicare Choice, which will give Medicare beneficiaries more options for the type of health care that they will receive in the program. Seniors will be able to choose from HMO's, PPO's, and medical savings accounts, among several other options. The committee's proposal is intended to increase Choice for seniors. At the same time, it is meant to avoid the risk that the Medicare Program would move toward a two-tiered or multitiered system in which some seniors, especially the healthier and wealthier, enjoy benefits not available to the others.

Under the committee-reported bill, providers of different services are paid a set amount. They then can compete for the consumers based on the quality and types of benefits they provide. If, for example, one HMO can operate more efficiently, it can plow the resulting savings into providing services that other less-efficient HMO's could not. This type of system is intended to ensure that seniors get the best quality care for each Federal dollar that gets spent. I think that makes sense.

The Finance Committee also wanted to avoid a situation in which providers limit their benefit package to attract those who are healthy and who therefore could take advantage of a cheaper plan that offers fewer benefits. This could ultimately lead to a Medicare system that segregates the healthy from the ill and that forces sicker people to pay more to get the health care they need.

Mr. President, I am going to stick with the Finance Committee's proposal on this. Let's give seniors more choice but let's make sure that the choices offer the type of quality health care they need and deserve.

When I think of plans that may offer premiums—maybe they offer theater tickets or baseball games or what have you—to seduce or induce people to go their way, I think that is a terrible idea. It can provide a large provider with a monopoly of opportunities. "Spend your money now, you will get it back." You will have these people locked into your service, so spend it up front. It is a calculated marketing cost. Frankly, I hate to see our senior citizens get caught up in a scheme like that.

Mr. President, I hope we will be able to muster the support that is required here for the Finance Committee. Once again, this is now a new proposal. It alters the bill as originally developed. I do not think we ought to be doing it at this time.

I reserve the remainder of my time.

Mr. GREGG. I appreciate the comments of the Senator from New Jersey, but they are inaccurate. This does not create a two-tier system.

Under the law, the basic benefits package of the Medicare system has to be supplied by all providers. Therefore, any provider that comes forward and produces a less costly system is going to be producing a system that still meets the basic benefits package of the Medicare system. The added benefits might be eyeglasses or prescription drugs, but those are benefits which are not presently covered by Medicare anyway. So there is no opportunity for a two-tiered system.

What the Senator from New Jersey said that was accurate is that efficient suppliers of health care will end up creating a savings. What I am pointing out is that savings then flows to the supplier of the health care, the HMO or the PPO. You are basically underwriting the big health care companies at the disadvantage of seniors because seniors get none of that savings unless there is a benefit added that they may not want. They may not want eyeglasses. They may not want prescription drugs. They may have that under another system. Why not make this option available?

However, I have been asked by the chairman of the committee to withdraw the amendment at this time. I have great respect for the chairman of the committee and will acquiesce to his request. I understand his concern. I believe this is bad policy as it is presently structured. It is not in the House bill, and I hope it will be straightened out in Congress because I think we ought to give seniors this chance.

I ask unanimous consent to vitiate the yeas and nays and withdraw the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 426) was withdrawn.

Mr. NICKLES. Mr. President, I will be brief. I want to compliment my colleague from New Hampshire for offering this amendment.

He mentioned this prohibition is not in the House bill. I hope to have something to do with the conference. I think he has brought out a very good point. We should allow some of these savings to go to the participants. So I appreciate his examination of the bill. That fact proves he has done his homework. I, for one, think he has pointed out a good option that we should allow to be available. I appreciate my colleague's attention in this matter. I will be happy to work with him to see if we can't come up with a good provision in conference.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. ROTH. Mr. President, I, too, want to join the distinguished Senator from Oklahoma in thanking our friend from New Hampshire and withdrawing the amendment. I think he has articulated the reason for the change. I think there is considerable merit to the idea, but I do appreciate the fact that he has withdrawn the amendment. I don't think it is appropriate at this time. We look forward to working with him.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I, too, want to join in saying to the distinguished Senator from New Hampshire that I saw this as a Choice proposal, an expansion of Choice. It wasn't a mandate. I thought it was a pretty good thing that we keep as much choice and potential for choice in the Medicare reform. I am sure this will be revisited at some point.

As the manager for the majority, I would like to talk a little bit with the Senate about where we are. Could I inquire, none of the amendments are automatically up at this point, are they? Am I mistaken on that? Aren't they subject to a management decision on which ones come next?

The PRESIDING OFFICER. The question would recur on No. 429, the

Kennedy-Wellstone amendment to S. 947.

Mr. DOMENICI. I thank the Chair. Might I then enquire, under the ordinary rules of amendments, how much time is left on the Kennedy-Wellstone amendment, if it were all to be used?

The PRESIDING OFFICER. The Chair will check on that.

Mr. DOMENICI. That is fine. Is there any reason we should not go to the Kennedy-Wellstone amendment? I am sure Senator ROTH has a substantial amount of time on the amendment. I want to yield the entire time in opposition to the amendment to the distinguished chairman of the Finance Committee. I may need a few minutes later. I will yield the Senator the time that is left. Can the Senator manage that?

Mr. ROTH. Yes, I can manage that.

The PRESIDING OFFICER. To answer the question of the Senator from New Mexico as to the time remaining on the Kennedy-Wellstone amendment, Senator KENNEDY has 15 minutes and the Senator from New Mexico has 45 minutes.

Mr. DOMENICI. I will yield the 45 minutes to Senator ROTH.

Let me indicate to the Senate, so there won't be any misunderstanding, that what I am trying to do is get time used up or get time agreements. We don't intend to vote on the Kennedy-Wellstone amendment until early in the afternoon. So we can finish the debate and go to another one. I wanted to indicate that to the Senate at this point.

Mr. LAUTENBERG. Mr. President, if I might just add a note here for all of our colleagues who are interested in amendments, or talking on the bill. Time is flying and we will be finished at about 7:30 tonight, I think it is, with no more time left. And then should any amendments be offered, they will be offered without debate or discussion and just voted upon.

So I say to all of our colleagues within earshot, or through the staff, if you have amendments, you better get them here because pretty soon the time will have expired and you won't have an opportunity to do so.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Delaware is recognized for 45 minutes.

AMENDMENT NO. 429

Mr. ROTH. Mr. President, the Kennedy amendment would strike the $5 coinsurance payment, and I think that would be a mistake. Let me start out by pointing out that home health care has exploded in cost over the recent years. It has been a serious problem that this particular aspect of Medicare has become extraordinarily expensive.

As I said yesterday, according to the Prospective Payment Assessment Commission, which is commonly called PROPAC, Medicare spending on home health services was only 1 percent of Medicare spending in 1968. By 1996, Medicare spending on home health care had increased to 14 percent of Medicare part A spending. In other words, it had gone from 1 percent to 14 percent. This is an increase that cannot be permitted in a program that is in financial difficulty.

As we all know, Medicare is an extraordinarily successful program in providing health care to senior citizens. But we do face a serious problem with respect both to part A and part B if we do not bring the cost of these programs under control. As is well understood, part A will be in bankruptcy by 2001. If we don't correct it, it will be in debt to the tune of one-half trillion dollars by 2007. And we face the same kind of serious problems with part B. Part B—it is predicted—will increase in cost roughly 8 percent a year in the coming year. So we have to bring these costs under control, and that is what we are seeking to do.

As I said, home health care has exploded in cost. Just let me point out what has happened to the cost of this part of the program in the last several years. From 1989 to 1990, the cost went up 53 percent—in 1 year, the cost of home health care went up 53 percent. The pattern has been a little better since then. In 1990–91, it went up 44 percent; in 1991–92, 40 percent; in 1992–93, 30 percent; in 1993–94, it went up 30 percent; and in 1994–95, it went up 19 percent.

Now, the reason home health care has exploded is because there are no adequate controls. For example, there has been a major increase in the number of beneficiaries using home health care. There has been an increase in the number of visits per beneficiary. I must also say that there has been a tremendous increase in the number of agencies providing home health care, and the Medicare payment system does not control the utilization of home care.

So that is the nub of the problem. There is no reason for the beneficiaries to be concerned as to how they utilize this program because there are no copayments in the part B program, as there are in others. Let me point out that the cost growth of home care, due to the increase in visits per beneficiary, has indeed been very substantial. In 1983, 45 Medicare enrollees—let me put it this way. There were 45 Medicare enrollees per thousand that used this program, an average annual of 28 visits. This was in 1983. In 1995, the number of Medicare enrollees per thousand jumped to 97—that is, from 45 to 97—and they used this program for an annual of 70 visits. That is 70 visits as compared with 28 visits in 1983.

So the question is, Why has the utilization of Medicare's home health benefit grown so rapidly? Essentially, there are two factors explaining the growth. First, the home health benefits for Medicare beneficiaries, for all practical purposes, have been unlimited since 1980. Prior to 1980, home health benefits were limited to 100 visits per beneficiary per year following a hospitalization. But in 1989, as a result of an agreement reached in a class action suit, Dougan versus Bowen, virtually all regulatory limitations on coverage were eliminated. And even today, based on Dougan, a beneficiary only needs to be homebound and under the supervision of a physician in order to receive home health care.

Now, the cost growth in home care is partly due to the Medicare cost-based payment system. Medicare pays home care companies the cost of each home care visit up to a per visit cost limit. Medicare does not limit the total number of home care visits. And the cost results are predictable. There is a great incentive for agencies to get into the business. That is one of the reasons we see the explosion of the number of agencies now in the home health care business.

Medicare payments per visit are estimated to have increased by 1.6 percent from 1993 and 1994, and the total number of Medicaid certified home health care agencies grew in 1991–95 by 52 percent from 5,949 agencies in 1991 to a total of 9,040 in 1995.

So, Mr. President, this is the reason it was felt necessary that there be a copayment on the part of the beneficiary so that there is more prudent use of this care than has taken place in recent years.

Beginning in 1998, financing for the home health benefits will begin to be transferred from the part A to the part B trust fund. This will establish 100 visits—after the hospital stay—for home health benefits under part A with all other visits considered part of a new part B home health benefit. Consistent with Medicare's treatment of other part B services, the mark establishes cost-sharing for part B home health service at $5 per visit billable on a monthly basis, and capped at an amount equal to the annual hospital deductible.

I point out to my colleagues that creating this copayment is consistent with the way we handle part B. As a general rule, there is copayment of roughly 20 percent for services under part B. Five dollars per visit is substantially less than 20 percent. But it means that as beneficiaries utilize home health care they are going to be more careful in its utilization.

Beneficiaries, I point out with respect to those who are under 100 percent of Federal poverty, will not have to pay this $5 copayment fee. They will not have to pay this copayment fee because it will be covered by Medicaid. Our Medicaid Program has been structured to protect the poor and impoverished. And under that program he or she who is under 100 percent of Federal poverty will be covered by Medicaid.

So there will be no payment of the $5 fee by those who are impoverished under Federal standards.

PRIVILEGE OF THE FLOOR

Mr. President, I ask unanimous consent for unlimited floor privileges for the duration of S. 947 for the following members of the Senate Finance Committee staff:

Julie James, Gioia Bonmartini, Dennis Smith, Deloris Spitznagel, and Alexander Vachon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROTH. Mr. President, as I said, the purpose of the $5 copayment fee is to bring some balance into this program.

I obviously cannot support the Kennedy amendment. I do not believe that the home health care copayment is a barrier to care nor that it is unreasonable.

As I have already pointed out, from 1988 to 1996, spending on home health care grew an average of 37 percent per year. That is a growth that cannot be sustained if we are going to maintain Medicare as a program not only for those on it now but for the future. Medicare is going bankrupt. And this rate of growth is without question unsustainable. I cannot say too loud nor too clear that we need to assure that Medicare is preserved and protected. It is our responsibility to make certain that costs do not run out of control.

Under current law, all Medicare benefits, except for home health and laboratory services, are subject to some form of beneficiary cost-sharing. Let me reemphasize that. Under current law, all Medicare benefits, except home health and laboratory services, are subject to some form of beneficiary cost-sharing.

The $5 home health copay will have beneficiary share—in some degree, financial responsibility for services with the program. Five dollars is not an unreasonable amount to ask beneficiaries to pay for a visit.

The Prospective Payment Assessment Commission, which advises Congress on Medicare policy, supports—I underscore the word "supports"—a modest beneficiary copay subject to an annual limit. That is exactly what this bill proposes to do.

I also point out that a report recently issued by the Commonwealth Fund supports the idea of a $5 copay. The report claims there is a sensible approach—a sensible approach which would make beneficiaries sensitive to use but not form a barrier to care. That is exactly what we want. We want this program to be used on a prudent basis; a sensible basis. But, of course, we do not want it to be a barrier to those who need this form of care.

As I have already indicated, those who cannot afford the $5 copay, those who are under 100 percent of Federal poverty, will be covered by Medicaid. They will not have to pay the $5 copay. Medicaid will pay it.

So they are protected. Beneficiaries will not have to pay any copay for the first 100 home health cares after a hospital stay. Only those visits in excess of 100, or that do not follow a hospitalization, will have a copay. And the amount is limited every year to the hospital deductible, which is what beneficiaries who have home health after a hospital stay would have to pay the hospital.

Mr. President, this is a modest proposal where according to the Congressional Budget Office only about one-third of home health users—that is about 1.2 million beneficiaries—are likely to be subject to more than $100 in copays in a year. And only about 11 percent of home health users—that is roughly 380,000 beneficiaries—are likely to reach the annual cap.

The copay for home health is not an untested idea. Until 1972, Medicare required a 20-percent copay for all part B home health visits. During health care reform, President Clinton's Health Security Act included a 20-percent copay on home health care.

So the proposal that we have in the legislation before us is far more modest.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I understand we have 15 minutes. Is that correct?

The PRESIDING OFFICER. Fourteen minutes.

Mr. KENNEDY. I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I think there are some important points to make in response to the presentation of the chairman of the Finance Committee.

The first point to be made is that $5 billion that are going to be collected from our senior citizens was never considered to be an essential part of the balanced budget program. When the Senate voted for a balanced budget, there was no comment that we were going to have to raise the copays for our elderly citizens for nursing home care.

So this is something that has just been added by the Finance Committee in order, as they say, to discourage the utilization of home health care services. That is first.

So this is not part of the whole budget agreement. It was a decision by the Finance Committee to pick up $5 billion that will be paid by the frailest elderly citizens of this country, most of them between 75 and 80 years old, and primarily individuals that are on about $11,000 or $12,000 income, and primarily women. That is the profile of those that will be affected by this increase in the copay. That is first.

Second, as anyone who has ever gone through and reviewed, or had hearings on overutilization, they will find out that it isn't the patient that is overutilizing the system.

Of the groups in our society, by and large, if it is the patients that are overutilizing the system, it is the more affluent. They have the time to go down and overutilize the system. But, by and large, when you are talking about the frail elderly, it is very difficult for them to get out of their particular home, if they are in this situation, and utilize the systems. And so they are the ones who do not. But it is the doctors who are the ones that are prescribing these services. It is the doctors who are saying these home services are necessary. It is not just the elderly saying I want the services. It is the doctors who are saying these are important.

Now, we had a wonderful citizen yesterday from our neighboring area of Maryland, Marian, who makes about $7,600 a year. She said, I get home health services three times a week. It is going to be $15 a week, and I am going to run up against the limit at the end of the year. Are we in the Senate going to say that Marian should not be washed during the course of the week? She will have to reduce it to one treatment over the course of the week? Are we going to here say that we have to add the $5 billion that is going to be used for tax cuts for the wealthiest individuals? Are we going to say to that elderly person, you are not going to get washed; you are not going to be able to have your legs stretched; you are not going to be able, because you are too old and have a hip problem, to be able to wash your feet?

That is what we are talking about here. These are the kinds of services that are being provided.

Now, I was here in 1972. It was the judgment of the Congress of the United States and the administration that we wanted to encourage home health services, to try and keep people in their homes if they wanted to stay there. They have maybe an option to go to a nursing home, but if they want to stay in their homes with their friends in a neighborhood and a community, they ought to have the opportunity and the ability to do so. And so it was the judgment at that time, in order to encourage home services that provide actual savings in the total health expenditures, that we ought to do so. That is the basis for it.

Now, that is what we are running up against, Mr. President, and I am really surprised that the Finance Committee would take this step, particularly when there are other steps that are included in this legislation to restrain the doctors from prescribing this. Do we understand? There are already provisions in the legislation that we are considering in the Finance Committee to discourage the doctors from prescribing this. But, no, the Finance Committee said, that isn't enough; we are going to discourage the doctors from sending you home, but if you get home or are going to be home, then you are going to pay that 5 extra dollars.

We have the interim payment system, which is an agency-specific per capita cap, which before was limitless. Now it is limited. You have already put that in, Senators of the Finance Committee, which is going to be a further restraint. And that is to discourage the growth in the utilization of services. And you have a lump-sum percentage of payment systems like the hospitals which will be effective in 1999 that is going to further discourage this.

Our point is we have already written into the Finance Committee the targeting, where the target ought to be, and that is with doctors to provide some limitation on home health services. We are not even in the position of having tried those provisions. No, we are already saying we are going to also put the burden on the senior citizens who are receiving the home health care services. It makes no sense. It is grossly unfair. It is bad health policy. There is absolutely no reason in our attempt to achieve the balanced budget that we ought to be taking it out on the most frail individuals who are receiving, under Medicare, home health care services, Mr. President. So I hope that this measure would be struck.

I yield 5 minutes to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I am very proud to join Senator KENNEDY's effort. I would say to my colleagues on both sides of the aisle that this amendment is a perfect example of where the rubber meets the road. We are not now talking about adding and subtracting numbers. We are not talking about statistics in the abstract. We are talking about the effect of what we do on people's lives. We are talking about how decisions we make can crucially affect the quality or lack of quality of lives of people all across our country—in Minnesota, Massachusetts, Delaware, Oklahoma, Tennessee, you name it.

Mr. President, I just want to take on some of the arguments that have been made about why we need to go forward with this $5 copay on the home-based health care.

First of all, I have heard it argued here that $5 is not that much. But we cannot make those arguments, in all due respect. There is a huge difference between our salaries and what we can afford and what an elderly person can afford.

Now, when the argument is made, "But, Senators, we have protection for those who are officially defined as poor," do you know where that definition comes from? Mollie Orshansky in 1963, Social Security, a minimal definition—a minimal definition. So now we are saying that a single elderly woman 80 years of age, who makes over $7,000 a year, she is not officially defined as poor, but we are going to charge her $5 every time for a home-based health care visit. That is outrageous. That is outrageous.

So, first of all, please, do not have any illusions, colleagues, that because we say the poor are taken care of, we really are taking care of vulnerable elderly people, because if you are a single person, single woman living at home and you are over the poverty level income—maybe you make $9,000 a year—you do not have any protection at all.

Now, is there any Senator here, Democrat or Republican, who believes that a single woman living at home making $9,000, $9,500 a year can afford to pay $5 for each home health care visit?

As to the expansion of this, in all due respect, I thought that what we were trying to do here, albeit we have not done it nearly as well as we should, is to make sure that as many elderly people as possible can live at home in as near normal circumstances as possible with dignity. We want to encourage people to be able to live at home. When one of our parents or one of our grandparents needs to have a home health visit once or twice or three times a week in order to stay at home and be independent and not have to be institutionalized, we should applaud that. It should not be surprising that this is more a part of what we do by way of investment in resources because more and more of the people in our country are living to be over 65 and 85. But if we want people to be able to stay at home and live with dignity, and we do not want people to be institutionalized, and we do not want to take away a benefit that is so important to vulnerable elderly people, even if they are over the poverty level income, which is defined in such a minimal way, we ought to for certain support this amendment.

This amendment that Senator KENNEDY and I have introduced is all about connecting this debate to people. This proposal in the Finance Committee of a $5 charge for every single home-based health care visit and support for elderly people is profoundly mistaken. Mr. President, let me repeat that. It is profoundly mistaken. Please, colleagues, admit to the fact that we may have made a mistake here and that we can do better for elderly people. Therefore, I hope that we get a huge vote for this amendment.

I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER (Mr. FRIST). The Senator from Massachusetts.

Mr. KENNEDY. What do we have, 4½ minutes remaining?

The PRESIDING OFFICER. Yes, 4½ minutes.

Mr. KENNEDY. I yield myself 4 minutes.

Mr. President, I will take a moment to include in the RECORD a letter from former Senator Frank Moss from the State of Utah, and I will just read the relevant sections of it.

> DEAR SENATOR KENNEDY.
>
> I was the author in 1965 of the amendment which included home health care coverage under Medicare. Congressman Claude Pepper introduced the legislation in the House. Our original legislation required seniors to pay some portion of their home health care costs out of pocket. However, the studies done by the Senate Committee on Aging and the General Accounting Office persuaded me in 1972 to work with Senator Muskie and Senator Nelson to delete the copayment provision. Our studies clearly indicated that copayments—

Now listen to this—

> cost Medicare more to collect in administrative costs than they saved in the program; 2. Denied access to care and fell more heavily on those who could least afford it; 3. Pushed families into poverty and loved ones unnecessarily into institutions, resulting in increased costs to the States and Federal Government through the Medicaid Programs; and, 4, increased costs to Medicare because people put off care until they had to be hospitalized. I am writing to urge you not to repeat the mistakes that we made in the past.

Now, what has escaped in this debate, Mr. President, is the estimated budgetary impacts of this particular provision. Now, listen to this, our colleagues who are concerned about unfunded mandates. The chairman of the Finance Committee has pointed out it hits the very, very poor, frail elderly; those who qualify for Medicaid will be able to receive it and the States will pick it up. True. That is true. And that amount will be $700 million. We are putting an unfunded mandate on the States to pick up the costs of this copayment, and it is going to cost the States $700 million. And in terms of the Federal Government, because we participate in the Medicaid Program, $900 million.

That is what it is going to be just under Medicaid. So on the one hand, supposedly we are taking in the $5 billion. On the other hand, you are losing, effectively, $1.6 billion that the States and the Federal Government are providing.

Now, Mr. President, this makes absolutely no sense. They had the extensive hearings by the committee in charge, the Aging Committee, and you could have those same hearings today and you would find exactly the same results, exactly the same results. It unfairly falls on the frail elderly, and it is going to discourage people from using home health care services and go into institutions and Medicaid eventually ending up paying more and people will delay getting the kind of care they need.

Why shouldn't we first try to find out about the provisions that have been included by the Finance Committee which are going to provide for the providers the kind of prospective budgeting which we are using today for the hospitals. That is going to discourage this service. Why are we putting an additional burden that was never part of the agreement on the frailest of our society—$5 billion to use for tax cuts, tax cuts for the wealthiest individuals.

It is absolutely outrageous, Mr. President, that in the course of this week, we will be out here on Thursday or Friday providing those kinds of tax cuts for the wealthiest individuals and the people who will be paying for them are going to be the seniors, the frailest, the elderly, the widowed individuals in our society. It is bad health policy. It is unfair. And it is just a continuation evidently of the kinds of assaults that we have seen on the Medicare system. We find the Finance Committee refusing to fund the $1.5 billion that they had agreed would be funded and putting on $5 billion that was never indicated in terms of the balanced budget. That is wrong, Mr. President, and every senior knows it. Every senior will know about that.

The PRESIDING OFFICER. The Senator's time has expired.

There are 30 seconds remaining.

Mr. KENNEDY. I withhold that time.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. Who yields time?

The Senator from Oklahoma.

Mr. NICKLES. First, I wish to——

The PRESIDING OFFICER. The Senator from Delaware controls time. Who yields time?

Mr. ROTH. I yield such time as is required by the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. NICKLES. I thank my colleague from Delaware. I also want to compliment him for his stewardship as chairman of the Finance Committee on this bill.

First, let me just say a couple of things about the comments Senator KENNEDY made. "We are cutting Medicare so we can pay for tax cuts for wealthy people." I heard that comment made 2 years ago. I heard it a lot. "They are gutting Medicare so they can pay for tax cuts for wealthy people."

Just an interesting footnote, the amount of expenditures, the outlays, what we are going to spend on Medicare for this 5 years that are covered by this bill is $1.248 trillion. The amount of outlays that we had in the bill 2 years ago that the President vetoed and said it was gutting, decimating Medicare, was $1.247 trillion—a one-billion-dollar difference. So the outlays are the same.

Did we make this change, this change dealing with home health care, so we could pay for tax cuts? The answer is absolutely no. What we did, in a bipartisan fashion, I think without dissent in the Finance Committee, in putting in the $5 copay on home health care, is recognize that we need to make some policy changes in home health care. This program is exploding in cost, and the reason why is quite obvious, if you look at. It is a program that is paid for 100 percent by the Federal Government. There is no copay by the beneficiary; the beneficiary does not pay a dime. There is no payment by the State. There is no copayment by anybody. It is Uncle Sam writing a check for 100 percent of the cost. There is no limit on the number of visits; you can have one visit, you can have 300 visits. So it is a program, by its very design, if Uncle Sam is going to pay for it all, obviously it is going to explode in costs, and that is exactly what has happened.

Just looking at this program, in 1990 this program cost $4 billion. In 1995, 5 years later, it cost $16 billion. It is projected next year to cost $21.1 billion. It has growth rates—in the year of 1989 this grew almost 24 percent; the next year, 53 percent; the next year, 43 percent; 1992, 41 percent; in 1993, 30 percent; in 1994, 30 percent; in 1995, 19.4 percent. This is a program that is exploding in cost.

The Finance Committee realizes this. Anybody who has looked at the facts realizes this and knows we need to change it. So the change, a very modest change, I might say, is we say the beneficiaries would have a $5 copay. That is not a lot on visits that may well cost $70 or $80, but at least it is a start. And it might have some marginal impact on behavior. Will it cost the lowest of our citizens as alleged by Senator KENNEDY and others? I doubt it, because in most cases they have Medigap policies or it is picked up by Medicaid. So in some cases those people will have coverage. But doesn't the policy of having some copay make sense? This Congress had the courage to stand up and say we should have a copay on veterans for prescription drugs of $2. Some people screamed and said, "Wait a minute, this is a breaking of a contract," and so on, but we realized that prescription drugs for non-service-connected veterans was exploding in cost. So we stepped forward very marginally and set a $2 copay on prescription drugs, and it did change behavior somewhat. This will change behavior somewhat.

I urge my colleagues to read an article on the front page of the Wall Street Journal about the explosion of this program. They have home health care providers now, some of which are starting new companies—they had no experience whatsoever—out of mobile homes. If you look at the number of providers, in 1991 there were a little less than 6,000 providers; in 1995, over 9,000 providers. Look at the number of beneficiaries, the total payment costs, the number of visits—this is a program that is truly exploding in cost.

This was done in the Finance Committee, not so there could be greater tax cuts. As a matter of fact, I might mention—this is a little sore spot with me. The budget agreement said we would have $85 billion in net tax cuts. We did not end up with $85 billion; we ended up with $77 billion. So we did not even come up with the total amount of net tax cuts that the budget agreement, President Clinton and the leadership, agreed upon. So that argument, "They did this so they could have more tax cuts", is total hogwash. This was done in order to try to reform a program that is growing way out of control, and it was done in a bipartisan fashion. I hope we will continue to have bipartisan support. We need to have bipartisan support.

I will make a couple of other comments. One of the things that was done in the budget agreement I do not agree with. It said let's transfer home health care away from part A into part B, to make part A look solvent. That is a shell game. I do not want to have my fingerprints on it. It is in this deal. I don't have the votes to change that. But that bothers me. It doesn't keep part A solvent. Well, I guess theoretically it does. We could keep part A solvent if we said we will move all the expensive hospitals, from Tennessee west, take them out, move them out of part A and then we'll keep part A solvent. That's a little bit of a shell game.

This is one little reform on the fastest growing portion in Medicare that is real reform. It was done in a bipartisan fashion because we know we need to do something to constrain these costs. You cannot have a program that has total, 100 percent, Federal funding, has no State match, no participant match whatsoever, and no limit on the number of visits and say we hope we can constrain its costs.

So I think this is a serious vote. I urge my colleagues to vote against the Kennedy-Wellstone amendment.

Mr. KENNEDY. Will the Senator yield for a question?

Mr. NICKLES. I will be happy to yield.

Mr. KENNEDY. I know the Senator——

Mr. NICKLES. Not on my time, on my colleague's time.

Mr. KENNEDY. On the bill's time.

Mr. LAUTENBERG. I yield 20 minutes to the Senator from Massachusetts off the bill.

Mr. KENNEDY. Briefly, I am wondering, as a Senator who has been strongly against unfunded mandates, with the recognition here it is going to cost the States some $700 million to pick up the Medicaid portion and we are not providing that to the States, how the Senator justifies that requirement that we are placing on the States to carry this proposal through?

Mr. NICKLES. I will be happy to respond to my colleague. I think what we have right now is a program that is 100 percent Federal.

Mr. KENNEDY. On Medicaid—excuse me. The position of the chairman of the committee is that, for those who are going to fall into Medicaid, the State is going to pick up that premium and it is going to, according to the CBO, amount to some $700 million on the States. We are not providing that additional help to the States.

I am asking the Senator how he justifies that particular unfunded mandate? We heard a lot about unfunded mandates, and I want to know how the Senator responds to that.

Mr. NICKLES. I will be happy to. I think if my colleague had listened to my speech, I mentioned this home health program, which is currently 100 percent Federal with no State match. Right now the States are not paying anything. So to have this in Medicaid, where Medicaid will pick up for lower-income beneficiaries a small portion of that—I might mention the Federal Government picking up, in most cases, 60 percent, in some cases 70 percent—is not the problem.

What we are asking to do, what you are talking about, we are saying, "Beneficiaries pay $5; pay $5 out of a total cost of a $70 visit." So the Federal Government is paying 65 percent, and the individual would pick up $5, and in some low-income cases, for some low-income individuals, the State might pick up 30 percent, or in some cases 40 percent, in some States maybe 50 percent of that share.

To me that does not seem unreasonable.

Mr. KENNEDY. This is the only point I make. That amounts to $700 million for the States. That amounts to a $700 million unfunded mandate; $700 million unfunded mandate to the States, according to the CBO.

I have listened to the Senator very eloquently talk about unfunded mandates, and here we are finding, according to the chairman of the Finance Committee, that for individuals who are going to fall below the poverty line, the State is going to pick that premium up, and that, according to CBO, amounts to $700 million. It will amount to $900 million by the Federal Government but $700 million to the States. I am just interested in listening to the Senator, who speaks about unfunded mandates and about the Federal Government imposing requirements on the States, here we have a beauty, $700 million you are putting on the States. That is according to CBO, because that is going to be the cost, over 5 years, for them to pick up the $5 copay.

Mr. NICKLES. Will the Senator yield?

Mr. KENNEDY. Yes.

Mr. NICKLES. If I understood the Senator's statement, the $700 million the States would have to pick up, this is a program that will cost $121 billion next year for the Federal Government and that is growing at an unbelievable, unsustainable rate. So you are talking about a program over the next 5 years that is going to be well over $100 billion, and we are asking beneficiaries to pay $5, and in some cases the States may pick up a portion of that, maybe $700 million out of a total cost of over $100 billion. I don't find that unreasonable in any way.

Mr. KENNEDY. I thank the Senator; $700 million. I thank the Senator.

The PRESIDING OFFICER. Who yields time?

Mr. ROTH. I yield to the Senator from Texas such time as he may require.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I think that with all of the loud talking and discussion of subsidiary issues, people have by now forgotten what this whole issue is about. So I would like to give a little bit of history and then appeal to reason and responsibility on behalf of the Finance Committee on this issue.

First of all, the President proposed taking the fastest growing part of Medicare out of the trust fund and transferring it to general revenue in order to hide home health costs and claim that we have extended Medicare solvency for a decade. As a result, we have included the transfer into the budget agreement, even though I think it is totally and absolutely irresponsible and indefensible. We are simply taking the fastest growing part of Medicare, home health care, out of the Medicare trust fund and putting it into general revenue, which equates to taking a bill from one pocket and putting it in another. As a result, we can now claim that we have saved Medicare for a decade. As I pointed out when we started this debate, I could save Medicare for 100 years by taking hospital care out of the trust fund and putting it into general revenue. But, does anybody believe that that represents any kind of reform?

So, that is what started this debate. Now, having agreed in the budget agreement to make the transfer, the Finance Committee has sought to find ways to be responsible. One of the ways of being responsible is to note that there is a difference between services covered by part B and services covered by the part A trust fund. Those items that are in the part B program, which are outside the trust fund, have historically required two things. No. 1, beneficiaries pay 25 percent of the cost out of their own pocket in a part B premium; and, No. 2, they have a 20 percent copayment. That, basically, is how Medicare has worked.

Now we have followed the President's dictate and transferred home health care out of the part A trust fund into general revenues—part B or voluntary part of Medicare. But we have not instituted an immediate 25 percent payment in the part B premium to pay for 25 percent of the cost. Instead, responding to concerns raised by the President and others, we phase that up over a 7-year period. But, to address specifically the issue raised by Senator KENNEDY, the norm for types of care covered under the part B section of Medicare is for beneficiaries to pay 20 percent copayment.

Recognizing that this was a dramatic change in policy, in transferring home health care from part A to part B, rather than having a 20-percent copayment, which would be the norm, we simply asked for a $5 copayment. This is not only eminently responsible, it is clearly something we have to do. Home health care is the fastest growing item in Medicare. It used to be that you qualified for it only right after you got out of the hospital. But Congress changed the law to let people qualify for home health care whether they have been to the hospital or not. As a result, this program has exploded. It has grown exponentially, averaging some 30 to 40 percent a year in growth. It is now bigger than the total funding for the National Institutes of Health and the space program. It has become the most explosive element of Medicare.

We are not doing what we ought to do, which is to put it into part B. If we were required to do that, we would have a 25 percent premium where people would have to pay 25 percent of the cost like they do other programs under part B. Instead, we are phasing it up over 7 years. We are not requiring a 20-percent copayment, which is the norm under part B. But the one thing we have done, which is responsible, is require a $5 copayment; the logic basically being that even very small payments affect people's behavior. What we are trying to do is to provide the service for people who need it while trying to cut down on the explosive growth and the abuse of this program.

Our colleague from Oklahoma referred to a front-page article in the Wall Street Journal, but I don't think he did it justice. What that article did was outline the rampant abuse in this program, pointing out that people have even gotten out of the garbage collection business and gone into the home health care business and become almost instant millionaires.

This is a program that demands change. We have made a very, very modest change. However, if every time we try to do something responsible, we end up having people jump up and down and saying, "You can't do anything that is responsible," then there is no way we are going to be able to maintain Medicare.

The program will be insolvent in 4 years under any kind of justifiable accounting. It will be a $1.6 trillion drain on the Federal Treasury over the next 10 years. The unfunded liability in Medicare is already $2.3 trillion. We have guaranteed two generations of Americans benefits, and we never set aside money to pay for the benefits. And now we hear all this screaming and hollering when we try to put a $5 copayment on the most explosive part of Medicare.

Mr. President, if we are not going to begin to do these kinds of things, it is going to be only a very short period of time until this program is going to be bankrupt. I don't know if the Senator from Massachusetts is going to be here proposing to triple the payroll tax to pay for it, but that is what is going to be required 25 years from now if we don't do something about this program.

I support this change because it is absolutely essential that we do something to stop the explosive growth in this program. I support this change because I don't think a $5 copayment is asking too much. I support this change because I don't want to have to pick up the phone 4 years from now and say to my 83-year-old mother, "Well, mom, Medicare went broke today. Of course, I have known it was going broke for years, but I didn't have courage enough to do things, like vote for a $5 copayment on home health care."

I believe this is something that is absolutely essential. It is the absolute minimum we should do. We should be doing a lot more. We are not because of exactly the kind of attacks that we have heard on the floor of the Senate.

The Finance Committee, on a bipartisan basis, supported this $5 copayment. It is a very small reform, but the principle of it is critically important. I think it would be a major, major setback for this bill if we lost this component. Losing this component would mean that we have simply played a shell game. We will have taken the fastest growing part of Medicare out of the trust fund to hide the explosive cost. Even though it is growing at 30 to 40 percent a year, we will have done absolutely nothing to try to deal with that explosive cost.

I know the administration says, in the sweet by-and-by, they are going to have some kind of prospective payment system, and they can't tell us what it is today, but we need to do something right now. The $5 copayment is the absolute minimum we ought to do. I urge my colleagues to stay with this very small modest reform. I yield the floor.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. ROTH. I yield the Senator from Rhode Island 5 minutes.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I think today, as we go on to further consideration of this Medicare legislation, we are going to really see who is concerned about the future of this program and who is concerned about it being there, not just to the end of this century, which is 3 years from now, but well into the next century.

I think everybody who has taken the trouble to read the report of the trustees of Social Security and Medicare has seen the danger this program is in. It is going broke. It isn't something that is just automatically going to be there; we are used to these things. Somehow people think, "Oh, it can't happen." Well, it can happen. So from the Finance Committee has come a series of proposals to do something about the security of the Medicare Program to ensure that it is going to be there, hopefully well into the next century.

What is the particular issue before us today, Mr. President? The issue is, is it all right, proper, to have a $5 copayment in some instances—in some instances, Mr. President—for those who are visited by the home health care agents, officials, the nurses and those who come in a home health care visit.

First, it is important to stress that after a hospital stay, for the first 100 visits, there is no charge. There is no charge for the first 100 visits after a hospital stay. Subsequent to that, there is a $5 charge.

Under part B, for physicians' visits, and so forth, that an individual makes, there is a 20-percent copayment, and if that were applied to the home visits, 20 percent of a $90 visit—and that is the average cost of these visits from the visiting nurses or whoever it might be—20 percent of that is $18. Is the suggestion that there be an $18 copayment, 20 percent? No, there isn't, Mr. President. There is a charge of $5, which is in the neighborhood of 6 percent. Not a 20-percent charge, a 6-percent charge. It seems to me that that is very fair. First of all, it helps reduce the cost to Medicare, obviously. Second, it clearly, to some small extent, affects the behavior of the individual who has asked for the home health care visit.

I think this is a fair charge, $5. It is not for everybody. As I say, the first 100 visits go without a charge whatsoever. One hundred visits is a lot of visits. Then it goes to this very modest, not 20-percent payment, but 6-percent payment.

Mr. President, I hope that the amendment to remove this provision in the bill will be rejected. I thank the Chair.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. I yield 5 minutes of the 15 minutes of Senator LAUTENBERG's time to myself.

Mr. President, if we have to deal with the overutilization of the home care services, let's address that issue. We understand that the person who suggests the kind of medical procedure is the doctor. We, the Finance Committee, are not making this statement in a vacuum. They have already included interim payment systems to deal with this issue for the elderly people. They already have prospective payments. They have made important changes already to address this issue.

I would think that those Members who are standing on the floor of the U.S. Senate and saying, "Well, this is just a very modest kind of a program, and we ought to be able to afford it," also ought to be there to tell us how they are using the $5 billion to strengthen Medicare instead of using it for tax cuts. But, no, you haven't heard one of them say that. You haven't heard one of them say, "We're going to reduce the overutilization so we can treat our elderly people better by additional kinds of services." Absolutely not. They are silent on that issue—silent on that issue.

The President of the United States had a more generous preventive program than the Finance Committee, and it was paid for without copayments. You can't have it both ways, I say to my colleagues. The President of the United States had a more generous preventive health care program for our senior citizens without the copay in the Finance Committee. No, no, they want to juggle the numbers, and that is what they have done. They have taken those billions of dollars, put an unfunded mandate on the States, required the Federal Government to max the Medicaid with $900 million and are putting that kind of $5 burden on the seniors.

Who are these people? Just about half of them earn less than $10,000; 25 percent of them are over the age of 85; two-thirds of them are women; one-third of them live alone. As any profile shows, these are the most vulnerable in our society. Mr. President, $5 might not be much when we are talking about the size of these budget items, but it is a key factor, certainly it was in the marvelous testimony that we had from a wonderful resident who talked about what $5 meant for her ability to receive services at home.

As we say, the doctors are the ones who are making those decisions. It is just amazing to me, as we are beginning this debate, to say we are going to put the $5 copay in there that the Senate made a decision not to put there as a result of extensive hearings. It was reported bipartisan, with bipartisan leadership. So they say that we are going to just wipe that out, that was never talked about during the time we were talking about a balanced budget.

The final point that I will make is that we are going to require taking $5 billion out of the pocketbooks primarily of elderly women and putting it right over here for tax cuts for the wealthiest individuals, which we will be voting on. That is what is out there. If we are going to change the process of procedures in terms of treatment of people at home, let's do it, but let's do it in sunlight, let's do it as a result of hearings, let's do it as part of the overall Medicare debate rather than the one that was done by the Senate Finance Committee.

Mr. President, I withhold the remainder of time.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. There is no time left on the amendment?

The PRESIDING OFFICER. The Senator from Massachusetts has 30 seconds on the amendment.

Mr. DOMENICI. Will the Senator yield back his time? Do we have time left?

The PRESIDING OFFICER. Two and a half minutes.

Mr. DOMENICI. We yield back any time we have on the amendment.

Mr. KENNEDY. Mr. President, I will take the 30 seconds to just add to the point not only on the substance of this that we have debated but also CBO. Everyone who votes against my particular amendment will be saying to the States, $600 billion—$600 billion—in CBO spending for the poorest of the poor. This is the granddaddy of all unfunded mandates. It is going to be so interesting, all those people who make all the speeches about unfunded mandates, how they are going to vote on that.

Mr. President, I ask unanimous consent that the excellent letter from former Senator Ted Moss that is related to this subject be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

Washington, DC, June 23, 1997.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, DC.

DEAR SENATOR KENNEDY: The Senate is currently considering legislation to fundamentally change the nature of the Medicare program. I agree that it is time we examined Medicare; however, I would hate to see us repeat some of the mistakes we made in the past.

I was the author in 1965 of the amendment which included home health care coverage under Medicare. Congressman Claude Pepper introduced the legislation in the House. Our original legislation required seniors to pay some portion of their home care costs out-of-pocket. However, studies by the Senate Committee on Aging and the General Accounting Office persuaded me in 1972 to work with Senators Edmund Muskie (D-ME) and Gaylord Nelson (D-WI) to delete the copayment provision. Our studies clearly indicated that copayments: cost Medicare more to collect in administrative costs than they saved the program; denied access to care and fell most heavily on those who can least afford it; pushed families into poverty and loved ones unnecessarily into institutions, resulting in increased costs to the states and the federal government through the Medicaid program; and increased costs to Medicare because people put off care until they had to be hospitalized.

I am writing to you today because a provision was added in the Senate Finance Committee proposal to require seniors to pay a $5.00 copayment beginning with the very first visit, up to a total of $760. Copayments were a bad idea in my original bill in 1965 and for the same reason they are a bad idea today. I am writing to urge you not to repeat the mistakes that we made in the past.

The home care portion of Medicare is small, representing 9.7 percent of the total, and yet home care has been saddled with disproportionate cuts—fully 17 percent of all of the Medicare reductions. Most of these reductions come at the expense of home care providers, which is bad enough, but the copayment provision is particularly intolerable because it comes at the expense of consumers.

A strong case can be made for expanding the scope of home care under Medicare to cover long-term care. Approximately ten million individuals who suffer from multiple disabilities are struggling to care for themselves, going without the care that they need, or waiting until an expensive admission to a hospital emergency room is the only answer. Let's do our best to improve Medicare and not make it less responsive to the needs of our seniors.

I am writing to ask that you support an amendment by Senator Edward M. Kennedy that would delete the copayment proposal. I encourage you to support Senator Kennedy in his amendment.

Sincerely,

FRANK E. MOSS,
U.S. Senator (ret.).

Mr. KENNEDY. Mr. President, I am prepared to yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

Mr. ROTH. Mr. President, I move to table the Kennedy amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table amendment No. 429. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

The result was announced—yeas 60, nays 40, as follows:

[Rollcall Vote No. 111 Leg.]

YEAS—60

Abraham
Allard
Ashcroft
Baucus
Bennett
Bond
Breaux
Brownback
Bryan
Burns
Campbell
Chafee
Coats
Cochran
Conrad
Craig
DeWine
Domenici
Enzi
Faircloth
Frist
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Jeffords
Kempthorne
Kerrey
Kyl
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Moseley-Braun
Moynihan
Murkowski
Nickles
Robb
Roberts
Roth
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—40

Akaka
Biden
Bingaman
Boxer
Bumpers
Byrd
Cleland
Collins
Coverdell
D'Amato
Daschle
Dodd
Dorgan
Durbin
Feingold
Feinstein
Ford
Glenn
Harkin
Hollings
Inouye
Johnson
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Mikulski
Murray
Reed
Reid
Rockefeller
Sarbanes
Snowe
Specter
Torricelli
Wellstone
Wyden

The motion to lay on the table the amendment (No. 429) was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote.

Mr. ROTH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER (Mr. SMITH of Oregon). The Senator from Maryland.

Mr. SARBANES. Will the Senator from New Jersey yield me 5 minutes?

Mr. LAUTENBERG. I am pleased to yield the Senator from Maryland up to 10 minutes.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. SARBANES. Mr. President, I want to commend the distinguished Senator from Massachusetts for offering the amendment just voted upon. I think the failure of this amendment dramatically illustrates one of the difficulties plaguing this spending reconciliation bill. This bill, when combined with the tax breaks approved by the Senate Finance Committee and the House Ways and Means Committee, places a disproportionate share of the burden of deficit reduction on ordinary citizens. You can't consider the spending reconciliation bill separate and apart from the tax bill we will debate later this week; the two are linked in the budget plan. And when considered in connection with the tax cuts we will soon discuss here, the spending cuts in this reconciliation bill reflect a flawed set of priorities for the Nation.

Now, this spending bill contains program reductions impacting numerous Americans, many of whom face extreme financial difficulty and are at the low end of the income scale. At the same time, the tax bill that is also part of the budget gives benefits to people at the top end of the income and wealth scale. That is the set of priorities that is reflected in this spending bill and in the budget as a whole.

Take as an example the home health copayment provision just voted upon. As the Senator from Massachusetts pointed out in discussing his amendment, 43 percent of home health users have incomes under $10,000 per year—I repeat, 43 percent have incomes under

$10,000 per year. Two-thirds of the people requiring home health visits are women, and one-third of those are women living alone. The Office of Management and Budget has stated: "We are concerned that a copayment could limit beneficiary access to the benefit." These are the kinds of people affected by the program cuts in this bill such as the one that the Senator from Massachusetts sought to strike—people who lie at the bottom end of the income scale, and who can ill-afford even a $5 copayment requirement.

At the same time that we require this $5 copayment and other similar cost-cutting provisions, we also include tax cuts in the budget plan. Now, given the objective of a balanced budget, the inclusion of tax cuts in the budget plan necessitates program reductions substantially greater than would be needed to eliminate the deficit if tax breaks were not part of the budget plan. Let me repeat that. Given the objective of a balanced budget, toward which we are all embarked, the inclusion of tax cuts in the budget plan requires program reductions substantially greater than would be needed to eliminate the deficit if tax breaks were not a part of the plan.

The math is simple. The budget resolution provides for $85 billion in net tax cuts over the next 5 years and $250 billion in net tax cuts over the next 10 years.

In the framework of a balanced budget, these tax cuts require additional program reductions of $85 billion over the next 5 years and $250 billion over the next 10 years over what would otherwise be required.

In other words, because you are approving tax cuts, you need to locate program reductions sufficient to offset the tax cuts. Now, the structure of the tax bills reported out by the tax committees makes it clear that those at the very top of the income pyramid will receive very substantial tax breaks—thereby absenting themselves from the deficit reduction effort, indeed shifting the burden to others—while ordinary people will carry a greater burden of program reductions to compensate for the tax breaks.

Many programs important to ordinary citizens are being reduced to pay for capital gains tax cuts, inheritance tax cuts, and IRA expansion that will benefit the wealthiest people in the Nation. The cuts in Medicare and Medicaid—such as the one the Senate just voted to sustain—are examples of such reductions in vital programs.

After looking at which Americans are affected by the program reductions in this bill, look at the distributional effects of the tax cuts that are also part of the budget. The tax bills reported from the Finance and Ways and Means Committees give the top 1 percent of the income scale the same percentage of the tax benefits as the bottom 60 percent on the income scale. At the same time, in order to make room for these tax breaks, we are reducing programs such as the one that we just voted on, which impact heavily on people who really cannot afford such reductions.

Mrs. BOXER. Mr. President, the Senate is not in order.

The PRESIDING OFFICER. The Senate will please come to order.

Mr. SARBANES. Mr. President, Members need to ask themselves whether they support the priorities reflected by these choices. For every dollar lost to the Treasury in tax cuts, a dollar must be added to the Treasury through reductions in programs that are essential to many of our citizens. If there were no tax cuts, or if the tax cuts were less than what is being projected, we wouldn't have to cut the home health program. These two things—tax cuts and program cuts—have to be understood together, even though they have been separated into two bills. The fact of the matter is that the whole budget plan, in order to provide for upper income tax breaks, has to reduce programs to offset the cost of the tax breaks. And the vote we just had is one example of a program that is being reduced.

So, in assessing this reconciliation bill that is before us, we need to ask ourselves whether providing tax breaks to the very well to do should be a higher priority than adequate funding for programs essential to the well-being of ordinary citizens. On each amendment we have to ask this very question: I repeat, is it more important to give a upper income tax breaks—and, in order to compensate for them, to cut programs such as the very program that we just voted on with respect to home health copayment, a program which clearly helps people at the very lower end of the income scale—or to preserve programs vital to ordinary Americans?

I think that question needs to be asked again and again as we confront these various proposals to deal with the program reductions that are contained in the reconciliation bill that is before us.

Mr. President, I would like to address one other item with respect to what we are confronting in this budget debate because it looks to the future.

Mr. President, the Los Angeles Times just yesterday published an article entitled "Tax-Cut Plans Could Reseed Deficit."

I quote: "Analysts liken House and Senate bills as time bombs set to begin detonating shortly after 2002—the target date for balancing the Federal budget."

I ask unanimous consent that the article be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SARBANES. Mr. President, this article points out that under versions of the tax bills approved by the Tax Committees in the two Houses, the revenue loss to the Treasury would take off, starting in the year 2003 and continuing for many years thereafter. What has happened is the tax cuts have been crafted in such a way that they artificially are held down in the early years to stay within the terms of the budget agreement. But because of back loading the principal revenue impact comes in later years.

Robert Reischauer, the former head of the Congressional Budget Office, said, and I quote him:

> . . . warns that of all the debate surrounding the House and Senate tax bills—whether the reductions are skewed too much toward the wealthy, or whether they would overheat the economy—"this is the critical issue."

I again quote him:

> If the tax bill explodes, it will explode just at the time that the baby-boom generation is beginning to retire and when we will need every penny we can get our hands on to pay for Medicaid, housing, transportation, and food stamps.
>
> Moreover, many of the tax cuts contained in the two bills "would not be easily reversible" if the Government decided that it needed the extra revenue after all to pay for these vital programs.

The figures are very stark.

> [The figures] . . . compiled by the congressional Joint Committee on Taxation show that during the first five years, the tax cuts would result in a net loss to the Treasury of $85 billion—precisely what the budget agreement has allocated . . .
>
> But the figures also show that the House tax writers have held down the initial costs by phasing in some of the reductions slowly. Once the provisions are fully in effect the cost of the package jumps dramatically.
>
> As a result, while the House provisions would drain about $18.4 billion from the Treasury in 1999, by 2007, the annual cost would soar to $41.8 billion—more than double the earlier amount.

So, in other words, you come to the end of the 10-year period upon which limitations have been placed by the budget agreement and you have the revenue loss projected on trend lines that simply take off over the second 10 years. Some estimates have placed this loss at $600 to $700 billion over the next 10 years—2008–17—compared to a $250 billion cost over the first 10 years, 1998–2007.

The same criticism applies to the Senate Finance Committee version—a little less, but not much. Moreover, as I have noted, both bills threaten the deficit through backloaded, phased-in tax cuts, which principally benefit the wealthy.

Mr. President, as pointed out in this Los Angeles Times analysis, three of the main provisions in these tax bills—IRA's, capital gains, and inheritance taxes—make heavy use of gimmicks, including delayed effective dates, slow phaseins, and timing shifts in revenue collections to minimize the revenue losses that these tax cuts cause in the early years. But then the costs begin to rise sharply, and they accelerate as you move into the outyears.

In short, these cuts place the whole deficit reduction effort at risk.

So we have two things happening here. First of all, the tax cuts are inequitable as we have just seen because you do something like this home health copayment charge at the same time that you give a tax break at the top of the income scale. Forty-three percent of the people who use home health services have incomes of less than $10,000 a year, and now will have to make a payment of up to $760 a year under this bill for home health care before they get some assistance. At the same time you are giving a tax break to people at the top end of the income scale on capital gains, on inheritance tax, and on delayed IRA's.

Second, the broader question, what Reischauer called the critical issue, is the fact that the tax bill is structured in such a way that the cost of the tax bill will simply take off after the year 2007. It will start moving out after the year 2002, the so-called balance year, and then after the year 2007 it will really take off and we will then be confronted with a major threat to our fiscal stability. As this Los Angeles Times article said, the "Tax-Cut Plans Could Reseed Deficit."

The whole purpose of this exercise is to eliminate the deficit, which is not being done.

Mr. President, I yield the floor.

EXHIBIT 1

TAX-CUT PLANS COULD RESEED DEFICIT

(By Art Pine)

WASHINGTON.—Prospects for keeping the federal budget balanced after 2002, the year that President Clinton and Congress hope to eliminate the deficit, are being threatened by a ticking time bomb: the tax-cut bills that Congress will take up this week.

Under versions approved by the Senate Finance Committee and the House Ways and Means Committee, the revenue loss to the Treasury would take off, starting in 2003, and continue for many years after that, most budget experts say.

Robert Greenstein, an analyst for the nonpartisan Center on Budget and Policy Priorities, says both tax-cut measures have been crafted to keep the impact of the cuts "artificially low" for the first few years to stay within the bipartisan balanced-budget agreement.

Such "back-loading" of the maximum revenue impact, he and other fiscal experts say, could threaten the government's fiscal integrity just as it is likely to be saddled with added costs related to the aging of the baby boom generation.

Robert D. Reischauer, a Brookings Institution budget-watcher, warns that of all the debate surrounding the House and Senate tax bills—whether the reductions are skewed too much toward the wealthy, or whether they would overheat the economy—"this is the critical issue."

"If the tax bill explodes, it will explode just at the time that the baby boom generation is beginning to retire and when we will need every penny we can get our hands on to pay for Medicaid, housing, transportation and food stamps," Reischauer said.

Moreover, many of the tax cuts contained in the two bills "would not be easily reversible" if the government decided that it needed the extra revenue after all, Reischauer contends. Adjusting capital gains for inflation, for example, would be difficult to undo

The figures are stark by any standard.

Estimates compiled by the congressional Joint Committee on Taxation show that during the first five years, the tax cuts would result in a net loss to the Treasury of $85 billion—precisely what the budget agreement has allocated for the measure's cost.

But the figures show that the House tax writers have held down the initial costs by phasing in some of the reductions slowly. Once the provisions are fully in effect, the cost of the package jumps dramatically.

As a result, while the House provisions would drain about $18.4 billion from the Treasury in 1999, by 2007, the annual cost would soar to $41.8 billion—more than double the earlier amount.

And Greenstein's group estimates that if the cost of the Ways and Means Committee package escalates at its 2004–2007 pace, the cumulative revenue loss for the second 10 years—from 2008 to 2017—would surge to $600 billion or more.

The Senate Finance Committee version of the bill is only slightly less explosive. The revenue drain rises from $19.7 billion a year in 1999 to $40.2 billion in 2007—again totaling $85 billion for the five years covered by the bipartisan budget accord.

Once more, however, calculating the second decade's cost once the provisions have been fully phased in raises the annual revenue shortfall to $74 billion in 2017, Greenstein's group estimates. For the measure's second decade—from 2008 to 2017—it swells to $550 billion.

Greenstein and Iris J. Lav, another researcher at the center, attribute the bulk of the explosion in 2004 and beyond to a handful of provisions that provide primarily benefit higher-income taxpayers: cuts in the taxes on capital gains, inheritance and individual retirement accounts.

All three provisions "make heavy use of gimmicks—including delayed effective dates, slow phase-ins and timing shifts in revenue collections—to minimize the revenue losses [that] these tax cuts cause during the first five years," the two analysts argue.

"Their costs then begin to rise sharply, with the pace at which these costs increase accelerating in 2006 and 2007."

The House provision to allow taxpayers to adjust their capital gains to eliminate the impact of inflation is particularly vulnerable to cost spiraling. Under the terms of the House bill, taxpayers would not actually begin using it to lower their taxes until 2004.

Republicans are unapologetic about the apparent trends. Senate Majority Leader Trent Lott (R–Miss.) told a news conference Friday that while Republicans deplore the possibility that the cost of the tax cut might explode, that is not the important point.

While Lott said Republicans "agreed we would not take actions" that would cause fiscal distress beyond 2002, he added. "The idea of having significant tax cuts for working Americans, I love it!"

But Reischauer and other critics are less sanguine. The nation already is facing a possible revival of large budget deficits when the baby boom generation reties, they say, and the prospect that policymakers will be able to cut spending then is dubious.

Many budget analysts predict that the bipartisan accord Congress and Clinton reached this past spring already runs the risk that the budget balancing—if it actually does occur in 2002, as predicted—will be brief and that the deficit will begin widening again.

"With the vanguard of the baby boom generation having already reached age 50, the nation cannot afford to budget with this type of sleight of hand," Greenstein said.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I yield myself 5 minutes to respond to the distinguished Senator from Maryland.

First, let me suggest that there are some Senators who want tax cuts. There are some Senators who want only certain kinds of tax cuts. I have never found a tax cut that the Senator from Maryland agrees with.

So we ought to start the argument by understanding that he is against the tax cut in this bill and probably any comparable tax cuts because he just doesn't like to cut taxes.

Having said that, let me just talk about some of the arguments he made. First of all, I am very pleased that this is a bipartisan effort to create some sense out of the havoc that is going to come down on the Treasury of the United States if we don't find some way to control home health care costs under part B for the seniors of our country.

Everybody should understand, including the seniors, that what we did in this package and what is being done in the House package is very, very beneficial to the senior citizens. In each bill we took half of the home health care costs—the fastest growing program in America, on average, 30 percent—we took half of that program out of the trust fund thus eliminating imminent bankruptcy. And we said, "Seniors, you don't have to pay for that out of your trust fund."

We did not hear anything from seniors, or the AARP, other than the AARP said "thank you" because, obviously, that is a very big gift which we did in order to make that trust fund solvent. We then put that amount of money down, and said let the taxpayers pay for it. So the Finance Committee came along and said, well, if the taxpayers are going to pay for it, we ought to start putting some control in it so that it will make sense in terms of costs. And the argument has been made by those who oppose what the committee did—and I don't serve on the committee—but the argument has been made that there are many poor seniors who can't afford the deductible.

Let's repeat again. If they are poor, the Medicaid Program of America pays their deductible. Let me repeat. For poor seniors, the Medicaid Program pays their deductible.

Frankly, I believe every other aspect—I am not an expert but I asked about this—every other aspect of delivering health care, hospitals and others, all have some kind of deductible. They do not have a deductible because we like to charge people where we could afford to give them something free. But we have deductibles so that everybody understands, including the recipient, that the program costs some money. Historically it has been a pretty good way to get that message across to the users.

The last argument being made by my friend from Maryland is a New York Times article that says the tax bill, which will come up next in the Senate and which already is on the House side, except ours is a little better in terms of the middle-income people—and he has an article from a newspaper which says that the tax bill is not good for middle-income Americans.

Let me suggest to the Senate that we don't have a New York Times article. We have the Congressional Budget Office. We have the Joint Tax Committee and every major accounting firm in the country that looks at this say to the contrary. In fact, let me tell you what the overwhelming evidence is that will soon be available from the Joint Tax Committee but also what our own firm that does our work for us says. They say that, at a minimum, 75 percent of the tax cut goes to those Americans who earn $75,000 and less. That is not a bad distribution.

In fact, I believe before we are finished, when we take into account the other things the Finance Committee did, it will probably be more like 78 percent of all of the tax cuts that are in this package will go to people in America earning $75,000 and less.

Now, that leads me to believe that those who want to attack the bill because of its distribution among taxpayers just do not want any tax cuts or, and here I will say unequivocally, that the White House chooses to attack this package because they have their own method of figuring out how much the American taxpayers earn and, believe it or not, the White House criticism—I yield 5 additional minutes off the bill—believe it or not, under the White House approach taxpayers should understand—and I say this to my friend from Texas—if they own a house, they are charged under the White House approach to this with receiving rent from the house equivalent to its value. So if you earn $25,000, and you have a house worth $100,000—the rent should be $10,000 on the house—you have earned $35,000.

Now, in addition, they also say if you have any capital gains—listen to this—they impute to you the value of the capital gain.

Now, the point of it is that the Joint Tax Commission approaches it in a completely different way. Accountants who have looked at it—and I will put a letter in from a major accounting firm—tell us that, indeed, this distribution under this tax bill, which is probably made better when they put $250 into the earned-income tax receipt—that probably makes the distribution better, but they tell us it is like 75 percent for $75,000 and under.

Now, I want to try to make a point because already the American people have been told, principally by White House spokesmen, that this tax bill is for the rich. We ourselves must set about to tell the American people the truth, and that will not be easy because every time somebody stands up who opposes the capital gains tax or the like, they are going to immediately say this tax bill is not good for average Americans.

So 3 years ago, in 1993, now on 4 years, the White House used, I say to Senator GRAMM, this same method of distributing earnings in another venture with the Congress, and I want to read and quote what David Brinkley said on one of his ABC wrapups of his own show about the way the White House figures the distribution of taxes, and so let me start. All of this is a quote from him.

> A few words about Federal taxes and what some of the great minds in the United States Treasury are thinking about. The Treasury likes to calculate the American people's ability to pay taxes based not on how much money we have but on how much money we might have or how much we could have. For example, a family that owns a house and lives in it, the Treasury figures that if the family didn't own the House and rented it from somebody else, the rent would be $500 a month, so it would add that amount, $6,000, to the family's so-called imputed income. Imputed income is income you might have had but don't—

Said the distinguished news man Brinkley.

> They don't tax you on that amount.

Nobody taxes you on that amount.

Now, concluding:

> The IRS does not play silly games like this. Instead, the Treasury calculates how much you could take away from us if you decided to. If that were the system, consider the possibilities. How about being taxed on Ed McMahon's $10 million magazine lottery.

Maybe you might get that so why not tax you based on that.

> I didn't win it, you say, but you could have. The Treasury must have something better to do—

He said.

> If not, there's a very good place for Clinton to cut some spending. From all of us at ABC—

He went on to say—

> Thank you.

We are going to start today, Mr. President, with this little sermon. We are going to start wherever anyone will listen to us and wherever any columnists are who write about this tax bill and we are going to tell them the truth, and we are going to ask them to read the Brinkley column about how the United States Treasury Department figures out what income people are earning. And frankly, they are also going to say, I say to Senator GRAMM, that this method of figuring out what somebody was earning was dreamed up in a Reagan administration. That is true.

Mr. GRAMM. We killed the guy.

Mr. DOMENICI. But essentially you can do all of these kinds of models for different purposes. The purpose that it is being used for now is totally distorted in terms of what the American people themselves are going to realize and who is going to realize the benefits of this tax bill. So wherever anyone will listen, we will hope to get our oar in alongside of the Democrats—some, not all—who say this tax bill does not help average Americans.

Several Senators addressed the Chair.

ORDER FOR RECESS

Mr. DOMENICI. Mr. President, I still have the floor, and I want to ask unanimous consent that the Senate stand in recess from the hour of 12:30 to 2:15 for the weekly policy luncheons to meet and, further, that the recess time count equally against the remaining statutory time allotted for the reconciliation bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SARBANES. Mr. President, will the Senator from New Mexico yield for a couple of questions?

Mr. DOMENICI. Mr. President, I have been told by the chairman of the Finance Committee that they want to proceed on the amendment that is pending and so I—

Mr. SARBANES. If the Senator will yield me just 2 minutes to respond to the point that was made.

Mr. LAUTENBERG. If the Senator from Maryland will indulge me for just a minute. The chairman said proceed, and I am wondering how far we want to proceed because if we are going to suspend at 12:30 until 2:15, there is a vote pending, I assume, I ask the distinguished chairman of the Finance Committee, and would you want to establish a time certain now for voting after lunch?

Mr. ROTH. I would like to have a vote before we recess for lunch.

Mr. LAUTENBERG. There is, I understand—I ask the Chair—an hour's worth of debate evenly divided for the discussion of the waiver of the point of order.

Mr. DOMENICI. That is correct.

Mr. LAUTENBERG. If we have just had a unanimous-consent agreement to leave here at 12:30, how does one accommodate an hour's worth of time?

Mr. DOMENICI. One doesn't. One assumes that both sides would like to take less.

Mr. LAUTENBERG. Well, I think in a survey of my side, Mr. President, I cannot accommodate that notion. Now, if the Republicans are willing to give up their side, we can do it in a half hour.

Mr. DOMENICI. Mr. President, let me try this on with everybody who is here.

Senator DURBIN wants a full hour?

How much time does the chairman think he needs?

Senator DURBIN gets a half hour.

Mr. ROTH. We want the half hour.

Mr. DOMENICI. You want the half hour.

That means we could not vote until after lunch. Very well, why don't we do this. We want to use the whole time. It is 5 minutes of 12. We would then go until 12:30. That is 35 minutes and then 25 minutes upon return.

Mr. LAUTENBERG. At 2:15. So that would be at 20 to 3.

Mr. DOMENICI. The first 25 minutes upon return to the floor will be used on this amendment and then a vote will follow.

Mr. LAUTENBERG. At that time.

Mr. DOMENICI. At this point we will, the time preceding our recess will be used on the motion to waive as equally divided as possible.

Mr. LAUTENBERG. The Senator from Maryland asked for a couple of minutes before we start the debate on the motion to waive.

Mr. DURBIN. Mr. President, reserving the right to object and acknowledging the fact that the Senator from New Jersey may yield to my friend and colleague from Maryland, can we say that the calculation be based on how much time is remaining on the debate when we do break at 12:30?

Mr. DOMENICI. Yes, that is fine.

I do not want to use any additional time. I want them to use it. But if the Senator insists on 2 minutes, I am not going to object.

Mr. LAUTENBERG. I therefore yield 2 minutes of the time on the bill.

Mr. DOMENICI. May we indicate the unanimous-consent request is that as soon as the 2 minutes is up we immediately move to the 65–67 issue?

Mr. GRAMM. May I just ask a question? Are we going to have the full hour to debate this thing, so we will debate it some when we come back from lunch?

Mr. DOMENICI. Yes.

Mr. GRAMM. So nothing we are doing in going to lunch or listening to the rich people getting a tax break, none of that is limiting our time?

Mr. DOMENICI. No. He is only going to take 2 minutes on that issue.

The PRESIDING OFFICER. The Senator from Maryland is recognized for 2 minutes.

Mr. SARBANES. I thank the Chair. Mr. President, I sought the 2 minutes because I wanted to respond to the points made by the chairman of the Budget Committee. First of all, he said, if these senior citizens had difficulty with the copayment requirement, they could get Medicaid. That is true if they are at the poverty level or below—approximately $9,000 of income or less. But you have a lot of people that are above the poverty level who cannot afford this, and who, without Federal assistance, will suffer these program reductions at the same time that those at the upper income level receive tax breaks.

Second, we are told that the distribution tables show that these tax cuts are not going disproportionally to the upper end of the scale. Well, that is because of the backloading gimmicks that are in the tax bill. In fact, the capital gains and IRA proposals on which the distribution tables are based through the year 2002 show no net revenue loss—no net revenue loss—for that 5-year period of time, which is the sole subject of the distribution table. Yet, the combined revenue loss from those provisions for the period 2003 through 2007 is $51 billion. And that is never calculated in the distribution tables, let alone the cost of these tax breaks in the years after 2007, which, as I mentioned before could well be staggering and totally destructive of the deficit reduction effort.

Moreover, as a consequence of such backloading, the upper income tax provisions account for a growing proportion of the tax package over time. In the year 2003, outside the scope of the distribution tables that the chairman was citing, they will account for 30 percent of the gross cost of the tax cuts. By 2007, the figure is 42 percent. And as you move out into the next decade, they very quickly eat up more than half of the tax breaks.

Now, the way these cuts are structured makes the Joint Tax Committee analysis an inadequate indicator of the distribution effect of these tax cuts. Because of the way they are structured, with the backloading, a 5-year distribution table shows that they are not costing any revenue. But if you carry the cuts out beyond the 5-year period, they cost very significant revenue. And by the year 2010, it is estimated that a majority of the tax cuts in the package will be directed to the upper income sector of the population.

Now, as I stated earlier, the fact that you are making those tax cuts requires you, since you are trying to reach a balanced budget, to make program cuts. So you have to look at the tax cuts reported by the committee and weigh them against the program cuts. Here you have home health care being cut, with 43 percent of the people who use home health care making under $10,000, and here you also have tax breaks given to people at the very top of the income scale. These are not the right priorities for the Nation.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SARBANES. I thank the ranking member for yielding me time.

Mr. DOMENICI. Mr. President, I yield all the time on this issue to the chairman of the Finance Committee, for his control under the Budget Act.

The PRESIDING OFFICER. The question pending is the motion to waive the Budget Act in response to a point of order raised against section 5611 on the grounds that it violates section 313(b)(i)(A) of the Congressional Budget Act.

Who yields time?

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, I yield myself 3 minutes.

Mr. President, I asked for a waiver because I oppose the point of order on the age of eligibility in the bill. What we are proposing to do is to make the age of eligibility for Medicare conform with Social Security. The age of eligibility will change from 65 to 67, which will be phased in over a 24-year period beginning in 2003 and ending in 2027. This is a very, very modest approach to an extremely serious problem. What we are concerned about is the solvency of Medicare. The solvency of Medicare is of critical importance as part A is seen going bankrupt by the year 2001. By the year 2007, if we do not make significant change, the program is at a loss of one-half trillion dollar. What we are seeking to do here, by making the age of eligibility for Medicare reform conform with Social Security, is to take a modest step forward to assure the solvency of this most important program.

The bipartisan Commission on the Future of Medicare will be required to analyze and report back the feasibility of allowing individuals between age 62 and Medicare eligibility the option to buy into Medicare. As I said, our provision will help us extend solvency in the program. It is, I think, the very least we should do. The average life expectancy for a man or a woman over age 65 has been steadily improving. People are living longer, they are leading more vibrant lives, and this means that changing the eligibility age for Medicare will follow our natural demographic progression. In fact, around the time Medicare was enacted, the average life expectancy for men at age 65 was about 13 years, for women about 16 years. In 2030, when this provision is fully phased in, average life expectancy at age 65 for men is anticipated to be about 17 years, and 20.5 years for women. This is a very modest step to bring about significant reform. It is critically important that we show that we have the courage to take these steps on behalf, not only of our senior citizens of today, but the increasing number that will join this group in 2010 and later.

It is, in a way, very ironic that a point of order was made on this matter, because while it is true that it will not have a significant impact on revenue in the early years because of the very, very compassionate way we are introducing changing the age of eligibility, the fact is that this very modest approach will do a very, very great deal in the long term in helping the solvency of this program.

I cannot emphasize too much the importance of this change. As I pointed out, it merely conforms to what already has taken place in respect to Social Security. It is a change that will make the program significantly more solvent in the long term, and I hope the Senate will assure that this language continues as part of the agreement.

I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I assume the distinguished chairman will be yielding further time on his side. At this point we have no requests for time now.

Mr. ROTH. I yield 5 minutes to the distinguished Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, when Social Security started in the mid-1930's, the average person paying into Social Security, given the lifespan projections, was not projected to live long enough to get any of the benefits. In fact, we forget that when Social Security started, the average life expectancy of Americans was substantially less than 65.

By 1983, Social Security had become insolvent. We were in danger, in the spring, of not being able to send out July checks. We had a crisis in Social Security, so we instituted a series of reforms to try to pull Social Security back in the black. One of those reforms was raising the retirement age beginning in the year 2003. Then over the ensuing 24 years it would be raised in small increments up to 67. We did it under crisis circumstances. I remember the vote. I was a young Member of the House at the time. It was adopted on a bipartisan vote. Nobody liked it, but everybody recognized that it had to be done.

We did not make a similar change for Medicare then because Medicare was in the black. Today, our circumstances with Medicare are very, very different. If you look at this chart behind me, we currently are in this last small part of blue. Medicare is now in the process, very rapidly, of going bankrupt and the Medicare part A trust fund, which pays for hospital care, within 4 years will be insolvent. We expect Medicare, based on everything that exists now, to be a drain on the Federal Treasury of $1.6 trillion over the next 10 years.

Our problem is not only exploding costs, but the fact that we have a baby boomer generation that was born immediately after the war which made Medicare possible as all these baby boomers came into the labor market beginning in 1965. But 14 years from today, the first baby boomer retires. We will go from 200,000 people retiring a year to 1.6 million people retiring a year. The number does not change for 20 years. We go from 5.9 workers per retiree in 1965, to 3.9 workers per retiree, to 2.2 workers per retiree. We are facing a very great crisis in Medicare.

We also face a timing crisis. Everybody knows we are going to have to raise the retirement age for qualifying for Medicare as we did for Social Security. Everybody knows it is going to have to be done. If we do it today, we are going to have time for it to phase in. But if we wait another 3 or 4 years, the phase-in for Social Security will have started and we are going to be forced to tell people who have planned for retirement that their Social Security benefits and their Medicare coverage are not going to cut in when they plan to retire.

If we make this change today, people will have time to adjust. For example, I was born in 1942. If we pass this bill today, I will know that if I plan to retire at 65, that my Social Security benefits and my Medicare coverage will not cut in until I am 65 years 10 months of age. So I have 11 years, if I were looking forward to that retirement, to plan for it. If we keep waiting, knowing we are going to have to do this, we are going to end up having to force change on people when they are not ready. The advantage of doing what we have done is that it phases in between now and the year 2027, and people have time to plan for it.

It is the ultimate paradox that we have a point of order against this provision because we did this provision without claiming any savings for the budget. We made this change to save Medicare. We dedicate every penny of savings to the Medicare trust fund, we don't count a penny of the savings toward balancing the budget or funding tax cuts, and now we have a point of order against the amendment because we are not claiming savings.

So we try to answer the charge that is often made on the other side of the aisle that you are cutting Medicare to balance the budget or you are cutting Medicare to cut taxes. We try to respond to that by taking a long-term view of saving Medicare. We do not count it toward reducing the deficit, we don't let any of it be spent, and we don't let any of it be used for tax cuts. We simply are trying to do something that is fundamentally important.

Medicare is going broke. We have an unfunded liability for Medicare today of $2.6 trillion.

The PRESIDING OFFICER (Mr. SESSIONS). The Senator has spoken for 5 minutes.

Mr. GRAMM. May I have 1 additional minute?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAMM. The plain truth is we have guaranteed two generations of Americans benefits under Medicare, and we have not set any money aside to pay for it. We have an outstanding liability of $2.6 trillion. If we wait 10 years to do something about it, it will be $3.9 trillion. If we wait 20, it will be bigger than the entire national debt of the country at $6.1 trillion. The Finance Committee, in an extraordinary act of courage, decided to make this change and not count any of it toward balancing the budget and not count any of it to pay for the tax cut but to simply do it so we will never have to call up senior citizens and tell them Medicare went broke today.

I supported this provision because I have an 83-year-old mother who depends on Medicare, and I don't want to pick up the phone someday and say, "Mama, Medicare went broke today. I knew it was going broke, but I did not have courage enough to do anything about it."

We have an opportunity over the next 30 years to phase up the eligibility date for Medicare to conform to Social Security, something we have already had to do under crisis circumstances. Let's not wait until the house is on fire to do something about the problem.

I urge this point of order be waived.

The PRESIDING OFFICER. Who yields time?

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I don't know if I need permission from Senator LAUTENBERG on our side, but I am going to presume there is no objection to speak on behalf of our side in relation to this motion to waive. I see Senator LAUTENBERG on the floor now.

Mr. LAUTENBERG. I yield so much time, up to 10 minutes, as the Senator from Illinois requires.

Mr. DURBIN. I thank my colleague for making this legitimate.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, what is this all about? Well, you say the word "Medicare" and senior citizens start listening. "Medicare, wait a minute, that is my mother's health insurance protection, it is my grandfather's health insurance. What are they doing to Medicare?"

Let me tell you for a moment, if you are 65 years old or older, listen with interest; if you are 59 years old or younger, listen to this debate with great interest. It is about you and when you will be able to retire. It is whether or not you will have the protection of health insurance in your old age.

This is the committee print for the bill we are considering, a very interesting document. There is a provision in here that we are now debating which you might overlook, but it is so important that virtually everyone under the age of 59 years in the United States of America, because of a handful of sentences here, may have to change their plans as to when they are going to retire. That is how important this debate is, that is how important this issue is, because buried in this committee print on page 161 at the bottom of the page is a Texas two-step for America's working families. A Texas two-step—step, step, slide, slide, and guess what? It raises the eligibility age for Medicare from 65 to 67.

What does that mean? It means if you were counting on retiring at age 65, taking your Social Security, taking your Medicare, guess what? You now have to wait a couple of years, or at least retire without the protection of Medicare.

Is that important to people? I think it is very important. Do you know how many people now at the age of 65 have health insurance in America? Thirty percent; 70 percent do not. They are people who count on Medicare to protect them. And the Senator from Texas offers an amendment which says, "Oh, you can count on Medicare to protect you, just wait 2 years, wait 2 years, and then we will start protecting you."

What if you should retire at age 60, what if your employer says to you, "Oh, take your retirement, we'll give you health insurance protection," and changes his mind? Have you ever heard that story? I have heard it plenty. People who retired say, "I'm taken care of, the company I work for gave me a watch, they gave me a health insurance plan, this is going to be great, I'm going fishing." Then what happens? The company is sold two or three times, a couple mergers, a couple cutbacks, and the next thing you know, they are saying, "Sorry we have to send you a letter and tell you the bad news. No more health insurance, Mr. Retiree. Thanks for working for us for 35 years." And there you sit at age 61 without health insurance.

What does it cost you? I know what it costs in Chicago because we checked. About $6,000 a year if you are healthy. If you are not healthy and in your sixties, 10,000 bucks a year. Did you count on that when you decided to retire? I don't think so. And if you get stuck in that position, you know what you start doing? You start counting the days to when you will be eligible for Medicare. How many more months before I reach age 65 and Medicare is going to come in and protect me and my family and my savings? You count the days.

The Senator from Texas, who offers this amendment, wants you to keep counting for 24 months more, wants you to hang on until you are 67. Then he says we should make you eligible for Medicare.

I think that there is some question as to the statement in the committee print about its voracity. I know we are not supposed to say that, but let me just tell you why I say that. The committee says we are changing Medicare so that it tracks Social Security and, in their words, they say, "The committee provision will establish a consistent national policy on eligibility for both Social Security, old age pension benefits and Medicare."

Let us concede the obvious. The age to retire under Social Security in the next century is going to go up from 65 to 67. This is true. It is the basis for this amendment. But it is not the whole story, I say to my friends. The whole story is this. You can draw Social Security at age 62. You won't get as much, but that is your option. "I will take a lower retirement, I'm leaving at 62, that's it." But you can't do that on Medicare. You can't draw Medicare benefits at age 62. Right now you wait until you are age 65, unless you are disabled, and the Senator from Texas wants you to keep on waiting for 2 more years to the age of 67. I don't think that is an accurate statement when they say they are going to track Social Security. They don't track Social Security.

The Senator argues this gives people time to adjust. He talks about compassion and courage. How much courage does it take to say to a senior citizen who now has developed a serious heart problem, "Keep drawing out of your savings accounts to pay for your health insurance."

You know what will be compassionate and courageous, not raising the age to 67. What would be compassionate and courageous is universal health care. To say no matter how old you are, rich or poor, where you live, black or white, regardless of your ethnic background, you are insured in America. You are not going to be stuck in the situation we are creating with this bill, you are not going to be stuck in the position with a terrible medical problem at age 62 and no health insurance, waiting and praying for the day when you are eligible for Medicare. That would be compassion and courage. That would be responsive to the 40 million Americans stuck today without health insurance.

Let me tell my friends, my opposition to this provision to raise the eligibility age for Medicare comes, of course, from the Democratic side, but I have some interesting allies in this battle. Eighty different corporations have written to the Members of the Senate and said, "Please, do not do this, do not accept Senator Gramm's proposal to raise the eligibility age for Medicare to 67." Among them, the National Association of Manufacturers and the U.S. Chamber of Commerce.

What is a Democrat doing arguing the position of the U.S. Chamber of Commerce here? I will tell you why. These companies and their associations now offer to their employees health insurance protection until they are eligible for Medicare. That is written in the contract. If you make eligibility for Medicare age 67 instead of 65, these companies have a new liability that has been dumped in their laps by the Texas two-step, and it is a disincentive for any other company to offer this benefit to their employees. They know it costs more, and they don't know what the Senate is likely to do next year when it comes to Medicare eligibility. That is what this battle is all about.

When I look at the number of people currently covered by health insurance at age 60 and 65 in America, it is clear. Fewer companies are offering protection. More people are on their own. The expense of health insurance when you reach age 60 goes through the roof, even without any kind of medical problem. That is what this debate is all about.

You want to save Medicare? There are lots of things we need to do on a bipartisan basis. There is a Commission created by this bill to study those ways, to make sure that we do it in a sensible, fair, compassionate way. But instead, my colleague from Texas and his friends on the committee have decided, let's just take a flier, let's throw one of them out there. And the first one they throw out there does not impose any new liability on health care providers, it imposes a new burden on seniors in years to come.

Those who retire after the year 2003 have to start waiting longer and longer and longer. I say to my friends, I don't think that is what Medicare is all about. Many of the people who proposed this, frankly, don't care much for Medicare. That came out in the last campaign. Some of the candidates stood up and said, "Yeah, I voted against it, and I'd do it again." I am not one of them. I didn't have the opportunity, the rare opportunity, to vote for this program. But I will tell you this, I am going to vote to protect it. I am going to vote to protect it because of what it has meant to my family. Medicare has meant to my family that you can retire not only with the dignity with Social Security, but with the protection of Medicare.

Parents don't want to be burdens on their children. They want to live independently, enjoy their lives because they played by the rules and they have paid in. To change the rules at this point, to say we are going to raise the retirement age for Medicare really reneges on a promise that was made over 30 years ago. It is the wrong way to go. We can make Medicare solvent in the long term, and we can do it in a sensible way.

At this point, I yield, for purposes of debate, to my colleague from California, Senator BOXER.

Mr. LAUTENBERG. Mr. President, I ask how much time does the Senator from Illinois have remaining that I gave him?

The PRESIDING OFFICER. The Senator has spoken for 10 minutes.

Mr. LAUTENBERG. He has spoken for 10 minutes.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I yield myself 4 minutes.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. GRAMM. Mr. President, let me first point out that when our colleague talks about people waking up and finding that age of eligibility is changed by 2 years, let me say that those people are 37 years old today. It will be between now and the year 2027 that this retirement age will phase up.

One of the reasons we want to do this now is we don't want people to wake up and discover that this has happened and they have not had time to plan on it. By doing it now, this will affect the full 2-year increase; it will affect only people born after 1960. That is, they are going to have 30 years in which to change their life's plan in order to accommodate this change.

Our colleague acts as if tomorrow they are going to wake up and discover that the eligibility has changed.

Let me remind my colleague, unless the note I have been passed is incorrect, that in 1983, on March 24, our colleague voted to raise the retirement age for Social Security, is that correct?

Mr. DURBIN. Will the Senator yield?

Mr. GRAMM. I yield for an answer to that question.

Mr. DURBIN. The amendment offered was the Pickle-Pepper amendment in the House of Representatives. I voted with Mr. Pepper and against raising the retirement age.

Mr. GRAMM. You voted for final passage on the bill on March 24. My point is, we are going to have to do this. Everybody knows we are going to have to do it. Should we wait until there is a crisis so that we will literally do what the Senator from Illinois says and make the change so it will go into effect immediately?

That is what is going to happen when you look at the exploding deficit of Medicare. We will have a $1.6 trillion loss to the Treasury in trying to maintain the program in the next 10 years alone.

Our colleagues are not telling us that by the year 2025 when we will be going into the final phase up, we will have to triple the payroll tax—triple the payroll tax—to pay for Medicare if we don't begin to make changes. They are not proposing today to triple the payroll tax. They are simply saying, "Don't act now, wait until there's a crisis; wait until Medicare is flat on its back and then make the change."

Let me tell you why we can't do that. We can't do it because the phase in is already underway in Social Security, something that both Houses of Congress approved, and the President signed. It was voted for on a bipartisan basis raising the effective retirement age for full retirement benefits to 67. That is already the law of the land, and that phase up begins very slowly, a matter of months each year, very slowly, but it begins in the year 2003.

If we wait, we are going to end up doing what our colleague accuses us of today. But the truth is, by doing it now, for those who will have to wait an additional 2 years, they will have 30 years to adjust. This is the responsible way to do it. It is the way it should be done, and I hope it will be done. If we don't do it, we will be back here in 3 or 4 years doing it under crisis circumstances and doing it immediately.

The PRESIDING OFFICER. The time of the Senator from Texas has expired.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, I ask unanimous consent that we set aside temporarily the motion before us to consider a technical amendment that has been cleared on both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 431

(Purpose: To provide for managers' amendments)

Mr. ROTH. Mr. President, I send an amendment to the desk on behalf of Senator MOYNIHAN and myself and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

> The Senator from Delaware [Mr. ROTH], for himself and Mr. MOYNIHAN, proposes an amendment numbered 431.

Mr. ROTH. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection?

Mr. FAIRCLOTH. Reserving the right to object.

The PRESIDING OFFICER. Does the Senator object?

Mr. FAIRCLOTH. I do object.

The PRESIDING OFFICER. The objection is heard. The clerk will read the amendment.

The legislative clerk proceeded to read the amendment.

Mr. FAIRCLOTH. Mr. President, I withdraw my objection.

The PRESIDING OFFICER. The objection is withdrawn.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. LAUTENBERG. Mr. President, none of this time is charged, I assume, to the waiver amendment that the Senator from Delaware has proposed?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROTH. Mr. President, as you can imagine, drafting a piece of legislation this large in such a short timeframe and having to incorporate over 50 amendments resulted in some technical errors and omissions. The items contained in this amendment are those which are technical in nature, and replace inadvertent omissions or are necessary to bring the legislation into compliance with the committee's budget instructions.

The amendments accepted or adopted in the committee markup were done so with the proviso they would not bring the committee out of compliance with its instruction.

Therefore, now that the Congressional Budget Office has completed scoring of the entire package, certain revisions to these amendments are necessary. A description of the items contained in this amendment is located on each Senator's desk.

I ask this amendment be adopted and be considered original text for the purpose of amendment.

The question is on agreeing to the amendment.

The amendment (No. 431) was agreed to.

Mr. ROTH. I move to reconsider the vote.

Mr. LAUTENBERG. I move to lay it on the table.

The motion to lay on the table was agreed to.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate will now stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:32 p.m., recessed until 2:19 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. COATS].

BALANCED BUDGET ACT OF 1997

The Senate continued with the consideration of the bill.

Mr. CHAFEE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Mr. President, for the information of all Senators, approximately 6 hours remain for debate with respect to the Balanced Budget Act, basically equally divided. There are approximately 30 minutes remaining on the motion to waive the Budget Act with respect to the Medicare age increase issue. Therefore, a vote will occur on that motion to waive around 3 o'clock, or maybe shortly before that.

As was mentioned in both luncheons today, the Senate will remain in session this evening until all time is consumed. If any Senator intends to offer an amendment after the time has expired, they will be required to do so this evening. It will then be my intention to stack all votes on the amendments and the final passage, after the time has expired this evening, until approximately 9:30 a.m. on Wednesday.

So all debate time and all amendments will be offered tonight, and then we will begin a series of votes at 9:30. We don't know exactly how many amendments that could entail. It could be as few as five, I hope. It could be many more than that. We will begin voting at 9:30 and continue voting until we complete all the amendment votes and final passage. Then, of course, we will go to the taxpayers' relief act.

Senators can expect additional votes today and a series of votes beginning at 9:30 on Wednesday, the last of the series being final passage of the Balanced Budget Act.

Mr. CHAFEE. Mr. President, I would like to ask the majority leader a question. As I understand it, suppose somebody has an amendment this afternoon and is prepared to go to a vote this afternoon; would there be a vote this afternoon?

Mr. LOTT. Yes, there can certainly be votes this afternoon. In fact, we expect votes throughout the afternoon, probably until all time has expired, or around 8:30 this evening. So you could have votes at least until 7 or 7:30, and then we will put the rest of the votes over until 9:30.

Mr. LOTT. I yield the floor, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. Who yields time?

MOTION TO WAIVE THE BUDGET ACT

Mr. CHAFEE. Mr. President, I would like to address the matter before us, and I believe the time is running anyway, is it not?

The PRESIDING OFFICER. Time is being charged against the motion to waive the Budget Act, which is the pending business.

Mr. CHAFEE. I ask that I might have 5 minutes on Senator ROTH's time on this matter.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Rhode Island is recognized to speak for up to 5 minutes.

Mr. CHAFEE. Mr. President, there is an organization set up to report to the Congress every year on the status of Social Security and the status of Medicare. This group is a very distinguished group. It consists of the Secretary of the Treasury; the Secretary of Health and Human Services; the Secretary of Labor, or Acting Secretary of Labor; and the Commissioner of Social Security, or the Acting Commissioner of Social Security. These are the people, plus two members of the public. I might say, of the first four—and there are six in all—four of these are Democrats. They are not Republicans; they are Democrats. They submitted a report to us in the Congress in April of this year. What did they say?

> As we have reported for the last several years, one of the Medicare trust funds, the Hospital Insurance—

The HI, the so called part A.

> will be exhausted in 4 years without legislation that addresses its fiscal imbalance.

This isn't a bunch of right wing Republicans saying there is trouble ahead. These are the very prestigious, qualified Cabinet Members of the President of the United States—every single one of them a Democrat. It goes on to say:

> We are urging the earliest possible enactment of legislation to further control Hospital Insurance program costs because of the nearness of the Hospital Insurance Trust Fund exhaustion date.

Mr. President, these are serious matters. They go on to explain why this is happening.

On page 6 of its report it says:

> Why do costs rise faster than income? The primary reason for these costs of Social Security and the Hospital Insurance costs are because of the baby boom generation retirees, while the number of workers paying payroll taxes grows more slowly.

Mr. President, we are facing an emergency here. This legislation, which came from the Finance Committee, proposes to do something about it. What is the situation? In 1950, which is 47 years ago, there were 16 workers for every retiree—16 workers in the United States paying into the Hospital Insurance Fund and paying into Social Security.

Mr. DOMENICI. Will the Senator yield for a moment?

Mr. CHAFEE. I will.

Mr. DOMENICI. Mr. President, I want to yield control of the bill to the chairman of the Finance Committee, even to the extent of his yielding time off the bill, if he sees fit. He may run out of time, and Senator BREAUX may need time. I am going to leave for about a half hour, so you can take it off the bill if you need it.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. As I said, 47 years ago, in 1950, there were 16 workers for every retiree. Today, there are 3 workers for every retiree—not 16, but 3. Twenty-eight years from now, in the year 2025, the ratio will fall to two workers for every retiree. So something has to be done if this Medicare trust fund is going to survive.

What we have proposed is increasing the Medicare eligibility age to conform with that of Social Security. In 1983, we raised the age of Social Security eligibility gradually. It comes into full force in the year 2025. By the year 2025, the retirement age will be 67, not the 65 that it is today.

We have proposed that the Medicare Program step up in similar fashion. The key thing, Mr. President, is to take these actions now; don't wait until the baby boomers are all there collecting and we can't do anything about it. Now, if we act, we can take these very gradual steps. For example, the first step will be in 2003, 6 years from now, when the eligibility age for Social Security and Medicare will go from 65 to 65 and 2 months. Then it goes up to 65 and 10 months by the year 2007. Then we take a break for 11 years—excuse me. In 2008, it will be at age 66, and then gradually it goes up by 2 months and 4 months and 6 months until the year 2025, when the retirement age for Social Security——

The PRESIDING OFFICER. The Chair advises the Senator that his 5 minutes have elapsed.

Mr. CHAFEE. I ask unanimous consent that I may have 2 more minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Social Security is already set. That goes to 67. We did that in 1983. That goes to age 67 in 2025. What we do in this program is to have Medicare conform to that.

Mr. President, unless we take these actions, there isn't going to be any Medicare for the future. A lot of people say, "Do nothing." Well, I think that is totally reckless. Other people can say, "Well, just increase the tax." That would mean increasing the tax on Medicare by 250 percent. That is what would be required to increase the payroll tax. It would have to be increased from the current amount of 1.45 percent of payroll to 3.6 percent, which is nearly a threefold increase.

So, Mr. President, this is a very wise provision that we did, in a bipartisan manner, in the Finance Committee, and I certainly hope that it will withstand any attacks. I thank the Chair and I thank the distinguished chairman of our committee.

The PRESIDING OFFICER. Who yields time?

Mr. LAUTENBERG. I yield 5 minutes to the Senator from California.

The PRESIDING OFFICER. The Senator from California is recognized for 5 minutes.

Mrs. BOXER. Thank you very much, Mr. President. I support the Senator from Illinois in his attempt to keep the age of Medicare eligibility at 65.

Mr. President, raising the eligibility age to 67 in the future is part of the bill that is before us and was an amendment offered by the Senator from Texas, Senator GRAMM.

Now, had the Senator from Texas and his supporters had an alternative in place for those who would be unable in the future to get Medicare between the ages of 65 and 67—if there was an alternative in place, if this bill said that we will, in fact, raise that age, but only after we have an alternative in place for those people, I would be here supporting it.

But it is so reckless, Mr. President, to take away Medicare from people who pay for it their entire working lives—to take it away from them for 2 years unless there is an alternative in place. I do not know if any of my colleagues know about our health insurance, but we have a pretty good plan around here. As a matter of fact, I voted in during the health care debate to offer that plan to every American. That didn't fly. "Oh, we are covered. What do we have to worry about? We are fine." But to take away Medicare from people who have been paying for it out into the future without any way to replace it, I don't know what we are doing here.

The Senator from Texas says he is concerned about the solvency of Medicare. That is what the Senator from Rhode Island said—if we care about solvency, we will support this. We all know there are many ways to address solvency.

By the way, the committee does it in some other areas that I support, but not this one.

My friends, it isn't that tricky to preserve the solvency of Medicare. If you want to really preserve the solvency, raise the eligibility age to 90, and for the people who are on Medicare at 90—there will be enough money to take care of them because everyone else who would have been eligible previously, will have died.

Medicare solvency is the new mantra of my colleagues on the other side of the aisle. First they want to vote against Medicare —now they say they are going to save it. They are going to make it solvent by telling people that in the future without any alternative means of health insurance in place, no universal health care, that they have to wait until they are 67 to be eligible for Medicare.

Medicare remains solvent because they don't talk about what happens to you when you can't get insurance and you don't get preventive care and you get sicker. What are people going to do? Either they have to go out and find it in the marketplace and pay thousands and thousands of dollars to get coverage, or they will fall down on their hands and knees and pray to God that they don't get sick.

That is not an option because, unfortunately, if you look at the tables and you see when Alzheimer's strikes, when Parkinson's strikes, when stroke strikes, when heart disease strikes, when prostate cancer strikes, and even when breast cancer strikes, the older you get the more you are apt to get these conditions. You cannot control it.

The Senator from Rhode Island said we have to save Medicare. What about saving the people who are served by Medicare?

So this part of the Finance Committee bill puts the cart before the horse. Don't just say we are going to raise the age at which people can get Medicare and have nothing in its stead and not even make it contingent on having universal health care in place because when people reach the age of 65 they will not have an option.

Mr. President, we ought to look at what we are doing around here. It sounds great, "save Medicare." I think we need to save the people who rely on Medicare.

We all know the horror stories of people getting sick. They don't expect it. And then they try to tie it to the increased age of Social Security retirement which we phased in, which I support—phasing it in. But there is one difference. People can still retire at age 62. If they choose to retire at that age and go on Social Security, there is a penalty but it can be done. There is no such provision in here. This is just a cutoff. The proposal does not say if you need Medicare you can get half coverage; you can pay 50 percent of your premium. No. This just takes people off the plan without any alternative—at a time in their life when they are apt to get seriously sick. If you have ever been in a hospital and you see some of these charges that come back at you, thousands of dollars a day, we will put people into ruin. We will go back to the days when people have to in fact rely on their children taking care of them at the height of their lives when they need Medicare and they cannot get it.

So, Mr. President, I urge my colleagues to support the Senator from Illinois. I want to save Medicare because I believe in it. I do not want to hurt the people who need Medicare. When you have something in place for those people to go to, when you have an alternative insurance plan, I'll am with you all the way. I will support you 100 percent.

We already have 40 million people who are uninsured in this country. They have no health insurance. You are going to throw 7 million more of these people onto the uninsured rolls, and you are going to do it in the name of saving Medicare.

Something is wrong with this picture. It doesn't add up. My friend from Illinois calls it the "Texas two-step." I think it is the "backward step." It is going back—back to the days when our senior citizens were very sick with no place to go.

I hope you will support the motion by the Senator from Illinois.

I yield the floor.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. ROTH. I yield 5 minutes to the Senator.

The PRESIDING OFFICER. The Senator from Delaware will be advised that the time remaining under his control is 4 minutes and 22 seconds. The Senator may take time off the bill.

Mr. BREAUX. How much time?

Mr. ROTH. Four minutes.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. ROTH. How many minutes?

The PRESIDING OFFICER. There are 4 minutes approximately left. The Senator may take time off the bill itself.

Mr. ROTH. I yield a total of 5 minutes with 1 minute being off the bill.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. BREAUX. Thank you very much, Mr. President. I thank the chairman for yielding.

Mr. President, this is really an interesting dialog because on the one hand we have some facts that are uncontested; that is, if we do not do anything to fix Medicare, it is not going to be around for anybody by the year 2001 because that is the year when, if we do not do anything, we are not going to have enough money in the Medicare Program to pay benefits to nobody.

So it is very clear that Congress now has to do something if it is going to be around for everybody who is counting on it when they reach retirement age.

It is really interesting. In the Finance Committee we have had people come before the committee all of the time saying, "You all have to fix Medicare. If is very important. It is the lifeblood or lifeline for seniors in this country."

Then we ask them when they tell us to fix it, "All right. Do you want to increase premiums?"

"No. We don't want you to do that."

Then we say, "Well, would you want to decrease the payments going to doctors and hospitals?"

They generally say, "Don't do that either because doctors and hospitals will soon quit treating Medicare patients because they are not getting paid enough for those services."

Then we say, "Well, would you like us to increase the age limit of people who are eligible for Medicare?"

They say, "Oh. No. Don't do that."

But then, the bottom line: They say when they leave the committee room, "Be sure you fix it, by the way. Make sure it doesn't go broke in the year 2001. Fix it. But don't, don't, don't do anything that is necessary in order to fix it."

That is an impossible suggestion for the members of the committee and the Members of Congress to adopt. If we do nothing it will not be around for anyone.

In 1965, when Congress in its wisdom passed the Medicare Program, the life expectancy for people at that time was 66.8 years of age for men; 73 years of age for women. So Congress in its wisdom at that time said, "Well, let's make an appropriate date for the beginning of Medicare benefits at 65."

Guess what has happened since 1965? For every year the life expectancy of Americans has increased. But the eligibility age for Medicare has not been increased one time. We did it for Social Security. What this committee does is to say, "Let's put the glidepath for Medicare eligibility the same as Social Security, recognizing that people in fact live substantially longer and draw Medicare benefits substantially longer, I might add as well. It almost sounds like we are getting these calls in our offices from people who are retiring, none of which are affected by this amendment—not a single one because they already are on Medicare. In fact, it goes down quite a ways before anybody is affected whatsoever.

An interesting point is that it sounds like we are talking about having all of this going into effect immediately, when just the opposite is true. The amendment that was offered, I guess by Members from our side, takes 24 years to increase it 24 months. It doesn't increase it the first year to the age 67. You start off right where you are today, and it is increased 2 months a year and over 4 years we get to the age of 67 which is comparable to what we have in Social Security.

Would it be nice if we didn't have to do that? Sure. Would it be nice if we didn't have to do anything to fix Medicare? Absolutely. The problem is we have a system that is in the tank as far as being able to survive, if we do not do anything. It would be wonderful to say make no changes and everybody continues to get exactly what you get at the time you are eligible for it. That is not an option. None of the options are easy. This one I would argue is far easier than any of the others, and it helps allow for Medicare to continue for a long period of time.

Mr. HARKIN. Will the Senator yield?

Mr. BREAUX. I would be happy to yield for a question.

Mr. HARKIN. Did the Senator say under his proposal that for each year that the age increased by 2 months?

Mr. BREAUX. Two months per year.

Mr. HARKIN. In 6 years it would increase by 1 year and, therefore, in 12 years it would increase by 2 years, not 24 years.

Mr. BREAUX. It is increased 2 years over 24—2 months. The whole thing takes 24 years to get to the age 67; 24 years before 67. It takes 24 years to reach the age of 67, however that calculates out.

Mr. HARKIN. That is 1 month per year.

The PRESIDING OFFICER. Who yields time?

Mr. ROTH. I yield 5 minutes off the regular time to the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska is recognized for 5 minutes.

Mr. KERREY. Mr. President, I rise in strong opposition to the point of order that has been raised against this provision.

Raising the eligibility age from 65 to 67 is fair. Raising it, too, from 65 to 67 will change the future course of this program and enable us to say that we are taking a long-term as well as a short-term view; and enables us to accomplish the objectives that we were instructed to accomplish which is to preserve and protect Medicare.

If you want to have universal health insurance as the objective, I am for that. I would love to change the eligibility under law saying if you are American, or a legal resident, you are in. But I can't keep Medicare, Medicaid, VA, and income tax deduction all sitting out there.

This establishes I believe a basis for us to be able to say that for the long-term Medicare is a solvent program, and it is eminently fair.

As the Senator from Louisiana pointed out, in 1965 the life expectancy for men was 67; for women it was 76; today it is 73 for men, and it is 80 for women. It is going to be even greater. We are enabling people to live longer and longer as the consequences have changed in behavior and with changes in health care technology. And, as a result, the Medicare Program as well needs to be adjusted.

For those who have come expressing the concern for people not being able to get health care from 65 to 67, that problem exists today from 62 to 65 and sometimes even earlier. We have in this law a commission and there is language in the law as well to recommend strongly to this commission to consider allowing people to buy into Medicare. There is plenty of time for us to get that done.

For Americans that are listening to this debate, if you are 65—if you are 64 today, your eligibility age is 65. If you are 63, your eligibility age is 65. If you are 62, your eligibility age is 65. If you are 61, it is 65. If you are 60, it is still 65, all the way down to 59. If you are 59 years of age and you are listening to this debate, please don't fall into the trap of presuming that all of a sudden your eligibility age is going to go to 67. It is still 65. If you are 58, it goes to 65 years and 2 months. The Senator from Iowa and the Senator from Louisiana engaged in a colloquy earlier. This thing does not fully phase in until the year 2024 or 2025.

Mr. President, I have had many people come up to me and ask, many people call and ask, why is this necessary? Well, I have a fact. I have a very difficult fact I have to deal with. Again, the objective here is to preserve and protect Medicare. That is the idea. This law has lots of great provisions to move to market and get more competition, lots of terrific provisions in it that I think will enable us to seek customers and consumers who like Medicare more than they do as a result of choice, great cost controls in here, some courageous efforts on disproportionate share in this bill.

There are lots of good things in the bill. But the fact out there in the future that all of us need to accommodate and think about as we decide how we are going to vote on this amendment is that from the year 2010 to the year 2030—that is 20 years—the baby boomers retire. You can't change that number. The 76 or 77 million of them that will retire, they will become eligible for Medicare in that 20-year time period. We are going to have an increase in the number of Americans who are in the work force of 5 million people, and the number of retirees will increase 22 million over that period of time.

That is a fact, Mr. President. I may wish it wasn't so. I may wish it was a different number, but that is the number. Unless you are prepared to come down here and argue for a tax increase or some other change, you have got to move the eligibility age in order to be able to preserve and protect Medicare out in the future.

It is an imminently fair thing to do given what has happened with life expectancy. If we were putting Medicare into law today, I don't believe we would put this program, given the costs of the program, in place at age 65. This does not affect Americans immediately. It is phased in. It gives people a chance to plan. Those who argue that it doesn't have a budget impact and use that as a reason not to support this provision are wrong. It is precisely because we are phasing it in, that it produces long-term savings, that they should support it. We are giving people a chance to plan. We are saying we are going to adjust the law in order to be able to account for this change out in the future.

I hope that my colleagues will resist the political temptation to cast an easy vote and will enable this provision to remain in this law. It is one of the most significant long-term changes that we make in Medicare. And whether you are a Republican or whether you are a Democrat, you ought to be standing on this floor saying I want to be remembered out there in the future for casting a vote that did something good. "No" on the motion to strike this provision is the courageous position.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I would like to——

The PRESIDING OFFICER. Who yields time?

Mr. LAUTENBERG. I yield to the Senator from Massachusetts 4 minutes, Mr. President.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for 4 minutes.

Mr. KENNEDY. Mr. President, as we are moving through this debate, we have to recognize that in the proposal before us, we have a number of attacks on Medicare, with all due respect to our colleagues. We addressed one earlier today. Collecting $5 billion under Medicare. You are going to permit double billing, which this body has long refused to do in order to protect our senior citizens. Now we are going to permit doubling billings.

The Finance Committee failed to make up the $1.5 billion that was part of the budget agreement. It refused to do that, and now we have a proposal to change the eligibility age from 65 to 67.

I thought we had a commission that was going to study the long-term implications of Medicare. The President submitted a program that provides for the financial stability of Medicare for 10 years. We can consider a variety of different options. I daresay that I don't happen to be one who thinks you should just increase the age of eligibility or otherwise increase the taxes as some have suggested. We know that 90 percent of Medicare recipients cost $1,400 a year, the other 10 percent more than $36,000. You do something about that 10 percent to reduce disability, and chronic illness, and you are going to have a dramatic impact in terms of Medicare spending.

That has not even been considered here, Mr. President. Why should we, at a time when we are increasing the total number of Americans who are uninsured, take action in the Senate that is going to add to that problem. The idea that this can be compared to Social Security makes no sense, and the Senator from Louisiana understands that. You can retire now at 62 and get some benefits, but you can't with regard to Medicare. It is basically a lifeline to our senior citizens. The Finance Committee failed to give any assurance to those millions of people who are watching today that they are not going to be sent right off the cliff.

With all of the signed contracts containing terms to terminate health insurance in corporate America now at 65, all the workers across this country whose contracts end health care coverage at 65, and nothing from the Finance Committee gives them any kind of assurances that there has been any attention to what is going to happen to them.

Sure, pull up the ladder. We can make this Medicare financially secure by just continuing increase the age from 65 to 67 to 69. Let us look at this over the long term, not the short term, and let us stop this wholesale assault on Medicare that is part of this whole proposal. It makes no sense.

The PRESIDING OFFICER. Who yields time?

Mr. LAUTENBERG. Mr. President, I yield 4 minutes to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa is recognized to speak for 4 minutes.

Mr. HARKIN. Mr. President, I want to echo what the Senator from Massachusetts just said. If anything, this provision is the ultimate anti-blue-collar provision that I have ever seen on the Senate floor. This strikes right at the heart of the Americans we ought to be here protecting today. There is a difference. There is a difference between a corporate executive for Xerox and someone who is out there working hard every day of their life on a construction job, in a factory, in a plant. There is a difference between a Senator sitting on this floor or a Member of the House and that worker who is out there on the line day after day, the women who suffer from carpel tunnel syndrome, the people who work in our packing plants. Try that on for size. Do that for 5 years, 10 years, 20, 30, 40 years of your life. There is a difference.

Sure, if you are a corporate executive, you have nothing to worry about. If you are a Senator, you have nothing to worry about. But I will tell you, if you are a blue-collar worker out there and you have worked hard all your life, you have raised your kids, you have sent them to school, you are now 62, you are worn out, maybe you are not physically able to continue working. Have you ever thought of that? So they retire. They get Social Security. God bless them. But they can't get health care coverage.

What this amendment does, it just sticks it right in their back one more time. You can say, oh, it's just 1 more month a year, 2 more months a year for 6 years. Then there is this gap and it takes all this time. But if this provision stays in there, the die will be cast. And we will have sent a strong message to our seniors: Sorry, when it comes to health care, you're out of luck; you're on the street some place.

We have a commission, a national bipartisan commission looking at this. It is supposed to report next year. Why are we jumping the gun on it?

Now, I would agree with Senators who are supporting this provision that, yes, we have to do things to ensure the viability of Medicare. There are a lot of things we can do to preserve the viability of Medicare. But this is not one of them. This will destroy Medicare because it destroys the compact we have had all these years. This is an antiworker provision. That is all it is.

Now, if you want to vote for this provision, sure, fine, keep it in the bill, but I am telling you, for that working stiff who is out there who wants to retire, their physical health may not be the best; they have to retire at age 62, if anything, what we ought to be doing on this Senate floor is we ought to be closing the gap. We ought to provide medical care for elderly who have to retire early. But, no, we won't even do that. Now we are going to make it even a longer period of time. Well, I think this provision is really unconscionable, should have no place in this bill, and I hope that we will vote to strke it overwhelmingly.

Mrs. BOXER. Will the Senator yield for a question?

Mr. HARKIN. I yield to the Senator.

Mrs. BOXER. Is the Senator aware that there are 40 million uninsured Americans today and about 7 million in this category age 65 to 67? So the Senator is so right. We are talking about adding millions more to the uninsured rolls. This committee did nothing, mentioned nothing about any kind of way to get people through this timeframe. They just took it out without even writing anything in there that said only if we have replacement insurance.

Mr. HARKIN. I appreciate the comments of the Senator from California. It just seems that when I hear this debate about this provision and I hear proponents of this provision talk, it is as if everybody in America is like us. Everybody in America is not like us. They do not have the kind of health care benefits we have. They do not have the kind of protections we have. They do not have the incomes that we have. They do not have the lifestyles we have.

The PRESIDING OFFICER. The time of the Senator from Iowa has expired.

Mr. HARKIN. It is time we start fighting for the working people in America.

The PRESIDING OFFICER. Who yields time?

Mr. ROTH. Mr. President, I yield 3 minutes to the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized to speak for 3 minutes.

Mr. SANTORUM. I thank the Chair.

Mr. President, we have all now just seen and heard why it is so hard to change anything in Washington. Because anything you try to do is wrong. You can look at all the facts. And the Senators from Louisiana and Nebraska and Texas and New Mexico and Delaware laid out chart after chart. For anyone listening to this debate, the facts stare you smack in the face. This fund runs out of money in the year 2001 with the baby boomers retiring in the year 2010. This program is not sustainable in its current form. Everybody who can read a simple arithmetic chart can understand that. Yet, you have everybody flying to the floor saying, oh, yes, it is a problem, but not this.

Well, then, what? We are going to raise taxes? How many are for raising taxes? There will be a few over there who want to raise taxes. But that is the option: Raise taxes.

The Senator from Massachusetts talked about rationing care. It is those people who use all that Medicare who are the problem. And unless we start rationing that care, we are not going to get to the problem here. So we can ration care to people who are over 65. That is another option. Or we can cut reimbursements to providers. The Senator from Louisiana talked about that. But if we do that, all of us know if you cut reimbursements to providers, people cannot get care because they cannot afford to provide the care and rural hospitals close, inner-city hospitals close. So you cannot take that option.

We can cut benefits. How many here are for cutting back Medicare benefits? OK. Well, so there we are. What are we going to do? We have a problem. It is not going to go away. We can sit here and demagog on the issue and say, well, this is not the right thing.

The only reasonable course is to look at the demographics and see that I, right here, am the first Member of the Senate who is going to retire at age 65—right here, age 39, born in 1958. I will retire at the age of 67. I am ready, willing, and able to take on that responsibility. I feel I have been adequately warned, giving myself about 30 years in advance to be able to figure this out. And I think we are capable of taking it. I am not going to live as my mother and my father and those before me, whose life expectancies were, as I think the Senator from Nebraska said, 73 for a female, 68 for a male. At age 65, my life expectancy, the Lord willing, as a group anyway, is going to be well over 80. I am quite willing and prepared as a generation to save my generation, the folks who are paying the bills, big-time bills that previous generations did not pay. We are paying 1.45 percent of every single dollar we earn. And I would like to say for that dollar you are going to have a program that is going to be there and provide adequate benefits when you retire, and, yes, I am willing to take a little sacrifice. I am willing to pay a little bit more, but I am also willing to take my share of sacrifice to make sure that it is there for not just me but for everyone else in my generation and future generations.

What we are talking about here is being responsible, not standing up and demagoging to get votes back home. We have got a problem. There are people in my generation who are tired of this language.

Mr. HARKIN. Will the Senator yield?

Mr. SANTORUM. No.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SANTORUM. I ask for 1 additional minute.

The PRESIDING OFFICER. The time of the Senator from Pennsylvania expired. Who yields time?

Mr. SANTORUM. One additional minute? May have 1 additional minute?

Mr. ROTH. Yes.

The PRESIDING OFFICER. The Senator is recognized for 1 additional minute.

Mr. SANTORUM. I go around and I have talked to hundreds of high school students, thousands of them. I have been to over 100 high schools since I have been in office. I ask them, how many believe Medicare and Social Security will be here when you retire? Not a hand goes up. I ask them, how many believe in UFOs? And about 20 percent of the class raise their hand. They believe we are all just joking around, that any time a serious issue comes up about their long-term future, we run away. We hide behind our desk and wait for the bombs to explode around us.

Stand up for the future. Stand up for these young people who pay and are going to be paying the rest of their lives very dearly for this program, and stand up and make sure it is healthy for them.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. LAUTENBERG. I yield myself just a couple of minutes because I listened with interest. One could not avoid listening.

The fact of the matter is, it is so easy, so easy to stand here at $135,000 a year with all kinds of benefits and everything and say, "I am willing to sacrifice, I am willing to sacrifice. I am willing to do what I have to. I have 35 years." Go down to the factory and talk to somebody who is hanging on to his job by his fingernails, ask the poor fellow who has been downgraded as companies shrink their size. I love these heroics we get in this place, big speeches on lofty pinnacles. Talk to the people who are doing the work every day, bringing home the lunch pail, and see what we have.

Sacrifice? I'll tell you how to sacrifice. Cut the benefits here. Cut them now. Stand up and say we will take less for our health insurance and our retirement and everything else. If you want to pull a nice heroic stand—somebody's last stand—stand up here and recommend a cut in benefits instead of talking about, shrieking about, how people have to sacrifice—from this lofty place.

I will not say anything further. I yield 2 minutes to my friend from Iowa.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, I will not even take 2 minutes. I listened to the impassioned argument of my friend from Pennsylvania. I just had two observations. No. 1, along the lines of what Senator LAUTENBERG said, No. 1, what retirement income will a Senator have when a Senator retires here? What is that retirement income going to be? A lot of money. When a Senator retires at age 65, you get a lot of money—big time money for retirement. It is not a blue collar worker retiring on Social Security, No. 1.

No. 2, if you retire as a Federal Government employee or as a U.S. Senator, you can keep your Federal employee's health benefits. There is no gap for you. You can keep it. It costs you, what, $100-something a month, $110, $120 a month. So it is easy for a Senator to stand here and talk about saving his generation. But those in his generation are not all U.S. Senators. Those in his generation are not all people who can go on Federal Employee health benefits when they reach age 62. They need Medicare. That is where most of America is, not sitting in the U.S. Senate.

I yield the remainder of my time.

The PRESIDING OFFICER (Mr. KEMPTHORNE). The Senator from New Jersey.

Mr. ROTH. Mr. President, I yield 5 minutes off the bill to the Senator from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota is recognized for 5 minutes.

Mr. CONRAD. Mr. President, we have heard a lot of passion on both sides of this issue. I understand the passion that this issue generates. But I hope we will think quietly for a moment of where we are headed in this country.

We have heard pleas to think of the working people. I agree with that. I came to this Congress wanting to fight for the working people of my State. The question is, how do we best do that? The hard reality is, Medicare has headed for a cliff. Social Security has problems and they have problems because, No. 1, people are living longer. I was asked moments ago, why do you favor this change in Medicare eligibility? It is very simple. People are living longer. In 1965, when we started with Medicare, a male in this country could expect to live to be 66.8 years of age. A female, 73.8. In 1996, a male could be expected to live to the age of 72.5, a female to the age of 79.3.

In 2025, when this change is fully phased in, a male is projected to live to 75.6 years of age, a female to 81.5. These are facts. They are indisputable. People are living longer, and the hard reality is, this program that we have put in place only extends the solvency of Medicare for 10 years. This provision is an attempt to deal with the longer term problem of Medicare, just as we have done it with Social Security, to slowly phase in and move up the age of eligibility to treat Medicare entitlement the same way we treat Social Security. Why? Because we do care about working people, because we do care about providing for those who are less fortunate, because we do care about preserving and protecting Medicare. That is precisely why this Finance Committee agreed, on a bipartisan basis, to extend the age of retirement for Medicare eligibility.

We have another problem. The other problem is a demographic time bomb, and that demographic time bomb is the baby boom generation. As I look around this Chamber, there are a number of baby boomers here. All of us in the U.S. Senate understand, if we fail to act, all of these programs are going to be in deep trouble. The harsh reality is, the number of people eligible for these programs is going to double in very short order. Starting in the year 2012, when the baby boomers start to retire, the number of people eligible for these programs is going to double. The entitlements commission told us 2 years ago that in the year 2012, if we fail to act, every penny is going to go for entitlements and interest on the debt. There is not going to be any money for parks. There is not going to be any money for highways. There is not going to be any money for education. There is not going to be any money for law enforcement. There is not going to be any money for one thing after another. If that is the course we want to stay on, agree with this amendment.

Some people say let's wait for a commission. Two years ago we had a commission. We had the entitlements commission. What did they tell us? They told us, if you fail to act, you are headed for a cliff. Now we can choose to continue to fail to act. If we do, we know the results. There is no question what will happen. We will go right over the cliff. Unfortunately, it will not be just us going over the cliff, but we will be taking our fellow Americans right with us.

We do not need another commission. It is time to act. It is time to protect Medicare for the long term. It is time to reject this amendment.

Ms. MIKULSKI. Mr. President, I rise today to support the point of order by Senator DURBIN to strike the language increasing the eligibility age of Medicare from 65 to 67.

I oppose raising the eligibility age because it breaks the promise of health insurance at age 65 for all Americans. The change was made to balance the budget. It was not to make a better, more efficient health care system. The change will hurt people who work hard and play by the rules.

In 1965, our country realized that it was important to make sure that all Americans over the age of 65 had health insurance. For those Americans that did not have the ability to purchase health insurance, Medicare was there.

It was a promise that America's seniors had somewhere to go. Now, we are breaking that promise. I can't support that. Promises made must be promises kept.

We can't turn our backs on people who have planned their lives depending on our promises.

This change wasn't done to help people. It wasn't done to improve the system. It wasn't done to make sure that seniors in Maryland and the country will have a longer and happier life.

It was done to balance the budget. It was done to save a few dollars.

No thought was given to the real life effects on America's seniors.

Raising the eligibility age hurts people when they need insurance most: in their sixties, at the end of their working lives.

Retirees cannot afford insurance at that age if they can even find it.

What do we say to the factory workers and construction workers whose bodies are worn down by age 60?

Now when they need insurance the most, it isn't there. The government just moved the Medicare age another 2 years away.

Before we start to make big changes in Medicare, we need to talk to the most important people to consider: The people who use the program.

We need to ask them what works, what could be better, and what we should change.

We need to have a national bipartisan debate on what Medicare should look like.

We need Presidential leadership.

I want the people of Maryland to be a part of that debate.

That way, if we need to make big changes, everyone will have had a chance to speak up and be heard.

Everyone will understand the changes.

Raising the eligibility age penalizes the citizens of Maryland and the rest of the country who have worked hard, saved, and played by the rules.

I ask the other Senators to join me and Senators DURBIN and REED to support this amendment.

Let's strike the increase in the Medicare eligibility age from 65 to 67.

We do not serve in the Senate to tell Americans, "we needed a few more dollars for our budget so you'll have to change your plans."

We should listen to people, debate options, and make the hard choices openly.

Let's not change the rules during the middle of the game and the middle of the night.

The PRESIDING OFFICER. Who yields time?

Mr. LAUTENBERG. I yield 4 minutes to the Senator from Massachusetts.

The PRESIDING OFFICER. That will consume all the time of the Senator from New Jersey.

Mr. LAUTENBERG. I understand.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I have listened to a number of my colleagues come to the floor and say we are heading toward the cliff, we have to do this because people are living longer and, if we do not do this, we are not going to be able to save Medicare.

It is true that people are living longer. But it is not true that this is the only way to save Medicare. The notion that we have to be forced to have a choice on the floor of the Senate, with the idea that, in order to make up for a fixed amount of money that we are supposed to find to make up for cutting, that we have to take it out of that gap between the age of 65 and 67, is absolutely specious. What they have decided to do is find a fixed amount of money so we can give an $85 billion tax cut. I mean, the tax bill is not on the floor today, but this is related to the tax bill. The fact is, we are going to find our capacity to give back $85 billion, the lion's share of which will go to the wealthiest people in America under the current construction. And, in order to do that, we are forced to come here and tell people who are 65 years old, in the future—even if it begins for somebody who is 60 or 65 today, if you are 61 and you are looking at the time when you are 67 then you will be eligible for Medicare, you are forced to go out and find it somewhere in the marketplace. For a whole lot of people in America that age they cannot find it in the marketplace. They cannot afford it. There is no provision in this measure that provides some kind of stopgap capacity for those people to be able to afford the premiums they will be charged in the marketplace.

So the choice of the U.S. Senate is, so we can give an $85 billion tax bonanza to a lot of people in America, people between the age of 65 and 67 in the future are going to have to do whatever they can to get health care. Do whatever you can; we are cutting you off. We are moving exactly in the opposite direction from what everybody in the health care industry in this country says—that we ought to be covering more people, not less. What is the rationale for that? What is the philosophical connection between saying we want more people covered in their health care in America, particularly in the later years of their life, but we are going to come along here now and facilitate this great tax give-back by making sure that we fix Medicare. What is the connection between the tax and the Medicare?

Everybody says we have to fix it. Well, it is money that is available. This is a zero sum game. There is money here. There is money there. You have the ability to find it if you want to. You do not have to necessarily do that, but, instead, we are making a choice to do it.

I recognize obviously people are living longer. I know what the demographics say about Medicare in the long run. Maybe in the long run the commission would come back and say it makes sense to lift the age but it also makes sense to guarantee that nobody falls through the cracks. The way you are going to guarantee that nobody falls through the cracks is raise the premiums on the richest people in

America, for whom the average person is paying for their ability to be able to ride the Medicare train, and ask them to contribute more so the people who will fall through the cracks won't in fact fall through the cracks. This is not that hard a choice.

But rather than even try to do that, we are being presented at the 11th hour with something that the White House didn't cut in in the deal. This wasn't in the budget agreement. This is right out of the sky. We are going to reach out and do this because in a certain respect it seems to make sense on paper. I do not think it makes sense in the lives of a lot of people who will not be able to buy health care, who will be squeezed out of the system, even if you can say it is not going to cut in until the year 2002 and people are going to have plenty of time for it. Somebody who is downsized and out of work at that age and does not have the ability to provide additional income does not have the capability of paying $6,000 or $7,000—and it will be more by then, incidentally, for the annual health care premiums.

So what you are really deciding to do is cut off and not include people, poor people, in coverage. You are going to exclude people from coverage, and that is the exact opposite direction than we ought to be moving in.

I yield back whatever time I have.

The PRESIDING OFFICER. All time has expired on the motion to waive.

Who yields time?

Mr. NICKLES. Will the Senator give me 5 minutes off the bill?

Mr. ROTH. I yield 5 minutes to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized for 5 minutes.

Mr. NICKLES. Mr. President, first, I wish to compliment several speakers, Senator KERREY of Nebraska and Senator CONRAD of North Dakota, for excellent statements, and Senator GRAMM and others who spoke out on the need for policy change.

Some of my colleagues on the other side say it was not in the budget agreement. That's right. The reason they can make a point of order is it has no financial impact over the next 5 years. The reason is, as proponents of this amendment, we wanted to give people plenty of time to make this change, to get rid of the eligibility time to be concurrent with Social Security. I urge my colleagues on the other side who are opposing this amendment to take a look at the estimate of 1997 Hospital Insurance Trustee Report regarding what the health of Medicare part A trust fund will be. It is going broke and it is going broke rapidly.

Some of my colleagues say this bill keeps the trust fund solvent for 10 years. You will not hear this Senator say it because I do not think it is the case. We are making some changes. We are going to save $115 billion in Medicare. In addition, we are going to transfer home health, over a period of years phase it into part B, three-quarters of which is paid for by general revenues, by taxpayers. I do not think it keeps the trust fund solvent for 10 years.

I am looking at the trust fund report. It says that by the year 2005 Medicare part A is going to have a $97.3 billion revenue shortfall, deficit; in Medicare alone, almost $100 billion by the year 2005, only 7.5 years from now. I fail to see how we are going to keep it solvent for 10 years.

To address some long-term reforms, the Finance Committee passed some good policy changes that will make eligibility for Medicare concurrent with Social Security, and, yes, that means somebody my age is going to have to wait another year before he or she is eligible for Medicare.

Well, guess what? Life expectancy has increased since 1965. Males age 65 are now expected to live 15.5 years and females age 65 will live 19 years. In 1965, a male age 65 would live on average only 13 years and a female 16 years. People are living longer. And the percentage of people who are paying into the system is decreasing. In 1965, we had 5.5 workers for every beneficiary. In 2030, there will only be 2.3 workers for every beneficiary.

Some people seem to think the solution is raising taxes. If we want to keep the trust fund solvent for the next 25 years, the trustees say we should increase payroll taxes by 66 percent, and if you want to keep it solvent for 75 years, they say we should raise the current 2.9 percent tax—that is 1.45 percent for employee and employer—we should raise that to 7.22 percent immediately. I don't want to do that. I don't want to have that big a payroll tax increase.

So what can we do to make the system more solvent? What can we do to make sure the money will be there when people need it? One of the things we can do, and one of the things that will come out of any report—any report—will say that we should have eligibility age be concurrent with Social Security. It is the right thing to do.

I compliment my colleagues on the Finance Committee who have spoken on behalf of this amendment, as well as the chairman of the Finance Committee for putting it in. We didn't get any scoring for it. If anybody says we are doing it so you can pay for tax cuts for wealthy citizens, that is absolutely, totally, completely false. We got zero scoring for this, but it happens to be the right thing to do, and it happens to be in the long term, that this will help keep Medicare more solvent, it will help ensure there will be a Medicare program when I reach retirement age. It still won't solve the problems. I will tell my colleagues, even in spite of the fact we do—and we have to do it and the earlier we do it the better off so people have more time to know the changes are coming—in spite of this, we are still going to have to make further changes.

I ask unanimous consent to have printed in the RECORD a report of the part A trust fund by the hospital trustee report.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PAYROLL TAX DATA FOR EMPLOYEE AND EMPLOYERS

Year	Wage base		Tax rates (in percent)			
	OASDI	HI	Total	OASI	DI	HI
1950	3,000	n/a	1.500	1.500	n/a	n/a
1951	3,600	n/a	1.500	1.500	n/a	n/a
1952	3,600	n/a	1.500	1.500	n/a	n/a
1953	3,600	n/a	1.500	1.500	n/a	n/a
1954	3,600	n/a	2.000	2.000	n/a	n/a
1955	4,200	n/a	2.000	2.000	n/a	n/a
1956	4,200	n/a	2.000	2.000	n/a	n/a
1957	4,200	n/a	2.250	2.000	0.250	n/a
1958	4,200	n/a	2.250	2.000	0.250	n/a
1959	4,800	n/a	2.500	2.250	0.250	n/a
1960	4,800	n/a	3.000	2.750	0.250	n/a
1961	4,800	n/a	3.000	2.750	0.250	n/a
1962	4,800	n/a	3.125	2.875	0.250	n/a
1963	4,800	n/a	3.625	3.375	0.250	n/a
1964	4,800	n/a	3.625	3.375	0.250	n/a
1965	4,800	n/a	3.625	3.375	0.250	n/a
1966	6,600	6,600	4.200	3.500	0.350	0.350
1967	6,600	6,600	4.400	3.550	0.350	0.500
1968	7,800	7,800	4.400	3.325	0.475	0.600
1969	7,800	7,800	4,800	3.725	0.475	0.600
1970	7,800	7,800	4.800	3.650	0.550	0.600
1971	7,800	7,800	5.200	4.050	0.550	0.600
1972	9,000	9,000	5.200	4.050	0.550	0.600
1973	10,800	10,800	5.850	4.300	0.550	1.000
1974	13,200	13,200	5.850	4.375	0.575	0.900
1975	14,100	14,100	5.850	4.375	0.575	0.900
1976	15,300	15,300	5.850	4.375	0.575	0.900
1977	16,500	16,500	5.850	4.375	0.575	0.900
1978	17,700	17,700	6.050	4.275	0.775	1.000
1979	22,900	22,900	6.130	4.330	0.750	1.050
1980	25,900	25,900	6.130	4.520	0.560	1.050
1981	29,700	29,700	6.650	4.700	0.650	1.300
1982	32,400	32,400	6.700	4.575	0.825	1.300
1983	35,700	35,700	6.700	4.775	0.625	1.300
1984	37,800	37,800	7.000	5.200	0.500	1.300
1985	39,600	39,600	7.050	5.200	0.500	1.350
1986	42,000	42,000	7.150	5.200	0.500	1.450
1987	43,800	43,800	7.150	5.200	0.500	1.450
1988	45,000	45,000	7.510	5.530	0.530	1.450
1989	48,000	48,000	7.510	5.530	0.530	1.450
1990	51,300	51,300	7.650	5.600	0.600	1.450
1991	53,400	125,000	7.650	5.600	0.600	1.450
1992	55,500	130,200	7.650	5.600	0.600	1.450
1993	57,600	135,000	7.650	5.600	0.600	1.450
1994	60,600	no limit	7.650	5.260	0.940	1.450
1995	61,200	no limit	7.650	5.260	0.940	1.450
1996	62,700	no limit	7.650	5.260	0.940	1.450
1997	65,400	no limit	7.650	5.350	0.850	1.450
1998	68,700	no limit	7.650	5.350	0.850	1.450
1999	71,400	no limit	7.650	5.350	0.850	1.450
2000	74,100	no limit	7.650	5.300	0.900	1.450
2001	76,800	no limit	7.650	5.300	0.900	1.450
2002	79,800	no limit	7.650	5.300	0.900	1.450

Source: 1996 Trustees Reports and President's Budget.

PAYROLL TAX DATA FOR EMPLOYEES AND EMPLOYERS

Year	Maximum annual contribution			
	Total	OASI	DI	HI
1950	45	45	n/a	n/a
1951	54	54	n/a	n/a
1952	54	54	n/a	n/a
1953	54	54	n/a	n/a
1954	72	72	n/a	n/a
1955	84	84	n/a	n/a
1956	84	84	n/a	n/a
1957	95	84	11	n/a
1958	95	84	11	n/a
1959	120	108	12	n/a
1960	144	132	12	n/a
1961	144	132	12	n/a
1962	150	138	12	n/a
1963	174	162	12	n/a
1964	174	162	12	n/a
1965	174	162	12	n/a
1966	277	231	23	23
1967	290	234	23	33
1968	343	259	37	47
1969	374	291	37	47
1970	374	285	43	47
1971	406	316	43	47

PAYROLL TAX DATA FOR EMPLOYEES AND EMPLOYERS—Continued

Year	Maximum annual contribution			
	Total	OASI	DI	HI
1972	468	365	50	54
1973	632	464	59	108
1974	772	578	76	119
1975	825	617	81	127
1976	895	669	88	138
1977	965	722	95	149
1978	1,071	757	137	177
1979	1,404	992	172	240
1980	1,588	1,171	145	272
1981	1,975	1,396	193	386
1982	2,171	1,482	267	421
1983	2,392	1,705	223	464
1984	2,646	1,966	189	491
1985	2,792	2,059	198	535
1986	3,003	2,184	210	609
1987	3,132	2,278	219	635
1988	3,380	2,489	239	653

PAYROLL TAX DATA FOR EMPLOYEES AND EMPLOYERS—Continued

Year	Maximum annual contribution			
	Total	OASI	DI	HI
1989	3,605	2,654	254	696
1990	3,924	2,873	308	744
1991	4,085	2,990	320	774
1992	4,246	3,108	333	805
1993	4,406	3,226	346	835
* 1994	4,636	3,188	570	879
* 1995	4,682	3,219	575	887
* 1996	4,797	3,298	589	909
* 1997	5,003	3,499	556	948
* 1998	5,256	3,675	584	996
* 1999	5,462	3,820	607	1,035
* 2000	5,669	3,927	667	1,074
* 2001	5,875	4,070	691	1,114
* 2002	6,105	4,229	718	1,157

* = The table computes the maximum HI tax contribution based upon the OASDI wage base, even though the HI wage base was higher than the OASDI wage base in 1991, 1992, and 1993 and eliminated thereafter.

Source: 1996 Trustees Reports & President's Budget.

Mr. NICKLES. Mr. President, I ask unanimous consent to have printed in the RECORD a chart showing the Medicare eligibility age as to what it is today and what it will be should this amendment be adopted.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MEDICARE ELIGIBILITY AGE

Age today—	Born in—	Current law (years)	Proposed	Change
Over 65	Before 1931	65	65 y	None
Over 65	Before 1932	65	65 y	None
Over 64	Before 1933	65	65 y	None
Over 63	Before 1934	65	65 y	None
Over 62	Before 1935	65	65 y	None
Over 61	Before 1936	65	65 y	None
Over 60	Before 1937	65	65 y	None
Over 59	Before 1938	65	65 y	None
Over 58	Before 1939	65	65 y 2 m	+2 months
Over 57	Before 1940	65	65 y 4 m	+4 months
Over 56	Before 1941	65	65 y 6 m	+6 months
Over 55	Before 1942	65	65 y 8 m	+8 months
Over 54	Before 1943	65	65 y 10 m	+10 months
Over 53	Before 1944	65	66 y 0 m	+1 year
Over 52	Before 1945	65	66 y 0 m	+1 year
Over 51	Before 1946	65	66 y 0 m	+1 year
Over 50	Before 1947	65	66 y 0 m	+1 year
Over 49	Before 1948	65	66 y 0 m	+1 year
Over 48	Before 1949	65	66 y 0 m	+1 year
Over 47	Before 1950	65	66 y 0 m	+1 year
Over 46	Before 1951	65	66 y 0 m	+1 year
Over 45	Before 1952	65	66 y 0 m	+1 year
Over 44	Before 1953	65	66 y 0 m	+1 year
Over 43	Before 1954	65	66 y 0 m	+1 year
Over 42	Before 1955	65	66 y 0 m	+1 year
Over 41	Before 1956	65	66 y 2 m	+1 yr 2 months
Over 40	Before 1957	65	66 y 4 m	+1 yr 4 months
Over 39	Before 1958	65	66 y 6 m	+1 yr 6 months
Over 38	Before 1959	65	66 y 8 m	+1 yr 8 months
Over 37	Before 1960	65	66 y 10 m	+1 yr 10 months
36 and under	Before 1997	65	67 y 0 m	+2 years

Mr. NICKLES. Mr. President, I urge my colleagues, let's have a bipartisan vote for responsibilities not to score some points, but really try to make sure Medicare funds will be there when promised. I yield the floor.

The PRESIDING OFFICER. All time has expired on the motion to waive.

Mr. LAUTENBERG. Mr. President, I yield 4 minutes off the bill to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. WELLSTONE. I am pleased to follow the Senator from California, if that would be all right.

Mrs. BOXER. Just 1 minute.

Mr. LAUTENBERG. Fine. The Senator from California can have 1 minute.

Mrs. BOXER. Just 1 minute.

The PRESIDING OFFICER. The Senator from California is recognized for 1 minute.

Mrs. BOXER. Mr. President, I thank my colleague for yielding. People are living longer, so what are we doing about that? We are punishing them in the committee bill, saying, "You're living longer, therefore, you have to wait until you are 67 to get onto Medicare."

I say to my colleagues, why do you think people are living longer? Because we have Medicare. In the old days, we didn't have it and people got very, very sick. Take a look at Russia. The average man there lives to 58 because they have no access to health care. People are living longer because they go to a doctor early, they don't wait for a crisis. They get preventive care, and what this bill does is say, "American people, you're living too long, we're going to have to send this back." Do we want to go back to when people died at 58 and 60? Then you will really have a strong Medicare Program because no one will be able to use it. Thank you, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. WELLSTONE addressed the Chair.

Mr. LAUTENBERG. I yield 4 minutes to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 4 minutes.

Mr. WELLSTONE. I thank the Chair, and I thank the Senator from New Jersey.

Mr. President, just two points in 4 minutes, the first one being, I was listening to my colleague from Oklahoma, and I know he had to leave the floor, but I heard him say this has not been scored and it has nothing to do with the tax cuts. But, I think only here in the Senate do we sort of decontextualize what we are doing. I don't think most people in the country do. Most people in the country see a clear connection between the reconciliation bill on tax cuts, the lion's share of benefits going to the very top of the population and, at the same time, what is, indeed, the functional equivalent of a cut in Medicare benefits.

I am troubled by the discussion because, Mr. President, I think that what some of my colleagues are talking about in the name of saving or preserving Medicare will have just the opposite effect. Maybe that is the problem. We do it on a reconciliation bill, there is not a lot of time, and we don't really know what the consequences are of what we are doing. But, I will suggest to you that if we are serious about cost containment and we are serious about what we need to do to deal with the estimates of how many people will be living to be over 65 and 85 when we get to the year 2030 and, at the same time, how many people are working, and all of what has been presented here by way of demography, then what we will do is not just focus on Medicare, we will go back to looking at this overall health care system, and we will figure out ways in which we contain costs so that, indeed, we can provide decent health care coverage, not just to the elderly but to other citizens as well.

What we are doing now, philosophically, is we are moving in exactly the opposite direction. Whatever happened here? Just a couple of years ago, we were talking about Medicare for all. We were saying that we ought to make sure that other people have the same opportunities as elderly people. Now what we seem to be doing is saying, My gosh, there are some people in the country who don't have good coverage; what we now need to do is downsize Medicare instead of improving Medicare and improving health care for people in this country. It makes no sense whatsoever.

Mr. President, this is a huge mistake—a huge mistake. We ought to be talking about providing good health care coverage for elderly people. We ought to be talking about keeping this as a universal coverage program. We ought to be talking about health care reform systemwide. And we ought to be talking about not downsizing Medicare but, as a matter of fact, taking this very good program and making sure that all of our citizens have the opportunity for decent health care coverage.

This proposal coming out of the Finance Committee takes us exactly in the wrong direction. It is profoundly mistaken, and I thank Senator DURBIN for his leadership and am proud to support his effort. I yield the floor.

Mr. COATS addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. COATS. I wonder if the Senator from Delaware will yield me a couple of minutes off his time?

Mr. ROTH. I yield 2 minutes off the bill.

The PRESIDING OFFICER. The Senator from Indiana is recognized for 2 minutes.

Mr. COATS. Mr. President, I was sitting in the Chair and listening to the debate and listening just now. I came to the Congress in 1980, and one of the first issues we tried to do was the pending Social Security problem.

Over an 18-year period of time, we have been debating Medicare and Social Security and what changes need to be made to guarantee solvency for the future. I don't think there is any Member on this floor who doesn't understand the facts. The trustees have reported over and over, we have had commissions, we have had demographers, we have had politicians—everybody has been talking about the problem that we all know is coming very, very soon: The problem that if we don't make structural changes within the programs, we are going to face imminent collapse of the system. It just can't sustain. The numbers are clear to everybody.

There are a number of ways to fix it. As the Senator from Pennsylvania said, we can raise taxes, cut spending, impose penalties on providers. I find it somewhat stunning that a proposed phase in of a fix—which doesn't fix the problem, it defers the problem for another 10 years so the Congress in 2008 can deal with it as we are dealing with it here and every Congress before that—something that phases in over a period of 24 years that basically doesn't affect anybody in the current system, raises such a level of passion as if we are destroying the program.

We are going to probably lose this vote. We will have postponed for the umpteenth time any solution proposed by anybody. No matter what is suggested, it is rejected. I have seen dozens of proposals out here. Every one rejected. The language always turns to—well, I don't want to use the word demagoguery—it always turns to pitting one class against another class, and those who are trying to get a fix proposed basically are labeled as people who want to destroy the system. Actually, they want to save the system.

I don't think we have the political will to do it. Probably when the system collapses or is near collapse, the people will rise up and demand their representatives do something. I hope they look back at the record of all those who tried to do something over 18 years and, basically, were shouted down in the process time after time after time. We will undoubtedly lose this one, too. We will move on. Hopefully, we will get to the brink of collapse sooner rather than later, so it will not cost as much to fix it.

The PRESIDING OFFICER. Who yields time?

Mr. LAUTENBERG. Mr. President, I yield 5 minutes off the bill to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, I thank my colleague from New Jersey.

So it is understood what we are debating, there is a provision in this bill which would raise the eligibility age for Medicare from 65 to 67. There are those of us who think that is unwarranted and are opposing it and there are those, of course, who are defending it.

It is interesting to me to consider what we are debating here. Five years ago, we debated on Capitol Hill the premise that not enough Americans had health insurance. Forty million Americans uninsured, millions underinsured, what would we do as a nation? Would we rise to the challenge? Would we come to the rescue of these families and individuals? We debated it long and hard, and we failed.

When it was all said and done, nothing was done. A lot of ridicule and scorn was heaped on the White House and the First Lady and nothing happened.

So 5 years later, we return to the debate of health insurance coverage, but this time with a different premise. Instead of helping more people receive insurance coverage, we now have in this bill a proposal to take more people off insurance coverage.

Have we come full circle? Five years later, there is a proposal to increase the eligibility age for Medicare from 65 to 67, and the younger Members of the Senate stand over there and say, "People can prepare for it, people can get used to it, people can save for it."

Think of the real-life challenges. Someone I know personally at age 60 retired from management in a company in California with health care benefits and a gold watch. Along came some changes in management, a little downsizing, and guess what? They sent him a letter saying, "Sorry, no more health insurance for you as a retiree from the management of our company." As he received the letter, he started having heart problems, two different heart surgeries, and this individual who had derided big Government programs overtaking your lives started counting the days until he would be eligible for Medicare, realizing that uninsured and uninsurable, he had no protection.

What is the proposal in the Finance Committee? Let him hang out for another 24 months, let him count another 24 months and days wondering if he can live long enough to be covered by Medicare. It is shameful. It is shameful that we have not preceded this debate with a discussion about how we will provide more coverage for people across America.

They want to create a commission in this bill to study the problem, and we should. One of the provisions the commission is supposed to study is whether or not to extend Medicare to those age 62 and beyond. But before the commission comes back and reports, the Finance Committee would say to us, before we know what the fix is for Medicare, let's start with the premise that we are going to raise the retirement age, let's start with the premise that people will pay more out of pocket, and then let's talk about reform of Medicare.

Excuse me; excuse me. This program was designed to help people in their retirement. It has worked. It is successful. Some of my friends on the other side resent it because it is a Government program that people respect and admire. For them to now have a shot at raising this retirement age to age 67 is unfortunately going to put more people in the lurch. People who have made their plans and want to make them cannot anticipate whether they will be wealthy enough to pay for hospitalization insurance, whether they will be healthy enough to take care of themselves. Instead, we should be providing protection. What we are doing is putting more and more people into jeopardy. I think that is shameless.

Look at this, too. This comes to us as part of a debate about a tax cut. This was supposed to be a tax cut that families across America would cheer. Which family will cheer the prospect of 2 more years of uninsurability under health insurance? You and I know we value this as much as anything.

When my young daughter, fresh out of college, got a new job, the first thing her dad asked was, "What about health insurance, Jennifer?"

"Oh, dad, I have a little bit of this and a little bit of that." And I worry about it every step of the way. She is a healthy young woman, but think about a situation where you are 60 or 62 and you are not healthy, you don't have insurance, and it costs $10,000 a year out of your pocket. The folks in the Finance Committee say this is part of reform, this is responsible, this is compassion, this is courageous. I'm sorry, this is just plain wrong.

Let us have a national debate to make sure that Medicare is there for decades to come for everyone who needs it. Let us say to the high school classes that are skeptical, yes, you have to sign up to help your parents and grandparents, as your children will sign up to help you. It is part of America. It is part of our responsibility as a family in America. Instead, we have these potshots at Medicare to raise the retirement age to 67 without so much as a suggestion of what it will mean to the American family. This is wrong. We should defeat it.

I urge my colleagues to join me in opposing the motion to waive the budget agreement.

The PRESIDING OFFICER. The Senate Democratic leader.

Mr. DASCHLE. I will use my leader time to address the amendment.

I rise to associate myself with the remarks so eloquently made by the distinguished Senator from Illinois. He speaks for many of us and has done so on several occasions.

This issue really does define us. It is an issue that, in many respects, reflects our party's approach to the larger issue of access to health care in this country. Year after year and time after time in Congress after Congress many of us have come to the floor expressing a desire to expand ways to protect people from the serious problems they face when they have inadequate health coverage.

Many of us have had personal family experiences in recent times that personalize this issue for us. Those of us who have parents who have suffered as a result of illnesses can thank our predecessors for the foresight they demonstrated in bringing Medicare to people that otherwise would not have had any health coverage. Indeed, other provisions of this legislation recognize the importance of expanding health coverage by encouraging States to find new ways to insure children. So how ironic, at the very time we are expanding health care for one segment of our population we are taking it away from another. How ironic.

Mr. President, this is too important an issue to be left to a brief debate on an amendment in a reconciliation bill. This ought to be the subject of a weeklong debate. We ought to be debating this in depth, debating all of the ramifications of this amendment, because this issue is as important as they get.

This legislation essentially tells millions of Americans that their coverage is no longer available to them, at the very time when they need it the most.

As many of my colleagues have noted, we have hundreds if not thousands of companies that have mandatory retirement at age 65, and along with that retirement comes a termination of health benefits. What is going to happen to these people? What is our message to them?

Now, if we had done the right thing a few years ago and ensured that everybody, regardless of age, had access to health care, I probably would not be standing here at this moment. But we did not do that. Instead, we said we will address this problem step by step, that we will find ways to expand coverage incrementally. Never once did I hear anybody come to the floor and say we should be taking insurance away from people.

Mr. President, I cannot support an effort that will increase the number of uninsured Americans. I cannot be a part of it. I hope that my colleagues on this Senate floor, before they vote, will think about what it means for millions of people who are watching right now, hoping that we have the good sense not to take away the only option they will have for good health care in the future. This is a critical vote. I hope all of my colleagues will weigh very carefully all of the consequences of this legislation prior to the time they cast their vote.

I yield the floor.

Mr. LAUTENBERG. I yield myself 3 minutes. Mr. President, a significant part of the discussion has been why it is that we do not, to use the expression, bite the bullet, get it going, set the program into place so that over the years this will work its way into the system and we will have done better by Medicare.

Well, Mr. President, I was the senior Democratic negotiator in developing the budget resolution, and we shook hands and we came to the consensus, and this bill before the Senate, part of the reconciliation package, now is supposed to put into place, as I understand it, the things that we agreed to in the extensive meetings that we had, including participants from the White House and the House of Representatives, as well.

Having gotten that into place, suddenly now we are approached with something that I describe and Senator KERRY from Massachusetts before described as coming in from nowhere, coming in from outer space. I say coming in from left field. Suddenly, we had a new proposition to consider whether or not we will say to those who are anticipating that their coverage would fall into place at age 65, well, no, we have a new kind of novel idea. We are going to extend it to age 67 and we want to get it into place now.

Mr. President, in the development of this bill, this big booklet I am holding, there is a chapter on commissions, and we say that the commission shall meet and within 12 months after their appointment—it is a 15-person commission, bipartisan in character, with 3 appointees by the President—we say in 1 year we will have a report, we will have recommendations. It is not going to be done in a half hour or half day on the floor of the Senate. We are going to take good time and thoroughly review it. We will debate it, as our leader said just now, debate it, have hearings, review it, make sure we are all certain about what we want to do. But, no, suddenly that is too slow. We want, in reality, to take 20 or 30 years to develop it, but it has to be done today to kick it off. I think that is part of the absurdity of this, Mr. President.

I look at this legislation, and I am wondering what happened between the Finance Committee's final deliberation and this moment here.

We talk about the purpose of this. The purpose of this is purportedly to present more solvency to the Medicare Program. There is only one problem: The program will perhaps be more solvent, but more individuals will be insolvent. That will be the outcome. There is nothing more worrisome today—and I see it in conversations, social, business and otherwise—than any other time that I ever remember, people saying, "I hope I don't lose my health insurance if my company closes down."

I understand that even now in separation agreements in marital disputes that a part of the responsibility that is being asked of the income earner is, "I want to be provided," says the person being left, "with health insurance. I need to protect myself. I can't be there with the children and be exposed to a sickness or an accident."

People worry about that all the time. People who have saved all their lives so they would have a little nest egg for retirement are saying, "Wow, you see what it costs to be in the hospital these days, see what it costs to have an operation. It costs so much I would be bankrupt if I had to go through one of those things."

We are dealing with a very sensitive issue, a very complicated issue. I hope, Mr. President, that all of our friends on the floor of the Senate will give this a chance for the commission to get to work to review it and not introduce this new—I will call it—extraneous subject, and I am not defining it in terms of the budget process but in terms of the place that it holds.

I hope we will work, Mr. President, not to permit the waiver of the budget agreement.

Mr. ROTH. Mr. President, I yield 5 minutes off the bill to the distinguished Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized for 5 minutes.

Mr. MOYNIHAN. Mr. President, today the Senate is considering two important changes approved by the Finance Committee for the Medicare Program: increasing the eligibility age from 65 to 67, and increasing premiums for higher income beneficiaries. Raising the eligibility age will simply bring Medicare into line with the retirement age under Social Security. And means-testing the part B premium is in fact overdue.

I was a member of the administration of President Johnson when Medicare legislation was developed and enacted, and I remind Senators that at that time the part B provision for physician's bills was meant to be paid one-half by the individual and one-half out of general revenues—50–50.

In 1972, we limited the increase in the part B premium to the rate of increase in Social Security benefits, which are tied to the Consumer Price Index. Inasmuch as medical costs grew at a much faster rate than that, generally, of prices, that 50–50 share gradually dropped to what is now a quarter, 25 percent. In no way do we change that 25–75 arrangement that has emerged, but we do ask that high-income retired persons pay a higher premium. About 6 percent to 7 percent of retirees will be affected.

Retired couples with incomes under $75,000, will not in any way be affected; individuals with incomes under $50,000 will not in any way be affected. We are really only returning somewhat to the original intention and the original provisions of Medicare part B.

If my distinguished chairman would permit me, I yield the balance of my 5 minutes to the distinguished Senator from Louisiana.

Mr. ROTH. That is fine.

Mr. BREAUX. I thank the distinguished chairman and the distinguished ranking member. There is no easy answer to this problem. Everybody wants us to fix Medicare, but nobody wants us to do anything in order to fix it.

When you say, "Do you want to increase premiums," everybody says no. When you say, "Do you want to reduce benefits," everybody says no. When you say, "Do you want to reduce payments of doctors and hospitals," they say no because they may not serve us any more. When we say, let's gradually, by the year 2027, forewarn people that that will be the eligible age of Medicare, we are now saying do not do that, either.

The fact is that in the year 2001 Medicare becomes insolvent. What are we going to tell the people then? Are we going to say we did not have the political courage to do anything, so there is no more Medicare available for anybody, regardless of age? That is what is facing us now. This is probably one of the easiest steps toward ensuring that Medicare will be solvent. There are no easy answers, and I suggest that this is one of the easier ones. If we do not have the political courage to do this, how are we going to handle the question about what happens when there is no more Medicare available for anyone?

I think this ought to be adopted.

Mr. ROTH. I yield back to the distinguished chairman of the Budget Committee.

Mr. DOMENICI. Mr. President, first, I apologize to the distinguished chairman for not being on the floor, but I understand that everybody did a great job. I wish I could have been here to listen to it all.

I had a chart printed in the RECORD. I do not think the numbers and years can be disputed off of this chart. I want to make sure everybody knows what this fight is about.

First of all, for anybody age 59, nothing changes. When you get to be 58, it will have changed by 2 months. If you are today 58, this has been changed by 2 months. If you are 57 today, it is changed by 4 months. If you are 56, it is changed by 6 months. If you are 55, it is 8 months, and if you are 54, it is 10 months.

Now, there is after that period of time if you are 53, 52, 51, 50, 49, 48, 47, 46, 45, 44, 43, 42, it is 1 year—1 year for all of those, 1 year. If you are 41 today, it is changed by 1 year and 2 months. If you are 40, it is 1 year and 4 months. I will skip to 37, where it is 1 year and 10 months, and if you are 36 or under, it is 2 years.

Those are the facts regarding the changes that are going to cause the insurmountable damage that has been alluded to here on the floor.

Let me repeat, these are the actuarial numbers and the numbers in this statute. They are not dreamed up; they are written. Essentially, it says what I have just said. Now, let me ask—somebody 59, there is no change, OK. So anybody talking about that, there is none. If you are 58, it is changed by 2 months. And then let us go all the way down to 42 years of age; it is changed by 1 year. So if you are 42 today, planning on getting Medicare when you come of age, instead of 65, it will be 66 for that person; is that right, Senator GRAMM?

Mr. GRAMM. That's right.

Mr. DOMENICI. A person 42, a 1-year change. If you are all the way down to 36 years of age, in order to have a Medicare that is solvent, it will be changed 2 years for you.

I ask unanimous consent that this chart be printed in the RECORD.

There being no objection, the chart was ordered to be printed in the RECORD, as follows:

MEDICARE ELIGIBILITY AGE

Age today—	Born in—	Current law (years)	Proposed	Change
Over 65	Before 1931	65	65 y	None.
Over 65	Before 1932	65	65 y	None.
Over 64	Before 1933	65	65 y	None.
Over 63	Before 1934	65	65 y	None.
Over 62	Before 1935	65	65 y	None.
Over 61	Before 1936	65	65 y	None.
Over 60	Before 1937	65	65 y	None.
Over 59	Before 1938	65	65 y	None.
Over 58	Before 1939	65	65 y 2 m	+2 months.
Over 57	Before 1940	65	65 y 4 m	+4 months.
Over 56	Before 1941	65	65 y 6 m	+6 months.
Over 55	Before 1942	65	65 y 8 m	+8 months.
Over 54	Before 1943	65	65 y 10 m	+10 months.
Over 53	Before 1944	65	66 y 0 m	+1 year.
Over 52	Before 1945	65	66 y 0 m	+1 year.
Over 51	Before 1946	65	66 y 0 m	+1 year.
Over 50	Before 1947	65	66 y 0 m	+1 year.
Over 49	Before 1948	65	66 y 0 m	+1 year.
Over 48	Before 1949	65	66 y 0 m	+1 year.
Over 47	Before 1950	65	66 y 0 m	+1 year.
Over 46	Before 1951	65	66 y 0 m	+1 year.

MEDICARE ELIGIBILITY AGE—Continued

Age today—	Born in—	Current law (years)	Proposed	Change
Over 45	Before 1952	65	66 y 0 m	+1 year.
Over 44	Before 1953	65	66 y 0 m	+1 year.
Over 43	Before 1954	65	66 y 0 m	+1 year.
Over 42	Before 1955	65	66 y 0 m	+1 year.
Over 41	Before 1956	65	66 y 2 m	+1 yr 2 months.
Over 40	Before 1957	65	66 y 4 m	+1 yr 4 months.
Over 39	Before 1958	65	66 y 6 m	+1 yr 6 months.
Over 38	Before 1959	65	66 y 8 m	+1 yr 8 months.
Over 37	Before 1960	65	66 y 10 m	+1 yr 10 months.
36 and under	Before 1977	65	67 y 0 m	+2 years.

Mr. DURBIN. Will the Senator yield?

Mr. DOMENICI. Yes.

Mr. DURBIN. I would like to ask the Senator a question. At age 65, how long would you be willing to go without insurance if you had a medical problem and you realize that your medical bills could bankrupt your family and squander your family savings?

Mr. DOMENICI. I will answer that for the Senator. If you are 36 years of age and you start planning for this and then you are 65 years of age and you still don't have coverage between 65 and 67, then something is wrong with you. You have 31 years to get ready for it. If you are 65 today, you don't even get any impact.

Mr. DURBIN. Will the Senator yield further?

Mr. DOMENICI. Yes.

Mr. DURBIN. Is the Senator suggesting that we pass a law to guarantee that insurance be available to every one at age 65?

Mr. DOMENICI. I might say we didn't pass any that required 65; it just happened because it is reasonable. People are working longer. They are going to be working longer than 65. They are going to have coverage everyplace. You are suggesting they are going to be denied coverage because we say you have to wait a year 25 years from now?

Mr. DURBIN. If the Senator will yield further, 70 percent of the people of age 65 today have no health insurance. The Senator suggests it is just going to vanish. This is reality, what families face.

Mr. DOMENICI. If there are people 65 who don't have any health coverage, then I assume they don't have Medicare. If they don't have Medicare, that is going to be the same situation later on. There is no difference.

Mr. DURBIN. Will the Senator yield?

Mr. DOMENICI. Of course.

Mr. DURBIN. The point I am trying to make is that of the people between ages 60 and 65, 30 percent of them have health insurance through employment and 70 percent do not. These are people who are retiring without health insurance. The Senator is suggesting this is going to get better automatically. I don't think so.

Mr. DOMENICI. Well, Mr. President, I am suggesting that for those people who are covered by Medicare today and those who are going to be covered by it in the future, it has been discussed on the floor of the Senate today that people are going to be shocked and they are going to have no insurance. I submit, if you are 36 years of age now, when you get to be 65, you will have 2 years added. So for people 36 years of age, it will be 67. How do any of the arguments made about not having coverage apply to that? Are they not going to have coverage? Of course, they are. If they have Medicare today, they are going to be working 16, 18 years from now, too—unless we assume everybody is no longer going to work, so you won't even qualify. Frankly, maybe we will not do this before the time this finishes conference. I don't know. The House didn't do it.

But all I am trying to say is, if this is a major issue between the two parties—and luckily it isn't because some Democrats have the courage to face up to the truth—so no matter how much the leader on that side says this is distinguishing between the parties, there are some Democrats who agree with us. If it is being said that this is going to just annihilate senior citizens, I thought we ought to put a chart in and let Americans look at it. Let's ask a 36-year-old, would you rather have a chance of having Medicare solvent so it will be there for you? Or would you rather insist that when you get to be 65, you get it, even if we were to tell you we greatly enhanced the chance of it being there if you wait until 67? If it is a chasm between our parties, let me suggest that it is a little, tiny chasm. It has nothing to do with great philosophical differences about who is for seniors and who is against them. That is just rubbish.

I yield the floor.

Mr. KERRY. Will the Senator yield for a minute?

Mr. LAUTENBERG. I yield time to the Senator from Massachusetts for 1 minute because this debate is just about over.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for 1 minute.

Mr. KERRY. I wanted to ask the Senator a question. I think there are two truths here. I don't think the gap is that great. All of us accept the fact that the demographics are changing. We accept the fact that we are going to have to do something. We accept the fact that people are living longer. You are going to have an increasing number retiring that we don't have a sufficient capacity to cover. We understand that.

But the other truth is the truth that the Senator from Illinois spoke of—the fact that you have this very large proportion of people today who aren't covered and who haven't reached the age of eligibility. The question that is avoided by the Senator from New Mexico, which would bridge the gap, is: How do you guarantee, as you raise the age, that you are not going to lose more people in that gap? That is the only issue that separates us. As I have talked to colleagues on the other side of the aisle, they have agreed that the commission will probably recommend that solution. We could have provided some kind of capacity for a stopgap and we would all walk out of here having done the right thing, but also having guaranteed that we are not going to lose more people without coverage.

The PRESIDING OFFICER. The time of the Senator has expired.

All time having expired, the question now occurs on the Roth motion to waive the Budget Act in response to the point of order of the Senator from Illinois. The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 62, nays 38, as follows:

[Rollcall Vote No. 112 Leg.]

YEAS—62

Abraham
Allard
Ashcroft
Baucus
Bennett
Bond
Breaux
Brownback
Bryan
Burns
Campbell
Chafee
Coats
Cochran
Conrad
Craig
DeWine
Domenici
Enzi
Faircloth
Feinstein
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Jeffords
Kempthorne
Kerrey
Kohl
Kyl
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Moynihan
Murkowski
Nickles
Robb
Roberts
Roth
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—38

Akaka
Biden
Bingaman
Boxer
Bumpers
Byrd
Cleland
Collins
Coverdell
D'Amato
Daschle
Dodd
Dorgan
Durbin
Feingold
Ford
Harkin
Hollings

Inouye
Johnson
Kennedy
Kerry
Landrieu
Lautenberg
Leahy
Levin
Mikulski
Moseley-Braun
Murray
Reed
Reid
Rockefeller
Sarbanes
Snowe
Specter
Torricelli
Wellstone
Wyden

The PRESIDING OFFICER. On this vote the yeas are 62, the nays are 38. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote.

Mr. GRAMM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question occurs on the Harkin amendment, amendment No. 428. The Senator from New Mexico is recognized. May we have order, please?

Mr. DOMENICI. Mr. President, I ask unanimous consent that the pending amendment be set aside so that we may proceed with a committee amendment with reference to means testing. I believe this process has been cleared with the manager on the Democratic side.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

Mr. DOMENICI. I yield time on the amendment which will be sent to the floor by Chairman ROTH, I yield time to manage it under the Budget Act to the chairman.

The PRESIDING OFFICER. The Senator from Delaware.

AMENDMENT NO. 434

(Purpose: To provide for an income-related reduction in the subsidy provided to individuals under part B of title XVIII of the Social Security Act, and to provide for a demonstration project on an income-related part B deductible)

Mr. ROTH. Mr. President, I send an amendment to the desk on behalf of Senator MOYNIHAN and myself.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Delaware [Mr. ROTH], for himself and Mr. MOYNIHAN, proposes an amendment numbered 434.

Mr. ROTH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. ROTH. Mr. President, this amendment does two important things. First, it would raise part B premiums for seniors who could afford to pay more. Second, the amendment would provide new part B premium assistance for low-income beneficiaries. Regarding the income-related premium, the amendment would reduce the Federal subsidy of part B premiums—

The PRESIDING OFFICER. Will the Senator withhold for a moment, please? The Senate will please come to order so we can hear the substance of the amendment.

The Senator may proceed.

Mr. ROTH. Mr. President, as I was saying, regarding the income-related premium, the amendment would reduce the Federal subsidy of part B premiums for some seniors. Today, the Federal Government pays 75 percent of the cost of the part B program and Medicare beneficiaries pay just 25 percent. The Federal Government funds part B, which is a voluntary program, and pays for such things as doctors' bills out of general tax revenues which are raised from all taxpayers, rich, poor, and middle income. This amendment would require those single seniors with incomes of $50,000, to pay a bit more for part B; single seniors with incomes over $100,000 paying all of their share of part B costs.

The corresponding income range for couples would be $75,000 to $125,000. But, even under this proposed increase, the cost of participation in part B will remain relatively modest. Next year, it would cost a senior with an income of $100,000, paying his or her entire share of part B costs, an additional $1,620. The savings from this amendment would go into part A trust fund, helping to ensure its continuing solvency. In addition, the amendment would provide premium assistance for more low-income seniors. Today, for poorest seniors, those individuals with incomes below 120 percent of poverty, part B premiums are paid by Medicaid. The amendment would give States additional funds to help seniors with incomes between 120 and 150 percent of poverty. This amendment meets the terms of the budget agreement which provided for $1.5 billion in additional premium assistance for low-income beneficiaries over the next 5 years. In short, this amendment helps protect the most vulnerable seniors and keeps our word with the President.

Mr. President, I ask this amendment be adopted and considered original text for purposes of amendments.

The PRESIDING OFFICER. Could we have a little more order around the outside periphery here, please, so we can hear the proceedings? Will staff please take their conversations in the cloakroom.

The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, the Senator from Delaware, the chairman of the Finance Committee, just gave us an assurance that the text here will be considered original text for the purpose of further amendment. It is acceptable on our side. This amendment, as we have heard, just to repeat for a moment, has three major elements. It includes $1.5 billion to protect low-income individuals with incomes that are up to 120 percent of poverty from having to pay additional premiums in the future. This provision is designed to bring the bill into compliance with the bipartisan budget agreement. The amendment also would change the means-tested deductible into a means-tested premium. This is in response to the broad criticism of the Finance Committee's original bill as unworkable and inequitable. However, I want to make it clear that I intend to support a motion that we are going to hear about shortly to strike the means-tested premium.

Finally, the amendment includes a modest initiative to explore the concept of a means-tested deductible. This is a very limited test that would not force any seniors to pay a means-tested deductible but would allow a very small number of them to do so, rather than paying a higher premium.

So we are again willing to accept this amendment.

Mr. ROTH. Mr. President, I urge its adoption.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 434) was agreed to.

Mr. LAUTENBERG. Mr. President, I move we reconsider and then lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Massachusetts.

AMENDMENT NO. 440

(Purpose: (1) To strike income-relating of the Medicare part B premiums and deductibles; (2) to delay the effective date of income-relating of the Medicare part B premiums and deductibles; and (3) to means-test Senatorial health benefits in the same way as the bill means-tests Medicare part B premiums and deductibles)

Mr. KENNEDY. Mr. President, I send an amendment to the desk on behalf of myself and the Senator from Maryland, Senator MIKULSKI——

The PRESIDING OFFICER. The Harkin amendment is pending.

Mr. KENNEDY. I ask that be laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The bill clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY], for himself and Ms. MIKULSKI, proposes an amendment numbered 440.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike section 5542.

In section 5542(d)(1), strike "1998" and insert "2000".

On page 1047, between lines 5 and 6, insert the following:

SEC. 6004. MEDICARE MEANS TESTING STANDARD APPLICABLE TO SENATORS' HEALTH COVERAGE UNDER THE FEHBP.

(a) PURPOSE.—The purpose of this section is to apply the Medicare means testing requirements for part B premiums to individuals with adjusted gross incomes in excess of $100,000 as enacted under section 5542 of this Act, to United States Senators with respect to their employee contributions and Government contributions under the Federal Employees Health Benefits Program.

(b) IN GENERAL.—Section 8906 of title 5, United States Code, is amended by adding at the end the following:

"(j) Notwithstanding any other provision of this section, each employee who is a Senator and is paid at an annual rate of pay exceeding $100,000 shall pay the employee contribution and the full amount of the Government contribution which applies under this section. The Secretary of the Senate shall deduct and withhold the contributions required under this section and deposit such contributions in the Employees Health Benefits Fund.".

(c) EFFECTIVE DATE.—This section shall take effect on the first day of the first pay period beginning on or after the date of enactment of this Act.

Mr. KENNEDY. Mr. President, I demand a division of the amendment as follows: Division I being line 1, division II being line 2, and division III being the balance of the amendment.

Mr. President, I will be glad to withhold that request as long as I do not lose the right to do so.

The PRESIDING OFFICER. The Senator has a right to divide his amendment.

Mr. KENNEDY. I thank the Chair. Let me just explain.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, I make a point of order a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Now, Mr. President, might I ask a parliamentary inquiry. I understand—and is my understanding correct—that the second amendment is subject to a point of order?

The PRESIDING OFFICER. Yes, it is.

Mr. DOMENICI. Then I propose that we do the following, and I think it is going to be acceptable, that we not have a vote on the third amendment but, rather, accept it, and then that we proceed thereafter with debate on the first amendment. And I would ask on the first amendment could we have a half-hour on each side?

Mr. KENNEDY. A half-hour on each side.

Mr. DOMENICI. On the first one. And on the second one, when the point of order is made on the motion, you would move to waive it, I assume?

Mr. KENNEDY. Yes.

Mr. DOMENICI. How much time does the Senator want on that?

Mr. KENNEDY. Half an hour on a side.

Mr. DOMENICI. Could we do 15 minutes on a side?

Mr. KENNEDY. Half an hour on that.

Mr. DOMENICI. Let us say not more than. And you could maybe do it in less.

Mr. KENNEDY. That is fine.

Mr. DOMENICI. I put that unanimous-consent request to the Chair.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. DOMENICI. I reinstate my previous allocation on the time and management to the chairman of the Finance Committee.

VOTE ON AMENDMENT NO. 440—DIVISION III

The PRESIDING OFFICER. The question then is on agreeing to division III of amendment No. 440.

The amendment (No. 440), Division III was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote.

Mr. GRAMM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 440—DIVISION I

The PRESIDING OFFICER. The question now is on agreeing to division I.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. As I understand now there is a half-hour on each side?

The PRESIDING OFFICER. That is correct.

Mr. KENNEDY. I yield myself 6 minutes, Mr. President.

This is what I consider another real assault on the Medicare-health care concept that has served the American people so well. I think the two great experiments we have seen that have taken place since the 1930's have been Social Security and also Medicare. We understand now that the Medicare trust fund needs attention. The President has made the recommendation that we have a period where we would have the opportunity to have a thorough discussion and debate about what steps must be taken in order to remedy the long-term financial needs of Medicare.

That was what was recommended to go to conference and come back with recommendations to work that process through. What we have here in this particular Medicare proposal is not really dissimilar in many respects to some of the other proposals, and that is it has a very fundamental change in the whole Medicare system. It has this important change.

For years, under the Medicare system, it was a universal system in the sense that people would pay in all across this Nation, needy people, poor people paid in and wealthy people paid in and people received the benefits under the Medicare system. Now that concept is being challenged and I believe undermined in a very important way for this reason. We are using under the recommendation of the Finance Committee effectively a means test for those of certain incomes—above the $50,000 as individuals or $75,000 up to $100,000 and up to $125,000. That means that there will be an increase in the various premiums and the ability to pay.

Now, that will go into effect in another year. First of all, what is the message that this sends to hundreds and thousands, millions of Americans who are earning $50,000 a year and just about to go on Medicare? We are saying to them that their premiums are going to rise from $64 a month—it will rise in the current proposal by $2,000. It can rise under this proposal from $259.60 a month up to $3,100 a year for those at $100,000. We are saying to senior citizens this is going to be put upon you. They had little time to prepare for it, little time to plan for it.

Mr. President, $50,000 is a lot of money but for many Americans it is right there in the heart of working families with two members of the family working. So we are saying—and this is the fundamental point—the first means test that we are going to provide on health care is going to be Medicare. We are not providing means tests for the deductibility of health insurance for the self-employed, the doctors and professional personnel, as well as some others in our society. We are not saying we are going to means test your particular health benefits. We are not saying to the wealthiest individuals who are going to be able to use the tax system to provide a deduction for their health benefits, we are not saying we are going to means test you. No. The only people we are going to means test are those under Medicare. That is the only group. We do not do it to those individuals who are self-employed. We do not do it to individuals who are deducting under much more costly health care programs. We are saying it's all right for you to go ahead and deduct and let the taxpayers pick up your deduction. We are saying, with regard to the self-insured, the same thing, but not with regard to Medicare—not with regard to Medicare.

Now, what is going to be the result of this? Mr. President, what you are going to find out is that the wealthy individuals who participate in the Medicare system—listen to this. Those with the highest incomes, the top 25 percent under Medicare will pay about $159,000 more than they will collect in benefits. Do we understand that? The top 25 percent—that is what you are looking at in this particular amendment—they pay in $159,000 more than they collect in benefits. In contrast, those in the lowest income category, the bottom 25 percent collect $72,000 more in benefits than they will pay in taxes.

That is the current system. So it would seem to me that we ought to give some consideration to those individuals from $50,000 to $100,000 who have been paying into Medicare, because they have been paying in more than they are paying out.

What are the financial implications of that loss? What we are going to see, when any individual is going to be paying $3,100 a year in terms of premiums, they are going to leave the system. They are going to leave the system. We don't have any studies on that. We have no guidance, no professional advice as to the extent they are going to leave the system, how fast they are going to leave the system, but they are going to leave the system.

The PRESIDING OFFICER. The Senator's 6 minutes have expired.

Mr. KENNEDY. I yield myself 2 more minutes.

So we are taking a high-risk kind of approach on something which is very basic and fundamental, and that is the integrity of the Medicare system.

By means testing this premium, we are endangering the total Medicare system, because those who are contributing the most and adding to the Medicare system which needs those funds are going to leave the health care system. We have not had 5 minutes of hearings on the implication of this program to the Medicare trust fund.

Beyond that, what we are saying is, of all the people in this country who are going to be means tested, it is going to be those individuals, working families, men and women who played by the rules, contributed to Medicare over the course of their lives, depending on the Medicare system, they are going to find that they are the first beneficiaries to whom the means test is applied.

It is wrong in terms of the Medicare system. It is wrong in terms of a health care policy. I don't know what it is about the Senate Finance Committee. They are trying to drive more and more people out of Medicare health care coverage. They are doing it by raising the age of eligibility, and they are doing it with regard to this particular program. I can understand why some would want to do it, because they want to ship people out of Medicare and into the private insurance market so they can make profits in Medicare. We are endangering Medicare and taking a high risk. It is the wrong economic policy. It is the wrong health policy. I hope the amendment will be accepted.

I yield 8 minutes to the Senator from Maryland.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, I thank the Senator from Massachusetts. I rise to support the Kennedy-Mikulski amendment, and I am proud to be an original cosponsor of this amendment. This amendment strikes the Medicare means-testing provision in this bill. I am adamantly opposed to Medicare means testing. I have two very grave concerns about the legislation pending. First, it breaks the bonds of faith between the people and their Government. Second, it overturns 30 years of Medicare in 3 days, without any hearings and no real debate.

This bill breaks faith with seniors. It breaks faith with workers currently paying into Medicare. This bill says if you paid into Medicare under one set of rules, you are going to receive your benefits under a completely different set of rules. The bill penalizes those who work hard, save and try to play by the rules.

This bill puts a previous condition on getting Medicare benefits: the money you saved. It tells the American people that their savings account counts against them when they are ready for Medicare.

I believe that promises made must be promises kept. This bill breaks that promise.

If I were a financial planner, I would advise the senior citizens in Maryland, "Go to Ocean City for a vacation, buy a big car, live it up. Don't save your money for retirement, because the Government will take it away from you and increase Medicare deductibles, increase Medicare premiums and place a penalty on you for your savings. If you don't have any money, at least then you might qualify for Medicare."

But I am not a financial planner. I am a U.S. Senator, and it is my job to stand sentry to protect Medicare.

Medicare was meant to be portable, affordable and undeniable. The purpose of Medicare was to provide health insurance to senior citizens because the private sector wouldn't do it in a way that was affordable, portable and universal for people over the age of 65.

Medicare premiums will now go beyond what some private insurance policies now cost. This provision ends Medicare, as we know it, and turns it into a welfare program. This is unacceptable.

We must ask ourselves, who are we making Medicare affordable for? Is Medicare meant to be affordable for senior citizens, or was it meant to be affordable for Government? I want to make sure that Medicare is affordable to the senior citizens who need it.

Let's be realistic, we do have a problem with Medicare. Yes, the clock is ticking on solvency. Yes, we do need to address this problem with a sense of urgency.

As we are concerned about the future solvency of Medicare, we need to be concerned about the solvency of senior citizens. They need Medicare now. This bill attacks them when they are sick, when they are most vulnerable, and it does nothing or little to make Medicare solvent.

For those young people working who are now in their twenties, thirties, forties and fifties—the baby boomers—they should be concerned. We have 78 million baby boomers in this country. They are going to be doubly squeezed. They will be taking care of their aging parents and paying the high cost of educating their children, and now we would have them pay Medicare taxes for 47 years and then pay again when they are elderly.

If we want to talk about Medicare costs, we can begin cracking down on the $23 billion of fraud in Medicare. We don't do anything by sticking it to the middle class in the middle of the night, and that is what this bill does.

This legislation is a direct attack on the middle class and the beginning of a slippery slope for more attacks on work and savings. This is not the time, this is not the place or the way to change Medicare. It should be the starting point for a national debate on how we protect Medicare and reward work and saving.

It is too important not to have a debate, but there has been little or no debate. We should not have spent the time this year debating contentious issues that are going nowhere. We should have spent the time debating Medicare, its solvency and a variety of alternatives to be able to educate the American people.

Instead, we are changing the rules in the middle of the game and the middle of the night. We need Presidential leadership. We need bipartisan cooperation. We don't need a middle-of-the-night attack on the middle class that raises costs, does nothing to improve health care for our citizens and threatens the very health care for the middle class.

I will stand sentry to protect Medicare. I will stand sentry to make sure the promises made are promises kept. And I will stand sentry for America's senior citizens. The means testing in this legislation before us breaks faith with those seniors.

Retired seniors, as well as those nearing retirement age, have planned for that retirement with the understanding that they would have to pay about $100 in deductibles. Now they will be advised that they will have to contribute anywhere from $550 to $2,000 a year for a premium on a Government insurance program and at the same time have to pay Medigap insurance.

When you are retired, every dollar counts, and even those with average incomes need to be able to count on every dollar. We must preserve the covenant that we established with our seniors to provide affordable accessible health insurance at old age. Out-of-sight additional fees and new income reporting requirements break those promises. What we are telling people is, if they play by the rules, they are now going to lose.

Those who planned and saved the most are penalized for their efforts. The provision tells seniors that after a lifetime of hard work and savings, the Government is going to add to your burden when you are sick.

So these provisions send a horrible message to seniors with higher incomes, but they also send a frightening message to every senior who depends on Medicare. If we make this change now, what does it say to seniors who fall just below the income threshold of the provision in the bill? What assurance do they have we won't be asking them to pay higher out-of-pocket expenses in the years ahead?

I believe it is wrong to scare seniors this way, and it is unconscionable to undermine our commitment to people who depend on Medicare.

Honoring your father and your mother is a great commandment. I think it is a great public policy. The Medicare Program must embody the values of "honor your mother and your father."

Mr. President, that is why I support the Kennedy-Mikulski amendment. I believe we should strike this means testing, wait for another day after we have had a national debate, a report of a national commission, and then look at the variety of tools best able to ensure the solvency of Medicare, and yet at the same time reward hard work and savings.

I yield back such time as I might have.

The PRESIDING OFFICER. Who seeks time?

Mr. ROTH. Mr. President, I yield 5 minutes to Senator GRAMM.

The PRESIDING OFFICER. The Senator from Texas is recognized for 5 minutes.

Mr. GRAMM. Mr. President, I want to begin by reading from the report of the trustees of Social Security and Medicare programs. In their annual report dated April 1997 they state:

> As we reported for the last several years, the Medicare trust fund would be exhausted in 4 years without legislation that addresses its financial imbalance. Further delay in implementing changes makes the problem harder to solve. We urge the earliest possible enactment of legislation extending the life of the HI trust fund.

The HI trust fund is the Medicare part A trust fund. That is not me talking. This is the trustees of Medicare, three of whom are Cabinet officials of the Clinton administration.

No one disputes the facts. This chart represents the cumulative deficit of Medicare as we look toward the future, and we know with relative certainty that over the next 10 years, Medicare is going to be a cumulative drain of $1.6 trillion on the Federal budget.

We now know about some of the things that the Senator from Massachusetts is against. We know he doesn't want to conform the eligibility age for Medicare with the retirement age under Social Security. We know that he doesn't want to ask high-income retirees to pay more of their share of the cost.

However, we don't know what he is for. We don't know if he is willing, as will be required in the year 2025, to triple the payroll tax? It is very easy to say what you are against. It is easy to say, let's not do this today, let's not do it this year, let's not do it this decade, let's never do it. But the problem is, 4 years from now, Medicare will be in the red, and the system is going to be bankrupt if we don't act.

What have we done? First of all, all this rhetoric about playing by the rules of the game and paying into Medicare over our working lives is good rhetoric, but it has nothing to do with the bill before us. Nobody pays for any part of part B of Medicare, which is basically physician services, during their working lives.

Let me repeat that. During our working lives, we pay 2.9 percent of our wages into the part A trust fund which funds hospital care, but only after we retire do we pay anything for our part B benefits. We now pay 25 percent of the cost as a premium.

The bill before us means tests that premium. It says that for those individuals who in retirement have incomes of $50,000 to $100,000, or couples $75,000 to $125,000, that we are going to phase up the part B premium from 25 to 100 percent so that individuals who have $100,000 of earnings in retirement and couples who have $125,000 of income in retirement will be asked to pay another $1,577 a year in their part B premiums.

Let me remind people that part B of Medicare is voluntary; it is not a mandatory program. Nobody makes anybody participate in this program. If asking people who have incomes of $125,000 a year to pay $1,577 more a year for this coverage is too much, they don't have to do it.

Mr. GREGG. Will the Senator yield for a question?

Mr. GRAMM. I will be happy to yield.

Mr. GREGG. I think you have raised a very significant point. It goes to the argument of the Senator from Massachusetts. What you are saying is today a person who participates in the Medicare system pays 25 percent of the costs of the part B premium.

Mr. GRAMM. That's right, and pays none of the cost during their working lives.

Mr. GREGG. That means 75 percent of the cost is being paid by the wage earner.

Mr. GRAMM. That's right.

Mr. GREGG. By John and Mary Jones who happen to be working on a line in a factory in New Hampshire or working in Texas trying to raise a family, they are paying 75 percent of the cost of the premium of the person who today is receiving part B Medicare benefits, is that not correct?

Mr. GRAMM. That is correct.

Mr. GREGG. So if you follow the logic of the Senator from Massachusetts, you are saying John and Mary Jones, the wage earner of America, should be subsidizing the person who is earning $100,000, that would be the practical effect of adopting Senator KENNEDY's amendment.

Mr. GRAMM. Not only would it have that effect, if we adopt Senator KENNEDY's amendment, we are going to be asking moderate-income-working families to subsidize people in retirement who are making up to $125,000 per year. The program is voluntary. If they don't think it is a good deal, they don't have to do it.

Can I have 1 additional minute, Mr. President?

The PRESIDING OFFICER. Does the Senator from Delaware yield additional time?

Mr. ROTH. I yield 1 additional minute.

Mr. GRAMM. Mr. President, in order to keep Medicare solvent, we are going to ask very high-income retirees to begin to pay more of the cost of a benefit which they receive. It is a voluntary benefit which no one pays for during their working life and for which they are currently paying 25 percent of the cost. We are going to phase that up to 100 percent of the cost for individuals with incomes of $100,000 a year and couples with incomes of $125,000 a year in order to keep the system solvent.

The alternative is to ask moderate-income-working families to pay the cost. We don't believe that is fair. This is a voluntary program. Nobody is required to participate in part B of Medicare. It is a voluntary program. So if very high-income people do not want to pay the $1,577 they do not have to pay it. They can drop out of the program. They are not going to drop out because it is still a good deal.

The PRESIDING OFFICER (Mr. GREGG). Who yields time?

Mr. KENNEDY. Mr. President, I yield myself 3 minutes.

The material that the Senator from Texas was quoting was not focused on this particular amendment. It was talking generally about the problems of the Medicare.

The Senator has not responded to one of the principal criticisms of this amendment and that is that the top 25 percent of the Medicare recipients are paying into the Medicare system some $132,000 more than they are taking out over a lifetime. You are raising their part B premiums to $3,100 and you are talking about it being voluntary.

How many of those individuals in the top 25 percent will leave Medicare? And what will the economic implications on the trust fund be then? You have not had any hearings or any testimony. The answer that I hear is, "Well, the very wealthy get 75 percent of their part B paid by general revenues.'' Yes, they do, and I can give you the studies that show that the top 25 percent pay more into part B than they get back in terms of whatever services or assistance they get under part B.

So you are going to take steps here on means testing premiums for the first time, on a program that is working, and has no financial problems under the proposal of President Clinton —$115 billion of savings. We will make sure we have 10 years to set up that commission and to consider a variety of different alternatives in terms of the Medicare trust fund. But no, no, we have the answers to these problems today in the Finance Committee. They were marking up these measures with 5-minute time limitations on discussion for each of the various amendments.

Mr. President, this is not the way to treat senior citizens. I know the Senator is against the Medicare system. I have listened to him oppose it. I know he was part of a program in the last Congress to cut it by $256 million and use the money to pay for billions of dollars in tax breaks for wealthy individuals.

The Senator asked me what I am for. I am for preserving the Medicare system and not destroying it. And I am for giving careful consideration and study to the different alternatives, in the light of day. I am not for having a seat-of-the-pants recommendation which can threaten the Medicare system. We are fast-tracking these proposals. We are debating these issues on Medicare with a time limit of 1 hour.

I was here when the Senate debated Medicare for days and weeks, and now it reverses itself over a period of 3 years. We are now asked here to make judgments and decisions in just a few moments. It is a disservice to senior citizens. It is a disservice to all the men and women in this country who believe in a retirement that they can plan, knowing what they could expect in terms of the Medicare premium.

Finally, HCFA, which is the principle organization that is going to be working through the process of administering this, keeps no income records. What is going to happen to an individual that makes $49,500 and somebody that makes $50,500? What happens when they make a certain amount 1 year but not the second year? What if they make it in the third quarter and not the fourth quarter? How do you administer this? Who will make those decisions? You are going to set up a massive bureaucracy. The Senator has not commented on that.

We were here debating just the other day a children's health bill, talking about doing a cigarette tax and we already collect a cigarette tax. We were talking about distributing that money to the States through the agreement that Senator HATCH and I proposed, and we heard ''Wow, a totally new administration will have to be set up.''

What the Senators in the Finance Committee are proposing will require the grandaddy of all bureaucracies to be set up. A set up in a way that I think will seriously threaten the long-term security of the Medicare system.

Mr. ROTH. Mr. President, I yield 5 minutes to the distinguished Senator from Louisiana.

Mr. BREAUX. I thank the chairman for yielding.

These arguments on the floor sometimes become very confusing. Everybody wants to fix Medicare. But what I hear from so many of our colleagues when we can all agree on fixing it, no one can agree how to fix it.

We ask the question, when are we going to fix it? And some say, well, not now. And we ask the question, well, who is going to fix it? And we say, not us. And then they ask the question, well, how are we going to fix it? And the response is, well, not this way, but fix it.

I think that the politics of the issue at hand before the Senate is really very confusing to me. I cannot imagine going to my State of Louisiana and talking to a truck driver who is making, say, $25,000 a year, and supporting a wife and two children, and explain to him how it is correct and good policy to say that he and his two children and his wife are going to subsidize a retired couple that is making over $75,000 a year in retirement income.

As a Democrat, how do I handle that? I suggest as a Republican, how do I explain that? It is not explainable. It is not good politics. Even more important, it is not good Government.

Medicare is going to be insolvent in the year 2001. We have an obligation to try and fix it. I think it is good policy to say to that person who works every day and maybe makes $25,000 that we no longer are going to ask you to subsidize somebody's doctor's insurance that may be sitting home, in retirement, collecting over $100,000 a year, clipping coupons.

Now, you would think that good policy for both parties would be to say we want to help the guy who is struggling to raise his two children, support his wife, who makes $25,000 a year, by asking someone who is retired that makes over $75,000 a year in retirement to pay a little bit more of what he is getting from the Government.

We asked the Congressional Research Service—and certainly they are bipartisan, nonpartisan—how many people are affected by this change? They said that approximately 1.6 million people in the Nation age 65 or older, one-half of 1 percent of the noninstitutionalized people, not in hospitals or homes, have adjusted gross income at or above the threshold that this bill provides for—$50,000 for a single person or $75,000 for a couple filing their return.

Ms. MIKULSKI. Will the Senator yield?

Mr. BREAUX. That means only 1.6 percent of the people filing returns would be affected by this. How many millions of people do we have back in our States that are making $25,000 and continuing to subsidize those who are in retirement income? The average income in my State for working people is about $22,000 or $23,000. We have very few people that are retired that make over $75,000 a couple—almost none.

I am happy to yield.

Ms. MIKULSKI. The Senator just stated, according to CRS, it affects only 1 million people. If the numbers are so modest then could the Senator explain in his remarks, and I will be glad to ask for additional time, if the numbers are so modest in terms of population, then how are the financial savings so great?

Mr. BREAUX. It is not necessarily just the financial situation we are looking at. We are looking at something that is called fairness. When we, as Democrats, look at trying to tax people that are making $25,000 and a blue-collar job, driving a truck in my State of Louisiana, and telling that couple that they should be subsidizing someone who makes $100,000 a year who is retired, that is not good policy.

So this is a policy change as much as it is anything else. It is a question of fairness. We have a system that is going broke and we are going to make changes. The changes should be fair. I suggest this is a fair and equitable change to ask for those who can most afford it to pay a little bit more so those who can least afford it will not have to continue to subsidize those who are very well-off in retirement. That is a fair test. It is a good proposal. I suggest that we support it.

Ms. MIKULSKI. I ask 2 minutes additional time for the Senator to answer a question.

Mr. KENNEDY. I yield 4 minutes.

Ms. MIKULSKI. How much, then, is this going to save, or is it, as we believe, just a ruse to create the principle of means testing to get what I call the slippery slope done—that really will not save very much money in Medicare, and it really does not deal with solvency of Medicare, it just lays the groundwork for additional means testing.

Mr. BREAUX. I respond to the Senator from Maryland who has been active in this issue, in addition to the overriding fairness, it saves $3.9 billion over 5 years. I suggest that when you add the fairness test plus $3.9 billion to a system that is nearly broke and insolvent, that is a good deal.

Mr. KENNEDY. I yield 3 minutes to the Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, one thing that occurs to me listening to this debate is that some very, very important principles followed by amendments are being put before the Senate in a context that the American people do not fully understand nor have they any reason to because it has not really been discussed with them.

In speaking quite honestly, this sort of grew up within the Finance Committee, of which I am a member, and it became a kind of a fluent subject within the Finance Committee. It got a credence—had people for it, had people against it—it got its own momentum, and the Finance Committee was acting apart from the rest of the Senate, and apart from the rest of America.

I am not by definition innately opposed to means testing but I am oppose to doing things before they receive what I call a larger consideration, which I think falls into the commission on Medicare which is what I introduced as a bill 2 years ago. It seems to me when you are dealing with something in a State, for example, like West Virginia, where the average senior citizen income is $10,700 a year, you really do not make decisions like this—or like a number of other issues that have been before us —without a larger discussion with the American people, a larger context being placed before the American people. We have traditionally done that with major pieces of legislation.

This discussion has come out of a kind of sanctuary of privileged discussion. I am not saying it is not without merit at some point, but I do not think it is at this point, because of the absence of the larger discussion of the American people. When you are dealing with people that have $10,700 a year to live on, every deductible, every single decision about a means test, all of it counts, and it really does in human terms. I am not being evasive. I am simply reflecting what a whole lot of people in this country are very afraid of.

So my plea would be that we would not let up on this but that we would continue this, but in the larger context of the commission on the future of Medicare, which I think is the only place to really do that. That reflects not just my feeling about this amendment but other amendments that I have voted on during the course of the day in a way which I might not vote on after a commission had discussed it and a national discussion had been held. That has not taken place to this point. It is kind of a privileged conversation, and it is not one I am entirely comfortable with on behalf of the people I represent.

Mr. LAUTENBERG. Mr. President, I rise in opposition to the proposal to means test Medicare part B premiums.

Mr. President, I am not opposed in principle to asking wealthier Americans to pay more for certain Government services. At the same time, I think we have to be very, very cautious before making fundamental changes in a program as important as Medicare. And it's not something that should be done on a fast-track reconciliation bill, with little opportunity for public input or debate.

Mr. President, Medicare is a universal program that can benefit each and every citizen. The universal nature of Medicare provides a broad base of beneficiaries that helps maintain the program's economic viability. By covering all eligible individuals, no matter their health risks, Medicare spreads those risks broadly, as an insurance program must do.

Yet increasing the costs of Medicare to better-off individuals threatens to drive wealthier and healthier individuals away from the voluntary part B program. And, at some point, that could undermine the broad base of beneficiaries that is necessary. I am not prepared to say that the particular proposal in this bill would do so. I don't know. But it's a serious issue that deserves careful consideration before we move forward.

Mr. President, beyond the need to ensure Medicare's economic viability, there's also a need to ensure that the program maintains broad support among the public and in the Congress. That's why so many Medicare supporters are concerned about turning the program into anything that resembles a welfare program.

Now, Mr. President, at some point, these concerns may have to give way to the stark economic realities of upcoming demographic changes. But if we are to move toward some type of means testing, we need to do it very carefully, to ensure that the public understands, and supports the change. The stakes are too high to rush into this without preparing the way, and making sure we're doing it right.

Mr. President, beyond the broad economic and political concerns involved with introducing means testing into Medicare, there are practical issues to resolve, as well. If premiums are to vary based on income, who is to evaluate a person's income, and how? Will the IRS take on the responsibility? Or will we create a whole new bureaucracy to do the job—some might call it, Son of IRS.

This proposal seems to adopt the latter approach. But many believe this is duplicative and inefficient. It also raises questions about whether this new bureaucracy will adequately protect the confidentiality of senior citizens' private financial information.

A related question is how we can monitor the changing incomes of beneficiaries. Take an individual who last year received a sizable salary, but who was laid off at the end of the year, and now has no income. How are we supposed to know that this person now cannot afford a higher premium? I wonder whether this type of issue has really been thought through.

Mr. President, all of these issues need to be considered carefully before we rush into a proposal of this magnitude. Yet the proposal to means test premiums comes to us now at the last minute. It has not been subject to hearings. Nor has the public been involved in the debate.

Mr. President, there is a more appropriate avenue for considering this kind of proposal. The bill before us calls for a commission that would study long term changes needed to sustain the Medicare system. So my suggestion would be to wait, and have the commission study the proposal and options for implementation. The commission is required to report back within a year. So this issue will not get deferred indefinitely. But we need to do this right.

Mr. President, I would remind my colleagues that we do not need to means test Medicare premiums to balance the budget. Nor is it necessary to make Medicare solvent for an 10 additional years. We've accomplished those goals in the bipartisan budget agreement, and without resorting to means testing.

So, Mr. President, I would suggest to my colleagues that we should act with caution when it comes to a program as important as Medicare. Means testing has potentially huge implications for the economic and political viability for the Medicare Program. And, in my view, it's not something we should be doing on a fast-track bill with little opportunity for serious review and public input.

The PRESIDING OFFICER. Who yields time?

Mr. ROTH. I yield 5 minutes to the distinguished Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I would like to briefly review the bidding here, if I might. Part B is a program that provides for payments to physicians; it is an insurance program. Nobody who is in Medicare has to take out this insurance program. Those that do pay a $45-per-month premium currently, over 99 percent of all Social Security beneficiaries, take the part B insurance. That is what it is—insurance. What is this premium that they pay the $45? That is calculated to cover 25 percent of the costs of the program, of the entire part B cost. Twenty-five percent is what an individual pays. So where is the other 75 percent coming from? The other 75 percent comes from the General Treasury. So you get this anomalous situation of a very low-income individual that might be the person that cleans the streets, if you will, or cleans up our offices early in the morning; that individual's income taxes go into the General Treasury, and then part of them come out to pay some millionaire retiree's doctor bills—75 percent of them. Now, something is wrong here. Why should those people be paying 75 percent of Warren Buffet's doctor bills?

So what we have proposed here is that there be what we call a means test. The wealthier individuals will pay more for that premium instead of having it come out of the General Treasury. So did we start with low-income people? Hardly. Before anybody has to start paying more than the 25 percent premium, that individual, if he is an individual, as opposed to a married couple, that individual has to have an income of over $50,000 a year as a retiree. And it gradually comes in a greater portion, until finally that individual, if he is making $100,000 per year, is paying 100 percent of the premium. He doesn't have to take it if he doesn't want it. If he can go out and find a better deal somewhere, so be it. But I suspect he will find that this is a very, very good insurance program and he is delighted to pay the 100 percent, and he surely can afford it. It will only be $135 a month more, if he is paying the total premium, than if he were just paying the 25 percent.

What about the married couple? There is talk here about how onerous this is. It doesn't even start with a married couple to pay more than the 25 percent until that couple is filing an income tax return showing that a $75,000 income. They don't pay the entire amount of the premium until their income is $125,000 a year. Where I come from that is a pretty good income.

So, Mr. President, what we are trying to do is overcome this, I think, shocking situation where a very wealthy person is only paying 25 percent of the cost of a program with the taxpayers of the Nation. That cleaning woman, her taxes are going into that general fund to come out and pay some wealthy person's doctor bill—75 percent of them. That, Mr. President, just plain isn't fair.

The question is whether we should debate it longer. I don't know how long it takes to understand the particular program we are proposing here this evening. Now, there are going to be savings. As the distinguished Senator from Louisiana pointed out, the savings are nearly $4 billion over 5 years. You can say, oh, that's not much. Boy, that is getting pretty inured to Washington spending if you say $4 billion isn't much. All that savings goes into the Medicare Program, the part A program, the hospital insurance, which is about to go under. Is it me that says that? No.

We previously, this evening, quoted from the report of the trustees of the Medicare fund. Those trustees have used the most alarming words. I have here the little booklet that they put out in which they use terms of the part A trust fund, namely the Hospital Insurance. They use terms like—these are the trustees, and four of the six trustees are Cabinet officers, all Democrats. This is what they say:

> Further delay in implementing changes makes the problem harder to solve. We urge the earliest possible enactment of legislation to extend the HI trust fund. The Medicare trust fund, the HI, will be exhausted in 4 years without legislation to address it.

It seems to me, Mr. President, that this is a very worthwhile undertaking. It is the right thing to do. It is not hurting anybody. If people at a $125,000-a-year income can't pay their entire insurance bill, then they are not doing their budgeting very well.

So, Mr. President, I strongly support this measure, which was reported from the Finance Committee.

Mr. MOYNIHAN. Unanimously.

The PRESIDING OFFICER. Who seeks time?

Mr. KENNEDY. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 5 minutes remaining.

Mr. KENNEDY. I yield 2 minutes. I listened to my friend and colleague from Rhode Island talking about how Part B of the Medicare system is subsidized by 75 percent from the general funds. Well, of course, the health insurance of every Member of the U.S. Senate is also subsidized by roughly the same amount. When he talks about how bad it is for upper-income seniors to pay only 25 percent of their Part B costs, it should be clear that Senators—whose incomes are all above the maximum threshold they have set for senior citizens—also pay only 25 percent of the health insurance premium.

This is the point, Mr. President. Under family coverage for Blue Cross, we only $108.40 per month, while the taxpayers spend $292 a month on our coverage. So that is what happens right here in the U.S. Senate. If we are going to begin to means-test taxpayer-subsidized health insurance benefits, why are we starting with Medicare?

The third part of our amendment changes this by requiring Senators whose annual income is over $100,000 to pay for 100 percent of their health insurance premiums. As we have seen under the Lewin-VHI study commissioned by the National Committee to Preserve Social Security and Medicare, the top 25 percent of wage earners of this country pay $159,000 more into the Medicare system than they take out. By contrast, those in the lowest income category—the bottom 25 percent—will collect about $72,000 more in benefits than they pay in taxes.

You cannot assure us that higher income group is going to choose to stay enrolled in Medicare under these new conditions. Studies have demonstrated that those in the top 25 percent pay more into part B than they receive back. All we are asking for is a hearing on this issue. Those are the figures. I have the studies right here to demonstrate that. Now, if that is true, we don't want to lose this group because they are providing help and assistance for other needy workers. I must remind my colleagues that health status generally rises with income, which means wealthier senior citizens are generally healthier. If they choose to leave Medicare, they take their premium dollars with them.

So I believe that it is true, and we have the testimony to provide it. We ought to at least explore this proposals impact on Medicare enrollment before blindly voting for it.

The PRESIDING OFFICER. The time of the Senator is up.

Mr. KENNEDY. I yield myself another minute. The fact is, if that is true—and I believe it is—we have to make a calculation of how many people are we going to drive out of the part B, because we are raising their annual premiums to well over $3,000. You can't tell us different here this afternoon. So, Mr. President, I think that this measure ought to be given more consideration.

A final point. Ten years ago, Medicare recipients spent on average 18 percent of their income on out-of-pocket health care expenses. It is now up to 21 percent.

The PRESIDING OFFICER. The Senator's time is up.

Mr. KENNEDY. I yield myself 1 additional minute. The elderly already spend a disproportionate share of their income on health care. While those under age 65 spend only about 8 percent of their income on health care, Medicare beneficiaries spend an average of 21 percent. This amendment will only increase that disparity. It poses, I believe, a serious threat to the Medicare system and it should be given much more thought and consideration than it has here today. Medicare's success is based in part on the fact that all groups are treated equally — poor, rich, younger, older, sick, healthy. This provision undermines the fundamental promise of Medicare that says you will all contribute an equal amount and you shall all be guaranteed equal benefits.

I withhold the remainder of my time.

Mr. ROTH. Mr. President, I yield 5 minutes to the Senator from Nebraska.

Mr. KERREY. Mr. President, I oppose the effort to strike this important provision in the Finance Committee's bill. Since Medicare was enacted in 1965, there have been many legislative efforts to make it more fair, to make it more progressive. Most colleagues, I suspect, support the Qualified Medical Beneficiary Program, the QMB Program and the SLMB Program, the dual-eligibility program. All of these programs are efforts not in 1965, but much later, to make the program fair, to help lower-income beneficiaries, to make it more progressive. That is what these programs do.

Dual eligibility in Medicaid is a terrific program. It enables that low-income individual to be held harmless against all costs, premium, deductibles, copayment, as well as additional Medicaid coverage. QMB does premium deductible and copayment for all Medicare beneficiaries under 100 percent of poverty. And it made the program fair, more progressive. SLMB is up to 120 percent. The chairman has added a provision that would allow it to go from 120 to 150 percent because of the changes recommended by the President, shifting home health from part A to part B.

Those who argue against this change say that we are on the slippery slope somehow. We have done this before. There have been constant efforts to try to evaluate Medicare and to try to make it fair. This proposal makes Medicare more fair on its face. Individuals earning up to $50,000 a year will continue to enjoy a 75 percent subsidy in part B. That doesn't change. That is for individuals at $50,000 and couples at $75,000. We begin to phase out the subsidy of that part B premium. It will go from about $560 to about $2,100. That $1,500 or $1,600 subsidy that we currently have in place will be phased out. For seniors, with adjusted gross incomes of $100,000 for individuals and $125,000 for couples, they will pay an unsubsidized part B. They will still receive part A with no change, but for part B, physician services, they will pay an unsubsidized premium.

It makes the program more progressive, Mr. President. It has been noted, and quite correctly, that for many seniors there is a significant percentage of income that goes for health care. But what we need to look at is that inside that senior population, there are significant differentials. For lower income beneficiaries, they will pay for health care a higher out-of-pocket amount than higher income beneficiaries—30 percent versus 3 percent for higher income beneficiaries. This is a problem that we are trying to solve. We are trying to make this program more progressive.

As to the suggestion that we need to study this, this is not a proposal that just came out of the blue. This is a proposal that has been around a long time. It has been discussed; it has been opposed; all kinds of arguments have been thrown up against it. There have been all kinds of good suggestions that perhaps we can improve it somehow. So this is not a brandnew proposal. We don't need to study this, Mr. President.

I have great respect for the senior Senator from Massachusetts and the Senator from Maryland, as well. They come to the floor because they care deeply about Medicare beneficiaries, wanting to preserve and protect Medicare, which is the goal of this piece of legislation. By making Medicare more progressive, I believe we have a much better chance of securing the intergenerational commitment that Medicare represents.

Medicare is an intergenerational commitment on the part of younger people to allow themselves to be taxed so that we can provide benefits to the beneficiaries of Medicare. It is a strong commitment. It is a good commitment. It has made our Nation better as a consequence of having it in law. This change, by making it more progressive and fair, will strengthen the commitment that we have for this good program.

Mr. KENNEDY. Can I ask the Senator a question on my time? Will the Senator yield for a question?

Mr. KERREY. I am kind of busy.

Mr. KENNEDY. I heard the Senator say this has been around a long time. I think it has been on the floor here for about an hour. This wasn't the proposal that came out of the Finance Committee, was it?

Mr. KERREY. No, it was not the proposal that came out of the Finance Committee.

Mr. KENNEDY. Had that been around a long time, too.

Mr. KERREY. Is this a jury deal, where I get a yes-or-no answer? You have lots of time here.

Mr. KENNEDY. I don't have much time.

Mr. KERREY. Mr. President, we did get a proposal that came out of the committee to use deductible instead of premium and, as a consequence of that being untested, we changed it back to premium. The premium is not an untested proposal. I have been asked about whether or not——

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. KENNEDY. I yield another 30 seconds.

Mr. KERREY. Another 30 seconds? I can't say hello in 30 seconds.

This proposal has been around—adjusting by income the part B premium has been around a long time. I know I was asked about it when I campaigned in 1988. This is not a new proposal. It has been argued. It has been vented. It has been discussed. It is reasonable. It is fair. And I hope my colleagues will oppose the KENNEDY effort to strike.

Mr. KENNEDY. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Massachusetts has 37 seconds.

Mr. KENNEDY. I yield whatever time remains to Senator MIKULSKI.

Can we get 2 minutes to wind up for Senator MIKULSKI to make a final comment?

The PRESIDING OFFICER. Is there objection to the request for 2 additional minutes?

Mr. DOMENICI. Reserving the right to object—I shall not—how you much time remains on our side?

The PRESIDING OFFICER. The Senator from New Mexico has 8 minutes. The Senator from Massachusetts has 37 seconds.

Mr. DOMENICI. I would like to take it off the bill, if we can.

Mr. LAUTENBERG. We will give the Senator from Maryland 2 minutes off the bill.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, 32 years ago this summer I graduated from the University of Maryland School of Social Work. And my very first job was to go out to the Baltimore neighborhoods to tell people what this new bill called Medicare was; to tell them what medical services they would be entitled to. As I went door to door to door in the streets and neighborhoods, onto the white-marbled steps of Baltimore, people's eyes opened wide. They could not believe that the United States of America had passed legislation that would provide them universal affordable health care in their old age and that it would be the next step to the Social Security commitment; that they would have in perpetuity a safety net that did not have a previous condition on it; that the premium would be affordable; that it would be undeniable.

Thirty-two years later we are changing the rules of the game. The very people that were 30 years old then are now in their sixties. They didn't know it was going to be means tested. I respect the Finance Committee. But I will tell you that there has been no national discussion on what it means to the solvency of Medicare.

All we are asking is strike the means testing now. Let's have an American national debate, not a time-limited rule which we agree to temporarily. But let's have a national debate.

The Finance Committee might have studied it. It might not be a new idea to them. But I will tell you something. It is a new idea to the American people. And the middle class knows that the minute you start this class-warfare language of means testing people over $100,000 and say it is fair, button down your hatches, blue-collar workers. They are coming after you next.

The PRESIDING OFFICER [Mr. COATS]. Who yields time?

Mr. ROTH. I yield 3 minutes to the Senator from New Hampshire.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. GREGG. Thank you, Mr. Chairman.

Mr. President, listening to this argument here, it seems to me that it is extraordinarily disjointed coming from the other side.

Let's remember what we are talking about. We are talking about people who are making $75,000 or $100,000 a year being supported in their health care under part B by people who are making $25,000 a year, $30,000 a year, or $40,000 a year. People who are working on a line job in New Hampshire, at a restaurant in Texas, and at a garage in New Mexico are supporting people who are retired who are making $75,000 to $100,000. And what is the complaint from the other side? The complaint from the other side is that somebody who makes $100,000 might have to pay 2 percent of their income in their retirement years to buy part B insurance—2 percent. You tell me where you can go out and spend as a senior citizen in the private sector 2 percent of your income and buy a health care plan that is going to cover you for physician costs. You can't do it.

The statement was made from the other side that somehow these extremely wealthy people have been paying into the system more; and, they paid in more and, therefore, they should get some sort of extraordinary benefit as a result of that where they are subsidized by people earning $25,000 to $30,000 a year. That is simply not true. They may have paid more into part A, yes. But they have not paid more into part B. Part B is on a cash basis system. It is a pay-as-you-go system. You buy that insurance on an annual basis. The people who pay more for part B happen to be the poor men and women who are working in America who are paying payroll taxes, and who are paying into the general fund and then have to subsidize to the extent of 75 percent the person who is making $100,000. That is the person who is paying more—the wage earner. The concept that high-income individuals should not have to pay the full cost of the health care benefit which they are receiving, the insurance benefit they are receiving, makes no sense at all. It makes no sense that someone who is making $100,000 shouldn't have to bear the full cost of the part B premium.

We heard earlier today that the other side was surprised that people are living longer, and that is why they don't want to move too quickly into the issue of whether or not we should raise the retirement age. We heard earlier today from the other side that people were, I guess, surprised that the part A trust fund is going broke. That is why they don't want to move too quickly into the issue of whether or not people should have their age of retirement raised.

I can't believe, recognizing the speakers from the other side who have been carrying the water on this issue, that they are surprised that there are rich people in America, and that is what this is about. There are rich people in America, and they are not paying their fair share.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. ROTH. I yield 3 minutes to the distinguished Senator from New York.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, some may have thought that there has been a leakage of reality about the social insurance programs of the American Nation; that only crisis brings us forward to some sensible responses. But I think today we proved just the opposite. The vote earlier on extending the eligibility age for Medicare over the next generation to 67 years parallels exactly the measure we took at a time of crisis in 1983 with respect to Social Security. This was recommended by a commission of which I was a member. Senator Dole, our beloved former majority leader, was a member.

Sir, I don't know about other Members of this body but I have not heard a word about that. It has been accepted. It is something that is going to take place over a generation. It makes sense.

The same on this matter of contributions of high-income persons—what is basically an intergenerational subsidy on retirement benefits and health-care benefits.

In 1983, we began to tax Social Security benefits for high-income persons up to 50 percent of their benefit. In 1993, in legislation I brought to the floor from the Finance Committee, we took it to 85 percent. That is the actuarial income that is not paid by the contributor himself or herself.

Sir, there has been no response or reaction to that, save acceptance that it is fair, and it makes sense. This is fair, and it is necessary.

I would say once again I was a member of the administration of President Johnson when the planning for Medicare and Medicaid took place. On part B we specified that half the premium would be paid by the person choosing to take the option of buying this form of health insurance. In 1972, we limited increases in the premium to the rate of increase in Social Security benefits, which are tied to the Consumer Price Index. But because of the higher rise in medical costs in the years that followed, above the rate of price increase, we dropped it to 25 percent. It is 25 percent today—not what we planned when we began this program, when the costs were much lower and unsustainable in the years ahead. The annual part B subsidy right now per person is $1,600 of general revenue—not trust fund. And if we have to provide that a $500,000 earner pays 2.9 percent, why can we not do so? I think, Mr. President, we are going to.

I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. ROTH. I yield the remainder of my time to the distinguished chairman of the Budget Committee.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Do you have some additional time you would like, if I can take 5 minutes off the bill?

Mr. ROTH. All right.

Mr. DOMENICI. You keep your 5. I will speak.

The PRESIDING OFFICER. The Senator from New Mexico is recognized for 5 minutes, with the time to come off the bill.

Mr. DOMENICI. Mr. President, I yield 2 minutes off the bill to just talk a little bit to the Senate about where we are.

First, let me inquire.

How much time remains for both sides?

The PRESIDING OFFICER. The Senator from New Mexico has 1 hour and 15 minutes remaining, and the Senator from New Jersey has 1 hour and 21 minutes.

Mr. DOMENICI. I wonder if I might propound a unanimous consent request to get us moving on two votes?

I understand, immediately after we are finished debating this amendment, that the next thing that would come up would be the second Kennedy amendment which is subject to a point of order; I would make a point of order, and the Senator would move to waive. And he has indicated that he would be satisfied with 2 minutes of debate on each side on the motion to waive.

I put that unanimous-consent request to the Senate.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Without objection, it is so ordered.

Mr. DOMENICI. I thank the Chair.

I apologize for interrupting.

Second, I would ask that we proceed as follows: That as soon as we finish the debate on the current amendment, that we vote on it, or in relation thereto, and then we proceed immediately, before we proceed to vote, we take care of the 2 minutes on each side on the Kennedy motion to waive, and then we proceed on two votes back-to-back with the first one being 15 minutes and the second one being 10.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. Mr. President, I apologize to the chairman of the committee. So you want to yield back the time and we would then ask consent that it would be in order to make the point of order?

Mr. DOMENICI. We just got that.

Mr. KENNEDY. I was glad to accommodate the leader, and always try to. But I would like to at least say that we eliminate the 2 minutes. I would like to at least have the opportunity to perhaps address the Senate for that period of time before we vote. It will not save an awful lot of time just to go back to back, as the Senator knows. I would like to make just a very, very brief comment about what that commitment is. We have very different amendments.

I would appreciate that.

Mr. DOMENICI. The Senator objects. Why don't we just do it in two parts? We will dispose of the first amendment in the manner we described, and thereafter there will be 4 minutes after that vote is completed, 2 minutes to a side, and that will be the subject matter of—that vote will be a waiver of a point of order that the Senator from New Mexico will make on the Kennedy amendment.

The PRESIDING OFFICER. Is there objection?

Mr. BUMPERS. Reserving the right to object—I shall not—will the Senator indicate approximately what time this back-to-back vote will occur?

Mr. DOMENICI. How much time do you want to use Senator—2 or 3 minutes?

I would say 6 minutes.

Do you want some time? Ten minutes maximum.

Mr. KENNEDY. Is this additional time to be yielded off the bill, or just because we are going to have additional time? I think we are over.

The PRESIDING OFFICER. A total of 2 minutes for the Senator from New Mexico.

Mr. KENNEDY. I was willing in accommodation to go back and limit our side. Now we have been limited. And now the other side is getting additional time for the amendment. Then I would ask for equal time to be able to respond. I would be glad to move ahead as agreed on earlier.

Mr. DOMENICI. We are going to do that. We will yield our 2 minutes remaining to Senator NICKLES, and I believe 5 minutes off the bill for me to accommodate some time taken off the bill on your side. That makes it about even.

Mr. KENNEDY. Whatever. That is fine.

Mr. LAUTENBERG. As long as your arithmetic is right. I would ask the Parliamentarian. How does that time projection stack up?

The PRESIDING OFFICER. Only 2 minutes has been yielded off the bill. It was yielded to the Senator from Maryland.

Mr. LAUTENBERG. So what is being requested over here now?

Mr. DOMENICI. The remaining 2 minutes on our side goes to Senator NICKLES, and I asked for 5 minutes off the bill.

Mr. LAUTENBERG. The Senator from Massachusetts——

Mr. KENNEDY. I ask for equal time, and I probably will not use it.

Mr. DOMENICI. OK. I will cut my time down to 2 minutes. Might I ask right now, please?

I ask unanimous consent that it be in order that I make the point of order against the second Kennedy amendment.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. As I understand it, I have time at the conclusion or you want me to make it now?

Mr. DOMENICI. I think now we ought to ask unanimous consent it be in order the Senator make his motion to waive at this point.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. That I can be in order to waive.

Mr. WELLSTONE. Mr. President, I say to the Senator from New Mexico, I am not trying to hold things up. Just a question on the way we are going. I have been waiting for quite a while to introduce an amendment. Is there a way that we could have some understanding about introducing amendments after we get through with this as far as unanimous consent is concerned?

Mr. LAUTENBERG. I would, if I may on this side, Mr. President——

Mr. DOMENICI. Surely.

Mr. LAUTENBERG. I had promised the Senator from Rhode Island early this morning that he would have an opportunity. He has deferred and waited to introduce an amendment that he wanted to have done. As we heard from the Presiding Officer, we have about 2½ hours, as I calculate it, left in total. So certainly if we can divide these up into proper sized pieces, why if we could just lay it out——

Mr. DOMENICI. Mr. President, let me just suggest that if we are going to go back and forth, we will have disposed of two Kennedy amendments in a row. And then I assume we should get at least one, if not two, and then return to that side. And I would like to do that. Senator GRAMM has a simple amendment that should not take very long. We would like to do that next, but I am not asking that we have time agreed to. And then is there another one on our side?

We then move to your side. You have one for Senator REED.

Mr. LAUTENBERG. Senator REED would be willing to take 20 minutes equally divided.

Mr. WELLSTONE addressed the Chair.

Mr. DOMENICI. What is the Reed amendment?

Mr. REED. It would substitute.

Mr. DOMENICI. Substitute for the whole bill?

Mr. REED. Yes, it is, eliminating some of the provisions we have already debated with respect to the age limitation, MSA's, et cetera.

Mr. DOMENICI. I do not want to agree to that other than to say you are entitled to an amendment. But it may be subject to a point of order in raising the same subject matter that has already been debated today with a motion to reconsider, table and reconsider having already been voted on. But if the Senator will let us look at it—

Mr. REED. I would be happy to let the distinguished chairman do that.

Mr. DOMENICI. Does anybody need time to discuss a complete substitute?

Mr. GRAMM. It might be a substitute.

Mr. DOMENICI. It might be. Let's not agree on your time yet. You might take more time than your 10 minutes.

Mr. REED. Fine.

Mr. DOMENICI. There is a half-hour on each by statute.

Mr. WELLSTONE. Mr. President, again since I initiated this discussion, I wonder whether I could not be a part of this. I have two amendments—one Senator MIKULSKI wants to do with me —and I wonder whether they could be part of it.

Mr. DOMENICI. Will you tell me which one Senator MIKULSKI is with you?

Ms. MIKULSKI. The amendment Senator WELLSTONE and I wish to do is a version of the restoration of the Boren amendment on nursing home reimbursement to ensure safety standards and adequacy.

Mr. LAUTENBERG. In how much time do you think you could deal with that?

Mr. DOMENICI. We are going too far ahead. I do not even have the amendments listed on anything that was given to me by that side. I do not have the Boren amendment's reinstatement on this list. I have your mental——

Mr. WELLSTONE. That is the one that I would like to get in right now on this unanimous consent, on the mental health. That one I have been waiting several days.

Mr. DOMENICI. Senators, let me just suggest that we get the votes out of the way and in the meantime any Senator who has any amendments, we would like to have—we now have 18 amendments, and that is without any process amendments and there may not be any process votes on this bill. It may be that they will be saved for another time. But if you can get us any amendments, and as soon as this vote is over, I will try to arrange yours in sequence, I say to Senator WELLSTONE.

Mr. WELLSTONE. I thank the Senator.

Mr. DOMENICI. Can we proceed then?

The PRESIDING OFFICER. If the Senator from New Mexico will restate the unanimous-consent request, the Presiding Officer is somewhat confused as to what the correct state of affairs is.

Will the Senator restate the unanimous-consent request we will order.

Mr. DOMENICI. My last one is that it be in order for Senator KENNEDY right now——

Mr. KENNEDY. I do not need the time. Four minutes to the Senator will be fine.

Mr. DOMENICI. I need the Senator to do something else. I ask it be in order that he waive the Domenici point of order and he do his now even though it is reserved for later.

Mr. KENNEDY. I do so now.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DOMENICI. It seems we have time on our side. Senator NICKLES has 2 minutes under the half-hour allowance.

The PRESIDING OFFICER. Is the Senator going to make a point of order?

Mr. DOMENICI. I make the point of order that the Kennedy amendment violates the Budget Act.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, pursuant to section 904 of the Budget Act, I move to waive the point of order and ask for the yeas and nays on the motion to waive.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second. The yeas and nays are ordered.

Mr. LAUTENBERG. I would ask, if the Senator from Oklahoma will excuse me just a moment, so that we have a little longer sequence planned, that is, after the Senator from Oklahoma, after the vote on the budget waiver, I assume that the chairman intends to go to the Senator from Texas?

Mr. DOMENICI. Yes.

Mr. LAUTENBERG. And thereafter we put in line the Reed amendment to be reexamined, and we will take a look at the timeframe. If we could plan the next two, that would probably consume the remainder of the time. What would the Senator from New Mexico expect would come up after that?

Mr. DOMENICI. Look, I would like to leave it at that. We have three or four Republican amendments that I have to discuss with them. So let's just leave it there and try to finish the vote, and we will try to sequence the Wellstone amendment in.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. NICKLES. Mr. President, I urge my colleagues to vote against Senator KENNEDY's amendment which would eliminate—some people call it income testing, means testing, but I would rephrase it. It would eliminate subsidies for upper income individuals on part B premiums. Right now the Federal policy is the taxpayers pay $3 for every $1 for all persons on Medicare part B. It does not make any difference if the person has $1 million of income. We are asking taxpayers with incomes of $20,000 to be paying general taxes to subsidize their premium.

I do not think that is good policy. I might mention the Finance Committee, when we corrected this, we did it with bipartisan support. We have all known this issue. Some people say, well, let us substitute it. Let us do it in the commission. We know this should be done. We know this is good policy.

I might also mention this was not done so we would have more money to spend someplace else. This was not done in order that we could have more tax cuts. The Finance Committee took 100 percent of the savings, of this amount of reducing subsidies for higher income individuals, 100 percent of that money and put it into part A solvency.

So all the savings that come from the increased premiums on more affluent people by reducing subsidies, all the savings that come from that will go toward extending solvency in part A. And as I mentioned in an earlier speech, part A, the hospital insurance trust fund, has serious problems. It is going to have a shortfall in the year 2005, without these changes, of about $100 billion per year, and it grows from there. So we need to do more to save part A, to make sure the hospital bills will be able to be paid.

The Finance Committee took this step. They took it for, I think, all the right reasons, for good policy, to eliminate subsidies for upper-income people. I urge my colleagues to support this bipartisan recommendation that came out of the Finance Committee and to vote no on the Kennedy amendment.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I believe I have 2 or 3 minutes.

The PRESIDING OFFICER. Under the unanimous-consent agreement, the Senator from New Mexico has 3 minutes.

Mr. DOMENICI. Mr. President, I thought I would just suggest to the Senate and those listening how many senior citizens are covered by this means testing. And here is what I think it is. First of all, let me put it in dollars. The premiums collected over the next 5 years amount to $125 billion. The income-conditioned premiums, the means-tested premiums, amount to $4 billion. That is 3.1 percent of the premiums will be means tested.

What does that amount to in numbers? The best we can figure, out of 38 million Americans, it is 5 percent—5 percent will be financially affected by this amendment.

So if you are going into some neighborhood and talking to seniors about this, chances are pretty good that you are not talking to a senior that is affected by this because only 1 out of 20 will be affected by this and 19 will not be affected at all.

I think that is a pretty realistic approach to trying to change this basic part B law to be more realistic to those people who are working hard, paying taxes, are not even earning as much money as the retirees, perhaps raising two or three children, and unless their employer is paying insurance for them many do not have insurance. So I believe this is a good approach, and I am prepared to yield back the remainder of my time.

How much time do I have?

The PRESIDING OFFICER. The Senator from New Mexico has 1 minute 21 seconds.

Mr. DOMENICI. I yield my remaining minute to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, above the Speaker's stand in the House of Representatives is a quote from Daniel Webster which talks about doing something worthy of being remembered. I believe that if we defeat the Kennedy amendment, given what we have already done by changing the age of eligibility for Medicare, that we will have adopted two changes which will dramatically change in Medicare. They will be the first things we have ever done that will permanently strengthen the Medicare trust fund, and I believe that we will have done something truly worthy of being remembered.

We do not do that very often around here. It is not very often that you see courageous votes cast. And I think we will have seen two major ones today.

I thought some note should have been made of that fact. I do not want to congratulate us in advance of casting this vote. But I think we are doing something very important here, something that 10 or 20 years from now every Member who votes against this amendment and votes for these two important reforms will be able to say to their children and grandchildren they did something worthy of being remembered.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. DOMENICI. Parliamentary inquiry.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. On this vote, for the Senator to prevail, must he get 60 votes?

The PRESIDING OFFICER. That is correct.

Mr. DOMENICI. I thank the Chair.

Mr. KENNEDY. Yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been ordered. The Senator from Massachusetts has 37 seconds.

Mr. KENNEDY. I yield back the remainder of the time.

The PRESIDING OFFICER. Time has been yielded back. The yeas and nays have been ordered.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I asked a parliamentary inquiry and I believe I got the wrong answer. How many votes are required for Senator KENNEDY to prevail on this? A simple majority on the first one; is that correct?

The PRESIDING OFFICER. The first vote is on the amendment. A simple majority is sufficient to pass this amendment.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. I make a motion to table. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 70, nays 30, as follows:

[Rollcall Vote No. 113 Leg.]

YEAS—70

Allard
Ashcroft
Baucus
Bennett
Bingaman
Bond
Breaux
Brownback
Bryan
Bumpers
Burns
Campbell
Chafee
Coats
Cochran
Collins
Conrad
Craig
DeWine
Dodd
Domenici
Enzi
Faircloth
Feingold
Feinstein
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hagel
Harkin
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Jeffords
Kempthorne
Kerrey
Kerry
Kohl
Kyl
Landrieu
Levin
Lieberman
Lott
Lugar
Mack
McConnell
Moynihan
Murkowski
Nickles
Robb
Roberts
Roth
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—30

Abraham
Akaka
Biden
Boxer
Byrd
Cleland
Coverdell
D'Amato
Daschle
Dorgan
Durbin
Ford
Inouye
Johnson
Kennedy
Lautenberg
Leahy
McCain
Mikulski
Moseley-Braun
Murray
Reed
Reid
Rockefeller
Sarbanes
Snowe
Specter
Torricelli
Wellstone
Wyden

The motion to lay on the table the amendment (No. 441), Division I, was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. ROTH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MOTION TO WAIVE THE BUDGET ACT—AMENDMENT NO. 440, DIVISION II

The PRESIDING OFFICER (Mr. BROWNBACK). The question is now on the KENNEDY motion to waive section 310(d) of the Budget Act. There are 4 minutes for debate equally divided between the two sides.

Mr. KENNEDY. Mr. President, may we please have order?

The PRESIDING OFFICER. The Senate will come to order.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

ORDER OF PROCEDURE

Mr. LOTT. Mr. President, I think it will be helpful to all Members if we can engage in a colloquy now, and I hope the Democratic leader can join us so we can discuss how we will proceed from here.

Mr. FORD. Mr. President, we do need order, I say with all respect.

The PRESIDING OFFICER. With due respect to all Members, may we please have order in the body? Those having conversations, please take them off the floor.

The majority leader.

Mr. LOTT. Mr. President, my intent, of course, is to go now to the second vote on the Kennedy amendment, and then that would probably move us close to 7 o'clock. We would proceed to use the remainder of the time on other debate or amendments that will be offered. I presume that time will expire about 8 to 8:30. And then other amendments will be in order and will be debated tonight.

All amendments that are going to be offered need to be offered tonight, and then we will stack all the votes on all the amendments and final passage beginning at 9:30 in the morning.

We have discussed this with the Democratic leader. I do have a unanimous-consent request to implement that, but we will go ahead and have the vote now, and then we will make the UC request after that vote.

I wanted the Members to know my intent. If that is agreed to, then this next vote will be the final recorded vote tonight. We will begin to vote on all the amendments and final passage in the morning at 9:30.

I yield to the distinguished chairman of the committee, Senator DOMENICI. Mr. President, I ask the chairman, is that his understanding and does he have some feel as to what we are talking about here?

Mr. DOMENICI. I think the time runs out about 8:30.

Mr. LAUTENBERG. About 9, because the time for the vote does not come off, it just adds to it.

Mr. DOMENICI. So what we will do is Senator LAUTENBERG and I will stay here until that hour, let's use the example of 9 o'clock. There will only be one vote; it will be on the Kennedy point of order. We will spend the rest of the evening with Senators offering their amendments. It looks like there are about 20 of them. With a little debate tonight on each one, they then will be taken up seriatim tomorrow with 2 minutes to a side, but I think they have to be offered tonight. That is what the proposal will be.

Mr. LAUTENBERG. As a point of clarification for everybody, by what time do the amendments have to be sent to the desk?

Mr. DOMENICI. By the time we close up here tonight at 9 o'clock.

Mr. LAUTENBERG. When the time expires on the bill.

Mr. DOMENICI. Yes. That request will be made momentarily.

Mr. CHAFEE. Mr. President, can I ask, do we have a list of order of priority——

The PRESIDING OFFICER. Let's have order in the body.

Mr. LOTT. I will be glad to yield for a question from the Senator from Rhode Island.

Mr. CHAFEE. I ask the majority leader or manager of the bill, we have a list of priority. I am in line, and I don't want mine too far down the line.

Mr. DOMENICI. The Senator is pretty high up the line. He is about fourth or fifth.

Mr. LOTT. Maybe even higher, depending on who is here to offer their amendments at the time. Does the Democratic leader wish to add anything to what we have advised Senators?

Mr. DASCHLE. Mr. President, the arrangement just described by the majority leader is one that he and I have discussed, and I have subscribed to, as well. This would allow us to complete our work on this bill and provide the opportunity to those Senators who wish to have a debate on their amendments—the time to do so is tonight. We would then begin voting as early as 9:30 in the morning and have votes on all remaining amendments sometime tomorrow morning.

I think it is the appropriate way with which to resolve the remaining issues on this particular bill, and I encourage Senators to offer their amendments and complete our work on it by the end of the evening.

Mr. LOTT. Therefore, Mr. President, I ask unanimous consent that all remaining amendments in order to S. 947 must be offered prior to the close of business today, and any votes that will occur with respect to the amendments occur beginning at 9:30 a.m. on Wednesday in a stacked sequence.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Reserving the right to object, and I shall not, will there be a time for each amendment, for the proponents and opponents?

Mr. LOTT. Mr. President, I ask unanimous consent to amend that request to provide for a minute to explain the amendment on both sides, 2 minutes equally divided.

Mr. BUMPERS. Two minutes equally divided. Will that same time be accorded to people who offer second-degree amendments?

Mr. LOTT. It would be, but they would have to be offered tonight, I remind the Senator.

Mr. BUMPERS. A second-degree amendment cannot be offered until the first-degree is brought up.

Mr. President, parliamentary inquiry. A second-degree amendment in this scenario cannot be offered until the first-degree amendment is offered, can it?

Mr. LOTT. That is correct, but once the first-degree amendment is offered, then the second-degree——

Mr. BUMPERS. The second-degree could be in order, and it is not necessary that the second-degree amendment be filed or any notice given prior to that time.

Mr. LOTT. It has to be filed tonight once the first-degree amendment is offered, but you would not have to give notice until the first-degree amendment is offered, if it is offered, or you would still have the option, of course, to offer it as a first-degree amendment if you want to.

Mr. BUMPERS. Parliamentary inquiry, Mr. President. Is that a correct statement, that the second-degree amendment would have to be offered tonight and you would not know precisely what amendment you would offer it to until tomorrow?

The PRESIDING OFFICER. The majority leader is correct. The first-degree and the second-degree would both have to be offered this evening.

Mr. BUMPERS. Is the Parliamentarian saying that if I have a second-degree amendment to any amendment that is going to be offered here tonight before we adjourn for the evening, that I will not be allowed to offer second-degree amendments tomorrow to any one of those amendments unless that second-degree amendment is filed also this evening?

The PRESIDING OFFICER. The second-degree amendment must be offered tonight and only tonight.

Mr. BUMPERS. Offered or filed?

The PRESIDING OFFICER. Offered.

Mr. BUMPERS. Has to be offered this evening?

The PRESIDING OFFICER. That is correct.

Mr. BUMPERS. I am not sure about the language here. How can you offer a second-degree amendment before a first-degree amendment is offered?

Mr. LOTT. If the Chair will allow me, the first-degree amendments would be offered tonight if Senators wish to offer them, and then the second-degree amendment would be in order to be offered tonight once the first-degree amendment is offered.

I do not understand why that is a problem. You have to stay here to offer your second-degree amendment or have some leadership person in your behalf offer that second-degree amendment, but there would be ample opportunity on both sides tonight to offer second-degree amendments if a Senator so desires.

Under the rules, all time will expire between 8:30 and 9 o'clock, and the only time remaining then will be to offer amendments and to have the votes in order on those amendments.

Mr. BUMPERS. I have to stay here then until 10 o'clock tonight to see whether a first-degree amendment to which I can offer a second-degree amendment would be filed this evening, is that correct?

Mr. LOTT. That is correct.

Mr. BUMPERS. Could I get a parliamentary ruling on that.

The PRESIDING OFFICER. If the Senator wants to offer a second-degree amendment, the Senator would have to stay this evening to offer a second-degree amendment.

Mr. DOMENICI. Will the Senator yield?

Mr. BUMPERS. I yield.

Mr. DOMENICI. What the leadership has proposed is that between now and 9 o'clock any amendment that is going to be offered to this bill be offered, and then it says anybody that has a second-degree amendment to any amendment that is offered tonight must also offer the second-degree tonight, leaving the work tomorrow to be just votes on the amendments that were offered tonight, and any second-degree amendments, if any, will also be voted tomorrow under the 2 minutes equally divided rule.

Mr. LOTT. I might say, Mr. President, we have a list——

Mr. BUMPERS. I object to the unanimous-consent agreement.

The PRESIDING OFFICER. The objection is heard.

Mr. LOTT. Mr. President, since there is an objection, then we would go ahead with the amendment, and we will have an opportunity to discuss further with the Senator his concerns, and we will renew our request after this vote.

Mr. CHAFEE. I would like to ask the majority leader a question, if I might. I have a question.

I have an amendment which I will be presenting this evening, but it may well be tomorrow that there might be modifications that the leadership might want to make to it which would be acceptable to me, but that cannot take place unless that is all filed tonight?

Mr. DOMENICI. It can be done by unanimous-consent request tomorrow.

Mr. CHAFEE. It can be done by unanimous consent tomorrow, I see.

DIVISION II—AMENDMENT NO. 440

The PRESIDING OFFICER. The question is on the Kennedy motion to waive section 310(d) of the Budget Act. There are 4 minutes equally divided between the sides on this motion.

Mr. KENNEDY. Mr. President, under the current bill approximately 2 million Medicare recipients will, starting in January of next year, pay more for their Medicare premiums. They did not know that yesterday. They did not know that this morning. They did not know that at noon today, and they did not know it until just a few moments ago when the Senate made its decision to retain this provision.

This particular amendment asks the Senate to postpone the effective date of this amendment for 2 years to permit the commission to review the effect of the means-testing proposal and to allow the retirees affected by this increase to make changes in their family budgets to accommodate the significantly higher premiums that will otherwise go into effect in just 6 months. Unless Congress takes other action during this time, the provision would take effect in January 2000.

This time would give us an opportunity to fully discuss and debate this landmark decision.

That is the practical effect of waiving the point of order. This is a matter of great importance to the Medicare system and the 2 million beneficiaries who will be affected by the proposal, and we ought to be able grant a reasonable period of time for its assessment and for seniors to prepare to pay more.

Mr. ROTH. Mr. President, I think that the last vote overwhelmingly decided this issue. Income-related premiums are fair.

I just point out that by delaying it 2 years, we would lose something like $1.3 billion in a program that is already in difficulty. These funds are necessary and they are needed.

Mr. President, if a means test is fair in 2 years, then it is fair today. I see no reason for the delay. Let me remind my colleagues that the premium increase is very modest, given the part B benefits.

I urge my colleagues not to waive the point of order.

Mr. DODD. Mr. President, briefly, I supported the amendment which would means test this program, but I think a 24-month delay on this, while there is some loss of revenue here, is a wise move to make. We are moving very rapidly here on some major changes. I believe the means testing is the right way to go.

Mr. ROTH. Point of order. Is time limited?

Mr. DODD. I ask unanimous consent to speak for 1 minute, if I may, 1 minute on means testing Medicare.

The PRESIDING OFFICER. The Senator from Massachusetts has 30 seconds remaining on his time.

Mr. KENNEDY. I am happy to yield.

Mr. DODD. Briefly, it seems to me, a 24-month delay on this—I supported means testing, but I think we ought to know the full implication of what we are doing, and while there is a loss of revenue here by not implementing, it is for 2 years. It seems to me that proceeding with a degree of caution to make sure all the people that we want to benefit will be benefited and those to be excluded will be excluded properly, is not a lot to ask.

I urge the proposal of the Senator from Massachusetts be adopted. It seems to me we ought not to be fighting over 24 months. We have agreed to means test. We waited a long time to get to this. Now we should do it intelligently.

The PRESIDING OFFICER. The Senator from New Mexico has 1 minute remaining.

Mr. DOMENICI. Mr. President, I want to use my 1 minute to inform the Senators that I did not tell the Senate, when our distinguished majority leader was seeking unanimous-consent requests, I do not intend to offer any process amendments here tonight or tomorrow. They are just as much relevant to the finance tax bill as they are to this one, and I choose not to put them on here.

People may have had second-degree amendments to my process. There will not be any process amendments on this, at least from this Senator. Others might want to do them, but they are not second-degreeing mine.

I yield back the balance of my time.

The PRESIDING OFFICER. The question is on the Kennedy motion to waive section 310(d) of the Budget Act, for the consideration of division II of amendment No. 440.

The yeas and nays have been ordered.

This is a 10-minute vote.

The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 37, nays 63, as follows:

[Rollcall Vote No. 114 Leg.]

YEAS—37

Abraham
Akaka
Biden
Bingaman
Boxer
Bumpers
Byrd
Cleland
Collins
Coverdell
D'Amato
Daschle
Dodd
Dorgan
Durbin
Ford
Harkin
Inouye
Johnson
Kennedy
Kerry
Lautenberg
Leahy
Levin
McCain
Mikulski
Moseley-Braun
Murray
Reed
Reid
Rockefeller
Sarbanes
Snowe
Specter
Torricelli
Wellstone
Wyden

NAYS—63

Allard
Ashcroft
Baucus
Bennett
Bond
Breaux
Brownback
Bryan
Burns
Campbell
Chafee
Coats
Cochran
Conrad
Craig
DeWine
Domenici
Enzi
Faircloth
Feingold
Feinstein
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Jeffords
Kempthorne
Kerrey
Kohl
Kyl
Landrieu
Lieberman
Lott
Lugar
Mack
McConnell
Moynihan
Murkowski
Nickles
Robb
Roberts
Roth
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Stevens
Thomas
Thompson
Thurmond
Warner

The PRESIDING OFFICER. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The point of order is sustained and the amendment falls.

Mr. DOMENICI. Mr. President, I move to reconsider the vote.

Mr. LOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UNANIMOUS-CONSENT AGREEMENT

Mr. LOTT. Mr. President, we have again conferred with the Democratic leadership, and I believe we have this unanimous-consent agreement approved.

I ask unanimous consent that all remaining amendments in order to S. 947 must be offered prior to the close of business today and any votes ordered with respect to those amendments occur beginning at 9:30 a.m. on Wednesday, in a stacked sequence, with 2 minutes equally divided between each vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. I ask unanimous consent that when the Senate reads S. 947 for the third time, the Senate proceed to vote on passage of the balanced budget reconciliation bill, all without intervening action or debate, and when the Senate receives the House companion bill, the Senate proceed to its immediate consideration and all after the enacting clause be stricken and the text of S. 947, as amended, be inserted, the bill be immediately considered as having been read for a third time and passed and the motion to reconsider be laid upon the table, all without further action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Mr. President, we can announce that that would be the last recorded vote tonight. We will begin our stacked votes in the morning at 9:30. We are ready to go with the remaining debate and amendments that will be offered.

I yield the floor.

Mr. GRAMM. I yield to the Senator from Illinois for a unanimous-consent request, without losing my right to the floor.

Ms. MOSELEY-BRAUN. I thank my friend, the Senator from Texas.

CHANGE OF VOTE

Ms. MOSELEY-BRAUN. Mr. President, on rollcall vote No. 111, I voted aye. It was my intention to vote no. Therefore, I ask unanimous consent that I be permitted to change that vote. It in no way changes the outcome of the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 444

(Purpose: To provide waiver authority for penalties relating to failure to satisfy minimum participation rate)

Mr. GRAMM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM] proposes an amendment numbered 444.

Mr. GRAMM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 947, between lines 2 and 3, insert the following:

(n) FAILURE TO SATISFY MINIMUM PARTICIPATION RATES.—Section 409(a)(3) (42 U.S.C. 609(a)(3)) is amended—

(1) in subparagraph (A), by striking "not more than"; and

(2) in subparagraph (C), by inserting before the period the following: "or if the noncompliance is due to extraordinary circumstances such as a natural disaster or regional recession. The Secretary shall provide a written report to Congress to justify any waiver or penalty reduction due to such extraordinary circumstances".

Mr. GRAMM. Mr. President, the amendment that I sent to the desk is really a technical correction. When we were drafting the welfare bill in the Senate, we had a 5-percent penalty for failure to meet the work requirement. It went up from 5 percent the first year to 10 percent the second and 15 the third, up to 100 percent. In conference, we decided to reduce the penalty for noncompliance in consecutive years from an additional 5 percent to an additional 2 percent. So the penalty would be 7 percent in the second year and 9 percent in the third, with a cap of 21 percent. Inadvertently—and everyone agrees it was a technical mistake—the staff added three words, "not more than," which gave the Secretary discretion over the size of the penalties.

Senator GRAHAM of Florida raised the question in committee as to whether or not we should give the Secretary the power to waive or reduce the size of the penalty where there was a natural disaster or where there was a regional economic crisis.

So my amendment goes back and puts the actual language that we had agreed to in conference on the welfare bill. But it also addresses the concerns that Senator GRAHAM of Florida raised. It gives the Secretary the power to waive the penalties for not meeting the work requirement in two additional cases which were not included in the original bill. One is a natural disaster, and the other is in the case of where you have a regional economic problem.

I think this deals with the concern that was raised.

I ask my colleagues to support the amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I understand that Senator GRAMM has completed the introduction of his, and the vote will occur tomorrow with 1 minute on each side.

I think we agreed that Senator REED could go next. He has 10 minutes on a full substitute.

The PRESIDING OFFICER. The Senator from Rhode Island.

AMENDMENT NO. 445

(Purpose: To provide for a complete substitute of division 1 of title V)

Mr. REED. Thank you, Mr. President. I have an amendment at the desk.

The PRESIDING OFFICER. Will the Senator withhold for a moment?

If there is no objection, the pending amendment will be set aside, and the Senator from Rhode Island is recognized.

Mr. REED. I thank you, Mr. President,

Mr. President, my amendment this evening gives my colleagues of the Senate a clear choice to stabilize the solvency of the Medicare trust fund without including some of the provisions which we already talked about this afternoon, and others which undermine the concept of a universal Medicare system. Medicare provides excellent health care for all of our seniors—it is a system that has operated for 30 years, a system that works, a system that is supported by the vast majority of Americans.

Specifically, what my amendment will do is provide for the revenue savings and the cost savings that are incorporated in the underlying bill, but remove from that bill those provisions that harm the structural integrity of the Medicare program.

My amendment would retain the Medicare eligibility age of 65. It would strike the home health copay. It would add the current law that protects Medicare recipients with respect to balanced-billing protection for those recipients and beneficiaries who may choose to opt for private fee-for-service Medicare health coverage. It would also eliminate the means-tested provisions for Medicare. And, finally, it would eliminate the medical savings account as a Medicare option.

All of these provisions which I have mentioned are not necessary to preserve the solvency of the Medicare fund. We can achieve solvency by agreeing to the savings and reimbursement changes which are in the underlying bill. And we can provide for a solvent Medicare system in the future without endangering the Medicare program itself.

I would like to comment on the specifics in my substitute.

First, as I mentioned before, my amendment would strike the rollback of the Medicare eligibility age to 67. I realize that this has been debated today. But this is such a critical point that it bears restating.

Reducing the Medicare eligibility age is exactly the wrong way to proceed with respect to health care reform—not just Medicare reform, but health care reform in this country. Our goal should be to encourage more participation in health care, to extend health care benefits to more Americans and not to reduce health care coverage.

Indeed, it is a cruel irony tonight that one of the beneficial aspects of the underlying legislation is the extension of health care to more children and, yet, we are contracting the health care coverage of seniors.

I believe also that this provision will send shockwaves throughout our entire health care system as companies are forced to realize the additional liability under current accounting rules. Many employers provide health care to their employees until Medicare eligibility age. If that age is rolled back, employers incur more costs. If they incur more costs and have to show it on the balance sheet, they are going to have to make very difficult choices not only about the coverage for retirees, but also if they are going to continue to provide coverage for their current workers.

This is something that should not be done lightly and, indeed, represents, a retreat from our commitment to provide more and more Americans with access to good quality health care.

Let me also suggest with respect to the home health copay that this is a provision which does not support those people who particularly need this type of support. Forty-three percent of the individuals who would have to pay this copay have incomes under $10,000 a year. Two-thirds of persons using these benefits are women, one-third of whom live alone.

Just yesterday we heard from a woman—an 82-year-old woman—who desperately relies upon home health care services. She—and many others like her—would be in no condition to pay the increased costs. This provision should also be stricken.

With respect to medical savings accounts, this is the provision which I think will go toward the unraveling of the Medicare system as we know it. Under the MSA concept, a senior would be required to use Medicare money to buy a catastrophic health policy, and any savings left over from Medicare's payment could be put in the medical savings account.

This provision will attract wealthy seniors who, frankly, can pay for some of these costs. It would also attract those people who are healthy. Essentially, they would be making a judgment whether they are healthy enough to run the risk of avoiding significant illness, and, if so, this is a good option. If they are not so healthy, then their best rational choice would be to go for fee-for-service, traditional Medicare. The consequence would be that we would see wealthy, healthy seniors leave the Medicare system and, with them, the proportion of money that is contributed in their behalf. The remaining seniors would be sicker, older, and more likely to use services. This would put increased pressure on the Medicare program.

Those who see this as a way of making the system more solvent and more secure are missing the point. MSAs would lead to a situation in which the system is harmed, more costs are piled upon Medicare, Medicare becomes more difficult to fund and, indeed, to support.

Also, my substitute would eliminate the means testing provision. Philosophically, I think Medicare works because it is seen as a health care program and not a welfare program. To the extent that we make this part B premium differential between wealthy individuals and nonwealthy individuals, this program will take on quickly the shades of a welfare program. It will undercut the tremendous support in all ranges of American life for the Medicare system.

This part B premium adjustment is done in the context of a voluntary system, a system in which seniors might perceive—particularly wealthy seniors—that it is no longer a good deal to be part of part B. These seniors could voluntarily leave or buy other types of insurance—in fact the industry, I think, right now is probably planning to sell.

Once again, we will see the unraveling of the Medicare system as more people leave and as their contributions are taken with them from the Medicare system.

All of these together will lead to a situation in which we hear the first crack in the system. And as time goes on, those cracks will widen to deep fissures, and the solid support that we have today will ultimately erode.

A final point is with respect to a provision in the underlying bill, the lack of balanced billing protections in the private fee-for-service option. Current Medicare law balance billing limits protect seniors now and would be undercut because of the options in the underlying bill that allow beneficiaries to choose medical policies in which physicians could charge beyond the Medicare limits. This balanced billing protection exists for fee-for-service, traditional Medicare recipients. It should be in place for all beneficiaries of Medicare regardless of the program they choose. My amendment would add balance billing limits to the Medicare Choice provisions of the bill currently without them.

In a sense, what this amendment does in the nature of a substitute is say that we can provide solvency for Medicare. We can go ahead and provide the opportunities to make careful, comprehensive review of the system. We can make changes. But we don't have to do it today. We don't have to have to do it hastily. We don't have to do it in an ad hoc fashion which misses the systematic impact of all of these changes we have talked about today. Rather, we can—as I think the agreement reached with respect to the budget agreement several months ago indicates—we can stabilize the system, reduce the increasing costs associated with Medicare by roughly $115 billion and not defer, but study carefully and comprehensively and thoroughly the impact of some of these proposed changes.

This amendment stabilizes the system. It eliminates precipitous changes in Medicare that will undermine the program—changes in this bill that may leave us in a situation where Medicare is no longer a universal program in which all of our seniors can participate. Medicare should continue to be a program in which all of our seniors can and will participate, and a program in which all of our seniors will be guaranteed high quality health care that they can afford.

Mr. LAUTENBERG. Mr. President, I want to commend the Senator from Rhode Island for bringing this up. He stood against overwhelming odds as he introduced this substitute, because it did go over some ground that we had already covered. But, to Senator REED's credit, he is determined to make certain that the system is as fair and as effective as it can be.

I compliment him for sticking to this. I know the prospects may be grim. But hope springs eternal. And that is the attitude that I think Senator REED always has. I hope that the best will come as everybody reflects overnight on what is in his amendment.

Mr. REED. I thank the Senator.

Mr. DOMENICI. Parliamentary inquiry, Mr. President. Does Senator REED have any time remaining?

The PRESIDING OFFICER. The Senator from Rhode Island has 15 minutes remaining.

Mr. DOMENICI. I thought he agreed to 10 minutes.

Mr. REED. Indeed, I did.

Mr. DOMENICI. The Senator agreed to 10 minutes, and we agreed to 10 minutes in opposition, which we will not use.

The PRESIDING OFFICER. That was not the understanding of the Parliamentarian. Let me check that.

Mr. DOMENICI. It was informal. I did not state it.

The PRESIDING OFFICER. We don't have a consent agreement to that effect. But if there was a formal agreement, the Parliamentarian and the Presiding Officer is certainly willing to accept it.

Mr. REED. Mr. President, I did not hear the amount of time remaining based on 10 minutes.

The PRESIDING OFFICER. The Senator has spoken for 10 minutes.

Mr. REED. I thank the President.

The PRESIDING OFFICER. And he yields back.

Mr. DOMENICI. Mr. President, this is the amendment, 600 pages long. We do not know what is in it. We do not know if it meets the budget reconciliation instruction. We do not know what the Congressional Budget Office says it does to reduce deficits. It is obviously subject to a point of order, which I will make in a moment.

But I just want to remind Senators so we will know tomorrow that this bill also forces us to vote again on at least three amendments that passed by rather large votes here today.

It retains the medical care eligibility at 65. We have already passed an amendment that over the next 30 years implements an age increase to 67.

It strikes the home health copay, which passed by rather substantial margin.

It eliminates the means testing of Medicare, which we just finished debating about 35 to 40 minutes ago and which passed with a rather significant vote.

It eliminates medical savings accounts as a Medicare option. Now, we have not voted on that yet.

But those are some of the things that I know are in it.

I yield back any remaining time that I have.

I make a point of order that the amendment violates the Budget Act, 310(b).

Mr. REED addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Mr. President, pursuant to Section 904, I move to waive any point of order against my amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DOMENICI. Mr. President, I think everything from this point on is rather informal, so maybe we can work together on it. If we go to our side, we will have Senator CHAFEE, and then we will return to Senator WELLSTONE, if that is satisfactory to him. He has been waiting a long, long time. How much time would you like, Senator CHAFEE?

Mr. CHAFEE. Let me try 10 minutes.

Mr. DOMENICI. Ten minutes. OK. And, Senator WELLSTONE, you need how much? And I need some of your time.

Mr. WELLSTONE. Ten minutes will be fine.

Mr. DOMENICI. And I can use part of that time.

Mr. WELLSTONE. Ten minutes equally divided.

Mr. CHAFEE. How much time does he have—equally divided?

Mr. DOMENICI. Yes. That's all right, you go now, and we will go next.

Senator LAUTENBERG, can we go ahead and set up times so all Senators will know what to expect?

Mr. LAUTENBERG. I think that is a good idea.

Mr. DOMENICI. Whatever I am stating here, I am asking these will be the times.

The PRESIDING OFFICER. Without objection, the Senator from Rhode Island will be recognized for 10 minutes, followed by the Senator from Minnesota, to be recognized for 10 minutes, with 5 minutes of that time to be given to the Senator from New Mexico.

Mr. DOMEINICI. Is there somebody who wants to oppose Senator CHAFEE's amendment?

Mr. CHAFEE. No.

Mr. LAUTENBERG. Senator CHAFEE shook his head no.

Mr. DOMENICI. Senator D'AMATO?

Mr. D'AMATO. Ten minutes.

Mr. DOMENICI. Between the two of you.

Mr. HARKIN. Ten minutes each.

Mr. D'AMATO. I will take 5 minutes and the Senator 10 minutes.

Mr. HARKIN. Ten minutes. I need about 10 minutes.

Mr. DOMENICI. Ten minutes between you?

Mr. HARKIN. I would like to have 10 minutes.

Mr. DOMENICI. Senator D'AMATO.

Mr. D'AMATO. Just 5.

Mr. DOMENICI. I don't know whether we are going to oppose it, but I would like to keep 5 minutes. I think I am opposed to it.

Senator HUTCHISON.

Mrs. HUTCHISON. I would like 5 minutes on an amendment.

Mr. DOMENICI. Might I suggest that Senator HUTCHISON's amendment is going to be acceptable. Perhaps we can give you the 5 right now. We ask unanimous consent she have 5 minutes, but we may just let her go out of order to get hers taken, if that would not be objectionable.

Mr. LAUTENBERG. Senator DURBIN wants 10 minutes.

Mr. DOMENICI. Ten minutes.

Mr. DURBIN. I will try to make it short.

Mr. DOMENICI. Is that it? Senator BURNS.

Mr. BURNS. Mr. President, I have an amendment to offer, but I am not going to require any time. I can do mine in the morning, and after you look at it, it may be acceptable.

Mr. DOMENICI. You do it in the morning, but we will offer it for you.

Mr. BURNS. I want to do it tonight.

Mr. DOMENICI. We will offer it for you, and you will be able to debate it in the morning.

Mr. BURNS. That is exactly right.

Mr. DOMENICI. Any other Senators want any other time?

The PRESIDING OFFICER. If there is no objection, we will add to the previous request 15 minutes for the amendment of the Senator from Iowa, to be divided 10 minutes to the Senator from Iowa and 5 minutes to the Senator from New York; 5 minutes to the Senator from Texas for her amendment; and 10 minutes to the Senator from Illinois on his amendment.

Is there objection? Without objection, it is so ordered.

Mr. DOMENICI. Now, Mr. President, I wonder if Senator CHAFEE would be so good as to let Senator HUTCHISON, whose amendment is going to be accepted—is your amendment acceptable also?

Mr. CHAFEE. I would be delighted if my amendment would be acceptable.

Mr. DOMENICI. OK. We are going to let you go right now, and to the extent that violates the agreement, we ask unanimous consent.

The PRESIDING OFFICER. Without objection, the Senator from Texas is recognized.

Mrs. HUTCHISON. I thank the Chair, and I thank the distinguished chairman.

AMENDMENT NO. 446

(Purpose: To require States to verify that prisoners are not receiving food stamp benefits)

Mrs. HUTCHISON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Texas [Mrs. HUTCHISON], for herself and Mr. SANTORUM, proposes an amendment numbered 446.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of title I, add the following:

SEC. 10__. DENIAL OF FOOD STAMPS FOR PRISONERS.

(a) STATE PLANS.—

(1) IN GENERAL.—Section 11(e) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)) is amended by striking paragraph (20) and inserting the following:

"(20) that the State agency shall establish a system and take action on a periodic basis—

"(A) to verify and otherwise ensure that an individual does not receive coupons in more than 1 jurisdiction within the State; and

"(B) to verify and otherwise ensure that an individual who is placed under detention in a Federal, State, or local penal, correctional, or other detention facility for more than 30 days shall not be eligible to participate in the food stamp program as a member of any household, except that—

"(i) the Secretary may determine that extraordinary circumstances make it impracticable for the State agency to obtain information necessary to discontinue inclusion of the individual; and

"(ii) a State agency that obtains information collected under section 1611(e)(1)(I)(i)(I) of the Social Security Act (42 U.S.C. 1382(e)(1)(I)(i)(I)) through an · agreement under section 1611(e)(1)(I)(ii)(II) of that Act (42 U.S.C. 1382(e)(1)(I)(ii)(II)), or under another program determined by the Secretary to be comparable to the program carried out under that section, shall be considered in compliance with this subparagraph.".

(2) LIMITS ON DISCLOSURE AND USE OF INFORMATION.—Section 11(e)(8)(E) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(8)(E)) is amended by striking "paragraph (16)" and inserting "paragraph (16) or (20)(B)".

(3) EFFECTIVE DATE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this subsection shall take effect on the date that is 1 year after the date of enactment of this Act.

(B) EXTENSION.—The Secretary of Agriculture may grant a State an extension of time to comply with the amendments made by this subsection, not to exceed beyond the date that is 2 years after the date of enactment of this Act, if the chief executive officer of the State submits a request for the extension to the Secretary—

(i) stating the reasons why the State is not able to comply with the amendments made by this subsection by the date that is 1 year after the date of enactment of this Act;

(ii) providing evidence that the State is making a good faith effort to comply with the amendments made by this subsection as soon as practicable; and

(iii) detailing a plan to bring the State into compliance with the amendments made by this subsection as soon as practicable and not later than the date of the requested extension.

(b) INFORMATION SHARING.—Section 11 of the Food Stamp Act of 1977 (7 U.S.C. 2020) is amended by adding at the end the following:

"(q) DENIAL OF FOOD STAMPS FOR PRISONERS.—The Secretary shall assist States, to the maximum extent practicable, in implementing a system to conduct computer matches or other systems to prevent prisoners described in section 11(e)(20)(B) from receiving food stamp benefits.".

SEC. 10 . NUTRITION EDUCATION.

Section 11(f) of the Food Stamp Act of 1977 (7 U.S.C. 2020(f)) is amended—

(1) by striking "(f) To encourage" and inserting the following:

"(f) NUTRITION EDUCATION.—

"(1) IN GENERAL.—To encourage"; and

(2) by adding at the end the following:

"(2) GRANTS.—

"(A) IN GENERAL.—The Secretary shall make available not more than $600,000 for each of fiscal years 1998 through 2001 to pay the Federal share of grants made to eligible private nonprofit organizations and State agencies to carry out subparagraph (B).

"(B) ELIGIBILITY.—A private nonprofit organization or State agency shall be eligible to receive a grant under subparagraph (A) if the organization or agency agrees—

"(i) to use the funds to direct a collaborative effort to coordinate and integrate nutrition education into health, nutrition, social service, and food distribution programs for food stamp participants and other low-income households; and

"(ii) to design the collaborative effort to reach large numbers of food stamp participants and other low-income households through a network of organizations, including schools, child care centers, farmers' markets, health clinics, and outpatient education services.

"(C) PREFERENCE.—In deciding between 2 or more private nonprofit organizations or State agencies that are eligible to receive a grant under subparagraph (B), the Secretary shall give a preference to an organization or agency that conducted a collaborative effort described in subparagraph (B) and received funding for the collaborative effort from the Secretary before the date of enactment of this paragraph.

"(D) FEDERAL SHARE.—

"(i) IN GENERAL.—Subject to subparagraph (E), the Federal share of a grant under this paragraph shall be 50 percent.

"(ii) NO IN-KIND CONTRIBUTIONS.—The non-Federal share of a grant under this paragraph shall be in cash.

"(iii) PRIVATE FUNDS.—The non-Federal share of a grant under this paragraph may include amounts from private nongovernmental sources.

"(E) LIMIT ON INDIVIDUAL GRANT.—A grant under subparagraph (A) may not exceed $200,000 for a fiscal year.".

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I understand this has been cleared by both sides. This is an amendment that I offer. It is an amendment that passed on a record vote of 409 to zero in the House. It basically closes a loophole in the Food Stamp Program.

The GAO did a study and determined that the Federal Government is losing nearly $4 million a year to provide food stamps for prisoners who obviously do not need food stamps. Prisoners do not qualify for food stamps because, of course, they are being fed in prison. But nevertheless, there is food stamp abuse going on where someone in a household claims a prisoner to add to the food stamp benefits.

Mr. President, I am very pleased that this amendment is going to be accepted because I think it is very important that the States do a basic check of their prison rolls with their food stamp rolls to make sure that the food stamps are being used for the purpose for which they were intended.

Food stamps are an entitlement, as they should be. They are given to anyone who is in need. But I think it is not fair to double dip, and we can save $4 million. In fact, that $4 million will go into some of the other very important programs that will be covered by this reconciliation bill.

So I am very pleased that we are closing this loophole, and I am very pleased that we are also adding another part that provides nutrition education for the low-income households through a network of social service organizations. This is something that Senator RICK SANTORUM has been a leader in doing, and he is a cosponsor of this amendment. I think we can do a lot of good.

So I thank the managers of the bill for accepting this amendment. I urge adoption of the amendment and ask that we have a voice vote.

The PRESIDING OFFICER. Is there further debate?

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. I just wonder if I could ask—I was just informed of this amendment as ranking member on authorization. I just want to make sure I understand it fully. I would ask the Senator from Texas to yield for a question.

Mrs. HUTCHISON. Yes, I would be happy to yield for a question.

Mr. HARKIN. As I understand, what the Senator is saying is that right now under the food stamp rolls, if there is a person in the household who is incarcerated, that you just want to ensure that the changes are made to reflect that there is one less person in that household for purposes of food stamp eligibility and food stamp allotment?

Mrs. HUTCHISON. I think what the Senator is asking is, is this going to affect the rest of the family? The answer is no. It is just that the prisoner would be taken out of the equation.

Mr. HARKIN. That is a good amendment.

Mr. DOMENICI. That had been accepted. We had failed to tell you we had already agreed.

Mr. HARKIN. I appreciate that. It is a good amendment.

Mrs. HUTCHISON. I thank the Senator from Iowa for accepting the amendment. I ask unanimous consent that it be adopted.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 446) was agreed to.

Mrs. HUTCHISON. Mr. President, I will send another amendment to the desk and ask for its immediate consideration. Then I want it to be set aside for future consideration.

The PRESIDING OFFICER. The clerk will report.

Mr. DOMENICI. Is this being submitted pursuant to the unanimous consent that it would be taken care of tomorrow?

Mrs. HUTCHISON. This is an amendment that we are placing—it is on the "DSH" issue, and we are going to do a place-holder amendment, but it was suggested I go ahead and put it in.

Mr. DOMENICI. It was on the list. Could you send it to the desk?

Mrs. HUTCHISON. I just want to formally submit the amendment.

AMENDMENT NO. 447

(Purpose: To modify the reductions for disproportionate share hospital payments)

Mrs. HUTCHISON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Texas [Mrs. HUTCHISON] proposes an amendment numbered 447.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning on page 770, strike line 18 and all that follows through page 774, line 15, and insert the following:

"(2) DETERMINATION OF STATE DSH ALLOTMENTS FOR FISCAL YEARS 1998 THROUGH 2002.—

"(A) NON HIGH DSH STATES.—

"(i) IN GENERAL.—Except as provided in subparagraph (B) and paragraph (4), the DSH allotment for a State for each of fiscal years 1999 through 2002 is equal to the applicable percentage of the State 1995 DSH spending amount.

"(ii) APPLICABLE PERCENTAGE.—For purposes of clause (i), the applicable percentage with respect to a State described in that clause is—

"(A) for fiscal year 1998, 98 percent;
"(A) for fiscal year 1999, 95 percent;
"(B) for fiscal year 2000, 93 percent;
"(C) for fiscal year 2001, 90 percent; and
"(D) for fiscal year 2002, 85 percent.

"(B) HIGH DSH STATES.—

"(i) IN GENERAL.—In the case of any State that is a high DSH State, the DSH allotment for that State for each of fiscal years 1999 through 2002 is equal to the applicable reduction percentage of the high DSH State modified 1995 spending amount for that fiscal year.

"(ii) HIGH DSH STATE MODIFIED 1995 SPENDING AMOUNT.—

"(I) IN GENERAL.—For purposes of clause (i), the high DSH State modified 1995 spending amount means, with respect to a State and a fiscal year, the sum of—

"(aa) the Federal share of payment adjustments made to hospitals in the State under subsection (c) that are attributable to the 1995 DSH allotment for inpatient hospital services provided (based on reporting data specified by the State on HCFA Form 64 as inpatient DSH); and

"(bb) the applicable mental health percentage for such fiscal year of the Federal share of payment adjustments made to hospitals in the State under subsection (c) that are attributable to the 1995 DSH allotment for services provided by institutions for mental diseases and other mental health facilities (based on reporting data specified by the State on HCFA Form 64 as mental health DSH).

"(II) APPLICABLE MENTAL HEALTH PERCENTAGE.—For purposes of subclause (I)(bb), the applicable mental health percentage for such fiscal year is—

"(aa) for fiscal year 1999, 50 percent;
"(bb) for fiscal year 2000, 20 percent; and
"(cc) for fiscal years 2001 and 2002, 0 percent.

"(iii) APPLICABLE REDUCTION PERCENTAGE.—For purposes of clause (i), the applicable reduction percentage described in that clause is—

"(A) for fiscal year 1998, 98 percent;
"(A) for fiscal year 1999, 93 percent;
"(A) for fiscal year 2000, 90 percent;
"(A) for fiscal year 2001, 85 percent; and
"(B) for fiscal year 2002, 80 percent.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent the amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. HUTCHISON. I thank the Chair.

The PRESIDING OFFICER. Under the previous order, the Senator from Rhode Island is recognized.

AMENDMENT NO. 448

(Purpose: To clarify the standard benefits package and the cost-sharing requirements for the children's health initiative)

Mr. CHAFEE. Mr. President, on behalf of Senator ROCKEFELLER, Senator JEFFORDS, and myself, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for himself, Mr. ROCKEFELLER and Mr. JEFFORDS, proposes an amendment numbered 448.

Mr. CHAFEE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. CHAFEE. Mr. President, I am offering an amendment with Senator ROCKEFELLER and Senator JEFFORDS to ensure that the children's health insurance block grant, which is what we provided for from the Finance Committee, provides adequate health coverage for children and that it is affordable for most low-income families.

Let me say I am very pleased in this package we have $24 billion, $24 billion set aside to provide health insurance coverage for some of the 10 million children in our Nation who are currently uninsured. I thank the chairman of the committee for helping us in many respects in connection with how this health care money is dispensed.

There are two areas which remain of concern to me, namely what benefits are we going to provide to these children and how much are we going to require their parents to pay toward health insurance; in other words, deductibles and copayments. Under the Finance Committee bill, it provides that the benefits should be actuarially equivalent to the benefits provided under the Federal Employees Health Benefits Plan. This, of course, is not a single plan. It is a menu of plans that Federal employees may choose from. These plans are designed to meet the needs of adult Federal workers and retirees, not children. Stating that the benefits must be actuarial equivalent, which means the same dollar value, does not spell out what benefits the children will get. Children could be denied critical benefits, such as vision and hearing care.

Some may say the States will offer the benefits that children need, but that is not what the record shows. A survey by the National Governors' Association of the 28 non-Medicaid—in other words programs that are not pursuant to Medicaid—State health programs for children found that they did not cover vision care in 16 of these plans; 16 out of 28 did not cover glasses for these poor children, and 10 didn't cover hearing defects.

The amendment I am offering today would require that the benefits be at least the same as those under the standard Blue Cross/Blue Shield benefit package, including hearing and vision services.

We are talking about very low-income children here. These are children who live in families of three where the gross income is under $18,000. We are talking about children at 133 percent of the Federal poverty level. They do not have extra money to provide for eyeglasses or hearing aids. What we do is provide that the package be the same as the Blue Cross/Blue Shield package as far as benefits go. This is a standard package and it includes eyeglasses and hearing aids.

In addition, we provide deductibles and copayments be eliminated for those who are—not eliminated, but be nominal for those from these very low-income families. So, that is the essence of it. It is a very good amendment. I wish it would be accepted. And I yield now—how much time do I have left?

The PRESIDING OFFICER. The Senator has 6 minutes and 40 seconds remaining.

Mr. CHAFEE. I yield 4 minutes to my colleague from West Virginia.

Mr. ROCKEFELLER. Mr. President, I thank my distinguished colleague from the State of Rhode Island. My comments on the amendment, this Senator's comments, would echo those of the Senator from Rhode Island.

In the present bill before us, there is a requirement that benefits provided be actuarially equivalent to the benefits provided under the Federal Employees Health Benefits Program or FEHBP, it sounds good. But, in fact, since there are so many plans out there, you do not know what kind of benefits that is going to get you. Actuarial equivalence simply guarantees a dollar amount that the insurance for each child has to add up to. It does not specify an actual level or set of benefits, which is the true meaning of decent and necessary health insurance. In fact, the child could very well not get inpatient services or not get outpatient services or not receive prescription drugs. Our amendment ties benefits that would need to be provided to a child to a specific health plan that is available under FEHBP. Sixty percent of Federal workers select the BC/BS standard PPO option. Our amendment says that benefits provided to children must be at least up to that level, plus vision and hearing. We want our children to get hospital care, we want them to get primary care, we want them to get preventive care. Basic protections that a majority of Federal workers choose for their own families.

The cost sharing requirements in our amendment would also set a standard that would allow nominal cost sharing for families with incomes under 133 percent of poverty. For children in families with incomes above 133 percent of poverty, the Secretary must certify that the cost sharing requirements are reasonable.

Mr. President, GAO did a study that found that several States fell short in terms of providing adequate benefits. Alabama only provides outpatient care. Pennsylvania, which has been a national model, provided only limited inpatient care. According to a NGA survey of 30 statewide voluntary programs, only 8 States provide dental care, only 11 States provide hospital care, only 14 provide vision care, and less than half cover physical therapy services.

With the fresh infusion of Federal dollars that the Senate Finance Committee is choosing to commit and spend on health insurance for children, there needs to be an assurance that the benefits provided are adequate and geared to meet the health needs of children. Under the proposal before us, the Federal Government will be picking up more than half of the costs of children's health insurance.

A GAO report found that Alabama and Pennsylvania and Florida and Minnesota still have a long way to go in addressing the needs of uninsured children in their States. For example, in the case of Alabama they have covered less than 6,000 kids and they have 182,000 uninsured, in New York they have covered 104,000 but there is almost 600,000 they have not covered. Yes, they are trying, but they need the resources we bring to them. The amendment I am offering with Senator CHAFEE will ensure that children get the benefits they need to grow up healthy.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, there are some saying, "Oh, you are giving them a Cadillac package." It is just not so. I ask unanimous consent to have printed in the RECORD a comparison between what Medicaid provides, which some could say is a Cadillac package, and what we have in here, which we provide, which is just what the Blue Cross provides. You can see as you look down the list that Blue Cross does not cover shoes and corrective devices, transportation to medical services, family counseling, hearing care or vision care. So we go with the Blue Cross package with the exception of adding vision care and hearing assistance.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

COMPARISON OF BENEFITS OFFERED UNDER MEDICAID AND BLUE CROSS

Benefit	Blue Cross	Medicaid
Inpatient hospital care	Yes	Yes.
Surgical benefits	Yes	Yes.
Mental health	Limited	Unlimited.
Substance abuse	Limited	Unlimited.
Home care	No	Yes.
Speech therapy	Limited	Unlimited.
Transplants	Limited	Unlimited.
Shoes and corrective devices	No	Yes.
Transportation to medical services	No	Yes.
Family counseling	No	Yes.
Nursing home care	No	Yes.
Non-prescription drugs	No	Yes.
Inpatient private nursing duty	No	Yes
Dental	Limited	Unlimited.
Hearing care	No	Yes.
Vision care/eyeglasses	No	Yes.
Well-baby care	Yes	No.

Mr. CHAFEE. We are talking about children at 133 percent of poverty or less. So I do not think this is going overboard. I very much hope this could be accepted.

Mr. President, it is a good amendment and all it does is provide that we know what the benefits are going to be for these children and we include with the standard package known throughout the country through the FHEPA that we provide for the vision care and hearing assistance.

Mr. President, I am delighted to support this package and would be delighted to have any other assistance, cosponsors.

Mr. ROCKEFELLER. Will the Senator yield?

Mr. CHAFEE. Yes.

Mr. ROCKEFELLER. Could I just point out one thing? I want to compliment the chairman of the Senate Finance Committee and his staff because they were, in fact, as I understand it seriously considering accepting a version of our amendment. It was not ultimately accepted apparently because some of my colleagues on the other side of the aisle did not want to have hearing and vision services included in the benefits package. I deeply regret that. This really is a good amendment, does deserve support, and reflects thinking on both sides.

Mr. DOMENICI. That's not true.

Mr. CHAFEE. Mr. President, I cannot vouch for what my distinguished colleague from West Virginia was saying in that last statement, about who was willing to accept it. I am not sure of all that.

All I know is I worked with the distinguished chairman of the committee and his staff. We were making some progress but I can't account for what resulted in it not being finally accepted. That is beyond my knowledge.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. I would say we did seek to work with the distinguished Senator from Rhode Island. No agreement was reached. Undoubtedly there is opposition to this proposal so we will have to deal with that in the morning.

Mr. CHAFEE. I appreciate that. Again, I join with the comments the distinguished Senator from West Virginia said about the chairman of the committee. He worked hard with us on how this originally started, and we are grateful to him coming as far as he did. We would be even more grateful if he came a little further.

I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. LAUTENBERG. Mr. President, we have taken a quick look. I would say from our standpoint we think this is a pretty good amendment. I say to the Senator from Rhode Island and the Senator from West Virginia, we think it is a pretty good amendment. Apparently there is some question yet to be resolved.

Mr. DOMENICI. Mr. President, that means this amendment goes on the list for tomorrow with 1 minute on a side, is that correct?

The PRESIDING OFFICER. That is correct.

Mr. DOMENICI. If it is subject to a point of order, that point of order is reserved for tomorrow?

The PRESIDING OFFICER. The Senator is correct.

Mr. CHAFEE. Mr. President, the Senator from New York, Senator D'AMATO, asked to be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, are we ready for another amendment?

AMENDMENT NO. 449

(Purpose: To provide for full mental health parity with respect to health plans purchased through the use of amounts provided under a block grant to States)

Mr. WELLSTONE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Minnesota [Mr. WELLSTONE], for himself and Mr. DOMENICI, Mr. REID, and Mr. CONRAD, proposes amendment numbered 449.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 862, between lines 14 and 15, insert the following:

"SEC. 2107A.—MENTAL HEALTH PARITY.

"(a) PROHIBITION.—in the case of a health plan that enrolls children through the use of assistance provided under a grant program conducted under this title, such plan, if the plan provides both medical and surgical benefits and mental health benefits, shall not impose treatment limitations or financial requirements on the coverage of mental health benefits if similar limitations or requirements are not imposed on medial and surgical benefits.

"(b) RULE OF CONSTRUCTION.—Nothing in this section shall be construed—

"(1) as prohibiting a health plan from requiring preadmission screening prior to the authorization of services covered under the plan or from applying other limitations that restrict coverage for mental health services to those services that are medically necessary; and

"(2) as requiring a health plan to provide any mental health benefits.

"(c) SEPARATE APPLICATION TO EACH OPTION OFFERED.—In the case of a health plan that offers a child described in subsection (a)(2) or more benefit package options under the plan, the requirements of this section shall be applied separately with respect to each such option.

"(d) DEFINITIONS.—In this section:

"(1) MEDICAL OR SURGICAL BENEFITS.—The term 'medical or surgical benefits' means benefits with respect to medical or surgical services, ad defined under the terms of the plan, but does not include mental health benefits.

"(2) MENTAL HEALTH BENEFITS.—The term 'mental health benefits' meant benefits with respect to mental services, as defined under the terms of the plan, but does not include benefits with respect to the treatment of substance abuse and chemical dependency.

Mr. WELLSTONE. Mr. President, this past fall for me as a Senator, one of the proudest moments was when the Senate passed the Domenici—and I was pleased to join him—Wellstone Mental Health Parity Act. This became part of the VA-HUD appropriations bill and became, really, eventually the law of the land. This was a first and important step in ending the discrimination when it comes to health care coverage for people struggling with mental illness, to say we take another step toward punching through some of the prejudice and some of the ignorance about mental illness.

Mr. President, I thank, and I say to my colleague from New Mexico this is really what it is all about—we have in the gallery, family gallery, people representing the National Alliance for the Mentally Ill, the American Psychiatric Association, and the National Mental Health Association. They have been here all day. This has been several days we worked on this. I believe, thanks to the strong support of Senator DOMENICI, that we have now an amendment that will be approved. I thank him for his fine work.

I thank the people who have been here today, thank you for your help, and I would like to thank also Margaret Halperin who works with me in the mental health area.

This amendment just says that now what we have done is we have focused on children's health care, we have some $16 billion of additional money. I thank the distinguished Senator from Delaware for all of his fine work on this. What this amendment says is—it does not mandate anything. What it says is when it comes to providing health care coverage, now that it goes to States, as there is additional funding to provide health care coverage for children if there is going to be mental health coverage in any package that we do not have any discriminatory treatment toward those children that are struggling with mental illness.

This is terribly important. What we are doing again is we are just kind of breaking through more prejudice. It is another step toward ending discrimination and it is so important, I say to colleagues. This is passed now at night. Tomorrow I hope we will focus on it, if not on the floor of the Senate I know there will be many people in the country who will want to focus on it, groups and organizations here that will want to focus on this.

What this means for families and for children, I cannot even begin to explain. But let me simply say all too often it has been devastating. There has been no coverage. All too often it is children who could be doing well in school but are not able to, it is children who could live full lives but are not able to. What we do with this amendment is we take another step toward breaking through the prejudice, toward breaking through the discrimination and, we say, now that we have funds going to States and now we are going to be focusing on the health care of children, please, colleagues, please remember that when we talk about the health of children we are also talking about the mental health of children.

That is what this amendment says. That is what this amendment is all about. I am so pleased that this amendment is going to be accepted. We will work very hard to keep this in conference committee and this, again, is an amendment with, I think, strong bipartisan support. And more than anybody here in the Senate I thank Senator DOMENICI for all of his help.

I yield the floor to my colleague from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I obviously would be remiss if I did not thank Senator WELLSTONE for his diligence in this regard. I think the time is now upon us, with the overwhelming passage of an amendment last year which I sponsored along with my friend Senator WELLSTONE, which essentially said for the private sector, if you are going to cover people that have mental illness, you have to create some parity for the mentally ill; that is, you cannot say they have less coverage per year or less coverage for the life of the policy. That set a very big wave of movement in the country to try to establish nondiscrimination in these kinds of efforts. I think business is beginning to work its way through it.

Today, we offer an amendment very similar. It says the coverage that is going to be afforded to children under this bill, if mental illness is covered, it shall be covered with the same kind of coverage that you provide for the physical illnesses.

There is a escape clause of a sort that has to do with making sure we are not impeding the formation of HMOs and managed care.

Nonetheless, I believe the time is right to try this one on in the country. We are moving step by step, leading to a point where mental and physical ailments will be treated the same in terms of coverage. We need not make long speeches tonight. We made those to the Senate heretofore and we received very warm response.

On this one we do not have that much time. I yield whatever remaining time I have. I understand the chairman and ranking member of Finance have no objection to the amendment.

THE PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 449) was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote.

Mr. LAUTENBERG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from Illinois is recognized for up to 10 minutes.

Mr. DURBIN. Mr. President, I have an amendment——

PRIVILEGE OF THE FLOOR

Mr. ROTH. Mr. President, I ask the distinguished Senator to withhold. Mr. President, I ask unanimous consent that Rick Werner, a detailee to the Finance Committee from the Department of Health and Human Services be granted the privilege of the floor for the duration of the debate on S. 947, the Balanced Budget Act of 1997.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 450

(Purpose: To provide food stamp benefits to child immigrants)

Mr. DURBIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Illinois [Mr. DURBIN] for himself, Mr. WELLSTONE, and Mrs. BOXER proposes an amendment numbered 450.

Mr. DURBIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of title I, add the following:

SEC. 10 . FOOD STAMP BENEFITS FOR CHILD IMMIGRANTS.

(a) IN GENERAL.—Section 402(a)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)) is amended by adding at the end the following:

"(E) CHILD IMMIGRANTS.—In the case of the program specified in paragraph (3)(B), paragraph (1) shall not apply to a qualified alien who is under 18 years of age.".

(b) ALLOCATION OF ADMINISTRATIVE COSTS.—Section 408(a) of the Social Security Act (42 U.S.C. 608(a)) is amended by adding at the end the following:

"(12) DESIGNATION OF GRANTS UNDER THIS PART AS PRIMARY PROGRAM IN ALLOCATING ADMINISTRATIVE COSTS.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, a State shall designate the program funded under this part as the primary program for the purpose of allocating costs incurred in serving families eligible or applying for benefits under the State program funded under this part and any other Federal means-tested benefits.

"(B) ALLOCATION OF COSTS.—

"(i) IN GENERAL.—The Secretary shall require that costs described in subparagraph (A) be allocated in the same manner as the costs were allocated by State agencies that designated part A of title IV as the primary program for the purpose of allocating administrative costs before August 22, 1996.

"(ii) FLEXIBLE ALLOCATION.—The Secretary may allocate costs under clause (i) differently, if a State can show good cause for or evidence of increased costs, to the extent that the administrative costs allocated to the primary program are not reduced by more than 33 percent.

"(13) FAILURE TO ALLOCATE ADMINISTRATIVE COSTS TO GRANTS PROVIDED UNDER THIS PART.—If the Secretary determines that, with respect to a preceding fiscal year, a State has not allocated administrative costs in accordance with paragraph (12), the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the succeeding fiscal year by an amount equal to—

"(A) the amount the Secretary determines should have been allocated to the program funded under this part in such preceding fiscal year; minus

"(B) the amount that the State allocated to the program funded under this part in such preceding fiscal year.".

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I know the hour is late but the subject is very important and in a few moments I would like my colleagues to consider what this amendment would do. During the course of passing the welfare reform bill, we made many changes in many programs in an effort to move people from welfare to work. There were several aspects of that bill—even though I supported the bill in its entirety—there were several aspects of that bill which were troubling, not the least of which was the reduction in nutritional assistance for children in the United States. The purpose of this amendment is to correct what I consider to be a very serious error and a serious problem in this legislation, because with this amendment we will restore food stamps for the children of legal immigrants.

Keep in mind that I have said legal immigrants. These are children legally in the United States who are in poverty and have been denied the protection and sustenance of the Food Stamp Program. It is a significant problem nationwide. Over 4,000 immigrant children in Illinois have lost their food stamps because of this welfare reform bill; over 283,000 nationwide. According to the Food Research Action Council survey of families living below 185 percent of poverty, hungry children suffer from two to four times as many individual health problems such as frequent colds and headaches, fatigue, unwanted weight loss, inability to concentrate and so on.

These children—hungry children—are often absent from school. They can have a variety of medical problems arising from nutritional deficiencies, not the least of which is anemia. Hungry children are less likely to interact with other people, explore and learn from their surroundings, and it has a negative impact on the ability of children to learn. We should be focusing on healthy children in America, not hungry children in America.

This amendment seeks to correct that problem by giving to these children the basic protection of food stamps.

Just a month or so ago, I visited the Cook County Juvenile Detention Center, a facility which, unfortunately, is doing quite a large business in juvenile crime. I spoke to the psychologist at that center and asked him what traits these kids who committed crime had in common. I would like to focus on one which he said was very common, a learning disability, a neurological deficit.

I said, "Where does that come from?"

He said it can come from improper prenatal nutrition, improper infant nutrition. These kids get a bad start, and with that bad start, they don't learn as well, they become frustrated, they fall behind, they become truant, they drop out, they become statistics, crime and welfare statistics which haunt us in this Chamber as we consider all of the ramifications of a child's failed life.

Many times we overlook the basics. I am happy that my colleagues tonight have addressed children's health. I think that is something that should be a given in America, that we provide basic health care protection to all children. But can we then argue that children should go hungry at the same time? The children that would be protected by this bill would now be qualifying for food stamps. In my State of Illinois, many of the soup kitchens and other food providers have experienced a dramatic increase in demand for services by children since enactment of the welfare reform bill.

The Reverend Gerald Wise of the First Presbyterian Church in Chicago recently came to tell me that the pantry at the First Presbyterian in the extremely distressed Woodlawn neighborhood and the Pine Avenue United Presbyterian Church in the Austin neighborhood are stretched beyond capacity.

Fifty-two percent of the cities participating in the U.S. Conference of Mayors' 1995 survey reported emergency food assistance facilities were unable to provide necessary resources, and that is before the welfare reform bill.

This amendment, which I have been joined in offering by Senator WELLSTONE and Senator BOXER, restores food stamp benefits to legal immigrant families with children 18 years and under. According to the CBO, it would cost the Treasury $750 million over 5 years.

We have established an offset in this bill from the administrative moneys being given to the Governors so that they can administer the new welfare reform bill, food stamps and other programs. Our amendment tries to ensure that Federal dollars are being used efficiently to make sure that direct benefits are given to needy children.

I am going to stop at this point, as I know some of my colleagues are waiting to offer an amendment and others have been here a long time. I hope tomorrow when this amendment comes to the floor that my colleagues on both sides of the aisle will join in a bipartisan spirit to help the children of legal immigrants. These children are likely to become naturalized citizens in America. We want them to be healthy, productive citizens, good students making this a better nation in which to live. If we are pennywise and pound foolish and cut these children short when it comes to one of the basic necessities of life, food itself, we may end up paying the price for decades and generations to come.

Let us do the right thing, the compassionate thing, yes, the American thing. Let us make sure that hungry children are provided for.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. DOMENICI. Mr. President, I have nothing other than we will take our minute tomorrow. Again, if this amendment is subject to a point of order, we have not waived the point of order tonight.

The PRESIDING OFFICER. The Senator is correct.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

AMENDMENT NO. 451

(Purpose: To improve health care quality and reduce health care costs by establishing a national fund for health research that would significantly expand the Nation's investment in medical research)

Mr. D'AMATO. Mr. President, on behalf of Senator HARKIN, Senator SPECTER, Senator MACK, Senator ROCKEFELLER, Senator DASCHLE, Senator BOXER, Senator KERRY, Senator DURBIN, and myself, I offer this amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from New York [Mr. D'AMATO], for himself, Mr. HARKIN, Mr. SPECTER, Mr. MACK, Mr. ROCKEFELLER, Mr. DASCHLE, Mrs. BOXER, Mr. KERRY, and Mr. DURBIN, proposes an amendment numbered 451.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1027, between lines 7 and 8, insert the following:

Subtitle N—National Fund for Health Research

SEC. 5995. SHORT TITLE.

This subtitle may be cited as the "National Fund for Health Research Act".

SEC. 5996. FINDINGS.

Congress makes the following findings:

(1) Nearly 4 of 5 peer reviewed research projects deemed worthy of funding by the National Institutes of Health are not funded.

(2) Less than 3 percent of the nearly one trillion dollars our Nation spends on health care is devoted to health research, while the defense industry spends 15 percent of its budget on research and development.

(3) Public opinion surveys have shown that Americans want more Federal resources put into health research and are willing to pay for it.

(4) Ample evidence exists to demonstrate that health research has improved the quality of health care in the United States. Advances such as the development of vaccines, the cure of many childhood cancers, drugs that effectively treat a host of diseases and disorders, a process to protect our Nation's blood supply from the HIV virus, progress against cardiovascular disease including heart attack and stroke, and new strategies for the early detection and treatment of diseases such as colon, breast, and prostate cancer clearly demonstrates the benefits of health research.

(5) Health research which holds the promise of prevention of intentional and unintentional injury and cure and prevention of disease and disability, is critical to holding down health care costs in the long term.

(6) Expanded medical research is also critical to holding down the long-term costs of the medicare program under title XVIII of the Social Security Act. For example, recent research has demonstrated that delaying the onset of debilitating and costly conditions like Alzheimer's disease could reduce general health care and medicare costs by billions of dollars annually.

(7) The state of our Nation's research facilities at the National Institutes of Health and at universities is deteriorating significantly. Renovation and repair of these facilities are badly needed to maintain and improve the quality of research.

(8) Because discretionary spending is likely to decline in real terms over the next 5 years, the Nation's investment in health research through the National Institutes of Health is likely to decline in real terms unless corrective legislative action is taken.

(9) A health research fund is needed to maintain our Nation's commitment to health research and to increase the percentage of approved projects which receive funding at the National Institutes of Health.

SEC. 5997. ESTABLISHMENT OF FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a fund, to be known as the "National Fund for Health Research" (hereafter in this section referred to as the "Fund"), consisting of such amounts as are transferred to the Fund under subsection (b) other amounts subsequently enacted into law and any interest earned on investment of amounts in the Fund.

(b) TRANSFERS TO FUND.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall transfer to the Fund amounts equivalent to amounts described in paragraph (2).

(2) AMOUNTS.—

(A) IN GENERAL.—Amounts described in this paragraph for each of the fiscal years 1998 through 2002 shall be equal to the amount of Federal savings derived for each such fiscal year under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) and the medicaid program under title XIX of such Act (42 U.S.C. 1396 et seq.) that exceeds the amount of Federal savings estimated by the Congressional Budget Office as of the date of enactment, to be achieved in each such program for each such fiscal year for purposes of the Balanced Budget Act of 1997.

(B) DETERMINATION BY SECRETARY.—Not later than 6 months after the end of each of the fiscal years described in subparagraph (A), the Secretary of Health and Human Services shall—

(i) make a determination as to the amount to be transferred to the Fund for the fiscal year involved under this subsection; and

(ii) subject to subparagraphs (E) and subsection (d), transfer such amount to the Fund.

(C) SEPARATE ESTIMATES.—In making a determination under subparagraph (B)(i), the Secretary of Health and Human Services shall maintain a separate estimate for each of the programs described in subparagraph (A).

(D) LIMITATION.—Any savings to which subparagraph (A) applies shall not be counted for purposes of making a transfer under this paragraph if such savings, under current procedures implemented by the Health Care Financing Administration, are specifically dedicated to reducing the incidence of waste, fraud, and abuse in the programs described in subparagraph (A).

(E) CAP ON TRANSFER.—Amounts transferred to the Fund under this subsection for any year in the 5-fiscal year period beginning on October 1, 1997, shall not in combination with the appropriated sum exceed an amount equal to the amount appropriated for the National Institutes of Health for fiscal year 1997 multiplied by 2.

(c) OBLIGATIONS FROM FUND.—

(1) IN GENERAL.—Subject to the provisions of paragraph (4), with respect to the amounts made available in the Fund in a fiscal year, the Secretary of Health and Human Services shall distribute—

(A) 2 percent of such amounts during any fiscal year to the Office of the Director of the National Institutes of Health to be allocated at the Director's discretion for the following activities:

(i) for carrying out the responsibilities of the Office of the Director, including the Office of Research on Women's Health and the Office of Research on Minority Health, the Office of Alternative Medicine, the Office of Rare Disease Research, the Office of Behavioral and Social Sciences Research (for use for efforts to reduce tobacco use), the Office of Dietary Supplements, and the Office for Disease Prevention; and

(ii) for construction and acquisition of equipment for or facilities of or used by the National Institutes of Health;

(B) 2 percent of such amounts for transfer to the National Center for Research Resources to carry out section 1502 of the National Institutes of Health Revitalization Act of 1993 concerning Biomedical and Behavioral Research Facilities;

(C) 1 percent of such amounts during any fiscal year for carrying out section 301 and part D of title IV of the Public Health Service Act with respect to health information communications; and

(D) the remainder of such amounts during any fiscal year to member institutes and centers, including the Office of AIDS Research, of the National Institutes of Health in the same proportion to the total amount received under this section, as the amount of annual appropriations under appropriations Acts for each member institute and Centers for the fiscal year bears to the total amount of appropriations under appropriations Acts for all member institutes and Centers of the National Institutes of Health for the fiscal year.

(2) PLANS OF ALLOCATION.—The amounts transferred under paragraph (1)(D) shall be allocated by the Director of the National Institutes of Health or the various directors of the institutes and centers, as the case may be, pursuant to allocation plans developed by the various advisory councils to such directors, after consultation with such directors.

(3) GRANTS AND CONTRACTS FULLY FUNDED IN FIRST YEAR.—With respect to any grant or contract funded by amounts distributed under paragraph (1), the full amount of the total obligation of such grant or contract shall be funded in the first year of such grant or contract, and shall remain available until expended.

(4) TRIGGER AND RELEASE OF MONIES.—

(A) TRIGGER AND RELEASE.—No expenditure shall be made under paragraph (1) during any fiscal year in which the annual amount appropriated for the National Institutes of Health is less than the amount so appropriated for the prior fiscal year.

(d) REQUIRED APPROPRIATION.—No transfer may be made for a fiscal year under subsection (b) unless an appropriations Act providing for such a transfer has been enacted with respect to such fiscal year.

(e) BUDGET TREATMENT OF AMOUNTS IN FUND.—The amounts in the Fund shall be excluded from, and shall not be taken into account, for purposes of any budget enforcement procedure under the Congressional Budget Act of 1974 or the Balanced Budget and Emergency Deficit Control Act of 1985.

Mr. D'AMATO. Mr. President, I guess it was about 5, 6 years ago, my friend and colleague from Iowa, Senator HARKIN, came to me and said, "You know, we haven't been able to get sufficient funding for breast cancer research because there are those who object to our attempt to take it from defense and transfer it over to NIH." I think we had just been rebuffed 50 some odd to 42 or 43.

Then he said, "How about us keeping that money in the defense budget. After all, a significant portion of the military will be women. This is a matter of national health in our defense of our families." And we came forth with that proposal, and we were able to get a huge vote.

Since that point in time, forget about votes, we have produced, in addition to what was being funded by NIH, something in excess of $600 million for breast cancer research, and it has made a difference.

My colleague, once again, has come forth and said this time, "Alfonse, why don't we look to meet the needs that this body itself has acknowledged in their overwhelming vote on January 21, 1997," when Senator MACK and my friend from Iowa, Senator HARKIN, myself and others, who offered an amendment which was designed to say, let us double, we call it the biomedical commitment research resolution, and it is so easy for us to vote for it because we voted to say yes, we want to double the amount of money going into NIH for biomedical research because the demands are incredible, absolutely incredible. So we voted 100 to 0.

Now comes the problem. How do we fund it? Notwithstanding that the chairman of the subcommittee, Senator SPECTER, is making every effort to find the funds, where does he get them? Where does he get them? What program does he cut? Does he cut food stamps further? We just heard an eloquent presentation as it relates to the needs of children. What senior citizen program does he cut it from? We have already seen the battles when we look for funds. Do we give more money to breast cancer research at the expense of diabetes? What about emerging infectious diseases? Incredible, frightening if you read what is going on.

Let me tell you, the investment of moneys into biomedical research will pay great dividends, it will save lives, it will result in savings many, many, many times more than what we invest, and it is so necessary. I think about 80 to 90 percent of the worthy applications by some of the great medical research centers of this country are being turned down, not because they are deficient, but because we simply don't have the money.

I have to tell you something, there is nothing better that we can be investing money in than in terms of medical research for the prevention of illnesses, for finding out the cures, for doing the genetic research, for doing all of that work that so many of us talk about. We go home and say, "Yes, I am going to vote to increase it." Here is what we do.

Let us take the cumulated savings annually from Medicare and Medicaid that this bill provides. Let me tell you, the chairman of the Finance Committee, Senator ROTH, deserves the appreciation and accolades of everyone, Democrat and Republicans, because he has crafted a bill that is designed to control costs and to produce savings. Let CBO, the Congressional Budget Office, look at the end of each fiscal year how much in the way of savings have been accumulated and provide these moneys be set aside to be used exactly for that which we voted 100 to 0, biomedical research in NIH.

Let us not fight to take money from one program that is so desperately needed, whether it be for senior citizens, whether it be for food stamps, and then say we are going to make winners of some at the expense of others and not nearly meet the needs.

If we looked at the last 4 years, we will see we increased the total appropriations in these accounts by about $400 million a year. That is not going to meet our commitment when we are talking about increasing it by $2.5 billion annually.

Mr. President, again, this does not impact, it does not need a revenue offset. If the revenues are not generated, the savings, no expenditure. If they are, I suggest we couldn't find a better and finer place to put those moneys. If someone wants to then come in and make an amendment to take part of those moneys and put them someplace else, they can come to the floor and we can argue it out. But I believe the establishment of that trust fund keeps the promise we made, that we attempt to look for ways to find the moneys that we all came out here on the floor and voted for.

I commend my colleague. It has been a great privilege and pleasure for me to work with him in this endeavor.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I thank my friend from New York for his kind words, but also, more important, let me thank him for his stalwart, unwavering support through the years for medical research.

I have been involved in this battle for a long time, and I have never found anyone who has fought harder to make sure we had adequate funding for all of the biomedical research we need done in this country than Senator D'AMATO from New York. I thank him for that unwavering support down through the years and for his support on this amendment also.

Mr. President, this amendment does have strong bipartisan support. Senator SPECTER and Senator MACK are cosponsors, as well as a number on our side—Senator ROCKEFELLER, Senator DASCHLE, Senator BOXER, Senator DURBIN, Senator KERRY. So it has strong bipartisan support.

I want to pick up on what the Senator from New York said. We voted not long ago, the entire Senate, every one of us voted to double funding for NIH by 2002. We are all in favor of that. But it is very hard finding the money. I worked very hard with Senator SPECTER when I was chairman and he was ranking member. Now he is chairman and I am ranking member. We have worked very hard to get adequate funding for NIH every year. It is getting more and more difficult, and with this balanced budget which I am supporting strongly, which I have continued to support in the past and will continue to support, it is going to be even harder.

If we wanted to double NIH funding by 2002 out of our discretionary account, if we zeroed out all the other accounts we have—maternal-child health care, the Centers for Disease Control, mental health block grants and a host of others—if we zeroed all those out and shifted it just to NIH, we would still be $2 billion short of doubling it. We are not going to zero out mental health block grants and the Centers for Disease Control and everything else. So we have to look for someplace else to find this money.

Without our action, the investment in NIH research is only going to decline in real terms. The only way that we can get it is by going outside of the regular discretionary spending process. I guess what this amendment is, more than anything, is there was a book of "Thinking Outside the Box." We get put in these boxes and sometimes we have to think outside of the box.

What this amendment does, again, to repeat, to reemphasize what Senator D'AMATO said, this research trust fund would work in the following way. Every year, CBO and the Secretary of Health and Human Services would look back to determine whether the annual Medicare and Medicaid savings actually achieved as a result of the changes made by the Balanced Budget Act exceeded the savings called for in the budget resolution. In other words, are there more savings than what was called for to balance the budget? If that is so, if there are excess savings, then that excess savings would be deposited each year into a health research fund to be distributed to NIH for the purposes of medical research. It is a very simple, a very elegant amendment, so offset is needed.

As we consider long-term changes to the Medicare Program—and we will be—the creation of a medical research trust fund is only common sense. I know a point of order will be made against the amendment that it is not germane. I accept the fact that this amendment is not germane to the bill before us. But I submit to you, it is every bit germane to the issue of saving Medicare and how we are going to deal with Medicare.

A number of recent studies have shown that investments in medical research can lower Medicare costs through the development of more cost-effective treatments and by delaying the onset of illnesses. Duke University recently did a study that said the financial crisis in Medicare can be resolved without raising taxes or cutting benefits by improving the health of older Americans through biomedical research. It is the key investment, it is the key to reducing health costs in the long run. If we can find cures for things like breast cancer, lung cancer, Alzheimer's, the savings would be enormous.

Unfortunately, while health care spending devours nearly a trillion dollars annually, our medical research budget is dying of starvation. The United States devotes less than 2 percent of its total health care budget to health research.

Look at it this way, the Defense Department spends 15 percent of its budget on research, and yet, in health care, we spend less than 2 percent. So we have smart bombs and smart missiles and everything that defends our country, and we are all happy about that, but look what they have done with research.

If we want a smart bomb and a smart missile to knock out lung cancer or breast cancer or Alzheimer's, or to help us with mental illness, this is where we have to put the money.

Take Alzheimer's alone: Funding for Alzheimer's research is about $300 million a year. Yet, it is estimated that the 4 million people in America who suffer from Alzheimer's is costing us about $100 billion a year. That is about $25,000 per person who has Alzheimer's on average. If we could just delay the onset of Alzheimer's for 5 years, that would go a long way toward solving our Medicare problems.

Gene therapy, treatments for cystic fibrosis, Parkinson's—this is a time of great promise. Almost every day new stories are coming out about one advance or another. We are not suffering from a shortfall of ideas. We are suffering from a shortfall of revenues.

Also, in the last several years the number of young people going into research is declining. The number of people under the age of 36 even applying for NIH grants dropped by 54 percent in the last 10 years. Why? Because when they submit their proposal, it gets peer reviewed. They say it is a good grant, and there is no money. And so young people who would want to pursue research look for other careers.

Well, again, health research saves money. It saves lives. And the time is right. This fund will allow us to pursue the innovative cures, treatments and therapies that will help us solve the Medicare Program.

Again, I want to thank my colleague from New York, Senator D'AMATO, and Senator MACK, Senator SPECTER, with whom I work on the Appropriations Committee, and all the others who have worked so hard.

This is a very simple and elegant amendment. I hope that Senators will take that step, sort of outside the box, to think newly, to think anew, to think about how we start getting more money into NIH, through a process that will still help us balance the budget as we all voted to do.

So, Mr. President, again, I urge my colleagues to support this amendment and urge its adoption.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. DOMENICI. Is there anything further on your side?

Mr. HARKIN. I have two amendments I would like to just lay down.

Mr. DOMENICI. Well, let me just make a couple comments, because we will not be able to say much tomorrow.

It is with regret that I oppose this amendment, and actually I will raise a point of order because I believe it is subject to a point of order. I will do that tomorrow.

But, you know, it is kind of interesting. I do not know what money we are going to be using. You see, what the amendment says is, you take the estimates of what we are supposed to save in this reconciliation bill from Medicare and Medicaid, and then you, whatever those estimates were, you take a look and see if the new estimates say we save more.

Well, this is an estimate of an estimate. And I do not really know where the money comes from. I mean, do you wait until the end of 5 years and then get the reality check, or do you do this based on estimates?

Now, that is just purely technical and budgetese. But, frankly, as much as I would like to put more into NIH, I believe it is not right to take savings that accrue on the entitlement side of the ledger that are estimates and attribute that in advance to any function in Government, which is what we are doing here. If we are clairvoyant enough and wise enough in the future, and understand the future well enough to say if we are saving money in Medicare and Medicaid, all that savings ought to go to just this one program, how do we know there are not some health programs that need some of that money? How do we know they should not be used for tax cuts? That is what they are permitted to be used for now.

And last but not least, I just do not think we need another trust fund. We have plenty of trust funds. We ought not create another one, to use the sense-of-the-Senate vote by which every Senator expressed an opinion and said, as I read it, we sure hope that within 5 years we could double NIH. If you asked 100 people that voted for that, if they thought we were going to be able to achieve that, I believe 100 percent of them would have said probably not. So to turn around and use that to take a slice of savings that might be applied either to the deficit, to tax cuts, to other entitlement programs, and say we just think now we ought to cut that off and we ought to put them in the NIH, I do not believe is good budgeting. I do not believe it is a very good way to advance fund anything.

So I will use my minute tomorrow. I will not have as much time as tonight to indicate what great respect I have for these two Senators. Everybody knows that. Senator D'AMATO from New York is one of my best friends in the world. But I do not believe this is the right approach, and I have to resist it.

Mr. President, I make a point of order that the amendment violates the Budget Act.

Mr. D'AMATO. Mr. President, I move to waive.

The PRESIDING OFFICER (Mr. ENZI). What point of order does the Senator make?

Mr. D'AMATO. I move to waive the point of order on the budget.

Mr. DOMENICI. I thought the Parliamentarian knew so well what part of the Budget Act this violates that I would not have to pick it out for him. But if you give me a minute here, we will.

It is not germane.

The PRESIDING OFFICER. The motion to waive has been made.

Mr. D'AMATO. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. First of all, let me say there is no one that I have greater respect for and no one who I admire more than my colleague and friend from New Mexico, Senator DOMENICI. And I would ask, if the Senator might be willing, between now and the time the amendment comes up, to look at the question of the trust fund. As far as I am concerned, and I think I speak for my colleague, if that were one of the important issues, I think we could put that aside and have those moneys allocated directly into NIH.

I would also indicate that I think in the draftsmanship of this we provided that it would be only the year after on the look-back that the Congressional Budget Office would ascertain whether or not the mark we have set, which would be set in law, by the way—this will no longer be an estimate, be set in law—that if it has been achieved and there has been an excess in the way of savings, that those dollars then would go into this account at NIH for biomedical research.

Understand, it is exactly my friend's point that no one really knows where to get the money and that here is an opportunity to say that if we do achieve these savings, yes, that we are making a judgment now; that if we do, we are making a judgment to see that these dollars will be allocated for these areas, whether it is Alzheimer's research, diabetes, cancer, research on the brain.

I mean, the fact is, we desperately, desperately need these moneys. And here is an opportunity to identify with specificity and, yes, to come forward and say, yes, if we have an extra $500 million or $1 billion, that it will go into that account. And we will be making that commitment that we talked about a reality.

So I ask my colleague and friend to just look at it in terms of if there needs to be some additional language to tighten this up and to deal with some of the parliamentary objections. And if there is a real question whether or not you want to set up a trust fund for this, that possibly we could deal with that in the manner that would facilitate the spirit of that resolution that was passed saying we must do more. Because I believe that the spirit was there and the recognition that we have to do more in biomedical research.

I yield the floor.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Iowa.

Mr. HARKIN. I just want to again thank my colleague from New York.

And I want to say to the Senator from New Mexico, again, I know his strong feelings on medical research. We fought side by side in the past when I was privileged to chair the Appropriations Subcommittee in working with the Senator to increase funds for medical research. I know his strong feelings, and I appreciate that.

Again, I just hope we can sort of think outside the box, as I said earlier, of looking at this and get this money into research. We have to do it, get more money into medical research. I mean, they are starving out there. And the young people who want to go into research—right now, less than 25 percent of the peer-reviewed grants at NIH are being funded.

I always talk about medical research as sort of like you have doors that are closed. You want to look behind the closed doors. Well, if you only are looking behind one out of every four doors, the odds are four to one that you are not going to find the answer. If you look at two out of four, or three out of four, your odds are a lot better that you are going to find the answer. That is what we are attempting to do with this amendment.

So, again, I hope that we can have a resolution of this and get on with getting the increased funding for NIH.

Mr. President, I want to ask the Senator from New Mexico, before I leave, I have two amendments that I would just like to lay down. Should I do those now, send those up?

Mr. DOMENICI. If you have not given them to the ranking member and want to do them separately, he can. He is submitting all of your Democratic Senators' amendments en bloc. He will do those for you, too.

Mr. HARKIN. I will give them to Senator LAUTENBERG. I thank you.

I yield the floor.

Mr. DOMENICI. Mr. President, I do not want to leave with any the impression that I am stubborn or unwilling to consider things when I am asked to. I will. But every time I consider, I think of more reasons why we should not do it.

Mr. HARKIN. Don't think about it.

Mr. DOMENICI. So I better not be thinking for a while. The $3.9 billion that we transferred into the trust fund for Medicare from part B savings, what if we are over by $3.9 billion? Do we take the $3.9 billion out of the trust fund and make it less weak and put that money in here?

Second, I was just thinking, where have we done this before? You might all look at this. We did this because Senator BYRD at one time wanted to set up a trust fund so we could use a lot of appropriated money on crimefighting, because we had found kind of a bird's nest of money when some Senator decided that we were going to cut payroll for the Government.

And so Senator BYRD said, well, if we are going to do that, let us put that trust fund in crime prevention. But, you know, over time all it has done has been—it is a business, it is an accounting thing. You give that committee, to start with, that entrusted money, but that does not mean that the appropriations give as much money to the committee they would have if you did not put that in, and you end up getting no more money for crimefighting. You cannot solve that riddle with additions from an entitlement program.

So I will think about it. I will be glad to do that.

MEDICARE PAYMENT REVIEW COMMISSION

Mr. FRIST. Mr. President, I rise to engage in a colloquy with my colleague from Delaware, Senator ROTH. As chairman of the Finance Committee, I commend him for guiding this budget process through the committee with overwhelming bipartisan support and bringing these issues before the full Senate in a timely manner.

The legislation before us, establishes a new Medicare Payment Review Commission to replace the Physician Payment Review Commission [PPRC] and the Prospective Payment Assessment Commission [ProPAC]. The Medicare Payment Review Commission is required to submit an annual report to Congress containing an examination of issues affecting the Medicare Program. The commission will review, and make recommendations to Congress concerning payment policies under both the Medicare Choice program and Medicare fee-for-service.

I have heard criticism that the Health Care Financing Administration [HCFA] does not keep up with the latest medical supply products, even if they prove to be cost-effective. HCFA has stated its intent to become a more prudent purchaser. Indeed, that goal requires analysis of both the cost and quality of various products and requires constant review of medical developments.

I understand that the new Medicare Payment Review Commission will have broad authority and should include the ability to review and make recommendations on procurement reimbursement and reform issues, including the effect, impact and cost implications of competitive bidding, flexible purchasing and inherent reasonableness on the provision of a full range of effective medical products and services to Medicare beneficiaries.

Mr. President, I simply ask my colleague if that is correct?

Mr. ROTH. In response to Senator FRIST'S question, it is the committee's intent that the Medicare Payment Review Commission shall have broad authority to study and make recommendations to Congress on a variety of issues relating to the Medicare Choice program and the Medicare fee-for-service program. The committee recognizes that the previous two advisory committees did not have explicit authority to study issues relating to reimbursement of durable medical equipment and medical supplies. However, it is the committee's intent that the Medicare Payment Review Commission will have broad authority in these and other areas regarding the review of all Medicare reimbursement issues.

DSH PAYMENTS

Mr. FRIST. I would like to take a moment to clarify the intended meaning of the changes in State allotments for disproportionate share hospital [DSH] payments as they impact States that have received waivers to adopt managed care programs statewide, using DSH funds to help finance expanded care to the uninsured. Two such States are Tennessee, which initiated the TennCare program in January 1994, and Hawaii, which has operated the QUEST program since mid-1994.

In these cases, the States combine their DSH allotment and their regular Medicaid dollars to fund capitation payments to managed care providers who are responsible for service not only to existing Medicaid-eligible recipients but to a substantial portion if not most of the children and adults who would not otherwise qualify for Medicaid but who do not have coverage under other insurance programs. Direct DSH payments to hospitals have been essentially eliminated, because the hospitals and other providers receive payments to cover care to the uninsured through the waiver program, either from managed care providers or, in the case of some hospitals, from the State under supplementary pools.

The committee's legislation provides that DSH payments relating to services to persons eligible under the State's Medicaid plan must be made directly to hospitals after October 1, 1997, even where the individuals entitled to the service are enrolled in managed care plans, and cannot be used to determine prepaid capitation payments under the State plan that relate to those services. That provision does not by its terms apply to States operating under waivers where the DSH funds are used to fund a broader range of services to the uninsured. I would like your confirmation of this understanding, for it would be inconsistent with the TennCare and QUEST programs to apply the new provision to them.

I also seek your concurrence that the adjustments to State DSH allocations are not intended to impact on the funds available to these waiver States to operate their programs. Both Tennessee and Hawaii no longer use their DSH allotments for DSH payments. As a result, CBO's estimates showed no impact on those States of the committee's provision adjusting DSH allotments and payments. That is entirely appropriate, for these States are subject to limitations on their Medicaid funding by reason of the budget terms of their waiver. Moreover, they no longer make DSH payments as we have come to know them, but instead have developed more efficient means of delivering health services and have extended them to a broader segment of the population.

Can the chairman confirm my understanding of these two DSH-related points?

Mr. ROTH. I am happy to confirm the Senator's understanding on both points. There is no intention to alter the manner of distribution of funds under demonstration waiver programs as long as those programs are in effect. Further, we do not intend any change in the budget and finance provisions of these demonstration waivers, where the DSH funds are used to expand coverage to the uninsured.

AMENDMENTS NOS. 452, 453, AND 454, EN BLOC

Mr. DOMENICI. I have three amendments that are going to be accepted. One is for Senators LIEBERMAN, CHAFEE, JEFFORDS, KERREY, BREAUX, WYDEN and KENNEDY, to require Medicaid managed care plans to provide certain comparative information to enrollees. One is for Senator FEINSTEIN to require managed care organizations to provide annual data to enrollees regarding nonhealth expenditures. And a third is a Craig-Bingaman amendment to study medical nutrition therapies by using the National Academy of Sciences to do that.

I send the three amendments to the desk and ask that they be agreed to en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the amendments.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI] proposes amendments numbered 452, 453, and 454, en bloc.

The amendments (Nos. 452, 453, and 454) en bloc are as follows:

AMENDMENT NO. 452

(Purpose: To require medicaid managed care plans to provide certain comparative information to enrollees)

At the end of proposed section 1941(d) of the Social Security Act (as added by section 5701), add the following:

"(3) PROVISION OF COMPARATIVE INFORMATION.—

"(A) BY STATE.—A State that requires individuals to enroll with managed care entities under this part shall annually provide to all enrollees and potential enrollees a list identifying the managed care entities that are (or will be) available and information described in subparagraph (C) concerning such entities. Such information shall be presented in a comparative, chart-like form.

"(B) BY ENTITY.—Upon the enrollment, or renewal of enrollment, of an individual with a managed care entity under this part, the entity shall provide such individual with the information described in subparagraph (C) concerning such entity and other entities available in the area, presented in a comparative, chart-like form.

"(C) REQUIRED INFORMATION.—Information under this subparagraph, with respect to a managed care entity for a year, shall include the following:

"(i) BENEFITS.—The benefits covered by the entity, including—

"(I) covered items and services beyond those provided under a traditional fee-for-service program;

"(II) any beneficiary cost sharing; and

"(III) any maximum limitations on out-of-pocket expenses.

"(ii) PREMIUMS.—The net monthly premium, if any, under the entity.

"(iii) SERVICE AREA.—The service area of the entity.

"(iv) QUALITY AND PERFORMANCE.—To the extent available, quality and performance indicators for the benefits under the entity (and how they compare to such indicators under the traditional fee-for-service programs in the area involved), including—

"(I) disenrollment rates for enrollees electing to receive benefits through the entity for the previous 2 years (excluding disenrollment due to death or moving outside the service area of the entity);

"(II) information on enrollee satisfaction;

"(III) information on health process and outcomes;

"(IV) grievance procedures;

"(V) the extent to which an enrollee may select the health care provider of their choice, including health care providers within the network of the entity and out-of-network health care providers (if the entity covers out-of-network items and services); and

"(VI) an indication of enrollee exposure to balance billing and the restrictions on coverage of items and services provided to such enrollee by an out-of-network health care provider.

"(v) SUPPLEMENTAL BENEFITS OPTIONS.—Whether the entity offers optional supplemental benefits and the terms and conditions (including premiums) for such coverage.

"(vi) PHYSICIAN COMPENSATION.—An overall summary description as to the method of compensation of participating physicians.

AMENDMENT NO. 453

(Purpose: To require managed care organizations to provide annual data to enrollees regarding non-health expenditures)

At the end of proposed section 1852(e) of the Social Security Act (as added by section 5001) add the following:

"(6) ANNUAL REPORT ON NON-HEALTH EXPENDITURES.—Each Medicare Choice organization shall at the request of the enrollee annually provide to enrollees a statement disclosing the proportion of the premiums and other revenues received by the organization that are expended for non-health care items and services.

At the end of proposed section 1945 of the Social Security Act (as added by section 5701) add the following:

"(h) ANNUAL REPORT ON NON-HEALTH EXPENDITURES.—Each medicaid managed care organization shall annually provide to enrollees a statement disclosing the proportion of the premiums and other revenues received by the organization that are expended for non-health care items and services.

AMENDMENT NO. 454

(Purpose: To provide for a study and report analyzing the short term and long term benefits and costs to the medicare system of coverage of medical nutrition therapy services by registered dietitians under Part B of title XVIII of the Social Security Act)

On page 412, between lines 3 and 4, insert the following:

SEC. 5105. STUDY ON MEDICAL NUTRITION THERAPY SERVICES.

(a) STUDY.—The Secretary of Health and Human Services shall request the National Academy of Sciences, in conjunction with the United States Preventive Services Task Force, to analyze the expansion or modification of the preventive benefits provided to medicare beneficiaries under title XVIII of the Social Security Act to include medical nutrition therapy services by a registered dietitian.

(b) REPORT.—

(1) INITIAL REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall submit a report on the findings of the analysis conducted under subsection (a) to the Committee on Ways and Means and the Committee on Commerce of the House of Representatives and the Committee on Finance of the Senate.

(2) CONTENTS.—Such report shall include specific findings with respect to the expansion or modification of coverage of medical

nutrition therapy services by a registered dietitian for medicare beneficiaries regarding—

(A) cost to the medicare system;

(B) savings to the medicare system;

(C) clinical outcomes; and

(D) short and long term benefits to the medicare system.

(3) FUNDING.—From funds appropriated to the Department of Health and Human Services for fiscal years 1998 and 1999, the Secretary shall provide for such funding as may be necessary for the conduct of the analysis by the National Academy of Sciences under this section.

Mr. CRAIG. The amendment directs the Secretary of Health and Human Services to request a study, through the National Academy of Sciences, on the short-term and long-term costs and benefits to the Medicare system of coverage of medical nutrition therapy services provided by registered dietitians. The Secretary is directed to provide funding for this study from the HHS appropriations for fiscal year 1998 and 1999. The report shall be submitted to the Finance and Ways and Means Committees no later than 2 years after the date of enactment.

Essentially the same language was included in the House version of the budget reconciliation bill. The House version included broader coverage, that is, covering dental care and bone mass measurement.

The PRESIDING OFFICER. Is there further debate on the amendments?

Without objection, the amendments are agreed to.

The amendments (Nos. 452, 453, and 454) en bloc were agreed to.

Mr. DOMENICI. I move to reconsider the vote.

Mr. LAUTENBERG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 455

(Purpose: To conform the Energy Title to the Bipartisan Budget Agreement)

Mr. DOMENICI. Mr. President, I send this amendment on behalf of Senator MURKOWSKI to the desk in compliance with the unanimous consent request for consideration tomorrow.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for Mr. MURKOWSKI, proposes an amendment numbered 455.

On page 130, line 3, strike "2002" and insert "2007".

MEDICARE PROVISIONS

Mr. HATCH. Mr. President, late last week the Senate Finance Committee completed work on one of the most significant and important pieces of legislation considered in the U.S. Congress in recent memory. By a vote of 18 to 2, the Committee approved its portion of the Budget Reconciliation Act of 1997, S. 947, the bill we are debating today.

As a member of the Finance Committee, I can vouch for the hard work that went into the development of this historic legislation. It has not been an easy task by any stretch of the imagination.

The bill is not perfect. But it is a good start. And I hope it will get even better as it moves forward in the legislative process.

And, I want to take this opportunity to commend the chairman of the Finance Committee, Senator ROTH, and the ranking minority member, Senator MOYNIHAN, for their outstanding leadership in forging a consensus on what has been one of the most contentious issues presented to the committee since I have been a member.

The committee was presented with budget reconciliation instructions earlier approved by both the House and Senate and tasked to provide for significant changes in federal spending and program authorizations principally in the Medicare and Medicaid programs.

As my colleagues well know, these two entitlement programs are currently growing at unsustainable levels. Even the President's own handpicked members on the Medicare Board of Trustees reported as early as April 1995 that the "Medicare program is clearly unsustainable in its present form" and that Medicare Part A will be bankrupt in the year 2001 unless structural changes are implemented soon.

The legislation currently before the Senate attempts to address the numerous and oftentimes conflicting issues associated with reducing the rate of growth in Medicare expenditures while preserving the level of services available to current and future beneficiaries.

The one message that we must convey to our constituents is that we have preserved the needs of Medicare beneficiaries while addressing the fiscal imperative of bringing some discipline in Medicare spending. Both objectives are not mutually inconsistent.

Not only have we restrained Medicare growth over the next five years to a point that preserves fiscal integrity for now and the future, but we have provided beneficiaries with greater choices of health care plans. "Medicare Choice" will now make it possible for beneficiaries to have greater options in how they want their health care provided.

In fact, not only will this legislation provide more options for beneficiaries, it will offer them more information about those options.

Better Information about Coverage Options: One provision of the bill requires that beneficiaries be provided with information about the extent to which they may select the provider of their choice, a concern of many elderly. The need for this provision was pointed out to me by the Utah Psychological Association. The measure was included in the 1995 Balanced Budget Act, and I am pleased that it was carried over to the bill we are considering today.

Another information provision was suggested to me by Utah Governor Mike Leavitt, who correctly pointed out that states are making information on managed care available to beneficiaries of state-funded programs. Governor Leavitt suggested that the Federal government be required to coordinate the information it provides with state efforts; that amendment is included in the bill today at my request.

The traditional fee for service systems, which all beneficiaries have come to know, will still be there for those who wish to choose that system of health care delivery. But we are also going to provide more managed care options such as Health Maintenance Organizations and Preferred Provider Organizations as well as Medical Savings Accounts to beneficiaries who desire to participate in those plans.

No longer will America's seniors be limited to one or two choices in health care. They will now have greater choices which will lead to more competition, a greater diversity of services especially in rural areas, and increased savings to the federal government which is fundamental to the overall well-being of the Medicare program.

Home Health and Skilled Nursing Facilities: I am particularly pleased with the provisions pertaining to home health care and skilled nursing facilities or SNFs. In fact, the legislation reported by the Finance Committee incorporates many of the important provisions contained in legislation I introduced, S. 913, the Home Health Care Prospective Payment Act, and S. 914, the Skilled Nursing Facility Prospective Payment Act.

I have long supported efforts to enhance the quality and delivery of care provided by home health care agencies and skilled nursing facilities. These organizations perform extremely valuable services to our nation's elderly and disabled citizens. And, as our population increases in age, the role of these services in our society will become an even more critical component in the provision of health care.

It was also apparent from our hearings that the costs associated with home health care and SNFs have been rising at a disproportionately higher level compared to other components of the Medicare program. Indeed, part of this increase can be attributable to the fact that most people prefer to be treated in the familiar surroundings of their home.

Accordingly to the General Accounting Office, "After relatively modest growth during the 1980's, Medicare's expenditures for SNFs and home health care have grown rapidly in the 1990's. SNF payments increased from $2.8 billion in 1989 to $11.3 billion in 1996, while home health care costs grew from $2.4 billion to $17.7 billion over the same period." Over that period, annual growth averaged 22 percent for SNFs and 33 percent for home health care, the fastest growing components in the Medicare program.

Unquestionably, the rate of growth in home health care led to considerable discussion over the need for a new, minimal copayment for home health visits as a measure to reduce over utilization. The committee approved a capped $5.00 copayment per visit which will be billable on a monthly basis and limited at an amount equal to the annual hospital deductible under Part A.

I am mindful that we do not want to impose additional costs particularly on the poor. But there was near universal agreement that some method was needed to curtail the seemingly unchecked utilization of these services.

This is an issue we will have to monitor closely as the program is implemented recognizing the administrative difficulties in collecting these co-payments as well as the impact on beneficiaries.

Home Health and Skilled Nursing Facilities Prospective Payment System: Perhaps the most significant reform that is included in both pieces of my legislation and which is now included in the Finance bill are the provisions for a prospective payment system for both home health and skilled nursing facilities. This provision will help create the proper and needed financial incentives for providers to behave in a more cost effective manner while protecting the quality and continuity of care for beneficiaries.

We have learned a great deal about Medicare reimbursement since we passed the Prospective Payment System for hospitals in 1983. We know the value of a proper transition so providers can manage their agencies toward a permanent system. We also know that we can model a payment system that encourages providers to manage costs and utilization better. We also realize that moving to a new reimbursement system is a massive undertaking.

I believe the Finance bill moves in the right direction to ensure cost-effective care for millions of beneficiaries today, and well into the next century.

Rural Health Care: The issue of health care in our rural communities was also an item which received considerable attention. As we begin to provide Medicare beneficiaries with greater choice in the delivery of their health care, it is apparent the financial incentives to providers to development of these systems in rural communities simply do not exist.

Accordingly, it was necessary to change the manner and level of reimbursement for managed care organizations that wish to provide services in nonurban areas.

In 1983, Medicare began making payments to qualified "risk-contract" HMOs or similar entities that enrolled Medicare beneficiaries. The intent was to give Medicare beneficiaries the opportunity to enroll in HMOs as a more cost effective alternative to fee for service health care.

In effect, Medicare makes a single monthly capitated payment for each of the organization's Medicare enrollees. This payment equals 95 percent of the estimated "Adjusted Average Per Capita Cost [AAPCC] of providing Medicare services to a given beneficiary under a fee for service system.

The committee legislation proposes to raise the Medicare payment for each year through 2002 which will have the effect of providing the necessary financial incentives for managed care organizations to develop and sell products to beneficiaries in rural communities. This will be particularly beneficial to residents of my state which has a strong managed care presence in our urban areas but, as yet, little penetration in rural locations.

Debate on the AAPCC was extremely lively in Committee; it is a hard task for set payment levels at an amount that will provide incentives for managed care, but which will also encourage cost-efficiency with no diminution of services for the elderly and disabled.

I want to comment on two issues associated with the AAPCC that will be before the conference committee. The first is the transition from a locally based payment rate to a rate that is decoupled from fee-for-service reimbursement. The Medicare Equity and Choice Enhancement Act authored by Senator GRASSLEY establishes a five-year phase-in of a 50/50 blend of the input price-adjusted national average rate with an area-specific rate. I think this is a fair transition and one which I hope will be preserved in conference.

The second issue associated with the AAPCC is removing from the calculation payments for graduate medical education and disproportionate share hospitals. That change, reflected in the Finance bill, will allow a more equitable calculation of the AAPCC, one which will help ensure that teaching hospitals receive the reimbursement they need.

On the issue of reimbursement for managed care, I continue to remain disturbed about the bill's provision which, in essence, discounts by five percent payments for new beneficiaries. I fully appreciate the need to find a "risk adjuster" which will provide us with a better measure of the cost per beneficiary, but to me the 5 percent discount is arbitrary. It will penalize organizations that are doing exactly what we are urging them to do: enroll new beneficiaries in managed care. This is something at which I hope the conferees will take a closer look.

Qualified Medicare Beneficiaries: Another payment issue, that of qualified Medicare beneficiaries (or "QMBs") is of great concern to me.

Current law requires Medicaid to pay Medicare cost-sharing charges for individuals who are eligible for both Medicare and Medicaid assistance. These individuals are "dual eligibles" and QMBs who have incomes less than 100% of the federal poverty level (FPL) and meet other requirements.

Medicaid frequently has lower payment rates for services than would be paid under Medicare. Medicaid program guidelines permit states the flexibility to pay either (a) the full Medicare deductible and coinsurance or (b) cost sharing only to the extent that the Medicare provider has not received the full Medicaid rate.

Several federal courts, including the 2nd, 3rd, 4th and 11th Circuit Courts of Appeals, have interpreted current law as allowing providers to claim Medicare cost sharing for QMBs and dual eligibles in excess of Medicaid payment rates. Therefore, some state Medicaid programs are now reimbursing Medicare providers to the full allowable rates.

With the exception of one trial court decision in California, the courts have overruled the HCFA policy that does not require the full Medicare payment.

I strongly prefer the outcome of the appellate courts and oppose the particular provision of the Finance Committee version of the Reconciliation bill that acts to reverse the four Federal Courts of Appeals decisions and will allow lower reimbursement for QMBs and dual eligibles.

My position is consistent with the first of the principles adopted by the Chairman in the Medicaid mark: "Enhance the ability of the Federal and State government to meet the health care needs of vulnerable populations."

QMBs and dual eligibles are poor, and mostly elderly, individuals that are dependent on both Medicare and Medicaid in order to receive quality health care.

Dual eligibles and QMBs are the very elderly (greater than 85 years old) and the very sick. For example, about 40 percent of QMBs have a cognitive or mental impairment (including many with out difficult chronic conditions such as stroke and Alzheimer's).

Minority group Medicare beneficiaries are more likely to be dual eligibles. Compared with the general Medicare population, dual eligibles are more likely to be women, living alone.

The QMB/Dual Eligible population is financially dependent on Medicaid to provide the needed supplemental insurance coverage to Medicare.

The bill, as reported by the Finance Committee, allows states to act in a fashion that would deny providers the full Medicare level of benefits for these particularly needy QMB and dual eligible beneficiaries, and will unintentionally fray the safety net precisely where it needs to be strengthened.

For example, a recent study by the Physician Payment Review Commission reported that 43 state Medicaid programs identified serious problems in maintaining adequate levels of physician participation chiefly due to already low payment rates.

In fact, the study found that, over a 15 year period, sate spending on physician services per Medicaid recipient failed to keep pace with Medicare by more than a threefold factor.

The better policy is to adhere to the precedent of the great majority of courts that have considered this issue and continue to compel these payments for these beneficiaries.

Frankly, it is difficult to see how the provision in the Finance bill to lower reimbursement for QMBs and dual eligibles will result in anything other than in undermining the willingness of providers to treat QMBs and dual eligibles.

The Second Circuit, one of the several courts that have ruled in favor of the framework I find preferable, reviewed the relevant laws and legislative history in concluding: "* * * Congress sought to avoid a wealth-based, two tiered system of health care for the elderly and certain disabled and indeed wanted to integrate all of those who were Medicare-eligible into the existing health care system."

As the 11th circuit said in the Smith Case, 36 F.3d 1074: "we reject * * * attempts to wring ambiguity from a statute where there is none."

The bill as reported by the Finance Committee is ambiguous, but is unambiguously a poor policy and will certainly affect the care received by those many physically frail QMBs and dual eligibles negatively.

I strongly prefer the House position on this particular issue because by not adopting the Senate Finance Committee policy it protects individuals whose health and income status place them in a precarious medical situation.

As the Washington Post editorialized, on June 16, 1997, on the problem of the dual eligibles: "* * * suddenly Medicare, which was set up to be a uniform, universal system for all the elderly and disabled, becomes a two-tier system, with different levels of payment and therefore, in the long run, quite different levels of care for the better and the less well-off."

We should not act to decrease access to quality health care for poor, sick and predominantly old individuals. We should retain and enlarge, not reverse, a policy on QMB and dual eligible reimbursement that many, including four Federal appellate courts, have concluded is consistent with the letter and spirit of both Medicaid and Medicare.

Chiropractic Care: Turning to another issue of great interest to me, that of chiropractic care for Medicare beneficiaries, I am hopeful that the conferees will be able to approve Representative CRANE's provision, which I had hoped to offer in Committee.

Chiropractic services are currently provided in the Medicare program; however, the coverage is extremely limited to treatment by means of manual manipulation of the spine. Moreover, current law requires chiropractors to obtain an x-ray before payment will be made even though Medicare will not pay chiropractors to take the x-ray.

I had initially planned to offer an amendment identical to the language in the House Ways and Means Committee that would remove the requirement for x-rays as a condition of coverage and payment of chiropractic services. I would note that this provision also had the support of the Administration and was included in their budget proposal as well.

Unfortunately, the Congressional Budget Office scored the provision as costing $600 million over a five-year period. And, although it was included in the Ways and Means bill as I previously mentioned, the Finance Committee spending parameters did not allow for its inclusion principally due to the cost estimate.

Accordingly, I offered an amendment proposing a two-year demonstration project to study the cost effectiveness of removing the x-ray requirement as well as allowing doctors of chiropractic to order and perform x-rays in both a fee for service and managed care setting. I am grateful that Chairman ROTH indicated he would conditionally accept my demonstration amendment on the basis that a final CBO would be de minimis. With that understanding, the committee unanimously approved my amendment.

I was astonished to learn yesterday that, in fact, the CBO scored my amendment at $900 million—a third more than the entire provision in the House! I have asked for a complete justification of this figure, but pending that review, the Committee had no choice but to drop my amendment.

I firmly believe that affording greater access to chiropractic services by beneficiaries will not only result in reduced Medicare expenditures but will also reduce the performance of needless surgery to correct back problems.

I hope that as this issue is addressed in the conference committee, that the Ways and Means language will prevail, and will, therefore, bring a more pragmatic approach to the delivery of health care to our seniors.

Durable Medical Equipment: On reimbursement for durable medical equipment (DME), I am happy to report that the committee agreed to include an amendment I proposed which would allow beneficiaries to buy more expensive equipment than that allowable under Medicare and pay the extra amount out-of-pocket. This is an amendment originally proposed by our former colleague, Senator Bob Dole, and I think it makes a good deal of sense. Since this provision was contained in the Balanced Budget Act of 1995, I am extremely optimistic it will become law this year.

Orthotics and Prosthetics: On the topic of reimbursement for orthotics and prosthetics (O&P), I am grateful that the bill includes an annual update of at least one percent over the coming five years. O&P providers design, fit, and fabricate braces and limbs for persons with physical disabilities. As such, this small industry is distinct from DME. O&P suppliers have much less control over the costs of their program than DME suppliers, given that it is hard to imagine "induced demand" for O&P equipment. Consequently, I hope that any provisions undertaken to restrict the growth of DME, which I recognize is a concern, will not be attributed to O&P as well.

Home Oxygen Services: One of the most contentious, and for me, most troubling, issues associated with this bill was how to set the appropriate reimbursement level for home oxygen services.

None of us want to see quality diminished for this vital service. That is clear.

But the Committee was presented with very compelling evidence that payment levels are too high.

For example, the General Accounting Office report comparing oxygen services in the Veterans Administration to those under Medicare concluded that the Health Care Financing Administration is paying almost 40 percent too much for home oxygen.

I will be the first to admit that I do not know what the exact number should be. Nor is there any statistical measure that can be reliably employed.

I will say that there was virtual unanimity that the current payment levels are too high. However, given the need to ensure continuing high-quality services for beneficiaries, I am much more comfortable with the House provision. Serious questions have been raised about the severity of the Finance recommendation and the effect that it could have on small, rural providers such as many who operate in my home state of Utah. If we are to err, I would rather err on the side of quality.

Fraud and abuse: I would also like to comment briefly regarding the new fraud and abuse provisions in the bill. The bill, as amended by Senator GRAHAM, contains new, significant and, in some respects, untested anti-fraud and abuse penalties including additional Medicare exclusions and civil monetary penalty authority.

I believe that we need effective fraud and abuse enforcement tools. I just want to be sure that these provisions do not have any unintended consequences or implications that would penalize innocent parties who are following the letter of the law.

Many of these provisions found in the Finance bill as amended are actually based on provisions contained in the Administration's fraud and abuse legislation introduced earlier this year, and on which no hearings were held in the Senate.

As a general rule, we in the Congress should not act without the full and open benefit of hearings so that all parties have an opportunity to comment, and so that legislation can be modified as appropriate.

While I am not going to oppose these provisions, I do have reservations about some of them. And, I am encouraged to learn that the House intends to address some of these in conference.

The expanded authority with respect to the imposition of civil monetary penalties was particularly troublesome.

The two provisions at issue included (1) the addition of a new civil monetary penalty for cases in which a person contracts with an excluded provider for the provision of health care items or services, where that person knows or should know that the provider has been excluded from participation in a federal health care program; and, (2) the addition of a new civil monetary penalty for cases in which a person provides a service ordered or prescribed by an excluded provider, where that person knows or should know that the provider has been excluded from participation in a federal health care program.

While, certainly, no provider should contract with or furnish services ordered or prescribed by another provider whom they know to be excluded, the provisions also would subject providers to civil monetary penalties where they "should know" that another provider is excluded.

This "should know" standard has the potential to create anxiety among providers. What would rise to the level that a provider "should know?" In my view, these provisions target the wrong providers—they punish the provider who is serving the patient based on a legitimate and legal prescription, rather than the excluded provider who is at fault.

For example, retail pharmacies fill thousands of prescriptions per month based upon prescriptions from numerous prescribers. It is not hard to imagine a situation in which a pharmacy would be unwilling to fill an emergency prescription for a sick child late at night in a rural community. The pharmacist might not have enough information about the prescribing doctor to risk a $10,000 fine.

I think it is extremely important to clarify our expectations on this issue and others within the CMP section. Accordingly, I am pleased that Chairman ROTH agreed to the inclusion of report language that, in effect, clarifies that the committee "does not intend these two new civil monetary penalties—for arranging or contracting with an excluded provider, or for providing items or services ordered or prescribed by an excluded provider—to impose an affirmative burden on providers to find out if another provider has been excluded from a federal health care program. Rather, only in instances where a provider acts in deliberate or reckless disregard of another provider's excluded status may the government seek to impose civil monetary penalties under these provisions."

Community Health Centers: Before turning to the final issue I wish to discuss, I just wanted to take a moment to mention my appreciation that Chairman ROTH agreed to continue the current reimbursement system for Federally-Qualified Health Centers.

FQHCs are the best way I know to deliver high-quality, low-cost care to underserved areas. They are increasingly being squeezed in today's managed care environment, in large part because they are providers of last resort and have no insurers on which to shift costs if they are underpaid. Studies have indicated that Community Health Centers, for example, are only receiving about half of their costs from managed care entities. Faced with that situations, CHCs have little recourse, and can only hope that their appropriated funds make up the difference.

This is a situation that I intend to follow closely. No one likes to argue for cost-based reimbursement; that is not a particularly effective payment mechanism. But, to require CHCs and Rural Health Clinics (RHCs) to provide services at less than cost is also inefficient, and stifles the development of a cheaper alternative form of health care delivery which is proven to be high quality. There is no easy answer here, but let us not undercut these great little providers while we seek a solution.

Children's Health Initiative: Finally, I want to close by commenting on what may be the most important provision of this bill: the children's health insurance initiatives.

Let me just say that a lot of progress has been made on the issue of children's health in the 105th Congress.

I believe that, when the history of this Congress is written, two of the most important chapters will address the balanced budget agreement and the children's health initiative. It seems only fitting that this budget reconciliation bill that brings the budget into balance includes the key funding and program provisions on children's health insurance. Our kids will have a healthier future in both of these important respects.

Let us be clear why we take these major actions to include $24 billion in new spending over the next 5 years to pay for children's health insurance.

An estimated 10 million American children are without health insurance. This amounts to about 25 percent of the nation's uninsured individuals.

In my state of Utah, about 10 percent of our children lack health insurance. This amounts to about 55,0000 uninsured children in my state.

Because the Medicaid program is targeted to provide health care to poorest of the poor, it is important to understand that many of the uninsured children in our nation come from working families with incomes just above the poverty level.

In fact, about 88 percent of these uninsured children come from families where at least one parent works.

What I have been trying to do over the last few months is to help these children from America's working families.

That's why I teamed up with Senator TED KENNEDY to introduce the Children's Health Insurance and Lower Deficit Act (CHILD). In essence, this twin legislation, S. 525 and S. 526, calls for an increase in the federal tax on tobacco products in order to finance a voluntary program of state block grants for children's health insurance and to provide for deficit reduction.

Because of our well-recognized divergent philosophies, Senator KENNEDY and I had hoped that, by drafting compromise legislation, we would be able to attract support for our legislation across the political spectrum.

By and large, we have been successful with working with advocacy groups like the Children's Defense Fund and the Child Welfare League to raise awareness of this issue. And, I believe we should give credit to these organizations—as well as to health care providers such as children's hospitals and American Academy of Pediatrics—for their tireless and long-standing efforts to highlight the health care needs of children in our country.

And, although I do not see eye to eye with Senator KENNEDY on all, or even most, matters, I must commend my friend from Massachusetts for all of his work and vision on this important issue. There is no more tenacious advocate in the United States Senate for a cause he feels strongly about than Senator KENNEDY.

The Senator from Massachusetts and I worked hard to arrive at a compromise that would be attractive for many. As an ardent anti-tax, anti-big government conservative, the critical tasks were to devise a program that did not centralize decisionmaking in Washington and that did not have the potential of growing out of control. It was also essential that it be paid for.

While I am generally loathe to increase taxes, the adverse health effects of tobacco and their concomitant costs to society, not to mention the costs to public programs, made raising the tobacco tax a "two-fer."

Tobacco is a killer. I don't know of any other product that, when used as directed, will kill you.

Tobacco accounts for an estimated 419,000 American deaths annually. In 1993, cigarettes killed more of our fellow citizens than AIDS, alcohol, car accidents, fire, cocaine, heroin, murders, and suicides combined.

About 50 million Americans smoke.

About 1 in 5 deaths are smoking related.

4 of 5 smokers begin by age 18. About half by age 14.

Each day 3000 young Americans begin to smoke.

Experts believe that tobacco costs society $100 billion annually, including $50 billion in direct health care costs.

Of this $50 billion, there are $10 billion in annual costs to Medicare; $5 billion in Medicaid; $4.75 billion to other federal programs; and, $17 billion in increased insurance premiums.

Not only does tobacco kill, it also results in a tremendous amount of unnecessary health care costs.

When all is said and done, use of tobacco products comprises the number one preventable public health threat.

A strong argument can be made that it is this unique public health threat posed by tobacco that forms the basis of the justification for raising the tobacco tax.

The American public overwhelmingly approves of the idea of financing children's health programs through an increased tobacco tax.

An April 26, Wall Street Journal/NBC poll asked the public its opinion of financing state block grants for children's health care through an increase in the tobacco tax.

72 percent of Americans agreed with this proposal.

And this support cuts across almost every demographic category. For example, more than 50 percent of smokers agree with the idea of increasing tobacco taxes to pay for children's health insurance.

So the case against tobacco and for a tobacco users tax increase is strong.

Overall, I am pleased with the children's health provisions of the reconciliation bill as reported by the Finance Committee.

Those involved in the efforts over the last few months to increase materially the funding for children's health insurance should take credit for the addition of $24 billion in new funding over the next five years.

Few could have thought that we could have come so far so fast in this effort.

I know that there are some that think we have, in fact, gone too far, too fast.

But I think that these critics who deny that we can utilize this average $4.8 billion in funding wisely and prudently are just wrong.

If all of the states, for example, exercised the Medicaid option of the block grant we know, applying the $860 per person average federal contribution for a Medicaid covered child, about 5.58 million children could be covered. This is barely half of our nation's uninsured children.

There are a number of ways to look at such a statistic. But in this case, I think the glass is clearly half full. If we take care of more than half of the uninsured children in our nation we will have achieved a major accomplishment.

It is also possible that if states chose to exercise the block grant option, we will be able to take care of more kids than possible under Medicaid.

At this point, no one can know with certainty how many states will use Medicaid and how many will use the block grants.

We do not know what eligibility criteria and financial requirements that states implementing the block grants will chose to adopt. All of these factors will affect how many children will be covered.

But before we get too caught up in focusing on the number of children covered, we must not lose sight that it is also important to see what benefits that covered children are going to receive.

The Finance Committee heard expert opinion from the Administrator of the Health Care Financing Administration, Dr. Bruce Vladeck, that it costs about $1000 per child for a quality children's health insurance plan.

So even with the increased flexibility of the block grants, do not be misled to believe that $4.8 billion per year is somehow too much money. Even when we add in the required state matching rate and co-insurance and co-payment requirements, it is hard to project that even two-thirds of the nation's uninsured children will be taken care of by this $4.8 billion a year.

Also, inflation in the health care sector will eat into the purchasing power of the average $4.8 billion per year allocation.

As I argued last week in the Finance Committee, I would have preferred to get the entire $20 bill in children's health insurance funding over the $16 billion already set aside in the budget resolution. I pointed out that, taken together, these funds could have taken care of the projected 7 million of the nation's uninsured that live in families with incomes under 240 percent of the federal poverty level. This would represent about 70 percent of the uninsured children in this country.

While I was not able to persuade the full Finance Committee to allocate the full Hatch-Kennedy legislation on top of the initial $16 billion set aside, I am pleased that the Committee did agree to the essence of the Hatch-Kennedy CHILD legislation by imposing an increased tobacco tax to finance children's health block grants to states.

Frankly, I think that one of the great watershed events of the return of Republican majorities in both chambers of the Congress is that the days of tax and spend are over in favor of a more fiscally responsible climate in which new taxes are seldom proposed and, if proposed, scrutinized with the highest degree of skepticism.

This is tough medicine but it is what we have to do to set our fiscal house back in order. We need to let working Americans keep more of their hard-earned money by looking for ways to tax and spend less of their income.

So, would I have preferred more money for children's health in the Finance Committee bill? Yes.

But, I would much more rather be in the position of having my colleagues on the Committee nearly unanimously support a tobacco tax that will generate, in part, an additional $8 billion over five years for children's health that I would like to be in an uphill, all but hopeless, battle to win a major floor amendment on a fast moving reconciliation bill.

To me, the $8 billion in hand was more certain than the $20 billion in the bush—so to speak. Moreover, I believe that the positive, bipartisan support for the Finance Committee provisions bodes well for both the success for the provisions and the program itself. The last thing I want is to make children the subject of an acrimonious debate over concepts and details.

This, of course, assumes that the Senate funding level and tobacco tax structure prevails in conference.

I have told my colleagues on the Finance Committee, some of whom—it is a matter of public record—are very much opposed to this source of tax revenue and this funding level, that if the Senate tobacco tax and children's health funding levels are changed in conference then I will pursue, in every way that I know how, more funding. My goal is to get this done, not just put out a press release about it.

Let me also say that it will be my firm position that any funds allocated toward children's health from the so-called "global tobacco settlement" should be considered as distinct from, and additive to, the funds earmarked for children's health in the Senate reconciliation bill.

One of the major reasons that I decided to compromise on the amount of funds that I would seek from the Finance Committee in the reconciliation process is because I was aware of the possibility that additional funding may be available from the global settlement.

But let's not kid ourselves here. The global settlement faces a tough road as it wends its way through the Administration, Congress, the Courts, and—perhaps most importantly—the court of American public opinion.

Suffice it to say that I will strenuously resist any effort to reduce in conference or subsequently any of the children's health funding already secured.

But, I also believe that my colleagues in both the House and Senate will see the merit in the provisions adopted by the Finance Committee. The need is compelling; the compromise program is reasonable; and it is paid for by taxing a commodity that not a single person can defend as worthwhile.

While I did not get everything that I wanted in this legislation, it is seldom the case that any one legislator gets all that he or she wants. Since this is not a monarchy but a democracy, compromise and consensus building is what distinguishes our form of government.

Given the original philosophical lines of scrimmage, I think the children's health provisions represent a good compromise. The bottom line is that we can all take pride in this provision.

The advocates for children and public health should take credit for successfully raising the concern about the problem of uninsured American children to the level of concern that a major funding commitment—$24 billion over 5 years—was included in an otherwise very frugal budget balancing bill. That's a big achievement that will benefit literally millions of American children into the next century.

The governors should take credit for the fact that the final package approved by the Finance Committee gives the states a great deal of flexibility in devising programs and eligibility criteria that will work best in their respective states. I am confident that the governors will use their creativity to establish programs that deliver high quality health care to the children of working families.

Let me hasten to add that I recognize there are some provisions in the bill of which the children's advocates and the governors do not approve. I understand those concerns. We all want to provide the best possible health care to our kids. But we also want the money to go as far as possible. It is a balance, and we have endeavored to set the scales right.

But politics is the art of the possible. Only because of the debate that we have engaged in over these last few months—a debate comprised of many perspectives and many heated moments—it will now be possible to help millions of American children to reach adulthood in good health.

I see this as both good public health and evidence that Congress is capable of working constructively to address the nation's business.

CONCLUSION

In closing, Mr. President, I count myself among those who have worked hard for a balanced budget. As much as each of us wished otherwise, balancing the budget is not some idle task. Indeed, it is the most difficult of endeavors. We are faced with hard choices, choices that have serious consequences for citizens everyday.

Again, if I were the only senator writing this bill, I would have written some provisions differently. I would have more tax relief, for example. I would have spread spending reductions more evenly over the five-year period.

And, if I can't have everything I want, President Clinton cannot have everything he wants.

But, on balance, I think that this bill lives up to its goals. Senators on both sides of the aisle, but especially the Senator from New Mexico, deserve to be commended for developing this legislation.

When we pass this bill, Congress will have passed another balanced budget bill. We will have preserved Medicare for the foreseeable future, and we have made a considerable downpayment on our children's health. And that is the most important legacy we can leave to our country's future.

I urge President Clinton to give this bill his unequivocal support.

MEDICARE COVERAGE OF ORAL ANTI-CANCER DRUGS

Mr. SANTORUM. Mr. President, the budget reconciliation bill before us presents a historic opportunity to balance the budget, provide long overdue tax relief for families and ensure that important programs such as Medicare will be here for the next generation of Americans. I intend to support this legislation, but first, I would like to make a few comments about the Medicare provisions.

We all know that Medicare is in serious trouble. For 2½ years, we have been hearing that Medicare is going bankrupt. Today, we have an opportunity to do something to put Medicare back on the path to solvency. This bill calls for reasonable structural reforms of the Medicare program. It extends Medicare's solvency and promotes more choices for seniors—much like Members of Congress enjoy under the Federal Employee Health Benefits plan. If we truly care about Medicare—if we really mean it when we say that Medicare must be here for our children and grandchildren, then it's not enough to just talk about saving the program. We need to take action. And yes, we need to ask the baby boomers and today's young people—who I might add are already paying for a program which will not benefit them if we continue the status quo—to accept some structural changes that are absolutely necessary to protect and preserve this program. I commend those who have had the courage to come to the floor and explain these reforms in spite of what the special interest groups say. On behalf of the next generation, I thank my colleagues who are constructively working to solve Medicare's problems before it is too late.

Mr. President, reforming Medicare is not just about saving money. It is also about improving seniors' choices in health plans and treatment options. One way to achieve these goals is by allowing Medicare reimbursements for orally administered anti-cancer drugs which cannot be produced in intravenous form (I.V.). Unfortunately, this change was not included in the bill before us. After considering that orally administered anti-cancer drugs would simultaneously enhance the quality of life for cancer patients and save a significant amount of money, I hope the conferees will include this proposal in the final reconciliation bill.

Medicare's current policy with respect to coverage of anti-cancer drugs is outdated. Medicare pays for injectable and intravenous anti-cancer drugs. Several years ago, Medicare law was amended to also allow coverage for oral anti-cancer drugs, but only if they are available in intravenous form. This policy recognized that if a drug comes in both an oral and an I.V. form, it makes sense to provide coverage for the cheaper oral version instead of requiring patients to take the much more expensive and often more toxic I.V. version. Since then, researchers have developed oral anti-cancer drugs that are just as effective, easier to administer, and have fewer side effects, but are not—and cannot be—produced in I.V. form. Because they have no intravenous formulation, Medicare does not cover them.

Efficacy, safety, and quality of life should be the primary factors when a patient and physician select the appropriate cancer treatment. Unfortunately, current Medicare policy forces many patients to make reimbursement the overriding factor. As a result, the patient is subjected to procedures which are more invasive, more expensive, and often less appropriate simply because Medicare will pay for it. At the same time, Medicare absorbs tens of thousands more in extra costs. For example, the cost of intravenous treatment for recurrent ovarian cancer ranges from $20,000 to $42,000 per patient per treatment course. At the same time, the oral therapeutic alternative—which does not come in I.V. form—costs just $3,300. If Medicare covered the oral alternative, the program could save between $17,000 and $39,000 per ovarian cancer patient, and the patient could enjoy a potentially better outcome and quality of life. Wealthy seniors can pay for the oral drug out-of-pocket if that is their preference, but most seniors do not have that luxury.

Once again, I want to emphasize that when we talk about Medicare reform, we are not just talking about saving money. We also want to create incentives for individuals to seek the most appropriate care. Changing Medicare law to allow coverage of oral anti-cancer drugs meets both tests. I urge my colleagues to incorporate this change in conference. The Health Care Financing Administration supports it. Cancer patients deserve it. Medicare would save money because of it. There is no reason not to do it.

Thank you, Mr. President.

Mr. GRAHAM. Mr. President, although none of us received all of what we wanted in this budget deal, I rise today not to point out its deficiencies. Rather, I want to highlight the key strength of this agreement—It makes Medicare and Medicaid smarter.

It is smart to root out fraud and abuse; it is smart to permit competition; and it is smart to promote preventive health care.

Cracking down on those who abuse the system is smart. Paying less for more goods and services is smart. And preventing diseases is smart.

My colleagues and I are here today not to eliminate Medicare and Medicaid. Nor are we here to preserve the status quo. We are here to make these programs smarter—More efficient, more equitable, and more solvent.

We were faced with the politically unenviable task for paring Medicare by $115 billion and Medicaid by $23 billion to accomplish the overarching goal of this legislation—a balanced budget by the year 2002.

Both health care providers and senior citizens will share in the burden of meeting this goal.

Mr. President, before we ask providers and senior citizens to sacrifice, we should feel confident that this budget makes inroads into cutting fraud and abuse out of the program.

Just yesterday, my esteemed colleague, Senator HARKIN, discussed some of our mutual concerns in this area. Senator HARKIN and I have long been champions of anti-fraud measures and pro-competitive measures, sometimes to the consternation of health care suppliers and providers.

Senator HARKIN was right yesterday when he spoke strongly about Medicare's need to begin negotiating for the best deal on supplies and equipment, like other Federal agencies have done. It makes no sense that Medicare—the largest single purchaser of health care services in the country—has to follow a price list set out in seven pages of statute rather than relying on competition.

Our efforts in this area have been bipartisan. Just last week in the Senate Finance Committee, I, along with Senator NICKLES, sponsored an amendment to give the Health Care Financing Administration the authority to institute competitive bidding for part B services. My colleagues on the Committee stood with me as we unanimously adopted this proposal. It is my sincere hope that my House colleagues will follow suit.

Implementation of competitive bidding is one way in which Congress can show that we have finally gotten serious about preserving the integrity of Medicare.

Another way is to begin a serious crackdown on fraud in not only Medicare, but Medicaid. Congress simply cannot be taken seriously when it asks for sacrifice if we are not willing to push as hard as we can to prevent people from ripping off the system.

Let me give you some brief examples of the rampant problems we face in this area:

In 1993, in my home town of Miami Lakes, FL, the Office of the Inspector General reviewed 100 claims for Medicare reimbursement by a home health agency. About out-fourth of these claims did not meet Medicare guidelines in that they either were unnecessary, not reasonable, or not provided at all. The home health agency made $8.5 million in claims, $1.2 million did not meet the reimbursement guidelines.

Two years ago, I spend a day working in the U.S. Attorney's Office in South Florida. There I learned that it is easier to get a provider number under Medicare than it is to get a Visa card. It is easier to get a blank check signed by Uncle Sam than it is to get a household credit card.

Mr. President, we cannot repair the Medicare Program without first cracking down on fraud and abuse. Those who play by the rules should not have to suffer at the hands of cheats and swindlers, and this Congress should put an end to the conditions in which cheats and swindlers thrive.

I would like to thank Chairman ROTH for including many of the Medicare anti-fraud proposals contained in bipartisan legislation I introduced with Senator MACK and Senator BAUCUS last month, including mandating that providers post a $50,000 surety bond to participate in the Medicare program.

While a $50,000 bond is relatively inexpensive to post for scrupulous contractors, at a cost of about $500, the requirement has achieved tremendous results in my State. Since implementation of the requirement, the "fly-by-night" providers have scattered like so many roaches when the lights are turned on.

Durable Medical Equipment Suppliers have dropped by 62 percent, from 4,146 to 1,565; home health agencies have decreased by 41 percent, from 738 to 441; providers of transportation services have disenrolled from the State's Medicaid program in droves—from 1,759 to 742, a drop of 58 percent. Fewer providers bilking the State's Medicaid Program is projected to save over $192 million over the next 2 years in Florida.

Mr. President, we have expanded the surety bond requirement not only to Medicare in this bill—but the Finance Committee also adopted my amendment to expand this requirement to Medicaid.

This is just one of the many anti-fraud provisions included in this budget. I want to reiterate my thanks to Chairman ROTH for his willingness to take a tough stance to ensure that Medicare and the State Medicaid Programs are run efficiently, without the graft we have seen overrun the programs in recent years.

Finally, Mr. President, we must do as much as we possibly can to ensure that our seniors receive preventive care—"health care" not "sick care."

In the long run, we stand to save billions of dollars by providing early, regular, and preventive medical care, as opposed to acute, reactive, emergency care. It is both fiscally and physically prudent to prevent sickness before the fact and not after.

We can start by covering colon cancer screenings under Medicare. We can save millions of dollars—and millions of lives—by detecting and treating this cancer in its early stages. Colon cancer is the second most frequent cancer killer in America, causing 55,000 deaths each year. But while it is estimated that screening and early detection and intervention could eliminate up to 90 percent of these deaths, Medicare does not currently pay for these preventive measures.

Colon cancer screenings cost only $125–$300 apiece, and patients diagnosed through early detection have a 90 percent chance of survival. But if a patient isn't diagnosed until symptoms develop, the chance of survival drops to a mere 8 percent. Care for treatment in such cases can cost up to $100,000. The cost of not covering colon cancer screenings—in lives and in dollars—is unacceptable.

It is also imperative that we eliminate co-payments for mammography. According to a 1995 study in the New England Journal of Medicine, women in the Medicare Program who have to pay some of the cost of mammography are far less likely to actually undergo the procedure. Only 14 percent of those women who had to make some kind of cash payment actually had a mammogram. In contrast, among women who had some kind of insurance to supplement their Medicare benefits, 43 percent had mammograms. Lack of supplemental coverage should not be a barrier to necessary and ultimately cost-saving medical treatment. Mammography should not be a luxury. It is a necessity.

Mr. President, another necessary preventive measure is Bone Mass Measurement, the procedure which detects Osteoporosis.

Osteoporosis is a debilitating bone disease which afflicts 28 million Americans and causes 50,000 deaths each year. Eighty percent of its victims are women.

Osteoporosis fracture patients cost Medicare $13.8 billion a year. This cost is projected to reach $60 billion by the year 2020 and $240 billion by the year 2040 if medical research has not discovered an effective treatment. We can curb these skyrocketing costs by providing Medicare coverage of bone mass measurement.

Because we now have access to drugs which can slow the rate of bone loss, early detection is our best weapon in the fight against Osteoporosis. It is only through early detection that we can thwart the progress of the disease and initiate preventive efforts to stop further loss of bone mass.

In order to ensure that we detect bone loss early, we need to ensure that older women have coverage for bone mass tests. Unfortunately, coverage of bone mass measurement is inconsistent from state to state. Qualifications for testing, and the frequency of testing, differ from carrier to carrier and region to region. The current system is confusing and inequitable. Medicare Bone Mass Measurement Coverage should be covered uniformly in all states.

Diabetes, with its tremendous financial and human toll, also deserves greater protection under Medicare. By providing for Medicare coverage of blood glucose monitoring strips and outpatient self-management training services, we can expect to see significant reductions in complications and expensive treatments.

Coverage of test strips and self-management training services will allow people with diabetes to care for their own individual needs. In so doing, they can better prevent complications such as blindness, kidney failure and heart disease.

Mr. President, this budget agreement is smart. It cracks down on fraud and abuse. It makes medical goods and services cheaper. And it promotes preventive health, saving millions of lives and billions of dollars.

These are necessary and long overdue measures, and I thank my colleagues who have supported them.

MEDICARE SUBVENTION

Mr. KEMPTHORNE. Mr. President, today I join my colleagues in support of Medicare subvention. I want to thank Chairman ROTH and the Finance Committee for including this important demonstration project in the bill now before the Senate. After 4 years, I believe that it is high time the Congress enact Medicare subvention. This project is part of the solution toward providing military retirees the quality health care they deserve. For these reasons, I strongly urge my colleagues to support Medicare subvention.

Mr. President, the Medicare portion of the reconciliation bill now before us on the floor includes two demonstration projects for Medicare subvention. The first will reimburse the Department of Veterans Affairs with funding from the Medicare Program for health care services provided to targeted Medicare-eligible veterans. The second demonstration project, Mr. President, will offer military retirees over the age of 65 the option to use familiar medical treatment facilities, with Medicare reimbursing the Department of Defense.

Mr. President, in my opinion, these two solutions will address the frustrations many of our veterans endure after serving their country so honorably. Subvention gives America's veterans an option to choose the best possible medical care available. I urge my colleagues to support the Medicare subvention demonstration project with the hopes that this year we will pass this cost-saving, commonsense solution to some of the health care needs of our Nation's veterans.

Ms. MOSELEY-BRAUN. Mr. President, the legislation pending before the Senate is designed to provide sufficient savings to implement the balanced budget blueprint we passed last month. While the balanced budget plan set the broad framework for balancing the budget by 2002, it was up to the various committees to implement this plan. This bill combines recommendations from eight Senate panels, including changes in Medicare, Medicaid, and spectrum auctions. I commend the committees for their work thus far because many of the provisions in the Balanced Budget Act of 1997 are long overdue steps in the right direction. It is clear that unless we get our deficit under control, we will be leaving our children—and our children's children—a legacy of debt that will make it impossible for them to achieve the American Dream.

The best news about this plan is that it will help balance the Federal budget. More work however, needs to be done to meet our obligations to future generations of Americans, to invest in people, and to protect their retirement security. Every generation of Americans has addressed and resolved challenges unique to their time. That is what makes our country great. Now is the time to take steps toward ensuring that our generation will honestly address its needs so that future generations will have at least the same opportunity. Our generation should leave no less than we inherited.

This is not a perfect bill before us today. My colleagues and I on the Finance Committee held several marathon sessions last week in order to craft a large part of this legislation. I think we reached agreement on a package of provisions about which everyone has some objections but also, all the members of the Finance Committee were able to support in the end. This unanimous support for the bill is a complete change from the Balanced Budget Act of 1995 and a testament to the leadership of Senators ROTH and MOYNIHAN. I want to congratulate my colleagues for working together in a bipartisan fashion aimed at not only improving the Medicare and Medicaid programs but also the Nation as a whole.

I am however, particularly concerned about several provisions included in the bill. The first is the impact of increasing the Medicare eligibility age to 67. This provision will have a negative effect on millions of Americans. Many businesses and employees plan their retirement and health coverage around eligibility for Medicare. Increasing the age to qualify will exacerbate the existing problem of being uninsured among people age 55 to 65. Given our goal during this Congress of increasing health coverage for vulnerable populations—through the kids health care and allowing the disabled to buy into Medicaid—this provision moves in the wrong direction.

Similarly, the proposed fourfold increase in the Medicare deductible for some beneficiaries is particularly problematic. I voted against this provision in the Finance Committee because I do not think the issue was sufficiently considered nor were we given the kind of impact analysis that is essential before making a decision of such magnitude. Such a significant increase in the deductible is essentially a tax on the sickest seniors. Those people who have to use the doctor more are the only ones who will incur the increased costs. Any deterred utilization of services will likely be the result of a senior deciding between needed health services or other expenses that must come from their fixed income.

Furthermore, we have to be careful before preceding down this road. Means testing stands to erode support for the Medicare Program. We all have witnessed the backlash against so called welfare programs over the past 2 years. We must not allow Medicare to become regarded as transfer program solely for the poor. Americans pay into Medicare and expect to have the insurance when they retire. We already make wealthier Americans pay more in Medicare payroll taxes. It does not seem appropriate to be so hasty in increasing their cost-sharing obligations for the program as well.

I also think that the Finance Committee went too far in its zeal to increase managed care enrollment in rural areas. This by no means suggest that I do not support enhanced managed care in rural areas—the majority of my State is rural. However, essentially freezing payment rates in high cost area, which coincidentally also have the overwhelming majority of existing managed care enrollment, in order to increase payment rates in rural areas may have the reverse effect. The committee bill contains so many incentives for rural areas that we may erode existing managed care enrollment and extra benefits that many health plans offer like prescription drugs and eye glasses. I hope that a more appropriate balance between encouraging managed care in underserved areas and maintaining existing enrollment can be achieve in the conference with the House.

On the other hand, there are a number of good aspects of this legislation.

Increased choice for Medicare beneficiaries through the development of Provider Sponsored Organizations and the removal of teen parents from the limit on vocational education under the welfare program are just two example of very meaningful policy changes included in this bill. Removing teen parents from the vocational education limit will facilitate states' promotion of education for 240,000 additional individuals as a means of moving permanently from welfare to work.

The legislation would also cover diabetes self management training, colorectal cancer screenings, and mammography screens without copayment obligations. This investment in mammograms without a copayment obligations will benefit over 2 million women. Mr. President, S. 947 protects the vitally important Early Periodic Screening Diagnostic and Treatment [EPSDT] benefits for children under Medicaid. Despite requests from Governors to diminish the benefit package for children, this bill does not allow it to occur. Similarly, the legislation protects disproportionate share funding for those hospitals that treat large volumes of indigent patients and are overly burdened by uncompensated care.

I am certain that members on both sides of the aisle believe that this bill can be improved and there are a number of proposed amendments to do so; a number of which I plan to support. I hope that this body can get through this process in the same bipartisan fashion displayed in the Finance Committee. Chairman ROTH said it best both in the Committee and on the Senate floor, that no one got everything but everyone got something that they wanted in this bill. That I believe, is the true mark of legislation through consensus.

As I said at the outset, this bill takes several steps in the right direction—the direction of a balanced budget. However, Congress must not only look at the 5 and 10 year effect of the policies we enact or rest on the laurels this package. We need to look to the future and continue to reform programs in a fashion that maintain a balanced budget. The worse thing that we could do is not act again for another 60 years. Long-range economic forecasts are notoriously unreliable, but our long-range demographic changes are a reality that cannot be ignored. The retiring baby-boom generation will place considerable strain on our public systems. This budget bill only extends Medicare solvency through 2007—not even to the point at which the baby-boomers begin to retire. The longer we wait to enact more substantive program changes, the greater the threat to the viability of the Medicare Program.

Our actions now will impact future generations—our grandchildren and great grandchildren. We have to remind ourselves to look beyond the next 5 to 10 years. I am not suggesting that we not celebrate being on the brink of a victory—balancing the budget for the first time in 60 years. I am simply stressing that Congress cannot retreat from its commitment to ensuring that future generations will have at least the same opportunity as we and our parents. Our generation should not leave no less than we inherited.

Mr. DOMENICI. Mr. President, I think what both sides are waiting for now is to prepare all of the amendments that we are going to offer en bloc in an appropriate unanimous consent request—both Senator LAUTENBERG and myself. So the time is going to be much to our advantage because we will not be here very long after we get started on that.

Mr. President, when we first started negotiating with the President of the United States, the Republican and Democratic leadership, the Budget Committee chairman and some others asked how are we going to get through these contentious issues? Some Republicans on our side said how will we be sure what we get done will be signed by the President? That had to do with the reconciliation bill that we are going to finish tomorrow about noon, it had to do with the tax bill, it had to do with the 13 appropriations bills.

My stock answer was it seems to me what we have learned over the past 4 years is that the best way to get that done is to have the proposals done in a bipartisan manner. That is, send to the President proposals that are both Republican and Democratic in terms of the party affiliation of those who support it.

From what I gather, at least in the U.S. Senate, the epitomy of that is Senator ROTH and his chairmanship, with his ranking member, Senator MOYNIHAN. For even today, on almost all of the amendments that the Finance Committee either offered or were challenged on, almost every member of the Democratic Party voted for—not all, but almost all—and you saw the results. Some of the issues that we were never able to do before in a reconciliation bill following a budget resolution were done today and they were done with overwhelming votes.

The general understanding in this place that contentious, difficult matters would never clear the point of order under the waiver because it requires 60 votes was dispelled today because of the bipartisan nature of the results desired. I believe that will hold true. I am hopeful when we go to conference that the same thing will happen, that the distinguished chairman of the Finance Committee, who has most of these matters even if he splits it up into subcommittees, that it will come out of there bipartisan and we will continue to work with the President.

We want to tell the White House that we know the bill which will be cleared tomorrow is deficient in at least two places and we will have to fix those in conference because we cannot fix them here today. We will tomorrow in an amendment to be offered by Senator MCCAIN, Senator LOTT, and myself, attempt to bring the revenues to be received from spectrum closer to the mandate in the reconciliation bill. We are hopeful everyone will support us on that. It will be short by a bit.

Unless other things mesh out when we go to conference, we will be short the balanced budget by a couple of billion dollars in the last year. We will work very hard on that in conference to try to fix it.

I look forward to the same thing happening. In fact, some said, how are we going to be sure we do not get Government closure on the appropriations bills when the President vetoes the bills and we close down Government, and my response to most, there is no magic to it. We will not be able to do it by some kind of statute. We tried that. Obviously, it didn't work. I said the best way to do it is to have bipartisan appropriations bills that have been worked on in an effort to meet the agreement which the President joined us on and where there was no joinder because it was not required, that the contents be at least bipartisanly supported.

Now, our chairman is trying to do that in appropriations. If that continues, I think two things result: We get it done; and second, the American people praise us for it because I believe that is exactly what they want us to do.

Frankly, that does not mean we have to give away our philosophy or our ideas. In many instances it will take a long time to get where we want to go. I assume the Democrats are saying the same thing on their side, wondering when they will take over again and be able to move it in their direction. None of it will occur in 1 year. It will take longer. We will get only part of what we want.

The tax cuts are not sufficient when you take into consideration the huge burden imposed on our people, but we also, some of us, recognize we are also spending a lot of money and as we diminish that spending and decrease it, maybe we can have even more tax cuts in years to come. I hope so.

So that is the way I understand what is going on. I feel good about it and, in particular, the support that was so bipartisan on many critical issues here today. If that can continue, I am almost positive we will end up in early October giving the American people one of the best legislative sessions with one of the most significant accomplishments in modern legislative history.

Staff is copying the lists so we can do the amendments en bloc, but one amendment that did not get into that is one by Senator ABRAHAM.

AMENDMENT NO. 456

(Purpose: To extend the moratorium regarding HealthSource Saginaw)

Mr. DOMENICI. Mr. President, I send the Abraham amendment to the desk and ask that it be read so it will qualify for tomorrow's stacking.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI] for Mr. ABRAHAM for himself and Mr. LEVIN, proposes an amendment numbered 456.

Mr. DOMENICI. I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

SEC. . EXTENSION OF MORATORIUM.

Section 6408(a)(3) of the Omnibus Budget Reconciliation Act of 1989, as amended by section 13642 of the Omnibus Budget Reconciliation Act of 1993 is amended by striking "December 31, 1995" and inserting "December 31, 2002.".

UNINSURED CHILDREN

Mr. COATS. Mr. President, because we are waiting, already after a long day, but because we are waiting for some material to come back, if I could ask the chairman of the Budget Committee a question that I raised at lunch. I know that the Budget Committee deliberated at great length on the issue of providing insurance for uninsured children and that after that deliberation, on a bipartisan basis, it was determined that a $16 billion chunk of money for the 5-year budget plan be set aside to address that problem. Many of us applauded the work of the chairman and others in not only that but in putting the entire budget together.

Having said that, I am aware that we will be addressing the second phase of reconciliation and a decision on the part of the Finance Committee to add an additional $8 billion for that program in a block grant to the States. I am also aware of the fact there may be an amendment offered that may add to that an additional $8 billion, raising the total to double or more of what the Budget Committee decided.

I am wondering if either the chairman of the Budget Committee or the chairman of the Finance Committee can explain to me what changed? What was necessary? Why was it necessary? What new facts came to light that required the additional $8 billion, at least?

I know we will be debating this issue, and I do not mean to take up time this evening to debate it. We will debate it under the tax bill. But in the interim, I wonder if we can discuss that a little bit so this Senator can better understand what it is we are attempting to do.

Mr. DOMENICI. Mr. President, let me try for a couple of minutes, and if Senator LAUTENBERG would like to chime in, and obviously the distinguished chairman of the Finance Committee is here.

I think it is fair to say, for starters, that the issue of uninsured children—that is, children without any health insurance—has been a longstanding issue. But in all honesty, it has only become an issue that has been looked at diligently in an effort to see how you might change the way we were doing things this year.

As a matter of fact, it is very interesting, if uninsured children as a class were a big insurable group, it is interesting to note that you could not buy health insurance for children. In other words, if some State had decided, "Let's go ask Aetna or somebody else, do you have an insurance policy we can buy just to insure kids?" it is within the last 6 months, I understand, that for an exclusive child health care insurance policy—it is a very short-lived instrument that exists. For starters, nobody knew exactly what it would cost.

There were two other things that came into the discussion, and that was there are at least two ways, maybe three, of getting insurance. One was to expand the Medicaid system, which will cover some of these uninsureds in any event, but to expand it further so that it would encompass more. That amount was estimated by those who do that kind of work. But there were not really any real estimates on if you did it the second way, which was to let the States either provide it or buy insurance for them—those numbers were not readily available.

So some will say that the $16 billion was too much. In fact, one of our Senators who has studied it diligently believes you could cover all the uninsureds for less than $16 billion. Others say when you are finished with the $16 billion, there will still be some that are not covered. I do not believe a magic formula was arrived at in the Finance Committee. I believe there are those who said not enough prevailed. They found a source of money in a compromise cigarette tax—$8 billion out of the total of $20 billion in revenues from that was used for that one function.

Now, frankly, I'm hopeful for myself, I'm very pleased we did not go the Medicaid route. Neither the House bill nor the Senate bill made it singularly a mandate that you cover the children under expanded Medicaid. In both bills—in the Senate bill they are allowed the option of taking a block grant to be administered by the States, and that is one of the amendments that was around here tonight—what kind of coverage would that be?

I am hopeful when we are finished and get this implemented that we will see to it that we are able to measure what we are doing with that money and how well we have covered people. It may very well be—although for Government money, I doubt it, because whenever you put it out there I assume it will get spent—but I am hopeful if it is more than necessary, we will not spend it, although I assume that might not happen. That is the best I have.

Mr. COATS. I thank the chairman. Of course, he put his finger on my concern, and that is that before we have identified the scope of the problem and the resources necessary to address the scope of the problem, we have set aside a chunk of money, a very significant chunk of money, $24 billion. I just wonder where that figure came from and what it is based upon, because as the Senator from New Mexico has just said and we all know, once the money is made available, those who are beneficiaries of the money, whether it is the States or whether we put it in Medicaid or wherever we put it, they will find a way to spend it.

I do not think anybody is arguing that we do not want to address the issue of uninsured children, but I think what we were arguing is we want to do it in a responsible way, a way that is responsible to the taxpayers so that we do not just arbitrarily come up with a number without knowing the scope of the problem and what dollar amount needs to be applied to that.

So my question really goes to the rationale that was used in arriving at the $16 billion initially by the Budget Committee. I assume they had significant debate and research into that in arriving at that figure, but what has changed from that point forward on the Finance Committee? What new information did they learn that was not available to the Budget Committee that caused the Finance Committee to raise that figure by $8 billion? Was it simply the availability of additional tax money through an identified tax and a decision to divide it up and throw $8 billion here and $4 billion there and whatever, or was there a specific rationale or new piece of information that came forward that said, "No, we were short when we made our Budget Committee estimate. We now need to put in an additional $8 billion to cover the problem that we have identified"?

That goes to the nature of my question. That clearly is something that we need to debate in the tax bill. I do not want to hold up the proceedings here this evening.

Mr. ROCKEFELLER. Will the Senator yield?

Mr. COATS. I am happy to yield to the Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I don't pretend to speak for the chairman of the Finance Committee, but I think it would be helpful to the Senator's concern by expressing this.

There are 10 million uninsured children in this country, and that was deemed to be unacceptable. The first approach was to try and insure 5 million children. That is what the $16 billion was for, to try to get the first 5 million uninsured children covered. This came from the Senator's side of the aisle in the Finance Committee. We thought that maybe we could go beyond that and approach beyond 5 million. But to be quite honest, I think as we have gone our way through this process, we have come to understand that we can't judge exactly what the States are going to do and we can't be entirely sure. So the CBO is now beginning to give us figures that suggest we won't be able to reach the 5 million children mark, perhaps even with both the $16 billion and the $8 billion program. But then again, we are not sure. But we know we have to try because having uninsured children is not acceptable in America. It is not a question of throwing money at a problem or suddenly a discovery of a new source of money. There was simply the desire that we ought to get health insurance to the 10 million children who do not have it. We worked within the Finance Committee to try to accomplish that.

Mr. COATS. I thank the Senator. As the Senator from West Virginia knows, we had debate on that during the proposal offered by Senator KENNEDY earlier, which was defeated. But there was significant disagreement on the floor. I don't know the answer, as to the number of uninsured children, cost policies to insure those children, or the best mechanism to use. Even the charts that the Senator from Utah had designating the number of uninsured children and the charts that the sponsor of the bill, Senator KENNEDY from Massachusetts, had at the same time they offered the bill; the two charts were off by several million, in terms of the number of uninsured children. So even the sponsors of the bill hadn't coordinated the numbers or checked with each other relative to how many uninsured children existed. We learned that three-point-some million of the children were covered under the existing Medicaid Program and several million of these children were temporarily uninsured, not full-time uninsured, because their parents were in and out of employment. And, normally, in employment you get a family policy that covers dependents.

So I was confused as to what the total number was, how many were insured, and what mechanisms we ought to put in place and, more important, how we ought to derive a number. Obviously, we all want to be responsible with the taxpayers' dollars and, at the same time, provide the important coverage. I wasn't able to get an answer where there is some unanimity regarding the number of children, who is covered, who needs to be covered, how long they need to be covered, what the cost of the policy is to cover them. And it seemed to me that we were pursuing a problem by addressing a solution designed in terms of the amount of money available, not necessarily in terms of the specifics of the problem.

Mr. ROCKEFELLER. If the Senator will further yield, I simply say that I really don't think this was a money chase where, in trying to find a solution, they had to go find the problem. The problem was there. One of the most outstanding problems, which is vexatious, is there are 3 million children out there right now who are eligible for Medicaid, but their families do not know; they do not know that they are in fact eligible for Medicaid. So part of the problem was, how do you find, through various public and State agencies, those 3 million children across the country who are already eligible?

Mr. COATS. I ask the Senator, if we could not find them before under existing State-run programs, how are we going to find them now under State block grant programs?

Mr. ROCKEFELLER. I say to the Senator up front, the Senator is asking for kind of an exactitude in an area where exactitude is really very difficult, which is the whole area of the uninsured—how much it would cost? Where are they? How long will they be on Medicaid or insurance? When will they go off? Does the State know about it? Will the State, under a block grant money program, take children already on Medicaid and substitute that money, thus freeing the other money? I can't worry about that.

I have faith in the chairman of the Finance Committee. I think this was a bipartisan decision to do something about a problem that has been with us throughout our history, which is no longer deemed acceptable. The Senator is entirely correct when he says there are no simple answers. I want to assure the Senator—because I sat through, obviously, all the Finance Committee meetings, both public and private—there was never an attempt to sort of grab at money for the purpose of saying let's put that toward health insurance for children. It was a sense that we have a real problem here and we want to try to address it as responsibly and carefully as possible. That was followed by a bipartisan discussion and agreement.

Mr. COATS. I thank the Senator. I don't want to hold up the proceedings here this evening. I am happy to yield to the chairman.

Mr. ROTH. I will make one comment regarding the figures as to what it costs to cover children. What we did in committee is agree that there should be outreach, that we do want to ensure that all children that are not currently insured have the opportunity of having such insurance. But there is a lack of precision in the information, and that essentially creates the problem. I think all you have to do is listen to the discussion that we are having here this evening and it shows you that you don't have hard figures on this. But it was agreed upon, in a bipartisan way, that we wanted to develop a program that would assure all children health care with the enactment of this legislation.

Mr. COATS. I wonder if I can ask the chairman one last question?

Mr. ROTH. Yes.

Mr. COATS. If it is an undefined figure, or at least a loosely defined figure—going back to a question the chairman of the Budget Committee raised—is there a provision, or will there be a provision in the law that would give us the ability to monitor or audit the State response and return of excess funds if States meet their uninsured children's needs, but have money left over from the block grant; is there a basis upon which we can return that money and use it for, obviously, other important needs?

Mr. ROTH. Well, I think there is an accountability in the program. There was considerable discussion about wanting to make certain that these funds were spent by the States for the purpose of children's health insurance. So, yes, we did ensure that that had to be used for that purpose.

Mr. COATS. I thank the Senator. I will be happy to get those materials from the staff and continue to work with him on this question.

I yield the floor.

Mr. DOMENICI. Mr. President, I thank Senator COATS very much for the colloquy this evening. I think it was very helpful. I am sorry, from my standpoint, that I can't be more technical on the amendment. I believe there is a lot of objectivity that is lacking, and I am sure that is going to evolve with time. Your question seems to be very relevant and germane to a serious problem.

Mr. President, I believe on our side, and soon to be followed on the Democratic side, we are prepared to ask unanimous consent that a series of amendments be in order for tomorrow's stacked event that we have spoken of.

I have an amendment that has been agreed to on both sides. This amendment is made on behalf of Senator HARKIN and Senator MCCAIN.

AMENDMENT NO. 457

(Purpose: To reduce health care fraud, waste, and abuse)

Mr. DOMENICI. Mr. President, I send an amendment to the desk on behalf of Senators HARKIN and MCCAIN and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for Mr. HARKIN, for himself and Mr. MCCAIN, proposes an amendment numbered 457.

Mr. DOMENICI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following:

SEC. . IMPROVING INFORMATION TO MEDICARE BENEFICIARIES.

(a) CLARIFICATION OF REQUIREMENT TO PROVIDE EXPLANATION OF MEDICARE BENEFITS.—Section 1804 of the Social Security Act (42 U.S.C. 1395b–2) is amended by adding at the end the following new subsection:

"(c)(1) The Secretary shall provide a statement which explains the benefits provided under this title with respect to each item or service for which payment may be made under this title which is furnished to an individual, without regard to whether or not a deductible or coinsurance may be imposed against the individual with respect to such item or service.

"(2) Each explanation of benefits provided under paragraph (1) shall include——

"(A) a statement which indicates that because errors do occur and because medicare fraud, waste and abuse is a significant problem, beneficiaries should carefully check the statement for accuracy and report any errors or questionable charges by calling the toll-free phone number described in (C).

(B) a statement of the beneficiary's rights to request an itemized bill (as provided in section 1128A(n)); and

"(C) a toll-free telephone number for reporting errors, questionable charges or other acts that would constitute medicare fraud, waste, or abuse, which may be the same number as described in subsection (b).".

(b) REQUEST FOR ITEMIZED BILL FOR MEDICARE ITEMS AND SERVICES.——

(1) IN GENERAL.—Section 1128A of the Social Security Act (42 U.S.C. 1320a–7(a) is amended by adding at the end the following new subsection:

"(m) WRITTEN REQUEST FOR ITEMIZED BILL.——

"(1) IN GENERAL.—A beneficiary may submit a written request for an itemized bill for medical or other items or services provided to such beneficiary by any person (including an organization, agency, or other entity) that receives payment under title XVIII for providing such items or services to such beneficiary.

"(2) 30-DAY PERIOD TO RECEIVE BILL.——

"(A) IN GENERAL.—Not later than 30 days after the date on which a request under paragraph (1) has been received, a person described in such paragraph shall furnish an itemized bill describing each medical or other item or service provided to the beneficiary requesting the itemized bill.

"(B) PENALTY.—Whoever knowingly fails to furnish an itemized bill in accordance with subparagraph (A) shall be subject to a civil fine of not more than $100 for each such failure.

"(3) REVIEW OF ITEMIZED BILL.——

"(A) IN GENERAL.—Not later than 90 days after the receipt of an itemized bill furnished under paragraph (1), a beneficiary may submit a written request for a review of the itemized bill to the appropriate fiscal intermediary or carrier with a contract under section 1816 or 1842.

"(B) SPECIFIC ALLEGATIONS.—A request for a review of the itemized bill shall identify—

"(i) specific medical or other items or services that the beneficiary believes were not provided as claimed, or

"(ii) any other billing irregularity (including duplicate billing).

"(4) FINDINGS OF FISCAL INTERMEDIARY OR CARRIER.—Each fiscal intermediary or carrier with a contract under section 1816 or 1842 shall, with respect of each written request submitted to the fiscal intermediary or carrier under paragraph (3), determine whether the itemized bill identifies specific medical or other items or services that were not provided as claimed or any other billing irregularity (including duplicate billing) that has resulted in unnecessary payments under title XVIII.

"(5) RECOVERY OF AMOUNTS.—The Secretary shall require fiscal intermediaries and carriers to take all appropriate measures to recover amounts unnecessarily paid under title XVIII with respect to a bill described in paragraph (4).".

"(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to medical or other items or services provided on or after January 1, 1998.

SEC. PROHIBITING UNNECESSARY AND WASTEFUL MEDICARE PAYMENTS FOR CERTAIN ITEMS.

Section 1861(v) of the Social Security Act is amended by adding at the end the following new paragraph:

"(8) ITEMS UNRELATED TO PATIENT CARE—.Reasonable costs do not include costs for the following:

(i) entertainment;

(ii) gifts or donations;

(iii) costs for fines and penalties resulting from violations Federal, State or local laws; and,

(iv) education expenses for spouses or other dependents of providers of services, their employees or contractors.

SEC. ——. REDUCING EXCESSIVE BILLINGS AND UTILIZATION FOR CERTAIN ITEMS.

Section 1834(a)(15) of the Social Security Act (42 U.S.C. 1395m(a)(15)) is amended by striking "Secretary may" both places it appears and inserting "Secretary shall".

The PRESIDING OFFICER. Without objection, amendment No. 457 is agreed to.

The amendment (No. 457) was agreed to.

AMENDMENTS NOS. 458 THROUGH 474

Mr. DOMENICI. I ask unanimous consent that it be in order for me to offer a package of amendments on behalf of various Senators so that they would qualify under the consent agreement.

The amendments offered are as follows:

Two amendments on behalf of Senator HELMS; two amendments on behalf of Senator MCCAIN; two amendments on behalf of Senator JEFFORDS; one amendment by Senator BROWNBACK; one amendment by Senator ALLARD; one by Senator CHAFEE; one amendment by Senator GRASSLEY; one by Senator KYL; three by Senator SPECTER; one by Senator BURNS; one by Senator HUTCHISON; one by Senators MCCAIN and DOMENICI.

I send the amendments to the desk and ask unanimous consent that the amendments be considered read and be numbered accordingly.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

AMENDMENT NO. 458

(Purpose: To provide that, for purposes of section 1886(d) of the Social Security Act, the large urban area of Charlotte-Gastonia-Rock Hill-North Carolina-South Carolina be deemed to include Stanly County, North Carolina)

At the appropriate place in division 1 of title V, insert the following:

SEC. —. INCLUSION OF STANLY COUNTY, N.C. IN A LARGE URBAN AREA UNDER MEDICARE PROGRAM.

(a) IN GENERAL.—For purposes of section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)), the large urban area of Charlotte-Gastonia-Rock Hill-North Carolina-South Carolina may be deemed to include Stanly County, North Carolina.

(b) EFFECTIVE DATE.—This section shall apply with respect to discharges occurring on or after Oct. 1, 1997.

AMENDMENT NO. 459

(Purpose: To provide that, for purposes of section 1886(d) of the Social Security Act, the large urban area of Charlotte-Gastonia-Rock Hill-North Carolina-South Carolina be deemed to include Stanly County, North Carolina)

At the appropriate place in division 1 of title V, insert the following:

SEC. —. INCLUSION OF STANLY COUNTY, N.C. IN A LARGE URBAN AREA UNDER MEDICARE PROGRAM.

(a) IN GENERAL.—For purposes of section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)), the large urban area of Charlotte-Gastonia-Rock Hill-North Carolina-South Carolina may be deemed to include Stanly County, North Carolina.

(b) EFFECTIVE DATE.—This section shall apply with respect to discharges occurring on or after Oct. 1, 1997.

AMENDMENT NO. 460

(Purpose: To provide for the continuation of certain Statewide medicaid waivers)

On page 844, between lines 7 and 8, insert the following:

SEC. 5768. CONTINUATION OF STATE-WIDE SECTION 1115 MEDICAID WAIVERS.

(a) IN GENERAL.—Section 1115 of the Social Security Act (42 U.S.C. 1315) is amended by adding at the end the following:

"(d)(1) The provisions of this subsection shall apply to the extension of statewide comprehensive research and demonstration projects (in this subsection referred to as 'waiver project') for which waivers of compliance with the requirements of title XIX are granted under subsection (a). With respect to a waiver project that, but for the enactment of this subsection, would expire, the State at its option may—

"(A) not later than 1 year before the waiver under subsection (a) would expire (acting through the chief executive officer of the State who is operating the project), submit to the Secretary a written request for an extension of such waiver project for up to 3 years; or

"(B) permanently continue the waiver project if the project meets the requirements of paragraph (2).

"(2) The requirements of this paragraph are that the waiver project—

"(A) has been successfully operated for 5 or more years; and

"(B) has been shown, through independent evaluations sponsored by the Health Care Financing Administration, to successfully contain costs and provide access to health care.

"(3)(A) In the case of waiver projects described in paragraph (1)(A), if the Secretary fails to respond to the request within 6 months after the date on which the request was submitted, the request is deemed to have been granted.

“(B) If the request is granted or deemed to have been granted, the deadline for submittal of a final report shall be 1 year after the date on which the waiver project would have expired but for the enactment of this subsection.

“(C) The Secretary shall release an evaluation of each such project not later than 1 year after the date of receipt of the final report.

“(D) Phase-down provisions which were applicable to waiver projects before an extension was provided under this subsection shall not apply.

“(4) The extension of a waiver project under this subsection shall be on the same terms and conditions (including applicable terms and conditions related to quality and access of services, budget neutrality as adjusted for inflation, data and reporting requirements and special population protections), except for any phase down provisions, and subject to the same set of waivers that applied to the project or were granted before the extension of the project under this subsection. The permanent continuation of a waiver project shall be on the same terms and conditions, including financing, and subject to the same set of waivers. No test of budget neutrality shall be applied in the case of projects described in paragraph (2) after that date on which the permanent extension was granted.

“(5) In the case of a waiver project described in paragraph (2), the Secretary, acting through the Health Care Financing Administration shall, deem any State's request to expand Medicaid coverage in whole or in part to individuals who have an income at or below the Federal poverty level as budget neutral if independent evaluations sponsored by the Health Care Financing Administration have shown that the State's Medicaid managed care program under such original waiver is more cost effective and efficient than the traditional fee-for-service Medicaid program that, in the absence of any managed care waivers under this section, would have been provided in the State.”.

“(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on the date of enactment of this Act.

Mr. MCCAIN. Mr. President, I rise to offer an amendment which would allow States to continue offering innovative cost effective health care through an 1115 Medicaid waiver on a permanent basis or on a continuous basis for 3 years. In addition, this measure would ensure that State's are given credit for the cost savings which they have incurred by operating an efficient managed care Medicaid program.

Several States have led the way in innovation for expanding coverage through cost containment. These States have not used accounting gamesmanship to ask the Federal Government to do the job; they have used their own resources to revise their programs to expand coverage while reducing both State and Federal costs.

Among these States is Arizona, Oregon, Rhode Island, Florida, and Tennessee. Any other State operating under an 1115 waiver may find herself in the same position.

In Arizona, 72 percent of her voters decided last fall that they should cover everyone under the poverty line, whether man, woman, or child. This initiative is the only hope for health care coverage for 50,000 men who live under the poverty line. Arizona can afford to do this because of the success of the Arizona statewide managed care program. AHCCCS [access] in containing cost and providing access to care. This has been proven. The satisfaction of Arizona's health care providers, members, and taxpayers further underscore the success of the program.

In spite of substantial savings documented by HCFA hired evaluators, documented savings since the program began in 1982, more than enough to offset the cost of expanding coverage, the Federal Government won't allow Arizona to reinvest the savings it achieved over a traditional fee-for-service program in expanded coverage. Nor will HCFA allow the State credit for their program's savings over the next 5 years.

Other States have been allowed to use the savings managed care achieves over a traditional fee-for-service program in expanded coverage including the States of Tennessee, Hawaii, Rhode Island, Oregon among others.

The rationale for treating Arizona different from these other States boils down to timing. When Arizona's program began in 1982, HCFA did not use a test of budget neutrality for approving section 1115 research and demonstration waivers. The budget neutrality requirement that is now applied was put in place several years later. If Arizona had a test of budget neutrality in 1982 where the baseline was a traditional fee-for-service program, then the State would be allowed to use its managed care savings. Because the requirement did not exist, the State is penalized.

HCFA now indicates that the test of budget neutrality is the current, cost-saving, successful AHCCCS program, not the traditional fee-for-service program.

Arizona should not be penalized for a change in Federal guidelines which occurred after the program began. No one is questioning whether AHCCCS saved the Federal Government millions. Arizona, as Tennessee, Hawaii, Rhode Island, and any other State with such a proven track record, should be allowed to use the managed care savings it achieved over a traditional fee-for-service program to expand coverage as Arizona voters overwhelmingly requested.

AMENDMENT NO. 461

(Purpose: To provide for the treatment of certain Amerasian immigrants as refugees)

On page 874, between lines 7 and 8, insert the following:

SEC. 5817A. TREATMENT OF CERTAIN AMERASIAN IMMIGRANTS AS REFUGEES.

(a) AMENDMENTS TO EXCEPTIONS FOR REFUGEES/ASYLEES.—

(1) FOR PURPOSES OF SSI AND FOOD STAMPS.—Section 402(a)(2)(A) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)(A)) is amended—

(A) by striking “; or” at the end of clause (ii);

(B) by striking the period at the end of clause (iii) and inserting “; or”; and

(C) by adding at the end the following:

“(iv) an alien who is admitted to the United States as an Amerasian immigrant pursuant to section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (as contained in section 101(e) of Public Law 100-202 and amended by the 9th proviso under MIGRATION AND REFUGEE ASSISTANCE in title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989, Public Law 100-461, as amended).”.

(2) FOR PURPOSES OF TANF, SSBG, AND MEDICAID.—Section 402(b)(2)(A) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)(A)) is amended—

(A) by striking “; or” at the end of clause (ii);

(B) by striking the period at the end of clause (iii) and inserting “; or”; and

(C) by adding at the end the following:

“(iv) an alien described in subsection (a)(2)(A)(iv) until 5 years after the date of such alien's entry into the United States.”.

(3) FOR PURPOSES OF EXCEPTION FROM 5-YEAR LIMITED ELIGIBILITY OF QUALIFIED ALIENS.—Section 403(b)(1) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613(b)(1)) is amended by adding at the end the following:

“(D) An alien described in section 402(a)(2)(A)(iv).”.

(4) FOR PURPOSES OF CERTAIN STATE PROGRAMS.—Section 412(b)(1) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1622(b)(1)) is amended by adding at the end the following new subparagraph:

“(D) An alien described in section 402(a)(2)(A)(iv).”.

(b) FUNDING.—

(1) LEVY OF FEE.—The Attorney General through the Immigration and Naturalization Service shall levy a $100 processing fee upon each alien that the Service determines—

(A) is unlawfully residing in the United States;

(B) has been arrested by a Federal law enforcement officer for the commission of a felony; and

(C) merits deportation after having been determined by a court of law to have committed a felony while residing illegally in the United States.

(2) COLLECTION AND USE.—In addition to any other penalty provided by law, a court shall impose the fee described in paragraph (1) upon an alien described in such paragraph upon the entry of a judgment of deportation by such court. Funds collected pursuant to this subsection shall be credited by the Secretary of the Treasury as offsetting increased Federal outlays resulting from the amendments made by section 5817A of the Balanced Budget Act of 1997.

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to the period beginning on or after October 1, 1997.

Mr. MCCAIN. Mr. President, I rise today to offer an amendment to S. 947, the Budget Reconciliation Act, that will redress what I assume to be an inadvertent omission in a section of this bill that discriminates against Amerasian children of U.S. military personnel who served in Vietnam.

My amendment will add a new provision to section 5817 to include Amerasian children to the category of legal aliens eligible for Medicaid. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 excluded from eligibility these children of American soldiers because they are admitted as refugees under section 584 of the Foreign Operations, Export Financing, and Related Programs Act of 1988, rather than section 207 of the Immigration and Nationality Act, under which refugees are excepted from the Welfare Region legislation's ban on Medicaid, SSI, and other forms of assistance. This amendment corrects that oversight.

Because there is a cost associated with this amendment, I propose to offset it by mandating that the Attorney General of the United States, acting through the Immigration and Naturalization Service, impose a $150 processing fee on each illegal alien deported from the United States who committed a felony while in this country. According to CBO, this will generate the revenue necessary to offset the cost of my amendment over the 5-year period for which the welfare bill excludes aliens from Medicaid eligibility.

I hope that I can count on my colleagues' support for this worthwhile amendment.

AMENDMENT NO. 462

(Purpose: To require the Secretary of Health and Human Services to provide medicare beneficiaries with notice of the medicare cost-sharing assistance available under the medicaid program for specified low-income medicare beneficiaries)

On page 685, after line 25, add the following:

SEC. . REQUIREMENT TO PROVIDE INFORMATION REGARDING CERTAIN COST-SHARING ASSISTANCE.

(a) In General.—Section 1804(a) (42 U.S.C. 1395b–2(a)) is amended—

(1) in paragraph (2), by striking "and" at the end;

(2) in paragraph (3), by striking the period and inserting ", and"; and

(3) by adding at the end, the following:

"(4) an explanation of the medicare cost sharing assistance described in section 1905(p)(3)(A)(ii) that is available for individuals described in section 1902(a)(10)(E)(iii) and information regarding how to request that the Secretary arrange to have an application for such assistance made available to an individual.".

(b) Effective Date.—The information required to be provided under the amendment made by subsection (a) applies to notices distributed on and after October 1, 1997.

AMENDMENT NO. 463

(Purpose: To provide for the evaluation and quality assurance of the children's health insurance initiative)

On page 852, between lines 12 and 13, insert the following:

"(d) Evaluation and Quality Assurance.—

"(1) In general.—Not later than 1 year after the date on which the Secretary approves the program outline of a State, and annually thereafter, the State shall prepare and submit to the Secretary such information as the Secretary may require to enable the Secretary to evaluate the progress of the State with respect to the program outline. Such information shall address the manner in which the State in implementing the program outline has—

"(A) expanded health care coverage to low-income uninsured children;

"(B) provided quality health care to low-income children;

"(C) improved the health status of low-income children;

"(D) served the health care needs of special populations of low-income children; and

"(E) utilized available resources in a cost effective manner.

"(2) Availability of evaluations.—The Secretary shall make the results of the evaluations conducted under paragraph (1) available to Congress and the States.

"(3) Reports.—The Secretary shall annually prepare and submit to the appropriate committees of Congress, and make available to the States, a report containing the findings of the Secretary as a result of the evaluations conducted under paragraph (1) and the recommendations of the Secretary for achieving or exceeding the objectives of this title.

AMENDMENT NO. 464

(Purpose: To establish procedures to ensure a balanced Federal budget by fiscal year 2002)

At the end of the , add the following:

TITLE —BUDGET CONTROL

SEC. 01. SHORT TITLE; PURPOSE.

(a) Short Title.—This title may be cited as the "Bipartisan Budget Enforcement Act of 1997".

(b) Purpose.—The purpose of this title is—

(1) to ensure a balanced Federal budget by fiscal year 2002;

(2) to ensure that the Bipartisan Budget Agreement is implemented; and

(3) to create a mechanism to monitor total costs of direct spending programs, and, in the event that actual or projected costs exceed targeted levels, to require the President and Congress to address adjustments in direct spending.

SEC. 02. ESTABLISHMENT OF DIRECT SPENDING TARGETS.

(a) In General.—The initial direct spending targets for each of fiscal years 1998 through 2002 shall equal total outlays for all direct spending except net interest as determined by the Director of the Office of Management and Budget (hereinafter referred to in this title as the "Director") under subsection (b).

(b) Initial Report by Director.—

(1) In general.—Not later than 30 days after the date of enactment of this title, the Director shall submit a report to Congress setting forth projected direct spending targets for each of fiscal years 1998 through 2002.

(2) Projections and assumptions.—The Director's projections shall be based on legislation enacted as of 5 days before the report is submitted under paragraph (1). The Director shall use the same economic and technical assumptions used in preparing the concurrent resolution on the budget for fiscal year 1998 (H.Con.Res. 84).

SEC. 03. ANNUAL REVIEW OF DIRECT SPENDING AND RECEIPTS BY PRESIDENT.

As part of each budget submitted under section 1105(a) of title 31, United States Code, the President shall provide an annual review of direct spending and receipts, which shall include—

(1) information on total outlays for programs covered by the direct spending targets, including actual outlays for the prior fiscal year and projected outlays for the current fiscal year and the 5 succeeding fiscal years; and

(2) information on the major categories of Federal receipts, including a comparison between the levels of those receipts and the levels projected as of the date of enactment of this title.

SEC. 04. SPECIAL DIRECT SPENDING MESSAGE BY PRESIDENT.

(a) Trigger.—If the information submitted by the President under section 03 indicates—

(1) that actual outlays for direct spending in the prior fiscal year exceeded the applicable direct spending target; or

(2) that outlays for direct spending for the current or budget year are projected to exceed the applicable direct spending targets,

the President shall include in his budget a special direct spending message meeting the requirements of subsection (b).

(b) Contents.—

(1) Inclusions.—The special direct spending message shall include—

(A) an analysis of the variance in direct spending over the direct spending targets; and

(B) the President's recommendations for addressing the direct spending overages, if any, in the prior, current, or budget year.

(2) Additional matters.—The President's recommendations may consist of any of the following:

(A) Proposed legislative changes to recoup or eliminate the overage for the prior, current, and budget years in the current year, the budget year, and the 4 outyears.

(B) Proposed legislative changes to recoup or eliminate part of the overage for the prior, current, and budget year in the current year, the budget year, and the 4 outyears, accompanied by a finding by the President that, because of economic conditions or for other specified reasons, only some of the overage should be recouped or eliminated by outlay reductions or revenue increases, or both.

(C) A proposal to make no legislative changes to recoup or eliminate any overage, accompanied by a finding by the President that, because of economic conditions or for other specified reasons, no legislative changes are warranted.

(c) Proposed Special Direct Spending Resolution.—If the President recommends reductions consistent with subsection (b)(2)(A) or (B), the special direct spending message shall include the text of a special direct spending resolution implementing the President's recommendations through reconciliation directives instructing the appropriate committees of the House of Representatives and Senate to determine and recommend changes in laws within their jurisdictions. If the President recommends no reductions pursuant to (b)(2)(C), the special direct spending message shall include the text of a special resolution concurring in the President's recommendation of no legislative action.

SEC. 05. REQUIRED RESPONSE BY CONGRESS.

(a) In General.—It shall not be in order in the House of Representatives or the Senate to consider a concurrent resolution on the budget unless that concurrent resolution fully addresses the entirety of any overage contained in the applicable report of the

President under section 04 through reconciliation directives.

(b) WAIVER AND SUSPENSION.—This section may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn. This section shall be subject to the provisions of section 258 of the Balanced Budget and Emergency Deficit Control Act of 1985.

(c) APPEALS.—Appeals in the Senate from the decisions of the Chair relating to any provision of this section shall be limited to 1 hour, to be equally divided between, and controlled by, the appellant and the manager of the bill or joint resolution, as the case may be. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

SEC. 06. RELATIONSHIP TO BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT.

Reductions in outlays or increases in receipts resulting from legislation reported pursuant to section 05 shall not be taken into account for purposes of any budget enforcement procedures under the Balanced Budget and Emergency Deficit Control Act of 1985.

SEC. 07. ESTIMATING MARGIN.

For any fiscal year for which the overage is less than one-half of 1 percent of the direct spending target for that year, the procedures set forth in sections 04 and 05 shall not apply.

SEC. 08. EFFECTIVE DATE.

This title shall apply to direct spending targets for fiscal years 1998 through 2002 and shall expire at the end of fiscal year 2002.

AMENDMENT NO. 465

(Purpose: To expand medical savings accounts to families with uninsured children)

On page 865, between lines 2 and 3, insert the following:

SEC. . EXPANSION OF MEDICAL SAVINGS ACCOUNTS TO FAMILIES WITH UNINSURED CHILDREN

(a) IN GENERAL.—Section 220 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

"(k) FAMILIES WITH UNINSURED CHILDREN.—

"(1) IN GENERAL.—In the case of an individual who has a qualified dependent as of the first day of any month—

"(A) WAIVER OF EMPLOYER REQUIREMENT.—Clause (iii) of subsection (c)(1)(A) shall not apply.

"(B) WAIVER OF COMPENSATION LIMITATION.—Paragraph (4) of subsection (b) shall not apply.

"(C) COORDINATION WITH EXCLUSION FOR EMPLOYER CONTRIBUTIONS..—In lieu of the limitation of subsection (b)(5), the amount allowable for a taxable year as a deduction under subsection (a) to such individual shall be reduced (but not below zero) by the amount not includible in such individual's gross income for such taxable year solely by reason of section 106(b).

"(D) NUMERICAL LIMITATIONS.—Subsection (i) shall not apply to such individual if such individual is the account holder of a medical savings account by reason of this subsection, and subsection (j) shall be applied without regard to any such medical savings account.

"(2) QUALIFIED DEPENDENT.—For purposes of this subsection, the term 'qualified dependent' means a dependent (within the meaning of section 152) who—

"(A) has not attained the age of 19 as of the close of the calendar year in which the taxable year of the taxpayer begins, and with respect to whom the taxpayer is entitled to a deduction for the taxable year under section 151(c),

"(B) is covered by a high deductible health plan, and

"(C) prior to such coverage, was a previously uninsured individual (as defined by subsection (j)(3)).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years ending after the date of the enactment of this Act.

Mr. ALLARD. Mr. President, I would like to take this time to discuss an amendment that would give families with uninsured children the opportunity to obtain proper health coverage. Congress is constantly searching for ways to provide children with adequate health care, and I have proposed an amendment that would allow children the means to be covered. My amendment would give the working poor health expense accounts to use for their families.

It is reported that there are 10 million children who are uninsured in the United States. Many of these children are uninsured because their parents have incomes that are high enough to be ineligible for Medicaid or do not have private or employer-sponsored health insurance.

My amendment would allow families to deposit money in a medical savings account to use for health care services. I believe it is critical to provide lower income families with the option to establish medical savings accounts. MSA's allow consumers to pay for medical expenses through affordable tax-deductible plans that are most suited to their needs.

Americans want choice in health care. It is time for the Federal Government to listen to the American people and make medical savings accounts an available option. Medical savings accounts are a viable free-market approach to ensuring greater access to affordable health care coverage for the uninsured. Through MSA's, individuals would be given the choice and opportunity to obtain affordable health services.

I believe our efforts need to be focused on providing uninsured children with accessible health care services. My amendment would give these families the opportunity of setting aside MSA funds, especially benefiting those who are self-employed, between jobs, or employed where health coverage is not available.

I am hopeful that in the 105th Congress, we will be able to expand the availability of medical savings accounts. Medical savings plans allow individuals the freedom to shop for competitive health care services, which in turn, can help keep the costs of health care down.

My amendment is one step to achieving the goal of decreasing the number of uninsured children by providing families with the option to receive much needed health care coverage. By making more MSA's available, we can make it easier for parents to finance their children's health care; after all, the health of our Nation's children is at stake.

AMENDMENT NO. 466

(Purpose: To extend the authority of the Nuclear Regulatory Commission to collect fees through 2002)

At the end of the bill, add the following:

TITLE IX—COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

SEC. 9001. NUCLEAR REGULATORY COMMISSION ANNUAL CHARGES.

Section 6101 of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 2214) is amended)—

(1) in subsection (a)(3), by striking "September 30, 1998" and inserting "September 30, 2002"; and

(2) in subjection (c)—

(A) by striking paragraph (2) and inserting the following:

"(2) AGGREGATE AMOUNT OF CHARGES.—The aggregate amount of the annual charge collected from all licensees shall equal an amount that approximates 100 percent of the budget authority of the Commission for the fiscal year for which the charge is collected, less, with respect to the fiscal year, the sum of—

"(A) any amount appropriated to the Commission from the Nuclear Waste Fund;

"(B) the amount of fees collected under subsection (b); and

"(C) for fiscal year 1999 and each fiscal year thereafter, to the extent provided in paragraph (5), the costs of activities of the Commission with respect to which a determination is made under paragraph (5)."; and

(B) by adding at the end the following:

"(5) EXCLUDED BUDGET COSTS.—

"(A) IN GENERAL.—The rulemaking under paragraph (3) shall include a determination of the costs of activities of the Commission for which it would not be fair and equitable to assess annual charges on a Nuclear Regulatory Commission licensee or class of licensee.

"(B) CONSIDERATIONS.—In making the determination under subparagraph (A), the Commission shall consider—

"(i) the extent to which activities of the Commission provide benefits to persons that are not licensees of the Commission;

"(ii) the extent to which the Commission is unable to assess fees or charges on a licensee or class of licensee that benefits from the activities; and

"(iii) the extent to which the costs to the Nuclear Regulatory Commission of activities are commensurate with the benefits provided to the licensees from the activities.

"(C) MAXIMUM EXCLUDED COSTS.—The total amount of costs excluded by the Commission pursuant to the determination under subparagraph (A) shall not exceed $30,000,000 for any fiscal year.".

AMENDMENT NO. 467

(Purpose: To preserve religious choice in long-term care)

On page 689, between lines 2 and 3, insert the following:

"(iii) RELIGIOUS CHOICE.—The State, in permitting an individual to choose a managed care entity under clause (i) shall permit the individual to have access to appropriate faith-based facilities. With respect to such access, the State shall permit an individual to select a facility that is not a part of the network of the managed care entity if such network does not provide access to appropriate faith-based facilities. A faith-based facility that provides care under this clause shall accept the terms and conditions offered by the managed care entity to other providers in the network.

AMENDMENT NO. 468

(Purpose: To allow medicare beneficiaries to enter into private contracts for services)

On page 685, after line 25, add the following:

SEC. . FACILITATING THE USE OF PRIVATE CONTRACTS UNDER THE MEDICARE PROGRAM.

(a) IN GENERAL.—Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) is amended by inserting after section 1804 of such Act (42 U.S.C. 1395b–2) the following:

"CLARIFICATION OF PRIVATE CONTRACTS FOR HEALTH SERVICES

"SEC. 1805. (a) IN GENERAL.—Nothing in this title shall prohibit a physician or another health care professional who does not provide items or services under the program under this title from entering into a private contract with a medicare beneficiary for health services for which no claim for payment is to be submitted under this title.

"(b) LIMITATION ON ACTUAL CHARGE NOT APPLICABLE.—Section 1848(g) shall not apply with respect to a health service provided to a medicare beneficiary under a contract described in subsection (a).

"(c) DEFINITION OF MEDICARE BENEFICIARY.—In this section, the term 'medicare beneficiary' means an individual who is entitled to benefits under part A or enrolled under part B.

"(d) REPORT.—Not later than October 1, 2001, the Administrator of the Health Care Financing Administration shall submit a report to Congress on the effect on the program under this title of private contracts entered into under this section. Such report shall include—

"(1) analyses regarding—

"(A) the fiscal impact of such contracts on total Federal expenditures under this title and on out-of-pocket expenditures by medicare beneficiaries for health services under this title; and

"(B) the quality of the health services provided under such contracts; and

"(2) recommendations as to whether medicare beneficiaries should continue to be able to enter private contracts under this section and if so, what legislative changes, if any should be made to improve such contracts.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to contracts entered into on and after October 1, 1997.

AMENDMENT NO. 469

(Purpose: To extend premium protection for low-income medicare beneficiaries under the medicaid program)

Strike section 5544 and in its place insert the following:

SEC. 5544. EXTENSION OF SLMB PROTECTION.

(a) IN GENERAL.—Section 1902(a)(10)(E)(iii) (42 U.S.C. 1396a(a)(10)(E)(iii)) is amended by striking "and 120 percent in 1995 and years thereafter" and inserting ", 120 percent in 1995 through 1997, 125 percent in 1998, 130 percent in 1999, 135 percent in 2000, 140 percent in 2001, 145 percent in 2002, and 150 percent in 2003 and years thereafter".

(b) 100 PERCENT FMAP.—Section 1905(b) (42 U.S.C. 1396d(b)) is amended by adding at the end the following: "Notwithstanding the first sentence of this section, the Federal medical assistance percentage shall be 100 percent with respect to amounts expended as medical assistance for medical assistance described in section 1902(a)(10)(E)(iii) for individuals described in such section whose income exceeds 120 percent of the official poverty line referred to in such section.".

(c) EFFECTIVE DATE.—The amendments made by this section apply on and after October 1, 1997.

AMENDMENT NO. 470

(Purpose: To strike the limitations on DSH payments to institutions for mental diseases under the medicaid program)

Beginning on page 778, strike line 1 and all that follows through page 779, line 23.

AMENDMENT NO. 411

(Purpose: To strike the limitations on Indirect Graduate Medical Education payments to teaching hospitals)

Begining on page 585, strike line 21 and all that follows through page 586, line 25.

AMENDMENT NO. 472

(Purpose: To provide that information contained in the National Directory of New Hires be deleted after 6 months)

On page 999, between lines 15 and 16, insert the following:

(f) NATIONAL DIRECTORY OF NEW HIRES.—Section 453(i)(2) (42 U.S.C. 653(i)(2)) is amended by adding at the end the following: "Information entered into such data base shall be deleted 6 months after the date of entry.".

AMENDMENT NO. 473

(Purpose: To clarify the number of individuals that may be treated as engaged in work for purposes of the mandatory work requirement for TANF block grants)

Beginning on page 929, strike line 20 and all that follows through page 930, line 14 and insert the following:

(k) CLARIFICATION OF NUMBER OF INDIVIDUALS COUNTED AS PARTICIPATING IN WORK ACTIVITIES.—Section 407 (42 U.S.C. 607) is amended—

(1) in subsection (c)—

(A) in paragraph (1)(A), by striking "(8)"; and

(B) in paragraph (2)(D)—

(i) in the heading, by striking "PARTICIPATION IN VOCATIONAL EDUCATION ACTIVITIES"; and

(ii) by striking "determined to be engaged in work in the State for a month by reason of participation in vocational educational training or"; and

(2) by striking subsection (d)(8).

AMENDMENT NO. 474

(Purpose: To revise subtitle A of title III, relating to spectrum auctions, by deleting certain provisions subject to a point or order, and for other purposes)

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

AMENDMENTS NO. 475 THROUGH 498

Mr. LAUTENBERG. Mr. President, we have one amendment that is still being considered.

Otherwise, I ask unanimous consent that it be in order to send 25 amendments to the desk on behalf of my Democratic colleagues, that the amendments be considered as read and laid aside to be voted on in sequence.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

AMENDMENT NO. 475

(Purpose: to ensure that certain legal immigrants who become disabled are eligible for disability benefits)

On page 8971, strike line 9–11.

SENATE AMENDMENT 476

(Purpose: To enhance taxpayer value in auctions conducted by the Federal Communications Commission)

SECTION . RESERVE.

In any auction conducted or supervised by the Federal Communications Commission (hereinafter the Commission) for any license, permit or right which has value, a reasonable reserve price shall be set by the Commission for each unit in the auction. the reserve price shall establish a minimum bid for the unit to be auctioned. If no bid is received above the reserve price for a unit, the unit shall be retained. The Commission shall reassess the reserve price for that unit and place the unit in the in the next scheduled or next appropriate auction.

AMENDMENT NO. 477

(Purpose: To provide food stamp benefits to child immigrants)

At the end of title I, add the following:

SEC. 10__ . FOOD STAMP BENEFITS FOR CHILD IMMIGRANTS.

(a) IN GENERAL.—Section 402(a)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)) is amended by adding at the end the following:

"(E) CHILD IMMIGRANTS.—In the case of the program specified in paragraph (3)(B), paragraph (1) shall not apply to a qualified alien who is under 18 years of age.".

(b) ALLOCATION OF ADMINISTRATIVE COSTS.—Section 408(a) of the Social Security Act (42 U.S.C. 608(a)) is amended by adding at the end the following:

"(12) DESIGNATION OF GRANTS UNDER THIS PART AS PRIMARY PROGRAM IN ALLOCATING ADMINISTRATIVE COSTS.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, a State shall designate the program funded under this part as the primary program for the purpose of allocating costs incurred in serving families eligible or applying for benefits under the State program funded under this part and any other Federal means-tested benefits.

"(B) ALLOCATION OF COSTS.—

"(i) IN GENERAL.—The Secretary shall require that costs described in subparagraph (A) be allocated in the same manner as the costs were allocated by State agencies that designated part A of title IV as the primary program for the purpose of allocating administrative costs before August 22, 1996.

"(ii) FLEXIBLE ALLOCATION.—The Secretary may allocate costs under clause (i) differently, if a State can show good cause for or evidence of increased costs, to the extent that the administrative costs allocated to the primary program are not reduced by more than 33 percent.

"(13) FAILURE TO ALLOCATE ADMINISTRATIVE COSTS TO GRANTS PROVIDED UNDER THIS PART.—If the Secretary determines that, with respect to a preceding fiscal year, a State has not allocated administrative costs in accordance with paragraph (12), the Secretary shall reduce the grant payable to the

State under section 403(a)(1) for the succeeding fiscal year by an amount equal to—

"(A) the amount the Secretary determines should have been allocated to the program funded under this part in such preceding fiscal year; minus

"(B) the amount that the State allocated to the program funded under this part in such preceding fiscal year.".

AMENDMENT NO. 478

(Purpose: To require balance billing protections for individuals enrolled in fee-for-service plans under the Medicare Choice program under part C of title XVIII of the Social Security Act)

On page 214, strike lines 21 through 24 and insert the following:

"(3) EXCEPTION FOR MSA PLANS AND UNRESTRICTED FEE-FOR-SERVICE PLANS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), paragraphs (1) and (2) do not apply to an MSA plan or an unrestricted fee-for-service plan.

"(B) APPLICATION OF BALANCE BILLING FOR PHYSICIAN SERVICES.—Section 1848(g) shall apply to the provision of physician services (as defined in section 1848(j)(3)) to an individual enrolled in an unrestricted fee-for-service plan under this title in the same manner as such section applies to such services that are provided to an individual who is not enrolled in a Medicare Choice plan under this title.

AMENDMENT NO. 479

(Purpose: To provide for medicaid eligibility of disabled children who lose SSI benefits)

On page 874, between lines 7 and 8, insert the following:

SEC. 5817A. CONTINUATION OF MEDICAID ELIGIBILITY FOR DISABLED CHILDREN WHO LOSE SSI BENEFITS.

(a) IN GENERAL.—Section 1902(a)(10)(A)(i)(II) (42 U.S.C. 1396a(a)(10)(A)(i)(II)) is amended by inserting "(or were being paid as of the date of enactment of section 211(a) of the Personal Responsibility and Work Opportunity Act of 1996 (Public Law 104–193; 110 Stat. 2188) and would continue to be paid but for the enactment of that section)" after "title XVI".

(b) OFFSET.—Section 2103(b) of the Social Security Act (as added by section 5801) is amended—

(1) in paragraph (2), by striking "and" at the end;

(2) in paragraph (3), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(4) the amendment made by section 5817A(a) of the Balanced Budget Act of 1997 (relating to continued eligibility for certain disabled children).".

(c) EFFECTIVE DATE.—The amendment made by subsection (a) applies to medical assistance furnished on or after July 1, 1997.

AMENDMENT NO. 480

(Purpose: To clarify the family violence option under the temporary assistance to needy families program)

On page 960, between lines 3 and 4, insert the following:

SEC. ______. PROTECTING VICTIMS OF FAMILY VIOLENCE.

(a) FINDINGS.—Congress finds that—

(1) the intent of Congress in amending part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) in section 103(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat 2112) was to allow States to take into account the effects of the epidemic of domestic violence in establishing their welfare programs, by giving States the flexibility to grant individual, temporary waivers for good cause to victims of domestic violence who meet the criteria set forth in section 402(a)(7)(B) of the Social Security Act (42 U.S.C. 602(a)(7)(B));

(2) the allowance of waivers under such sections was not intended to be limited by other, separate, and independent provisions of part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.);

(3) under section 402(a)(7)(A)(iii) of such Act (42 U.S.C. 602(a)(7)(A)(iii)), requirements under the temporary assistance for needy families program under part A of title IV of such Act may, for good cause, be waived for so long as necessary; and

(4) good cause waivers granted pursuant to section 402(a)(7)(A)(iii) of such Act (42 U.S.C. 602(a)(7)(A)(iii)) are intended to be temporary and directed only at particular program requirements when needed on an individual case-by-case basis, and are intended to facilitate the ability of victims of domestic violence to move forward and meet program requirements when safe and feasible without interference by domestic violence.

(b) CLARIFICATION OF WAIVER PROVISIONS.—

(1) IN GENERAL.—Section 402(a)(7) (42 U.S.C. 602(a)(7)) is amended by adding at the end the following:

"(C) NO NUMERICAL LIMITS.—In implementing this paragraph, a State shall not be subject to any numerical limitation in the granting of good cause waivers under subparagraph (A)(iii).

"(D) WAIVERED INDIVIDUALS NOT INCLUDED FOR PURPOSES OF CERTAIN OTHER PROVISIONS OF THIS PART.—Any individual to whom a good cause waiver of compliance with this Act has been granted in accordance with subparagraph (A)(iii) shall not be included for purposes of determining a State's compliance with the participation rate requirements set forth in section 407, for purposes of applying the limitation described in section 408(a)(7)(C)(ii), or for purposes of determining whether to impose a penalty under paragraph (3), (5), or (9) of section 409(a).".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) takes effect as if it had been included in the enactment of section 103(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2112).

(c) FEDERAL PARENT LOCATOR SERVICE.—

(1) IN GENERAL.—Section 453 (42 U.S.C. 653), as amended by section 5938, is further amended—

(A) in subsection (b)(2)—

(i) in the matter preceding subparagraph (A), by inserting "or that the health, safety, or liberty or a parent or child would by unreasonably put at risk by the disclosure of such information," before "provided that";

(ii) in subparagraph (A), by inserting ", that the health, safety, or liberty or a parent or child would by unreasonably put at risk by the disclosure of such information," before "and that information"; and

(iii) in subparagraph (B)(i), by striking "be harmful to the parent or the child" and inserting "place the health, safety, or liberty of a parent or child unreasonably at risk"; and

(B) in subsection (c)(2), by inserting ", or to serve as the initiating court in an action to seek and order," before "against a noncustodial".

(2) STATE PLAN.—Section 454(26) (42 U.S.C. 654), as amended by section 5956, is further amended—

(A) in subparagraph (C), by striking "result in physical or emotional harm to the party or the child" and inserting "place the health, safety, or liberty of a parent or child unreasonably at risk";

(B) in subparagraph (D), by striking "of domestic violence or child abuse against a party or the child and that the disclosure of such information could be harmful to the party or the child" and inserting "that the health, safety, or liberty of a parent or child would be unreasonably put at risk by the disclosure of such information"; and

(C) in subparagraph (E), by striking "of domestic violence" and all that follows through the semicolon and inserting "that the health, safety, or liberty of a parent or child would be unreasonably put at risk by the disclosure of such information pursuant to section 453(b)(2), the court shall determine whether disclosure to any other person or persons of information received from the Secretary could place the health, safety, or liberty or a parent or child unreasonably at risk (if the court determines that disclosure to any other person could be harmful, the court and its agents shall not make any such disclosure);".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect 1 day after the effective date described in section 5961(a).

AMENDMENT NO. 481

(Purpose: To amend the provision on transfer cases, and for other purposes)

On page 562, between line 20 and 21, insert the following:

"(XIV) for calendar year 1999 for hospitals in all areas, the market basket percentage increase minus 1.3 percentage points,".

On page 562, line 21, strike "(XIV) for calendar year 1999" and insert "(XV) for calendar year 2000.".

On page 563, line 1, strike "(XV)" and insert "(XVI)".

On page 604, line 22, strike "upon discharge from a subsection (d) hospital" and insert "immediately upon discharge from, and pursuant to the discharge planning process (as defined in section 1861(ee)) of, a subsection (d) hospital".

Beginning on page 605, strike line 7 and all that follows through page 606, line 6, and insert the following:

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to discharges occurring on or after October 1, 1997.

AMENDMENT NO. 482

(Purpose: To allow vocational educational training to be counted as a work activity under the temporary assistance for needy families program for 24 months)

AMENDMENT NO. 482

On page 930, between lines 14 and 15, insert the following:

(l) VOCATIONAL EDUCATIONAL TRAINING.—Section 407(d)(8) (42 U.S.C. 607(d)(8)) is amended by striking "12" and inserting "24".

AMENDMENT NO. 483

(Purpose: To provide for the continuation of certain State-wide medicaid waivers)

On page 844, between lines 7 and 8, insert the following:

SEC. 5768. CONTINUATION OF STATE-WIDE SECTION 1115 MEDICAID WAIVERS.

(a) IN GENERAL.—Section 1115 of the Social Security Act (42 U.S.C. 1315) is amended by adding at the end the following:

"(d)(1) The provisions of this subsection shall apply to the extension of statewide comprehensive research and demonstration projects (in this subsection referred to as 'waiver project') for which waivers of compliance with the requirements of title XIX are granted under subsection (a). With respect to a waiver project that, but for the enactment of this subsection, would expire, the State at its option may—

"(A) not later than 1 year before the waiver under subsection (a) would expire (acting through the chief executive officer of the State who is operating the project), submit to the Secretary a written request for an extension of such waiver project for up to 3 years; or

"(B) permanently continue the waiver project if the project meets the requirements of paragraph (2).

"(2) The requirements of this paragraph are that the waiver project—

"(A) has been successfully operated for 5 or more years; and

"(B) has been shown, through independent evaluations sponsored by the Health Care Financing Administration, to successfully contain costs and provide access to health care.

"(3)(A) In the case of waiver projects described in paragraph (1)(A), if the Secretary fails to respond to the request within 6 months after the date on which the request was submitted, the request is deemed to have been granted.

"(B) If the request is granted or deemed to have been granted, the deadline for submittal of a final report shall be 1 year after the date on which the waiver project would have expired but for the enactment of this subsection.

"(C) The Secretary shall release an evaluation of each such project not later than 1 year after the date of receipt of the final report.

"(D) Phase-down provisions which were applicable to waiver projects before an extension was provided under this subsection shall not apply.

"(4) The extension of a waiver project under this subsection shall be on the same terms and conditions (including applicable terms and conditions related to quality and access of services, budget neutrality as adjusted for inflation, data and reporting requirements and special population protections), except for any phase down provisions, and subject to the same set of waivers that applied to the project or were granted before the extension of the project under this subsection. The permanent continuation of a waiver project shall be on the same terms and conditions, including financing, and subject to the same set of waivers. No test of budget neutrality shall be applied in the case of projects described in paragraph (2) after that date on which the permanent extension was granted.

"(5) In the case of a waiver project described in paragraph (2), the Secretary, acting through the Health Care Financing Administration, shall deem any State's request to expand medicaid coverage in whole or in part to individuals who have an income at or below the Federal poverty level as budget neutral if independent evaluations sponsored by the Health Care Financing Administration have shown that the State's medicaid managed care program under such original waiver is more cost effective and efficient than the traditional fee-for-service medicaid program that, in the absence of any managed care waivers under this section, would have been provided in the State.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on the date of enactment of this Act.

AMENDMENT NO. 484

(Purpose: To make community action agencies, community development corporations and other non-profit organizations eligible for welfare-to-work grants)

On page 885, line 15, insert after "State" the following: "or a community action agency, community development corporation or other non-profit organizations with demonstrated effectiveness in moving welfare recipients into the workforce".

AMENDMENT NO. 485

(Purpose: To provide that the hospital length of stay with respect to an individual shall be determined by the attending physician)

At the end of the proposed section 1852(d) of the Social Security Act (as added by section 5001), add the following:

"(4) DETERMINATION OF HOSPITAL LENGTH OF STAY.—

"(A) IN GENERAL.—A Medicare Choice organization shall cover the length of an inpatient hospital stay under this part as determined by the attending physician, in consultation with the patient, to be medically appropriate.

"(B) CONSTRUCTION.—Nothing in this paragraph shall be construed—

"(i) as requiring the provision of inpatient coverage if the attending physician, in consultation with the patient, determine that a shorter period of hospital stay is medically appropriate, or

"(ii) as affecting the application of deductibles and coinsurance.

At the appropriate place in chapter 2 of subtitle H of division 1 of title V, insert the following new section:

SEC. ___. HOSPITAL LENGTH OF STAY.

(a) IN GENERAL.—Section 1866(a)(1) (42 U.S.C. 1395cc(a)(1)) is amended—

(1) by striking "and" at the end of subparagraph (Q);

(2) by striking the period at the end of subparagraph (R) and inserting "; and";

(3) by inserting after subparagraph (R) the following:

"(S) in the case of hospitals, not to discharge an inpatient before the date the attending physician and patient determine it to be medically appropriate.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to discharges occurring on or after 6 months after the date of enactment of this Act.

At the appropriate place in chapter 5 of subtitle I of division 2 of title V, insert the following new section:

SEC. ___. DETERMINATION OF HOSPITAL STAY.

(a) IN GENERAL.—Title XIX (42 U.S.C. 1396 et seq.) is amended—

(1) by redesignating section 1933 as section 1934; and

(2) by inserting after section 1932 the following new section:

"DETERMINATION OF HOSPITAL STAY

"SEC. 1933. (a) IN GENERAL.—A State plan for medical assistance under this title shall cover the length of an inpatient hospital stay under this part as determined by the attending physician, in consultation with the patient, to be medically appropriate.

"(b) CONSTRUCTION.—Nothing in this section shall be construed—

"(1) as requiring the provision of inpatient coverage if the attending physician, in consultation with the patient, determine that a shorter period of hospital stay is medically appropriate, or

"(2) as affecting the application of deductibles and coinsurance.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to discharges occurring on or after 6 months after the date of enactment of this Act.

AMENDMENT NO. 486

(Purpose: To provide additional funding for State emergency health services furnished to undocumented aliens)

At the appropriate place in chapter 1 of subtitle K of division 2 of title V, insert the following new section:

SEC. ___. ADDITIONAL FUNDING FOR STATE EMERGENCY HEALTH SERVICES FURNISHED TO UNDOCUMENTED ALIENS.

(a) TOTAL AMOUNT AVAILABLE FOR ALLOTMENT.—There are available for allotments under this section for each of the 5 fiscal years (beginning with fiscal year 1998) $20,000,000 for payments to certain States under this section.

(b) STATE ALLOTMENT AMOUNT.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall compute an allotment for each fiscal year beginning with fiscal year 1998 and ending with fiscal year 2002 for each of the 12 States with the highest number of undocumented aliens. The amount of such allotment for each such State for a fiscal year shall bear the same ratio to the total amount available for allotments under subsection (a) for the fiscal year as the ratio of the number of undocumented aliens in the State in the fiscal year bears to the total of such numbers for all States for such fiscal year. The amount of allotment to a State provided under this paragraph for a fiscal year that is not paid out under subsection (c) shall be available for payment during the subsequent fiscal year.

(2) DETERMINATION.—For purposes of paragraph (1), the number of undocumented aliens in a State under this section shall be determined based on estimates of the resident illegal alien population residing in each State prepared by the Statistics Division of the Immigration and Naturalization Service as of October 1992 (or as of such later date if such date is at least 1 year before the beginning of the fiscal year involved).

(c) USE OF FUNDS.—From the allotments made under subsection (b), the Secretary shall pay to each State amounts the State demonstrates were paid by the State (or by a political subdivision of the State) for emergency health services furnished to undocumented aliens.

(d) STATE DEFINED.—For purposes of this section, the term "State" includes the District of Columbia.

(e) STATE ENTITLEMENT.—This section constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide for the payment to States of amounts provided under subsection (c).

AMENDMENT NO. 487

(Purpose: To provide for the application of disproportionate share hospital-specific payment adjustments with respect to California)

At the appropriate place in section 5721, insert the following:

(___) APPLICATION OF DSH PAYMENT ADJUSTMENT.—Notwithstanding subsection (d), effective July 1, 1997, section 1923(g)(2)(A) of the Social Security Act (42 U.S.C. 1396r-4(g)(2)(A)) shall be applied to the State of California as though—

(1) "or that begins on or after July 1, 1997, and before July 1, 1999," were inserted in such section after "January 1, 1995,"; and

(2) "(or 175 percent in the case of a State fiscal year that begins on or after July 1, 1997, and before July 1, 1999)" were inserted in such section after "200 percent".

AMENDMENT NO. 488

(Purpose: To provide for actuarially sufficient reimbursement rates for providers)

Beginning on page 764, strike line 7 and all that follows through page 765, line 17, and insert the following:

(a) PLAN AMENDMENTS.—Section 1902(a)(13) is amended—

(1) by striking all that precedes subparagraph (D) and inserting the following:

"(13)(A) provide—

"(i) for the State-based determination of rates of payment under the plan for hospital services (and which, in the case of hospitals, take into account the situation of hospitals which serve a disproportionate number of low income patients with special needs), nursing facility services, and services provided in intermediate care facilities for the mentally retarded, under which the State provides assurances to the Secretary that proposed rates will be actuarially sufficient to ensure access to and quality of services;

"(ii) that the State will submit such proposed rates for review by an independent actuary selected by the Secretary; and

"(iii) that any new rates or modifications to existing rates will be developed through a public rulemaking procedure under which such new or modified rates are published in 1 or more daily newspapers of general circulation in the State or in any publication used by the State to publish State statutes or rules, and providers, beneficiaries and their representatives, and other concerned State residents are given a reasonable opportunity for review and comment on such rates or modifications;"; and

(2) by redesignating subparagraphs (D), (E), and (F) as subparagraphs (B), (C), and (D) respectively.

AMENDMENT NO. 489

(Purpose: To strike the repeal of the Boren amendment)

Beginning on page 764, strike line 5 and all that follows through line 23 on page 766.

Ms. MIKULSKI. Mr. President, I rise today to support the Wellstone/Mikulski amendment which maintains the Boren amendment on nursing home reimbursement.

The Boren amendment ensures an adequate daily reimbursement rate for nursing homes under Medicaid. It helps nursing homes have the funds they need to meet Federal quality and safety standards. The Wellstone/Mikulski amendment will keep this guarantee in place.

Right now, the Boren policy is under attack. It is under attack by States. And it is under attack by Congress. If we repeal this law, States will be able to set their own rates of reimbursement to nursing homes.

We all know the tough budget climate we are operating in. Without the Boren policy, we take away the Federal guarantee of adequate reimbursement rates. This threatens the health and safety of senior citizens. States worry about reimbursements. I'm worried about seniors.

Without Boren, the State reimbursement rates may be too low to ensure that nursing homes can continue to provide quality care. Do we really want to return to the bad old days when senior citizens living in nursing homes faced inadequate care? Can we afford to forget the horror stories from the 1980's about living and quality conditions in some nursing homes?

Well, the Boren amendment helped to change that. We must protect the integrity of the law. The amendment Senator WELLSTONE and I are offering will do that.

Our amendment protects senior citizens living in nursing homes. And it ensures that nursing homes get an appropriate level of reimbursement. It does this by requiring States to reimburse nursing homes for the costs of daily care.

It ensures that States will have adequate reimbursement to provide quality services. It maintains Federal Government oversight. It maintains quality standards and it will protect seniors.

We have been through the fight to keep Federal nursing home standards. And Congress voted last year on a bipartisan basis to keep Federal standards and to maintain Federal enforcement.

In my State of Maryland, already the reimbursement rate is very low. Maryland gets $78 per day when it costs an average of $112 to provide nursing home care. Maryland nursing homes use this reimbursement to provide room and board, around the clock medical care, three meals a day, and bathing, and feeding. You can't even get a good hotel room for that rate. We cannot have the rates fall any lower without jeopardizing patients.

Mr. President, we must protect the Boren amendment. That is why I strongly support the Wellstone/Mikulski amendment. I urge my colleagues to vote for this amendment.

AMENDMENT NO. 490

(Purpose: To improve the provisions relating to the Higher Education Act of 1965)

Strike title VII and insert the following:

TITLE VII—COMMITTEE ON LABOR AND HUMAN RESOURCES

SEC. 7001. MANAGEMENT AND RECOVERY OF RESERVES.

(a) AMENDMENT.—Section 422 of the Higher Education Act of 1965 (20 U.S.C. 1072) is amended by adding after subsection (g) the following new subsection:

"(h) RECALL OF RESERVES; LIMITATIONS ON USE OF RESERVE FUNDS AND ASSETS.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall, except as otherwise provided in this subsection, recall $1,200,000,000 from the reserve funds held by guaranty agencies under this part on September 1, 2002.

"(2) DEPOSIT.—Funds recalled by the Secretary under this subsection shall be deposited in the Treasury.

"(3) EQUITABLE SHARE.—The Secretary shall require each guaranty agency to return reserve funds under paragraph (1) based on such agency's equitable share of excess reserve funds held by guaranty agencies as of September 30, 1996. For purposes of this paragraph, a guaranty agency's equitable share of excess reserve funds shall be determined as follows:

"(A) The Secretary shall compute each agency's reserve ratio by dividing (i) the amount held in such agency's reserve (including funds held by, or under the control of, any other entity) as of September 30, 1996, by (ii) the original principal amount of all loans for which such agency has an outstanding insurance obligation.

"(B) If the reserve ratio of any agency as computed under subparagraph (A) exceeds 1.12 percent, the agency's equitable share shall include so much of the amounts held in such agency's reserve fund as exceed a reserve ratio of 1.12 percent.

"(C) If any additional amount is required to be recalled under paragraph (1) (after deducting the total of the equitable shares calculated under subparagraph (B)), the agencies' equitable shares shall include additional amounts—

"(i) determined by imposing on each such agency an equal percentage reduction in the amount of each agency's reserve fund remaining after deduction of the amount recalled under subparagraph (B); and

"(ii) the total of which equals the additional amount that is required to be recalled under paragraph (1) (after deducting the total of the equitable shares calculated under subparagraph (B)).

"(4) RESTRICTED ACCOUNTS.—Within 90 days after the beginning of each of fiscal years 1998 through 2002, each guaranty agency shall transfer a portion of each agency's equitable share determined under paragraph (3) to a restricted account established by the guaranty agency that is of a type selected by the guaranty agency with the approval of the Secretary. Funds transferred to such restricted accounts shall be invested in obligations issued or guaranteed by the United States or in other similarly low-risk securities. A guaranty agency shall not use the funds in such a restricted account for any purpose without the express written permission of the Secretary, except that a guaranty agency may use the earnings from such restricted account for activities to reduce student loan defaults under this part. The portion required to be transferred shall be determined as follows:

"(A) In fiscal year 1998—

"(i) all agencies combined shall transfer to a restricted account an amount equal to one-fifth of the total amount recalled under paragraph (1);

"(ii) each agency with a reserve ratio (as computed under paragraph (3)(A)) that exceeds 2 percent shall transfer to a restricted account so much of the amounts held in such agency's reserve fund as exceed a reserve ratio of 2 percent; and

"(iii) each agency shall transfer any additional amount required under clause (i) (after deducting the amount transferred under clause (ii)) by transferring an amount that represents an equal percentage of each agency's equitable share to a restricted account.

"(B) In fiscal years 1999 through 2002, each agency shall transfer an amount equal to one-fourth of the total amount remaining of the agency's equitable share (after deduction of the amount transferred under subparagraph (A)).

"(5) SHORTAGE.—If, on September 1, 2002, the total amount in the restricted accounts described in paragraph (4) is less than the amount the Secretary is required to recall under paragraph (1), the Secretary shall require the return of the amount of the shortage from other reserve funds held by guaranty agencies under procedures established by the Secretary.

"(6) PROHIBITION.—The Secretary shall not have any authority to direct a guaranty agency to return reserve funds under subsection (g)(1)(A) during the period from the date of enactment of this subsection through September 30, 2002, and any reserve funds otherwise returned under subsection (g)(1) during such period shall be treated as amounts recalled under this subsection and shall not be available under subsection (g)(4).

"(7) DEFINITION.—For purposes of this subsection the term 'reserve funds' when used with respect to a guaranty agency—

"(A) includes any reserve funds held by, or under the control of, any other entity; and

"(B) does not include buildings, equipment, or other nonliquid assets.".

(b) CONFORMING AMENDMENT.—Section 428(c)(9)(A) of the Higher Education Act of 1965 (20 U.S.C. 1078(c)(9)(A)) is amended—

(1) in the first sentence, by striking "for the fiscal year of the agency that begins in 1993"; and

(2) by striking the third sentence.

SEC. 7002. REPEAL OF DIRECT LOAN ORIGINATION FEES TO INSTITUTIONS OF HIGHER EDUCATION.

Section 452 of the Higher Education Act of 1965 (20 U.S.C. 1087b) is amended—

(1) by striking subsection (b); and

(2) by redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

SEC. 7003. LENDER AND HOLDER RISK SHARING.

Section 428(b)(1)(G) of the Higher Education Act of 1965 (20 U.S.C. 1078(b)(1)(G)) is amended by striking "not less than 98 percent" and inserting "95 percent".

SEC. 7004. FEES AND INSURANCE PREMIUMS.

(a) IN GENERAL.—Section 428(b)(1)(H) of the Higher Education Act of 1965 (20 U.S.C. 1078(b)(1)(H)) is amended—

(1) by inserting "(i)" before "provides";

(2) by striking "the loan," and inserting "any loan made under section 428 before July 1, 1998,";

(3) by inserting "and" after the semicolon; and

(4) by adding at the end the following:

"(ii) provides that no insurance premiums shall be charged to the borrower of any loan made under section 428 on or after July 1, 1998;".

(b) SPECIAL ALLOWANCES.—Section 438(c) of the Higher Education Act of 1965 (20 U.S.C. 1087-1(c)) is amended—

(1) in paragraph (2), by striking "paragraph (6)" and inserting "paragraphs (6) and (8)"; and

(2) by adding at the end the following:

"(8) ORIGINATION FEE ON SUBSIDIZED LOANS ON OR AFTER JULY 1, 1998.—In the case of any loan made or insured under section 428 on or after July 1, 1998, paragraph (2) shall be applied by substituting '2.0 percent' for '3.0 percent'.".

(c) DIRECT LOANS.—Section 455(c) of the Higher Education Act of 1965 (20 U.S.C. 1087e(c)) is amended—

(1) by striking "The Secretary" and inserting the following:

"(1) IN GENERAL.—For loans made under this part before July 1, 1998, the Secretary";

(2) by striking "of a loan made under this part"; and

(3) by adding at the end the following:

"(2) ORIGINATION FEE.—For loans made under this part on or after July 1, 1998, the Secretary shall charge the borrower an origination fee of 2.0 percent of the principal amount of the loan, in the case of Federal Direct Stafford/Ford Loans.".

SEC. 7005. SECRETARY'S EQUITABLE SHARE.

Section 428(c)(6)(A)(ii) of the Higher Education Act of 1965 (20 U.S.C. 1078(c)(6)(A)(ii) is amended by striking "27 percent" and inserting "18.5 percent".

SEC. 7006. FUNDS FOR ADMINISTRATIVE EXPENSES.

The first sentence of section 458(a) of the Higher Education Act of 1965 (20 U.S.C. 1087h(a)) is amended by striking "$260,000,000" and all that follows through the end of the sentence and inserting "$532,000,000 in fiscal year 1998, $610,000,000 in fiscal year 1999, $705,000,000 in fiscal year 2000, $750,000,000 in fiscal year 2001, and $750,000,000 in fiscal year 2002.".

SEC. 7007. EXTENSION OF STUDENT AID PROGRAMS.

Title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) is amended—

(1) in section 424(a), by striking "1998." and "2002." and inserting "2002." and "2006.", respectively;

(2) in section 428(a)(5), by striking "1998," and "2002." and inserting "2002," and "2006.", respectively; and

(3) in section 428C(e), by striking "1998." and inserting "2002.".

SEC. 7008. EFFECTIVE DATE.

This subtitle and the amendments made by this subtitle take effect on October 1, 1997.

AMENDMENT NO. 491

(Purpose: To prohibit cost-sharing for children in families with incomes that are less than 150 percent of the poverty line)

Section 1916(g)(1) of the Social Security Act, as amended by section 5754, is amended by inserting before the period the following: ", except that no cost-sharing may be imposed with respect to medical assistance provided to an individual who has not attained age 18 if such individuals family income does not exceed 150 percent of the poverty line applicable to a family of the size involved, and if, as of the date of enactment of the Balanced Budget Act of 1997, cost-sharing could not be imposed with respect to medical assistance provided to such individual.".

AMENDMENT NO. 492

(Purpose: To ensure the provision of appropriate benefits for uninsured children with special needs)

At the appropriate place in section 2102(5) of the Social Security Act as added by section 5801, insert the following: "The benefits shall include additional benefits to meet the needs of children with special needs, including—

"(A) rehabilitation and habilitation services, including occupational therapy, physical therapy, speech and language therapy, and respiratory therapy services;

"(B) mental health services;

"(C) personal care services;

"(D) customized durable medical equipment, orthotics, and prosthetics, as medically necessary; and

"(E) case management services.

"With respect to FEHBP-equivalent children's health insurance coverage, services otherwise covered under the coverage involved that are medically necessary to maintain, improve, or prevent the deterioration of the physical, developmental, or mental health of the child may not be limited with respect to scope and duration, except to the degree that such services are not medically necessary. Nothing in the preceding sentence shall be construed to prevent FEHBP-equivalent children's health insurance coverage from utilizing appropriate utilization review techniques to determine medical necessity or to prevent the delivery of such services through a managed care plan.".

AMENDMENT NO. 493

(Purpose: To exempt severely disabled aliens from the ban on receipt of supplemental security income)

On page 874, between lines 7 and 8, insert the following:

SEC. 5817A. SSI ELIGIBILITY FOR SEVERELY DISABLED ALIENS.

Section 402(a)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)), as amended by section 5815, is amended by adding at the end the following:

"(I) SSI EXCEPTION FOR SEVERELY DISABLED ALIENS.—With respect to eligibility for benefits for the program defined in paragraph (3)(A) (relating to the supplemental security income program), paragraph (1), and the September 30, 1997 application deadline under subparagraph (G), shall not apply to any alien who is lawfully present in the United States and who has been denied approval of an application for naturalization by the Attorney General solely on the ground that the alien is so severely disabled that the alien is otherwise unable to satisfy the requirements for naturalization.".

AMENDMENT NO 494

(Purpose: To provide for Medicaid eligibility of disabled children who lose SSI benefits)

On page 874, between lines 7 and 8, insert the following:

SEC. 5817A CONTINUATION OF MEDICAID ELIGIBILITY FOR DISABLED CHILDREN WHO LOSE SSI BENEFITS.

(a) IN GENERAL.—Section 1902(a)(10)(A)(i)(II)(42 U.S.C. 1396a(a)(10)(A)(i)(II)) is amended by inserting "(or were being paid as of the date of enactment of section 211(a) of the Personal Responsibility and Work Opportunity Act of 1996 (Public Law 104-193; 110 Stat. 2188) and would continue to be paid but for the enactment of that section)" after "title XVI".

(b) OFFSET.—Section 2103(b) of the Social Security Act (as added by section 5801) is amended—

(1) in paragraph (2), by striking "and" at the end;

(2) in paragraph (3), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(4) the amendment made by section 5817A(a) of the Balanced Budget Act of 1997 (relating to continued eligibility for certain disabled children).".

(c) EFFECTIVE DATE.—The amendment made by subsection (a) applies to medical assistance furnished on or after July 1, 1997.

AMENDMENT NO. 495

(Purpose: To establish a process to permit a nurse aide to petition to have his or her name removed from the nurse aide registry under certain circumstances)

On page 844, between lines 7 and 8, insert the following:

SEC. . REMOVAL OF NAME FROM NURSE AIDE REGISTRY.

(a) MEDICARE.—Section 1819(g)(1)(C) of the Social Security Act (42 U.S.C. 1395i-3(g)(1)(C)) is amended—

(1) in the first sentence by striking "The State" and inserting "(i) The State"; and

(2) by adding at the end the following:

"(ii)(I) In the case of a finding of neglect, the State shall establish a procedure to permit a nurse aide to petition the State to have his or her name removed from the registry upon a determination by the State that—

"(aa) the employment and personal history of the nurse aide does not reflect a pattern of abusive behavior or neglect; and

"(bb) the neglect involved in the original finding was a singular occurrence.

"(II) In no case shall a determination on a petition submitted under clause (I) be made prior to the expiration of the 1-year period beginning on the date on which the name of the petitioner was added to the registry under this subparagraph.".

(b) Medicaid.—Section 1919(g)(1)(C) of the Social Security Act (42 U.S.C. 1396r(g)(1)(C)) is amended—

(1) in the first sentence by striking "The State" and inserting "(i) The State"; and

(2) by adding at the end the following:

"(ii)(I) In the case of a finding of neglect, the State shall establish a procedure to permit a nurse aide to petition the State to have his or her name removed from the registry upon a determination by the State that—

"(aa) the employment and personal history of the nurse aide does not reflect a pattern of abusive behavior or neglect; and

"(bb) the neglect involved in the original finding was a singular occurrence.

"(II) In no case shall a determination on a petition submitted under clause (I) be made prior to the expiration of the 1-year period beginning on the date on which the name of the petitioner was added to the registry under this subparagraph.".

(c) Retroactive Review.—The procedures developed by a State under the amendments made by subsection (a) and (b) shall permit an individual to petition for a review of any finding made by a State under section 1819(g)(1)(C) or 1919(g)(1)(C) of the Social Security Act (42 U.S.C. 1395i–3(g)(1)(C) or 1396r(g)(1)(C)) after January 1, 1995.

(d) Study and Report.—

(1) Study.—The Secretary of Health and Human Services shall conduct a study of—

(A) the use of nurse aide registries by States, including the number of nurse aides placed on the registries on a yearly basis and the circumstances that warranted their placement on the registries;

(B) the extent to which institutional environmental factors (such as a lack of adequate training or short staffing) contribute to cases of abuse and neglect at nursing facilities; and

(C) whether alternatives (such as a probational period accompanied by additional training or mentoring or sanctions on facilities that create an environment that encourages abuse or neglect) to the sanctions that are currently applied under the Social Security Act for abuse and neglect at nursing facilities might be more effective in minimizing future cases of abuse and neglect.

(2) Report.—Not later than 2 years after the date of enactment of this Act, the Secretary of Health and Human Services shall prepare and submit to the appropriate committees of Congress, a report concerning the results of the study conducted under paragraph (1) and the recommendation of the Secretary for legislation based on such study.

AMENDMENT NO. 496

(Purpose: To strike the limitation on the coverage of abortions)

On page 860, strike all matter after line 10 and before line 15, and the following:

"(d) Use Limited to State Program Expenditures.—Funds provided to an eligible State under this title shall only be used to carry out the purpose of this title.

AMENDMENT NO. 497

(Purpose: To clarify that risk solvency standards established for managed care entities under the Medicaid program shall not preempt any State standards that are more stringent)

On page 743, line 6, strike the period and insert "(but that shall not preempt any State standards that are more stringent than the standards established under this subparagraph.".

AMENDMENT NO. 498

(Purpose: To allow funds provided under the welfare-to-work grant program to be used for the microloan demonstration program under the Small Business Act)

On page 888, between lines 22 and 23, insert the following:

"(VI) Technical assistance and related services that lead to self-employment through the microloan demonstration program under section 7(m) of the Small Business Act (15 U.S.C. 636(m))

Mr. LAUTENBERG. Again, the first amendment on that list, Mr. President, is the Lautenberg amendment.

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator recognizes the Senator from North Dakota.

Mr. LAUTENBERG. May we finish this up?

Mr. DOMENICI. I need to finish this work, if you don't mind.

Senator, I understand you did submit an amendment with reference to the illegal aliens.

Mr. LAUTENBERG. Legal.

Mr. DOMENICI. Legal aliens.

AMENDMENT NO. 499

(Purpose: To provide SSI eligibility for disabled legal aliens)

Mr. DOMENICI. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. Domenici] proposes an amendment numbered 499.

Mr. DOMENICI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike sections 5811 through 5814 and insert the following:

SEC. 5812. EXTENSION OF ELIGIBILITY PERIOD FOR REFUGEES AND CERTAIN OTHER QUALIFIED ALIENS FROM 5 TO 7 YEARS FOR SSI AND MEDICAID.

(a) SSI.—Section 402(a)(2)(A) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)(A)) is amended to read as follows:

"(A) Time-limited exception for refugees and asylees.—

"(i) SSI.—With respect to the specified Federal program described in paragraph (3)(A) paragraph 1 shall not apply to an alien until 7 years after the date—

"(I) an alien is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act;

"(II) an alien is granted asylum under section 208 of such Act; or

"(III) an alien's deportation is withheld under section 243(h) of such Act.

"(ii) Food stamps.—With respect to the specified Federal program described in paragraph (3)(B), paragraph 1 shall not apply to an alien until 5 years after the date—

"(I) an alien is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act:

"(II) an alien is granted asylum under section 208 of such Act; or

"(III) an alien's deportation is withheld under section 243(h) of such Act.".

(b) Medicaid.—Section 402(b)(2)(A) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(b)(2)(A)) is amended to read as follows:

"(A) Time-limited exception for refugees and asylees.—

"(i) Medicaid.—With respect to the designated Federal program described in paragraph (3)(C), paragraph 1 shall not apply to an alien until 7 years after the date—

"(I) an alien is admitted to the United States as a refugee under section 207 of the Immigration and nationality Act:

"(II) an alien is granted asylum under section 208 of such Act; or

"(III) an alien's deportation is withheld under section 243(h) of such Act.

"(ii) Other designated federal programs.—With respect to the designated Federal programs under paragraph (3) (other than subparagraph (C)), paragraph 1 shall not apply to an alien until 5 years after the date—

"(I) an alien is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act;

"(II) an alien is granted asylum under section 208 of such Act; or

"(III) an alien's deportation is withheld under section 243(h) of such Act.".

(c) Status of Cuban and Haitian Entrants.—For purposes of sections 402(a)(2)(A) and 402(b)(2)(A) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)(A), (b)(2)(A), an alien who is a Cuban and Haitian entrant, as defined in section 501(e) of the Refugee Education Assistance Act of 1984, shall be considered a refugee.

SEC. 5813. SSI ELIGIBILITY FOR PERMANENT RESIDENT ALIENS WHO ARE MEMBERS OF AN INDIAN TRIBE.

Section 402(a)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1966 (8 U.S.C. 1612(a)(2)) (as amended by section 5311) is amended by adding at the end the following:

"(F) Permanent resident aliens who are members of an Indian tribe.—With respect to eligibility for benefits for the program defined in paragraph (3)(A) (relating to the supplemental security income program), paragraph (1) shall not apply to an alien who—

"(i) is lawfully admitted for permanent residence under the Immigration and Nationality Act; and

"(ii) is a member of an Indian tribe (as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act).".

SEC. 5814. SSI ELIGIBILITY FOR DISABLED LEGAL ALIENS IN THE UNITED STATES ON AUGUST 22, 1996.

(a) Section 402(a)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2) (as amended by section 5813) is amended by adding at the end the following:

"(G) SSI eligibility for disabled aliens.—With respect to eligibility for benefits for the program defined in paragraph

(3)(A) (relating to the supplemental security income program), paragraph (1) shall not apply—

"(i) to an alien who—

"(I) is lawfully residing in any State on August 22, 1996; and

"(II) is disabled, as defined in section 1614(a)(3) of the Social Security Act (42 U.S.C. 1382c(a)(3)); or

"(ii) to an alien who—

"(I) is lawfully residing in any State and after such date;

"(II) is disabled (as so defined and

"(III) as of June 1, 1997, is receiving benefits under such program.".

"(b) Funds shall be made available for not to exceed 2 years for elderly SSI recipients made ineligible for benefits after August 22, 1996.

Mr. DOMENICI. I wonder if the Senator from Delaware would mind taking over for me. We are only going to be another 10 minutes, and he can close it. I would appreciate that.

Senator LAUTENBERG, I will see you in the morning.

Mr. LAUTENBERG. I look forward to that.

Mr. DOMENICI. Have we run out of time under the bill?

The PRESIDING OFFICER. My understanding is that the time runs out at 9:15.

Mr. DOMENICI. You have plenty of time, Senator.

Several Senators addressed the Chair.

Mr. CONRAD. Mr. President, I yielded to the distinguished Republican manager. I would like to reclaim my time at this point.

Mr. DOMENICI. I didn't know you had an amendment.

Mr. CONRAD. I have a point of order that I would like to raise.

Mr. DOMENICI. I wonder if we could finish this part of getting them in.

Mr. CONRAD. Yes. I would be happy to yield for that purpose.

AMENDMENT NO. 500

(Purpose: To require that any benefits package offered under the block grant option for the children's health initiative includes hearing and visions services)

Mr. DOMENICI. I send an amendment to the desk in behalf of Mr. CHAFEE and Mr. ROCKEFELLER.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI] for Mr. CHAFEE for himself and Mr. ROCKEFELLER, proposes an amendment numbered 500.

The amendment is as follows:

On page 847, beginning on line 1, strike "and that otherwise satisfies State insurance standards and requirements." and insert "that includes hearing and vision services for children, and that otherwise satisfies State insurance standards and requirements.".

AMENDMENT NO. 501

(Purpose: To require that any benefits package offered under the block grant option for the children's health initiative includes hearing and visions services)

Mr. DOMENICI. Mr. President, I send an amendment to the desk in behalf of Senator CHAFEE and Senator ROCKEFELLER.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for Mr. CHAFEE, for himself and Mr. ROCKEFELLER proposes an amendment numbered 501.

The amendment is as follows:

On page 861, after line 26, add the following:

"(4) HEARING AND VISION SERVICES.—Notwithstanding the definition of FEHBP-equivalent children's health insurance coverage in section 2102(5), any package of health insurance benefits offered by a State that opts to use funds provided under this title under this section shall include hearing and vision services for children.".

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

I would assume that the Senator would be willing to yield for additional amendments that may be filed.

Mr. CONRAD. That is the case.

The PRESIDING OFFICER. The Senator may proceed.

POINT OF ORDER

Mr. CONRAD. I rise to make a point of order that section 5822 of this bill is extraneous and violates section 313(b)(1)(D) of the Budget Act, the so-called Byrd rule.

Mr. President, I urge my colleagues to join me in opposing what amounts to a $2 billion blank check for one State, the State of Texas.

The bill before us would require the Secretary of Health and Human Services to approve the privatization of all Federal and State health and human services benefit programs in the State of Texas without any hearings and without any opportunity to review the proposal or ensure that the goals of these programs are furthered by the proposal.

Mr. President, this is truly unprecedented. If we look at the potential impact from this one State waiver, we see that it affects 2.35 million Medicaid beneficiaries, 2.1 million food stamp recipients, 10 percent of all the food stamp recipients in the United States, nearly 1 million WIC recipients, and 20,000 children who are up for adoption or qualify for foster care assistance.

The Texas waiver amounts to a $2 billion blank check without the benefit of one hearing and without the benefit of any Senator knowing what is in the proposal, because this is a proposal that has not been revealed to the U.S. Senate. There has been no waiver submitted.

We hear a lot of talk that it is a waiver. There has been no waiver submitted. This is a procurement document which, by law, is confidential and cannot be reviewed by the U.S. Senate. There have been no public hearings on this proposal—not one. Not a single Member here has had privy to what this procurement document involves. There are serious unanswered questions about whether taxpayers are protected from liability, mismanagement or fraud.

Mr. President, let me go to the next chart. The contracting of human services has a very checkered record. I have produced reviews of just four situations which have occurred around the country, because I think before we leap off this precipice, we ought to know what is in this agreement. What is in this proposal? None of us have been privy to what is here.

Let me just review with my colleagues what we have seen in other agreements like this around the country. In California, an agreement with Lockheed Martin for a child support enforcement contract, harshly criticized in the California Assembly, slated to cost $99 million, now projected to cost $260 million, cost overrun of 163 percent. The State of California stopped payment in February of 1997; limited contractor liability of only $44 million. Taxpayers have to pick up the rest—a disaster in California.

Do we want this to be repeated in Texas? Some will say, well, it won't happen in Texas. On what basis do they say that? Not a single Senator knows what is in that procurement document—not a single one—because it is confidential.

Virginia: Electronic Data Systems, a Medicaid contract. By the way, this is the same company that seeks to privatize all—let me emphasis—every single Federal and State program in the State of Texas. The same company is involved in this Virginia matter.

This is a Medicaid contract in Virginia. The contract has been canceled; 20 months behind schedule; error rate of more than 50 percent—error rate of more than 50 percent—alleged sweetheart deal; EDS selected over competitor whose bid was 50 percent less; alleged conflict of interest; company won contract after making revolving-door hire of a senior Virginia Medicaid official.

Texas: Anderson Consulting, a child support system contract; 559 percent over the budget; over 4 years behind schedule; design errors result in inability to handle changes in Federal regulations; taxpayers to foot more than 78 percent of the project cost—another disaster.

Mr. President, before we do this, we ought to know what is in this procurement document. We shouldn't be handing a blank check to Texas, or any other State. I wouldn't advocate this for my State—a blank check that could blow up on the taxpayers like these examples have blown up.

Let me just conclude with the Florida Unisys contract, a Medicaid contract. Unisys employees arrested for grand theft; one pleaded guilty to fraud, forgery and money-laundering; two others charged with racketeering;

more arrests expected; use of temporary employees, one of whom stole almost a quarter of a million dollars.

And we are getting ready to approve this kind of deal for the State of Texas without any hearing, without any review, without a single Senator knowing what is in the proposed agreement?

Mr. President, we ought to think very carefully before we go down this path.

In Florida, authorities investigating alleged Medicaid theft of $20 million.

Boy, if the warning lights aren't out on this one, I don't know what it will take.

Mr. President, we ought to review this circumstance, have a chance to review it, have hearings, and make a determination if it makes any sense for us to proceed on this basis. I think there are serious and legitimate questions surrounding this proposed procurement document.

The Texas waiver has serious unanswered questions. How do we prevent the massive cost overruns and high error rates that plague similar projects in other States?

How do we protect against revolving-door hiring, kickbacks, or other fraud?

Will the taxpayers be liable if a contractor fails to enroll eligible individuals?

You know, this is a fundamental responsibility of Government to make certain that those who are eligible get the benefits to which they are entitled.

Who pays for it if they enroll people who are not eligible?

What happens to vulnerable Americans who need these programs for basic survival if the contractor has financial incentives to minimize enrollment, even of those who have every legal right to be qualified?

Mr. President, I would like to quote an editorial from the Salt Lake Tribune of April 27th. This is what the Salt Lake Tribune said on April 27 of this year:

> Certain elements of a welfare program lend themselves well to contracting, vouchers, or other forms of privatization . . .

I think we all agree with that:

> But when it comes to deciding who will receive public assistance or who should lose custody of a child, the private sector has its limits. If a private group's primary mission is to make profits . . . services may be reduced . . . Government employees, on the other hand, are subject to more public scrutiny and are expected to promote the public good within constitutional protections for individuals.

Mr. President, let's not fix what isn't broken.

Virtually every State is currently operating, developing, or planning the development of an integrated, automated eligibility and enrollment system for TANF, food stamps, and Medicaid. Thirty-eight States with Federally certified systems; three States installing; five States developing; two States planning; three States with State-developed systems.

Let's not throw the baby out with the bathwater.

I urge my colleagues to support this well-taken point of order.

I thank the Chair. I yield the floor.

Mr. ROTH. Mr. President, I move to waive the point of order.

The PRESIDING OFFICER. The Senator from Delaware.

MOTION TO WAIVE THE BUDGET ACT

Mr. ROTH. I move to waive the point of order.

Mr. CONRAD. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. State the inquiry.

Mr. CONRAD. Parliamentary inquiry. The motion to waive the point of order has been raised. Will this be stacked in votes tomorrow? Would that be the intention of the Chair?

Mr. ROTH. That would be the intent of the chairman.

Mr. CONRAD. That would be the intent of the chairman.

Mr. President, would that be the intent?

The PRESIDING OFFICER. That would be the procedure.

Mr. CONRAD. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. CONRAD. I thank the Chair.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I can't let this moment pass without commending——

Mr. ROTH. Could the Senator yield so I can send this amendment to the desk for consideration?

Mr. LAUTENBERG. Yes, of course. I would be happy to yield to the chairman of the Finance Committee. But I expect to regain the floor.

AMENDMENT NO. 502

Mr. ROTH. Mr. President, I submit an amendment on behalf of Senator D'AMATO on Medicare, on the duplication provision for consideration tomorrow.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> The Senator from Delaware [Mr. ROTH] for Mr. D'AMATO, proposes an amendment numbered 502.

The amendment is as follows:

> Section 1. In 42 U.S.C. §1395ss(d)(3)(A)(v), insert "(a)" before "For", and after the first sentence insert:
>
> "(b) For purposes of this subparagraph, a health insurance policy (which may be a contract with a health maintenance organization) is not considered to "duplicate" health benefits under this title or title XIX or under another health insurance policy if it—
>
> (I) provides comprehensive health care benefits that replace the benefits provided by another health insurance policy,
>
> (II) is being provided to an individual entitled to benefits under Part A or enrolled under Part B on the basis of section 226(b), and
>
> (III) coordinates against items and services available or paid for under this title or title XIX, provided that payments under this title or title XIX shall not be treated as payments under such policy in determining annual or lifetime benefit limits.
>
> Section 2. In 42 U.S.C. §1395ss(d)(3)(A)(v), insert "(c)" before "For purposes of this clause".

The PRESIDING OFFICER. The Senator from New Jersey.

POINT OF ORDER

Mr. LAUTENBERG. Mr. President, I want to commend our friend and colleague from North Dakota for being aware of what is potentially taking place here.

Mr. President, this is a small example of the kind of document that you might have that has all kinds of bad goodies in here. One of the things that you have to do around here is to make certain that everybody is on the alert to the fact that some things get into these bills without being discussed, without being formally introduced. It has a way of sneaking in there. There is an osmosis process in which they fall down from the sky and get in there. This is one that is really kind of sky-high.

I express very serious concerns about the provision in this bill, that it will allow, as the Senator from North Dakota said, in this case Texas, but any State—to have private companies determine the eligibility for low-income benefits like Medicaid, WIC and food stamps.

Mr. President, this is a budget reconciliation bill, not a Government management reform bill. In my view, the privatization provision does not belong in fast-track legislation—fast track, that means to get it through here as quickly as you can—that is designed primarily to implement the budget resolution. This provision has no real impact on the deficit except to potentially make it worse in the years ahead, and it would represent a significant policy change with broad-ranging implications.

I also note that this provision is outside of the bipartisan budget agreement. It was never discussed at any one of the negotiating sessions because I personally sat there at every one of them, and it never appeared in any early drafts of the budget agreement.

This provision raises some very important policy questions. For example, will these private companies have an incentive, as the Senator from North Dakota pointed out in his chart, to exclude people that they would rather not carry from low-income programs. Will they receive bonuses for doing so? Will they feel inclined to do so in order to win other State government contracts?

Now, Mr. President, I kind of grew up, if I can say, in the computer business, and we have seen some of the finest companies in the world make mistakes. We have seen it here with the FAA contract, a fairly complicated piece of business, and it was pointed out that it was Unisys and EDS and names that are very well known in the computer field. Mistakes are made and sometimes these things run way over the original cost estimate, as demonstrated in the example we saw, so we cannot afford to put all of our citizens subject to what might go awry here and spend $2 billion to take care of an arrangement, whatever that arrangement is. Ask every citizen here whether they would feel like kicking into this thing, and I am sure that given a proper questionnaire they would say, "Heck, no." This is not for us and no State ought to be so privileged as to get that kind of an advantage.

Mr. President, the Department of Health and Human Services reports that there may be 3 million children eligible for Medicaid who are not enrolled in the program. It is a serious problem and I feel could even get worse under a privatization program. If private companies are put in charge of enrolling more children for Medicaid, would they really conduct aggressive outreach programs to enroll children, to encourage people to bring them in even if it meant that the State's Medicaid costs would go up? I would not bet on it.

I want to be clear. I am not necessarily opposed to privatization of some Government services. However, it must be considered very carefully, especially when the lives of vulnerable Americans are at stake. This proposal really breaks new ground. For the first time, private interests would be handed complete power to make benefit decisions that are of critical importance to people with low incomes.

It is like turning our military over to private hands and letting them design what conflicts we are going to get involved with. The fact is that much of the allure of privatization is to save money, and there is a place for that. For example, Congress has to decide to have private companies operate some of its cafeterias and do some of its cleaning, and perhaps that translates into more savings and better service for congressional employees. But Congress has wisely limited the roll of private companies in many functions of Government. Private companies are not allowed to operate our military installations, nor do we have private companies administer our Social Security system. We draw the line at some point.

I am concerned that privatizing decisions about benefits for low-income individuals may go over this line. At least, at the very least, it needs careful and thorough study. Yet, I understand that the Finance Committee has not reviewed the details of the Texas waiver, has never seen the full proposal, and since the Senator from North Dakota is also a member of the Finance Committee and talks about the secret nature of this agreement, that further confirms what the rest of us who are not on the Finance Committee might not know and that is that it has never had appropriate scrutiny, never had appropriate review.

Mr. CONRAD. Will the Senator yield on that?

Mr. LAUTENBERG. I would be delighted.

Mr. CONRAD. Is the Senator aware that the proposal before us forces the Secretary of Health and Human Services to approve without comment or review any proposal submitted by the State of Texas which includes provisions to contract out for eligibility determinations? Was the Senator so aware?

Mr. LAUTENBERG. Not aware. I cannot even believe it would be suggested, because that is such a dereliction of duty that I think everybody would be embarrassed if something like this took place. What do you mean? That a Secretary has no right to review the conditions under which we are spending the taxpayers' money?

Mr. CONRAD. If we think about this, these are programs with respect to food stamps and WIC that are 100 percent federally funded. The Medicaid Program is over 50 percent federally funded.

Mr. LAUTENBERG. The rest of it is State funded.

Mr. CONRAD. The rest of it is State funded. We would be in a position to endorse any proposal the State of Texas sent up here without any review, without any comment by the Secretary of Health and Human Services. That is the situation we are in with the proposal in the underlying legislation. I just ask the Senator, has he ever heard of such a proposal before the Senate?

Mr. LAUTENBERG. Never, not even in the years that I spent in the private sector, and I ran a pretty good-sized company with 16,000 employees when I left. It did better after I left. It now has 30,000 employees.

Never have I seen it. Never, when one works with Government, have I seen this kind of an arrangement that has a peculiar odor, and it is not Chanel No. 5. The fact is that to give away Government funds in a program as sensitive as this to take care of the poor—listen, all of us have seen the abuses of private sector companies that have taken over health care and things of that nature.

It just blows one's mind when you see that the president of a company that is in the health care business made $22 million in a single year and meanwhile is squeezing down because that is where the profits are going to come from, from cutting conditions. They are cutting programs that are supposed to take care of people's health.

Well, do you want to have someone up there whose bonus, whose stock options, whose salary depends on making sure that they service as few people as possible, reduce expenses as much as possible when, in fact, the WIC Program is designed to take care of people who are really impoverished, people who need the nutrition that comes through the program to sustain them? So do you want to have some executive sitting at some remote place—and I liked that executive life when I was there, but it was never at the Government's expense—at Government expense. We see constant reference to cases being tried, investigations being conducted where programs were turned over to the private sector. I talk about things like jails—we have tried that in New Jersey—which were dismal failures because they could not protect the guards sufficiently in these jails because they did not hire the right kind of people. They did not provide them with the right kind of tools. The facilities were not built enough to make sure the inmates incarcerated were properly cared for.

So we see this time and time again, and here we walk in and say, "OK, here is a bunch of poor people. You take care of them. Do the best you can at the best price you can." What an outrage.

Mr. CONRAD. Will the Senator yield for a final question?

Mr. LAUTENBERG. Sure.

Mr. CONRAD. Is the Senator aware that under the proposal in the underlying legislation, we could have a private company decide the custody of a child? That this is so far-reaching without any limits we could be in a circumstance in which a private concern has the authority to determine the custody of a child? How does that strike the Senator from New Jersey?

Mr. LAUTENBERG. I will tell the Senator how it strikes me. I say thank God that the Senator from North Dakota has brought this to the attention of the Senate and to the public.

My friend has done a real service in doing this. The notion that an individual working for a private living, perhaps their salary dependent upon their ability to curtail services, is hardly the way you want to treat a sick patient in the hospital. That is hardly the way you want to treat a family problem. That is hardly the way you want to protect a mother who has been battered. That is hardly the way we want to do things in a society with the conscience this country has.

I am delighted, again, that the Senator introduced it. I am concerned that privatization like this is not going to do the job. Before we go ahead with approval of a waiver, we ought to at least hold a hearing and review the details. Mr. President, Congress has established these safety net programs for people in our society who are truly in need, impoverished. They are designed to ease suffering, to provide nutritional assistance to help children, help struggling people get into the work force to get themselves off welfare, to do whatever they can to sustain themselves. These programs can literally mean the difference between homelessness and independence, and we ought not to rush to hand them over to a private interest at this time, perhaps never, but we sure ought not to do it in the hasty manner that this is being undertaken. We can always revisit this issue, Mr. President, without constraints of a reconciliation bill.

I fully support the action being proposed by the Senator from North Dakota and commend him for it, I must tell you.

Mr. CONRAD. I thank the Senator from New Jersey. If I could just take a moment to further point out—I want to rivet this point—there have been no hearings, not a hearing in the Finance Committee, not a hearing in the Agriculture Committee. Members have not been granted the opportunity to question witnesses, experts, company, or advocates on the merits of privatizing eligibility determinations, protections against cost overruns or protections for recipients.

I really believe this is a totally unprecedented proposal that is buried in this very large document that sets a precedent that I believe is truly alarming. I hope my colleagues will support the point of order when we vote on it tomorrow. This is, I think, a circumstance in which a very broad proposal is being attempted, being made to ram it through Congress as part of privileged legislation. That is wrong. That is simply wrong. The issue deserves public hearings and full debate.

I thank the Chair, yield the floor, and I thank very much the Senator from New Jersey.

AMENDMENT NO. 503

(Purpose: To extend premium protection for low-income medicare beneficiaries under the medicaid program)

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I send an amendment to the desk for Senator ROCKEFELLER and ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG], for Mr. ROCKEFELLER, proposes an amendment numbered 503.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in division 2 of title V, insert the following:

SEC. . EXTENSION OF SLMB PROTECTION.

(a) IN GENERAL.—Section 1902(a)(10)(E)(iii) (42 U.S.C. 1396a(a)(10)(E)(iii)) is amended by striking "and 120 percent in 1995 and years thereafter" and inserting ", 120 percent in 1995 through 1997, 125 percent in 1998, 130 percent in 1999, 135 percent in 2000, 140 percent in 2001, 145 percent in 2002, and 150 percent in 2003 and years thereafter".

(b) 100 PERCENT FMAP.—Section 1905(b) (42 U.S.C. 1396d(b)) is amended by adding at the end the following: "Notwithstanding the first sentence of this section, the Federal medical assistance percentage shall be 100 percent with respect to amounts expended as medical assistance for medical assistance described in section 1902(a)(10)(E)(iii) for individuals described in such section whose income exceeds 120 percent of the official poverty line referred to in such section.".

(c) EFFECTIVE DATE.—The amendments made by this section apply on and after October 1, 1997.

Mr. LAUTENBERG. Mr. President, I assume that the amendment goes into the line of amendments as turned in and will be considered at that point in the order.

The PRESIDING OFFICER. It goes in in the stacked order, yes.

Mr. LAUTENBERG. Mr. President, I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 504

(Purpose: To immediately transfer to part B certain home health benefits)

Mr. LAUTENBERG. Mr. President, there is an amendment here from Senator KENNEDY that failed to get included in the list. I send it to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG] for Mr. KENNEDY, proposes an amendment numbered 504.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike section 5361 and insert the following:

SEC. 5361. ESTABLISHMENT OF POST-HOSPITAL HOME HEALTH BENEFIT UNDER PART A AND TRANSFER OF OTHER HOME HEALTH SERVICES TO PART B.

(a) IN GENERAL.—Section 1812(a)(3) (42 U.S.C. 1395d(a)(3)) is amended—

(1) by inserting "post-hospital" before "home health services", and

(2) by inserting "for up to 100 visits" before the semicolon.

(b) POST-HOSPITAL HOME HEALTH SERVICES.—Section 1861 (42 U.S.C. 1395x), as amended by sections 5102(a) and 5103(a), is amended by adding at the end the following:

(qq) POST-HOSPITAL HOME HEALTH SERVICES.—The term 'post-hospital home health services' means home health services furnished to an individual under a plan of treatment established when the individual was an inpatient of a hospital or rural primary care hospital for not less than 3 consecutive days before discharge, or during a covered post-hospital extended care say, if home health services are initiated for the individual within 30 days after discharge from the hospital, rural primary care hospital or extended care facility.".

(c) CONFORMING AMENDMENTS.—Section 1812(b) (42 U.S.C. 1395d(b)) is amended—

(1) by striking "or" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting "; or", and

(3) by adding after paragraph (3) the following:

"(4) post-hospital home health services furnished to the individual beginning after such services have been furnished to the individual for a total of 100 visits.".

(d) PHASE-IN OF ADDITIONAL PART B COSTS IN DETERMINATION OF PART B MONTHLY PREMIUM.—Section 1839(a) (42 U.S.C. 1395r(a)) is amended—

(1) in paragraph (3) in the sentence inserted by section 5541 of this title, by inserting "(except as provided in paragraph (5)(B))" before the period, and

(2) by adding after paragraph (4) the following:

"(5)(A) The Secretary shall, at the time of determining the monthly actuarial rate under paragraph (1) for 1998 through 2003, shall determine a transitional monthly actuarial rate for enrollees age 65 and over in the same manner as such rate is determined under paragraph (1), except that there shall be excluded from such determination an estimate of any benefits and administrative costs attributable to home health services for which payment would have been made under part A during the year but for paragraph (4) of section 1812(b).

"(B) The monthly premium for each individual enrolled under this part for each month for a year (beginning with 1998 and ending with 2003) shall be equal to 50 percent of the monthly actuarial rate determined under subparagraph (A) increased by the following proportion of the difference between such premium and the monthly premium otherwise determined under paragraph (3) (without regard to this paragraph):

"(i) For a month in 1998, 1/7.

"(ii) For a month in 1999, 2/7.

"(iii) For a month in 2000, 3/7.

"(iv) For a month in 2001, 4/7.

"(v) For a month in 2000, 5/7.

"(vi) For a month in 2003, 6/7.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section apply to services furnished on or after October 1, 1997.

(2) SPECIAL RULE.—If an individual is entitled to benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.), but is not enrolled in the insurance program established by part B of that title, the individual also shall be entitled under part A of that title to home health services that are not post-hospital home health services (as those terms are defined under that title) furnished before the 19th month that begins after the date of enactment of this Act.

The PRESIDING OFFICER. The Senator from Delaware.

AMENDMENT NO. 505 TO AMENDMENT NO. 448

(Purpose: To improve the children's health initiative)

Mr. ROTH. Mr. President, on behalf of Mr. LOTT I send an amendment to the desk in the second degree to amendment No. 448, proposed by Mr. CHAFEE.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Delaware [Mr. ROTH], for Mr. LOTT, proposes an amendment numbered 505 to amendment No. 448.

Mr. ROTH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. ROTH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 503, AS MODIFIED

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that I be permitted to send to the desk a modification to an amendment I earlier sent to the desk on behalf of Senator ROCKEFELLER.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAUTENBERG. I send the amendment to the desk.

The PRESIDING OFFICER. The amendment is so modified.

The amendment, as modified, is as follows:

At the appropriate place add the following:

Notwithstanding any other provisions of this Act, section 5544 low-income Medicare Beneficiary Block Grant Program shall read as follows:

(a) IN GENERAL.—Section 1902(a)(10)(E)(iii) (42 U.S.C. 1396a(a)(10)(E)(iii) is amended by striking "and 120 percent in 1995 and years thereafter" and inserting ", 120 percent in 1995 through 1997, 125 percent in 1998, 130 percent in 1999, 135 percent in 2000, 140 percent in 2001, 145 percent in 2002, and 150 percent in 2003 and years thereafter".

(b) 100 PERCENT FMAP.—Section 1905(b) (42 U.S.C. 1396d(b)) is amended by adding at the end the following: "Notwithstanding the first sentence of this section, the Federal medical assistance percentage shall be 100 percent with respect to amounts expended as medical assistance for medical assistance described in section 1902(a)(10)(E)(iii) for individuals described in such section whose income exceeds 120 percent of the official poverty line referred to in such section.".

(c) EFFECTIVE DATE.—The amendments made by this section apply on and after October 1, 1997.

Mr. LAUTENBERG. I thank the Chair, yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ROTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. ROTH. Mr. President, I ask unanimous consent that it now be in order for me to offer a managers' amendment this evening, and further, prior to final passage of the bill on Wednesday, it be in order for me, Senator ROTH, to modify my amendment after the concurrence of the chairman and ranking member of the Budget Committee.

The PRESIDING OFFICER. Is there objection?

Mr. CHAFEE. Mr. President, I didn't quite understand what the request was—that Senator LOTT be permitted to what?

Mr. ROTH. It has nothing to do with Senator LOTT. What it provides is that I may offer a managers' amendment this evening, and that tomorrow I may amend it, with the concurrence of the chairman and ranking member of the Budget Committee.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 506

(Purpose: To provide for managers' amendments)

Mr. ROTH. Mr. President, I send a managers' amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Delaware [Mr. ROTH] proposes an amendment numbered 506.

Mr. ROTH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

AMENDMENT NOS. 507, 508 AND 509

Mr. ROTH. Mr. President, I send three second-degree amendments to the desk on behalf of Senator LOTT, and I ask unanimous consent that they be considered as read and be numbered accordingly.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

AMENDMENT NO. 507 TO AMENDMENT NO. 501

(Purpose: To provide a substitute for the children's health insurance initiative under subtitle J of title V)

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

AMENDMENT NO. 508 TO AMENDMENT NO. 501

(Purpose: To provide a substitute for the children's health insurance initiative under subtitle J of title V)

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

AMENDMENT NO. 509 TO AMENDMENT NO. 501

(Purpose: To provide a substitute for the children's health insurance initiative under subtitle J of title V)

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

AMENDMENT NO. 510

(Purpose: To require that any benefits package offered under the block grant option for the children's health initiative includes hearing and vision services)

Mr. LAUTENBERG. Mr. President, I send an amendment to the desk on behalf of Mr. ROCKEFELLER and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG], for Mr. ROCKEFELLER, proposes an amendment numbered 510.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place add the following:

Notwithstanding any other provision of this Act the following shall be the hearing and vision services provided under the children's health insurance section:

"(4) HEARING AND VISION SERVICES.—Notwithstanding the definition of FEHBP-equivalent children's health insurance coverage in section 2102(5), any package of health insurance benefits offered by a State that opts to use funds provided under this title under this section shall include hearing and vision services for children.".

Mr. LAUTENBERG. Mr. President, I ask that amendment No. 510 be in order for its appearance tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 511

(Purpose: To provide a substitute for the children's health insurance initiative under subtitle J of title V)

Mr. ROTH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Delaware [Mr. ROTH] proposes an amendment numbered 511.

Mr. ROTH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

AMENDMENT NO. 512 TO AMENDMENT NO. 511

(PURPOSE: TO CLARIFY THE STANDARD BENEFITS PACKAGE AND THE COST-SHARING REQUIREMENTS FOR THE CHILDREN'S HEALTH INITIATIVES)

Mr. CHAFEE. Mr. President, I send a second-degree amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE] for himself and Mr. ROCKEFELLER, proposes an amendment numbered 512 to Amendment No. 511.

Mr. CHAFEE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 4 strike line 17 through line 3 on page 5 and insert the following:

'(5) FEHBP-EQUIVALENT CHILDREN'S HEALTH INSURANCE COVERAGE.—The term 'FEHBP-equivalent children's health insurance coverage' means, with respect to a State, any plan or arrangement that provides, or pays the cost of, health benefits that the Secretary has certified are equivalent to or better than the services covered for a child, including hearing and vision services, under the standard Blue Cross/Blue Shield preferred provider option service benefit plan offered under chapter 89 of title 5, United States Code.

Mr. ROTH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 513 TO AMENDMENT NO. 510

(Purpose: To provide a substitute for the children's health insurance initiative under subtitle J of title V)

Mr. ROTH. Mr. President, I send a second-degree amendment to the desk on behalf of Senator LOTT and I ask that it be considered.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Delaware [Mr. ROTH], for Mr. LOTT, proposes an amendment numbered 513 to amendment No. 510.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

AMENDMENT NO. 427

(Purpose: To amend title XVIII of the Social Security Act to continue full-time-equivalent resident reimbursement for an additional one year under medicare for direct graduate medical education for residents enrolled in combined approved primary care medical residency training programs)

Mr. ROTH. Mr. President, I ask unanimous consent that it be in order to send an amendment to the desk by Senator DEWINE of Ohio.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows.

The Senator from Delaware, [Mr. ROTH], for Mr. DEWINE, proposes an amendment numbered 427.

Mr. ROTH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in chapter 3 of subtitle F of division 1 of title V, insert the following:

SEC. . MEDICARE SPECIAL REIMBURSEMENT RULE FOR PRIMARY CARE COMBINED RESIDENCY PROGRAMS.

(a) IN GENERAL.—Section 1886(h)(5)(G) of the Social Security Act (42 U.S.C. 1395ww(h)(5)(G)) is amended—

(1) in clause (i), by striking "and (iii)" and inserting ", (iii), and (iv)"; and

(2) by adding at the end the following:

"(iv) SPECIAL RULE FOR PRIMARY CARE COMBINED RESIDENCY PROGRAMS.—(I) In the case of a resident enrolled in a combined medical residency training program in which all of the individual programs (that are combined) are for training a primary care resident (as defined in subparagraph (H)), the period of board eligibility shall be the minimum number of years of formal training required to satisfy the requirements for initial board eligibility in the longest of the individual programs plus one additional year.

"(II) A resident enrolled in a combined medical residency training program that includes an obstetrics and gynecology program qualifies for the period of broad eligibility under subclause (I) if the other programs such resident combines with such obstetrics and gynecology program are for training a primary care resident.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply to combined medical residency training programs in effect on or after July 1, 1996.

MORNING BUSINESS

Mr. ROTH. Mr. President, I ask unanimous consent there now be a period for the transaction of morning business with Senators permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNIZING THE NATIONAL GROCERS ASSOCIATION

Mr. NICKLES. Mr. President, I wish to bring to the attention of the Senate the community contribution of the American independent retail grocers and their wholesalers. In past years, through the celebration of National Grocers Week, the House and Senate have recognized the important role these businesses play in our economy. The week of June 22–28, 1997, commemorates the eleventh year that National Grocers Week has been observed by the industry to encourage and recognize grocers' leadership in private sector initiatives. Across the nation, community grocers, through environmental initiatives, political involvement, and charitable support, demonstrate and build on the cornerstone of this great country—the entrepreneurial spirit.

In this annual celebration, National Grocers Association (N.G.A) and the nation honor outstanding independent retail and wholesale grocers, state associations and food industry manufacturers for their community leadership with N.G.A.'s "Grocers Care" initiatives.

"GROCERS CARE" AWARD HONOREES

Representatives from companies, organizations and associations around the United States will be honored. The honorees include:

Alabama: Peter V. Gregerson, Gregerson's Foods, Inc., Gadsden; John M. Wilson, Super Foods Supermarkets, Luverne; Dennis T. Stewart, Piggly Wiggly Alabama, Bessemer;

California: Judy Lynn, Tawa Supermarkets, Buena Park Colorado: Harold J. Kelloff, Kelloff's Food Market, Alamosa;

Florida: Leland F. Williams, Felton's Meat & Produce, Plant City; Roy Deffler, Associated Grocers of Florida, Miami;

Iowa: George Tracy, Sales Force of Des Moines, Des Moines; Kenneth C. Stroud, Food's, Inc., Des Moines; Scott Havens, Plaza Holiday Foods, Norwalk; William D. Long, Waremart, Inc., Boise; Virgil Wahlman, Buy Right Food Center, Inc., Milford;

Indiana: Larry D Contos, Pay Less Super Markets, Inc., Anderson;

Kansas: Doug Highland, Sixth Street Foods, Hays; Bill Lancaster and Douglas Carolan Associated Wholesale Grocers, Kansas City;

Kentucky: James Hughes, Techau's, Inc., Cynthiana; Frank Hinton, D & T Foods, Murray; William R. Gore, G & J Market, Inc., Paducah; Peggy Lawson, Laurel Grocery Company, Inc., London;

Louisiana: Vincent A. Cannata, Cannata's Super Market, Inc., Morgan City; Joseph H. Campbell, Associated Grocers, Inc. Baton Rouge;

Michigan: Kimberly Brubaker and Mark S. Feldpausch, Felpausch Food Centers, Hastings; Ruthann Shull, J & C Family Foods, Carleton; Robert D. DeYoung, Fulton Heights Foods, Grand Rapids; Richard Glidden, Harding's Market, Kalamazoo; Mary Dechow and James B. Meyer, Spartan Stores, Inc., Grand Rapids;

Minnesota: Christopher Coborn and Daniel G. Coborn, Coborn's, Inc., St. Cloud; Gordon B. Anderson, Gordy's, Inc., Worthington; Tim Mattheison, Do-Mats Foods, Benson; William E. Farmer, Fairway Foods, Inc.; Alfred N. Flaten, Nash Finch Company, Minneapolis; Jeffrey Noddle, SUPERVALU INC., Minneapolis;

Missouri: Douglas Gerard, Country Mart, Inc., Branson;

Nebraska: Patrick Raybould, B & R Stores, Inc., Lincoln; Fran Juro, No Frills Supermarkets, Omaha; John F. Hanson, Sixth Street Food Stores, North Platte; Douglas D. Cunningham, John Cunningham, D & D Foodliner, Inc. #9, Wausa; James R. Clarke, Jim's Foodmart, Aurora;

New Hampshire: Richard Delay, Delay's, Inc., Greenfield;

New Jersey: Mike Reilly, ShopRite of Hunterton County, Flemington; David

Zallie, Zallie Enterprises, Clementon; Mark K. Laurenti, Shop Rite of Bensalem, Inc., Bensalem; Paul R. Buckley, Jr., Murphy's Market, Inc., Medford; Dean Janeway, Catherine Frank-White, and Jean Pillet, Wakefern;

New Mexico: Martin G. Romine, California Superama, Gallup;

North Dakota: Wallace Joersz, J.K. Foods, Inc., Mandan; Stephen B. Barlow, Miracle Mart, Inc., Mandan; Kay Zander-Woock and Terrance Rockstad, Dan's Super Market, Inc., Bismarck;

Ohio: Reuben Shaffer, Kroger Company, Cincinnati; Ronald C. Graff, Columbiana Foods, Inc., Boardman; Walter A. Churchill, Churchill's Super Markets, Inc, Sylvania; David G. Litteral, Festival Foods, New Boston; Earl Hughes, Fresh Encounters, Inc., Findlay;

Oklahoma: Gary Nichols and Holly Nichols, Nichols SuperThrift, Checotah; George Waken and William Waken, The Boys Market, Enid; James R. Brown, Doc's Food Stores, Inc., Bixby; Thomas D. Goodner, Goodner's Supermarket, Duncan; Larry Anderson, Larry's Foods, Inc., Mustang; R. Scott Petty, Petty's Fine Foods, Tulsa;

Oregon: Craig T. Danielson, Danielson Food Stores, Oregon City; Ross Dwinell, United Grocers, Inc., Milwaukie;

Pennsylvania: Dale Giovengo, Giant Eagle, Pittsburgh; Robert McDonough, Redner's Markets, Inc., Reading; Angelo Spagnolo, Tri County Giant Eagle, Belle Vernon; Christy Spoa, Save-A-Lot, Ellwood City; Dr. Arlene Klein Wier, Vience Spring Valley, Inc., Philadelphia, PA;

South Dakota: Ken Fiedler, Ken's Supermarkets, Inc., Aberdeen; Tennessee: Tommy Litton, Big John's Household Foods, Oneida; H. Dean Dickey, Pic Pac Foods, Columbia;

Texas: Jose Fermin Rodriguez, Thrift T-Mart, San Antonio; R.A. Brookshire, Brookshire Brothers, Inc., Lufkin; Stanton L. Irvin, Tri- State Association Grocers, Inc., El Paso;

Utah: Kenneth W. Macey, Macey's, Inc. Sandy; Richard A. Parkinson, Associated Food Stores, Salt Lake City,;

Virginia: Steve Rosa, Camellia Food Stores, Inc., Norfolk; Steven C. Smith, K-VA-T Food Stores, Inc., Abingdon; Douglas A. Tschorn; Jessee Lewis, Mid-Mountain Foods, Abington;

Vermont: The Wayside Country Store, Arlington;

Wisconsin: Thomas Metcalfe, Metcalfe, Inc., Manona; Steve Erickson, Erickson's Diversified Corp. Hudson; James F. Cwiklo, Quality Foods IGA, Wisconsin Rapids; Tom Turicik, Sentry Foods, Inc., Plymouth; James Heden, More 4 Superstore, River Falls; George Miller, North Country IGA, Ashland; Chuck Potter, Potter's Piggly Wiggly, St. Francis; Ronald Lusic, Fleming Companies, Inc., Waukesha; Robert D. Ranus, Roundy's, Inc. Milwaukee; Gail Omernick, The Copps Corporation, Stevens Point;

Washington: H.L. "Buzz" Ravenscraft, Associated Grocers, Inc.; Washington, DC: Eric Weis, Giant Food Inc.;

West Virginia: David G. Milne, Morgan's Foodland, Kingwood.

The following state associations are instrumental in coordinating information relative to the community service activities of their members: Arizona Food Marketing Alliance, Rocky Mountain Food Dealers, Iowa Grocery Industry Association, Illinois Food Retailers, Kentucky Grocers Association, Mid-Atlantic Food Dealers, Minnesota Grocers Association, Nebraska Retail Grocers Association, New Hampshire Grocers Association, North Carolina Food Dealers, North Dakota Grocers Association, Ohio Grocers Association, Oklahoma Grocers Association, Pennsylvania Food Merchants, Tennessee Grocers Association, Vermont Grocers Association, Wisconsin Grocers Association. Manufacturers: Borden Foods Corporation; Brown & Williamson Tobacco Company; Electronic Warranty Group, Inc.; General Mills, Inc.; Kellogg USA Inc.; NOVUS Services; Procter & Gamble Company; Ralston Purina Company; RJ Reynolds Tobacco Company.

CAMPAIGN FINANCE REFORM PROJECT

Mr. FORD. Mr. President, today, I want to bring to the attention of my colleagues and other interested persons, a letter from the campaign finance project. As my colleagues are aware, this project is being led by two of our former colleagues, Nancy Kassebaum Baker and former Vice President Walter Mondale. They were asked by President Clinton earlier this year to lead a bipartisan effort to develop a solution for reforming our campaign finance laws.

Last week, they issued an open letter to the President and to the Congress about their observations and what they believe should constitute real and meaningful reform. They have identified several key areas that they believe are essential to these reform efforts: a complete ban on "soft money;" refine and sharpen the definitions of "issue advocacy" and "independent expenditures;" improve disclosure of campaign finances; and strengthen enforcement and leadership at the Federal Election Commission.

I have the privilege to meet with both Vice President Mondale and Senator Kassebaum Baker. They are sincere in their efforts to reform our campaign finance system. They believe, as I do, that our failure to act in this issue will only fuel the public's cynicism about the institutions of the Congress, the Presidency, and the electoral process as a whole. I commend this letter to my colleagues attention and ask unanimous consent that the text of the letter be printed in the RECORD.

There being no objection, the text of the letter was ordered to be printed in the RECORD, as follows:

AN OPEN LETTER TO THE PRESIDENT AND THE CONGRESS OF THE UNITED STATES FROM NANCY KASSEBAUM BAKER AND WALTER F. MONDALE—JUNE 18, 1997

DEAR MR. PRESIDENT AND MEMBERS OF CONGRESS: In March, the President asked that we help in the cause of campaign finance reform. Since then we have observed closely the national discussion of this issue, which we believe is central to the well-being of American democracy. We would now like to report about our initial recommendations, with a plea, in the best interests of our political process, that the Executive and Legislative Branches commit themselves to a course of urgent debate leading to early and meaningful action.

One of us is a Republican. The other is a Democrat. We are inspired by the bipartisan efforts of Senators John McCain and Russell Feingold, and Representatives Christopher Shays and Martin Meehan, to achieve campaign finance reform. The bipartisan effort of new members of the House, led by Representatives Asa Hutchinson and Thomas Allen, is also a foundation for hope. We are mindful that no change will occur unless there is a consensus in both parties that reform is fair to each. We also believe the imperative task of renewing our democracy requires that we all look beyond party. Guided by basic lessons from our Constitution and national experience, we must identify specific measures and commit ourselves to action where agreement is within our grasp, even as we identify other questions for further consideration.

The Constitution, in this as in all public affairs, is our first teacher. It directs that the Congress shall make no law abridging the freedom of speech. The Supreme Court has provided substantial guidance how that command applies to campaign finance laws. Whether any of us might wish that the Court had decided particulars of prior cases differently, our national legislative task is to give full honor to its free speech decisions.

The Constitution also enshrines political democracy. One of its central purposes is to ensure that every individual has the right to participate fully in the electoral process. As Madison said of the Congress in The Federalist Papers (No. 52), "the door of this part of the federal government is open to merit of every description, . . . without regard to poverty or wealth." Our campaign finance system must respect, and do everything it can to bolster, the constitutionally rooted primacy of individual citizens in our political democracy.

In applying constitutional values to campaign finance, we do not have to start from scratch. We have had a century of debate and legislation about several essential matters, including what we now describe as "soft money." From early in the twentieth century, federal law has prohibited contributions from corporate treasuries to federal election campaigns. Starting in the 1940s, this bar has been applied equally to contributions to federal election campaigns from union treasuries. The basic principle of these constraints, upheld by the Supreme Court, is that organizations which are granted special privileges and protections, provided by federal or state law for economic advantage, should not be permitted to leverage that advantage to cast doubt on the integrity of our national government.

In the 1970s, in response to the constitutional crisis that began twenty-five years ago this week, the Congress established limits on individual contributions to candidates and political parties, and barred large individual contributions to them that threatened to undermine governmental integrity in reality or appearance. Though it subsequently invalidated several other reform provisions of that time, the Supreme Court sustained this central element of our campaign finance law.

At the end of the 1970s, the Federal Election Commission began to erode these important protections. The Commission authorized national party committees to spend the proceeds of a new category of contributions which we now know as "soft money." This allowed previously prohibited corporate and union treasury contributions, and also unlimited contributions from individuals, to the national political parties. The theory has been that if contributions are not used directly in a federal election, federal campaign finance laws do not limit them. At first, the amounts of soft money involved were relatively small. But as happens with cracks in dikes, the power behind the breach has overwhelmed all defenses. The resulting flood of money to the national parties and their campaign organizations now threatens the credibility of our entire electoral process.

We believe that Congress, as a matter of high priority must stop, unambiguously, all "soft money" contributions to the national parties and their campaign organizations. The Congress should also prohibit the solicitation of soft money by those parties and organizations, any federal office holder, or any candidate for federal office for the seeming benefit of others, but in truth to circumvent the prohibition of soft money to the national parties. These interrelated acts would do much to reinvigorate the basic concept of the Federal Election Campaign Act: that, while we must remain mindful of the political parties' needs for resources to perform their vital role in the political process, it is individuals, subject to contribution limits established by Congress, who are the heart of the system of private contributions for federal elections. The prompt end to soft money solicitations by presidential candidates, among others, would also assure that the public gets full value for its investment in publicly financed presidential elections.

A recurring observation about the 1996 and other recent federal elections is that candidates have lost control of the conduct of their campaigns. Indeed, many candidates are at risk of becoming bystanders to campaigns waged by others in the name of "issue advocacy." As a result, the accountability of the candidates for the conduct of campaigns is seriously compromised. Part of the problem is the need to sharpen definitions, that may have worked twenty years ago, to distinguish campaigning for candidates from a more general public debate of issues. Another part is the need to update the disclosure requirements of the Federal Election Campaign Act. Progress on both counts is necessary to assure that our political process achieves the substantial benefits that should result from an end to the "soft money" system.

First, it is essential that Congress establish, on the basis of the experience of recent elections, an appropriate test consistent with the First Amendment for distinguishing advocacy about candidates from the general advocacy of issues. The purpose of this test should be to identify for consistent treatment under the Federal Election Campaign Act significant expenditures for general communications to the public, at times close to elections, that are designed to achieve specific electoral results. The Supreme Court has said that Congress may regulate federal campaign activity to avoid corrupting influences or appearances. In doing so, the Congress should look at reality, not the self-applied labels of partisans. Our objective should be to assure that comparable expenditures are treated comparably.

The gains from ending "soft money" will be incomplete if money currently spent by parties is only redirected into so-called issue advertisements, including those by surrogate organizations established to circumvent campaign finance laws. A tightened, realistic definition of statutory terms will not foreclose communications to the public on behalf of the interests of business enterprises and unions even up to Election Day, under regulations evenly applied to their political action committees. It will mean that communications to the general public in periods close to elections that are designed to achieve electoral wins or losses are financed through the voluntary contributions of individuals, such as to their parties, political action committees, or candidates.

Second, disclosure is an essential tool because it allows citizens to hold candidates accountable for the means by which campaigns are financed. On election day voters can only express themselves about candidates on the ballot. Even candidates, however, may not know the true identity of entities that dominate the airwaves during the closing weeks of a campaign with electoral messages patently targeted to favor or disfavor them or their opponents. Broader disclosure of the sources of financing of campaign advertisements would contribute to the robustness of political debate. It would ensure that candidates know to whom they might respond, and that the electorate knows who can be held accountable for the accuracy or demeanor of advertisements.

Additionally, we should take advantage of an electronic age in which information can be transmitted rapidly from, and updated frequently by, party and campaign officials, and made readily available to the public with equal rapidity.

No limitations and no disclosure requirements are worth much in the absence of timely and effective enforcement. Indeed, the absence of credible enforcement causes damage beyond the campaign finance laws by engendering real doubts about the application of the rule of law to powerful members of our society. The American public believes resolutely that a fundamental premise of our constitutional democracy is that high elected officials, like ordinary citizens, are subject to the rule of law, and to the timely application of it. The Congress and the President need to work together to assure the public that campaign finance laws are not pretenses.

The President and the Senate should take immediate action to assure that vacancies on the Federal Election Commission are filled by knowledgeable, independent-minded individuals who are not subject to the suggestion that they are appointed to represent political organizations. We say this because we need a clean break from the past, not to be critical of any former, present, or potential member of the Commission. It is within the President's power to accomplish this new start for the Commission, beginning today. We urge the President, in consultation with the leadership of the Congress, to name an advisory panel of citizens whose task would be to recommend highly qualified candidates for the President's consideration for appointment to the Commission, subject of course to the Senate's advice and consent.

Congress can take further steps to protect the independence of the Commission. If commissioners were limited to one term, they would have no occasion to measure the impact of their decisions on the possibility of reappointment. The independence of the Commission can also be furthered by placing its funding on a more secure, longer term basis.

The potential for deadlock inheres in the requirement that the Commission have an even number of commissioners. Because the Congress also has made the Commission the official gatekeeper to the United States courts, judicial action to resolve complaints under the Federal Election Campaign Act is impeded unless permitted by a majority of commissioners. Thus, a deadlocked Commission is an obstacle to the adjudication of meritorious claims. It is important to rely on the expertise of the Commission, but when the Commission is unable to resolve complaints, our respect for the rule of law requires that complainants have the right to a fresh start through a direct action in the United States courts against alleged violators. The law should be amended to provide for this in the event that the Commission is unable to act because of deadlock or a lack of resources.

We have not attempted to set out an exhaustive list of reforms which may be attainable and would make a significant contribution. Other important proposals by members of Congress or students of campaign finance reform merit consideration, such as encouraging small contributions through tax credits, or providing greater resources to candidates through enhanced access to communications media or through flexibility by the parties in supporting candidates with expenditure of hard money contributions. Rather, our purpose is to illustrate that it is possible to identify and act on particular, achievable improvements, which should not be postponed or neglected. We very much encourage and support a larger debate about other changes at the federal and state levels in the manner in which political campaigns are financed. Additional changes will be essential to renewing American democracy. The enactment of immediate reforms may give us a measure of time to address other reforms, but should never become an excuse for avoiding them.

We urge that the work of the Congress over the next few months be spurred by one overriding thought: no one would create, or should feel comfortable in defending, the campaign finance system that now exists. Public cynicism about our great national political institutions is the inevitable product of the gaps that exist between our principles and the law, and between the law and compliance with it. The trend lines, also, are all wrong. If we were unhappy about campaign financing in the election of 1996, as the public is and as members of both parties ought to be, then we should anticipate with great trepidation the election of 2000, absent prompt reforms.

The challenge for this Congress is to put in place changes for the presidential and congressional election cycle that will start the day after next year's elections, a little more than sixteen months from now, to enable an election in the year 2000 in which we will have pride and the public will have confidence. Your leadership in that endeavor will serve the interests of American democracy, and command the enduring appreciation of all of us who know how needed that leadership is.

Sincerely,

NANCY KASSEBAUM BAKER.
WALTER F. MONDALE.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Monday, June 23, 1997, the federal debt stood at $5,332,782,057,516.70. (Five trillion, three hundred thirty-two billion, seven hundred eighty-two million, fifty-seven thousand, five hundred sixteen dollars and seventy cents)

Five years ago, June 23, 1992, the federal debt stood at $3,937,817,000,000. (Three trillion, nine hundred thirty-seven billion, eight hundred seventeen million)

Ten years ago, June 23, 1987, the federal debt stood at $2,292,959,000,000. (Two trillion, two hundred ninety-two billion, nine hundred fifty-nine million)

Fifteen years ago, June 23, 1982, the federal debt stood at $1,070,166,000,000. (One trillion, seventy billion, one hundred sixty-six million)

Twenty-five years ago, June 23, 1972, the federal debt stood at $425,755,000,000 (Four hundred twenty-five billion, seven hundred fifty-five million) which reflects a debt increase of nearly $5 trillion—$4,907,027,057,516.70 (Four trillion, nine hundred seven billion, twenty-seven million, fifty-seven thousand, five hundred sixteen dollars and seventy cents) during the past 25 years.

REACTION TO HOUSE MFN VOTE

Mr. HELMS. Mr. President, today the House in effect approved President Clinton's renewal of most-favored-nation status for the People's Republic of China. The House failed to adopt a resolution disapproving of Mr. Clinton's renewal of MFN for China.

The House thus squandered its opportunity to send a strong signal to the Clinton administration that its policy of engagement with China has not worked.

The administration, and others supporting MFN, insisted that they were willing to pressure China on human rights, on trade, on proliferation, and on Hong Kong. They just didn't believe, they insisted repeatedly, that MFN is the way to do it.

Fair enough, Mr. President. Taking supporters of MFN at their word, I hope Senators will make clear that if MFN isn't the proper tool to use in trying to influence China on such matters, what is the proper tool? By renewing MFN, President Clinton and supporters of MFN for China, have taken on a new burden—to show they are serious about finding a way to persuade China to stop abusing its citizens rights, stop unfair trade practices, stop sending weapons of mass destruction to rogue regimes, and live up to its commitments on Hong Kong.

The debate over China policy is far from over. During the coming weeks and months, I will be considering new measures on China.

For example, Mr. President, the Senate Foreign Relations Committee will hold hearings on legislation to deal with serious problems in the United States-China relationship, and on the commercial activities of the People's Liberation Army in the United States.

I do hope that Senators who have asserted that there is a better way to influence China than revoking MFN will work with the Foreign Relations Committee in finding that better way.

HONORING THE ZINZERS ON THEIR 60TH WEDDING ANNIVERSARY

Mr. ASHCROFT. Mr. President, families are the cornerstone of America. The data are undeniable: Individuals from strong families contribute to the society. In an era when nearly half of all couples married today will see their union dissolve into divorce, I believe it is both instructive and important to honor those who have taken the commitment of "till death us do part" seriously, demonstrating successfully the timeless principles of love, honor, and fidelity. These characteristics make our country strong.

For these important reasons, I rise today to honor Dorothy and Roy Zinzer of Affton, Missouri, who on June 19, 1997, celebrated their 60th wedding anniversary. My wife, Janet, and I look forward to the day we can celebrate a similar milestone. The Zinzers' commitment to the principles and values of their marriage deserves to be saluted and recognized.

MESSAGES FROM THE HOUSE

At 11:58 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1532. An act to amend title 18, United States Code, to create criminal penalties for theft and willful vandalism at national cemeteries.

H.R. 1553. An act to amend the President John F. Kennedy Assassination Records Collection Act of 1992 to extend the authorization of the Assassination Records Review Board until September 30, 1998.

H.R. 1581. An act to reauthorize the program established under chapter 44 of title 28, United States Code, relating to arbitration.

H.R. 1866. An act to continue favorable treatment for need-based educational aid under the antitrust laws.

H.R. 1901. An act to clarify that the protections of the Federal Tort Claims Act apply to the members and personnel of the National Gambling Impact Study Commission.

ENROLLED BILL SIGNED

The message also announced that the Speaker has signed the following enrolled bill:

H.R. 363. An act to amend section 2118 of the Energy Policy Act of 1992 to extend the Electric and Magnetic Fields Research and Public Information Dissemination program.

The enrolled bill was signed subsequently by the President pro tempore [Mr. THURMOND].

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent and referred as indicated:

H.R. 1532. An act to direct the United States Sentencing Commission to provide sentencing enhancement for offenses against property at national cemeteries; to the Committee on the Judiciary.

H.R. 1581. An act to reauthorize the program established under chapter 44 of title 28, United States Code, relating to arbitration; to the Committee on the Judiciary.

MEASURE PLACED ON THE CALENDAR

The following measure was read the second time and placed on the calendar:

S. 950. A bill to provide for equal protection of the law and to prohibit discrimination and preferential treatment on the basis of race, color, national origin, or sex in Federal actions, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2314. A communication from the Secretary of Housing and Urban Development, transmitting, a draft of proposed legislation entitled "Homelessness Assistance and Management Reform Act of 1997"; to the Committee on Banking, Housing, and Urban Affairs.

EC-2315. A communication from the Acting General Counsel, Department of Housing and Urban Development, transmitting, pursuant to law, five rules entitled "HOME Investment Partnership Program" (FR-3962), received on June 23, 1997; to the Committee on Banking, Housing, and Urban Affairs.

EC-2316. A communication from the Director, U.S. Office of Personnel Management, transmitting, a draft of proposed legislation relative to judicial review to protect the merit system; to the Committee on Governmental Affairs.

EC-2317. A communication from the CFO and Plan Administrator, PCA Retirement Committee, First South Production Credit Association, transmitting, pursuant to law, a report of the annual pension plan ending December 31, 1996; to the Committee on Governmental Affairs.

EC-2318. A communication from the Chairman of the National Transportation Safety Board, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996; to the Committee on Governmental Affairs.

EC–2319. A communication from the Executive Director, Committee for Purchase from People Who are Blind or Severely Disabled, transmitting, pursuant to law, a rule relative to employment of the blind and disabled, received on June 17, 1997; to the Committee on Governmental Affairs.

EC–2320. A communication from the Inspector General, U.S. Railroad Retirement Board, transmitting, pursuant to law, a report for the period October 1, 1996 through March 31, 1997; to the Committee on Governmental Affairs.

EC–2321. A communication from the Executive Director of the District of Columbia Financial Responsibility and Management Assistance Authority, transmitting, pursuant to law, a report relative to the Strategic Plan; to the Committee on Governmental Affairs.

REPORTS OF COMMITTEE

The following reports of committee were submitted:

By Mr. WARNER, from the Committee on Rules and Administration:

Special Report entitled "Printing Pictures of Missing Children on Senate Mail" (Rept. No. 105–34).

By Mr. MCCONNELL, from the Committee on Appropriations, without amendment:

S. 955. An original bill making appropriations for foreign operations, export financing, related programs for the fiscal year ending September 30, 1998, and for other purposes (Rept. No. 105–35).

LETTER OF TRANSMITTAL

U.S. SENATE,
SPECIAL COMMITTEE ON AGING,
Washington, DC, 1997.

Hon. ALBERT A. GORE, Jr.,
President, U.S. Senate,
Washington, DC.

DEAR MR. PRESIDENT: Under authority of Senate Resolution 73, agreed to February 13, 1995, I am submitting to you the annual report of the U.S. Senate Special Committee on Aging, Developments in Aging: 1996, volume 1.

Senate Resolution 4, the Committee Systems Reorganization Amendments of 1977, authorizes the Special Committee on Aging "to conduct a continuing study of any and all matters pertaining to problems and opportunities of older people, including but not limited to, problems and opportunities of maintaining health, of assuring adequate income, of finding employment, of engaging in productive and rewarding activity, of securing proper housing and, when necessary, of obtaining care and assistance." Senate Resolution 4 also requires that the results of these studies and recommendations be reported to the Senate annually.

This report describes actions taken during 1996 by the Congress, the administration, and the U.S. Senate Special Committee on Aging, which are significant to our Nation's older citizens. It also summarizes and analyzes the Federal policies and programs that are of the most continuing importance for older persons and their families.

On behalf of the members of the committee and its staff, I am pleased to transmit this report to you.

Sincerely,
CHARLES E. GRASSLEY, *Chairman.*

By Mr. GRASSLEY, from the Special Committee on Aging: Special Report entitled "Developments In Aging: 1996, Volume 1" (Rept. No. 105–36).

EXECUTIVE REPORTS OF COMMITTEES

The following executive report of committee was submitted:

By Mr. HATCH, from the Committee on the Judiciary:

Eric H. Holder, Jr., of the District of Columbia, to be Deputy Attorney General.

(The above nomination was reported with the recommendation that he be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. TORRICELLI (for himself and Mr. SARBANES):

S. 951. A bill to reestablish the Office of Noise Abatement and Control in the Environmental Protection Agency; to the Committee on Environment and Public Works.

By Mr. MCCONNELL (for himself, Mr. HATCH, Mr. KYL, and Mr. SESSIONS):

S. 952. A bill to establish a Federal cause of action for discrimination and preferential treatment in Federal actions on the basis of race, color, national origin, or sex, and for other purposes; to the Committee on the Judiciary.

By Mr. SHELBY (for himself, Mr. NICKLES, and Mrs. HUTCHISON):

S. 953. A bill to require certain Federal agencies to protect the right of private property owners, and for other purposes; to the Committee on Governmental Affairs.

By Mr. KERREY:

S. 954. A bill to assure competition in telecommunications markets; to the Committee on the Judiciary.

By Mr. MCCONNELL:

S. 955. An original bill making appropriations for foreign operations, export financing, related programs for the fiscal year ending September 30, 1998, and for other purposes; from the Committee on Appropriations; placed on the calendar.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. TORRICELLI (for himself and Mr. SARBANES):

S. 951. A bill to reestablish the Office of Noise Abatement and Control in the Environmental Protection Agency; to the Committee on Environment and Public Works.

THE QUIET COMMUNITIES ACT OF 1997

Mr. TORRICELLI. Mr. President, I rise today to introduce, along with Senator SARBANES, the Quiet Communities Act of 1997. It is estimated that noise levels in communities across the country have increased more than 10 percent over the last decade. Studies indicate that noise affects one's ability to concentrate and can cause sleep deprivation, resulting in deleterious effects on health. Air noise is polluting our communities, and we must face and address this reality that affects the quality of life of our constituents.

The Federal Aviation Administration predicts there will be 36 percent more flights in 2007 than there are today and that 60 of the 100 largest airports in this country are proposing to build new runways. A recent study by the Natural Resources' Defense Council found that the FAA's noise policy threshold is far too high for residential communities. Additionally, the study found there are over 250,000 people residing near Newark, JFK, and LaGuardia suffering from more noise than even the FAA deems fit for residences.

In the 1970 Clean Air Act, Congress authorized $30 million for the establishment of the Office of Noise Abatement and Control [ONAC] within the Environmental Protection Agency [EPA] to study noise and its effect on public health and welfare, and to consult with other Federal agencies on noise related issues. In 1982, ONAC's funding was terminated and the Office has been virtually dormant since.

Each year, new studies show potential links between high noise levels and health and quality of life issues. Few issues are as volatile or as controversial as air noise. The EPA has consistently differed with the FAA—and advocated stricter measures—on the selection of noise measurement methodologies, on the threshold of noise at which health impacts are felt, and on the implementation of noise abatement programs at airports around the Nation.

It is time to properly address the aircraft noise that affects millions of people every day in manners that are both short and long term. The Quiet Communities Act of 1997 will reestablish within the EPA an Office of Noise Abatement and Control which will be responsible for coordinating Federal noise abatement activities, updating or developing noise standards, providing technical assistance to local communities, and promoting research and education on the impacts of noise pollution. The Office will emphasize noise abatement approaches that rely on State and local activity, market incentives, and coordination with other public and private agencies. The act will also provide for the EPA to submit recommendations to Congress and the FAA regarding recommendations on new measures that could be implemented to mitigate the impact of aircraft noise on surrounding communities. I ask unanimous consent that this be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 951

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Quiet Communities Act of 1997".

SEC. 2. FINDINGS.

Congress finds that—

(1)(A) for too many citizens of the United States, noise from aircraft, vehicular traffic, and a variety of other sources is a constant source of torment; and

(B) nearly 20,000,000 citizens of the United States are exposed to noise levels that can lead to psychological and physiological damage, and another 40,000,000 people are exposed to noise levels that cause sleep or work disruption;

(2)(A) chronic exposure to noise has been linked to increased risk of cardiovascular problems, strokes, and nervous disorders; and

(B) excessive noise causes sleep deprivation and task interruptions, which pose untold costs on society in diminished worker productivity;

(3)(A) to carry out the Clean Air Act of 1970 (42 U.S.C. 7401 et seq.), the Noise Control Act of 1972 (42 U.S.C. 4901 et seq.), and the Quiet Communities Act of 1978 (Public Law 95–609; 92 Stat. 3079), the Administrator of the Environmental Protection Agency established an Office of Noise Abatement and Control;

(B) the responsibilities of the Office of Noise Abatement and Control included promulgating noise emission standards, requiring product labeling, facilitating the development of low emission products, coordinating Federal noise reduction programs, assisting State and local abatement efforts, and promoting noise education and research; and

(C) funding for the Office of Noise Abatement and Control was terminated in 1982 and no funds have been provided since;

(4) because the Administrator of the Environmental Protection Agency remains responsible for enforcing regulations issued under the Noise Control Act of 1972 (42 U.S.C. 4901 et seq.) even though funding for the Office of Noise Abatement and Control has been terminated, and because that Act prohibits State and local governments from regulating noise sources in many situations, noise abatement programs across the United States lie dormant;

(5) as the population grows and air and vehicle traffic continues to increase, noise pollution is likely to become an even greater problem in the future; and

(6) the health and welfare of the citizens of the United States demands that the Environmental Protection Agency once again assume a role in combating noise pollution.

SEC. 3. REESTABLISHMENT OF OFFICE OF NOISE ABATEMENT AND CONTROL.

(a) Reestablishment.—

(1) In general.—The Administrator of the Environmental Protection Agency shall reestablish an Office of Noise Abatement and Control (referred to in this Act as the "Office").

(2) Responsibilities.—The Office shall be responsible for—

(A) coordinating Federal noise abatement activities;

(B) updating or developing noise standards;

(C) providing technical assistance to local communities; and

(D) promoting research and education on the impacts of noise pollution.

(3) Emphasized approaches.—The Office shall emphasize noise abatement approaches that rely on State and local activity, market incentives, and coordination with other public and private agencies.

(b) Study.—

(1) In general.—Not later than 18 months after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall submit a study on airport noise to Congress and the Federal Aviation Administration.

(2) Areas of study.—The study shall—

(A) examine the Federal Aviation Administration's selection of noise measurement methodologies;

(B) the threshold of noise at which health impacts are felt; and

(C) the effectiveness of noise abatement programs at airports around the United States.

(3) Recommendations.—The study shall include specific recommendations to the Federal Aviation Administration on new measures that should be implemented to mitigate the impact of aircraft noise on surrounding communities.

SEC. 4. AUTHORIZING OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this Act—

(1) $5,000,000 for each of fiscal years 1998, 1999, and 2000; and

(2) $8,000,000 for each of fiscal years 2001 and 2002.

By Mr. SHELBY (for himself, Mr. Nickles, and Mrs. Hutchison):

S. 953. A bill to require certain Federal agencies to protect the right of private property owners, and for other purposes; to the Committee on Governmental Affairs.

THE PRIVATE PROPERTY OWNERS' BILL OF RIGHTS

Mr SHELBY. Mr. President, today I rise to introduce legislation that reaffirms one of the basic principles that formed our Nation—protection of private property rights. The Private Property Owners' Bill of Rights is intended to reaffirm this constitutional right.

The right to private property is an essential freedom. While the fifth amendment to the Constitution recognizes that the Federal Government may take property for public use; it explicitly mandates that Government must compensate the private property owner. In recent years, this fundamental right has been blatantly ignored in the name of habitat and species preservation.

Since the inception of our Nation, ownership of private property has been a cornerstone of economic liberty and prosperity. The current Federal regulatory polices are an ominous cloud hanging over every landowner from the established developer to the hard-working generational farmer.

Myriad new environmental regulations stemming from the Endangered Species Act and the wetlands statues of section 404 of the Clean Water Act have rendered countless acres of private land useless. Thus leaving property owners deprived of the ability to farm, develop, or even repair existing structures on their own land. This bill does not challenge the integrity of the Endangered Species Act or the wetlands statutes; it simply attempts to shift the burden of enforcing these laws from the individual back to the Government. For too long, the policies of the Fish and Wildlife Service, the Army Corps of Engineers, or the Environmental Protection Agency, with respect to these statutes, have gone unchecked.

Property owners should not be singled out to bear the costs of public policies. If our Government determines that a certain parcel of land should be conserved or a species protected, it should purchase the land at a fair and just price. Current regulations punish individuals that happen to own land that the Government wants to manage without purchasing. Enforcement of land use statutes can range from exorbitant fines to the inability to use one's own land or even to time in prison. Currently, expensive and lengthy mitigation is the only recourse available to contest the Government's actions. Simply put, this is an intolerable situation.

Continuing the punitive approach to conservation will only serve to alienate those that are in the best position to assist with the efforts. It is estimated that three-fourths of these lands that meet the Federal Government's definition of a wetland through section 404 of the Clean Water Act, are privately owned. It is time to change the bureaucratic viewpoint that protecting a private property owners' constitutionally guaranteed rights comes at the cost of protecting the environment. Contrary to the Government's actions, both are intrinsically linked.

Throughout my tenure, I have heard countless stories of landowners being denied the right to use their own land—the very property that they purchased or inherited, cared for, developed and pay taxes on—because the Government determines there is a need to preserve the property for a wetland or species. These citizens find themselves in a regulatory nightmare—unable to live off the land yet unable to sell it to the Government, or anyone for that matter, for full market value. Only on paper is the land truly theirs.

For example, a farmer in Missouri was accused of destroying wetlands simply for moving dirt while repairing a broken levee on his family's property. In another disturbing instance, Texan Marge Rector spent $830,000 to purchase 15 acres of land for her retirement. Soon after, it was determined that her land was a potential habitat for the black-capped vireo and the golden-cheeked warbler. Within 5 years, her land was determined to be worth approximately $30,000. Her retirement dream turned into a nightmare.

Unfortunately these are not isolated cases, there are hundreds of individuals in similar predicaments across our country. This issue is not limited by geographical boundaries, socio-economic status or occupation. Any individual that owns land is subject to unexpected, unpredictable environmental regulation that—at the very least—will rob a person of the economic value of their land or, worse, force a landowner into prison for rightfully using their land.

Mr. President, the time has arrived to realistically address the matter at hand by creating a clearly defined policy for Federal agencies to follow.

Abusing the rights of private property owners in the name of the environment must end. Congress needs to act before the economic future of more citizens is put at risk.

Therefore, I am pleased to reintroduce the Private Property Owners' Bill of Rights with my colleagues, Senators NICKLES and HUTCHISON. This bill would reaffirm the Federal Government's constitutional responsibility to protect private property by requiring the Federal Government and its agents, to include private property owners in any process or action to take private land.

The Private Property Owners' Bill of Rights requires a Federal agency and its representative to give notice and gain consent from property owners prior to entering a property owner's land for the purpose of gathering information to enforce the Endangered Species Act or any wetlands statute. Private property owners also would be guaranteed the right to complete access to that information and the right to debate its accuracy prior to the Government's use of it.

Additionally, this legislation requires Federal Government agencies to create an administrative appeals process for owners of property adversely affected by environmental regulations. The Endangered Species Act will be amended to require that private property owners are notified and included in any management agreement that would affect their land. These provisions will assure that the landowner's voice is heard.

Most importantly, the private property owners' bill of rights guarantees compensation for landowners whose property is devalued by $10,000 or 20 percent of its fair market value by Federal action. Uniform guidelines would be created that all Federal agencies and landowners would follow when developing a compensation agreement. If disagreements arise between the parties, they may request arbitration. In no manner does this option limit the availability of alternative legal measures. These are reasonable protections to ensure that landowners' rights, guaranteed under the Constitution, are not violated and that Government affirmatively meets its constitutional obligation to protect private property.

Our Nation is built on the principles of individual freedoms and rights. It is time that the Federal Government abide by the laws of our land and stop the practice of regulating private property without the benefit of compensation. These abuses must end. I urge my colleagues to join me in support of this effort.

I ask unanimous consent that the Private Property Owners' Bill of Rights Act of 1997 be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 953

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Private Property Owners' Bill of Rights".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) Our democracy was founded on principles of ownership, use, and control of private property. These principles are embodied in the fifth amendment to the Constitution, which prohibits the taking of private property without the payment of just compensation.

(2) A number of Federal environmental programs, specifically the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) and section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344), have been implemented by employees, agents, and representatives of the Federal Government in a manner that deprives private property owners of the use and control of their property.

(3) As new Federal programs are proposed that would limit and restrict the use of private property to provide habitat for plant and animal species, the rights of private property owners must be recognized and respected.

(4) Private property owners are being forced by Federal policy to resort to extensive, lengthy, and expensive litigation to protect certain basic civil rights guaranteed by the Constitution.

(5) Since many private property owners do not have the financial resources or the extensive commitment of time to proceed in litigation against the Federal Government, a clear Federal policy is needed to guide and direct Federal agencies with respect to the implementation by the agencies of environmental laws that directly impact private property.

(6) While all private property owners should and must abide by nuisance laws and should not use their property in a manner that harms their neighbors, these laws have traditionally been enacted, implemented, and enforced at the State and local levels where the laws are best able to protect the rights of all private property owners and local citizens.

(7) While traditional pollution control laws are intended to protect the health and physical welfare of the general public, habitat protection programs in effect on the date of enactment of this Act are intended to protect the welfare of plant and animal species, while allowing recreational and aesthetic opportunities for the public.

(b) PURPOSE.—The purpose of this Act is to provide a consistent Federal policy to—

(1) encourage, support, and promote the private ownership of property; and

(2) ensure that the constitutional and legal rights of private property owners are protected by the Federal Government and employees, agents, and representatives of the Federal Government.

SEC. 3. DEFINITIONS.

In this Act:

(1) AGENCY HEAD.—The term "agency head" means the Secretary or Administrator with jurisdiction or authority to take a final agency action under 1 or more of the applicable provisions of law.

(2) APPLICABLE PROVISIONS OF LAW.—The term "applicable provisions of law" means the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) and section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344).

(3) NON-FEDERAL PERSON.—The term "non-Federal person" means a person other than an officer, employee, agent, department, or instrumentality of—

(A) the Federal Government; or

(B) a foreign government.

(4) PRIVATE PROPERTY OWNER.—The term "private property owner" means a non-Federal person (other than an officer, employee, agent, department, or instrumentality of a State, municipality, or political subdivision of a State, or a State, municipality, or political subdivision of a State) that—

(A) owns property referred to in subparagraph (A) or (B) of paragraph (5); or

(B) holds property referred to in paragraph (5)(C).

(5) PROPERTY.—The term "property" means—

(A) land;

(B) any interest in land; and

(C) any proprietary water right.

(6) QUALIFIED AGENCY ACTION.—The term "qualified agency action" means an agency action (as defined in section 551(13) of title 5, United States Code) that is taken under 1 or more of the applicable provisions of law.

SEC. 4. PROTECTION OF PRIVATE PROPERTY RIGHTS.

(a) IN GENERAL.—In implementing and enforcing the applicable provisions of law, each agency head shall—

(1) comply with applicable State and tribal government laws, including laws relating to private property rights and privacy; and

(2) implement and enforce the applicable provisions of law in a manner that has the least impact on the constitutional and other legal rights of private property owners.

(b) REGULATIONS.—Each agency head shall develop and implement regulations for ensuring that the constitutional and other legal rights of private property owners are protected in any case in which the agency head makes, or participates with other agencies in the making of, any final decision that restricts the use of private property.

SEC. 5. PROPERTY OWNER CONSENT FOR ENTRY.

(a) IN GENERAL.—Subject to subsection (b), an agency head may not enter privately owned property to collect information regarding the property, unless the private property owner has—

(1) consented in writing to the entry;

(2) after providing the consent, been provided notice of the entry; and

(3) been notified that any raw data collected from the property must be made available to the private property owner at no cost, if requested by the private property owner.

(b) ENTRY FOR CONSENT OR NOTICE.—Subsection (a) shall not prohibit entry onto property for the purpose of obtaining consent or providing notice required under subsection (a).

SEC. 6. RIGHT TO REVIEW AND DISPUTE DATA COLLECTED FROM PRIVATE PROPERTY.

An agency head may not use data that is collected from privately owned property to implement or enforce any of the applicable provisions of law, unless the agency head has—

(1) provided to the private property owner—

(A) access to the information;

(B) a detailed description of the manner in which the information was collected; and

(C) an opportunity to dispute the accuracy of the information; and

(2) determined that the information is accurate, if the private property owner disputes the accuracy of the information pursuant to paragraph (1)(C).

SEC. 7. RIGHT TO AN ADMINISTRATIVE APPEAL OF WETLANDS DECISIONS.

Section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344) is amended by adding at the end the following:

"(u) ADMINISTRATIVE APPEALS.—

"(1) IN GENERAL.—The Secretary or the Administrator, after notice and opportunity for public comment, shall issue rules to establish procedures to provide private property owners, or authorized representatives of the owners, an opportunity for an administrative appeal of the following actions under this section:

"(A) A determination of regulatory jurisdiction over a particular parcel of property.

"(B) The denial of a permit.

"(C) The terms and conditions of a permit.

"(D) The imposition of an administrative penalty.

"(E) The imposition of an order requiring the private property owner to restore or otherwise alter the property.

"(2) DECISION.—The rules issued under paragraph (1) shall provide that any administrative appeal of an action described in paragraph (1) shall be heard and decided by an official other than the official who took the action, and shall be conducted at a location that is in the vicinity of the property involved in the action.

"(3) DEFINITIONS.—In this subsection:

"(A) NON-FEDERAL PERSON.—The term 'non-Federal person' means a person other than an officer, employee, agent, department, or instrumentality of—

"(i) the Federal Government; or

"(ii) a foreign government.

"(B) PRIVATE PROPERTY OWNER.—The term 'private property owner' means a non-Federal person (other than an officer, employee, agent, department, or instrumentality of a State, municipality, or political subdivision of a State, or a State, municipality, or political subdivision of a State) that—

"(i) owns property referred to in clause (i) or (ii) of subparagraph (C); or

"(ii) holds property referred to in subparagraph (C)(iii).

"(C) PROPERTY.—The term 'property' means—

"(i) land;

"(ii) any interest in land; and

"(iii) any proprietary water right.".

SEC. 8. RIGHT TO ADMINISTRATIVE APPEAL UNDER THE ENDANGERED SPECIES ACT OF 1973.

Section 11 of the Endangered Species Act of 1973 (16 U.S.C. 1540) is amended by adding at the end the following:

"(i) ADMINISTRATIVE APPEALS.—

"(1) IN GENERAL.—The Secretary, after notice and opportunity for public comment, shall issue rules to establish procedures to provide private property owners, or authorized representatives of the owners, an opportunity for an administrative appeal of the following actions under this Act:

"(A) A determination that a particular parcel of property is critical habitat of a species listed under section 4.

"(B) The denial of a permit for an incidental take.

"(C) The terms and conditions of a permit for an incidental take.

"(D) The imposition of an administrative penalty.

"(E) The imposition of an order prohibiting or substantially limiting the use of the property.

"(2) DECISION.—The rules issued under paragraph (1) shall provide that any administrative appeal of an action described in paragraph (1) shall be heard and decided by an official other than the official who took the action, and shall be conducted at a location that is in the vicinity of the parcel of property involved in the action.

"(3) DEFINITIONS.—In this subsection:

"(A) NON-FEDERAL PERSON.—The term 'non-Federal person' means a person other than an officer, employee, agent, department, or instrumentality of—

"(i) the Federal Government; or

"(ii) a foreign government.

"(B) PRIVATE PROPERTY OWNER.—The term 'private property owner' means a non-Federal person (other than an officer, employee, agent, department, or instrumentality of a State, municipality, or political subdivision of a State, or a State, municipality, or political subdivision of a State) that—

"(i) owns property referred to in clause (i) or (ii) of subparagraph (C); or

"(ii) holds property referred to in subparagraph (C)(iii).

"(C) PROPERTY.—The term 'property' means—

"(i) land;

"(ii) any interest in land; and

"(iii) any proprietary water right.".

SEC. 9. COMPENSATION FOR TAKING OF PRIVATE PROPERTY.

(a) ELIGIBILITY.—A private property owner that, as a consequence of a final qualified agency action of an agency head, is deprived of $10,000, or 20 percent or more, of the fair market value of the affected portion of the property of the owner, as determined by a qualified appraisal expert, shall be entitled to receive compensation in accordance with this section.

(b) DEADLINE.—Not later than 90 days after receipt of a final decision of an agency head that deprives a private property owner of the fair market value or viable use of property for which compensation is required under subsection (a), the private property owner may submit in writing a request to the agency head for compensation in accordance with subsection (c).

(c) AGENCY HEAD'S OFFER.—Not later than 180 days after the receipt of a request for compensation under subsection (b), the agency head shall stay the decision and provide to the private property owner—

(1) an offer to purchase the affected property of the private property owner at the fair market value that would apply if there were no use restrictions under the applicable provisions of law; and

(2) an offer to compensate the private property owner for the difference between the fair market value of the property without the restrictions and the fair market value of the property with the restrictions.

(d) PRIVATE PROPERTY OWNER'S RESPONSE.—

(1) IN GENERAL.—A private property owner shall have 60 days after the date of receipt of the offers of the agency head under subsection (c) to accept 1 of the offers or to reject both offers.

(2) SUBMISSION TO ARBITRATION.—If the private property owner rejects both offers, the private property owner may submit the matter for arbitration to an arbitrator appointed by the agency head from a list of arbitrators submitted to the agency head by the American Arbitration Association. The arbitration shall be conducted in accordance with the real estate valuation arbitration rules of the association. For the purposes of this section, an arbitration shall be binding on the agency head and a private property owner as to the amount, if any, of compensation owed to the private property owner and whether for the purposes of this section the private property owner has been deprived of the fair market value or viable use of property for which compensation is required under subsection (a).

(e) JUDGMENT.—A qualified agency action of an agency head that deprives a private property owner of property as described in subsection (a), shall be deemed, at the option of the private property owner, to be a taking under the Constitution and a judgment against the United States if the private property owner—

(1) accepts an offer of the agency head under subsection (c); or

(2) submits to arbitration under subsection (d).

(f) PAYMENT.—An agency head shall pay a private property owner any compensation required under the terms of an offer of the agency head that is accepted by the private property owner in accordance with subsection (d), or under a decision of an arbitrator under that subsection, by not later than 60 days after the date of the acceptance or the date of the issuance of the decision, respectively.

(g) FORM OF PAYMENT.—Payment under this section shall be in a form agreed to by the agency head and the private property owner and may be in the form of—

(1) payment of an amount that is equal to the fair market value of the property on the day before the date of the final qualified agency action with respect to which the property or interest is acquired;

(2) payment of an amount that is equal to the reduction in value of the property; or

(3) conveyance of real property or an interest in real property that has a fair market value equal to the amount referred to in paragraph (1) or (2).

(h) OTHER RIGHTS PRESERVED.—This section shall not preempt, alter, or limit the availability of any remedy for the taking of property or an interest in property that is available under the Constitution or any other law.

(i) FINAL JUDGMENTS.—If a private property owner unsuccessfully seeks compensation under this section and thereafter files a claim for compensation under the fifth amendment to the Constitution and is successful in obtaining a final judgment ordering compensation from the United States Court of Federal Claims for the claim, the agency head who made the final agency decision that results in the taking shall reimburse, from funds appropriated to the agency for the 2 fiscal years following payment of the compensation, the Treasury of the United States for amounts appropriated under section 1304 of title 31, United States Code, to pay the judgment against the United States.

SEC. 10. PRIVATE PROPERTY OWNER PARTICIPATION IN COOPERATIVE AGREEMENTS.

Section 6(b) of the Endangered Species Act of 1973 (16 U.S.C. 1535(b)) is amended—

(1) by striking "The Secretary" and inserting the following:

"(1) IN GENERAL.—The Secretary"; and

(2) by adding at the end the following:

"(2) PARTICIPATION BY PRIVATE PROPERTY OWNERS.—

"(A) IN GENERAL.—Notwithstanding any other provision of this section, in any case in which the Secretary enters into a management agreement under paragraph (1) that establishes restrictions on the use of property, the Secretary shall notify all private property owners or lessees of the property that is subject to the management agreement and shall provide an opportunity for each private property owner or lessee to participate in the management agreement.

"(B) DEFINITIONS.—In this paragraph:

"(i) NON-FEDERAL PERSON.—The term 'non-Federal person' means a person other than an officer, employee, agent, department, or instrumentality of—

"(I) the Federal Government; or

"(II) a foreign government.

"(ii) PRIVATE PROPERTY OWNER.—The term 'private property owner' means a non-Federal person (other than an officer, employee, agent, department, or instrumentality of a State, municipality, or political subdivision of a State, or a State, municipality, or political subdivision of a State) that—

"(I) owns property referred to in subclause (I) or (II) of clause (iii); or

"(II) holds property referred to in clause (iii)(III).

"(iii) PROPERTY.—The term 'property' means—

"(I) land;

"(II) any interest in land; and

"(III) any proprietary water right.".

Mr. NICKLES. Mr. President, of all the freedoms we enjoy in this country, the ability to own, care for, and develop private property is perhaps the most crucial to our free enterprise economy. In fact, our economy would cease to function without the incentives provided by private property. So sacred and important are these rights, that our forefathers chose to specifically protect them in the fifth amendment to the U.S. Constitution, which says in part, "nor shall private property be taken for public use, without just compensation."

Unfortunately, some Federal environmental, safety, and health laws are encouraging Government violation of private property rights, and it is a problem which is increasing in severity and frequency. We would all like to believe the Constitution will protect our property rights if they are threatened, but today that is simply not true. The only way for a person to protect their private property rights is in the courts, and far too few people have the time or money to take such action. Thus many citizens lose their fifth amendment rights simply because no procedures have been established to prevent Government takings.

Many people in the Federal bureaucracy believe that public protection of health, safety, and the environment is not compatible with protection of private property rights. I disagree. In fact, the terrible environmental conditions exposed in Eastern Europe when the cold war ended lead me to believe that property ownership enhances environmental protection. As the residents of East Berlin and Prague know all too well, private owners are more effective caretakers of the environment than communist governments.

Yet the question remains, how do we prevent overzealous bureaucrats from using their authority in ways which threaten property rights?

Today I rise to join my colleague Senator RICHARD SHELBY of Alabama in introducing legislation which will strengthen every citizen's fifth amendment rights. Our bill, the Private Property Owners Bill of Rights, targets two of the worst property rights offenders, the Endangered Species Act and the Wetlands Permitting Program established by Section 404 of the Clean Water Act.

Our bill requires Federal agents who enter private property to gather information under either the Endangered Species Act or the Wetlands Permitting Program to first obtain the written consent of the landowner. While it is difficult to believe that such a basic right should need to be spelled out in law, overzealous bureaucrats and environmental radicals too often mistake private resources as their own. Property owners are also guaranteed the right of access to that information, the right to dispute its accuracy, and the right of an administrative appeal from decisions made under those laws.

Most importantly, the Private Property Owners Bill of Rights guarantees compensation for a landowner whose property is devalued by $10,000, or 20 percent or more, of the fair market value resulting from a Federal action under the Endangered Species Act or Wetlands Permitting Program. An administrative process is established to give property owners a simple and inexpensive way to seek resolution of their takings claims. If we are to truly live up to the requirements of our Constitution, we must make this commitment. I believe this provision will work both to protect landowners from uncompensated takings and to discourage Government actions which would cause such takings.

The time has come for farmers, ranchers, and other landowners to take a stand against violations of their private property rights by the Federal bureaucracy. The Private Property Owners Bill of Rights will help landowners take that stand.

By Mr. KERREY:

S. 954. A bill to assure competition in telecommunications markets; to the Committee on the Judiciary.

THE TELECOMMUNICATIONS COMPETITION ACT OF 1997

Mr. KERREY. Mr. President, the Telecommunications Act of 1996 was to usher in a new era of competition, choice, jobs, universal service, and infrastructure investment.

Much of the promise of the new act remains unfulfilled. Most disappointing has been progress on the competition front. Rather than and explosion of competition, in the year since the law was enacted, there has been a disturbing trend toward consolidation.

I rise to express serious concern about the Department of Justice's approach to mergers in the telecommunications industry. I feel very strongly that the Justice Department approval of the Bell Atlantic and Nynex merger is bad competition policy and bad telecommunications policy.

With this merger, two strong potential competitors with two vibrant, rich markets are now one. This loss of competition follows the equally troublesome merger between Telecomm giants Pacific Telesis and Southwestern Bell. Perhaps most troubling is that these approvals have opened the door for even larger mergers.

What was unimaginable a year ago, the reconstruction of the old Bell System monopoly is very much within the realm of possibility.

Mr. President, the urge to compete should not be replaced with the urge to merge.

A little more than a year ago, the Congress enacted landmark legislation to open telecommunications markets to competition, preserve and advance universal service, and spur private investment in telecommunication infrastructure. Over the last year, the Federal Communications Commission has worked around the clock to implement the new law. It has been a daunting task, frustrated by litigation and regulatory wrangling.

While the FCC and the States struggle with implementation of the new law, it is important to remember that a key part of that legislation did not rely on regulation, it relied on the marketplace. The idea was to unleash pent up competitive forces among and between telecommunications companies. Mega mergers between telecommunications titans quell these market forces for increased investment, lower rates, and improved service.

To unshackle the restraints of the Court supervised breakup of AT&T, the Congress gave Regional Bell Operating Companies instant access to long distance markets outside of their local service regions and access to long distance markets inside their regions when they opened their markets to local competition.

In addition to responding to the lure of long distance markets, Regional Bell Operating Companies and other local exchange carriers were expected to covet each other's markets. The attraction of serving new local markets was to be a key catalyst for breaking down barriers to competition.

With these mergers, local competition and long distance competition is lost. In addition, potential internet, video and broad band competition has disappeared.

The promise of the new law was that competition, not consolidation would bring new services at lower prices to consumers. Where competition failed to advance service and restrain prices, universal service support would assure that telephone rates and services where comparable in rural and urban areas.

When certain large telecommunications companies combine, they not only eliminate the potential of competition with each other in each other's markets, but they can create a market power which may be capable of resisting competition from others. They can also create the possibility of an unequal bargaining power when they compete with or deal with small, independent and new carriers.

The promise of the Telecommunications Act was improved service and lower rates for consumers through competition and the advancement of universal service. If properly implemented, the Telecommunications Act of 1996 can deliver, but the disappointing merger decisions of the Department of Justice will make that task much more difficult.

The legislation I introduce today would clearly institute an appropriate level scrutiny for mergers between large telecommunications companies. I believe that the antitrust laws and the Telecommunications Act would permit this type of analysis, without the adoption of a new statute, but to date, the Department of Justice has not seemed willing to pursue this approach.

Under the Telecommunications Monopoly Prevention Act, new megamergers would not be prohibited but be required to be reviewed in the context of their contribution to competition.

This legislation is by no means a moratorium on mergers. Indeed, some mergers, even among large telecommunications companies, may be very much in the consumers interests and in the interest of competition. This legislation simply requires a level of review consistent with the vision of the Telecommunications Act.

It is my view that the Justice Department is presently pursuing a standard of review for telecomm mergers which would be appropriate for competitive companies tending toward monopoly, but not for monopolies which should be moving toward competition.

Mr. President, I ask that the text of the Telecommunications Monopoly Prevention Act be printed in the RECORD as read and urge my colleagues to review and support this needed piece of legislation.

ADDITIONAL COSPONSORS

S. 9

At the request of Mr. NICKLES, the name of the Senator from Pennsylvania [Mr. SANTORUM] was added as a cosponsor of S. 9, a bill to protect individuals from having their money involuntarily collected and used for politics by a corporation or labor organization.

S. 63

At the request of Mr. FEINGOLD, the name of the Senator from New Jersey [Mr. TORRICELLI] was added as a cosponsor of S. 63, a bill to amend certain Federal civil rights statutes to prevent the involuntary application of arbitration to claims that arise from unlawful employment discrimination based on race, color, religion, sex, national origin, age, or disability, and for other purposes.

S. 294

At the request of Mrs. HUTCHISON, the name of the Senator from New Jersey [Mr. TORRICELLI] was added as a cosponsor of S. 294, a bill to amend chapter 51 of title 18, United States Code, to establish Federal penalties for the killing or attempted killing of a law enforcement officer of the District of Columbia, and for other purposes.

S. 328

At the request of Mr. HUTCHINSON, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of S. 328, a bill to amend the National Labor Relations Act to protect employer rights, and for other purposes.

S. 362

At the request of Mr. LEAHY, the name of the Senator from Louisiana [Ms. LANDRIEU] was added as a cosponsor of S. 362, a bill to deter and punish serious gang and violent crime, promote accountability in the juvenile justice system, prevent juvenile and youth crime, and for other purposes.

S. 385

At the request of Mr. CONRAD, the name of the Senator from Kentucky [Mr. FORD] was added as a cosponsor of S. 385, a bill to provide reimbursement under the medicare program for telehealth services, and for other purposes.

S. 397

At the request of Ms. MIKULSKI, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 397, a bill to amend chapters 83 and 84 of title 5, United States Code, to extend the civil service retirement provisions of such chapter which are applicable to law enforcement officers, to inspectors of the Immigration and Naturalization Service, inspectors and canine enforcement officers of the United States Customs Service, and revenue officers of the Internal Revenue Service.

S. 460

At the request of Mr. BOND, the name of the Senator from Idaho [Mr. KEMPTHORNE] was added as a cosponsor of S. 460, a bill to amend the Internal Revenue Code of 1986 to increase the deduction for health insurance costs of self-employed individuals, to provide clarification for the deductibility of expenses incurred by a taxpayer in connection with the business use of the home, to clarify the standards used for determining that certain individuals are not employees, and for other purposes.

S. 587

At the request of Mr. CAMPBELL, the name of the Senator from Colorado [Mr. ALLARD] was added as a cosponsor of S. 587, a bill to require the Secretary of the Interior to exchange certain lands located in Hinsdale County, Colorado.

S. 589

At the request of Mr. CAMPBELL, the name of the Senator from Colorado [Mr. ALLARD] was added as a cosponsor of S. 589, a bill to provide for a boundary adjustment and land conveyance involving the Raggeds Wilderness, White River National Forest, Colorado, to correct the effects of earlier erroneous land surveys.

S. 590

At the request of Mr. CAMPBELL, the name of the Senator from Colorado [Mr. ALLARD] was added as a cosponsor of S. 590, a bill to provide for a land exchange involving certain land within the Routt National Forest in the State of Colorado.

S. 591

At the request of Mr. CAMPBELL, the name of the Senator from Colorado [Mr. ALLARD] was added as a cosponsor of S. 591, a bill to transfer the Dillon Ranger District in the Arapaho National Forest to the White River National Forest in the State of Colorado.

S. 597

At the request of Mr. BINGAMAN, the name of the Senator from South Dakota [Mr. JOHNSON] was added as a cosponsor of S. 597, a bill to amend title XVIII of the Social Security Act to provide for coverage under part B of the medicare program of medical nutrition therapy services furnished by registered dietitians and nutrition professionals.

S. 606

At the request of Mr. HUTCHINSON, the name of the Senator from Missouri [Mr. ASHCROFT] was added as a cosponsor of S. 606, a bill to prohibit discrimination in contracting on federally funded projects on the basis of certain labor policies of potential contractors.

S. 677

At the request of Ms. MOSELEY-BRAUN, the name of the Senator from Illinois [Mr. DURBIN] was added as a cosponsor of S. 677, a bill to amend the Immigration and Nationality Act of 1994, to provide the descendants of the children of female United States citizens born abroad before May 24, 1934, with the same rights to United States citizenship at birth as the descendants of children born of male citizens abroad.

S. 770

At the request of Mr. NICKLES, the name of the Senator from Wyoming [Mr. ENZI] was added as a cosponsor of S. 770, a bill to encourage production of oil and gas within the United States by providing tax incentives, and for other purposes.

S. 810

At the request of Mr. ABRAHAM, the name of the Senator from Georgia [Mr. COVERDELL] was added as a cosponsor of S. 810, a bill to impose certain sanctions on the People's Republic of China, and for other purposes.

S. 884

At the request of Mr. CLELAND, the name of the Senator from Georgia [Mr. COVERDELL] was added as a cosponsor of S. 884, a bill to amend the Appalachian Regional Development Act of 1965 to add Elbert County and Hart County, Georgia, to the Appalachian region.

S. 885

At the request of Mr. D'AMATO, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 885, a bill to amend the Electronic Fund Transfer Act to limit fees charged by financial institutions for the use of automatic teller machines, and for other purposes.

S. 888

At the request of Mr. DOMENICI, the names of the Senator from Tennessee [Mr. FRIST], and the Senator from North Carolina [Mr. FAIRCLOTH] were added as cosponsors of S. 888, a bill to amend the Small Business Act to assist the development of small business concerns owned and controlled by women, and for other purposes.

S. 912

At the request of Mr. BOND, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 912, a bill to provide for certain military retirees and dependents a special medicare part B enrollment period during which the late enrollment penalty is waived and a special medigap open period during which no under-writing is permitted.

AMENDMENTS SUBMITTED

THE BALANCED BUDGET ACT OF 1997

ROTH (AND MOYNIHAN) AMENDMENT NO. 431

Mr. ROTH (for himself and Mr. MOYNIHAN) proposed an amendment to the bill (S. 947) to provide for reconciliation pursuant to section 104(a) of the concurrent resolution on the budget for fiscal year 1998; as follows:

On page 169, between lines 24 and 25, insert:

"(5) SATISFACTION OF REQUIREMENT.— .

"(A) IN GENERAL.—A MedicarePlus plan offered by a MedicarePlus organization satisfies paragraph (1)(A), with respect to benefits for items and services furnished other than through a provider that has a contract with the organization offering the plan, if the plan provides (in addition to any cost sharing provided for under the plan) for at least the total dollar amount of payment for such items and services as would otherwise be authorized under parts A and B (including any balance billing permitted under such parts).

"(B) EXCEPTION FOR MSA PLANS AND UNRESTRICTED FEE-FOR-SERVICE PLANS.—Subparagraph (A) shall not apply to an MSA plan or an unrestricted fee-for-service plan."

On page 188, between lines 18 and 19, insert:

"(k) TREATMENT OF SERVICES FURNISHED BY CERTAIN PROVIDERS.—

"(1) IN GENERAL.—A physician or other entity (other than a provider of services) that does not have a contract establishing payment amounts for services furnished to an individual enrolled under this part with a MedicarePlus organization shall accept as payment in full for covered services under this title that are furnished to such an individual the amounts that the physician or other entity could collect if the individual were not so enrolled. Any penalty or other provision of law that applies to such a payment with respect to an individual entitled to benefits under this title (but not enrolled with a MedicarePlus organization under this part) also applies with respect to an individual so enrolled.

"(2) EXCEPTION FOR MSA PLANS AND UNRESTRICTED FEE-FOR-SERVICE PLANS.—Paragraph (1) shall not apply to an MSA plan or an unrestricted fee-for-service plan."

On page 203, beginning with line 13, strike all through page 204, line 11, and insert:

"(8) ADJUSTMENTS TO MINIMUM AMOUNTS AND MINIMUM PERCENTAGE INCREASES.—After computing all amounts under this subsection (without regard to this paragraph) for any year, the Secretary shall—

"(A) redetermine the amount under paragraph (1)(C) for such year by substituting '100 percent' for '101 percent' each place it appears, and

"(B) increase the minimum amount under paragraph (1)(B) to an amount equal to the lesser of—

"(i) the amount the Secretary estimates will result in increased payments under such paragraph equal to the decrease in payments by reason of the redetermination under subparagraph (A), or

"(ii) an amount equal to 85 percent of the annual national Medicare Choice capitation rate determined under paragraph (4)."

On page 222, strike lines 18 through 21 and insert:

"(II) the date on which the Secretary determines that the State has in effect solvency standards identical to the standards established under section 1856(a)."

On page 226, beginning with line 17, strike all through page 227, line 3, and insert:

"(d) CERTIFICATION OF PROVISION AGAINST RISK OF INSOLVENCY FOR PSOs.—

"(1) IN GENERAL.—Each Medicare Choice organization that is a provider-sponsored organization with a waiver in effect under subsection (a)(2) shall meet the standards established under section 1856(a) with respect to the financial solvency and capital adequacy of the organization."

On page 309, line 17, insert ", including the extent to which current medicare update indexes do not accurately reflect inflation" after "1395t)".

On page 309, line 22, beginning with ", including" strike all through "inflation" on line 24.

On page 335, beginning with line 24, strike through page 336, line 2, and insert:

(3) NONELDERLY MEDICARE BENEFICIARIES.—

(A) IN GENERAL.—The amendment made by subsection (c) shall apply to policies issued on and after July 1, 1998.

(B) TRANSITION RULE.—In the case of an individual who first became eligible for benefits under part A of title XVIII of the Social Security Act pursuant to section 226(b) of such Act and enrolled for benefits under part B of such title before July 1, 1998, the 6-month period described in section 1882(s)(2)(A) of such Act shall begin on July 1, 1998. Before July 1, 1998, the Secretary of Health and Human Services shall notify any individual described in the previous sentence of their rights in connection with medicare supplemental policies under section 1882 of such Act, by reason of the amendment made by subsection (c).

On page 340, between lines 21 and 22, insert:

PART I—IN GENERAL

On page 341, line 11, strike "and".

On page 341, between lines 11 and 12, insert:

"(3) applying the information and quality programs under part II; and"

On page 341, line 12, strike "(3)" and insert "(4)".

On page 357, between lines 2 and 3, insert:

PART II—INFORMATION AND QUALITY STANDARDS

Subpart A—Information

SEC. 5044. INFORMATION REQUIREMENTS.

(a) IN GENERAL.—The Secretary shall provide that in the case of a demonstration plan conducted under part I, the information and comparative reports described in this section shall be used in lieu of that provided under part C of title XVIII of the Social Security Act.

(b) SECRETARY'S MATERIALS; CONTENTS.—The notice and informational materials mailed by the Secretary under this part shall be written and formatted in the most easily understandable manner possible, and shall include, at a minimum, the following:

(1) GENERAL INFORMATION.—General information with respect to coverage under this part during the next calendar year, including—

(A) the part B premium rates that will be charged for part B coverage, and a statement of the fact that enrollees in demonstration plans are not required to pay such premium,

(B) the deductible, copayment, and coinsurance amounts for coverage under the traditional medicare program,

(C) a description of the coverage under the traditional medicare program and any changes in coverage under the program from the prior year,

(D) a description of the individual's medicare payment area, and the standardized medicare payment amount available with respect to such individual,

(E) information and instructions on how to enroll in a demonstration plan,

(F) the right of each demonstration plan sponsor by law to terminate or refuse to renew its contract and the effect the termination or nonrenewal of its contract may have on individuals enrolled with the demonstration plan under this part,

(G) appeal rights of enrollees, including the right to address grievances to the Secretary or the applicable external review entity, and

(H) the benefits offered by plans in basic benefit plans under section 1895H(a), and how those benefits differ from the benefits offered under parts A and B.

(2) COMPARATIVE REPORT.—A copy of the most recent comparative report (as established by the Secretary under subsection (c)) for the demonstration plans in the individual's medicare payment area.

(c) COMPARATIVE REPORT.—

(1) IN GENERAL.—The Secretary shall develop an understandable standardized comparative report on the demonstration plans offered by demonstration plan sponsors, that will assist demonstration eligible individuals in their decisionmaking regarding medical care and treatment by allowing such individuals to compare the demonstration plans that such individuals are eligible to enroll with. In developing such report the Secretary shall consult with outside organizations, including groups representing the elderly, demonstration plan sponsors, providers of services, and physicians and other

health care professionals, in order to assist the Secretary in developing the report.

(2) REPORT.—The report described in paragraph (1) shall include a comparison for each demonstration plan of—

(A) the plan's medicare service area;

(B) coverage by the plan of emergency services and urgently needed care;

(C) the amount of any deductibles, coinsurance, or any monetary limits on benefits;

(D) the number of individuals who disenrolled from the plan within 3 months of enrollment during the previous fiscal year (excluding individuals whose disenrollment was due to death or moving outside of the plan's service area) stated as percentages of the total number of individuals in the plan;

(E) process, outcome, and enrollee satisfaction measures, as recommended by the Quality Advisory Institute as established under section 5044B;

(F) information on access and quality of services obtained from the analysis described in section 5044B;

(G) the procedures used by the plan to control utilization of services and expenditures, including any financial incentives;

(H) the number of applications during the previous fiscal year requesting that the plan cover or pay for certain medical services that were denied by the plan (and the number of such denials that were subsequently reversed by the plan), stated as a percentage of the total number of applications during such period requesting that the plan cover such services;

(I) the number of times during the previous fiscal year (after an appeal was filed with the Secretary) that the Secretary upheld or reversed a denial of a request that the plan cover certain medical services;

(J) the restrictions (if any) on payment for services provided outside the plan's health care provider network;

(K) the process by which services may be obtained through the plan's health care provider network;

(L) coverage for out-of-area services;

(M) any exclusions in the types of health care providers participating in the plan's health care provider network;

(N) whether the plan is, or has within the past two years been, out-of-compliance with any requirements of this part (as determined by the Secretary);

(O) the plan's premium price for the basic benefit plan submitted under part C of title XVIII of the Social Security Act, an indication of the difference between such premium price and the standardized medicare payment amount, and the portion of the premium an individual must pay out of pocket;

(P) whether the plan offers any of the optional supplemental benefit plans, and if so, the plan's premium price for such benefits; and

(Q) any additional information that the Secretary determines would be helpful for demonstration eligible individuals to compare the demonstration plans that such individuals are eligible to enroll with.

(3) ADDITIONAL INFORMATION.—The comparative report shall also include—

(A) a comparison of each demonstration plan to the fee-for-service program under parts A and B of title XVIII of the Social Security Act;

(B) an explanation of medicare supplemental policies under section 1882 of such Act and how to obtain specific information regarding such policies; and

(C) a phone number for each demonstration plan that will enable demonstration eligible individuals to call to receive a printed listing of all health care providers participating in the plan's health care provider network.

(4) UPDATE.—The Secretary shall, not less than annually, update each comparative report.

(5) DEFINITIONS.—In this subsection—

(A) HEALTH CARE PROVIDER.—The term "health care provider" means anyone licensed under State law to provide health care services under part A or B.

(B) NETWORK.—The term "network" means, with respect to a demonstration plan sponsor, the health care providers who have entered into a contract or agreement with the plan sponsor under which such providers are obligated to provide items, treatment, and services under this section to individuals enrolled with the plan sponsor under this part.

(C) OUT-OF-NETWORK.—The term "out-of-network" means services provided by health care providers who have not entered into a contract agreement with the demonstration plan sponsor under which such providers are obligated to provide items, treatment, and services under this section to individuals enrolled with the plan sponsor under this part.

(6) COST SHARING.—Each demonstration plan sponsor shall pay to the Secretary its pro rata share of the estimated costs incurred by the Secretary in carrying out the requirements of this section and section 4360 of the Omnibus Reconciliation Act of 1990. There are hereby appropriated to the Secretary the amount of the payments under this paragraph for purposes of defraying the cost described in the preceding sentence. Such amounts shall remain available until expended.

Subpart B—Quality in Demonstration Plans

SEC. 5044A. DEFINITIONS.

In this subpart:

(1) COMPARATIVE REPORT.—The term "comparative report" means the comparative report developed under section 5044.

(2) DIRECTOR.—The term "Director" means the Director of the Office of Competition within the Department of Health and Human Services as established under part I.

(3) MEDICARE PROGRAM.—The term "medicare program" means the program of health care benefits provided under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

(4) DEMONSTRATION PLAN.—The term "demonstration plan" means a plan established under part I.

(5) DEMONSTRATION PLAN SPONSOR.—The term "demonstration plan sponsor" means a sponsor of a demonstration plan.

SEC. 5044B. QUALITY ADVISORY INSTITUTE.

(a) ESTABLISHMENT.—There is established an Institute to be known as the "Quality Advisory Institute" (in this subpart referred to as the "Institute") to make recommendations to the Director concerning licensing and certification criteria and comparative measurement methods under this subpart.

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Institute shall be composed of 5 members to be appointed by the Director from among individuals who have demonstrable expertise in—

(A) health care quality measurement;

(B) health plan certification criteria setting;

(C) the analysis of information that is useful to consumers in making choices regarding health coverage options, health plans, health care providers, and decisions regarding health treatments; and

(D) the analysis of health plan operations.

(2) TERMS AND VACANCIES.—The members of the Institute shall be appointed for 5-year terms with the terms of the initial members staggered as determined appropriate by the Director. Vacancies shall be filled in a manner provided for by the Director.

(c) DUTIES.—The Institute shall—

(1) not later than 1 year after the date on which all members of the Institute are appointed under subsection (b)(2), provide advice to the Director concerning the initial set of criteria for the certification of demonstration plans;

(2) analyze the use of the criteria for the certification of demonstration plans implemented by the Director under this subpart and recommend modifications in such criteria as needed;

(3) analyze the use of the comparative measurements implemented by the Director in developing comparative reports and recommend modifications in such measurements as needed;

(4) perform, or enter into contracts with other entities for the performance of, an analysis of access to services and clinical outcomes based on patient encounter data;

(5) enter into contracts with other entities for the development of such criteria and measurements and to otherwise carry out its duties under this section; and

(6) carry out any other activities determined appropriate by the Institute to carry out its duties under this section.

The analysis described in paragraph (4) should focus on conditions and procedures of significance to beneficiaries under the medicare program, as determined by the Institute, and should be designed, and the results summarized, in a manner that facilitates comparisons across health plans.

SEC. 5044C. DUTIES OF DIRECTOR.

(a) IN GENERAL.—The Director shall—

(1) adopt, adapt, or develop criteria in accordance with sections 5044F through 5044I to be used in the licensing of certifying entities and in the certification of demonstration plans, including any minimum criteria needed for the operation of demonstration plans during the transition period described in section 5044F(c);

(2) issue licenses to certifying entities that meet the criteria developed under paragraph (1) for the purpose of enabling such entities to certify demonstration plans in accordance with this subpart;

(3) develop comparative health care measures in addition to those implemented by the Director in developing comparative reports in order to guide consumer choice under the medicare program and to improve the delivery of quality health care under such program;

(4) develop procedures, consistent with section 5044A, for the dissemination of certification and comparative quality information provided to the Director;

(5) contract with an independent entity for the conduct of audits concerning certification and quality measurement and require that as part of the certification process performed by licensed certification entities that there include an onsite evaluation, using performance-based standards, of the providers of items and services under a demonstration plan;

(6) at least quarterly, meet jointly with the Agency for Health Care Policy and Research to review innovative health outcomes measures, new measurement processes, and other matters determined appropriate by the Director;

(7) at least annually, meet with the Institute concerning certification criteria;

(8) not later than January 1, 1999, and each January 1 thereafter, prepare and submit to

demonstration plan sponsors and to Congress, a report concerning the activities of the Director for the previous year;

(9) advise the President and Congress concerning health insurance and health care provided under demonstration plans and make recommendations concerning measures that may be implemented to protect the health of all enrollees in demonstration plans; and

(10) carry out other activities determined appropriate by the Director.

(b) Rule of Construction.—Nothing in this section shall be construed to limit the authority of the Director or the Secretary of Health and Human Services with respect to requirements other than those applied under this subpart with respect to demonstration plans.

SEC. 5044D. COMPLIANCE.

(a) In General.—Not later than January 1, 1999, the Director shall ensure that a demonstration plan may not be offered unless it has been certified in accordance with this subpart.

(b) Contracts or Reimbursements.—In carrying out subsection (a), the Director—

(1) may not enter into a contract with a demonstration plan sponsor for the provision of a demonstration plan unless the demonstration plan is certified in accordance with this subpart;

(2) may not reimburse a demonstration plan sponsor for items and services provided under a demonstration plan unless the demonstration plan is certified in accordance with this subpart; and

(3) shall, after providing notice to the demonstration plan sponsor operating a demonstration plan and an opportunity for such demonstration plan to be certified, and in accordance with any applicable grievance and appeals procedures under section 5044I, terminate any contract with a demonstration plan sponsor for the operation of a demonstration plan if such demonstration plan is not certified in accordance with this subpart.

SEC. 5044E. PAYMENTS FOR VALUE.

(a) Establishment of Program.—The Director shall establish a program under which payments are made to various demonstration plans to reward such plans for meeting or exceeding quality targets.

(b) Performance Measures.—In carrying out the program under subsection (a), the Director shall establish broad categories of quality targets and performance measures. Such targets and measures shall be designed to permit the Director to determine whether a demonstration plan is being operated in a manner consistent with this subpart.

(c) Use of Funds.—

(1) In general.—The Secretary shall withhold 0.50 percent from any payment that a demonstration plan sponsor receives with respect to an individual enrolled with such plan under part I.

(2) Payments.—The Director shall use amounts collected under paragraph (1) to make annual payments to those demonstration plans that have been determined by the Director to meet or exceed the quality targets and performance measures established under subsection (b). Any amounts collected under such paragraph for a fiscal year and remaining available after payments are made under subsection (d), shall be used for deficit reduction.

(d) Amount of Payment.—

(1) Formula.—The amount of any payment made to a demonstration plan under this section shall be determined in accordance with a formula to be developed by the Director. The formula shall ensure that a payment made to a demonstration plan under this section be in an amount equal to—

(A) with respect to a demonstration plan that is determined to be in the first quintile, 1 percent of the amount allocated to the plan under this subpart;

(B) with respect to a demonstration plan that is determined to be in the second quintile, 0.75 percent of the amount allocated to the plan under this subpart;

(C) with respect to a demonstration plan that is determined to be in the third quintile, 0.50 percent of the amount allocated by the plan under this subpart; and

(D) with respect to a demonstration plan that is determined to be in the fourth quintile, 0.25 percent of the amount allocated by the plan under this subpart.

(2) No payment.—A demonstration plan that is determined by the Director to be in the fifth quintile shall not be eligible to receive a payment under this section.

(3) Determination of quintiles.—Not later than April 30 of each calendar year, the Director shall rank each demonstration plan based on the performance of the plan during the preceding year as determined using the quality targets and performance measures established under subsection (b). Such rankings shall be divided into quintiles with the first quintile containing the highest ranking plans and the fifth quintile containing the lowest ranking plans. Each such quintile shall contain plans that in the aggregate cover an equal number of beneficiaries as compared to another quintile.

SEC. 5044F. CERTIFICATION REQUIREMENT.

(a) In General.—To be eligible to enter into a contract with the Director to enroll individuals in a demonstration plan, a demonstration plan sponsor shall participate in the certification process and have the demonstration plans offered by such plan sponsor certified in accordance with this subpart.

(b) Effect of Mergers or Purchase.—

(1) Certified plans.—Where 2 or more demonstration plan sponsors offering certified demonstration plans are merged or where 1 such plan sponsor is purchased by another plan sponsor, the resulting plan sponsor may continue to operate and enroll individuals for coverage under the demonstration plan as if the demonstration plan involved were certified. The certification of any resulting demonstration plan shall be reviewed by the applicable certifying entity to ensure the continued compliance of the contract with the certification criteria.

(2) Noncertified plans.—The certification of a demonstration plan shall be terminated upon the merger of the demonstration plan sponsor involved or the purchase of the plan sponsor by another entity that does not offer any certified demonstration plans. Any demonstration plans offered through the resulting plan sponsor may reapply for certification after the completion of the merger or purchase.

(c) Transition for New Plans.—

(1) In general.—A demonstration plan that has not provided health insurance coverage to individuals prior to the effective date of this Act shall be permitted to contract with the Director and operate and enroll individuals under a demonstration plan without being certified for the 2-year period beginning on the date on which such demonstration plan sponsor enrolls the first individual in the demonstration plan. Such demonstration plan must be certified in order to continue to provide coverage under the contract after such period.

(2) Limitation.—A new demonstration plan described in paragraph (1) shall, during the period referred to in paragraph (1) prior to certification, comply with the minimum criteria developed by the Director under section 5044F(a)(1).

SEC. 5044G. LICENSING OF CERTIFICATION ENTITIES.

(a) In General.—The Director shall develop procedures for the licensing of entities to certify demonstration plans under this subpart.

(b) Requirements.—The procedures developed under subsection (a) shall ensure that—

(1) to be licensed under this section a certification entity shall apply the requirements of this subpart to demonstration plans seeking certification;

(2) a certification entity has procedures in place to suspend or revoke the certification of a demonstration plan that is failing to comply with the certification requirements; and

(3) the Director will give priority to licensing entities that are accrediting health plans that contract with the Director on the date of enactment of this Act.

SEC. 5044H. CERTIFICATION CRITERIA.

(a) Establishment.—The Director shall establish minimum criteria under this section to be used by licensed certifying entities in the certification of demonstration plans under this subpart.

(b) Requirements.—Criteria established by the Director under subsection (a) shall require that, in order to be certified, a demonstration plan shall comply at a minimum with the following:

(1) Quality improvement plan.—The demonstration plan shall implement a total quality improvement plan that is designed to improve the clinical and administrative processes of the demonstration plan on an ongoing basis and demonstrate that improvements in the quality of items and services provided under the demonstration plan have occurred as a result of such improvement plan.

(2) Provider credentials.—The demonstration plan shall compile and annually provide to the licensed certifying entity documentation concerning the credentials of the hospitals, physicians, and other health care professionals reimbursed under the demonstration plan.

(3) Comparative Information.—The demonstration plan shall compile and provide, as requested by the Secretary of Health and Human Services, to the such Secretary the information necessary to develop a comparative report.

(4) Encounter data.—The demonstration plan shall maintain patient encounter data in accordance with standards established by the Institute, and shall provide these data, as requested by the Institute, to the Institute in support of conducting the analysis described in section 5044B(c)(4).

(5) Other requirements.—The demonstration plan shall comply with other requirements authorized under this subpart and implemented by the Director.

SEC. 5044I. GRIEVANCE AND APPEALS.

The Director shall develop grievance and appeals procedures under which a demonstration plan that is denied certification under this subpart may appeal such denial to the Director.

On page 434, line 17, insert "county in a" after "residing in a".

On page 434, line 21, insert "or a rural county that is not adjacent to a Metropolitan Statistical Area" after "254e(a)(1)(A))".

On page 515, strike line 5 through 7, and insert the following:

SEC. 5331. EXTENSION OF COST LIMITS.

On page 515, line 14, beginning with ", increased by" strike all through "data" on line 18.

On page 519, line 7, strike "October" and insert "July".

On page 527, lines 22 and 23, strike ", PERCENTAGE, AND HISTORICAL TREND FACTOR" and insert " AND PERCENTAGE".

On page 578, line 20, insert "V66.2," after "V66.1,".

On page 636, strike lines 1 and 2, and insert:

SEC. 5505. IMPLEMENTATION OF RESOURCE-BASED METHODOLOGIES.

On page 636, lines 18 through 20, strike "primary care services provided in an office setting" and insert "office visit procedure codes".

On page 637, beginning with line 19, strike all through page 638, line 14, and insert:

(b) DELAY OF IMPLEMENTATION TO 1999; PHASEIN OF IMPLEMENTATION.—Section 1848(c)(2) (42 U.S.C. 1395w–4(c)(2)), as amended by subsection (a), is amended—

(1) in subparagraph (C)(ii)—

(A) by striking "1998" each place it appears and inserting "1999", and

(B) by inserting ", to the extent provided under subparagraph (H)," after "based" in the matter following subclause (II), and

(2) by adding at the end the following new subparagraph:

"(H) 3-YEAR ADDITIONAL PHASEIN OF RESOURCE-BASED PRACTICE EXPENSE UNITS.—Notwithstanding subparagraph (C)(ii), the Secretary shall implement the resource-based practice expense unit methodology described in such subparagraph ratably over the 3-year period beginning with 1999 such that such methodology is fully implemented for 2001 and succeeding years.".

On page 640, between lines 12 and 13, insert:

(e) APPLICATION OF RESOURCE-BASED METHODOLOGY TO MALPRACTICE RELATIVE VALUE UNITS.—Section 1848(c)(2)(C)(iii) (42 U.S.C. 1395w–4(c)(2)(C)(iii)) is amended—

(1) by inserting "for years before 1999" before "equal", and

(2) by striking the period at the end and inserting a comma and by adding at the end the following flush matter:

"and for years beginning with 1999 based on the malpractice expense resources involved in furnishing the service".

On page 640, line 13, strike lines 13 through 15, and insert:

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to years beginning on and after January 1, 1998.

(2) MALPRACTICE.—The amendments made by subsection (e) shall apply to years beginning on and after January 1, 1999.

On page 647, beginning with line 6, strike all through page 653, line 19.

On page 668, beginning with line 24, strike all through page 669, line 3, and insert:

"(2)(A) In the case of a drug or biological for which payment was under this part on May 1, 1997, the amount determined under paragraph (1) for any drug or biological shall not exceed—

"(i) in the case of 1998, the amount of the payment under this part on May 1, 1997, and

"(ii) in the case of 1999 and each succeeding year, the amount determined under this subparagraph for the previous year, increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of the previous year.

"(B) In the case of a drug or biological not described in subparagraph (A), the amount determined under paragraph (1) for any year following the first year for which payment is made under this part for such drug or biological shall not exceed the amount payable under this part (after application of this subparagraph) for the previous year, increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of the previous year."

On page 669, line 9, strike the end quotation marks.

On page 669, between lines 9 and 10, insert:

"(4) The Secretary shall conduct such studies or surveys as are necessary to determine the average wholesale price (and such other price as the Secretary determines appropriate) of any drug or biological for purposes of paragraph (1). The Secretary shall, not later than 6 months after the date of the enactment of this subsection, report to the appropriate committees of Congress the results of the studies and surveys conducted under this paragraph."

On page 669, line 12, strike "1999" and insert "1998".

On page 768, line 2, strike "the provider" and insert "a provider or managed care entity (as defined in section 1950(a)(1)".

On page 768, line 5, insert "or managed care entity (as defined in section 1950(a)(1)" after "a provider".

On page 771, line 9, insert ", and as approved by the Secretary" after "DSH".

On page 771, line 14, strike "services provided by" and insert "payments to".

On page 771, line 18, insert ", and as approved by the Secretary" after "DSH".

On page 773, line 9, insert ", and as approved by the Secretary" after "DSH".

On page 773, line 17, strike "services provided by" and insert "payments to".

On page 773, line 22, insert ", and as approved by the Secretary" after "DSH".

On page 775, line 2, strike "services provided by" and insert "payments to".

On page 775, line 6, insert ", and as approved by the Secretary" after "health DSH".

On page 777, line 13, strike "during fiscal year 1995" and insert "that are attributable to the fiscal year 1995 DSH allotment,".

On page 778, strike lines 14 through 18 and insert the following:

"(A) the total State DSH expenditures that are attributable to fiscal year 1995 for payments to institutions for mental diseases and other mental health facilities (based on reporting data specified by the State on HCFA Form 64 as mental health DSH, and as approved by the Secretary); or"

On page 778, line 24, strike "services provided by" and insert "payments to".

On page 779, line 3, insert ", and as approved by the Secretary" after "DSH".

On page 779, line 20, strike "services provided by" and insert "payments to".

On page 820, strike lines 21 through 24 and insert the following:

"(6) Any cost-sharing imposed under this subsection may not be included in determining the amount of the State percentage required for reimbursement of expenditures under a State plan under this title.

"(7) In this subsection, the term 'cost-sharing' includes copayments, deductibles, coinsurance, enrollment fees, premiums, and other charges for the provision of health care services.".

On page 846, line 2, strike "and".

On page 846, line 13, strike the period and insert "; and".

On page 846, between lines 13 and 14, insert the following:

"(C) satisfies the maintenance of effort requirement described in section 2105(c)(5).".

On page 849, strike lines 13 through 15, and insert the following:

"(B) for each of fiscal years 1999 and 2000, $3,200,000,000;

"(C) for fiscal year 2001, $3,600,000,000;

"(D) for fiscal year 2002, $3,500,000,000;"

On page 849, line 17, strike "(D)" and insert "(E)".

On page 856, line 11, insert "Federal and State incurred" after "the".

On page 856, line 18, insert "Federal and State incurred" after "the".

On page 856, line 20, insert "children covered at State option among" after "for".

On page 856, line 23, insert "Federal and State incurred" after "the".

On page 856, line 25, insert "children covered at State option among" after "for".

On page 860, strike lines 1 through 10 and insert the following:

"(c) PROHIBITION ON USE OF FUNDS.—No funds provided under this title may be used to provide health insurance coverage for—

"(1) families of State public employees; or

"(2) children who are committed to a penal institution."

On page 860, line 14, strike "title." and insert "title (as described in section 2101), and any health insurance coverage provided with such funds may include coverage of abortion only if necessary to save the life of the mother or if the pregnancy is the result of an act of rape or incest."

On page 863, strike lines 1 through 23 and insert the following:

"(4) Section 1128 (relating to exclusion from individuals and entities from participation in State health care plans).

"(5) Section 1128A (relating to civil monetary penalties).

"(6) Section 1128B (relating to criminal penalties for certain additional charges).

"(7) Section 1132 (relating to periods within which claims must be filed).

"(8) Section 1902(a)(4)(C) (relating to conflict of interest standards).

"(9) Section 1903(i) (relating to limitations on payment).

"(10) Section 1903(w) (relating to limitations on provider taxes and donations).

"(11) Subparagraph (B) in the matter following section 1905(a)(25) (relating to the exclusion of care or services for any individual who has not attained 65 years of age and who is a patient in an institution for mental diseases from the definition of medical assistance).

"(12) Section 1921 (relating to state licensure authorities).

"(13) Sections 1902(a)(25), 1912(a)(1)(A), and 1903(o) (insofar as such sections relate to third party liability)."

Section 403(a)(5) of the Social Security Act, as added by section 5821, is amended—

(1) by striking "amounts reserved pursuant to subparagraphs (F) and (G)" each place it appears and inserting "amounts reserved pursuant to subparagraphs (E), (F), and (G)"; and

(2) in subparagraph (A)(i), by adding at the end the following flush sentence:

"The Secretary shall make pro rata reductions in the amounts otherwise payable to States under this paragraph as necessary so that grants under this paragraph do not exceed the available amount, as defined in clause (iv)."

On page 834, strike "and" on lines 6, 18 and 25, and strike lines 7 and 19.

On page 835, strike lines 1, 9 and 17, and strike "and" on lines 8 and 16.

KERREY AMENDMENT NO. 432

(Ordered to lie on the table.)

Mr. KERREY submitted an amendment intended to be proposed by him to the bill, S. 947, supra; as follows:

At the appropriate place in the bill insert the following:

SEC. . RESERVE PRICE.

In any auction conducted or supervised by the Federal Communications Commission (hereinafter the Commission) for any license, permit or right which has value, a reasonable reserve price shall be set by the Commission for each unit in the auction. The reserve price shall establish a minimum bid for the unit to be auctioned. If no bid is received above the reserve price for a unit, the unit shall be retained. The Commission shall reassess the reserve price for that unit and place the unit in the next scheduled or next appropriate auction.

THE CIVIL RIGHTS ACT OF 1997

MCCONNELL (AND OTHERS) AMENDMENT NO. 433

(Ordered referred to the Committee on the Judiciary.)

Mr. McCONNELL (for himself, Mr. HATCH, Mr. KYL, and Mr. SESSIONS) submitted an amendment intended to be proposed by them to the bill (S. 952) to establish a Federal cause of action for discrimination and preferential treatment in Federal actions on the basis of race, color, national origin, or sex, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Civil Rights Act of 1997".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) the fifth and fourteenth amendments to the Constitution guarantee that all individuals are entitled to equal protection of the laws, regardless of race, color, national origin, or sex;

(2) the Supreme Court, in Adarand Constructors, Inc. v. Pena, 515 U.S. 200 (1995), recently affirmed that this guarantee of equality applies to Federal actions;

(3) the Federal Government currently conducts over 150 programs, including contracting programs, that grant preferences based on race, color, national origin, or sex; and

(4) the Federal Government also grants preferences in employment based on race, color, national origin, or sex.

(b) PURPOSE.—The purpose of this Act is to provide for equal protection of the laws and to prohibit discrimination and preferential treatment in the Federal Government on the basis of race, color, national origin, or sex.

SEC. 3. PROHIBITION AGAINST DISCRIMINATION AND PREFERENTIAL TREATMENT.

Notwithstanding any other provision of law, neither the Federal Government nor any officer, employee, or agent of the Federal Government shall—

(1) intentionally discriminate against, or grant a preference to, any person or group based in whole or in part on race, color, national origin, or sex, in connection with—

(A) a Federal contract or subcontract;

(B) Federal employment; or

(C) any other federally conducted program or activity; or

(2) require or encourage a Federal contractor or subcontractor, or the recipient of a license or financial assistance, to discriminate intentionally against, or grant a preference to, any person or group based in whole or in part on race, color, national origin, or sex, in connection with any Federal contract or subcontract or Federal license or financial assistance.

SEC. 4. AFFIRMATIVE ACTION PERMITTED.

This Act does not prohibit or limit any effort by the Federal Government or any officer, employee, or agent of the Federal Government—

(1) to encourage businesses owned by women and minorities to bid for Federal contracts or subcontracts, to recruit qualified women and minorities into an applicant pool for Federal employment, or to encourage participation by qualified women and minorities in any other federally conducted program or activity, if such recruitment or encouragement does not involve granting a preference, based in whole or in part on race, color, national origin, or sex, in selecting any person for the relevant employment, contract or subcontract, benefit, opportunity, or program; or

(2) to require or encourage any Federal contractor, subcontractor, or recipient of a Federal license or Federal financial assistance to recruit qualified women and minorities into an applicant pool for employment, or to encourage businesses owned by women and minorities to bid for Federal contracts or subcontracts, if such requirement or encouragement does not involve granting a preference, based in whole or in part on race, color, national origin, or sex, in selecting any individual for the relevant employment, contract or subcontract, benefit, opportunity, or program.

SEC. 5. CONSTRUCTION.

(a) HISTORICALLY BLACK COLLEGES AND UNIVERSITIES.—Nothing in this Act shall be construed to prohibit or limit any act that is designed to benefit an institution that is an historically Black college or university on the basis that the institution is an historically Black college or university.

(b) INDIAN TRIBES.—This Act does not prohibit any action taken—

(1) pursuant to a law enacted under the constitutional powers of Congress relating to the Indian tribes; or

(2) under a treaty between an Indian tribe and the United States.

(c) CERTAIN SEX-BASED CLASSIFICATIONS.—This Act does not prohibit or limit any classification based on sex if—

(1) the classification is applied with respect to employment and the classification would be exempt from the prohibitions of title VII of the Civil Rights Act of 1964 by reason of section 703(e)(1) of such Act (42 U.S.C. 2000e–2(e)(1)); or

(2) the classification is applied with respect to a member of the Armed Forces pursuant to statute, direction of the President or Secretary of Defense, or Department of Defense policy.

(d) IMMIGRATION AND NATIONALITY LAWS.—This Act does not affect any law governing immigration or nationality, or the administration of any such law.

SEC. 6. COMPLIANCE REVIEW OF POLICIES AND REGULATIONS.

Not later than 1 year after the date of enactment of this Act, the head of each department or agency of the Federal Government, in consultation with the Attorney General, shall review all existing policies and regulations that such department or agency head is charged with administering, modify such policies and regulations to conform to the requirements of this Act, and report to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate the results of the review and any modifications to the policies and regulations.

SEC. 7. REMEDIES.

(a) IN GENERAL.—Any person aggrieved by a violation of section 3 may, in a civil action, obtain appropriate relief (which may include back pay). A prevailing plaintiff in a civil action under this section shall be awarded a reasonable attorney's fee as part of the costs.

(b) CONSTRUCTION.—This section does not affect any remedy available under any other law.

SEC. 8. EFFECT ON PENDING MATTERS.

(a) PENDING CASES.—This Act does not affect any case pending on the date of enactment of this Act.

(b) PENDING CONTRACTS AND SUBCONTRACTS.—This Act does not affect any contract or subcontract in effect on the date of enactment of this Act, including any option exercised under such contract or subcontract before or after such date of enactment.

SEC. 9. DEFINITIONS.

In this Act, the following definitions apply:

(1) FEDERAL GOVERNMENT.—The term "Federal Government" means executive and legislative branches of the Government of the United States.

(2) PREFERENCE.—The term "preference" means an advantage of any kind, and includes a quota, set-aside, numerical goal, timetable, or other numerical objective.

(3) HISTORICALLY BLACK COLLEGE OR UNIVERSITY.—The term "historically Black college or university" means a part B institution, as defined in section 322(2) of the Higher Education Act of 1965 (20 U.S.C. 1061(2)).

THE BALANCED BUDGET ACT OF 1997

ROTH (AND MOYNIHAN) AMENDMENT NO. 434

Mr. ROTH (for himself and Mr. MOYNIHAN) proposed an amendment to the bill, S. 947, supra; as follows:

Strike section 5542 and insert the following:

SEC. 5542. INCOME-RELATED REDUCTION IN MEDICARE SUBSIDY.

(a) IN GENERAL.—Section 1839 (42 U.S.C. 1395r) is amended by adding at the end the following:

"(h)(1) Notwithstanding the previous subsections of this section, in the case of an individual whose modified adjusted gross income for a taxable year ending with or within a calendar year (as initially determined by the Secretary in accordance with paragraph (3)) exceeds the threshold amount described in paragraph (5)(B), the Secretary shall increase the amount of the monthly premium for months in the calendar year by an amount equal to the difference between—

"(A) 200 percent of the monthly actuarial rate for enrollees age 65 and over as determined under subsection (a)(1) for that calendar year; and

"(B) the total of the monthly premiums paid by the individual under this section (determined without regard to subsection (b)) during such calendar year.

"(2) In the case of an individual described in paragraph (1) whose modified adjusted gross income exceeds the threshold amount by less than $50,000, the amount of the increase in the monthly premium applicable under paragraph (1) shall be an amount which bears the same ratio to the amount of the increase described in paragraph (1) (determined without regard to this paragraph) as such excess bears to $50,000.

"(3) The Secretary shall make an initial determination of the amount of an individual's modified adjusted gross income for a taxable year ending with or within a calendar year for purposes of this subsection as follows:

"(A) Not later than September 1 of the year preceding the year, the Secretary shall provide notice to each individual whom the Secretary finds (on the basis of the individual's actual modified adjusted gross income for the most recent taxable year for which such information is available or other information provided to the Secretary by the Secretary of the Treasury) will be subject to an increase under this subsection that the individual will be subject to such an increase, and shall include in such notice the Secretary's estimate of the individual's modified adjusted gross income for the year.

"(B) If, during the 30-day period beginning on the date notice is provided to an individual under subparagraph (A), the individual provides the Secretary with information on the individual's anticipated modified adjusted gross income for the year, the amount initially determined by the Secretary under this paragraph with respect to the individual shall be based on the information provided by the individual.

"(C) If an individual does not provide the Secretary with information under subparagraph (B), the amount initially determined by the Secretary under this paragraph with respect to the individual shall be the amount included in the notice provided to the individual under subparagraph (A).

"(4)(A) If the Secretary determines (on the basis of final information provided by the Secretary of the Treasury) that the amount of an individual's actual modified adjusted gross income for a taxable year ending with or within a calendar year is less than or greater than the amount initially determined by the Secretary under paragraph (3), the Secretary shall increase or decrease the amount of the individual's monthly premium under this section (as the case may be) for months during the following calendar year by an amount equal to 1/12 of the difference between—

"(i) the total amount of all monthly premiums paid by the individual under this section during the previous calendar year; and

"(ii) the total amount of all such premiums which would have been paid by the individual during the previous calendar year if the amount of the individual's modified adjusted gross income initially determined under paragraph (3) were equal to the actual amount of the individual's modified adjusted gross income determined under this paragraph.

"(B)(i) In the case of an individual for whom the amount initially determined by the Secretary under paragraph (3) is based on information provided by the individual under subparagraph (B) of such paragraph, if the Secretary determines under subparagraph (A) that the amount of the individual's actual modified adjusted gross income for a taxable year is greater than the amount initially determined under paragraph (3), the Secretary shall increase the amount otherwise determined for the year under subparagraph (A) by interest in an amount equal to the sum of the amounts determined under clause (ii) for each of the months described in clause (ii).

"(ii) Interest shall be computed for any month in an amount determined by applying the underpayment rate established under section 6621 of the Internal Revenue Code of 1986 (compounded daily) to any portion of the difference between the amount initially determined under paragraph (3) and the amount determined under subparagraph (A) for the period beginning on the first day of the month beginning after the individual provided information to the Secretary under subparagraph (B) of paragraph (3) and ending 30 days before the first month for which the individual's monthly premium is increased under this paragraph.

"(iii) Interest shall not be imposed under this subparagraph if the amount of the individual's modified adjusted gross income provided by the individual under subparagraph (B) of paragraph (3) was not less than the individual's modified adjusted gross income determined on the basis of information shown on the return of tax imposed by chapter 1 of the Internal Revenue Code of 1986 for the taxable year involved.

"(C) In the case of an individual who is not enrolled under this part for any calendar year for which the individual's monthly premium under this section for months during the year would be increased pursuant to subparagraph (A) if the individual were enrolled under this part for the year, the Secretary may take such steps as the Secretary considers appropriate to recover from the individual the total amount by which the individual's monthly premium for months during the year would have been increased under subparagraph (A) if the individual were enrolled under this part for the year.

"(D) In the case of a deceased individual for whom the amount of the monthly premium under this section for months in a year would have been decreased pursuant to subparagraph (A) if the individual were not deceased, the Secretary shall make a payment to the individual's surviving spouse (or, in the case of an individual who does not have a surviving spouse, to the individual's estate) in an amount equal to the difference between—

"(i) the total amount by which the individual's premium would have been decreased for all months during the year pursuant to subparagraph (A); and

"(ii) the amount (if any) by which the individual's premium was decreased for months during the year pursuant to subparagraph (A).

"(5) In this subsection, the following definitions apply:

"(A) The term 'modified adjusted gross income' means adjusted gross income (as defined in section 62 of the Internal Revenue Code of 1986)—

"(i) determined without regard to sections 135, 911, 931, and 933 of such Code, and

"(ii) increased by the amount of interest received or accrued by the taxpayer during the taxable year which is exempt from tax under such Code.

"(B) The term 'threshold amount' means—

"(i) except as otherwise provided in this paragraph, $50,000,

"(ii) $75,000, in the case of a joint return (as defined in section 7701(a)(38) of such Code), and

"(iii) zero in the case of a taxpayer who—

"(I) is married at the close of the taxable year but does not file a joint return (as so defined) for such year, and

"(II) does not live apart from his spouse at all times during the taxable year.

"(6)(A) The Secretary shall transfer amounts received pursuant to this subsection to the Federal Hospital Insurance Trust Fund.

"(B) In applying section 1844(a), amounts attributable to clause (i) shall not be counted in determining the dollar amount of the premium per enrollee under paragraph (1)(A) or (1)(B).".

(b) CONFORMING AMENDMENTS.—(1) Section 1839 (42 U.S.C. 1395r) is amended—

(A) in subsection (a)(2), by inserting "or section subsection (h)" after "subsections (b) and (e)";

(B) in subsection (a)(3) of section 1839(a), by inserting "or subsection (h)" after "subsection (e)";

(C) in subsection (b), inserting "(and as increased under subsection (h))" after "subsection (a) or (e)"; and

(D) in subsection (f), by striking "if an individual" and inserting the following: "if an individual (other than an individual subject to an increase in the monthly premium under this section pursuant to subsection (h))".

(2) Section 1840(c) (42 U.S.C. 1395r(c)) is amended by inserting "or an individual determines that the estimate of modified adjusted gross income used in determining whether the individual is subject to an increase in the monthly premium under section 1839 pursuant to subsection (h) of such section (or in determining the amount of such increase) is too low and results in a portion of the premium not being deducted," before "he may".

(c) REPORTING REQUIREMENTS FOR SECRETARY OF THE TREASURY.—

(1) IN GENERAL.—Subsection (l) of section 6103 of the Internal Revenue Code of 1986 (relating to confidentiality and disclosure of returns and return information) is amended by adding at the end the following new paragraph:

"(16) DISCLOSURE OF RETURN INFORMATION TO CARRY OUT INCOME-RELATED REDUCTION IN MEDICARE PART B PREMIUM.—

"(A) IN GENERAL.—The Secretary may, upon written request from the Secretary of Health and Human Services, disclose to officers and employees of the Health Care Financing Administration return information with respect to a taxpayer who is required to pay a monthly premium under section 1839 of the Social Security Act. Such return information shall be limited to—

"(i) taxpayer identity information with respect to such taxpayer,

"(ii) the filing status of such taxpayer,

"(iii) the adjusted gross income of such taxpayer,

"(iv) the amounts excluded from such taxpayer's gross income under sections 135 and 911,

"(v) the interest received or accrued during the taxable year which is exempt from the tax imposed by chapter 1 to the extent such information is available, and

"(vi) the amounts excluded from such taxpayer's gross income by sections 931 and 933 to the extent such information is available.

"(B) RESTRICTION ON USE OF DISCLOSED INFORMATION.—Return information disclosed under subparagraph (A) may be used by officers and employees of the Health Care Financing Administration only for the purposes of, and to the extent necessary in, establishing the appropriate monthly premium under section 1839 of the Social Security Act."

(2) CONFORMING AMENDMENT.—Paragraphs (3)(A) and (4) of section 6103(p) of such Code are each amended by striking "or (15)" each place it appears and inserting "(15), or (16)".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsections (a) and (b) shall apply to the monthly premium under section 1839 of the Social Security Act for months beginning with January 1998.

(2) INFORMATION FOR PRIOR YEARS.—The Secretary of Health and Human Services may request information under section 6013(l)(16) of the Social Security Act (as added by subsection (c)) for taxable years beginning after December 31, 1994.

SEC. 5543. DEMONSTRATION PROJECT ON INCOME-RELATED PART B DEDUCTIBLE.

(a) ESTABLISHMENT OF PROJECT.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Health and Human Services (in this section referred to as the "Secretary") shall conduct a demonstration project (in this section referred to as the "project") in which individuals otherwise responsible for an income-related premium by reason of section 1839(h) of the Social Security Act (42 U.S.C. 1395r(h)) (as added by section 5542 of this Act) would instead be responsible for an income-related deductible using the same income limits and administrative procedures provided for in such section 1839(h).

(2) SITES.—The Secretary shall conduct the project in a representative number of sites and shall include a sufficient number of individuals in the project to ensure that the project produces statistically satisfactory findings.

(3) PARTICIPATION.—

(A) IN GENERAL.—Participation in the project shall be on a voluntary basis.

(B) MEDIGAP.—No individual shall be eligible to participate in the project if such individual is covered under a medicare supplemental policy under section 1882 of the Social Security Act (42 U.S.C. 1395ss).

(4) CONSULTATION.—In conducting the project, the Secretary shall consult with appropriate organizations and experts.

(5) DURATION.—The project shall be conducted for a period not to exceed 5 years.

(b) WAIVER AUTHORITY.—The Secretary shall waive compliance with the requirements of titles XI, XVIII, and XIX of the Social Security Act (42 U.S.C. 1301 et seq., 1395 et seq., 1396 et seq.) to such extent and for such period as the Secretary determines is necessary to conduct the project.

(c) REPORTS TO CONGRESS.—

(1) IN GENERAL.—Not later than 2 and 5 years after the date of enactment of this Act, and biannually thereafter, the Secretary shall submit to Congress a report regarding the project.

(2) CONTENTS OF REPORT.—The reports in paragraph (1) shall include the following:

(A) A description of the demonstration projects conducted under this section.

(B) A description of the utilization and health care status of individuals participating in the project.

(C) Any other information regarding the project that the Secretary determines to be appropriate.

SEC. 5544. LOW-INCOME MEDICARE BENEFICIARY BLOCK GRANT PROGRAM.

(a) IN GENERAL.—Title XVIII (42 U.S.C. 1395 et seq.), as amended by section 5047, is amended by adding at the end the following:

"LOW-INCOME MEDICARE BENEFICIARY BLOCK GRANT PROGRAM

"SEC. 1898. (a) ESTABLISHMENT.—The Secretary shall establish a program to award block grants to States for the payment of medicare cost sharing described in section 1905(p)(3)(A)(ii) on behalf of eligible low-income medicare beneficiaries.

"(b) APPLICATION.—To be eligible to receive a block grant under this section, a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

"(c) PAYMENTS.—

"(1) AMOUNT OF GRANT.—From amounts appropriated under subsection (d) for a fiscal year, the Secretary shall award a grant to each State with an application approved under subsection (b), in an amount that bears the same ratio to such amounts as the total number of eligible low-income medicare beneficiaries in the State bears to the total number of eligible low-income medicare beneficiaries in all States.

"(2) 100 PERCENT FMAP.—Notwithstanding section 1905(b), the Federal medical assistance percentage for any State that receives a grant under this section shall be 100 percent.

"(d) APPROPRIATIONS.—

"(1) IN GENERAL.—The Secretary is authorized to transfer from the Federal Supplementary Medical Insurance Trust Fund under section 1841 for the purpose of carrying out this section, an amount equal to $200 million in FY 1998, $250 million in FY 1999, $300 million in FY 2000, $350 million in FY 2001, and $400 million in FY 2002, to remain available without fiscal year limitation.

"(2) STATE ENTITLEMENT.—This section constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide for the payment to States of amounts provided in accordance with the provisions of this section.

"(e) DEFINITIONS.—In this section:

"(1) ELIGIBLE LOW-INCOME MEDICARE BENEFICIARY.—The term 'eligible low-income medicare beneficiary' means an individual who is described in 1902(a)(10)(E)(iii) but whose family income is greater than or equal to 120 percent of the poverty line and does not exceed 150 percent of the poverty line for a family of the size involved.

"(2) STATE.—The term 'State' means each of the 50 States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands.".

HUTCHINSON AMENDMENTS NOS. 435–439

(Ordered to lie on the table.)

Mr. HUTCHINSON submitted five amendments intended to be proposed by him to the bill, S. 947, supra; as follows:

AMENDMENT NO. 435

On page 889, line 1, strike "90" and insert "50".

AMENDMENT NO. 436

On page 888, strike line 23 and insert the following:

"(VI) Work experience and community service programs, including the costs of administration and operation of such programs and benefits provided to participants.

"(VII) Self-Sufficiency First programs or other programs designed to reduce dependence by reducing the number of future entrants into the Temporary Assistance to Needy Families program.

"(ii) REQUIRED BENEFICIARIES.—Except with regard to funds expended on activities described in subclauses (VI) and (VII) of clause (i), an".

AMENDMENT NO. 437

On page 947, between lines 2 and 3, insert the following:

(n) ADJUSTING THE MATCHING REQUIREMENT.—Section 409(a)(7)(B)(ii) (42 U.S.C. 609(a)(7)(B)(ii)) is amended by—

(1) striking "80" and inserting "70"; and

(2) striking "75" and inserting "65".

AMENDMENT NO. 438

Beginning on page 929, strike line 20 and all that follows through line 14, page 930 and insert the following:

(k) CLARIFICATION OF NUMBER OF INDIVIDUALS COUNTED AS PARTICIPATING IN WORK ACTIVITIES.—Section 407(c)(2) (42 U.S.C. 607(c)(2)) is amended—

(1) by striking subparagraph (C); and

(2) in subparagraph (D)—

(A) in the heading, by striking "OR BEING A TEEN HEAD OF HOUSEHOLD WHO MAINTAINS SATISFACTORY SCHOOL ATTENDANCE"; and

(B) by striking "or deemed to be engaged in work by reason of subparagraph (C) of this paragraph".

AMENDMENT NO. 439

Beginning on page 929, strike line 20 and all that follows through page 930, line 14 and insert the following:

(i) CLARIFICATION OF NUMBER OF INDIVIDUALS COUNTED AS PARTICIPATING IN WORK ACTIVITIES.—Section 407 (42 U.S.C. 607) is amended—.

(1) in subsection (c)—

(A) in paragraph (1)(A), by striking "(8)"; and

(B) in paragraph (2)(D)—

(i) in the heading, by striking "PARTICIPATION IN VOCATIONAL EDUCATION ACTIVITIES"; and

(ii) by striking "determined to be engaged in work in the State for a month by reason of participation in vocational educational training or"; and

(2) by striking subsection (d)(8).

KENNEDY (AND MIKULSKI) AMENDMENT NO. 440

Mr. KENNEDY (for himself and Ms. MIKULSKI) proposed an amendment to the bill, S. 947, supra; as follows:

On page 1047, between lines 5 and 6, insert the following:

SEC. 6004. MEDICARE MEANS TESTING STANDARD APPLICABLE TO SENATORS' HEALTH COVERAGE UNDER THE FEHBP.

(a) PURPOSE.—The purpose of this section is to apply the Medicare means testing requirements for part B premiums to individuals with adjusted gross incomes in excess of $100,000 as enacted under section 5542 of this Act, to United States Senators with respect to their employee contributions under the Federal Employees Health Benefits Program.

(b) IN GENERAL.—Section 8906 of title 5, United States Code, is amended by adding at the end the following:

"(j) Notwithstanding any other provision of this section, each employee who is a Senator and is paid at an annual rate of pay exceeding $100,000 shall pay the employee contribution and the full amount of the Government contribution which applies under this section. The Secretary of the Senate shall deduct and withhold the contributions required under this section and deposit such contributions in the Employees Health Benefits Fund.".

(c) EFFECTIVE DATE.—This section shall take effect on the first day of the first pay period beginning on or after the date of enactment of this Act.

GRASSLEY AMENDMENT NO. 441

(Ordered to lie on the table.)

Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill, S. 947, supra; as follows:

On page 689, between lines 2 and 3, insert the following:

“(iii) RELIGIOUS CHOICE.—The State, in permitting an individual to choose a managed care entity under clause (i) shall permit the individual to have access to appropriate faith-based facilities. With respect to such access, the State shall permit an individual to select a facility that is not a part of the network of the managed care entity if such network does not provide access to appropriate faith-based facilities. A faith-based facility that provides care under this clause shall accept the terms and conditions offered by the managed care entity to other providers in the network.

THE CHINA SANCTIONS AND HUMAN RIGHTS ADVANCEMENT ACT

COVERDELL (AND ABRAHAM) AMENDMENT NO. 442

(Ordered referred to the Committee on Foreign Relations.)

Mr. COVERDELL (for himself and Mr. ABRAHAM) submitted an amendment intended to be proposed by them to the bill, S. 810, to impose certain sanctions on the People's Republic of China, and for other purposes; as follows:

On page 18, below line 2, add the following:

SEC. 8. TRANSFERS OF SENSITIVE EQUIPMENT AND TECHNOLOGY BY THE PEOPLE'S REPUBLIC OF CHINA.

(a) FINDINGS.—Congress makes the following findings:

(1) Credible allegations exist that the People's Republic of China has transferred equipment and technology as follows:

(A) Gyroscopes, accelerometers, and test equipment for missiles to Iran.

(B) Chemical weapons equipment and technology to Iran.

(C) Missile guidance systems and computerized machine tools to Iran.

(D) Industrial furnace equipment and high technology diagnostic equipment to a nuclear facility in Pakistan.

(E) Blueprints and equipment to manufacture M–11 missiles to Pakistan.

(F) M–11 missiles and components to Pakistan.

(2) The Department of State has failed to determine whether most such transfers violate provisions of relevant United States and Executive orders relating to the proliferation of sensitive equipment and technology, including the Arms Export Control Act, the Nuclear Proliferation Prevention Act of 1994, the Export Administration Act of 1979, the Export-Import Bank Act of 1945, and the Iran-Iraq Arms Non-Proliferation Act of 1992, and Executive Order 12938.

(3) Where the Department of State has made such determinations, it has imposed the least onerous form of sanction, which significantly weakens the intended deterrent effect of the sanctions provided for in such laws.

(4) The Clinton Administration decided not to impose sanctions on the People's Republic of China for its transfer of C–802 anti-ship cruise missiles to Iran, finding that the transfer was not “destabilizing”.

(5) That finding is contrary to the judgment of the commander of the United States Fifth Fleet, elements of which are frequently deployed in and around the Persian Gulf.

(6) Despite the fact that officials of the People's Republic of China were responsible for the sale to Pakistan of specialized ring magnets, which are used to enrich uranium for use in nuclear weapons, the Clinton Administration did not impose sanctions on either the People's Republic of China or Pakistan for such sale, even though sanctions are required for such sale under law.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the transfers of equipment and technology by the People's Republic of China described in subsection (a)(1) pose a threat to the national security interests of the United States;

(2) the failure of the Clinton Administration to initiate a formal process to determine whether to impose sanctions for such transfers under United States laws intended to halt the proliferation of sensitive equipment and technology contributes to the threat posed to the national security interests of the United States by the proliferation of such equipment and technology; and

(3) the President should immediately initiate the procedures necessary to determine whether sanctions should be imposed under United States law for such transfers.

(c) REPORT.—Not later than 60 days after the date of enactment of this Act, the President shall submit to Congress a report, in both classified and unclassified form, setting forth—

(1) the date, if any, of the commencement and of the conclusion of each formal process conducted by the Department of State to determine whether to impose sanctions for each transfer described in subsection (a)(1);

(2) the facts providing the basis for each determination not to impose sanctions on the Government of the People's Republic of China, or entities within or having a relationship with that government, for each transfer, and the legal analysis supporting such determinations; and

(3) a schedule for initiating a formal process described in paragraph (10 for each transfer not yet addressed by such formal process and an explanation for the failure to commence such formal process with respect to such transfer before the date of the report.

THE BALANCED BUDGET ACT OF 1997

JEFFORDS AMENDMENT NO. 443

(Ordered to lie on the table.)

Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill, S. 947, supra; as follows:

At the end of section 1839(h) of the Social Security Act, as added by section 5542(a) of the bill, strike the end quotation marks and insert the following:

“(7) UPDATE.—The Secretary shall adjust annually (after 1998) the dollar amount set forth—

“(A) in paragraph (5)(B)(i) under procedures providing for adjustments in the same manner and to the same extent as adjustments are provided for under the procedures used to adjust benefit amounts under section 215(i)(2)(A), except that any amount so adjusted that is not a multiple of $100 shall be rounded to the nearest lowest multiple of $100; and

“(B) in paragraph (5)(B)(ii) to an amount that is equal to 150 percent of the dollar amount set forth in paragraph (5)(B)(i) after the adjustment made in subparagraph (A).”.

GRAMM AMENDMENT NO. 444

Mr. GRAMM proposed an amendment to the bill, S. 947, supra; as follows:

On page 947, between lines 2 and 3, insert the following:

(n) FAILURE TO SATISFY MINIMUM PARTICIPATION RATES.—Section 409(a)(3) (42 U.S.C. 609(a)(3)) is amended—

(1) in subparagraph (A), by striking “not more than”; and

(2) in subparagraph (C), by inserting before the period the following: “or in the noncompliance is due to extraordinary circumstances such as a natural disaster or regional recession. The Secretary shall provide a written report to Congress to justify any waiver or penalty reduction due to such extraordinary circumstances”.

REED AMENDMENT NO. 445

Mr. REED proposed an amendment to the bill, S. 947, supra; as follows:

Strike division 1 of title V and insert the following:

DIVISION 1—MEDICARE

Subtitle A—Medicare Choice Program

CHAPTER 1—MEDICARE CHOICE PROGRAM

SEC. 5001. ESTABLISHMENT OF MEDICARE CHOICE PROGRAM.

Title XVIII is amended by redesignating part C as part D and by inserting after part B the following new part:

“PART C—MEDICARE CHOICE PROGRAM

“ELIGIBILITY, ELECTION, AND ENROLLMENT

“SEC. 1851. (a) CHOICE OF MEDICARE BENEFITS THROUGH MEDICARE CHOICE PLANS.—

“(1) IN GENERAL.—Subject to the provisions of this section, each Medicare Choice eligible individual (as defined in paragraph (3)) is entitled to elect to receive benefits under this title—

“(A) through the traditional medicare fee-for-service program under parts A and B, or

“(B) through enrollment in a Medicare Choice plan under this part.

“(2) TYPES OF MEDICARE CHOICE PLANS THAT MAY BE AVAILABLE.—A Medicare Choice plan may be any of the following types of plans of health insurance:

“(A) FEE-FOR-SERVICE PLANS.—A plan that reimburses hospitals, physicians, and other providers on the basis of a privately determined fee schedule or other basis.

“(B) PLANS OFFERED BY PREFERRED PROVIDER ORGANIZATIONS.—A Medicare Choice plan offered by a preferred provider organization.

“(C) POINT OF SERVICE PLANS.—A point of service plan.

“(D) PLANS OFFERED BY PROVIDER-SPONSORED ORGANIZATION.—A Medicare Choice plan offered by a provider-sponsored organization, as defined in section 1855(e).

“(E) PLANS OFFERED BY HEALTH MAINTENANCE ORGANIZATIONS.—A Medicare Choice plan offered by a health maintenance organization.

“(F) Other health care plans.—Any other private plan for the delivery of health care items and services that is not described in a preceding subparagraph.

“(3) Medicare choice eligible individual.—

“(A) In general.—In this title, subject to subparagraph (B), the term ‘Medicare Choice eligible individual’ means an individual who is entitled to benefits under part A and enrolled under part B.

“(B) Special rule for end-stage renal disease.—Such term shall not include an individual medically determined to have end-stage renal disease, except that an individual who develops end-stage renal disease while enrolled in a Medicare Choice plan may continue to be enrolled in that plan.

“(b) Residence requirement.—

“(1) In general.—Except as the Secretary may otherwise provide, an individual is eligible to elect a Medicare Choice plan offered by a Medicare Choice organization only if the plan serves the geographic area in which the individual resides.

“(2) Continuation of enrollment permitted.—Pursuant to rules specified by the Secretary, the Secretary shall provide that an individual may continue enrollment in a plan, notwithstanding that the individual no longer resides in the service area of the plan, so long as the plan provides benefits for enrollees located in the area in which the individual resides.

“(c) Process for Exercising Choice.—

“(1) In general.—The Secretary shall establish a process through which elections described in subsection (a) are made and changed, including the form and manner in which such elections are made and changed. Such elections shall be made or changed as provided in subsection (e) and shall become effective as provided in subsection (f).

“(2) Coordination through medicare choice organizations.—

“(A) Enrollment.—Such process shall permit an individual who wishes to elect a Medicare Choice plan offered by a Medicare Choice organization to make such election through the filing of an appropriate election form with the organization.

“(B) Disenrollment.—Such process shall permit an individual, who has elected a Medicare Choice plan offered by a Medicare Choice organization and who wishes to terminate such election, to terminate such election through the filing of an appropriate election form with the organization.

“(3) Default.—

“(A) Initial election.—

“(i) In general.—Subject to clause (ii), an individual who fails to make an election during an initial election period under subsection (e)(1) is deemed to have chosen the traditional medicare fee-for-service program option.

“(ii) Seamless continuation of coverage.—The Secretary may establish procedures under which an individual who is enrolled in a health plan (other than Medicare Choice plan) offered by a Medicare Choice organization at the time of the initial election period and who fails to elect to receive coverage other than through the organization is deemed to have elected the Medicare Choice plan offered by the organization (or, if the organization offers more than one such plan, such plan or plans as the Secretary identifies under such procedures).

“(B) Continuing periods.—An individual who has made (or is deemed to have made) an election under this section is considered to have continued to make such election until such time as—

“(i) the individual changes the election under this section, or

“(ii) the Medicare Choice plan with respect to which such election is in effect is discontinued.

“(d) Providing Information To Promote Informed Choice.—

“(1) In general.—The Secretary shall provide for activities under this subsection to broadly disseminate information to medicare beneficiaries (and prospective medicare beneficiaries) on the coverage options provided under this section in order to promote an active, informed selection among such options.

“(2) Provision of notice.—

“(A) Open season notification.—At least 15 days before the beginning of each annual, coordinated election period (as defined in subsection (e)(3)(B)), the Secretary shall mail to each Medicare Choice eligible individual residing in an area the following:

“(i) General information.—The general information described in paragraph (3).

“(ii) List of plans and comparison of plan options.—A list identifying the Medicare Choice plans that are (or will be) available to residents of the area and information described in paragraph (4) concerning such plans. Such information shall be presented in a comparative, chart-like form.

“(iii) Additional information.—Any other information that the Secretary determines will assist the individual in making the election under this section.

The mailing of such information shall be coordinated with the mailing of any annual notice under section 1804.

“(B) Notification to newly medicare choice eligible individuals.—To the extent practicable, the Secretary shall, not later than 30 days before the beginning of the initial Medicare Choice enrollment period for an individual described in subsection (e)(1)(A), mail to the individual the information described in subparagraph (A).

“(C) Form.—The information disseminated under this paragraph shall be written and formatted using language that is easily understandable by medicare beneficiaries.

“(D) Periodic updating.—The information described in subparagraph (A) shall be updated on at least an annual basis to reflect changes in the availability of Medicare Choice plans and the benefits and net monthly premiums for such plans.

“(3) General information.—General information under this paragraph, with respect to coverage under this part during a year, shall include the following:

“(A) Benefits under traditional medicare fee-for-service program option.—A general description of the benefits covered under the traditional medicare fee-for-service program under parts A and B, including—

“(i) covered items and services,

“(ii) beneficiary cost sharing, such as deductibles, coinsurance, and copayment amounts, and

“(iii) any beneficiary liability for balance billing.

“(B) Part b premium.—The part B premium rates that will be charged for part B coverage.

“(C) Election procedures.—Information and instructions on how to exercise election options under this section.

“(D) Rights.—A general description of procedural rights (including grievance and appeals procedures) of beneficiaries under the traditional medicare fee-for-service program and the Medicare Choice program and the right to be protected against discrimination based on health status-related factors under section 1852(b).

“(E) Information on medigap and medicare select.—A general description of the benefits, enrollment rights, and other requirements applicable to medicare supplemental policies under section 1882 and provisions relating to medicare select policies described in section 1882(t).

“(F) Potential for contract termination.—The fact that a Medicare Choice organization may terminate or refuse to renew its contract under this part and the effect the termination or nonrenewal of its contract may have on individuals enrolled with the Medicare Choice plan under this part.

“(4) Information comparing plan options.—Information under this paragraph, with respect to a Medicare Choice plan for a year, shall include the following:

“(A) Benefits.—The benefits covered under the plan, including—

“(i) covered items and services beyond those provided under the traditional medicare fee-for-service program,

“(ii) any beneficiary cost sharing, and

“(iii) any maximum limitations on out-of-pocket expenses.

“(B) Premiums.—The net monthly premium, if any, for the plan.

“(C) Service area.—The service area of the plan.

“(D) Quality and performance.—To the extent available, plan quality and performance indicators for the benefits under the plan (and how they compare to such indicators under the traditional medicare fee-for-service program under parts A and B in the area involved), including—

“(i) disenrollment rates for medicare enrollees electing to receive benefits through the plan for the previous 2 years (excluding disenrollment due to death or moving outside the plan's service area),

“(ii) information on medicare enrollee satisfaction,

“(iii) information on health outcomes,

“(iv) the extent to which a medicare enrollee may select the health care provider of their choice, including health care providers within the plan's network and out-of-network health care providers (if the plan covers out-of-network items and services), and

“(v) an indication of medicare enrollee exposure to balance billing and the restrictions on coverage of items and services provided to such enrollee by an out-of-network health care provider.

“(E) Supplemental benefits options.—Whether the organization offering the plan offers optional supplemental benefits and the terms and conditions (including premiums) for such coverage.

“(F) Physician compensation.—An overall summary description as to the method of compensation of participating physicians.

“(5) Maintaining a toll-free number and internet site.—The Secretary shall maintain a toll-free number for inquiries regarding Medicare Choice options and the operation of this part in all areas in which Medicare Choice plans are offered and an Internet site through which individuals may electronically obtain information on such options and Medicare Choice plans.

“(6) Use of non-federal entities.—The Secretary may enter into contracts with non-Federal entities to carry out activities under this subsection.

“(7) Provision of information.—A Medicare Choice organization shall provide the Secretary with such information on the organization and each Medicare Choice plan it offers as may be required for the preparation of the information referred to in paragraph (2)(A).

“(8) Coordination with states.—The Secretary shall coordinate with States to the maximum extent feasible in developing and distributing information provided to beneficiaries.

“(e) Coverage Election Periods.—

“(1) Initial choice upon eligibility to make election if medicare choice plans available to individual.—If, at the time an individual first becomes entitled to benefits under part A and enrolled under part B, there is one or more Medicare Choice plans offered in the area in which the individual resides, the individual shall make the election under this section during a period specified by the Secretary such that if the individual elects a Medicare Choice plan during the period, coverage under the plan becomes effective as of the first date on which the individual may receive such coverage.

“(2) Open enrollment and disenrollment opportunities.—A Medicare Choice eligible individual may change the election under subsection (a)(1) at any time, except that such individual may only enroll in a Medicare Choice plan which has an open enrollment period in effect at that time.

“(3) Annual, coordinated election period.—

“(A) In general.—Subject to paragraph (5), a Medicare Choice eligible individual may change an election under subsection (a)(1) during an annual, coordinated election period.

“(B) Annual, coordinated election period.—For purposes of this section, the term ‘annual, coordinated election period’ means, with respect to a calendar year (beginning with 1998), the month of November before such year.

“(C) Medicare choice health information fairs.—In the month of November of each year (beginning with 1997), the Secretary shall provide for a nationally coordinated educational and publicity campaign to inform Medicare Choice eligible individuals about Medicare Choice plans and the election process provided under this section.

“(4) Special election periods.—A Medicare Choice individual may make a new election under this section if—

“(A) the organization's or plan's certification under this part has been terminated or the organization has terminated or otherwise discontinued providing the plan;

“(B) the individual is no longer eligible to elect the plan because of a change in the individual's place of residence or other change in circumstances (specified by the Secretary, but not including termination of the individual's enrollment on the basis described in clause (i) or (ii) subsection (g)(3)(B));

“(C) the individual demonstrates (in accordance with guidelines established by the Secretary) that—

“(i) the organization offering the plan substantially violated a material provision of the organization's contract under this part in relation to the individual (including the failure to provide an enrollee on a timely basis medically necessary care for which benefits are available under the plan or the failure to provide such covered care in accordance with applicable quality standards); or

“(ii) the organization (or an agent or other entity acting on the organization's behalf) materially misrepresented the plan's provisions in marketing the plan to the individual; or

“(D) the individual meets such other exceptional conditions as the Secretary may provide.

“(5) Open enrollment periods.—A Medicare Choice organization—

“(A) shall accept elections or changes to elections described in paragraphs (1), (3), and (4) during the periods prescribed in such paragraphs, and

“(B) may accept other changes to elections at such other times as the organization provides.

“(f) Effectiveness of Elections and Changes of Elections.—

“(1) During initial coverage election period.—An election of coverage made during the initial coverage election period under subsection (e)(1)(A) shall take effect upon the date the individual becomes entitled to benefits under part A and enrolled under part B, except as the Secretary may provide (consistent with section 1838) in order to prevent retroactive coverage.

“(2) During continuous open enrollment periods.—An election or change of coverage made under subsection (e)(2) shall take effect with the first day of the first calendar month following the date on which the election is made.

“(3) Annual, coordinated election period.—An election or change of coverage made during an annual, coordinated election period (as defined in subsection (e)(3)(B)) in a year shall take effect as of the first day of the following year unless the individual elects to have it take effect on December 1 of the election year.

“(4) Other periods.—An election or change of coverage made during any other period under subsection (e)(4) shall take effect in such manner as the Secretary provides in a manner consistent (to the extent practicable) with protecting continuity of health benefit coverage.

“(g) Guaranteed Issue and Renewal.—

“(1) In general.—Except as provided in this subsection, a Medicare Choice organization shall provide that at any time during which elections are accepted under this section with respect to a Medicare Choice plan offered by the organization, the organization will accept without restrictions individuals who are eligible to make such election.

“(2) Priority.—If the Secretary determines that a Medicare Choice organization, in relation to a Medicare Choice plan it offers, has a capacity limit and the number of Medicare Choice eligible individuals who elect the plan under this section exceeds the capacity limit, the organization may limit the election of individuals of the plan under this section but only if priority in election is provided—

“(A) first to such individuals as have elected the plan at the time of the determination, and

“(B) then to other such individuals in such a manner that does not discriminate, on a basis described in section 1852(b), among the individuals (who seek to elect the plan).

The preceding sentence shall not apply if it would result in the enrollment of enrollees substantially nonrepresentative, as determined in accordance with regulations of the Secretary, of the medicare population in the service area of the plan.

“(3) Limitation on termination of election.—

“(A) In general.—Subject to subparagraph (B), a Medicare Choice organization may not for any reason terminate the election of any individual under this section for a Medicare Choice plan it offers.

“(B) Basis for termination of election.—A Medicare Choice organization may terminate an individual's election under this section with respect to a Medicare Choice plan it offers if—

“(i) any net monthly premiums required with respect to such plan are not paid on a timely basis (consistent with standards under section 1856 that provide for a grace period for late payment of net monthly premiums),

“(ii) the individual has engaged in disruptive behavior (as specified in such standards), or

“(iii) the plan is terminated with respect to all individuals under this part in the area in which the individual resides.

“(C) Consequence of termination.—

“(i) Terminations for cause.—Any individual whose election is terminated under clause (i) or (ii) of subparagraph (B) is deemed to have elected the traditional medicare fee-for-service program option described in subsection (a)(1)(A).

“(ii) Termination based on plan termination or service area reduction.—Any individual whose election is terminated under subparagraph (B)(iii) shall have a special election period under subsection (e)(4)(A) in which to change coverage to coverage under another Medicare Choice plan. Such an individual who fails to make an election during such period is deemed to have chosen to change coverage to the traditional medicare fee-for-service program option described in subsection (a)(1)(A).

“(D) Organization obligation with respect to election forms.—Pursuant to a contract under section 1857, each Medicare Choice organization receiving an election form under subsection (c)(3) shall transmit to the Secretary (at such time and in such manner as the Secretary may specify) a copy of such form or such other information respecting the election as the Secretary may specify.

“(h) Approval of Marketing Material and Application Forms.—

“(1) Submission.—No marketing material or application form may be distributed by a Medicare Choice organization to (or for the use of) Medicare Choice eligible individuals unless—

“(A) at least 45 days before the date of distribution the organization has submitted the material or form to the Secretary for review, and

“(B) the Secretary has not disapproved the distribution of such material or form.

“(2) Review.—The standards established under section 1856 shall include guidelines for the review of any material or form submitted and under such guidelines the Secretary shall disapprove (or later require the correction of) such material or form if the material or form is materially inaccurate or misleading or otherwise makes a material misrepresentation.

“(3) Deemed approval (1-stop shopping).—In the case of material or form that is submitted under paragraph (1)(A) to the Secretary or a regional office of the Department of Health and Human Services and the Secretary or the office has not disapproved the distribution of marketing material or form under paragraph (1)(B) with respect to a Medicare Choice plan in an area, the Secretary is deemed not to have disapproved such distribution in all other areas covered by the plan and organization except to the extent that such material or form is specific only to an area involved.

“(4) Prohibition of certain marketing practices.—Each Medicare Choice organization shall conform to fair marketing standards, in relation to Medicare Choice plans offered under this part, included in the standards established under section 1856.

"(i) EFFECT OF ELECTION OF MEDICARE CHOICE PLAN OPTION.—Subject to sections 1852(a)(5) and 1857(f)(2)—

"(1) payments under a contract with a Medicare Choice organization under section 1853(a) with respect to an individual electing a Medicare Choice plan offered by the organization shall be instead of the amounts which (in the absence of the contract) would otherwise be payable under parts A and B for items and services furnished to the individual, and

"(2) subject to subsections (e) and (g) of section 1853, only the Medicare Choice organization shall be entitled to receive payments from the Secretary under this title for services furnished to the individual.

"BENEFITS AND BENEFICIARY PROTECTIONS

"SEC. 1852. (a) BASIC BENEFITS.—

"(1) IN GENERAL.—Each Medicare Choice plan shall provide to members enrolled under this part, through providers and other persons that meet the applicable requirements of this title and part A of title XI—

"(A) those items and services for which benefits are available under parts A and B to individuals residing in the area served by the plan, and

"(B) additional benefits required under section 1854(f)(1)(A).

"(2) SUPPLEMENTAL BENEFITS.—

"(A) BENEFITS INCLUDED SUBJECT TO SECRETARY'S APPROVAL.—Each Medicare Choice organization may provide to individuals enrolled under this part (without affording those individuals an option to decline the coverage) supplemental health care benefits that the Secretary may approve. The Secretary shall approve any such supplemental benefits unless the Secretary determines that including such supplemental benefits would substantially discourage enrollment by Medicare Choice eligible individuals with the organization.

"(B) AT ENROLLEES' OPTION.—A Medicare Choice organization may provide to individuals enrolled under this part supplemental health care benefits that the individuals may elect, at their option, to have covered.

"(3) ORGANIZATION AS SECONDARY PAYER.—Notwithstanding any other provision of law, a Medicare Choice organization may (in the case of the provision of items and services to an individual under a Medicare Choice plan under circumstances in which payment under this title is made secondary pursuant to section 1862(b)(2)) charge or authorize the provider of such services to charge, in accordance with the charges allowed under a law, plan, or policy described in such section—

"(A) the insurance carrier, employer, or other entity which under such law, plan, or policy is to pay for the provision of such services, or

"(B) such individual to the extent that the individual has been paid under such law, plan, or policy for such services.

"(4) NATIONAL COVERAGE DETERMINATIONS.—If there is a national coverage determination made in the period beginning on the date of an announcement under section 1853(b) and ending on the date of the next announcement under such section and the Secretary projects that the determination will result in a significant change in the costs to a Medicare Choice organization of providing the benefits that are the subject of such national coverage determination and that such change in costs was not incorporated in the determination of the annual Medicare Choice capitation rate under section 1853 included in the announcement made at the beginning of such period, then, unless otherwise required by law—

"(A) such determination shall not apply to contracts under this part until the first contract year that begins after the end of such period, and

"(B) if such coverage determination provides for coverage of additional benefits or coverage under additional circumstances, section 1851(i) shall not apply to payment for such additional benefits or benefits provided under such additional circumstances until the first contract year that begins after the end of such period.

"(b) ANTIDISCRIMINATION.—

"(1) BENEFICIARIES.—

"(A) IN GENERAL.—A Medicare Choice organization may not deny, limit, or condition the coverage or provision of benefits under this part, for individuals permitted to be enrolled with the organization under this part, based on any health status-related factor described in section 2702(a)(1) of the Public Health Service Act.

"(B) CONSTRUCTION.—Subparagraph (A) shall not be construed as requiring a Medicare Choice organization to enroll individuals who are determined to have end-stage renal disease, except as provided under section 1851(a)(3)(B).

"(2) PROVIDERS.—A Medicare Choice organization shall not discriminate with respect to participation, reimbursement, or indemnification as to any provider who is acting within the scope of the provider's license or certification under applicable State law, solely on the basis of such license or certification. This paragraph shall not be construed to prohibit a plan from including providers only to the extent necessary to meet the needs of the plan's enrollees or from establishing any measure designed to maintain quality and control costs consistent with the responsibilities of the plan.

"(c) DISCLOSURE REQUIREMENTS.—

"(1) DETAILED DESCRIPTION OF PLAN PROVISIONS.—A Medicare Choice organization shall disclose, in clear, accurate, and standardized form to each enrollee with a Medicare Choice plan offered by the organization under this part at the time of enrollment and at least annually thereafter, the following information regarding such plan:

"(A) SERVICE AREA.—The plan's service area.

"(B) BENEFITS.—Benefits offered under the plan, including information described in section 1851(d)(3)(A) and exclusions from coverage.

"(C) ACCESS.—The number, mix, and distribution of plan providers.

"(D) OUT-OF-AREA COVERAGE.—Out-of-area coverage provided by the plan.

"(E) EMERGENCY COVERAGE.—Coverage of emergency services and urgently needed care, including—

"(i) the appropriate use of emergency services, including use of the 911 telephone system or its local equivalent in emergency situations and an explanation of what constitutes an emergency situation;

"(ii) the process and procedures of the plan for obtaining emergency services; and

"(iii) the locations of (I) emergency departments, and (II) other settings, in which plan physicians and hospitals provide emergency services and post-stabilization care.

"(F) SUPPLEMENTAL BENEFITS.—Supplemental benefits available from the organization offering the plan, including—

"(i) whether the supplemental benefits are optional,

"(ii) the supplemental benefits covered, and

"(iii) the premium price for the supplemental benefits.

"(G) PRIOR AUTHORIZATION RULES.—Rules regarding prior authorization or other review requirements that could result in nonpayment.

"(H) PLAN GRIEVANCE AND APPEALS PROCEDURES.—All plan appeal or grievance rights and procedures.

"(I) QUALITY ASSURANCE PROGRAM.—A description of the organization's quality assurance program under subsection (e).

"(J) OUT-OF-NETWORK COVERAGE.—The out-of-network coverage (if any) provided by the plan.

"(2) DISCLOSURE UPON REQUEST.—Upon request of a Medicare Choice eligible individual, a Medicare Choice organization must provide the following information to such individual:

"(A) The information described in paragraphs (3) and (4) of section 1851(d).

"(B) Information on utilization review procedures.

"(d) ACCESS TO SERVICES.—

"(1) IN GENERAL.—A Medicare Choice organization offering a Medicare Choice plan, other than an unrestricted fee-for-service plan, may select the providers from whom the benefits under the plan are provided so long as—

"(A) the organization makes such benefits available and accessible to each individual electing the plan within the plan service area with reasonable promptness and in a manner which assures continuity in the provision of benefits;

"(B) when medically necessary the organization makes such benefits available and accessible 24 hours a day and 7 days a week;

"(C) the plan provides for reimbursement with respect to services which are covered under subparagraphs (A) and (B) and which are provided to such an individual other than through the organization, if—

"(i) the services were medically necessary and immediately required because of an unforeseen illness, injury, or condition, and it was not reasonable given the circumstances to obtain the services through the organization, or

"(ii) the services were renal dialysis services and were provided other than through the organization because the individual was temporarily out of the plan's service area;

"(D) the organization provides access to appropriate providers, including credentialed specialists, for medically necessary treatment and services;

"(E) coverage is provided for emergency services (as defined in paragraph (3)) without regard to prior authorization or the emergency care provider's contractual relationship with the organization; and

"(F) except as provided by the Secretary on a case-by-case basis, the organization provides primary care services within 30 minutes or 30 miles from an enrollee's place of residence if the enrollee resides in a rural area.

"(2) GUIDELINES RESPECTING COORDINATION OF POST-STABILIZATION CARE.—

"(A) IN GENERAL.—A Medicare Choice plan shall comply with such guidelines as the Secretary shall prescribe relating to promoting efficient and timely coordination of appropriate maintenance and post-stabilization care of an enrollee after the enrollee has been determined to be stable under section 1867.

"(B) CONTENT OF GUIDELINES.—The guidelines prescribed under subparagraph (A) shall provide that—

“(i) a provider of emergency services shall make a documented good faith effort to contact the plan in a timely fashion from the point at which the individual is stabilized to request approval for medically necessary post-stabilization care,

“(ii) the plan shall respond in a timely fashion to the initial contact with the plan with a decision as to whether the services for which approval is requested will be authorized, and

“(iii) if a denial of a request is communicated, the plan shall, upon request from the treating physician, arrange for a physician who is authorized by the plan to review the denial to communicate directly with the treating physician in a timely fashion.

“(3) Definition of emergency services.—In this subsection—

“(A) In general.—The term ‘emergency services’ means, with respect to an individual enrolled with an organization, covered inpatient and outpatient services that—

“(i) are furnished by a provider that is qualified to furnish such services under this title, and

“(ii) are needed to evaluate or stabilize an emergency medical condition (as defined in subparagraph (B)).

“(B) Emergency medical condition based on prudent layperson.—The term ‘emergency medical condition’ means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in—

“(i) placing the health of the individual (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy,

“(ii) serious impairment to bodily functions, or

“(iii) serious dysfunction of any bodily organ or part.

“(e) Quality Assurance Program.—

“(1) In general.—Each Medicare Choice organization must have arrangements, consistent with any regulation, for an ongoing quality assurance program for health care services it provides to individuals enrolled with Medicare Choice plans of the organization.

“(2) Elements of program.—The quality assurance program shall—

“(A) stress health outcomes and provide for the collection, analysis, and reporting of data (in accordance with a quality measurement system that the Secretary recognizes) that will permit measurement of outcomes and other indices of the quality of Medicare Choice plans and organizations;

“(B) provide for the establishment of written protocols for utilization review, based on current standards of medical practice;

“(C) provide review by physicians and other health care professionals of the process followed in the provision of such health care services;

“(D) monitor and evaluate high volume and high risk services and the care of acute and chronic conditions;

“(E) evaluate the continuity and coordination of care that enrollees receive;

“(F) have mechanisms to detect both underutilization and overutilization of services;

“(G) after identifying areas for improvement, establish or alter practice parameters;

“(H) take action to improve quality and assesses the effectiveness of such action through systematic followup;

“(I) make available information on quality and outcomes measures to facilitate beneficiary comparison and choice of health coverage options (in such form and on such quality and outcomes measures as the Secretary determines to be appropriate);

“(J) be evaluated on an ongoing basis as to its effectiveness;

“(K) include measures of consumer satisfaction; and

“(L) provide the Secretary with such access to information collected as may be appropriate to monitor and ensure the quality of care provided under this part.

“(3) External review.—Each Medicare Choice organization shall, for each Medicare Choice plan it operates, have an agreement with an independent quality review and improvement organization approved by the Secretary to perform functions of the type described in sections 1154(a)(4)(B) and 1154(a)(14) with respect to services furnished by Medicare Choice plans for which payment is made under this title.

“(4) Exception for medicare choice unrestricted fee-for-service plans.—Paragraphs (1) through (3) of this subsection and subsection (h)(2) (relating to maintaining medical records) shall not apply in the case of a Medicare Choice organization in relation to a Medicare Choice unrestricted fee-for-service plan.

“(5) Treatment of accreditation.—The Secretary shall provide that a Medicare Choice organization is deemed to meet requirements of paragraphs (1) and (2) of this subsection and subsection (h) (relating to confidentiality and accuracy of enrollee records) if the organization is accredited (and periodically reaccredited) by a private organization under a process that the Secretary has determined assures that the organization, as a condition of accreditation, applies and enforces standards with respect to the requirements involved that are no less stringent than the standards established under section 1856 to carry out the respective requirements.

“(f) Coverage Determinations.—

“(1) Decisions on nonemergency care.—A Medicare Choice organization shall make determinations regarding authorization requests for nonemergency care on a timely basis, depending on the urgency of the situation.

“(2) Reconsiderations.—

“(A) In general.—Subject to subsection (g)(4), a reconsideration of a determination of an organization denying coverage shall be made within 30 days of the date of receipt of medical information, but not later than 60 days after the date of the determination.

“(B) Physician decision on certain reconsiderations.—A reconsideration relating to a determination to deny coverage based on a lack of medical necessity shall be made only by a physician other than a physician involved in the initial determination.

“(g) Grievances and Appeals.—

“(1) Grievance mechanism.—Each Medicare Choice organization must provide meaningful procedures for hearing and resolving grievances between the organization (including any entity or individual through which the organization provides health care services) and enrollees with Medicare Choice plans of the organization under this part.

“(2) Appeals.—An enrollee with a Medicare Choice plan of a Medicare Choice organization under this part who is dissatisfied by reason of the enrollee's failure to receive any health service to which the enrollee believes the enrollee is entitled and at no greater charge than the enrollee believes the enrollee is required to pay is entitled, if the amount in controversy is $100 or more, to a hearing before the Secretary to the same extent as is provided in section 205(b), and in any such hearing the Secretary shall make the organization a party. If the amount in controversy is $1,000 or more, the individual or organization shall, upon notifying the other party, be entitled to judicial review of the Secretary's final decision as provided in section 205(g), and both the individual and the organization shall be entitled to be parties to that judicial review. In applying subsections (b) and (g) of section 205 as provided in this paragraph, and in applying section 205(l) thereto, any reference therein to the Commissioner of Social Security or the Social Security Administration shall be considered a reference to the Secretary or the Department of Health and Human Services, respectively.

“(3) Independent review of certain coverage denials.—The Secretary shall contract with an independent, outside entity to review and resolve reconsiderations that affirm denial of coverage.

“(4) Expedited determinations and reconsiderations.—

“(A) Receipt of requests.—An enrollee in a Medicare Choice plan may request, either in writing or orally, an expedited determination or reconsideration by the Medicare Choice organization regarding a matter described in paragraph (2). The organization shall also permit the acceptance of such requests by physicians.

“(B) Organization procedures.—

“(i) In general.—The Medicare Choice organization shall maintain procedures for expediting organization determinations and reconsiderations when, upon request of an enrollee, the organization determines that the application of normal time frames for making a determination (or a reconsideration involving a determination) could seriously jeopardize the life or health of the enrollee or the enrollee's ability to regain maximum function.

“(ii) Timely response.—In an urgent case described in clause (i), the organization shall notify the enrollee (and the physician involved, as appropriate) of the determination (or determination on the reconsideration) as expeditiously as the enrollee's health condition requires, but not later than 72 hours (or 24 hours in the case of a reconsideration) of the time of receipt of the request for the determination or reconsideration (or receipt of the information necessary to make the determination or reconsideration), or such longer period as the Secretary may permit in specified cases.

“(h) Confidentiality and Accuracy of Enrollee Records.—Each Medicare Choice organization shall establish procedures—

“(1) to safeguard the privacy of individually identifiable enrollee information,

“(2) to maintain accurate and timely medical records and other health information for enrollees, and

“(3) to assure timely access of enrollees to their medical information.

“(i) Information on Advance Directives.—Each Medicare Choice organization shall meet the requirement of section 1866(f) (relating to maintaining written policies and procedures respecting advance directives).

“(j) Rules Regarding Physician Participation.—

“(1) Procedures.—Each Medicare Choice organization shall establish reasonable procedures relating to the participation (under an agreement between a physician and the organization) of physicians under Medicare

Choice plans offered by the organization under this part. Such procedures shall include—

"(A) providing notice of the rules regarding participation,

"(B) providing written notice of participation decisions that are adverse to physicians, and

"(C) providing a process within the organization for appealing such adverse decisions, including the presentation of information and views of the physician regarding such decision.

"(2) CONSULTATION IN MEDICAL POLICIES.—A Medicare Choice organization shall consult with physicians who have entered into participation agreements with the organization regarding the organization's medical policy, quality, and medical management procedures.

"(3) LIMITATIONS ON PHYSICIAN INCENTIVE PLANS.—

"(A) IN GENERAL.—No Medicare Choice organization may operate any physician incentive plan (as defined in subparagraph (B)) unless the following requirements are met:

"(i) No specific payment is made directly or indirectly under the plan to a physician or physician group as an inducement to reduce or limit medically necessary services provided with respect to a specific individual enrolled with the organization.

"(ii) If the plan places a physician or physician group at substantial financial risk (as determined by the Secretary) for services not provided by the physician or physician group, the organization—

"(I) provides stop-loss protection for the physician or group that is adequate and appropriate, based on standards developed by the Secretary that take into account the number of physicians placed at such substantial financial risk in the group or under the plan and the number of individuals enrolled with the organization who receive services from the physician or group, and

"(II) conducts periodic surveys of both individuals enrolled and individuals previously enrolled with the organization to determine the degree of access of such individuals to services provided by the organization and satisfaction with the quality of such services.

"(iii) The organization provides the Secretary with descriptive information regarding the plan, sufficient to permit the Secretary to determine whether the plan is in compliance with the requirements of this subparagraph.

"(B) PHYSICIAN INCENTIVE PLAN DEFINED.—In this paragraph, the term 'physician incentive plan' means any compensation arrangement between a Medicare Choice organization and a physician or physician group that may directly or indirectly have the effect of reducing or limiting services provided with respect to individuals enrolled with the organization under this part.

"(4) LIMITATION ON PROVIDER INDEMNIFICATION.—A Medicare Choice organization may not provide (directly or indirectly) for a provider (or group of providers) to indemnify the organization against any liability resulting from a civil action brought for any damage caused to an enrollee with a Medicare Choice plan of the organization under this part by the organization's denial of medically necessary care.

"PAYMENTS TO MEDICARE CHOICE ORGANIZATIONS

"SEC. 1853. (a) PAYMENTS TO ORGANIZATIONS.—

"(1) MONTHLY PAYMENTS.—

"(A) IN GENERAL.—Under a contract under section 1857 and subject to subsections (e) and (f), the Secretary shall make monthly payments under this section in advance to each Medicare Choice organization, with respect to coverage of an individual under this part in a Medicare Choice payment area for a month, in an amount equal to 1/12 of the annual Medicare Choice capitation rate (as calculated under subsection (c)) with respect to that individual for that area, adjusted for such risk factors as age, disability status, gender, institutional status, and such other factors as the Secretary determines to be appropriate, so as to ensure actuarial equivalence. The Secretary may add to, modify, or substitute for such factors, if such changes will improve the determination of actuarial equivalence.

"(B) SPECIAL RULE FOR END-STAGE RENAL DISEASE.—The Secretary shall establish separate rates of payment to a Medicare Choice organization with respect to classes of individuals determined to have end-stage renal disease and enrolled in a Medicare Choice plan of the organization. Such rates of payment shall be actuarially equivalent to rates paid to other enrollees in the Medicare Choice payment area (or such other area as specified by the Secretary). In accordance with regulations, the Secretary shall provide for the application of the seventh sentence of section 1881(b)(7) to payments under this section covering the provision of renal dialysis treatment in the same manner as such sentence applies to composite rate payments described in such sentence.

"(2) ADJUSTMENT TO REFLECT NUMBER OF ENROLLEES.—

"(A) IN GENERAL.—The amount of payment under this subsection may be retroactively adjusted to take into account any difference between the actual number of individuals enrolled with an organization under this part and the number of such individuals estimated to be so enrolled in determining the amount of the advance payment.

"(B) SPECIAL RULE FOR CERTAIN ENROLLEES.—

"(i) IN GENERAL.—Subject to clause (ii), the Secretary may make retroactive adjustments under subparagraph (A) to take into account individuals enrolled during the period beginning on the date on which the individual enrolls with a Medicare Choice organization under a plan operated, sponsored, or contributed to by the individual's employer or former employer (or the employer or former employer of the individual's spouse) and ending on the date on which the individual is enrolled in the organization under this part, except that for purposes of making such retroactive adjustments under this subparagraph, such period may not exceed 90 days.

"(ii) EXCEPTION.—No adjustment may be made under clause (i) with respect to any individual who does not certify that the organization provided the individual with the disclosure statement described in section 1852(c) at the time the individual enrolled with the organization.

"(3) ESTABLISHMENT OF RISK ADJUSTMENT FACTORS.—

"(A) IN GENERAL.—The Secretary shall develop and implement a method of risk adjustment of payment rates under this section that accounts for variations in per capita costs based on health status. Such method shall not be implemented before the Secretary receives an evaluation by an outside, independent actuary of the actuarial soundness of such method.

"(B) DATA COLLECTION.—In order to carry out this paragraph, the Secretary shall require Medicare Choice organizations (and eligible organizations with risk-sharing contracts under section 1876) to submit, for periods beginning on or after January 1, 1998, data regarding inpatient hospital services and other services and other information the Secretary deems necessary.

"(4) INTERIM RISK ADJUSTMENT.—

"(A) IN GENERAL.—In the case of an applicable enrollee in a Medicare Choice plan, the payment to the Medicare Choice organization under this section shall be reduced by an amount equal to the applicable percentage of the amount of such payment (determined without regard to this paragraph).

"(B) APPLICABLE ENROLLEE.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'applicable enrollee' means, with respect to any month, a medicare eligible individual who—

"(I) is enrolled in a Medicare Choice plan, and

"(II) has not been enrolled in Medicare Choice plans and plans operated by eligible organizations with risk-sharing contracts under section 1876 for an aggregate number of months greater than 60 (including the month for which the determination is being made).

"(ii) EXCEPTION FOR BENEFICIARIES MAINTAINING ENROLLMENT IN CERTAIN PLANS.—The term 'applicable enrollee' shall not include any individual enrolled in a Medicare Choice plan offered by a Medicare Choice organization if such individual was enrolled in a health plan (other than a Medicare Choice plan) offered by such organization at the time of the individual's initial election period under section 1851(e)(1) and has been continuously enrolled in such Medicare Choice plan (or another Medicare Choice plan offered by such organization) since such election period.

"(C) APPLICABLE PERCENTAGE.—For purposes of this paragraph, the applicable percentage shall be determined in accordance with the following table:

"Months enrolled in HMOs:	Applicable percentage:
1–12	5
13–24	4
25–36	3
37–48	2
49–60	1.

"(D) EXCEPTION FOR NEW PLANS.—This paragraph shall not apply to applicable enrollees in a Medicare Choice plan for any month if—

"(i) such month occurs during the first 12 months during which the plan enrolls Medicare Choice eligible individuals in the Medicare Choice payment area, and

"(ii) the annual Medicare Choice capitation rate for such area for the calendar year preceding the calendar year in which such 12-month period begins is less than the annual national Medicare Choice capitation rate (as determined under subsection (c)(4)) for such preceding calendar year.

In the case of 1998, clause (ii) shall be applied by using the adjusted average per capita cost under section 1876 for 1997 rather than such capitation rate.

"(E) TERMINATION.—This paragraph shall not apply to any month beginning on or after the first day of the first month to which the method for risk adjustment described in paragraph (3) applies.

"(b) ANNUAL ANNOUNCEMENT OF PAYMENT RATES.—

"(1) ANNUAL ANNOUNCEMENT.—The Secretary shall annually determine, and shall announce (in a manner intended to provide notice to interested parties) not later than August 1 before the calendar year concerned—

"(A) the annual Medicare Choice capitation rate for each Medicare Choice payment area for the year, and

"(B) the risk and other factors to be used in adjusting such rates under subsection (a)(1)(A) for payments for months in that year.

"(2) ADVANCE NOTICE OF METHODOLOGICAL CHANGES.—At least 45 days before making the announcement under paragraph (1) for a year, the Secretary shall provide for notice to Medicare Choice organizations of proposed changes to be made in the methodology from the methodology and assumptions used in the previous announcement and shall provide such organizations an opportunity to comment on such proposed changes.

"(3) EXPLANATION OF ASSUMPTIONS.—In each announcement made under paragraph (1), the Secretary shall include an explanation of the assumptions and changes in methodology used in the announcement in sufficient detail so that Medicare Choice organizations can compute monthly adjusted Medicare Choice capitation rates for individuals in each Medicare Choice payment area which is in whole or in part within the service area of such an organization.

"(c) CALCULATION OF ANNUAL MEDICARE CHOICE CAPITATION RATES.—

"(1) IN GENERAL.—For purposes of this part, each annual Medicare Choice capitation rate, for a Medicare Choice payment area for a contract year consisting of a calendar year, is equal to the largest of the amounts specified in the following subparagraph (A), (B), or (C):

"(A) BLENDED CAPITATION RATE.—The sum of—

"(i) the area-specific percentage for the year (as specified under paragraph (2) for the year) of the annual area-specific Medicare Choice capitation rate for the year for the Medicare Choice payment area, as determined under paragraph (3), and

"(ii) the national percentage (as specified under paragraph (2) for the year) of the annual national Medicare Choice capitation rate for the year, as determined under paragraph (4),

multiplied by the payment adjustment factors described in subparagraphs (A) and (B) of paragraph (5).

"(B) MINIMUM AMOUNT.—Subject to paragraph (8)—

"(i) For 1998, $4,200 (but not to exceed, in the case of an area outside the 50 States and the District of Columbia, 150 percent of the annual per capita rate of payment for 1997 determined under section 1876(a)(1)(C) for the area).

"(ii) For each subsequent year, 101 percent of the amount in effect under this subparagraph for the previous year.

"(C) MINIMUM PERCENTAGE INCREASE.—Subject to paragraph (8)—

"(i) For 1998, 101 percent of the annual per capita rate of payment for 1997 determined under section 1876(a)(1)(C) for the Medicare Choice payment area.

"(ii) For each subsequent year, 101 percent of the annual Medicare Choice capitation rate under this paragraph for the area for the previous year.

"(2) AREA-SPECIFIC AND NATIONAL PERCENTAGES.—For purposes of paragraph (1)(A)—

"(A) for 1998, the 'area-specific percentage' is 90 percent and the 'national percentage' is 10 percent,

"(B) for 1999, the 'area-specific percentage' is 80 percent and the 'national percentage' is 20 percent,

"(C) for 2000, the 'area-specific percentage' is 70 percent and the 'national percentage' is 30 percent,

"(D) for 2001, the 'area-specific percentage' is 60 percent and the 'national percentage' is 40 percent, and

"(E) for a year after 2001, the 'area-specific percentage' is 50 percent and the 'national percentage' is 50 percent.

"(3) ANNUAL AREA-SPECIFIC MEDICARE CHOICE CAPITATION RATE.—

"(A) IN GENERAL.—For purposes of paragraph (1)(A), the annual area-specific Medicare Choice capitation rate for a Medicare Choice payment area—

"(i) for 1998 is the modified annual per capita rate of payment for 1997 determined under section 1876(a)(1)(C) for the area, increased by the national average per capita growth percentage for 1998 (as defined in paragraph (6)); or

"(ii) for a subsequent year is the annual area-specific Medicare Choice capitation rate for the previous year determined under this paragraph for the area, increased by the national average per capita growth percentage for such subsequent year.

"(B) MODIFIED ANNUAL PER CAPITA RATE OF PAYMENT.—For purposes of subparagraph (A), the modified annual per capita rate of payment for a Medicare Choice payment area for 1997 shall be equal to the annual per capita rate of payment for such area for such year which would have been determined under section 1876(a)(1)(C) if 25 percent of any payments attributable to sections 1886(d)(5)(B), 1886(h), and 1886(d)(5)(F) (relating to IME, GME, and DSH payments) were not taken into account.

"(C) SPECIAL RULES FOR 1999, 2000, AND 2001.—In applying subparagraph (A)(ii) for 1999, 2000, and 2001, the annual area-specific Medicare Choice capitation rate for the preceding calendar year shall be the amount which would have been determined if subparagraph (B) had been applied by substituting the following percentages for '25 percent':

"(i) In 1999, 50 percent.

"(ii) In 2000, 75 percent.

"(iii) In 2001, 100 percent.

"(4) ANNUAL NATIONAL MEDICARE CHOICE CAPITATION RATE.—For purposes of paragraph (1)(A), the annual national Medicare Choice capitation rate for a Medicare Choice payment area for a year is equal to—

"(A) the sum (for all Medicare Choice payment areas) of the product of—

"(i) the annual area-specific Medicare Choice capitation rate for that year for the area under paragraph (3), and

"(ii) the average number of medicare beneficiaries residing in that area in the year; divided by

"(B) the sum of the amounts described in subparagraph (A)(ii) for all Medicare Choice payment areas for that year.

"(5) PAYMENT ADJUSTMENT BUDGET NEUTRALITY FACTORS.—For purposes of paragraph (1)(A)—

"(A) BLENDED RATE PAYMENT ADJUSTMENT FACTOR.—For each year, the Secretary shall compute a blended rate payment adjustment factor such that, not taking into account subparagraphs (B) and (C) of paragraph (1) and the application of the payment adjustment factor described in subparagraph (B) but taking into account paragraph (7), the aggregate of the payments that would be made under this part is equal to the aggregate payments that would have been made under this part (not taking into account such subparagraphs and such other adjustment factor) if the area-specific percentage under paragraph (1) for the year had been 100 percent and the national percentage had been 0 percent.

"(B) FLOOR-AND-MINIMUM-UPDATE PAYMENT ADJUSTMENT FACTOR.—For each year, the Secretary shall compute a floor-and-minimum-update payment adjustment factor so that, taking into account the application of the blended rate payment adjustment factor under subparagraph (A) and subparagraphs (B) and (C) of paragraph (1) and the application of the adjustment factor under this subparagraph, the aggregate of the payments under this part shall not exceed the aggregate payments that would have been made under this part if subparagraphs (B) and (C) of paragraph (1) did not apply and if the floor-and-minimum-update payment adjustment factor under this subparagraph was 1.

"(6) NATIONAL AVERAGE PER CAPITA GROWTH PERCENTAGE DEFINED.—In this part, the 'national average per capita growth percentage' for any year (beginning with 1998) is equal to the sum of—

"(A) the percentage increase in the gross domestic product per capita for the 12-month period ending on June 30 of the preceding year, plus

"(B) 0.5 percentage points.

"(7) TREATMENT OF AREAS WITH HIGHLY VARIABLE PAYMENT RATES.—In the case of a Medicare Choice payment area for which the annual per capita rate of payment determined under section 1876(a)(1)(C) for 1997 varies by more than 20 percent from such rate for 1996, for purposes of this subsection the Secretary may substitute for such rate for 1997 a rate that is more representative of the costs of the enrollees in the area.

"(8) ADJUSTMENTS TO MINIMUM AMOUNTS AND MINIMUM PERCENTAGE INCREASES.—

"(A) IN GENERAL.—After computing all amounts under this subsection (without regard to this paragraph) for any year, the Secretary shall—

"(i) redetermine the amount under paragraph (1)(C) for such year by substituting '100 percent' for '101 percent' each place it appears, and

"(ii) subject to subparagraph (B), increase the amount determined under paragraph (1)(B) for such year to the amount equal to 85 percent of the annual national Medicare Choice capitation rate.

"(B) LIMITATION ON INCREASE IN MINIMUM AMOUNT.—The Secretary shall not under subparagraph (A)(ii) increase the minimum amount under paragraph (1)(B) to an amount that is greater than the amount the Secretary estimates will result in increased payments under such paragraph equal to the decrease in payments by reason of the redetermination under subparagraph (A)(i).

"(9) STUDY OF LOCAL PRICE INDICATORS.—The Secretary and the Medicare Payment Advisory Commission shall each conduct a study with respect to appropriate measures for adjusting the annual Medicare Choice capitation rates determined under this section to reflect local price indicators, including the medicare hospital wage index and the case-mix of a geographic region. The Secretary and the Advisory Commission shall report the results of such study to the appropriate committees of Congress, including recommendations (if any) for legislation.

"(d) MEDICARE CHOICE PAYMENT AREA DEFINED.—

"(1) IN GENERAL.—In this part, except as provided in paragraph (3), the term 'Medicare Choice payment area' means a county, or equivalent area specified by the Secretary.

"(2) RULE FOR ESRD BENEFICIARIES.—In the case of individuals who are determined to have end stage renal disease, the Medicare Choice payment area shall be a State or such other payment area as the Secretary specifies.

"(3) GEOGRAPHIC ADJUSTMENT.—

"(A) IN GENERAL.—Upon written request of the chief executive officer of a State for a contract year (beginning after 1998) made at least 7 months before the beginning of the year, the Secretary shall make a geographic adjustment to a Medicare Choice payment area in the State otherwise determined under paragraph (1)—

"(i) to a single statewide Medicare Choice payment area,

"(ii) to the metropolitan based system described in subparagraph (C), or

"(iii) to consolidating into a single Medicare Choice payment area noncontiguous counties (or equivalent areas described in paragraph (1)) within a State.

Such adjustment shall be effective for payments for months beginning with January of the year following the year in which the request is received.

"(B) BUDGET NEUTRALITY ADJUSTMENT.—In the case of a State requesting an adjustment under this paragraph, the Secretary shall adjust the payment rates otherwise established under this section for Medicare Choice payment areas in the State in a manner so that the aggregate of the payments under this section in the State shall not exceed the aggregate payments that would have been made under this section for Medicare Choice payment areas in the State in the absence of the adjustment under this paragraph.

"(C) METROPOLITAN BASED SYSTEM.—The metropolitan based system described in this subparagraph is one in which—

"(i) all the portions of each metropolitan statistical area in the State or in the case of a consolidated metropolitan statistical area, all of the portions of each primary metropolitan statistical area within the consolidated area within the State, are treated as a single Medicare Choice payment area, and

"(ii) all areas in the State that do not fall within a metropolitan statistical area are treated as a single Medicare Choice payment area.

"(D) AREAS.—In subparagraph (C), the terms 'metropolitan statistical area', 'consolidated metropolitan statistical area', and 'primary metropolitan statistical area' mean any area designated as such by the Secretary of Commerce.

"(e) PAYMENTS FROM TRUST FUND.—The payment to a Medicare Choice organization under this section for individuals enrolled under this part with the organization shall be made from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund in such proportion as the Secretary determines reflects the relative weight that benefits under part A and under part B represents of the actuarial value of the total benefits under this title. Monthly payments otherwise payable under this section for October 2001 shall be paid on the last business day of September 2001. Monthly payments otherwise payable under this section for October 2006 shall be paid on the first business day of October 2006.

"(f) SPECIAL RULE FOR CERTAIN INPATIENT HOSPITAL STAYS.—In the case of an individual who is receiving inpatient hospital services from a subsection (d) hospital (as defined in section 1886(d)(1)(B)) as of the effective date of the individual's—

"(1) election under this part of a Medicare Choice plan offered by a Medicare Choice organization—

"(A) payment for such services until the date of the individual's discharge shall be made under this title through the Medicare Choice plan or the traditional medicare fee-for-service program option described in section 1851(a)(1)(A) (as the case may be) elected before the election with such organization,

"(B) the elected organization shall not be financially responsible for payment for such services until the date after the date of the individual's discharge, and

"(C) the organization shall nonetheless be paid the full amount otherwise payable to the organization under this part; or

"(2) termination of election with respect to a Medicare Choice organization under this part—

"(A) the organization shall be financially responsible for payment for such services after such date and until the date of the individual's discharge,

"(B) payment for such services during the stay shall not be made under section 1886(d) or by any succeeding Medicare Choice organization, and

"(C) the terminated organization shall not receive any payment with respect to the individual under this part during the period the individual is not enrolled.

"PREMIUMS

"SEC. 1854. (a) SUBMISSION AND CHARGING OF PREMIUMS.—

"(1) IN GENERAL.—Subject to paragraph (3), each Medicare Choice organization shall file with the Secretary each year, in a form and manner and at a time specified by the Secretary—

"(A) the amount of the monthly premium for coverage for services under section 1852(a) under each Medicare Choice plan it offers under this part in each Medicare Choice payment area (as defined in section 1853(d)) in which the plan is being offered; and

"(B) the enrollment capacity in relation to the plan in each such area.

"(2) TERMINOLOGY.—In this part—

"(A) the term 'monthly premium' means, with respect to a Medicare Choice plan offered by a Medicare Choice organization, the monthly premium filed under paragraph (1), not taking into account the amount of any payment made toward the premium under section 1853; and

"(B) the term 'net monthly premium' means, with respect to such a plan and an individual enrolled with the plan, the premium (as defined in subparagraph (A)) for the plan reduced by the amount of payment made toward such premium under section 1853.

"(b) MONTHLY PREMIUM CHARGED.—The monthly amount of the premium charged by a Medicare Choice organization for a Medicare Choice plan offered in a Medicare Choice payment area to an individual under this part shall be equal to the net monthly premium plus any monthly premium charged in accordance with subsection (e)(2) for supplemental benefits.

"(c) UNIFORM PREMIUM.—The monthly premium and monthly amount charged under subsection (b) of a Medicare Choice organization under this part may not vary among individuals who reside in the same Medicare Choice payment area.

"(d) TERMS AND CONDITIONS OF IMPOSING PREMIUMS.—Each Medicare Choice organization shall permit the payment of net monthly premiums on a monthly basis and may terminate election of individuals for a Medicare Choice plan for failure to make premium payments only in accordance with section 1851(g)(3)(B)(i). A Medicare Choice organization is not authorized to provide for cash or other monetary rebates as an inducement for enrollment or otherwise.

"(e) LIMITATION ON ENROLLEE COST-SHARING.—

"(1) FOR BASIC AND ADDITIONAL BENEFITS.—Except as provided in paragraph (2), in no event may—

"(A) the net monthly premium (multiplied by 12) and the actuarial value of the deductibles, coinsurance, and copayments applicable on average to individuals enrolled under this part with a Medicare Choice plan of an organization with respect to required benefits described in section 1852(a)(1) and additional benefits (if any) required under subsection (f)(1) for a year, exceed

"(B) the actuarial value of the deductibles, coinsurance, and copayments that would be applicable on average to individuals entitled to benefits under part A and enrolled under part B if they were not members of a Medicare Choice organization for the year.

"(2) FOR SUPPLEMENTAL BENEFITS.—If the Medicare Choice organization provides to its members enrolled under this part supplemental benefits described in section 1852(a)(3), the sum of the monthly premium rate (multiplied by 12) charged for such supplemental benefits and the actuarial value of its deductibles, coinsurance, and copayments charged with respect to such benefits may not exceed the adjusted community rate for such benefits (as defined in subsection (f)(4)).

"(3) EXCEPTION FOR UNRESTRICTED FEE-FOR-SERVICE PLANS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), paragraphs (1) and (2) do not apply to an unrestricted fee-for-service plan.

"(B) APPLICATION OF BALANCE BILLING FOR PHYSICIAN SERVICES.—Section 1848(g) shall apply to the provision of physician services (as defined in section 1848(j)(3)) to an individual enrolled in an unrestricted fee-for-service plan under this title in the same manner as such section applies to such services that are provided to an individual who is not enrolled in a Medicare Choice plan under this title.

"(4) DETERMINATION ON OTHER BASIS.—If the Secretary determines that adequate data are not available to determine the actuarial value under paragraph (1)(A) or (2), the Secretary may determine such amount with respect to all individuals in the Medicare Choice payment area, the State, or in the United States, eligible to enroll in the Medicare Choice plan involved under this part or on the basis of other appropriate data.

"(f) REQUIREMENT FOR ADDITIONAL BENEFITS.—

"(1) REQUIREMENT.—

"(A) IN GENERAL.—Each Medicare Choice organization (in relation to a Medicare Choice plan it offers) shall provide that if there is an excess amount (as defined in subparagraph (B)) for the plan for a contract year, subject to the succeeding provisions of this subsection, the organization shall provide to individuals such additional benefits (as the organization may specify) in a value which is at least equal to the adjusted excess amount (as defined in subparagraph (C)).

"(B) EXCESS AMOUNT.—For purposes of this paragraph, the 'excess amount', for an organization for a plan, is the amount (if any) by which—

"(i) the average of the capitation payments made to the organization under section 1853 for the plan at the beginning of contract year, exceeds

"(ii) the actuarial value of the required benefits described in section 1852(a)(1) under the plan for individuals under this part, as determined based upon an adjusted community rate described in paragraph (4) (as reduced for the actuarial value of the coinsurance and deductibles under parts A and B).

“(C) ADJUSTED EXCESS AMOUNT.—For purposes of this paragraph, the ‘adjusted excess amount’, for an organization for a plan, is the excess amount reduced to reflect any amount withheld and reserved for the organization for the year under paragraph (3).

“(D) UNIFORM APPLICATION.—This paragraph shall be applied uniformly for all enrollees for a plan in a Medicare Choice payment area.

“(E) CONSTRUCTION.—Nothing in this subsection shall be construed as preventing a Medicare Choice organization from providing health care benefits that are in addition to the benefits otherwise required to be provided under this paragraph and from imposing a premium for such additional benefits.

“(2) STABILIZATION FUND.—A Medicare Choice organization may provide that a part of the value of an excess amount described in paragraph (1) be withheld and reserved in the Federal Hospital Insurance Trust Fund and in the Federal Supplementary Medical Insurance Trust Fund (in such proportions as the Secretary determines to be appropriate) by the Secretary for subsequent annual contract periods, to the extent required to stabilize and prevent undue fluctuations in the additional benefits offered in those subsequent periods by the organization in accordance with such paragraph. Any of such value of the amount reserved which is not provided as additional benefits described in paragraph (1)(A) to individuals electing the Medicare Choice plan of the organization in accordance with such paragraph prior to the end of such periods, shall revert for the use of such trust funds.

“(3) DETERMINATION BASED ON INSUFFICIENT DATA.—For purposes of this subsection, if the Secretary finds that there is insufficient enrollment experience to determine an average of the capitation payments to be made under this part at the beginning of a contract period, the Secretary may determine such an average based on the enrollment experience of other contracts entered into under this part.

“(4) ADJUSTED COMMUNITY RATE.—

“(A) IN GENERAL.—For purposes of this subsection, subject to subparagraph (B), the term ‘adjusted community rate’ for a service or services means, at the election of a Medicare Choice organization, either—

“(i) the rate of payment for that service or services which the Secretary annually determines would apply to an individual electing a Medicare Choice plan under this part if the rate of payment were determined under a ‘community rating system’ (as defined in section 1302(8) of the Public Health Service Act, other than subparagraph (C)), or

“(ii) such portion of the weighted aggregate premium, which the Secretary annually estimates would apply to such an individual, as the Secretary annually estimates is attributable to that service or services,

but adjusted for differences between the utilization characteristics of the individuals electing coverage under this part and the utilization characteristics of the other enrollees with the plan (or, if the Secretary finds that adequate data are not available to adjust for those differences, the differences between the utilization characteristics of individuals selecting other Medicare Choice coverage, or Medicare Choice eligible individuals in the area, in the State, or in the United States, eligible to elect Medicare Choice coverage under this part and the utilization characteristics of the rest of the population in the area, in the State, or in the United States, respectively).

“(B) SPECIAL RULE FOR PROVIDER-SPONSORED ORGANIZATIONS.—In the case of a Medicare Choice organization that is a provider-sponsored organization, the adjusted community rate under subparagraph (A) for a Medicare Choice plan of the organization may be computed (in a manner specified by the Secretary) using data in the general commercial marketplace or (during a transition period) based on the costs incurred by the organization in providing such a plan.

“(g) PERIODIC AUDITING.—The Secretary shall provide for the annual auditing of the financial records (including data relating to medicare utilization, costs, and computation of the adjusted community rate) of at least one-third of the Medicare Choice organizations offering Medicare Choice plans under this part. The Comptroller General shall monitor auditing activities conducted under this subsection.

“(h) PROHIBITION OF STATE IMPOSITION OF PREMIUM TAXES.—No State may impose a premium tax or similar tax with respect to payments on Medicare Choice plans or the offering of such plans.

“ORGANIZATIONAL AND FINANCIAL REQUIREMENTS FOR MEDICARE CHOICE ORGANIZATIONS; PROVIDER-SPONSORED ORGANIZATIONS

“SEC. 1855. (a) ORGANIZED AND LICENSED UNDER STATE LAW.—

“(1) IN GENERAL.—Subject to paragraphs (2) and (3), a Medicare Choice organization shall be organized and licensed under State law as a risk-bearing entity eligible to offer health insurance or health benefits coverage in each State in which it offers a Medicare Choice plan.

“(2) SPECIAL EXCEPTION BEFORE 2001 FOR PROVIDER-SPONSORED ORGANIZATIONS.—

“(A) IN GENERAL.—In the case of a provider-sponsored organization that seeks to offer a Medicare Choice plan in a State, the Secretary shall waive the requirement of paragraph (1) that the organization be licensed in that State for any year before 2001 if—

“(i) the organization files an application for such waiver with the Secretary, and

“(ii) the contract with the organization under section 1857 requires the organization to meet all requirements of State law which relate to the licensing of the organization (other than solvency requirements or a prohibition on licensure for such organization).

“(B) TREATMENT OF WAIVER.—

“(i) IN GENERAL.—In the case of a waiver granted under this paragraph for a provider-sponsored organization—

“(I) the waiver shall be effective for the years specified in the waiver, except it may be renewed based on a subsequent application, and

“(II) subject to subparagraph (A)(ii), any provisions of State law which would otherwise prohibit the organization from providing coverage pursuant to a contract under this part shall be superseded.

“(ii) TERMINATION.—A waiver granted under this paragraph shall in no event extend beyond the earlier of—

“(I) December 31, 2000; or

“(II) the date on which the Secretary determines that the State has in effect solvency standards described in subsection (d)(1)(B).

“(C) PROMPT ACTION ON APPLICATION.—The Secretary shall grant or deny such a waiver application within 60 days after the date the Secretary determines that a substantially complete application has been filed.

“(D) ENFORCEMENT OF STATE STANDARDS.—

“(i) IN GENERAL.—The Secretary shall enter into agreements with States subject to a waiver under this paragraph to ensure the adequate enforcement of standards incorporated into the contract under subparagraph (A)(ii). Such agreements shall provide methods by which States may notify the Secretary of any failure by an organization to comply with such standards.

“(ii) ENFORCEMENT.—If the Secretary determines that an organization is not in compliance with the standards described in clause (i), the Secretary shall take appropriate actions under subsections (g) and (h) with respect to civil penalties and termination of the contract. The Secretary shall allow an organization 60 days to comply with the standards after notification of failure.

“(E) REPORT.—The Secretary shall, not later than December 31, 1998, report to Congress on the waiver procedure in effect under this paragraph. Such report shall include an analysis of State efforts to adopt regulatory standards that take into account health plan sponsors that provide services directly to enrollees through affiliated providers.

“(3) EXCEPTION IF REQUIRED TO OFFER MORE THAN MEDICARE CHOICE PLANS.—Paragraph (1) shall not apply to a Medicare Choice organization in a State if the State requires the organization, as a condition of licensure, to offer any product or plan other than a Medicare Choice plan.

“(4) LICENSURE DOES NOT SUBSTITUTE FOR OR CONSTITUTE CERTIFICATION.—The fact that an organization is licensed in accordance with paragraph (1) does not deem the organization to meet other requirements imposed under this part.

“(b) PREPAID PAYMENT.—A Medicare Choice organization shall be compensated (except for premiums, deductibles, coinsurance, and copayments) for the provision of health care services to enrolled members under the contract under this part by a payment which is paid on a periodic basis without regard to the date the health care services are provided and which is fixed without regard to the frequency, extent, or kind of health care service actually provided to a member.

“(c) ASSUMPTION OF FULL FINANCIAL RISK.—The Medicare Choice organization shall assume full financial risk on a prospective basis for the provision of the health care services (except, at the election of the organization, hospice care) for which benefits are required to be provided under section 1852(a)(1), except that the organization—

“(1) may obtain insurance or make other arrangements for the cost of providing to any enrolled member such services the aggregate value of which for any year exceeds the applicable amount determined under the last sentence of this subsection for the year,

“(2) may obtain insurance or make other arrangements for the cost of such services provided to its enrolled members other than through the organization because medical necessity required their provision before they could be secured through the organization,

“(3) may obtain insurance or make other arrangements for not more than 90 percent of the amount by which its costs for any of its fiscal years exceed 115 percent of its income for such fiscal year, and

“(4) may make arrangements with physicians or other health professionals, health care institutions, or any combination of such individuals or institutions to assume all or part of the financial risk on a prospective basis for the provision of basic health services by the physicians or other health professionals or through the institutions.

For purposes of paragraph (1), the applicable amount for 1998 is the amount established by the Secretary, and for 1999 and any succeeding year is the amount in effect for the previous year increased by the percentage change in the Consumer Price Index for all urban consumers (U.S. city average) for the 12-month period ending with June of the previous year.

“(d) Certification of Provision Against Risk of Insolvency for PSOs.—

“(1) In general.—Each Medicare Choice organization that is a provider-sponsored organization shall—

“(A) meet standards established under section 1856(a) relating to the financial solvency and capital adequacy of the organization, or

“(B) meet solvency standards established by the State that are no less stringent than the standards described in subparagraph (A).

“(2) Certification process for solvency standards for PSOs.—The Secretary shall establish a process for the receipt and approval of applications of a provider-sponsored organization for certification (and periodic recertification) of the organization as meeting such solvency standards. Under such process, the Secretary shall act upon such an application not later than 60 days after the date the application has been received.

“(e) Provider-Sponsored Organization Defined.—

“(1) In general.—In this part, the term ‘provider-sponsored organization’ means a public or private entity—

“(A) that is established or organized and operated by a local health care provider, or local group of affiliated health care providers,

“(B) that provides a substantial proportion (as defined by the Secretary in accordance with paragraph (2)) of the health care items and services under the contract under this part directly through the provider or affiliated group of providers, and

“(C) with respect to which those affiliated providers that share, directly or indirectly, substantial financial risk with respect to the provision of such items and services have at least a majority financial interest in the entity.

“(2) Substantial proportion.—In defining what is a ‘substantial proportion’ for purposes of paragraph (1)(B), the Secretary—

“(A) shall take into account the need for such an organization to assume responsibility for providing—

“(i) significantly more than the majority of the items and services under the contract under this section through its own affiliated providers; and

“(ii) most of the remainder of the items and services under the contract through providers with which the organization has an agreement to provide such items and services,

in order to assure financial stability and to address the practical considerations involved in integrating the delivery of a wide range of service providers;

“(B) shall take into account the need for such an organization to provide a limited proportion of the items and services under the contract through providers that are neither affiliated with nor have an agreement with the organization; and

“(C) may allow for variation in the definition of substantial proportion among such organizations based on relevant differences among the organizations, such as their location in an urban or rural area.

“(3) Affiliation.—For purposes of this subsection, a provider is ‘affiliated’ with another provider if, through contract, ownership, or otherwise—

“(A) one provider, directly or indirectly, controls, is controlled by, or is under common control with the other,

“(B) both providers are part of a controlled group of corporations under section 1563 of the Internal Revenue Code of 1986,

“(C) each provider is a participant in a lawful combination under which each provider shares substantial financial risk in connection with the organization's operations, or

“(D) both providers are part of an affiliated service group under section 414 of such Code.

“(4) Control.—For purposes of paragraph (3), control is presumed to exist if one party, directly or indirectly, owns, controls, or holds the power to vote, or proxies for, not less than 51 percent of the voting rights or governance rights of another.

“(5) Health care provider defined.—In this subsection, the term ‘health care provider’ means—

“(A) any individual who is engaged in the delivery of health care services in a State and who is required by State law or regulation to be licensed or certified by the State to engage in the delivery of such services in the State, and

“(B) any entity that is engaged in the delivery of health care services in a State and that, if it is required by State law or regulation to be licensed or certified by the State to engage in the delivery of such services in the State, is so licensed.

“(6) Regulations.—The Secretary shall issue regulations to carry out this subsection.

“ESTABLISHMENT OF STANDARDS

“Sec. 1856. (a) Establishment of Solvency Standards for Provider-Sponsored Organizations.—

“(1) Establishment.—

“(A) In general.—The Secretary shall establish, on an expedited basis and using a negotiated rulemaking process under subchapter III of chapter 5 of title 5, United States Code, standards described in section 1855(d)(1) (relating to the financial solvency and capital adequacy of the organization) that entities must meet to qualify as provider-sponsored organizations under this part.

“(B) Factors to consider for solvency standards.—In establishing solvency standards under subparagraph (A) for provider-sponsored organizations, the Secretary shall consult with interested parties and shall take into account—

“(i) the delivery system assets of such an organization and ability of such an organization to provide services directly to enrollees through affiliated providers,

“(ii) alternative means of protecting against insolvency, including reinsurance, unrestricted surplus, letters of credit, guarantees, organizational insurance coverage, partnerships with other licensed entities, and valuation attributable to the ability of such an organization to meet its service obligations through direct delivery of care, and

“(iii) any standards developed by the National Association of Insurance Commissioners specifically for risk-based health care delivery organizations.

“(C) Enrollee protection against insolvency.—Such standards shall include provisions to prevent enrollees from being held liable to any person or entity for the Medicare Choice organization's debts in the event of the organization's insolvency.

“(2) Publication of notice.—In carrying out the rulemaking process under this subsection, the Secretary, after consultation with the National Association of Insurance Commissioners, the American Academy of Actuaries, organizations representative of medicare beneficiaries, and other interested parties, shall publish the notice provided for under section 564(a) of title 5, United States Code, by not later than 45 days after the date of the enactment of this section.

“(3) Target date for publication of rule.—As part of the notice under paragraph (2), and for purposes of this subsection, the ‘target date for publication’ (referred to in section 564(a)(5) of such title) shall be April 1, 1998.

“(4) Abbreviated period for submission of comments.—In applying section 564(c) of such title under this subsection, ‘15 days’ shall be substituted for ‘30 days’.

“(5) Appointment of negotiated rulemaking committee and facilitator.—The Secretary shall provide for—

“(A) the appointment of a negotiated rulemaking committee under section 565(a) of such title by not later than 30 days after the end of the comment period provided for under section 564(c) of such title (as shortened under paragraph (4)), and

“(B) the nomination of a facilitator under section 566(c) of such title by not later than 10 days after the date of appointment of the committee.

“(6) Preliminary committee report.—The negotiated rulemaking committee appointed under paragraph (5) shall report to the Secretary, by not later than January 1, 1998, regarding the committee's progress on achieving a consensus with regard to the rulemaking proceeding and whether such consensus is likely to occur before 1 month before the target date for publication of the rule. If the committee reports that the committee has failed to make significant progress towards such consensus or is unlikely to reach such consensus by the target date, the Secretary may terminate such process and provide for the publication of a rule under this subsection through such other methods as the Secretary may provide.

“(7) Final committee report.—If the committee is not terminated under paragraph (6), the rulemaking committee shall submit a report containing a proposed rule by not later than 1 month before the target date of publication.

“(8) Interim, final effect.—The Secretary shall publish a rule under this subsection in the Federal Register by not later than the target date of publication. Such rule shall be effective and final immediately on an interim basis, but is subject to change and revision after public notice and opportunity for a period (of not less than 60 days) for public comment. In connection with such rule, the Secretary shall specify the process for the timely review and approval of applications of entities to be certified as provider-sponsored organizations pursuant to such rules and consistent with this subsection.

“(9) Publication of rule after public comment.—The Secretary shall provide for consideration of such comments and republication of such rule by not later than 1 year after the target date of publication.

“(b) Establishment of Other Standards.—

“(1) In general.—The Secretary shall establish by regulation other standards (not described in subsection (a)) for Medicare Choice organizations and plans consistent with, and to carry out, this part.

“(2) Use of current standards.—Consistent with the requirements of this part, standards established under this subsection shall be based on standards established under section 1876 to carry out analogous provisions of such section.

“(3) Use of interim standards.—For the period in which this part is in effect and standards are being developed and established under the preceding provisions of this subsection, the Secretary shall provide by not later than June 1, 1998, for the application of such interim standards (without regard to any requirements for notice and public comment) as may be appropriate to provide for the expedited implementation of this part. Such interim standards shall not apply after the date standards are established under the preceding provisions of this subsection.

“(4) Application of new standards to entities with a contract.—In the case of a Medicare Choice organization with a contract in effect under this part at the time standards applicable to the organization under this section are changed, the organization may elect not to have such changes apply to the organization until the end of the current contract year (or, if there is less than 6 months remaining in the contract year, until 1 year after the end of the current contract year).

“(5) Relation to state laws.—The standards established under this subsection shall supersede any State law or regulation with respect to Medicare Choice plans which are offered by Medicare Choice organizations under this part to the extent such law or regulation is inconsistent with such standards.

“CONTRACTS WITH MEDICARE CHOICE ORGANIZATIONS

“Sec. 1857. (a) In General.—The Secretary shall not permit the election under section 1851 of a Medicare Choice plan offered by a Medicare Choice organization under this part, and no payment shall be made under section 1853 to an organization, unless the Secretary has entered into a contract under this section with the organization with respect to the offering of such plan. Such a contract with an organization may cover more than 1 Medicare Choice plan. Such contract shall provide that the organization agrees to comply with the applicable requirements and standards of this part and the terms and conditions of payment as provided for in this part.

“(b) Minimum Enrollment Requirements.—

“(1) In general.—Subject to paragraph (2), the Secretary may not enter into a contract under this section with a Medicare Choice organization unless the organization has at least 1,500 individuals who are receiving health benefits through the organization (500 such individuals if the organization primarily serves individuals residing outside of urbanized areas).

“(2) Allowing transition.—The Secretary may waive the requirement of paragraph (1) during the first 2 contract years with respect to an organization.

“(3) Special rule for pso.—In the case of a Medicare Choice organization which is a provider-sponsored organization, paragraph (1) shall be applied by taking into account individuals for whom the organization has assumed substantial financial risk.

“(c) Contract Period and Effectiveness.—

“(1) Period.—Each contract under this section shall be for a term of at least 1 year, as determined by the Secretary, and may be made automatically renewable from term to term in the absence of notice by either party of intention to terminate at the end of the current term.

“(2) Termination authority.—In accordance with procedures established under subsection (h), the Secretary may at any time terminate any such contract, or may impose the intermediate sanctions described in an applicable paragraph of subsection (g)(3) on the Medicare Choice organization, if the Secretary determines that the organization—

“(A) has failed substantially to carry out the contract;

“(B) is carrying out the contract in a manner inconsistent with the efficient and effective administration of this part; or

“(C) no longer substantially meets the applicable conditions of this part.

“(3) Effective date of contracts.—The effective date of any contract executed pursuant to this section shall be specified in the contract.

“(4) Previous terminations.—The Secretary may not enter into a contract with a Medicare Choice organization if a previous contract with that organization under this section was terminated at the request of the organization within the preceding 5-year period, except in circumstances which warrant special consideration, as determined by the Secretary.

“(5) No contracting authority.—The authority vested in the Secretary by this part may be performed without regard to such provisions of law or regulations relating to the making, performance, amendment, or modification of contracts of the United States as the Secretary may determine to be inconsistent with the furtherance of the purpose of this title.

“(d) Protections Against Fraud and Beneficiary Protections.—

“(1) Inspection and audit.—Each contract under this section shall provide that the Secretary, or any person or organization designated by the Secretary—

“(A) shall have the right to inspect or otherwise evaluate (i) the quality, appropriateness, and timeliness of services performed under the contract and (ii) the facilities of the organization when there is reasonable evidence of some need for such inspection, and

“(B) shall have the right to audit and inspect any books and records of the Medicare Choice organization that pertain (i) to the ability of the organization to bear the risk of potential financial losses, or (ii) to services performed or determinations of amounts payable under the contract.

“(2) Enrollee notice at time of termination.—Each contract under this section shall require the organization to provide (and pay for) written notice in advance of the contract's termination, as well as a description of alternatives for obtaining benefits under this title, to each individual enrolled with the organization under this part.

“(3) Disclosure.—

“(A) In general.—Each Medicare Choice organization shall, in accordance with regulations of the Secretary, report to the Secretary financial information which shall include the following:

“(i) Such information as the Secretary may require demonstrating that the organization has a fiscally sound operation.

“(ii) A copy of the report, if any, filed with the Health Care Financing Administration containing the information required to be reported under section 1124 by disclosing entities.

“(iii) A description of transactions, as specified by the Secretary, between the organization and a party in interest. Such transactions shall include—

“(I) any sale or exchange, or leasing of any property between the organization and a party in interest;

“(II) any furnishing for consideration of goods, services (including management services), or facilities between the organization and a party in interest, but not including salaries paid to employees for services provided in the normal course of their employment and health services provided to members by hospitals and other providers and by staff, medical group (or groups), individual practice association (or associations), or any combination thereof; and

“(III) any lending of money or other extension of credit between an organization and a party in interest.

The Secretary may require that information reported respecting an organization which controls, is controlled by, or is under common control with, another entity be in the form of a consolidated financial statement for the organization and such entity.

“(B) Party in interest defined.—For the purposes of this paragraph, the term ‘party in interest’ means—

“(i) any director, officer, partner, or employee responsible for management or administration of a Medicare Choice organization, any person who is directly or indirectly the beneficial owner of more than 5 percent of the equity of the organization, any person who is the beneficial owner of a mortgage, deed of trust, note, or other interest secured by, and valuing more than 5 percent of the organization, and, in the case of a Medicare Choice organization organized as a nonprofit corporation, an incorporator or member of such corporation under applicable State corporation law;

“(ii) any entity in which a person described in clause (i)—

“(I) is an officer or director;

“(II) is a partner (if such entity is organized as a partnership);

“(III) has directly or indirectly a beneficial interest of more than 5 percent of the equity; or

“(IV) has a mortgage, deed of trust, note, or other interest valuing more than 5 percent of the assets of such entity;

“(iii) any person directly or indirectly controlling, controlled by, or under common control with an organization; and

“(iv) any spouse, child, or parent of an individual described in clause (i).

“(C) Access to information.—Each Medicare Choice organization shall make the information reported pursuant to subparagraph (A) available to its enrollees upon reasonable request.

“(4) Loan information.—The contract shall require the organization to notify the Secretary of loans and other special financial arrangements which are made between the organization and subcontractors, affiliates, and related parties.

“(e) Additional Contract Terms.—

“(1) In general.—The contract shall contain such other terms and conditions not inconsistent with this part (including requiring the organization to provide the Secretary with such information) as the Secretary may find necessary and appropriate.

“(2) Cost-sharing in enrollment-related costs.—The contract with a Medicare Choice organization shall require the payment to the Secretary for the organization's pro rata share (as determined by the Secretary) of the estimated costs to be incurred by the Secretary in carrying out section 1851 (relating to enrollment and dissemination of information). Such payments are appropriated to defray the costs described in the preceding sentence, to remain available until expended.

"(3) NOTICE TO ENROLLEES IN CASE OF DECERTIFICATION.—If a contract with a Medicare Choice organization is terminated under this section, the organization shall notify each enrollee with the organization under this part of such termination.

"(f) PROMPT PAYMENT BY MEDICARE CHOICE ORGANIZATION.—

"(1) REQUIREMENT.—A contract under this part shall require a Medicare Choice organization to provide prompt payment (consistent with the provisions of sections 1816(c)(2) and 1842(c)(2)) of claims submitted for services and supplies furnished to individuals pursuant to the contract, if the services or supplies are not furnished under a contract between the organization and the provider or supplier.

"(2) SECRETARY'S OPTION TO BYPASS NONCOMPLYING ORGANIZATION.—In the case of a Medicare Choice eligible organization which the Secretary determines, after notice and opportunity for a hearing, has failed to make payments of amounts in compliance with paragraph (1), the Secretary may provide for direct payment of the amounts owed to providers and suppliers for covered services and supplies furnished to individuals enrolled under this part under the contract. If the Secretary provides for the direct payments, the Secretary shall provide for an appropriate reduction in the amount of payments otherwise made to the organization under this part to reflect the amount of the Secretary's payments (and the Secretary's costs in making the payments).

"(g) INTERMEDIATE SANCTIONS.—

"(1) IN GENERAL.—If the Secretary determines that a Medicare Choice organization with a contract under this section—

"(A) fails substantially to provide medically necessary items and services that are required (under law or under the contract) to be provided to an individual covered under the contract, if the failure has adversely affected (or has substantial likelihood of adversely affecting) the individual;

"(B) imposes net monthly premiums on individuals enrolled under this part in excess of the net monthly premiums permitted;

"(C) acts to expel or to refuse to re-enroll an individual in violation of the provisions of this part;

"(D) engages in any practice that would reasonably be expected to have the effect of denying or discouraging enrollment (except as permitted by this part) by eligible individuals with the organization whose medical condition or history indicates a need for substantial future medical services;

"(E) misrepresents or falsifies information that is furnished—

"(i) to the Secretary under this part, or

"(ii) to an individual or to any other entity under this part;

"(F) fails to comply with the requirements of section 1852(j)(3); or

"(G) employs or contracts with any individual or entity that is excluded from participation under this title under section 1128 or 1128A for the provision of health care, utilization review, medical social work, or administrative services or employs or contracts with any entity for the provision (directly or indirectly) through such an excluded individual or entity of such services;

the Secretary may provide, in addition to any other remedies authorized by law, for any of the remedies described in paragraph (2).

"(2) REMEDIES.—The remedies described in this paragraph are—

"(A) civil money penalties of not more than $25,000 for each determination under paragraph (1) or, with respect to a determination under subparagraph (D) or (E)(i) of such paragraph, of not more than $100,000 for each such determination, plus, with respect to a determination under paragraph (1)(B), double the excess amount charged in violation of such paragraph (and the excess amount charged shall be deducted from the penalty and returned to the individual concerned). and plus, with respect to a determination under paragraph (1)(D), $15,000 for each individual not enrolled as a result of the practice involved,

"(B) suspension of enrollment of individuals under this part after the date the Secretary notifies the organization of a determination under paragraph (1) and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur, or

"(C) suspension of payment to the organization under this part for individuals enrolled after the date the Secretary notifies the organization of a determination under paragraph (1) and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur.

"(3) OTHER INTERMEDIATE SANCTIONS.—In the case of a Medicare Choice organization for which the Secretary makes a determination under subsection (c)(2) the basis of which is not described in paragraph (1), the Secretary may apply the following intermediate sanctions:

"(A) Civil money penalties of not more than $25,000 for each determination under subsection (c)(2) if the deficiency that is the basis of the determination has directly adversely affected (or has the substantial likelihood of adversely affecting) an individual covered under the organization's contract.

"(B) Civil money penalties of not more than $10,000 for each week beginning after the initiation of procedures by the Secretary under subsection (g) during which the deficiency that is the basis of a determination under subsection (c)(2) exists.

"(C) Suspension of enrollment of individuals under this part after the date the Secretary notifies the organization of a determination under subsection (c)(2) and until the Secretary is satisfied that the deficiency that is the basis for the determination has been corrected and is not likely to recur.

"(4) CIVIL MONEY PENALTIES.—The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under subsection (f) or under paragraph (2) or (3) of this subsection in the same manner as they apply to a civil money penalty or proceeding under section 1128A(a).

"(h) PROCEDURES FOR TERMINATION.—

"(1) IN GENERAL.—The Secretary may terminate a contract with a Medicare Choice organization under this section in accordance with formal investigation and compliance procedures established by the Secretary under which—

"(A) the Secretary provides the organization with the reasonable opportunity to develop and implement a corrective action plan to correct the deficiencies that were the basis of the Secretary's determination under subsection (c)(2);

"(B) the Secretary shall impose more severe sanctions on an organization that has a history of deficiencies or that has not taken steps to correct deficiencies the Secretary has brought to the organization's attention;

"(C) there are no unreasonable or unnecessary delays between the finding of a deficiency and the imposition of sanctions; and

"(D) the Secretary provides the organization with reasonable notice and opportunity for hearing (including the right to appeal an initial decision) before terminating the contract.

"(2) EXCEPTION FOR IMMINENT AND SERIOUS RISK TO HEALTH.—Paragraph (1) shall not apply if the Secretary determines that a delay in termination, resulting from compliance with the procedures specified in such paragraph prior to termination, would pose an imminent and serious risk to the health of individuals enrolled under this part with the organization.

"DEFINITIONS; MISCELLANEOUS PROVISIONS

"SEC. 1859. (a) DEFINITIONS RELATING TO MEDICARE CHOICE ORGANIZATIONS.—In this part—

"(1) MEDICARE CHOICE ORGANIZATION.—The term 'Medicare Choice organization' means a public or private entity that is certified under section 1856 as meeting the requirements and standards of this part for such an organization.

"(2) PROVIDER-SPONSORED ORGANIZATION.—The term 'provider-sponsored organization' is defined in section 1855(e)(1).

"(b) DEFINITIONS RELATING TO MEDICARE CHOICE PLANS.—

"(1) MEDICARE CHOICE PLAN.—The term 'Medicare Choice plan' means health benefits coverage offered under a policy, contract, or plan by a Medicare Choice organization pursuant to and in accordance with a contract under section 1857.

"(2) MEDICARE CHOICE UNRESTRICTED FEE-FOR-SERVICE PLAN.—The term 'Medicare Choice unrestricted fee-for-service plan' means a Medicare Choice plan that provides for coverage of benefits without restrictions relating to utilization and without regard to whether the provider has a contract or other arrangement with the organization offering the plan for the provision of such benefits.

"(c) OTHER REFERENCES TO OTHER TERMS.—

"(1) MEDICARE CHOICE ELIGIBLE INDIVIDUAL.—The term 'Medicare Choice eligible individual' is defined in section 1851(a)(3).

"(2) MEDICARE CHOICE PAYMENT AREA.—The term 'Medicare Choice payment area' is defined in section 1853(d).

"(3) NATIONAL AVERAGE PER CAPITA GROWTH PERCENTAGE.—The 'national average per capita growth percentage' is defined in section 1853(c)(6).

"(4) MONTHLY PREMIUM; NET MONTHLY PREMIUM.—The terms 'monthly premium' and 'net monthly premium' are defined in section 1854(a)(2).

"(d) COORDINATED ACUTE AND LONG-TERM CARE BENEFITS UNDER A MEDICARE CHOICE PLAN.—Nothing in this part shall be construed as preventing a State from coordinating benefits under a medicaid plan under title XIX with those provided under a Medicare Choice plan in a manner that assures continuity of a full-range of acute care and long-term care services to poor elderly or disabled individuals eligible for benefits under this title and under such plan.

"(e) RESTRICTION ON ENROLLMENT FOR CERTAIN MEDICARE CHOICE PLANS.—

"(1) IN GENERAL.—In the case of a Medicare Choice religious fraternal benefit society plan described in paragraph (2), notwithstanding any other provision of this part to the contrary and in accordance with regulations of the Secretary, the society offering the plan may restrict the enrollment of individuals under this part to individuals who are members of the church, convention, or group described in paragraph (3)(B) with which the society is affiliated.

"(2) MEDICARE CHOICE RELIGIOUS FRATERNAL BENEFIT SOCIETY PLAN DESCRIBED.—For purposes of this subsection, a Medicare Choice religious fraternal benefit society plan described in this paragraph is a Medicare Choice plan described in section 1851(a)(2)(A) that—

"(A) is offered by a religious fraternal benefit society described in paragraph (3) only to members of the church, convention, or group described in paragraph (3)(B); and

"(B) permits all such members to enroll under the plan without regard to health status-related factors.

Nothing in this subsection shall be construed as waiving any plan requirements relating to financial solvency. In developing solvency standards under section 1856, the Secretary shall take into account open contract and assessment features characteristic of fraternal insurance certificates.

"(3) RELIGIOUS FRATERNAL BENEFIT SOCIETY DEFINED.—For purposes of paragraph (2)(A), a 'religious fraternal benefit society' described in this section is an organization that—

"(A) is exempt from Federal income taxation under section 501(c)(8) of the Internal Revenue Code of 1986;

"(B) is affiliated with, carries out the tenets of, and shares a religious bond with, a church or convention or association of churches or an affiliated group of churches;

"(C) offers, in addition to a Medicare Choice religious fraternal benefit society plan, at least the same level of health coverage to individuals not entitled to benefits under this title who are members of such church, convention, or group; and

"(D) does not impose any limitation on membership in the society based on any health status-related factor.

"(4) PAYMENT ADJUSTMENT.—Under regulations of the Secretary, in the case of individuals enrolled under this part under a Medicare Choice religious fraternal benefit society plan described in paragraph (2), the Secretary shall provide for such adjustment to the payment amounts otherwise established under section 1854 as may be appropriate to assure an appropriate payment level, taking into account the actuarial characteristics and experience of such individuals.".

SEC. 5002. TRANSITIONAL RULES FOR CURRENT MEDICARE HMO PROGRAM.

(a) AUTHORIZING TRANSITIONAL WAIVER OF 50:50 RULE.—Section 1876(f) (42 U.S.C. 1395mm(f)) is amended—

(1) in paragraph (1)—

(A) by striking "Each" and inserting "For contract periods beginning before January 1, 1999, each"; and

(B) by striking "or under a State plan approved under title XIX";

(2) in paragraph (2), by striking "The Secretary" and inserting "Subject to paragraph (4), the Secretary", and

(3) by adding at the end the following:

"(4) The Secretary may waive the requirement imposed by paragraph (1) if the Secretary determines that the plan meets all other beneficiary protections and quality standards under this section.".

(b) TRANSITION.—Section 1876 (42 U.S.C. 1395mm) is amended by adding at the end the following new subsection:

"(k)(1) Except as provided in paragraph (2) or (3), the Secretary shall not enter into, renew, or continue any risk-sharing contract under this section with an eligible organization for any contract year beginning on or after—

"(A) the date standards for Medicare Choice organizations and plans are first established under section 1856 with respect to Medicare Choice organizations that are insurers or health maintenance organizations, or

"(B) in the case of such an organization with such a contract in effect as of the date such standards were first established, 1 year after such date.

"(2) The Secretary shall not enter into, renew, or continue any risk-sharing contract under this section with an eligible organization for any contract year beginning on or after January 1, 2000.

"(3) An individual who is enrolled in part B only and is enrolled in an eligible organization with a risk-sharing contract under this section on December 31, 1998, may continue enrollment in such organization in accordance with regulations issued by not later than July 1, 1998.

"(4) Notwithstanding subsection (a), the Secretary shall provide that payment amounts under risk-sharing contracts under this section for months in a year (beginning with January 1998) shall be computed—

"(A) with respect to individuals entitled to benefits under both parts A and B, by substituting payment rates under section 1853(a) for the payment rates otherwise established under section 1876(a), and

"(B) with respect to individuals only entitled to benefits under part B, by substituting an appropriate proportion of such rates (reflecting the relative proportion of payments under this title attributable to such part) for the payment rates otherwise established under subsection (a).

For purposes of carrying out this paragraph for payments for months in 1998, the Secretary shall compute, announce, and apply the payment rates under section 1853(a) (notwithstanding any deadlines specified in such section) in as timely a manner as possible and may (to the extent necessary) provide for retroactive adjustment in payments made under this section not in accordance with such rates.".

(c) ENROLLMENT TRANSITION RULE.—An individual who is enrolled on December 31, 1998, with an eligible organization under section 1876 of the Social Security Act (42 U.S.C. 1395mm) shall be considered to be enrolled with that organization on January 1, 1999, under part C of title XVIII of such Act if that organization has a contract under that part for providing services on January 1, 1999 (unless the individual has disenrolled effective on that date).

(d) ADVANCE DIRECTIVES.—Section 1866(f) (42 U.S.C. 1395cc(f)) is amended—

(1) in paragraph (1)—

(A) by inserting "1855(i)," after "1833(s),", and

(B) by inserting ", Medicare Choice organization," after "provider of services"; and

(2) in paragraph (2)(E), by inserting "or a Medicare Choice organization" after "section 1833(a)(1)(A)".

(e) EXTENSION OF PROVIDER REQUIREMENT.—Section 1866(a)(1)(O) (42 U.S.C. 1395cc(a)(1)(O)) is amended—

(1) by striking "in the case of hospitals and skilled nursing facilities,";

(2) by striking "inpatient hospital and extended care";

(3) by inserting "with a Medicare Choice organization under part C or" after "any individual enrolled"; and

(4) by striking "(in the case of hospitals) or limits (in the case of skilled nursing facilities)".

(f) ADDITIONAL CONFORMING CHANGES.—

(1) CONFORMING REFERENCES TO PREVIOUS PART C.—Any reference in law (in effect before the date of the enactment of this Act) to part C of title XVIII of the Social Security Act is deemed a reference to part D of such title (as in effect after such date).

(2) SECRETARIAL SUBMISSION OF LEGISLATIVE PROPOSAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to the appropriate committees of Congress a legislative proposal providing for such technical and conforming amendments in the law as are required by the provisions of this chapter.

(g) IMMEDIATE EFFECTIVE DATE FOR CERTAIN REQUIREMENTS FOR DEMONSTRATIONS.—Section 1857(e)(2) of the Social Security Act (requiring contribution to certain costs related to the enrollment process comparative materials) applies to demonstrations with respect to which enrollment is effected or coordinated under section 1851 of such Act.

(h) USE OF INTERIM, FINAL REGULATIONS.—In order to carry out the amendments made by this chapter in a timely manner, the Secretary of Health and Human Services may promulgate regulations that take effect on an interim basis, after notice and pending opportunity for public comment.

(i) TRANSITION RULE FOR PSO ENROLLMENT.—In applying subsection (g)(1) of section 1876 of the Social Security Act (42 U.S.C. 1395mm) to a risk-sharing contract entered into with an eligible organization that is a provider-sponsored organization (as defined in section 1855(e)(1) of such Act, as inserted by section 5001) for a contract year beginning on or after January 1, 1998, there shall be substituted for the minimum number of enrollees provided under such section the minimum number of enrollees permitted under section 1857(b)(1) of such Act (as so inserted).

SEC. 5003. CONFORMING CHANGES IN MEDIGAP PROGRAM.

(a) CONFORMING AMENDMENTS TO MEDICARE CHOICE CHANGES.—Section 1882(d)(3)(A)(i) (42 U.S.C. 1395ss(d)(3)(A)(i)) is amended—

(1) in the matter before subclause (I), by inserting "(including an individual electing a Medicare Choice plan under section 1851)" after "of this title"; and

(2) in subclause (II)—

(A) by inserting "in the case of an individual not electing a Medicare Choice plan" after "(II)", and

(B) by inserting before the comma at the end the following: "or in the case of an individual electing a Medicare Choice plan, a medicare supplemental policy with knowledge that the policy duplicates health benefits to which the individual is otherwise entitled under the Medicare Choice plan or under another medicare supplemental policy".

(b) CONFORMING AMENDMENTS.—Section 1882(d)(3)(B)(i)(I) (42 U.S.C. 1395ss(d)(3)(B)(i)(I)) is amended by inserting "(including any Medicare Choice plan)" after "health insurance policies".

(c) MEDICARE CHOICE PLANS NOT TREATED AS MEDICARE SUPPLEMENTARY POLICIES.—Section 1882(g)(1) (42 U.S.C. 1395ss(g)(1)) is amended by inserting "or a Medicare Choice plan or" after "does not include"

CHAPTER 2—INTEGRATED LONG-TERM CARE PROGRAMS

Subchapter A—Programs of All-Inclusive Care for the Elderly (PACE)

SEC. 5011. COVERAGE OF PACE UNDER THE MEDICARE PROGRAM.

Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) is amended by adding at the end the following new section:

“PAYMENTS TO, AND COVERAGE OF BENEFITS UNDER, PROGRAMS OF ALL-INCLUSIVE CARE FOR THE ELDERLY (PACE)

“SEC. 1894. (a) RECEIPT OF BENEFITS THROUGH ENROLLMENT IN PACE PROGRAM; DEFINITIONS FOR PACE PROGRAM RELATED TERMS.—

“(1) BENEFITS THROUGH ENROLLMENT IN A PACE PROGRAM.—In accordance with this section, in the case of an individual who is entitled to benefits under part A or enrolled under part B and who is a PACE program eligible individual (as defined in paragraph (5)) with respect to a PACE program offered by a PACE provider under a PACE program agreement—

“(A) the individual may enroll in the program under this section; and

“(B) so long as the individual is so enrolled and in accordance with regulations—

“(i) the individual shall receive benefits under this title solely through such program; and

“(ii) the PACE provider is entitled to payment under and in accordance with this section and such agreement for provision of such benefits.

“(2) PACE PROGRAM DEFINED.—For purposes of this section and section 1932, the term ‘PACE program’ means a program of all-inclusive care for the elderly that meets the following requirements:

“(A) OPERATION.—The entity operating the program is a PACE provider (as defined in paragraph (3)).

“(B) COMPREHENSIVE BENEFITS.—The program provides comprehensive health care services to PACE program eligible individuals in accordance with the PACE program agreement and regulations under this section.

“(C) TRANSITION.—In the case of an individual who is enrolled under the program under this section and whose enrollment ceases for any reason (including that the individual no longer qualifies as a PACE program eligible individual, the termination of a PACE program agreement, or otherwise), the program provides assistance to the individual in obtaining necessary transitional care through appropriate referrals and making the individual's medical records available to new providers.

“(3) PACE PROVIDER DEFINED.—

“(A) IN GENERAL.—For purposes of this section, the term ‘PACE provider’ means an entity that—

“(i) subject to subparagraph (B), is (or is a distinct part of) a public entity or a private, nonprofit entity organized for charitable purposes under section 501(c)(3) of the Internal Revenue Code of 1986; and

“(ii) has entered into a PACE program agreement with respect to its operation of a PACE program.

“(B) TREATMENT OF PRIVATE, FOR-PROFIT PROVIDERS.—Clause (i) of subparagraph (A) shall not apply—

“(i) to entities subject to a demonstration project waiver under subsection (h); and

“(ii) after the date the report under section 5013(b) of the Balanced Budget Act of 1997 is submitted, unless the Secretary determines that any of the findings described in subparagraph (A), (B), (C), or (D) of paragraph (2) of such section are true.

“(4) PACE PROGRAM AGREEMENT DEFINED.—For purposes of this section, the term ‘PACE program agreement’ means, with respect to a PACE provider, an agreement, consistent with this section, section 1932 (if applicable), and regulations promulgated to carry out such sections, between the PACE provider and the Secretary, or an agreement between the PACE provider and a State administering agency for the operation of a PACE program by the provider under such sections.

“(5) PACE PROGRAM ELIGIBLE INDIVIDUAL DEFINED.—For purposes of this section, the term ‘PACE program eligible individual’ means, with respect to a PACE program, an individual who—

“(A) is 55 years of age or older;

“(B) subject to subsection (c)(4), is determined under subsection (c) to require the level of care required under the State medicaid plan for coverage of nursing facility services;

“(C) resides in the service area of the PACE program; and

“(D) meets such other eligibility conditions as may be imposed under the PACE program agreement for the program under subsection (e)(2)(A)(ii).

“(6) PACE PROTOCOL.—For purposes of this section, the term ‘PACE protocol’ means the Protocol for the Program of All-inclusive Care for the Elderly (PACE), as published by On Lok, Inc., as of April 14, 1995, or any successor protocol that may be agreed upon between the Secretary and On Lok, Inc.

“(7) PACE DEMONSTRATION WAIVER PROGRAM DEFINED.—For purposes of this section, the term ‘PACE demonstration waiver program’ means a demonstration program under either of the following sections (as in effect before the date of their repeal):

“(A) Section 603(c) of the Social Security Amendments of 1983 (Public Law 98–21), as extended by section 9220 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99–272).

“(B) Section 9412(b) of the Omnibus Budget Reconciliation Act of 1986 (Public Law 99–509).

“(8) STATE ADMINISTERING AGENCY DEFINED.—For purposes of this section, the term ‘State administering agency’ means, with respect to the operation of a PACE program in a State, the agency of that State (which may be the single agency responsible for administration of the State plan under title XIX in the State) responsible for administering PACE program agreements under this section and section 1932 in the State.

“(9) TRIAL PERIOD DEFINED.—

“(A) IN GENERAL.—For purposes of this section, the term ‘trial period’ means, with respect to a PACE program operated by a PACE provider under a PACE program agreement, the first 3 contract years under such agreement with respect to such program.

“(B) TREATMENT OF ENTITIES PREVIOUSLY OPERATING PACE DEMONSTRATION WAIVER PROGRAMS.—Each contract year (including a year occurring before the effective date of this section) during which an entity has operated a PACE demonstration waiver program shall be counted under subparagraph (A) as a contract year during which the entity operated a PACE program as a PACE provider under a PACE program agreement.

“(10) REGULATIONS.—For purposes of this section, the term ‘regulations’ refers to interim final or final regulations promulgated under subsection (f) to carry out this section and section 1932.

“(b) SCOPE OF BENEFITS; BENEFICIARY SAFEGUARDS.—

“(1) IN GENERAL.—Under a PACE program agreement, a PACE provider shall—

“(A) provide to PACE program eligible individuals, regardless of source of payment and directly or under contracts with other entities, at a minimum—

“(i) all items and services covered under this title (for individuals enrolled under this section) and all items and services covered under title XIX, but without any limitation or condition as to amount, duration, or scope and without application of deductibles, copayments, coinsurance, or other cost-sharing that would otherwise apply under this title or such title, respectively; and

“(ii) all additional items and services specified in regulations, based upon those required under the PACE protocol;

“(B) provide such enrollees access to necessary covered items and services 24 hours per day, every day of the year;

“(C) provide services to such enrollees through a comprehensive, multidisciplinary health and social services delivery system which integrates acute and long-term care services pursuant to regulations; and

“(D) specify the covered items and services that will not be provided directly by the entity, and to arrange for delivery of those items and services through contracts meeting the requirements of regulations.

“(2) QUALITY ASSURANCE; PATIENT SAFEGUARDS.—The PACE program agreement shall require the PACE provider to have in effect at a minimum—

“(A) a written plan of quality assurance and improvement, and procedures implementing such plan, in accordance with regulations; and

“(B) written safeguards of the rights of enrolled participants (including a patient bill of rights and procedures for grievances and appeals) in accordance with regulations and with other requirements of this title and Federal and State law that are designed for the protection of patients.

“(c) ELIGIBILITY DETERMINATIONS.—

“(1) IN GENERAL.—The determination of whether an individual is a PACE program eligible individual—

“(A) shall be made under and in accordance with the PACE program agreement; and

“(B) who is entitled to medical assistance under title XIX, shall be made (or who is not so entitled, may be made) by the State administering agency.

“(2) CONDITION.—An individual is not a PACE program eligible individual (with respect to payment under this section) unless the individual's health status has been determined by the Secretary or the State administering agency, in accordance with regulations, to be comparable to the health status of individuals who have participated in the PACE demonstration waiver programs. Such determination shall be based upon information on health status and related indicators (such as medical diagnoses and measures of activities of daily living, instrumental activities of daily living, and cognitive impairment) that are part of a uniform minimum data set collected by PACE providers on potential eligible individuals.

“(3) ANNUAL ELIGIBILITY RECERTIFICATIONS.—

“(A) IN GENERAL.—Subject to subparagraph (B), the determination described in subsection (a)(5)(B) for an individual shall be reevaluated at least annually.

“(B) EXCEPTION.—The requirement of annual reevaluation under subparagraph (A) may be waived during a period in accordance with regulations in those cases where the State administering agency determines that there is no reasonable expectation of improvement or significant change in an individual's condition during the period because of the advanced age, severity of the advanced age, severity of chronic condition, or degree of impairment of functional capacity of the individual involved.

“(4) CONTINUATION OF ELIGIBILITY.—An individual who is a PACE program eligible individual may be deemed to continue to be such an individual notwithstanding a determination that the individual no longer meets the requirement of subsection (a)(5)(B) if, in accordance with regulations, in the absence of continued coverage under a PACE program the individual reasonably would be expected to meet such requirement within the succeeding 6-month period.

"(5) ENROLLMENT; DISENROLLMENT.—The enrollment and disenrollment of PACE program eligible individuals in a PACE program shall be pursuant to regulations and the PACE program agreement and shall permit enrollees to voluntarily disenroll without cause at any time. Such regulations and agreement shall provide that the PACE program may not disenroll a PACE program eligible individual on the ground that the individual has engaged in noncompliant behavior if such behavior is related to a mental or physical condition of the individual. For purposes of the preceding sentence, the term 'noncompliant behavior' includes repeated noncompliance with medical advice and repeated failure to appear for appointments.

"(d) PAYMENTS TO PACE PROVIDERS ON A CAPITATED BASIS.—

"(1) IN GENERAL.—In the case of a PACE provider with a PACE program agreement under this section, except as provided in this subsection or by regulations, the Secretary shall make prospective monthly payments of a capitation amount for each PACE program eligible individual enrolled under the agreement under this section in the same manner and from the same sources as payments are made to an eligible organization under a risk-sharing contract under section 1876. Such payments shall be subject to adjustment in the manner described in section 1876(a)(1)(E).

"(2) CAPITATION AMOUNT.—The capitation amount to be applied under this subsection for a provider for a contract year shall be an amount specified in the PACE program agreement for the year. Such amount shall be based upon payment rates established under section 1876 for risk-sharing contracts and shall be adjusted to take into account the comparative frailty of PACE enrollees and such other factors as the Secretary determines to be appropriate. Such amount under such an agreement shall be computed in a manner so that the total payment level for all PACE program eligible individuals enrolled under a program is less than the projected payment under this title for a comparable population not enrolled under a PACE program.

"(e) PACE PROGRAM AGREEMENT.—

"(1) REQUIREMENT.—

"(A) IN GENERAL.—The Secretary, in close cooperation with the State administering agency, shall establish procedures for entering into, extending, and terminating PACE program agreements for the operation of PACE programs by entities that meet the requirements for a PACE provider under this section, section 1932, and regulations.

"(B) NUMERICAL LIMITATION.—

"(i) IN GENERAL.—The Secretary shall not permit the number of PACE providers with which agreements are in effect under this section or under section 9412(b) of the Omnibus Budget Reconciliation Act of 1986 to exceed—

"(I) 40 as of the date of the enactment of this section; or

"(II) as of each succeeding anniversary of such date, the numerical limitation under this subparagraph for the preceding year plus 20.

Subclause (II) shall apply without regard to the actual number of agreements in effect as of a previous anniversary date.

"(ii) TREATMENT OF CERTAIN PRIVATE, FOR-PROFIT PROVIDERS.—The numerical limitation in clause (i) shall not apply to a PACE provider that—

"(I) is operating under a demonstration project waiver under subsection (h); or

"(II) was operating under such a waiver and subsequently qualifies for PACE provider status pursuant to subsection (a)(3)(B)(ii).

"(2) SERVICE AREA AND ELIGIBILITY.—

"(A) IN GENERAL.—A PACE program agreement for a PACE program—

"(i) shall designate the service area of the program;

"(ii) may provide additional requirements for individuals to qualify as PACE program eligible individuals with respect to the program;

"(iii) shall be effective for a contract year, but may be extended for additional contract years in the absence of a notice by a party to terminate and is subject to termination by the Secretary and the State administering agency at any time for cause (as provided under the agreement);

"(iv) shall require a PACE provider to meet all applicable State and local laws and requirements; and

"(v) shall have such additional terms and conditions as the parties may agree to, provided that such terms and conditions are consistent with this section and regulations.

"(B) SERVICE AREA OVERLAP.—In designating a service area under a PACE program agreement under subparagraph (A)(i), the Secretary (in consultation with the State administering agency) may exclude from designation an area that is already covered under another PACE program agreement, in order to avoid unnecessary duplication of services and avoid impairing the financial and service viability of an existing program.

"(3) DATA COLLECTION; DEVELOPMENT OF OUTCOME MEASURES.—

"(A) DATA COLLECTION.—

"(i) IN GENERAL.—Under a PACE program agreement, the PACE provider shall—

"(I) collect data;

"(II) maintain, and afford the Secretary and the State administering agency access to, the records relating to the program, including pertinent financial, medical, and personnel records; and

"(III) make to the Secretary and the State administering agency reports that the Secretary finds (in consultation with State administering agencies) necessary to monitor the operation, cost, and effectiveness of the PACE program under this Act.

"(ii) REQUIREMENTS DURING TRIAL PERIOD.—During the first 3 years of operation of a PACE program (either under this section or under a PACE demonstration waiver program), the PACE provider shall provide such additional data as the Secretary specifies in regulations in order to perform the oversight required under paragraph (4)(A).

"(B) DEVELOPMENT OF OUTCOME MEASURES.—Under a PACE program agreement, the PACE provider, the Secretary, and the State administering agency shall jointly cooperate in the development and implementation of health status and quality of life outcome measures with respect to PACE program eligible individuals.

"(4) OVERSIGHT.—

"(A) ANNUAL, CLOSE OVERSIGHT DURING TRIAL PERIOD.—During the trial period (as defined in subsection (a)(9)) with respect to a PACE program operated by a PACE provider, the Secretary (in cooperation with the State administering agency) shall conduct a comprehensive annual review of the operation of the PACE program by the provider in order to assure compliance with the requirements of this section and regulations. Such a review shall include—

"(i) an on-site visit to the program site;

"(ii) comprehensive assessment of a provider's fiscal soundness;

"(iii) comprehensive assessment of the provider's capacity to provide all PACE services to all enrolled participants;

"(iv) detailed analysis of the entity's substantial compliance with all significant requirements of this section and regulations; and

"(v) any other elements the Secretary or State agency considers necessary or appropriate.

"(B) CONTINUING OVERSIGHT.—After the trial period, the Secretary (in cooperation with the State administering agency) shall continue to conduct such review of the operation of PACE providers and PACE programs as may be appropriate, taking into account the performance level of a provider and compliance of a provider with all significant requirements of this section and regulations.

"(C) DISCLOSURE.—The results of reviews under this paragraph shall be reported promptly to the PACE provider, along with any recommendations for changes to the provider's program, and shall be made available to the public upon request.

"(5) TERMINATION OF PACE PROVIDER AGREEMENTS.—

"(A) IN GENERAL.—Under regulations—

"(i) the Secretary or a State administering agency may terminate a PACE program agreement for cause; and

"(ii) a PACE provider may terminate an agreement after appropriate notice to the Secretary, the State agency, and enrollees.

"(B) CAUSES FOR TERMINATION.—In accordance with regulations establishing procedures for termination of PACE program agreements, the Secretary or a State administering agency may terminate a PACE program agreement with a PACE provider for, among other reasons, the fact that—

"(i) the Secretary or State administering agency determines that—

"(I) there are significant deficiencies in the quality of care provided to enrolled participants; or

"(II) the provider has failed to comply substantially with conditions for a program or provider under this section or section 1932; and

"(ii) the entity has failed to develop and successfully initiate, within 30 days of the receipt of written notice of such a determination, a plan to correct the deficiencies, or has failed to continue implementation of such a plan.

"(C) TERMINATION AND TRANSITION PROCEDURES.—An entity whose PACE provider agreement is terminated under this paragraph shall implement the transition procedures required under subsection (a)(2)(C).

"(6) SECRETARY'S OVERSIGHT; ENFORCEMENT AUTHORITY.—

"(A) IN GENERAL.—Under regulations, if the Secretary determines (after consultation with the State administering agency) that a PACE provider is failing substantially to comply with the requirements of this section and regulations, the Secretary (and the State administering agency) may take any or all of the following actions:

"(i) Condition the continuation of the PACE program agreement upon timely execution of a corrective action plan.

"(ii) Withhold some or all further payments under the PACE program agreement under this section or section 1932 with respect to PACE program services furnished by such provider until the deficiencies have been corrected.

"(iii) Terminate such agreement.

"(B) APPLICATION OF INTERMEDIATE SANCTIONS.—Under regulations, the Secretary may provide for the application against a PACE provider of remedies described in section 1876(i)(6)(B) or 1903(m)(5)(B) in the case of violations by the provider of the type described in section 1876(i)(6)(A) or 1903(m)(5)(A), respectively (in relation to agreements, enrollees, and requirements under this section or section 1932, respectively).

"(7) PROCEDURES FOR TERMINATION OR IMPOSITION OF SANCTIONS.—Under regulations, the provisions of section 1876(i)(9) shall apply to termination and sanctions respecting a PACE program agreement and PACE provider under this subsection in the same manner as they apply to a termination and sanctions with respect to a contract and an eligible organization under section 1876.

"(8) TIMELY CONSIDERATION OF APPLICATIONS FOR PACE PROGRAM PROVIDER STATUS.—In considering an application for PACE provider program status, the application shall be deemed approved unless the Secretary, within 90 days after the date of the submission of the application to the Secretary, either denies such request in writing or informs the applicant in writing with respect to any additional information that is needed in order to make a final determination with respect to the application. After the date the Secretary receives such additional information, the application shall be deemed approved unless the Secretary, within 90 days of such date, denies such request.

"(f) REGULATIONS.—

"(1) IN GENERAL.—The Secretary shall issue interim final or final regulations to carry out this section and section 1932.

"(2) USE OF PACE PROTOCOL.—

"(A) IN GENERAL.—In issuing such regulations, the Secretary shall, to the extent consistent with the provisions of this section, incorporate the requirements applied to PACE demonstration waiver programs under the PACE protocol.

"(B) FLEXIBILITY.—In order to provide for reasonable flexibility in adapting the PACE service delivery model to the needs of particular organizations (such as those in rural areas or those that may determine it appropriate to use nonstaff physicians according to State licensing law requirements) under this section and section 1932, the Secretary (in close consultation with State administering agencies) may modify or waive provisions of the PACE protocol so long as any such modification or waiver is not inconsistent with and would not impair the essential elements, objectives, and requirements of this section, but may not modify or waive any of the following provisions:

"(i) The focus on frail elderly qualifying individuals who require the level of care provided in a nursing facility.

"(ii) The delivery of comprehensive, integrated acute and long-term care services.

"(iii) The interdisciplinary team approach to care management and service delivery.

"(iv) Capitated, integrated financing that allows the provider to pool payments received from public and private programs and individuals.

"(v) The assumption by the provider of full financial risk.

"(3) APPLICATION OF CERTAIN ADDITIONAL BENEFICIARY AND PROGRAM PROTECTIONS.—

"(A) IN GENERAL.—In issuing such regulations and subject to subparagraph (B), the Secretary may apply with respect to PACE programs, providers, and agreements such requirements of sections 1876 and 1903(m) relating to protection of beneficiaries and program integrity as would apply to eligible organizations under risk-sharing contracts under section 1876 and to health maintenance organizations under prepaid capitation agreements under section 1903(m).

"(B) CONSIDERATIONS.—In issuing such regulations, the Secretary shall—

"(i) take into account the differences between populations served and benefits provided under this section and under sections 1876 and 1903(m);

"(ii) not include any requirement that conflicts with carrying out PACE programs under this section; and

"(iii) not include any requirement restricting the proportion of enrollees who are eligible for benefits under this title or title XIX.

"(g) WAIVERS OF REQUIREMENTS.—With respect to carrying out a PACE program under this section, the following requirements of this title (and regulations relating to such requirements) are waived and shall not apply:

"(1) Section 1812, insofar as it limits coverage of institutional services.

"(2) Sections 1813, 1814, 1833, and 1886, insofar as such sections relate to rules for payment for benefits.

"(3) Sections 1814(a)(2)(B), 1814(a)(2)(C), and 1835(a)(2)(A), insofar as they limit coverage of extended care services or home health services.

"(4) Section 1861(i), insofar as it imposes a 3-day prior hospitalization requirement for coverage of extended care services.

"(5) Paragraphs (1) and (9) of section 1862(a), insofar as they may prevent payment for PACE program services to individuals enrolled under PACE programs.

"(h) DEMONSTRATION PROJECT FOR FOR-PROFIT ENTITIES.—

"(1) IN GENERAL.—In order to demonstrate the operation of a PACE program by a private, for-profit entity, the Secretary (in close consultation with State administering agencies) shall grant waivers from the requirement under subsection (a)(3) that a PACE provider may not be a for-profit, private entity.

"(2) SIMILAR TERMS AND CONDITIONS.—

"(A) IN GENERAL.—Except as provided under subparagraph (B), and paragraph (1), the terms and conditions for operation of a PACE program by a provider under this subsection shall be the same as those for PACE providers that are nonprofit, private organizations.

"(B) NUMERICAL LIMITATION.—The number of programs for which waivers are granted under this subsection shall not exceed 10. Programs with waivers granted under this subsection shall not be counted against the numerical limitation specified in subsection (e)(1)(B).

"(i) MISCELLANEOUS PROVISIONS.—Nothing in this section or section 1932 shall be construed as preventing a PACE provider from entering into contracts with other governmental or nongovernmental payers for the care of PACE program eligible individuals who are not eligible for benefits under part A, or enrolled under part B, or eligible for medical assistance under title XIX.".

SEC. 5012. EFFECTIVE DATE; TRANSITION.

(a) TIMELY ISSUANCE OF REGULATIONS; EFFECTIVE DATE.—The Secretary of Health and Human Services shall promulgate regulations to carry out this subtitle in a timely manner. Such regulations shall be designed so that entities may establish and operate PACE programs under sections 1894 and 1932 of the Social Security Act (as added by sections 5011 and 5751 of this Act) for periods beginning not later than 1 year after the date of the enactment of this Act.

(b) EXPANSION AND TRANSITION FOR PACE DEMONSTRATION PROJECT WAIVERS.—

(1) EXPANSION IN CURRENT NUMBER OF DEMONSTRATION PROJECTS.—Section 9412(b) of the Omnibus Budget Reconciliation Act of 1986, as amended by section 4118(g) of the Omnibus Budget Reconciliation Act of 1987, is amended—

(A) in paragraph (1), by inserting before the period at the end the following: ", except that the Secretary shall grant waivers of such requirements up to the applicable numerical limitation specified in section 1894(e)(1)(B) of the Social Security Act"; and

(B) in paragraph (2)—

(i) in subparagraph (A), by striking ", including permitting the organization to assume progressively (over the initial 3-year period of the waiver) the full financial risk"; and

(ii) in subparagraph (C), by adding at the end the following: "In granting further extensions, an organization shall not be required to provide for reporting of information which is only required because of the demonstration nature of the project.".

(2) ELIMINATION OF REPLICATION REQUIREMENT.—Subparagraph (B) of paragraph (2) of such section shall not apply to waivers granted under such section after the date of the enactment of this Act.

(3) TIMELY CONSIDERATION OF APPLICATIONS.—In considering an application for waivers under such section before the effective date of repeals made under subsection (d), subject to the numerical limitation under the amendment made by paragraph (1), the application shall be deemed approved unless the Secretary of Health and Human Services, within 90 days after the date of its submission to the Secretary, either denies such request in writing or informs the applicant in writing with respect to any additional information which is needed in order to make a final determination with respect to the application. After the date the Secretary receives such additional information, the application shall be deemed approved unless the Secretary, within 90 days of such date, denies such request.

(c) PRIORITY AND SPECIAL CONSIDERATION IN APPLICATION.—During the 3-year period beginning on the date of enactment of this Act:

(1) PROVIDER STATUS.—The Secretary of Health and Human Services shall give priority, in processing applications of entities to qualify as PACE programs under section 1894 or 1932 of the Social Security Act—

(A) first, to entities that are operating a PACE demonstration waiver program (as defined in section 1894(a)(7) of such Act); and

(B) then entities that have applied to operate such a program as of May 1, 1997.

(2) NEW WAIVERS.—The Secretary shall give priority, in the awarding of additional waivers under section 9412(b) of the Omnibus Budget Reconciliation Act of 1986—

(A) to any entities that have applied for such waivers under such section as of May 1, 1997; and

(B) to any entity that, as of May 1, 1997, has formally contracted with a State to provide services for which payment is made on a capitated basis with an understanding that the entity was seeking to become a PACE provider.

(3) SPECIAL CONSIDERATION.—The Secretary shall give special consideration, in the processing of applications described in paragraph (1) and the awarding of waivers described in paragraph (2), to an entity which as of May 1, 1997 through formal activities (such as entering into contracts for feasibility studies) has indicated a specific intent to become a PACE provider.

(d) REPEAL OF CURRENT PACE DEMONSTRATION PROJECT WAIVER AUTHORITY.—

(1) IN GENERAL.—Subject to paragraph (2), the following provisions of law are repealed:

(A) Section 603(c) of the Social Security Amendments of 1983 (Public Law 98–21).

(B) Section 9220 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99–272).

(C) Section 9412(b) of the Omnibus Budget Reconciliation Act of 1986 (Public Law 99–509).

(2) DELAY IN APPLICATION.—

(A) IN GENERAL.—Subject to subparagraph (B), the repeals made by paragraph (1) shall not apply to waivers granted before the initial effective date of regulations described in subsection (a).

(B) APPLICATION TO APPROVED WAIVERS.—Such repeals shall apply to waivers granted before such date only after allowing such organizations a transition period (of up to 24 months) in order to permit sufficient time for an orderly transition from demonstration project authority to general authority provided under the amendments made by this subtitle.

SEC. 5013. STUDY AND REPORTS.

(a) STUDY.—

(1) IN GENERAL.—The Secretary of Health and Human Services (in close consultation with State administering agencies, as defined in section 1894(a)(8) of the Social Security Act) shall conduct a study of the quality and cost of providing PACE program services under the medicare and medicaid programs under the amendments made by this subtitle.

(2) STUDY OF PRIVATE, FOR-PROFIT PROVIDERS.—Such study shall specifically compare the costs, quality, and access to services by entities that are private, for-profit entities operating under demonstration projects waivers granted under section 1894(h) of the Social Security Act with the costs, quality, and access to services of other PACE providers.

(b) REPORT.—

(1) IN GENERAL.—Not later than 4 years after the date of enactment of this Act, the Secretary shall provide for a report to Congress on the impact of such amendments on quality and cost of services. The Secretary shall include in such report such recommendations for changes in the operation of such amendments as the Secretary deems appropriate.

(2) TREATMENT OF PRIVATE, FOR-PROFIT PROVIDERS.—The report shall include specific findings on whether any of the following findings is true:

(A) The number of covered lives enrolled with entities operating under demonstration project waivers under section 1894(h) of the Social Security Act is fewer than 800 (or such lesser number as the Secretary may find statistically sufficient to make determinations respecting findings described in the succeeding subparagraphs).

(B) The population enrolled with such entities is less frail than the population enrolled with other PACE providers.

(C) Access to or quality of care for individuals enrolled with such entities is lower than such access or quality for individuals enrolled with other PACE providers.

(D) The application of such section has resulted in an increase in expenditures under the medicare or medicaid programs above the expenditures that would have been made if such section did not apply.

(c) INFORMATION INCLUDED IN ANNUAL RECOMMENDATIONS.—The Physician Payment Review Commission shall include in its annual recommendations under section 1845(b) of the Social Security Act (42 U.S.C. 1395w–1), and the Prospective Payment Review Commission shall include in its annual recommendations reported under section 1886(e)(3)(A) of such Act (42 U.S.C. 1395ww(e)(3)(A)), recommendations on the methodology and level of payments made to PACE providers under section 1894(d) of such Act and on the treatment of private, for-profit entities as PACE providers. References in the preceding sentence to the Physician Payment Review Commission and the Prospective Payment Review Commission shall be deemed to be references to the Medicare Payment Advisory Commission (MedPAC) established under section 5022(a) after the termination of the Physician Payment Review Commission and the Prospective Payment Review Commission provided for in section 5022(c)(2).

Subchapter B—Social Health Maintenance Organizations

SEC. 5015. SOCIAL HEALTH MAINTENANCE ORGANIZATIONS (SHMOS).

(a) EXTENSION OF DEMONSTRATION PROJECT AUTHORITIES.—Section 4018(b) of the Omnibus Budget Reconciliation Act of 1987 is amended—

(1) in paragraph (1), by striking "1997" and inserting "2000", and

(2) in paragraph (4), by striking "1998" and inserting "2001".

(b) EXPANSION OF CAP.—Section 13567(c) of the Omnibus Budget Reconciliation Act of 1993 is amended by striking "12,000" and inserting "36,000".

(c) REPORT ON INTEGRATION AND TRANSITION.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall submit to Congress, by not later than January 1, 1999, a plan for the integration of health plans offered by social health maintenance organizations (including SHMO I and SHMO II sites developed under section 2355 of the Deficit Reduction Act of 1984 and under the amendment made by section 4207(b)(3)(B)(i) of OBRA–1990, respectively) and similar plans as an option under the Medicare Choice program under part C of title XVIII of the Social Security Act.

(2) PROVISION FOR TRANSITION.—Such plan shall include a transition for social health maintenance organizations operating under demonstration project authority under such section.

(3) PAYMENT POLICY.—The report shall also include recommendations on appropriate payment levels for plans offered by such organizations, including an analysis of the application of risk adjustment factors appropriate to the population served by such organizations.

Subchapter C—Other Programs

SEC. 5018. EXTENSION OF CERTAIN MEDICARE COMMUNITY NURSING ORGANIZATION DEMONSTRATION PROJECTS.

Notwithstanding any other provision of law, demonstration projects conducted under section 4079 of the Omnibus Budget Reconciliation Act of 1987 may be conducted for an additional period of 2 years, and the deadline for any report required relating to the results of such projects shall be not later than 6 months before the end of such additional period.

CHAPTER 3—COMMISSIONS

SEC. 5021. NATIONAL BIPARTISAN COMMISSION ON THE FUTURE OF MEDICARE.

(a) ESTABLISHMENT.—There is established a commission to be known as the National Bipartisan Commission on the Future of Medicare (in this section referred to as the "Commission").

(b) FINDINGS.—Congress finds that—

(1) the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) provides essential health care coverage to this Nation's senior citizens and to individuals with disabilities;

(2) the Federal Hospital Insurance Trust Fund established under that Act has been spending more than it receives since 1995, and will be bankrupt in the year 2001;

(3) the Federal Hospital Insurance Trust Fund faces even greater solvency problems in the long run with the aging of the baby boom generation and the continuing decline in the number of workers paying into the medicare program for each medicare beneficiary;

(4) the trustees of the trust funds of the medicare program have reported that growth in spending within the Federal Supplementary Medical Insurance Trust Fund established under that Act is unsustainable; and

(5) expeditious action is needed in order to restore the financial integrity of the medicare program and to maintain this Nation's commitment to senior citizens and to individuals with disabilities.

(c) DUTIES OF THE COMMISSION.—The Commission shall—

(1) review and analyze the long-term financial condition of the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.);

(2) identify problems that threaten the financial integrity of the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund established under that title (42 U.S.C. 1395i, 1395t);

(3) analyze potential solutions to the problems identified under paragraph (2) that will ensure both the financial integrity of the medicare program and the provision of appropriate benefits under such program, including the extent to which current medicare update indexes do not accurately reflect inflation;

(4) make recommendations to restore the solvency of the Federal Hospital Insurance Trust Fund and the financial integrity of the Federal Supplementary Medical Insurance Trust Fund through the year 2030, when the last of the baby boomers reaches age 65;

(5) make recommendations for establishing the appropriate financial structure of the medicare program as a whole;

(6) make recommendations for establishing the appropriate balance of benefits covered and beneficiary contributions to the medicare program;

(7) make recommendations for the time periods during which the recommendations described in paragraphs (4), (5), and (6) should be implemented;

(8) make recommendations regarding the financing of graduate medical education (GME), including consideration of alternative broad-based sources of funding for such education and funding for institutions not currently eligible for such GME support under the medicare program that conduct approved graduate medical residency programs, such as children's hospitals;

(9) make recommendations on the feasibility of allowing individuals between the

age of 62 and the medicare eligibility age to buy into the medicare program;

(10) make recommendations on the impact of chronic disease and disability trends on future costs and quality of services under the current benefit, financing, and delivery system structure of the medicare program; and

(11) review and analyze such other matters as the Commission deems appropriate.

(d) MEMBERSHIP.—

(1) NUMBER AND APPOINTMENT.—The Commission shall be composed of 15 members, of whom—

(A) three shall be appointed by the President;

(B) six shall be appointed by the Majority Leader of the Senate, in consultation with the Minority Leader of the Senate, of whom not more than 4 shall be of the same political party; and

(C) six shall be appointed by the Speaker of the House of Representatives, in consultation with the Minority Leader of the House of Representatives, of whom not more than 4 shall be of the same political party.

(2) COMPTROLLER GENERAL.—The Comptroller General of the United States shall advise the Commission on the methodology to be used in identifying problems and analyzing potential solutions in accordance with the duties of the Commission described in subsection (c).

(3) TERMS OF APPOINTMENT.—The members shall serve on the Commission for the life of the Commission.

(4) MEETINGS.—The Commission shall locate its headquarters in the District of Columbia, and shall meet at the call of the Chairperson.

(5) QUORUM.—Ten members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(6) CHAIRPERSON.—The Speaker of the House of Representatives, in consultation with the Majority Leader of the Senate, shall designate 1 of the members appointed under paragraph (1) as Chairperson of the Commission.

(7) VACANCIES.—A vacancy on the Commission shall be filled in the same manner in which the original appointment was made not later than 30 days after the Commission is given notice of the vacancy.

(8) COMPENSATION.—Members of the Commission shall receive no additional pay, allowances, or benefits by reason of their service on the Commission.

(9) EXPENSES.—Each member of the Commission shall receive travel expenses and per diem in lieu of subsistence in accordance with sections 5702 and 5703 of title 5, United States Code.

(e) STAFF AND SUPPORT SERVICES.—

(1) EXECUTIVE DIRECTOR.—

(A) APPOINTMENT.—The Chairperson shall appoint an executive director of the Commission.

(B) COMPENSATION.—The executive director shall be paid the rate of basic pay for level V of the Executive Schedule.

(2) STAFF.—With the approval of the Commission, the executive director may appoint such personnel as the executive director considers appropriate.

(3) APPLICABILITY OF CIVIL SERVICE LAWS.—The staff of the Commission shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title (relating to classification and General Schedule pay rates).

(4) EXPERTS AND CONSULTANTS.—With the approval of the Commission, the executive director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(5) STAFF OF FEDERAL AGENCIES.—Upon the request of the Commission, the head of any Federal agency may detail any of the personnel of such agency to the Commission to assist in carrying out the duties of the Commission.

(6) OTHER RESOURCES.—The Commission shall have reasonable access to materials, resources, statistical data, and other information from the Library of Congress and agencies and elected representatives of the executive and legislative branches of the Federal Government. The Chairperson of the Commission shall make requests for such access in writing when necessary.

(7) PHYSICAL FACILITIES.—The Administrator of the General Services Administration shall locate suitable office space for the operation of the Commission. The facilities shall serve as the headquarters of the Commission and shall include all necessary equipment and incidentals required for the proper functioning of the Commission.

(f) POWERS OF COMMISSION.—

(1) HEARINGS.—The Commission may conduct public hearings or forums at the discretion of the Commission, at any time and place the Commission is able to secure facilities and witnesses, for the purpose of carrying out the duties of the Commission.

(2) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(3) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

(g) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Commission shall submit a report to the President and Congress which shall contain a detailed statement of the recommendations, findings, and conclusions of the Commission.

(h) TERMINATION.—The Commission shall terminate on the date which is 30 days after the date the Commission submits its report to the President and to Congress under subsection (g).

(i) FUNDING.—There is authorized to be appropriated to the Commission such sums as are necessary to carry out the purposes of this section. Sums appropriated under this subsection shall be paid equally from the Federal Hospital Insurance Trust Fund and from the Federal Supplementary Medical Insurance Trust Fund under title XVIII of the Social Security Act (42 U.S.C. 1395i, 1395t).

SEC. 5022. MEDICARE PAYMENT ADVISORY COMMISSION.

(a) IN GENERAL.—Title XVIII is amended by inserting after section 1804 the following new section:

"MEDICARE PAYMENT ADVISORY COMMISSION

"SEC. 1805. (a) ESTABLISHMENT.—There is hereby established the Medicare Payment Advisory Commission (in this section referred to as the 'Commission').

"(b) DUTIES.—

"(1) REVIEW OF PAYMENT POLICIES AND ANNUAL REPORTS.—The Commission shall—

"(A) review payment policies under this title, including the topics described in paragraph (2);

"(B) make recommendations to Congress concerning such payment policies;

"(C) by not later than March 1 of each year (beginning with 1998), submit a report to Congress containing the results of such reviews and its recommendations concerning such policies; and

"(D) by not later than June 1 of each year (beginning with 1998), submit a report to Congress containing an examination of issues affecting the medicare program, including the implications of changes in health care delivery in the United States and in the market for health care services on the medicare program.

"(2) SPECIFIC TOPICS TO BE REVIEWED.—

"(A) MEDICARE CHOICE PROGRAM.—Specifically, the Commission shall review, with respect to the Medicare Choice program under part C, the following:

"(i) The methodology for making payment to plans under such program, including the making of differential payments and the distribution of differential updates among different payment areas.

"(ii) The mechanisms used to adjust payments for risk and the need to adjust such mechanisms to take into account health status of beneficiaries.

"(iii) The implications of risk selection both among Medicare Choice organizations and between the Medicare Choice option and the traditional medicare fee-for-service option.

"(iv) The development and implementation of mechanisms to assure the quality of care for those enrolled with Medicare Choice organizations.

"(v) The impact of the Medicare Choice program on access to care for medicare beneficiaries.

"(vi) Other major issues in implementation and further development of the Medicare Choice program.

"(B) TRADITIONAL MEDICARE FEE-FOR-SERVICE SYSTEM.—Specifically, the Commission shall review payment policies under parts A and B, including—

"(i) the factors affecting expenditures for services in different sectors, including the process for updating hospital, skilled nursing facility, physician, and other fees,

"(ii) payment methodologies, and

"(iii) their relationship to access and quality of care for medicare beneficiaries.

"(C) INTERACTION OF MEDICARE PAYMENT POLICIES WITH HEALTH CARE DELIVERY GENERALLY.—Specifically, the Commission shall review the effect of payment policies under this title on the delivery of health care services other than under this title and assess the implications of changes in health care delivery in the United States and in the general market for health care services on the medicare program.

"(3) COMMENTS ON CERTAIN SECRETARIAL REPORTS.—If the Secretary submits to Congress (or a committee of Congress) a report that is required by law and that relates to payment policies under this title, the Secretary shall transmit a copy of the report to the Commission. The Commission shall review the report and, not later than 6 months after the date of submittal of the Secretary's report to Congress, shall submit to the appropriate committees of Congress written comments on such report. Such comments may include such recommendations as the Commission deems appropriate.

"(4) AGENDA AND ADDITIONAL REVIEWS.—The Commission shall consult periodically with the chairmen and ranking minority members of the appropriate committees of Congress regarding the Commission's agenda and progress towards achieving the agenda. The Commission may conduct additional reviews, and submit additional reports to the appropriate committees of Congress, from time to time on such topics relating to the program under this title as may be requested by such chairmen and members and as the Commission deems appropriate.

"(5) AVAILABILITY OF REPORTS.—The Commission shall transmit to the Secretary a copy of each report submitted under this subsection and shall make such reports available to the public.

"(6) Appropriate committees of congress.—For purposes of this section, the term 'appropriate committees of Congress' means the Committees on Ways and Means and Commerce of the House of Representatives and the Committee on Finance of the Senate.

"(c) Membership.—

"(1) Number and appointment.—The Commission shall be composed of 15 members appointed by the Comptroller General.

"(2) Qualifications.—

"(A) In general.—The membership of the Commission shall include individuals with national recognition for their expertise in health finance and economics, actuarial science, health facility management, health plans and integrated delivery systems, reimbursement of health facilities, allopathic and osteopathic physicians, and other providers of health services, and other related fields, who provide a mix of different professionals, broad geographic representation, and a balance between urban and rural representatives.

"(B) Inclusion.—The membership of the Commission shall include (but not be limited to) physicians and other health professionals, employers, third-party payers, individuals skilled in the conduct and interpretation of biomedical, health services, and health economics research and expertise in outcomes and effectiveness research and technology assessment. Such membership shall also include representatives of consumers and the elderly.

"(C) Majority nonproviders.—Individuals who are directly involved in the provision, or management of the delivery, of items and services covered under this title shall not constitute a majority of the membership of the Commission.

"(D) Ethical disclosure.—The Comptroller General shall establish a system for public disclosure by members of the Commission of financial and other potential conflicts of interest relating to such members.

"(3) Terms.—

"(A) In general.—The terms of members of the Commission shall be for 3 years except that the Comptroller General shall designate staggered terms for the members first appointed.

"(B) Vacancies.—Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has taken office. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

"(4) Compensation.—While serving on the business of the Commission (including traveltime), a member of the Commission shall be entitled to compensation at the per diem equivalent of the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code; and while so serving away from home and the member's regular place of business, a member may be allowed travel expenses, as authorized by the Chairman of the Commission. Physicians serving as personnel of the Commission may be provided a physician comparability allowance by the Commission in the same manner as Government physicians may be provided such an allowance by an agency under section 5948 of title 5, United States Code, and for such purpose subsection (i) of such section shall apply to the Commission in the same manner as it applies to the Tennessee Valley Authority. For purposes of pay (other than pay of members of the Commission) and employment benefits, rights, and privileges, all personnel of the Commission shall be treated as if they were employees of the United States Senate.

"(5) Chairman; vice chairman.—The Comptroller General shall designate a member of the Commission, at the time of appointment of the member, as Chairman and a member as Vice Chairman for that term of appointment.

"(6) Meetings.—The Commission shall meet at the call of the Chairman.

"(d) Director and Staff; Experts and Consultants.—Subject to such review as the Comptroller General deems necessary to assure the efficient administration of the Commission, the Commission may—

"(1) employ and fix the compensation of an Executive Director (subject to the approval of the Comptroller General) and such other personnel as may be necessary to carry out its duties (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service);

"(2) seek such assistance and support as may be required in the performance of its duties from appropriate Federal departments and agencies;

"(3) enter into contracts or make other arrangements, as may be necessary for the conduct of the work of the Commission (without regard to section 3709 of the Revised Statutes (41 U.S.C. 5));

"(4) make advance, progress, and other payments which relate to the work of the Commission;

"(5) provide transportation and subsistence for persons serving without compensation; and

"(6) prescribe such rules and regulations as it deems necessary with respect to the internal organization and operation of the Commission.

"(e) Powers.—

"(1) Obtaining official data.—The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this section. Upon request of the Chairman, the head of that department or agency shall furnish that information to the Commission on an agreed upon schedule.

"(2) Data collection.—In order to carry out its functions, the Commission shall—

"(A) utilize existing information, both published and unpublished, where possible, collected and assessed either by its own staff or under other arrangements made in accordance with this section,

"(B) carry out, or award grants or contracts for, original research and experimentation, where existing information is inadequate, and

"(C) adopt procedures allowing any interested party to submit information for the Commission's use in making reports and recommendations.

"(3) Access of GAO to information.—The Comptroller General shall have unrestricted access to all deliberations, records, and nonproprietary data of the Commission, immediately upon request.

"(4) Periodic audit.—The Commission shall be subject to periodic audit by the Comptroller General.

"(f) Authorization of Appropriations.—

"(1) Request for appropriations.—The Commission shall submit requests for appropriations in the same manner as the Comptroller General submits requests for appropriations, but amounts appropriated for the Commission shall be separate from amounts appropriated for the Comptroller General.

"(2) Authorization.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section. Sixty percent of such appropriation shall be payable from the Federal Hospital Insurance Trust Fund, and 40 percent of such appropriation shall be payable from the Federal Supplementary Medical Insurance Trust Fund.".

(b) Abolition of ProPAC and PPRC.—

(1) ProPAC.—

(A) In general.—Section 1886(e) (42 U.S.C. 1395ww(e)) is amended—

(i) by striking paragraphs (2) and (6); and

(ii) in paragraph (3), by striking "(A) The Commission" and all that follows through "(B)".

(B) Conforming amendment.—Section 1862 (42 U.S.C. 1395y) is amended by striking "Prospective Payment Assessment Commission" each place it appears in subsection (a)(1)(D) and subsection (i) and inserting "Medicare Payment Advisory Commission".

(2) PPRC.—

(A) In general.—Title XVIII is amended by striking section 1845 (42 U.S.C. 1395w–1).

(B) Elimination of certain reports.—Section 1848 (42 U.S.C. 1395w–4) is amended—

(i) by striking subparagraph (F) of subsection (d)(2),

(ii) by striking subparagraph (B) of subsection (f)(1), and

(iii) in subsection (f)(3), by striking "Physician Payment Review Commission,".

(C) Conforming amendments.—Section 1848 (42 U.S.C. 1395w–4) is amended by striking "Physician Payment Review Commission" and inserting "Medicare Payment Advisory Commission" each place it appears in subsections (c)(2)(B)(iii), (g)(6)(C), and (g)(7)(C).

(c) Effective Date; Transition.—

(1) In general.—The Comptroller General shall first provide for appointment of members to the Medicare Payment Advisory Commission (in this subsection referred to as "MedPAC") by not later than September 30, 1997.

(2) Transition.—As quickly as possible after the date a majority of members of MedPAC are first appointed, the Comptroller General, in consultation with the Prospective Payment Assessment Commission (in this subsection referred to as "ProPAC") and the Physician Payment Review Commission (in this subsection referred to as "PPRC"), shall provide for the termination of the ProPAC and the PPRC. As of the date of termination of the respective Commissions, the amendments made by paragraphs (1) and (2), respectively, of subsection (b) become effective. The Comptroller General, to the extent feasible, shall provide for the transfer to the MedPAC of assets and staff of the ProPAC and the PPRC, without any loss of benefits or seniority by virtue of such transfers. Fund balances available to the ProPAC or the PPRC for any period shall be available to the MedPAC for such period for like purposes.

(3) Continuing responsibility for reports.—The MedPAC shall be responsible for the preparation and submission of reports required by law to be submitted (and which have not been submitted by the date of establishment of the MedPAC) by the ProPAC and the PPRC, and, for this purpose, any reference in law to either such Commission is deemed, after the appointment of the MedPAC, to refer to the MedPAC.

CHAPTER 4—MEDIGAP PROTECTIONS

SEC. 5031. MEDIGAP PROTECTIONS.

(a) Guaranteeing Issue Without Pre-existing Conditions for Continuously Covered Individuals.—Section 1882(s) (42 U.S.C. 1395ss(s)) is amended—

(1) in paragraph (3), by striking “paragraphs (1) and (2)” and inserting “this subsection”,

(2) by redesignating paragraph (3) as paragraph (4), and

(3) by inserting after paragraph (2) the following new paragraph:

“(3)(A) The issuer of a medicare supplemental policy—

“(i) may not deny or condition the issuance or effectiveness of a medicare supplemental policy described in subparagraph (C) that is offered and is available for issuance to new enrollees by such issuer;

“(ii) may not discriminate in the pricing of such policy, because of health status, claims experience, receipt of health care, or medical condition; and

“(iii) may not impose an exclusion of benefits based on a pre-existing condition under such policy,

in the case of an individual described in subparagraph (B) who seeks to enroll under the policy not later than 63 days after the date of the termination of enrollment described in such subparagraph and who submits evidence of the date of termination or disenrollment along with the application for such medicare supplemental policy.

“(B) An individual described in this subparagraph is an individual described in any of the following clauses:

“(i) The individual is enrolled under an employee welfare benefit plan that provides health benefits that supplement the benefits under this title and the plan terminates or ceases to provide all such supplemental health benefits to the individual.

“(ii) The individual is enrolled with a Medicare Choice organization under a Medicare Choice plan under part C, and there are circumstances permitting discontinuance of the individual's election of the plan under section 1851(e)(4).

“(iii) The individual is enrolled with an eligible organization under a contract under section 1876, a similar organization operating under demonstration project authority, with an organization under an agreement under section 1833(a)(1)(A), or with an organization under a policy described in subsection (t), and such enrollment ceases under the same circumstances that would permit discontinuance of an individual's election of coverage under section 1851(c)(4) and, in the case of a policy described in subsection (t), there is no provision under applicable State law for the continuation of coverage under such policy.

“(iv) The individual is enrolled under a medicare supplemental policy under this section and such enrollment ceases because—

“(I) of the bankruptcy or insolvency of the issuer or because of other involuntary termination of coverage or enrollment under such policy and there is no provision under applicable State law for the continuation of such coverage;

“(II) the issuer of the policy substantially violated a material provision of the policy; or

“(III) the issuer (or an agent or other entity acting on the issuer's behalf) materially misrepresented the policy's provisions in marketing the policy to the individual.

“(v) The individual—

“(I) was enrolled under a medicare supplemental policy under this section,

“(II) subsequently terminates such enrollment and enrolls, for the first time, with any Medicare Choice organization under a Medicare Choice plan under part C, any eligible organization under a contract under section 1876, any similar organization operating under demonstration project authority, any organization under an agreement under section 1833(a)(1)(A), or any policy described in subsection (t), and

“(III) the subsequent enrollment under subclause (II) is terminated by the enrollee during the first 12 months of such enrollment.

“(vi) The individual, upon first becoming eligible for medicare at age 65, enrolls in a Medicare Choice plan and within 12 months of such enrollment, disenrolls from such plan.

“(C)(i) Subject to clauses (ii), a medicare supplemental policy described in this subparagraph is a policy the benefits under which are comparable or lessor in relation to the benefits under the plan, policy, or contract described in the applicable clause of subparagraph (B).

“(ii) Only for purposes of an individual described in subparagraph (B)(vi), a medicare supplemental policy described in this subparagraph shall include any medicare supplemental policy.

“(D) At the time of an event described in subparagraph (B) because of which an individual ceases enrollment or loses coverage or benefits under a contract or agreement, policy, or plan, the organization that offers the contract or agreement, the insurer offering the policy, or the administrator of the plan, respectively, shall notify the individual of the rights of the individual, and obligations of issuers of medicare supplemental policies, under subparagraph (A).”.

(b) Limitation on Imposition of Pre-existing Condition Exclusion During Initial Open Enrollment Period.—Section 1882(s)(2) (42 U.S.C. 1395ss(s)(2)) is amended—

(1) in subparagraph (B), by striking “subparagraph (C)” and inserting “subparagraphs (C) and (D)”, and

(2) by adding at the end the following new subparagraph:

“(D) In the case of a policy issued during the 6-month period described in subparagraph (A) to an individual who is 65 years of age or older as of the date of issuance and who as of the date of the application for enrollment has a continuous period of creditable coverage (as defined in section 2701(c) of the Public Health Service Act) of—

“(i) at least 6 months, the policy may not exclude benefits based on a pre-existing condition; or

“(ii) less than 6 months, if the policy excludes benefits based on a preexisting condition, the policy shall reduce the period of any preexisting condition exclusion by the aggregate of the periods of creditable coverage (if any, as so defined) applicable to the individual as of the enrollment date.

The Secretary shall specify the manner of the reduction under clause (ii), based upon the rules used by the Secretary in carrying out section 2701(a)(3) of such Act.”.

(c) Extending 6-Month Initial Enrollment Period to Non-Elderly Medicare Beneficiaries.—Section 1882(s)(2)(A)(ii) of (42 U.S.C. 1395ss(s)(2)(A)) is amended by striking “is submitted” and all that follows and inserting the following: “is submitted—

“(I) before the end of the 6-month period beginning with the first month as of the first day on which the individual is 65 years of age or older and is enrolled for benefits under part B; and

“(II) at the time the individual first becomes eligible for benefits under part A pursuant to section 226(b) and is enrolled for benefits under part B, before the end of the 6-month period beginning with the first month as of the first day on which the individual is so eligible and so enrolled.”.

(d) Effective Dates.—

(1) Guaranteed issue.—The amendment made by subsection (a) shall take effect on July 1, 1998.

(2) Limit on preexisting condition exclusions.—The amendment made by subsection (b) shall apply to policies issued on or after July 1, 1998.

(3) Non-elderly medicare beneficiaries.—The amendment made by subsection (c) shall apply to policies issued on or after July 1, 1998.

(e) Transition Provisions.—

(1) In general.—If the Secretary of Health and Human Services identifies a State as requiring a change to its statutes or regulations to conform its regulatory program to the changes made by this section, the State regulatory program shall not be considered to be out of compliance with the requirements of section 1882 of the Social Security Act due solely to failure to make such change until the date specified in paragraph (4).

(2) NAIC standards.—If, within 9 months after the date of the enactment of this Act, the National Association of Insurance Commissioners (in this subsection referred to as the “NAIC”) modifies its NAIC Model regulation relating to section 1882 of the Social Security Act (referred to in such section as the 1991 NAIC Model Regulation, as modified pursuant to section 171(m)(2) of the Social Security Act Amendments of 1994 (Public Law 103–432) and as modified pursuant to section 1882(d)(3)(A)(vi)(IV) of the Social Security Act, as added by section 271(a) of the Health Insurance Portability and Accountability Act of 1996 (Public Law 104–191) to conform to the amendments made by this section, such revised regulation incorporating the modifications shall be considered to be the applicable NAIC model regulation (including the revised NAIC model regulation and the 1991 NAIC Model Regulation) for the purposes of such section.

(3) Secretary standards.—If the NAIC does not make the modifications described in paragraph (2) within the period specified in such paragraph, the Secretary of Health and Human Services shall make the modifications described in such paragraph and such revised regulation incorporating the modifications shall be considered to be the appropriate Regulation for the purposes of such section.

(4) Date specified.—

(A) In general.—Subject to subparagraph (B), the date specified in this paragraph for a State is the earlier of—

(i) the date the State changes its statutes or regulations to conform its regulatory program to the changes made by this section, or

(ii) 1 year after the date the NAIC or the Secretary first makes the modifications under paragraph (2) or (3), respectively.

(B) Additional legislative action required.—In the case of a State which the Secretary identifies as—

(i) requiring State legislation (other than legislation appropriating funds) to conform its regulatory program to the changes made in this section, but

(ii) having a legislature which is not scheduled to meet in 1999 in a legislative session in which such legislation may be considered,

the date specified in this paragraph is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after July 1, 1999. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 5032. ADDITION OF HIGH DEDUCTIBLE MEDIGAP POLICY.

(a) IN GENERAL.—Section 1882(p) (42 U.S.C. 1395ss(p)) is amended by adding at the end the following:

"(11)(A) On and after the date specified in subparagraph (C)—

"(i) each State with an approved regulatory program, and

"(ii) in the case of a State without an approved regulatory program, the Secretary,

shall, in addition to the 10 policies allowed under paragraph (2)(C), allow at least 1 other policy described in subparagraph (B).

"(B)(i) A policy is described in this subparagraph if it consists of—

"(I) one of the 10 benefit packages described in paragraph (2)(C), and

"(II) a high deductible feature.

"(ii) For purposes of clause (i), a high deductible feature is one which requires the beneficiary of the policy to pay annual out-of-pocket expenses (other than premiums) of $1,500 before the policy begins payment of benefits.

"(C)(i) Subject to clause (ii), the date described in this subparagraph is one year after the date of the enactment of this paragraph.

"(ii) In the case of a State which the Secretary identifies as—

"(I) requiring State legislation (other than legislation appropriating funds) in order to meet the requirements of this paragraph, but

"(II) having a legislature which is not scheduled to meet in 1997 in a legislative session in which such legislation may be considered,

the date specified in this subparagraph is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after January 1, 1998. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.".

(b) CONFORMING AMENDMENT.—Section 1882(p)(2)(C) (42 U.S.C. 1395ss(p)(2)(C)) is amended by inserting "or (11)" after "paragraph (4)(B)".

CHAPTER 5—DEMONSTRATIONS

Subchapter A—Medicare Choice Competitive Pricing Demonstration Project

SEC. 5041. MEDICARE CHOICE COMPETITIVE PRICING DEMONSTRATION PROJECT.

(a) ESTABLISHMENT.—The Secretary of Health and Human Services (in this subchapter referred to as the "Secretary") shall, beginning January 1, 1999, conduct demonstration projects in applicable areas (in this section referred to as the "project") for the purpose of—

(1) applying a pricing methodology for payments to Medicare Choice organizations under part C of title XVIII of the Social Security Act (as amended by section 5001 of this Act) that uses the competitive market approach described in section 5042;

(2) applying a benefit structure and beneficiary premium structure described in section 5043; and

(3) evaluating the effects of the methodology and structures described in the preceding paragraphs on medicare fee-for-service spending under parts A and B of the Social Security Act in the project area.

(b) APPLICABLE AREA DEFINED.—

(1) IN GENERAL.—In subsection (a), the term "applicable area" means, as determined by the Secretary—

(A) 10 urban areas with respect to which less than 25 percent of medicare beneficiaries are enrolled with an eligible organization under section 1876 of the Social Security Act (42 U.S.C. 1395mm); and

(B) 3 rural areas not described in paragraph (1).

(2) TREATMENT AS MEDICARE CHOICE PAYMENT AREA.—For purposes of this subchapter and part C of title XVIII of the Social Security Act, any applicable area shall be treated as a Medicare Choice payment area (hereinafter referred to as the "applicable Medicare Choice payment area").

(c) TECHNICAL ADVISORY GROUP.—Upon the selection of an area for inclusion in the project, the Secretary shall appoint a technical advisory group, composed of representatives of Medicare Choice organizations, medicare beneficiaries, employers, and other persons in the area affected by the project who have technical expertise relative to the design and implementation of the project to advise the Secretary concerning how the project will be implemented in the area.

(d) EVALUATION.—

(1) IN GENERAL.—Not later than December 31, 2001, the Secretary shall submit to the President a report regarding the demonstration projects conducted under this section.

(2) CONTENTS OF REPORT.—The report described in paragraph (1) shall include the following:

(A) A description of the demonstration projects conducted under this section.

(B) An evaluation of the effectiveness of the demonstration projects conducted under this section and any legislative recommendations determined appropriate by the Secretary.

(C) Any other information regarding the demonstration projects conducted under this section that the Secretary determines to be appropriate.

(D) An evaluation as to whether the method of payment under section 5042 which was used in the demonstration projects for payment to Medicare Choice plans should be extended to the entire medicare population and if such evaluation determines that such method should not be extended, legislative recommendations to modify such method so that it may be applied to the entire medicare population.

(3) SUBMISSION TO CONGRESS.—The President shall submit the report under paragraph (2) to the Congress and if the President determines appropriate, any legislative recommendations for extending the project to the entire medicare population.

(e) WAIVER AUTHORITY.—The Secretary shall waive compliance with the requirements of titles XI, XVIII, and XIX of the Social Security Act (42 U.S.C. 1301 et seq., 1395 et seq., 1396 et seq.) to such extent and for such period as the Secretary determines is necessary to conduct demonstration projects.

SEC. 5042. DETERMINATION OF ANNUAL MEDICARE CHOICE CAPITATION RATES.

(a) IN GENERAL.—In the case of an applicable Medicare Choice payment area within which a project is being conducted under section 5041, the annual Medicare Choice capitation rate under part C of title XVIII of the Social Security Act for Medicare Choice plans within such area shall be the standardized payment amount determined under this section rather than the amount determined under section 1853 of such Act.

(b) DETERMINATION OF STANDARDIZED PAYMENT AMOUNT.—

(1) SUBMISSION AND CHARGING OF PREMIUMS.—

(A) IN GENERAL.—Not later than June 1 of each calendar year, each Medicare Choice organization offering one or more Medicare Choice plans in an applicable Medicare Choice payment area shall file with the Secretary, in a form and manner and at a time specified by the Secretary, a bid which contains the amount of the monthly premium for coverage under each such Medicare Choice plan.

(B) UNIFORM PREMIUM.—The premiums charged by a Medicare Choice plan sponsor under this part may not vary among individuals who reside in the same applicable Medicare Choice payment area.

(C) TERMS AND CONDITIONS OF IMPOSING PREMIUMS.—Each Medicare Choice organization shall permit the payment of premiums on a monthly basis.

(2) ANNOUNCEMENT OF STANDARDIZED PAYMENT AMOUNT.—

(A) AUTHORITY TO NEGOTIATE.—After bids are submitted under paragraph (1), the Secretary may negotiate with Medicare Choice organizations in order to modify such bids if the Secretary determined that the bids do not provide enough revenues to ensure the plan's actuarial soundness, are too high relative to the applicable Medicare Choice payment area, foster adverse selection, or otherwise require renegotiation under this paragraph.

(B) IN GENERAL.—Not later than July 31 of each calendar year (beginning with 1998), the Secretary shall determine, and announce in a manner intended to provide notice to interested parties, a standardized payment amount determined in accordance with this paragraph for the following calendar year for each applicable Medicare Choice payment area.

(3) CALCULATION OF PAYMENT AMOUNTS.—

(A) IN GENERAL.—The standardized payment amount for a calendar year after 1998 for any applicable Medicare Choice payment area shall be equal to the maximum premium determined for such area under subparagraph (B).

(B) MAXIMUM PREMIUM.—The maximum premium for any applicable Medicare Choice payment area shall be equal to the amount determined under subparagraph (C) for the payment area, but in no case shall such amount be greater than the sum of—

(i) the average per capita amount, as determined by the Secretary as appropriate for the population eligible to enroll in Medicare Choice plans in such payment area, for such calendar year that the Secretary would have expended for an individual in such payment area enrolled under the medicare fee-for-service program under parts A and B, plus

(ii) the amount equal to the actuarial value of deductibles, coinsurance, and copayments charged an individual for services provided under the medicare fee-for-service program (as determined by the Secretary).

(C) DETERMINATION OF AMOUNT.—

(i) IN GENERAL.—The Secretary shall determine for each applicable Medicare Choice payment area for each calendar year an amount equal to the average of the bids (weighted based on capacity) submitted to the Secretary under paragraph (1)(A) for that payment area.

(ii) DISREGARD CERTAIN PLANS.—In determining the amount under clause (i), the Secretary may disregard any plan that the Secretary determines would unreasonably distort the amount determined under such subparagraph.

(4) ADJUSTMENTS FOR PAYMENTS TO PLAN SPONSORS.—

(A) IN GENERAL.—For purposes of determining the amount of payment under part C of title XVIII of the Social Security Act to a Medicare Choice organization with respect to any Medicare Choice eligible individual enrolled in a Medicare Choice plan of the sponsor, the standardized payment amount for the applicable Medicare Choice payment area and the premium charged by the plan sponsor shall be adjusted with respect to such individual for such risk factors as age, disability status, gender, institutional status, health status, and such other factors as the Secretary determines to be appropriate, so as to ensure actuarial equivalence. The Secretary may add to, modify, or substitute for such classes, if such changes will improve the determination of actuarial equivalence.

(B) RECOMMENDATIONS.—

(i) IN GENERAL.—In addition to any other duties required by law, the Physician Payment Review Commission and the Prospective Payment Assessment Commission (or their successors) shall each develop recommendations on—

(I) the risk factors that the Secretary should use in adjusting the standardized payment amount and premium under subparagraph (A), and

(II) the methodology that the Secretary should use in determining the risk factors to be used in adjusting the standardized payment amount and premium under subparagraph (A).

(ii) TIME.—The recommendations described in clause (i) shall be developed not later than January 1, 1999.

(iii) ANNUAL REPORT.—The Physician Payment Review Commission and the Prospective Payment Assessment Commission (or their successors) shall include the recommendations described in clause (i) in their respective annual reports to Congress.

(c) PAYMENTS TO PLAN SPONSORS.—

(1) MONTHLY PAYMENTS.—

(A) IN GENERAL.—Subject to paragraph (4), for each individual enrolled with a plan under this subchapter, the Secretary shall make monthly payments in advance to the Medicare Choice organization of the Medicare Choice plan with which the individual is enrolled in an amount equal to 1/12 of the amount determined under paragraph (2).

(B) RETROACTIVE ADJUSTMENTS.—The amount of payment under this paragraph may be retroactively adjusted to take into account any difference between the actual number of individuals enrolled in the plan under this section and the number of such individuals estimated to be so enrolled in determining the amount of the advance payment.

(2) AMOUNT OF PAYMENT TO MEDICARE CHOICE PLANS.—The amount determined under this paragraph with respect to any individual shall be equal to the sum of—

(A) the lesser of—

(i) the standardized payment amount for the applicable Medicare Choice payment area, as adjusted for such individual under subsection (a)(4), or

(ii) the premium charged by the plan for such individual, as adjusted for such individual under section (a)(4), minus

(B) the amount such individual paid to the plan pursuant to section 5043 (relating to 10 percent of the premium).

(3) PAYMENTS FROM TRUST FUNDS.—The payment to a Medicare Choice organization or to a Medicare Choice account under this section for a medicare-eligible individual shall be made from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund in such proportion as the Secretary determines reflects the relative weight that benefits under parts A and B are representative of the actuarial value of the total benefits under this part.

(4) LIMITATION ON AMOUNTS AN OUT-OF-PLAN PHYSICIAN OR OTHER ENTITY MAY COLLECT.—A physician or other entity (other than a provider of services) that does not have a contract establishing payment amounts for services furnished to an individual enrolled under this subchapter with a Medicare Choice organization shall accept as payment in full for services that are furnished to such an individual the amounts that the physician or other entity could collect if the individual were not so enrolled. Any penalty or other provision of law that applies to such a payment with respect to an individual entitled to benefits under this title (but not enrolled with a Medicare Choice organization under this part) also applies with respect to an individual so enrolled.

(d) OFFICE OF COMPETITION.—

(1) ESTABLISHMENT.—There is established within the Department of Health and Human Services an office to be known as the 'Office of Competition'.

(2) DIRECTOR.—The Secretary shall appoint the Director of the Office of Competition.

(3) DUTIES.—

(A) IN GENERAL.—The Director shall administer this subchapter and so much of part C of title XVIII of the Social Security Act as relates to this subchapter.

(B) TRANSFER AUTHORITY.—The Secretary shall transfer such personnel, administrative support systems, assets, records, funds, and other resources in the Health Care Financing Administration to the Office of Competition as are used in the administration of section 1876 and as may be required to implement the provisions of this part promptly and efficiently.

(4) USE OF NON-FEDERAL ENTITIES.—The Secretary shall, to the maximum extent feasible, enter into contracts with appropriate non-Federal entities to carry out activities under this subchapter.

SEC. 5043. BENEFITS AND BENEFICIARY PREMIUMS.

(a) BENEFITS PROVIDED TO INDIVIDUALS.—

(1) BASIC BENEFIT PLAN.—Each Medicare Choice plan in an applicable Medicare Choice payment area shall provide to members enrolled under this subchapter, through providers and other persons that meet the applicable requirements of title XVIII of the Social Security Act and part A of title XI of such Act—

(A) those items and services covered under parts A and B of title XVIII of such Act which are available to individuals residing in such area, subject to nominal copayments as determined by the Secretary,

(B) prescription drugs, subject to such limits as established by the Secretary, and

(C) additional health services as the Secretary may approve.

(2) SUPPLEMENTAL BENEFITS.—

(A) IN GENERAL.—Each Medicare Choice plan may offer any of the optional supplemental benefit plans described in subparagraph (B) to an individual enrolled in the basic benefit plan offered by such organization under this subchapter for an additional premium amount. If the supplemental benefits are offered only to individuals enrolled in the sponsor's plan under this subchapter, the additional premium amount shall be the same for all enrolled individuals in the applicable Medicare Choice payment area. Such benefits may be marketed and sold by the Medicare Choice organization outside of the enrollment process described in part C of title XVIII of the Social Security Act.

(B) OPTIONAL SUPPLEMENTAL BENEFIT PLANS DESCRIBED.—The Secretary shall provide for 2 optional supplemental benefit plans. Such plans shall include such standardized items and services that the Secretary determines must be provided to enrollees of such plans described in order to offer the plans to Medicare Choice eligible individuals.

(C) LIMITATION.—A Medicare Choice organization may not offer an optional benefit plan to a Medicare Choice eligible individual unless such individual is enrolled in a basic benefit plan offered by such organization.

(D) LIMITATION ON PREMIUM.—If a Medicare Choice organization provides to individuals enrolled in a Medicare Choice plan supplemental benefits described in subparagraph (A), the sum of—

(i) the annual premiums for such benefits, plus

(ii) the actuarial value of any deductibles, coinsurance, and copayments charged with respect to such benefits for the year,

shall not exceed the amount that would have been charged for a plan in the applicable Medicare Choice payment area which is not a Medicare Choice plan (adjusted in such manner as the Secretary may prescribe to reflect that only medicare beneficiaries are enrolled in such plan). The Secretary shall negotiate the limitation under this subparagraph with each plan to which this paragraph applies.

(3) OTHER RULES.—Rules similar to rules of paragraphs (3) and (4) of section 1852 of the Social Security Act (relating to national coverage determinations and secondary payor provisions) shall apply for purposes of this subchapter.

(b) PREMIUM REQUIREMENTS FOR BENEFICIARIES.—

(1) PREMIUM DIFFERENTIALS.—If a Medicare Choice eligible individual enrolls in a Medicare Choice plan under this subchapter, the individual shall be required to pay—

(A) 10 percent of the plan's premium;

(B) if the premium of the plan is higher than the standardized payment amount (as determined under section 5042), 100 percent of such difference; and

(C) an amount equal to cost-sharing under the medicare fee-for-service program, except that such amount shall not exceed the actuarial value of the deductibles and coinsurance under such program less the actual value of nominal copayments for benefits under such plan for basic benefits described in subsection (a)(1).

(2) PART B PREMIUM.—An individual enrolled in a Medicare Choice plan under this subchapter shall not be required to pay the premium amount (determined under section 1839 of the Social Security Act) under part B of title XVIII of such Act for so long as such individual is so enrolled.

Subchapter B—Other Projects

SEC. 5045. MEDICARE ENROLLMENT DEMONSTRATION PROJECT.

(a) DEMONSTRATION PROJECT.—

(1) ESTABLISHMENT.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall implement a demonstration project (in this section referred to as the "project") for the purpose of evaluating the use of a third-party contractor to conduct the Medicare Choice plan enrollment and disenrollment functions, as described in part C of the Social Security Act (as added by section 5001 of this Act), in an area.

(2) CONSULTATION.—Before implementing the project under this section, the Secretary shall consult with affected parties on—

(A) the design of the project;

(B) the selection criteria for the third-party contractor; and

(C) the establishment of performance standards, as described in paragraph (3).

(3) PERFORMANCE STANDARDS.—

(A) IN GENERAL.—The Secretary shall establish performance standards for the accuracy and timeliness of the Medicare Choice plan enrollment and disenrollment functions performed by the third-party contractor.

(B) NONCOMPLIANCE.—If the Secretary determines that a third-party contractor is out of compliance with the performance standards established under subparagraph (A), such enrollment and disenrollment functions shall be performed by the Medicare Choice plan until the Secretary appoints a new third-party contractor.

(C) DISPUTE.—In the event that there is a dispute between the Secretary and a Medicare Choice plan regarding whether or not the third-party contractor is in compliance with the performance standards, such enrollment and disenrollment functions shall be performed by the Medicare Choice plan.

(b) REPORT TO CONGRESS.—The Secretary shall periodically report to Congress on the progress of the project conducted pursuant to this section.

(c) WAIVER AUTHORITY.—The Secretary shall waive compliance with the requirements of part C of the Social Security Act (as amended by section 5001 of this Act) to such extent and for such period as the Secretary determines is necessary to conduct the project.

(d) DURATION.—A demonstration project under this section shall be conducted for a 3-year period.

(e) SEPARATE FROM OTHER DEMONSTRATION PROJECTS.—A project implemented by the Secretary under this section shall not be conducted in conjunction with any other demonstration project.

SEC. 5046. MEDICARE COORDINATED CARE DEMONSTRATION PROJECT.

(a) DEMONSTRATION PROJECTS.—

(1) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall conduct demonstration projects for the purpose of evaluating methods, such as case management and other models of coordinated care, that—

(A) improve the quality of items and services provided to target individuals; and

(B) reduce expenditures under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) for items and services provided to target individuals.

(2) TARGET INDIVIDUAL DEFINED.—In this section, the term "target individual" means an individual that has a chronic illness, as defined and identified by the Secretary, and is enrolled under the fee-for-service program under parts A and B of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.; 1395j et seq.).

(b) PROGRAM DESIGN.—

(1) INITIAL DESIGN.—The Secretary shall evaluate best practices in the private sector of methods of coordinated care for a period of 1 year and design the demonstration project based on such evaluation.

(2) NUMBER AND PROJECT AREAS.—Not later than 2 years after the date of enactment of this Act, the Secretary shall implement at least 9 demonstration projects, including—

(A) 6 projects in urban areas; and

(B) 3 projects in rural areas.

(3) EXPANSION OF PROJECTS; IMPLEMENTATION OF DEMONSTRATION PROJECT RESULTS.—

(A) EXPANSION OF PROJECTS.—If the initial report under subsection (c) contains an evaluation that demonstration projects—

(i) reduce expenditures under the medicare program; or

(ii) do not increase expenditures under the medicare program and increase the quality of health care services provided to target individuals and satisfaction of beneficiaries and health care providers;

the Secretary shall continue the existing demonstration projects and may expand the number of demonstration projects.

(B) IMPLEMENTATION OF DEMONSTRATION PROJECT RESULTS.—If a report under subsection (c) contains an evaluation as described in subparagraph (A), the Secretary may issue regulations to implement, on a permanent basis, the components of the demonstration project that are beneficial to the medicare program.

(c) REPORT TO CONGRESS.—

(1) IN GENERAL.—Not later than 2 years after the Secretary implements the initial demonstration projects under this section, and biannually thereafter, the Secretary shall submit to Congress a report regarding the demonstration projects conducted under this section.

(2) CONTENTS OF REPORT.—The report in paragraph (1) shall include the following:

(A) A description of the demonstration projects conducted under this section.

(B) An evaluation of—

(i) the cost-effectiveness of the demonstration projects;

(ii) the quality of the health care services provided to target individuals under the demonstration projects; and

(iii) beneficiary and health care provider satisfaction under the demonstration project.

(C) Any other information regarding the demonstration projects conducted under this section that the Secretary determines to be appropriate.

(d) WAIVER AUTHORITY.—The Secretary shall waive compliance with the requirements of titles XI, XVIII, and XIX of the Social Security Act (42 U.S.C. 1301 et seq., 1395 et seq., 1396 et seq.) to such extent and for such period as the Secretary determines is necessary to conduct demonstration projects.

(e) FUNDING.—

(1) DEMONSTRATION PROJECTS.—

(A) IN GENERAL.—The Secretary shall provide for the transfer from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Insurance Trust Fund under title XVIII of the Social Security Act (42 U.S.C. 1395i, 1395t), in such proportions as the Secretary determines to be appropriate, of such funds as are necessary for the costs of carrying out the demonstration projects under this section.

(B) LIMITATION.—In conducting the demonstration project under this section, the Secretary shall ensure that the aggregate payments made by the Secretary do not exceed the amount which the Secretary would have paid if the demonstration projects under this section were not implemented.

(2) EVALUATION AND REPORT.—There are authorized to be appropriated such sums as are necessary for the purpose of developing and submitting the report to Congress under subsection (c).

SEC. 5047. ESTABLISHMENT OF MEDICARE REIMBURSEMENT DEMONSTRATION PROJECTS.

Title XVIII (42 U.S.C. 1395 et seq.) (as amended by section 5343) is amended by adding at the end the following:

"MEDICARE SUBVENTION DEMONSTRATION PROJECT FOR VETERANS

"SEC. 1896. (a) DEFINITIONS.—In this section:

"(1) ADMINISTERING SECRETARIES.—The term 'administering Secretaries' means the Secretary and the Secretary of Veterans Affairs acting jointly.

"(2) DEMONSTRATION PROJECT; PROJECT.—The terms 'demonstration project' and 'project' mean the demonstration project carried out under this section.

"(3) MILITARY RETIREE.—The term 'military retiree' means a member or former member of the Armed Forces who is entitled to retired pay.

"(4) TARGETED MEDICARE-ELIGIBLE VETERAN.—The term 'targeted medicare-eligible veteran' means an individual who—

"(A) is a veteran (as defined in section 101(2) of title 38, United States Code) and is described in section 1710(a)(3) of title 38, United States Code; and

"(B) is entitled to benefits under part A of this title and is enrolled under part B of this title.

"(5) TRUST FUNDS.—The term 'trust funds' means the Federal Hospital Insurance Trust Fund established in section 1817 and the Federal Supplementary Medical Insurance Trust Fund established in section 1841.

"(b) DEMONSTRATION PROJECT.—

"(1) IN GENERAL.—

"(A) ESTABLISHMENT.—The administering Secretaries are authorized to establish a demonstration project (under an agreement entered into by the administering Secretaries) under which the Secretary shall reimburse the Secretary of Veterans Affairs, from the trust funds, for medicare health care services furnished to certain targeted medicare-eligible veterans.

"(B) AGREEMENT.—The agreement entered into under subparagraph (A) shall include at a minimum—

"(i) a description of the benefits to be provided to the participants of the demonstration project established under this section;

"(ii) a description of the eligibility rules for participation in the demonstration project, including any criteria established under subsection (c) and any cost sharing under subsection (d);

"(iii) a description of how the demonstration project will satisfy the requirements under this title;

"(iv) a description of the sites selected under paragraph (2);

"(v) a description of how reimbursement and maintenance of effort requirements under subsection (l) will be implemented in the demonstration project; and

"(vi) a statement that the Secretary shall have access to all data of the Department of Veterans Affairs that the Secretary determines is necessary to conduct independent estimates and audits of the maintenance of effort requirement, the annual reconciliation, and related matters required under the demonstration project.

"(2) NUMBER OF SITES.—The administering Secretaries shall establish a plan for the selection of up to 12 medical centers under the jurisdiction of the Secretary of Veterans Affairs and located in geographically dispersed locations to participate in the project.

"(3) GENERAL CRITERIA.—The selection plan shall favor selection of those medical centers that are suited to serve targeted medicare-eligible individuals because—

"(A) there is a high potential demand by targeted medicare-eligible veterans for their services;

"(B) they have sufficient capability in billing and accounting to participate;

"(C) they have favorable indicators of quality of care, including patient satisfaction;

"(D) they deliver a range of services required by targeted medicare-eligible veterans; and

"(E) they meet other relevant factors identified in the plan.

"(4) Medical center near closed base.—The administering Secretaries shall endeavor to include at least 1 medical center that is in the same catchment area as a military medical facility which was closed pursuant to either of the following laws:

"(A) The Defense Base Closure and Realignment Act of 1990.

"(B) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act.

"(5) Restriction.—No new facilities will be built or expanded with funds from the demonstration project.

"(6) Duration.—The administering Secretaries shall conduct the demonstration project during the 3-year period beginning on January 1, 1998.

"(c) Voluntary Participation.—Participation of targeted medicare-eligible veterans in the demonstration project shall be voluntary, subject to the capacity of participating medical centers and the funding limitations specified in subsection (l), and shall be subject to such terms and conditions as the administering Secretaries may establish. In the case of a demonstration project at a medical center described in subsection (b)(3), targeted medicare-eligible veterans who are military retirees shall be given preference in participating in the project.

"(d) Cost Sharing.—The Secretary of Veterans Affairs may establish cost-sharing requirements for veterans participating in the demonstration project. If such cost sharing requirements are established, those requirements shall be the same as the requirements that apply to targeted medicare-eligible patients at nongovernmental facilities.

"(e) Crediting of Payments.—A payment received by the Secretary of Veterans Affairs under the demonstration project shall be credited to the applicable Department of Veterans Affairs medical appropriation and (within that appropriation) to funds that have been allotted to the medical center that furnished the services for which the payment is made. Any such payment received during a fiscal year for services provided during a prior fiscal year may be obligated by the Secretary of Veterans Affairs during the fiscal year during which the payment is received.

"(f) Authority To Waive Certain Medicare Requirements.—The Secretary may, to the extent necessary to carry out the demonstration project, waive any requirement under this title. If the Secretary waives any such requirement, the Secretary shall include a description of such waiver in the agreement described in subsection (b)(1)(B).

"(g) Inspector General.—Nothing in the agreement entered into under subsection (b) shall limit the Inspector General of the Department of Health and Human Services from investigating any matters regarding the expenditure of funds under this title for the demonstration project, including compliance with the provisions of this title and all other relevant laws.

"(h) Report.—At least 30 days prior to the commencement of the demonstration project, the administering Secretaries shall submit a copy of the agreement entered into under subsection (b) to the committees of jurisdiction in Congress.

"(i) Managed Health Care Plans.—(1) In carrying out the demonstration project, the Secretary of Veterans Affairs may establish and operate managed health care plans.

"(2) Any such plan shall be operated by or through a Department of Veterans Affairs medical center or group of medical centers and may include the provision of health care services through other facilities under the jurisdiction of the Secretary of Veterans Affairs as well as public and private entities under arrangements made between the Department and the other public or private entity concerned. Any such managed health care plan shall be established and operated in conformance with standards prescribed by the administering Secretaries.

"(3) The administering Secretaries shall prescribe the minimum health care benefits to be provided under such a plan to veterans enrolled in the plan. Those benefits shall include at least all health care services covered under the medicare program under this title.

"(4) The establishment of a managed health care plan under this section shall be counted as the selection of a medical center for purposes of applying the numerical limitation under subsection (b)(1).

"(j) Medical Center Requirements.—The Secretary of Veterans Affairs may establish a managed health care plan using 1 or more medical centers and other facilities only after the Secretary of Veterans Affairs submits to Congress a report setting forth a plan for the use of such centers and facilities. The plan may not be implemented until the Secretary of Veterans Affairs has received from the Inspector General of the Department of Veterans Affairs, and has forwarded to Congress, certification of each of the following:

"(1) The cost accounting system of the Veterans Health Administration (known as the Decision Support System) is operational and is providing reliable cost information on care delivered on an inpatient and outpatient basis at such centers and facilities.

"(2) The centers and facilities have operated in conformity with the eligibility reform amendments made by title I of the Veterans Health Care Act of 1996 for not less than 3 months.

"(3) The centers and facilities have developed a credible plan (on the basis of market surveys, data from the Decision Support System, actuarial analysis, and other appropriate methods and taking into account the level of payment under subsection (l) and the costs of providing covered services at the centers and facilities) to minimize, to the extent feasible, the risk that appropriated funds allocated to the centers and facilities will be required to meet the centers' and facilities' obligation to targeted medicare-eligible veterans under the demonstration project.

"(4) The centers and facilities collectively have available capacity to provide the contracted benefits package to a sufficient number of targeted medicare-eligible veterans.

"(5) The entity administering the health plan has sufficient systems and safeguards in place to minimize any risk that instituting the managed care model will result in reducing the quality of care delivered to enrollees in the demonstration project or to other veterans receiving care under paragraphs subsection (1) or (2) of section 1710(a) of title 38, United States Code.

"(k) Reserves.—The Secretary of Veterans Affairs shall maintain such reserves as may be necessary to ensure against the risk that appropriated funds, allocated to medical centers and facilities participating in the demonstration project through a managed health care plan under this section, will be required to meet the obligations of those medical centers and facilities to targeted medicare-eligible veterans.

"(l) Payments Based on Regular Medicare Payment Rates.—

"(1) Payments.—

"(A) In general.—Subject to the succeeding provisions of this subsection, the Secretary shall reimburse the Secretary of Veterans Affairs for services provided under the demonstration project at the following rates:

"(i) Noncapitation.—Except as provided in clause (ii) and subject to subparagraphs (B)(i) and (D), at a rate equal to 95 percent of the amounts that otherwise would be payable under this title on a noncapitated basis for such services if the medical center were not a Federal medical center, were participating in the program, and imposed charges for such services.

"(ii) Capitation.—Subject to subparagraphs (B)(ii) and (D), in the case of services provided to an enrollee under a managed health care plan established under subsection (i), at a rate equal to 95 percent of the amount paid to a Medicare Choice organization under part C with respect to such an enrollee.

In cases in which a payment amount may not otherwise be readily computed, the Secretaries shall establish rules for computing equivalent or comparable payment amounts.

"(B) Exclusion of certain amounts.—

"(i) Noncapitation.—In computing the amount of payment under subparagraph (A)(i), the following shall be excluded:

"(I) Disproportionate share hospital adjustment.—Any amount attributable to an adjustment under subsection (d)(5)(F) of section 1886 of the Social Security Act (42 U.S.C. 1395ww).

"(II) Direct graduate medical education payments.—Any amount attributable to a payment under subsection (h) of such section.

"(III) Percentage of indirect medical education adjustment.—40 percent of any amount attributable to the adjustment under subsection (d)(5)(B) of such section.

"(IV) Percentage of capital payments.—67 percent of any amounts attributable to payments for capital-related costs under subsection (g) of such section.

"(ii) Capitation.—In the case of years before 2001, in computing the amount of payment under subparagraph (A)(ii), the payment rate shall be computed as though the amounts excluded under clause (i) had been excluded in the determination of the amount paid to a Medicare Choice organization under part C with respect to an enrollee.

"(C) Periodic payments from medicare trust funds.—Payments under this subsection shall be made—

"(i) on a periodic basis consistent with the periodicity of payments under this title; and

"(ii) in appropriate part, as determined by the Secretary, from the trust funds.

"(D) Annual limit on medicare payments.—The amount paid to the Department of Veterans Affairs under this subsection for any year for the demonstration project may not exceed $50,000,000.

"(2) Reduction in payment for VA failure to maintain effort.—

"(A) In general.—In order to avoid shifting onto the medicare program under this title costs previously assumed by the Department of Veterans Affairs for the provision of medicare-covered services to targeted medicare-eligible veterans, the payment amount under this subsection for the project for a fiscal year shall be reduced by the amount (if any) by which—

“(i) the amount of the VA effort level for targeted veterans (as defined in subparagraph (B)) for the fiscal year ending in such year, is less than

“(ii) the amount of the VA effort level for targeted veterans for fiscal year 1997.

“(B) VA EFFORT LEVEL FOR TARGETED VETERANS DEFINED.—For purposes of subparagraph (A), the term ‘VA effort level for targeted veterans’ means, for a fiscal year, the amount, as estimated by the administering Secretaries, that would have been expended under the medicare program under this title for VA-provided medicare-covered services for targeted veterans (as defined in subparagraph (C)) for that fiscal year if benefits were available under the medicare program for those services. Such amount does not include expenditures attributable to services for which reimbursement is made under the demonstration project.

“(C) VA-PROVIDED MEDICARE-COVERED SERVICES FOR TARGETED VETERANS.—For purposes of subparagraph (B), the term ‘VA-provided medicare-covered services for targeted veterans’ means, for a fiscal year, items and services—

“(i) that are provided during the fiscal year by the Department of Veterans Affairs to targeted medicare-eligible veterans;

“(ii) that constitute hospital care and medical services under chapter 17 of title 38, United States Code; and

“(iii) for which benefits would be available under the medicare program under this title if they were provided other than by a Federal provider of services that does not charge for those services.

“(3) ASSURING NO INCREASE IN COST TO MEDICARE PROGRAM.—

“(A) MONITORING EFFECT OF DEMONSTRATION PROGRAM ON COSTS TO MEDICARE PROGRAM.—

“(i) IN GENERAL.—The Secretaries, in consultation with the Comptroller General, shall closely monitor the expenditures made under the medicare program for targeted medicare-eligible veterans during the period of the demonstration project compared to the expenditures that would have been made for such veterans during that period if the demonstration project had not been conducted.

“(ii) ANNUAL REPORT BY THE COMPTROLLER GENERAL.—Not later than December 31 of each year during which the demonstration project is conducted, the Comptroller General shall submit to the Secretaries and the appropriate committees of Congress a report on the extent, if any, to which the costs of the Secretary under the medicare program under this title increased during the preceding fiscal year as a result of the demonstration project.

“(B) REQUIRED RESPONSE IN CASE OF INCREASE IN COSTS.—

“(i) IN GENERAL.—If the administering Secretaries find, based on subparagraph (A), that the expenditures under the medicare program under this title increased (or are expected to increase) during a fiscal year because of the demonstration project, the administering Secretaries shall take such steps as may be needed—

“(I) to recoup for the medicare program the amount of such increase in expenditures; and

“(II) to prevent any such increase in the future.

“(ii) STEPS.—Such steps—

“(I) under clause (i)(I) shall include payment of the amount of such increased expenditures by the Secretary of Veterans Affairs from the current medical care appropriation of the Department of Veterans Affairs to the trust funds; and

“(II) under clause (i)(II) shall include suspending or terminating the demonstration project (in whole or in part) or lowering the amount of payment under paragraph (1)(A).

“(m) EVALUATION AND REPORTS.—

“(1) INDEPENDENT EVALUATION.—The administering Secretaries shall arrange for an independent entity with expertise in the evaluation of health services to conduct an evaluation of the demonstration project. The entity shall submit annual reports on the demonstration project to the administering Secretaries and to the committees of jurisdiction in the Congress. The first report shall be submitted not later than 12 months after the date on which the demonstration project begins operation, and the final report not later than 3½ years after that date. The evaluation and reports shall include an assessment, based on the agreement entered into under subsection (b), of the following:

“(A) The cost to the Department of Veterans Affairs of providing care to veterans under the project.

“(B) Compliance of participating medical centers with applicable measures of quality of care, compared to such compliance for other medicare-participating medical centers.

“(C) A comparison of the costs of medical centers' participation in the program with the reimbursements provided for services of such medical centers.

“(D) Any savings or costs to the medicare program under this title from the project.

“(E) Any change in access to care or quality of care for targeted medicare-eligible veterans participating in the project.

“(F) Any effect of the project on the access to care and quality of care for targeted medicare-eligible veterans not participating in the project and other veterans not participating in the project.

“(G) The provision of services under managed health care plans under subsection (l), including the circumstances (if any) under which the Secretary of Veterans Affairs uses reserves described in subsection (k) and the Secretary of Veterans Affairs' response to such circumstances (including the termination of managed health care plans requiring the use of such reserves).

“(H) Any effect that the demonstration project has on the enrollment in Medicare Choice organizations under part C of this title in the established site areas.

“(2) REPORT ON EXTENSION AND EXPANSION OF DEMONSTRATION PROJECT.—Not later than six months after the date of the submission of the penultimate report under paragraph (1), the administering Secretaries shall submit to Congress a report containing their recommendation as to—

“(A) whether to extend the demonstration project or make the project permanent;

“(B) whether to expand the project to cover additional sites and areas and to increase the maximum amount of reimbursement (or the maximum amount of reimbursement permitted for managed health care plans under this section) under the project in any year; and

“(C) whether the terms and conditions of the project should be continued (or modified) if the project is extended or expanded.

“MEDICARE SUBVENTION DEMONSTRATION PROJECT FOR MILITARY RETIREES

“SEC. 1897. (a) DEFINITIONS.—In this section:

“(1) ADMINISTERING SECRETARIES.—The term ‘administering Secretaries’ means the Secretary and the Secretary of Defense acting jointly.

“(2) DEMONSTRATION PROJECT; PROJECT.—The terms ‘demonstration project’ and ‘project’ mean the demonstration project carried out under this section.

“(3) DESIGNATED PROVIDER.—The term ‘designated provider’ has the meaning given that term in section 721(5) of the National Defense Authorization Act For Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2593; 10 U.S.C. 1073 note).

“(4) MEDICARE-ELIGIBLE MILITARY RETIREE OR DEPENDENT.—The term ‘medicare-eligible military retiree or dependent’ means an individual described in section 1074(b) or 1076(b) of title 10, United States Code, who—

“(A) would be eligible for health benefits under section 1086 of such title by reason of subsection (c)(1) of such section 1086 but for the operation of subsection (d) of such section 1086;

“(B)(i) is entitled to benefits under part A of this title; and

“(ii) if the individual was entitled to such benefits before July 1, 1996, received health care items or services from a health care facility of the uniformed services before that date, but after becoming entitled to benefits under part A of this title;

“(C) is enrolled for benefits under part B of this title; and

“(D) has attained age 65.

“(5) MEDICARE HEALTH CARE SERVICES.—The term ‘medicare health care services’ means items or services covered under part A or B of this title.

“(6) MILITARY TREATMENT FACILITY.—The term ‘military treatment facility’ means a facility referred to in section 1074(a) of title 10, United States Code.

“(7) TRICARE.—The term ‘TRICARE’ has the same meaning as the term ‘TRICARE program’ under section 711 of the National Defense Authorization Act for Fiscal Year 1996 (10 U.S.C. 1073 note).

“(5) TRUST FUNDS.—The term ‘trust funds’ means the Federal Hospital Insurance Trust Fund established in section 1817 and the Federal Supplementary Medical Insurance Trust Fund established in section 1841.

“(b) DEMONSTRATION PROJECT.—

“(1) IN GENERAL.—

“(A) ESTABLISHMENT.—The administering Secretaries are authorized to establish a demonstration project (under an agreement entered into by the administering Secretaries) under which the Secretary shall reimburse the Secretary of Defense, from the trust funds, for medicare health care services furnished to certain medicare-eligible military retirees or dependents.

“(B) AGREEMENT.—The agreement entered into under subparagraph (A) shall include at a minimum—

“(i) a description of the benefits to be provided to the participants of the demonstration project established under this section;

“(ii) a description of the eligibility rules for participation in the demonstration project, including any cost sharing requirements established under subsection (h);

“(iii) a description of how the demonstration project will satisfy the requirements under this title;

“(iv) a description of the sites selected under paragraph (2);

“(v) a description of how reimbursement and maintenance of effort requirements under subsection (j) will be implemented in the demonstration project; and

“(vi) a statement that the Secretary shall have access to all data of the Department of Defense that the Secretary determines is necessary to conduct independent estimates and audits of the maintenance of effort requirement, the annual reconciliation, and related matters required under the demonstration project.

“(2) In general.—The project established under this section shall be conducted in no more than 6 sites, designated jointly by the administering Secretaries after review of all TRICARE regions.

“(3) Restriction.—No new military treatment facilities will be built or expanded with funds from the demonstration project.

“(4) Duration.—The administering Secretaries shall conduct the demonstration project during the 3-year period beginning on January 1, 1998.

“(c) Crediting of Payments.—A payment received by the Secretary of Defense under the demonstration project shall be credited to the applicable Department of Defense medical appropriation and (within that appropriation). Any such payment received during a fiscal year for services provided during a prior fiscal year may be obligated by the Secretary of Defense during the fiscal year during which the payment is received.

“(d) Authority To Waive Certain Medicare Requirements.—The Secretary may, to the extent necessary to carry out the demonstration project, waive any requirement under this title. If the Secretary waives any such requirement, the Secretary shall include a description of such waiver in the agreement described in subsection (b).

“(e) Inspector General.—Nothing in the agreement entered into under subsection (b) shall limit the Inspector General of the Department of Health and Human Services from investigating any matters regarding the expenditure of funds under this title for the demonstration project, including compliance with the provisions of this title and all other relevant laws.

“(f) Report.—At least 30 days prior to the commencement of the demonstration project, the administering Secretaries shall submit a copy of the agreement entered into under subsection (b) to the committees of jurisdiction in Congress.

“(g) Voluntary Participation.—Participation of medicare-eligible military retirees or dependents in the demonstration project shall be voluntary, subject to the capacity of participating military treatment facilities and designated providers and the funding limitations specified in subsection (j), and shall be subject to such terms and conditions as the administering Secretaries may establish.

“(h) Cost-Sharing by Demonstration Enrollees.—The Secretary of Defense may establish cost-sharing requirements for medicare-eligible military retirees and dependents who enroll in the demonstration project consistent with part C of this title.

“(i) TRICARE Health Care Plans.—

“(1) TRICARE program enrollment fee waiver.—The Secretary of Defense shall waive the enrollment fee applicable to any medicare-eligible military retiree or dependent enrolled in the managed care option of the TRICARE program for any period for which reimbursement is made under this section with respect to such retiree or dependent.

“(2) Modification of tricare contracts.—In carrying out the demonstration project, the Secretary of Defense is authorized to amend existing TRICARE contracts in order to provide the medicare health care services to the medicare-eligible military retirees and dependents enrolled in the demonstration project.

“(3) Health care benefits.—The administering Secretaries shall prescribe the minimum health care benefits to be provided under such a plan to medicare-eligible military retirees or dependents enrolled in the plan. Those benefits shall include at least all medicare health care services covered under this title.

“(j) Payments Based on Regular Medicare Payment Rates.—

“(1) Payments.—

“(A) In general.—Subject to the succeeding provisions of this subsection, the Secretary shall reimburse the Secretary of Defense for services provided under the demonstration project at the following rates:

“(i) Noncapitation.—Except as provided in clause (ii) and subject to subparagraphs (B)(i) and (D), at a rate equal to 95 percent of the amounts that otherwise would be payable under this title on a noncapitated basis for such services if the military treatment facility or designated provider were not a Federal medical center, were participating in the program, and imposed charges for such services.

“(ii) Capitation.—Subject to subparagraphs (B)(ii) and (D), in the case of services provided to an enrollee under a managed health care plan established under subsection (i), at a rate equal to 95 percent of the amount paid to a Medicare Choice organization under part C with respect to such an enrollee.

In cases in which a payment amount may not otherwise be readily computed, the Secretaries shall establish rules for computing equivalent or comparable payment amounts.

“(B) Exclusion of certain amounts.—

“(i) Noncapitation.—In computing the amount of payment under subparagraph (A)(i), the following shall be excluded:

“(I) Special payments.—Any amount attributable to an adjustment under subparagraphs (B) and (F) of section 1886(d)(5) and subsection (h) of such section.

“(II) Percentage of capital payments.—An amount determined by the administering Secretaries for amounts attributable to payments for capital-related costs under subsection (g) of such section.

“(ii) Capitation.—In the case of years before 2001, in computing the amount of payment under subparagraph (A)(ii), the payment rate shall be computed as though the amounts excluded under clause (i) had been excluded in the determination of the amount paid to a Medicare Choice organization under part C with respect to an enrollee.

“(C) Periodic payments from medicare trust funds.—Payments under this subsection shall be made—

“(i) on a periodic basis consistent with the periodicity of payments under this title; and

“(ii) in appropriate part, as determined by the Secretary, from the trust funds.

“(D) Cap on amount.—The aggregate amount to be reimbursed under this paragraph pursuant to the agreement entered into between the administering Secretaries under subsection (b) shall not exceed a total of—

“(i) $55,000,000 for calendar year 1998;

“(ii) $65,000,000 for calendar year 1999; and

“(iii) $75,000,000 for calendar year 2000.

“(2) Assuring no increase in cost to medicare program.—

“(A) Monitoring effect of demonstration program on costs to medicare program.—

“(i) In general.—The Secretaries, in consultation with the Comptroller General, shall closely monitor the expenditures made under the medicare program for medicare-eligible military retirees or dependents during the period of the demonstration project compared to the expenditures that would have been made for such medicare-eligible military retirees or dependents during that period if the demonstration project had not been conducted. The agreement entered into by the administering Secretaries under subsection (b) shall require any participating military treatment facility to maintain the level of effort for space available care to medicare-eligible military retirees or dependents.

“(ii) Annual report by the comptroller general.—Not later than December 31 of each year during which the demonstration project is conducted, the Comptroller General shall submit to the Secretaries and the appropriate committees of Congress a report on the extent, if any, to which the costs of the Secretary under the medicare program under this title increased during the preceding fiscal year as a result of the demonstration project.

“(B) Required response in case of increase in costs.—

“(i) In general.—If the administering Secretaries find, based on subparagraph (A), that the expenditures under the medicare program under this title increased (or are expected to increase) during a fiscal year because of the demonstration project, the administering Secretaries shall take such steps as may be needed—

“(I) to recoup for the medicare program the amount of such increase in expenditures; and

“(II) to prevent any such increase in the future.

“(ii) Steps.—Such steps—

“(I) under clause (i)(I) shall include payment of the amount of such increased expenditures by the Secretary of Defense from the current medical care appropriation of the Department of Defense to the trust funds; and

“(II) under clause (i)(II) shall include suspending or terminating the demonstration project (in whole or in part) or lowering the amount of payment under paragraph (1)(A).

“(k) Evaluation and Reports.—

“(1) Independent evaluation.—The administering Secretaries shall arrange for an independent entity with expertise in the evaluation of health services to conduct an evaluation of the demonstration project. The entity shall submit annual reports on the demonstration project to the administering Secretaries and to the committees of jurisdiction in the Congress. The first report shall be submitted not later than 12 months after the date on which the demonstration project begins operation, and the final report not later than 3½ years after that date. The evaluation and reports shall include an assessment, based on the agreement entered into under subsection (b), of the following:

“(A) The number of medicare-eligible military retirees and dependents opting to participate in the demonstration project instead of receiving health benefits through another health insurance plan (including benefits under this title).

“(B) Compliance by the Department of Defense with the requirements under this title.

"(C) The cost to the Department of Defense of providing care to medicare-eligible military retirees and dependents under the demonstration project.

"(D) Compliance by the Department of Defense with the standards of quality required of entities that furnish medicare health care services.

"(E) An analysis of whether, and in what manner, easier access to the uniformed services treatment system affects the number of medicare-eligible military retirees and dependents receiving medicare health care services.

"(F) Any savings or costs to the medicare program under this title resulting from the demonstration project.

"(G) An assessment of the access to care and quality of care for medicare-eligible military retirees and dependents under the demonstration project.

"(H) Any impact of the demonstration project on the access to care for medicare-eligible military retirees and dependents who did not enroll in the demonstration project and for other individuals entitled to benefits under this title.

"(I) Any impact of the demonstration project on private health care providers.

"(J) Any impact of the demonstration project on access to care for active duty military personnel and their dependents.

"(K) A list of the health insurance plans and programs that were the primary payers for medicare-eligible military retirees and dependents during the year prior to their participation in the demonstration project and the distribution of their previous enrollment in such plans and programs.

"(L) An identification of cost-shifting (if any) between the medicare program under this title and the Defense health program as a result of the demonstration project and a description of the nature of any such cost-shifting.

"(M) An analysis of how the demonstration project affects the overall accessibility of the uniformed services treatment system and the amount of space available for point-of-service care, and a description of the unintended effects (if any) upon the normal treatment priority system.

"(N) A description of the difficulties (if any) experienced by the Department of Defense in managing the demonstration project.

"(O) A description of the effects of the demonstration project on military treatment facility readiness and training and the probable effects of the project on overall Department of Defense medical readiness and training.

"(P) A description of the effects that the demonstration project, if permanent, would be expected to have on the overall budget of the Defense health program, the budgets of individual military treatment facilities and designated providers, and on the budget of the medicare program under this title.

"(Q) An analysis of whether the demonstration project affects the cost to the Department of Defense of prescription drugs or the accessibility, availability, and cost of such drugs to demonstration program beneficiaries.

"(R) Any additional elements specified in the agreement entered into under subsection (b).

"(2) REPORT ON EXTENSION AND EXPANSION OF DEMONSTRATION PROJECT.—Not later than six months after the date of the submission of the penultimate report under paragraph (1), the administering Secretaries shall submit to Congress a report containing their recommendation as to—

"(A) whether to extend the demonstration project or make the project permanent;

"(B) whether to expand the project to cover additional sites and areas and to increase the maximum amount of reimbursement (or the maximum amount of reimbursement permitted for managed health care plans under this section) under the project in any year; and

"(C) whether the terms and conditions of the project should be continued (or modified) if the project is extended or expanded.".

CHAPTER 6—TAX TREATMENT OF HOSPITALS PARTICIPATING IN PROVIDER-SPONSORED ORGANIZATIONS

SEC. 5049. TAX TREATMENT OF HOSPITALS WHICH PARTICIPATE IN PROVIDER-SPONSORED ORGANIZATIONS.

(a) IN GENERAL.—Section 501 of the Internal Revenue Code of 1986 (relating to exemption from tax on corporations, certain trusts, etc.) is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

"(o) TREATMENT OF HOSPITALS PARTICIPATING IN PROVIDER-SPONSORED ORGANIZATIONS.—An organization shall not fail to be treated as organized and operated exclusively for a charitable purpose for purposes of subsection (c)(3) solely because a hospital which is owned and operated by such organization participates in a provider-sponsored organization (as defined in section 1853(e) of the Social Security Act), whether or not the provider-sponsored organization is exempt from tax. For purposes of subsection (c)(3), any person with a material financial interest in such a provider-sponsored organization shall be treated as a private shareholder or individual with respect to the hospital.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of enactment of this Act.

Subtitle B—Prevention Initiatives

SEC. 5101. ANNUAL SCREENING MAMMOGRAPHY FOR WOMEN OVER AGE 39.

(a) IN GENERAL.—Section 1834(c)(2)(A) (42 U.S.C. 1395m(c)(2)(A)) is amended by striking clauses (iii), (iv), and (v) and inserting the following:

"(iii) in the case of a woman over 39 years of age, payment may not be made under this part for screening mammography performed within 11 months following the month in which a previous screening mammography was performed."

(b) WAIVER OF COINSURANCE.—

(1) IN GENERAL.—Section 1834(c)(1)(C) (42 U.S.C. 1395m(c)(1)(C)) is amended by striking "80 percent of".

(2) WAIVER OF COINSURANCE IN OUTPATIENT HOSPITAL SETTINGS.—The third sentence of section 1866(a)(2)(A) (42 U.S.C. 1395cc(a)(2)(A)) is amended by inserting after "1861(s)(10)(A)" the following: ", with respect to screening mammography (as defined in section 1861(jj),".

(c) EFFECTIVE DATE.—The amendments made by subsection (a) apply to items and services furnished on or after January 1, 1998.

SEC. 5102. COVERAGE OF COLORECTAL SCREENING.

(a) IN GENERAL.—Section 1861 (42 U.S.C. 1395x) is amended—

(1) in subsection (s)(2)—

(A) by striking "and" at the end of subparagraphs (N) and (O); and

(B) by inserting after subparagraph (O) the following:

"(P) colorectal cancer screening tests (as defined in subsection (oo)); and"; and

(2) by adding at the end the following:

"Colorectal Cancer Screening Test

"(oo)(1)(A) The term 'colorectal cancer screening test' means a procedure furnished to an individual that the Secretary prescribes in regulations as appropriate for the purpose of early detection of colorectal cancer, taking into account availability, effectiveness, costs, changes in technology and standards of medical practice, and such other factors as the Secretary considers appropriate.

"(B) The Secretary shall consult with appropriate organizations in prescribing regulations under subparagraph (A).".

(b) FREQUENCY AND PAYMENT LIMITS.—Section 1834 (42 U.S.C. 1395m) is amended by inserting after subsection (c) the following new subsection:

"(d) FREQUENCY AND PAYMENT LIMITS FOR COLORECTAL CANCER SCREENING TESTS.—

"(1) IN GENERAL.—The Secretary shall prescribe regulations that—

"(A) establish frequency limits for colorectal cancer screening tests that take into account the risk status of an individual and that are consistent with frequency limits for similar or related services; and

"(B) establish payment limits (including limits on charges of nonparticipating physicians) for colorectal cancer screening tests that are consistent with payment limits for similar or related services.

"(2) REVISIONS.—The Secretary shall periodically review and, to the extent the Secretary considers appropriate, revise the frequency and payment limits established under paragraph (1).

"(3) FACTORS TO DETERMINE INDIVIDUALS AT RISK.—In establishing criteria for determining whether an individual is at risk for purposes of this subsection, the Secretary shall take into consideration family history, prior experience of cancer, a history of chronic digestive disease condition, and the presence of any appropriate recognized gene markers for colorectal cancer.

"(4) CONSULTATION.—In establishing and revising frequency and payment limits under this subsection, the Secretary shall consult with appropriate organizations."

(c) CONFORMING AMENDMENTS.—(1) Paragraphs (1)(D) and (2)(D) of section 1833(a) (42 U.S.C. 1395l(a)) are each amended by inserting "or section 1834(d)" after "subsection (h)(1)".

(2) Section 1833(h)(1)(A) (42 U.S.C. 1395l(h)(1)(A)) is amended by striking "The Secretary" and inserting "Subject to section 1834(d), the Secretary".

(3) Section 1862(a) (42 U.S.C. 1395y(a)) is amended—

(A) in paragraph (1)—

(i) in subparagraph (E), by striking "and" at the end,

(ii) in subparagraph (F), by striking the semicolon at the end and inserting ", and", and

(iii) by adding at the end the following new subparagraph:

"(G) in the case of colorectal cancer screening tests, which are performed more frequently than is covered under section 1834(d);"; and

(B) in paragraph (7), by striking "paragraph (1)(B) or under paragraph (1)(F)" and inserting "subparagraph (B), (F), or (G) of paragraph (1)".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to items and services furnished on or after January 1, 1998.

(2) REGULATIONS.—The Secretary of Health and Human Services shall issue final regulations described in sections 1861(oo) and

1834(d) of the Social Security Act (as added by this section) within 3 months after the date of enactment of this Act.

SEC. 5103. DIABETES SCREENING TESTS.

(a) Diabetes Outpatient Self-Management Training Services.—

(1) In general.—Section 1861(s) (42 U.S.C. 1395x(s)), as amended by section 5102, is amended—

(A) in subsection (s)(2)—

(i) by striking "and" at the end of subparagraph (P);

(ii) by inserting "and" at the end of subparagraph (Q); and

(iii) by adding at the end the following:

"(R) diabetes outpatient self-management training services (as defined in subsection (pp));", and

(B) by adding at the end the following:

"Diabetes Outpatient Self-Management Training Services

"(pp)(1) The term 'diabetes outpatient self-management training services' means educational and training services furnished to an individual with diabetes by a certified provider (as described in paragraph (2)(A)) in an outpatient setting by an individual or entity that meets the quality standards described in paragraph (2)(B), but only if the physician who is managing the individual's diabetic condition certifies that the services are needed under a comprehensive plan of care related to the individual's diabetic condition to provide the individual with necessary skills and knowledge (including skills related to the self-administration of injectable drugs) to participate in the management of the individual's condition.

"(2) In paragraph (1)—

"(A) a 'certified provider' is a physician, or other individual or entity designated by the Secretary, that, in addition to providing diabetes outpatient self-management training services, provides other items or services for which payment may be made under this title; and

"(B) a physician, or other such individual or entity, meets the quality standards described in this subparagraph if the physician, or individual or entity, meets quality standards established by the Secretary, except that the physician, or other individual or entity, shall be deemed to have met such standards if the physician or other individual or entity—

"(i) meets applicable standards originally established by the National Diabetes Advisory Board and subsequently revised by organizations who participated in the establishment of standards by such Board, or

"(ii) is recognized by an organization that represents individuals (including individuals under this title) with diabetes as meeting standards for furnishing the services."

(2) Consultation with organizations in establishing payment amounts for services provided by physicians.—In establishing payment amounts under section 1848 of the Social Security Act for physicians' services consisting of diabetes outpatient self-management training services, the Secretary of Health and Human Services shall consult with appropriate organizations, including such organizations representing individuals or medicare beneficiaries with diabetes, in determining the relative value for such services under section 1848(c)(2) of such Act.

(b) Blood-Testing Strips for Individuals With Diabetes.—

(1) Including strips and monitors as durable medical equipment.—The first sentence of section 1861(n) (42 U.S.C. 1395x(n)) is amended by inserting before the semicolon the following: ", and includes blood-testing strips and blood glucose monitors for individuals with diabetes without regard to whether the individual has Type I or Type II diabetes or to the individual's use of insulin (as determined under standards established by the Secretary in consultation with the appropriate organizations)".

(2) 10 percent reduction in payments for testing strips.—Section 1834(a)(2)(B)(iv) (42 U.S.C. 1395m(a)(2)(B)(iv)) is amended by adding before the period the following: "(reduced by 10 percent, in the case of a blood glucose testing strip furnished after 1997 for an individual with diabetes)".

(c) Establishment of Outcome Measures for Beneficiaries With Diabetes.—

(1) In general.—The Secretary of Health and Human Services, in consultation with appropriate organizations, shall establish outcome measures, including glysolated hemoglobin (past 90-day average blood sugar levels), for purposes of evaluating the improvement of the health status of medicare beneficiaries with diabetes mellitus.

(2) Recommendations for modifications to screening benefits.—Taking into account information on the health status of medicare beneficiaries with diabetes mellitus as measured under the outcome measures established under subparagraph (A), the Secretary shall from time to time submit recommendations to Congress regarding modifications to the coverage of services for such beneficiaries under the medicare program.

(d) Effective Date.—The amendments made by this section apply to items and services furnished on or after January 1, 1998.

SEC. 5104. COVERAGE OF BONE MASS MEASUREMENTS.

(a) In General.—Section 1861 (42 U.S.C. 1395x) is amended—

(1) in subsection (s)—

(A) in paragraph (12)(C), by striking "and" at the end;

(B) by striking the period at the end of paragraph (14) and inserting "; and";

(C) by redesignating paragraphs (15) and (16) as paragraphs (16) and (17), respectively; and

(D) by inserting after paragraph (14) the following:

"(15) bone mass measurement (as defined in subsection (oo)).''; and

(2) by inserting after subsection (pp), as added by section 5103, the following:

"Bone Mass Measurement

"(gg)(1) The term 'bone mass measurement' means a radiologic or radioscopic procedure or other Food and Drug Administration approved technology performed on a qualified individual (as defined in paragraph (2)) for the purpose of identifying bone mass, detecting bone loss, or determining bone quality, and includes a physician's interpretation of the results of the procedure.

"(2) For purposes of paragraph (1), the term 'qualified individual' means an individual who is (in accordance with regulations prescribed by the Secretary)—

"(A) an estrogen-deficient woman at clinical risk for osteoporosis and who is considering treatment;

"(B) an individual with vertebral abnormalities;

"(C) an individual receiving long-term glucocorticoid steroid therapy;

"(D) an individual with primary hyperparathyroidism; or

"(E) an individual being monitored to assess the response to or efficacy of an approved osteoporosis drug therapy.".

(b) Conforming Amendments.—Sections 1864(a), 1865(a), 1902(a)(9)(C), and 1915(a)(1)(B)(ii)(I) (42 U.S.C. 1395aa(a), 1395bb(a), 1396a(a)(9)(C), and 1396n(a)(1)(B)(ii)(I)) are amended by striking "paragraphs (15) and (16)" each place such term appears and inserting "paragraphs (16) and (17)".

(c) Effective Date.—The amendments made by this section shall apply to bone mass measurements performed on or after January 1, 1998.

Subtitle C—Rural Initiatives

SEC. 5151. SOLE COMMUNITY HOSPITALS.

Section 1886(b)(3)(C) (42 U.S.C. 1395ww(b)(3)(C)) is amended—

(1) in clause (i), by redesignating subclauses (I) and (II) as items (aa) and (bb), respectively;

(2) by redesignating clauses (i), (ii), (iii), and (iv) as subclauses (I), (II), (III), and (IV), respectively;

(3) by striking "(C) In" and inserting "(C)(i) Subject to clause (ii), in"; and

(4) by striking the last sentence and inserting the following:

"(ii)(I) There shall be substituted for the base cost reporting period described in clause (i)(I) a hospital's cost reporting period (if any) beginning during fiscal year 1987 if such substitution results in an increase in the target amount for the hospital.

"(II) Beginning with discharges occurring in fiscal year 1998, there shall be substituted for the base cost reporting period described in clause (i)(I) either—

"(aa) the allowable operating costs of inpatient hospital services (as defined in subsection (a)(4)) recognized under this title for the hospital's cost reporting period (if any) beginning during fiscal year 1994 increased (in a compounded manner) by the applicable percentage increases applied to the hospital under this paragraph for discharges occurring in fiscal years 1995, 1996, 1997, and 1998, or

"(bb) the allowable operating costs of inpatient hospital services (as defined in subsection (a)(4)) recognized under this title for the hospital's cost reporting period (if any) beginning during fiscal year 1995 increased (in a compounded manner) by the applicable percentage increase applied to the hospital under this paragraph for discharges occurring in fiscal years 1995, 1996, 1997, and 1998,

if such substitution results in an increase in the target amount for the hospital.".

SEC. 5152. MEDICARE-DEPENDENT, SMALL RURAL HOSPITAL PAYMENT EXTENSION.

(a) Special Treatment Extended.—

(1) Payment methodology.—Section 1886(d)(5)(G) (42 U.S.C. 1395ww(d)(5)(G)) is amended—

(A) in clause (i), by striking "October 1, 1994," and inserting "October 1, 1994, or beginning on or after October 1, 1997, and before October 1, 2001,"; and

(B) in clause (ii)(II), by striking "October 1, 1994," and inserting "October 1, 1994, or beginning on or after October 1, 1997, and before October 1, 2001,".

(2) Extension of target amount.—Section 1886(b)(3)(D) (42 U.S.C. 1395ww(b)(3)(D)) is amended—

(A) in the matter preceding clause (i), by striking "September 30, 1994," and inserting "September 30, 1994, and for cost reporting periods beginning on or after October 1, 1997, and before October 1, 2001,";

(B) in clause (ii), by striking "and" at the end;

(C) in clause (iii), by striking the period at the end and inserting ", and"; and

(D) by adding after clause (iii) the following new clause:

"(iv) with respect to discharges occurring during fiscal year 1998 through fiscal year 2000, the target amount for the preceding year increased by the applicable percentage increase under subparagraph (B)(iv).".

(3) Permitting hospitals to decline reclassification.—Section 13501(e)(2) of OBRA–93 (42 U.S.C. 1395ww note) is amended by striking "or fiscal year 1994" and inserting ", fiscal year 1994, fiscal year 1998, fiscal year 1999, or fiscal year 2000".

(b) Effective Date.—The amendments made by subsection (a) shall apply with respect to discharges occurring on or after October 1, 1997.

SEC. 5153. MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM.

(a) Medicare Rural Hospital Flexibility Program.—Section 1820 (42 U.S.C. 1395i–4) is amended to read as follows:

"MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM

"Sec. 1820. (a) Establishment.—Any State that submits an application in accordance with subsection (b) may establish a medicare rural hospital flexibility program described in subsection (c).

"(b) Application.—A State may establish a medicare rural hospital flexibility program described in subsection (c) if the State submits to the Secretary at such time and in such form as the Secretary may require an application containing—

"(1) assurances that the State—

"(A) has developed, or is in the process of developing, a State rural health care plan that—

"(i) provides for the creation of 1 or more rural health networks (as defined in subsection (d)) in the State;

"(ii) promotes regionalization of rural health services in the State; and

"(iii) improves access to hospital and other health services for rural residents of the State; and

"(B) has developed the rural health care plan described in subparagraph (A) in consultation with the hospital association of the State, rural hospitals located in the State, and the State Office of Rural Health (or, in the case of a State in the process of developing such plan, that assures the Secretary that the State will consult with its State hospital association, rural hospitals located in the State, and the State Office of Rural Health in developing such plan);

"(2) assurances that the State has designated (consistent with the rural health care plan described in paragraph (1)(A)), or is in the process of so designating, rural nonprofit or public hospitals or facilities located in the State as critical access hospitals; and

"(3) such other information and assurances as the Secretary may require.

"(c) Medicare Rural Hospital Flexibility Program Described.—

"(1) In general.—A State that has submitted an application in accordance with subsection (b), may establish a medicare rural hospital flexibility program that provides that—

"(A) the State shall develop at least 1 rural health network (as defined in subsection (d)) in the State; and

"(B) at least 1 facility in the State shall be designated as a critical access hospital in accordance with paragraph (2).

"(2) State designation of facilities.—

"(A) In general.—A State may designate 1 or more facilities as a critical access hospital in accordance with subparagraph (B).

"(B) Criteria for designation as critical access hospital.—A State may designate a facility as a critical access hospital if the facility—

"(i) is a nonprofit or public hospital and is located in a county (or equivalent unit of local government) in a rural area (as defined in section 1886(d)(2)(D)) that—

"(I) is located more than a 35-mile drive from a hospital, or another facility described in this subsection; or

"(II) is certified by the State as being a necessary provider of health care services to residents in the area;

"(ii) makes available 24-hour emergency care services that a State determines are necessary for ensuring access to emergency care services in each area served by a critical access hospital;

"(iii) provides not more than 15 acute care inpatient beds (meeting such standards as the Secretary may establish) for providing inpatient care for a period not to exceed 96 hours (unless a longer period is required because transfer to a hospital is precluded because of inclement weather or other emergency conditions), except that a peer review organization or equivalent entity may, on request, waive the 96-hour restriction on a case-by-case basis;

"(iv) meets such staffing requirements as would apply under section 1861(e) to a hospital located in a rural area, except that—

"(I) the facility need not meet hospital standards relating to the number of hours during a day, or days during a week, in which the facility must be open and fully staffed, except insofar as the facility is required to make available emergency care services as determined under clause (ii) and must have nursing services available on a 24-hour basis, but need not otherwise staff the facility except when an inpatient is present;

"(II) the facility may provide any services otherwise required to be provided by a full-time, on site dietitian, pharmacist, laboratory technician, medical technologist, and radiological technologist on a part-time, off site basis under arrangements as defined in section 1861(w)(1); and

"(III) the inpatient care described in clause (iii) may be provided by a physician's assistant, nurse practitioner, or clinical nurse specialist subject to the oversight of a physician who need not be present in the facility; and

"(v) meets the requirements of section 1861(aa)(2)(I).

"(d) Definition of Rural Health Network.—

"(1) In general.—In this section, the term 'rural health network' means, with respect to a State, an organization consisting of—

"(A) at least 1 facility that the State has designated or plans to designate as a critical access hospital; and

"(B) at least 1 hospital that furnishes acute care services.

"(2) Agreements.—

"(A) In general.—Each critical access hospital that is a member of a rural health network shall have an agreement with respect to each item described in subparagraph (B) with at least 1 hospital that is a member of the network.

"(B) Items described.—The items described in this subparagraph are the following:

"(i) Patient referral and transfer.

"(ii) The development and use of communications systems including (where feasible)—

"(I) telemetry systems; and

"(II) systems for electronic sharing of patient data.

"(iii) The provision of emergency and nonemergency transportation among the facility and the hospital.

"(C) Credentialing and quality assurance.—Each critical access hospital that is a member of a rural health network shall have an agreement with respect to credentialing and quality assurance with at least—

"(i) 1 hospital that is a member of the network;

"(ii) 1 peer review organization or equivalent entity; or

"(iii) 1 other appropriate and qualified entity identified in the State rural health care plan.

"(e) Certification by the Secretary.—The Secretary shall certify a facility as a critical access hospital if the facility—

"(1) is located in a State that has established a medicare rural hospital flexibility program in accordance with subsection (c);

"(2) is designated as a critical access hospital by the State in which it is located; and

"(3) meets such other criteria as the Secretary may require.

"(f) Permitting Maintenance of Swing Beds.—Nothing in this section shall be construed to prohibit a critical access hospital from entering into an agreement with the Secretary under section 1883 under which the facility's inpatient hospital facilities are used for the furnishing of extended care services.

"(g) Grants.—

"(1) Medicare rural hospital flexibility program.—The Secretary may award grants to States that have submitted applications in accordance with subsection (b) for—

"(A) engaging in activities relating to planning and implementing a rural health care plan;

"(B) engaging in activities relating to planning and implementing rural health networks; and

"(C) designating facilities as critical access hospitals.

"(2) Rural emergency medical services.—

"(A) In general.—The Secretary may award grants to States that have submitted applications in accordance with subparagraph (B) for the establishment or expansion of a program for the provision of rural emergency medical services.

"(B) Application.—An application is in accordance with this subparagraph if the State submits to the Secretary at such time and in such form as the Secretary may require an application containing the assurances described in subparagraphs (A)(ii), (A)(iii), and (B) of subsection (b)(1) and paragraph (3) of that subsection.

"(h) Grandfathering of Certain Facilities.—

"(1) In general.—Any medical assistance facility operating in Montana and any rural primary care hospital designated by the Secretary under this section prior to the date of the enactment of the Balanced Budget Act of 1997 shall be deemed to have been certified by the Secretary under subsection (e) as a critical access hospital if such facility or hospital is otherwise eligible to be designated by the State as a critical access hospital under subsection (c).

"(2) Continuation of medical assistance facility and rural primary care hospital terms.—Notwithstanding any other provision of this title, with respect to any medical assistance facility or rural primary care hospital described in paragraph (1), any reference in this title to a 'critical access hospital' shall be deemed to be a reference to a 'medical assistance facility' or 'rural primary care hospital'.

"(i) Waiver of Conflicting Part A Provisions.—The Secretary is authorized to waive such provisions of this part and part D as are necessary to conduct the program established under this section.

“(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Federal Hospital Insurance Trust Fund for making grants to all States under subsection (g), $25,000,000 in each of the fiscal years 1998 through 2002.”.

(b) REPORT ON ALTERNATIVE TO 96-HOUR RULE.—Not later than January 1, 1998, the Administrator of the Health Care Financing Administration shall submit to Congress a report on the feasibility of, and administrative requirements necessary to establish an alternative for certain medical diagnoses (as determined by the Administrator) to the 96-hour limitation for inpatient care in critical access hospitals required by section 1820(c)(2)(B)(iii) of the Social Security Act (42 U.S.C. 1395i–4), as added by subsection (a) of this section.

(c) CONFORMING AMENDMENTS RELATING TO RURAL PRIMARY CARE HOSPITALS AND CRITICAL ACCESS HOSPITALS.—

(1) IN GENERAL.—Title XI of the Social Security Act (42 U.S.C. 1301 et seq.) and title XVIII of that Act (42 U.S.C. 1395 et seq.) are each amended by striking “rural primary care” each place it appears and inserting “critical access”.

(2) DEFINITIONS.—Section 1861(mm) of the Social Security Act (42 U.S.C. 1395x(mm)) is amended to read as follows:

“CRITICAL ACCESS HOSPITAL; CRITICAL ACCESS HOSPITAL SERVICES

“(mm)(1) The term ‘critical access hospital’ means a facility certified by the Secretary as a critical access hospital under section 1820(e).

“(2) The term ‘inpatient critical access hospital services’ means items and services, furnished to an inpatient of a critical access hospital by such facility, that would be inpatient hospital services if furnished to an inpatient of a hospital by a hospital.

“(3) The term ‘outpatient critical access hospital services’ means medical and other health services furnished by a critical access hospital on an outpatient basis.”.

(3) PART A PAYMENT.—Section 1814 of the Social Security Act (42 U.S.C. 1395f) is amended—

(A) in subsection (a)(8), by striking “72” and inserting “96”; and

(B) by amending subsection (*l*) to read as follows:

“Payment for Inpatient Critical Access Hospital Services

“(*l*) The amount of payment under this part for inpatient critical access hospital services is the reasonable costs of the critical access hospital in providing such services.”.

(4) PAYMENT CONTINUED TO DESIGNATED EACHS.—Section 1886(d)(5)(D) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(D)) is amended—

(A) in clause (iii)(III), by inserting “as in effect on September 30, 1997” before the period at the end; and

(B) in clause (v)—

(i) by inserting “as in effect on September 30, 1997” after “1820(i)(1)”; and

(ii) by striking “1820(g)” and inserting “1820(d)”.

(5) PART B PAYMENT.—Section 1834(g) of the Social Security Act (42 U.S.C. 1395m(g)) is amended to read as follows:

“(g) PAYMENT FOR OUTPATIENT CRITICAL ACCESS HOSPITAL SERVICES.—The amount of payment under this part for outpatient critical access hospital services is the reasonable costs of the critical access hospital in providing such services.”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after October 1, 1997.

SEC. 5154. PROHIBITING DENIAL OF REQUEST BY RURAL REFERRAL CENTERS FOR RECLASSIFICATION ON BASIS OF COMPARABILITY OF WAGES.

(a) IN GENERAL.—Section 1886(d)(10)(D) (42 U.S.C. 1395ww(d)(10)(D)) is amended—

(1) by redesignating clause (iii) as clause (iv); and

(2) by inserting after clause (ii) the following new clause:

“(iii) Under the guidelines published by the Secretary under clause (i), in the case of a hospital which has ever been classified by the Secretary as a rural referral center under paragraph (5)(C), the Board may not reject the application of the hospital under this paragraph on the basis of any comparison between the average hourly wage of the hospital and the average hourly wage of hospitals in the area in which it is located.”.

(b) CONTINUING TREATMENT OF PREVIOUSLY DESIGNATED CENTERS.—

(1) IN GENERAL.—Any hospital classified as a rural referral center by the Secretary of Health and Human Services under section 1886(d)(5)(C) of the Social Security Act for fiscal year 1991 shall be classified as such a rural referral center for fiscal year 1998 and each subsequent fiscal year.

(2) BUDGET NEUTRALITY.—The provisions of section 1886(d)(8)(D) of the Social Security Act shall apply to reclassifications made pursuant to paragraph (1) in the same manner as such provisions apply to a reclassification under section 1886(d)(10) of such Act.

SEC. 5155. RURAL HEALTH CLINIC SERVICES.

(a) PER-VISIT PAYMENT LIMITS FOR PROVIDER-BASED CLINICS.—

(1) EXTENSION OF LIMIT.—

(A) IN GENERAL.—The matter in section 1833(f) (42 U.S.C. 1395l(f)) preceding paragraph (1) is amended by striking “independent rural health clinics” and inserting “rural health clinics (other than such clinics in rural hospitals with less than 50 beds)”.

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) applies to services furnished after 1997.

(2) TECHNICAL CLARIFICATION.—Section 1833(f)(1) (42 U.S.C. 1395l(f)(1)) is amended by inserting “per visit” after “$46”.

(b) ASSURANCE OF QUALITY SERVICES.—

(1) IN GENERAL.—Subparagraph (I) of the first sentence of section 1861(aa)(2) (42 U.S.C. 1395x(aa)(2)) is amended to read as follows:

“(I) has a quality assessment and performance improvement program, and appropriate procedures for review of utilization of clinic services, as the Secretary may specify,”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on January 1, 1998.

(c) WAIVER OF CERTAIN STAFFING REQUIREMENTS LIMITED TO CLINICS IN PROGRAM.—

(1) IN GENERAL.—Section 1861(aa)(7)(B)) (42 U.S.C. 1395x(aa)(7)(B)) is amended by inserting before the period “, or if the facility has not yet been determined to meet the requirements (including subparagraph (J) of the first sentence of paragraph (2)) of a rural health clinic.”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) applies to waiver requests made after 1997.

(d) REFINEMENT OF SHORTAGE AREA REQUIREMENTS.—

(1) DESIGNATION REVIEWED TRIENNIALLY.—Section 1861(aa)(2) (42 U.S.C. 1395x(aa)(2)) is amended in the second sentence, in the matter in clause (i) preceding subclause (I)—

(A) by striking “and that is designated” and inserting “and that, within the previous 3-year period, has been designated”; and

(B) by striking “or that is designated” and inserting “or designated”.

(2) AREA MUST HAVE SHORTAGE OF HEALTH CARE PRACTITIONERS.—Section 1861(aa)(2) (42 U.S.C. 1395x(aa)(2)), as amended by paragraph (1), is further amended in the second sentence, in the matter in clause (i) preceding subclause (I)—

(A) by striking the comma after “personal health services”; and

(B) by inserting “and in which there are insufficient numbers of needed health care practitioners (as determined by the Secretary),” after “Bureau of the Census)”.

(3) PREVIOUSLY QUALIFYING CLINICS GRANDFATHERED ONLY TO PREVENT SHORTAGE.—

(A) IN GENERAL.—Section 1861(aa)(2) (42 U.S.C. 1395x(aa)(2)) is amended in the third sentence by inserting before the period “if it is determined, in accordance with criteria established by the Secretary in regulations, to be essential to the delivery of primary care services that would otherwise be unavailable in the geographic area served by the clinic”.

(B) PAYMENT FOR CERTAIN PHYSICIAN ASSISTANT SERVICES.—

(i) IN GENERAL.—With respect to any regulations issued to implement section 1861(aa)(2) (42 U.S.C. 1395x(aa)(2)) (as amended by subparagraph (A)), the Secretary of Health and Human Services shall include in such regulations provisions providing for the direct payment to the physician assistant for any physician assistant services as described in clause (ii).

(ii) SERVICES DESCRIBED.—Services described in this clause are physician assistant services provided at a rural health clinic that is principally owned, as determined by the Secretary, by a physician assistant—

(I) as of the date of enactment of this Act; and

(II) continuously from such date through the date on which such services are provided.

(iii) SUNSET.—The provisions of this subparagraph shall not apply after January 1, 2003.

(4) EFFECTIVE DATES; IMPLEMENTING REGULATIONS.—

(A) IN GENERAL.—Except as otherwise provided, the amendments made by the preceding paragraphs take effect on January 1 of the first calendar year beginning at least 1 month after enactment of this Act.

(B) CURRENT RURAL HEALTH CLINICS.—The amendments made by the preceding paragraphs take effect, with respect to entities that are rural health clinics under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) on the date of enactment of this Act, on January 1 of the second calendar year following the calendar year specified in subparagraph (A).

(C) GRANDFATHERED CLINICS.—

(i) IN GENERAL.—The amendment made by paragraph (3) shall take effect on the effective date of regulations issued by the Secretary under clause (ii).

(ii) REGULATIONS.—The Secretary shall issue final regulations implementing paragraph (3) that shall take effect no later than January 1 of the third calendar year beginning at least 1 month after the date of enactment of this Act.

SEC. 5156. MEDICARE REIMBURSEMENT FOR TELEHEALTH SERVICES.

(a) IN GENERAL.—Not later than July 1, 1998, the Secretary of Health and Human Services (in this section referred to as the “Secretary”) shall make payments from the Federal Supplementary Medical Insurance Trust Fund under part B of title XVIII of the Social Security Act (42 U.S.C. 1395j et seq.) in accordance with the methodology described in subsection (b) for professional consultation via telecommunications systems with a health care provider furnishing a service for which payment may be made under such part to a beneficiary under the medicare program residing in a rural area (as defined in section 1886(d)(2)(D) of such Act (42 U.S.C. 1395ww(d)(2)(D))) that is designated as a health professional shortage area under section 332(a)(1)(A) of the Public Health Service Act (42 U.S.C. 254e(a)(1)(A)), notwithstanding that the individual health care provider providing the professional consultation is not at the same location as the health care provider furnishing the service to that beneficiary.

(b) METHODOLOGY FOR DETERMINING AMOUNT OF PAYMENTS.—Taking into account the findings of the report required under section 192 of the Health Insurance Portability and Accountability Act of 1996 (Public Law 104–191; 110 Stat. 1988), the findings of the report required under paragraph (c), and any other findings related to the clinical efficacy and cost-effectiveness of telehealth applications, the Secretary shall establish a methodology for determining the amount of payments made under subsection (a) within the following parameters:

(1) The payment shall include a bundled payment to be shared between the referring health care provider and the consulting health care provider. The amount of such bundled payment shall not be greater than the current fee schedule of the consulting health care provider for the health care services provided.

(2) The payment shall not include any reimbursement for any line charges or any facility fees.

(c) SUPPLEMENTAL REPORT.—Not later than January 1, 1998, the Secretary shall submit a report to Congress which shall contain a detailed analysis of—

(1) how telemedicine and telehealth systems are expanding access to health care services;

(2) the clinical efficacy and cost-effectiveness of telemedicine and telehealth applications;

(3) the quality of telemedicine and telehealth services delivered; and

(4) the reasonable cost of telecommunications charges incurred in practicing telemedicine and telehealth in rural, frontier, and underserved areas.

(d) EXPANSION OF TELEHEALTH SERVICES FOR CERTAIN MEDICARE BENEFICIARIES.—

(1) IN GENERAL.—Not later than January 1, 1999, the Secretary shall submit a report to Congress that examines the possibility of making payments from the Federal Supplementary Medical Insurance Trust Fund under part B of title XVIII of the Social Security Act (42 U.S.C. 1395j et seq.) for professional consultation via telecommunications systems with a health care provider furnishing a service for which payment may be made under such part to a beneficiary described in paragraph (2), notwithstanding that the individual health care provider providing the professional consultation is not at the same location as the health care provider furnishing the service to that beneficiary.

(2) BENEFICIARY DESCRIBED.—A beneficiary described in this paragraph is a beneficiary under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) who does not reside in a rural area (as so defined) that is designated as a health professional shortage area under section 332(a)(1)(A) of the Public Health Service Act (42 U.S.C. 254e(a)(1)(A)), who is homebound or nursing homebound, and for whom being transferred for health care services imposes a serious hardship.

(3) REPORT.—The report described in paragraph (1) shall contain a detailed statement of the potential costs to the medicare program of making the payments described in that paragraph using various reimbursement schemes.

SEC. 5157. TELEMEDICINE, INFORMATICS, AND EDUCATION DEMONSTRATION PROJECT.

(a) PURPOSE AND AUTHORIZATION.—

(1) IN GENERAL.—Not later than 9 months after the date of enactment of this section, the Secretary of Health and Human Services (in this section referred to as the "Secretary") shall conduct a demonstration project described in paragraph (2).

(2) DESCRIPTION OF PROJECT.—The demonstration project described in this paragraph is a single demonstration project to study the use of eligible health care provider telemedicine networks to implement high-capacity computing and advanced networks to improve primary care (and prevent health care complications), improve access to specialty care, and provide educational and training support to rural practitioners.

(3) WAIVER AUTHORITY.—The Secretary shall waive compliance with the requirements of titles XI, XVIII, and XIX of the Social Security Act (42 U.S.C. 1301 et seq., 1395 et seq., 1396 et seq.) to such extent and for such period as the Secretary determines is necessary to conduct the demonstration project.

(4) DURATION OF PROJECT.—The project shall be conducted for a 5-year period.

(b) OBJECTIVES OF PROJECT.—The objectives of the demonstration project conducted under this section shall include the following:

(1) The improvement of patient access to primary and specialty care and the reduction of inappropriate hospital visits in order to improve patient quality-of-life and reduce overall health care costs.

(2) The development of a curriculum to train and development of standards for required credentials and licensure of health professionals (particularly primary care health professionals) in the use of medical informatics and telecommunications.

(3) The demonstration of the application of advanced technologies such as video-conferencing from a patient's home and remote monitoring of a patient's medical condition.

(4) The development of standards in the application of telemedicine and medical informatics.

(5) The development of a model for cost-effective delivery of primary and related care in both a managed care environment and in a fee-for-service environment.

(c) ELIGIBLE HEALTH CARE PROVIDER TELEMEDICINE NETWORK DEFINED.—In this section, the term "eligible health care provider telemedicine network" means a consortium that—

(1) includes—

(A) at least 1 tertiary care hospital with an existing telemedicine network with an existing relationship with a medical school; and

(B) not more than 6 facilities, including at least 3 rural referral centers, in rural areas; and

(2) meets the following requirements:

(A) The consortium is located in a region that is predominantly rural.

(B) The consortium submits to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a description of the use the consortium would make of any amounts received under the demonstration project and the source and amount of non-Federal funds used in the project.

(C) The consortium guarantees that it will be responsible for payment for all costs of the project that are not paid under this section and that the maximum amount of payment that may be made to the consortium under this section shall not exceed the amount specified in subsection (d)(3).

(d) COVERAGE AS MEDICARE PART B SERVICES.—

(1) IN GENERAL.—Subject to the succeeding provisions of this section, services for medicare beneficiaries furnished under the demonstration project shall be considered to be services covered under part B of title XVIII of the Social Security Act (42 U.S.C. 1395j).

(2) PAYMENTS.—

(A) IN GENERAL.—Subject to paragraph (3), payment for services provided under this section shall be made at a rate of 50 percent of the costs that are reasonable and related to the provision of such services. In computing such costs, the Secretary shall include costs described in subparagraph (B), but may not include costs described in subparagraph (C).

(B) COSTS THAT MAY BE INCLUDED.—The costs described in this subparagraph are the permissible costs (as recognized by the Secretary) for the following:

(i) The acquisition of telemedicine equipment for use in patients' homes (but only in the case of patients located in medically underserved areas).

(ii) Curriculum development and training of health professionals in medical informatics and telemedicine.

(iii) Payment of telecommunications costs including salaries, maintenance of equipment, and costs of telecommunications between patients' homes and the eligible network and between the network and other entities under the arrangements described in subsection (c).

(iv) Payments to practitioners and providers under the medicare programs.

(C) OTHER COSTS.—The costs described in this subparagraph include the following:

(i) The purchase or installation of transmission equipment (other than such equipment used by health professionals to deliver medical informatics services under the project).

(ii) The establishment or operation of a telecommunications common carrier network.

(iii) Construction that is limited to minor renovations related to the installation of equipment.

(3) LIMITATION AND FUNDS.—The Secretary shall make the payments under the demonstration project conducted under this section from the Federal Supplementary Medical Insurance Trust Fund, established under section 1841 of the Social Security Act (42 U.S.C. 1395t), except that the total amount of the payments that may be made by the Secretary under this section shall not exceed $27,000,000.

Subtitle D—Anti-Fraud and Abuse Provisions and Improvements in Protecting Program Integrity

CHAPTER 1—REVISIONS TO SANCTIONS FOR FRAUD AND ABUSE

SEC. 5201. AUTHORITY TO REFUSE TO ENTER INTO MEDICARE AGREEMENTS WITH INDIVIDUALS OR ENTITIES CONVICTED OF FELONIES.

(a) MEDICARE PART A.—Section 1866(b)(2) (42 U.S.C. 1395cc(b)(2)) is amended—

(1) in subparagraph (B), by striking "or" at the end;

(2) in subparagraph (C), by striking the period at the end and inserting ", or"; and

(3) by adding at the end the following:

"(D) has ascertained that the provider has been convicted of a felony under Federal or State law for an offense that the Secretary determines is inconsistent with the best interests of program beneficiaries.".

(b) Medicare Part B.—Section 1842 (42 U.S.C. 1395u) is amended by adding at the end the following:

"(s) The Secretary may refuse to enter into an agreement with a physician or supplier under subsection (h), or may terminate or refuse to renew such agreement, in the event that such physician or supplier has been convicted of a felony under Federal or State law for an offense which the Secretary determines is inconsistent with the best interests of program beneficiaries.".

(c) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act and apply to the entry and renewal of contracts on or after such date.

SEC. 5202. EXCLUSION OF ENTITY CONTROLLED BY FAMILY MEMBER OF A SANCTIONED INDIVIDUAL.

(a) In General.—Section 1128 (42 U.S.C. 1320a–7) is amended—

(1) in subsection (b)(8)(A)—

(A) in clause (i), by striking "or" at the end;

(B) in clause (ii), by striking the dash at the end and inserting "; or"; and

(C) by inserting after clause (ii) the following:

"(iii) who was described in clause (i) but is no longer so described because of a transfer of ownership or control interest, in anticipation of (or following) a conviction, assessment, or exclusion described in subparagraph (B) against the person, to an immediate family member (as defined in subsection (j)(1)) or a member of the household of the person (as defined in subsection (j)(2)) who continues to maintain an interest described in such clause—"; and

(2) by adding at the end the following:

"(j) Definition of Immediate Family Member and Member of Household.—For purposes of subsection (b)(8)(A)(iii):

"(1) The term 'immediate family member' means, with respect to a person—

"(A) the husband or wife of the person;

"(B) the natural or adoptive parent, child, or sibling of the person;

"(C) the stepparent, stepchild, stepbrother, or stepsister of the person;

"(D) the father-, mother-, daughter-, son-, brother-, or sister-in-law of the person;

"(E) the grandparent or grandchild of the person; and

"(F) the spouse of a grandparent or grandchild of the person.

"(2) The term 'member of the household' means, with respect to any person, any individual sharing a common abode as part of a single family unit with the person, including domestic employees and others who live together as a family unit, but not including a roomer or boarder.".

(b) Effective Date.—The amendments made by subsection (a) shall take effect on the date that is 45 days after the date of the enactment of this Act.

SEC. 5203. IMPOSITION OF CIVIL MONEY PENALTIES.

(a) Civil Money Penalties for Persons That Contract With Excluded Individuals.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)) is amended—

(1) in paragraph (4), by striking "or" at the end;

(2) in paragraph (5), by adding "or" at the end; and

(3) by inserting after paragraph (5) the following:

"(6) arranges or contracts (by employment or otherwise) with an individual or entity that the person knows or should know is excluded from participation in a Federal health care program (as defined in section 1128B(f)), for the provision of items or services for which payment may be made under such a program;".

(b) Civil Money Penalties for Services Ordered or Prescribed by an Excluded Individual or Entity.—Section 1128A(a)(1) (42 U.S.C. 1320a–7a(a)(1)) is amended—

(1) in subparagraph (D)—

(A) by inserting ", ordered, or prescribed by such person" after "other item or service furnished";

(B) by inserting "(pursuant to this title or title XVIII)" after "period in which the person was excluded";

(C) by striking "pursuant to a determination by the Secretary" and all that follows through "the provisions of section 1842(j)(2)"; and

(D) by striking "or" at the end;

(2) by redesignating subparagraph (E) as subparagraph (F); and

(3) by inserting after subparagraph (D) the following:

"(E) is for a medical or other item or service ordered or prescribed by a person excluded pursuant to this title or title XVIII from the program under which the claim was made, and the person furnishing such item or service knows or should know of such exclusion, or".

(c) Civil Money Penalties for Kickbacks.—

(1) Permitting secretary to impose civil money penalty.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)), as amended by subsection (a), is amended—

(A) in paragraph (5), by striking "or" at the end;

(B) in paragraph (6), by adding "or" at the end; and

(C) by adding after paragraph (6) the following:

"(7) commits an act described in paragraph (1) or (2) of section 1128B(b);".

(2) Description of civil money penalty applicable.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)), as amended by paragraph (1), is amended in the matter following paragraph (7)—

(A) by striking "occurs)." and inserting "occurs; or in cases under paragraph (7), $50,000 for each such act)."; and

(B) by inserting after "of such claim" the following: "(or, in cases under paragraph (7), damages of not more than 3 times the total amount of remuneration offered, paid, solicited, or received, without regard to whether a portion of such remuneration was offered, paid, solicited, or received for a lawful purpose)".

(d) Effective Dates.—

(1) Contracts with excluded persons.—The amendments made by subsection (a) shall apply to arrangements and contracts entered into after the date of the enactment of this Act.

(2) Services ordered or prescribed.—The amendments made by subsection (b) shall apply to items and services furnished, ordered, or prescribed after the date of the enactment of this Act.

(3) Kickbacks.—The amendments made by subsection (c) shall apply to acts taken after the date of the enactment of this Act.

CHAPTER 2—IMPROVEMENTS IN PROTECTING PROGRAM INTEGRITY

SEC. 5211. DISCLOSURE OF INFORMATION, SURETY BONDS, AND ACCREDITATION.

(a) Disclosure of Information, Surety Bond, and Accreditation Requirement for Suppliers of Durable Medical Equipment.—Section 1834(a) (42 U.S.C. 1395m(a)) is amended by inserting after paragraph (15) the following:

"(16) Disclosure of information, surety bond, and accreditation.—The Secretary shall not provide for the issuance (or renewal) of a provider number for a supplier of durable medical equipment, for purposes of payment under this part for durable medical equipment furnished by the supplier, unless the supplier provides the Secretary on a continuing basis—

"(A) with—

"(i) full and complete information as to the identity of each person with an ownership or control interest (as defined in section 1124(a)(3)) in the supplier or in any subcontractor (as defined by the Secretary in regulations) in which the supplier directly or indirectly has a 5 percent or more ownership interest; and

"(ii) to the extent determined to be feasible under regulations of the Secretary, the name of any disclosing entity (as defined in section 1124(a)(2)) with respect to which a person with such an ownership or control interest in the supplier is a person with such an ownership or control interest in the disclosing entity;

"(B) with a surety bond in a form specified by the Secretary and in an amount that is not less than $50,000; and

"(C) at the discretion of the Secretary, with evidence of compliance with the applicable conditions or requirements of this title through an accreditation survey conducted by a national accreditation body under section 1865(b).

The Secretary may waive the requirement of a bond under subparagraph (B) in the case of a supplier that provides a comparable surety bond under State law.".

(b) Surety Bond Requirement for Home Health Agencies.—

(1) In general.—Section 1861(o) (42 U.S.C. 1395x(o)) is amended—

(A) in paragraph (7), by inserting "and including providing the Secretary on a continuing basis with a surety bond in a form specified by the Secretary and in an amount that is not less than $50,000" after "financial security of the program"; and

(B) by adding at the end the following: "The Secretary may waive the requirement of a surety bond under paragraph (7) in the case of an agency or organization that provides a comparable surety bond under State law."

(2) Conforming amendments.—Section 1861(v)(1)(H) (42 U.S.C. 1395x(v)(1)(H)) is amended—

(A) in clause (i), by striking "the financial security requirement" and inserting "the financial security and surety bond requirements"; and

(B) in clause (ii), by striking "the financial security requirement described in subsection (o)(7) applies" and inserting "the financial security and surety bond requirements described in subsection (o)(7) apply".

(3) Reference to current disclosure requirement.—For additional provisions requiring home health agencies to disclose information on ownership and control interests, see section 1124 of the Social Security Act (42 U.S.C. 1320a–3).

(c) Authorizing Application of Disclosure and Surety Bond Requirements to

Ambulance Services and Certain Clinics.—Section 1834(a)(16) (42 U.S.C. 1395m(a)(16)), as added by subsection (a), is amended by adding at the end the following flush sentence:

The Secretary, in the Secretary's discretion, may impose the requirements of the previous sentence with respect to some or all classes of suppliers of ambulance services described in section 1861(s)(7) and clinics that furnish medical and other health services (other than physicians' services) under this part.".

(d) Application to Comprehensive Outpatient Rehabilitation Facilities (CORFs).—Section 1861(cc)(2) (42 U.S.C. 1395x(cc)(2)) is amended—

(1) in subparagraph (I), by inserting before the period at the end the following: "and providing the Secretary on a continuing basis with a surety bond in a form specified by the Secretary and in an amount that is not less than $50,000"; and

(2) by adding at the end the following flush sentence:

"The Secretary may waive the requirement of a bond under subparagraph (I) in the case of a facility that provides a comparable surety bond under State law.".

(e) Application to Rehabilitation Agencies.—Section 1861(p) (42 U.S.C. 1395x(p)) is amended—

(1) in paragraph (4)(A)(v), by inserting after "as the Secretary may find necessary," the following: "and provides the Secretary, to the extent required by the Secretary, on a continuing basis with a surety bond in a form specified by the Secretary and in an amount that is not less than $50,000,", and

(2) by adding at the end the following: "The Secretary may waive the requirement of a bond under paragraph (4)(A)(v) in the case of a clinic or agency that provides a comparable surety bond under State law.".

(f) Effective Dates.—

(1) Suppliers of durable medical equipment.—The amendment made by subsection (a) shall apply to suppliers of durable medical equipment with respect to such equipment furnished on or after January 1, 1998.

(2) Home health agencies.—The amendments made by subsection (b) shall apply to home health agencies with respect to services furnished on or after January 1, 1998. The Secretary of Health and Human Services shall modify participation agreements under section 1866(a)(1) of the Social Security Act (42 U.S.C. 1395cc(a)(1)) with respect to home health agencies to provide for implementation of such amendments on a timely basis.

(3) Other amendments.—The amendments made by subsections (c) through (e) shall take effect on the date of the enactment of this Act and may be applied with respect to items and services furnished on or after the date specified in paragraph (1).

SEC. 5212. PROVISION OF CERTAIN IDENTIFICATION NUMBERS.

(a) Requirements To Disclose Employer Identification Numbers (EINS) and Social Security Account Numbers (SSNs).—Section 1124(a)(1) (42 U.S.C. 1320a-3(a)(1)) is amended by inserting before the period at the end the following: "and supply the Secretary with the both the employer identification number (assigned pursuant to section 6109 of the Internal Revenue Code of 1986) and social security account number (assigned under section 205(c)(2)(B)) of the disclosing entity, each person with an ownership or control interest (as defined in subsection (a)(3)), and any subcontractor in which the entity directly or indirectly has a 5 percent or more ownership interest".

(b) Other Medicare Providers.—Section 1124A (42 U.S.C. 1320a–3a) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "and" at the end;

(B) in paragraph (2), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(3) including the employer identification number (assigned pursuant to section 6109 of the Internal Revenue Code of 1986) and social security account number (assigned under section 205(c)(2)(B)) of the disclosing part B provider and any person, managing employee, or other entity identified or described under paragraph (1) or (2)."; and

(2) in subsection (c)(1), by inserting "(or, for purposes of subsection (a)(3), any entity receiving payment)" after "on an assignment-related basis".

(c) Verification by Social Security Administration (SSA).—Section 1124A (42 U.S.C. 1320a–3a), as amended by subsection (b), is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following:

"(c) Verification.—

"(1) Transmittal by HHS.—The Secretary shall transmit—

"(A) to the Commissioner of Social Security information concerning each social security account number (assigned under section 205(c)(2)(B)), and

"(B) to the Secretary of the Treasury information concerning each employer identification number (assigned pursuant to section 6109 of the Internal Revenue Code of 1986),

supplied to the Secretary pursuant to subsection (a)(3) or section 1124(c) to the extent necessary for verification of such information in accordance with paragraph (2).

"(2) Verification.—The Commissioner of Social Security and the Secretary of the Treasury shall verify the accuracy of, or correct, the information supplied by the Secretary to such official pursuant to paragraph (1), and shall report such verifications or corrections to the Secretary.

"(3) Fees for verification.—The Secretary shall reimburse the Commissioner and Secretary of the Treasury, at a rate negotiated between the Secretary and such official, for the costs incurred by such official in performing the verification and correction services described in this subsection.".

(d) Report.—The Secretary of Health and Human Services shall submit to Congress a report on steps the Secretary has taken to assure the confidentiality of social security account numbers that will be provided to the Secretary under the amendments made by this section.

(e) Effective Dates.—

(1) Disclosure requirements.—The amendment made by subsection (a) shall apply to the application of conditions of participation, and entering into and renewal of contracts and agreements, occurring more than 90 days after the date of submission of the report under subsection (d).

(2) Other providers.—The amendments made by subsection (b) shall apply to payment for items and services furnished more than 90 days after the date of submission of such report.

SEC. 5213. APPLICATION OF CERTAIN PROVISIONS OF THE BANKRUPTCY CODE.

(a) Restricted Applicability of Bankruptcy Stay, Discharge, and Preferential Transfer Provisions to Medicare and Medicaid Debts.—Part A of title XI (42 U.S.C. 1301 et seq.) is amended by inserting after section 1143 the following:

"APPLICATION OF CERTAIN PROVISIONS OF THE BANKRUPTCY CODE

"Sec. 1144. (a) Medicare and Medicaid-Related Actions Not Stayed by Bankruptcy Proceedings.—The commencement or continuation of any action against a debtor under this title or title XVIII or XIX (other than an action with respect to health care services for the debtor under title XVIII), including any action or proceeding to exclude or suspend the debtor from program participation, assess civil money penalties, recoup or set off overpayments, or deny or suspend payment of claims shall not be subject to the provisions of section 362(a) of title 11, United States Code.

"(b) Certain Medicare- and Medicaid-Related Debt Not Dischargeable in Bankruptcy.—A debt owed to the United States or to a State for an overpayment under title XVIII or XIX (other than an overpayment for health care services for the debtor under title XVIII) resulting from the fraudulent actions of the debtor, or for a penalty, fine, or assessment under this title or title XVIII or XIX, shall not be dischargeable under any provision of title 11, United States Code.

"(c) Repayment of Certain Debts Considered Final.—Payments made to repay a debt to the United States or to a State with respect to items or services provided, or claims for payment made, under title XVIII or XIX (including repayment of an overpayment (other than an overpayment for health care services for the debtor under title XVIII) resulting from the fraudulent actions of the debtor), or to pay a penalty, fine, or assessment under this title or title XVIII or XIX, shall be considered final and not preferential transfers under section 547 of title 11, United States Code.".

(b) Medicare Rules Applicable to Bankruptcy Proceedings.—Title XVIII (42 U.S.C. 1395 et seq.) is amended by adding at the end the following:

"APPLICATION OF PROVISIONS OF THE BANKRUPTCY CODE

"Sec. 1894. (a) Use of Medicare Standards and Procedures.—Notwithstanding any provision of title 11, United States Code, or any other provision of law, in the case of claims by a debtor in bankruptcy for payment under this title, the determination of whether the claim is allowable and of the amount payable, shall be made in accordance with the provisions of this title and title XI and implementing regulations.

"(b) Notice to Creditor of Bankruptcy Petitioner.—In the case of a debt owed to the United States with respect to items or services provided, or claims for payment made, under this title (including a debt arising from an overpayment or a penalty, fine, or assessment under title XI or this title), the notices to the creditor of bankruptcy petitions, proceedings, and relief required under title 11, United States Code (including under section 342 of that title and section 2002(j) of the Federal Rules of Bankruptcy Procedure), shall be given to the Secretary. Provision of such notice to a fiscal agent of the Secretary shall not be considered to satisfy this requirement.

"(c) Turnover of Property to the Bankruptcy Estate.—For purposes of section 542(b) of title 11, United States Code, a claim for payment under this title shall not be considered to be a matured debt payable to the estate of a debtor until such claim has been allowed by the Secretary in accordance with procedures under this title.".

(c) Effective Date.—The amendments made by this section shall apply to bankruptcy petitions filed after the date of the enactment of this Act.

SEC. 5214. REPLACEMENT OF REASONABLE CHARGE METHODOLOGY BY FEE SCHEDULES.

(a) In General.—Section 1833(a)(1) (42 U.S.C. 1395l(a)(1)) is amended in the matter preceding subparagraph (A) by striking "the reasonable charges for the services" and inserting "the lesser of the actual charges for the services and the amounts determined by the applicable fee schedules developed by the Secretary for the particular services".

(b) Conforming Amendments.—

(1) Section 1833(a)(1) (42 U.S.C. 1395l(a)(1)) is amended—

(A) in subparagraph (A), by striking "reasonable charges for" and inserting "payment bases otherwise applicable to";

(B) in subparagraph (B), by striking "reasonable charges" and inserting "fee schedule amounts"; and

(C) by inserting after subparagraph (F) the following: "(G) with respect to services described in clause (i) or (ii) of section 1861(s)(2)(K) (relating to physician assistants and nurse practitioners), the amounts paid shall be 80 percent of the lesser of the actual charge for the services and the applicable amount determined under subclause (I) or (II) of section 1842(b)(12)(A)(ii),".

(2) Section 1833(a)(2) (42 U.S.C. 1395l(a)(2)) is amended—

(A) in subparagraph (B), in the matter preceding clause (i), by striking "(C), (D)," and inserting "(D)"; and

(B) by striking subparagraph (C).

(3) Section 1833(l) (42 U.S.C. 1395l(l)) is amended—

(A) in paragraph (3)—

(i) by striking subparagraph (B); and

(ii) by striking "(3)(A)" and inserting "(3)"; and

(B) by striking paragraph (6).

(4) Section 1834(a)(10)(B) (42 U.S.C. 1395m(a)(10)(B)) is amended by striking "paragraphs (8) and (9)" and all that follows through "section 1848(i)(3)." and inserting "section 1842(b)(8) to covered items and suppliers of such items and payments under this subsection as such provisions would otherwise apply to physicians' services and physicians.".

(5) Section 1834(g)(1)(A)(ii) (42 U.S.C. 1395m(g)(1)(A)(ii)) is amended in the heading by striking "Reasonable charges for professional" and inserting "Professional".

(6) Section 1842(a) (42 U.S.C. 1395u(a)) is amended—

(A) in the matter preceding paragraph (1), by striking "reasonable charge" and inserting "fee schedule"; and

(B) in paragraph (1)(A), by striking "reasonable charge" and inserting "other".

(7) Section 1842(b)(3) (42 U.S.C. 1395u(b)(3)) is amended—

(A) in subparagraph (B)—

(i) in the matter preceding clause (i), by striking "where payment" and all that follows through "made—" and inserting "where payment under this part for a service is on a basis other than a cost basis, such payment will (except as otherwise provided in section 1870(f)) be made—"; and

(ii) by striking clause (ii)(I) and inserting the following: "(I) the amount determined by the applicable payment basis under this part is the full charge for the service,"; and

(B) by striking the second, third, fourth, fifth, sixth, eighth, and ninth sentences.

(8) Section 1842(b)(4) (42 U.S.C. 1395u(b)(4)) is amended to read as follows:

"(4) In the case of an enteral or parenteral pump that is furnished on a rental basis during a period of medical need—

"(A) monthly rental payments shall not be made under this part for more than 15 months during that period, and

"(B) after monthly rental payments have been made for 15 months during that period, payment under this part shall be made for maintenance and servicing of the pump in amounts that the Secretary determines to be reasonable and necessary to ensure the proper operation of the pump.".

(9) Section 6112(b) (42 U.S.C. 1395m note; Public Law 101-239) of OBRA—1989 is repealed.

(10) Section 1842(b)(7) (42 U.S.C. 1395u(b)(7)) is amended—

(A) in subparagraph (D)(i), in the matter preceding subclause (I), by striking ", to the extent that such payment is otherwise allowed under this paragraph,";

(B) in subparagraph (D)(ii), by striking "subparagraph" and inserting "paragraph";

(C) by striking "(7)(A) In the case of" and all that follows through subparagraph (C);

(D) by striking "(D)(i)" and inserting "(7)(A)";

(E) by redesignating clauses (ii) and (iii) as subparagraphs (B) and (C), respectively; and

(F) by redesignating subclauses (I), (II), and (III) of subparagraph (A) (as redesignated by subparagraph (D) of this paragraph) as clauses (i), (ii), and (iii), respectively.

(11) Section 1842(b)(9) (42 U.S.C. 1395u(b)(9)) is repealed.

(12) Section 1842(b)(10) (42 U.S.C. 1395u(b)(10)) is repealed.

(13) Section 1842(b)(11) (42 U.S.C. 1395u(b)(11)) is amended—

(A) by striking subparagraphs (B) through (D);

(B) by striking "(11)(A)" and inserting "(11)"; and

(C) by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively.

(14) Section 1842(b)(12)(A)(ii) (42 U.S.C. 1395u(b)(12)(A)(ii)) is amended—

(A) in the matter preceding subclause (I), by striking "prevailing charges determined under paragraph (3)" and inserting "the amounts determined under section 1833(a)(1)(G)"; and

(B) in subclause (II), by striking "prevailing charge rate" and all that follows up to the period and inserting "fee schedule amount specified in section 1848 for such services performed by physicians".

(15) Paragraphs (14) through (17) of section 1842(b) (42 U.S.C. 1395u(b)) are repealed.

(16) Section 1842(b) (42 U.S.C. 1395u(b)) is amended—

(A) in paragraph (18)(A), by striking "reasonable charge or"; and

(B) by redesignating paragraph (18) as paragraph (14).

(17) Section 1842(j)(1) (42 U.S.C. 1395u(j)) is amended to read as follows:

"(j)(1) See subsections (k), (l), (m), (n), and (p) as to the cases in which sanctions may be applied under paragraph (2).".

(18) Section 1842(j)(4) (42 U.S.C. 1395u(j)(4)) is amended by striking "under paragraph (1)".

(19) Section 1842(n)(1)(A) (42 U.S.C. 1395u(n)(1)(A)) is amended by striking "reasonable charge (or other applicable limit)" and inserting "other applicable limit".

(20) Section 1842(q) (42 U.S.C. 1395u(q)) is amended—

(A) by striking paragraph (1)(B); and

(B) by striking "(q)(1)(A)" and inserting "(q)(1)".

(21) Section 1845(b)(1) (42 U.S.C. 1395w-1(b)(1)) is amended by striking "adjustments to the reasonable charge levels for physicians' services recognized under section 1842(b) and".

(22) Section 1848(i)(3) (42 U.S.C. 1395w-4(i)(3)) is repealed.

(23) Section 1866(a)(2)(A)(ii) (42 U.S.C. 1395cc(a)(2)(A)(ii)) is amended by striking "reasonable charges" and all that follows through "provider)" and inserting "amount customarily charged for the items and services by the provider".

(24) Section 1881(b)(3)(A) (42 U.S.C. 1395rr(b)(3)(A)) is amended by striking "a reasonable charge" and all that follows through "section 1848)" and inserting "the basis described in section 1848".

(25) Section 9340 of OBRA—1986 (42 U.S.C. 1395u note; Public Law 99-509) is repealed.

(c) Effective Dates.—The amendments made by this section to the extent such amendments substitute fee schedules for reasonable charges, shall apply to particular services as of the date specified by the Secretary of Health and Human Services.

(d) Initial Budget Neutrality.—The Secretary, in developing a fee schedule for particular services (under the amendments made by this section), shall set amounts for the first year period to which the fee schedule applies at a level so that the total payments under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) for those services for that year period shall be approximately equal to the estimated total payments if those amendments had not been made.

SEC. 5215. APPLICATION OF INHERENT REASONABLENESS TO ALL PART B SERVICES OTHER THAN PHYSICIANS' SERVICES.

(a) In General.—Section 1842(b)(8) (42 U.S.C. 1395u(b)(8)) is amended to read as follows:

"(8) The Secretary shall describe by regulation the factors to be used in determining the cases (of particular items or services) in which the application of this part (other than to physicians' services paid under section 1848) results in the determination of an amount that, because of its being grossly excessive or grossly deficient, is not inherently reasonable, and provide in those cases for the factors to be considered in establishing an amount that is realistic and equitable.".

(b) Conforming Amendment.—Section 1834(a)(10) (42 U.S.C. 1395m(a)(10)(B)) is amended—

(1) by striking subparagraph (B); and

(2) by redesignating subparagraph (C) as subparagraph (B).

(c) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 5216. REQUIREMENT TO FURNISH DIAGNOSTIC INFORMATION.

(a) Inclusion of Non-Physician Practitioners in Requirement To Provide Diagnostic Codes for Physician Services.—Paragraphs (1) and (2) of section 1842(p) (42 U.S.C. 1395u(p)) are each amended by inserting "or practitioner specified in subsection (b)(18)(C)" after "by a physician".

(b) Requirement To Provide Diagnostic Information When Ordering Certain Items or Services Furnished by Another Entity.—Section 1842(p) (42 U.S.C. 1395u(p)), is amended by adding at the end the following:

"(4) In the case of an item or service defined in paragraph (3), (6), (8), or (9) of subsection 1861(s) ordered by a physician or a practitioner specified in subsection (b)(18)(C), but furnished by another entity, if the Secretary (or fiscal agent of the Secretary) requires the entity furnishing the item or service to provide diagnostic or other medical information for payment to be made to the entity, the physician or practitioner shall provide that information to the entity at the time that the item or service is ordered by the physician or practitioner.''.

(c) Effective Date.—The amendments made by this section shall apply to items and services furnished on or after January 1, 1998.

SEC. 5217. REPORT BY GAO ON OPERATION OF FRAUD AND ABUSE CONTROL PROGRAM.

Section 1817(k)(6) (42 U.S.C. 1395i(k)(6)) is amended by inserting ''June 1, 1998, and'' after ''Not later than''.

SEC. 5218. COMPETITIVE BIDDING.

(a) General Rule.—Part B of title XVIII (42 U.S.C. 1395j et seq.) is amended by inserting after section 1846 the following:

''SEC. 1847. COMPETITIVE ACQUISITION OF ITEMS AND SERVICES.

''(a) Establishment of Bidding Areas.—

''(1) In general.—The Secretary shall establish competitive acquisition areas for contract award purposes for the furnishing under this part after 1997 of the items and services described in subsection (c). The Secretary may establish different competitive acquisition areas under this subsection for different classes of items and services.

''(2) Criteria for establishment.—The competitive acquisition areas established under paragraph (1) shall be chosen based on the availability and accessibility of entities able to furnish items and services, and the probable savings to be realized by the use of competitive bidding in the furnishing of items and services in the area.

''(b) Awarding of Contracts in Areas.—

''(1) In general.—The Secretary shall conduct a competition among individuals and entities supplying items and services described in subsection (c) for each competitive acquisition area established under subsection (a) for each class of items and services.

''(2) Conditions for awarding contract.—The Secretary may not award a contract to any entity under the competition conducted pursuant to paragraph (1) to furnish an item or service unless the Secretary finds that the entity meets quality standards specified by the Secretary, and subject to paragraph (3), that the total amounts to be paid under the contract are expected to be less than the total amounts that would otherwise be paid.

''(3) Limit on amount of payment.—The Secretary may not under a contract awarded under this section provide for payment for an item or service in an amount in excess of the applicable fee schedule under this part for similar or related items or services. The preceding sentence shall not apply if the Secretary determines that an amount in excess of such amount is warranted by reason of technological innovation, quality improvement, or similar reasons, except that the total amount paid under the contract shall not exceed the limit under paragraph (2).

''(4) Contents of contract.—A contract entered into with an entity under the competition conducted pursuant to paragraph (1) is subject to terms and conditions that the Secretary may specify.

''(5) Limit on number of contractors.—The Secretary may limit the number of contractors in a competitive acquisition area to the number needed to meet projected demand for items and services covered under the contracts.

''(c) Services described.—The items and services to which this section applies are all items and services covered under this part (except for physician services as defined by 1861(r)) that the Secretary may specify.''.

(b) Items and Services To Be Furnished Only Through Competitive Acquisition.—Section 1862(a) (42 U.S.C. 1395y(a)) is amended—

(1) by striking ''or'' at the end of paragraph (14),

(2) by striking the period at the end of paragraph (15) and inserting ''; or'', and

(3) by inserting after paragraph (15) the following:

''(16) where the expenses are for an item or service furnished in a competitive acquisition area (as established by the Secretary under section 1847(a)) by an entity other than an entity with which the Secretary has entered into a contract under section 1847(b) for the furnishing of such an item or service in that area, unless the Secretary finds that the expenses were incurred in a case of urgent need, or in other circumstances specified by the Secretary.''.

(c) Effective Date.—The amendments made by subsections (a) and (b) apply to items and services furnished after December 31, 1997.

CHAPTER 3—CLARIFICATIONS AND TECHNICAL CHANGES

SEC. 5221. OTHER FRAUD AND ABUSE RELATED PROVISIONS.

(a) Reference Correction.—(1) Section 1128D(b)(2)(D) (42 U.S.C. 1320a–7d(b)(2)(D)), as added by section 205 of the Health Insurance Portability and Accountability Act of 1996, is amended by striking ''1128B(b)'' and inserting ''1128A(b)''.

(2) Section 1128E(g)(3)(C) (42 U.S.C. 1320a–7e(g)(3)(C)) is amended by striking ''Veterans' Administration'' and inserting ''Department of Veterans Affairs''.

(b) Language in Definition of Conviction.—Section 1128E(g)(5) (42 U.S.C. 1320a–7e(g)(5)), as inserted by section 221(a) of the Health Insurance Portability and Accountability Act of 1996, is amended by striking ''paragraph (4)'' and inserting ''paragraphs (1) through (4)''.

(c) Implementation of Exclusions.—Section 1128 (42 U.S.C. 1320a–7) is amended—

(1) in subsection (a), by striking ''any program under title XVIII and shall direct that the following individuals and entities be excluded from participation in any State health care program (as defined in subsection (h))'' and inserting ''any Federal health care program (as defined in section 1128B(f))''; and

(2) in subsection (b), by striking ''any program under title XVIII and may direct that the following individuals and entities be excluded from participation in any State health care program'' and inserting ''any Federal health care program (as defined in section 1128B(f))''.

(d) Sanctions for Failure to Report.—Section 1128E(b) (42 U.S.C. 1320a–7e(b)), as inserted by section 221(a) of the Health Insurance Portability and Accountability Act of 1996, is amended by adding at the end the following:

''(6) Sanctions for failure to report.—

''(A) Health plans.—Any health plan that fails to report information on an adverse action required to be reported under this subsection shall be subject to a civil money penalty of not more than $25,000 for each such adverse action not reported. Such penalty shall be imposed and collected in the same manner as civil money penalties under subsection (a) of section 1128A are imposed and collected under that section.

''(B) Governmental agencies.—The Secretary shall provide for a publication of a public report that identifies those Government agencies that have failed to report information on adverse actions as required to be reported under this subsection.''.

(e) Clarification of Treatment of Certain Waivers and Payments of Premiums.—

(1) Section 1128A(i)(6) (42 U.S.C. 1320a–7a(i)(6)) is amended—

(A) in subparagraph (A)(iii)—

(i) in subclause (I), by adding ''or'' at the end;

(ii) in subclause (II), by striking ''or'' at the end; and

(iii) by striking subclause (III);

(B) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D); and

(C) by inserting after subparagraph (A) the following:

''(B) any permissible waiver as specified in section 1128B(b)(3) or in regulations issued by the Secretary;''.

(2) Section 1128A(i)(6) (42 U.S.C. 1320a–7a(i)(6)), is amended—

(A) in subparagraph (C), as redesignated by paragraph (1), by striking ''or'' at the end;

(B) in subparagraph (D), as so redesignated, by striking the period at the end and inserting ''; or''; and

(C) by adding at the end the following:

''(D) the waiver of deductible and coinsurance amounts pursuant to medicare supplemental policies under section 1882(t).''.

(f) Effective Dates.—

(1) In general.—Except as provided in this subsection, the amendments made by this section shall be effective as if included in the enactment of the Health Insurance Portability and Accountability Act of 1996.

(2) Federal health program.—The amendments made by subsection (c) shall take effect on the date of the enactment of this Act.

(3) Sanction for failure to report.—The amendment made by subsection (d) shall apply to failures occurring on or after the date of the enactment of this Act.

(4) Clarification.—The amendments made by subsection (e)(2) shall take effect on the date of the enactment of this Act.

Subtitle E—Prospective Payment Systems

CHAPTER 1—PROVISIONS RELATING TO PART A

SEC. 5301. PROSPECTIVE PAYMENT FOR INPATIENT REHABILITATION HOSPITAL SERVICES.

(a) In General.—Section 1886 (42 U.S.C. 1395ww) is amended by adding at the end the following new subsection:

''(j) Prospective Payment for Inpatient Rehabilitation Services.—

''(1) Payment during transition period.—

''(A) In general.—Notwithstanding section 1814(b), but subject to the provisions of section 1813, the amount of the payment with respect to the operating and capital costs of inpatient hospital services of a rehabilitation hospital or a rehabilitation unit (in this subsection referred to as a 'rehabilitation facility'), in a cost reporting period beginning on or after October 1, 2000, and before October 1, 2003, is equal to the sum of—

''(i) the TEFRA percentage (as defined in subparagraph (C)) of the amount that would have been paid under part A of this title with respect to such costs if this subsection did not apply, and

''(ii) the prospective payment percentage (as defined in subparagraph (C)) of the product of (I) the per unit payment rate established under this subsection for the fiscal year in which the payment unit of service occurs, and (II) the number of such payment units occurring in the cost reporting period.

''(B) Fully implemented system.—Notwithstanding section 1814(b), but subject to the provisions of section 1813, the amount of the payment with respect to the operating and capital costs of inpatient hospital services of a rehabilitation facility for a payment unit in a cost reporting period beginning on or after October 1, 2003, is equal to the per unit payment rate established under this subsection for the fiscal year in which the payment unit of service occurs.

"(C) TEFRA AND PROSPECTIVE PAYMENT PERCENTAGES SPECIFIED.—For purposes of subparagraph (A), for a cost reporting period beginning—

"(i) on or after October 1, 2000, and before October 1, 2001, the 'TEFRA percentage' is 75 percent and the 'prospective payment percentage' is 25 percent;

"(ii) on or after October 1, 2001, and before October 1, 2002, the 'TEFRA percentage' is 50 percent and the 'prospective payment percentage' is 50 percent; and

"(iii) on or after October 1, 2002, and before October 1, 2003, the 'TEFRA percentage' is 25 percent and the 'prospective payment percentage' is 75 percent.

"(D) PAYMENT UNIT.—For purposes of this subsection, the term 'payment unit' means a discharge, day of inpatient hospital services, or other unit of payment defined by the Secretary.

"(2) PATIENT CASE MIX GROUPS.—

"(A) ESTABLISHMENT.—The Secretary shall establish—

"(i) classes of patients of rehabilitation facilities (each in this subsection referred to as a 'case mix group'), based on such factors as the Secretary deems appropriate, which may include impairment, age, related prior hospitalization, comorbidities, and functional capability of the patient; and

"(ii) a method of classifying specific patients in rehabilitation facilities within these groups.

"(B) WEIGHTING FACTORS.—For each case mix group the Secretary shall assign an appropriate weighting which reflects the relative facility resources used with respect to patients classified within that group compared to patients classified within other groups.

"(C) ADJUSTMENTS FOR CASE MIX.—

"(i) IN GENERAL.—The Secretary shall from time to time adjust the classifications and weighting factors established under this paragraph as appropriate to reflect changes in treatment patterns, technology, case mix, number of payment units for which payment is made under this title, and other factors which may affect the relative use of resources. Such adjustments shall be made in a manner so that changes in aggregate payments under the classification system are a result of real changes and are not a result of changes in coding that are unrelated to real changes in case mix.

"(ii) ADJUSTMENT.—Insofar as the Secretary determines that such adjustments for a previous fiscal year (or estimates that such adjustments for a future fiscal year) did (or are likely to) result in a change in aggregate payments under the classification system during the fiscal year that are a result of changes in the coding or classification of patients that do not reflect real changes in case mix, the Secretary shall adjust the per payment unit payment rate for subsequent years so as to discount the effect of such coding or classification changes.

"(D) DATA COLLECTION.—The Secretary is authorized to require rehabilitation facilities that provide inpatient hospital services to submit such data as the Secretary deems necessary to establish and administer the prospective payment system under this subsection.

"(3) PAYMENT RATE.—

"(A) IN GENERAL.—The Secretary shall determine a prospective payment rate for each payment unit for which such rehabilitation facility is entitled to receive payment under this title. Subject to subparagraph (B), such rate for payment units occurring during a fiscal year shall be based on the average payment per payment unit under this title for inpatient operating and capital costs of rehabilitation facilities using the most recent data available (as estimated by the Secretary as of the date of establishment of the system) adjusted—

"(i) by updating such per-payment-unit amount to the fiscal year involved by the weighted average of the applicable percentage increases provided under subsection (b)(3)(B)(ii) (for cost reporting periods beginning during the fiscal year) covering the period from the midpoint of the period for such data through the midpoint of fiscal year 2000 and by an increase factor (described in subparagraph (C)) specified by the Secretary for subsequent fiscal years up to the fiscal year involved;

"(ii) by reducing such rates by a factor equal to the proportion of payments under this subsection (as estimated by the Secretary) based on prospective payment amounts which are additional payments described in paragraph (4) (relating to outlier and related payments) or paragraph (7);

"(iii) for variations among rehabilitation facilities by area under paragraph (6);

"(iv) by the weighting factors established under paragraph (2)(B); and

"(v) by such other factors as the Secretary determines are necessary to properly reflect variations in necessary costs of treatment among rehabilitation facilities.

"(B) BUDGET NEUTRAL RATES.—The Secretary shall establish the prospective payment amounts under this subsection for payment units during fiscal years 2001 through 2004 at levels such that, in the Secretary's estimation, the amount of total payments under this subsection for such fiscal years (including any payment adjustments pursuant to paragraph (7)) shall be equal to 99 percent of the amount of payments that would have been made under this title during the fiscal years for operating and capital costs of rehabilitation facilities had this subsection not been enacted. In establishing such payment amounts, the Secretary shall consider the effects of the prospective payment system established under this subsection on the total number of payment units from rehabilitation facilities and other factors described in subparagraph (A).

"(C) INCREASE FACTOR.—For purposes of this subsection for payment units in each fiscal year (beginning with fiscal year 2001), the Secretary shall establish an increase factor. Such factor shall be based on an appropriate percentage increase in a market basket of goods and services comprising services for which payment is made under this subsection, which may be the market basket percentage increase described in subsection (b)(3)(B)(iii).

"(4) OUTLIER AND SPECIAL PAYMENTS.—

"(A) OUTLIERS.—

"(i) IN GENERAL.—The Secretary may provide for an additional payment to a rehabilitation facility for patients in a case mix group, based upon the patient being classified as an outlier based on an unusual length of stay, costs, or other factors specified by the Secretary.

"(ii) PAYMENT BASED ON MARGINAL COST OF CARE.—The amount of such additional payment under clause (i) shall be determined by the Secretary and shall approximate the marginal cost of care beyond the cutoff point applicable under clause (i).

"(iii) TOTAL PAYMENTS.—The total amount of the additional payments made under this subparagraph for payment units in a fiscal year may not exceed 5 percent of the total payments projected or estimated to be made based on prospective payment rates for payment units in that year.

"(B) ADJUSTMENT.—The Secretary may provide for such adjustments to the payment amounts under this subsection as the Secretary deems appropriate to take into account the unique circumstances of rehabilitation facilities located in Alaska and Hawaii.

"(5) PUBLICATION.—The Secretary shall provide for publication in the Federal Register, on or before September 1 before each fiscal year (beginning with fiscal year 2001, of the classification and weighting factors for case mix groups under paragraph (2) for such fiscal year and a description of the methodology and data used in computing the prospective payment rates under this subsection for that fiscal year.

"(6) AREA WAGE ADJUSTMENT.—The Secretary shall adjust the proportion (as estimated by the Secretary from time to time) of rehabilitation facilities' costs which are attributable to wages and wage-related costs, of the prospective payment rates computed under paragraph (3) for area differences in wage levels by a factor (established by the Secretary) reflecting the relative hospital wage level in the geographic area of the rehabilitation facility compared to the national average wage level for such facilities. Not later than October 1, 2001 (and at least every 36 months thereafter), the Secretary shall update the factor under the preceding sentence on the basis of a survey conducted by the Secretary (and updated as appropriate) of the wages and wage-related costs incurred in furnishing rehabilitation services. Any adjustments or updates made under this paragraph for a fiscal year shall be made in a manner that assures that the aggregated payments under this subsection in the fiscal year are not greater or less than those that would have been made in the year without such adjustment.

"(7) ADDITIONAL ADJUSTMENTS.—The Secretary may provide by regulation for—

"(A) an additional payment to take into account indirect costs of medical education and the special circumstances of hospitals that serve a significantly disproportionate number of low-income patients in a manner similar to that provided under subparagraphs (B) and (F), respectively, of subsection (d)(5); and

"(B) such other exceptions and adjustments to payment amounts under this subsection in a manner similar to that provided under subsection (d)(5)(I) in relation to payments under subsection (d).

"(8) LIMITATION ON REVIEW.—There shall be no administrative or judicial review under section 1869, 1878, or otherwise of the establishment of—

"(A) case mix groups, of the methodology for the classification of patients within such groups, and of the appropriate weighting factors thereof under paragraph (2),

"(B) the prospective payment rates under paragraph (3),

"(C) outlier and special payments under paragraph (4),

"(D) area wage adjustments under paragraph (6), and

"(E) additional adjustments under paragraph (7).".

(b) CONFORMING AMENDMENTS.—Section 1886(b) (42 U.S.C. 1395ww(b)) is amended—

(1) in paragraph (1), by inserting "and other than a rehabilitation facility described in subsection (j)(1)" after "subsection (d)(1)(B)", and

(2) in paragraph (3)(B)(i), by inserting "and subsection (j)" after "For purposes of subsection (d)".

(c) Effective Date.—The amendments made by this section shall apply to cost reporting periods beginning on or after October 1, 2000, except that the Secretary of Health and Human Services may require the submission of data under section 1886(j)(2)(D) of the Social Security Act (as added by subsection (a)) on and after the date of the enactment of this section.

SEC. 5302. STUDY AND REPORT ON PAYMENTS FOR LONG-TERM CARE HOSPITALS.

(a) Study.—The Secretary of Health and Human Services shall—

(1) collect data to develop, establish, administer and evaluate a case-mix adjusted prospective payment system for hospitals described in section 1886(d)(1)(B)(iv) (42 U.S.C. 1395ww(d)(1)(B)(iv)); and

(2) develop a legislative proposal for establishing and administering such a payment system that includes an adequate patient classification system that reflects the differences in patient resource use and costs among such hospitals.

(b) Report.—Not later than October 1, 1999, the Secretary of Health and Human Services shall submit the proposal described in subsection (a)(2) to the appropriate committees of Congress.

CHAPTER 2—PROVISIONS RELATING TO PART B

Subchapter A—Payment for Hospital Outpatient Department Services

SEC. 5311. ELIMINATION OF FORMULA-DRIVEN OVERPAYMENTS (FDO) FOR CERTAIN OUTPATIENT HOSPITAL SERVICES.

(a) Elimination of FDO for Ambulatory Surgical Center Procedures.—Section 1833(i)(3)(B)(i)(II) (42 U.S.C. 1395l(i)(3)(B)(i)(II)) is amended—

(1) by striking "of 80 percent"; and

(2) by striking the period at the end and inserting the following: ", less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A).".

(b) Elimination of FDO for Radiology Services and Diagnostic Procedures.—Section 1833(n)(1)(B)(i) (42 U.S.C. 1395l(n)(1)(B)(i)) is amended—

(1) by striking "of 80 percent", and

(2) by inserting before the period at the end the following: ", less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A)".

(c) Effective Date.—The amendments made by this section shall apply to services furnished during portions of cost reporting periods occurring on or after October 1, 1997.

SEC. 5312. EXTENSION OF REDUCTIONS IN PAYMENTS FOR COSTS OF HOSPITAL OUTPATIENT SERVICES.

(a) Reduction in Payments for Capital-Related Costs.—Section 1861(v)(1)(S)(ii)(I) (42 U.S.C. 1395x(v)(1)(S)(ii)(I)) is amended by striking "through 1998" and inserting "through 1999 and during fiscal year 2000 before January 1, 2000".

(b) Reduction in Payments for Other Costs.—Section 1861(v)(1)(S)(ii)(II) (42 U.S.C. 1395x(v)(1)(S)(ii)(II)) is amended by striking "through 1998" and inserting "through 1999 and during fiscal year 2000 before January 1, 2000".

SEC. 5313. PROSPECTIVE PAYMENT SYSTEM FOR HOSPITAL OUTPATIENT DEPARTMENT SERVICES.

(a) In General.—Section 1833 (42 U.S.C. 1395l) is amended by adding at the end the following:

"(t) Prospective Payment System for Hospital Outpatient Department Services.—

"(1) In general.—With respect to hospital outpatient services designated by the Secretary (in this section referred to as 'covered OPD services') and furnished during a year beginning with 1999, the amount of payment under this part shall be determined under a prospective payment system established by the Secretary in accordance with this subsection.

"(2) System requirements.—Under the payment system—

"(A) the Secretary shall develop a classification system for covered OPD services;

"(B) the Secretary may establish groups of covered OPD services, within the classification system described in subparagraph (A), so that services classified within each group are comparable clinically and with respect to the use of resources;

"(C) the Secretary shall, using data on claims from 1997 and using data from the most recent available cost reports, establish relative payment weights for covered OPD services (and any groups of such services described in subparagraph (B)) based on median hospital costs and shall determine projections of the frequency of utilization of each such service (or group of services) in 1999;

"(D) the Secretary shall determine a wage adjustment factor to adjust the portion of payment and coinsurance attributable to labor-related costs for relative differences in labor and labor-related costs across geographic regions in a budget neutral manner;

"(E) the Secretary shall establish other adjustments as determined to be necessary to ensure equitable payments, such as outlier adjustments or adjustments for certain classes of hospitals; and

"(F) the Secretary shall develop a method for controlling unnecessary increases in the volume of covered OPD services.

"(3) Calculation of base amounts.—

"(A) Aggregate amounts that would be payable if deductibles were disregarded.—The Secretary shall estimate the total amounts that would be payable from the Trust Fund under this part for covered OPD services in 1999, determined without regard to this subsection, as though the deductible under section 1833(b) did not apply, and as though the coinsurance described in section 1866(a)(2)(A)(ii) (as in effect before the date of the enactment of this subsection) continued to apply.

"(B) Unadjusted copayment amount.—

"(i) In general.—For purposes of this subsection, subject to clause (ii), the 'unadjusted copayment amount' applicable to a covered OPD service (or group of such services) is 20 percent of the national median of the charges for the service (or services within the group) furnished during 1997, updated to 1999 using the Secretary's estimate of charge growth during the period.

"(ii) Adjustments when fully phased in.—If the pre-deductible payment percentage for a covered OPD service (or group of such services) furnished in a year would be equal to or exceed 80 percent, then the unadjusted copayment amount shall be 25 percent of amount determined under subparagraph (D)(i).

"(iii) Rules for new services.—The Secretary shall establish rules for establishment of an unadjusted copayment amount for a covered OPD service not furnished during 1997, based upon its classification within a group of such services.

"(C) Calculation of conversion factors.—

"(i) For 1999.—

"(I) In general.—The Secretary shall establish a 1999 conversion factor for determining the medicare pre-deductible OPD fee payment amounts for each covered OPD service (or group of such services) furnished in 1999. Such conversion factor shall be established—

"(aa) on the basis of the weights and frequencies described in paragraph (2)(C), and

"(bb) in such manner that the sum of the products determined under subclause (II) for each service or group equals the total project amount described in subparagraph (A).

"(II) Product.—The Secretary shall determine for each service or group the product of the medicare pre-deductible OPD fee payment amount (taking into account appropriate adjustments described in paragraphs (2)(D) and (2)(E)) and the frequencies for such service or group.

"(ii) Subsequent years.—Subject to paragraph (8)(B), the Secretary shall establish a conversion factor for covered OPD services furnished in subsequent years in an amount equal to the conversion factor established under this subparagraph and applicable to such services furnished in the previous year increased by the OPD payment increase factor specified under clause (iii) for the year involved.

"(iii) OPD payment increase factor.—For purposes of this subparagraph, the 'OPD payment increase factor' for services furnished in a year is equal to the sum of—

"(I) the market basket percentage increase applicable under section 1886(b)(3)(B)(iii) to hospital discharges occurring during the fiscal year ending in such year, plus

"(II) in the case of a covered OPD service (or group of such services) furnished in a year in which the pre-deductible payment percentage would not exceed 80 percent, 3.5 percentage points.

In applying the previous sentence for years beginning with 2000, the Secretary may substitute for the market basket percentage increase under subclause (I) an annual percentage increase that is computed and applied with respect to covered OPD services furnished in a year in the same manner as the market basket percentage increase is determined and applied to inpatient hospital services for discharges occurring in a fiscal year.

"(D) Pre-deductible payment percentage.—The pre-deductible payment percentage for a covered OPD service (or group of such services) furnished in a year is equal to the ratio of—

"(i) the conversion factor established under subparagraph (C) for the year, multiplied by the weighting factor established under paragraph (2)(C) for the service (or group), to

"(ii) the sum of the amount determined under clause (i) and the unadjusted copayment amount determined under subparagraph (B) for such service or group.

"(E) Calculation of medicare OPD fee schedule amounts.—The Secretary shall compute a medicare OPD fee schedule amount for each covered OPD service (or group of such services) furnished in a year, in an amount equal to the product of—

"(i) the conversion factor computed under subparagraph (C) for the year, and

"(ii) the relative payment weight (determined under paragraph (2)(C)) for the service or group.

"(4) Medicare payment amount.—The amount of payment made from the Trust Fund under this part for a covered OPD service (and such services classified within a group) furnished in a year is determined as follows:

“(A) FEE SCHEDULE AND COPAYMENT AMOUNT.—Add (i) the medicare OPD fee schedule amount (computed under paragraph (3)(E)) for the service or group and year, and (ii) the unadjusted copayment amount (determined under paragraph (3)(B)) for the service or group.

“(B) SUBTRACT APPLICABLE DEDUCTIBLE.—Reduce the sum under subparagraph (A) by the amount of the deductible under section 1833(b), to the extent applicable.

“(C) APPLY PAYMENT PROPORTION TO REMAINDER.—Multiply the amount determined under subparagraph (B) by the pre-deductible payment percentage (as determined under paragraph (3)(D)) for the service or group and year involved.

“(D) LABOR-RELATED ADJUSTMENT.—The amount of payment is the product determined under subparagraph (C) with the labor-related portion of such product adjusted for relative differences in the cost of labor and other factors determined by the Secretary, as computed under paragraph (2)(D).

“(5) COPAYMENT AMOUNT.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the copayment amount under this subsection is determined as follows:

“(i) UNADJUSTED COPAYMENT.—Compute the amount by which the amount described in paragraph (4)(B) exceeds the amount of payment determined under paragraph (4)(C).

“(ii) LABOR ADJUSTMENT.—The copayment amount is the difference determined under clause (i) with the labor-related portion of such difference adjusted for relative differences in the cost of labor and other factors determined by the Secretary, as computed under paragraphs (2)(D). The adjustment under this clause shall be made in a manner that does not result in any change in the aggregate copayments made in any year if the adjustment had not been made.

“(B) ELECTION TO OFFER REDUCED COPAYMENT AMOUNT.—The Secretary shall establish a procedure under which a hospital, before the beginning of a year (beginning with 1999), may elect to reduce the copayment amount otherwise established under subparagraph (A) for some or all covered OPD services to an amount that is not less than 25 percent of the medicare OPD fee schedule amount (computed under paragraph (3)(E)) for the service involved, adjusted for relative differences in the cost of labor and other factors determined by the Secretary, as computed under subparagraphs (D) and (E) of paragraph (2). Under such procedures, such reduced copayment amount may not be further reduced or increased during the year involved and the hospital may disseminate information on the reduction of copayment amount effected under this subparagraph.

“(C) NO IMPACT ON DEDUCTIBLES.—Nothing in this paragraph shall be construed as affecting a hospital's authority to waive the charging of a deductible under section 1833(b).

“(6) PERIODIC REVIEW AND ADJUSTMENTS COMPONENTS OF PROSPECTIVE PAYMENT SYSTEM.—

“(A) PERIODIC REVIEW.—The Secretary may periodically review and revise the groups, the relative payment weights, and the wage and other adjustments described in paragraph (2) to take into account changes in medical practice, changes in technology, the addition of new services, new cost data, and other relevant information and factors.

“(B) BUDGET NEUTRALITY ADJUSTMENT.—If the Secretary makes adjustments under subparagraph (A), then the adjustments for a year may not cause the estimated amount of expenditures under this part for the year to increase or decrease from the estimated amount of expenditures under this part that would have been made if the adjustments had not been made.

“(C) UPDATE FACTOR.—If the Secretary determines under methodologies described in subparagraph (2)(F) that the volume of services paid for under this subsection increased beyond amounts established through those methodologies, the Secretary may appropriately adjust the update to the conversion factor otherwise applicable in a subsequent year.

“(7) SPECIAL RULE FOR AMBULANCE SERVICES.—The Secretary shall pay for hospital outpatient services that are ambulance services on the basis described in the matter in subsection (a)(1) preceding subparagraph (A).

“(8) SPECIAL RULES FOR CERTAIN HOSPITALS.—In the case of hospitals described in section 1886(d)(1)(B)(v)—

“(A) the system under this subsection shall not apply to covered OPD services furnished before January 1, 2000; and

“(B) the Secretary may establish a separate conversion factor for such services in a manner that specifically takes into account the unique costs incurred by such hospitals by virtue of their patient population and service intensity.

“(9) LIMITATION ON REVIEW.—There shall be no administrative or judicial review under section 1869, 1878, or otherwise of—

“(A) the development of the classification system under paragraph (2), including the establishment of groups and relative payment weights for covered OPD services, of wage adjustment factors, other adjustments, and methods described in paragraph (2)(F);

“(B) the calculation of base amounts under paragraph (3);

“(C) periodic adjustments made under paragraph (6); and

“(D) the establishment of a separate conversion factor under paragraph (8)(B).”.

(b) COINSURANCE.—Section 1866(a)(2)(A)(ii) (42 U.S.C. 1395cc(a)(2)(A)(ii)) is amended by adding at the end the following: “In the case of items and services for which payment is made under part B under the prospective payment system established under section 1833(t), clause (ii) of the first sentence shall be applied by substituting for 20 percent of the reasonable charge, the applicable copayment amount established under section 1833(t)(5).”.

(c) TREATMENT OF REDUCTION IN COPAYMENT AMOUNT.—Section 1128A(i)(6) (42 U.S.C. 1320a-7a(i)(6)) is amended—

(1) by striking “or” at the end of subparagraph (B),

(2) by striking the period at the end of subparagraph (C) and inserting “; or”, and

(3) by adding at the end the following new subparagraph:

“(D) a reduction in the copayment amount for covered OPD services under section 1833(t)(5)(B).”.

(d) CONFORMING AMENDMENTS.—

(1) APPROVED ASC PROCEDURES PERFORMED IN HOSPITAL OUTPATIENT DEPARTMENTS.—

(A)(i) Section 1833(i)(3)(A) (42 U.S.C. 13951(i)(3)(A)) is amended—

(I) by inserting “before January 1, 1999” after “furnished”, and

(II) by striking “in a cost reporting period”.

(ii) The amendment made by clause (i) shall apply to services furnished on or after January 1, 1999.

(B) Section 1833(a)(4) (42 U.S.C. 13951(a)(4)) is amended by inserting “or subsection (t)” before the semicolon.

(2) RADIOLOGY AND OTHER DIAGNOSTIC PROCEDURES.—

(A) Section 1833(n)(1)(A) (42 U.S.C. 1395l(n)(1)(A)) is amended by inserting “and before January 1, 1999” after “October 1, 1988,” and after “October 1, 1989,”.

(B) Section 1833(a)(2)(E) (42 U.S.C. 1395l(a)(2)(E)) is amended by inserting “or , for services or procedures performed on or after January 1, 1999, subsection (t)” before the semicolon.

(3) OTHER HOSPITAL OUTPATIENT SERVICES.—Section –1833(a)(2)(B) (42 U.S.C. 1395l(a)(2)(B)) is amended—

(A) in clause (i), by inserting “furnished before January 1, 1999,” after “(i)”,

(B) in clause (ii), by inserting “before January 1, 1999,” after “furnished”,

(C) by redesignating clause (iii) as clause (iv), and

(D) by inserting after clause (ii), the following new clause:

“(iii) if such services are furnished on or after January 1, 1999, the amount determined under subsection (t), or”.

Subchapter B—Ambulance Services

SEC. 5321. PAYMENTS FOR AMBULANCE SERVICES.

(a) INTERIM REDUCTIONS.—

(1) PAYMENTS DETERMINED ON REASONABLE COST BASIS.—Section 1861(v)(1) (42 U.S.C. 1395x(v)(1)) is amended by adding at the end the following new subparagraph:

“(V) In determining the reasonable cost of ambulance services (as described in subsection (s)(7)) provided during a fiscal year (beginning with fiscal year 1998 and ending with fiscal year 2002), the Secretary shall not recognize any costs in excess of costs recognized as reasonable for ambulance services provided during the previous fiscal year (after application of this subparagraph), increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) as estimated by the Secretary for the 12-month period ending with the midpoint of the fiscal year involved reduced in the case of fiscal year 1998 by 1.0 percentage point.”

(2) PAYMENTS DETERMINED ON REASONABLE CHARGE BASIS.—Section 1842(b) (42 U.S.C. 1395u(b)) is amended by adding at the end the following new paragraph:

“(19) For purposes of section 1833(a)(1), the reasonable charge for ambulance services (as described in section 1861(s)(7)) provided during a fiscal year (beginning with fiscal year 1998 and ending with fiscal year 2002) may not exceed the reasonable charge for such services provided during the previous fiscal year (after application of this paragraph), increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) as estimated by the Secretary for the 12-month period ending with the midpoint of the year involved reduced in the case of fiscal year 1998 by 1.0 percentage point.”

(b) ESTABLISHMENT OF PROSPECTIVE FEE SCHEDULE.—

(1) PAYMENT IN ACCORDANCE WITH FEE SCHEDULE.—Section 1833(a)(1) (42 U.S.C. 1395l(a)(1)) is amended—

(A) by striking “and (P)” and inserting “(P)”; and

(B) by striking the semicolon at the end and inserting the following: “, and (Q) with respect to ambulance service, the amounts paid shall be 80 percent of the lesser of the actual charge for the services or the amount determined by a fee schedule established by the Secretary under section 1834(k);”.

(2) ESTABLISHMENT OF SCHEDULE.—Section 1834 (42 U.S.C. 1395m) is amended by adding at the end the following new subsection:

"(k) ESTABLISHMENT OF FEE SCHEDULE FOR AMBULANCE SERVICES.—

"(1) IN GENERAL.—The Secretary shall establish a fee schedule for payment for ambulance services under this part through a negotiated rulemaking process described in title 5, United States Code, and in accordance with the requirements of this subsection.

"(2) CONSIDERATIONS.—In establishing such fee schedule, the Secretary shall—

"(A) establish mechanisms to control increases in expenditures for ambulance services under this part;

"(B) establish definitions for ambulance services which link payments to the type of services provided;

"(C) consider appropriate regional and operational differences;

"(D) consider adjustments to payment rates to account for inflation and other relevant factors; and

"(E) phase in the application of the payment rates under the fee schedule in an efficient and fair manner.

"(3) SAVINGS.—In establishing such fee schedule, the Secretary shall—

"(A) ensure that the aggregate amount of payments made for ambulance services under this part during 1999 does not exceed the aggregate amount of payments which would have been made for such services under this part during such year if the amendments made by section 5321 of the Balanced Budget Act of 1997 had not been made; and

"(B) set the payment amounts provided under the fee schedule for services furnished in 2000 and each subsequent year at amounts equal to the payment amounts under the fee schedule for service furnished during the previous year, increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of the previous year reduced (but not below zero) by 1.0 percentage points.

"(4) CONSULTATION.—In establishing the fee schedule for ambulance services under this subsection, the Secretary shall consult with various national organizations representing individuals and entities who furnish and regulate ambulance services and share with such organizations relevant data in establishing such schedule.

"(5) LIMITATION ON REVIEW.—There shall be no administrative or judicial review under section 1869 or otherwise of the amounts established under the fee schedule for ambulance services under this subsection, including matters described in paragraph (2).

"(6) RESTRAINT ON BILLING.—The provisions of subparagraphs (A) and (B) of section 1842(b)(18) shall apply to ambulance services for which payment is made under this subsection in the same manner as they apply to services provided by a practitioner described in section 1842(b)(18)(C).".

(3) EFFECTIVE DATE.—The amendments made by this section apply to ambulance services furnished on or after January 1, 1999.

(c) AUTHORIZING PAYMENT FOR PARAMEDIC INTERCEPT SERVICE PROVIDERS IN RURAL COMMUNITIES.—In promulgating regulations to carry out section 1861(s)(7) of the Social Security Act (42 U.S.C. 1395x(s)(7)) with respect to the coverage of ambulance service, the Secretary of Health and Human Services may include coverage of advanced life support services (in this subsection referred to as "ALS intercept services") provided by a paramedic intercept service provider in a rural area if the following conditions are met:

(1) The ALS intercept services are provided under a contract with one or more volunteer ambulance services and are medically necessary based on the health condition of the individual being transported.

(2) The volunteer ambulance service involved—

(A) is certified as qualified to provide ambulance service for purposes of such section,

(B) provides only basic life support services at the time of the intercept, and

(C) is prohibited by State law from billing for any services.

(3) The entity supplying the ALS intercept services—

(A) is certified as qualified to provide such services under the medicare program under title XVIII of the Social Security Act, and

(B) bills all recipients who receive ALS intercept services from the entity, regardless of whether or not such recipients are medicare beneficiaries.

CHAPTER 3—PROVISIONS RELATING TO PARTS A AND B

Subchapter A—Payments to Skilled Nursing Facilities

SEC. 5331. BASING UPDATES TO PER DIEM LIMITS EFFECTIVE FOR FISCAL YEAR 1998 ON COST LIMITS EFFECTIVE FOR FISCAL YEAR 1997.

The last sentence of section 1888(a) (42 U.S.C. 1395yy(a)) is amended by striking "subsection" the last place it appears and all that follows and inserting "subsection, except that the limits effective for cost reporting periods beginning on or after October 1, 1997, shall be based on the limits effective for cost reporting periods beginning on or after October 1, 1996, increased by the skilled nursing facility market basket index to account for inflation and adjusted to account for the most recent changes in metropolitan statistical areas and wage index data.".

SEC. 5332. PROSPECTIVE PAYMENT FOR SKILLED NURSING FACILITY SERVICES.

(a) IN GENERAL.—Section 1888 (42 U.S.C. 1395yy) is amended by adding at the end the following new subsection:

"(e) PROSPECTIVE PAYMENT.—

"(1) PAYMENT PROVISION.—Notwithstanding any other provision of this title, subject to paragraph (7), the amount of the payment for all costs (as defined in paragraph (2)(B)) of covered skilled nursing facility services (as defined in paragraph (2)(A)) for each day of such services furnished—

"(A) in a cost reporting period during the transition period (as defined in paragraph (2)(E)), is equal to the sum of—

"(i) the non-Federal percentage of the facility-specific per diem rate (computed under paragraph (3)), and

"(ii) the Federal percentage of the adjusted Federal per diem rate (determined under paragraph (4)) applicable to the facility; and

"(B) after the transition period is equal to the adjusted Federal per diem rate applicable to the facility.

"(2) DEFINITIONS.—For purposes of this subsection:

"(A) COVERED SKILLED NURSING FACILITY SERVICES.—

"(i) IN GENERAL.—The term 'covered skilled nursing facility services'—

"(I) means post-hospital extended care services as defined in section 1861(i) for which benefits are provided under part A; and

"(II) includes all items and services (other than services described in clause (ii)) for which payment may be made under part B and which are furnished to an individual who is a resident of a skilled nursing facility during the period in which the individual is provided covered post-hospital extended care services.

"(ii) SERVICES EXCLUDED.—Services described in this clause are physicians' services, services described by clauses (i) through (iii) of section 1861(s)(2)(K), certified nurse-midwife services, qualified psychologist services, services of a certified registered nurse anesthetist, items and services described in subparagraphs in (F) and (O) of section 1861(s)(2), and, only with respect to services furnished during 1998, the transportation costs of electrocardiogram equipment for electrocardiogram tests services (HCPCS Code R0076). Services described in this clause do not include any physical, occupational, or speech-language therapy services regardless of whether or not the services are furnished by, or under the supervision of, a physician or other health care professional.

"(B) ALL COSTS.—The term 'all costs' means routine service costs, ancillary costs, and capital-related costs of covered skilled nursing facility services, but does not include costs associated with approved educational activities.

"(C) NON-FEDERAL PERCENTAGE; FEDERAL PERCENTAGE.—For—

"(i) the first cost reporting period (as defined in subparagraph (D)) of a facility, the 'non-Federal percentage' is 75 percent and the 'Federal percentage' is 25 percent;

"(ii) the next cost reporting period of such facility, the 'non-Federal percentage' is 50 percent and the 'Federal percentage' is 50 percent; and

"(iii) the subsequent cost reporting period of such facility, the 'non-Federal percentage' is 25 percent and the 'Federal percentage' is 75 percent.

"(D) FIRST COST REPORTING PERIOD.—The term 'first cost reporting period' means, with respect to a skilled nursing facility, the first cost reporting period of the facility beginning on or after October 1, 1998.

"(E) TRANSITION PERIOD.—

"(i) IN GENERAL.—The term 'transition period' means, with respect to a skilled nursing facility, the 3 cost reporting periods of the facility beginning with the first cost reporting period.

"(ii) TREATMENT OF NEW SKILLED NURSING FACILITIES.—In the case of a skilled nursing facility that does not have a settled cost report for a cost reporting period before July 1, 1998, payment for such services shall be made under this subsection as if all services were furnished after the transition period.

"(3) DETERMINATION OF FACILITY SPECIFIC PER DIEM RATES.—The Secretary shall determine a facility-specific per diem rate for each skilled nursing facility for a cost reporting period as follows:

"(A) DETERMINING BASE PAYMENTS.—The Secretary shall determine, on a per diem basis, the total of—

"(i) the allowable costs of extended care services for the facility for cost reporting periods beginning in 1995 with appropriate adjustments (as determined by the Secretary) to non-settled cost reports, and

"(ii) an estimate of the amounts that would be payable under part B (disregarding any applicable deductibles, coinsurance and copayments) for covered skilled nursing facility services described in paragraph (2)(A)(i)(II) furnished during such period to an individual who is a resident of the facility, regardless of whether or not the payment was made to the facility or to another entity.

"(B) UPDATE TO COST REPORTING PERIODS THROUGH 1998.—The Secretary shall update the amount determined under subparagraph (A), for each cost reporting period after the cost reporting period described in subparagraph (A)(i) and up to the first cost reporting period by a factor equal to the skilled nursing facility market basket percentage increase.

"(C) UPDATING TO APPLICABLE COST REPORTING PERIOD.—The Secretary shall further update such amount for each cost reporting period beginning with the first cost reporting period and up to and including the cost reporting period involved by a factor equal to the skilled nursing facility market basket percentage increase.

"(D) CERTAIN DEMONSTRATION PROJECTS.—In the case of a facility participating in the Nursing Home Case-Mix and Quality Demonstration (RUGS–III), the Secretary shall determine the facility specific per diem rate for any year after 1997 by computing the base period payments by using the RUGS–III rate received by the facility for 1997, increased by a factor equal to the skilled nursing facility market basket percentage increase.

"(4) FEDERAL PER DIEM RATE.—

"(A) DETERMINATION OF HISTORICAL PER DIEM FOR FACILITIES.—For each skilled nursing facility that received payments for post-hospital extended care services during a cost reporting period beginning in fiscal year 1995 and that was subject to (and not exempted from) the per diem limits referred to in paragraph (1) or (2) of subsection (a) (and facilities described in subsection (d)), the Secretary shall estimate, on a per diem basis for such cost reporting period, the total of—

"(i) subject to subparagraph (I), the allowable costs of extended care services for the facility for cost reporting periods beginning in 1995 with appropriate adjustments (as determined by the Secretary) to non-settled cost reports, and

"(ii) an estimate of the amounts that would be payable under part B (disregarding any applicable deductibles, coinsurance and copayments) for covered skilled nursing facility services described in paragraph (2)(A)(i)(II) furnished during such period to an individual who is a resident of the facility, regardless of whether or not the payment was made to the facility or to another entity.

"(B) UPDATE TO COST REPORTING PERIODS THROUGH 1998.—The Secretary shall update the amount determined under subparagraph (A), for each cost reporting period after the cost reporting period described in subparagraph (A)(i) and up to the first cost reporting period by a factor equal to the skilled nursing facility market basket percentage increase reduced (on an annualized basis) by 1 percentage point.

"(C) COMPUTATION OF STANDARDIZED PER DIEM RATE.—The Secretary shall standardize the amount updated under subparagraph (B) for each facility by—

"(i) adjusting for variations among facility by area in the average facility wage level per diem, and

"(ii) adjusting for variations in case mix per diem among facilities.

"(D) COMPUTATION OF WEIGHTED AVERAGE PER DIEM RATE.—The Secretary shall compute a weighted average per diem rate by computing an average of the standardized amounts computed under subparagraph (C), weighted for each facility by the number of days of extended care services furnished during the cost reporting period referred to in subparagraph (A). The Secretary may compute and apply such average separately for facilities located in urban and rural areas (as defined in section 1886(d)(2)(D)).

"(E) UPDATING.—

"(i) FISCAL YEAR 1999.—For fiscal year 1999, the Secretary shall compute for each skilled nursing facility an unadjusted Federal per diem rate equal to the weighted average per diem rate computed under subparagraph (D) and applicable to the facility increased by skilled nursing facility market basket percentage change for the fiscal year involved.

"(ii) SUBSEQUENT FISCAL YEARS.—For each subsequent fiscal year the Secretary shall compute for each skilled nursing facility an unadjusted Federal per diem rate equal to the Federal per diem rate computed under this subparagraph for the previous fiscal year and applicable to the facility increased by the skilled nursing facility market basket percentage change for the fiscal year involved.

"(F) ADJUSTMENT FOR CASE MIX CREEP.—Insofar as the Secretary determines that such adjustments under subparagraph (G)(i) for a previous fiscal year (or estimates that such adjustments for a future fiscal year) did (or are likely to) result in a change in aggregate payments under this subsection during the fiscal year that are a result of changes in the coding or classification of residents that do not reflect real changes in case mix, the Secretary may adjust unadjusted Federal per diem rates for subsequent years so as to discount the effect of such coding or classification changes.

"(G) APPLICATION TO SPECIFIC FACILITIES.—The Secretary shall compute for each skilled nursing facility for each fiscal year (beginning with fiscal year 1998) an adjusted Federal per diem rate equal to the unadjusted Federal per diem rate determined under subparagraph (E), as adjusted under subparagraph (F), and as further adjusted as follows:

"(i) ADJUSTMENT FOR CASE MIX.—The Secretary shall provide for an appropriate adjustment to account for case mix. Such adjustment shall be based on a resident classification system, established by the Secretary, that accounts for the relative resource utilization of different patient types. The case mix adjustment shall be based on resident assessment data and other data that the Secretary considers appropriate.

"(ii) ADJUSTMENT FOR GEOGRAPHIC VARIATIONS IN LABOR COSTS.—The Secretary shall adjust the portion of such per diem rate attributable to wages and wage-related costs for the area in which the facility is located compared to the national average of such costs using an appropriate wage index as determined by the Secretary. Such adjustment shall be done in a manner that does not result in aggregate payments under this subsection that are greater or less than those that would otherwise be made if such adjustment had not been made.

"(H) PUBLICATION OF INFORMATION ON PER DIEM RATES.—The Secretary shall provide for publication in the Federal Register, before the July 1 preceding each fiscal year (beginning with fiscal year 1999), of—

"(i) the unadjusted Federal per diem rates to be applied to days of covered skilled nursing facility services furnished during the fiscal year,

"(ii) the case mix classification system to be applied under subparagraph (G)(i) with respect to such services during the fiscal year, and

"(iii) the factors to be applied in making the area wage adjustment under subparagraph (G)(ii) with respect to such services.

"(I) EXCLUSION OF EXCEPTION PAYMENTS FROM DETERMINATION OF HISTORICAL PER DIEM.—In determining allowable costs under subparagraph (A)(i), the Secretary shall not take into account any payments described in subsection (c).

"(5) SKILLED NURSING FACILITY MARKET BASKET INDEX, PERCENTAGE, AND HISTORICAL TREND FACTOR.—For purposes of this subsection:

"(A) SKILLED NURSING FACILITY MARKET BASKET INDEX.—The Secretary shall establish a skilled nursing facility market basket index that reflects changes over time in the prices of an appropriate mix of goods and services included in covered skilled nursing facility services.

"(B) SKILLED NURSING FACILITY MARKET BASKET PERCENTAGE.—The term 'skilled nursing facility market basket percentage' means, for a fiscal year or other annual period and as calculated by the Secretary, the percentage change in the skilled nursing facility market basket index (established under subparagraph (A)) from the midpoint of the prior fiscal year (or period) to the midpoint of the fiscal year (or other period) involved.

"(6) SUBMISSION OF RESIDENT ASSESSMENT DATA.—A skilled nursing facility shall provide the Secretary, in a manner and within the timeframes prescribed by the Secretary, the resident assessment data necessary to develop and implement the rates under this subsection. For purposes of meeting such requirement, a skilled nursing facility may submit the resident assessment data required under section 1819(b)(3), using the standard instrument designated by the State under section 1819(e)(5).

"(7) TRANSITION FOR MEDICARE SWING BED HOSPITALS.—

"(A) IN GENERAL.—The Secretary shall determine an appropriate manner in which to apply this subsection to the facilities described in subparagraph (B), taking into account the purposes of this subsection, and shall provide that at the end of the transition period (as defined in paragraph (2)(E)) such facilities shall be paid only under this subsection. Payment shall not be made under this subsection to such facilities for cost reporting periods beginning before such date (not earlier than July 1, 1999) as the Secretary specifies.

"(B) FACILITIES DESCRIBED.—The facilities described in this subparagraph are facilities that have in effect an agreement described in section 1883, for which payment is made for the furnishing of extended care services on a reasonable cost basis under section 1814(l) (as in effect on and after such date).

"(8) LIMITATION ON REVIEW.—There shall be no administrative or judicial review under section 1869, 1878, or otherwise of—

"(A) the establishment of Federal per diem rates under paragraph (4), including the computation of the standardized per diem rates under paragraph (4)(C), adjustments and corrections for case mix under paragraphs (4)(F) and (4)(G)(i), and adjustments for variations in labor-related costs under paragraph (4)(G)(ii); and

"(B) the establishment of transitional amounts under paragraph (7).".

(b) CONSOLIDATED BILLING.—

(1) FOR SNF SERVICES.—Section 1862(a) (42 U.S.C. 1395y(a)) is amended—

(A) by striking "or" at the end of paragraph (15),

(B) by striking the period at the end of paragraph (16) and inserting "; or", and

(C) by inserting after paragraph (16) the following new paragraph:

"(17) which are covered skilled nursing facility services described in section

1888(e)(2)(A)(i)(II) and which are furnished to an individual who is a resident of a skilled nursing facility by an entity other than the skilled nursing facility, unless the services are furnished under arrangements (as defined in section 1861(w)(1)) with the entity made by the skilled nursing facility, or such services are furnished by a physician described in section 1861(r)(1).".

(2) Requiring payment for all part B items and services to be made to facility.—The first sentence of section 1842(b)(6) (42 U.S.C. 1395u(b)(6)) is amended—

(A) by striking "and (D)" and inserting "(D)"; and

(B) by striking the period at the end and inserting the following: ", and (E) in the case of an item or service (other than services described in section 1888(e)(2)(A)(ii)) furnished to an individual who (at the time the item or service is furnished) is a resident of a skilled nursing facility, payment shall be made to the facility (without regard to whether or not the item or service was furnished by the facility, by others under arrangement with them made by the facility, under any other contracting or consulting arrangement, or otherwise).".

(3) Payment rules.—Section 1888(e) (42 U.S.C. 1395yy(e)), as added by subsection (a), is amended by adding at the end the following:

"(9) Payment for certain services.—

"(A) In general.—In the case of an item or service furnished by a skilled nursing facility (or by others under arrangement with them made by a skilled nursing facility or under any other contracting or consulting arrangement or otherwise) for which payment would otherwise (but for this paragraph) be made under part B in an amount determined in accordance with section 1833(a)(2)(B), the amount of the payment under such part shall be based on the part B methodology applicable to the item or service, except that for items and services that would be included in a facility's cost report if not for this section, the facility may continue to use a cost report for reimbursement purposes until the prospective payment system established under this section is implemented.

"(B) Therapy and pathology services.—Payment for physical therapy, occupational therapy, respiratory therapy, and speech language pathology services shall reflect new salary equivalency guidelines calculated pursuant to section 1861(v)(5) when finalized through the regulatory process.

"(10) Required coding.—No payment may be made under part B for items and services (other than services described in paragraph (2)(A)(ii)) furnished to an individual who is a resident of a skilled nursing facility unless the claim for such payment includes a code (or codes) under a uniform coding system specified by the Secretary that identifies the items or services delivered.".

(4) Conforming amendments.—

(A) Section 1819(b)(3)(C)(i) (42 U.S.C. 1395i–3(b)(3)(C)(i)) is amended by striking "Such" and inserting "Subject to the timeframes prescribed by the Secretary under section 1888(t)(6), such".

(B) Section 1832(a)(1) (42 U.S.C. 1395k(a)(1)) is amended by striking "(2);" and inserting "(2) and section 1842(b)(6)(E);".

(C) Section 1833(a)(2)(B) (42 U.S.C. 1395l(a)(2)(B)) is amended by inserting "or section 1888(e)(9)" after "section 1886".

(D) Section 1861(h) (42 U.S.C 1395x(h)) is amended—

(i) in the opening paragraph, by striking "paragraphs (3) and (6)" and inserting "paragraphs (3), (6), and (7)", and

(ii) in paragraph (7), after "skilled nursing facilities", by inserting ", or by others under arrangements with them made by the facility".

(E) Section 1866(a)(1)(H) (42 U.S.C. 1395cc(a)(1)(H)) is amended—

(i) by redesignating clauses (i) and (ii) as subclauses (I) and (II) respectively,

(ii) by inserting "(i)" after "(H)", and

(iii) by adding after clause (i), as so redesignated, the following new clause:

"(ii) in the case of skilled nursing facilities which provide covered skilled nursing facility services—

"(I) that are furnished to an individual who is a resident of the skilled nursing facility, and

"(II) for which the individual is entitled to have payment made under this title,

to have items and services (other than services described in section 1888(e)(2)(A)(ii)) furnished by the skilled nursing facility or otherwise under arrangements (as defined in section 1861(w)(1)) made by the skilled nursing facility,".

(c) Medical Review Process.—In order to ensure that medicare beneficiaries are furnished appropriate services in skilled nursing facilities, the Secretary of Health and Human Services shall establish and implement a thorough medical review process to examine the effects of the amendments made by this section on the quality of covered skilled nursing facility services furnished to medicare beneficiaries. In developing such a medical review process, the Secretary shall place a particular emphasis on the quality of non-routine covered services and physicians' services for which payment is made under title XVIII of the Social Security Act for which payment is made under section 1848 of such Act.

(d) Effective Date.—The amendments made by this section are effective for cost reporting periods beginning on or after July 1, 1998; except that the amendments made by subsection (b) shall apply to items and services furnished on or after July 1, 1998.

Subchapter B—Home Health Services and Benefits

PART I—PAYMENTS FOR HOME HEALTH SERVICES

SEC. 5341. RECAPTURING SAVINGS RESULTING FROM TEMPORARY FREEZE ON PAYMENT INCREASES FOR HOME HEALTH SERVICES.

(a) Basing Updates to Per Visit Cost Limits on Limits for Fiscal Year 1993.—Section 1861(v)(1)(L) (42 U.S.C. 1395x(v)(1)(L)) is amended by adding at the end the following:

"(iv) In establishing limits under this subparagraph for cost reporting periods beginning after September 30, 1997, the Secretary shall not take into account any changes in the home health market basket, as determined by the Secretary, with respect to cost reporting periods which began on or after July 1, 1994, and before July 1, 1996.".

(b) No Exceptions Permitted Based on Amendment.—The Secretary of Health and Human Services shall not consider the amendment made by subsection (a) in making any exemptions and exceptions pursuant to section 1861(v)(1)(L)(ii) of the Social Security Act (42 U.S.C. 1395x(v)(1)(L)(ii)).

SEC. 5342. INTERIM PAYMENTS FOR HOME HEALTH SERVICES.

(a) Reductions in Cost Limits.—Section 1861(v)(1)(L)(i) (42 U.S.C. 1395x(v)(1)(L)(i)) is amended—

(1) by moving the indentation of subclauses (I) through (III) 2-ems to the left;

(2) in subclause (I), by inserting "of the mean of the labor-related and nonlabor per visit costs for freestanding home health agencies" before the comma at the end;

(3) in subclause (II), by striking ", or" and inserting "of such mean,";

(4) in subclause (III)—

(A) by inserting "and before October 1, 1997," after "July 1, 1987", and

(B) by striking the period at the end and inserting "of such mean, or"; and

(5) by striking the matter following subclause (III) and inserting the following:

"(IV) October 1, 1997, 105 percent of the median of the labor-related and nonlabor per visit costs for freestanding home health agencies.".

(b) Delay in Updates.—Section 1861(v)(1)(L)(iii) (42 U.S.C. 1395x(v)(1)(L)(iii)) is amended by inserting ", or on or after July 1, 1997, and before October 1, 1997" after "July 1, 1996".

(c) Additions to Cost Limits.—Section 1861(v)(1)(L) (42 U.S.C. 1395x(v)(1)(L)), as amended by section 5341(a), is amended by adding at the end the following:

"(v) For services furnished by home health agencies for cost reporting periods beginning on or after October 1, 1997, the Secretary shall provide for an interim system of limits. Payment shall be the lower of—

"(I) costs determined under the preceding provisions of this subparagraph, or

"(II) an agency-specific per beneficiary annual limitation calculated from the agency's 12-month cost reporting period ending on or after January 1, 1994, and on or before December 31, 1994, based on reasonable costs (including nonroutine medical supplies), updated by the home health market basket index.

The per beneficiary limitation in subclause (II) shall be multiplied by the agency's unduplicated census count of patients (entitled to benefits under this title) for the cost reporting period subject to the limitation to determine the aggregate agency-specific per beneficiary limitation.

"(vi) For services furnished by home health agencies for cost reporting periods beginning on or after October 1, 1997, the following rules apply:

"(I) For new providers and those providers without a 12-month cost reporting period ending in calendar year 1994, the per beneficiary limitation shall be equal to the median of these limits (or the Secretary's best estimates thereof) applied to other home health agencies as determined by the Secretary. A home health agency that has altered its corporate structure or name shall not be considered a new provider for this purpose.

"(II) For beneficiaries who use services furnished by more than one home health agency, the per beneficiary limitations shall be prorated among the agencies.".

(d) Development of Case Mix System.—The Secretary of Health and Human Services shall expand research on a prospective payment system for home health agencies under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) that ties prospective payments to a unit of service, including an intensive effort to develop a reliable case mix adjuster that explains a significant amount of the variances in costs.

(e) Submission of Data for Case Mix System.—Effective for cost reporting periods beginning on or after October 1, 1997, the Secretary of Health and Human Services may require all home health agencies to submit additional information that the Secretary considers necessary for the development of a reliable case mix system.

SEC. 5343. PROSPECTIVE PAYMENT FOR HOME HEALTH SERVICES.

(a) IN GENERAL.—Title XVIII (42 U.S.C. 1395 et seq.), as amended by section 5011, is amended by adding at the end the following new section:

"PROSPECTIVE PAYMENT FOR HOME HEALTH SERVICES

"SEC. 1895. (a) IN GENERAL.—Notwithstanding section 1861(v), the Secretary shall provide, for cost reporting periods beginning on or after October 1, 1999, for payments for home health services in accordance with a prospective payment system established by the Secretary under this section.

"(b) SYSTEM OF PROSPECTIVE PAYMENT FOR HOME HEALTH SERVICES.—

"(1) IN GENERAL.—The Secretary shall establish under this subsection a prospective payment system for payment for all costs of home health services. Under the system under this subsection all services covered and paid on a reasonable cost basis under the medicare home health benefit as of the date of the enactment of the this section, including medical supplies, shall be paid for on the basis of a prospective payment amount determined under this subsection and applicable to the services involved. In implementing the system, the Secretary may provide for a transition (of not longer than 4 years) during which a portion of such payment is based on agency-specific costs, but only if such transition does not result in aggregate payments under this title that exceed the aggregate payments that would be made if such a transition did not occur.

"(2) UNIT OF PAYMENT.—In defining a prospective payment amount under the system under this subsection, the Secretary shall consider an appropriate unit of service and the number, type, and duration of visits provided within that unit, potential changes in the mix of services provided within that unit and their cost, and a general system design that provides for continued access to quality services.

"(3) PAYMENT BASIS.—

"(A) INITIAL BASIS.—

"(i) IN GENERAL.—Under such system the Secretary shall provide for computation of a standard prospective payment amount (or amounts). Such amount (or amounts) shall initially be based on the most current audited cost report data available to the Secretary and shall be computed in a manner so that the total amounts payable under the system for fiscal year 2000 shall be equal to the total amount that would have been made if the system had not been in effect but if the reduction in limits described in clause (ii) had been in effect. Such amount shall be standardized in a manner that eliminates the effect of variations in relative case mix and wage levels among different home health agencies in a budget neutral manner consistent with the case mix and wage level adjustments provided under paragraph (4)(A). Under the system, the Secretary may recognize regional differences or differences based upon whether or not the services or agency are in an urbanized area.

"(ii) REDUCTION.—The reduction described in this clause is a reduction by 15 percent in the cost limits and per beneficiary limits described in section 1861(v)(1)(L), as those limits are in effect on September 30, 1999.

"(B) ANNUAL UPDATE.—

"(i) IN GENERAL.—The standard prospective payment amount (or amounts) shall be adjusted for each fiscal year (beginning with fiscal year 2001) in a prospective manner specified by the Secretary by the home health market basket percentage increase applicable to the fiscal year involved.

"(ii) HOME HEALTH MARKET BASKET PERCENTAGE INCREASE.—For purposes of this subsection, the term 'home health market basket percentage increase' means, with respect to a fiscal year, a percentage (estimated by the Secretary before the beginning of the fiscal year) determined and applied with respect to the mix of goods and services included in home health services in the same manner as the market basket percentage increase under section 1886(b)(3)(B)(iii) is determined and applied to the mix of goods and services comprising inpatient hospital services for the fiscal year.

"(C) ADJUSTMENT FOR OUTLIERS.—The Secretary shall reduce the standard prospective payment amount (or amounts) under this paragraph applicable to home health services furnished during a period by such proportion as will result in an aggregate reduction in payments for the period equal to the aggregate increase in payments resulting from the application of paragraph (5) (relating to outliers).

"(4) PAYMENT COMPUTATION.—

"(A) IN GENERAL.—The payment amount for a unit of home health services shall be the applicable standard prospective payment amount adjusted as follows:

"(i) CASE MIX ADJUSTMENT.—The amount shall be adjusted by an appropriate case mix adjustment factor (established under subparagraph (B)).

"(ii) AREA WAGE ADJUSTMENT.—The portion of such amount that the Secretary estimates to be attributable to wages and wage-related costs shall be adjusted for geographic differences in such costs by an area wage adjustment factor (established under subparagraph (C)) for the area in which the services are furnished or such other area as the Secretary may specify.

"(B) ESTABLISHMENT OF CASE MIX ADJUSTMENT FACTORS.—The Secretary shall establish appropriate case mix adjustment factors for home health services in a manner that explains a significant amount of the variation in cost among different units of services.

"(C) ESTABLISHMENT OF AREA WAGE ADJUSTMENT FACTORS.—The Secretary shall establish area wage adjustment factors that reflect the relative level of wages and wage-related costs applicable to the furnishing of home health services in a geographic area compared to the national average applicable level. Such factors may be the factors used by the Secretary for purposes of section 1886(d)(3)(E).

"(5) OUTLIERS.—The Secretary may provide for an addition or adjustment to the payment amount otherwise made in the case of outliers because of unusual variations in the type or amount of medically necessary care. The total amount of the additional payments or payment adjustments made under this paragraph with respect to a fiscal year may not exceed 5 percent of the total payments projected or estimated to be made based on the prospective payment system under this subsection in that year.

"(6) PRORATION OF PROSPECTIVE PAYMENT AMOUNTS.—If a beneficiary elects to transfer to, or receive services from, another home health agency within the period covered by the prospective payment amount, the payment shall be prorated between the home health agencies involved.

"(c) REQUIREMENTS FOR PAYMENT INFORMATION.—With respect to home health services furnished on or after October 1, 1998, no claim for such a service may be paid under this title unless—

"(1) the claim has the unique identifier for the physician who prescribed the services or made the certification described in section 1814(a)(2) or 1835(a)(2)(A); and

"(2) in the case of a service visit described in paragraph (1), (2), (3), or (4) of section 1861(m), the claim has information (coded in an appropriate manner) on the length of time of the service visit, as measured in 15 minute increments.

"(d) LIMITATION ON REVIEW.—There shall be no administrative or judicial review under section 1869, 1878, or otherwise of—

"(1) the establishment of a transition period under subsection (b)(1);

"(2) the definition and application of payment units under subsection (b)(2);

"(3) the computation of initial standard prospective payment amounts under subsection (b)(3)(A) (including the reduction described in clause (ii) of such subsection);

"(4) the adjustment for outliers under subsection (b)(3)(C);

"(5) case mix and area wage adjustments under subsection (b)(4);

"(6) any adjustments for outliers under subsection (b)(5); and

"(7) the amounts or types of exceptions or adjustments under subsection (b)(7).".

(b) ELIMINATION OF PERIODIC INTERIM PAYMENTS FOR HOME HEALTH AGENCIES.—Section 1815(e)(2) (42 U.S.C. 1395g(e)(2)) is amended—

(1) by inserting "and" at the end of subparagraph (C),

(2) by striking subparagraph (D), and

(3) by redesignating subparagraph (E) as subparagraph (D).

(c) CONFORMING AMENDMENTS.—

(1) PAYMENTS UNDER PART A.—Section 1814(b) (42 U.S.C. 1395f(b)) is amended in the matter preceding paragraph (1) by striking "and 1886" and inserting "1886, and 1895".

(2) TREATMENT OF ITEMS AND SERVICES PAID UNDER PART B.—

(A) PAYMENTS UNDER PART B.—Section 1833(a)(2) (42 U.S.C. 1395l(a)(2)) is amended—

(i) by amending subparagraph (A) to read as follows:

"(A) with respect to home health services (other than a covered osteoporosis drug) (as defined in section 1861(kk)), the amount determined under the prospective payment system under section 1895;";

(ii) by striking "and" at the end of subparagraph (E);

(iii) by adding "and" at the end of subparagraph (F); and

(iv) by adding at the end the following new subparagraph:

"(G) with respect to items and services described in section 1861(s)(10)(A), the lesser of—

"(i) the reasonable cost of such services, as determined under section 1861(v), or

"(ii) the customary charges with respect to such services,

or, if such services are furnished by a public provider of services, or by another provider which demonstrates to the satisfaction of the Secretary that a significant portion of its patients are low-income (and requests that payment be made under this provision), free of charge or at nominal charges to the public, the amount determined in accordance with section 1814(b)(2);".

(B) REQUIRING PAYMENT FOR ALL ITEMS AND SERVICES TO BE MADE TO AGENCY.—

(i) IN GENERAL.—The first sentence of section 1842(b)(6) (42 U.S.C. 1395u(b)(6)) (as amended by section 5332(b)(2)) is amended—

(I) by striking "and (E)" and inserting "(E)"; and

(II) by striking the period at the end and inserting the following: ", and (F) in the case of home health services furnished to an individual who (at the time the item or service is furnished) is under a plan of care of a home health agency, payment shall be made to the agency (without regard to whether or not the item or service was furnished by the agency, by others under arrangement with them made by the agency, or when any other contracting or consulting arrangement, or otherwise).".

(ii) Conforming Amendment.—Section 1832(a)(1) (42 U.S.C. 1395k(a)(1)) (as amended by section 5332(b)(4)(B)) is amended by striking "section 1842(b)(6)(E);" and inserting "subparagraphs (E) and (F) of section 1842(b)(6);".

(C) Exclusions from coverage.—Section 1862(a) (42 U.S.C. 1395y(a)), as amended by section 5332(b)(1), is amended—

(i) by striking "or" at the end of paragraph (16);

(ii) by striking the period at the end of paragraph (17) and inserting "or"; and

(iii) by inserting after paragraph (17) the following:

"(18) where such expenses are for home health services furnished to an individual who is under a plan of care of the home health agency if the claim for payment for such services is not submitted by the agency.".

(d) Effective Date.—Except as otherwise provided, the amendments made by this section shall apply to cost reporting periods beginning on or after October 1, 1999.

(e) Contingency.—If the Secretary of Health and Human Services for any reason does not establish and implement the prospective payment system for home health services described in section 1895(b) of the Social Security Act (as added by subsection (a)) for cost reporting periods described in subsection (d), for such cost reporting periods the Secretary shall provide for a reduction by 15 percent in the cost limits and per beneficiary limits described in section 1861(v)(1)(L) of such Act, as those limits would otherwise be in effect on September 30, 1999.

SEC. 5344. PAYMENT BASED ON LOCATION WHERE HOME HEALTH SERVICE IS FURNISHED.

(a) Conditions of Participation.—Section 1891 (42 U.S.C. 1395bbb) is amended by adding at the end the following:

"(g) Payment on Basis of Location of Service.—A home health agency shall submit claims for payment for home health services under this title only on the basis of the geographic location at which the service is furnished, as determined by the Secretary.".

(b) Wage Adjustment.—Section 1861(v)(1)(L)(iii) (42 U.S.C. 1395x(v)(1)(L)(iii)) is amended by striking "agency is located" and inserting "service is furnished".

(c) Effective Date.—The amendments made by this section apply to cost reporting periods beginning on or after October 1, 1997.

PART II—HOME HEALTH BENEFITS

SEC. 5361. MODIFICATION OF PART A HOME HEALTH BENEFIT FOR INDIVIDUALS ENROLLED UNDER PART B.

(a) In General.—Section 1812 (42 U.S.C. 1395d) is amended—

(1) in subsection (a)(3), by striking "home health services" and inserting "for individuals not enrolled in part B, home health services, and for individuals so enrolled, part A home health services (as defined in subsection (g))";

(2) by redesignating subsection (g) as subsection (h); and

(3) by inserting after subsection (f) the following new subsection:

"(g)(1) For purposes of this section, the term 'part A home health services' means—

"(A) for services furnished during each year beginning with 1998 and ending with 2003, home health services subject to the transition reduction applied under paragraph (2)(C) for services furnished during the year, and

"(B) for services furnished on or after January 1, 2004, post-institutional home health services for up to 100 visits during a home health spell of illness.

"(2) For purposes of paragraph (1)(A), the Secretary shall specify, before the beginning of each year beginning with 1998 and ending with 2003, a transition reduction in the home health services benefit under this part as follows:

"(A) The Secretary first shall estimate the amount of payments that would have been made under this part for home health services furnished during the year if—

"(i) part A home health services were all home health services, and

"(ii) part A home health services were limited to services described in paragraph (1)(B).

"(B)(i) The Secretary next shall compute a transfer reduction amount equal to the appropriate proportion (specified under clause (ii)) of the amount by which the amount estimated under subparagraph (A)(i) for the year exceeds the amount estimated under subparagraph (A)(ii) for the year.

"(ii) For purposes of clause (i), the 'appropriate proportion' is equal to—

"(I) 1/7 for 1998,

"(II) 2/7 for 1999,

"(III) 3/7 for 2000,

"(IV) 4/7 for 2001,

"(V) 5/7 for 2002, and

"(V) 6/7 for 2003.

"(C) The Secretary shall establish a transition reduction by specifying such a visit limit (during a home health spell of illness) or such a post-institutional limitation on home health services furnished under this part during the year as the Secretary estimates will result in a reduction in the amount of payments that would otherwise be made under this part for home health services furnished during the year equal to the transfer amount computed under subparagraph (B)(i) for the year.

"(3) Payment under this part for home health services furnished an individual enrolled under part B—

"(A) during a year beginning with 1998 and ending with 2003, may not be made for services that are not within the visit limit or other limitation specified by the Secretary under the transition reduction under paragraph (3)(C) for services furnished during the year; or

"(B) on or after January 1, 2004, may not be made for home health services that are not post-institutional home health services or for post-institutional furnished to the individual after such services have been furnished to the individual for a total of 100 visits during a home health spell of illness.".

(b) Post-Institutional Home Health Services Defined.—Section 1861 (42 U.S.C. 1395x), as amended by sections 5102(a) and 5103(a), is amended by adding at the end the following:

"Post-Institutional Home Health Services;
Home Health Spell of Illness

"(qq)(1) The term 'post-institutional home health services' means home health services furnished to an individual—

"(A) after discharge from a hospital or rural primary care hospital in which the individual was an inpatient for not less than 3 consecutive days before such discharge if such home health services were initiated within 14 days after the date of such discharge; or

"(B) after discharge from a skilled nursing facility in which the individual was provided post-hospital extended care services if such home health services were initiated within 14 days after the date of such discharge.

"(2) The term 'home health spell of illness' with respect to any individual means a period of consecutive days—

"(A) beginning with the first day (not included in a previous home health spell of illness) (i) on which such individual is furnished post-institutional home health services, and (ii) which occurs in a month for which the individual is entitled to benefits under part A, and

"(B) ending with the close of the first period of 60 consecutive days thereafter on each of which the individual is neither an inpatient of a hospital or rural primary care hospital nor an inpatient of a facility described in section 1819(a)(1) or subsection (y)(1) nor provided home health services.".

(c) Maintaining Appeal Rights for Home Health Services.—Section 1869(b)(2)(B) (42 U.S.C. 1395ff(b)(2)(B)) is amended by inserting "(or $100 in the case of home health services)" after "$500".

(d) Maintaining Seamless Administration Through Fiscal Intermediaries.—Section 1842(b)(2) (42 U.S.C. 1395u(b)(2)) is amended by adding at the end the following:

"(E) With respect to the payment of claims for home health services under this part that, but for the amendments made by section 5361, would be payable under part A instead of under this part, the Secretary shall continue administration of such claims through fiscal intermediaries under section 1816.".

(e) Effective Date.—The amendments made by this section apply to services furnished on or after January 1, 1998. For the purpose of applying such amendments, any home health spell of illness that began, but did not end, before such date shall be considered to have begun as of such date.

SEC. 5362. CLARIFICATION OF PART-TIME OR INTERMITTENT NURSING CARE.

(a) In General.—Section 1861(m) (42 U.S.C. 1395x(m)) is amended by adding at the end the following: "For purposes of paragraphs (1) and (4), the term 'part-time or intermittent services' means skilled nursing and home health aide services furnished any number of days per week as long as they are furnished (combined) less than 8 hours each day and 28 or fewer hours each week (or, subject to review on a case-by-case basis as to the need for care, less than 8 hours each day and 35 or fewer hours per week). For purposes of sections 1814(a)(2)(C) and 1835(a)(2)(A), 'intermittent' means skilled nursing care that is either provided or needed on fewer than 7 days each week, or less than 8 hours of each day for periods of 21 days or less (with extensions in exceptional circumstances when the need for additional care is finite and predictable).".

(b) Effective Date.—The amendment made by subsection (a) applies to services furnished on or after October 1, 1997.

SEC. 5363. STUDY ON DEFINITION OF HOMEBOUND.

(a) Study.—The Secretary of Health and Human Services shall conduct a study of the criteria that should be applied, and the method of applying such criteria, in the determination of whether an individual is homebound for purposes of qualifying for receipt of benefits for home health services under the medicare program. Such criteria shall include the extent and circumstances under which a person may be absent from the home but nonetheless qualify.

(b) REPORT.—Not later than October 1, 1998, the Secretary shall submit a report to the Congress on the study conducted under subsection (a). The report shall include specific recommendations on such criteria and methods.

SEC. 5364. NORMATIVE STANDARDS FOR HOME HEALTH CLAIMS DENIALS.

(a) IN GENERAL.—Section 1862(a)(1) (42 U.S.C. 1395y(a)(1)), as amended by section 5102(c), is amended—

(1) by striking "and" at the end of subparagraph (F),

(2) by striking the semicolon at the end of subparagraph (G) and inserting ", and", and

(3) by inserting after subparagraph (G) the following new subparagraph:

"(H) the frequency and duration of home health services which are in excess of normative guidelines that the Secretary shall establish by regulation;".

(b) NOTIFICATION.—The Secretary of Health and Human Services may establish a process for notifying a physician in cases in which the number of home health service visits furnished under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) pursuant to a prescription or certification of the physician significantly exceeds such threshold (or thresholds) as the Secretary specifies. The Secretary may adjust such threshold to reflect demonstrated differences in the need for home health services among different beneficiaries.

(c) EFFECTIVE DATE.—The amendments made by this section apply to services furnished on or after October 1, 1997.

SEC. 5365. INCLUSION OF COST OF SERVICE IN EXPLANATION OF MEDICARE BENEFITS.

(a) IN GENERAL.—Section 1842(h)(7) of the Social Security Act (42 U.S.C. 1395u(h)(7)) is amended—

(1) in subparagraph (C), by striking "and" at the end;

(2) in subparagraph (D), by striking the period at the end and inserting ", and"; and

(3) by adding at the end the following:

"(E) in the case of home health services furnished to an individual enrolled under this part, the total amount that the home health agency or other provider of such services billed for such services.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply to explanation of benefits provided on and after October 1, 1997.

Subtitle F—Provisions Relating to Part A

CHAPTER 1—PAYMENT OF PPS HOSPITALS

SEC. 5401. PPS HOSPITAL PAYMENT UPDATE.

(a) IN GENERAL.—Section 1886(b)(3)(B)(i) (42 U.S.C. 1395ww(b)(3)(B)(i)) is amended—

(1) in subclause (XII)—

(A) by inserting "and the period beginning on October 1, 1997, and ending on December 31, 1997," after "fiscal year 1997,"; and

(B) by striking "and" at the end; and

(2) by striking subclause (XIII) and inserting the following:

"(XIII) for calendar year 1998 for hospitals in all areas, the market basket percentage increase minus 2.5 percentage points,

"(XIV) for calendar years 1999 through 2002 for hospitals in all areas, the market basket percentage increase minus 1.0 percentage points, and

"(XV) for calendar year 2003 and each subsequent calendar year for hospitals in all areas, the market basket percentage increase.".

(b) RULE OF CONSTRUCTION.—Section 1886 (42 U.S.C. 1395ww) is amended by adding at the end the following new subsection:

"(j) PPS CALENDAR YEAR PAYMENTS.—Notwithstanding any other provision of this title, any updates or payment amounts determined under this section shall on and after December 31, 1998, take effect and be applied on a calendar year basis. With respect to any cost reporting periods that relate to any such updates or payment amounts, the Secretary shall revise such cost reporting periods to ensure that on and after December 31, 1998, such cost reporting periods relate to updates and payment amounts made under this section on a calendar year basis in the same manner as such cost reporting periods applied to updates and payment amounts under this section on the day before the date of enactment of this subsection.".

SEC. 5402. CAPITAL PAYMENTS FOR PPS HOSPITALS.

(a) MAINTAINING SAVINGS FROM TEMPORARY REDUCTION IN PPS CAPITAL RATES.—Section 1886(g)(1)(A) (42 U.S.C. 1395ww(g)(1)(A)) is amended by adding at the end the following: "In addition to the reduction described in the preceding sentence, for discharges occurring on or after October 1, 1997, the Secretary shall apply the budget neutrality adjustment factor used to determine the Federal capital payment rate in effect on September 30, 1995 (as described in section 412.352 of title 42 of the Code of Federal Regulations), to (i) the unadjusted standard Federal capital payment rate (as described in section 412.308(c) of that title, as in effect on September 30, 1997), and (ii) the unadjusted hospital-specific rate (as described in section 412.328(e)(1) of that title, as in effect on September 30, 1997).".

(b) SYSTEM EXCEPTION PAYMENTS FOR TRANSITIONAL CAPITAL.—

(1) IN GENERAL.—Section 1886(g)(1) (42 U.S.C. 1395ww(g)(1)) is amended—

(A) by redesignating subparagraph (C) as subparagraph (F), and

(B) by inserting after subparagraph (B) the following:

"(C) The exceptions under the system provided by the Secretary under subparagraph (B)(iii) shall include the provision of exception payments under the special exceptions process provided under section 412.348(g) of title 42, Code of Federal Regulations (as in effect on September 1, 1995), except that the Secretary shall revise such process, effective for discharges occurring after September 30, 1997, as follows:

"(i) Eligible hospital requirements, as described in section 412.348(g)(1) of title 42, Code of Federal Regulations, shall apply except that subparagraph (ii) shall be revised to require that hospitals located in an urban area with at least 300 beds shall be eligible under such process and that such a hospital shall be eligible without regard to its disproportionate patient percentage under subsection (d)(5)(F) or whether it qualifies for additional payment amounts under such subsection.

"(ii) Project size requirements, as described in section 412.348(g)(5) of title 42, Code of Federal Regulations, shall apply except that subparagraph (ii) shall be revised to require that the project costs of a hospital are at least 150 percent of its operating cost during the first 12 month cost reporting period beginning on or after October 1, 1991.

"(iii) The minimum payment level for qualifying hospitals shall be 85 percent.

"(iv) A hospital shall be considered to meet the requirement that it complete the project involved no later than the end of the last cost reporting period of the hospital beginning before October 1, 2001, if—

"(I) the hospital has obtained a certificate of need for the project approved by the State or a local planning authority by September 1, 1995; and

"(II) by September 1, 1995, the hospital has expended on the project at least $750,000 or 10 percent of the estimated cost of the project.

"(v) Offsetting amounts, as described in section 412.348(g)(8)(ii) of title 42, Code of Federal Regulations, shall apply except that subparagraph (B) of such section shall be revised to require that the additional payment that would otherwise be payable for the cost reporting period shall be reduced by the amount (if any) by which the hospital's current year medicare capital payments (excluding, if applicable, 75 percent of the hospital's capital-related disproportionate share payments) exceeds its medicare capital costs for such year.

"(D)(i) The Secretary shall reduce the Federal capital and hospital rates up to $50,000,000 for a calendar year to ensure that the application of subparagraph (C) does not result in an increase in the total amount that would have been paid under this subsection in the fiscal year if such subparagraph did not apply.

"(ii) Payments made pursuant to the application of subparagraph (C) shall not be considered for purposes of calculating total estimated payments under section 412.348(h), Title 42, Code of Federal Regulations.

"(E) The Secretary shall provide for publication in the Federal Register each year (beginning with 1999) of a description of the distributional impact of the application of subparagraph (C) on hospitals which receive, and do not receive, an exception payment under such subparagraph.".

(2) CONFORMING AMENDMENT.—Section 1886(g)(1)(B)(iii) (42 U.S.C. 1395ww(g)(1)(B)(iii)) is amended by striking "may provide" and inserting "shall provide (in accordance with subparagraph (C))".

CHAPTER 2—PAYMENT OF PPS EXEMPT HOSPITALS

SEC. 5421. PAYMENT UPDATE.

(a) IN GENERAL.—Section 1886(b)(3)(B) (42 U.S.C. 1395ww(b)(3)(B)) is amended—

(1) in clause (ii)—

(A) by striking "and" at the end of subclause (V);

(B) by redesignating subclause (VI) as subclause (VIII); and

(C) by inserting after subclause (V), the following subclauses:

"(VI) for fiscal year 1998, is 0 percent;

"(VII) for fiscal years 1999 through 2002, is the applicable update factor specified under clause (vi) for the fiscal year; and"; and

(2) by adding at the end the following new clause:

"(vi) For purposes of clause (ii)(VII) for a fiscal year, if a hospital's allowable operating costs of inpatient hospital services recognized under this title for the most recent cost reporting period for which information is available—

"(I) is equal to, or exceeds, 110 percent of the hospital's target amount (as determined under subparagraph (A)) for such cost reporting period, the applicable update factor specified under this clause is the market basket percentage;

"(II) exceeds 100 percent, but is less than 110 percent, of such target amount for the hospital, the applicable update factor specified under this clause is 0 percent or, if greater, the market basket percentage minus 0.25 percentage points for each percentage point by which such allowable operating costs (expressed as a percentage of such target amount) is less than 110 percent of such target amount;

"(III) is equal to, or less than 100 percent, but exceeds ⅔ of such target amount for the hospital, the applicable update factor specified under this clause is 0 percent or, if greater, the market basket percentage minus 1.5 percentage points; or

"(IV) does not exceed ⅔ of such target amount for the hospital, the applicable update factor specified under this clause is 0 percent.".

(b) No Effect of Payment Reduction on Exceptions and Adjustments.—Section 1886(b)(4)(A)(ii) (42 U.S.C. 1395ww(b)(4)(A)(ii)) is amended by adding at the end the following new sentence: "In making such reductions, the Secretary shall treat the applicable update factor described in paragraph (3)(B)(vi) for a fiscal year as being equal to the market basket percentage for that year.".

SEC. 5422. REDUCTIONS TO CAPITAL PAYMENTS FOR CERTAIN PPS-EXEMPT HOSPITALS AND UNITS.

Section 1886(g) (42 U.S.C. 1395ww(g)) is amended by adding at the end the following new paragraph:

"(4) In determining the amount of the payments that are attributable to portions of cost reporting periods occurring during fiscal years 1998 through 2002 and that may be made under this title with respect to capital-related costs of inpatient hospital services of a hospital which is described in clause (i), (ii), or (iv) of subsection (d)(1)(B) or a unit described in the matter after clause (v) of such subsection, the Secretary shall reduce the amounts of such payments otherwise determined under this title by 15 percent.".

SEC. 5423. CAP ON TEFRA LIMITS.

Section 1886(b)(3) (42 U.S.C. 1395ww(b)(3)) is amended—

(1) in subparagraph (A) by striking "subparagraphs (C), (D), and (E)" and inserting "subparagraph (C) and succeeding subparagraphs", and

(2) by adding at the end the following:

"(F)(i) In the case of a hospital or unit that is within a class of hospital described in clause (ii), for cost reporting periods beginning on or after October 1, 1997, and before October 1, 2002, such target amount may not be greater than the 90th percentile of the target amounts for such hospitals within such class for cost reporting periods beginning during that fiscal year.

"(ii) For purposes of this subparagraph, each of the following shall be treated as a separate class of hospital:

"(I) Hospitals described in clause (i) of subsection (d)(1)(B) and psychiatric units described in the matter following clause (v) of such subsection.

"(II) Hospitals described in clause (ii) of such subsection and rehabilitation units described in the matter following clause (v) of such subsection.

"(III) Hospitals described in clause (iv) of such subsection.".

SEC. 5424. CHANGE IN BONUS AND RELIEF PAYMENTS.

(a) Change in Bonus Payment.—Section 1886(b)(1)(A) (42 U.S.C. 1395ww(b)(1)(A)) is amended by striking all that follows "plus—" and inserting the following:

"(i) 10 percent of the amount by which the target amount exceeds the amount of the operating costs, or

"(ii) 1 percent of the operating costs, whichever is less;".

(b) Change in Relief Payments.—Section 1886(b)(1) (42 U.S.C. 1395ww(b)(1)) is amended—

(1) in subparagraph (B)—

(A) by striking "greater than the target amount" and inserting "greater than 110 percent of the target amount",

(B) by striking "exceed the target amount" and inserting "exceed 110 percent of the target amount",

(C) by striking "10 percent" and inserting "20 percent", and

(D) by redesignating such subparagraph as subparagraph (C); and

(2) by inserting after subparagraph (A) the following new subparagraph:

"(B) are greater than the target amount but do not exceed 110 percent of the target amount, the amount of the payment with respect to those operating costs payable under part A on a per discharge basis shall equal the target amount; or".

SEC. 5425. TARGET AMOUNTS FOR REHABILITATION HOSPITALS, LONG-TERM CARE HOSPITALS, AND PSYCHIATRIC HOSPITALS.

Section 1886(b)(3) (42 U.S.C. 1395ww(b)(3)) is amended—

(1) in subparagraph (A), in the matter preceding clause (i), by striking "and (E)" and inserting "(E), (F), and (G)"; and

(2) by adding at the end the following new subparagraphs:

"(F) In the case of a rehabilitation hospital (or unit thereof) (as described in clause (ii) of subsection (d)(1)(B)), for cost reporting periods beginning on or after October 1, 1997—

"(i) in the case of a hospital which first receives payments under this section before October 1, 1997, the target amount determined under subparagraph (A) for such hospital or unit for a cost reporting period beginning during a fiscal year shall not be less than 50 percent of the national mean of the target amounts determined under such subparagraph for all such hospitals for cost reporting periods beginning during such fiscal year (determined without regard to this subparagraph); and

"(ii) in the case of a hospital which first receives payments under this section on or after October 1, 1997, such target amount may not be greater than 130 percent of the national mean of the target amounts for such hospitals (and units thereof) for cost reporting periods beginning during fiscal year 1991.

"(G) In the case of a hospital which has an average inpatient length of stay of greater than 25 days (as described in clause (iv) of subsection (d)(1)(B)), for cost reporting periods beginning on or after October 1, 1997—

"(i) in the case of a hospital which first receives payments under this section as a hospital that is not a subsection (d) hospital or a subsection (d) Puerto Rico hospital before October 1, 1997, the target amount determined under subparagraph (A) for such hospital for a cost reporting period beginning during a fiscal year shall not be less than 50 percent of the national mean of the target amounts determined under such subparagraph for all such hospitals for cost reporting periods beginning during such fiscal year (determined without regard to this subparagraph); and

"(ii) in the case of any other hospital which first receives payment under this section on or after October 1, 1997, such target amount may not be greater than 130 percent of such national mean of the target amounts for such hospitals for cost reporting periods beginning during fiscal year 1991.

"(H) In the case of a psychiatric hospital (as defined in section 1861(f)), for cost reporting periods beginning on or after October 1, 1997—

"(i) in the case of a hospital which first receives payments under this section before October 1, 1997, the target amount determined under subparagraph (A) for such hospital for a cost reporting period beginning during a fiscal year shall not be less than 50 percent of the national mean of the target amounts determined under such subparagraph for all such hospitals for cost reporting periods beginning during such fiscal year (determined without regard to this subparagraph); and

"(ii) in the case of any other hospital which first receives payment under this section on or after October 1, 1997, such target amount may not be greater than 130 percent of such national mean of the target amounts for such hospitals for cost reporting periods beginning during fiscal year 1991.".

SEC. 5426. TREATMENT OF CERTAIN LONG-TERM CARE HOSPITALS LOCATED WITHIN OTHER HOSPITALS.

(a) In General.—Section 1886(d)(1)(B) (42 U.S.C. 1395ww(d)(1)(B)) is amended by adding at the end the following new sentence: "A hospital that was classified by the Secretary on or before September 30, 1995, as a hospital described in clause (iv) shall continue to be so classified notwithstanding that it is located in the same building as, or on the same campus as, another hospital.".

(b) Effective Date.—The amendment made by subsection (a) shall apply to discharges occurring on or after October 1, 1995.

SEC. 5427. ELIMINATION OF EXEMPTIONS; REPORT ON EXCEPTIONS AND ADJUSTMENTS.

(a) Elimination of Exemptions.—

(1) In general.—Section 1886(b)(4)(A)(i) (42 U.S.C. 1395ww(b)(4)(A)(i)) is amended by striking "exemption from, or an exception and adjustment to," and inserting "an exception and adjustment to" each place it appears.

(2) Effective date.—The amendments made by paragraph (1) shall apply to hospitals that first qualify as a hospital described in clause (i), (ii), or (iv) of section 1886(d)(1)(B) (42 U.S.C. 1395ww(d)(1)(B)) on or after October 1, 1997.

(b) Report.—The Secretary of Health and Human Services shall publish annually in the Federal Register a report describing the total amount of payments made to hospitals by reason of section 1886(b)(4) of the Social Security Act (42 U.S.C. 1395ww(b)(4)), as amended by subsection (a), for cost reporting periods ending during the previous fiscal year.

SEC. 5428. TECHNICAL CORRECTION RELATING TO SUBSECTION (d) HOSPITALS.

(a) In General.—Section 1886(d)(1) (42 U.S.C. 1395ww(d)(1)) is amended—

(1) in subparagraph (B)(v)—

(A) by inserting "(I)" after "(v)"; and

(B) by striking the semicolon at the end and inserting ", or"; and

(C) by adding at the end the following:

"(II) a hospital that—

"(aa) was recognized as a comprehensive cancer center or clinical cancer research center by the National Cancer Institute of the National Institutes of Health as of April 20, 1983, or is able to demonstrate, for any six-month period, that at least 50 percent of its total discharges have a principal diagnosis that reflects a finding of neoplastic disease, as defined in subparagraph (E);

"(bb) applied on or before December 31, 1990, for classification as a hospital involved extensively in treatment for or research on cancer under this clause (as in effect on the day before the date of the enactment of this subclause), but was not approved for such classification; and "(cc) is located in a State which, as of December 19, 1989, was not operating a demonstration project under section 1814(b);"; and

(2) by adding at the end the following:

"(E) For purposes of subparagraph (B)(v)(II)(aa), the term 'principal diagnosis that reflects a finding of neoplastic disease' means the condition established after study to be chiefly responsible for occasioning the admission of a patient to a hospital, except that only discharges with ICD–9–CM principal diagnosis codes of 140 through 239, V58.0, V58.1, V66.1, or 990 will be considered to reflect such a principal diagnosis.".

(b) Payments.—Any classification by reason of section 1886(d)(1)(B)(v)(II) of the Social Security Act (42 U.S.C. 1395ww(d)(1)(B)(v)(II)) (as added by subsection (a)) shall apply to all cost reporting periods beginning on or after January 1, 1991. Any payments owed to a hospital as a result of such section (as so amended) shall be made expeditiously, but in no event later than 1 year after the date of enactment of this Act.

SEC. 5429. CERTAIN CANCER HOSPITALS.

(a) In General.—Section 1886(d)(1) (42 U.S.C. 1395ww(d)(1)), as amended by section 5428, is amended—

(1) in subparagraph (B)(v), by striking the semicolon at the end of subclause (II)(cc) and inserting the following: ", or", and by adding at the end the following:

"(III) a hospital—

"(aa) that was classified under subsection (iv) beginning on or before December 31, 1990, and through December 31, 1995; and

"(bb) throughout the period described in item (aa) and currently has greater than 49 percent of its total patient discharges with a principal diagnosis that reflects a finding of neoplastic disease;"; and

(2) by adding at the end the following:

"(F) In the case of a hospital that is classified under subparagraph (B)(v)(III), no rebasing is permitted by such hospital and such hospital shall use the base period in effect at the time of such hospital's December 31, 1995, cost report.".

CHAPTER 3—GRADUATE MEDICAL EDUCATION PAYMENTS

Subchapter A—Direct Medical Education

SEC. 5441. LIMITATION ON NUMBER OF RESIDENTS AND ROLLING AVERAGE FTE COUNT.

Section 1886(h)(4) (42 U.S.C. 1395ww(h)(4)) is amended by adding after subparagraph (E) the following:

"(F) Limitation on number of residents in allopathic and osteopathic medicine.—Except as provided in subparagraph (H), such rules shall provide that for purposes of a cost reporting period beginning on or after October 1, 1997, the total number of full-time equivalent residents before application of weighting factors (as determined under this paragraph) with respect to a hospital's approved medical residency training program in the fields of allopathic medicine and osteopathic medicine may not exceed the number of full-time equivalent residents with respect to such programs for the hospital's most recent cost reporting period ending on or before December 31, 1996.

"(G) Counting interns and residents for 1998 and subsequent years.—

"(i) In general.—For cost reporting periods beginning on or after October 1, 1997, subject to the limit described in subparagraph (F) and except as provided in subparagraph (H), the total number of full-time equivalent residents for determining a hospital's graduate medical education payment shall equal the average of the full-time equivalent resident counts for the cost reporting period and the preceding two cost reporting periods.

"(ii) Adjustment for short periods.—If any cost reporting period beginning on or after October 1, 1997, is not equal to twelve months, the Secretary shall make appropriate modifications to ensure that the average full-time equivalent resident counts pursuant to clause (ii) are based on the equivalent of full twelve-month cost reporting periods.

"(iii) Transition rule for 1998.—In the case of a hospital's first cost reporting period beginning on or after October 1, 1997, clause (i) shall be applied by using the average for such period and the preceding cost reporting period.

"(H) Special rules for new facilities.—

"(i) In general.—If a hospital is an applicable facility under clause (iii) for any year with respect to any approved medical residency training program described in subsection (h)—

"(I) subject to the applicable annual limit under clause (ii), the Secretary may provide an additional amount of full-time equivalent residents which may be taken into account with respect to such program under subparagraph (F) for cost reporting periods beginning during such year, and

"(II) the averaging rules under subparagraph (G) shall not apply for such year.

"(ii) Applicable annual limit.—The total of additional full-time equivalent residents which the Secretary may authorize under clause (i) for all applicable facilities for any year shall not exceed the amount which would result in the number of full-time equivalent residents with respect to approved medical residency training programs in the fields of allopathic and osteopathic medicine for all hospitals exceeding such number for the preceding year. In allocating such additional residents, the Secretary shall give special consideration to facilities that meet the needs of underserved rural areas.

"(iii) Applicable facility.—For purposes of this subparagraph, a hospital shall be treated as an applicable facility with respect to an approved medical residency training program only during the first 5 years during which such program is in existence. A hospital shall not be treated as such a facility if the 5-year period described in the preceding sentence ended on or before December 31, 1996.

"(iv) Coordination with limit.—For purposes of applying subparagraph (F), the number of full-time equivalent residents of an applicable facility with respect to any approved medical residency training program in the fields of allopathic and osteopathic medicine for the facility's most recent cost reporting period ending on or before December 31, 1996, shall be increased by the number of such residents allocated to such facility under clause (i)."

SEC. 5442. PERMITTING PAYMENT TO NONHOSPITAL PROVIDERS.

(a) In General.—Section 1886 (42 U.S.C. 1395ww) is amended by adding at the end the following:

"(j) Payment to Nonhospital Providers.—

"(1) In general.—For cost reporting periods beginning on or after October 1, 1997, the Secretary may establish rules for payment to qualified nonhospital providers for their direct costs of medical education, if those costs are incurred in the operation of an approved medical residency training program described in subsection (h). Such rules shall specify the amounts, form, and manner in which payments will be made and the portion of such payments that will be made from each of the trust funds under this title.

"(2) Qualified nonhospital providers.—For purposes of this subsection, the term 'qualified nonhospital providers' means—

"(A) a federally qualified health center, as defined in section 1861(aa)(4);

"(B) a rural health clinic, as defined in section 1861(aa)(2); and

"(C) such other providers (other than hospitals) as the Secretary determines to be appropriate."

(b) Prohibition on Double Payments.—Section 1886(h)(3)(B) (42 U.S.C. 1395ww(h)(3)(B)) is amended by adding at the end the following:

"The Secretary shall reduce the aggregate approved amount to the extent payment is made under subsection (j) for residents included in the hospital's count of full-time equivalent residents."

Subchapter B—Indirect Medical Education

SEC. 5446. INDIRECT GRADUATE MEDICAL EDUCATION PAYMENTS.

(a) Multiyear Transition Regarding Percentages.—

(1) In general.—Section 1886(d)(5)(B)(ii) (42 U.S.C. 1395ww(d)(5)(B)(ii)) is amended to read as follows:

"(ii) For purposes of clause (i)(II), the indirect teaching adjustment factor is equal to
c (((1+r) to the nth power) − 1), where 'r' is the ratio of the hospital's full-time equivalent interns and residents to beds and 'n' equals .405. For discharges occurring—

"(I) on or after May 1, 1986, and before October 1, 1997, 'c' is equal to 1.89;

"(II) during fiscal year 1998, 'c' is equal to 1.72;

"(III) during fiscal year 1999, 'c' is equal to 1.6;

"(IV) during fiscal year 2000, 'c' is equal to 1.47; and

"(V) on or after October 1, 2000, 'c' is equal to 1.35."

(2) No restandardization of payment amounts required.—Section 1886(d)(2)(C)(i) (42 U.S.C. 1395ww(d)(2)(C)(i)) is amended by adding at the end the following: "except that the Secretary shall not take into account any reduction in the amount of additional payments under paragraph (5)(B)(ii) resulting from the amendment made by section 5446(a)(1) of the Balanced Budget Act of 1997,".

(b) Limitation.—

(1) In general.—Section 1886(d)(5)(B) (42 U.S.C. 1395ww(d)(5)(B)) is amended by adding after clause (iv) the following:

"(v) In determining the adjustment with respect to a hospital for discharges occurring on or after October 1, 1997, the total number of full-time equivalent interns and residents in either a hospital or nonhospital setting may not exceed the number of such full-time equivalent interns and residents in the hospital with respect to the hospital's most recent cost reporting period ending on or before December 31, 1996.

"(vi) For purposes of clause (ii)—

"(I) 'r' may not exceed the ratio of the number of interns and residents as determined under clause (v) with respect to the hospital for its most recent cost reporting period ending on or before December 31, 1996, to the hospital's available beds (as defined by the Secretary) during that cost reporting period, and

"(II) for the hospital's cost reporting periods beginning on or after October 1, 1997, subject to the limits described in clauses (iv) and (v), the total number of full-time equivalent residents for payment purposes shall equal the average of the actual full-time equivalent resident count for the cost reporting period and the preceding two cost reporting periods.

In the case of the first cost reporting period beginning on or after October 1, 1997, subclause (II) shall be applied by using the average for such period and the preceding cost reporting period.

"(vii)(I) If a hospital is an applicable facility under subclause (III) for any year with respect to any approved medical residency training program described in subsection (h)—

"(aa) subject to the applicable annual limit under subclause (II), the Secretary may provide an additional amount of full-time equivalent interns and residents which may be taken into account with respect to such program under clauses (v) and (vi) for cost reporting periods beginning during such year, and

"(bb) the averaging rules under clause (vi)(II) shall not apply for such year.

"(II) The total of additional full-time equivalent interns and residents which the Secretary may authorize under subclause (I) for all applicable facilities for any year shall not exceed the amount which would result in the number of full-time equivalent interns or residents for all hospitals exceeding such number for the preceding year. In allocating such additional residents, the Secretary shall give special consideration to facilities that meet the needs of underserved rural areas.

"(III) For purposes of this clause, a hospital shall be treated as an applicable facility with respect to an approved medical residency training program only during the first 5 years during which such program is in existence. A hospital shall not be treated as such a facility if the 5-year period described in the preceding sentence ended on or before December 31, 1996.

"(IV) For purposes of applying clause (v), the number of full-time equivalent residents of an applicable facility with respect to any approved medical residency training program for the facility's most recent cost reporting period ending on or before December 31, 1996, shall be increased by the number of such residents allocated to such facility under subclause (I).

"(viii) If any cost reporting period beginning on or after October 1, 1997, is not equal to twelve months, the Secretary shall make appropriate modifications to ensure that the average full-time equivalent residency count pursuant to subclause (II) of clause (vi) is based on the equivalent of full twelve-month cost reporting periods."

(2) PAYMENT FOR INTERNS AND RESIDENTS PROVIDING OFF-SITE SERVICES.—Section 1886(d)(5)(B)(iv) (42 U.S.C. 1395ww(d)(5)(B)(iv)) is amended to read as follows:

"(iv) Effective for discharges occurring on or after October 1, 1997, all the time spent by an intern or resident in patient care activities under an approved medical residency training program at an entity in a nonhospital setting shall be counted towards the determination of full-time equivalency if the hospital incurs all, or substantially all, of the costs for the training program in that setting."

Subchapter C—Graduate Medical Education Payments for Managed Care Enrollees

SEC. 5451. DIRECT AND INDIRECT MEDICAL EDUCATION PAYMENTS TO HOSPITALS FOR MANAGED CARE ENROLLEES.

(a) PAYMENTS TO HOSPITALS FOR DIRECT COSTS OF GRADUATE MEDICAL EDUCATION.—Section 1886(h)(3) (42 U.S.C. 1395ww(h)(3)) is amended by adding after subparagraph (C) the following:

"(D) PAYMENT FOR MEDICARE CHOICE ENROLLEES.—

"(i) IN GENERAL.—For portions of cost reporting periods occurring on or after January 1, 1998, the Secretary shall provide for an additional payment amount under this subsection for services furnished to individuals who are enrolled under a risk-sharing contract with an eligible organization under section 1876 and who are entitled to part A or with a Medicare Choice organization under part C. The amount of such a payment shall equal the applicable percentage of the product of—

"(I) the aggregate approved amount (as defined in subparagraph (B)) for that period; and

"(II) the fraction of the total number of inpatient-bed days (as established by the Secretary) during the period which are attributable to such enrolled individuals.

"(ii) APPLICABLE PERCENTAGE.—For purposes of clause (i), the applicable percentage is—

"(I) 25 percent in 1998,

"(II) 50 percent in 1999,

"(III) 75 percent in 2000, and

"(IV) 100 percent in 2001 and subsequent years.

"(iii) SPECIAL RULE FOR HOSPITALS UNDER REIMBURSEMENT SYSTEM.—The Secretary shall establish rules for the application of this subparagraph to a hospital reimbursed under a reimbursement system authorized under section 1814(b)(3) in the same manner as it would apply to the hospital if it were not reimbursed under such section."

(b) PAYMENT TO HOSPITALS OF INDIRECT MEDICAL EDUCATION COSTS.—Section 1886(d) (42 U.S.C. 1395ww(d)) is amended by adding at the end the following:

"(11) ADDITIONAL PAYMENTS FOR MANAGED CARE SAVINGS.—

"(A) IN GENERAL.—For portions of cost reporting periods occurring on or after January 1, 1998, the Secretary shall provide for an additional payment amount for each applicable discharge of any subsection (d) hospital (or any hospital reimbursed under a reimbursement system authorized under section 1814(b)(3)) that has an approved medical residency training program.

"(B) APPLICABLE DISCHARGE.—For purposes of this paragraph, the term 'applicable discharge' means the discharge of any individual who is enrolled under a risk-sharing contract with an eligible organization under section 1876 and who is entitled to benefits under part A or any individual who is enrolled with a Medicare Choice organization under part C.

"(C) DETERMINATION OF AMOUNT.—The amount of the payment under this paragraph with respect to any applicable discharge shall be equal to the applicable percentage (as defined in subsection (h)(3)(D)(ii)) of the estimated average per discharge amount that would otherwise have been paid under paragraph (1)(A) if the individuals had not been enrolled as described in subparagraph (B)."

SEC. 5452. DEMONSTRATION PROJECT ON USE OF CONSORTIA.

(a) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall establish a demonstration project under which, instead of making payments to teaching hospitals pursuant to section 1886(h) of the Social Security Act, the Secretary shall make payments under this section to each consortium that meets the requirements of subsection (b).

(b) QUALIFYING CONSORTIA.—For purposes of subsection (a), a consortium meets the requirements of this subsection if the consortium is in compliance with the following:

(1) The consortium consists of an approved medical residency training program in a teaching hospital and one or more of the following entities:

(A) A school of allopathic medicine or osteopathic medicine.

(B) Another teaching hospital, which may be a children's hospital.

(C) Another approved medical residency training program.

(D) A federally qualified health center.

(E) A medical group practice.

(F) A managed care entity.

(G) An entity furnishing outpatient services.

(I) Such other entity as the Secretary determines to be appropriate.

(2) The members of the consortium have agreed to participate in the programs of graduate medical education that are operated by the entities in the consortium.

(3) With respect to the receipt by the consortium of payments made pursuant to this section, the members of the consortium have agreed on a method for allocating the payments among the members.

(4) The consortium meets such additional requirements as the Secretary may establish.

(c) AMOUNT AND SOURCE OF PAYMENT.—The total of payments to a qualifying consortium for a fiscal year pursuant to subsection (a) shall not exceed the amount that would have been paid under section 1886(h) of the Social Security Act for the teaching hospital (or hospitals) in the consortium. Such payments shall be made in such proportion from each of the trust funds established under title XVIII of such Act as the Secretary specifies.

CHAPTER 4—OTHER HOSPITAL PAYMENTS

SEC. 5461. DISPROPORTIONATE SHARE PAYMENTS TO HOSPITALS FOR MANAGED CARE AND MEDICARE CHOICE ENROLLEES.

Section 1886(d) (42 U.S.C. 1395ww(d)) (as amended by section 5451) is amended by adding at the end the following:

"(12) ADDITIONAL PAYMENTS FOR MANAGED CARE AND MEDICARE CHOICE SAVINGS.—

"(A) IN GENERAL.—For portions of cost reporting periods occurring on or after January 1, 1998, the Secretary shall provide for an additional payment amount for each applicable discharge of—

(i) any subsection (d) hospital that is a disproportionate share hospital (as described in paragraph (5)(F)(i)); or

(ii) any hospital reimbursed under a reimbursement system authorized under section 1814(b)(3)) if such hospital would qualify as a disproportionate share hospital were it not so reimbursed.

"(B) APPLICABLE DISCHARGE.—For purposes of this paragraph, the term 'applicable discharge' means the discharge of any individual who is enrolled under a risk-sharing contract with an eligible organization under section 1876 and who is entitled to benefits under part A or any individual who is enrolled with a Medicare Choice organization under part C.

"(C) DETERMINATION OF AMOUNT.—The amount of the payment under this paragraph with respect to any applicable discharge shall be equal to the applicable percentage (as defined in subsection (h)(3)(D)(ii)) of the estimated average per discharge amount that would otherwise have been paid under paragraph (1)(A) if the individuals had not been enrolled as described in subparagraph (B).".

SEC. 5462. REFORM OF DISPROPORTIONATE SHARE PAYMENTS TO HOSPITALS SERVING VULNERABLE POPULATIONS.

(a) IN GENERAL.—Section 1886(d)(5)(F) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(F)) is amended—

(1) in clause (i), by inserting "and before December 31, 1998," after "May, 1, 1986,";

(2) in clause (ii), by striking "The amount" and inserting "Subject to clauses (ix) and (x), the amount"; and

(3) by adding at the end the following:

"(ix) In the case of discharges occurring on or after October 1, 1997, and before December 31, 1998, the additional payment amount otherwise determined under clause (ii) shall be reduced by 4 percent.

"(x)(I) In the case of discharges occurring during calendar years 1999 and succeeding calendar years, the additional payment amount shall be determined in accordance with the formula established under subclause (II).

"(II) Not later than January 1, 1999, the Secretary shall establish a formula for determining additional payment amounts under this subparagraph. In determining such formula the Secretary shall—

"(aa) establish a single threshold for costs incurred by hospitals in serving low-income patients,

"(bb) consider the costs described in subclause (III), and

"(cc) ensure that such formula complies with the requirement described in subclause (IV).

"(III) The costs described in this subclause are as follows:

"(aa) The costs incurred by the hospital during a period (as determined by the Secretary) of furnishing inpatient and outpatient hospital services to individuals who are entitled to benefits under part A of this title and are entitled to supplemental security income benefits under title XVI (excluding any supplementation of those benefits by a State under section 1616).

"(bb) The costs incurred by the hospital during a period (as so determined) of furnishing inpatient and outpatient hospital services to individuals who are eligible for medical assistance under the State plan under title XIX and are not entitled to benefits under part A of this title (including individuals enrolled in a health maintenance organization (as defined in section 1903(m)(1)(A)) or any other managed care plan under such title, individuals who are eligible for medical assistance under such title pursuant to a waiver approved by the Secretary under section 1115, and individuals who are eligible for medical assistance under the State plan under title XIX (regardless of whether the State has provided reimbursement for any such assistance provided under such title)).

"(cc) The costs incurred by the hospital during a period (as so determined) of furnishing inpatient and outpatient hospital services to individuals who are not described in item (aa) or (bb) and who do not have health insurance coverage (or any other source of third party payment for such services) and for which the hospital did not receive compensation.

"(IV)(aa) The requirement described in this subclause is that for each calendar year for which the formula established under this clause applies, the additional payment amount determined for such calendar year under such formula shall not exceed an amount equal to the additional payment amount that, in the absence of such formula, would have been determined under this subparagraph, reduced by the applicable percentage for such calendar year.

"(bb) For purposes of subclause (aa), the applicable percentage for—

"(AA) calendar year 1999 is 8 percent;

"(BB) calendar year 2000 is 12 percent;

"(CC) calendar year 2001 is 16 percent;

"(DD) calendar year 2002 is 20 percent;

"(EE) calendar year 2003 and subsequent calendar years, is 0 percent".

(b) DATA COLLECTION.—

(1) IN GENERAL.—In developing the formula under section 1886(g)(5)(F)(x) of the Social Security Act (42 U.S.C. 1395ww(g)(5)(F)(x)), as added by subsection (a), and in implementing the provisions of and amendments made by this section, the Secretary of Health and Human Services may require any subsection (d) hospital (as defined in section 1886(d)(1)(B) of the Social Security Act (42 U.S.C. 1395ww(d)(1)(B))) receiving additional payments by reason of section 1886(d)(5)(F) of that Act (42 U.S.C. 1395ww(d)(5)(F)) (as amended by subsection (a) of this section) to submit to the Secretary any information that the Secretary determines is necessary to implement the provisions of and amendments made by this section.

(2) FAILURE TO COMPLY.—Any subsection (d) hospital (as so defined) that fails to submit to the Secretary of Health and Human Services any information requested under paragraph (1), shall be deemed ineligible for an additional payment amount under section 1886(d)(5)(F) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(F)) (as amended by subsection (a) of this section).

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to discharges occurring on and after October 1, 1997.

SEC. 5463. MEDICARE CAPITAL ASSET SALES PRICE EQUAL TO BOOK VALUE.

(a) IN GENERAL.—Section 1861(v)(1)(O) (42 U.S.C. 1395x(v)(1)(O)) is amended—

(1) in clause (i)—

(A) by striking "and (if applicable) a return on equity capital";

(B) by striking "hospital or skilled nursing facility" and inserting "provider of services";

(C) by striking "clause (iv)" and inserting "clause (iii)"; and

(D) by striking "the lesser of the allowable acquisition cost" and all that follows and inserting "the historical cost of the asset, as recognized under this title, less depreciation allowed. to the owner of record as of the date of enactment of the Balanced Budget Act of 1997 (or. in the case of an asset not in existence as of that date, the first owner of record of the asset after that date).";

(2) by striking clause (ii); and

(3) by redesignating clauses (iii) and (iv) as clauses (ii) and (iii), respectively.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply to changes of ownership that occur after the third month beginning after the date of enactment of this section.

SEC. 5464. ELIMINATION OF IME AND DSH PAYMENTS ATTRIBUTABLE TO OUTLIER PAYMENTS.

(a) INDIRECT MEDICAL EDUCATION.—Section 1886(d)(5)(B)(i)(I) (42 U.S.C. 1395ww(d)(5)(B)(i)(I)) is amended by inserting ", for cases qualifying for additional payment under subparagraph (A)(i)," before "the amount paid to the hospital under subparagraph (A)".

(b) DISPROPORTIONATE SHARE ADJUSTMENTS.—Section 1886(d)(5)(F)(ii)(I) (42 U.S.C. 1395ww(d)(5)(F)(ii)(I)) is amended by inserting ", for cases qualifying for additional payment under subparagraph (A)(i)," before "the amount paid to the hospital under subparagraph (A)".

(c) COST OUTLIER PAYMENTS.—Section 1886(d)(5)(A)(ii) (42 U.S.C. 1395ww(d)(5)(A)(ii)) is amended by striking "exceed the applicable DRG prospective payment rate" and inserting "exceed the sum of the applicable DRG prospective payment rate plus any amounts payable under subparagraphs (B) and (F) of subsection (d)(5)".

(d) EFFECTIVE DATE.—The amendments made by this section apply to discharges occurring after September 30, 1997.

SEC. 5465. TREATMENT OF TRANSFER CASES.

(a) TRANSFERS TO PPS EXEMPT HOSPITALS AND SKILLED NURSING FACILITIES.—Section 1886(d)(5)(I) (42 U.S.C. 1395ww(d)(5)(I)) is amended by adding at the end the following new clause:

"(iii) In carrying out this subparagraph, the Secretary shall treat the term 'transfer case' as including the case of an individual who, upon discharge from a subsection (d) hospital—

"(I) is admitted as an inpatient to a hospital or hospital unit that is not a subsection (d) hospital for the receipt of inpatient hospital services; or

"(II) is admitted to a skilled nursing facility or facility described in section 1861(y)(1) for the receipt of extended care services.".

(b) TRANSFERS FOR PURPOSES OF HOME HEALTH SERVICES.—Section 1886(d)(5)(I) (42 U.S.C. 1395ww(d)(5)(I)), as amended by subsection (a), is amended—

(1) in clause (iii), by striking the period at the end and inserting "; or" and

(2) by adding at the end the following new subclause:

"(III) receives home health services from a home health agency, if such services directly relate to the condition or diagnosis for which such individual received inpatient hospital services from the subsection (d) hospital, and if such services are provided within an appropriate period as determined by the Secretary in regulations promulgated not later than April 1, 1998.".

(c) EFFECTIVE DATES.—

(1) The amendment made by subsection (a) shall apply with respect to discharges occurring on or after October 1, 1997.

(2) The amendment made by subsection (b) shall apply with respect to discharges occurring on or after April 1, 1998.

SEC. 5466. REDUCTIONS IN PAYMENTS FOR ENROLLEE BAD DEBT.

Section 1861(v)(1) (42 U.S.C. 1395x(v)(1)) is amended by adding at the end the following new subparagraph:

"(T) In determining such reasonable costs for hospitals, the amount of bad debts otherwise treated as allowable costs which are attributable to the deductibles and coinsurance amounts under this title shall be reduced—

"(i) for cost reporting periods beginning on or after October 1, 1997 and on or before December 31, 1998, by 25 percent of such amount otherwise allowable,

"(ii) for cost reporting periods beginning during calendar year 1999, by 40 percent of such amount otherwise allowable, and

"(iii) for cost reporting periods beginning during a subsequent calendar year, by 50 percent of such amount otherwise allowable.".

SEC. 5467. FLOOR ON AREA WAGE INDEX.

(a) IN GENERAL.—For purposes of section 1886(d)(3)(E) of the Social Security Act (42 U.S.C. 1395ww(d)(3)(E)) for discharges occurring on or after October 1, 1997, the area wage index applicable under such section to any hospital which is not located in a rural area (as defined in section 1886(d)(2)(D) of such Act (42 U.S.C. 1395ww(d)(2)(D)) may not be less than the average of the area wage indices applicable under such section to hospitals located in rural areas in the State in which the hospital is located.

(b) IMPLEMENTATION.—The Secretary of Health and Human Services shall adjust the area wage indices referred to in subsection (a) for hospitals not described in such subsection in a manner which assures that the aggregate payments made under section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)) in a fiscal year for the operating costs of inpatient hospital services are not greater or less than those which would have been made in the year if this section did not apply.

SEC. 5468. INCREASE BASE PAYMENT RATE TO PUERTO RICO HOSPITALS.

Section 1886(d)(9)(A) (42 U.S.C. 1395ww(d)(9)(A)) is amended—

(1) in the matter preceding clause (i), by striking "in a fiscal year beginning on or after October 1, 1987,",

(2) in clause (i), by striking "75 percent" and inserting "for discharges beginning on or after October 1, 1997, 50 percent (and for discharges between October 1, 1987, and September 30, 1997, 75 percent)", and

(3) in clause (ii), by striking "25 percent" and inserting "for discharges beginning in a fiscal year beginning on or after October 1, 1997, 50 percent (and for discharges between October 1, 1987 and September 30, 1997, 25 percent)".

SEC. 5469. PERMANENT EXTENSION OF HEMOPHILIA PASS-THROUGH.

Effective October 1, 1997, section 6011(d) of OBRA–1989 (as amended by section 13505 of OBRA–1993) is amended by striking "and shall expire September 30, 1994".

SEC. 5470. COVERAGE OF SERVICES IN RELIGIOUS NONMEDICAL HEALTH CARE INSTITUTIONS UNDER THE MEDICARE AND MEDICAID PROGRAMS.

(a) MEDICARE COVERAGE.—

(1) IN GENERAL.—Section 1861 of the Social Security Act (42 U.S.C. 1395x) (as amended by section 5361) is amended—

(1) in the sixth sentence of subsection (e)—

(A) by striking "includes" and all that follows up to "but only" and inserting "includes a religious nonmedical health care institution (as defined in subsection (rr)(1)),", and

(B) by inserting "consistent with section 1821" before the period;

(2) in subsection (y)—

(A) by amending the heading to read as follows:

"Extended Care in Religious Nonmedical Health Care Institutions",

(B) in paragraph (1), by striking "includes" and all that follows up to "but only" and inserting "includes a religious nonmedical health care institution (as defined in subsection (rr)(1)),", and

(C) by inserting "consistent with section 1821" before the period; and

(3) by adding at the end the following:

"Religious Nonmedical Health Care Institution

"(rr)(1) The term 'religious nonmedical health care institution' means an institution that—

"(A) is described in subsection (c)(3) of section 501 of the Internal Revenue Code of 1986 and is exempt from taxes under subsection (a) of such section;

"(B) is lawfully operated under all applicable Federal, State, and local laws and regulations;

"(C) provides only nonmedical nursing items and services exclusively to patients who choose to rely solely upon a religious method of healing and for whom the acceptance of medical health services would be inconsistent with their religious beliefs;

"(D) provides such nonmedical items and services exclusively through nonmedical nursing personnel who are experienced in caring for the physical needs of such patients;

"(E) provides such nonmedical items and services to inpatients on a 24-hour basis;

"(F) on the basis of its religious beliefs, does not provide through its personnel or otherwise medical items and services (including any medical screening, examination, diagnosis, prognosis, treatment, or the administration of drugs) for its patients;

"(G) is not a part of, or owned by, or under common ownership with, or affiliated through ownership with, a health care facility that provides medical services;

"(H) has in effect a utilization review plan which—

"(i) provides for the review of admissions to the institution, of the duration of stays therein, of cases of continuous extended duration, and of the items and services furnished by the institution,

"(ii) requires that such reviews be made by an appropriate committee of the institution that includes the individuals responsible for overall administration and for supervision of nursing personnel at the institution,

"(iii) provides that records be maintained of the meetings, decisions, and actions of such committee, and

"(iv) meets such other requirements as the Secretary finds necessary to establish an effective utilization review plan;

"(I) provides the Secretary with such information as the Secretary may require to implement section 1821, to monitor quality of care, and to provide for coverage determinations; and

"(J) meets such other requirements as the Secretary finds necessary in the interest of the health and safety of individuals who are furnished services in the institution.

"(2) If the Secretary finds that the accreditation of an institution by a State, regional, or national agency or association provides reasonable assurances that any or all of the requirements of paragraph (1) are met or exceeded, the Secretary shall, to the extent the Secretary deems it appropriate, treat such institution as meeting the condition or conditions with respect to which the Secretary made such finding.

"(3)(A)(i) In administering this subsection and section 1821, the Secretary shall not require any patient of a religious nonmedical health care institution to undergo any medical screening, examination, diagnosis, prognosis, or treatment or to accept any other medical health care service, if such patient (or legal representative of the patient) objects thereto on religious grounds.

"(ii) Clause (i) shall not be construed as preventing the Secretary from requiring under section 1821(a)(2) the provision of sufficient information regarding an individual's condition as a condition for receipt of benefits under part A for services provided in such an institution.

"(B)(i) In administering this subsection and section 1821, the Secretary shall not subject a religious nonmedical health care institution to any medical supervision, regulation, or control, insofar as such supervision, regulation, or control would be contrary to the religious beliefs observed by the institution.

"(ii) Clause (i) shall not be construed as preventing the Secretary from reviewing items and services billed by the institution to the extent the Secretary determines such review to be necessary to determine whether such items and services were not covered under part A, are excessive, or are fraudulent.".

(2) CONDITIONS OF COVERAGE.—Part A of title XVIII of the Social Security Act is amended by adding at the end the following new section:

"CONDITIONS FOR COVERAGE OF RELIGIOUS NONMEDICAL HEALTH CARE INSTITUTIONAL SERVICES

"SEC. 1821. (a) IN GENERAL.—Subject to subsections (c) and (d), payment under this part may be made for inpatient hospital services or post-hospital extended care services furnished an individual in a religious nonmedical health care institution only if—

"(1) the individual has an election in effect for such benefits under subsection (b); and

"(2) the individual has a condition such that the individual would qualify for benefits under this part for inpatient hospital services or extended care services, respectively, if the individual were an inpatient or resident in a hospital or skilled nursing facility that was not such an institution.

"(b) ELECTION.—

"(1) IN GENERAL.—An individual may make an election under this subsection in a form and manner specified by the Secretary consistent with this subsection. Unless otherwise provided, such an election shall take effect immediately upon its execution. Such an election, once made, shall continue in effect until revoked.

"(2) FORM.—The election form under this subsection shall include the following:

"(A) A statement, signed by the individual (or such individual's legal representative), that—

"(i) the individual is conscientiously opposed to acceptance of nonexcepted medical treatment; and

"(ii) the individual's acceptance of nonexcepted medical treatment would be inconsistent with the individual's sincere religious beliefs.

"(B) A statement that the receipt of nonexcepted medical services shall constitute a revocation of the election and may limit further receipt of services described in subsection (a).

"(3) REVOCATION.—An election under this subsection by an individual may be revoked in a form and manner specified by the Secretary and shall be deemed to be revoked if the individual receives medicare reimbursable non-excepted medical treatment, regardless of whether or not benefits for such treatment are provided under this title.

"(4) LIMITATION ON SUBSEQUENT ELECTIONS.—Once an individual's election under this subsection has been made and revoked twice—

"(A) the next election may not become effective until the date that is 1 year after the date of most recent previous revocation, and

"(B) any succeeding election may not become effective until the date that is 5 years after the date of the most recent previous revocation.

"(5) EXCEPTED MEDICAL TREATMENT.—For purposes of this subsection:

"(A) EXCEPTED MEDICAL TREATMENT.—The term 'excepted medical treatment' means medical care or treatment (including medical and other health services)—

"(i) for the setting of fractured bones,

"(ii) received involuntarily, or

"(iii) required under Federal or State law or law of a political subdivision of a State.

"(B) NON-EXCEPTED MEDICAL TREATMENT.—The term 'nonexcepted medical treatment' means medical care or treatment (including medical and other health services) other than excepted medical treatment.

"(c) MONITORING AND SAFEGUARD AGAINST EXCESSIVE EXPENDITURES.—

"(1) ESTIMATE OF EXPENDITURES.—Before the beginning of each fiscal year (beginning with fiscal year 2000), the Secretary shall estimate the level of expenditures under this part for services described in subsection (a)for that fiscal year.

"(2) ADJUSTMENT IN PAYMENTS.—

"(A) PROPORTIONAL ADJUSTMENT.—If the Secretary determines that the level estimated under paragraph (1) for a fiscal year will exceed the trigger level (as defined in subparagraph (C)) for that fiscal year, the Secretary shall, subject to subparagraph (B), provide for such a proportional reduction in payment amounts under this part for services described in subsection (a) for the fiscal year involved as will assure that such level (taking into account any adjustment under subparagraph (B)) does not exceed the trigger level for that fiscal year.

"(B) ALTERNATIVE ADJUSTMENTS.—The Secretary may, instead of making some or all of the reduction described in subparagraph (A), impose such other conditions or limitations with respect to the coverage of covered services (including limitations on new elections of coverage and new facilities) as may be appropriate to reduce the level of expenditures described in paragraph (1) to the trigger level.

"(C) TRIGGER LEVEL.—For purposes of this subsection, subject to adjustment under paragraph (3)(B), the 'trigger level' for—

"(i) fiscal year 1998, is $20,000,000, or

"(ii) a succeeding fiscal year is the amount specified under this subparagraph for the previous fiscal year increased by the percentage increase in the consumer price index for all urban consumers (all items; United States city average) for the 12-month period ending with July preceding the beginning of the fiscal year.

"(D) PROHIBITION OF ADMINISTRATIVE AND JUDICIAL REVIEW.—There shall be no administrative or judicial review under section 1869, 1878, or otherwise of the estimation of expenditures under subparagraph (A) or the application of reduction amounts under subparagraph (B).

"(E) EFFECT ON BILLING.—Notwithstanding any other provision of this title, in the case of a reduction in payment provided under this subsection for services of a religious nonmedical health care institution provided to an individual, the amount that the institution is otherwise permitted to charge the individual for such services. is increased by the amount of such reduction.

"(3) MONITORING EXPENDITURE LEVEL.—

"(A) IN GENERAL.—The Secretary shall monitor the expenditure level described in paragraph (2)(A) for each fiscal year (beginning with fiscal year 1999).

"(B) ADJUSTMENT IN TRIGGER LEVEL.—If the Secretary determines that such level for a fiscal year exceeded, or was less than, the trigger level for that fiscal year, then the trigger level for the succeeding fiscal year shall be reduced, or increased, respectively, by the amount of such excess or deficit.

"(d) SUNSET.—If the Secretary determines that the level of expenditures described in subsection (c)(1) for 3 consecutive fiscal years (with the first such year being not earlier than fiscal year 2002) exceeds the trigger level for such expenditures for such years (as determined under subsection (c)(2)), benefits shall be paid under this part for services described in subsection (a) and furnished on or after the first January 1 that occurs after such 3 consecutive years only with respect to an individual who has an election in effect under subsection (b) as of such January 1 and only during the duration of such election.

"(e) ANNUAL REPORT.—At the beginning of each fiscal year (beginning with fiscal year 1999), the Secretary shall submit to the Committees on Ways and Means of the House of Representatives and the Committee on Finance of the Senate an annual report on coverage and expenditures for services described in subsection (a) under this part and under State plans under title XIX. Such report shall include—

"(1) level of expenditures described in subsection (c)(1) for the previous fiscal year and estimated for the fiscal year involved;

"(2) trends in such level; and

"(3) facts and circumstances of any significant change in such level from the level in previous fiscal years.".

(b) MEDICAID.—

(1) The third sentence of section 1902(a) of such Act (42 U.S.C. 1396a(a)) is amended by striking all that follows "shall not apply" and inserting "to a religious nonmedical health care institution (as defined in section 1861(rr)(1)).".

(2) Section 1908(e)(1) of such Act (42 U.S.C. 1396g–1(e)(1)) is amended by striking all that follows "does not include" and inserting "a religious nonmedical health care institution (as defined in section 1861(rr)(1)).".

(c) CONFORMING AMENDMENTS.—

(1) Section 1122(h) of such Act (42 U.S.C. 1320a–1(h)) is amended by striking all that follows "shall not apply to" and inserting "a religious nonmedical health care institution (as defined in section 1861(rr)(1)).".

(2) Section 1162 of such Act (42 U.S.C. 1320c–11) is amended—

(A) by amending the heading to read as follows:

"EXEMPTIONS FOR RELIGIOUS NONMEDICAL HEALTH CARE INSTITUTIONS"; and

(B) by striking all that follows "shall not apply with respect to a" and inserting "religious nonmedical health care institution (as defined in section 1861(rr)(1)).".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to items and services furnished on or after such date. By not later than July 1, 1998, the Secretary of Health and Human Services shall first issue regulations to carry out such amendments. Such regulations may be issued so they are effective on an interim basis pending notice and opportunity for public comment. For periods before the effective date of such regulations, such regulations shall recognize elections entered into in good faith in order to comply with the requirements of section 1821(b) of the Social Security Act.

CHAPTER 5—PAYMENTS FOR HOSPICE SERVICES

SEC. 5481. PAYMENT FOR HOME HOSPICE CARE BASED ON LOCATION WHERE CARE IS FURNISHED.

(a) IN GENERAL.—Section 1814(i)(2) (42 U.S.C. 1395f(i)(2)) is amended by adding at the end the following:

"(D) A hospice program shall submit claims for payment for hospice care furnished in an individual's home under this title only on the basis of the geographic location at which the service is furnished, as determined by the Secretary.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to cost reporting periods beginning on or after October 1, 1997.

SEC. 5482. HOSPICE CARE BENEFITS PERIODS.

(a) RESTRUCTURING OF BENEFIT PERIOD.—Section 1812 (42 U.S.C. 1395d) is amended in subsections (a)(4) and (d)(1), by striking ", a subsequent period of 30 days, and a subsequent extension period" and inserting "and an unlimited number of subsequent periods of 60 days each".

(b) CONFORMING AMENDMENTS.—(1) Section 1812 (42 U.S.C. 1395d) is amended in subsection (d)(2)(B) by striking "90- or 30-day period or a subsequent extension period" and inserting "90-day period or a subsequent 60-day period".

(2) Section 1814(a)(7)(A) (42 U.S.C. 1395f(a)(7)(A)) is amended—

(A) in clause (i), by inserting "and" at the end;

(B) in clause (ii)—

(i) by striking "30-day" and inserting "60-day"; and

(ii) by striking ", and" at the end and inserting a period; and

(C) by striking clause (iii).

SEC. 5483. OTHER ITEMS AND SERVICES INCLUDED IN HOSPICE CARE.

Section 1861(dd)(1) (42 U.S.C. 1395x(dd)(1)) is amended—

(1) in subparagraph (G), by striking "and" at the end;

(2) in subparagraph (H), by striking the period at the end and inserting ", and"; and

(3) by inserting after subparagraph (H) the following:

"(I) any other item or service which is specified in the plan and for which payment may otherwise be made under this title.".

SEC. 5484. CONTRACTING WITH INDEPENDENT PHYSICIANS OR PHYSICIAN GROUPS FOR HOSPICE CARE SERVICES PERMITTED.

Section 1861(dd)(2) (42 U.S.C. 1395x(dd)(2)) is amended—

(1) in subparagraph (A)(ii)(I), by striking "(F),"; and

(2) in subparagraph (B)(i), by inserting "or, in the case of a physician described in subclause (I), under contract with" after "employed by".

SEC. 5485. WAIVER OF CERTAIN STAFFING REQUIREMENTS FOR HOSPICE CARE PROGRAMS IN NON-URBANIZED AREAS.

Section 1861(dd)(5) (42 U.S.C. 1395x(dd)(5)) is amended—

(1) in subparagraph (B), by inserting "or (C)" after "subparagraph (A)" each place it appears; and

(2) by adding at the end the following:

"(C) The Secretary may waive the requirements of paragraph clauses (i) and (ii) of paragraph (2)(A) for an agency or organization with respect to the services described in paragraph (1)(B) and, with respect to dietary counseling, paragraph (1)(H), if such agency or organization—

"(i) is located in an area which is not an urbanized area (as defined by the Bureau of the Census), and

"(ii) demonstrates to the satisfaction of the Secretary that the agency or organization has been unable, despite diligent efforts, to recruit appropriate personnel.".

SEC. 5486. LIMITATION ON LIABILITY OF BENEFICIARIES FOR CERTAIN HOSPICE COVERAGE DENIALS.

Section 1879 (42 U.S.C. 1395pp) is amended—

(1) in subsection (a), in the matter following paragraph (2), by inserting "and except as provided in subsection (i)," after "to the extent permitted by this title,";

(2) in subsection (g)—

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and indenting such subparagraphs appropriately;

(B) by striking "is," and inserting "is—";

(C) by making the remaining text of subsection (g) (as amended) that follows "is—" a new paragraph (1) and indenting that paragraph appropriately;

(D) by striking the period at the end and inserting "; and"; and

(E) by adding at the end the following:

"(2) with respect to the provision of hospice care to an individual, a determination that the individual is not terminally ill."; and

(3) by adding at the end the following:

"(i) In any case involving a coverage denial with respect to hospice care described in subsection (g)(2), only the individual that received such care shall, notwithstanding such determination, be indemnified for any payments that the individual made to a provider or other person for such care that would, but for such denial, otherwise be paid to the individual under part A or B of this title.".

SEC. 5487. EXTENDING THE PERIOD FOR PHYSICIAN CERTIFICATION OF AN INDIVIDUAL'S TERMINAL ILLNESS.

Section 1814(a)(7)(A)(i) (42 U.S.C. 1395f(a)(7)(A)(i)) is amended, in the matter following subclause (II), by striking ", not later than 2 days after hospice care is initiated (or, if each certify verbally not later than 2 days after hospice care is initiated, not later than 8 days after such care is initiated)" and inserting "at the beginning of the period".

SEC. 5488. EFFECTIVE DATE.

Except as otherwise provided in this chapter, the amendments made by this chapter apply to benefits provided on or after the date of the enactment of this chapter, regardless of whether or not an individual has made an election under section 1812(d) of the Social Security Act (42 U.S.C. 1395d(d)) before such date.

Subtitle G—Provisions Relating to Part B Only

CHAPTER 1—PAYMENTS FOR PHYSICIANS AND OTHER HEALTH CARE PROVIDERS

SEC. 5501. ESTABLISHMENT OF SINGLE CONVERSION FACTOR FOR 1998.

(a) In General.—Section 1848(d)(1) (42 U.S.C. 1395w-4(d)(1)) is amended to read as follows:

"(1) Establishment.—

"(A) In general.—The conversion factor for each year shall be the conversion factor established under this subsection for the previous year, adjusted by the update established under paragraph (3) for the year involved.

"(B) Special rule for 1998.—The single conversion factor for 1998 shall be the conversion factor for primary care services for 1997, increased by the Secretary's estimate of the weighted average of the 3 separate updates that would otherwise occur but for the enactment of chapter 1 of subtitle G of title V of the Balanced Budget Act of 1997.

"(C) Publication.—The Secretary shall, during the last 15 days of October of each year, publish the conversion factor which will apply to physicians' services for the following year and the update determined under paragraph (3) for such year."

(b) Conforming Amendment.—Section 1848(i)(1)(C) (42 U.S.C. 1395w-4(i)(1)(C)) is amended by striking "conversion factors" and inserting "the conversion factor".

SEC. 5502. ESTABLISHING UPDATE TO CONVERSION FACTOR TO MATCH SPENDING UNDER SUSTAINABLE GROWTH RATE.

(a) Update.—

(1) In general.—Section 1848(d)(3) (42 U.S.C. 1395w-4(d)(3)) is amended to read as follows:

"(3) Update.—

"(A) In general.—Unless otherwise provided by law, subject to subparagraph (D) and the budget-neutrality factor determined by the Secretary under subsection (c)(2)(B)(ii), the update to the single conversion factor established in paragraph (1)(B) for a year beginning with 1999 is equal to the product of—

"(i) 1 plus the Secretary's estimate of the percentage increase in the MEI (as defined in section 1842(i)(3)) for the year (divided by 100), and

"(ii) 1 plus the Secretary's estimate of the update adjustment factor for the year (divided by 100),

minus 1 and multiplied by 100.

"(B) Update adjustment factor.—For purposes of subparagraph (A)(ii), the 'update adjustment factor' for a year is equal to the quotient (as estimated by the Secretary) of—

"(i) the difference between (I) the sum of the allowed expenditures for physicians' services (as determined under subparagraph (C)) for the period beginning July 1, 1997, and ending on June 30 of the year involved, and (II) the amount of actual expenditures for physicians' services furnished during the period beginning July 1, 1997, and ending on June 30 of the preceding year; divided by

"(ii) the actual expenditures for physicians' services for the 12-month period ending on June 30 of the preceding year, increased by the sustainable growth rate under subsection (f) for the fiscal year which begins during such 12-month period.

"(C) Determination of allowed expenditures.—For purposes of this paragraph, the allowed expenditures for physicians' services for the 12-month period ending with June 30 of—

"(i) 1997 is equal to the actual expenditures for physicians' services furnished during such 12-month period, as estimated by the Secretary; or

"(ii) a subsequent year is equal to the allowed expenditures for physicians' services for the previous year, increased by the sustainable growth rate under subsection (f) for the fiscal year which begins during such 12-month period.

"(D) Restriction on variation from medicare economic index.—Notwithstanding the amount of the update adjustment factor determined under subparagraph (B) for a year, the update in the conversion factor under this paragraph for the year may not be—

"(i) greater than 100 times the following amount: (1.03 + (MEI percentage/100)) −1; or

"(ii) less than 100 times the following amount: (0.93 + (MEI percentage/100)) −1,

where 'MEI percentage' means the Secretary's estimate of the percentage increase in the MEI (as defined in section 1842(i)(3)) for the year involved.".

(b) Elimination of Report.—Section 1848(d) (42 U.S.C. 1395w-4(d)) is amended by striking paragraph (2).

(c) Effective Date.—The amendments made by this section shall apply to the update for years beginning with 1999.

SEC. 5503. REPLACEMENT OF VOLUME PERFORMANCE STANDARD WITH SUSTAINABLE GROWTH RATE.

(a) In General.—Section 1848(f) (42 U.S.C. 1395w-4(f)) is amended by striking paragraphs (2) through (5) and inserting the following:

"(2) Specification of growth rate.—The sustainable growth rate for all physicians' services for a fiscal year (beginning with fiscal year 1998) shall be equal to the product of—

"(A) 1 plus the Secretary's estimate of the weighted average percentage increase (divided by 100) in the fees for all physicians' services in the fiscal year involved,

"(B) 1 plus the Secretary's estimate of the percentage change (divided by 100) in the average number of individuals enrolled under this part (other than Medicare Choice plan enrollees) from the previous fiscal year to the fiscal year involved,

"(C) 1 plus the Secretary's estimate of the projected percentage growth in real gross domestic product per capita (divided by 100) from the previous fiscal year to the fiscal year involved, and

"(D) 1 plus the Secretary's estimate of the percentage change (divided by 100) in expenditures for all physicians' services in the fiscal year (compared with the previous fiscal year) which will result from changes in law and regulations, determined without taking into account estimated changes in expenditures due to changes in the volume and intensity of physicians' services resulting from changes in the update to the conversion factor under subsection (d)(3),

minus 1 and multiplied by 100.

"(3) Definitions.—In this subsection:

"(A) Services included in physicians' services.—The term 'physicians' services' includes other items and services (such as clinical diagnostic laboratory tests and radiology services), specified by the Secretary, that are commonly performed or furnished by a physician or in a physician's office, but does not include services furnished to a Medicare Choice plan enrollee.

"(B) Medicare choice plan enrollee.—The term 'Medicare Choice plan enrollee' means, with respect to a fiscal year, an individual enrolled under this part who has elected to receive benefits under this title for the fiscal year through a Medicare Choice plan offered under part C, and also includes an individual who is receiving benefits under this part through enrollment with an eligible organization with a risk-sharing contract under section 1876.".

(b) Conforming Amendments.—So much of section 1848(f) (42 U.S.C. 1395w-4(f)) as precedes paragraph (2) is amended to read as follows:

"(f) Sustainable Growth Rate.—

"(1) Publication.—The Secretary shall cause to have published in the Federal Register the sustainable growth rate for each fiscal year beginning with fiscal year 1998. Such publication shall occur in the last 15 days of October of the year in which the fiscal year begins, except that such rate for fiscal year 1998 shall be published not later than January 1, 1998."

SEC. 5504. PAYMENT RULES FOR ANESTHESIA SERVICES.

(a) In General.—Section 1848(d)(1) (42 U.S.C. 1395w-4(d)(1)), as amended by section 5501, is amended—

(A) in subparagraph (B), striking "The single" and inserting "Except as provided in subparagraph (C), the single";

(B) by redesignating subparagraph (C) as subparagraph (D); and

(C) by inserting after subparagraph (B) the following new subparagraph:

"(C) Special rules for anesthesia services.—The separate conversion factor for anesthesia services for a year shall be equal to

46 percent of the single conversion factor established for other physicians' services, except as adjusted for changes in work, practice expense, or malpractice relative value units.''.

(b) CLASSIFICATION OF ANESTHESIA SERVICES.—The first sentence of section 1848(j)(1) (42 U.S.C. 1395w–4(j)(1)) is amended—

(1) by striking ''and including anesthesia services''; and

(2) by inserting before the period the following: ''(including anesthesia services)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 1998.

SEC. 5505. IMPLEMENTATION OF RESOURCE-BASED PHYSICIAN PRACTICE EXPENSE.

(a) ADJUSTMENTS TO RELATIVE VALUE UNITS FOR 1998.—Section 1848(c)(2) (42 U.S.C. 1395w–4(c)(2)) is amended by adding at the end the following new subparagraph:

''(G) ADJUSTMENTS IN RELATIVE VALUE UNITS FOR 1998.—

''(i) IN GENERAL.—The Secretary shall—

''(I) reduce the practice expense relative value units applied to any services described in clause (ii) furnished in 1998 to a number equal to 110 percent of the number of work relative value units, and

''(II) increase the practice expense relative value units for primary care services provided in an office setting during 1998 by a uniform percentage which the Secretary estimates will result in an aggregate increase in payments for such services equal to the aggregate decrease in payments by reason of subclause (I).

''(ii) SERVICES COVERED.—For purposes of clause (i), the services described in this clause are physicians' services that are not described in clause (iii) and for which—

''(I) there are work relative value units, and

''(II) the number of practice expense relative value units (determined for 1998) exceeds 110 percent of the number of work relative value units (determined for such year).

''(iii) EXCLUDED SERVICES.—For purposes of clause (ii), the services described in this clause are services which the Secretary determines at least 75 percent of which are provided under this title in an office setting.''

(b) PHASED-IN IMPLEMENTATION.—Section 1848(c)(2) (42 U.S.C. 1395w–4(c)(2)), as amended by subsection (a), is amended—

(1) in subparagraph (C)(ii), in the matter following subclause (II), by inserting '', to the extent provided under subparagraph (H),'' after ''based'', and

(2) by adding at the end the following new subparagraph:

''(H) TRANSITIONAL RULE FOR RESOURCE-BASED PRACTICE EXPENSE UNITS.—In applying subparagraph (C)(ii) for 1998, 1999, 2000, and any subsequent year, the number of units under such subparagraph shall be based 75 percent, 50 percent, 25 percent, and 0 percent, respectively, on the practice expense relative value units in effect in 1997 (or the Secretary's imputation of such units for new or revised codes) and the remainder on the relative value expense resources involved in furnishing the service.''

(c) REVIEW BY COMPTROLLER GENERAL.—The Comptroller General of the United States shall review and evaluate the proposed rule on resource-based methodology for practice expenses issued by the Health Care Financing Administration. The Comptroller General shall, within 6 months of the date of the enactment of this Act, report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate the results of its evaluation, including an analysis of—

(1) the adequacy of the data used in preparing the rule,

(2) categories of allowable costs,

(3) methods for allocating direct and indirect expenses,

(4) the potential impact of the rule on beneficiary access to services, and

(5) any other matters related to the appropriateness of resource-based methodology for practice expenses.

The Comptroller General shall consult with representatives of physicians' organizations with respect to matters of both data and methodology.

(d) CONSULTATION.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall assemble a group of physicians with expertise in both surgical and nonsurgical areas (including primary care physicians and academics), accounting experts, and the chair of the Prospective Payment Review Commission (or its successor) to solicit their individual views on whether sufficient data exist to allow the Health Care Financing Administration to proceed with implementation of the rule described in subsection (c). After hearing the views of individual members of the group, the Secretary shall determine whether sufficient data exists to proceed with practice expense relative value determination and shall report on such views of the individual members to the committees described in subsection (c), including any recommendations for modifying such rule.

(2) ACTION.—If the Secretary determines under paragraph (1) that insufficient data exists or that the rule described in subsection (c) needs to be revised, the Secretary shall provide for additional data collection and such other actions to correct any deficiencies.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning on and after January 1, 1998.

SEC. 5506. INCREASED MEDICARE REIMBURSEMENT FOR NURSE PRACTITIONERS AND CLINICAL NURSE SPECIALISTS.

(a) REMOVAL OF RESTRICTIONS ON SETTINGS.—

(1) IN GENERAL.—Clause (ii) of section 1861(s)(2)(K) (42 U.S.C. 1395x(s)(2)(K)) is amended to read as follows:

''(ii) services which would be physicians' services if furnished by a physician (as defined in subsection (r)(1)) and which are performed by a nurse practitioner or clinical nurse specialist (as defined in subsection (aa)(5)) working in collaboration (as defined in subsection (aa)(6)) with a physician (as defined in subsection (r)(1)) which the nurse practitioner or clinical nurse specialist is legally authorized to perform by the State in which the services are performed, and such services and supplies furnished as an incident to such services as would be covered under subparagraph (A) if furnished incident to a physician's professional service, but only if no facility or other provider charges or is paid any amounts with respect to the furnishing of such services;''.

(2) CONFORMING AMENDMENTS.—(A) Section 1861(s)(2)(K) of such Act (42 U.S.C. 1395x(s)(2)(K)) is further amended—

(i) in clause (i), by inserting ''and such services and supplies furnished as incident to such services as would be covered under subparagraph (A) if furnished incident to a physician's professional service; and'' after ''are performed,''; and

(ii) by striking clauses (iii) and (iv).

(B) Section 1861(b)(4) (42 U.S.C. 1395x(b)(4)) is amended by striking ''clauses (i) or (iii) of subsection (s)(2)(K)'' and inserting ''subsection (s)(2)(K)''.

(C) Section 1862(a)(14) (42 U.S.C. 1395y(a)(14)) is amended by striking ''section 1861(s)(2)(K)(i) or 1861(s)(2)(K)(iii)'' and inserting ''section 1861(s)(2)(K)''.

(D) Section 1866(a)(1)(H) (42 U.S.C. 1395cc(a)(1)(H)) is amended by striking ''section 1861(s)(2)(K)(i) or 1861(s)(2)(K)(iii)'' and inserting ''section 1861(s)(2)(K)''.

(E) Section 1888(e)(2)(A)(ii) (42 U.S.C. 1395yy(e)(2)(A)(ii)), as added by section 5301(a), is amended by striking ''through (iii)'' and inserting ''and (ii)''.

(b) INCREASED PAYMENT.—

(1) FEE SCHEDULE AMOUNT.—Clause (O) of section 1833(a)(1) (42 U.S.C. 1395l(a)(1)) is amended to read as follows: ''(O) with respect to services described in section 1861(s)(2)(K)(ii) (relating to nurse practitioner or clinical nurse specialist services), the amounts paid shall be equal to 80 percent of (i) the lesser of the actual charge or 85 percent of the fee schedule amount provided under section 1848, or (ii) in the case of services as an assistant at surgery, the lesser of the actual charge or 85 percent of the amount that would otherwise be recognized if performed by a physician who is serving as an assistant at surgery; and''.

(2) CONFORMING AMENDMENTS.—(A) Section 1833(r) (42 U.S.C. 1395l(r)) is amended—

(i) in paragraph (1), by striking ''section 1861(s)(2)(K)(iii) (relating to nurse practitioner or clinical nurse specialist services provided in a rural area)'' and inserting ''section 1861(s)(2)(K)(ii) (relating to nurse practitioner or clinical nurse specialist services)'';

(ii) by striking paragraph (2);

(iii) in paragraph (3), by striking ''section 1861(s)(2)(K)(iii)'' and inserting ''section 1861(s)(2)(K)(ii)''; and

(iv) by redesignating paragraph (3) as paragraph (2).

(B) Section 1842(b)(12)(A) (42 U.S.C. 1395u(b)(12)(A)) is amended, in the matter preceding clause (i), by striking ''clauses (i), (ii), or (iv) of section 1861(s)(2)(K) (relating to a physician assistants and nurse practitioners)'' and inserting ''section 1861(s)(2)(K)(i) (relating to physician assistants)''.

(c) DIRECT PAYMENT FOR NURSE PRACTITIONERS AND CLINICAL NURSE SPECIALISTS.—

(1) IN GENERAL.—Section 1832(a)(2)(B)(iv) (42 U.S.C. 1395k(a)(2)(B)(iv)) is amended by striking ''provided in a rural area (as defined in section 1886(d)(2)(D))'' and inserting ''but only if no facility or other provider charges or is paid any amounts with respect to the furnishing of such services''.

(2) CONFORMING AMENDMENT.—Section 1842(b)(6)(C) (42 U.S.C. 1395u(b)(6)(C)) is amended—

(A) by striking ''clauses (i), (ii), or (iv)'' and inserting ''clause (i)''; and

(B) by striking ''or nurse practitioner''.

(d) DEFINITION OF CLINICAL NURSE SPECIALIST CLARIFIED.—Section 1861(aa)(5) (42 U.S.C. 1395x(aa)(5)) is amended—

(1) by inserting ''(A)'' after ''(5)'';

(2) by striking ''The term 'physician assistant' '' and all that follows through ''who performs'' and inserting ''The term 'physician assistant' and the term 'nurse practitioner' mean, for purposes of this title, a physician assistant or nurse practitioner who performs''; and

(3) by adding at the end the following new subparagraph:

''(B) The term 'clinical nurse specialist' means, for purposes of this title, an individual who—

''(i) is a registered nurse and is licensed to practice nursing in the State in which the clinical nurse specialist services are performed; and

"(ii) holds a master's degree in a defined clinical area of nursing from an accredited educational institution.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to services furnished and supplies provided on and after January 1, 1998.

SEC. 5507. INCREASED MEDICARE REIMBURSEMENT FOR PHYSICIAN ASSISTANTS.

(a) REMOVAL OF RESTRICTION ON SETTINGS.—Section 1861(s)(2)(K)(i) (42 U.S.C. 1395x(s)(2)(K)(i)), as amended by the section 5506, is amended—

(1) by striking "(I) in a hospital" and all that follows through "shortage area,", and

(2) by adding at the end the following: "but only if no facility or other provider charges or is paid any amounts with respect to the furnishing of such services,".

(b) INCREASED PAYMENT.—Paragraph (12) of section 1842(b) (42 U.S.C. 1395u(b)), as amended by section 5506(b)(2)(B), is amended to read as follows:

"(12) With respect to services described in section 1861(s)(2)(K)(i)—

"(A) payment under this part may only be made on an assignment-related basis; and

"(B) the amounts paid under this part shall be equal to 80 percent of (i) the lesser of the actual charge or 85 percent of the fee schedule amount provided under section 1848 for the same service provided by a physician who is not a specialist; or (ii) in the case of services as an assistant at surgery, the lesser of the actual charge or 85 percent of the amount that would otherwise be recognized if performed by a physician who is serving as an assistant at surgery.".

(c) REMOVAL OF RESTRICTION ON EMPLOYMENT RELATIONSHIP.—Section 1842(b)(6) (42 U.S.C. 1395u(b)(6)) is amended by adding at the end the following new sentence: "For purposes of clause (C) of the first sentence of this paragraph, an employment relationship may include any independent contractor arrangement, and employer status shall be determined in accordance with the law of the State in which the services described in such clause are performed.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to services furnished and supplies provided on and after January 1, 1998.

SEC. 5508. CHIROPRACTIC SERVICES COVERAGE DEMONSTRATION PROJECT.

(a) DEMONSTRATION.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall conduct demonstration projects, for a period of 2 years, to begin not later than 1 year after the date of enactment of this Act, for the purpose of evaluating methods under which access to chiropractic services by individuals entitled to benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.) and enrolled under part B of such title (42 U.S.C. 1395j et seq.) (in this section referred to as "medicare beneficiaries") would be provided, on a cost effective basis, as a benefit to medicare beneficiaries.

(b) ELEMENTS OF THE DEMONSTRATION PROJECT.—A demonstration project conducted under this section shall include the evaluation of the following elements:

(1) The effect on the medicare program of allowing chiropractors to order x-rays and to receive payment under the medicare program for providing such x-rays.

(2) The effect on the medicare program of eliminating the requirement for an x-ray under section 1861(r)(5) of such Act (42 U.S.C. 1395x(r)(5)).

(3) The effect on the medicare program of allowing chiropractors, within the scope of their licensure, to provide physicians' services (as defined in section 1861(q) of the Social Security Act (42 U.S.C. 1395x(q))) to medicare beneficiaries.

(4) The cost effectiveness of allowing a medicare beneficiary who is enrolled with an eligible organization under section 1876 of the Social Security Act (42 U.S.C. 1395mm) or with a Medicare Choice organization under part C of such Act to have direct access to chiropractors.

In this section, the term "direct access" means allowing a medicare beneficiary to go directly to a chiropractor affiliated with the organizations referred to in paragraph (4) without prior approval from a physician (other than another chiropractor) or other entity.

(c) CONDUCT OF THE DEMONSTRATION PROJECT.—

(1) PROJECT LOCATIONS.—A demonstration project (that includes each element under subsection (b)) shall be conducted in—

(A) 3 or more rural areas (as defined in section 1886(d)(2)(D) of the Social Security Act (42 U.S.C. 1395ww(d)(2)(D)));

(B) 3 or more urban areas (as defined in such section); and

(C) 3 or more areas having a shortage of primary medical care professionals (as designed under section 332 of the Public Health Service Act (42 U.S.C. 254e)).

(2) CONSULTATION.—For the design and conduct of the demonstration project, the Secretary shall consult, on a ongoing basis, with chiropractors, organizations representing chiropractors, and representatives of medicare beneficiary consumer groups.

(3) DIRECT ACCESS ELEMENT.—

(A) IN GENERAL.—The Secretary shall study the element to be evaluated under subsection (b)(4) by involving at least 10 eligible organizations under section 1876 of the Social Security Act (42 U.S.C. 1395mm) or Medicare Choice organizations under part C of such title that have voluntarily elected to participate in the demonstration project.

(B) PAYMENT:—The Secretary shall provide a small incentive payment to each such organization participating in the demonstration project.

(C) FULL SCOPE OF SERVICES.—Any such organization may allow chiropractors to practice the full scope of services for which they are licensed by the State in which those services are furnished, as if those services were both a covered benefit under the medicare program and included in such organization's contract under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.). The Secretary shall agree to as many of such proposals as possible, giving due regard for the overall design of the demonstration project.

(d) EVALUATION.—The Secretary shall evaluate the demonstration projects, taking into account the differences in demonstration project locations, in order to determine—

(1) whether medicare beneficiaries who receive chiropractic services use a lesser overall amount of items and services under the medicare program than medicare beneficiaries who do not receive chiropractic services;

(2) the overall cost effects on medicare program spending of the increased access of medicare beneficiaries to chiropractors;

(3) beneficiary satisfaction with chiropractic services, including quality of care; and

(4) such other matters as the Secretary deems appropriate.

(e) REPORT TO CONGRESS.—

(1) PRELIMINARY REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit a preliminary report to the Committee on Ways and Means and the Committee on Commerce of the House of Representatives and to the Committee on Finance of the Senate on the progress made in the demonstration programs, including—

(A) a description of the locations in which the demonstration projects under this section are being conducted; and

(B) the chiropractic services being furnished in each location.

(2) FINAL REPORT.—

(A) IN GENERAL.—Not later than January 1, 2001, the Secretary shall submit a final report on the demonstration project to the committees described in paragraph (1).

(B) CONTENTS.—The report submitted under subparagraph (A) shall include a summary of the evaluation prepared under subsection (d) and recommendations for appropriate legislative changes.

(C) RECOMMENDED LEGISLATION.—The legislative recommendations described in subparagraph (B) shall include a legislative draft of specific amendments to the Social Security Act that authorize payment under the medicare program for elements described in subsection (b) that the Secretary determines to be cost effective, based on the results of the demonstration projects.

(f) FUNDING.—

(1) IN GENERAL.—The Secretary shall provide for the transfer from the Federal Supplementary Insurance Trust Fund under title XVIII of the Social Security Act (42 U.S.C. 1395t) such funds as the Secretary determines to be necessary for the costs of carrying out the demonstration projects under this section.

(2) PAYMENTS OF AMOUNTS.—Grants and payments under contracts for purposes of the demonstration project may be made either in advance or by reimbursement, as determined by the Secretary, and shall be made in such installments and on such conditions as the Secretary finds necessary to carry out the purpose of this section.

(g) WAIVER AUTHORITY.—The Secretary shall waive compliance with the requirements of titles XI, XVIII, and XIX of the Social Security Act (42 U.S.C. 1301 et seq., 1395 et seq., 1396 et seq.) to such extent and for such period as the Secretary determines is necessary to conduct demonstration projects under this section.

(h) IMPLEMENTING EXPANDED COVERAGE OF CHIROPRACTIC SERVICES.—As soon as possible after the submission of a final report under subsection (e), the Secretary shall issue regulations to implement, on a permanent basis, the elements of the demonstration project that are cost effective for the medicare program.

CHAPTER 2—OTHER PAYMENT PROVISIONS

SEC. 5521. REDUCTION IN UPDATES TO PAYMENT AMOUNTS FOR CLINICAL DIAGNOSTIC LABORATORY TESTS; STUDY ON LABORATORY SERVICES.

(a) CHANGE IN UPDATE.—Section 1833(h)(2)(A)(ii) (42 U.S.C. 1395l(h)(2)(A)(ii)) is amended by striking "and" at the end of subclause (III), by striking the period at the end of subclause (IV) and inserting ", and", and by adding at the end the following:

"(V) the annual adjustment in the fee schedules determined under clause (i) for each of the years 1998 through 2002 shall be reduced (but not below zero) by 2.0 percentage points."

(b) Lowering Cap on Payment Amounts.—Section 1833(h)(4)(B) (42 U.S.C. 1395l(h)(4)(B)) is amended—

(1) in clause (vi), by striking "and" at the end;

(2) in clause (vii)—

(A) by inserting "and before January 1, 1998," after "1995,", and

(B) by striking the period at the end and inserting ", and"; and

(3) by adding at the end the following new clause:

"(viii) after December 31, 1997, is equal to 74 percent of such median.".

(c) Study and Report on Clinical Laboratory Services.—

(1) In general.—The Secretary shall request the Institute of Medicine of the National Academy of Sciences to conduct a study of payments under part B of title XVIII of the Social Security Act for clinical laboratory services. The study shall include a review of the adequacy of the current methodology and recommendations regarding alternative payment systems. The study shall also analyze and discuss the relationship between such payment systems and access to high quality laboratory services for medicare beneficiaries, including availability and access to new testing methodologies.

(2) Report to congress.—The Secretary shall, not later than 2 years after the date of enactment of this section, report to the appropriate committees of Congress the results of the study described in paragraph (1), including any recommendations for legislation.

SEC. 5522. IMPROVEMENTS IN ADMINISTRATION OF LABORATORY SERVICES BENEFIT.

(a) Selection of Regional Carriers.—

(1) In general.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall—

(A) divide the United States into no more than 5 regions, and

(B) designate a single carrier for each such region,

for the purpose of payment of claims under part B of title XVIII of the Social Security Act with respect to clinical diagnostic laboratory services furnished on or after such date (not later than January 1, 1999) as the Secretary specifies.

(2) Designation.—In designating such carriers, the Secretary shall consider, among other criteria—

(A) a carrier's timeliness, quality, and experience in claims processing, and

(B) a carrier's capacity to conduct electronic data interchange with laboratories and data matches with other carriers.

(3) Single data resource.—The Secretary shall select one of the designated carriers to serve as a central statistical resource for all claims information relating to such clinical diagnostic laboratory services handled by all the designated carriers under such part.

(4) Allocation of claims.—The allocation of claims for clinical diagnostic laboratory services to particular designated carriers shall be based on whether a carrier serves the geographic area where the laboratory specimen was collected or other method specified by the Secretary.

(5) Temporary exception.—Paragraph (1) shall not apply with respect to clinical diagnostic laboratory services furnished by independent physician offices until such time as the Secretary determines that such offices would not be unduly burdened by the application of billing responsibilities with respect to more than one carrier.

(b) Adoption of Uniform Policies for Clinical Laboratory Benefits.—

(1) In general.—Not later than July 1, 1998, the Secretary shall first adopt, consistent with paragraph (2), uniform coverage, administration, and payment policies for clinical diagnostic laboratory tests under part B of title XVIII of the Social Security Act, using a negotiated rulemaking process under subchapter III of chapter 5 of title 5, United States Code.

(2) Considerations in design of uniform policies.—The policies under paragraph (1) shall be designed to promote program integrity and uniformity and simplify administrative requirements with respect to clinical diagnostic laboratory tests payable under such part in connection with the following:

(A) Beneficiary information required to be submitted with each claim or order for laboratory services.

(B) Physicians' obligations regarding documentation requirements and recordkeeping.

(C) Procedures for filing claims and for providing remittances by electronic media.

(D) The documentation of medical necessity.

(E) Limitation on frequency of coverage for the same tests performed on the same individual.

(3) Changes in laboratory policies pending adoption of uniform policy.—During the period that begins on the date of the enactment of this Act and ends on the date the Secretary first implements uniform policies pursuant to regulations promulgated under this subsection, a carrier under such part may implement changes relating to requirements for the submission of a claim for clinical diagnostic laboratory tests.

(4) Use of interim policies.—After the date the Secretary first implements such uniform policies, the Secretary shall permit any carrier to develop and implement interim policies of the type described in paragraph (1), in accordance with guidelines established by the Secretary, in cases in which a uniform national policy has not been established under this subsection and there is a demonstrated need for a policy to respond to aberrant utilization or provision of unnecessary services. Except as the Secretary specifically permits, no policy shall be implemented under this paragraph for a period of longer than 2 years.

(5) Interim national guidelines.—After the date the Secretary first designates regional carriers under subsection (a), the Secretary shall establish a process under which designated carriers can collectively develop and implement interim national guidelines of the type described in paragraph (1). No such policy shall be implemented under this paragraph for a period of longer than 2 years.

(6) Biennial review process.—Not less often than once every 2 years, the Secretary shall solicit and review comments regarding changes in the uniform policies established under this subsection. As part of such biennial review process, the Secretary shall specifically review and consider whether to incorporate or supersede interim, regional, or national policies developed under paragraph (4) or (5). Based upon such review, the Secretary may provide for appropriate changes in the uniform policies previously adopted under this subsection.

(7) Requirement and notice.—The Secretary shall ensure that any guidelines adopted under paragraph (3), (4), or (5) shall apply to all laboratory claims payable under part B of title XVIII of the Social Security Act, and shall provide for advance notice to interested parties and a 45-day period in which such parties may submit comments on the proposed change.

(c) Inclusion of Laboratory Representative on Carrier Advisory Committees.—The Secretary shall direct that any advisory committee established by such a carrier, to advise with respect to coverage, administration or payment policies under part B of title XVIII of the Social Security Act, shall include an individual to represent the interest and views of independent clinical laboratories and such other laboratories as the Secretary deems appropriate. Such individual shall be selected by such committee from among nominations submitted by national and local organizations that represent independent clinical laboratories.

SEC. 5523. PAYMENTS FOR DURABLE MEDICAL EQUIPMENT.

(a) Reduction in Payment Amounts for Items of Durable Medical Equipment.—

(1) Freeze in update for covered items.—Section 1834(a)(14) (42 U.S.C. 1395m(a)(14)) is amended to read as follows:

"(14) Covered item update.—In this subsection—

"(A) In general.—The term 'covered item update' means, with respect to any year, the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of the previous year.

"(B) Reduction for certain years.—In the case of each of the years 1998 through 2002, the covered item update under subparagraph (A) shall be reduced (but not below zero) by 2.0 percentage points."

(2) Update for orthotics and prosthetics.—Section 1834(h)(4)(A) (42 U.S.C. 1395m(h)(4)(A)) is amended to read as follows:

"(A) the term 'applicable percentage increase' means, with respect to any year, the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of the previous year, except that in each of the years 1998 through 2000, such increase shall be reduced (but not below zero) by 2.0 percentage points;".

(3) Effective date.—The amendments made by this subsection applies to items furnished on and after January 1, 1998.

(b) Reduction in Increase for Parenteral and Enteral Nutrients, Supplies, and Equipment.—The reasonable charge under part B of title XVIII of the Social Security Act for parenteral and enteral nutrients, supplies, and equipment furnished during each of the years 1998 through 2002, shall not exceed the reasonable charge for such items furnished during the previous year (after application of this subsection), increased by the percentage increase in the consumer price index for all urban consumers (United States city average) for the 12-month period ending with June of the previous year reduced (but not below zero) by 2.0 percentage points.

SEC. 5524. OXYGEN AND OXYGEN EQUIPMENT.

(a) In General.—Section 1834(a)(9)(B) (42 U.S.C. 1395m(a)(9)(B)) is amended—

(1) by striking "and" at the end of clause (iii);

(2) in clause (iv)—

(A) by striking "a subsequent year" and inserting "1995, 1996, and 1997", and

(B) by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new clauses:

"(v) in 1998, 75 percent of the amount determined under this subparagraph for 1997;

"(vi) in 1999, 62.5 percent of the amount determined under this subparagraph for 1997; and "(vii) for each subsequent year, the amount determined under this subparagraph for the preceding year increased by the covered item update for such subsequent year."

(b) Upgraded Durable Medical Equipment.—Section 1834(a) (42 U.S.C. 1395m(a)) is amended by inserting after paragraph (15) the following new paragraph:

"(16) Certain upgraded items.—

"(A) Individual's right to choose upgraded item.—Notwithstanding any other provision of law, effective on the date on which the Secretary issues regulations under subparagraph (C), an individual may purchase or rent from a supplier an item of upgraded durable medical equipment for which payment would be made under this subsection if the item were a standard item.

"(B) Payments to supplier.—In the case of the purchase or rental of an upgraded item under subparagraph (A)—

"(i) the supplier shall receive payment under this subsection with respect to such item as if such item were a standard item; and

"(ii) the individual purchasing or renting the item shall pay the supplier an amount equal to the difference between the supplier's charge and the amount under clause (i).

In no event may the supplier's charge for an upgraded item exceed the applicable fee schedule amount (if any) for such item.

"(C) Consumer protection safeguards.—The Secretary shall issue regulations providing for consumer protection standards with respect to the furnishing of upgraded equipment under subparagraph (A). Such regulations shall provide for—

"(i) determination of fair market prices with respect to an upgraded item;

"(ii) full disclosure of the availability and price of standard items and proof of receipt of such disclosure information by the beneficiary before the furnishing of the upgraded item;

"(iii) conditions of participation for suppliers in the simplified billing arrangement;

"(iv) sanctions of suppliers who are determined to engage in coercive or abusive practices, including exclusion; and

"(v) such other safeguards as the Secretary determines are necessary."

(c) Establishment of Classes for Payment.—Section 1848(a)(9) (42 U.S.C. 1395m(a)(9)) is amended by adding at the end the following:

"(D) Authority to create classes.—

"(i) In general.—Subject to clause (ii), the Secretary may establish separate classes for any item of oxygen and oxygen equipment and separate national limited monthly payment rates for each of such classes.

"(ii) Budget neutrality.—The Secretary may take actions under clause (i) only to the extent such actions do not result in expenditures for any year to be more or less than the expenditures which would have been made if such actions had not been taken."

(d) Standards and Accreditation.—The Secretary shall as soon as practicable establish service standards and accreditation requirements for persons seeking payment under part B of title XVIII of the Social Security Act for the providing of oxygen and oxygen equipment to beneficiaries within their homes.

(e) Access to Home Oxygen Equipment.—

(1) Study.—The Comptroller General of the United States shall study issues relating to access to home oxygen equipment and shall, within 6 months after the date of the enactment of this Act, report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate the results of the study, including recommendations (if any) for legislation.

(2) Peer review evaluation.—The Secretary of Health and Human Services shall arrange for peer review organizations established under section 1154 of the Social Security Act to evaluate access to, and quality of, home oxygen equipment.

(f) Demonstration Project.—Not later than 6 months after the date of enactment of this Act, the Secretary shall, in consultation with appropriate organizations, initiate a demonstration project in which the Secretary utilizes a competitive bidding process for the furnishing of home oxygen equipment to medicare beneficiaries under title XVIII of the Social Security Act.

(g) Effective Date.—

(1) Oxygen.—The amendments made by subsection (a) shall apply to items furnished on and after January 1, 1998.

(2) Other provisions.—The amendments made by this section other than subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 5525. UPDATES FOR AMBULATORY SURGICAL SERVICES.

Section 1833(i)(2)(C) (42 U.S.C. 1395l(i)(2)(C)) is amended by inserting at the end the following: "In each of the fiscal years 1998 through 2002, the increase under this subparagraph shall be reduced (but not below zero) by 2.0 percentage points."

SEC. 5526. REIMBURSEMENT FOR DRUGS AND BIOLOGICALS.

(a) In General.—Section 1842 (42 U.S.C. 1395u) is amended by inserting after subsection (n) the following new subsection:

"(o)(1) If a physician's, supplier's, or any other person's bill or request for payment for services includes a charge for a drug or biological for which payment may be made under this part and the drug or biological is not paid on a cost or prospective payment basis as otherwise provided in this part, the amount payable for the drug or biological is equal to 95 percent of the average wholesale price, as specified by the Secretary.

"(2) In the case of any drug or biological for which payment was made under this part on May 1, 1997, the amount determined under paragraph (1) shall not exceed the amount payable under this part for such drug or biological on such date.

"(3) If payment for a drug or biological is made to a licensed pharmacy approved to dispense drugs or biologicals under this part, the Secretary shall pay a dispensing fee (less the applicable deductible and insurance amounts) to the pharmacy, as the Secretary determines appropriate."

(b) Effective Date.—The amendments made by subsection (a) apply to drugs and biologicals furnished on or after January 1, 1999.

CHAPTER 3—PART B PREMIUM AND RELATED PROVISIONS

SEC. 5541. PART B PREMIUM.

(a) In General.—Section 1839(a)(3) (42 U.S.C. 1395r(a)(3)) is amended by striking the first 3 sentences and inserting the following: "The Secretary, during September of each year, shall determine and promulgate a monthly premium rate for the succeeding calendar year that is equal to 50 percent of the monthly actuarial rate for enrollees age 65 and over, determined according to paragraph (1), for that succeeding calendar year.".

(b) Conforming and Technical Amendments.—

(1) Section 1839.—Section 1839 (42 U.S.C. 1395r) is amended—

(A) in subsection (a)(2), by striking "(b) and (e)" and inserting "(b), (c), and (f)",

(B) in the last sentence of subsection (a)(3)—

(i) by inserting "rate" after "premium", and

(ii) by striking "and the derivation of the dollar amounts specified in this paragraph",

(C) by striking subsection (e), and

(D) by redesignating subsection (g) as subsection (e) and inserting that subsection after subsection (d).

(2) Section 1844.—Subparagraphs (A)(i) and (B)(i) of section 1844(a)(1) (42 U.S.C. 1395w(a)(1)) are each amended by striking "or 1839(e), as the case may be".

Subtitle H—Provisions Relating to Parts A and B

CHAPTER 1—SECONDARY PAYOR PROVISIONS

SEC. 5601. EXTENSION AND EXPANSION OF EXISTING REQUIREMENTS.

(a) Data Match.—

(1) Elimination of medicare sunset.—Section 1862(b)(5)(C) (42 U.S.C. 1395y(b)(5)(C)) is amended by striking clause (iii).

(2) Elimination of internal revenue code sunset.—Section 6103(l)(12) of the Internal Revenue Code of 1986 is amended by striking subparagraph (F).

(b) Application to Disabled Individuals in Large Group Health Plans.—

(1) In general.—Section 1862(b)(1)(B) (42 U.S.C. 1395y(b)(1)(B)) is amended—

(A) in clause (i), by striking "clause (iv)" and inserting "clause (iii)";

(B) by striking clause (iii); and

(C) by redesignating clause (iv) as clause (iii).

(2) Conforming amendments.—Paragraphs (1) through (3) of section 1837(i) (42 U.S.C. 1395p(i)) and the second sentence of section 1839(b) (42 U.S.C. 1395r(b)) are each amended by striking "1862(b)(1)(B)(iv)" each place it appears and inserting "1862(b)(1)(B)(iii)".

(c) Individuals With End Stage Renal Disease.—Section 1862(b)(1)(C) (42 U.S.C. 1395y(b)(1)(C)) is amended—

(1) in the last sentence by striking "October 1, 1998" and inserting "the date of enactment of the Balanced Budget Act of 1997"; and

(2) by adding at the end the following: "Effective for items and services furnished on or after the date of enactment of the Balanced Budget Act of 1997, (with respect to periods beginning on or after the date that is 18 months prior to such date), clauses (i) and (ii) shall be applied by substituting '30-month' for '12-month' each place it appears.".

SEC. 5602. IMPROVEMENTS IN RECOVERY OF PAYMENTS.

(a) Permitting Recovery Against Third Party Administrators of Primary Plans.—Section 1862(b)(2)(B)(ii) (42 U.S.C. 1395y(b)(2)(B)(ii)) is amended—

(1) by striking "under this subsection to pay" and inserting "(directly, as a third-party administrator, or otherwise) to make payment"; and

(2) by adding at the end the following: "The United States may not recover from a third-party administrator under this clause in cases where the third-party administrator would not be able to recover the amount at issue from the employer or group health plan for whom it provides administrative services due to the insolvency or bankruptcy of the employer or plan.".

(b) Extension of Claims Filing Period.—Section 1862(b)(2)(B) (42 U.S.C. 1395y(b)(2)(B)) is amended by adding at the end the following:

"(v) Claims-filing period.—Notwithstanding any other time limits that may exist for filing a claim under an employer group health plan, the United States may seek to recover conditional payments in accordance with this subparagraph where the request for payment is submitted to the entity required or responsible under this subsection to pay with respect to the item or service (or any portion thereof) under a primary plan within the 3-year period beginning on the date on which the item or service was furnished.".

(c) Effective Date.—The amendments made by this section apply to items and services furnished on or after the date of enactment of this Act.

CHAPTER 2—OTHER PROVISIONS

SEC. 5611. INCREASED CERTIFICATION PERIOD FOR CERTAIN ORGAN PROCUREMENT ORGANIZATIONS.

Section 1138(b)(1)(A)(ii) (42 U.S.C. 1320b–8(b)(1)(A)(ii)) is amended by striking "two years" and inserting "2 years (3 years if the Secretary determines appropriate for an organization on the basis of its past practices)".

HUTCHISON (AND SANTORUM) AMENDMENT NO. 446

Mrs. HUTCHISON (for herself and Mr. Santorum) proposed an amendment to the bill, S. 947, supra; as follows:

At the end of title I, add the following:

SEC. 10 . DENIAL OF FOOD STAMPS FOR PRISONERS.

(a) State Plans.—

(1) In General.—Section 11(e) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)) is amended by striking paragraph (20) and inserting the following:

"(20) that the State agency shall establish a system and take action on a periodic basis—

"(A) to verify and otherwise ensure that an individual does not receive coupons in more than 1 jurisdiction within the State; and

"(B) to verify and otherwise ensure that an individual who is placed under detention in a Federal, State, or local penal, correctional, or other detention facility for more than 30 days shall not be eligible to participate in the food stamp program as a member of any household, except that—

"(i) the Secretary may determine that extraordinary circumstances make it impracticable for the State agency to obtain information necessary to discontinue inclusion of the individual; and

"(ii) a State agency that obtains information collected under section 1611(e)(1)(I)(i)(I) of the Social Security Act (42 U.S.C. 1382(e)(1)(I)(i)(I)) through an agreement under section 1611(e)(1)(I)(ii)(II) of that Act (42 U.S.C. 1382(e)(1)(I)(ii)(II)), or under another program determined by the Secretary to be comparable to the program carried out under that section, shall be considered in compliance with this subparagraph.".

(2) Limits on disclosure and use of information.—Section 11(e)(8)(E) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(8)(E)) is amended by striking "paragraph (16)" and inserting "paragraph (16) or (20)(B)".

(3) Effective Date.—

(A) In general.—Except as provided in subparagraph (B), the amendments made by this subsection shall take effect on the date that is 1 year after the date of enactment of this Act.

(B) Extension.—The Secretary of Agriculture may grant a State an extension of time to comply with the amendments made by this subsection, not to exceed beyond the date that is 2 years after the date of enactment of this Act, if the chief executive officer of the State submits a request for the extension to the Secretary—

(i) stating the reasons why the State is not able to comply with the amendments made by this subsection by the date that is 1 year after the date of enactment of this Act;

(ii) providing evidence that the State is making a good faith effort to comply with the amendments made by this subsection as soon as practicable; and

(iii) detailing a plan to bring the State into compliance with the amendments made by this subsection as soon as practicable and not later than the date of the requested extension.

(b) Information Sharing.—Section 11 of the Food Stamp Act of 1977 (7 U.S.C. 2020) is amended by adding at the end the following:

"(q) Denial of Food Stamps for Prisoners.—The Secretary shall assist States, to the maximum extent practicable, in implementing a system to conduct computer matches or other systems to prevent prisoners described in section 11(e)(20)(B) from receiving food stamp benefits.".

SEC. 10 . NUTRITION EDUCATION.

Section 11(f) of the Food Stamp Act of 1977 (7 U.S.C. 2020(f)) is amended—

(1) by striking "(f) To encourage" and inserting the following:

"(f) Nutrition Education.—

"(1) In general.—To encourage"; and

(2) by adding at the end the following:

"(2) Grants.—

"(A) In general.—The Secretary shall make available not more than $600,000 for each of fiscal years 1998 through 2001 to pay the Federal share of grants made to eligible private nonprofit organizations and State agencies to carry out subparagraph (B).

"(B) Eligibility.—A private nonprofit organization or State agency shall be eligible to receive a grant under subparagraph (A) if the organization or agency agrees—

"(i) to use the funds to direct a collaborative effort to coordinate and integrate nutrition education into health, nutrition, social service, and food distribution programs for food stamp participants and other low-income households; and

"(ii) to design the collaborative effort to reach large numbers of food stamp participants and other low-income households through a network of organizations, including schools, child care centers, farmers' markets, health clinics, and outpatient education services.

"(C) Preference.—In deciding between 2 or more private nonprofit organizations or State agencies that are eligible to receive a grant under subparagraph (B), the Secretary shall give a preference to an organization or agency that conducted a collaborative effort described in subparagraph (B) and received funding for the collaborative effort from the Secretary before the date of enactment of this paragraph.

"(D) Federal share.—

"(i) In general.—Subject to subparagraph (E), the Federal share of a grant under this paragraph shall be 50 percent.

"(ii) No in-kind contributions.—The non-Federal share of a grant under this paragraph shall be in cash.

"(iii) Private funds.—The non-Federal share of a grant under this paragraph may include amounts from private nongovernmental sources.

"(E) Limit on individual grant.—A grant under subparagraph (A) may not exceed $200,000 for a fiscal year.".

HUTCHISON AMENDMENT NO. 447

Mrs. HUTCHISON proposed an amendment to the bill, S. 947, supra; as follows:

Beginning on page 770, strike line 18 and all that follows through page 774, line 15, and insert the following:

"(2) Determination of state dsh allotments for fiscal years 1998 through 2002.—

"(A) Non high dsh states.—

"(i) In general.—Except as provided in subparagraph (B) and paragraph (4), the DSH allotment for a State for each of fiscal years 1999 through 2002 is equal to the applicable percentage of the State 1995 DSH spending amount.

"(ii) Applicable percentage.—For purposes of clause (i), the applicable percentage with respect to a State described in that clause is—

"(A) for fiscal year 1998, 98 percent;

"(A) for fiscal year 1999, 95 percent;

"(B) for fiscal year 2000, 93 percent;

"(C) for fiscal year 2001, 90 percent; and

"(D) for fiscal year 2002, 85 percent.

"(B) High dsh states.—

"(i) In general.—In the case of any State that is a high DSH State, the DSH allotment for that State for each of fiscal years 1999 through 2002 is equal to the applicable reduction percentage of the high DSH State modified 1995 spending amount for that fiscal year.

"(ii) High dsh state modified 1995 spending amount.—

"(i) In general.—For purposes of clause (i), the high DSH State modified 1995 spending amount means, with respect to a State and a fiscal year, the sum of—

"(aa) the Federal share of payment adjustments made to hospitals in the State under subsection (c) that are attributable to the 1995 DSH allotment for inpatient hospital services provided (based on reporting data specified by the State on HCFA Form 64 as inpatient DSH); and

"(bb) the applicable mental health percentage for such fiscal year of the Federal share of payment adjustments made to hospitals in the State under subsection (c) that are attributable to the 1995 DSH allotment for services provided by institutions for mental diseases and other mental health facilities (based on reporting data specified by the State on HCFA Form 64 as mental health DSH).

"(II) Applicable mental health percentage.—For purposes of subclause (I)(bb), the applicable mental health percentage for such fiscal year is—

"(aa) for fiscal year 1999, 50 percent;

"(bb) for fiscal year 2000, 20 percent; and

"(cc) for fiscal year 2001 and 2002, 0 percent.

"(iii) Applicable reduction percentage.—For purposes of clause (i), the applicable reduction percentage described in that clause is—

"(A) for fiscal year 1998, 98 percent;

"(A) for fiscal year 1999, 93 percent;

"(A) for fiscal year 2000, 90 percent;

"(A) for fiscal year 2001, 85 percent; and

"(B) for fiscal year 2002, 80 percent.

CHAFEE (AND OTHERS) AMENDMENT NO. 448

Mr. CHAFEE (for himself, Mr. Rockefeller, Mr. Jeffords, and Mr. D'Amato) proposed an amendment to the bill, S. 947, supra; as follows:

Beginning on page 846, strike line 18 and all that follows through page 861, line 26, and insert the following:

"(5) FEHBP-EQUIVALENT CHILDREN'S HEALTH INSURANCE COVERAGE.—The term 'FEHBP-equivalent children's health insurance coverage' means, with respect to a State, any plan or arrangement that provides, or pays the cost of, health benefits that the Secretary has certified are equivalent to or better than the services covered for a child, including hearing and vision services, under the standard Blue Cross/Blue Shield preferred provider option service benefit plan offered under chapter 89 of title 5, United States Code.

"(6) INDIANS.—The term 'Indians' has the meaning given that term in section 4(c) of the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.).

"(7) LOW-INCOME CHILD.—The term 'low-income child' means a child in a family whose income is below 200 percent of the poverty line for a family of the size involved.

"(8) POVERTY LINE.—The term 'poverty line' has the meaning given that term in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by such section.

"(9) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services.

"(10) STATE.—The term 'State' means each of the 50 States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands.

"(11) STATE CHILDREN'S HEALTH EXPENDITURES.—The term 'State children's health expenditures' means the State share of expenditures by the State for providing children with health care items and services under—

"(A) the State plan for medical assistance under title XIX;

"(B) the maternal and child health services block grant program under title V;

"(C) the preventive health services block grant program under part A of title XIX of the Public Health Services Act (42 U.S.C. 300w et seq.);

"(D) State-funded programs that are designed to provide health care items and services to children;

"(E) school-based health services programs;

"(F) State programs that provide uncompensated or indigent health care;

"(G) county-indigent care programs for which the State requires a matching share by a county government or for which there are intergovernmental transfers from a county to State government; and

"(H) any other program under which the Secretary determines the State incurs uncompensated expenditures for providing children with health care items and services.

"(12) STATE MEDICAID PROGRAM.—The term 'State medicaid program' means the program of medical assistance provided under title XIX.

"SEC. 2103. APPROPRIATION.

"(a) APPROPRIATION.—

"(1) IN GENERAL.—Subject to subsection (b), out of any money in the Treasury of the United States not otherwise appropriated, there is appropriated for the purpose of carrying out this title—

"(A) for fiscal year 1998, $2,500,000,000;

"(B) for each of fiscal years 1999 and 2000, $3,200,000,000;

"(C) for fiscal year 2001, $3,600,000,000;

"(D) for fiscal year 2002, $3,500,000,000; and

"(E) for each of fiscal years 2003 through 2007, $4,580,000,000.

"(2) AVAILABILITY.—Funds appropriated under this section shall remain available without fiscal year limitation, as provided under section 2105(b)(4).

"(b) REDUCTION FOR INCREASED MEDICAID EXPENDITURES.—With respect to each of the fiscal years described in subsection (a)(1), the amount appropriated under subsection (a)(1) for each such fiscal year shall be reduced by an amount equal to the amount of the total Federal outlays under the medicaid program under title XIX resulting from—

"(1) the amendment made by section 5732 of the Balanced Budget Act of 1997 (regarding the State option to provide 12-month continuous eligibility for children);

"(2) increased enrollment under State plans approved under such program as a result of outreach activities under section 2106(a); and

"(3) the requirement under section 2102(3)A) to provide eligibility for medical assistance under the State plan under title XIX for all children under 19 years of age who have families with income that is at or below the poverty line.

"(c) STATE ENTITLEMENT.—This title constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide for the payment to States of amounts provided in accordance with the provisions of this title.

"(d) EFFECTIVE DATE.—No State is eligible for payments under section 2105 for any calendar quarter beginning before October 1, 1997.

"SEC. 2104. PROGRAM OUTLINE.

"(a) GENERAL DESCRIPTION.—A State shall submit to the Secretary a program outline, consistent with the requirements of this title, that—

"(1) identifies which of the 2 options described in section 2101 the State intends to use to provide low-income children in the State with health insurance coverage;

"(2) describes the manner in which such coverage shall be provided;

"(3) describes any cost-sharing intended to be imposed under the State option under section 2107 that is consistent with the requirements of subsection (a)(4) of such section; and

"(4) provides such other information as the Secretary may require.

"(b) OTHER REQUIREMENTS.—The program outline submitted under this section shall include the following:

"(1) ELIGIBILITY STANDARDS AND METHODOLOGIES.—A summary of the standards and methodologies used to determine the eligibility of low-income children for health insurance coverage under a State program funded under this title.

"(2) ELIGIBILITY SCREENING; COORDINATION WITH OTHER HEALTH COVERAGE.—A description of the procedures to be used to ensure—

"(A) through both intake and followup screening, that only low-income children are furnished health insurance coverage through funds provided under this title; and

"(B) that any health insurance coverage provided for children through funds under this title does not reduce the number of children who are provided such coverage through any other publicly or privately funded health plan.

"(3) INDIANS.—A description of how the State will ensure that Indians are served through a State program funded under this title.

"(c) DEADLINE FOR SUBMISSION.—A State program outline shall be submitted to the Secretary by not later than March 31 of any fiscal year (October 1, 1997, in the case of fiscal year 1998).

"SEC. 2105. DISTRIBUTION OF FUNDS.

"(a) ESTABLISHMENT OF FUNDING POOLS.—

"(1) IN GENERAL.—From the amount appropriated under section 2103(a)(1) for each fiscal year, determined after the reduction required under section 2103(b), the Secretary shall, for purposes of fiscal year 1998, reserve 85 percent of such amount for distribution to eligible States through the basic allotment pool under subsection (b) and 15 percent of such amount for distribution through the new coverage incentive pool under subsection (c)(2)(B)(ii).

"(2) ANNUAL ADJUSTMENT OF RESERVE PERCENTAGES.—The Secretary shall annually adjust the amount of the percentages described in paragraph (1) in order to provide sufficient basic allotments and sufficient new coverage incentives to achieve the purpose of this title.

"(b) DISTRIBUTION OF FUNDS UNDER THE BASIC ALLOTMENT POOL.—

"(1) STATES.—

"(A) IN GENERAL.—From the total amount reserved under subsection (a) for a fiscal year for distribution through the basic allotment pool, the Secretary shall first set aside 0.25 percent for distribution under paragraph (2) and shall allot from the amount remaining to each eligible State not described in such paragraph the State's allotment percentage for such fiscal year.

"(B) STATE'S ALLOTMENT PERCENTAGE.—

"(i) IN GENERAL.—For purposes of subparagraph (A), the allotment percentage for a fiscal year for each State is the percentage equal to the ratio of the number of low-income children in the base period in the State to the total number of low-income children in the base period in all States not described in paragraph (2).

"(ii) NUMBER OF LOW-INCOME CHILDREN IN THE BASE PERIOD.—In clause (i), the number of low-income children in the base period for a fiscal year in a State is equal to the average of the number of low-income children in the State for the period beginning on October 1, 1992, and ending on September 30, 1995, as reported in the March 1994, March 1995, and March 1996 supplements to the Current Population Survey of the Bureau of the Census.

"(2) OTHER STATES.—

"(A) IN GENERAL.—From the amount set aside under paragraph (1)(A) for each fiscal year, the Secretary shall make allotments for such fiscal year in accordance with the percentages specified in subparagraph (B) to Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands, if such States are eligible States for such fiscal year.

"(B) PERCENTAGES SPECIFIED.—The percentages specified in this subparagraph are in the case of—

"(i) Puerto Rico, 91.6 percent;

"(ii) Guam, 3.5 percent;

"(iii) the Virgin Islands, 2.6 percent;

"(iv) American Samoa, 1.2 percent; and

"(v) the Northern Mariana Islands, 1.1 percent.

"(3) THREE-YEAR AVAILABILITY OF AMOUNTS ALLOTTED.—Amounts allotted to a State pursuant to this subsection for a fiscal year shall remain available for expenditure by the State through the end of the second succeeding fiscal year.

"(4) PROCEDURE FOR DISTRIBUTION OF UNUSED FUNDS.—The Secretary shall determine an appropriate procedure for distribution of funds to eligible States that remain unused under this subsection after the expiration of the availability of funds required under paragraph (3). Such procedure shall be developed and administered in a manner that is consistent with the purpose of this title.

“(c) Payments.—

“(1) In general.—The Secretary shall—

“(A) before October 1 of any fiscal year, pay an eligible State an amount equal to 1 percent of the amount allotted to the State under subsection (b) for conducting the outreach activities required under section 2106(a); and

“(B) make quarterly fiscal year payments to an eligible State from the amount remaining of such allotment for such fiscal year in an amount equal to the Federal medical assistance percentage for the State, as determined under section 1905(b)(1), of the Federal and State incurred cost of providing health insurance coverage for a low-income child in the State plus the applicable bonus amount.

“(2) Applicable bonus.—

“(A) In general.—For purposes of paragraph (1), the applicable bonus amount is—

“(i) 5 percent of the Federal and State incurred cost, with respect to a period, of providing health insurance coverage for children covered at State option among the base-year covered low-income child population (measured in full year equivalency); and

“(ii) 10 percent of the Federal and State incurred cost, with respect to a period, of providing health insurance coverage for children covered at State option among the number (as so measured) of low-income children that are in excess of such population.

“(B) Source of bonuses.—

“(i) Base-year covered low-income child population.—A bonus described in subparagraph (A)(i) shall be paid out of an eligible State's allotment for a fiscal year.

“(ii) For other low-income child populations.—A bonus described in subparagraph (A)(ii) shall be paid out of the new coverage incentive pool reserved under subsection (a)(1).

“(3) Definition of cost of providing health insurance coverage.—For purposes of this subsection the cost of providing health insurance coverage for a low-income child in the State means—

“(A) in the case of an eligible State that opts to use funds provided under this title through the medicaid program, the cost of providing such child with medical assistance under the State plan under title XIX; and

“(B) in the case of an eligible State that opts to use funds provided under this title under section 2107, the cost of providing such child with health insurance coverage under such section.

“(4) Limitation on total payments.—With respect to a fiscal year, the total amount paid to an eligible State under this title (including any bonus payments) shall not exceed 85 percent of the total cost of a State program conducted under this title for such fiscal year.

“(5) Maintenance of effort.—No funds shall be paid to a State under this title if—

“(A) in the case of fiscal year 1998, the State children's health expenditures are less than the amount of such expenditures for fiscal year 1996; and

“(B) in the case of any succeeding fiscal year, the State children's health expenditures described in section 2102(11)(A) are less than the amount of such expenditures for fiscal year 1996, increased by a medicaid child population growth factor determined by the Secretary.

“(6) Advance payment; retrospective adjustment.—The Secretary may make payments under this subsection for each quarter on the basis of advance estimates of expenditures submitted by the State and such other investigation as the Secretary may find necessary, and shall reduce or increase the payments as necessary to adjust for any overpayment or underpayment for prior quarters.

“SEC. 2106. USE OF FUNDS.

“(a) Set-Aside for Outreach Activities.—

“(1) In general.—From the amount allotted to a State under section 2105(b) for a fiscal year, each State shall conduct outreach activities described in paragraph (2).

“(2) Outreach activities described.—The outreach activities described in this paragraph include activities to—

“(A) identify and enroll children who are eligible for medical assistance under the State plan under title XIX; and

“(B) conduct public awareness campaigns to encourage employers to provide health insurance coverage for children.

“(b) State Options for Remainder.—A State may use the amount remaining of the allotment to a State under section 2105(b) for a fiscal year, determined after the payment required under section 2105(c)(1)(A), in accordance with section 2107 or the State medicaid program (but not both).

“(c) Prohibition On Use of Funds.—No funds provided under this title may be used to provide health insurance coverage for—

“(1) families of State public employees; or

“(2) children who are committed to a penal institution.

“(d) Use Limited to State Program Expenditures.—Funds provided to an eligible State under this title shall only be used to carry out the purpose of this title (as described in section 2101), and any health insurance coverage provided with such funds may include coverage of abortion only if necessary to save the life of the mother or if the pregnancy is the result of an act of rape or incest.

“(e) Administrative expenditures.—Not more than 10 percent of the amount allotted to a State under section 2105(b), determined after the payment required under section 2105(c)(1)(A), shall be used for administrative expenditures for the program funded under this title.

“(f) Nonapplication of Five-Year Limited Eligibility for Means-Tested Public Benefits.—The provisions of section 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613) shall not apply with respect to a State program funded under this title.

“SEC. 2107. STATE OPTION FOR THE PURCHASE OR PROVISION OF CHILDREN'S HEALTH INSURANCE.

“(a) State Option.—

“(1) In general.—An eligible State that opts to use funds provided under this title under this section shall use such funds to—

“(A) subsidize payment of employee contributions for health insurance coverage for a dependent low-income child that is available through group health insurance coverage offered by an employer in the State; or

“(B) to provide FEHBP-equivalent children's health insurance coverage for low-income children who reside in the State.

“(2) Priority for low-income children.—A State that uses funds provided under this title under this section shall not cover low-income children with higher family income without covering such children with a lower family income.

“(3) Determination of eligibility and form of assistance.—An eligible State may establish any additional eligibility criteria for the provision of health insurance coverage for a low-income child through funds provided under this title, so long as such criteria and assistance are consistent with the purpose and provisions of this title.

“(4) Cost sharing requirements.—

“(A) Nominal cost sharing for very low-income children.—Only nominal cost sharing may be imposed by an eligible State that opts to use funds provided under this title under this section for children in families with income that is less than 133 percent of the poverty line.

“(B) Secretarial review of adequacy of cost-sharing for other low-income children.—The Secretary shall review the State program outline submitted under section 2104 to ensure that cost sharing for low-income children not described in subparagraph (A) is reasonable, according to such standards as the Secretary shall establish. Such standards shall require consideration of family income and other types of expenses generally incurred by families of low-income children, and shall ensure that any cost sharing requirements imposed by a State program under this section do not unreasonably reduce access to the coverage provided under such program.

“(C) Definition of cost sharing.—In this paragraph, the term ‘cost sharing’ includes premiums, deductibles, coinsurance, copayments, and other required financial contributions for health care insurance coverage or health care items or services.

WELLSTONE (AND OTHERS) AMENDMENT NO. 449

Mr. WELLSTONE (for himself, Mr. Domenici, Mr. Reid, and Mr. Conrad) proposed an amendment to the bill, S. 947, supra; as follows:

On page 862, between lines 14 and 15, insert the following:

“SEC. 2107A. MENTAL HEALTH PARITY.

“(a) Prohibition.—In the case of a health plan that enrolls children through the use of assistance provided under a grant program conducted under this title, such plan, if the plan provides both medical and surgical benefits and mental health benefits, shall not impose treatment limitations or financial requirements on the coverage of mental health benefits if similar limitations or requirements are not imposed on medical and surgical benefits.

“(b) Rule of Construction.—Nothing in this section shall be construed—

“(1) as prohibiting a health plan from requiring preadmission screening prior to the authorization of services covered under the plan or from applying other limitations that restrict coverage for mental health services to those services that are medically necessary; and

“(2) as requiring a health plan to provide any mental health benefits.

“(c) Separate Application to Each Option Offered.—In the case of a health plan that offers a child described in subsection (a) 2 or more benefit package options under the plan, the requirements of this section shall be applied separately with respect to each such option.

“(d) Definitions.—In this section:

“(1) Medical or surgical benefits.—The term ‘medical or surgical benefits’ means benefits with respect to medical or surgical services, as defined under the terms of the plan, but does not include mental health benefits.

“(2) Mental health benefits.—The term ‘mental health benefits’ means benefits with respect to mental health services, as defined under the terms of the plan, but does not include benefits with respect to the treatment of substance abuse and chemical dependency.

DURBIN (AND OTHERS) AMENDMENT NO. 450

Mr. DURBIN (for himself, Mr. WELLSTONE, and Mrs. BOXER) proposed an amendment to the bill, S. 947, supra; as follows:

At the end of title I, add the following:

SEC. 10 . FOOD STAMP BENEFITS FOR CHILD IMMIGRANTS.

(a) IN GENERAL.—Section 402(a)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)) is amended by adding at the end the following:

"(E) CHILD IMMIGRANTS.—In the case of the program specified in paragraph (3)(B), paragraph (1) shall not apply to a qualified alien who is under 18 years of age.".

(b) ALLOCATION OF ADMINISTRATIVE COSTS.—Section 408(a) of the Social Security Act (42 U.S.C. 608(a)) is amended by adding at the end the following:

"(12) DESIGNATION OF GRANTS UNDER THIS PART AS PRIMARY PROGRAM IN ALLOCATING ADMINISTRATIVE COSTS.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, a State shall designate the program funded under this part as the primary program for the purpose of allocating costs incurred in serving families eligible or applying for benefits under the State program funded under this part and any other Federal means-tested benefits.

"(B) ALLOCATION OF COSTS.—

"(i) IN GENERAL.—The Secretary shall require that costs described in subparagraph (A) be allocated in the same manner as the costs were allocated by State agencies that designated part A of title IV as the primary program for the purpose of allocating administrative costs before August 22, 1996.

"(ii) FLEXIBLE ALLOCATION.—The Secretary may allocate costs under clause (i) differently, if a State can show good cause for or evidence of increased costs, to the extent that the administrative costs allocated to the primary program are not reduced by more than 33 percent.

"(13) FAILURE TO ALLOCATE ADMINISTRATIVE COSTS TO GRANTS PROVIDED UNDER THIS PART.—If the Secretary determines that, with respect to a preceding fiscal year, a State has not allocated administrative costs in accordance with paragraph (12), the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the succeeding fiscal year by an amount equal to—

"(A) the amount the Secretary determines should have been allocated to the program funded under this part in such preceding fiscal year; minus

"(B) the amount that the State allocated to the program funded under this part in such preceding fiscal year.".

D'AMATO (AND OTHERS) AMENDMENT NO. 451

Mr. D'AMATO (for himself, Mr. HARKIN, Mr. SPECTER, Mr. MACK, Mr. ROCKEFELLER, Mr. DASCHLE, Mrs. BOXER, Mr. KERRY, Mr. DURBIN, and Mr. KENNEDY) proposed an amendment to the bill, S. 947, supra; as follows:

On page 1027, between lines 7 and 8, insert the following:

Subtitle N—National Fund for Health Research

SEC. 5995. SHORT TITLE.

This subtitle may be cited as the "National Fund for Health Research Act".

SEC. 5996. FINDINGS.

Congress makes the following findings:

(1) Nearly 4 of 5 peer reviewed research projects deemed worthy of funding by the National Institutes of Health are not funded.

(2) Less than 3 percent of the nearly one trillion dollars our Nation spends on health care is devoted to health research, while the defense industry spends 15 percent of its budget on research and development.

(3) Public opinion surveys have shown that Americans want more Federal resources put into health research and are willing to pay for it.

(4) Ample evidence exists to demonstrate that health research has improved the quality of health care in the United States. Advances such as the development of vaccines, the cure of many childhood cancers, drugs that effectively treat a host of diseases and disorders, a process to protect our Nation's blood supply from the HIV virus, progress against cardiovascular disease including heart attack and stroke, and new strategies for the early detection and treatment of diseases such as colon, breast, and prostate cancer clearly demonstrates the benefits of health research.

(5) Health research which holds the promise of prevention of intentional and unintentional injury and cure and prevention of disease and disability, is critical to holding down health care costs in the long term.

(6) Expanded medical research is also critical to holding down the long-term costs of the medicare program under title XVIII of the Social Security Act. For example, recent research has demonstrated that delaying the onset of debilitating and costly conditions like Alzheimer's disease could reduce general health care and medicare costs by billions of dollars annually.

(7) The state of our Nation's research facilities at the National Institutes of Health and at universities is deteriorating significantly. Renovation and repair of these facilities are badly needed to maintain and improve the quality of research.

(8) Because discretionary spending is likely to decline in real terms over the next 5 years, the Nation's investment in health research through the National Institutes of Health is likely to decline in real terms unless corrective legislative action is taken.

(9) A health research fund is needed to maintain our Nation's commitment to health research and to increase the percentage of approved projects which receive funding at the National Institutes of Health.

(10) Americans purchase health insurance and participate in the medicare program to protect themselves and their families against the high cost of illness and disability. Because of this, it makes sense to devote 1 cent of every health insurance dollar to finding preventions, cures, and improved treatments for illnesses and disabilities through medical research.

SEC. 5997. ESTABLISHMENT OF FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a fund, to be known as the "National Fund for Health Research" (hereafter in this section referred to as the "Fund"), consisting of such amounts as are transferred to the Fund under subsection (b) other amounts subsequently enacted into law and any interest earned on investment of amounts in the Fund.

(b) TRANSFERS TO FUND.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall transfer to the Fund amounts equivalent to amounts described in paragraph (2).

(2) AMOUNTS.—

(A) IN GENERAL.—Amounts described in this paragraph for each of the fiscal years 1998 through 2002 shall be equal to the amount of Federal savings derived for each such fiscal year under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) and the medicaid program under title XIX of such Act (42 U.S.C. 1396 et seq.) that exceeds the amount of Federal savings estimated by the Congressional Budget Office as of the date of enactment, to be achieved in each such program for each such fiscal year for purposes of the Balanced Budget Act of 1997.

(B) DETERMINATION BY SECRETARY.—Not later than 6 months after the end of each of the fiscal years described in subparagraph (A), the Secretary of Health and Human Services shall—

(i) make a determination as to the amount to be transferred to the Fund for the fiscal year involved under this subsection; and

(ii) subject to subparagraphs (E) and subsection (d), transfer such amount to the Fund.

(C) SEPARATE ESTIMATES.—In making a determination under subparagraph (B)(i), the Secretary of Health and Human Services shall maintain a separate estimate for each of the programs described in subparagraph (A).

(D) LIMITATION.—Any savings to which subparagraph (A) applies shall not be counted for purposes of making a transfer under this paragraph if such savings, under current procedures implemented by the Health Care Financing Administration, are specifically dedicated to reducing the incidence of waste, fraud, and abuse in the programs described in subparagraph (A).

(E) CAP ON TRANSFER.—Amounts transferred to the Fund under this subsection for any year in the 5-fiscal year period beginning on October 1, 1997, shall not in combination with the appropriated sum exceed an amount equal to the amount appropriated for the National Institutes of Health for fiscal year 1997 multiplied by 2.

(c) OBLIGATIONS FROM FUND.—

(1) IN GENERAL.—Subject to the provisions of paragraph (4), with respect to the amounts made available in the Fund in a fiscal year, the Secretary of Health and Human Services shall distribute—

(A) 2 percent of such amounts during any fiscal year to the Office of the Director of the National Institutes of Health to be allocated at the Director's discretion for the following activities:

(i) for carrying out the responsibilities of the Office of the Director, including the Office of Research on Women's Health and the Office of Research on Minority Health, the Office of Alternative Medicine, the Office of Rare Disease Research, the Office of Behavioral and Social Sciences Research (for use for efforts to reduce tobacco use), the Office of Dietary Supplements, and the Office for Disease Prevention; and

(ii) for construction and acquisition of equipment for or facilities of or used by the National Institutes of Health;

(B) 2 percent of such amounts for transfer to the National Center for Research Resources to carry out section 1502 of the National Institutes of Health Revitalization Act of 1993 concerning Biomedical and Behavioral Research Facilities;

(C) 1 percent of such amounts during any fiscal year for carrying out section 301 and part D of title IV of the Public Health Service Act with respect to health information communications; and

(D) the remainder of such amounts during any fiscal year to member institutes and centers, including the Office of AIDS Research, of the National Institutes of Health in the same proportion to the total amount received under this section, as the amount of annual appropriations under appropriations Acts for each member institute and Centers for the fiscal year bears to the total amount of appropriations under appropriations Acts for all member institutes and Centers of the National Institutes of Health for the fiscal year.

(2) PLANS OF ALLOCATION.—The amounts transferred under paragraph (1)(D) shall be allocated by the Director of the National Institutes of Health or the various directors of the institutes and centers, as the case may be, pursuant to allocation plans developed by the various advisory councils to such directors, after consultation with such directors.

(3) GRANTS AND CONTRACTS FULLY FUNDED IN FIRST YEAR.—With respect to any grant or contract funded by amounts distributed under paragraph (1), the full amount of the total obligation of such grant or contract shall be funded in the first year of such grant or contract, and shall remain available until expended.

(4) TRIGGER AND RELEASE OF MONIES.—

(A) TRIGGER AND RELEASE.—No expenditure shall be made under paragraph (1) during any fiscal year in which the annual amount appropriated for the National Institutes of Health is less than the amount so appropriated for the prior fiscal year.

(B) PHASE-IN.—The Secretary of Health and Human Services shall phase-in the distributions required under paragraph (1) so that—

(i) 25 percent of the amount in the Fund is distributed in the first fiscal year for which funds are available;

(ii) 50 percent of the amount in the Fund is distributed in the second fiscal year for which funds are available;

(iii) 75 percent of the amount in the Fund is distributed in the third fiscal year for which funds are available; and

(iv) 100 percent of the amount in the Fund is distributed in the fourth and each succeeding fiscal year for which funds are available.

(d) REQUIRED APPROPRIATION.—No transfer may be made for a fiscal year under subsection (b) unless an appropriations Act providing for such a transfer has been enacted with respect to such fiscal year.

(e) BUDGET TREATMENT OF AMOUNTS IN FUND.—The amounts in the Fund shall be excluded from, and shall not be taken into account, for purposes of any budget enforcement procedure under the Congressional Budget Act of 1974 or the Balanced Budget and Emergency Deficit Control Act of 1985.

LIEBERMAN (AND OTHERS) AMENDMENT NO. 452

Mr. DOMENICI (for Mr. LIEBERMAN, Mr. JEFFORDS, Mr. CHAFEE, Mr. KERREY, Mr. BREAUX, Mr. WYDEN, and Mr. KENNEDY) proposed an amendment to the bill, S. 947, supra; as follows:

At the end of proposed section 1941(d) of the Social Security Act (as added by section 5701), add the following:

"(3) PROVISION OF COMPARATIVE INFORMATION.—

"(A) BY STATE.—A State that requires individuals to enroll with managed care entities under this part shall annually provide to all enrollees and potential enrollees a list identifying the managed care entities that are (or will be) available and information described in subparagraph (C) concerning such entities. Such information shall be presented in a comparative, chart-like form.

"(B) BY ENTITY.—Upon the enrollment, or renewal of enrollment, of an individual with a managed care entity under this part, the entity shall provide such individual with the information described in subparagraph (C) concerning such entity and other entities available in the area, presented in a comparative, chart-like form.

"(C) REQUIRED INFORMATION.—Information under this subparagraph, with respect to a managed care entity for a year, shall include the following:

"(i) BENEFITS.—The benefits covered by the entity, including—

"(I) covered items and services beyond those provided under a traditional fee-for-service program;

"(II) any beneficiary cost sharing; and

"(III) any maximum limitations on out-of-pocket expenses.

"(ii) PREMIUMS.—The net monthly premium, if any, under the entity.

"(iii) SERVICE AREA.—The service area of the entity.

"(iv) QUALITY AND PERFORMANCE.—To the extent available, quality and performance indicators for the benefits under the entity (and how they compare to such indicators under the traditional fee-for-service programs in the area involved), including—

"(I) disenrollment rates for enrollees electing to receive benefits through the entity for the previous 2 years (excluding disenrollment due to death or moving outside the service area of the entity);

"(II) information on enrollee satisfaction;

"(III) information on health process and outcomes;

"(IV) grievance procedures;

"(V) the extent to which an enrollee may select the health care provider of their choice, including health care providers within the network of the entity and out-of-network health care providers (if the entity covers out-of-network items and services); and

"(VI) an indication of enrollee exposure to balance billing and the restrictions on coverage of items and services provided to such enrollee by an out-of-network health care provider.

"(v) SUPPLEMENTAL BENEFITS OPTIONS.—Whether the entity offers optional supplemental benefits and the terms and conditions (including premiums) for such coverage.

"(vi) PHYSICIAN COMPENSATION.—An overall summary description as to the method of compensation of participating physicians.

FEINSTEIN AMENDMENT NO. 453

Mr. DOMENICI (for Mrs. FEINSTEIN) proposed an amendment to the bill, S. 947, supra; as follows:

At the end of proposed section 1852(e) of the Social Security Act (as added by section 5001) add the following:

"(6) ANNUAL REPORT ON NON-HEALTH EXPENDITURES.—Each Medicare Choice organization shall at the request of the enrollee annually provide to enrollees a statement disclosing the proportion of the premiums and other revenues received by the organization that are expended for non-health care items and services.

At the end of proposed section 1945 of the Social Security Act (as added by section 5701) add the following:

"(h) ANNUAL REPORT ON NON-HEALTH EXPENDITURES.—Each medicaid managed care organization shall annually provide to enrollees a statement disclosing the proportion of the premiums and other revenues received by the organization that are expended for non-health care items and services.

CRAIG (AND BINGAMAN) AMENDMENT NO. 454

Mr. DOMENICI (for Mr. CRAIG, for himself and Mr. BINGAMAN) proposed an amendment to the bill, S. 947, supra; as follows:

On page 412, between lines 3 and 4, insert the following:

SEC. 5105. STUDY ON MEDICAL NUTRITION THERAPY SERVICES.

(a) STUDY.—The Secretary of Health and Human Services shall request the National Academy of Sciences, in conjunction with the United States preventive Services Task force, to analyze the expansion or modification of the preventive benefits provided to medicare beneficiaries under title XVIII of the Social Security Act to include medical nutrition therapy services by a registered dietitian.

(b) REPORT.—

(1) INITIAL REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall submit a report on the findings of the analysis conducted under subsection (a) to the Committee on Ways and Means and the Committee on Commerce of the House of Representatives and the Committee on Finance of the Senate.

(2) CONTENTS.—Such report shall include specific findings with respect to the expansion or modification of coverage of medical nutrition therapy services by a registered dietitian for medicare beneficiaries regarding—

(A) cost to the medicare system;

(B) savings to the medicare system;

(C) clinical outcomes; and

(D) short and long term benefits to the medicare system.

(3) FUNDING.—From funds appropriated to the Department of Health and Human Services for fiscal years 1998 and 1999, the Secretary shall provide for such funding as may be necessary for the conduct of the analysis by the National Academy of Sciences under this section.

MURKOWSKI AMENDMENT NO. 455

Mr. DOMENICI (for Mr. MURKOWSKI) proposed an amendment to the bill, S. 947, supra; as follows:

On page 130, line 3, strike "2002" and insert "2007".

ABRAHAM (AND LEVIN) AMENDMENT NO. 456

Mr. DOMENICI for Mr. ABRAHAM, (for himself and Mr. LEVIN) proposed an amendment to the bill, S. 947, supra; as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . EXTENSION OF MORATORIUM.

Section 6408(a)(3) of the Omnibus Budget Reconciliation Act of 1989, as amended by section 13642 of the Omnibus Budget Reconciliation Act of 1993 is amended by striking "December 31, 1995" and inserting "December 3, 2002.".

HARKIN (AND McCAIN) AMENDMENT NO. 457

Mr. DOMENICI (for Mr. HARKIN, for himself and Mr. McCAIN) proposed an amendment to the bill, S. 947, supra; as follows:

At the end of the bill, add the following:

SEC. . IMPROVING INFORMATION TO MEDICARE BENEFICIARIES.

(a) CLARIFICATION OF REQUIREMENT TO PROVIDE EXPLANATION OF MEDICARE BENEFITS.—Section 1804 of the Social Security Act (42 U.S.C. 1395b–2) is amended by adding at the end the following new subsection:

"(c)(1) The Secretary shall provide a statement which explains the benefits provided under this title with respect to each item or service for which payment may be made under this title which is furnished to an individual without regard to whether or not a deductible or coinsurance may be imposed against the individual with respect to such item or service.

"(2) Each explanation of benefits provided under paragraph (1) shall include—

"(A) a statement which indicates that because errors do occur and because medicare fraud, waste and abuse is a significant problem, beneficiaries should carefully check the statement for accuracy and report any errors of questionable charges by calling the toll-free phone number described in (C)

(B) a statement of the beneficiary's right to request an itemized bill (as provided in section 1128A(n)); and

"(C) a toll-free telephone number for reporting errors, questionable charges or other acts that would constitute medicare fraud, waste, or abuse, which may be the same number as described in subsection (b).".

(b) REQUEST FOR ITEMIZED BILL FOR MEDICARE ITEMS AND SERVICES.—

(1) IN GENERAL.—Section 1128A of the Social Security Act (42 U.S.C. 1320a–7a) is amended by adding at the end the following new subsection:

"(m) WRITTEN REQUEST FOR ITEMIZED BILL.—

"(1) IN GENERAL.—A beneficiary may submit a written request for an itemized bill for medical or other items or services provided to such beneficiary by any person (including an organization, agency, or other entity) that receives payment under title XVIII for providing such items for services to such beneficiary.

"(2) 30-DAY PERIOD TO RECEIVE BILL.—

"(A) IN GENERAL.—Not later than 30 days after the date on which a request under paragraph (1) has been received, a person described in such paragraph shall furnish an itemized bill describing each medical or other item or service provided to the beneficiary requesting the itemized bill.

"(B) PENALTY.—Whoever knowingly fails to furnish an itemized bill in accordance with subparagraph (A) shall be subject to a civil fine of not more than $100 for each such failure.

"(3) REVIEW OF ITEMIZED BILL.—

"(A) IN GENERAL.—Not later than 90 days after the receipt of an itemized bill furnished under paragraph (1), a beneficiary may submit a written request for a review of the itemized bill to the appropriate fiscal intermediary or carrier with a contract under section 1816 or 1842.

"(B) SPECIFIC ALLEGATIONS.—A request for a review of the itemized bill shall identify—

"(i) specific medical or other items or services that the beneficiary believes were not provided as claimed, or

"(ii) any other billing irregularity (including duplicate billing).

"(4) FINDINGS OF FISCAL INTERMEDIARY OR CARRIER.—Each fiscal intermediary or carrier with a contract under section 1816 or 1842 shall, with respect to each written request submitted to the fiscal intermediary or carrier under paragraph (3), determine whether the itemized bill identifies specific medical or other items or services that were not provided as claimed or any other billing irregularity (including duplicate billing) that has resulted in unnecessary payments under title XVIII.

"(5) RECOVERY OF AMOUNTS.—The Secretary shall require fiscal intermediaries and carriers to take all appropriate measures to recover amounts unnecessarily paid under title XVIII with respect to a bill described in paragraph (4).".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to medical or other items or services provided on or after January 1, 1998.

SEC. . PROHIBITING UNNECESSARY AND WASTEFUL MEDICARE PAYMENTS FOR CERTAIN ITEMS.

Section 1861(v) of the Social Security Act is amended by adding at the end the following new paragraph:

"(8) ITEMS UNRELATED TO PATIENT CARE—

Reasonable costs do not include costs for the following:

(i) entertainment;

(ii) gifts or donations;

(iii) costs for fines and penalties resulting from violations Federal, State or local laws; and,

(iv) education expenses for spouses or other dependents of providers of services, their employees or contractors.

SEC. . REDUCING EXCESSIVE BILLINGS AND UTILIZATION FOR CERTAIN ITEMS.

Section 1834(a)(15) of the Social Security Act (42 U.S.C. 1395m(a)(15)) is amended by striking "Secretary may" both places it appears and inserting "Secretary shall".

HELMS AMENDMENTS NOS. 458–459

Mr. DOMENICI (for Mr. HELMS) proposed two amendments to the bill, S. 947, supra; as follows:

AMENDMENT NO. 458

At the appropriate place in division 1 of title V, insert the following:

SEC. . INCLUSION OF STANLY COUNTY, N.C. IN A LARGE URBAN AREA UNDER MEDICARE PROGRAM.

(a) IN GENERAL.—For purposes of section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)), the large urban area of Charlotte-Gastonia-Rock Hill-North Carolina-South Carolina may be deemed to include Stanly County, North Carolina.

(b) EFFECTIVE DATE.—This section shall apply with respect to discharges occurring on or after October 1, 1997.

AMENDMENT NO. 459

At the appropriate place in division 1 of title V, insert the following:

SEC. . INCLUSION OF STANLY COUNTY, N.C. IN A LARGE URBAN AREA UNDER MEDICARE PROGRAM.

(a) IN GENERAL.—For purposes of section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)), the large urban area of Charlotte-Gastonia-Rock Hill-North Carolina-South Carolina be deemed to include Stanly County, North Carolina.

(b) EFFECTIVE DATE.—This section shall apply with respect to discharges occurring on or after October 1, 1997.

McCAIN (AND WYDEN) AMENDMENT NO. 460

Mr. DOMENICI (for Mr. McCAIN, for himself and Mr. WYDEN) proposed an amendment to the bill, S. 947, supra; as follows:

On page 844, between lines 7 and 8, insert the following:

SEC. 5768. CONTINUATION OF STATE-WIDE SECTION 1115 MEDICAID WAIVERS.

(a) IN GENERAL.—Section 1115 of the Social Security Act (42 U.S.C. 1315) is amended by adding at the end the following:

"(d)(1) The provisions of this subsection shall apply to the extension of statewide comprehensive research and demonstration projects (in this subsection referred to as 'waiver project') for which waivers of compliance with the requirements of title XIX are granted under subsection (a). With respect to a waiver project that, but for the enactment of this subsection, would expire, the State at its option may—

"(A) not later than 1 year before the waiver under subsection (a) would expire (acting through the chief executive officer of the State who is operating the project), submit to the Secretary a written request for an extension of such waiver project for up to 3 years; or

"(B) permanently continue the waiver project if the project meets the requirements of paragraph (2).

"(2) The requirements of this paragraph are that the waiver project—

"(A) has been successfully operated for 5 or more years; and

"(B) has been shown, through independent evaluations sponsored by the Health Care Financing Administration, to successfully contain costs and provide access to health care.

"(3)(A) In the case of waiver projects described in paragraph (1)(A), if the Secretary fails to respond to the request within 6 months after the date on which the request was submitted, the request is deemed to have been granted.

"(B) If the request is granted or deemed to have been granted, the deadline for submittal of a final report shall be 1 year after the date on which the waiver project would have expired but for the enactment of this subsection.

"(C) The Secretary shall release an evaluation of each such project not later than 1 year after the date of receipt of the final report.

"(D) Phase-down provisions which were applicable to waiver projects before an extension was provided under this subsection shall not apply.

"(4) The extension of a waiver project under this subsection shall be on the same terms and conditions (including applicable terms and conditions related to quality and access of services, budget neutrality as adjusted for inflation, data and reporting requirements and special population protections), except for any phase down provisions, and subject to the same set of waivers that applied to the project or were granted before the extension of the project under this subsection. The permanent continuation of a waiver project shall be on the same terms and conditions, including financing, and subject to the same set of waivers. No test of budget neutrality shall be applied in the case of projects described in paragraph (2) after that date on which the permanent extension was granted.

"(5) In the case of a waiver project described in paragraph (2), the Secretary, acting through the Health Care Financing Administration shall, deem any State's request to expand medicaid coverage in whole or in part to individuals who have an income at or below the Federal poverty level as budget neutral if independent evaluations sponsored by the Health Care Financing Administration have shown that the State's medicaid managed care program under such original waiver is more cost effective and efficient than the traditional fee-for-service medicaid program that, in the absence of any managed care waivers under this section, would have been provided in the State.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on the date of enactment of this Act.

McCAIN (AND KERRY) AMENDMENT NO. 461

Mr. DOMENICI (for Mr. McCAIN, for himself and Mr. KERRY) proposed an amendment to the bill, S. 947, supra; as follows:

On page 874, between lines 7 and 8, insert the following:

SEC. 5817A. TREATMENT OF CERTAIN AMERASIAN IMMIGRANTS AS REFUGEES.

(a) AMENDMENTS TO EXCEPTIONS FOR REFUGEES/ASYLEES.—

(1) FOR PURPOSES OF SSI AND FOOD STAMPS.—Section 402(a)(2)(A) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)(A)) is amended—

(A) by striking ''; or'' at the end of clause (ii);

(B) by striking the period at the end of clause (iii) and inserting ''; or''; and

(C) by adding at the end the following:

''(iv) an alien who is admitted to the United States as an Amerasian immigrant pursuant to section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (as contained in section 101(e) of Public Law 100–202 and amended by the 9th proviso under MIGRATION AND REFUGEE ASSISTANCE in title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989, Public Law 100–461, as amended).''.

(2) FOR PURPOSES OF TANF, SSBG, AND MEDICAID.—Section 402(b)(2)(A) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)(A)) is amended—

(A) by striking ''; or'' at the end of clause (ii);

(B) by striking the period at the end of clause (iii) and inserting ''; or''; and

(C) by adding at the end the following:

''(iv) an alien described in subsection (a)(2)(A)(iv) until 5 years after the date of such alien's entry into the United States.''.

(3) FOR PURPOSES OF EXCEPTION FROM 5-YEAR LIMITED ELIGIBILITY OF QUALIFIED ALIENS.—Section 403(b)(1) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613(b)(1)) is amended by adding at the end the following:

''(D) An alien described in section 402(a)(2)(A)(iv).''.

(4) FOR PURPOSES OF CERTAIN STATE PROGRAMS.—Section 412(b)(1) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1622(b)(1)) is amended by adding at the end the following new subparagraph:

''(D) An alien described in section 402(a)(2)(A)(iv).''.

(b) FUNDING.—

(1) LEVY OF FEE.—The Attorney General through the Immigration and Naturalization Service shall levy a $150 processing fee upon each alien that the Service determines—

(A) is unlawfully residing in the United States;

(B) has been arrested by a Federal law enforcement officer for the commission of a felony; and

(C) merits deportation after having been determined by a court of law to have committed a felony while residing illegally in the United States.

(2) COLLECTION AND USE.—In addition to any other penalty provided by law, a court shall impose the fee described in paragraph (1) upon an alien described in such paragraph upon the entry of a judgment of deportation by such court. Funds collected pursuant to this subsection shall be credited by the Secretary of the Treasury as offsetting increased Federal outlays resulting from the amendments made by section 5817A of the Balanced Budget Act of 1997.

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to the period beginning on or after October 1, 1997.

JEFFORDS AMENDMENTS NOS. 462–463

Mr. DOMENICI (for Mr. JEFFORDS) proposed two amendments to the bill, S. 947, supra; as follows:

AMENDMENT NO. 462

On page 685, after line 25, add the following:

SEC. . REQUIREMENT TO PROVIDE INFORMATION REGARDING CERTAIN COST-SHARING ASSISTANCE.

(a) IN GENERAL.—Section 1804(a) (42 U.S.C. 1395b–2(a)) is amended—

(1) in paragraph (2), by striking ''and'' at the end;

(2) in paragraph (3), by striking the period and inserting '', and''; and

(3) by adding at the end, the following:

''(4) an explanation of the medicare cost sharing assistance described in section 1905(p)(3)(A)(ii) that is available for individuals described in section 1902(a)(10)(E)(iii) and information regarding how to request that the Secretary arrange to have an application for such assistance made available to an individual.''.

(b) EFFECTIVE DATE.—The information required to be provided under the amendment made by subsection (a) applies to notices distributed on and after October 1, 1997.

AMENDMENT NO. 463

On page 852, between lines 12 and 13, insert the following:

''(d) EVALUATION AND QUALITY ASSURANCE.—

''(1) IN GENERAL.—Not later than 1 year after the date on which the Secretary approves the program outline of a State, and annually thereafter, the State shall prepare and submit to the Secretary such information as the Secretary may require to enable the Secretary to evaluate the progress of the State with respect to the program outline. Such information shall address the manner in which the State in implementing the program outline has—

''(A) expanded health care coverage to low-income uninsured children;

''(B) provided quality health care to low-income children;

''(C) improved the health status of low-income children;

''(D) served the health care needs of special populations of low-income children; and

''(E) utilized available resources in a cost effective manner.

''(2) AVAILABILITY OF EVALUATIONS.—The Secretary shall make the results of the evaluations conducted under paragraph (1) available to Congress and the States.

''(3) REPORTS.—The Secretary shall annually prepare and submit to the appropriate committees of Congress, and make available to the States, a report containing the findings of the Secretary as a result of the evaluations conducted under paragraph (1) and the recommendations of the Secretary for achieving or exceeding the objectives of this title.

BROWNBACK (AND KOHL) AMENDMENT NO. 464

Mr. DOMENICI (for Mr. BROWNBACK, for himself and Mr. KOHL) proposed an amendment to the bill, S. 947, supra; as follows:

At the end of the ___, add the following:

TITLE ___—BUDGET CONTROL

SEC. ___01. SHORT TITLE; PURPOSE.

(a) SHORT TITLE.—This title may be cited as the ''Bipartisan Budget Enforcement Act of 1997''.

(b) PURPOSE.—The purpose of this title is—

(1) to ensure a balanced Federal budget by fiscal year 2002;

(2) to ensure that the Bipartisan Budget Agreement is implemented; and

(3) to create a mechanism to monitor total costs of direct spending programs, and, in the event that actual or projected costs exceed targeted levels, to require the President and Congress to address adjustments in direct spending.

SEC. ___02. ESTABLISHMENT OF DIRECT SPENDING TARGETS.

(a) IN GENERAL.—The initial direct spending targets for each of fiscal years 1998 through 2002 shall equal total outlays for all direct spending except net interest as determined by the Director of the Office of Management and Budget (hereinafter referred to in this title as the ''Director'') under subsection (b).

(b) INITIAL REPORT BY DIRECTOR.—

(1) IN GENERAL.—Not later than 30 days after the date of enactment of this title, the Director shall submit a report to Congress setting forth projected direct spending targets for each of fiscal years 1998 through 2002.

(2) PROJECTIONS AND ASSUMPTIONS.—The Director's projections shall be based on legislation enacted as of 5 days before the report is submitted under paragraph (1). The Director shall use the same economic and technical assumptions used in preparing the concurrent resolution on the budget for fiscal year 1998 (H.Con.Res. 84).

SEC. ___03. ANNUAL REVIEW OF DIRECT SPENDING AND RECEIPTS BY PRESIDENT.

As part of each budget submitted under section 1105(a) of title 31, United States Code, the President shall provide an annual review of direct spending and receipts, which shall include—

(1) information on total outlays for programs covered by the direct spending targets, including actual outlays for the prior fiscal year and projected outlays for the current fiscal year and the 5 succeeding fiscal years; and

(2) information on the major categories of Federal receipts, including a comparison between the levels of those receipts and the levels projected as of the date of enactment of this title.

SEC. ___04. SPECIAL DIRECT SPENDING MESSAGE BY PRESIDENT.

(a) TRIGGER.—If the information submitted by the President under section ___03 indicates—

(1) that actual outlays for direct spending in the prior fiscal year exceeded the applicable direct spending target; or

(2) that outlays for direct spending for the current or budget year are projected to exceed the applicable direct spending targets, the President shall include in his budget a special direct spending message meeting the requirements of subsection (b).

(b) CONTENTS.—

(1) INCLUSIONS.—The special direct spending message shall include—

(A) an analysis of the variance in direct spending over the direct spending targets; and

(B) the President's recommendations for addressing the direct spending overages, if any, in the prior, current, or budget year.

(2) ADDITIONAL MATTERS.—The President's recommendations may consist of any of the following:

(A) Proposed legislative changes to recoup or eliminate the overage for the prior, current, and budget years in the current year, the budget year, and the 4 outyears.

(B) Proposed legislative changes to recoup or eliminate part of the overage for the prior, current, and budget year in the current year, the budget year, and the 4 outyears, accompanied by a finding by the President that, because of economic conditions or for other specified reasons, only some of the overage should be recouped or eliminated by outlay reductions or revenue increases, or both.

(C) A proposal to make no legislative changes to recoup or eliminate any overage, accompanied by a finding by the President that, because of economic conditions or for other specified reasons, no legislative changes are warranted.

(c) PROPOSED SPECIAL DIRECT SPENDING RESOLUTION.—If the President recommends reductions consistent with subsection (b)(2)(A) or (B), the special direct spending message shall include the text of a special direct spending resolution implementing the President's recommendations through reconciliation directives instructing the appropriate committees of the House of Representatives and Senate to determine and recommend changes in laws within their jurisdictions. If the President recommends no reductions pursuant to (b)(2)(C), the special direct spending message shall include the text of a special resolution concurring in the President's recommendation of no legislative action.

SEC.   05. REQUIRED RESPONSE BY CONGRESS.

(a) IN GENERAL.—It shall not be in order in the House of Representatives or the Senate to consider a concurrent resolution on the budget unless that concurrent resolution fully addresses the entirety of any overage contained in the applicable report of the President under section   04 through reconciliation directives.

(b) WAIVER AND SUSPENSION.—This section may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn. This section shall be subject to the provisions of section 258 of the Balanced Budget and Emergency Deficit Control Act of 1985.

(c) APPEALS.—Appeals in the Senate from the decisions of the Chair relating to any provision of this section shall be limited to 1 hour, to be equally divided between, and controlled by, the appellant and the manager of the bill or joint resolution, as the case may be. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

SEC.   06. RELATIONSHIP TO BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT.

Reductions in outlays or increases in receipts resulting from legislation reported pursuant to section   05 shall not be taken into account for purposes of any budget enforcement procedures under the Balanced Budget and Emergency Deficit Control Act of 1985.

SEC.   07. ESTIMATING MARGIN.

For any fiscal year for which the overage is less than one-half of 1 percent of the direct spending target for that year, the procedures set forth in sections   04 and   05 shall not apply.

SEC.   08. EFFECTIVE DATE.

This title shall apply to direct spending targets for fiscal years 1998 through 2002 and shall expire at the end of fiscal year 2002.

ALLARD AMENDMENT NO. 465

Mr. DOMENICI (for Mr. ALLARD) proposed an amendment to the bill, S. 947, supra as follows:

On page 865, between lines 2 and 3, insert the following:

SEC.   . EXPANSION OF MEDICAL SAVINGS ACCOUNTS TO FAMILIES WITH UNINSURED CHILDREN.

(a) IN GENERAL.—Section 220 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

"(k) FAMILIES WITH UNINSURED CHILDREN.—

"(1) IN GENERAL.—In the case of an individual who has a qualified dependent as of the first day of any month—

"(A) WAIVER OF EMPLOYER REQUIREMENT.—Clause (iii) of subsection (c)(1)(A) shall not apply.

"(B) WAIVER OF COMPENSATION LIMITATION.—Paragraph (4) of subsection (b) shall not apply.

"(C) COORDINATION WITH EXCLUSION FOR EMPLOYER CONTRIBUTIONS.—In lieu of the limitation of subsection (b)(5), the amount allowable for a taxable year as a deduction under subsection (a) to such individual shall be reduced (but not below zero) by the amount not includible in such individual's gross income for such taxable year solely by reason of section 106(b).

"(D) NUMERICAL LIMITATIONS.—Subsection (i) shall not apply to such individual if such individual is the account holder of a medical savings account by reason of this subsection, and subsection (j) shall be applied without regard to any such medical savings account.

"(2) QUALIFIED DEPENDENT.—For purposes of this subsection, the term 'qualified dependent' means a dependent (within the meaning of section 152) who—

"(A) has not attained the age of 19 as of the close of the calendar year in which the taxable year of the taxpayer begins, and with respect to whom the taxpayer is entitled to a deduction for the taxable year under section 151(c),

"(B) is covered by a high deductible health plan, and

"(C) prior to such coverage, was a previously uninsured individual (as defined by subsection (j)(3)).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years ending after the date of the enactment of this Act.

CHAFEE AMENDMENT NO. 466

Mr. DOMENICI (for Mr. CHAFEE) proposed an amendment to the bill, S. 947, supra; as follows:

At the end of the bill, add the following:

TITLE IX—COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

SEC. 9001. NUCLEAR REGULATORY COMMISSION ANNUAL CHARGES.

Section 6101 of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 2214) is amended—

(1) in subsection (a)(3), by striking "September 30, 1998" and inserting "September 30, 2002"; and

(2) in subsection (c)—

(A) by striking paragraph (2) and inserting the following:

"(2) AGGREGATE AMOUNT OF CHARGES.—The aggregate amount of the annual charge collected from all licensees shall equal an amount that approximates 100 percent of the budget authority of the Commission for the fiscal year for which the charge is collected, less, with respect to the fiscal year, the sum of—

"(A) any amount appropriated to the Commission from the Nuclear Waste Fund;

"(B) the amount of fees collected under subsection (b); and

"(C) for fiscal year 1999 and each fiscal year thereafter, to the extent provided in paragraph (5), the costs of activities of the Commission with respect to which a determination is made under paragraph (5)."; and

(B) by adding at the end the following:

"(5) EXCLUDED BUDGET COSTS.—

"(A) IN GENERAL.—The rulemaking under paragraph (3) shall include a determination of the costs of activities of the Commission for which it would not be fair and equitable to assess annual charges on a Nuclear Regulatory Commission licensee or class of licensee.

"(B) CONSIDERATIONS.—In making the determination under subparagraph (a), the Commission shall consider—

"(i) the extend to which activities of the Commission provide benefits to persons that are not licensees of the Commission;

"(ii) the extent to which the Commission is unable to assess fees or charges on a licensee or class of licensee that benefits from the activities; and

"(iii) the extent to which the costs to the Nuclear Regulatory Commission of activities are commensurate with the benefits provided to the licensees from the activities.

"(C) MAXIMUM EXCLUDED COSTS.—The total amount of costs excluded by the Commission pursuant to the determination under subparagraph (A) shall not exceed $30,000,000 for any fiscal year.".

GRASSLEY AMENDMENT NO. 467

Mr. DOMENICI (for Mr. GRASSLEY) proposed an amendment to the bill, S. 947, supra; as follows:

On page 689, between lines 2 and 3, insert the following:

"(iii) RELIGIOUS CHOICE.—The State, in permitting an individual to choose a managed care entity under clause (i) shall permit the individual to have access to appropriate faith-based facilities. With respect to such access, the State shall permit an individual to select a facility that is not a part of the network of the managed care entity if such network does not provide access to appropriate faith-based facilities. A faith-based facility that provides care under this clause shall accept the terms and conditions offered by the managed care entity to other providers in the network.

KYL AMENDMENT NO. 468

Mr. DOMENICI (for Mr. KYL) proposed an amendment to the bill, S. 947, supra; as follows:

On page 685, after line 25, add the following:

SEC. . FACILITATING THE USE OF PRIVATE CONTRACTS UNDER THE MEDICARE PROGRAM.

(a) IN GENERAL.—Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) is amended by inserting after section 1804 of such Act (42 U.S.C. 1395b–2) the following:

"CLARIFICATION OF PRIVATE CONTRACTS FOR HEALTH SERVICES

"SEC. 1805. (a) IN GENERAL.—Nothing in this title shall prohibit a physician or another health care professional who does not provide items or services under the program under this title from entering into a private contract with a medicare beneficiary for health services for which no claim for payment is to be submitted under this title.

"(b) LIMITATION ON ACTUAL CHARGE NOT APPLICABLE.— Section 1848(g) shall not apply with respect to a health service provided to a medicare beneficiary under a contract described in subsection (a).

"(c) DEFINITION OF MEDICARE BENEFICIARY.—In this section, the term 'medicare beneficiary' means an individual who is entitled to benefits under part A or enrolled under part B.

"(d) REPORT.—Not later than October 1, 2001, the Administrator of the Health Care Financing Administration shall submit a report to Congress on the effect on the program under this title of private contracts entered into under this section. Such report shall include—

"(1) analyses regarding—

"(A) the fiscal impact of such contracts on total Federal expenditures under this title and on out-of-pocket expenditures by medicare beneficiaries for health services under this title; and

"(B) the quality of the health services provided under such contracts; and

"(2) recommendations as to whether medicare beneficiaries should continue to be able to enter private contracts under this section and if so, what legislative changes, if any should be made to improve such contracts.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to contracts entered into on and after October 1, 1997.

SPECTER (AND ROCKEFELLER) AMENDMENT NO. 469

Mr. DOMENICI (for Mr. SPECTER, for himself and Mr. ROCKEFELLER) proposed an amendment to the bill, S. 947, supra; as follows:

Strike section 5544 and in its place insert the following:

SEC. 5544. EXTENSION OF SLMB PROTECTION.

(a) IN GENERAL.—Section 1902(a)(10)(E)(iii) (42 U.S.C. 1396a(a)(10)(E)(iii)) is amended by striking "and 120 percent in 1995 and years thereafter" and inserting ", 120 percent in 1995 through 1997, 125 percent in 1998, 130 percent in 1999, 135 percent in 2000, 140 percent in 2001, 145 percent in 2002, and 150 percent in 2003 and years thereafter".

(b) 100 PERCENT FMAP.—Section 1905(b) (42 U.S.C. 1396d(b)) is amended by adding at the end the following: "Notwithstanding the first sentence of this section, the Federal medical assistance percentage shall be 100 percent with respect to amounts expended as medical assistance for medical assistance described in section 1902(a)(10(E)(iii) for individuals described in such section whose income exceeds 120 percent of the official poverty line referred to in such section.".

(c) EFFECTIVE DATE.—The amendments made by this section apply on and after October 1, 1997.

SPECTER (AND OTHERS) AMENDMENT NO. 470

Mr. DOMENICI (for Mr. SPECTER for himself, Mr. LEVIN, Mr. LIEBERMAN, Mr. SMITH of Oregon, and Mr. ABRAHAM) proposed an amendment to the bill, S. 947, supra; as follows:

Beginning on page 778, strike line 1 and all that follows through pag3 779, line 23.

SPECTER AMENDMENT NO. 471

Mr. DOMENICI (for Mr. SPECTER) proposed an amendment to the bill, S. 947, supra; as follows:

Beginning on page 585, strike line 21 and all that follows through page 586, line 25.

BURNS AMENDMENT NO. 472

Mr. DOMENICI (for Mr. BURNS) proposed an amendment to the bill, S. 947, supra; as follows:

On page 999, between lines 15 and 16, insert the following:

(f) NATIONAL DIRECTORY OF NEW HIRES.—Section 453(i)92) (42 U.S.C. 653(i)(2)) is amended by adding at the end the following: "Information entered into such data base shall be deleted 6 months after the date of entry.".

HUTCHINSON AMENDMENT NO. 473

Mr. DOMENICI (for Mr. HUTCHINSON) proposed an amendment to the bill, S. 947, supra; as follows:

Beginning on page 929, strike line 20 and all that follows through page 930, line 14 and insert the following:

(k) CLARIFICATION OF NUMBER OF INDIVIDUALS COUNTED AS PARTICIPATING IN WORK ACTIVITIES.—Section 407 (42 U.S.C. 607) is amended—.

(1) in subsection (c)—

(A) in paragraph (1)(A), by striking "(8)"; and

(B) in paragraph (2)(D)—

(i) in the heading, by striking "PARTICIPATION IN VOCATIONAL EDUCATION ACTIVITIES"; and

(ii) by striking "determined to be engaged in work in the State for a month by reason of participation in vocational educational training or": and

(2) by striking subsection (d)(8).

MCCAIN AMENDMENT NO. 474

Mr. DOMENICI (for Mr. MCCAIN) proposed an amendment to the bill, S. 947, supra; as follows:

On page 92, beginning with line 6, strike through line 24 on page 128 and insert the following:

SEC. 3001. SPECTRUM AUCTIONS.

(a) EXTENION AND EXPANSION OF AUCTION AUTHORITY.—

(1) IN GENERAL.—Section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j) is amended—

(A) by striking paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) GENERAL AUTHORITY.—If mutually exclusive applications are accepted for any initial license or construction permit that will involve an exclusive use of the electromagnetic spectrum, then, except as provided in paragraph (2), the Commission shall grant the license or permit to a qualified applicant through a system of competitive bidding that meets the requirements of this subsection. The Commission, subject to paragraphs (2) and (7) of this subsection, also may use auctions as a means to assign spectrum when it determines that such an auction is consistent with the public interest, convenience, and necessity, and the purposes of this Act.

"(2) EXCEPTIONS.—The competitive bidding authority granted by this subsection shall not apply to a license or construction permit the Commission issues—

"(A) for public safety services, including private internal radio services used by State and local governments and non-government entities that—

"(i) are used to protect the safety of life, health, or property; and

"(ii) are not made commercially available to the public;

"(B) for public telecommunications services, as defined in section 397(14) of this Act, when the license application is for channels reserved for noncommercial use;

"(C) for spectrum and associated orbits used in the provision of any communications within a global satellite system;

"(D) for initial licenses or construction permits for new digital television service given to existing terrestrial broadcast licensees to replace their current television licenses;

"(E) for terrestrial radio and television broadcasting when the Commission determines that an alternative method of resolving mutually exclusive applications serves the public interest substantially better than competitive bidding; or

"(F) for spectrum allocated for unlicensed use pursuant to part 15 of the Commission's regulations (47 C.F.R. part 15), if the competitive bidding for licenses would interfere with operation of end-user products permitted under such regulations.";

(B) by striking "1998" in paragraph (11) and inserting "2007"; and

(C) by inserting after paragraph (13) the following:

"(14) OUT-OF-BAND EFFECTS.—The Commission and the National Telecommunications and Information Administration shall seek to create incentives to minimize the effects of out-of-band emissions to promote more efficient use of the electromagnetic spectrum. The Commission and the National Telecommunications and Information Administration also shall encourage licensees to minimize the effects of interference.".

(2) CONFORMING AMENDMENTS.—Subsection (i) of section 309 of the Communications Act of 1934 is repealed.

(b) AUCTION OF 45 MEGAHERTZ LOCATED AT 1,710–1,755 MEGAHERTZ.—

(1) IN GENERAL.—The Commission shall assign by competitive bidding 45 megahertz located at 1,710–1,755 megahertz no later than December 31, 2001, for commercial use.

(2) FEDERAL GOVERNMENT USERS.—Any Federal government station that, on the date of enactment of this Act, is assigned to use electromagnetic spectrum located in the 1,710–1,755 megahertz band shall retain that use until December 31, 2003, unless exempted from relocation.

(c) COMMISSION TO MAKE ADDITIONAL SPECTRUM AVAILABLE BY AUCTION.—

(1) IN GENERAL.—The Federal Communications Commission shall complete all actions necessary to permit the assignment, by September 30, 2002, by competitive bidding pursuant to section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)), of licenses for the use of bands of frequencies currently allocated by the Commission that—

(A) in the aggregate span not less than 55 megahertz;

(B) are located below 3 gigahertz; and

(C) as of the date of enactment of this Act, have not been—

(i) designated by Commission regulation for assignment pursuant to section 309(j);

(ii) identified by the Secretary of Commerce pursuant to section 113 of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923); or

(iii) allocated for Federal Government use pursuant to section 305 of the Communications Act of 1934 (47 U.S.C. 305).

(2) CRITERIA FOR REASSIGNMENT.—In making available bands of frequencies for competitive bidding pursuant to paragraph (1), the Commission shall—

(A) seek to promote the most efficient use of the electromagnetic spectrum;

(B) consider the cost to incumbent licensees of relocating existing uses to other bands of frequencies or other means of communication;

(C) consider the needs of public safety radio services;

(D) comply with the requirements of international agreements concerning spectrum allocations; and

(E) coordinate with the Secretary of Commerce when there is any impact on Federal Government spectrum use.

(3) NOTIFICATION TO THE SECRETARY OF COMMERCE.—The Commission shall attempt to accommodate incumbent licensees displaced under this section by relocating them to other frequencies available to the Commission. The Commission shall notify the Secretary of Commerce whenever the Commission is not able to provide for the effective relocation of an incumbent licensee to a band of frequencies available to the Commission for assignment. The notification shall include—

(A) specific information on the incumbent licensee;

(B) the bands the Commission considered for relocation of the licensee; and

(C) the reasons the incumbent cannot be accommodated in these bands.

(4) REPORT TO THE SECRETARY OF COMMERCE.—

(A) TECHNICAL REPORT.—The Commission, in consultation with the National Telecommunications and Information Administration, shall submit a detailed technical report to the Secretary of Commerce setting forth—

(i) the reasons the incumbent licensees described in paragraph (5) could not be accommodated in existing non-government spectrum; and

(ii) the Commission's recommendations for relocating those incumbents.

(B) NTIA USE OF REPORT.—The National Telecommunications and Information Administration shall review this report when assessing whether a commercial licensee can be accommodated by being reassigned to a frequency allocated for government use.

(d) IDENTIFICATION AND REALLOCATION OF FREQUENCIES.—

(1) IN GENERAL.—Section 113 of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 901 et seq.) is amended by adding at the end thereof the following:

"(f) ADDITIONAL REALLOCATION REPORT.—If the Secretary receives a report from the Commission pursuant to section 3001(c)(6) of the Balanced Budget Act of 1997, the Secretary shall submit to the President, the Congress, and the Commission a report with the Secretary's recommendations.

"(g) REIMBURSEMENT OF FEDERAL SPECTRUM USERS FOR RELOCATION COSTS.—

"(1) IN GENERAL.—

"(A) ACCEPTANCE OF COMPENSATION AUTHORIZED.—In order to expedite the efficient use of the electromagnetic spectrum, and notwithstanding section 3302(b) of title 31, United States Code, any Federal entity that operates a Federal Government station that has been identified by NTIA for relocation may accept payment, including in-kind compensation and shall be reimbursed if required to relocate by the service applicant, provider, licensee, or representative entering the band as a result of a license assignment by the Commission or otherwise authorized by Commission rules.

"(B) DUTY TO COMPENSATE OUSTED FEDERAL ENTITY.—Any such service applicant, provider, licensee, or representative shall compensate the Federal entity in advance for relocating through monetary or in-kind payment for the cost of relocating the Federal entity's operations from one or more electromagnetic spectrum frequencies to any other frequency or frequencies, or to any other telecommunications transmission media.

"(C) COMPENSABLE COSTS.—Compensation shall include, but not be limited to, the costs of any modification, replacement, or reissuance of equipment, facilities, operating manuals, regulations, or other relocation expenses incurred by that entity.

"(D) DISPOSITION OF PAYMENTS.—Payments, other than in-kind compensation, pursuant to this section shall be deposited by electronic funds transfer in a separate agency account or accounts which shall be used to pay directly the costs of relocation, to repay or make advances to appropriations or funds which do or will initially bear all or part of such costs, or to refund excess sums when necessary, and shall remain available until expended.

"(E) APPLICATION TO CERTAIN OTHER RELOCATIONS.—The provisions of this paragraph also apply to any Federal entity that operates a Federal Government station assigned to use electromagnetic spectrum identified for rellocation under subsection (a), if before the date of enactment of the Balanced Budget Act of 1997 the Commission has not identified that spectrum for service or assigned licenses or otherwise authorized service for that spectrum.

"(2) PETITIONS FOR RELOCATION.—Any person seeking to relocate a Federal Government station that has been assigned a frequency within a band allocated for mixed Federal and non-Federal use under this Act shall submit a petition for relocation to NTIA. The NTIA shall limit or terminate the Federal Government station's operating license within 6 months after receiving the petition if the following requirements are met:

"(A) The proposed relocation is consistent with obligations undertaken by the United States in international agreements and with United States national security and public safety interests.

"(B) The person seeking relocation of the Federal Government station has guaranteed to defray entirely, through payment in advance, advance in-kind payment of costs, or a combination of payment in advance and advance in-kind payment, all relocation costs incurred by the Federal entity, including, but not limited to, all engineering, equipment, site acquisition and construction, and regulatory fee costs.

"(C) The person seeking relocation completes all activities necessary for implementing the relocation, including construction of replacement facilities (if necessary and appropriate and identifying and obtaining on the Federal entity's behalf new frequencies for use by the relocated Federal Government station (if the station is not relocating to spectrum reserved exclusively for Federal use).

"(D) Any necessary replacement facilities, equipment modifications, or other changes have been implemented and tested by the Federal entity to ensure that the Federal Government station is able to accomplish successfully its purposes including maintaining communication system performance.

"(E) The Secretary has determined that the proposed use of any spectrum frequency band to which a Federal entity relocates its operations is suitable for the technical characteristics of the band and consistent with other uses of the band. In exercising authority under this subparagraph, the Secretary shall consult with the Secretary of Defense, the Secretary of State, and other appropriate Federal officials.

"(3) RIGHT TO RECLAIM.—If within one year after the relocation of a Federal Government station, the Federal entity affected demonstrates to the Secretary and the Commission that the new facilities or spectrum are not comparable to the facilities or spectrum from which the Federal Government station was relocated, the person who sought the relocation shall take reasonable steps to remedy any defects or pay the Federal entity for the costs of returning the Federal Government station to the electromagnetic spectrum from which the station was relocated.

"(h) FEDERAL ACTION TO EXPEDITE SPECTRUM TRANSFER.—Any Federal Government station which operates on electromagnetic spectrum that has been identified for reallocation under this Act for mixed Federal and non-Federal use in any reallocation report under subsection (a), to the maximum extent practicable through the use of subsection (g) and any other applicable law, shall take prompt action to make electromagnetic spectrum available for use in a manner that maximizes efficient use of the electromagnetic spectrum.

"(i) FEDERAL SPECTRUM ASSIGNMENT RESPONSIBILITY.—This section does not modify NTIA's authority under section 103(b)(2)(A) of this Act.

"(j) DEFINITIONS.—As used in this section—

"(1) the term 'Federal entity' means any department, agency, or instrumentality of the Federal Government that utilizes a Government station license obtained under section 305 of the 1934 Act (47 U.S.C. 305);

"(2) the term 'digital television services' means television services provided using digital technology to enhance audio quality and video resolution, as further defined in the Memorandum Opinion, Report, and Order of the Commission entitled 'Advanced Television Systems and Their Impact Upon the Existing Television Service,' MM Docket No. 87-268 and any subsequent FCC proceedings dealing with digital television; and

"(3) the term 'analog television licenses' means licenses issued pursuant to 47 CFR 73.682 et seq. .".

(2) Section 114(a) of that Act (47 U.S.C. 924(a)) is amended by striking "(a) or (d)(1)" and inserting "(a), (d)(1), or (f)".

(e) IDENTIFICATION AND REALLOCATION OF AUCTIONABLE FREQUENCIES.—

(1) SECOND REPORT REQUIRED.—Section 113(a) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923(a)) is amended by inserting "and within 6 months after the date of enactment of the Balanced Budget Act of 1997" after "Act of 1993".

(2) IN GENERAL.—Section 113(b) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923(b)) is amended—

(A) by striking the caption of paragraph (1) and inserting "INITIAL REALLOCATION REPORT.—";

(B) by inserting "in the initial report required by subsection (a)" after "recommend for reallocation" in paragraph (1);

(C) by inserting "or (3)" after "paragraph (1)" each place it appears in paragraph (2); and

(D) by adding at the end thereof the following:

"(3) SECOND REALLOCATION REPORT.—The Secretary shall make available for reallocation a total of 20 megahertz in the second report required by subsection (a), for use other than by Federal Government stations under section 305 of the 1934 Act (47 U.S.C. 305), that is located below 3 gigahertz and that meets the criteria specified in paragraphs (1) through (5) of subsection (a).".

(3) ALLOCATION AND ASSIGNMENT.—Section 115 of that Act (47 U.S.C. 925) is amended—

(A) by striking "the report required by section 113(a)" in subsection (b) and inserting "the initial reallocation report required by section 113(a)"; and

(B) by adding at the end thereof the following:

"(c) ALLOCATION AND ASSIGNMENT OF FREQUENCIES IDENTIFIED IN THE SECOND ALLOCATION REPORT.—

"(1) PLAN.—Within 12 months after it receives a report from the Secretary under section 113(f) of this Act, the Commission shall—

"(A) submit a plan, prepared in coordination with the Secretary of Commerce, to the President and to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Commerce, for the allocation and assignment under the 1934 Act of frequencies identified in the report; and

"(B) implement the plan.

"(2) CONTENTS.—The plan prepared by the Commission under paragraph (1) shall consist of a schedule of reallocation and assignment of those frequencies in accordance with section 309(j) of the 1934 Act in time for the assignment of those licenses or permits by September 30, 2002.".

SEC. 3002. DIGITAL TELEVISION SERVICES.

Section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) is amended by adding at the end thereof the following:

"(15) AUCTION OF RECAPTURED BROADCAST TELEVISION SPECTRUM AND POTENTIAL DIGITAL TELEVISION LICENSE FEES.—

"(A) LIMITATIONS ON TERMS OF TERRESTRIAL TELEVISION BROADCAST LICENSES.—

"(i) A television license that authorizes analog television services may not be renewed to authorize such services for a period that extends beyond December 31, 2006. The Commission shall extend or waive this date for any station in any television market unless 95 percent of the television households have access to digital local television signals, either by direct off-air reception or by other means.

"(ii) A commercial digital television license that is issued shall expire on September 30, 2003. A commercial digital television license shall be re-issued only subject to fulfillment of the licensee's obligations under subparagraph (C).

"(iii) No later than December 31, 2001, and every 2 years thereafter, the Commission shall report to Congress on the status of digital television conversion in each television market. In preparing this report, the Commission shall consult with other departments and agencies of the Federal government. The report shall contain the following information:

"(I) Actual consumer purchases of analog and digital television receivers, including the price, availability, and use of conversion equipment to allow analog sets to receive a digital signal.

"(II) The percentage of television households in each market that has access to digital local television signals as defined in paragraph (a)(1), whether such access is attained by direct off-air reception or by some other means.

"(II) The cost to consumers of purchasing digital television receivers (or conversion equipment to prevent obsolescence of existing analog equipment) and other related changes in the marketplace such as increases in the cost of cable converter boxes.

"(B) SPECTRUM REVERSION AND RESALE.—

"(i) The Commission shall—

"(I) ensure that, as analog television licenses expire pursuant to subparagraph (A)(i), each broadcaster shall return electromagnetic spectrum according to the Commission's direction; and

"(II) reclaim and organize the electromagnetic spectrum in a manner to maximize the deployment of new and existing services.

"(ii) Licenses for new services occupying electromagnetic spectrum previously used for the broadcast of analog television shall be selected by competitive bidding. The Commission shall start the competitive bidding process by July 1, 2001, with payment pursuant to the competitive bidding rules established by the Commission. The Commission shall report the total revenues from the competitive bidding by January 1, 2002.

"(C) DEFINITIONS.—As used in this paragraph—

"(i) the term 'digital television services' means television services provided using digital technology to enhance audio quality and video resolution, as further defined in the Memorandum Opinion, Report, and Order of the Commission entitled 'Advanced Television Systems and their Impact Upon the Existing Television Service,' MM Docket No. 87–268 and any subsequent Commission proceedings dealing with digital television; and

"(ii) the term 'analog television licenses' means licenses issued pursuant to 47 CFR 73.682 et seq. .".

SEC. 3003. ALLOCATION AND ASSIGNMENT OF NEW PUBLIC SAFETY AND COMMERCIAL LICENSES.

(a) IN GENERAL.—The Federal Communications Commission, not later than January 1, 1998, shall allocate from electromagnetic spectrum between 746 megahertz and 806 megahertz—

(1) 24 megahertz of that spectrum for public safety services according to terms and conditions established by the Commission, in consultation with the Secretary of Commerce and the Attorney General; and

(2) 36 megahertz of that spectrum for commercial purposes to be assigned by competitive bidding.

(b) ASSIGNMENT.—The Commission shall—

(1) commence assignment of the licenses for public safety created pursuant to subsection (a) no later than September 30, 1998; and

(2) commence competitive bidding for the commercial licenses created pursuant to subsection (a) no later than March 31, 1998.

(c) LICENSING OF UNUSED FREQUENCIES FOR PUBLIC SAFETY RADIO SERVICES.—

(1) USE OF UNUSED CHANNELS FOR PUBLIC SAFETY.—It shall be the policy of the Federal Communications Commission, notwithstanding any other provision of this Act or any other law, to waive whatever licensee eligibility and other requirements (including bidding requirements) are applicable in order to permit the use of unassigned frequencies for public safety purposes by a State or local government agency upon a showing that—

(A) no other existing satisfactory public safety channel is immediately available to satisfy the requested use;

(B) the proposed use is technically feasible without causing harmful interference to existing stations in the frequency band entitled to protection from such interference under the rules of the Commission; and

(C) use of the channel for public safety purposes is consistent with other existing public safety channel allocations in the geographic area of proposed use.

(2) APPLICABILITY.—Paragraph (1) shall apply to any application—

(A) is pending before the Commission on the date of enactment of this Act;

(B) was not finally determined under section 402 or 405 of the Communications Act of 1934 (47 U.S.C. 402 or 405) on May 15, 1997; or

(C) is filed after May 15, 1997.

(d) PROTECTION OF BROADCAST TV LICENSEES DURING DIGITAL TRANSITION.—Public safety and commercial licenses granted pursuant to this subsection—

(1) shall enjoy flexibility in use, subject to—

(A) interference limits set by the Commission at the boundaries of the electromagnetic spectrum block and service area; and

(B) any additional technical restrictions imposed by the Commission to protect full-service analog and digital television licenses during a transition to digital television;

(2) may aggregate multiple licenses to create larger spectrum blocks and service areas;

(3) may disaggregate or partition licenses to create smaller spectrum blocks or service areas; and

(4) may transfer a license to any other person qualified to be a licensee.

(e) PROTECTION OF PUBLIC SAFETY LICENSEES DURING DIGITAL TRANSITION.—The Commission shall establish rules insuring that public safety licensees using spectrum reallocated pursuant to subsection (a)(1) shall not be subject to harmful interference from television broadcast licensees.

(f) DIGITAL TELEVISION ALLOTMENT.—In assigning temporary transitional digital licenses, the Commission shall—

(1) minimize the number of allotments between 746 and 806 megahertz and maximize the amount of spectrum available for public safety and new services;

(2) minimize the number of allotments between 698 and 746 megahertz in order to facilitate the recovery of spectrum at the end of the transition;

(3) consider minimizing the number of allotments between 54 and 72 megahertz to facilitate the recovery of spectrum at the end of the transition; and

(4) develop an allotment plan designed to recover 79 megahertz of spectrum to be assigned by competitive bidding, in addition to the 60 megahertz identified in paragraph (a) of this subsection.

(g) INCUMBENT BROADCAST LICENSEES.—Any person who holds an analog television license or a digital television license between 746 and 806 megahertz—

(1) may not operate at that frequency after the date on which the digital television services transition period terminates, as determined by the Commission; and

(2) shall surrender immediately the license or permit to construct pursuant to Commission rules.

(h) DEFINITIONS.—For purposes of this section—

(1) COMMISSION.—The term "Commission" means the Federal Communications Commission.

(2) DIGITAL TELEVISION (DTV) SERVICE.—The term "digital television (DTV) service" means terrestrial broadcast services provided using digital technology to enhance audio quality and video resolution, as further defined in the Memorandum Opinion, Report, and Order of the Commission entitled "Advanced Television Systems and Their Impact Upon the Existing Television Service," MM Docket No. 87-268, or subsequent findings of the Commission.

(3) DIGITAL TELEVISION LICENSE.—The term "digital television license" means a full-service license issued pursuant to rules adopted for digital television service.

(4) ANALOG TELEVISION LICENSE.—The term "analog television license" means a full-service license issued pursuant to 47 CFR 73.682 et seq.

(5) PUBLIC SAFETY SERVICES.—The term "public safety services" means services whose sole or principal purpose is to protect the safety of life, health, or property.

(6) SERVICE AREA.—The term "service area" means the geographic area over which a licensee may provide service and is protected from interference.

(7) SPECTRUM BLOCK.—The term "spectrum block" means the range of frequencies over which the apparatus licensed by the Commission is authorized to transmit signals.

SEC. 3004. FLEXIBLE USE OF ELECTROMAGNETIC SPECTRUM.

Section 303 of the Communications Act of 1934 (47 U.S. 303) is amended by adding at the end thereof the following:

"(y) Shall allocate electromagnetic spectrum so as to provide flexibility of use, except—

"(1) as required by international agreements relating to global satellite systems or other telecommunication services to which the United States is a party;

"(2) as required by public safety allocations;

"(3) to the extent that the Commission finds, after notice and an opportunity for public comment, that such an allocation would not be in the public interest;

"(4) to the extent that flexible use would retard investment in communications services and systems, or technology development thereby lessening the value of the electromagnetic spectrum; or

"(5) to the extent that flexible use would result in harmful interference among users.".

LAUTENBERG AMENDMENT NO. 475

Mr. LAUTENBERG proposed an amendment to the bill, S. 947, supra; as follows:

On page 871, strike lines 9–11.

KERREY AMENDMENT NO. 476

Mr. LAUTENBERG (for Mr. KERREY) proposed an amendment to the bill, S. 947, supra; as follows:

At the appropriate place in the bill insert the following:

SEC. . RESERVE PRICE.

In any auction conducted or supervised by the Federal Communications Commission (hereinafter the Commission) for any license, permit or right which has value, a reasonable reserve price shall be set by the Commission for each unit in the auction. The reserve price shall establish a minimum bid for the unit to be auctioned. If no bid is received above the reserve price for a unit, the unit shall be retained. The Commission shall reassess the reserve price for that unit and place the unit in the next scheduled or next appropriate auction.

DURBIN (AND OTHERS) AMENDMENT NO. 477

Mr. LAUTENBERG (for Mr. DURBIN, for himself, Mr. WELLSTONE, and Mrs. BOXER) proposed an amendment to the bill, S. 947, supra; as follows:

At the end of title I, add the following:

SEC. 10. FOOD STAMP BENEFITS FOR CHILD IMMIGRANTS.

(a) IN GENERAL.—Section 402(a)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)) is amended by adding at the end the following:

"(E) CHILD IMMIGRANTS.—In the case of the program specified in paragraph (3)(B), paragraph (1) shall not apply to a qualified alien who is under 18 years of age.".

(b) ALLOCATION OF ADMINISTRATIVE COSTS.—Section 408(a) of the Social Security Act (42 U.S.C. 608(a)) is amended by adding at the end the following:

"(12) DESIGNATION OF GRANTS UNDER THIS PART AS PRIMARY PROGRAM IN ALLOCATING ADMINISTRATIVE COSTS——

"(A) IN GENERAL.—Notwithstanding any other provision of law, a State shall designate the program funded under this part as the primary program for the purpose of allocating costs incurred in serving families eligible or applying for benefits under the State program funded under this part and any other Federal means-tested benefits.

"(B) ALLOCATION OF COSTS.——

"(i) IN GENERAL.—The Secretary shall require that costs described in subparagraph (A) be allocated in the same manner as the costs were allocated by State agencies that designated part A of title IV as the primary program for the purpose of allocating administrative costs before August 22, 1996.

"(iii) FLEXIBLE ALLOCATION.—The Secretary may allocate costs under clause (i) differently, if a State can show good cause for or evidence of increased costs, to the extent that the administrative costs allocated to the primary program are not reduced by more than 33 percent.

"(13) FAILURE TO ALLOCATE ADMINISTRATIVE COSTS TO GRANTS PROVIDED UNDER THIS PART.—If the Secretary determines that, with respect to a preceding fiscal year, a State has not allocated administrative costs in accordance with paragraph (12), the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the succeeding fiscal year by an amount equal to——

"(A) the amount the Secretary determines should have been allocated to the program funded under this part in such preceding fiscal year; minus

"(B) the amount that the State allocated to the program funded under this part in such preceding fiscal year.".

ROCKEFELLER (AND WYDEN) AMENDMENT NO. 478

Mr. LAUTENBERG (for Mr. ROCKEFELLER, for himself and Mr. WYDEN) proposed an amendment to the bill, S. 947, supra; as follows:

On page 214, strike lines 21 through 24 and insert the following:

"(3) EXCEPTION FOR MSA PLANS AND UNRESTRICTED FEE-FOR-SERVICE PLANS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), paragraphs (1) and (2) do not apply to an MSA plan or an unrestricted fee-for-service plan.

"(B) APPLICATION OF BALANCE BILLING FOR PHYSICIAN SERVICES.—Section 1848(g) shall apply to the provision of physician services (as defined in section 1848(j)(3)) to an individual enrolled in an unrestricted fee-for-service plan under this title in the same manner as such section applies to such services that are provided to an individual who is not enrolled in a Medicare Choice plan under this title.

DODD AMENDMENT NO. 479

Mr. LAUTENBERG (for Mr. DODD) proposed an amendment to the bill, S. 947, supra; as follows:

On page 874, between lines 7 and 8, insert the following:

SEC. 5817A. CONTINUATION OF MEDICAID ELIGIBILITY FOR DISABLED CHILDREN WHO LOSE SSI BENEFITS.

(a) IN GENERAL.—Section 1902(a)(10)(A)(i)(II) (42 U.S.C. 1396a(a)(10)(A)(i)(II)) is amended by inserting "(or were being paid as of the date of enactment of section 211(a) of the Personal Responsibility and Work Opportunity Act of 1996 (Public law 104–193; 110 Stat. 2188) and would continue to be paid but for the enactment of that section)" after "title XVI".

(b) OFFSET.—Section 2103(b) of the Social Security Act (as added by section 5801) is amended——

(1) in paragraph (2), by striking "and" and at the end;

(2) in paragraph (3), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(4) the amendment made by section 5817A(a) of the Balanced Budget Act of 1997 (relating to continued eligibility for certain disabled children).".

(c) EFFECTIVE DATE.—The amendment made by subsection (a) applies to medical assistance furnished on or after July 1, 1997.

MURRAY (AND WELLSTONE) AMENDMENT NO. 480

Mr. LAUTENBERG (for Mrs. MURRAY, for herself and Mr. WELLSTONE) proposed an amendment to the bill, S. 947, supra; as follows:

On page 960, between lines 3 and 4, insert the following:

SEC. . PROTECTING VICTIMS OF FAMILY VIOLENCE.

(a) FINDINGS.—Congress finds that—

(1) the intent of Congress in amending part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) in section 103(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat 2112) was to allow States to take into account the effects of the epidemic of domestic violence in establishing their welfare programs, by giving States the flexibility to grant individual, temporary waivers

for good cause to victims of domestic violence who meet the criteria set forth in section 402(a)(7)(B) of the Social Security Act (42 U.S.C. 602(a)(7)(B));

(2) the allowance of waivers under such sections was not intended to be limited by other, separate, and independent provisions of part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.);

(3) under section 402(a)(7)(A)(iii) of such Act (42 U.S.C. 602(a)(7)(A)(iii)), requirements under the temporary assistance for needy families program under part A of title IV of such Act may, for good cause, be waived for so long as necessary; and

(4) good cause waivers granted pursuant to section 402(a)(7)(A)(iii) of such Act (42 U.S.C. 602(a)(7)(A)(iii)) are intended to be temporary and directed only at particular program requirements when needed on an individual case-by-case basis, and are intended to facilitate the ability of victims of domestic violence to move forward and meet program requirements when safe and feasible without interference by domestic violence.

(b) CLARIFICATION OF WAIVER PROVISIONS.—

(1) IN GENERAL.—Section 402(a)(7) (42 U.S.C. 602(a)(7)) is amended by adding at the end the following:

"(C) NO NUMERICAL LIMITS.—In implementing this paragraph, a State shall not be subject to any numerical limitation in the granting of good cause waivers under subparagraph (A)(iii).

"(D) WAIVERED INDIVIDUALS NOT INCLUDED FOR PURPOSES OF CERTAIN OTHER PROVISIONS OF THIS PART.—Any individual to whom a good cause waiver of compliance with this Act has been granted in accordance with subparagraph (A)(iii) shall not be included for purposes of determining a State's compliance with the participation rate requirements set forth in section 407, for purposes of applying the limitation described in section 408(a)(7)(C)(ii), or for purposes of determining whether to impose a penalty under paragraph (3), (5), or (9) of section 409(a).".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) takes effect as if it had been included in the enactment of section 103(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2112).

(c) FEDERAL PARENT LOCATOR SERVICE.—

(1) IN GENERAL.—Section 453 (42 U.S.C. 653), as amended by section 5938, is further amended—

(A) in subsection (b)(2)—

(i) in the matter preceding subparagraph (A), by inserting "or that the health, safety, or liberty or a parent or child would by unreasonably put at risk by the disclosure of such information," before "provided that";

(ii) in subparagraph (A), by inserting ", that the health, safety, or liberty or a parent or child would by unreasonably put at risk by the disclosure of such information," before "and that information"; and

(iii) in subparagraph (B)(i), by striking "be harmful to the parent or the child" and inserting "place the health, safety, or liberty of a parent or child unreasonably at risk"; and

(B) in subsection (c)(2), by inserting ", or to serve as the initiating court in an action to seek and order," before "against a noncustodial".

(2) STATE PLAN.—Section 454(26) (42 U.S.C. 654), as amended by section 5956, is further amended—

(A) in subparagraph (C), by striking "result in physical or emotional harm to the party or the child" and inserting "place the health, safety, or liberty of a parent or child unreasonably at risk";

(B) in subparagraph (D), by striking "of domestic violence or child abuse against a party or the child and that the disclosure of such information could be harmful to the party or the child" and inserting "that the health, safety, or liberty of a parent or child would be unreasonably put at risk by the disclosure of such information"; and

(C) in subparagraph (E), by striking "of domestic violence" and all that follows through the semicolon and inserting "that the health, safety, or liberty of a parent or child would be unreasonably put at risk by the disclosure of such information pursuant to section 453(b)(2), the court shall determine whether disclosure to any other person or persons of information received from the Secretary could place the health, safety, or liberty or a parent or child unreasonably at risk (if the court determines that disclosure to any other person could be harmful, the court and its agents shall not make any such disclosure);".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect 1 day after the effective date described in section 5961(a).

DODD (AND OTHERS) AMENDMENT NO. 481

Mr. LAUTENBERG (for Mr. DODD, for himself, Mr. D'AMATO, and Mr. LEAHY) proposed an amendment to the bill, S. 947, supra; as follows:

On page 562, between line 20 and 21, insert the following:

"(XIV) for calendar year 1999 for hospitals in all areas, the market basket percentage increase minus 1.3 percentage points,".

On page 562, line 21, strike "(XIV) for calendar year 1999" and insert "(XV) for calendar year 2000.".

On page 563, line 1, strike "(XV)" and insert "(XVI)".

On page 604, line 22, strike "upon discharge from a subsection (d) hospital" and insert "immediately upon discharge from, and pursuant to the discharge planning process (as defined in section 1861(ee)) of, a subsection (d) hospital".

Beginning on page 605, strike line 7 and all that follows through page 606, line 6, and insert the following:

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to discharges occurring on or after October 1, 1997.

LEVIN (AND JEFFORDS) AMENDMENT NO. 482

Mr. LAUTENBERG (for Mr. LEVIN, for himself and Mr. JEFFORDS) proposed an amendment to the bill, S. 947, supra; as follows:

On page 930, between lines 14 and 15, insert the following:

(l) VOCATIONAL EDUCATIONAL TRAINING.—Section 407(d)(8) (42 U.S.C. 607(d)(8)) is amended by striking "12" and inserting "24".

WYDEN AMENDMENT NO. 483

Mr. LAUTENBERG (for Mr. WYDEN) proposed an amendment to the bill, S. 947, supra; as follows:

On page 844, between lines 7 and 8, insert the following:

SEC. 5768. CONTINUATION OF STATE-WIDE SECTION 1115 MEDICAID WAIVERS.

(a) IN GENERAL.—Section 1115 of the Social Security Act (42 U.S.C. 1315) is amended by adding at the end the following:

"(d)(1) The provisions of this subsection shall apply to the extension of statewide comprehensive research and demonstration projects (in this subsection referred to as 'waiver project') for which waivers of compliance with the requirements of title XIX are granted under subsection (a). With respect to a waiver project that, but for the enactment of this subsection, would expire, the State at its option may—

"(A) not later than 1 year before the waiver under subsection (a) would expire (acting through the chief executive officer of the State who is operating the project), submit to the Secretary a written request for an extension of such waiver project for up to 3 years; or

"(B) permanently continue the waiver project if the project meets the requirements of paragraph (2).

"(2) The requirements of this paragraph are that the waiver project—

"(A) has been successfully operated for 5 or more years; and

"(B) has been shown, through independent evaluations sponsored by the Health Care Financing Administration, to successfully contain costs and provide access to health care.

"(3)(A) In the case of waiver projects described in paragraph (1)(A), if the Secretary fails to respond to the request within 6 months after the date on which the request was submitted, the request is deemed to have been granted.

"(B) If the request is granted or deemed to have been granted, the deadline for submittal of a final report shall be 1 year after the date on which the waiver project would have expired but for the enactment of this subsection.

"(C) The Secretary shall release an evaluation of each such project not later than 1 year after the date of receipt of the final report.

"(D) Phase-down provisions which were applicable to waiver projects before an extension was provided under this subsection shall not apply.

"(4) The extension of a waiver project under this subsection shall be on the same terms and conditions (including applicable terms and conditions related to quality and access of services, budget neutrality as adjusted for inflation, data and reporting requirements and special population protections), except for any phase down provisions, and subject to the same set of waivers that applied to the project or were granted before the extension of the project under this subsection. The permanent continuation of a waiver project shall be on the same terms and conditions, including financing, and subject to the same set of waivers. No test of budget neutrality shall be applied in the case of projects described in paragraph (2) after that date on which the permanent extension was granted.

"(5) In the case of a waiver project described in paragraph (2), the Secretary, acting through the Health Care Financing Administration shall, deem any State's request to expand medicaid coverage in whole or in part to individuals who have an income at or below the Federal poverty level as budget neutral if independent evaluations sponsored by the Health Care Financing Administration have shown that the State's medicaid managed care program under such original waiver is more cost effective and efficient than the traditional fee-for-service medicaid program that, in the absence of any managed care waivers under this section, would have been provided in the State.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on the date of enactment of this Act.

HARKIN (AND GRASSLEY) AMENDMENT NO. 484

Mr. LAUTENBERG (for Mr. HARKIN for himself and Mr. GRASSLEY) proposed an amendment to the bill, S. 947, supra; as follows:

On page 885, line 15, insert after "State" the following: "or a community action agency, community development corporation or other non-profit organizations with demonstrated effectiveness in moving welfare recipients into the workforce".

FEINSTEIN AMENDMENTS NOS. 485–487

Mr. LAUTENBERG (for Mrs. FEINSTEIN) proposed three amendments to the bill, S. 947, supra; as follows:

AMENDMENT NO. 485

At the end of the proposed section 1852(d) of the Social Security Act (as added by section 5001), add the following:

"(4) DETERMINATION OF HOSPITAL LENGTH OF STAY.—

"(A) IN GENERAL.—A Medicare Choice organization shall cover the length of an inpatient hospital stay under this part as determined by the attending physician, in consultation with the patient, to be medically appropriate.

"(B) CONSTRUCTION.—Nothing in this paragraph shall be construed—

"(i) as requiring the provision of inpatient coverage if the attending physician, in consultation with the patient, determine that a shorter period of hospital stay is medically appropriate, or

"(ii) as affecting the application of deductibles and coinsurance.

At the appropriate place in chapter 2 of subtitle H of division 1 of title V, insert the following new section:

SEC. . HOSPITAL LENGTH OF STAY.

(a) IN GENERAL.—Section 1866(a)(1) (42 U.S.C. 1395cc(a)(1)) is amended—

(1) by striking "and" at the end of subparagraph (Q);

(2) by striking the period at the end of subparagraph (R) and inserting "; and";

(3) by inserting after subparagraph (R) the following:

"(S) in the case of hospitals, not to discharge an inpatient before the date the attending physician and patient determine it to be medically appropriate.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to discharges occurring on or after 6 months after the date of enactment of this Act.

At the appropriate place in chapter 5 of subtitle I of division 2 of title V, insert the following new section:

SEC. . DETERMINATION OF HOSPITAL STAY.

(a) IN GENERAL.—Title XIX (42 U.S.C. 1396 et seq.) is amended—

(1) by redesignating section 1933 as section 1934; and

(2) by inserting after section 1932 the following new section:

"DETERMINATION OF HOSPITAL STAY

"SEC. 1933. (a) IN GENERAL.—A State plan for medical assistance under this title shall cover the length of an inpatient hospital stay under this part as determined by the attending physician, in consultation with the patient, to be medically appropriate.

"(b) CONSTRUCTION.—Nothing in this section shall be construed—

"(1) as requiring the provision of inpatient coverage if the attending physician, in consultation with the patient, determine that a shorter period of hospital stay is medically appropriate, or

"(2) as affecting the application of deductibles and coinsurance.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to discharges occurring on or after 6 months after the date of enactment of this Act.

AMENDMENT NO. 486

At the appropriate place in chapter 1 of subtitle K of division 2 of title V, insert the following new section:

SEC. . ADDITIONAL FUNDING FOR STATE EMERGENCY HEALTH SERVICES FURNISHED TO UNDOCUMENTED ALIENS.

(a) TOTAL AMOUNT AVAILABLE FOR ALLOTMENT.—There are available for allotments under this section for each of the 5 fiscal years (beginning with fiscal year 1998) $20,000,000 for payments to certain States under this section.

(b) STATE ALLOTMENT AMOUNT.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall compute an allotment for each fiscal year beginning with fiscal year 1998 and ending with fiscal year 2002 for each of the 12 States with the highest number of undocumented aliens. The amount of such allotment for each such State for a fiscal year shall bear the same ratio to the total amount available for allotments under subsection (a) for the fiscal year as the ratio of the number of undocumented aliens in the State in the fiscal year bears to the total of such numbers for all States for such fiscal year. The amount of allotment to a State provided under this paragraph for a fiscal year that is not paid out under subsection (c) shall be available for payment during the subsequent fiscal year.

(2) DETERMINATION.—For purposes of paragraph (1), the number of undocumented aliens in a State under this section shall be determined based on estimates of the resident illegal alien population residing in each State prepared by the Statistics Division of the Immigration and Naturalization Service as of October 1992 (or as of such later date if such date is at least 1 year before the beginning of the fiscal year involved).

(c) USE OF FUNDS. —From the allotments made under subsection (b), the Secretary shall pay to each State amounts the State demonstrates were paid by the State (or by a political subdivision of the State) for emergency health services furnished to undocumented aliens.

(d) STATE DEFINED.—For purposes of this section, the term "State" includes the District of Columbia.

(e) STATE ENTITLEMENT.—This section constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide for the payment to States of amounts provided under subsection (c).

AMENDMENT NO. 487

At the appropriate place in section 5721, insert the following:

( ) APPLICATION OF DSH PAYMENT ADJUSTMENT.—Notwithstanding subsection (d), effective July 1, 1997, section 1923(g)(2)(A) of the Social Security Act (42 U.S.C. 1396r-4(g)(2)(A)) shall be applied to the State of California as though—

(1) "or that begins on or after July 1, 1997, and before July 1, 1999," were inserted in such section after "January 1, 1995,"; and

(2) "(or 175 percent in the case of a State fiscal year that begins on or after July 1, 1997, and before July 1, 1999)" were inserted in such section after "200 percent".

WELLSTONE (AND OTHERS) AMENDMENT NO. 488

Mr. Lautenberg (for Mr. WELLSTONE, for himself, Mr. DURBIN, and Ms. MIKULSKI) proposed an amendment to the bill, S. 947, supra; as follows:

Beginning on page 764, strike line 7 and all that follows through page 765, line 17, and insert the following:

(a) PLAN AMENDMENTS.—Section 1902(a)(13) is amended—

(1) by striking all that precedes subparagraph (D) and inserting the following:

"(13)(A) provide—

(i) for the State-based determination of rates of payment under the plan for hospital services (and which, in the case of hospitals, take into account the situation of hospitals which serve a disproportionate number of low income patients with special needs), nursing facility services , and services provided in intermediate care facilities for the mentally retarded, under which the State provides assurances to the Secretary that proposed rates will be actuarially sufficient to ensure access to and quality of services;

"(ii) that the State will submit such proposed rates for review by an independent actuary selected by the Secretary; and

"(iii) that any new rates or modifications to existing rates will be developed through a public rulemaking procedure under which such new or modified rates are published in 1 or more daily newspapers of general circulation in the State or in any publication used by the State to publish State statutes or rules, and providers, beneficiaries and their representatives, and other concerned State residents are given a reasonable opportunity for review and comment on such rates or modifications;"; and

(2) by redesignating subparagraphs (D), (E) and (F) as subparagraphs (B), (C), and (D) respectively.

MIKULSKI (AND WELLSTONE) AMENDMENT NO. 489

Mr. LAUTENBERG (for Ms. MIKULSKI, for herself and Mr. WELLSTONE) proposed an amendment to the bill, S. 947, supra; as follows:

Beginning on page 764, strike line 5 and all that follows through line 23 on page 766.

KENNEDY (AND DODD) AMENDMENT NO. 490

Mr. LAUTENBERG (for Mr. KENNEDY, for himself and Mr. DODD) proposed an amendment to the bill, S. 947, supra; as follows:

Strike title VII and insert the following:

TITLE VII—COMMITTEE ON LABOR AND HUMAN RESOURCES

SEC. 7001. MANAGEMENT AND RECOVERY OF RESERVES.

(a) AMENDMENT.—Section 422 of the Higher Education Act of 1965 (20 U.S.C. 1072) is amended by adding after subsection (g) the following new subsection:

"(h) RECALL OF RESERVES; LIMITATIONS ON USE OF RESERVE FUNDS AND ASSETS.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall, except as otherwise provided in this subsection, recall $1,200,000,000 from the reserve funds held by guaranty agencies under this part on September 1, 2002.

"(2) DEPOSIT.—Funds recalled by the Secretary under this subsection shall be deposited in the Treasury.

"(3) EQUITABLE SHARE.—The Secretary shall require each guaranty agency to return reserve funds under paragraph (1) based on such agency's equitable share of excess reserve funds held by guaranty agencies as of September 30, 1996. For purposes of this paragraph, a guaranty agency's equitable share of excess reserve funds shall be determined as follows:

"(A) The Secretary shall compute each agency's reserve ratio by dividing (i) the amount held in such agency's reserve (including funds held by, or under the control of, any other entity) as of September 30, 1996, by (ii) the original principal amount of all loans for which such agency has an outstanding insurance obligation.

"(B) If the reserve ratio of any agency as computed under subparagraph (A) exceeds 1.12 percent, the agency's equitable share shall include so much of the amounts held in such agency's reserve fund as exceed a reserve ratio of 1.12 percent.

"(C) If any additional amount is required to be recalled under paragraph (1) (after deducting the total of the equitable shares calculated under subparagraph (B)), the agencies' equitable shares shall include additional amounts—

"(i) determined by imposing on each such agency an equal percentage reduction in the amount of each agency's reserve fund remaining after deduction of the amount recalled under subparagraph (B); and

"(ii) the total of which equals the additional amount that is required to be recalled under paragraph (1) (after deducting the total of the equitable shares calculated under subparagraph (B)).

"(4) RESTRICTED ACCOUNTS.—Within 90 days after the beginning of each of fiscal years 1998 through 2002, each guaranty agency shall transfer a portion of each agency's equitable share determined under paragraph (3) to a restricted account established by the guaranty agency that is of a type selected by the guaranty agency with the approval of the Secretary. Funds transferred to such restricted accounts shall be invested in obligations issued or guaranteed by the United States or in other similarly low-risk securities. A guaranty agency shall not use the funds in such a restricted account for any purpose without the express written permission of the Secretary, except that a guaranty agency may use the earnings from such restricted account for activities to reduce student loan defaults under this part. The portion required to be transferred shall be determined as follows:

"(A) In fiscal year 1998—

"(i) all agencies combined shall transfer to a restricted account an amount equal to one-fifth of the total amount recalled under paragraph (1);

"(ii) each agency with a reserve ratio (as computed under paragraph (3)(A)) that exceeds 2 percent shall transfer to a restricted account so much of the amounts held in such agency's reserve fund as exceed a reserve ratio of 2 percent; and

"(iii) each agency shall transfer any additional amount required under clause (i) (after deducting the amount transferred under clause (ii)) by transferring an amount that represents an equal percentage of each agency's equitable share to a restricted account.

"(B) In fiscal years 1999 through 2002, each agency shall transfer an amount equal to one-fourth of the total amount remaining of the agency's equitable share (after deduction of the amount transferred under subparagraph (A)).

"(5) SHORTAGE.—If, on September 1, 2002, the total amount in the restricted accounts described in paragraph (4) is less than the amount the Secretary is required to recall under paragraph (1), the Secretary shall require the return of the amount of the shortage from other reserve funds held by guaranty agencies under procedures established by the Secretary.

"(6) PROHIBITION.—The Secretary shall not have any authority to direct a guaranty agency to return reserve funds under subsection (g)(1)(A) during the period from the date of enactment of this subsection through September 30, 2002, and any reserve funds otherwise returned under subsection (g)(1) during such period shall be treated as amounts recalled under this subsection and shall not be available under subsection (g)(4).

"(7) DEFINITION.—For purposes of this subsection the term 'reserve funds' when used with respect to a guaranty agency—

"(A) includes any reserve funds held by, or under the control of, any other entity; and

"(B) does not include buildings, equipment, or other nonliquid assets.".

(b) CONFORMING AMENDMENT.—Section 428(c)(9)(A) of the Higher Education Act of 1965 (20 U.S.C. 1078(c)(9)(A)) is amended—

(1) in the first sentence, by striking "for the fiscal year of the agency that begins in 1993"; and

(2) by striking the third sentence.

SEC. 7002. REPEAL OF DIRECT LOAN ORIGINATION FEES TO INSTITUTIONS OF HIGHER EDUCATION.

Section 452 of the Higher Education Act of 1965 (20 U.S.C. 1087b) is amended—

(1) by striking subsection (b); and

(2) by redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

SEC. 7003. LENDER AND HOLDER RISK SHARING.

Section 428(b)(1)(G) of the Higher Education Act of 1965 (20 U.S.C. 1078(b)(1)(G)) is amended by striking "not less than 98 percent" and inserting "95 percent".

SEC. 7004. FEES AND INSURANCE PREMIUMS.

(a) IN GENERAL.—Section 428(b)(1)(H) of the Higher Education Act of 1965 (20 U.S.C. 1078(b)(1)(H)) is amended—

(1) by inserting "(i)" before "provides";

(2) by striking "the loan," and inserting "any loan made under section 428 before July 1, 1998,";

(3) by inserting "and" after the semicolon; and

(4) by adding at the end the following:

"(ii) provides that no insurance premiums shall be charged to the borrower of any loan made under section 428 on or after July 1, 1998;".

(b) SPECIAL ALLOWANCES.—Section 438(c) of the Higher Education Act of 1965 (20 U.S.C. 1087-1(c)) is amended—

(1) in paragraph (2), by striking "paragraph (6)" and inserting "paragraphs (6) and (8)"; and

(2) by adding at the end the following:

"(8) ORIGINATION FEE ON SUBSIDIZED LOANS ON OR AFTER JULY 1, 1998.—In the case of any loan made or insured under section 428 on or after July 1, 1998, paragraph (2) shall be applied by substituting '2.0 percent' for '3.0 percent'.".

(c) DIRECT LOANS.—Section 455(c) of the Higher Education Act of 1965 (20 U.S.C. 1087e(c)) is amended—

(1) by striking "The Secretary" and inserting the following:

"(1) IN GENERAL.—For loans made under this part before July 1, 1998, the Secretary";

(2) by striking "of a loan made under this part"; and

(3) by adding at the end the following:

"(2) ORIGINATION FEE.—For loans made under this part on or after July 1, 1998, the Secretary shall charge the borrower an origination fee of 2.0 percent of the principal amount of the loan, in the case of Federal Direct Stafford/Ford Loans.".

SEC. 7005. SECRETARY'S EQUITABLE SHARE.

Section 428(c)(6)(A)(ii) of the Higher Education Act of 1965 (20 U.S.C. 1078(c)(6)(A)(ii) is amended by striking "27 percent" and inserting "18.5 percent".

SEC. 7006. FUNDS FOR ADMINISTRATIVE EXPENSES.

The first sentence of section 458(a) of the Higher Education Act of 1965 (20 U.S.C. 1087h(a)) is amended by striking "$260,000,000" and all that follows through the end of the sentence and inserting "$532,000,000 in fiscal year 1998, $610,000,000 in fiscal year 1999, $705,000,000 in fiscal year 2000, $750,000,000 in fiscal year 2001, and $750,000,000 in fiscal year 2002.".

SEC. 7007. EXTENSION OF STUDENT AID PROGRAMS.

Title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) is amended—

(1) in section 424(a), by striking "1998." and "2002." and inserting "2002." and "2006.", respectively;

(2) in section 428(a)(5), by striking "1998," and "2002." and inserting "2002," and "2006.", respectively; and

(3) in section 428C(e), by striking "1998." and inserting "2002.".

SEC. 7008. EFFECTIVE DATE.

This subtitle and the amendments made by this subtitle take effect on October 1, 1997.

BAUCUS AMENDMENT NO. 491

Mr. LAUTENBERG (for Mr. BAUCUS) proposed an amendment to the bill, S. 947, supra; as follows:

Section 1916(g)(1) of the Social Security Act, as amended by section 5754, is amended by inserting before the period the following: ", except that no cost-sharing may be imposed with respect to medical assistance provided to an individual who has not attained age 18 if such individual's family income does not exceed 150 percent of the poverty line applicable to a family of the size involved, and if, as of the date of enactment of the Balanced Budget Act of 1997, cost-sharing could not be imposed with respect to medical assistance provided to such individual.".

KENNEDY AMENDMENTS NOS. 492–493

Mr. LAUTENBERG (for Mr. KENNEDY) proposed two amendments to the bill, S. 947, supra; as follows:

AMENDMENT NO. 492

At the appropriate place in section 2102(5) of the Social Security Act as added by section 5801, insert the following: "The benefits shall include additional benefits to meet the needs of children with special needs, including—

"(A) rehabilitation and habilitation services, including occupational therapy, physical therapy, speech and language therapy, and respiratory therapy services;

"(B) mental health services;

"(C) personal care services;

"(D) customized durable medical equipment, orthotics, and prosthetics, as medically necessary; and

"(E) case management services.

"With respect to FEHBP-equivalent children's health insurance coverage, services otherwise covered under the coverage involved that are medically necessary to maintain, improve, or prevent the deterioration of the physical, developmental, or mental health of the child may not be limited with respect to scope and duration, except to the degree that such services are not medically necessary. Nothing in the preceding sentence shall be construed to prevent FEHBP-equivalent children's health insurance coverage from utilizing appropriate utilization review techniques to determine medical necessity or to prevent the delivery of such services through a managed care plan.".

AMENDMENT NO. 493

On page 874, between lines 7 and 8, insert the following:

SEC. 5817A. SSI ELIGIBILITY FOR SEVERELY DISABLED ALIENS.

Section 402(a)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)), as amended by section 5815, is amended by adding at the end the following:

"(I) SSI EXCEPTION FOR SEVERELY DISABLED ALIENS.—With respect to eligibility for benefits for the program defined in paragraph (3)(A) (relating to the supplemental security income program), paragraph (1), and the September 30, 1997 application deadline under subparagraph (G), shall not apply to any alien who is lawfully present in the United States and who has been denied approval of an application for naturalization by the Attorney General solely on the ground that the alien is so severely disabled that the alien is otherwise unable to satisfy the requirements for naturalization.".

CONRAD AMENDMENT NO. 494

Mr. LAUTENBERG (for Mr. CONRAD) proposed an amendment to the bill, S. 947, supra; as follows:

On page 874, between lines 7 and 8, insert the following:

SEC. 5817A. CONTINUATION OF MEDICAID ELIGIBILITY FOR DISABLED CHILDREN WHO LOSE SSI BENEFITS.

(a) IN GENERAL.—Section 1902(a)(10)(A)(i)(II) (42 U.S.C. 1396a(a)(10)(A)(i)(II)) is amended by inserting "(or were being paid as of the date of enactment of section 211(a) of the Personal Responsibility and Work Opportunity Act of 1996 (Public Law 104–193; 110 Stat. 2188) and would continue to be paid but for the enactment of that section)" after "title XVI".

(b) OFFSET.—Section 2103(b) of the Social Security Act (as added by section 5801) is amended—

(1) in paragraph (2), by striking "and" at the end;

(2) in paragraph (3), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(4) the amendment made by section 5817A(a) of the Balanced Budget Act of 1997 (relating to continued eligibility for certain disabled children).".

(c) EFFECTIVE DATE.—The amendment made by subsection (a) applies to medical assistance furnished on or after July 1, 1997.

CONRAD AMENDMENT NO. 495

Mr. LAUTENBERG (for Mr. CONRAD) proposed an amendment to the bill, S. 947, supra; as follows:

On page 844, between lines 7 and 8, insert the following:

SEC. ___. REMOVAL OF NAME FROM NURSE AIDE REGISTRY.

(a) MEDICARE.—Section 1819(g)(1)(C) of the Social Security Act (42 U.S.C. 1395i-3(g)(1)(C)) is amended—

(1) in the first sentence by striking "The State" and inserting "(i) The State"; and

(2) by adding at the end the following:

"(ii)(I) In the case of a finding of neglect, the State shall establish a procedure to permit a nurse aide to petition the State to have his or her name removed from the registry upon a determination by the State that—

"(aa) the employment and personal history of the nurse aide does not reflect a pattern of abusive behavior or neglect; and

"(bb) the neglect involved in the original finding was a singular occurrence.

"(II) In no case shall a determination on a petition submitted under clause (I) be made prior to the expiration of the 1-year period beginning on the date on which the name of the petitioner was added to the registry under this subparagraph.".

(b) MEDICAID.—Section 1919(g)(1)(C) of the Social Security Act (42 U.S.C. 1396r(g)(1)(C)) is amended—

(1) in the first sentence by striking "The State" and inserting "(i) The State"; and

(2) by adding at the end the following:

"(ii)(I) In the case of a finding of neglect, the State shall establish a procedure to permit a nurse aide to petition the State to have his or her name removed from the registry upon a determination by the State that—

"(aa) the employment and personal history of the nurse aide does not reflect a pattern of abusive behavior or neglect; and

"(bb) the neglect involved in the original finding was a singular occurrence.

"(II) In no case shall a determination on a petition submitted under clause (I) be made prior to the expiration of the 1-year period beginning on the date on which the name of the petitioner was added to the registry under this subparagraph.".

(c) RETROACTIVE REVIEW.—The procedures developed by a State under the amendments made by subsection (a) and (b) shall permit an individual to petition for a review of any finding made by a State under section 1819(g)(1)(C) or 1919(g)(1)(C) of the Social Security Act (42 U.S.C. 1395i-3(g)(1)(C) or 1396r(g)(1)(C)) after January 1, 1995.

(d) STUDY AND REPORT.—

(1) STUDY.—The Secretary of Health and Human Services shall conduct a study of—

(A) the use of nurse aide registries by States, including the number of nurse aides placed on the registries on a yearly basis and the circumstances that warranted their placement on the registries;

(B) the extent to which institutional environmental factors (such as a lack of adequate training or short staffing) contribute to cases of abuse and neglect at nursing facilities; and

(C) whether alternatives (such as a probational period accompanied by additional training or mentoring or sanctions on facilities that create an environment that encourages abuse or neglect) to the sanctions that are currently applied under the Social Security Act for abuse and neglect at nursing facilities might be more effective in minimizing future cases of abuse and neglect.

(2) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary of Health and Human Services shall prepare and submit to the appropriate committees of Congress, a report concerning the results of the study conducted under paragraph (1) and the recommendation of the Secretary for legislation based on such study.

KERREY AMENDMENT NO. 496

Mr. LAUTENBERG (for Mr. KERREY) proposed an amendment to the bill, S. 947, supra; as follows:

On page 860, strike all matter after line 10 and before line 15, and insert the following:

"(d) USE LIMITED TO STATE PROGRAM EXPENDITURES.—Funds provided to an eligible State under this title shall only be used to carry out the purposes of this title.

KOHL AMENDMENT NO. 497

Mr. LAUTENBERG (for Mr. KOHL) proposed an amendment to the bill, S. 947, supra; as follows:

On page 743, line 6, strike the period and insert "(but that shall not preempt any State standards that are more stringent than the standards established under this subparagraph).".

HARKIN AMENDMENT NO. 498

Mr. LAUTENBERG (for Mr. HARKIN) proposed an amendment to the bill, S. 947, supra; as follows:

On page 888, between lines 22 and 23, insert the following:

"(VI) Technical assistance and related services that lead to self-employment through the microloan demonstration program under section 7(m) of the Small Business Act (15 U.S.C. 636(m))

DOMENICI AMENDMENT NO. 499

Mr. DOMENICI proposed an amendment to the bill, S. 947, supra; as follows:

Strike sections 5811 through 5814 and insert the following:

SEC. 5812. EXTENSION OF ELIGIBILITY PERIOD FOR REFUGEES AND CERTAIN OTHER QUALIFIED ALIENS FROM 5 TO 7 YEARS FOR SSI AND MEDICAID.

(a) SSI.—Section 402(a)(2)(A) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)(A)) is amended to read as follows:

"(A) TIME-LIMITED EXCEPTION FOR REFUGEES AND ASYLEES.—

"(i) SSI.—With respect to the specified Federal program described in paragraph (3)(A) paragraph 1 shall not apply to an alien until 7 years after the date—

"(I) an alien is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act;

"(II) an alien is granted asylum under section 208 of such Act; or

"(III) an alien's deportation is withheld under section 243(h) of such Act.

"(ii) FOOD STAMPS.—With respect to the specified Federal program described in paragraph (3)(B), paragraph 1 shall not apply to an alien until 5 years after the date—

"(I) an alien is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act;

"(II) an alien is granted asylum under section 208 of such Act; or

"(III) an alien's deportation is withheld under section 243(h) of such Act.".

(b) MEDICAID.—Section 402(b)(2)(A) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(b)(2)(A)) is amended to read as follows:

"(A) TIME-LIMITED EXCEPTION FOR REFUGEES AND ASYLEES.—

"(i) MEDICAID.—With respect to the designated Federal program described in paragraph (3)(C), paragraph 1 shall not apply to an alien until 7 years after the date—

"(I) an alien is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act;

"(II) an alien is granted asylum under section 208 of such Act; or

"(III) an alien's deportation is withheld under section 243(h) of such Act.

"(ii) OTHER DESIGNATED FEDERAL PROGRAMS.—With respect to the designated Federal programs under paragraph (3) (other than subparagraph (C)), paragraph 1 shall not apply to an alien until 5 years after the date—

"(I) an alien is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act;

"(II) an alien is granted asylum under section 208 of such Act; or

"(III) an alien's deportation is withheld under section 243(h) of such Act.".

(c) STATUS OF CUBAN AND HAITIAN ENTRANTS.—For purposes of sections 402(a)(2)(A) and 402(b)(2)(A) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)(A), (b)(2)(A)), an alien who is a Cuban and Haitian entrant, as defined in section 501(e) of the Refugee Education Assistance Act of 1980, shall be considered a refugee.

SEC. 5813. SSI ELIGIBILITY FOR PERMANENT RESIDENT ALIENS WHO ARE MEMBERS OF AN INDIAN TRIBE.

Section 402(a)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)) (as amended by section 5811) is amended by adding at the end the following:

"(F) PERMANENT RESIDENT ALIENS WHO ARE MEMBERS OF AN INDIAN TRIBE.—With respect to eligibility for benefits for the program defined in paragraph (3)(A) (relating to the supplemental security income program), paragraph (1) shall not apply to an alien who—

"(i) is lawfully admitted for permanent residence under the Immigration and Nationality Act; and

"(ii) is a member of an Indian tribe (as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act).".

SEC. 5814. SSI ELIGIBILITY FOR DISABLED LEGAL ALIENS IN THE UNITED STATES ON AUGUST 22, 1996.

(a) Section 402(a)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)) (as amended by section 5813) is amended by adding at the end the following:

"(G) SSI ELIGIBILITY FOR DISABLED ALIENS.—With respect to eligibility for benefits for the program defined in paragraph (3)(A) (relating to the supplemental security income program), paragraph (1) shall not apply—

"(i) to an alien who—

"(I) is lawfully residing in any State on August 22, 1996; and

"(II) is disabled, as defined in section 1614(a)(3) of the Social Security Act (42 U.S.C. 1382c(a)(3)); or

"(i) to an alien who—

"(I) is lawfully residing in any State after such date;

"(II) is disabled (as so defined); and

"(III) as of June 1, 1997, is receiving benefits under such program.".

(b) Funds shall be made available for not to exceed 2 years for elderly SSI recipients made ineligible for benefits after August 22, 1996.

CHAFEE (AND ROCKEFELLER) AMENDMENT NOS. 500–501

Mr. DOMENICI (for Mr. CHAFEE for himself and Mr. ROCKEFELLER) proposed two amendments to the bill, S. 947, supra; as follows:

AMENDMENT NO. 500

On page 847, beginning on line 1, strike "and that otherwise satisfies State insurance standards and requirements." and insert "that includes hearing and vision services for children, and that otherwise satisfies State insurance standards and requirements.".

AMENDMENT NO. 501

On page 861, after line 26, add the following:

"(4) HEARING AND VISION SERVICES.—Notwithstanding the definition of FEHBP-equivalent children's health insurance coverage in section 2102(5), any package of health insurance benefits offered by a State that opts to use funds provided under this title under this section shall include hearing and vision services for children.".

D'AMATO AMENDMENT NO. 502

Mr. ROTH (for Mr. D'AMATO) proposed an amendment to the bill, S. 947, supra; as follows:

SECTION 1. In 42 U.S.C. §1395ss(d)(3)(A)(v), insert "(a)" before "For", and after the first sentence insert:

"(b) For purposes of this subparagraph, a health insurance policy (which may be a contract with a health maintenance organization) is not considered to "duplicate" health benefits under this title or title XIX or under another health insurance policy if it—

(I) provides comprehensive health care benefits that replace the benefits provided by another health insurance policy,

(II) is being provided to an individual entitled to benefits under Part A or enrolled under Part B on the basis of section 226(b), and

(III) coordinates against items and services available or paid for under this title or title XIX, provided that payments under this title or title XIX shall not be treated as payments under such policy in determining annual or lifetime benefit limits.

SEC 2. In 42 U.S.C. §1395ss(d)(3)(A)(v), insert "(c)" before "For purposes of this clause".

ROCKEFELLER AMENDMENT NO. 503

Mr. LAUTENBERG (for Mr. ROCKEFELLER) proposed an amendment to the bill, S. 947, supra; as follows:

At the appropriate place in division 2 of title V, insert the following:

SEC. . EXTENSION OF SLMB PROTECTION.

(a) IN GENERAL.—Section 1902(a)(10)(E)(iii) (42 U.S.C. 1396a(a)(10)(E)(iii)) is amended by striking "and 120 percent in 1995 and years thereafter" and inserting ", 120 percent in 1995 through 1997, 125 percent in 1998, 130 percent in 1999, 135 percent in 2000, 140 percent in 2001, 145 percent in 2002, and 150 percent in 2003 and years thereafter".

(b) 100 PERCENT FMAP.—Section 1905(b) (42 U.S.C. 1396d(b)) is amended by adding at the end the following: "Notwithstanding the first sentence of this section, the Federal medical assistance percentage shall be 100 percent with respect to amounts expended as medical assistance for medical assistance described in section 1902(a)(10)(E)(iii) for individuals described in such section whose income exceeds 120 percent of the official poverty line referred to in such section.".

(c) EFFECTIVE DATE.—The amendments made by this section apply on and after October 1, 1997.

KENNEDY AMENDMENT NO. 504

Mr. LAUTENBERG (for Mr. KENNEDY) proposed an amendment to the bill, S. 947, supra; as follows:

Strike section 5361 and insert the following:

SEC. 5361. ESTABLISHMENT OF POST-HOSPITAL HOME HEALTH BENEFIT UNDER PART A AND TRANSFER OF OTHER HOME HEALTH SERVICES TO PART B.

(a) IN GENERAL.—Section 1812(a)(3) (42 U.S.C. 1395D(a)(3)) is amended—

(1) by inserting "post-hospital" before "home health services", and

(2) by inserting "for up to 100 visits" before the semicolon.

(b) POST-HOSPITAL HOME HEALTH SERVICES.—Section 1861 (42 U.S.C. 1395x), as amended by sections 5102(a) and 5103(a), is amended by adding at the end the following:

"(qq) POST-HOSPITAL HOME HEALTH SERVICES.—The term 'post-hospital home health services' means home health services furnished to an individual under a plan of treatment established when the individual was an inpatient of a hospital or rural primary care hospital for not less than 3 consecutive days before discharge, or during a covered post-hospital extended care stay, if home health services are initiated for the individual within 30 days after discharge from the hospital, rural primary care hospital or extended care facility.".

(c) CONFORMING AMENDMENTS.—Section 1812(b) (42 U.S.C. 1395d(b)) is amended—

(1) by striking "or" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting ";or", and

(3) by adding after paragraph (3) the following:

"(4) post-hospital home health services furnished to the individual beginning after such services have been furnished to the individual for a total of 100 visits.".

(d) PHASE-IN OF ADDITIONAL PART B COSTS IN DETERMINATION OF PART B MONTHLY PREMIUM.—Section 1839(a) (42 U.S.C. 1395r(a)) is amended—

(1) in paragraph (3) in the sentence inserted by section 5541 of this title, by inserting "(except as provided in paragraph (5)(B))" before the period, and

(2) by adding after paragraph (4) the following:

"(5)(A) The Secretary shall, at the time of determining the monthly actuarial rate under paragraph (1) for 1998 through 2003, shall determine a transitional monthly actuarial rate for enrollees age 65 and over in the same manner as such rate is determined under paragraph (1), except that there shall be excluded from such determination an estimate of any benefits and administrative costs attributable to home health services for which payment would have been made under part A during the year but for paragraph (4) of section 1812(b).

"(B) The monthly premium for each individual enrolled under this part for each month for a year (beginning with 1998 and ending with 2003) shall be equal to 50 percent of the monthly actuarial rate determined under subparagraph (A) increased by the following proportion of the difference between such premium and the monthly premium otherwise determined under paragraph (3) (without regard to this paragraph):

"(i) For a month in 1998, 1/7.

"(ii) For a month in 1999, 2/7.

"(iii) For a month in 2000, 3/7.

"(iv) For a month in 2001, 4/7.

"(v) For a month in 2002, 5/7.

"(vi) For a month in 2003, 6/7.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section apply to services furnished on or after October 1, 1997.

(2) SPECIAL RULE.—If an individual is entitled to benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.), but is not enrolled in the insurance program established by part B of that title, the individual also shall be entitled under part A of that title to home health services that are not post-hospital home health services (as those terms are defined under that title) furnished before the 19th month that begins after the date of enactment of this Act.

LOTT AMENDMENT NO. 505

Mr. ROTH (for Mr. LOTT) proposed an amendment to amendment No. 448 proposed by Mr. CHAFEE to the bill, S. 947, supra; as follows:

On page 1, line 6 of the amendment, strike "means," and all that follows and insert the following: "means, with respect to a State, any plan or arrangement that provides, or pays the cost of, health benefits that the Secretary has certified are equivalent to or better than the items and services covered for a child under one of the 5 plans under chapter 89 of title 5, United States Code, serving the largest number of enrolled families with children in a State, and that otherwise satisfies State insurance standards and requirements.

"(6) INDIANS.—The term 'Indians' has the meaning given that term in section 4(c) of the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.).

"(7) LOW-INCOME CHILD.—The term 'low-income child' means a child in a family whose income is below 200 percent of the poverty line for a family of the size involved.

"(8) POVERTY LINE.—The term 'poverty line' has the meaning given that term in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by such section.

"(9) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services.

"(10) STATE.—The term 'State' means each of the 50 States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands.

"(11) STATE CHILDREN'S HEALTH EXPENDITURES.—The term 'State children's health expenditures' means the State share of expenditures by the State for providing children with health care items and services under—

"(A) the State plan for medical assistance under title XIX;

"(B) the maternal and child health services block grant program under title V;

"(C) the preventive health services block grant program under part A of title XIX of the Public Health Services Act (42 U.S.C. 300w et seq.);

"(D) State-funded programs that are designed to provide health care items and services to children;

"(E) school-based health services programs;

"(F) State programs that provide uncompensated or indigent health care;

"(G) county-indigent care programs for which the State requires a matching share by a county government or for which there are intergovernmental transfers from a county to State government; and

"(H) any other program under which the Secretary determines the State incurs uncompensated expenditures for providing children with health care items and services.

"(12) STATE MEDICAID PROGRAM.—The term 'State medicaid program' means the program of medical assistance provided under title XIX.

"SEC. 2103. APPROPRIATION.

"(a) APPROPRIATION.—

"(1) IN GENERAL.—Subject to subsection (b), out of any money in the Treasury of the United States not otherwise appropriated, there is appropriated for the purpose of carrying out this title—

"(A) for fiscal year 1998, $2,500,000,000;

"(B) for each of fiscal years 1999 and 2000, $3,200,000,000;

"(C) for fiscal year 2001, $3,600,000,000;

"(D) for fiscal year 2002, $3,500,000,000;

"(E) for each of fiscal years 2003 through 2007, $4,580,000,000.

"(2) AVAILABILITY.—Funds appropriated under this section shall remain available without fiscal year limitation, as provided under section 2105(b)(4).

"(b) REDUCTION FOR INCREASED MEDICAID EXPENDITURES.—With respect to each of the fiscal years described in subsection (a)(1), the amount appropriated under subsection (a)(1) for each such fiscal year shall be reduced by an amount equal to the amount of the total Federal outlays under the medicaid program under title XIX resulting from—

"(1) the amendment made by section 5732 of the Balanced Budget Act of 1997 (regarding the State option to provide 12-month continuous eligibility for children);

"(2) increased enrollment under State plans approved under such program as a result of outreach activities under section 2106(a); and

"(3) the requirement under section 2102(3)A) to provide eligibility for medical assistance under the State plan under title XIX for all children under 19 years of age who have families with income that is at or below the poverty line.

"(c) STATE ENTITLEMENT.—This title constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide for the payment to States of amounts provided in accordance with the provisions of this title.

"(d) EFFECTIVE DATE.—No State is eligible for payments under section 2105 for any calendar quarter beginning before October 1, 1997.

"SEC. 2104. PROGRAM OUTLINE.

"(a) GENERAL DESCRIPTION.—A State shall submit to the Secretary for approval a program outline, consistent with the requirements of this title, that—

"(1) identifies, on or after the date of enactment of the Balanced Budget Act of 1997, which of the 2 options described in section 2101 the State intends to use to provide low-income children in the State with health insurance coverage;

"(2) describes the manner in which such coverage shall be provided; and

"(3) provides such other information as the Secretary may require.

"(b) OTHER REQUIREMENTS.—The program outline submitted under this section shall include the following:

"(1) ELIGIBILITY STANDARDS AND METHODOLOGIES.—A summary of the standards and methodologies used to determine the eligibility of low-income children for health insurance coverage under a State program funded under this title.

"(2) ELIGIBILITY SCREENING; COORDINATION WITH OTHER HEALTH COVERAGE.—A description of the procedures to be used to ensure—

"(A) through both intake and followup screening, that only low-income children are furnished health insurance coverage through funds provided under this title; and

"(B) that any health insurance coverage provided for children through funds under this title does not reduce the number of children who are provided such coverage through any other publicly or privately funded health plan.

"(3) INDIANS.—A description of how the State will ensure that Indians are served through a State program funded under this title.

"(c) DEADLINE FOR SUBMISSION.—A State program outline shall be submitted to the Secretary by not later than March 31 of any fiscal year (October 1, 1997, in the case of fiscal year 1998).

"SEC. 2105. DISTRIBUTION OF FUNDS.

"(a) ESTABLISHMENT OF FUNDING POOLS.—

"(1) IN GENERAL.—From the amount appropriated under section 2103(a)(1) for each fiscal year, determined after the reduction required under section 2103(b), the Secretary shall, for purposes of fiscal year 1998, reserve 85 percent of such amount for distribution to eligible States through the basic allotment pool under subsection (b) and 15 percent of such amount for distribution through the new coverage incentive pool under subsection (c)(2)(B)(ii).

"(2) ANNUAL ADJUSTMENT OF RESERVE PERCENTAGES.—The Secretary shall annually adjust the amount of the percentages described in paragraph (1) in order to provide sufficient basic allotments and sufficient new coverage incentives to achieve the purpose of this title.

"(b) DISTRIBUTION OF FUNDS UNDER THE BASIC ALLOTMENT POOL.—

"(1) STATES.—

"(A) IN GENERAL.—From the total amount reserved under subsection (a) for a fiscal year for distribution through the basic allotment pool, the Secretary shall first set aside 0.25 percent for distribution under paragraph (2) and shall allot from the amount remaining to each eligible State not described in such paragraph the State's allotment percentage for such fiscal year.

"(B) STATE'S ALLOTMENT PERCENTAGE.—

"(i) IN GENERAL.—For purposes of subparagraph (A), the allotment percentage for a fiscal year for each State is the percentage equal to the ratio of the number of low-income children in the base period in the State to the total number of low-income children in the base period in all States not described in paragraph (2).

"(ii) NUMBER OF LOW-INCOME CHILDREN IN THE BASE PERIOD.—In clause (i), the number of low-income children in the base period for a fiscal year in a State is equal to the average of the number of low-income children in the State for the period beginning on October 1, 1992, and ending on September 30, 1995, as reported in the March 1994, March 1995, and March 1996 supplements to the Current Population Survey of the Bureau of the Census.

"(2) OTHER STATES.—

"(A) IN GENERAL.—From the amount set aside under paragraph (1)(A) for each fiscal year, the Secretary shall make allotments for such fiscal year in accordance with the percentages specified in subparagraph (B) to Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands, if such States are eligible States for such fiscal year.

"(B) PERCENTAGES SPECIFIED.—The percentages specified in this subparagraph are in the case of—

"(i) Puerto Rico, 91.6 percent;

"(ii) Guam, 3.5 percent;

"(iii) the Virgin Islands, 2.6 percent;

"(iv) American Samoa, 1.2 percent; and

"(v) the Northern Mariana Islands, 1.1 percent.

"(3) THREE-YEAR AVAILABILITY OF AMOUNTS ALLOTTED.—Amounts allotted to a State pursuant to this subsection for a fiscal year shall remain available for expenditure by the State through the end of the second succeeding fiscal year.

"(4) PROCEDURE FOR DISTRIBUTION OF UNUSED FUNDS.—The Secretary shall determine an appropriate procedure for distribution of funds to eligible States that remain unused under this subsection after the expiration of the availability of funds required under paragraph (3). Such procedure shall be developed and administered in a manner that is consistent with the purpose of this title.

"(c) PAYMENTS.—

"(1) IN GENERAL.—The Secretary shall—

"(A) before October 1 of any fiscal year, pay an eligible State an amount equal to 1 percent of the amount allotted to the State under subsection (b) for conducting the outreach activities required under section 2106(a); and

"(B) make quarterly fiscal year payments to an eligible State from the amount remaining of such allotment for such fiscal year in an amount equal to the Federal medical assistance percentage for the State (as defined under section 2102(4) and determined without regard to the amount of Federal funds received by the State under title XIX before the date of enactment of this title) of the Federal and State incurred cost of providing health insurance coverage for a low-income child in the State plus the applicable bonus amount.

"(2) APPLICABLE BONUS.—

"(A) IN GENERAL.—For purposes of paragraph (1), the applicable bonus amount is—

"(i) 5 percent of the Federal and State incurred cost, with respect to a period, of providing health insurance coverage for children covered at State option among the base-year covered low-income child population (measured in full year equivalency) (including such children covered by the State through expanded eligibility under the medicaid program under title XIX before the date of enactment of this title, but excluding any low-income child described in section 2102(3)(A) that a State must cover in order to be considered an eligible State under this title); and

"(ii) 10 percent of the Federal and State incurred cost, with respect to a period, of providing health insurance coverage for children covered at State option among the number (as so measured) of low-income children that are in excess of such population.

"(B) SOURCE OF BONUSES.—

"(i) BASE-YEAR COVERED LOW-INCOME CHILD POPULATION.—A bonus described in subparagraph (A)(i) shall be paid out of an eligible State's allotment for a fiscal year.

"(ii) FOR OTHER LOW-INCOME CHILD POPULATIONS.—A bonus described in subparagraph (A)(ii) shall be paid out of the new coverage incentive pool reserved under subsection (a)(1).

"(3) DEFINITION OF COST OF PROVIDING HEALTH INSURANCE COVERAGE.—For purposes of this subsection the cost of providing health insurance coverage for a low-income child in the State means—

"(A) in the case of an eligible State that opts to use funds provided under this title through the medicaid program, the cost of providing such child with medical assistance under the State plan under title XIX; and

"(B) in the case of an eligible State that opts to use funds provided under this title under section 2107, the cost of providing such child with health insurance coverage under such section.

"(4) LIMITATION ON TOTAL PAYMENTS.—With respect to a fiscal year, the total amount paid to an eligible State under this title (including any bonus payments) shall not exceed 85 percent of the total cost of a State program conducted under this title for such fiscal year.

"(5) MAINTENANCE OF EFFORT.—

"(A) DEEMED COMPLIANCE.—A State shall be deemed to be in compliance with this provision if—

"(i) it does not adopt income and resource standards and methodologies that are more restrictive than those applied as of June 1, 1997, for purposes of determining a child's eligibility for medical assistance under the State plan under title XIX; and

"(ii) in the case of fiscal year 1998 and each fiscal year thereafter, the State children's health expenditures defined in section 2102(11) are not less than the amount of such expenditures for fiscal year 1996.

"(B) FAILURE TO MAINTAIN MEDICAID STANDARDS AND METHODOLOGIES.—A State that fails to meet the conditions described in subparagraph (A) shall not receive—

"(i) funds under this title for any child that would be determined eligible for medical assistance under the State plan under title XIX using the income and resource standards and methodologies applied under such plan as of June 1, 1997; and

"(ii) any bonus amounts described in paragraph (2)(A)(ii).

"(C) FAILURE TO MAINTAIN SPENDING ON CHILD HEALTH PROGRAMS.—A State that fails to meet the condition described in subparagraph (A)(ii) shall not receive funding under this title.

"(6) ADVANCE PAYMENT; RETROSPECTIVE ADJUSTMENT.—The Secretary may make payments under this subsection for each quarter on the basis of advance estimates of expenditures submitted by the State and such other investigation as the Secretary may find necessary, and shall reduce or increase the payments as necessary to adjust for any overpayment or underpayment for prior quarters.

"SEC. 2106. USE OF FUNDS.

"(a) SET-ASIDE FOR OUTREACH ACTIVITIES.—

"(1) IN GENERAL.—From the amount allotted to a State under section 2105(b) for a fiscal year, each State shall conduct outreach activities described in paragraph (2).

"(2) OUTREACH ACTIVITIES DESCRIBED.—The outreach activities described in this paragraph include activities to—

"(A) identify and enroll children who are eligible for medical assistance under the State plan under title XIX; and

"(B) conduct public awareness campaigns to encourage employers to provide health insurance coverage for children.

"(b) STATE OPTIONS FOR REMAINDER.—A State may use the amount remaining of the allotment to a State under section 2105(b) for a fiscal year, determined after the payment required under section 2105(c)(1)(A), in accordance with section 2107 or the State medicaid program (but not both). Nothing in the preceding sentence shall be construed as limiting a State's eligibility for receiving the 5 percent bonus described in section 2105(c)(2)(A)(i) for children covered by the State through expanded eligibility under the medicaid program under title XIX before the date of enactment of this title.

"(c) PROHIBITION ON USE OF FUNDS.—No funds provided under this title may be used to provide health insurance coverage for—

"(1) families of State public employees; or

"(2) children who are committed to a penal institution.

"(d) USE LIMITED TO STATE PROGRAM EXPENDITURES.—Funds provided to an eligible State under this title shall only be used to carry out the purpose of this title (as described in section 2101), and any health insurance coverage provided with such funds may include coverage of abortion only if necessary to save the life of the mother or if the pregnancy is the result of an act of rape or incest.

"(e) ADMINISTRATIVE EXPENDITURES.—

"(1) IN GENERAL.—Not more than the applicable percentage of the amount allotted to a State under section 2105(b) for a fiscal year, determined after the payment required under section 2105(c)(1)(A), shall be used for administrative expenditures for the program funded under this title.

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage with respect to a fiscal year is—

"(A) for the first 2 years of a State program funded under this title, 10 percent;

"(B) for the third year of a State program funded under this title, 7.5 percent; and

"(C) for the fourth year of a State program funded under this title and each year thereafter, 5 percent.

"(f) NONAPPLICATION OF FIVE-YEAR LIMITED ELIGIBILITY FOR MEANS-TESTED PUBLIC BENEFITS.—The provisions of section 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613) shall not apply with respect to a State program funded under this title.

"(g) AUDITS.—The provisions of section 506(b) shall apply to funds expended under this title to the same extent as they apply to title V.

"(h) REQUIREMENT TO FOLLOW STATE PROGRAM OUTLINE.—The State shall conduct the program in accordance with the program outline approved by the Secretary under section 2104.

"SEC. 2107. STATE OPTION FOR THE PURCHASE OR PROVISION OF CHILDREN'S HEALTH INSURANCE.

"(a) STATE OPTION.—

"(1) IN GENERAL.—An eligible State that opts to use funds provided under this title under this section shall use such funds to provide FEHBP-equivalent children's health insurance coverage for low-income children who reside in the State.

"(2) PRIORITY FOR LOW-INCOME CHILDREN.—A State that uses funds provided under this title under this section shall not cover low-income children with higher family income without covering such children with a lower family income.

"(3) DETERMINATION OF ELIGIBILITY AND FORM OF ASSISTANCE.—An eligible State may establish any additional eligibility criteria for the provision of health insurance coverage for a low-income child through funds provided under this title, so long as such criteria and assistance are consistent with the purpose and provisions of this title.

"(4) AFFORDABILITY.—An eligible State may impose any family premium obligations or cost-sharing requirements otherwise permitted under this title on low-income children with family incomes that exceed 150 percent of the poverty line. In the case of a low-income child whose family income is at or below 150 percent of the poverty line, limits on beneficiary costs generally applicable under title XIX apply to coverage provided such children under this section.

"(5) Coverage of certain benefits.—Any eligible State that opts to use funds provided under this title under this section for the coverage described in paragraph (1) is encouraged to include as part of such coverage, coverage for items and services needed for vision, hearing, and dental health."

ROTH AMENDMENT NO. 506

Mr. ROTH proposed an amendment to the bill, S. 947, supra; as follows:

On page 568, beginning with line 9, strike all through line 25 on page 569 and insert the following:

(a) In General.—Section 1886(b)(3)(B)(ii) (42 U.S.C. 1395ww(b)(3)(B)(ii)) is amended—

(1) by striking "and" at the end of subclause (V);

(2) by redesignating subclause (VI) as subclause (VIII); and

(3) by inserting after subclause (V), the following subclauses:

"(VI) for fiscal years 1998 through 2001, is 0 percent;

"(VII) for fiscal year 2002, is the market basket percentage increase minus 3.0 percentage points, and".

On page 571, strike lines 5 through 21 and insert the following:

"(F)(i) Except as provided in clause (ii), in the case of a hospital or unit that is within a class of hospital described in clause (iii), for cost reporting periods beginning on or after October 1, 1997, and before October 1, 2002, such target amount may not be greater than the 75th percentile of the target amounts for such hospitals within such class for cost reporting periods beginning during that fiscal year (determined without regard to clause (ii)).

"(ii) In the case of a hospital or unit—

"(I) that is within a class of hospital described in clause (iii); and

"(II) whose operating costs of inpatient hospital services recognized under this title for the most recent cost reporting period for which information is available are less than the target amount for the hospital or unit under clause (i) (determined without regard to this clause) for its cost reporting period beginning on or after October 1, 1997, and before October 1, 1998,

clause (i) shall be applied for cost reporting periods beginning on or after October 1, 1997, and before October 1, 2002, by substituting for the dollar limit on the target amounts established under such clause for such period a dollar limit that is equal to the greater of 90 percent of such dollar limit or the operating costs of the hospital or unit determined under subclause (II).

"(iii) For purposes of this subparagraph, each of the following shall be treated as a separate class of hospital:

"(I) Hospitals described in clause (i) of subsection (d)(1)(B) and psychiatric units described in the matter following clause (v) of such subsection.

"(II) Hospitals described in clause (ii) of such subsection and rehabilitation units described in the matter following clause (v) of such subsection.

"(III) Hospitals described in clause (iv) of such subsection.".

On page 571, beginning with line 23, strike all through page 572, line 7, and insert the following:

(a) Change in Bonus Payment.—Section 1886(b)(1)(A) (42 U.S.C. 1395ww(b)(1)(A)) is amended by striking all that follows "plus—" and inserting the following:

"(i) in the case of a hospital with a target amount that is less than 135 percent of the median of the target amounts for hospitals in the same class of hospital, the lesser of 40 percent of the amount by which the target amount exceeds the amount of the operating costs or 4 percent of the target amount;

"(ii) in the case of a hospital with a target amount that equals or exceeds 135 of such median but is less than 150 percent of such median, the lesser of 30 percent of the amount by which the target amount exceeds the amount of the operating costs or 3 percent of the target amount; and

"(iii) in the case of a hospital with a target amount that equals or exceeds 150 of such median, the lesser of 20 percent of the amount by which the target amount exceeds the amount of the operating costs or 2 percent of the target amount; or".

On page 574, line 6, strike "130 percent" and insert "110 percent".

On page 575, line 4, strike "130 percent" and insert "110 percent".

On page 575, line 23, strike "130 percent" and insert "110 percent".

On page 576, between lines 13 and 14, insert the following:

SEC. 5426A. REBASING.

Section 1886(b)(3) (42 U.S.C. 1395ww(b)(3)), as amended by section 5423, is amended by adding at the end the following:

"(G)(i) In the case of a hospital (or unit described in the matter following clause (v) of subsection (d)(1)(B)) that received payment under this subsection for inpatient hospital services furnished before January 1, 1990, that is within a class of hospital described in clause (iii), and that elects (in a form and manner determined by the Secretary) this subparagraph to apply to the hospital, the target amount for the hospital's 12-month cost reporting period beginning during fiscal year 1998 is equal to the average described in clause (ii).

"(ii) The average described in this clause for a hospital or unit shall be determined by the Secretary as follows:

"(I) The Secretary shall determine the allowable operating costs for inpatient hospital services for the hospital or unit for each of the 5 cost reporting periods for which the Secretary has the most recent settled cost reports as of the date of the enactment of this subparagraph.

"(II) The Secretary shall increase the amount determined under subclause (I) for each cost reporting period by the applicable percentage increase under subparagraph (B)(ii) for each subsequent cost reporting period up to the cost reporting period described in clause (i).

"(III) The Secretary shall identify among such 5 cost reporting periods the cost reporting periods for which the amount determined under subclause (II) is the highest, and the lowest.

"(IV) The Secretary shall compute the averages of the amounts determined under subclause (II) for the 3 cost reporting periods not identified under subclause (III).

"(iii) For purposes of this subparagraph, each of the following shall be treated as a separate class of hospital:

"(I) Hospitals described in clause (i) of subsection (d)(1)(B) and psychiatric units described in the matter following clause (v) of such subsection.

"(II) Hospitals described in clause (ii) of such subsection and rehabilitation units described in the matter following clause (v) of such subsection.

"(III) Hospitals described in clause (iii) of such subsection.

"(IV) Hospitals described in clause (iv) of such subsection.

"(V) Hospitals described in clause (v) of such subsection.".

On page 607, between lines 20 and 21, insert the following:

(c) Exclusion of Certain Wages.—In the case of a hospital that is owned by a municipality and that was reclassified as an urban hospital under section 1886(d)(10) of the Social Security Act for fiscal year 1996, in calculating the hospital's average hourly wage for purposes of geographic reclassification under such section for fiscal year 1998, the Secretary of Health and Human Services shall exclude the general service wages and hours of personnel associated with a skilled nursing facility that is owned by the hospital of the same municipality and that is physically separated from the hospital to the extent that such wages and hours of such personnel are not shared with the hospital and are separately documented. A hospital that applied for and was denied reclassification as an urban hospital for fiscal year 1998, but that would have received reclassification had the exclusion required by this section been applied to it, shall be reclassified as an urban hospital for fiscal year 1998.

Beginning on page 831, strike line 11 and all that follows through page 832, line 13 and insert the following:

SEC. 5758. STUDY AND GUIDELINES REGARDING MANAGED CARE ORGANIZATIONS AND INDIVIDUALS WITH SPECIAL HEALTH CARE NEEDS.

(a) Study and Recommendations.—The Secretary of Health and Human Services (in this section referred to as the "Secretary"), in consultation with States, managed care organizations, the National Academy of State Health Policy, representatives of beneficiaries with special health care needs, experts in specialized health care, and others, shall conduct a study and develop the guidelines described in subsection (b). Not later than 2 years after the date of enactment of this Act, the Secretary shall report such guidelines to Congress and make recommendations for implementing legislation.

(b) Guidelines Described.—The guidelines to be developed by the Secretary shall relate to issues such as risk adjustment, solvency, medical necessity definitions, case management, quality controls, adequacy of provider networks, access to specialists (including pediatric specialists and the use of specialists as primary care providers), marketing, compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), speedy grievance and appeals procedures, data collection, and such other matters as the Secretary may determine, as these issues affect care provided to individuals with special health care needs and chronic conditions in capitated managed care or primary care case management plans. The Secretary shall distinguish which guidelines should apply to primary care case management arrangements, to capitated risk sharing arrangements, or to both. Such guidelines should be designed to be used in reviewing State proposals under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) (by waiver request or State plan amendment) to implement mandatory capitated managed care or primary care case management arrangements that enroll beneficiaries with chronic conditions or special health care needs.

On page 843, between lines 10 and 11, insert the following:

SEC. 5766A. WAIVER OF CERTAIN PROVIDER TAX PROVISIONS.

Notwithstanding any other provision of law, taxes, fees, or assessments, as defined in section 1903(w)(3)(A) of the Social Security Act (42 U.S.C. 1396b(w)(3)(A)), that were collected by the State of New York from a health care provider before June 1, 1997, and for which a waiver of the provisions of subparagraph (B) or (C) of section 1903(w)(3) of such Act has been applied for, or that would, but for this paragraph require that such a waiver be applied for, in accordance with subparagraph (E) of such section, and, (if so applied for) upon which action by the Secretary of Health and Human Services (including any judicial review of any such proceeding) has not been completed as of the date of enactment of this Act, are deemed to be permissible health care related taxes and in compliance with the requirements of subparagraphs (B) and (C) of sections 1903(w)(3) of such Act.

SEC. 5766B. CONTINUATION OF STATE-WIDE SECTION 1115 MEDICAID WAIVERS.

(a) IN GENERAL.—Section 1115 of the Social Security Act (42 U.S.C. 1315) is amended by adding at the end the following:

"(d)(1) The provisions of this subsection shall apply to the extension of statewide comprehensive research and demonstration projects (in this subsection referred to as 'waiver project') for which waivers of compliance with the requirements of title XIX are granted under subsection (a). With respect to a waiver project that, but for the enactment of this subsection, would expire, the State at its option may not later than 1 year before the waiver under subsection (a) would expire (acting through the chief executive officer of the State who is operating the project), submit to the Secretary a written request for an extension of such waiver project for up to 2 years.

"(2) The requirements of this paragraph are that the waiver project—

"(A) has been successfully operated for 5 or more years; and

"(B) has been shown, through independent evaluations sponsored by the Health Care Financing Administration, to successfully contain costs and provide access to health care.

"(3)(A) In the case of waiver projects described in paragraph (1)(A), if the Secretary fails to respond to the request within 6 months after the date on which the request was submitted, the request is deemed to have been granted.

"(B) If the request is granted or deemed to have been granted, the deadline for submittal of a final report shall be 1 year after the date on which the waiver project would have expired but for the enactment of this subsection.

"(C) The Secretary shall release an evaluation of each such project not later than 1 year after the date of receipt of the final report.

"(D) Phase-down provisions which were applicable to waiver projects before an extension was provided under this subsection shall not apply.

"(4) The extension of a waiver project under this subsection shall be on the same terms and conditions (including applicable terms and conditions related to quality and access of services, budget neutrality as adjusted for inflation, data and reporting requirements and special population protections), except for any phase down provisions, and subject to the same set of waivers that applied to the project or were granted before the extension of the project under this subsection. The permanent continuation of a waiver project shall be on the same terms and conditions, including financing, and subject to the same set of waivers. No test of budget neutrality shall be applied in the case of projects described in paragraph (2) after that date on which the permanent extension was granted.

"(5) In the case of a waiver project described in paragraph (2), the Secretary, acting through the Health Care Financing Administration shall, deem any State's request to expand medicaid coverage in whole or in part to individuals who have an income at or below the Federal poverty level as budget neutral if independent evaluations sponsored by the Health Care Financing Administration have shown that the State's medicaid managed care program under such original waiver is more cost effective and efficient than the traditional fee-for-service medicaid program that, in the absence of any managed care waivers under this section, would have been provided in the State.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on the date of enactment of this Act.

Beginning on page 869, strike line 21 and all that follows through page 870, line 15 and insert the following:

SEC. 5813. EXCEPTIONS FOR CERTAIN INDIANS FROM LIMITATION ON ELIGIBILITY FOR SUPPLEMENTAL SECURITY INCOME AND MEDICAID BENEFITS.

(a) EXCEPTION FROM LIMITATION ON SSI ELIGIBILITY.—Section 402(a)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)) is amended—

(1) by redesignating subparagraph (D) and subparagraph (E); and

(2) by inserting after subparagraph (C) the following:

"(D) SSI EXCEPTION FOR CERTAIN INDIANS.—With respect to eligibility for benefits for the program defined in paragraph (3)(A) (relating to the supplemental security income program), paragraph (1) shall not apply to any individual—

"(i) who is an American Indian born in Canada to whom the provisions of section 289 of the Immigration and Nationality Act (8 U.S.C. 1358) apply; or

"(ii) who is a member of an Indian tribe (as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).".

(b) EXCEPTION FROM LIMITATION ON MEDICAID ELIGIBILITY.—Section 402(b)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(b)(2)) is amended—

(1) by redesignating subparagraph (D) and subparagraph (E); and

(2) by inserting after subparagraph (C) the following:

"(D) MEDICAID EXCEPTION FOR CERTAIN INDIANS.—With respect to eligibility for benefits for the program defined in paragraph (3)(A) (relating to the medicaid program), paragraph (1) shall not apply to any individual described in subsection (a)(2)(D).".

(c) SSI AND MEDICAID EXCEPTIONS FROM LIMITATION ON ELIGIBILITY OF NEW ENTRANTS.—Section 403(b) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613(b)) is amended by adding at the end the following:

"(3) SSI AND MEDICAID EXCEPTION FOR CERTAIN INDIANS.—An individual described in section 402(a)(2)(D), but only with respect to the programs specified in subsections (a)(3)(A) and (b)(3)(C) of section 402.".

(d) EFFECTIVE DATE.—

(1) SECTION 402.—The amendments made by subsections (a) and (b) shall take effect as though they had been included in the enactment of section 402 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

(2) SECTION 403.—The amendment made by subsection (c) shall take effect as though they had been included in the enactment of section 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

On page 876, line 21, strike "subparagraph (C)(i)" and insert "clauses (i) and (ii) of subparagraph (C)".

On page 877, beginning on line 11, strike "at least" and all that follows through the period and insert the following: "the applicable percentage for the immediately preceding fiscal year, as defined by section 409(a)(7)(B)(ii).".

On page 888, between lines 22 and 23, insert the following flush language:

Contracts or vouchers for job placement services supported by these funds must require that at least ½ of the payment occur after a eligible individual placed into the workforce has been in the workforce for 6 months.

LOTT AMENDMENT NO. 507

Mr. ROTH (for Mr. LOTT) proposed an amendment to amendment No. 501 proposed by Mr. CHAFEE to the bill, S. 947, supra; as follows:

In the pending amendment, No. 501, strike all after the first word and insert the following:

Subtitle J—Children's Health Insurance Initiatives

SEC. 5801. ESTABLISHMENT OF CHILDREN'S HEALTH INSURANCE INITIATIVES.

(a) IN GENERAL.—Notwithstanding any other provision of the Act, the Social Security Act is amended by adding at the end the following:

"TITLE XXI—CHILD HEALTH INSURANCE INITIATIVES

"SEC. 2101. PURPOSE.

The purpose of this title is to provide funds to States to enable such States to expand the provision of health insurance coverage for low-income children. Funds provided under this title shall be used to achieve this purpose through outreach activities described in section 2106(a) and, at the option of the State through—

"(1) a grant program conducted in accordance with section 2107 and the other requirements of this title; or

"(2) expansion of coverage of such children under the State medicaid program who are not required to be provided medical assistance under section 1902(l) (taking into account the process of individuals aging into eligibility under subsection (l)(1)(D)).

"SEC. 2102. DEFINITIONS.

In this title:

"(1) BASE-YEAR COVERED LOW-INCOME CHILD POPULATION.—The term 'base-year covered low-income child population' means the total number of low-income children with respect to whom, as of fiscal year 1996, an eligible State provides or pays the cost of health benefits either through a State funded program or through expanded eligibility under the State plan under title XIX (including under a waiver of such plan), as determined by the Secretary. Such term does not include any low-income child described in paragraph (3)(A) that a State must cover in order to be considered an eligible State under this title.

“(2) Child.—The term ‘child’ means an individual under 19 years of age.

“(3) Eligible State.—The term ‘eligible State’ means, with respect to a fiscal year, a State that—

“(A) provides, under section 1902(l)(1)(D) or under a waiver, for eligibility for medical assistance under a State plan under title XIX of individuals under 17 years of age in fiscal year 1998, and under 19 years of age in fiscal year 2000, regardless of date of birth;

“(B) has submitted to the Secretary under section 2104 a program outline that—

“(i) sets forth how the State intends to use the funds provided under this title to provide health insurance coverage for low-income children consistent with the provisions of this title; and

“(ii) is approved under section 2104; and

“(iii) otherwise satisfies the requirements of this title; and

“(C) satisfies the maintenance of effort requirement described in section 2105(c)(5).”.

“(4) Federal medical assistance percentage.—The term ‘Federal medical assistance percentage’ means, with respect to a State, the meaning given that term under section 1905(b). Any cost-sharing imposed under this title may not be included in determining Federal medical assistance percentage for reimbursement of expenditures under a State program funded under this title.

“(5) FEHBP-equivalent children's health insurance coverage.—The term ‘FEHBP-equivalent children's health insurance coverage’ means, with respect to a State, any plan or arrangement that provides, or pays the cost of, health benefits that the Secretary has certified are equivalent to or better than the items and services covered for a child under one of the 5 plans under chapter 89 of title 5, United States Code, serving the largest number of enrolled families with children in a State, and that otherwise satisfies State insurance standards and requirements.

“(6) Indians.—The term ‘Indians’ has the meaning given that term in section 4(c) of the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.).

“(7) Low-income child.—The term ‘low-income child’ means a child in a family whose income is below 200 percent of the poverty line for a family of the size involved.

“(8) Poverty line.—The term ‘poverty line’ has the meaning given that term in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by such section.

“(9) Secretary.—The term ‘Secretary’ means the Secretary of Health and Human Services.

“(10) State.—The term ‘State’ means each of the 50 States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands.

“(11) State children's health expenditures.—The term ‘State children's health expenditures’ means the State share of expenditures by the State for providing children with health care items and services under—

“(A) the State plan for medical assistance under title XIX;

“(B) the maternal and child health services block grant program under title V;

“(C) the preventive health services block grant program under part A of title XIX of the Public Health Services Act (42 U.S.C. 300w et seq.);

“(D) State-funded programs that are designed to provide health care items and services to children;

“(E) school-based health services programs;

“(F) State programs that provide uncompensated or indigent health care;

“(G) county-indigent care programs for which the State requires a matching share by a county government or for which there are intergovernmental transfers from a county to State government; and

“(H) any other program under which the Secretary determines the State incurs uncompensated expenditures for providing children with health care items and services.

“(12) State medicaid program.—The term ‘State medicaid program’ means the program of medical assistance provided under title XIX.

“SEC. 2103. APPROPRIATION.

“(a) Appropriation.—

“(1) In general.—Subject to subsection (b), out of any money in the Treasury of the United States not otherwise appropriated, there is appropriated for the purpose of carrying out this title—

“(A) for fiscal year 1998, $2,500,000,000;

“(B) for each of fiscal years 1999 and 2000, $3,200,000,000;

“(C) for fiscal year 2001, $3,600,000,000;

“(D) for fiscal year 2002, $3,500,000,000;

“(E) for each of fiscal years 2003 through 2007, $4,580,000,000.

“(2) Availability.—Funds appropriated under this section shall remain available without fiscal year limitation, as provided under section 2105(b)(4).

“(b) Reduction for Increased Medicaid Expenditures.—With respect to each of the fiscal years described in subsection (a)(1), the amount appropriated under subsection (a)(1) for each such fiscal year shall be reduced by an amount equal to the amount of the total Federal outlays under the medicaid program under title XIX resulting from—

“(1) the amendment made by section 5732 of the Balanced Budget Act of 1997 (regarding the State option to provide 12-month continuous eligibility for children);

“(2) increased enrollment under State plans approved under such program as a result of outreach activities under section 2106(a); and

“(3) the requirement under section 2102(3)A) to provide eligibility for medical assistance under the State plan under title XIX for all children under 19 years of age who have families with income that is at or below the poverty line.

“(c) State Entitlement.—This title constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide for the payment to States of amounts provided in accordance with the provisions of this title.

“(d) Effective Date.—No State is eligible for payments under section 2105 for any calendar quarter beginning before October 1, 1997.

“SEC. 2104. PROGRAM OUTLINE.

“(a) General Description.—A State shall submit to the Secretary for approval a program outline, consistent with the requirements of this title, that—

“(1) identifies, on or after the date of enactment of the Balanced Budget Act of 1997, which of the 2 options described in section 2101 the State intends to use to provide low-income children in the State with health insurance coverage;

“(2) describes the manner in which such coverage shall be provided; and

“(3) provides such other information as the Secretary may require.

“(b) Other Requirements.—The program outline submitted under this section shall include the following:

“(1) Eligibility standards and methodologies.—A summary of the standards and methodologies used to determine the eligibility of low-income children for health insurance coverage under a State program funded under this title.

“(2) Eligibility screening; coordination with other health coverage.—A description of the procedures to be used to ensure—

“(A) through both intake and followup screening, that only low-income children are furnished health insurance coverage through funds provided under this title; and

“(B) that any health insurance coverage provided for children through funds under this title does not reduce the number of children who are provided such coverage through any other publicly or privately funded health plan.

“(3) Indians.—A description of how the State will ensure that Indians are served through a State program funded under this title.

“(c) Deadline for Submission.—A State program outline shall be submitted to the Secretary by not later than March 31 of any fiscal year (October 1, 1997, in the case of fiscal year 1998).

“SEC. 2105. DISTRIBUTION OF FUNDS.

“(a) Establishment of Funding Pools.—

“(1) In general.—From the amount appropriated under section 2103(a)(1) for each fiscal year, determined after the reduction required under section 2103(b), the Secretary shall, for purposes of fiscal year 1998, reserve 85 percent of such amount for distribution to eligible States through the basic allotment pool under subsection (b) and 15 percent of such amount for distribution through the new coverage incentive pool under subsection (c)(2)(B)(ii).

“(2) Annual adjustment of reserve percentages.—The Secretary shall annually adjust the amount of the percentages described in paragraph (1) in order to provide sufficient basic allotments and sufficient new coverage incentives to achieve the purpose of this title.

“(b) Distribution of Funds Under the Basic Allotment Pool.—

“(1) States.—

“(A) In general.—From the total amount reserved under subsection (a) for a fiscal year for distribution through the basic allotment pool, the Secretary shall first set aside 0.25 percent for distribution under paragraph (2) and shall allot from the amount remaining to each eligible State not described in such paragraph the State's allotment percentage for such fiscal year.

“(B) State's allotment percentage.—

“(i) In general.—For purposes of subparagraph (A), the allotment percentage for a fiscal year for each State is the percentage equal to the ratio of the number of low-income children in the base period in the State to the total number of low-income children in the base period in all States not described in paragraph (2).

“(ii) Number of low-income children in the base period.—In clause (i), the number of low-income children in the base period for a fiscal year in a State is equal to the average of the number of low-income children in the State for the period beginning on October 1, 1992, and ending on September 30, 1995, as reported in the March 1994, March 1995, and March 1996 supplements to the Current Population Survey of the Bureau of the Census.

“(2) Other states.—

"(A) IN GENERAL.—From the amount set aside under paragraph (1)(A) for each fiscal year, the Secretary shall make allotments for such fiscal year in accordance with the percentages specified in subparagraph (B) to Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands, if such States are eligible States for such fiscal year.

"(B) PERCENTAGES SPECIFIED.—The percentages specified in this subparagraph are in the case of—

"(i) Puerto Rico, 91.6 percent;

"(ii) Guam, 3.5 percent;

"(iii) the Virgin Islands, 2.6 percent;

"(iv) American Samoa, 1.2 percent; and

"(v) the Northern Mariana Islands, 1.1 percent.

"(3) THREE-YEAR AVAILABILITY OF AMOUNTS ALLOTTED.—Amounts allotted to a State pursuant to this subsection for a fiscal year shall remain available for expenditure by the State through the end of the second succeeding fiscal year.

"(4) PROCEDURE FOR DISTRIBUTION OF UNUSED FUNDS.—The Secretary shall determine an appropriate procedure for distribution of funds to eligible States that remain unused under this subsection after the expiration of the availability of funds required under paragraph (3). Such procedure shall be developed and administered in a manner that is consistent with the purpose of this title.

"(c) PAYMENTS.—

"(1) IN GENERAL.—The Secretary shall—

"(A) before October 1 of any fiscal year, pay an eligible State an amount equal to 1 percent of the amount allotted to the State under subsection (b) for conducting the outreach activities required under section 2106(a); and

"(B) make quarterly fiscal year payments to an eligible State from the amount remaining of such allotment for such fiscal year in an amount equal to the Federal medical assistance percentage for the State (as defined under section 2102(4) and determined without regard to the amount of Federal funds received by the State under title XIX before the date of enactment of this title) of the Federal and State incurred cost of providing health insurance coverage for a low-income child in the State plus the applicable bonus amount.

"(2) APPLICABLE BONUS.—

"(A) IN GENERAL.—For purposes of paragraph (1), the applicable bonus amount is—

"(i) 5 percent of the Federal and State incurred cost, with respect to a period, of providing health insurance coverage for children covered at State option among the base-year covered low-income child population (measured in full year equivalency) (including such children covered by the State through expanded eligibility under the medicaid program under title XIX before the date of enactment of this title, but excluding any low-income child described in section 2102(3)(A) that a State must cover in order to be considered an eligible State under this title); and

"(ii) 10 percent of the Federal and State incurred cost, with respect to a period, of providing health insurance coverage for children covered at State option among the number (as so measured) of low-income children that are in excess of such population.

"(B) SOURCE OF BONUSES.—

"(i) BASE-YEAR COVERED LOW-INCOME CHILD POPULATION.—A bonus described in subparagraph (A)(i) shall be paid out of an eligible State's allotment for a fiscal year.

"(ii) FOR OTHER LOW-INCOME CHILD POPULATIONS.—A bonus described in subparagraph (A)(ii) shall be paid out of the new coverage incentive pool reserved under subsection (a)(1).

"(3) DEFINITION OF COST OF PROVIDING HEALTH INSURANCE COVERAGE.—For purposes of this subsection the cost of providing health insurance coverage for a low-income child in the State means—

"(A) in the case of an eligible State that opts to use funds provided under this title through the medicaid program, the cost of providing such child with medical assistance under the State plan under title XIX; and

"(B) in the case of an eligible State that opts to use funds provided under this title under section 2107, the cost of providing such child with health insurance coverage under such section.

"(4) LIMITATION ON TOTAL PAYMENTS.—With respect to a fiscal year, the total amount paid to an eligible State under this title (including any bonus payments) shall not exceed 85 percent of the total cost of a State program conducted under this title for such fiscal year.

"(5) MAINTENANCE OF EFFORT.—

"(A) DEEMED COMPLIANCE.—A State shall be deemed to be in compliance with this provision if—

"(i) it does not adopt income and resource standards and methodologies that are more restrictive than those applied as of June 1, 1997, for purposes of determining a child's eligibility for medical assistance under the State plan under title XIX; and

"(ii) in the case of fiscal year 1998 and each fiscal year thereafter, the State children's health expenditures defined in section 2102(11) are not less than the amount of such expenditures for fiscal year 1996.

"(B) FAILURE TO MAINTAIN MEDICAID STANDARDS AND METHODOLOGIES.—A State that fails to meet the conditions described in subparagraph (A) shall not receive—

"(i) funds under this title for any child that would be determined eligible for medical assistance under the State plan under title XIX using the income and resource standards and methodologies applied under such plan as of June 1, 1997; and

"(ii) any bonus amounts described in paragraph (2)(A)(ii).

"(C) FAILURE TO MAINTAIN SPENDING ON CHILD HEALTH PROGRAMS.—A State that fails to meet the condition described in subparagraph (A)(ii) shall not receive funding under this title.

"(6) ADVANCE PAYMENT; RETROSPECTIVE ADJUSTMENT.—The Secretary may make payments under this subsection for each quarter on the basis of advance estimates of expenditures submitted by the State and such other investigation as the Secretary may find necessary, and shall reduce or increase the payments as necessary to adjust for any overpayment or underpayment for prior quarters.

"SEC. 2106. USE OF FUNDS.

"(a) SET-ASIDE FOR OUTREACH ACTIVITIES.—

"(1) IN GENERAL.—From the amount allotted to a State under section 2105(b) for a fiscal year, each State shall conduct outreach activities described in paragraph (2).

"(2) OUTREACH ACTIVITIES DESCRIBED.—The outreach activities described in this paragraph include activities to—

"(A) identify and enroll children who are eligible for medical assistance under the State plan under title XIX; and

"(B) conduct public awareness campaigns to encourage employers to provide health insurance coverage for children.

"(b) STATE OPTIONS FOR REMAINDER.—A State may use the amount remaining of the allotment to a State under section 2105(b) for a fiscal year, determined after the payment required under section 2105(c)(1)(A), in accordance with section 2107 or the State medicaid program (but not both). Nothing in the preceding sentence shall be construed as limiting a State's eligibility for receiving the 5 percent bonus described in section 2105(c)(2)(A)(i) for children covered by the State through expanded eligibility under the medicaid program under title XIX before the date of enactment of this title.

"(c) PROHIBITION ON USE OF FUNDS.—No funds provided under this title may be used to provide health insurance coverage for—

"(1) families of State public employees; or

"(2) children who are committed to a penal institution.

"(d) USE LIMITED TO STATE PROGRAM EXPENDITURES.—Funds provided to an eligible State under this title shall only be used to carry out the purpose of this title (as described in section 2101), and any health insurance coverage provided with such funds may include coverage of abortion only if necessary to save the life of the mother or if the pregnancy is the result of an act of rape or incest.

"(e) ADMINISTRATIVE EXPENDITURES.—

"(1) IN GENERAL.—Not more than the applicable percentage of the amount allotted to a State under section 2105(b) for a fiscal year, determined after the payment required under section 2105(c)(1)(A), shall be used for administrative expenditures for the program funded under this title.

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage with respect to a fiscal year is—

"(A) for the first 2 years of a State program funded under this title, 10 percent;

"(B) for the third year of a State program funded under this title, 7.5 percent; and

"(C) for the fourth year of a State program funded under this title and each year thereafter, 5 percent.

"(f) NONAPPLICATION OF FIVE-YEAR LIMITED ELIGIBILITY FOR MEANS-TESTED PUBLIC BENEFITS.—The provisions of section 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613) shall not apply with respect to a State program funded under this title.

"(g) AUDITS.—The provisions of section 506(b) shall apply to funds expended under this title to the same extent as they apply to title V.

"(h) REQUIREMENT TO FOLLOW STATE PROGRAM OUTLINE.—The State shall conduct the program in accordance with the program outline approved by the Secretary under section 2104.

"SEC. 2107. STATE OPTION FOR THE PURCHASE OR PROVISION OF CHILDREN'S HEALTH INSURANCE.

"(a) STATE OPTION.—

"(1) IN GENERAL.—An eligible State that opts to use funds provided under this title under this section shall use such funds to provide FEHBP-equivalent children's health insurance coverage for low-income children who reside in the State.

"(2) PRIORITY FOR LOW-INCOME CHILDREN.—A State that uses funds provided under this title under this section shall not cover low-income children with higher family income without covering such children with a lower family income.

"(3) DETERMINATION OF ELIGIBILITY AND FORM OF ASSISTANCE.—An eligible State may establish any additional eligibility criteria for the provision of health insurance coverage for a low-income child through funds provided under this title, so long as such criteria and assistance are consistent with the purpose and provisions of this title.

"(4) Affordability.—An eligible State may impose any family premium obligations or cost-sharing requirements otherwise permitted under this title on low-income children with family incomes that exceed 150 percent of the poverty line. In the case of a low-income child whose family income is at or below 150 percent of the poverty line, limits on beneficiary costs generally applicable under title XIX apply to coverage provided such children under this section.

"(5) Coverage of certain benefits.—Any eligible State that opts to use funds provided under this title under this section for the coverage described in paragraph (1) is encouraged to include as part of such coverage, coverage for items and services needed for vision, hearing, and dental health.

"(b) Nonentitlement.—Nothing in this section shall be construed as providing an entitlement for an individual or person to any health insurance coverage, assistance, or service provided through a State program funded under this title. If, with respect to a fiscal year, an eligible State determines that the funds provided under this title are not sufficient to provide health insurance coverage for all the low-income children that the State proposes to cover in the State program outline submitted under section 2104 for such fiscal year, the State may adjust the applicable eligibility criteria for such children appropriately or adjust the State program in another manner specified by the Secretary, so long as any such adjustments are consistent with the purpose of this title.

"SEC. 2108. PROGRAM INTEGRITY.

"The following provisions of the Social Security Act shall apply to eligible States under this title in the same manner as such provisions apply to a State under title XIX:

"(1) Section 1116 (relating to administrative and judicial review).

"(2) Section 1124 (relating to disclosure of ownership and related information).

"(3) Section 1126 (relating to disclosure of information about certain convicted individuals).

"(4) Section 1128 (relating to exclusion from individuals and entities from participation in State health care plans).

"(5) Section 1128A (relating to civil monetary penalties).

"(6) Section 1128B (relating to criminal penalties).

"(7) Section 1132 (relating to periods within which claims must be filed).

"(8) Section 1902(a)(4)(C) (relating to conflict of interest standards).

"(9) Section 1903(i) (relating to limitations on payment).

"(10) Section 1903(m)(5) (as in effect on the day before the date of enactment of the Balanced Budget Act of 1997).

"(11) Section 1903(w) (relating to limitations on provider taxes and donations).

"(12) Section 1905(a)(B) (relating to the exclusion of care or services for any individual who has not attained 65 years of age and who is a patient in an institution for mental diseases from the definition of medical assistance).

"(13) Section 1921 (relating to state licensure authorities).

"(14) Sections 1902(a)(25), 1912(a)(1)(A), and 1903(o) (insofar as such sections relate to third party liability).

"(15) Sections 1948 and 1949 (as added by section 5701(a)(2) of the Balanced Budget Act of 1997).

"SEC. 2109. ANNUAL REPORTS.

"(a) Annual State Assessment of Progress.—An eligible State shall—

"(1) assess the operation of the State program funded under this title in each fiscal year, including the progress made in providing health insurance coverage for low-income children; and

"(2) report to the Secretary, by January 1 following the end of the fiscal year, on the result of the assessment.

"(b) Report of the Secretary.—The Secretary shall submit to the appropriate committees of Congress an annual report and evaluation of the State programs funded under this title based on the State assessments and reports submitted under subsection (a). Such report shall include any conclusions and recommendations that the Secretary considers appropriate.".

(b) Conforming Amendment.—Section 1128(h) (42 U.S.C. 1320a-7(h)) is amended by—

(1) in paragraph (2), by striking "or" at the end;

(2) in paragraph (3), by striking the period and inserting ", or"; and

(3) by adding at the end the following:

"(4) a program funded under title XXI.".

(c) Effective Date.—The amendments made by this section apply on and after October 3, 1997.

LOTT AMENDMENT NO. 508

Mr. ROTH (for Mr. Lott) proposed an amendment to amendment No. 500 proposed by Mr. Chafee to the bill, S. 947, supra; as follows:

In the pending amendment, No. 500, strike all after the first word and insert the following:

Subtitle J—Children's Health Insurance Initiatives

SEC. 5801. ESTABLISHMENT OF CHILDREN'S HEALTH INSURANCE INITIATIVES.

(a) In General.—Notwithstanding any other provision of the Act, the Social Security Act is amended by adding at the end the following:

"TITLE XXI—CHILD HEALTH INSURANCE INITIATIVES

"SEC. 2101. PURPOSE.

The purpose of this title is to provide funds to States to enable such States to expand the provision of health insurance coverage for low-income children. Funds provided under this title shall be used to achieve this purpose through outreach activities described in section 2106(a) and, at the option of the State through—

"(1) a grant program conducted in accordance with section 2107 and the other requirements of this title; or

"(2) expansion of coverage of such children under the State medicaid program who are not required to be provided medical assistance under section 1902(l) (taking into account the process of individuals aging into eligibility under subsection (l)(1)(D)).

"SEC. 2102. DEFINITIONS.

In this title:

"(1) Base-year covered low-income child population.—The term 'base-year covered low-income child population' means the total number of low-income children with respect to whom, as of fiscal year 1996, an eligible State provides or pays the cost of health benefits either through a State funded program or through expanded eligibility under the State plan under title XIX (including under a waiver of such plan), as determined by the Secretary. Such term does not include any low-income child described in paragraph (3)(A) that a State must cover in order to be considered an eligible State under this title.

"(2) Child.—The term 'child' means an individual under 19 years of age.

"(3) Eligible state.—The term 'eligible State' means, with respect to a fiscal year, a State that—

"(A) provides, under section 1902(l)(1)(D) or under a waiver, for eligibility for medical assistance under a State plan under title XIX of individuals under 17 years of age in fiscal year 1998, and under 19 years of age in fiscal year 2000, regardless of date of birth;

"(B) has submitted to the Secretary under section 2104 a program outline that—

"(i) sets forth how the State intends to use the funds provided under this title to provide health insurance coverage for low-income children consistent with the provisions of this title; and

"(ii) is approved under section 2104; and

"(iii) otherwise satisfies the requirements of this title; and

"(C) satisfies the maintenance of effort requirement described in section 2105(c)(5).".

"(4) Federal medical assistance percentage.—The term 'Federal medical assistance percentage' means, with respect to a State, the meaning given that term under section 1905(b). Any cost-sharing imposed under this title may not be included in determining Federal medical assistance percentage for reimbursement of expenditures under a State program funded under this title.

"(5) FEHBP-equivalent children's health insurance coverage.—The term 'FEHBP-equivalent children's health insurance coverage' means, with respect to a State, any plan or arrangement that provides, or pays the cost of, health benefits that the Secretary has certified are equivalent to or better than the items and services covered for a child under one of the 5 plans under chapter 89 of title 5, United States Code, serving the largest number of enrolled families with children in a State, and that otherwise satisfies State insurance standards and requirements.

"(6) Indians.—The term 'Indians' has the meaning given that term in section 4(c) of the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.).

"(7) Low-income child.—The term 'low-income child' means a child in a family whose income is below 200 percent of the poverty line for a family of the size involved.

"(8) Poverty line.—The term 'poverty line' has the meaning given that term in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by such section.

"(9) Secretary.—The term 'Secretary' means the Secretary of Health and Human Services.

"(10) State.—The term 'State' means each of the 50 States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands.

"(11) State children's health expenditures.—The term 'State children's health expenditures' means the State share of expenditures by the State for providing children with health care items and services under—

"(A) the State plan for medical assistance under title XIX;

"(B) the maternal and child health services block grant program under title V;

"(C) the preventive health services block grant program under part A of title XIX of the Public Health Services Act (42 U.S.C. 300w et seq.);

"(D) State-funded programs that are designed to provide health care items and services to children;

"(E) school-based health services programs;

“(F) State programs that provide uncompensated or indigent health care;

“(G) county-indigent care programs for which the State requires a matching share by a county government or for which there are intergovernmental transfers from a county to State government; and

“(H) any other program under which the Secretary determines the State incurs uncompensated expenditures for providing children with health care items and services.

“(12) State medicaid program.—The term ‘State medicaid program’ means the program of medical assistance provided under title XIX.

“SEC. 2103. APPROPRIATION.

“(a) Appropriation.—

“(1) In general.—Subject to subsection (b), out of any money in the Treasury of the United States not otherwise appropriated, there is appropriated for the purpose of carrying out this title—

“(A) for fiscal year 1998, $2,500,000,000;

“(B) for each of fiscal years 1999 and 2000, $3,200,000,000;

“(C) for fiscal year 2001, $3,600,000,000;

“(D) for fiscal year 2002, $3,500,000,000;

“(E) for each of fiscal years 2003 through 2007, $4,580,000,000.

“(2) Availability.—Funds appropriated under this section shall remain available without fiscal year limitation, as provided under section 2105(b)(4).

“(b) Reduction for Increased Medicaid Expenditures.—With respect to each of the fiscal years described in subsection (a)(1), the amount appropriated under subsection (a)(1) for each such fiscal year shall be reduced by an amount equal to the amount of the total Federal outlays under the medicaid program under title XIX resulting from—

“(1) the amendment made by section 5732 of the Balanced Budget Act of 1997 (regarding the State option to provide 12-month continuous eligibility for children);

“(2) increased enrollment under State plans approved under such program as a result of outreach activities under section 2106(a); and

“(3) the requirement under section 2102(3)A) to provide eligibility for medical assistance under the State plan under title XIX for all children under 19 years of age who have families with income that is at or below the poverty line.

“(c) State Entitlement.—This title constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide for the payment to States of amounts provided in accordance with the provisions of this title.

“(d) Effective Date.—No State is eligible for payments under section 2105 for any calendar quarter beginning before October 1, 1997.

“SEC. 2104. PROGRAM OUTLINE.

“(a) General Description.—A State shall submit to the Secretary for approval a program outline, consistent with the requirements of this title, that—

“(1) identifies, on or after the date of enactment of the Balanced Budget Act of 1997, which of the 2 options described in section 2101 the State intends to use to provide low-income children in the State with health insurance coverage;

“(2) describes the manner in which such coverage shall be provided; and

“(3) provides such other information as the Secretary may require.

“(b) Other Requirements.—The program outline submitted under this section shall include the following:

“(1) Eligibility standards and methodologies.—A summary of the standards and methodologies used to determine the eligibility of low-income children for health insurance coverage under a State program funded under this title.

“(2) Eligibility screening; coordination with other health coverage.—A description of the procedures to be used to ensure—

“(A) through both intake and followup screening, that only low-income children are furnished health insurance coverage through funds provided under this title; and

“(B) that any health insurance coverage provided for children through funds under this title does not reduce the number of children who are provided such coverage through any other publicly or privately funded health plan.

“(3) Indians.—A description of how the State will ensure that Indians are served through a State program funded under this title.

“(c) Deadline for Submission.—A State program outline shall be submitted to the Secretary by not later than March 31 of any fiscal year (October 1, 1997, in the case of fiscal year 1998).

“SEC. 2105. DISTRIBUTION OF FUNDS.

“(a) Establishment of Funding Pools.—

“(1) In general.—From the amount appropriated under section 2103(a)(1) for each fiscal year, determined after the reduction required under section 2103(b), the Secretary shall, for purposes of fiscal year 1998, reserve 85 percent of such amount for distribution to eligible States through the basic allotment pool under subsection (b) and 15 percent of such amount for distribution through the new coverage incentive pool under subsection (c)(2)(B)(ii).

“(2) Annual adjustment of reserve percentages.—The Secretary shall annually adjust the amount of the percentages described in paragraph (1) in order to provide sufficient basic allotments and sufficient new coverage incentives to achieve the purpose of this title.

“(b) Distribution of Funds Under the Basic Allotment Pool.—

“(1) States.—

“(A) In general.—From the total amount reserved under subsection (a) for a fiscal year for distribution through the basic allotment pool, the Secretary shall first set aside 0.25 percent for distribution under paragraph (2) and shall allot from the amount remaining to each eligible State not described in such paragraph the State's allotment percentage for such fiscal year.

“(B) State's allotment percentage.—

“(i) In general.—For purposes of subparagraph (A), the allotment percentage for a fiscal year for each State is the percentage equal to the ratio of the number of low-income children in the base period in the State to the total number of low-income children in the base period in all States not described in paragraph (2).

“(ii) Number of low-income children in the base period.—In clause (i), the number of low-income children in the base period for a fiscal year in a State is equal to the average of the number of low-income children in the State for the period beginning on October 1, 1992, and ending on September 30, 1995, as reported in the March 1994, March 1995, and March 1996 supplements to the Current Population Survey of the Bureau of the Census.

“(2) Other states.—

“(A) In general.—From the amount set aside under paragraph (1)(A) for each fiscal year, the Secretary shall make allotments for such fiscal year in accordance with the percentages specified in subparagraph (B) to Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands, if such States are eligible States for such fiscal year.

“(B) Percentages specified.—The percentages specified in this subparagraph are in the case of—

“(i) Puerto Rico, 91.6 percent;

“(ii) Guam, 3.5 percent;

“(iii) the Virgin Islands, 2.6 percent;

“(iv) American Samoa, 1.2 percent; and

“(v) the Northern Mariana Islands, 1.1 percent.

“(3) Three-year availability of amounts allotted.—Amounts allotted to a State pursuant to this subsection for a fiscal year shall remain available for expenditure by the State through the end of the second succeeding fiscal year.

“(4) Procedure for distribution of unused funds.—The Secretary shall determine an appropriate procedure for distribution of funds to eligible States that remain unused under this subsection after the expiration of the availability of funds required under paragraph (3). Such procedure shall be developed and administered in a manner that is consistent with the purpose of this title.

“(c) Payments.—

“(1) In general.—The Secretary shall—

“(A) before October 1 of any fiscal year, pay an eligible State an amount equal to 1 percent of the amount allotted to the State under subsection (b) for conducting the outreach activities required under section 2106(a); and

“(B) make quarterly fiscal year payments to an eligible State from the amount remaining of such allotment for such fiscal year in an amount equal to the Federal medical assistance percentage for the State (as defined under section 2102(4) and determined without regard to the amount of Federal funds received by the State under title XIX before the date of enactment of this title) of the Federal and State incurred cost of providing health insurance coverage for a low-income child in the State plus the applicable bonus amount.

“(2) Applicable bonus.—

“(A) In general.—For purposes of paragraph (1), the applicable bonus amount is—

“(i) 5 percent of the Federal and State incurred cost, with respect to a period, of providing health insurance coverage for children covered at State option among the base-year covered low-income child population (measured in full year equivalency) (including such children covered by the State through expanded eligibility under the medicaid program under title XIX before the date of enactment of this title, but excluding any low-income child described in section 2102(3)(A) that a State must cover in order to be considered an eligible State under this title); and

“(ii) 10 percent of the Federal and State incurred cost, with respect to a period, of providing health insurance coverage for children covered at State option among the number (as so measured) of low-income children that are in excess of such population.

“(B) Source of bonuses.—

“(i) Base-year covered low-income child population.—A bonus described in subparagraph (A)(i) shall be paid out of an eligible State's allotment for a fiscal year.

“(ii) For other low-income child populations.—A bonus described in subparagraph (A)(ii) shall be paid out of the new coverage incentive pool reserved under subsection (a)(1).

“(3) DEFINITION OF COST OF PROVIDING HEALTH INSURANCE COVERAGE.—For purposes of this subsection the cost of providing health insurance coverage for a low-income child in the State means—

“(A) in the case of an eligible State that opts to use funds provided under this title through the medicaid program, the cost of providing such child with medical assistance under the State plan under title XIX; and

“(B) in the case of an eligible State that opts to use funds provided under this title under section 2107, the cost of providing such child with health insurance coverage under such section.

“(4) LIMITATION ON TOTAL PAYMENTS.—With respect to a fiscal year, the total amount paid to an eligible State under this title (including any bonus payments) shall not exceed 85 percent of the total cost of a State program conducted under this title for such fiscal year.

“(5) MAINTENANCE OF EFFORT.—

“(A) DEEMED COMPLIANCE.—A State shall be deemed to be in compliance with this provision if—

“(i) it does not adopt income and resource standards and methodologies that are more restrictive than those applied as of June 1, 1997, for purposes of determining a child's eligibility for medical assistance under the State plan under title XIX; and

“(ii) in the case of fiscal year 1998 and each fiscal year thereafter, the State children's health expenditures defined in section 2102(11) are not less than the amount of such expenditures for fiscal year 1996.

“(B) FAILURE TO MAINTAIN MEDICAID STANDARDS AND METHODOLOGIES.—A State that fails to meet the conditions described in subparagraph (A) shall not receive—

“(i) funds under this title for any child that would be determined eligible for medical assistance under the State plan under title XIX using the income and resource standards and methodologies applied under such plan as of June 1, 1997; and

“(ii) any bonus amounts described in paragraph (2)(A)(ii).

“(C) FAILURE TO MAINTAIN SPENDING ON CHILD HEALTH PROGRAMS.—A State that fails to meet the condition described in subparagraph (A)(ii) shall not receive funding under this title.

“(6) ADVANCE PAYMENT; RETROSPECTIVE ADJUSTMENT.—The Secretary may make payments under this subsection for each quarter on the basis of advance estimates of expenditures submitted by the State and such other investigation as the Secretary may find necessary, and shall reduce or increase the payments as necessary to adjust for any overpayment or underpayment for prior quarters.

“SEC. 2106. USE OF FUNDS.

“(a) SET-ASIDE FOR OUTREACH ACTIVITIES.—

“(1) IN GENERAL.—From the amount allotted to a State under section 2105(b) for a fiscal year, each State shall conduct outreach activities described in paragraph (2).

“(2) OUTREACH ACTIVITIES DESCRIBED.—The outreach activities described in this paragraph include activities to—

“(A) identify and enroll children who are eligible for medical assistance under the State plan under title XIX; and

“(B) conduct public awareness campaigns to encourage employers to provide health insurance coverage for children.

“(b) STATE OPTIONS FOR REMAINDER.—A State may use the amount remaining of the allotment to a State under section 2105(b) for a fiscal year, determined after the payment required under section 2105(c)(1)(A), in accordance with section 2107 or the State medicaid program (but not both). Nothing in the preceding sentence shall be construed as limiting a State's eligibility for receiving the 5 percent bonus described in section 2105(c)(2)(A)(i) for children covered by the State through expanded eligibility under the medicaid program under title XIX before the date of enactment of this title.

“(c) PROHIBITION ON USE OF FUNDS.—No funds provided under this title may be used to provide health insurance coverage for—

“(1) families of State public employees; or

“(2) children who are committed to a penal institution.

“(d) USE LIMITED TO STATE PROGRAM EXPENDITURES.—Funds provided to an eligible State under this title shall only be used to carry out the purpose of this title (as described in section 2101), and any health insurance coverage provided with such funds may include coverage of abortion only if necessary to save the life of the mother or if the pregnancy is the result of an act of rape or incest.

“(e) ADMINISTRATIVE EXPENDITURES.—

“(1) IN GENERAL.—Not more than the applicable percentage of the amount allotted to a State under section 2105(b) for a fiscal year, determined after the payment required under section 2105(c)(1)(A), shall be used for administrative expenditures for the program funded under this title.

“(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage with respect to a fiscal year is—

“(A) for the first 2 years of a State program funded under this title, 10 percent;

“(B) for the third year of a State program funded under this title, 7.5 percent; and

“(C) for the fourth year of a State program funded under this title and each year thereafter, 5 percent.

“(f) NONAPPLICATION OF FIVE-YEAR LIMITED ELIGIBILITY FOR MEANS-TESTED PUBLIC BENEFITS.—The provisions of section 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613) shall not apply with respect to a State program funded under this title.

“(g) AUDITS.—The provisions of section 506(b) shall apply to funds expended under this title to the same extent as they apply to title V.

“(h) REQUIREMENT TO FOLLOW STATE PROGRAM OUTLINE.—The State shall conduct the program in accordance with the program outline approved by the Secretary under section 2104.

“SEC. 2107. STATE OPTION FOR THE PURCHASE OR PROVISION OF CHILDREN'S HEALTH INSURANCE.

“(a) STATE OPTION.—

“(1) IN GENERAL.—An eligible State that opts to use funds provided under this title under this section shall use such funds to provide FEHBP-equivalent children's health insurance coverage for low-income children who reside in the State.

“(2) PRIORITY FOR LOW-INCOME CHILDREN.—A State that uses funds provided under this title under this section shall not cover low-income children with higher family income without covering such children with a lower family income.

“(3) DETERMINATION OF ELIGIBILITY AND FORM OF ASSISTANCE.—An eligible State may establish any additional eligibility criteria for the provision of health insurance coverage for a low-income child through funds provided under this title, so long as such criteria and assistance are consistent with the purpose and provisions of this title.

“(4) AFFORDABILITY.—An eligible State may impose any family premium obligations or cost-sharing requirements otherwise permitted under this title on low-income children with family incomes that exceed 150 percent of the poverty line. In the case of a low-income child whose family income is at or below 150 percent of the poverty line, limits on beneficiary costs generally applicable under title XIX apply to coverage provided such children under this section.

“(5) COVERAGE OF CERTAIN BENEFITS.—Any eligible State that opts to use funds provided under this title under this section for the coverage described in paragraph (1) is encouraged to include as part of such coverage, coverage for items and services needed for vision, hearing, and dental health.

“(b) NONENTITLEMENT.—Nothing in this section shall be construed as providing an entitlement for an individual or person to any health insurance coverage, assistance, or service provided through a State program funded under this title. If, with respect to a fiscal year, an eligible State determines that the funds provided under this title are not sufficient to provide health insurance coverage for all the low-income children that the State proposes to cover in the State program outline submitted under section 2104 for such fiscal year, the State may adjust the applicable eligibility criteria for such children appropriately or adjust the State program in another manner specified by the Secretary, so long as any such adjustments are consistent with the purpose of this title.

“SEC. 2108. PROGRAM INTEGRITY.

“The following provisions of the Social Security Act shall apply to eligible States under this title in the same manner as such provisions apply to a State under title XIX:

“(1) Section 1116 (relating to administrative and judicial review).

“(2) Section 1124 (relating to disclosure of ownership and related information).

“(3) Section 1126 (relating to disclosure of information about certain convicted individuals).

“(4) Section 1128 (relating to exclusion from individuals and entities from participation in State health care plans).

“(5) Section 1128A (relating to civil monetary penalties).

“(6) Section 1128B (relating to criminal penalties).

“(7) Section 1132 (relating to periods within which claims must be filed).

“(8) Section 1902(a)(4)(C) (relating to conflict of interest standards).

“(9) Section 1903(i) (relating to limitations on payment).

“(10) Section 1903(m)(5) (as in effect on the day before the date of enactment of the Balanced Budget Act of 1997).

“(11) Section 1903(w) (relating to limitations on provider taxes and donations).

“(12) Section 1905(a)(B) (relating to the exclusion of care or services for any individual who has not attained 65 years of age and who is a patient in an institution for mental diseases from the definition of medical assistance).

“(13) Section 1921 (relating to state licensure authorities).

“(14) Sections 1902(a)(25), 1912(a)(1)(A), and 1903(o) (insofar as such sections relate to third party liability).

“(15) Sections 1948 and 1949 (as added by section 5701(a)(2) of the Balanced Budget Act of 1997).

“SEC. 2109. ANNUAL REPORTS.

“(a) ANNUAL STATE ASSESSMENT OF PROGRESS.—An eligible State shall—

“(1) assess the operation of the State program funded under this title in each fiscal year, including the progress made in providing health insurance coverage for low-income children; and

“(2) report to the Secretary, by January 1 following the end of the fiscal year, on the result of the assessment.

“(b) Report of the Secretary.—The Secretary shall submit to the appropriate committees of Congress an annual report and evaluation of the State programs funded under this title based on the State assessments and reports submitted under subsection (a). Such report shall include any conclusions and recommendations that the Secretary considers appropriate.”.

(b) Conforming Amendment.—Section 1128(h) (42 U.S.C. 1320a-7(h)) is amended by—

(1) in paragraph (2), by striking “or” at the end;

(2) in paragraph (3), by striking the period and inserting “, or”; and

(3) by adding at the end the following:

“(4) a program funded under title XXI.”.

(c) Effective Date.—The amendments made by this section apply on and after October 2, 1997.

LOTT AMENDMENT NO. 509

Mr. ROTH (for Mr. Lott) proposed an amendment to the bill, S. 947, supra; as follows:

In the pending amendment, strike all after the first word and insert the following:

Subtitle J—Children's Health Insurance Initiatives

SEC. 5801. ESTABLISHMENT OF CHILDREN'S HEALTH INSURANCE INITIATIVES.

(a) In General.—Notwithstanding any other provision of the Act, the Social Security Act is amended by adding at the end the following:

“TITLE XXI—CHILD HEALTH INSURANCE INITIATIVES

“SEC. 2101. PURPOSE.

The purpose of this title is to provide funds to States to enable such States to expand the provision of health insurance coverage for low-income children. Funds provided under this title shall be used to achieve this purpose through outreach activities described in section 2106(a) and, at the option of the State through—

“(1) a grant program conducted in accordance with section 2107 and the other requirements of this title; or

“(2) expansion of coverage of such children under the State medicaid program who are not required to be provided medical assistance under section 1902(l) (taking into account the process of individuals aging into eligibility under subsection (l)(1)(D)).

“SEC. 2102. DEFINITIONS.

In this title:

“(1) Base-year covered low-income child population.—The term ‘base-year covered low-income child population’ means the total number of low-income children with respect to whom, as of fiscal year 1996, an eligible State provides or pays the cost of health benefits either through a State funded program or through expanded eligibility under the State plan under title XIX (including under a waiver of such plan), as determined by the Secretary. Such term does not include any low-income child described in paragraph (3)(A) that a State must cover in order to be considered an eligible State under this title.

“(2) Child.—The term ‘child’ means an individual under 19 years of age.

“(3) Eligible state.—The term ‘eligible State’ means, with respect to a fiscal year, a State that—

“(A) provides, under section 1902(l)(1)(D) or under a waiver, for eligibility for medical assistance under a State plan under title XIX of individuals under 17 years of age in fiscal year 1998, and under 19 years of age in fiscal year 2000, regardless of date of birth;

“(B) has submitted to the Secretary under section 2104 a program outline that—

“(i) sets forth how the State intends to use the funds provided under this title to provide health insurance coverage for low-income children consistent with the provisions of this title; and

“(ii) is approved under section 2104; and

“(iii) otherwise satisfies the requirements of this title; and

“(C) satisfies the maintenance of effort requirement described in section 2105(c)(5).”.

“(4) Federal medical assistance percentage.—The term ‘Federal medical assistance percentage’ means, with respect to a State, the meaning given that term under section 1905(b). Any cost-sharing imposed under this title may not be included in determining Federal medical assistance percentage for reimbursement of expenditures under a State program funded under this title.

“(5) FEHBP-equivalent children's health insurance coverage.—The term ‘FEHBP-equivalent children's health insurance coverage’ means, with respect to a State, any plan or arrangement that provides, or pays the cost of, health benefits that the Secretary has certified are equivalent to or better than the items and services covered for a child under one of the 5 plans under chapter 89 of title 5, United States Code, serving the largest number of enrolled families with children in a State, and that otherwise satisfies State insurance standards and requirements.

“(6) Indians.—The term ‘Indians’ has the meaning given that term in section 4(c) of the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.).

“(7) Low-income child.—The term ‘low-income child’ means a child in a family whose income is below 200 percent of the poverty line for a family of the size involved.

“(8) Poverty line.—The term ‘poverty line’ has the meaning given that term in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by such section.

“(9) Secretary.—The term ‘Secretary’ means the Secretary of Health and Human Services.

“(10) State.—The term ‘State’ means each of the 50 States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands.

“(11) State children's health expenditures.—The term ‘State children's health expenditures’ means the State share of expenditures by the State for providing children with health care items and services under—

“(A) the State plan for medical assistance under title XIX;

“(B) the maternal and child health services block grant program under title V;

“(C) the preventive health services block grant program under part A of title XIX of the Public Health Services Act (42 U.S.C. 300w et seq.);

“(D) State-funded programs that are designed to provide health care items and services to children;

“(E) school-based health services programs;

“(F) State programs that provide uncompensated or indigent health care;

“(G) county-indigent care programs for which the State requires a matching share by a county government or for which there are intergovernmental transfers from a county to State government; and

“(H) any other program under which the Secretary determines the State incurs uncompensated expenditures for providing children with health care items and services.

“(12) State medicaid program.—The term ‘State medicaid program’ means the program of medical assistance provided under title XIX.

“SEC. 2103. APPROPRIATION.

“(a) Appropriation.—

“(1) In general.—Subject to subsection (b), out of any money in the Treasury of the United States not otherwise appropriated, there is appropriated for the purpose of carrying out this title—

“(A) for fiscal year 1998, $2,500,000,000;

“(B) for each of fiscal years 1999 and 2000, $3,200,000,000;

“(C) for fiscal year 2001, $3,600,000,000;

“(D) for fiscal year 2002, $3,500,000,000;

“(E) for each of fiscal years 2003 through 2007, $4,580,000,000.

“(2) Availability.—Funds appropriated under this section shall remain available without fiscal year limitation, as provided under section 2105(b)(4).

“(b) Reduction for Increased Medicaid Expenditures.—With respect to each of the fiscal years described in subsection (a)(1), the amount appropriated under subsection (a)(1) for each such fiscal year shall be reduced by an amount equal to the amount of the total Federal outlays under the medicaid program under title XIX resulting from—

“(1) the amendment made by section 5732 of the Balanced Budget Act of 1997 (regarding the State option to provide 12-month continuous eligibility for children);

“(2) increased enrollment under State plans approved under such program as a result of outreach activities under section 2106(a); and

“(3) the requirement under section 2102(3)A) to provide eligibility for medical assistance under the State plan under title XIX for all children under 19 years of age who have families with income that is at or below the poverty line.

“(c) State Entitlement.—This title constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide for the payment to States of amounts provided in accordance with the provisions of this title.

“(d) Effective Date.—No State is eligible for payments under section 2105 for any calendar quarter beginning before October 1, 1997.

“SEC. 2104. PROGRAM OUTLINE.

“(a) General Description.—A State shall submit to the Secretary for approval a program outline, consistent with the requirements of this title, that—

“(1) identifies, on or after the date of enactment of the Balanced Budget Act of 1997, which of the 2 options described in section 2101 the State intends to use to provide low-income children in the State with health insurance coverage;

“(2) describes the manner in which such coverage shall be provided; and

“(3) provides such other information as the Secretary may require.

“(b) Other Requirements.—The program outline submitted under this section shall include the following:

“(1) Eligibility standards and methodologies.—A summary of the standards and methodologies used to determine the eligibility of low-income children for health insurance coverage under a State program funded under this title.

“(2) ELIGIBILITY SCREENING; COORDINATION WITH OTHER HEALTH COVERAGE.—A description of the procedures to be used to ensure—

“(A) through both intake and followup screening, that only low-income children are furnished health insurance coverage through funds provided under this title; and

“(B) that any health insurance coverage provided for children through funds under this title does not reduce the number of children who are provided such coverage through any other publicly or privately funded health plan.

“(3) INDIANS.—A description of how the State will ensure that Indians are served through a State program funded under this title.

“(c) DEADLINE FOR SUBMISSION.—A State program outline shall be submitted to the Secretary by not later than March 31 of any fiscal year (October 1, 1997, in the case of fiscal year 1998).

“SEC. 2105. DISTRIBUTION OF FUNDS.

“(a) ESTABLISHMENT OF FUNDING POOLS.—

“(1) IN GENERAL.—From the amount appropriated under section 2103(a)(1) for each fiscal year, determined after the reduction required under section 2103(b), the Secretary shall, for purposes of fiscal year 1998, reserve 85 percent of such amount for distribution to eligible States through the basic allotment pool under subsection (b) and 15 percent of such amount for distribution through the new coverage incentive pool under subsection (c)(2)(B)(ii).

“(2) ANNUAL ADJUSTMENT OF RESERVE PERCENTAGES.—The Secretary shall annually adjust the amount of the percentages described in paragraph (1) in order to provide sufficient basic allotments and sufficient new coverage incentives to achieve the purpose of this title.

“(b) DISTRIBUTION OF FUNDS UNDER THE BASIC ALLOTMENT POOL.—

“(1) STATES.—

“(A) IN GENERAL.—From the total amount reserved under subsection (a) for a fiscal year for distribution through the basic allotment pool, the Secretary shall first set aside 0.25 percent for distribution under paragraph (2) and shall allot from the amount remaining to each eligible State not described in such paragraph the State's allotment percentage for such fiscal year.

“(B) STATE'S ALLOTMENT PERCENTAGE.—

“(i) IN GENERAL.—For purposes of subparagraph (A), the allotment percentage for a fiscal year for each State is the percentage equal to the ratio of the number of low-income children in the base period in the State to the total number of low-income children in the base period in all States not described in paragraph (2).

“(ii) NUMBER OF LOW-INCOME CHILDREN IN THE BASE PERIOD.—In clause (i), the number of low-income children in the base period for a fiscal year in a State is equal to the average of the number of low-income children in the State for the period beginning on October 1, 1992, and ending on September 30, 1995, as reported in the March 1994, March 1995, and March 1996 supplements to the Current Population Survey of the Bureau of the Census.

“(2) OTHER STATES.—

“(A) IN GENERAL.—From the amount set aside under paragraph (1)(A) for each fiscal year, the Secretary shall make allotments for such fiscal year in accordance with the percentages specified in subparagraph (B) to Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands, if such States are eligible States for such fiscal year.

“(B) PERCENTAGES SPECIFIED.—The percentages specified in this subparagraph are in the case of—

“(i) Puerto Rico, 91.6 percent;

“(ii) Guam, 3.5 percent;

“(iii) the Virgin Islands, 2.6 percent;

“(iv) American Samoa, 1.2 percent; and

“(v) the Northern Mariana Islands, 1.1 percent.

“(3) THREE-YEAR AVAILABILITY OF AMOUNTS ALLOTTED.—Amounts allotted to a State pursuant to this subsection for a fiscal year shall remain available for expenditure by the State through the end of the second succeeding fiscal year.

“(4) PROCEDURE FOR DISTRIBUTION OF UNUSED FUNDS.—The Secretary shall determine an appropriate procedure for distribution of funds to eligible States that remain unused under this subsection after the expiration of the availability of funds required under paragraph (3). Such procedure shall be developed and administered in a manner that is consistent with the purpose of this title.

“(c) PAYMENTS.—

“(1) IN GENERAL.—The Secretary shall—

“(A) before October 1 of any fiscal year, pay an eligible State an amount equal to 1 percent of the amount allotted to the State under subsection (b) for conducting the outreach activities required under section 2106(a); and

“(B) make quarterly fiscal year payments to an eligible State from the amount remaining of such allotment for such fiscal year in an amount equal to the Federal medical assistance percentage for the State (as defined under section 2102(4) and determined without regard to the amount of Federal funds received by the State under title XIX before the date of enactment of this title) of the Federal and State incurred cost of providing health insurance coverage for a low-income child in the State plus the applicable bonus amount.

“(2) APPLICABLE BONUS.—

“(A) IN GENERAL.—For purposes of paragraph (1), the applicable bonus amount is—

“(i) 5 percent of the Federal and State incurred cost, with respect to a period, of providing health insurance coverage for children covered at State option among the base-year covered low-income child population (measured in full year equivalency) (including such children covered by the State through expanded eligibility under the medicaid program under title XIX before the date of enactment of this title, but excluding any low-income child described in section 2102(3)(A) that a State must cover in order to be considered an eligible State under this title); and

“(ii) 10 percent of the Federal and State incurred cost, with respect to a period, of providing health insurance coverage for children covered at State option among the number (as so measured) of low-income children that are in excess of such population.

“(B) SOURCE OF BONUSES.—

“(i) BASE-YEAR COVERED LOW-INCOME CHILD POPULATION.—A bonus described in subparagraph (A)(i) shall be paid out of an eligible State's allotment for a fiscal year.

“(ii) FOR OTHER LOW-INCOME CHILD POPULATIONS.—A bonus described in subparagraph (A)(ii) shall be paid out of the new coverage incentive pool reserved under subsection (a)(1).

“(3) DEFINITION OF COST OF PROVIDING HEALTH INSURANCE COVERAGE.—For purposes of this subsection the cost of providing health insurance coverage for a low-income child in the State means—

“(A) in the case of an eligible State that opts to use funds provided under this title through the medicaid program, the cost of providing such child with medical assistance under the State plan under title XIX; and

“(B) in the case of an eligible State that opts to use funds provided under this title under section 2107, the cost of providing such child with health insurance coverage under such section.

“(4) LIMITATION ON TOTAL PAYMENTS.—With respect to a fiscal year, the total amount paid to an eligible State under this title (including any bonus payments) shall not exceed 85 percent of the total cost of a State program conducted under this title for such fiscal year.

“(5) MAINTENANCE OF EFFORT.—

“(A) DEEMED COMPLIANCE.—A State shall be deemed to be in compliance with this provision if—

“(i) it does not adopt income and resource standards and methodologies that are more restrictive than those applied as of June 1, 1997, for purposes of determining a child's eligibility for medical assistance under the State plan under title XIX; and

“(ii) in the case of fiscal year 1998 and each fiscal year thereafter, the State children's health expenditures defined in section 2102(11) are not less than the amount of such expenditures for fiscal year 1996.

“(B) FAILURE TO MAINTAIN MEDICAID STANDARDS AND METHODOLOGIES.—A State that fails to meet the conditions described in subparagraph (A) shall not receive—

“(i) funds under this title for any child that would be determined eligible for medical assistance under the State plan under title XIX using the income and resource standards and methodologies applied under such plan as of June 1, 1997; and

“(ii) any bonus amounts described in paragraph (2)(A)(ii).

“(C) FAILURE TO MAINTAIN SPENDING ON CHILD HEALTH PROGRAMS.—A State that fails to meet the condition described in subparagraph (A)(ii) shall not receive funding under this title.

“(6) ADVANCE PAYMENT; RETROSPECTIVE ADJUSTMENT.—The Secretary may make payments under this subsection for each quarter on the basis of advance estimates of expenditures submitted by the State and such other investigation as the Secretary may find necessary, and shall reduce or increase the payments as necessary to adjust for any overpayment or underpayment for prior quarters.

“SEC. 2106. USE OF FUNDS.

“(a) SET-ASIDE FOR OUTREACH ACTIVITIES.—

“(1) IN GENERAL.—From the amount allotted to a State under section 2105(b) for a fiscal year, each State shall conduct outreach activities described in paragraph (2).

“(2) OUTREACH ACTIVITIES DESCRIBED.—The outreach activities described in this paragraph include activities to—

“(A) identify and enroll children who are eligible for medical assistance under the State plan under title XIX; and

“(B) conduct public awareness campaigns to encourage employers to provide health insurance coverage for children.

“(b) STATE OPTIONS FOR REMAINDER.—A State may use the amount remaining of the allotment to a State under section 2105(b) for a fiscal year, determined after the payment required under section 2105(c)(1)(A), in accordance with section 2107 or the State medicaid program (but not both). Nothing in the preceding sentence shall be construed as limiting a State's eligibility for receiving the 5 percent bonus described in section 2105(c)(2)(A)(i) for children covered by the State through expanded eligibility under the medicaid program under title XIX before the date of enactment of this title.

"(c) PROHIBITION ON USE OF FUNDS.—No funds provided under this title may be used to provide health insurance coverage for—

"(1) families of State public employees; or

"(2) children who are committed to a penal institution.

"(d) USE LIMITED TO STATE PROGRAM EXPENDITURES.—Funds provided to an eligible State under this title shall only be used to carry out the purpose of this title (as described in section 2101), and any health insurance coverage provided with such funds may include coverage of abortion only if necessary to save the life of the mother or if the pregnancy is the result of an act of rape or incest.

"(e) ADMINISTRATIVE EXPENDITURES.—

"(1) IN GENERAL.—Not more than the applicable percentage of the amount allotted to a State under section 2105(b) for a fiscal year, determined after the payment required under section 2105(c)(1)(A), shall be used for administrative expenditures for the program funded under this title.

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage with respect to a fiscal year is—

"(A) for the first 2 years of a State program funded under this title, 10 percent;

"(B) for the third year of a State program funded under this title, 7.5 percent; and

"(C) for the fourth year of a State program funded under this title and each year thereafter, 5 percent.

"(f) NONAPPLICATION OF FIVE-YEAR LIMITED ELIGIBILITY FOR MEANS-TESTED PUBLIC BENEFITS.—The provisions of section 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613) shall not apply with respect to a State program funded under this title.

"(g) AUDITS.—The provisions of section 506(b) shall apply to funds expended under this title to the same extent as they apply to title V.

"(h) REQUIREMENT TO FOLLOW STATE PROGRAM OUTLINE.—The State shall conduct the program in accordance with the program outline approved by the Secretary under section 2104.

"SEC. 2107. STATE OPTION FOR THE PURCHASE OR PROVISION OF CHILDREN'S HEALTH INSURANCE.

"(a) STATE OPTION.—

"(1) IN GENERAL.—An eligible State that opts to use funds provided under this title under this section shall use such funds to provide FEHBP-equivalent children's health insurance coverage for low-income children who reside in the State.

"(2) PRIORITY FOR LOW-INCOME CHILDREN.—A State that uses funds provided under this title under this section shall not cover low-income children with higher family income without covering such children with a lower family income.

"(3) DETERMINATION OF ELIGIBILITY AND FORM OF ASSISTANCE.—An eligible State may establish any additional eligibility criteria for the provision of health insurance coverage for a low-income child through funds provided under this title, so long as such criteria and assistance are consistent with the purpose and provisions of this title.

"(4) AFFORDABILITY.—An eligible State may impose any family premium obligations or cost-sharing requirements otherwise permitted under this title on low-income children with family incomes that exceed 150 percent of the poverty line. In the case of a low-income child whose family income is at or below 150 percent of the poverty line, limits on beneficiary costs generally applicable under title XIX apply to coverage provided such children under this section.

"(5) COVERAGE OF CERTAIN BENEFITS.—Any eligible State that opts to use funds provided under this title under this section for the coverage described in paragraph (1) is encouraged to include as part of such coverage, coverage for items and services needed for vision, hearing, and dental health.

"(b) NONENTITLEMENT.—Nothing in this section shall be construed as providing an entitlement for an individual or person to any health insurance coverage, assistance, or service provided through a State program funded under this title. If, with respect to a fiscal year, an eligible State determines that the funds provided under this title are not sufficient to provide health insurance coverage for all the low-income children that the State proposes to cover in the State program outline submitted under section 2104 for such fiscal year, the State may adjust the applicable eligibility criteria for such children appropriately or adjust the State program in another manner specified by the Secretary, so long as any such adjustments are consistent with the purpose of this title.

"SEC. 2108. PROGRAM INTEGRITY.

"The following provisions of the Social Security Act shall apply to eligible States under this title in the same manner as such provisions apply to a State under title XIX:

"(1) Section 1116 (relating to administrative and judicial review).

"(2) Section 1124 (relating to disclosure of ownership and related information).

"(3) Section 1126 (relating to disclosure of information about certain convicted individuals).

"(4) Section 1128 (relating to exclusion from individuals and entities from participation in State health care plans).

"(5) Section 1128A (relating to civil monetary penalties).

"(6) Section 1128B (relating to criminal penalties).

"(7) Section 1132 (relating to periods within which claims must be filed).

"(8) Section 1902(a)(4)(C) (relating to conflict of interest standards).

"(9) Section 1903(i) (relating to limitations on payment).

"(10) Section 1903(m)(5) (as in effect on the day before the date of enactment of the Balanced Budget Act of 1997).

"(11) Section 1903(w) (relating to limitations on provider taxes and donations).

"(12) Section 1905(a)(B) (relating to the exclusion of care or services for any individual who has not attained 65 years of age and who is a patient in an institution for mental diseases from the definition of medical assistance).

"(13) Section 1921 (relating to state licensure authorities).

"(14) Sections 1902(a)(25), 1912(a)(1)(A), and 1903(o) (insofar as such sections relate to third party liability).

"(15) Sections 1948 and 1949 (as added by section 5701(a)(2) of the Balanced Budget Act of 1997).

"SEC. 2109. ANNUAL REPORTS.

"(a) ANNUAL STATE ASSESSMENT OF PROGRESS.—An eligible State shall—

"(1) assess the operation of the State program funded under this title in each fiscal year, including the progress made in providing health insurance coverage for low-income children; and

"(2) report to the Secretary, by January 1 following the end of the fiscal year, on the result of the assessment.

"(b) REPORT OF THE SECRETARY.—The Secretary shall submit to the appropriate committees of Congress an annual report and evaluation of the State programs funded under this title based on the State assessments and reports submitted under subsection (a). Such report shall include any conclusions and recommendations that the Secretary considers appropriate.".

(b) CONFORMING AMENDMENT.—Section 1128(h) (42 U.S.C. 1320a-7(h)) is amended by—

(1) in paragraph (2), by striking "or" at the end;

(2) in paragraph (3), by striking the period and inserting ", or"; and

(3) by adding at the end the following:

"(4) a program funded under title XXI.".

(c) EFFECTIVE DATE.—The amendments made by this section apply on and after October 4, 1997.

ROCKFELLER AMENDMENT NO. 510

Mr. LAUTENBERG (for Mr. ROCKFELLER) proposed an amendment to the bill, S. 947, supra; as follows:

At the appropriate place add the following:

Notwithstanding any other provision of this Act, the following shall be the Hearing and Vision services provided under the Children's Health Insurance Section:

"(4) HEARING AND VISION SERVICES.—Notwithstanding the definition of FEHBP-equivalent children's health insurance coverage in section 2102(5), any package of health insurance benefits offered by a State that opts to use funds provided under this title under this section shall include hearing and vision services for children.".

ROTH AMENDMENT NO. 511

Mr. ROTH proposed an amendment to the bill, S. 947, supra; as follows:

Beginning on page 844, strike line 8 and all that follows through page 865, line 2 and insert the following:

Subtitle J—Children's Health Insurance Initiatives

SEC. 5801. ESTABLISHMENT OF CHILDREN'S HEALTH INSURANCE INITIATIVES.

(a) IN GENERAL.—The Social Security Act is amended by adding at the end the following:

"TITLE XXI—CHILD HEALTH INSURANCE INITIATIVES

"SEC. 2101. PURPOSE.

"The purpose of this title is to provide funds to States to enable such States to expand the provision of health insurance coverage for low-income children. Funds provided under this title shall be used to achieve this purpose through outreach activities described in section 2106(a) and, at the option of the State through—

"(1) a grant program conducted in accordance with section 2107 and the other requirements of this title; or

"(2) expansion of coverage of such children under the State medicaid program who are not required to be provided medical assistance under section 1902(l) (taking into account the process of individuals aging into eligibility under subsection (l)(1)(D)).

"SEC. 2102. DEFINITIONS.

"In this title:

"(1) BASE-YEAR COVERED LOW-INCOME CHILD POPULATION.—The term 'base-year covered low-income child population' means the total number of low-income children with respect to whom, as of fiscal year 1996, an eligible State provides or pays the cost of health benefits either through a State funded program or through expanded eligibility under the State plan under title XIX (including under a waiver of such plan), as determined by the Secretary. Such term does not include any low-income child described in paragraph (3)(A) that a State must cover in order to be considered an eligible State under this title.

"(2) CHILD.—The term 'child' means an individual under 19 years of age.

"(3) ELIGIBLE STATE.—The term 'eligible State' means, with respect to a fiscal year, a State that—

"(A) provides, under section 1902(l)(1)(D) or under a waiver, for eligibility for medical assistance under a State plan under title XIX of individuals under 17 years of age in fiscal year 1998, and under 19 years of age in fiscal year 2000, regardless of date of birth;

"(B) has submitted to the Secretary under section 2104 a program outline that—

"(i) sets forth how the State intends to use the funds provided under this title to provide health insurance coverage for low-income children consistent with the provisions of this title; and

"(ii) is approved under section 2104; and

"(iii) otherwise satisfies the requirements of this title; and

"(C) satisfies the maintenance of effort requirement described in section 2105(c)(5).".

"(4) FEDERAL MEDICAL ASSISTANCE PERCENTAGE.—The term 'Federal medical assistance percentage' means, with respect to a State, the meaning given that term under section 1905(b). Any cost-sharing imposed under this title may not be included in determining Federal medical assistance percentage for reimbursement of expenditures under a State program funded under this title.

"(5) FEHBP-EQUIVALENT CHILDREN'S HEALTH INSURANCE COVERAGE.—The term 'FEHBP-equivalent children's health insurance coverage' means, with respect to a State, any plan or arrangement that provides, or pays the cost of, health benefits that the Secretary has certified are equivalent to or better than the items and services covered for a child under one of the 5 plans under chapter 89 of title 5, United States Code, serving the largest number of enrolled families with children in a State, and that otherwise satisfies State insurance standards and requirements.

"(6) INDIANS.—The term 'Indians' has the meaning given that term in section 4(c) of the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.).

"(7) LOW-INCOME CHILD.—The term 'low-income child' means a child in a family whose income is below 200 percent of the poverty line for a family of the size involved.

"(8) POVERTY LINE.—The term 'poverty line' has the meaning given that term in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by such section.

"(9) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services.

"(10) STATE.—The term 'State' means each of the 50 States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands.

"(11) STATE CHILDREN'S HEALTH EXPENDITURES.—The term 'State children's health expenditures' means the State share of expenditures by the State for providing children with health care items and services under—

"(A) the State plan for medical assistance under title XIX;

"(B) the maternal and child health services block grant program under title V;

"(C) the preventive health services block grant program under part A of title XIX of the Public Health Services Act (42 U.S.C. 300w et seq.);

"(D) State-funded programs that are designed to provide health care items and services to children;

"(E) school-based health services programs;

"(F) State programs that provide uncompensated or indigent health care;

"(G) county-indigent care programs for which the State requires a matching share by a county government or for which there are intergovernmental transfers from a county to State government; and

"(H) any other program under which the Secretary determines the State incurs uncompensated expenditures for providing children with health care items and services.

"(12) STATE MEDICAID PROGRAM.—The term 'State medicaid program' means the program of medical assistance provided under title XIX.

"SEC. 2103. APPROPRIATION.

"(a) APPROPRIATION.—

"(1) IN GENERAL.—Subject to subsection (b), out of any money in the Treasury of the United States not otherwise appropriated, there is appropriated for the purpose of carrying out this title—

"(A) for fiscal year 1998, $2,500,000,000;

"(B) for each of fiscal years 1999 and 2000, $3,200,000,000;

"(C) for fiscal year 2001, $3,600,000,000;

"(D) for fiscal year 2002, $3,500,000,000;

"(E) for each of fiscal years 2003 through 2007, $4,580,000,000.

"(2) AVAILABILITY.—Funds appropriated under this section shall remain available without fiscal year limitation, as provided under section 2105(b)(4).

"(b) REDUCTION FOR INCREASED MEDICAID EXPENDITURES.—With respect to each of the fiscal years described in subsection (a)(1), the amount appropriated under subsection (a)(1) for each such fiscal year shall be reduced by an amount equal to the amount of the total Federal outlays under the medicaid program under title XIX resulting from—

"(1) the amendment made by section 5732 of the Balanced Budget Act of 1997 (regarding the State option to provide 12-month continuous eligibility for children);

"(2) increased enrollment under State plans approved under such program as a result of outreach activities under section 2106(a); and

"(3) the requirement under section 2102(3)A) to provide eligibility for medical assistance under the State plan under title XIX for all children under 19 years of age who have families with income that is at or below the poverty line.

"(c) STATE ENTITLEMENT.—This title constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide for the payment to States of amounts provided in accordance with the provisions of this title.

"(d) EFFECTIVE DATE.—No State is eligible for payments under section 2105 for any calendar quarter beginning before October 1, 1997.

"SEC. 2104. PROGRAM OUTLINE.

"(a) GENERAL DESCRIPTION.—A State shall submit to the Secretary for approval a program outline, consistent with the requirements of this title, that—

"(1) identifies, on or after the date of enactment of the Balanced Budget Act of 1997, which of the 2 options described in section 2101 the State intends to use to provide low-income children in the State with health insurance coverage;

"(2) describes the manner in which such coverage shall be provided; and

"(3) provides such other information as the Secretary may require.

"(b) OTHER REQUIREMENTS.—The program outline submitted under this section shall include the following:

"(1) ELIGIBILITY STANDARDS AND METHODOLOGIES.—A summary of the standards and methodologies used to determine the eligibility of low-income children for health insurance coverage under a State program funded under this title.

"(2) ELIGIBILITY SCREENING; COORDINATION WITH OTHER HEALTH COVERAGE.—A description of the procedures to be used to ensure—

"(A) through both intake and followup screening, that only low-income children are furnished health insurance coverage through funds provided under this title; and

"(B) that any health insurance coverage provided for children through funds under this title does not reduce the number of children who are provided such coverage through any other publicly or privately funded health plan.

"(3) INDIANS.—A description of how the State will ensure that Indians are served through a State program funded under this title.

"(c) DEADLINE FOR SUBMISSION.—A State program outline shall be submitted to the Secretary by not later than March 31 of any fiscal year (October 1, 1997, in the case of fiscal year 1998).

"SEC. 2105. DISTRIBUTION OF FUNDS.

"(a) ESTABLISHMENT OF FUNDING POOLS.—

"(1) IN GENERAL.—From the amount appropriated under section 2103(a)(1) for each fiscal year, determined after the reduction required under section 2103(b), the Secretary shall, for purposes of fiscal year 1998, reserve 85 percent of such amount for distribution to eligible States through the basic allotment pool under subsection (b) and 15 percent of such amount for distribution through the new coverage incentive pool under subsection (c)(2)(B)(ii).

"(2) ANNUAL ADJUSTMENT OF RESERVE PERCENTAGES.—The Secretary shall annually adjust the amount of the percentages described in paragraph (1) in order to provide sufficient basic allotments and sufficient new coverage incentives to achieve the purpose of this title.

"(b) DISTRIBUTION OF FUNDS UNDER THE BASIC ALLOTMENT POOL.—

"(1) STATES.—

"(A) IN GENERAL.—From the total amount reserved under subsection (a) for a fiscal year for distribution through the basic allotment pool, the Secretary shall first set aside 0.25 percent for distribution under paragraph (2) and shall allot from the amount remaining to each eligible State not described in such paragraph the State's allotment percentage for such fiscal year.

"(B) STATE'S ALLOTMENT PERCENTAGE.—

"(i) IN GENERAL.—For purposes of subparagraph (A), the allotment percentage for a fiscal year for each State is the percentage equal to the ratio of the number of low-income children in the base period in the State to the total number of low-income children in the base period in all States not described in paragraph (2).

"(ii) NUMBER OF LOW-INCOME CHILDREN IN THE BASE PERIOD.—In clause (i), the number of low-income children in the base period for a fiscal year in a State is equal to the average of the number of low-income children in the State for the period beginning on October 1, 1992, and ending on September 30, 1995, as reported in the March 1994, March 1995, and March 1996 supplements to the Current Population Survey of the Bureau of the Census.

“(2) OTHER STATES.—

“(A) IN GENERAL.—From the amount set aside under paragraph (1)(A) for each fiscal year, the Secretary shall make allotments for such fiscal year in accordance with the percentages specified in subparagraph (B) to Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands, if such States are eligible States for such fiscal year.

“(B) PERCENTAGES SPECIFIED.—The percentages specified in this subparagraph are in the case of—

“(i) Puerto Rico, 91.6 percent;

“(ii) Guam, 3.5 percent;

“(iii) the Virgin Islands, 2.6 percent;

“(iv) American Samoa, 1.2 percent; and

“(v) the Northern Mariana Islands, 1.1 percent.

“(3) THREE-YEAR AVAILABILITY OF AMOUNTS ALLOTTED.—Amounts allotted to a State pursuant to this subsection for a fiscal year shall remain available for expenditure by the State through the end of the second succeeding fiscal year.

“(4) PROCEDURE FOR DISTRIBUTION OF UNUSED FUNDS.—The Secretary shall determine an appropriate procedure for distribution of funds to eligible States that remain unused under this subsection after the expiration of the availability of funds required under paragraph (3). Such procedure shall be developed and administered in a manner that is consistent with the purpose of this title.

“(c) PAYMENTS.—

“(1) IN GENERAL.—The Secretary shall—

“(A) before October 1 of any fiscal year, pay an eligible State an amount equal to 1 percent of the amount allotted to the State under subsection (b) for conducting the outreach activities required under section 2106(a); and

“(B) make quarterly fiscal year payments to an eligible State from the amount remaining of such allotment for such fiscal year in an amount equal to the Federal medical assistance percentage for the State (as defined under section 2102(4) and determined without regard to the amount of Federal funds received by the State under title XIX before the date of enactment of this title) of the Federal and State incurred cost of providing health insurance coverage for a low-income child in the State plus the applicable bonus amount.

“(2) APPLICABLE BONUS.—

“(A) IN GENERAL.—For purposes of paragraph (1), the applicable bonus amount is—

“(i) 5 percent of the Federal and State incurred cost, with respect to a period, of providing health insurance coverage for children covered at State option among the base-year covered low-income child population (measured in full year equivalency) (including such children covered by the State through expanded eligibility under the medicaid program under title XIX before the date of enactment of this title, but excluding any low-income child described in section 2102(3)(A) that a State must cover in order to be considered an eligible State under this title); and

“(ii) 10 percent of the Federal and State incurred cost, with respect to a period, of providing health insurance coverage for children covered at State option among the number (as so measured) of low-income children that are in excess of such population.

“(B) SOURCE OF BONUSES.—

“(i) BASE-YEAR COVERED LOW-INCOME CHILD POPULATION.—A bonus described in subparagraph (A)(i) shall be paid out of an eligible State's allotment for a fiscal year.

“(ii) FOR OTHER LOW-INCOME CHILD POPULATIONS.—A bonus described in subparagraph (A)(ii) shall be paid out of the new coverage incentive pool reserved under subsection (a)(1).

“(3) DEFINITION OF COST OF PROVIDING HEALTH INSURANCE COVERAGE.—For purposes of this subsection the cost of providing health insurance coverage for a low-income child in the State means—

“(A) in the case of an eligible State that opts to use funds provided under this title through the medicaid program, the cost of providing such child with medical assistance under the State plan under title XIX; and

“(B) in the case of an eligible State that opts to use funds provided under this title under section 2107, the cost of providing such child with health insurance coverage under such section.

“(4) LIMITATION ON TOTAL PAYMENTS.—With respect to a fiscal year, the total amount paid to an eligible State under this title (including any bonus payments) shall not exceed 85 percent of the total cost of a State program conducted under this title for such fiscal year.

“(5) MAINTENANCE OF EFFORT.—

“(A) DEEMED COMPLIANCE.—A State shall be deemed to be in compliance with this provision if—

“(i) it does not adopt income and resource standards and methodologies that are more restrictive than those applied as of June 1, 1997, for purposes of determining a child's eligibility for medical assistance under the State plan under title XIX; and

“(ii) in the case of fiscal year 1998 and each fiscal year thereafter, the State children's health expenditures defined in section 2102(11) are not less than the amount of such expenditures for fiscal year 1996.

“(B) FAILURE TO MAINTAIN MEDICAID STANDARDS AND METHODOLOGIES.—A State that fails to meet the conditions described in subparagraph (A) shall not receive—

“(i) funds under this title for any child that would be determined eligible for medical assistance under the State plan under title XIX using the income and resource standards and methodologies applied under such plan as of June 1, 1997; and

“(ii) any bonus amounts described in paragraph (2)(A)(ii).

“(C) FAILURE TO MAINTAIN SPENDING ON CHILD HEALTH PROGRAMS.—A State that fails to meet the condition described in subparagraph (A)(ii) shall not receive funding under this title.

“(6) ADVANCE PAYMENT; RETROSPECTIVE ADJUSTMENT.—The Secretary may make payments under this subsection for each quarter on the basis of advance estimates of expenditures submitted by the State and such other investigation as the Secretary may find necessary, and shall reduce or increase the payments as necessary to adjust for any overpayment or underpayment for prior quarters.

“SEC. 2106. USE OF FUNDS.

“(a) SET-ASIDE FOR OUTREACH ACTIVITIES.—

“(1) IN GENERAL.—From the amount allotted to a State under section 2105(b) for a fiscal year, each State shall conduct outreach activities described in paragraph (2).

“(2) OUTREACH ACTIVITIES DESCRIBED.—The outreach activities described in this paragraph include activities to—

“(A) identify and enroll children who are eligible for medical assistance under the State plan under title XIX; and

“(B) conduct public awareness campaigns to encourage employers to provide health insurance coverage for children.

“(b) STATE OPTIONS FOR REMAINDER.—A State may use the amount remaining of the allotment to a State under section 2105(b) for a fiscal year, determined after the payment required under section 2105(c)(1)(A), in accordance with section 2107 or the State medicaid program (but not both). Nothing in the preceding sentence shall be construed as limiting a State's eligibility for receiving the 5 percent bonus described in section 2105(c)(2)(A)(i) for children covered by the State through expanded eligibility under the medicaid program under title XIX before the date of enactment of this title.

“(c) PROHIBITION ON USE OF FUNDS.—No funds provided under this title may be used to provide health insurance coverage for—

“(1) families of State public employees; or

“(2) children who are committed to a penal institution.

“(d) USE LIMITED TO STATE PROGRAM EXPENDITURES.—Funds provided to an eligible State under this title shall only be used to carry out the purpose of this title (as described in section 2101), and any health insurance coverage provided with such funds may include coverage of abortion only if necessary to save the life of the mother or if the pregnancy is the result of an act of rape or incest.

“(e) ADMINISTRATIVE EXPENDITURES.—

“(1) IN GENERAL.—Not more than the applicable percentage of the amount allotted to a State under section 2105(b) for a fiscal year, determined after the payment required under section 2105(c)(1)(A), shall be used for administrative expenditures for the program funded under this title.

“(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage with respect to a fiscal year is—

“(A) for the first 2 years of a State program funded under this title, 10 percent;

“(B) for the third year of a State program funded under this title, 7.5 percent; and

“(C) for the fourth year of a State program funded under this title and each year thereafter, 5 percent.

“(f) NONAPPLICATION OF FIVE-YEAR LIMITED ELIGIBILITY FOR MEANS-TESTED PUBLIC BENEFITS.—The provisions of section 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613) shall not apply with respect to a State program funded under this title.

“(g) AUDITS.—The provisions of section 506(b) shall apply to funds expended under this title to the same extent as they apply to title V.

“(h) REQUIREMENT TO FOLLOW STATE PROGRAM OUTLINE.—The State shall conduct the program in accordance with the program outline approved by the Secretary under section 2104.

“SEC. 2107. STATE OPTION FOR THE PURCHASE OR PROVISION OF CHILDREN'S HEALTH INSURANCE.

“(a) STATE OPTION.—

“(1) IN GENERAL.—An eligible State that opts to use funds provided under this title under this section shall use such funds to provide FEHBP-equivalent children's health insurance coverage for low-income children who reside in the State.

“(2) PRIORITY FOR LOW-INCOME CHILDREN.—A State that uses funds provided under this title under this section shall not cover low-income children with higher family income without covering such children with a lower family income.

"(3) DETERMINATION OF ELIGIBILITY AND FORM OF ASSISTANCE.—An eligible State may establish any additional eligibility criteria for the provision of health insurance coverage for a low-income child through funds provided under this title, so long as such criteria and assistance are consistent with the purpose and provisions of this title.

"(4) AFFORDABILITY.—An eligible State may impose any family premium obligations or cost-sharing requirements otherwise permitted under this title on low-income children with family incomes that exceed 150 percent of the poverty line. In the case of a low-income child whose family income is at or below 150 percent of the poverty line, limits on beneficiary costs generally applicable under title XIX apply to coverage provided such children under this section.

"(5) COVERAGE OF CERTAIN BENEFITS.—Any eligible State that opts to use funds provided under this title under this section for the coverage described in paragraph (1) is encouraged to include as part of such coverage, coverage for items and services needed for vision, hearing, and dental health.

"(b) NONENTITLEMENT.—Nothing in this section shall be construed as providing an entitlement for an individual or person to any health insurance coverage, assistance, or service provided through a State program funded under this title. If, with respect to a fiscal year, an eligible State determines that the funds provided under this title are not sufficient to provide health insurance coverage for all the low-income children that the State proposes to cover in the State program outline submitted under section 2104 for such fiscal year, the State may adjust the applicable eligibility criteria for such children appropriately or adjust the State program in another manner specified by the Secretary, so long as any such adjustments are consistent with the purpose of this title.

"SEC. 2108. PROGRAM INTEGRITY.

"The following provisions of the Social Security Act shall apply to eligible States under this title in the same manner as such provisions apply to a State under title XIX:

"(1) Section 1116 (relating to administrative and judicial review).

"(2) Section 1124 (relating to disclosure of ownership and related information).

"(3) Section 1126 (relating to disclosure of information about certain convicted individuals).

"(4) Section 1128 (relating to exclusion from individuals and entities from participation in State health care plans).

"(5) Section 1128A (relating to civil monetary penalties).

"(6) Section 1128B (relating to criminal penalties).

"(7) Section 1132 (relating to periods within which claims must be filed).

"(8) Section 1902(a)(4)(C) (relating to conflict of interest standards).

"(9) Section 1903(i) (relating to limitations on payment).

"(10) Section 1903(m)(5) (as in effect on the day before the date of enactment of the Balanced Budget Act of 1997).

"(11) Section 1903(w) (relating to limitations on provider taxes and donations).

"(12) Section 1905(a)(B) (relating to the exclusion of care or services for any individual who has not attained 65 years of age and who is a patient in an institution for mental diseases from the definition of medical assistance).

"(13) Section 1921 (relating to state licensure authorities).

"(14) Sections 1902(a)(25), 1912(a)(1)(A), and 1903(o) (insofar as such sections relate to third party liability).

"(15) Sections 1948 and 1949 (as added by section 5701(a)(2) of the Balanced Budget Act of 1997).

"SEC. 2109. ANNUAL REPORTS.

"(a) ANNUAL STATE ASSESSMENT OF PROGRESS.—An eligible State shall—

"(1) assess the operation of the State program funded under this title in each fiscal year, including the progress made in providing health insurance coverage for low-income children; and

"(2) report to the Secretary, by January 1 following the end of the fiscal year, on the result of the assessment.

"(b) REPORT OF THE SECRETARY.—The Secretary shall submit to the appropriate committees of Congress an annual report and evaluation of the State programs funded under this title based on the State assessments and reports submitted under subsection (a). Such report shall include any conclusions and recommendations that the Secretary considers appropriate.".

(b) CONFORMING AMENDMENT.—Section 1128(h) (42 U.S.C. 1320a–7(h)) is amended by—

(1) in paragraph (2), by striking "or" at the end;

(2) in paragraph (3), by striking the period and inserting ", or"; and

(3) by adding at the end the following:

"(4) a program funded under title XXI.".

(c) EFFECTIVE DATE.—The amendments made by this section apply on and after October 1, 1997.

CHAFEE AMENDMENT NO. 512

Mr. CHAFEE (for himself and Mr. ROCKEFELLER) proposed an amendment to amendment No. 511 proposed by Mr. ROTH to the bill S. 947, supra; as follows:

On page 4, strike line 17 through line 3 on page 5 and insert the following:

"(5) FEHBP-EQUIVALENT CHILDREN'S HEALTH INSURANCE COVERAGE.—The term 'FEHBP-equivalent children's health insurance coverage' means, with respect to a State, any plan or arrangement that provides, or pays the cost of, health benefits that the Secretary has certified are equivalent to or better than the services covered for a child, including hearing and vision services, under the standard Blue Cross/Blue Shield preferred provider option service benefit plan offered under chapter 89 of title 5, United States Code.

LOTT AMENDMENT NO. 513

Mr. ROTH (for Mr. LOTT) proposed an amendment to amendment No. 510 proposed by Mr. ROCKEFELLER to the bill, S. 947, supra; as follows:

In lieu of the matter proposed to be inserted, insert:

Subtitle J—Children's Health Insurance Initiatives

SEC. 5801. ESTABLISHMENT OF CHILDREN'S HEALTH INSURANCE INITIATIVES.

(a) IN GENERAL.—Notwithstanding any other provision of the Act, the Social Security Act is amended by adding at the end the following:

"TITLE XXI—CHILD HEALTH INSURANCE INITIATIVES

"SEC. 2101. PURPOSE.

"The purpose of this title is to provide funds to States to enable such States to expand the provision of health insurance coverage for low-income children. Funds provided under this title shall be used to achieve this purpose through outreach activities described in section 2106(a) and, at the option of the State through—

"(1) a grant program conducted in accordance with section 2107 and the other requirements of this title; or

"(2) expansion of coverage of such children under the State medicaid program who are not required to be provided medical assistance under section 1902(l) (taking into account the process of individuals aging into eligibility under subsection (l)(1)(D)).

"SEC. 2102. DEFINITIONS.

"In this title:

"(1) BASE-YEAR COVERED LOW-INCOME CHILD POPULATION.—The term 'base-year covered low-income child population' means the total number of low-income children with respect to whom, as of fiscal year 1996, an eligible State provides or pays the cost of health benefits either through a State funded program or through expanded eligibility under the State plan under title XIX (including under a waiver of such plan), as determined by the Secretary. Such term does not include any low-income child described in paragraph (3)(A) that a State must cover in order to be considered an eligible State under this title.

"(2) CHILD.—The term 'child' means an individual under 19 years of age.

"(3) ELIGIBLE STATE.—The term 'eligible State' means, with respect to a fiscal year, a State that—

"(A) provides, under section 1902(l)(1)(D) or under a waiver, for eligibility for medical assistance under a State plan under title XIX of individuals under 17 years of age in fiscal year 1998, and under 19 years of age in fiscal year 2000, regardless of date of birth;

"(B) has submitted to the Secretary under section 2104 a program outline that—

"(i) sets forth how the State intends to use the funds provided under this title to provide health insurance coverage for low-income children consistent with the provisions of this title; and

"(ii) is approved under section 2104; and

"(iii) otherwise satisfies the requirements of this title; and

"(C) satisfies the maintenance of effort requirement described in section 2105(c)(5).".

"(4) FEDERAL MEDICAL ASSISTANCE PERCENTAGE.—The term 'Federal medical assistance percentage' means, with respect to a State, the meaning given that term under section 1905(b). Any cost-sharing imposed under this title may not be included in determining Federal medical assistance percentage for reimbursement of expenditures under a State program funded under this title.

"(5) FEHBP-EQUIVALENT CHILDREN'S HEALTH INSURANCE COVERAGE.—The term 'FEHBP-equivalent children's health insurance coverage' means, with respect to a State, any plan or arrangement that provides, or pays the cost of, health benefits that the Secretary has certified are equivalent to or better than the items and services covered for a child under one of the 5 plans under chapter 89 of title 5, United States Code, serving the largest number of enrolled families with children in a State, and that otherwise satisfies State insurance standards and requirements.

"(6) INDIANS.—The term 'Indians' has the meaning given that term in section 4(c) of the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.).

"(7) LOW-INCOME CHILD.—The term 'low-income child' means a child in a family whose income is below 200 percent of the poverty line for a family of the size involved.

“(8) Poverty line.—The term ‘poverty line’ has the meaning given that term in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by such section.

“(9) Secretary.—The term ‘Secretary’ means the Secretary of Health and Human Services.

“(10) State.—The term ‘State’ means each of the 50 States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands.

“(11) State children’s health expenditures.—The term ‘State children’s health expenditures’ means the State share of expenditures by the State for providing children with health care items and services under—

“(A) the State plan for medical assistance under title XIX;

“(B) the maternal and child health services block grant program under title V;

“(C) the preventive health services block grant program under part A of title XIX of the Public Health Services Act (42 U.S.C. 300w et seq.);

“(D) State-funded programs that are designed to provide health care items and services to children;

“(E) school-based health services programs;

“(F) State programs that provide uncompensated or indigent health care;

“(G) county-indigent care programs for which the State requires a matching share by a county government or for which there are intergovernmental transfers from a county to State government; and

“(H) any other program under which the Secretary determines the State incurs uncompensated expenditures for providing children with health care items and services.

“(12) State medicaid program.—The term ‘State medicaid program’ means the program of medical assistance provided under title XIX.

“SEC. 2103. APPROPRIATION.

“(a) Appropriation.—

“(1) In general.—Subject to subsection (b), out of any money in the Treasury of the United States not otherwise appropriated, there is appropriated for the purpose of carrying out this title—

“(A) for fiscal year 1998, $2,500,000,000;

“(B) for each of fiscal years 1999 and 2000, $3,200,000,000;

“(C) for fiscal year 2001, $3,600,000,000;

“(D) for fiscal year 2002, $3,500,000,000;

“(E) for each of fiscal years 2003 through 2007, $4,580,000,000.

“(2) Availability.—Funds appropriated under this section shall remain available without fiscal year limitation, as provided under section 2105(b)(4).

“(b) Reduction for Increased Medicaid Expenditures.—With respect to each of the fiscal years described in subsection (a)(1), the amount appropriated under subsection (a)(1) for each such fiscal year shall be reduced by an amount equal to the amount of the total Federal outlays under the medicaid program under title XIX resulting from—

“(1) the amendment made by section 5732 of the Balanced Budget Act of 1997 (regarding the State option to provide 12-month continuous eligibility for children);

“(2) increased enrollment under State plans approved under such program as a result of outreach activities under section 2106(a); and

“(3) the requirement under section 2102(3)A) to provide eligibility for medical assistance under the State plan under title XIX for all children under 19 years of age who have families with income that is at or below the poverty line.

“(c) State Entitlement.—This title constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide for the payment to States of amounts provided in accordance with the provisions of this title.

“(d) Effective Date.—No State is eligible for payments under section 2105 for any calendar quarter beginning before October 1, 1997.

“SEC. 2104. PROGRAM OUTLINE.

“(a) General Description.—A State shall submit to the Secretary for approval a program outline, consistent with the requirements of this title, that—

“(1) identifies, on or after the date of enactment of the Balanced Budget Act of 1997, which of the 2 options described in section 2101 the State intends to use to provide low-income children in the State with health insurance coverage;

“(2) describes the manner in which such coverage shall be provided; and

“(3) provides such other information as the Secretary may require.

“(b) Other Requirements.—The program outline submitted under this section shall include the following:

“(1) Eligibility standards and methodologies.—A summary of the standards and methodologies used to determine the eligibility of low-income children for health insurance coverage under a State program funded under this title.

“(2) Eligibility screening; coordination with other health coverage.—A description of the procedures to be used to ensure—

“(A) through both intake and followup screening, that only low-income children are furnished health insurance coverage through funds provided under this title; and

“(B) that any health insurance coverage provided for children through funds under this title does not reduce the number of children who are provided such coverage through any other publicly or privately funded health plan.

“(3) Indians.—A description of how the State will ensure that Indians are served through a State program funded under this title.

“(c) Deadline for submission.—A State program outline shall be submitted to the Secretary by not later than March 31 of any fiscal year (October 1, 1997, in the case of fiscal year 1998).

“SEC. 2105. DISTRIBUTION OF FUNDS.

“(a) Establishment of Funding Pools.—

“(1) In general.—From the amount appropriated under section 2103(a)(1) for each fiscal year, determined after the reduction required under section 2103(b), the Secretary shall, for purposes of fiscal year 1998, reserve 85 percent of such amount for distribution to eligible States through the basic allotment pool under subsection (b) and 15 percent of such amount for distribution through the new coverage incentive pool under subsection (c)(2)(B)(ii).

“(2) Annual adjustment of reserve percentages.—The Secretary shall annually adjust the amount of the percentages described in paragraph (1) in order to provide sufficient basic allotments and sufficient new coverage incentives to achieve the purpose of this title.

“(b) Distribution of Funds Under the Basic Allotment Pool.—

“(1) States.—

“(A) In general.—From the total amount reserved under subsection (a) for a fiscal year for distribution through the basic allotment pool, the Secretary shall first set aside 0.25 percent for distribution under paragraph (2) and shall allot from the amount remaining to each eligible State not described in such paragraph the State’s allotment percentage for such fiscal year.

“(B) State’s allotment percentage.—

“(i) In general.—For purposes of subparagraph (A), the allotment percentage for a fiscal year for each State is the percentage equal to the ratio of the number of low-income children in the base period in the State to the total number of low-income children in the base period in all States not described in paragraph (2).

“(ii) Number of low-income children in the base period.—In clause (i), the number of low-income children in the base period for a fiscal year in a State is equal to the average of the number of low-income children in the State for the period beginning on October 1, 1992, and ending on September 30, 1995, as reported in the March 1994, March 1995, and March 1996 supplements to the Current Population Survey of the Bureau of the Census.

“(2) Other states.—

“(A) In general.—From the amount set aside under paragraph (1)(A) for each fiscal year, the Secretary shall make allotments for such fiscal year in accordance with the percentages specified in subparagraph (B) to Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands, if such States are eligible States for such fiscal year.

“(B) Percentages specified.—The percentages specified in this subparagraph are in the case of—

“(i) Puerto Rico, 91.6 percent;

“(ii) Guam, 3.5 percent;

“(iii) the Virgin Islands, 2.6 percent;

“(iv) American Samoa, 1.2 percent; and

“(v) the Northern Mariana Islands, 1.1 percent.

“(3) Three-year availability of amounts allotted.—Amounts allotted to a State pursuant to this subsection for a fiscal year shall remain available for expenditure by the State through the end of the second succeeding fiscal year.

“(4) Procedure for distribution of unused funds.—The Secretary shall determine an appropriate procedure for distribution of funds to eligible States that remain unused under this subsection after the expiration of the availability of funds required under paragraph (3). Such procedure shall be developed and administered in a manner that is consistent with the purpose of this title.

“(c) Payments.—

“(1) In general.—The Secretary shall—

“(A) before October 1 of any fiscal year, pay an eligible State an amount equal to 1 percent of the amount allotted to the State under subsection (b) for conducting the outreach activities required under section 2106(a); and

“(B) make quarterly fiscal year payments to an eligible State from the amount remaining of such allotment for such fiscal year in an amount equal to the Federal medical assistance percentage for the State (as defined under section 2102(4) and determined without regard to the amount of Federal funds received by the State under title XIX before the date of enactment of this title) of the Federal and State incurred cost of providing health insurance coverage for a low-income child in the State plus the applicable bonus amount.

“(2) Applicable bonus.—

“(A) In general.—For purposes of paragraph (1), the applicable bonus amount is—

"(i) 5 percent of the Federal and State incurred cost, with respect to a period, of providing health insurance coverage for children covered at State option among the base-year covered low-income child population (measured in full year equivalency) (including such children covered by the State through expanded eligibility under the medicaid program under title XIX before the date of enactment of this title, but excluding any low-income child described in section 2102(3)(A) that a State must cover in order to be considered an eligible State under this title); and

"(ii) 10 percent of the Federal and State incurred cost, with respect to a period, of providing health insurance coverage for children covered at State option among the number (as so measured) of low-income children that are in excess of such population.

"(B) Source of Bonuses.—

"(i) Base-Year Covered Low-Income Child Population.—A bonus described in subparagraph (A)(i) shall be paid out of an eligible State's allotment for a fiscal year.

"(ii) For Other Low-Income Child Populations.—A bonus described in subparagraph (A)(ii) shall be paid out of the new coverage incentive pool reserved under subsection (a)(1).

"(3) Definition of Cost of Providing Health Insurance Coverage.—For purposes of this subsection the cost of providing health insurance coverage for a low-income child in the State means—

"(A) in the case of an eligible State that opts to use funds provided under this title through the medicaid program, the cost of providing such child with medical assistance under the State plan under title XIX; and

"(B) in the case of an eligible State that opts to use funds provided under this title under section 2107, the cost of providing such child with health insurance coverage under such section.

"(4) Limitation on Total Payments.—With respect to a fiscal year, the total amount paid to an eligible State under this title (including any bonus payments) shall not exceed 85 percent of the total cost of a State program conducted under this title for such fiscal year.

"(5) Maintenance of Effort.—

"(A) Deemed Compliance.—A State shall be deemed to be in compliance with this provision if—

"(i) it does not adopt income and resource standards and methodologies that are more restrictive than those applied as of June 1, 1997, for purposes of determining a child's eligibility for medical assistance under the State plan under title XIX; and

"(ii) in the case of fiscal year 1998 and each fiscal year thereafter, the State children's health expenditures defined in section 2102(11) are not less than the amount of such expenditures for fiscal year 1996.

"(B) Failure to Maintain Medicaid Standards and Methodologies.—A State that fails to meet the conditions described in subparagraph (A) shall not receive—

"(i) funds under this title for any child that would be determined eligible for medical assistance under the State plan under title XIX using the income and resource standards and methodologies applied under such plan as of June 1, 1997; and

"(ii) any bonus amounts described in paragraph (2)(A)(ii).

"(C) Failure to Maintain Spending on Child Health Programs.—A State that fails to meet the condition described in subparagraph (A)(ii) shall not receive funding under this title.

"(6) Advance Payment; Retrospective Adjustment.—The Secretary may make payments under this subsection for each quarter on the basis of advance estimates of expenditures submitted by the State and such other investigation as the Secretary may find necessary, and shall reduce or increase the payments as necessary to adjust for any overpayment or underpayment for prior quarters.

"SEC. 2106. USE OF FUNDS.

"(a) Set-Aside for Outreach Activities.—

"(1) In General.—From the amount allotted to a State under section 2105(b) for a fiscal year, each State shall conduct outreach activities described in paragraph (2).

"(2) Outreach Activities Described.—The outreach activities described in this paragraph include activities to—

"(A) identify and enroll children who are eligible for medical assistance under the State plan under title XIX; and

"(B) conduct public awareness campaigns to encourage employers to provide health insurance coverage for children.

"(b) State Options for Remainder.—A State may use the amount remaining of the allotment to a State under section 2105(b) for a fiscal year, determined after the payment required under section 2105(c)(1)(A), in accordance with section 2107 or the State medicaid program (but not both). Nothing in the preceding sentence shall be construed as limiting a State's eligibility for receiving the 5 percent bonus described in section 2105(c)(2)(A)(i) for children covered by the State through expanded eligibility under the medicaid program under title XIX before the date of enactment of this title.

"(c) Prohibition On Use of Funds.—No funds provided under this title may be used to provide health insurance coverage for—

"(1) families of State public employees; or

"(2) children who are committed to a penal institution.

"(d) Use Limited to State Program Expenditures.—Funds provided to an eligible State under this title shall only be used to carry out the purpose of this title (as described in section 2101), and any health insurance coverage provided with such funds may include coverage of abortion only if necessary to save the life of the mother or if the pregnancy is the result of an act of rape or incest.

"(e) Administrative Expenditures.—

"(1) In General.—Not more than the applicable percentage of the amount allotted to a State under section 2105(b) for a fiscal year, determined after the payment required under section 2105(c)(1)(A), shall be used for administrative expenditures for the program funded under this title.

"(2) Applicable Percentage.—For purposes of paragraph (1), the applicable percentage with respect to a fiscal year is—

"(A) for the first 2 years of a State program funded under this title, 10 percent;

"(B) for the third year of a State program funded under this title, 7.5 percent; and

"(C) for the fourth year of a State program funded under this title and each year thereafter, 5 percent.

"(f) Nonapplication of Five-Year Limited Eligibility for Means-Tested Public Benefits.—The provisions of section 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613) shall not apply with respect to a State program funded under this title.

"(g) Audits.—The provisions of section 506(b) shall apply to funds expended under this title to the same extent as they apply to title V.

"(h) Requirement to Follow State Program Outline.—The State shall conduct the program in accordance with the program outline approved by the Secretary under section 2104.

"SEC. 2107. STATE OPTION FOR THE PURCHASE OR PROVISION OF CHILDREN'S HEALTH INSURANCE.

"(a) State Option.—

"(1) In General.—An eligible State that opts to use funds provided under this title under this section shall use such funds to provide FEHBP-equivalent children's health insurance coverage for low-income children who reside in the State.

"(2) Priority for Low-Income Children.—A State that uses funds provided under this title under this section shall not cover low-income children with higher family income without covering such children with a lower family income.

"(3) Determination of Eligibility and Form of Assistance.—An eligible State may establish any additional eligibility criteria for the provision of health insurance coverage for a low-income child through funds provided under this title, so long as such criteria and assistance are consistent with the purpose and provisions of this title.

"(4) Affordability.—An eligible State may impose any family premium obligations or cost-sharing requirements otherwise permitted under this title on low-income children with family incomes that exceed 150 percent of the poverty line. In the case of a low-income child whose family income is at or below 150 percent of the poverty line, limits on beneficiary costs generally applicable under title XIX apply to coverage provided such children under this section.

"(5) Coverage of Certain Benefits.—Any eligible State that opts to use funds provided under this title under this section for the coverage described in paragraph (1) is encouraged to include as part of such coverage, coverage for items and services needed for vision, hearing, and dental health.

"(b) Nonentitlement.—Nothing in this section shall be construed as providing an entitlement for an individual or person to any health insurance coverage, assistance, or service provided through a State program funded under this title. If, with respect to a fiscal year, an eligible State determines that the funds provided under this title are not sufficient to provide health insurance coverage for all the low-income children that the State proposes to cover in the State program outline submitted under section 2104 for such fiscal year, the State may adjust the applicable eligibility criteria for such children appropriately or adjust the State program in another manner specified by the Secretary, so long as any such adjustments are consistent with the purpose of this title.

"SEC. 2108. PROGRAM INTEGRITY.

"The following provisions of the Social Security Act shall apply to eligible States under this title in the same manner as such provisions apply to a State under title XIX:

"(1) Section 1116 (relating to administrative and judicial review).

"(2) Section 1124 (relating to disclosure of ownership and related information).

"(3) Section 1126 (relating to disclosure of information about certain convicted individuals).

"(4) Section 1128 (relating to exclusion from individuals and entities from participation in State health care plans).

"(5) Section 1128A (relating to civil monetary penalties).

"(6) Section 1128B (relating to criminal penalties).

"(7) Section 1132 (relating to periods within which claims must be filed).

"(8) Section 1902(a)(4)(C) (relating to conflict of interest standards).

"(9) Section 1903(i) (relating to limitations on payment).

"(10) Section 1903(m)(5) (as in effect on the day before the date of enactment of the Balanced Budget Act of 1997).

"(11) Section 1903(w) (relating to limitations on provider taxes and donations).

"(12) Section 1905(a)(B) (relating to the exclusion of care or services for any individual who has not attained 65 years of age and who is a patient in an institution for mental diseases from the definition of medical assistance).

"(13) Section 1921 (relating to state licensure authorities).

"(14) Sections 1902(a)(25), 1912(a)(1)(A), and 1903(o) (insofar as such sections relate to third party liability).

"(15) Sections 1948 and 1949 (as added by section 5701(a)(2) of the Balanced Budget Act of 1997).

"SEC. 2109. ANNUAL REPORTS.

"(a) Annual State Assessment of Progress.—An eligible State shall—

"(1) assess the operation of the State program funded under this title in each fiscal year, including the progress made in providing health insurance coverage for low-income children; and

"(2) report to the Secretary, by January 1 following the end of the fiscal year, on the result of the assessment.

"(b) Report of the Secretary.—The Secretary shall submit to the appropriate committees of Congress an annual report and evaluation of the State programs funded under this title based on the State assessments and reports submitted under subsection (a). Such report shall include any conclusions and recommendations that the Secretary considers appropriate.".

(b) Conforming Amendment.—Section 1128(h) (42 U.S.C. 1320a–7(h)) is amended by—

(1) in paragraph (2), by striking "or" at the end;

(2) in paragraph (3), by striking the period and inserting ", or"; and

(3) by adding at the end the following:

"(4) a program funded under title XXI.".

(c) Effective Date.—The amendments made by this section apply on and after October 5, 1997.

NOTICE OF HEARING

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will meet on Wednesday, June 25, 1997 at 9:30 a.m. to conduct an oversight hearing on the Administration's proposal to restructure Indian gaming fee assessments. The hearing will be held in room 562 of the Dirksen Senate Office Building.

Those wishing additional information should contact the Committee on Indian Affairs at 224–2251.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Tuesday, June 24, 1997, at 10:30 a.m. on the nomination of Jane Garvey to be Federal Aviation Administration Administrator.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENT AFFAIRS

Mr. DOMENICI. Mr. President, I ask Unanimous Consent on behalf of the Governmental Affairs Committee to meet on Tuesday, June 24, at 10 a.m. to hold a joint hearing with the Senate Appropriations Committee on the subject of Government Performance and Results Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Tuesday, June 24, 1997, at 10 a.m. to hold a hearing on: "Punitive Damages in Financial Injury Cases—The Raid Report."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold an executive business meeting during the session of the Senate on Tuesday, June 24, 1997, following the first vote, at a location yet to be determined.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SECURITIES

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Subcommittee on Securities of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Wednesday, June 25, 1997, to conduct an oversight hearing on social security investment in the securities markets.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

CONCERNS WITH THE SELECTION OF THE RAINBOW POOL SITE

• Mr. KERREY. Mr. President, I submit for the Record a letter from Richard Longstreth, first vice president for the Society of Architectural Historians and professor of American civilization at George Washington University to the chairman of the Commission on Fine Arts, J. Carter Brown, regarding the site selection for the proposed memorial to World War II.

Professor Longstreth, editor of "The Mall in Washington, 1791–1991," is deeply concerned, as am I, by the selection of the Rainbow Pool site as the location for a proposed memorial to World War II.

I deeply support honoring those who served our Nation during the most pivotal event of the 20th century, as does the professor. I would even argue, Mr. President, that a memorial is not enough. That a museum is necessary to tell the complete story to future generations of our victory over the Axis Powers and our defeat of Nazi Germany. This a story that must be told and retold.

But I am deeply opposed to the selection of this expansive, reflective space at the key axis of the National Mall, lying between the Lincoln Memorial and Washington Monument as the site of a memorial.

The idea of constructing a 50-foot-high, 7.4-acre memorial on this site—smack in the middle of the National Mall—is quite troubling. Any structure of such size and magnitude would forever alter the openness and grandeur that is America's front lawn.

Professor Longstreth states in his letter: "The whole meaning of one of the greatest civic spaces that exists anywhere in the world today will be irreparably cheapened by any proposed scheme for a major memorial on this site."

I could not agree more.

Just as disconcerting is the idea that a World War II memorial constructed on this site will have to be closed on the Fourth of July weekend, as ruled by the National Parks Service, for safety reasons related to the fireworks display.

This does not make sense.

As the Commission on Fine Arts, National Capital Planning Commission, and the Secretary of the Interior continue their deliberative process concerning this proposed memorial, you will hear more from me in the coming months, Mr. President. Especially, as my office continues to monitor the process of the environmental and urban impact studies yet to be conducted on this site.

That is right, Mr. President this site was selected without any studies conducted on the impact on The Mall or the city. Currently, the Council on Environmental Quality is reviewing my request for information on the urban and environmental impact on this site. I will keep the Senate informed as to how this process progresses.

The letter follows:

Society of
Architectural Historians,
Chicago, IL, June 9, 1997.

J. Carter Brown,
Chairman, Commission of Fine Arts, Pension Building, Washington, DC.

Dear Mr. Brown: As a scholar of the built environment, an officer of the Society of Architectural Historians, and editor of The Mall in Washington, 1791–1991, I am writing to express my very strong personal opposition to current plans for the World War II memorial. My objection lies not with the design. In the abstract I consider the design to possess the sophistication and dignity called for in a work of this nature. I also admire the members of the design team, one of whom I count as an old friend. Rather it is the site that is inappropriate, so much so that I believe this ranks among the very worst proposals ever made for the monumental core. Nothing—from John Russell Pope to Maya Lin—would be suitable at the proposed location.

The basic arguments against the site have been made, often eloquently, by others in recent months. From the practical standpoint, the location on a major artery—one that cannot, and should not be closed if the Mall is to remain a part of this city—will prove a logistical nightmare that could never be solved adequately, no matter how many egregious encroachments were made to what is now grass and pedestrianways.

As a matter of design, the memorial would introduce a major focal point at a location never intended to have one and would constitute a serious deviation from the McMillan Plan—indeed, a grotesque deviation, the likes of which we have heretofore never seen come to fruition. The extent of space between the Washington Monument and the Lincoln Memorial, as well as the distinctness of its two parts, separated by Seventeenth Street, represents more than an apt representation of the vastness and complexity of American space; it is an essential open ground for those two symbols of America's greatest leaders and of American greatness. Any substantial intervention, especially one on the scale of the proposed memorial, would hideously violate that order, detracting from both the established landmarks and also from itself. The Mall is not a commercial pleasure ground—despite some attempts to make it one. The whole meaning of one of the greatest civic spaces that exists anywhere in the world today will be irreparably cheapened by any proposed scheme for a major memorial on this site.

Perhaps most significantly of all is the terrible symbolic message conveyed by siting a memorial to any war on the Mall's primary axis. It may be argued, of course, that World War II had transcendent importance for the nation and its position internationally, but no war should be accorded so pivotal a place in the national capital. Is this not more a siting characteristic to dictatorships—Napoleon's Paris; Hitler's Berlin? Any number of messages can be read into this locational strategy, the great majority of them distasteful for a democracy.

I would like to end on a personal note, for while I was born after World War II, it was very much a part of my youth. My father served with distinction as executive officer, then as commanding officer, of two Naval repair bases in the South Pacific. Early on I learned from him and from others how important that conflict was and how profoundly it had reshaped the world. It sickens me to think of an event of this order of magnitude degraded by what appears to be a press for expeditious resolution. The site of the memorial should not spark the kind of amazement and anger it is doing from reasonable, well-informed, and intelligent people all over the country. The legacy deserves better. Cannot the imagination and resourcefulness be found to place this memorial in a really magnificent site, fully appropriate to its place in American history?

Sincerely,

RICHARD LONGSTRETH,
Professor of American Civilization, George Washington University, First Vice President.•

50TH WEDDING ANNIVERSARY OF JOHN AND CARMELLA GANDOLFO

• Mr. D'AMATO. Mr. President, I rise today to congratulate John Giovanni and Carmella Seminerio Gandolfo of Lynbrook, NY. After 50 years of love, hard work and spirit, the two are about to renew their marriage vows and celebrate their 50th wedding anniversary. As I remark on this union, created in Aragona, Sicily, half a century ago, I must comment that their unconditional love for each other is equal to the one they share for their community.

John and Carmella reside in Lynbrook where John is now retired from the construction industry and Carmella is a dedicated homemaker. Mr. and Mrs. Gandolfo have been blessed with three children, and five grandchildren. Family and friends see the couple as a tower of strength, support, understanding, and limitless love. They have passed these same attributes on to their loved ones, creating a model family that is admired by their community. Their marriage serves as a milestone to be duplicated by others.

This record does not do justice to commemorate the longevity of such an event of triumph, tenacity, and joy. John and Carmella's marriage embodies what all citizens should try to achieve, and captures the true meaning of love and citizenship. Once again, I would like to congratulate John and Carmella on their joyous day. I hope these renewed vows will add another 50 years of fortune to their lives.•

BETTY SHABAZZ

• Mr. MOYNIHAN. Mr. President, tragedy has beset the family of Malcolm X and Betty Shabazz with such abundance that I doubt few of us can comprehend their grief.

Yesterday, Betty Shabazz the proud educator and activist wife of the late Malcolm X, died of complications that ensued after she suffered burns over 80 percent of her body in a fire at her Yonkers apartment on the first day of this month. Dr. Shabazz had battled her way through five extensive operations since the fire, but the injuries proved too extensive for her to overcome this final tribulation. Having witnessed the assassination of her husband, defended one of her children against charges of an alleged murder plot, and sought to ease the troubles of her grandchildren, Dr. Shabazz rose above it all to defy critics and symbolize an ability to overcome all means of adversity.

In trying to reconcile this tragedy, I recall the words of Oscar Wilde who wrote: "It often happens that the real tragedies of life occur in such an inartistic manner that they hurt us by their crude violence, their absolute incoherence, their absurd want of meaning, their entire lack of style." My deepest sympathy goes out to this family that has too often been forced to grapple with the "absolute incoherence of tragedy."•

TRIBUTE TO ANI DANIELIAN, PHILLIPS EXETER ACADEMY STUDENT AND RECIPIENT OF THE 1997 JAPAN-UNITED STATES SENATE YOUTH EXCHANGE SCHOLARSHIP

• Mr. SMITH of New Hampshire. Mr. President, I rise today to congratulate Ani Danielian, a student at Phillips Exeter Academy, on being the recipient of the 1997 Japan-United States Senate Youth Exchange scholarship. This is certainly an accomplishment of which she should be very proud and I salute her for her achievement.

Ani was chosen to represent the Granite State during a summer exchange program in Japan. She will spend 6 weeks living with a host family and meeting with Government officials. Before traveling to Japan, Ani will attend an orientation program in San Francisco, CA.

The scholarship is administered by Youth For Understanding [YFU] International Exchange. One high school junior from each State received a scholarship this year from YFU. Competition for this scholarship was intense, as evidenced by the almost 700 applicants for the 50 available scholarships. Ani was selected through a rigorous screening process which involved numerous volunteers of YFU.

Ani is involved in several organizations at Phillips Exeter Academy, including the Concert Choir and the Japanese-American Society. Following graduation, the 16-year-old plans on attending a liberal arts college and possibly majoring in International Relations or East Asian Studies.

I congratulate Ani Danielian on her outstanding accomplishments. I commend her hard work and perseverance and wish her luck in her exploration of the Japanese culture.•

TRIBUTE TO THE OUTSTANDING DISASTER ASSISTANCE PROVIDED BY CAVALIER AIR STATION

• Mr. CONRAD. Mr. President, I rise today to pay tribute to the exhaustive and exemplary disaster assistance efforts of those at Cavalier Air Station, near Cavalier, ND.

As my colleagues are aware, my State has suffered the worst winter and spring of its history. A record eight blizzards dropped over 100 inches of snow on North Dakota, and brought with them sub-zero temperatures well into the month of April. The worst and final blizzard—Hannah—coated the State in ice, knocked out power for much of the State, and made the snowmelt that followed much worse. The flood that followed was a 500-year flood, driving thousands from their homes and farms all along the Red River. Livestock losses were in the hundreds of thousands, economic losses in the billions, and the disruption to the lives of those affected were incalculable.

In the face of this, everyone in North Dakota pulled together, including the able men and women of our Armed Forces stationed in my State. The outstanding snow removal efforts of the National Guard and Air Force personnel from the Minot and Grand Forks bases were well documented, and brought the Secretary of the Air Force, Dr. Sheila E. Widnall, to North Dakota in February to say a personal "thank you." The accommodation of thousands of flood refugees at Grand Forks AFB—which helped preserve a sense of hope and community for Grand Forks—also made for unforgettable images on CNN and front pages of newspapers across the Nation. This exemplary assistance will be long remembered, but it is also important that the exceptional contributions of the men and women of another Air Force installation in North Dakota are not forgotten.

Mr. President, that facility is Cavalier Air Station. For those of my colleagues who are not familiar with Cavalier, this phased array radar base was constructed during the 1970's as part of the Safeguard ABM system. The motto of Cavalier's unit—the 10th Space Warning Squadron—is "instant to watchful instant." For 20 years this has meant providing early warning of nuclear attack for the Pentagon and tracking millions of bits of deadly space junk in Earth orbit for NASA, but this year this motto had new meaning.

As the commander of the installation, Lt. Col. Donald T. Kidd, described to me, this spring this unit of 33 people—28 active duty Air Force and 5 civilians employed by the Department of Defense—contributed over 900 hours of around-the-clock labor to monitoring and fighting the rising flood waters in the northern Red River Valley. They filled and stockpiled sandbags, deployed them around threatened homes, evacuated threatened city offices in Pembina, and watched the leves for leaks. They carried sandbags hundreds of yards in Drayton when there were not enough hands to simply pass them down a line, and built a dike around the entire town of Neche. At the station itself, they provided safe refuge for families forced to flee their homes and farms, giving shelter to over 100 people during the worst of the flooding. Many of the 70 civilian employees who work at the station under contract with the ITT Corp. also were there when their communities needed them, making important contributions to disaster relief.

And all the while, Mr. President, the men and women of Cavalier Air Station continued their critical mission, on top of preparing for the year's most important inspection. I am pleased to inform my colleagues that the 10th Space Warning Squadron passed this inspection with flying colors, taking home some of the highest marks in the U.S. Space Command.

Colonel Kidd wanted the efforts of everyone in the 10th Space Warning Squadron recognized, writing in a letter to me that "I can't begin to tell how proud I am of each and every one of them." On behalf of the U.S. Senate and all in North Dakota who benefited from their tireless labor, allow me to extend my most sincere thanks to everyone at Cavalier Air Station.

I and countless North Dakotans are thankful for your efforts, and glad that you were there. Every one of you went beyond the call of duty, proving yet again that Cavalier Air Station is part of "Team North Dakota." Again, sincere thanks. You have made a State grateful, and your Nation proud.●

BUDGET SCOREKEEPING REPORT

● Mr DOMENICI. Mr. President, I hereby submit to the Senate the budget scorekeeping report prepared by the Congressional Budget Office under section 308(b) and in aid of section 311 of the Congressional Budget Act of 1974, as amended. This report meets the requirements for Senate scorekeeping of section 5 of Senate Concurrent Resolution 32, the first concurrent resolution on the budget for 1986.

This report shows the effects of congressional action on the budget through June 20, 1997. The estimates of budget authority, outlays, and revenues, which are consistent with the technical and economic assumptions of the 1997 concurrent resolution on the budget (H. Con. Res. 178), show that current level spending is above the budget resolution by $9.5 billion in budget authority and by $12.9 billion in outlays. Current level is $20.5 billion above the revenue floor in 1997 and $101.9 billion above the revenue floor over the 5 years 1997-2001. The current estimate of the deficit for purposes of calculating the maximum deficit amount is $219.9 billion, $7.4 billion below the maximum deficit amount for 1997 of $227.3 billion.

Since my last report, dated May 20, 1997, the Congress has cleared, and the President has signed, the 1997 Emergency Supplemental Appropriations Act (P.L. 105-18). This action changed the current level of budget authority and outlays.

The report follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 23, 1997.

Hon. PETE V. DOMENICI,
Chairman, Committee on the Budget,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report for fiscal year 1997 shows the effects of Congressional action on the 1997 budget and is current through June 20, 1997. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the 1997 Concurrent resolution on the Budget (H. Con. Res. 178). The report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended.

Since my last report, dated May 20, 1997, the Congress has cleared, and the President has signed, the 1997 Emergency Supplemental Appropriations Act (P.L. 105-18). This action changed the current level of budget authority and outlays.

Sincerely,

JAMES L. BLUM
(For June E. O'Neill, Director).

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, FISCAL YEAR 1997, 105TH CONGRESS, 1ST SESSION AS OF CLOSE OF BUSINESS JUNE 20, 1997

[In billions of dollars]

	Budget resolution H. Con. Res. 178	Current level	Current level over/under resolution
ON-BUDGET			
Budget Authority	1,314.9	1,324.4	9.5
Outlays	1,311.3	1,324.2	12.9
Revenues:			
1997	1,083.7	1,104.3	20.5
1997–2001	5,913.3	6,015.2	101.9
Deficit	227.3	219.9	−7.4
Debt Subject to Limit	5,432.7	5,243.9	−188.8
OFF-BUDGET			
Social Security Outlays:			
1997	310.4	310.4	0
1997–2001	2,061.3	2,061.3	0
Social Security Revenues:			
1997	385.0	384.7	−0.3
1997–2001	2,121.0	2,120.3	−0.7

Note: Current level numbers are the estimated revenue and direct spending effects of all legislation that Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 105TH CONGRESS, 1ST SESSION, SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1997 AS OF CLOSE OF BUSINESS JUNE 20, 1997

[In millions of dollars]

	Budget authority	Outlays	Revenues
ENACTED IN PREVIOUS SESSIONS			
Revenues			1,101,532
Permanents and other spending legislation	843,324	801,465	
Appropriation legislation	753,927	788,263	
Offsetting receipts	−271,843	−271,843	
Total previously enacted	1,325,408	1,317,885	1,101,532
ENACTED THIS SESSION			
Airport and Airway Trust Fund Reinstatement Act of 1997 (P.L. 105–2)			2,730
1997 Emergency Supplemental Appropriations Act (P.L. 105–18)	−6,497	281	
Total, enacted this session	−6,497	281	2,730
ENTITLEMENTS AND MANDATORIES			
Budget resolution baseline estimates of appropriated entitlements and other mandatory programs not yet enacted	5,491	6,015	
TOTALS			
Total Current Level	1,324,402	1,324,181	1,104,262

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 105TH CONGRESS, 1ST SESSION, SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1997 AS OF CLOSE OF BUSINESS JUNE 20, 1997—Continued

[In millions of dollars]

	Budget authority	Outlays	Revenues
Total Budget Resolution	1,314,935	1,311,321	1,083,728
Amount remaining:			
Under Budget Resolution			
Over Budget Resolution	9,467	12,860	20,534
ADDENDUM			
Emergencies:			
Funding that has been designated as an emergency requirement by the President and the Congress	9,198	1,913	
Funding that has been designated as an emergency requirement only by the Congress and is not available for obligation until requested by the President	345	304	
Total emergencies	9,543	2,217	
Total current level including emergencies	1,333,945	1,326,398	1,104,262

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NATIONAL LITERACY DAY

• Mr. LAUTENBERG. Mr. President, late last night, the Senate passed a resolution by a unanimous-consent agreement establishing July 2d of this year and the next as National Literacy Day. As the proud author of this measure, I want to acknowledge its passage and thank the 53 Senators who joined me in cosponsoring this legislation.

Mr. President, the ability to read is something most of us often take for granted. For most of us, it is difficult to imagine not being able to read a menu, street sign, magazine, or phone book. But for many of our citizens, these seemingly simple activities are impossible. This is so because they are illiterate. I am pleased that this resolution will be able to draw attention to the pressing issue of illiteracy. I thank my colleagues who have joined me in cosponsoring this important measure.

All of us should be more aware of the problem of illiteracy. A recent study found that over 44 million adults cannot read. An additional 35 million read below the level needed to function successfully in society. These numbers alone are alarming and warrant our special attention. But even more disturbing are the personal hardships people must face each day due to their inability to read. The embarrassment parents face when they cannot read to their children. The discouragement able workers feel when they cannot fill out a basic job application. The disappointment we all endure as the ranks of the illiterate grow annually by over 2 million adults.

Mr. President, the 18th century writer, Joseph Addison, once wrote "Reading is to the mind what exercise is to the body." I couldn't agree more. Reading enriches our lives in countless ways. But there are far too many of our citizens who cannot read the instructions on a doctor's prescription bottle, let alone share the experience of reading one of Addison's great poems. This needs to change.

Mr. President, I want to take this opportunity to thank the many citizens across the country who dedicate their lives to beating back the forces of illiteracy. I want to express my gratitude to the teachers, volunteers, parents, and others who donate their time and talent to help those who cannot read. In my own State of New Jersey, I want to give special recognition to Caryl Mackin-Wagner, executive director of Focus on Literacy, Inc., for her leadership on this issue. My thanks to all involved.

Mr. President, we must focus our attention on the problem of illiteracy. All of us should make sure we do our part to ensure that citizens who need help know where services are available. We need to recognize the detrimental effects illiteracy has on our society. Most important, more of us need to enlist in the battle to close the book on illiteracy.

Mr. President, for these reasons, I am very pleased that we passed this resolution establishing July 2, 1997, and July 2, 1998, as National Literacy Day.•

DIPLOMATS OF THE STATE DEPARTMENT SOUTH ASIA BUREAU

• Mrs. FEINSTEIN. Mr. President, during the 104th Congress, I was privileged to serve as ranking minority member of the Foreign Relations Subcommittee on Near Eastern and South Asian Affairs. In that time, while visiting and monitoring events in the South Asia region—which includes India, Pakistan, Afghanistan, Nepal, Sri Lanka, and Bangladesh—I had the honor of working with a talented and dedicated group of diplomats. I wish to pay tribute to some of them today.

The South Asia Bureau is the smallest and youngest of the State Department's regional bureaus, having been created by congressional mandate in 1992. Despite its size, it has ably represented American interests in this critical part of the world. This summer, it will undergo its first major transition, as nearly all the ranking diplomats in the bureau will rotate on to other assignments. Before they do, I wanted to take an opportunity to commend them for their service.

At the top, of course, is Assistant Secretary of State for South Asian Affairs Robin L. Raphel, the first person to ever hold the position. During the past 4 years, Assistant Secretary Raphel has deftly managed the complex web of issues that encompass South Asia—from Indo-Pakistani tensions to nonproliferation, from human rights to the environment, and from counterterrorism and narcotics to the deadly conflict in Afghanistan. She has also been a trusted and valuable interlocuter with Congress, making the administration's case fairly and straightforwardly to those on all sides of every issue under her purview.

Assistant Secretary Raphel has been assisted in her efforts by an outstanding team of ambassadors in the field: Ambassador Frank Wisner in New Delhi, Ambassador Tom Simons in Islamabad, Ambassador Peter Burleigh in Sri Lanka, Ambassador David Merrill in Dhaka, and Ambassador Vogelgesang in Kathmandu. Due to a quirk of timing, with the exception of Tom Simons, all of these ambassadors either have or are expected to vacate their posts this summer.

I want to commend each of these fine diplomats: Frank Wisner, one of the most senior and well-regarded members of the entire Foreign Service, and David Merrill, both of whom have announced their retirements from Federal service: Peter Burleigh, a native of my home State of California and a first-rate linguist, who will next be furthering United States interests as Deputy Permanent Representative at the United Nations; and Sandy Vogelgesang, for whom I have a special, personal regard.

Last November, when I traveled to Nepal to view United States assistance projects, I was highly impressed by Ambassador Vogelgesang's knowledge of Nepal and her depth of caring for its people, the high degree of respect she enjoyed throughout the country, and the way these traits enabled her to be an effective advocate and promoter of United States interests. She is, in short, one of the finest Ambassadors I have ever had the privilege of working with. I hope and expect that our Nation will enjoy the benefit of her service in future posts in the years to come.

Mr. President, during my tenure on the Foreign Relations Committee, I have developed a high regard for the work of our talented and dedicated Foreign Service personnel. Almost without exception, I have found the people representing our Nation in embassies overseas to be infused with seriousness, patriotism, and professionalism. Sadly, they are too often underappreciated, and occasionally even criticized. As Senators, who are called upon to approve the highly competitive selection and promotion processes, and to confirm appointments to the Foreign Service's most senior levels, it behooves us to take the time to recognize some of our most accomplished diplomats.

On behalf of my colleagues, I express appreciation and admiration for a job well done to Assistant Secretary Raphel and Ambassadors Wisner, Simons, Burleigh, Merrill, and Vogelgesang. Our country owes them thanks for their able service, and we are grateful for their significant contributions to improving and expanding our relationships with the countries of South Asia.•

IMMUNIZATION OF DONATIONS MADE IN THE FORM OF CHARITABLE GIFT ANNUITIES

Mr. ROTH. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 1902 which was received from the House.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows.

A bill (H.R. 1902) to immunize donations made in the form of charitable gift annuities and charitable remainder trusts from the antitrust laws and State laws similar to the antitrust laws.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. ROTH. Mr. President, I ask unanimous consent that the bill be considered read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 1902) was passed.

ORDERS FOR WEDNESDAY, JUNE 25, 1997

Mr. ROTH. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 9:20 a.m. on Wednesday, June 25. I further ask unanimous consent that on Wednesday, immediately following the prayer, the routine requests through the morning hour be granted, and Senator STEVENS be recognized for up to 10 minutes as if in morning business; that following Senator STEVENS' remarks, the Senate then immediately resume consideration of the budget reconciliation bill and begin voting on or in relation to the pending amendments in the order in which they were offered in alternating sequence between each side of the aisle.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROTH. For the information of all Senators, tomorrow morning Senator STEVENS will be recognized for up to 10 minutes. Following the remarks by Senator STEVENS, the Senate will resume consideration of the reconciliation bill. At 9:30 a.m. the Senate will proceed to a series of back-to-back rollcall votes on or in relation to a number of amendments which have been offered this evening, beginning with Senator GRAMM's amendment No. 444 and ending with final passage of S. 947 as previously ordered.

Also, by consent there will be 2 minutes of debate equally divided on each amendment prior to each vote. Therefore, Members can expect a lengthy series of back-to-back rollcall votes as the Senate disposes of all the amendments in order to the budget reconciliation bill.

Following final passage of S. 947, the Senate is expected to proceed to the consideration of S. 949, the Tax Fairness Act. All Senators wishing to offer amendments to S. 949 should be prepared to offer them during Wednesday's session of the Senate. Furthermore, Members can be expected to vote on amendments offered to the Tax Fairness Act beginning Wednesday afternoon. As previously announced, the next couple of evenings will be late ones as the Senate works to complete action on the Budget Act prior to the July 4 recess.

ADJOURNMENT UNTIL 9:20 A.M. TOMORROW

Mr. ROTH. Mr. President, if there be no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 10:54 p.m., adjourned until Wednesday, June 25, 1997, at 9:20 a.m.

EXTENSIONS OF REMARKS

INTRODUCTION OF THE MEDICAID COMMUNITY ATTENDANT SERVICES ACT OF 1997

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1997

Mr. GINGRICH. Mr. Speaker, I want to introduce today the Medicaid Community Attendant Services Act of 1997 as part of my commitment to empowering all Americans and to the principles of community-based care. This bill allows for choices for persons with disabilities so that individuals can receive the care that is more appropriate for them. Everyone deserves the opportunity to lead a full and independent life and people with disabilities are no exception.

I believe that personal empowerment is essential to the pursuit of happiness and believe that this bill will begin a very important debate about long-term care in the Nation. During the 104th Congress, I submitted for the CONGRESSIONAL RECORD a statement in support of community-based care based upon the recommendations of a disabilities task force on disabilities which I appointed in Georgia and the work of advocates for community-based care from around the Nation.

The bill I am introducing today is the starting point for the dialog about the best way to empower persons with disabilities. I am aware that this proposal may have significant cost implications, so I encourage careful consideration and additional input to help ensure a sound policy decision.

INTRODUCTION OF LEGISLATION

HON. TOM BLILEY

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1997

Mr. BLILEY. Mr. Speaker, today I, along with Congressmen VIRGIL GOODE, JIM KOLBE, NATHAN DEAL, PAUL GILLMOR, and FLOYD SPENCE, am introducing a constitutional amendment that will implement a more effective method by which States could take the initiative in the process by which the Constitution is amended. This legislation already has the support of Gov. George Allen and Gov. Mike Leavitt.

At present, article V provides for two ways to amend the Constitution. The first involves the presentation of an amendment by Congress to the States for ratification. The second is by Constitutional Convention, convened at the request of the State legislatures. Even with both methods available, to date, all amendments to the Constitution have been enacted following passage by the Congress and ratification by three-fourths of the States. Some have asserted that the second method has not been as effective as intended by the Framers. Persuasive arguments have been made that a Constitutional Convention might alter the Constitution more expansively than intended by proponents of a specific proposed amendment.

The Framers did intend that the States have an effective manner by which to modify the Constitution. We are proposing a process that allows the States to initiate the amending process that is devoid of the perils of a Constitutional Convention. Under our proposal, an amendment would be presented to Congress after two-thirds of the States indicated approval via their State legislatures. If two-thirds of each House of Congress does not agree to disapprove of the proposed amendment, it would be submitted to the States for ratification. Upon ratification by three-fourths of the States' legislatures, the amendment would become part of the Constitution.

I urge your support for this commonsense legislation that returns as an option, the power to amend the Constitution to the States, as the Framers intended.

IN HONOR OF THE SPACE TECHNOLOGY HALL OF FAME INDUCTEES

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1997

Mr. KUCINICH. Mr. Speaker, I rise to honor the employees of NASA Lewis Research Center in Cleveland, OH, who have been inducted into the U.S. Space Foundation Space Technology Hall of Fame. The Hall of Fame was established in 1988 to recognize and honor innovators who have transformed space technology into viable commercial products. It also raises public awareness about the benefits of space spinoff technology and encourages further innovation.

On April 3, 1997, the Space Foundation Hall of Fame paid tribute to the technologies and the many professionals who developed America's most Advanced Communications Technology Satellite [ACTS] Program. The ACTS Program was developed to promote America's satellite industry and its position in the commercial communication satellite market. Members of NASA Lewis Research Center's ACTS Program continue to impact the role America's satellite industry has as world leaders in this market.

ACTS and NASA Lewis Research Center have stimulated the growth of a new generation of services as is evident by as many as 15 new communications satellite systems proposed for operation in the Ka-band frequency spectrum.-

These systems will offer services for a variety of business, medical, and long-distance learning applications. Many ACTS technologies have already been incorporated and even adapted for commercial systems.

My fellow colleagues, please join me in recognizing the following Space Foundation Hall of Fame inductees from NASA Lewis Research Center who are helping to build the advanced technology bridge to the 21st century: Roberto Acosta, Robert Bauer, Ronald Bexton, Thom Coney, Richard Gedney, William Hawersaat, Doug Hoder, Howard Jackson, Michael Jarrell, Russell Jirberg, Rodney Knight, Richard Krawczyk, Keven McPherson, Mark Plecity, Joanne Poe, Karl Reader, Rich Reinhart, Ronald Schertler, Phil Sohn, Ernie Spisz, David Wright, and Michael Zernic.

TRIBUTE TO SUE BEITTEL

HON. LYNN C. WOOLSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1997

Ms. WOOLSEY. Mr. Speaker, I rise today to pay tribute to an outstanding individual on the occasion of her 70th birthday, Mrs. Sue Beittel. Mrs. Beittel has devoted tremendous time and energy working for the betterment of her community in Marin County, CA.

Over the course of more than 30 years of public service, Mrs. Beittel focused here attention on the issues critical to a successful community. She has felt passionate about working for schools, housing, transportation, the environment, and preserving the democratic process. Mrs. Beittel served two terms on the San Rafael Board of Education and was on the statewide task force on vocational education. In recognition of her work for housing, Mrs. Beittel was the recipient of the 1997 Mel Boyce Award from the Ecumenical Association for Housing in San Rafael.

Some of the many organizations she has been active with include: the Audubon Society, the Family Service Agency, the League of Women voters, the Marin Education Fund, the Mental Health Association, the North San Rafael Coalition of Residents, the San Rafael Housing Coalition, and the St. Vincent/Silveira Citizens Advisory Committee.

Mr. Speaker, it is my great pleasure to pay tribute to Sue Beittel. She embodies a truly selfless sense of volunteerism. I wish her, her husband Dan, and their family, the best.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

CELEBRATING THE 25TH ANNIVERSARY OF THE NATIONAL STORYTELLING FESTIVAL

HON. WILLIAM L. JENKINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1997

Mr. JENKINS. Mr. Speaker, each year during the month of October, the National Storytelling Association [NSA] holds the National Storytelling Festival in Jonesborough, TN. This year marks the 25th anniversary of the festival.

Considered one of the top 100 events in North America, the festival draws an average of 10,000 visitors per year. The NSA has received 70 percent of the funds required to build a National Storytelling Center in Jonesborough. An estimated 80,000 tourists are expected to visit northeast Tennessee per year generating revenue as well as jobs.

Mr. Speaker, I would like to take this opportunity to praise the many educational benefits of storytelling. The art of storytelling allows teachers to develop student interest in literature and history. By telling stories, students learn excellent communication skills while being given the unique opportunity to speak to a large group of people. Storytelling teaches students to be aware of the many diverse cultures in the United States. In addition, many businesses use storytelling to enhance presentations and seminars.

In order to further promote storytelling across the Nation, the National Storytelling Association hosts Tellabration on the Saturday night before Thanksgiving. Tellabration occurs in several States and NSA hopes to declare the week prior to Tellabration, National Storytelling Week. I commend the National Storytelling Association on their efforts and wish them continued success.

TRIBUTE TO DONALD G. WARD, JR.

HON. CHARLES H. TAYLOR

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1997

Mr. TAYLOR of North Carolina. Mr. Speaker, I rise today to honor the life of a truly fine gentleman and friend, Donald Grady "Jack" Ward, a lifelong resident of Henderson County, NC, in the Eleventh Congressional District.

Jack was the son of Katherine Harris Ward of Hendersonville and the late Donald G. Ward. He served his country in the Army during World War II, and was a member of the VFW and American Legion. Jack continued his service to America very ably as a member of the Republican Presidential Task Force under Ronald Reagan and George Bush. Further, he was a member of Dana United Methodist Church.

As founder of his own business, Ward Brothers Tractor, he was a 10-time honoree of the Red Book Business Character Award. He was also a long time leader in the apple industry in Henderson County.

Henry David Thoreau once said that doing good was the only full profession. Jack believed that doing good was not only a profession but a way of life. I join Jack's family, friends, colleagues, and the citizens of Henderson County, in recognizing Jack for his leadership, community service, and service to the country.

Jack was a fine American and a loyal friend and supporter. My sympathy is extended to his lovely wife Katherine, his son Donald III, and the rest of the Ward family. It was indeed an honor to represent him in Washington, and to be an honorary pall bearer at the request of his family.

TRIBUTE TO VOLUNTEER EFFORTS AT CUESTA COLLEGE

HON. WALTER H. CAPPS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1997

Mr. CAPPS. Mr. Speaker, I rise today to recognize and pay tribute to the tireless efforts of the 1,000 volunteers at Cuesta College, in San Luis Obispo, CA, who have shown exemplary dedication and a profound commitment to serving the needs of its students, and members of their community. These individuals provide us all with a bright example of how the spirit of volunteerism and the vigilance of engaged citizenship can make a difference in the lives of individuals and that of their community.

We should commend Cuesta College and these volunteers not just for their work, but for their example. I am extremely proud of these individuals because they speak to the limitless possibility that exists when we give our energies and talents toward improving our communities and the opportunities they provide. They show us how taking responsibility for those things we value, such as educating people, can have a great impact on our future.

Mr. Speaker, government cannot be expected to solve all of our problems, so it has become increasingly important for individuals across our nation to take part in lending their effort to such endeavors. These 1,000 volunteers from Cuesta College have taken the lead in this pursuit and for that I commend them. I request, Mr. Speaker, that the House extend them the same honor.

IN HONOR OF GERALD A. ESPOSITO

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1997

Mrs. MALONEY of New York. Mr. Speaker, I rise today to pay a respectful tribute to Gerald A. Esposito. Tonight, community board No. 1 of Greenpoint and Williamsburg, Brooklyn, will be honoring Mr. Esposito on the 20th anniversary of his appointment as district manager.

Gerald Esposito has dedicated many years of magnanimous service to the community. His lifelong residency of Greenpoint-Williamsburg has been filled with community service work. His benevolent community work began at the Boy Scouts of America and progressed to work with VISTA. The Peace Corps, and nonprofit and local government.

Much of Mr. Esposito's time has been dedicated to improving the community. Among his many accomplishments, he has fought to protect the rights of the public by battling consumer fraud and he has served as an advocate for housing and other legal matters.

In 1977, community board No. 1 hired Mr. Esposito, making him the youngest district manager in the city of New York. Over the past 20 years, he has guided the board through many of the community's complex issues and resolved numerous problems with service delivery, budget and planning. He has proven to be excellent at negotiating, building partnerships and resolving problems.

Throughout his tenure with community board No. 1, Mr. Esposito has maintained his ties with the community by belonging to various fraternal organizations and alumni associations. He has also continued in his father's footsteps by becoming Scout Master of Troop 604 and being appointed chairman of the Boy Scouts of America Lenape Bay District.

Mr. Speaker, I ask that my colleagues rise with me in this tribute to Gerald Esposito. The Greenpoint-Williamsburg community and community board No. 1 are lucky to have such a great man and leader among them. I am thrilled to have Mr. Esposito in my district.

A TRIBUTE TO THE SOUTHAMPTON PRESS NEWSPAPER ON ITS 100TH ANNIVERSARY

HON. MICHAEL P. FORBES

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1997

Mr. FORBES. Mr. Speaker, I rise today to pay tribute to the Southampton Press, the venerable community newspaper of Southampton, Long Island that is celebrating its 100th anniversary this year.

Since it's first edition in 1897, the Southampton Press has exemplified the finest traditions of American community journalism, providing Southampton residents with superlative coverage of local news, the arts, agriculture, business, and editorial analysis. Devoting itself fully towards serving the communities it covers, the Southampton Press has earned the highest regard of its readers and peers because it so faithfully maintains the highest journalistic ideals.

It was one of Long Island's most prominent publishers, Walter R. Burling, who founded the Southampton Press, naming his son, George, as editor and producing the inaugural issue on May 29, 1897. A newspaper veteran, Walter Burling founded and operated both the Sea-Side Times, of Southampton, and the East Hampton Star, a well-respected paper still in publication. Through 1971, the Burling family name was associated with the Southampton Press, until it was purchased by Donald Loucheim, who today publishes the paper in conjunction with his son, Joe.

The editors and writers at the Southampton Press have built a proud tradition of excellence, as evidenced by the dozens of awards and honors from the New York Press Association. In diverse categories from best editorial to spot news, coverage of the environment, education and advertising excellence, the staff at the Southampton Press has garnered the kudos of its journalistic peers.

The Southampton Press today has a higher circulation—as verified by the Audit Bureau of Circulation—than any other weekly or daily newspaper in the region. The Southampton Press now publishes two editions, each tailored to communities on either side of the Shinnecock Canal that divides the town of Southampton in two.

In recognition of the Southampton Press' role in the heritage of the town, the Southampton Colonial Society opened a special exhibition on the newspaper's history at the Southampton Historical Museum. The exhibit captures the newspaper's unique role in Southampton's history by tying its press coverage to objects and artifacts from the museum's collection.

Mr. Speaker, I ask my colleagues in the House of Representatives to join me in saluting the Southampton Press on its 100th anniversary. In doing so, we also recognize the vital role that community newspapers serve in the civic realm, providing their readers with the news and analysis they need as citizens of America's participatory democracy. Congratulations, Southampton Press.

IN LOVING MEMORY OF BERNICE IVY

HON. BILL PASCRELL, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1997

Mr. PASCRELL. Mr. Speaker, I would like to call to your attention the loving memory of Bernice Ivy of Paterson, NJ.

Bernice was born in Pavo, GA on October 11, 1928 and departed this life after a long illness on Thursday morning June 12, 1997. She was third eldest of nine children born to James and Dora Thompson. In 1928 while still an infant, her family moved to Florida where Bernice was raised and educated, attending Carver High School of Delray Beach, FL.

In 1946, Bernice married James Henry Ivy, Sr. of West Palm Beach, FL and 13 children were born from their union. The couple resided in Florida a few years before moving their young family to Paterson, NJ in 1954. It was there that they first began their work in the ministry pastoring a small church—the Church of God on River Street, Paterson. With fervent spirit, the young couple became well-known in town as they ministered in meetings on the streets of Paterson, proclaiming Christ and evangelizing the lost to the Kingdom of God. Later, they joined Faith Tabernacle Church of God in Christ, renamed Gilmore Memorial Church of God in Christ, pastored by the late Bishop Clarence and Dr. Arlene Gilmore. They were faithful members for 29 years.

In 1962, Bernice's interest in hair care led her to pursue an education in cosmetology, enrolling in the Scotts Beauty School of Newark, NJ. Later, she obtained gainful employment at the North Jersey Training School for the mentally handicapped for nearly 25 years. Failing health forced here retirement in 1989.

In November of 1990, Bernice and her husband James relocated back to Delray Beach, FL, where they moved their church membership to Sutton Chapel Church of God in Christ. Bernice returned to Paterson in July 1996 for vacation, but failing health prevented her return home to Florida.

The Reverend and Mrs. Ivy had one of the biggest families in their church. It was common knowledge that their trusted station wagon usually made two trips on Sunday.

As a loving wife, wonderful mother, daughter, sister, and friend, Bernice leaves to mourn a husband of 50 years, the Rev. James H. Ivy, Sr.; three sons—Collious and Timothy Ivy of Paterson and Calvin Ivy of Boston; six daughters—Paulette Williams and Bernice La Vonda Lockhart of Florida, Vanessa Dale Wilder, Alicia Marie Ivy, Kathy Ann Kuykendall, and Denise L. Coba, all of Paterson; 33 grandchildren and 9 great-grandchildren; 3 daughters-in law—Donna Ivy, Elaine Ivy, Velda Ivy; 5 sons-in-law—the Rev. Jerry Wilder, the Rev. James Kuykendall, Bill Coba, Reggie Lockhart, and Jerome Williams; her mother—Dora Thompson; 1 aunt—Dinah Mae Hayword; 4 sisters—Pearline Famon and Juanita Tripp of Paterson, Carol Pittman of California, and Willie Mae Wilson of Florida; 1 brother—Danny Thompson of Paterson; 8 sisters-in-law—Ella, Colinthia, Agnes, Jewel, Janie, Elmora, Shirley and Dorothy; 5 brothers-in-law—Sonny, Raymond, George, Eddie and Chuck; nieces, nephews and a host of relatives and friends.

Mr. Speaker, I ask that you join me, our colleagues, Bernice's loving family and friends, and the city of Paterson in remembering the kindness of Bernice Ivy and extolling her memory.

TRIBUTE TO THE WORK OF DR. INGE GENEFKE SECRETARY GENERAL—THE INTERNATIONAL REHABILITATION COUNCIL FOR TORTURE VICTIMS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1997

Mr. GILMAN. Mr. Speaker, it is a little understood, yet tragic fact that today one-third of the world's governments utilize torture as an instrument of political power. Torture has become an effective method to suppress political dissidence, and for those governments which lack the legitimacy of democratic institutions to justify their power, torture can provide a bulwark against popular opposition.

I recently had the opportunity to confer with Dr. Inge Genefke, a Danish physician who for more than 20 years has been a pioneer in the study of the political use of torture and the consequences that torture has upon its victims. Dr. Genefke has been an outspoken and courageous bellwether in the field of finding ways to treat victims of torture, and more important, alerting the international community as to its widespread practice so that the countries that care about human rights can take concerted action to alleviate this scourge. Dr. Genefke rightly points out that torture is the most insidious weapon used by opponents of human rights, because torture can literally blot out the human spirit and eliminate the will to resist tyranny and oppression.

Beginning her clinical work investigating ways to treat torture victims in 1973, Dr. Genefke came to the conclusion that since torture was so commonplace in nondemocratic states around the world, there needed to be international outreach in order to identify and treat victims. In 1982, in Copenhagen, Denmark, Dr. Genefke established the Research Center for Torture Victims. In 1985, the center for the victims of torture was established in Minneapolis, MN based upon the Copenhagen Center's model. In 1988 the International Rehabilitation Council for Torture Victims [IRCT] was formed to coordinate the guidance and establishment of treatment centers in the countries which required them around the world. Today there are some 144 existing centers and programs in 76 countries.

The definition of torture comes from the U.N. convention against torture and other cruel, inhuman or degrading treatment or punishment, which entered into force in 1987. In the convention torture is defined,

> Any act which serves by severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent and acquiescence of a public official or other person acting in official capacity.

Dr. Genefke rightly points out that for political leaders of undemocratic societies, torture is useful because it aims at destruction of the personality, to rob those individuals who would actively involve themselves in opposition to oppression of the self-confidence and other characteristics that produce leadership. I quote from a recent speech by Dr. Genefke:

> Sophisticated torture methods today can destroy the personality and self-respect of human beings. . . . Many victims are threatened with having to do or say things against his ideology or religious convictions, with the purpose of attacking fundamental parts of the identity, such as self-respect and self-esteem. Torturers today are able to create conditions which effectively break down the victim's personality and identity and his ability to live a full life later with and amongst other human beings.

The work of Dr. Genefke and the IRCT is in part made possible for the U.N. Voluntary Fund for Victims of Torture. It is profoundly disturbing that in view of the essential nature of the work of the treatment centers around the world that bears upon the heart of our human rights endeavors, only slightly less than $4 million has been contributed or pledged to the Voluntary Fund in 1997. While the United States will provide $1.5 million in fiscal year 1997, and $3 million in both fiscal year 1998 and fiscal year 1999, countries like Japan, Germany, and the United Kingdom only contribute a fraction of these amounts.

I urge our Government and our U.N. representative to help publicize the excellent work the IRCT performs around the world and to assist Dr. Genefke and her courageous colleagues around the globe to continue the innovative assistance they provide to the struggle to promote human rights and the establishment of democratic governments. There is enormous work yet to be done in this field. In countries like Iraq, Iran, and China the victims of oppression demand our attention.

An important step in assisting in the work of the IRCT to receive attention would be for President Bill Clinton to visit the Copenhagen Center during his upcoming visit to Denmark next month. The publicity that would be afforded to the vital work of Dr. Genefke and the IRCT by a Presidential visit would be invaluable to helping raise international awareness of the importance of this practical support for human rights. I hope that the President will give every consideration to such a visit, which I have suggested in a recent letter to the President.

TRIBUTE TO LT. GEN. JOHN E. MILLER

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1997

Mr. SKELTON. Mr. Speaker, it is an honor for me to bring to the attention of the House of Representatives and the American public the distinguished record of service to our Nation by a fellow Missourian, Lt. Gen. John E. Miller. He is retired from the U.S. Army today after serving this great Nation for over 34 years.

Entering the U.S. Army in 1963 as an infantry officer, Lieutenant General Miller started his career by serving two tours in Vietnam, first as the commander of B Company, 2d Battalion (Airborne), 327th Infantry, 1st Brigade, 101st Airborne Division and then as a district senior advisor. Advisory Team 68, Delta Regional Assistance Command. During his service in Vietnam, he earned a Silver Star, a Bronze Star with the "V" device, an Air Medal with the "V" device, a Purple Heart, and the Combat Infantryman Badge.

Lieutenant General Miller has served in many diverse assignments, including commanding general, U.S. Army Combined Arms Center and Fort Leavenworth; deputy commanding general for combined arms, U.S. Army Training and Doctrine Command; and commandant, U.S. Army Command and General Staff College. Other key assignments include: commander of the 101st Airborne Division (Air Assault) and Fort Campbell; deputy commandant, U.S. Army Command and General Staff College; assistant division commander (Maneuver), 8th Infantry Division; assistant deputy chief of staff for combat developments, U.S. Army Training and Doctrine Command, Fort Monroe, VA, commander, 1st Brigade, and later chief of staff, 9th Infantry Division (Motorized), Fort Lewis, WA.

In culmination of his long and illustrious career, Lieutenant General Miller served as deputy commanding general, U.S. Army Training and Doctrine Command, Fort Monroe, VA. In this capacity, he has been the driving force as the architect of the future for the Army, developing and integrating future concepts and requirements for doctrine, training, and combat developments for Army XXI to operate with joint, combined, multinational, and interagency organizations. Lieutenant General Miller provided vision and guidance in the development of the Army After Next Program and has been instrumental in integrating Army models and simulations into a dynamic, efficient, and effective program. He has led the effort in developing investment strategies which lay the foundation for the Army to grow into the early 21st century. In addition to his combat decorations, Lieutenant General Miller has earned the Distinguished Service Medal, the Legion of Merit with two Oak Leaf Clusters, the Soldiers Medal, the Meritorious Service Medal with two Oak Leaf Clusters, the Army Commendation Medal, and the Army Achievement Medal. He has also earned the Parachutist Badge, the Air Assault Badge, and the Army Staff Identification Badge.

Mr. Speaker, there is not enough time in the day to thoroughly highlight the many contributions that this outstanding Missourian has made to our Army. He has dedicated his life to our soldiers and our Nation. He is truly a leader of leaders.

ALBANIA—DEMOCRACY AT A CROSSROADS

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1997

Mr. TRAFICANT. Mr. Speaker, in March 1991, Albania held free elections for the first time in 45 years. Since then, Albania has adopted a democratic form of government, launched economic reforms, and tried to reintegrate itself into Europe. Today, however, Albanian democracy is at a crossroads.

During the cold war, the Communist Albanian Party of Labor, lead by Enver Hoxha, exercised total political control over the Albanian people and virtually cut off relations with the rest of the world. Large student demonstrations in late 1990 challenged the Communist Party's exclusive hold on power and forced the government to accept multiparty elections. Although the elections' fairness was questioned by outside observers, the Albanian Party of Labor, later renamed the Albanian Socialist Party, won two-thirds of the vote. Large-scale strikes and demonstrations ensued, forcing the Socialist Party to cede power in June 1991 to a coalition government. The coalition government comprises members of all political parties, including the Socialist Party and the Democratic Party.

The March 1992 general elections resulted in a resounding victory for the Democratic Party, which gained 62 percent of the vote. The Albanian Parliament, known as the People's Assembly, elected Sali Berisha to the presidency. The Democratic Party under President Berisha has led a strong and stable government and enacted numerous economic and human rights reforms. While Albania still remains the poorest country in Europe, its economy has grown significantly since 1989. Large, inefficient industries were abandoned and collectivized farms were swiftly dismantled. As a result, Albania's economic growth rates surpassed expectations. In 1993, Albania experienced 10-percent growth in gross domestic product [GDP], and agriculture output of 14 percent. The economy continued to grow at 8 percent in 1994, and 6 percent in 1995. Furthermore, in 1995, the Albanian parliament passed a law "on genocide and crimes against humanity" that facilitated the prosecution of crimes from the Communist period.

Albania's political and economic successes, however, are in jeopardy. Parliamentary elections were again held in May 1996. Amidst allegations of voter fraud, almost all opposition parties pulled out before the polls closed. The Organization for Security and Cooperation [OSCE], as well as other U.S. and international election observer organizations, noted "serious irregularities" during the vote, including voter fraud, ballot surfing, intimidation, and coercion. The European Parliament and the OSCE called for new elections and President Berisha agreed to a partial rerun of the election in 17 districts. The opposition demanded a full election and boycotted the partial rerun. The Democratic Party was re-elected with more than a two-thirds majority. In addition to Albania's elections problems, in later 1996, Albania's high-risk investment plans, known as pyramid schemes, collapsed. The pyramid schemes, which promised exorbitant returns on investments, attracted over $1 billion in private investment. The collapse of these schemes affected 800,000 Albanians, many of whom had invested their entire life savings. Following mass riots in January 1997, the Government seized the accounts of two investment groups, banned further pyramid schemes, and approved partial compensation for the investors.

Earlier this month, I had the honor to meet with the Speaker of the Albanian Assembly, Pjeter Arbnori, to discuss the upcoming election and the situations in Albania. Arbnori spent almost three decades in prison for his resistance to Albanian Communist dictator Enver Hoxha Speaker Arbnori conveyed to me the urgency of the situation in Albania and the crisis facing Albanian democracy. He reassured me that the Democratic Party in Albania will honor the results of the June 29 elections. I was impressed by Speaker Arbnori's dedication to democracy and his strong commitment to the Albanian people. I believe that the United States should do all it can to ensure a democratic Albania.

As a result, I have introduced a resolution expressing congressional support for democracy in Albania. My resolution expresses the sense of the Congress that: First, the June 29 elections in Albania should be free and open and second, all political parties of Albania should honor the results of such elections. Through this resolution, the United States can show solidarity with the Albanian people during the June 29, 1997 elections.

A stable and democratic Albania is vital to the security of Europe and the United States. Should democracy falter in Albania, the world could be confronted with another Bosnia. The

Albanian people need to know that America stands firmly behind their struggle to maintain and entrench democracy after years of Communist, totalitarian rule. Now, more than ever, the Congress of the United States needs to make clear its strong Commitment to a free and democratic Albania.

INTRODUCTION OF THE ALCOHOL TAX EQUALIZATION ACT OF 1997

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, June 24, 1997

Ms. NORTON. Mr. Speaker, Congress will adjourn for recess at the end of this week. By the time we return on July 10, beer and wine will have taken a toll in human life and injury, especially among teens and other young people, because these alcoholic beverages are less costly and have become a virtual part of the holiday itself. By blinking at beer and wine through the Tax Code, Congress will be actively complicit in this carnage.

That is why today I introduce the Alcohol Tax Equalization Act of 1997, a bill that would increase the taxes on beer and wine so that they are taxed according to their alcohol content at the same level as hard liquor. The bill creates a substance abuse prevention trust fund for alcohol prevention programs. The kinds of programs that work include cross-peer mentoring by high school students about alcohol and drug abuse and traffic safety; teen courts to decide appropriate penalties for other teens who abuse alcohol; community-based prevention programs for pregnant women and highrisk populations; and 100 percent drug and alcohol-free clubs. The programs would be implemented through grants from the National Highway Traffic Safety Administration and the Substance Abuse and Mental Health Services Administration.

Ask Congress to explain why a can of beer, a 5-ounce glass of wine, and a shot of hard liquor which have the same alcohol content, are not taxed equally. The answer is plain—the beer and wine industries want it that way. Expect them to fight to preserve the enormous tax break they enjoy compared to their counterparts in the distilled liquor industry.

The Senate Finance Committee has just proposed substantially raising the taxes on cigarettes to discourage teenage smoking. The very same reasoning applies to beer and wine. Minors consume more than 1 billion beers each year. Teens are price sensitive because they have less disposable income. By taxing beer and wine substantially less than liquor, we bring the price down and encourage teens to make these the drinks of choice.

Because the Federal excise taxes on liquor are substantially higher than taxes on beer, Congress in sending the message to teens that these drinks are OK and are not as dangerous and addictive. Congress therefore bears a heavy part of the responsibility for the fact that alcohol abuse is the leading cause of death among teenagers and young adults.

Here in the District where there are so many low income and teen drinkers, taxing beer and wine fairly would be an important step in reducing alcohol-related traffic fatalities, accidents and disease. The need here is urgent. The District of Columbia death rate from alcohol is almost three times the rate in Maryland and Virginia—14.4 in the District, compared with 5.8 in Maryland, and 5.7 in Virginia (1994). I am pleased that the District is 1 of 39 States that has enacted impaired driving legislation. The bill I introduce today will take, District of Columbia and the entire country closer to the national goal of reducing alcohol-related fatalities to no more than 11,000 by 2005.

Beer is what America, and especially young, the America, drinks. In 1995, 60.3 percent of all alcohol sold was beer and 11.4 percent was wine. Only 28.4 percent was hard liquor. America is getting drunk on beer and wine. It is time for the taxes on beer and wine to reflect their alcohol content. A can of beer, a 5 ounce glass of wine, a wine cooler, and a shot of vodka are the same thing.

In America today, parents rarely give permission to teens to drink, but Congress does. It is time we withdrew that permission. This bill does just that.

RECOGNITION OF NIKOLA TESLA

HON. ROD R. BLAGOJEVICH

OF ILLINOIS
IN THE HOUSE OF REPRESENTATIVES
Tuesday, June 24, 1997

Mr. BLAGOJEVICH. Mr. Speaker, I rise today to recognize the vast accomplishments of an often neglected figure in our Nation's history. A man who strived to fulfill the American dream and in doing so aided in the synthesis of some of the most significant scientific advancements of this century. The man I wish to acknowledge is Mr. Nikola Tesla: a student, an inventor, and a hero of the American industrial revolution.

Nikola Tesla was born on the morning of July 10, 1856 in the midst of a tumultuous thunderstorm. The weather conditions surrounding his birth led some to call him the storm child while his mother preferred to assume the positive approach and affectionately referred to her son as the child of the light. Both these names proved to be reflections of Nikola's later life as an ingenious inventor. His innate love for scientific discovery became apparent at an early age and lasted throughout his lifetime.

After completing an advanced degree in the field of engineering, Tesla pursued a career as an electric engineer in the United States. He worked closely with Thomas Edison, the world renowned American inventor, to bring the wonder of electricity to the growing metropolis of New York. Allied with the commercial distribution strength of George Westinghouse, Nikola Tesla began his quest to spread the power of electricity across this great country. In 1893, Tesla was commissioned to generate the thousands of volts of electrical power necessary to light the Chicago World's Fair. In addition to this engineering feat, Tesla was also responsible for the design of the Niagara Mohawk Falls power plant which to this day provides an ecological and economical means of power to the upper portion of New York State and parts of Canada.

At the turn of the century, Nikola Tesla dedicated himself to independent research which led to a series of landmark discoveries. During this period Tesla conceived such innovations as the alternating current generator, the properties of the spinning magnetic field, the Tesla coil, the basic principals of broadcasting, as well as 700 other significant inventions and theories. Many of Tesla's discoveries form the foundation upon which our current technology is based, yet presently he receives little recognition for his contributions to the modern world. It is distressing that this man who transformed science fiction into a tangible reality is not properly credited with his accomplishments.

Nikola Tesla is a man who deserves acknowledgment for his numerous contributions to the advancement of American as well as world technology. It is an undebatable fact that Tesla was an essential component in providing the economical distribution of electricity to this country, an important factor in the industrialization of our Nation. In an age in which technology and scientific advancements are vital to everyday life, we are particularly indebted to the work of this unsung hero. The modern day conveniences of electricity, telecommunications, and broadcasting are reason enough to take time to acknowledge the man who is responsible for the basis of these innovations. Mr. Speaker, thank you for allowing me to recognize the achievements of this American citizen before the U.S. House of Representatives.

TRIBUTE TO MICHAEL A. BRAVETTE

HON. BILL PASCRELL, JR.

OF NEW JERSEY
IN THE HOUSE OF REPRESENTATIVES
Tuesday, June 24, 1997

Mr. PASCRELL. Mr. Speaker, I would like to call to your attention Michael A. Bravette of Cedar Grove, NJ.

Michael was born on September 19, 1926 in Newark, NJ to Pasquale and Philomena Bianco Bravette. One of two children, he was raised in the city of Newark and attended the city's Barringen High School. During World War II, at the age of 18, Michael entered the U.S. Navy. He served as an electronic technician's mate, third class aboard the heavy cruiser U.S.S. *Bremerton*, CA–130, flagship of the Seventh Fleet in the Pacific Theater of Operations and earned five medals for his bravery and valor.

In 1949, Michael graduated from the Newark College of Engineering, now known as N.J.I.T., with a bachelor of science in electrical engineering and a master of science in management engineering. He was a founder and an officer in the fraternity, Pi Kappa Phi and earned a Student Council Pendant Award, for his service as a class officer and in other campus activities.

Michael's first professional position was as a material handling sales engineer who sold the largest single contract in the history of the company—overhead traveling cranes for maintenance on the then-new Tappan Zee Bridge.

A retiree since 1989, Michael was employed for over 30 years in marketing with both the

Kearfott-Singer Co. and subsequently, the Plessey Co., as manager for advertising and customer relations. While at Kearfott-Singer, he cochaired their first successful motivation program, was the communications chairman for the zero defects program and served as president of the company's Toastmasters Club. During his many invaluable years of service, Michael was listed in Who's Who in America, Finance and Management.

One of the highlights of Michael's career was touring the company's facilities for 2 days with Apollo 13 astronaut, Fred W. Haise, Jr. He also prepared presentations and tours for astronauts Terry Hart and Mark Lee, Senator Bill Bradley, Congressman Jim Courter and Congresswoman MARGE ROUKEMA.

In 1964, Michael was appointed by then New Jersey Governor Richard J. Hughes as a tercentenary toastmaster lecturer for the New Jersey Tercentenary Commission. In this capacity, he was able to speak before several groups and was the guest speaker for the township of Cedar Grove 4th of July celebration held at the Memorial High School stadium. For his services, Michael was awarded by Governor Hughes a New Jersey Tercentenary Medal.

Michael is and always has been an active member of his community. He has been a parishioner of St. Catherine of Siena church since its construction and currently serves as one of the church's neighborhood ambassadors. Michael served as president of the Holy Name Society in 1960 and again in 1966. Under his leadership, membership in the society increased from 40 to 250. Also, Michael served as cochair of the 1965 fundraising drive which doubled the weekly donations to the church.

For several years, Michael was assistant coach and manager for Little League baseball and football in Cedar Grove. He also was a member of Cedar Grove's Democratic County Committee.

Michael remains active in the Cedar Grove Elks Lodge No. 2237 having served as exalted ruler and as chairman of the trustees. He was the public relations district chairman for the New Jersey State Elks Association 1975–76. He actively served on membership, handicapped children, housing, Memorial Day services, Flag Day, Mother's Day services, and investigation committees. He also served as the lodge's justice of the forum.

In 1989, Michael joined the Cedar Grove chapter of UNICO National and served as the chapter's vice-president, and president. Currently serving as publicity chairman, Michael authored special biographical news releases for Michael A. Saltarelli when he was elected auxiliary bishop, Archdiocese of Newark in 1990 and James Troiano who was appointed a superior court judge in 1992. He also promoted the special UNICO Dinner Dance held in 1996, in honor of Bishop Saltarelli who left New Jersey to become bishop for the diocese of Wilmington, DE.

As UNICO's membership chairman for 3 years, Michael nearly doubled the chapter's membership. He was appointed to the UNICO National Editorial Advisory Committee and the Gay Talese Literary Award Committee by the national president. He was honored by the Cedar Grove chapter as "Man of the Year" at the chapter' 10th Anniversary Dinner Dance in 1996. Michael is also a member of the Center for Italian and Italian-American Culture.

Michael is married to Florence Beltram whom he first met in high school. They have three children and five grandchildren. Their daughter Robyn is married to Craig Sloboda and the two live in Milford, PA. The couple has two daughters, Randi, 15 and Ashley, 10. Their son Brian is a CitiCorp vice-president and lives in Cedar Grove with his daughter Larisa, 12. Their youngest son, Barry, is a cardiologist and lives in Voorhees, NJ with his wife Cindy and his twin sons, Christopher and Matthew, 7.

Mr. Speaker, I ask that you join me, our colleagues, Michael's family and friends and the township of Cedar Grove in recognizing Michael A. Bravette for his outstanding and invaluable service to the community.

PROVIDING FOR CONSOLIDATION OF H.R. 1119, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1998

SPEECH OF

HON. GARY A. CONDIT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1997

Mr. CONDIT. Mr. Speaker, I stand today to oppose the rule. I have a great deal of respect for the chairman of the Committee on Rules, but I want those of my colleagues who can hear me, who can hear the sound of my voice to listen to my amendment which was turned down by the Committee on Rules yesterday.

We are talking about the military. We are talking about equipment and we are talking about facilities.

I had an amendment that said we have to honor our commitment to the men and women who serve in the military. I believe that if we are going to provide certain benefits—such as lifetime medical care—to them when they retire, then they are entitled to them and we ought to keep our promise.

That is the simple amendment. It's straightforward and it's honest. It's about making promises and keeping them.

I tell my colleagues, it does not make any difference how many pieces of equipment we have or what kind of facilities we build. If we do not have good men and women serving in the military it makes no difference how good our equipment or facilities are.

I went before the Committee on Rules to ask them to allow me to bring my amendment to the floor. All I was asking is that we honor the commitment we made to our military retirees and to honor the promises that we made. I was asking us to honor our commitment to them.

The U.S. military makes a commitment to a young person who comes in and signs up. They say, "We're going to give you health benefits for life when you retire." All of us here in the Congress know the military has repeatedly made that promise. We have the casework to prove it over and over.

We also know that we have had problems delivering those benefits and even more problems keeping our word. This amendment would force the military to keep its word.

I am troubled that the Department of Defense doesn't support this amendment. Their legal counsel issued a three-page statement which said my amendment would "impose undesired inflexibility" on the Department. According to them, my amendment would be "unwise." It means they don't want to keep their word.

Mr. Speaker, what kind of message are we sending our retired military population when we hide behind our promises rather than honor them? Recently a Federal judge in Florida ruled that retirees over 65 years of age who enlisted in the military prior to 1956 may now sue the Government for breaking its promise of free health care for life.

Are we really supposed to sit here in the 105th Congress and tell the next generation of American military veterans that they may have to sue the Government in order to have adequate health care coverage simply because the Department of Defense is finding it difficult to live up to its word?

Mr. Speaker, we are asking the United States to honor its commitment to our veterans.

WHO WILL CARE FOR THE POOR? NEW DATA SHOWS THE IMPENDING HOSPITAL CRISIS

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1997

Mr. STARK. Mr. Speaker, we have just received the June report from our congressional hospital payment advisory panel—the Prospective Payment Assessment Commission—and it carries a dire warning about the future of the Nation's safety net hospitals in the era of managed care.

The report, "Medicare and the American Health Care System, Report to the Congress, June, 1997," contains the following statement and table. It is a matter of life and death to millions of our fellow citizens that we address the problem of the uninsured in these good economic times. When an economic downturn comes, the pressure on these safety net hospitals will be unbearable—and then who will care for the uninsured and poor?

Rising financial pressure has raised concern about the willingness or ability of many hospitals to continue providing uncompensated care in a more competitive marketplace. A previous ProPAC analysis suggested that high managed care enrollment is associated with increased financial pressure from private payers and with greater reductions in the amount of uncompensated care hospitals provide.[48] Between 1992 and 1994, private payer payment to cost ratios declined 4.5 percent for hospitals located in urban areas with high managed care penetration; uncompensated care burdens for these hospitals also fell by 4.5 percent (see Table 3–14). The experience of hospitals located in areas with low managed care penetration was quite different: Their private payer payment to cost ratios rose 4.1 percent, while uncompensated care burdens fell only 0.1 percent.

CHANGE IN HOSPITAL FINANCIAL PERFORMANCE, BY MANAGED CARE PENETRATION RATE, 1992–94

[in percent]

Financial performance	Low	Medium	High
Private payment to cost ratio	4.1	3.8	−4.5
Total payment to cost ratio	0.9	−0.8	−2.0
Uncompensated care burden	−0.1	−1.4	−4.5
Cost per adjusted admission	8.2	7.0	7.3

Note: Managed care penetration rates are based on enrollment in health maintenance and preferred provider organizations as a percentage of the total population in the metropolitan statistical area (MSA). Low penetration is less than 41 percent; medium is from 41 percent to less than 50 percent; high is from 50 percent to less than 60 percent. This analysis is limited to 89 of the largest MSAs and excludes those with penetration rates of 60 percent or more.

SOURCE: ProPAC analysis of data from the American Hospital Association Annual Survey of Hospitals and the National Research Corporation.

The situation is particularly tenuous for hospitals that furnish a large amount of indigent care. They often lack the private payer base that can offset uncompensated care losses. Private payers' share of costs in public major teaching hospitals, for instance, is less than 15 percent (see Table 3-7). Moreover, compared with other institutions, these hospitals are already getting substantially higher private payments relative to costs, which makes it difficult for them to compete. The private payer payment to cost ratio for these facilities is 154 percent compared with an all-hospital average of 124 percent.

These hospitals are also in much weaker financial condition than other institutions, despite the additional subsidies they receive. Total gains for public major teaching hospitals, for instance, were only 1.5 percent in 1995, far below those for other hospitals. Given that one of their missions is serving the poor, they may not be able to reduce uncompensated care, particularly if other hospitals are doing so. Consequently, any increase in uncompensated care burdens could put such hospitals at serious financial risk.

PERSONAL EXPLANATION

HON. JOHN COOKSEY

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1997

Mr. COOKSEY. Mr. Speaker, unfortunately, I was not present to record votes on rollcall votes No. 221, 222, 223, and 224. Had I been present, I would have voted "nay" on rollcall 221, "aye" on rollcall 222, "aye" on rollcall 223, and "aye" on rollcall 224.

WARREN/WASHINGTON COUNTIES ARC CELEBRATES 35 YEARS

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1997

Mr. SOLOMON. Mr. Speaker, I wanted to take this opportunity to heap praise on one of the most valuable and important programs that has been operating for 35 years now in my congressional district. I'm talking about the Warren/Washington Counties ARC which provides quality services to people with disabilities and their families in my hometown and neighboring communities in New York's Adirondack Mountains.

The good people who work at and operate this fine chapter deserve all the credit in the world for the time and energy they devote to those less fortunate than themselves. Helping those who have the misfortune of being born with or acquiring disabilities, mental and otherwise, is truly one of the more admirable undertakings and one of the greater responsibilities in our society. I know those they are able to help and their families and loved ones greatly appreciate everything they do to help make their lives as full and complete as possible.

And you know, Mr. Speaker, that's the remarkable thing. We would all do well to emulate the spirit of giving of those who nurture those in our communities who may be less fortunate than ourselves through no fault of their own. The staff and administrators who have made up the history of the Warren/Washington ARC will tell you that their satisfaction comes not in feeling good about themselves, but in recognizing the joy of those they help.

Mr. Speaker, I have always been one to judge people based on what they return to their community. By that yardstick, the people of Warren/Washington ARC are truly great Americans. This is a country founded on the principles of volunteerism and helping others. What better way than to help those neighbors with disabilities enjoy the same opportunities we all enjoy to be part of a community? That's why Mr. Speaker, I ask that you and all Members of the House rise with me in salute to this tremendous program and in wishing them another 35 years of unparalleled success.

AMENDING THE SAFE DRINKING WATER ACT

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1997

Mr. WAXMAN. Mr. Speaker, today I am introducing a noncontroversial bill which will make it much easier for States to comply with the Safe Drinking Water Act.

Under the Safe Drinking Water Act amendments Congress considered last year, States are required to conduct source water assessments. These source water assessments delineate and assess sources of drinking water within each State. They are an important part of our efforts to protect the public's drinking water.

When Congress passed the Safe Drinking Water Act Amendments of 1996, there was the expectation that States could get their drinking water State revolving funds [DWSRF] up and running within a year. Accordingly, States have had the discretion to use up to 10 percent of their Federal capitalization grants for fiscal years 1996 and 1997 to conduct source water assessments. However, this short timeframe for funding has turned out to be problematic for the States. In fact, some States may not even have grant applications submitted during fiscal year 1997.

This bill would amend the Safe Drinking Water Act to fix this problem by giving States the discretion to fund source water assessments with their capitalization grants for 1 additional year. This bill would not make any new authorizations. It would place no new requirements on States, nor would it require funds to be spent on source water assessments. This bill simply gives States discretion in how they use funds they have already been granted.

When Speaker GINGRICH proposed Corrections Day in the last Congress, he said that it should be used only for noncontroversial legislation of a limited scope. I have actively participated in the corrections advisory group for the last 2 years and believe that this proposal is the ideal candidate for the Corrections Day calendar.

I have consulted with the Office of Drinking Water at the Environmental Protection Agency who have raised no objections. In fact, there is no known opposition to the bill at all. This bill is supported by the State drinking water administrators, the water supply industry, and the environmental groups.

The Association of State Drinking Water Administrators, the American Water Works Association, the Association of Metropolitan Water Agencies, the Association of California Water Agencies, Clean Water Action, and the Natural Resources Defense Council all support this bill.

Mr. Speaker, I urge every Member to support this noncontroversial bill. Congress should act quickly to send this to the President to become law.

STATEMENT ON THE RETIREMENT OF COL. DAVID HARRINGTON, U.S. AIR FORCE

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1997

Ms. NORTON. Mr. Speaker, I rise today to pay tribute to Col. David G. Harrington, a resident of the District of Columbia, on his retirement and to thank him for his 29 years of dedicated service to the U.S. Air Force.

Colonel Harrington joined the Air Force on July 25, 1968, and has served at several locations throughout the United States and Europe. His most recent experience has been in human resources. He has attained the position of chief of the education and training division at headquarters, U.S. Air Force.

Colonel Harrington has devoted his 29-year career to helping the men and women of the U.S. Air Force through the development of systematic policies that improve their personal and professional readiness to defend the United States and its allies. The colonel has received many awards and decorations for outstanding service during his career.

Upon the completion of such exemplary service to our Nation, I commend Colonel Harrington and wish him well in the future.

IN HONOR OF CHANCELLOR DR. VIVIAN B. BLEVINS, CHIEF EXECUTIVE OFFICER OF RANCHO SANTIAGO COMMUNITY COLLEGE

HON. LORETTA SANCHEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1997

Ms. SANCHEZ. Mr. Speaker, I would like to take this opportunity to honor Dr. Vivian B. Blevins' extraordinary commitment to education and to providing access to all students throughout her tenure as chancellor of Rancho Santiago Community College.

As chancellor, Dr. Blevins has been instrumental in promoting active engagement and participation between students, community leaders, and businesses. She has also been persistent in reaching out to the Asian-Pacific American and Latino/Chicano community.

Her many career accomplishments at the local level include: Kennedy Partners Board of the Orange County Human Relations Council, the Executive Board of Santa Ana 2000, the Board of the Delhi Center, the Advisory Board of Career Beginnings of Orange County, and the Board of Directors of KinderCaminata.

At the national level she has recently completed a 2-year term as chair of the Commission for the Office of Minorities in Higher Education of the American Council on Education. She was also chair of the Women's Caucus of the American Association of Higher Education in 1996–97 and is currently legislative liaison of the caucus. She is on the executive board of the board of directors of the Hispanic Association of Colleges and Universities [HACU] and is currently working on a cultural diversity track for the second international conference sponsored by HACU and the Bureau of Land Management.

I would like my colleagues in Congress to join me in recognizing Chancellor Vivian B. Blevins for her outstanding service to her community. Her many outstanding accomplishments clearly mark her as an outstanding intellectual and inspirational leader. The citizens of Orange County have been very fortunate to have such a remarkable individual working for them. Let us wish Chancellor Blevins many years of enjoyment and happiness in her future endeavors.

TRIBUTE TO THE 50TH WEDDING ANNIVERSARY OF DR. AND MRS. OSCAR C. ALLEN

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1997

Mr. TOWNS. Mr. Speaker, I would like to bring to your attention the momentous occasion of Dr. Oscar C. Allen and Hattie Lawson Allen's 50th wedding anniversary on June 14, 1997. The celebration was elegantly orchestrated by the couple's daughters, Dr. Adele Allen and Dr. Carol Allen, both medical doctors and accomplished pianists.

Dr. Oscar Allen was born in Baltimore, MD, where he attended public schools prior to his entering Virginia State College [VSC]. After graduating from VSC he received his bachelor of science degree. Oscar Allen entered and graduated from Howard University in Washington, DC, and received the degree—doctor of medicine in March 1944.

Dr. Allen managed to garner numerous awards and distinctions throughout his career. Among his most notable professional credentials are his awards for his Outstanding Physician Award from the Provident Clinical Society of Brooklyn; Physician Honoree of the State University of New York, Downstate Health Science Center; Alumni Award of the Greater New York chapter. Included, and most important in his impressive list of accolades is Dr. Allen's union and dedication to his lovely wife, Mrs. Hattie Lawson Allen.

Mrs. Allen is a retired educator and was for many years the assistant principal of Clara Barton High School. In addition, Hattie is the co-author with Dr. Vashti Curlin, of a book entitled "Barron's: How To Prepare for the Practical Nurse Licensing Examination," first published in 1979. Hattie has managed to garner numerous distinctions, including her membership in the Alpha Kappa Alpha Sorority and the several civic and community organizations.

Mr. Speaker, I ask that you join me, our colleagues, and Dr. Allen and Hattie's family and friends, in recognizing the momentous occasion of Dr. Allen and Hattie's golden wedding anniversary.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1998

SPEECH OF

HON. TOM BLILEY

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 20, 1997

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 1119) to authorize appropriations for fiscal years 1998 and 1999 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal years 1998 and 1999, and for other purposes:

Mr. BLILEY. Mr. Chairman, I oppose the Hefley amendment. This amendment would transfer the Naval Oil Shale Reserve Nos. 1 and 3 from the Department of Energy to the Department of the Interior so that they can be leased for oil and gas production.

The Commerce Committee shares jurisdiction over the Naval Petroleum Reserves and the Naval Oil Shale Reserves with the National Security Committee. Unfortunately, this amendment was allowed to be considered on the House floor before one of the committees of jurisdiction has had an opportunity to hold a hearing or fully study the proposal. Proceeding on this amendment without laying a proper foundation at one of the relevant committees, forced Members to vote on an issue without having answers to a number of questions raised by the proposed transfer.

And there are many unanswered questions about this proposal. For example, is the Federal Government receiving the maximum return for the leasing of this valuable asset? Are there more appropriate dispositions of this property that would result in greater returns to the Federal Government? Is the amount of bonus and royalty to be received from the proposed leasing appropriate? Is the sharing of revenues received from the leasing of this type of Federal land appropriate? Additionally, why does the Department of Energy retain responsibility for environmental restoration of the reserves after the transfer of the leasing authority to the Department of the Interior and what are the cost implications of having two Federal Department's with jurisdiction over these lands.

Finally, there is no reason why the Hefley proposal could not have been considered as a separate piece of legislation. In fact, in order to assure that maximum value is received for these assets, it might have been more appropriate to consider disposition of all the Naval Petroleum and Oil Shale Reserve together. If this amendment becomes law we will be in the curious situation of having the Federal Government retain responsibility for the Naval Oil Shale Reserve No. 2 and the Naval Petroleum Reserves Nos. 2 and 3 with the others being sold or leased. This amendment is not so intertwined with our national security that it had to be included in this bill without allowing time for full consideration of all the implications of its provisions.

Thus, I oppose the amendment and believe its consideration is premature at this time.

IN HONOR OF MARIO JIMENEZ AND THE GRADUATES OF THE CENTER OF TECHNOLOGICAL BACCALAUREATES, NO. 175, CLASS OF 1997

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1997

Mr. TORRES. Mr. Speaker, I ask my colleagues here assembled to join with me in celebration of this year's graduates. On June 28, 1997, my good friend, Mario Jimenez, will take part in the graduation ceremonies at the Center of Technological Baccalaureates, No. 175, Class of 1997.

Mario Jimenez is a leader in his community of Whittier, CA, which is part of the congressional district I represent in the House of Representatives. Mario travels to Huitzuco, Guerrero, in Mexico to contribute to this birthplace and to celebrate the great deeds of many young graduates. He received the great honor of master of ceremonies for the class of 1997 because of his contributions in California as well as those in Mexico.

This year's graduating class of the Center of Technological Baccalaureates includes 13 electrical technicians, 22 information systems technicians, 45 computer-accounting technicians, 8 medical technicians, and 7 computer secretarial technicians.

Electrical Technicians: Alcocer, Gonzalez Marco Vinicio; Campos, Ramirez Julio; Cazares, Cruz Luis Ricardo; Garzon, Robles Dario; Lagunas, Jennifer; Marban Garcia, Jose Antonio, Marban, Salgado Jose Antonio; Marban, Vasquez Arturo; Najera, Cuevas Jose

Alberto; Ortiz, Gutierrez Jorge Antonio; Varela, Sanchez Armando; Vega, Sanchez Ivan, and Villalva, Naval Fernando.

Information Systems Technicians: Barragan, Marban Georgina Alanis; Benitez, Bahena Elizabeth; Chavez, Reyes Stibaly; Figueroa, Molina Veronica; Garces, Jimenez Nancy; Gonzalez, Franco Pedro; Gonzalez, Guevara Victor; Gonzalez, Reyes Loraine; Martinez, Castro Adriel; Melquiades, Carvajal Jose Ulises; Najerasoto, Yeimy; Orduna, San Martin Marina Liszet; Pineda, Alvarado Atenodoro; Salgado, Losano Violeta; Sanchez, Arce Miguel Angel; Sanchez, Perez Iliana; Segura, Aleman Rosario; Tafoya, Perez Ubaldina; Tejeda, Sanchez Erika; Vasquez, Lome Vianey; Vega, Vergara Viridiana Aimme, and Zagal, Mata Dinora.

Computer/Accounting Technicians: Adan, Diaz Dalila; Arteaga, Ibarra Graciano; Carrillo, Nava Pablo; Cruz, Catalan Elodia; Damian, Leyva Santos; Diaz, Bautista Teresita Del Sagario; Espiritu, Rodriguez Enriqueta; Figueroa, Gaytan Tania, Gaytan, Meza Silvestre; Gongalez, Cadenas Edgar; Herrera, Robolledo Jesus Arciando; Marban, Rebolledo Fernando; Morquecho, Rosales Angelica; Najera, Astudillo Celika; Ramirez, Betancourt Carmen; Roman, Lopez J. Bernardino; Roman, Tellez Miriam; Romero, Villanueva Erasmo; Sanchez, Mayao Saul Heriberto; Sanchez, Munoz Emilio; Sonido, Oropeza Epipania; Soto, Tenorio Miguel; Zavaleta, Apaez Gabriel; Andrade, Marban Lissete; Avila, Castro Rebeca; Bahena, Barcenas Maritza; Barrera, Trinidad Maria Guadalupe; Beltran, Astudillo Guillermo; Carrasco, Lucas Alberto; Castillo, Cuenca Alinee Anabel, Flores, Velazquez Gamaliel; Guerrero, Zamora Francisco Javier; Martinez, Castro Zaida; Martinez, Ortiz Araceli,; Miranda, Melchor Moises; Peralta, Landa Cindy Cecyl; Reza, Cruz Iganacia; Riquelme, Najera Miriam; Rodriguez, Villegas Luis Enrique; Salazar, Vite Luz Maria; Salinas, Mateos Abel; Sanchez, Benitez Yanet; Villalva, Nava Luciano; Virgos, Rocha Eduardo y Viveros, Ayala Martza Roxana.

Medical Technicians: Cardenas, Villegas Laura Elena; Marban, Lineres Martha; Mata, Vargas Margarita; Oregon, Porras Mayer; Reyes, Miranda Josue; Rodriguez, Gomez Claudia; Rosendo, Garcia Josefina, and Vargas Vazquez, Maria Guadalupe.

Computer Secretarial Technicians: Castrejon, Ocampo Rosa Maria; Herrera, Peralta Jose Alfredo; Salgado, Barrera Carolina; Salgado, Estrada Blanca Yanet; Santiguillo, Noveron Hugo; Teliz, Sanchez Olga, and Vargas, Panchito Miriam.

Mr. Speaker, it is with great pleasure that I send my best wishes to all the new graduates of the Center for Technological Baccalaureates and to a great civic leader in our community, Mario Jimenez.

GLOBAL WARMING AND POPULATION GROWTH: INSEPARABLE

HON. JAMES P. McGOVERN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1997

Mr. McGOVERN Mr. Speaker, I would like to share with my colleagues an article that appeared in the Monday, June 23, edition of the Christian Science Monitor. Written by Dr. Werner Fornos, president of the Population Institute, it identifies the relationships between global warming and population growth. With the special session underway at the United Nations to review progress on the Rio Summit, his words and insights are timely and valuable for all Members of Congress.

[From the Christian Science Monitor, June 23, 1997]

GLOBAL WARMING AND POPULATION GROWTH: INSEPARABLE

(By Werner Fornos)

During President Clinton's weekend conference in Denver with leaders of the "Group of Seven" and his address today before a special session of the United Nations General Assembly, global climate change will be among the primary topics of discussion.

It appears that the issue is heating up these days—and for good reason. As the result of a UN-estimated average global temperature rise of 3.6 degrees Fahrenheit in the next century, the world may experience widespread flooding, the disappearance of small island nations, and rowboat-only access to Bourbon Street, Broadway, and countless other coastal spots. This prognosis will be compounded by a world population that could reach 10 to 12 billion, or higher.

Although the United States, the European Union, and 153 other nations officially recognized the problem of global climate change at the Rio Earth Summit in 1992, the United States remains woefully behind in fulfilling the Bush administration's pledge to cut greenhouse gas emissions to 1990 levels by the year 2000. Public awareness of the pending disaster has lagged behind as well, because of efforts by fuel companies and other corporations who see themselves harmed by emissions limitations.

Global climate change results when increased levels of greenhouse gases in the atmosphere block the escape of infrared, or thermal, radiation. Human activities in recent years have increased the levels of all of these gases, including carbon dioxide, ozone, methane, nitrous oxide, and chlorofluorocarbons. Water vapor is the only exception.

Carbon dioxide is the most troublesome, accounting for 60 percent of the enhanced greenhouse effect. Fuel burning, agriculture, automobile exhaust and other human emissions contribute an estimated 22 billion metric tons of carbon dioxide each year, and have caused an unprecedented 10 percent increase in atmospheric levels of the gas in the last 20 years.

Negligence by the US and the six other industrial nations of the Group of Seven—which account for 38 percent of greenhouse gas production—could lead to an estimated one to three foot increase in sea level and a mid-latitude climate zone shift of approximately 200 miles in the next century.

There is no question that controlling greenhouse gas emissions is a priority for achieving sustainable human development. And, surprisingly this is one key step toward self-preservation that can actually be beneficial to economics. Mr. Clinton has proposed an international strategy of establishing a greenhouse gas emissions quota based on a financial credit system. A similar program to control acid rain has been environmentally successful as well as cost-effective. In addition, incentives could be extended for the research and development of alternative energy sources and more efficient technologies.

The recent attention to global climate change is encouraging, but any energy policy that seeks to halt global warming cannot ignore the fact that the current world population of 5.9 billion people is projected to double in only 40 years—with 98 percent of the increase occurring in the developing world. As nations such as China and India—accounting for over 2.2 billion people—seek to industrialize, what level of havoc will their greenhouse gas emissions wreak on the atmosphere?

We must recognize that global climate change and other abuses of the environment are symptions of the strain imposed by rapid population growth and a reversal of the warming trend is unlikely unless there is a meaningful reduction in fertility.

The time is now for Clinton and other world leaders to set a course for our planet that looks beyond the present and minimizes the damage humanity has already inflicted.

The residents of numerous small island nations, who face sci-fi horror in the real-life possibility of being reclaimed by the sea, would be the immediate beneficiaries. In the all-too-near future, however, the beneficiaries would include everyone's children and grandchildren.

NIKE'S RESPONSE

HON. ELIZABETH FURSE

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1997

Ms. FURSE. Mr. Speaker, I would like to place in the CONGRESSIONAL RECORD a report that former Congressman, U.N. Ambassador, and Atlanta Mayor Andrew Young recently wrote on Nike's labor practices. I also am including in the RECORD Nike's response to the Young report.

Earlier this year, Nike asked Ambassador Young to conduct an independent review on the implementation of Nike's code of conduct and provide specific recommendation on what Nike was doing right, and what can be done better.

That report, which was released June 24, lays out some very meaningful recommendations which I believe my colleagues would be interested in reviewing. Nike's response to the Young recommendations demonstrates that this Oregon-based company is truly committed to being a leader on these issues. With my colleague from Oregon, Mr. BLUMENAUER, I commend the Young report on Nike's response, and urge my colleagues to review it.

NIKE'S RESPONSE TO ANDREW YOUNG'S REPORT ON THE NIKE CODE OF CONDUCT

Our NIKE Code of Conduct sets out a basic goal—for NIKE, and for all of our business partners—always to do what is *expected*, as well as required, of a leader.

In this spirit, in February, we decided to seek a separate and independent assessment of the extent to which our contractors are complying with that Code. We turned to one person we thought had three attributes that would make that assessment most valuable.

First, a truly independent voice. Second, a person with experience and understanding of the developing world, where most of the world's apparel and footwear products are made. And third, someone who was not party to the issue—who would bring a fresh perspective to bear.

Andrew Young, former United Nations Ambassador, life-long human rights advocate, with a wealth of experience in labor and factory issues, was an obvious choice.

Today, after four months of investigation, Ambassador Young delivered his report.

His overall assessment is that we are doing a "good job." But good is not the standard NIKE seeks in anything we do.

We are acting now to improve in every area he suggests. His recommendations, and our response, are:

1. Recommendation: "NIKE should continue its efforts to support and implement the provisions of the Apparel Industry Partnership."

Action: NIKE was the first company to join. We will continue to work with our Partnership colleagues from the apparel industry, and related labor, human rights, religious and consumer groups. NIKE is represented on all of its various subcommittees, addressing implementation of the new Code and its monitoring principles. The most recent meeting was held the very day Ambassador Young presented his report to US.

We will carry this message of industry, labor and rights groups cooperation to all of our business partners and others in the industry. We will urge other apparel and retail companies to sign on. In the past two weeks we have already begun to do this with other athletic, dress and casual footwear companies.

2. Recommendation: "NIKE should take more aggressive steps to explain and enforce the Code of Conduct."

Action: As a result of comments made during Ambassador Young's factory inspection tour in March and April, NIKE reinforced implementation of the Code of Conduct and its monitoring principles by conducting eight weeks of training for NIKE production people and contract factory management in Asia, in 11 countries and 15 cities. We will follow up by:

a. Ensuring that contractors provide every employee with renewed Code of Conduct training and a simplified, written form of that Code.

b. Redoubling our efforts to ensure that every NIKE contract factory has the Code posted visibly in every major workspace, in the language of both the worker and the manager, when those language are different.

c. Add to our auditing procedures to assure that the Code of Conduct is understood, that training, posting and personal copies of the Code have the desired impact: that workers truly understand their rights, and management its obligations.

3. Recommendation: "NIKE should take proactive steps to promote the development of 'worker representatives' in the factories who can effectively represent the workers' individual and cumulative interests."

Action: NIKE contract factory worker representation spans a broad spectrum around the world, from worker management committees to full trade unions. NIKE will survey existing worker representation processes and require each of our contract factories to redouble its efforts to assure that workers truly have a voice in workplace issues.

4. Recommendation: "NIKE should insist that the factories which manufacture its products create and enforce a better grievance system that allows a worker to report a complaint without the fear of retribution and abuse."

Action: NIKE will survey existing grievance procedures in our contract factories and with other industries and factory groups. We will require each of our contract factories to adopt and implement one of several model procedures, as appropriate to its size, current representation system, and the effectiveness of that current system.

An addition, NIKE will create several pilot ombudsman projects to determine how well an outside voice can supplement and enhance the grievance procedure.

5. Recommendation: "NIKE should expand its dialog and relationship with the human rights community and the labor groups within the countries where they produce goods and with their international counterparts."

Action: NIKE has already begun this process. Starting in major source countries, we are seeking to establish regular sessions with groups who can foster productive dialog on contract labor issues. The Apparel Industry Partnership and a quarterly conference call with concerned investor groups are two of several forums in which we will continue to address these issues with affiliated and interested international parties.

6. Recommendation: "NIKE should consider some type of 'external monitoring' on an ongoing basis as a way to demonstrate its commitment to the Code of Conduct and to insure its effective application."

Action: Specifically, Ambassador Young recommends two steps: (a) establish an ombudsman function, and (b) establish a small panel of distinguished international citizens to provide a continuing oversight role similar to that undertaken by the Ambassador. We're already doing the first, as noted above. We're working now to appoint an international oversight panel to fulfill the second.

Because NIKE is a leader, we have decided to take further steps beyond Ambassador Young's recommendations, but speaking to issues he raised.

1. NIKE will strengthen the penalty system for contract factories found in violation of the NIKE Code of Conduct. This includes escalating monetary penalties, whose proceeds will fund: (a) remedial action to correct the violation or (b) investment in worker education, recreation or habitability enhancement programs.

2. We are determined that the 500,000 jobs created by NIKE's contract relationships around the world continue to be the best jobs in the business. If any contractor consistently fails to adhere to our Code of Conduct, we will terminate their relationship with NIKE.

3. With our partner factories, NIKE will establish an ongoing training system for managers and supervisors that includes (a) basic people management skills; (b) education in local culture for expatriate managers and (c) learning the local language.

4. Ambassador Young has identified the need for a higher level of host country management in factories owned and operated by foreign investors. NIKE will assess current levels of indigenous management, and establish action plans with each contractor to assure that local management is integrated at the highest levels.

5. NIKE will continue to test pilot projects to measure the effectiveness of independent monitoring by third parties. To date two such projects have been undertaken in two countries. A third is underway.

NIKE will implement each of the actions noted above by January 31, 1998, and then reassess further steps or the enhancement of those already taken.

In addition, NIKE will continue to implement a comprehensive factory inspection program, called SHAPE (Safety, Health, Attitude of Management, People Investment, Environment) in all contract factories worldwide. Our aim is to ensure that every aspect of the factory work experience meets NIKE standards, from fire drills and sanitation to worker training and recreation programs.

Since 1994 NIKE has had independent auditors test factory compliance with our Code of Conduct. We are encouraged that Ambassador Young has found these audits to be "professionally done, (and) rigorous," We will redouble our efforts to assure they are an effective tool. By August 1, 1997 NIKE will have in place a single, unified set of instructions to make sure that every independent audit, anywhere in the world, by any auditor, is done to the same standard.

NIKE management appreciates not only the independence and objectivity that Ambassador Young has brought to these issues, but the many other voices in government, the human rights, labor, religious, consumer and business communities, that have also contributed valuable insight.

Ambassador Young has demonstrated—on assignment for NIKE, but also over 40 years of public and private service in human rights arenas—that these issues are always best served by reasoned, honest and respectful discussion. We are committed to that course.

THE CRACK COCAINE EQUITABLE SENTENCING ACT OF 1997

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1997

Mr. RANGEL. Mr. Speaker, I rise in support of the Crack Cocaine Equitable Sentencing Act of 1997. The bill, if enacted, would remove the arbitrary and unfair distinction between powder and crack cocaine sentencing. As predicted, earlier this month, the U.S. Sentencing Commission again concluded that Federal drug laws that treat crack cocaine defendants 100 times more severely than powder cocaine defendants cannot be justified. I am proud to be joined in sponsorship of this important bill by a majority of the Congressional Black Caucus.

In 1995, the U.S. Sentencing Commission released a study of Federal sentencing policy as it relates to possession and distribution of all forms of cocaine. Specifically directed by the Omnibus Violent Crime Control and Law Enforcement Act of 1994, the Sentencing Commission reported on the current structure of differing penalties for powder cocaine and crack cocaine offenses and to provide recommendations for modification of these differences. Again, following a congressional mandated study, the Sentencing Commission has restated their stance against the current 100 to 1 ratio. This time, the Commission voted unanimously to lower the sentencing disparity and asked Congress and President Clinton to address the issue within 60 days. Your support of the Crack Cocaine Equitable Sentencing Act of 1997 as an original cosponsor will facilitate timely consideration of the Commission's request.

Included in the mandatory minimum penalties enacted by Congress in 1986 and 1988 was an arbitrary distinction between crack and powder cocaine that singled out crack cocaine for much harsher treatment. The laws had the effect of creating a 100 to 1 quantity ratio for triggering equal treatment for the two pharmacologically identical drugs. For example, under current law, if a person, tried in Federal court, is found in possession of 5 grams of crack cocaine, he would be subject to a mandatory 5-year penalty. If that same person is found with 5, 50, or 400 grams of powder cocaine, he would face a maximum penalty of 1 year in prison. It would take 500 grams of powder cocaine to bring the same punishment for possessing 5 grams of crack cocaine.

One of the effects of this legislation is to punish small-scale crack cocaine users and dealers more severely than we punish their wholesale suppliers. Continuing this unfair treatment threatens to undermine the authority of the 14th amendment to the Constitution that guarantees equal protection under the law from disproportionate punishment. In addition, current policy threatens the 14th amendment's equal protection guarantees for those who live in areas where crack cocaine is more readily available and cheaper than powder cocaine, namely African-Americans and Latinos. These positions are outlined in the accompanying Letter to the Editor from a May 13, 1997, letter to the Wall Street Journal.

The Crack Cocaine Equitable Sentencing Act of 1997, brings back a sense of fairness to the Federal sentencing process. I challenge this Congress to adopt this legislation to promote that ideal.

LETTER TO THE EDITOR FROM THE HONORABLE CHARLES B. RANGEL

I write regarding Mr. Wayne J. Rocques' opinion-editorial that appeared in yesterday's Wall Street Journal. In the article, Mr. Rocques' condemns Reverend Jesse Jackson and me for our views regarding the mandatory Federal Crack Cocaine sentencing law, which we regard as unjust due to its disproportionate application to African American defendants, who represent almost 90% of the defendants in these cases. Current law mandates that persons convicted of possessing 5 grams of crack cocaine receive the same sentence (five years) as persons convicted of possessing 500 grams of powder cocaine. Since enactment of this law, the 100-1 quantity ratio has had a devastating and disproportionate impact on the African American community. The evidence is indisputable.

First, almost 97% of all crack cocaine defendants are Black or Latino despite the fact that these groups represent less than 50% of all crack users and less than 25% of the general population. In Los Angeles, from 1988 to 1991 the U.S. Attorney's Office prosecuted no white suspects on Federal crack cocaine charges while hundreds of white suspects moved through the state court system. In 1992, this two track system was repeated in 17 states.

Second, although Mr. Rocques notes the difficulty of attacking the wholesale marketing of crack cocaine, he neglects to explain the reasoning behind this statement. Crack cocaine and powder cocaine are virtually identical from a pharmacological standpoint, and crack is derived directly from powder cocaine. Consequently, wholesale powder cocaine dealers also serve as wholesale crack cocaine dealers. The consensus among drug control advocates, including Mr. Rocques, is that this is the group that must be targeted for severe sentencing. Meanwhile, small time street-level crack dealers, who often produce the crack themselves can fill our jails and face kingpin sentences with possession of as little as $50 worth of crack.

Third, to answer Mr. Rocques' question regarding why advocates for fair sentencing would concern ourselves with drug criminals, I would remind him that the Fourteenth Amendment of the Constitution requires equal treatment under the law. This sentencing disparity breaks that promise and undermines the foundation of fairness that our country is built upon.

Finally, though Mr. Rocques would have your readers believe that only Rev. Jackson and I have spoken out regarding polarizing effects of the Crack Cocaine Sentencing Law, in truth, we have been joined by others including the entire Congressional Black Caucus, Supreme Court Associate Justice Anthony Kennedy, former Drug Czar Lee Brown and Senator Robert Dole.

Even more significant are the Congressionally requested studies produced by the bipartisan United States Sentencing Commission, which in 1995 and yesterday, unanimously, released studies that found such a disparity insupportable. Furthermore, the Sentencing Commission explained that, "the current (100-1 sentencing) policy must be changed to ensure that severe penalties are targeted at the most serious traffickers." The rejection of the current biased system should guide Congress to act on these recommendations in an expeditious and responsible manner.

The Sentencing Commission's report should also spur immediate action in President Clinton, Attorney General Janet Reno, and Drug Czar Barry McCaffrey. The challenge of overcoming the zealous rhetoric of detractors demands that they fight for the commission's responsible proposal rather than issuing pensive and avoiding promises to give the report, "very serious consideration."

In addition, although Mr. Rocques' diatribe would label me as a supporter of drug legalization, nothing could be further from the truth. I have spent my entire professional career—first as a Federal prosecutor, then as a New York State Assemblyman and finally as a United States Congressman—advocating for increased awareness of drug abuse and control.

Despite the fact that I originally supported the Crack Sentencing legislation, I now recognize that it's application has revealed a strongly biased and flawed statute. My strong advocacy against drug trafficking and abuse does not blind me from my responsibility to correct failed policy, no matter the author.

AMENDMENT TO THE TAXPAYER RELIEF ACT OF 1997

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1997

Mr. ARCHER. Mr. Speaker, for the information of the House, today I have submitted for printing in the RECORD a copy of a proposed amendment to H.R. 2014, the "Taxpayer Relief Act of 1997," as reported. I have requested that this amendment be incorporated into the base bill upon adoption of the rule. The following is an explanation of the amendment:

DESCRIPTION OF PROPOSED ARCHER AMENDMENT TO H.R. 2014

1. MODIFICATIONS TO THE CHILD TAX CREDIT

The amendment would provide that in the case of lower- and middle-income taxpayers, the otherwise allowable child tax credit is not reduced by one-half of the otherwise allowable dependent care credit. Under the amendment, the reduction only applies to taxpayers above certain thresholds of modified adjusted gross income ("modified AGI"). For married taxpayers filing joint returns, the thresholds is $60,000. For taxpayers filing single or head of household returns, the threshold is $33,000. For married taxpayers filing separate returns, the threshold is $30,000. The reduction is phased in over the first $10,000 ($5,000, in the case of single individuals and $5,000, in the case of married individuals filing separate returns) of modified AGI above the threshold. The rules for determining a taxpayer's modified AGI and marital status under the bill remained unchanged. The effective date would be years of beginning on or after January 1, 2000.

The amendment would provide that the Secretary of the Treasury shall submit notice to all taxpayers of the passage of the child tax credit. In addition, the amendment would direct the Secretary of the Treasury to modify withholding tables for single taxpayers claiming more than one exemption and for married taxpayers claiming more than two exemptions to take account of the effects of the child tax credit. The adjustments to the withholding tables would apply to employees whose annualized wages from an employer are expected to be at least $30,000, but not more than $100,000.

2. ESTIMATED TAX SAFE HARBOR

The amendment would change the 110-percent-of-last-year's-liability estimated tax safe harbor to a 105-percent-of-last-year's-liability safe harbor for 1998.

3. REPEAL ALTERNATIVE MINIMUM TAX DEPRECIATION ADJUSTMENT

The amendment would direct the Secretary of the Treasury to conduct a study of whether the repeal of the depreciation adjustment for minimum tax purposes would have the result of permitting any corporation with taxable income from current year operations to pay no Federal income tax and, if so, the policy implications of that result. The study would be due no later than January 1, 2001, to the House Committee on Ways and Means and the Senate Committee on Finance.

4. AIRPORT AND AIRWAY TRUST FUND EXCISE TAXES

The amendment would provide that the deposit rules with respect to the commercial air passenger excise taxes are modified to permit payment of these taxes that otherwise would have been required to be deposited during the period July 1, 1998, through September 30, 1998, to be deposited on October 13, 1998.

5. MODIFICATION TO TAX BENEFITS FOR ETHANOL AND RENEWABLE SOURCE METHANOL

The amendment would delete those provisions in the bill relating to a reduction in tax benefits for ethanol and renewable source methanol.

6. NAME OF THE ACT

The amendment would change the name of the Act from the "Revenue Reconciliation Act of 1997" to the "Taxpayer Relief Act of 1997".

7. CHANGE IN BUDGETARY TREATMENT OF CERTAIN EXPIRING PROVISIONS

The amendment would amend the Balanced Budget and Emergency Deficit Control Act of 1985 to provide that any preferential rate (or any credit or refund) that is scheduled to expire and that, under current scorekeeping conventions, is presumed to be extended for purposes of determining the present-law revenue baseline shall, for budget scorekeeping purposes, be assumed to expire on the scheduled expiration date.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1998

SPEECH OF

HON. RICHARD W. POMBO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 23, 1997

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 1119) to authorize appropriations for fiscal years 1998 and 1999 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal years 1998 and 1999, and for other purposes.

Mr. POMBO. Mr. Chairman, I rise in support of the Brady-Pombo amendment to H.R. 1119, the fiscal year 1998 Defense Authorization Act. Congressman BRADY and I are offering this amendment in response to statements made by Under Secretary of State for Global Affairs Timothy E. Wirth regarding the use of U.S. soldiers in foreign countries to guard rain forests and endangered species. On June 3, 1997, at the Western Hemisphere Defense Environmental Conference, Mr. Wirth stated that using troops as glorified park rangers was "a legitimate military issue."

Mr. Chairman, President George Washington once said, "To be prepared for war is one of the most effectual means of preserving peace." I believe this unprecedented notion of sending American military forces for purposes of "environmental crusades" is misguided and fundamentally flawed. America's ability to maintain its military readiness and leadership should not be compromised at the expense of sending our troops to foreign lands to defend rain forests and endangered species. At a time of significant military downsizing, we must ensure that our military remains in a position to protect and defend our own national security threats, not environmental quests in foreign countries.

While it is true that America is a global power with vital interests in key regions of the world, this new role for the military is inappropriate and unwise. The Quadrennial Defense Review's [QDR] recommendations, stated that "military readiness must first and foremost remain a measure of our Nation's ability to deter, and when necessary, to wage war in defense of our national interests." I believe sending American troops jeopardizes the ability of U.S. military forces to maintain military readiness as the top priority as indicated in the QDR. I believe it is important that Congress express its strong support for maintaining military readiness and not allow our well-trained troops to be sent on missions that detract from their primary mission: To preserve and protect our Nation's freedom.

I urge my colleagues to support the Brady-Pombo amendment. Our brave men and women in the Armed Forces deserve nothing less.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1998

SPEECH OF

HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 23, 1997

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 1119) to authorize appropriations for fiscal years 1998 and 1999 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal years 1998 and 1999, and for other purposes.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, the amendment to H.R. 1119 that I bring to the desk requires the Defense Department, by January 1, 1998, to submit to Congress a report on the feasibility and desirability of converting active guard reserve (AGR) personnel (active duty reservists who are involved with organizing, administering, recruiting, instructing, or training other reservists) to dual-status technicians.

Mr. Chairman, my involvement in this issue comes from the best example of the democratic process at work; a constituent request. During the 105th Congress, a constituent implored me to look into this program, ask for a study that would hopefully lead to a change in it by converting AGR personnel to dual-status technicians in order to save the tax payer more than 2.61 billion dollars per year. This number has been confirmed by General Accounting Office studies and should not be ignored. Therefore, I ask that Congress require the Secretary of Defense to conduct its own study which I and many others believe, will yield the same evidence from the G.A.O. and Rand Corporation studies.

In the current political climate where Federal governmental agencies and programs like N.E.A. and welfare are being scrutinized for their relevance and cost-effectiveness—Pentagon programs should be subject to the same scrutiny and analysis, DOD should be required to undergo the same type of introspection, study and analysis. My amendment requiring the DOD to undertake this study is non-controversial, pragmatic and necessary if Congress is to gain a full and objective picture of the age—dual status technician issue and its possible reform. I thank you for your consideration of this amendment.

VETERANS' CEMETERY PROTECTION ACT OF 1997

SPEECH OF

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 23, 1997

Mr. PACKARD. Mr. Speaker, as chairman of the House Military Construction Appropriations Subcommittee, I know that our military men and women devote years of service to our country. We must honor our commitment to our current military, but must not forget about our veterans. To do so would be to abandon the very things that our veterans have fought so hard to preserve.

The American Government entered into a compact with the men and women who put their lives on the line for our freedom. We must make sure that the Government lives up to its end of the bargain. We owe our veterans the respect they deserve.

Mr. Speaker, the men and women buried at national cemeteries across the country deserve our deepest respect and thanks. Unfortunately, vandals and thieves have made a mockery of their final resting places by desecrating Riverside National Cemetery, which is located just outside of my district in Riverside County, and most recently, the National Memorial Cemetery of the Pacific in Hawaii.

I applaud my colleague from Riverside for his swift work to introduce and bring to the floor H.R. 1532, the Veterans' Cemetery Protection Act. Ken Calvert recognized that deliberate acts of vandalism against America's fallen comrades must not be tolerated. Demeaning and degrading the final resting place of veterans who made the ultimate sacrifice for the Nation strikes at all veterans and all Americans.

Mr. Speaker, as a former naval officer, these acts of vandalism touch me directly. I firmly believe that criminal penalties for theft and vandalism and National Cemeteries must be imposed. The Veterans' Cemetery Protection Act will do just that. I strongly encourage all of my colleagues to support this important legislation. Our veterans gave their all for our country. We must give them nothing less in return.

THE 200TH ANNIVERSARY OF MISSION SAN JUAN BAUTISTA, ONE OF CALIFORNIA'S GREAT TREASURES

HON. STEPHEN HORN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1997

Mr. HORN. Mr. Speaker, today is the 200th anniversary of Mission San Juan Bautista, which was founded on June 24, 1797, by Father Fermin Francisco de Lasuen, a Spanish basque Franciscan priest. It was the feast day of Saint John the Baptist.

As we go about our daily business in the Capitol, we frequently see the statue of Junipero Serra, the founder of what became the 21-mission system which begins in the south at San Diego and extends over 600 miles to the north.

Father Serra had the vision of missions that would be the centers of Christian education and practice in their particular area. The missions were ultimately also the educators and the producers and manufacturers of the clothes and food needed in what was to become the State of California in 1850.

In modern management terminology, Father Serra was the visionary chairman of the board/chief executive officer. Father Lasuen was the quietly effective chief operating officer with the talent and organizational skills to carry out the vision. With the death of Serra in 1784, Lasuen soon became his most energetic successor. In 1 year, Lasuen founded four missions including San Juan Bautista. Given the difficulties of transportation and communication that was a remarkable feat.

San Juan Bautista is the largest mission in continuous service since its founding. It is the only mission with three aisles. Some of the other missions are in ruins. Still others, such as Santa Barbara, have been beautifully restored after an earthquake in 1925. Fortunately, San Juan Bautista is still in its original condition, despite being within a mile of the San Andreas Fault. Eight miles away is Hollister, the county seat of San Benito County. That community of 20,000 is known as "the earthquake capital of California." The Franciscan priests were architects, builders, administrators, and educators, among their numerous roles. With foresight, the mission is constructed of large adobe bricks. They have now withstood the tremors of two centuries.

The bicentennial festivities were spread over the period from Friday, June 20 through Wednesday, June 25. Friday began with a 6:30 p.m. Kiddie Parade.

Sunday was not only a beautiful day to celebrate the continuity provided by the mission but also the first formal recognition of the role of Father Lasuen.

All of us were delighted that a delegation of community leaders from Vitoria, Spain, were able to join us. Father Lasuen grew up in Vitoria, the capital of a largely Basque province. A relative of the distinguished American author of the history of the Basque people read a letter from his uncle, Robert Laxalt, author of the *Sweet Promised Land.* Laxalt described Lasuen as "*The Quiet Legend* who was seasoned by experience, a wise administrator and a spiritual leader tempered by reality."

Under the dedicated and able leadership of Bicentennial Committee Chairman Leonard Caetano, who with the help of his wife—and my classmate—Rosemary (Mim), and a hard-working group of committee members an amazing array of activities were arranged for the several thousand who participated in this unique celebration.

Some of the Sunday events included:

6:30 a.m.—Re-enactment of the founding of the mission.

7:00 a.m.—Bilingual mass followed by a pancake breakfast.

10:00 a.m.—A parade which included bands, dancers, horses and wagons, one of which was masterfully driven by Romaldo Martin of the M & M Farms who was joined by his friend George Nunes. They ably made it through the streets with this U.S. Representative, who grew up on a ranch five miles from the mission, standing up and waving to a friendly crowd.

11 a.m. to 3:00 p.m.—A chicken barbecue.

3:00 p.m.—Dedication of the bronze bust of Father Lasuen.

4:00 p.m.—Grand prize drawing for a pick-up truck. This is still farm country.

The dedication was particularly moving. The Native Sons of the Golden West, the Native Daughters of the Golden West, and the Daughters of the American Revolution presented generous checks for the restoration fund. Besides myself, Assemblyman Peter Frusetta made a formal presentation on behalf of the California State Assembly. A representative of State Senator McPherson made a similar presentation on behalf of the State Senate.

The crowd was pleased to hear from the current priest Father Edward Fitz-Henry. His predecessor was Father Maximilian Santa Maria, who inspired the community to celebrate this significant milestone in the history of the mission. His humor was enjoyed by all. He was the able translator for the guests from Vitoria.

The bust of Father Lasuen by Alberto Forrestor was appreciated by all. It contains the likeness that various accounts of the time have noted and as historian Robert Laxalt has summarized: Father Lasuen "was a young man of medium height, a ruddy complexion, a pock-marked face—probably from small pox, a moderate growth of beard, black-eyed and black hair."

The letter from Robert Laxalt and the words from the heart of the delegation from Vitoria were well received.

Throughout the celebration, there was active participation by a number of the Native American tribes such as the Mutsun whose ancestors made San Juan Bautista one of the most prosperous of the 21 missions. Their artistry was in evidence throughout the city.

Mission San Juan Bautista was also a major center for church music. In the early eighteen hundreds, Indiana youth were trained to read music and harmonize by following their colored notes up and down the scale. Their voices filled the air as the chords and bells were heard in the small town that was growing and in the productive green valley that lies below.

Cheryl Miller, a reporter for the Hollister Free Lance interviewed Sonne Reyna, a member of the local American Indian Intertribal Council, who said that "the bicentennial is a time for 'reconciliation' between the Native American and mission communities." Reyna added that the members of "the bicentennial committee have been very sensitive of what we as an Intertribal Council want to do to honor the ancestors."

Other active participants were the California state park rangers who provide interpretation of the history of the area from the Castro House and the Plaza Hotel on the south of the mission plaza and the barn, stable, and houses on the east. There are some fine specimans of equipment and wagons from the latter part of the 19th century.

Eleven miles away is Fremont Peak, named in honor of John Charles Fremont, "the Pathfinder," whose topographic expedition came to the area in the 1840's and raised the American flag over what was then Mexican territory. General Castro looked at the Americans through his spyglass. They looked down at him. No damage was done by either side. After three days, the Fremont expedition headed east to the United States of America whose boundary was still far from the Pacific Ocean.

Mr. Speaker, it was a privilege to be asked to speak on this significant occasion. When I was in grammar school at San Juan, my mother, Isabelle McCaffrey Horn, was the speaker at an annual "Peak Day" to celebrate Fremont's raising of the American flag for the first time in California.

Then and now, San Juan is "A City of History" as the banner was inscribed at the western entrance.

For the return of a native son who has never forgotten his roots, it was also an opportunity to see classmates from both elementary and high school and to meet the current community leaders.

If our fellow citizens wish to live for a moment in a proud past, they should visit San Juan, its mission, El Teatro Campesino, its well preserved homes from another century, and meet the dedicated group of those who deeply care about historic preservation. It would be time well spent.

Mr. Speaker, I have attached some of the newspaper coverage which preceded the celebration. They include the Pinnacle (June 19, 1997), the Hollister Free Lance (June 20, 1997), and the Dispatch, located in Gilroy which is 10 miles north of San Juan.

[From the Pinnacle, June 19, 1997]

SAN JUAN TO CELEBRATE MISSION'S 200TH BIRTHDAY

Beginning tomorrow (Friday) and running through Tuesday, Mission San Juan Bautista will be a beehive of activity as thousands of visitors are expected to help celebrate the mission's bicentennial.

A Kiddie Parade will kick off activities Friday, beginning at 6:30 p.m.

On Saturday, beginning at 8 a.m., there will be a reading of names of individuals buried in the mission cemetery, followed at 10:30 by a Native American blessing.

From 11 a.m. to 5 p.m. the Fiesta, complete with food, games and entertainment, will take place and at 5:30 p.m. there will be a bilingual mass. Crowning of the queen is scheduled for 8 p.m. Saturday on the plaza, followed by two dances at 9, one featuring Mexican music at the Veterans of Foreign Wars Hall and another, at the Community Center, for the country music crowd.

A full day of activities is slated for Sunday, beginning at 6:30 a.m. with re-enactment of the founding of the mission, at 7 there will be a bilingual mass and pancake breakfast.

The parade through downtown San Juan Bautista will be at 10 a.m. Chairman Leonard Caetano is expecting more than 100 entries in the parade.

A second day of Fiesta activities begins at 11 and continues until 5 p.m. The chicken barbecue will also take place between 11 and 5.

At 3 p.m. Sunday there will be a dedication of the bronze statue of Father Fermin de Lasuen, founder of the mission. At 4 p.m. the grand prize drawing of a pick-up truck will take place.

A bilingual prayer session is set for 6 p.m. on Monday.

On Tuesday, beginning at 10 a.m. a blessing of the chapel service is scheduled. The bicentennial luncheon begins at 11:30 a.m. followed by a mass at 3 p.m. and reception at 4:30. The bicentennial dinner dance is scheduled for 7 p.m. Tuesday and is the final activity of the four day event.

[From the Hollister Free Lance, June 20, 1997]

MISSION CELEBRATES 200TH YEAR

(By Cheryl Miller)

A celebration 200 years in the making starts tonight with a parade commemorating Mission San Juan Bautista's bicentennial.

The Kiddie Parade begins at 6:30 p.m. at Mutkelem and Third streets and ends at the corner of Polk and Second. A full slate of ceremonies, games, dances and meals resumes at 10:30 a.m. Saturday.

Preparation activities were still under way Thursday afternoon.

"We'll be ready when it gets here," said Leonard Caetano, chairman of the mission bicentennial committee. "We're busy as a bunch of beavers."

The official bicentennial is Tuesday. On that day 200 years ago, Father Fermin de Lasuen, a Franciscan priest, established the mission along what is now known to be the San Andreas Fault.

The mission was one of eight established by de Lasuen and the 15th among 21 founded by the Franciscans in what was referred to as Alta, California. Thanks to the work of members of various Native American tribes, Mission San Juan Bautista became one of the most prosperous sites in the Franciscan's chain.

The mission today is one of the best preserved sites in the former statewide chain. Its church is the only one with three aisles and officials claim a Mass has been said there every day since its founding.

The mission has had a lasting impact on the city that grew up around it. Sam Juan Bautista was once an important stopping point for stages that traveled between Northern and Southern California. Tourism remains a top industry today in the town often referred to as the Mission City.

A state park grew up around the mission as well. Today, 40,000 fourth-graders is it the park annually to study the buildings of the people who lived near the mission in its various eras.

The mission itself remains an active Catholic church. The mission hosts regular services for parishioners, weddings and ceremonies for the community. The total theater group, El Teatro Campesino, plays to sold out crowds in the mission every holiday season.

The weekend's activities include a full slate of tributes to the founders, Native Americans, and others who contributed to the mission.

A bronze statute of Father de Lasuen, donated by the residents of his hometown, Vitoria, Spain, will be dedicated in front of the mission Sunday at 3 p.m.

A Native American blessing will be said at 10:30 a.m. Saturday, at the plaza, A roll call of the names of about 200 Mutsun Indians buried in the mission will then be read.

Sonne Reyna, a member of the San Juan American Indian Intertribal Council, said the bicentennial is a time for "reconciliation" between the Native American and mission communities.

"We feel that the padre and the bicentennial committee have been very sensitive of what we as an Intertribal Council want to do to honor the ancestors," Reyna said.

Members of the San Juan Indian Council and an inter-tribal delegation will be participating in various bicentennial events.

A fiesta featuring a barbecue, a raffle, games and music will be held from 11 a.m. to 5 p.m. on Saturday and Sunday.

Events resume Tuesday when Bishop Sylvester Ryan will bless a newly restored chapel located behind the current church. The tiny chapel was built in 1797 but abandoned by the church in favor of a larger facility.

It was used as a schoolroom and gift shop and then nearly forgotten until restoration work began last year. After the bicentennial celebration, the chapel will likely be opened for regular use, according to church officials.

The weekend's bicentennial celebration is being dedicated to Anthony Botelho, a San Juan resident who was active in both the community and mission life. He died last November at the age of 83.

"He was probably as active as anybody ever was," said Caetano. "He started (working in the mission community) when he was 16 and he was even planning for the bicentennial when he fell ill and passed away."

A ceremony in Botelho's honor is tentatively scheduled between 2 p.m. and 3 p.m. Sunday at the plaza.

[From the Gilroy, CA Dispatch, June 20, 1997]

CELEBRATION OF MISSION SJ BAUTISTA'S 200TH YEAR

(By Cheryl Miller)

SAN JUAN BAUTISTA.—A celebration 200 years in the making begins tonight in the Mission City commemorating Mission San Juan Bautista's bicentennial.

"We'll be ready when it gets here," said Leonard Caetano, chairman of the mission bicentennial committee. "We're busy as a bunch of beavers."

A Kiddie Parade begins at 6:30 p.m., and a full slate of ceremonies, games, dances and meals resumes at 10:30 a.m. Saturday.

The official bicentennial is Tuesday, and on that 200 years ago, Father Fermin de Lasuen, a Franciscan priest, established the mission along what is now known to be the San Andreas Fault.

The mission was one of eight established by Lausen and the 15th among 21 created by the Franciscans in what was then referred to as Alta California. Thanks to the work of members of various Native American tribes, Mission San Juan Bautista became one of the most prosperous sites in the Franciscan's chain, producing the largest crop among the 21.

The mission today is one of the best preserved sites in the former statewide chain. Its church is the only one with three aisles and church officials claim a mass has been said there every day since its foundation.

The mission has had far-reaching effects on the city that grew up around it as well. San Juan Bautista was once an important shopping point for stages that traveled between Northern and Southern California. And tourism remains a top industry today. The town is often referred to as the Mission City.

A state park grew up around the mission as well. Today, 40,000 fourth-graders visit the park annually to study the buildings of the people who lived near the mission in its various eras.

The mission itself remains an active Catholic Church and hosts daily services for parishioners, weddings and ceremonies for the community.

The weekend's activities include a full slate of tributes to the Spaniards, Native Americans and others who contributed to the mission. A bronze statue of Father de Lasuen, donated by the people of Vitoria, Spain, de Lausen's hometown, will be dedicated in front of the mission Sunday at 3 p.m.

A Native American blessing will be said at 10:30 a.m. Saturday at the plaza. A roll call of the names of about 200 Mutsun Indians buried in the mission cemetery will be read.

Sonne Reyna, a member of the San Juan American Indian Intertribal Council, said the bicentennial is a time for "reconciliation" between the Native American and mission communities.

"We feel that the padre and the bicentennial committee have been very sensitive and very supportive of what we as an Intertribal Council want to do to honor the ancestors," Reyna said.

Members of the San Juan Indian Council and inter-tribal delegation will be participating throughout the weekend's events.

A fiesta featuring a barbecue, raffle, games and music will be held from 11 a.m. to 5 p.m. on Saturday and Sunday.

Events resume Tuesday when Bishop Sylvester Ryan will bless a newly restored chapel, located in back of the current church. The tiny chapel was built in 1797 but abandoned by the church in favor of a larger facility.

It was used as a schoolroom and a gift shop and then nearly forgotten until restoration work began last year. After the bicentennial celebration, the chapel will likely be opened for regular use according to church officials.

WHERE IS THE SUCCESS IN OUR CURRENT POLICY TOWARD CHINA?

HON. STEPHEN HORN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1997

Mr. HORN. Mr. Speaker, I have voted against MFN status for China every year since becoming a U.S. Representative in 1993. I will vote against MFN status for China again today.

The economic reforms initiated by the Chinese Government in 1978 have vastly improved the lives of the Chinese people. I understand the argument that this improvement has led to better opportunities for the people of China and I hope that China's economy will keep growing and the lives of its people improve. However, I cannot ignore the fact that this economic liberalization has been carried out under a politically repressive regime that does not respect the basic rights or dignity of its people. Hopefully, in the years to come, more economic freedom will lead to political freedom. But, until that day comes, we cannot close our eyes to the Chinese Government's unpardonable behavior.

The United States has much to gain by engaging the leaders of China on a broad range of issues. Nonetheless, engagement must not become an excuse for a lack of principle or a lack of will on the part of the United States to stand up for American beliefs. Respect for Chinese sovereignty does not mean that the United States must ignore behavior by the Chinese Government that we regard as reprehensible.

For many years, the debate on MFN served as a useful inducement for the Chinese Government to improve its human rights record. There are good people in the United States who believe that the annual debate now does more harm than good. They believe ending China's MFN status would serve no useful purpose. I disagree. One compelling reason the debate carries little weight with the Chinese Government now is that China has come to take annual extension of MFN status for granted. I question whether the leaders of the Chinese regime would treat American concerns so cavalierly if they believed that China would suffer an economic disadvantage because of their behavior.

Since President Clinton delinked human rights from the extension of MFN, China has exported nuclear weapons technology and ballistic missiles in violation of its treaty commitments. It has supported nations hostile to the United States and continues its military threats against Taiwan. China has also failed to enforce bilateral agreements with the United States on intellectual property which costs American businesses and workers billions of dollars in lost profits and wages.

But even worse, China has imprisoned still more domestic critics and threatened foreign individuals and organizations who rightly criticize the government in Beijing. China increasingly jails those who practice their faith. In short, China has failed to comply with human rights conventions it has agreed to in international treaties and it has flagrantly disregarded attempts by the United States to achieve a better footing for bilateral relations. The delinking of human rights from MFN has caused more harm than the much-needed Congressional debate on Chinese behavior.

Although China does offer an important and growing market for American goods, the American business community has seen minimal gains in many Chinese markets—and suffered in others—as China plays one nation off against another in an attempt to affect policy. I agree that trade with China is a matter of great importance, not only to our trade-based economy and our national security, but also to the future development of China and the rights of its people. But trade, and our overall relationship with China, must be a two-way street. American policy cannot be based on what Beijing wants. Our policy should reflect what is in the long term interest of our fellow citizens.

Soon, Hong Kong will be controlled again by China. What will the United States do if freedom is smothered by the Chinese authorities? What will this House do? The current U.S. position on engaging China is more hope than policy. I applaud the efforts of many of my colleagues—including David Dreier, Chris Cox, Robert Matsui, John Porter, and others—who are working on legislation that will establish a meaningful policy of engagement with China. We need a framework that will propose real actions to engage and respond to China and a policy that China cannot take for granted.

Whether or not the United States and China can coexist peacefully in the next century is one of the great questions we must all consider. If we are to live in peace, how will we establish a relationship to do so? The United States must develop a plan for working realistically and constructively with China to solve the many issues of concern to both countries. The United States and China need to establish a relationship based on mutual trust and respect. Unfortunately, I do not believe such a relationship exists today. I cannot vote to support MFN in good conscience because of the many serious concerns I have stated. However, I strongly support efforts that offer the promise of a real dialogue with China about fundamental American beliefs regarding dignity and fairness. I also strongly support the creation of a relationship in which American concerns are treated with the same sensitivity as America has treated China's concerns.

HOUSE OF REPRESENTATIVES—*Wednesday, June 25, 1997*

The House met at 10 a.m. and was called to order by the Speaker pro tempore [Mr. WICKER].

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
June 25, 1997.

I hereby designate the Honorable ROGER F. WICKER to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We pray, O gracious God, that the great virtues that support our civilization and culture will grow in our awareness and strengthen our lives and our communities. We know that there must be those values and truths that make stronger the fabric of our society and give cohesion and purpose to daily living. With all the competing beliefs about and with all the striving for new and more relevant ideas, give to us, O God, the strong faith to see clearly Your blessings to this world and to each of us. May those blessings continue to give us meaning in our endeavors and show us more clearly the paths of justice and of peace. In Your name we pray. Amen.

MESSAGE FROM THE SENATE

A message from the Senate by Ms. McDevitt, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 1902. An act to immunize donations made in the form of charitable gift annuities and charitable remainder trusts from the antitrust laws and State laws similar to the antitrust laws.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Arkansas [Mr. HUTCHINSON] come forward and lead the House in the Pledge of Allegiance.

Mr. HUTCHINSON led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair announces that he will entertain fifteen 1-minutes on each side.

REDUCTION IN CAPITAL GAINS TAX

(Mr. JONES asked and was given permission to address the House for 1 minute.)

Mr. JONES. Mr. Speaker, the liberals often refer to a reduction in the capital gains tax as a "tax cut for the wealthy." This is simply not the case. I know of a large number of farmers, senior citizens, and middle-income families in my district who would greatly benefit from a reduction in the capital gains tax.

I think my constituents would be extremely disappointed to hear that the liberals in Washington have declared them wealthy. My constituents are good, hard-working Americans, who do the best they can to make ends meet, especially when they have to send so many of their dollars to Washington to pay for big government.

The taxpayer should not be penalized for selling a farm or a home or for being among the 43 percent of adult Americans who own stock. A reduction in the capital gains tax rate means real relief for real, hard-working Americans.

PUERTO RICO MEDICAID BUDGET AGREEMENT NOT HONORED IN RECONCILIATION

(Mr. ROMERO-BARCELÓ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROMERO-BARCELÓ. Mr. Speaker, for the last three decades, the U.S. citizens of Puerto Rico have been excluded from participating in the Federal Medicaid Program at the same level of benefits as their fellow citizens in the 50 States.

The Medicaid block grant for Puerto Rico is currently capped at only $133 million and, as a result, the Puerto Rico Department of Health has to provide in excess of $700 million annually in local funding to take care of this island's medically indigent population.

Throughout my tenure in Congress, I have actively fought for increased participation by Puerto Rico in Medicaid. I find it unconscionable that the Federal Government would uphold a policy where the health and lives of the people of Puerto Rico are considered to be of less value than the lives of other citizens. And we are talking about citizens, not immigrants or legal residents.

In this spring's balanced budget negotiations, the congressional leadership and the administration agreed to increase Puerto Rico's Medicaid block grant by $30 million in fiscal year 1998 and by an additional $10 million annually through the year 2002.

I am appalled by the fact that this agreement between the White House and the Republican leadership has not been honored in the budget act that we will consider today. I would hope that the commitment made by the congressional leadership with the White House is honored, as all commitments should be.

IMPUTED INCOME

(Mr. HUTCHINSON asked and was given permission to address the House for 1 minute.)

Mr. HUTCHINSON. Mr. Speaker, listening to the other side characterize our tax bill as "tax cuts for the wealthy" has led me to come up with a perfect letter for my constituents. It would go like this:

Dear Middle Class Taxpayer: For tax purposes only, you are hereby declared rich. I know this must come as quite a shock to you, but that is not even the good part.

Although you and your wife live quite modestly and think that when you add your $25,000 salary to her $20,000 salary you make $45,000. Well, think again. This includes all of your overtime. But whenever you earn $45,000 per year, the liberals in Congress have decided that you actually make over $75,000 a year. It is called imputed income.

I am not sure exactly how they do that. But the bottom line is, you are hereby declared rich. This means, among other things, that you are now evil and that you are no longer paying your fair share.

Oh, yes, the tax cut you thought you were going to get, well forget it. Being rich has never been so fun, has it?

A FULL COURT PRESS AGAINST DRUGS

(Mr. BLAGOJEVICH asked and was given permission to address the House for 1 minute.)

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Mr. BLAGOJEVICH. Mr. Speaker, let me begin by quoting a sports hero from my hometown of Chicago:

> I've missed more than 9,000 shots in my career. I've lost almost 300 games. Twenty-six times I've been entrusted to take the game-winning shot and missed. I've failed over and over and over again in my life. And that is why I succeed.

Mr. Speaker, the other day in the Committee on Rules, I, like Michael Jordan, took a shot and I missed. I filed an amendment that would have given additional money to our military for our fight to interdict drugs before they cross our borders and reach our neighborhoods.

Mr. Speaker, we met the challenge of the cold war by providing the necessary resources to win that war. Now it is time we invested some of those same resources to fight and win the war on drugs, a war being waged in every neighborhood and every community in our country. Because, Mr. Speaker, in the final analysis, it is only with a full court press that we can ultimately turn failure into success.

TAX CUTS WILL KEEP THE ECONOMY GROWING

(Mr. HEFLEY asked and was given permission to address the House for 1 minute.)

Mr. HEFLEY. Mr. Speaker, do you find it amusing that liberals in this House, people who have never created a job in their lives, spend all of their time attacking the very policies that help create jobs?

Do you find it downright hilarious that liberals spend their entire lives attacking corporate America, the very same corporate America that is responsible for creating 30 million jobs in the U.S. economy over the last 15 years?

Do you find it positively insane, yes, Mr. Speaker, insane that liberals dismiss out of hand the relevance of the very same factors in the economy that are the single most relevant factors that job creators take into account when thinking about starting up or expanding a business?

Just why is it, Mr. Speaker, that the liberals simply refuse to learn any lessons from fast-growing economies and refuse to avoid the mistakes of no-growth European economies?

Keep the American economic system growing, Mr. Speaker. Let us pass the tax cuts in the balanced budget agreement so that there are more jobs for everyone.

IRS EMPLOYEE CRIMES

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, there is a new management board to clean up the IRS. The GAO said the IRS cannot even handle their own money, and that IRS employees have illegally snooped into unsuspecting taxpayers' accounts.

Now, if that is not enough to seize your tooth fairy money, check this out. An IRS bankruptcy specialist, Reva Vanzijl, stole social security numbers, then ripped off $10,000 from the credit cards of unsuspecting taxpayers.

"But don't worry," the IRS said, "we got Reva and we convicted her and we threw the book of justice at her." Check this out: Reva got 6 months of home arrest and a $3,000 fine.

Beam me up, Mr. Speaker. I say the IRS does not need a management board. The IRS needs a parole board. As for this proverbial book of justice, I say the IRS should shove that book of justice up their audit. I yield back all their crimes.

MORE TAX RELIEF, LESS GOVERNMENT WASTE

(Mr. TIAHRT asked and was given permission to address the House for 1 minute.)

Mr. TIAHRT. Mr. Speaker, one way to think about our tax policy is to consider two opposite cases. Under a tax regime that took every penny of what you earned, that would certainly be considered tyranny. Under a tax regime that allowed you freedom to do whatever you wished to do with that money that you earned, that would be considered maximum freedom.

Well, today we can move our tax regime toward the direction of more freedom and away from the direction of more tyranny. "Tyranny" means absence of freedom.

It means that a truck driver who earns $100 after driving 100 miles finds that he is not free to do what he wishes with that money because the Government takes a quarter to a half of it. He is taxed on the coffee he drinks. He is taxed on the fuel that he burns in his truck. He pays taxes on the truck. He pays income taxes. No wonder he feels ripped off.

It is time to move to more freedom and less Government tyranny. It is time for more tax relief and less Government waste.

REPUBLICAN TAX PLAN

(Ms. VELÁZQUEZ asked and was given permission to address the House for 1 minute.)

Ms. VELÁZQUEZ. Mr. Speaker, today we will vote on the first of two Republican budget bills. The Republicans will say that they are giving tax relief to working families. Do not believe it for one minute. What the Republicans are doing is waging war on working families.

The Republican tax plan will give $27,000 in tax breaks to the wealthiest 1 percent. Is this fairness? I will say it again. They want to give $27,000 in tax breaks to the wealthiest 1 percent.

For families trying to move from welfare to work, they want to deny worker protections, they want to deny family and medical leave, and they refuse to guarantee protections for 10 million uninsured children.

Do not be fooled. The Republican budget is a big gift to wealthy campaign contributors, and the Republican budget is an attack on working families.

TAX RELIEF BILL

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, in the preamble to the Constitution, the people of the United States declared that one of the purposes of having a constitution was to "promote the general welfare, and to secure the blessings and liberty to ourselves and our posterity."

Mr. Speaker, one of the best ways to promote the general welfare and secure the blessings of liberty to ourselves and our children would be to pass the Republican tax relief plan. Letting people who earn between $20,000 and $75,000 a year keep more of what they earn means that their standard of living goes up. It means that these people can better provide for their families, better save for their children's education, and better save for their own retirement.

The Constitution speaks of providing the blessings of liberty to ourselves and our posterity, and reducing death taxes means the family farms can stay in the family, the family business can remain in the hands of those who helped build it.

I urge my colleagues to support the tax relief bill when it comes before the House.

MEDICARE CUTS FINANCE TAX RELIEF FOR THE WEALTHY

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute.)

Mr. DEFAZIO. Mr. Speaker, the Democrats would tax the very air we breathe, or so the Republicans would have us believe. But the Republicans would actually take oxygen from the lungs of senior citizens and disabled around this country to finance tax cuts for the wealthy. And I am not making this up.

The measure before us today cuts the payments for oxygen and oxygen equipment by 20 percent and freezes payments through 2002 to save $1.6 billion. Eighty percent of the cuts in the bill before us today come from Medicare, not to reform Medicare and stabilize its finances, but to finance tomorrow's bill, the bill that will extend tax cuts to the wealthy, tax cuts that will average $27,132 a year for families that earn over $400,000. And for those families who earn $25,000 they will average zero, nothing.

Is this fair? I do not think so.

TAX RELIEF FOR WORKING AMERICANS

(Mr. HAYWORTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYWORTH. Mr. Speaker, well, there they go again. It is tragic, in a sense, to come to the floor of this House and hear such extreme, shrill and, yes, I am saddened to say, false rhetoric from liberals who constantly apologize for expansion of government and higher taxes for the American people.

The sad fact is that the Treasury Department and other partisans, such as my good friend from Oregon [Mr. DEFAZIO], are using books that have been cooked so much they are charcoal broiled. How many families do my colleagues know who pay rent to themselves, owning their own homes?

That is what our friends say the American people do. That is why our friends would say that a middle-income family earning about $40,000 a year somehow makes in excess of $75,000 a year and somehow is wealthy. It does not add up. Indeed, when we come to saving Medicare, we worked out commonsense reforms with the very administration that I think my colleague from Oregon [Mr. DEFAZIO] would champion.

So let us return to a voice of reason, common sense, giving tax relief to working Americans. That is the key. That is what our plan does, 76 percent to families making between $20,000 and $75,000; and that is why the American people will prevail.

□ 1015

TRAGIC EXAMPLE OF WELFARE REFORM

(Mr. HINOJOSA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HINOJOSA. Mr. Speaker, I come before Members today to tell them about the drastic effects of the welfare reform law passed by the 104th Congress. Specifically, I want to share with Members an example of someone who has been tragically affected by the welfare reform law.

Mr. Rosendo Tijerina is a legal immigrant who has worked in Texas for 11 years. Last November he was involved in a serious auto accident. His legs and pelvis were crushed and his heart was injured as well. He is now totally disabled.

Yet under the welfare reform law, Mr. Tijerina is not eligible for supplemental security income. He has worked hard, paid his taxes, integrated himself and his family into his community and has been a contributor to our country's economy. He deserves better treatment than this.

Mr. Tijerina and the other 125,000 legal immigrants who will be denied benefits under the law need to have these benefits restored. In my own State of Texas more than 34,000 legal immigrants are expected to be denied benefits.

Mr. Speaker, I ask that these people be given some consideration.

INTRODUCTION OF TECHNOLOGY FOR TEACHERS ACT

(Mrs. MORELLA asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MORELLA. Mr. Speaker, in an effort to address the challenges of technology in our Nation's classrooms, I am joining with the gentleman from Minnesota [Mr. VENTO] in introducing the Technology for Teachers Act. This bill would establish two competitive grant programs under the auspices of the Department of Education. One program would promote the inclusion of education technology in the initial undergraduate preparation of new teachers. The other would promote education technology as part of the ongoing professional development of current teachers. The Office of Technology Assessment recently released a study that shows that most new teachers graduate from teacher preparation institutions with limited knowledge of the way technology can be used in their professional practice. The study also revealed that a majority of classroom teachers feel they need additional training in order to adequately use a personal computer. Yet a review of the data on teacher training and technology reveals that school districts across the country spend very little of their technology budgets on teacher training.

Mr. Speaker, advanced technology has improved America's economic competitiveness and improved the quality of life for millions of our citizens. By the year 2000, just 3 years away, 60 percent of American jobs will require technological skills. This bill is going to enhance and give teachers the training they need to meet the classroom challenge of the future.

THE MEAN-SPIRITED WELFARE BILL

(Mr. REYES asked and was given permission to address the House for 1 minute.)

Mr. REYES. Mr. Speaker, this morning I want to put a human face on one of the hundreds of thousands of elderly and disabled legal immigrants who are the targets of a mean-spirited welfare bill.

Piedad Gonzalez entered the United States as a lawful permanent resident in 1986, then a healthy woman with no history of any physical or mental illness. Like countless other immigrants, she came to this country willing to work hard and contribute.

She soon found employment and had worked for 4 years before she began experiencing severe back pain. She became too disabled to continue working, having contracted arthritis.

In 1994, Ms. Gonzalez applied for SSI benefits and in November 1996 received a favorable decision. However, 1 month later, this was overturned, denying her SSI benefits due to the restrictions of the welfare bill.

Ms. Gonzalez should not be punished for coming to this country legally and working hard and playing by the rules. Instead, this bill wants to punish her and leave her with no means of support.

The gentleman from California [Mr. BECERRA] had an amendment to the spending bill which would have provided men and women like Ms. Gonzalez the means to survive. It was not made a part of the manager's amendment. I urge my colleagues to vote against the rule.

TAX CUTS IN BUDGET AGREEMENT HONOR WORK

(Ms. PRYCE of Ohio asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. PRYCE of Ohio. Mr. Speaker, it is painfully obvious by now how painful it is for the liberal Democrats to accept tax cuts of any kind. The truth is they simply cannot justify letting Americans keep more of their hard-earned money.

In their view, Mr. Speaker, the politicians are doing people a favor by letting them keep what is already theirs. Their idea of fairness is that the people who worked harder, who went to school a little longer, who got up a little earlier, who stayed at the office a little later, who took the risks, who worked harder to come up with better ideas, their idea of fairness means that those same people are somehow not justified in their desire to be rewarded for their efforts.

In the commonsense view of fairness, money does not come easily for those who earn it. The tax cuts in this balanced budget amendment honors work. It lets millions of middle-class taxpayers keep more of what they worked so hard to earn.

VOTE TO DEFEAT UNFAIR RECONCILIATION BILL

(Ms. ROYBAL-ALLARD asked and was given permission to address the

House for 1 minute and to revise and extend her remarks.)

Ms. ROYBAL-ALLARD. Mr. Speaker, those who negotiated the original bipartisan budget agreement recognize that restoring aid to legal immigrants residing in the United States prior to August 23, 1996, and later become disabled is good policy and a needed improvement to last year's welfare bill.

The reconciliation bill before us today violates the budget agreement reached earlier by the President and congressional leaders. As a result, innocent people who played by the rules will suffer.

An example is Mr. Loza, a 60-year-old legal immigrant residing in Los Angeles. Mr. Loza worked in the United States for 8 years before suffering a stroke which resulted in an unstable heart condition. In November 1996, his application for SSI disability benefits was denied because of last year's welfare bill. He is now trying to live on less than $200 per month of general assistance relief.

Mr. Loza is an example of one who has worked hard, played by the rules and paid his taxes but by virtue of this reconciliation bill, we now abandon due to his disability. We must vote to defeat this unfair bill.

MATHEMATICS OF TAX RELIEF

(Mr. STEARNS asked and was given permission to address the House for 1 minute.)

Mr. STEARNS. Mr. Speaker, I would like to point out something that probably has never once occurred to the other side. Consider this. According to the IRS, the top 50 percent of taxpayers pay 95.2 percent of the income tax.

Let me just repeat that. According to the IRS, the top 50 percent of taxpayers pay 95.2 percent of the income tax. If Members understand that, then they can immediately see that of course those earning above the median income benefit the most from tax relief. After all, they bear the brunt of the tax burden.

In other words, when the folks on that side talk about tax cuts going to the benefit of only the wealthy, what they are really stating is nothing more than the fact that people with higher incomes pay higher taxes, which is not exactly news.

If one person makes $30,000 a year and another person makes $50,000 a year and both get a tax cut of 10 percent, could someone on that side of the aisle please explain to me how that is unfair to the person earning $30,000 a year? Could someone on that side please explain to me how the person making $30,000 a year is now getting a bad deal?

TAX RELIEF FOR HARDWORKING AMERICANS

(Mr. GUTKNECHT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUTKNECHT. Mr. Speaker, we had our Committee on the Budget meeting that went late Friday afternoon, in fact it went well into the evening, and so I missed my flight and I flew home on Saturday. I did something on that flight back to Minnesota that I do not do very often. I looked out the window. I realized what a beautiful country this is, full of hardworking people, as the President says, who play by the rules, who pay their taxes, lots of good Americans.

When I got home, we drove back from the airport, there was a garage sale in my neighborhood. There was a family that was piling out of their kind of beat-up car. They had four kids. The youngest one was sort of permanently attached to mom's hip, and I think some of my colleagues know what I am talking about, one of those little chubbers. I thought about our budget agreement, about our tax bill and I said, "It's for families like that that we did this." Because they are going to get $2,000 more to spend themselves, to invest themselves, to do what they want to do. And they are going to get help in terms of educating those kids.

When we talk about this tax bill and about this budget plan, it is about preserving the American dream for those kids and it is about allowing those families to keep more, to spend more and save more of their own money.

VOTE FOR TAX RELIEF TODAY

(Mr. KINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINGSTON. Mr. Speaker, if Republicans were giving away chocolate candy, Democrats would accuse them of promoting cavities in America's children. They are masters of misrepresentation. They are totally against this tax cut. They do not want the middle class to have tax relief. But they are too clever to say, "Hey, we hate giving tax relief," so what they do is say, "Oh, this tax relief is only for the wealthy." That is very strange since the nonpartisan Joint Committee on Taxation says that 76 percent of the tax relief goes to middle-class families earning between $20,000 and $75,000 a year. Indeed, 91 percent of the tax relief goes to families with a household income of $100,000 or less. This is solid middle-class stuff. This is not about tax relief for the wealthy. It is about couples like Debbie and Phil Spindle. Debbie makes $24,000 and Phil makes $40,000. They have a 14-year-old and an 11-year-old. They need the $500 per child tax credit. They need tax relief. They need a break. They do not need a wasteful government that year after year takes money out of their pocket and spends it on countless bureaucracies and bureaucrats. Let us vote for tax relief today.

WINNERS AND LOSERS IN REPUBLICAN TAX PLAN

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, yesterday evening I was joined on the floor of the House by colleagues from the east coast, the Midwest, the west coast, and the South, combining the full representation of all Americans. We collectively acknowledged that in the next 48 hours, this House will be taking one of the most important steps, constitutional responsibilities of the spending and generating revenue for this government.

Our question was raised and it has not been answered: Who benefits from the Republican tax plan? Who wins and loses from the Republican tax plan? The rich certainly win. The working and middle-class members of this society and this Nation certainly lose. The reason is because we can find 91 million families who benefit from the Democratic alternative tax plan who are working middle-class citizens making under $100,000 a year. In contrast we see the Republican plan where 91 million make over $100,000 a year to $250,000. The question is for the American public to answer. Who benefits in the Republican rich tax plan. Vote for the Democratic alternative plan that works for all working Americans.

SUPPORT ROHRABACHER AMENDMENT TO DEFENSE AUTHORIZATION BILL

(Mr. ROHRABACHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROHRABACHER. Mr. Speaker, in a few minutes my colleague for whom I have deep respect, the gentleman from California [Mr. DELLUMS], may call for a revote on an issue that was decided the night before last. If indeed this happens, I would hope that my colleagues stand firm to the position that we had the night before last, and that is, it deals with an issue as to whether or not if Russia transfers a weapon that it designed during the cold war, a missile designed specifically to kill American sailors and to sink American ships, whether or not we should continue to pump $200 million a year into a fund for a program that we are involved in with the Russians, by the way a program that has a billion-dollar backlog right now.

I would hope that my colleagues think very closely on this issue. The gentleman from California [Mr. DELLUMS] is a very serious man and sincere, concerned about peace, I have no doubt about that, and concerned about his country.

□ 1030

I have a disagreement with him on this issue. I think our colleagues will say it is a good way to send a message to the Russians not to send high technology weapons designed during the cold war to countries that would kill Americans, and I would hope they revote the way they did the night before last.

MIGHTY JAZZ DEFEATED BY THE MIGHTIER BULLS

(Mr. COOK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COOK. Mr. Speaker, I yield to the gentleman from Illinois [Mr. JACKSON].

Mr. JACKSON of Illinois. Mr. Speaker, we are not worthy, we are not worthy, we are truly not worthy.

I was approached during the NBA championship series by my colleague from Utah, Mr. COOK, and Mr. COOK made a friendly wager, that if the Chicago Bulls had won the championship, that he would indeed wear a Chicago Bulls hat for the remainder of a day.

"I have missed more than 9,000 shots in my career," a Bull once said; "I've almost lost 300 games, 26 times I have been trusted to take the game-winning shot and missed."

Character, Mr. Speaker, character speaks for both the Utah Jazz and the Chicago Bulls, of whom we are both extremely proud.

I want to express our condolences once again to Shannon Anderson and his family, and to all of the Utah Jazz that played with such character, with such determination, we look forward to beating the Utah Jazz for a sixth time.

Mr. COOK. Mr. Speaker, we certainly look forward to a repeat performance, and I think the result is going to be a little bit different.

I am here today to honor the promise. My team, the mighty Jazz, was defeated in the NBA finals by the mightier Bulls, and let me just make the statement as I promised the gentleman from Illinois. I did not say I would go that far.

I had a busy week, and I asked my chief of staff to help me with this piece, but it turns out she is not a sports fan. Now, as a Utah woman, she knows two names in basketball: Stocton and Malone; actually in Utah it is Stocton to Malone, and that is just one word.

Now I told her that there is a man out there named Michael Jordan. It is not Michael Jackson, Michael Jordan; and he is a very fine player, particularly when he has the flu. If it were not for this man, I told her, the gentleman from Illinois [Mr. JACKSON] would be standing here today in a Jazz cap. "One ball player can't be that important," she said. My staff is chipping in to send her to a Bulls game the next season. In the meantime perhaps I could use this cutout as a visual aid to explain the wonder of Michael.

To Mr. Jordan, the gentleman from Illinois [Mr. JACKSON] and to all the Bulls team, congratulations on an outstanding playoff series, and we will definitely see them next year.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. Wicker). The time of the gentlemen from Utah [Mr. COOK] and from Illinois, [Mr. JACKSON], has long since expired and in this instance the Chair has granted great leeway and reminds Members that it is a violation of the House rules to wear hats on the floor of the House.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1998

The SPEAKER pro tempore. Pursuant to House Resolution 169 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 1119.

□ 1034

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 1119) to authorize appropriations for fiscal years 1998 and 1999 for military personnel strengths for fiscal years 1998 and 1999, and for other purposes, with Mr. YOUNG of Florida in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Tuesday, June 24, 1997, amendment No. 8 printed in part 1 of House Report 105–137 by the gentleman from Indiana [Mr. BUYER] had been disposed of.

There being no further amendments in order, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

Mr. FRELINGHUYSEN. Mr. Chairman, I want to take this opportunity to commend Chairman SPENCE and the other members of the National Security Committee for their efforts in drafting a defense bill that funds our national security priorities with limited resources. It is a balancing act that has become even more difficult as a result of the present administration that asks our men and women in uniform to do more around the world while subsequently giving them less resources. In fact, today, our troops are stationed in nearly 100 nations and the world, more than ever before. Yet, we are spending three time less on defense as a percentage of our national economy than when John F. Kennedy was President in 1963.

The defense bill Chairman SPENCE has crafted uses the resources available to focus on improving the quality of life for our troops and their families. The bill improves force readiness and modernizes aging equipment. Furthermore, Chairman WELDON and the members of the Research and Development Subcommittee have provided resources to continue the invaluable research and development efforts for the weapons systems that give our troops an overwhelming edge on the battlefield. We should never put our service men and women in harm's way with anything less than overpowering force and the most advanced technology available.

I would be remiss, however, if I did not add that I remain concerned about the effect declining defense budgets are having on our ability to recruit and retain new engineers and scientists who design, maintain, and upgrade our weapon's systems. Picatinny Arsenal, located in my congressional district, is home to many of our Nation's best and brightest weapons engineers. The men and women of Picatinny Arsenal design warheads for the Patriot missile, the 155mm howitzer for the Army's revolutionary Crusader artillery system and improvements to the gun turret of the Comanche helicopter, as well as developing the weapons of the future for our troops on the frontlines. If the knowledge that exists at Pacatinny and similar facilities within the Department of Defense is not passed on to new engineers and scientists, it will be lost forever. This knowledge cannot be replicated or replaced. We can only retain it and maintain it by continuing to recruit bright young men and women and by giving them the resources to continue their critical work.

Again, I want to commend Chairman SPENCE and the other members of the House National Security Committee for their work on this bill.

Mr. SAXTON. Mr. Chairman, I have a noncontroversial amendment to title 29 of the bill dealing with wildlife conservation on military lands or, as it is better known, the Sikes Act.

During the past 3 years, my Subcommittee on Fisheries Conservation, Wildlife and Oceans conducted two hearings on the Sikes Act and the House, on two separate occasions during the 104th Congress, approved legislation to extend this landmark statute.

Regrettably, this legislation did not become law and the Department of Defense [DOD], the Department of the Interior [DOI], and the International Association of Fish and Wildlife Agencies have been engaged in ongoing discussions on the details of a reauthorization bill.

I am happy to report that those negotiations have now been successful and that the language contained in my amendment has been endorsed by DOD, DOI, and the States.

The Sikes Act is the law under which land under the jurisdiction of the Department of Defense is managed for fish and wildlife-related conservation and recreational purposes. The Department of Defense controls nearly 25 million acres of valuable fish and wildlife habitat at approximately 900 military installations nationwide. These lands, equal in size to the State of Kentucky, contain a wealth of plant and animal life, and provide vital habitat for migrating waterfowl and nearly 100 federally listed threatened or endangered species.

Enacted by Congress in 1960, the Sikes Act provides a mechanism for cooperative wildlife management on these military installations. It is time to reauthorize this Act.

Under the terms of my amendment, which I am offering on behalf of Chairman DON YOUNG, Chairman JOEL HEFLEY, and me, the Sikes Act will be reauthorized for 5 years; integrated natural resource management plans will be required on all military installations with significant fish, wildlife, or natural resources; and certain elements are required for those plans—including fish and wildlife management, wetland protection, and fish and wildlife-oriented recreation. The Department of the Interior and the States will have a meaningful role in the development of those plans and wildlife-dependent recreation, such as fishing and hunting, will be facilitated on all military lands, where appropriate. In addition, the Secretary of Defense shall submit an annual report to the Congress describing the number of integrated natural resource management plans in effect, the amount of money expended on conservation activities, and an assessment on whether these plans comply with the act.

Finally, this amendment will allow the Department of Defense to transfer any wildlife conservation fees collected at a military installation that has been closed to a DOD facility that will remain open in the future.

Mr. Chairman, I urge the adoption of this noncontroversial amendment which will not only reauthorize the Sikes Act but will improve its effectiveness.

Mr. ORTIZ. Mr. Chairman, I rise today to register my opposition to the provisions of the defense bill inserted by my friend from Ohio which would put 10,000 United States troops on the United States-Mexico border.

As a veteran and a former law enforcement officer, I understand the unique perspectives of those who strive to keep the peace on the border, and the views of those in this Congress who believe we should put resources we already have in a place they are needed.

However, this is a very bad idea. For 50 years, the United States spent our money and our energy on fighting the war against communism and, in 1989, we saw the Berlin Wall finally come down. It would be a mistake of enormous proportions if we erected our own wall along our southern border in the form of our military. At a time when Mexico is our neighbor, friend, and economic partner, it would be folly to station troops who are trained to kill on the international border.

There is a huge difference between law enforcement officers trained to police the civilian population and the military troops who are trained to kill the enemy.

We have a problem with illegal immigrants and drugs coming across the border, but the answer to that problem is to increase the Border Patrol staff along the border, not reinforce it with troops trained to shoot to kill. Already there have been two incidents along the border in which the military engaged. As a result, one young U.S. citizen has died and the Texas Rangers seem to be ready to proceed with a murder indictment against the marine who fired the shot that killed him.

The reason I support trade treaties like NAFTA and GATT is that they address the economic foundations of this region by expanding economic and job opportunities. We are better served as a nation if we address the economic motivation behind the movement of illegal immigrants and drugs as opposed to positioning U.S. troops to be our cops.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. WICKER) having assumed the chair, Mr. YOUNG of Florida, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1119) to authorize appropriations for fiscal years 1998 and 1999 for military activities for the Department of Defense, to prescribe military personnel strengths for fiscal years 1998 and 1999, and for other purposes, pursuant to House Resolution 169, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole?

Mr. DELLUMS. Mr. Speaker, I demand a separate vote on amendment No. 35 offered by my distinguished colleague from California, Mr. ROHRABACHER, relating to the Nunn-Lugar cooperative threat reduction funds.

The SPEAKER pro tempore. Is a separate vote demanded on any other amendment?

If not, the Clerk will redesignate the amendment on which a separate vote has been demanded.

The text of the amendment is as follows:

Amendment:

At the end of title XI (page 371, after line 18), insert the following new section:

SEC. 1112. PROHIBITION ON USE OF FUNDS FOR CERTAIN PURPOSES IN CASE OF TRANSFER OF MISSILE SYSTEM BY RUSSIA.

(a) IN GENERAL.—No fiscal year 1998 Cooperative Threat Reduction funds may, notwithstanding any other provision of law, be obligated or expended to carry out a Cooperative Threat Reduction program in Russia after the date on which it is made known to the Secretary of Defense that Russia has transferred to the People's Republic of China an SS–N–22 missile system.

(b) APPLICABILITY.—This section shall apply with respect to any transfer by Russia of an SS–N–22 missile system to the People's Republic of China that occurs on or after the date of the enactment of this Act.

The SPEAKER pro tempore. The question is on the amendment.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DELLUMS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 204, nays 219, not voting 11, as follows:

[Roll No. 235]

YEAS—204

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bilbray
Bilirakis
Bliley
Blunt
Boehner
Bonilla
Bono
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Cramer
Crapo
Cubin
Cunningham
Danner
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fowler
Fox
Franks (NJ)
Gallegly
Ganske
Gekas
Gibbons
Gillmor
Gilman
Goode
Goodlatte
Goodling
Goss
Granger
Greenwood
Gutknecht
Hall (TX)
Hansen
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hutchinson
Inglis
Istook
Jenkins
Johnson, Sam
Jones
Kaptur
Kasich
Kelly
Kim
Kingston
Klug
Knollenberg
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lipinski
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McInnis
McIntyre
McKeon
Metcalf
Mica
Miller (FL)
Molinari
Moran (KS)
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Packard
Pappas
Parker
Paul
Paxon
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Portman
Poshard
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shimkus
Shuster
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (NC)
Thomas
Thune
Tiahrt
Traficant
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weller
Wicker
Wolf
Young (AK)
Young (FL)

NAYS—219

Ackerman
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bishop
Blagojevich
Blumenauer
Boehlert
Bonior
Borski
Boswell
Boucher

Boyd
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Conyers
Coyne
Cummings
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Frelinghuysen
Frost
Furse
Gejdenson
Gephardt
Gilchrest
Gonzalez
Gordon
Graham
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Horn
Houghton
Hoyer
Hyde
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Kanjorski
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kleczka
Klink
Kolbe
Kucinich
LaFalce
Lampson
Lantos
Levin
Lewis (GA)
Linder
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDade
McDermott
McGovern
McHale
McIntosh
McKinney
McNulty
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Morella
Murtha
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pease
Pelosi
Peterson (MN)
Pickett
Pomeroy
Porter
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Shays
Sherman
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson
Thornberry
Thurman
Tierney
Torres
Towns
Turner
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Weldon (PA)
Wexler
Weygand
White
Whitfield
Wise
Woolsey
Wynn

NOT VOTING—11

Abercrombie
Brown (CA)
Cox
Crane
Engel
McHugh
Nadler
Neumann
Schiff
Smith (NJ)
Yates

□ 1057

Messrs. SCOTT, TOWNS, HASTERT, WYNN, and SMITH of Michigan changed their vote from "yea" to "nay."

Mr. COSTELLO and Mr. KINGSTON changed their vote from "nay" to "yea."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. ENGEL. Mr. Speaker, I was necessarily absent during rollcall vote 235. If present, I would have voted "no" on rollcall 235.

PERSONAL EXPLANATION

Mr. ABERCROMBIE. Mr. Speaker, on rollcall No. 235, the Rohrabacher amendment, I was unavoidably detained at the Arlington National Cemetery. Had I been present, I would have voted "no."

□ 1100

The SPEAKER pro tempore (Mr. WICKER). The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. DELLUMS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 304, noes 120, not voting 10, as follows:

[Roll No. 236]

AYES—304

Abercrombie
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Borski
Boswell
Boucher
Boyd
Brady
Brown (FL)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Capps
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Cramer
Crapo
Cubin
Cunningham
Davis (FL)
Davis (VA)
Deal
DeLauro
DeLay
Diaz-Balart
Dickey
Dicks
Dixon
Dooley
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehrlich
Emerson
Ensign
Etheridge
Everett
Ewing
Fawell
Flake
Foley
Forbes
Ford
Fowler
Fox
Frelinghuysen
Frost
Gallegly
Gejdenson
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hinojosa
Hobson
Hoekstra
Holden
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kaptur
Kasich
Kelly
Kennedy (RI)
Kennelly
Kildee
Kim
King (NY)
Kingston
Knollenberg
Kolbe
LaHood
Lampson
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
Lucas
Maloney (CT)
Maloney (NY)
Manton
Manzullo
McCollum
McCrery
McDade
McHale
McInnis
McIntosh
McIntyre
McKeon
Meehan
Meek
Metcalf
Mica
Millender-McDonald
Miller (FL)
Mink
Molinari
Mollohan
Moran (KS)
Murtha
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Ortiz
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paxon
Pease
Peterson (MN)
Peterson (PA)
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Redmond
Regula
Reyes
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Ryun
Salmon
Sanchez
Sandlin
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Scott
Sessions
Shadegg
Shaw
Sherman
Shimkus
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stump
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Traficant
Turner
Upton
Visclosky
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Weygand
White
Whitfield
Wicker
Wise
Wolf
Young (AK)
Young (FL)

NOES—120

Ackerman
Baldacci
Barrett (WI)
Becerra
Berman
Blumenauer
Bonior
Brown (CA)
Brown (OH)
Campbell
Cardin
Carson
Clay
Clayton
Conyers
Coyne
Cummings
Danner
Davis (IL)
DeFazio
DeGette
Delahunt
Dellums
Deutsch
Dingell
Doggett
Doyle
Ehlers
Engel
English
Eshoo
Evans
Farr
Fattah
Fazio
Filner
Foglietta
Frank (MA)
Franks (NJ)
Furse
Ganske
Gephardt
Gutierrez
Hastings (FL)
Hilliard
Hinchey
Hooley
Jackson (IL)
Jackson-Lee (TX)
Kanjorski
Kennedy (MA)
Kilpatrick
Kind (WI)
Kleczka
Klink
Klug
Kucinich
LaFalce
Lantos
Levin
Lewis (GA)
LoBiondo
Lofgren
Luther
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McKinney
McNulty
Menendez
Miller (CA)
Minge
Moakley
Moran (VA)
Morella
Neal
Oberstar
Obey
Olver
Owens
Paul
Payne
Pelosi
Petri
Rahall
Ramstad
Rangel
Rivers
Rodriguez
Roemer
Roybal-Allard
Royce
Rush
Sabo
Sanders
Sawyer
Schumer
Sensenbrenner
Serrano
Shays
Skaggs
Stabenow
Stark
Stokes
Strickland
Stupak
Towns
Velázquez
Vento

Waters
Watt (NC)
Waxman
Wexler
Woolsey
Wynn

NOT VOTING—10

Cox
Crane
Lowey
McHugh
Nadler
Neumann
Radanovich
Schiff
Smith (NJ)
Yates

□ 1116

The Clerk announced the following pair: On this vote:

Radanovich of California for, with Mr. Yates of Illinois, against.

Ms. STABENOW and Mr. MARTINEZ changed their vote from "aye" to "no."

Mr. FORD changed his vote from "no" to "aye."

So the bill was passed.

The result of the vote was announced as above recorded.

The title of the bill was amended so as to read: "A bill to authorize appropriations for fiscal year 1998 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.".

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. RADANOVICH. Mr. Speaker, with regard to the vote on final passage for H.R. 1119, the Defense Authorization Act, I was unavoidably detained. I support of H.R. 1119. This bill safeguards that our military will continue to defend the Nation's vital interests. H.R. 1119 ensures that the American military will be ready for the 21st century battlefield. In particular, it adds $2.6 billion to the President's deficient budget request, making for a total of approximately $268.2 billion. The bill is robust in terms of offering a balanced research and development program that will include advanced technologies and improved capabilities. Mr. Speaker, I support my colleagues who voted in favor of H.R. 1119.

GENERAL LEAVE

Mr. SPENCE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the bill just passed.

The SPEAKER pro tempore (Mr. WICKER). Is there objection to the request of the gentleman from South Carolina?

There was no objection.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 1119, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1998

Mr. SPENCE. Mr. Speaker, I ask unanimous that in the engrossment of the bill, H.R. 1119, the Clerk be authorized to correct section numbers, punctuation, cross references, and the table of contents and to make such other technical and conforming changes as may be necessary to reflect the actions of the House in amending the bill, H.R. 1119, and to make the following corrections: On page 492, line 19, of the printed bill, strike "2,000,000" and insert "2,000 millions".

In the section added by the amendment designated as amendment No. 25 in part 2 of House Report 105–137, strike "63695N" and insert "63795N".

The SPEAKER pro tempore. The Clerk will report the corrections.

The Clerk read as follows:

(A) On page 492, line 19, of the printed bill, strike "2,000,000" and insert "2,000 millions".

(B) In the section added by the amendment as amendment #25 in part 2 of House Report 105–137, strike "63695N" and insert "63795N".

The SPEAKER pro tempore. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

REGARDING COST OF GOVERNMENT DAY

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the concurrent resolution, House Concurrent Resolution 102.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. SESSIONS) that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 102, on which the yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 386, nays 20, answered "present" 13, not voting 15, as follows:

[Roll No. 237]

YEAS—386

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Bass
Bateman
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Borski
Boswell
Boucher
Boyd
Brady
Brown (CA)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Filner
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, Sam
Jones
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McGovern
McHale
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Mica
Millender-McDonald
Miller (FL)
Minge
Mink
Moakley
Molinari
Moran (KS)
Moran (VA)
Morella
Myrick
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Olver
Ortiz
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Royce
Rush
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Traficant
Turner
Upton
Vento
Visclosky
Walsh
Wamp
Watkins
Watt (NC)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Wexler

Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Young (AK)
Young (FL)

NAYS—20

Bonior
Clayton
Conyers
Coyne
Dellums
Jackson (IL)
Kanjorski
McDermott
Miller (CA)
Mollohan
Murtha
Payne
Roybal-Allard
Scott
Serrano
Stark
Tierney
Towns
Velázquez
Waters

ANSWERED "PRESENT"—13

Becerra
Brown (FL)
Carson
Flake
Furse
Hastings (FL)
Johnson, E. B.
Kaptur
Lewis (GA)
Lofgren
Owens
Pelosi
Torres

NOT VOTING—15

Barton
Cox
Delahunt
Dunn
Fazio
Lowey
McHugh
Nadler
Neumann
Obey
Schiff
Smith (NJ)
Stokes
Waxman
Yates

☐ 1137

Mr. JACKSON of Illinois changed his vote from "yea" to " nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. NADLER. Mr. Speaker, earlier today I was unavoidably out of the Chamber when a couple of rollcall votes were taken. Had I been present, I would have voted "no" on rollcall 235, "no" on rollcall 236 and "no" on rollcall 237.

PROVIDING FOR CONSIDERATION OF H.R. 2015, BALANCED BUDGET ACT OF 1997, AND H.R. 2014, TAXPAYER RELIEF ACT OF 1997

Mr. SOLOMON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 174 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 174

Resolved, That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the bill (H.R. 2015) to provide for reconciliation pursuant to subsections (b)(1) and (c) of section 105 of the concurrent resolution on the budget for fiscal year 1998. The bill shall be considered as read for amendment. The amendment printed in the Congressional Record and numbered 1 pursuant to clause 6 of rule XXIII shall be considered as adopted. All points of order against provisions in the bill, as amended, are waived. The previous question shall be considered as ordered on the bill, as amended, to final passage without intervening motion except: (1) three hours of debate equally divided and controlled by the chairman and ranking minority member of the Committee on the Budget; and (2) one motion to recommit with or without instructions.

SEC. 2. At any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 2014) to provide for reconciliation pursuant to subsections (b)(2) and (d) of section 105 of the concurrent resolution on the budget for fiscal year 1998. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill and against provisions in the bill, as amended by this resolution, are waived. General debate shall be confined to the bill and shall not exceed three hours equally divided and controlled by the chairman and ranking minority member of the Committee on the Ways and Means. After general debate the bill shall be considered for amendment under the five-minute rule. The amendment printed in the Congressional Record and numbered 2 pursuant to clause 6 of rule XXIII shall be considered as adopted in the House and in the Committee of the Whole. The bill, as amended, shall be considered as the original bill for the purpose of further amendment and shall be considered as read. No other amendment shall be in order except the further amendment printed in the Congressional Record and numbered 1 pursuant to clause 6 of rule XXIII, which may be offered only by Representative Rangel of New York or his designee, shall be considered as read, shall be debatable for one hour equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against that amendment are waived. At the conclusion of consideration of the bill, as amended, for amendment the Committee shall rise and report the bill, as amended, to the House with such further amendment as may have been adopted. The previous question shall be considered as ordered on the bill, as amended, and any further amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. COMBEST). The gentleman from New York [Mr. SOLOMON] is recognized for 1 hour.

Mr. SOLOMON. Mr. Speaker, for the purposes of debate only, I yield 30 minutes to the gentleman from Massachusetts [Mr. MOAKLEY], pending which I yield myself such time as I may consume. During consideration of the resolution, all time yielded is for the purposes of debate only.

Mr. Speaker, House Resolution 174 is the customary structured rule for the consideration of a budget reconciliation bill. In this case, the rule provides for the consideration of reconciliation legislation in two parts, which reflects the bipartisan budget agreement reached between Congress and the White House on May 2, 1997.

Mr. Speaker, this rule first waives all points of order against the consideration of the legislation, the Balanced Budget Act. The rule provides 3 hours of debate on the entitlement reform bill, equally divided and controlled by the chairman and ranking member of the Committee on the Budget.

The rule also considers the amendment printed in the CONGRESSIONAL RECORD and numbered 1 as adopted upon the adoption of this rule. This amendment by the gentleman from Ohio [Mr. KASICH] reflects hours of negotiations between Democrats and Republicans and between the White House and this Congress, both bodies of this Congress.

This amendment attempts to resolve many of the outstanding issues related to our bipartisan efforts to reform the Nation's out-of-control entitlement spending. And we all know that it is totally out of control.

The rule further waives all points of order against the provisions of the bill as amended by the rule. After the conclusion of the 3 hours of debate, the rule provides for one motion to recommit, with or without instructions.

Yesterday, we informed the minority members of the Committee on Rules that we were prepared to grant a rule allowing one Democrat substitute to be offered by the minority leader or his designee. However, we were informed yesterday that such a substitute would not be offered, even though we were willing to make that amendment in order.

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In addition, section 2 of the rule provides for consideration of the second part of this reconciliation product, the Taxpayer Relief Act. The rule waives all points of order against consideration of this bill and against its provisions as amended by the rule. The rule further provides another 3 hours of general debate on this tax cutting measure, equally divided and controlled by the chairman and the ranking member of the Committee on Ways and Means. The rule also considers the amendment printed in the CONGRESSIONAL RECORD and numbered 2 as adopted in the House and in the Committee of the Whole. This amendment, drafted by the gentleman from Texas [Mr. ARCHER], reflects further negotiations between the various interested parties involved in the implementation of the tax portion of this bipartisan agreement with the White House.

Furthermore, the rule provides for the consideration of a substitute amendment printed in the CONGRESSIONAL RECORD and numbered 1 only if offered by the gentleman from New York [Mr. RANGEL] or his designee.

Mr. Speaker, this amendment is debatable for 1 hour equally divided and controlled by the proponent and an opponent, and is not subject to amendment or to a demand for a division of the question in the House or in the Committee of the Whole and all points of order are waived against the amendment. This amendment, offered by the gentleman from New York [Mr. RANGEL], the ranking Democrat on the Committee on Ways and Means, represents the minority substitute to the tax bill.

Finally, the rule provides for one motion to recommit, with or without instructions.

Mr. Speaker, after hearing testimony up in the Committee on Rules yesterday for more than 5 hours and from more than 40 witnesses, the Committee on Rules has produced a rule that is very similar to that used on reconciliation bills going all the way back to the 96th Congress, over two decades. Furthermore, after consultation with the minority and our committee, we actually extended the total debate time on the two bills from 5 hours to 7 hours. We have made every effort to make this a bipartisan rule to consider this bipartisan balanced budget agreement. I would urge all my colleagues to support it.

Mr. Speaker, as to the contents of these bills, I can sum up their significance in two short statements:

First, the first balanced budget in 30 years. Second, the first major tax cut in 16 years.

While these two bills before us contain a variety of provisions, I want to focus on one in particular. In introducing his tax cut plan to the American people back in 1962, then President John F. Kennedy stated:

> Prosperity is the real way to balance the budget. By lowering taxes, by increasing jobs and incomes, we can expand tax revenues and finally bring our budget into balance.

President Kennedy was right then and the bill before us today represents those truths.

Mr. Speaker, over the past two decades, this Congress has held this same debate over and over and over again. How can we reduce the tax burden, reduce the deficit and balance the budget at the same time? Today's budget agreement is quite a different approach than has been tried in previous budget agreements. For instance, in 1990, Congress and the President, and at that time the President was George Bush, negotiated a bipartisan budget agreement in an effort to reduce the deficit only to result in a $100 billion tax increase and an unbalanced budget. That is what happened under a Republican President and a Democrat Congress back in 1990.

Three years later, in 1993, the President, that is Bill Clinton, and congressional Democrats, who were in control of this place at that time, gathered together and negotiated another budget deal to reduce the deficit. This time the result was a $200 billion tax increase, the largest tax increase in the history of this Nation, and still no balanced budget.

A year later, in 1994, the American people called on their government to try a new approach, to take a new look at an old approach used in previous decades under Presidents such as John F. Kennedy and Ronald Reagan. At the very beginning of the 104th Congress, the new Republican majority, in full agreement with President John F. Kennedy's assertion back in 1962, sought to provide the American family with meaningful tax cuts and a balanced budget. We are all very familiar with the extensive debates over tax relief in the past Congress. Despite all the talk, the American family still remains overtaxed and overburdened by its Government. That is this Government that we stand in here today.

Some of my colleagues may chuckle a little over this statement, exclaiming there goes JERRY SOLOMON again with his Reaganomics outlook on the world, but it is a fact that in the past 16 years, this Congress has raised our Nation's taxes over 5 times and by hundreds of billions of dollars. We have not cut taxes, we have raised taxes right here in this body. As a result, it is no exaggeration for me to say that the American family pays a much higher percentage of its hard-earned income in taxes right now today than at any time in recent history.

Today we have before us a budget bill that represents the first major tax cut in 16 years. Mr. Speaker, it is major. While we have had much larger tax relief packages before this House over the past few years, the probability that this tax relief bill will receive bipartisan support and be signed into law is much, much higher than those previously before us and that should be recognized here today. This is going to become law.

Furthermore, contrary to what we are going to hear from the other side today, from some Members of the other side because many Members on the Democrat side are going to support this measure, the majority of this tax relief, 72 percent of it, will go to middle-income wage-earning families making between $20,000 and $70,000. This will better enable all of America's families to care for their children and their communities and represents a good first step in rolling back the high level of the Government's financial interference in the lives of these hard-working families.

Finally, Mr. Speaker, it should be noted that these two bills before us today actually carry changes in the underlying laws that deliver the tax cuts and the spending cuts. This is very, very important, especially to some of the younger Members because in years past we have adopted budgets that put us on a glide path to a balanced budget, but when it came to making the hard votes, we did not do it, we abandoned it, and that is why the deficits continued. It is easy to vote for legislation that actually calls for these cuts to be done as we did in the budget agreement, and everybody sent out their press releases on it. It is quite something different to actually vote for these cuts. I urge all of the Members here today to support these bills and then follow through on the 13 appropriation bills that will follow, because that is where it is going to count.

Members have my pledge that I am going to vote for every one of these cuts represented in this agreement with the Republicans and Democrats in this House, with the Senate, and with the President. These are the kind of bills that actually make a difference. I applaud all of my colleagues on both sides of the aisle.

Mr. Speaker, I include the following extraneous material for the RECORD:

HOUSE RECONCILIATION RULES 1980–1996

Congress and year	Bill No.	Rule No.	Terms of rule
96th (1980)	H.R. 7765	H. Res. 776	10-hours general debate (1-hr. ea. To 8 comms., 2-hrs. Ways and Means); 4 amendments allowed; (1) Budget Comm.; (2) Strike subtitle; (3) Rep. Vanik (D); (4) Rep. Bauman (R); one motion to recommit.
97th (1981)	H.R. 3982	H. Res. 169	8-hrs. General debate, comms. of juris.; amendment in the nature of substitute by chairman of Budget Comm.; 6 amendments by Rep. Latta; 1-hr.; one motion to recommit.
98th (1983)	H.R. 4169	H. Res. 344	1-hr. gen. debate, Budget Comm.; amendment in nature of substitute made in 1 amendment by chmn. Budget Comm.; one motion to recommit, with or without instructions.
98th (1984)	H.R. 5394	H. Res. 483	6-hrs. gen. debate, Budget Comm.; (1) amend. by W&M Comm., 1-hr; (2) amend. by Rep. Pepper, 30-mins.; one motion to recommit.
99th (1985)	H.R. 3500	H. Res. 296	4-hrs. gen. debate, Budget Comm.; self-execute amend.; (1) Rep. Fazio, 30-mins.; Rep. Latta, 1-hr.; (3) Rep. Florio, 30-mins; one motion to recommit.
99th (1986)	H.R. 5300	H. Res. 558	3-hrs. gen. debate, Budget Comm.; self-execute amend.; (1) Rep. Rodino, 30-mins.; (2) Rep. Rodino, 30-mins.; (3) Rep. Wylie, 3-mins.; one motion to recommit without instructions.
100th (1987)	H.R. 3545	H. Res. 296/298	3-hrs. gen. debate, Budget Comm.; self-execute amend.; (1) Rep Michel, 1-hr.; one motion to recommit without instructions.
101st (1989)	H.R. 3299	H. Res. 245/249	6-hrs. gen. debate, Budget Comm.; self-execute amend.; 10 amendments (D–7; R–3), debate from 30-mins. to 2-hrs. ea. (varies by amendment); one motion to recommit.
101st (1990)	H.R. 5835	H. Res. 509	3-hrs. gen. debate, Budget Comm.; self-execute amends.; (1) Rep. Rostenkowski, 1-hr.; one motion to recommit without instructions.
103d (1993)	H.R. 2264	H. Res. 186	2-hrs. gen. debate; self-execute amend. (54 page); (1) Rep. Kasich substitute, (290 pages), 1-hr.; one motion to recommit without instructions.
104th (1995)	H.R. 2491	H. Res. 245	3-hrs. gen. debate (via. u.c. request); an additional 3-hrs. gen. debate, Budget Committee; self execute amendment in the nature of a substitute; 1 substitute amendment if offered by the Minority Leader or his designee, debatable for 1 hour; one motion to recommit which may contain instructions if offered by the Minority Leader or his designee.

HOUSE RECONCILIATION RULES 1980–1996—Continued

Congress and year	Bill No.	Rule No.	Terms of rule
104th (1996)	H.R. 3734	H. Res. 482	2-hrs. gen. debate, Budget Comm.; self execute amendment in nature of substitute; 1 amendment if offered by the chairman of the Budget Committee or his designee, debatable for 20 minutes.; one motion to recommit, with or without instructions.

REPORT LAYOVER PERIOD FOR RECONCILIATION BILLS, 1980–1996

Congress and year	Bill no.	Report filed	Bill considered	Layover period (days)
96th (1980)	H.R. 7765	7/21/80	9/4/80	45
97th (1981)	H.R. 3982	6/19/81	6/25/81	6
98th (1983)	H.R. 4169	10/20/83	10/25/83	5
98th (1984)	H.R. 5394	(1)	4/12/84	NA
99th (1985)	H.R. 3500	10/3/85	10/23/85	20
99th (1986)	H.R. 5300	7/31/86	8/24/86	24
100th (1987)	H.R. 3545	10/26/85	10/29/85	3
101st (1989)	H.R. 3299	9/20/89	9/26/89	6
101st (1990)	H.R. 5835	10/15/90	10/16/90	1
103rd (1993)	H.R. 2264	5/25/93	5/27/93	2
104th (1995)	H.R. 2491	10/17/95	10/25/95	8
104th (1996)	H.R. 3734	6/27/96	7/17/96	10

[1] Not reported.

Notes: The dates of bill consideration is the first day of consideration and is based on the date on which the rule was adopted. The layover period is based on the assumption that the report was available to Members on the first day after the report was filed (which may not always have been the case). Under clause 2(1)(6) of rule XI, it is in order to consider a bill on the third day the report is available to Members. All reconciliation rules, however, have routinely waived all points of order against consideration of the bill, even if the three-day availability requirement was complied with.

Sources: House Calendars.

Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I thank the gentleman from New York [Mr. SOLOMON], the chairman of the Committee on Rules, for yielding me the customary half-hour, and I yield myself such time as I may consume.

Mr. Speaker, the reconciliation bills we are considering this week show very clearly the difference between Democrats and Republicans. To put it simply, on one hand, my Republican colleagues want to help people who make enormous amounts of money and inherit more money on top of that. On the other hand, Mr. Speaker, my Democratic colleagues and I want to help middle-class working families and small business owners.

When these bills come up for votes, we can take our pick. I think the choice is obvious. More than half the tax cuts in the Republican tax bill are for people making over $250,000 a year. Three-quarters of the tax cuts in the Democratic alternative are for people making less than $58,000 a year.

The Republican tax bill helps only richer families send their kids to college. The Democratic alternative gives a full $1,500 tax credit for college students. The Republican tax bill takes the $500 per child credit away from low-income working families. The Democratic alternative makes sure that every low- and middle-income working family gets the $500 per child tax credit.

The Republican tax bill, Mr. Speaker, gives huge tax breaks to rich people who sell stocks and bonds. The Democratic alternative gives tax breaks to the middle-class people who sell homes, who sell their farms or small businesses.

The Republican bill also marks a serious departure from the budget agreement. My Republican colleagues did not keep their word to provide the education tax credits they promised or to preserve the rights of legal immigrants that they also promised. The Republican reconciliation bill hands the richest 1 percent an additional $27,000 each, while it takes $63 away from each family in the bottom 20 percent.

Mr. Speaker, the Republican bill will mean serious trouble to our teaching hospitals. The Boston teaching hospitals alone will lose more than $700 million over a 5-year budget period.

Mr. Speaker, I do not know if our teaching hospitals can survive this kind of cut. They have already made huge changes, drastic changes, undergone complicated mergers and cut costs to save money, but the fact remains that last year Boston Medical Center saw 58,000 patients for nothing, 58,000 patients for free. Yet today my Republican colleagues are asking hospitals to make do with even less, and it is the same for teaching hospitals all over the country.

Mr. Speaker, the United States is lucky to have the best hospitals, the best medical care in the entire world. Take it from me, personally, I know this.

Mr. Speaker, I believe we should be doing all we can to keep American health care not only the best in the world but also keep it accessible to everyone. This bill does not do that.

In the Committee on Rules last night, my Republican colleagues rejected an amendment offered by the gentleman from Massachusetts [Mr. KENNEDY] to change the funding for children's health insurance so the States with children's health care laws already on the books like Massachusetts, like New York, like Florida are not penalized.

Mr. Speaker, I urge my colleagues to join me in defeating the previous question to make in order 22 amendments that were rejected in the Committee on Rules last night, including the Barton-Minge amendment on enforcing the budget agreement and the Taylor amendment to let veterans keep their veterans health care regardless of how old they are. I want to add, Mr. Speaker, that this veterans health issue has been cosponsored by nine of my colleagues on the Committee on Rules.

I urge my colleagues to defeat the previous question.

Mr. Speaker, I reserve the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume, briefly to just repeat my favorite hero's line, "Well, here we go again," talking about the rich.

In the Hudson Valley where I live, it is about 200 miles long and 50 miles wide and has the Catskill Mountains on one end and the Adirondack Mountains on the other and a valley in between, there are very few rich people there. They are all hard-working people. They have worked all their lives. They have saved a little bit even under hard times.

Let me just give my colleagues one example, a couple I know that worked for Sears Roebuck. They worked for Sears Roebuck, both of them together, for 38 years. Sears Roebuck does not pay the highest salaries but they have a pretty good little pension plan and have a great stock option plan for people that work for them. For these 38 years, this couple has been taking advantage of those options, living with a wage scale much lower than their peers, but they managed to save the money and buy that stock and they have had it now for 35, 40 years. Do my colleagues know what that stock is worth today?

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It is a nest egg that they can now retire on. They can, if they want to, move out of the cold north country where I live, and they can move to Florida, and they can buy themselves a little home, and they can live pretty decently for the rest of their lives.

Now my good friend the gentleman from Massachusetts [Mr. MOAKLEY] thinks those people are rich because they are going to take advantage of the capital gains tax cut. Well, I do not think that is rich at all. Those people have incomes of way under $70,000 combined, and they are going to be able to take advantage of this capital gains tax cut.

I also represent in that valley hundreds and hundreds of farmers; most of them are dairy farmers; and those people over the years have gotten up at 4 o'clock in the morning when it was 30 below zero.

I did a piece on public television last year in which we brought public television up there, and they saw these people out there at 5 o'clock in the morning milking these cows when it was 31 below zero. And, as my colleagues know, those people have paid the taxes on that farm, on those several hundred acres of land, and sure they are land rich, but they are cash poor. And now, if they pass away and their sons or daughters have worked on that same farm for all the time they were growing up, when they were 4, 5, and 6-years-old up to maybe 20 or 25, and now when they die the Federal Government is going to make them sell that land to pay the estate tax.

Mr. Speaker, that just is not right. As my colleagues know, they paid taxes on that land, they paid the income taxes all those years, and now they are going to be penalized and they cannot keep that farm in the family. It is happening all over Texas, it is happening all over America, but especially up in the north country where I live where it is doggone tough to make a living especially in the winter time.

So let us have enough of this rich talk, and let us get on to give meaningful tax cuts to all of the American people. That is what America is all about.

Mr. Speaker, having said that, I yield such time as he may consume to the gentleman from Florida [Mr. GOSS] one of those northerners that moved to Florida many years ago. He is the chairman of the Permanent Select Committee on Intelligence, but he is also a very valuable member of the Committee on Rules, and I yield to him to get some of his sage advice.

Mr. GOSS. Mr. Speaker, I thank the distinguished gentleman from New York [Mr. SOLOMON] for yielding this time to me, and I obviously rise in strong support of this fair and I think very appropriate rule for what we are about, which permits consideration of 2 important measures, the Balanced Budget Act and the Taxpayer Relief Act, in fact probably one of the most important things we will do in this session of Congress.

Today, we take another major step toward the first balanced budget in over a generation, as the gentleman from New York [Mr. SOLOMON] said, and the first actual relief for American taxpayers in almost a generation. Despite this indisputable progress, we continue to hear this same tired rhetoric, we have already heard it, this class warfare from the defenders of the status quo. As usual they claim they have a study or they will get one that proves that the majority of the tax cuts are going to go to the, quote, rich. Of course, they define rich to suit their own purpose.

Mr. Speaker, if someone earns $40,000 a year, the big Government crowd is going to consider them rich, and this is how they are going to do it: artificially inflate their income through the addition of their future pension as well as the potential rental value of their home. I am sure this is going to be news to thousands of new-found rich people in my district, and I imagine they are going to be a little shocked by it, as the rest of America will be as they discover they have been elevated to rich.

Mr. Speaker, actually the definition of rich is, "If you're not on welfare, you're rich."

Given these partisan distortions it is important to let the American people know that what we are doing today is important work and it is going to affect them, and it is going to affect them positively.

We are taking the necessary steps to save the Medicare Program, and it is facing impending bankruptcy. But instead of resorting to the tax increases and the draconian provider cutbacks that we have talked about in the past, we achieve our savings through patient choice. Americans want choice in their medical care, and we are providing choice, and we are using free market competition, and we believe Americans will have better access, better choice, better medical service in the end, and we think we will end up with a stronger Medicare program as a result.

We are also providing overdue relief to families through the child tax credit and reform of the punitive death tax. I do not understand why we do not all understand that any American who works hard, saves little and wants to provide for his wife and his kids after he is gone, or his grandkids, should be able to do that. Why should the Government come in and take all of his hard work? After all I think what propels a great amount of the work in this country is the responsibility individuals have to go to work and provide for their families.

As a father of four I certainly feel that way. I think most Americans do. I think I owe it to my family and to my community and to my country to look out for my family and provide for them. I do not go for this new mantra that Uncle Sam has been replaced by Father Government. Government is not my daddy, and it is not anyone else's either. I think we need to get away from that and remember that the people who work in this country work with the sense of responsibility to their family and should be able to provide for them after they are gone.

We will furnish responsible Americans with more ways to save for their future by expanding IRA's, and we will promote economic growth by slicing the punitive capital gains tax.

But most important, today we will send a message to our children and our grandchildren that their future is not going to be mortgaged for Washington's profligate spending habits, and we all know what they are. The last time this Congress balanced the budget our national debt stood at $368 billion, and $368 billion is a lot of money. Today that national debt is at $54 trillion, trillion, and it is still climbing. With this package Congress has finally acknowledged what most American have known for a very, very long time:

Uncle Sam is obese, Uncle Sam needs a diet, and it is time.

Mr. Speaker, today is about historic progress; slow and steady, yes, but it is progress. This package is not perfect, but it is very good work, and it is bipartisan, and it is multibranch. And, yes, there is more to do, and there always will be if we are going to have jobs up here in Washington representing the people of this country, and that is the form of Government we have.

But above all this package represents a hard-earned victory, I think, for the American taxpayer, the middle-income earner, the hard worker, the people out there worrying about the future of their families and their kids. And I think it is a victory for our kids, too, because we are going to rein in taxing and not send the bill to them any more.

I very passionately urge for a "yes" vote on this rule and for the important reconciliation bills that it carries. This is the work we are about; this is what we are asked to do.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Speaker, I voted for the balanced budget resolution, and I know that both Democrats and Republicans in this House believe strongly in a balanced budget. But this proposal the Republicans have put forward today is not fair to working class, middle-class, people; it is not fair to seniors, and it is not fair to children, and I want to tell my colleagues why.

These tax cuts that the Republicans have proposed, they are for the wealthy, wealthy individuals and corporations. They are not helping the working middle-class person. The person who needs that child tax credit in many cases is not going to get it even though they are working, sometimes two parents working. The person who needs that college credit, either a tuition tax deduction or a hope scholarship program, that money is not going to be fulfilled. What the President promised is not in this. The Republicans have broken the deal, and they are not giving middle-class and working-class people that college tuition break that they were expecting as part of this deal.

And Medicare, Medicare for seniors, we were promised this was going to be solvent and we were going to work toward the solvency. They have put in, the Republicans, provisions that will break the Medicare Program.

The SPEAKER pro tempore. The gentleman from New York [Mr. SOLOMON] has 12 minutes remaining, and the gentleman from Massachusetts [Mr. MOAKLEY] has 24 remaining.

Mr. SOLOMON. Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, the gentleman from New York, Mr. SOLOMON's, speech was so soothing and charming, I did not realize he used all that time.

Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, today is the day when we begin the process where we rearrange the priorities of this Nation, where we rearrange the priorities of this Nation that for many years has taken care of the senior citizens of this country by providing them Medicare healthcare coverage for their elderly years, where we rearrange the priorities of this Nation where we have tried to make sure that children had coverage of health care, where we have tried to provide families the means by which they could pay for the college education of their children.

What we now see in the budget plan that we will debate this afternoon and in the tax bill that we will debate tomorrow is that all of those goals, all of those ideals of this Nation, are threatened because we have to have a tax bill that gives $27,000 in relief to people making more than $250,000 a year.

Twenty-seven thousand dollars in tax relief, which is more than many families make all year long, must go to the wealthiest 1 percent in this country, and how do we pay for it? We pay for it by reneging on the promise to provide health care coverage for children. In the Senate they now talk about making 8 million elderly people who are between the ages of 65 and 67 wait 2 more years before they would have Medicare coverage by increasing the cost of the Medicare to those individuals.

As my colleagues know, the interesting thing is that after the vote we took in 1993 where no Republicans voted for President Clinton's plan, we have dramatically reduced the deficit. The deficit is on its way to a balanced budget. If we did nothing, the budget would be balanced and we could take care of the problems in Medicare and Medicaid.

But the Republicans have chosen another path. They have chosen the path to try to again return to the days where corporations that make millions of dollars in profit every year, as they did before 1986, would pay no taxes. They want to return to the days where people who can clip coupons pay a 20 percent tax rate while hard-working Americans pay a 28 percent tax rate.

It is not fair, it is not equitable, and it is not right.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, the Federal budget should be a statement of our national values. How we spend the public's money should reflect what is important to us in our country, and surely we all agree that the health and well-being of our people should be a national priority. Indeed the American people continue to believe that access to quality health care should be a national priority.

Unfortunately, the reconciliation bill does not expand access to health insurance. Indeed, this bill makes access to health care more difficult. Why are we moving toward covering fewer people than more people?

Under this bill and actions taken by the Senate, an American baby born today would not have access to quality health care insurance until she is 67 years old. The bill before us today does not live up to the promise of expanding health care insurance to 5 billion of the 10 billion uninsured children in the United States. The way the Republicans have structured the bill, the child health block grant, there is no guarantee that even one additional child will have health insurance coverage.

The Medicaid cuts in this bill threaten children's hospitals and other safety net health care providers. Why would we target children's hospitals and county hospitals caring for the uninsured as a place to make an enormous spending cut to fund the tax breaks for the wealthy? Forcing public hospitals to close their doors will further reduce access to care, particularly for uninsured children. When we combine these changes with provisions in the bill to exempt even more health care plans from State consumer guidelines, we have a total package that weakens access to quality health care insurance for all Americans.

The American people do not again want us moving backward on access to health care.

Again, the Republican bill does not deliver on the promise of health insurance for uninsured children. Indeed, the Republican bill violates the goals of the budget agreement. On that basis alone we should reject the rule and kill the bill.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. LEVIN].

Mr. LEVIN. Mr. Speaker, we are going to debate the tax bill tomorrow, and we will show how their bill on the majority side would blow a hole in the budget, and we will show how they are using phony figures. But today we are debating the spending resolution.

I voted for the budget resolution. Trouble with this spending resolution is it violates the budget agreement, purely and simply. It does so on legal immigrants. It draws an irrational and inhumane line, contrary to what they agreed to. It also goes beyond the budget agreement, and it withdraws from people moving from welfare to work the protections of the Fair Labor Standards Act. All they put back is a minimum wage standard, but there is no Federal protection to be sure that that is paid, and they do not provide against sexual harassment and employment discrimination.

Mr. Speaker, second class citizenship is not the answer for people moving from welfare to work.

We ask the Committee on Rules to grant us amendments to cure these, they turned us down. We should turn down this budget resolution.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I might consume.

Mr. Speaker, I am somewhat confused. If my colleagues read this morning's paper or if they talk to those that attended a Democratic caucus, it is quite clear that the administration attended that Democratic caucus and is urging them to support this reconciliation bill that is before us today, that most of the problems that they had with, especially the OMB Director, Mr. Raines, had been worked out, there were some glitches, but they could be solved in conference.

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So I am really surprised to hear some of the statements being brought up here today.

Mr. BARTON of Texas. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Texas.

Mr. BARTON of Texas. Mr. Speaker, I thank the gentleman from New York [Mr. SOLOMON], chairman of the Committee on Rules, for yielding.

I think the chairman understands that a number of us, on a bipartisan basis for several years, have been trying to do something to put some enforcement mechanism into the existing Budget Acts that govern our Nation.

We have a piece of legislation, H.R. 2003, the bipartisan Budget Enforcement Act, that is pending before the Committee on Rules, the Committee on Ways and Means, and the Committee on the Budget. There have been a series of meetings and discussions this morning.

It is my understanding that as chairman of the Committee on Rules, the gentleman from New York [Mr. SOLOMON] has agreed to an expedited procedure whereas this piece of legislation, perhaps as amended, will be brought to the floor for an up or down vote no later than July 24.

Is that the understanding of the chairman of the Committee on Rules?

Mr. SOLOMON. Mr. Speaker, reclaiming my time, yes, it is my understanding, and that is an ad hoc agreement, which, after meeting with the gentleman from Texas [Mr. BARTON] and members of the gentleman's group, along with Members of the Republican leadership, we have agreed that the three committees of jurisdiction, the Committee on Rules, the Committee on Ways and Means, and the Committee on the Budget, would have an opportunity to look at the legislation.

Mr. BARTON of Texas. Mr. Speaker, the number is H.R. 2003, the bipartisan Budget Enforcement Act. The gentleman from Texas [Mr. STENHOLM] and the gentleman from Minnesota [Mr. MINGE] and the gentleman from Indiana [Mr. VISCLOSKY] and several others.

Mr. SOLOMON. Mr. Speaker, certainly the Committee on the Budget has agreed, and so has the Committee on Rules. Now the gentleman understands that the gentleman from Texas

[Mr. ARCHER], who has jurisdiction as well, will agree as long as he has time to consider in his committee.

I just want to make this understanding clear, that the agreement in no way prejudices the ability of the Committee on Rules and the Committee on the Budget who share jurisdiction over budget process to report a budget process reform bill on their own at a later time.

Mr. BARTON of Texas. Mr. Speaker, that is my understanding. This does not fence off any other legislation on the same subject, but it does commit the chairman of the Committee on Rules, the Speaker of the House, the majority leader, the majority whip, and the chairmen of the committees of jurisdiction to work in an expeditious fashion to bring this particular bill, perhaps as amended, to the floor, and perhaps at the same time other bills that deal with the same subject.

Mr. SOLOMON. Mr. Speaker, I think we are in full agreement. Let me just say to the gentleman I appreciate his understanding.

As the gentleman knows, on the Republican side there were some 31 Members that had concerns with both the tax bill and the spending cut bill. We had asked them not to come before us and ask for changes to be made because it would disrupt the agreement that we might have with the White House, and there were a number of Democrats on the other side of the aisle requesting the same thing. We did not allow them, as we did not allow the gentleman.

So the gentleman is being very reasonable and I appreciate it, and we are committed to bringing this to the floor by July 24.

Mr. BARTON of Texas. Mr. Speaker, I want to express my commitment to the chairman of the Committee on Rules that I will vote for this rule and I will encourage all of the Republican Members who I have been discussing this issue with to also vote for the rule, so that we can bring this reconciliation package to the floor.

Mr. SOLOMON. Mr. Speaker, I certainly thank the gentleman for being so reasonable.

Mr. CASTLE. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Delaware.

Mr. CASTLE. Mr. Speaker, I would just like to say that the leadership of the Republican Party in total was involved in this. I think that is very important to understand. They were very accommodating.

It has always been agreed that if this were able to be passed on the floor of the House of Representatives, and by the way, there is no commitment to actually support this bill from any of the leadership, but if it did pass, it would become part of the House conference package in terms of dealing with the reconciliation bill with the Senate which I think is important as well.

Mr. WAMP. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Tennessee.

Mr. WAMP. Mr. Speaker, I commend all that have been involved in a very bipartisan way, and just for the people whom I think we so adequately represent here in this body across the country that are wondering maybe what this is all about, this is a group of a few Members on both sides of the aisle that have gotten together and said that the discipline needs to be integrated into this budget agreement. There is a panacea out there that this is a great thing, and I think it has the potential of being a great thing if we follow through on it, and if we do not allow certain predictions that are part of our assessment today that might not come true to blow the thing apart later on. That is what this is about, enforcement provisions.

Frankly, neither party has an exclusive on ideas or integrity, and much of this comes from the Blue Dog Coalition on the other side and very accurately, they have assessed that we need some discipline written into this agreement, and many on our side, led by the gentleman from Texas [Mr. BARTON] and the gentleman from Delaware [Mr. CASTLE] and myself, have agreed to this, and now our leadership is accommodating our request that we have an opportunity to bring to this floor the details of how we need to enforce this provision as we go forward.

I think that is important for the people to know, and people who have suspicion about this budget agreement can know that we are working to improve it before we finally report it out.

I thank the gentleman for yielding.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman for his comments.

Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume.

I would like to tell the gentleman from Texas [Mr. BARTON] that we thought his amendment was a great one and we brought it forward for a vote, but we were outvoted. We have another chance, because if we defeat the previous question, we are going to put the Barton amendment in. So the gentleman still has a chance to get his amendment passed.

Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. BENTSEN].

Mr. BENTSEN. Mr. Speaker, I voted for this budget agreement and a number of Members from 13 of the 50 States voted for this budget agreement, but I do not think they voted to agree that their States would be cut disproportionately under the Medicaid program, under the Disproportionate Share Program that is in this bill.

This bill before us today, the spending bill, will treat States like Texas, Colorado, Connecticut, Louisiana, Tennessee, that the gentleman just spoke from, and several others twice as badly as all the other States and 100 times as badly as some of the other States.

This bill says that those 13 States will have their disproportionate share of funding cut by 40 percent by the year 2002. That is not the budget agreement that this Member voted for and I do not see how any Member from any of those States could vote for this rule.

Now, if we defeat the previous question, included in the amendments that the gentleman from Massachusetts intends to offer is to correct this. We are not talking about dollars, we are talking about equity among the States.

Mr. SOLOMON. Mr. Speaker, I yield 2½ minutes to the gentleman from Ohio [Mr. KASICH], the distinguished chairman of the Committee on the Budget.

Mr. KASICH. Mr. Speaker, let me just suggest that everybody in the House is concerned about the formula whereby we help those hospitals that have a disproportionate share of poor people who they attend to. It is interesting to note that Texas is one of the largest recipients of DSH money and they have a concern about how this agreement is going to affect them, based on the formula that distributes this money.

I have a concern about it not only as it applies to the State of Texas, but to the State of Ohio, to the State of New Jersey and the State of New York and every State in the country. Writing a formula that affects the DSH payments, the disproportionate share of payments, is going to be like, well, it will be a rougher fight than Tyson-Holyfield this weekend.

The fact is that in the conference committee we are going to have to create a new formula. We cannot write a formula on the House floor. We should not even try to write a formula on the House floor. We should not want to write a formula on the House floor.

What we should do, if I could be so presumptuous to give this advice, is to indicate the fact that we do not have it right yet and that we should go to the conference committee and we ought to get it right, as right as we can. I can promise my colleagues, it is just like reform of the IRS or the tax system, at the end of the day, nobody is going to be happy with the way we pay taxes, and at the end of the day, no one is going to be happy with the way in which we distribute money to help hospitals pay for the poor. But what we do intend to do is to get it as right as human beings can, representing 50 States around the country.

So the point is, I feel your pain when it comes to my colleagues' concern about DSH payments. So the fact is, let us not try to say that we are trying to shut somebody off or having a formula debate on the House floor. We cannot fix it here. It would not be right to fix it here. We would not get it right here and we would end up hurting poor people in the final analysis.

So let us just stay cool, let us adopt the rule, let us make an effort to get the formula fixed in conference, and I am willing to work with all of the Members of the House to participate to come up with something that is as fair and equitable as we can among the 50 States.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from Indiana [Mr. VISCLOSKY].

Mr. VISCLOSKY. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise today in strong opposition to the rule because it does not make in order an important bipartisan enforcement amendment proposed by our colleagues, the gentleman from Texas [Mr. BARTON] and the gentleman from Minnesota [Mr. MINGE]. The Barton-Minge takes a common sense approach to enforcing the budget reconciliation bill. It acknowledges that our best hope of actually balancing the budget is to put every section of the budget on the table, including entitlements and revenues, and that we must hold the President and the Congress accountable.

Enforcement is important. The lessons of previous budget resolutions is that agreeing to a balanced budget does not guarantee it will be. No fewer than four times over the last 15 years Congress and Presidents have approved budget-balancing amendments, but they have not led to a balanced budget because they were not enforceable.

We have been told repeatedly that enforcement mechanisms should be addressed. We have been told by the Committee on the Budget, enforcement should be addressed. We have been told by the Committee on Rules, enforcement should be addressed. It has not been addressed in this rule.

Mr. Speaker, I rise today in strong opposition to the rule because it does not make in order an important bipartisan enforcement amendment proposed by our colleagues, Mr. BARTON and Mr. MINGE.

The Barton-Minge amendment takes a common sense approach to enforcing the budget reconciliation bill. It acknowledges that our best hope of actually balancing the budget is to put every section of the budget on the table—including entitlements and revenues—and that we must hold the President and the Congress accountable if we do not live up to the budget targets agreed to earlier this month.

While I voted for the budget resolution earlier this month, I did so with serious reservations. One of my most serious concerns is the lack of meaningful enforcement procedures to ensure that the budget is balanced as projected by the year 2002.

The lesson of previous budget resolutions is that agreeing to balance the budget does not guarantee that the budget will actually be balanced. No fewer than four times over the past 15 years Congress has approved budget agreements that were supposed to get us to a balanced budget, but failed to actually do so.

For example, in 1982, the budget resolution called for a balanced budget in 1984. Yet, the budget was not balanced by that date. In 1985, under Gramm-Rudman I, we were told that the budget would be balanced in 1991. It was not.

In 1987, under Gramm-Rudman II, we were told that the budget would be balanced in 1993, but it was not. In 1990, under the Budget Enforcement Act, we were told that, finally, the budget would be balanced in 1994. Again, it was not.

The common thread in these failed attempts to balance the budget was the lack of a meaningful enforcement mechanism.

I would also like to point out that enforcement is not a new or transitory issue. In the last two Congresses I sponsored important legislation designed to bring strong enforcement procedures to the budget process. This legislation, the Balanced Budget Enforcement Act, was originally introduced by then-chairman of the Budget Committee Leon Panetta and, after that, our former colleague from Minnesota, Tim Penny.

I have appeared before both the Rules Committee and the Budget Committee asking that comprehensive enforcement mechanisms be included in the budget process. So far, however, no action has been taken by either committee.

Leading up to consideration of the budget reconciliation bill, we were told that enforcement would be addressed as part of the legislation. Unfortunately, however, the Rules Committee did not make the Barton-Minge enforcement amendment in order, and we again find ourselves with a major budget bill that contains no serious enforcement language.

Mr. Speaker, I am extremely disappointed that this rule does not make language on enforcement in order, and I urge my colleagues to oppose it.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. DOGGETT].

Mr. DOGGETT. Mr. Speaker, for those of us who are truly committed to achieving a balanced budget that will remain balanced, this first effort to implement the balanced budget agreement represents a true setback. They call this bill that we have under consideration today the reconciliation bill. Really, it is the wreckonciliation because it wrecks this budget agreement, and the first area in which it wrecks the budget agreement is by not having an adequate enforcement provision.

Mr. Speaker, there is nothing new about promising a balanced budget in Washington. It is the guarantee of a balanced budget that really has some meaning, and around here a promise never seems to be a guarantee. We do not need more promises of a balanced budget, we need a guarantee, and we need it in this proposal. Rather than wrecking the budget agreement, we ought to be guaranteeing a truly balanced budget.

What does this reconciliation bill say to the young American family that is out there struggling to make ends meet? Well, if we listen to the Republicans here in Washington, it says to that young American family, when you reach age 65, do not count on having any health protection because your Medicare coverage will not be there. We are going to escalate the age to 67 before you ever get Medicare coverage.

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What does it say to the children of that working American family, not people on welfare, but where perhaps both parents are struggling to climb up that economic ladder? It says no health insurance.

Surely this must be the only modern industrialized country in the world where we have 10 million children who have no health insurance, and no hope from this reconciliation bill that it is going to get any better, from zero to age 67. No guarantee, is the goal of this Republican Congress for health insurance coverage.

It is time not to wreck the budget agreement, deny enforcement provisions, and deny the guarantee of health insurance that so many people need in their youngest age and in the oldest age. Vote "no" on this rule.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Speaker, I rise in strong opposition to this rule, because here we go again. Passage of a reconciliation bill that is projected to balance the budget by the year 2002 does not guarantee the budget will actually be balanced. Americans are tired of Congress and the President making unfulfilled promises about balancing our budget.

Mr. Speaker, I appreciate the work the gentleman from Texas [Mr. BARTON], the gentleman from Delaware [Mr. CASTLE], and the gentleman from Tennessee [Mr. WAMP] have done, but I am a great believer that a bird in the hand is worth two in the bush. Today is the time for us to deal with enforcement. I was sincerely disappointed that the Committee on Rules chose to report a rule that would not allow the House to consider the Barton-Minge balanced budget agreement.

Our only request of the Committee on Rules is that we be given a fair shot to offer our proposal for an up or down vote. Members from the left and right oppose our amendment. Why not let it be considered at the appropriate time, when we have the best chance of getting it done?

Whether Members support the balanced budget agreement and the reconciliation bill, which I do, I strongly encourage all Members who are committed to achieving a balanced budget to vote against the rule. If we do not deal with the matter today, it will not be dealt with.

Mr. Speaker, I rise in strong opposition to this rule. I do so as one who supports the bipartisan budget agreement because this rule prevents consideration of an amendment that would ensure that this budget agreement lives up to all the promises being made by those of us who support the agreement. Joe Barton and David Minge submitted an amendment on behalf of a bipartisan group of more than two dozen members who believe that this budget agreement must include strong budget enforcement procedures to make this a credible balanced budget plan. Unfortunately, this rule does not make the Barton-Minge amendment in order.

While passage of a reconciliation bill that is projected to achieve balance by 2002 is a significant accomplishment, I would remind my colleagues that history has taught us that passage of a reconciliation bill that is projected to balance the budget by 2002 does not guarantee that the budget will actually be balanced in 2002. We need only look to the experience of the 1990 budget summit to be reminded how quickly a balanced budget plan can fall off course. Americans are tired of unfulfilled promises about balancing our budget. The Barton-Minge amendment will prevent this budget from repeating the failed promises of past balanced budget plans by putting teeth in the budget agreement.

The Barton-Minge enforcement amendment would establish a comprehensive enforcement mechanism that would require Congress and the President to ensure that actual spending and revenues over the next 5 years meet the goals of the budget agreement. It would enforce all portions of the budget—spending and revenues—without exceptions to ensure that everyone has a stake in keeping the budget on a path to balance. Critics who complain about the harmful effects of triggering sequestration or delaying the phase-in of tax cuts are missing the point. The goal of any enforcement mechanism is to establish a hammer with severe consequences to give Congress and the President the incentive to take action immediately when the budget falls off the glidepath to balance to avoid triggering enforcement.

The Barton-Minge amendment has bipartisan support because enforcement would be targeted to the portion of the budget that causes a problem. Spending programs that grow faster than this budget assumes would be sequestered; the phase-in of tax cuts would be delayed if revenues are lower than assumed under this budget. Tax cuts will not be affected because spending grows too fast; and spending will not be cut if taxes are below projections.

I was sincerely disappointed that the Rules Committee chose to report a rule that would not allow the House to consider the Barton-Minge balanced budget enforcement amendment. Our only request was that we be given a fair shot to offer our proposal for an up or down vote. I understand that many committee chairman oppose this effort to enforce the budget agreement and that Members from the left and right have concerns that our amendment is too strong and would vote against it. I welcome the opportunity to respond to these criticisms and debate the issue on the merits. Unfortunately, this rule prevents us from having that debate.

Whether or not you support the budget agreement and the reconciliation bill that the House will consider today, I strongly encourage all Members who are committed to actually achieving a balanced budget to vote against this rule so that the House may consider legislation that makes this balanced budget plan meaningful.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from Tennessee [Mr. TANNER].

Mr. TANNER. Mr. Speaker, I want to second what the gentleman from Texas [Mr. STENHOLM] and the gentleman from Indiana [Mr. VISCLOSKY] said. I am not interested in being a party to a balanced budget agreement that does not translate itself from an idea to a reality.

There have been well-intentioned people in this town since 1980 who have tried mightily to balance the budget. This enforcement mechanism that was denied a vote on by this body, by the Committee on Rules, itself I think warrants a "no" vote, because, Mr. Speaker, this is the mechanism that translates the idea of a balanced budget, which most of us embrace, to actual reality. Without it, we are, I think, going down the same path as those that were here before us. We cannot afford that path again.

We are spending over $250 billion a year in interest now. The future is bleak, indeed, for the young people if we do not put an enforcement mechanism in this agreement. I wish we would vote "no" on the rule.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. TURNER].

Mr. TURNER. Mr. Speaker, I rise in opposition to the rule for the reason that the committee failed to acknowledge the importance of including enforcement language in this budget reconciliation bill. The truth of the matter is that the American people believe that when we, in great fanfare, just a few weeks ago announced a balanced budget agreement, they believe the balanced budget agreement is something that has meaning to it, not an empty promise.

I think we in this Congress all need to tell the American people that a budget agreement resolution is no more than a New Year's resolution, and it is no more than a promise that can be broken without effective enforcement language put into the law.

The bipartisan Barton-Minge budget enforcement amendment needs to be in the budget reconciliation bill that this Congress will adopt. A promise to consider it later is not enough. The American people expect and deserve that we in the Congress will keep our promises for a balanced budget by 2002.

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. ENGLISH].

Mr. ENGLISH of Pennsylvania. Mr. Speaker, I rise in support of the rule.

Mr. Speaker, I rise in strong support of several reconciliation changes contained in the proposed manager's amendment that will be self-executed in this rule.

The amendment contains an additional $1 billion in relief for low-income seniors from the cost of their part B Medicare premiums. This change will further strengthen our bipartisan plan to save Medicare.

the amendment also provides credible protections for participants in workfare programs. Specifically, it would strengthen minimum wage requirements, clarify the 40-hour work week, and adopt strong nondiscrimination provisions relating to age, race, gender, and disability. It also protects other workers with strong nondisplacement language.

The amendment contains other improvements, especially its designation of $100 million to empower states and extend Medicaid benefits for children affected by Social Security eligibility changes. This is a useful and balanced amendment, and I urge adoption of the rule.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Mississippi [Mr. TAYLOR].

Mr. TAYLOR of Mississippi. Mr. Speaker, I urge a no vote on the rule. There is a crisis of faith in this country. People every 2 years run for office and ask for the privilege to serve in Congress. They say they are going to do things, and when the time comes to do those things, they find a reason to see to it that they do not. All across the country people ran for Congress and said, we are going to restore the promise of lifetime health benefits to those people who served in our military honorably for 20, 25, 30 or more years.

There are 181 people who cosponsored a bill to do just that, including the chairman of the Committee on Rules: the gentlewoman from Ohio [Ms. PRYCE], the gentleman from Georgia [Mr. LINDER], the gentleman from Florida [Mr. DIAZ-BALART], the gentleman from Colorado [Mr. MCINNIS], and the gentleman from Washington [Mr. HASTINGS]. Yet, yesterday when the opportunity came before them to bring this measure to the House floor so we could restore that, so we could give the only people in America who were promised free health care for life, to fulfill that promise for them, those people voted against it.

They will not give the majority the chance to vote for it, to take care of our military retirees, the same people who went to Korea, the people who went to Vietnam, the people who went to the desert, the people who are in Colombia today. They said, these people do not count.

We ought to defeat this rule. We ought to vote "no" on the previous question, and we ought to allow the Hefley bill, which is cosponsored by 181 Members of Congress, to fulfill the promise of lifetime health care to our military retirees, to be voted on up-or-down, so we can see whether those people who went back home and said they were for our military retirees really are, or whether it was just another empty promise.

Mr. Speaker, there is a crisis of faith in this country because people are not doing what they said they would do. We have a chance to correct that today, we really do.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentlewoman from California [Mrs. TAUSCHER].

Mrs. TAUSCHER. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in strong opposition to the rule. I object to the decision by the Committee on Rules to refuse to allow the Barton-Minge amendment, of which I am an original cosponsor, which would add strong budget enforcement language to the legislation. While I strongly support this historic budget agreement, I am concerned that without proper enforcement mechanisms, spending will run out of control and tax cuts will balloon, thereby voiding the balanced budget agreement.

A bipartisan group of Members has developed a proposed amendment to ensure that, when actual spending exceeds spending targets, Congress would have to take action by December 15 or automatic cuts would go into effect. Similarly, if revenues failed to meet the expected level, any phase-in of tax cuts would be delayed.

There have been numerous attempts to instill fiscal responsibility in the budget process, but those attempts have failed because they were unenforceable. Let us not allow this agreement to fall prey to the same shortcomings. I urge my colleagues to defeat the rule.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey [Mr. ANDREWS].

Mr. ANDREWS. Mr. Speaker, I thank the ranking member for yielding time to me.

Mr. Speaker, I rise in opposition to the rule. I would say that there is no higher purpose for those who have been called to this House than to stop the practice of borrowing money to run the U.S. Government and sending the bill to our children.

I do not doubt for one minute the good intentions of those who put this budget agreement together, but I sure do doubt what might happen as a result of those intentions if we do not have the enforcement language of the Barton-Minge amendment.

Here is what it says without it. If Congress spends more than we planned under this agreement, do Members know what happens? Nothing. If the Tax Code does not bring in as much money as we thought it would because of the tax cut, do Members know what happens? Nothing. Without this amendment the deficit will rise, the balanced budget will be in jeopardy, and we will continue the practice we all came here to stop.

I urge my colleagues to oppose this rule, and when we get a chance vote for the Barton-Minge amendment when it comes to the floor.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from Ohio [Mr. BROWN].

Mr. BROWN of Ohio. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in opposition to the rule. As the ranking member on the Subcommittee on Health and the Environment of the Committee on Commerce, I, with my Democratic colleagues, offered several amendments to improve the Medicare-Medicaid and children's health care expansion provisions in the Budget Reconciliation Act.

Most important, perhaps, of these would have reduced the number of Medicare MSA policies which could be issued from 500,000 to 100,000, thus saving approximately $1 billion over 5 years. These savings would be used to cover the copay for beneficiaries who will be covered for annual mammographies, bone mass testing, colorectal and prostate cancer screening, and a portion of the cost of test strips for diabetes under Medicare.

Last week a similar bipartisan amendment was offered and passed bipartisanly in the Senate Finance Committee which would scale back the demonstration project to 100,000 policies. Unfortunately, Republicans on the Committee on Rules neglected to allow us to offer this amendment, even though we only lost it in committee by one vote. It was part of the budget agreement originally. It makes sense, Mr. Speaker.

I urge my colleagues to oppose the rule when it comes before the House.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from Louisiana [Mr. JOHN].

Mr. JOHN. Mr. Speaker, I thank the gentleman from Massachusetts for yielding time to me.

Mr. Speaker, I rise in strong opposition to the rule. What are we afraid of? Are we afraid of keeping our promises? That is what we are talking about. We are talking about enforcing a balanced budget agreement that only 2 weeks ago everybody was praising. Everybody was talking about how great it is. But it is only worth the paper it is written on without some kind of enforcement.

What are the opponents of enforcement scared of? They are scared of keeping our promises? I would hope not. I would hope that the American people will support us in putting enforcement in a budget that could explode if we are off on some of our economic figures.

Mr. SOLOMON. Mr. Speaker, I yield 30 seconds to the distinguished gentleman from Texas [Mr. BARTON].

Mr. BARTON of Texas. Mr. Speaker, I strongly appreciate the support that the Barton-Minge amendment has on both sides of the House, and I want to point out that under the colloquy agreement, we will get that vote on enforcement no later than July 24. If we win on the floor, it will be in the reconciliation package in the conference. So I would hope we would vote for the rule.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I cannot believe the gentleman from Texas would not vote against the previous question so he can get immediate recognition of this provision.

Mr. Speaker, I yield 1 minute to the gentleman from Georgia [Mr. LEWIS], the minority whip.

Mr. LEWIS of Georgia. Mr. Speaker, I rise to urge my colleagues to defeat this rule. This bill that the Republicans are bringing to this floor breaks the budget deal the Republicans made with the President. On issue after issue this bill is in violation of the budget agreement.

Mr. Speaker, how can the President negotiate if they will not deal in good faith, if they will not keep their word? On children's health care, this bill breaks the deal. On protecting disabled legal immigrants, the bill breaks the deal. On providing worker protection for people moving from welfare to work, this bill is not in keeping with the spirit of the deal.

Mr. Speaker, this bill violates both the spirit and the letter of a balanced budget agreement. Defeat the rule, defeat the bill. It is not the deal made with the President. It is not the deal made with the American people.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. BOYD].

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Mr. BOYD. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I am a strong supporter of tax relief for American families that is fair and fiscally responsible. I am a strong supporter of the balanced budget agreement. I voted for that. I rise today in opposition to this rule because this bill that we are addressing today does not meet the criteria that is necessary to see that we have both of those things.

I am deeply concerned that this reconciliation bill, as it is written without very important necessary enforcement language, that is, the Barton-Minge language that should have been included, will blow a hole in the deficit past the year 2002. Look back at history and exactly what happened with the other balanced budget plans that this U.S. Congress passed in the past.

We worked too hard to get this far. We have a unique opportunity to get this budget balanced and establish an economic policy that will guarantee long-term balance for the U.S. Government.

The tax cuts that we have in here, especially indexing of capital gains and the very long 10-year phase-in of estate taxes, is bad. I implore Members to vote against the rule.

Mr. MOAKLEY. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I urge Members to defeat the previous question. If that previous question is defeated, I will offer an amendment to the rule which will make in order 22 amendments, including the amendment by the gentlewomen from Florida, Mrs. MEEK and Ms. ROS-LEHTINEN that would preserve Social Security and Medicaid payments for elderly or disabled legal immigrants as amended by the gentleman from Mississippi, Mr. TAYLOR, which gives guaranteed health coverage to military retirees when they become Medicare eligible, an amendment by the gentleman from Texas, Mr. BARTON, and the gentleman from Minnesota, Mr. MINGE, which incorporates budget targets into the law and holds the President and the Congress accountable if the actual budget outcomes do not meet the budget agreement goals.

Mr. Speaker, these are all very important amendments and the House should have an opportunity to consider them. I urge no on the previous question and defeat the rule.

The SPEAKER pro tempore (Mr. COMBEST). The gentleman from Massachusetts [Mr. MOAKLEY] has 3 minutes remaining.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the very distinguished gentlewoman from Columbus, OH [Ms. PRYCE], a member of the Committee on Rules.

Ms. PRYCE of Ohio. Mr. Speaker, I thank the distinguished chairman of the Committee on Rules for yielding me the time.

I rise in strong support of this rule and the reconciliation package and I am very encouraged by the compromise to address the enforcement issue.

Mr. Speaker, even without that in this bill, boy, have we come a long way. Mr. Speaker, the growth in the 1980's showed us what can happen when we give the American people the tools that they need to grow and prosper. The same is true today. Government does not create new jobs. Government does not build stable families. Our challenge is to restore growth and opportunity and to sustain it for future generations. This reconciliation package holds the beginning of an answer to that challenge. Nobody calls it perfect, but it is a start and it is sure about time.

It combines budget restraint with progrowth tax policy. By preserving and strengthening Medicare, it honors our commitment to older Americans. By including a child tax credit and new savings incentives it will help families to keep more of their hard-earned money to spend on things they need most of their lives.

This package is an honest bipartisan attempt to help those who will create tomorrow's growth and prosperity, the earners, the savers, the taxpayers who work hard; those people that get up earlier, stay at the office a little later, the ones that play by the rules, take a few risks and strive to build a better future for their families and communities.

Mr. Speaker, after years of unbalanced budgets, deficit spending and high taxes, the chance to begin restoring the American dream is finally within our grasp. Let us seize it. Let us not miss this historic opportunity to give our children and grandchildren the bright economic future they deserve. I urge my colleagues to support this fair, this balanced rule and to vote for this reconciliation package.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute and 10 seconds to the gentleman from Oklahoma [Mr. COBURN].

Mr. COBURN. Mr. Speaker, I thank the gentleman from Massachusetts for yielding me this time.

I think it is important for people in this country to know what this rule does. If you are poor and you are on Medicaid, this bill takes away the right of your physician to determine when you should be discharged from the hospital. We put that in in committee. We did that on purpose, because you have a right to have quality care and the profits of a health insurance industry should not come above that. This rule does not take it out of Medicare. We put it in Medicare, too.

But AARP is such a strong force that we did not have the courage to take it out in the Medicare portion of this bill. So if you are poor, you are blown away. If you are protected by Medicare, you are protected for right now. When it gets to conference, your ability to have quality medical care determining your discharge based on what is best for your health is going to be eliminated in conference. That is the plan.

So, America, wake up; this bill determines your health care and your quality not by your physician but by the insurance company that is running the managed care program.

I thank the gentleman very much for yielding me the time.

Mr. MOAKLEY. Mr. Speaker, will the gentleman yield?

Mr. COBURN. I yield to the gentleman from Massachusetts.

Mr. MOAKLEY. Mr. Speaker, is the gentleman opposed to the rule?

Mr. COBURN. Mr. Speaker, I am not voting for this rule.

Mr. MOAKLEY. Mr. Speaker, I thank the gentleman.

Mr. Speaker, I yield the balance of my time to the gentlewoman from Connecticut [Ms. DELAURO].

The SPEAKER pro tempore. The gentlewoman from Connecticut [Ms. DELAURO] is recognized for 2 minutes.

Ms. DELAURO. Mr. Speaker, I rise today to urge my colleagues to vote against this rule. This bill breaks the balanced budget agreement and it hurts average middle-class families in this country. I voted for the balanced budget agreement. This is not the bill that I voted for. I did not vote for a bill that hurts the middle class by denying working families help in providing health coverage for their kids. I did not vote for a bill that refuses to provide important basic worker protections in this country, protections like family and medical leave and protection against sexual harassment. I did not vote for a bill that hurts children's hospitals in my State. I did not vote for a bill that infringes on a woman's right to choose and I did not vote for a bill that does not promise to protect legal immigrants in this country.

Today's Republican bill violates the budget agreement that was so carefully put together and so hard that we worked on. And it shortchanges middle-class American families so that tomorrow's Republican tax cut bill will be able to provide the richest 5 percent of Americans in this country with the biggest tax cuts in the bill. It is wrong. Working families are scrambling every single day, every day to pay their bills, to be able to send their kids to school, to protect themselves for a secure retirement and be able to have affordable health care coverage. The bill that we will vote for today will deny those protections to people. We should vote against this rule and tomorrow we should vote against the Republican tax cut bill. I urge a "no" vote on the rule.

Mr. MOAKLEY. Mr. Speaker, I include the following information for the RECORD:

TEXT OF PREVIOUS QUESTION AMENDMENT TO H. RES. 174, FY 98 BUDGET RECONCILIATION AND TAX BILLS

At the end of the resolution add the following new section:

"Section 3. Notwithstanding any other provision of this resolution, it shall be in order without intervention of any point of order to consider the following amendments:

The amendment offered by Representative Ros-Lehtinen and Representative Meek or their designee.

The amendment offered by Representative Brown of Ohio or his designee.

The amendment offered by Representative Brown of Ohio or his designee.

The amendment offered by Representative Brown of Ohio or his designee.

The amendment offered by Representative Gekas and Representative Frost or their designee.

The amendment offered by Representative Barton and Representative Minge, or their designee.

The amendment offered by Representative Taylor of Mississippi or his designee.

The amendment offered by Representative Kennedy of Massachusetts or his designee.

The amendment offered by Representative McDermott and Representative Matsui or their designee.

The amendment offered by Representative McDermott or his designee.

The amendment offered by Representative Hinchey or his designee.

The amendment offered by Representative Peterson of Minnesota or his designee.

The amendment offered by Representative Nadler or his designee.

The amendment offered by Representative Nadler, Representative Maloney, and Representative Schumer or their designee.

The amendment offered by Representative Levin or his designee.

The amendment offered by Representative Levin or his designee.

The amendment offered by Representative Levin or his designee.

The amendment offered by Representative Conyers or his designee.

The amendment offered by Representative Conyers or his designee.

The amendment offered by Representative Roukema and Representative Pomeroy or their designee.

The amendment offered by Representative Pallone or his designee.

The amendment offered by Representative Davis and Representative Norton or their designee.

The amendment offered by Representative Berman or his designee.

The amendment offered by Representative Thurman or his designee.

The amendment offered by Representative Becerra or his designee.

The amendment offered by Representative Eshoo and Representative Pallone or their designee.

The amendment offered by Representative Bentsen or his designee.

AMENDMENTS TO H.R. 2014: BUDGET RECONCILIATION TAX ACT

AMENDMENT RELATING TO TAX RECONCILIATION PROVISIONS OFFERED BY MR. MCDERMOTT OF WASHINGTON

Add at the end of subtitle F of title IX the following new section:

SEC. 967. INCREASE OF STANDARD DEDUCTION FOR JOINT RETURNS TO END MARRIAGE PENALTY.

(a) IN GENERAL.—Paragraph (2) of section 63(c) (relating to basic standard deduction) is amended to read as follows:

"(2) BASIC STANDARD DEDUCTION.—For purposes of paragraph (1), the basic standard deduction is—

"(A) $8,500 in the case of—

"(i) a joint return, or

"(ii) a surviving spouse (as defined in section 2(a)),

"(B) $6,250 in the case of a head of household (as defined in section 2(b)),

"(C) $4,250 in the case of an individual who is not married and who is not a surviving spouse or head of household, or

"(D) $4,250 in the case of a married individual filing a separate return."

(b) PHASEIN OF INCREASE.—Section 63(c) is amended by adding at the end the following new paragraph:

"(7) 10-YEAR PHASEIN OF INCREASE IN STANDARD DEDUCTION FOR JOINT RETURNS.—

"(A) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 1997 and before 2007, the basic standard deduction under paragraph (2)(A) (determined after the application of paragraph (4)) shall not exceed the sum of—

"(i) the base amount, and

"(ii) the applicable percentage of the excess of—

"(I) twice the amount in effect under paragraph (2)(C) (determined after the application of paragraph (4)), over

"(II) the base amount.

"(B) APPLICABLE PERCENTAGE.—For purposes of this paragraph, the term 'applicable percentage' means the percentage determined under the following table:

"For taxable years beginning in calendar year—	The applicable percentage is—
1998	10
1999	20
2000	30
2001	40
2002	50
2003	60
2004	70
2005	80
2006	90."

"(C) BASE AMOUNT.—For purposes of this paragraph, the term 'base amount' means, for any taxable year, the amount which would apply for such year under paragraph (2)(A), as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1997 (determined after the application of paragraph (4), as so in effect).

"(D) STANDARD DEDUCTION FOR MARRIED INDIVIDUALS FILING SEPARATELY.—In the case of any taxable year beginning in a calendar year after 1997 and before 2007, the basic standard deduction under paragraph (2)(D) (determined after the application of paragraph (4)) shall not exceed one-half of the amount in effect under paragraph (2)(A) for such taxable year (determined after the application of this paragraph and paragraph (4))."

(b) INFLATION ADJUSTMENT.—Paragraph (4) of section 63(c) is amended to read as follows:

"(4) ADJUSTMENTS FOR INFLATION.—

"(A) ADJUSTMENT OF BASIC STANDARD DEDUCTION.—In the case of any taxable year beginning in a calendar year after 1998, each dollar amount contained in paragraph (2) shall be increased by an amount equal to—

"(i) such dollar amount, multiplied by

"(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins by substituting 'calendar year 1997' for 'calendar year 1992' in subparagraph (B) thereof.

"(B) ADJUSTMENT OF OTHER AMOUNTS.—In the case of any taxable year beginning in a calendar year after 1988, each dollar amount contained in paragraph (5)(A) or subsection (f) shall be increased by an amount equal to—

"(i) such dollar amount, multiplied by

"(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins by substituting 'calendar year 1987' for 'calendar year 1992' in subparagraph (B) thereof."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

Strike section 312, part II of subtitle B of title III, and sections 403 and 1102 of the bill.

AMENDMENT TO H.R. , AS REPORTED OFFERED BY MR. HINCHEY OF NEW YORK

Strike section 403 (relating to repeal of adjustment for depreciation under alternative minimum tax).

Strike section 202(C) (relating to repeal of tax exemption for remitted tuition provided to children of university faculty and staff).

Strike section 1055 (relating to repeal of tax exemption for pensions provided by Teachers Insurance and Annuity Association College Retirement Equity Fund).

AMENDMENT TO THE RECONCILIATION PROVISIONS

REPORTED BY THE COMMITTEE ON WAYS AND MEANS

OFFERED BY MR. PETERSON OF MINNESOTA

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Revenue Reconciliation Act of 1997".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—

Sec. 1. Short title; amendment of 1986 Code.

TITLE I—REDUCTION IN CAPITAL GAINS TAX FOR NONCORPORATE TAXPAYERS

Sec. 101. Reduction in capital gains tax for noncorporate taxpayers.

Sec. 102. One-time exclusion of gain on sale of principal residence increased and allowable without regard to age of taxpayer.

TITLE II—INCREASE IN UNIFIED ESTATE AND GIFT TAX CREDIT

Sec. 201. Increase in unified estate and gift tax credit.

Sec. 202. Family-owned business exclusion.

TITLE III—CHILD TAX CREDIT

Sec. 301. Child tax credit.

TITLE IV—INCENTIVES FOR HIGHER EDUCATION

Sec. 401. Credit for higher education expenses.

Sec. 402. Deduction for higher education expenses.

TITLE V—EXTENSION AND MODIFICATION OF AIRPORT AND AIRWAY TRUST FUND TAXES

Sec. 501. Extension and modification of Airport and Airway Trust Fund taxes.

TITLE VI—ENFORCING REVENUE TARGETS

Sec. 601. Estimates of necessity to suspend revenue reductions.

Sec. 602. Suspension of child tax credit and increases in unified estate and gift tax credit if revenue targets not met.

TITLE I—REDUCTION IN CAPITAL GAINS TAX FOR NONCORPORATE TAXPAYERS

SEC. 101. REDUCTION IN CAPITAL GAINS TAX FOR NONCORPORATE TAXPAYERS.

(a) GENERAL RULE.—Part I of subchapter P of chapter 1 (relating to treatment of capital gains) is amended by adding at the end thereof the following new section:

"SEC. 1203. REDUCTION IN CAPITAL GAINS TAX FOR NONCORPORATE TAXPAYERS.

"(a) IN GENERAL.—If a taxpayer other than a corporation has a net capital gain for any taxable year, there shall be allowed as a deduction an amount equal to the sum of—

"(1) 50 percent of the qualified 5-year capital gain,

"(2) 40 percent of the qualified 4-year capital gain,

"(3) 30 percent of the qualified 3-year capital gain,

"(4) 20 percent of the qualified 2-year capital gain, plus

"(5) 10 percent of the net capital gain, reduced by the sum of the amounts taken into account under the preceding paragraphs.

"(b) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED 5-YEAR CAPITAL GAIN.—The term 'qualified 5-year capital gain' means the lesser of—

"(A) the amount of long-term capital gain which would be computed for the taxable year if only gain from the sale or exchange of property held by the taxpayer for more than 5 years were taken into account, or

"(B) the net capital gain.

"(2) QUALIFIED 4-YEAR CAPITAL GAIN.—The term 'qualified 4-year capital gain' means the lesser of—

"(A) the amount of long-term capital gain which would be computed for the taxable year if only gain from the sale or exchange of property held by the taxpayer for more than 4 years but not more than 5 years were taken into account, or

"(B) the net capital gain reduced by the qualified 5-year capital gain.

"(3) QUALIFIED 3-YEAR CAPITAL GAIN.—The term 'qualified 3-year capital gain' means the lesser of—

"(A) the amount of long-term capital gain which would be computed for the taxable year if only gain from the sale or exchange of property held by the taxpayer for more than 3 years but not more than 4 years were taken into account, or

"(B) the net capital gain reduced by the qualified 5-year capital gain and the qualified 4-year gain.

"(4) QUALIFIED 2-YEAR CAPITAL GAIN.—The term 'qualified 2-year capital gain' means the lesser of—

"(A) the amount of long-term capital gain which would be computed for the taxable year if only gain from the sale or exchange of property held by the taxpayer for more than 2 years but not more than 3 years were taken into account, or

"(B) the net capital gain reduced by the qualified 5-year capital gain, the qualified 4-year capital gain, and the qualified 3-year capital gain.

"(c) ESTATES AND TRUSTS.—In the case of an estate or trust, the deduction under this section shall be computed by excluding the portion (if any) of the gains for the taxable year from sales or exchanges of capital assets which, under sections 652 and 662 (relating to inclusions of amounts in gross income of beneficiaries of trusts), is includible by the income beneficiaries as gain derived from the sale or exchange of capital assets.

"(d) SPECIAL RULES FOR COLLECTIBLES.—

"(1) IN GENERAL.—Solely for purposes of this section, any gain or loss from the sale or exchange of a collectible shall be treated as a short-term capital gain or loss (as the case may be), without regard to the period such asset was held. The preceding sentence shall apply only to the extent the gain or loss is taken into account in computing taxable income.

"(2) TREATMENT OF CERTAIN SALES OF INTEREST IN PARTNERSHIP, ETC.—For purposes of paragraph (1), any gain from the sale or exchange of an interest in a partnership, S corporation, or trust which is attributable to unrealized appreciation in the value of collectibles held by such entity shall be treated as gain from the sale or exchange of a collectible. Rules similar to the rules of section 751(f) shall apply for purposes of the preceding sentence.

"(3) COLLECTIBLE.—For purposes of this subsection, the term 'collectible means any capital asset which is a collectible (as defined in section 408(m) without regard to paragraph (3) thereof).

"(e) TRANSITION RULES.—

"(1) GAIN MUST BE FOR PERIODS ON OR AFTER MAY 6, 1997.—Gain may be taken into account under subsection (a) only if such gain is properly taken into account on or after May 6, 1997.

"(2) SPECIAL RULE FOR PASS-THRU ENTITIES.—

"(A) IN GENERAL.—In applying this subsection with respect to any pass-thru entity, the determination of when gain is properly taken into account shall be made at the entity level.

"(B) PASS-THRU ENTITY DEFINED.—For purposes of subparagraph (A), the term 'pass-thru entity' means—

"(i) a regulated investment company,

"(ii) a real estate investment trust,

"(iii) an S corporation,

"(iv) a partnership,

"(v) an estate or trust, and

"(vi) a common trust fund.

"(f) TREATMENT OF RECAPTURE OF NET ORDINARY LOSS UNDER SECTION 1231.—For purposes of this section, if any amount is treated as ordinary income under section 1231(c) for any taxable year—

"(1) the amount so treated shall be allocated proportionately among the section 1231 gains (as defined in section 1231(a)) for such taxable year, and

"(2) the amount so allocated to any such gain shall reduce the amount of such gain."

(b) TREATMENT OF CERTAIN PASS-THRU ENTITIES.—

(1) CAPITAL GAIN DIVIDENDS OF REGULATED INVESTMENT COMPANIES.—

(A) Subparagraph (B) of section 852(b)(3) is amended to read as follows:

"(B) TREATMENT OF CAPITAL GAIN DIVIDENDS BY SHAREHOLDERS.—A capital gain dividend shall be treated by the shareholders as gain from the sale or exchange of a capital asset held for more than 1 year but not more than 2 years; except that—

"(i) the portion of any such dividend designated by the company as allocable to qualified 5-year capital gain of the company shall be treated as gain from the sale or exchange of a capital asset held for more than 5 years,

"(ii) the portion of any such dividend designated by the company as allocable to qualified 4-year capital gain of the company shall be treated as gain from the sale or exchange of a capital asset held for more than 4 years but not more than 5 years,

"(iii) the portion of any such dividend designated by the company as allocable to qualified 3-year capital gain of the company shall be treated as gain from the sale or exchange of a capital asset held for more than 3 years but not more than 4 years, and

"(iv) the portion of any such dividend designated by the company as allocable to qualified 2-year capital gain of the company shall be treated as gain from the sale or exchange of a capital asset held for more than 2 years but not more than 3 years.

Rules similar to the rules of subparagraph (C) shall apply to any designation under this subparagraph."

(B) Clause (i) of section 851(b)(3)(D) is amended by adding at the end thereof the following new sentence: "Rules similar to the rules of subparagraph (B) shall apply in determining character of the amount to be so included by any such shareholder."

(2) CAPITAL GAIN DIVIDENDS OF REAL ESTATE INVESTMENT TRUSTS.—Subparagraph (B) of section 857(b)(3) is amended to read as follows:

"(B) TREATMENT OF CAPITAL GAIN DIVIDENDS BY SHAREHOLDERS.—A capital gain dividend shall be treated by the shareholders or holders of beneficial interests as gain from the sale or exchange of a capital asset held for more than 1 year but not more than 2 years; except that—

"(i) the portion of any such dividend designated by the real estate investment trust as allocable to qualified 5-year capital gain of the trust shall be treated as gain from the sale or exchange of a capital asset held for more than 5 years,

"(ii) the portion of any such dividend designated by the trust as allocable to qualified 4-year capital gain of the trust shall be treated as gain from the sale or exchange of a capital asset held for more than 4 years but not more than 5 years,

"(iii) the portion of any such dividend designated by the trust as allocable to qualified 3-year capital gain of the trust shall be treated as gain from the sale or exchange of a capital asset held for more than 3 years but not more than 4 years, and

"(iv) the portion of any such dividend designated by the trust as allocable to qualified 2-year capital gain of the trust shall be treated as gain from the sale or exchange of a capital asset held for more than 2 years but not more than 3 years.

Rules similar to the rules of subparagraph (C) shall apply to any designation under this subparagraph."

(3) COMMON TRUST FUNDS.—Subsection (c) of section 584 is amended—

(A) by inserting "not more than 2 years" after "1 year" each place it appears in paragraph (2),

(B) by striking "and" at the end of paragraph (2), and

(C) by redesignating paragraph (3) as paragraph (7) and inserting after paragraph (2) the following new paragraphs:

"(3) as part of its gains and losses from sales or exchanges of capital assets held for more than 2 years but less than 3 years, its proportionate share of the gains and losses of the common trust fund from sales or exchanges of capital assets held for more than 2 years but not more than 3 years,

"(4) as part of its gains and losses from sales or exchanges of capital assets held for more than 3 years but less than 4 years, its proportionate share of the gains and losses of the common trust fund from sales or exchanges of capital assets held for more than 3 years but not more than 4 years,

"(5) as part of its gains and losses from sales or exchanges of capital assets held for more than 4 years but less than 5 years, its proportionate share of the gains and losses of the common trust fund from sales or exchanges of capital assets held for more than 4 years but not more than 5 years,

"(6) as part of its gains and losses from sales or exchanges of capital assets held for more than 5 years, its proportionate share of the gains and losses of the common trust fund from sales or exchanges of capital assets held for more than 5 years, and".

(c) REPEAL OF MAXIMUM RATE OF TAX ON CAPITAL GAINS.—Section 1 is amended by striking subsection (h).

(d) CONFORMING AMENDMENTS.—

(1) Section 62(a) is amended by inserting after paragraph (18) the following new paragraph:

"(19) CAPITAL GAINS DEDUCTION.—The deduction allowed by section 1203."

(2) Clause (ii) of section 163(d)(4)(B) is amended by inserting ", reduced by the amount of any deduction allowable under section 1203 attributable to gain from such property" after "investment".

(3) Section 170(e)(1)(B) is amended by inserting "(or, in the case of a taxpayer other than a corporation, the percentage of such gain equal to 100 percent minus the percentage applicable to of such gain under section 1203(a))" after "the amount of gain".

(4)(A) Section 172(d)(2) (relating to modifications with respect to net operating loss deduction) is amended to read as follows:

"(2) CAPITAL GAINS AND LOSSES OF TAXPAYERS OTHER THAN CORPORATIONS.—In the case of a taxpayer other than a corporation—

"(A) the amount deductible on account of losses from sales or exchanges of capital assets shall not exceed the amount includible on account of gains from sales or exchanges of capital assets; and

"(B) the deduction provided by section 1203 shall not be allowed."

(B) Subparagraph (B) of section 172(d)(4) is amended by inserting ", (2)(B)," after "paragraph (1)".

(5)(A) Section 221 (relating to cross reference) is amended to read as follows:

"SEC. 221. CROSS REFERENCES.

"(1) For deduction for net capital gains in the case of a taxpayer other than a corporation, see section 1203.

"(2) For deductions in respect of a decedent, see section 691."

(B) The table of sections for part VII of subchapter B of chapter 1 is amended by striking "reference" in the item relating to section 221 and inserting "references".

(6) Paragraph (4) of section 642(c) is amended to read as follows:

"(4) ADJUSTMENTS.—To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain from the sale or exchange of capital assets held for more than 1 year, proper adjustment shall be made for any deduction allowable to the estate or trust under section 1203 (relating to deduction for net capital gain). In the case of a trust, the deduction allowed by this subsection shall be subject to section 681 (relating to unrelated business income)."

(7) Paragraph (3) of section 643(a) is amended by adding at the end thereof the following new sentence: "The deduction under section 1203 (relating to deduction for net capital gain) shall not be taken into account."

(8) Paragraph (4) of section 691(c) is amended by striking "1201, and 1211" and inserting "1201, 1203, and 1211".

(9) The second sentence of paragraph (2) of section 871(a) is amended by inserting "such gains and losses shall be determined without regard to section 1203 (relating to deduction for net capital gain) and" after "except that".

(10) Section 1402(i)(1) is amended to read as follows:

"(1) IN GENERAL.—In determining the net earnings from self-employment of any options dealer or commodities dealer—

"(A) notwithstanding subsection (a)(3)(A), there shall not be excluded any gain or loss (in the normal course of the taxpayer's activity of dealing in or trading section 1256 contracts) from section 1256 contracts or property related to such contracts, and

"(B) the deduction provided by section 1203 shall not apply."

(11)(A) Subparagraph (A) of section 7518(g)(6) is amended by striking the last sentence and inserting the following: "With respect to any portion of any nonqualified withdrawal made out of the capital gain account during any taxable year, the rate of tax taken into account under the preceding sentence in the case of a taxpayer other than a corporation shall not exceed 19.8 percent (or, in the case of a corporation, 35 percent)."

(B) Subparagraph (A) of section 607(h)(6) of the Merchant Marine Act, 1936, is amended by striking the last sentence and inserting the following: "With respect to any portion of any nonqualified withdrawal made out of the capital gain account during any taxable year, the rate of tax taken into account under the preceding sentence in the case of a taxpayer other than a corporation shall not exceed 19.8 percent (or, in the case of a corporation, 35 percent)."

(e) CLERICAL AMENDMENT.—The table of sections for part I of subchapter P of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 1203. Reduction in capital gains tax for noncorporate taxpayers."

(f) EFFECTIVE DATES.—The amendments made by this section shall apply to taxable years ending after May 6, 1997.

SEC. 102. ONE-TIME EXCLUSION OF GAIN ON SALE OF PRINCIPAL RESIDENCE INCREASED AND ALLOWABLE WITHOUT REGARD TO AGE OF TAXPAYER.

(a) EXCLUSION ALLOWABLE WITHOUT REGARD TO AGE OF TAXPAYER.—The section heading and subsection (a) of section 121 are amended to read as follows:

"SEC. 121. ONE-TIME EXCLUSION OF GAIN FROM SALE OF PRINCIPAL RESIDENCE BY INDIVIDUAL.

"(a) GENERAL RULE.—At the election of the taxpayer, gross income does not include gain from the sale or exchange of property if, during the 5-year period ending on the date of the sale or exchange, such property has been owned and used by the taxpayer as the taxpayer's principal residence for periods aggregating 3 years or more."

(b) INCREASE IN LIMITATION.—

(1) IN GENERAL.—Paragraph (1) of section 121(b) is amended by striking "$125,000 ($62,500" and inserting "$250,000 ($125,000".

(2) ADDITIONAL ELECTION PERMITTED.—Paragraph (3) of section 121(b) is amended to read as follows:

"(3) ADDITIONAL ELECTION IF PRIOR SALE WAS MADE BEFORE JANUARY 1, 1998.—In the case of any sale or exchange on or after January 1, 1998, this section shall be applied by not taking into account any election made with respect to a sale or exchange before such date; except that the dollar limitation applicable under paragraph (1) shall be reduced by the aggregate amount excluded under this section on all prior sales and exchanges of the taxpayer."

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 121(d) is amended by striking "age, holding, and use" each place it appears and inserting "holding and use".

(2) Paragraphs (2), (3), and (9) of section 121(d) are each amended by striking "subsection (a)(2)" each place it appears and inserting "subsection (a)".

(3) Sections 1033(k)(3), 1034(l), 1038(e)(1)(A), 1250(d)(7)(B), and 6012(c) are each amended by striking "who has attained age 55".

(4) The table of sections for part III of subchapter B of chapter 1 is amended by striking the item relating to section 121 and inserting the following:

"Sec. 121. One-time exclusion of gain from sale of principal residence by individual."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to sales and exchanges after December 31, 1997.

TITLE II—INCREASE IN UNIFIED ESTATE AND GIFT TAX CREDIT

SEC. 201. INCREASE IN UNIFIED ESTATE AND GIFT TAX CREDIT.

(a) ESTATE TAX CREDIT.—

(1) Subsection (a) of section 2010 (relating to unified credit against estate tax) is amended by striking "$192,800" and inserting "the applicable credit amount".

(2) Section 2010 is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) APPLICABLE CREDIT AMOUNT.—For purposes of this section, the applicable credit amount is the amount of the tentative tax which would be determined under the rate schedule set forth in section 2001(c) if the amount with respect to which such tentative tax is to be computed were the applicable exclusion amount determined in accordance with the following table:

"In the case of estates of decedents dying, and gifts made, during:	The applicable exclusion amount is:
1998	$ 700,000
1999	$ 800,000
2000	$ 850,000
2001	$ 900,000
2002	$1,000,000
2003	$1,100,000
2004 or thereafter	$1,200,000."

(b) UNIFIED GIFT TAX CREDIT.—Paragraph (1) of section 2505(a) is amended by striking "$192,800" and inserting "the applicable credit amount under section 2010(c)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to the estates of decedents dying, and gifts made, after December 31, 1997.

SEC. 202. FAMILY-OWNED BUSINESS EXCLUSION.

(a) IN GENERAL.—Part III of subchapter A of chapter 11 (relating to gross estate) is amended by inserting after section 2033 the following new section:

"SEC. 2033A. FAMILY-OWNED BUSINESS EXCLUSION.

"(a) IN GENERAL.—In the case of an estate of a decedent to which this section applies, the value of the gross estate shall not include the lesser of—

"(1) the adjusted value of the qualified family-owned business interests of the decedent otherwise includible in the estate, or

"(2) $1,000,000.

"(b) ESTATES TO WHICH SECTION APPLIES.—

"(1) IN GENERAL.—This section shall apply to an estate if—

"(A) the decedent was (at the date of the decedent's death) a citizen or resident of the United States,

"(B) the sum of—

"(i) the adjusted value of the qualified family-owned business interests described in paragraph (2), plus

"(ii) the amount of the gifts of such interests determined under paragraph (3),

exceeds 50 percent of the adjusted gross estate, and

"(C) during the 8-year period ending on the date of the decedent's death there have been periods aggregating 5 years or more during which—

"(i) such interests were owned by the decedent or a member of the decedent's family, and

"(ii) there was material participation (within the meaning of section 2032A(e)(6)) by the decedent or a member of the decedent's family in the operation of the business to which such interests relate.

"(2) INCLUDIBLE QUALIFIED FAMILY-OWNED BUSINESS INTERESTS.—The qualified family-owned business interests described in this paragraph are the interests which—

"(A) are included in determining the value of the gross estate (without regard to this section), and

"(B) are acquired by any qualified heir from, or passed to any qualified heir from, the decedent (within the meaning of section 2032A(e)(9)).

"(3) INCLUDIBLE GIFTS OF INTERESTS.—The amount of the gifts of qualified family-owned business interests determined under this paragraph is the excess of—

"(A) the sum of—

"(i) the amount of such gifts from the decedent to members of the decedent's family taken into account under subsection 2001(b)(1)(B), plus

"(ii) the amount of such gifts otherwise excluded under section 2503(b),

to the extent such interests are continuously held by members of such family (other than the decedent's spouse) between the date of the gift and the date of the decedent's death, over

"(B) the amount of such gifts from the decedent to members of the decedent's family otherwise included in the gross estate.

"(c) Adjusted Gross Estate.—For purposes of this section, the term 'adjusted gross estate' means the value of the gross estate (determined without regard to this section)—

"(1) reduced by any amount deductible under paragraph (3) or (4) of section 2053(a), and

"(2) increased by the excess of—

"(A) the sum of—

"(i) the amount of gifts determined under subsection (b)(3), plus

"(ii) the amount (if more than de minimis) of other transfers from the decedent to the decedent's spouse (at the time of the transfer) within 10 years of the date of the decedent's death, plus

"(iii) the amount of other gifts (not included under clause (i) or (ii)) from the decedent within 3 years of such date, other than gifts to members of the decedent's family otherwise excluded under section 2503(b), over

"(B) the sum of the amounts described in clauses (i), (ii), and (iii) of subparagraph (A) which are otherwise includible in the gross estate.

For purposes of the preceding sentence, the Secretary may provide that de minimis gifts to persons other than members of the decedent's family shall not be taken into account.

"(d) Adjusted Value of the Qualified Family-Owned Business Interests.—For purposes of this section, the adjusted value of any qualified family-owned business interest is the value of such interest for purposes of this chapter (determined without regard to this section), reduced by the excess of—

"(1) any amount deductible under paragraph (3) or (4) of section 2053(a), over

"(2) the sum of—

"(A) any indebtedness on any qualified residence of the decedent the interest on which is deductible under section 163(h)(3), plus

"(B) any indebtedness to the extent the taxpayer establishes that the proceeds of such indebtedness were used for the payment of educational and medical expenses of the decedent, the decedent's spouse, or the decedent's dependents (within the meaning of section 152), plus

"(C) any indebtedness not described in clause (i) or (ii), to the extent such indebtedness does not exceed $10,000.

"(e) Qualified Family-Owned Business Interest.—

"(1) In general.—For purposes of this section, the term 'qualified family-owned business interest' means—

"(A) an interest as a proprietor in a trade or business carried on as a proprietorship, or

"(B) an interest in an entity carrying on a trade or business, if—

"(i) at least—

"(I) 50 percent of such entity is owned (directly or indirectly) by the decedent and members of the decedent's family,

"(II) 70 percent of such entity is so owned by members of 2 families, or

"(III) 90 percent of such entity is so owned by members of 3 families, and

"(ii) for purposes of subclause (II) or (III) of clause (i), at least 30 percent of such entity is so owned by the decedent and members of the decedent's family.

"(2) Limitation.—Such term shall not include—

"(A) any interest in a trade or business the principal place of business of which is not located in the United States,

"(B) any interest in an entity, if the stock or debt of such entity or a controlled group (as defined in section 267(f)(1)) of which such entity was a member was readily tradable on an established securities market or secondary market (as defined by the Secretary) at any time within 3 years of the date of the decedent's death,

"(C) any interest in a trade or business not described in section 542(c)(2), if more than 35 percent of the adjusted ordinary gross income of such trade or business for the taxable year which includes the date of the decedent's death would qualify as personal holding company income (as defined in section 543(a)),

"(D) that portion of an interest in a trade or business that is attributable to—

"(i) cash or marketable securities, or both, in excess of the reasonably expected day-to-day working capital needs of such trade or business, and

"(ii) any other assets of the trade or business (other than assets used in the active conduct of a trade or business described in section 542(c)(2)), the income of which is described in section 543(a) or in subparagraph (B), (C), (D), or (E) of section 954(c)(1) (determined by substituting 'trade or business' for 'controlled foreign corporation').

"(3) Rules regarding ownership.—

"(A) Ownership of entities.—For purposes of paragraph (1)(B)—

"(i) Corporations.—Ownership of a corporation shall be determined by the holding of stock possessing the appropriate percentage of the total combined voting power of all classes of stock entitled to vote and the appropriate percentage of the total value of shares of all classes of stock.

"(ii) Partnerships.—Ownership of a partnership shall be determined by the owning of the appropriate percentage of the capital interest in such partnership.

"(B) Ownership of tiered entities.—For purposes of this section, if by reason of holding an interest in a trade or business, a decedent, any member of the decedent's family, any qualified heir, or any member of any qualified heir's family is treated as holding an interest in any other trade or business—

"(i) such ownership interest in the other trade or business shall be disregarded in determining if the ownership interest in the first trade or business is a qualified family-owned business interest, and

"(ii) this section shall be applied separately in determining if such interest in any other trade or business is a qualified family-owned business interest.

"(C) Individual ownership rules.—For purposes of this section, an interest owned, directly or indirectly, by or for an entity described in paragraph (1)(B) shall be considered as being owned proportionately by or for the entity's shareholders, partners, or beneficiaries. A person shall be treated as a beneficiary of any trust only if such person has a present interest in such trust.

"(f) Tax Treatment of Failure To Materially Participate in Business or Dispositions of Interests.—

"(1) In general.—There is imposed an additional estate tax if, within 10 years after the date of the decedent's death and before the date of the qualified heir's death—

"(A) the material participation requirements described in section 2032A(c)(6)(B) are not met with respect to the qualified family-owned business interest which was acquired (or passed) from the decedent,

"(B) the qualified heir disposes of any portion of a qualified family-owned business interest (other than by a disposition to a member of the qualified heir's family or through a qualified conservation contribution under section 170(h)),

"(C) the qualified heir loses United States citizenship (within the meaning of section 877) or with respect to whom an event described in subparagraph (A) or (B) of section 877(e)(1) occurs, and such heir does not comply with the requirements of subsection (g), or

"(D) the principal place of business of a trade or business of the qualified family-owned business interest ceases to be located in the United States.

"(2) Additional estate tax.—

"(A) In general.—The amount of the additional estate tax imposed by paragraph (1) shall be equal to—

"(i) the applicable percentage of the adjusted tax difference attributable to the qualified family-owned business interest (as determined under rules similar to the rules of section 2032A(c)(2)(B)), plus

"(ii) interest on the amount determined under clause (i) at the underpayment rate established under section 6621 for the period beginning on the date the estate tax liability was due under this chapter and ending on the date such additional estate tax is due.

"(B) Applicable percentage.—For purposes of this paragraph, the applicable percentage shall be determined under the following table:

"If the event described in paragraph (1) occurs in the following year of material participation	**The applicable percentage is:**
1 through 6	100
7	80
8	60
9	40
10	20.

"(g) Security Requirements for Noncitizen Qualified Heirs.—

"(1) In general.—Except upon the application of subparagraph (F) or (M) of subsection (h)(3), if a qualified heir is not a citizen of the United States, any interest under this section passing to or acquired by such heir (including any interest held by such heir at a time described in subsection (f)(1)(C)) shall be treated as a qualified family-owned business interest only if the interest passes or is acquired (or is held) in a qualified trust.

"(2) Qualified trust.—The term 'qualified trust' means a trust—

"(A) which is organized under, and governed by, the laws of the United States or a State, and

"(B) except as otherwise provided in regulations, with respect to which the trust instrument requires that at least 1 trustee of the trust be an individual citizen of the United States or a domestic corporation.

"(h) Other Definitions and Applicable Rules.—For purposes of this section—

"(1) Qualified heir.—The term 'qualified heir'—

"(A) has the meaning given to such term by section 2032A(e)(1), and

"(B) includes any active employee of the trade or business to which the qualified family-owned business interest relates if such employee has been employed by such trade or business for a period of at least 10 years before the date of the decedent's death.

"(2) MEMBER OF THE FAMILY.—The term 'member of the family' has the meaning given to such term by section 2032A(e)(2).

"(3) APPLICABLE RULES.—Rules similar to the following rules shall apply:

"(A) Section 2032A(b)(4) (relating to decedents who are retired or disabled).

"(B) Section 2032A(b)(5) (relating to special rules for surviving spouses).

"(C) Section 2032A(c)(2)(D) (relating to partial dispositions).

"(D) Section 2032A(c)(3) (relating to only 1 additional tax imposed with respect to any 1 portion).

"(E) Section 2032A(c)(4) (relating to due date).

"(F) Section 2032A(c)(5) (relating to liability for tax; furnishing of bond).

"(G) Section 2032A(c)(7) (relating to no tax if use begins within 2 years; active management by eligible qualified heir treated as material participation).

"(H) Section 2032A(e)(10) (relating to community property).

"(I) Section 2032A(e)(14) (relating to treatment of replacement property acquired in section 1031 or 1033 transactions).

"(J) Section 2032A(f) (relating to statute of limitations).

"(K) Section 6166(b)(3) (relating to farmhouses and certain other structures taken into account).

"(L) Subparagraphs (B), (C), and (D) of section 6166(g)(1) (relating to acceleration of payment).

"(M) Section 6324B (relating to special lien for additional estate tax).

"(4) COORDINATION WITH OTHER ESTATE TAX BENEFITS.—If there is a reduction in the value of the gross estate under this section—

"(A) the dollar limitation applicable under section 2032A(a)(2), and

"(B) the $1,000,000 amount under section 6601(j)(3) (as adjusted),

shall each be reduced (but not below zero) by the amount of such reduction.".

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter A of chapter 11 is amended by inserting after the item relating to section 2033 the following new item:

"Sec. 2033A. Family-owned business exclusion.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after December 31, 1997.

TITLE III—CHILD TAX CREDIT

SEC. 301. CHILD TAX CREDIT.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 23 the following new section:

"SEC. 24. CHILD TAX CREDIT.

"(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 23 the following new section:

'SEC. 24. CHILD TAX CREDIT.

'(a) ALLOWANCE OF CREDIT.—

'(1) IN GENERAL.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to $500 multiplied by the number of eligible children of the taxpayer for the taxable year.

'(2) PHASE-IN OF CREDIT.—In the case of taxable years beginning after December 31, 1996, and before January 1, 2000, paragraph (1) shall be applied by substituting '$300' for '$500'.

'(b) PHASEOUT OF CREDIT.—

'(1) IN GENERAL.—The amount of the credit allowed under subsection (a) shall be reduced (but not below zero) by the amount determined under paragraph (2).

'(2) AMOUNT OF REDUCTION.—The amount determined under this paragraph equals the amount which bears the same ratio to the credit (determined without regard to this subsection) as—

'(A) the excess of—

'(i) the taxpayer's adjusted gross income for such taxable year, over

'(ii) $60,000, bears to

'(B) $15,000.

Any amount determined under this paragraph which is not a multiple of $10 shall be rounded to the next lowest $10.

'(3) ADJUSTED GROSS INCOME.—For purposes of this subsection, adjusted gross income of any taxpayer shall be increased by any amount excluded from gross income under section 911, 931, or 933.

'(c) ELIGIBLE CHILD.—For purposes of this section, the term 'eligible child' means any child (as defined in section 151(c)(3)) of the taxpayer—

'(1) who has not attained age 13 as of the close of the calendar year in which the taxable year of the taxpayer begins,

'(2) who is a dependent of the taxpayer with respect to whom the taxpayer is allowed a deduction under section 151 for such taxable year, and

'(3) whose TIN is included on the taxpayer's return for such taxable year.

'(d) SPECIAL RULES.—

'(1) AMOUNT OF CREDIT MAY BE DETERMINED UNDER TABLES.—The amount of the credit allowed by this section may be determined under tables prescribed by the Secretary.

'(2) CERTAIN OTHER RULES APPLY.—Rules similar to the rules of subsections (c)(1)(E) and (F), (d), and (e) of section 32 shall apply for purposes of this section.' "

(b) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 23 the following new item:

"Sec. 24. Families with young children."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

(2) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 23 the following new item:

"Sec. 24. Child tax credit."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

TITLE IV—INCENTIVES FOR HIGHER EDUCATION

SEC. 401. CREDIT FOR HIGHER EDUCATION EXPENSES.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 24 the following new section:

"SEC. 24. HIGHER EDUCATION TUITION AND FEES.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year the amount of qualified higher education expenses paid by the taxpayer during such taxable year for education furnished during any academic period beginning in such year.

"(b) LIMITATIONS.—The amount allowed as a credit under subsection (a) for any taxable year with respect to the qualified higher education expenses of any 1 individual shall not exceed $1,500.

"(2) CREDIT ALLOWED ONLY FOR 2 TAXABLE YEARS.—No credit shall be allowed under subsection (a) for a taxable year with respect to the qualified higher education expenses of an individual unless the taxpayer elects to have this section apply with respect to such individual for such year. An election under this paragraph shall not take effect with respect to an individual for any taxable year if an election under this paragraph (by the taxpayer or any other individual) is in effect with respect to such individual for any 2 prior taxable years.

"(3) CREDIT ALLOWED FOR YEAR ONLY IF INDIVIDUAL IS AT LEAST ½ TIME STUDENT FOR PORTION OF YEAR.—No credit shall be allowed under subsection (a) for a taxable year with respect to the qualified higher education expenses of an individual unless such individual is an eligible student for at least one academic period which begins during such year.

"(4) CREDIT ALLOWED ONLY FOR FIRST TWO YEARS OF POSTSECONDARY EDUCATION.—No credit shall be allowed under subsection (a) for a taxable year with respect to the qualified higher education expenses of an individual if the individual has completed (before the beginning of such taxable year) the first 2 years of postsecondary education at an institution of higher education.

"(c) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

"(1) IN GENERAL.—The amount which would (but for this subsection) be taken into account under subsection (a) for the taxable year shall be reduced (but not below zero) by the amount determined under paragraph (2).

"(2) AMOUNT OF REDUCTION.—The amount determined under this paragraph is the amount which bears the same ratio to the amount which would be so taken into account as—

"(A) the excess of—

"(i) the taxpayer's modified adjusted gross income for such taxable year, over

"(ii) $50,000 ($80,000 in the case of a joint return), bears to

"(B) $20,000.

"(3) MODIFIED ADJUSTED GROSS INCOME.—The term 'modified adjusted gross income' means the adjusted gross income of the taxpayer for the taxable year—

"(A) determined without regard to section 221, and

"(B) increased by any amount excluded from gross income under section 911, 931, or 933.

"(d) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED HIGHER EDUCATION EXPENSES.—

"(A) IN GENERAL.—The term 'qualified higher education expenses' means tuition and fees required for the enrollment or attendance of—

"(i) the taxpayer,

"(ii) the taxpayer's spouse, or

"(iii) any dependent of the taxpayer with respect to whom the taxpayer is allowed a deduction under section 151,

at an institution of higher education.

"(B) Exception for education involving sports, etc.—Such term does not include expenses with respect to any course or other education involving sports, games, or hobbies, unless such course or other education is part of the individual's degree program.

"(C) Exception for nonacademic fees.—Such term does not include student activity fees, athletic fees, insurance expenses, or other expenses unrelated to an individual's academic course of instruction.

"(2) Institution of higher education.—The term 'institution of higher education' means an institution—

"(A) which is described in section 481 of the Higher Education Act of 1965 (20 U.S.C. 1088), as in effect on the date of the enactment of this section, and

"(B) which is eligible to participate in a program under title IV of such Act.

"(3) Eligible student.—The term 'eligible student' means, with respect to any academic period, a student who—

"(A) meets the requirements of section 484(a)(1) of the Higher Education Act of 1965 (20 U.S.C. 1091(a)(1)), as in effect on the date of the enactment of this section, and

"(B) is carrying at least ½ the normal full-time work load for the course of study the student is pursuing.

"(4) Other terms relating to the Higher Education Act.—The following terms shall have the meanings prescribed in regulations under section 481(g) of the Higher Education Act of 1965 (20 U.S.C. 1088(g)), as added by the Student Financial Aid Improvements Act of 1997:

"(A) Academic period.

"(B) Normal full-time workload.

"(C) First two years of postsecondary education.

"(D) Job skills and new job skills.

"(e) Treatment of Expenses Paid by Dependent.—If a deduction under section 151 with respect to an individual is allowed to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins—

"(1) no credit shall be allowed under subsection (a) to such individual for such individual's taxable year, and

"(2) qualified higher education expenses paid by such individual during such individual's taxable year shall be treated for purposes of this section as paid by such other taxpayer.

"(f) Treatment of Certain Prepayments.—If qualified higher education expenses are paid by the taxpayer during a taxable year for an academic period which begins during the first 3 months following such taxable year, such academic period shall be treated for purposes of this section as beginning during such taxable year.

"(g) Special Rules.—

"(1) Denial of credit if individual convicted of drug offense.—No credit shall be allowed under subsection (a) with respect to the qualified higher education expenses of an individual for any taxable year if the individual has been convicted before the end of such year of a Federal or State felony offense consisting of the possession or distribution of a controlled substance.

"(2) No double benefit.—No credit shall be allowed under subsection (a) for any taxable year for any expense—

"(A) with respect to an individual if a deduction is allowed under section 221 for the taxable year for any expense with respect to such individual, or

"(B) for which a deduction is allowed under any other provision of this chapter.

"(3) Identification requirement.—No credit shall be allowed under subsection (a) to a taxpayer with respect to the qualified higher education expenses of an individual unless the taxpayer includes the name and taxpayer identification number of such individual on the return of tax for the taxable year.

"(4) Adjustment for certain scholarships.—The amount of qualified higher education expenses otherwise taken into account under subsection (a) with respect to an individual for an academic period shall be reduced (before the application of subsections (b) and (c)) by the sum of—

"(A) any amounts paid for the benefit of such individual which are allocable to such period as—

"(i) a qualified scholarship which is excludable from gross income under section 117,

"(ii) an educational assistance allowance under chapter 30, 31, 32, 34, or 35 of title 38, United States Code, or under chapter 1606 of title 10, United States Code,

"(iii) a payment which is excludable from gross income under section 127, or

"(iv) a payment (other than a gift, bequest, devise, or inheritance within the meaning of section 102(a)) for such individual's educational expenses, or attributable to such individual's enrollment at an institution of higher education, which is excludable from gross income under any law of the United States, and

"(B) the amount excludable from gross income under section 135 which is allocable to such expenses with respect to such individual for such period.

"(5) No credit for married individuals filing separate returns.—If the taxpayer is a married individual (within the meaning of section 7703), this section shall apply only if the taxpayer and the taxpayer's spouse file a joint return for the taxable year.

"(6) Nonresident aliens.—If the taxpayer is a nonresident alien individual for any portion of the taxable year, this section shall apply only if such individual is treated as a resident alien of the United States for purposes of this chapter by reason of an election under subsection (g) or (h) of section 6013.

"(h) Inflation Adjustments.—

"(1) Dollar limitation on amount of credit.—

"(A) In general.—In the case of a taxable year beginning after 1997, the $1,500 amount in subsection (b)(1) shall be increased by an amount equal to—

"(i) such dollar amount, multiplied by

"(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 1996' for 'calendar year 1992' in subparagraph (B) thereof.

"(B) Rounding.—If any amount as adjusted under subparagraph (A) is not a multiple of $50, such amount shall be rounded to the next lowest multiple of $50.

"(2) Income limits.—

"(A) In general.—In the case of a taxable year beginning after 2000, the $50,000 and $80,000 amounts in subsection (c)(2), section 221(b)(2)(B)(i)(II), and section 222(b)(2)(A) shall each be increased by an amount equal to—

"(i) such dollar amount, multiplied by

"(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 1999' for 'calendar year 1992' in subparagraph (B) thereof.

"(B) Rounding.—If any amount as adjusted under subparagraph (A) is not a multiple of $5,000, such amount shall be rounded to the next lowest multiple of $5,000.

"(i) Regulations.—The Secretary may prescribe such regulations as may be necessary or appropriate to carry out this section, including regulations providing for a recapture of credit allowed under this section in cases where there is a refund in a subsequent taxable year of any amount which was taken into account in determining the amount of such credit."

(b) Extension of Procedures Applicable to Mathematical or Clerical Errors.—Paragraph (2) of section 6213(g) (relating to the definition of mathematical or clerical errors) is amended by striking "and" at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting ", and", and by inserting after subparagraph (H) the following new subparagraph:

"(I) an omission of a correct TIN required under section 24(g)(3) or under section 221(d)(2)(A) (relating to higher education tuition and fees) to be included on a return."

(c) Returns Relating To Higher Education Expenses.—

(1) In general.—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by inserting after section 6050R the following new section:

"SEC. 6050S. RETURNS RELATING TO HIGHER EDUCATION EXPENSES.

"(a) In General.—Any person—

"(1) which is an institution of higher education which receives payments for qualified higher education expenses with respect to any individual for any calendar year, or

"(2) which is engaged in a trade or business which, in the course of such trade or business makes payments during any calendar year to any individual which constitute reimbursements or refunds (or similar amounts) of qualified higher education expenses of such individual,

shall make the return described in subsection (b) with respect to the individual at such time as the Secretary may by regulations prescribe.

"(b) Form and Manner of Returns.—A return is described in this subsection if such return—

"(1) is in such form as the Secretary may prescribe,

"(2) contains—

"(A) the name, address, and TIN of the individual with respect to whom payments described in subsection (a) were received from (or were paid to),

"(B) the name, address, and TIN of any individual certified by the individual described in subparagraph (A) as the taxpayer who will claim the individual as a dependent for purposes of the deduction allowable under section 151 for any taxable year ending with or within the calendar year,

"(C) the—

"(i) aggregate amount of payments for qualified higher education expenses received with respect to the individual described in subparagraph (A) during the calendar year, and

"(ii) aggregate amount of reimbursements or refunds (or similar amounts) paid to such individual during the calendar year, and

"(D) such other information as the Secretary may prescribe.

"(c) Application to Governmental Units.—For purposes of this section—

"(1) a governmental unit or any agency or instrumentality thereof shall be treated as a person, and

"(2) any return required under subsection (a) by such governmental entity shall be made by the officer or employee appropriately designated for the purpose of making such return.

"(d) Statements To Be Furnished To Individuals With Respect to Whom Information Is Required.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return under subparagraph (A) or (B) of subsection (b)(2) a written statement showing—

"(1) the name, address, and phone number of the information contact of the person required to make such return, and

"(2) the aggregate amounts described in subparagraphs (C) and (D) of subsection (b)(2).

The written statement required under the preceding sentence shall be furnished on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made.

"(e) Definitions.—For purposes of this section, the terms 'institution of higher education' and 'qualified higher education expenses' have the meanings given such terms by section 24.

"(f) Returns Which Would Be Required To Be Made by 2 or More Persons.—Except to the extent provided in regulations prescribed by the Secretary, in the case of any amount received by any person on behalf of another person, only the person first receiving such amount shall be required to make the return under subsection (a).

"(g) Regulations.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section. No penalties shall be imposed under section 6724 with respect to any return or statement required under this section until such time as such regulations are issued."

(2) Assessable penalties.—Section 6724(d) (relating to definitions) is amended—

(A) by redesignating clauses (x) through (xv) as clauses (xi) through (xvi), respectively, in paragraph (1)(B) and by inserting after clause (ix) of such paragraph the following new clause:

"(x) section 6050S (relating to returns relating to payments for qualified higher education expenses),", and

(B) by striking "or" at the end of the next to last subparagraph, by striking the period at the end of the last subparagraph and inserting ", or", and by adding at the end the following new subparagraph:

"(Z) section 6050S(d) (relating to returns relating to qualified higher education expenses)."

(3) Clerical amendment.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6050R the following new item:

"Sec. 6050S. Returns relating to higher education expenses."

(d) Clerical Amendment.—The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 24 the following new item:

"Sec. 24. Higher education tuition and fees."

(e) Effective Date.—The amendments made by this section shall apply to expenses paid after December 31, 1997 (in taxable years ending after such date).

SEC. 402. DEDUCTION FOR HIGHER EDUCATION EXPENSES.

(a) Deduction Allowed.— Part VII of subchapter B of chapter 1 (relating to additional itemized deductions for individuals) is amended by redesignating section 221 as section 222 and by inserting after section 220 the following new section:

"SEC. 221. HIGHER EDUCATION TUITION AND FEES.

"(a) Allowance of Deduction.—In the case of an individual, there shall be allowed as a deduction the amount of qualified higher education expenses paid by the taxpayer during the taxable year for education furnished to the taxpayer, the taxpayer's spouse, or any dependent of the taxpayer with respect to whom the taxpayer is allowed a deduction under section 151, as an eligible student at an institution of higher education during any academic period beginning in such year.

"(b) Limitations.—

"(1) Dollar limitation.—

"(A) In general.—The amount allowed as a deduction under subsection (a) for any taxable year shall not exceed $10,000.

"(B) Phase-in.—In the case of taxable years beginning in 1997 or 1998, subparagraph (A) shall be applied by substituting '$5,000' for '$10,000'.

"(2) Limitation based on modified adjusted gross income.—

"(A) In general.—The amount which would (but for this paragraph) be allowed as a deduction under subsection (a) shall be reduced (but not below zero) by the amount determined under subparagraph (B).

"(B) Amount of reduction.—The amount determined under this subparagraph equals the amount which bears the same ratio to the deduction (determined without regard to this paragraph) as—

"(i) the excess of—

"(I) the taxpayer's modified adjusted gross income for the taxable year, over

"(II) $50,000 ($80,000 in the case of a joint return), bears to

"(ii) $20,000.

"(C) Modified adjusted gross income.—For purposes of subparagraph (B), the term 'modified adjusted gross income' means the adjusted gross income of the taxpayer for the taxable year determined—

"(i) without regard to this section and sections 911, 931, and 933, and

"(ii) after the application of sections 86, 135, 219, and 469.

For purposes of sections 86, 135, 219, and 469, adjusted gross income shall be determined without regard to the deduction allowed under this section.

"(D) Cross reference.—

"For inflation adjustment of $50,000 and $80,000 amounts, see section 24(h).

"(c) Definitions.—For purposes of this section—

"(1) In general.—Except as provided in paragraph (2), terms used in this section which are also used in section 24 have the respective meanings given such terms in section 24.

"(2) Deduction available for education to acquire or improve job skills.—For purposes of applying this section, the requirement of section 24(d)(3) shall be treated as met if—

"(A) the individual is enrolled in a course which enables the individual to improve the individual's job skills or to acquire new job skills, and

"(B) the individual is not enrolled in an elementary or secondary school.

"(d) Special Rules.—

"(1) Denial of double benefit.—No deduction shall be allowed under subsection (a) for any expense for which a deduction is allowed to the taxpayer under any other provision of this chapter.

"(2) Certain rules to apply.—Rules similar to the rules of subsections (e) and (f) of section 24, and the following rules of section 24(g), shall apply for purposes of this section:

"(A) Paragraph (3) (relating to identification requirement).

"(B) Paragraph (4) (relating to adjustment for certain scholarships).

"(C) Paragraph (5) (relating to no benefit for married individuals filing separate returns).

"(D) Paragraph (6) (relating to nonresident aliens).

"(3) Regulations.—The Secretary may prescribe such regulations as may be necessary or appropriate to carry out this section."

(b) Deduction Allowed in Computing Adjusted Gross Income.—Section 62(a) is amended by inserting after paragraph (16) the following new paragraph:

"(17) Higher education tuition and fees.—The deduction allowed by section 221."

(c) Conforming Amendment.—The table of sections for part VII of subchapter B of chapter 1 is amended by striking the item relating to section 221 and inserting:

"Sec. 221. Higher education tuition and fees.

"Sec. 222. Cross reference."

(d) Effective Date.—The amendments made by this section shall apply to expenses paid after December 31, 1997.

TITLE V—EXTENSION AND MODIFICATION OF AIRPORT AND AIRWAY TRUST FUND TAXES

SEC. 501. EXTENSION AND MODIFICATION OF AIRPORT AND AIRWAY TRUST FUND TAXES.

(a) Fuel Taxes.—

(1) Aviation fuel.—Paragraph (3) of section 4091(b) is amended by striking subparagraph (A).

(2) Aviation gasoline.—Subsection (d) of section 4081 is amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(3) Noncommercial aviation.—Subsection (c) of section 4041 is amended by striking paragraph (3).

(b) Ticket Taxes.—

(1) Persons.—Section 4261 is amended by striking subsection (g).

(2) Property.—Section 4271 is amended by striking subsection (d).

(c) Modifications.—

(1) Use of international travel facilities.—Subsection (c) of section 4261 is amended to read as follows:

"(c) Use of International Travel Facilities.—

"(1) In general.—There is hereby imposed a tax of $8 on any amount paid (whether within or without the United States) for any transportation of any person by air, if such transportation begins or ends in the United States.

"(2) Exception for transportation entirely taxable under subsection (a).—This subsection shall not apply to any transportation all of which is taxable under subsection (a) (determined without regard to sections 4281 and 4282).

"(3) Special rule for Alaska and Hawaii.—In any case in which the tax imposed by paragraph (1) applies to a segment between the continental United States and Alaska or Hawaii or between Alaska and Hawaii, such tax shall apply only to departures and shall be at the rate of $6."

(2) Special rules.—Section 4261 is amended by redesignating subsections (e) and (f) as subsections (f) and (g), respectively, and by

inserting after subsection (d) the following new subsection:

"(e) Application of Subsection (a) to Domestic Segments of International Transportation.—

"(1) In general.—In the case of taxable transportation described in section 4262(a)(2), the tax imposed by subsection (a) shall be applied by taking into account only an amount which bears the same ratio to the amount paid for such transportation as the number of specified miles in the domestic segments of such transportation bears to the total number of specified miles in such transportation.

"(2) Specified miles.—For purposes of paragraph (1), the term 'specified miles' means the great circle miles (as specified by the Secretary) between the 2 points of each segment. The Secretary may specify mileage which shall apply in lieu of the mileage determined under the preceding sentence with respect to any 2 points if the Secretary determines that the mileage on the route customarily traveled by air between such points is different from the mileage determined under the preceding sentence.

"(3) Domestic segment.—For purposes of this section, the term 'domestic segment' means any segment which is taxable transportation described in section 4262(a)(1)."

(3) Conforming amendments.—

(A) Paragraph (2) of section 4262(a) is amended by striking "United States, but" and all that follows and inserting "United States.".

(B) Subsection (c) of section 4262 is amended by striking paragraph (3).

(d) Effective Dates.—

(1) Fuel taxes.—The amendments made by subsection (a) shall apply take effect on October 1, 1997.

(2) Ticket taxes.—

(A) In general.—The amendments made by subsections (b) and (c) shall apply to transportation beginning on or after October 1, 1997.

(B) Treatment of amounts paid for tickets purchased before date of enactment.—The amendments made by subsection (c) shall not apply to amounts paid for a ticket purchased before the date of the enactment of this Act for a specified flight beginning on or after October 1, 1997.

TITLE VI—ENFORCING REVENUE TARGETS

SEC. 601. ESTIMATES OF NECESSITY TO SUSPEND REVENUE REDUCTIONS.

(a) Estimate of Necessity To Suspend New Revenue Reductions.—The Director of the Office of Management and Budget shall issue a report to the President and the Congress on December 15 of any calendar year in which such statement identifies actual or projected revenues in the current or immediately preceding fiscal years lower than the applicable total revenue target in subsection (b) by more than 1 percent of the applicable total revenue target for such year. The report shall include—

(1) all existing laws and policies enacted as part of any reconciliation legislation in calendar 1997 which would cause revenues to decline in the calendar year which begins January 1, compared to laws and policies in effect on December 15;

(2) the amounts by which revenues would be reduced by implementation of the provisions of law described in paragraph (1) compared to provisions of law in effect on December 15; and

(3) whether delaying implementation of the provisions of law described in paragraph (1) would cause the total for revenues in the projected revenues in the current fiscal year and actual revenues in the immediately preceding fiscal year to equal or exceed the total of the targets for the applicable years.

(b) Total Revenue Targets.—For purposes of subsection (a), the total revenue targets shall be—

(1) for fiscal year 1998, $1,601,800,000,000;

(2) for fiscal year 1999, $1,664,200,000,000;

(3) for fiscal year 2000, $1,728,100,000,000;

(4) for fiscal year 2001, $1,805,100,000,000; and

(5) for fiscal year 2002, $1,890,400,000,000.

SEC. 602. SUSPENSION OF CHILD TAX CREDIT AND INCREASES IN UNIFIED ESTATE AND GIFT TAX CREDIT IF REVENUE TARGETS NOT MET.

(a) Child Care Credit.—Section 24 of the Internal Revenue Code of 1986 (relating to child tax credit), as added by this Act, shall not apply to taxable years beginning in a tax benefit suspension year.

(b) Unified Estate and Gift Tax Credit.—If, under section 2010 of the Internal Revenue Code of 1986, as amended by this Act, there is an increase in the credit which would (but for this section) take effect with respect to any tax benefit suspension year, then—

(1) any increase in such credit with respect to such year and each subsequent calendar year shall be delayed 1 calendar year, and

(2) the level of credit under such section with respect to the prior calendar year shall apply to the calendar year.

(c) Tax Benefit Suspension Year.—For purposes of this section, the term "tax benefit suspension year" means any calendar year if the statement issued under section 601 during the preceding calendar year indicates that—

(1) for the fiscal year ending in such preceding calendar year, actual revenues were lower than the applicable total revenue target in section 601(b) for such fiscal year by more than 1 percent of such target, or

(2) for the fiscal year beginning in such preceding calendar year, projected revenues (determined without regard to this section) are estimated to be lower than the applicable total revenue target in section 601(b) for such fiscal year by more than 1 percent of such target.

(d) Percentage Suspension Where Full Suspension Unnecessary To Achieve Revenue Target.—If the application of subsections (a) and (b) to any tax benefit suspension year would (but for this subsection) result in revenues above the applicable revenue target described in section 601(b), such subsections shall be applied such that the amount of each benefit which is denied is only the percentage of such benefit which is necessary to result in revenues equal to such target. Such percentage shall be determined by the Director of the Office of Management and Budget, and the same percentage shall apply to such benefits.

Amendments to H.R. 2015: Budget Reconciliation Spending Act

AMENDMENT TO THE RECONCILIATION BILL, AS APPROVED BY THE COMMITTEE ON WAYS AND MEANS ON JUNE 10, 1997, OFFERED BY MRS. MEEK AND MS. ROS-LEHTINEN

In section 9302 strike subsection (a) and insert the following:

(a) In General.—Section 402(a)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 8 U.S.C. 1612(A)(2)) is amended by adding after subparagraph (D) the following new subparagraph:

"(E) Qualified alien on August 22, 1996.—With respect to eligibility for benefits for the program defined in paragraph (3)(A) (relating to the supplemental security income program), paragraph (1) shall not apply to an alien who on August 22, 1996, was a qualified alien.".

AMENDMENT TO H.R. — (RECONCILIATION) OFFERED BY MRS. MEEK OF FLORIDA

At the end of section 9103(a), add the following:

(3) Additional mandatory state payments.—

(A) Duties of the social security administration.—For each of fiscal years 1998 through 2002, the Commissioner of Social Security shall—

(i) estimate the difference between—

(I) the total cost to the Federal Government of providing to qualified aliens (as defined in section 431 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996) supplemental security income benefits under title XVI of the Social Security Act and medical assistance benefits under title XIX of such Act; and

(II) $2,300,000,000 for fiscal year 1998, $2,100,000,000 for fiscal year 1999, $1,800,000,000 for fiscal year 2000, $1,400,000,000 for fiscal year 2001, and $1,500,000,000 for fiscal year 2002; and

(ii) collect from each State (other than the Commonwealth of Puerto Rico, the Virgin Islands, or Guam) an amount equal to—

(I) the ratio of the number of all persons in the State receiving supplemental security income benefits under title XVI of the Social Security Act to the number of all persons in the United States receiving such benefits; multiplied by

(II) the difference estimated under clause (i).

(B) Payment.—In order for any State (other than the Commonwealth of Perto Rico, the Virgin Islands, or Guam) to be eligible for payments pursuant to title XIX with respect to expenditures for any quarter in fiscal year 1998 through 2002, the State shall pay to the Commissioner of Social Security the amount required to be collected from the State under subparagraph (A)(ii) for the fiscal year.

(C) Use of amounts collected.—For fiscal year 1998 and each subsequent fiscal year, the sums collected from each State pursuant to subparagraph (A)(ii) shall be credited to a special fund established in the Treasury of the United States for State administrative payment fees. Amounts so credited, to the extent and in the amounts provided in advance in appropriations Acts, shall be available to defray expenses incurred in carrying out title XVI of the Social Security Act and related laws.

AMENDMENT OFFERED BY MR. BROWN OF OHIO TO THE MEDICARE RECONCILIATION PROVISIONS

Page 8, line 6, strike "500,000" and insert "100,000".

Page 131, after line 36, insert the following new subsection (and redesignate the succeeding subsections accordingly):

(c) Waiver of Coinsurance.—Section 1833(a)(1) (42 U.S.C. 13951(a)(1)) is amended by—

(A) striking "and" at the end of clause (O), and

(B) inserting before the semicolon at the end the following: ", and with respect to screening mammography (as defined in section 1861(jj), the amount paid shall be 100 percent of the fee schedule amount provided under section 1848".

Page 132, line 7, before the period insert the following:

", except that the amendments made by subsection (c) shall apply to items and services furnished on or after January 1, 2000".

Page 133, after line 8, insert the following new subsection (and redesignate the succeeding subsections accordingly):

(c) WAIVER OF COINSURANCE.—Section 1833(a)(1) (42 U.S.C. 1395l(a)(1)) is amended by—

(A) striking "and" at the end of clause (O), and

(B) inserting before the semicolon at the end the following: ", and with respect to screening pap smear and screening pelvic exam (as defined in section 1861(nn)), the amount paid shall be 100 percent of the fee schedule amount provided under section 1848".

Page 133, line 15, before the period insert the following:

", except that the amendments made by subsection (c) shall apply to items and services furnished on or after January 1, 2000".

Page 134, after line 14, insert the following new subsection (and redesignate the succeeding subsections accordingly):

(c) WAIVER OF COINSURANCE.—Section 1833(a)(1) (42 U.S.C. 1395l(a)(1)) is amended by—

(A) striking "and" at the end of clause (O), and

(B) inserting before the semicolon at the end the following: ", and with respect to prostate cancer screening tests (as defined in section 1861(oo)), the amount paid shall be 100 percent of the fee schedule amount provided under section 1848".

Page 134, line 31, before the period insert the following:

", except that the amendments made by subsection (e) shall apply to items and services furnished on or after January 1, 2000".

Page 140, after line 33, insert the following new subsection (and redesignate the succeeding subsections accordingly):

(e) WAIVER OF COINSURANCE.—Section 1833(a)(1) (42 U.S.C. 1395l(a)(1) is amended by—

(A) striking "and" at the end of clause (O), and

(B) inserting before the semicolon at the end the following: ", and with respect to colorectal cancer screening test (as defined in section 1861(pp)), the amount paid shall be 100 percent of the fee schedule amount provided under section 1848".

Page 141, line 26, before the period insert the following:

", except that the amendments made by subsection (c) shall apply to items and services furnished on or after January 1, 2000".

Page 143, strike lines 24 through 30.

Page 145, after line 22, insert the following new subsection (and redesignate the succeeding subsection accordingly):

(c) WAIVER OF COINSURANCE.—Section 1833(a)(1) (42 U.S.C. 13951(a)1)) is amended by—

(A) striking "and" at the end of clause (O), and

(B) inserting before the semicolon at the end the following:", and with respect to bone mass measurement (as defined in section 1861(rr)), the amount paid shall be 100 percent of the fee schedule amount provided under section 1848".

Page 141, line 26, before the period insert the following:

", except that the amendments made by subsection (c) shall apply to items and services furnished on or after January 1, 2000".

AMENDMENT OFFERED BY MR. BROWN OF OHIO TO THE CHILD HEALTH RECONCILIATION PROVISIONS

Add to the end the following new section:

SEC. 3504. CONTINUATION OF MEDICAID ELIGIBILITY FOR DISABLED CHILDREN WHO LOSE SSI BENEFITS

(a) IN GENERAL.—Section 1902(a)(10)(A)(i)(II) (42 U.S.C. 1396(a)(10)(A)(i)(II) is amended by inserting "or were being paid as of the date of enactment of section 211(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193) and would continue to be paid but for enactment of that section" after "title XVI".

(b) EFFECTIVE DATE.—The amendment made by Sub-Section (a) applies to medical assistance furnished on or after July 1, 1997.

AMENDMENT OFFERED BY MR. BROWN OF OHIO TO THE CHILD HEALTH RECONCILIATION PROVISIONS

(Page & line nos. refer to Committee Print of 6/11/97, KIDCARE.006)

Page 2, amend lines 19 and 20 to read as follows:

"(3) Other methods specified under the plan other than direct purchase of services from providers.

AMENDMENT TO H.R. —, AS REPORTED, OFFERED BY MR. GEKAS OF PENNSYLVANIA AND MR. FROST OF TEXAS

Insert after section 966 of the bill the following (and conform the table of contents accordingly):

SEC. 967. EXEMPTION FROM REPORTING REQUIREMENTS FOR CERTAIN AMOUNTS PAID TO ELECTION OFFICIALS AND ELECTION WORKERS.

(A) IN GENERAL.—Section 6051 is amended by adding at the end the following new subsection:

"(g) EXCEPTION FOR CERTAIN AMOUNTS PAID TO ELECTION OFFICIALS AND ELECTION WORKERS.—Notwithstanding any other provision of this title, the Secretary may not require a statement described in this section to include any amount paid as remuneration for service performed by an election official or election worker (within the meaning of section 3121(b)(F)(iv)) if it is reasonable to believe that such remuneration is not subject to tax under chapter 21 (relating to Federal Insurance Contributions Act)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to remuneration paid after December 31, 1996, in taxable years ending after such date.

AMENDMENT TO H.R.—, AS REPORTED OFFERED BY MR. BARTON OF TEXAS AND MR. MINGE

At the end of the bill, add the following new title:

TITLE XI—BUDGET PROCESS ENFORCEMENT

SEC. 11001. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "Balanced Budget Assurance Act of 1997".

(b) TABLE OF CONTENTS.—

TITLE XI—BUDGET PROCESS ENFORCEMENT

Sec. 11001. Short title and table of contents.
Sec. 11002. Definitions.

Subtitle A—Ensure That the Bipartisan Balanced Budget Agreement of 1997 Achieves Its Goal

Sec. 11101. Timetable.
Sec. 11102. Procedures to avoid sequestration or delay of new revenue reductions.
Sec. 11103. Effect on Presidents' budget submissions; point of order.
Sec. 11104. Deficit and revenue targets.
Sec. 11105. Direct spending caps.
Sec. 11106. Economic assumptions.
Sec. 11107. Revisions to deficit and revenue targets and to the caps for entitlements and other mandatory spending.

Subtitle B—Enforcement Provisions

Sec. 11201. Reporting excess spending.
Sec. 11202. Enforcing direct spending caps.
Sec. 11203. Sequestration rules.
Sec. 11204. Enforcing revenue targets.
Sec. 11205. Exempt programs and activities.
Sec. 11206. Special rules.
Sec. 11207. The current law baseline.
Sec. 11208. Limitations on emergency spending.

SEC. 11002. DEFINITIONS.

For purposes of this title:

(1) ELIGIBLE POPULATION.—The term "eligible population" shall mean those individuals to whom the United States is obligated to make a payment under the provisions of a law creating entitlement authority. Such term shall not include States, localities, corporations or other nonliving entities.

(2) SEQUESTER AND SEQUESTRATION.—The terms "sequester" and "sequestration" refer to or mean the cancellation of budgetary resources provided by discretionary appropriations or direct spending law.

(3) BREACH.—The term "breach" means, for any fiscal year, the amount (if any) by which outlays for that year (within a category of direct spending) is above that category's direct spending cap for that year.

(4) BASELINE.—The term "baseline" means the projection (described in section 11207) of current levels of new budget authority, outlays, receipts, and the surplus or deficit into the budget year and the outyears.

(5) BUDGETARY RESOURCES.—The term "budgetary resources" means new budget authority, unobligated balances, direct spending authority, and obligation limitations.

(6) DISCRETIONARY APPROPRIATIONS.—The term "discretionary appropriations" means budgetary resources (except to fund direct spending programs) provided in appropriation Acts. If an appropriation Act alters the level of direct spending or offsetting collections, that effect shall be treated as direct spending. Classifications of new accounts or activities and changes in classifications shall be made in consultation with the Committees on Appropriations and the Budget of the House of Representatives and the Senate and with CBO and OMB.

(7) DIRECT SPENDING.—The term "direct spending" means—

(A) budget authority provided by law other than appropriation Acts, including entitlement authority;

(B) entitlement authority; and

(C) the food stamp program.

If a law other than an appropriation Act alters the level of discretionary appropriations or offsetting collections, that effect shall be treated as direct spending.

(8) ENTITLEMENT AUTHORITY.—The term "entitlement authority" means authority (whether temporary or permanent) to make payments (including loans and grants), the budget authority for which is not provided for in advance by appropriation Acts, to any person or government if, under the provisions of the law containing such authority, the United States is obligated to make such payments to persons or governments who meet the requirements established by such law.

(9) CURRENT.—The term "current" means, with respect to OMB estimates included with

a budget submission under section 1105(a) of title 31 U.S.C., the estimates consistent with the economic and technical assumptions underlying that budget.

(10) Account.—The term "account" means an item for which there is a designated budget account designation number in the President's budget.

(11) Budget year.—The term "budget year" means the fiscal year of the Government that starts on the next October 1.

(12) Current year.—The term "current year" means, with respect to a budget year, the fiscal year that immediately precedes that budget year.

(13) Outyear.—The term "outyear" means, with respect to a budget year, any of the fiscal years that follow the budget year.

(14) OMB.—The term "OMB" means the Director of the Office of Management and Budget.

(15) CBO.—The term "CBO" means the Director of the Congressional Budget Office.

(16) Budget outlays and outlays.—The terms "budget outlays" and "outlays" mean, with respect to any fiscal year, expenditures of funds under budget authority during such year.

(17) Budget authority and new budget authority.—The terms "budget authority" and "new budget authority" have the meanings given to them in section 3 of the Congressional Budget and Impoundment Control Act of 1974.

(18) Appropriation act.—The term "appropriation Act" means an Act referred to in section 105 of title 1 of the United States Code.

(19) Consolidated Deficit.—The term "consolidated deficit" means, with respect to a fiscal year, the amount by which total outlays exceed total receipts during that year.

(20) Surplus.—The term "surplus" means, with respect to a fiscal year, the amount by which total receipts exceed total outlays during that year.

(21) Direct spending caps.—The term "direct spending caps" means the nominal dollar limits for entitlements and other mandatory spending pursuant to section 11105 (as modified by any revisions provided for in this Act).

Subtitle A—Ensure That the Bipartisan Balanced Budget Agreement of 1997 Achieves Its Goal

SEC. 11101. TIMETABLE.

On or before:	Action to be completed:
January 15	CBO economic and budget update.
First Monday in February.	President's budget update based on new assumptions.
August 1	CBO and OMB updates.
August 15	Preview report.
Not later than November 1 (and as soon as practical after the end of the fiscal).	OMB and CBO Analyses of Deficits, Revenues and Spending Levels and Projections for the Upcoming Year.
November 1–December 15	Congressional action to avoid sequestration.
December 15	OMB issues final (look back) report for prior year and preview for current year.
December 15	Presidential sequester order or order delaying new/additional revenues reductions scheduled to take effect pursuant to reconciliation legislation enacted in calendar year 1997.

SEC. 11102. PROCEDURES TO AVOID SEQUESTRATION OR DELAY OF NEW REVENUE REDUCTIONS.

(a) Special Message.—If the OMB Analysis of Actual Spending Levels and Projections for the Upcoming Year indicates that—

(1) deficits in the most recently completed fiscal year exceeded, or the deficits in the budget year are projected to exceed, the deficit targets in section 11104;

(2) revenues in the most recently completed fiscal year were less than, or revenues in the current year are projected to be less than, the revenue targets in section 11104; or

(3) outlays in the most recently completed fiscal year exceeded, or outlays in the current year are projected to exceed, the caps in section 11104;

the President shall submit to Congress with the OMB Analysis of Actual Spending Levels and Projections for the Upcoming Year a special message that includes proposed legislative changes to—

(A) offset the net deficit or outlay excess;

(B) offset any revenue shortfall; or

(C) revise the deficit or revenue targets or the outlay caps contained in this Act;

through any combination of—

(i) reductions in outlays;

(ii) increases in revenues; or

(iii) increases in the deficit targets or expenditure caps, or reductions in the revenue targets, if the President submits a written determination that, because of economic or programmatic reasons, none of the variances from the balanced budget plan should be offset.

(b) Introduction of the President's Package.—Not later than November 15, the message from the President required pursuant to subsection (a) shall be introduced as a joint resolution in the House of Representatives or the Senate by the chairman of its Committee on the Budget. If the chairman fails to do so, after November 15, the joint resolution may be introduced by any Member of that House of Congress and shall be referred to the Committee on the Budget of that House.

(c) House Budget Committee Action.—The Committee on the Budget of the House of Representatives shall, by November 15, report a joint resolution containing—

(1) the recommendations in the President's message, or different policies and proposed legislative changes than those contained in the message of the President, to ameliorate or eliminate any excess deficits or expenditures or any revenue shortfalls, or

(2) any changes to the deficit or revenue targets or expenditure caps contained in this Act, except that any changes to the deficit or revenue targets or expenditure caps cannot be greater than the changes recommended in the message submitted by the President.

(d) Procedure if the Committees on the Budget of the House of Representatives or Senate Fails To Report Required Resolution.—

(1) Automatic discharge of committees on the budget of the house.—If the Committee on the Budget of the House of Representatives fails, by November 20, to report a resolution meeting the requirements of subsection (c), the committee shall be automatically discharged from further consideration of the joint resolution reflecting the President's recommendations introduced pursuant to subsection (a), and the joint resolution shall be placed on the appropriate calendar.

(2) Consideration of discharge resolution in the house.—If the Committee has been discharged under paragraph (1) above, any Member may move that the House of Representatives consider the resolution. Such motion shall be highly privileged and not debatable. It shall not be in order to consider any amendment to the resolution except amendments which are germane and which do not change the net deficit impact of the resolution.

(e) Consideration of joint resolution in the house.—Consideration of resolution reported pursuant to subsection (c) or (d) shall be pursuant to the procedures set forth in section 305 of the Congressional Budget Act of 1974 and subsection (d).

(f) Transmittal to Senate.—If a joint resolution passes the House of Representatives pursuant to subsection (e), the Clerk of the House of Representatives shall cause the resolution to be engrossed, certified, and transmitted to the Senate within 1 calendar day of the day on which the resolution is passed. The resolution shall be referred to the Senate Committee on the Budget.

(g) Requirements for Special Joint Resolution in the Senate.—The Committee on the Budget of the Senate shall report not later than December 1—

(1) a joint resolution reflecting the message of the President; or

(2) the joint resolution passed by the House of Representatives, with or without amendment; or

(3) a joint resolution containing different policies and proposed legislative changes than those contained in either the message of the President or the resolution passed by the House of Representatives, to eliminate all or part of any excess deficits or expenditures or any revenue shortfalls, or

(4) any changes to the deficit or revenue targets, or to the expenditure caps, contained in this Act, except that any changes to the deficit or revenue targets or expenditure caps cannot be greater than the changes recommended in the message submitted by the President.

(h) Procedure if the Senate Budget Committee Fails To Report Required Resolution.—

(1) Automatic discharge of senate budget committee.—In the event that the Committee on the Budget of the Senate fails, by December 1, to report a resolution meeting the requirements of subsection (g), the committee shall be automatically discharged from further consideration of the joint resolution reflecting the President's recommendations introduced pursuant to subsection (a) and of the resolution passed by the House of Representatives, and both joint resolutions shall be placed on the appropriate calendar.

(2) Consideration of discharge resolution in the senate.—(A) If the Committee has been discharged under paragraph (1), any member may move that the Senate consider the resolution. Such motion shall be highly privileged and not debatable. It shall not be in order to consider any amendment to the resolution except amendments which are germane and which do not change the net deficit impact of the resolution.

(B) Consideration of resolutions reported pursuant to subsections (c) or (d) shall be pursuant to the procedures set forth in section 305 of the Congressional Budget Act of 1974 and subsection (d).

(C) If the joint resolution reported by the Committees on the Budget pursuant to subsection (c) or (g) or a joint resolution discharged in the House of Representatives or the Senate pursuant to subsection (d)(1) or (h)(1) would eliminate less than—

(i) the entire amount by which actual or projected deficits exceed, or revenues fall short of, the targets in this Act; or

(ii) the entire amount by which actual or projected outlays exceed the caps contained in this Act;

then the Committee on the Budget of the Senate shall report a joint resolution, raising the deficit targets or outlay caps, or reducing the revenue targets for any year in which actual or projected spending, revenues or deficits would not conform to the deficit and revenue targets or expenditure caps in this Act.

(k) Conference Reports Shall Fully Address Deficit Excess.—It shall not be in order in the House of Representatives or the Senate to consider a conference report on a joint resolution to eliminate all or part of any excess deficits or outlays or to eliminate all or part of any revenue shortfall compared to the deficit and revenue targets and the expenditure caps contained in this Act, unless—

(1) the joint resolution offsets the entire amount of any overage or shortfall; or

(2) the House of Representatives and Senate both pass the joint resolution reported pursuant to subsection (j)(2).

The vote on any resolution reported pursuant to subsection (j)(2) shall be solely on the subject of changing the deficit or revenue targets or the expenditure limits in this Act.

SEC. 11103. EFFECT ON PRESIDENTS' BUDGET SUBMISSIONS; POINT OF ORDER.

(a) Budget Submission.—Any budget submitted by the President pursuant to section 1105(a) of title 31, United States Code, for each of fiscal years 1998 through 2007 shall be consistent with the spending, revenue, and deficit levels established in sections 11104 and 11105 or it shall recommend changes to those levels

(b) Point of Order.—It shall not be in order in the House of Representatives or the Senate to consider any concurrent resolution on the budget unless it is consistent with the spending, revenue, and deficit levels established in sections 11104 and 11105.

SEC. 11104. DEFICIT AND REVENUE TARGETS.

(a) Consolidated Deficit (or Surplus) Targets.—For purposes of sections 11102 and 11107, the consolidated deficit targets shall be—

(1) for fiscal year 1998, $90,500,000,000;

(2) for fiscal year 1999, $89,700,000,000;

(3) for fiscal year 2000, $83,000,000,000;

(4) for fiscal year 2001, $53,300,000,000; and

(5) for fiscal year 2002, there shall be a surplus of not less than $1,400,000,000.

(b) Consolidated Revenue Targets.—For purposes of sections 11102, 11107, 11201, and 11204, the consolidated revenue targets shall be—

(1) for fiscal year 1998, $1,601,800,000,000;

(2) for fiscal year 1999, $1,664,200,000,000;

(3) for fiscal year 2000, $1,728,100,000,000;

(4) for fiscal year 2001, $1,805,100,000,000; and

(5) for fiscal year 2002, $1,890,400,000,000.

SEC. 11105. DIRECT SPENDING CAPS.

(a) In General.—Effective upon submission of the report by OMB pursuant to subsection (c), direct spending caps shall apply to all entitlement authority except for undistributed offsetting receipts and net interest outlays. For purposes of enforcing direct spending caps under this Act, each separate program shown in the table set forth in subsection (d) shall be deemed to be a category.

(b) Budget Committee Reports.—Within 30 days after enactment of this Act, the Budget Committees of the House of Representatives and the Senate shall file with their respective Houses identical reports containing account numbers and spending levels for each specific category.

(c) Report by OMB.—Within 30 days after enactment of this Act, OMB shall submit to the President and each House of Congress a report containing account numbers and spending limits for each specific category.

(d) Contents of Reports.—All direct spending accounts not included in these reports under separate categories shall be included under the heading "Other Entitlements and Mandatory Spending". These reports may include adjustments among the caps set forth in this Act as required below, however the aggregate amount available under the "Total Entitlements and Other Mandatory Spending" cap shall be identical in each such report and in this Act and shall be deemed to have been adopted as part of this Act. Each such report shall include the actual amounts of the caps for each year of fiscal years 1998 through 2002 consistent with the concurrent resolution on the budget for FY 1998 for each of the following categories:

Earned Income Tax Credit,
Family Support,
Federal retirement:
Civilian/other,
Military,
Medicaid,
Medicare,
Social security,
Supplemental security income,
Unemployment compensation,
Veterans' benefits,
Medicare,
Other entitlements and mandatory spending, and
Aggregate entitlements and other mandatory spending.

(e) Additional Spending Limits.—Legislation enacted subsequent to this Act may include additional caps to limit spending for specific programs, activities, or accounts with these categories. Those additional caps (if any) shall be enforced in the same manner as the limits set forth in such joint explanatory statement.

SEC. 11106. ECONOMIC ASSUMPTIONS.

Subject to periodic reestimation based on changed economic conditions or changes in eligible population, determinations of the direct spending caps under section 11105, any breaches of such caps, and actions necessary to remedy such breaches shall be based upon the economic assumptions set forth in the joint explanatory statement of managers accompanying the concurrent resolution on the budget for fiscal year 1998 (House Concurrent Resolution 84, 105th Congress).

SEC. 11107. REVISIONS TO DEFICIT AND REVENUE TARGETS AND TO THE CAPS FOR ENTITLEMENTS AND OTHER MANDATORY SPENDING.

(a) Automatic Adjustments to Deficit and Revenue Targets and to Caps for Entitlements and Other Mandatory Spending.—When the President submits the budget under section 1105(a) of title 31, United States Code, for any year, OMB shall calculate (in the order set forth below), and the budget and reports shall include, adjustments to the deficit and revenue targets, and to the direct spending caps (and those limits as cumulatively adjusted) for the current year, the budget year, and each outyear, to reflect the following:

(1) Changes to revenue targets.—

(A) Changes in growth.—For Federal revenues and deficits under laws and policies enacted or effective before July 1, 1997, growth adjustment factors shall equal the ratio between the level of year-over-year growth measured for the fiscal year most recently completed and the applicable estimated level for that year as described in section 11105.

(B) Changes in inflation.—For Federal revenues and deficits under laws and policies enacted or effective before July 1, 1997, inflation adjustment factors shall equal the ratio between the level of year-over-year growth measured for the fiscal year most recently completed and the applicable estimated level for that year as described in section 11105.

(2) Adjustments to direct spending caps.—

(A) Changes in concepts and definitions.—The adjustments produced by changes in concepts and definitions shall equal the baseline levels of new budget authority and outlays using up-to-date concepts and definitions minus those levels using the concepts and definitions in effect before such changes. Such changes in concepts and definitions may only be made in consultation with the Committees on Appropriations, the Budget, and Government Reform and Oversight and Governmental Affairs of the House of Representatives and the Senate.

(B) Changes in net outlays.—Changes in net outlays for all programs and activities exempt from sequestration under section 11204.

(C) Changes in inflation.—For direct spending under laws and policies enacted or effective on or before July 1, 1997, inflation adjustment factors shall equal the ratio between the level of year-over-year inflation measured for the fiscal year most recently completed and the applicable estimated level for that years as described in section 11105 (relating to economic assumptions). For direct spending under laws and policies enacted or effective after July 1, 1997, there shall be no adjustment to the direct spending caps (for changes in economic conditions including inflation, nor for changes in numbers of eligible beneficiaries) unless—

(i) the Act or the joint explanatory statement of managers accompanying such Act providing new direct spending includes economic projections and projections of numbers of beneficiaries; and

(ii) such Act specifically provides for automatic adjustments to the direct spending caps in section 11105 based on those projections.

(D) Changes in eligible populations.—For direct spending under laws and policies enacted or effective on or before July 1, 1997, the basis for adjustments under this section shall be the same as the projections underlying Table A–4, CBO Baseline Projections of Mandatory Spending, Including Deposit Insurance (by fiscal year, in billions of dollars), published in An Analysis of the President's Budgetary Proposals for Fiscal Year 1998, March 1997, page 53. For direct spending under laws and policies enacted or effective after July 1, 1997, there shall be no adjustment to the direct spending caps for changes in numbers of eligible beneficiaries unless—

(i) the Act or the joint explanatory statement of managers accompanying such Act providing new direct spending includes economic projections and projections of numbers of beneficiaries; and

(ii) such Act specifically provides for automatic adjustments to the direct spending caps in section 11105 based on those projections.

(E) Intra-budgetary payments.—From discretionary accounts to mandatory accounts. The baseline and the discretionary spending caps shall be adjusted to reflect those changes.

(c) Changes to Deficit Targets.—The deficit targets in section 11104 shall be adjusted to reflect changes to the revenue targets or changes to the caps for entitlements and other mandatory spending pursuant to subsection (a).

(d) Permissible Revisions to Deficit and Revenue Targets and Direct Spending Caps.—Deficit and revenue targets and direct spending caps as enacted pursuant to sections 11104 and 11105 may be revised as follows: Except as required pursuant to section 11105(a), direct spending caps may only be amended by recorded vote. It shall be a matter of highest privilege in the House of Representatives and the Senate for a Member of the House of Representatives or the Senate to insist on a recorded vote solely on the question of amending such caps. It shall not be in order for the Committee on Rules of the House of Representatives to report a resolution waiving the provisions of this subsection. This subsection may be waived in the Senate only by an affirmative vote of three-fifths of the Members duly chosen and sworn.

Subtitle B—Enforcement Provisions

SEC. 11201. REPORTING EXCESS SPENDING.

(a) Analysis of Actual Deficit, Revenue, and Spending Levels.—As soon as practicable after any fiscal year, OMB shall compile a statement of actual deficits, revenues, and direct spending for that year. The statement shall identify such spending by categories contained in section 11105.

(b) Estimate of Necessary Spending Reduction.—Based on the statement provided under subsection (a), the OMB shall issue a report to the President and the Congress on December 15 of any year in which such statement identifies actual or projected deficits, revenues, or spending in the current or immediately preceding fiscal years in violation of the revenue targets or direct spending caps in section 11104 or 11105, by more than one percent of the applicable total revenues or direct spending for such year. The report shall include:

(1) All instances in which actual direct spending has exceeded the applicable direct spending cap.

(2) The difference between the amount of spending available under the direct spending caps for the current year and estimated actual spending for the categories associated with such caps.

(3) The amounts by which direct spending shall be reduced in the current fiscal year so that total actual and estimated direct spending for all cap categories for the current and immediately preceding fiscal years shall not exceed the amounts available under the direct spending caps for such fiscal years.

(4) The amount of excess spending attributable solely to changes in inflation or eligible populations.

SEC. 11202. ENFORCING DIRECT SPENDING CAPS.

(a) Purpose.—This subtitle provides enforcement of the direct spending caps on categories of spending established pursuant to section 11105. This section shall apply for any fiscal year in which direct spending exceeds the applicable direct spending cap.

(b) General Rules.—

(1) Eliminating a breach.—Each non-exempt account within a category shall be reduced by a dollar amount calculated by multiplying the baseline level of sequestrable budgetary resources in that account at that time by the uniform percentage necessary to eliminate a breach within that category.

(2) Programs, projects, or activities.—Except as otherwise provided, the same percentage sequestration shall apply to all programs, projects and activities within a budget account.

(3) Indefinite authority.—Except as otherwise provided, sequestration in accounts for which obligations are indefinite shall be taken in a manner to ensure that obligations in the fiscal year of a sequestration and succeeding fiscal years are reduced, from the level that would actually have occurred, by the applicable sequestration percentage or percentages.

(4) Cancellation of budgetary resources.—Budgetary resources sequestered from any account other than an trust, special or revolving fund shall revert to the Treasury and be permanently canceled.

(5) Implementing regulations.—Notwithstanding any other provision of law, administrative rules or similar actions implementing any sequestration shall take effect within 30 days after that sequestration.

SEC. 11203. SEQUESTRATION RULES.

(a) General Rules.—For programs subject to direct spending caps:

(1) Triggering of sequestration.—Sequestration is triggered if total direct spending subject to the caps exceeds or is projected to exceed the aggregate cap for direct spending for the current or immediately preceding fiscal year.

(2) Calculation of reductions.—Sequestration shall reduce spending under each separate direct spending cap in proportion to the amounts each category of direct spending exceeded the applicable cap.

(3) Uniform percentages.—In calculating the uniform percentage applicable to the sequestration of all spending programs or activities within each category, or the uniform percentage applicable to the sequestration of nonexempt direct spending programs or activities, the sequestrable base for direct spending programs and activities is the total level of outlays for the fiscal year for those programs or activities in the current law baseline.

(4) Permanent sequestration of direct spending.—Obligations in sequestered direct spending accounts shall be reduced in the fiscal year in which a sequestration occurs and in all succeeding fiscal years. Notwithstanding any other provision of this section, after the first direct spending sequestration, any later sequestration shall reduce direct spending by an amount in addition to, rather than in lieu of, the reduction in direct spending in place under the existing sequestration or sequestrations.

(5) Special rule.—For any direct spending program in which—

(A) outlays pay for entitlement benefits;

(B) a current-year sequestration takes effect after the 1st day of the budget year;

(C) that delay reduces the amount of entitlement authority that is subject to sequestration in the budget; and

(D) the uniform percentage otherwise applicable to the budget-year sequestration of a program or activity is increased due to the delay;

then the uniform percentage shall revert to the uniform percentage calculated under paragraph (3) when the budget year is completed.

(6) Indexed benefit payments.—If, under any entitlement program—

(A) benefit payments are made to persons or governments more frequently than once a year; and

(B) the amount of entitlement authority is periodically adjusted under existing law to reflect changes in a price index (commonly called "cost of living adjustments");

sequestration shall first be applied to the cost of living adjustment before reductions are made to the base benefit. For the first fiscal year to which a sequestration applies, the benefit payment reductions in such programs accomplished by the order shall take effect starting with the payment made at the beginning of January following a final sequester. For the purposes of this subsection, veterans' compensation shall be considered a program that meets the conditions of the preceding sentence.

(7) Loan programs.—For all loans made, extended, or otherwise modified on or after any sequestration under loan programs subject to direct spending caps—

(A) the sequestrable base shall be total fees associated with all loans made extended or otherwise modified on or after the date of sequestration; and

(B) the fees paid by borrowers shall be increased by a uniform percentage sufficient to produce the dollar savings in such loan programs for the fiscal year or years of the sequestrations required by this section.

Notwithstanding any other provision of law, in any year in which a sequestration is in effect, all subsequent fees shall be increased by the uniform percentage and all proceeds from such fees shall be paid into the general fund of the Treasury.

(8) Insurance programs.—Any sequestration of a Federal program that sells insurance contracts to the public (including the Federal Crop Insurance Fund, the National Insurance Development Fund, the National Flood Insurance fund, insurance activities of the Overseas Private Insurance Corporation, and Veterans' Life insurance programs) shall be accomplished by increasing premiums on contracts entered into extended or otherwise modified, after the date a sequestration order takes effect by the uniform sequestration percentage. Notwithstanding any other provision of law, for any year in which a sequestration affecting such programs is in effect, subsequent premiums shall be increased by the uniform percentage and all proceeds from the premium increase shall be paid from the insurance fund or account to the general fund of the Treasury.

(9) State grant formulas.—For all State grant programs subject to direct spending caps—

(A) the total amount of funds available for all States shall be reduced by the amount required to be sequestered; and

(B) if States are projected to receive increased funding in the budget year compared to the immediately preceding fiscal year, sequestration shall first be applied to the estimated increases before reductions are made compared to actual payments to States in the previous year—

(i) the reductions shall be applied first to the total estimated increases for all States; then

(ii) the uniform reduction shall be made from each State's grant; and

(iii) the uniform reduction shall apply to the base funding levels available to states in the immediately preceding fiscal year only to the extent necessary to eliminate any remaining excess over the applicable direct spending cap.

(10) Special rule for certain programs.—Except matters exempted under section 11204 and programs subject to special rules set forth under section 11205 and notwithstanding any other provisions of law, any sequestration required under this Act shall reduce benefit levels by an amount sufficient to eliminate all excess spending identified in the report issued pursuant to section 11201,

while maintaining the same uniform percentage reduction in the monetary value of benefits subject to reduction under this subsection.

(b) Within-Session Sequester.—If a bill or resolution providing direct spending for the current year is enacted before July 1 of that fiscal year and causes a breach within any direct spending cap for that fiscal year, 15 days later there shall be a sequestration to eliminate that breach within that cap.

SEC. 11204. ENFORCING REVENUE TARGETS.

(a) Purpose.—This section enforces the revenue targets established pursuant to section 11104. This section shall apply for any year in which actual revenues were less than the applicable revenue target in the preceding fiscal year or are projected to be less than the applicable revenue target in the current year.

(b) Estimate of Necessity To Suspend New Revenue Reductions.—Based on the statement provided under section 11201(a), OMB shall issue a report to the President and the Congress on December 15 of any year in which such statement identifies actual or projected revenues in the current or immediately preceding fiscal years lower than the applicable revenue target in section 11104, as adjusted pursuant to section 11106, by more than 1 percent of the applicable total revenue target for such year. The report shall include—

(1) all laws and policies described in subsection (c) which would cause revenues to decline in the calendar year which begins January 1 compared to the provisions of law in effect on December 15;

(2) the amounts by which revenues would be reduced by implementation of the provisions of law described in paragraph (1) compared to provisions of law in effect on December 15; and

(3) whether delaying implementation of the provisions of law described in paragraph (1) would cause the total for revenues in the projected revenues in the current fiscal year and actual revenues in the immediately preceding fiscal year to equal or exceed the total of the targets for the applicable years.

(c) No Credits, Deductions, Exclusions, Preferential Rate of Tax, Etc.—If any provision of the Internal Revenue Code of 1986 added by the Revenue Reconciliation Act of 1997 would (but for this section) first take effect in a tax benefit suspension year, such provision shall not take effect until the first calendar year which is not a tax benefit suspension year.

(d) End of Suspension.—If the OMB report issued under subsection (a) following a tax benefit suspension year indicates that the total of revenues projected in the current fiscal year and actual revenues in the immediately preceding year will equal or exceed the applicable targets the President shall sign an order ending the delayed phase-in of new tax cuts effective January 1. Such order shall provide that the new tax cuts shall take effect as if the provisions of this section had not taken effect.

(e) Suspension of Benefits Being Phased In.—If, under any provision of the Internal Revenue Code of 1986, there is an increase in any benefit which would (but for this section) take effect with respect to a tax benefit suspension year, in lieu of applying subsection (c)—

(1) any increase in the benefit under such section with respect to such year and each subsequent calendar year shall be delayed 1 calendar year, and

(2) the level of benefit under such section with respect to the prior calendar year shall apply to such tax benefit suspension year.

(f) Percentage Suspension Where Full Suspension Unnecessary To Achieve Revenue Target.—If the application of subsections (c), (d), and (e) to any tax benefit suspension year would (but for this subsection) cause revenues to decline in the calendar year which begins January 1 compared to the provisions of law in effect on December 15; subsections (c) (d) and (e) shall be applied such that the amount of each benefit which is denied is only the percentage of such benefit which is necessary to result in revenues equal to such target. Such percentage shall be determined by OMB, and the same percentage shall apply to such benefits.

(g) Tax Benefit Suspension Year.—For purposes of this section, the term "tax benefit suspension year" means any calendar year if the statement issued under subsection (b) during the preceding calendar year indicates that—

(1) for the fiscal year ending in such preceding calendar year, actual revenues were lower than the applicable revenue target in section 11104, as adjusted pursuant to section 11106, for such fiscal year by more than 1 percent of such target, or

(2) for the fiscal year beginning in such preceding calendar year, projected revenues (determined without regard to this section) are estimated to be lower than the applicable revenue target in section 11104, as adjusted pursuant to section 11106, for such fiscal year by more than 1 percent of such target.

SEC. 11205. EXEMPT PROGRAMS AND ACTIVITIES.

The following budget accounts, activities within accounts, or income shall be exempt from sequestration—

(1) net interest;

(2) all payments to trust funds from excise taxes or other receipts or collections properly creditable to those trust funds;

(3) offsetting receipts and collections;

(4) all payments from one Federal direct spending budget account to another Federal budget account;

(5) all intragovernmental funds including those from which funding is derived primarily from other Government accounts;

(6) expenses to the extent they result from private donations, bequests, or voluntary contributions to the Government;

(7) nonbudgetary activities, including but not limited to—

(A) credit liquidating and financing accounts;

(B) the Pension Benefit Guarantee Corporation Trust Funds;

(C) the Thrift Savings Fund;

(D) the Federal Reserve System; and

(E) appropriations for the District of Columbia to the extent they are appropriations of locally raised funds;

(8) payments resulting from Government insurance, Government guarantees, or any other form of contingent liability, to the extent those payments result from contractual or other legally binding commitments of the Government at the time of any sequestration;

(9) the following accounts, which largely fulfill requirements of the Constitution or otherwise make payments to which the Government is committed—

Bureau of Indian Affairs, miscellaneous trust funds, tribal trust funds (14-9973-0-7-999);

Claims, defense;

Claims, judgments and relief act (20-1895-0-1-806);

Compact of Free Association, economic assistance pursuant to Public Law 99-658 (14-0415-0-1-806);

Compensation of the President (11-0001-0-1-802);

Customs Service, miscellaneous permanent appropriations (20-9992-0-2-852);

Eastern Indian land claims settlement fund (14-2202-0-1-806);

Farm Credit System Financial Assistance Corporation, interest payments (20-1850-0-1-351);

Internal Revenue collections of Puerto Rico (20-5737-0-2-852);

Payments of Vietnam and USS Pueblo prisoner-of-war claims (15-0104-0-1-153);

Payments to copyright owners (03-5175-0-2-376);

Salaries of Article III judges (not including cost of living adjustments);

Soldier's and Airman's Home, payment of claims (84-8930-0-7-705);

Washington Metropolitan Area Transit Authority, interest payments (46-0300-0-1-401);

(10) the following noncredit special, revolving, or trust-revolving funds—

Exchange Stabilization Fund (20-4444-0-3-155); and

Foreign Military Sales trust fund (11-82232-0-7-155).

(j) Optional Exemption of Military Personnel.—

(1) The President may, with respect to any military personnel account, exempt that account from sequestration or provide for a lower uniform percentage reduction that would otherwise apply.

(2) The President may not use the authority provided by paragraph (1) unless he notifies the Congress of the manner in which such authority will be exercised on or before the initial snapshot date for the budget year.

SEC. 11206. SPECIAL RULES.

(a) Child Support Enforcement Program.—Any sequestration order shall accomplish the full amount of any required reduction in payments under sections 455 and 458 of the Social Security Act by reducing the Federal matching rate for State administrative costs under the program, as specified (for the fiscal year involved) in section 455(a) of such Act, to the extent necessary to reduce such expenditures by that amount.

(b) Commodity Credit Corporation.—

(1) Effective date.—For the Commodity Credit Corporation, the date on which a sequestration order takes effect in a fiscal year shall vary for each crop of a commodity. In general, the sequestration order shall take effect when issued, but for each crop of a commodity for which 1-year contracts are issued as an entitlement, the sequestration order shall take effect with the start of the sign-up period for that crop that begins after the sequestration order is issued. Payments for each contract in such a crop shall be reduced under the same terms and conditions.

(2) Dairy program.—

(A) As the sole means of achieving any reduction in outlays under the milk price-support program, the Secretary of Agriculture shall provide for a reduction to be made in the price received by producers for all milk in the United States and marketed by producers for commercial use.

(B) That price reduction (measured in cents per hundred-weight of milk marketed) shall occur under subparagraph (A) of section 201(d)(2) of the Agricultural Act of 1949 (7 U.S.C. 1446(d)(2)(A)), shall begin on the day any sequestration order is issued, and shall not exceed the aggregate amount of the reduction in outlays under the milk price-support program, that otherwise would have been achieved by reducing payments made for the purchase of milk or the products of milk under this subsection during that fiscal year.

(3) EFFECT OF DELAY.—For purposes of subsection (b)(1), the sequestrable base for Commodity Credit Corporation is the current-year level of gross outlays resulting from new budget authority that is subject to reduction under paragraphs (1) and (2).

(4) CERTAIN AUTHORITY NOT TO BE LIMITED.—Nothing in this Act shall restrict the Corporation in the discharge of its authority and responsibility as a corporation to buy and sell commodities in world trade, or limit or reduce in any way any appropriation that provides the Corporation with funds to cover its realized losses.

(c) EARNED INCOME TAX CREDIT.—

(1) The sequestrable base for earned income tax credit program is the dollar value of all current year benefits to the entire eligible population.

(2) In the event sequestration is triggered to reduce earned income tax credits, all earned income tax credits shall be reduced, whether or not such credits otherwise would result in cash payments to beneficiaries, by a uniform percentage sufficient to produce the dollar savings required by the sequestration.

(d) REGULAR AND EXTENDED UNEMPLOYMENT COMPENSATION.—

(1) A State may reduce each weekly benefit payment made under the regular and extended unemployment benefit programs for any week of unemployment occurring during any period with respect to which payments are reduced under any sequestration order by a percentage not to exceed the percentage by which the Federal payment to the State is to be reduced for such week as a result of such order.

(2) A reduction by a State in accordance with paragraph (1) shall not be considered as a failure to fulfill the requirements of section 3304(a)(11) of the Internal Revenue Code of 1986.

(e) FEDERAL EMPLOYEES HEALTH BENEFITS FUND.— For the Federal Employees Health Benefits Fund, a sequestration order shall take effect with the next open season. The sequestration shall be accomplished by annual payments from that Fund to the General Fund of the Treasury. Those annual payments shall be financed solely by charging higher premiums. The sequestrable base for the Fund is the current-year level of gross outlays resulting from claims paid after the sequestration order takes effect.

(f) FEDERAL HOUSING FINANCE BOARD.— Any sequestration of the Federal Housing Board shall be accomplished by annual payments (by the end of each fiscal year) from that Board to the general fund of the Treasury, in amounts equal to the uniform sequestration percentage for that year times the gross obligations of the Board in that year.

(g) FEDERAL PAY.—

(1) IN GENERAL.— New budget authority to pay Federal personnel from direct spending accounts shall be reduced by the uniform percentage calculated under section 11203(c)(3), as applicable, but no sequestration order may reduce or have the effect of reducing the rate of pay to which any individual is entitled under any statutory pay system (as increased by any amount payable under section 5304 of title 5, United States Code, or any increase in rates of pay which is scheduled to take effect under section 5303 of title 5, United States Code, section 1109 of title 37, United States Code, or any other provision of law.

(2) DEFINITIONS.—For purposes of this subsection—

(A) the term "statutory pay system" shall have the meaning given that term in section 5302(1) of title 5, United States Code;

term "elements of military pay" means—

(i) the elements of compensation of members of the uniformed services specified in section 1009 of title 37, United States Code;

(ii) allowances provided members of the uniformed services under sections 403(a) and 405 of such title; and

(iii) cadet pay and midshipman pay under section 203(c) of such title; and

(B) the term "uniformed services" shall have the same meaning given that term in section 101(3) of title 37, United States Code.

(h) MEDICARE.—

(1) TIMING OF APPLICATION OF REDUCTIONS.—

(A) IN GENERAL.— Except as provided in subparagraph (B), if a reduction is made in payment amounts pursuant to sequestration order, the reduction shall be applied to payment for services furnished after the effective date of the order. For purposes of the previous sentence, in the case of inpatient services furnished for an individual, the services shall be considered to be furnished on the date of the individual's discharge from the inpatient facility.

(B) PAYMENT ON THE BASIS OF COST REPORTING PERIODS.— In the case in which payment for services of a provider of services is made under title XVIII of the Social Security Act on a basis relating to the reasonable cost incurred for the services during a cost reporting period of the provider, if a reduction is made in payment amounts pursuant to a sequestration order, the reduction shall be applied to payment for costs for such services incurred at any time during each cost reporting period of the provider any part of which occurs after the effective date of order, but only (for each such cost reporting period) in the same proportion as the fraction of the cost reporting period that occurs after the effective date of the order.

(2) NO INCREASE IN BENEFICIARY CHARGES IN ASSIGNMENT-RELATED CASES.—If a reduction in payment amounts is made pursuant to a sequestration order for services for which payment under part B of title XVIII of the Social Security Act is made on the basis of an assignment described in section 1842(b)(3)(B)(ii), in accordance with section 1842(b)(6)(B), or under the procedure described in section 1870(f)(1) of such Act, the person furnishing the services shall be considered to have accepted payment of the reasonable charge for the services, less any reduction in payment amount made pursuant to a sequestration order, as payment in full.

(3) PART B PREMIUMS.—In computing the amount and method of sequestration from part B of title XVIII of the Social Security Act—

(A) the amount of sequestration shall be calculated by multiplying the total amount by which Medicare spending exceeds the appropriate spending cap by a percentage that reflects the ratio of total spending under Part B to total Medicare spending; and

(B) sequestration in the Part B program shall be accomplished by increasing premiums to beneficiaries.

(4) NO EFFECT ON COMPUTATION OF AAPCC.—In computing the adjusted average per capita cost for purposes of section 1876(a)(4) of the Social Security Act, the Secretary of Health and Human Services shall not take into account any reductions in payment amounts which have been or may be effected under this part.

(i) POSTAL SERVICE FUND.— Any sequestration of the Postal Service Fund shall be accomplished by annual payments from that Fund to the General Fund of the Treasury, and the Postmaster General of the United States and shall have the duty to make those payments during the first fiscal year to which the sequestration order applies and each succeeding fiscal year. The amount of each annual payment shall be—

(1) the uniform sequestration percentage, times

(2) the estimated gross obligations of the Postal Service Fund in that year other than those obligations financed with an appropriation for revenue forgone that year.

Any such payment for a fiscal year shall be made as soon as possible during the fiscal year, except that it may be made in installments within that year if the payment schedule is approved by the Secretary of the Treasury. Within 30 days after the sequestration order is issued, the Postmaster General shall submit to the Postal Rate Commission a plan for financing the annual payment for that fiscal year and publish that plan in the Federal Register. The plan may assume efficiencies in the operation of the Postal Service, reductions in capital expenditures, increases in the prices of services, or any combination, but may not assume a lower Fund surplus or higher Fund deficit and shall follow the requirements of existing law governing the Postal Service in all other respects. Within 30 days of the receipt of that plan, the Postal Rate Commission shall approve the plan or modify it in the manner that modifications are allowed under current law. If the Postal Rate Commission does not respond to the plan within 30 days, the plan submitted by the Postmaster General shall go into effect. Any plan may be later revised by the submission of a new plan to the Postal Rate Commission, which may approve or modify it.

(j) POWER MARKETING ADMINISTRATIONS AND T.V.A.— Any sequestration of the Department of Energy power marketing administration funds or the Tennessee Valley Authority fund shall be accomplished by annual payments from those funds to the General Fund of the Treasury, and the administrators of those funds shall have the duty to make those payments during the fiscal year to which the sequestration order applies and each succeeding fiscal year. The amount of each payment by a fund shall be—

(1) the direct spending uniform sequestration percentage, times

(2) the estimated gross obligations of the fund in that year other than those obligations financed from discretionary appropriations for that year.

Any such payment for a fiscal year shall be made as soon as possible during the fiscal year, except that it may be made in installments within that year if the payment schedule is approved by the Secretary of the Treasury. Annual payments by a fund may be financed by reductions in costs required to produce the pre-sequester amount of power (but those reductions shall not include reductions in the amount of power supplied by the fund), by reductions in capital expenditures, by increases in tax rates, or by any combination, but may not be financed by a lower fund surplus, a higher fund deficit, additional borrowing, delay in repayment of principal on outstanding debt and shall follow the requirements of existing law governing the fund in all other respects. The administrator of a fund or the TVA Board is authorized to take the actions specified in this subsection in order to make the annual payments to the Treasury.

(k) BUSINESS-LIKE TRANSACTIONS.—Notwithstanding any other provision of law, for programs which provide a business-like service in exchange for a fee, sequestration shall be accomplished through a uniform increase in fees (sufficient to produce the dollar savings in such programs for the fiscal year of the sequestration required by section 11201(a)(2), all subsequent fees shall be increased by the same percentage, and all proceeds from such fees shall be paid into the general fund of the Treasury, in any year for which a sequester affecting such programs are in effect.

SEC. 11207. THE CURRENT LAW BASELINE.

(a) Submission of Reports.—CBO and OMB shall submit to the President and the Congress reports setting forth the budget baselines for the budget year and the next nine fiscal years. The CBO report shall be submitted on or before January 15. The OMB report shall accompany the President's budget.

(b) Determination of the Budget Baseline.—(1) The budget baseline shall be based on the common economic assumptions set forth in section 11106, adjusted to reflect revisions pursuant to subsection (c).

(2) The budget baseline shall consist of a projection of current year levels of budget authority, outlays, revenues and the surplus or deficit into the budget year and the relevant outyears based on current enacted laws as of the date of the projection.

(3) For discretionary spending items, the baseline shall be the spending caps in effect pursuant to section 601(a)(2) of the Congressional Budget Act of 1974. For years for which there are no caps, the baseline for discretionary spending shall be the same as the last year for which there were statutory caps.

(4) For all other expenditures and for revenues, the baseline shall be adjusted by comparing unemployment, inflation, interest rates, growth and other economic indicators-and changes ineligible population-for the most recent period for which actual data are available, compared to the assumptions contained in section 11106.

(c) Revisions to the Baseline.—The baseline shall be adjusted for up-to-date economic assumptions when CBO submits its Economic and Budget Update and when OMB submits its budget update, and by August 1 each year, when CBO and OBM submit their midyear reviews.

SEC. 11208. LIMITATIONS ON EMERGENCY SPENDING.

(a) In General.—(1) Within the discretionary caps for each fiscal year contained in this Act, an amount shall be withheld from allocation to the appropriate committees of the House of Representatives and of the Senate and reserved for natural disasters and other emergency purposes.

(2) Such amount for each such fiscal year shall not be less than 1 percent of total budget authority and outlays available within those caps for that fiscal year.

(3) The amounts reserved pursuant to this subsection shall be made available for allocation to such committees only if—

(A) the President has made a request for such disaster funds;

(B) the programs to be funded are included in such request; and

(C) the projected obligations for unforeseen emergency needs exceed the 10-year rolling average annual expenditures for existing programs included in the Presidential request for the applicable fiscal year.

(4) Notwithstanding any other provision of law—

(A) States and localities shall be required to maintain effort and ensure that Federal assistance payments do not replace, subvert or otherwise have the effect of reducing regularly budgeted State and local expenditures for law enforcement, refighting, road construction and maintenance, building construction and maintenance or any other category of regular government expenditure (to ensure that Federal disaster payments are made only for incremental costs directly attributable to unforeseen disasters, and do not replace or reduce regular State and local expenditures for the same purposes);

(B) the President may not take administrative action to waive any requirement for States or localities to make minimum matching payments as a condition or receiving Federal disaster assistance and prohibit the President from taking administrative action to waive all or part of any repayment of Federal loans for the State or local matching share required as a condition of receiving Federal disaster assistance, and this clause shall apply to all matching share requirements and loans to meet matching share requirements under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) and any other Acts pursuant to which the President may declare a disaster or disasters and States and localities otherwise qualify for Federal disaster assistance; and

(C) a two-thirds vote in each House of Congress shall be required for each emergency to reduce or waive the State matching requirement of to forgive all or part of loans for the State matching share as required under the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

(b) Effect Budget Resolutions.—(1) All concurrent resolutions on the budget (including revisions) shall specify the amount of new budget authority and outlays within the discretionary spending cap that shall be withheld from allocation to the committees and reserved for natural disasters, and a procedure for releasing such funds for allocation to the appropriate committee. The amount withheld shall be equal to 1 percent of the total discretionary spending cap for fiscal year covered by the resolution, unless additional amounts are specified.

(2) The procedure for allocation of the amounts pursuant to paragraph (1) shall ensure that the funds are released for allocation only pursuant to the conditions contained in subsection (a)(3)(A) through (C).

(c) Restriction on Use of Funds.—Notwithstanding any other provision of law, the amount reserved pursuant to subsection (a) shall not be available for other than emergency funding requirements for particular natural disasters or national security emergencies so designated by Acts of Congress.

(d) New Point of Order.—(1) Title IV of the Congressional Budget Act of 1974 is amended by adding at the end the following new section:

"POINT OF ORDER REGARDING EMERGENCIES

"Sec. 408. It shall not be in order in the House of Representatives or the Senate to consider any bill or joint resolution, or amendment thereto or conference report thereon, containing an emergency designation for purposes of section 251(b)(2)(D) or 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 or of section 11207 of the Balanced Budget Assurance Act of 1997 if it also provides an appropriation or direct spending for any other item or contains any other matter, but that bill or joint resolution, amendment, or conference report may contain rescissions of budget authority or reductions of direct spending, or that amendment may reduce amounts for that emergency.".

(2) The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by inserting after the item relating to section 407 the following new item:

"Sec. 408. Point of order regarding emergencies.".

AMENDMENT TO H.R. 2015, AS REPORTED

OFFERED BY MR. TAYLOR OF MISSISSIPPI

At the end of title IV, add the following new subtitle:

Subtitle J—Uniformed Services Medicare Subvention

SEC. 4901. DEFINITIONS.

For purposes of this subtitle:

(1) Medicare-eligible covered military beneficiary.—The term "medicare-eligible covered military beneficiary" means a beneficiary under chapter 55 of title 10, United States Code, who—

(A) is entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.); and

(B) is enrolled in the supplementary medical insurance program under part B of such title (42 U.S.C. 1395j et seq.).

(2) TRICARE program.—The term "TRICARE program" means the managed health care program that is established by the Secretary of Defense under the authority of chapter 55 of title 10, United States Code, principally section 1097 of such title, and includes the competitive selection of contractors to financially underwrite the delivery of health care services under the Civilian Health and Medical Program of the Uniformed Services.

(3) Subvention program.—The term "subvention program" means the program established under section 4902 to reimburse the Department of Defense, from the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.), for health care services provided to medicare-eligible covered military beneficiaries through the managed care option of the TRICARE program.

(4) Secretaries.—The term "Secretaries" means the Secretary of Defense and the Secretary of Health and Human Services acting jointly.

SEC. 4902. ESTABLISHMENT OF SUBVENTION PROGRAM.

(a) Establishment Required.—The Secretary of Defense and the Secretary of Health and Human Services shall jointly establish a program to provide the Department of Defense with reimbursement, beginning October 1, 1997, in accordance with section 4903, from the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) for health care services provided to medicare-eligible covered military beneficiaries who agree to receive the health care services through the managed care option of the TRICARE program.

(b) Voluntary Enrollment.—For purposes of the subvention program, enrollment of medicare-eligible covered military beneficiaries in the managed care option of the TRICARE program shall be voluntary, except that the total number of medicare-eligible covered military beneficiaries so enrolled shall be subject to the capacity and funding limitations specified in section 4903.

(c) Effect of Enrollment.—In the case of a medicare-eligible covered military beneficiary who enrolls in the managed care option of the TRICARE program, payments may not be made under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) other than under the subvention program for health care services provided through the managed care option, except that the Secretaries may provide exceptions for emergencies or other situations as the Secretaries consider appropriate.

(d) TRICARE PROGRAM ENROLLMENT FEE WAIVER.—The Secretary of Defense shall waive the enrollment fee applicable to any medicare-eligible covered military beneficiary enrolled in the managed care option of the TRICARE program for whom reimbursement may be made under section 4903.

(e) MODIFICATION OF TRICARE CONTRACTS.—In carrying out the subvention program, the Secretary of Defense may amend existing TRICARE program contracts as may be necessary to incorporate provisions specifically applicable to medicare-eligible covered military beneficiaries who enroll in the managed care option of the TRICARE program.

(f) COST SHARING.—The Secretary of Defense may establish cost sharing requirements for medicare-eligible covered military beneficiaries who enroll in the managed care option of the TRICARE program and for whom reimbursement may be made under section 4903.

(g) EXPANSION OF SUBVENTION PROGRAM.—The Secretaries may expand the subvention program to incorporate health care services provided to medicare-eligible covered military beneficiaries under the fee-for-service options of the TRICARE program if, in the report submitted under section 713 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–106; 110 Stat. 2591), the Secretaries determined that such expansion is feasible and advisable.

SEC. 4903. DETERMINATION OF REIMBURSEMENT AMOUNTS.

(a) REIMBURSEMENT OF DEPARTMENT OF DEFENSE.—

(1) BASIS OF PAYMENTS.—Beginning October 1, 1997, monthly payments to the Department of Defense under the subvention program shall be made from the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) on the basis that payments are made under section 1876(a) of the such Act (42 U.S.C. 1395mm(a)).

(2) AMOUNT OF PAYMENTS.—The Secretary of Health and Human Services shall make payments to the Department of Defense from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund (allocated by the Secretary of Health and Human Services between each trust fund based on the relative weight that each trust fund contributes to the required payment) at a per capita rate equal to 93 percent of the applicable adjusted average per capita cost for each medicare-eligible covered military beneficiary enrolled in the managed care option of the TRICARE program in excess of the number of such beneficiaries calculated under subsection (b) for the Department of Defense maintenance of health care effort.

(b) MAINTENANCE OF DEFENSE HEALTH CARE EFFORT.—

(1) MAINTENANCE OF EFFORT REQUIRED.—The Secretary of Defense shall maintain the Department of Defense health care efforts for medicare-eligible covered military beneficiaries so as to avoid imposing on the medicare program those costs that the Department of Defense would be expected to incur to provide health care services to medicare-eligible covered military beneficiaries in the absence of the subvention program.

(2) ESTIMATE OF PRIOR EFFORT.—For the first fiscal year of the subvention program, the Secretaries shall estimate the amount expended by the Department of Defense for fiscal year 1997 for providing health care items and services (other than pharmaceuticals provided to outpatients) to medicare-eligible covered military beneficiaries. For subsequent fiscal years, the amount so estimated shall be adjusted for inflation, for differences between estimated and actual amounts expended, and for changes in the Department of Defense health care budget that exceed $100,000,000.

(3) TARGET FOR DEFENSE EFFORT.—On the basis of the estimate made under paragraph (2), the Secretaries shall establish monthly targets of the number of medicare-eligible covered military beneficiaries for whom reimbursement will not be provided to the Department of Defense under subsection (a).

(c) PROTECTION OF MEDICARE PROGRAM AGAINST INCREASED COSTS.—

(1) PURPOSE.—The purpose of this subsection is to protect the medicare program against costs incurred under subsection (a) in connection with the provision of health care services to medicare-eligible covered military beneficiaries that would not have been incurred by the medicare program in the absence of the reimbursement requirement.

(2) REVIEW BY COMPTROLLER GENERAL.—Not later than December 31 of each year, the Comptroller General shall determine and submit to the Secretaries and Congress a report on the extent, if any, to which the costs of the Secretary of Defense under the TRICARE program and the costs of the Secretary of Health and Human Services under the medicare program have increased as a result of the subvention program.

(3) ACTIONS TO PREVENT INCREASED COSTS.—If the Secretaries determine that the trust funds under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) still incur excess costs as a result of the subvention program, the Secretaries shall take such steps as may be necessary to offset those excess costs (and prevent future excess costs), including suspension or termination of the subvention program, adjustment of the payment rate under subsection (a)(2), or an adjustment of the maintenance of effort requirements of the Department of Defense under subsection (b).

AMENDMENT TO H.R. —, AS REPORTED, OFFERED BY MR. KENNEDY OF MASSACHUSETTS.

(Amendment to Child Health Budget Reconciliation Provision)

In section 3502, in the section 2103(b)(2) of the Social Security Act as added by such section, insert before the period at the end the following: ", plus the average number of low-income children who have such coverage in the fiscal year, as estimated by the Secretary, only pursuant to a State-only funded health coverage program or pursuant to an optional expansion of coverage under the State's medicaid plan under title XIX".

AMENDMENT TO TAX RECONCILIATION PROVISIONS OFFERED BY MR. MCDERMOTT OF WASHINGTON AND MR. MATSUI

Strike section 934 of the bill (relating to standards for determining whether individuals are not employees).

AMENDMENT TO H.R.— , AS REPORTED, OFFERED BY MR. NADLER OF NEW YORK

(Offered to Medicare Reconciliation Provisions)

In section 3461(a)(3), in the paragraph (64)(A)(i) inserted by such section, by inserting before the semicolon at the end the following: "and so that coverage of services and treatment is not denied if they are determined to be medically necessary in the professional opinion of the treating health care provider, in consultation with the individual".

In sections 4001 and 10001, in the section 1852(d)(1) inserted by each such section, amend subparagraph (D) to read as follows:

"(D) the organization provides coverage of services and treatment of appropriate providers, including credentialed specialists when such treatment and services are determined to be medically necessary in the professional opinion of the treating health care provider, in consultation with the individual; and

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AMENDMENT TO H.R.—, AS REPORTED, OFFERED BY MR. NADLER OF NEW YORK, MS. MALONEY OF NEW YORK, AND MR. SCHUMER

Strike section 7002 (relating to the sale of Governor's Island, New York) and redesignate subsequent sections of title VII accordingly.

Subtitle B of title III is amended by adding at the end the following:

SEC. 3102. SALE OF PETROLEUM PRODUCTS FROM WEEKS ISLAND FACILITY.

In fiscal year 2002, the Secretary of Energy shall sell 73,000,000 barrels of petroleum product from the Weeks Island facility of the Strategic Petroleum Reserve.

AMENDMENT TO THE BUDGET RECONCILIATION BILL OFFERED BY REPRESENTATIVE SANDER M. LEVIN

Strike subtitle D of title IX and insert the following:

Subtitle D—Restricting Welfare and Public Benefits for Aliens

SEC. 9301. EXCEPTION FOR CERTAIN DISABLED INDIVIDUALS FROM RESTRICTIONS ON SUPPLEMENTAL SECURITY INCOME AND MEDICAID PROGRAM PARTICIPATION BY QUALIFIED ALIENS.

(a) SSI EXCEPTION.—Section 402(a)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 is amended by redesignating subparagraph (D) as subparagraph (E), and by inserting after subparagraph (C) the following new subparagraph:

"(D) SSI EXCEPTION FOR CERTAIN DISABLED ALIENS.—With respect to the program specified in paragraph (3)(A), paragraph (1) shall not apply to a qualified alien—

"(i) who is blind or disabled within the meaning of section 1614(a)(2) or 1614(a)(3), respectively, of the Social Security Act; and

"(ii) who, prior to August 23, 1996, was lawfully admitted for permanent residence or had otherwise obtained an immigration status included in the definition of 'qualified alien' under section 431.".

(b) MEDICAID EXCEPTION.—Section 402(b)(2) of such Act is amended by redesignating subparagraph (D) as subparagraph (E), and by inserting after subparagraph (C) the following new subparagraph:

"(D) MEDICAID EXCEPTION FOR CERTAIN DISABLED ALIENS.—With respect to the program specified in paragraph (3)(C), paragraph (1) shall not apply to a qualified alien who is an individual described in subsection (a)(2)(D).".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as though they had been included in the enactment of section 402 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

SEC. 9302. 2-YEAR EXTENSION OF 5-YEAR EXCEPTIONS FOR REFUGEES AND CERTAIN OTHER QUALIFIED ALIENS FROM BANS ON ELIGIBILITY FOR SSI AND MEDICAID.

(a) SSI.—Section 402(a)(2)(A) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 is amended in the matter preceding clause (i) by inserting ", in the case of the Federal program specified in paragraph (3)(B), and 7 years, in the case of the Federal program specified in paragraph (3)(A)," after "5 years".

(b) Medicaid.—Section 402(b)(2)(A) of such Act is amended in each of clauses (i), (ii), and (iii) by inserting "(or 7 years, in the case of the program specified in paragraph (3)(C))" after "5 years".

(c) Effective Date.—The amendments made by this section shall take effect as though they had been included in the enactment of section 402 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

SEC. 9303. EXEMPTIONS FROM RESTRICTIONS ON SUPPLEMENTAL SECURITY INCOME PROGRAM PARTICIPATION BY PERMANENT RESIDENT ALIENS WHO ARE MEMBERS OF AN INDIAN TRIBE.

(a) In General.—

(1) Special restriction applicable to SSI.—Section 402(a)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 is amended by redesignating subparagraph (E) (as previously redesignated by section 9301(a) of this Act) as subparagraph (F), and by inserting after subparagraph (D) the following new subparagraph:

"(E) SSI exception for permanent resident aliens who are members of an Indian tribe.—With respect to the program specified in paragraph (3)(A), paragraph (1) shall not apply to any alien who is lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act and who is a member of an Indian tribe (as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).".

(2) Five-year restriction applicable to new entrants.—Section 403(b) of such Act is amended by adding at the end the following new paragraph:

"(3) SSI exception for permanent resident aliens who are members of an Indian tribe.—An alien described in section 402(a)(2)(E), but only with respect to the program specified in section 402(a)(3)(A).".

(b) Effective Date.—The amendments made by paragraphs (1) and (2) of subsection (a) shall take effect as though they had been included in the enactment of sections 402 and 403, respectively, of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

SEC. 9304. EXEMPTION FROM RESTRICTION ON SUPPLEMENTAL SECURITY INCOME PROGRAM PARTICIPATION BY CERTAIN RECIPIENTS ELIGIBLE ON THE BASIS OF VERY OLD APPLICATIONS.

(a) In General.—Section 402(a)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 is amended by redesignating subparagraph (F) (as previously redesignated by section 9303(a)(1) of this Act) as subparagraph (G), and by inserting after subparagraph (E) the following new subparagraph:

"(F) SSI exception for certain recipients eligible on the basis of very old applications.—With respect to the program specified in paragraph (3)(A), paragraph (1) shall not apply to any individual (i) who is eligible for benefits under such program for months after July 1996 on the basis of an application filed before January 1, 1979, and (ii) with respect to whom the Commissioner lacks clear and convincing evidence that such individual is an alien ineligible for such benefits as a result of the application of this section.".

(b) Effective Date.—The amendment made by subsection (a) shall take effect as though it had been included in the enactment of section 402 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

SEC. 9305. EXTENSION OF DEADLINES FOR SSI REDETERMINATION PROVISIONS.

(a) In General.—Section 402(a)(2)(G)(i) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (as redesignated by section 9304(a) of this Act) is amended—

(1) in subclause (I), by striking "the date which is 1 year after such date of enactment" and inserting "March 31, 1998 or, if later, the date which is 255 days after the date of the enactment of [INSERT SHORT TITLE OF THE ACT CONTAINING THIS AMENDMENT]"; and

(2) in subclause (III)—

(A) by striking "the date of the redetermination with respect to such individual" and inserting "March 31, 1998 or, if later, the date which is 255 days after the date of the enactment of [INSERT SHORT TITLE OF THE ACT CONTAINING THIS AMENDMENT]"; and

(B) by inserting ", and the provisions of section 1614(a)(4) and clauses (i) and (ii) of section 1631(a)(7)(A) of the Social Security Act shall not apply to such individual" before the period.

(b) Effective Date.—The amendment made by subsection (a) shall take effect as though they had been included in the enactment of section 402 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

SEC. 9306. REALLOCATION OF DISABILITY DETERMINATION WORKLOADS RELATING TO ALIENS.

In any State making disability determinations in accordance with section 221 of the Social Security Act, the Commissioner of Social Security may, notwithstanding the provisions of such section specifying the circumstances under which the Commissioner may assume the disability determination function in such State, elect to make the determination of disability with respect to some or all of the individuals in such State who are described in section 402(a)(2)(D) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (as added by section 9301(a) of this Act) or to transfer responsibility for such function to another State that the Commissioner determines is willing and able to perform such function, if the Commissioner determines that such action is necessary to comply with the deadline specified in section 402(a)(2)(G)(i)(I) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (as redesignated by section 9304(a) of this Act).

SEC. 9307. PRESUMPTION OF DISABILITY FOR PURPOSES OF THE SUPPLEMENTAL SECURITY INCOME PROGRAM IN THE CASE OF CERTAIN QUALIFIED ALIENS RESIDING IN CERTAIN FACILITIES OR RECEIVING HOSPICE CARE.

For the purpose of determining whether a qualified alien (as defined in section 431 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996) meets the requirement contained in clause (i) of section 402(a)(2)(D) of such Act (as added by section 9301(a) of this Act), a qualified alien—

(1) who—

(A) has attained the age of 65; and

(B) resides in an institution (or distinct part of an institution) that is primarily engaged in providing medical, custodial, or other care to residents who, because of their mental or physical condition, require such care; or

(2) who is terminally ill and receiving hospice care,

shall be presumed to be blind or disabled within the meaning of section 1614(a)(2) or 1614(a)(3), respectively, of the Social Security Act. Such presumption may be rebutted only if the Commissioner of Social Security receives clear and convincing evidence to the contrary.

SEC. 9308. RELIANCE ON INFORMATION FROM OTHER AGENCIES.

(a) Reliance.—Notwithstanding any other provision of law, in determining whether a qualified alien (as defined in section 431 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996) meets the requirement respecting blindness or disability contained in clause (i) of section 402(a)(2)(D) of such Act (as added by section 9301(a) of this Act), the Commissioner of Social Security may rely on information from a State or Federal agency respecting the medical condition of such individual in any case where such information indicates to the Commissioner's satisfaction that such individual is blind or disabled within the meaning of section 1614(a)(2) or section 1614(a)(3), respectively, of the Social Security Act.

(b) Provision of Information.—Notwithstanding any other provision of law other than section 6103 of the Internal Revenue Code of 1986, the Department of Health and Human Services, the Immigration and Naturalization Service, an agency of any State, or any other governmental agency may disclose to the Social Security Administration information respecting the medical condition of an individual that the Commissioner of Social Security requests for the purpose of making the determination described in subsection (a).

(c) Temporary Exemption From Computer Matching Requirements.—The provisions of subsections (e)(12), (o), (p), (q), and (u) of section 552a of title 5, United States Code, shall not apply to any computer matching program conducted during the one-year period following the date of the enactment of [INSERT SHORT TITLE OF THE ACT CONTAINING THIS PROVISION] for the purpose of making the determinations described in subsection (a).

SEC. 9309. TREATMENT OF CERTAIN AMERASIAN IMMIGRANTS AS REFUGEES.

(a) Amendments to Exceptions for Refugees/Asylees.—

(1) For purposes of SSI and food stamps.—Section 402(a)(2)(A) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 is amended—

(A) by striking "; or" at the end of clause (ii);

(B) by striking the period at the end of clause (iii) and inserting "; or"; and

(C) by adding after clause (iii) the following new clause:

"(iv) an alien is admitted to the United States as an Amerasian immigrant pursuant to section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, as incorporated into section 101(e) of the joint resolution making further continuing appropriations for the fiscal year 1988, Public Law 100–202, and amended by the 9th proviso under Migration and Refugee Assistance in title II of the Foreign

Operations, Export Financing, and Related Programs Appropriations Act, 1991, Public Law 101–513.".

(2) FOR PURPOSES OF TANF, SSBG, AND MEDICAID.—Section 402(b)(2)(A) of such Act is amended—

(A) by striking "; or" at the end of clause (ii);

(B) by striking the period at the end of clause (iii) and inserting "; or"; and

(C) by adding after clause (iii) the following new clause:

"(iv) an alien described in subsection (a)(2)(A)(iv) until 5 years (or 7 years, in the case of the program specified in paragraph (3)(C)) after the date of such alien's entry into the United States.".

(3) FOR PURPOSES OF EXCEPTION FROM 5-YEAR LIMITED ELIGIBILITY OF QUALIFIED ALIENS.—Section 403(b)(1) of such Act is amended by adding after subparagraph (C) the following new subparagraph:

"(D) An alien described in section 402(a)(2)(A)(iv).".

(4) FOR PURPOSES OF CERTAIN STATE PROGRAMS.—Section 412(b)(1) of such Act is amended by adding after subparagraph (C) the following new subparagraph:

"(D) An alien described in section 402(a)(2)(A)(iv).".

(b) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to periods beginning on or after October 1, 1997.

SEC. 9310. 5-YEAR LIMITED ELIGIBILITY FOR MEANS-TESTED PUBLIC BENEFITS: SPECIAL RULE FOR CUBAN AND HAITIAN ENTRANTS.

(a) CORRECTION OF REFERENCE.—Section 403(d) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 is amended by striking "section 501(e)(2)" and inserting "section 501(e)".

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective with respect to periods beginning on or after October 1, 1997.

AMENDMENT TO H.R.—, AS REPORTED, OFFERED BY MR. LEVIN OF MICHIGAN

Strike sections 5004 and 9004, and redesignate succeeding sections and amend the table of contents, accordingly.

AMENDMENT TO H.R.—, AS REPORTED, OFFERED BY MR. LEVIN OF MICHIGAN

Strike section 9102, and redesignate succeeding sections and amend the table of contents, accordingly.

AMENDMENT TO H.R.—, AS REPORTED (RELATING TO RECONCILIATION), OFFERED BY MR. CONYERS OF MICHIGAN

In section 9004(a) (Committee on Ways and Means print), and in section 5004(a) (Education and Labor print) strike the close marks and the period at the end.

In section 407(j) of the Social Security Act, as amended by Section 9004(a) of the bill, and in section 407(k) of the Social Security Act, as amended by Section 5004(a) of the bill, add the following at the end:

"(6) RULE OF CONSTRUCTION.—Nothing in this title shall be construed to deny recipients of assistance engaging in work, work experience, or community service under this title protection under title VII of the Civil Rights Act of 1964."

AMENDMENT TO H.R.—, AS REPORTED, OFFERED BY MR. CONYERS OF MICHIGAN (MALPRACTICE)

Strike sections 4801 through 4812 (Committee on Commerce) and 10801 through 10812 (Committee on Ways and Means), redesignate succeeding sections, and conform the table of contents.

AMENDMENT OFFERED BY REPRESENTATIVE ROUKEMA AND REPRESENTATIVE POMEROY

Strike sections 5301 through 5307 of subtitle D of Title V.

AMENDMENT OFFERED BY MR. WAXMAN TO THE MEDICAID RECONCILIATION PROVISIONS

At the end of the text, add the following new chapter:

CHAPTER 4—EXTENSION OF PREMIUM PROTECTION FOR LOW-INCOME MEDICARE BENEFICIARIES

SEC. 3481. EXTENSION OF SLMB PROTECTION.

(a) IN GENERAL.—Section 1902(a)(10)(E)(iii) (42 U.S.C. 1396a(a)(10)(E)(iii)) is amended by striking "and 120 percent in 1995 and years thereafter" and inserting ", 120 percent in 1995 through 1997, 130 percent in 1998, 140 percent in 1999, and 150 percent in 2000 and years thereafter".

(b) 100 PERCENT FMAP.—Section 1905(b) (42 U.S.C. 1396d(b)) is amended by adding at the end the following: "Notwithstanding the first sentence of this section, the Federal medical assistance percentage shall be 100 percent with respect to amounts expended as medical assistance for medical assistance described in section 1902(a)(10(E)(iii) for individuals described in such section whose income exceeds 120 percent of the official poverty line referred to in such section".

"(ii) in the manner and through the written instrumentalities such MedicarePlus organization deems appropriate, makes available information on its policies regarding such service to prospective enrollees before or during enrollment and to enrollees within 90 days after the date that the organization or plan adopts a policy regarding such a counseling or referral service.

AMENDMENT OFFERED BY REPRESENTATIVE DAVIS OF VIRGINIA AND REPRESENTATIVE NORTON OF THE DISTRICT OF COLUMBIA

The amendment consists of the text of H.R. 1963.

AMENDMENT TO H.R. —, AS REPORTED (RELATING TO RECONCILIATION) OFFERED BY MR. BERMAN OF CALIFORNIA

At an appropriate place, insert the following (and make such technical and conforming changes as may be appropriate):

SEC. . AMENDMENT TO PRESERVE FOOD STAMP ELIGIBILITY OF MIGRANT AND SEASONAL AGRICULTURAL WORKERS.

Subtitle D of title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 is amended by adding at the end the following:

"SEC. 435. PRESERVATION OF ELIGIBILITY OF MIGRANT AND SEASONAL AGRICULTURAL WORKERS TO RECEIVE FOOD STAMP BENEFITS.

"(a) EXCLUSION OF MIGRANT AND SEASONAL AGRICULTURAL WORKERS.—Notwithstanding any other provision of this title, a migrant or seasonal agricultural worker who is eligible, as determined under the Food Stamp Act of 1977 (7 U.S.C. 2012(h)), to participate in the food stamp program (as defined in section 3(h) of such Act) shall not be determined, by reason of the operation of this title, to be ineligible to participate in such program.

"(b) DEFINITION.—For purposes of subsection (a), the term 'migrant or seasonal agricultural worker'—

"(1) has the meaning given the term 'migrant agricultural worker' in section 3(8) of Public Law 97–470 (29 U.S.C. 1802(8)), and

"(2) has the meaning given the term 'seasonal agricultural worker' in section 3(10) of Public Law 97–470 (29 U.S.C. 1802(10)).".

AMENDMENT TO H.R.—, AS REPORTED OFFERED BY MRS. THURMAN OF FLORIDA

[(Amendment to Medicare Reconciliation Provisions)]

At the end of subtitle D of title X (relating to Anti-Fraud and Abuse Provisions), add the following (and conform the table of contents of such title accordingly):

SEC. 10311. EXTENSION OF SUBPOENA AND INJUNCTION AUTHORITY.

(a) SUBPOENA AUTHORITY.—Section 1128A(j)(1) (42 U.S.C. 1320a–7a(j)(1)) is amended by inserting "and section 1128" after "with respect to this section".

(b) INJUNCTION AUTHORITY.—Section 1128A(k) (42 U.S.C. 1320a–7a(k)) is amended by inserting "or an exclusion under section 1128," after "subject to a civil monetary penalty under this section,".

(c) CLARIFYING AMENDMENTS.—Section 1128A(j) (42 U.S.C. 1320a–7a(j)) is amended—

(1) in paragraph (1)—

(A) by inserting ", except that, in so applying such sections, any reference therein to the Commissioner of Social Security or the Social Security Administration shall be considered a reference to the Secretary or the Department of Health and Human Services, respectively" after "with respect to title II"; and

(B) by striking the second sentence; and

(2) in paragraph (2), to read as follows:

"(2) The Secretary may delegate to the Inspector General of the Department of Health and Human Services any or all authority granted under this section or under section 1128.".

(d) CONFORMING AMENDMENT.—Section 1128 (42 U.S.C. 1320a–7) is amended by adding at the end the following new subsection:

"(j) REFERENCE TO LAWS DIRECTLY AFFECTING THIS SECTION.—For provisions of law concerning the Secretary's subpoena and injunction authority under this section, see section 1128A(j) and (k).".

SEC. 10312. KICKBACK PENALTIES FOR KNOWING VIOLATIONS.

Section 1128B(b) (42 U.S.C. 1320a–7b(b)) is amended by striking "and willfully" each place it occurs.

SEC. 10313. ELIMINATION OF EXCEPTION OF FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM FROM DEFINITION OF FEDERAL HEALTH CARE PROGRAM.

Section 1128B(f)(1) (42 U.S.C. 1320a–7b(f)(1)) is amended by striking "(other than the health insurance program under chapter 89 of title 5, United States Code)".

SEC. 10314. LIABILITY OF PHYSICIANS IN SPECIALTY HOSPITALS.

Section 1867(d)(1)(B) (42 U.S.C. 1395dd(d)(1)(B)) is amended—

(1) by inserting "or a physician working at or on-call at a hospital that is subject to the requirements of subsection (g)," after "physician on-call for the care of such an individual,";

(2) by striking "or" at the end of clause (i); and

(3) by adding after clause (ii) the following new clauses:

"(iii) fails or refuses to appear within a reasonable time at a hospital subject to the requirements of subsection (g) in order to provide an appropriate medical screening examination as required by subsection (a), or necessary stabilizing treatment as required by subsection (b), or

"(iv) fails or refuses to accept an appropriate transfer of a patient to a hospital that has specialized capabilities or facilities as defined in subsection (g),".

SEC. 10315. EXPANSION OF CRIMINAL PENALTIES FOR KICKBACKS.

(a) Application of Criminal Penalty Authority to All Health Care Benefit Programs.—Section 1128B(b) (42 U.S.C. 1320a–7b(b)) is amended by striking "Federal health care program" each place it appears and inserting "health care benefit program".

(b) Attorney General's Authority To Seek Civil Penalties.—Section 1128B (42 U.S.C. 1320a–7b) is further amended by adding at the end the following new subsection:

"(g)(1) The Attorney General may bring an action in the district courts to impose upon any person who carries out any activity in violation of this section with respect to a Federal health care program a civil penalty of $25,000 to $50,000 for each such violation, and damages of three times the total remuneration offered, paid, solicited, or received.

"(2) A violation exists under paragraph (1) if one or more purposes of the remuneration is unlawful, and the damages shall be the full amount of such remuneration.

"(3) The procedures for actions under paragraph (1) with regard to subpoenas, statute of limitations, standard of proof, and collateral estoppel shall be governed by 31 U.S.C. 3731, and the Federal Rules of Civil Procedure shall apply to actions brought under this section.

"(4) This provision does not affect the availability of other criminal and civil remedies for such violations.".

(c) Attorney General's Injunction Authority.—Section 1128B (42 U.S.C. 1320a–7b) is further amended by adding at the end the following new subsection:

"(h) If the Attorney General has reason to believe that a person is engaging in conduct constituting an offense under subsection (b) or (g), the Attorney General may petition an appropriate United States district court for an order prohibiting that person from engaging in such conduct. The court may issue an order prohibiting that person from engaging in such conduct if the court finds that the conduct constitutes such an offense. The filing of a petition under this section does not preclude any other remedy which is available by law to the United States or any other person.".

(d) Definition.—Section 1128B(f) (42 U.S.C. 1320a–7b(f)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B);

(2) by striking "(f)" and inserting "(f)(1)"; and

(3) by adding at the end the following new paragraph:

"(2) For purposes of this section, the term "health care benefit program" has the meaning given such term in 18 U.S.C. 24(b).".

(e) Conforming Amendments.—

(1) Section 1128A(a) (42 U.S.C. 1320a–7a(a)) is amended in the final sentence by striking "1128B(f)(1)" and inserting "1128B(f)(1)(A)"; and

(2) Section 24(a) of title 18 of the United States Code is amended—

(A) by striking the period at the end of paragraph (2) and adding a semicolon; and

(B) by adding after paragraph (2) the following new paragraph:

"(3) section 1128B of the Social Security Act.".

SEC. 10316. REPEAL OF HIPAA ADVISORY OPINION AUTHORITY.

Section 1128D (42 U.S.C. 1320a–7d) is amended by striking subsection (b).

SEC. 10317. REPEAL EXPANDED EXCEPTION FOR RISK-SHARING CONTRACT TO ANTI-KICKBACK PROVISIONS.

Section 1128B(b)(3) (42 U.S.C. 1320a–7b(b)(3)), as amended by section 216(a) of the Health Insurance Portability and Accountability Act of 1996, is amended—

(1) by adding "and" at the end of subparagraph (D);

(2) by striking "; and" at the end of subparagraph (E) and inserting a period; and

(3) by striking subparagraph (F).

SEC. 10318. ADMINISTRATIVE FEES FOR MEDICARE OVERPAYMENT COLLECTION.

(a) Administrative Fees for Providers of Services Under Part A.—Section 1815(d) (42 U.S.C. 1395g(d)) is amended by inserting "(1)" after "(d)" and by adding at the end the following new paragraph:

"(2)(A) Except as provided in subparagraph (B), if the payment of the excess described in paragraph (1) is not made (or effected by offset) within 30 days of the date of the determination, an administrative fee of 1 percent of the outstanding balance of the excess (after application of paragraph (1)), or such lower amount as an Administrative Law Judge may determine upon an appeal of the initial determination of the excess, shall be imposed on the provider, for deposit into the Trust Fund under this part.

"(B) The administrative fee shall be imposed under subparagraph (A) on a provider of services paid on a prospective basis only if such provider's cost report with respect to the payment determined to be in excess of the payment due under this part indicates that the provider's projected costs exceeded its actual costs by 30 percent or more.".

(b) Administrative Fees for Providers of Services or Other Persons Under Part B.—Section 1833(j) (42 U.S.C. 1395*l*(j)) is amended by inserting "(1)" after "(j)" and by adding at the end the following new paragraph:

"(2) If the excess described in paragraph (1) is not made (or effected by offset) within 30 days of the date of the determination, an administrative fee of 1 percent of the outstanding balance of the excess (after application of paragraph (1)), or such lower amount as an Administrative Law Judge may determine upon an appeal of the initial determination of the excess, shall be imposed on the provider, or other person receiving the excess, for deposit into the Trust Fund under this part.".

(c) Effective Date.—The amendments made by this section shall apply to final determinations made on or after the date of enactment of this Act.

SEC. 10319. AUTOMATED PREPAYMENT SCREENING REQUIREMENT.

(a) Determination by Administrator.—By September 1 of each year (beginning with 1998), the Administrator of the Health Care Financing Administration, after consultation with the Comptroller General of the United States, shall determine—

(1) the medical diagnoses by providers of services under title XVIII of the Social Security Act which frequently result in overpayments to such providers under such title; and

(2) the percentage of claims involving the diagnoses described in paragraph (1), that fiscal intermediaries and carriers under such title shall screen before payment is made in order to avoid such overpayments.

(b) Requirement for Fiscal Intermediaries and Carriers.—The Secretary of Health and Human Services shall not enter into a contract with a fiscal intermediary or carrier under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) unless the Secretary finds that such intermediary or carrier will screen the claims for payment, in accordance with subsection (a), under such title.

(c) Notice to Fiscal Intermediaries and Carriers.—The Secretary shall cause to have published in the Federal Register, in the last 15 days of October of each year, the results of the determination made under subsection (a).

AMENDMENT TO THE COMMITTEE PRINT OFFERED BY MR. BECERRA OF CALIFORNIA

At the end of subtitle D of title IX (relating to restricting welfare and public benefits for aliens) insert the following new section:

SEC. 9305. SSI ELIGIBILITY FOR CERTAIN DISABLED ALIENS.

Section 402(a)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(12)) is amended by inserting after subparagraph (F) (as added by section 9303) the following new subparagraph:

"(G) SSI Eligibility for Certain Disabled Aliens.—With respect to the program specified in paragraph (3)(A) (relating to the supplemental security income program), paragraph (1) shall not apply to a qualified alien—

"(i) who is blind or disabled within the meaning of section 1614(a)(2) or 1614(a)(3), respectively, of the Social Security Act; and

"(ii) who on or before August 22, 1996, obtained a status within the meaning of the term 'qualified alien'.".

AMENDMENT OFFERED BY MR. PALLONE, MS. ESHOO, AND MS. FURSE TO THE CHILD HEALTH RECONCILIATION PROVISIONS

Strike the entire text and insert the following:

Subtitle F—Child Health Insurance Initiative Act of 1997

SEC. 3500. SHORT TITLE OF SUBTITLE.

This subtitle may be cited as the "Child Health Insurance Initiative Act of 1997".

CHAPTER 1—IMPROVED OUTREACH

SEC. 3501. GRANT PROGRAM TO PROMOTE OUTREACH EFFORTS.

(a) Authorization of Appropriations.—There are authorized to be appropriated, for each fiscal year beginning with fiscal year 1998 to the Secretary of Health and Human Services, $25,000,000 for grants to States, localities, and nonprofit entities to promote outreach efforts to enroll eligible children under the medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) and related programs.

(b) Use of Funds.—Funds under this section may be used to reimburse States, localities, and nonprofit entities for additional training and administrative costs associated with outreach activities. Such activities include the following:

(1) Use of a Common Application Form for Federal Child Assistance Programs.—Implementing use of a single application form (established by the Secretary and based on the model application forms developed under subsections (a) and (b) of section 6506 of the Omnibus Budget Reconciliation Act of 1989 (42 U.S.C. 701 note; 1396a note)) to determine the eligibility of a child or the child's family (as applicable) for assistance or benefits under the medicaid program and under other Federal child assistance programs (such as the temporary assistance for needy families program under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), the food stamp program, as defined in section 3(h) of the Food Stamp Act of 1977 (7 U.S.C.

2012(h)), and the State program for foster care maintenance payments and adoption assistance payments under part E of title IV of the Social Security Act (42 U.S.C. 670 et seq.)).

(2) Expanding outstationing of eligibility personnel.—Providing for the stationing of eligibility workers at sites, such as hospitals and health clinics, at which children receive health care or related services.

(c) Application, Etc.—Funding shall be made available under this section only upon the approval of an application by a State, locality, or nonprofit entity for such funding and only upon such terms and conditions as the Secretary specifies.

(d) Administration.—The Secretary may administer the grant program under this section through the identifiable administrative unit designated under section 509(a) of the Social Security Act (42 U.S.C. 709(a)) to promote coordination of medicaid and maternal and child health activities and other child health related activities.

CHAPTER 2—STRENGTHENING MEDICAID PROGRAM

SEC. 3521. STATE OPTION OF CONTINUOUS ELIGIBILITY FOR 12 MONTHS FOR CHILDREN UNDER THE MEDICAID PROGRAM.

(a) In General.—Section 1902(e) of the Social Security Act (42 U.S.C. 1396a(e)) is amended by adding at the end the following new paragraph:

"(12) At the option of the State, the plan may provide that an individual who is under an age specified by the State (not to exceed 19 years of age) and who is determined to be eligible for benefits under a State plan approved under this title under subsection (a)(10)(A) shall remain eligible for those benefits until the earlier of—

"(A) the end of a period (not to exceed 12 months) following the determination; or

"(B) the time that the individual exceeds that age.".

(b) Effective Date.—The amendment made by subsection (a) applies to medical assistance for items and services furnished on or after January 1, 1998.

SEC. 3522. CLARIFICATION OF STATE OPTION TO COVER ALL CHILDREN UNDER 19 YEARS OF AGE.

Effective upon the date of the enactment of this Act, section 1902(l)(1)(D) of the Social Security Act (42 U.S.C. 1396a(l)(1)(D)) is amended by inserting "(or, at the option of a State, after any earlier date)" after "children born after September 30, 1983".

CHAPTER 3—MEDIKIDS PROGRAM

SEC. 3531. STATE ENTITLEMENT TO PAYMENT FOR MEDIKIDS PROGRAM.

(a) In General.—Each State that has a plan for a child health insurance program, or MediKids program, approved by the Secretary is entitled to receive, from amounts in the Treasury not otherwise appropriated and for each fiscal year beginning with fiscal year 1998, payment of the amounts provided under section 3533.

(b) Application.—The Secretary shall establish a procedure for the submittal and approval of plans for MediKids programs under this chapter. The Secretary shall approve the plan of a State for such a program if the Secretary determines that—

(1) the State is meeting the medicaid coverage requirements of section 3532(a), and

(2) the plan provides assurances satisfactory to the Secretary that the MediKids program will be conducted consistent with the applicable requirements of section 3532.

SEC. 3532. REQUIREMENTS FOR APPROVAL OF MEDIKIDS PROGRAM.

(a) Adequate Medicaid Coverage.—The medicaid coverage requirements of this subsection are the following:

(1) Coverage of pregnant women and children and infants up to 185 percent of poverty.—The State has established 185 percent of the poverty line as the applicable percentage under section 1902(l)(2)(A) of the Social Security Act (42 U.S.C. 1396a(l)(2)(A)).

(2) Coverage of children up to 19 years of age.—The State provides, either through exercise of the option under section 1902(l)(1)(D) of such Act (42 U.S.C. 1396a(l)(1)(D)) or authority under section 1902(r)(2) of such Act (42 U.S.C. 1396a(r)(2)) for coverage under section 1902(l)(1)(D) of such Act of individuals under 19 years of age, regardless of date of birth.

(3) Maintenance of effort.—

(A) Medicaid.—Subject to subparagraph (B), the State—

(i) has not modified the eligibility requirements for children under the State medicaid plan, as in effect on January 1, 1997 in any manner that would have the effect of reducing the eligibility of children for coverage under such plan, and

(ii) will use the funds provided under this chapter to supplement and not supplant other Federal and State funds.

(B) Waiver exception.—Subparagraph (A) shall not apply to modifications made pursuant to an application for a waiver under section 1115 of the Social Security Act (42 U.S.C. 1315) submitted before January 1, 1997.

(b) Coverage of Uninsured Children.—

(1) In general.—A MediKids program shall not provide benefits for children who are otherwise covered for such benefits under a medicaid plan or under a group health plan, health insurance coverage, or other health benefits coverage, but may expend funds for outreach and other activities in order to promote coverage under such plans.

(2) Construction.—Nothing in this subsection shall be construed as requiring a MediKids plan of a State to provide coverage for all near poverty level children described in paragraph (1) who are residing in the State.

(c) Medicaid-Equivalent Benefits.—

(1) In general.—Subject to subsection (d), a MediKids program shall provide benefits to eligible children for the equivalent items and services for which medical assistance is available (other than cost sharing) to children under the State's medicaid plan.

(2) Construction.—Nothing in this subsection shall be construed as limiting the method under which a MediKids plan may provide benefits, including through purchase of health insurance coverage, direct payment for covered services, or otherwise.

(d) Premiums and Cost-Sharing.—A MediKids program may—

(1) require the payment of premiums as a condition for coverage, but only for a covered child whose family income exceeds the poverty line;

(2) impose deductibles, coinsurance, copayments, and other forms of cost-sharing with respect to benefits under the program; and

(3) vary the levels of premiums, deductibles, coinsurance, copayments, and other cost-sharing based on a sliding scale related to the family income of the covered child.

SEC. 3533. PAYMENT AMOUNTS.

(a) Total Amount Available.—The total amount of funds that is available for payments under this chapter in any fiscal year is $2,000,000,000.

(b) Allotment Among States.—

(1) In general.—The Secretary shall establish a formula for the allotment of the total amount of funds available under subsection (a) among the qualifying States for each fiscal year.

(2) Basis.—The formula shall be based upon the Secretary's estimate of the number of near poverty level children in the State as a proportion of the total of such numbers for all the qualifying States.

(3) Carryforward.—If the Secretary does not pay to a State under subsection (c) in a fiscal year the amount of its allotment in that fiscal year under this subsection, the amount of its allotment under this subsection for the succeeding fiscal year shall be increased by the amount of such shortfall.

(c) Payments.—

(1) In general.—From the allotment of each qualifying State under subsection (b) for a fiscal year, the Secretary shall pay to the State for each quarter in the fiscal year an amount equal to 75 percent of the total amount expended during such quarter to carry out the State's MediKids program.

(2) Not counting cost sharing.—For purposes of paragraph (1), if a MediKids program imposes premiums for coverage or requires payment of deductibles, coinsurance, copayments, or other cost sharing, under rules of the Secretary, expenditures attributable to such premiums or cost sharing shall not be taken into account under paragraph (1).

(d) State Entitlement.—This chapter constitutes budget authority in advance of appropriations Acts, and represents the obligation of the Federal Government to provide for the payment to qualifying States of amounts provided under this section.

SEC. 3534. DEFINITIONS.

For purposes of this chapter:

(1) The term "child" means an individual under 19 years of age.

(2) The term "medicaid plan" means the plan of medical assistance of a State under title XIX of the Social Security Act.

(3) The term "MediKids program" means a child health insurance program of a State under this title.

(4) The term "near poverty level child" means a child the family income of which (as defined by the Secretary) is at least 100 percent, but less than 300 percent, of the poverty line.

(5) The term "poverty line" has the meaning given such term in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by such section.

(6) The term "qualifying State" means a State with a MediKids program for which a plan is submitted and approved under this title.

(7) The term "Secretary" means the Secretary of Health and Human Services .

(8) The term "State" means the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

CHAPTER 4—ASSURING CHILDREN'S ACCESS TO HEALTH INSURANCE

SEC. 3441. GUARANTEED AVAILABILITY OF INDIVIDUAL HEALTH INSURANCE COVERAGE TO UNINSURED CHILDREN.

(a) In General.—Title XXVII of the Public Health Service Act, as added by section 111(a) of the Health Insurance Portability and Accountability Act of 1996, is amended by inserting after section 2741 the following new section:

"SEC. 2741A. GUARANTEED AVAILABILITY OF INDIVIDUAL HEALTH INSURANCE COVERAGE TO UNINSURED CHILDREN.

"(a) Guaranteed Availability.—

"(1) In general.—Subject to the succeeding subsections of this section, each health insurance issuer that offers health insurance coverage (as defined in section 2791(b)(1)) in the individual market in a State, in the case of an eligible child (as defined in subsection (b)) desiring to enroll in individual health insurance coverage—

"(A) may not decline to offer such coverage to, or deny enrollment of, such child;

"(B) either (i) does not impose any preexisting condition exclusion (as defined in section 2701(b)(1)(A)) with respect to such coverage, or (ii) imposes such a preexisting condition exclusion only to the extent such an exclusion may be imposed under section 2701(a) in the case of an individual who is not a late enrollee; and

"(C) shall provide that the premium for the coverage is determined in a manner so that the ratio of the premium for such eligible children to the premium for eligible individuals described in section 2741(b) does not exceed the ratio of the actuarial value of such coverage (calculated based on a standardized population and a set of standardized utilization and cost factors) for children to such actuarial value for such coverage for such eligible individuals.

"(2) Substitution by state of acceptable alternative mechanism.—The requirement of paragraph (1) shall not apply to health insurance coverage offered in the individual market in a State in which the State is implementing an acceptable alternative mechanism under section 2744.

"(b) Eligible Child Defined.—In this part, the term 'eligible child' means an individual born after September 30, 1983, who has not attained 19 years of age and—

"(1) who is a citizen or national of the United States, an alien lawfully admitted for permanent residence, or an alien otherwise permanently residing in the United States under color of law;

"(2) who is not eligible for coverage under (A) a group health plan, (B) part A or part B of title XVIII of the Social Security Act, or (C) a State plan under title XIX of such Act (or any successor program), and does not have other health insurance coverage; and

"(3) with respect to whom the most recent coverage (if any, within the 1-year period ending on the date coverage is sought under this section) was not terminated based on a factor described in paragraph (1) or (2) of section 2712(b) (relating to nonpayment of premiums or fraud).

For purposes of paragraph (2)(A), the term 'group health plan' does not include COBRA continuation coverage.

"(c) Incorporation of Certain Provisions.—

"(1) In general.—Subject to paragraph (2), the provisions of subsections (c), (d), (e) and (f) (other than paragraph (1)) of section 2741 and section 2744 shall apply in relation to eligible children under subsection (a) in the same manner as they apply in relation to eligible individuals under section 2741(a).

"(2) Special rules for acceptable alternative mechanisms.—With respect to applying section 2744 under paragraph (1)—

"(A) the requirement in subsection (a)(1)(B) shall be applied instead of the requirement of section 2744(a)(1)(B);

"(B) the requirement in subsection (a)(1)(C) shall be applied instead of the requirement of section 2744(a)(1)(D); and

"(C) any deadline specified in such section shall be 1 year after the deadline otherwise specified.".

(b) Effective Date.—The amendment made by subsection (a) shall take apply 1 year after the effective date for section 2741 of the Public Health Service Act (as provided under section 111(b)(1) of the Health Insurance Portability and Accountability Act of 1996).

CHAPTER 5—APPROPRIATION FOR DATA

SEC. 3551. AUTHORIZATION OF APPROPRIATIONS.

In addition to any other amounts authorized to be appropriated, there are authorized to be appropriated $5,000,000 for the Bureau of the Census to refine the data on children in families with family incomes below 300 percent of the applicable Federal poverty level in each State.

AMENDMENT TO H.R. —, OFFERED BY MR. BENTSEN

Amend section 3471(b) to read as follows:

(b)(1) Adjustment to State DSH Allocations.—Subsection (f) of section 1923 (42 U.S.C. 1396r–4) is amended to read as follows:

"(f) Limitation on Federal Financial Participation.—

"(1) In general.—Subject to section 1903(x), payment under section 1903(a) shall not be made to a State with respect to any payment adjustment made under this section for hospitals in a State (as defined in paragraph (3)(B)) for quarters in a fiscal year in excess of the State disproportionate share hospital (in this subsection referred to as 'DSH') allotments for the year (as specified in paragraph (2)).

"(2) Determination of state DSH allotments.—

"(A) In general.—The DSH allotment for a State is equal to its State 1995 DSH spending minus—

"(i) for fiscal year 1998, 0;

"(ii) for fiscal year 1999, 15 percent of the State multiplier; and

"(iii) for fiscal year 2000 and each succeeding year, 25 percent of the State multiplier.

"(3) Definitions.—In this subsection:

"(A) State.—The term 'State' means the 50 States and the District of Columbia.

"(B) State 1995 DSH spending.—The term—State 1995 DSH spending means, with respect to a State, the total amount of payment adjustments made under subsection (c) under the State plan during fiscal year 1995 as reported by the State no later than January 1, 1997, on HCFA Form 64.

"(C) State multiplier.—The term 'State multiplier' means, with respect to a State, the lesser of—

"(i) the State 1995 DSH spending; or

"(ii) 12 percent of the total amount of expenditures made under the State plan under this title for medical assistance during fiscal year 1995 as reported by the State no later than January 1, 1997 on HCFA Form 64.".

(2) Effective date.—The amendment made by paragraph (1) shall apply to fiscal years beginning with fiscal year 1998.

Mr. SOLOMON. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I smell a cop-out. I hear Members standing up here finding all kinds of excuses to vote against this rule because it does not have any enforcement procedures. Let me show my colleagues something.

Here are thousands of pages of cuts, $182 billion in entitlement cuts over the next 5 years, $700 billion in locked-in spending cuts. If you want some fiscal sanity around here, do what your President is asking us to do; he is calling your offices right now, saying support the rule, support the bill. Let us get together. A deal is a deal.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. SOLOMON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 222, nays 204, not voting 8, as follows:

[Roll No. 238]

YEAS—222

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cooksey
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McDade
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Molinari
Moran (KS)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster

Skeen
Smith (MI)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NAYS—204

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gonzalez
Goode
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pickett
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson
Thurman
Tierney
Torres
Towns
Traficant
Turner
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn

NOT VOTING—8

Cox
Eshoo
Goodlatte
McHugh
Pomeroy
Schiff
Smith (NJ)
Yates

☐ 1313

Mr. GONZALEZ and Mr. ADAM SMITH of Washington changed their vote from "yea" to "nay."

Mr. GRAHAM changed his vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. COMBEST). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. MOAKLEY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 228, noes 200, answered "present" 1, not voting 5, as follows:

[Roll No. 239]

YEAS—228

Aderholt
Archer
Armey
Bachus
Baker
Baldacci
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Collins
Combest
Cook
Cooksey
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ewing
Fawell
Foley
Forbes
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Molinari
Moran (KS)
Moran (VA)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NAYS—200

Abercrombie
Ackerman
Allen
Andrews
Baesler
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Ensign
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gonzalez
Goode
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Rothman
Roukema
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Snyder
Spratt
Stabenow
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson
Thurman
Tierney
Torres
Towns
Turner
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn

ANSWERED "PRESENT"—1

Coburn

NOT VOTING—5

Cox
Meek
Schiff
Stark
Yates

☐ 1331

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT OF AMENDMENT PROCESS FOR THE 1998 INTELLIGENCE AUTHORIZATION BILL

(Mr. SOLOMON asked and was given permission to address the House for 1 minute.)

Mr. SOLOMON. Mr. Speaker, the Committee on Rules is planning to meet during the week of July 7; that is the week we return, to grant a rule for consideration of H.R. 1775, the intelligence authorization bill for fiscal year 1998. The chairman of the Permanent Select Committee on Intelligence has requested a rule which would require the amendments be preprinted in the Congressional Record. If this request is granted, amendments to be preprinted would need to be signed by the Member and submitted at the Speaker's table, not at the Committee on Rules. The amendments would still need to be consistent with House rules and would be given no special protection by being printed. Members should use the Office of Legislative Counsel to ensure that their amendments are properly drafted and should check with the Office of the Parliamentarian to be certain that their amendments comply with the rules of the House. It is not necessary to submit the amendments again to the Committee on Rules. Members must submit them to the table here in the House.

BALANCED BUDGET ACT OF 1997

Mr. KASICH. Mr. Speaker, pursuant to House Resolution 174, I call up the bill (H.R. 2015) to provide for reconciliation pursuant to subsections (b)(1) and (c) of section 105 of the concurrent resolution on the budget for fiscal year 1998, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. Dreier). Pursuant to House Resolution 174, the amendment printed in the Congressional Record numbered 1 is adopted.

The text of H.R. 2015, as amended, is as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Balanced Budget Act of 1997".

SEC. 2. TABLE OF CONTENTS.

Title I—Committee on Agriculture.
Title II—Committee on Banking and Financial Services.
Title III—Committee on Commerce—Nonmedicare.
Title IV—Committee on Commerce—Medicare.
Title V—Committee on Education and the Workforce.
Tittle VI—Committee on Government Reform and Oversight.
Title VII—Committee on Transportation and Infrastructure.
Title VIII—Committee on Veterans' Affairs.
Title IX—Committee on Ways and Means—Nonmedicare.
Title X—Committee on Ways and Means—Medicare.
Title XI—Budget Enforcement.

TITLE I—COMMITTEE ON AGRICULTURE

SEC. 1001. EXEMPTION.

Section 6(o) of the Food Stamp Act of 1977 (7 U.S.C. 2015(o)) is amended—

(1) in paragraph (2)(D), by striking "or (5)" and inserting "(5), or (6)";

(2) by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively; and

(3) by inserting after paragraph (4) the following new paragraph:

"(5) 15-Percent Exemption.—

"(A) Definitions.—In this paragraph:

"(i) Caseload.—The term 'caseload' means the average monthly number of individuals receiving food stamps during the 12-month period ending the preceding June 30.

"(ii) Covered individual.—The term 'covered individual' means a food stamp recipient, or an individual denied eligibility for food stamp benefits solely due to paragraph (2), who—

"(I) is not eligible for an exception under paragraph (3);

"(II) does not reside in an area covered by a waiver granted under paragraph (4);

"(III) is not complying with subparagraph (A), (B), or (C) of paragraph (2);

"(IV) is not in the first 3 months of eligibility under paragraph (2); and

"(V) is not receiving benefits under paragraph (6).

"(B) General rule.—Subject to subparagraphs (C) through (F), a State agency may provide an exemption from the requirements of paragraph (2) for covered individuals.

"(C) Fiscal year 1998.—Subject to subparagraph (E), for fiscal year 1998, a State agency may provide a number of exemptions such that the average monthly number of the exemptions in effect during the fiscal year does not exceed 15 percent of the number of covered individuals in the State in fiscal year 1998, as estimated by the Secretary, based on the survey conducted to carry out section 16(c) for fiscal year 1996 and such other factors as the Secretary considers appropriate due to the timing and limitations of the survey.

"(D) Subsequent fiscal years.—Subject to subparagraphs (E) and (F), for fiscal year 1999 and each subsequent fiscal year, a State agency may provide a number of exemptions such that the average monthly number of the exemptions in effect during the fiscal year does not exceed 15 percent of the number of covered individuals in the State, as estimated by the Secretary under subparagraph (C), adjusted by the Secretary to reflect changes in the State's caseload and the Secretary's estimate of changes in the proportion of food stamp recipients covered by waivers granted under paragraph (4).

"(E) Caseload adjustments.—The Secretary shall adjust the number of individuals estimated for a State under subparagraph (C) or (D) during a fiscal year if the number of food stamp recipients in the State varies by a significant number from the caseload, as determined by the Secretary.

"(F) Exemption adjustments.—During fiscal year 1999 and each subsequent fiscal year, the Secretary shall increase or decrease the number of individuals who may be granted an exemption by a State agency to the extent that the average monthly number of exemptions in effect in the State for the preceding fiscal year is greater or less than the average monthly number of exemptions estimated for the State agency during such preceding fiscal year.

"(G) Reporting requirement.—A State agency shall submit such reports to the Secretary as the Secretary determines are necessary to ensure compliance with this paragraph.".

SEC. 1002. ADDITIONAL FUNDING FOR EMPLOYMENT AND TRAINING.

(a) In General.—Section 16(h) of the Food Stamp Act of 1977 (7 U.S.C. 2025(h)) is amended—

(1) by striking paragraph (1) and inserting the following new paragraph:

"(1) In general.—

"(A) Amounts.—To carry out employment and training programs, the Secretary shall reserve for allocation to State agencies, to remain available until expended, from funds made available for each fiscal year under section 18(a)(1) the amount of—

"(i) for fiscal year 1996, $75,000,000;
"(ii) for fiscal year 1997, $79,000,000;
"(iii) for fiscal year 1998, $221,000,000;
"(iv) for fiscal year 1999, $224,000,000;
"(v) for fiscal year 2000, $226,000,000;
"(vi) for fiscal year 2001, $228,000,000; and
"(vii) for fiscal year 2002, $210,000,000.

"(B) Limitations.—The Secretary shall ensure that—

"(i) the funds provided in this subparagraph shall not be used for food stamp recipients who receive benefits under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.); and

"(ii) not less than 80 percent of the funds provided in this subparagraph shall be used by a State agency for employment and training programs under section 6(d)(4), other than job search or job search training programs, for food stamp recipients not excepted by section 6(o)(3).

"(C) Allocation.—

"(i) Allocation formula.—The Secretary shall allocate the amounts reserved under subparagraph (A) among the State agencies using a reasonable formula, as determined and adjusted by the Secretary each fiscal year, to reflect changes in each State's caseload (as defined in section 6(o)(5)(A)) that reflects the proportion of food stamp recipients who reside in each State—

"(I) who are not eligible for an exception under section 6(o)(3); and

"(II) who do not reside in an area subject to the waiver granted by the Secretary under section 6(o)(4), if the State agency does not provide employment and training services in the area to food stamp recipients not excepted by section 6(o)(3).

"(ii) Reporting requirement.—A State agency shall submit such reports to the Secretary as the Secretary determines are necessary to ensure compliance with this paragraph."; and

"(D) Reallocation.—

"(i) Notification.—A State agency shall promptly notify the Secretary if the State agency determines that it will not expend all of the funds allocated to it under subparagraph (B).

"(ii) Reallocation.—On notification under clause (i), the Secretary shall reallocate the funds that the State agency will not expend as the Secretary considers appropriate and equitable.

"(E) Minimum allocation.—Notwithstanding subparagraphs (A) through (C), the Secretary shall ensure that each State agency operating an employment and training program shall receive not less than $50,000 for each fiscal year.

"(F) Maintenance of effort.—To receive the additional funding under subparagraph (A), as provided by the amendment made by section 1002 of the Balanced Budget Act of 1997, a State agency shall maintain the expenditures of the State agency for employment and training programs and workfare programs for any fiscal year under paragraph (2), and administrative expenses under section 20(g)(1), at a level that is not less than the level of the expenditures by the State agency to carry out the programs for fiscal year 1996.";

(2) by redesignating paragraphs (2) through (5) as paragraphs (3) through (6), respectively;

(3) by inserting after paragraph (1) the following new paragraph:

"(2) REPORT TO CONGRESS ON ADDITIONAL FUNDING.—Beginning one year after the date of the enactment of this paragraph, the Secretary shall submit an annual report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate regarding whether the additional funding provided under paragraph (1)(A) has been utilized by State agencies to increase the number of work slots in their employment and training programs and workfare for recipients subject to section 6(o) in the most efficient and effective manner."; and

(4) in paragraph (3) (as so redesignated), by striking "paragraph (3)" and inserting "paragraph (4)".

(b) CONFORMING AMENDMENTS.—(1) Subsection (b)(1)(B)(iv)(III)(hh) of section 17 of the Food Stamp Act of 1977 (7 U.S.C. 2026) is amended by striking "(h)(2), or (h)(3) of section 16" and inserting "(h)(3), or (h)(4) of section 16".

(2) Subsection (d)(1)(B)(ii) of section 22 of such Act (7 U.S.C. 2031) is amended by striking "(h)(2), and (h)(3) of section 16" and inserting "(h)(3), and (h)(4) of section 16".

SEC. 1003. AUTHORIZING USE OF NONGOVERNMENTAL PERSONNEL IN MAKING DETERMINATIONS OF ELIGIBILITY FOR BENEFITS UNDER THE FOOD STAMP PROGRAM.

(a) IN GENERAL.—Notwithstanding any other provision of law, no provision of law shall be construed as preventing any State (as defined in section 3(m) of the Food Stamp Act of 1977 (7 U.S.C. 2012(m))) from allowing eligibility determinations described in subsection (b) to be made by an entity that is not a State or local government, or by an individual who is not an employee of a State or local government, which meets such qualifications as the State determines. For purposes of any Federal law, such determinations shall be considered to be made by the State and by a State agency.

(b) ELIGIBILITY DETERMINATIONS.—An eligibility determination described in this subsection is a determination of eligibility of individuals or households to receive benefits under the food stamp program as defined in section 3(h) of the Food Stamp Act of 1977 (7 U.S.C. 2012(h)).

(c) CONSTRUCTION.—Nothing in this section shall be construed as affecting—

(1) the conditions for eligibility for benefits (including any conditions relating to income or resources);

(2) the rights to challenge determinations regarding eligibility or rights to benefits; and

(3) determinations regarding quality control or error rates.

TITLE II—COMMITTEE ON BANKING AND FINANCIAL SERVICES

SEC. 2001. TABLE OF CONTENTS.

The table of contents for this title is as follows:

TITLE II—COMMITTEE ON BANKING AND FINANCIAL SERVICES

Sec. 2001. Table of contents.
Sec. 2002. Extension of foreclosure avoidance and borrower assistance provisions for FHA single family housing mortgage insurance program.
Sec. 2003. Adjustment of maximum monthly rents for certain dwelling units in new construction and substantial or moderate rehabilitation projects assisted under section 8 rental assistance program.
Sec. 2004. Adjustment of maximum monthly rents for non-turnover dwelling units assisted under section 8 rental assistance program.

SEC. 2002. EXTENSION OF FORECLOSURE AVOIDANCE AND BORROWER ASSISTANCE PROVISIONS FOR FHA SINGLE FAMILY HOUSING MORTGAGE INSURANCE PROGRAM.

Section 407 of The Balanced Budget Downpayment Act, I (12 U.S.C. 1710 note) is amended—

(1) in subsection (c)—

(A) by striking "only"; and

(B) by inserting ", on, or after" after "before"; and

(2) by striking subsection (e).

SEC. 2003. ADJUSTMENT OF MAXIMUM MONTHLY RENTS FOR CERTAIN DWELLING UNITS IN NEW CONSTRUCTION AND SUBSTANTIAL OR MODERATE REHABILITATION PROJECTS ASSISTED UNDER SECTION 8 RENTAL ASSISTANCE PROGRAM.

The third sentence of section 8(c)(2)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)(2)(A)) is amended by inserting before the period at the end the following: ", and during fiscal year 1999 and thereafter".

SEC. 2004. ADJUSTMENT OF MAXIMUM MONTHLY RENTS FOR NON-TURNOVER DWELLING UNITS ASSISTED UNDER SECTION 8 RENTAL ASSISTANCE PROGRAM.

The last sentence of section 8(c)(2)(A) of the United States Housing Act of 1937 is amended by inserting before the period at the end the following: ", and during fiscal year 1999 and thereafter".

TITLE III—COMMITTEE ON COMMERCE-NONMEDICARE

Subtitle A—Nuclear Regulatory Commission Annual Charges

SEC. 3001. NUCLEAR REGULATORY COMMISSION ANNUAL CHARGES.

Section 6101(a)(3) of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 2214(a)(3)) is amended by striking "September 30, 1998" and inserting "September 30, 2002".

Subtitle B—Lease of Excess Strategic Petroleum Reserve Capacity

SEC. 3101. LEASE OF EXCESS STRATEGIC PETROLEUM RESERVE CAPACITY.

(a) AMENDMENT.—Part B of title I of the Energy Policy and Conservation Act (42 U.S.C. 6231 et seq.) is amended by adding at the end the following:

"USE OF UNDERUTILIZED FACILITIES

"SEC. 168. (a) AUTHORITY.—Notwithstanding any other provision of this title, the Secretary, by lease or otherwise, for any term and under such other conditions as the Secretary considers necessary or appropriate, may store in underutilized Strategic Petroleum Reserve facilities petroleum product owned by a foreign government or its representative. Petroleum products stored under this section are not part of the Strategic Petroleum Reserve and may be exported without license from the United States.

"(b) PROTECTION OF FACILITIES.—All agreements entered into pursuant to subsection (a) shall contain provisions providing for fees to fully compensate the United States for all costs of storage and removals of petroleum products, including the cost of replacement facilities necessitated as a result of any withdrawals.

"(c) ACCESS TO STORED OIL.—The Secretary shall ensure that agreements to store petroleum products for foreign governments or their representatives do not affect the ability of the United States to withdraw, distribute, or sell petroleum from the Strategic Petroleum Reserve in response to an energy emergency or to the obligations of the United States under the Agreement on an International Energy Program.

"(d) AVAILABILITY OF FUNDS.—Funds collected through the leasing of Strategic Petroleum Reserve facilities authorized by subsection (a) after September 30, 2002, shall be used by the Secretary of Energy without further appropriation for the purchase of oil for, and operation and maintenance costs of, the Strategic Petroleum Reserve.".

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents of part B of title I of the Energy Policy and Conservation Act is amended by adding at the end the following:

"Sec. 168. Use of underutilized facilities.".

Subtitle C—Sale of DOE Assets

SEC. 3201. SALE OF DOE SURPLUS URANIUM ASSETS.

(a) IN GENERAL.—The Secretary of Energy shall, during the period fiscal year 1999 through fiscal year 2002, sell 3.2 million pounds per year of natural and low-enriched uranium that the President has determined is not necessary for national security needs. Such sales shall be—

(1) made for delivery after January 1, 1999;

(2) subject to a determination, for the period fiscal year 1999 through fiscal year 2002, by the Secretary under section 3112(d)(2)(B) of the USEC Privatization Act (42 U.S.C. 2297h-10(d)(2)(B)); and

(3) made at a price not less than the fair market value of the uranium and in a manner that maximizes proceeds to the Treasury.

The Secretary shall receive the proceeds from such sale in the period fiscal year 1999 through fiscal year 2002 and shall deposit such proceeds in the General Fund of the Treasury.

(b) COSTS.—The costs of making the sales required by subsection (a) shall be covered by the unobligated balances of appropriations of the Department of Energy.

Subtitle D—Communications

SEC. 3301. SPECTRUM AUCTIONS.

(a) EXTENSION AND EXPANSION OF AUCTION AUTHORITY.—

(1) AMENDMENTS.—Section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) is amended—

(A) by striking paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) GENERAL AUTHORITY.—If, consistent with the obligations described in paragraph (6)(E), mutually exclusive applications are accepted for any initial license or construction permit which will involve an exclusive use of the electromagnetic spectrum, then the Commission shall grant such license or permit to a qualified applicant through a system of competitive bidding that meets the requirements of this subsection.

"(2) EXEMPTIONS.—The competitive bidding authority granted by this subsection shall not apply to licenses or construction permits issued by the Commission—

"(A) that, as the result of the Commission carrying out the obligations described in paragraph (6)(E), are not mutually exclusive;

"(B) for public safety radio services, including private internal radio services used by non-Government entities, that—

"(i) protect the safety of life, health, or property; and

"(ii) are not made commercially available to the public;

"(C) for initial licenses or construction permits assigned by the Commission to existing terrestrial broadcast licensees for new terrestrial digital television services; or

"(D) for public telecommunications services, as defined in section 397(14) of the Communications Act of 1934 (47 U.S.C. 397(14)), when the license application is for channels reserved for noncommercial use.";

(B) in paragraph (3)—

(i) by inserting after the second sentence the following new sentence: "The Commission shall, directly or by contract, provide for the design and conduct (for purposes of testing) of competitive bidding using a contingent combinatorial bidding system that permits prospective bidders to bid on combinations or groups of licenses in a single bid and to enter multiple alternative bids within a single bidding round.";

(ii) by striking "and" at the end of subparagraph (C);

(iii) by striking the period at the end of subparagraph (D) and inserting "; and"; and

(iv) by adding at the end the following new subparagraph:

"(E) ensuring that, in the scheduling of any competitive bidding under this subsection, an adequate period is allowed—

"(i) before issuance of bidding rules, to permit notice and comment on proposed auction procedures; and

"(ii) after issuance of bidding rules, to ensure that interested parties have a sufficient time to develop business plans, assess market conditions, and evaluate the availability of equipment for the relevant services.";

(C) in paragraph (4)—

(i) by striking "and" at the end of subparagraph (D);

(ii) by striking the period at the end of subparagraph (E) and inserting "; and"; and

(iii) by adding at the end the following new subparagraph:

"(F) establish methods by which a minimum bid, in an amount that is more than nominal in relation to the value of the public spectrum resource being made available, will be required to obtain any license or permit being assigned pursuant to the competitive bidding.";

(D) in paragraph (8)—

(i) by striking subparagraph (B); and

(ii) by redesignating subparagraph (C) as subparagraph (B);

(E) in paragraph (11), by striking "September 30, 1998" and inserting "December 31, 2002"; and

(F) in paragraph (13)(F), by striking "September 30, 1998" and inserting "the date of enactment of the Balanced Budget Act of 1997".

(2) CONFORMING AMENDMENT.—Subsection (i) of section 309 of the Communications Act of 1934 (47 U.S.C. 309(i)) is repealed.

(3) EFFECTIVE DATE.—The amendment made by paragraph (1)(A) shall not apply with respect to any license or permit for which the Federal Communications Commission has accepted mutually exclusive applications on or before the date of enactment of this Act.

(b) COMMISSION OBLIGATION TO MAKE ADDITIONAL SPECTRUM AVAILABLE BY AUCTION.—

(1) IN GENERAL.—The Federal Communications Commission shall complete all actions necessary to permit the assignment, by September 30, 2002, by competitive bidding pursuant to section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) of licenses for the use of bands of frequencies that—

(A) individually span not less than 25 megahertz, unless a combination of smaller bands can, notwithstanding the provisions of paragraph (7) of such section, reasonably be expected to produce greater receipts;

(B) in the aggregate span not less than 100 megahertz;

(C) are located below 3 gigahertz;

(D) have not, as of the date of enactment of this Act—

(i) been designated by Commission regulation for assignment pursuant to such section;

(ii) been identified by the Secretary of Commerce pursuant to section 113 of the National Telecommunications and Information Administration Organization Act;

(iii) been allocated for Federal Government use pursuant to section 305 of the Communications Act of 1934 (47 U.S.C. 305);

(iv) been designated in section 3303 of this Act; or

(v) been allocated for unlicensed use pursuant to part 15 of the Commission's regulations (47 C.F.R. Part 15), if the competitive bidding for licenses would interfere with operation of end-user products permitted under such regulations;

(E) notwithstanding section 115(b)(1)(B) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 925(b)(1)(B)) or any proposal pursuant to such section, include frequencies at 1,710–1,755 megahertz;

(F) include frequencies at 2,110–2,150 megahertz; and

(G) include 15 megahertz from within the bands of frequencies at 1,990–2,110 megahertz.

(2) SCHEDULE FOR ASSIGNMENT OF 1,710–1,755 MEGAHERTZ.—The Commission shall commence competitive bidding for the commercial licenses pursuant to paragraph (1)(E) after January 1, 2001. The Commission shall complete the assignment of such commercial licenses, and report to the Congress the total revenues from such competitive bidding, by September 30, 2002.

(3) USE OF BANDS AT 2,110-2,150 MEGAHERTZ.—The Commission shall reallocate spectrum located at 2,110-2,150 megahertz for assignment by competitive bidding unless the Commission determines that auction of other spectrum (A) better serves the public interest, convenience, and necessity, and (B) can reasonably be expected to produce greater receipts. If the Commission makes such a determination, then the Commission shall, within 2 years after the date of enactment of this Act, identify an alternative 40 megahertz, and report to the Congress an identification of such alternative 40 megahertz for assignment by competitive bidding.

(4) USE OF 15 MEGAHERTZ FROM BANDS AT 1,990-2,110 MEGAHERTZ.—The Commission shall reallocate 15 megahertz from spectrum located at 1,990-2,110 megahertz for assignment by competitive bidding unless the President determines such spectrum cannot be reallocated due to the need to protect incumbent Federal systems from interference, and that allocation of other spectrum (A) better serves the public interest, convenience, and necessity, and (B) can reasonably be expected to produce greater receipts. If the President makes such a determination, then the President shall, within 2 years after the date of enactment of this Act, identify alternative bands of frequencies totalling 15 megahertz, and report to the Congress an identification of such alternative bands for assignment by competitive bidding.

(5) CRITERIA FOR REASSIGNMENT.—In making available bands of frequencies for competitive bidding pursuant to paragraph (1), the Commission shall—

(A) seek to promote the most efficient use of the spectrum;

(B) take into account the cost to incumbent licensees of relocating existing uses to other bands of frequencies or other means of communication; and

(C) comply with the requirements of international agreements concerning spectrum allocations.

(6) NOTIFICATION TO NTIA.—The Commission shall notify the Secretary of Commerce if—

(A) the Commission is not able to provide for the effective relocation of incumbent licensees to bands of frequencies that are available to the Commission for assignment; and

(B) the Commission has identified bands of frequencies that are—

(i) suitable for the relocation of such licensees; and

(ii) allocated for Federal Government use, but that could be reallocated pursuant to part B of the National Telecommunications and Information Administration Organization Act (as amended by this Act).

(c) IDENTIFICATION AND REALLOCATION OF FREQUENCIES.—The National Telecommunications and Information Administration Organization Act (47 U.S.C. 901 et seq.) is amended—

(1) in section 113, by adding at the end the following new subsection:

"(f) ADDITIONAL REALLOCATION REPORT.—If the Secretary receives a notice from the Commission pursuant to section 3301(b)(3) of the Balanced Budget Act of 1997, the Secretary shall prepare and submit to the President, the Commission, and the Congress a report recommending for reallocation for use other than by Federal Government stations under section 305 of the 1934 Act (47 U.S.C. 305), bands of frequencies that are suitable for the uses identified in the Commission's notice. The Commission shall, not later than one year after receipt of such report, prepare, submit to the President and the Congress, and implement, a plan for the immediate allocation and assignment of such frequencies under the 1934 Act to incumbent licencees described in section 3301(b)(3) of the Balanced Budget Act of 1997."; and

(2) in section 114(a)(1), by striking "(a) or (d)(1)" and inserting "(a), (d)(1), or (f)".

(d) IDENTIFICATION AND REALLOCATION OF AUCTIONABLE FREQUENCIES.—The National Telecommunications and Information Administration Organization Act (47 U.S.C. 901 et seq.) is amended—

(1) in section 113(b)—

(A) by striking the heading of paragraph (1) and inserting "INITIAL REALLOCATION REPORT";

(B) by inserting "in the first report required by subsection (a)" after "recommend for reallocation" in paragraph (1);

(C) by inserting "or (3)" after "paragraph (1)" each place it appears in paragraph (2); and

(D) by inserting after paragraph (2) the following new paragraph:

"(3) SECOND REALLOCATION REPORT.—In accordance with the provisions of this section, the Secretary shall recommend for reallocation in the second report required by subsection (a), for use other than by Federal Government stations under section 305 of the

1934 Act (47 U.S.C. 305), a band or bands of frequencies that—

"(A) in the aggregate span not less than 20 megahertz;

"(B) individually span not less than 20 megahertz, unless a combination of smaller bands can reasonably be expected to produce greater receipts;

"(C) are located below 3 gigahertz; and

"(D) meet the criteria specified in paragraphs (1) through (5) of subsection (a)."; and

(2) in section 115—

(A) in subsection (b), by striking "the report required by section 113(a)" and inserting "the initial reallocation report required by section 113(a)"; and

(B) by adding at the end the following new subsection:

"(c) Allocation and Assignment of Frequencies Identified in the Second Reallocation Report.—With respect to the frequencies made available for reallocation pursuant to section 113(b)(3), the Commission shall, not later than one year after receipt of the second reallocation report required by such section, prepare, submit to the President and the Congress, and implement, a plan for the immediate allocation and assignment under the 1934 Act of all such frequencies in accordance with section 309(j) of such Act.".

SEC. 3302. AUCTION OF RECAPTURED BROADCAST TELEVISION SPECTRUM.

Section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) is amended by adding at the end the following new paragraph:

"(14) Auction of recaptured broadcast television spectrum.—

"(A) Limitations on terms of terrestrial television broadcast licenses.—A television license that authorizes analog television services may not be renewed to authorize such service for a period that extends beyond December 31, 2006. The Commission shall have the authority to grant by regulation an extension of such date to licensees in a market if the Commission determines that more than 5 percent of households in such market continue to rely exclusively on over-the-air terrestrial analog television signals.

"(B) Spectrum reversion and resale.—

"(i) The Commission shall ensure that, when the authority to broadcast analog television services under a license expires pursuant to subparagraph (A), each licensee shall return spectrum according to the Commission's direction and the Commission shall reclaim such spectrum.

"(ii) Licensees for new services occupying spectrum reclaimed pursuant to clause (i) shall be selected in accordance with this subsection. The Commission shall complete the assignment of such licenses, and report to the Congress the total revenues from such competitive bidding, by September 30, 2002.

"(C) Certain limitations on qualified bidders prohibited.—In prescribing any regulations relating to the qualification of bidders for spectrum reclaimed pursuant to subparagraph (B)(i), the Commission shall not—

"(i) preclude any party from being a qualified bidder for spectrum that is allocated for any use that includes digital television service on the basis of—

"(I) the Commission's duopoly rule (47 C.F.R. 73.3555(b)); or

"(II) the Commission's newspaper cross-ownership rule (47 C.F.R. 73.3555(d)); or

"(ii) apply either such rule to preclude such a party that is a successful bidder in a competitive bidding for such spectrum from using such spectrum for digital television service.

"(D) Definitions.—As used in this paragraph:

"(i) The term 'digital television service' means television service provided using digital technology to enhance audio quality and video resolution, as further defined in the Memorandum Opinion, Report, and Order of the Commission entitled 'Advanced Television Systems and Their Impact Upon the Existing Television Service', MM Docket No. 87–268 and any subsequent Commission proceedings dealing with digital television.

"(ii) The term 'analog television service' means service provided pursuant to the transmission standards prescribed by the Commission in section 73.682(a) of its regulation (47 CFR 73.682(a)).".

SEC. 3303. ALLOCATION AND ASSIGNMENT OF NEW PUBLIC SAFETY AND COMMERCIAL LICENSES.

(a) In General.—The Federal Communications Commission shall, not later than January 1, 1998, allocate on a national, regional, or market basis, from radio spectrum between 746 megahertz and 806 megahertz—

(1) 24 megahertz of that spectrum for public safety services according to the terms and conditions established by the Commission, unless the Commission determines that the needs for public safety services can be met in particular areas with allocations of less than 24 megahertz; and

(2) the remainder of that spectrum for commercial purposes to be assigned by competitive bidding in accordance with section 309(j).

(b) Assignment.—The Commission shall—

(1) assign the licenses for public safety created pursuant to subsection (a) no later than March 31, 1998;

(2) commence competitive bidding for the commercial licenses created pursuant to subsection (a) after January 1, 2001; and

(3) complete competitive bidding for such commercial licenses, and report to the Congress the total revenues from such competitive bidding, by September 30, 2002.

(c) Licensing of Unused Frequencies for Public Safety Radio Services.—

(1) Use of unused channels for public safety.—It shall be the policy of the Commission, notwithstanding any other provision of this Act or any other law, to waive whatever licensee eligibility and other requirements (including bidding requirements) are applicable in order to permit the use of unassigned frequencies for public safety purposes by a State or local governmental agency upon a showing that—

(A) no other existing satisfactory public safety channel is immediately available to satisfy the requested use;

(B) the proposed use is technically feasible without causing harmful interference to existing stations in the frequency band entitled to protection from such interference under the rules of the Commission; and

(C) use of the channel for public safety purposes is consistent with other existing public safety channel allocations in the geographic area of proposed use.

(2) Applicability.—Paragraph (1) shall apply to any application that is pending before the Federal Communications Commission, or that is not finally determined under either section 402 or 405 of the Communications Act of 1934 (47 U.S.C. 402, 405) on May 15, 1997, or that is filed after such date.

(d) Conditions on Licenses.—With respect to public safety and commercial licenses granted pursuant to this subsection, the Commission shall—

(1) establish interference limits at the boundaries of the spectrum block and service area;

(2) establish any additional technical restrictions necessary to protect full-service analog television service and digital television service during a transition to digital television service; and

(3) permit public safety and commercial licensees—

(A) to aggregate multiple licenses to create larger spectrum blocks and service areas; and

(B) to disaggregate or partition licenses to create smaller spectrum blocks or service areas.

(e) Protection of Qualifying Low-Power Stations.—After making any allocation or assignment under this section the Commission shall seek to assure that each qualifying low-power television station is assigned a frequency below 746 megahertz to permit the continued operation of such station.

(f) Definitions.—For purposes of this section:

(1) Commission.—The term "Commission" means the Federal Communications Commission.

(2) Digital television service.—The term "digital television service" means television service provided using digital technology to enhance audio quality and video resolution, as further defined in the Memorandum Opinion, Report, and Order of the Commission entitled 'Advanced Television Systems and Their Impact Upon the Existing Television Service', MM Docket No. 87–268 and any subsequent Commission proceedings dealing with digital television.

(3) Analog television service.—The term "analog television service" means services provided pursuant to the transmission standards prescribed by the Commission in section 73.682(a) of its regulation (47 CFR 73.682(a)).

(4) Public safety services.—The term "public safety services" means services—

(A) the sole or principal purpose of which is to protect the safety of life, health, or property;

(B) that are provided—

(i) by State or local government entities; or

(ii) by nongovernmental, private organizations that are authorized by a governmental entity whose primary mission is the provision of such services; and

(C) that are not made commercially available to the public by the provider.

(5) Service area.—The term "service area" means the geographic area over which a licensee may provide service and is protected from interference.

(6) Spectrum block.—The term "spectrum block" means the range of frequencies over which the apparatus licensed by the Commission is authorized to transmit signals.

(7) Qualifying low-power television stations.—A station is a qualifying low-power television station if, during the 90 days preceding the date of enactment of this Act—

(A) such station broadcast a minimum of 18 hours per day;

(B) such station broadcast an average of at least 3 hours per week of programming that was produced within the community of license of such station; and

(C) such station was in compliance with the requirements applicable to low-power television stations.

SEC. 3304. ADMINISTRATIVE PROCEDURES FOR SPECTRUM AUCTIONS.

(a) Expedited Procedures.—The rules governing competitive bidding under this subtitle shall be effective immediately upon publication in the Federal Register notwithstanding section 553(d), 801(a)(3), and 806(a) of title 5, United States Code. Chapter 6 of such title, and sections 3507 and 3512 of title 44, United States Code, shall not apply to such rules and competitive bidding procedures governing frequencies assigned under this subtitle. Notwithstanding section 309(b) of the Communications Act of 1934 (47 U.S.C. 309(b)), no application for an instrument of authorization for such frequencies shall be granted by the Commission earlier than 7 days following issuance of public notice by the Commission of the acceptance for filing of such application or of any substantial amendment thereto. Notwithstanding section 309(d)(1) of such Act (47 U.S.C. 309(d)(1)), the Commission may specify a period (no less than 5 days following issuance of such public notice) for the filing of petitions to deny any application for an instrument of authorization for such frequencies.

(b) DEADLINE FOR COLLECTION.—The Commission shall conduct the competitive bidding under this subtitle in a manner that ensures that all proceeds of the bidding are deposited in accordance with section 309(j)(8) of the Communications Act of 1934 not later September 30, 2002.

SEC. 3305. UNIVERSAL SERVICE FUND PAYMENT SCHEDULE.

(a) ACCELERATION OF PAYMENTS.—There shall be available in fiscal year 2001 from funds in the Treasury not otherwise appropriated $2,000,000,000 to the universal service fund under part 54 of the Federal Communications Commission's regulations (47 C.F.R. Part 54) in addition to any other revenues required to be collected under such part.

(b) LIMITATION ON EXPENDITURES.—The outlays of the universal service fund under part 54 of the Federal Communications Commission's regulations (47 C.F.R. Part 54) in fiscal year 2002 shall not exceed the amount of revenue required to be collected in such fiscal year, less $2,000,000,000.

SEC. 3306. INQUIRY REQUIRED.

The Federal Communications Commission shall, not later than July 1, 1997, initiate the inquiry required by section 309(j)(12) of the Communications Act of 1934 (47 U.S.C. 309(j)(12)) for the purposes of collecting the information required for its report under each of subparagraphs (A) through (E) of such section, and shall keep the Congress fully and currently informed with respect to the progress of such inquiry.

Subtitle E—Medicaid

SEC. 3400. TABLE OF CONTENTS OF SUBTITLE; REFERENCES.

(a) TABLE OF CONTENTS OF SUBTITLE.—The table of contents of this subtitle is as follows:

Sec. 3400. Table of contents of subtitle; references.

CHAPTER 1—STATE FLEXIBILITY

SUBCHAPTER A—USE OF MANAGED CARE

Sec. 3401. State options to provide benefits through managed care entities.
Sec. 3402. Elimination of 75:25 restriction on risk contracts.
Sec. 3403. Primary care case management services as State option without need for waiver.
Sec. 3404. Change in threshold amount for contracts requiring Secretary's prior approval.

SUBCHAPTER B—PAYMENT METHODOLOGY

Sec. 3411. Flexibility in payment methods for hospital, nursing facility, and ICF/MR services; flexibility for home health.
Sec. 3412. Payment for Federally qualified health center services.
Sec. 3413. Treatment of State taxes imposed on certain hospitals that provide free care.

SUBCHAPTER C—ELIGIBILITY

Sec. 3421. State option of continuous eligibility for 12 months; clarification of State option to cover children.
Sec. 3422. Payment of part or all of Medicare part B premium amount for certain low-income individuals.
Sec. 3423. Penalty for fraudulent eligibility.
Sec. 3424. Treatment of certain settlement payments.

SUBCHAPTER D—PROGRAMS OF ALL-INCLUSIVE CARE FOR THE ELDERLY (PACE)

Sec. 3431. Establishment of PACE program as medicaid State option.
Sec. 3432. Coverage of PACE under the medicare program.
Sec. 3433. Effective date; transition.
Sec. 3434. Study and reports.

SUBCHAPTER E—BENEFITS

Sec. 3441. Elimination of requirement to pay for private insurance.
Sec. 3442. Permitting same copayments in health maintenance organizations as in fee-for-service.
Sec. 3443. Physician qualification requirements.
Sec. 3444. Elimination of requirement of prior institutionalization with respect to habilitation services furnished under a waiver for home or community-based services.
Sec. 3445. Benefits for services of physician assistants.
Sec. 3446. Study and report on actuarial value of EPSDT benefit.

SUBCHAPTER F—ADMINISTRATION

Sec. 3451. Elimination of duplicative inspection of care requirements for ICFS/MR and mental hospitals.
Sec. 3452. Alternative sanctions for noncompliant ICFS/MR.
Sec. 3453. Modification of MMIS requirements.
Sec. 3454. Facilitating imposition of State alternative remedies on noncompliant nursing facilities.
Sec. 3455. Medically accepted indication.
Sec. 3456. Continuation of State-wide section 1115 medicaid waivers.
Sec. 3457. Authorizing administrative streamlining and privatizing modifications under the medicaid program.
Sec. 3458. Extension of moratorium.

CHAPTER 2—QUALITY ASSURANCE

Sec. 3461. Requirements to ensure quality of and access to care under managed care plans.
Sec. 3462. Solvency standards for certain health maintenance organizations.
Sec. 3463. Application of prudent layperson standard for emergency medical condition and prohibition of gag rule restrictions.
Sec. 3464. Additional fraud and abuse protections in managed care.
Sec. 3465. Grievances under managed care plans.
Sec. 3466. Standards relating to access to obstetrical and gynecological services under managed care plans.

CHAPTER 3—FEDERAL PAYMENTS

Sec. 3471. Reforming disproportionate share payments under State medicaid programs.
Sec. 3472. Additional funding for State emergency health services furnished to undocumented aliens.

(b) AMENDMENTS TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this subtitle an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference is considered to be made to that section or other provision of the Social Security Act.

CHAPTER 1—STATE FLEXIBILITY

Subchapter A—Use of Managed Care

SEC. 3401. STATE OPTIONS TO PROVIDE BENEFITS THROUGH MANAGED CARE ENTITIES.

(a) IN GENERAL.—Section 1915(a) (42 U.S.C. 1396n(a)) is amended—

(1) by striking "or" at the end of paragraph (1),

(2) by striking the period at the end of paragraph (2) and inserting "; or", and

(3) by adding at the end the following new paragraph:

"(3) requires individuals, other than special needs children (as defined in subsection (i)), eligible for medical assistance for items or services under the State plan to enroll with an entity that provides or arranges for services for enrollees under a contract pursuant to section 1903(m), or with a primary care case manager (as defined in section 1905(t)(2)) (or restricts the number of provider agreements with those entities under the State plan, consistent with quality of care), if—

"(A) the State permits an individual to choose the manager or managed care entity from among the managed care organizations and primary care case providers who meet the requirements of this title;

"(B)(i) individuals are permitted to choose between at least 2 of those entities, or 2 of the managers, or an entity and a manager, each of which has sufficient capacity to provide services to enrollees; or

"(ii) with respect to a rural area—

"(I) individuals who are required to enroll with a single entity are afforded the option to obtain covered services by an alternative provider; and

"(II) an individual who is offered no alternative to a single entity or manager is given a choice between at least two providers within the entity or through the manager;

"(C) no individual who is an Indian (as defined in section 4 of the Indian Health Care Improvement Act of 1976) is required to enroll in any entity that is not one of the following (and only if such entity is participating under the plan): the Indian Health Service, an Indian health program operated by an Indian tribe or tribal organization pursuant to a contract, grant, cooperative agreement, or compact with the Indian Health Service pursuant to the Indian Self-Determination Act (25 U.S.C. 450 et seq.), or an urban Indian health program operated by an urban Indian organization pursuant to a grant or contract with the Indian Health Service pursuant to title V of the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.);

"(D) the State restricts those individuals from changing their enrollment without cause for periods no longer than six months (and permits enrollees to change enrollment for cause at any time);

"(E) the restrictions do not apply to providers of family planning services (as defined in section 1905(a)(4)(C)) and are not conditions for payment of medicare cost sharing pursuant to section 1905(p)(3); and

"(F) prior to establishing an enrollment requirement under this paragraph, the State agency provides for public notice and comment pursuant to requirements established by the Secretary.".

(b) Special Needs Children Defined.—Section 1915 (42 U.S.C. 1396n) is amended by adding at the end the following:

“(i) For purposes of subsection (a)(3), the term ‘special needs child’ means an individual under 19 years of age who—

“(1) is eligible for supplemental security income under title XVI,

“(2) is described in section 501(a)(1)(D),

“(3) is described in section 1902(e)(3), or

“(4) is in foster care or otherwise in an out-of-home placement.”.

(c) Conforming Amendment to Risk-Based Arrangements.—Section 1903(m)(2) (42 U.S.C. 1396b(m)(2)) is amended—

(1) in paragraph (A)(vi)—

(A) by striking “(I) except as provided under subparagraph (F),”; and

(B) by striking all that follows “to terminate such enrollment” and inserting “in accordance with the provisions of subparagraph (F);”; and

(2) in subparagraph (F)—

(A) by striking “In the case of—” and all that follows through “a State plan” and inserting “A State plan”, and

(B) by striking “(A)(vi)(I)” and inserting “(A)(vi)”.

(d) Effective Date.—The amendments made by this section take effect on the date of the enactment of this Act.

SEC. 3402. ELIMINATION OF 75:25 RESTRICTION ON RISK CONTRACTS.

(a) 75 Percent Limit on Medicare and Medicaid Enrollment.—

(1) In general.—Section 1903(m)(2)(A) (42 U.S.C. 1396b(m)(2)(A)) is amended by striking clause (ii).

(2) Conforming amendments.—Section 1903(m)(2) (42 U.S.C. 1396b(m)(2)) is amended—

(A) by striking subparagraphs (C), (D), and (E); and

(B) in subparagraph (G), by striking “clauses (i) and (ii)” and inserting “clause (i)”.

(b) Effective Date.—The amendments made by subsection (a) take effect on the date of the enactment of this Act.

SEC. 3403. PRIMARY CARE CASE MANAGEMENT SERVICES AS STATE OPTION WITHOUT NEED FOR WAIVER.

(a) Optional Coverage as Part of Medical Assistance.—Section 1905(a) (42 U.S.C. 1396d(a)) is amended—

(1) by striking “and” at the end of paragraph (24);

(2) by redesignating paragraph (25) as paragraph (26) and by striking the period at the end of such paragraph and inserting a comma; and

(3) by inserting after paragraph (24) the following new paragraph:

“(25) primary care case management services (as defined in subsection (t)); and”.

(b) Primary Care Case Management Services Defined.—Section 1905 (42 U.S.C. 1396d) is amended by adding at the end the following new subsection:

“(t)(1) The term ‘primary care case management services’ means case-management related services (including coordination and monitoring of health care services) provided by a primary care case manager under a primary care case management contract.

“(2)(A) The term ‘primary care case manager’ means, with respect to a primary care case management contract, a provider described in subparagraph (B).

“(B) A provider described in this subparagraph is a provider that provides primary care case management services under contract and is—

“(i) a physician, a physician group practice, or an entity employing or having other arrangements with physicians; or

“(ii) at State option—

“(I) a nurse practitioner (as described in section 1905(a)(21));

“(II) a certified nurse-midwife (as defined in section 1861(gg)); or

“(III) a physician assistant (as defined in section 1861(aa)(5)).

“(3) The term ‘primary care case management contract’ means a contract with a State agency under which a primary care case manager undertakes to locate, coordinate and monitor covered primary care (and such other covered services as may be specified under the contract) to all individuals enrolled with the primary care case manager, and which provides for—

“(A) reasonable and adequate hours of operation, including 24-hour availability of information, referral, and treatment with respect to medical emergencies;

“(B) restriction of enrollment to individuals residing sufficiently near a service delivery site of the entity to be able to reach that site within a reasonable time using available and affordable modes of transportation;

“(C) employment of, or contracts or other arrangements with, sufficient numbers of physicians and other appropriate health care professionals to ensure that services under the contract can be furnished to enrollees promptly and without compromise to quality of care;

“(D) a prohibition on discrimination on the basis of health status or requirements for health services in enrollment, disenrollment, or reenrollment of individuals eligible for medical assistance under this title; and

“(E) a right for an enrollee to terminate enrollment without cause during the first month of each enrollment period, which period shall not exceed six months in duration, and to terminate enrollment at any time for cause.

“(4) For purposes of this subsection, the term ‘primary care’ includes all health care services customarily provided in accordance with State licensure and certification laws and regulations, and all laboratory services customarily provided by or through, a general practitioner, family medicine physician, internal medicine physician, obstetrician/gynecologist, or pediatrician.”.

(c) Conforming Amendments.—Section 1902 (42 U.S.C. 1396a) is amended—

(1) in subsection (a)(10)(C)(iv), by striking “(24)” and inserting “(25)”, and

(2) in subsection (j), by striking “(25)” and inserting “(26)”.

(d) Effective Date.—The amendments made by this section apply to primary care case management services furnished on or after October 1, 1997.

SEC. 3404. CHANGE IN THRESHOLD AMOUNT FOR CONTRACTS REQUIRING SECRETARY'S PRIOR APPROVAL.

(a) In General.—Section 1903(m)(2)(A)(iii) (42 U.S.C. 1396b(m)(2)(A)(iii)) is amended by striking “$100,000” and inserting “$1,000,000 for 1998 and, for a subsequent year, the amount established under this clause for the previous year increased by the percentage increase in the consumer price index for all urban consumers over the previous year”.

(b) Effective Date.—The amendment made by subsection (a) shall apply to contracts entered into or renewed on or after the date of the enactment of this Act.

Subchapter B—Payment Methodology

SEC. 3411. FLEXIBILITY IN PAYMENT METHODS FOR HOSPITAL, NURSING FACILITY, AND ICF/MR SERVICES; FLEXIBILITY FOR HOME HEALTH.

(a) Repeal of Boren Requirements.—Section 1902(a)(13) (42 U.S.C. 1396a(a)) is amended—

(1) by amending subparagraphs (A) and (B) to read as follows:

“(A) for a public process for determination of rates of payment under the plan for hospital services, nursing facility services, and services of intermediate care facilities for the mentally retarded under which—

“(i) proposed rates are published, and providers, beneficiaries and their representatives, and other concerned State residents are given a reasonable opportunity for review and comment on the proposed rates;

“(ii) final rates are published, together with justifications, and

“(iii) in the case of hospitals, take into account (in a manner consistent with section 1923) the situation of hospitals which serve a disproportionate number of low income patients with special needs;

“(B) that the State shall provide assurances satisfactory to the Secretary that the average level of payments under the plan for nursing facility services (as determined on an aggregate per resident-day basis) and the level of payments under the plan for inpatient hospital services (as determined on an aggregate hospital payment basis) furnished during the 18-month period beginning October 1, 1997, is not less than the average level of payments that would be made under the plan during such 18-month period for such respective services (determined on such basis) based on rates or payment basis in effect as of May 1, 1997;”; and

(2) by striking subparagraph (C).

(b) Repeal of Requirements Relating to Home Health Services.—Such section is further amended—

(1) by adding “and” at the end of subparagraph (D),

(2) by striking “and” at the end of subparagraph (E), and

(3) by striking subparagraph (F).

(c) Effective Date.—The amendments made by this section shall apply to payment for items and services furnished on or after the date of the enactment of this Act.

SEC. 3412. PAYMENT FOR CENTER AND CLINIC SERVICES.

(a) Phase-Out of Payment Based on Reasonable Costs.—Section 1902(a)(13)(E) (42 U.S.C. 1396a(a)(13)(E)) is amended by inserting “(or 95 percent for services furnished during fiscal year 2000, 90 percent for service furnished during fiscal year 2001, and 85 percent for services furnished during fiscal year 2002)” after “100 percent”.

(b) Transitional Supplemental Payment for Services Furnished Under Certain Managed Care Contracts.—

(1) In general.—Section 1902(a)(13)(E) is further amended—

(A) by inserting “(i)” after “(E)”, and

(B) by inserting before the semicolon at the end the following: “and (ii) in carrying out clause (i) in the case of services furnished by a federally qualified health center or a rural health clinic pursuant to a contract between the center and a health maintenance organization under section 1903(m), for payment by the State of a supplemental payment equal to the amount (if any) by which the amount determined under clause (i) exceeds the amount of the payments provided under such contract”.

(2) Conforming amendment to managed care contract requirement.—Clause (ix) of section 1903(m)(2)(A) (42 U.S.C. 1396b(m)(2)(A)) is amended to read as follows:

“(ix) such contract provides, in the case of an entity that has entered into a contract for the provision of services with a federally qualified health center or a rural health clinic, that the entity shall provide payment that is not less than the level and amount of payment which the entity would make for the services if the services were furnished by a provider which is not a federally qualified health center or a rural health clinic;''.

(3) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after October 1, 1997.

(c) END OF TRANSITIONAL PAYMENT RULES.—Effective for services furnished on or after October 1, 2002—

(1) subparagraph (E) of section 1902(a)(13) (42 U.S.C. 1396a(a)(13)) is repealed, and

(2) clause (ix) of section 1903(m)(2)(A) (42 U.S.C. 1396b(m)(2)(A)) is repealed.

(d) FLEXIBILITY IN COVERAGE OF NON-FREESTANDING LOOK-ALIKES.—

(1) IN GENERAL.—Section 1905(l)(2)(B)(iii) (42 U.S.C. 1396d(l)(2)(B)(iii)) is amended by inserting ''and is not other than an entity that is owned, controlled, or operated by another provider'' after ''such a grant''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to service furnished on and after the date of the enactment of this Act.

(e) GAO REPORT.—By not later than February 1, 2001, the Comptroller General shall submit to Congress a report on the impact of the amendments made by this section on access to health care for medicaid beneficiaries and the uninsured served at health centers and rural health clinics and the ability of health centers and rural health clinics to become integrated in a managed care system.

SEC. 3413. TREATMENT OF STATE TAXES IMPOSED ON CERTAIN HOSPITALS THAT PROVIDE FREE CARE.

(a) EXCEPTION FROM TAX DOES NOT DISQUALIFY AS BROAD-BASED TAX.—Section 1903(w)(3) (42 U.S.C. 1396b(w)(3)) is amended—

(1) in subparagraph (B), by striking ''and (E)'' and inserting ''(E), and (F)'', and

(2) by adding at the end the following:

''(F) In no case shall a tax not qualify as a broad-based health care related tax under this paragraph because it does not apply to a hospital that is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986 and that does not accept payment under the State plan under this title or under title XVIII.''.

(b) REDUCTION IN FEDERAL FINANCIAL PARTICIPATION IN CASE OF IMPOSITION OF TAX.—Section 1903(b) (42 U.S.C. 1396b(b)) is amended by adding at the end the following:

''(4) Notwithstanding the preceding provisions of this section, the amount determined under subsection (a)(1) for any State shall be decreased in a quarter by the amount of any health care related taxes (described in section 1902(w)(3)(A)) that are imposed on a hospital described in subsection (w)(3)(F) in that quarter.''.

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to taxes imposed before, on, or after the date of the enactment of this Act and the amendment made by subsection (b) shall apply to taxes imposed on or after such date.

Subchapter C—Eligibility

SEC. 3421. STATE OPTION OF CONTINUOUS ELIGIBILITY FOR 12 MONTHS; CLARIFICATION OF STATE OPTION TO COVER CHILDREN.

(a) CONTINUOUS ELIGIBILITY OPTION.—Section 1902(e) (42 U.S.C. 1396a(e)) is amended by adding at the end the following new paragraph:

''(12) At the option of the State, the plan may provide that an individual who is under an age specified by the State (not to exceed 19 years of age) and who is determined to be eligible for benefits under a State plan approved under this title under subsection (a)(10)(A) shall remain eligible for those benefits until the earlier of—

''(A) the end of a period (not to exceed 12 months) following the determination; or

''(B) the time that the individual exceeds that age.''.

(b) CLARIFICATION OF STATE OPTION TO COVER ALL CHILDREN UNDER 19 YEARS OF AGE.—Section 1902(l)(1)(D) (42 U.S.C. 1396a(l)(1)(D)) is amended by inserting ''(or, at the option of a State, after any earlier date)'' after ''children born after September 30, 1983''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to medical assistance for items and services furnished on or after October 1, 1997.

SEC. 3422. PAYMENT OF PART OR ALL OF MEDICARE PART B PREMIUM FOR CERTAIN LOW-INCOME INDIVIDUALS.

(a) ELIGIBILITY.—Section 1902(a)(10)(E) (42 U.S.C. 1396a(a)(10)(E)) is amended—

(1) by striking ''and'' at the end of clause (ii),

(2) in clause (iii), by striking ''and 120 percent in 1995 and years thereafter'' and inserting ''120 percent in 1995, 1996, and 1997, and 135 percent in 1998 and years thereafter''; and

(3) by inserting after clause (iii) the following:

''(iv) subject to section 1905(p)(4), for making medical assistance available for the portion of medicare cost sharing described in section 1905(p)(3)(A)(ii) that is attributable to the application under section 1839(a)(5) of section 1833(d)(2) for individuals who would be described in clause (iii) but for the fact that their income exceeds 135 percent, but is less than 175 percent, of the official poverty line (referred to in section 1905(p)(2)) for a family of the size involved; and''.

(b) 100 PERCENT FEDERAL PAYMENT.—The third sentence of section 1905(b) (42 U.S.C. 1396d(b)) is amended by inserting ''and with respect to amounts expended for medical assistance described in section 1902(a)(10)(E)(iii) for individuals described in such section whose income is equal to or exceeds 120 percent of the official poverty line and with respect to amounts expended for medical assistance described in section 1902(a)(10)(E)(iv) for individuals described in such section'' before the period at the end.

SEC. 3423. PENALTY FOR FRAUDULENT ELIGIBILITY.

Section 1128B(a) (42 U.S.C. 1320a–7b(a)), as amended by section 217 of the Health Insurance Portability and Accountability Act of 1996, is amended—

(1) by amending paragraph (6) to read as follows:

''(6) for a fee knowingly and willfully counsels or assists an individual to dispose of assets (including by any transfer in trust) in order for the individual to become eligible for medical assistance under a State plan under title XIX, if disposing of the assets results in the imposition of a period of ineligibility for such assistance under section 1917(c),''; and

(2) in clause (ii) of the matter following such paragraph, by striking ''failure, or conversion by any other person'' and inserting ''failure, conversion, or provision of counsel or assistance by any other person''.

SEC. 3424. TREATMENT OF CERTAIN SETTLEMENT PAYMENTS.

Notwithstanding any other provision of law, the payments made from any fund established pursuant to the settlement in the case of In re Factor VIII or IX Concentrate Blood Products Litigation, MDL–986, no. 93–C7452 (N.D. Ill.) shall not be considered income or resources in determining eligibility for, or the amount of benefits under, a State plan of medical assistance approved under title XIX of the Social Security Act.

Subchapter D—Programs of All-inclusive Care for the Elderly (PACE)

SEC. 3431. ESTABLISHMENT OF PACE PROGRAM AS MEDICAID STATE OPTION.

(a) IN GENERAL.—Title XIX is amended—

(1) in section 1905(a) (42 U.S.C. 1396d(a)), as amended by section 3403(a)—

(A) by striking ''and'' at the end of paragraph (25);

(B) by redesignating paragraph (26) as paragraph (27); and

(C) by inserting after paragraph (25) the following new paragraph:

''(26) services furnished under a PACE program under section 1932 to PACE program eligible individuals enrolled under the program under such section; and'';

(2) by redesignating section 1932 as section 1933; and

(3) by inserting after section 1931 the following new section:

''PROGRAM OF ALL-INCLUSIVE CARE FOR THE ELDERLY (PACE)

''SEC. 1932. (a) OPTION.—

''(1) IN GENERAL.—A State may elect to provide medical assistance under this section with respect to PACE program services to PACE program eligible individuals who are eligible for medical assistance under the State plan and who are enrolled in a PACE program under a PACE program agreement. Such individuals need not be eligible for benefits under part A, or enrolled under part B, of title XVIII to be eligible to enroll under this section. In the case of an individual enrolled with a PACE program pursuant to such an election—

''(A) the individual shall receive benefits under the plan solely through such program, and

''(B) the PACE provider shall receive payment in accordance with the PACE program agreement for provision of such benefits.

A State may limit through its PACE program agreement the number of individuals who may be enrolled in a PACE program under the State plan.

''(2) PACE PROGRAM DEFINED.—For purposes of this section and section 1894, the term 'PACE program' means a program of all-inclusive care for the elderly that meets the following requirements:

''(A) OPERATION.—The entity operating the program is a PACE provider (as defined in paragraph (3)).

''(B) COMPREHENSIVE BENEFITS.—The program provides comprehensive health care services to PACE program eligible individuals in accordance with the PACE program agreement and regulations under this section.

''(C) TRANSITION.—In the case of an individual who is enrolled under the program under this section and whose enrollment ceases for any reason (including the individual no longer qualifies as a PACE program eligible individual, the termination of a PACE program agreement, or otherwise), the program provides assistance to the individual in obtaining necessary transitional care through appropriate referrals and making the individual's medical records available to new providers.

''(3) PACE PROVIDER DEFINED.—

''(A) IN GENERAL.—For purposes of this section, the term 'PACE provider' means an entity that—

''(i) subject to subparagraph (B), is (or is a distinct part of) a public entity or a private, nonprofit entity organized for charitable purposes under section 501(c)(3) of the Internal Revenue Code of 1986, and

“(ii) has entered into a PACE program agreement with respect to its operation of a PACE program.

“(B) TREATMENT OF PRIVATE, FOR-PROFIT PROVIDERS.—Clause (i) of subparagraph (A) shall not apply—

“(i) to entities subject to a demonstration project waiver under subsection (h); and

“(ii) after the date the report under section 4014(b) of the Balanced Budget Act of 1997 is submitted, unless the Secretary determines that any of the findings described in subparagraph (A), (B), (C) or (D) of paragraph (2) of such section are true.

“(4) PACE PROGRAM AGREEMENT DEFINED.—For purposes of this section, the term ‘PACE program agreement’ means, with respect to a PACE provider, an agreement, consistent with this section, section 1894 (if applicable), and regulations promulgated to carry out such sections, between the PACE provider, the Secretary, and a State administering agency for the operation of a PACE program by the provider under such sections.

“(5) PACE PROGRAM ELIGIBLE INDIVIDUAL DEFINED.—For purposes of this section, the term ‘PACE program eligible individual’ means, with respect to a PACE program, an individual who—

“(A) is 55 years of age or older;

“(B) subject to subsection (c)(4), is determined under subsection (c) to require the level of care required under the State medicaid plan for coverage of nursing facility services;

“(C) resides in the service area of the PACE program; and

“(D) meets such other eligibility conditions as may be imposed under the PACE program agreement for the program under subsection (e)(2)(A)(ii).

“(6) PACE PROTOCOL.—For purposes of this section, the term ‘PACE protocol’ means the Protocol for the Program of All-inclusive Care for the Elderly (PACE), as published by On Lok, Inc., as of April 14, 1995.

“(7) PACE DEMONSTRATION WAIVER PROGRAM DEFINED.—For purposes of this section, the term ‘PACE demonstration waiver program’ means a demonstration program under either of the following sections (as in effect before the date of their repeal):

“(A) Section 603(c) of the Social Security Amendments of 1983 (Public Law 98–21), as extended by section 9220 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99–272).

“(B) Section 9412(b) of the Omnibus Budget Reconciliation Act of 1986 (Public Law 99–509).

“(8) STATE ADMINISTERING AGENCY DEFINED.—For purposes of this section, the term ‘State administering agency’ means, with respect to the operation of a PACE program in a State, the agency of that State (which may be the single agency responsible for administration of the State plan under this title in the State) responsible for administering PACE program agreements under this section and section 1894 in the State.

“(9) TRIAL PERIOD DEFINED.—

“(A) IN GENERAL.—For purposes of this section, the term ‘trial period’ means, with respect to a PACE program operated by a PACE provider under a PACE program agreement, the first 3 contract years under such agreement with respect to such program.

“(B) TREATMENT OF ENTITIES PREVIOUSLY OPERATING PACE DEMONSTRATION WAIVER PROGRAMS.—Each contract year (including a year occurring before the effective date of this section) during which an entity has operated a PACE demonstration waiver program shall be counted under subparagraph (A) as a contract year during which the entity operated a PACE program as a PACE provider under a PACE program agreement.

“(10) REGULATIONS.—For purposes of this section, the term ‘regulations’ refers to interim final or final regulations promulgated under subsection (f) to carry out this section and section 1894.

“(b) SCOPE OF BENEFITS; BENEFICIARY SAFEGUARDS.—

“(1) IN GENERAL.—Under a PACE program agreement, a PACE provider shall—

“(A) provide to PACE program eligible individuals, regardless of source of payment and directly or under contracts with other entities, at a minimum—

“(i) all items and services covered under title XVIII (for individuals enrolled under section 1894) and all items and services covered under this title, but without any limitation or condition as to amount, duration, or scope and without application of deductibles, copayments, coinsurance, or other cost-sharing that would otherwise apply under such title or this title, respectively; and

“(ii) all additional items and services specified in regulations, based upon those required under the PACE protocol;

“(B) provide such enrollees access to necessary covered items and services 24 hours per day, every day of the year;

“(C) provide services to such enrollees through a comprehensive, multidisciplinary health and social services delivery system which integrates acute and long-term care services pursuant to regulations; and

“(D) specify the covered items and services that will not be provided directly by the entity, and to arrange for delivery of those items and services through contracts meeting the requirements of regulations.

“(2) QUALITY ASSURANCE; PATIENT SAFEGUARDS.—The PACE program agreement shall require the PACE provider to have in effect at a minimum—

“(A) a written plan of quality assurance and improvement, and procedures implementing such plan, in accordance with regulations, and

“(B) written safeguards of the rights of enrolled participants (including a patient bill of rights and procedures for grievances and appeals) in accordance with regulations and with other requirements of this title and Federal and State law designed for the protection of patients.

“(c) ELIGIBILITY DETERMINATIONS.—

“(1) IN GENERAL.—The determination of whether an individual is a PACE program eligible individual—

“(A) shall be made under and in accordance with the PACE program agreement, and

“(B) who is entitled to medical assistance under this title, shall be made (or who is not so entitled, may be made) by the State administering agency.

“(2) CONDITION.—An individual is not a PACE program eligible individual (with respect to payment under this section) unless the individual's health status has been determined, in accordance with regulations, to be comparable to the health status of individuals who have participated in the PACE demonstration waiver programs. Such determination shall be based upon information on health status and related indicators (such as medical diagnoses and measures of activities of daily living, instrumental activities of daily living, and cognitive impairment) that are part of a uniform minimum data set collected by PACE providers on potential eligible individuals.

“(3) ANNUAL ELIGIBILITY RECERTIFICATIONS.—

“(A) IN GENERAL.—Subject to subparagraph (B), the determination described in subsection (a)(5)(B) for an individual shall be reevaluated at least once a year.

“(B) EXCEPTION.—The requirement of annual reevaluation under subparagraph (A) may be waived during a period in accordance with regulations in those cases where the State administering agency determines that there is no reasonable expectation of improvement or significant change in an individual's condition during the period because of the advanced age, severity of the advanced age, severity of chronic condition, or degree of impairment of functional capacity of the individual involved.

“(4) CONTINUATION OF ELIGIBILITY.—An individual who is a PACE program eligible individual may be deemed to continue to be such an individual notwithstanding a determination that the individual no longer meets the requirement of subsection (a)(5)(B) if, in accordance with regulations, in the absence of continued coverage under a PACE program the individual reasonably would be expected to meet such requirement within the succeeding 6–month period.

“(5) ENROLLMENT; DISENROLLMENT.—The enrollment and disenrollment of PACE program eligible individuals in a PACE program shall be pursuant to regulations and the PACE program agreement and shall permit enrollees to voluntarily disenroll without cause at any time.

“(d) PAYMENTS TO PACE PROVIDERS ON A CAPITATED BASIS.—

“(1) IN GENERAL.—In the case of a PACE provider with a PACE program agreement under this section, except as provided in this subsection or by regulations, the State shall make prospective monthly payments of a capitation amount for each PACE program eligible individual enrolled under the agreement under this section.

“(2) CAPITATION AMOUNT.—The capitation amount to be applied under this subsection for a provider for a contract year shall be an amount specified in the PACE program agreement for the year. Such amount shall be an amount, specified under the PACE agreement, which is less than the amount that would otherwise have been made under the State plan if the individuals were not so enrolled and shall be adjusted to take into account the comparative frailty of PACE enrollees and such other factors as the Secretary determines to be appropriate. The payment under this section shall be in addition to any payment made under section 1894 for individuals who are enrolled in a PACE program under such section.

“(e) PACE PROGRAM AGREEMENT.—

“(1) REQUIREMENT.—

“(A) IN GENERAL.—The Secretary, in close cooperation with the State administering agency, shall establish procedures for entering into, extending, and terminating PACE program agreements for the operation of PACE programs by entities that meet the requirements for a PACE provider under this section, section 1894, and regulations.

“(B) NUMERICAL LIMITATION.—

“(i) IN GENERAL.—The Secretary shall not permit the number of PACE providers with which agreements are in effect under this section or under section 9412(b) of the Omnibus Budget Reconciliation Act of 1986 to exceed—

“(I) 40 as of the date of the enactment of this section, or

“(II) as of each succeeding anniversary of such date, the numerical limitation under this subparagraph for the preceding year plus 20.

Subclause (II) shall apply without regard to the actual number of agreements in effect as of a previous anniversary date.

“(ii) TREATMENT OF CERTAIN PRIVATE, FOR-PROFIT PROVIDERS.—The numerical limitation in clause (i) shall not apply to a PACE provider that—

“(I) is operating under a demonstration project waiver under subsection (h), or

“(II) was operating under such a waiver and subsequently qualifies for PACE provider status pursuant to subsection (a)(3)(B)(ii).

“(2) SERVICE AREA AND ELIGIBILITY.—

“(A) IN GENERAL.—A PACE program agreement for a PACE program—

“(i) shall designate the service area of the program;

“(ii) may provide additional requirements for individuals to qualify as PACE program eligible individuals with respect to the program;

“(iii) shall be effective for a contract year, but may be extended for additional contract years in the absence of a notice by a party to terminate and is subject to termination by the Secretary and the State administering agency at any time for cause (as provided under the agreement);

“(iv) shall require a PACE provider to meet all applicable State and local laws and requirements; and

“(v) shall have such additional terms and conditions as the parties may agree to consistent with this section and regulations.

“(B) SERVICE AREA OVERLAP.—In designating a service area under a PACE program agreement under subparagraph (A)(i), the Secretary (in consultation with the State administering agency) may exclude from designation an area that is already covered under another PACE program agreement, in order to avoid unnecessary duplication of services and avoid impairing the financial and service viability of an existing program.

“(3) DATA COLLECTION.—

“(A) IN GENERAL.—Under a PACE program agreement, the PACE provider shall—

“(i) collect data,

“(ii) maintain, and afford the Secretary and the State administering agency access to, the records relating to the program, including pertinent financial, medical, and personnel records, and

“(iii) make to the Secretary and the State administering agency reports that the Secretary finds (in consultation with State administering agencies) necessary to monitor the operation, cost, and effectiveness of the PACE program under this title and title XVIII.

“(B) REQUIREMENTS DURING TRIAL PERIOD.—During the first three years of operation of a PACE program (either under this section or under a PACE demonstration waiver program), the PACE provider shall provide such additional data as the Secretary specifies in regulations in order to perform the oversight required under paragraph (4)(A).

“(4) OVERSIGHT.—

“(A) ANNUAL, CLOSE OVERSIGHT DURING TRIAL PERIOD.—During the trial period (as defined in subsection (a)(9)) with respect to a PACE program operated by a PACE provider, the Secretary (in cooperation with the State administering agency) shall conduct a comprehensive annual review of the operation of the PACE program by the provider in order to assure compliance with the requirements of this section and regulations. Such a review shall include—

“(i) an on-site visit to the program site;

“(ii) comprehensive assessment of a provider's fiscal soundness;

“(iii) comprehensive assessment of the provider's capacity to provide all PACE services to all enrolled participants;

“(iv) detailed analysis of the entity's substantial compliance with all significant requirements of this section and regulations; and

“(v) any other elements the Secretary or State agency considers necessary or appropriate.

“(B) CONTINUING OVERSIGHT.—After the trial period, the Secretary (in cooperation with the State administering agency) shall continue to conduct such review of the operation of PACE providers and PACE programs as may be appropriate, taking into account the performance level of a provider and compliance of a provider with all significant requirements of this section and regulations.

“(C) DISCLOSURE.—The results of reviews under this paragraph shall be reported promptly to the PACE provider, along with any recommendations for changes to the provider's program, and shall be made available to the public upon request.

“(5) TERMINATION OF PACE PROVIDER AGREEMENTS.—

“(A) IN GENERAL.—Under regulations—

“(i) the Secretary or a State administering agency may terminate a PACE program agreement for cause, and

“(ii) a PACE provider may terminate such an agreement after appropriate notice to the Secretary, the State agency, and enrollees.

“(B) CAUSES FOR TERMINATION.—In accordance with regulations establishing procedures for termination of PACE program agreements, the Secretary or a State administering agency may terminate a PACE program agreement with a PACE provider for, among other reasons, the fact that—

“(i) the Secretary or State administering agency determines that—

“(I) there are significant deficiencies in the quality of care provided to enrolled participants; or

“(II) the provider has failed to comply substantially with conditions for a program or provider under this section or section 1894; and

“(ii) the entity has failed to develop and successfully initiate, within 30 days of the date of the receipt of written notice of such a determination, and continue implementation of a plan to correct the deficiencies.

“(C) TERMINATION AND TRANSITION PROCEDURES.—An entity whose PACE provider agreement is terminated under this paragraph shall implement the transition procedures required under subsection (a)(2)(C).

“(6) SECRETARY'S OVERSIGHT; ENFORCEMENT AUTHORITY.—

“(A) IN GENERAL.—Under regulations, if the Secretary determines (after consultation with the State administering agency) that a PACE provider is failing substantially to comply with the requirements of this section and regulations, the Secretary (and the State administering agency) may take any or all of the following actions:

“(i) Condition the continuation of the PACE program agreement upon timely execution of a corrective action plan.

“(ii) Withhold some or all further payments under the PACE program agreement under this section or section 1894 with respect to PACE program services furnished by such provider until the deficiencies have been corrected.

“(iii) Terminate such agreement.

“(B) APPLICATION OF INTERMEDIATE SANCTIONS.—Under regulations, the Secretary may provide for the application against a PACE provider of remedies described in section 1857(f)(2) (or, for periods before January 1, 1999, section 1876(i)(6)(B)) or 1903(m)(6)(B) in the case of violations by the provider of the type described in section 1857(f)(1) (or 1876(i)(6)(A) for such periods) or 1903(m)(6)(A), respectively (in relation to agreements, enrollees, and requirements under section 1894 or this section, respectively).

“(7) PROCEDURES FOR TERMINATION OR IMPOSITION OF SANCTIONS.—Under regulations, the provisions of section 1857(g) (or for periods before January 1, 1999, section 1876(i)(9)) shall apply to termination and sanctions respecting a PACE program agreement and PACE provider under this subsection in the same manner as they apply to a termination and sanctions with respect to a contract and a MedicarePlus organization under part C (or for such periods an eligible organization under section 1876).

“(8) TIMELY CONSIDERATION OF APPLICATIONS FOR PACE PROGRAM PROVIDER STATUS.—In considering an application for PACE provider program status, the application shall be deemed approved unless the Secretary, within 90 days after the date of the submission of the application to the Secretary, either denies such request in writing or informs the applicant in writing with respect to any additional information that is needed in order to make a final determination with respect to the application. After the date the Secretary receives such additional information, the application shall be deemed approved unless the Secretary, within 90 days of such date, denies such request.

“(f) REGULATIONS.—

“(1) IN GENERAL.—The Secretary shall issue interim final or final regulations to carry out this section and section 1894.

“(2) USE OF PACE PROTOCOL.—

“(A) IN GENERAL.—In issuing such regulations, the Secretary shall, to the extent consistent with the provisions of this section, incorporate the requirements applied to PACE demonstration waiver programs under the PACE protocol.

“(B) FLEXIBILITY.—The Secretary (in close consultation with State administering agencies) may modify or waive such provisions of the PACE protocol in order to provide for reasonable flexibility in adapting the PACE service delivery model to the needs of particular organizations (such as those in rural areas or those that may determine it appropriate to use non-staff physicians accordingly to State licensing law requirements) under this section and section 1932 where such flexibility is not inconsistent with and would not impair the essential elements, objectives, and requirements of the this section, including—

“(i) the focus on frail elderly qualifying individuals who require the level of care provided in a nursing facility;

“(ii) the delivery of comprehensive, integrated acute and long-term care services;

“(iii) the interdisciplinary team approach to care management and service delivery;

“(iv) capitated, integrated financing that allows the provider to pool payments received from public and private programs and individuals; and

“(v) the assumption by the provider over time of full financial risk.

“(3) APPLICATION OF CERTAIN ADDITIONAL BENEFICIARY AND PROGRAM PROTECTIONS.—

“(A) IN GENERAL.—In issuing such regulations and subject to subparagraph (B), the Secretary may apply with respect to PACE programs, providers, and agreements such requirements of part C of title XVIII (or, for periods before January 1, 1999, section 1876) and section 1903(m) relating to protection of beneficiaries and program integrity as would apply to MedicarePlus organizations under such part C (or for such periods eligible organizations under risk-sharing contracts under section 1876) and to health maintenance organizations under prepaid capitation agreements under section 1903(m).

"(B) CONSIDERATIONS.—In issuing such regulations, the Secretary shall—

"(i) take into account the differences between populations served and benefits provided under this section and under part C of title XVIII (or, for periods before January 1, 1999, section 1876) and section 1903(m);

"(ii) not include any requirement that conflicts with carrying out PACE programs under this section; and

"(iii) not include any requirement restricting the proportion of enrollees who are eligible for benefits under this title or title XVIII.

"(g) WAIVERS OF REQUIREMENTS.—With respect to carrying out a PACE program under this section, the following requirements of this title (and regulations relating to such requirements) shall not apply:

"(1) Section 1902(a)(1), relating to any requirement that PACE programs or PACE program services be provided in all areas of a State.

"(2) Section 1902(a)(10), insofar as such section relates to comparability of services among different population groups.

"(3) Sections 1902(a)(23) and 1915(b)(4), relating to freedom of choice of providers under a PACE program.

"(4) Section 1903(m)(2)(A), insofar as it restricts a PACE provider from receiving prepaid capitation payments.

"(h) DEMONSTRATION PROJECT FOR FOR-PROFIT ENTITIES.—

"(1) IN GENERAL.—In order to demonstrate the operation of a PACE program by a private, for-profit entity, the Secretary (in close consultation with State administering agencies) shall grant waivers from the requirement under subsection (a)(3) that a PACE provider may not be a for-profit, private entity.

"(2) SIMILAR TERMS AND CONDITIONS.—

"(A) IN GENERAL.—Except as provided under subparagraph (B), and paragraph (1), the terms and conditions for operation of a PACE program by a provider under this subsection shall be the same as those for PACE providers that are nonprofit, private organizations.

"(B) NUMERICAL LIMITATION.—The number of programs for which waivers are granted under this subsection shall not exceed 10. Programs with waivers granted under this subsection shall not be counted against the numerical limitation specified in subsection (e)(1)(B).

"(i) POST-ELIGIBILITY TREATMENT OF INCOME.—A State may provide for post-eligibility treatment of income for individuals enrolled in PACE programs under this section in the same manner as a State treats post-eligibility income for individuals receiving services under a waiver under section 1915(c).

"(j) MISCELLANEOUS PROVISIONS.—

"(1) CONSTRUCTION.—Nothing in this section or section 1894 shall be construed as preventing a PACE provider from entering into contracts with other governmental or nongovernmental payers for the care of PACE program eligible individuals who are not eligible for benefits under part A, or enrolled under part B, of title XVIII or eligible for medical assistance under this title.".

(b) CONFORMING AMENDMENTS.—

(1) Section 1902 (42 U.S.C. 1396a), as amended by section 3403(c), is amended—

(A) in subsection (a)(10)(C)(iv), by striking "(25)" and inserting "(26)", and

(B) in subsection (j), by striking "(26)" and inserting "(27)".

(2) Section 1924(a)(5) (42 U.S.C. 1396r–5(a)(5)) is amended—

(A) in the heading, by striking "FROM ORGANIZATIONS RECEIVING CERTAIN WAIVERS" and inserting "UNDER PACE PROGRAMS", and

(B) by striking "from any organization" and all that follows and inserting "under a PACE demonstration waiver program (as defined in subsection (a)(7) of section 1932) or under a PACE program under section 1894.".

(3) Section 1903(f)(4)(C) (42 U.S.C. 1396b(f)(4)(C)) is amended by inserting "or who is a PACE program eligible individual enrolled in a PACE program under section 1932," after "section 1902(a)(10)(A),".

SEC. 3432. COVERAGE OF PACE UNDER THE MEDICARE PROGRAM.

Title XVIII (42 U.S.C. 1395 et seq.) is amended by inserting after section 1894 the following new section:

"PAYMENTS TO, AND COVERAGE OF BENEFITS UNDER, PROGRAMS OF ALL-INCLUSIVE CARE FOR THE ELDERLY (PACE)

"SEC. 1894. (a) RECEIPT OF BENEFITS THROUGH ENROLLMENT IN PACE PROGRAM; DEFINITIONS FOR PACE PROGRAM RELATED TERMS.—

"(1) BENEFITS THROUGH ENROLLMENT IN A PACE PROGRAM.—In accordance with this section, in the case of an individual who is entitled to benefits under part A or enrolled under part B and who is a PACE program eligible individual with respect to a PACE program offered by a PACE provider under a PACE program agreement—

"(A) the individual may enroll in the program under this section; and

"(B) so long as the individual is so enrolled and in accordance with regulations—

"(i) the individual shall receive benefits under this title solely through such program, and

"(ii) the PACE provider is entitled to payment under and in accordance with this section and such agreement for provision of such benefits.

"(2) APPLICATION OF DEFINITIONS.—The definitions of terms under section 1932(a) shall apply under this section in the same manner as they apply under section 1932.

"(b) APPLICATION OF MEDICAID TERMS AND CONDITIONS.—Except as provided in this section, the terms and conditions for the operation and participation of PACE program eligible individuals in PACE programs offered by PACE providers under PACE program agreements under section 1932 shall apply for purposes of this section.

"(c) PAYMENT.—

"(1) ADJUSTMENT IN PAYMENT AMOUNTS.—In the case of individuals enrolled in a PACE program under this section, the amount of payment under this section shall not be the amount calculated under section 1932(d)(2), but shall be an amount, specified under the PACE agreement, based upon payment rates established for purposes of payment under section 1854 (or, for periods before January 1, 1999, for purposes of risk-sharing contracts under section 1876) and shall be adjusted to take into account the comparative frailty of PACE enrollees and such other factors as the Secretary determines to be appropriate. Such amount under such an agreement shall be computed in a manner so that the total payment level for all PACE program eligible individuals enrolled under a program is less than the projected payment under this title for a comparable population not enrolled under a PACE program.

"(2) FORM.—The Secretary shall make prospective monthly payments of a capitation amount for each PACE program eligible individual enrolled under this section in the same manner and from the same sources as payments are made to a MedicarePlus organization under section 1854 (or, for periods beginning before January 1, 1999, to an eligible organization under a risk-sharing contract under section 1876). Such payments shall be subject to adjustment in the manner described in section 1854(a)(2) or section 1876(a)(1)(E), as the case may be.

"(d) WAIVERS OF REQUIREMENTS.—With respect to carrying out a PACE program under this section, the following requirements of this title (and regulations relating to such requirements) are waived and shall not apply:

"(1) Section 1812, insofar as it limits coverage of institutional services.

"(2) Sections 1813, 1814, 1833, and 1886, insofar as such sections relate to rules for payment for benefits.

"(3) Sections 1814(a)(2)(B), 1814(a)(2)(C), and 1835(a)(2)(A), insofar as they limit coverage of extended care services or home health services.

"(4) Section 1861(i), insofar as it imposes a 3-day prior hospitalization requirement for coverage of extended care services.

"(5) Sections 1862(a)(1) and 1862(a)(9), insofar as they may prevent payment for PACE program services to individuals enrolled under PACE programs.".

SEC. 3433. EFFECTIVE DATE; TRANSITION.

(a) TIMELY ISSUANCE OF REGULATIONS; EFFECTIVE DATE.—The Secretary of Health and Human Services shall promulgate regulations to carry out this subchapter in a timely manner. Such regulations shall be designed so that entities may establish and operate PACE programs under sections 1894 and 1932 for periods beginning not later than 1 year after the date of the enactment of this Act.

(b) EXPANSION AND TRANSITION FOR PACE DEMONSTRATION PROJECT WAIVERS.—

(1) EXPANSION IN CURRENT NUMBER AND EXTENSION OF DEMONSTRATION PROJECTS.—Section 9412(b) of the Omnibus Budget Reconciliation Act of 1986, as amended by section 4118(g) of the Omnibus Budget Reconciliation Act of 1987, is amended—

(A) in paragraph (1), by inserting before the period at the end the following: ", except that the Secretary shall grant waivers of such requirements to up to the applicable numerical limitation specified in section 1932(e)(1)(B) of the Social Security Act"; and

(B) in paragraph (2)—

(i) in subparagraph (A), by striking ", including permitting the organization to assume progressively (over the initial 3-year period of the waiver) the full financial risk"; and

(ii) in subparagraph (C), by adding at the end the following: "In granting further extensions, an organization shall not be required to provide for reporting of information which is only required because of the demonstration nature of the project.".

(2) ELIMINATION OF REPLICATION REQUIREMENT.—Subparagraph (B) of paragraph (2) of such section shall not apply to waivers granted under such section after the date of the enactment of this Act.

(3) TIMELY CONSIDERATION OF APPLICATIONS.—In considering an application for waivers under such section before the effective date of repeals under subsection (c), subject to the numerical limitation under the

amendment made by paragraph (1), the application shall be deemed approved unless the Secretary of Health and Human Services, within 90 days after the date of its submission to the Secretary, either denies such request in writing or informs the applicant in writing with respect to any additional information which is needed in order to make a final determination with respect to the application. After the date the Secretary receives such additional information, the application shall be deemed approved unless the Secretary, within 90 days of such date, denies such request.

(c) Priority and Special Consideration in Application.—During the 3-year period beginning on the date of the enactment of this Act:

(1) Provider status.—The Secretary of Health and Human Services shall give priority, in processing applications of entities to qualify as PACE programs under section 1894 or 1932 of the Social Security Act—

(A) first, to entities that are operating a PACE demonstration waiver program (as defined in section 1932(a)(7) of such Act), and

(B) then entities that have applied to operate such a program as of May 1, 1997.

(2) New waivers.—The Secretary shall give priority, in the awarding of additional waivers under section 9412(b) of the Omnibus Budget Reconciliation Act of 1986—

(A) to any entities that have applied for such waivers under such section as of May 1, 1997; and

(B) to any entity that, as of May 1, 1997, has formally contracted with a State to provide services for which payment is made on a capitated basis with an understanding that the entity was seeking to become a PACE provider.

(3) Special consideration.—The Secretary shall give special consideration, in the processing of applications described in paragraph (1) and the awarding of waivers described in paragraph (2), to an entity which as of May 1, 1997 through formal activities (such as entering into contracts for feasibility studies) has indicated a specific intent to become a PACE provider.

(d) Repeal of Current PACE Demonstration Project Waiver Authority.—

(1) In general.—Subject to paragraphs (2) and (3), the following provisions of law are repealed:

(A) Section 603(c) of the Social Security Amendments of 1983 (Public Law 98–21).

(B) Section 9220 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99–272).

(C) Section 9412(b) of the Omnibus Budget Reconciliation Act of 1986 (Public Law 99–509).

(2) Delay in application.—

(A) In general.—Subject to subparagraph (B), the repeals made by paragraph (1) shall not apply to waivers granted before the initial effective date of regulations described in subsection (a).

(B) Application to approved waivers.—Such repeals shall apply to waivers granted before such date only after allowing such organizations a transition period (of up to 24 months) in order to permit sufficient time for an orderly transition from demonstration project authority to general authority provided under the amendments made by this subchapter.

(3) State option.—A State may elect to maintain the PACE program which (as of the date of the enactment of this Act) were operating under the authority described in paragraph (1) without electing to use the authority under section 1932 of the Public Health Service Act.

SEC. 3434. STUDY AND REPORTS.

(a) Study.—

(1) In general.—The Secretary of Health and Human Services (in close consultation with State administering agencies, as defined in section 1932(a)(8) of the Social Security Act) shall conduct a study of the quality and cost of providing PACE program services under the medicare and medicaid programs under the amendments made by this subchapter.

(2) Study of private, for-profit providers.—Such study shall specifically compare the costs, quality, and access to services by entities that are private, for-profit entities operating under demonstration projects waivers granted under section 1932(h) of the Social Security Act with the costs, quality, and access to services of other PACE providers.

(b) Report.—

(1) In general.—Not later than 4 years after the date of the enactment of this Act, the Secretary shall provide for a report to Congress on the impact of such amendments on quality and cost of services. The Secretary shall include in such report such recommendations for changes in the operation of such amendments as the Secretary deems appropriate.

(2) Treatment of private, for-profit providers.—The report shall include specific findings on whether any of the following findings is true:

(A) The number of covered lives enrolled with entities operating under demonstration project waivers under section 1932(h) of the Social Security Act is fewer than 800 (or such lesser number as the Secretary may find statistically sufficient to make determinations respecting findings described in the succeeding subparagraphs).

(B) The population enrolled with such entities is less frail than the population enrolled with other PACE providers.

(C) Access to or quality of care for individuals enrolled with such entities is lower than such access or quality for individuals enrolled with other PACE providers.

(D) The application of such section has resulted in an increase in expenditures under the medicare or medicaid programs above the expenditures that would have been made if such section did not apply.

(c) Information Included in Annual Recommendations.—The Medicare Payment Advisory Commission shall include in its annual report under section 1805(b)(1)(B) of the Social Security Act recommendations on the methodology and level of payments made to PACE providers under section 1894(d) of such Act and on the treatment of private, for-profit entities as PACE providers.

Subchapter E—Benefits

SEC. 3441. ELIMINATION OF REQUIREMENT TO PAY FOR PRIVATE INSURANCE.

(a) Repeal of State Plan Provision.—Section 1902(a)(25) (42 U.S.C. 1396a(a)(25)) is amended—

(1) by striking subparagraph (G); and

(2) by redesignating subparagraphs (H) and (I) as subparagraphs (G) and (H), respectively.

(b) Making Provision Optional.—Section 1906 (42 U.S.C. 1396e) is amended—

(1) in subsection (a)—

(A) by striking "For purposes of section 1902(a)(25)(G) and subject to subsection (d), each" and inserting "Each",

(B) in paragraph (1), by striking "shall" and inserting "may", and

(C) in paragraph (2), by striking "shall" and inserting "may"; and

(2) by striking subsection (d).

(c) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 3442. PERMITTING SAME COPAYMENTS IN HEALTH MAINTENANCE ORGANIZATIONS AS IN FEE-FOR-SERVICE.

(a) In General.—Section 1916(a)(2)(D) (42 U.S.C. 1396o(a)(2)(D)) is amended by inserting "(at the option of the State)" after "section 1905(a)(4)(C), or".

(b) Effective Date.—The amendment made by subsection (a) shall apply to cost sharing with respect to deductions, cost sharing and similar charges imposed for items and services furnished on or after the date of the enactment of this Act.

SEC. 3443. PHYSICIAN QUALIFICATION REQUIREMENTS.

(a) In General.—Section 1903(i) (42 U.S.C. 1396b(i)) is amended by striking paragraph (12)

(b) Effective Date.—The amendment made by subsection (a) shall apply to services furnished on or after the date of the enactment of this Act.

SEC. 3444. ELIMINATION OF REQUIREMENT OF PRIOR INSTITUTIONALIZATION WITH RESPECT TO HABILITATION SERVICES FURNISHED UNDER A WAIVER FOR HOME OR COMMUNITY-BASED SERVICES.

(a) In General.—Section 1915(c)(5) (42 U.S.C. 1396n(c)(5)) is amended, in the matter preceding subparagraph (A), by striking ", with respect to individuals who receive such services after discharge from a nursing facility or intermediate care facility for the mentally retarded".

(b) Effective Date.—The amendment made by subsection (a) apply to services furnished on or after October 1, 1997.

SEC. 3445. BENEFITS FOR SERVICES OF PHYSICIAN ASSISTANTS.

(a) In General.—Section 1905(a) (42 U.S.C. 1396d(a)), as amended by sections 3403(a) and 3431(a), is amended—

(1) by redesignating paragraphs (22) through (27) as paragraphs (23) through (28), and

(2) by inserting after paragraph (21) the following new paragraph:

"(22) services furnished by an physician assistant (as defined in section 1861(aa)(5)) which the assistant is legally authorized to perform under State law and with the supervision of a physician;".

(b) Conforming Amendments.—Section 1902 (42 U.S.C. 1396a), as amended by sections 3403(c) and 3431(b)(1), is amended—

(1) in subsection (a)(10)(C)(iv), by striking "(26)" and inserting "(27)", and

(2) in subsection (j), by striking "(27)" and inserting "(28)".

SEC. 3446. STUDY AND REPORT ON ACTUARIAL VALUE OF EPSDT BENEFIT.

(a) Study.—The Secretary of Health and Human Services shall provide for a study on the actuarial value of the provision of early and periodic screening, diagnostic, and treatment services (as defined in section 1905(r) of the Social Security Act (42 U.S.C. 1396d(r))) under the medicaid program under title XIX of such Act. Such study shall include an examination of the portion of such value that is attributable to paragraph (5) of such section and to the second sentence of such section.

(b) Report.—By not later than 18 months after the date of the enactment of this Act, the Secretary shall submit a report to Congress on the results of the study under subsection (a).

Subchapter F—Administration

SEC. 3451. ELIMINATION OF DUPLICATIVE INSPECTION OF CARE REQUIREMENTS FOR ICFS/MR AND MENTAL HOSPITALS.

(a) MENTAL HOSPITALS.—Section 1902(a)(26) (42 U.S.C. 1396a(a)(26)) is amended—

(1) by striking "provide—

"(A) with respect to each patient" and inserting "provide, with respect to each patient"; and

(2) by striking subparagraphs (B) and (C).

(b) ICFS/MR.—Section 1902(a)(31) (42 U.S.C. 1396a(a)(31)) is amended—

(1) by striking "provide—

"(A) with respect to each patient" and inserting "provide, with respect to each patient"; and

(2) by striking subparagraphs (B) and (C).

(c) EFFECTIVE DATE.—The amendments made by this section take effect on the date of the enactment of this Act.

SEC. 3452. ALTERNATIVE SANCTIONS FOR NONCOMPLIANT ICFS/MR.

(a) IN GENERAL.—Section 1902(i)(1)(B) (42 U.S.C. 1396a(i)(1)(B)) is amended by striking "provide" and inserting "establish alternative remedies if the State demonstrates to the Secretary's satisfaction that the alternative remedies are effective in deterring noncompliance and correcting deficiencies, and may provide".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) takes effect on the date of the enactment of this Act.

SEC. 3453. MODIFICATION OF MMIS REQUIREMENTS.

(a) IN GENERAL.—Section 1903(r) (42 U.S.C. 1396b(r)) is amended—

(1) by striking all that precedes paragraph (5) and inserting the following:

"(r)(1) In order to receive payments under subsection (a) for use of automated data systems in administration of the State plan under this title, a State must have in operation mechanized claims processing and information retrieval systems that meet the requirements of this subsection and that the Secretary has found—

"(A) is adequate to provide efficient, economical, and effective administration of such State plan;

"(B) is compatible with the claims processing and information retrieval systems used in the administration of title XVIII, and for this purpose—

"(i) has a uniform identification coding system for providers, other payees, and beneficiaries under this title or title XVIII;

"(ii) provides liaison between States and carriers and intermediaries with agreements under title XVIII to facilitate timely exchange of appropriate data; and

"(iii) provides for exchange of data between the States and the Secretary with respect to persons sanctioned under this title or title XVIII;

"(C) is capable of providing accurate and timely data;

"(D) is complying with the applicable provisions of part C of title XI;

"(E) is designed to receive provider claims in standard formats to the extent specified by the Secretary; and

"(F) effective for claims filed on or after January 1, 1999, provides for electronic transmission of claims data in the format specified by the Secretary and consistent with the Medicaid Statistical Information System (MSIS) (including detailed individual enrollee encounter data and other information that the Secretary may find necessary).";

(2) in paragraph (5)—

(A) by striking subparagraph (B);

(B) by striking all that precedes clause (i) and inserting the following:

"(2) In order to meet the requirements of this paragraph, mechanized claims processing and information retrieval systems must meet the following requirements:";

(C) in clause (iii), by striking "under paragraph (6)"; and

(D) by redesignating clauses (i) through (iii) as paragraphs (A) through (C); and

(3) by striking paragraphs (6), (7), and (8).

(b) CONFORMING AMENDMENTS.—Section 1902(a)(25)(A)(ii) (42 U.S.C. 1396a(a)(25)(A)(ii)) is amended by striking all that follows "shall" and inserting the following: "be integrated with, and be monitored as a part of the Secretary's review of, the State's mechanized claims processing and information retrieval system under section 1903(r);".

(c) EFFECTIVE DATE.—Except as otherwise specifically provided, the amendments made by this section shall take effect on January 1, 1998.

SEC. 3454. FACILITATING IMPOSITION OF STATE ALTERNATIVE REMEDIES ON NONCOMPLIANT NURSING FACILITIES.

(a) IN GENERAL.—Section 1919(h)(3)(D) (42 U.S.C. 1396r(h)(3)(D)) is amended—

(1) by inserting "and" at the end of clause (i);

(2) by striking ", and" at the end of clause (ii) and inserting a period; and

(3) by striking clause (iii).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) take effect on the date of the enactment of this Act.

SEC. 3455. MEDICALLY ACCEPTED INDICATION.

Section 1927(g)(1)(B)(i) (42 U.S.C. 1396r–8(g)(1)(B)(i)) is amended—

(1) by striking "and" at the end of subclause (II),

(2) by redesignating subclause (III) as subclause (IV), and

(3) by inserting after subclause (II) the following:

"(III) the DRUGDEX Information System; and".

SEC. 3456. CONTINUATION OF STATE-WIDE SECTION 1115 MEDICAID WAIVERS.

(a) IN GENERAL.—Section 1115 (42 U.S.C. 1315) is amended by adding at the end the following new subsection:

"(e)(1) The provisions of this subsection shall apply to the extension of State-wide comprehensive demonstration project (in this subsection referred to as 'waiver project') for which a waiver of compliance with requirements of title XIX is granted under subsection (a).

"(2) Not earlier than 1 year before the date the waiver under subsection (a) with respect to a waiver project would otherwise expire, the chief executive officer of the State which is operating the project may submit to the Secretary a written request for an extension, of up to 3 years, of the project.

"(3) If the Secretary fails to respond to the request within 6 months after the date it is submitted, the request is deemed to have been granted.

"(4) If such a request is granted, the deadline for submittal of a final report under the waiver project is deemed to have been extended until the date that is 1 year after the date the waivers under subsection (a) with respect to the project would otherwise have expired.

"(5) The Secretary shall release an evaluation of each such project not later than 1 year after the date of receipt of the final report.

"(6) Subject to paragraphs (4) and (7), the extension of a waiver project under this subsection shall be on the same terms and conditions (including applicable terms and conditions relating to quality and access of services, budget neutrality, data and reporting requirements, and special population protections) that applied to the project before its extension under this subsection.

"(7) If an original condition of approval of a waiver project was that Federal expenditures under the project not exceed the Federal expenditures that would otherwise have been made, the Secretary shall take such steps as may be necessary to assure that, in the extension of the project under this subsection, such condition continues to be met. In applying the previous sentence, the Secretary shall take into account the Secretary's best estimate of rates of change in expenditures at the time of the extension.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to demonstration projects initially approved before, on, or after the date of the enactment of this Act.

SEC. 3457. AUTHORIZING ADMINISTRATIVE STREAMLINING AND PRIVATIZING MODIFICATIONS UNDER THE MEDICAID PROGRAM.

Section 1902 (42 U.S.C. 1396a) is amended by adding at the end the following:

"(aa)(1) Notwithstanding any other provision of law, no provision of law shall be construed as preventing any State from allowing determinations of eligibility to receive medical assistance under this title to be made by an entity that is not a State or local government, or by an individual who is not an employee of a State or local government, which meets such qualifications as the State determines. For purposes of any Federal law, such determinations shall be considered to be made by the State and by a State agency.

"(2) Nothing in this subsection shall be construed as affecting—

"(A) the conditions for eligibility for benefits (including any conditions relating to income or resources); and

"(B) the rights to challenge determinations regarding eligibility or rights to benefits; and

"(C) determinations regarding quality control or error rates.".

SEC. 3458. EXTENSION OF MORATORIUM.

Section 6408(a)(3) of the Omnibus Budget Reconciliation Act of 1989, as amended by section 13642 of the Omnibus Budget Reconciliation Act of 1993, is amended by striking "December 31, 1995" and inserting "December 31, 2002".

CHAPTER 2—QUALITY ASSURANCE

SEC. 3461. REQUIREMENTS TO ENSURE QUALITY OF AND ACCESS TO CARE UNDER MANAGED CARE PLANS.

(a) STATE PLAN REQUIREMENT.—Section 1902(a) (42 U.S.C. 1396a(a)) is amended—

(1) in paragraph (62), by striking "; and" at the end and inserting a semicolon;

(2) by striking the period at the end of paragraph (63) and inserting "; and"; and

(3) by inserting after paragraph (63) the following new paragraph:

"(64) provide, with respect to all contracts described in section 1903(m)(2)(A) with an organization or provider, that—

"(A) the State agency develops and implements a quality assessment and improvement strategy, consistent with standards that the Secretary shall establish, in consultation with the States, and monitor and that do not preempt the application of stricter State standards, which includes—

"(i) standards for access to care so that covered services are available within reasonable timeframes and in a manner that ensures continuity of care and adequate primary care and, where applicable, specialized services capacity, including pediatric specialized services for special needs children (as defined in section 1915(i)); and

“(ii) procedures for monitoring and evaluating the quality and appropriateness of care and services to beneficiaries that reflect the full spectrum of populations enrolled under the contract and that include—

“(I) requirements for provision of quality assurance data to the State using the data and information set that the Secretary shall specify with respect to entities contracting under section 1876 or alternative data requirements approved by the Secretary;

“(II) regular and periodic examination of the scope and content of the quality improvement strategy; and

“(III) other aspects of care and service directly related to the improvement of quality of care (including grievance procedures and marketing and information standards); and

“(B) that adequate provision is made, consistent with standards that the Secretary shall specify and monitor, with respect to financial reporting under the contracts.”.

(b) DEEMED COMPLIANCE.—Section 1903(m) (42 U.S.C. 1396b(m)) is amended by adding at the end the following:

“(7) DEEMED COMPLIANCE.—

“(A) MEDICARE ORGANIZATIONS.—At the option of a State, the requirements of the previous provisions of this subsection shall not apply with respect to a health maintenance organization if the organization is an eligible organization with a contract in effect under section 1876 or a MedicarePlus organization with a contract in effect under C of title XVIII.

“(B) PRIVATE ACCREDITATION.—

“(i) IN GENERAL.—At the option of a State, such requirements shall not apply with respect to a health maintenance organization if—

“(I) the organization is accredited by an organization meeting the requirements described in subparagraph (C); and

“(II) the standards and process under which the organization is accredited meet such requirements as are established under clause (ii), without regard to whether or not the time requirement of such clause is satisfied.

“(ii) STANDARDS AND PROCESS.—Not later than 180 days after the date of the enactment of this paragraph, the Secretary shall specify requirements for the standards and process under which a health maintenance organization is accredited by an organization meeting the requirements of subparagraph (C).

“(C) ACCREDITING ORGANIZATION.—An accrediting organization meets the requirements of this subparagraph if the organization—

“(i) is a private, nonprofit organization;

“(ii) exists for the primary purpose of accrediting managed care organizations or health care providers; and

“(iii) is independent of health care providers or associations of health care providers.”.

(c) APPLICATION TO MANAGED CARE ENTITIES.—Section 1903(m)(2)(A) (42 U.S.C. 1396b(m)(2)(A)) is amended—

(1) by striking “and” at the end of clause (x),

(2) by striking the period at the end of clause (xi) and inserting “; and”, and

(3) by adding at the end the following new clause:

“(xii) such contract provides for—

“(I) submitting to the State agency such information as may be necessary to monitor the care delivered to members,

“(II) maintenance of an internal quality assurance program consistent with section 1902(a)(64)(A), and meeting standards that the Secretary shall establish in regulations; and

“(III) providing effective procedures for hearing and resolving grievances between the entity and members enrolled with the organization under this subsection.”.

(d) APPLICATION TO PRIMARY CARE CASE MANAGEMENT CONTRACTS.—Section 1905(t)(3), as added by section 3403(b), is amended—

(1) by striking “and” at the end of subparagraph (D),

(2) by striking the period at the end of subparagraph (E) and inserting “; and”, and

(3) by adding at the end the following new subparagraph:

“(F) if payment is made to the organization on a prepaid capitated or other risk basis, compliance with the requirements of section 1903(m)(2)(A)(xii) in the same manner such requirements apply to a health maintenance organization under section 1903(m)(2)(A).”.

(e) EFFECTIVE DATE.—The amendments made by this section apply to agreements between a State agency and an organization entered into or renewed on or after January 1, 1999.

SEC. 3462. SOLVENCY STANDARDS FOR CERTAIN HEALTH MAINTENANCE ORGANIZATIONS.

(a) IN GENERAL.—Section 1903(m)(1) (42 U.S.C. 1396b(m)(1)) is amended—

(1) in subparagraph (A)(ii), by inserting “, meets the requirements of subparagraph (C)(i) (if applicable),” after “provision is satisfactory to the State”, and

(2) by adding at the end the following:

“(C)(i) Subject to clause (ii), a provision meets the requirements of this subparagraph for an organization if the organization meets solvency standards established by the State for private health maintenance organizations or is licensed or certified by the State as a risk-bearing entity.

“(ii) Clause (i) shall not apply to an organization if—

“(I) the organization is not responsible for the provision (directly or through arrangements with providers of services) of inpatient hospital services and physicians' services;

“(II) the organization is a public entity;

“(III) the solvency of the organization is guaranteed by the State; or

“(IV) the organization is (or is controlled by) one or more federally-qualified health centers and meets solvency standards established by the State for such an organization.

For purposes of subclause (IV), the term ‘control’ means the possession, whether direct or indirect, of the power to direct or cause the direction of the management and policies of the organization through membership, board representation, or an ownership interest equal to or greater than 50.1 percent.”

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to contracts entered into or renewed on or after October 1, 1998.

(c) TRANSITION.—In the case of a health maintenance organization that as of the date of the enactment of this Act has entered into a contract with a State for the provision of medical assistance under title XIX under which the organization assumes full financial risk and is receiving capitation payments, the amendment made by subsection (a) shall not apply to such organization until 3 years after the date of the enactment of this Act.

SEC. 3463. APPLICATION OF PRUDENT LAYPERSON STANDARD FOR EMERGENCY MEDICAL CONDITION AND PROHIBITION OF GAG RULE RESTRICTIONS.

Section 1903(m) (42 U.S.C. 1396b(m)) is amended by adding at the end the following:

“(8)(A)(i) Each contract with a health maintenance organization under this subsection shall require the organization—

“(I) to provide coverage for emergency services (as defined in subparagraph (B)) without regard to prior authorization or the emergency care provider's contractual relationship with the organization, and

“(II) to comply with guidelines established under section 1852(d)(2) (respecting coordination of post-stabilization care) in the same manner as such guidelines apply to MedicarePlus plans offered under part C of title XVIII.

“(B) In subparagraph (A)(i)(I), the term ‘emergency services’ means, with respect to an individual enrolled with an organization, covered inpatient and outpatient services that—

“(i) are furnished by a provider that is qualified to furnish such services under this title, and

“(ii) are needed to evaluate or stabilize an emergency medical condition (as defined in subparagraph (C)).

“(C) In subparagraph (B)(ii), the term ‘emergency medical condition’ means a medical condition manifesting itself by acute symptoms of sufficient severity such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in—

“(i) placing the health of the individual (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy,

“(ii) serious impairment to bodily functions, or

“(iii) serious dysfunction of any bodily organ or part.

“(9)(A) Subject to subparagraphs (B) and (C), under a contract under this subsection a health maintenance organization (in relation to an individual enrolled under the contract) shall not prohibit or otherwise restrict a covered health care professional (as defined in subparagraph (D)) from advising such an individual who is a patient of the professional about the health status of the individual or medical care or treatment for the individual's condition or disease, regardless of whether benefits for such care or treatment are provided under the plan, if the professional is acting within the lawful scope of practice.

“(B) Subparagraph (A) shall not be construed as requiring a health maintenance organization to provide, reimburse for, or provide coverage of a counseling or referral service if the organization—

“(i) objects to the provision of such service on moral or religious grounds; and

“(ii) in the manner and through the written instrumentalities such organization deems appropriate, makes available information on its policies regarding such service to prospective enrollees before or during enrollment and to enrollees within 90 days after the date that the organization or plan adopts a change in policy regarding such a counseling or referral service.

“(C) Nothing in subparagraph (B) shall be construed to affect disclosure requirements under State law or under the Employee Retirement Income Security Act of 1974.

“(D) For purposes of this paragraph, the term ‘health care professional’ means a physician (as defined in section 1861(r)) or other health care professional if coverage for the professional's services is provided under the contract under this subsection for the services of the professional. Such term includes a podiatrist, optometrist, chiropractor, psychologist, dentist, physician assistant, physical or occupational therapist and therapy assistant, speech-language pathologist, audiologist, registered or licensed practical nurse (including nurse practitioner, clinical nurse specialist, certified registered nurse anesthetist, and certified nurse-midwife), licensed certified social worker, registered respiratory therapist, and certified respiratory therapy technician.".

SEC. 3464. ADDITIONAL FRAUD AND ABUSE PROTECTIONS IN MANAGED CARE.

(a) Protection Against Marketing Abuses.—Section 1903(m) (42 U.S.C. 1396b(m)), as amended by section 3463, is amended—

(1) in paragraph (2)(A)(viii), by inserting "and compliance with the requirements of paragraphs (10) and (11)" after "of this subsection", and

(2) by adding at the end the following:

"(10)(A)(i) A health maintenance organization with respect to activities under this subsection may not distribute directly or through any agent or independent contractor marketing materials within any State—

"(I) without the prior approval of the State; and

"(II) that contain false or materially misleading information.

"(ii) In the process of reviewing and approving such materials, the State shall provide for consultation with a medical care advisory committee.

"(iii) The State may not enter into or renew a contract with a health maintenance organization for the provision of services to individuals enrolled under the State plan under this title if the State determines that the entity distributed directly or through any agent or independent contractor marketing materials in violation of clause (i)(II).

"(B) A health maintenance organization shall distribute marketing materials to the entire service area of such organization.

"(C) A health maintenance organization, or any agency of such organization, may not seek to influence an individual's enrollment with the organization in conjunction with the sale of any other insurance.

"(D) Each health maintenance organization shall comply with such procedures and conditions as the Secretary prescribes in order to ensure that, before an individual is enrolled with the organization under this title, the individual is provided accurate oral and written and sufficient information to make an informed decision whether or not to enroll.

"(E) Each health maintenance organization shall not, directly or indirectly, conduct door-to-door, telephonic, or other 'cold call' marketing of enrollment under this title.".

(b) Prohibiting Affiliations With Individuals Debarred by Federal Agencies.—Section 1903(m) (42 U.S.C. 1396b(m)), as amended by section 3463 and subsection (a), is further amended by adding at the end the following:

"(11)(A) A health maintenance organization may not knowingly—

"(i) have a person described in subparagraph (C) as a director, officer, partner, or person with beneficial ownership of more than 5 percent of the organization equity; or

"(ii) have an employment, consulting, or other agreement with a person described in such subparagraph for the provision of items and services that are significant and material to the organization's obligations under its contract with the State.

"(B) If a State finds that a health maintenance organization is not in compliance with clause (i) or (ii) of subparagraph (A), the State—

"(i) shall notify the Secretary of such noncompliance;

"(ii) may continue an existing agreement with the organization unless the Secretary (in consultation with the Inspector General of the Department of Health and Human Services) directs otherwise; and

"(iii) may not renew or otherwise extend the duration of an existing agreement with the organization unless the Secretary (in consultation with the Inspector General of the Department of Health and Human Services) provides to the State and to the Congress a written statement describing compelling reasons that exist for renewing or extending the agreement.

"(C) A person is described in this subparagraph if such person—

"(i) is debarred, suspended, or otherwise excluded from participating in procurement activities under the Federal acquisition regulation or from participating in nonprocurement activities under regulations issued pursuant to Executive Order 12549; or

"(ii) is an affiliate (within the meaning of the Federal acquisition regulation) of a person described in clause (i).".

(c) Application of State Conflict-of-Interest Safeguards.—Section 1903(m)(2)(A) (42 U.S.C. 1396b(m)(2)(A)), as amended by section 3461(c), is amended—

(1) by striking "and" at the end of clause (xi),

(2) by striking the period at the end of clause (xii) and inserting "; and", and

(3) by inserting after clause (xi) the following:

"(xiii) the State has in effect conflict-of-interest safeguards with respect to officers and employees of the State with responsibilities relating to contracts with such organizations and to any default enrollment process that are at least as effective as the Federal safeguards provided under section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423), against conflicts of interest that apply with respect to Federal procurement officials with comparable responsibilities with respect to such contracts.".

(d) Limitation on Availability of FFP for Use of Enrollment Brokers.—Section 1903(b) (42 U.S.C. 1396b(b)), as amended by section 3413(b), is amended by adding at the end the following:

"(5) Amounts expended by a State for the use an enrollment broker in marketing health maintenance organizations and other managed care entities to eligible individuals under this title shall be considered, for purposes of subsection (a)(7), to be necessary for the proper and efficient administration of the State plan but only if the following conditions are met with respect to the broker:

"(A) The broker is independent of any such entity and of any health care providers (whether or not any such provider participates in the State plan under this title) that provide coverage of services in the same State in which the broker is conducting enrollment activities.

"(B) No person who is an owner, employee, consultant, or has a contract with the broker either has any direct or indirect financial interest with such an entity or health care provider or has been excluded from participation in the program under this title or title XVIII or debarred by any Federal agency, or subject to a civil money penalty under this Act.".

(e) Effective Date.—The amendments made by this section shall take effect on January 1, 1998.

SEC. 3465. GRIEVANCES UNDER MANAGED CARE PLANS.

Section 1903(m) (42 U.S.C. 1396b(m)) is amended—

(1) in paragraph (2)(A), as amended by sections 3461(c) and 3464(c),—

(A) by striking "and" at the end of clause (xii),

(B) by striking the period at the end of clause (xiii) and inserting "; and", and

(C) by inserting after clause (xiii) the following new clause:

"(xiv) such contract provides for compliance of the organization with the grievance and appeals requirements described in paragraph (3)."; and

(2) by inserting after paragraph (2) the following new paragraph:

"(3)(A) An eligible organization must provide a meaningful and expedited procedure, which includes notice and hearing requirements, for resolving grievances between the organization (including any entity or individual through which the organization provides health care services) and members enrolled with the organization under this subsection. Under the procedure any member enrolled with the organization may at any time file orally or in writing a complaint to resolve grievances between the member and the organization before a board of appeals established under subparagraph (C).

"(B)(i) The organization must provide, in a timely manner, such an enrollee a notice of any denial of services in-network or denial of payment for out-of-network care or notice of termination or reduction of services.

"(ii) Such notice shall include the following:

"(I) A clear statement of the reason for the denial.

"(II) An explanation of the complaint process under subparagraph (C) which is available to the enrollee upon request.

"(III) An explanation of all other appeal rights available to all enrollees.

"(IV) A description of how to obtain supporting evidence for this hearing, including the patient's medical records from the organization, as well as supporting affidavits from the attending health care providers.

"(C)(i) Each eligible organization shall establish a board of appeals to hear and make determinations on complaints by enrollees under this subsection concerning denials of coverage or payment for services (whether in-network or out-of-network) and the medical necessity and appropriateness of covered items and services.

"(ii) A board of appeals of an eligible organization shall consist of—

"(I) representatives of the organization, including physicians, nonphysicians, administrators, and enrollees;

"(II) consumers who are not enrollees; and

"(III) providers with expertise in the field of medicine which necessitates treatment.

"(iii) A board of appeals shall hear and resolve complaints within 30 days after the date the complaint is filed with the board.

"(D) Nothing in this paragraph may be construed to replace or supersede any appeals mechanism otherwise provided for an individual entitled to benefits under this title.".

SEC. 3466. STANDARDS RELATING TO ACCESS TO OBSTETRICAL AND GYNECOLOGICAL SERVICES UNDER MANAGED CARE PLANS.

(a) In General.—Section 1903(m)(2)(A) (42 U.S.C. 1396b(m)(2)(A)), as amended by sections 3461(c), 3464(c), and 3465(1), is amended—

(1) by striking "and" at the end of clause (xiii),

(2) by striking the period at the end of clause (xiv) and inserting "; and", and

(3) by inserting after clause (xiv) the following:

"(xv) the organization complies with the requirements of paragraph (12).".

(b) Requirements.—Section 1903(m) (42 U.S.C. 1396b(m)), as amended by sections 3463, 3464(a), and 3464(b), is amended by adding at the end the following new paragraph:

"(12)(A) If a health maintenance organization, under a contract under this subsection, requires or provides for an enrollee to designate a participating primary care provider—

"(i) the organization shall permit a female enrollee to designate an obstetrician-gynecologist who has agreed to be designated as such, as the enrollee's primary care provider; and

"(ii) if such an enrollee has not designated such a provider as a primary care provider, the organization—

"(I) may not require prior authorization by the enrollee's primary care provider or otherwise for coverage of obstetric and gynecologic care provided by a participating obstetrician-gynecologist, or a participating health care professional practicing in collaboration with the obstetrician-gynecologist and in accordance with State law, to the extent such care is otherwise covered, and

"(II) shall treat the ordering of other gynecologic care by such a participating physician as the prior authorization of the primary care provider with respect to such care under the contract.

"(B) Nothing in subparagraph (A)(ii)(II) shall waive any requirements of coverage relating to medical necessity or appropriateness with respect to coverage of gynecologic care so ordered.".

(c) Effective Date.—The amendments made by this section shall apply to contracts entered into, renewed, or extended on or after January 1, 1998.

CHAPTER 3—FEDERAL PAYMENTS

SEC. 3471. REFORMING DISPROPORTIONATE SHARE PAYMENTS UNDER STATE MEDICAID PROGRAMS.

(a) Direct Payment by State.—Subsection (a)(1) of section 1923 (42 U.S.C. 1396r–4) is amended—

(1) by striking "and" at the end of subparagraph (A),

(2) by striking the period at the end of subparagraph (B) and inserting ", and", and

(3) by adding at the end the following new subparagraph:

"(C) provides that payment adjustments under the plan under this section for services furnished by a hospital on or after October 1, 1997, for individuals entitled to benefits under the plan, and enrolled with an entity described in section 1903(m), under a primary care case management system (described in section 1905(t)), or other managed care plan—

"(i) are made directly to the hospital by the State, and

"(ii) are not used as part of, and are disregarded in determining the amount of, prepaid capitation paid under the State plan with respect to those services.".

(b) Adjustment to State DSH Allocations.—

(1) In general.—Subsection (f) of such section is amended—

(A) in paragraph (2)(A), by inserting "and paragraph (5)" after "subparagraph (B)", and

(B) by adding at the end the following new paragraph:

"(5) Adjustments in DSH allotments.—

"(A) Allotment frozen for states with very low DSH expenditures.—In the case of a State for which its State 1995 DSH spending did not exceed 1 percent of the total amount expenditures made under the State plan under this title for medical assistance during fiscal year 1995 (as reported by the State no later than January 1, 1997, on HCFA Form 64), the DSH allotment for each of fiscal years 1998 through 2002 is equal to its State 1995 DSH spending.

"(B) Full reduction for high DSH states.—In the case of a State which was classified under this subsection as a high DSH State for fiscal year 1997, the DSH allotment for each of fiscal years 1998 through 2002 is equal to the State 1995 DSH spending reduced by the full reduction percentage (described in subparagraph (D)) for the fiscal year involved.

"(C) Half-reduction for other states.—In the case of a State not described in subparagraph (A) or (B), the DSH allotment for each of fiscal years 1998 through 2002 is equal to the State 1995 DSH spending reduced by ½ of the full reduction percentage for the fiscal year involved.

"(D) Full reduction percentage.—For purposes of this paragraph, the 'full reduction percentage' for—

"(i) fiscal year 1998 is 2 percent,

"(ii) fiscal year 1999 is 5 percent,

"(iii) fiscal year 2000 is 20 percent,

"(iv) fiscal year 2001 is 30 percent, and

"(v) fiscal year 2002 is 40 percent.

"(E) Definitions.— In this paragraph:

"(i) State.—The term 'State' means the 50 States and the District of Columbia.

"(ii) State 1995 DSH spending.—The term 'State 1995 DSH spending' means, with respect to a State, the total amount of payment adjustments made under subsection (c) under the State plan during fiscal year 1995 as reported by the State no later than January 1, 1997, on HCFA Form 64.".

(2) Effective date.—The amendments made by paragraph (1) shall apply to fiscal years beginning with fiscal year 1998.

(c) Transition Rule.—Effective July 1, 1997, section 1923(g)(2)(A) of the Social Security Act (42 U.S.C. 1396r–4(g)(2)(A)) shall be applied to the State of California as though—

(1) "or that begins on or after July 1, 1997, and before July 1, 1999" were inserted in such section after "January 1, 1995"; and

(2) "(or 175 percent in the case of a State fiscal year that begins on or after July 1, 1997, and before July 1, 1999)" were inserted in such section after "200 percent".

SEC. 3472. ADDITIONAL FUNDING FOR STATE EMERGENCY HEALTH SERVICES FURNISHED TO UNDOCUMENTED ALIENS.

(a) Total Amount Available for Allotment.—There are available for allotments under this section for each of the 5 fiscal years (beginning with fiscal year 1998) $20,000,000 for payments to certain States under this section.

(b) State Allotment Amount.—

(1) In general.—The Secretary of Health and Human Services shall compute an allotment for each fiscal year beginning with fiscal year 1998 and ending with fiscal year 2002 for each of the 12 States with the highest number of undocumented aliens. The amount of such allotment for each such State for a fiscal year shall bear the same ratio to the total amount available for allotments under subsection (a) for the fiscal year as the ratio of the number of undocumented aliens in the State in the fiscal year bears to the total of such numbers for all such States for such fiscal year. The amount of allotment to a State provided under this paragraph for a fiscal year that is not paid out under subsection (c) shall be available for payment during the subsequent fiscal year.

(2) Determination.—For purposes of paragraph (1), the number of undocumented aliens in a State under this section shall be determined based on estimates of the resident illegal alien population residing in each State prepared by the Statistics Division of the Immigration and Naturalization Service as of October 1992 (or as of such later date if such date is at least 1 year before the beginning of the fiscal year involved),

(c) Use of Funds.—From the allotments made under subsection (b), the Secretary shall pay to each State amounts the State demonstrates were paid by the State (or by a political subdivision of the State) for emergency health services furnished to undocumented aliens.

(d) State Defined.—For purposes of this section, the term "State" includes the District of Columbia.

(e) State Entitlement.—This section constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide for the payment to States of amounts provided under subsection (c).

Subtitle F—Child Health Assistance Program (CHAP)

SEC. 3501. SHORT TITLE OF SUBTITLE; TABLE OF CONTENTS OF SUBTITLE.

(a) Short Title of Subtitle.—This subtitle may be cited as the "Child Health Assistance Program Act of 1997".

(b) Table of Contents of Subtitle.—The table of contents of this subtitle is as follows:

Sec. 3501. Short title of subtitle; table of contents.
Sec. 3502. Establishment of Child Health Assistance Program (CHAP).

"TITLE XXI—CHILD HEALTH ASSISTANCE PROGRAM

"Sec. 2101. Purpose; State child health plans.
"Sec. 2102. Contents of State child health plan.
"Sec. 2103. Allotments.
"Sec. 2104. Payments to States.
"Sec. 2105. Process for submission, approval, and amendment of State child health plans.
"Sec. 2106. Strategic objectives and performance goals; plan administration.
"Sec. 2107. Annual reports; evaluations.
"Sec. 2108. Definitions.
Sec. 3503. Optional use of State child health assistance funds for enhanced medicaid match for expanded medicaid eligibility.
Sec. 3504. Medicaid presumptive eligibility for low-income children.
Sec. 3505. State option of continuation of Medicaid eligibility for disabled children who lose SSI benefits.

SEC. 3502. ESTABLISHMENT OF CHILD HEALTH ASSISTANCE PROGRAM (CHAP).

The Social Security Act is amended by adding at the end the following new title:

"TITLE XXI—CHILD HEALTH ASSISTANCE PROGRAM

"SEC. 2101. PURPOSE; STATE CHILD HEALTH PLANS.

"(a) Purpose.—The purpose of this title is to provide funds to States to enable them to implement plans to initiate and expand the provision of child health care assistance to uninsured, low-income children in an effective and efficient manner that is coordinated with other sources of coverage for children. Such assistance may be provided for obtaining creditable health coverage through methods specified in the plan, which may include any or all of the following:

"(1) Providing benefits under the State's medicaid plan under title XIX.

"(2) Obtaining coverage under group health plans or group or individual health insurance coverage.

"(3) Direct purchase of services for targeted low-income children from providers, such as Federally qualified health centers and rural health clinics.

"(4) Other methods specified under the plan for the provision of health insurance coverage or medical assistance for targeted low-income children.

"(b) STATE CHILD HEALTH PLAN REQUIRED.—A State is not eligible for payment under section 2104 unless the State has submitted to the Secretary under section 2105 a plan that—

"(1) sets forth how the State intends to use the funds provided under this title to provide child health assistance to needy children consistent with the provisions of this title, and

"(2) is approved under section 2105.

"(c) STATE ENTITLEMENT.—This title constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide for the payment to States of amounts provided under section 2104.

"(d) EFFECTIVE DATE.—No State is eligible for payments under section 2104 for any calendar quarter beginning before October 1, 1997.

"SEC. 2102. CONTENTS OF STATE CHILD HEALTH PLAN.

"(a) GENERAL BACKGROUND AND DESCRIPTION.—A State child health plan shall include a description, consistent with the requirements of this title, of—

"(1) the extent to which, and manner in which, children in the State, including targeted low-income children and other classes of children classified by income and other relevant factors, currently have creditable health coverage (as defined in section 2108(c)(2));

"(2) current State efforts to provide or obtain creditable health coverage for uncovered children, including the steps the State is taking to identify and enroll all uncovered children who are eligible to participate in public health insurance programs and health insurance programs that involve public-private partnerships;

"(3) how the plan is designed to be coordinated with such efforts to increase coverage of children under creditable health coverage; and

"(4) how the plan will comply with subsection (c)(5).

"(b) GENERAL DESCRIPTION OF ELIGIBILITY STANDARDS AND METHODOLOGY.—

"(1) ELIGIBILITY STANDARDS.—

"(A) IN GENERAL.—The plan shall include a description of the standards used to determine the eligibility of targeted low-income children for child health assistance under the plan. Such standards may include (to the extent consistent with this title) those relating to the geographic areas to be served by the plan, age, income and resources (including any standards relating to spenddowns and disposition of resources), residency, disability status, immigration status, access to or coverage under other health coverage, and duration of eligibility. Such standards may not discriminate on the basis of diagnosis.

"(B) LIMITATIONS ON ELIGIBILITY STANDARDS.—Such eligibility standards—

"(i) shall, within any defined group of covered targeted low-income children, not cover such children with higher family income without covering children with a lower family income, and

"(ii) may not deny eligibility based on a child having a preexisting medical condition.

"(2) METHODOLOGY.—The plan shall include a description of methods of establishing and continuing eligibility and enrollment, including a methodology for computing family income that is consistent with the methodology used under section 1902(l)(3)(E).

"(3) ELIGIBILITY SCREENING; COORDINATION WITH OTHER HEALTH COVERAGE PROGRAMS.—The plan shall include a description of procedures to be used to ensure—

"(A) through both intake and followup screening, that only targeted low-income children are furnished child health assistance under the State child health plan;

"(B) that children found through the screening to be eligible for medical assistance under the State medicaid plan under title XIX are enrolled for such assistance under such plan;

"(C) that the insurance provided under the State child health plan does not substitute for coverage under group health plans; and

"(D) coordination with other public and private programs providing creditable coverage for low-income children.

"(4) NONENTITLEMENT.—Nothing in this title shall be construed as providing an individual with an entitlement to child health assistance under a State child health plan.

"(c) DESCRIPTION OF ASSISTANCE.—

"(1) IN GENERAL.—A State child health plan shall include a description of the child health assistance provided under the plan for targeted low-income children. The child health assistance provided to a targeted low-income child under the plan in the form described in paragraph (2) of section 2101(a) shall include benefits (in an amount, duration, and scope specified under the plan) for at least the following categories of services:

"(A) Inpatient and outpatient hospital services.

"(B) Physicians' surgical and medical services.

"(C) Laboratory and x-ray services.

"(D) Well-baby and well-child care, including age-appropriate immunizations.

The previous sentence shall not apply to coverage under a group health plan if the benefits under such coverage for individuals under this title are no less than the benefits for other individuals similarly covered under the plan.

"(2) ITEMS.—The description shall include the following:

"(A) COST SHARING.—Subject to paragraph (3), the amount (if any) of premiums, deductibles, coinsurance, and other cost sharing imposed.

"(B) DELIVERY METHOD.—The State's approach to delivery of child health assistance, including a general description of—

"(i) the use (or intended use) of different delivery methods, which may include the delivery methods used under the medicaid plan under title XIX, fee-for-service, managed care arrangements (such as capitated health care plans, case management, and case coordination), direct provision of health care services (such as through community health centers and disproportionate share hospitals), vouchers, and other delivery methods; and

"(ii) utilization control systems.

"(3) LIMITATIONS ON COST SHARING.—

"(A) NO COST SHARING ON PREVENTIVE BENEFITS.—The plan may not impose deductibles, coinsurance, or similar cost sharing with respect to benefits for preventive services.

"(B) SLIDING SCALE.—To the extent practicable, any premiums imposed under the plan shall be imposed on a sliding scale related to income and the plan may only vary premiums, deductibles, coinsurance, and other cost sharing based on the family income of targeted low-income children only in a manner that does not favor children from families with higher income over children from families with lower income.

"(4) RESTRICTION ON APPLICATION OF PREEXISTING CONDITION EXCLUSIONS.—

"(A) IN GENERAL.—Subject to subparagraph (B), the State child health plan shall not permit the imposition of any preexisting condition exclusion for covered benefits under the plan.

"(B) GROUP HEALTH PLANS AND GROUP HEALTH INSURANCE COVERAGE.—If the State child health plan provides for benefits through payment for, or a contract with, a group health plan or group health insurance coverage, the plan may permit the imposition of a preexisting condition exclusion but only insofar as it is permitted under the applicable provisions of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 and title XXVII of the Public Health Service Act.

"(5) SPECIAL PROTECTION FOR CHILDREN WITH CHRONIC HEALTH CONDITIONS AND SPECIAL HEALTH CARE NEEDS.—In the case of a child who has a chronic condition, life-threatening condition, or combination of conditions that warrants medical specialty care and who is eligible for benefits under the plan with respect to such care, the State child health plan shall assure access to such care, including the use of a medical specialist as a primary care provider.

"(6) SECONDARY PAYMENT.—Nothing in this section shall be construed as preventing a State from denying benefits to an individual to the extent such benefits are available to the individual under another public or private health care insurance program.

"(7) TREATMENT OF CASH PAYMENTS.—Payments in the form of cash or vouchers provided as child health or other assistance under the State child health plan to parents, guardians or other caretakers of a targeted low-income child are not considered income for purpose of eligibility for, or benefits provided under, any means-tested Federal or Federally-assisted program.

"(d) OUTREACH AND COORDINATION.—A State child health plan shall include a description of the procedures to be used by the State to accomplish the following:

"(1) OUTREACH.—Outreach to families of children likely to be eligible for child health assistance under the plan or under other public or private health coverage programs to inform these families of the availability of, and to assist them in enrolling their children in, such a program.

"(2) COORDINATION WITH OTHER HEALTH INSURANCE PROGRAMS.—Coordination of the administration of the State program under this subtitle with other public and private health insurance programs.

"SEC. 2103. ALLOTMENTS.

"(a) TOTAL ALLOTMENT.—The total allotment that is available under this title for—

"(1) fiscal year 1998 is $2,830,000,000,

"(2) fiscal year 1999 is $2,830,000,000,

"(3) fiscal year 2000 is $2,830,000,000,

"(4) fiscal year 2001 is $2,830,000,000,

"(5) fiscal year 2002 is $2,830,000,000, and

"(6) fiscal year 2003 and each succeeding fiscal year is $2,850,000,000.

"(b) ALLOTMENTS TO 50 STATES AND DISTRICT OF COLUMBIA.—

“(1) In general.—Subject to paragraphs (4) and (5), of the total allotment available under subsection (a) for a fiscal year, reduced by the amount of allotments made under subsection (c) for the fiscal year, the Secretary shall allot to each State (other than a State described in such subsection) with a State child health plan approved under this title the same proportion as the ratio of—

“(A) the product of (i) the number of uncovered low-income children for the fiscal year in the State (as determined under paragraph (2)) and (ii) the State cost factor for that State (established under paragraph (3)); to

“(B) the sum of the products computed under subparagraph (A).

“(2) Number of uncovered low-income children.—For the purposes of paragraph (1)(A)(i), the number of uncovered low-income children for a fiscal year in a State is equal to the arithmetic average of the number of low-income children (as defined in section 2108(c)(4)) with no health insurance coverage, as reported and defined in the 3 most recent March supplements to the Current Population Survey of the Bureau of the Census before the beginning of the fiscal year.

“(3) Adjustment for geographic variations in health costs.—

“(A) In general.—For purposes of paragraph (1)(A)(ii), the ‘State cost factor’ for a State for a fiscal year equal to the sum of—

“(i) 0.15, and

“(ii) 0.85 multiplied by the ratio of—

“(I) the annual average wages per employee for the State for such year (as determined under subparagraph (B)), to

“(II) the annual average wages per employee for the 50 States and the District of Columbia.

“(B) Annual average wages per employee.—For purposes of subparagraph (A), the ‘annual average wages per employee’ for a State, or for all the States. for a fiscal year is equal to the average of the annual wages per employee for the State or for the 50 States and the District of Columbia for employees in the health services industry (SIC code 8000), as reported by the Bureau of Labor Statistics of the Department of Labor for each of the for the most recent 3 years before the beginning of the fiscal year involved.

“(4) Floor for states.—Subject to paragraph (5), in no case shall the amount of the allotment under this subsection for one of the 50 States or the District of Columbia for a year be less than $2,000,000. To the extent that the application of the previous sentence results in an increase in the allotment to a State above the amount otherwise provided, the allotments for the other States and the District of Columbia under this subsection shall be decreased in a pro rata manner (but not below $2,000,000) so that the total of such allotments in a fiscal year does not exceed the amount otherwise provided for allotment under paragraph (1) for that fiscal year.

“(5) Offset for expenditures under medicaid presumptive eligibility.—The amount of the allotment otherwise provided to a State under this subsection for a fiscal year shall be reduced by the amount of the payments made to the State under section 1903(a) for calendar quarters during such fiscal year that are attributable to provision of medical assistance to a child during a presumptive eligibility period under section 1920A.

“(c) Allotments to Territories.—

“(1) In general.—Subject to paragraph (3), of the total allotment under subsection (a) for a fiscal year, the Secretary shall allot 0.5 percent among each of the commonwealths and territories described in paragraph (4) in the same proportion as the percentage specified in paragraph (2) for such commonwealth or territory bears to the sum of such percentages for all such commonwealths or territories so described.

“(2) Percentage.—The percentage specified in this paragraph for—

“(A) Puerto Rico is 91.6 percent,

“(B) Guam is 3.5 percent,

“(C) Virgin Islands is 2.6 percent,

“(D) American Samoa is 1.2 percent, and

“(E) the Northern Mariana Islands is 1.1 percent.

“(3) Floor.—In no case shall the amount of the allotment to a commonwealth or territory under paragraph (1) for a fiscal year be less than $100,000. To the extent that the application of the previous sentence results in an increase in the allotment to a commonwealth or territory above the amount otherwise provided, the allotments for the other commonwealths and territories under this subsection for the fiscal year shall be decreased (but not below $100,000) in a pro rata manner so that the total of such allotments does not exceed the total amount otherwise provided for allotment under paragraph (1).

“(4) Commonwealths and territories.—A commonwealth or territory described in this paragraph is any of the following if it has a State child health plan approved under this title:

“(A) Puerto Rico.

“(B) Guam.

“(C) the Virgin Islands.

“(D) American Samoa.

“(E) the Northern Mariana Islands.

“(d) Adjustment for States Using Enhanced Medicaid Match.—In the case of a State that elects the increased medicaid matching option under section 1905(t), the amount of the State's allotment under this section shall be reduced by the amount of additional payment made under section 1903 that is attributable to the increase in the Federal medical assistance percentage effected under such option.

“(e) 3-Year Availability of Amounts Allotted.—Amounts allotted to a State pursuant to this section for a fiscal year shall remain available for expenditure by the State through the end of the second succeeding fiscal year.

“SEC. 2104. PAYMENTS TO STATES.

“(a) In General.—Subject to the succeeding provisions of this section, the Secretary shall pay to each State with a program approved under this title, from its allotment under section 2103 (as may be adjusted under section 2103(d)), an amount for each quarter up to 80 percent of expenditures under that program in the quarter for—

“(1) child health assistance for targeted low-income children;

“(2) health services initiatives for improving the health of children (including targeted low-income children and other low-income children);

“(3) expenditures for outreach activities as provided in section 2102(d)(1); and

“(4) other reasonable costs incurred by the State to administer the plan.

“(b) Limitation on Certain Payments for Certain Expenditures.—

“(1) In general.—Funds provided to a State under this title shall only be used to carry out the purposes of this title.

“(2) Limitation on expenditures not used for assistance.—Payment shall not be made under subsection (a) for expenditures for items described in paragraphs (2), (3), or (4) of subsection to the extent the total of such expenditures exceeds 15 percent of total expenditures under the plan for the period involved (including any in such total additional Federal medical assistance payments under section 1903(a)(1) that are attributable to an enhanced State medicaid match under section 1905(t)).

“(3) Purchase of family coverage.—The Secretary shall establish rules regarding the extent to which payment may be made under subsection (a)(1) for the purchase of family coverage under a group health plan or health insurance coverage that includes coverage of targeted low-income children. Under such rules such payment may be permitted, notwithstanding that a portion may be considered attributable to purchase of coverage for other family members, if the State demonstrates that purchase of such coverage is cost effective relative to the amounts that the State would have paid to obtain comparable coverage only of the targeted low-income children involved. In making such determination, there shall be taken into account the costs of providing coverage for medical assistance for children with similar actuarial characteristics under section 1902(l).

“(4) Denial of payment for reduction of medicaid eligibility standards.—No payment may be made under subsection (a) with respect to child health assistance provided under a State child health plan to a targeted low-income child if the child would be eligible for medical assistance under the State plan under title XIX (as such plan was in effect as of June 1, 1997) but for a change in the income or assets standards or methodology under such plan effected after such date.

“(5) Disallowances for excluded providers.—

“(A) In general.—Payment shall not be made to a State under subsection (a) for expenditures for items and services furnished—

“(i) by a provider who was excluded from participation under title V, XVIII, or XX or under this title pursuant to section 1128, 1128A, 1156, or 1842(j)(2), or

“(ii) under the medical direction or on the prescription of a physician who was so excluded, if the provider of the services knew or had reason to know of the exclusion.

“(B) Exception for emergency services.—Subparagraph (A) shall not apply to emergency items or services, not including hospital emergency room services.

“(6) Use of non-federal funds for state matching requirement.—Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of non-Federal contributions required under subsection (a).

“(7) Treatment of third party liability.—No payment shall be made to a State under this section for expenditures for child health assistance provided for a targeted low-income child under its plan to the extent that a private insurer (as defined by the Secretary by regulation and including a group health plan (as defined in section 607(1) of the Employee Retirement Income Security Act of 1974), a service benefit plan, and a health maintenance organization) would have been obligated to provide such assistance but for a provision of its insurance contract which has the effect of limiting or excluding such obligation because the individual is eligible for or is provided child health assistance under the plan.

“(8) Secondary payer provisions.—Except as otherwise provided by law, no payment shall be made to a State under this section for expenditures for child health assistance provided for a targeted low-income child under its plan to the extent that payment has been made or can reasonably be expected to be made promptly (as determined in accordance with regulations) under any other federally operated or financed health care insurance program, other than an insurance program operated or financed by the Indian Health Service, as identified by the Secretary. For purposes of this paragraph, rules similar to the rules for overpayments under section 1903(d)(2) shall apply.

"(9) LIMITATION ON PAYMENT FOR ABORTIONS.—

"(A) IN GENERAL.—Payment shall not be made to a State under this section for any amount expended under the State plan to pay for any abortion or to assist in the purchase, in whole or in part, of health benefit coverage that includes coverage of abortion.

"(B) EXCEPTION.—Subparagraph (A) shall not apply to an abortion—

"(i) if the pregnancy is the result of an act of rape or incest, or

"(ii) in the case where a woman suffers from a physical disorder, illness, or injury that would, as certified by a physician, place the woman in danger of death unless an abortion is performed.

"(c) ADVANCE PAYMENT; RETROSPECTIVE ADJUSTMENT.—The Secretary may make payments under this section for each quarter on the basis of advance estimates of expenditures submitted by the State and other investigation the Secretary may find necessary, and may reduce or increase the payments as necessary to adjust for any overpayment or underpayment for prior quarters.

"SEC. 2105. PROCESS FOR SUBMISSION, APPROVAL, AND AMENDMENT OF STATE CHILD HEALTH PLANS.

"(a) INITIAL PLAN.—

"(1) IN GENERAL.—As a condition of receiving funding under section 2104, a State shall submit to the Secretary a State child health plan that meets the applicable requirements of this title.

"(2) APPROVAL.—Except as the Secretary may provide under subsection (e), a State plan submitted under paragraph (1)—

"(A) shall be approved for purposes of this title, and

"(B) shall be effective beginning with a calendar quarter that is specified in the plan, but in no case earlier than the first calendar quarter that begins at least 60 days after the date the plan is submitted.

"(b) PLAN AMENDMENTS.—

"(1) IN GENERAL.—A State may amend, in whole or in part, its State child health plan at any time through transmittal of a plan amendment.

"(2) APPROVAL.—except as the secretary may provide under subsection (e), an amendment to a state plan submitted under paragraph (1)—

"(A) shall be approved for purposes of this title, and

"(B) shall be effective as provided in paragraph (3).

"(3) EFFECTIVE DATES FOR AMENDMENTS.—

"(A) IN GENERAL.—Subject to the succeeding provisions of this paragraph, an amendment to a State plan shall take effect on one or more effective dates specified in the amendment.

"(B) AMENDMENTS RELATING TO ELIGIBILITY OR BENEFITS.—

"(i) NOTICE REQUIREMENT.—Any plan amendment that eliminates or restricts eligibility or benefits under the plan may not take effect unless the State certifies that it has provided prior or contemporaneous public notice of the change, in a form and manner provided under applicable State law.

"(ii) TIMELY TRANSMITTAL.—Any plan amendment that eliminates or restricts eligibility or benefits under the plan shall not be effective for longer than a 60-day period unless the amendment has been transmitted to the Secretary before the end of such period.

"(C) OTHER AMENDMENTS.—Any plan amendment that is not described in subparagraph (C) becomes effective in a State fiscal year may not remain in effect after the end of such fiscal year (or, if later, the end of the 90-day period on which it becomes effective) unless the amendment has been transmitted to the Secretary.

"(c) DISAPPROVAL OF PLANS AND PLAN AMENDMENTS.—

"(1) PROMPT REVIEW OF PLAN SUBMITTALS.—The Secretary shall promptly review State plans and plan amendments submitted under this section to determine if they substantially comply with the requirements of this title.

"(2) 90-DAY APPROVAL DEADLINES.—A State plan or plan amendment is considered approved unless the Secretary notifies the State in writing, within 90 days after receipt of the plan or amendment, that the plan or amendment is disapproved (and the reasons for disapproval) or that specified additional information is needed.

"(3) CORRECTION.—In the case of a disapproval of a plan or plan amendment, the Secretary shall provide a State with a reasonable opportunity for correction before taking financial sanctions against the State on the basis of such disapproval.

"(d) PROGRAM OPERATION.—

"(1) IN GENERAL.—The State shall conduct the program in accordance with the plan (and any amendments) approved under subsection (c) and with the requirements of this title.

"(2) VIOLATIONS.—The Secretary shall establish a process for enforcing requirements under this title. Such process shall provide for the withholding of funds in the case of substantial noncompliance with such requirements. In the case of an enforcement action against a State under this paragraph, the Secretary shall provide a State with a reasonable opportunity for correction before taking financial sanctions against the State on the basis of such an action.

"(e) CONTINUED APPROVAL.—An approved State child health plan shall continue in effect unless and until the State amends the plan under subsection (b) or the Secretary finds substantial noncompliance of the plan with the requirements of this title under section subsection (d)(2).

"SEC. 2106. STRATEGIC OBJECTIVES AND PERFORMANCE GOALS; PLAN ADMINISTRATION.

"(a) STRATEGIC OBJECTIVES AND PERFORMANCE GOALS.—

"(1) DESCRIPTION.—A State child health plan shall include a description of—

"(A) the strategic objectives,

"(B) the performance goals, and

"(C) the performance measures,

the State has established for providing child health assistance to targeted low-income children under the plan and otherwise for maximizing health coverage for other low-income children and children generally in the State.

"(2) STRATEGIC OBJECTIVES.—Such plan shall identify specific strategic objectives relating to increasing the extent of creditable health coverage among targeted low-income children and other low-income children.

"(3) PERFORMANCE GOALS.—Such plan shall specify one or more performance goals for each such strategic objective so identified.

"(4) PERFORMANCE MEASURES.—Such plan shall describe how performance under the plan will be—

"(A) measured through objective, independently verifiable means, and

"(B) compared against performance goals, in order to determine the State's performance under this title.

"(b) RECORDS, REPORTS, AUDITS, AND EVALUATION.—

"(1) DATA COLLECTION, RECORDS, AND REPORTS.—A State child health plan shall include an assurance that the State will collect the data, maintain the records, and furnish the reports to the Secretary, at the times and in the standardized format the Secretary may require in order to enable the Secretary to monitor State program administration and compliance and to evaluate and compare the effectiveness of State plans under this title.

"(2) STATE ASSESSMENT AND STUDY.—A State child health plan shall include a description of the State's plan for the annual assessments and reports under section 2107(a) and the evaluation required by section 2107(b).

"(3) AUDITS.—A State child health plan shall include an assurance that the State will afford the Secretary access to any records or information relating to the plan for the purposes of review or audit.

"(c) PROGRAM DEVELOPMENT PROCESS.—A State child health plan shall include a description of the process used to involve the public in the design and implementation of the plan and the method for ensuring ongoing public involvement.

"(d) PROGRAM BUDGET.—A State child health plan shall include a description of the budget for the plan. The description shall be updated periodically as necessary and shall include details on the planned use of funds and the sources of the non-Federal share of plan expenditures, including any requirements for cost sharing by beneficiaries.

"(e) APPLICATION OF CERTAIN GENERAL PROVISIONS.—The following sections in part A of title XI shall apply to States under this title in the same manner as they applied to a State under title XIX:

"(1) Section 1101(a)(1) (relating to definition of State).

"(2) Section 1116 (relating to administrative and judicial review), but only insofar as consistent with the provisions of part B.

"(3) Section 1124 (relating to disclosure of ownership and related information).

"(4) Section 1126 (relating to disclosure of information about certain convicted individuals).

"(5) Section 1128B(d) (relating to criminal penalties for certain additional charges).

"(6) Section 1132 (relating to periods within which claims must be filed).

"SEC. 2107. ANNUAL REPORTS; EVALUATIONS.

"(a) ANNUAL REPORT.—The State shall—

"(1) assess the operation of the State plan under this title in each fiscal year, including the progress made in reducing the number of uncovered low-income children; and

"(2) report to the Secretary, by January 1 following the end of the fiscal year, on the result of the assessment.

"(b) STATE EVALUATIONS.—

"(1) IN GENERAL.—By March 31, 2000, each State that has a State child health plan shall submit to the Secretary an evaluation that includes each of the following:

"(A) An assessment of the effectiveness of the State plan in increasing the number of children with creditable health coverage.;

“(B) A description and analysis of the effectiveness of elements of the State plan, including—

“(i) the characteristics of the children and families assisted under the State plan including age of the children, family income, and the assisted child's access to or coverage by other health insurance prior to the State plan and after eligibility for the State plan ends,

“(ii) the quality of health coverage provided including the types of benefits provided,

“(iii) the amount and level (payment of part or all of the premium) of assistance provided by the State,

“(iv) the service area of the State plan,

“(v) the time limits for coverage of a child under the State plan,

“(vi) the State's choice of health insurance plans and other methods used for providing child health assistance , and

“(vii) the sources of non-Federal funding used in the State plan;

“(C) an assessment of the effectiveness of other public and private programs in the State in increasing the availability of affordable quality individual and family health insurance for children;

“(D) a review and assessment of State activities to coordinate the plan under this title with other public and private programs providing health care and health care financing, including Medicaid and maternal and child health services;

“(E) an analysis of changes and trends in the State that affect the provision of accessible, affordable, quality health insurance and health care to children;

“(F) a description of any plans the State has for improving the availability of health insurance and health care for children;

“(G) recommendations for improving the program under this title; and

“(H) any other matters the State and the Secretary consider appropriate.

“(2) REPORT OF THE SECRETARY.—The Secretary shall submit to the Congress and make available to the public by December 31, 2000, a report based on the evaluations submitted by States under paragraph (1), containing any conclusions and recommendations the Secretary considers appropriate.

“SEC. 2108. DEFINITIONS.

“(a) CHILD HEALTH ASSISTANCE.—For purposes of this title, the term ‘child health assistance’ means payment of part or all of the cost of any of the following, or assistance in the purchase, in whole or in part, of health benefit coverage that includes any of the following, for targeted low-income children (as defined in subsection (b)) as specified under the State plan:

“(1) Inpatient hospital services.

“(2) Outpatient hospital services.

“(3) Physician services.

“(4) Surgical services.

“(5) Clinic services (including health center services) and other ambulatory health care services.

“(6) Prescription drugs and biologicals and the administration of such drugs and biologicals, only if such drugs and biologicals are not furnished for the purpose of causing, or assisting in causing, the death, suicide, euthanasia, or mercy killing of a person.

“(7) Over-the-counter medications.

“(8) Laboratory and radiological services.

“(9) Prenatal care and prepregnancy family planning services and supplies.

“(10) Inpatient mental health services, including services furnished in a State-operated mental hospital and including residential or other 24-hour therapeutically planned structured services.

“(11) Outpatient mental health services, including services furnished in a State-operated mental hospital and including community-based services.

“(12) Durable medical equipment and other medically-related or remedial devices (such as prosthetic devices, implants, eyeglasses, hearing aids, dental devices, and adaptive devices).

“(13) Disposable medical supplies.

“(14) Home and community-based health care services and related supportive services (such as home health nursing services, home health aide services, personal care, assistance with activities of daily living, chore services, day care services, respite care services, training for family members, and minor modifications to the home).

“(15) Nursing care services (such as nurse practitioner services, nurse midwife services, advanced practice nurse services, private duty nursing care, pediatric nurse services, and respiratory care services) in a home, school, or other setting.

“(16) Abortion only if necessary to save the life of the mother or if the pregnancy is the result of an act of rape or incest.

“(17) Dental services.

“(18) Inpatient substance abuse treatment services and residential substance abuse treatment services.

“(19) Outpatient substance abuse treatment services.

“(20) Case management services.

“(21) Care coordination services.

“(22) Physical therapy, occupational therapy, and services for individuals with speech, hearing, and language disorders.

“(23) Hospice care.

“(24) Any other medical, diagnostic, screening, preventive, restorative, remedial, therapeutic, or rehabilitative services (whether in a facility, home, school, or other setting) if recognized by State law and only if the service is—

“(A) prescribed by or furnished by a physician or other licensed or registered practitioner within the scope of practice as defined by State law,

“(B) performed under the general supervision or at the direction of a physician, or

“(C) furnished by a health care facility that is operated by a State or local government or is licensed under State law and operating within the scope of the license.

“(25) Premiums for private health care insurance coverage.

“(26) Medical transportation.

“(27) Enabling services (such as transportation, translation, and outreach services) only if designed to increase the accessibility of primary and preventive health care services for eligible low-income individuals.

“(28) Any other health care services or items specified by the Secretary and not excluded under this section.

“(b) TARGETED LOW-INCOME CHILD DEFINED.—For purposes of this title—

“(1) IN GENERAL.—The term ‘targeted low-income child’ means a child—

“(A) who has been determined eligible by the State for child health assistance under the State plan;

“(B) whose family income (as determined under the State child health plan)—

“(i) exceeds the medicaid applicable income level (as defined in paragraph (2) and expressed as a percentage of the poverty line), but

“(ii) but does not exceed an income level that is 75 percentage points higher (as so expressed) than the medicaid applicable income level, or, if higher, 133 percent of the poverty line for a family of the size involved; and

“(C) who is not found to be eligible for medical assistance under title XIX or covered under a group health plan or under health insurance coverage (as such terms are defined in section 2791 of the Public Health Service Act).

Such term does not include a child who is an inmate of a public institution.

“(2) MEDICAID APPLICABLE INCOME LEVEL.—The term ‘medicaid applicable income level’ means, with respect to a child, the effective income level (expressed as a percent of the poverty line) that has been specified under the State plan under title XIX (including under a waiver authorized by the Secretary or under section 1902(r)(2)), as of June 1, 1997, for the child to be eligible for medical assistance under section 1902(l)(2) for the age of such child. In applying the previous sentence in the case of a child described in section 1902(l)(2)(D), such level shall be applied taking into account the expanded coverage effected among such children under such section with the passage of time.

“(c) ADDITIONAL DEFINITIONS.—For purposes of this title:

“(1) CHILD.—The term ‘child’ means an individual under 19 years of age.

“(2) CREDITABLE HEALTH COVERAGE.—The term ‘creditable health coverage’ has the meaning given the term ‘creditable coverage’ under section 2701(c) of the Public Health Service Act (42 U.S.C. 300gg(c)) and includes coverage (including the direct provision of services) provided to a targeted low-income child under this title.

“(3) GROUP HEALTH PLAN; HEALTH INSURANCE COVERAGE; ETC.—The terms ‘group health plan’, ‘group health insurance coverage’, and ‘health insurance coverage’ have the meanings given such terms in section 2191 of the Public Health Service Act.

“(4) LOW-INCOME.—The term ‘low-income child’ means a child whose family income is below 300 percent of the poverty line for a family of the size involved.

“(5) POVERTY LINE DEFINED.—The term ‘poverty line’ has the meaning given such term in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by such section.

“(6) PREEXISTING CONDITION EXCLUSION.—The term ‘preexisting condition exclusion’ has the meaning given such term in section 2701(b)(1)(A) of the Public Health Service Act (42 U.S.C. 300gg(b)(1)(A)).

“(7) STATE CHILD HEALTH PLAN; PLAN.—Unless the context otherwise requires, the terms ‘State child health plan’ and ‘plan’ mean a State child health plan approved under section 2105.

“(8) UNCOVERED CHILD.—The term ‘uncovered child’ means a child that does not have creditable health coverage.”.

(b) CONFORMING AMENDMENTS.—

(1) DEFINITION OF STATE.—Section 1101(a)(1) is amended—

(A) by striking “and XIX” and inserting “XIX, and XXI”, and

(B) by striking “title XIX” and inserting “titles XIX and XXI”.

SEC. 3503. OPTIONAL USE OF STATE CHILD HEALTH ASSISTANCE FUNDS FOR ENHANCED MEDICAID MATCH FOR EXPANDED MEDICAID ELIGIBILITY.

(a) INCREASED FMAP FOR MEDICAL ASSISTANCE FOR EXPANDED COVERAGE OF TARGETED LOW-INCOME CHILDREN.—Section 1905 of the Social Security Act (42 U.S.C. 1396d) is amended—

(1) in subsection (b), by adding at the end the following new sentence: "Notwithstanding the first sentence of this subsection, in the case of a State plan that meets the condition described in subsection (t)(1), with respect to expenditures for medical assistance for optional targeted low-income children described in subsection (t)(2), the Federal medical assistance percentage is equal to the enhanced medical assistance percentage described in subsection (t)(3)."; and

(2) by adding at the end the following new subsection:

"(t)(1) The conditions described in this paragraph for a State plan are as follows:

"(A) The plan is not applying income and resource standards and methodologies for the purpose of determining eligibility of individuals under section 1902(l) that are more restrictive than those applied as of June 1, 1997, for the purpose of determining eligibility of individuals under such section.

"(B) The plan provides for such reporting of information about expenditures and payments attributable to the operation of this subsection as the Secretary deems necessary in order to carry out sections 2103(d) and 2104(b)(2).

"(C) The amount of the increased payments under section 1903(a) resulting from the application of this subsection does not exceed the total amount of any allotment not otherwise expended by the State under section 2103 for the period involved.

"(2) For purposes of subsection (b), the term 'optional targeted low-income child' means a targeted low-income child described in section 2108(b)(1) who would not qualify for medical assistance under the State plan under this title based on such plan as in effect on June 1, 1997 (taking into account the process of individuals aging into eligibility under section 1902(l)(2)(D)).

"(3) The enhanced medical assistance percentage described in this paragraph for a State is equal to the Federal medical assistance percentage (as defined in the first sentence of subsection (b)) for the State increased by a number of percentage points equal to 30 percent of the number of percentage points by which (A) such Federal medical assistance percentage for the State, is less than (B) 100 percent.

"(4) Notwithstanding any other provision of this title, a State plan under this title may impose a limit on the number of optional targeted low-income children described in paragraph (2).".

(b) Effective Date.—The amendments made by this section shall apply to medical assistance for items and services furnished on or after October 1, 1997.

SEC. 3504. MEDICAID PRESUMPTIVE ELIGIBILITY FOR LOW-INCOME CHILDREN.

(a) In General.—Title XIX of the Social Security Act is amended by inserting after section 1920 the following new section:

"PRESUMPTIVE ELIGIBILITY FOR CHILDREN

"Sec. 1920A. (a) A State plan approved under section 1902 may provide for making medical assistance with respect to health care items and services covered under the State plan available to a child during a presumptive eligibility period.

"(b) For purposes of this section:

"(1) The term 'child' means an individual under 19 years of age.

"(2) The term 'presumptive eligibility period' means, with respect to a child, the period that—

"(A) begins with the date on which a qualified entity determines, on the basis of preliminary information, that the family income of the child does not exceed the applicable income level of eligibility under the State plan, and

"(B) ends with (and includes) the earlier of—

"(i) the day on which a determination is made with respect to the eligibility of the child for medical assistance under the State plan, or

"(ii) in the case of a child on whose behalf an application is not filed by the last day of the month following the month during which the entity makes the determination referred to in subparagraph (A), such last day.

"(3)(A) Subject to subparagraph (B), the term 'qualified entity' means any entity that—

"(i)(I) is eligible for payments under a State plan approved under this title and provides items and services described in subsection (a) or (II) is authorized to determine eligibility of a child to participate in a Head Start program under the Head Start Act (42 U.S.C. 9821 et seq.), eligibility of a child to receive child care services for which financial assistance is provided under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.), eligibility of an infant or child to receive assistance under the special supplemental nutrition program for women, infants, and children (WIC) under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786); and

"(ii) is determined by the State agency to be capable of making determinations of the type described in paragraph (1)(A).

"(B) The Secretary may issue regulations further limiting those entities that may become qualified entities in order to prevent fraud and abuse and for other reasons.

"(C) Nothing in this section shall be construed as preventing a State from limiting the classes of entities that may become qualified entities, consistent with any limitations imposed under subparagraph (B).

"(c)(1) The State agency shall provide qualified entities with—

"(A) such forms as are necessary for an application to be made on behalf of a child for medical assistance under the State plan, and

"(B) information on how to assist parents, guardians, and other persons in completing and filing such forms.

"(2) A qualified entity that determines under subsection (b)(1)(A) that a child is presumptively eligible for medical assistance under a State plan shall—

"(A) notify the State agency of the determination within 5 working days after the date on which determination is made, and

"(B) inform the parent or custodian of the child at the time the determination is made that an application for medical assistance under the State plan is required to be made by not later than the last day of the month following the month during which the determination is made.

"(3) In the case of a child who is determined by a qualified entity to be presumptively eligible for medical assistance under a State plan, the parent, guardian, or other person shall make application on behalf of the child for medical assistance under such plan by not later than the last day of the month following the month during which the determination is made, which application may be the application used for the receipt of medical assistance by individuals described in section 1902(l)(1).

"(d) Notwithstanding any other provision of this title, medical assistance for items and services described in subsection (a) that—

"(1) are furnished to a child—

"(A) during a presumptive eligibility period,

"(B) by a entity that is eligible for payments under the State plan; and

"(2) are included in the care and services covered by a State plan;

shall be treated as medical assistance provided by such plan for purposes of section 1903.".

(b) Conforming Amendments.—(1) Section 1902(a)(47) of such Act (42 U.S.C. 1396a(a)(47)) is amended by inserting before the semicolon at the end the following: "and provide for making medical assistance for items and services described in subsection (a) of section 1920A available to children during a presumptive eligibility period in accordance with such section".

(2) Section 1903(u)(1)(D)(v) of such Act (42 U.S.C. 1396b(u)(1)(D)(v)) of such Act is amended by inserting before the period at the end the following: "or for items and services described in subsection (a) of section 1920A provided to a child during a presumptive eligibility period under such section".

(c) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 3505. STATE OPTION OF CONTINUATION OF MEDICAID ELIGIBILITY FOR DISABLED CHILDREN WHO LOSE SSI BENEFITS.

Section 1902(a)(10)(A)(ii) (42 U.S.C. 1396a(a)(10)(A)(ii)) is amended—

(1) by striking "or" at the end of subclause (XI),

(2) by striking "or" at the end of subclause (XII), and

(3) by adding at the end the following:

"(XIII) with respect to whom supplemental security income benefits were being paid under title XVI as of the date of the enactment of section 211(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104–193)) and would continue to be paid but for the enactment of that section;".

TITLE IV—COMMITTEE ON COMMERCE—MEDICARE

SEC. 4000. AMENDMENTS TO SOCIAL SECURITY ACT AND REFERENCES TO OBRA; TABLE OF CONTENTS OF TITLE.

(a) Amendments to Social Security Act.—Except as otherwise specifically provided, whenever in this title an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

(b) References to OBRA.—In this title, the terms "OBRA–1986", "OBRA–1987", "OBRA–1989", "OBRA–1990", and "OBRA–1993" refer to the Omnibus Budget Reconciliation Act of 1986 (Public Law 99–509), the Omnibus Budget Reconciliation Act of 1987 (Public Law 100–203), the Omnibus Budget Reconciliation Act of 1989 (Public Law 101–239), the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508), and the Omnibus Budget Reconciliation Act of 1993 (Public Law 103–66), respectively.

(c) Table of Contents of Title.—The table of contents of this title is as follows:

Sec. 4000. Amendments to Social Security Act and references to OBRA; table of contents of title.

Subtitle A—MedicarePlus Program

Chapter 1—MedicarePlus Program

SUBCHAPTER A—MEDICAREPLUS PROGRAM

Sec. 4001. Establishment of MedicarePlus program.

"Part C—MedicarePlus Program

"Sec. 1851. Eligibility, election, and enrollment.

"Sec. 1852. Benefits and beneficiary protections.
"Sec. 1853. Payments to MedicarePlus organizations.
"Sec. 1854. Premiums.
"Sec. 1855. Organizational and financial requirements for MedicarePlus organizations; provider-sponsored organizations.
"Sec. 1856. Establishment of standards.
"Sec. 1857. Contracts with MedicarePlus organizations.
"Sec. 1859. Definitions; miscellaneous provisions.
Sec. 4002. Transitional rules for current medicare HMO program.
Sec. 4003. Conforming changes in medigap program.

SUBCHAPTER B—SPECIAL RULES FOR MEDICAREPLUS MEDICAL SAVINGS ACCOUNTS

Sec. 4006. MedicarePlus MSA.

SUBCHAPTER C—GME, IME, AND DSH PAYMENTS FOR MANAGED CARE ENROLLEES

Sec. 4008. Graduate medical education and indirect medical education payments for managed care enrollees.
Sec. 4009. Disproportionate share hospital payments for managed care enrollees.

CHAPTER 2—INTEGRATED LONG-TERM CARE PROGRAMS

SUBCHAPTER A—PROGRAMS OF ALL-INCLUSIVE CARE FOR THE ELDERLY (PACE)

Sec. 4011. Reference to coverage of PACE under the medicare program.
Sec. 4012. Reference to establishment of PACE program as medicaid State option.

SUBCHAPTER B—SOCIAL HEALTH MAINTENANCE ORGANIZATIONS (SHMOS)

Sec. 4015. Social health maintenance organizations (SHMOs).

SUBCHAPTER C—OTHER PROGRAMS

Sec. 4018. Orderly transition of municipal health service demonstration projects.
Sec. 4019. Extension of certain medicare community nursing organization demonstration projects.

CHAPTER 3—MEDICARE PAYMENT ADVISORY COMMISSION

Sec. 4021. Medicare Payment Advisory Commission.

CHAPTER 4—MEDIGAP PROTECTIONS

Sec. 4031. Medigap protections.
Sec. 4032. Medicare prepaid competitive pricing demonstration project.

Subtitle B—Prevention Initiatives

Sec. 4101. Screening mammography.
Sec. 4102. Screening pap smear and pelvic exams.
Sec. 4103. Prostate cancer screening tests.
Sec. 4104. Coverage of colorectal screening.
Sec. 4105. Diabetes screening tests.
Sec. 4106. Standardization of medicare coverage of bone mass measurements.
Sec. 4107. Vaccines outreach expansion.
Sec. 4108. Study on preventive benefits.

Subtitle C—Rural Initiatives

Sec. 4206. Informatics, telemedicine, and education demonstration project.

Subtitle D—Anti-Fraud and Abuse Provisions

Sec. 4301. Permanent exclusion for those convicted of 3 health care related crimes.
Sec. 4302. Authority to refuse to enter into medicare agreements with individuals or entities convicted of felonies.
Sec. 4303. Inclusion of toll-free number to report medicare waste, fraud, and abuse in explanation of benefits forms.
Sec. 4304. Liability of medicare carriers and fiscal intermediaries for claims submitted by excluded providers.
Sec. 4305. Exclusion of entity controlled by family member of a sanctioned individual.
Sec. 4306. Imposition of civil money penalties.
Sec. 4307. Disclosure of information and surety bonds.
Sec. 4308. Provision of certain identification numbers.
Sec. 4309. Advisory opinions regarding certain physician self-referral provisions.
Sec. 4310. Nondiscrimination in post-hospital referral to home health agencies.
Sec. 4311. Other fraud and abuse related provisions.

Subtitle E—Prospective Payment Systems

CHAPTER 2—PAYMENT UNDER PART B

SUBCHAPTER A—PAYMENT FOR HOSPITAL OUTPATIENT DEPARTMENT SERVICES

Sec. 4411. Elimination of formula-driven overpayments (FDO) for certain outpatient hospital services.
Sec. 4412. Extension of reductions in payments for costs of hospital outpatient services.
Sec. 4413. Prospective payment system for hospital outpatient department services.

SUBCHAPTER B—REHABILITATION SERVICES

Sec. 4421. Rehabilitation agencies and services.
Sec. 4422. Comprehensive outpatient rehabilitation facilities (corf).

SUBCHAPTER C—AMBULANCE SERVICES

Sec. 4431. Payments for ambulance services.
Sec. 4432. Demonstration of coverage of ambulance services under medicare through contracts with units of local government.

CHAPTER 3—PAYMENT UNDER PARTS A AND B

Sec. 4441. Prospective payment for home health services.

Subtitle G—Provisions Relating to Part B Only

CHAPTER 1—PHYSICIANS' SERVICES

Sec. 4601. Establishment of single conversion factor for 1998.
Sec. 4602. Establishing update to conversion factor to match spending under sustainable growth rate.
Sec. 4603. Replacement of volume performance standard with sustainable growth rate.
Sec. 4604. Payment rules for anesthesia services.
Sec. 4605. Implementation of resource-based physician practice expense.
Sec. 4606. Dissemination of information on high per admission relative values for in-hospital physicians' services.
Sec. 4607. No X-ray required for chiropractic services.
Sec. 4608. Temporary coverage restoration for portable electrocardiogram transportation.

CHAPTER 2—OTHER PAYMENT PROVISIONS

Sec. 4611. Payments for durable medical equipment.
Sec. 4612. Oxygen and oxygen equipment.
Sec. 4613. Reduction in updates to payment amounts for clinical diagnostic laboratory tests.
Sec. 4614. Simplification in administration of laboratory services benefit.
Sec. 4615. Updates for ambulatory surgical services.
Sec. 4616. Reimbursement for drugs and biologicals.
Sec. 4617. Coverage of oral anti-nausea drugs under chemotherapeutic regimen.
Sec. 4618. Rural health clinic services.
Sec. 4619. Increased medicare reimbursement for nurse practitioners and clinical nurse specialists.
Sec. 4620. Increased medicare reimbursement for physician assistants.
Sec. 4621. Renal dialysis-related services.
Sec. 4622. Payment for cochlear implants as customized durable medical equipment.

CHAPTER 3—PART B PREMIUM

Sec. 4631. Part B premium.

Subtitle H—Provisions Relating to Parts A and B

CHAPTER 1—PROVISIONS RELATING TO MEDICARE SECONDARY PAYER

Sec. 4701. Permanent extension and revision of certain secondary payer provisions.
Sec. 4702. Clarification of time and filing limitations.
Sec. 4703. Permitting recovery against third party administrators.

CHAPTER 2—HOME HEALTH SERVICES

Sec. 4711. Recapturing savings resulting from temporary freeze on payment increases for home health services.
Sec. 4712. Interim payments for home health services.
Sec. 4713. Clarification of part-time or intermittent nursing care.
Sec. 4714. Study of definition of homebound.
Sec. 4715. Payment based on location where home health service is furnished.
Sec. 4716. Normative standards for home health claims denials.
Sec. 4717. No home health benefits based solely on drawing blood.
Sec. 4718. Making part B primary payor for certain home health services.

CHAPTER 3—BABY BOOM GENERATION MEDICARE COMMISSION

Sec. 4721. Bipartisan Commission on the Effect of the Baby Boom Generation on the Medicare Program.

CHAPTER 4—PROVISIONS RELATING TO DIRECT GRADUATE MEDICAL EDUCATION

Sec. 4731. Limitation on payment based on number of residents and implementation of rolling average FTE count.
Sec. 4732. Phased-in limitation on hospital overhead and supervisory physician component of direct medical education costs.
Sec. 4733. Permitting payment to non-hospital providers.
Sec. 4734. Incentive payments under plans for voluntary reduction in number of residents.
Sec. 4735. Demonstration project on use of consortia.
Sec. 4736. Recommendations on long-term payment policies regarding financing teaching hospitals and graduate medical education.
Sec. 4737. Medicare special reimbursement rule for certain combined residency programs.

CHAPTER 5—OTHER PROVISIONS

Sec. 4741. Centers of excellence.

Sec. 4742. Medicare part B special enrollment period and waiver of part B late enrollment penalty and medigap special open enrollment period for certain military retirees and dependents.
Sec. 4743. Competitive bidding for certain items and services.

Subtitle I—Medical Liability Reform

CHAPTER 1—GENERAL PROVISIONS

Sec. 4801. Federal reform of health care liability actions.
Sec. 4802. Definitions.
Sec. 4803. Effective date.

CHAPTER 2—UNIFORM STANDARDS FOR HEALTH CARE LIABILITY ACTIONS

Sec. 4811. Statute of limitations.
Sec. 4812. Calculation and payment of damages.
Sec. 4813. Alternative dispute resolution.

Subtitle A—MedicarePlus Program

CHAPTER 1—MEDICAREPLUS PROGRAM

Subchapter A—MedicarePlus Program

SEC. 4001. ESTABLISHMENT OF MEDICAREPLUS PROGRAM.

(a) IN GENERAL.—Title XVIII is amended by redesignating part C as part D and by inserting after part B the following new part:

“PART C—MEDICAREPLUS PROGRAM

“ELIGIBILITY, ELECTION, AND ENROLLMENT

“SEC. 1851. (a) CHOICE OF MEDICARE BENEFITS THROUGH MEDICAREPLUS PLANS.—

“(1) IN GENERAL.—Subject to the provisions of this section, each MedicarePlus eligible individual (as defined in paragraph (3)) is entitled to elect to receive benefits under this title—

“(A) through the medicare fee-for-service program under parts A and B, or

“(B) through enrollment in a MedicarePlus plan under this part.

“(2) TYPES OF MEDICAREPLUS PLANS THAT MAY BE AVAILABLE.—A MedicarePlus plan may be any of the following types of plans of health insurance:

“(A) COORDINATED CARE PLANS.—Coordinated care plans which provide health care services, including health maintenance organization plans and preferred provider organization plans.

“(B) PLANS OFFERED BY PROVIDER-SPONSORED ORGANIZATION.—A MedicarePlus plan offered by a provider-sponsored organization, as defined in section 1855(e).

“(C) COMBINATION OF MSA PLAN AND CONTRIBUTIONS TO MEDICAREPLUS MSA.—An MSA plan, as defined in section 1859(b)(2), and a contribution into a MedicarePlus medical savings account (MSA).

“(3) MEDICAREPLUS ELIGIBLE INDIVIDUAL.—

“(A) IN GENERAL.—In this title, subject to subparagraph (B), the term ‘MedicarePlus eligible individual’ means an individual who is entitled to benefits under part A and enrolled under part B.

“(B) SPECIAL RULE FOR END-STAGE RENAL DISEASE.—Such term shall not include an individual medically determined to have end-stage renal disease, except that an individual who develops end-stage renal disease while enrolled in a MedicarePlus plan may continue to be enrolled in that plan.

“(b) SPECIAL RULES.—

“(1) RESIDENCE REQUIREMENT.—

“(A) IN GENERAL.—Except as the Secretary may otherwise provide, an individual is eligible to elect a MedicarePlus plan offered by a MedicarePlus organization only if the organization serves the geographic area in which the individual resides.

“(B) CONTINUATION OF ENROLLMENT PERMITTED.—Pursuant to rules specified by the Secretary, the Secretary shall provide that an individual may continue enrollment in a plan, notwithstanding that the individual no longer resides in the service area of the plan, so long as the plan provides benefits for enrollees located in the area in which the individual resides.

“(2) SPECIAL RULE FOR CERTAIN INDIVIDUALS COVERED UNDER FEHBP OR ELIGIBLE FOR VETERANS OR MILITARY HEALTH BENEFITS, VETERANS .—

“(A) FEHBP.—An individual who is enrolled in a health benefit plan under chapter 89 of title 5, United States Code, is not eligible to enroll in an MSA plan until such time as the Director of the Office of Management and Budget certifies to the Secretary that the Office of Personnel Management has adopted policies which will ensure that the enrollment of such individuals in such plans will not result in increased expenditures for the Federal Government for health benefit plans under such chapter.

“(B) VA AND DOD.—The Secretary may apply rules similar to the rules described in subparagraph (A) in the case of individuals who are eligible for health care benefits under chapter 55 of title 10, United States Code, or under chapter 17 of title 38 of such Code.

“(3) LIMITATION ON ELIGIBILITY OF QUALIFIED MEDICARE BENEFICIARIES AND OTHER MEDICAID BENEFICIARIES TO ENROLL IN AN MSA PLAN.—An individual who is a qualified medicare beneficiary (as defined in section 1905(p)(1)), a qualified disabled and working individual (described in section 1905(s)), an individual described in section 1902(a)(10)(E)(iii), or otherwise entitled to medicare cost-sharing under a State plan under title XIX is not eligible to enroll in an MSA plan.

“(4) COVERAGE UNDER MSA PLANS ON A DEMONSTRATION BASIS.—

“(A) IN GENERAL.—An individual is not eligible to enroll in an MSA plan under this part—

“(i) on or after January 1, 2003, unless the enrollment is the continuation of such an enrollment in effect as of such date; or

“(ii) as of any date if the number of such individuals so enrolled as of such date has reached 500,000.

Under rules established by the Secretary, an individual is not eligible to enroll (or continue enrollment) in an MSA plan for a year unless the individual provides assurances satisfactory to the Secretary that the individual will reside in the United States for at least 183 days during the year.

“(B) EVALUATION.—The Secretary shall regularly evaluate the impact of permitting enrollment in MSA plans under this part on selection (including adverse selection), use of preventive care, access to care, and the financial status of the Trust Funds under this title.

“(C) REPORTS.—The Secretary shall submit to Congress periodic reports on the numbers of individuals enrolled in such plans and on the evaluation being conducted under subparagraph (B). The Secretary shall submit such a report, by not later than March 1, 2002, on whether the time limitation under subparagraph (A)(i) should be extended or removed and whether to change the numerical limitation under subparagraph (A)(ii).

“(c) PROCESS FOR EXERCISING CHOICE.—

“(1) IN GENERAL.—The Secretary shall establish a process through which elections described in subsection (a) are made and changed, including the form and manner in which such elections are made and changed. Such elections shall be made or changed only during coverage election periods specified under subsection (e) and shall become effective as provided in subsection (f).

“(2) COORDINATION THROUGH MEDICAREPLUS ORGANIZATIONS.—

“(A) ENROLLMENT.—Such process shall permit an individual who wishes to elect a MedicarePlus plan offered by a MedicarePlus organization to make such election through the filing of an appropriate election form with the organization.

“(B) DISENROLLMENT.—Such process shall permit an individual, who has elected a MedicarePlus plan offered by a MedicarePlus organization and who wishes to terminate such election, to terminate such election through the filing of an appropriate election form with the organization.

“(3) DEFAULT.—

“(A) INITIAL ELECTION.—

“(i) IN GENERAL.—Subject to clause (ii), an individual who fails to make an election during an initial election period under subsection (e)(1) is deemed to have chosen the medicare fee-for-service program option.

“(ii) SEAMLESS CONTINUATION OF COVERAGE.—The Secretary may establish procedures under which an individual who is enrolled in a health plan (other than MedicarePlus plan) offered by a MedicarePlus organization at the time of the initial election period and who fails to elect to receive coverage other than through the organization is deemed to have elected the MedicarePlus plan offered by the organization (or, if the organization offers more than one such plan, such plan or plans as the Secretary identifies under such procedures).

“(B) CONTINUING PERIODS.—An individual who has made (or is deemed to have made) an election under this section is considered to have continued to make such election until such time as—

“(i) the individual changes the election under this section, or

“(ii) a MedicarePlus plan is discontinued, if the individual had elected such plan at the time of the discontinuation.

“(d) PROVIDING INFORMATION TO PROMOTE INFORMED CHOICE.—

“(1) IN GENERAL.—The Secretary shall provide for activities under this subsection to broadly disseminate information to medicare beneficiaries (and prospective medicare beneficiaries) on the coverage options provided under this section in order to promote an active, informed selection among such options.

“(2) PROVISION OF NOTICE.—

“(A) OPEN SEASON NOTIFICATION.—At least 30 days before the beginning of each annual, coordinated election period (as defined in subsection (e)(3)(B)), the Secretary shall mail to each MedicarePlus eligible individual residing in an area the following:

“(i) GENERAL INFORMATION.—The general information described in paragraph (3).

“(ii) LIST OF PLANS AND COMPARISON OF PLAN OPTIONS.—A list identifying the MedicarePlus plans that are (or will be) available to residents of the area and information described in paragraph (4) concerning such plans. Such information shall be presented in a comparative form.

“(iii) MEDICAREPLUS MONTHLY CAPITATION RATE.—The amount of the monthly MedicarePlus capitation rate for the area.

“(iv) ADDITIONAL INFORMATION.—Any other information that the Secretary determines will assist the individual in making the election under this section.

The mailing of such information shall be coordinated with the mailing of any annual notice under section 1804.

"(B) NOTIFICATION TO NEWLY MEDICAREPLUS ELIGIBLE INDIVIDUALS.—To the extent practicable, the Secretary shall, not later than 2 months before the beginning of the initial MedicarePlus enrollment period for an individual described in subsection (e)(1), mail to the individual the information described in subparagraph (A).

"(C) FORM.—The information disseminated under this paragraph shall be written and formatted using language that is easily understandable by medicare beneficiaries.

"(D) PERIODIC UPDATING.—The information described in subparagraph (A) shall be updated on at least an annual basis to reflect changes in the availability of MedicarePlus plans and the benefits and monthly premiums (and net monthly premiums) for such plans.

"(3) GENERAL INFORMATION.—General information under this paragraph, with respect to coverage under this part during a year, shall include the following:

"(A) BENEFITS UNDER FEE-FOR-SERVICE PROGRAM OPTION.—A general description of the benefits covered (and not covered) under the medicare fee-for-service program under parts A and B, including—

"(i) covered items and services,

"(ii) beneficiary cost sharing, such as deductibles, coinsurance, and copayment amounts, and

"(iii) any beneficiary liability for balance billing.

"(B) PART B PREMIUM.—The part B premium rates that will be charged for part B coverage.

"(C) ELECTION PROCEDURES.—Information and instructions on how to exercise election options under this section.

"(D) RIGHTS.—The general description of procedural rights (including grievance and appeals procedures) of beneficiaries under the medicare fee-for-service program and the MedicarePlus program and right to be protected against discrimination based on health status-related factors under section 1852(b).

"(E) INFORMATION ON MEDIGAP AND MEDICARE SELECT.—A general description of the benefits, enrollment rights, and other requirements applicable to medicare supplemental policies under section 1882 and provisions relating to medicare select policies described in section 1882(t).

"(F) POTENTIAL FOR CONTRACT TERMINATION.—The fact that a MedicarePlus organization may terminate or refuse to renew its contract under this part and the effect the termination or nonrenewal of its contract may have on individuals enrolled with the MedicarePlus plan under this part.

"(4) INFORMATION COMPARING PLAN OPTIONS.—Information under this paragraph, with respect to a MedicarePlus plan for a year, shall include the following:

"(A) BENEFITS.—The benefits covered (and not covered) under the plan, including—

"(i) covered items and services beyond those provided under the medicare fee-for-service program,

"(ii) any beneficiary cost sharing,

"(iii) any maximum limitations on out-of-pocket expenses,

"(iv) in the case of an MSA plan, differences in cost sharing under such a plan compared to under other MedicarePlus plans,

"(v) the use of provider networks and the restriction on payments for services furnished other than by other through the organization,

"(vi) the organization's coverage of emergency and urgently needed care,

"(vii) the appeal and grievance rights of enrollees,

"(viii) number of grievances and appeals, and information on their disposition in the aggregate,

"(ix) procedures used by the organization to control utilization of services and expenditures, and

"(x) any exclusions in the types of providers participating in the plan's network.

"(B) PREMIUMS.—The monthly premium (and net monthly premium), if any, for the plan.

"(C) SERVICE AREA.—The service area of the plan.

"(D) QUALITY AND PERFORMANCE.—To the extent available, plan quality and performance indicators for the benefits under the plan (and how they compare to such indicators under the medicare fee-for-service program under parts A and B in the area involved), including—

"(i) disenrollment rates for medicare enrollees electing to receive benefits through the plan for the previous 2 years (excluding disenrollment due to death or moving outside the plan's service area),

"(ii) information on medicare enrollee satisfaction,

"(iii) information on health outcomes, and

"(iv) the recent record regarding compliance of the plan with requirements of this part (as determined by the Secretary).

"(E) SUPPLEMENTAL BENEFITS OPTIONS.—Whether the organization offering the plan offers optional supplemental benefits and the terms and conditions (including premiums) for such coverage.

"(5) MAINTAINING A TOLL-FREE NUMBER AND INTERNET SITE.—The Secretary shall maintain a toll-free number for inquiries regarding MedicarePlus options and the operation of this part in all areas in which MedicarePlus plans are offered and an Internet site through which individuals may electronically obtain information on such options and MedicarePlus plans.

"(6) USE OF NONFEDERAL ENTITIES.—The Secretary may enter into contracts with non-Federal entities to carry out activities under this subsection.

"(7) PROVISION OF INFORMATION.—A MedicarePlus organization shall provide the Secretary with such information on the organization and each MedicarePlus plan it offers as may be required for the preparation of the information referred to in paragraph (2)(A).

"(e) COVERAGE ELECTION PERIODS.—

"(1) INITIAL CHOICE UPON ELIGIBILITY TO MAKE ELECTION IF MEDICAREPLUS PLANS AVAILABLE TO INDIVIDUAL.—If, at the time an individual first becomes entitled to benefits under part A and enrolled under part B, there is one or more MedicarePlus plans offered in the area in which the individual resides, the individual shall make the election under this section during a period (of a duration and beginning at a time specified by the Secretary) at such time. Such period shall be specified in a manner so that, in the case of an individual who elects a MedicarePlus plan during the period, coverage under the plan becomes effective as of the first date on which the individual may receive such coverage.

"(2) OPEN ENROLLMENT AND DISENROLLMENT OPPORTUNITIES.—Subject to paragraph (5)—

"(A) CONTINUOUS OPEN ENROLLMENT AND DISENROLLMENT THROUGH 2000.—At any time during 1998, 1999, and 2000, a MedicarePlus eligible individual may change the election under subsection (a)(1).

"(B) CONTINUOUS OPEN ENROLLMENT AND DISENROLLMENT FOR FIRST 6 MONTHS DURING 2001.—

"(i) IN GENERAL.—Subject to clause (ii), at any time during the first 6 months of 2001, or, if the individual first becomes a MedicarePlus eligible individual during 2001, during the first 6 months during 2001 in which the individual is a MedicarePlus eligible individual, a MedicarePlus eligible individual may change the election under subsection (a)(1).

"(ii) LIMITATION OF ONE CHANGE PER YEAR.—An individual may exercise the right under clause (i) only once during 2001. The limitation under this clause shall not apply to changes in elections effected during an annual, coordinated election period under paragraph (3) or during a special enrollment period under paragraph (4).

"(C) CONTINUOUS OPEN ENROLLMENT AND DISENROLLMENT FOR FIRST 3 MONTHS IN SUBSEQUENT YEARS.—

"(i) IN GENERAL.—Subject to clause (ii), at any time during the first 3 months of a year after 2001, or, if the individual first becomes a MedicarePlus eligible individual during a year after 2001, during the first 3 months of such year in which the individual is a MedicarePlus eligible individual, a MedicarePlus eligible individual may change the election under subsection (a)(1).

"(ii) LIMITATION OF ONE CHANGE PER YEAR.—An individual may exercise the right under clause (i) only once a year. The limitation under this clause shall not apply to changes in elections effected during an annual, coordinated election period under paragraph (3) or during a special enrollment period under paragraph (4).

"(3) ANNUAL, COORDINATED ELECTION PERIOD.—

"(A) IN GENERAL.—Subject to paragraph (5), each individual who is eligible to make an election under this section may change such election during an annual, coordinated election period.

"(B) ANNUAL, COORDINATED ELECTION PERIOD.—For purposes of this section, the term 'annual, coordinated election period' means, with respect to a calendar year (beginning with 2001), the month of October before such year.

"(C) MEDICAREPLUS HEALTH FAIRS.—In the month of October of each year (beginning with 1998), the Secretary shall provide for a nationally coordinated educational and publicity campaign to inform MedicarePlus eligible individuals about MedicarePlus plans and the election process provided under this section.

"(4) SPECIAL ELECTION PERIODS.—Effective as of January 1, 2001, an individual may discontinue an election of a MedicarePlus plan offered by a MedicarePlus organization other than during an annual, coordinated election period and make a new election under this section if—

"(A) the organization's or plan's certification under this part has been terminated or the organization has terminated or otherwise discontinued providing the plan;

"(B) the individual is no longer eligible to elect the plan because of a change in the individual's place of residence or other change in circumstances (specified by the Secretary, but not including termination of the individual's enrollment on the basis described in clause (i) or (ii) of subsection (g)(3)(B));

"(C) the individual demonstrates (in accordance with guidelines established by the Secretary) that—

"(i) the organization offering the plan substantially violated a material provision of the organization's contract under this part in relation to the individual (including the failure to provide an enrollee on a timely basis medically necessary care for which benefits are available under the plan or the failure to provide such covered care in accordance with applicable quality standards); or

"(ii) the organization (or an agent or other entity acting on the organization's behalf) materially misrepresented the plan's provisions in marketing the plan to the individual; or

"(D) the individual meets such other exceptional conditions as the Secretary may provide.

"(5) SPECIAL RULES FOR MSA PLANS.—Notwithstanding the preceding provisions of this subsection, an individual—

"(A) may elect an MSA plan only during—

"(i) an initial open enrollment period described in paragraph (1),

"(ii) an annual, coordinated election period described in paragraph (3)(B), or

"(iii) the months of October 1998 and October 1999; and

"(B) may not discontinue an election of an MSA plan except during the periods described in clause (ii) or (iii) of subparagraph (A) and under paragraph (4).

"(f) EFFECTIVENESS OF ELECTIONS AND CHANGES OF ELECTIONS.—

"(1) DURING INITIAL COVERAGE ELECTION PERIOD.—An election of coverage made during the initial coverage election period under subsection (e)(1) shall take effect upon the date the individual becomes entitled to benefits under part A and enrolled under part B, except as the Secretary may provide (consistent with section 1838) in order to prevent retroactive coverage.

"(2) DURING CONTINUOUS OPEN ENROLLMENT PERIODS.—An election or change of coverage made under subsection (e)(2) shall take effect with the first day of the first calendar month following the date on which the election is made.

"(3) ANNUAL, COORDINATED ELECTION PERIOD.—An election or change of coverage made during an annual, coordinated election period (as defined in subsection (e)(3)(B)) in a year shall take effect as of the first day of the following year.

"(4) OTHER PERIODS.—An election or change of coverage made during any other period under subsection (e)(4) shall take effect in such manner as the Secretary provides in a manner consistent (to the extent practicable) with protecting continuity of health benefit coverage.

"(g) GUARANTEED ISSUE AND RENEWAL.—

"(1) IN GENERAL.—Except as provided in this subsection, a MedicarePlus organization shall provide that at any time during which elections are accepted under this section with respect to a MedicarePlus plan offered by the organization, the organization will accept without restrictions individuals who are eligible to make such election.

"(2) PRIORITY.—If the Secretary determines that a MedicarePlus organization, in relation to a MedicarePlus plan it offers, has a capacity limit and the number of MedicarePlus eligible individuals who elect the plan under this section exceeds the capacity limit, the organization may limit the election of individuals of the plan under this section but only if priority in election is provided—

"(A) first to such individuals as have elected the plan at the time of the determination, and

"(B) then to other such individuals in such a manner that does not discriminate, on a basis described in section 1852(b), among the individuals (who seek to elect the plan). The preceding sentence shall not apply if it would result in the enrollment of enrollees substantially nonrepresentative, as determined in accordance with regulations of the Secretary, of the medicare population in the service area of the plan.

"(3) LIMITATION ON TERMINATION OF ELECTION.—

"(A) IN GENERAL.—Subject to subparagraph (B), a MedicarePlus organization may not for any reason terminate the election of any individual under this section for a MedicarePlus plan it offers.

"(B) BASIS FOR TERMINATION OF ELECTION.—A MedicarePlus organization may terminate an individual's election under this section with respect to a MedicarePlus plan it offers if—

"(i) any net monthly premiums required with respect to such plan are not paid on a timely basis (consistent with standards under section 1856 that provide for a grace period for late payment of net monthly premiums),

"(ii) the individual has engaged in disruptive behavior (as specified in such standards), or

"(iii) the plan is terminated with respect to all individuals under this part in the area in which the individual resides.

"(C) CONSEQUENCE OF TERMINATION.—

"(i) TERMINATIONS FOR CAUSE.—Any individual whose election is terminated under clause (i) or (ii) of subparagraph (B) is deemed to have elected the medicare fee-for-service program option described in subsection (a)(1)(A).

"(ii) TERMINATION BASED ON PLAN TERMINATION OR SERVICE AREA REDUCTION.—Any individual whose election is terminated under subparagraph (B)(iii) shall have a special election period under subsection (e)(4)(A) in which to change coverage to coverage under another MedicarePlus plan. Such an individual who fails to make an election during such period is deemed to have chosen to change coverage to the medicare fee-for-service program option described in subsection (a)(1)(A).

"(D) ORGANIZATION OBLIGATION WITH RESPECT TO ELECTION FORMS.—Pursuant to a contract under section 1857, each MedicarePlus organization receiving an election form under subsection (c)(2) shall transmit to the Secretary (at such time and in such manner as the Secretary may specify) a copy of such form or such other information respecting the election as the Secretary may specify.

"(h) APPROVAL OF MARKETING MATERIAL AND APPLICATION FORMS.—

"(1) SUBMISSION.—No marketing material or application form may be distributed by a MedicarePlus organization to (or for the use of) MedicarePlus eligible individuals unless—

"(A) at least 45 days before the date of distribution the organization has submitted the material or form to the Secretary for review, and

"(B) the Secretary has not disapproved the distribution of such material or form.

"(2) REVIEW.—The standards established under section 1856 shall include guidelines for the review of all such material or form submitted and under such guidelines the Secretary shall disapprove (or later require the correction of) such material or form if the material or form is materially inaccurate or misleading or otherwise makes a material misrepresentation.

"(3) DEEMED APPROVAL (1-STOP SHOPPING).—In the case of material or form that is submitted under paragraph (1)(A) to the Secretary or a regional office of the Department of Health and Human Services and the Secretary or the office has not disapproved the distribution of marketing material or form under paragraph (1)(B) with respect to a MedicarePlus plan in an area, the Secretary is deemed not to have disapproved such distribution in all other areas covered by the plan and organization except to the extent that such material or form is specific only to an area involved.

"(4) PROHIBITION OF CERTAIN MARKETING PRACTICES.—Each MedicarePlus organization shall conform to fair marketing standards, in relation to MedicarePlus plans offered under this part, included in the standards established under section 1856. Such standards shall include a prohibition against a MedicarePlus organization (or agent of such an organization) completing any portion of any election form used to carry out elections under this section on behalf of any individual.

"(i) EFFECT OF ELECTION OF MEDICAREPLUS PLAN OPTION.—Subject to sections 1852(a)(5), 1857(f)(2), and 1857(g)—

"(1) payments under a contract with a MedicarePlus organization under section 1853(a) with respect to an individual electing a MedicarePlus plan offered by the organization shall be instead of the amounts which (in the absence of the contract) would otherwise be payable under parts A and B for items and services furnished to the individual, and

"(2) subject to subsections (e) and (f) of section 1853, only the MedicarePlus organization shall be entitled to receive payments from the Secretary under this title for services furnished to the individual.

"BENEFITS AND BENEFICIARY PROTECTIONS

"SEC. 1852. (a) BASIC BENEFITS.—

"(1) IN GENERAL.—Except as provided in section 1859(b)(2) for MSA plans, each MedicarePlus plan shall provide to members enrolled under this part, through providers and other persons that meet the applicable requirements of this title and part A of title XI—

"(A) those items and services for which benefits are available under parts A and B to individuals residing in the area served by the plan, and

"(B) additional benefits required under section 1854(f)(1)(A).

"(2) SATISFACTION OF REQUIREMENT.—A MedicarePlus plan (other than an MSA plan) offered by a MedicarePlus organization satisfies paragraph (1)(A), with respect to benefits for items and services furnished other than through a provider that has a contract with the organization offering the plan, if the plan provides (in addition to any cost sharing provided for under the plan) for at least the total dollar amount of payment for such items and services as would otherwise be authorized under parts A and B (including any balance billing permitted under such parts).

"(3) SUPPLEMENTAL BENEFITS.—

"(A) BENEFITS INCLUDED SUBJECT TO SECRETARY'S APPROVAL.—Each MedicarePlus organization may provide to individuals enrolled under this part (without affording those individuals an option to decline the coverage) supplemental health care benefits that the Secretary may approve. The Secretary shall approve any such supplemental benefits unless the Secretary determines that including such supplemental benefits would substantially discourage enrollment by MedicarePlus eligible individuals with the organization.

"(B) AT ENROLLEES' OPTION.—A MedicarePlus organization may provide to individuals enrolled under this part (other than under an MSA plan) supplemental health care benefits that the individuals may elect, at their option, to have covered.

“(4) ORGANIZATION AS SECONDARY PAYER.—Notwithstanding any other provision of law, a MedicarePlus organization may (in the case of the provision of items and services to an individual under a MedicarePlus plan under circumstances in which payment under this title is made secondary pursuant to section 1862(b)(2)) charge or authorize the provider of such services to charge, in accordance with the charges allowed under such a law, plan, or policy—

“(A) the insurance carrier, employer, or other entity which under such law, plan, or policy is to pay for the provision of such services, or

“(B) such individual to the extent that the individual has been paid under such law, plan, or policy for such services.

“(5) NATIONAL COVERAGE DETERMINATIONS.—If there is a national coverage determination made in the period beginning on the date of an announcement under section 1853(b) and ending on the date of the next announcement under such section and the Secretary projects that the determination will result in a significant change in the costs to a MedicarePlus organization of providing the benefits that are the subject of such national coverage determination and that such change in costs was not incorporated in the determination of the annual MedicarePlus capitation rate under section 1853 included in the announcement made at the beginning of such period—

“(A) such determination shall not apply to contracts under this part until the first contract year that begins after the end of such period, and

“(B) if such coverage determination provides for coverage of additional benefits or coverage under additional circumstances, section 1851(i) shall not apply to payment for such additional benefits or benefits provided under such additional circumstances until the first contract year that begins after the end of such period,

unless otherwise required by law.

“(b) ANTIDISCRIMINATION.—

“(1) IN GENERAL.—A MedicarePlus organization may not deny, limit, or condition the coverage or provision of benefits under this part, for individuals permitted to be enrolled with the organization under this part, based on any health status-related factor described in section 2702(a)(1) of the Public Health Service Act.

“(2) CONSTRUCTION.—Paragraph (1) shall not be construed as requiring a MedicarePlus organization to enroll individuals who are determined to have end-stage renal disease, except as provided under section 1851(a)(3)(B).

“(c) DETAILED DESCRIPTION OF PLAN PROVISIONS.—A MedicarePlus organization shall disclose, in clear, accurate, and standardized form to each enrollee with a MedicarePlus plan offered by the organization under this part at the time of enrollment and at least annually thereafter, the following information regarding such plan:

“(1) SERVICE AREA.—The plan's service area.

“(2) BENEFITS.—Benefits offered (and not offered) under the plan offered, including information described in section 1851(d)(3)(A) and exclusions from coverage and, if it is an MSA plan, a comparison of benefits under such a plan with benefits under other MedicarePlus plans.

“(3) ACCESS.—The number, mix, and distribution of plan providers and any point-of-service option (including the supplemental premium for such option).

“(4) OUT-OF-AREA COVERAGE.—Out-of-area coverage provided by the plan.

“(5) EMERGENCY COVERAGE.—Coverage of emergency services and urgently needed care, including—

“(A) the appropriate use of emergency services, including use of the 911 telephone system or its local equivalent in emergency situations and an explanation of what constitutes an emergency situation;

“(B) the process and procedures of the plan for obtaining emergency services; and

“(C) the locations of (i) emergency departments, and (ii) other settings, in which plan physicians and hospitals provide emergency services and post-stabilization care..

“(6) SUPPLEMENTAL BENEFITS.—Supplemental benefits available from the organization offering the plan, including—

“(A) whether the supplemental benefits are optional,

“(B) the supplemental benefits covered, and

“(C) the premium price for the supplemental benefits.

“(7) PRIOR AUTHORIZATION RULES.—Rules regarding prior authorization or other review requirements that could result in nonpayment.

“(8) PLAN GRIEVANCE AND APPEALS PROCEDURES.—Any appeal or grievance rights and procedures.

“(9) QUALITY ASSURANCE PROGRAM.—A description of the organization's quality assurance program under subsection (e).

“(d) ACCESS TO SERVICES.—

“(1) IN GENERAL.—A MedicarePlus organization offering a MedicarePlus plan may select the providers from whom the benefits under the plan are provided so long as—

“(A) the organization makes such benefits available and accessible to each individual electing the plan within the plan service area with reasonable promptness and in a manner which assures continuity in the provision of benefits;

“(B) when medically necessary in the opinion of the treating health care provider the organization makes such benefits available and accessible 24 hours a day and 7 days a week;

“(C) the plan provides for reimbursement with respect to services which are covered under subparagraphs (A) and (B) and which are provided to such an individual other than through the organization, if—

“(i) the services were medically necessary in the opinion of the treating health care provider and immediately required because of an unforeseen illness, injury, or condition, and it was not reasonable given the circumstances to obtain the services through the organization,

“(ii) the services were renal dialysis services and were provided other than through the organization because the individual was temporarily out of the plan's service area, or

“(iii) the services are maintenance care or post-stabilization care covered under the guidelines established under paragraph (2);

“(D) the organization provides access to appropriate providers, including credentialed specialists, for treatment and services when such treatment and services are determined to be medically necessary in the professional opinion of the treating health care provider, in consultation with the individual; and

“(E) coverage is provided for emergency services (as defined in paragraph (3)) without regard to prior authorization or the emergency care provider's contractual relationship with the organization.

“(2) GUIDELINES RESPECTING COORDINATION OF POST-STABILIZATION CARE.—A MedicarePlus plan shall comply with such guidelines as the Secretary may prescribe relating to promoting efficient and timely coordination of appropriate maintenance and post-stabilization care of an enrollee after the enrollee has been determined to be stable under section 1867.

“(3) DEFINITION OF EMERGENCY SERVICES.—In this subsection—

“(A) IN GENERAL.—The term ‘emergency services’ means, with respect to an individual enrolled with an organization, covered inpatient and outpatient services that—

“(i) are furnished by a provider that is qualified to furnish such services under this title, and

“(ii) are needed to evaluate or stabilize an emergency medical condition (as defined in subparagraph (B)).

“(B) EMERGENCY MEDICAL CONDITION BASED ON PRUDENT LAYPERSON.—The term ‘emergency medical condition’ means a medical condition manifesting itself by acute symptoms of sufficient severity such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in—

“(i) placing the health of the individual (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy,

“(ii) serious impairment to bodily functions, or

“(iii) serious dysfunction of any bodily organ or part.

“(4) DETERMINATION OF HOSPITAL LENGTH OF STAY.—

“(A) IN GENERAL.—A MedicarePlus organization shall cover the length of an inpatient hospital stay under this part as determined by the attending physician (or other attending health care provider to the extent permitted under State law) in consultation with the patient to be medically appropriate.

“(B) CONSTRUCTION.—Nothing in this paragraph shall be construed—

“(i) as requiring the provision of inpatient coverage if the attending physician (or other attending health care provider to the extent permitted under State law) and patient determine that a shorter period of hospital stay is medically appropriate, or

“(ii) as affecting the application of deductibles and coinsurance.

“(e) QUALITY ASSURANCE PROGRAM.—

“(1) IN GENERAL.—Each MedicarePlus organization must have arrangements, consistent with any regulation, for an ongoing quality assurance program for health care services it provides to individuals enrolled with MedicarePlus plans of the organization.

“(2) ELEMENTS OF PROGRAM.—The quality assurance program shall—

“(A) stress health outcomes and provide for the collection, analysis, and reporting of data (in accordance with a quality measurement system that the Secretary recognizes) that will permit measurement of outcomes and other indices of the quality of MedicarePlus plans and organizations;

“(B) provide for the establishment of written protocols for utilization review, based on current standards of medical practice;

“(C) provide review by physicians and other health care professionals of the process followed in the provision of such health care services;

“(D) monitor and evaluate high volume and high risk services and the care of acute and chronic conditions;

“(E) evaluate the continuity and coordination of care that enrollees receive;

"(F) have mechanisms to detect both underutilization and overutilization of services;

"(G) after identifying areas for improvement, establish or alter practice parameters;

"(H) take action to improve quality and assesses the effectiveness of such action through systematic followup;

"(I) make available information on quality and outcomes measures to facilitate beneficiary comparison and choice of health coverage options (in such form and on such quality and outcomes measures as the Secretary determines to be appropriate);

"(J) be evaluated on an ongoing basis as to its effectiveness;

"(K) include measures of consumer satisfaction; and

"(L) provide the Secretary with such access to information collected as may be appropriate to monitor and ensure the quality of care provided under this part.

"(3) EXTERNAL REVIEW.—Each MedicarePlus organization shall, for each MedicarePlus plan it operates, have an agreement with an independent quality review and improvement organization approved by the Secretary to perform functions of the type described in sections 1154(a)(4)(B) and 1154(a)(14) with respect to services furnished by MedicarePlus plans for which payment is made under this title.

"(4) TREATMENT OF ACCREDITATION.—The Secretary shall provide that a MedicarePlus organization is deemed to meet requirements of paragraphs (1) through (3) of this subsection and subsection (h) (relating to confidentiality and accuracy of enrollee records) if the organization is accredited (and periodically reaccredited) by a private organization under a process that the Secretary has determined assures that the organization, as a condition of accreditation, applies and enforces standards with respect to the requirements involved that are no less stringent than the standards established under section 1856 to carry out the respective requirements.

"(f) COVERAGE DETERMINATIONS.—

"(1) DECISIONS ON NONEMERGENCY CARE.—A MedicarePlus organization shall make determinations regarding authorization requests for nonemergency care on a timely basis, depending on the urgency of the situation. The organization shall provide notice of any coverage denial, which notice shall include a statement of the reasons for the denial and a description of the grievance and appeals processes available.

"(2) RECONSIDERATIONS.—

"(A) IN GENERAL.—Subject to subsection (g)(4), a reconsideration of a determination of an organization denying coverage shall be made within 30 days of the date of receipt of medical information, but not later than 60 days after the date of the determination.

"(B) PHYSICIAN DECISION ON CERTAIN RECONSIDERATIONS.—A reconsideration relating to a determination to deny coverage based on a lack of medical necessity shall be made only by a physician with appropriate expertise in the field of medicine which necessitates treatment who is other than a physician involved in the initial determination.

"(g) GRIEVANCES AND APPEALS.—

"(1) GRIEVANCE MECHANISM.—Each MedicarePlus organization must provide meaningful procedures for hearing and resolving grievances between the organization (including any entity or individual through which the organization provides health care services) and enrollees with MedicarePlus plans of the organization under this part.

"(2) APPEALS.—An enrollee with a MedicarePlus plan of a MedicarePlus organization under this part who is dissatisfied by reason of the enrollee's failure to receive any health service to which the enrollee believes the enrollee is entitled and at no greater charge than the enrollee believes the enrollee is required to pay is entitled, if the amount in controversy is $100 or more, to a hearing before the Secretary to the same extent as is provided in section 205(b), and in any such hearing the Secretary shall make the organization a party. If the amount in controversy is $1,000 or more, the individual or organization shall, upon notifying the other party, be entitled to judicial review of the Secretary's final decision as provided in section 205(g), and both the individual and the organization shall be entitled to be parties to that judicial review. In applying sections 205(b) and 205(g) as provided in this paragraph, and in applying section 205(l) thereto, any reference therein to the Commissioner of Social Security or the Social Security Administration shall be considered a reference to the Secretary or the Department of Health and Human Services, respectively.

"(3) INDEPENDENT REVIEW OF COVERAGE DENIALS.—The Secretary shall contract with an independent, outside entity to review and resolve in a timely manner reconsiderations that affirm denial of coverage.

"(4) EXPEDITED DETERMINATIONS AND RECONSIDERATIONS.—

"(A) RECEIPT OF REQUESTS.—An enrollee in a MedicarePlus plan may request, either in writing or orally, an expedited determination or reconsideration by the MedicarePlus organization regarding a matter described in paragraph (2). The organization shall also permit the acceptance of such requests by physicians.

"(B) ORGANIZATION PROCEDURES.—

"(i) IN GENERAL.—The MedicarePlus organization shall maintain procedures for expediting organization determinations and reconsiderations when, upon request of an enrollee, the organization determines that the application of normal time frames for making a determination (or a reconsideration involving a determination) could seriously jeopardize the life or health of the enrollee or the enrollee's ability to regain maximum function.

"(ii) TIMELY RESPONSE.—In an urgent case described in clause (i), the organization shall notify the enrollee (and the physician involved, as appropriate) of the determination (or determination on the reconsideration) as expeditiously as the enrollee's health condition requires, but not later than 72 hours (or 24 hours in the case of a reconsideration) of the time of receipt of the request for the determination or reconsideration (or receipt of the information necessary to make the determination or reconsideration), or such longer period as the Secretary may permit in specified cases.

"(iii) SECRETARIAL REPORT.—The Secretary shall annually report publicly on the number and disposition of denials and appeals within each MedicarePlus organization, and those reviewed and resolved by the independent entities under this subsection.

"(h) CONFIDENTIALITY AND ACCURACY OF ENROLLEE RECORDS.—Each MedicarePlus organization shall establish procedures—

"(1) to safeguard the privacy of individually identifiable enrollee information,

"(2) to maintain accurate and timely medical records and other health information for enrollees, and

"(3) to assure timely access of enrollees to their medical information.

"(i) INFORMATION ON ADVANCE DIRECTIVES.—Each MedicarePlus organization shall meet the requirement of section 1866(f) (relating to maintaining written policies and procedures respecting advance directives).

"(j) RULES REGARDING PHYSICIAN PARTICIPATION.—

"(1) PROCEDURES.—Each MedicarePlus organization shall establish reasonable procedures relating to the participation (under an agreement between a physician and the organization) of physicians under MedicarePlus plans offered by the organization under this part. Such procedures shall include—

"(A) providing notice of the rules regarding participation,

"(B) providing written notice of participation decisions that are adverse to physicians, and

"(C) providing a process within the organization for appealing such adverse decisions, including the presentation of information and views of the physician regarding such decision.

"(2) CONSULTATION IN MEDICAL POLICIES.—A MedicarePlus organization shall consult with physicians who have entered into participation agreements with the organization regarding the organization's medical policy, quality, and medical management procedures.

"(3) PROHIBITING INTERFERENCE WITH PROVIDER ADVICE TO ENROLLEES.—

"(A) IN GENERAL.—Subject to subparagraphs (B) and (C), a MedicarePlus organization (in relation to an individual enrolled under a MedicarePlus plan offered by the organization under this part) shall not prohibit or otherwise restrict a covered health care professional (as defined in subparagraph (D)) from advising such an individual who is a patient of the professional about the health status of the individual or medical care or treatment for the individual's condition or disease, regardless of whether benefits for such care or treatment are provided under the plan, if the professional is acting within the lawful scope of practice.

"(B) CONSCIENCE PROTECTION.—Subparagraph (A) shall not be construed as requiring a MedicarePlus plan to provide, reimburse for, or provide coverage of a counseling or referral service if the MedicarePlus organization offering the plan—

"(i) objects to the provision of such service on moral or religious grounds; and

"(ii) in the manner and through the written instrumentalities such MedicarePlus organization deems appropriate, makes available information on its policies regarding such service to prospective enrollees before or during enrollment and to enrollees within 90 days after the date that the organization or plan adopts a change in policy regarding such a counseling or referral service.

"(C) CONSTRUCTION.—Nothing in subparagraph (B) shall be construed to affect disclosure requirements under State law or under the Employee Retirement Income Security Act of 1974.

"(D) HEALTH CARE PROFESSIONAL DEFINED.—For purposes of this paragraph, the term 'health care professional' means a physician (as defined in section 1861(r)) or other health care professional if coverage for the professional's services is provided under the MedicarePlus plan for the services of the professional. Such term includes a podiatrist, optometrist, chiropractor, psychologist, dentist, physician assistant, physical or occupational therapist and therapy assistant, speech-language pathologist, audiologist, registered or licensed practical nurse (including nurse practitioner, clinical nurse specialist, certified registered nurse anesthetist, and certified nurse-midwife), licensed certified social worker, registered respiratory therapist, and certified respiratory therapy technician.

“(4) LIMITATIONS ON HEALTH CARE PROVIDER INCENTIVE PLANS.—

“(A) IN GENERAL.—No MedicarePlus organization may operate any health care provider incentive plan (as defined in subparagraph (B)) unless the following requirements are met:

“(i) No specific payment is made directly or indirectly under the plan to a health care provider or health care provider group as an inducement to reduce or limit medically necessary services provided with respect to a specific individual enrolled with the organization.

“(ii) If the plan places a health care provider or health care provider group at substantial financial risk (as determined by the Secretary) for services not provided by the health care provider or health care provider group, the organization—

“(I) provides stop-loss protection for the health care provider or group that is adequate and appropriate, based on standards developed by the Secretary that take into account the number of health care providers placed at such substantial financial risk in the group or under the plan and the number of individuals enrolled with the organization who receive services from the health care provider or group, and

“(II) conducts periodic surveys of both individuals enrolled and individuals previously enrolled with the organization to determine the degree of access of such individuals to services provided by the organization and satisfaction with the quality of such services.

“(iii) The organization provides the Secretary with descriptive information regarding the plan, sufficient to permit the Secretary to determine whether the plan is in compliance with the requirements of this subparagraph.

“(B) HEALTH CARE PROVIDER INCENTIVE PLAN DEFINED.—In this paragraph, the term ‘health care provider incentive plan’ means any compensation arrangement between a MedicarePlus organization and a health care provider or health care provider group that may directly or indirectly have the effect of reducing or limiting services provided with respect to individuals enrolled with the organization under this part.

“(C) HEALTH CARE PROVIDER DEFINED.—For the purposes of this paragraph, the term ‘health care provider’ has the meaning given the term ‘health care professional’ in paragraph (3)(D).

“(5) LIMITATION ON PROVIDER INDEMNIFICATION.—A MedicarePlus organization may not provide (directly or indirectly) for a provider (or group of providers) to indemnify the organization against any liability resulting from a civil action brought for any damage caused to an enrollee with a MedicarePlus plan of the organization under this part by the organization's denial of medically necessary care.

“(6) LIMITATION ON NON-COMPETE CLAUSE.—A MedicarePlus organization may not (directly or indirectly) seek to enforce any contractual provision which prevents a provider whose contractual obligations to the organization for the provision of services through the organization have ended from joining or forming any competing MedicarePlus organization that is a provider-sponsored organization in the same area.

“(k) TREATMENT OF SERVICES FURNISHED BY CERTAIN PROVIDERS.—A physician or other entity (other than a provider of services) that does not have a contract establishing payment amounts for services furnished to an individual enrolled under this part with a MedicarePlus organization shall accept as payment in full for covered services under this title that are furnished to such an individual the amounts that the physician or other entity could collect if the individual were not so enrolled. Any penalty or other provision of law that applies to such a payment with respect to an individual entitled to benefits under this title (but not enrolled with a MedicarePlus organization under this part) also applies with respect to an individual so enrolled.

“(l) DISCLOSURE OF USE OF DSH AND TEACHING HOSPITALS.—Each MedicarePlus organization shall provide the Secretary with information on—

“(1) the extent to which the organization provides inpatient and outpatient hospital benefits under this part—

“(A) through the use of hospitals that are eligible for additional payments under section 1886(d)(5)(F)(i) (relating to so-called DSH hospitals), or

“(B) through the use of teaching hospitals that receive payments under section 1886(h); and

“(2) the extent to which differences between payment rates to different hospitals reflect the disproportionate share percentage of low-income patients and the presence of medical residency training programs in those hospitals.

“(m) OUT-OF-NETWORK ACCESS.—If an organization offers to members enrolled under this section one plan which provides for coverage of services covered under parts A and B primarily through providers and other persons who are members of a network of providers and other persons who have entered into a contract with the organization to provide such services, nothing in this section shall be construed as preventing the organization from offering such members (at the time of enrollment) another plan which provides for coverage of such items which are not furnished through such network providers.

“(n) NON-PREEMPTION OF STATE LAW.—A State may establish or enforce requirements with respect to beneficiary protections in this section, but only if such requirements are more stringent than the requirements established under this section.

“(o) NONDISCRIMINATION IN SELECTION OF NETWORK HEALTH PROFESSIONALS.—

“(1) IN GENERAL.—A MedicarePlus organization offering a MedicarePlus plan offering network coverage shall not discriminate in selecting the members of its health professional network (or in establishing the terms and conditions for membership in such network) on the basis of the race, national origin, gender, age, or disability (other than a disability that impairs the ability of an individual to provide health care services or that may threaten the health of enrollees) of the health professional.

“(2) APPROPRIATE RANGE OF SERVICES.—A MedicarePlus organization shall not deny any health care professionals, based solely on the license or certification as applicable under State law, the ability to participate in providing covered health care services, or be reimbursed or indemnified by a network plan for providing such services under this part.

“(2) DEFINITIONS.—For purposes of this subsection:

“(A) NETWORK.—The term ‘network’ means, with respect to a MedicarePlus organization offering a MedicarePlus plan, the participating health professionals and providers through whom the organization provides health care items and services to enrollees.

“(B) NETWORK COVERAGE.—The term ‘network coverage’ means a MedicarePlus plan offered by a MedicarePlus organization that provides or arranges for the provision of health care items and services to enrollees through participating health professionals and providers.

“(C) PARTICIPATING.—The term ‘participating’ means, with respect to a health professional or provider, a health professional or provider that provides health care items and services to enrollees under network coverage under an agreement with the MedicarePlus organization offering the coverage.

“(p) SPECIAL RULE FOR UNRESTRICTED FEE-FOR-SERVICE MSA PLANS.—Subsections (j)(1) and (k) shall not apply to a MedicarePlus organization with respect to an MSA plan it offers if the plan does not limit the providers through whom benefits may be obtained under the plan.

“PAYMENTS TO MEDICAREPLUS ORGANIZATIONS

“SEC. 1853. (a) PAYMENTS TO ORGANIZATIONS.—

“(1) MONTHLY PAYMENTS.—

“(A) IN GENERAL.—Under a contract under section 1857 and subject to subsections (e) and (f), the Secretary shall make monthly payments under this section in advance to each MedicarePlus organization, with respect to coverage of an individual under this part in a MedicarePlus payment area for a month, in an amount equal to $\frac{1}{12}$ of the annual MedicarePlus capitation rate (as calculated under subsection (c)) with respect to that individual for that area, adjusted for such risk factors as age, disability status, gender, institutional status, and such other factors as the Secretary determines to be appropriate, so as to ensure actuarial equivalence. The Secretary may add to, modify, or substitute for such factors, if such changes will improve the determination of actuarial equivalence.

“(B) SPECIAL RULE FOR END-STAGE RENAL DISEASE.—The Secretary shall establish separate rates of payment to a MedicarePlus organization with respect to classes of individuals determined to have end-stage renal disease and enrolled in a MedicarePlus plan of the organization. Such rates of payment shall be actuarially equivalent to rates paid to other enrollees in the MedicarePlus payment area (or such other area as specified by the Secretary). In accordance with regulations, the Secretary shall provide for the application of the seventh sentence of section 1881(b)(7) to payments under this section covering the provision of renal dialysis treatment in the same manner as such sentence applies to composite rate payments described in such sentence.

“(2) ADJUSTMENT TO REFLECT NUMBER OF ENROLLEES.—

“(A) IN GENERAL.—The amount of payment under this subsection may be retroactively adjusted to take into account any difference between the actual number of individuals enrolled with an organization under this part and the number of such individuals estimated to be so enrolled in determining the amount of the advance payment.

“(B) SPECIAL RULE FOR CERTAIN ENROLLEES.—

“(i) IN GENERAL.—Subject to clause (ii), the Secretary may make retroactive adjustments under subparagraph (A) to take into account individuals enrolled during the period beginning on the date on which the individual enrolls with a MedicarePlus organization under a plan operated, sponsored, or contributed to by the individual's employer or former employer (or the employer or former employer of the individual's spouse) and ending on the date on which the individual is enrolled in the organization under this part, except that for purposes of making such retroactive adjustments under this subparagraph, such period may not exceed 90 days.

"(ii) EXCEPTION.—No adjustment may be made under clause (i) with respect to any individual who does not certify that the organization provided the individual with the information required to be disclosed under section 1852(c) at the time the individual enrolled with the organization.

"(3) ESTABLISHMENT OF RISK ADJUSTMENT FACTORS.—

"(A) REPORT.—The Secretary shall develop, and submit to Congress by not later than October 1, 1999, a report on a method of risk adjustment of payment rates under this section that accounts for variations in per capita costs based on health status. Such report shall include an evaluation of such method by an outside, independent actuary of the actuarial soundness of the proposal.

"(B) DATA COLLECTION.—In order to carry out this paragraph, the Secretary shall require MedicarePlus organizations (and eligible organizations with risk-sharing contracts under section 1876) to submit, for periods beginning on or after January 1, 1998, data regarding inpatient hospital services and other services and other information the Secretary deems necessary.

"(C) INITIAL IMPLEMENTATION.—The Secretary shall first provide for implementation of a risk adjustment methodology that accounts for variations in per capita costs based on health status and other demographic factors for payments by no later than January 1, 2000.

"(b) ANNUAL ANNOUNCEMENT OF PAYMENT RATES.—

"(1) ANNUAL ANNOUNCEMENT.—The Secretary shall annually determine, and shall announce (in a manner intended to provide notice to interested parties) not later than August 1 before the calendar year concerned—

"(A) the annual MedicarePlus capitation rate for each MedicarePlus payment area for the year, and

"(B) the risk and other factors to be used in adjusting such rates under subsection (a)(1)(A) for payments for months in that year.

"(2) ADVANCE NOTICE OF METHODOLOGICAL CHANGES.—At least 45 days before making the announcement under paragraph (1) for a year, the Secretary shall provide for notice to MedicarePlus organizations of proposed changes to be made in the methodology from the methodology and assumptions used in the previous announcement and shall provide such organizations an opportunity to comment on such proposed changes.

"(3) EXPLANATION OF ASSUMPTIONS.—In each announcement made under paragraph (1), the Secretary shall include an explanation of the assumptions and changes in methodology used in the announcement in sufficient detail so that MedicarePlus organizations can compute monthly adjusted MedicarePlus capitation rates for individuals in each MedicarePlus payment area which is in whole or in part within the service area of such an organization.

"(c) CALCULATION OF ANNUAL MEDICAREPLUS CAPITATION RATES.—

"(1) IN GENERAL.—For purposes of this part, each annual MedicarePlus capitation rate, for a MedicarePlus payment area for a contract year consisting of a calendar year, is equal to the largest of the amounts specified in the following subparagraphs (A), (B), or (C):

"(A) BLENDED CAPITATION RATE.—The sum of—

"(i) area-specific percentage for the year (as specified under paragraph (2) for the year) of the annual area-specific MedicarePlus capitation rate for the year for the MedicarePlus payment area, as determined under paragraph (3), and

"(ii) national percentage (as specified under paragraph (2) for the year) of the input-price-adjusted annual national MedicarePlus capitation rate for the year, as determined under paragraph (4),

multiplied by the payment adjustment factors described in subparagraphs (A) and (B) of paragraph (5).

"(B) MINIMUM AMOUNT.—12 multiplied by the following amount:

"(i) For 1998, $350 (but not to exceed, in the case of an area outside the 50 States and the District of Columbia, 150 percent of the annual per capita rate of payment for 1997 determined under section 1876(a)(1)(C) for the area).

"(ii) For a succeeding year, the minimum amount specified in this clause (or clause (i)) for the preceding year increased by the national per capita MedicarePlus growth percentage, specified under paragraph (6) for that succeeding year.

"(C) MINIMUM PERCENTAGE INCREASE.—

"(i) For 1998, the annual per capita rate of payment for 1997 determined under section 1876(a)(1)(C) for the MedicarePlus payment area.

"(ii) For 1999 and 2000, 101 percent of the annual MedicarePlus capitation rate under this paragraph for the area for the previous year.

"(iii) For a subsequent year, 102 percent of the annual MedicarePlus capitation rate under this paragraph for the area for the previous year.

"(2) AREA-SPECIFIC AND NATIONAL PERCENTAGES.—For purposes of paragraph (1)(A)—

"(A) for 1998, the 'area-specific percentage' is 90 percent and the 'national percentage' is 10 percent,

"(B) for 1999, the 'area-specific percentage' is 85 percent and the 'national percentage' is 15 percent,

"(C) for 2000, the 'area-specific percentage' is 80 percent and the 'national percentage' is 20 percent,

"(D) for 2001, the 'area-specific percentage' is 75 percent and the 'national percentage' is 25 percent, and

"(E) for a year after 2001, the 'area-specific percentage' is 70 percent and the 'national percentage' is 30 percent.

"(3) ANNUAL AREA-SPECIFIC MEDICAREPLUS CAPITATION RATE.—

"(A) IN GENERAL.—For purposes of paragraph (1)(A), subject to subparagraph (B), the annual area-specific MedicarePlus capitation rate for a MedicarePlus payment area—

"(i) for 1998 is the annual per capita rate of payment for 1997 determined under section 1876(a)(1)(C) for the area, increased by the national per capita MedicarePlus growth percentage for 1998 (as defined in paragraph (6)); or

"(ii) for a subsequent year is the annual area-specific MedicarePlus capitation rate for the previous year determined under this paragraph for the area, increased by the national per capita MedicarePlus growth percentage for such subsequent year.

"(B) REMOVAL OF MEDICAL EDUCATION AND DISPROPORTIONATE SHARE HOSPITAL PAYMENTS FROM CALCULATION OF ADJUSTED AVERAGE PER CAPITA COST.—

"(i) IN GENERAL.—In determining the area-specific MedicarePlus capitation rate under subparagraph (A), for a year (beginning with 1998), the annual per capita rate of payment for 1997 determined under section 1876(a)(1)(C) shall be adjusted to exclude from the rate the applicable percent (specified in clause (ii)) of the payment adjustments described in subparagraph (C).

"(ii) APPLICABLE PERCENT.—For purposes of clause (i), the applicable percent for—

"(I) 1998 is 20 percent,

"(II) 1999 is 40 percent,

"(III) 2000 is 60 percent,

"(IV) 2001 is 80 percent, and

"(V) a succeeding year is 100 percent.

"(C) PAYMENT ADJUSTMENT.—The payment adjustments described in this subparagraph are payment adjustments which the Secretary estimates were payable during 1997—

"(i) under section 1886(d)(5)(F) for hospitals serving a disproportionate share of low-income patients,

"(ii) for the indirect costs of medical education under section 1886(d)(5)(B), and

"(iii) for direct graduate medical education costs under section 1886(h),

multiplied by a ratio (estimated by the Secretary) of total payments under subsection (h) and section 1858 in 1998 to payments under such subsection and payments under such section in such year for hospitals not reimbursed under section 1814(b)(3).

"(4) INPUT-PRICE-ADJUSTED ANNUAL NATIONAL MEDICAREPLUS CAPITATION RATE.—

"(A) IN GENERAL.—For purposes of paragraph (1)(A), the input-price-adjusted annual national MedicarePlus capitation rate for a MedicarePlus payment area for a year is equal to the sum, for all the types of medicare services (as classified by the Secretary), of the product (for each such type of service) of—

"(i) the national standardized annual MedicarePlus capitation rate (determined under subparagraph (B)) for the year,

"(ii) the proportion of such rate for the year which is attributable to such type of services, and

"(iii) an index that reflects (for that year and that type of services) the relative input price of such services in the area compared to the national average input price of such services.

In applying clause (iii), the Secretary shall, subject to subparagraph (C), apply those indices under this title that are used in applying (or updating) national payment rates for specific areas and localities.

"(B) NATIONAL STANDARDIZED ANNUAL MEDICAREPLUS CAPITATION RATE.—In subparagraph (A)(i), the 'national standardized annual MedicarePlus capitation rate' for a year is equal to—

"(i) the sum (for all MedicarePlus payment areas) of the product of—

"(I) the annual area-specific MedicarePlus capitation rate for that year for the area under paragraph (3), and

"(II) the average number of medicare beneficiaries residing in that area in the year, multiplied by the average of the risk factor weights used to adjust payments under subsection (a)(1)(A) for such beneficiaries in such area; divided by

"(ii) the sum of the products described in clause (i)(II) for all areas for that year.

"(C) SPECIAL RULES FOR 1998.—In applying this paragraph for 1998—

"(i) medicare services shall be divided into 2 types of services: part A services and part B services;

"(ii) the proportions described in subparagraph (A)(ii)—

"(I) for part A services shall be the ratio (expressed as a percentage) of the national average annual per capita rate of payment for part A for 1997 to the total national average annual per capita rate of payment for parts A and B for 1997, and

"(II) for part B services shall be 100 percent minus the ratio described in subclause (I);

"(iii) for part A services, 70 percent of payments attributable to such services shall be adjusted by the index used under section 1886(d)(3)(E) to adjust payment rates for relative hospital wage levels for hospitals located in the payment area involved;

"(iv) for part B services—

"(I) 66 percent of payments attributable to such services shall be adjusted by the index of the geographic area factors under section 1848(e) used to adjust payment rates for physicians' services furnished in the payment area, and

"(II) of the remaining 34 percent of the amount of such payments, 40 percent shall be adjusted by the index described in clause (iii); and

"(v) the index values shall be computed based only on the beneficiary population who are 65 years of age or older and who are not determined to have end stage renal disease.

The Secretary may continue to apply the rules described in this subparagraph (or similar rules) for 1999.

"(5) PAYMENT ADJUSTMENT BUDGET NEUTRALITY FACTORS.—For purposes of paragraph (1)(A)—

"(A) BLENDED RATE PAYMENT ADJUSTMENT FACTOR.—For each year, the Secretary shall compute a blended rate payment adjustment factor such that, not taking into account subparagraphs (B) and (C) of paragraph (1) and the application of the payment adjustment factor described in subparagraph (B) but taking into account paragraph (7), the aggregate of the payments that would be made under this part is equal to the aggregate payments that would have been made under this part (not taking into account such subparagraphs and such other adjustment factor) if the area-specific percentage under paragraph (1) for the year had been 100 percent and the national percentage had been 0 percent.

"(B) FLOOR-AND-MINIMUM-UPDATE PAYMENT ADJUSTMENT FACTOR.—For each year, the Secretary shall compute a floor-and-minimum-update payment adjustment factor so that, taking into account the application of the blended rate payment adjustment factor under subparagraph (A) and subparagraphs (B) and (C) of paragraph (1) and the application of the adjustment factor under this subparagraph, the aggregate of the payments under this part shall not exceed the aggregate payments that would have been made under this part if subparagraphs (B) and (C) of paragraph (1) did not apply and if the floor-and-minimum-update payment adjustment factor under this subparagraph was 1.

"(6) NATIONAL PER CAPITA MEDICAREPLUS GROWTH PERCENTAGE DEFINED.—

"(A) IN GENERAL.—In this part, the 'national per capita MedicarePlus growth percentage' for a year is the percentage determined by the Secretary, by April 30th before the beginning of the year involved, to reflect the Secretary's estimate of the projected per capita rate of growth in expenditures under this title for an individual entitled to benefits under part A and enrolled under part B, reduced by the number of percentage points specified in subparagraph (B) for the year. Separate determinations may be made for aged enrollees, disabled enrollees, and enrollees with end-stage renal disease. Such percentage shall include an adjustment for over or under projection in the growth percentage for previous years.

"(B) ADJUSTMENT.—The number of percentage points specified in this subparagraph is—

"(i) for 1998, 0.5 percentage points,

"(ii) for 1999, 0.5 percentage points,

"(iii) for 2000, 0.5 percentage points,

"(iv) for 2001, 0.5 percentage points,

"(v) for 2002, 0.5 percentage points, and

"(vi) for a year after 2002, 0 percentage points.

"(7) TREATMENT OF AREAS WITH HIGHLY VARIABLE PAYMENT RATES.—In the case of a MedicarePlus payment area for which the annual per capita rate of payment determined under section 1876(a)(1)(C) for 1997 varies by more than 20 percent from such rate for 1996, for purposes of this subsection the Secretary may substitute for such rate for 1997 a rate that is more representative of the costs of the enrollees in the area.

"(d) MEDICAREPLUS PAYMENT AREA DEFINED.—

"(1) IN GENERAL.—In this part, except as provided in paragraph (3), the term 'MedicarePlus payment area' means a county, or equivalent area specified by the Secretary.

"(2) RULE FOR ESRD BENEFICIARIES.—In the case of individuals who are determined to have end stage renal disease, the MedicarePlus payment area shall be a State or such other payment area as the Secretary specifies.

"(3) GEOGRAPHIC ADJUSTMENT.—

"(A) IN GENERAL.—Upon written request of the chief executive officer of a State for a contract year (beginning after 1998) made at least 7 months before the beginning of the year, the Secretary shall make a geographic adjustment to a MedicarePlus payment area in the State otherwise determined under paragraph (1)—

"(i) to a single statewide MedicarePlus payment area,

"(ii) to the metropolitan based system described in subparagraph (C), or

"(iii) to consolidating into a single MedicarePlus payment area noncontiguous counties (or equivalent areas described in paragraph (1)) within a State.

Such adjustment shall be effective for payments for months beginning with January of the year following the year in which the request is received.

"(B) BUDGET NEUTRALITY ADJUSTMENT.—In the case of a State requesting an adjustment under this paragraph, the Secretary shall adjust the payment rates otherwise established under this section for MedicarePlus payment areas in the State in a manner so that the aggregate of the payments under this section in the State shall not exceed the aggregate payments that would have been made under this section for MedicarePlus payment areas in the State in the absence of the adjustment under this paragraph.

"(C) METROPOLITAN BASED SYSTEM.—The metropolitan based system described in this subparagraph is one in which—

"(i) all the portions of each metropolitan statistical area in the State or in the case of a consolidated metropolitan statistical area, all of the portions of each primary metropolitan statistical area within the consolidated area within the State, are treated as a single MedicarePlus payment area, and

"(ii) all areas in the State that do not fall within a metropolitan statistical area are treated as a single MedicarePlus payment area.

"(D) AREAS.—In subparagraph (C), the terms 'metropolitan statistical area', 'consolidated metropolitan statistical area', and 'primary metropolitan statistical area' mean any area designated as such by the Secretary of Commerce.

"(e) SPECIAL RULES FOR INDIVIDUALS ELECTING MSA PLANS.—

"(1) IN GENERAL.—If the amount of the monthly premium for an MSA plan for a MedicarePlus payment area for a year is less than 1/12 of the annual MedicarePlus capitation rate applied under this section for the area and year involved, the Secretary shall deposit an amount equal to 100 percent of such difference in a MedicarePlus MSA established (and, if applicable, designated) by the individual under paragraph (2).

"(2) ESTABLISHMENT AND DESIGNATION OF MEDICAREPLUS MEDICAL SAVINGS ACCOUNT AS REQUIREMENT FOR PAYMENT OF CONTRIBUTION.—In the case of an individual who has elected coverage under an MSA plan, no payment shall be made under paragraph (1) on behalf of an individual for a month unless the individual—

"(A) has established before the beginning of the month (or by such other deadline as the Secretary may specify) a MedicarePlus MSA (as defined in section 138(b)(2) of the Internal Revenue Code of 1986), and

"(B) if the individual has established more than one such MedicarePlus MSA, has designated one of such accounts as the individual's MedicarePlus MSA for purposes of this part.

Under rules under this section, such an individual may change the designation of such account under subparagraph (B) for purposes of this part.

"(3) LUMP SUM DEPOSIT OF MEDICAL SAVINGS ACCOUNT CONTRIBUTION.—In the case of an individual electing an MSA plan effective beginning with a month in a year, the amount of the contribution to the MedicarePlus MSA on behalf of the individual for that month and all successive months in the year shall be deposited during that first month. In the case of a termination of such an election as of a month before the end of a year, the Secretary shall provide for a procedure for the recovery of deposits attributable to the remaining months in the year.

"(f) PAYMENTS FROM TRUST FUND.—The payment to a MedicarePlus organization under this section for individuals enrolled under this part with the organization and payments to a MedicarePlus MSA under subsection (e)(1) shall be made from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund in such proportion as the Secretary determines reflects the relative weight that benefits under part A and under part B represents of the actuarial value of the total benefits under this title. Monthly payments otherwise payable under this section for October 2001 shall be paid on the last business day of September 2001.

"(g) SPECIAL RULE FOR CERTAIN INPATIENT HOSPITAL STAYS.—In the case of an individual who is receiving inpatient hospital services from a subsection (d) hospital (as defined in section 1886(d)(1)(B)) as of the effective date of the individual's—

"(1) election under this part of a MedicarePlus plan offered by a MedicarePlus organization—

"(A) payment for such services until the date of the individual's discharge shall be made under this title through the MedicarePlus plan or the medicare fee-for-service program option described in section 1851(a)(1)(A) (as the case may be) elected before the election with such organization, “(B) the elected organization shall not be financially responsible for payment for such services until the date after the date of the individual's discharge, and

“(C) the organization shall nonetheless be paid the full amount otherwise payable to the organization under this part; or

“(2) termination of election with respect to a MedicarePlus organization under this part—

“(A) the organization shall be financially responsible for payment for such services after such date and until the date of the individual's discharge,

“(B) payment for such services during the stay shall not be made under section 1886(d) or by any succeeding MedicarePlus organization, and

“(C) the terminated organization shall not receive any payment with respect to the individual under this part during the period the individual is not enrolled.

“PREMIUMS

“SEC. 1854. (a) SUBMISSION AND CHARGING OF PREMIUMS.—

“(1) IN GENERAL.—Subject to paragraph (3), each MedicarePlus organization shall file with the Secretary each year, in a form and manner and at a time specified by the Secretary—

“(A) the amount of the monthly premium for coverage for services under section 1852(a) under each MedicarePlus plan it offers under this part in each MedicarePlus payment area (as defined in section 1853(d)) in which the plan is being offered; and

“(B) the enrollment capacity in relation to the plan in each such area.

“(2) TERMINOLOGY.—In this part—

“(A) the term ‘monthly premium’ means, with respect to a MedicarePlus plan offered by a MedicarePlus organization, the monthly premium filed under paragraph (1), not taking into account the amount of any payment made toward the premium under section 1853; and

“(B) the term ‘net monthly premium’ means, with respect to such a plan and an individual enrolled with the plan, the premium (as defined in subparagraph (A)) for the plan reduced by the amount of payment made toward such premium under section 1853.

“(b) MONTHLY PREMIUM CHARGED.—The monthly amount of the premium charged by a MedicarePlus organization for a MedicarePlus plan offered in a MedicarePlus payment area to an individual under this part shall be equal to the net monthly premium plus any monthly premium charged in accordance with subsection (e)(2) for supplemental benefits.

“(c) UNIFORM PREMIUM.—The monthly premium and monthly amount charged under subsection (b) of a MedicarePlus organization under this part may not vary among individuals who reside in the same MedicarePlus payment area.

“(d) TERMS AND CONDITIONS OF IMPOSING PREMIUMS.—Each MedicarePlus organization shall permit the payment of net monthly premiums on a monthly basis and may terminate election of individuals for a MedicarePlus plan for failure to make premium payments only in accordance with section 1851(g)(3)(B)(i). A MedicarePlus organization is not authorized to provide for cash or other monetary rebates as an inducement for enrollment or otherwise.

“(e) LIMITATION ON ENROLLEE COST-SHARING.—

“(1) FOR BASIC AND ADDITIONAL BENEFITS.—Except as provided in paragraph (2), in no event may—

“(A) the net monthly premium (multiplied by 12) and the actuarial value of the deductibles, coinsurance, and copayments applicable on average to individuals enrolled under this part with a MedicarePlus plan of an organization with respect to required benefits described in section 1852(a)(1) and additional benefits (if any) required under subsection (f)(1) for a year, exceed

“(B) the actuarial value of the deductibles, coinsurance, and copayments that would be applicable on average to individuals entitled to benefits under part A and enrolled under part B if they were not members of a MedicarePlus organization for the year.

“(2) FOR SUPPLEMENTAL BENEFITS.—If the MedicarePlus organization provides to its members enrolled under this part supplemental benefits described in section 1852(a)(3), the sum of the monthly premium rate (multiplied by 12) charged for such supplemental benefits and the actuarial value of its deductibles, coinsurance, and copayments charged with respect to such benefits may not exceed the adjusted community rate for such benefits (as defined in subsection (f)(4)).

“(3) EXCEPTION FOR MSA PLANS.—Paragraphs (1) and (2) do not apply to an MSA plan.

“(4) DETERMINATION ON OTHER BASIS.—If the Secretary determines that adequate data are not available to determine the actuarial value under paragraph (1)(A) or (2), the Secretary may determine such amount with respect to all individuals in the MedicarePlus payment area, the State, or in the United States, eligible to enroll in the MedicarePlus plan involved under this part or on the basis of other appropriate data.

“(f) REQUIREMENT FOR ADDITIONAL BENEFITS.—

“(1) REQUIREMENT.—

“(A) IN GENERAL.—Each MedicarePlus organization (in relation to a MedicarePlus plan it offers) shall provide that if there is an excess amount (as defined in subparagraph (B)) for the plan for a contract year, subject to the succeeding provisions of this subsection, the organization shall provide to individuals such additional benefits (as the organization may specify) in a value which is at least equal to the adjusted excess amount (as defined in subparagraph (C)).

“(B) EXCESS AMOUNT.—For purposes of this paragraph, the ‘excess amount’, for an organization for a plan, is the amount (if any) by which—

“(i) the average of the capitation payments made to the organization under section 1853 for the plan at the beginning of contract year, exceeds

“(ii) the actuarial value of the required benefits described in section 1852(a)(1) under the plan for individuals under this part, as determined based upon an adjusted community rate described in paragraph (4) (as reduced for the actuarial value of the coinsurance and deductibles under parts A and B).

“(C) ADJUSTED EXCESS AMOUNT.—For purposes of this paragraph, the ‘adjusted excess amount’, for an organization for a plan, is the excess amount reduced to reflect any amount withheld and reserved for the organization for the year under paragraph (2).

“(D) NO APPLICATION TO MSA PLANS.—Subparagraph (A) shall not apply to an MSA plan.

“(E) UNIFORM APPLICATION.—This paragraph shall be applied uniformly for all enrollees for a plan in a MedicarePlus payment area.

“(F) CONSTRUCTION.—Nothing in this subsection shall be construed as preventing a MedicarePlus organization from providing health care benefits that are in addition to the benefits otherwise required to be provided under this paragraph and from imposing a premium for such additional benefits.

“(2) STABILIZATION FUND.—A MedicarePlus organization may provide that a part of the value of an excess amount described in paragraph (1) be withheld and reserved in the Federal Hospital Insurance Trust Fund and in the Federal Supplementary Medical Insurance Trust Fund (in such proportions as the Secretary determines to be appropriate) by the Secretary for subsequent annual contract periods, to the extent required to stabilize and prevent undue fluctuations in the additional benefits offered in those subsequent periods by the organization in accordance with such paragraph. Any of such value of the amount reserved which is not provided as additional benefits described in paragraph (1)(A) to individuals electing the MedicarePlus plan of the organization in accordance with such paragraph prior to the end of such periods, shall revert for the use of such trust funds.

“(3) DETERMINATION BASED ON INSUFFICIENT DATA.—For purposes of this subsection, if the Secretary finds that there is insufficient enrollment experience (including no enrollment experience in the case of a provider-sponsored organization) to determine an average of the capitation payments to be made under this part at the beginning of a contract period, the Secretary may determine such an average based on the enrollment experience of other contracts entered into under this part.

“(4) ADJUSTED COMMUNITY RATE.—

“(A) IN GENERAL.—For purposes of this subsection, subject to subparagraph (B), the term ‘adjusted community rate’ for a service or services means, at the election of a MedicarePlus organization, either—

“(i) the rate of payment for that service or services which the Secretary annually determines would apply to an individual electing a MedicarePlus plan under this part if the rate of payment were determined under a ‘community rating system’ (as defined in section 1302(8) of the Public Health Service Act, other than subparagraph (C)), or

“(ii) such portion of the weighted aggregate premium, which the Secretary annually estimates would apply to such an individual, as the Secretary annually estimates is attributable to that service or services,

but adjusted for differences between the utilization characteristics of the individuals electing coverage under this part and the utilization characteristics of the other enrollees with the plan (or, if the Secretary finds that adequate data are not available to adjust for those differences, the differences between the utilization characteristics of individuals selecting other MedicarePlus coverage, or MedicarePlus eligible individuals in the area, in the State, or in the United States, eligible to elect MedicarePlus coverage under this part and the utilization characteristics of the rest of the population in the area, in the State, or in the United States, respectively).

“(B) SPECIAL RULE FOR PROVIDER-SPONSORED ORGANIZATIONS.—In the case of a MedicarePlus organization that is a provider-sponsored organization, the adjusted community rate under subparagraph (A) for a MedicarePlus plan of the organization may be computed (in a manner specified by the Secretary) using data in the general commercial marketplace or (during a transition period) based on the costs incurred by the organization in providing such a plan.

“(g) PERIODIC AUDITING.—The Secretary shall provide for the annual auditing of the financial records (including data relating to medicare utilization, costs, and computation of the adjusted community rate) of at least one-third of the MedicarePlus organizations offering MedicarePlus plans under this part. The Comptroller General shall monitoring auditing activities conducted under this subsection.

"(h) Prohibition of State Imposition of Premium Taxes.—No State may impose a premium tax or similar tax with respect to premiums on MedicarePlus plans or the offering of such plans.

"ORGANIZATIONAL AND FINANCIAL REQUIREMENTS FOR MEDICAREPLUS ORGANIZATIONS; PROVIDER-SPONSORED ORGANIZATIONS

"Sec. 1855. (a) Organized and Licensed Under State Law.—

"(1) In general.—Subject to paragraphs (2) and (3), a MedicarePlus organization shall be organized and licensed under State law as a risk-bearing entity eligible to offer health insurance or health benefits coverage in each State in which it offers a MedicarePlus plan.

"(2) Special exception for provider-sponsored organizations.—

"(A) In general.—In the case of a provider-sponsored organization that seeks to offer a MedicarePlus plan in a State, the Secretary shall waive the requirement of paragraph (1) that the organization be licensed in that State if—

"(i) the organization files an application for such waiver with the Secretary, and

"(ii) the Secretary determines, based on the application and other evidence presented to the Secretary, that any of the grounds for approval of the application described in subparagraph (B), (C), or (D) has been met.

"(B) Failure to act on licensure application on a timely basis.—A ground for approval of such a waiver application is that the State has failed to complete action on a licensing application of the organization within 90 days of the date of the State's receipt of the application. No period before the date of the enactment of this section shall be included in determining such 90-day period.

"(C) Denial of application based on discriminatory treatment.—A ground for approval of such a waiver application is that the State has denied such a licensing application and—

"(i) the State has imposed documentation or information requirements not related to solvency requirements that are not generally applicable to other entities engaged in substantially similar business, or

"(ii) the standards or review process imposed by the State as a condition of approval of the license imposes any material requirements, procedures, or standards (other than requirements and standards relating to solvency) to such organizations that are not generally applicable to other entities engaged in substantially similar business.

"(D) Denial of application based on application of solvency requirements.—A ground for approval of such a waiver application is that the State has denied such a licensing application based (in whole or in part) on the organization's failure to meet applicable solvency requirements and—

"(i) such requirements are not the same as the solvency standards established under section 1856(a); or

"(ii) the State has imposed as a condition of approval of the license any documentation or information requirements relating to solvency or other material requirements, procedures, or standards relating to solvency that are different from the requirements, procedures, and standards applied by the Secretary under subsection (d)(2).

For purposes of this subparagraph, the term 'solvency requirements' means requirements relating to solvency and other matters covered under the standards established under section 1856(a).

"(E) Treatment of waiver.—Subject to section 1852(m), in the case of a waiver granted under this paragraph for a provider-sponsored organization—

"(i) the waiver shall be effective for a 36-month period, except it may be renewed based on a subsequent application filed during the last 6 months of such period,

"(ii) the waiver is conditioned upon the pendency of the licensure application during the period the waiver is in effect, and

"(iii) any provisions of State law which relate to the licensing of the organization and which prohibit the organization from providing coverage pursuant to a contract under this part shall be superseded.

Nothing in this subparagraph shall be construed as limiting the number of times such a waiver may be renewed. Nothing in clause (iii) shall be construed as waiving any provision of State law which relates to quality of care or consumer protection (and does not relate to solvency standards) and which is imposed on a uniform basis and is generally applicable to other entities engaged in substantially similar business.

"(F) Prompt action on application.—The Secretary shall grant or deny such a waiver application within 60 days after the date the Secretary determines that a substantially complete application has been filed. Nothing in this section shall be construed as preventing an organization which has had such a waiver application denied from submitting a subsequent waiver application.

"(3) Exception if required to offer more than MedicarePlus plans.—Paragraph (1) shall not apply to a MedicarePlus organization in a State if the State requires the organization, as a condition of licensure, to offer any product or plan other than a MedicarePlus plan.

"(4) Licensure does not substitute for or constitute certification.—The fact that an organization is licensed in accordance with paragraph (1) does not deem the organization to meet other requirements imposed under this part.

"(b) Prepaid Payment.—A MedicarePlus organization shall be compensated (except for premiums, deductibles, coinsurance, and copayments) for the provision of health care services to enrolled members under the contract under this part by a payment which is paid on a periodic basis without regard to the date the health care services are provided and which is fixed without regard to the frequency, extent, or kind of health care service actually provided to a member.

"(c) Assumption of Full Financial Risk.—The MedicarePlus organization shall assume full financial risk on a prospective basis for the provision of the health care services (except, at the election of the organization, hospice care) for which benefits are required to be provided under section 1852(a)(1), except that the organization—

"(1) may obtain insurance or make other arrangements for the cost of providing to any enrolled member such services the aggregate value of which exceeds $5,000 in any year,

"(2) may obtain insurance or make other arrangements for the cost of such services provided to its enrolled members other than through the organization because medical necessity required their provision before they could be secured through the organization,

"(3) may obtain insurance or make other arrangements for not more than 90 percent of the amount by which its costs for any of its fiscal years exceed 115 percent of its income for such fiscal year, and

"(4) may make arrangements with physicians or other health professionals, health care institutions, or any combination of such individuals or institutions to assume all or part of the financial risk on a prospective basis for the provision of basic health services by the physicians or other health professionals or through the institutions.

"(d) Certification of Provision Against Risk of Insolvency for Unlicensed PSOs.—

"(1) In general.—Each MedicarePlus organization that is a provider-sponsored organization, that is not licensed by a State under subsection (a), and for which a waiver application has been approved under subsection (a)(2), shall meet standards established under section 1856(a) relating to the financial solvency and capital adequacy of the organization.

"(2) Certification process for solvency standards for PSOs.—The Secretary shall establish a process for the receipt and approval of applications of a provider-sponsored organization described in paragraph (1) for certification (and periodic recertification) of the organization as meeting such solvency standards. Under such process, the Secretary shall act upon such an application not later than 60 days after the date the application has been received.

"(e) Provider-Sponsored Organization Defined.—

"(1) In general.—In this part, the term 'provider-sponsored organization' means a public or private entity—

"(A) that is established or organized by a health care provider, or group of affiliated health care providers,

"(B) that provides a substantial proportion (as defined by the Secretary in accordance with paragraph (2)) of the health care items and services under the contract under this part directly through the provider or affiliated group of providers, and

"(C) with respect to which those affiliated providers that share, directly or indirectly, substantial financial risk with respect to the provision of such items and services have at least a majority financial interest in the entity.

"(2) Substantial proportion.—In defining what is a 'substantial proportion' for purposes of paragraph (1)(B), the Secretary—

"(A) shall take into account (i) the need for such an organization to assume responsibility for a substantial proportion of services in order to assure financial stability and (ii) the practical difficulties in such an organization integrating a very wide range of service providers; and

"(B) may vary such proportion based upon relevant differences among organizations, such as their location in an urban or rural area.

"(3) Affiliation.—For purposes of this subsection, a provider is 'affiliated' with another provider if, through contract, ownership, or otherwise—

"(A) one provider, directly or indirectly, controls, is controlled by, or is under common control with the other,

"(B) both providers are part of a controlled group of corporations under section 1563 of the Internal Revenue Code of 1986, or

"(C) both providers are part of an affiliated service group under section 414 of such Code.

"(4) Control.—For purposes of paragraph (3), control is presumed to exist if one party, directly or indirectly, owns, controls, or holds the power to vote, or proxies for, not less than 51 percent of the voting rights or governance rights of another.

"(5) HEALTH CARE PROVIDER DEFINED.—In this subsection, the term 'health care provider' means—

"(A) any individual who is engaged in the delivery of health care services in a State and who is required by State law or regulation to be licensed or certified by the State to engage in the delivery of such services in the State, and

"(B) any entity that is engaged in the delivery of health care services in a State and that, if it is required by State law or regulation to be licensed or certified by the State to engage in the delivery of such services in the State, is so licensed.

"(6) REGULATIONS.—The Secretary shall issue regulations to carry out this subsection.

"ESTABLISHMENT OF STANDARDS

"SEC. 1856. (a) ESTABLISHMENT OF SOLVENCY STANDARDS FOR PROVIDER-SPONSORED ORGANIZATIONS.—

"(1) ESTABLISHMENT.—

"(A) IN GENERAL.—The Secretary shall establish, on an expedited basis and using a negotiated rulemaking process under subchapter III of chapter 5 of title 5, United States Code, standards described in section 1855(d)(1) (relating to the financial solvency and capital adequacy of the organization) that entities must meet to qualify as provider-sponsored organizations under this part.

"(B) FACTORS TO CONSIDER FOR SOLVENCY STANDARDS.—In establishing solvency standards under subparagraph (A) for provider-sponsored organizations, the Secretary shall consult with interested parties and shall take into account—

"(i) the delivery system assets of such an organization and ability of such an organization to provide services directly to enrollees through affiliated providers, and

"(ii) alternative means of protecting against insolvency, including reinsurance, unrestricted surplus, letters of credit, guarantees, organizational insurance coverage, partnerships with other licensed entities, and valuation attributable to the ability of such an organization to meet its service obligations through direct delivery of care.

"(C) ENROLLEE PROTECTION AGAINST INSOLVENCY.—Such standards shall include provisions to prevent enrollees from being held liable to any person or entity for the MedicarePlus organization's debts in the event of the organization's insolvency.

"(2) PUBLICATION OF NOTICE.—In carrying out the rulemaking process under this subsection, the Secretary, after consultation with the National Association of Insurance Commissioners, the American Academy of Actuaries, organizations representative of medicare beneficiaries, and other interested parties, shall publish the notice provided for under section 564(a) of title 5, United States Code, by not later than 45 days after the date of the enactment of this section.

"(3) TARGET DATE FOR PUBLICATION OF RULE.—As part of the notice under paragraph (2), and for purposes of this subsection, the 'target date for publication' (referred to in section 564(a)(5) of such title) shall be April 1, 1998.

"(4) ABBREVIATED PERIOD FOR SUBMISSION OF COMMENTS.—In applying section 564(c) of such title under this subsection, '15 days' shall be substituted for '30 days'.

"(5) APPOINTMENT OF NEGOTIATED RULEMAKING COMMITTEE AND FACILITATOR.—The Secretary shall provide for—

"(A) the appointment of a negotiated rulemaking committee under section 565(a) of such title by not later than 30 days after the end of the comment period provided for under section 564(c) of such title (as shortened under paragraph (4)), and

"(B) the nomination of a facilitator under section 566(c) of such title by not later than 10 days after the date of appointment of the committee.

"(6) PRELIMINARY COMMITTEE REPORT.—The negotiated rulemaking committee appointed under paragraph (5) shall report to the Secretary, by not later than January 1, 1998, regarding the committee's progress on achieving a consensus with regard to the rulemaking proceeding and whether such consensus is likely to occur before one month before the target date for publication of the rule. If the committee reports that the committee has failed to make significant progress towards such consensus or is unlikely to reach such consensus by the target date, the Secretary may terminate such process and provide for the publication of a rule under this subsection through such other methods as the Secretary may provide.

"(7) FINAL COMMITTEE REPORT.—If the committee is not terminated under paragraph (6), the rulemaking committee shall submit a report containing a proposed rule by not later than one month before the target date of publication.

"(8) INTERIM, FINAL EFFECT.—The Secretary shall publish a rule under this subsection in the Federal Register by not later than the target date of publication. Such rule shall be effective and final immediately on an interim basis, but is subject to change and revision after public notice and opportunity for a period (of not less than 60 days) for public comment. In connection with such rule, the Secretary shall specify the process for the timely review and approval of applications of entities to be certified as provider-sponsored organizations pursuant to such rules and consistent with this subsection.

"(9) PUBLICATION OF RULE AFTER PUBLIC COMMENT.—The Secretary shall provide for consideration of such comments and republication of such rule by not later than 1 year after the target date of publication.

"(b) ESTABLISHMENT OF OTHER STANDARDS.—

"(1) IN GENERAL.—The Secretary shall establish by regulation other standards (not described in subsection (a)) for MedicarePlus organizations and plans consistent with, and to carry out, this part.

"(2) USE OF CURRENT STANDARDS.—Consistent with the requirements of this part, standards established under this subsection shall be based on standards established under section 1876 to carry out analogous provisions of such section. The Secretary shall also consider State model and other standards relating to consumer protection and assuring quality of care.

"(3) USE OF INTERIM STANDARDS.—For the period in which this part is in effect and standards are being developed and established under the preceding provisions of this subsection, the Secretary shall provide by not later than June 1, 1998, for the application of such interim standards (without regard to any requirements for notice and public comment) as may be appropriate to provide for the expedited implementation of this part. Such interim standards shall not apply after the date standards are established under the preceding provisions of this subsection.

"(4) APPLICATION OF NEW STANDARDS TO ENTITIES WITH A CONTRACT.—In the case of a MedicarePlus organization with a contract in effect under this part at the time standards applicable to the organization under this section are changed, the organization may elect not to have such changes apply to the organization until the end of the current contract year (or, if there is less than 6 months remaining in the contract year, until 1 year after the end of the current contract year).

"(5) RELATION TO STATE LAWS.—Subject to section 1852(m), the standards established under this subsection shall supersede any State law or regulation with respect to MedicarePlus plans which are offered by MedicarePlus organizations under this part to the extent such law or regulation is inconsistent with such standards. The previous sentence shall not be construed as superseding a State law or regulation that is not related to solvency, that is applied on a uniform basis and is generally applicable to other entities engaged in substantially similar business, and that provides consumer protections in addition to, or more stringent than, those provided under the standards under this subsection.

"CONTRACTS WITH MEDICAREPLUS ORGANIZATIONS

"SEC. 1857. (a) IN GENERAL.—The Secretary shall not permit the election under section 1851 of a MedicarePlus plan offered by a MedicarePlus organization under this part, and no payment shall be made under section 1853 to an organization, unless the Secretary has entered into a contract under this section with the organization with respect to the offering of such plan. Such a contract with an organization may cover more than one MedicarePlus plan. Such contract shall provide that the organization agrees to comply with the applicable requirements and standards of this part and the terms and conditions of payment as provided for in this part.

"(b) MINIMUM ENROLLMENT REQUIREMENTS.—

"(1) IN GENERAL.—Subject to paragraphs (2) and (3), the Secretary may not enter into a contract under this section with a MedicarePlus organization unless the organization has at least 5,000 individuals (or 1,500 individuals in the case of an organization that is a provider-sponsored organization) who are receiving health benefits through the organization, except that the standards under section 1856 may permit the organization to have a lesser number of beneficiaries (but not less than 500 in the case of an organization that is a provider-sponsored organization) if the organization primarily serves individuals residing outside of urbanized areas.

"(2) EXCEPTION FOR MSA PLAN.—Paragraph (1) shall not apply with respect to a contract that relates only to an MSA plan.

"(3) ALLOWING TRANSITION.—The Secretary may waive the requirement of paragraph (1) during the first 3 contract years with respect to an organization.

"(c) CONTRACT PERIOD AND EFFECTIVENESS.—

"(1) PERIOD.—Each contract under this section shall be for a term of at least one year, as determined by the Secretary, and may be made automatically renewable from term to term in the absence of notice by either party of intention to terminate at the end of the current term.

"(2) TERMINATION AUTHORITY.—In accordance with procedures established under subsection (h), the Secretary may at any time terminate any such contract or may impose the intermediate sanctions described in an applicable paragraph of subsection (g)(3) on the MedicarePlus organization if the Secretary determines that the organization—

“(A) has failed substantially to carry out the contract;

“(B) is carrying out the contract in a manner inconsistent with the efficient and effective administration of this part; or

“(C) no longer substantially meets the applicable conditions of this part.

“(3) Effective date of contracts.—The effective date of any contract executed pursuant to this section shall be specified in the contract, except that in no case shall a contract under this section which provides for coverage under an MSA plan be effective before January 1998 with respect to such coverage.

“(4) Previous terminations.—The Secretary may not enter into a contract with a MedicarePlus organization if a previous contract with that organization under this section was terminated at the request of the organization within the preceding five-year period, except in circumstances which warrant special consideration, as determined by the Secretary.

“(5) Contracting authority.—The authority vested in the Secretary by this part may be performed without regard to such provisions of law or regulations relating to the making, performance, amendment, or modification of contracts of the United States as the Secretary may determine to be inconsistent with the furtherance of the purpose of this title.

“(d) Protections Against Fraud and Beneficiary Protections.—

“(1) Inspection and audit.—Each contract under this section shall provide that the Secretary, or any person or organization designated by the Secretary—

“(A) shall have the right to inspect or otherwise evaluate (i) the quality, appropriateness, and timeliness of services performed under the contract and (ii) the facilities of the organization when there is reasonable evidence of some need for such inspection, and

“(B) shall have the right to audit and inspect any books and records of the MedicarePlus organization that pertain (i) to the ability of the organization to bear the risk of potential financial losses, or (ii) to services performed or determinations of amounts payable under the contract

“(2) Enrollee notice at time of termination.—Each contract under this section shall require the organization to provide (and pay for) written notice in advance of the contract's termination, as well as a description of alternatives for obtaining benefits under this title, to each individual enrolled with the organization under this part.

“(3) Disclosure.—

“(A) In general.—Each MedicarePlus organization shall, in accordance with regulations of the Secretary, report to the Secretary financial information which shall include the following:

“(i) Such information as the Secretary may require demonstrating that the organization has a fiscally sound operation.

“(ii) A copy of the report, if any, filed with the Health Care Financing Administration containing the information required to be reported under section 1124 by disclosing entities.

“(iii) A description of transactions, as specified by the Secretary, between the organization and a party in interest. Such transactions shall include—

“(I) any sale or exchange, or leasing of any property between the organization and a party in interest;

“(II) any furnishing for consideration of goods, services (including management services), or facilities between the organization and a party in interest, but not including salaries paid to employees for services provided in the normal course of their employment and health services provided to members by hospitals and other providers and by staff, medical group (or groups), individual practice association (or associations), or any combination thereof; and

“(III) any lending of money or other extension of credit between an organization and a party in interest.

The Secretary may require that information reported respecting an organization which controls, is controlled by, or is under common control with, another entity be in the form of a consolidated financial statement for the organization and such entity.

“(B) Party in interest defined.—For the purposes of this paragraph, the term ‘party in interest’ means—

“(i) any director, officer, partner, or employee responsible for management or administration of a MedicarePlus organization, any person who is directly or indirectly the beneficial owner of more than 5 percent of the equity of the organization, any person who is the beneficial owner of a mortgage, deed of trust, note, or other interest secured by, and valuing more than 5 percent of the organization, and, in the case of a MedicarePlus organization organized as a nonprofit corporation, an incorporator or member of such corporation under applicable State corporation law;

“(ii) any entity in which a person described in clause (i)—

“(I) is an officer or director;

“(II) is a partner (if such entity is organized as a partnership);

“(III) has directly or indirectly a beneficial interest of more than 5 percent of the equity; or

“(IV) has a mortgage, deed of trust, note, or other interest valuing more than 5 percent of the assets of such entity;

“(iii) any person directly or indirectly controlling, controlled by, or under common control with an organization; and

“(iv) any spouse, child, or parent of an individual described in clause (i).

“(C) Access to information.—Each MedicarePlus organization shall make the information reported pursuant to subparagraph (A) available to its enrollees upon reasonable request.

“(4) Loan information.—The contract shall require the organization to notify the Secretary of loans and other special financial arrangements which are made between the organization and subcontractors, affiliates, and related parties.

“(e) Additional Contract Terms.—

“(1) In general.—The contract shall contain such other terms and conditions not inconsistent with this part (including requiring the organization to provide the Secretary with such information) as the Secretary may find necessary and appropriate.

“(2) Cost-sharing in enrollment-related costs.—The contract with a MedicarePlus organization shall require the payment to the Secretary for the organization's pro rata share (as determined by the Secretary) of the estimated costs to be incurred by the Secretary in carrying out section 1851 (relating to enrollment and dissemination of information) and section 4360 of the Omnibus Budget Reconciliation Act of 1990 (relating to the health insurance counseling and assistance program). Such payments are appropriated to defray the costs described in the preceding sentence, to remain available until expended.

“(3) Notice to enrollees in case of decertification.—If a contract with a MedicarePlus organization is terminated under this section, the organization shall notify each enrollee with the organization under this part of such termination.

“(f) Prompt Payment by MedicarePlus Organization.—

“(1) Requirement.—A contract under this part shall require a MedicarePlus organization to provide prompt payment (consistent with the provisions of sections 1816(c)(2) and 1842(c)(2)) of claims submitted for services and supplies furnished to individuals pursuant to the contract, if the services or supplies are not furnished under a contract between the organization and the provider or supplier.

“(2) Secretary's option to bypass noncomplying organization.—In the case of a MedicarePlus eligible organization which the Secretary determines, after notice and opportunity for a hearing, has failed to make payments of amounts in compliance with paragraph (1), the Secretary may provide for direct payment of the amounts owed to providers and suppliers for covered services and supplies furnished to individuals enrolled under this part under the contract. If the Secretary provides for the direct payments, the Secretary shall provide for an appropriate reduction in the amount of payments otherwise made to the organization under this part to reflect the amount of the Secretary's payments (and the Secretary's costs in making the payments).

“(g) Intermediate Sanctions.—

“(1) In general.—If the Secretary determines that a MedicarePlus organization with a contract under this section—

“(A) fails substantially to provide medically necessary items and services that are required (under law or under the contract) to be provided to an individual covered under the contract, if the failure has adversely affected (or has substantial likelihood of adversely affecting) the individual;

“(B) imposes net monthly premiums on individuals enrolled under this part in excess of the net monthly premiums permitted;

“(C) acts to expel or to refuse to re-enroll an individual in violation of the provisions of this part;

“(D) engages in any practice that would reasonably be expected to have the effect of denying or discouraging enrollment (except as permitted by this part) by eligible individuals with the organization whose medical condition or history indicates a need for substantial future medical services;

“(E) misrepresents or falsifies information that is furnished—

“(i) to the Secretary under this part, or

“(ii) to an individual or to any other entity under this part;

“(F) fails to comply with the requirements of section 1852(j)(3); or

“(G) employs or contracts with any individual or entity that is excluded from participation under this title under section 1128 or 1128A for the provision of health care, utilization review, medical social work, or administrative services or employs or contracts with any entity for the provision (directly or indirectly) through such an excluded individual or entity of such services;

the Secretary may provide, in addition to any other remedies authorized by law, for any of the remedies described in paragraph (2).

“(2) Remedies.—The remedies described in this paragraph are—

"(A) civil money penalties of not more than $25,000 for each determination under paragraph (1) or, with respect to a determination under subparagraph (D) or (E)(i) of such paragraph, of not more than $100,000 for each such determination, plus, with respect to a determination under paragraph (1)(B), double the excess amount charged in violation of such paragraph (and the excess amount charged shall be deducted from the penalty and returned to the individual concerned), and plus, with respect to a determination under paragraph (1)(D), $15,000 for each individual not enrolled as a result of the practice involved,

"(B) suspension of enrollment of individuals under this part after the date the Secretary notifies the organization of a determination under paragraph (1) and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur, or

"(C) suspension of payment to the organization under this part for individuals enrolled after the date the Secretary notifies the organization of a determination under paragraph (1) and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur.

"(3) OTHER INTERMEDIATE SANCTIONS.—In the case of a MedicarePlus organization for which the Secretary makes a determination under subsection (c)(2) the basis of which is not described in paragraph (1), the Secretary may apply the following intermediate sanctions:

"(A) Civil money penalties of not more than $25,000 for each determination under subsection (c)(2) if the deficiency that is the basis of the determination has directly adversely affected (or has the substantial likelihood of adversely affecting) an individual covered under the organization's contract.

"(B) Civil money penalties of not more than $10,000 for each week beginning after the initiation of procedures by the Secretary under subsection (g) during which the deficiency that is the basis of a determination under subsection (c)(2) exists.

"(C) Suspension of enrollment of individuals under this part after the date the Secretary notifies the organization of a determination under subsection (c)(2) and until the Secretary is satisfied that the deficiency that is the basis for the determination has been corrected and is not likely to recur.

"(h) PROCEDURES FOR TERMINATION.—

"(1) IN GENERAL.—The Secretary may terminate a contract with a MedicarePlus organization under this section in accordance with formal investigation and compliance procedures established by the Secretary under which—

"(A) the Secretary provides the organization with the reasonable opportunity to develop and implement a corrective action plan to correct the deficiencies that were the basis of the Secretary's determination under subsection (c)(2);

"(B) the Secretary shall impose more severe sanctions on an organization that has a history of deficiencies or that has not taken steps to correct deficiencies the Secretary has brought to the organization's attention;

"(C) there are no unreasonable or unnecessary delays between the finding of a deficiency and the imposition of sanctions; and

"(D) the Secretary provides the organization with reasonable notice and opportunity for hearing (including the right to appeal an initial decision) before terminating the contract.

"(2) CIVIL MONEY PENALTIES.—The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under subsection (f) or under paragraph (2) or (3) of subsection (g) in the same manner as they apply to a civil money penalty or proceeding under section 1128A(a).

"(3) EXCEPTION FOR IMMINENT AND SERIOUS RISK TO HEALTH.—Paragraph (1) shall not apply if the Secretary determines that a delay in termination, resulting from compliance with the procedures specified in such paragraph prior to termination, would pose an imminent and serious risk to the health of individuals enrolled under this part with the organization.

"DEFINITIONS; MISCELLANEOUS PROVISIONS

"SEC. 1859. (a) DEFINITIONS RELATING TO MEDICAREPLUS ORGANIZATIONS.—In this part—

"(1) MEDICAREPLUS ORGANIZATION.—The term 'MedicarePlus organization' means a public or private entity that is certified under section 1856 as meeting the requirements and standards of this part for such an organization.

"(2) PROVIDER-SPONSORED ORGANIZATION.—The term 'provider-sponsored organization' is defined in section 1855(e)(1).

"(b) DEFINITIONS RELATING TO MEDICAREPLUS PLANS.—

"(1) MEDICAREPLUS PLAN.—The term 'MedicarePlus plan' means health benefits coverage offered under a policy, contract, or plan by a MedicarePlus organization pursuant to and in accordance with a contract under section 1857.

"(2) MSA PLAN.—

"(A) IN GENERAL.—The term 'MSA plan' means a MedicarePlus plan that—

"(i) provides reimbursement for at least the items and services described in section 1852(a)(1) in a year but only after the enrollee incurs countable expenses (as specified under the plan) equal to the amount of an annual deductible (described in subparagraph (B));

"(ii) counts as such expenses (for purposes of such deductible) at least all amounts that would have been payable under parts A and B, and that would have been payable by the enrollee as deductibles, coinsurance, or copayments, if the enrollee had elected to receive benefits through the provisions of such parts; and

"(iii) provides, after such deductible is met for a year and for all subsequent expenses for items and services referred to in clause (i) in the year, for a level of reimbursement that is not less than—

"(I) 100 percent of such expenses, or

"(II) 100 percent of the amounts that would have been paid (without regard to any deductibles or coinsurance) under parts A and B with respect to such expenses,

whichever is less.

"(B) DEDUCTIBLE.—The amount of annual deductible under an MSA plan—

"(i) for contract year 1999 shall be not more than $6,000; and

"(ii) for a subsequent contract year shall be not more than the maximum amount of such deductible for the previous contract year under this subparagraph increased by the national per capita MedicarePlus growth percentage under section 1853(c)(6) for the year.

If the amount of the deductible under clause (ii) is not a multiple of $50, the amount shall be rounded to the nearest multiple of $50.

"(c) OTHER REFERENCES TO OTHER TERMS.—

"(1) MEDICAREPLUS ELIGIBLE INDIVIDUAL.—The term 'MedicarePlus eligible individual' is defined in section 1851(a)(3).

"(2) MEDICAREPLUS PAYMENT AREA.—The term 'MedicarePlus payment area' is defined in section 1853(d).

"(3) NATIONAL PER CAPITA MEDICAREPLUS GROWTH PERCENTAGE.—The 'national per capita MedicarePlus growth percentage' is defined in section 1853(c)(6).

"(4) MONTHLY PREMIUM; NET MONTHLY PREMIUM.—The terms 'monthly premium' and 'net monthly premium' are defined in section 1854(a)(2).

"(d) COORDINATED ACUTE AND LONG-TERM CARE BENEFITS UNDER A MEDICAREPLUS PLAN.—Nothing in this part shall be construed as preventing a State from coordinating benefits under a medicaid plan under title XIX with those provided under a MedicarePlus plan in a manner that assures continuity of a full-range of acute care and long-term care services to poor elderly or disabled individuals eligible for benefits under this title and under such plan.

"(e) RESTRICTION ON ENROLLMENT FOR CERTAIN MEDICAREPLUS PLANS.—

"(1) IN GENERAL.—In the case of a MedicarePlus religious fraternal benefit society plan described in paragraph (2), notwithstanding any other provision of this part to the contrary and in accordance with regulations of the Secretary, the society offering the plan may restrict the enrollment of individuals under this part to individuals who are members of the church, convention, or group described in paragraph (3)(B) with which the society is affiliated.

"(2) MEDICAREPLUS RELIGIOUS FRATERNAL BENEFIT SOCIETY PLAN DESCRIBED.—For purposes of this subsection, a MedicarePlus religious fraternal benefit society plan described in this paragraph is a MedicarePlus plan described in section 1851(a)(2)(A) that—

"(A) is offered by a religious fraternal benefit society described in paragraph (3) only to members of the church, convention, or group described in paragraph (3)(B); and

"(B) permits all such members to enroll under the plan without regard to health status-related factors.

Nothing in this subsection shall be construed as waiving any plan requirements relating to financial solvency. In developing solvency standards under section 1856, the Secretary shall take into account open contract and assessment features characteristic of fraternal insurance certificates.

"(3) RELIGIOUS FRATERNAL BENEFIT SOCIETY DEFINED.—For purposes of paragraph (2)(A), a 'religious fraternal benefit society' described in this section is an organization that—

"(A) is exempt from Federal income taxation under section 501(c)(8) of the Internal Revenue Code of 1986;

"(B) is affiliated with, carries out the tenets of, and shares a religious bond with, a church or convention or association of churches or an affiliated group of churches;

"(C) offers, in addition to a MedicarePlus religious fraternal benefit society plan, health coverage to individuals not entitled to benefits under this title who are members of such church, convention, or group; and

"(D) does not impose any limitation on membership in the society based on any health status-related factor.

"(4) PAYMENT ADJUSTMENT.—Under regulations of the Secretary, in the case of individuals enrolled under this part under a MedicarePlus religious fraternal benefit society plan described in paragraph (2), the Secretary shall provide for such adjustment to the payment amounts otherwise established under section 1854 as may be appropriate to assure an appropriate payment level, taking into account the actuarial characteristics and experience of such individuals.".

(b) Report on Coverage of Beneficiaries with End-Stage Renal Disease.—The Secretary of Health and Human Services shall provide for a study on the feasibility and impact of removing the limitation under section 1851(b)(3)(B) of the Social Security Act (as inserted by subsection (a)) on eligibility of most individuals medically determined to have end-stage renal disease to enroll in MedicarePlus plans. By not later than October 1, 1998, the Secretary shall submit to Congress a report on such study and shall include in the report such recommendations regarding removing or restricting the limitation as may be appropriate.

(c) Report on MedicarePlus Teaching Programs and Use of DSH and Teaching Hospitals.—Based on the information provided to the Secretary of Health and Human Services under section 1852(k) of the Social Security Act and such information as the Secretary may obtain, by not later than October 1, 1999, the Secretary shall submit to Congress a report on graduate medical education programs operated by MedicarePlus organizations and the extent to which MedicarePlus organizations are providing for payments to hospitals described in such section.

SEC. 4002. TRANSITIONAL RULES FOR CURRENT MEDICARE HMO PROGRAM.

(a) Authorizing Transitional Waiver of 50:50 Rule.—Section 1876(f) (42 U.S.C. 1395mm(f)) is amended—

(1) in paragraph (2), by striking "The Secretary" and inserting "Subject to paragraph (4), the Secretary", and

(2) by adding at the end the following new paragraph:

"(4) Effective for contract periods beginning after December 31, 1996, the Secretary may waive or modify the requirement imposed by paragraph (1) to the extent the Secretary finds that it is in the public interest.".

(b) Transition.—Section 1876 (42 U.S.C. 1395mm) is amended by adding at the end the following new subsection:

"(k)(1) Except as provided in paragraph (3), the Secretary shall not enter into, renew, or continue any risk-sharing contract under this section with an eligible organization for any contract year beginning on or after—

"(A) the date standards for MedicarePlus organizations and plans are first established under section 1856 with respect to MedicarePlus organizations that are insurers or health maintenance organizations, or

"(B) in the case of such an organization with such a contract in effect as of the date such standards were first established, 1 year after such date.

"(2) The Secretary shall not enter into, renew, or continue any risk-sharing contract under this section with an eligible organization for any contract year beginning on or after January 1, 2000.

"(3) An individual who is enrolled in part B only and is enrolled in an eligible organization with a risk-sharing contract under this section on December 31, 1998, may continue enrollment in such organization in accordance with regulations issued by not later then July 1, 1998.

"(4) Notwithstanding subsection (a), the Secretary shall provide that payment amounts under risk-sharing contracts under this section for months in a year (beginning with January 1998) shall be computed—

"(A) with respect to individuals entitled to benefits under both parts A and B, by substituting payment rates under section 1853(a) for the payment rates otherwise established under subsection 1876(a), and

"(B) with respect to individuals only entitled to benefits under part B, by substituting an appropriate proportion of such rates (reflecting the relative proportion of payments under this title attributable to such part) for the payment rates otherwise established under subsection (a).

For purposes of carrying out this paragraph for payments for months in 1998, the Secretary shall compute, announce, and apply the payment rates under section 1853(a) (notwithstanding any deadlines specified in such section) in as timely a manner as possible and may (to the extent necessary) provide for retroactive adjustment in payments made under this section not in accordance with such rates.".

(c) Enrollment Transition Rule.—An individual who is enrolled on December 31, 1998, with an eligible organization under section 1876 of the Social Security Act (42 U.S.C. 1395mm) shall be considered to be enrolled with that organization on January 1, 1999, under part C of title XVIII of such Act if that organization has a contract under that part for providing services on January 1, 1999 (unless the individual has disenrolled effective on that date).

(d) Advance Directives.—Section 1866(f) (42 U.S.C. 1395c(f)) is amended—

(1) in paragraph (1)—

(A) by inserting "1855(i)," after "1833(s),", and

(B) by inserting ", MedicarePlus organization," after "provider of services"; and

(2) in paragraph (2)(E), by inserting "or a MedicarePlus organization" after "section 1833(a)(1)(A)".

(e) Extension of Provider Requirement.—Section 1866(a)(1)(O) (42 U.S.C. 1395cc(a)(1)(O)) is amended—

(1) by striking "in the case of hospitals and skilled nursing facilities,";

(2) by striking "inpatient hospital and extended care";

(3) by inserting "with a MedicarePlus organization under part C or" after "any individual enrolled";

(4) by striking "(in the case of hospitals) or limits (in the case of skilled nursing facilities)"; and

(5) by inserting "(less any payments under section 1858)" after "under this title".

(f) Additional Conforming Changes.—

(1) Conforming references to previous part C.—Any reference in law (in effect before the date of the enactment of this Act) to part C of title XVIII of the Social Security Act is deemed a reference to part D of such title (as in effect after such date).

(2) Secretarial submission of legislative proposal.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to the appropriate committees of Congress a legislative proposal providing for such technical and conforming amendments in the law as are required by the provisions of this chapter.

(g) Immediate Effective Date for Certain Requirements for Demonstrations.—Section 1857(e)(2) of the Social Security Act (requiring contribution to certain costs related to the enrollment process comparative materials) applies to demonstrations with respect to which enrollment is effected or coordinated under section 1851 of such Act.

(h) Use of Interim, Final Regulations.—In order to carry out the amendments made by this chapter in a timely manner, the Secretary of Health and Human Services may promulgate regulations that take effect on an interim basis, after notice and pending opportunity for public comment.

(i) Transition Rule for PSO Enrollment.—In applying subsection (g)(1) of section 1876 of the Social Security Act (42 U.S.C. 1395mm) to a risk-sharing contract entered into with an eligible organization that is a provider-sponsored organization (as defined in section 1855(e)(1) of such Act, as inserted by section 4001) for a contract year beginning on or after January 1, 1998, there shall be substituted for the minimum number of enrollees provided under such section the minimum number of enrollees permitted under section 1857(b)(1) of such Act (as so inserted).

SEC. 4003. CONFORMING CHANGES IN MEDIGAP PROGRAM.

(a) Conforming Amendments to MedicarePlus Changes.—

(1) In general.—Section 1882(d)(3)(A)(i) (42 U.S.C. 1395ss(d)(3)(A)(i)) is amended—

(A) in the matter before subclause (I), by inserting "(including an individual electing a MedicarePlus plan under section 1851)" after "of this title"; and

(B) in subclause (II)—

(i) by inserting "in the case of an individual not electing a MedicarePlus plan" after "(II)", and

(ii) by inserting before the comma at the end the following: "or in the case of an individual electing a MedicarePlus plan, a medicare supplemental policy with knowledge that the policy duplicates health benefits to which the individual is otherwise entitled under the MedicarePlus plan or under another medicare supplemental policy".

(2) Conforming amendments.—Section 1882(d)(3)(B)(i)(I) (42 U.S.C. 1395ss(d)(3)(B)(i)(I)) is amended by inserting "(including any MedicarePlus plan)" after "health insurance policies".

(3) MedicarePlus plans not treated as medicare supplementary policies.—Section 1882(g)(1) (42 U.S.C. 1395ss(g)(1)) is amended by inserting "or a MedicarePlus plan or" after "does not include"

(b) Additional Rules Relating to Individuals Enrolled in MSA Plans.—Section 1882 (42 U.S.C. 1395ss) is further amended by adding at the end the following new subsection:

"(u)(1) It is unlawful for a person to sell or issue a policy described in paragraph (2) to an individual with knowledge that the individual has in effect under section 1851 an election of an MSA plan.

"(2) A policy described in this subparagraph is a health insurance policy that provides for coverage of expenses that are otherwise required to be counted toward meeting the annual deductible amount provided under the MSA plan.".

Subchapter B—Special Rules for MedicarePlus Medical Savings Accounts

SEC. 4006. MEDICAREPLUS MSA.

(a) In General.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to amounts specifically excluded from gross income) is amended by redesignating section 138 as section 139 and by inserting after section 137 the following new section:

"SEC. 138. MEDICAREPLUS MSA.

"(a) Exclusion.—Gross income shall not include any payment to the MedicarePlus MSA of an individual by the Secretary of Health and Human Services under part C of title XVIII of the Social Security Act.

"(b) MedicarePlus MSA.—For purposes of this section, the term 'MedicarePlus MSA' means a medical savings account (as defined in section 220(d))—

"(1) which is designated as a MedicarePlus MSA,

"(2) with respect to which no contribution may be made other than—

"(A) a contribution made by the Secretary of Health and Human Services pursuant to part C of title XVIII of the Social Security Act, or

"(B) a trustee-to-trustee transfer described in subsection (c)(4),

"(3) the governing instrument of which provides that trustee-to-trustee transfers described in subsection (c)(4) may be made to and from such account, and

"(4) which is established in connection with an MSA plan described in section 1859(b)(2) of the Social Security Act.

"(c) Special Rules for Distributions.—

"(1) Distributions for qualified medical expenses.—In applying section 220 to a MedicarePlus MSA—

"(A) qualified medical expenses shall not include amounts paid for medical care for any individual other than the account holder, and

"(B) section 220(d)(2)(C) shall not apply.

"(2) Penalty for distributions from MedicarePlus MSA not used for qualified medical expenses if minimum balance not maintained.—

"(A) In general.—The tax imposed by this chapter for any taxable year in which there is a payment or distribution from a MedicarePlus MSA which is not used exclusively to pay the qualified medical expenses of the account holder shall be increased by 50 percent of the excess (if any) of—

"(i) the amount of such payment or distribution, over

"(ii) the excess (if any) of—

"(I) the fair market value of the assets in such MSA as of the close of the calendar year preceding the calendar year in which the taxable year begins, over

"(II) an amount equal to 60 percent of the deductible under the MedicarePlus MSA plan covering the account holder as of January 1 of the calendar year in which the taxable year begins.

Section 220(f)(2) shall not apply to any payment or distribution from a MedicarePlus MSA.

"(B) Exceptions.—Subparagraph (A) shall not apply if the payment or distribution is made on or after the date the account holder—

"(i) becomes disabled within the meaning of section 72(m)(7), or

"(ii) dies.

"(C) Special rules.—For purposes of subparagraph (A)—

"(i) all MedicarePlus MSAs of the account holder shall be treated as 1 account,

"(ii) all payments and distributions not used exclusively to pay the qualified medical expenses of the account holder during any taxable year shall be treated as 1 distribution, and

"(iii) any distribution of property shall be taken into account at its fair market value on the date of the distribution.

"(3) Withdrawal of erroneous contributions.—Section 220(f)(2) and paragraph (2) of this subsection shall not apply to any payment or distribution from a MedicarePlus MSA to the Secretary of Health and Human Services of an erroneous contribution to such MSA and of the net income attributable to such contribution.

"(4) Trustee-to-trustee transfers.—Section 220(f)(2) and paragraph (2) of this subsection shall not apply to any trustee-to-trustee transfer from a MedicarePlus MSA of an account holder to another MedicarePlus MSA of such account holder.

"(d) Special Rules for Treatment of Account After Death of Account Holder.—In applying section 220(f)(8)(A) to an account which was a MedicarePlus MSA of a decedent, the rules of section 220(f) shall apply in lieu of the rules of subsection (c) of this section with respect to the spouse as the account holder of such MedicarePlus MSA.

"(e) Reports.—In the case of a MedicarePlus MSA, the report under section 220(h)—

"(1) shall include the fair market value of the assets in such MedicarePlus MSA as of the close of each calendar year, and

"(2) shall be furnished to the account holder—

"(A) not later than January 31 of the calendar year following the calendar year to which such reports relate, and

"(B) in such manner as the Secretary prescribes in such regulations.

"(f) Coordination With Limitation on Number of Taxpayers Having Medical Savings Accounts.—Subsection (i) of section 220 shall not apply to an individual with respect to a MedicarePlus MSA, and MedicarePlus MSA's shall not be taken into account in determining whether the numerical limitations under section 220(j) are exceeded."

(b) Technical Amendments.—

(1) The last sentence of section 4973(d) of such Code is amended by inserting "or section 138(c)(3)" after "section 220(f)(3)".

(2) Subsection (b) of section 220 of such Code is amended by adding at the end the following new paragraph:

"(7) Medicare eligible individuals.—The limitation under this subsection for any month with respect to an individual shall be zero for the first month such individual is entitled to benefits under title XVIII of the Social Security Act and for each month thereafter."

(3) The table of sections for part III of subchapter B of chapter 1 of such Code is amended by striking the last item and inserting the following:

"Sec. 138. MedicarePlus MSA.

"Sec. 139. Cross references to other Acts.".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

Subchapter C—GME, IME, and DSH Payments for Managed Care Enrollees

SEC. 4008. GRADUATE MEDICAL EDUCATION AND INDIRECT MEDICAL EDUCATION PAYMENTS FOR MANAGED CARE ENROLLEES.

(a) Payments to Managed Care Organizations Operating Graduate Medical Education Programs.—Section 1853 (as inserted by section 4001) is amended by adding at the end the following:

"(h) Payments for Direct Costs of Graduate Medical Education Programs.—

"(1) Additional payment to be made.—Effective January 1, 1998, each contract with a MedicarePlus organization under this section (and each risk-sharing contract with an eligible organization under section 1876) shall provide for an additional payment for Medicare's share of allowable direct graduate medical education costs incurred by such an organization for an approved medical residency program.

"(2) Allowable costs.—If the organization has an approved medical residency program that incurs all or substantially all of the costs of the program, subject to section 1858(a)(3), the allowable costs for such a program shall equal the national average per resident amount times the number of full-time-equivalent residents in the program in non-hospital settings.

"(3) Definitions.—As used in this subsection:

"(A) The terms 'approved medical residency program', 'direct graduate medical education costs', and 'full-time-equivalent residents' have the same meanings as under section 1886(h).

"(B) The term 'Medicare's share' means, with respect to a MedicarePlus or eligible organization, the ratio of the number of individuals enrolled with the organization under this part (or enrolled under a risk-sharing contract under section 1876, respectively) to the total number of individuals enrolled with the organization.

"(C) The term 'national average per resident amount' means an amount estimated by the Secretary to equal the weighted average amount that would be paid per full-time-equivalent resident under section 1886(h) for the calendar year (determined separately for primary care residency programs as defined under section 1886(h) (including obstetrics and gynecology residency programs) and for other residency programs).".

(b) Payments to Hospitals for Direct and Indirect Costs of Graduate Medical Education Programs Attributable to Managed Care Enrollees.—Part C of title XVIII, as amended by section 4001, is amended by inserting after section 1857 the following new section:

"PAYMENTS TO HOSPITALS FOR CERTAIN COSTS ATTRIBUTABLE TO MANAGED CARE ENROLLEES

"Sec. 1858. (a) Costs of Graduate Medical Education.—

"(1) In general.—For portions of cost reporting periods occurring on or after January 1, 1998, the Secretary shall provide for an additional payment amount for each subsection (d) hospital (as defined in section 1886(d)(1)(B)), each PPS-exempt hospital described in clause (i) through (v) of such section, and for each hospital reimbursed under a reimbursement system authorized section 1814(b)(3) that—

"(A) furnishes services to individuals who are enrolled under a risk-sharing contract with an eligible organization under section 1876 and who are entitled to part A and to individuals who are enrolled with a MedicarePlus organization under part C, and

"(B) has an approved medical residency training program.

"(2) Payment amount.—

"(A) In general.—Subject to paragraph (3)(B), the amount of the payment under this subsection shall be the sum of—

"(i) the amount determined under subparagraph (B), and

"(ii) the amount determined under subparagraph (C).

Clause (ii) shall not apply in the case of a hospital that is not a PPS-exempt hospital described in clause (i) through (v) of section 1886(d)(1)(B),

"(B) Direct amount.—The amount determined under this subparagraph for a period is equal to the product of—

"(i) the aggregate approved amount (as defined in section 1886(h)(3)(B)) for that period; and

"(ii) the fraction of the total number of inpatient-bed-days (as established by the Secretary) during the period which are attributable to individuals described in paragraph (1).

"(C) Indirect amount.—The amount determined under this subparagraph is equal to the product of—

"(i) the amount of the indirect teaching adjustment factor applicable to the hospital under section 1886(d)(5)(B); and

"(ii) the product of—

"(I) the number of discharges attributable to individuals described in paragraph (1), and

"(II) the estimated average per discharge amount that would otherwise have been paid under section 1886(d)(1)(A) if the individuals had not been enrolled as described in such paragraph.

"(D) Special rule.—The Secretary shall establish rules for the application of subparagraph (B) and for the computation of the amounts described in subparagraph (C)(i)) and subparagraph (C)(ii)(I) to a hospital reimbursed under a reimbursement system authorized under section 1814(b)(3) in a manner similar to the manner of applying such subparagraph and computing such amounts as if the hospital were not reimbursed under such section.

"(3) Limitation.—

"(A) Determinations.—At the beginning of each year, the Secretary shall—

"(i) estimate the sum of the amount of the payments under this subsection and the payments under section 1853(h), for services or discharges occurring in the year, and

"(ii) determine the amount of the annual payment limit under subparagraph (C) for such year.

"(B) Imposition of limit.—If the amount estimated under subparagraph (A)(i) for a year exceeds the amount determined under subparagraph (A)(ii) for the year, then the Secretary shall adjust the amounts of the payments described in subparagraph (A)(i) for the year in a pro rata manner so that the total of such payments in the year do not exceed the annual payment limit determined under subparagraph (A)(ii) for that year.

"(C) Annual payment limit.—

"(i) In general.—The annual payment limit under this subparagraph for a year is the sum, over all counties or MedicarePlus payment areas, of the product of—

"(I) the annual GME per capita payment rate (described in clause (ii)) for the county or area, and

"(II) the Secretary's projection of average enrollment of individuals described in paragraph (1) who are residents of that county or area, adjusted to reflect the relative demographic or risk characteristics of such enrollees.

"(ii) GME per capita payment rate.—The GME per capita payment rate described in this clause for a particular county or MedicarePlus payment area for a year is the GME proportion (as specified in clause (iii)) of the annual MedicarePlus capitation rate (as calculated under section 1853(c)) for the county or area and year involved.

"(iii) GME proportion.—For purposes of clause (ii), the GME proportion for a county or area and a year is equal to the phase-in percentage (specified in clause (vi)) of the ratio of (I) the projected GME payment amount for the county or area (as determined under clause (v)), to (II) the average per capita cost for the county or area for the year (determined under clause (vi)).

"(iv) Phase-in percentage.—The phase-in percentage specified in this clause for—

"(I) 1998 is 20 percent,

"(II) 1999 is 40 percent,

"(III) 2000 is 60 percent,

"(IV) 2001 is 80 percent, or

"(V) any subsequent year is 100 percent.

"(v) Projected GME payment amount.—he projected GME payment amount for a county or area—

"(I) for 1998, is the amount included in the per capita rate of payment for 1997 determined under section 1876(a)(1)(C) for the payment adjustments described in section 1886(d)(5)(B) and section 1886(h) for that county or area, adjusted by the general GME update factor (as defined in clause (vii)) for 1998, or

"(II) for a subsequent year, is the projected GME payment amount for the county or area for the previous year, adjusted by the general GME update factor for such subsequent year.

The Secretary shall determine the amount described in subclause (I) for a county or other area that includes hospitals reimbursed under section 1814(b)(3) as though such hospitals had not been reimbursed under such section.

"(vi) Average per capita cost.—The average per capita cost for the county or area determined under this clause for—

"(I) 1998 is the annual per capita rate of payment for 1997 determined under section 1876(a)(1)(C) for the county or area, increased by the national per capita MedicarePlus growth percentage for 1998 (as defined in section 1853(c)(6), but determined without regard to the adjustment described in subparagraph (B) of such section); or

"(II) a subsequent year is the average per capita cost determined under this clause for the previous year increased by the national per capita MedicarePlus growth percentage for the year involved (as defined in section 1853(c)(6), but determined without regard to the adjustment described in subparagraph (B) of such section).

"(vii) General GME update factor.—For purposes of clause (v), the 'general GME update factor' for a year is equal to the Secretary's estimate of the national average percentage change in average per capita payments under sections 1886(d)(5)(B) and 1886(h) from the previous year to the year involved. Such amount takes into account changes in law and regulation affecting payment amounts under such sections.".

SEC. 4009. DISPROPORTIONATE SHARE HOSPITAL PAYMENTS FOR MANAGED CARE ENROLLEES.

Section 1858, as inserted by section 4008(b), is further amended by adding at the end the following new subsection:

"(b) Disproportionate Share Hospital Payments.—

"(1) In general.—For portions of cost reporting periods occurring on or after January 1, 1998, the Secretary shall provide for an additional payment amount for each subsection (d) hospital (as defined in section 1886(d)(1)(B)) and for each hospital reimbursed a demonstration project reimbursement system under section 1814(b)(3) that—

"(A) furnishes services to individuals who are enrolled under a risk-sharing contract with an eligible organization under section 1876 and who are entitled to part A and to individuals who are enrolled with a MedicarePlus organization under this part, and

"(B) is (or, if it were not reimbursed under section 1814(b)(3), would qualify as) a disproportionate share hospital described in section 1886(d)(5)(F)(i).

"(2) Amount of payment.—Subject to paragraph (3)(B), the amount of the payment under this subsection shall be the product of—

"(A) the amount of the disproportionate share adjustment percentage applicable to the hospital under section 1886(d)(5)(F); and

"(B) the product described in subsection (a)(2)(C)(ii).

The Secretary shall establish rules for the computation of the amount described in subparagraph (A) for a hospital reimbursed under section 1814(b)(3).

"(3) Limit.—

"(A) Determination.—At the beginning of each year, the Secretary shall—

"(i) estimate the sum of the payments under this subsection for services or discharges occurring in the year, and

"(ii) determine the amount of the annual payment limit under subparagraph (C)) for such year.

"(B) Imposition of limit.—If the amount estimated under subparagraph (A)(i) for a year exceeds the amount determined under subparagraph (A)(ii) for the year, then the Secretary shall adjust the amounts of the payments under this subsection for the year in a pro rata manner so that the total of such payments in the year do not exceed the annual payment limit determined under subparagraph (A)(ii) for that year.

"(C) Annual payment limit.—The annual payment limit under this subparagraph for a year shall be determined in the same manner as the annual payment limit is determined under clause (i) of subsection (a)(3)(C), except that, for purposes of this clause, any reference in clauses (i) through (vii) of such subsection—

"(i) to a payment adjustment under subsection (a) is deemed a reference to a payment adjustment under this subsection, or

"(ii) to payments or payment adjustments under section 1886(d)(5)(B) and 1886(h) is deemed a reference to payments and payment adjustments under section 1886(d)(5)(F).".

CHAPTER 2—INTEGRATED LONG-TERM CARE PROGRAMS

Subchapter A—Programs of All-inclusive Care for the Elderly (PACE)

SEC. 4011. REFERENCE TO COVERAGE OF PACE UNDER THE MEDICARE PROGRAM.

For provision amending title XVIII of the Social Security Act to provide for payments to, and coverage of benefits under, Programs of All-inclusive Care for the Elderly (PACE), see section 3431.

SEC. 4012. REFERENCE TO ESTABLISHMENT OF PACE PROGRAM AS MEDICAID STATE OPTION.

For provision amending title XIX of the Social Security Act to establish the PACE program as a medicaid State option, see section 3432.

Subchapter B—Social Health Maintenance Organizations

SEC. 4015. SOCIAL HEALTH MAINTENANCE ORGANIZATIONS (SHMOS).

(a) Extension of Demonstration Project Authorities.—Section 4018(b) of the Omnibus Budget Reconciliation Act of 1987 is amended—

(1) in paragraph (1), by striking "1997" and inserting "2000", and

(2) in paragraph (4), by striking "1998" and inserting "2001".

(b) Expansion of Cap.—Section 13567(c) of the Omnibus Budget Reconciliation Act of 1993 is amended by striking "12,000" and inserting "36,000".

(b) Report on Integration and Transition.—

(1) In general.—The Secretary of Health and Human Services shall submit to Congress, by not later than January 1, 1999, a plan for the integration of health plans offered by social health maintenance organizations (including SHMO I and SHMO II sites developed under section 2355 of the Deficit Reduction Act of 1984 and under the amendment made by section 4207(b)(3)(B)(i) of OBRA-1990, respectively) and similar plans

as an option under the MedicarePlus program under part C of title XVIII of the Social Security Act.

(2) PROVISION FOR TRANSITION.—Such plan shall include a transition for social health maintenance organizations operating under demonstration project authority under such section.

(3) PAYMENT POLICY.—The report shall also include recommendations on appropriate payment levels for plans offered by such organizations, including an analysis of the application of risk adjustment factors appropriate to the population served by such organizations.

Subchapter C—Other Programs

SEC. 4018. ORDERLY TRANSITION OF MUNICIPAL HEALTH SERVICE DEMONSTRATION PROJECTS.

Section 9215 of the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended by section 6135 of OBRA–1989 and section 13557 of OBRA–1993, is further amended—

(1) by inserting "(a)" before "The Secretary", and

(2) by adding at the end the following: "Subject to subsection (c), the Secretary may further extend such demonstration projects through December 31, 2000, but only with respect to individuals are enrolled with such projects before January 1, 1998.

"(b) The Secretary shall work with each such demonstration project to develop a plan, to be submitted to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate by March 31, 1998, for the orderly transition of demonstration projects and the project enrollees to a non-demonstration project health care delivery system, such as through integration with private or public health plan, including a medicaid managed care or MedicarePlus plan.

"(c) A demonstration project under subsection (a) which does not develop and submit a transition plan under subsection (b) by March 31, 1998, or, if later, 6 months after the date of the enactment of this Act, shall be discontinued as of December 31, 1998. The Secretary shall provide appropriate technical assistance to assist in the transition so that disruption of medical services to project enrollees may be minimized.".

SEC. 4019. EXTENSION OF CERTAIN MEDICARE COMMUNITY NURSING ORGANIZATION DEMONSTRATION PROJECTS.

Notwithstanding any other provision of law, demonstration projects conducted under section 4079 of the Omnibus Budget Reconciliation Act of 1987 may be conducted for an additional period of 2 years, and the deadline for any report required relating to the results of such projects shall be not later than 6 months before the end of such additional period.

CHAPTER 3—MEDICARE PAYMENT ADVISORY COMMISSION

SEC. 4021. MEDICARE PAYMENT ADVISORY COMMISSION.

(a) IN GENERAL.—Title XVIII is amended by inserting after section 1804 the following new section:

"MEDICARE PAYMENT ADVISORY COMMISSION

"SEC. 1805. (a) ESTABLISHMENT.—There is hereby established the Medicare Payment Advisory Commission (in this section referred to as the 'Commission').

"(b) DUTIES.—

"(1) REVIEW OF PAYMENT POLICIES AND ANNUAL REPORTS.—The Commission shall—

"(A) review payment policies under this title, including the topics described in paragraph (2);

"(B) make recommendations to Congress concerning such payment policies; and

"(C) by not later than March 1 of each year (beginning with 1998), submit a report to Congress containing the results of such reviews and its recommendations concerning such policies and an examination of issues affecting the medicare program.

"(2) SPECIFIC TOPICS TO BE REVIEWED.—

"(A) MEDICAREPLUS PROGRAM.—Specifically, the Commission shall review, with respect to the MedicarePlus program under part C, the following:

"(i) The methodology for making payment to plans under such program, including the making of differential payments and the distribution of differential updates among different payment areas.

"(ii) The mechanisms used to adjust payments for risk and the need to adjust such mechanisms to take into account health status of beneficiaries.

"(iii) The implications of risk selection both among MedicarePlus organizations and between the MedicarePlus option and the medicare fee-for-service option.

"(iv) The development and implementation of mechanisms to assure the quality of care for those enrolled with MedicarePlus organizations.

"(v) The impact of the MedicarePlus program on access to care for medicare beneficiaries.

"(vi) The appropriate role for the medicare program in addressing the needs of individuals with chronic illnesses.

"(vii) Other major issues in implementation and further development of the MedicarePlus program.

"(B) FEE-FOR-SERVICE SYSTEM.—Specifically, the Commission shall review payment policies under parts A and B, including—

"(i) the factors affecting expenditures for services in different sectors, including the process for updating hospital, skilled nursing facility, physician, and other fees,

"(ii) payment methodologies, and

"(iii) their relationship to access and quality of care for medicare beneficiaries.

"(C) INTERACTION OF MEDICARE PAYMENT POLICIES WITH HEALTH CARE DELIVERY GENERALLY.—Specifically, the Commission shall review the effect of payment policies under this title on the delivery of health care services other than under this title and assess the implications of changes in health care delivery in the United States and in the general market for health care services on the medicare program.

"(3) COMMENTS ON CERTAIN SECRETARIAL REPORTS.—If the Secretary submits to Congress (or a committee of Congress) a report that is required by law and that relates to payment policies under this title, the Secretary shall transmit a copy of the report to the Commission. The Commission shall review the report and, not later than 6 months after the date of submittal of the Secretary's report to Congress, shall submit to the appropriate committees of Congress written comments on such report. Such comments may include such recommendations as the Commission deems appropriate.

"(4) AGENDA AND ADDITIONAL REVIEWS.—The Commission shall consult periodically with the chairmen and ranking minority members of the appropriate committees of Congress regarding the Commission's agenda and progress towards achieving the agenda. The Commission may conduct additional reviews, and submit additional reports to the appropriate committees of Congress, from time to time on such topics relating to the program under this title as may be requested by such chairmen and members and as the Commission deems appropriate.

"(5) AVAILABILITY OF REPORTS.—The Commission shall transmit to the Secretary a copy of each report submitted under this subsection and shall make such reports available to the public.

"(6) APPROPRIATE COMMITTEES.—For purposes of this section, the term 'appropriate committees of Congress' means the Committees on Ways and Means and Commerce of the House of Representatives and the Committee on Finance of the Senate.

"(c) MEMBERSHIP.—

"(1) NUMBER AND APPOINTMENT.—The Commission shall be composed of 11 members appointed by the Comptroller General.

"(2) QUALIFICATIONS.—

"(A) IN GENERAL.—The membership of the Commission shall include individuals with national recognition for their expertise in health finance and economics, actuarial science, health facility management, health plans and integrated delivery systems, reimbursement of health facilities, allopathic and osteopathic physicians, and other providers of health services, and other related fields, who provide a mix of different professionals, broad geographic representation, and a balance between urban and rural representatives.

"(B) INCLUSION.—The membership of the Commission shall include (but not be limited to) physicians and other health professionals, employers, third party payers, individuals skilled in the conduct and interpretation of biomedical, health services, and health economics research and expertise in outcomes and effectiveness research and technology assessment. Such membership shall also include representatives of consumers and the elderly.

"(C) MAJORITY NONPROVIDERS.—Individuals who are directly involved in the provision, or management of the delivery, of items and services covered under this title shall not constitute a majority of the membership of the Commission.

"(D) ETHICAL DISCLOSURE.—The Comptroller General shall establish a system for public disclosure by members of the Commission of financial and other potential conflicts of interest relating to such members.

"(3) TERMS.—

"(A) IN GENERAL.—The terms of members of the Commission shall be for 3 years except that the Comptroller General shall designate staggered terms for the members first appointed.

"(B) VACANCIES.—Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has taken office. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

"(4) COMPENSATION.—While serving on the business of the Commission (including traveltime), a member of the Commission shall be entitled to compensation at the per diem equivalent of the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code; and while so serving away from home and member's regular place of business, a member may be allowed travel expenses, as authorized by the Chairman of the Commission. Physicians serving as personnel of the Commission may be provided a physician comparability allowance by the Commission in the same manner as Government physicians may be provided such an allowance by an agency under section 5948 of title 5, United States Code, and for such purpose subsection (i) of such section shall apply to the Commission in the same manner as it applies to the Tennessee Valley Authority. For purposes of pay (other than pay of members of the Commission) and employment benefits, rights, and privileges, all personnel of the Commission shall be treated as if they were employees of the United States Senate.

"(5) CHAIRMAN; VICE CHAIRMAN.—The Comptroller General shall designate a member of the Commission, at the time of appointment of the member, as Chairman and a member as Vice Chairman for that term of appointment.

"(6) MEETINGS.—The Commission shall meet at the call of the Chairman.

"(d) DIRECTOR AND STAFF; EXPERTS AND CONSULTANTS.—Subject to such review as the Comptroller General deems necessary to assure the efficient administration of the Commission, the Commission may—

"(1) employ and fix the compensation of an Executive Director (subject to the approval of the Comptroller General) and such other personnel as may be necessary to carry out its duties (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service);

"(2) seek such assistance and support as may be required in the performance of its duties from appropriate Federal departments and agencies;

"(3) enter into contracts or make other arrangements, as may be necessary for the conduct of the work of the Commission (without regard to section 3709 of the Revised Statutes (41 U.S.C. 5));

"(4) make advance, progress, and other payments which relate to the work of the Commission;

"(5) provide transportation and subsistence for persons serving without compensation; and

"(6) prescribe such rules and regulations as it deems necessary with respect to the internal organization and operation of the Commission.

"(e) POWERS.—

"(1) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this section. Upon request of the Chairman, the head of that department or agency shall furnish that information to the Commission on an agreed upon schedule.

"(2) DATA COLLECTION.—In order to carry out its functions, the Commission shall—

"(A) utilize existing information, both published and unpublished, where possible, collected and assessed either by its own staff or under other arrangements made in accordance with this section,

"(B) carry out, or award grants or contracts for, original research and experimentation, where existing information is inadequate, and

"(C) adopt procedures allowing any interested party to submit information for the Commission's use in making reports and recommendations.

"(3) ACCESS OF GAO TO INFORMATION.—The Comptroller General shall have unrestricted access to all deliberations, records, and nonproprietary data of the Commission, immediately upon request.

"(4) PERIODIC AUDIT.—The Commission shall be subject to periodic audit by the Comptroller General.

"(f) AUTHORIZATION OF APPROPRIATIONS.—

"(1) REQUEST FOR APPROPRIATIONS.—The Commission shall submit requests for appropriations in the same manner as the Comptroller General submits requests for appropriations, but amounts appropriated for the Commission shall be separate from amounts appropriated for the Comptroller General.

"(2) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section. 60 percent of such appropriation shall be payable from the Federal Hospital Insurance Trust Fund, and 40 percent of such appropriation shall be payable from the Federal Supplementary Medical Insurance Trust Fund.".

(b) ABOLITION OF PROPAC AND PPRC.—

(1) PROPAC.—

(A) IN GENERAL.—Section 1886(e) (42 U.S.C. 1395ww(e)) is amended—

(i) by striking paragraphs (2) and (6); and

(ii) in paragraph (3), by striking "(A) The Commission" and all that follows through "(B)".

(B) CONFORMING AMENDMENT.—Section 1862 (42 U.S.C. 1395y) is amended by striking "Prospective Payment Assessment Commission" each place it appears in subsection (a)(1)(D) and subsection (i) and inserting "Medicare Payment Advisory Commission".

(2) PPRC.—

(A) IN GENERAL.—Title XVIII is amended by striking section 1845 (42 U.S.C. 1395w–1).

(B) ELIMINATION OF CERTAIN REPORTS.—Section 1848 (42 U.S.C. 1395w–4) is amended by striking subparagraph (B) of subsection (f)(1).

(C) CONFORMING AMENDMENTS.—Section 1848 (42 U.S.C. 1395w–4) is amended by striking "Physician Payment Review Commission" and inserting "Medicare Payment Advisory Commission" each place it appears in subsections (c)(2)(B)(iii), (g)(6)(C), and (g)(7)(C).

(c) EFFECTIVE DATE; TRANSITION.—

(1) IN GENERAL.—The Comptroller General shall first provide for appointment of members to the Medicare Payment Advisory Commission (in this subsection referred to as "MedPAC") by not later than September 30, 1997.

(2) TRANSITION.—As quickly as possible after the date a majority of members of MedPAC are first appointed, the Comptroller General, in consultation with the Prospective Payment Assessment Commission (in this subsection referred to as "ProPAC") and the Physician Payment Review Commission (in this subsection referred to as "PPRC"), shall provide for the termination of the ProPAC and the PPRC. As of the date of termination of the respective Commissions, the amendments made by paragraphs (1) and (2), respectively, of subsection (b) become effective. The Comptroller General, to the extent feasible, shall provide for the transfer to the MedPAC of assets and staff of the ProPAC and the PPRC, without any loss of benefits or seniority by virtue of such transfers. Fund balances available to the ProPAC or the PPRC for any period shall be available to the MedPAC for such period for like purposes.

(3) CONTINUING RESPONSIBILITY FOR REPORTS.—The MedPAC shall be responsible for the preparation and submission of reports required by law to be submitted (and which have not been submitted by the date of establishment of the MedPAC) by the ProPAC and the PPRC, and, for this purpose, any reference in law to either such Commission is deemed, after the appointment of the MedPAC, to refer to the MedPAC.

CHAPTER 4—MEDIGAP PROTECTIONS

SEC. 4031. MEDIGAP PROTECTIONS.

(a) GUARANTEEING ISSUE WITHOUT PRE-EXISTING CONDITIONS FOR CONTINUOUSLY COVERED INDIVIDUALS.—Section 1882(s) (42 U.S.C. 1395ss(s)) is amended—

(1) in paragraph (3), by striking "paragraphs (1) and (2)" and inserting "this subsection",

(2) by redesignating paragraph (3) as paragraph (4), and

(3) by inserting after paragraph (2) the following new paragraph:

"(3)(A) The issuer of a medicare supplemental policy—

"(i) may not deny or condition the issuance or effectiveness of a medicare supplemental policy described in subparagraph (C) that is offered and is available for issuance to new enrollees by such issuer;

"(ii) may not discriminate in the pricing of such policy, because of health status, claims experience, receipt of health care, or medical condition; and

"(iii) may not impose an exclusion of benefits based on a pre-existing condition under such policy,

in the case of an individual described in subparagraph (B) who seeks to enroll under the policy not later than 63 days after the date of the termination of enrollment described in such subparagraph and who submits evidence of the date of termination or disenrollment along with the application for such medicare supplemental policy.

"(B) An individual described in this subparagraph is an individual described in any of the following clauses:

"(i) The individual is enrolled under an employee welfare benefit plan that provides health benefits that supplement the benefits under this title and the plan terminates or ceases to provide all such supplemental health benefits to the individual.

"(ii) The individual is enrolled with a MedicarePlus organization under a MedicarePlus plan under part C, and there are circumstances permitting discontinuance of the individual's election of the plan under section 1851(e)(4).

"(iii) The individual is enrolled with an eligible organization under a contract under section 1876, a similar organization operating under demonstration project authority, with an organization under an agreement under section 1833(a)(1)(A), or with an organization under a policy described in subsection (t), and such enrollment ceases under the same circumstances that would permit discontinuance of an individual's election of coverage under section 1851(e)(4) and, in the case of a policy described in subsection (t), there is no provision under applicable State law for the continuation of coverage under such policy.

"(iv) The individual is enrolled under a medicare supplemental policy under this section and such enrollment ceases because—

"(I) of the bankruptcy or insolvency of the issuer or because of other involuntary termination of coverage or enrollment under such policy and there is no provision under applicable State law for the continuation of such coverage;

"(II) the issuer of the policy substantially violated a material provision of the policy; or

"(III) the issuer (or an agent or other entity acting on the issuer's behalf) materially misrepresented the policy's provisions in marketing the policy to the individual.

"(v) The individual—

"(I) was enrolled under a medicare supplemental policy under this section,

"(II) subsequently terminates such enrollment and enrolls, for the first time, with any MedicarePlus organization under a MedicarePlus plan under part C, any eligible organization under a contract under section

1876, any similar organization operating under demonstration project authority, any organization under an agreement under section 1833(a)(1)(A), or any policy described in subsection (t), and

"(III) the subsequent enrollment under subclause (II) is terminated by the enrollee during the first 6 months (or 3 months for terminations occurring on or after January 1, 2003) of such enrollment.

"(vi) The individual—

"(I) was enrolled under a medicare supplemental policy under this section,

"(II) subsequently terminates such enrollment and enrolls, for the first time, during or after the annual, coordinated election period under section 1851(e)(3)(B) occurring during 2002, with an organization or policy described in clause (v)(II), and

"(III) the subsequent enrollment under subclause (II) is terminated by the enrollee during the next annual, coordinated election period under such section.

"(C)(i) Subject to clauses (ii) and (iii), a medicare supplemental policy described in this subparagraph has a benefit package classified as 'A', 'B', 'C', or 'F' under the standards established under subsection (p)(2).

"(ii) Only for purposes of an individual described in subparagraph (B)(v), a medicare supplemental policy described in this subparagraph also includes (if available from the same issuer) the same medicare supplemental policy referred to in such subparagraph in which the individual was most recently previously enrolled.

"(iii) For purposes of applying this paragraph in the case of a State that provides for offering of benefit packages other than under the classification referred to in clause (i), the references to benefit packages in such clause are deemed references to comparable benefit packages offered in such State.

"(D) At the time of an event described in subparagraph (B) because of which an individual ceases enrollment or loses coverage or benefits under a contract or agreement, policy, or plan, the organization that offers the contract or agreement, the insurer offering the policy, or the administrator of the plan, respectively, shall notify the individual of the rights of the individual, and obligations of issuers of medicare supplemental policies, under subparagraph (A).".

(b) Limitation on Imposition of Preexisting Condition Exclusion During Initial Open Enrollment Period.—Section 1882(s)(2) (42 U.S.C. 1395ss(s)(2)) is amended—

(1) in subparagraph (B), by striking "subparagraph (C)" and inserting "subparagraphs (C) and (D)", and

(2) by adding at the end the following new subparagraph:

"(D) In the case of a policy issued during the 6-month period described in subparagraph (A) to an individual who is 65 years of age or older as of the date of issuance and who as of the date of the application for enrollment has a continuous period of creditable coverage (as defined in 2701(c) of the Public Health Service Act) of—

"(i) at least 6 months, the policy may not exclude benefits based on a pre-existing condition; or

"(ii) of less than 6 months, if the policy excludes benefits based on a preexisting condition, the policy shall reduce the period of any preexisting condition exclusion by the aggregate of the periods of creditable coverage (if any, as so defined) applicable to the individual as of the enrollment date.

The Secretary shall specify the manner of the reduction under clause (ii), based upon the rules used by the Secretary in carrying out section 2701(a)(3) of such Act.".

(c) Effective Dates.—

(1) Guaranteed issue.—The amendment made by subsection (a) shall take effect on July 1, 1998.

(2) Limit on preexisting condition exclusions.—The amendment made by subsection (b) shall apply to policies issued on or after July 1, 1998.

(d) Transition Provisions.—

(1) In general.—If the Secretary of Health and Human Services identifies a State as requiring a change to its statutes or regulations to conform its regulatory program to the changes made by this section, the State regulatory program shall not be considered to be out of compliance with the requirements of section 1882 of the Social Security Act due solely to failure to make such change until the date specified in paragraph (4).

(2) NAIC standards.—If, within 9 months after the date of the enactment of this Act, the National Association of Insurance Commissioners (in this subsection referred to as the "NAIC") modifies its NAIC Model Regulation relating to section 1882 of the Social Security Act (referred to in such section as the 1991 NAIC Model Regulation, as modified pursuant to section 171(m)(2) of the Social Security Act Amendments of 1994 (Public Law 103–432) and as modified pursuant to section 1882(d)(3)(A)(vi)(IV) of the Social Security Act, as added by section 271(a) of the Health Insurance Portability and Accountability Act of 1996 (Public Law 104–191) to conform to the amendments made by this section, such revised regulation incorporating the modifications shall be considered to be the applicable NAIC model regulation (including the revised NAIC model regulation and the 1991 NAIC Model Regulation) for the purposes of such section.

(3) Secretary standards.—If the NAIC does not make the modifications described in paragraph (2) within the period specified in such paragraph, the Secretary of Health and Human Services shall make the modifications described in such paragraph and such revised regulation incorporating the modifications shall be considered to be the appropriate Regulation for the purposes of such section.

(4) Date specified.—

(A) In general.—Subject to subparagraph (B), the date specified in this paragraph for a State is the earlier of—

(i) the date the State changes its statutes or regulations to conform its regulatory program to the changes made by this section, or

(ii) 1 year after the date the NAIC or the Secretary first makes the modifications under paragraph (2) or (3), respectively.

(B) Additional legislative action required.—In the case of a State which the Secretary identifies as—

(i) requiring State legislation (other than legislation appropriating funds) to conform its regulatory program to the changes made in this section, but

(ii) having a legislature which is not scheduled to meet in 1999 in a legislative session in which such legislation may be considered, the date specified in this paragraph is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after July 1, 1999. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 4032. MEDICARE PREPAID COMPETITIVE PRICING DEMONSTRATION PROJECT.

(a) Establishment of Project.—The Secretary of Health and Human Services shall provide, beginning not later than 1 year after the date of the enactment of this Act, for implementation of a project (in this section referred to as the "project") to demonstrate the application of, and the consequences of applying, a market-oriented pricing system for the provision of a full range of medicare benefits in a geographic area.

(b) Research Design Advisory Committee.—

(1) In general.—Before implementing the project under this section, the Secretary shall appoint a national advisory committee, including independent actuaries and individuals with expertise in competitive health plan pricing, to make recommendations to the Secretary concerning the appropriate research design for implementing the project.

(2) Initial recommendations.—The committee initially shall submit recommendations respecting the method for area selection, benefit design among plans offered, structuring choice among health plans offered, methods for setting the price to be paid to plans, collection of plan information (including information concerning quality and access to care), information dissemination, and methods of evaluating the results of the project.

(3) Advice during implementation.—Upon implementation of the project, the committee shall continue to advise the Secretary on the application of the design in different areas and changes in the project based on experience with its operations.

(c) Area Selection.—

(1) In general.—Taking into account the recommendations of the advisory committee submitted under subsection (b), the Secretary shall designate areas in which the project will operate.

(2) Appointment of area advisory committee.—Upon the designation of an area for inclusion in the project, the Secretary shall appoint an area advisory committee, composed of representatives of health plans, providers, and medicare beneficiaries in the area, to advise the Secretary concerning how the project will actually be implemented in the area. Such advice may include advice concerning the marketing and pricing of plans in the area and other salient factors relating.

(d) Monitoring and Report.—

(1) Monitoring impact.—Taking into consideration the recommendations of the general advisory committee (appointed under subsection (b)), the Secretary shall closely monitor the impact of projects in areas on the price and quality of, and access to, medicare covered services, choice of health plan, changes in enrollment, and other relevant factors.

(2) Report.—The Secretary shall periodically report to Congress on the progress under the project under this section.

(e) Waiver Authority.—The Secretary of Health and Human Services may waive such requirements of section 1876 (and such requirements of part C of title XVIII, as amended by chapter 1), of the Social Security Act as may be necessary for the purposes of carrying out the project.

(f) Relationship to Other Authority.—Except pursuant to this section the Secretary of Health and Human Services may not conduct or continue any medicare demonstration project relating to payment of health maintenance organizations, MedicarePlus organizations, or similar prepaid managed care entities on the basis of a competitive bidding process or pricing system described in subsection (a) rather than on the bases described in section 1853 or 1876 of the Social Security Act.

Subtitle B—Prevention Initiatives

SEC. 4101. SCREENING MAMMOGRAPHY.

(a) Providing Annual Screening Mammography for Women Over Age 39.—Section 1834(c)(2)(A) (42 U.S.C. 1395m(c)(2)(A)) is amended—

(1) in clause (iii), to read as follows:

"(iii) In the case of a woman over 39 years of age, payment may not be made under this part for screening mammography performed within 11 months following the month in which a previous screening mammography was performed."; and

(2) by striking clauses (iv) and (v).

(b) Waiver of Deductible.—The first sentence of section 1833(b) (42 U.S.C. 1395l(b)) is amended—

(1) by striking "and" before "(4)", and

(2) by inserting before the period at the end the following: ", and (5) such deductible shall not apply with respect to screening mammography (as described in section 1861(jj))".

(c) Conforming Amendment.—Section 1834(c)(1)(C) of such Act (42 U.S.C. 1395m(c)(1)(C)) is amended by striking ", subject to the deductible established under section 1833(b),".

(d) Effective Date.—The amendments made by this section shall apply to items and services furnished on or after January 1, 1998.

SEC. 4102. SCREENING PAP SMEAR AND PELVIC EXAMS.

(a) Coverage of Pelvic Exam; Increasing Frequency of Coverage of Pap Smear.—Section 1861(nn) (42 U.S.C. 1395x(nn)) is amended—

(1) in the heading, by striking "Smear" and inserting "Smear; Screening Pelvic Exam";

(2) by inserting "or vaginal" after "cervical" each place it appears;

(3) by striking "(nn)" and inserting "(nn)(1)";

(4) by striking "3 years" and all that follows and inserting "3 years, or during the preceding year in the case of a woman described in paragraph (3)."; and

(5) by adding at the end the following new paragraphs:

"(2) The term 'screening pelvic exam' means an pelvic examination provided to a woman if the woman involved has not had such an examination during the preceding 3 years, or during the preceding year in the case of a woman described in paragraph (3), and includes a clinical breast examination.

"(3) A woman described in this paragraph is a woman who—

"(A) is of childbearing age and has not had a test described in this subsection during each of the preceding 3 years that did not indicate the presence of cervical or vaginal cancer; or

"(B) is at high risk of developing cervical or vaginal cancer (as determined pursuant to factors identified by the Secretary).".

(b) Waiver of Deductible.—The first sentence of section 1833(b) (42 U.S.C. 1395l(b)), as amended by section 4101(b), is amended—

(1) by striking "and" before "(5)", and

(2) by inserting before the period at the end the following: ", and (6) such deductible shall not apply with respect to screening pap smear and screening pelvic exam (as described in section 1861(nn))".

(c) Conforming Amendments.—Sections 1861(s)(14) and 1862(a)(1)(F) (42 U.S.C. 1395x(s)(14), 1395y(a)(1)(F)) are each amended by inserting "and screening pelvic exam" after "screening pap smear".

(d) Payment Under Physician Fee Schedule.—Section 1848(j)(3)(42 U.S.C. 1395w–4(j)(3)) is amended by striking "and (4)" and inserting ", (4) and (14) (with respect to services described in section 1861(nn)(2))".

(e) Effective Date.—The amendments made by this section shall apply to items and services furnished on or after January 1, 1998.

(f) Report on Rescreening Pap Smears.—Not later than 6 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to Congress a report on the extent to which the use of supplemental computer-assisted diagnostic tests consisting of interactive automated computer-imaging of an exfoliative cytology test, in conjunction with the pap smears, improves the early detection of cervical or vaginal cancer and the costs implications for coverage of such supplemental tests under the medicare program.

SEC. 4103. PROSTATE CANCER SCREENING TESTS.

(a) Coverage.—Section 1861 (42 U.S.C. 1395x) is amended—

(1) in subsection (s)(2)—

(A) by striking "and" at the end of subparagraphs (N) and (O), and

(B) by inserting after subparagraph (O) the following new subparagraph:

"(P) prostate cancer screening tests (as defined in subsection (oo)); and"; and

(2) by adding at the end the following new subsection:

"Prostate Cancer Screening Tests

"(oo)(1) The term 'prostate cancer screening test' means a test that consists of any (or all) of the procedures described in paragraph (2) provided for the purpose of early detection of prostate cancer to a man over 50 years of age who has not had such a test during the preceding year.

"(2) The procedures described in this paragraph are as follows:

"(A) A digital rectal examination.

"(B) A prostate-specific antigen blood test.

"(C) For years beginning after 2001, such other procedures as the Secretary finds appropriate for the purpose of early detection of prostate cancer, taking into account changes in technology and standards of medical practice, availability, effectiveness, costs, and such other factors as the Secretary considers appropriate.".

(b) Payment for Prostate-specific Antigen Blood Test Under Clinical Diagnostic Laboratory Test Fee Schedules.—Section 1833(h)(1)(A) (42 U.S.C. 1395l(h)(1)(A)) is amended by inserting after "laboratory tests" the following: "(including prostate cancer screening tests under section 1861(oo) consisting of prostate-specific antigen blood tests)".

(c) Conforming Amendment.—Section 1862(a) (42 U.S.C. 1395y(a)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (E), by striking "and" at the end,

(B) in subparagraph (F), by striking the semicolon at the end and inserting ", and", and

(C) by adding at the end the following new subparagraph:

"(G) in the case of prostate cancer screening tests (as defined in section 1861(oo)), which are performed more frequently than is covered under such section;"; and

(2) in paragraph (7), by striking "paragraph (1)(B) or under paragraph (1)(F)" and inserting "subparagraphs (B), (F), or (G) of paragraph (1)".

(d) Payment Under Physician Fee Schedule.—Section 1848(j)(3)(42 U.S.C. 1395w–4(j)(3)), as amended by section 4102, is amended by inserting "(2)(P) (with respect to services described in subparagraphs (A) and (C) of section 1861(oo)," after "(2)(G)"

(e) Effective Date.—The amendments made by this section shall apply to items and services furnished on or after January 1, 1998.

SEC. 4104. COVERAGE OF COLORECTAL SCREENING.

(a) Coverage.—

(1) In general.—Section 1861 (42 U.S.C. 1395x), as amended by section 4103(a), is amended—

(A) in subsection (s)(2)—

(i) by striking "and" at the end of subparagraph (P);

(ii) by adding "and" at the end of subparagraph (Q); and

(iii) by adding at the end the following new subparagraph:

"(R) colorectal cancer screening tests (as defined in subsection (pp)); and"; and

(B) by adding at the end the following new subsection:

"Colorectal Cancer Screening Tests

"(pp)(1) The term 'colorectal cancer screening test' means any of the following procedures furnished to an individual for the purpose of early detection of colorectal cancer:

"(A) Screening fecal-occult blood test.

"(B) Screening flexible sigmoidoscopy.

"(C) In the case of an individual at high risk for colorectal cancer, screening colonoscopy.

"(D) Screening barium enema, if found by the Secretary to be an appropriate alternative to screening flexible sigmoidoscopy under subparagraph (B) or screening colonoscopy under subparagraph (C).

"(E) For years beginning after 2002, such other procedures as the Secretary finds appropriate for the purpose of early detection of colorectal cancer, taking into account changes in technology and standards of medical practice, availability, effectiveness, costs, and such other factors as the Secretary considers appropriate.

"(2) In paragraph (1)(C), an 'individual at high risk for colorectal cancer' is an individual who, because of family history, prior experience of cancer or precursor neoplastic polyps, a history of chronic digestive disease condition (including inflammatory bowel disease, Crohn's Disease, or ulcerative colitis), the presence of any appropriate recognized gene markers for colorectal cancer, or other predisposing factors, faces a high risk for colorectal cancer.".

(2) Deadline for decision on coverage of screening barium enema.—Not later than 2 years after the date of the enactment of this section, the Secretary of Health and Human Services shall issue and publish a determination on the treatment of screening barium enema as a colorectal cancer screening test under section 1861(pp) (as added by subparagraph (B)) as an alternative procedure to a screening flexible sigmoidoscopy or screening colonoscopy.

(b) Frequency and Payment Limits.—

(1) In general.—Section 1834 (42 U.S.C. 1395m) is amended by inserting after subsection (c) the following new subsection:

"(d) Frequency and Payment Limits for Colorectal Cancer Screening Tests.—

"(1) Screening fecal-occult blood tests.—

"(A) Payment limit.—In establishing fee schedules under section 1833(h) with respect to colorectal cancer screening tests consisting of screening fecal-occult blood tests, except as provided by the Secretary under paragraph (4)(A), the payment amount established for tests performed—

"(i) in 1998 shall not exceed $5; and

"(ii) in a subsequent year, shall not exceed the limit on the payment amount established under this subsection for such tests for the preceding year, adjusted by the applicable adjustment under section 1833(h) for tests performed in such year.

"(B) FREQUENCY LIMIT.—Subject to revision by the Secretary under paragraph (4)(B), no payment may be made under this part for colorectal cancer screening test consisting of a screening fecal-occult blood test—

"(i) if the individual is under 50 years of age; or

"(ii) if the test is performed within the 11 months after a previous screening fecal-occult blood test.

"(2) SCREENING FLEXIBLE SIGMOIDOSCOPIES.—

"(A) FEE SCHEDULE.—The Secretary shall establish a payment amount under section 1848 with respect to colorectal cancer screening tests consisting of screening flexible sigmoidoscopies that is consistent with payment amounts under such section for similar or related services, except that such payment amount shall be established without regard to subsection (a)(2)(A) of such section.

"(B) PAYMENT LIMIT.—In the case of screening flexible sigmoidoscopy services—

"(i) the payment amount may not exceed such amount as the Secretary specifies, based upon the rates recognized under this part for diagnostic flexible sigmoidoscopy services; and

"(ii) that, in accordance with regulations, may be performed in an ambulatory surgical center and for which the Secretary permits ambulatory surgical center payments under this part and that are performed in an ambulatory surgical center or hospital outpatient department, the payment amount under this part may not exceed the lesser of (I) the payment rate that would apply to such services if they were performed in a hospital outpatient department, or (II) the payment rate that would apply to such services if they were performed in an ambulatory surgical center.

"(C) SPECIAL RULE FOR DETECTED LESIONS.—If during the course of such screening flexible sigmoidoscopy, a lesion or growth is detected which results in a biopsy or removal of the lesion or growth, payment under this part shall not be made for the screening flexible sigmoidoscopy but shall be made for the procedure classified as a flexible sigmoidoscopy with such biopsy or removal.

"(D) FREQUENCY LIMIT.—Subject to revision by the Secretary under paragraph (4)(B), no payment may be made under this part for a colorectal cancer screening test consisting of a screening flexible sigmoidoscopy—

"(i) if the individual is under 50 years of age; or

"(ii) if the procedure is performed within the 47 months after a previous screening flexible sigmoidoscopy.

"(3) SCREENING COLONOSCOPY FOR INDIVIDUALS AT HIGH RISK FOR COLORECTAL CANCER.—

"(A) FEE SCHEDULE.—The Secretary shall establish a payment amount under section 1848 with respect to colorectal cancer screening test consisting of a screening colonoscopy for individuals at high risk for colorectal cancer (as defined in section 1861(pp)(2)) that is consistent with payment amounts under such section for similar or related services, except that such payment amount shall be established without regard to subsection (a)(2)(A) of such section.

"(B) PAYMENT LIMIT.—In the case of screening colonoscopy services—

"(i) the payment amount may not exceed such amount as the Secretary specifies, based upon the rates recognized under this part for diagnostic colonoscopy services; and

"(ii) that are performed in an ambulatory surgical center or hospital outpatient department, the payment amount under this part may not exceed the lesser of (I) the payment rate that would apply to such services if they were performed in a hospital outpatient department, or (II) the payment rate that would apply to such services if they were performed in an ambulatory surgical center.

"(C) SPECIAL RULE FOR DETECTED LESIONS.—If during the course of such screening colonoscopy, a lesion or growth is detected which results in a biopsy or removal of the lesion or growth, payment under this part shall not be made for the screening colonoscopy but shall be made for the procedure classified as a colonoscopy with such biopsy or removal.

"(D) FREQUENCY LIMIT.—Subject to revision by the Secretary under paragraph (4)(B), no payment may be made under this part for a colorectal cancer screening test consisting of a screening colonoscopy for individuals at high risk for colorectal cancer if the procedure is performed within the 23 months after a previous screening colonoscopy.

"(4) REDUCTIONS IN PAYMENT LIMIT AND REVISION OF FREQUENCY.—

"(A) REDUCTIONS IN PAYMENT LIMIT FOR SCREENING FECAL-OCCULT BLOOD TESTS.—The Secretary shall review from time to time the appropriateness of the amount of the payment limit established for screening fecal-occult blood tests under paragraph (1)(A). The Secretary may, with respect to tests performed in a year after 2000, reduce the amount of such limit as it applies nationally or in any area to the amount that the Secretary estimates is required to assure that such tests of an appropriate quality are readily and conveniently available during the year.

"(B) REVISION OF FREQUENCY.—

"(i) REVIEW.—The Secretary shall review periodically the appropriate frequency for performing colorectal cancer screening tests based on age and such other factors as the Secretary believes to be pertinent.

"(ii) REVISION OF FREQUENCY.—The Secretary, taking into consideration the review made under clause (i), may revise from time to time the frequency with which such tests may be paid for under this subsection, but no such revision shall apply to tests performed before January 1, 2001.

"(5) LIMITING CHARGES OF NONPARTICIPATING PHYSICIANS.—

"(A) IN GENERAL.—In the case of a colorectal cancer screening test consisting of a screening flexible sigmoidoscopy or a screening colonoscopy provided to an individual at high risk for colorectal cancer for which payment may be made under this part, if a nonparticipating physician provides the procedure to an individual enrolled under this part, the physician may not charge the individual more than the limiting charge (as defined in section 1848(g)(2)).

"(B) ENFORCEMENT.—If a physician or supplier knowing and willfully imposes a charge in violation of subparagraph (A), the Secretary may apply sanctions against such physician or supplier in accordance with section 1842(j)(2).".

(2) SPECIAL RULE FOR SCREENING BARIUM ENEMA.—If the Secretary of Health and Human Services issues a determination under subsection (a)(2) that screening barium enema should be covered as a colorectal cancer screening test under section 1861(pp) (as added by subsection (a)(1)(B)), the Secretary shall establish frequency limits (including revisions of frequency limits) for such procedure consistent with the frequency limits for other colorectal cancer screening tests under section 1834(d) (as added by subsection (b)(1)), and shall establish payment limits (including limits on charges of nonparticipating physicians) for such procedure consistent with the payment limits under part B of title XVIII for diagnostic barium enema procedures.

(c) CONFORMING AMENDMENTS.—(1) Paragraphs (1)(D) and (2)(D) of section 1833(a) (42 U.S.C. 1395l(a)) are each amended by inserting "or section 1834(d)(1)" after "subsection (h)(1)".

(2) Section 1833(h)(1)(A) (42 U.S.C. 1395l(h)(1)(A)) is amended by striking "The Secretary" and inserting "Subject to paragraphs (1) and (4)(A) of section 1834(d), the Secretary".

(3) Clauses (i) and (ii) of section 1848(a)(2)(A) (42 U.S.C. 1395w–4(a)(2)(A)) are each amended by inserting after "a service" the following: "(other than a colorectal cancer screening test consisting of a screening colonoscopy provided to an individual at high risk for colorectal cancer or a screening flexible sigmoidoscopy)".

(4) Section 1862(a) (42 U.S.C. 1395y(a)), as amended by section 4103(c), is amended—

(A) in paragraph (1)—

(i) in subparagraph (F), by striking "and" at the end,

(ii) in subparagraph (G), by striking the semicolon at the end and inserting ", and", and

(iii) by adding at the end the following new subparagraph:

"(H) in the case of colorectal cancer screening tests, which are performed more frequently than is covered under section 1834(d);"; and

(B) in paragraph (7), by striking "or (G)" and inserting "(G), or (H)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after January 1, 1998.

SEC. 4105. DIABETES SCREENING TESTS.

(a) COVERAGE OF DIABETES OUTPATIENT SELF-MANAGEMENT TRAINING SERVICES.—

(1) IN GENERAL.—Section 1861 (42 U.S.C. 1395x), as amended by sections 4103(a) and 4104(a), is amended—

(A) in subsection (s)(2)—

(i) by striking "and" at the end of subparagraph (Q);

(ii) by adding "and" at the end of subparagraph (R); and

(iii) by adding at the end the following new subparagraph:

"(S) diabetes outpatient self-management training services (as defined in subsection (qq)); and"; and

(B) by adding at the end the following new subsection:

"Diabetes Outpatient Self-Management
Training Services

"(qq)(1) The term 'diabetes outpatient self-management training services' means educational and training services furnished to an individual with diabetes by a certified provider (as described in paragraph (2)(A)) in an outpatient setting by an individual or entity who meets the quality standards described in paragraph (2)(B), but only if the physician who is managing the individual's diabetic condition certifies that such services are needed under a comprehensive plan of care related to the individual's diabetic condition to provide the individual with necessary skills and knowledge (including skills related to the self-administration of injectable drugs) to participate in the management of the individual's condition.

"(2) In paragraph (1)—

"(A) a 'certified provider' is a physician, or other individual or entity designated by the Secretary, that, in addition to providing diabetes outpatient self-management training services, provides other items or services for which payment may be made under this title; and

"(B) a physician, or such other individual or entity, meets the quality standards described in this paragraph if the physician, or individual or entity, meets quality standards established by the Secretary, except that the physician or other individual or entity shall be deemed to have met such standards if the physician or other individual or entity meets applicable standards originally established by the National Diabetes Advisory Board and subsequently revised by organizations who participated in the establishment of standards by such Board, or is recognized by an organization that represents individuals (including individuals under this title) with diabetes as meeting standards for furnishing the services.".

(2) Payment Under Physician Fee Schedule.—Section 1848(j)(3)(42 U.S.C. 1395w-4(j)(3)) as amended in sections 4102 and 4103, is amended by inserting "(2)(S)," before "(3),".

(3) Consultation with organizations in establishing payment amounts for services provided by physicians.—In establishing payment amounts under section 1848 of the Social Security Act for physicians' services consisting of diabetes outpatient self-management training services, the Secretary of Health and Human Services shall consult with appropriate organizations, including such organizations representing individuals or medicare beneficiaries with diabetes, in determining the relative value for such services under section 1848(c)(2) of such Act.

(b) Blood-testing Strips for Individuals With Diabetes.—

(1) Including strips and monitors as durable medical equipment.—The first sentence of section 1861(n) (42 U.S.C. 1395x(n)) is amended by inserting before the semicolon the following: ", and includes blood-testing strips and blood glucose monitors for individuals with diabetes without regard to whether the individual has Type I or Type II diabetes or to the individual's use of insulin (as determined under standards established by the Secretary in consultation with the appropriate organizations)".

(2) 10 percent reduction in payments for testing strips.—Section 1834(a)(2)(B)(iv) (42 U.S.C. 1395m(a)(2)(B)(iv)) is amended by adding before the period the following: "(reduced by 10 percent, in the case of a blood glucose testing strip furnished after 1997 for an individual with diabetes)".

(c) Establishment of Outcome Measures for Beneficiaries With Diabetes.—

(1) In general.—The Secretary of Health and Human Services, in consultation with appropriate organizations, shall establish outcome measures, including glysolated hemoglobin (past 90-day average blood sugar levels), for purposes of evaluating the improvement of the health status of medicare beneficiaries with diabetes mellitus.

(2) Recommendations for modifications to screening benefits.—Taking into account information on the health status of medicare beneficiaries with diabetes mellitus as measured under the outcome measures established under subparagraph (A), the Secretary shall from time to time submit recommendations to Congress regarding modifications to the coverage of services for such beneficiaries under the medicare program.

(d) Effective Date.—The amendments made by this section shall apply to items and services furnished on or after January 1, 1998.

SEC. 4106. STANDARDIZATION OF MEDICARE COVERAGE OF BONE MASS MEASUREMENTS.

(a) In General.—Section 1861 (42 U.S.C. 1395x), as amended by sections 4103(a), 4104(a), 4105(a), is amended—

(1) in subsection (s)—

(A) in paragraph (12)(C), by striking "and" at the end,

(B) by striking the period at the end of paragraph (14) and inserting "; and",

(C) by redesignating paragraphs (15) and (16) as paragraphs (16) and (17), respectively, and

(D) by inserting after paragraph (14) the following new paragraph:

"(15) bone mass measurement (as defined in subsection (rr))."; and

(2) by inserting after subsection (qq) the following new subsection:

"Bone Mass Measurement

"(rr)(1) The term 'bone mass measurement' means a radiologic or radioisotopic procedure or other procedure approved by the Food and Drug Administration performed on a qualified individual (as defined in paragraph (2)) for the purpose of identifying bone mass or detecting bone loss or determining bone quality, and includes a physician's interpretation of the results of the procedure.

"(2) For purposes of this subsection, the term 'qualified individual' means an individual who is (in accordance with regulations prescribed by the Secretary)—

"(A) an estrogen-deficient woman at clinical risk for osteoporosis;

"(B) an individual with vertebral abnormalities;

"(C) an individual receiving long-term glucocorticoid steroid therapy;

"(D) an individual with primary hyperparathyroidism; or

"(E) an individual being monitored to assess the response to or efficacy of an approved osteoporosis drug therapy.

"(3) The Secretary shall establish such standards regarding the frequency with which a qualified individual shall be eligible to be provided benefits for bone mass measurement under this title.".

(b) Payment under Physician Fee Schedule.—Section 1848(j)(3) (42 U.S.C. 1395w-4(j)(3)), as amended by sections 4102, 4103, and 4105, is amended—

(1) by striking "(4) and (14)" and inserting "(4), (14)" and

(2) by inserting " and (15)" after "1861(nn)(2))".

(c) Conforming Amendments.—Sections 1864(a), 1902(a)(9)(C), and 1915(a)(1)(B)(ii)(I) (42 U.S.C. 1395aa(a), 1396a(a)(9)(C), and 1396n(a)(1)(B)(ii)(I)) are amended by striking "paragraphs (15) and (16)" each place it appears and inserting "paragraphs (16) and (17)".

(d) Effective Date.—The amendments made by this section shall apply to bone mass measurements performed on or after July 1, 1998.

SEC. 4107. VACCINES OUTREACH EXPANSION.

(a) Extension of Influenza and Pneumococcal Vaccination Campaign.—In order to increase utilization of pneumococcal and influenza vaccines in medicare beneficiaries, the Influenza and Pneumococcal Vaccination Campaign carried out by the Health Care Financing Administration in conjunction with the Centers for Disease Control and Prevention and the National Coalition for Adult Immunization, is extended until the end of fiscal year 2002.

(b) Appropriation.—There are hereby appropriated for each of fiscal years 1998 through 2002, $8,000,000 to the Campaign described in subsection (a). Of the amount of such appropriation in each fiscal year, 60 percent of such appropriation shall be payable from the Federal Hospital Insurance Trust Fund, and 40 percent shall be payable from the Federal Supplementary Medical Insurance Trust Fund under title XVIII of the Social Security Act (42 U.S.C. 1395i, 1395t).

SEC. 4108. STUDY ON PREVENTIVE BENEFITS.

(a) Study.—The Secretary of Health and Human Services shall request the National Academy of Sciences, in conjunction with the United States Preventive Services Task Force, to analyze the expansion or modification of preventive benefits provided to medicare beneficiaries under title XVIII of the Social Security Act. The analysis shall consider both the short term and long term benefits, and costs to the medicare program, of such expansion or modification,

(b) Report.—

(1) Initial report.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall submit a report on the findings of the analysis conducted under subsection (a) to the Committee on Ways and Means and the Committee on Commerce of the House of Representatives and the Committee on Finance of the Senate.

(2) Contents.—Such report shall include specific findings with respect to coverage of the following preventive benefits:

(A) Nutrition therapy, including parenteral and enteral nutrition.

(B) Skin cancer screening.

(C) Medically necessary dental care.

(D) Routine patient care costs for beneficiaries enrolled in approved clinical trial programs.

(E) Elimination of time limitation for coverage of immunosuppressive drugs for transplant patients.

(3) Funding.—From funds appropriated to the Department of Health and Human Services for fiscal years 1998 and 1999, the Secretary shall provide for such funding as may be necessary for the conduct of the analysis by the National Academy of Sciences under this section.

Subtitle C—Rural Initiatives

SEC. 4206. INFORMATICS, TELEMEDICINE, AND EDUCATION DEMONSTRATION PROJECT.

(a) Purpose and Authorization.—

(1) In general.—Not later than 9 months after the date of enactment of this section, the Secretary of Health and Human Services shall provide for a demonstration project described in paragraph (2).

(2) Description of project.—

(A) In general.—The demonstration project described in this paragraph is a single demonstration project to use eligible health care provider telemedicine networks to apply high-capacity computing and advanced networks to improve primary care (and prevent health care complications) to medicare beneficiaries with diabetes mellitus who are residents of medically underserved rural areas or residents of medically underserved inner-city areas.

(B) Medically underserved defined.—As used in this paragraph, the term "medically underserved" has the meaning given such term in section 330(b)(3) of the Public Health Service Act (42 U.S.C. 254b(b)(3)).

"(i) in 1998 shall not exceed $5; and

"(ii) in a subsequent year, shall not exceed the limit on the payment amount established under this subsection for such tests for the preceding year, adjusted by the applicable adjustment under section 1833(h) for tests performed in such year.

"(B) FREQUENCY LIMIT.—Subject to revision by the Secretary under paragraph (4)(B), no payment may be made under this part for colorectal cancer screening test consisting of a screening fecal-occult blood test—

"(i) if the individual is under 50 years of age; or

"(ii) if the test is performed within the 11 months after a previous screening fecal-occult blood test.

"(2) SCREENING FLEXIBLE SIGMOIDOSCOPIES.—

"(A) FEE SCHEDULE.—The Secretary shall establish a payment amount under section 1848 with respect to colorectal cancer screening tests consisting of screening flexible sigmoidoscopies that is consistent with payment amounts under such section for similar or related services, except that such payment amount shall be established without regard to subsection (a)(2)(A) of such section.

"(B) PAYMENT LIMIT.—In the case of screening flexible sigmoidoscopy services—

"(i) the payment amount may not exceed such amount as the Secretary specifies, based upon the rates recognized under this part for diagnostic flexible sigmoidoscopy services; and

"(ii) that, in accordance with regulations, may be performed in an ambulatory surgical center and for which the Secretary permits ambulatory surgical center payments under this part and that are performed in an ambulatory surgical center or hospital outpatient department, the payment amount under this part may not exceed the lesser of (I) the payment rate that would apply to such services if they were performed in a hospital outpatient department, or (II) the payment rate that would apply to such services if they were performed in an ambulatory surgical center.

"(C) SPECIAL RULE FOR DETECTED LESIONS.—If during the course of such screening flexible sigmoidoscopy, a lesion or growth is detected which results in a biopsy or removal of the lesion or growth, payment under this part shall not be made for the screening flexible sigmoidoscopy but shall be made for the procedure classified as a flexible sigmoidoscopy with such biopsy or removal.

"(D) FREQUENCY LIMIT.—Subject to revision by the Secretary under paragraph (4)(B), no payment may be made under this part for a colorectal cancer screening test consisting of a screening flexible sigmoidoscopy—

"(i) if the individual is under 50 years of age; or

"(ii) if the procedure is performed within the 47 months after a previous screening flexible sigmoidoscopy.

"(3) SCREENING COLONOSCOPY FOR INDIVIDUALS AT HIGH RISK FOR COLORECTAL CANCER.—

"(A) FEE SCHEDULE.—The Secretary shall establish a payment amount under section 1848 with respect to colorectal cancer screening test consisting of a screening colonoscopy for individuals at high risk for colorectal cancer (as defined in section 1861(pp)(2)) that is consistent with payment amounts under such section for similar or related services, except that such payment amount shall be established without regard to subsection (a)(2)(A) of such section.

"(B) PAYMENT LIMIT.—In the case of screening colonoscopy services—

"(i) the payment amount may not exceed such amount as the Secretary specifies, based upon the rates recognized under this part for diagnostic colonoscopy services; and

"(ii) that are performed in an ambulatory surgical center or hospital outpatient department, the payment amount under this part may not exceed the lesser of (I) the payment rate that would apply to such services if they were performed in a hospital outpatient department, or (II) the payment rate that would apply to such services if they were performed in an ambulatory surgical center.

"(C) SPECIAL RULE FOR DETECTED LESIONS.—If during the course of such screening colonoscopy, a lesion or growth is detected which results in a biopsy or removal of the lesion or growth, payment under this part shall not be made for the screening colonoscopy but shall be made for the procedure classified as a colonoscopy with such biopsy or removal.

"(D) FREQUENCY LIMIT.—Subject to revision by the Secretary under paragraph (4)(B), no payment may be made under this part for a colorectal cancer screening test consisting of a screening colonoscopy for individuals at high risk for colorectal cancer if the procedure is performed within the 23 months after a previous screening colonoscopy.

"(4) REDUCTIONS IN PAYMENT LIMIT AND REVISION OF FREQUENCY.—

"(A) REDUCTIONS IN PAYMENT LIMIT FOR SCREENING FECAL-OCCULT BLOOD TESTS.—The Secretary shall review from time to time the appropriateness of the amount of the payment limit established for screening fecal-occult blood tests under paragraph (1)(A). The Secretary may, with respect to tests performed in a year after 2000, reduce the amount of such limit as it applies nationally or in any area to the amount that the Secretary estimates is required to assure that such tests of an appropriate quality are readily and conveniently available during the year.

"(B) REVISION OF FREQUENCY.—

"(i) REVIEW.—The Secretary shall review periodically the appropriate frequency for performing colorectal cancer screening tests based on age and such other factors as the Secretary believes to be pertinent.

"(ii) REVISION OF FREQUENCY.—The Secretary, taking into consideration the review made under clause (i), may revise from time to time the frequency with which such tests may be paid for under this subsection, but no such revision shall apply to tests performed before January 1, 2001.

"(5) LIMITING CHARGES OF NONPARTICIPATING PHYSICIANS.—

"(A) IN GENERAL.—In the case of a colorectal cancer screening test consisting of a screening flexible sigmoidoscopy or a screening colonoscopy provided to an individual at high risk for colorectal cancer for which payment may be made under this part, if a nonparticipating physician provides the procedure to an individual enrolled under this part, the physician may not charge the individual more than the limiting charge (as defined in section 1848(g)(2)).

"(B) ENFORCEMENT.—If a physician or supplier knowing and willfully imposes a charge in violation of subparagraph (A), the Secretary may apply sanctions against such physician or supplier in accordance with section 1842(j)(2).".

(2) SPECIAL RULE FOR SCREENING BARIUM ENEMA.—If the Secretary of Health and Human Services issues a determination under subsection (a)(2) that screening barium enema should be covered as a colorectal cancer screening test under section 1861(pp) (as added by subsection (a)(1)(B)), the Secretary shall establish frequency limits (including revisions of frequency limits) for such procedure consistent with the frequency limits for other colorectal cancer screening tests under section 1834(d) (as added by subsection (b)(1)), and shall establish payment limits (including limits on charges of nonparticipating physicians) for such procedure consistent with the payment limits under part B of title XVIII for diagnostic barium enema procedures.

(c) CONFORMING AMENDMENTS.—(1) Paragraphs (1)(D) and (2)(D) of section 1833(a) (42 U.S.C. 1395l(a)) are each amended by inserting "or section 1834(d)(1)" after "subsection (h)(1)".

(2) Section 1833(h)(1)(A) (42 U.S.C. 1395l(h)(1)(A)) is amended by striking "The Secretary" and inserting "Subject to paragraphs (1) and (4)(A) of section 1834(d), the Secretary".

(3) Clauses (i) and (ii) of section 1848(a)(2)(A) (42 U.S.C. 1395w-4(a)(2)(A)) are each amended by inserting after "a service" the following: "(other than a colorectal cancer screening test consisting of a screening colonoscopy provided to an individual at high risk for colorectal cancer or a screening flexible sigmoidoscopy)".

(4) Section 1862(a) (42 U.S.C. 1395y(a)), as amended by section 4103(c), is amended—

(A) in paragraph (1)—

(i) in subparagraph (F), by striking "and" at the end,

(ii) in subparagraph (G), by striking the semicolon at the end and inserting ", and", and

(iii) by adding at the end the following new subparagraph:

"(H) in the case of colorectal cancer screening tests, which are performed more frequently than is covered under section 1834(d);"; and

(B) in paragraph (7), by striking "or (G)" and inserting "(G), or (H)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after January 1, 1998.

SEC. 4105. DIABETES SCREENING TESTS.

(a) COVERAGE OF DIABETES OUTPATIENT SELF-MANAGEMENT TRAINING SERVICES.—

(1) IN GENERAL.—Section 1861 (42 U.S.C. 1395x), as amended by sections 4103(a) and 4104(a), is amended—

(A) in subsection (s)(2)—

(i) by striking "and" at the end of subparagraph (Q);

(ii) by adding "and" at the end of subparagraph (R); and

(iii) by adding at the end the following new subparagraph:

"(S) diabetes outpatient self-management training services (as defined in subsection (qq)); and"; and

(B) by adding at the end the following new subsection:

"Diabetes Outpatient Self-Management Training Services

"(qq)(1) The term 'diabetes outpatient self-management training services' means educational and training services furnished to an individual with diabetes by a certified provider (as described in paragraph (2)(A)) in an outpatient setting by an individual or entity who meets the quality standards described in paragraph (2)(B), but only if the physician who is managing the individual's diabetic condition certifies that such services are needed under a comprehensive plan of care related to the individual's diabetic condition to provide the individual with necessary skills and knowledge (including skills related to the self-administration of injectable drugs) to participate in the management of the individual's condition.

"(2) In paragraph (1)—

"(A) a 'certified provider' is a physician, or other individual or entity designated by the Secretary, that, in addition to providing diabetes outpatient self-management training services, provides other items or services for which payment may be made under this title; and

"(B) a physician, or such other individual or entity, meets the quality standards described in this paragraph if the physician, or individual or entity, meets quality standards established by the Secretary, except that the physician or other individual or entity shall be deemed to have met such standards if the physician or other individual or entity meets applicable standards originally established by the National Diabetes Advisory Board and subsequently revised by organizations who participated in the establishment of standards by such Board, or is recognized by an organization that represents individuals (including individuals under this title) with diabetes as meeting standards for furnishing the services.".

(2) Payment Under Physician Fee Schedule.—Section 1848(j)(3)(42 U.S.C. 1395w–4(j)(3)) as amended in sections 4102 and 4103, is amended by inserting "(2)(S)," before "(3),".

(3) Consultation with organizations in establishing payment amounts for services provided by physicians.—In establishing payment amounts under section 1848 of the Social Security Act for physicians' services consisting of diabetes outpatient self-management training services, the Secretary of Health and Human Services shall consult with appropriate organizations, including such organizations representing individuals or medicare beneficiaries with diabetes, in determining the relative value for such services under section 1848(c)(2) of such Act.

(b) Blood-testing Strips for Individuals With Diabetes.—

(1) Including strips and monitors as durable medical equipment.—The first sentence of section 1861(n) (42 U.S.C. 1395x(n)) is amended by inserting before the semicolon the following: ", and includes blood-testing strips and blood glucose monitors for individuals with diabetes without regard to whether the individual has Type I or Type II diabetes or to the individual's use of insulin (as determined under standards established by the Secretary in consultation with the appropriate organizations)".

(2) 10 percent reduction in payments for testing strips.—Section 1834(a)(2)(B)(iv) (42 U.S.C. 1395m(a)(2)(B)(iv)) is amended by adding before the period the following: "(reduced by 10 percent, in the case of a blood glucose testing strip furnished after 1997 for an individual with diabetes)".

(c) Establishment of Outcome Measures for Beneficiaries With Diabetes.—

(1) In general.—The Secretary of Health and Human Services, in consultation with appropriate organizations, shall establish outcome measures, including glysolated hemoglobin (past 90-day average blood sugar levels), for purposes of evaluating the improvement of the health status of medicare beneficiaries with diabetes mellitus.

(2) Recommendations for modifications to screening benefits.—Taking into account information on the health status of medicare beneficiaries with diabetes mellitus as measured under the outcome measures established under subparagraph (A), the Secretary shall from time to time submit recommendations to Congress regarding modifications to the coverage of services for such beneficiaries under the medicare program.

(d) Effective Date.—The amendments made by this section shall apply to items and services furnished on or after January 1, 1998.

SEC. 4106. STANDARDIZATION OF MEDICARE COVERAGE OF BONE MASS MEASUREMENTS.

(a) In General.—Section 1861 (42 U.S.C. 1395x), as amended by sections 4103(a), 4104(a), 4105(a), is amended—

(1) in subsection (s)—

(A) in paragraph (12)(C), by striking "and" at the end,

(B) by striking the period at the end of paragraph (14) and inserting "; and",

(C) by redesignating paragraphs (15) and (16) as paragraphs (16) and (17), respectively, and

(D) by inserting after paragraph (14) the following new paragraph:

"(15) bone mass measurement (as defined in subsection (rr))."; and

(2) by inserting after subsection (qq) the following new subsection:

"Bone Mass Measurement

"(rr)(1) The term 'bone mass measurement' means a radiologic or radioisotopic procedure or other procedure approved by the Food and Drug Administration performed on a qualified individual (as defined in paragraph (2)) for the purpose of identifying bone mass or detecting bone loss or determining bone quality, and includes a physician's interpretation of the results of the procedure.

"(2) For purposes of this subsection, the term 'qualified individual' means an individual who is (in accordance with regulations prescribed by the Secretary)—

"(A) an estrogen-deficient woman at clinical risk for osteoporosis;

"(B) an individual with vertebral abnormalities;

"(C) an individual receiving long-term glucocorticoid steroid therapy;

"(D) an individual with primary hyperparathyroidism; or

"(E) an individual being monitored to assess the response to or efficacy of an approved osteoporosis drug therapy.

"(3) The Secretary shall establish such standards regarding the frequency with which a qualified individual shall be eligible to be provided benefits for bone mass measurement under this title.".

(b) Payment under Physician Fee Schedule.—Section 1848(j)(3) (42 U.S.C. 1395w–4(j)(3)), as amended by sections 4102, 4103, and 4105, is amended—

(1) by striking "(4) and (14)" and inserting "(4), (14)" and

(2) by inserting " and (15)" after "1861(nn)(2))".

(c) Conforming Amendments.—Sections 1864(a), 1902(a)(9)(C), and 1915(a)(1)(B)(ii)(I) (42 U.S.C. 1395aa(a), 1396a(a)(9)(C), and 1396n(a)(1)(B)(ii)(I)) are amended by striking "paragraphs (15) and (16)" each place it appears and inserting "paragraphs (16) and (17)".

(d) Effective Date.—The amendments made by this section shall apply to bone mass measurements performed on or after July 1, 1998.

SEC. 4107. VACCINES OUTREACH EXPANSION.

(a) Extension of Influenza and Pneumococcal Vaccination Campaign.—In order to increase utilization of pneumococcal and influenza vaccines in medicare beneficiaries, the Influenza and Pneumococcal Vaccination Campaign carried out by the Health Care Financing Administration in conjunction with the Centers for Disease Control and Prevention and the National Coalition for Adult Immunization, is extended until the end of fiscal year 2002.

(b) Appropriation.—There are hereby appropriated for each of fiscal years 1998 through 2002, $8,000,000 to the Campaign described in subsection (a). Of the amount of such appropriation in each fiscal year, 60 percent of such appropriation shall be payable from the Federal Hospital Insurance Trust Fund, and 40 percent shall be payable from the Federal Supplementary Medical Insurance Trust Fund under title XVIII of the Social Security Act (42 U.S.C. 1395i, 1395t).

SEC. 4108. STUDY ON PREVENTIVE BENEFITS.

(a) Study.—The Secretary of Health and Human Services shall request the National Academy of Sciences, in conjunction with the United States Preventive Services Task Force, to analyze the expansion or modification of preventive benefits provided to medicare beneficiaries under title XVIII of the Social Security Act. The analysis shall consider both the short term and long term benefits, and costs to the medicare program, of such expansion or modification,

(b) Report.—

(1) Initial report.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall submit a report on the findings of the analysis conducted under subsection (a) to the Committee on Ways and Means and the Committee on Commerce of the House of Representatives and the Committee on Finance of the Senate.

(2) Contents.—Such report shall include specific findings with respect to coverage of the following preventive benefits:

(A) Nutrition therapy, including parenteral and enteral nutrition.

(B) Skin cancer screening.

(C) Medically necessary dental care.

(D) Routine patient care costs for beneficiaries enrolled in approved clinical trial programs.

(E) Elimination of time limitation for coverage of immunosuppressive drugs for transplant patients.

(3) Funding.—From funds appropriated to the Department of Health and Human Services for fiscal years 1998 and 1999, the Secretary shall provide for such funding as may be necessary for the conduct of the analysis by the National Academy of Sciences under this section.

Subtitle C—Rural Initiatives

SEC. 4206. INFORMATICS, TELEMEDICINE, AND EDUCATION DEMONSTRATION PROJECT.

(a) Purpose and Authorization.—

(1) In general.—Not later than 9 months after the date of enactment of this section, the Secretary of Health and Human Services shall provide for a demonstration project described in paragraph (2).

(2) Description of project.—

(A) In general.—The demonstration project described in this paragraph is a single demonstration project to use eligible health care provider telemedicine networks to apply high-capacity computing and advanced networks to improve primary care (and prevent health care complications) to medicare beneficiaries with diabetes mellitus who are residents of medically underserved rural areas or residents of medically underserved inner-city areas.

(B) Medically underserved defined.—As used in this paragraph, the term "medically underserved" has the meaning given such term in section 330(b)(3) of the Public Health Service Act (42 U.S.C. 254b(b)(3)).

(3) Waiver.—The Secretary shall waive such provisions of title XVIII of the Social Security Act as may be necessary to provide for payment for services under the project in accordance with subsection (d).

(4) Duration of project.—The project shall be conducted over a 4-year period.

(b) Objectives of Project.—The objectives of the project include the following:

(1) Improving patient access to and compliance with appropriate care guidelines for individuals with diabetes mellitus through direct telecommunications link with information networks in order to improve patient quality-of-life and reduce overall health care costs.

(2) Developing a curriculum to train, and providing standards for credentialing and licensure of, health professionals (particularly primary care health professionals) in the use of medical informatics and telecommunications.

(3) Demonstrating the application of advanced technologies, such as video-conferencing from a patient's home, remote monitoring of a patient's medical condition, interventional informatics, and applying individualized, automated care guidelines, to assist primary care providers in assisting patients with diabetes in a home setting.

(4) Application of medical informatics to residents with limited English language skills.

(5) Developing standards in the application of telemedicine and medical informatics.

(6) Developing a model for the cost-effective delivery of primary and related care both in a managed care environment and in a fee-for-service environment.

(c) Eligible Health Care Provider Telemedicine Network Defined.—For purposes of this section, the term "eligible health care provider telemedicine network" means a consortium that includes at least one tertiary care hospital (but no more than 2 such hospitals), at least one medical school, no more than 4 facilities in rural or urban areas, and at least one regional telecommunications provider and that meets the following requirements:

(1) The consortium is located in an area with one of the highest concentrations of medical schools and tertiary care facilities in the United States and has appropriate arrangements (within or outside the consortium) with such schools and facilities, universities, and telecommunications providers, in order to conduct the project.

(2) The consortium submits to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a description of the use to which the consortium would apply any amounts received under the project and the source and amount of non-Federal funds used in the project.

(3) The consortium guarantees that it will be responsible for payment for all costs of the project that are not paid under this section and that the maximum amount of payment that may be made to the consortium under this section shall not exceed the amount specified in subsection (d)(3).

(d) Coverage as Medicare Part B Services.—

(1) In general.—Subject to the succeeding provisions of this subsection, services related to the treatment or management of (including prevention of complications from) diabetes for medicare beneficiaries furnished under the project shall be considered to be services covered under part B of title XVIII of the Social Security Act.

(2) Payments.—

(A) In general.—Subject to paragraph (3), payment for such services shall be made at a rate of 50 percent of the costs that are reasonable and related to the provision of such services. In computing such costs, the Secretary shall include costs described in subparagraph (B), but may not include costs described in subparagraph (C).

(B) Costs that may be included.—The costs described in this subparagraph are the permissible costs (as recognized by the Secretary) for the following:

(i) The acquisition of telemedicine equipment for use in patients' homes (but only in the case of patients located in medically underserved areas).

(ii) Curriculum development and training of health professionals in medical informatics and telemedicine.

(iii) Payment of telecommunications costs (including salaries and maintenance of equipment), including costs of telecommunications between patients' homes and the eligible network and between the network and other entities under the arrangements described in subsection (c)(1).

(iv) Payments to practitioners and providers under the medicare programs.

(C) Costs not included.—The costs described in this subparagraph are costs for any of the following:

(i) The purchase or installation of transmission equipment (other than such equipment used by health professionals to deliver medical informatics services under the project).

(ii) The establishment or operation of a telecommunications common carrier network.

(iii) Construction (except for minor renovations related to the installation of reimbursable equipment) or the acquisition or building of real property.

(3) Limitation.—The total amount of the payments that may be made under this section shall not exceed $30,000,000.

(4) Limitation on cost-sharing.—The project may not impose cost sharing on a medicare beneficiary for the receipt of services under the project in excess of 20 percent of the recognized costs of the project attributable to such services.

(e) Reports.—The Secretary shall submit to the Committees on Ways and Means and Commerce of the House of Representatives and the Committee on Finance of the Senate interim reports on the project and a final report on the project within 6 months after the conclusion of the project. The final report shall include an evaluation of the impact of the use of telemedicine and medical informatics on improving access of medicare beneficiaries to health care services, on reducing the costs of such services, and on improving the quality of life of such beneficiaries.

(f) Definitions.—For purposes of this section:

(1) Interventional informatics.—The term "interventional informatics" means using information technology and virtual reality technology to intervene in patient care.

(2) Medical informatics.—The term "medical informatics" means the storage, retrieval, and use of biomedical and related information for problem solving and decision-making through computing and communications technologies.

(3) Project.—The term "project" means the demonstration project under this section.

Subtitle D—Anti-Fraud and Abuse Provisions

SEC. 4301. PERMANENT EXCLUSION FOR THOSE CONVICTED OF 3 HEALTH CARE RELATED CRIMES.

Section 1128(c)(3) (42 U.S.C. 1320a-7(c)(3)) is amended—

(1) in subparagraph (A), by inserting "or in the case described in subparagraph (G)" after "subsection (b)(12)";

(2) in subparagraphs (B) and (D), by striking "In the case" and inserting "Subject to subparagraph (G), in the case"; and

(3) by adding at the end the following new subparagraph:

"(G) In the case of an exclusion of an individual under subsection (a) based on a conviction occurring on or after the date of the enactment of this subparagraph, if the individual has (before, on, or after such date and before the date of the conviction for which the exclusion is imposed) been convicted—

"(i) on one previous occasion of one or more offenses for which an exclusion may be effected under such subsection, the period of the exclusion shall be not less than 10 years, or

"(ii) on 2 or more previous occasions of one or more offenses for which an exclusion may be effected under such subsection, the period of the exclusion shall be permanent.".

SEC. 4302. AUTHORITY TO REFUSE TO ENTER INTO MEDICARE AGREEMENTS WITH INDIVIDUALS OR ENTITIES CONVICTED OF FELONIES.

(a) Medicare Part A.—Section 1866(b)(2) (42 U.S.C. 1395cc(b)(2)) is amended—

(1) by striking "or" at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting ", or"; and

(3) by adding after subparagraph (C) the following new subparagraph:

"(D) has ascertained that the provider has been convicted of a felony under Federal or State law for an offense which the Secretary determines is inconsistent with the best interests of program beneficiaries.".

(b) Medicare Part B.—Section 1842 (42 U.S.C. 1395u) is amended by adding after subsection (r) the following new subsection:

"(s) The Secretary may refuse to enter into an agreement with a physician or supplier under subsection (h) or may terminate or refuse to renew such agreement, in the event that such physician or supplier has been convicted of a felony under Federal or State law for an offense which the Secretary determines is inconsistent with the best interests of program beneficiaries.".

(c) Medicaid.—Section 1902(a)(23) (42 U.S.C. 1396(a)) is amended—

(1) by relocating the matter that precedes "provide that, (A)" immediately before the semicolon;

(2) by inserting a semicolon after "1915";

(3) by striking the comma after "Guam" and inserting a semicolon; and

(4) by inserting before the semicolon at the end the following: "and except that this provision does not require a State to provide medical assistance for such services furnished by a person or entity convicted of a felony under Federal or State law for an offense which the State agency determines is inconsistent with the best interests of beneficiaries under the State plan".

(d) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act and apply to the entry and renewal of contracts on or after such date.

SEC. 4303. INCLUSION OF TOLL-FREE NUMBER TO REPORT MEDICARE WASTE, FRAUD, AND ABUSE IN EXPLANATION OF BENEFITS FORMS.

(a) In General.—Section 1842(h)(7) (42 U.S.C. 1395u(h)(7)) is amended—

(1) by striking “and” at the end of subparagraph (D),

(2) by striking the period at the end of subparagraph (E), and

(3) by adding at the end the following new subparagraph:

“(E) a toll-free telephone number maintained by the Inspector General in the Department of Health and Human Services for the receipt of complaints and information about waste, fraud, and abuse in the provision or billing of services under this title.”.

(b) Effective Date.—The amendments made by subsection (a) shall apply to explanations of benefits provided on or after such date (not later than January 1, 1999) as the Secretary of Health and Human Services shall provide.

SEC. 4304. LIABILITY OF MEDICARE CARRIERS AND FISCAL INTERMEDIARIES FOR CLAIMS SUBMITTED BY EXCLUDED PROVIDERS.

(a) Reimbursement to the Secretary for Amounts Paid to Excluded Providers.—

(1) Requirements for fiscal intermediaries.—

(A) In general.—Section 1816 (42 U.S.C. 1395h) is amended by adding at the end the following new subsection:

“(m) An agreement with an agency or organization under this section shall require that such agency or organization reimburse the Secretary for any amounts paid by the agency or organization for a service under this title which is furnished, directed, or prescribed by an individual or entity during any period for which the individual or entity is excluded pursuant to section 1128, 1128A, or 1156, from participation in the program under this title, if the amounts are paid after the Secretary notifies the agency or organization of the exclusion.”.

(B) Conforming amendment.—Subsection (i) of such section is amended by adding at the end the following new paragraph:

“(4) Nothing in this subsection shall be construed to prohibit reimbursement by an agency or organization under subsection (m).”.

(2) Requirements for carriers.—Section 1842(b)(3) (42 U.S.C. 1395u(b)(3)) is amended—

(A) by striking “and” at the end of subparagraph (I); and

(B) by inserting after subparagraph (I) the following new subparagraph:

“(J) will reimburse the Secretary for any amounts paid by the carrier for an item or service under this part which is furnished, directed, or prescribed by an individual or entity during any period for which the individual or entity is excluded pursuant to section 1128, 1128A, or 1156, from participation in the program under this title, if the amounts are paid after the Secretary notifies the carrier of the exclusion, and”.

(3) Medicaid Provision.—Section 1902(a)(39) (42 U.S.C. 1396a(a)(39)) is amended by inserting before the semicolon at the end the following: “, and provide further for reimbursement to the Secretary of any payments made under the plan or any item or service furnished, directed, or prescribed by the excluded individual or entity during such period, after the Secretary notifies the State of such exclusion”.

(b) Conforming Repeal of Mandatory Payment Rule.—Paragraph (2) of section 1862(e) (42 U.S.C. 1395y(e)) is amended to read as follows:

“(2) No individual or entity may bill (or collect any amount from) any individual for any item or service for which payment is denied under paragraph (1). No person is liable for payment of any amounts billed for such an item or service in violation of the previous sentence.”.

(c) Effective Dates.—The amendments made by this section shall apply to contracts and agreements entered into, renewed, or extended after the date of the enactment of this Act, but only with respect to claims submitted on or after the later of January 1, 1998, or the date such entry, renewal, or extension becomes effective.

SEC. 4305. EXCLUSION OF ENTITY CONTROLLED BY FAMILY MEMBER OF A SANCTIONED INDIVIDUAL.

(a) In General.—Section 1128 (42 U.S.C. 1320a–7) is amended—

(1) in subsection (b)(8)(A)—

(A) by striking “or” at the end of clause (i), and

(B) by striking the dash at the end of clause (ii) and inserting “; or”, and

(C) by inserting after clause (ii) the following:

“(iii) who was described in clause (i) but is no longer so described because of a transfer of ownership or control interest, in anticipation of (or following) a conviction, assessment, or exclusion described in subparagraph (B) against the person, to an immediate family member (as defined in subsection (j)(1)) or a member of the household of the person (as defined in subsection (j)(2)) who continues to maintain an interest described in such clause—”; and

(2) by adding after subsection (i) the following new subsection:

“(j) Definition of Immediate Family Member and Member of Household.—For purposes of subsection (b)(8)(A)(iii):

“(1) The term ‘immediate family member’ means, with respect to a person—

“(A) the husband or wife of the person;

“(B) the natural or adoptive parent, child, or sibling of the person;

“(C) the stepparent, stepchild, stepbrother, or stepsister of the person;

“(D) the father-, mother-, daughter-, son-, brother-, or sister-in-law of the person;

“(E) the grandparent or grandchild of the person; and

“(F) the spouse of a grandparent or grandchild of the person.

“(2) The term ‘member of the household’ means, with respect to an person, any individual sharing a common abode as part of a single family unit with the person, including domestic employees and others who live together as a family unit, but not including a roomer or boarder.”.

(b) Effective Date.—The amendments made by subsection (a) shall take effect on the date that is 45 days after the date of the enactment of this Act.

SEC. 4306. IMPOSITION OF CIVIL MONEY PENALTIES.

(a) Civil Money Penalties for Persons That Contract With Excluded Individuals.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)) is amended—

(1) by striking “or” at the end of paragraph (4);

(2) by adding “or” at the end of paragraph (5); and

(3) by adding after paragraph (5) the following new paragraph:

“(6) arranges or contracts (by employment or otherwise) with an individual or entity that the person knows or should know is excluded from participation in a Federal health care program (as defined in section 1128B(f)), for the provision of items or services for which payment may be made under such a program;”.

(b) Effective Dates.—The amendments made by subsection (a) shall apply to arrangements and contracts entered into after the date of the enactment of this Act.

SEC. 4307. DISCLOSURE OF INFORMATION AND SURETY BONDS.

(a) Disclosure of Information and Surety Bond Requirement for Suppliers of Durable Medical Equipment.—Section 1834(a) (42 U.S.C. 1395m(a)) is amended by inserting after paragraph (15) the following new paragraph:

“(16) Conditions for issuance of provider number.—The Secretary shall not provide for the issuance (or renewal) of a provider number for a supplier of durable medical equipment, for purposes of payment under this part for durable medical equipment furnished by the supplier, unless the supplier provides the Secretary on a continuing basis with—

“(A)(i) full and complete information as to the identity of each person with an ownership or control interest (as defined in section 1124(a)(3)) in the supplier or in any subcontractor (as defined by the Secretary in regulations) in which the supplier directly or indirectly has a 5 percent or more ownership interest, and

“(ii) to the extent determined to be feasible under regulations of the Secretary, the name of any disclosing entity (as defined in section 1124(a)(2)) with respect to which a person with such an ownership or control interest in the supplier is a person with such an ownership or control interest in the disclosing entity; and

“(B) a surety bond in a form specified by the Secretary and in an amount that is not less than $50,000.

The Secretary may waive the requirement of a bond under subparagraph (B) in the case of a supplier that provides a comparable surety bond under State law.”.

(b) Surety Bond Requirement for Home Health Agencies.—

(1) In general.—Section 1861(o) (42 U.S.C. 1395x(o)) is amended—

(A) in paragraph (7), by inserting “and including providing the Secretary on a continuing basis with a surety bond in a form specified by the Secretary and in an amount that is not less than $50,000,” after “financial security of the program”, and

(B) by adding at the end the following: “The Secretary may waive the requirement of a bond under paragraph (7) in the case of an agency or organization that provides a comparable surety bond under State law.”.

(2) Conforming amendments.—Section 1861(v)(1)(H) (42 U.S.C. 1395x(v)(1)(H)) is amended—

(A) in clause (i), by striking “the financial security requirement” and inserting “the financial security and surety bond requirements”; and

(B) in clause (ii), by striking “the financial security requirement described in subsection (o)(7) applies” and inserting “the financial security and surety bond requirements described in subsection (o)(7) apply”.

(3) Reference to current disclosure requirement.—For provision of current law requiring home health agencies to disclose information on ownership and control interests, see section 1124 of the Social Security Act.

(c) Authorizing Application of Disclosure and Surety Bond Requirements to Ambulance Services and Certain Clinics.—Section 1834(a)(16) (42 U.S.C. 1395m(a)(16)), as added by subsection (a), is amended by adding at the end the following: "The Secretary, in the Secretary's discretion, may impose the requirements of the previous sentence with respect to some or all classes of suppliers of ambulance services described in section 1861(s)(7) and clinics that furnish medical and other health services (other than physicians' services) under this part.".

(d) APPLICATION TO COMPREHENSIVE OUTPATIENT REHABILITATION FACILITIES (CORFS).—Section 1861(cc)(2) (42 U.S.C. 1395x(cc)(2)) is amended—

(1) in subparagraph (I), by inserting before the period at the end the following: "and providing the Secretary on a continuing basis with a surety bond in a form specified by the Secretary and in an amount that is not less than $50,000", and

(2) by adding after and below subparagraph (I) the following:

"The Secretary may waive the requirement of a bond under subparagraph (I) in the case of a facility that provides a comparable surety bond under State law.".

(e) APPLICATION TO REHABILITATION AGENCIES.—Section 1861(p) (42 U.S.C. 1395x(p)) is amended—

(1) in paragraph (4)(A)(v), by inserting after "as the Secretary may find necessary," the following: "and provides the Secretary, to the extent required by the Secretary, on a continuing basis with a surety bond in a form specified by the Secretary and in an amount that is not less than $50,000", and

(2) by adding at the end the following: "The Secretary may waive the requirement of a bond under paragraph (4)(A)(v) in the case of a clinic or agency that provides a comparable surety bond under State law.".

(f) EFFECTIVE DATES.—(1) The amendment made by subsection (a) shall apply to suppliers of durable medical equipment with respect to such equipment furnished on or after January 1, 1998.

(2) The amendments made by subsection (b) shall apply to home health agencies with respect to services furnished on or after such date. The Secretary of Health and Human Services shall modify participation agreements under section 1866(a)(1) of the Social Security Act with respect to home health agencies to provide for implementation of such amendments on a timely basis.

(3) The amendments made by subsections (c) through (e) shall take effect on the date of the enactment of this Act and may be applied with respect to items and services furnished on or after the date specified in paragraph (1).

SEC. 4308. PROVISION OF CERTAIN IDENTIFICATION NUMBERS.

(a) REQUIREMENTS TO DISCLOSE EMPLOYER IDENTIFICATION NUMBERS (EINS) AND SOCIAL SECURITY ACCOUNT NUMBERS (SSNS).—Section 1124(a)(1) (42 U.S.C. 1320a–3(a)(1)) is amended by inserting before the period at the end the following: "and supply the Secretary with the both the employer identification number (assigned pursuant to section 6109 of the Internal Revenue Code of 1986) and social security account number (assigned under section 205(c)(2)(B)) of the disclosing entity, each person with an ownership or control interest (as defined in subsection (a)(3)), and any subcontractor in which the entity directly or indirectly has a 5 percent or more ownership interest. Use of the social security account number under this section shall be limited to identity verification and identity matching purposes only. The social security account number shall not be disclosed to any person or entity other than the Secretary, the Social Security Administration, or the Secretary of the Treasury, In obtaining the social security account numbers of the disclosing entity and other persons described in this section, the Secretary shall comply with section 7 of the Privacy Act of 1974 (5 U.S.C. 552a note)".

(b) OTHER MEDICARE PROVIDERS.—Section 1124A (42 U.S.C. 1320a–3a) is amended—

(1) in subsection (a)—

(A) by striking "and" at the end of paragraph (1);

(B) by striking the period at the end of paragraph (2) and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(3) including the employer identification number (assigned pursuant to section 6109 of the Internal Revenue Code of 1986) and social security account number (assigned under section 205(c)(2)(B)) of the disclosing part B provider and any person, managing employee, or other entity identified or described under paragraph (1) or (2)."; and

(2) in subsection (c) by inserting "(or, for purposes of subsection (a)(3), any entity receiving payment)" after "on an assignment-related basis".

(c) VERIFICATION BY SOCIAL SECURITY ADMINISTRATION (SSA).—Section 1124A (42 U.S.C. 1320a–3a) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

"(c) VERIFICATION.—

"(1) TRANSMITTAL BY HHS.—The Secretary shall transmit—

"(A) to the Commissioner of Social Security information concerning each social security account number (assigned under section 205(c)(2)(B)), and

"(B) to the Secretary of the Treasury information concerning each employer identification number (assigned pursuant to section 6109 of the Internal Revenue Code of 1986),

supplied to the Secretary pursuant to subsection (a)(3) or section 1124(c) to the extent necessary for verification of such information in accordance with paragraph (2).

"(2) VERIFICATION.—The Commissioner of Social Security and the Secretary of the Treasury shall verify the accuracy of, or correct, the information supplied by the Secretary to such official pursuant to paragraph (1), and shall report such verifications or corrections to the Secretary.

"(3) FEES FOR VERIFICATION.—The Secretary shall reimburse the Commissioner and Secretary of the Treasury, at a rate negotiated between the Secretary and such official, for the costs incurred by such official in performing the verification and correction services described in this subsection.".

(d) REPORT.—Before this subsection shall be effective, the Secretary of Health and Human Services shall submit to Congress a report on steps the Secretary has taken to assure the confidentiality of social security account numbers that will be provided to the Secretary under the amendments made by this section. If Congress determines that the Secretary has not taken adequate steps to assure the confidentiality of social security account numbers to be provided to the Secretary under the amendments made by this section, the amendments made by this section shall not take effect.

(e) EFFECTIVE DATES.—Subject to subsection (d)—

(1) the amendment made by subsection (a) shall apply to the application of conditions of participation, and entering into and renewal of contracts and agreements, occurring more than 90 days after the date of submission of the report under subsection (d); and

(2) the amendments made by subsection (b) shall apply to payment for items and services furnished more than 90 days after the date of submission of such report.

SEC. 4309. ADVISORY OPINIONS REGARDING CERTAIN PHYSICIAN SELF-REFERRAL PROVISIONS.

Section 1877(g) (42 U.S.C. 1395nn(g)) is amended by adding at the end the following new paragraph:

"(6) ADVISORY OPINIONS.—

"(A) IN GENERAL.—The Secretary shall issue written advisory opinions concerning whether a referral relating to designated health services (other than clinical laboratory services) is prohibited under this section.

"(B) BINDING AS TO SECRETARY AND PARTIES INVOLVED.—Each advisory opinion issued by the Secretary shall be binding as to the Secretary and the party or parties requesting the opinion.

"(C) APPLICATION OF CERTAIN PROCEDURES.—The Secretary shall, to the extent practicable, apply the regulations promulgated under section 1128D(b)(5) to the issuance of advisory opinions under this paragraph.

"(D) APPLICABILITY.—This paragraph shall apply to requests for advisory opinions made during the period described in section 1128D(b)(6).".

SEC. 4310. NONDISCRIMINATION IN POST-HOSPITAL REFERRAL TO HOME HEALTH AGENCIES.

(a) NOTIFICATION OF AVAILABILITY OF HOME HEALTH AGENCIES AS PART OF DISCHARGE PLANNING PROCESS.—Section 1861(ee)(2) (42 U.S.C. 1395x(ee)(2)) is amended—

(1) in subparagraph (D), by inserting before the period the following: ", including the availability of home health services through individuals and entities that participate in the program under this title and that serve the area in which the patient resides and that request to be listed by the hospital as available"; and

(2) by adding at the end the following:

"(H) Consistent with section 1802, the discharge plan shall—

"(i) not specify or otherwise limit the qualified provider which may provide post-hospital home health services, and

"(ii) identify (in a form and manner specified by the Secretary) any home health agency (to whom the individual is referred) in which the hospital has a disclosable financial interest (as specified by the Secretary consistent with section 1866(a)(1)(R)) or which has such an interest in the hospital.".

(b) MAINTENANCE AND DISCLOSURE OF INFORMATION ON POST-HOSPITAL HOME HEALTH AGENCIES.—Section 1866(a)(1) (42 U.S.C. 1395cc(a)(1)) is amended—

(1) by striking "and" at the end of subparagraph (Q),

(2) by striking the period at the end of subparagraph (R), and

(3) by adding at the end the following:

"(S) in the case of a hospital that has a financial interest (as specified by the Secretary in regulations) in a home health agency, or in which such an agency has such a financial interest, or in which another entity has such a financial interest (directly or indirectly) with such hospital and such an agency, to maintain and disclose to the Secretary (in a form and manner specified by the Secretary) information on—

"(i) the nature of such financial interest,

"(ii) the number of individuals who were discharged from the hospital and who were identified as requiring home health services, and

"(iii) the percentage of such individuals who received such services from such provider (or another such provider).".

(c) DISCLOSURE OF INFORMATION TO THE PUBLIC.—Title XI is amended by inserting after section 1145 the following new section:

"PUBLIC DISCLOSURE OF CERTAIN INFORMATION ON HOSPITAL FINANCIAL INTEREST AND REFERRAL PATTERNS

"SEC. 1146. The Secretary shall make available to the public, in a form and manner specified by the Secretary, information disclosed to the Secretary pursuant to section 1866(a)(1)(R).".

(d) EFFECTIVE DATES.—

(1) The amendments made by subsection (a) shall apply to discharges occurring on or after 90 days after the date of the enactment of this Act.

(2) The Secretary of Health and Human Services shall issue regulations by not later than 1 year after the date of the enactment of this Act to carry out the amendments made by subsections (b) and (c) and such amendments shall take effect as of such date (on or after the issuance of such regulations) as the Secretary specifies in such regulations.

SEC. 4311. OTHER FRAUD AND ABUSE RELATED PROVISIONS.

(a) REFERENCE CORRECTION.—(1) Section 1128D(b)(2)(D) (42 U.S.C. 1320a–7d(b)(2)(D)), as added by section 205 of the Health Insurance Portability and Accountability Act of 1996, is amended by striking "1128B(b)" and inserting "1128A(b)".

(2) Section 1128E(g)(3)(C) (42 U.S.C. 1320a–7e(g)(3)(C)) is amended by striking "Veterans' Administration" and inserting "Department of Veterans Affairs".

(b) LANGUAGE IN DEFINITION OF CONVICTION.—Section 1128E(g)(5) (42 U.S.C. 1320a–7e(g)(5)), as inserted by section 221(a) of the Health Insurance Portability and Accountability Act of 1996, is amended by striking "paragraph (4)" and inserting "paragraphs (1) through (4)".

(c) IMPLEMENTATION OF EXCLUSIONS.—Section 1128 (42 U.S.C. 1320a–7) is amended—

(1) in subsection (a), by striking "any program under title XVIII and shall direct that the following individuals and entities be excluded from participation in any State health care program (as defined in subsection (h))" and inserting "any Federal health care program (as defined in section 1128B(f))"; and

(2) in subsection (b), by striking "any program under title XVIII and may direct that the following individuals and entities be excluded from participation in any State health care program" and inserting "any Federal health care program (as defined in section 1128B(f))".

(d) SANCTIONS FOR FAILURE TO REPORT.—Section 1128E(b) (42 U.S.C. 1320a–7e(b)), as inserted by section 221(a) of the Health Insurance Portability and Accountability Act of 1996, is amended by adding at the end the following:

"(6) SANCTIONS FOR FAILURE TO REPORT.—

"(A) HEALTH PLANS.—Any health plan that fails to report information on an adverse action required to be reported under this subsection shall be subject to a civil money penalty of not more than $25,000 for each such adverse action not reported. Such penalty shall be imposed and collected in the same manner as civil money penalties under subsection (a) of section 1128A are imposed and collected under that section.

"(B) GOVERNMENTAL AGENCIES.—The Secretary shall provide for a publication of a public report that identifies those Government agencies that have failed to report information on adverse actions as required to be reported under this subsection.".

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall be effective as if included in the enactment of the Health Insurance Portability and Accountability Act of 1996.

(2) FEDERAL HEALTH PROGRAM.—The amendments made by subsection (c) shall take effect on the date of the enactment of this Act.

(3) SANCTION FOR FAILURE TO REPORT.—The amendment made by subsection (d) shall apply to failures occurring on or after the date of the enactment of this Act.

Subtitle E—Prospective Payment Systems

CHAPTER 2—PAYMENT UNDER PART B

Subchapter A—Payment for Hospital Outpatient Department Services

SEC. 4411. ELIMINATION OF FORMULA-DRIVEN OVERPAYMENTS (FDO) FOR CERTAIN OUTPATIENT HOSPITAL SERVICES.

(a) ELIMINATION OF FDO FOR AMBULATORY SURGICAL CENTER PROCEDURES.—Section 1833(i)(3)(B)(i)(II) (42 U.S.C. 1395l(i)(3)(B)(i)(II)) is amended—

(1) by striking "of 80 percent"; and

(2) by striking the period at the end and inserting the following: ", less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A).".

(b) ELIMINATION OF FDO FOR RADIOLOGY SERVICES AND DIAGNOSTIC PROCEDURES.—Section 1833(n)(1)(B)(i) (42 U.S.C. 1395l(n)(1)(B)(i)) is amended—

(1) by striking "of 80 percent", and

(2) by inserting before the period at the end the following: ", less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished during portions of cost reporting periods occurring on or after October 1, 1997.

SEC. 4412. EXTENSION OF REDUCTIONS IN PAYMENTS FOR COSTS OF HOSPITAL OUTPATIENT SERVICES.

(a) REDUCTION IN PAYMENTS FOR CAPITAL-RELATED COSTS.—Section 1861(v)(1)(S)(ii)(I) (42 U.S.C. 1395x(v)(1)(S)(ii)(I)) is amended by striking "through 1998" and inserting "through 1999 and during fiscal year 2000 before January 1, 2000".

(b) REDUCTION IN PAYMENTS FOR OTHER COSTS.—Section 1861(v)(1)(S)(ii)(II) (42 U.S.C. 1395x(v)(1)(S)(ii)(II)) is amended by striking "through 1998" and inserting "through 1999 and during fiscal year 2000 before January 1, 2000".

SEC. 4413. PROSPECTIVE PAYMENT SYSTEM FOR HOSPITAL OUTPATIENT DEPARTMENT SERVICES.

(a) IN GENERAL.—Section 1833 (42 U.S.C. 1395l) is amended by adding at the end the following:

"(t) PROSPECTIVE PAYMENT SYSTEM FOR HOSPITAL OUTPATIENT DEPARTMENT SERVICES.—

"(1) IN GENERAL.—With respect to hospital outpatient services designated by the Secretary (in this section referred to as 'covered OPD services') and furnished during a year beginning with 1999, the amount of payment under this part shall be determined under a prospective payment system established by the Secretary in accordance with this subsection.

"(2) SYSTEM REQUIREMENTS.—Under the payment system—

"(A) the Secretary shall develop a classification system for covered OPD services;

"(B) the Secretary may establish groups of covered OPD services, within the classification system described in subparagraph (A), so that services classified within each group are comparable clinically and with respect to the use of resources;

"(C) the Secretary shall, using data on claims from 1996 and using data from the most recent available cost reports, establish relative payment weights for covered OPD services (and any groups of such services described in subparagraph (B)) based on median hospital costs and shall determine projections of the frequency of utilization of each such service (or group of services) in 1999;

"(D) the Secretary shall determine a wage adjustment factor to adjust the portion of payment and coinsurance attributable to labor-related costs for relative differences in labor and labor-related costs across geographic regions in a budget neutral manner;

"(E) the Secretary shall establish other adjustments, in a budget neutral manner, as determined to be necessary to ensure equitable payments, such as outlier adjustments, adjustments to account for variations in coinsurance payments for procedures with similar resource costs, or adjustments for certain classes of hospitals; and

"(F) the Secretary shall develop a method for controlling unnecessary increases in the volume of covered OPD services.

"(3) CALCULATION OF BASE AMOUNTS.—

"(A) AGGREGATE AMOUNTS THAT WOULD BE PAYABLE IF DEDUCTIBLES WERE DISREGARDED.—The Secretary shall estimate the total amounts that would be payable from the Trust Fund under this part for covered OPD services in 1999, determined without regard to this subsection, as though the deductible under section 1833(b) did not apply, and as though the coinsurance described in section 1866(a)(2)(A)(ii) (as in effect before the date of the enactment of this subsection) continued to apply.

"(B) UNADJUSTED COPAYMENT AMOUNT.—

"(i) IN GENERAL.—For purposes of this subsection, subject to clause (ii), the 'unadjusted copayment amount' applicable to a covered OPD service (or group of such services) is 20 percent of national median of the charges for the service (or services within the group) furnished during 1996, updated to 1999 using the Secretary's estimate of charge growth during the period.

"(ii) ADJUSTED TO BE 20 PERCENT WHEN FULLY PHASED IN.—If the pre-deductible payment percentage for a covered OPD service (or group of such services) furnished in a year would be equal to or exceed 80 percent, then the unadjusted copayment amount shall be 25 percent of amount determined under subparagraph (D)(i).

"(iii) RULES FOR NEW SERVICES.—The Secretary shall establish rules for establishment of an unadjusted copayment amount for a covered OPD service not furnished during 1996, based upon its classification within a group of such services.

"(C) CALCULATION OF CONVERSION FACTORS.—

"(I) IN GENERAL.—The Secretary shall establish a 1999 conversion factor for determining the medicare pre-deductible OPD fee payment amounts for each covered OPD service (or group of such services) furnished in 1999. Such conversion factor shall be established on the basis of the weights and frequencies described in paragraph (2)(C) and in a manner such that the sum for all services and groups of the products (described in subclause (II) for each such service or group) equals the total projected amount described in subparagraph (A).

"(II) PRODUCT DESCRIBED.—The product described in this subclause, for a service or group, is the product of the medicare pre-deductible OPD fee payment amounts (taking into account appropriate adjustments described in paragraphs (2)(D) and (2)(E)) and the frequencies for such service or group.

"(ii) SUBSEQUENT YEARS.—Subject to paragraph (8)(B), the Secretary shall establish a conversion factor for covered OPD services furnished in subsequent years in an amount equal to the conversion factor established under this subparagraph and applicable to such services furnished in the previous year increased by the OPD payment increase factor specified under clause (iii) for the year involved.

"(iii) OPD PAYMENT INCREASE FACTOR.—For purposes of this subparagraph, the 'OPD payment increase factor' for services furnished in a year is equal to the sum of—

"(I) market basket percentage increase (applicable under section 1886(b)(3)(B)(iii) to hospital discharges occurring during the fiscal year ending in such year, and

"(II) in the case of a covered OPD service (or group of such services) furnished in a year in which the pre-deductible payment percentage would not exceed 80 percent, 3.5 percentage points, but in no case greater than such number of percentage points as will result in the pre-deductible payment percentage exceeding 80 percent.

In applying the previous sentence for years beginning with 2000, the Secretary may substitute for the market basket percentage increase under subclause (I) an annual percentage increase that is computed and applied with respect to covered OPD services furnished in a year in the same manner as the market basket percentage increase is determined and applied to inpatient hospital services for discharges occurring in a fiscal year.

"(D) PRE-DEDUCTIBLE PAYMENT PERCENTAGE.—The pre-deductible payment percentage for a covered OPD service (or group of such services) furnished in a year is equal to the ratio of—

"(i) the conversion factor established under subparagraph (C) for the year, multiplied by the weighting factor established under paragraph (2)(C) for the service (or group), to

"(ii) the sum of the amount determined under clause (i) and the unadjusted copayment amount determined under subparagraph (B) for such service or group.

"(E) CALCULATION OF MEDICARE OPD FEE SCHEDULE AMOUNTS.—The Secretary shall compute a medicare OPD fee schedule amount for each covered OPD service (or group of such services) furnished in a year, in an amount equal to the product of—

"(i) the conversion factor computed under subparagraph (C) for the year, and

"(ii) the relative payment weight (determined under paragraph (2)(C)) for the service or group.

"(4) MEDICARE PAYMENT AMOUNT.—The amount of payment made from the Trust Fund under this part for a covered OPD service (and such services classified within a group) furnished in a year is determined as follows:

"(A) FEE SCHEDULE AND COPAYMENT AMOUNT.—Add (i) the medicare OPD fee schedule amount (computed under paragraph (3)(E)) for the service or group and year, and (ii) the unadjusted copayment amount (determined under paragraph (3)(B)) for the service or group.

"(B) SUBTRACT APPLICABLE DEDUCTIBLE.—Reduce the adjusted sum by the amount of the deductible under section 1833(b), to the extent applicable.

"(C) APPLY PAYMENT PROPORTION TO REMAINDER.—Multiply the amount so determined under subparagraph (B) by the pre-deductible payment percentage (as determined under paragraph (3)(D)) for the service or group and year involved.

"(D) LABOR-RELATED ADJUSTMENT.—The amount of payment is the product determined under subparagraph (C) with the labor-related portion of such product adjusted for relative differences in the cost of labor and other factors determined by the Secretary, as computed under paragraph (2)(D).

"(5) COPAYMENT AMOUNT.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the copayment amount under this subsection is determined as follows:

"(i) UNADJUSTED COPAYMENT.—Compute the amount by which the amount described in paragraph (4)(B) exceeds the amount of payment determined under paragraph (4)(C).

"(ii) LABOR ADJUSTMENT.—The copayment amount is the difference determined under clause (i) with the labor-related portion of such difference adjusted for relative differences in the cost of labor and other factors determined by the Secretary, as computed under paragraphs (2)(D). The adjustment under this clause shall be made in a manner that does not result in any change in the aggregate copayments made in any year if the adjustment had not been made.

"(B) ELECTION TO OFFER REDUCED COPAYMENT AMOUNT.—The Secretary shall establish a procedure under which a hospital, before the beginning of a year (beginning with 1999), may elect to reduce the copayment amount otherwise established under subparagraph (A) for some or all covered OPD services to an amount that is not less than 25 percent of the medicare OPD fee schedule amount (computed under paragraph (3)(E)) for the service involved, adjusted for relative differences in the cost of labor and other factors determined by the Secretary, as computed under subparagraphs (D) and (E) of paragraph (2). Under such procedures, such reduced copayment amount may not be further reduced or increased during the year involved and the hospital may disseminate information on the reduction of copayment amount effected under this subparagraph.

"(C) NO IMPACT ON DEDUCTIBLES.—Nothing in this paragraph shall be construed as affecting a hospital's authority to waive the charging of a deductible under section 1833(b).

"(6) PERIODIC REVIEW AND ADJUSTMENTS COMPONENTS OF PROSPECTIVE PAYMENT SYSTEM.—

"(A) PERIODIC REVIEW.—The Secretary may periodically review and revise the groups, the relative payment weights, and the wage and other adjustments described in paragraph (2) to take into account changes in medical practice, changes in technology, the addition of new services, new cost data, and other relevant information and factors.

"(B) BUDGET NEUTRALITY ADJUSTMENT.—If the Secretary makes adjustments under subparagraph (A), then the adjustments for a year may not cause the estimated amount of expenditures under this part for the year to increase or decrease from the estimated amount of expenditures under this part that would have been made if the adjustments had not been made.

"(C) UPDATE FACTOR.—If the Secretary determines under methodologies described in subparagraph (2)(F) that the volume of services paid for under this subsection increased beyond amounts established through those methodologies, the Secretary may appropriately adjust the update to the conversion factor otherwise applicable in a subsequent year.

"(7) SPECIAL RULE FOR AMBULANCE SERVICES.—The Secretary shall pay for hospital outpatient services that are ambulance services on the basis described in the matter in subsection (a)(1) preceding subparagraph (A).

"(8) SPECIAL RULES FOR CERTAIN HOSPITALS.—In the case of hospitals described in section 1886(d)(1)(B)(v)—

"(A) the system under this subsection shall not apply to covered OPD services furnished before January 1, 2000; and

"(B) the Secretary may establish a separate conversion factor for such services in a manner that specifically takes into account the unique costs incurred by such hospitals by virtue of their patient population and service intensity.

"(9) LIMITATION ON REVIEW.—There shall be no administrative or judicial review under section 1869, 1878, or otherwise of—

"(A) the development of the classification system under paragraph (2), including the establishment of groups and relative payment weights for covered OPD services, of wage adjustment factors, other adjustments, and methods described in paragraph (2)(F);

"(B) the calculation of base amounts under paragraph (3);

"(C) periodic adjustments made under paragraph (6); and

"(D) the establishment of a separate conversion factor under paragraph (8)(B).".

(b) COINSURANCE.—Section 1866(a)(2)(A)(ii) (42 U.S.C. 1395cc(a)(2)(A)(ii)) is amended by adding at the end the following: "In the case of items and services for which payment is made under part B under the prospective payment system established under section 1833(t), clause (ii) of the first sentence shall be applied by substituting for 20 percent of the reasonable charge, the applicable copayment amount established under section 1833(t)(5).".

(c) TREATMENT OF REDUCTION IN COPAYMENT AMOUNT.—Section 1128A(i)(6) (42 U.S.C. 1320a–7a(i)(6)) is amended—

(1) by striking "or" at the end of subparagraph (B),

(2) by striking the period at the end of subparagraph (C) and inserting "; or", and

(3) by adding at the end the following new subparagraph:

"(D) a reduction in the copayment amount for covered OPD services under section 1833(t)(5)(B).".

(d) CONFORMING AMENDMENTS.—

(1) APPROVED ASC PROCEDURES PERFORMED IN HOSPITAL OUTPATIENT DEPARTMENTS.—

(A)(i) Section 1833(i)(3)(A) (42 U.S.C. 1395l(i)(3)(A)) is amended—

(I) by inserting "before January 1, 1999," after "furnished", and

(II) by striking "in a cost reporting period".

(ii) The amendment made by clause (i) shall apply to services furnished on or after January 1, 1999.

(B) Section 1833(a)(4) (42 U.S.C. 1395l(a)(4)) is amended by inserting "or subsection (t)" before the semicolon.

(2) RADIOLOGY AND OTHER DIAGNOSTIC PROCEDURES.—

(A) Section 1833(n)(1)(A) (42 U.S.C. 1395l(n)(1)(A)) is amended by inserting "and before January 1, 1999," after "October 1, 1988," and after "October 1, 1989,".

(B) Section 1833(a)(2)(E) (42 U.S.C. 1395l(a)(2)(E)) is amended by inserting "or, for services or procedures performed on or after January 1, 1999, (t)'' before the semicolon.

(3) Other hospital outpatient services.—Section –1833(a)(2)(B) (42 U.S.C. 1395l(a)(2)(B)) is amended—

(A) in clause (i), by inserting ''furnished before January 1, 1999,'' after ''(i)'',

(B) in clause (ii), by inserting ''before January 1, 1999,'' after ''furnished'',

(C) by redesignating clause (iii) as clause (iv),and

(D) by inserting after clause (ii), the following new clause:

''(iii) if such services are furnished on or after January 1, 1999, the amount determined under subsection (t), or''.

Subchapter B—Rehabilitation Services

SEC. 4421. REHABILITATION AGENCIES AND SERVICES.

(a) Payment Based on Fee Schedule.—

(1) Special payment rules.—Section 1833(a) (42 U.S.C. 1395l(a)) is amended—

(A) in paragraph (2) in the matter before subparagraph (A), by inserting ''(C),'' before ''(D)'';

(B) in paragraph (6), by striking ''and'' at the end;

(C) in paragraph (7), by striking the period at the end and inserting ''; and'';

(D) by adding at the end the following new paragraph:

''(8) in the case of services described in section 1832(a)(2)(C) (that are not described in section 1832(a)(2)(B)), the amounts described in section 1834(k).''.

(2) Payment rates.—Section 1834 (42 U.S.C. 1395m) is amended by adding at the end the following new subsection:

''(k) Payment for Outpatient Therapy Services.—

''(1) In general.—With respect to outpatient physical therapy services (which includes outpatient speech-language pathology services) and outpatient occupational therapy services for which payment is determined under this subsection, the payment basis shall be—

''(A) for services furnished during 1998, the amount determined under paragraph (2); or

''(B) for services furnished during a subsequent year, 80 percent of the lesser of—

''(i) the actual charge for the services, or

''(ii) the applicable fee schedule amount (as defined in paragraph (3)) for the services.

''(2) Payment in 1998 based upon charges or adjusted reasonable costs.—The amount under this paragraph for services is the lesser of—

''(A) the charges imposed for the services, or

''(B) the adjusted reasonable costs (as defined in paragraph (4)) for the services,

less 20 percent of the amount of the charges imposed for such services.

''(3) Applicable fee schedule amount.—In this paragraph, the term 'applicable fee schedule amount' means, with respect to services furnished in a year, the fee schedule amount established under section 1848 for such services furnished during the year or, if there is no such fee schedule amount established for such services, for such comparable services as the Secretary specifies.

''(4) Adjusted reasonable costs.—In paragraph (2), the term 'adjusted reasonable costs' means reasonable costs determined reduced by—

''(A) 5.8 percent of the reasonable costs for operating costs, and

''(B) 10 percent of the reasonable costs for capital costs.

''(5) Uniform coding.—For claims for services submitted on or after April 1, 1998, for which the amount of payment is determined under this subsection, the claim shall include a code (or codes) under a uniform coding system specified by the Secretary that identifies the services furnished.

''(6) Restraint on billing.—The provisions of subparagraphs (A) and (B) of section 1842(b)(18) shall apply to therapy services for which payment is made under this subsection in the same manner as they apply to services provided by a practitioner described in section 1842(b)(18)(C).''.

(b) Application of Standards to Outpatient Occupational and Physical Therapy Services Provided As an Incident to a Physician's Professional Services.—Section 1862(a), as amended by section 4401(b), (42 U.S.C. 1395y(a)) is amended—

(1) by striking ''or'' at the end of paragraph (16);

(2) by striking the period at the end of paragraph (17) and inserting ''; or''; and

(3) by inserting after paragraph (17) the following:

''(18) in the case of outpatient occupational therapy services or outpatient physical therapy services furnished as an incident to a physician's professional services (as described in section 1861(s)(2)(A)), that do not meet the standards and conditions under the second sentence of section 1861(g) or 1861(p) as such standards and conditions would apply to such therapy services if furnished by a therapist.''.

(c) Applying Financial Limitation to All Rehabilitation Services.—Section 1833(g) (42 U.S.C. 1395l(g)) is amended—

(1) in the first sentence, by striking ''services described in the second sentence of section 1861(p)'' and inserting ''physical therapy services of the type described in section 1861(p) (regardless of who furnishes the services or whether the services may be covered as physicians' services so long as the services are furnished other than in a hospital setting)'', and

(2) in the second sentence, by striking ''outpatient occupational therapy services which are described in the second sentence of section 1861(p) through the operation of section 1861(g)'' and inserting ''occupational therapy services (of the type that are described in section 1861(p) through the operation of section 1861(g)), regardless of who furnishes the services or whether the services may be covered as physicians' services so long as the services are furnished other than in a hospital setting''.

(d) Effective Date.—The amendments made by this section apply to services furnished on or after January 1, 1998; except that the amendments made by subsection (c) apply to services furnished on or after January 1, 1999.

SEC. 4422. COMPREHENSIVE OUTPATIENT REHABILITATION FACILITIES (CORF).

(a) Payment Based on Fee Schedule.—

(1) Special payment rules.—Section 1833(a) (42 U.S.C. 1395l(a)), as amended by section 4421(a), is amended—

(A) in paragraph (3), by striking ''subparagraphs (D) and (E) of section 1832(a)(2)'' and inserting ''section 1832(a)(2)(E)'';

(B) in paragraph (7), by striking ''and'' at the end;

(C) in paragraph (8), by striking the period at the end and inserting ''; and'';

(D) by adding at the end the following new paragraph:

''(9) in the case of services described in section 1832(a)(2)(E), the amounts described in section 1834(k).''.

(2) Payment rates.—Section 1834(k) (42 U.S.C. 1395m(k)), as added by section 4421(a), is amended—

(A) in the heading, by inserting ''and Comprehensive Outpatient Rehabilitation Facility Services'' after ''Therapy Services''; and

(B) in paragraph (1), by inserting ''and with respect to comprehensive outpatient rehabilitation facility services'' after ''occupational therapy services''.

(b) Effective Date.—The amendments made by subsection (a) shall apply to services furnished on or after January 1, 1998, and to portions of cost reporting periods occurring on or after such date.

Subchapter C—Ambulance Services

SEC. 4431. PAYMENTS FOR AMBULANCE SERVICES.

(a) Interim Reductions.—

(1) Payments determined on reasonable cost basis.—Section 1861(v)(1) (42 U.S.C. 1395x(v)(1)) is amended by adding at the end the following new subparagraph:

''(U) In determining the reasonable cost of ambulance services (as described in subsection (s)(7)) provided during a fiscal year (beginning with fiscal year 1998 and ending with fiscal year 2002), the Secretary shall not recognize the costs per trip in excess of costs recognized as reasonable for ambulance services provided on a per trip basis during the previous fiscal year after application of this subparagraph, increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) as estimated by the Secretary for the 12-month period ending with the midpoint of the fiscal year involved reduced (in the case of each of fiscal years 1998 and 1999) by 1 percentage point.''.

(2) Payments determined on reasonable charge basis.—Section 1842(b) (42 U.S.C. 1395u(b)) is amended by adding at the end the following new paragraph:

''(19) For purposes of section 1833(a)(1), the reasonable charge for ambulance services (as described in section 1861(s)(7)) provided during a fiscal year (beginning with fiscal year 1998 and ending with fiscal year 2002) may not exceed the reasonable charge for such services provided during the previous fiscal year after the application of this subparagraph, increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) as estimated by the Secretary for the 12-month period ending with the midpoint of the year involved reduced (in the case of each of fiscal years 1998 and 1999) by 1 percentage point.''.

(b) Establishment of Prospective Fee Schedule.—

(1) Payment in accordance with fee schedule.—Section 1833(a)(1) (42 U.S.C. 1395l(a)(1)), as amended by section 4619(b)(1), is amended—

(A) by striking ''and (P)'' and inserting ''(P)''; and

(B) by striking the semicolon at the end and inserting the following: '', and (Q) with respect to ambulance service, the amounts paid shall be 80 percent of the lesser of the actual charge for the services or the amount determined by a fee schedule established by the Secretary under section 1834(l);''.

(2) Establishment of schedule.—Section 1834 (42 U.S.C. 1395m), as amended by section 4421(a)(2), is amended by adding at the end the following new subsection:

''(l) Establishment of Fee Schedule for Ambulance Services.—

''(1) In general.—The Secretary shall establish a fee schedule for payment for ambulance services under this part through a negotiated rulemaking process described in title 5, United States Code, and in accordance with the requirements of this subsection.

"(2) Considerations.—In establishing such fee schedule the Secretary shall—

"(A) establish mechanisms to control increases in expenditures for ambulance services under this part;

"(B) establish definitions for ambulance services which link payments to the type of services provided;

"(C) consider appropriate regional and operational differences;

"(D) consider adjustments to payment rates to account for inflation and other relevant factors; and

"(E) phase in the application of the payment rates under the fee schedule in an efficient and fair manner.

"(3) Savings.—In establishing such fee schedule the Secretary shall—

"(A) ensure that the aggregate amount of payments made for ambulance services under this part during 2000 does not exceed the aggregate amount of payments which would have been made for such services under this part during such year if the amendments made by section 4431 of the Balanced Budget Act of 1997 had not been made; and

"(B) set the payment amounts provided under the fee schedule for services furnished in 2001 and each subsequent year at amounts equal to the payment amounts under the fee schedule for service furnished during the previous year, increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of the previous year.

"(4) Consultation.—In establishing the fee schedule for ambulance services under this subsection, the Secretary shall consult with various national organizations representing individuals and entities who furnish and regulate ambulance services and share with such organizations relevant data in establishing such schedule.

"(5) Limitation on review.—There shall be no administrative or judicial review under section 1869 or otherwise of the amounts established under the fee schedule for ambulance services under this subsection, including matters described in paragraph (2).

"(6) Restraint on billing.—The provisions of subparagraphs (A) and (B) of section 1842(b)(18) shall apply to ambulance services for which payment is made under this subsection in the same manner as they apply to services provided by a practitioner described in section 1842(b)(18)(C).".

(3) Effective date.—The amendments made by this section apply to ambulance services furnished on or after January 1, 2000.

(c) Authorizing Payment for Paramedic Intercept Service Providers in Rural Communities.—In promulgating regulations to carry out section 1861(s)(7) of the Social Security Act (42 U.S.C. 1395x(s)(7)) with respect to the coverage of ambulance service, the Secretary of Health and Human Services may include coverage of advanced life support services (in this subsection referred to as "ALS intercept services") provided by a paramedic intercept service provider in a rural area if the following conditions are met:

(1) The ALS intercept services are provided under a contract with one or more volunteer ambulance services and are medically necessary based on the health condition of the individual being transported.

(2) The volunteer ambulance service involved—

(A) is certified as qualified to provide ambulance service for purposes of such section,

(B) provides only basic life support services at the time of the intercept, and

(C) is prohibited by State law from billing for any services.

(3) The entity supplying the ALS intercept services—

(A) is certified as qualified to provide such services under the medicare program under title XVIII of the Social Security Act, and

(B) bills all recipients who receive ALS intercept services from the entity, regardless of whether or not such recipients are medicare beneficiaries.

SEC. 4432. DEMONSTRATION OF COVERAGE OF AMBULANCE SERVICES UNDER MEDICARE THROUGH CONTRACTS WITH UNITS OF LOCAL GOVERNMENT.

(a) Demonstration Project Contracts with Local Governments.—The Secretary of Health and Human Services shall establish up to 3 demonstration projects under which, at the request of a county or parish, the Secretary enters into a contract with the county or parish under which—

(1) the county or parish furnishes (or arranges for the furnishing) of ambulance services for which payment may be made under part B of title XVIII of the Social Security Act for individuals residing in the county or parish who are enrolled under such part, except that the county or parish may not enter into the contract unless the contract covers at least 80 percent of the individuals residing in the county or parish who are enrolled under such part;

(2) any individual or entity furnishing ambulance services under the contract meets the requirements otherwise applicable to individuals and entities furnishing such services under such part; and

(3) for each month during which the contract is in effect, the Secretary makes a capitated payment to the county or parish in accordance with subsection (b).

The projects may extend over a period of not to exceed 3 years each.

(b) Amount of Payment.—

(1) In general.—The amount of the monthly payment made for months occurring during a calendar year to a county or parish under a demonstration project contract under subsection (a) shall be equal to the product of—

(A) the Secretary's estimate of the number of individuals covered under the contract for the month; and

(B) 1/12 of the capitated payment rate for the year established under paragraph (2).

(2) Capitated payment rate defined.—In this subsection, the "capitated payment rate" applicable to a contract under this subsection for a calendar year is equal to 95 percent of—

(A) for the first calendar year for which the contract is in effect, the average annual per capita payment made under part B of title XVIII of the Social Security Act with respect to ambulance services furnished to such individuals during the 3 most recent calendar years for which data on the amount of such payment is available; and

(B) for a subsequent year, the amount provided under this paragraph for the previous year increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of the previous year.

(c) Other Terms of Contract.—The Secretary and the county or parish may include in a contract under this section such other terms as the parties consider appropriate, including—

(1) covering individuals residing in additional counties or parishes (under arrangements entered into between such counties or parishes and the county or parish involved);

(2) permitting the county or parish to transport individuals to non-hospital providers if such providers are able to furnish quality services at a lower cost than hospital providers; or

(3) implementing such other innovations as the county or parish may propose to improve the quality of ambulance services and control the costs of such services.

(d) Contract Payments in Lieu of Other Benefits.—Payments under a contract to a county or parish under this section shall be instead of the amounts which (in the absence of the contract) would otherwise be payable under part B of title XVIII of the Social Security Act for the services covered under the contract which are furnished to individuals who reside in the county or parish.

(e) Report on Effects of Capitated Contracts.—

(1) Study.—The Secretary shall evaluate the demonstration projects conducted under this section. Such evaluation shall include an analysis of the quality and cost-effectiveness of ambulance services furnished under the projects.

(2) Report.—Not later than January 1, 2000, the Secretary shall submit a report to Congress on the study conducted under paragraph (1), and shall include in the report such recommendations as the Secretary considers appropriate, including recommendations regarding modifications to the methodology used to determine the amount of payments made under such contracts and extending or expanding such projects.

CHAPTER 3—PAYMENT UNDER PARTS A AND B

SEC. 4441. PROSPECTIVE PAYMENT FOR HOME HEALTH SERVICES.

(a) In General.—Title XVIII (42 U.S.C. 1395 et seq.), as amended by section 4011, is amended by adding at the end the following new section:

"PROSPECTIVE PAYMENT FOR HOME HEALTH SERVICES

"Sec. 1895. (a) In General.—Notwithstanding section 1861(v), the Secretary shall provide, for cost reporting periods beginning on or after October 1, 1999, for payments for home health services in accordance with a prospective payment system established by the Secretary under this section.

"(b) System of Prospective Payment for Home Health Services.—

"(1) In general.—The Secretary shall establish under this subsection a prospective payment system for payment for all costs of home health services. Under the system under this subsection all services covered and paid on a reasonable cost basis under the medicare home health benefit as of the date of the enactment of the this section, including medical supplies, shall be paid for on the basis of a prospective payment amount determined under this subsection and applicable to the services involved. In implementing the system, the Secretary may provide for a transition (of not longer than 4 years) during which a portion of such payment is based on agency-specific costs, but only if such transition does not result in aggregate payments under this title that exceed the aggregate payments that would be made if such a transition did not occur.

"(2) Unit of payment.—In defining a prospective payment amount under the system under this subsection, the Secretary shall consider an appropriate unit of service and the number, type, and duration of visits provided within that unit, potential changes in the mix of services provided within that unit and their cost, and a general system design that provides for continued access to quality services.

"(3) Payment basis.—

"(A) Initial basis.—

"(i) In general.—Under such system the Secretary shall provide for computation of a standard prospective payment amount (or amounts). Such amount (or amounts) shall initially be based on the most current audited cost report data available to the Secretary and shall be computed in a manner so that the total amounts payable under the system for fiscal year 2000 shall be equal to the total amount that would have been made if the system had not been in effect but if the reduction in limits described in clause (ii) had been in effect. Such amount shall be standardized in a manner that eliminates the effect of variations in relative case mix and wage levels among different home health agencies in a budget neutral manner consistent with the case mix and wage level adjustments provided under paragraph (4)(A). Under the system, the Secretary may recognize regional differences or differences based upon whether or not the services or agency are in an urbanized area.

"(ii) Reduction.—The reduction described in this clause is a reduction by 15 percent in the cost limits and per beneficiary limits described in section 1861(v)(1)(L), as those limits are in effect on September 30, 1999.

"(B) Annual update.—

"(i) In general.—The standard prospective payment amount (or amounts) shall be adjusted for each fiscal year (beginning with fiscal year 2001) in a prospective manner specified by the Secretary by the home health market basket percentage increase applicable to the fiscal year involved.

"(ii) Home health market basket percentage increase.—For purposes of this subsection, the term 'home health market basket percentage increase' means, with respect to a fiscal year, a percentage (estimated by the Secretary before the beginning of the fiscal year) determined and applied with respect to the mix of goods and services included in home health services in the same manner as the market basket percentage increase under section 1886(b)(3)(B)(iii) is determined and applied to the mix of goods and services comprising inpatient hospital services for the fiscal year.

"(C) Adjustment for outliers.—The Secretary shall reduce the standard prospective payment amount (or amounts) under this paragraph applicable to home health services furnished during a period by such proportion as will result in an aggregate reduction in payments for the period equal to the aggregate increase in payments resulting from the application of paragraph (5) (relating to outliers).

"(4) Payment computation.—

"(A) In general.—The payment amount for a unit of home health services shall be the applicable standard prospective payment amount adjusted as follows:

"(i) Case mix adjustment.—The amount shall be adjusted by an appropriate case mix adjustment factor (established under subparagraph (B)).

"(ii) Area wage adjustment.—The portion of such amount that the Secretary estimates to be attributable to wages and wage-related costs shall be adjusted for geographic differences in such costs by an area wage adjustment factor (established under subparagraph (C)) for the area in which the services are furnished or such other area as the Secretary may specify.

"(B) Establishment of case mix adjustment factors.—The Secretary shall establish appropriate case mix adjustment factors for home health services in a manner that explains a significant amount of the variation in cost among different units of services.

"(C) Establishment of area wage adjustment factors.—The Secretary shall establish area wage adjustment factors that reflect the relative level of wages and wage-related costs applicable to the furnishing of home health services in a geographic area compared to the national average applicable level. Such factors may be the factors used by the Secretary for purposes of section 1886(d)(3)(E).

"(5) Outliers.—The Secretary may provide for an addition or adjustment to the payment amount otherwise made in the case of outliers because of unusual variations in the type or amount of medically necessary care. The total amount of the additional payments or payment adjustments made under this paragraph with respect to a fiscal year may not exceed 5 percent of the total payments projected or estimated to be made based on the prospective payment system under this subsection in that year.

"(6) Proration of prospective payment amounts.—If a beneficiary elects to transfer to, or receive services from, another home health agency within the period covered by the prospective payment amount, the payment shall be prorated between the home health agencies involved.

"(c) Requirements for Payment Information.—With respect to home health services furnished on or after October 1, 1998, no claim for such a service may be paid under this title unless—

"(1) the claim has the unique identifier (provided under section 1842(r)) for the physician who prescribed the services or made the certification described in section 1814(a)(2) or 1835(a)(2)(A); and

"(2) in the case of a service visit described in paragraph (1), (2), (3), or (4) of section 1861(m), the claim has information (coded in an appropriate manner) on the length of time of the service visit, as measured in 15 minute increments.

"(d) Limitation on Review.—There shall be no administrative or judicial review under section 1869, 1878, or otherwise of—

"(1) the establishment of a transition period under subsection (b)(1);

"(2) the definition and application of payment units under subsection (b)(2);

"(3) the computation of initial standard prospective payment amounts under subsection (b)(3)(A) (including the reduction described in clause (ii) of such subsection);

"(4) the adjustment for outliers under subsection (b)(3)(C);

"(5) case mix and area wage adjustments under subsection (b)(4);

"(6) any adjustments for outliers under subsection (b)(5); and

"(7) the amounts or types of exceptions or adjustments under subsection (b)(7).".

(b) Elimination of Periodic Interim Payments for Home Health Agencies.—Section 1815(e)(2) (42 U.S.C. 1395g(e)(2)) is amended—

(1) by inserting "and" at the end of subparagraph (C),

(2) by striking subparagraph (D), and

(3) by redesignating subparagraph (E) as subparagraph (D).

(c) Conforming Amendments.—

(1) Payments under part A.—Section 1814(b) (42 U.S.C. 1395f(b)) is amended in the matter preceding paragraph (1) by striking "and 1886" and inserting "1886, and 1895".

(2) Treatment of items and services paid under part B.—

(A) Payments under part B.—Section 1833(a)(2) (42 U.S.C. 1395l(a)(2)) is amended—

(i) by amending subparagraph (A) to read as follows:

"(A) with respect to home health services (other than a covered osteoporosis drug) (as defined in section 1861(kk)), the amount determined under the prospective payment system under section 1895;";

(ii) by striking "and" at the end of subparagraph (E);

(iii) by adding "and" at the end of subparagraph (F); and

(iv) by adding at the end the following new subparagraph:

"(G) with respect to items and services described in section 1861(s)(10)(A), the lesser of—

"(i) the reasonable cost of such services, as determined under section 1861(v), or

"(ii) the customary charges with respect to such services,

or, if such services are furnished by a public provider of services, or by another provider which demonstrates to the satisfaction of the Secretary that a significant portion of its patients are low-income (and requests that payment be made under this provision), free of charge or at nominal charges to the public, the amount determined in accordance with section 1814(b)(2);".

(B) Requiring payment for all items and services to be made to agency.—

(i) In general.—The first sentence of section 1842(b)(6) (42 U.S.C. 1395u(b)(6)), as amended by section 4401(b)(2), is amended—

(I) by striking "and (E)" and inserting "(E)"; and

(II) by striking the period at the end and inserting the following: ", and (F) in the case of home health services furnished to an individual who (at the time the item or service is furnished) is under a plan of care of a home health agency, payment shall be made to the agency (without regard to whether or not the item or service was furnished by the agency, by others under arrangement with them made by the agency, or when any other contracting or consulting arrangement, or otherwise).".

(ii) Conforming amendment.—Section 1832(a)(1) (42 U.S.C. 1395k(a)(1)), as amended by section 4401(b), is amended by striking "and section 1842(b)(6)(E)" and inserting ", section 1842(b)(6)(E), and section 1842(b)(6)(F)".

(C) Exclusions from coverage.—Section 1862(a) (42 U.S.C. 1395y(a)), as amended by sections 4401(b) and 4421(b), is amended—

(i) by striking "or" at the end of paragraph (17);

(ii) by striking the period at the end of paragraph (18) and inserting "; or"; and

(iii) inserting after paragraph (18) the following new paragraph:

"(19) where such expenses are for home health services furnished to an individual who is under a plan of care of the home health agency if the claim for payment for such services is not submitted by the agency.".

(d) Effective Date.—Except as otherwise provided, the amendments made by this section shall apply to cost reporting periods beginning on or after October 1, 1999.

Subtitle G—Provisions Relating to Part B Only

CHAPTER 1—PHYSICIANS' SERVICES

SEC. 4601. ESTABLISHMENT OF SINGLE CONVERSION FACTOR FOR 1998.

(a) In General.—Section 1848(d)(1) (42 U.S.C. 1395w-4(d)(1)) is amended—

(1) by redesignating subparagraph (C) as subparagraph (D), and

(2) by inserting after subparagraph (B) the following:

"(C) Special rules for 1998.—The single conversion factor for 1998 under this subsection shall be the conversion factor for primary care services for 1997, increased by the Secretary's estimate of the weighted average of the three separate updates that would otherwise occur were it not for the enactment of chapter 1 of subtitle G of title X of the Balanced Budget Act of 1997.".

(b) Conforming Amendments.—Section 1848 (42 U.S.C. 1395w–4) is amended—

(1) by striking "(or factors)" each place it appears in subsection (d)(1)(A) and (d)(1)(D)(ii) (as redesignated by subsection (a)(1)),

(2) in subsection (d)(1)(A), by striking "or updates",

(3) in subsection (d)(1)(D) (as redesignated by subsection (a)(1)), by striking "(or updates)" each place it appears, and

(4) in subsection (i)(1)(C), by striking "conversion factors" and inserting "the conversion factor".

SEC. 4602. ESTABLISHING UPDATE TO CONVERSION FACTOR TO MATCH SPENDING UNDER SUSTAINABLE GROWTH RATE.

(a) Update.—

(1) In general.—Section 1848(d)(3) (42 U.S.C. 1395w–4(d)(3)) is amended to read as follows:

"(3) Update.—

"(A) In general.—Unless otherwise provided by law, subject to subparagraph (D) and the budget-neutrality factor determined by the Secretary under subsection (c)(2)(B)(ii), the update to the single conversion factor established in paragraph (1)(C) for a year beginning with 1999 is equal to the product of—

"(i) 1 plus the Secretary's estimate of the percentage increase in the MEI (as defined in section 1842(i)(3)) for the year (divided by 100), and

"(ii) 1 plus the Secretary's estimate of the update adjustment factor for the year (divided by 100),

minus 1 and multiplied by 100.

"(B) Update adjustment factor.—For purposes of subparagraph (A)(ii), the 'update adjustment factor' for a year is equal to the quotient (as estimated by the Secretary) of—

"(i) the difference between (I) the sum of the allowed expenditures for physicians' services (as determined under subparagraph (C)) during the period beginning July 1, 1997, and ending on June 30 of the year involved, and (II) the sum of the amount of actual expenditures for physicians' services furnished during the period beginning July 1, 1997, and ending on June 30 of the preceding year; divided by

"(ii) the actual expenditures for physicians' services for the 12-month period ending on June 30 of the preceding year, increased by the sustainable growth rate under subsection (f) for the fiscal year which begins during such 12-month period.

"(C) Determination of allowed expenditures.—For purposes of this paragraph, the allowed expenditures for physicians' services for the 12-month period ending with June 30 of—

"(i) 1997 is equal to the actual expenditures for physicians' services furnished during such 12-month period, as estimated by the Secretary; or

"(ii) a subsequent year is equal to the allowed expenditures for physicians' services for the previous year, increased by the sustainable growth rate under subsection (f) for the fiscal year which begins during such 12-month period.

"(D) Restriction on variation from medicare economic index.—Notwithstanding the amount of the update adjustment factor determined under subparagraph (B) for a year, the update in the conversion factor under this paragraph for the year may not be—

"(i) greater than 100 times the following amount: (1.03 + (MEI percentage/100)) -1; or

"(ii) less than 100 times the following amount: (0.93 + (MEI percentage/100)) -1,

where 'MEI percentage' means the Secretary's estimate of the percentage increase in the MEI (as defined in section 1842(i)(3)) for the year involved.".

(2) Effective date.—The amendment made by paragraph (1) shall apply to the update for years beginning with 1999.

(b) Elimination of Report.—Section 1848(d) (42 U.S.C. 1395w–4(d)) is amended by striking paragraph (2).

SEC. 4603. REPLACEMENT OF VOLUME PERFORMANCE STANDARD WITH SUSTAINABLE GROWTH RATE.

(a) In General.—Section 1848(f) (42 U.S.C. 1395w–4(f)) is amended by striking paragraphs (2) through (5) and inserting the following:

"(2) Specification of growth rate.—The sustainable growth rate for all physicians' services for a fiscal year (beginning with fiscal year 1998) shall be equal to the product of—

"(A) 1 plus the Secretary's estimate of the weighted average percentage increase (divided by 100) in the fees for all physicians' services in the fiscal year involved,

"(B) 1 plus the Secretary's estimate of the percentage change (divided by 100) in the average number of individuals enrolled under this part (other than MedicarePlus plan enrollees) from the previous fiscal year to the fiscal year involved,

"(C) 1 plus the Secretary's estimate of the projected percentage growth in real gross domestic product per capita (divided by 100) from the previous fiscal year to the fiscal year involved, and

"(D) 1 plus the Secretary's estimate of the percentage change (divided by 100) in expenditures for all physicians' services in the fiscal year (compared with the previous fiscal year) which will result from changes in law and regulations, determined without taking into account estimated changes in expenditures due to changes in the volume and intensity of physicians' services resulting from changes in the update to the conversion factor under subsection (d)(3),

minus 1 and multiplied by 100.

"(3) Definitions.—In this subsection:

"(A) Services included in physicians' services.—The term 'physicians' services' includes other items and services (such as clinical diagnostic laboratory tests and radiology services), specified by the Secretary, that are commonly performed or furnished by a physician or in a physician's office, but does not include services furnished to a MedicarePlus plan enrollee.

"(B) MedicarePlus plan enrollee.—The term 'MedicarePlus plan enrollee' means, with respect to a fiscal year, an individual enrolled under this part who has elected to receive benefits under this title for the fiscal year through a MedicarePlus plan offered under part C, and also includes an individual who is receiving benefits under this part through enrollment with an eligible organization with a risk-sharing contract under section 1876.".

(b) Conforming Amendments.—Section 1848(f) (42 U.S.C. 1395w–4(f)) is amended—

(1) in the heading, by striking "Volume Performance Standard Rates of Increase" and inserting "Sustainable Growth Rate"; and

(2) in paragraph (1)—

(A) in the heading, by striking "VOLUME PERFORMANCE STANDARD RATES OF INCREASE" and inserting "SUSTAINABLE GROWTH RATE",

(B) by striking subparagraphs (A) and (B); and

(C) in paragraph (1)(C)—

(i) in the heading, by striking "PERFORMANCE STANDARD RATES OF INCREASE" and inserting "SUSTAINABLE GROWTH RATE";

(ii) in the first sentence, by striking "with 1991), the performance standard rates of increase" and all that follows through the first period and inserting "with 1999), the sustainable growth rate for the fiscal year beginning in that year."; and

(iii) in the second sentence, by striking "January 1, 1990, the performance standard rate of increase under subparagraph (D) for fiscal year 1990" and inserting "January 1, 1999, the sustainable growth rate for fiscal year 1999".

SEC. 4604. PAYMENT RULES FOR ANESTHESIA SERVICES.

(a) In General.—Section 1848(d)(1) (42 U.S.C. 1395w–4(d)(1)), as amended by section 4601, is amended—

(A) in subparagraph (C), striking "The single" and inserting "Except as provided in subparagraph (D), the single";

(B) by redesignating subparagraph (D) as subparagraph (E); and

(C) by inserting after subparagraph (C) the following new subparagraph:

"(D) Special rules for anesthesia services.—The separate conversion factor for anesthesia services for a year shall be equal to 46 percent of the single conversion factor established for other physicians' services, except as adjusted for changes in work, practice expense, or malpractice relative value units. ".

(b) Classification of Anesthesia Services.—The first sentence of section 1848(j)(1) (42 U.S.C. 1395w–4(j)(1)) is amended—

(1) by striking "and including anesthesia services"; and

(2) by inserting before the period the following: "(including anesthesia services)".

(c) Effective Date.—The amendments made by this section shall apply to services furnished on or after January 1, 1998.

SEC. 4605. IMPLEMENTATION OF RESOURCE-BASED PHYSICIAN PRACTICE EXPENSE.

(a) 1-Year Delay in Implementation.—Section 1848(c) (42 U.S.C. 1395w–4(c)) is amended—

(1) in paragraph (2)(C)(ii), in the matter before subclause (I) and after subclause (II), by striking "1998" and inserting "1999" each place it appears; and

(2) in paragraph (3)(C)(ii), by striking "1998" and inserting "1999".

(b) Phased-in Implementation.—

(1) In general.—Section 1848(c)(2)(C)(ii) (42 U.S.C. 1395w–4(c)(2)(C)(ii)) is further amended—

(A) by striking the comma at the end of clause (ii) and inserting a period and the following:

"For 1999, such number of units shall be determined based 75 percent on such product and based 25 percent on the relative practice expense resources involved in furnishing the service. For 2000, such number of units shall be determined based 50 percent on such product and based 50 percent on such relative practice expense resources. For 2001, such number of units shall be determined based 25 percent on such product and based 75 percent on such relative practice expense resources.

For a subsequent year, such number of units shall be determined based entirely on such relative practice expense resources.".

(2) Conforming amendment.—Section 1848(c)(3)(C)(ii) (42 U.S.C. 1395w-4(c)(3)(C)(ii)), as amended by subsection (a)(2), is amended by striking "1999" and inserting "2002".

(c) Requirements for Developing New Resource-Based Practice Expense Relative Value Units.—

(1) Development.—For purposes of section 1848(c)(2)(C) of the Social Security Act, the Secretary of Health and Human Services shall develop new resource-based relative value units. In developing such units the Secretary shall—

(A) utilize, to the maximum extent practicable, generally accepted accounting principles and standards which (i) recognize all staff, equipment, supplies, and expenses, not just those which can be tied to specific procedures, and (ii) use actual data on equipment utilization and other key assumptions, such as the proportion of costs which are direct versus indirect;

(B) study whether hospital cost reduction efforts and changing practice patterns may have increased physician practice costs under part B of the medicare program;

(C) consider potential adverse effects on patient access under the medicare program; and

(D) consult with organizations representing physicians regarding methodology and data to be used, including data for impact projections, in order to ensure that sufficient input has been received by the affected physician community.

(2) Report.—The Secretary shall transmit a report by March 1, 1998, on the development of resource-based relative value units under paragraph (1) to the Committee on Ways and Means and the Committee on Commerce of the House of Representatives and the Committee on Finance of the Senate. The report shall include a presentation of data to be used in developing the value units and an explanation of the methodology.

(3) Notice of proposed rulemaking.—The Secretary shall publish a notice of proposed rulemaking with the new resource-based relative value units on or before May 1, 1998, and shall allow for a 90-day public comment period.

(4) Items included.—The proposed new rule shall include the following:

(A) Detailed impact projections which compare new proposed payment amounts on data on actual physician practice expenses.

(B) Impact projections for specialties and subspecialties, geographic payment localities, urban versus rural localities, and academic versus nonacademic medical staffs.

(C) Impact projections on access to care for medicare patients and physician employment of clinical and administrative staff.

SEC. 4606. DISSEMINATION OF INFORMATION ON HIGH PER DISCHARGE RELATIVE VALUES FOR IN-HOSPITAL PHYSICIANS' SERVICES.

(a) Determination and Notice Concerning Hospital-Specific Per Discharge Relative Values.—

(1) In general.—For 1999 and 2001 the Secretary of Health and Human Services shall determine for each hospital—

(A) the hospital-specific per discharge relative value under subsection (b); and

(B) whether the hospital-specific relative value is projected to be excessive (as determined based on such value represented as a percentage of the median of hospital-specific per discharge relative values determined under subsection (b)).

(2) Notice to medical staffs and carriers.—The Secretary shall notify the medical executive committee of each hospital identifies under paragraph (1)(B) as having an excessive hospital-specific relative value, of the determinations made with respect to the medical staff under paragraph (1).

(b) Determination of Hospital-Specific Per Discharge Relative Values.—

(1) In general.—For purposes of this section, the hospital-specific per discharge relative value for the medical staff of a hospital (other than a teaching hospital) for a year, shall be equal to the average per discharge relative value (as determined under section 1848(c)(2) of the Social Security Act) for physicians' services furnished to inpatients of the hospital by the hospital's medical staff (excluding interns and residents) during the second year preceding that calendar year, adjusted for variations in case-mix and disproportionate share status among hospitals (as determined by the Secretary under paragraph (3)).

(2) Special rule for teaching hospitals.—The hospital-specific relative value projected for a teaching hospital in a year shall be equal to the sum of—

(A) the average per discharge relative value (as determined under section 1848(c)(2) of such Act) for physicians' services furnished to inpatients of the hospital by the hospital's medical staff (excluding interns and residents) during the second year preceding that calendar year, and

(B) the equivalent per discharge relative value (as determined under such section) for physicians' services furnished to inpatients of the hospital by interns and residents of the hospital during the second year preceding that calendar year, adjusted for variations in case-mix, disproportionate share status, and teaching status among hospitals (as determined by the Secretary under paragraph (3)).

The Secretary shall determine the equivalent relative value unit per discharge for interns and residents based on the best available data and may make such adjustment in the aggregate.

(3) Adjustment for teaching and disproportionate share hospitals.—The Secretary shall adjust the allowable per discharge relative values otherwise determined under this subsection to take into account the needs of teaching hospitals and hospitals receiving additional payments under subparagraphs (F) and (G) of section 1886(d)(5) of the Social Security Act. The adjustment for teaching status or disproportionate share shall not be less than zero.

(c) Definitions.—For purposes of this section:

(1) Hospital.—The term "hospital" means a subsection (d) hospital as defined in section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)).

(2) Medical staff.—An individual furnishing a physician's service is considered to be on the medical staff of a hospital—

(A) if (in accordance with requirements for hospitals established by the Joint Commission on Accreditation of Health Organizations)—

(i) the individual is subject to bylaws, rules, and regulations established by the hospital to provide a framework for the self-governance of medical staff activities,

(ii) subject to the bylaws, rules, and regulations, the individual has clinical privileges granted by the hospital's governing body, and

(iii) under the clinical privileges, the individual may provide physicians" services independently within the scope of the individual's clinical privileges, or

(B) if the physician provides at least one service to an individual entitled to benefits under this title in that hospital.

(3) Physicians' services.—The term "physicians" services" means the services described in section 1848(j)(3) of the Social Security Act (42 U.S.C. 1395w-4(j)(3)).

(4) Rural area; urban area.—The terms "rural area" and "urban area" have the meaning given those terms under section 1886(d)(2)(D) of such Act (42 U.S.C. 1395ww(d)(2)(D)).

(5) Secretary.—The term "Secretary" means the Secretary of Health and Human Services.

(6) Teaching hospital.—The term "teaching hospital" means a hospital which has a teaching program approved as specified in section 1861(b)(6) of the Social Security Act (42 U.S.C. 1395x(b)(6)).

SEC. 4607. NO X-RAY REQUIRED FOR CHIROPRACTIC SERVICES.

(a) In General.—Section 1861(r)(5) (42 U.S.C. 1395x(r)(5)) is amended by striking "demonstrated by X-ray to exist".

(b) Effective Date.—The amendment made by subsection (a) applies to services furnished on or after January 1, 1998.

(c) Utilization Guidelines.—The Secretary of Health and Human Services shall develop and implement utilization guidelines relating to the coverage of chiropractic services under part B of title XVIII of the Social Security Act in cases in which a subluxation has not been demonstrated by X-ray to exist.

SEC. 4608. TEMPORARY COVERAGE RESTORATION FOR PORTABLE ELECTROCARDIOGRAM TRANSPORTATION.

(a) In General.—Effective for electrocardiogram tests performed during 1998, the Secretary of Health and Human Services shall restore separate payment, under part B of title XVIII of the Social Security Act, for the transportation of electrocardiogram equipment (HCPCS code R0076) based upon the status code and relative value units established for such service as of December 31, 1996.

(b) Report.—By not later than July 1, 1998, the Comptroller General shall submit to Congress a report on the appropriateness of continuing such payment.

CHAPTER 2—OTHER PAYMENT PROVISIONS

SEC. 4611. PAYMENTS FOR DURABLE MEDICAL EQUIPMENT.

(a) Reduction in Payment Amounts for Items of Durable Medical Equipment.—

(1) Freeze in update for covered items.—Section 1834(a)(14) (42 U.S.C. 1395m(a)(14)) is amended—

(A) by striking "and" at the end of subparagraph (A);

(B) in subparagraph (B)—

(i) by striking "a subsequent year" and inserting "1993, 1994, 1995, 1996, and 1997", and

(ii) by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

"(C) for each of the years 1998 through 2002, 0 percentage points; and

"(D) for a subsequent year, the percentage increase in the consumer price index for all urban consumers (U.S. urban average) for the 12-month period ending with June of the previous year.".

(2) Update for orthotics and prosthetics.—Section 1834(h)(4)(A) (42 U.S.C. 1395m(h)(4)(A)) is amended—

(A) by striking ", and" at the end of clause (iii) and inserting a semicolon;

(B) in clause (iv), by striking "a subsequent year" and inserting "1996 and 1997", and

(C) by adding at the end the following new clauses:

"(v) for each of the years 1998 through 2002, 1 percent, and

"(vi) for a subsequent year, the percentage increase in the consumer price index for all urban consumers (United States city average) for the 12-month period ending with June of the previous year;".

(c) PAYMENT FREEZE FOR PARENTERAL AND ENTERAL NUTRIENTS, SUPPLIES, AND EQUIPMENT.—In determining the amount of payment under part B of title XVIII of the Social Security Act with respect to parenteral and enteral nutrients, supplies, and equipment during each of the years 1998 through 2002, the charges determined to be reasonable with respect to such nutrients, supplies, and equipment may not exceed the charges determined to be reasonable with respect to such nutrients, supplies, and equipment during 1995.

SEC. 4612. OXYGEN AND OXYGEN EQUIPMENT.

Section 1834(a)(9)(C) (42 U.S.C. 1395m(a)(9)(C)) is amended—

(1) by striking "and" at the end of clause (iii);

(2) in clause (iv)—

(A) by striking "a subsequent year" and inserting "1993, 1994, 1995, 1996, and 1997", and

(B) by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new clauses:

"(v) in each of the years 1998 through 2002, is 80 percent of the national limited monthly payment rate computed under subparagraph (B) for the item for the year; and

"(vi) in a subsequent year, is the national limited monthly payment rate computed under subparagraph (B) for the item for the year.".

SEC. 4613. REDUCTION IN UPDATES TO PAYMENT AMOUNTS FOR CLINICAL DIAGNOSTIC LABORATORY TESTS.

(a) CHANGE IN UPDATE.—Section 1833(h)(2)(A)(ii)(IV) (42 U.S.C. 1395l(h)(2)(A)(ii)(IV)) is amended by inserting "and 1998 through 2002" after "1995".

(b) LOWERING CAP ON PAYMENT AMOUNTS.—Section 1833(h)(4)(B) (42 U.S.C. 1395l(h)(4)(B)) is amended—

(1) in clause (vi), by striking "and" at the end;

(2) in clause (vii)—

(A) by inserting "and before January 1, 1998," after "1995,", and

(B) by striking the period at the end and inserting ", and"; and

(3) by adding at the end the following new clause:

"(viii) after December 31, 1997, is equal to 72 percent of such median.".

SEC. 4614. SIMPLIFICATION IN ADMINISTRATION OF LABORATORY TESTS.

(a) SELECTION OF REGIONAL CARRIERS.—

(1) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall—

(A) divide the United States into no more than 5 regions, and

(B) designate a single carrier for each such region,

for the purpose of payment of claims under part B of title XVIII of the Social Security Act with respect to clinical diagnostic laboratory tests (other than for tests performed in physician offices) furnished on or after such date (not later than January 1, 1999) as the Secretary specifies.

(2) DESIGNATION.—In designating such carriers, the Secretary shall consider, among other criteria—

(A) a carrier's timeliness, quality, and experience in claims processing, and

(B) a carrier's capacity to conduct electronic data interchange with laboratories and data matches with other carriers.

(3) SINGLE DATA RESOURCE.—The Secretary may select one of the designated carriers to serve as a central statistical resource for all claims information relating to such clinical diagnostic laboratory tests handled by all the designated carriers under such part.

(4) ALLOCATION OF CLAIMS.—The allocation of claims for clinical diagnostic laboratory tests to particular designated carriers shall be based on whether a carrier serves the geographic area where the laboratory specimen was collected or other method specified by the Secretary.

(b) ADOPTION OF UNIFORM POLICIES FOR CLINICAL LABORATORY TESTS.—

(1) IN GENERAL.—Not later than July 1, 1998, the Secretary shall first adopt, consistent with paragraph (2), uniform coverage, administration, and payment policies for clinical diagnostic laboratory tests under part B of title XVIII of the Social Security Act, using a negotiated rulemaking process under subchapter III of chapter 5 of title 5, United States Code.

(2) CONSIDERATIONS IN DESIGN OF UNIFORM POLICIES.—The policies under paragraph (1) shall be designed to promote uniformity and program integrity and reduce administrative burdens with respect to clinical diagnostic laboratory tests payable under such part in connection with the following:

(A) Beneficiary information required to be submitted with each claim or order for laboratory tests.

(B) Physicians' obligations regarding documentation requirements and recordkeeping.

(C) Procedures for filing claims and for providing remittances by electronic media.

(D) The documentation of medical necessity.

(E) Limitation on frequency of coverage for the same tests performed on the same individual.

(3) CHANGES IN CARRIER REQUIREMENTS PENDING ADOPTION OF UNIFORM POLICY.—During the period that begins on the date of the enactment of this Act and ends on the date the Secretary first implements uniform policies pursuant to regulations promulgated under this subsection, a carrier under such part may implement changes relating to requirements for the submission of a claim for clinical diagnostic laboratory tests.

(4) USE OF INTERIM REGIONAL POLICIES.—After the date the Secretary first implements such uniform policies, the Secretary shall permit any carrier to develop and implement interim policies of the type described in paragraph (1), in accordance with guidelines established by the Secretary, in cases in which a uniform national policy has not been established under this subsection and there is a demonstrated need for a policy to respond to aberrant utilization or provision of unnecessary services. Except as the Secretary specifically permits, no policy shall be implemented under this paragraph for a period of longer than 2 years.

(5) INTERIM NATIONAL POLICIES.—After the date the Secretary first designates regional carriers under subsection (a), the Secretary shall establish a process under which designated carriers can collectively develop and implement interim national standards of the type described in paragraph (1). No such policy shall be implemented under this paragraph for a period of longer than 2 years.

(6) BIENNIAL REVIEW PROCESS.—Not less often than once every 2 years, the Secretary shall solicit and review comments regarding changes in the uniform policies established under this subsection. As part of such biennial review process, the Secretary shall specifically review and consider whether to incorporate or supersede interim, regional, or national policies developed under paragraph (4) or (5). Based upon such review, the Secretary may provide for appropriate changes in the uniform policies previously adopted under this subsection.

(7) NOTICE.— Before a carrier implements a change or policy under paragraph (3), (4), or (5), the carrier shall provide for advance notice to interested parties and a 45-day period in which such parties may submit comments on the proposed change.

(c) INCLUSION OF LABORATORY REPRESENTATIVE ON CARRIER ADVISORY COMMITTEES.—The Secretary shall direct that any advisory committee established by such a carrier, to advise with respect to coverage, administration or payment policies under part B of title XVIII of the Social Security Act, shall include an individual to represent the interest and views of independent clinical laboratories and such other laboratories as the Secretary deems appropriate. Such individual shall be selected by such committee from among nominations submitted by national and local organizations that represent independent clinical laboratories.

SEC. 4615. UPDATES FOR AMBULATORY SURGICAL SERVICES.

Section 1833(i)(2)(C) (42 U.S.C. 1395l(i)(2)(C)) is amended by striking all that follows "shall be increased" and inserting the following: "as follows:

"(i) For fiscal years 1996 and 1997, by the percentage increase in the consumer price index for all urban consumers (U.S. city average) as estimated by the Secretary for the 12-month period ending with the midpoint of the year involved.

"(ii) For each of fiscal years 1998 through 2002 by such percentage increase minus 2.0 percentage points.

"(iii) For each succeeding fiscal year by such percentage increase.".

SEC. 4616. REIMBURSEMENT FOR DRUGS AND BIOLOGICALS.

(a) IN GENERAL.—Section 1842 (42 U.S.C. 1395u) is amended by inserting after subsection (n) the following new subsection:

"(o) If a physician's, supplier's, or any other person's bill or request for payment for services includes a charge for a drug or biological for which payment may be made under this part and the drug or biological is not paid on a cost or prospective payment basis as otherwise provided in this part, the amount payable for the drug or biological is equal to 95 percent of the average wholesale price.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply to drugs and biologicals furnished on or after January 1, 1998.

SEC. 4617. COVERAGE OF ORAL ANTI-NAUSEA DRUGS UNDER CHEMOTHERAPEUTIC REGIMEN.

(a) IN GENERAL.—Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)), as amended, is amended by inserting after subparagraph (S) the following new subparagraph:

"(T) an oral drug (which is approved by the Federal Food and Drug Administration) prescribed for use as an acute anti-emetic used as part of an anticancer chemotherapeutic regimen if the drug is administered by a physician (or as prescribed by a physician)—

"(i) for use immediately before, at, or within 48 hours after the time of the administration of the anticancer chemotherapeutic agent; and

"(ii) as a full replacement for the antiemetic therapy which would otherwise be administered intravenously.".

(b) Payment Levels.—Section 1834 (42 U.S.C. 1395m), as amended by sections 4421(a)(2) and 4431(b)(2), is amended by adding at the end the following new subsection:

"(m) Special Rules for Payment for Oral Anti-Nausea Drugs.—

"(1) Limitation on per dose payment basis.—Subject to paragraph (2), the per dose payment basis under this part for oral anti-nausea drugs (as defined in paragraph (3)) administered during a year shall not exceed 90 percent of the average per dose payment basis for the equivalent intravenous antiemetics administered during the year, as computed based on the payment basis applied during 1996.

"(2) Aggregate limit.—The Secretary shall make such adjustment in the coverage of, or payment basis for, oral anti-nausea drugs so that coverage of such drugs under this part does not result in any increase in aggregate payments per capita under this part above the levels of such payments per capita that would otherwise have been made if there were no coverage for such drugs under this part.

"(3) Oral anti-nausea drugs defined.—For purposes of this subsection, the term 'oral anti-nausea drugs' means drugs for which coverage is provided under this part pursuant to section 1861(s)(2)(P).".

(c) Effective Date.—The amendments made by this section shall apply to items and services furnished on or after January 1, 1998.

SEC. 4618. RURAL HEALTH CLINIC SERVICES.

(a) Per-Visit Payment Limits for Provider-Based Clinics.—

(1) Extension of limit.—

(A) In general.—The matter in section 1833(f) (42 U.S.C. 1395l(f)) preceding paragraph (1) is amended by striking "independent rural health clinics" and inserting "rural health clinics (other than such clinics in rural hospitals with less than 50 beds)".

(B) Effective date.—The amendment made by subparagraph (A) applies to services furnished after 1997.

(2) Technical clarification.—Section 1833(f)(1) (42 U.S.C. 1395l(f)(1)) is amended by inserting "per visit" after "$46".

(b) Assurance of Quality Services.—

(1) In general.—Subparagraph (I) of the first sentence of section 1861(aa)(2) (42 U.S.C. 1395x(aa)(2)) is amended to read as follows:

"(I) has a quality assessment and performance improvement program, and appropriate procedures for review of utilization of clinic services, as the Secretary may specify,".

(2) Effective date.—The amendment made by paragraph (1) shall take effect on January 1, 1998.

(c) Waiver of Certain Staffing Requirements Limited to Clinics in Program.—

(1) In general.—Section 1861(aa)(7)(B) (42 U.S.C. 1395x(aa)(7)(B)) is amended by inserting before the period at the end the following: ", or if the facility has not yet been determined to meet the requirements (including subparagraph (J) of the first sentence of paragraph (2)) of a rural health clinic".

(2) Effective date.—The amendment made by paragraph (1) applies to waiver requests made after 1997.

(d) Refinement of Shortage Area Requirements.—

(1) Designation reviewed triennially.—Section 1861(aa)(2) (42 U.S.C. 1395x(aa)(2)) is amended in the second sentence, in the matter in clause (i) preceding subclause (I)—

(A) by striking "and that is designated" and inserting "and that, within the previous three-year period, has been designated"; and

(B) by striking "or that is designated" and inserting "or designated".

(2) Area must have shortage of health care practitioners.—Section 1861(aa)(2) (42 U.S.C. 1395x(aa)(2)), as amended by paragraph (1), is further amended in the second sentence, in the matter in clause (i) preceding subclause (I)—

(A) by striking the comma after "personal health services"; and

(B) by inserting "and in which there are insufficient numbers of needed health care practitioners (as determined by the Secretary)," after "Bureau of the Census)".

(3) Previously qualifying clinics grandfathered only to prevent shortage.—Section 1861(aa)(2) (42 U.S.C. 1395x(aa)(2)) is amended in the third sentence by inserting before the period "if it is determined, in accordance with criteria established by the Secretary in regulations, to be essential to the delivery of primary care services that would otherwise be unavailable in the geographic area served by the clinic".

(4) Effective dates; implementing regulations.—

(A) In general.—Except as otherwise provided, the amendments made by the preceding paragraphs take effect on January 1 of the first calendar year beginning at least one month after enactment of this Act.

(B) Current rural health clinics.—The amendments made by the preceding paragraphs take effect, with respect to entities that are rural health clinics under title XVIII of the Social Security Act on the date of enactment of this Act, on January 1 of the second calendar year following the calendar year specified in subparagraph (A).

(C) Grandfathered clinics.—

(i) In general.—The amendment made by paragraph (3) shall take effect on the effective date of regulations issued by the Secretary under clause (ii).

(ii) Regulations.—The Secretary shall issue final regulations implementing paragraph (3) that shall take effect no later than January 1 of the third calendar year beginning at least one month after enactment of this Act.

SEC. 4619. INCREASED MEDICARE REIMBURSEMENT FOR NURSE PRACTITIONERS AND CLINICAL NURSE SPECIALISTS.

(a) Removal of Restrictions on Settings.—

(1) In general.—Clause (ii) of section 1861(s)(2)(K) (42 U.S.C. 1395x(s)(2)(K)) is amended to read as follows:

"(ii) services which would be physicians' services if furnished by a physician (as defined in subsection (r)(1)) and which are performed by a nurse practitioner or clinical nurse specialist (as defined in subsection (aa)(5)) working in collaboration (as defined in subsection (aa)(6)) with a physician (as defined in subsection (r)(1)) which the nurse practitioner or clinical nurse specialist is legally authorized to perform by the State in which the services are performed, and such services and supplies furnished as an incident to such services as would be covered under subparagraph (A) if furnished incident to a physician's professional service, but only if no facility or other provider charges or is paid any amounts with respect to the furnishing of such services;".

(2) Conforming amendments.—(A) Section 1861(s)(2)(K) of such Act (42 U.S.C. 1395x(s)(2)(K)) is further amended—

(i) in clause (i), by inserting "and such services and supplies furnished as incident to such services as would be covered under subparagraph (A) if furnished incident to a physician's professional service; and" after "are performed,"; and

(ii) by striking clauses (iii) and (iv).

(B) Section 1861(b)(4) (42 U.S.C. 1395x(b)(4)) is amended by striking "clauses (i) or (iii) of subsection (s)(2)(K)" and inserting "subsection (s)(2)(K)".

(C) Section 1862(a)(14) (42 U.S.C. 1395y(a)(14)) is amended by striking "section 1861(s)(2)(K)(i) or 1861(s)(2)(K)(iii)" and inserting "section 1861(s)(2)(K)".

(D) Section 1866(a)(1)(H) (42 U.S.C. 1395cc(a)(1)(H)) is amended by striking "section 1861(s)(2)(K)(i) or 1861(s)(2)(K)(iii)" and inserting "section 1861(s)(2)(K)".

(E) Section 1888(e)(2)(A)(ii) (42 U.S.C. 1395yy(e)(2)(A)(ii)), as added by section 10401(a), is amended by striking "through (iii)" and inserting "and (ii)".

(b) Increased Payment.—

(1) Fee schedule amount.—Clause (O) of section 1833(a)(1) (42 U.S.C. 1395l(a)(1)) is amended to read as follows: "(O) with respect to services described in section 1861(s)(2)(K)(ii) (relating to nurse practitioner or clinical nurse specialist services), the amounts paid shall be equal to 80 percent of (i) the lesser of the actual charge or 85 percent of the fee schedule amount provided under section 1848, or (ii) in the case of services as an assistant at surgery, the lesser of the actual charge or 85 percent of the amount that would otherwise be recognized if performed by a physician who is serving as an assistant at surgery; and".

(2) Conforming amendments.—(A) Section 1833(r) (42 U.S.C. 1395l(r)) is amended—

(i) in paragraph (1), by striking "section 1861(s)(2)(K)(iii) (relating to nurse practitioner or clinical nurse specialist services provided in a rural area)" and inserting "section 1861(s)(2)(K)(ii) (relating to nurse practitioner or clinical nurse specialist services)";

(ii) by striking paragraph (2);

(iii) in paragraph (3), by striking "section 1861(s)(2)(K)(iii)" and inserting "section 1861(s)(2)(K)(ii)"; and

(iv) by redesignating paragraph (3) as paragraph (2).

(B) Section 1842(b)(12)(A) (42 U.S.C. 1395u(b)(12)(A)) is amended, in the matter preceding clause (i), by striking "clauses (i), (ii), or (iv) of section 1861(s)(2)(K) (relating to a physician assistants and nurse practitioners)" and inserting "section 1861(s)(2)(K)(i) (relating to physician assistants)".

(c) Direct Payment for Nurse Practitioners and Clinical Nurse Specialists.—

(1) In general.—Section 1832(a)(2)(B)(iv) (42 U.S.C. 1395k(a)(2)(B)(iv)) is amended by striking "provided in a rural area (as defined in section 1886(d)(2)(D))" and inserting "but only if no facility or other provider charges or is paid any amounts with respect to the furnishing of such services".

(2) Conforming amendment.—Section 1842(b)(6)(C) (42 U.S.C. 1395u(b)(6)(C)) is amended—

(A) by striking "clauses (i), (ii), or (iv)" and inserting "clause (i)"; and

(B) by striking "or nurse practitioner".

(d) Definition of Clinical Nurse Specialist Clarified.—Section 1861(aa)(5) (42 U.S.C. 1395x(aa)(5)) is amended—

(1) by inserting "(A)" after "(5)";

(2) by striking "The term 'physician assistant'" and all that follows through "who performs" and inserting "The term 'physician assistant' and the term 'nurse practitioner' mean, for purposes of this title, a physician assistant or nurse practitioner who performs"; and

(3) by adding at the end the following new subparagraph:

"(B) The term 'clinical nurse specialist' means, for purposes of this title, an individual who—

"(i) is a registered nurse and is licensed to practice nursing in the State in which the clinical nurse specialist services are performed; and

"(ii) holds a master's degree in a defined clinical area of nursing from an accredited educational institution.".

(e) Effective Date.—The amendments made by this section shall apply with respect to services furnished and supplies provided on and after January 1, 1998.

SEC. 4620. INCREASED MEDICARE REIMBURSEMENT FOR PHYSICIAN ASSISTANTS.

(a) Removal of Restriction on Settings.—Section 1861(s)(2)(K)(i) (42 U.S.C. 1395x(s)(2)(K)(i)) is amended—

(1) by striking "(I) in a hospital" and all that follows through "shortage area,", and

(2) by adding at the end the following: "but only if no facility or other provider charges or is paid any amounts with respect to the furnishing of such services,".

(b) Increased Payment.—Paragraph (12) of section 1842(b) (42 U.S.C. 1395u(b)), as amended by section 4619(b)(2)(B), is amended to read as follows:

"(12) With respect to services described in section 1861(s)(2)(K)(i)—

"(A) payment under this part may only be made on an assignment-related basis; and

"(B) the amounts paid under this part shall be equal to 80 percent of (i) the lesser of the actual charge or 85 percent of the fee schedule amount provided under section 1848 for the same service provided by a physician who is not a specialist; or (ii) in the case of services as an assistant at surgery, the lesser of the actual charge or 85 percent of the amount that would otherwise be recognized if performed by a physician who is serving as an assistant at surgery.".

(c) Removal of Restriction on Employment Relationship.—Section 1842(b)(6) (42 U.S.C. 1395u(b)(6)) is amended by adding at the end the following new sentence: "For purposes of clause (C) of the first sentence of this paragraph, an employment relationship may include any independent contractor arrangement, and employer status shall be determined in accordance with the law of the State in which the services described in such clause are performed.".

(d) Effective Date.—The amendments made by this section shall apply with respect to services furnished and supplies provided on and after January 1, 1998.

SEC. 4621. RENAL DIALYSIS-RELATED SERVICES.

(a) Auditing of Cost Reports.—The Secretary shall audit a sample of cost reports of renal dialysis providers for 1995 and for each third year thereafter.

(b) Implementation of Quality Standards.—The Secretary of Health and Human Services shall develop and implement, by not later than January 1, 1999, a method to measure and report quality of renal dialysis services provided under the medicare program under title XVIII of the Social Security Act in order to reduce payments for inappropriate or low quality care.

SEC. 4622. PAYMENT FOR COCHLEAR IMPLANTS AS CUSTOMIZED DURABLE MEDICAL EQUIPMENT.

(a) In General.—Section 1834(h)(1)(E) (42 U.S.C. 1395m(h)(1)(E)) is amended by adding at the end the following: "Payment for cochlear implants shall be made in accordance with subsection (a)(4), and, in applying such subsection to cochlear implants, carriers shall take into consideration technological innovations and data on charges to the extent that such charges reflect such innovations.".

(b) Effective Date.—The amendment made by subsection (a) applies to implants implanted on or after January 1, 1998.

CHAPTER 3—PART B PREMIUM

SEC. 4631. PART B PREMIUM.

(a) In General.—The first, second and third sentences of section 1839(a)(3) (42 U.S.C. 1395r(a)(3)) are amended to read as follows: "The Secretary, during September of each year, shall determine and promulgate a monthly premium rate for the succeeding calendar year. That monthly premium rate shall be equal to 50 percent of the monthly actuarial rate for enrollees age 65 and over, determined according to paragraph (1), for that succeeding calendar year.".

(b) Conforming and Technical Amendments.—

(1) Section 1839.—Section 1839 (42 U.S.C. 1395r) is amended—

(A) in subsection (a)(2), by striking "(b) and (e)" and inserting "(b), (c), and (f)",

(B) in the last sentence of subsection (a)(3)—

(i) by inserting "rate" after "premium", and

(ii) by striking "and the derivation of the dollar amounts specified in this paragraph",

(C) by striking subsection (e), and

(D) by redesignating subsection (g) as subsection (e) and inserting that subsection after subsection (d).

(2) Section 1844.—Subparagraphs (A)(i) and (B)(i) of section 1844(a)(1) (42 U.S.C. 1395w(a)(1)) are each amended by striking "or 1839(e), as the case may be".

Subtitle H—Provisions Relating to Parts A and B

CHAPTER 1—PROVISIONS RELATING TO MEDICARE SECONDARY PAYER

SEC. 4701. PERMANENT EXTENSION AND REVISION OF CERTAIN SECONDARY PAYER PROVISIONS.

(a) Application to Disabled Individuals in Large Group Health Plans.—

(1) In general.—Section 1862(b)(1)(B) (42 U.S.C. 1395y(b)(1)(B)) is amended—

(A) in clause (i), by striking "clause (iv)" and inserting "clause (iii)",

(B) by striking clause (iii), and

(C) by redesignating clause (iv) as clause (iii).

(2) Conforming amendments.—Paragraphs (1) through (3) of section 1837(i) (42 U.S.C. 1395p(i)) and the second sentence of section 1839(b) (42 U.S.C. 1395r(b)) are each amended by striking "1862(b)(1)(B)(iv)" each place it appears and inserting "1862(b)(1)(B)(iii)".

(b) Individuals With End Stage Renal Disease.—

(1) In general.—Section 1862(b)(1)(C) (42 U.S.C. 1395y(b)(1)(C)) is amended—

(A) in the first sentence, by striking "12-month" each place it appears and inserting "30-month", and

(B) by striking the second sentence.

(2) Effective date.—The amendments made by paragraph (1) shall apply to items and services furnished on or after the date of the enactment of this Act and with respect to periods beginning on or after the date that is 18 months prior to such date.

(c) IRS-SSA-HCFA Data Match.—

(1) Social security act.—Section 1862(b)(5)(C) (42 U.S.C. 1395y(b)(5)(C)) is amended by striking clause (iii).

(2) Internal revenue code.—Section 6103(l)(12) of the Internal Revenue Code of 1986 is amended by striking subparagraph (F).

SEC. 4702. CLARIFICATION OF TIME AND FILING LIMITATIONS.

(a) Extension of Claims Filing Period.—Section 1862(b)(2)(B) (42 U.S.C. 1395y(b)(2)(B)) is amended by adding at the end the following new clause:

"(v) Claims-filing period.—Notwithstanding any other time limits that may exist for filing a claim under an employer group health plan, the United States may seek to recover conditional payments in accordance with this subparagraph where the request for payment is submitted to the entity required or responsible under this subsection to pay with respect to the item or service (or any portion thereof) under a primary plan within the 3-year period beginning on the date on which the item or service was furnished.".

(b) Effective Date.—The amendment made by subsection (a) applies to items and services furnished after 1990. The previous sentence shall not be construed as permitting any waiver of the 3-year-period requirement (imposed by such amendment) in the case of items and services furnished more than 3 years before the date of the enactment of this Act.

SEC. 4703. PERMITTING RECOVERY AGAINST THIRD PARTY ADMINISTRATORS.

(a) Permitting Recovery Against Third Party Administrators of Primary Plans.—Section 1862(b)(2)(B)(ii) (42 U.S.C. 1395y(b)(2)(B)(ii)) is amended—

(1) by striking "under this subsection to pay" and inserting "(directly, as a third-party administrator, or otherwise) to make payment", and

(2) by adding at the end the following: "The United States may not recover from a third-party administrator under this clause in cases where the third-party administrator would not be able to recover the amount at issue from the employer or group health plan for whom it provides administrative services due to the insolvency or bankruptcy of the employer or plan.".

(b) Clarification of Beneficiary Liability.—Section 1862(b)(1) (42 U.S.C. 1395y(b)(1)) is amended by adding at the end the following new subparagraph:

"(F) Limitation on beneficiary liability.—An individual who is entitled to benefits under this title and is furnished an item or service for which such benefits are incorrectly paid is not liable for repayment of such benefits under this paragraph unless payment of such benefits was made to the individual.".

(c) Effective Date.—The amendments made by this section apply to items and services furnished on or after the date of the enactment of this Act.

CHAPTER 2—HOME HEALTH SERVICES

SEC. 4711. RECAPTURING SAVINGS RESULTING FROM TEMPORARY FREEZE ON PAYMENT INCREASES FOR HOME HEALTH SERVICES.

(a) Basing Updates to Per Visit Cost Limits on Limits for Fiscal Year 1993.—Section 1861(v)(1)(L) (42 U.S.C. 1395x(v)(1)(L)) is amended by adding at the end the following:

"(iv) In establishing limits under this subparagraph for cost reporting periods beginning after September 30, 1997, the Secretary shall not take into account any changes in the home health market basket, as determined by the Secretary, with respect to cost reporting periods which began on or after July 1, 1994, and before July 1, 1996.".

(b) No Exceptions Permitted Based on Amendment.—The Secretary of Health and Human Services shall not consider the amendment made by subsection (a) in making any exemptions and exceptions pursuant to section 1861(v)(1)(L)(ii) of the Social Security Act (42 U.S.C. 1395x(v)(1)(L)(ii)).

SEC. 4712. INTERIM PAYMENTS FOR HOME HEALTH SERVICES.

(a) Reductions in Cost Limits.—Section 1861(v)(1)(L)(i) (42 U.S.C. 1395x(v)(1)(L)(i)) is amended—

(1) by moving the indentation of subclauses (I) through (III) 2-ems to the left;

(2) in subclause (I), by inserting "of the mean of the labor-related and nonlabor per visit costs for freestanding home health agencies" before the comma at the end;

(3) in subclause (II), by striking ", or" and inserting "of such mean,";

(4) in subclause (III)—

(A) by inserting "and before October 1, 1997," after "July 1, 1987,", and

(B) by striking the comma at the end and inserting "of such mean, or"; and

(5) by striking the matter following subclause (III) and inserting the following:

"(IV) October 1, 1997, 105 percent of the median of the labor-related and nonlabor per visit costs for freestanding home health agencies.".

(b) Delay in Updates.—Section 1861(v)(1)(L)(iii) (42 U.S.C. 1395x(v)(1)(L)(iii)) is amended by inserting ", or on or after July 1, 1997, and before October 1, 1997" after "July 1, 1996".

(c) Additions to Cost Limits.—Section 1861(v)(1)(L) (42 U.S.C. 1395x(v)(1)(L)), as amended by section 4711(a), is amended by inserting adding at the end the following new clauses:

"(v) For services furnished by home health agencies for cost reporting periods beginning on or after October 1, 1997, the Secretary shall provide for an interim system of limits. Payment shall not exceed the costs determined under the preceding provisions of this subparagraph or, if lower, the product of—

"(I) an agency-specific per beneficiary annual limitation calculated based 75 percent on the reasonable costs (including nonroutine medical supplies) for the agency's 12-month cost reporting period ending during 1994, and based 25 percent on the standardized regional average of such costs for the agency's region for cost reporting periods ending during 1994, such costs updated by the home health market basket index; and

"(II) the agency's unduplicated census count of patients (entitled to benefits under this title) for the cost reporting period subject to the limitation.

"(vi) For services furnished by home health agencies for cost reporting periods beginning on or after October 1, 1997, the following rules apply:

"(I) For new providers and those providers without a 12-month cost reporting period ending in calendar year 1994, the per beneficiary limitation shall be equal to the median of these limits (or the Secretary's best estimates thereof) applied to other home health agencies as determined by the Secretary. A home health agency that has altered its corporate structure or name shall not be considered a new provider for this purpose.

"(II) For beneficiaries who use services furnished by more than one home health agency, the per beneficiary limitations shall be prorated among the agencies.".

(d) Development of Case Mix System.—The Secretary of Health and Human Services shall expand research on a prospective payment system for home health agencies under the medicare program that ties prospective payments to a unit of service, including an intensive effort to develop a reliable case mix adjuster that explains a significant amount of the variances in costs.

(e) Submission of Data for Case Mix System.—Effective for cost reporting periods beginning on or after October 1, 1997, the Secretary of Health and Human Services may require all home health agencies to submit additional information that the Secretary considers necessary for the development of a reliable case mix system.

SEC. 4713. CLARIFICATION OF PART-TIME OR INTERMITTENT NURSING CARE.

(a) In General.—Section 1861(m) (42 U.S.C. 1395x(m)) is amended by adding at the end the following: "For purposes of paragraphs (1) and (4), the term 'part-time or intermittent services' means skilled nursing and home health aide services furnished any number of days per week as long as they are furnished (combined) less than 8 hours each day and 28 or fewer hours each week (or, subject to review on a case-by-case basis as to the need for care, less than 8 hours each day and 35 or fewer hours per week). For purposes of sections 1814(a)(2)(C) and 1835(a)(2)(A), 'intermittent' means skilled nursing care that is either provided or needed on fewer than 7 days each week, or less than 8 hours of each day for periods of 21 days or less (with extensions in exceptional circumstances when the need for additional care is finite and predictable).".

(b) Effective Date.—The amendment made by subsection (a) applies to services furnished on or after October 1, 1997.

SEC. 4714. STUDY ON DEFINITION OF HOMEBOUND.

(a) Study.—The Secretary of Health and Human Services shall conduct a study of the criteria that should be applied, and the method of applying such criteria, in the determination of whether an individual is homebound for purposes of qualifying for receipt of benefits for home health services under the medicare program. Such criteria shall include the extent and circumstances under which a person may be absent from the home but nonetheless qualify.

(b) Report.—Not later than October 1, 1998, the Secretary shall submit a report to the Congress on the study conducted under subsection (a). The report shall include specific recommendations on such criteria and methods.

SEC. 4715. PAYMENT BASED ON LOCATION WHERE HOME HEALTH SERVICE IS FURNISHED.

(a) Conditions of Participation.—Section 1891 (42 U.S.C. 1395bbb) is amended by adding at the end the following:

"(g) Payment on Basis of Location of Service.—A home health agency shall submit claims for payment for home health services under this title only on the basis of the geographic location at which the service is furnished, as determined by the Secretary.".

(b) Wage Adjustment.—Section 1861(v)(1)(L)(iii) (42 U.S.C. 1395x(v)(1)(L)(iii)) is amended by striking "agency is located" and inserting "service is furnished".

(c) Effective Date.—The amendments made by this section apply to cost reporting periods beginning on or after October 1, 1997.

SEC. 4716. NORMATIVE STANDARDS FOR HOME HEALTH CLAIMS DENIALS.

(a) In General.—Section 1862(a)(1) (42 U.S.C. 1395y(a)(1)), as amended by section 4103(c), is amended—

(1) by striking "and" at the end of subparagraph (G),

(2) by striking the semicolon at the end of subparagraph (H) and inserting ", and", and

(3) by inserting after subparagraph (H) the following new subparagraph:

"(I) the frequency and duration of home health services which are in excess of normative guidelines that the Secretary shall establish by regulation;".

(b) Notification.—The Secretary of Health and Human Services may establish a process for notifying a physician in cases in which the number of home health service visits furnished under the medicare program pursuant to a prescription or certification of the physician significantly exceeds such threshold (or thresholds) as the Secretary specifies. The Secretary may adjust such threshold to reflect demonstrated differences in the need for home health services among different beneficiaries.

(c) Effective Date.—The amendments made by this section apply to services furnished on or after October 1, 1997.

SEC. 4717. NO HOME HEALTH BENEFITS BASED SOLELY ON DRAWING BLOOD.

(a) In General.—Sections 1814(a)(2)(C) and 1835(a)(2)(A) (42 U.S.C. 1395f(a)(2)(C), 1395n(a)(2)(A)) are each amended by inserting "(other than solely venipuncture for the purpose of obtaining a blood sample)" after "skilled nursing care".

(b) Effective Date.—The amendments made by subsection (a) apply to home health services furnished after the 6-month period beginning after the date of enactment of this Act.

SEC. 4718. MAKING PART B PRIMARY PAYOR FOR CERTAIN HOME HEALTH SERVICES.

(a) In General.—Section 1833(d) (42 U.S.C. 1395l(d)) is amended—

(1) by striking "(d) No" and inserting "(d)(1) Subject to paragraph (2), no", and

(2) by adding at the end the following new paragraph:

"(2) Payment shall be made under this part (rather than under part A), for an individual entitled to benefits under part A, for home health services, other than the first 100 visits of post-hospital home health services furnished to an individual.".

(b) Post-hospital Home Health Services.—Section 1861 (42 U.S.C. 1395x) is amended by adding at the end the following:

"(ss) Post-Hospital Home Health Services.—The term 'post-hospital home health services' means home health services furnished to an individual under a plan of treatment established when the individual was an inpatient of a hospital or rural primary care hospital for not less than 3 consecutive days before discharge, or during a covered post-hospital extended care stay, if home health services are initiated for the individual within 30 days after discharge from the hospital, rural primary care hospital or extended care facility.".

(c) Payments Under Part B.—Subparagraph (A) of section 1833(a)(2) (42 U.S.C. 1395l(a)(2)) is amended to read as follows:

"(A) with respect to home health services (other than a covered osteoporosis drug (as defined in section 1861(kk)), and to items and services described in section 1861(s)(10)(A), the amounts determined under section 1861(v)(1)(L) or section 1893, or, if the services are furnished by a public provider of services, or by another provider which demonstrates to the satisfaction of the Secretary that a significant portion of its patients are low-income (and requests that payment be made under this provision), free of charge, or at nominal charges to the public, the amount determined in accordance with section 1814(b)(2);".

(d) Phase-In of Additional Part B Costs in Determination of Part B Monthly Premium.—Section 1839(a) (42 U.S.C. 1395r(a)) is amended—

(1) in paragraph (3) in last the sentence inserted by section 4631(a) of this title, by inserting "(except as provided in paragraph (5)(B))" before the period, and

(2) by adding after paragraph (4) the following:

"(5)(A) The Secretary shall, at the time of determining the monthly actuarial rate under paragraph (1) for 1998 through 2003, shall determine a transitional monthly actuarial rate for enrollees age 65 and over in the same manner as such rate is determined under paragraph (1), except that there shall be excluded from such determination an estimate of any benefits and administrative costs attributable to home health services for which payment would have been made under part A during the year but for paragraph (2) of section 1833(d).

"(B) The monthly premium for each individual enrolled under this part for each month for a year (beginning with 1998 and ending with 2003) shall be equal to 50 percent of the monthly actuarial rate determined under subparagraph (A) increased by the following proportion of the difference between such premium and the monthly premium otherwise determined under paragraph (3) (without regard to this paragraph):

"(i) For a month in 1998, 1/7.

"(ii) For a month in 1999, 2/7.

"(iii) For a month in 2000, 3/7.

"(iv) For a month in 2001, 4/7.

"(v) For a month in 2002, 5/7.

"(vi) For a month in 2003, 6/7.".

(e) Maintaining Appeal Rights for Home Health Services.—Section 1869(b)(2)(B) (42 U.S.C. 1395ff(b)(2)(B)) is amended by inserting "(or $100 in the case of home health services)" after "$500".

(f) Report.—Not later than October 1, 1999, the Secretary of Health and Human Services shall submit a report to the Committees on Commerce and Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the impact on home health utilization and admissions to hospitals and skilled nursing facilities of the amendment made by subsection (b). The Secretary shall further reexamine and submit a report to such Committees on this impact 1 year after the full implementation of the prospective payment system for home health services into the medicare program, effected under the amendments made by section 4441.

(g) Effective Date.—The amendments made by this section apply to services furnished on or after October 1, 1997.

CHAPTER 3—BABY BOOM GENERATION MEDICARE COMMISSION

SEC. 4721. BIPARTISAN COMMISSION ON THE EFFECT OF THE BABY BOOM GENERATION ON THE MEDICARE PROGRAM.

(a) Establishment.—There is established a commission to be known as the Bipartisan Commission on the Effect of the Baby Boom Generation on the Medicare Program (in this section referred to as the "Commission").

(b) Duties.—

(1) In general.—The Commission shall—

(A) examine the financial impact on the medicare program of the significant increase in the number of medicare eligible individuals which will occur beginning approximately during 2010 and lasting for approximately 25 years, and

(B) make specific recommendations to the Congress respecting a comprehensive approach to preserve the medicare program for the period during which such individuals are eligible for medicare.

(2) Considerations in making recommendations.—In making its recommendations, the Commission shall consider the following:

(A) The amount and sources of Federal funds to finance the medicare program, including the potential use of innovative financing methods.

(B) Methods used by other nations to respond to comparable demographic patterns in eligibility for health care benefits for elderly and disabled individuals.

(C) Modifying age-based eligibility to correspond to changes in age-based eligibility under the OASDI program.

(D) Trends in employment-related health care for retirees, including the use of medical savings accounts and similar financing devices.

(E) The role medicare should play in addressing the needs of persons with chronic illness.

(c) Membership.—

(1) Appointment.—The Commission shall be composed of 15 voting members as follows:

(A) The Majority Leader of the Senate shall appoint, after consultation with the minority leader of the Senate, 6 members, of whom not more than 4 may be of the same political party.

(B) The Speaker of the House of Representatives shall appoint, after consultation with the minority leader of the House of Representatives, 6 members, of whom not more than 4 may be of the same political party.

(C) The 3 ex officio members of the Board of Trustees of the Federal Hospital Insurance Trust Fund and of the Federal Supplementary Medical Insurance Trust Fund who are Cabinet level officials.

(2) Chairman and vice chairman.—As the first item of business at the Commission's first meeting (described in paragraph (5)(B)), the Commission shall elect a Chairman and Vice Chairman from among its members. The individuals elected as Chairman and Vice Chairman may not be of the same political party and may not have been appointed to the Commission by the same appointing authority.

(3) Vacancies.—Any vacancy in the membership of the Commission shall be filled in the manner in which the original appointment was made and shall not affect the power of the remaining members to execute the duties of the Commission.

(4) Quorum.—A quorum shall consist of 8 members of the Commission, except that 4 members may conduct a hearing under subsection (f).

(5) Meetings.—

(A) The Commission shall meet at the call of its Chairman or a majority of its members.

(B) The Commission shall hold its first meeting not later than February 1, 1998.

(6) Compensation and reimbursement of expenses.—Members of the Commission are not entitled to receive compensation for service on the Commission. Members may be reimbursed for travel, subsistence, and other necessary expenses incurred in carrying out the duties of the Commission.

(d) Advisory Panel.—

(1) In general.—The Chairman, in consultation with the Vice Chairman, may establish a panel (in this section referred to as the "Advisory Panel") consisting of health care experts, consumers, providers, and others to advise and assist the members of the Commission in carrying out the duties described in subsection (b). The panel shall have only those powers that the Chairman, in consultation with the Vice Chairman, determines are necessary and appropriate to assist the Commission in carrying out such duties.

(2) Compensation.—Members of the Advisory Panel are not entitled to receive compensation for service on the Advisory Panel. Subject to the approval of the chairman of the Commission, members may be reimbursed for travel, subsistence, and other necessary expenses incurred in carrying out the duties of the Advisory Panel.

(e) Staff and Consultants.—

(1) Staff.—The Commission may appoint and determine the compensation of such staff as may be necessary to carry out the duties of the Commission. Such appointments and compensation may be made without regard to the provisions of title 5, United States Code, that govern appointments in the competitive services, and the provisions of chapter 51 and subchapter III of chapter 53 of such title that relate to classifications and the General Schedule pay rates.

(2) Consultants.—The Commission may procure such temporary and intermittent services of consultants under section 3109(b) of title 5, United States Code, as the Commission determines to be necessary to carry out the duties of the Commission.

(f) Powers.—

(1) Hearings and other activities.—For the purpose of carrying out its duties, the Commission may hold such hearings and undertake such other activities as the Commission determines to be necessary to carry out its duties.

(2) Studies by GAO.—Upon the request of the Commission, the Comptroller General shall conduct such studies or investigations as the Commission determines to be necessary to carry out its duties.

(3) Cost estimates by Congressional Budget Office.—

(A) Upon the request of the Commission, the Director of the Congressional Budget Office shall provide to the Commission such cost estimates as the Commission determines to be necessary to carry out its duties.

(B) The Commission shall reimburse the Director of the Congressional Budget Office for expenses relating to the employment in the office of the Director of such additional staff as may be necessary for the Director to comply with requests by the Commission under subparagraph (A).

(4) Detail of Federal employees.—Upon the request of the Commission, the head of any Federal agency is authorized to detail, without reimbursement, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties. Any such detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

(5) Technical assistance.—Upon the request of the Commission, the head of a Federal agency shall provide such technical assistance to the Commission as the Commission determines to be necessary to carry out its duties.

(6) Use of mails.—The Commission may use the United States mails in the same manner and under the same conditions as Federal agencies and shall, for purposes of the frank, be considered a commission of Congress as described in section 3215 of title 39, United States Code.

(7) Obtaining information.—The Commission may secure directly from any Federal agency information necessary to enable it to carry out its duties, if the information may be disclosed under section 552 of title 5, United States Code. Upon request of the Chairman of the Commission, the head of such agency shall furnish such information to the Commission.

(8) Administrative support services.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(9) Printing.—For purposes of costs relating to printing and binding, including the cost of personnel detailed from the Government Printing Office, the Commission shall be deemed to be a committee of the Congress.

(g) Report.—Not later than May 1, 1999, the Commission shall submit to Congress a report containing its findings and recommendations regarding how to protect and preserve the medicare program in a financially solvent manner until 2030 (or, if later, throughout the period of projected solvency of the Federal Old-Age and Survivors Insurance Trust Fund). The report shall include detailed recommendations for appropriate legislative initiatives respecting how to accomplish this objective.

(h) Termination.—The Commission shall terminate 30 days after the date of submission of the report required in subsection (g).

(i) Authorization of Appropriations.—There are authorized to be appropriated $1,500,000 to carry out this section. 60 percent of such appropriation shall be payable from the Federal Hospital Insurance Trust Fund, and 40 percent of such appropriation shall be payable from the Federal Supplementary Medical Insurance Trust Fund under title XVIII of the Social Security Act (42 U.S.C. 1395i, 1395t).

CHAPTER 4—PROVISIONS RELATING TO DIRECT GRADUATE MEDICAL EDUCATION

SEC. 4731. LIMITATION ON PAYMENT BASED ON NUMBER OF RESIDENTS AND IMPLEMENTATION OF ROLLING AVERAGE FTE COUNT.

Section 1886(h)(4) (42 U.S.C. 1395ww(h)(4)) is amended by adding after subparagraph (E) the following:

"(F) Limitation on number of residents for certain fiscal years.—Such rules shall provide that for purposes of a cost reporting period beginning on or after October 1, 1997, the total number of full-time equivalent residents before application of weighting factors (as determined under this paragraph) with respect to a hospital's approved medical residency training program may not exceed the number of full-time equivalent residents with respect to the hospital's most recent cost reporting period ending on or before December 31, 1996.

"(G) Counting interns and residents for FY 1998 and subsequent years.—

"(i) FY 1998.—For the hospital's first cost reporting period beginning during fiscal year 1998, subject to the limit described in subparagraph (F), the total number of full-time equivalent residents, for determining the hospital's graduate medical education payment, shall equal the average of the full-time equivalent resident counts for the cost reporting period and the preceding cost reporting period.

"(ii) Subsequent years.—For each subsequent cost reporting period, subject to the limit described in subparagraph (F), the total number of full-time equivalent residents, for determining the hospital's graduate medical education payment, shall equal the average of the actual full-time equivalent resident counts for the cost reporting period and preceding two cost reporting periods.

"(iii) Adjustment for short periods.—If a hospital's cost reporting period beginning on or after October 1, 1997, is not equal to twelve months, the Secretary shall make appropriate modifications to ensure that the average full-time equivalent resident counts pursuant to clause (ii) are based on the equivalent of full 12-month cost reporting periods.

"(iv) Exclusion of residents in dentistry.—Residents in an approved medical residency training program in dentistry shall not be counted for purposes of this subparagraph and subparagraph (F).".

SEC. 4732. PHASED-IN LIMITATION ON HOSPITAL OVERHEAD AND SUPERVISORY PHYSICIAN COMPONENT OF DIRECT MEDICAL EDUCATION COSTS.

(a) In General.—Section 1886(h)(3) (42 U.S.C. 1395ww(h)(3)) is amended—

(1) in subparagraph (B), by inserting "subject to subparagraph (D)," after "subparagraph (A)", and

(2) by adding at the end the following:

"(D) Phased-in limitation on hospital overhead and supervisory physician component.—

"(i) In general.—In the case of a hospital for which the overhead GME amount (as defined in clause (ii)) for the base period exceeds an amount equal to the 75th percentile of the overhead GME amounts in such period for all hospitals (weighted to reflect the full-time equivalent resident counts for all approved medical residency training programs), subject to clause (iv), the hospital's approved FTE resident amount (for periods beginning on or after October 1, 1997) shall be reduced from the amount otherwise applicable (as previously reduced under this subparagraph) by an overhead reduction amount. The overhead reduction amount is equal to the lesser of—

"(I) 20 percent of the reference reduction amount (described in clause (iii)) for the period, or

"(II) 15 percent of the hospital's overhead GME amount for the period (as otherwise determined before the reduction provided under this subparagraph for the period involved).

"(ii) Overhead GME amount.—For purposes of this subparagraph, the term 'overhead GME amount' means, for a hospital for a period, the product of—

"(I) the percentage of the hospital's approved FTE resident amount for the base period that is not attributable to resident salaries and fringe benefits, and

"(II) the hospital's approved FTE resident amount for the period involved.

"(iii) Reference reduction amount.—

"(I) In general.—The reference reduction amount described in this clause for a hospital for a cost reporting period is the base difference (described in subclause (II)) updated, in a compounded manner for each period from the base period to the period involved, by the update applied for such period to the hospital's approved FTE resident amount.

"(II) Base difference.—The base difference described in this subclause for a hospital is the amount by which the hospital's overhead GME amount in the base period exceeded the 75th percentile of such amounts (as described in clause (i)).

"(iv) Maximum reduction to 75th percentile.—In no case shall the reduction under this subparagraph effected for a hospital for a period (below the amount that would otherwise apply for the period if this subparagraph did not apply for any period) exceed the reference reduction amount for the hospital for the period.

"(v) Base period.—For purposes of this subparagraph, the term 'base period' means the cost reporting period beginning in fiscal year 1984 or the period used to establish the hospital's approved FTE resident amount for hospitals that did not have approved residency training programs in fiscal year 1984.

"(vi) Rules for hospitals initiating residency training programs.—The Secretary shall establish rules for the application of this subparagraph in the case of a hospital that initiates medical residency training programs during or after the base period.".

(b) Effective Date.—The amendments made by subsection (a) shall apply to per resident payment amounts attributable to periods beginning on or after October 1, 1997.

SEC. 4733. PERMITTING PAYMENT TO NON-HOSPITAL PROVIDERS.

(a) In General.—Section 1886 (42 U.S.C. 1395ww) is amended by adding at the end the following:

"(k) Payment to Non-Hospital Providers.—

"(1) Report.—The Secretary shall submit to Congress, not later than 18 months after the date of the enactment of this subsection, a proposal for payment to qualified non-hospital providers for their direct costs of medical education, if those costs are incurred in the operation of an approved medical residency training program described in subsection (h). Such proposal shall specify the amounts, form, and manner in which such payments will be made and the portion of such payments that will be made from each of the trust funds under this title.

"(2) Effectiveness.—Except as otherwise provided in law, the Secretary may implement such proposal for residency years beginning not earlier than 6 months after the date of submittal of the report under paragraph (1).

"(3) Qualified non-hospital providers.—For purposes of this subsection, the term 'qualified non-hospital provider' means—

"(A) a Federally qualified health center, as defined in section 1861(aa)(4);

"(B) a rural health clinic, as defined in section 1861(aa)(2); and

"(C) such other providers (other than hospitals) as the Secretary determines to be appropriate.".

(b) Prohibition on Double Payments; Budget Neutrality Adjustment.—Section 1886(h)(3)(B) (42 U.S.C. 1395ww(h)(3)(B)) is amended by adding at the end the following:

"The Secretary shall reduce the aggregate approved amount to the extent payment is made under subsection (k) for residents included in the hospital's count of full-time equivalent residents and, in the case of residents not included in any such count, the Secretary shall provide for such a reduction in aggregate approved amounts under this subsection as will assure that the application of subsection (k) does not result in any increase in expenditures under this title in excess of those that would have occurred if subsection (k) were not applicable.".

SEC. 4734. INCENTIVE PAYMENTS UNDER PLANS FOR VOLUNTARY REDUCTION IN NUMBER OF RESIDENTS.

Section 1886(h) (42 U.S.C. 1395ww(h)) is further amended by adding at the end the following new paragraph:

"(6) Incentive payment under plans for voluntary reduction in number of residents.—

"(A) In general.—In the case of a voluntary residency reduction plan for which an application is approved under subparagraph (B), the qualifying entity submitting the plan shall be paid an applicable hold harmless percentage (as specified in subparagraph (E)) of the sum of—

"(i) amount (if any) by which—

"(I) the amount of payment which would have been made under this subsection if there had been a 5 percent reduction in the number of full-time equivalent residents in the approved medical education training programs of the qualifying entity as of June 30, 1997, exceeds

"(II) the amount of payment which is made under this subsection, taking into account the reduction in such number effected under the reduction plan; and

"(ii) the amount of the reduction in payment under 1886(d)(5)(B) (for hospitals participating in the qualifying entity) that is attributable to the reduction in number of residents effected under the plan below 95 percent of the number of full-time equivalent residents in such programs of such entity as of June 30, 1997.

"(B) Approval of plan applications.—The Secretary may not approve the application of an qualifying entity unless—

"(i) the application is submitted in a form and manner specified by the Secretary and by not later than March 1, 2000,

"(ii) the application provides for the operation of a plan for the reduction in the number of full-time equivalent residents in the approved medical residency training programs of the entity consistent with the requirements of subparagraph (D);

"(iii) the entity elects in the application whether such reduction will occur over—

"(I) a period of not longer than 5 residency training years, or

"(II) a period of 6 residency training years,

except that a qualifying entity described in subparagraph (C)(i)(III) may not make the election described in subclause (II); and

"(iv) the Secretary determines that the application and the entity and such plan meet such other requirements as the Secretary specifies in regulations.

"(C) Qualifying entity.—

"(i) In general.—For purposes of this paragraph, any of the following may be a qualifying entity:

"(I) Individual hospitals operating one or more approved medical residency training programs.

"(II) Subject to clause (ii), two or more hospitals that operate such programs and apply for treatment under this paragraph as a single qualifying entity.

"(III) Subject to clause (iii), a qualifying consortium (as described in section 4735 of the Balanced Budget Act of 1997).

"(ii) Additional requirement for joint programs.—In the case of an application by a qualifying entity described in clause (i)(II), the Secretary may not approve the application unless the application represents that the qualifying entity either—

"(I) in the case of an entity that meets the requirements of clause (v) of subparagraph (D) will not reduce the number of full-time equivalent residents in primary care during the period of the plan, or

"(II) in the case of another entity will not reduce the proportion of its residents in primary care (to the total number of residents) below such proportion as in effect as of the applicable time described in subparagraph (D)(vi).

"(iii) Additional requirement for consortia.—In the case of an application by a qualifying entity described in clause (i)(III), the Secretary may not approve the application unless the application represents that the qualifying entity will not reduce the proportion of its residents in primary care (to the total number of residents) below such proportion as in effect as of the applicable time described in subparagraph (D)(vi).

"(D) Residency reduction requirements.—

"(i) Individual hospital applicants.—In the case of a qualifying entity described in subparagraph (C)(i)(I), the number of full-time equivalent residents in all the approved medical residency training programs operated by or through the entity shall be reduced as follows:

"(I) If base number of residents exceeds 750 residents, by a number equal to at least 20 percent of such base number.

"(II) Subject to subclause (IV), if base number of residents exceeds 500, but is less than 750, residents, by 150 residents.

"(III) Subject to subclause (IV), if base number of residents does not exceed 500 residents, by a number equal to at least 25 percent of such base number.

"(IV) In the case of a qualifying entity which is described in clause (v) and which elects treatment under this subclause, by a number equal to at least 20 percent of such base number.

"(ii) Joint applicants.—In the case of a qualifying entity described in subparagraph (C)(i)(II), the number of full-time equivalent residents in all the approved medical residency training programs operated by or through the entity shall be reduced as follows:

"(I) Subject to subclause (II), by a number equal to at least 25 percent of such base number.

"(II) In the case of a qualifying entity which is described in clause (v) and which elects treatment under this subclause, by a number equal to at least 20 percent of such base number.

"(iii) Consortia.—In the case of a qualifying entity described in subparagraph (C)(i)(III), the number of full-time equivalent residents in all the approved medical residency training programs operated by or through the entity shall be reduced by a number equal to at least 20 percent of such base number.

"(iv) Manner of reduction.—The reductions specified under the preceding provisions of this subparagraph for a qualifying entity shall be below the base number of residents for that entity and shall be fully effective not later than—

"(I) the 5th residency training year in which the application under subparagraph (B) is effective, in the case of an entity making the election described in subparagraph (B)(iii)(I), or

"(II) the 6th such residency training year, in the case of an entity making the election described in subparagraph (B)(iii)(II).

"(v) Entities providing assurance of maintenance of primary care residents.—An entity is described in this clause if—

"(I) the base number of residents for the entity is less than 750;

"(II) the number of full-time equivalent residents in primary care included in the base number of residents for the entity is at least 10 percent of such base number; and

"(III) the entity represents in its application under subparagraph (B) that there will be no reduction under the plan in the number of full-time equivalent residents in primary care. If a qualifying entity fails to comply with the representation described in subclause (III), the entity shall be subject to repayment of all amounts paid under this paragraph, in accordance with procedures established to carry out subparagraph (F).

"(vi) Base number of residents defined.—For purposes of this paragraph, the term 'base number of residents' means, with respect to a qualifying entity operating approved medical residency training programs, the number of full-time equivalent residents in such programs (before application of weighting factors) of the entity as of the most recent cost reporting period ending before June 30, 1997, or, if less, for any subsequent cost reporting period that ends before the date the entity makes application under this paragraph.

"(E) Applicable hold harmless percentage.—

"(i) In general.—For purposes of subparagraph (A), the 'applicable hold harmless percentage' is the percentages specified in clause (ii) or clause (iii), as elected by the qualifying entity in the application submitted under subparagraph (B).

"(ii) 5-year reduction plan.—In the case of an entity making the election described in subparagraph (B)(iii)(I), the percentages specified in this clause are, for the—

"(I) first and second residency training years in which the reduction plan is in effect, 100 percent,

"(II) third such year, 75 percent,

"(III) fourth such year, 50 percent, and

"(IV) fifth such year, 25 percent.

"(iii) 6-year reduction plan.—In the case of an entity making the election described in subparagraph (B)(iii)(II), the percentages specified in this clause are, for the—

"(I) first residency training year in which the reduction plan is in effect, 100 percent,

"(II) second such year, 95 percent,

"(III) third such year, 85 percent,

"(IV) fourth such year, 70 percent,

"(V) fifth such year, 50 percent, and

"(VI) sixth such year, 25 percent.

"(F) Penalty for increase in number of residents in subsequent years.—If payments are made under this paragraph to a qualifying entity, if the entity (or any hospital operating as part of the entity) increases the number of full-time equivalent residents above the number of such residents permitted under the reduction plan as of the completion of the plan, then, as specified by the Secretary, the entity is liable for repayment to the Secretary of the total amounts paid under this paragraph to the entity.

"(G) Treatment of rotating residents.—In applying this paragraph, the Secretary shall establish rules regarding the counting of residents who are assigned to institutions the medical residency training programs in which are not covered under approved applications under this paragraph.".

(b) Relation to Demonstration Projects and Authority.—

(1) Section 1886(h)(6) of the Social Security Act, added by subsection (a), shall not apply to any residency training program with respect to which a demonstration project described in paragraph (3) has been approved by the Health Care Financing Administration as of May 27, 1997. The Secretary of Health and Human Services shall take such actions as may be necessary to assure that (in the manner described in subparagraph (A) of such section) in no case shall payments be made under such a project with respect to the first 5 percent reduction in the base number of full-time equivalent residents otherwise used under the project.

(2) Effective May 27, 1997, the Secretary of Health and Human Services is not authorized to approve any demonstration project described in paragraph (3) for any residency training year beginning before July 1, 2006.

(3) A demonstration project described in this paragraph is a project that provides for additional payments under title XVIII of the Social Security Act in connection with reduction in the number of residents in a medical residency training program.

(c) Interim, Final Regulations.—In order to carry out the amendment made by subsection (a) in a timely manner, the Secretary of Health and Human Services may first promulgate regulations, that take effect on an interim basis, after notice and pending opportunity for public comment, by not later than 6 months after the date of the enactment of this Act.

SEC. 4735. DEMONSTRATION PROJECT ON USE OF CONSORTIA.

(a) In General.—The Secretary of Health and Human Services (in this section referred to as the Secretary) shall establish a demonstration project under which, instead of making payments to teaching hospitals pursuant to section 1886(h) of the Social Security Act, the Secretary shall make payments under this section to each consortium that meets the requirements of subsection (b).

(b) Qualifying Consortia.—For purposes of subsection (a), a consortium meets the requirements of this subsection if the consortium is in compliance with the following:

(1) The consortium consists of an approved medical residency training program in a teaching hospital and one or more of the following entities:

(A) A school of allopathic medicine or osteopathic medicine.

(B) Another teaching hospital, which may be a children's hospital.

(C) Another approved medical residency training program.

(D) A Federally qualified health center.

(E) A medical group practice.

(F) A managed care entity.

(G) An entity furnishing outpatient services.

(I) Such other entity as the Secretary determines to be appropriate.

(2) The members of the consortium have agreed to participate in the programs of graduate medical education that are operated by the entities in the consortium.

(3) With respect to the receipt by the consortium of payments made pursuant to this section, the members of the consortium have agreed on a method for allocating the payments among the members.

(4) The consortium meets such additional requirements as the Secretary may establish.

(c) Amount and Source of Payment.—The total of payments to a qualifying consortium for a fiscal year pursuant to subsection (a) shall not exceed the amount that would have been paid under section 1886(h) of the Social Security Act for the teaching hospital (or hospitals) in the consortium. Such payments shall be made in such proportion from each of the trust funds established under title XVIII of such Act as the Secretary specifies.

SEC. 4736. RECOMMENDATIONS ON LONG-TERM PAYMENT POLICIES REGARDING FINANCING TEACHING HOSPITALS AND GRADUATE MEDICAL EDUCATION.

(a) In General.—The Medicare Payment Advisory Commission (established under section 1805 of the Social Security Act and in this section referred to as the "Commission") shall examine and develop recommendations on whether and to what extent medicare payment policies and other Federal policies regarding teaching hospitals and graduate medical education should be reformed. Such recommendations shall include recommendations regarding each of the following:

(1) The financing of graduate medical education, including consideration of alternative broad-based sources of funding for such education and models for the distribution of payments under any all-payer financing mechanism.

(2) The financing of teaching hospitals, including consideration of the difficulties encountered by such hospitals as competition among health care entities increases. Matters considered under this paragraph shall include consideration of the effects on teaching hospitals of the method of financing used for the MedicarePlus program under part C of title XVIII of the Social Security Act.

(3) Possible methodologies for making payments for graduate medical education and the selection of entities to receive such payments. Matters considered under this paragraph shall include—

(A) issues regarding children's hospitals and approved medical residency training programs in pediatrics, and

(B) whether and to what extent payments are being made (or should be made) for training in the various nonphysician health professions, including social workers and psychologists.

(4) Federal policies regarding international medical graduates.

(5) The dependence of schools of medicine on service-generated income.

(6) Whether and to what extent the needs of the United States regarding the supply of physicians, in the aggregate and in different specialties, will change during the 10-year period beginning on October 1, 1997, and whether and to what extent any such changes will have significant financial effects on teaching hospitals.

(7) Methods for promoting an appropriate number, mix, and geographical distribution of health professionals.

(c) Consultation.—In conducting the study under subsection (a), the Commission shall consult with the Council on Graduate Medical Education and individuals with expertise in the area of graduate medical education, including—

(1) deans from allopathic and osteopathic schools of medicine;

(2) chief executive officers (or equivalent administrative heads) from academic health centers, integrated health care systems, approved medical residency training programs, and teaching hospitals that sponsor approved medical residency training programs;

(3) chairs of departments or divisions from allopathic and osteopathic schools of medicine, schools of dentistry, and approved medical residency training programs in oral surgery;

(4) individuals with leadership experience from representative fields of non-physician health professionals;

(5) individuals with substantial experience in the study of issues regarding the composition of the health care workforce of the United States; and

(6) individuals with expertise on the financing of health care.

(d) Report.—Not later than 2 years after the date of the enactment of this Act, the Commission shall submit to the Congress a report providing its recommendations under this section and the reasons and justifications for such recommendations.

SEC. 4737. MEDICARE SPECIAL REIMBURSEMENT RULE FOR CERTAIN COMBINED RESIDENCY PROGRAMS.

(a) In General.—Section 1886(h)(5)(G) (42 U.S.C. 1395ww(h)(5)(G)) is amended—

(1) in clause (i), by striking "and (iii)" and inserting ", (iii), and (iv)"; and

(2) by adding at the end the following:

"(iv) Special rule for certain combined residency programs.—(I) In the case of a resident enrolled in a combined medical residency training program in which all of the individual programs (that are combined) are for training a primary care resident (as defined in subparagraph (H)), the period of board eligibility shall be the minimum number of years of formal training required to satisfy the requirements for initial board eligibility in the longest of the individual programs plus one additional year.

"(II) A resident enrolled in a combined medical residency training program that includes an obstetrics and gynecology program shall qualify for the period of board eligibility under subclause (I) if the other programs such resident combines with such obstetrics and gynecology program are for training a primary care resident.".

(b) Effective Date.—The amendments made by subsection (a) apply to combined medical residency programs for residency years beginning on or after July 1, 1998.

CHAPTER 5—OTHER PROVISIONS

SEC. 4741. CENTERS OF EXCELLENCE.

(a) In General.—Title XVIII is amended by inserting after section 1888 the following:

"CENTERS OF EXCELLENCE

"Sec. 1889. (a) In General.—The Secretary shall use a competitive process to contract with specific hospitals or other entities for furnishing services related to surgical procedures, and for furnishing services (unrelated to surgical procedures) to hospital inpatients that the Secretary determines to be appropriate. The services may include any services covered under this title that the Secretary determines to be appropriate, including post-hospital services.

"(b) Quality Standards.—

"(1) In general.—Only entities that meet quality standards established by the Secretary shall be eligible to contract under this section. Contracting entities shall implement a quality improvement plan approved by the Secretary.

"(2) Participation decision based on quality.—Subject to subsection (c), the Secretary shall consider quality as the primary factor in selecting hospitals or other entities to enter into contracts under this section.

"(c) Payment.—Payment under this section shall be made on the basis of negotiated all-inclusive rates. The amount of payment made by the Secretary to an entity under this title for services covered under a contract shall not exceed the aggregate amount of the payments that the Secretary would have otherwise made for the services.

"(d) Contract Period.—A contract period shall be 3 years (subject to renewal), so long as the entity continues to meet quality and other contractual standards.

"(e) Incentives for Use of Centers.—Entities under a contract under this section may furnish additional services (at no cost to an individual entitled to benefits under this title) or waive cost-sharing, subject to the approval of the Secretary.

"(f) Limit on Number of Centers.—The Secretary shall limit the number of centers in a geographic area to the number needed to meet projected demand for contracted services.".

(b) Effective Date.—The amendment made by subsection (a) applies to services furnished on or after October 1, 1997.

SEC. 4742. MEDICARE PART B SPECIAL ENROLLMENT PERIOD AND WAIVER OF PART B LATE ENROLLMENT PENALTY AND MEDIGAP SPECIAL OPEN ENROLLMENT PERIOD FOR CERTAIN MILITARY RETIREES AND DEPENDENTS.

(a) Medicare Part B Special Enrollment Period; Waiver of Part B Penalty for Late Enrollment.—

(1) In general.—In the case of any eligible individual (as defined in subsection (c)), the Secretary of Health and Human Services shall provide for a special enrollment period during which the individual may enroll under part B of title XVIII of the Social Security Act. Such period shall be for a period of 6 months and shall begin with the first month that begins at least 45 days after the date of the enactment of this Act.

(2) Coverage period.—In the case of an eligible individual who enrolls during the special enrollment period provided under paragraph (1), the coverage period under part B of title XVIII of the Social Security Act shall begin on the first day of the month following the month in which the individual enrolls.

(3) Waiver of part b late enrollment penalty.—In the case of an eligible individual who enrolls during the special enrollment period provided under paragraph (1), there shall be no increase pursuant to section 1839(b) of the Social Security Act in the monthly premium under part B of title XVIII of such Act.

(b) Medigap Special Open Enrollment Period.—Notwithstanding any other provision of law, an issuer of a medicare supplemental policy (as defined in section 1882(g) of the Social Security Act)—

(1) may not deny or condition the issuance or effectiveness of a medicare supplemental policy that has a benefit package classified as "A", "B", "C", or "F" under the standards established under section 1882(p)(2) of the Social Security Act (42 U.S.C. 1395rr(p)(2)); and

(2) may not discriminate in the pricing of the policy on the basis of the individual's health status, medical condition (including both physical and mental illnesses), claims experience, receipt of health care, medical history, genetic information, evidence of insurability (including conditions arising out of acts of domestic violence), or disability;

in the case of an eligible individual who seeks to enroll (and is enrolled) during the 6-month period described in subsection (a)(1).

(c) Eligible Individual Defined.—In this section, the term "eligible individual" means an individual—

(1) who, as of the date of the enactment of this Act, has attained 65 years of age and was eligible to enroll under part B of title XVIII of the Social Security Act, and

(2) who at the time the individual first satisfied paragraph (1) or (2) of section 1836 of the Social Security Act—

(A) was a covered beneficiary (as defined in section 1072(5) of title 10, United States Code), and

(B) did not elect to enroll (or to be deemed enrolled) under section 1837 of the Social Security Act during the individual's initial enrollment period.

The Secretary of Health and Human Services shall consult with the Secretary of Defense in the identification of eligible individuals.

SEC. 4743. COMPETITIVE BIDDING FOR CERTAIN ITEMS AND SERVICES.

(a) Establishment of Demonstration.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services shall establish and operate over a 2-year period a demonstration project in 2 geographic regions selected by the Secretary under which (notwithstanding any provision of title XVIII of the Social Security Act to the contrary) the amount of payment made under the medicare program for a selected item or service furnished in the region shall be equal to the price determined pursuant to a competitive bidding process which meets the requirements of subsection (b).

(b) Requirements for Competitive Bidding Process.—The competitive bidding process used under the demonstration project under this section shall meet such requirements as the Secretary may impose to ensure the cost-effective delivery to medicare beneficiaries in the project region of items and services of high quality.

(c) Determination of Selected Items or Services.—The Secretary shall select items and services to be subject to the demonstration project under this section if the Secretary determines that the use of competitive bidding with respect to the item or service under the project will be appropriate and cost-effective. In determining the items or services to be selected, the Secretary shall consult with an advisory taskforce which includes representatives of providers and suppliers of items and services (including small business providers and suppliers) in each geographic region in which the project will be effective.

Subtitle I—Medical Liability Reform

CHAPTER 1—GENERAL PROVISIONS

SEC. 4801. FEDERAL REFORM OF HEALTH CARE LIABILITY ACTIONS.

(a) Applicability.—This subtitle governs any health care liability action brought in any State or Federal court, except that this subtitle shall not apply to an action for damages arising from a vaccine-related injury or death to the extent that title XXI of the Public Health Service Act applies to the action.

(b) Preemption.—This subtitle shall preempt any State or applicable Federal law to the extent such law is inconsistent with the limitations contained in this subtitle. This subtitle shall not preempt any State or applicable Federal law that provides for defenses or places limitations on a person's liability in addition to those contained in this subtitle or otherwise imposes greater restrictions than those provided in this subtitle.

(c) Effect on Sovereign Immunity and Choice of Law or Venue.—Nothing in subsection (b) shall be construed to—

(1) waive or affect any defense of sovereign immunity asserted by any State under any provision of law;

(2) waive or affect any defense of sovereign immunity asserted by the United States;

(3) affect the applicability of any provision of chapter 97 of title 28, United States Code;

(4) preempt State choice-of-law rules with respect to claims brought by a foreign nation or a citizen of a foreign nation; or

(5) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign nation or of a citizen of a foreign nation on the ground of inconvenient forum.

(d) Amount in Controversy.—In an action to which this subtitle applies and which is brought under section 1332 of title 28, United States Code, the amount of noneconomic damages or punitive damages, and attorneys' fees or costs, shall not be included in determining whether the matter in controversy exceeds the sum or value of $50,000.

(e) Federal Court Jurisdiction Not Established on Federal Question Grounds.—Nothing in this subtitle shall be construed to establish any jurisdiction in the district courts of the United States over health care liability actions on the basis of section 1331 or 1337 of title 28, United States Code.

SEC. 4802. DEFINITIONS.

As used in this subtitle:

(1) Actual damages.—The term "actual damages" means damages awarded to pay for economic loss.

(2) Alternative dispute resolution system; ADR.—The term "alternative dispute resolution system" or "ADR" means a system established under Federal or State law that provides for the resolution of health care liability claims in a manner other than through health care liability actions.

(3) Claimant.—The term "claimant" means any person who brings a health care liability action and any person on whose behalf such an action is brought. If such action is brought through or on behalf of an estate, the term includes the claimant's decedent. If such action is brought through or on behalf of a minor or incompetent, the term includes the claimant's legal guardian.

(4) Clear and convincing evidence.—The term "clear and convincing evidence" is that measure or degree of proof that will produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established, except that such measure or degree of proof is more than that required under preponderance of the evidence but less than that required for proof beyond a reasonable doubt.

(5) Collateral source payments.—The term "collateral source payments" means any amount paid or reasonably likely to be paid in the future to or on behalf of a claimant, or any service, product, or other benefit provided or reasonably likely to be provided in the future to or on behalf of a claimant, as a result of an injury or wrongful death, pursuant to—

(A) any State or Federal health, sickness, income-disability, accident or workers' compensation Act;

(B) any health, sickness, income-disability, or accident insurance that provides health benefits or income-disability coverage;

(C) any contract or agreement of any group, organization, partnership, or corporation to provide, pay for, or reimburse the cost of medical, hospital, dental, or income disability benefits; and

(D) any other publicly or privately funded program.

(6) Device.—The term "device" has the same meaning given such term in section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)).

(7) Drug.—The term "drug" has the same meaning given such term in section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)(1)).

(8) Economic loss.—The term "economic loss" means any pecuniary loss resulting from harm (including the loss of earnings or other benefits related to employment, medical expense loss, replacement services loss, loss due to death, burial costs, and loss of business or employment opportunities), to the extent recovery for such loss is allowed under applicable State or Federal law.

(9) Harm.—The term "harm" means—

(A) any physical injury, illness, or death of the claimant, or

(B) any mental anguish or emotional injury to the claimant caused by or causing the claimant physical injury or illness.

(10) Health care liability action.—The term "health care liability action" means a

civil action brought in a State or Federal court against a health care provider, an entity which is obligated to provide or pay for health benefits under any health plan (including any person or entity acting under a contract or arrangement to provide or administer any health benefit), or the manufacturer, distributor, supplier, marketer, promoter, or seller of a medical product, in which the claimant alleges a health care liability claim.

(11) HEALTH CARE LIABILITY CLAIM.—The term "health care liability claim" means a claim in which the claimant alleges that harm was caused by the provision of (or the failure to provide) health care services or the use of a medical product, regardless of the theory of liability on which the claim is based.

(12) HEALTH CARE PROVIDER.—The term "health care provider" means any individual, organization, or institution that is engaged in the delivery of health care services in a State and that is required by the laws or regulations of the State to be licensed or certified by the State to engage in the delivery of such services in the State.

(13) MANUFACTURER.—The term "manufacturer" means—

(A) any person who is engaged in a business to produce, create, make, or construct any product (or component part of a product) and who (i) designs or formulates the product (or component part of the product), or (ii) has engaged another person to design or formulate the product (or component part of the product);

(B) a product seller, but only with respect to those aspects of a product (or component part of a product) which are created or affected when, before placing the product in the stream of commerce, the product seller produces, creates, makes or constructs and designs, or formulates, or has engaged another person to design or formulate, an aspect of the product (or component part of the product) made by another person; or

(C) any product seller not described in subparagraph (B) which holds itself out as a manufacturer to the user of the product.

(14) NONECONOMIC DAMAGES.—The term "noneconomic damages" means damages paid to an individual for pain and suffering, inconvenience, emotional distress, mental anguish, loss of society and companionship, injury to reputation, humiliation, and other subjective, nonpecuniary losses.

(15) PERSON.—The term "person" means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity, including any governmental entity.

(16) PRODUCT SELLER.—

(A) IN GENERAL.—The term "product seller" means a person who in the course of a business conducted for that purpose—

(i) sells, distributes, rents, leases, prepares, blends, packages, labels, or otherwise is involved in placing a product in the stream of commerce; or

(ii) installs, repairs, refurbishes, reconditions, or maintains the harm-causing aspect of the product.

(B) EXCLUSION.—The term "product seller" does not include—

(i) a seller or lessor of real property;

(ii) a provider of professional services in any case in which the sale or use of a product is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(iii) any person who—

(I) acts in only a financial capacity with respect to the sale of a product; or

(II) leases a product under a lease arrangement in which the lessor does not initially select the leased product and does not during the lease term ordinarily control the daily operations and maintenance of the product.

(17) PUNITIVE DAMAGES.—The term "punitive damages" means damages awarded against any person not to compensate for actual injury suffered, but to punish or deter such person or others from engaging in similar behavior in the future.

(18) STATE.—The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territories of the Pacific Islands, and any other territory or possession of the United States or any political subdivision of any of the foregoing.

SEC. 4803. EFFECTIVE DATE.

This subtitle will apply to any health care liability action brought in a Federal or State court and to any health care liability claim subject to an alternative dispute resolution system, that is initiated on or after the date of enactment of this subtitle.

CHAPTER 2—UNIFORM STANDARDS FOR HEALTH CARE LIABILITY ACTIONS

SEC. 4811. STATUTE OF LIMITATIONS.

(a) GENERAL RULE.—Except as provided in subsection (b), a health care liability action may be filed not later than 2 years after the date on which the claimant discovered or, in the exercise of reasonable care, should have discovered—

(1) the harm that is the subject of the action; and

(2) the cause of the harm.

(b) EXCEPTION.—A person with a legal disability (as determined under applicable law) may file a health care liability action not later than 2 years after the date on which the person ceases to have the legal disability.

(c) TRANSITIONAL PROVISION RELATING TO EXTENSION OF PERIOD FOR BRINGING CERTAIN ACTIONS.—If any provision of subsection (a) or (b) shortens the period during which a health care liability action could be otherwise brought pursuant to another provision of law, the claimant may, notwithstanding subsections (a) and (b), bring the health care liability action not later than 2 years after the date of enactment of this Act.

SEC. 4812. CALCULATION AND PAYMENT OF DAMAGES.

(a) TREATMENT OF NONECONOMIC DAMAGES.—

(1) LIMITATION ON NONECONOMIC DAMAGES.—The total amount of noneconomic damages that may be awarded to a claimant for harm which is the subject of a health care liability action may not exceed $250,000, regardless of the number of parties against whom the action is brought or the number of actions brought with respect to the injury.

(2) FAIR SHARE RULE FOR NONECONOMIC DAMAGES.—

(A) GENERAL RULE.—In a health care liability action, the liability of each defendant for noneconomic damages shall be several only and shall not be joint.

(B) AMOUNT OF LIABILITY.—

(i) IN GENERAL.—Each defendant shall be liable only for the amount of noneconomic damages attributable to the defendant in direct proportion to the percentage of responsibility of the defendant (determined in accordance with paragraph (2)) for the harm to the claimant with respect to which the defendant is liable. The court shall render a separate judgment against each defendant in an amount determined pursuant to the preceding sentence.

(ii) PERCENTAGE OF RESPONSIBILITY.—For purposes of determining the amount of noneconomic damages attributable to a defendant under this section, the trier of fact shall determine the percentage of responsibility of each person responsible for the claimant's harm, whether or not such person is a party to the action.

(b) TREATMENT OF PUNITIVE DAMAGES.—

(1) GENERAL RULE.—Punitive damages may, to the extent permitted by applicable law, be awarded in a health care liability action against a defendant if the claimant establishes by clear and convincing evidence that the harm suffered was result of conduct manifesting a conscious, flagrant indifference to the rights or safety of others.

(2) REQUIRED PROPORTIONALITY.—The amount of punitive damages that may be awarded in a health care liability action shall not exceed 3 times the amount of damages awarded to the claimant for economic loss, or $250,000, whichever is greater. This subsection shall be applied by the court, and application of this subsection shall not be disclosed to the jury.

(c) BIFURCATION AT REQUEST OF ANY PARTY.—

(1) IN GENERAL.—At the request of any party the trier of fact in any action that is subject to this section shall consider in a separate proceeding, held subsequent to the determination of the amount of compensatory damages, whether punitive damages are to be awarded for the harm that is the subject of the action and the amount of the award.

(2) INADMISSIBILITY OF EVIDENCE RELATIVE ONLY TO A CLAIM OF PUNITIVE DAMAGES IN A PROCEEDING CONCERNING COMPENSATORY DAMAGES.—If any party requests a separate proceeding under paragraph (1), in a proceeding to determine whether the claimant may be awarded compensatory damages, any evidence, argument, or contention that is relevant only to the claim of punitive damages, as determined by applicable law, shall be inadmissible.

(d) DRUGS AND DEVICES.—

(1)(A) Punitive damages shall not be awarded against a manufacturer or product seller of a drug or device which caused the claimant's harm where—

(i) such drug or device was subject to premarket approval by the Food and Drug Administration with respect to the safety of the formulation or performance of the aspect of such drug or device which caused the claimant's harm or the adequacy of the packaging or labeling of such drug or device, and such drug or device was approved by the Food and Drug Administration; or

(ii) the drug or device is generally recognized as safe and effective pursuant to conditions established by the Food and Drug Administration and applicable regulations, including packaging and labeling regulations.

(B) Subparagraph (A) shall not apply in any case in which the defendant, before or after premarket approval of a drug or device—

(i) intentionally and wrongfully withheld from or misrepresented to the Food and Drug Administration information concerning such drug or device required to be submitted under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) or section 351 of the Public Health Service Act (42 U.S.C. 262) that is material and relevant to the harm suffered by the claimant, or

(ii) made an illegal payment to an official or employee of the Food and Drug Administration for the purpose of securing or maintaining approval of such drug or device.

(2) PACKAGING.—In a health care liability action which is alleged to relate to the adequacy of the packaging (or labeling relating to such packaging) of a drug which is required to have tamper-resistant packaging under regulations of the Secretary of Health and Human Services (including labeling regulations related to such packaging), the manufacturer of the drug shall not be held liable for punitive damages unless the drug is found by the court by clear and convincing evidence to be substantially out of compliance with such regulations.

(e) PERIODIC PAYMENTS FOR FUTURE LOSSES.—

(1) GENERAL RULE.—In any health care liability action in which the damages awarded for future economic and noneconomic loss exceed $50,000, a person shall not be required to pay such damages in a single, lump-sum payment, but shall be permitted to make such payments periodically based on when the damages are found likely to occur, with the amount and schedule of such payments determined by the court.

(2) FINALITY OF JUDGMENT.—The judgment of the court awarding periodic payments under this subsection may not, in the absence of fraud, be reopened at any time to contest, amend, or modify the schedule or amount of the payments.

(3) LUMP-SUM SETTLEMENTS.—This subsection shall not be construed to preclude a settlement providing for a single, lump-sum payment.

(f) TREATMENT OF COLLATERAL SOURCE PAYMENTS.—

(1) INTRODUCTION INTO EVIDENCE.—In any health care liability action, any defendant may introduce evidence of collateral source payments. If a defendant elects to introduce such evidence, the claimant may introduce evidence of any amount paid or contributed or reasonably likely to be paid or contributed in the future by or on behalf of the claimant to secure the right to such collateral source payments.

(2) NO SUBROGATION.—No provider of collateral source payments shall recover any amount against the claimant or receive any lien or credit against the claimant's recovery or be equitably or legally subrogated the right of the claimant in a health care liability action. This subsection shall apply to an action that is settled as well as an action that is resolved by a fact finder.

SEC. 4813. ALTERNATIVE DISPUTE RESOLUTION.

Any ADR used to resolve a health care liability action or claim shall contain provisions relating to statute of limitations, noneconomic damages, joint and several liability, punitive damages, collateral source rule, and periodic payments which are identical to the provisions relating to such matters in this subtitle.

TITLE V—COMMITTEE ON EDUCATION AND THE WORKFORCE

Subtitle A—TANF Block Grant

SEC. 5001. WELFARE-TO-WORK GRANTS.

(a) GRANTS TO STATES.—Section 403(a) of the Social Security Act (42 U.S.C. 603(a)) is amended by adding at the end the following:

“(5) WELFARE-TO-WORK GRANTS.—

“(A) FORMULA GRANTS.—

“(i) ENTITLEMENT.—A State shall be entitled to receive from the Secretary a grant for each fiscal year specified in subparagraph (H) of this paragraph for which the State is a welfare-to-work State, in an amount that does not exceed the lesser of—

“(I) 2 times the total of the expenditures by the State (excluding qualified State expenditures (as defined in section 409(a)(7)(B)(i)) and expenditures described in section 409(a)(7)(B)(iv)) during the fiscal year for activities described in subpargraph (C)(i) of this paragraph; or

“(II) the allotment of the State under clause (iii) of this subparagraph for the fiscal year.

“(ii) WELFARE-TO-WORK STATE.—A State shall be considered a welfare-to-work State for a fiscal year for purposes of this subparagraph if the Secretary, after consultation (and the sharing of any plan or amendment thereto submitted under this clause) with the Secretary of Health and Human Services and the Secretary of Housing and Urban Development, determines that the State meets the following requirements:

“(I) The State has submitted to the Secretary (in the form of an addendum to the State plan submitted under section 402) a plan which—

“(aa) describes how, consistent with this subparagraph, the State will use any funds provided under this subparagraph during the fiscal year;

“(bb) specifies the formula to be used pursuant to clause (vi) to distribute funds in the State, and describes the process by which the formula was developed; and

“(cc) contains evidence that the plan was developed through a collaborative process that, at a minimum, included sub-State areas.

“(II) The State has provided the Secretary with an estimate of the amount that the State intends to expend during the fiscal year (excluding expenditures described in section 409(a)(7)(B)(iv)) for activities described in subparagraph (C)(i) of this paragraph.

“(III) The State has agreed to negotiate in good faith with the Secretary of Health and Human Services with respect to the substance of any evaluation under section 413(j), and to cooperate with the conduct of any such evaluation.

“(IV) The State is an eligible State for the fiscal year.

“(iii) ALLOTMENTS TO WELFARE-TO-WORK STATES.—The allotment of a welfare-to-work State for a fiscal year shall be the available amount for the fiscal year multiplied by the State percentage for the fiscal year.

“(iv) AVAILABLE AMOUNT.—As used in clause (iii), the term ‘available amount’ means, for a fiscal year, 95 percent of—

“(I) the amount specified in subparagraph (H) for the fiscal year; minus

“(II) the total of the amounts reserved pursuant to subparagraphs (F) and (G) for the fiscal year.

“(v) STATE PERCENTAGE.—As used in clause (iii), the term ‘State percentage’ means, with respect to a fiscal year, ½ of the sum of—

“(aa) the percentage represented by the number of individuals in the State whose income is less than the poverty line divided by the number of such individuals in the United States; and

“(bb) the percentage represented by the number of individuals who are adult recipients of assistance under the State program funded under this part divided by the number of individuals in the United States who are adult recipients of assistance under any State program funded under this part.

“(vi) DISTRIBUTION OF FUNDS WITHIN STATES.—

“(I) IN GENERAL.—A State to which a grant is made under this subparagraph shall distribute not less than 85 percent of the grant funds among the service delivery areas in the State, in accordance with a formula which—

“(aa) determines the amount to be distributed for the benefit of a service delivery area in proportion to the number (if any) by which the number of individuals residing in the service delivery area with an income that is less than the poverty line exceeds 5 percent of the population of the service delivery area, relative to such number for the other service delivery areas in the State, and accords a weight of not less than 50 percent to this factor;

“(bb) may determine the amount to be distributed for the benefit of a service delivery area in proportion to the number of adults residing in the service delivery area who are recipients of assistance under the State program funded under this part (whether in effect before or after the amendments made by section 103(a) of the Personal Responsibility and Work Opportunity Reconciliation Act first applied to the State) for at least 30 months (whether or not consecutive) relative to the number of such adults residing in the other service delivery areas in the State; and

“(cc) may determine the amount to be distributed for the benefit of a service delivery area in proportion to the number of unemployed individuals residing in the service delivery area relative to the number of such individuals residing in the other service delivery areas in the State.

“(II) SPECIAL RULE.—Notwithstanding subclause (I), if the formula used pursuant to subclause (I) would result in the distribution of less than $100,000 during a fiscal year for the benefit of a service delivery area, then in lieu of distributing such sum in accordance with the formula, such sum shall be available for distribution under subclause (III) during the fiscal year.

“(III) PROJECTS TO HELP LONG-TERM RECIPIENTS OF ASSISTANCE INTO THE WORK FORCE.—The Governor of a State to which a grant is made under this subparagraph may distribute not more than 15 percent of the grant funds (plus any amount required to be distributed under this subclause by reason of subclause (II)) to projects that appear likely to help long-term recipients of assistance under the State program funded under this part (whether in effect before or after the amendments made by section 103(a) of the Personal Responsibility and Work Opportunity Reconciliation Act first applied to the State) enter the work force.

“(vii) ADMINISTRATION.—

“(I) IN GENERAL.—A grant made under this subparagraph to a State shall be administered by the State agency that is administering, or supervising the administration of, the State program funded under this part, or by another State agency designated by the Governor of the State.

“(II) SPENDING BY PRIVATE INDUSTRY COUNCILS.—The private industry council for a service delivery area shall have sole authority, in coordination with the chief elected official (as described in section 103(c) of the Job Training Partnership Act) of the service delivery area, to expend the amounts provided for a service delivery area under subparagraph (vi)(I).

“(B) DEMONSTRATION PROJECTS.—

“(i) IN GENERAL.—The Secretary, in consultation with the Secretary of Health and Human Services and the Secretary of Housing and Urban Development, shall make grants in accordance with this subparagraph among eligible applicants based on the likelihood that the applicant can successfully make long-term placements of individuals into the work force.

"(ii) ELIGIBLE APPLICANTS.—As used in clause (i), the term 'eligible applicant' means a private industry council or a political subdivision of a State.

"(iii) DETERMINATION OF GRANT AMOUNT.—In determining the amount of a grant to be made under this subparagraph for a demonstration project proposed by an applicant, the Secretary shall provide the applicant with an amount sufficient to ensure that the project has a reasonable opportunity to be successful, taking into account the number of long-term recipients of assistance under a State program funded under this part, the level of unemployment, the job opportunities and job growth, the poverty rate, and such other factors as the Secretary deems appropriate, in the area to be served by the project.

"(iv) FUNDING.—For grants under this subparagraph for each fiscal year specified in subparagraph (H), there shall be available to the Secretary an amount equal to the sum of—

"(I) 5 percent of—

"(aa) the amount specified in subparagraph (H) for the fiscal year; minus

"(bb) the total of the amounts reserved pursuant to subparagraphs (F) and (G) for the fiscal year;

"(II) any amount available for grants under this paragraph for the immediately preceding fiscal year that has not been obligated;

"(III) any amount reserved pursuant to subparagraph (F) for the immediately preceding fiscal year that has not been obligated; and

"(IV) any available amount (as defined in subparagraph (A)(iv)) for the immediately preceding fiscal year that has not been obligated by a State or sub-State entity.

"(C) LIMITATIONS ON USE OF FUNDS.—

"(i) ALLOWABLE ACTIVITIES.—An entity to which funds are provided under this paragraph may use the funds to move into the work force recipients of assistance under the program funded under this part of the State in which the entity is located, by means of any of the following:

"(I) Job creation through public or private sector employment wage subsidies.

"(II) On-the-job training.

"(III) Contracts with job placement companies or public job placement programs.

"(IV) Job vouchers.

"(V) Job retention or support services if such services are not otherwise available.

"(ii) REQUIRED BENEFICIARIES.—An entity that operates a project with funds provided under this paragraph shall expend at least 90 percent of all funds provided to the project for the benefit of recipients of assistance under the program funded under this part of the State in which the entity is located who meet the requirements of any of the following subclauses:

"(I) The individual has received assistance under the State program funded under this part (whether in effect before or after the amendments made by section 103 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 first apply to the State) for at least 30 months (whether or not consecutive).

"(II) At least 2 of the following apply to the recipient:

"(aa) The individual has not completed secondary school or obtained a certificate of general equivalency, and has low skills in reading and mathematics.

"(bb) The individual requires substance abuse treatment for employment.

"(cc) The individual has a poor work history. The Secretary shall prescribe such regulations as may be necessary to interpret this subclause.

"(III) Within 12 months, the individual will become ineligible for assistance under the State program funded under this part by reason of a durational limit on such assistance, without regard to any exemption provided pursuant to section 408(a)(7)(C) that may apply to the individual.

"(iii) LIMITATION ON APPLICABILITY OF SECTION 404.—The rules of section 404, other than subsections (b), (f), and (h) of section 404, shall not apply to a grant made under this paragraph.

"(iv) PROHIBITION AGAINST PROVISION OF SERVICES BY PRIVATE INDUSTRY COUNCIL.—A private industry council may not directly provide services using funds provided under this paragraph.

"(v) PROHIBITION AGAINST USE OF GRANT FUNDS FOR ANY OTHER FUND MATCHING REQUIREMENT.—An entity to which funds are provided under this paragraph shall not use any part of the funds to fulfill any obligation of any State, political subdivision, or private industry council to contribute funds under other Federal law.

"(vi) DEADLINE FOR EXPENDITURE.—An entity to which funds are provided under this paragraph shall remit to the Secretary any part of the funds that are not expended within 3 years after the date the funds are so provided.

"(D) INDIVIDUALS WITH INCOME LESS THAN THE POVERTY LINE.—For purposes of this paragraph, the number of individuals with an income that is less than the poverty line shall be determined based on the methodology used by the Bureau of the Census to produce and publish intercensal poverty data for 1993 for States and counties.

"(E) DEFINITIONS.—As used in this paragraph:

"(i) PRIVATE INDUSTRY COUNCIL.—The term 'private industry council' means, with respect to a service delivery area, the private industry council (or successor entity) established for the service delivery area pursuant to the Job Training Partnership Act.

"(ii) SECRETARY.—The term 'Secretary' means the Secretary of Labor, except as otherwise expressly provided.

"(iii) SERVICE DELIVERY AREA.—The term 'service delivery area' shall have the meaning given such term for purposes of the Job Training Partnership Act (or successor area).

"(F) FUNDING FOR INDIAN TRIBES.—1 percent of the amount specified in subparagraph (H) for each fiscal year shall be reserved for grants to Indian tribes under section 412(a)(3).

"(G) EVALUATIONS.—0.5 percent of the amount specified in subparagraph (H) for each fiscal year shall be reserved for use by the Secretary of Health and Human Services to carry out section 413(j).

"(H) FUNDING.—The amount specified in this subparagraph is $1,500,000,000 for each of fiscal years 1998 and 1999.

"(H) FUNDING.—The amount specified in this subparagraph is—

"(i) $750,000,000 for fiscal year 1998;

"(ii) $1,250,000,000 for fiscal year 1999; and

"(iii) $1,000,000,000 for fiscal year 2000.

"(I) BUDGET SCORING.—Notwithstanding section 457(b)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985, the baseline shall assume that no grant shall be made under this paragraph or under section 412(a)(3) after fiscal year 2001.".

(b) GRANTS TO TERRITORIES.—Section 1108(a) of such Act (42 U.S.C. 1308(a)) is amended by inserting "(except section 403(a)(5))" after "title IV".

(c) GRANTS TO INDIAN TRIBES.—Section 412(a) of such Act (42 U.S.C. 612(a)) is amended by adding at the end the following:

"(3) WELFARE-TO-WORK GRANTS.—

"(A) IN GENERAL.—The Secretary shall make a grant in accordance with this paragraph to an Indian tribe for each fiscal year specified in section 403(a)(5)(H) for which the Indian tribe is a welfare-to-work tribe, in such amount as the Secretary deems appropriate, subject to subparagraph (B) of this paragraph.

"(B) WELFARE-TO-WORK TRIBE.—An Indian tribe shall be considered a welfare-to-work tribe for a fiscal year for purposes of this paragraph if the Indian tribe meets the following requirements:

"(i) The Indian tribe has submitted to the Secretary (in the form of an addendum to the tribal family assistance plan, if any, of the Indian tribe) a plan which describes how, consistent with section 403(a)(5), the Indian tribe will use any funds provided under this paragraph during the fiscal year.

"(ii) The Indian tribe has provided the Secretary with an estimate of the amount that the Indian tribe intends to expend during the fiscal year (excluding tribal expenditures described in section 409(a)(7)(B)(iv)) for activities described in section 403(a)(5)(C)(i).

"(iii) The Indian tribe has agreed to negotiate in good faith with the Secretary of Health and Human Services with respect to the substance of any evaluation under section 413(j), and to cooperate with the conduct of any such evaluation.

"(C) LIMITATIONS ON USE OF FUNDS.—Section 403(a)(5)(C) shall apply to funds provided to Indian tribes under this paragraph in the same manner in which such section applies to funds provided under section 403(a)(5).".

(d) FUNDS RECEIVED FROM GRANTS TO BE DISREGARDED IN APPLYING DURATIONAL LIMIT ON ASSISTANCE.—Section 408(a)(7) of such Act (42 U.S.C. 608(a)(7)) is amended by adding at the end the following:

"(G) INAPPLICABILITY TO WELFARE-TO-WORK GRANTS AND ASSISTANCE.—For purposes of subparagraph (A) of this paragraph, a grant made under section 403(a)(5) shall not be considered a grant made under section 403, and assistance from funds provided under section 403(a)(5) shall not be considered assistance.".

(e) EVALUATIONS.—Section 413 of such Act (42 U.S.C. 613) is amended by adding at the end the following:

"(j) EVALUATION OF WELFARE-TO-WORK PROGRAMS.—The Secretary—

"(1) shall, in consultation with the Secretary of Labor, develop a plan to evaluate how grants made under sections 403(a)(5) and 412(a)(3) have been used; and

"(2) may evaluate the use of such grants by such grantees as the Secretary deems appropriate, in accordance with an agreement entered into with the grantees after good-faith negotiations.".

SEC. 5002. CLARIFICATION OF LIMITATION ON NUMBER OF PERSONS WHO MAY BE TREATED AS ENGAGED IN WORK BY REASON OF PARTICIPATION IN EDUCATIONAL ACTIVITIES.

(a) IN GENERAL.—Section 407(c)(2)(D) of the Social Security Act (42 U.S.C. 607(c)(2)(D)) is amended to read as follows:

"(D) LIMITATION ON NUMBER OF PERSONS WHO MAY BE TREATED AS ENGAGED IN WORK BY REASON OF PARTICIPATION IN EDUCATIONAL ACTIVITIES.—For purposes of determining monthly participation rates under paragraphs (1)(B)(i) and (2)(B) of subsection (b), not more than 20 percent of the number of individuals in all families and in 2-parent families, respectively, in a State who are treated as engaged in work for a month may consist of individuals who are determined to be engaged in work for the month by reason of participation in vocational educational training, or deemed to be engaged in work for the month by reason of subparagraph (C) of this paragraph.''.

(b) RETROACTIVITY.—The amendment made by subsection (a) of this section shall take effect as if included in the enactment of section 103(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

SEC. 5003. PENALTY FOR FAILURE OF STATE TO REDUCE ASSISTANCE FOR RECIPIENTS REFUSING WITHOUT GOOD CAUSE TO WORK.

(a) IN GENERAL.—Section 409(a) of the Social Security Act (42 U.S.C. 609(a)) is amended by adding at the end the following:

''(13) PENALTY FOR FAILURE TO REDUCE ASSISTANCE FOR RECIPIENTS REFUSING WITHOUT GOOD CAUSE TO WORK.—

''(A) IN GENERAL.—If the Secretary determines that a State to which a grant is made under section 403 in a fiscal year has violated section 407(e) during the fiscal year, the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year by an amount equal to not less than 1 percent and not more than 5 percent of the State family assistance grant.

''(B) PENALTY BASED ON SEVERITY OF FAILURE.—The Secretary shall impose reductions under subparagraph (A) with respect to a fiscal year based on the degree of noncompliance.''.

(b) RETROACTIVITY.—The amendment made by subsection (a) of this section shall take effect as if included in the enactment of section 103(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

SEC. 5004. RULES GOVERNING EXPENDITURE OF FUNDS FOR WORK EXPERIENCE AND COMMUNITY SERVICE PROGRAMS.

(a) IN GENERAL.—Section 407 of the Social Security Act (42 U.S.C. 607) is amended by adding at the end the following:

''(j) RULES GOVERNING EXPENDITURE OF FUNDS FOR WORK EXPERIENCE AND COMMUNITY SERVICE PROGRAMS.—

''(1) IN GENERAL.—To the extent that a State to which a grant is made under section 403(a)(5) or any other provision of section 403 uses the grant to establish or operate a work experience or community service program, the State may establish and operate the program in accordance with this subsection.

''(2) PURPOSE.—The purpose of a work experience or community experience program is to provide experience or training for individuals not able to obtain employment in order to assist them to move to regular employment. Such a program shall be designed to improve the employability of participants through actual work experience to enable individuals participating in the program to move promptly into regular public or private employment. Such a program shall not place individuals in private, for-profit entities.

''(3) LIMITATION ON PROJECTS THAT MAY BE UNDERTAKEN.—A work experience or community service program shall be limited to projects which serve a useful public purpose in fields such as health, social service, environmental protection, education, urban and rural development and redevelopment, welfare, recreation, public facilities, public safety, and day care, and other purposes identified by the State.

''(4) MAXIMUM HOURS OF PARTICIPATION PER MONTH.—A State that elects to establish a work experience or community service program shall operate the program so that each participant participates in the program with the maximum number of hours that any such individual may be required to participate in any month being a number equal to—

''(A)(i) the amount of assistance provided during the month to the family of which the individual is a member under the State program funded under this part; plus

''(ii) the dollar value equivalent of any benefits provided during the month to the household of which the individual is a member under the food stamp program under the Food Stamp Act of 1977; minus

''(iii) any amount collected by the State as child support with respect to the family that is retained by the State; divided by

''(B) the greater of the Federal minimum wage or the applicable State minimum wage.

''(5) MAXIMUM HOURS OF PARTICIPATION PER WEEK.—A State that elects to establish a work experience or community service program may not require any participant in any such program to participate in any such program for a combined total of more than 40 hours per week.

''(6) RULE OF INTERPRETATION.—This subsection shall not be construed as authorizing the provision of assistance under a State program funded under this part as compensation for work performed, nor shall a participant be entitled to a salary or to any other work or training expense provided under any other provision of law by reason of participation in a work experience or community service program described in this subsection.''.

(b) RETROACTIVITY.—The amendment made by subsection (a) of this section shall take effect as if included in the enactment of section 103(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

SEC. 5005. STATE OPTION TO TAKE ACCOUNT OF CERTAIN WORK ACTIVITIES OF RECIPIENTS WITH SUFFICIENT PARTICIPATION IN WORK EXPERIENCE OR COMMUNITY SERVICE PROGRAMS.

(a) IN GENERAL.—Section 407(c) of the Social Security Act (42 U.S.C. 607(c)) is amended by adding at the end the following:

''(3) STATE OPTION TO TAKE ACCOUNT OF CERTAIN WORK ACTIVITIES OF RECIPIENTS WITH SUFFICIENT PARTICIPATION IN WORK EXPERIENCE OR COMMUNITY SERVICE PROGRAMS.—Notwithstanding paragraphs (1) and (2) of this subsection and subsection (d)(8), for purposes of determining monthly participation rates under paragraphs (1)(B)(i) and (2)(B) of subsection (b), an individual who, during a month, has participated in a work experience or community service program operated in accordance with subsection (j), for the maximum number of hours that the individual may be required to participate in such a program during the month shall be treated as engaged in work for the month if, during the month, the individual has participated in any other work activity for a number of hours that is not less than the number of hours required by subsection (c)(1) for the month minus such maximum number of hours.''.

(b) RETROACTIVITY.—The amendment made by subsection (a) of this section shall take effect as if included in the enactment of section 103(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

SEC. 5006. WORKER PROTECTIONS.

Section 407(f) of the Social Security Act (42 U.S.C. 607(f)) is amended to read as follows:

''(f) WORKER PROTECTIONS.—

''(1) NONDISPLACEMENT IN WORK ACTIVITIES.—

''(A) GENERAL PROHIBITION.—Subject to this paragraph, an adult in a family receiving assistance under a State program funded under this part attributable to funds provided by the Federal Government may fill a vacant employment position in order to engage in a work activity.

''(B) PROHIBITION AGAINST VIOLATION OF CONTRACTS.—A work activity shall not violate an existing contract for services or collective bargaining agreement.

''(C) OTHER PROHIBITIONS.—An adult participant in a work activity shall not be employed or assigned—

''(i) when any other individual is on layoff from the same or any substantially equivalent job; or

''(ii) if the employer has terminated the employment of any regular employee or otherwise caused an involuntary reduction if its workforce with the intention of filling the vacancy so created with the participant.

''(2) HEALTH AND SAFETY.—Health and safety standards established under Federal and State law otherwise applicable to working conditions of employees shall be equally applicable to working conditions of participants engaged in a work activity.

''(3) NONDISCRIMINATION.—In addition to the protections provided under the provisions of law specified in section 408(c), an individual may not be discriminated against with respect to participation in work activities by reason of gender.

''(4) GRIEVANCE PROCEDURE.—

''(A) IN GENERAL.—Each State to which a grant is made under section 403 shall establish and maintain a procedure for grievances or complaints from employees alleging violations of paragraph (1) and participants in work activities alleging violations of paragraph (1), (2), or (3).

''(B) HEARING.—The procedure shall include an opportunity for a hearing.

''(C) REMEDIES.—The procedure shall include remedies for violation of paragraph (1), (2), or (3), which may include—

''(i) prohibition against placement of a participant with an employer that has violated paragraph (1), (2), or (3);

''(ii) where applicable, reinstatement of an employee, payment of lost wages and benefits, and reestablishment of other relevant terms, conditions and privileges of employment; and

''(iii) where appropriate, other equitable relief.

''(5) NONPREEMPTION OF STATE NONDISPLACEMENT LAWS.—The provisions of this subsection relating to nondisplacement of employees shall not be construed to preempt any provision of State law relating to nondisplacement of employees that affords greater protections to employees than is afforded by such provisions of this subsection.''.

Subtitle B—Higher Education Programs

SEC. 5101. MANAGEMENT AND RECOVERY OF RESERVES.

(a) AMENDMENT.—Section 422 of the Higher Education Act of 1965 (20 U.S.C. 1072) is amended by adding after subsection (g) the following new subsection:

''(h) RECALL OF RESERVES; LIMITATIONS ON USE OF RESERVE FUNDS AND ASSETS.—(1) Notwithstanding any other provision of law, the Secretary shall, except as otherwise provided in this subsection, recall $1,000,000,000 from the reserve funds held by guaranty agencies on September 1, 2002.

''(2) Funds recalled by the Secretary under this subsection shall be deposited in the Treasury.

''(3) The Secretary shall require each guaranty agency to return reserve funds under paragraph (1) based on such agency's required share of recalled reserve funds held by guaranty agencies as of September 30, 1996. For purposes of this paragraph, a guaranty agency's required share of recalled reserve funds shall be determined as follows:

"(A) The Secretary shall compute each agency's reserve ratio by dividing (i) the amount held in such agency's reserve funds as of September 30, 1996 (but reflecting later accounting or auditing adjustments approved by the Secretary), by (ii) the original principal amount of all loans for which such agency has an outstanding insurance obligation as of such date.

"(B) If the reserve ratio of any agency as computed under subparagraph (A) exceeds 2.0 percent, the agency's required share shall include so much of the amounts held in such agency's reserve fund as exceed a reserve ratio of 2.0 percent.

"(C) If any additional amount is required to be recalled under paragraph (1) (after deducting the total of the required shares calculated under subparagraph (B)), the agencies' required shares shall include additional amounts—

"(i) determined by imposing on each such agency an equal percentage reduction in the amount of each agency's reserve fund remaining after deduction of the amount recalled under subparagraph (B); and

"(ii) the total of which equals the additional amount that is required to be recalled under paragraph (1) (after deducting the total of the required shares calculated under subparagraph (B)).

"(4) Within 90 days after the beginning of each of fiscal years 1998 through 2002, each guaranty agency shall transfer a portion of each agency's required share determined under paragraph (3) to a restricted account established by the guaranty agency that is of a type selected by the guaranty agency with the approval of the Secretary. Funds transferred to such restricted accounts shall be invested in obligations issued or guaranteed by the United States or in other similarly low-risk securities. A guaranty agency shall not use the funds in such a restricted account for any purpose without the express written permission of the Secretary, except that a guaranty agency may use the earnings from such restricted account to assist in meeting the agency's operational expenses under this part. In each of fiscal years 1998 through 2002, each agency shall transfer its required share to such restricted account in 5 equal annual installments, except that—

"(A) a guarantee agency that has a reserve ratio (as computed under subparagraph (3)(A)) equal to or less than 1.10 percent may transfer its required share to such account in 4 equal installments beginning in fiscal year 1999; and

"(B) a guarantee agency may transfer such required share to such account in accordance with such other payment schedules as are approved by the Secretary.

"(5) If, on September 1, 2002, the total amount in the restricted accounts described in paragraph (4) is less than the amount the Secretary is required to recall under paragraph (1), the Secretary may require the return of the amount of the shortage from other reserve funds held by guaranty agencies under procedures established by the Secretary.

"(6) The Secretary may take such reasonable measures, and require such information, as may be necessary to ensure that guaranty agencies comply with the requirements of this subsection. Notwithstanding any other provision of this part, if the Secretary determines that a guaranty agency is not in compliance with the requirements of this subsection, such agency may not receive any other funds under this part until the Secretary determines that such agency is in compliance.

"(7) The Secretary shall not have any authority to direct a guaranty agency to return reserve funds under subsection (g)(1)(A) during the period from the date of enactment of this subsection through September 30, 2002, and any reserve funds otherwise returned under subsection (g)(1) during such period shall be treated as amounts recalled under this subsection and shall not be available under subsection (g)(4).

"(8) For purposes of this subsection, the term 'reserve funds' when used with respect to a guaranty agency—

"(A) includes any cash reserve funds held by the guaranty agency, or held by, or under the control of, any other entity; and

"(B) does not include buildings, equipment, or other nonliquid assets.".

(b) CONFORMING AMENDMENT.—Section 428(c)(9)(A) of the Higher Education Act of 1965 (20 U.S.C. 1078(c)(9)(A)) is amended—

(1) in the first sentence, by striking "for the fiscal year of the agency that begins in 1993"; and

(2) by striking the third sentence.

SEC. 5102. REPEAL OF DIRECT LOAN ORIGINATION FEES TO INSTITUTIONS OF HIGHER EDUCATION.

Section 452 of the Higher Education Act of 1965 (20 U.S.C. 1087b) is amended—

(1) by striking subsection (b); and

(2) by redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

SEC. 5103. FUNDS FOR ADMINISTRATIVE EXPENSES.

Subsection (a) of section 458 of the Higher Education Act of 1965 (20 U.S.C. 1087h(a)) is amended to read as follows:

"(a) IN GENERAL.—(1) Each fiscal year, there shall be available to the Secretary from funds not otherwise appropriated, funds to be obligated for—

"(A) administrative costs under this part and part B, including the costs of the direct student loan programs under this part, and

"(B) administrative cost allowances payable to guaranty agencies under part B and calculated in accordance with paragraph (2), not to exceed (from such funds not otherwise appropriated) $532,000,000 in fiscal year 1998, $610,000,000 in fiscal year 1999, $705,000,000 in fiscal year 2000, $750,000,000 in fiscal year 2001, and $750,000,000 in fiscal year 2002. Administrative cost allowances under subparagraph (B) of this paragraph shall be paid quarterly and used in accordance with section 428(f). The Secretary may carry over funds available under this section to a subsequent fiscal year.

"(2) Administrative cost allowances payable to guaranty agencies under paragraph (1)(B) shall be calculated on the basis of 0.85 percent of the total principal amount of loans upon which insurance is issued on or after the date of enactment of the Balanced Budget Act of 1997, except that such allowances shall not exceed—

"(A) $170,000,000 for each of the fiscal years 1998 and 1999; or

"(B) $150,000,000 for each of the fiscal years 2000, 2001, and 2002.".

SEC. 5104. SECRETARY'S EQUITABLE SHARE OF COLLECTIONS ON CONSOLIDATED DEFAULTED LOANS.

Section 428(c)(6)(A) of the Higher Education Act of 1965 (20 U.S.C. 1078(c)(6)(A)) is amended—

(1) in the matter preceding clause (i), by striking "made by the borrower" and inserting "made by or on behalf of the borrower, including payments made to discharge loans made under this title to obtain a consolidation loan pursuant to this part or part D,"; and

(2) in clause (ii), by striking "(ii) an amount equal to 27 percent of such payments (subject to subparagraph (D) of this paragraph) for costs related" and inserting the following:

"(ii) an amount equal to 27 percent of such payments for covered costs, except that the amount determined under this clause for such covered costs shall be (I) 18.5 percent of such payments for defaulted loans consolidated pursuant to this part or part D on or after July 1, 1997; and (II) 18.5 percent of such payments for defaulted loans consolidated pursuant to this part or part D on or after the date of enactment of the Higher Education Amendments of 1992 with respect to any guaranty agency that has, after such date, made deductions from such payments under this clause (ii) in an amount equal to 18.5 percent of such payments.

For purposes of clause (ii) of this subparagraph, the term 'covered costs' means costs related".

SEC. 5105. EXTENSION OF STUDENT AID PROGRAMS.

Title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) is amended—

(1) in section 424(a), by striking "1998." and "2002." and inserting "2002." and "2006.", respectively;

(2) in section 428(a)(5), by striking "1998," and "2002." and inserting "2002," and "2006.", respectively; and

(3) in section 428C(e), by striking "1998." and inserting "2002.".

Subtitle C—Repeal of Smith-Hughes Vocational Education Act

SEC. 5201. REPEAL OF SMITH-HUGHES VOCATIONAL EDUCATION ACT.

The Act of February 23, 1917 (39 Stat. 929; 20 U.S.C. 11) (commonly known as the "Smith-Hughes Vocational Education Act") is repealed.

Subtitle D—Expansion of Portability and Health Insurance Coverage

SEC. 5301. SHORT TITLE OF SUBTITLE.

This subtitle may be cited as the "Expansion of Portability and Health Insurance Coverage Act of 1997".

SEC. 5302. RULES GOVERNING ASSOCIATION HEALTH PLANS.

(a) IN GENERAL.—Subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by adding after part 7 the following new part:

"PART 8—RULES GOVERNING ASSOCIATION HEALTH PLANS

"SEC. 801. ASSOCIATION HEALTH PLANS.

"(a) IN GENERAL.—For purposes of this part, the term 'association health plan' means a group health plan—

"(1) whose sponsor is (or is deemed under this part to be) described in subsection (b), and

"(2) under which at least one option of health insurance coverage offered by a health insurance issuer (which may include, among other options, managed care options, point of service options, and preferred provider options) is provided to participants and beneficiaries.

"(b) SPONSORSHIP.—The sponsor of a group health plan is described in this subsection if such sponsor—

"(1) is organized and maintained in good faith, with a constitution and bylaws specifically stating its purpose and providing for periodic meetings on at least an annual basis, as a trade association, an industry association (including a rural electric cooperative association or a rural telephone cooperative association), a professional association, or a chamber of commerce (or similar business group, including a corporation or similar organization that operates on a cooperative basis (within the meaning of section 1381 of the Internal Revenue Code of 1986)), for substantial purposes other than that of obtaining or providing medical care,

"(2) is established as a permanent entity which receives the active support of its members and collects from its members on a periodic basis dues or payments necessary to maintain eligibility for membership in the sponsor, and

"(3) does not condition such dues or payments or coverage under the plan on the basis of health status-related factors with respect to the employees of its members (or affiliated members), or the dependents of such employees, and does not condition such dues or payments on the basis of group health plan participation.

Any sponsor consisting of an association of entities which meet the requirements of paragraphs (1) and (2) shall be deemed to be a sponsor described in this subsection.

"SEC. 802. CERTIFICATION OF ASSOCIATION HEALTH PLANS.

"(a) IN GENERAL.—The Secretary shall prescribe by regulation a procedure under which, subject to subsection (b), the Secretary shall certify association health plans which apply for certification as meeting the requirements of this part.

"(b) STANDARDS.—Under the procedure prescribed pursuant to subsection (a), the Secretary shall certify an association health plan as meeting the requirements of this part only if the Secretary is satisfied that—

"(1) such certification—

"(A) is administratively feasible,

"(B) is not adverse to the interests of the individuals covered under the plan, and

"(C) is protective of the rights and benefits of the individuals covered under the plan, and

"(2) the applicable requirements of this part are met (or, upon the date on which the plan is to commence operations, will be met) with respect to the plan.

"(c) REQUIREMENTS APPLICABLE TO CERTIFIED PLANS.—An association health plan with respect to which certification under this part is in effect shall meet the applicable requirements of this part, effective on the date of certification (or, if later, on the date on which the plan is to commence operations).

"(d) REQUIREMENTS FOR CONTINUED CERTIFICATION.—The Secretary may provide by regulation for continued certification under this part, including requirements relating to any commencement, by an association health plan which has been certified under this part, of a benefit option which does not consist of health insurance coverage.

"(e) CLASS CERTIFICATION FOR FULLY-INSURED PLANS.—The Secretary shall establish a class certification procedure for association health plans under which all benefits consist of health insurance coverage. Under such procedure, the Secretary shall provide for the granting of certification under this part to the plans in each class of such association health plans upon appropriate filing under such procedure in connection with plans in such class and payment of the prescribed fee under section 807(a).

"SEC. 803. REQUIREMENTS RELATING TO SPONSORS AND BOARDS OF TRUSTEES.

"(a) SPONSOR.—The requirements of this subsection are met with respect to an association health plan if—

"(1) the sponsor (together with its immediate predecessor, if any) has met (or is deemed under this part to have met) for a continuous period of not less than 3 years ending with the date of the application for certification under this part, the requirements of paragraphs (1) and (2) of section 801(b), and

"(2) the sponsor meets (or is deemed under this part to meet) the requirements of section 801(b)(3).

"(b) BOARD OF TRUSTEES.—The requirements of this subsection are met with respect to an association health plan if the following requirements are met:

"(1) FISCAL CONTROL.—The plan is operated, pursuant to a trust agreement, by a board of trustees which has complete fiscal control over the plan and which is responsible for all operations of the plan.

"(2) RULES OF OPERATION AND FINANCIAL CONTROLS.—The board of trustees has in effect rules of operation and financial controls, based on a 3-year plan of operation, adequate to carry out the terms of the plan and to meet all requirements of this title applicable to the plan.

"(3) RULES GOVERNING RELATIONSHIP TO PARTICIPATING EMPLOYERS AND TO CONTRACTORS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the members of the board of trustees are individuals selected from individuals who are the owners, officers, directors, or employees of the participating employers or who are partners in the participating employers and actively participate in the business.

"(B) LIMITATION.—

"(i) GENERAL RULE.—Except as provided in clauses (ii) and (iii), no such member is an owner, officer, director, or employee of, or partner in, a contract administrator or other service provider to the plan.

"(ii) LIMITED EXCEPTION FOR PROVIDERS OF SERVICES SOLELY ON BEHALF OF THE SPONSOR.—Officers or employees of a sponsor which is a service provider (other than a contract administrator) to the plan may be members of the board if they constitute not more than 25 percent of the membership of the board and they do not provide services to the plan other than on behalf of the sponsor.

"(iii) TREATMENT OF PROVIDERS OF MEDICAL CARE.—In the case of a sponsor which is an association whose membership consists primarily of providers of medical care, clause (i) shall not apply in the case of any service provider described in subparagraph (A) who is a provider of medical care under the plan.

"(C) SOLE AUTHORITY.—The board has sole authority to approve applications for participation in the plan and to contract with a service provider to administer the day-to-day affairs of the plan.

"(c) TREATMENT OF FRANCHISE NETWORKS.—In the case of a group health plan which is established and maintained by a franchiser for a franchise network consisting of its franchisees—

"(1) the requirements of subsection (a) and section 801(a)(1) shall be deemed met if such requirements would otherwise be met if the franchiser were deemed to be the sponsor referred to in section 801(b), such network were deemed to be an association described in section 801(b), and each franchisee were deemed to be a member (of the association and the sponsor) referred to in section 801(b), and

"(2) the requirements of section 804(a)(1) shall be deemed met.

"(d) CERTAIN COLLECTIVELY BARGAINED PLANS.—

"(1) IN GENERAL.—In the case of a group health plan described in paragraph (2)—

"(A) the requirements of subsection (a) and section 801(a)(1) shall be deemed met,

"(B) the joint board of trustees shall be deemed a board of trustees with respect to which the requirements of subsection (b) are met, and

"(C) the requirements of section 804 shall be deemed met.

"(2) REQUIREMENTS.—A group health plan is described in this paragraph if—

"(A) the plan is a multiemployer plan,

"(B) the plan is in existence on April 1, 1997, and would be described in section 3(40)(A)(i) but solely for the failure to meet the requirements of section 3(40)(C)(ii) or (to the extent provided in regulations of the Secretary) solely for the failure to meet the requirements of subparagraph (D) of section 3(40), or

"(C)(i) the plan is in existence on April 1, 1997, has been in existence as of such date for at least 3 years, meets the requirements of paragraphs (2) and (3) of section 801(b), and would be described in section 3(40)(A)(i) but solely for the failure to meet the requirements of subparagraph (C)(i) or (C)(ii), and

"(ii) individuals who are members of the plan sponsor—

"(I) participate by elections in the organizational governance of the plan sponsor,

"(II) are eligible for appointment as trustee of the plan or for participation in the appointment of trustees of the plan, and

"(III) if covered under the plan, have full rights under the plan of a participant in an employee welfare benefit plan.

"(e) CERTAIN PLANS NOT MEETING SINGLE EMPLOYER REQUIREMENT.—

"(1) IN GENERAL.—In any case in which the majority of the employees covered under a group health plan are employees of a single employer (within the meaning of clauses (i) and (ii) of section 3(40)(B)), if all other employees covered under the plan are employed by employers who are related to such single employer—

"(A) the requirements of subsection (a) and section 801(a)(1) shall not apply if such single employer is the sponsor of the plan, and

"(B) the requirements of subsection (b) shall be deemed met if the board of trustees is the named fiduciary in connection with the plan.

"(2) RELATED EMPLOYERS.—For purposes of paragraph (1), employers are 'related' if there is among all such employers a common ownership interest or a substantial commonality of business operations based on common suppliers or customers.

"SEC. 804. PARTICIPATION AND COVERAGE REQUIREMENTS.

"(a) COVERED EMPLOYERS AND INDIVIDUALS.—The requirements of this subsection are met with respect to an association health plan if, under the terms of the plan—

"(1) all participating employers must be members or affiliated members of the sponsor, except that, in the case of a sponsor which is a professional association or other individual-based association, if at least one of the officers, directors, or employees of an employer, or at least one of the individuals who are partners in an employer and who actively participates in the business, is a member or affiliated member of the sponsor, participating employers may also include such employer, and

“(2) all individuals commencing coverage under the plan after certification under this part must be—

“(A) active or retired owners (including self-employed individuals), officers, directors, or employees of, or partners in, participating employers, or

“(B) the beneficiaries of individuals described in subparagraph (A).

“(b) COVERAGE OF PREVIOUSLY UNINSURED EMPLOYEES.—The requirements of this subsection are met with respect to an association health plan if, under the terms of the plan, no affiliated member of the sponsor may be offered coverage under the plan as a participating employer unless—

“(1) the affiliated member was an affiliated member on the date of certification under this part, or

“(2) during the 12-month period preceding the date of the offering of such coverage, the affiliated member has not maintained or contributed to a group health plan with respect to any of its employees who would otherwise be eligible to participate in such association health plan.

“(c) INDIVIDUAL MARKET UNAFFECTED.—The requirements of this subsection are met with respect to an association health plan if, under the terms of the plan, no participating employer may provide health insurance coverage in the individual market for any employee not covered under the plan which is similar to the coverage contemporaneously provided to employees of the employer under the plan, if such exclusion of the employee from coverage under the plan is based on a health status-related factor with respect to the employee and such employee would, but for such exclusion on such basis, be eligible for coverage under the plan.

“(d) PROHIBITION OF DISCRIMINATION AGAINST EMPLOYERS AND EMPLOYEES ELIGIBLE TO PARTICIPATE.—The requirements of this subsection are met with respect to an association health plan if—

“(1) under the terms of the plan, no employer meeting the preceding requirements of this section is excluded as a participating employer, unless—

“(A) participation or contribution requirements of the type referred to in section 2711 of the Public Health Service Act are not met with respect to the excluded employer, or

“(B) the excluded employer does not satisfy a required minimum level of employment uniformly applicable to participating employers,

“(2) the applicable requirements of sections 701, 702, and 703 are met with respect to the plan, and

“(3) applicable benefit options under the plan are actively marketed to all eligible participating employers.

“SEC. 805. OTHER REQUIREMENTS RELATING TO PLAN DOCUMENTS, CONTRIBUTION RATES, AND BENEFIT OPTIONS.

“(a) IN GENERAL.—The requirements of this section are met with respect to an association health plan if the following requirements are met:

“(1) CONTENTS OF GOVERNING INSTRUMENTS.—The instruments governing the plan include a written instrument, meeting the requirements of an instrument required under section 402(a)(1), which—

“(A) provides that the board of trustees serves as the named fiduciary required for plans under section 402(a)(1) and serves in the capacity of a plan administrator (referred to in section 3(16)(A)),

“(B) provides that the sponsor of the plan is to serve as plan sponsor (referred to in section 3(16)(B)), and

“(C) incorporates the requirements of section 806.

“(2) CONTRIBUTION RATES MUST BE NONDISCRIMINATORY.—

“(A) The contribution rates for any participating employer do not vary significantly on the basis of the claims experience of such employer and do not vary on the basis of the type of business or industry in which such employer is engaged.

“(B) Nothing in this title or any other provision of law shall be construed to preclude an association health plan, or a health insurance issuer offering health insurance coverage in connection with an association health plan, from setting contribution rates based on the claims experience of the plan, to the extent contribution rates under the plan meet the requirements of section 702(b).

“(3) FLOOR FOR NUMBER OF COVERED INDIVIDUALS WITH RESPECT TO CERTAIN PLANS.—If any benefit option under the plan does not consist of health insurance coverage, the plan has as of the beginning of the plan year not fewer than 1,000 participants and beneficiaries.

“(4) REGULATORY REQUIREMENTS.—Such other requirements as the Secretary may prescribe by regulation as necessary to carry out the purposes of this part.

“(b) ABILITY OF ASSOCIATION HEALTH PLANS TO DESIGN BENEFIT OPTIONS.—Nothing in this part or any provision of State law (as defined in section 514(c)(1)) shall be construed to preclude an association health plan, or a health insurance issuer offering health insurance coverage in connection with an association health plan, from exercising its sole discretion in selecting the specific items and services consisting of medical care to be included as benefits under such plan or coverage, except in the case of any law to the extent that it (1) prohibits an exclusion of a specific disease from such coverage, or (2) is not preempted under section 731(a)(1) with respect to matters governed by section 711 or 712.

“SEC. 806. MAINTENANCE OF RESERVES AND PROVISIONS FOR SOLVENCY FOR PLANS PROVIDING HEALTH BENEFITS IN ADDITION TO HEALTH INSURANCE COVERAGE.

“(a) IN GENERAL.—The requirements of this section are met with respect to an association health plan if—

“(1) the benefits under the plan consist solely of health insurance coverage, or

“(2) if the plan provides any additional benefit options which do not consist of health insurance coverage, the plan—

“(A) establishes and maintains reserves with respect to such additional benefit options, in amounts recommended by the qualified actuary, consisting of—

“(i) a reserve sufficient for unearned contributions,

“(ii) a reserve sufficient for benefit liabilities which have been incurred, which have not been satisfied, and for which risk of loss has not yet been transferred, and for expected administrative costs with respect to such benefit liabilities,

“(iii) a reserve sufficient for any other obligations of the plan, and

“(iv) a reserve sufficient for a margin of error and other fluctuations, taking into account the specific circumstances of the plan, and

“(B) establishes and maintains aggregate excess/stop loss insurance and solvency indemnification, with respect to such additional benefit options for which risk of loss has not yet been transferred, as follows:

“(i) The plan shall secure aggregate excess/stop loss insurance for the plan with an attachment point which is not greater than 125 percent of expected gross annual claims. The Secretary may by regulation provide for upward adjustments in the amount of such percentage in specified circumstances in which the plan specifically provides for and maintains reserves in excess of the amounts required under subparagraph (A).

“(ii) The plan shall secure a means of indemnification for any claims which the plan is unable to satisfy by reason of a termination pursuant to section 809(b) (relating to mandatory termination).

Any regulations prescribed by the Secretary pursuant to paragraph (2)(B)(i) may allow for such adjustments in the required levels of excess/stop loss insurance as the qualified actuary may recommend, taking into account the specific circumstances of the plan.

“(b) MINIMUM SURPLUS IN ADDITION TO CLAIMS RESERVES.—The requirements of this subsection are met if the plan establishes and maintains surplus in an amount at least equal to the excess of—

“(1) the greater of—

“(A) 25 percent of expected incurred claims and expenses for the plan year, or

“(B) $400,000,

over

“(2) the amount required under subsection (a)(2)(A)(ii).

“(c) ADDITIONAL REQUIREMENTS.—In the case of any association health plan described in subsection (a)(2), the Secretary may provide such additional requirements relating to reserves and excess/stop loss insurance as the Secretary considers appropriate. Such requirements may be provided, by regulation or otherwise, with respect to any such plan or any class of such plans.

“(d) ADJUSTMENTS FOR EXCESS/STOP LOSS INSURANCE.—The Secretary may provide for adjustments to the levels of reserves otherwise required under subsections (a) and (b) with respect to any plan or class of plans to take into account excess/stop loss insurance provided with respect to such plan or plans.

“(e) ALTERNATIVE MEANS OF COMPLIANCE.—The Secretary may permit an association health plan described in subsection (a)(2) to substitute, for all or part of the requirements of this section, such security, guarantee, hold-harmless arrangement, or other financial arrangement as the Secretary determines to be adequate to enable the plan to fully meet all its financial obligations on a timely basis and is otherwise no less protective of the interests of participants and beneficiaries than the requirements for which it is substituted. The Secretary may take into account, for purposes of this subsection, evidence provided by the plan or sponsor which demonstrates an assumption of liability with respect to the plan. Such evidence may be in the form of a contract of indemnification, lien, bonding, insurance, letter of credit, recourse under applicable terms of the plan in the form of assessments of participating employers, security, or other financial arrangement.

“(f) EXCESS/STOP LOSS INSURANCE.—For purposes of this section, the term ‘excess/stop loss insurance’ means, in connection with an association health plan, a contract under which an insurer (meeting such minimum standards as may be prescribed in regulations of the Secretary) provides for payment to the plan with respect to claims under the plan in excess of an amount or amounts specified in such contract.

“SEC. 807. REQUIREMENTS FOR APPLICATION AND RELATED REQUIREMENTS.

“(a) FILING FEE.—Under the procedure prescribed pursuant to section 802(a), an association health plan shall pay to the Secretary at the time of filing an application for certification under this part a filing fee in the amount of $5,000, which shall be available, to the extent provided in appropriation Acts, to the Secretary for the sole purpose of administering the certification procedures applicable with respect to association health plans.

“(b) Information To Be Included in Application for Certification.—An application for certification under this part meets the requirements of this section only if it includes, in a manner and form prescribed in regulations of the Secretary, at least the following information:

“(1) Identifying information.—The names and addresses of—

“(A) the sponsor, and

“(B) the members of the board of trustees of the plan.

“(2) States in which plan intends to do business.—The States in which participants and beneficiaries under the plan are to be located and the number of them expected to be located in each such State.

“(3) Bonding requirements.—Evidence provided by the board of trustees that the bonding requirements of section 412 will be met as of the date of the application or (if later) commencement of operations.

“(4) Plan documents.—A copy of the documents governing the plan (including any bylaws and trust agreements), the summary plan description, and other material describing the benefits that will be provided to participants and beneficiaries under the plan.

“(5) Agreements with service providers.—A copy of any agreements between the plan and contract administrators and other service providers.

“(6) Funding report.—In the case of association health plans providing benefits options in addition to health insurance coverage, a report setting forth information with respect to such additional benefit options determined as of a date within the 120-day period ending with the date of the application, including the following:

“(A) Reserves.—A statement, certified by the board of trustees of the plan, and a statement of actuarial opinion, signed by a qualified actuary, that all applicable requirements of section 806 are or will be met in accordance with regulations which the Secretary shall prescribe.

“(B) Adequacy of contribution rates.—A statement of actuarial opinion, signed by a qualified actuary, which sets forth a description of the extent to which contribution rates are adequate to provide for the payment of all obligations and the maintenance of required reserves under the plan for the 12-month period beginning with such date within such 120-day period, taking into account the expected coverage and experience of the plan. If the contribution rates are not fully adequate, the statement of actuarial opinion shall indicate the extent to which the rates are inadequate and the changes needed to ensure adequacy.

“(C) Current and projected value of assets and liabilities.—A statement of actuarial opinion signed by a qualified actuary, which sets forth the current value of the assets and liabilities accumulated under the plan and a projection of the assets, liabilities, income, and expenses of the plan for the 12-month period referred to in subparagraph (B). The income statement shall identify separately the plan's administrative expenses and claims.

“(D) Costs of coverage to be charged and other expenses.—A statement of the costs of coverage to be charged, including an itemization of amounts for administration, reserves, and other expenses associated with the operation of the plan.

“(E) Other information.—Any other information which may be prescribed in regulations of the Secretary as necessary to carry out the purposes of this part.

“(c) Filing Notice of Certification With States.—A certification granted under this part to an association health plan shall not be effective unless written notice of such certification is filed with the applicable State authority of each State in which at least 25 percent of the participants and beneficiaries under the plan are located. For purposes of this subsection, an individual shall be considered to be located in the State in which a known address of such individual is located or in which such individual is employed.

“(d) Notice of Material Changes.—In the case of any association health plan certified under this part, descriptions of material changes in any information which was required to be submitted with the application for the certification under this part shall be filed in such form and manner as shall be prescribed in regulations of the Secretary. The Secretary may require by regulation prior notice of material changes with respect to specified matters which might serve as the basis for suspension or revocation of the certification.

“(e) Reporting Requirements for Certain Association Health Plans.—An association health plan certified under this part which provides benefit options in addition to health insurance coverage for such plan year shall meet the requirements of section 103 by filing an annual report under such section which shall include information described in subsection (b)(6) with respect to the plan year and, notwithstanding section 104(a)(1)(A), shall be filed not later than 90 days after the close of the plan year (or on such later date as may be prescribed by the Secretary).

“(f) Engagement of Qualified Actuary.—The board of trustees of each association health plan which provides benefits options in addition to health insurance coverage and which is applying for certification under this part or is certified under this part shall engage, on behalf of all participants and beneficiaries, a qualified actuary who shall be responsible for the preparation of the materials comprising information necessary to be submitted by a qualified actuary under this part. The qualified actuary shall utilize such assumptions and techniques as are necessary to enable such actuary to form an opinion as to whether the contents of the matters reported under this part—

“(1) are in the aggregate reasonably related to the experience of the plan and to reasonable expectations, and

“(2) represent such actuary's best estimate of anticipated experience under the plan.

The opinion by the qualified actuary shall be made with respect to, and shall be made a part of, the annual report.

“SEC. 808. NOTICE REQUIREMENTS FOR VOLUNTARY TERMINATION.

“Except as provided in section 809(b), an association health plan which is or has been certified under this part may terminate (upon or at any time after cessation of accruals in benefit liabilities) only if the board of trustees—

“(1) not less than 60 days before the proposed termination date, provides to the participants and beneficiaries a written notice of intent to terminate stating that such termination is intended and the proposed termination date,

“(2) develops a plan for winding up the affairs of the plan in connection with such termination in a manner which will result in timely payment of all benefits for which the plan is obligated, and

“(3) submits such plan in writing to the Secretary.

Actions required under this section shall be taken in such form and manner as may be prescribed in regulations of the Secretary.

“SEC. 809. CORRECTIVE ACTIONS AND MANDATORY TERMINATION.

“(a) Actions To Avoid Depletion of Reserves.—An association health plan which is certified under this part and which provides benefits other than health insurance coverage shall continue to meet the requirements of section 806, irrespective of whether such certification continues in effect. The board of trustees of such plan shall determine quarterly whether the requirements of section 806 are met. In any case in which the board determines that there is reason to believe that there is or will be a failure to meet such requirements, or the Secretary makes such a determination and so notifies the board, the board shall immediately notify the qualified actuary engaged by the plan, and such actuary shall, not later than the end of the next following month, make such recommendations to the board for corrective action as the actuary determines necessary to ensure compliance with section 806. Not later than 30 days after receiving from the actuary recommendations for corrective actions, the board shall notify the Secretary (in such form and manner as the Secretary may prescribe by regulation) of such recommendations of the actuary for corrective action, together with a description of the actions (if any) that the board has taken or plans to take in response to such recommendations. The board shall thereafter report to the Secretary, in such form and frequency as the Secretary may specify to the board, regarding corrective action taken by the board until the requirements of section 806 are met.

“(b) Mandatory Termination.—In any case in which—

“(1) the Secretary has been notified under subsection (a) of a failure of an association health plan which is or has been certified under this part and is described in section 806(a)(2) to meet the requirements of section 806 and has not been notified by the board of trustees of the plan that corrective action has restored compliance with such requirements, and

“(2) the Secretary determines that there is a reasonable expectation that the plan will continue to fail to meet the requirements of section 806,

the board of trustees of the plan shall, at the direction of the Secretary, terminate the plan and, in the course of the termination, take such actions as the Secretary may require, including satisfying any claims referred to in section 806(a)(2)(B)(ii) and recovering for the plan any liability under subsection (a)(2)(B)(ii) or (e) of section 806, as necessary to ensure that the affairs of the plan will be, to the maximum extent possible, wound up in a manner which will result in timely provision of all benefits for which the plan is obligated.

“SEC. 810. SPECIAL RULES FOR CHURCH PLANS.

“(a) Election for Church Plans.—Notwithstanding section 4(b)(2), if a church, a convention or association of churches, or an organization described in section 3(33)(C)(i) maintains a church plan which is a group health plan (as defined in section 733(a)(1)), and such church, convention, association, or organization makes an election with respect to such plan under this subsection (in such form and manner as the Secretary may by regulation prescribe), then the provisions of this section shall apply to such plan, with respect to benefits provided under such plan consisting of medical care, as if section 4(b)(2) did not contain an exclusion for church plans. Nothing in this paragraph shall be construed to render any other section of this title applicable to church plans, except to the extent that such other section is incorporated by reference in this section.

“(b) EFFECT OF ELECTION.—

“(1) PREEMPTION OF STATE INSURANCE LAWS REGULATING COVERED CHURCH PLANS.—Subject to paragraphs (2) and (3), this section shall supersede any and all State laws which regulate insurance insofar as they may now or hereafter regulate church plans to which this section applies or trusts established under such church plans.

“(2) GENERAL STATE INSURANCE REGULATION UNAFFECTED.—

“(A) IN GENERAL.—Except as provided in subparagraph (B) and paragraph (3), nothing in this section shall be construed to exempt or relieve any person from any provision of State law which regulates insurance.

“(B) CHURCH PLANS NOT TO BE DEEMED INSURANCE COMPANIES OR INSURERS.—Neither a church plan to which this section applies, nor any trust established under such a church plan, shall be deemed to be an insurance company or other insurer or to be engaged in the business of insurance for purposes of any State law purporting to regulate insurance companies or insurance contracts.

“(3) PREEMPTION OF CERTAIN STATE LAWS RELATING TO PREMIUM RATE REGULATION AND BENEFIT MANDATES.—The provisions of subsections (a)(2)(B) and (b) of section 805 shall apply with respect to a church plan to which this section applies in the same manner and to the same extent as such provisions apply with respect to association health plans.

“(4) DEFINITIONS.—For purposes of this subsection—

“(A) STATE LAW.—The term ‘State law’ includes all laws, decisions, rules, regulations, or other State action having the effect of law, of any State. A law of the United States applicable only to the District of Columbia shall be treated as a State law rather than a law of the United States.

“(B) STATE.—The term ‘State’ includes a State, any political subdivision thereof, or any agency or instrumentality of either, which purports to regulate, directly or indirectly, the terms and conditions of church plans covered by this section.

“(c) REQUIREMENTS FOR COVERED CHURCH PLANS.—

“(1) FIDUCIARY RULES AND EXCLUSIVE PURPOSE.—A fiduciary shall discharge his duties with respect to a church plan to which this section applies—

“(A) for the exclusive purpose of:

“(i) providing benefits to participants and their beneficiaries; and

“(ii) defraying reasonable expenses of administering the plan;

“(B) with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims; and

“(C) in accordance with the documents and instruments governing the plan.

The requirements of this paragraph shall not be treated as not satisfied solely because the plan assets are commingled with other church assets, to the extent that such plan assets are separately accounted for.

“(2) CLAIMS PROCEDURE.—In accordance with regulations of the Secretary, every church plan to which this section applies shall—

“(A) provide adequate notice in writing to any participant or beneficiary whose claim for benefits under the plan has been denied, setting forth the specific reasons for such denial, written in a manner calculated to be understood by the participant;

“(B) afford a reasonable opportunity to any participant whose claim for benefits has been denied for a full and fair review by the appropriate fiduciary of the decision denying the claim; and

“(C) provide a written statement to each participant describing the procedures established pursuant to this paragraph.

“(3) ANNUAL STATEMENTS.—In accordance with regulations of the Secretary, every church plan to which this section applies shall file with the Secretary an annual statement—

“(A) stating the names and addresses of the plan and of the church, convention, or association maintaining the plan (and its principal place of business);

“(B) certifying that it is a church plan to which this section applies and that it complies with the requirements of paragraphs (1) and (2);

“(C) identifying the States in which participants and beneficiaries under the plan are or likely will be located during the 1-year period covered by the statement; and

“(D) containing a copy of a statement of actuarial opinion signed by a qualified actuary that the plan maintains capital, reserves, insurance, other financial arrangements, or any combination thereof adequate to enable the plan to fully meet all of its financial obligations on a timely basis.

“(4) DISCLOSURE.—At the time that the annual statement is filed by a church plan with the Secretary pursuant to paragraph (3), a copy of such statement shall be made available by the Secretary to the State insurance commissioner (or similar official) of any State. The name of each church plan and sponsoring organization filing an annual statement in compliance with paragraph (3) shall be published annually in the Federal Register.

“(c) ENFORCEMENT.—The Secretary may enforce the provisions of this section in a manner consistent with section 502, to the extent applicable with respect to actions under section 502(a)(5), and with section 3(33)(D), except that, other than for the purpose of seeking a temporary restraining order, a civil action may be brought with respect to the plan's failure to meet any requirement of this section only if the plan fails to correct its failure within the correction period described in section 3(33)(D). The other provisions of part 5 (except sections 501(a), 503, 512, 514, and 515) shall apply with respect to the enforcement and administration of this section.

“(d) DEFINITIONS AND OTHER RULES.—For purposes of this section—

“(1) IN GENERAL.—Except as otherwise provided in this section, any term used in this section which is defined in any provision of this title shall have the definition provided such term by such provision.

“(2) SEMINARY STUDENTS.—Seminary students who are enrolled in an institution of higher learning described in section 3(33)(C)(iv) and who are treated as participants under the terms of a church plan to which this section applies shall be deemed to be employees as defined in section 3(6) if the number of such students constitutes an insignificant portion of the total number of individuals who are treated as participants under the terms of the plan.

“SEC. 811. DEFINITIONS AND RULES OF CONSTRUCTION.

“(a) DEFINITIONS.—For purposes of this part—

“(1) GROUP HEALTH PLAN.—The term ‘group health plan’ has the meaning provided in section 733(a)(1).

“(2) MEDICAL CARE.—The term ‘medical care’ has the meaning provided in section 733(a)(2).

“(3) HEALTH INSURANCE COVERAGE.—The term ‘health insurance coverage’ has the meaning provided in section 733(b)(1).

“(4) HEALTH INSURANCE ISSUER.—The term ‘health insurance issuer’ has the meaning provided in section 733(b)(2).

“(5) HEALTH STATUS-RELATED FACTOR.—The term ‘health status-related factor’ has the meaning provided in section 733(d)(2).

“(6) INDIVIDUAL MARKET.—

“(A) IN GENERAL.—The term ‘individual market’ means the market for health insurance coverage offered to individuals other than in connection with a group health plan.

“(B) TREATMENT OF VERY SMALL GROUPS.—

“(i) IN GENERAL.—Subject to clause (ii), such term includes coverage offered in connection with a group health plan that has fewer than 2 participants as current employees or participants described in section 732(d)(3) on the first day of the plan year.

“(ii) STATE EXCEPTION.—Clause (i) shall not apply in the case of health insurance coverage offered in a State if such State regulates the coverage described in such clause in the same manner and to the same extent as coverage in the small group market (as defined in section 2791(e)(5) of the Public Health Service Act) is regulated by such State.

“(7) PARTICIPATING EMPLOYER.—The term ‘participating employer’ means, in connection with an association health plan, any employer, if any individual who is an employee of such employer, a partner in such employer, or a self-employed individual who is such employer (or any dependent, as defined under the terms of the plan, of such individual) is or was covered under such plan in connection with the status of such individual as such an employee, partner, or self-employed individual in relation to the plan.

“(8) APPLICABLE STATE AUTHORITY.—The term ‘applicable State authority’ means, with respect to a health insurance issuer in a State, the State insurance commissioner or official or officials designated by the State to enforce the requirements of title XXVII of the Public Health Service Act for the State involved with respect to such issuer.

“(9) QUALIFIED ACTUARY.—The term ‘qualified actuary’ means an individual who is a member of the American Academy of Actuaries or meets such reasonable standards and qualifications as the Secretary may provide by regulation.

“(10) AFFILIATED MEMBER.—The term ‘affiliated member’ means, in connection with a sponsor, a person eligible to be a member of the sponsor or, in the case of a sponsor with member associations, a person who is a member, or is eligible to be a member, of a member association.

“(b) RULES OF CONSTRUCTION.—

“(1) EMPLOYERS AND EMPLOYEES.—For purposes of determining whether a plan, fund, or program is an employee welfare benefit plan which is an association health plan, and for purposes of applying this title in connection with such plan, fund, or program so determined to be such an employee welfare benefit plan—

"(A) in the case of a partnership, the term 'employer' (as defined in section (3)(5)) includes the partnership in relation to the partners, and the term 'employee' (as defined in section (3)(6)) includes any partner in relation to the partnership, and

"(B) in the case of a self-employed individual, the term 'employer' (as defined in section 3(5)) and the term 'employee' (as defined in section 3(6)) shall include such individual.

"(2) PLANS, FUNDS, AND PROGRAMS TREATED AS EMPLOYEE WELFARE BENEFIT PLANS.—In the case of any plan, fund, or program which was established or is maintained for the purpose of providing medical care (through the purchase of insurance or otherwise) for employees (or their dependents) covered thereunder and which demonstrates to the Secretary that all requirements for certification under this part would be met with respect to such plan, fund, or program if such plan, fund, or program were a group health plan, such plan, fund, or program shall be treated for purposes of this title as an employee welfare benefit plan on and after the date of such demonstration.".

(b) CONFORMING AMENDMENTS TO PREEMPTION RULES.—

(1) Section 514(b)(6) of such Act (29 U.S.C. 1144(b)(6)) is amended by adding at the end the following new subparagraph:

"(E) The preceding subparagraphs of this paragraph do not apply with respect to any State law in the case of an association health plan which is certified under part 8.".

(2) Section 514 of such Act (29 U.S.C. 1144) is amended—

(A) in subsection (b)(4), by striking "Subsection (a)" and inserting "Subsections (a) and (d)";

(B) in subsection (b)(5), by striking "subsection (a)" in subparagraph (A) and inserting "subsection (a) of this section and subsections (a)(2)(B) and (b) of section 805", and by striking "subsection (a)" in subparagraph (B) and inserting "subsection (a) of this section or subsection (a)(2)(B) or (b) of section 805";

(C) by redesignating subsection (d) as subsection (e); and

(D) by inserting after subsection (c) the following new subsection:

"(d)(1) Except as provided in subsection (b)(4), the provisions of this title shall supersede any and all State laws insofar as they may now or hereafter preclude a health insurance issuer from offering health insurance coverage in connection with an association health plan which is certified under part 8.

"(2) Except as provided in paragraphs (4) and (5) of subsection (b) of this section—

"(A) In any case in which health insurance coverage of any policy type is offered under an association health plan certified under part 8 to a participating employer operating in such State, the provisions of this title shall supersede any and all laws of such State insofar as they may preclude a health insurance issuer from offering health insurance coverage of the same policy type to other employers operating in the State which are eligible for coverage under such association health plan, whether or not such other employers are participating employers in such plan.

"(B) In any case in which health insurance coverage of any policy type is offered under an association health plan in a State and the filing, with the applicable State authority, of the policy form in connection with such policy type is approved by such State authority, the provisions of this title shall supersede any and all laws of any other State in which health insurance coverage of such type is offered, insofar as they may preclude, upon the filing in the same form and manner of such policy form with the applicable State authority in such other State, the approval of the filing in such other State.

"(3) For additional provisions relating to association health plans, see subsections (a)(2)(B) and (b) of section 805.

"(4) For purposes of this subsection, the term 'association health plan' has the meaning provided in section 801(a), and the terms 'health insurance coverage', 'participating employer', and 'health insurance issuer' have the meanings provided such terms in section 811, respectively.".

(3) Section 514(b)(6)(A) of such Act (29 U.S.C. 1144(b)(6)(A)) is amended—

(A) in clause (i)(II), by striking "and" at the end;

(B) in clause (ii), by inserting "and which does not provide medical care (within the meaning of section 733(a)(2))," after "arrangement,", and by striking "title." and inserting "title, and"; and

(C) by adding at the end the following new clause:

"(iii) subject to subparagraph (E), in the case of any other employee welfare benefit plan which is a multiple employer welfare arrangement and which provides medical care (within the meaning of section 733(a)(2)), any law of any State which regulates insurance may apply.".

(c) PLAN SPONSOR.—Section 3(16)(B) of such Act (29 U.S.C. 102(16)(B)) is amended by adding at the end the following new sentence: "Such term also includes a person serving as the sponsor of an association health plan under part 8.".

(d) SAVINGS CLAUSE.—Section 731(c) of such Act is amended by inserting "or part 8" after "this part".

(e) CLERICAL AMENDMENT.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 is amended by inserting after the item relating to section 734 the following new items:

"PART 8—RULES GOVERNING ASSOCIATION HEALTH PLANS

"Sec. 801. Association health plans.
"Sec. 802. Certification of association health plans.
"Sec. 803. Requirements relating to sponsors and boards of trustees.
"Sec. 804. Participation and coverage requirements.
"Sec. 805. Other requirements relating to plan documents, contribution rates, and benefit options.
"Sec. 806. Maintenance of reserves and provisions for solvency for plans providing health benefits in addition to health insurance coverage.
"Sec. 807. Requirements for application and related requirements.
"Sec. 808. Notice requirements for voluntary termination.
"Sec. 809. Corrective actions and mandatory termination.
"Sec. 810. Special rules for church plans.
"Sec. 811. Definitions and rules of construction.".

SEC. 5303. CLARIFICATION OF TREATMENT OF SINGLE EMPLOYER ARRANGEMENTS.

Section 3(40)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(40)(B)) is amended—

(1) in clause (i), by inserting "for any plan year of any such plan, or any fiscal year of any such other arrangement;" after "single employer", and by inserting "during such year or at any time during the preceding 1-year period" after "control group";

(2) in clause (iii)—

(A) by striking "common control shall not be based on an interest of less than 25 percent" and inserting "an interest of greater than 25 percent may not be required as the minimum interest necessary for common control"; and

(B) by striking "similar to" and inserting "consistent and coextensive with";

(3) by redesignating clauses (iv) and (v) as clauses (v) and (vi), respectively; and

(4) by inserting after clause (iii) the following new clause:

"(iv) in determining, after the application of clause (i), whether benefits are provided to employees of two or more employers, the arrangement shall be treated as having only 1 participating employer if, after the application of clause (i), the number of individuals who are employees and former employees of any one participating employer and who are covered under the arrangement is greater than 75 percent of the aggregate number of all individuals who are employees or former employees of participating employers and who are covered under the arrangement,".

SEC. 5304. CLARIFICATION OF TREATMENT OF CERTAIN COLLECTIVELY BARGAINED ARRANGEMENTS.

(a) IN GENERAL.—Section 3(40)(A)(i) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(40)(A)(i)) is amended to read as follows:

"(i)(I) under or pursuant to one or more collective bargaining agreements which are reached pursuant to collective bargaining described in section 8(d) of the National Labor Relations Act (29 U.S.C. 158(d)) or paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152, paragraph Fourth) or which are reached pursuant to labor-management negotiations under similar provisions of State public employee relations laws, and (II) in accordance with subparagraphs (C), (D), and (E),".

(b) LIMITATIONS.—Section 3(40) of such Act (29 U.S.C. 1002(40)) is amended by adding at the end the following new subparagraphs:

"(C) For purposes of subparagraph (A)(i)(II), a plan or other arrangement shall be treated as established or maintained in accordance with this subparagraph only if the following requirements are met:

"(i) The plan or other arrangement, and the employee organization or any other entity sponsoring the plan or other arrangement, do not—

"(I) utilize the services of any licensed insurance agent or broker for soliciting or enrolling employers or individuals as participating employers or covered individuals under the plan or other arrangement; or

"(II) pay a commission or any other type of compensation to a person, other than a full time employee of the employee organization (or a member of the organization to the extent provided in regulations of the Secretary), that is related either to the volume or number of employers or individuals solicited or enrolled as participating employers or covered individuals under the plan or other arrangement, or to the dollar amount or size of the contributions made by participating employers or covered individuals to the plan or other arrangement;

except to the extent that the services used by the plan, arrangement, organization, or other entity consist solely of preparation of documents necessary for compliance with the reporting and disclosure requirements of part 1 or administrative, investment, or consulting services unrelated to solicitation or enrollment of covered individuals.

"(ii) As of the end of the preceding plan year, the number of covered individuals under the plan or other arrangement who are identified to the plan or arrangement and who are neither—

"(I) employed within a bargaining unit covered by any of the collective bargaining agreements with a participating employer (nor covered on the basis of an individual's employment in such a bargaining unit); nor

"(II) present employees (or former employees who were covered while employed) of the sponsoring employee organization, of an employer who is or was a party to any of the collective bargaining agreements, or of the plan or other arrangement or a related plan or arrangement (nor covered on the basis of such present or former employment);

does not exceed 15 percent of the total number of individuals who are covered under the plan or arrangement and who are present or former employees who are or were covered under the plan or arrangement pursuant to a collective bargaining agreement with a participating employer. The requirements of the preceding provisions of this clause shall be treated as satisfied if, as of the end of the preceding plan year, such covered individuals are comprised solely of individuals who were covered individuals under the plan or other arrangement as of the date of the enactment of the Expansion of Portability and Health Insurance Coverage Act of 1997 and, as of the end of the preceding plan year, the number of such covered individuals does not exceed 25 percent of the total number of present and former employees enrolled under the plan or other arrangement.

"(iii) The employee organization or other entity sponsoring the plan or other arrangement certifies to the Secretary each year, in a form and manner which shall be prescribed in regulations of the Secretary that the plan or other arrangement meets the requirements of clauses (i) and (ii).

"(D) For purposes of subparagraph (A)(i)(II), a plan or arrangement shall be treated as established or maintained in accordance with this subparagraph only if—

"(i) all of the benefits provided under the plan or arrangement consist of health insurance coverage; or

"(ii)(I) the plan or arrangement is a multiemployer plan; and

"(II) the requirements of clause (B) of the proviso to clause (5) of section 302(c) of the Labor Management Relations Act, 1947 (29 U.S.C. 186(c)) are met with respect to such plan or other arrangement.

"(E) For purposes of subparagraph (A)(i)(II), a plan or arrangement shall be treated as established or maintained in accordance with this subparagraph only if—

"(i) the plan or arrangement is in effect as of the date of the enactment of the Expansion of Portability and Health Insurance Coverage Act of 1997, or

"(ii) the employee organization or other entity sponsoring the plan or arrangement—

"(I) has been in existence for at least 3 years or is affiliated with another employee organization which has been in existence for at least 3 years, or

"(II) demonstrates to the satisfaction of the Secretary that the requirements of subparagraphs (C) and (D) are met with respect to the plan or other arrangement.".

(c) Conforming Amendments to Definitions of Participant and Beneficiary.—Section 3(7) of such Act (29 U.S.C. 1002(7)) is amended by adding at the end the following new sentence: "Such term includes an individual who is a covered individual described in paragraph (40)(C)(ii).".

SEC. 5305. ENFORCEMENT PROVISIONS RELATING TO ASSOCIATION HEALTH PLANS.

(a) Criminal Penalties for Certain Willful Misrepresentations.—Section 501 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1131) is amended—

(1) by inserting "(a)" after "Sec. 501."; and

(2) by adding at the end the following new subsection:

"(b) Any person who, either willfully or with willful blindness, falsely represents, to any employee, any employee's beneficiary, any employer, the Secretary, or any State, a plan or other arrangement established or maintained for the purpose of offering or providing any benefit described in section 3(1) to employees or their beneficiaries as—

"(1) being an association health plan which has been certified under part 8;

"(2) having been established or maintained under or pursuant to one or more collective bargaining agreements which are reached pursuant to collective bargaining described in section 8(d) of the National Labor Relations Act (29 U.S.C. 158(d)) or paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152, paragraph Fourth) or which are reached pursuant to labor-management negotiations under similar provisions of State public employee relations laws; or

"(3) being a plan or arrangement with respect to which the requirements of subparagraph (C), (D), or (E) of section 3(40) are met;

shall, upon conviction, be imprisoned not more than five years, be fined under title 18, United States Code, or both.".

(b) Cease Activities Orders.—Section 502 of such Act (29 U.S.C. 1132) is amended by adding at the end the following new subsection:

"(n)(1) Subject to paragraph (2), upon application by the Secretary showing the operation, promotion, or marketing of an association health plan (or similar arrangement providing benefits consisting of medical care (as defined in section 733(a)(2))) that—

"(A) is not certified under part 8, is subject under section 514(b)(6) to the insurance laws of any State in which the plan or arrangement offers or provides benefits, and is not licensed, registered, or otherwise approved under the insurance laws of such State; or

"(B) is an association health plan certified under part 8 and is not operating in accordance with the requirements under part 8 for such certification,

a district court of the United States shall enter an order requiring that the plan or arrangement cease activities.

"(2) Paragraph (1) shall not apply in the case of an association health plan or other arrangement if the plan or arrangement shows that—

"(A) all benefits under it referred to in paragraph (1) consist of health insurance coverage; and

"(B) with respect to each State in which the plan or arrangement offers or provides benefits, the plan or arrangement is operating in accordance with applicable State laws that are not superseded under section 514.

"(3) The court may grant such additional equitable relief, including any relief available under this title, as it deems necessary to protect the interests of the public and of persons having claims for benefits against the plan.".

(c) Responsibility for Claims Procedure.—Section 503 of such Act (29 U.S.C. 1133) is amended by adding at the end (after and below paragraph (2)) the following new sentence:

"The terms of each association health plan which is or has been certified under part 8 shall require the board of trustees or the named fiduciary (as applicable) to ensure that the requirements of this section are met in connection with claims filed under the plan.".

SEC. 5306. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES.

Section 506 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1136) is amended by adding at the end the following new subsection:

"(c) Responsibility of States With Respect to Association Health Plans.—

"(1) Agreements with states.—A State may enter into an agreement with the Secretary for delegation to the State of some or all of the Secretary's authority under sections 502 and 504 to enforce the requirements for certification under part 8. The Secretary shall enter into the agreement if the Secretary determines that the delegation provided for therein would not result in a lower level or quality of enforcement of the provisions of this title.

"(2) Delegations.—Any department, agency, or instrumentality of a State to which authority is delegated pursuant to an agreement entered into under this paragraph may, if authorized under State law and to the extent consistent with such agreement, exercise the powers of the Secretary under this title which relate to such authority.

"(3) Recognition of primary domicile state.—In entering into any agreement with a State under subparagraph (A), the Secretary shall ensure that, as a result of such agreement and all other agreements entered into under subparagraph (A), only one State will be recognized, with respect to any particular association health plan, as the primary domicile State to which authority has been delegated pursuant to such agreements.".

SEC. 5307. EFFECTIVE DATE AND TRANSITIONAL RULES.

(a) Effective Date.—The amendments made by sections 5302, 5305, and 5306 shall take effect on January 1, 1999. The amendments made by sections 5303 and 5304 shall take effect on the date of the enactment of this Act. The Secretary of Labor shall issue all regulations necessary to carry out the amendments made by this Act before January 1, 1999.

(b) Exception.—Section 801(a)(2) of the Employee Retirement Income Security Act of 1974 (added by section 5302) does not apply with respect to group health plans (as defined in section 733(a)(1) of such Act) existing on April 1, 1997, which do not provide health insurance coverage (as defined in section 733(b)(1) of such Act) on such date.

TITLE VI—COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

Subtitle A—Postal Service

SEC. 6001. REPEAL OF AUTHORIZATION OF TRANSITIONAL APPROPRIATIONS FOR THE UNITED STATES POSTAL SERVICE.

(a) Repeal.—

(1) In general.—Section 2004 of title 39, United States Code, is repealed.

(2) Technical and conforming amendments.—

(A) The table of sections for chapter 20 of such title is amended by repealing the item relating to section 2004.

(B) Section 2003(e)(2) of such title is amended by striking "sections 2401 and 2004" each place it appears and inserting "section 2401".

(b) CLARIFICATION THAT LIABILITIES FORMERLY PAID PURSUANT TO SECTION 2004 REMAIN LIABILITIES PAYABLE BY THE POSTAL SERVICE.—Section 2003 of title 39, United States Code, is amended by adding at the end the following:

"(h) Liabilities of the former Post Office Department to the Employees' Compensation Fund (appropriations for which were authorized by former section 2004, as in effect before the effective date of this subsection) shall be liabilities of the Postal Service payable out of the Fund.".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—This section and the amendments made by this section shall take effect on the date of the enactment of this Act or October 1, 1997, whichever is later.

(2) PROVISIONS RELATING TO PAYMENTS FOR FISCAL YEAR 1998.—

(A) AMOUNTS NOT YET PAID.—No payment may be made to the Postal Service Fund, on or after the date of the enactment of this Act, pursuant to any appropriation for fiscal year 1998 authorized by section 2004 of title 39, United States Code (as in effect before the effective date of this section).

(B) AMOUNTS PAID.—If any payment to the Postal Service Fund is or has been made pursuant to an appropriation for fiscal year 1998 authorized by such section 2004, then, an amount equal to the amount of such payment shall be paid from such Fund into the Treasury as miscellaneous receipts before October 1, 1998.

Subtitle B—Civil Service

SEC. 6101. CONTRIBUTIONS UNDER THE CIVIL SERVICE RETIREMENT SYSTEM.

(a) INDIVIDUAL CONTRIBUTIONS.—

(1) IN GENERAL.—Subsection (c) of section 8334 of title 5, United States Code, is amended to read as follows:

"(c) Each employee or Member credited with civilian service after July 31, 1920, for which retirement deductions or deposits have not been made, may deposit with interest an amount equal to the following percentages of his basic pay received for that service:

	"Percentage of basic pay	Service period
Employee	2.50	August 1, 1920, to June 30, 1926.
	3.50	July 1, 1926, to June 30, 1942.
	5	July 1, 1942, to June 30, 1948.
	6	July 1, 1948, to October 31, 1956.
	6.50	November 1, 1956, to December 31, 1969.
	7	January 1, 1970, to December 31, 1998.
	7.25	January 1, 1999, to December 31, 1999.
	7.40	January 1, 2000, to December 31, 2000.
	7.50	January 1, 2001, to December 31, 2002.
	7	After December 31, 2002.
Member or employee for Congressional employee service	2.50	August 1, 1920, to June 30, 1926.
	3.50	July 1, 1926, to June 30, 1942.
	5	July 1, 1942, to June 30, 1948.
	6	July 1, 1948, to October 31, 1956.
	6.50	November 1, 1956, to December 31, 1969.
	7.50	January 1, 1970, to December 31, 1998.
	7.75	January 1, 1999, to December 31, 1999.
	7.90	January 1, 2000, to December 31, 2000.
	8	January 1, 2001, to December 31, 2002.
	7.50	After December 31, 2002.
Member for Member service	2.50	August 1, 1920, to June 30, 1926.
	3.50	July 1, 1926, to June 30, 1942.
	5	July 1, 1942, to August 1, 1946.
	6	August 2, 1946, to October 31, 1956.
	7.50	November 1, 1956, to December 31, 1969.
	8	January 1, 1970, to December 31, 1998.
	8.25	January 1, 1999, to December 31, 1999.
	8.40	January 1, 2000, to December 31, 2000.
	8.50	January 1, 2001, to December 31, 2002.
	8	After December 31, 2002.
Law enforcement officer for law enforcement service and firefighter for firefighter service	2.50	August 1, 1920, to June 30, 1926.
	3.50	July 1, 1926, to June 30, 1942.
	5	July 1, 1942, to June 30, 1948.
	6	July 1, 1948, to October 31, 1956.
	6.50	November 1, 1956, to December 31, 1969.
	7	January 1, 1970, to December 31, 1974.
	7.50	January 1, 1975, to December 31, 1998.
	7.75	January 1, 1999, to December 31, 1999.
	7.90	January 1, 2000, to December 31, 2000.
	8	January 1, 2001, to December 31, 2002.
	7.50	After December 31, 2002.
Bankruptcy judge	2.50	August 1, 1920, to June 30, 1926.
	3.50	July 3, 1926, to June 30, 1942.
	5	July 1, 1942, to June 30, 1948.
	6	July 1, 1948, to October 31, 1956.
	6.50	November 1, 1956, to December 31, 1969.
	7	January 1, 1970, to December 31, 1983.
	8	January 1, 1984, to December 31, 1998.
	8.25	January 1, 1999, to December 31, 1999.
	8.40	January 1, 2000, to December 31, 2000.
	8.50	January 1, 2001, to December 31, 2002.
	8	After December 31, 2002.
Judge of the United States Court of Appeals for the Armed Forces for service as a judge of that court	6	May 5, 1950, to October 31, 1956.
	6.50	November 1, 1956, to December 31, 1969.
	7	January 1, 1970, to (but not including) the date of the enactment of the Department of Defense Authorization Act, 1984.
	8	The date of the enactment of the Department of Defense Authorization Act, 1984, to December 31, 1998.
	8.25	January 1, 1999, to December 31, 1999.
	8.40	January 1, 2000, to December 31, 2000.
	8.50	January 1, 2001, to December 31, 2002.
	8	After December 31, 2002.
United States magistrate	2.50	August 1, 1920, to June 30, 1926.
	3.50	July 1, 1926, to June 30, 1942.
	5	July 1, 1942, to June 30, 1948.
	6	July 1, 1948, to October 31, 1956.
	6.50	November 1, 1956, to December 31, 1969.
	7	January 1, 1970, to September 30, 1987.
	8	October 1, 1987, to December 31, 1998.
	8.25	January 1, 1999, to December 31, 1999.
	8.40	January 1, 2000, to December 31, 2000.
	8.50	January 1, 2001, to December 31, 2002.
	8	After December 31, 2002.
Claims Court Judge	2.50	August 1, 1920, to June 30, 1926.
	3.50	July 1, 1926, to June 30, 1942.
	5	July 1, 1942, to June 30, 1948.
	6	July 1, 1948, to October 31, 1956.
	6.50	November 1, 1956, to December 31, 1969.
	7	January 1, 1970, to September 30, 1988.
	8	October 1, 1988, to December 31, 1998.
	8.25	January 1, 1999, to December 31, 1999.
	8.40	January 1, 2000, to December 31, 2000.

"Percentage of basic pay	Service period
8.50	January 1, 2001, to December 31, 2002.
8	After December 31, 2002.

Notwithstanding the preceding provisions of this subsection and any provision of section 206(b)(3) of the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983, the percentage of basic pay required under this subsection in the case of an individual described in section 8402(b)(2) shall, with respect to any covered service (as defined by section 203(a)(3) of such Act) performed by such individual after December 31, 1983, and before January 1, 1987, be equal to 1.3 percent, and, with respect to any such service performed after December 31, 1986, be equal to the amount that would have been deducted from the employee's basic pay under subsection (k) of this section if the employee's pay had been subject to that subsection during such period.".

(2) DEDUCTIONS.—The first sentence of section 8334(a)(1) of title 5, United States Code, is amended to read as follows: "The employing agency shall deduct and withhold from the basic pay of an employee, Member, Congressional employee, law enforcement officer, firefighter, bankruptcy judge, judge of the United States Court of Appeals for the Armed Forces, United States magistrate, or Claims Court judge, as the case may be, the percentage of basic pay applicable under subsection (c).".

(3) OTHER SERVICE.—

(A) MILITARY SERVICE.—Section 8334(j) of title 5, United States Code, is amended—

(i) in paragraph (1)(A) by inserting "and subject to paragraph (5)," after "Except as provided in subparagraph (B),"; and

(ii) by adding at the end the following:

"(5) Effective with respect to any period of military service performed after December 31, 1998, and before January 1, 2003, the percentage of basic pay under section 204 of title 37 payable under paragraph (1) shall be equal to the same percentage as would be applicable under section 8334(c) for that same period for service as an 'employee', subject to paragraph (1)(B).".

(B) VOLUNTEER SERVICE.—Section 8334(l) of title 5, United States Code, is amended—

(i) in paragraph (1) by striking the period at the end and inserting ", subject to paragraph (4)."; and

(ii) by adding at the end the following:

"(4) Effective with respect to any period of service as a volunteer or volunteer leader performed after December 31, 1998, and before January 1, 2003, the percentage of the readjustment allowance or stipend (as the case may be) payable under paragraph (1) shall be equal to the same percentage as would be applicable under section 8334(c) for that same period for service as an 'employee'.".

(b) GOVERNMENT CONTRIBUTIONS.—

(1) IN GENERAL.—Section 8334 of title 5, United States Code, is amended by adding at the end the following:

"(m)(1) This subsection shall govern for purposes of determining the amount to be contributed under the second sentence of subsection (a)(1) with respect to any service—

"(A) which is performed after September 30, 1997, and before January 1, 2003; and

"(B) as to which a contribution under such sentence would otherwise be payable.

"(2) The amount of the contribution required under the second sentence of subsection (a)(1) with respect to any service described in paragraph (1) shall (instead of the amount which would otherwise apply under such sentence) be equal to the amount of basic pay received for such service by the employee or Member involved, multiplied by the percentage under paragraph (3).

"(3)(A) The percentage under this paragraph is, with respect to any service, equal to the sum of—

"(i) the percentage which would have been applicable under subsection (c), with respect to such service, if it had been performed in fiscal year 1997, plus

"(ii) the applicable percentage under subparagraph (B).

"(B) The applicable percentage under this subparagraph is, with respect to service performed—

"(i) after September 30, 1997, and before October 1, 2002, 1.51 percent; or

"(ii) after September 30, 2002, and before January 1, 2003, 0 percent.

"(4) An amount determined under this subsection with respect to any period of service shall, for purposes of subsection (k)(1)(B) (and any other provision of law which similarly refers to contributions under the second sentence of subsection (a)(1)), be treated as the amount required under such sentence with respect to such service.

"(5)(A) Notwithstanding paragraphs (1) through (4), the amount to be contributed by the Postal Service by reason of the second sentence of subsection (a)(1) with respect to any service performed by an officer or employee of the Postal Service during the period described in subparagraph (A) of paragraph (1) shall be determined as if section 6101 of the Balanced Budget Act of 1997 had never been enacted.

"(B) For purposes of this paragraph, the term 'Postal Service' means the United States Postal Service and the Postal Rate Commission.".

(2) CONFORMING AMENDMENT.—The second sentence of section 8334(a)(1) of title 5, United States Code, is amended by striking the period and inserting ", subject to subsection (m).".

SEC. 6102. CONTRIBUTIONS UNDER THE FEDERAL EMPLOYEES' RETIREMENT SYSTEM.

(a) INDIVIDUAL CONTRIBUTIONS.—

(1) IN GENERAL.—Subsection (a) of section 8422 of title 5, United States Code, is amended—

(A) in paragraph (1) by striking "paragraph (2)." and inserting "paragraph (2) or (3), as applicable.";

(B) in paragraph (2) by striking "The applicable" and inserting "Subject to paragraph (3), the applicable"; and

(C) by adding at the end the following:

"(3)(A) The applicable percentage under this subsection shall, for purposes of service performed after December 31, 1998, and before January 1, 2003, be equal to—

"(i) the applicable percentage under subparagraph (B), minus

"(ii) the percentage then in effect under section 3101(a) of the Internal Revenue Code of 1986 (relating to rate of tax for old-age, survivors, and disability insurance).

"(B) The applicable percentage under this subparagraph shall be as follows:

	"Percentage of basic pay	Service period
Employee	7.25	January 1, 1999, to December 31, 1999.
	7.40	January 1, 2000, to December 31, 2000.
	7.50	January 1, 2001, to December 31, 2002.
Congressional employee	7.75	January 1, 1999, to December 31, 1999.
	7.90	January 1, 2000, to December 31, 2000.
	8	January 1, 2001, to December 31, 2002.
Member	7.75	January 1, 1999, to December 31, 1999.
	7.90	January 1, 2000, to December 31, 2000.
	8	January 1, 2001, to December 31, 2002.
Law enforcement officer	7.75	January 1, 1999, to December 31, 1999.
	7.90	January 1, 2000, to December 31, 2000.
	8	January 1, 2001, to December 31, 2002.
Firefighter	7.75	January 1, 1999, to December 31, 1999.
	7.90	January 1, 2000, to December 31, 2000.
	8	January 1, 2001, to December 31, 2002.
Air traffic controller	7.75	January 1, 1999, to December 31, 1999.
	7.90	January 1, 2000, to December 31, 2000.
	8	January 1, 2001, to December 31, 2002.".

(2) OTHER SERVICE.—

(A) MILITARY SERVICE.—Section 8422(e) of title 5, United States Code, is amended—

(i) in paragraph (1)(A) by inserting "and subject to paragraph (5)," after "Except as provided in subparagraph (B),"; and

(ii) by adding at the end the following:

"(5) Effective with respect to any period of military service performed after December 31, 1998, and before January 1, 2003, the percentage of basic pay under section 204 of title 37 payable under paragraph (1) shall be equal to the sum of the percentage specified in paragraph (1), plus—

"(A) .25 percent, if performed after December 31, 1998, and before January 1, 2000;

"(B) .40 percent, if performed after December 31, 1999, and before January 1, 2001;

"(C) .50 percent, if performed after December 31, 2000, and before January 1, 2003.".

(B) VOLUNTEER SERVICE.—Section 8422(f) of title 5, United States Code, is amended—

(i) in paragraph (1) by striking the period at the end and inserting ", subject to paragraph (4)."; and

(ii) by adding at the end the following:

"(4) Effective with respect to any period of service as a volunteer or volunteer leader performed after December 31, 1998, and before January 1, 2003, the percentage of the readjustment allowance or stipend (as the case may be) payable under paragraph (1) shall be equal to the sum of the percentage specified in paragraph (1), plus—

"(A) .25 percent, if performed after December 31, 1998, and before January 1, 2000;

"(B) .40 percent, if performed after December 31, 1999, and before January 1, 2001;

"(C) .50 percent, if performed after December 31, 2000, and before January 1, 2003.".

(b) GOVERNMENT CONTRIBUTIONS.—

(1) IN GENERAL.—Section 8423 of title 5, United States Code, is amended by adding at the end the following:

"(d)(1) This subsection shall govern for purposes of determining the amount to be contributed by an employing agency for any period (or portion thereof)—

"(A) which is occurs after September 30, 1997, and before January 1, 2003; and

"(B) as to which a contribution under subsection (a) would otherwise be payable by such agency.

"(2) The amount of the contribution required under subsection (a) with respect to any period (or portion thereof) described in paragraph (1) shall (instead of the amount which would otherwise apply) be equal to the amount which would be required under subsection (a) if section 6102(a) of the Balanced Budget Act of 1997 had never been enacted.".

(2) CONFORMING AMENDMENT.—Section 8423(a)(1) of title 5, United States Code, is amended by striking "Each" and inserting "Subject to subsection (d), each".

SEC. 6103. GOVERNMENT CONTRIBUTION FOR HEALTH BENEFITS.

(a) IN GENERAL.—Section 8906 of title 5, United States Code, is amended by striking subsection (a) and all that follows through the end of paragraph (1) of subsection (b) and inserting the following:

"(a)(1) The Office of Personnel Management shall, not later than October 1 of each year, determine the weighted average of the subscription charges that will be in effect during the following contract year with respect to—

"(A) enrollments under this chapter for self alone; and

"(B) enrollments under this chapter for self and family.

"(2) In determining each weighted average under paragraph (1), the weight to be given to a particular subscription charge shall, with respect to each plan (and option) to which it is to apply, be commensurate with the number of enrollees enrolled in such plan (and option) as of March 31 of the year in which the determination is being made.

"(3) For purposes of paragraph (2), the term 'enrollee' means any individual who, during the contract year for which the weighted average is to be used under this section, will be eligible for a Government contribution for health benefits.

"(b)(1) Except as provided in paragraphs (2) and (3), the biweekly Government contribution for health benefits for an employee or annuitant enrolled in a health benefits plan under this chapter is adjusted to an amount equal to 72 percent of the weighted average under subsection (a)(1)(A) or (B), as applicable. For an employee, the adjustment begins on the first day of the employee's first pay period of each year. For an annuitant, the adjustment begins on the first day of the first period of each year for which an annuity payment is made.".

(b) EFFECTIVE DATE.—This section and the amendment made by this section shall take effect on the first day of the contract year that begins in 1999, except that nothing in this subsection shall prevent the Office of Personnel Management from taking any action, before such first day, which it considers necessary in order to ensure the timely implementation of such amendment.

SEC. 6104. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in section 6103, this subtitle shall take effect on—

(1) October 1, 1997; or

(2) if later, the date of the enactment of this Act.

(b) SPECIAL RULE.—If the date of the enactment of this Act is later than October 1, 1997, then, for purposes of applying the amendments made by sections 6101 and 6102—

(1) any reference in any such amendment to "September 30, 1997" shall be treated as referring to the day before the date of the enactment of this Act; and

(2) any reference in any such amendment to "October 1, 1997" shall be treated as referring to the date of the enactment of this Act.

TITLE VII—COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

SEC. 7001. EXTENSION OF HIGHER VESSEL TONNAGE DUTIES.

(a) EXTENSION OF DUTIES.—Section 36 of the Act of August 5, 1909 (36 Stat. 111; 46 U.S.C. App. 121), is amended by striking "for fiscal years 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998," each place it appears and inserting "for fiscal years through fiscal year 2002,".

(b) CONFORMING AMENDMENT.—The Act entitled "An Act concerning tonnage duties on vessels entering otherwise than by sea", approved March 8, 1910 (36 Stat. 234; 46 U.S.C. App. 132), is amended by striking "for fiscal years 1991, 1992, 1993, 1994, 1995, 1996, 1997, and 1998," and inserting "for fiscal years through fiscal year 2002,".

SEC. 7002. SALE OF GOVERNORS ISLAND, NEW YORK.

(a) IN GENERAL.—Notwithstanding any other provision of law, no earlier than fiscal year 2002, the Administrator of General Services shall dispose of by sale at fair market value all rights, title, and interests of the United States in and to the land of, and improvements to, Governors Island, New York.

(b) RIGHT OF FIRST REFUSAL.—Before a sale is made under subsection (a) to any other parties, the State of New York and the city of New York shall be given the right of first refusal to purchase all or part of Governors Island. Such right may be exercised by either the State of New York or the city of New York or by both parties acting jointly.

(c) PROCEEDS.—Proceeds from the disposal of Governors Island under subsection (a) shall be deposited in the general fund of the Treasury and credited as miscellaneous receipts.

SEC. 7003. SALE OF AIR RIGHTS.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Administrator of General Services shall sell, at fair market value and in a manner to be determined by the Administrator, the air rights adjacent to Washington Union Station described in subsection (b), including air rights conveyed to the Administrator under subsection (d). The Administrator shall complete the sale by such date as is necessary to ensure that the proceeds from the sale will be deposited in accordance with subsection (c).

(b) DESCRIPTION.—The air rights referred to in subsection (a) total approximately 16.5 acres and are depicted on the plat map of the District of Columbia as follows:

(1) Part of lot 172, square 720.

(2) Part of lots 172 and 823, square 720.

(3) Part of lot 811, square 717.

(c) PROCEEDS.—Before September 30, 2002, proceeds from the sale of air rights under subsection (a) shall be deposited in the general fund of the Treasury and credited as miscellaneous receipts.

(d) CONVEYANCE OF AMTRAK AIR RIGHTS.—

(1) GENERAL RULE.—As a condition of future Federal financial assistance, Amtrak shall convey to the Administrator of General Services on or before December 31, 1997, at no charge, all of the air rights of Amtrak described in subsection (b).

(2) FAILURE TO COMPLY.—If Amtrak does not meet the condition established by paragraph (1), Amtrak shall be prohibited from obligating Federal funds after March 1, 1998.

TITLE VIII—COMMITTEE ON VETERANS' AFFAIRS

SEC. 8001. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "Veterans Reconciliation Act of 1997".

(b) TABLE OF CONTENTS.—The table of contents for this title is as follows:

Sec. 8001. Short title; table of contents.

Subtitle A—Extension of Temporary Authorities

Sec. 8011. Authority to require that certain veterans make copayments in exchange for receiving health-care benefits.
Sec. 8012. Medical care cost recovery for non-service-connected disabilities of service-connected veterans.
Sec. 8013. Department of Veterans Affairs medical-care receipts.
Sec. 8014. Income verification authority.
Sec. 8015. Limitation on pension for certain recipients of medicaid-covered nursing home care.
Sec. 8016. Home loan fees.
Sec. 8017. Procedures applicable to liquidation sales on defaulted home loans guaranteed by the Secretary of Veterans Affairs.
Sec. 8018. Enhanced loan asset sale authority.

Subtitle B—Other Matters

Sec. 8021. Rounding down of cost-of-living adjustments in compensation and DIC rates.
Sec. 8022. Withholding of payments and benefits.

Subtitle A—Extension of Temporary Authorities

SEC. 8011. AUTHORITY TO REQUIRE THAT CERTAIN VETERANS MAKE COPAYMENTS IN EXCHANGE FOR RECEIVING HEALTH-CARE BENEFITS.

(a) HOSPITAL AND MEDICAL CARE.—

(1) EXTENSION.—Section 1710(f)(2)(B) of title 38, United States Code, is amended by inserting "before September 30, 2002," after "(B)".

(2) REPEAL OF SUPERSEDED PROVISION.—Section 8013(e) of the Omnibus Budget Reconciliation Act of 1990 (38 U.S.C. 1710 note) is repealed.

(b) OUTPATIENT MEDICATIONS.—Section 1722A(c) of title 38, United States Code, is amended by striking out "September 30, 1998" and inserting in lieu thereof "September 30, 2002".

SEC. 8012. MEDICAL CARE COST RECOVERY FOR NON-SERVICE-CONNECTED DISABILITIES OF SERVICE-CONNECTED VETERANS.

Section 1729(a)(2)(E) of title 38, United States Code, is amended by striking out "before October 1, 1998," and inserting "before October 1, 2002,".

SEC. 8013. DEPARTMENT OF VETERANS AFFAIRS MEDICAL-CARE RECEIPTS.

(a) Allocation of Receipts.—(1) Chapter 17 of title 38, United States Code, is amended by inserting after section 1729 the following new section:

"§1729A. Department of Veterans Affairs Medical Care Collections Fund

"(a) There is in the Treasury a fund to be known as the Department of Veterans Affairs Medical Care Collections Fund.

"(b) Amounts recovered or collected after September 30, 1997, under any of the following provisions of law shall be deposited in the fund:

"(1) Section 1710(f) of this title.

"(2) Section 1710(g) of this title.

"(3) Section 1711 of this title.

"(4) Section 1722A of this title.

"(5) Section 1729 of this title.

"(6) Public Law 87-693, popularly known as the 'Federal Medical Care Recovery Act' (42 U.S.C. 2651 et seq.), to the extent that a recovery or collection under that law is based on medical care or services furnished under this chapter.

"(c)(1) Subject to the provisions of appropriations Acts, amounts in the fund shall be available, without fiscal year limitation, to the Secretary for the following purposes:

"(A) Furnishing medical care and services under this chapter, to be available during any fiscal year for the same purposes and subject to the same limitations (other than with respect to the period of availability for obligation) as apply to amounts appropriated from the general fund of the Treasury for that fiscal year for medical care.

"(B) Expenses of the Department for the identification, billing, auditing, and collection of amounts owed the United States by reason of medical care and services furnished under this chapter.

"(2) Amounts available under paragraph (1) may not be used for any purpose other than a purpose set forth in subparagraph (A) or (B) of that paragraph.

"(2)(A) If for fiscal year 1998, 1999, or 2000 the Secretary determines that the total amount to be recovered for that fiscal year under the provisions of law specified in subsection (b) will be less than the amount contained in the latest Congressional Budget Office baseline estimate (computed under section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985) for the amount of such recoveries for that fiscal year by at least $25,000,000, the Secretary shall promptly certify to the Secretary of the Treasury the amount of the shortfall (as estimated by the Secretary) that is in excess of $25,000,000. Upon receipt of such a certification, the Secretary of the Treasury shall, not later than 30 days after receiving the certification, deposit in the fund, from any unobligated amounts in the Treasury, an amount equal to the amount certified by the Secretary.

"(B) For a fiscal year for which a deposit is made under subparagraph (A), if the Secretary subsequently determines that the actual amount recovered for that fiscal year under the provisions of law specified in subsection (b) is greater than the amount estimated by the Secretary that was used for purposes of the certification by the Secretary under subparagraph (A), the Secretary shall pay into the general fund of the Treasury, from amounts available for medical care, an amount equal to the difference between the amount actually recovered and the amount so estimated (but not in excess of the amount of the deposit under subparagraph (A) pursuant to such certification).

"(C) For a fiscal year for which a deposit is made under subparagraph (A), if the Secretary subsequently determines that the actual amount recovered for that fiscal year under the provisions of law specified in subsection (b) is less than the amount estimated by the Secretary that was used for purposes of the certification by the Secretary under subparagraph (A), the Secretary shall promptly certify to the Secretary of the Treasury the amount of the shortfall. Upon receipt of such a certification, the Secretary of the Treasury shall, not later than 30 days after receiving the certification, deposit in the fund, from any unobligated amounts in the Treasury, an amount equal to the amount certified by the Secretary.

"(d)(1) The Secretary may allocate amounts available to the Secretary under subsection (c) among components of the Department in such manner as the Secretary considers appropriate.

"(2) The Secretary shall establish a policy for the allocation under paragraph (1) of amounts in the fund. Such policy shall be designed so as to facilitate the realization of the maximum feasible collections under the provisions of law specified in subsection (b). In developing the policy, the Secretary shall take into account any factors beyond the control of the Secretary that the Secretary considers may impede such collections.

"(e)(1) The Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives quarterly reports on the operation of this section for fiscal years 1998, 1999, and 2000 and for the first quarter of fiscal year 2001. Each such report shall specify the amount collected under each of the provisions specified in subsection (b) during the preceding quarter and the amount originally estimated to be collected under each such provision during such quarter.

"(2) A report under paragraph (1) for a quarter shall be submitted not later than 45 days after the end of that quarter.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1729 the following new item:

"1729A. Department of Veterans Affairs Medical Care Collections Fund.".

(b) Conforming Amendments.—Chapter 17 of such title is amended as follows:

(1) Section 1710(f) is amended by striking out paragraph (4) and redesignating paragraph (5) as paragraph (4).

(2) Section 1710(g) is amended by striking out paragraph (4).

(3) Section 1722A(b) is amended by striking out "Department of Veterans Affairs Medical-Care Cost Recovery Fund" and inserting in lieu thereof "Department of Veterans Affairs Medical Care Collections Fund".

(4) Section 1729 is amended by striking out subsection (g).

(c) Termination of Medical-Care Cost Recovery Fund.—The amount of the unobligated balance remaining in the Department of Veterans Affairs Medical-Care Cost Recovery Fund (established pursuant to section 1729(g)(1) of title 38, United States Code), at the close of September 30, 1997, shall be deposited, not later than December 31, 1997, in the Treasury as miscellaneous receipts, and that fund shall be terminated when the deposit occurs.

(d) Determination of Amounts Subject to Recovery.—Section 1729 of title 38, United States Code, is amended—

(1) in subsection (a)(1), by striking out "the reasonable cost of" and inserting in lieu thereof "reasonable charges for";

(2) in subsection (c)(2)—

(A) by striking out "the reasonable cost of" in the first sentence of subparagraph (A) and in subparagraph (B) and inserting in lieu thereof "reasonable charges for"; and

(B) by striking out "cost" in the second sentence of subparagraph (A) and inserting in lieu thereof "charges".

(e) Technical Amendment.—Paragraph (2) of section 712(b) of title 38, United States Code, is amended—

(1) by striking out subparagraph (B); and

(2) by redesignating subparagraph (C) as subparagraph (B).

(f) Implementation.—(1) Not later than January 1, 1999, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the implementation of this section. The report shall describe the collections under each of the provisions specified in section 1729A(b) of title 38, United States Code, as added by subsection (a). Information on such collections shall be shown for each of the health service networks (known as Veterans Integrated Service Networks) and, to the extent practicable for each facility within each such network. The Secretary shall include in the report an analysis of differences among the networks with respect to (A) the market in which the networks operates, (B) the effort expended to achieve collections, (C) the efficiency of such effort, and (D) any other relevant information.

(2) The Secretary shall adjust the allocation policy established under section 1729A(d)(2) of title 38, United States Code, as added by subsection (a), to take account of differences in collections that the Secretary determines are attributable to the different markets in which networks operate and shall include in the report under paragraph (1) a description of such adjustments.

(g) Effective Date.—(1) Except as provided in paragraph (2), this section and the amendments made by this section shall take effect on October 1, 1997.

(2) The amendments made by subsection (d) shall take effect on the date of the enactment of this Act.

SEC. 8014. INCOME VERIFICATION AUTHORITY.

(a) Extension.—Section 5317(g) of title 38, United States Code, is amended by striking out "September 30, 1998" and inserting in lieu thereof "September 30, 2002".

(b) Social Security and Tax Return Information.—Section 6103(*l*)(7) of the Internal Revenue Code of 1986 is amended by striking out "Clause (viii) shall not apply after September 30, 1998" and inserting in lieu thereof "Clause (viii) shall not apply after September 30, 2002".

SEC. 8015. LIMITATION ON PENSION FOR CERTAIN RECIPIENTS OF MEDICAID-COVERED NURSING HOME CARE.

Section 5503(f)(7) of title 38, United States Code, is amended by striking out "September 30, 1998" and inserting in lieu thereof "September 30, 2002".

SEC. 8016. HOME LOAN FEES.

(a) Increase in Loan Fee Under Property Management Program.—Paragraph (2) of section 3729(a) of title 38, United States Code, is amended—

(1) in subparagraph (A), by striking out "or 3733(a)";

(2) by striking out "and" at the end of subparagraph (D);

(3) by striking out the period at the end of subparagraph (E) and inserting in lieu thereof "; and"; and

(4) by adding at the end the following new subparagraph:

"(F) in the case of a loan made under section 3733(a) of this title, the amount of such fee shall be 2.25 percent of the total loan amount.".

(b) EXTENSIONS.—Such section is further amended—

(1) in paragraph (4)—

(A) by striking out "October 1, 1998" and inserting in lieu thereof "October 1, 2002"; and

(B) by striking out "or (E)" and inserting in lieu thereof "(E), or (F)"; and

(2) in paragraph (5)(C), by striking out "October 1, 1998" and inserting in lieu thereof "October 1, 2002".

SEC. 8017. PROCEDURES APPLICABLE TO LIQUIDATION SALES ON DEFAULTED HOME LOANS GUARANTEED BY THE SECRETARY OF VETERANS AFFAIRS.

Section 3732(c)(11) of title 38, United States Code, is amended by striking out "October 1, 1998" and inserting "October 1, 2002".

SEC. 8018. ENHANCED LOAN ASSET SALE AUTHORITY.

Section 3720(h)(2) of title 38, United States Code, is amended by striking out "December 31, 1997" and inserting in lieu thereof "September 30, 2002".

Subtitle B—Other Matters

SEC. 8021. ROUNDING DOWN OF COST-OF-LIVING ADJUSTMENTS IN COMPENSATION AND DIC RATES.

(a) COMPENSATION COLAS.—(1) Chapter 11 of title 38, United States Code, is amended by inserting after section 1102 the following new section:

"§ 1103. Cost-of-living adjustments

"(a) In the computation of cost-of-living adjustments for fiscal years 1998 through 2002 in the rates of, and dollar limitations applicable to, compensation payable under this chapter, such adjustments shall be made by a uniform percentage that is no more than the percentage equal to the social security increase for that fiscal year, with all increased monthly rates and limitations (other than increased rates or limitations equal to a whole dollar amount) rounded down to the next lower whole dollar amount.

"(b) For purposes of this section, the term 'social security increase' means the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased for any fiscal year as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1102 the following new item:

"1103. Cost-of-living adjustments.".

(b) OUT-YEAR DIC COLAS.—(1) Chapter 13 of title 38, United States Code, is amended by inserting after section 1302 the following new section:

"§ 1303. Cost-of-living adjustments

"(a) In the computation of cost-of-living adjustments for fiscal years 1998 through 2002 in the rates of dependency and indemnity compensation payable under this chapter, such adjustments shall be made by a uniform percentage that is no more than the percentage equal to the social security increase for that fiscal year, with all increased monthly rates (other than increased rates equal to a whole dollar amount) rounded down to the next lower whole dollar amount.

"(b) For purposes of this section, the term 'social security increase' means the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased for any fiscal year as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1302 the following new item:

"1303. Cost-of-living adjustments.".

SEC. 8022. WITHHOLDING OF PAYMENTS AND BENEFITS.

(a) NOTICE REQUIRED IN LIEU OF CONSENT OR COURT ORDER.—Section 3726 of title 38, United States Code, is amended by striking out "unless" and all that follows and inserting in lieu thereof the following: "unless the Secretary provides such veteran or surviving spouse with notice by certified mail with return receipt requested of the authority of the Secretary to waive the payment of indebtedness under section 5302(b) of this title. If the Secretary does not waive the entire amount of the liability, the Secretary shall then determine whether the veteran or surviving spouse should be released from liability under section 3713(b) of this title. If the Secretary determines that the veteran or surviving spouse should not be released from liability, the Secretary shall notify the veteran or surviving spouse of that determination and provide a notice of the procedure for appealing that determination, unless the Secretary has previously made such determination and notified the veteran or surviving spouse of the procedure for appealing the determination.".

(b) CONFORMING AMENDMENT.—Section 5302(b) of such title is amended by inserting "with return receipt requested" after "certified mail".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to any indebtedness to the United States arising pursuant to chapter 37 of title 38, United States Code, before, on, or after the date of the enactment of this Act.

TITLE IX—COMMITTEE ON WAYS AND MEANS—NONMEDICARE

SEC. 9000. TABLE OF CONTENTS.

The table of contents of this title is as follows:

Sec. 9000. Table of contents.

Subtitle A—TANF Block Grant

Sec. 9001. Welfare-to-work grants.
Sec. 9002. Limitation on amount of Federal funds transferable to title XX programs.
Sec. 9003. Clarification of limitation on number of persons who may be treated as engaged in work by reason of participation in vocational educational training.
Sec. 9004. Rules governing expenditures of funds for work experience and community service programs.
Sec. 9005. State option to take account of certain work activities of recipients with sufficient participation in work experience or community service programs.
Sec. 9006. Worker protections.
Sec. 9007. Penalty for failure of State to reduce assistance for recipients refusing without good cause to work.

Subtitle B—Supplemental Security Income

Sec. 9101. Requirement to perform childhood disability redeterminations in missed cases.
Sec. 9102. Repeal of maintenance of effort requirements applicable to optional State programs for supplementation of SSI benefits.
Sec. 9103. Fees for Federal administration of State supplementary payments.

Subtitle C—Child Support Enforcement

Sec. 9201. Clarification of authority to permit certain redisclosures of wage and claim information.

Subtitle D—Restricting Welfare and Public Benefits for Aliens

Sec. 9301. Extension of eligibility period for refugees and certain other qualified aliens from 5 to 7 years for SSI and medicaid.
Sec. 9302. SSI eligibility for aliens receiving SSI on August 22, 1996.
Sec. 9303. SSI eligibility for permanent resident aliens who are members of an Indian tribe.
Sec. 9304. Verification of eligibility for State and local public benefits.
Sec. 9305. Derivative eligibility for benefits.
Sec. 9306. Effective date.

Subtitle E—Unemployment Compensation

Sec. 9401. Clarifying provision relating to base periods.
Sec. 9402. Increase in Federal unemployment account ceiling.
Sec. 9403. Special distribution to States from Unemployment Trust Fund.
Sec. 9404. Interest-free advances to State accounts in Unemployment Trust Fund restricted to States which meet funding goals.
Sec. 9405. Exemption of service performed by election workers from the Federal unemployment tax.
Sec. 9406. Treatment of certain services performed by inmates.
Sec. 9407. Exemption of service performed for an elementary or secondary school operated primarily for religious purposes from the Federal unemployment tax.
Sec. 9408. State program integrity activities for unemployment compensation.

Subtitle F—Increase in Public Debt Limit

Sec. 9501. Increase in public debt limit.

Subtitle A—TANF Block Grant

SEC. 9001. WELFARE-TO-WORK GRANTS.

(a) GRANTS TO STATES.—

(1) IN GENERAL.—Section 403(a) of the Social Security Act (42 U.S.C. 603(a)) is amended by adding at the end the following:

"(5) WELFARE-TO-WORK GRANTS.—

"(A) NONCOMPETITIVE GRANTS.—

"(i) ENTITLEMENT.—A State shall be entitled to receive from the Secretary a grant for each fiscal year specified in subparagraph (H) of this paragraph for which the State is a welfare-to-work State, in an amount that does not exceed the lesser of——

"(I) 2 times the total of the expenditures by the State (excluding qualified State expenditures (as defined in section 409(a)(7)(B)(i)) and any expenditure described in subclause (I), (II), or (IV) of section 409(a)(7)(B)(iv)) during the fiscal year for activities described in subparagraph (C)(i) of this paragraph; or

"(II) the allotment of the State under clause (iii) of this subparagraph for the fiscal year.

"(ii) WELFARE-TO-WORK STATE.—A State shall be considered a welfare-to-work State for a fiscal year for purposes of this subparagraph if the Secretary, after consultation (and the sharing of any plan or amendment thereto submitted under this clause) with the Secretary of Health and Human Services and the Secretary of Housing and Urban Development, determines that the State meets the following requirements:

"(I) The State has submitted to the Secretary (in the form of an addendum to the

State plan submitted under section 402) a plan which—

"(aa) describes how, consistent with this subparagraph, the State will use any funds provided under this subparagraph during the fiscal year;

"(bb) specifies the formula to be used pursuant to clause (vi) to distribute funds in the State, and describes the process by which the formula was developed;

"(cc) contains evidence that the plan was developed in consultation and coordination with sub-State areas; and

"(dd) is approved by the agency administering the State program funded under this part.

"(II) The State has provided the Secretary with an estimate of the amount that the State intends to expend during the fiscal year (excluding expenditures described in section 409(a)(7)(B)(iv)) for activities described in subparagraph (C)(i) of this paragraph.

"(III) The State has agreed to negotiate in good faith with the Secretary of Health and Human Services with respect to the substance of any evaluation under section 413(j), and to cooperate with the conduct of any such evaluation.

"(IV) The State is an eligible State for the fiscal year.

"(V) Qualified State expenditures (within the meaning of section 409(a)(7)) are at least 80 percent of historic State expenditures (within the meaning of such section), with respect to the fiscal year or the immediately preceding fiscal year.

"(iii) ALLOTMENTS TO WELFARE-TO-WORK STATES.—The allotment of a welfare-to-work State for a fiscal year shall be the available amount for the fiscal year multiplied by the State percentage for the fiscal year.

"(iv) AVAILABLE AMOUNT.—As used in this subparagraph, the term 'available amount' means, for a fiscal year, the sum of—

"(I) 50 percent of the sum of—

"(aa) the amount specified in subparagraph (H) for the fiscal year, minus the total of the amounts reserved pursuant to subparagraphs (F) and (G) for the fiscal year; and

"(bb) any amount reserved pursuant to subparagraph (F) for the immediately preceding fiscal year that has not been obligated; and

"(II) any available amount for the immediately preceding fiscal year that has not been obligated by a State or sub-State entity.

"(v) STATE PERCENTAGE.—As used in clause (iii), the term 'State percentage' means, with respect to a fiscal year, ⅓ of the sum of—

"(aa) the percentage represented by the number of individuals in the State whose income is less than the poverty line divided by the number of such individuals in the United States;

"(bb) the percentage represented by the number of unemployed individuals in the State divided by the number of such individuals in the United States; and

"(cc) the percentage represented by the number of individuals who are adult recipients of assistance under the State program funded under this part divided by the number of individuals in the United States who are adult recipients of assistance under any State program funded under this part.

"(vi) DISTRIBUTION OF FUNDS WITHIN STATES.—

"(I) IN GENERAL.—A State to which a grant is made under this subparagraph shall distribute not less than 85 percent of the grant funds among the service delivery areas in the State, in accordance with a formula which—

"(aa) determines the amount to be distributed for the benefit of a service delivery area in proportion to the number (if any) by which the number of individuals residing in the service delivery area with an income that is less than the poverty line exceeds 5 percent of the population of the service delivery area, relative to such number for the other service delivery areas in the State, and accords a weight of not less than 50 percent to this factor;

"(bb) may determine the amount to be distributed for the benefit of a service delivery area in proportion to the number of adults residing in the service delivery area who are recipients of assistance under the State program funded under this part (whether in effect before or after the amendments made by section 103(a) of the Personal Responsibility and Work Opportunity Reconciliation Act first applied to the State) for at least 30 months (whether or not consecutive) relative to the number of such adults residing in the other service delivery areas in the State; and

"(cc) may determine the amount to be distributed for the benefit of a service delivery area in proportion to the number of unemployed individuals residing in the service delivery area relative to the number of such individuals residing in the other service delivery areas in the State.

"(II) SPECIAL RULE.—Notwithstanding subclause (I), if the formula used pursuant to subclause (I) would result in the distribution of less than $100,000 during a fiscal year for the benefit of a service delivery area, then in lieu of distributing such sum in accordance with the formula, such sum shall be available for distribution under subclause (III) during the fiscal year.

"(III) PROJECTS TO HELP LONG-TERM RECIPIENTS OF ASSISTANCE INTO THE WORK FORCE.—The Governor of a State to which a grant is made under this subparagraph may distribute not more than 15 percent of the grant funds (plus any amount required to be distributed under this subclause by reason of subclause (II)) to projects that appear likely to help long-term recipients of assistance under the State program funded under this part (whether in effect before or after the amendments made by section 103(a) of the Personal Responsibility and Work Opportunity Reconciliation Act first applied to the State) enter the work force.

"(vii) ADMINISTRATION.—

"(I) IN GENERAL.—A grant made under this subparagraph to a State shall be administered by the State agency that is administering, or supervising the administration of, the State program funded under this part, or by another State agency designated by the Governor of the State.

"(II) SPENDING BY PRIVATE INDUSTRY COUNCILS.—The private industry council for a service delivery area shall have sole authority to expend the amounts provided for the benefit of a service delivery area under subparagraph (vi)(I), pursuant to an agreement with the agency that is administering the State program funded under this part in the service delivery area.

"(B) COMPETITIVE GRANTS.—

"(i) IN GENERAL.—The Secretary, in consultation with the Secretary of Health and Human Services and the Secretary of Housing and Urban Development, shall award grants in accordance with this subparagraph, in fiscal years 1998 and 1999, for projects proposed by eligible applicants, based on the following:

"(I) The effectiveness of the proposal in—

"(aa) expanding the base of knowledge about programs aimed at moving recipients of assistance under State programs funded under this part who are least job ready into the work force.

"(bb) moving recipients of assistance under State programs funded under this part who are least job ready into the work force; and

"(cc) moving recipients of assistance under State programs funded under this part who are least job ready into the work force, even in labor markets that have a shortage of low-skill jobs.

"(II) At the discretion of the Secretary, any of the following:

"(aa) The history of success of the applicant in moving individuals with multiple barriers into work.

"(bb) Evidence of the applicant's ability to leverage private, State, and local resources.

"(cc) Use by the applicant of State and local resources beyond those required by subparagraph (A).

"(dd) Plans of the applicant to coordiate with other organizations at the local and State level.

"(ee) Use by the applicant of current or former recipients of assistance under a State program funded under this part as mentors, case managers, or service providers.

"(ii) ELIGIBLE APPLICANTS.—As used in clause (i), the term 'eligible applicant' means a private industry council or a political subdivision of a State that submits a proposal that is approved by the agency administering the State program funded under this part.

"(iii) DETERMINATION OF GRANT AMOUNT.—In determining the amount of a grant to be made under this subparagraph for a project proposed by an applicant, the Secretary shall provide the applicant with an amount sufficient to ensure that the project has a reasonable opportunity to be successful, taking into account the number of long-term recipients of assistance under a State program funded under this part, the level of unemployment, the job opportunities and job growth, the poverty rate, and such other factors as the Secretary deems appropriate, in the area to be served by the project.

"(iv) TARGETING OF FUNDS TO CERTAIN AREAS.—

"(I) CITIES WITH GREATEST NUMBER OF PERSONS WITH INCOME LESS THAN THE POVERTY LINE.—The Secretary shall use not less than 65 percent of the funds available for grants under this subparagraph for a fiscal year to award grants for expenditures in cities that are among the 100 cities in the United States with the highest number of residents with an income that is less than the poverty line.

"(II) RURAL AREAS.—

"(aa) IN GENERAL.—The Secretary shall use not less than 25 percent of the funds available for grants under this subparagraph for a fiscal year to award grants for expenditures in rural areas.

"(bb) RURAL AREA DEFINED.—As used in item (aa), the term 'rural area' means a city, town, or unincorporated area that has a population of 50,000 or fewer inhabitants and that is not an urbanized area immediately adjacent to a city, town, or unincorporated area that has a population of more than 50,000 inhabitants.

"(v) FUNDING.—For grants under this subparagraph for each fiscal year specified in subparagraph (H), there shall be available to the Secretary an amount equal to the sum of—

"(I) 50 percent of the sum of—

"(aa) the amount specified in subparagraph (H) for the fiscal year, minus the total of the amounts reserved pursuant to subparagraphs (F) and (G) for the fiscal year; and “(bb) any amount reserved pursuant to subparagraph (F) for the immediately preceding fiscal year that has not been obligated; and

“(II) any amount available for grants under this subparagraph for the immediately preceding fiscal year that has not been obligated.

“(C) LIMITATIONS ON USE OF FUNDS.—

“(i) ALLOWABLE ACTIVITIES.—An entity to which funds are provided under this paragraph may use the funds to move into the work force recipients of assistance under the program funded under this part of the State in which the entity is located and the noncustodial parent of any minor who is such a recipient, by means of any of the following:

“(I) Job creation through public or private sector employment wage subsidies.

“(II) On-the-job training.

“(III) Contracts with public or private providers of readiness, placement, and post-employment services.

“(IV) Job vouchers for placement, readiness, and postemployment services.

“(V) Job support services (excluding child care services) if such services are not otherwise available.

“(ii) REQUIRED BENEFICIARIES.—An entity that operates a project with funds provided under this paragraph shall expend at least 90 percent of all funds provided to the project for the benefit of recipients of assistance under the program funded under this part of the State in which the entity is located who meet the requirements of each of the following subclauses:

“(I) At least 2 of the following apply to the recipient:

“(aa) The individual has not completed secondary school or obtained a certificate of general equivalency, and has low skills in reading and mathematics.

“(bb) The individual requires substance abuse treatment for employment.

“(cc) The individual has a poor work history.

The Secretary shall prescribe such regulations as may be necessary to interpret this subclause.

“(II) The individual—

“(aa) has received assistance under the State program funded under this part (whether in effect before or after the amendments made by section 103 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 first apply to the State) for at least 30 months (whether or not consecutive); or

“(bb) within 12 months, will become ineligible for assistance under the State program funded under this part by reason of a durational limit on such assistance, without regard to any exemption provided pursuant to section 408(a)(7)(C) that may apply to the individual.

“(iii) LIMITATION ON APPLICABILITY OF SECTION 404.—The rules of section 404, other than subsections (b), (f), and (h) of section 404, shall not apply to a grant made under this paragraph.

“(iv) LIMITATIONS RELATING TO PRIVATE INDUSTRY COUNCILS.—

“(I) NO DIRECT PROVISION OF SERVICES.—A private industry council may not directly provide services using funds provided under this paragraph.

“(II) COOPERATION WITH TANF AGENCY.—On a determination by the Secretary, in consultation with the Secretary of Health and Human Services and the Secretary of Housing and Urban Development, that the private industry council for a service delivery area in a State for which funds are provided under this paragraph and the agency administering the State program funded under this part are not adhering to the agreement referred to in subparagraph (A)(vii)(II) to implement any plan or project for which the funds are provided, the recipient of the funds shall remit the funds to the Secretary.

“(v) PROHIBITION AGAINST USE OF GRANT FUNDS FOR ANY OTHER FUND MATCHING REQUIREMENT.—An entity to which funds are provided under this paragraph shall not use any part of the funds to fulfill any obligation of any State, political subdivision, or private industry council to contribute funds under other Federal law.

“(vi) DEADLINE FOR EXPENDITURE.—An entity to which funds are provided under this paragraph shall remit to the Secretary any part of the funds that are not expended within 3 years after the date the funds are so provided.

“(D) INDIVIDUALS WITH INCOME LESS THAN THE POVERTY LINE.—For purposes of this paragraph, the number of individuals with an income that is less than the poverty line shall be determined based on the methodology used by the Bureau of the Census to produce and publish intercensal poverty data for 1993 for States and counties.

“(E) DEFINITIONS.—As used in this paragraph:

“(i) PRIVATE INDUSTRY COUNCIL.—The term ‘private industry council’ means, with respect to a service delivery area, the private industry council (or successor entity) established for the service delivery area pursuant to the Job Training Partnership Act.

“(ii) SECRETARY.—The term ‘Secretary’ means the Secretary of Labor, except as otherwise expressly provided.

“(iii) SERVICE DELIVERY AREA.—The term ‘service delivery area’ shall have the meaning given such term for purposes of the Job Training Partnership Act.

“(F) SET-ASIDE FOR INDIAN TRIBES.—1 percent of the amount specified in subparagraph (H) for each fiscal year shall be reserved for grants to Indian tribes under section 412(a)(3).

“(G) SET-ASIDE FOR EVALUATIONS.—0.5 percent of the amount specified in subparagraph (H) for each fiscal year shall be reserved for use by the Secretary of Health and Human Services to carry out section 413(j).

“(H) FUNDING.—The amount specified in this subparagraph is $1,500,000,000 for each of fiscal years 1998 and 1999.

“(I) BUDGET SCORING.—Notwithstanding section 457(b)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985, the baseline shall assume that no grant shall be awarded under this paragraph or under section 412(a)(3) after fiscal year 2000.

(2) CONFORMING AMENDMENT.—Section 409(a)(7)(B)(iv) of such Act (42 U.S.C. 609(a)(7)(B)(iv)) is amended to read as follows:

“(iv) EXPENDITURES BY THE STATE.—The term ‘expenditures by the State’ does not include—

“(I) any expenditure from amounts made available by the Federal Government;

“(II) any State funds expended for the medicaid program under title XIX;

“(III) any State funds which are used to match Federal funds provided under section 403(a)(5); or

“(IV) any State funds which are expended as a condition of recieving Federal funds other than under this part.

Notwithstanding subclause (IV) of the preceding sentence, such term includes expenditures by a State for child care in a fiscal year to the extent that the total amount of the expenditures does not exceed the amount of State expenditures in fiscal year 1994 or 1995 (whichever is the greater) that equal the non-Federal share for the programs described in section 418(a)(1)(A).”.

(b) GRANTS TO OUTLYING AREAS.—Section 1108(a) of such Act (42 U.S.C. 1308(a)) is amended by inserting “(except section 403(a)(5))” after “title IV”.

(c) GRANTS TO INDIAN TRIBES.—Section 412(a) of such Act (42 U.S.C. 612(a)) is amended by adding at the end the following:

“(3) WELFARE-TO-WORK GRANTS.—

“(A) IN GENERAL.—The Secretary shall award a grant in accordance with this paragraph to an Indian tribe for each fiscal year specified in section 403(a)(5)(H) for which the Indian tribe is a welfare-to-work tribe, in such amount as the Secretary deems appropriate, subject to subparagraph (B) of this paragraph.

“(B) WELFARE-TO-WORK TRIBE.—An Indian tribe shall be considered a welfare-to-work tribe for a fiscal year for purposes of this paragraph if the Indian tribe meets the following requirements:

“(i) The Indian tribe has submitted to the Secretary (in the form of an addendum to the tribal family assistance plan, if any, of the Indian tribe) a plan which describes how, consistent with section 403(a)(5), the Indian tribe will use any funds provided under this paragraph during the fiscal year.

“(ii) The Indian tribe has provided the Secretary with an estimate of the amount that the Indian tribe intends to expend during the fiscal year (excluding tribal expenditures described in section 409(a)(7)(B)(iv)) for activities described in section 403(a)(5)(C)(i).

“(iii) The Indian tribe has agreed to negotiate in good faith with the Secretary of Health and Human Services with respect to the substance of any evaluation under section 413(j), and to cooperate with the conduct of any such evaluation.

“(C) LIMITATIONS ON USE OF FUNDS.—Section 403(a)(5)(C) shall apply to funds provided to Indian tribes under this paragraph in the same manner in which such section applies to funds provided under section 403(a)(5).”.

(d) FUNDS RECEIVED FROM GRANTS TO BE DISREGARDED IN APPLYING DURATIONAL LIMIT ON ASSISTANCE.—Section 408(a)(7) of such Act (42 U.S.C. 608(a)(7)) is amended by adding at the end the following:

“(G) INAPPLICABILITY TO WELFARE-TO-WORK GRANTS AND ASSISTANCE.—For purposes of subparagraph (A) of this paragraph, a grant made under section 403(a)(5) shall not be considered a grant made under section 403, and assistance from funds provided under section 403(a)(5) shall not be considered assistance.”.

(e) EVALUATIONS.—Section 413 of such Act (42 U.S.C. 613) is amended by adding at the end the following:

“(j) EVALUATION OF WELFARE-TO-WORK PROGRAMS.—

“(1) EVALUATION.—The Secretary—

“(A) shall, in consultation with the Secretary of Labor, develop a plan to evaluate how grants made under sections 403(a)(5) and 412(a)(3) have been used;

“(B) may evaluate the use of such grants by such grantees as the Secretary deems appropriate, in accordance with an agreement entered into with the grantees after good-faith negotiations; and

“(C) is urged to include the following outcome measures in the plan developed under subparagraph (A):

“(i) Placements in the labor force and placements in the labor force that last for at least 6 months.

“(ii) Placements in the private and public sectors.

"(iii) Earnings of individuals who obtain employment.

"(iv) Average expenditures per placement.

"(2) REPORTS TO THE CONGRESS.—

"(A) IN GENERAL.—Subject to subparagraphs (B) and (C), the Secretary, in consultation with the Secretary of Labor and the Secretary of Housing and Urban Development, shall submit to the Congress reports on the projects funded under section 403(a)(5) and 412(a)(3) and on the evaluations of the projects.

"(B) INTERIM REPORT.—Not later than January 1, 1999, the Secretary shall submit an interim report on the matter described in subparagraph (A).

"(C) FINAL REPORT.—Not later than January 1, 2001, (or at a later date, if the Secretary informs the Committees of the Congress with jurisdiction over the subject matter of the report) the Secretary shall submit a final report on the matter described in subparagraph (A).".

SEC. 9002. LIMITATION ON AMOUNT OF FEDERAL FUNDS TRANSFERABLE TO TITLE XX PROGRAMS.

(a) IN GENERAL.—Section 404(d) of the Social Security Act (42 U.S.C. 604(d)) is amended—

(1) in paragraph (1), by striking "A State may" and inserting "Subject to paragraph (2), a State may"; and

(2) by amending paragraph (2) to read as follows:

"(2) LIMITATION ON AMOUNT TRANSFERABLE TO TITLE XX PROGRAMS.—A State may use not more than 10 percent of the amount of any grant made to the State under section 403(a) for a fiscal year to carry out State programs pursuant to title XX.".

(b) RETROACTIVITY.—The amendments made by subsection (a) of this section shall take effect as if included in the enactment of section 103(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

SEC. 9003. CLARIFICATION OF LIMITATION ON NUMBER OF PERSONS WHO MAY BE TREATED AS ENGAGED IN WORK BY REASON OF PARTICIPATION IN VOCATIONAL EDUCATIONAL TRAINING.

(a) IN GENERAL.—Section 407(c)(2)(D) of the Social Security Act (42 U.S.C. 607(c)(2)(D)) is amended to read as follows:

"(D) LIMITATION ON NUMBER OF PERSONS WHO MAY BE TREATED AS ENGAGED IN WORK BY REASON OF PARTICIPATION IN VOCATIONAL EDUCATIONAL TRAINING.—For purposes of determining monthly participation rates under paragraphs (1)(B)(i) and (2)(B) of subsection (b), not more than 30 percent of the number of individuals in all families and in 2-parent families, respectively, in a State who are treated as engaged in work for a month may consist of individuals who are determined to be engaged in work for the month by reason of participation in vocational educational training.".

(b) RETROACTIVITY.—The amendment made by subsection (a) of this section shall take effect as if included in the enactment of section 103(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

SEC. 9004. RULES GOVERNING EXPENDITURE OF FUNDS FOR WORK EXPERIENCE AND COMMUNITY SERVICE PROGRAMS.

(a) IN GENERAL.—Section 407 of the Social Security Act (42 U.S.C. 607) is amended by adding at the end the following:

"(j) RULES GOVERNING EXPENDITURE OF FUNDS FOR WORK EXPERIENCE AND COMMUNITY SERVICE PROGRAMS.—

"(1) IN GENERAL.—To the extent that a State to which a grant is made under section 403(a)(5) or any other provision of section 403 uses the grant to establish or operate a work experience or community service program, the State may establish and operate the program in accordance with this subsection.

"(2) PURPOSE.—The purpose of a work experience or community experience program is to provide experience or training for individuals not able to obtain employment in order to assist them to move to regular employment. Such a program shall be designed to improve the employability of participants through actual work experience to enable individuals participating in the program to move promptly into regular public or private employment. Such a program shall not place individuals in private, for-profit entities.

"(3) LIMITATION ON PROJECTS THAT MAY BE UNDERTAKEN.—A work experience or community service program shall be limited to projects which serve a useful public purpose in fields such as health, social service, environmental protection, education, urban and rural development and redevelopment, welfare, recreation, public facilities, public safety, and day care, and other purposes identified by the State.

"(4) MAXIMUM HOURS OF PARTICIPATION PER MONTH.—A State that elects to establish a work experience or community service program shall operate the program so that each participant participates in the program with the maximum number of hours that any such individual may be required to participate in any month being a number equal to—

"(A)(i) the amount of assistance provided during the month to the family of which the individual is a member under the State program funded under this part; plus

"(ii) the dollar value equivalent of any benefits provided during the month to the household of which the individual is a member under the food stamp program under the Food Stamp Act of 1977; minus

"(iii) any amount collected by the State as child support with respect to the family that is retained by the State; divided by

"(B) the greater of the Federal minimum wage or the applicable State minimum wage.

"(5) MAXIMUM HOURS OF PARTICIPATION PER WEEK.—A State that elects to establish a work experience or community service program may not require any participant in any such program to participate in any such program for a combined total of more than 40 hours per week.

"(6) RULE OF INTERPRETATION.—This subsection shall not be construed as authorizing the provision of assistance under a State program funded under this part as compensation for work performed, nor shall a participant be entitled to a salary or to any other work or training expense provided under any other provision of law by reason of participation in a work experience or community service program described in this subsection.".

(b) RETROACTIVITY.—The amendment made by subsection (a) of this section shall take effect as if included in the enactment of section 103(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

SEC. 9005. STATE OPTION TO TAKE ACCOUNT OF CERTAIN WORK ACTIVITIES OF RECIPIENTS WITH SUFFICIENT PARTICIPATION IN WORK EXPERIENCE OR COMMUNITY SERVICE PROGRAMS.

(a) IN GENERAL.—Section 407(c) of the Social Security Act (42 U.S.C. 607(c)) is amended by adding at the end the following:

"(3) STATE OPTION TO TAKE ACCOUNT OF CERTAIN WORK ACTIVITIES OF RECIPIENTS WITH SUFFICIENT PARTICIPATION IN WORK EXPERIENCE OR COMMUNITY SERVICE PROGRAMS.—Notwithstanding paragraphs (1) and (2) of this subsection and subsection (d)(8), for purposes of determining monthly participation rates under paragraphs (1)(B)(i) and (2)(B) of subsection (b), an individual who, during a month, has participated in a work experience or community service program operated in accordance with subsection (j), for the maximum number of hours that the individual may be required to participate in such a program during the month shall be treated as engaged in work for the month if, during the month, the individual has participated in any other work activity for a number of hours that is not less than the number of hours required by subsection (c)(1) for the month minus such maximum number of hours.".

(b) RETROACTIVITY.—The amendment made by subsection (a) of this section shall take effect as if included in the enactment of section 103(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

SEC. 9006. WORKER PROTECTIONS.

Section 407(f) of the Social Security Act (42 U.S.C. 607(f)) is amended to read as follows:

"(f) WORKER PROTECTIONS.—

"(1) NONDISPLACEMENT IN WORK ACTIVITIES.—

"(A) GENERAL PROHIBITION.—Subject to this paragraph, an adult in a family receiving assistance under a State program funded under this part attributable to funds provided by the Federal Government may fill a vacant employment position in order to engage in a work activity.

"(B) PROHIBITION AGAINST VIOLATION OF CONTRACTS.—A work activity shall not violate an existing contract for services or collective bargaining agreement.

"(C) OTHER PROHIBITIONS.—An adult participant in a work activity shall not be employed or assigned—

"(i) when any other individual is on layoff from the same or any substantially equivalent job; or

"(ii) if the employer has terminated the employment of any regular employee or otherwise caused an involuntary reduction if its workforce with the intention of filling the vacancy so created with the participant.

"(2) HEALTH AND SAFETY.—Health and safety standards established under Federal and State law otherwise applicable to working conditions of employees shall be equally applicable to working conditions of participants engaged in a work activity.

"(3) NONDISCRIMINATION.—In addition to the protections provided under the provisions of law specified in section 408(c), an individual may not be discriminated against with respect to participation in work activities by reason of gender.

"(4) GRIEVANCE PROCEDURE.—

"(A) IN GENERAL.—Each State to which a grant is made under section 403 shall establish and maintain a procedure for grievances or complaints from employees alleging violations of paragraph (1) and participants in work activities alleging violations of paragraph (1), (2), or (3).

"(B) HEARING.—The procedure shall include an opportunity for a hearing.

"(C) REMEDIES.—The procedure shall include remedies for violation of paragraph (1), (2), or (3), which may include—

"(i) prohibition against placement of a participant with an employer that has violated paragraph (1), (2), or (3);

"(ii) where applicable, reinstatement of an employee, payment of lost wages and benefits, and reestablishment of other relevant terms, conditions and privileges of employment; and

"(iii) where appropriate, other equitable relief.

"(5) Nonpreemption of State nondisplacement laws.—The provisions of this subsection relating to nondisplacement of employees shall not be construed to preempt any provision of State law relating to nondisplacement of employees that affords greater protections to employees than is afforded by such provisions of this subsection.".

SEC. 9007. PENALTY FOR FAILURE OF STATE TO REDUCE ASSISTANCE FOR RECIPIENTS REFUSING WITHOUT GOOD CAUSE TO WORK.

(a) In General.—Section 409(a) of the Social Security Act (42 U.S.C. 609(a)) is amended by adding at the end the following:

"(13) Penalty for failure to reduce assistance for recipients refusing without good cause to work.—

"(A) In general.—If the Secretary determines that a State to which a grant is made under section 403 in a fiscal year has violated section 407(e) during the fiscal year, the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year by an amount equal to not less than 1 percent and not more than 5 percent of the State family assistance grant.

"(B) Penalty based on severity of failure.—The Secretary shall impose reductions under subparagraph (A) with respect to a fiscal year based on the degree of noncompliance.".

(b) Retroactivity.—The amendment made by subsection (a) of this section shall take effect as if included in the enactment of section 103(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

Subtitle B—Supplemental Security Income

SEC. 9101. REQUIREMENT TO PERFORM CHILDHOOD DISABILITY REDETERMINATIONS IN MISSED CASES.

Section 211(d)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (110 Stat. 2190) is amended—

(1) in subparagraph (A)—

(A) in the 1st sentence, by striking "1 year" and inserting "18 months"; and

(B) by inserting after the 1st sentence the following: "Any redetermination required by the preceding sentence that is not performed before the end of the period described in the preceding sentence shall be performed as soon as is practicable thereafter."; and

(2) in subparagraph (C), by adding at the end the following: "Before commencing a redetermination under the 2nd sentence of subparagraph (A), in any case in which the individual involved has not already been notified of the provisions of this paragraph, the Commissioner of Social Security shall notify the individual involved of the provisions of this paragraph.".

SEC. 9102. REPEAL OF MAINTENANCE OF EFFORT REQUIREMENTS APPLICABLE TO OPTIONAL STATE PROGRAMS FOR SUPPLEMENTATION OF SSI BENEFITS.

Section 1618 of the Social Security Act (42 U.S.C. 1382g) is repealed.

SEC. 9103. FEES FOR FEDERAL ADMINISTRATION OF STATE SUPPLEMENTARY PAYMENTS.

(a) Fee Schedule.—

(1) Optional state supplementary payments.—

(A) In general.—Section 1616(d)(2)(B) of the Social Security Act (42 U.S.C. 1382e(d)(2)(B)) is amended—

(i) by striking "and" at the end of clause (iii); and

(ii) by striking clause (iv) and inserting the following:

"(iv) for fiscal year 1997, $5.00;

"(v) for fiscal year 1998, $6.20;

"(vi) for fiscal year 1999, $7.60;

"(vii) for fiscal year 2000, $7.80;

"(viii) for fiscal year 2001, $8.10;

"(ix) for fiscal year 2002, $8.50; and

"(x) for fiscal year 2003 and each succeeding fiscal year—

"(I) the applicable rate in the preceding fiscal year, increased by the percentage, if any, by which the Consumer Price Index for the month of June of the calendar year of the increase exceeds the Consumer Price Index for the month of June of the calendar year preceding the calendar year of the increase, and rounded to the nearest whole cent; or

"(II) such different rate as the Commissioner determines is appropriate for the State.".

(B) Conforming amendment.—Section 1616(d)(2)(C) of such Act (42 U.S.C. 1382e(d)(2)(C)) is amended by striking "(B)(iv)" and inserting "(B)(x)(II)".

(2) Mandatory state supplementary payments.—

(A) In general.—Section 212(b)(3)(B)(ii) of Public Law 93-66 (42 U.S.C. 1382 note) is amended—

(i) by striking "and" at the end of subclause (III); and

(ii) by striking subclause (IV) and inserting the following:

"(IV) for fiscal year 1997, $5.00;

"(V) for fiscal year 1998, $6.20;

"(VI) for fiscal year 1999, $7.60;

"(VII) for fiscal year 2000, $7.80;

"(VIII) for fiscal year 2001, $8.10;

"(IX) for fiscal year 2002, $8.50; and

"(X) for fiscal year 2003 and each succeeding fiscal year—

"(aa) the applicable rate in the preceding fiscal year, increased by the percentage, if any, by which the Consumer Price Index for the month of June of the calendar year of the increase exceeds the Consumer Price Index for the month of June of the calendar year preceding the calendar year of the increase, and rounded to the nearest whole cent; or

"(bb) such different rate as the Commissioner determines is appropriate for the State.".

(B) Conforming amendment.—Section 212(b)(3)(B)(iii) of such Act (42 U.S.C. 1382 note) is amended by striking "(ii)(IV)" and inserting "(ii)(X)(bb)".

(b) Use of New Fees To Defray the Social Security Administration's Administrative Expenses.—

(1) Credit to special fund for fiscal year 1998 and subsequent years.—

(A) Optional state supplementary payment fees.—Section 1616(d)(4) of the Social Security Act (42 U.S.C. 1382e(d)(4)) is amended to read as follows:

"(4)(A) The first $5 of each administration fee assessed pursuant to paragraph (2), upon collection, shall be deposited in the general fund of the Treasury of the United States as miscellaneous receipts.

"(B) That portion of each administration fee in excess of $5, and 100 percent of each additional services fee charged pursuant to paragraph (3), upon collection for fiscal year 1998 and each subsequent fiscal year, shall be credited to a special fund established in the Treasury of the United States for State supplementary payment fees. The amounts so credited, to the extent and in the amounts provided in advance in appropriations Acts, shall be available to defray expenses incurred in carrying out this title and related laws.".

(B) Mandatory state supplementary payment fees.—Section 212(b)(3)(D) of Public Law 93-66 (42 U.S.C. 1382 note) is amended to read as follows:

"(D)(i) The first $5 of each administration fee assessed pursuant to subparagraph (B), upon collection, shall be deposited in the general fund of the Treasury of the United States as miscellaneous receipts.

"(ii) The portion of each administration fee in excess of $5, and 100 percent of each additional services fee charged pursuant to subparagraph (C), upon collection for fiscal year 1998 and each subsequent fiscal year, shall be credited to a special fund established in the Treasury of the United States for State supplementary payment fees. The amounts so credited, to the extent and in the amounts provided in advance in appropriations Acts, shall be available to defray expenses incurred in carrying out this section and title XVI of the Social Security Act and related laws.".

(2) Limitations on authorization of appropriations.—From amounts credited pursuant to section 1616(d)(4)(B) of the Social Security Act and section 212(b)(3)(D)(ii) of Public Law 93-66 to the special fund established in the Treasury of the United States for State supplementary payment fees, there is authorized to be appropriated an amount not to exceed $35,000,000 for fiscal year 1998, and such sums as may be necessary for each fiscal year thereafter.

Subtitle C—Child Support Enforcement

SEC. 9201. CLARIFICATION OF AUTHORITY TO PERMIT CERTAIN REDISCLOSURES OF WAGE AND CLAIM INFORMATION.

Section 303(h)(1)(C) of the Social Security Act (42 U.S.C. 503(h)(1)(C)) is amended by striking "section 453(i)(1) in carrying out the child support enforcement program under title IV" and inserting "subsections (i)(1), (i)(3), and (j) of section 453".

Subtitle D—Restricting Welfare and Public Benefits for Aliens

SEC. 9301. EXTENSION OF ELIGIBILITY PERIOD FOR REFUGEES AND CERTAIN OTHER QUALIFIED ALIENS FROM 5 TO 7 YEARS FOR SSI AND MEDICAID.

(a) SSI.—Section 402(a)(2)(A) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)(A)) is amended to read as follows:

"(A) Time-limited exception for refugees and asylees.—

"(i) SSI.—With respect to the specified Federal program described in paragraph (3)(A) paragraph 1 shall not apply to an alien until 7 years after the date—

"(I) an alien is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act;

"(II) an alien is granted asylum under section 208 of such Act; or

"(III) an alien's deportation is withheld under section 243(h) of such Act.

"(ii) Food stamps.—With respect to the specified Federal program described in paragraph (3)(B), paragraph 1 shall not apply to an alien until 5 years after the date—

"(I) an alien is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act;

"(II) an alien is granted asylum under section 208 of such Act; or

"(III) an alien's deportation is withheld under section 243(h) of such Act.".

(b) Medicaid.—Section 402(b)(2)(A) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(b)(2)(A)) is amended to read as follows:

"(A) Time-limited exception for refugees and asylees.—

"(i) Medicaid.—With respect to the designated Federal program described in paragraph (3)(C), paragraph 1 shall not apply to an alien until 7 years after the date—

"(I) an alien is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act;

"(II) an alien is granted asylum under section 208 of such Act; or

"(III) an alien's deportation is withheld under section 243(h) of such Act.

"(ii) Other designated federal programs.—With respect to the designated Federal programs under paragraph (3) (other than subparagraph (C)), paragraph 1 shall not apply to an alien until 5 years after the date—

"(I) an alien is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act;

"(II) an alien is granted asylum under section 208 of such Act; or

"(III) an alien's deportation is withheld under section 243(h) of such Act.".

SEC. 9302. SSI ELIGIBILITY FOR ALIENS RECEIVING SSI ON AUGUST 22, 1996.

(a) In General.—Section 402(a)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)) is amended by adding after subparagraph (D) the following new subparagraph:

"(E) Aliens receiving SSI on August 22, 1996.—With respect to eligibility for benefits for the program defined in paragraph (3)(A) (relating to the supplemental security income program), paragraph (1) shall not apply to an alien who was receiving such benefits on August 22, 1996.".

(b) Status of Cuban and Haitian Entrants and Amerasian Permanent Resident Aliens.—For purposes of section 402(a)(2)(E) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, the following aliens shall be considered qualified aliens:

(1) An alien who is a Cuban and Haitian entrant as defined in section 501(e) of the Refugee Education Assistance Act of 1980.

(2) An alien admitted to the United States as an Amerasian immigrant pursuant to section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, as contained in section 101(e) of Public Law 100-202, (other than an alien admitted pursuant to section 584(b)(1)(C)).

(c) Conforming Amendments.—Section 402(a)(2)(D) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(D)) is amended—

(1) by striking clause (i);

(2) in the subparagraph heading by striking "BENEFITS" and inserting "FOOD STAMPS";

(3) by striking "(ii) Food stamps'.—';

(3) by redesignating subclauses (I), (II), and (III) as clauses (i), (ii), and (iii).

SEC. 9303. SSI ELIGIBILITY FOR PERMANENT RESIDENT ALIENS WHO ARE MEMBERS OF AN INDIAN TRIBE.

Section 402(a)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)) (as amended by section 9302) is amended by adding after subparagraph (E) the following new subparagraph:

"(F) Permanent resident aliens who are members of an Indian tribe.—With respect to eligibility for benefits for the program defined in paragraph (3)(A) (relating to the supplemental security income program), paragraph (1) shall not apply to an alien who—

"(i) is lawfully admitted for permanent residence under the Immigration and Nationality Act; and

"(ii) is a member of an Indian tribe (as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act).".

SEC. 9304. VERIFICATION OF ELIGIBILITY FOR STATE AND LOCAL PUBLIC BENEFITS.

(a) In General.—The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 is amended by adding after section 412 the following new section:

"SEC. 413. AUTHORIZATION FOR VERIFICATION OF ELIGIBILITY FOR STATE AND LOCAL PUBLIC BENEFITS.

"A State or political subdivision of a State is authorized to require an applicant for State and local public benefits (as defined in section 411(c)) to provide proof of eligibility.".

(b) Clerical Amendment.—Section 2 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 is amended by adding after the item related to section 412 the following:

"Sec. 413. Authorization for verification of eligibility for state and local public benefits.".

SEC. 9305. DERIVATIVE ELIGIBILITY FOR BENEFITS.

(a) In General.—The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 is amended by adding after section 435 the following new section:

"SEC. 436. DERIVATIVE ELIGIBILITY FOR BENEFITS.

"(a) Food Stamps.—Notwithstanding any other provision of law, an alien who under the provisions of this title is ineligible for benefits under the food stamp program (as defined in section 402(a)(3)(A)) shall not be eligible for such benefits because the alien receives benefits under the supplemental security income program (as defined in section 402(a)(3)(B)).

"(b) Medicaid.—Notwithstanding any other provision of this title, an alien who under the provisions of this title is ineligible for benefits under the medicaid program (as defined in section 402(b)(3)(C)) shall be eligible for such benefits if the alien is receiving benefits under the supplemental security income program and title XIX of the Social Security Act provides for such derivative eligibility.".

(b) Clerical Amendment.—Section 2 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 is amended by adding after the item related to section 435 the following:

"Sec. 436. Derivative eligibility for benefits.".

SEC. 9306. EFFECTIVE DATE.

Except as otherwise provided, the amendments made by this subtitle shall be effective as if included in the enactment of title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

Subtitle E—Unemployment Compensation

SEC. 9401. CLARIFYING PROVISION RELATING TO BASE PERIODS.

(a) In General.—No provision of a State law under which the base period for such State is defined or otherwise determined shall, for purposes of section 303(a)(1) of the Social Security Act (42 U.S.C. 503(a)(1)), be considered a provision for a method of administration.

(b) Definitions.—For purposes of this section, the terms "State law", "base period", and "State" shall have the meanings given them under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

(c) Effective Date.—This section shall apply for purposes of any period beginning before, on, or after the date of the enactment of this Act.

SEC. 9402. INCREASE IN FEDERAL UNEMPLOYMENT ACCOUNT CEILING.

(a) In General.—Section 902(a)(2) of the Social Security Act (42 U.S.C. 1102(a)(2)) is amended by striking "0.25 percent" and inserting "0.5 percent".

(b) Effective Date.—This section and the amendment made by this section—

(1) shall take effect on October 1, 2001, and

(2) shall apply to fiscal years beginning on or after that date.

SEC. 9403. SPECIAL DISTRIBUTION TO STATES FROM UNEMPLOYMENT TRUST FUND.

(a) In General.—Subsection (a) of section 903 of the Social Security Act (42 U.S.C. 1103(a)) is amended by adding at the end the following new paragraph:

"(3)(A) Notwithstanding any other provision of this section, for purposes of carrying out this subsection with respect to any excess amount (referred to in paragraph (1)) remaining in the employment security administration account as of the close of fiscal year 1999, 2000, or 2001, such amount shall—

"(i) to the extent of any amounts not in excess of $100,000,000, be subject to subparagraph (B), and

"(ii) to the extent of any amounts in excess of $100,000,000, be subject to subparagraph (C).

"(B) Paragraphs (1) and (2) shall apply with respect to any amounts described in subparagraph (A)(i), except that—

"(i) in carrying out the provisions of paragraph (2)(B) with respect to such amounts (to determine the portion of such amounts which is to be allocated to a State for a succeeding fiscal year), the ratio to be applied under such provisions shall be the same as the ratio that—

"(I) the amount of funds to be allocated to such State for such fiscal year pursuant to title III, bears to

"(II) the total amount of funds to be allocated to all States for such fiscal year pursuant to title III,

as determined by the Secretary of Labor, and

"(ii) the amounts allocated to a State pursuant to this subparagraph shall be available to such State, subject to the last sentence of subsection (c)(2).

Nothing in this paragraph shall preclude the application of subsection (b) with respect to any allocation determined under this subparagraph.

"(C) Any amounts described in clause (ii) of subparagraph (A) (remaining in the employment security administration account as of the close of any fiscal year specified in such subparagraph) shall, as of the beginning of the succeeding fiscal year, accrue to the Federal unemployment account, without regard to the limit provided in section 902(a)."

(b) Conforming Amendment.—Paragraph (2) of section 903(c) of the Social Security Act is amended by adding at the end, as a flush left sentence, the following:

"Any amount allocated to a State under this section for fiscal year 2000, 2001, or 2002 may be used by such State only to pay expenses incurred by it for the administration of its unemployment compensation law, and may be so used by it without regard to any of the conditions prescribed in any of the preceding provisions of this paragraph."

SEC. 9404. INTEREST-FREE ADVANCES TO STATE ACCOUNTS IN UNEMPLOYMENT TRUST FUND RESTRICTED TO STATES WHICH MEET FUNDING GOALS.

(a) IN GENERAL.—Paragraph (2) of section 1202(b) of the Social Security Act (42 U.S.C. 1322(b)) is amended—

(1) by striking "and" at the end of subparagraph (A),

(2) by striking the period at the end of subparagraph (B) and inserting ", and", and

(3) by adding at the end the following new subparagraph:

"(C) the average daily balance in the account of such State in the Unemployment Trust Fund for each of 4 of the 5 calendar quarters preceding the calendar quarter in which such advances were made exceeds the funding goal of such State (as defined in subsection (d))."

(b) FUNDING GOAL DEFINED.—Section 1202 of the Social Security Act is amended by adding at the end the following new subsection:

"(d) For purposes of subsection (b)(2)(C), the term 'funding goal' means, for any State for any calendar quarter, the average of the unemployment insurance benefits paid by such State during each of the 3 years, in the 20-year period ending with the calendar year containing such calendar quarter, during which the State paid the greatest amount of unemployment benefits."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar years beginning after the date of the enactment of this Act.

SEC. 9405. EXEMPTION OF SERVICE PERFORMED BY ELECTION WORKERS FROM THE FEDERAL UNEMPLOYMENT TAX.

(a) IN GENERAL.—Paragraph (3) of section 3309(b) of the Internal Revenue Code of 1986 (relating to exemption for certain services) is amended—

(1) by striking "or" at the end of subparagraph (D),

(2) by adding "or" at the end of subparagraph (E), and

(3) by inserting after subparagraph (E) the following new subparagraph:

"(F) as an election official or election worker if the amount of remuneration received by the individual during the calendar year for services as an election official or election worker is less than $1,000;".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to service performed after the date of the enactment of this Act.

SEC. 9406. TREATMENT OF CERTAIN SERVICES PERFORMED BY INMATES.

(a) IN GENERAL.—Subsection (c) of section 3306 of the Internal Revenue Code of 1986 (defining employment) is amended—

(1) by striking "or" at the end of paragraph (19),

(2) by striking the period at the end of paragraph (20) and inserting "; or", and

(3) by adding at the end the following new paragraph:

"(21) service performed by a person committed to a penal institution."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to service performed after March 26, 1996.

SEC. 9407. EXEMPTION OF SERVICE PERFORMED FOR AN ELEMENTARY OR SECONDARY SCHOOL OPERATED PRIMARILY FOR RELIGIOUS PURPOSES FROM THE FEDERAL UNEMPLOYMENT TAX.

(a) IN GENERAL.—Paragraph (1) of section 3309(b) of the Internal Revenue Code of 1986 (relating to exemption for certain services) is amended—

(1) by striking "or" at the end of subparagraph (A), and

(2) by inserting before the semicolon at the end the following: ", or (C) an elementary or secondary school which is operated primarily for religious purposes, which is described in section 501(c)(3), and which is exempt from tax under section 501(a)".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to service performed after the date of the enactment of this Act.

SEC. 9408. STATE PROGRAM INTEGRITY ACTIVITIES FOR UNEMPLOYMENT COMPENSATION.

Section 901(c) of the Social Security Act (42 U.S.C. 1101(c)) is amended by adding at the end the following new paragraph:

"(5)(A) There are authorized to be appropriated out of the employment security administration account to carry out program integrity activities, in addition to any amounts available under paragraph (1)(A)(i)—

"(i) $89,000,000 for fiscal year 1998;

"(ii) $91,000,000 for fiscal year 1999;

"(iii) $93,000,000 fiscal year 2000;

"(iv) $96,000,000 for fiscal year 2001; and

"(v) $98,000,000 for fiscal year 2002.

"(B) In any fiscal year in which a State receives funds appropriated pursuant to this paragraph, the State shall expend a proportion of the funds appropriated pursuant to paragraph (1)(A)(i) to carry out program integrity activities that is not less than the proportion of the funds appropriated under such paragraph that was expended by the State to carry out program integrity activities in fiscal year 1997.

"(C) For purposes of this paragraph, the term 'program integrity activities' means initial claims review activities, eligibility review activities, benefit payments control activities, and employer liability auditing activities.".

Subtitle F—Increase in Public Debt Limit

SEC. 9501. INCREASE IN PUBLIC DEBT LIMIT.

Subsection (b) of section 3101 of title 31, United States Code, is amended by striking the dollar amount contained therein and inserting "$5,950,000,000,000".

TITLE X—COMMITTEE ON WAYS AND MEANS—MEDICARE

SEC. 10000. AMENDMENTS TO SOCIAL SECURITY ACT AND REFERENCES TO OBRA; TABLE OF CONTENTS OF TITLE.

(a) AMENDMENTS TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this title an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

(b) REFERENCES TO OBRA.—In this title, the terms "OBRA–1986", "OBRA–1987", "OBRA–1989", "OBRA–1990", and "OBRA–1993" refer to the Omnibus Budget Reconciliation Act of 1986 (Public Law 99–509), the Omnibus Budget Reconciliation Act of 1987 (Public Law 100–203), the Omnibus Budget Reconciliation Act of 1989 (Public Law 101–239), the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508), and the Omnibus Budget Reconciliation Act of 1993 (Public Law 103–66), respectively.

(c) TABLE OF CONTENTS OF TITLE.—The table of contents of this title is as follows:

Sec. 10000. Amendments to Social Security Act and references to OBRA; table of contents of title.

Subtitle A—MedicarePlus Program

CHAPTER 1—MEDICAREPLUS PROGRAM

SUBCHAPTER A—MEDICAREPLUS PROGRAM

Sec. 10001. Establishment of MedicarePlus program.

"PART C—MEDICAREPLUS PROGRAM

"Sec. 1851. Eligibility, election, and enrollment.
"Sec. 1852. Benefits and beneficiary protections.
"Sec. 1853. Payments to MedicarePlus organizations.
"Sec. 1854. Premiums.
"Sec. 1855. Organizational and financial requirements for MedicarePlus organizations; provider-sponsored organizations.
"Sec. 1856. Establishment of standards.
"Sec. 1857. Contracts with MedicarePlus organizations.
"Sec. 1859. Definitions; miscellaneous provisions.

Sec. 10002. Transitional rules for current medicare HMO program.
Sec. 10003. Conforming changes in medigap program.

SUBCHAPTER B—SPECIAL RULES FOR MEDICAREPLUS MEDICAL SAVINGS ACCOUNTS

Sec. 10006. MedicarePlus MSA.

CHAPTER 2—INTEGRATED LONG-TERM CARE PROGRAMS

SUBCHAPTER A—PROGRAMS OF ALL-INCLUSIVE CARE FOR THE ELDERLY (PACE)

Sec. 10011. Coverage of PACE under the medicare program.
Sec. 10012. Establishment of PACE program as medicaid State option.
Sec. 10013. Effective date; transition.
Sec. 10014. Study and reports.

SUBCHAPTER B—SOCIAL HEALTH MAINTENANCE ORGANIZATIONS

Sec. 10015. Social health maintenance organizations (SHMOs).

SUBCHAPTER C—OTHER PROGRAMS

Sec. 10018. Orderly transition of municipal health service demonstration projects.
Sec. 10019. Extension of certain medicare community nursing organization demonstration projects.

CHAPTER 3—MEDICARE PAYMENT ADVISORY COMMISSION

Sec. 10021. Medicare Payment Advisory Commission.

CHAPTER 4—MEDIGAP PROTECTIONS

Sec. 10031. Medigap protections.
Sec. 10032. Medicare prepaid competitive pricing demonstration project.

CHAPTER 5—TAX TREATMENT OF HOSPITALS PARTICIPATING IN PROVIDER-SPONSORED ORGANIZATIONS

Sec. 10041. Tax treatment of hospitals which participate in provider-sponsored organizations.

Subtitle B—Prevention Initiatives

Sec. 10101. Screening mammography.
Sec. 10102. Screening pap smear and pelvic exams.
Sec. 10103. Prostate cancer screening tests.
Sec. 10104. Coverage of colorectal screening.
Sec. 10105. Diabetes screening tests.
Sec. 10106. Standardization of medicare coverage of bone mass measurements.
Sec. 10107. Vaccines outreach expansion.
Sec. 10108. Study on preventive benefits.

Subtitle C—Rural Initiatives

Sec. 10201. Rural primary care hospital program.

Sec. 10202. Prohibiting denial of request by rural referral centers for reclassification on basis of comparability of wages.
Sec. 10203. Hospital geographic reclassification permitted for purposes of disproportionate share payment adjustments.
Sec. 10204. Medicare-dependent, small rural hospital payment extension.
Sec. 10205. Geographic reclassification for certain disproportionately large hospitals.
Sec. 10206. Floor on area wage index.
Sec. 10207. Informatics, telemedicine, and education demonstration project.

Subtitle D—Anti-Fraud and Abuse Provisions

Sec. 10301. Permanent exclusion for those convicted of 3 health care related crimes.
Sec. 10302. Authority to refuse to enter into medicare agreements with individuals or entities convicted of felonies.
Sec. 10303. Inclusion of toll-free number to report medicare waste, fraud, and abuse in explanation of benefits forms.
Sec. 10304. Liability of medicare carriers and fiscal intermediaries for claims submitted by excluded providers.
Sec. 10305. Exclusion of entity controlled by family member of a sanctioned individual.
Sec. 10306. Imposition of civil money penalties.
Sec. 10307. Disclosure of information and surety bonds.
Sec. 10308. Provision of certain identification numbers.
Sec. 10309. Advisory opinions regarding certain physician self-referral provisions.
Sec. 10310. Other fraud and abuse related provisions.

Subtitle E—Prospective Payment Systems

CHAPTER 1—PAYMENT UNDER PART A

Sec. 10401. Prospective payment for skilled nursing facility services.
Sec. 10402. Prospective payment for inpatient rehabilitation hospital services.

CHAPTER 2—PAYMENT UNDER PART B

SUBCHAPTER A—PAYMENT FOR HOSPITAL OUTPATIENT DEPARTMENT SERVICES

Sec. 10411. Elimination of formula-driven overpayments (FDO) for certain outpatient hospital services.
Sec. 10412. Extension of reductions in payments for costs of hospital outpatient services.
Sec. 10413. Prospective payment system for hospital outpatient department services.

SUBCHAPTER B—REHABILITATION SERVICES

Sec. 10421. Rehabilitation agencies and services.
Sec. 10422. Comprehensive outpatient rehabilitation facilities (corf).

SUBCHAPTER C—AMBULANCE SERVICES

Sec. 10431. Payments for ambulance services.
Sec. 10432. Demonstration of coverage of ambulance services under medicare through contracts with units of local government.

CHAPTER 3—PAYMENT UNDER PARTS A AND B

Sec. 10441. Prospective payment for home health services.

Subtitle F—Provisions Relating to Part A

CHAPTER 1—PAYMENT OF PPS HOSPITALS

Sec. 10501. PPS hospital payment update.
Sec. 10502. Capital payments for PPS hospitals.
Sec. 10503. Freeze in disproportionate share.
Sec. 10504. Medicare capital asset sales price equal to book value.
Sec. 10505. Elimination of IME and DSH payments attributable to outlier payments.
Sec. 10506. Reduction in adjustment for indirect medical education.
Sec. 10507. Treatment of transfer cases.
Sec. 10508. Increase base payment rate to Puerto Rico hospitals.

CHAPTER 2—PAYMENT OF PPS EXEMPT HOSPITALS

Sec. 10511. Payment update.
Sec. 10512. Reductions to capital payments for certain PPS-exempt hospitals and units.
Sec. 10513. Cap on TEFRA limits.
Sec. 10514. Change in bonus and relief payments.
Sec. 10515. Change in payment and target amount for new providers.
Sec. 10516. Rebasing.
Sec. 10517. Treatment of certain long-term care hospitals.
Sec. 10518. Elimination of exemptions; report on exceptions and adjustments.

CHAPTER 3—PROVISIONS RELATED TO HOSPICE SERVICES

Sec. 10521. Payments for hospice services.
Sec. 10522. Payment for home hospice care based on location where care is furnished.
Sec. 10523. Hospice care benefits periods.
Sec. 10524. Other items and services included in hospice care.
Sec. 10525. Contracting with independent physicians or physician groups for hospice care services permitted.
Sec. 10526. Waiver of certain staffing requirements for hospice care programs in non-urbanized areas.
Sec. 10527. Limitation on liability of beneficiaries for certain hospice coverage denials.
Sec. 10528. Extending the period for physician certification of an individual's terminal illness.
Sec. 10529. Effective date.

CHAPTER 4—MODIFICATION OF PART A HOME HEALTH BENEFIT

Sec. 10531. Modification of part A home health benefit for individuals enrolled under part B.

CHAPTER 5—OTHER PAYMENT PROVISIONS

Sec. 10541. Reductions in payments for enrollee bad debt.
Sec. 10542. Permanent extension of hemophilia pass-through.
Sec. 10543. Reduction in part A medicare premium for certain public retirees.

Subtitle G—Provisions Relating to Part B Only

CHAPTER 1—PHYSICIANS' SERVICES

Sec. 10601. Establishment of single conversion factor for 1998.
Sec. 10602. Establishing update to conversion factor to match spending under sustainable growth rate.
Sec. 10603. Replacement of volume performance standard with sustainable growth rate.
Sec. 10604. Payment rules for anesthesia services.
Sec. 10605. Implementation of resource-based physician practice expense.
Sec. 10606. Dissemination of information on high per discharge relative values for in-hospital physicians' services.
Sec. 10607. No X-ray required for chiropractic services.
Sec. 10608. Temporary coverage restoration for portable electrocardiogram transportation.

CHAPTER 2—OTHER PAYMENT PROVISIONS

Sec. 10611. Payments for durable medical equipment.
Sec. 10612. Oxygen and oxygen equipment.
Sec. 10613. Reduction in updates to payment amounts for clinical diagnostic laboratory tests.
Sec. 10614. Simplification in administration of laboratory tests.
Sec. 10615. Updates for ambulatory surgical services.
Sec. 10616. Reimbursement for drugs and biologicals.
Sec. 10617. Coverage of oral anti-nausea drugs under chemotherapeutic regimen.
Sec. 10618. Rural health clinic services.
Sec. 10619. Increased medicare reimbursement for nurse practitioners and clinical nurse specialists.
Sec. 10620. Increased medicare reimbursement for physician assistants.
Sec. 10621. Renal dialysis-related services.

CHAPTER 3—PART B PREMIUM

Sec. 10631. Part B premium.

Subtitle H—Provisions Relating to Parts A and B

CHAPTER 1—PROVISIONS RELATING TO MEDICARE SECONDARY PAYER

Sec. 10701. Permanent extension and revision of certain secondary payer provisions.
Sec. 10702. Clarification of time and filing limitations.
Sec. 10703. Permitting recovery against third party administrators.

CHAPTER 2—HOME HEALTH SERVICES

Sec. 10711. Recapturing savings resulting from temporary freeze on payment increases for home health services.
Sec. 10712. Interim payments for home health services.
Sec. 10713. Clarification of part-time or intermittent nursing care.
Sec. 10714. Study of definition of homebound.
Sec. 10715. Payment based on location where home health service is furnished.
Sec. 10716. Normative standards for home health claims denials.
Sec. 10717. No home health benefits based solely on drawing blood.

CHAPTER 3—BABY BOOM GENERATION MEDICARE COMMISSION

Sec. 10721. Bipartisan Commission on the Effect of the Baby Boom Generation on the Medicare Program.

CHAPTER 4—PROVISIONS RELATING TO DIRECT GRADUATE MEDICAL EDUCATION

Sec. 10731. Limitation on payment based on number of residents and implementation of rolling average FTE count.
Sec. 10732. Phased-in limitation on hospital overhead and supervisory physician component of direct medical education costs.

Sec. 10733. Permitting payment to non-hospital providers.
Sec. 10734. Incentive payments under plans for voluntary reduction in number of residents.
Sec. 10735. Demonstration project on use of consortia.
Sec. 10736. Recommendations on long-term payment policies regarding financing teaching hospitals and graduate medical education.
Sec. 10737. Medicare special reimbursement rule for certain combined residency programs.

CHAPTER 5—OTHER PROVISIONS

Sec. 10741. Centers of excellence.
Sec. 10742. Medicare part B special enrollment period and waiver of part B late enrollment penalty and medigap special open enrollment period for certain military retirees and dependents.
Sec. 10743. Protections under the medicare program for disabled workers who lose benefits under a group health plan.
Sec. 10744. Placement of advance directive in medical record.

Subtitle I—Medical Liability Reform

CHAPTER 1—GENERAL PROVISIONS

Sec. 10801. Federal reform of health care liability actions.
Sec. 10802. Definitions.
Sec. 10803. Effective date.

CHAPTER 2—UNIFORM STANDARDS FOR HEALTH CARE LIABILITY ACTIONS

Sec. 10811. Statute of limitations.
Sec. 10812. Calculation and payment of damages.
Sec. 10813. Alternative dispute resolution.

Subtitle A—MedicarePlus Program

CHAPTER 1—MEDICAREPLUS PROGRAM

Subchapter A—MedicarePlus Program

SEC. 10001. ESTABLISHMENT OF MEDICAREPLUS PROGRAM.

(a) IN GENERAL.—Title XVIII is amended by redesignating part C as part D and by inserting after part B the following new part:

"PART C—MEDICAREPLUS PROGRAM

"ELIGIBILITY, ELECTION, AND ENROLLMENT

"SEC. 1851. (a) CHOICE OF MEDICARE BENEFITS THROUGH MEDICAREPLUS PLANS.—

"(1) IN GENERAL.—Subject to the provisions of this section, each MedicarePlus eligible individual (as defined in paragraph (3)) is entitled to elect to receive benefits under this title—

"(A) through the medicare fee-for-service program under parts A and B, or

"(B) through enrollment in a MedicarePlus plan under this part.

"(2) TYPES OF MEDICAREPLUS PLANS THAT MAY BE AVAILABLE.—A MedicarePlus plan may be any of the following types of plans of health insurance:

"(A) COORDINATED CARE PLANS.—Coordinated care plans which provide health care services, including health maintenance organization plans and preferred provider organization plans.

"(B) PLANS OFFERED BY PROVIDER-SPONSORED ORGANIZATION.—A MedicarePlus plan offered by a provider-sponsored organization, as defined in section 1855(e).

"(C) COMBINATION OF MSA PLAN AND CONTRIBUTIONS TO MEDICAREPLUS MSA.—An MSA plan, as defined in section 1859(b)(2), and a contribution into a MedicarePlus medical savings account (MSA).

"(3) MEDICAREPLUS ELIGIBLE INDIVIDUAL.—

"(A) IN GENERAL.—In this title, subject to subparagraph (B), the term 'MedicarePlus eligible individual' means an individual who is entitled to benefits under part A and enrolled under part B.

"(B) SPECIAL RULE FOR END-STAGE RENAL DISEASE.—Such term shall not include an individual medically determined to have end-stage renal disease, except that an individual who develops end-stage renal disease while enrolled in a MedicarePlus plan may continue to be enrolled in that plan.

"(b) SPECIAL RULES.—

"(1) RESIDENCE REQUIREMENT.—

"(A) IN GENERAL.—Except as the Secretary may otherwise provide, an individual is eligible to elect a MedicarePlus plan offered by a MedicarePlus organization only if the organization serves the geographic area in which the individual resides.

"(B) CONTINUATION OF ENROLLMENT PERMITTED.—Pursuant to rules specified by the Secretary, the Secretary shall provide that an individual may continue enrollment in a plan, notwithstanding that the individual no longer resides in the service area of the plan, so long as the plan provides benefits for enrollees located in the area in which the individual resides.

"(2) SPECIAL RULE FOR CERTAIN INDIVIDUALS COVERED UNDER FEHBP OR ELIGIBLE FOR VETERANS OR MILITARY HEALTH BENEFITS, VETERANS .—

"(A) FEHBP.—An individual who is enrolled in a health benefit plan under chapter 89 of title 5, United States Code, is not eligible to enroll in an MSA plan until such time as the Director of the Office of Management and Budget certifies to the Secretary that the Office of Personnel Management has adopted policies which will ensure that the enrollment of such individuals in such plans will not result in increased expenditures for the Federal Government for health benefit plans under such chapter.

"(B) VA AND DOD.—The Secretary may apply rules similar to the rules described in subparagraph (A) in the case of individuals who are eligible for health care benefits under chapter 55 of title 10, United States Code, or under chapter 17 of title 38 of such Code.

"(3) LIMITATION ON ELIGIBILITY OF QUALIFIED MEDICARE BENEFICIARIES AND OTHER MEDICAID BENEFICIARIES TO ENROLL IN AN MSA PLAN.—An individual who is a qualified medicare beneficiary (as defined in section 1905(p)(1)), a qualified disabled and working individual (described in section 1905(s)), an individual described in section 1902(a)(10)(E)(iii), or otherwise entitled to medicare cost-sharing under a State plan under title XIX is not eligible to enroll in an MSA plan.

"(4) COVERAGE UNDER MSA PLANS ON A DEMONSTRATION BASIS.—

"(A) IN GENERAL.—An individual is not eligible to enroll in an MSA plan under this part—

"(i) on or after January 1, 2003, unless the enrollment is the continuation of such an enrollment in effect as of such date; or

"(ii) as of any date if the number of such individuals so enrolled as of such date has reached 500,000.

Under rules established by the Secretary, an individual is not eligible to enroll (or continue enrollment) in an MSA plan for a year unless the individual provides assurances satisfactory to the Secretary that the individual will reside in the United States for at least 183 days during the year.

"(B) EVALUATION.—The Secretary shall regularly evaluate the impact of permitting enrollment in MSA plans under this part on selection (including adverse selection), use of preventive care, access to care, and the financial status of the Trust Funds under this title.

"(C) REPORTS.—The Secretary shall submit to Congress periodic reports on the numbers of individuals enrolled in such plans and on the evaluation being conducted under subparagraph (B). The Secretary shall submit such a report, by not later than March 1, 2002, on whether the time limitation under subparagraph (A)(i) should be extended or removed and whether to change the numerical limitation under subparagraph (A)(ii).

"(c) PROCESS FOR EXERCISING CHOICE.—

"(1) IN GENERAL.—The Secretary shall establish a process through which elections described in subsection (a) are made and changed, including the form and manner in which such elections are made and changed. Such elections shall be made or changed only during coverage election periods specified under subsection (e) and shall become effective as provided in subsection (f).

"(2) COORDINATION THROUGH MEDICAREPLUS ORGANIZATIONS.—

"(A) ENROLLMENT.—Such process shall permit an individual who wishes to elect a MedicarePlus plan offered by a MedicarePlus organization to make such election through the filing of an appropriate election form with the organization.

"(B) DISENROLLMENT.—Such process shall permit an individual, who has elected a MedicarePlus plan offered by a MedicarePlus organization and who wishes to terminate such election, to terminate such election through the filing of an appropriate election form with the organization.

"(3) DEFAULT.—

"(A) INITIAL ELECTION.—

"(i) IN GENERAL.—Subject to clause (ii), an individual who fails to make an election during an initial election period under subsection (e)(1) is deemed to have chosen the medicare fee-for-service program option.

"(ii) SEAMLESS CONTINUATION OF COVERAGE.—The Secretary may establish procedures under which an individual who is enrolled in a health plan (other than MedicarePlus plan) offered by a MedicarePlus organization at the time of the initial election period and who fails to elect to receive coverage other than through the organization is deemed to have elected the MedicarePlus plan offered by the organization (or, if the organization offers more than one such plan, such plan or plans as the Secretary identifies under such procedures).

"(B) CONTINUING PERIODS.—An individual who has made (or is deemed to have made) an election under this section is considered to have continued to make such election until such time as—

"(i) the individual changes the election under this section, or

"(ii) a MedicarePlus plan is discontinued, if the individual had elected such plan at the time of the discontinuation.

"(d) PROVIDING INFORMATION TO PROMOTE INFORMED CHOICE.—

"(1) IN GENERAL.—The Secretary shall provide for activities under this subsection to broadly disseminate information to medicare beneficiaries (and prospective medicare beneficiaries) on the coverage options provided under this section in order to promote an active, informed selection among such options.

"(2) PROVISION OF NOTICE.—

"(A) OPEN SEASON NOTIFICATION.—At least 30 days before the beginning of each annual, coordinated election period (as defined in subsection (e)(3)(B)), the Secretary shall mail to each MedicarePlus eligible individual residing in an area the following:

"(i) GENERAL INFORMATION.—The general information described in paragraph (3).

"(ii) LIST OF PLANS AND COMPARISON OF PLAN OPTIONS.—A list identifying the MedicarePlus plans that are (or will be) available to residents of the area and information described in paragraph (4) concerning such plans. Such information shall be presented in a comparative form.

"(iii) MEDICAREPLUS MONTHLY CAPITATION RATE.—The amount of the monthly MedicarePlus capitation rate for the area.

"(iv) ADDITIONAL INFORMATION.—Any other information that the Secretary determines will assist the individual in making the election under this section.

The mailing of such information shall be coordinated with the mailing of any annual notice under section 1804.

"(B) NOTIFICATION TO NEWLY MEDICAREPLUS ELIGIBLE INDIVIDUALS.—To the extent practicable, the Secretary shall, not later than 2 months before the beginning of the initial MedicarePlus enrollment period for an individual described in subsection (e)(1), mail to the individual the information described in subparagraph (A).

"(C) FORM.—The information disseminated under this paragraph shall be written and formatted using language that is easily understandable by medicare beneficiaries.

"(D) PERIODIC UPDATING.—The information described in subparagraph (A) shall be updated on at least an annual basis to reflect changes in the availability of MedicarePlus plans and the benefits and monthly premiums (and net monthly premiums) for such plans.

"(3) GENERAL INFORMATION.—General information under this paragraph, with respect to coverage under this part during a year, shall include the following:

"(A) BENEFITS UNDER FEE-FOR-SERVICE PROGRAM OPTION.—A general description of the benefits covered (and not covered) under the medicare fee-for-service program under parts A and B, including—

"(i) covered items and services,

"(ii) beneficiary cost sharing, such as deductibles, coinsurance, and copayment amounts, and

"(iii) any beneficiary liability for balance billing.

"(B) PART B PREMIUM.—The part B premium rates that will be charged for part B coverage.

"(C) ELECTION PROCEDURES.—Information and instructions on how to exercise election options under this section.

"(D) RIGHTS.—The general description of procedural rights (including grievance and appeals procedures) of beneficiaries under the medicare fee-for-service program and the MedicarePlus program and right to be protected against discrimination based on health status-related factors under section 1852(b).

"(E) INFORMATION ON MEDIGAP AND MEDICARE SELECT.—A general description of the benefits, enrollment rights, and other requirements applicable to medicare supplemental policies under section 1882 and provisions relating to medicare select policies described in section 1882(t).

"(F) POTENTIAL FOR CONTRACT TERMINATION.—The fact that a MedicarePlus organization may terminate or refuse to renew its contract under this part and the effect the termination or nonrenewal of its contract may have on individuals enrolled with the MedicarePlus plan under this part.

"(4) INFORMATION COMPARING PLAN OPTIONS.—Information under this paragraph, with respect to a MedicarePlus plan for a year, shall include the following:

"(A) BENEFITS.—The benefits covered (and not covered) under the plan, including—

"(i) covered items and services beyond those provided under the medicare fee-for-service program,

"(ii) any beneficiary cost sharing,

"(iii) any maximum limitations on out-of-pocket expenses, and

"(iv) in the case of an MSA plan, differences in cost sharing and balance billing under such a plan compared to under other MedicarePlus plans.

"(B) PREMIUMS.—The monthly premium (and net monthly premium), if any, for the plan.

"(C) SERVICE AREA.—The service area of the plan.

"(D) QUALITY AND PERFORMANCE.—To the extent available, plan quality and performance indicators for the benefits under the plan (and how they compare to such indicators under the medicare fee-for-service program under parts A and B in the area involved), including—

"(i) disenrollment rates for medicare enrollees electing to receive benefits through the plan for the previous 2 years (excluding disenrollment due to death or moving outside the plan's service area),

"(ii) information on medicare enrollee satisfaction,

"(iii) information on health outcomes, and

"(iv) the recent record regarding compliance of the plan with requirements of this part (as determined by the Secretary).

"(E) SUPPLEMENTAL BENEFITS OPTIONS.—Whether the organization offering the plan offers optional supplemental benefits and the terms and conditions (including premiums) for such coverage.

"(5) MAINTAINING A TOLL-FREE NUMBER AND INTERNET SITE.—The Secretary shall maintain a toll-free number for inquiries regarding MedicarePlus options and the operation of this part in all areas in which MedicarePlus plans are offered and an Internet site through which individuals may electronically obtain information on such options and MedicarePlus plans.

"(6) USE OF NONFEDERAL ENTITIES.—The Secretary may enter into contracts with non-Federal entities to carry out activities under this subsection.

"(7) PROVISION OF INFORMATION.—A MedicarePlus organization shall provide the Secretary with such information on the organization and each MedicarePlus plan it offers as may be required for the preparation of the information referred to in paragraph (2)(A).

"(e) COVERAGE ELECTION PERIODS.—

"(1) INITIAL CHOICE UPON ELIGIBILITY TO MAKE ELECTION IF MEDICAREPLUS PLANS AVAILABLE TO INDIVIDUAL.—If, at the time an individual first becomes entitled to benefits under part A and enrolled under part B, there is one or more MedicarePlus plans offered in the area in which the individual resides, the individual shall make the election under this section during a period (of a duration and beginning at a time specified by the Secretary) at such time. Such period shall be specified in a manner so that, in the case of an individual who elects a MedicarePlus plan during the period, coverage under the plan becomes effective as of the first date on which the individual may receive such coverage.

"(2) OPEN ENROLLMENT AND DISENROLLMENT OPPORTUNITIES.—Subject to paragraph (5)—

"(A) CONTINUOUS OPEN ENROLLMENT AND DISENROLLMENT THROUGH 2000.—At any time during 1998, 1999, and 2000, a MedicarePlus eligible individual may change the election under subsection (a)(1).

"(B) CONTINUOUS OPEN ENROLLMENT AND DISENROLLMENT FOR FIRST 6 MONTHS DURING 2001.—

"(i) IN GENERAL.—Subject to clause (ii), at any time during the first 6 months of 2001, or, if the individual first becomes a MedicarePlus eligible individual during 2001, during the first 6 months during 2001 in which the individual is a MedicarePlus eligible individual, a MedicarePlus eligible individual may change the election under subsection (a)(1).

"(ii) LIMITATION OF ONE CHANGE PER YEAR.—An individual may exercise the right under clause (i) only once during 2001. The limitation under this clause shall not apply to changes in elections effected during an annual, coordinated election period under paragraph (3) or during a special enrollment period under paragraph (4).

"(C) CONTINUOUS OPEN ENROLLMENT AND DISENROLLMENT FOR FIRST 3 MONTHS IN SUBSEQUENT YEARS.—

"(i) IN GENERAL.—Subject to clause (ii), at any time during the first 3 months of a year after 2001, or, if the individual first becomes a MedicarePlus eligible individual during a year after 2001, during the first 3 months of such year in which the individual is a MedicarePlus eligible individual, a MedicarePlus eligible individual may change the election under subsection (a)(1).

"(ii) LIMITATION OF ONE CHANGE PER YEAR.—An individual may exercise the right under clause (i) only once a year. The limitation under this clause shall not apply to changes in elections effected during an annual, coordinated election period under paragraph (3) or during a special enrollment period under paragraph (4).

"(3) ANNUAL, COORDINATED ELECTION PERIOD.—

"(A) IN GENERAL.—Subject to paragraph (5), each individual who is eligible to make an election under this section may change such election during an annual, coordinated election period.

"(B) ANNUAL, COORDINATED ELECTION PERIOD.—For purposes of this section, the term 'annual, coordinated election period' means, with respect to a calendar year (beginning with 2001), the month of October before such year.

"(C) MEDICAREPLUS HEALTH FAIRS.—In the month of October of each year (beginning with 1998), the Secretary shall provide for a nationally coordinated educational and publicity campaign to inform MedicarePlus eligible individuals about MedicarePlus plans and the election process provided under this section.

"(4) SPECIAL ELECTION PERIODS.—Effective as of January 1, 2001, an individual may discontinue an election of a MedicarePlus plan offered by a MedicarePlus organization other than during an annual, coordinated election period and make a new election under this section if—

"(A) the organization's or plan's certification under this part has been terminated or the organization has terminated or otherwise discontinued providing the plan;

"(B) the individual is no longer eligible to elect the plan because of a change in the individual's place of residence or other change in circumstances (specified by the Secretary, but not including termination of the individual's enrollment on the basis described in clause (i) or (ii) of subsection (g)(3)(B));

"(C) the individual demonstrates (in accordance with guidelines established by the Secretary) that—

"(i) the organization offering the plan substantially violated a material provision of the organization's contract under this part in relation to the individual (including the failure to provide an enrollee on a timely basis medically necessary care for which benefits are available under the plan or the failure to provide such covered care in accordance with applicable quality standards); or

"(ii) the organization (or an agent or other entity acting on the organization's behalf) materially misrepresented the plan's provisions in marketing the plan to the individual; or

"(D) the individual meets such other exceptional conditions as the Secretary may provide.

"(5) Special rules for MSA plans.—Notwithstanding the preceding provisions of this subsection, an individual—

"(A) may elect an MSA plan only during—

"(i) an initial open enrollment period described in paragraph (1),

"(ii) an annual, coordinated election period described in paragraph (3)(B), or

"(iii) the months of October 1998 and October 1999; and

"(B) may not discontinue an election of an MSA plan except during the periods described in clause (ii) or (iii) of subparagraph (A) and under paragraph (4).

"(f) Effectiveness of Elections and Changes of Elections.—

"(1) During initial coverage election period.—An election of coverage made during the initial coverage election period under subsection (e)(1) shall take effect upon the date the individual becomes entitled to benefits under part A and enrolled under part B, except as the Secretary may provide (consistent with section 1838) in order to prevent retroactive coverage.

"(2) During continuous open enrollment periods.—An election or change of coverage made under subsection (e)(2) shall take effect with the first day of the first calendar month following the date on which the election is made.

"(3) Annual, coordinated election period.—An election or change of coverage made during an annual, coordinated election period (as defined in subsection (e)(3)(B)) in a year shall take effect as of the first day of the following year.

"(4) Other periods.—An election or change of coverage made during any other period under subsection (e)(4) shall take effect in such manner as the Secretary provides in a manner consistent (to the extent practicable) with protecting continuity of health benefit coverage.

"(g) Guaranteed Issue and Renewal.—

"(1) In general.—Except as provided in this subsection, a MedicarePlus organization shall provide that at any time during which elections are accepted under this section with respect to a MedicarePlus plan offered by the organization, the organization will accept without restrictions individuals who are eligible to make such election.

"(2) Priority.—If the Secretary determines that a MedicarePlus organization, in relation to a MedicarePlus plan it offers, has a capacity limit and the number of MedicarePlus eligible individuals who elect the plan under this section exceeds the capacity limit, the organization may limit the election of individuals of the plan under this section but only if priority in election is provided—

"(A) first to such individuals as have elected the plan at the time of the determination, and

"(B) then to other such individuals in such a manner that does not discriminate, on a basis described in section 1852(b), among the individuals (who seek to elect the plan).

The preceding sentence shall not apply if it would result in the enrollment of enrollees substantially nonrepresentative, as determined in accordance with regulations of the Secretary, of the medicare population in the service area of the plan.

"(3) Limitation on termination of election.—

"(A) In general.—Subject to subparagraph (B), a MedicarePlus organization may not for any reason terminate the election of any individual under this section for a MedicarePlus plan it offers.

"(B) Basis for termination of election.—A MedicarePlus organization may terminate an individual's election under this section with respect to a MedicarePlus plan it offers if—

"(i) any net monthly premiums required with respect to such plan are not paid on a timely basis (consistent with standards under section 1856 that provide for a grace period for late payment of net monthly premiums),

"(ii) the individual has engaged in disruptive behavior (as specified in such standards), or

"(iii) the plan is terminated with respect to all individuals under this part in the area in which the individual resides.

"(C) Consequence of termination.—

"(i) Terminations for cause.—Any individual whose election is terminated under clause (i) or (ii) of subparagraph (B) is deemed to have elected the medicare fee-for-service program option described in subsection (a)(1)(A).

"(ii) Termination based on plan termination or service area reduction.—Any individual whose election is terminated under subparagraph (B)(iii) shall have a special election period under subsection (e)(4)(A) in which to change coverage to coverage under another MedicarePlus plan. Such an individual who fails to make an election during such period is deemed to have chosen to change coverage to the medicare fee-for-service program option described in subsection (a)(1)(A).

"(D) Organization obligation with respect to election forms.—Pursuant to a contract under section 1857, each MedicarePlus organization receiving an election form under subsection (c)(2) shall transmit to the Secretary (at such time and in such manner as the Secretary may specify) a copy of such form or such other information respecting the election as the Secretary may specify.

"(h) Approval of Marketing Material and Application Forms.—

"(1) Submission.—No marketing material or application form may be distributed by a MedicarePlus organization to (or for the use of) MedicarePlus eligible individuals unless—

"(A) at least 45 days before the date of distribution the organization has submitted the material or form to the Secretary for review, and

"(B) the Secretary has not disapproved the distribution of such material or form.

"(2) Review.—The standards established under section 1856 shall include guidelines for the review of all such material or form submitted and under such guidelines the Secretary shall disapprove (or later require the correction of) such material or form if the material or form is materially inaccurate or misleading or otherwise makes a material misrepresentation.

"(3) Deemed approval (1-stop shopping).—In the case of material or form that is submitted under paragraph (1)(A) to the Secretary or a regional office of the Department of Health and Human Services and the Secretary or the office has not disapproved the distribution of marketing material or form under paragraph (1)(B) with respect to a MedicarePlus plan in an area, the Secretary is deemed not to have disapproved such distribution in all other areas covered by the plan and organization except to the extent that such material or form is specific only to an area involved.

"(4) Prohibition of certain marketing practices.—Each MedicarePlus organization shall conform to fair marketing standards, in relation to MedicarePlus plans offered under this part, included in the standards established under section 1856. Such standards shall include a prohibition against a MedicarePlus organization (or agent of such an organization) completing any portion of any election form used to carry out elections under this section on behalf of any individual.

"(i) Effect of Election of MedicarePlus Plan Option.—Subject to sections 1852(a)(5), 1857(f)(2), and 1857(g)—

"(1) payments under a contract with a MedicarePlus organization under section 1853(a) with respect to an individual electing a MedicarePlus plan offered by the organization shall be instead of the amounts which (in the absence of the contract) would otherwise be payable under parts A and B for items and services furnished to the individual, and

"(2) subject to subsections (e) and (f) of section 1853, only the MedicarePlus organization shall be entitled to receive payments from the Secretary under this title for services furnished to the individual.

"BENEFITS AND BENEFICIARY PROTECTIONS

"Sec. 1852. (a) Basic Benefits.—

"(1) In general.—Except as provided in section 1859(b)(2) for MSA plans, each MedicarePlus plan shall provide to members enrolled under this part, through providers and other persons that meet the applicable requirements of this title and part A of title XI—

"(A) those items and services for which benefits are available under parts A and B to individuals residing in the area served by the plan, and

"(B) additional benefits required under section 1854(f)(1)(A).

"(2) Satisfaction of requirement.—A MedicarePlus plan (other than an MSA plan) offered by a MedicarePlus organization satisfies paragraph (1)(A), with respect to benefits for items and services furnished other than through a provider that has a contract with the organization offering the plan, if the plan provides (in addition to any cost sharing provided for under the plan) for at least the total dollar amount of payment for such items and services as would otherwise be authorized under parts A and B (including any balance billing permitted under such parts).

"(3) Supplemental benefits.—

"(A) Benefits included subject to Secretary's approval.—Each MedicarePlus organization may provide to individuals enrolled under this part, other than under an MSA plan, (without affording those individuals an option to decline the coverage) supplemental health care benefits that the Secretary may approve. The Secretary shall approve any such supplemental benefits unless the Secretary determines that including such supplemental benefits would substantially discourage enrollment by

MedicarePlus eligible individuals with the organization.

"(B) AT ENROLLEES' OPTION.—A MedicarePlus organization may provide to individuals enrolled under this part, other than under an MSA plan, supplemental health care benefits that the individuals may elect, at their option, to have covered.

"(4) ORGANIZATION AS SECONDARY PAYER.—Notwithstanding any other provision of law, a MedicarePlus organization may (in the case of the provision of items and services to an individual under a MedicarePlus plan under circumstances in which payment under this title is made secondary pursuant to section 1862(b)(2)) charge or authorize the provider of such services to charge, in accordance with the charges allowed under such a law, plan, or policy—

"(A) the insurance carrier, employer, or other entity which under such law, plan, or policy is to pay for the provision of such services, or

"(B) such individual to the extent that the individual has been paid under such law, plan, or policy for such services.

"(5) NATIONAL COVERAGE DETERMINATIONS.—If there is a national coverage determination made in the period beginning on the date of an announcement under section 1853(b) and ending on the date of the next announcement under such section and the Secretary projects that the determination will result in a significant change in the costs to a MedicarePlus organization of providing the benefits that are the subject of such national coverage determination and that such change in costs was not incorporated in the determination of the annual MedicarePlus capitation rate under section 1853 included in the announcement made at the beginning of such period—

"(A) such determination shall not apply to contracts under this part until the first contract year that begins after the end of such period, and

"(B) if such coverage determination provides for coverage of additional benefits or coverage under additional circumstances, section 1851(i) shall not apply to payment for such additional benefits or benefits provided under such additional circumstances until the first contract year that begins after the end of such period,

unless otherwise required by law.

"(b) ANTIDISCRIMINATION.—

"(1) IN GENERAL.—A MedicarePlus organization may not deny, limit, or condition the coverage or provision of benefits under this part, for individuals permitted to be enrolled with the organization under this part, based on any health status-related factor described in section 2702(a)(1) of the Public Health Service Act.

"(2) CONSTRUCTION.—Paragraph (1) shall not be construed as requiring a MedicarePlus organization to enroll individuals who are determined to have end-stage renal disease, except as provided under section 1851(a)(3)(B).

"(c) DETAILED DESCRIPTION OF PLAN PROVISIONS.—A MedicarePlus organization shall disclose, in clear, accurate, and standardized form to each enrollee with a MedicarePlus plan offered by the organization under this part at the time of enrollment and at least annually thereafter, the following information regarding such plan:

"(1) SERVICE AREA.—The plan's service area.

"(2) BENEFITS.—Benefits offered (and not offered) under the plan offered, including information described in section 1851(d)(3)(A) and exclusions from coverage and, if it is an MSA plan, a comparison of benefits under such a plan with benefits under other MedicarePlus plans.

"(3) ACCESS.—The number, mix, and distribution of plan providers.

"(4) OUT-OF-AREA COVERAGE.—Out-of-area coverage provided by the plan.

"(5) EMERGENCY COVERAGE.—Coverage of emergency services and urgently needed care, including—

"(A) the appropriate use of emergency services, including use of the 911 telephone system or its local equivalent in emergency situations and an explanation of what constitutes an emergency situation;

"(B) the process and procedures of the plan for obtaining emergency services; and

"(C) the locations of (i) emergency departments, and (ii) other settings, in which plan physicians and hospitals provide emergency services and post-stabilization care.

"(6) SUPPLEMENTAL BENEFITS.—Supplemental benefits available from the organization offering the plan, including—

"(A) whether the supplemental benefits are optional,

"(B) the supplemental benefits covered, and

"(C) the premium price for the supplemental benefits.

"(7) PRIOR AUTHORIZATION RULES.—Rules regarding prior authorization or other review requirements that could result in nonpayment.

"(8) PLAN GRIEVANCE AND APPEALS PROCEDURES.—Any appeal or grievance rights and procedures.

"(9) QUALITY ASSURANCE PROGRAM.—A description of the organization's quality assurance program under subsection (e).

"(d) ACCESS TO SERVICES.—

"(1) IN GENERAL.—A MedicarePlus organization offering a MedicarePlus plan may select the providers from whom the benefits under the plan are provided so long as—

"(A) the organization makes such benefits available and accessible to each individual electing the plan within the plan service area with reasonable promptness and in a manner which assures continuity in the provision of benefits;

"(B) when medically necessary the organization makes such benefits available and accessible 24 hours a day and 7 days a week;

"(C) the plan provides for reimbursement with respect to services which are covered under subparagraphs (A) and (B) and which are provided to such an individual other than through the organization, if—

"(i) the services were medically necessary and immediately required because of an unforeseen illness, injury, or condition, and it was not reasonable given the circumstances to obtain the services through the organization,

"(ii) the services were renal dialysis services and were provided other than through the organization because the individual was temporarily out of the plan's service area, or

"(iii) the services are maintenance care or post-stabilization care covered under the guidelines established under paragraph (2);

"(D) the organization provides access to appropriate providers, including credentialed specialists, for medically necessary treatment and services; and

"(E) coverage is provided for emergency services (as defined in paragraph (3)) without regard to prior authorization or the emergency care provider's contractual relationship with the organization.

"(2) GUIDELINES RESPECTING COORDINATION OF POST-STABILIZATION CARE.—A MedicarePlus plan shall comply with such guidelines as the Secretary may prescribe relating to promoting efficient and timely coordination of appropriate maintenance and post-stabilization care of an enrollee after the enrollee has been determined to be stable under section 1867.

"(3) DEFINITION OF EMERGENCY SERVICES.—In this subsection—

"(A) IN GENERAL.—The term 'emergency services' means, with respect to an individual enrolled with an organization, covered inpatient and outpatient services that—

"(i) are furnished by a provider that is qualified to furnish such services under this title, and

"(ii) are needed to evaluate or stabilize an emergency medical condition (as defined in subparagraph (B)).

"(B) EMERGENCY MEDICAL CONDITION BASED ON PRUDENT LAYPERSON.—The term 'emergency medical condition' means a medical condition manifesting itself by acute symptoms of sufficient severity such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in—

"(i) placing the health of the individual (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy,

"(ii) serious impairment to bodily functions, or

"(iii) serious dysfunction of any bodily organ or part.

"(e) QUALITY ASSURANCE PROGRAM.—

"(1) IN GENERAL.—Each MedicarePlus organization must have arrangements, consistent with any regulation, for an ongoing quality assurance program for health care services it provides to individuals enrolled with MedicarePlus plans of the organization.

"(2) ELEMENTS OF PROGRAM.—The quality assurance program shall—

"(A) stress health outcomes and provide for the collection, analysis, and reporting of data (in accordance with a quality measurement system that the Secretary recognizes) that will permit measurement of outcomes and other indices of the quality of MedicarePlus plans and organizations;

"(B) provide for the establishment of written protocols for utilization review, based on current standards of medical practice;

"(C) provide review by physicians and other health care professionals of the process followed in the provision of such health care services;

"(D) monitor and evaluate high volume and high risk services and the care of acute and chronic conditions;

"(E) evaluate the continuity and coordination of care that enrollees receive;

"(F) have mechanisms to detect both underutilization and overutilization of services;

"(G) after identifying areas for improvement, establish or alter practice parameters;

"(H) take action to improve quality and assesses the effectiveness of such action through systematic followup;

"(I) make available information on quality and outcomes measures to facilitate beneficiary comparison and choice of health coverage options (in such form and on such quality and outcomes measures as the Secretary determines to be appropriate);

"(J) be evaluated on an ongoing basis as to its effectiveness;

"(K) include measures of consumer satisfaction; and

"(L) provide the Secretary with such access to information collected as may be appropriate to monitor and ensure the quality of care provided under this part.

"(3) EXTERNAL REVIEW.—Each MedicarePlus organization shall, for each MedicarePlus plan it operates, have an agreement with an independent quality review and improvement organization approved by the Secretary to perform functions of the type described in sections 1154(a)(4)(B) and 1154(a)(14) with respect to services furnished by MedicarePlus plans for which payment is made under this title.

"(4) TREATMENT OF ACCREDITATION.—The Secretary shall provide that a MedicarePlus organization is deemed to meet requirements of paragraphs (1) through (3) of this subsection and subsection (h) (relating to confidentiality and accuracy of enrollee records) if the organization is accredited (and periodically reaccredited) by a private organization under a process that the Secretary has determined assures that the organization, as a condition of accreditation, applies and enforces standards with respect to the requirements involved that are no less stringent than the standards established under section 1856 to carry out the respective requirements.

"(f) COVERAGE DETERMINATIONS.—

"(1) DECISIONS ON NONEMERGENCY CARE.—A MedicarePlus organization shall make determinations regarding authorization requests for nonemergency care on a timely basis, depending on the urgency of the situation.

"(2) RECONSIDERATIONS.—

"(A) IN GENERAL.—Subject to subsection (g)(4), a reconsideration of a determination of an organization denying coverage shall be made within 30 days of the date of receipt of medical information, but not later than 60 days after the date of the determination.

"(B) PHYSICIAN DECISION ON CERTAIN RECONSIDERATIONS.—A reconsideration relating to a determination to deny coverage based on a lack of medical necessity shall be made only by a physician other than a physician involved in the initial determination.

"(g) GRIEVANCES AND APPEALS.—

"(1) GRIEVANCE MECHANISM.—Each MedicarePlus organization must provide meaningful procedures for hearing and resolving grievances between the organization (including any entity or individual through which the organization provides health care services) and enrollees with MedicarePlus plans of the organization under this part.

"(2) APPEALS.—An enrollee with a MedicarePlus plan of a MedicarePlus organization under this part who is dissatisfied by reason of the enrollee's failure to receive any health service to which the enrollee believes the enrollee is entitled and at no greater charge than the enrollee believes the enrollee is required to pay is entitled, if the amount in controversy is $100 or more, to a hearing before the Secretary to the same extent as is provided in section 205(b), and in any such hearing the Secretary shall make the organization a party. If the amount in controversy is $1,000 or more, the individual or organization shall, upon notifying the other party, be entitled to judicial review of the Secretary's final decision as provided in section 205(g), and both the individual and the organization shall be entitled to be parties to that judicial review. In applying sections 205(b) and 205(g) as provided in this paragraph, and in applying section 205(l) thereto, any reference therein to the Commissioner of Social Security or the Social Security Administration shall be considered a reference to the Secretary or the Department of Health and Human Services, respectively.

"(3) INDEPENDENT REVIEW OF CERTAIN COVERAGE DENIALS.—The Secretary shall contract with an independent, outside entity to review and resolve reconsiderations that affirm denial of coverage.

"(4) EXPEDITED DETERMINATIONS AND RECONSIDERATIONS.—

"(A) RECEIPT OF REQUESTS.—An enrollee in a MedicarePlus plan may request, either in writing or orally, an expedited determination or reconsideration by the MedicarePlus organization regarding a matter described in paragraph (2). The organization shall also permit the acceptance of such requests by physicians.

"(B) ORGANIZATION PROCEDURES.—

"(i) IN GENERAL.—The MedicarePlus organization shall maintain procedures for expediting organization determinations and reconsiderations when, upon request of an enrollee, the organization determines that the application of normal time frames for making a determination (or a reconsideration involving a determination) could seriously jeopardize the life or health of the enrollee or the enrollee's ability to regain maximum function.

"(ii) TIMELY RESPONSE.—In an urgent case described in clause (i), the organization shall notify the enrollee (and the physician involved, as appropriate) of the.determination (or determination on the reconsideration) as expeditiously as the enrollee's health condition requires, but not later than 72 hours (or 24 hours in the case of a reconsideration) of the time of receipt of the request for the determination or reconsideration (or receipt of the information necessary to make the determination or reconsideration), or such longer period as the Secretary may permit in specified cases.

"(h) CONFIDENTIALITY AND ACCURACY OF ENROLLEE RECORDS.—Each MedicarePlus organization shall establish procedures—

"(1) to safeguard the privacy of individually identifiable enrollee information,

"(2) to maintain accurate and timely medical records and other health information for enrollees, and

"(3) to assure timely access of enrollees to their medical information.

"(i) INFORMATION ON ADVANCE DIRECTIVES.—Each MedicarePlus organization shall meet the requirement of section 1866(f) (relating to maintaining written policies and procedures respecting advance directives).

"(j) RULES REGARDING PHYSICIAN PARTICIPATION.—

"(1) PROCEDURES.—Each MedicarePlus organization shall establish reasonable procedures relating to the participation (under an agreement between a physician and the organization) of physicians under MedicarePlus plans offered by the organization under this part. Such procedures shall include—

"(A) providing notice of the rules regarding participation,

"(B) providing written notice of participation decisions that are adverse to physicians, and

"(C) providing a process within the organization for appealing such adverse decisions, including the presentation of information and views of the physician regarding such decision.

"(2) CONSULTATION IN MEDICAL POLICIES.—A MedicarePlus organization shall consult with physicians who have entered into participation agreements with the organization regarding the organization's medical policy, quality, and medical management procedures.

"(3) PROHIBITING INTERFERENCE WITH PROVIDER ADVICE TO ENROLLEES.—

"(A) IN GENERAL.—Subject to subparagraphs (B) and (C), a MedicarePlus organization (in relation to an individual enrolled under a MedicarePlus plan offered by the organization under this part) shall not prohibit or otherwise restrict a covered health care professional (as defined in subparagraph (D)) from advising such an individual who is a patient of the professional about the health status of the individual or medical care or treatment for the individual's condition or disease, regardless of whether benefits for such care or treatment are provided under the plan, if the professional is acting within the lawful scope of practice.

"(B) CONSCIENCE PROTECTION.—Subparagraph (A) shall not be construed as requiring a MedicarePlus plan to provide, reimburse for, or provide coverage of a counseling or referral service if the MedicarePlus organization offering the plan—

"(i) objects to the provision of such service on moral or religious grounds; and

"(ii) in the manner and through the written instrumentalities such MedicarePlus organization deems appropriate, makes available information on its policies regarding such service to prospective enrollees before or during enrollment and to enrollees within 90 days after the date that the organization or plan adopts a change in policy regarding such a counseling or referral service.

"(C) CONSTRUCTION.—Nothing in subparagraph (B) shall be construed to affect disclosure requirements under State law or under the Employee Retirement Income Security Act of 1974.

"(D) HEALTH CARE PROFESSIONAL DEFINED.—For purposes of this paragraph, the term 'health care professional' means a physician (as defined in section 1861(r)) or other health care professional if coverage for the professional's services is provided under the MedicarePlus plan for the services of the professional. Such term includes a podiatrist, optometrist, chiropractor, psychologist, dentist, physician assistant, physical or occupational therapist and therapy assistant, speech-language pathologist, audiologist, registered or licensed practical nurse (including nurse practitioner, clinical nurse specialist, certified registered nurse anesthetist, and certified nurse-midwife), licensed certified social worker, registered respiratory therapist, and certified respiratory therapy technician.

"(4) LIMITATIONS ON PHYSICIAN INCENTIVE PLANS.—

"(A) IN GENERAL.—No MedicarePlus organization may operate any physician incentive plan (as defined in subparagraph (B)) unless the following requirements are met:

"(i) No specific payment is made directly or indirectly under the plan to a physician or physician group as an inducement to reduce or limit medically necessary services provided with respect to a specific individual enrolled with the organization.

"(ii) If the plan places a physician or physician group at substantial financial risk (as determined by the Secretary) for services not provided by the physician or physician group, the organization—

"(I) provides stop-loss protection for the physician or group that is adequate and appropriate, based on standards developed by the Secretary that take into account the number of physicians placed at such substantial financial risk in the group or under the plan and the number of individuals enrolled with the organization who receive services from the physician or group, and

"(II) conducts periodic surveys of both individuals enrolled and individuals previously enrolled with the organization to determine the degree of access of such individuals to services provided by the organization and satisfaction with the quality of such services.

"(iii) The organization provides the Secretary with descriptive information regarding the plan, sufficient to permit the Secretary to determine whether the plan is in compliance with the requirements of this subparagraph.

"(B) PHYSICIAN INCENTIVE PLAN DEFINED.—In this paragraph, the term 'physician incentive plan' means any compensation arrangement between a MedicarePlus organization and a physician or physician group that may directly or indirectly have the effect of reducing or limiting services provided with respect to individuals enrolled with the organization under this part.

"(5) LIMITATION ON PROVIDER INDEMNIFICATION.—A MedicarePlus organization may not provide (directly or indirectly) for a provider (or group of providers) to indemnify the organization against any liability resulting from a civil action brought for any damage caused to an enrollee with a MedicarePlus plan of the organization under this part by the organization's denial of medically necessary care.

"(k) TREATMENT OF SERVICES FURNISHED BY CERTAIN PROVIDERS.—A physician or other entity (other than a provider of services) that does not have a contract establishing payment amounts for services furnished to an individual enrolled under this part with a MedicarePlus organization (other than under an MSA plan) shall accept as payment in full for covered services under this title that are furnished to such an individual the amounts that the physician or other entity could collect if the individual were not so enrolled. Any penalty or other provision of law that applies to such a payment with respect to an individual entitled to benefits under this title (but not enrolled with a MedicarePlus organization under this part) also applies with respect to an individual so enrolled.

"(l) DISCLOSURE OF USE OF DSH AND TEACHING HOSPITALS.—Each MedicarePlus organization shall provide the Secretary with information on—

"(1) the extent to which the organization provides inpatient and outpatient hospital benefits under this part—

"(A) through the use of hospitals that are eligible for additional payments under section 1886(d)(5)(F)(i) (relating to so-called DSH hospitals), or

"(B) through the use of teaching hospitals that receive payments under section 1886(h); and

"(2) the extent to which differences between payment rates to different hospitals reflect the disproportionate share percentage of low-income patients and the presence of medical residency training programs in those hospitals.

"PAYMENTS TO MEDICAREPLUS ORGANIZATIONS

"SEC. 1853. (a) PAYMENTS TO ORGANIZATIONS.—

"(1) MONTHLY PAYMENTS.—

"(A) IN GENERAL.—Under a contract under section 1857 and subject to subsections (e) and (f), the Secretary shall make monthly payments under this section in advance to each MedicarePlus organization, with respect to coverage of an individual under this part in a MedicarePlus payment area for a month, in an amount equal to 1/12 of the annual MedicarePlus capitation rate (as calculated under subsection (c)) with respect to that individual for that area, adjusted for such risk factors as age, disability status, gender, institutional status, and such other factors as the Secretary determines to be appropriate, so as to ensure actuarial equivalence. The Secretary may add to, modify, or substitute for such factors, if such changes will improve the determination of actuarial equivalence.

"(B) SPECIAL RULE FOR END-STAGE RENAL DISEASE.—The Secretary shall establish separate rates of payment to a MedicarePlus organization with respect to classes of individuals determined to have end-stage renal disease and enrolled in a MedicarePlus plan of the organization. Such rates of payment shall be actuarially equivalent to rates paid to other enrollees in the MedicarePlus payment area (or such other area as specified by the Secretary). In accordance with regulations, the Secretary shall provide for the application of the seventh sentence of section 1881(b)(7) to payments under this section covering the provision of renal dialysis treatment in the same manner as such sentence applies to composite rate payments described in such sentence.

"(2) ADJUSTMENT TO REFLECT NUMBER OF ENROLLEES.—

"(A) IN GENERAL.—The amount of payment under this subsection may be retroactively adjusted to take into account any difference between the actual number of individuals enrolled with an organization under this part and the number of such individuals estimated to be so enrolled in determining the amount of the advance payment.

"(B) SPECIAL RULE FOR CERTAIN ENROLLEES.—

"(i) IN GENERAL.—Subject to clause (ii), the Secretary may make retroactive adjustments under subparagraph (A) to take into account individuals enrolled during the period beginning on the date on which the individual enrolls with a MedicarePlus organization under a plan operated, sponsored, or contributed to by the individual's employer or former employer (or the employer or former employer of the individual's spouse) and ending on the date on which the individual is enrolled in the organization under this part, except that for purposes of making such retroactive adjustments under this subparagraph, such period may not exceed 90 days.

"(ii) EXCEPTION.—No adjustment may be made under clause (i) with respect to any individual who does not certify that the organization provided the individual with the information required to be disclosed under section 1852(c) at the time the individual enrolled with the organization.

"(3) ESTABLISHMENT OF RISK ADJUSTMENT FACTORS.—

"(A) REPORT.—The Secretary shall develop, and submit to Congress by not later than October 1, 1999, a report on a method of risk adjustment of payment rates under this section that accounts for variations in per capita costs based on health status. Such report shall include an evaluation of such method by an outside, independent actuary of the actuarial soundness of the proposal.

"(B) DATA COLLECTION.—In order to carry out this paragraph, the Secretary shall require MedicarePlus organizations (and eligible organizations with risk-sharing contracts under section 1876) to submit, for periods beginning on or after January 1, 1998, data regarding inpatient hospital services and other services and other information the Secretary deems necessary.

"(C) INITIAL IMPLEMENTATION.—The Secretary shall first provide for implementation of a risk adjustment methodology that accounts for variations in per capita costs based on health status and other demographic factors for payments by no later than January 1, 2000.

"(b) ANNUAL ANNOUNCEMENT OF PAYMENT RATES.—

"(1) ANNUAL ANNOUNCEMENT.—The Secretary shall annually determine, and shall announce (in a manner intended to provide notice to interested parties) not later than August 1 before the calendar year concerned—

"(A) the annual MedicarePlus capitation rate for each MedicarePlus payment area for the year, and

"(B) the risk and other factors to be used in adjusting such rates under subsection (a)(1)(A) for payments for months in that year.

"(2) ADVANCE NOTICE OF METHODOLOGICAL CHANGES.—At least 45 days before making the announcement under paragraph (1) for a year, the Secretary shall provide for notice to MedicarePlus organizations of proposed changes to be made in the methodology from the methodology and assumptions used in the previous announcement and shall provide such organizations an opportunity to comment on such proposed changes.

"(3) EXPLANATION OF ASSUMPTIONS.—In each announcement made under paragraph (1), the Secretary shall include an explanation of the assumptions and changes in methodology used in the announcement in sufficient detail so that MedicarePlus organizations can compute monthly adjusted MedicarePlus capitation rates for individuals in each MedicarePlus payment area which is in whole or in part within the service area of such an organization.

"(c) CALCULATION OF ANNUAL MEDICAREPLUS CAPITATION RATES.—

"(1) IN GENERAL.—For purposes of this part, each annual MedicarePlus capitation rate, for a MedicarePlus payment area for a contract year consisting of a calendar year, is equal to the largest of the amounts specified in the following subparagraphs (A), (B), or (C):

"(A) BLENDED CAPITATION RATE.—The sum of—

"(i) area-specific percentage for the year (as specified under paragraph (2) for the year) of the annual area-specific MedicarePlus capitation rate for the year for the MedicarePlus payment area, as determined under paragraph (3), and

"(ii) national percentage (as specified under paragraph (2) for the year) of the input-price-adjusted annual national MedicarePlus capitation rate for the year, as determined under paragraph (4),

multiplied by the payment adjustment factors described in subparagraphs (A) and (B) of paragraph (5).

"(B) MINIMUM AMOUNT.—12 multiplied by the following amount:

"(i) For 1998, $350 (but not to exceed, in the case of an area outside the 50 States and the District of Columbia, 150 percent of the annual per capita rate of payment for 1997 determined under section 1876(a)(1)(C) for the area).

"(ii) For a succeeding year, the minimum amount specified in this clause (or clause (i)) for the preceding year increased by the national per capita MedicarePlus growth percentage, specified under paragraph (6) for that succeeding year.

"(C) MINIMUM PERCENTAGE INCREASE.—

"(i) For 1998, 102 percent of the annual per capita rate of payment for 1997 determined under section 1876(a)(1)(C) for the MedicarePlus payment area.

"(ii) For a subsequent year, 102 percent of the annual MedicarePlus capitation rate under this paragraph for the area for the previous year.

"(2) AREA-SPECIFIC AND NATIONAL PERCENTAGES.—For purposes of paragraph (1)(A)—

"(A) for 1998, the 'area-specific percentage' is 90 percent and the 'national percentage' is 10 percent,

"(B) for 1999, the 'area-specific percentage' is 80 percent and the 'national percentage' is 20 percent,

"(C) for 2000, the 'area-specific percentage' is 70 percent and the 'national percentage' is 30 percent,

"(D) for 2001, the 'area-specific percentage' is 60 percent and the 'national percentage' is 40 percent, and

"(E) for a year after 2001, the 'area-specific percentage' is 50 percent and the 'national percentage' is 50 percent.

"(3) ANNUAL AREA-SPECIFIC MEDICAREPLUS CAPITATION RATE.—For purposes of paragraph (1)(A), the annual area-specific MedicarePlus capitation rate for a MedicarePlus payment area—

"(A) for 1998 is the annual per capita rate of payment for 1997 determined under section 1876(a)(1)(C) for the area, increased by the national per capita MedicarePlus growth percentage for 1998 (as defined in paragraph (6)); or

"(B) for a subsequent year is the annual area-specific MedicarePlus capitation rate for the previous year determined under this paragraph for the area, increased by the national per capita MedicarePlus growth percentage for such subsequent year.

"(4) INPUT-PRICE-ADJUSTED ANNUAL NATIONAL MEDICAREPLUS CAPITATION RATE.—

"(A) IN GENERAL.—For purposes of paragraph (1)(A), the input-price-adjusted annual national MedicarePlus capitation rate for a MedicarePlus payment area for a year is equal to the sum, for all the types of medicare services (as classified by the Secretary), of the product (for each such type of service) of—

"(i) the national standardized annual MedicarePlus capitation rate (determined under subparagraph (B)) for the year,

"(ii) the proportion of such rate for the year which is attributable to such type of services, and

"(iii) an index that reflects (for that year and that type of services) the relative input price of such services in the area compared to the national average input price of such services.

In applying clause (iii), the Secretary shall, subject to subparagraph (C), apply those indices under this title that are used in applying (or updating) national payment rates for specific areas and localities.

"(B) NATIONAL STANDARDIZED ANNUAL MEDICAREPLUS CAPITATION RATE.—In subparagraph (A)(i), the 'national standardized annual MedicarePlus capitation rate' for a year is equal to—

"(i) the sum (for all MedicarePlus payment areas) of the product of—

"(I) the annual area-specific MedicarePlus capitation rate for that year for the area under paragraph (3), and

"(II) the average number of medicare beneficiaries residing in that area in the year, multiplied by the average of the risk factor weights used to adjust payments under subsection (a)(1)(A) for such beneficiaries in such area; divided by

"(ii) the sum of the products described in clause (i)(II) for all areas for that year.

"(C) SPECIAL RULES FOR 1998.—In applying this paragraph for 1998—

"(i) medicare services shall be divided into 2 types of services: part A services and part B services;

"(ii) the proportions described in subparagraph (A)(ii)—

"(I) for part A services shall be the ratio (expressed as a percentage) of the national average annual per capita rate of payment for part A for 1997 to the total national average annual per capita rate of payment for parts A and B for 1997, and

"(II) for part B services shall be 100 percent minus the ratio described in subclause (I);

"(iii) for part A services, 70 percent of payments attributable to such services shall be adjusted by the index used under section 1886(d)(3)(E) to adjust payment rates for relative hospital wage levels for hospitals located in the payment area involved;

"(iv) for part B services—

"(I) 66 percent of payments attributable to such services shall be adjusted by the index of the geographic area factors under section 1848(e) used to adjust payment rates for physicians' services furnished in the payment area, and

"(II) of the remaining 34 percent of the amount of such payments, 40 percent shall be adjusted by the index described in clause (iii); and

"(v) the index values shall be computed based only on the beneficiary population who are 65 years of age or older and who are not determined to have end stage renal disease.

The Secretary may continue to apply the rules described in this subparagraph (or similar rules) for 1999.

"(5) PAYMENT ADJUSTMENT BUDGET NEUTRALITY FACTORS.—For purposes of paragraph (1)(A)—

"(A) BLENDED RATE PAYMENT ADJUSTMENT FACTOR.—For each year, the Secretary shall compute a blended rate payment adjustment factor such that, not taking into account subparagraphs (B) and (C) of paragraph (1) and the application of the payment adjustment factor described in subparagraph (B), the aggregate of the payments that would be made under this part is equal to the aggregate payments that would have been made under this part (not taking into account such subparagraphs and such other adjustment factor) if the area-specific percentage under paragraph (1) for the year had been 100 percent and the national percentage had been 0 percent.

"(B) FLOOR-AND-MINIMUM-UPDATE PAYMENT ADJUSTMENT FACTOR.—For each year, the Secretary shall compute a floor-and-minimum-update payment adjustment factor so that, taking into account the application of the blended rate payment adjustment factor under subparagraph (A) and subparagraphs (B) and (C) of paragraph (1) and the application of the adjustment factor under this subparagraph, the aggregate of the payments under this part shall not exceed the aggregate payments that would have been made under this part if subparagraphs (B) and (C) of paragraph (1) did not apply and if the floor-and-minimum-update payment adjustment factor under this subparagraph was 1.

"(6) NATIONAL PER CAPITA MEDICAREPLUS GROWTH PERCENTAGE DEFINED.—

"(A) IN GENERAL.—In this part, the 'national per capita MedicarePlus growth percentage' for a year is the percentage determined by the Secretary, by April 30th before the beginning of the year involved, to reflect the Secretary's estimate of the projected per capita rate of growth in expenditures under this title for an individual entitled to benefits under part A and enrolled under part B, reduced by the number of percentage points specified in subparagraph (B) for the year. Separate determinations may be made for aged enrollees, disabled enrollees, and enrollees with end-stage renal disease. Such percentage shall include an adjustment for over or under projection in the growth percentage for previous years.

"(B) ADJUSTMENT.—The number of percentage points specified in this subparagraph is—

"(i) for 1998, 0.5 percentage points,

"(ii) for 1999, 0.5 percentage points,

"(iii) for 2000, 0.5 percentage points,

"(iv) for 2001, 0.5 percentage points,

"(v) for 2002, 0.5 percentage points, and

"(vi) for a year after 2002, 0 percentage points.

"(d) MEDICAREPLUS PAYMENT AREA DEFINED.—

"(1) IN GENERAL.—In this part, except as provided in paragraph (3), the term 'MedicarePlus payment area' means a county, or equivalent area specified by the Secretary.

"(2) RULE FOR ESRD BENEFICIARIES.—In the case of individuals who are determined to have end stage renal disease, the MedicarePlus payment area shall be a State or such other payment area as the Secretary specifies.

"(3) GEOGRAPHIC ADJUSTMENT.—

"(A) IN GENERAL.—Upon written request of the chief executive officer of a State for a contract year (beginning after 1998) made at least 7 months before the beginning of the year, the Secretary shall make a geographic adjustment to a MedicarePlus payment area in the State otherwise determined under paragraph (1)—

"(i) to a single statewide MedicarePlus payment area,

"(ii) to the metropolitan based system described in subparagraph (C), or

"(iii) to consolidating into a single MedicarePlus payment area noncontiguous counties (or equivalent areas described in paragraph (1)) within a State.

Such adjustment shall be effective for payments for months beginning with January of the year following the year in which the request is received.

"(B) BUDGET NEUTRALITY ADJUSTMENT.—In the case of a State requesting an adjustment under this paragraph, the Secretary shall adjust the payment rates otherwise established under this section for MedicarePlus payment areas in the State in a manner so that the aggregate of the payments under this section in the State shall not exceed the aggregate payments that would have been made under this section for MedicarePlus payment areas in the State in the absence of the adjustment under this paragraph.

"(C) METROPOLITAN BASED SYSTEM.—The metropolitan based system described in this subparagraph is one in which—

"(i) all the portions of each metropolitan statistical area in the State or in the case of a consolidated metropolitan statistical area, all of the portions of each primary metropolitan statistical area within the consolidated area within the State, are treated as a single MedicarePlus payment area, and

"(ii) all areas in the State that do not fall within a metropolitan statistical area are treated as a single MedicarePlus payment area.

"(D) AREAS.—In subparagraph (C), the terms 'metropolitan statistical area', 'consolidated metropolitan statistical area', and 'primary metropolitan statistical area' mean any area designated as such by the Secretary of Commerce.

"(e) SPECIAL RULES FOR INDIVIDUALS ELECTING MSA PLANS.—

"(1) IN GENERAL.—If the amount of the monthly premium for an MSA plan for a MedicarePlus payment area for a year is less than 1/12 of the annual MedicarePlus capitation rate applied under this section for the area and year involved, the Secretary shall deposit an amount equal to 100 percent of such difference in a MedicarePlus MSA established (and, if applicable, designated) by the individual under paragraph (2).

“(2) ESTABLISHMENT AND DESIGNATION OF MEDICAREPLUS MEDICAL SAVINGS ACCOUNT AS REQUIREMENT FOR PAYMENT OF CONTRIBUTION.—In the case of an individual who has elected coverage under an MSA plan, no payment shall be made under paragraph (1) on behalf of an individual for a month unless the individual—

“(A) has established before the beginning of the month (or by such other deadline as the Secretary may specify) a MedicarePlus MSA (as defined in section 138(b)(2) of the Internal Revenue Code of 1986), and

“(B) if the individual has established more than one such MedicarePlus MSA, has designated one of such accounts as the individual's MedicarePlus MSA for purposes of this part.

Under rules under this section, such an individual may change the designation of such account under subparagraph (B) for purposes of this part.

“(3) LUMP SUM DEPOSIT OF MEDICAL SAVINGS ACCOUNT CONTRIBUTION.—In the case of an individual electing an MSA plan effective beginning with a month in a year, the amount of the contribution to the MedicarePlus MSA on behalf of the individual for that month and all successive months in the year shall be deposited during that first month. In the case of a termination of such an election as of a month before the end of a year, the Secretary shall provide for a procedure for the recovery of deposits attributable to the remaining months in the year.

“(f) PAYMENTS FROM TRUST FUND.—The payment to a MedicarePlus organization under this section for individuals enrolled under this part with the organization and payments to a MedicarePlus MSA under subsection (e)(1) shall be made from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund in such proportion as the Secretary determines reflects the relative weight that benefits under part A and under part B represents of the actuarial value of the total benefits under this title. Monthly payments otherwise payable under this section for October 2001 shall be paid on the last business day of September 2001.

“(g) SPECIAL RULE FOR CERTAIN INPATIENT HOSPITAL STAYS.—In the case of an individual who is receiving inpatient hospital services from a subsection (d) hospital (as defined in section 1886(d)(1)(B)) as of the effective date of the individual's—

“(1) election under this part of a MedicarePlus plan offered by a MedicarePlus organization—

“(A) payment for such services until the date of the individual's discharge shall be made under this title through the MedicarePlus plan or the medicare fee-for-service program option described in section 1851(a)(1)(A) (as the case may be) elected before the election with such organization,

“(B) the elected organization shall not be financially responsible for payment for such services until the date after the date of the individual's discharge, and

“(C) the organization shall nonetheless be paid the full amount otherwise payable to the organization under this part; or

“(2) termination of election with respect to a MedicarePlus organization under this part—

“(A) the organization shall be financially responsible for payment for such services after such date and until the date of the individual's discharge,

“(B) payment for such services during the stay shall not be made under section 1886(d) or by any succeeding MedicarePlus organization, and

“(C) the terminated organization shall not receive any payment with respect to the individual under this part during the period the individual is not enrolled.

“PREMIUMS

“SEC. 1854. (a) SUBMISSION AND CHARGING OF PREMIUMS.—

“(1) IN GENERAL.—Subject to paragraph (3), each MedicarePlus organization shall file with the Secretary each year, in a form and manner and at a time specified by the Secretary—

“(A) the amount of the monthly premium for coverage for services under section 1852(a) under each MedicarePlus plan it offers under this part in each MedicarePlus payment area (as defined in section 1853(d)) in which the plan is being offered; and

“(B) the enrollment capacity in relation to the plan in each such area.

“(2) TERMINOLOGY.—In this part—

“(A) the term ‘monthly premium’ means, with respect to a MedicarePlus plan offered by a MedicarePlus organization, the monthly premium filed under paragraph (1), not taking into account the amount of any payment made toward the premium under section 1853; and

“(B) the term ‘net monthly premium’ means, with respect to such a plan and an individual enrolled with the plan, the premium (as defined in subparagraph (A)) for the plan reduced by the amount of payment made toward such premium under section 1853.

“(b) MONTHLY PREMIUM CHARGED.—The monthly amount of the premium charged by a MedicarePlus organization for a MedicarePlus plan offered in a MedicarePlus payment area to an individual under this part shall be equal to the net monthly premium plus any monthly premium charged in accordance with subsection (e)(2) for supplemental benefits.

“(c) UNIFORM PREMIUM.—The monthly premium and monthly amount charged under subsection (b) of a MedicarePlus organization under this part may not vary among individuals who reside in the same MedicarePlus payment area.

“(d) TERMS AND CONDITIONS OF IMPOSING PREMIUMS.—Each MedicarePlus organization shall permit the payment of net monthly premiums on a monthly basis and may terminate election of individuals for a MedicarePlus plan for failure to make premium payments only in accordance with section 1851(g)(3)(B)(i). A MedicarePlus organization is not authorized to provide for cash or other monetary rebates as an inducement for enrollment or otherwise.

“(e) LIMITATION ON ENROLLEE COST-SHARING.—

“(1) FOR BASIC AND ADDITIONAL BENEFITS.—Except as provided in paragraph (2), in no event may—

“(A) the net monthly premium (multiplied by 12) and the actuarial value of the deductibles, coinsurance, and copayments applicable on average to individuals enrolled under this part with a MedicarePlus plan of an organization with respect to required benefits described in section 1852(a)(1) and additional benefits (if any) required under subsection (f)(1) for a year, exceed

“(B) the actuarial value of the deductibles, coinsurance, and copayments that would be applicable on average to individuals entitled to benefits under part A and enrolled under part B if they were not members of a MedicarePlus organization for the year.

“(2) FOR SUPPLEMENTAL BENEFITS.—If the MedicarePlus organization provides to its members enrolled under this part supplemental benefits described in section 1852(a)(3), the sum of the monthly premium rate (multiplied by 12) charged for such supplemental benefits and the actuarial value of its deductibles, coinsurance, and copayments charged with respect to such benefits may not exceed the adjusted community rate for such benefits (as defined in subsection (f)(4)).

“(3) EXCEPTION FOR MSA PLANS.—Paragraphs (1) and (2) do not apply to an MSA plan.

“(4) DETERMINATION ON OTHER BASIS.—If the Secretary determines that adequate data are not available to determine the actuarial value under paragraph (1)(A) or (2), the Secretary may determine such amount with respect to all individuals in the MedicarePlus payment area, the State, or in the United States, eligible to enroll in the MedicarePlus plan involved under this part or on the basis of other appropriate data.

“(f) REQUIREMENT FOR ADDITIONAL BENEFITS.—

“(1) REQUIREMENT.—

“(A) IN GENERAL.—Each MedicarePlus organization (in relation to a MedicarePlus plan it offers) shall provide that if there is an excess amount (as defined in subparagraph (B)) for the plan for a contract year, subject to the succeeding provisions of this subsection, the organization shall provide to individuals such additional benefits (as the organization may specify) in a value which is at least equal to the adjusted excess amount (as defined in subparagraph (C)).

“(B) EXCESS AMOUNT.—For purposes of this paragraph, the ‘excess amount’, for an organization for a plan, is the amount (if any) by which—

“(i) the average of the capitation payments made to the organization under section 1853 for the plan at the beginning of contract year, exceeds

“(ii) the actuarial value of the required benefits described in section 1852(a)(1) under the plan for individuals under this part, as determined based upon an adjusted community rate described in paragraph (4) (as reduced for the actuarial value of the coinsurance and deductibles under parts A and B).

“(C) ADJUSTED EXCESS AMOUNT.—For purposes of this paragraph, the ‘adjusted excess amount’, for an organization for a plan, is the excess amount reduced to reflect any amount withheld and reserved for the organization for the year under paragraph (2).

“(D) NO APPLICATION TO MSA PLANS.—Subparagraph (A) shall not apply to an MSA plan.

“(E) UNIFORM APPLICATION.—This paragraph shall be applied uniformly for all enrollees for a plan in a MedicarePlus payment area.

“(F) CONSTRUCTION.—Nothing in this subsection shall be construed as preventing a MedicarePlus organization from providing health care benefits that are in addition to the benefits otherwise required to be provided under this paragraph and from imposing a premium for such additional benefits.

“(2) STABILIZATION FUND.—A MedicarePlus organization may provide that a part of the value of an excess amount described in paragraph (1) be withheld and reserved in the Federal Hospital Insurance Trust Fund and in the Federal Supplementary Medical Insurance Trust Fund (in such proportions as the

Secretary determines to be appropriate) by the Secretary for subsequent annual contract periods, to the extent required to stabilize and prevent undue fluctuations in the additional benefits offered in those subsequent periods by the organization in accordance with such paragraph. Any of such value of the amount reserved which is not provided as additional benefits described in paragraph (1)(A) to individuals electing the MedicarePlus plan of the organization in accordance with such paragraph prior to the end of such periods, shall revert for the use of such trust funds.

"(3) DETERMINATION BASED ON INSUFFICIENT DATA.—For purposes of this subsection, if the Secretary finds that there is insufficient enrollment experience (including no enrollment experience in the case of a provider-sponsored organization) to determine an average of the capitation payments to be made under this part at the beginning of a contract period, the Secretary may determine such an average based on the enrollment experience of other contracts entered into under this part.

"(4) ADJUSTED COMMUNITY RATE.—

"(A) IN GENERAL.—For purposes of this subsection, subject to subparagraph (B), the term 'adjusted community rate' for a service or services means, at the election of a MedicarePlus organization, either—

"(i) the rate of payment for that service or services which the Secretary annually determines would apply to an individual electing a MedicarePlus plan under this part if the rate of payment were determined under a 'community rating system' (as defined in section 1302(8) of the Public Health Service Act, other than subparagraph (C)), or

"(ii) such portion of the weighted aggregate premium, which the Secretary annually estimates would apply to such an individual, as the Secretary annually estimates is attributable to that service or services,

but adjusted for differences between the utilization characteristics of the individuals electing coverage under this part and the utilization characteristics of the other enrollees with the plan (or, if the Secretary finds that adequate data are not available to adjust for those differences, the differences between the utilization characteristics of individuals selecting other MedicarePlus coverage, or MedicarePlus eligible individuals in the area, in the State, or in the United States, eligible to elect MedicarePlus coverage under this part and the utilization characteristics of the rest of the population in the area, in the State, or in the United States, respectively).

"(B) SPECIAL RULE FOR PROVIDER-SPONSORED ORGANIZATIONS.—In the case of a MedicarePlus organization that is a provider-sponsored organization, the adjusted community rate under subparagraph (A) for a MedicarePlus plan of the organization may be computed (in a manner specified by the Secretary) using data in the general commercial marketplace or (during a transition period) based on the costs incurred by the organization in providing such a plan.

"(g) PERIODIC AUDITING.—The Secretary shall provide for the annual auditing of the financial records (including data relating to medicare utilization, costs, and computation of the adjusted community rate) of at least one-third of the MedicarePlus organizations offering MedicarePlus plans under this part. The Comptroller General shall monitoring auditing activities conducted under this subsection.

"(h) PROHIBITION OF STATE IMPOSITION OF PREMIUM TAXES.—No State may impose a premium tax or similar tax with respect to premiums on MedicarePlus plans or the offering of such plans.

"ORGANIZATIONAL AND FINANCIAL REQUIREMENTS FOR MEDICAREPLUS ORGANIZATIONS; PROVIDER-SPONSORED ORGANIZATIONS

"SEC. 1855. (a) ORGANIZED AND LICENSED UNDER STATE LAW.—

"(1) IN GENERAL.—Subject to paragraphs (2) and (3), a MedicarePlus organization shall be organized and licensed under State law as a risk-bearing entity eligible to offer health insurance or health benefits coverage in each State in which it offers a MedicarePlus plan.

"(2) SPECIAL EXCEPTION FOR PROVIDER-SPONSORED ORGANIZATIONS.—

"(A) IN GENERAL.—In the case of a provider-sponsored organization that seeks to offer a MedicarePlus plan in a State, the Secretary shall waive the requirement of paragraph (1) that the organization be licensed in that State if—

"(i) the organization files an application for such waiver with the Secretary, and

"(ii) the Secretary determines, based on the application and other evidence presented to the Secretary, that any of the grounds for approval of the application described in subparagraph (B), (C), or (D) has been met.

"(B) FAILURE TO ACT ON LICENSURE APPLICATION ON A TIMELY BASIS.—A ground for approval of such a waiver application is that the State has failed to complete action on a licensing application of the organization within 90 days of the date of the State's receipt of the completed application. No period before the date of the enactment of this section shall be included in determining such 90-day period.

"(C) DENIAL OF APPLICATION BASED ON DISCRIMINATORY TREATMENT.—A ground for approval of such a waiver application is that the State has denied such a licensing application and—

"(i) the State has imposed documentation or information requirements not related to solvency requirements that are not generally applicable to other entities engaged in substantially similar business, or

"(ii) the standards or review process imposed by the State as a condition of approval of the license imposes any material requirements, procedures, or standards (other than requirements and standards relating to solvency) to such organizations that are not generally applicable to other entities engaged in substantially similar business.

"(D) DENIAL OF APPLICATION BASED ON APPLICATION OF SOLVENCY REQUIREMENTS.—A ground for approval of such a waiver application is that the State has denied such a licensing application based (in whole or in part) on the organization's failure to meet applicable solvency requirements and—

"(i) such requirements are not the same as the solvency standards established under section 1856(a); or

"(ii) the State has imposed as a condition of approval of the license any documentation or information requirements relating to solvency or other material requirements, procedures, or standards relating to solvency that are different from the requirements, procedures, and standards applied by the Secretary under subsection (d)(2).

For purposes of this subparagraph, the term 'solvency requirements' means requirements relating to solvency and other matters covered under the standards established under section 1856(a).

"(E) TREATMENT OF WAIVER.—In the case of a waiver granted under this paragraph for a provider-sponsored organization—

"(i) the waiver shall be effective for a 36-month period, except it may be renewed based on a subsequent application filed during the last 6 months of such period, and

"(ii) any provisions of State law which relate to the licensing of the organization and which prohibit the organization from providing coverage pursuant to a contract under this part shall be superseded.

Nothing in this subparagraph shall be construed as limiting the number of times such a waiver may be renewed.

"(F) PROMPT ACTION ON APPLICATION.—The Secretary shall grant or deny such a waiver application within 60 days after the date the Secretary determines that a substantially complete application has been filed. Nothing in this section shall be construed as preventing an organization which has had such a waiver application denied from submitting a subsequent waiver application.

"(3) EXCEPTION IF REQUIRED TO OFFER MORE THAN MEDICAREPLUS PLANS.—Paragraph (1) shall not apply to a MedicarePlus organization in a State if the State requires the organization, as a condition of licensure, to offer any product or plan other than a MedicarePlus plan.

"(4) LICENSURE DOES NOT SUBSTITUTE FOR OR CONSTITUTE CERTIFICATION.—The fact that an organization is licensed in accordance with paragraph (1) does not deem the organization to meet other requirements imposed under this part.

"(b) PREPAID PAYMENT.—A MedicarePlus organization shall be compensated (except for premiums, deductibles, coinsurance, and copayments) for the provision of health care services to enrolled members under the contract under this part by a payment which is paid on a periodic basis without regard to the date the health care services are provided and which is fixed without regard to the frequency, extent, or kind of health care service actually provided to a member.

"(c) ASSUMPTION OF FULL FINANCIAL RISK.—The MedicarePlus organization shall assume full financial risk on a prospective basis for the provision of the health care services (except, at the election of the organization, hospice care) for which benefits are required to be provided under section 1852(a)(1), except that the organization—

"(1) may obtain insurance or make other arrangements for the cost of providing to any enrolled member such services the aggregate value of which exceeds $5,000 in any year,

"(2) may obtain insurance or make other arrangements for the cost of such services provided to its enrolled members other than through the organization because medical necessity required their provision before they could be secured through the organization,

"(3) may obtain insurance or make other arrangements for not more than 90 percent of the amount by which its costs for any of its fiscal years exceed 115 percent of its income for such fiscal year, and

"(4) may make arrangements with physicians or other health professionals, health care institutions, or any combination of such individuals or institutions to assume all or part of the financial risk on a prospective basis for the provision of basic health services by the physicians or other health professionals or through the institutions.

"(d) CERTIFICATION OF PROVISION AGAINST RISK OF INSOLVENCY FOR UNLICENSED PSOS.—

"(1) IN GENERAL.—Each MedicarePlus organization that is a provider-sponsored organization, that is not licensed by a State under subsection (a), and for which a waiver application has been approved under subsection (a)(2), shall meet standards established under section 1856(a) relating to the financial solvency and capital adequacy of the organization.

"(2) CERTIFICATION PROCESS FOR SOLVENCY STANDARDS FOR PSOS.—The Secretary shall establish a process for the receipt and approval of applications of a provider-sponsored organization described in paragraph (1) for certification (and periodic recertification) of the organization as meeting such solvency standards. Under such process, the Secretary shall act upon such an application not later than 60 days after the date the application has been received.

"(e) PROVIDER-SPONSORED ORGANIZATION DEFINED.—

"(1) IN GENERAL.—In this part, the term 'provider-sponsored organization' means a public or private entity—

"(A) that is established or organized by a health care provider, or group of affiliated health care providers,

"(B) that provides a substantial proportion (as defined by the Secretary in accordance with paragraph (2)) of the health care items and services under the contract under this part directly through the provider or affiliated group of providers, and

"(C) with respect to which those affiliated providers that share, directly or indirectly, substantial financial risk with respect to the provision of such items and services have at least a majority financial interest in the entity.

"(2) SUBSTANTIAL PROPORTION.—In defining what is a 'substantial proportion' for purposes of paragraph (1)(B), the Secretary—

"(A) shall take into account (i) the need for such an organization to assume responsibility for a substantial proportion of services in order to assure financial stability and (ii) the practical difficulties in such an organization integrating a very wide range of service providers; and

"(B) may vary such proportion based upon relevant differences among organizations, such as their location in an urban or rural area.

"(3) AFFILIATION.—For purposes of this subsection, a provider is 'affiliated' with another provider if, through contract, ownership, or otherwise—

"(A) one provider, directly or indirectly, controls, is controlled by, or is under common control with the other,

"(B) both providers are part of a controlled group of corporations under section 1563 of the Internal Revenue Code of 1986, or

"(C) both providers are part of an affiliated service group under section 414 of such Code.

"(4) CONTROL.—For purposes of paragraph (3), control is presumed to exist if one party, directly or indirectly, owns, controls, or holds the power to vote, or proxies for, not less than 51 percent of the voting rights or governance rights of another.

"(5) HEALTH CARE PROVIDER DEFINED.—In this subsection, the term 'health care provider' means—

"(A) any individual who is engaged in the delivery of health care services in a State and who is required by State law or regulation to be licensed or certified by the State to engage in the delivery of such services in the State, and

"(B) any entity that is engaged in the delivery of health care services in a State and that, if it is required by State law or regulation to be licensed or certified by the State to engage in the delivery of such services in the State, is so licensed.

"(6) REGULATIONS.—The Secretary shall issue regulations to carry out this subsection.

"ESTABLISHMENT OF STANDARDS

"SEC. 1856. (a) ESTABLISHMENT OF SOLVENCY STANDARDS FOR PROVIDER-SPONSORED ORGANIZATIONS.—

"(1) ESTABLISHMENT.—

"(A) IN GENERAL.—The Secretary shall establish, on an expedited basis and using a negotiated rulemaking process under subchapter III of chapter 5 of title 5, United States Code, standards described in section 1855(d)(1) (relating to the financial solvency and capital adequacy of the organization) that entities must meet to qualify as provider-sponsored organizations under this part.

"(B) FACTORS TO CONSIDER FOR SOLVENCY STANDARDS.—In establishing solvency standards under subparagraph (A) for provider-sponsored organizations, the Secretary shall consult with interested parties and shall take into account—

"(i) the delivery system assets of such an organization and ability of such an organization to provide services directly to enrollees through affiliated providers, and

"(ii) alternative means of protecting against insolvency, including reinsurance, unrestricted surplus, letters of credit, guarantees, organizational insurance coverage, partnerships with other licensed entities, and valuation attributable to the ability of such an organization to meet its service obligations through direct delivery of care.

"(C) ENROLLEE PROTECTION AGAINST INSOLVENCY.—Such standards shall include provisions to prevent enrollees from being held liable to any person or entity for the MedicarePlus organization's debts in the event of the organization's insolvency.

"(2) PUBLICATION OF NOTICE.—In carrying out the rulemaking process under this subsection, the Secretary, after consultation with the National Association of Insurance Commissioners, the American Academy of Actuaries, organizations representative of medicare beneficiaries, and other interested parties, shall publish the notice provided for under section 564(a) of title 5, United States Code, by not later than 45 days after the date of the enactment of this section.

"(3) TARGET DATE FOR PUBLICATION OF RULE.—As part of the notice under paragraph (2), and for purposes of this subsection, the 'target date for publication' (referred to in section 564(a)(5) of such title) shall be April 1, 1998.

"(4) ABBREVIATED PERIOD FOR SUBMISSION OF COMMENTS.—In applying section 564(c) of such title under this subsection, '15 days' shall be substituted for '30 days'.

"(5) APPOINTMENT OF NEGOTIATED RULEMAKING COMMITTEE AND FACILITATOR.—The Secretary shall provide for—

"(A) the appointment of a negotiated rulemaking committee under section 565(a) of such title by not later than 30 days after the end of the comment period provided for under section 564(c) of such title (as shortened under paragraph (4)), and

"(B) the nomination of a facilitator under section 566(c) of such title by not later than 10 days after the date of appointment of the committee.

"(6) PRELIMINARY COMMITTEE REPORT.—The negotiated rulemaking committee appointed under paragraph (5) shall report to the Secretary, by not later than January 1, 1998, regarding the committee's progress on achieving a consensus with regard to the rulemaking proceeding and whether such consensus is likely to occur before one month before the target date for publication of the rule. If the committee reports that the committee has failed to make significant progress towards such consensus or is unlikely to reach such consensus by the target date, the Secretary may terminate such process and provide for the publication of a rule under this subsection through such other methods as the Secretary may provide.

"(7) FINAL COMMITTEE REPORT.—If the committee is not terminated under paragraph (6), the rulemaking committee shall submit a report containing a proposed rule by not later than one month before the target date of publication.

"(8) INTERIM, FINAL EFFECT.—The Secretary shall publish a rule under this subsection in the Federal Register by not later than the target date of publication. Such rule shall be effective and final immediately on an interim basis, but is subject to change and revision after public notice and opportunity for a period (of not less than 60 days) for public comment. In connection with such rule, the Secretary shall specify the process for the timely review and approval of applications of entities to be certified as provider-sponsored organizations pursuant to such rules and consistent with this subsection.

"(9) PUBLICATION OF RULE AFTER PUBLIC COMMENT.—The Secretary shall provide for consideration of such comments and republication of such rule by not later than 1 year after the target date of publication.

"(b) ESTABLISHMENT OF OTHER STANDARDS.—

"(1) IN GENERAL.—The Secretary shall establish by regulation other standards (not described in subsection (a)) for MedicarePlus organizations and plans consistent with, and to carry out, this part.

"(2) USE OF CURRENT STANDARDS.—Consistent with the requirements of this part, standards established under this subsection shall be based on standards established under section 1876 to carry out analogous provisions of such section.

"(3) USE OF INTERIM STANDARDS.—For the period in which this part is in effect and standards are being developed and established under the preceding provisions of this subsection, the Secretary shall provide by not later than June 1, 1998, for the application of such interim standards (without regard to any requirements for notice and public comment) as may be appropriate to provide for the expedited implementation of this part. Such interim standards shall not apply after the date standards are established under the preceding provisions of this subsection.

"(4) APPLICATION OF NEW STANDARDS TO ENTITIES WITH A CONTRACT.—In the case of a MedicarePlus organization with a contract in effect under this part at the time standards applicable to the organization under this section are changed, the organization may elect not to have such changes apply to the organization until the end of the current contract year (or, if there is less than 6 months remaining in the contract year, until 1 year after the end of the current contract year).

"(5) RELATION TO STATE LAWS.—The standards established under this subsection shall supersede any State law or regulation with respect to MedicarePlus plans which are offered by MedicarePlus organizations under this part to the extent such law or regulation is inconsistent with such standards.

"CONTRACTS WITH MEDICAREPLUS ORGANIZATIONS

"SEC. 1857. (a) IN GENERAL.—The Secretary shall not permit the election under section 1851 of a MedicarePlus plan offered by a MedicarePlus organization under this part, and no payment shall be made under section

1853 to an organization, unless the Secretary has entered into a contract under this section with the organization with respect to the offering of such plan. Such a contract with an organization may cover more than one MedicarePlus plan. Such contract shall provide that the organization agrees to comply with the applicable requirements and standards of this part and the terms and conditions of payment as provided for in this part.

"(b) MINIMUM ENROLLMENT REQUIREMENTS.—

"(1) IN GENERAL.—Subject to paragraphs (2) and (3), the Secretary may not enter into a contract under this section with a MedicarePlus organization unless the organization has at least 5,000 individuals (or 1,500 individuals in the case of an organization that is a provider-sponsored organization) who are receiving health benefits through the organization, except that the standards under section 1856 may permit the organization to have a lesser number of beneficiaries (but not less than 500 in the case of an organization that is a provider-sponsored organization) if the organization primarily serves individuals residing outside of urbanized areas.

"(2) EXCEPTION FOR MSA PLAN.—Paragraph (1) shall not apply with respect to a contract that relates only to an MSA plan.

"(3) ALLOWING TRANSITION.—The Secretary may waive the requirement of paragraph (1) during the first 3 contract years with respect to an organization.

"(c) CONTRACT PERIOD AND EFFECTIVENESS.—

"(1) PERIOD.—Each contract under this section shall be for a term of at least one year, as determined by the Secretary, and may be made automatically renewable from term to term in the absence of notice by either party of intention to terminate at the end of the current term.

"(2) TERMINATION AUTHORITY.—In accordance with procedures established under subsection (h), the Secretary may at any time terminate any such contract if the Secretary determines that the organization—

"(A) has failed substantially to carry out the contract;

"(B) is carrying out the contract in a manner inconsistent with the efficient and effective administration of this part; or

"(C) no longer substantially meets the applicable conditions of this part.

"(3) EFFECTIVE DATE OF CONTRACTS.—The effective date of any contract executed pursuant to this section shall be specified in the contract, except that in no case shall a contract under this section which provides for coverage under an MSA plan be effective before January 1999 with respect to such coverage.

"(4) PREVIOUS TERMINATIONS.—The Secretary may not enter into a contract with a MedicarePlus organization if a previous contract with that organization under this section was terminated at the request of the organization within the preceding five-year period, except in circumstances which warrant special consideration, as determined by the Secretary.

"(5) CONTRACTING AUTHORITY.—The authority vested in the Secretary by this part may be performed without regard to such provisions of law or regulations relating to the making, performance, amendment, or modification of contracts of the United States as the Secretary may determine to be inconsistent with the furtherance of the purpose of this title.

"(d) PROTECTIONS AGAINST FRAUD AND BENEFICIARY PROTECTIONS.—

"(1) INSPECTION AND AUDIT.—Each contract under this section shall provide that the Secretary, or any person or organization designated by the Secretary—

"(A) shall have the right to inspect or otherwise evaluate (i) the quality, appropriateness, and timeliness of services performed under the contract and (ii) the facilities of the organization when there is reasonable evidence of some need for such inspection, and

"(B) shall have the right to audit and inspect any books and records of the MedicarePlus organization that pertain (i) to the ability of the organization to bear the risk of potential financial losses, or (ii) to services performed or determinations of amounts payable under the contract.

"(2) ENROLLEE NOTICE AT TIME OF TERMINATION.—Each contract under this section shall require the organization to provide (and pay for) written notice in advance of the contract's termination, as well as a description of alternatives for obtaining benefits under this title, to each individual enrolled with the organization under this part.

"(3) DISCLOSURE.—

"(A) IN GENERAL.—Each MedicarePlus organization shall, in accordance with regulations of the Secretary, report to the Secretary financial information which shall include the following:

"(i) Such information as the Secretary may require demonstrating that the organization has a fiscally sound operation.

"(ii) A copy of the report, if any, filed with the Health Care Financing Administration containing the information required to be reported under section 1124 by disclosing entities.

"(iii) A description of transactions, as specified by the Secretary, between the organization and a party in interest. Such transactions shall include—

"(I) any sale or exchange, or leasing of any property between the organization and a party in interest;

"(II) any furnishing for consideration of goods, services (including management services), or facilities between the organization and a party in interest, but not including salaries paid to employees for services provided in the normal course of their employment and health services provided to members by hospitals and other providers and by staff, medical group (or groups), individual practice association (or associations), or any combination thereof; and

"(III) any lending of money or other extension of credit between an organization and a party in interest.

The Secretary may require that information reported respecting an organization which controls, is controlled by, or is under common control with, another entity be in the form of a consolidated financial statement for the organization and such entity.

"(B) PARTY IN INTEREST DEFINED.—For the purposes of this paragraph, the term 'party in interest' means—

"(i) any director, officer, partner, or employee responsible for management or administration of a MedicarePlus organization, any person who is directly or indirectly the beneficial owner of more than 5 percent of the equity of the organization, any person who is the beneficial owner of a mortgage, deed of trust, note, or other interest secured by, and valuing more than 5 percent of the organization, and, in the case of a MedicarePlus organization organized as a nonprofit corporation, an incorporator or member of such corporation under applicable State corporation law;

"(ii) any entity in which a person described in clause (i)—

"(I) is an officer or director;

"(II) is a partner (if such entity is organized as a partnership);

"(III) has directly or indirectly a beneficial interest of more than 5 percent of the equity; or

"(IV) has a mortgage, deed of trust, note, or other interest valuing more than 5 percent of the assets of such entity;

"(iii) any person directly or indirectly controlling, controlled by, or under common control with an organization; and

"(iv) any spouse, child, or parent of an individual described in clause (i).

"(C) ACCESS TO INFORMATION.—Each MedicarePlus organization shall make the information reported pursuant to subparagraph (A) available to its enrollees upon reasonable request.

"(4) LOAN INFORMATION.—The contract shall require the organization to notify the Secretary of loans and other special financial arrangements which are made between the organization and subcontractors, affiliates, and related parties.

"(e) ADDITIONAL CONTRACT TERMS.—

"(1) IN GENERAL.—The contract shall contain such other terms and conditions not inconsistent with this part (including requiring the organization to provide the Secretary with such information) as the Secretary may find necessary and appropriate.

"(2) COST-SHARING IN ENROLLMENT-RELATED COSTS.—The contract with a MedicarePlus organization shall require the payment to the Secretary for the organization's pro rata share (as determined by the Secretary) of the estimated costs to be incurred by the Secretary in carrying out section 1851 (relating to enrollment and dissemination of information). Such payments are appropriated to defray the costs described in the preceding sentence, to remain available until expended.

"(f) PROMPT PAYMENT BY MEDICAREPLUS ORGANIZATION.—

"(1) REQUIREMENT.—A contract under this part shall require a MedicarePlus organization to provide prompt payment (consistent with the provisions of sections 1816(c)(2) and 1842(c)(2)) of claims submitted for services and supplies furnished to individuals pursuant to the contract, if the services or supplies are not furnished under a contract between the organization and the provider or supplier.

"(2) SECRETARY'S OPTION TO BYPASS NONCOMPLYING ORGANIZATION.—In the case of a MedicarePlus eligible organization which the Secretary determines, after notice and opportunity for a hearing, has failed to make payments of amounts in compliance with paragraph (1), the Secretary may provide for direct payment of the amounts owed to providers and suppliers for covered services and supplies furnished to individuals enrolled under this part under the contract. If the Secretary provides for the direct payments, the Secretary shall provide for an appropriate reduction in the amount of payments otherwise made to the organization under this part to reflect the amount of the Secretary's payments (and the Secretary's costs in making the payments).

"(g) INTERMEDIATE SANCTIONS.—

"(1) IN GENERAL.—If the Secretary determines that a MedicarePlus organization with a contract under this section—

"(A) fails substantially to provide medically necessary items and services that are required (under law or under the contract) to be provided to an individual covered under the contract, if the failure has adversely affected (or has substantial likelihood of adversely affecting) the individual;

"(B) imposes net monthly premiums on individuals enrolled under this part in excess of the net monthly premiums permitted;

"(C) acts to expel or to refuse to re-enroll an individual in violation of the provisions of this part;

"(D) engages in any practice that would reasonably be expected to have the effect of denying or discouraging enrollment (except as permitted by this part) by eligible individuals with the organization whose medical condition or history indicates a need for substantial future medical services;

"(E) misrepresents or falsifies information that is furnished—

"(i) to the Secretary under this part, or

"(ii) to an individual or to any other entity under this part;

"(F) fails to comply with the requirements of section 1852(j)(3); or

"(G) employs or contracts with any individual or entity that is excluded from participation under this title under section 1128 or 1128A for the provision of health care, utilization review, medical social work, or administrative services or employs or contracts with any entity for the provision (directly or indirectly) through such an excluded individual or entity of such services;

the Secretary may provide, in addition to any other remedies authorized by law, for any of the remedies described in paragraph (2).

"(2) Remedies.—The remedies described in this paragraph are—

"(A) civil money penalties of not more than $25,000 for each determination under paragraph (1) or, with respect to a determination under subparagraph (D) or (E)(i) of such paragraph, of not more than $100,000 for each such determination, plus, with respect to a determination under paragraph (1)(B), double the excess amount charged in violation of such paragraph (and the excess amount charged shall be deducted from the penalty and returned to the individual concerned), and plus, with respect to a determination under paragraph (1)(D), $15,000 for each individual not enrolled as a result of the practice involved,

"(B) suspension of enrollment of individuals under this part after the date the Secretary notifies the organization of a determination under paragraph (1) and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur, or

"(C) suspension of payment to the organization under this part for individuals enrolled after the date the Secretary notifies the organization of a determination under paragraph (1) and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur.

"(3) Other intermediate sanctions.—In the case of a MedicarePlus organization for which the Secretary makes a determination under subsection (c)(2) the basis of which is not described in paragraph (1), the Secretary may apply the following intermediate sanctions:

"(A) Civil money penalties of not more than $25,000 for each determination under subsection (c)(2) if the deficiency that is the basis of the determination has directly adversely affected (or has the substantial likelihood of adversely affecting) an individual covered under the organization's contract

"(B) Civil money penalties of not more than $10,000 for each week beginning after the initiation of procedures by the Secretary under subsection (g) during which the deficiency that is the basis of a determination under subsection (c)(2) exists.

"(C) Suspension of enrollment of individuals under this part after the date the Secretary notifies the organization of a determination under subsection (c)(2) and until the Secretary is satisfied that the deficiency that is the basis for the determination has been corrected and is not likely to recur.

"(h) Procedures for Termination.—

"(1) In general.—The Secretary may terminate a contract with a MedicarePlus organization under this section in accordance with formal investigation and compliance procedures established by the Secretary under which—

"(A) the Secretary provides the organization with the reasonable opportunity to develop and implement a corrective action plan to correct the deficiencies that were the basis of the Secretary's determination under subsection (c)(2);

"(B) the Secretary provides the organization with reasonable notice and opportunity for hearing (including the right to appeal an initial decision) before terminating the contract.

"(2) Civil money penalties.—The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under subsection (f) or under paragraph (2) or (3) of subsection (g) in the same manner as they apply to a civil money penalty or proceeding under section 1128A(a).

"(3) Exception for imminent and serious risk to health.—Paragraph (1) shall not apply if the Secretary determines that a delay in termination, resulting from compliance with the procedures specified in such paragraph prior to termination, would pose an imminent and serious risk to the health of individuals enrolled under this part with the organization.

"DEFINITIONS; MISCELLANEOUS PROVISIONS

"Sec. 1859. (a) Definitions Relating to MedicarePlus Organizations.—In this part—

"(1) MedicarePlus organization.—The term 'MedicarePlus organization' means a public or private entity that is certified under section 1856 as meeting the requirements and standards of this part for such an organization.

"(2) Provider-sponsored organization.—The term 'provider-sponsored organization' is defined in section 1855(e)(1).

"(b) Definitions Relating to MedicarePlus Plans.—

"(1) MedicarePlus plan.—The term 'MedicarePlus plan' means health benefits coverage offered under a policy, contract, or plan by a MedicarePlus organization pursuant to and in accordance with a contract under section 1857.

"(2) MSA plan.—

"(A) In general.—The term 'MSA plan' means a MedicarePlus plan that—

"(i) provides reimbursement for at least the items and services described in section 1852(a)(1) in a year but only after the enrollee incurs countable expenses (as specified under the plan) equal to the amount of an annual deductible (described in subparagraph (B));

"(ii) counts as such expenses (for purposes of such deductible) at least all amounts that would have been payable under parts A and B, and that would have been payable by the enrollee as deductibles, coinsurance, or copayments, if the enrollee had elected to receive benefits through the provisions of such parts; and

"(iii) provides, after such deductible is met for a year and for all subsequent expenses for items and services referred to in clause (i) in the year, for a level of reimbursement that is not less than—

"(I) 100 percent of such expenses, or

"(II) 100 percent of the amounts that would have been paid (without regard to any deductibles or coinsurance) under parts A and B with respect to such expenses,

whichever is less.

"(B) Deductible.—The amount of annual deductible under an MSA plan—

"(i) for contract year 1999 shall be not more than $6,000; and

"(ii) for a subsequent contract year shall be not more than the maximum amount of such deductible for the previous contract year under this subparagraph increased by the national per capita MedicarePlus growth percentage under section 1853(c)(6) for the year.

If the amount of the deductible under clause (ii) is not a multiple of $50, the amount shall be rounded to the nearest multiple of $50.

"(c) Other References to Other Terms.—

"(1) MedicarePlus eligible individual.—The term 'MedicarePlus eligible individual' is defined in section 1851(a)(3).

"(2) MedicarePlus payment area.—The term 'MedicarePlus payment area' is defined in section 1853(d).

"(3) National per capita MedicarePlus growth percentage.—The 'national per capita MedicarePlus growth percentage' is defined in section 1853(c)(6).

"(4) Monthly premium; net monthly premium.—The terms 'monthly premium' and 'net monthly premium' are defined in section 1854(a)(2).

"(d) Coordinated Acute and Long-term Care Benefits Under a MedicarePlus Plan.—Nothing in this part shall be construed as preventing a State from coordinating benefits under a medicaid plan under title XIX with those provided under a MedicarePlus plan in a manner that assures continuity of a full-range of acute care and long-term care services to poor elderly or disabled individuals eligible for benefits under this title and under such plan.

"(e) Restriction on Enrollment for Certain MedicarePlus Plans.—

"(1) In general.—In the case of a MedicarePlus religious fraternal benefit society plan described in paragraph (2), notwithstanding any other provision of this part to the contrary and in accordance with regulations of the Secretary, the society offering the plan may restrict the enrollment of individuals under this part to individuals who are members of the church, convention, or group described in paragraph (3)(B) with which the society is affiliated.

"(2) MedicarePlus religious fraternal benefit society plan described.—For purposes of this subsection, a MedicarePlus religious fraternal benefit society plan described in this paragraph is a MedicarePlus plan described in section 1851(a)(2)(A) that—

"(A) is offered by a religious fraternal benefit society described in paragraph (3) only to members of the church, convention, or group described in paragraph (3)(B); and

"(B) permits all such members to enroll under the plan without regard to health status-related factors.

Nothing in this subsection shall be construed as waiving any plan requirements relating to financial solvency. In developing solvency standards under section 1856, the Secretary shall take into account open contract and assessment features characteristic of fraternal insurance certificates.

"(3) RELIGIOUS FRATERNAL BENEFIT SOCIETY DEFINED.—For purposes of paragraph (2)(A), a 'religious fraternal benefit society' described in this section is an organization that—

"(A) is exempt from Federal income taxation under section 501(c)(8) of the Internal Revenue Code of 1986;

"(B) is affiliated with, carries out the tenets of, and shares a religious bond with, a church or convention or association of churches or an affiliated group of churches;

"(C) offers, in addition to a MedicarePlus religious fraternal benefit society plan, health coverage to individuals not entitled to benefits under this title who are members of such church, convention, or group; and

"(D) does not impose any limitation on membership in the society based on any health status-related factor.

"(4) PAYMENT ADJUSTMENT.—Under regulations of the Secretary, in the case of individuals enrolled under this part under a MedicarePlus religious fraternal benefit society plan described in paragraph (2), the Secretary shall provide for such adjustment to the payment amounts otherwise established under section 1854 as may be appropriate to assure an appropriate payment level, taking into account the actuarial characteristics and experience of such individuals.".

(b) REPORT ON COVERAGE OF BENEFICIARIES WITH END-STAGE RENAL DISEASE.—The Secretary of Health and Human Services shall provide for a study on the feasibility and impact of removing the limitation under section 1851(b)(3)(B) of the Social Security Act (as inserted by subsection (a)) on eligibility of most individuals medically determined to have end-stage renal disease to enroll in MedicarePlus plans. By not later than October 1, 1998, the Secretary shall submit to Congress a report on such study and shall include in the report such recommendations regarding removing or restricting the limitation as may be appropriate.

(c) REPORT ON MEDICAREPLUS TEACHING PROGRAMS AND USE OF DSH AND TEACHING HOSPITALS.—Based on the information provided to the Secretary of Health and Human Services under section 1852(k) of the Social Security Act and such information as the Secretary may obtain, by not later than October 1, 1999, the Secretary shall submit to Congress a report on graduate medical education programs operated by MedicarePlus organizations and the extent to which MedicarePlus organizations are providing for payments to hospitals described in such section.

SEC. 10002. TRANSITIONAL RULES FOR CURRENT MEDICARE HMO PROGRAM.

(a) AUTHORIZING TRANSITIONAL WAIVER OF 50:50 RULE.—Section 1876(f) (42 U.S.C. 1395mm(f)) is amended—

(1) in paragraph (2), by striking "The Secretary" and inserting "Subject to paragraph (4), the Secretary", and

(2) by adding at the end the following new paragraph:

"(4) Effective for contract periods beginning after December 31, 1996, the Secretary may waive or modify the requirement imposed by paragraph (1) to the extent the Secretary finds that it is in the public interest.".

(b) TRANSITION.—Section 1876 (42 U.S.C. 1395mm) is amended by adding at the end the following new subsection:

"(k)(1) Except as provided in paragraph (3), the Secretary shall not enter into, renew, or continue any risk-sharing contract under this section with an eligible organization for any contract year beginning on or after—

"(A) the date standards for MedicarePlus organizations and plans are first established under section 1856 with respect to MedicarePlus organizations that are insurers or health maintenance organizations, or

"(B) in the case of such an organization with such a contract in effect as of the date such standards were first established, 1 year after such date.

"(2) The Secretary shall not enter into, renew, or continue any risk-sharing contract under this section with an eligible organization for any contract year beginning on or after January 1, 2000.

"(3) An individual who is enrolled in part B only and is enrolled in an eligible organization with a risk-sharing contract under this section on December 31, 1998, may continue enrollment in such organization in accordance with regulations issued by not later then July 1, 1998.

"(4) Notwithstanding subsection (a), the Secretary shall provide that payment amounts under risk-sharing contracts under this section for months in a year (beginning with January 1998) shall be computed—

"(A) with respect to individuals entitled to benefits under both parts A and B, by substituting payment rates under section 1853(a) for the payment rates otherwise established under subsection 1876(a), and

"(B) with respect to individuals only entitled to benefits under part B, by substituting an appropriate proportion of such rates (reflecting the relative proportion of payments under this title attributable to such part) for the payment rates otherwise established under subsection (a).

For purposes of carrying out this paragraph for payments for months in 1998, the Secretary shall compute, announce, and apply the payment rates under section 1853(a) (notwithstanding any deadlines specified in such section) in as timely a manner as possible and may (to the extent necessary) provide for retroactive adjustment in payments made under this section not in accordance with such rates.".

(c) ENROLLMENT TRANSITION RULE.—An individual who is enrolled on December 31, 1998, with an eligible organization under section 1876 of the Social Security Act (42 U.S.C. 1395mm) shall be considered to be enrolled with that organization on January 1, 1999, under part C of title XVIII of such Act if that organization has a contract under that part for providing services on January 1, 1999 (unless the individual has disenrolled effective on that date).

(d) ADVANCE DIRECTIVES.—Section 1866(f) (42 U.S.C. 1395cc(f)) is amended—

(1) in paragraph (1)—

(A) by inserting "1855(i)," after "1833(s),", and

(B) by inserting ", MedicarePlus organization," after "provider of services"; and

(2) in paragraph (2)(E), by inserting "or a MedicarePlus organization" after "section 1833(a)(1)(A)".

(e) EXTENSION OF PROVIDER REQUIREMENT.—Section 1866(a)(1)(O) (42 U.S.C. 1395cc(a)(1)(O)) is amended—

(1) by striking "in the case of hospitals and skilled nursing facilities,";

(2) by striking "inpatient hospital and extended care";

(3) by inserting "with a MedicarePlus organization under part C or" after "any individual enrolled"; and

(4) by striking "(in the case of hospitals) or limits (in the case of skilled nursing facilities)".

(f) ADDITIONAL CONFORMING CHANGES.—

(1) CONFORMING REFERENCES TO PREVIOUS PART C.—Any reference in law (in effect before the date of the enactment of this Act) to part C of title XVIII of the Social Security Act is deemed a reference to part D of such title (as in effect after such date).

(2) SECRETARIAL SUBMISSION OF LEGISLATIVE PROPOSAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to the appropriate committees of Congress a legislative proposal providing for such technical and conforming amendments in the law as are required by the provisions of this chapter.

(g) IMMEDIATE EFFECTIVE DATE FOR CERTAIN REQUIREMENTS FOR DEMONSTRATIONS.—Section 1857(e)(2) of the Social Security Act (requiring contribution to certain costs related to the enrollment process comparative materials) applies to demonstrations with respect to which enrollment is effected or coordinated under section 1851 of such Act.

(h) USE OF INTERIM, FINAL REGULATIONS.—In order to carry out the amendments made by this chapter in a timely manner, the Secretary of Health and Human Services may promulgate regulations that take effect on an interim basis, after notice and pending opportunity for public comment.

(i) TRANSITION RULE FOR PSO ENROLLMENT.—In applying subsection (g)(1) of section 1876 of the Social Security Act (42 U.S.C. 1395mm) to a risk-sharing contract entered into with an eligible organization that is a provider-sponsored organization (as defined in section 1855(e)(1) of such Act, as inserted by section 10001) for a contract year beginning on or after January 1, 1998, there shall be substituted for the minimum number of enrollees provided under such section the minimum number of enrollees permitted under section 1857(b)(1) of such Act (as so inserted).

SEC. 10003. CONFORMING CHANGES IN MEDIGAP PROGRAM.

(a) CONFORMING AMENDMENTS TO MEDICAREPLUS CHANGES.—

(1) IN GENERAL.—Section 1882(d)(3)(A)(i) (42 U.S.C. 1395ss(d)(3)(A)(i)) is amended—

(A) in the matter before subclause (I), by inserting "(including an individual electing a MedicarePlus plan under section 1851)" after "of this title"; and

(B) in subclause (II)—

(i) by inserting "in the case of an individual not electing a MedicarePlus plan" after "(II)", and

(ii) by inserting before the comma at the end the following: "or in the case of an individual electing a MedicarePlus plan, a medicare supplemental policy with knowledge that the policy duplicates health benefits to which the individual is otherwise entitled under the MedicarePlus plan or under another medicare supplemental policy".

(2) CONFORMING AMENDMENTS.—Section 1882(d)(3)(B)(i)(I) (42 U.S.C. 1395ss(d)(3)(B)(i)(I)) is amended by inserting "(including any MedicarePlus plan)" after "health insurance policies".

(3) MEDICAREPLUS PLANS NOT TREATED AS MEDICARE SUPPLEMENTARY POLICIES.—Section 1882(g)(1) (42 U.S.C. 1395ss(g)(1)) is amended by inserting "or a MedicarePlus plan or" after "does not include"

(b) ADDITIONAL RULES RELATING TO INDIVIDUALS ENROLLED IN MSA PLANS.—Section 1882 (42 U.S.C. 1395ss) is further amended by adding at the end the following new subsection:

"(u)(1) It is unlawful for a person to sell or issue a policy described in paragraph (2) to an individual with knowledge that the individual has in effect under section 1851 an election of an MSA plan.

"(2) A policy described in this subparagraph is a health insurance policy that provides for coverage of expenses that are otherwise required to be counted toward meeting the annual deductible amount provided under the MSA plan.".

Subchapter B—Special Rules for MedicarePlus Medical Savings Accounts

SEC. 10006. MEDICAREPLUS MSA.

(a) In General.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to amounts specifically excluded from gross income) is amended by redesignating section 138 as section 139 and by inserting after section 137 the following new section:

"SEC. 138. MEDICAREPLUS MSA.

"(a) Exclusion.—Gross income shall not include any payment to the MedicarePlus MSA of an individual by the Secretary of Health and Human Services under part C of title XVIII of the Social Security Act.

"(b) MedicarePlus MSA.—For purposes of this section, the term 'MedicarePlus MSA' means a medical savings account (as defined in section 220(d))—

"(1) which is designated as a MedicarePlus MSA,

"(2) with respect to which no contribution may be made other than—

"(A) a contribution made by the Secretary of Health and Human Services pursuant to part C of title XVIII of the Social Security Act, or

"(B) a trustee-to-trustee transfer described in subsection (c)(4),

"(3) the governing instrument of which provides that trustee-to-trustee transfers described in subsection (c)(4) may be made to and from such account, and

"(4) which is established in connection with an MSA plan described in section 1859(b)(2) of the Social Security Act.

"(c) Special Rules for Distributions.—

"(1) Distributions for qualified medical expenses.—In applying section 220 to a MedicarePlus MSA—

"(A) qualified medical expenses shall not include amounts paid for medical care for any individual other than the account holder, and

"(B) section 220(d)(2)(C) shall not apply.

"(2) Penalty for distributions from MedicarePlus MSA not used for qualified medical expenses if minimum balance not maintained.—

"(A) In general.—The tax imposed by this chapter for any taxable year in which there is a payment or distribution from a MedicarePlus MSA which is not used exclusively to pay the qualified medical expenses of the account holder shall be increased by 50 percent of the excess (if any) of—

"(i) the amount of such payment or distribution, over

"(ii) the excess (if any) of—

"(I) the fair market value of the assets in such MSA as of the close of the calendar year preceding the calendar year in which the taxable year begins, over

"(II) an amount equal to 60 percent of the deductible under the MedicarePlus MSA plan covering the account holder as of January 1 of the calendar year in which the taxable year begins.

Section 220(f)(2) shall not apply to any payment or distribution from a MedicarePlus MSA.

"(B) Exceptions.—Subparagraph (A) shall not apply if the payment or distribution is made on or after the date the account holder—

"(i) becomes disabled within the meaning of section 72(m)(7), or

"(ii) dies.

"(C) Special rules.—For purposes of subparagraph (A)—

"(i) all MedicarePlus MSAs of the account holder shall be treated as 1 account,

"(ii) all payments and distributions not used exclusively to pay the qualified medical expenses of the account holder during any taxable year shall be treated as 1 distribution, and

"(iii) any distribution of property shall be taken into account at its fair market value on the date of the distribution.

"(3) Withdrawal of erroneous contributions.—Section 220(f)(2) and paragraph (2) of this subsection shall not apply to any payment or distribution from a MedicarePlus MSA to the Secretary of Health and Human Services of an erroneous contribution to such MSA and of the net income attributable to such contribution.

"(4) Trustee-to-trustee transfers.—Section 220(f)(2) and paragraph (2) of this subsection shall not apply to any trustee-to-trustee transfer from a MedicarePlus MSA of an account holder to another MedicarePlus MSA of such account holder.

"(d) Special Rules for Treatment of Account After Death of Account Holder.—In applying section 220(f)(8)(A) to an account which was a MedicarePlus MSA of a decedent, the rules of section 220(f) shall apply in lieu of the rules of subsection (c) of this section with respect to the spouse as the account holder of such MedicarePlus MSA.

"(e) Reports.—In the case of a MedicarePlus MSA, the report under section 220(h)—

"(1) shall include the fair market value of the assets in such MedicarePlus MSA as of the close of each calendar year, and

"(2) shall be furnished to the account holder—

"(A) not later than January 31 of the calendar year following the calendar year to which such reports relate, and

"(B) in such manner as the Secretary prescribes in such regulations.

"(f) Coordination With Limitation on Number of Taxpayers Having Medical Savings Accounts.—Subsection (i) of section 220 shall not apply to an individual with respect to a MedicarePlus MSA, and MedicarePlus MSA's shall not be taken into account in determining whether the numerical limitations under section 220(j) are exceeded."

(b) Technical Amendments.—

(1) The last sentence of section 4973(d) of such Code is amended by inserting "or section 138(c)(3)" after "section 220(f)(3)".

(2) Subsection (b) of section 220 of such Code is amended by adding at the end the following new paragraph:

"(7) Medicare eligible individuals.—The limitation under this subsection for any month with respect to an individual shall be zero for the first month such individual is entitled to benefits under title XVIII of the Social Security Act and for each month thereafter."

(3) The table of sections for part III of subchapter B of chapter 1 of such Code is amended by striking the last item and inserting the following:

"Sec. 138. MedicarePlus MSA.

"Sec. 139. Cross references to other Acts.".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

CHAPTER 2—INTEGRATED LONG-TERM CARE PROGRAMS

Subchapter A—Programs of All-inclusive Care for the Elderly (PACE)

SEC. 10011. COVERAGE OF PACE UNDER THE MEDICARE PROGRAM.

Title XVIII (42 U.S.C. 1395 et seq.) is amended by adding at the end the following new section:

"PAYMENTS TO, AND COVERAGE OF BENEFITS UNDER, PROGRAMS OF ALL-INCLUSIVE CARE FOR THE ELDERLY (PACE)

"Sec. 1894. (a) Receipt of Benefits Through Enrollment in PACE Program; Definitions for PACE Program Related Terms.—

"(1) Benefits through enrollment in a PACE program.—In accordance with this section, in the case of an individual who is entitled to benefits under part A or enrolled under part B and who is a PACE program eligible individual (as defined in paragraph (5)) with respect to a PACE program offered by a PACE provider under a PACE program agreement—

"(A) the individual may enroll in the program under this section; and

"(B) so long as the individual is so enrolled and in accordance with regulations—

"(i) the individual shall receive benefits under this title solely through such program, and

"(ii) the PACE provider is entitled to payment under and in accordance with this section and such agreement for provision of such benefits.

"(2) PACE program defined.—For purposes of this section and section 1932, the term 'PACE program' means a program of all-inclusive care for the elderly that meets the following requirements:

"(A) Operation.—The entity operating the program is a PACE provider (as defined in paragraph (3)).

"(B) Comprehensive benefits.—The program provides comprehensive health care services to PACE program eligible individuals in accordance with the PACE program agreement and regulations under this section.

"(C) Transition.—In the case of an individual who is enrolled under the program under this section and whose enrollment ceases for any reason (including the individual no longer qualifies as a PACE program eligible individual, the termination of a PACE program agreement, or otherwise), the program provides assistance to the individual in obtaining necessary transitional care through appropriate referrals and making the individual's medical records available to new providers.

"(3) PACE provider defined.—

"(A) In general.—For purposes of this section, the term 'PACE provider' means an entity that—

"(i) subject to subparagraph (B), is (or is a distinct part of) a public entity or a private, nonprofit entity organized for charitable purposes under section 501(c)(3) of the Internal Revenue Code of 1986, and

"(ii) has entered into a PACE program agreement with respect to its operation of a PACE program.

"(B) Treatment of private, for-profit providers.—Clause (i) of subparagraph (A) shall not apply—

"(i) to entities subject to a demonstration project waiver under subsection (h); and

"(ii) after the date the report under section 10014(b) of the Balanced Budget Act of 1997 is submitted, unless the Secretary determines that any of the findings described in subparagraph (A), (B), (C) or (D) of paragraph (2) of such section are true.

“(4) PACE PROGRAM AGREEMENT DEFINED.—For purposes of this section, the term ‘PACE program agreement’ means, with respect to a PACE provider, an agreement, consistent with this section, section 1932 (if applicable), and regulations promulgated to carry out such sections, between the PACE provider and the Secretary, or an agreement between the PACE provider and a State administering agency for the operation of a PACE program by the provider under such sections.

“(5) PACE PROGRAM ELIGIBLE INDIVIDUAL DEFINED.—For purposes of this section, the term ‘PACE program eligible individual’ means, with respect to a PACE program, an individual who—

“(A) is 55 years of age or older;

“(B) subject to subsection (c)(4), is determined under subsection (c) to require the level of care required under the State medicaid plan for coverage of nursing facility services;

“(C) resides in the service area of the PACE program; and

“(D) meets such other eligibility conditions as may be imposed under the PACE program agreement for the program under subsection (e)(2)(A)(ii).

“(6) PACE PROTOCOL.—For purposes of this section, the term ‘PACE protocol’ means the Protocol for the Program of All-inclusive Care for the Elderly (PACE), as published by On Lok, Inc., as of April 14, 1995.

“(7) PACE DEMONSTRATION WAIVER PROGRAM DEFINED.—For purposes of this section, the term ‘PACE demonstration waiver program’ means a demonstration program under either of the following sections (as in effect before the date of their repeal):

“(A) Section 603(c) of the Social Security Amendments of 1983 (Public Law 98–21), as extended by section 9220 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99–272).

“(B) Section 9412(b) of the Omnibus Budget Reconciliation Act of 1986 (Public Law 99–509).

“(8) STATE ADMINISTERING AGENCY DEFINED.—For purposes of this section, the term ‘State administering agency’ means, with respect to the operation of a PACE program in a State, the agency of that State (which may be the single agency responsible for administration of the State plan under title XIX in the State) responsible for administering PACE program agreements under this section and section 1932 in the State.

“(9) TRIAL PERIOD DEFINED.—

“(A) IN GENERAL.—For purposes of this section, the term ‘trial period’ means, with respect to a PACE program operated by a PACE provider under a PACE program agreement, the first 3 contract years under such agreement with respect to such program.

“(B) TREATMENT OF ENTITIES PREVIOUSLY OPERATING PACE DEMONSTRATION WAIVER PROGRAMS.—Each contract year (including a year occurring before the effective date of this section) during which an entity has operated a PACE demonstration waiver program shall be counted under subparagraph (A) as a contract year during which the entity operated a PACE program as a PACE provider under a PACE program agreement.

“(10) REGULATIONS.—For purposes of this section, the term ‘regulations’ refers to interim final or final regulations promulgated under subsection (f) to carry out this section and section 1932.

“(b) SCOPE OF BENEFITS; BENEFICIARY SAFEGUARDS.—

“(1) IN GENERAL.—Under a PACE program agreement, a PACE provider shall—

“(A) provide to PACE program eligible individuals, regardless of source of payment and directly or under contracts with other entities, at a minimum—

“(i) all items and services covered under this title (for individuals enrolled under this section) and all items and services covered under title XIX, but without any limitation or condition as to amount, duration, or scope and without application of deductibles, copayments, coinsurance, or other cost-sharing that would otherwise apply under this title or such title, respectively; and

“(ii) all additional items and services specified in regulations, based upon those required under the PACE protocol;

“(B) provide such enrollees access to necessary covered items and services 24 hours per day, every day of the year;

“(C) provide services to such enrollees through a comprehensive, multidisciplinary health and social services delivery system which integrates acute and long-term care services pursuant to regulations; and

“(D) specify the covered items and services that will not be provided directly by the entity, and to arrange for delivery of those items and services through contracts meeting the requirements of regulations.

“(2) QUALITY ASSURANCE; PATIENT SAFEGUARDS.—The PACE program agreement shall require the PACE provider to have in effect at a minimum—

“(A) a written plan of quality assurance and improvement, and procedures implementing such plan, in accordance with regulations, and

“(B) written safeguards of the rights of enrolled participants (including a patient bill of rights and procedures for grievances and appeals) in accordance with regulations and with other requirements of this title and Federal and State law designed for the protection of patients.

“(c) ELIGIBILITY DETERMINATIONS.—

“(1) IN GENERAL.—The determination of whether an individual is a PACE program eligible individual—

“(A) shall be made under and in accordance with the PACE program agreement, and

“(B) who is entitled to medical assistance under title XIX, shall be made (or who is not so entitled, may be made) by the State administering agency.

“(2) CONDITION.—An individual is not a PACE program eligible individual (with respect to payment under this section) unless the individual's health status has been determined, in accordance with regulations, to be comparable to the health status of individuals who have participated in the PACE demonstration waiver programs. Such determination shall be based upon information on health status and related indicators (such as medical diagnoses and measures of activities of daily living, instrumental activities of daily living, and cognitive impairment) that are part of a uniform minimum data set collected by PACE providers on potential eligible individuals.

“(3) ANNUAL ELIGIBILITY RECERTIFICATIONS.—

“(A) IN GENERAL.—Subject to subparagraph (B), the determination described in subsection (a)(5)(B) for an individual shall be reevaluated at least once a year.

“(B) EXCEPTION.—The requirement of annual reevaluation under subparagraph (A) may be waived during a period in accordance with regulations in those cases where the State administering agency determines that there is no reasonable expectation of improvement or significant change in an individual's condition during the period because of the advanced age, severity of the advanced age, severity of chronic condition, or degree of impairment of functional capacity of the individual involved.

“(4) CONTINUATION OF ELIGIBILITY.—An individual who is a PACE program eligible individual may be deemed to continue to be such an individual notwithstanding a determination that the individual no longer meets the requirement of subsection (a)(5)(B) if, in accordance with regulations, in the absence of continued coverage under a PACE program the individual reasonably would be expected to meet such requirement within the succeeding 6-month period.

“(5) ENROLLMENT; DISENROLLMENT.—The enrollment and disenrollment of PACE program eligible individuals in a PACE program shall be pursuant to regulations and the PACE program agreement and shall permit enrollees to voluntarily disenroll without cause at any time.

“(d) PAYMENTS TO PACE PROVIDERS ON A CAPITATED BASIS.—

“(1) IN GENERAL.—In the case of a PACE provider with a PACE program agreement under this section, except as provided in this subsection or by regulations, the Secretary shall make prospective monthly payments of a capitation amount for each PACE program eligible individual enrolled under the agreement under this section in the same manner and from the same sources as payments are made to a MedicarePlus organization under section 1854 (or, for periods beginning before January 1, 1999, to an eligible organization under a risk-sharing contract under section 1876). Such payments shall be subject to adjustment in the manner described in section 1854(a)(2) or section 1876(a)(1)(E), as the case may be.

“(2) CAPITATION AMOUNT.—The capitation amount to be applied under this subsection for a provider for a contract year shall be an amount specified in the PACE program agreement for the year. Such amount shall be based upon payment rates established for purposes of payment under section 1854 (or, for periods before January 1, 1999, for purposes of risk-sharing contracts under section 1876) and shall be adjusted to take into account the comparative frailty of PACE enrollees and such other factors as the Secretary determines to be appropriate. Such amount under such an agreement shall be computed in a manner so that the total payment level for all PACE program eligible individuals enrolled under a program is less than the projected payment under this title for a comparable population not enrolled under a PACE program.

“(e) PACE PROGRAM AGREEMENT.—

“(1) REQUIREMENT.—

“(A) IN GENERAL.—The Secretary, in close cooperation with the State administering agency, shall establish procedures for entering into, extending, and terminating PACE program agreements for the operation of PACE programs by entities that meet the requirements for a PACE provider under this section, section 1932, and regulations.

“(B) NUMERICAL LIMITATION.—

“(i) IN GENERAL.—The Secretary shall not permit the number of PACE providers with which agreements are in effect under this section or under section 9412(b) of the Omnibus Budget Reconciliation Act of 1986 to exceed—

“(I) 40 as of the date of the enactment of this section, or

“(II) as of each succeeding anniversary of such date, the numerical limitation under this subparagraph for the preceding year plus 20.

Subclause (II) shall apply without regard to the actual number of agreements in effect as of a previous anniversary date.

“(ii) TREATMENT OF CERTAIN PRIVATE, FOR-PROFIT PROVIDERS.—The numerical limitation in clause (i) shall not apply to a PACE provider that—

“(I) is operating under a demonstration project waiver under subsection (h), or

“(II) was operating under such a waiver and subsequently qualifies for PACE provider status pursuant to subsection (a)(3)(B)(ii).

“(2) SERVICE AREA AND ELIGIBILITY.—

“(A) IN GENERAL.—A PACE program agreement for a PACE program—

“(i) shall designate the service area of the program;

“(ii) may provide additional requirements for individuals to qualify as PACE program eligible individuals with respect to the program;

“(iii) shall be effective for a contract year, but may be extended for additional contract years in the absence of a notice by a party to terminate and is subject to termination by the Secretary and the State administering agency at any time for cause (as provided under the agreement);

“(iv) shall require a PACE provider to meet all applicable State and local laws and requirements; and

“(v) shall have such additional terms and conditions as the parties may agree to consistent with this section and regulations.

“(B) SERVICE AREA OVERLAP.—In designating a service area under a PACE program agreement under subparagraph (A)(i), the Secretary (in consultation with the State administering agency) may exclude from designation an area that is already covered under another PACE program agreement, in order to avoid unnecessary duplication of services and avoid impairing the financial and service viability of an existing program.

“(3) DATA COLLECTION.—

“(A) IN GENERAL.—Under a PACE program agreement, the PACE provider shall—

“(i) collect data,

“(ii) maintain, and afford the Secretary and the State administering agency access to, the records relating to the program, including pertinent financial, medical, and personnel records, and

“(iii) make to the Secretary and the State administering agency reports that the Secretary finds (in consultation with State administering agencies) necessary to monitor the operation, cost, and effectiveness of the PACE program under this title and title XIX.

“(B) REQUIREMENTS DURING TRIAL PERIOD.—During the first three years of operation of a PACE program (either under this section or under a PACE demonstration waiver program), the PACE provider shall provide such additional data as the Secretary specifies in regulations in order to perform the oversight required under paragraph (4)(A).

“(4) OVERSIGHT.—

“(A) ANNUAL, CLOSE OVERSIGHT DURING TRIAL PERIOD.—During the trial period (as defined in subsection (a)(9)) with respect to a PACE program operated by a PACE provider, the Secretary (in cooperation with the State administering agency) shall conduct a comprehensive annual review of the operation of the PACE program by the provider in order to assure compliance with the requirements of this section and regulations. Such a review shall include—

“(i) an on-site visit to the program site;

“(ii) comprehensive assessment of a provider's fiscal soundness;

“(iii) comprehensive assessment of the provider's capacity to provide all PACE services to all enrolled participants;

“(iv) detailed analysis of the entity's substantial compliance with all significant requirements of this section and regulations; and

“(v) any other elements the Secretary or State agency considers necessary or appropriate.

“(B) CONTINUING OVERSIGHT.—After the trial period, the Secretary (in cooperation with the State administering agency) shall continue to conduct such review of the operation of PACE providers and PACE programs as may be appropriate, taking into account the performance level of a provider and compliance of a provider with all significant requirements of this section and regulations.

“(C) DISCLOSURE.—The results of reviews under this paragraph shall be reported promptly to the PACE provider, along with any recommendations for changes to the provider's program, and shall be made available to the public upon request.

“(5) TERMINATION OF PACE PROVIDER AGREEMENTS.—

“(A) IN GENERAL.—Under regulations—

“(i) the Secretary or a State administering agency may terminate a PACE program agreement for cause, and

“(ii) a PACE provider may terminate such an agreement after appropriate notice to the Secretary, the State agency, and enrollees.

“(B) CAUSES FOR TERMINATION.—In accordance with regulations establishing procedures for termination of PACE program agreements, the Secretary or a State administering agency may terminate a PACE program agreement with a PACE provider for, among other reasons, the fact that—

“(i) the Secretary or State administering agency determines that—

“(I) there are significant deficiencies in the quality of care provided to enrolled participants; or

“(II) the provider has failed to comply substantially with conditions for a program or provider under this section or section 1932; and

“(ii) the entity has failed to develop and successfully initiate, within 30 days of the date of the receipt of written notice of such a determination, and continue implementation of a plan to correct the deficiencies.

“(C) TERMINATION AND TRANSITION PROCEDURES.—An entity whose PACE provider agreement is terminated under this paragraph shall implement the transition procedures required under subsection (a)(2)(C).

“(6) SECRETARY'S OVERSIGHT; ENFORCEMENT AUTHORITY.—

“(A) IN GENERAL.—Under regulations, if the Secretary determines (after consultation with the State administering agency) that a PACE provider is failing substantially to comply with the requirements of this section and regulations, the Secretary (and the State administering agency) may take any or all of the following actions:

“(i) Condition the continuation of the PACE program agreement upon timely execution of a corrective action plan.

“(ii) Withhold some or all further payments under the PACE program agreement under this section or section 1932 with respect to PACE program services furnished by such provider until the deficiencies have been corrected.

“(iii) Terminate such agreement.

“(B) APPLICATION OF INTERMEDIATE SANCTIONS.—Under regulations, the Secretary may provide for the application against a PACE provider of remedies described in section 1857(f)(2) (or, for periods before January 1, 1999, section 1876(i)(6)(B)) or 1903(m)(5)(B) in the case of violations by the provider of the type described in section 1857(f)(1) (or 1876(i)(6)(A) for such periods) or 1903(m)(5)(A), respectively (in relation to agreements, enrollees, and requirements under this section or section 1932, respectively).

“(7) PROCEDURES FOR TERMINATION OR IMPOSITION OF SANCTIONS.—Under regulations, the provisions of section 1857(g) (or for periods before January 1, 1999, section 1876(i)(9)) shall apply to termination and sanctions respecting a PACE program agreement and PACE provider under this subsection in the same manner as they apply to a termination and sanctions with respect to a contract and a MedicarePlus organization under part C (or for such periods an eligible organization under section 1876).

“(8) TIMELY CONSIDERATION OF APPLICATIONS FOR PACE PROGRAM PROVIDER STATUS.—In considering an application for PACE provider program status, the application shall be deemed approved unless the Secretary, within 90 days after the date of the submission of the application to the Secretary, either denies such request in writing or informs the applicant in writing with respect to any additional information that is needed in order to make a final determination with respect to the application. After the date the Secretary receives such additional information, the application shall be deemed approved unless the Secretary, within 90 days of such date, denies such request.

“(f) REGULATIONS.—

“(1) IN GENERAL.—The Secretary shall issue interim final or final regulations to carry out this section and section.1932.

“(2) USE OF PACE PROTOCOL.—

“(A) IN GENERAL.—In issuing such regulations, the Secretary shall, to the extent consistent with the provisions of this section, incorporate the requirements applied to PACE demonstration waiver programs under the PACE protocol.

“(B) FLEXIBILITY.—The Secretary (in close consultation with State administering agencies) may modify or waive such provisions of the PACE protocol in order to provide for reasonable flexibility in adapting the PACE service delivery model to the needs of particular organizations (such as those in rural areas or those that may determine it appropriate to use non-staff physicians accordingly to State licensing law requirements) under this section and section 1932 where such flexibility is not inconsistent with and would not impair the essential elements, objectives, and requirements of the this section, including—

“(i) the focus on frail elderly qualifying individuals who require the level of care provided in a nursing facility;

“(ii) the delivery of comprehensive, integrated acute and long-term care services;

“(iii) the interdisciplinary team approach to care management and service delivery;

“(iv) capitated, integrated financing that allows the provider to pool payments received from public and private programs and individuals; and

“(v) the assumption by the provider over time of full financial risk.

“(3) APPLICATION OF CERTAIN ADDITIONAL BENEFICIARY AND PROGRAM PROTECTIONS.—

“(A) IN GENERAL.—In issuing such regulations and subject to subparagraph (B), the Secretary may apply with respect to PACE programs, providers, and agreements such requirements of part C (or, for periods before January 1, 1999, section 1876) and section 1903(m) relating to protection of beneficiaries and program integrity as would apply to MedicarePlus organizations under part C (or for such periods eligible organizations under risk-sharing contracts under section 1876) and to health maintenance organizations under prepaid capitation agreements under section 1903(m).

"(B) CONSIDERATIONS.—In issuing such regulations, the Secretary shall—

"(i) take into account the differences between populations served and benefits provided under this section and under part C (or, for periods before January 1, 1999, section 1876) and section 1903(m);

"(ii) not include any requirement that conflicts with carrying out PACE programs under this section; and

"(iii) not include any requirement restricting the proportion of enrollees who are eligible for benefits under this title or title XIX.

"(g) WAIVERS OF REQUIREMENTS.—With respect to carrying out a PACE program under this section, the following requirements of this title (and regulations relating to such requirements) are waived and shall not apply:

"(1) Section 1812, insofar as it limits coverage of institutional services.

"(2) Sections 1813, 1814, 1833, and 1886, insofar as such sections relate to rules for payment for benefits.

"(3) Sections 1814(a)(2)(B), 1814(a)(2)(C), and 1835(a)(2)(A), insofar as they limit coverage of extended care services or home health services.

"(4) Section 1861(i), insofar as it imposes a 3-day prior hospitalization requirement for coverage of extended care services.

"(5) Sections 1862(a)(1) and 1862(a)(9), insofar as they may prevent payment for PACE program services to individuals enrolled under PACE programs.

"(h) DEMONSTRATION PROJECT FOR FOR-PROFIT ENTITIES.—

"(1) IN GENERAL.—In order to demonstrate the operation of a PACE program by a private, for-profit entity, the Secretary (in close consultation with State administering agencies) shall grant waivers from the requirement under subsection (a)(3) that a PACE provider may not be a for-profit, private entity.

"(2) SIMILAR TERMS AND CONDITIONS.—

"(A) IN GENERAL.—Except as provided under subparagraph (B), and paragraph (1), the terms and conditions for operation of a PACE program by a provider under this subsection shall be the same as those for PACE providers that are nonprofit, private organizations.

"(B) NUMERICAL LIMITATION.—The number of programs for which waivers are granted under this subsection shall not exceed 10. Programs with waivers granted under this subsection shall not be counted against the numerical limitation specified in subsection (e)(1)(B).

"(i) CONSTRUCTION.—Nothing in this section or section 1932 shall be construed as preventing a PACE provider from entering into contracts with other governmental or nongovernmental payers for the care of PACE program eligible individuals who are not eligible for benefits under part A, or enrolled under part B, or eligible for medical assistance under title XIX.".

SEC. 10012. ESTABLISHMENT OF PACE PROGRAM AS MEDICAID STATE OPTION.

(a) IN GENERAL.—Title XIX is amended—

(1) in section 1905(a) (42 U.S.C. 1396d(a))—

(A) by striking "and" at the end of paragraph (24);

(B) by redesignating paragraph (25) as paragraph (26); and

(C) by inserting after paragraph (24) the following new paragraph:

"(25) services furnished under a PACE program under section 1932 to PACE program eligible individuals enrolled under the program under such section; and";

(2) by redesignating section 1932, as redesignated by section 114(a) of Public Law 104–193, as section 1933, and

(3) by inserting after section 1931 the following new section:

"SEC. 1932. PROGRAM OF ALL-INCLUSIVE CARE FOR THE ELDERLY (PACE).

"(a) OPTION.—

"(1) IN GENERAL.—A State may elect to provide medical assistance under this section with respect to PACE program services to PACE program eligible individuals who are eligible for medical assistance under the State plan and who are enrolled in a PACE program under a PACE program agreement. Such individuals need not be eligible for benefits under part A, or enrolled under part B, of title XVIII to be eligible to enroll under this section.

"(2) BENEFITS THROUGH ENROLLMENT IN PACE PROGRAM.—In the case of an individual enrolled with a PACE program pursuant to such an election—

"(A) the individual shall receive benefits under the plan solely through such program, and

"(B) the PACE provider shall receive payment in accordance with the PACE program agreement for provision of such benefits.

"(3) APPLICATION OF DEFINITIONS.—The definitions of terms under section 1894(a) shall apply under this section in the same manner as they apply under section 1894.

"(b) APPLICATION OF MEDICARE TERMS AND CONDITIONS.—Except as provided in this section, the terms and conditions for the operation and participation of PACE program eligible individuals in PACE programs offered by PACE providers under PACE program agreements under section 1894 shall apply for purposes of this section.

"(c) ADJUSTMENT IN PAYMENT AMOUNTS.—In the case of individuals enrolled in a PACE program under this section, the amount of payment under this section shall not be the amount calculated under section 1894(d), but shall be an amount, specified under the PACE agreement, which is less than the amount that would otherwise have been made under the State plan if the individuals were not so enrolled. The payment under this section shall be in addition to any payment made under section 1894 for individuals who are enrolled in a PACE program under such section.

"(d) WAIVERS OF REQUIREMENTS.—With respect to carrying out a PACE program under this section, the following requirements of this title (and regulations relating to such requirements) shall not apply:

"(1) Section 1902(a)(1), relating to any requirement that PACE programs or PACE program services be provided in all areas of a State.

"(2) Section 1902(a)(10), insofar as such section relates to comparability of services among different population groups.

"(3) Sections 1902(a)(23) and 1915(b)(4), relating to freedom of choice of providers under a PACE program.

"(4) Section 1903(m)(2)(A), insofar as it restricts a PACE provider from receiving prepaid capitation payments.

"(e) POST-ELIGIBILITY TREATMENT OF INCOME.—A State may provide for post-eligibility treatment of income for individuals enrolled in PACE programs under this section in the same manner as a State treats post-eligibility income for individuals receiving services under a waiver under section 1915(c).".

(b) CONFORMING AMENDMENTS.—

(1) Section 1902(j) (42 U.S.C. 1396a(j)) is amended by striking "(25)" and inserting "(26)".

(2) Section 1924(a)(5) (42 U.S.C. 1396r–5(a)(5)) is amended—

(A) in the heading, by striking "FROM ORGANIZATIONS RECEIVING CERTAIN WAIVERS" and inserting "UNDER PACE PROGRAMS", and

(B) by striking "from any organization" and all that follows and inserting "under a PACE demonstration waiver program (as defined in subsection (a)(7) of section 1894) or under a PACE program under section 1932.".

(3) Section 1903(f)(4)(C) (42 U.S.C. 1396b(f)(4)(C)) is amended by inserting "or who is a PACE program eligible individual enrolled in a PACE program under section 1932," after "section 1902(a)(10)(A),".

SEC. 10013. EFFECTIVE DATE; TRANSITION.

(a) TIMELY ISSUANCE OF REGULATIONS; EFFECTIVE DATE.—The Secretary of Health and Human Services shall promulgate regulations to carry out this subchapter in a timely manner. Such regulations shall be designed so that entities may establish and operate PACE programs under sections 1894 and 1932 for periods beginning not later than 1 year after the date of the enactment of this Act.

(b) EXPANSION AND TRANSITION FOR PACE DEMONSTRATION PROJECT WAIVERS.—

(1) EXPANSION IN CURRENT NUMBER AND EXTENSION OF DEMONSTRATION PROJECTS.—Section 9412(b) of the Omnibus Budget Reconciliation Act of 1986, as amended by section 4118(g) of the Omnibus Budget Reconciliation Act of 1987, is amended—

(A) in paragraph (1), by inserting before the period at the end the following: ", except that the Secretary shall grant waivers of such requirements to up to the applicable numerical limitation specified in section 1894(e)(1)(B) of the Social Security Act"; and

(B) in paragraph (2)—

(i) in subparagraph (A), by striking ", including permitting the organization to assume progressively (over the initial 3-year period of the waiver) the full financial risk"; and

(ii) in subparagraph (C), by adding at the end the following: "In granting further extensions, an organization shall not be required to provide for reporting of information which is only required because of the demonstration nature of the project.".

(2) ELIMINATION OF REPLICATION REQUIREMENT.—Subparagraph (B) of paragraph (2) of such section shall not apply to waivers granted under such section after the date of the enactment of this Act.

(3) TIMELY CONSIDERATION OF APPLICATIONS.—In considering an application for waivers under such section before the effective date of repeals under subsection (c), subject to the numerical limitation under the amendment made by paragraph (1), the application shall be deemed approved unless the Secretary of Health and Human Services, within 90 days after the date of its submission to the Secretary, either denies such request in writing or informs the applicant in writing with respect to any additional information which is needed in order to make a final determination with respect to the application. After the date the Secretary receives such additional information, the application shall be deemed approved unless the Secretary, within 90 days of such date, denies such request.

(c) Priority and Special Consideration in Application.—During the 3-year period beginning on the date of the enactment of this Act:

(1) Provider status.—The Secretary of Health and Human Services shall give priority, in processing applications of entities to qualify as PACE programs under section 1894 or 1932 of the Social Security Act—

(A) first, to entities that are operating a PACE demonstration waiver program (as defined in section 1894(a)(7) of such Act), and

(B) then entities that have applied to operate such a program as of May 1, 1997.

(2) New waivers.—The Secretary shall give priority, in the awarding of additional waivers under section 9412(b) of the Omnibus Budget Reconciliation Act of 1986—

(A) to any entities that have applied for such waivers under such section as of May 1, 1997; and

(B) to any entity that, as of May 1, 1997, has formally contracted with a State to provide services for which payment is made on a capitated basis with an understanding that the entity was seeking to become a PACE provider.

(3) Special consideration.—The Secretary shall give special consideration, in the processing of applications described in paragraph (1) and the awarding of waivers described in paragraph (2), to an entity which as of May 1, 1997 through formal activities (such as entering into contracts for feasibility studies) has indicated a specific intent to become a PACE provider.

(d) Repeal of Current PACE Demonstration Project Waiver Authority.—

(1) In general.—Subject to paragraph (2), the following provisions of law are repealed:

(A) Section 603(c) of the Social Security Amendments of 1983 (Public Law 98–21).

(B) Section 9220 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99–272).

(C) Section 9412(b) of the Omnibus Budget Reconciliation Act of 1986 (Public Law 99–509).

(2) Delay in application.—

(A) In general.—Subject to subparagraph (B), the repeals made by paragraph (1) shall not apply to waivers granted before the initial effective date of regulations described in subsection (a).

(B) Application to approved waivers.—Such repeals shall apply to waivers granted before such date only after allowing such organizations a transition period (of up to 24 months) in order to permit sufficient time for an orderly transition from demonstration project authority to general authority provided under the amendments made by this subchapter.

SEC. 10014. STUDY AND REPORTS.

(a) Study.—

(1) In general.—The Secretary of Health and Human Services (in close consultation with State administering agencies, as defined in section 1894(a)(8) of the Social Security Act) shall conduct a study of the quality and cost of providing PACE program services under the medicare and medicaid programs under the amendments made by this subchapter.

(2) Study of private, for-profit providers.—Such study shall specifically compare the costs, quality, and access to services by entities that are private, for-profit entities operating under demonstration projects waivers granted under section 1894(h) of the Social Security Act with the costs, quality, and access to services of other PACE providers.

(b) Report.—

(1) In general.—Not later than 4 years after the date of the enactment of this Act, the Secretary shall provide for a report to Congress on the impact of such amendments on quality and cost of services. The Secretary shall include in such report such recommendations for changes in the operation of such amendments as the Secretary deems appropriate.

(2) Treatment of private, for-profit providers.—The report shall include specific findings on whether any of the following findings is true:

(A) The number of covered lives enrolled with entities operating under demonstration project waivers under section 1894(h) of the Social Security Act is fewer than 800 (or such lesser number as the Secretary may find statistically sufficient to make determinations respecting findings described in the succeeding subparagraphs).

(B) The population enrolled with such entities is less frail than the population enrolled with other PACE providers.

(C) Access to or quality of care for individuals enrolled with such entities is lower than such access or quality for individuals enrolled with other PACE providers.

(D) The application of such section has resulted in an increase in expenditures under the medicare or medicaid programs above the expenditures that would have been made if such section did not apply.

(c) Information Included in Annual Recommendations.—The Medicare Payment Advisory Commission shall include in its annual report under section 1805(b)(1)(B) of the Social Security Act recommendations on the methodology and level of payments made to PACE providers under section 1894(d) of such Act and on the treatment of private, for-profit entities as PACE providers.

Subchapter B—Social Health Maintenance Organizations

SEC. 10015. SOCIAL HEALTH MAINTENANCE ORGANIZATIONS (SHMOS).

(a) Extension of Demonstration Project Authorities.—Section 4018(b) of the Omnibus Budget Reconciliation Act of 1987 is amended—

(1) in paragraph (1), by striking "1997" and inserting "2000", and

(2) in paragraph (4), by striking "1998" and inserting "2001".

(b) Expansion of Cap.—Section 13567(c) of the Omnibus Budget Reconciliation Act of 1993 is amended by striking "12,000" and inserting "36,000".

(b) Report on Integration and Transition.—

(1) In general.—The Secretary of Health and Human Services shall submit to Congress, by not later than January 1, 1999, a plan for the integration of health plans offered by social health maintenance organizations (including SHMO I and SHMO II sites developed under section 2355 of the Deficit Reduction Act of 1984 and under the amendment made by section 4207(b)(3)(B)(i) of OBRA–1990, respectively) and similar plans as an option under the MedicarePlus program under part C of title XVIII of the Social Security Act.

(2) Provision for transition.—Such plan shall include a transition for social health maintenance organizations operating under demonstration project authority under such section.

(3) Payment policy.—The report shall also include recommendations on appropriate payment levels for plans offered by such organizations, including an analysis of the application of risk adjustment factors appropriate to the population served by such organizations.

Subchapter C—Other Programs

SEC. 10018. ORDERLY TRANSITION OF MUNICIPAL HEALTH SERVICE DEMONSTRATION PROJECTS.

Section 9215 of the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended by section 6135 of OBRA–1989 and section 13557 of OBRA–1993, is further amended—

(1) by inserting "(a)" before "The Secretary", and

(2) by adding at the end the following: "Subject to subsection (c), the Secretary may further extend such demonstration projects through December 31, 2000, but only with respect to individuals are enrolled with such projects before January 1, 1998.

"(b) The Secretary shall work with each such demonstration project to develop a plan, to be submitted to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate by March 31, 1998, for the orderly transition of demonstration projects and the project enrollees to a non-demonstration project health care delivery system, such as through integration with private or public health plan, including a medicaid managed care or MedicarePlus plan.

"(c) A demonstration project under subsection (a) which does not develop and submit a transition plan under subsection (b) by March 31, 1998, or, if later, 6 months after the date of the enactment of this Act, shall be discontinued as of December 31, 1998. The Secretary shall provide appropriate technical assistance to assist in the transition so that disruption of medical services to project enrollees may be minimized.".

SEC. 10019. EXTENSION OF CERTAIN MEDICARE COMMUNITY NURSING ORGANIZATION DEMONSTRATION PROJECTS.

Notwithstanding any other provision of law, demonstration projects conducted under section 4079 of the Omnibus Budget Reconciliation Act of 1987 may be conducted for an additional period of 2 years, and the deadline for any report required relating to the results of such projects shall be not later than 6 months before the end of such additional period.

CHAPTER 3—MEDICARE PAYMENT ADVISORY COMMISSION

SEC. 10021. MEDICARE PAYMENT ADVISORY COMMISSION.

(a) In General.—Title XVIII is amended by inserting after section 1804 the following new section:

"MEDICARE PAYMENT ADVISORY COMMISSION

"Sec. 1805. (a) Establishment.—There is hereby established the Medicare Payment Advisory Commission (in this section referred to as the 'Commission').

"(b) Duties.—

"(1) Review of payment policies and annual reports.—The Commission shall—

"(A) review payment policies under this title, including the topics described in paragraph (2);

"(B) make recommendations to Congress concerning such payment policies;

"(C) by not later than March 1 of each year (beginning with 1998), submit a report to Congress containing the results of such reviews and its recommendations concerning such policies; and

"(D) by not later than June 1 of each year (beginning with 1998), submit a report to Congress containing an examination of issues affecting the medicare program, including the implications of changes in health care delivery in the United States and in the market for health care services on the medicare program.

"(2) SPECIFIC TOPICS TO BE REVIEWED.—

"(A) MEDICAREPLUS PROGRAM.—Specifically, the Commission shall review, with respect to the MedicarePlus program under part C, the following:

"(i) The methodology for making payment to plans under such program, including the making of differential payments and the distribution of differential updates among different payment areas.

"(ii) The mechanisms used to adjust payments for risk and the need to adjust such mechanisms to take into account health status of beneficiaries.

"(iii) The implications of risk selection both among MedicarePlus organizations and between the MedicarePlus option and the medicare fee-for-service option.

"(iv) The development and implementation of mechanisms to assure the quality of care for those enrolled with MedicarePlus organizations.

"(v) The impact of the MedicarePlus program on access to care for medicare beneficiaries.

"(vi) Other major issues in implementation and further development of the MedicarePlus program.

"(B) FEE-FOR-SERVICE SYSTEM.—Specifically, the Commission shall review payment policies under parts A and B, including—

"(i) the factors affecting expenditures for services in different sectors, including the process for updating hospital, skilled nursing facility, physician, and other fees,

"(ii) payment methodologies, and

"(iii) their relationship to access and quality of care for medicare beneficiaries.

"(C) INTERACTION OF MEDICARE PAYMENT POLICIES WITH HEALTH CARE DELIVERY GENERALLY.—Specifically, the Commission shall review the effect of payment policies under this title on the delivery of health care services other than under this title and assess the implications of changes in health care delivery in the United States and in the general market for health care services on the medicare program.

"(3) COMMENTS ON CERTAIN SECRETARIAL REPORTS.—If the Secretary submits to Congress (or a committee of Congress) a report that is required by law and that relates to payment policies under this title, the Secretary shall transmit a copy of the report to the Commission. The Commission shall review the report and, not later than 6 months after the date of submittal of the Secretary's report to Congress, shall submit to the appropriate committees of Congress written comments on such report. Such comments may include such recommendations as the Commission deems appropriate.

"(4) AGENDA AND ADDITIONAL REVIEWS.—The Commission shall consult periodically with the chairmen and ranking minority members of the appropriate committees of Congress regarding the Commission's agenda and progress towards achieving the agenda. The Commission may conduct additional reviews, and submit additional reports to the appropriate committees of Congress, from time to time on such topics relating to the program under this title as may be requested by such chairmen and members and as the Commission deems appropriate.

"(5) AVAILABILITY OF REPORTS.—The Commission shall transmit to the Secretary a copy of each report submitted under this subsection and shall make such reports available to the public.

"(6) APPROPRIATE COMMITTEES.—For purposes of this section, the term 'appropriate committees of Congress' means the Committees on Ways and Means and Commerce of the House of Representatives and the Committee on Finance of the Senate.

"(c) MEMBERSHIP.—

"(1) NUMBER AND APPOINTMENT.—The Commission shall be composed of 19 members appointed by the Comptroller General.

"(2) QUALIFICATIONS.—

"(A) IN GENERAL.—The membership of the Commission shall include individuals with national recognition for their expertise in health finance and economics, actuarial science, health facility management, health plans and integrated delivery systems, reimbursement of health facilities, allopathic and osteopathic physicians, and other providers of health services, and other related fields, who provide a mix of different professionals, broad geographic representation, and a balance between urban and rural representatives.

"(B) INCLUSION.—The membership of the Commission shall include (but not be limited to) physicians and other health professionals, employers, third party payers, individuals skilled in the conduct and interpretation of biomedical, health services, and health economics research and expertise in outcomes and effectiveness research and technology assessment. Such membership shall also include representatives of consumers and the elderly.

"(C) MAJORITY NONPROVIDERS.—Individuals who are directly involved in the provision, or management of the delivery, of items and services covered under this title shall not constitute a majority of the membership of the Commission.

"(D) ETHICAL DISCLOSURE.—The Comptroller General shall establish a system for public disclosure by members of the Commission of financial and other potential conflicts of interest relating to such members.

"(3) TERMS.—

"(A) IN GENERAL.—The terms of members of the Commission shall be for 3 years except that the Comptroller General shall designate staggered terms for the members first appointed.

"(B) VACANCIES.—Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has taken office. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

"(4) COMPENSATION.—While serving on the business of the Commission (including traveltime), a member of the Commission shall be entitled to compensation at the per diem equivalent of the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code; and while so serving away from home and member's regular place of business, a member may be allowed travel expenses, as authorized by the Chairman of the Commission. Physicians serving as personnel of the Commission may be provided a physician comparability allowance by the Commission in the same manner as Government physicians may be provided such an allowance by an agency under section 5948 of title 5, United States Code, and for such purpose subsection (i) of such section shall apply to the Commission in the same manner as it applies to the Tennessee Valley Authority. For purposes of pay (other than pay of members of the Commission) and employment benefits, rights, and privileges, all personnel of the Commission shall be treated as if they were employees of the United States Senate.

"(5) CHAIRMAN; VICE CHAIRMAN.—The Comptroller General shall designate a member of the Commission, at the time of appointment of the member, as Chairman and a member as Vice Chairman for that term of appointment.

"(6) MEETINGS.—The Commission shall meet at the call of the Chairman.

"(d) DIRECTOR AND STAFF; EXPERTS AND CONSULTANTS.—Subject to such review as the Comptroller General deems necessary to assure the efficient administration of the Commission, the Commission may—

"(1) employ and fix the compensation of an Executive Director (subject to the approval of the Comptroller General) and such other personnel as may be necessary to carry out its duties (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service);

"(2) seek such assistance and support as may be required in the performance of its duties from appropriate Federal departments and agencies;

"(3) enter into contracts or make other arrangements, as may be necessary for the conduct of the work of the Commission (without regard to section 3709 of the Revised Statutes (41 U.S.C. 5));

"(4) make advance, progress, and other payments which relate to the work of the Commission;

"(5) provide transportation and subsistence for persons serving without compensation; and

"(6) prescribe such rules and regulations as it deems necessary with respect to the internal organization and operation of the Commission.

"(e) POWERS.—

"(1) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this section. Upon request of the Chairman, the head of that department or agency shall furnish that information to the Commission on an agreed upon schedule.

"(2) DATA COLLECTION.—In order to carry out its functions, the Commission shall—

"(A) utilize existing information, both published and unpublished, where possible, collected and assessed either by its own staff or under other arrangements made in accordance with this section,

"(B) carry out, or award grants or contracts for, original research and experimentation, where existing information is inadequate, and

"(C) adopt procedures allowing any interested party to submit information for the Commission's use in making reports and recommendations.

"(3) ACCESS OF GAO TO INFORMATION.—The Comptroller General shall have unrestricted access to all deliberations, records, and nonproprietary data of the Commission, immediately upon request.

"(4) PERIODIC AUDIT.—The Commission shall be subject to periodic audit by the Comptroller General.

"(f) AUTHORIZATION OF APPROPRIATIONS.—

"(1) REQUEST FOR APPROPRIATIONS.—The Commission shall submit requests for appropriations in the same manner as the Comptroller General submits requests for appropriations, but amounts appropriated for the Commission shall be separate from amounts appropriated for the Comptroller General.

"(2) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section. 60 percent of such appropriation shall be payable from the Federal Hospital Insurance Trust Fund, and 40 percent of such appropriation shall be payable from the Federal Supplementary Medical Insurance Trust Fund.”.

(b) Abolition of ProPAC and PPRC.—

(1) Propac.—

(A) In general.—Section 1886(e) (42 U.S.C. 1395ww(e)) is amended—

(i) by striking paragraphs (2) and (6); and

(ii) in paragraph (3), by striking “(A) The Commission” and all that follows through “(B)”.

(B) Conforming amendment.—Section 1862 (42 U.S.C. 1395y) is amended by striking “Prospective Payment Assessment Commission” each place it appears in subsection (a)(1)(D) and subsection (i) and inserting “Medicare Payment Advisory Commission”.

(2) PPRC.—

(A) In general.—Title XVIII is amended by striking section 1845 (42 U.S.C. 1395w–1).

(B) Elimination of certain reports.—Section 1848 (42 U.S.C. 1395w–4) is amended—

(i) by striking subparagraph (F) of subsection (d)(2),

(ii) by striking subparagraph (B) of subsection (f)(1), and

(iii) in subsection (f)(3), by striking “Physician Payment Review Commission,”.

(C) Conforming amendments.—Section 1848 (42 U.S.C. 1395w–4) is amended by striking “Physician Payment Review Commission” and inserting “Medicare Payment Advisory Commission” each place it appears in subsections (c)(2)(B)(iii), (g)(6)(C), and (g)(7)(C).

(c) Effective Date; Transition.—

(1) In general.—The Comptroller General shall first provide for appointment of members to the Medicare Payment Advisory Commission (in this subsection referred to as “MedPAC”) by not later than September 30, 1997.

(2) Transition.—As quickly as possible after the date a majority of members of MedPAC are first appointed, the Comptroller General, in consultation with the Prospective Payment Assessment Commission (in this subsection referred to as “ProPAC”) and the Physician Payment Review Commission (in this subsection referred to as “PPRC”), shall provide for the termination of the ProPAC and the PPRC. As of the date of termination of the respective Commissions, the amendments made by paragraphs (1) and (2), respectively, of subsection (b) become effective. The Comptroller General, to the extent feasible, shall provide for the transfer to the MedPAC of assets and staff of the ProPAC and the PPRC, without any loss of benefits or seniority by virtue of such transfers. Fund balances available to the ProPAC or the PPRC for any period shall be available to the MedPAC for such period for like purposes.

(3) Continuing responsibility for reports.—The MedPAC shall be responsible for the preparation and submission of reports required by law to be submitted (and which have not been submitted by the date of establishment of the MedPAC) by the ProPAC and the PPRC, and, for this purpose, any reference in law to either such Commission is deemed, after the appointment of the MedPAC, to refer to the MedPAC.

CHAPTER 4—MEDIGAP PROTECTIONS

SEC. 10031. MEDIGAP PROTECTIONS.

(a) Guaranteeing Issue Without Preexisting Conditions for Continuously Covered Individuals.—Section 1882(s) (42 U.S.C. 1395ss(s)) is amended—

(1) in paragraph (3), by striking “paragraphs (1) and (2)” and inserting “this subsection”,

(2) by redesignating paragraph (3) as paragraph (4), and

(3) by inserting after paragraph (2) the following new paragraph:

“(3)(A) The issuer of a medicare supplemental policy—

“(i) may not deny or condition the issuance or effectiveness of a medicare supplemental policy described in subparagraph (C) that is offered and is available for issuance to new enrollees by such issuer;

“(ii) may not discriminate in the pricing of such policy, because of health status, claims experience, receipt of health care, or medical condition; and

“(iii) may not impose an exclusion of benefits based on a pre-existing condition under such policy,

in the case of an individual described in subparagraph (B) who seeks to enroll under the policy not later than 63 days after the date of the termination of enrollment described in such subparagraph and who submits evidence of the date of termination or disenrollment along with the application for such medicare supplemental policy.

“(B) An individual described in this subparagraph is an individual described in any of the following clauses:

“(i) The individual is enrolled under an employee welfare benefit plan that provides health benefits that supplement the benefits under this title and the plan terminates or ceases to provide all such supplemental health benefits to the individual.

“(ii) The individual is enrolled with a MedicarePlus organization under a MedicarePlus plan under part C, and there are circumstances permitting discontinuance of the individual's election of the plan under section 1851(c)(4).

“(iii) The individual is enrolled with an eligible organization under a contract under section 1876, a similar organization operating under demonstration project authority, with an organization under an agreement under section 1833(a)(1)(A), or with an organization under a policy described in subsection (t), and such enrollment ceases under the same circumstances that would permit discontinuance of an individual's election of coverage under section 1851(c)(4) and, in the case of a policy described in subsection (t), there is no provision under applicable State law for the continuation of coverage under such policy.

“(iv) The individual is enrolled under a medicare supplemental policy under this section and such enrollment ceases because—

“(I) of the bankruptcy or insolvency of the issuer or because of other involuntary termination of coverage or enrollment under such policy and there is no provision under applicable State law for the continuation of such coverage;

“(II) the issuer of the policy substantially violated a material provision of the policy; or

“(III) the issuer (or an agent or other entity acting on the issuer's behalf) materially misrepresented the policy's provisions in marketing the policy to the individual.

“(v) The individual—

“(I) was enrolled under a medicare supplemental policy under this section,

“(II) subsequently terminates such enrollment and enrolls, for the first time, with any MedicarePlus organization under a MedicarePlus plan under part C, any eligible organization under a contract under section 1876, any similar organization operating under demonstration project authority, any organization under an agreement under section 1833(a)(1)(A), or any policy described in subsection (t), and

“(III) the subsequent enrollment under subclause (II) is terminated by the enrollee during the first 6 months (or 3 months for terminations occurring on or after January 1, 2003) of such enrollment.

“(C)(i) Subject to clauses (ii) and (iii), a medicare supplemental policy described in this subparagraph has a benefit package classified as ‘A’, ‘B’, ‘C’, or ‘F’ under the standards established under subsection (p)(2).

“(ii) Only for purposes of an individual described in subparagraph (B)(v), a medicare supplemental policy described in this subparagraph also includes (if available from the same issuer) the same medicare supplemental policy referred to in such subparagraph in which the individual was most recently previously enrolled.

“(iii) For purposes of applying this paragraph in the case of a State that provides for offering of benefit packages other than under the classification referred to in clause (i), the references to benefit packages in such clause are deemed references to comparable benefit packages offered in such State.

“(D) At the time of an event described in subparagraph (B) because of which an individual ceases enrollment or loses coverage or benefits under a contract or agreement, policy, or plan, the organization that offers the contract or agreement, the insurer offering the policy, or the administrator of the plan, respectively, shall notify the individual of the rights of the individual, and obligations of issuers of medicare supplemental policies, under subparagraph (A).”.

(b) Limitation on Imposition of Preexisting Condition Exclusion During Initial Open Enrollment Period.—Section 1882(s)(2) (42 U.S.C. 1395ss(s)(2)) is amended—

(1) in subparagraph (B), by striking “subparagraph (C)” and inserting “subparagraphs (C) and (D)”, and

(2) by adding at the end the following new subparagraph:

“(D) In the case of a policy issued during the 6-month period described in subparagraph (A) to an individual who is 65 years of age or older as of the date of issuance and who as of the date of the application for enrollment has a continuous period of creditable coverage (as defined in 2701(c) of the Public Health Service Act) of—

“(i) at least 6 months, the policy may not exclude benefits based on a pre-existing condition; or

“(ii) of less than 6 months, if the policy excludes benefits based on a preexisting condition, the policy shall reduce the period of any preexisting condition exclusion by the aggregate of the periods of creditable coverage (if any, as so defined) applicable to the individual as of the enrollment date.

The Secretary shall specify the manner of the reduction under clause (ii), based upon the rules used by the Secretary in carrying out section 2701(a)(3) of such Act.”.

(c) Effective Dates.—

(1) Guaranteed issue.—The amendment made by subsection (a) shall take effect on July 1, 1998.

(2) Limit on preexisting condition exclusions.—The amendment made by subsection (b) shall apply to policies issued on or after July 1, 1998.

(d) Transition Provisions.—

(1) In general.—If the Secretary of Health and Human Services identifies a State as requiring a change to its statutes or regulations to conform its regulatory program to the changes made by this section, the State regulatory program shall not be considered to be out of compliance with the requirements of section 1882 of the Social Security

Act due solely to failure to make such change until the date specified in paragraph (4).

(2) NAIC standards.—If, within 9 months after the date of the enactment of this Act, the National Association of Insurance Commissioners (in this subsection referred to as the "NAIC") modifies its NAIC Model Regulation relating to section 1882 of the Social Security Act (referred to in such section as the 1991 NAIC Model Regulation, as modified pursuant to section 171(m)(2) of the Social Security Act Amendments of 1994 (Public Law 103–432) and as modified pursuant to section 1882(d)(3)(A)(vi)(IV) of the Social Security Act, as added by section 271(a) of the Health Insurance Portability and Accountability Act of 1996 (Public Law 104–191) to conform to the amendments made by this section, such revised regulation incorporating the modifications shall be considered to be the applicable NAIC model regulation (including the revised NAIC model regulation and the 1991 NAIC Model Regulation) for the purposes of such section.

(3) Secretary standards.—If the NAIC does not make the modifications described in paragraph (2) within the period specified in such paragraph, the Secretary of Health and Human Services shall make the modifications described in such paragraph and such revised regulation incorporating the modifications shall be considered to be the appropriate Regulation for the purposes of such section.

(4) Date specified.—

(A) In general.—Subject to subparagraph (B), the date specified in this paragraph for a State is the earlier of—

(i) the date the State changes its statutes or regulations to conform its regulatory program to the changes made by this section, or

(ii) 1 year after the date the NAIC or the Secretary first makes the modifications under paragraph (2) or (3), respectively.

(B) Additional legislative action required.—In the case of a State which the Secretary identifies as—

(i) requiring State legislation (other than legislation appropriating funds) to conform its regulatory program to the changes made in this section, but

(ii) having a legislature which is not scheduled to meet in 1999 in a legislative session in which such legislation may be considered,

the date specified in this paragraph is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after July 1, 1999. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 10032. MEDICARE PREPAID COMPETITIVE PRICING DEMONSTRATION PROJECT.

(a) Establishment of Project.—The Secretary of Health and Human Services shall provide, beginning not later than 1 year after the date of the enactment of this Act, for implementation of a project (in this section referred to as the "project") to demonstrate the application of, and the consequences of applying, a market-oriented pricing system for the provision of a full range of medicare benefits in a geographic area.

(b) Research Design Advisory Committee.—

(1) In general.—Before implementing the project under this section, the Secretary shall appoint a national advisory committee, including independent actuaries and individuals with expertise in competitive health plan pricing, to make recommendations to the Secretary concerning the appropriate research design for implementing the project.

(2) Initial recommendations.—The committee initially shall submit recommendations respecting the method for area selection, benefit design among plans offered, structuring choice among health plans offered, methods for setting the price to be paid to plans, collection of plan information (including information concerning quality and access to care), information dissemination, and methods of evaluating the results of the project.

(3) Advice during implementation.—Upon implementation of the project, the committee shall continue to advise the Secretary on the application of the design in different areas and changes in the project based on experience with its operations.

(c) Area Selection.—

(1) In general.—Taking into account the recommendations of the advisory committee submitted under subsection (b), the Secretary shall designate areas in which the project will operate.

(2) Appointment of area advisory committee.—Upon the designation of an area for inclusion in the project, the Secretary shall appoint an area advisory committee, composed of representatives of health plans, providers, and medicare beneficiaries in the area, to advise the Secretary concerning how the project will actually be implemented in the area. Such advice may include advice concerning the marketing and pricing of plans in the area and other salient factors relating.

(d) Monitoring and Report.—

(1) Monitoring impact.—Taking into consideration the recommendations of the general advisory committee (appointed under subsection (b)), the Secretary shall closely monitor the impact of projects in areas on the price and quality of, and access to, medicare covered services, choice of health plan, changes in enrollment, and other relevant factors.

(2) Report.—The Secretary shall periodically report to Congress on the progress under the project under this section.

(e) Waiver Authority.—The Secretary of Health and Human Services may waive such requirements of section 1876 (and such requirements of part C of title XVIII, as amended by chapter 1), of the Social Security Act as may be necessary for the purposes of carrying out the project.

CHAPTER 5—TAX TREATMENT OF HOSPITALS PARTICIPATING IN PROVIDER-SPONSORED ORGANIZATIONS

SEC. 10041. TAX TREATMENT OF HOSPITALS WHICH PARTICIPATE IN PROVIDER-SPONSORED ORGANIZATIONS.

(a) In General.—Section 501 of the Internal Revenue Code of 1986 (relating to exemption from tax on corporations, certain trusts, etc.) is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

"(o) Treatment of Hospitals Participating in Provider-Sponsored Organizations.—An organization shall not fail to be treated as organized and operated exclusively for a charitable purpose for purposes of subsection (c)(3) solely because a hospital which is owned and operated by such organization participates in a provider-sponsored organization (as defined in section 1853(e) of the Social Security Act), whether or not the provider-sponsored organization is exempt from tax. For purposes of subsection (c)(3), any person with a material financial interest in such a provider-sponsored organization shall be treated as a private shareholder or individual with respect to the hospital."

(b) Effective Date.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

Subtitle B—Prevention Initiatives

SEC. 10101. SCREENING MAMMOGRAPHY.

(a) Providing Annual Screening Mammography for Women Over Age 39.—Section 1834(c)(2)(A) (42 U.S.C. 1395m(c)(2)(A)) is amended—

(1) in clause (iii), to read as follows:

"(iii) In the case of a woman over 39 years of age, payment may not be made under this part for screening mammography performed within 11 months following the month in which a previous screening mammography was performed."; and

(2) by striking clauses (iv) and (v).

(b) Waiver of Deductible.—The first sentence of section 1833(b) (42 U.S.C. 1395l(b)) is amended—

(1) by striking "and" before "(4)", and

(2) by inserting before the period at the end the following: ", and (5) such deductible shall not apply with respect to screening mammography (as described in section 1861(jj))".

(c) Conforming Amendment.—Section 1834(c)(1)(C) of such Act (42 U.S.C. 1395m(c)(1)(C)) is amended by striking ", subject to the deductible established under section 1833(b),".

(d) Effective Date.—The amendments made by this section shall apply to items and services furnished on or after January 1, 1998.

SEC. 10102. SCREENING PAP SMEAR AND PELVIC EXAMS.

(a) Coverage of Pelvic Exam; Increasing Frequency of Coverage of Pap Smear.—Section 1861(nn) (42 U.S.C. 1395x(nn)) is amended—

(1) in the heading, by striking "Smear" and inserting "Smear; Screening Pelvic Exam";

(2) by inserting "or vaginal" after "cervical" each place it appears;

(3) by striking "(nn)" and inserting "(nn)(1)";

(4) by striking "3 years" and all that follows and inserting "3 years, or during the preceding year in the case of a woman described in paragraph (3)."; and

(5) by adding at the end the following new paragraphs:

"(2) The term 'screening pelvic exam' means an pelvic examination provided to a woman if the woman involved has not had such an examination during the preceding 3 years, or during the preceding year in the case of a woman described in paragraph (3), and includes a clinical breast examination.

"(3) A woman described in this paragraph is a woman who—

"(A) is of childbearing age and has not had a test described in this subsection during each of the preceding 3 years that did not indicate the presence of cervical or vaginal cancer; or

"(B) is at high risk of developing cervical or vaginal cancer (as determined pursuant to factors identified by the Secretary).".

(b) Waiver of Deductible.—The first sentence of section 1833(b) (42 U.S.C. 1395l(b)), as amended by section 10101(b), is amended—

(1) by striking "and" before "(5)", and

(2) by inserting before the period at the end the following: ", and (6) such deductible shall not apply with respect to screening pap smear and screening pelvic exam (as described in section 1861(nn))".

(c) Conforming Amendments.—Sections 1861(s)(14) and 1862(a)(1)(F) (42 U.S.C.

1395x(s)(14), 1395y(a)(1)(F)) are each amended by inserting "and screening pelvic exam" after "screening pap smear".

(d) Payment Under Physician Fee Schedule.—Section 1848(j)(3)(42 U.S.C. 1395w-4(j)(3)) is amended by striking "and (4)" and inserting "(4) and (14) (with respect to services described in section 1861(nn)(2))".

(e) Effective Date.—The amendments made by this section shall apply to items and services furnished on or after January 1, 1998.

SEC. 10103. PROSTATE CANCER SCREENING TESTS.

(a) Coverage.—Section 1861 (42 U.S.C. 1395x) is amended—

(1) in subsection (s)(2)—

(A) by striking "and" at the end of subparagraphs (N) and (O), and

(B) by inserting after subparagraph (O) the following new subparagraph:

"(P) prostate cancer screening tests (as defined in subsection (oo)); and"; and

(2) by adding at the end the following new subsection:

"Prostate Cancer Screening Tests

"(oo)(1) The term 'prostate cancer screening test' means a test that consists of any (or all) of the procedures described in paragraph (2) provided for the purpose of early detection of prostate cancer to a man over 50 years of age who has not had such a test during the preceding year.

"(2) The procedures described in this paragraph are as follows:

"(A) A digital rectal examination.

"(B) A prostate-specific antigen blood test.

"(C) For years beginning after 2001, such other procedures as the Secretary finds appropriate for the purpose of early detection of prostate cancer, taking into account changes in technology and standards of medical practice, availability, effectiveness, costs, and such other factors as the Secretary considers appropriate.".

(b) Payment for Prostate-specific Antigen Blood Test Under Clinical Diagnostic Laboratory Test Fee Schedules.—Section 1833(h)(1)(A) (42 U.S.C. 1395l(h)(1)(A)) is amended by inserting after "laboratory tests" the following: "(including prostate cancer screening tests under section 1861(oo) consisting of prostate-specific antigen blood tests)".

(c) Conforming Amendment.—Section 1862(a) (42 U.S.C. 1395y(a)) is amended--

(1) in paragraph (1)—

(A) in subparagraph (E), by striking "and" at the end,

(B) in subparagraph (F), by striking the semicolon at the end and inserting ", and", and

(C) by adding at the end the following new subparagraph:

"(G) in the case of prostate cancer screening tests (as defined in section 1861(oo)), which are performed more frequently than is covered under such section;"; and

(2) in paragraph (7), by striking "paragraph (1)(B) or under paragraph (1)(F)" and inserting "subparagraphs (B), (F), or (G) of paragraph (1)".

(d) Payment Under Physician Fee Schedule.—Section 1848(j)(3)(42 U.S.C. 1395w-4(j)(3)), as amended by section 10102, is amended by inserting ", (2)(P) (with respect to services described in subparagraphs (A) and (C) of section 1861(oo)" after "(2)(G)"

(e) Effective Date.—The amendments made by this section shall apply to items and services furnished on or after January 1, 1998.

SEC. 10104. COVERAGE OF COLORECTAL SCREENING.

(a) Coverage.—

(1) In general.—Section 1861 (42 U.S.C. 1395x), as amended by section 10103(a), is amended—

(A) in subsection (s)(2)—

(i) by striking "and" at the end of subparagraph (P);

(ii) by adding "and" at the end of subparagraph (Q); and

(iii) by adding at the end the following new subparagraph:

"(R) colorectal cancer screening tests (as defined in subsection (pp)); and"; and

(B) by adding at the end the following new subsection:

"Colorectal Cancer Screening Tests

"(pp)(1) The term 'colorectal cancer screening test' means any of the following procedures furnished to an individual for the purpose of early detection of colorectal cancer:

"(A) Screening fecal-occult blood test.

"(B) Screening flexible sigmoidoscopy.

"(C) In the case of an individual at high risk for colorectal cancer, screening colonoscopy.

"(D) Screening barium enema, if found by the Secretary to be an appropriate alternative to screening flexible sigmoidoscopy under subparagraph (B) or screening colonoscopy under subparagraph (C).

"(E) For years beginning after 2002, such other procedures as the Secretary finds appropriate for the purpose of early detection of colorectal cancer, taking into account changes in technology and standards of medical practice, availability, effectiveness, costs, and such other factors as the Secretary considers appropriate.

"(2) In paragraph (1)(C), an 'individual at high risk for colorectal cancer' is an individual who, because of family history, prior experience of cancer or precursor neoplastic polyps, a history of chronic digestive disease condition (including inflammatory bowel disease, Crohn's Disease, or ulcerative colitis), the presence of any appropriate recognized gene markers for colorectal cancer, or other predisposing factors, faces a high risk for colorectal cancer.".

(2) Deadline for decision on coverage of screening barium enema.—Not later than 2 years after the date of the enactment of this section, the Secretary of Health and Human Services shall issue and publish a determination on the treatment of screening barium enema as a colorectal cancer screening test under section 1861(pp) (as added by subparagraph (B)) as an alternative procedure to a screening flexible sigmoidoscopy or screening colonoscopy.

(b) Frequency and Payment Limits.—

(1) In general.—Section 1834 (42 U.S.C. 1395m) is amended by inserting after subsection (c) the following new subsection:

"(d) Frequency and Payment Limits for Colorectal Cancer Screening Tests.—

"(1) Screening fecal-occult blood tests.—

"(A) Payment limit.—In establishing fee schedules under section 1833(h) with respect to colorectal cancer screening tests consisting of screening fecal-occult blood tests, except as provided by the Secretary under paragraph (4)(A), the payment amount established for tests performed—

"(i) in 1998 shall not exceed $5; and

"(ii) in a subsequent year, shall not exceed the limit on the payment amount established under this subsection for such tests for the preceding year, adjusted by the applicable adjustment under section 1833(h) for tests performed in such year.

"(B) Frequency limit.—Subject to revision by the Secretary under paragraph (4)(B), no payment may be made under this part for colorectal cancer screening test consisting of a screening fecal-occult blood test—

"(i) if the individual is under 50 years of age; or

"(ii) if the test is performed within the 11 months after a previous screening fecal-occult blood test.

"(2) Screening flexible sigmoidoscopies.—

"(A) Fee schedule.—The Secretary shall establish a payment amount under section 1848 with respect to colorectal cancer screening tests consisting of screening flexible sigmoidoscopies that is consistent with payment amounts under such section for similar or related services, except that such payment amount shall be established without regard to subsection (a)(2)(A) of such section.

"(B) Payment limit.—In the case of screening flexible sigmoidoscopy services—

"(i) the payment amount may not exceed such amount as the Secretary specifies, based upon the rates recognized under this part for diagnostic flexible sigmoidoscopy services; and

"(ii) that, in accordance with regulations, may be performed in an ambulatory surgical center and for which the Secretary permits ambulatory surgical center payments under this part and that are performed in an ambulatory surgical center or hospital outpatient department, the payment amount under this part may not exceed the lesser of (I) the payment rate that would apply to such services if they were performed in a hospital outpatient department, or (II) the payment rate that would apply to such services if they were performed in an ambulatory surgical center.

"(C) Special rule for detected lesions.—If during the course of such screening flexible sigmoidoscopy, a lesion or growth is detected which results in a biopsy or removal of the lesion or growth, payment under this part shall not be made for the screening flexible sigmoidoscopy but shall be made for the procedure classified as a flexible sigmoidoscopy with such biopsy or removal.

"(D) Frequency limit.—Subject to revision by the Secretary under paragraph (4)(B), no payment may be made under this part for a colorectal cancer screening test consisting of a screening flexible sigmoidoscopy—

"(i) if the individual is under 50 years of age; or

"(ii) if the procedure is performed within the 47 months after a previous screening flexible sigmoidoscopy.

"(3) Screening colonoscopy for individuals at high risk for colorectal cancer.—

"(A) Fee schedule.—The Secretary shall establish a payment amount under section 1848 with respect to colorectal cancer screening test consisting of a screening colonoscopy for individuals at high risk for colorectal cancer (as defined in section 1861(pp)(2)) that is consistent with payment amounts under such section for similar or related services, except that such payment amount shall be established without regard to subsection (a)(2)(A) of such section.

"(B) Payment limit.—In the case of screening colonoscopy services—

"(i) the payment amount may not exceed such amount as the Secretary specifies, based upon the rates recognized under this part for diagnostic colonoscopy services; and

"(ii) that are performed in an ambulatory surgical center or hospital outpatient department, the payment amount under this part may not exceed the lesser of (I) the payment rate that would apply to such services if they were performed in a hospital outpatient department, or (II) the payment rate that would apply to such services if they were performed in an ambulatory surgical center.

"(C) SPECIAL RULE FOR DETECTED LESIONS.—If during the course of such screening colonoscopy, a lesion or growth is detected which results in a biopsy or removal of the lesion or growth, payment under this part shall not be made for the screening colonoscopy but shall be made for the procedure classified as a colonoscopy with such biopsy or removal.

"(D) FREQUENCY LIMIT.—Subject to revision by the Secretary under paragraph (4)(B), no payment may be made under this part for a colorectal cancer screening test consisting of a screening colonoscopy for individuals at high risk for colorectal cancer if the procedure is performed within the 23 months after a previous screening colonoscopy.

"(4) REDUCTIONS IN PAYMENT LIMIT AND REVISION OF FREQUENCY.—

"(A) REDUCTIONS IN PAYMENT LIMIT FOR SCREENING FECAL-OCCULT BLOOD TESTS.—The Secretary shall review from time to time the appropriateness of the amount of the payment limit established for screening fecal-occult blood tests under paragraph (1)(A). The Secretary may, with respect to tests performed in a year after 2000, reduce the amount of such limit as it applies nationally or in any area to the amount that the Secretary estimates is required to assure that such tests of an appropriate quality are readily and conveniently available during the year.

"(B) REVISION OF FREQUENCY.—

"(i) REVIEW.—The Secretary shall review periodically the appropriate frequency for performing colorectal cancer screening tests based on age and such other factors as the Secretary believes to be pertinent.

"(ii) REVISION OF FREQUENCY.—The Secretary, taking into consideration the review made under clause (i), may revise from time to time the frequency with which such tests may be paid for under this subsection, but no such revision shall apply to tests performed before January 1, 2001.

"(5) LIMITING CHARGES OF NONPARTICIPATING PHYSICIANS.—

"(A) IN GENERAL.—In the case of a colorectal cancer screening test consisting of a screening flexible sigmoidoscopy or a screening colonoscopy provided to an individual at high risk for colorectal cancer for which payment may be made under this part, if a nonparticipating physician provides the procedure to an individual enrolled under this part, the physician may not charge the individual more than the limiting charge (as defined in section 1848(g)(2)).

"(B) ENFORCEMENT.—If a physician or supplier knowing and willfully imposes a charge in violation of subparagraph (A), the Secretary may apply sanctions against such physician or supplier in accordance with section 1842(j)(2).".

(2) SPECIAL RULE FOR SCREENING BARIUM ENEMA.—If the Secretary of Health and Human Services issues a determination under subsection (a)(2) that screening barium enema should be covered as a colorectal cancer screening test under section 1861(pp) (as added by subsection (a)(1)(B)), the Secretary shall establish frequency limits (including revisions of frequency limits) for such procedure consistent with the frequency limits for other colorectal cancer screening tests under section 1834(d) (as added by subsection (b)(1)), and shall establish payment limits (including limits on charges of nonparticipating physicians) for such procedure consistent with the payment limits under part B of title XVIII for diagnostic barium enema procedures.

(c) CONFORMING AMENDMENTS.—(1) Paragraphs (1)(D) and (2)(D) of section 1833(a) (42 U.S.C. 1395l(a)) are each amended by inserting "or section 1834(d)(1)" after "subsection (h)(1)".

(2) Section 1833(h)(1)(A) (42 U.S.C. 1395l(h)(1)(A)) is amended by striking "The Secretary" and inserting "Subject to paragraphs (1) and (4)(A) of section 1834(d), the Secretary".

(3) Clauses (i) and (ii) of section 1848(a)(2)(A) (42 U.S.C. 1395w–4(a)(2)(A)) are each amended by inserting after "a service" the following: "(other than a colorectal cancer screening test consisting of a screening colonoscopy provided to an individual at high risk for colorectal cancer or a screening flexible sigmoidoscopy)".

(4) Section 1862(a) (42 U.S.C. 1395y(a)), as amended by section 10103(c), is amended—

(A) in paragraph (1)—

(i) in subparagraph (F), by striking "and" at the end,

(ii) in subparagraph (G), by striking the semicolon at the end and inserting ", and", and

(iii) by adding at the end the following new subparagraph:

"(H) in the case of colorectal cancer screening tests, which are performed more frequently than is covered under section 1834(d);"; and

(B) in paragraph (7), by striking "or (G)" and inserting "(G), or (H)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after January 1, 1998.

SEC. 10105. DIABETES SCREENING TESTS.

(a) COVERAGE OF DIABETES OUTPATIENT SELF-MANAGEMENT TRAINING SERVICES.—

(1) IN GENERAL.—Section 1861 (42 U.S.C. 1395x), as amended by sections 10103(a) and 10104(a), is amended—

(A) in subsection (s)(2)—

(i) by striking "and" at the end of subparagraph (Q);

(ii) by adding "and" at the end of subparagraph (R); and

(iii) by adding at the end the following new subparagraph:

"(S) diabetes outpatient self-management training services (as defined in subsection (qq)); and"; and

(B) by adding at the end the following new subsection:

"Diabetes Outpatient Self-Management Training Services

"(qq)(1) The term 'diabetes outpatient self-management training services' means educational and training services furnished to an individual with diabetes by a certified provider (as described in paragraph (2)(A)) in an outpatient setting by an individual or entity who meets the quality standards described in paragraph (2)(B), but only if the physician who is managing the individual's diabetic condition certifies that such services are needed under a comprehensive plan of care related to the individual's diabetic condition to provide the individual with necessary skills and knowledge (including skills related to the self-administration of injectable drugs) to participate in the management of the individual's condition.

"(2) In paragraph (1)—

"(A) a 'certified provider' is a physician, or other individual or entity designated by the Secretary, that, in addition to providing diabetes outpatient self-management training services, provides other items or services for which payment may be made under this title; and

"(B) a physician, or such other individual or entity, meets the quality standards described in this paragraph if the physician, or individual or entity, meets quality standards established by the Secretary, except that the physician or other individual or entity shall be deemed to have met such standards if the physician or other individual or entity meets applicable standards originally established by the National Diabetes Advisory Board and subsequently revised by organizations who participated in the establishment of standards by such Board, or is recognized by an organization that represents individuals (including individuals under this title) with diabetes as meeting standards for furnishing the services.".

(2) PAYMENT UNDER PHYSICIAN FEE SCHEDULE.—Section 1848(j)(3)(42 U.S.C. 1395w–4(j)(3)) as amended in sections 10102 and 10103, is amended by inserting "(2)(S)," before "(3),".

(3) CONSULTATION WITH ORGANIZATIONS IN ESTABLISHING PAYMENT AMOUNTS FOR SERVICES PROVIDED BY PHYSICIANS.—In establishing payment amounts under section 1848 of the Social Security Act for physicians' services consisting of diabetes outpatient self-management training services, the Secretary of Health and Human Services shall consult with appropriate organizations, including such organizations representing individuals or medicare beneficiaries with diabetes, in determining the relative value for such services under section 1848(c)(2) of such Act.

(b) BLOOD-TESTING STRIPS FOR INDIVIDUALS WITH DIABETES.—

(1) INCLUDING STRIPS AND MONITORS AS DURABLE MEDICAL EQUIPMENT.—The first sentence of section 1861(n) (42 U.S.C. 1395x(n)) is amended by inserting before the semicolon the following: ", and includes blood-testing strips and blood glucose monitors for individuals with diabetes without regard to whether the individual has Type I or Type II diabetes or to the individual's use of insulin (as determined under standards established by the Secretary in consultation with the appropriate organizations)".

(2) 10 PERCENT REDUCTION IN PAYMENTS FOR TESTING STRIPS.—Section 1834(a)(2)(B)(iv) (42 U.S.C. 1395m(a)(2)(B)(iv)) is amended by adding before the period the following: "(reduced by 10 percent, in the case of a blood glucose testing strip furnished after 1997 for an individual with diabetes)".

(c) ESTABLISHMENT OF OUTCOME MEASURES FOR BENEFICIARIES WITH DIABETES.—

(1) IN GENERAL.—The Secretary of Health and Human Services, in consultation with appropriate organizations, shall establish outcome measures, including glysolated hemoglobin (past 90-day average blood sugar levels), for purposes of evaluating the improvement of the health status of medicare beneficiaries with diabetes mellitus.

(2) RECOMMENDATIONS FOR MODIFICATIONS TO SCREENING BENEFITS.—Taking into account information on the health status of medicare beneficiaries with diabetes mellitus as measured under the outcome measures established under subparagraph (A), the Secretary shall from time to time submit recommendations to Congress regarding modifications to the coverage of services for such beneficiaries under the medicare program.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after January 1, 1998.

SEC. 10106. STANDARDIZATION OF MEDICARE COVERAGE OF BONE MASS MEASUREMENTS.

(a) IN GENERAL.—Section 1861 (42 U.S.C. 1395x), as amended by sections 10103(a), 10104(a), 10105(a), is amended—

(1) in subsection (s)—

(A) in paragraph (12)(C), by striking "and" at the end,

(B) by striking the period at the end of paragraph (14) and inserting "; and",

(C) by redesignating paragraphs (15) and (16) as paragraphs (16) and (17), respectively, and

(D) by inserting after paragraph (14) the following new paragraph:

"(15) bone mass measurement (as defined in subsection (rr))."; and

(2) by inserting after subsection (qq) the following new subsection:

"Bone Mass Measurement

"(rr)(1) The term 'bone mass measurement' means a radiologic or radioisotopic procedure or other procedure approved by the Food and Drug Administration performed on a qualified individual (as defined in paragraph (2)) for the purpose of identifying bone mass or detecting bone loss or determining bone quality, and includes a physician's interpretation of the results of the procedure.

"(2) For purposes of this subsection, the term 'qualified individual' means an individual who is (in accordance with regulations prescribed by the Secretary)—

"(A) an estrogen-deficient woman at clinical risk for osteoporosis;

"(B) an individual with vertebral abnormalities;

"(C) an individual receiving long-term glucocorticoid steroid therapy;

"(D) an individual with primary hyperparathyroidism; or

"(E) an individual being monitored to assess the response to or efficacy of an approved osteoporosis drug therapy.

"(3) The Secretary shall establish such standards regarding the frequency with which a qualified individual shall be eligible to be provided benefits for bone mass measurement under this title.".

(b) PAYMENT UNDER PHYSICIAN FEE SCHEDULE.—Section 1848(j)(3) (42 U.S.C. 1395w-4(j)(3)), as amended by sections 10102, 10103, and 10105, is amended—

(1) by striking "(4) and (14)" and inserting "(4), (14)" and

(2) by inserting " and (15)" after "1861(nn)(2))".

(c) CONFORMING AMENDMENTS.—Sections 1864(a), 1902(a)(9)(C), and 1915(a)(1)(B)(ii)(I) (42 U.S.C. 1395aa(a), 1396a(a)(9)(C), and 1396n(a)(1)(B)(ii)(I)) are amended by striking "paragraphs (15) and (16)" each place it appears and inserting "paragraphs (16) and (17)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to bone mass measurements performed on or after July 1, 1998.

SEC. 10107. VACCINES OUTREACH EXPANSION.

(a) EXTENSION OF INFLUENZA AND PNEUMOCOCCAL VACCINATION CAMPAIGN.—In order to increase utilization of pneumococcal and influenza vaccines in medicare beneficiaries, the Influenza and Pneumococcal Vaccination Campaign carried out by the Health Care Financing Administration in conjunction with the Centers for Disease Control and Prevention and the National Coalition for Adult Immunization, is extended until the end of fiscal year 2002.

(b) AUTHORIZATION OF APPROPRIATION.—There are hereby authorized to be appropriated for each of fiscal years 1998 through 2002, $8,000,000 for the Campaign described in subsection (a). Of the amount so authorized to be appropriated in each fiscal year, 60 percent of the amount so appropriated shall be payable from the Federal Hospital Insurance Trust Fund, and 40 percent shall be payable from the Federal Supplementary Medical Insurance Trust Fund.

SEC. 10108. STUDY ON PREVENTIVE BENEFITS.

(a) STUDY.—The Secretary of Health and Human Services shall request the National Academy of Sciences, in conjunction with the United States Preventive Services Task Force, to analyze the expansion or modification of preventive benefits provided to medicare beneficiaries under title XVIII of the Social Security Act. The analysis shall consider both the short term and long term benefits, and costs to the medicare program, of such expansion or modification.

(b) REPORT.—

(1) INITIAL REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall submit a report on the findings of the analysis conducted under subsection (a) to the Committee on Ways and Means and the Committee on Commerce of the House of Representatives and the Committee on Finance of the Senate.

(2) CONTENTS.—Such report shall include specific findings with respect to coverage of the following preventive benefits:

(A) Nutrition therapy, including parenteral and enteral nutrition.

(B) Medically necessary dental care.

(C) Routine patient care costs for beneficiaries enrolled in approved clinical trial programs.

(D) Elimination of time limitation for coverage of immunosuppressive drugs for transplant patients.

(3) FUNDING.—From funds appropriated to the Department of Health and Human Services for fiscal years 1998 and 1999, the Secretary shall provide for such funding as may be necessary for the conduct of the analysis by the National Academy of Sciences under this section.

Subtitle C—Rural Initiatives

SEC. 10201. RURAL PRIMARY CARE HOSPITAL PROGRAM.

(a) RURAL PRIMARY CARE HOSPITAL PROGRAM.—Section 1820 (42 U.S.C. 1395i-4) is amended to read as follows:

"MEDICARE RURAL PRIMARY CARE HOSPITAL PROGRAM

"SEC. 1820. (a) STATE DESIGNATION OF FACILITIES.—

"(1) IN GENERAL.—A State may designate one or more facilities as a rural primary care hospital in accordance with paragraph (2).

"(2) CRITERIA FOR DESIGNATION AS RURAL PRIMARY CARE HOSPITAL.—A State may designate a facility as a rural primary care hospital if the facility—

"(A) is a nonprofit or public hospital, and is located in a county (or equivalent unit of local government) in a rural area (as defined in section 1886(d)(2)(D)) that—

"(i) is located a distance that corresponds to a travel time of greater than 30 minutes (using the guidelines specified under part IB1(b) of Appendix A to part 5 of title 42, Code of Federal Regulations, as in effect on October 1, 1996), from a hospital, or another facility described in this subsection, or

"(ii) is certified by the State as being a necessary provider of health care services to residents in the area because of local geography or service patterns;

"(B) makes available 24-hour emergency care services;

"(C) provides at any time not more than 15 acute care inpatient beds (meeting such standards as the Secretary may establish) for providing inpatient care for a period not to exceed 96 hours (unless a longer period is required because transfer to a hospital is precluded because of inclement weather or other emergency conditions), except that a peer review organization or equivalent entity may, on request, waive the 96-hour restriction on a case-by-case basis;

"(D) meets such staffing requirements as would apply under section 1861(e) to a hospital located in a rural area, except that—

"(i) the facility need not meet hospital standards relating to the number of hours during a day, or days during a week, in which the facility must be open and fully staffed, except insofar as the facility is required to make available emergency care services as determined under subparagraph (B) and must have nursing services available on a 24-hour basis, but need not otherwise staff the facility except when an inpatient is present,

"(ii) the facility may provide any services otherwise required to be provided by a full-time, on-site dietitian, pharmacist, laboratory technician, medical technologist, and radiological technologist on a part-time, off-site basis under arrangements as defined in section 1861(w)(1), and

"(iii) the inpatient care described in subparagraph (C) may be provided by a physician's assistant, nurse practitioner, or clinical nurse specialist subject to the oversight of a physician who need not be present in the facility;

"(E) meets the requirements of subparagraph (I) of paragraph (2) of section 1861(aa); and

"(F) has executed and in effect an agreement described in subsection (b)(1).

"(b) AGREEMENTS.—

"(1) IN GENERAL.—Each rural primary care hospital shall have an agreement with respect to each item described in paragraph (2) with at least 1 hospital (as defined in section 1861(e)).

"(2) ITEMS DESCRIBED.—The items described in this paragraph are the following:

"(A) Patient referral and transfer.

"(B) The development and use of communications systems including (where feasible)—

"(i) telemetry systems, and

"(ii) systems for electronic sharing of patient data.

"(C) The provision of emergency and nonemergency transportation between the facility and the hospital.

"(3) CREDENTIALING AND QUALITY ASSURANCE.—Each rural primary care hospital shall have an agreement with respect to credentialing and quality assurance with at least 1—

"(A) hospital,

"(B) peer review organization or equivalent entity, or

"(C) other appropriate and qualified entity identified by the State.

"(c) CERTIFICATION BY THE SECRETARY.—The Secretary shall certify a facility as a rural primary care hospital if the facility—

"(1) is designated as a rural primary care hospital by the State in which it is located; and

"(2) meets such other criteria as the Secretary may require.

"(d) PERMITTING MAINTENANCE OF SWING BEDS.—Nothing in this section shall be construed to prohibit a State from designating or the Secretary from certifying a facility as a rural primary care hospital solely because, at the time the facility applies to the State for designation as a rural primary care hospital, there is in effect an agreement between the facility and the Secretary under section 1883 under which the facility's inpatient hospital facilities are used for the provision of extended care services, so long as the total number of beds that may be used at any time for the furnishing of either such services or acute care inpatient services does not exceed 25 beds and the number of beds used at any time for acute care inpatient services does not exceed 15 beds. For purposes of the previous sentence, any bed of a unit of the facility that is licensed as a distinct-part skilled nursing facility at the time the facility applies to the State for designation as a rural primary care hospital shall not be counted.

"(e) WAIVER OF CONFLICTING PART A PROVISIONS.—The Secretary is authorized to waive such provisions of this part and part C as are necessary to conduct the program established under this section.".

(b) PAYMENT ON A REASONABLE COST BASIS.—

(1) MEDICARE PART A.—Section 1814(l) (42 U.S.C. 1395f(l)) is amended to read as follows:

"(l) PAYMENT FOR INPATIENT RURAL PRIMARY CARE HOSPITAL SERVICES.—The amount of payment under this part for inpatient rural primary care hospital services is the reasonable costs of the rural primary care hospital in providing such services.".

(2) MEDICARE PART B.—Section 1834(g) (42 U.S.C. 1395m(g)) is amended to read as follows:

"(g) PAYMENT FOR OUTPATIENT RURAL PRIMARY CARE HOSPITAL SERVICES.—The amount of payment under this part for outpatient rural primary care hospital services is the reasonable costs of the rural primary care hospital in providing such services.".

(c) LENGTHENING MAXIMUM PERIOD OF PERMITTED INPATIENT STAY.—Section 1814(a)(8) (42 U.S.C. 1395f(a)(8)) is amended by striking "72 hours" and inserting "96 hours".

(d) PAYMENT CONTINUED TO DESIGNATED ESSENTIAL ACCESS COMMUNITY HOSPITALS AND DESIGNATED RURAL PRIMARY CARE HOSPITALS.—

(1) ESSENTIAL ACCESS COMMUNITY HOSPITALS.—Section 1886(d)(5)(D) (42 U.S.C. 1395ww(d)(5)(D)) is amended—

(A) in clause (iii)(III), by inserting "as in effect on September 30, 1997" before the period at the end; and

(B) in clause (v), by inserting "as in effect on September 30, 1997" after "1820(i)(1)" and after "1820(g)".

(2) RURAL PRIMARY CARE HOSPITALS.—Section 1861(mm)(1) (42 U.S.C. 1395x(mm)(1)) is amended by striking "1820(i)(2)." and inserting "1820(c), and includes a facility designated by the Secretary under section 1820(i)(2) as in effect on September 30, 1997.".

(3) MEDICAL ASSISTANCE FACILITY.—Any facility that, as of March 1, 1997, operated as a limited service rural hospital under a demonstration described in section 4008(i)(1) of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 1395b–1 note) shall be treated as a rural primary care hospital for the purposes of title XVIII of the Social Security Act so long as it continues to meet the requirements of the demonstration protocol relating to staffing, services, quality assurance, and related factors.

(e) CONFORMING AMENDMENT.—Section 1883(a)(1) (42 U.S.C. 1395tt(a)(1)) is amended by inserting "or rural primary care hospital" after "Any hospital".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished in cost reporting periods beginning on or after October 1, 1997.

SEC. 10202. PROHIBITING DENIAL OF REQUEST BY RURAL REFERRAL CENTERS FOR RECLASSIFICATION ON BASIS OF COMPARABILITY OF WAGES.

(a) IN GENERAL.—Section 1886(d)(10)(D) (42 U.S.C. 1395ww(d)(10)(D)) is amended—

(1) by redesignating clause (iii) as clause (iv); and

(2) by inserting after clause (ii) the following new clause:

"(iii) Under the guidelines published by the Secretary under clause (i), in the case of a hospital which has ever been classified by the Secretary as a rural referral center under paragraph (5)(C), the Board may not reject the application of the hospital under this paragraph on the basis of any comparison between the average hourly wage of the hospital and the average hourly wage of hospitals in the area in which it is located.".

(b) CONTINUING TREATMENT OF PREVIOUSLY DESIGNATED CENTERS.—

(1) IN GENERAL.—Any hospital classified as a rural referral center by the Secretary of Health and Human Services under section 1886(d)(5)(C) of the Social Security Act for fiscal year 1991 shall be classified as such a rural referral center for fiscal year 1998 and each subsequent fiscal year.

(2) BUDGET NEUTRALITY.—The provisions of section 1886(d)(8)(D) of the Social Security Act shall apply to reclassifications made pursuant to paragraph (1) in the same manner as such provisions apply to a reclassification under section 1886(d)(10) of such Act.

SEC. 10203. HOSPITAL GEOGRAPHIC RECLASSIFICATION PERMITTED FOR PURPOSES OF DISPROPORTIONATE SHARE PAYMENT ADJUSTMENTS.

(a) IN GENERAL.—Section 1886(d)(10)(C)(i) (42 U.S.C. 1395ww(d)(10)(C)(i)) is amended—

(1) by striking "or" at the end of subclause (I);

(2) by striking the period at the end of subclause (II) and inserting ", or"; and

(3) by inserting after subclause (II) the following:

"(III) eligibility for and amount of additional payment amounts under paragraph (5)(F).".

(b) APPLICABLE GUIDELINES.—Such Board shall apply the guidelines established for reclassification under subclause (I) of section 1886(d)(10)(C)(i) of such Act to reclassification under subclause (III) of such section until the Secretary of Health and Human Services promulgates separate guidelines for reclassification under such subclause (III).

SEC. 10204. MEDICARE-DEPENDENT, SMALL RURAL HOSPITAL PAYMENT EXTENSION.

(a) SPECIAL TREATMENT EXTENDED.—

(1) PAYMENT METHODOLOGY.—Section 1886(d)(5)(G) (42 U.S.C. 1395ww(d)(5)(G)) is amended—

(A) in clause (i), by striking "October 1, 1994," and inserting "October 1, 1994, or beginning on or after October 1, 1997, and before October 1, 2001,"; and

(B) in clause (ii)(II), by striking "October 1, 1994," and inserting "October 1, 1994, or beginning on or after October 1, 1997, and before October 1, 2001,".

(2) EXTENSION OF TARGET AMOUNT.—Section 1886(b)(3)(D) (42 U.S.C. 1395ww(b)(3)(D)) is amended—

(A) in the matter preceding clause (i), by striking "September 30, 1994," and inserting "September 30, 1994, and for cost reporting periods beginning on or after October 1, 1997, and before October 1, 2001,";

(B) in clause (ii), by striking "and" at the end;

(C) in clause (iii), by striking the period at the end and inserting ", and"; and

(D) by adding after clause (iii) the following new clause:

"(iv) with respect to discharges occurring during fiscal year 1998 through fiscal year 2000, the target amount for the preceding year increased by the applicable percentage increase under subparagraph (B)(iv).".

(3) PERMITTING HOSPITALS TO DECLINE RECLASSIFICATION.—Section 13501(e)(2) of OBRA–93 (42 U.S.C. 1395ww note) is amended by striking "or fiscal year 1994" and inserting ", fiscal year 1994, fiscal year 1998, fiscal year 1999, or fiscal year 2000".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to discharges occurring on or after October 1, 1997.

SEC. 10205. GEOGRAPHIC RECLASSIFICATION FOR CERTAIN DISPROPORTIONATELY LARGE HOSPITALS.

(a) NEW GUIDELINES FOR RECLASSIFICATION.—Notwithstanding the guidelines published under subparagraph (D)(i)(I) of section 1886(d)(10) of the Social Security Act (42 U.S.C. 1395ww(d)(10)), the Secretary of Health and Human Services shall publish and use alternative guidelines under which a hospital described in subsection (b) qualifies for geographic reclassification under such section for a fiscal year beginning with fiscal year 1998.

(b) HOSPITALS COVERED.—A hospital described in this subsection is a hospital that demonstrates that—

(1) the average hourly wage paid by the hospital is not less than 108 percent of the average hourly wage paid by all other hospitals located in the Metropolitan Statistical Area (or the New England County Metropolitan Area) in which the hospital is located; and

(2) not less than 40 percent of the adjusted uninflated wages paid by all hospitals located in such Area is attributable to wages paid by the hospital.

SEC. 10206. FLOOR ON AREA WAGE INDEX.

(a) IN GENERAL.—For purposes of section 1886(d)(3)(E) of the Social Security Act for discharges occurring on or after October 1, 1997, the area wage index applicable under such section to any hospital which is not located in a rural area (as defined in section 1886(d)(2)(D) of such Act) may not be less than the area wage indices applicable under such section to hospitals located in rural areas in the State in which the hospital is located.

(b) IMPLEMENTATION.—The Secretary of Health and Human Services shall adjust the area wage indices referred to in subsection (a) for hospitals not described in such subsection in a manner which assures that the aggregate payments made under section 1886(d) of the Social Security Act in a fiscal year for the operating costs of inpatient hospital services are not greater or less than those which would have been made in the year if this section did not apply.

SEC. 10207. INFORMATICS, TELEMEDICINE, AND EDUCATION DEMONSTRATION PROJECT.

(a) PURPOSE AND AUTHORIZATION.—

(1) IN GENERAL.—Not later than 9 months after the date of enactment of this section, the Secretary of Health and Human Services shall provide for a demonstration project described in paragraph (2).

(2) DESCRIPTION OF PROJECT.—

(A) IN GENERAL.—The demonstration project described in this paragraph is a single demonstration project to use eligible health care provider telemedicine networks to apply high-capacity computing and advanced networks to improve primary care (and prevent health care complications) to medicare beneficiaries with diabetes mellitus who are residents of medically underserved rural areas or residents of medically underserved inner-city areas.

(B) MEDICALLY UNDERSERVED DEFINED.—As used in this paragraph, the term "medically underserved" has the meaning given such term in section 330(b)(3) of the Public Health Service Act (42 U.S.C. 254b(b)(3)).

(3) WAIVER.—The Secretary shall waive such provisions of title XVIII of the Social Security Act as may be necessary to provide for payment for services under the project in accordance with subsection (d).

(4) DURATION OF PROJECT.—The project shall be conducted over a 4-year period.

(b) OBJECTIVES OF PROJECT.—The objectives of the project include the following:

(1) Improving patient access to and compliance with appropriate care guidelines for individuals with diabetes mellitus through direct telecommunications link with information networks in order to improve patient quality-of-life and reduce overall health care costs.

(2) Developing a curriculum to train, and providing standards for credentialing and licensure of, health professionals (particularly primary care health professionals) in the use of medical informatics and telecommunications.

(3) Demonstrating the application of advanced technologies, such as video-conferencing from a patient's home, remote monitoring of a patient's medical condition, interventional informatics, and applying individualized, automated care guidelines, to assist primary care providers in assisting patients with diabetes in a home setting.

(4) Application of medical informatics to residents with limited English language skills.

(5) Developing standards in the application of telemedicine and medical informatics.

(6) Developing a model for the cost-effective delivery of primary and related care both in a managed care environment and in a fee-for-service environment.

(c) ELIGIBLE HEALTH CARE PROVIDER TELEMEDICINE NETWORK DEFINED.—For purposes of this section, the term "eligible health care provider telemedicine network" means a consortium that includes at least one tertiary care hospital (but no more than 2 such hospitals), at least one medical school, no more than 4 facilities in rural or urban areas, and at least one regional telecommunications provider and that meets the following requirements:

(1) The consortium is located in an area with one of the highest concentrations of medical schools and tertiary care facilities in the United States and has appropriate arrangements (within or outside the consortium) with such schools and facilities, universities, and telecommunications providers, in order to conduct the project.

(2) The consortium submits to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a description of the use to which the consortium would apply any amounts received under the project and the source and amount of non-Federal funds used in the project.

(3) The consortium guarantees that it will be responsible for payment for all costs of the project that are not paid under this section and that the maximum amount of payment that may be made to the consortium under this section shall not exceed the amount specified in subsection (d)(3).

(d) COVERAGE AS MEDICARE PART B SERVICES.—

(1) IN GENERAL.—Subject to the succeeding provisions of this subsection, services related to the treatment or management of (including prevention of complications from) diabetes for medicare beneficiaries furnished under the project shall be considered to be services covered under part B of title XVIII of the Social Security Act.

(2) PAYMENTS.—

(A) IN GENERAL.—Subject to paragraph (3), payment for such services shall be made at a rate of 50 percent of the costs that are reasonable and related to the provision of such services. In computing such costs, the Secretary shall include costs described in subparagraph (B), but may not include costs described in subparagraph (C).

(B) COSTS THAT MAY BE INCLUDED.—The costs described in this subparagraph are the permissible costs (as recognized by the Secretary) for the following:

(i) The acquisition of telemedicine equipment for use in patients' homes (but only in the case of patients located in medically underserved areas).

(ii) Curriculum development and training of health professionals in medical informatics and telemedicine.

(iii) Payment of telecommunications costs (including salaries and maintenance of equipment), including costs of telecommunications between patients' homes and the eligible network and between the network and other entities under the arrangements described in subsection (c)(1).

(iv) Payments to practitioners and providers under the medicare programs.

(C) COSTS NOT INCLUDED.—The costs described in this subparagraph are costs for any of the following:

(i) The purchase or installation of transmission equipment (other than such equipment used by health professionals to deliver medical informatics services under the project).

(ii) The establishment or operation of a telecommunications common carrier network.

(iii) Construction (except for minor renovations related to the installation of reimbursable equipment) or the acquisition or building of real property.

(3) LIMITATION.—The total amount of the payments that may be made under this section shall not exceed $30,000,000.

(4) LIMITATION ON COST-SHARING.—The project may not impose cost sharing on a medicare beneficiary for the receipt of services under the project in excess of 20 percent of the recognized costs of the project attributable to such services.

(e) REPORTS.—The Secretary shall submit to the Committees on Ways and Means and Commerce of the House of Representatives and the Committee on Finance of the Senate interim reports on the project and a final report on the project within 6 months after the conclusion of the project. The final report shall include an evaluation of the impact of the use of telemedicine and medical informatics on improving access of medicare beneficiaries to health care services, on reducing the costs of such services, and on improving the quality of life of such beneficiaries.

(f) DEFINITIONS.—For purposes of this section:

(1) INTERVENTIONAL INFORMATICS.—The term "interventional informatics" means using information technology and virtual reality technology to intervene in patient care.

(2) MEDICAL INFORMATICS.—The term "medical informatics" means the storage, retrieval, and use of biomedical and related information for problem solving and decision-making through computing and communications technologies.

(3) PROJECT.—The term "project" means the demonstration project under this section.

Subtitle D—Anti-Fraud and Abuse Provisions

SEC. 10301. PERMANENT EXCLUSION FOR THOSE CONVICTED OF 3 HEALTH CARE RELATED CRIMES.

Section 1128(c)(3) (42 U.S.C. 1320a-7(c)(3)) is amended—

(1) in subparagraph (A), by inserting "or in the case described in subparagraph (G)" after "subsection (b)(12)";

(2) in subparagraphs (B) and (D), by striking "In the case" and inserting "Subject to subparagraph (G), in the case"; and

(3) by adding at the end the following new subparagraph:

"(G) In the case of an exclusion of an individual under subsection (a) based on a conviction occurring on or after the date of the enactment of this subparagraph, if the individual has (before, on, or after such date and before the date of the conviction for which the exclusion is imposed) been convicted—

"(i) on one previous occasion of one or more offenses for which an exclusion may be effected under such subsection, the period of the exclusion shall be not less than 10 years, or

"(ii) on 2 or more previous occasions of one or more offenses for which an exclusion may be effected under such subsection, the period of the exclusion shall be permanent.".

SEC. 10302. AUTHORITY TO REFUSE TO ENTER INTO MEDICARE AGREEMENTS WITH INDIVIDUALS OR ENTITIES CONVICTED OF FELONIES.

(a) MEDICARE PART A.—Section 1866(b)(2) (42 U.S.C. 1395cc(b)(2)) is amended—

(1) by striking "or" at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting ", or"; and

(3) by adding after subparagraph (C) the following new subparagraph:

"(D) has ascertained that the provider has been convicted of a felony under Federal or State law for an offense which the Secretary determines is inconsistent with the best interests of program beneficiaries.".

(b) MEDICARE PART B.—Section 1842 (42 U.S.C. 1395u) is amended by adding after subsection (r) the following new subsection:

"(s) The Secretary may refuse to enter into an agreement with a physician or supplier under subsection (h) or may terminate or refuse to renew such agreement, in the event that such physician or supplier has been convicted of a felony under Federal or State law for an offense which the Secretary determines is inconsistent with the best interests of program beneficiaries.".

(c) MEDICAID.—For provisions amending title XIX of the Social Security Act to provide similar treatment under the medicaid program, see section .

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and apply to the entry and renewal of contracts on or after such date.

SEC. 10303. INCLUSION OF TOLL-FREE NUMBER TO REPORT MEDICARE WASTE, FRAUD, AND ABUSE IN EXPLANATION OF BENEFITS FORMS.

(a) IN GENERAL.—Section 1842(h)(7) (42 U.S.C. 1395u(h)(7)) is amended—

(1) by striking "and" at the end of subparagraph (C),

(2) by striking the period at the end of subparagraph (D) and inserting "; and", and

(3) by adding at the end the following new subparagraph:

“(E) a toll-free telephone number maintained by the Inspector General in the Department of Health and Human Services for the receipt of complaints and information about waste, fraud, and abuse in the provision or billing of services under this title.”.

(b) Effective Date.—The amendments made by subsection (a) shall apply to explanations of benefits provided on or after such date (not later than January 1, 1999) as the Secretary of Health and Human Services shall provide.

SEC. 10304. LIABILITY OF MEDICARE CARRIERS AND FISCAL INTERMEDIARIES FOR CLAIMS SUBMITTED BY EXCLUDED PROVIDERS.

(a) Reimbursement to the Secretary for Amounts Paid to Excluded Providers.—

(1) Requirements for fiscal intermediaries.—

(A) In general.—Section 1816 (42 U.S.C. 1395h) is amended by adding at the end the following new subsection:

“(m) An agreement with an agency or organization under this section shall require that such agency or organization reimburse the Secretary for any amounts paid by the agency or organization for a service under this title which is furnished, directed, or prescribed by an individual or entity during any period for which the individual or entity is excluded pursuant to section 1128, 1128A, or 1156, from participation in the program under this title, if the amounts are paid after the Secretary notifies the agency or organization of the exclusion.”.

(B) Conforming amendment.—Subsection (i) of such section is amended by adding at the end the following new paragraph:

“(4) Nothing in this subsection shall be construed to prohibit reimbursement by an agency or organization under subsection (m).”.

(2) Requirements for carriers.—Section 1842(b)(3) (42 U.S.C. 1395u(b)(3)) is amended—

(A) by striking “and” at the end of subparagraph (I); and

(B) by inserting after subparagraph (I) the following new subparagraph:

“(J) will reimburse the Secretary for any amounts paid by the carrier for an item or service under this part which is furnished, directed, or prescribed by an individual or entity during any period for which the individual or entity is excluded pursuant to section 1128, 1128A, or 1156, from participation in the program under this title, if the amounts are paid after the Secretary notifies the carrier of the exclusion, and”.

(3) Reference to medicaid provision.—For provision imposing similar restrictions on States under the medicaid program under title XIX of the Social Security Act, see section .

(b) Conforming Repeal of Mandatory Payment Rule.—Paragraph (2) of section 1862(e) (42 U.S.C. 1395y(e)) is amended to read as follows:

“(2) No individual or entity may bill (or collect any amount from) any individual for any item or service for which payment is denied under paragraph (1). No person is liable for payment of any amounts billed for such an item or service in violation of the previous sentence.”.

(c) Effective Dates.—The amendments made by this section shall apply to contracts and agreements entered into, renewed, or extended after the date of the enactment of this Act, but only with respect to claims submitted on or after the later of January 1, 1998, or the date such entry, renewal, or extension becomes effective.

SEC. 10305. EXCLUSION OF ENTITY CONTROLLED BY FAMILY MEMBER OF A SANCTIONED INDIVIDUAL.

(a) In General.—Section 1128 (42 U.S.C. 1320a–7) is amended—

(1) in subsection (b)(8)(A)—

(A) by striking “or” at the end of clause (i), and

(B) by striking the dash at the end of clause (ii) and inserting “; or”, and

(C) by inserting after clause (ii) the following:

“(iii) who was described in clause (i) but is no longer so described because of a transfer of ownership or control interest, in anticipation of (or following) a conviction, assessment, or exclusion described in subparagraph (B) against the person, to an immediate family member (as defined in subsection (j)(1)) or a member of the household of the person (as defined in subsection (j)(2)) who continues to maintain an interest described in such clause—”; and

(2) by adding after subsection (i) the following new subsection:

“(j) Definition of Immediate Family Member and Member of Household.—For purposes of subsection (b)(8)(A)(iii):

“(1) The term ‘immediate family member’ means, with respect to a person—

“(A) the husband or wife of the person;

“(B) the natural or adoptive parent, child, or sibling of the person;

“(C) the stepparent, stepchild, stepbrother, or stepsister of the person;

“(D) the father-, mother-, daughter-, son-, brother-, or sister-in-law of the person;

“(E) the grandparent or grandchild of the person; and

“(F) the spouse of a grandparent or grandchild of the person.

“(2) The term ‘member of the household’ means, with respect to an person, any individual sharing a common abode as part of a single family unit with the person, including domestic employees and others who live together as a family unit, but not including a roomer or boarder.”.

(b) Effective Date.—The amendments made by subsection (a) shall take effect on the date that is 45 days after the date of the enactment of this Act.

SEC. 10306. IMPOSITION OF CIVIL MONEY PENALTIES.

(a) Civil Money Penalties for Persons That Contract With Excluded Individuals.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)) is amended—

(1) by striking “or” at the end of paragraph (4);

(2) by adding “or” at the end of paragraph (5); and

(3) by adding after paragraph (5) the following new paragraph:

“(6) arranges or contracts (by employment or otherwise) with an individual or entity that the person knows or should know is excluded from participation in a Federal health care program (as defined in section 1128B(f)), for the provision of items or services for which payment may be made under such a program;”.

(b) Civil Money Penalties for Services Ordered or Prescribed by an Excluded Individual or Entity.—Section 1128A(a)(1) (42 U.S.C. 1320a–7a(a)(1)) is amended—

(1) in subparagraph (D)—

(A) by inserting “, ordered, or prescribed by such person” after “other item or service furnished”;

(B) by inserting “(pursuant to this title or title XVIII)” after “period in which the person was excluded”; and

(C) by striking “pursuant to a determination by the Secretary” and all that follows through “the provisions of section 1842(j)(2)”; and

(D) by striking “or” at the end;

(2) by redesignating subparagraph (E) as subparagraph (F); and

(3) by inserting after subparagraph (D) the following new subparagraph:

“(E) is for a medical or other item or service ordered or prescribed by a person excluded (pursuant to this title or title XVIII) from the program under which the claim was made, and the person furnishing such item or service knows or should know of such exclusion, or”.

(c) Effective Dates.—

(1) Contracts with excluded persons.—The amendments made by subsection (a) shall apply to arrangements and contracts entered into after the date of the enactment of this Act.

(2) Services ordered or prescribed.—The amendments made by subsection (b) shall apply to items and services furnished ordered or prescribed after the date of the enactment of this Act.

SEC. 10307. DISCLOSURE OF INFORMATION AND SURETY BONDS.

(a) Disclosure of Information and Surety Bond Requirement for Suppliers of Durable Medical Equipment.—Section 1834(a) (42 U.S.C. 1395m(a)) is amended by inserting after paragraph (15) the following new paragraph:

“(16) Conditions for issuance of provider number.—The Secretary shall not provide for the issuance (or renewal) of a provider number for a supplier of durable medical equipment, for purposes of payment under this part for durable medical equipment furnished by the supplier, unless the supplier provides the Secretary on a continuing basis with—

“(A)(i) full and complete information as to the identity of each person with an ownership or control interest (as defined in section 1124(a)(3)) in the supplier or in any subcontractor (as defined by the Secretary in regulations) in which the supplier directly or indirectly has a 5 percent or more ownership interest, and

“(ii) to the extent determined to be feasible under regulations of the Secretary, the name of any disclosing entity (as defined in section 1124(a)(2)) with respect to which a person with such an ownership or control interest in the supplier is a person with such an ownership or control interest in the disclosing entity; and

“(B) a surety bond in a form specified by the Secretary and in an amount that is not less than $50,000.

The Secretary may waive the requirement of a bond under subparagraph (B) in the case of a supplier that provides a comparable surety bond under State law.”.

(b) Surety Bond Requirement for Home Health Agencies.—

(1) In general.—Section 1861(o) (42 U.S.C. 1395x(o)) is amended—

(A) in paragraph (7), by inserting “and including providing the Secretary on a continuing basis with a surety bond in a form specified by the Secretary and in an amount that is not less than $50,000” after “financial security of the program”, and

(B) by adding at the end the following: “The Secretary may waive the requirement of a bond under paragraph (7) in the case of an agency or organization that provides a comparable surety bond under State law.”.

(2) Conforming amendments.—Section 1861(v)(1)(H) (42 U.S.C. 1395x(v)(1)(H)) is amended—

(A) in clause (i), by striking "the financial security requirement" and inserting "the financial security and surety bond requirements"; and

(B) in clause (ii), by striking "the financial security requirement described in subsection (o)(7) applies" and inserting "the financial security and surety bond requirements described in subsection (o)(7) apply".

(3) Reference to current disclosure requirement.—For provision of current law requiring home health agencies to disclose information on ownership and control interests, see section 1124 of the Social Security Act.

(c) Authorizing Application of Disclosure and Surety Bond Requirements to Ambulance Services and Certain Clinics.—Section 1834(a)(16) (42 U.S.C. 1395m(a)(16)), as added by subsection (a), is amended by adding at the end the following: "The Secretary, in the Secretary's discretion, may impose the requirements of the previous sentence with respect to some or all classes of suppliers of ambulance services described in section 1861(s)(7) and clinics that furnish medical and other health services (other than physicians' services) under this part.".

(d) Application to Comprehensive Outpatient Rehabilitation Facilities (CORFs).—Section 1861(cc)(2) (42 U.S.C. 1395x(cc)(2)) is amended—

(1) in subparagraph (I), by inserting before the period at the end the following: "and providing the Secretary on a continuing basis with a surety bond in a form specified by the Secretary and in an amount that is not less than $50,000", and

(2) by adding after and below subparagraph (I) the following:

"The Secretary may waive the requirement of a bond under subparagraph (I) in the case of a facility that provides a comparable surety bond under State law.".

(e) Application to Rehabilitation Agencies.—Section 1861(p) (42 U.S.C. 1395x(p)) is amended—

(1) in paragraph (4)(A)(v), by inserting after "as the Secretary may find necessary," the following: "and provides the Secretary, to the extent required by the Secretary, on a continuing basis with a surety bond in a form specified by the Secretary and in an amount that is not less than $50,000,", and

(2) by adding at the end the following: "The Secretary may waive the requirement of a bond under paragraph (4)(A)(v) in the case of a clinic or agency that provides a comparable surety bond under State law.".

(f) Effective Dates.—(1) The amendment made by subsection (a) shall apply to suppliers of durable medical equipment with respect to such equipment furnished on or after January 1, 1998.

(2) The amendments made by subsection (b) shall apply to home health agencies with respect to services furnished on or after such date. The Secretary of Health and Human Services shall modify participation agreements under section 1866(a)(1) of the Social Security Act with respect to home health agencies to provide for implementation of such amendments on a timely basis.

(3) The amendments made by subsections (c) through (e) shall take effect on the date of the enactment of this Act and may be applied with respect to items and services furnished on or after the date specified in paragraph (1).

SEC. 10308. PROVISION OF CERTAIN IDENTIFICATION NUMBERS.

(a) Requirements to Disclose Employer Identification Numbers (EINS) and Social Security Account Numbers (SSNs).—Section 1124(a)(1) (42 U.S.C. 1320a–3(a)(1)) is amended by inserting before the period at the end the following: "and supply the Secretary with the both the employer identification number (assigned pursuant to section 6109 of the Internal Revenue Code of 1986) and social security account number (assigned under section 205(c)(2)(B)) of the disclosing entity, each person with an ownership or control interest (as defined in subsection (a)(3)), and any subcontractor in which the entity directly or indirectly has a 5 percent or more ownership interest".

(b) Other Medicare Providers.—Section 1124A (42 U.S.C. 1320a–3a) is amended—

(1) in subsection (a)—

(A) by striking "and" at the end of paragraph (1);

(B) by striking the period at the end of paragraph (2) and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(3) including the employer identification number (assigned pursuant to section 6109 of the Internal Revenue Code of 1986) and social security account number (assigned under section 205(c)(2)(B)) of the disclosing part B provider and any person, managing employee, or other entity identified or described under paragraph (1) or (2)."; and

(2) in subsection (c) by inserting "(or, for purposes of subsection (a)(3), any entity receiving payment)" after "on an assignment-related basis".

(c) Verification by Social Security Administration (SSA).—Section 1124A (42 U.S.C. 1320a–3a) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

"(c) Verification.—

"(1) Transmittal by HHS.—The Secretary shall transmit—

"(A) to the Commissioner of Social Security information concerning each social security account number (assigned under section 205(c)(2)(B)), and

"(B) to the Secretary of the Treasury information concerning each employer identification number (assigned pursuant to section 6109 of the Internal Revenue Code of 1986),

supplied to the Secretary pursuant to subsection (a)(3) or section 1124(c) to the extent necessary for verification of such information in accordance with paragraph (2).

"(2) Verification.—The Commissioner of Social Security and the Secretary of the Treasury shall verify the accuracy of, or correct, the information supplied by the Secretary to such official pursuant to paragraph (1), and shall report such verifications or corrections to the Secretary.

"(3) Fees for verification.—The Secretary shall reimburse the Commissioner and Secretary of the Treasury, at a rate negotiated between the Secretary and such official, for the costs incurred by such official in performing the verification and correction services described in this subsection.".

(d) Report.—The Secretary of Health and Human Services shall submit to Congress a report on steps the Secretary has taken to assure the confidentiality of social security account numbers that will be provided to the Secretary under the amendments made by this section.

(e) Effective Dates.—

(1) The amendment made by subsection (a) shall apply to the application of conditions of participation, and entering into and renewal of contracts and agreements, occurring more than 90 days after the date of submission of the report under subsection (d).

(2) The amendments made by subsection (b) shall apply to payment for items and services furnished more than 90 days after the date of submission of such report.

SEC. 10309. ADVISORY OPINIONS REGARDING CERTAIN PHYSICIAN SELF-REFERRAL PROVISIONS.

Section 1877(g) (42 U.S.C. 1395nn(g)) is amended by adding at the end the following new paragraph:

"(6) Advisory opinions.—

"(A) In general.—The Secretary shall issue written advisory opinions concerning whether a referral relating to designated health services (other than clinical laboratory services) is prohibited under this section.

"(B) Binding as to secretary and parties involved.—Each advisory opinion issued by the Secretary shall be binding as to the Secretary and the party or parties requesting the opinion.

"(C) Application of certain procedures.—The Secretary shall, to the extent practicable, apply the regulations promulgated under section 1128D(b)(5) to the issuance of advisory opinions under this paragraph.

"(D) Applicability.—This paragraph shall apply to requests for advisory opinions made during the period described in section 1128D(b)(6).".

SEC. 10310. OTHER FRAUD AND ABUSE RELATED PROVISIONS.

(a) Reference Correction.—(1) Section 1128D(b)(2)(D) (42 U.S.C. 1320a–7d(b)(2)(D)), as added by section 205 of the Health Insurance Portability and Accountability Act of 1996, is amended by striking "1128B(b)" and inserting "1128A(b)".

(2) Section 1128E(g)(3)(C) (42 U.S.C. 1320a–7e(g)(3)(C)) is amended by striking "Veterans' Administration" and inserting "Department of Veterans Affairs".

(b) Language in Definition of Conviction.—Section 1128E(g)(5) (42 U.S.C. 1320a–7e(g)(5)), as inserted by section 221(a) of the Health Insurance Portability and Accountability Act of 1996, is amended by striking "paragraph (4)" and inserting "paragraphs (1) through (4)".

(c) Implementation of Exclusions.—Section 1128 (42 U.S.C. 1320a–7) is amended—

(1) in subsection (a), by striking "any program under title XVIII and shall direct that the following individuals and entities be excluded from participation in any State health care program (as defined in subsection (h))" and inserting "any Federal health care program (as defined in section 1128B(f))"; and

(2) in subsection (b), by striking "any program under title XVIII and may direct that the following individuals and entities be excluded from participation in any State health care program" and inserting "any Federal health care program (as defined in section 1128B(f))".

(d) Sanctions for Failure to Report.—Section 1128E(b) (42 U.S.C. 1320a–7e(b)), as inserted by section 221(a) of the Health Insurance Portability and Accountability Act of 1996, is amended by adding at the end the following:

"(6) Sanctions for failure to report.—

"(A) Health plans.—Any health plan that fails to report information on an adverse action required to be reported under this subsection shall be subject to a civil money penalty of not more than $25,000 for each such adverse action not reported. Such penalty shall be imposed and collected in the same manner as civil money penalties under subsection (a) of section 1128A are imposed and collected under that section.

“(B) Governmental agencies.—The Secretary shall provide for a publication of a public report that identifies those Government agencies that have failed to report information on adverse actions as required to be reported under this subsection.”.

(e) Effective Dates.—

(1) In general.—Except as provided in this subsection, the amendments made by this section shall be effective as if included in the enactment of the Health Insurance Portability and Accountability Act of 1996.

(2) Federal health program.—The amendments made by subsection (c) shall take effect on the date of the enactment of this Act.

(3) Sanction for failure to report.—The amendment made by subsection (d) shall apply to failures occurring on or after the date of the enactment of this Act.

Subtitle E—Prospective Payment Systems

CHAPTER 1—PAYMENT UNDER PART A

SEC. 10401. PROSPECTIVE PAYMENT FOR SKILLED NURSING FACILITY SERVICES.

(a) In General.—Section 1888 (42 U.S.C. 1395yy) is amended by adding at the end the following new subsection:

“(e) Prospective Payment.—

“(1) Payment provision.—Notwithstanding any other provision of this title, subject to paragraph (7), the amount of the payment for all costs (as defined in paragraph (2)(B)) of covered skilled nursing facility services (as defined in paragraph (2)(A)) for each day of such services furnished—

“(A) in a cost reporting period during the transition period (as defined in paragraph (2)(E)), is equal to the sum of—

“(i) the non-Federal percentage of the facility-specific per diem rate (computed under paragraph (3)), and

“(ii) the Federal percentage of the adjusted Federal per diem rate (determined under paragraph (4)) applicable to the facility; and

“(B) after the transition period is equal to the adjusted Federal per diem rate applicable to the facility.

“(2) Definitions.—For purposes of this subsection:

“(A) Covered skilled nursing facility services.—

“(i) In general.—The term ‘covered skilled nursing facility services’—

“(I) means post-hospital extended care services as defined in section 1861(i) for which benefits are provided under part A; and

“(II) includes all items and services (other than services described in clause (ii)) for which payment may be made under part B and which are furnished to an individual who is a resident of a skilled nursing facility during the period in which the individual is provided covered post-hospital extended care services.

“(ii) Services excluded.—Services described in this clause are physicians' services, services described by clauses (i) through (iii) of section 1861(s)(2)(K), certified nurse-midwife services, qualified psychologist services, services of a certified registered nurse anesthetist, items and services described in subparagraphs in (F) and (O) of section 1861(s)(2), and, only with respect to services furnished during 1998, the transportation costs of electrocardiogram equipment for electrocardiogram tests services (HCPCS Code R0076). Services described in this clause do not include any physical, occupational, or speech-language therapy services regardless of whether or not the services are furnished by, or under the supervision of, a physician or other health care professional.

“(B) All costs.—The term ‘all costs’ means routine service costs, ancillary costs, and capital-related costs of covered skilled nursing facility services, but does not include costs associated with approved educational activities.

“(C) Non-federal percentage; federal percentage.—For—

“(i) the first cost reporting period (as defined in subparagraph (D)) of a facility, the ‘non-Federal percentage’ is 75 percent and the ‘Federal percentage’ is 25 percent;

“(ii) the next cost reporting period of such facility, the ‘non-Federal percentage’ is 50 percent and the ‘Federal percentage’ is 50 percent; and

“(iii) the subsequent cost reporting period of such facility, the ‘non-Federal percentage’ is 25 percent and the ‘Federal percentage’ is 75 percent.

“(D) First cost reporting period.—The term ‘first cost reporting period’ means, with respect to a skilled nursing facility, the first cost reporting period of the facility beginning on or after July 1, 1998.

“(E) Transition period.—

“(i) In general.—The term ‘transition period’ means, with respect to a skilled nursing facility, the 3 cost reporting periods of the facility beginning with the first cost reporting period.

“(ii) Treatment of new skilled nursing facilities.—In the case of a skilled nursing facility that does not have a settled cost report for a cost reporting period before July 1, 1998, payment for such services shall be made under this subsection as if all services were furnished after the transition period.

“(3) Determination of facility specific per diem rates.—The Secretary shall determine a facility-specific per diem rate for each skilled nursing facility for a cost reporting period as follows:

“(A) Determining base payments.—The Secretary shall determine, on a per diem basis, the total of—

“(i) the allowable costs of extended care services for the facility for cost reporting periods beginning in 1995 with appropriate adjustments (as determined by the Secretary) to non-settled cost reports, and

“(ii) an estimate of the amounts that would be payable under part B (disregarding any applicable deductibles, coinsurance and copayments) for covered skilled nursing facility services described in paragraph (2)(A)(i)(II) furnished during such period to an individual who is a resident of the facility, regardless of whether or not the payment was made to the facility or to another entity.

“(B) Update to cost reporting period before first cost reporting period.—The Secretary shall update the amount determined under subparagraph (A), for each cost reporting period after the cost reporting period described in subparagraph (A)(i) and up to the cost reporting period immediately preceding the first cost reporting period, by the skilled nursing facility historical trend factor.

“(C) Updating to applicable cost reporting period.—The Secretary shall further update such amount for each cost reporting period beginning with the first cost reporting period and up to and including the cost reporting period involved by a factor equal to the skilled nursing facility market basket percentage increase.

“(4) Federal per diem rate.—

“(A) Determination of historical per diem for freestanding facilities.—For each freestanding skilled nursing facility that received payments for post-hospital extended care services during a cost reporting period beginning in fiscal year 1995 and that was subject to (and not exempted from) the per diem limits referred to in paragraph (1) or (2) of subsection (a) (and facilities described in subsection (d), if appropriate), the Secretary shall estimate, on a per diem basis for such cost reporting period, the total of—

“(i) the allowable costs of extended care services for the facility for cost reporting periods beginning in 1995 with appropriate adjustments (as determined by the Secretary) to non-settled cost reports, and

“(ii) an estimate of the amounts that would be payable under part B (disregarding any applicable deductibles, coinsurance and copayments) for covered skilled nursing facility services described in paragraph (2)(A)(i)(II) furnished during such period to an individual who is a resident of the facility, regardless of whether or not the payment was made to the facility or to another entity.

“(B) Update to fiscal year 1998.—The Secretary shall update the amount determined under subparagraph (A), for each cost reporting period after the cost reporting period described in subparagraph (A)(i) and up to the cost reporting period immediately preceding the first cost reporting period, by the skilled nursing facility historical trend factor for such period.

“(C) Computation of standardized per diem rate.—The Secretary shall standardize the amount updated under subparagraph (B) for each facility by—

“(i) adjusting for variations among facility by area in the average facility wage level per diem, and

“(ii) adjusting for variations in case mix per diem among facilities.

“(D) Computation of weighted average per diem rate.—The Secretary shall compute a weighted average per diem rate by computing an average of the standardized amounts computed under subparagraph (C), weighted for each facility by number of days of extended care services furnished during the cost reporting period referred to in subparagraph (A). The Secretary may compute and apply such average separately for facilities located in urban and rural areas (as defined in section 1886(d)(2)(D)).

“(E) Updating.—

“(i) Fiscal year 1998.—For fiscal year 1998, the Secretary shall compute for each skilled nursing facility an unadjusted Federal per diem rate equal to the weighted average per diem rate computed under subparagraph (D) and applicable to the facility increased by skilled nursing facility market basket percentage change for the fiscal year involved.

“(ii) Subsequent fiscal years.—For each subsequent fiscal year the Secretary shall compute for each skilled nursing facility an unadjusted Federal per diem rate equal to the Federal per diem rate computed under this subparagraph for the previous fiscal year and applicable to the facility increased by the skilled nursing facility market basket percentage change for the fiscal year involved.

“(F) Adjustment for case mix creep.—Insofar as the Secretary determines that such adjustments under subparagraph (G)(i) for a previous fiscal year (or estimates that such adjustments for a future fiscal year) did (or are likely to) result in a change in aggregate payments under this subsection during the fiscal year that are a result of changes in the coding or classification of residents that do not reflect real changes in case mix, the Secretary may adjust unadjusted Federal per diem rates for subsequent years so as to discount the effect of such coding or classification changes.

"(G) Application to specific facilities.—The Secretary shall compute for each skilled nursing facility for each fiscal year (beginning with fiscal year 1998) an adjusted Federal per diem rate equal to the unadjusted Federal per diem rate determined under subparagraph (E), as adjusted under subparagraph (F), and as further adjusted as follows:

"(i) Adjustment for case mix.—The Secretary shall provide for an appropriate adjustment to account for case mix. Such adjustment shall be based on a resident classification system, established by the Secretary, that accounts for the relative resource utilization of different patient types. The case mix adjustment shall be based on resident assessment data and other data that the Secretary considers appropriate.

"(ii) Adjustment for geographic variations in labor costs.—The Secretary shall adjust the portion of such per diem rate attributable to wages and wage-related costs for the area in which the facility is located compared to the national average of such costs using an appropriate wage index as determined by the Secretary. Such adjustment shall be done in a manner that does not result in aggregate payments under this subsection that are greater or less than those that would otherwise be made if such adjustment had not been made.

"(H) Publication of information on per diem rates.—The Secretary shall provide for publication in the Federal Register, before the July 1 preceding each fiscal year (beginning with fiscal year 1999), of—

"(i) the unadjusted Federal per diem rates to be applied to days of covered skilled nursing facility services furnished during the fiscal year,

"(ii) the case mix classification system to be applied under subparagraph (G)(i) with respect to such services during the fiscal year, and

"(iii) the factors to be applied in making the area wage adjustment under subparagraph (G)(ii) with respect to such services.

"(5) Skilled nursing facility market basket index, percentage, and historical trend factor.—For purposes of this subsection:

"(A) Skilled nursing facility market basket index.—The Secretary shall establish a skilled nursing facility market basket index that reflects changes over time in the prices of an appropriate mix of goods and services included in covered skilled nursing facility services.

"(B) Skilled nursing facility market basket percentage.—The term 'skilled nursing facility market basket percentage' means, for a fiscal year or other annual period and as calculated by the Secretary, the percentage change in the skilled nursing facility market basket index (established under subparagraph (A)) from the midpoint of the prior fiscal year (or period) to the midpoint of the fiscal year (or other period) involved.

"(C) Skilled nursing facility historical trend factor.—The term 'skilled nursing facility historical trend factor' means, for a fiscal year or other annual period and as calculated by the Secretary, the percentage change in the skilled nursing facility routine cost index (used in applying per diem routine cost limits under subsection (a)) from the midpoint of the prior fiscal year (or period) to the midpoint of the fiscal year (or other period) involved, reduced (on an annualized basis) by 1 percentage point.

"(6) Submission of resident assessment data.—A skilled nursing facility shall provide the Secretary, in a manner and within the timeframes prescribed by the Secretary, the resident assessment data necessary to develop and implement the rates under this subsection. For purposes of meeting such requirement, a skilled nursing facility may submit the resident assessment data required under section 1819(b)(3), using the standard instrument designated by the State under section 1819(e)(5).

"(7) Transition for medicare low volume skilled nursing facilities and swing bed hospitals.—

"(A) In general.—The Secretary shall determine an appropriate manner in which to apply this subsection to the facilities described in subparagraph (B), taking into account the purposes of this subsection, and shall provide that at the end of the transition period (as defined in paragraph (2)(E)) such facilities shall be paid only under this subsection. Payment shall not be made under this subsection to such facilities for cost reporting periods beginning before such date (not earlier than July 1, 1999) as the Secretary specifies.

"(B) Facilities described.—The facilities described in this subparagraph are—

"(i) skilled nursing facilities for which payment is made for routine service costs during a cost reporting period, ending prior to the date of the implementation of this paragraph, on the basis of prospective payments under section 1888(d), or

"(ii) facilities that have in effect an agreement described in section 1883, for which payment is made for the furnishing of extended care services on a reasonable cost basis under section 1814(l) (as in effect on and after such date).

"(8) Limitation on review.—There shall be no administrative or judicial review under section 1869, 1878, or otherwise of—

"(A) the establishment of facility specific per diem rates under paragraph (3);

"(B) the establishment of Federal per diem rates under paragraph (4), including the computation of the standardized per diem rates under paragraph (4)(C), adjustments and corrections for case mix under paragraphs (4)(F) and (4)(G)(i), and adjustments for variations in labor-related costs under paragraph (4)(G)(ii); and

"(C) the establishment of transitional amounts under paragraph (7).".

(b) Consolidated Billing.—

(1) For snf services.—Section 1862(a) (42 U.S.C. 1395y(a)) is amended—

(A) by striking "or" at the end of paragraph (15),

(B) by striking the period at the end of paragraph (16) and inserting "; or", and

(C) by inserting after paragraph (16) the following new paragraph:

"(17) which are covered skilled nursing facility services described in section 1888(e)(2)(A)(i) and which are furnished to an individual who is a resident of a skilled nursing facility by an entity other than the skilled nursing facility, unless the services are furnished under arrangements (as defined in section 1861(w)(1)) with the entity made by the skilled nursing facility.".

(2) Requiring payment for all part b items and services to be made to facility.—The first sentence of section 1842(b)(6) (42 U.S.C. 1395u(b)(6)) is amended—

(A) by striking "and (D)" and inserting "(D)"; and

(B) by striking the period at the end and inserting the following: ", and (E) in the case of an item or service (other than services described in section 1888(e)(2)(A)(ii)) furnished to an individual who (at the time the item or service is furnished) is a resident of a skilled nursing facility, payment shall be made to the facility (without regard to whether or not the item or service was furnished by the facility, by others under arrangement with them made by the facility, under any other contracting or consulting arrangement, or otherwise).".

(3) Payment rules.—Section 1888(e) (42 U.S.C. 1395yy(e)), as added by subsection (a), is amended by adding at the end the following:

"(9) Payment for certain services.—In the case of an item or service furnished by a skilled nursing facility (or by others under arrangement with them made by a skilled nursing facility or under any other contracting or consulting arrangement or otherwise) for which payment would otherwise (but for this paragraph) be made under part B in an amount determined in accordance with section 1833(a)(2)(B), the amount of the payment under such part shall be based on such existing or other fee schedules as the Secretary establishes.

"(10) Required coding.—No payment may be made under part B for items and services (other than services described in paragraph (2)(A)(ii)) furnished to an individual who is a resident of a skilled nursing facility unless the claim for such payment includes a code (or codes) under a uniform coding system specified by the Secretary that identifies the items or services delivered.".

(4) Conforming amendments.—

(A) Section 1819(b)(3)(C)(i) (42 U.S.C. 1395i-3(b)(3)(C)(i)) is amended by striking "Such" and inserting "Subject to the timeframes prescribed by the Secretary under section 1888(t)(6), such".

(B) Section 1832(a)(1) (42 U.S.C. 1395k(a)(1)) is amended by striking "(2);" and inserting "(2) and section 1842(b)(6)(E);".

(C) Section 1833(a)(2)(B) (42 U.S.C. 1395l(a)(2)(B)) is amended by inserting "or section 1888(e)(9)" after "section 1886".

(D) Section 1861(h) (42 U.S.C 1395x(h)) is amended—

(i) in the opening paragraph, by striking "paragraphs (3) and (6)" and inserting "paragraphs (3), (6), and (7)", and

(ii) in paragraph (7), after "skilled nursing facilities", by inserting ", or by others under arrangements with them made by the facility".

(E) Section 1866(a)(1)(H) (42 U.S.C. 1395cc(a)(1)(H)) is amended—

(i) by redesignating clauses (i) and (ii) as subclauses (I) and (II) respectively,

(ii) by inserting "(i)" after "(H)", and

(iii) by adding after clause (i), as so redesignated, the following new clause:

"(ii) in the case of skilled nursing facilities which provide covered skilled nursing facility services—

"(I) that are furnished to an individual who is a resident of the skilled nursing facility, and

"(II) for which the individual is entitled to have payment made under this title,

to have items and services (other than services described in section 1888(e)(2)(A)(ii)) furnished by the skilled nursing facility or otherwise under arrangements (as defined in section 1861(w)(1)) made by the skilled nursing facility,".

(c) Medical Review Process.—In order to ensure that medicare beneficiaries are furnished appropriate services in skilled nursing facilities, the Secretary of Health and Human Services shall establish and implement a thorough medical review process to examine the effects of the amendments made by this section on the quality of covered skilled nursing facility services furnished to medicare beneficiaries. In developing such a medical review process, the Secretary shall place a particular emphasis on the quality of non-routine covered services and physicians' services for which payment is made under title XVIII of the Social Security Act for which payment is made under section 1848 of such Act.

(d) EFFECTIVE DATE.—The amendments made by this section are effective for cost reporting periods beginning on or after July 1, 1998; except that the amendments made by subsection (b) shall apply to items and services furnished on or after July 1, 1998.

SEC. 10402. PROSPECTIVE PAYMENT FOR INPATIENT REHABILITATION HOSPITAL SERVICES.

(a) IN GENERAL.—Section 1886 (42 U.S.C. 1395ww) is amended by adding at the end the following new subsection:

"(j) PROSPECTIVE PAYMENT FOR INPATIENT REHABILITATION SERVICES.—

"(1) PAYMENT DURING TRANSITION PERIOD.—

"(A) IN GENERAL.—Notwithstanding section 1814(b), but subject to the provisions of section 1813, the amount of the payment with respect to the operating and capital costs of inpatient hospital services of a rehabilitation hospital or a rehabilitation unit (in this subsection referred to as a 'rehabilitation facility'), in a cost reporting period beginning on or after October 1, 2000, and before October 1, 2003, is equal to the sum of—

"(i) the TEFRA percentage (as defined in subparagraph (C)) of the amount that would have been paid under part A with respect to such costs if this subsection did not apply, and

"(ii) the prospective payment percentage (as defined in subparagraph (C)) of the product of (I) the per unit payment rate established under this subsection for the fiscal year in which the payment unit of service occurs, and (II) the number of such payment units occurring in the cost reporting period.

"(B) FULLY IMPLEMENTED SYSTEM.—Notwithstanding section 1814(b), but subject to the provisions of section 1813, the amount of the payment with respect to the operating and capital costs of inpatient hospital services of a rehabilitation facility for a payment unit in a cost reporting period beginning on or after October 1, 2003, is equal to the per unit payment rate established under this subsection for the fiscal year in which the payment unit of service occurs.

"(C) TEFRA AND PROSPECTIVE PAYMENT PERCENTAGES SPECIFIED.—For purposes of subparagraph (A), for a cost reporting period beginning—

"(i) on or after October 1, 2000, and before October 1, 2001, the 'TEFRA percentage' is 75 percent and the 'prospective payment percentage' is 25 percent;

"(ii) on or after October 1, 2001, and before October 1, 2002, the 'TEFRA percentage' is 50 percent and the 'prospective payment percentage' is 50 percent; and

"(iii) on or after October 1, 2002, and before October 1, 2003, the 'TEFRA percentage' is 25 percent and the 'prospective payment percentage' is 75 percent.

"(D) PAYMENT UNIT.—For purposes of this subsection, the term 'payment unit' means a discharge, day of inpatient hospital services, or other unit of payment defined by the Secretary.

"(2) PATIENT CASE MIX GROUPS.—

"(A) ESTABLISHMENT.—The Secretary shall establish—

"(i) classes of patients of rehabilitation facilities (each in this subsection referred to as a 'case mix group'), based on such factors as the Secretary deems appropriate, which may include impairment, age, related prior hospitalization, comorbidities, and functional capability of the patient; and

"(ii) a method of classifying specific patients in rehabilitation facilities within these groups.

"(B) WEIGHTING FACTORS.—For each case mix group the Secretary shall assign an appropriate weighting which reflects the relative facility resources used with respect to patients classified within that group compared to patients classified within other groups.

"(C) ADJUSTMENTS FOR CASE MIX.—

"(i) IN GENERAL.—The Secretary shall from time to time adjust the classifications and weighting factors established under this paragraph as appropriate to reflect changes in treatment patterns, technology, case mix, number of payment units for which payment is made under this title, and other factors which may affect the relative use of resources. Such adjustments shall be made in a manner so that changes in aggregate payments under the classification system are a result of real changes and are not a result of changes in coding that are unrelated to real changes in case mix.

"(ii) ADJUSTMENT.—Insofar as the Secretary determines that such adjustments for a previous fiscal year (or estimates that such adjustments for a future fiscal year) did (or are likely to) result in a change in aggregate payments under the classification system during the fiscal year that are a result of changes in the coding or classification of patients that do not reflect real changes in case mix, the Secretary shall adjust the per payment unit payment rate for subsequent years so as to discount the effect of such coding or classification changes.

"(D) DATA COLLECTION.—The Secretary is authorized to require rehabilitation facilities that provide inpatient hospital services to submit such data as the Secretary deems necessary to establish and administer the prospective payment system under this subsection.

"(3) PAYMENT RATE.—

"(A) IN GENERAL.—The Secretary shall determine a prospective payment rate for each payment unit for which such rehabilitation facility is entitled to receive payment under this title. Subject to subparagraph (B), such rate for payment units occurring during a fiscal year shall be based on the average payment per payment unit under this title for inpatient operating and capital costs of rehabilitation facilities using the most recent data available (as estimated by the Secretary as of the date of establishment of the system) adjusted—

"(i) by updating such per-payment-unit amount to the fiscal year involved by the weighted average of the applicable percentage increases provided under subsection (b)(3)(B)(ii) (for cost reporting periods beginning during the fiscal year) covering the period from the midpoint of the period for such data through the midpoint of fiscal year 2000 and by an increase factor (described in subparagraph (C)) specified by the Secretary for subsequent fiscal years up to the fiscal year involved;

"(ii) by reducing such rates by a factor equal to the proportion of payments under this subsection (as estimated by the Secretary) based on prospective payment amounts which are additional payments described in paragraph (4) (relating to outlier and related payments) or paragraph (7);

"(iii) for variations among rehabilitation facilities by area under paragraph (6);

"(iv) by the weighting factors established under paragraph (2)(B); and

"(v) by such other factors as the Secretary determines are necessary to properly reflect variations in necessary costs of treatment among rehabilitation facilities.

"(B) BUDGET NEUTRAL RATES.—The Secretary shall establish the prospective payment amounts under this subsection for payment units during fiscal years 2001 through 2004 at levels such that, in the Secretary's estimation, the amount of total payments under this subsection for such fiscal years (including any payment adjustments pursuant to paragraphs (4), (6), and (7)) shall be equal to 99 percent of the amount of payments that would have been made under this title during the fiscal years for operating and capital costs of rehabilitation facilities had this subsection not been enacted. In establishing such payment amounts, the Secretary shall consider the effects of the prospective payment system established under this subsection on the total number of payment units from rehabilitation facilities and other factors described in subparagraph (A).

"(C) INCREASE FACTOR.—For purposes of this subsection for payment units in each fiscal year (beginning with fiscal year 2001), the Secretary shall establish an increase factor. Such factor shall be based on an appropriate percentage increase in a market basket of goods and services comprising services for which payment is made under this subsection, which may be the market basket percentage increase described in subsection (b)(3)(B)(iii).

"(4) OUTLIER AND SPECIAL PAYMENTS.—

"(A) OUTLIERS.—

"(i) IN GENERAL.—The Secretary may provide for an additional payment to a rehabilitation facility for patients in a case mix group, based upon the patient being classified as an outlier based on an unusual length of stay, costs, or other factors specified by the Secretary.

"(ii) PAYMENT BASED ON MARGINAL COST OF CARE.—The amount of such additional payment under clause (i) shall be determined by the Secretary and shall approximate the marginal cost of care beyond the cutoff point applicable under clause (i).

"(iii) TOTAL PAYMENTS.—The total amount of the additional payments made under this subparagraph for payment units in a fiscal year may not exceed 5 percent of the total payments projected or estimated to be made based on prospective payment rates for payment units in that year.

"(B) ADJUSTMENT.—The Secretary may provide for such adjustments to the payment amounts under this subsection as the Secretary deems appropriate to take into account the unique circumstances of rehabilitation facilities located in Alaska and Hawaii.

"(5) PUBLICATION.—The Secretary shall provide for publication in the Federal Register, on or before September 1 before each fiscal year (beginning with fiscal year 2001, of the classification and weighting factors for case mix groups under paragraph (2) for such fiscal year and a description of the methodology and data used in computing the prospective payment rates under this subsection for that fiscal year.

"(6) AREA WAGE ADJUSTMENT.—The Secretary shall adjust the proportion, (as estimated by the Secretary from time to time) of rehabilitation facilities' costs which are attributable to wages and wage-related costs, of the prospective payment rates computed under paragraph (3) for area differences in wage levels by a factor (established by the Secretary) reflecting the relative hospital wage level in the geographic area of the rehabilitation facility compared to the national average wage level for such facilities. Not later than October 1, 2001 (and at least every 36 months thereafter), the Secretary shall update the factor under the preceding sentence on the basis of a survey conducted by the Secretary (and updated as appropriate) of the wages and wage-related costs incurred in furnishing rehabilitation services. Any adjustments or updates made under this paragraph for a fiscal year shall be made in a manner that assures that the aggregated payments under this subsection in the fiscal year are not greater or less than those that would have been made in the year without such adjustment.

"(7) ADDITIONAL ADJUSTMENTS.—The Secretary may provide by regulation for—

"(A) an additional payment to take into account indirect costs of medical education and the special circumstances of hospitals that serve a significantly disproportionate number of low-income patients in a manner similar to that provided under subparagraphs (B) and (F), respectively, of subsection (d)(5); and

"(B) such other exceptions and adjustments to payment amounts under this subsection in a manner similar to that provided under subsection (d)(5)(I) in relation to payments under subsection (d).

"(8) LIMITATION ON REVIEW.—There shall be no administrative or judicial review under section 1869, 1878, or otherwise of—

"(A) the establishment of case mix groups, of the methodology for the classification of patients within such groups, and of the appropriate weighting factors thereof under paragraph (2),

"(B) the establishment of the prospective payment rates under paragraph (3),

"(C) the establishment of outlier and special payments under paragraph (4),

"(D) the establishment of area wage adjustments under paragraph (6), and

"(E) the establishment of additional adjustments under paragraph (7).".

(b) CONFORMING AMENDMENTS.—Section 1886(b) of such Act (42 U.S.C. 1395ww(b)) is amended—

(1) in paragraph (1), by inserting "and other than a rehabilitation facility described in subsection (j)(1)" after "subsection (d)(1)(B)", and

(2) in paragraph (3)(B)(i), by inserting "and subsection (j)" after "For purposes of subsection (d)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to cost reporting periods beginning on or after October 1, 2000, except that the Secretary of Health and Human Services may require the submission of data under section 1886(j)(2)(D) of the Social Security Act (as added by subsection (a)) on and after the date of the enactment of this section.

CHAPTER 2—PAYMENT UNDER PART B

Subchapter A—Payment for Hospital Outpatient Department Services

SEC. 10411. ELIMINATION OF FORMULA-DRIVEN OVERPAYMENTS (FDO) FOR CERTAIN OUTPATIENT HOSPITAL SERVICES.

(a) ELIMINATION OF FDO FOR AMBULATORY SURGICAL CENTER PROCEDURES.—Section 1833(i)(3)(B)(i)(II) (42 U.S.C. 1395l(i)(3)(B)(i)(II)) is amended—

(1) by striking "of 80 percent"; and

(2) by striking the period at the end and inserting the following: ", less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A).".

(b) ELIMINATION OF FDO FOR RADIOLOGY SERVICES AND DIAGNOSTIC PROCEDURES.—Section 1833(n)(1)(B)(i) (42 U.S.C. 1395l(n)(1)(B)(i)) is amended—

(1) by striking "of 80 percent", and

(2) by inserting before the period at the end the following: ", less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished during portions of cost reporting periods occurring on or after October 1, 1997.

SEC. 10412. EXTENSION OF REDUCTIONS IN PAYMENTS FOR COSTS OF HOSPITAL OUTPATIENT SERVICES.

(a) REDUCTION IN PAYMENTS FOR CAPITAL-RELATED COSTS.—Section 1861(v)(1)(S)(ii)(I) (42 U.S.C. 1395x(v)(1)(S)(ii)(I)) is amended by striking "through 1998" and inserting "through 1999 and during fiscal year 2000 before January 1, 2000".

(b) REDUCTION IN PAYMENTS FOR OTHER COSTS.—Section 1861(v)(1)(S)(ii)(II) (42 U.S.C. 1395x(v)(1)(S)(ii)(II)) is amended by striking "through 1998" and inserting "through 1999 and during fiscal year 2000 before January 1, 2000".

SEC. 10413. PROSPECTIVE PAYMENT SYSTEM FOR HOSPITAL OUTPATIENT DEPARTMENT SERVICES.

(a) IN GENERAL.—Section 1833 (42 U.S.C. 1395l) is amended by adding at the end the following:

"(t) PROSPECTIVE PAYMENT SYSTEM FOR HOSPITAL OUTPATIENT DEPARTMENT SERVICES.—

"(1) IN GENERAL.—With respect to hospital outpatient services designated by the Secretary (in this section referred to as 'covered OPD services') and furnished during a year beginning with 1999, the amount of payment under this part shall be determined under a prospective payment system established by the Secretary in accordance with this subsection.

"(2) SYSTEM REQUIREMENTS.—Under the payment system—

"(A) the Secretary shall develop a classification system for covered OPD services;

"(B) the Secretary may establish groups of covered OPD services, within the classification system described in subparagraph (A), so that services classified within each group are comparable clinically and with respect to the use of resources;

"(C) the Secretary shall, using data on claims from 1996 and using data from the most recent available cost reports, establish relative payment weights for covered OPD services (and any groups of such services described in subparagraph (B)) based on median hospital costs and shall determine projections of the frequency of utilization of each such service (or group of services) in 1999;

"(D) the Secretary shall determine a wage adjustment factor to adjust the portion of payment and coinsurance attributable to labor-related costs for relative differences in labor and labor-related costs across geographic regions in a budget neutral manner;

"(E) the Secretary shall establish other adjustments, in a budget neutral manner, as determined to be necessary to ensure equitable payments, such as outlier adjustments, adjustments to account for variations in coinsurance payments for procedures with similar resource costs, or adjustments for certain classes of hospitals; and

"(F) the Secretary shall develop a method for controlling unnecessary increases in the volume of covered OPD services.

"(3) CALCULATION OF BASE AMOUNTS.—

"(A) AGGREGATE AMOUNTS THAT WOULD BE PAYABLE IF DEDUCTIBLES WERE DISREGARDED.—The Secretary shall estimate the total amounts that would be payable from the Trust Fund under this part for covered OPD services in 1999, determined without regard to this subsection, as though the deductible under section 1833(b) did not apply, and as though the coinsurance described in section 1866(a)(2)(A)(ii) (as in effect before the date of the enactment of this subsection) continued to apply.

"(B) UNADJUSTED COPAYMENT AMOUNT.—

"(i) IN GENERAL.—For purposes of this subsection, subject to clause (ii), the 'unadjusted copayment amount' applicable to a covered OPD service (or group of such services) is 20 percent of national median of the charges for the service (or services within the group) furnished during 1996, updated to 1999 using the Secretary's estimate of charge growth during the period.

"(ii) ADJUSTED TO BE 20 PERCENT WHEN FULLY PHASED IN.—If the pre-deductible payment percentage for a covered OPD service (or group of such services) furnished in a year would be equal to or exceed 80 percent, then the unadjusted copayment amount shall be 25 percent of amount determined under subparagraph (D)(i).

"(iii) RULES FOR NEW SERVICES.—The Secretary shall establish rules for establishment of an unadjusted copayment amount for a covered OPD service not furnished during 1996, based upon its classification within a group of such services.

"(C) CALCULATION OF CONVERSION FACTORS.—

"(i) FOR 1999.—

"(I) IN GENERAL.—The Secretary shall establish a 1999 conversion factor for determining the medicare pre-deductible OPD fee payment amounts for each covered OPD service (or group of such services) furnished in 1999. Such conversion factor shall be established on the basis of the weights and frequencies described in paragraph (2)(C) and in a manner such that the sum for all services and groups of the products (described in subclause (II) for each such service or group) equals the total projected amount described in subparagraph (A).

"(II) PRODUCT DESCRIBED.—The product described in this subclause, for a service or group, is the product of the medicare pre-deductible OPD fee payment amounts (taking into account appropriate adjustments described in paragraphs (2)(D) and (2)(E)) and the frequencies for such service or group.

"(ii) SUBSEQUENT YEARS.—Subject to paragraph (8)(B), the Secretary shall establish a conversion factor for covered OPD services furnished in subsequent years in an amount equal to the conversion factor established under this subparagraph and applicable to such services furnished in the previous year increased by the OPD payment increase factor specified under clause (iii) for the year involved.

"(iii) OPD PAYMENT INCREASE FACTOR.—For purposes of this subparagraph, the 'OPD payment increase factor' for services furnished in a year is equal to the sum of—

"(I) market basket percentage increase (applicable under section 1886(b)(3)(B)(iii) to hospital discharges occurring during the fiscal year ending in such year, and

"(II) in the case of a covered OPD service (or group of such services) furnished in a year in which the pre-deductible payment percentage would not exceed 80 percent, 3.5 percentage points, but in no case greater than such number of percentage points as will result in the pre-deductible payment percentage exceeding 80 percent.

In applying the previous sentence for years beginning with 2000, the Secretary may substitute for the market basket percentage increase under subclause (I) an annual percentage increase that is computed and applied with respect to covered OPD services furnished in a year in the same manner as the market basket percentage increase is determined and applied to inpatient hospital services for discharges occurring in a fiscal year.

"(D) PRE-DEDUCTIBLE PAYMENT PERCENTAGE.—The pre-deductible payment percentage for a covered OPD service (or group of such services) furnished in a year is equal to the ratio of—

"(i) the conversion factor established under subparagraph (C) for the year, multiplied by the weighting factor established under paragraph (2)(C) for the service (or group), to

"(ii) the sum of the amount determined under clause (i) and the unadjusted copayment amount determined under subparagraph (B) for such service or group.

"(E) CALCULATION OF MEDICARE OPD FEE SCHEDULE AMOUNTS.—The Secretary shall compute a medicare OPD fee schedule amount for each covered OPD service (or group of such services) furnished in a year, in an amount equal to the product of—

"(i) the conversion factor computed under subparagraph (C) for the year, and

"(ii) the relative payment weight (determined under paragraph (2)(C)) for the service or group.

"(4) MEDICARE PAYMENT AMOUNT.—The amount of payment made from the Trust Fund under this part for a covered OPD service (and such services classified within a group) furnished in a year is determined as follows:

"(A) FEE SCHEDULE AND COPAYMENT AMOUNT.—Add (i) the medicare OPD fee schedule amount (computed under paragraph (3)(E)) for the service or group and year, and (ii) the unadjusted copayment amount (determined under paragraph (3)(B)) for the service or group.

"(B) SUBTRACT APPLICABLE DEDUCTIBLE.—Reduce the sum determined under subparagraph (A) by the amount of the deductible under section 1833(b), to the extent applicable.

"(C) APPLY PAYMENT PROPORTION TO REMAINDER.—Multiply the amount so determined under subparagraph (B) by the pre-deductible payment percentage (as determined under paragraph (3)(D)) for the service or group and year involved.

"(D) LABOR-RELATED ADJUSTMENT.—The amount of payment is the product determined under subparagraph (C) with the labor-related portion of such product adjusted for relative differences in the cost of labor and other factors determined by the Secretary, as computed under paragraph (2)(D).

"(5) COPAYMENT AMOUNT.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the copayment amount under this subsection is determined as follows:

"(i) UNADJUSTED COPAYMENT.—Compute the amount by which the amount described in paragraph (4)(B) exceeds the amount of payment determined under paragraph (4)(C).

"(ii) LABOR ADJUSTMENT.—The copayment amount is the difference determined under clause (i) with the labor-related portion of such difference adjusted for relative differences in the cost of labor and other factors determined by the Secretary, as computed under paragraphs (2)(D). The adjustment under this clause shall be made in a manner that does not result in any change in the aggregate copayments made in any year if the adjustment had not been made.

"(B) ELECTION TO OFFER REDUCED COPAYMENT AMOUNT.—The Secretary shall establish a procedure under which a hospital, before the beginning of a year (beginning with 1999), may elect to reduce the copayment amount otherwise established under subparagraph (A) for some or all covered OPD services to an amount that is not less than 25 percent of the medicare OPD fee schedule amount (computed under paragraph (3)(E)) for the service involved, adjusted for relative differences in the cost of labor and other factors determined by the Secretary, as computed under subparagraphs (D) and (E) of paragraph (2). Under such procedures, such reduced copayment amount may not be further reduced or increased during the year involved and the hospital may disseminate information on the reduction of copayment amount effected under this subparagraph.

"(C) NO IMPACT ON DEDUCTIBLES.—Nothing in this paragraph shall be construed as affecting a hospital's authority to waive the charging of a deductible under section 1833(b).

"(6) PERIODIC REVIEW AND ADJUSTMENTS COMPONENTS OF PROSPECTIVE PAYMENT SYSTEM.—

"(A) PERIODIC REVIEW.—The Secretary may periodically review and revise the groups, the relative payment weights, and the wage and other adjustments described in paragraph (2) to take into account changes in medical practice, changes in technology, the addition of new services, new cost data, and other relevant information and factors.

"(B) BUDGET NEUTRALITY ADJUSTMENT.—If the Secretary makes adjustments under subparagraph (A), then the adjustments for a year may not cause the estimated amount of expenditures under this part for the year to increase or decrease from the estimated amount of expenditures under this part that would have been made if the adjustments had not been made.

"(C) UPDATE FACTOR.—If the Secretary determines under methodologies described in subparagraph (2)(F) that the volume of services paid for under this subsection increased beyond amounts established through those methodologies, the Secretary may appropriately adjust the update to the conversion factor otherwise applicable in a subsequent year.

"(7) SPECIAL RULE FOR AMBULANCE SERVICES.—The Secretary shall pay for hospital outpatient services that are ambulance services on the basis described in the matter in subsection (a)(1) preceding subparagraph (A).

"(8) SPECIAL RULES FOR CERTAIN HOSPITALS.—In the case of hospitals described in section 1886(d)(1)(B)(v)—

"(A) the system under this subsection shall not apply to covered OPD services furnished before January 1, 2000; and

"(B) the Secretary may establish a separate conversion factor for such services in a manner that specifically takes into account the unique costs incurred by such hospitals by virtue of their patient population and service intensity.

"(9) LIMITATION ON REVIEW.—There shall be no administrative or judicial review under section 1869, 1878, or otherwise of—

"(A) the development of the classification system under paragraph (2), including the establishment of groups and relative payment weights for covered OPD services, of wage adjustment factors, other adjustments, and methods described in paragraph (2)(F);

"(B) the calculation of base amounts under paragraph (3);

"(C) periodic adjustments made under paragraph (6); and

"(D) the establishment of a separate conversion factor under paragraph (8)(B).".

(b) COINSURANCE.—Section 1866(a)(2)(A)(ii) (42 U.S.C. 1395cc(a)(2)(A)(ii)) is amended by adding at the end the following: "In the case of items and services for which payment is made under part B under the prospective payment system established under section 1833(t), clause (ii) of the first sentence shall be applied by substituting for 20 percent of the reasonable charge, the applicable copayment amount established under section 1833(t)(5).".

(c) TREATMENT OF REDUCTION IN COPAYMENT AMOUNT.—Section 1128A(i)(6) (42 U.S.C. 1320a–7a(i)(6)) is amended—

(1) by striking "or" at the end of subparagraph (B),

(2) by striking the period at the end of subparagraph (C) and inserting "; or", and

(3) by adding at the end the following new subparagraph:

"(D) a reduction in the copayment amount for covered OPD services under section 1833(t)(5)(B).".

(d) CONFORMING AMENDMENTS.—

(1) APPROVED ASC PROCEDURES PERFORMED IN HOSPITAL OUTPATIENT DEPARTMENTS.—

(A)(i) Section 1833(i)(3)(A) (42 U.S.C. 13951(i)(3)(A)) is amended—

(I) by inserting "before January 1, 1999," after "furnished", and

(II) by striking "in a cost reporting period".

(ii) The amendment made by clause (i) shall apply to services furnished on or after January 1, 1999.

(B) Section 1833(a)(4) (42 U.S.C. 13951(a)(4)) is amended by inserting "or subsection (t)" before the semicolon.

(2) RADIOLOGY AND OTHER DIAGNOSTIC PROCEDURES.—

(A) Section 1833(n)(1)(A) (42 U.S.C. 1395l(n)(1)(A)) is amended by inserting "and before January 1, 1999," after "October 1, 1988," and after "October 1, 1989,".

(B) Section 1833(a)(2)(E) (42 U.S.C. 1395l(a)(2)(E)) is amended by inserting "or, for services or procedures performed on or after January 1, 1999, (t)" before the semicolon.

(3) OTHER HOSPITAL OUTPATIENT SERVICES.—Section -1833(a)(2)(B) (42 U.S.C. 1395l(a)(2)(B)) is amended—

(A) in clause (i), by inserting "furnished before January 1, 1999," after "(i)",

(B) in clause (ii), by inserting "before January 1, 1999," after "furnished",

(C) by redesignating clause (iii) as clause (iv), and

(D) by inserting after clause (ii), the following new clause:

"(iii) if such services are furnished on or after January 1, 1999, the amount determined under subsection (t), or".

Subchapter B—Rehabilitation Services

SEC. 10421. REHABILITATION AGENCIES AND SERVICES.

(a) PAYMENT BASED ON FEE SCHEDULE.—

(1) SPECIAL PAYMENT RULES.—Section 1833(a) (42 U.S.C. 1395l(a)) is amended—

(A) in paragraph (2) in the matter before subparagraph (A), by inserting "(C)," before "(D)";

(B) in paragraph (6), by striking "and" at the end;

(C) in paragraph (7), by striking the period at the end and inserting "; and";

(D) by adding at the end the following new paragraph:

"(8) in the case of services described in section 1832(a)(2)(C) (that are not described in section 1832(a)(2)(B)), the amounts described in section 1834(k).".

(2) PAYMENT RATES.—Section 1834 (42 U.S.C. 1395m) is amended by adding at the end the following new subsection:

"(k) PAYMENT FOR OUTPATIENT THERAPY SERVICES.—

"(1) IN GENERAL.—With respect to outpatient physical therapy services (which includes outpatient speech-language pathology services) and outpatient occupational therapy services for which payment is determined under this subsection, the payment basis shall be—

"(A) for services furnished during 1998, the amount determined under paragraph (2); or

"(B) for services furnished during a subsequent year, 80 percent of the lesser of—

"(i) the actual charge for the services, or

"(ii) the applicable fee schedule amount (as defined in paragraph (3)) for the services.

"(2) PAYMENT IN 1998 BASED UPON ADJUSTED REASONABLE COSTS.—The amount under this paragraph for services is the lesser of—

"(A) the charges imposed for the services, or

"(B) the adjusted reasonable costs (as defined in paragraph (4)) for the services,

less 20 percent of the amount of the charges imposed for such services.

"(3) APPLICABLE FEE SCHEDULE AMOUNT.—In this paragraph, the term 'applicable fee schedule amount' means, with respect to services furnished in a year, the fee schedule amount established under section 1848 for such services furnished during the year or, if there is no such fee schedule amount established for such services, for such comparable services as the Secretary specifies.

"(4) ADJUSTED REASONABLE COSTS.—In paragraph (2), the term 'adjusted reasonable costs' means reasonable costs determined reduced by—

"(A) 5.8 percent of the reasonable costs for operating costs, and

"(B) 10 percent of the reasonable costs for capital costs.

"(5) UNIFORM CODING.—For claims for services submitted on or after April 1, 1998, for which the amount of payment is determined under this subsection, the claim shall include a code (or codes) under a uniform coding system specified by the Secretary that identifies the services furnished.

"(6) RESTRAINT ON BILLING.—The provisions of subparagraphs (A) and (B) of section 1842(b)(18) shall apply to therapy services for which payment is made under this subsection in the same manner as they apply to services provided by a practitioner described in section 1842(b)(18)(C).".

(b) APPLICATION OF STANDARDS TO OUTPATIENT OCCUPATIONAL AND PHYSICAL THERAPY SERVICES PROVIDED AS AN INCIDENT TO A PHYSICIAN'S PROFESSIONAL SERVICES.—Section 1862(a), as amended by section 10401(b), (42 U.S.C. 1395y(a)) is amended—

(1) by striking "or" at the end of paragraph (16);

(2) by striking the period at the end of paragraph (17) and inserting "; or"; and

(3) by inserting after paragraph (17) the following:

"(18) in the case of outpatient occupational therapy services or outpatient physical therapy services furnished as an incident to a physician's professional services (as described in section 1861(s)(2)(A)), that do not meet the standards and conditions under the second sentence of section 1861(g) or 1861(p) as such standards and conditions would apply to such therapy services if furnished by a therapist.".

(c) APPLYING FINANCIAL LIMITATION TO ALL REHABILITATION SERVICES.—Section 1833(g) (42 U.S.C. 1395l(g)) is amended—

(1) in the first sentence, by striking "services described in the second sentence of section 1861(p)" and inserting "physical therapy services of the type described in section 1861(p) (regardless of who furnishes the services or whether the services may be covered as physicians' services so long as the services are furnished other than in a hospital setting)", and

(2) in the second sentence, by striking "outpatient occupational therapy services which are described in the second sentence of section 1861(p) through the operation of section 1861(g)" and inserting "occupational therapy services (of the type that are described in section 1861(p) through the operation of section 1861(g)), regardless of who furnishes the services or whether the services may be covered as physicians' services so long as the services are furnished other than in a hospital setting".

(d) INDEXING LIMITATION.—Section 1833(g) (42 U.S.C. 1395l(g)), as amended by subsection (c), is further amended—

(1) by striking "$900" each place it appears and inserting "the amount specified in paragraph (2) for the year",

(2) by inserting "(1)" after "(g)",

(3) by designating the last sentence as a paragraph (3), and

(4) by inserting before paragraph (3), as so designated, the following:

"(2) The amount specified in this paragraph—

"(A) for 1999, and each preceding year, is $900, and

"(B) for a subsequent year is the amount specified in this paragraph for the preceding year increased by the Secretary's estimate of the projected percentage growth in real gross domestic product per capita from the fiscal year ending in the preceding year to the fiscal year ending in such subsequent year.".

(e) EFFECTIVE DATE.—The amendments made by this section apply to services furnished on or after January 1, 1998; except that the amendments made by subsection (c) apply to services furnished on or after January 1, 1999.

SEC. 10422. COMPREHENSIVE OUTPATIENT REHABILITATION FACILITIES (CORF).

(a) PAYMENT BASED ON FEE SCHEDULE.—

(1) SPECIAL PAYMENT RULES.—Section 1833(a) (42 U.S.C. 1395l(a)), as amended by section 10421(a), is amended—

(A) in paragraph (3), by striking "subparagraphs (D) and (E) of section 1832(a)(2)" and inserting "section 1832(a)(2)(E)";

(B) in paragraph (7), by striking "and" at the end;

(C) in paragraph (8), by striking the period at the end and inserting "; and";

(D) by adding at the end the following new paragraph:

"(9) in the case of services described in section 1832(a)(2)(E), the amounts described in section 1834(k).".

(2) PAYMENT RATES.—Section 1834(k) (42 U.S.C. 1395m(k)), as added by section 10421(a), is amended—

(A) in the heading, by inserting "AND COMPREHENSIVE OUTPATIENT REHABILITATION FACILITY SERVICES" after "THERAPY SERVICES"; and

(B) in paragraph (1), by inserting "and with respect to comprehensive outpatient rehabilitation facility services" after "occupational therapy services".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to services furnished on or after January 1, 1998, and to portions of cost reporting periods occurring on or after such date.

Subchapter C—Ambulance Services

SEC. 10431. PAYMENTS FOR AMBULANCE SERVICES.

(a) INTERIM REDUCTIONS.—

(1) PAYMENTS DETERMINED ON REASONABLE COST BASIS.—Section 1861(v)(1) (42 U.S.C. 1395x(v)(1)) is amended by adding at the end the following new subparagraph:

"(U) In determining the reasonable cost of ambulance services (as described in subsection (s)(7)) provided during a fiscal year (beginning with fiscal year 1998 and ending with fiscal year 2002), the Secretary shall not recognize any costs in excess of costs recognized as reasonable for ambulance services provided during the previous fiscal year after application of this subparagraph, increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) as estimated by the Secretary for the 12-month period ending with the midpoint of the fiscal year involved reduced (in the case of each of fiscal years 1998 and 1999) by 1 percentage point.".

(2) PAYMENTS DETERMINED ON REASONABLE CHARGE BASIS.—Section 1842(b) (42 U.S.C. 1395u(b)) is amended by adding at the end the following new paragraph:

"(19) For purposes of section 1833(a)(1), the reasonable charge for ambulance services (as described in section 1861(s)(7)) provided during a fiscal year (beginning with fiscal year 1998 and ending with fiscal year 2002) may not exceed the reasonable charge for such services provided during the previous fiscal year after the application of this paragraph, increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) as estimated by the Secretary for the 12-month period ending with the midpoint of the year involved reduced (in the case of each of fiscal years 1998 and 1999) by 1 percentage point.".

(b) ESTABLISHMENT OF PROSPECTIVE FEE SCHEDULE.—

(1) PAYMENT IN ACCORDANCE WITH FEE SCHEDULE.—Section 1833(a)(1) (42 U.S.C. 1395l(a)(1)), as amended by section 10619(b)(1), is amended—

(A) by striking "and (P)" and inserting "(P)"; and

(B) by striking the semicolon at the end and inserting the following: ", and (Q) with respect to ambulance service, the amounts paid shall be 80 percent of the lesser of the actual charge for the services or the amount determined by a fee schedule established by the Secretary under section 1834(l);".

(2) ESTABLISHMENT OF SCHEDULE.—Section 1834 (42 U.S.C. 1395m), as amended by section 10421(a)(2), is amended by adding at the end the following new subsection:

"(l) ESTABLISHMENT OF FEE SCHEDULE FOR AMBULANCE SERVICES.—

"(1) IN GENERAL.—The Secretary shall establish a fee schedule for payment for ambulance services under this part through a negotiated rulemaking process described in title 5, United States Code, and in accordance with the requirements of this subsection.

"(2) CONSIDERATIONS.—In establishing such fee schedule the Secretary shall—

"(A) establish mechanisms to control increases in expenditures for ambulance services under this part;

"(B) establish definitions for ambulance services which link payments to the type of services provided;

"(C) consider appropriate regional and operational differences;

"(D) consider adjustments to payment rates to account for inflation and other relevant factors; and

"(E) phase in the application of the payment rates under the fee schedule in an efficient and fair manner.

"(3) SAVINGS.—In establishing such fee schedule the Secretary shall—

"(A) ensure that the aggregate amount of payments made for ambulance services under this part during 2000 does not exceed the aggregate amount of payments which would have been made for such services under this part during such year if the amendments made by section 10431 of the Balanced Budget Act of 1997 had not been made; and

"(B) set the payment amounts provided under the fee schedule for services furnished in 2001 and each subsequent year at amounts equal to the payment amounts under the fee schedule for service furnished during the previous year, increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of the previous year.

"(4) CONSULTATION.—In establishing the fee schedule for ambulance services under this subsection, the Secretary shall consult with various national organizations representing individuals and entities who furnish and regulate ambulance services and share with such organizations relevant data in establishing such schedule.

"(5) LIMITATION ON REVIEW.—There shall be no administrative or judicial review under section 1869 or otherwise of the amounts established under the fee schedule for ambulance services under this subsection, including matters described in paragraph (2).

"(6) RESTRAINT ON BILLING.—The provisions of subparagraphs (A) and (B) of section 1842(b)(18) shall apply to ambulance services for which payment is made under this subsection in the same manner as they apply to services provided by a practitioner described in section 1842(b)(18)(C).".

(3) EFFECTIVE DATE.—The amendments made by this section apply to ambulance services furnished on or after January 1, 2000.

(c) AUTHORIZING PAYMENT FOR PARAMEDIC INTERCEPT SERVICE PROVIDERS IN RURAL COMMUNITIES.—In promulgating regulations to carry out section 1861(s)(7) of the Social Security Act (42 U.S.C. 1395x(s)(7)) with respect to the coverage of ambulance service, the Secretary of Health and Human Services may include coverage of advanced life support services (in this subsection referred to as "ALS intercept services") provided by a paramedic intercept service provider in a rural area if the following conditions are met:

(1) The ALS intercept services are provided under a contract with one or more volunteer ambulance services and are medically necessary based on the health condition of the individual being transported.

(2) The volunteer ambulance service involved—

(A) is certified as qualified to provide ambulance service for purposes of such section,

(B) provides only basic life support services at the time of the intercept, and

(C) is prohibited by State law from billing for any services.

(3) The entity supplying the ALS intercept services—

(A) is certified as qualified to provide such services under the medicare program under title XVIII of the Social Security Act, and

(B) bills all recipients who receive ALS intercept services from the entity, regardless of whether or not such recipients are medicare beneficiaries.

SEC. 10432. DEMONSTRATION OF COVERAGE OF AMBULANCE SERVICES UNDER MEDICARE THROUGH CONTRACTS WITH UNITS OF LOCAL GOVERNMENT.

(a) DEMONSTRATION PROJECT CONTRACTS WITH LOCAL GOVERNMENTS.—The Secretary of Health and Human Services shall establish up to 3 demonstration projects under which, at the request of a county or parish, the Secretary enters into a contract with the county or parish under which—

(1) the county or parish furnishes (or arranges for the furnishing) of ambulance services for which payment may be made under part B of title XVIII of the Social Security Act for individuals residing in the county or parish who are enrolled under such part, except that the county or parish may not enter into the contract unless the contract covers at least 80 percent of the individuals residing in the county or parish who are enrolled under such part;

(2) any individual or entity furnishing ambulance services under the contract meets the requirements otherwise applicable to individuals and entities furnishing such services under such part; and

(3) for each month during which the contract is in effect, the Secretary makes a capitated payment to the county or parish in accordance with subsection (b).

The projects may extend over a period of not to exceed 3 years each.

(b) AMOUNT OF PAYMENT.—

(1) IN GENERAL.—The amount of the monthly payment made for months occurring during a calendar year to a county or parish under a demonstration project contract under subsection (a) shall be equal to the product of—

(A) the Secretary's estimate of the number of individuals covered under the contract for the month; and

(B) 1/12 of the capitated payment rate for the year established under paragraph (2).

(2) CAPITATED PAYMENT RATE DEFINED.—In this subsection, the "capitated payment rate" applicable to a contract under this subsection for a calendar year is equal to 95 percent of—

(A) for the first calendar year for which the contract is in effect, the average annual per capita payment made under part B of title XVIII of the Social Security Act with respect to ambulance services furnished to such individuals during the 3 most recent calendar years for which data on the amount of such payment is available; and

(B) for a subsequent year, the amount provided under this paragraph for the previous year increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of the previous year.

(c) OTHER TERMS OF CONTRACT.—The Secretary and the county or parish may include in a contract under this section such other terms as the parties consider appropriate, including—

(1) covering individuals residing in additional counties or parishes (under arrangements entered into between such counties or parishes and the county or parish involved);

(2) permitting the county or parish to transport individuals to non-hospital providers if such providers are able to furnish quality services at a lower cost than hospital providers; or

(3) implementing such other innovations as the county or parish may propose to improve the quality of ambulance services and control the costs of such services.

(d) CONTRACT PAYMENTS IN LIEU OF OTHER BENEFITS.—Payments under a contract to a county or parish under this section shall be instead of the amounts which (in the absence of the contract) would otherwise be payable under part B of title XVIII of the Social Security Act for the services covered under the contract which are furnished to individuals who reside in the county or parish.

(e) REPORT ON EFFECTS OF CAPITATED CONTRACTS.—

(1) STUDY.—The Secretary shall evaluate the demonstration projects conducted under this section. Such evaluation shall include an analysis of the quality and cost-effectiveness of ambulance services furnished under the projects.

(2) REPORT.—Not later than January 1, 2000, the Secretary shall submit a report to Congress on the study conducted under paragraph (1), and shall include in the report such recommendations as the Secretary considers appropriate, including recommendations regarding modifications to the methodology used to determine the amount of payments made under such contracts and extending or expanding such projects.

CHAPTER 3—PAYMENT UNDER PARTS A AND B

SEC. 10441. PROSPECTIVE PAYMENT FOR HOME HEALTH SERVICES.

(a) IN GENERAL.—Title XVIII (42 U.S.C. 1395 et seq.), as amended by section 10011, is amended by adding at the end the following new section:

"PROSPECTIVE PAYMENT FOR HOME HEALTH SERVICES

"SEC. 1895. (a) IN GENERAL.—Notwithstanding section 1861(v), the Secretary shall provide, for cost reporting periods beginning on or after October 1, 1999, for payments for home health services in accordance with a prospective payment system established by the Secretary under this section.

"(b) SYSTEM OF PROSPECTIVE PAYMENT FOR HOME HEALTH SERVICES.—

"(1) IN GENERAL.—The Secretary shall establish under this subsection a prospective payment system for payment for all costs of home health services. Under the system under this subsection all services covered and paid on a reasonable cost basis under the medicare home health benefit as of the date of the enactment of the this section, including medical supplies, shall be paid for on the basis of a prospective payment amount determined under this subsection and applicable to the services involved. In implementing the system, the Secretary may provide for a transition (of not longer than 4 years) during which a portion of such payment is based on agency-specific costs, but only if such transition does not result in aggregate payments under this title that exceed the aggregate payments that would be made if such a transition did not occur.

"(2) UNIT OF PAYMENT.—In defining a prospective payment amount under the system under this subsection, the Secretary shall consider an appropriate unit of service and the number, type, and duration of visits provided within that unit, potential changes in the mix of services provided within that unit and their cost, and a general system design that provides for continued access to quality services.

"(3) PAYMENT BASIS.—

"(A) INITIAL BASIS.—

"(i) IN GENERAL.—Under such system the Secretary shall provide for computation of a standard prospective payment amount (or amounts). Such amount (or amounts) shall initially be based on the most current audited cost report data available to the Secretary and shall be computed in a manner so that the total amounts payable under the system for fiscal year 2000 shall be equal to the total amount that would have been made if the system had not been in effect but if the reduction in limits described in clause (ii) had been in effect. Such amount shall be standardized in a manner that eliminates the effect of variations in relative case mix and wage levels among different home health agencies in a budget neutral manner consistent with the case mix and wage level adjustments provided under paragraph (4)(A). Under the system, the Secretary may recognize regional differences or differences based upon whether or not the services or agency are in an urbanized area.

"(ii) Reduction.—The reduction described in this clause is a reduction by 15 percent in the cost limits and per beneficiary limits described in section 1861(v)(1)(L), as those limits are in effect on September 30, 1999.

"(B) Annual update.—

"(i) In general.—The standard prospective payment amount (or amounts) shall be adjusted for each fiscal year (beginning with fiscal year 2001) in a prospective manner specified by the Secretary by the home health market basket percentage increase applicable to the fiscal year involved.

"(ii) Home health market basket percentage increase.—For purposes of this subsection, the term 'home health market basket percentage increase' means, with respect to a fiscal year, a percentage (estimated by the Secretary before the beginning of the fiscal year) determined and applied with respect to the mix of goods and services included in home health services in the same manner as the market basket percentage increase under section 1886(b)(3)(B)(iii) is determined and applied to the mix of goods and services comprising inpatient hospital services for the fiscal year.

"(C) Adjustment for outliers.—The Secretary shall reduce the standard prospective payment amount (or amounts) under this paragraph applicable to home health services furnished during a period by such proportion as will result in an aggregate reduction in payments for the period equal to the aggregate increase in payments resulting from the application of paragraph (5) (relating to outliers).

"(4) Payment computation.—

"(A) In general.—The payment amount for a unit of home health services shall be the applicable standard prospective payment amount adjusted as follows:

"(i) Case mix adjustment.—The amount shall be adjusted by an appropriate case mix adjustment factor (established under subparagraph (B)).

"(ii) Area wage adjustment.—The portion of such amount that the Secretary estimates to be attributable to wages and wage-related costs shall be adjusted for geographic differences in such costs by an area wage adjustment factor (established under subparagraph (C)) for the area in which the services are furnished or such other area as the Secretary may specify.

"(B) Establishment of case mix adjustment factors.—The Secretary shall establish appropriate case mix adjustment factors for home health services in a manner that explains a significant amount of the variation in cost among different units of services.

"(C) Establishment of area wage adjustment factors.—The Secretary shall establish area wage adjustment factors that reflect the relative level of wages and wage-related costs applicable to the furnishing of home health services in a geographic area compared to the national average applicable level. Such factors may be the factors used by the Secretary for purposes of section 1886(d)(3)(E).

"(5) Outliers.—The Secretary may provide for an addition or adjustment to the payment amount otherwise made in the case of outliers because of unusual variations in the type or amount of medically necessary care. The total amount of the additional payments or payment adjustments made under this paragraph with respect to a fiscal year may not exceed 5 percent of the total payments projected or estimated to be made based on the prospective payment system under this subsection in that year.

"(6) Proration of prospective payment amounts.—If a beneficiary elects to transfer to, or receive services from, another home health agency within the period covered by the prospective payment amount, the payment shall be prorated between the home health agencies involved.

"(c) Requirements for Payment Information.—With respect to home health services furnished on or after October 1, 1998, no claim for such a service may be paid under this title unless—

"(1) the claim has the unique identifier (provided under section 1842(r)) for the physician who prescribed the services or made the certification described in section 1814(a)(2) or 1835(a)(2)(A); and

"(2) in the case of a service visit described in paragraph (1), (2), (3), or (4) of section 1861(m), the claim has information (coded in an appropriate manner) on the length of time of the service visit, as measured in 15 minute increments.

"(d) Limitation on Review.—There shall be no administrative or judicial review under section 1869, 1878, or otherwise of—

"(1) the establishment of a transition period under subsection (b)(1);

"(2) the definition and application of payment units under subsection (b)(2);

"(3) the computation of initial standard prospective payment amounts under subsection (b)(3)(A) (including the reduction described in clause (ii) of such subsection);

"(4) the establishment of the adjustment for outliers under subsection (b)(3)(C);

"(5) the establishment of case mix and area wage adjustments under subsection (b)(4);

"(6) the establishment of any adjustments for outliers under subsection (b)(5); and

"(7) the amounts or types of adjustments under subsection (b)(7).".

(b) Elimination of Periodic Interim Payments for Home Health Agencies.—Section 1815(e)(2) (42 U.S.C. 1395g(e)(2)) is amended—

(1) by inserting "and" at the end of subparagraph (C),

(2) by striking subparagraph (D), and

(3) by redesignating subparagraph (E) as subparagraph (D).

(c) Conforming Amendments.—

(1) Payments under part A.—Section 1814(b) (42 U.S.C. 1395f(b)) is amended in the matter preceding paragraph (1) by striking "and 1886" and inserting "1886, and 1895".

(2) Treatment of items and services paid under part B.—

(A) Payments under part B.—Section 1833(a)(2) (42 U.S.C. 1395l(a)(2)) is amended—

(i) by amending subparagraph (A) to read as follows:

"(A) with respect to home health services (other than a covered osteoporosis drug) (as defined in section 1861(kk)), the amount determined under the prospective payment system under section 1895;";

(ii) by striking "and" at the end of subparagraph (E);

(iii) by adding "and" at the end of subparagraph (F); and

(iv) by adding at the end the following new subparagraph:

"(G) with respect to items and services described in section 1861(s)(10)(A), the lesser of—

"(i) the reasonable cost of such services, as determined under section 1861(v), or

"(ii) the customary charges with respect to such services,

or, if such services are furnished by a public provider of services, or by another provider which demonstrates to the satisfaction of the Secretary that a significant portion of its patients are low-income (and requests that payment be made under this provision), free of charge or at nominal charges to the public, the amount determined in accordance with section 1814(b)(2);".

(B) Requiring payment for all items and services to be made to agency.—

(i) In general.—The first sentence of section 1842(b)(6) (42 U.S.C. 1395u(b)(6)), as amended by section 10401(b)(2), is amended—

(I) by striking "and (E)" and inserting "(E)"; and

(II) by striking the period at the end and inserting the following: ", and (F) in the case of home health services furnished to an individual who (at the time the item or service is furnished) is under a plan of care of a home health agency, payment shall be made to the agency (without regard to whether or not the item or service was furnished by the agency, by others under arrangement with them made by the agency, or when any other contracting or consulting arrangement, or otherwise).".

(ii) Conforming amendment.—Section 1832(a)(1) (42 U.S.C. 1395k(a)(1)), as amended by section 10401(b), is amended by striking "and section 1842(b)(6)(E)" and inserting ", section 1842(b)(6)(E), and section 1842(b)(6)(F)".

(C) Exclusions from coverage.—Section 1862(a) (42 U.S.C. 1395y(a)), as amended by sections 10401(b) and 10421(b), is amended—

(i) by striking "or" at the end of paragraph (17);

(ii) by striking the period at the end of paragraph (18) and inserting "; or"; and

(iii) inserting after paragraph (18) the following new paragraph:

"(19) where such expenses are for home health services furnished to an individual who is under a plan of care of the home health agency if the claim for payment for such services is not submitted by the agency.".

(d) Effective Date.—Except as otherwise provided, the amendments made by this section shall apply to cost reporting periods beginning on or after October 1, 1999.

Subtitle F—Provisions Relating to Part A

CHAPTER 1—PAYMENT OF PPS HOSPITALS

SEC. 10501. PPS HOSPITAL PAYMENT UPDATE.

Section 1886(b)(3)(B)(i) (42 U.S.C. 1395ww(b)(3)(B)(i)) is amended—

(1) by striking "and" at the end of subclause (XII), and

(2) by striking subclause (XIII) and inserting the following:

"(XIII) for fiscal year 1998, 0 percent,

"(XIV) for each of the fiscal years 1999 through 2002, the market basket percentage increase minus 1.0 percentage point for hospitals in all areas, and

"(XV) for fiscal year 2003 and each subsequent fiscal year, the market basket percentage increase for hospitals in all areas.".

SEC. 10502. CAPITAL PAYMENTS FOR PPS HOSPITALS.

(a) Maintaining Savings From Temporary Reduction in PPS Capital Rates.—Section 1886(g)(1)(A) (42 U.S.C. 1395ww(g)(1)(A)) is amended by adding at the end the following: "In addition to the reduction described in the preceding sentence, for discharges occurring on or after October 1, 1997, the Secretary shall apply the budget neutrality adjustment factor used to determine the Federal capital payment rate in effect on September 30, 1995 (as described in section 412.352 of title 42 of the Code of Federal Regulations), to (i) the unadjusted standard Federal capital payment rate (as described in section 412.308(c) of that title, as in effect on September 30, 1997), and (ii) the unadjusted hospital-specific rate (as described in section 412.328(e)(1) of that title, as in effect on September 30, 1997).".

(b) Revision of Exceptions Process Under Prospective Payment System for Certain Projects.—

(1) In general.—Section 1886(g)(1) (42 U.S.C. 1395ww(g)(1)) is amended—

(A) by redesignating subparagraph (C) as subparagraph (F), and

(B) by inserting after subparagraph (B) the following subparagraphs:

"(C) The exceptions under the system provided by the Secretary under subparagraph (B)(iii) shall include the provision of exception payments under the special exceptions process provided under section 412.348(g) of title 42, Code of Federal Regulations (as in effect on September 1, 1995), except that the Secretary shall revise such process, effective for discharges occurring after September 30, 1997, as follows:

"(i) A hospital with at least 100 beds which is located in an urban area shall be eligible under such process without regard to its disproportionate patient percentage under subsection (d)(5)(F) or whether it qualifies for additional payment amounts under such subsection.

"(ii) The minimum payment level for qualifying hospitals shall be 85 percent (or such lower percentage, but no lower than 75 percent, as the Secretary may provide to comply with subparagraph (D)).

"(iii) A hospital shall be considered to meet the requirement that it complete the project involved no later than the end of the hospital's last cost reporting period beginning before October 1, 2001, if—

"(I) the hospital has obtained a certificate of need for the project approved by the State or a local planning authority by September 1, 1995, and

"(II) by September 1, 1995, the hospital has expended on the project at least $750,000 or 10 percent of the estimated cost of the project.

"(iv) Offsetting amounts, as described in section 412.348(g)(8)(ii) of title 42, Code of Federal Regulations, shall apply except that subparagraph (B) of such section shall be revised to require that the additional payment that would otherwise be payable for the cost reporting period shall be reduced by the amount (if any) by which the hospital's current year medicare capital payments (excluding, if applicable, 75 percent of the hospital's capital-related disproportionate share payments) exceeds its medicare capital costs for such year.

"(D) The Secretary may reduce the percent specified under subparagraph (C)(ii) (but not below 75 percent) and shall reduce the Federal capital rate for a fiscal year by such percentage as the Secretary determines to be necessary to ensure that the application of subparagraph (C) does not result in an increase in the total amount that would have been paid under this subsection in the fiscal year if such subparagraph did not apply.

"(E) The Secretary shall provide for publication in the Federal Register each year (beginning with 1999) a description of the distributional impact of the application of subparagraph (C) on hospitals which receive, and do not receive, an exception payment under such subparagraph.".

(2) Conforming amendment.—Section 1886(g)(1)(B)(iii) (42 U.S.C. 1395ww(g)(1)(B)(iii)) is amended by striking "may provide" and inserting "shall provide (in accordance with subparagraph (C))".

SEC. 10503. FREEZE IN DISPROPORTIONATE SHARE.

(a) No Update in Disproportionate Share for Fiscal Years 1998 and 1999.—Section 1886(d)(5)(F) (42 U.S.C. 1395ww(d)(5)(F)) is amended in clause (ii) by adding at the end the following new sentence: "For discharges occurring on or after October 1, 1997, the sum described in subclause (I) shall be determined as if the applicable percentage increase described in subsection (b)(3)(B)(i) for discharges for fiscal years 1998 and 1999 were zero percent.".

(b) Development of Revised Qualifying Criteria and Payment Methodology for Hospitals That Serve a Disproportionate Share of Low-Income Patients.—

(1) Development of proposal.—The Secretary of Health and Human Services shall develop a proposal to modify the current qualifying criteria and payment methodology under which hospitals that are paid under section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)) receive an additional payment because they serve a disproportionate share of low-income patients.

(2) Report.—Not later than April 1, 1999, the Secretary shall transmit the proposal developed under paragraph (1) to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

SEC. 10504. MEDICARE CAPITAL ASSET SALES PRICE EQUAL TO BOOK VALUE.

(a) In General.—Section 1861(v)(1)(O) (42 U.S.C. 1395x(v)(1)(O)) is amended—

(1) in clause (i)—

(A) by striking "and (if applicable) a return on equity capital";

(B) by striking "hospital or skilled nursing facility" and inserting "provider of services";

(C) by striking "clause (iv)" and inserting "clause (iii)"; and

(D) by striking "the lesser of the allowable acquisition cost" and all that follows and inserting "the historical cost of the asset, as recognized under this title, less depreciation allowed, to the owner of record as of the date of enactment of the Balanced Budget Act of 1997 (or, in the case of an asset not in existence as of that date, the first owner of record of the asset after that date).";

(2) by striking clause (ii); and

(3) by redesignating clauses (iii) and (iv) as clauses (ii) and (iii), respectively.

(b) Effective Date.—The amendments made by subsection (a) apply to changes of ownership that occur after the third month beginning after the date of enactment of this section.

SEC. 10505. ELIMINATION OF IME AND DSH PAYMENTS ATTRIBUTABLE TO OUTLIER PAYMENTS.

(a) Indirect Medical Education.—Section 1886(d)(5)(B)(i)(I) (42 U.S.C. 1395ww(d)(5)(B)(i)(I)) is amended by inserting ", for cases qualifying for additional payment under subparagraph (A)(i)," before "the amount paid to the hospital under subparagraph (A)".

(b) Disproportionate Share Adjustments.—Section 1886(d)(5)(F)(ii)(I) (42 U.S.C. 1395ww(d)(5)(F)(ii)(I)) is amended by inserting ", for cases qualifying for additional payment under subparagraph (A)(i)," before "the amount paid to the hospital under subparagraph (A)".

(c) Cost Outlier Payments.—Section 1886(d)(5)(A)(ii) (42 U.S.C. 1395ww(d)(5)(A)(ii)) is amended by striking "exceed the applicable DRG prospective payment rate" and inserting "exceed the sum of the applicable DRG prospective payment rate plus any amounts payable under paragraphs (d)(5)(B) and (d)(5)(F)".

(d) Effective Date.—The amendments made by this section apply to discharges occurring after September 30, 1997.

SEC. 10506. REDUCTION IN ADJUSTMENT FOR INDIRECT MEDICAL EDUCATION.

(a) In General.—Section 1886(d)(5)(B)(ii) (42 U.S.C. 1395ww(d)(5)(B)(ii)) is amended to read as follows:

"(ii) For purposes of clause (i)(II), the indirect teaching adjustment factor for discharges occurring—

"(I) on or after October 1, 1988 and before October 1, 1997, is equal to 1.89 (((1+r) to the nth power) −1),

"(II) during fiscal year 1998, is equal to 1.62 (((1+r) to the nth power) −1), and

"(III) during or after fiscal year 1999, is equal to 1.35 (((1+r) to the nth power) −1),

where 'r' is the ratio of the hospital's full-time equivalent interns and residents to beds and 'n' equals 0.405, subject to clause (vi).".

(b) Conforming Amendment Relating to Determination of Standardized Amounts.—Section 1886(d)(2)(C)(i) (42 U.S.C. 1395ww(d)(2)(C)(i)) is amended by adding at the end the following: "except that the Secretary shall not take into account any reductions in the amount of additional payments under paragraph (5)(B)(ii) resulting from the amendments made by section 10506(a) of the Balanced Budget Act of 1997,".

(c) Limitation on Number of Residents for Certain Fiscal Years.—Section 1886(d)(5)(B) (42 U.S.C. 1395ww(d)(5)(B)), as amended by subsection (a), is amended by adding at the end the following new clauses:

"(v) In determining the adjustment with respect to a hospital for discharges occurring on or after October 1, 1997, the total number of interns and residents in either a hospital or non-hospital setting may not exceed the number of interns and residents in the hospital with respect to the hospital's cost reporting period beginning on or before December 31, 1996.

"(vi) For purposes of clause (ii)—

"(I) 'r' may not exceed the ratio of the number of interns and residents as determined under clause (v) with respect to the hospital for its most recent cost reporting period, to the hospital's available beds (as defined by the Secretary) during that cost reporting period,

"(II) for the hospital's first cost reporting period beginning on or after October 1, 1997, subject to the limits described in clauses (iv) and (v), the total number of full-time equivalent residents for payment purposes shall equal the average of the actual full-time equivalent resident count for the hospital's most recent cost reporting period and the preceding cost reporting period, and

"(III) for the cost reporting period beginning on or after October 1, 1998, and each subsequent cost reporting period, subject to the limits described in clauses (iv) and (v), the total number of full-time equivalent residents for payment purposes shall equal the average of the actual full-time equivalent resident count for the cost reporting period and the preceding two cost reporting periods.

"(vii) If the hospital's fiscal year 1998 or later cost reporting period is not equal to twelve months, the Secretary shall make appropriate modifications to ensure that the average full-time equivalent residency count pursuant to subclauses (II) and (III) of clause (vi) is based on the equivalent of full twelve month cost reporting periods.

"(viii) The Secretary may establish rules, consistent with the policies in clauses (v) through (vii) and in subsection (h)(6)(A)(ii), with respect to the application of clauses (v) through (vii) in the case of medical residency training programs established on or after January 1, 1997.".

SEC. 10507. TREATMENT OF TRANSFER CASES.

(a) Transfers to PPS Exempt Hospitals and Skilled Nursing Facilities.—Section 1886(d)(5)(I) (42 U.S.C. 1395ww(d)(5)(I)) is amended by adding at the end the following new clause:

"(iii) In carrying out this subparagraph, the Secretary shall treat the term 'transfer case' as including the case of an individual who, upon discharge from a subsection (d) hospital—

"(I) is admitted as an inpatient to a hospital or hospital unit that is not a subsection (d) hospital for the receipt of inpatient hospital services; or

"(II) is admitted to a skilled nursing facility or facility described in section 1861(y)(1) for the receipt of extended care services.".

(b) Transfers for Purposes of Home Health Services.—Section 1886(d)(5)(I)(iii) (42 U.S.C. 1395ww(d)(5)(I)(iii)), as amended by subsection (a), is amended—

(1) in subclause (I), by striking "or";

(2) in subclause (II), by striking the period at the end and inserting "; or" and

(2) by adding at the end the following new subclause:

"(III) receives home health services from a home health agency, if such services relate to the condition or diagnosis for which such individual received inpatient hospital services from the subsection (d) hospital, and if such services are provided within an appropriate period as determined by the Secretary in regulations promulgated not later than September 1, 1998.".

(c) Effective Dates.—

(1) The amendment made by subsection (a) shall apply with respect to discharges occurring on or after October 1, 1997.

(2) The amendment made by subsection (b) shall apply with respect to discharges occurring on or after October 1, 1998.

SEC. 10508. INCREASE BASE PAYMENT RATE TO PUERTO RICO HOSPITALS.

Section 1886(d)(9)(A) (42 U.S.C. 1395ww(d)(9)(A)) is amended—

(1) in the matter preceding clause (i), by striking "in a fiscal year beginning on or after October 1, 1987,",

(2) in clause (i), by striking "75 percent" and inserting, "for discharges beginning on or after October 1, 1997, 50 percent (and for discharges between October 1, 1987, and September 30, 1997, 75 percent)", and

(3) in clause (ii), by striking "25 percent" and inserting, "for discharges beginning in a fiscal year beginning on or after October 1, 1997, 50 percent (and for discharges between October 1, 1987 and September 30, 1997, 25 percent)".

CHAPTER 2—PAYMENT OF PPS EXEMPT HOSPITALS

SEC. 10511. PAYMENT UPDATE.

(a) In General.—Section 1886(b)(3)(B) (42 U.S.C. 1395ww(b)(3)(B)) is amended—

(1) in clause (ii)—

(A) by striking "and" at the end of subclause (V),

(B) by redesignating subclause (VI) as subclause (VIII); and

(C) by inserting after subclause (V), the following subclauses:

"(VI) for fiscal year 1998, is 0 percent;

"(VII) for fiscal years 1999 through 2002, is the applicable update factor specified under clause (vi) for the fiscal year; and"; and

(2) by adding at the end the following new clause:

"(vi) For purposes of clause (ii)(VII) for a fiscal year, if a hospital's allowable operating costs of inpatient hospital services recognized under this title for the most recent cost reporting period for which information is available—

"(I) is equal to, or exceeds, 110 percent of the hospital's target amount (as determined under subparagraph (A)) for such cost reporting period, the applicable update factor specified under this clause is the market basket percentage;

"(II) exceeds 100 percent, but is less than 110 percent, of such target amount for the hospital, the applicable update factor specified under this clause is 0 percent or, if greater, the market basket percentage minus 0.25 percentage points for each percentage point by which such allowable operating costs (expressed as a percentage of such target amount) is less than 110 percent of such target amount;

"(III) is equal to, or less than 100 percent, but exceeds ⅔ of such target amount for the hospital, the applicable update factor specified under this clause is 0 percent or, if greater, the market basket percentage minus 2.5 percentage points; or

"(IV) does not exceed ⅔ of such target amount for the hospital, the applicable update factor specified under this clause is 0 percent.".

(b) No Effect of Payment Reduction on Exceptions and Adjustments.—Section 1886(b)(4)(A)(ii) (42 U.S.C. 1395ww(b)(4)(A)(ii)) is amended by adding at the end the following new sentence: "In making such reductions, the Secretary shall treat the applicable update factor described in paragraph (3)(B)(vi) for a fiscal year as being equal to the market basket percentage for that year.".

SEC. 10512. REDUCTIONS TO CAPITAL PAYMENTS FOR CERTAIN PPS-EXEMPT HOSPITALS AND UNITS.

Section 1886(g) (42 U.S.C. 1395ww(g)) is amended by adding at the end the following new paragraph:

"(4) In determining the amount of the payments that are attributable to portions of cost reporting periods occurring during fiscal years 1998 through 2002 and that may be made under this title with respect to capital-related costs of inpatient hospital services of a hospital which is described in clause (i), (ii), or (iv) of subsection (d)(1)(B) or a unit described in the matter after clause (v) of such subsection, the Secretary shall reduce the amounts of such payments otherwise determined under this title by 10 percent.".

SEC. 10513. CAP ON TEFRA LIMITS.

Section 1886(b)(3) (42 U.S.C. 1395ww(b)(3)) is amended—

(1) in subparagraph (A) by striking "subparagraphs (C), (D), and (E)" and inserting "subparagraph (C) and succeeding subparagraphs", and

(2) by adding at the end the following:

"(F)(i) In the case of a hospital or unit that is within a class of hospital described in clause (ii), for cost reporting periods beginning on or after October 1, 1997, and before October 1, 2002, such target amount may not be greater than the 90th percentile of the target amounts for such hospitals within such class for cost reporting periods beginning during that fiscal year.

"(ii) For purposes of this subparagraph, each of the following shall be treated as a separate class of hospital:

"(I) Hospitals described in clause (i) of subsection (d)(1)(B) and psychiatric units described in the matter following clause (v) of such subsection.

"(II) Hospitals described in clause (ii) of such subsection and rehabilitation units described in the matter following clause (v) of such subsection.

"(III) Hospitals described in clause (iv) of such subsection.".

SEC. 10514. CHANGE IN BONUS AND RELIEF PAYMENTS.

(a) Change in Bonus Payment.—Section 1886(b)(1)(A) (42 U.S.C. 1395ww(b)(1)(A)) is amended by striking all that follows "plus—" and inserting the following:

"(i) 10 percent of the amount by which the target amount exceeds the amount of the operating costs, or

"(ii) 1 percent of the operating costs, whichever is less;".

(b) Change in Relief Payments.—Section 1886(b)(1) (42 U.S.C. 1395ww(b)(1)) is amended—

(1) in subparagraph (B)—

(A) by striking "greater than the target amount" and inserting "greater than 110 percent of the target amount",

(B) by striking "exceed the target amount" and inserting "exceed 110 percent of the target amount",

(C) by striking "10 percent" and inserting "20 percent", and

(D) by redesignating such subparagraph as subparagraph (C); and

(2) by inserting after subparagraph (A) the following new subparagraph:

"(B) are greater than the target amount but do not exceed 110 percent of the target amount, the amount of the payment with respect to those operating costs payable under part A on a per discharge basis shall equal the target amount; or".

SEC. 10515. CHANGE IN PAYMENT AND TARGET AMOUNT FOR NEW PROVIDERS.

Section 1886(b) (42 U.S.C. 1395ww(b)) is amended—

(1) by inserting after paragraph (1) the following new paragraph:

"(2)(A) Notwithstanding paragraph (1), in the case of a hospital or unit that is within a class of hospital described in subparagraph (B) which first receives payments under this section on or after October 1, 1997—

"(i) for each of the first 2 full or partial cost reporting periods, the amount of the payment with respect to operating costs described in paragraph (1) under part A on a per discharge or per admission basis (as the case may be) is equal to the lesser of—

"(I) the amount of operating costs for such respective period, or

"(II) 150 percent of the national median of the operating costs for hospitals in the same class as the hospital for cost reporting periods beginning during the same fiscal year, as adjusted under subparagraph (C); and

"(ii) for purposes of computing the target amount for the subsequent cost reporting period, the target amount for the preceding cost reporting period is equal to the amount determined under clause (i) for such preceding period.

"(B) For purposes of this paragraph, each of the following shall be treated as a separate class of hospital:

"(i) Hospitals described in clause (i) of subsection (d)(1)(B) and psychiatric units described in the matter following clause (v) of such subsection.

"(ii) Hospitals described in clause (ii) of such subsection and rehabilitation units described in the matter following clause (v) of such subsection.

"(iii) A class of hospitals described in subsection (d)(1)(B)(iv) that the Secretary shall establish based upon a measure of case mix that takes into account acuity.

"(iv) Hospitals described in subsection (d)(1)(B)(iv) that are not within the class described in clause (iii).

"(C) In applying subparagraph (A)(i)(II) in the case of a hospital or unit, the Secretary shall provide for an appropriate adjustment to the labor-related portion of the amount determined under such subparagraph to take into account differences between average wage-related costs in the area of the hospital and the national average of such costs within the same class of hospital."; and

(2) in paragraph (3)(A), as amended in section 10513, by inserting "and in paragraph (2)(A)(ii)," before "for purposes of".

SEC. 10516. REBASING.

(a) OPTION OF REBASING FOR HOSPITALS IN OPERATION BEFORE 1990.—Section 1886(b)(3)(42 U.S.C. 1395ww(b)(3)), as amended in section 10513, is amended by adding at the end the following new subparagraph:

"(G)(i) In the case of a hospital (or unit described in the matter following clause (v) of subsection (d)(1)(B)) that received payment under this subsection for inpatient hospital services furnished during cost reporting periods before October 1, 1990, that is within a class of hospital described in clause (iii), and that elects (in a form and manner determined by the Secretary) this subparagraph to apply to the hospital, the target amount for the hospital's 12-month cost reporting period beginning during fiscal year 1998 is equal to the average described in clause (ii).

"(ii) The average described in this clause for a hospital or unit shall be determined by the Secretary as follows:

"(I) The Secretary shall determine the allowable operating costs for inpatient hospital services for the hospital or unit for each of the 5 cost reporting periods for which the Secretary has the most recent settled cost reports as of the date of the enactment of this subparagraph.

"(II) The Secretary shall increase the amount determined under subclause (I) for each cost reporting period by the applicable percentage increase under subparagraph (B)(ii) for each subsequent cost reporting period up to the cost reporting period described in clause (i).

"(III) The Secretary shall identify among such 5 cost reporting periods the cost reporting periods for which the amount determined under subclause (II) is the highest, and the lowest.

"(IV) The Secretary shall compute the averages of the amounts determined under subclause (II) for the 3 cost reporting periods not identified under subclause (III).

"(iii) For purposes of this subparagraph, each of the following shall be treated as a separate class of hospital:

"(I) Hospitals described in clause (i) of subsection (d)(1)(B) and psychiatric units described in the matter following clause (v) of such subsection.

"(II) Hospitals described in clause (ii) of such subsection and rehabilitation units described in the matter following clause (v) of such subsection.

"(III) Hospitals described in clause (iii) of such subsection.

"(IV) Hospitals described in clause (iv) of such subsection.

"(V) Hospitals described in clause (v) of such subsection.".

(b) CERTAIN LONG-TERM CARE HOSPITALS.—Section 1886(b)(3) (42 U.S.C. 1395ww(b)(3)), as amended by subsection (a), is amended by adding at the end the following new subparagraph:

"(H)(i) In the case of a qualified long-term care hospital (as defined in clause (ii)) that elects (in a form and manner determined by the Secretary) this subparagraph to apply to the hospital, the target amount for the hospital's 12-month cost reporting period beginning during fiscal year 1998 is equal to the allowable operating costs of inpatient hospital services (as defined in subsection (a)(4)) recognized under this title for the hospital for the 12-month cost reporting period beginning during fiscal year 1996, increased by the applicable percentage increase for the cost reporting period beginning during fiscal year 1997.

"(ii) In clause (i), a 'qualified long-term care hospital' means, with respect to a cost reporting period, a hospital described in clause (iv) of subsection (d)(1)(B) during each of the 2 cost reporting periods for which the Secretary has the most recent settled cost reports as of the date of the enactment of this subparagraph for each of which—

"(I) the hospital's allowable operating costs of inpatient hospital services recognized under this title exceeded 115 percent of the hospital's target amount, and

"(II) the hospital would have a disproportionate patient percentage of at least 70 percent (as determined by the Secretary under subsection (d)(5)(F)(vi)) if the hospital were a subsection (d) hospital.".

(c) CERTAIN LONG-TERM CARE CANCER HOSPITALS.—

(1) IN GENERAL.—Section 1886(d)(1)(B)(iv) (42 U.S.C. 1395ww(d)(1)(B)(iv)) is amended by adding at the end the following: "a hospital that first received payment under this subsection in 1986 which has an average inpatient length of stay (as determined by the Secretary) of greater than 20 days and that has 80 percent or more of its annual total inpatient discharges with a principal diagnosis that reflects a finding of neoplastic disease, or".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to cost reporting periods beginning on or after the date of the enactment of this Act.

SEC. 10517. TREATMENT OF CERTAIN LONG-TERM CARE HOSPITALS.

(a) IN GENERAL.—Section 1886(d)(1)(B) (42 U.S.C. 1395ww(d)(1)(B)) is amended by adding at the end the following new sentence: "A hospital that was classified by the Secretary on or before September 30, 1995, as a hospital described in clause (iv) shall continue to be so classified notwithstanding that it is located in the same building as, or on the same campus as, another hospital.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to discharges occurring on or after October 1, 1995.

SEC. 10518. ELIMINATION OF EXEMPTIONS; REPORT ON EXCEPTIONS AND ADJUSTMENTS.

(a) ELIMINATION OF EXEMPTIONS.—

(1) IN GENERAL.—Section 1886(b)(4)(A)(i) (42 U.S.C. 1395ww(b)(4)(A)(i)) is amended by striking "exemption from, or an exception and adjustment to," and inserting "an exception and adjustment to" each place it appears.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to hospitals or units that first qualify as a hospital or unit described in section 1886(d)(1)(B) (42 U.S.C. 1395ww(d)(1)(B)) on or after October 1, 1997.

(b) REPORT.—The Secretary of Health and Human Services shall publish annually in the Federal Register a report describing the total amount of payments made to hospitals by reason of section 1886(b)(4) of the Social Security Act (42 U.S.C. 1395ww(b)(4)), as amended by subsection (a), for cost reporting periods ending during the previous fiscal year.

CHAPTER 3—PROVISIONS RELATED TO HOSPICE SERVICES

SEC. 10521. PAYMENTS FOR HOSPICE SERVICES.

(a) PAYMENT UPDATE.—Section 1814(i)(1)(C)(ii) (42 U.S.C. 1395f(i)(1)(C)(ii)) is amended—

(1) in subclause (V), by striking "and" at the end;

(2) by redesignating subclause (VI) as subclause (VII); and

(3) by inserting after subclause (V) the following new subclause:

"(VI) for each of fiscal years 1998 through 2002, the market basket percentage increase for the fiscal year involved minus 1.0 percentage points; and".

(b) REPORT.—Section 1814(i) (42 U.S.C. 1395f(i)) is amended by adding at the end the following new paragraph:

"(3) The Secretary shall provide for the collection of data, from hospice programs providing hospice care for which payment is made under this subsection, with respect to the costs for providing such care for each fiscal year beginning with fiscal year 1999.".

SEC. 10522. PAYMENT FOR HOME HOSPICE CARE BASED ON LOCATION WHERE CARE IS FURNISHED.

(a) IN GENERAL.—Section 1814(i)(2) (42 U.S.C. 1395f(i)(2)) is amended by adding at the end the following:

"(D) A hospice program shall submit claims for payment for hospice care furnished in an individual's home under this title only on the basis of the geographic location at which the service is furnished, as determined by the Secretary.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to cost reporting periods beginning on or after October 1, 1997.

SEC. 10523. HOSPICE CARE BENEFITS PERIODS.

(a) RESTRUCTURING OF BENEFIT PERIOD.—Section 1812 (42 U.S.C. 1395d) is amended, in subsections (a)(4) and (d)(1), by striking ", a subsequent period of 30 days, and a subsequent extension period" and inserting "and an unlimited number of subsequent periods of 60 days each".

(b) CONFORMING AMENDMENTS.—(1) Section 1812 (42 U.S.C. 1395d) is amended in subsection (d)(2)(B) by striking "90- or 30-day period or a subsequent extension period" and inserting "90-day period or a subsequent 60-day period".

(2) Section 1814(a)(7)(A) (42 U.S.C. 1395f(a)(7)(A)) is amended—

(A) in clause (i), by inserting "and" at the end;

(B) in clause (ii)—

(i) by striking "30-day" and inserting "60-day"; and

(ii) by striking ", and" at the end and inserting a period; and

(C) by striking clause (iii).

SEC. 10524. OTHER ITEMS AND SERVICES INCLUDED IN HOSPICE CARE.

Section 1861(dd)(1) (42 U.S.C. 1395x(dd)(1)) is amended—

(1) in subparagraph (G), by striking "and" at the end;

(2) in subparagraph (H), by striking the period at the end and inserting ", and"; and

(3) by inserting after subparagraph (H) the following:

"(I) any other item or service which is specified in the plan and for which payment may otherwise be made under this title.".

SEC. 10525. CONTRACTING WITH INDEPENDENT PHYSICIANS OR PHYSICIAN GROUPS FOR HOSPICE CARE SERVICES PERMITTED.

Section 1861(dd)(2) (42 U.S.C. 1395x(dd)(2)) is amended—

(1) in subparagraph (A)(ii)(I), by striking "(F),"; and

(2) in subparagraph (B)(i), by inserting "or, in the case of a physician described in subclause (I), under contract with" after "employed by".

SEC. 10526. WAIVER OF CERTAIN STAFFING REQUIREMENTS FOR HOSPICE CARE PROGRAMS IN NON-URBANIZED AREAS.

Section 1861(dd)(5) (42 U.S.C. 1395x(dd)(5)) is amended—

(1) in subparagraph (B), by inserting "or (C)" after "subparagraph (A)" each place it appears; and

(2) by adding at the end the following:

"(C) The Secretary may waive the requirements of paragraph (2)(A)(i) and (2)(A)(ii) for an agency or organization with respect to the services described in paragraph (1)(B) and, with respect to dietary counseling, paragraph (1)(H), if such agency or organization—

"(i) is located in an area which is not an urbanized area (as defined by the Bureau of Census), and

"(ii) demonstrates to the satisfaction of the Secretary that the agency or organization has been unable, despite diligent efforts, to recruit appropriate personnel.".

SEC. 10527. LIMITATION ON LIABILITY OF BENEFICIARIES FOR CERTAIN HOSPICE COVERAGE DENIALS.

Section 1879(g) (42 U.S.C. 1395pp(g)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and moving such subparagraphs 2 ems to the right;

(2) by striking "is," and inserting "is—";

(3) by making the remaining text of subsection (g), as amended, that follows "is—" a new paragraph (1) and indenting such paragraph 2 ems to the right;

(4) by striking the period at the end and inserting "; and"; and

(5) by adding at the end the following new paragraph:

"(2) with respect to the provision of hospice care to an individual, a determination that the individual is not terminally ill.".

SEC. 10528. EXTENDING THE PERIOD FOR PHYSICIAN CERTIFICATION OF AN INDIVIDUAL'S TERMINAL ILLNESS.

Section 1814(a)(7)(A)(i) (42 U.S.C. 1395f(a)(7)(A)(i)) is amended, in the matter following subclause (II), by striking ", not later than 2 days after hospice care is initiated (or, if each certify verbally not later than 2 days after hospice care is initiated, not later than 8 days after such care is initiated)" and inserting "at the beginning of the period".

SEC. 10529. EFFECTIVE DATE.

Except as otherwise provided in this chapter, the amendments made by this chapter apply to benefits provided on or after the date of the enactment of this chapter, regardless of whether or not an individual has made an election under section 1812(d) of the Social Security Act (42 U.S.C. 1395d(d)) before such date.

CHAPTER 4—MODIFICATION OF PART A HOME HEALTH BENEFIT

SEC. 10531. MODIFICATION OF PART A HOME HEALTH BENEFIT FOR INDIVIDUALS ENROLLED UNDER PART B.

(a) IN GENERAL.—Section 1812 (42 U.S.C. 1395d) is amended—

(1) in subsection (a)(3), by striking "home health services" and inserting "for individuals not enrolled in part B, home health services, and for individuals so enrolled, part A home health services (as defined in subsection (g))";

(2) by redesignating subsection (g) as subsection (h); and

(3) by inserting after subsection (f) the following new subsection:

"(g)(1) For purposes of this section, the term 'part A home health services' means—

"(A) for services furnished during each year beginning with 1998 and ending with 2002, home health services subject to the transition reduction applied under paragraph (2)(C) for services furnished during the year, and

"(B) for services furnished on or after January 1, 2003, post-institutional home health services for up to 100 visits during a home health spell of illness.

"(2) For purposes of paragraph (1)(B), the Secretary shall specify, before the beginning of each year beginning with 1998 and ending with 2002, a transition reduction in the home health services benefit under this part as follows:

"(A) The Secretary first shall estimate the amount of payments that would have been made under this part for home health services furnished during the year if—

"(i) part A home health services were all home health services, and

"(ii) part A home health services were limited to services described in paragraph (1)(B).

"(B)(i) The Secretary next shall compute a transfer reduction amount equal to the appropriate proportion (specified under clause (ii)) of the amount by which the amount estimated under subparagraph (A)(i) for the year exceeds the amount estimated under subparagraph (A)(ii) for the year.

"(ii) For purposes of clause (i), the 'appropriate proportion' is equal to—

"(I) 1/6 for 1998,

"(II) 2/6 for 1999,

"(III) 3/6 for 2000,

"(IV) 4/6 for 2001, and

"(V) 5/6 for 2002.

"(C) The Secretary shall establish a transition reduction by specifying such a visit limit (during a home health spell of illness) or such a post-institutional limitation on home health services furnished under this part during the year as the Secretary estimates will result in a reduction in the amount of payments that would otherwise be made under this part for home health services furnished during the year equal to the transfer amount computed under subparagraph (B)(i) for the year.

"(3) Payment under this part for home health services furnished an individual enrolled under part B—

"(A) during a year beginning with 1998 and ending with 2003, may not be made for services that are not within the visit limit or other limitation specified by the Secretary under the transition reduction under paragraph (3)(C) for services furnished during the year; or

"(B) on or after January 1, 2004, may not be made for home health services that are not post-institutional home health services or for post-institutional furnished to the individual after such services have been furnished to the individual for a total of 100 visits during a home health spell of illness.

"(4) With respect to computing the monthly actuarial rate for enrollees age 65 and over for purposes of applying section 1839, such rate shall be computed as though any reference in a previous provision of this subsection to 2002 or 2003 is a reference to the succeeding year and as through the appropriate proportion described in paragraph (3)(B)(ii) were equal to—

"(A) 1/7 for 1998,

"(B) 2/7 for 1999,

"(C) 3/7 for 2000,

"(D) 4/7 for 2001,

"(E) 5/7 for 2002, and

"(F) 6/7 for 2003.".

(b) POST-INSTITUTIONAL HOME HEALTH SERVICES DEFINED.—Section 1861 (42 U.S.C. 1395x), as amended by section 10105(a)(1)(B) is amended by adding at the end the following:

"Post-Institutional Home Health Services;
Home Health Spell of Illness

"(rr)(1) The term 'post-institutional home health services' means home health services furnished to an individual—

"(A) after discharge from a hospital or rural primary care hospital in which the individual was an inpatient for not less than 3 consecutive days before such discharge if such home health services were initiated within 14 days after the date of such discharge; or

"(B) after discharge from a skilled nursing facility in which the individual was provided post-hospital extended care services if such home health services were initiated within 14 days after the date of such discharge.

"(2) The term 'home health spell of illness' with respect to any individual means a period of consecutive days—

"(A) beginning with the first day (not included in a previous home health spell of illness) (i) on which such individual is furnished post-institutional home health services, and (B) which occurs in a month for which the individual is entitled to benefits under part A, and

"(B) ending with the close of the first period of 60 consecutive days thereafter on each of which the individual is neither an inpatient of a hospital or rural primary care hospital nor an inpatient of a facility described in section 1819(a)(1) or subsection (y)(1) nor provided home health services.".

(c) MAINTAINING APPEAL RIGHTS FOR HOME HEALTH SERVICES.—Section 1869(b)(2)(B) (42 U.S.C. 1395ff(b)(2)(B)) is amended by inserting "(or $100 in the case of home health services)" after "$500".

(d) MAINTAINING SEAMLESS ADMINISTRATION THROUGH FISCAL INTERMEDIARIES.—Section 1842(b)(2) (42 U.S.C. 1395u(b)(2)) is amended by adding at the end the following:

"(E) With respect to the payment of claims for home health services under this part that, but for the amendments made by section 10531 of the Balanced Budget Act of 1997, would be payable under part A instead of under this part, the Secretary shall continue administration of such claims through fiscal intermediaries under section 1816.".

(e) EFFECTIVE DATE.—The amendments made by this section apply to services furnished on or after January 1, 1998. For purpose of applying such amendments, any home health spell of illness that began, but not end, before such date shall be considered to have begun as of such date.

CHAPTER 5—OTHER PAYMENT PROVISIONS

SEC. 10541. REDUCTIONS IN PAYMENTS FOR ENROLLEE BAD DEBT.

Section 1861(v)(1) (42 U.S.C. 1395x(v)(1)) is amended by adding at the end the following new subparagraph:

"(T) In determining such reasonable costs for hospitals, the amount of bad debts otherwise treated as allowable costs which are attributable to the deductibles and coinsurance amounts under this title shall be reduced—

"(i) for cost reporting periods beginning during fiscal year 1998, by 25 percent of such amount otherwise allowable,

"(ii) for cost reporting periods beginning during fiscal year 1999, by 40 percent of such amount otherwise allowable, and

"(iii) for cost reporting periods beginning during a subsequent fiscal year, by 50 percent of such amount otherwise allowable.".

SEC. 10542. PERMANENT EXTENSION OF HEMOPHILIA PASS-THROUGH.

Effective October 1, 1997, section 6011(d) of OBRA–1989 (as amended by section 13505 of OBRA–1993) is amended by striking "and shall expire September 30, 1994".

SEC. 10543. REDUCTION IN PART A MEDICARE PREMIUM FOR CERTAIN PUBLIC RETIREES.

(a) In General.—Section 1818(d) (42 U.S.C. 1395i–2(d)) is amended—

(1) in paragraph (2), by striking "paragraph (4)" and inserting "paragraphs (4) and (5)"; and

(2) by adding at the end the following new paragraph:

"(5)(A) The amount of the monthly premium shall be zero in the case of an individual who is a person described in subparagraph (B) for a month, if—

"(i) the individual's premium under this section for the month is not (and will not be) paid for, in whole or in part, by a State (under title XIX or otherwise), a political subdivision of a State, or an agency or instrumentality of one or more States or political subdivisions thereof; and

"(ii) in each of 60 months before such month, the individual was enrolled in this part under this section and the payment of the individual's premium under this section for the month was not paid for, in whole or in part, by a State (under title XIX or otherwise), a political subdivision of a State, or an agency or instrumentality of one or more States or political subdivisions thereof.

"(B) A person described in this subparagraph for an month is a person who establishes to the satisfaction of the Secretary that, as of the last day of the previous month—

"(i)(I) the person was receiving cash benefits under a qualified State or local government retirement system (as defined in subparagraph (C)) on the basis of the person's employment in one or more positions covered under any such system, and (II) the person would have at least 40 quarters of coverage under title II if remuneration for medicare qualified government employment (as defined in paragraph (1) of section 210(p), but determined without regard to paragraph (3) of such section) paid to such person were treated as wages paid to such person and credited for purposes of determining quarters of coverage under section 213;

"(ii)(I) the person was married (and had been married for the previous 1-year period) to an individual who is described in clause (i), or (II) the person met the requirement of clause (i)(II) and was married (and had been married for the previous 1-year period) to an individual described in clause (i)(I);

"(iii) the person had been married to an individual for a period of at least 1 year (at the time of such individual's death) if (I) the individual was described in clause (i) at the time of the individual's death, or (II) the person met the requirement of clause (i)(II) and the individual was described in clause (i)(I) at the time of the individual's death; or

"(iv) the person is divorced from an individual and had been married to the individual for a period of at least 10 years (at the time of the divorce) if (I) the individual was described in clause (i) at the time of the divorce, or (II) the person met the requirement of clause (i)(II) and the individual was described in clause (i)(I) at the time of the divorce.

"(C) For purposes of subparagraph (B)(i)(I), the term 'qualified State or local government retirement system' means a retirement system that—

"(i) is established or maintained by a State or political subdivision thereof, or an agency or instrumentality of one or more States or political subdivisions thereof;

"(ii) covers positions of some or all employees of such a State, subdivision, agency, or instrumentality; and

"(iii) does not adjust cash retirement benefits based on eligibility for a reduction in premium under this paragraph.".

(b) Effective Date.—The amendments made by subsection (a) shall apply to premiums for months beginning with January 1998, and months before such month may be taken into account for purposes of meeting the requirement of section 1818(d)(5)(B)(iii) of the Social Security Act, as added by subsection (a).

Subtitle G—Provisions Relating to Part B Only

CHAPTER 1—PHYSICIANS' SERVICES

SEC. 10601. ESTABLISHMENT OF SINGLE CONVERSION FACTOR FOR 1998.

(a) In General.—Section 1848(d)(1) (42 U.S.C. 1395w–4(d)(1)) is amended—

(1) by redesignating subparagraph (C) as subparagraph (D), and

(2) by inserting after subparagraph (B) the following:

"(C) Special rules for 1998.—The single conversion factor for 1998 under this subsection shall be the conversion factor for primary care services for 1997, increased by the Secretary's estimate of the weighted average of the three separate updates that would otherwise occur were it not for the enactment of chapter 1 of subtitle G of title X of the Balanced Budget Act of 1997.".

(b) Conforming Amendments.—Section 1848 (42 U.S.C. 1395w–4) is amended—

(1) by striking "(or factors)" each place it appears in subsection (d)(1)(A) and (d)(1)(D)(ii) (as redesignated by subsection (a)(1)),

(2) in subsection (d)(1)(A), by striking "or updates",

(3) in subsection (d)(1)(D) (as redesignated by subsection (a)(1)), by striking "(or updates)" each place it appears, and

(4) in subsection (i)(1)(C), by striking "conversion factors" and inserting "the conversion factor".

SEC. 10602. ESTABLISHING UPDATE TO CONVERSION FACTOR TO MATCH SPENDING UNDER SUSTAINABLE GROWTH RATE.

(a) Update.—

(1) In general.—Section 1848(d)(3) (42 U.S.C. 1395w–4(d)(3)) is amended to read as follows:

"(3) Update.—

"(A) In general.—Unless otherwise provided by law, subject to subparagraph (D) and the budget-neutrality factor determined by the Secretary under subsection (c)(2)(B)(ii), the update to the single conversion factor established in paragraph (1)(C) for a year beginning with 1999 is equal to the product of—

"(i) 1 plus the Secretary's estimate of the percentage increase in the MEI (as defined in section 1842(i)(3)) for the year (divided by 100), and

"(ii) 1 plus the Secretary's estimate of the update adjustment factor for the year (divided by 100),

minus 1 and multiplied by 100.

"(B) Update adjustment factor.—For purposes of subparagraph (A)(ii), the 'update adjustment factor' for a year is equal to the quotient (as estimated by the Secretary) of—

"(i) the difference between (I) the sum of the allowed expenditures for physicians' services (as determined under subparagraph (C)) during the period beginning July 1, 1997, and ending on June 30 of the year involved, and (II) the sum of the amount of actual expenditures for physicians' services furnished during the period beginning July 1, 1997, and ending on June 30 of the preceding year; divided by

"(ii) the actual expenditures for physicians' services for the 12-month period ending on June 30 of the preceding year, increased by the sustainable growth rate under subsection (f) for the fiscal year which begins during such 12-month period.

"(C) Determination of allowed expenditures.—For purposes of this paragraph, the allowed expenditures for physicians' services for the 12-month period ending with June 30 of—

"(i) 1997 is equal to the actual expenditures for physicians' services furnished during such 12-month period, as estimated by the Secretary; or

"(ii) a subsequent year is equal to the allowed expenditures for physicians' services for the previous year, increased by the sustainable growth rate under subsection (f) for the fiscal year which begins during such 12-month period.

"(D) Restriction on variation from medicare economic index.—Notwithstanding the amount of the update adjustment factor determined under subparagraph (B) for a year, the update in the conversion factor under this paragraph for the year may not be—

"(i) greater than 100 times the following amount: (1.03 + (MEI percentage/100)) − 1; or

"(ii) less than 100 times the following amount: (0.93 + (MEI percentage/100)) −1,

where 'MEI percentage' means the Secretary's estimate of the percentage increase in the MEI (as defined in section 1842(i)(3)) for the year involved.".

(2) Effective date.—The amendment made by paragraph (1) shall apply to the update for years beginning with 1999.

(b) Elimination of Report.—Section 1848(d) (42 U.S.C. 1395w–4(d)) is amended by striking paragraph (2).

SEC. 10603. REPLACEMENT OF VOLUME PERFORMANCE STANDARD WITH SUSTAINABLE GROWTH RATE.

(a) In General.—Section 1848(f) (42 U.S.C. 1395w–4(f)) is amended by striking paragraphs (2) through (5) and inserting the following:

"(2) Specification of growth rate.—The sustainable growth rate for all physicians' services for a fiscal year (beginning with fiscal year 1998) shall be equal to the product of—

"(A) 1 plus the Secretary's estimate of the weighted average percentage increase (divided by 100) in the fees for all physicians' services in the fiscal year involved, "(B) 1 plus the Secretary's estimate of the percentage change (divided by 100) in the average number of individuals enrolled under this part (other than MedicarePlus plan enrollees) from the previous fiscal year to the fiscal year involved,

"(C) 1 plus the Secretary's estimate of the projected percentage growth in real gross domestic product per capita (divided by 100) from the previous fiscal year to the fiscal year involved, and

"(D) 1 plus the Secretary's estimate of the percentage change (divided by 100) in expenditures for all physicians' services in the fiscal year (compared with the previous fiscal year) which will result from changes in law and regulations, determined without taking into account estimated changes in expenditures due to changes in the volume and intensity of physicians' services resulting from changes in the update to the conversion factor under subsection (d)(3),

minus 1 and multiplied by 100.

"(3) DEFINITIONS.—In this subsection:

"(A) SERVICES INCLUDED IN PHYSICIANS' SERVICES.—The term 'physicians' services' includes other items and services (such as clinical diagnostic laboratory tests and radiology services), specified by the Secretary, that are commonly performed or furnished by a physician or in a physician's office, but does not include services furnished to a MedicarePlus plan enrollee.

"(B) MEDICAREPLUS PLAN ENROLLEE.—The term 'MedicarePlus plan enrollee' means, with respect to a fiscal year, an individual enrolled under this part who has elected to receive benefits under this title for the fiscal year through a MedicarePlus plan offered under part C, and also includes an individual who is receiving benefits under this part through enrollment with an eligible organization with a risk-sharing contract under section 1876.".

(b) CONFORMING AMENDMENTS.—Section 1848(f) (42 U.S.C. 1395w-4(f)) is amended—

(1) in the heading, by striking "VOLUME PERFORMANCE STANDARD RATES OF INCREASE" and inserting "SUSTAINABLE GROWTH RATE"; and

(2) in paragraph (1)—

(A) in the heading, by striking "VOLUME PERFORMANCE STANDARD RATES OF INCREASE" and inserting "SUSTAINABLE GROWTH RATE",

(B) by striking subparagraphs (A) and (B); and

(C) in paragraph (1)(C)—

(i) in the heading, by striking "PERFORMANCE STANDARD RATES OF INCREASE" and inserting "SUSTAINABLE GROWTH RATE";

(ii) in the first sentence, by striking "with 1991), the performance standard rates of increase" and all that follows through the first period and inserting "with 1999), the sustainable growth rate for the fiscal year beginning in that year."; and

(iii) in the second sentence, by striking "January 1, 1990, the performance standard rate of increase under subparagraph (D) for fiscal year 1990" and inserting "January 1, 1999, the sustainable growth rate for fiscal year 1999".

SEC. 10604. PAYMENT RULES FOR ANESTHESIA SERVICES.

(a) IN GENERAL.—Section 1848(d)(1) (42 U.S.C. 1395w-4(d)(1)), as amended by section 10601(a), is amended—

(1) in subparagraph (C), striking "The single" and inserting "Except as provided in subparagraph (D), the single";

(2) by redesignating subparagraph (D) as subparagraph (E); and

(3) by inserting after subparagraph (C) the following new subparagraph:

"(D) SPECIAL RULES FOR ANESTHESIA SERVICES.—The separate conversion factor for anesthesia services for a year shall be equal to 46 percent of the single conversion factor established for other physicians' services, except as adjusted for changes in work, practice expense, or malpractice relative value units. ".

(b) CLASSIFICATION OF ANESTHESIA SERVICES.—The first sentence of section 1848(j)(1) (42 U.S.C. 1395w-4(j)(1)) is amended—

(1) by striking "and including anesthesia services"; and

(2) by inserting before the period the following: "(including anesthesia services)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 1998.

SEC. 10605. IMPLEMENTATION OF RESOURCE-BASED PHYSICIAN PRACTICE EXPENSE.

(a) 1-YEAR DELAY IN IMPLEMENTATION.—Section 1848(c) (42 U.S.C. 1395w-4(c)) is amended—

(1) in paragraph (2)(C)(ii), in the matter before subclause (I) and after subclause (II), by striking "1998" and inserting "1999" each place it appears; and

(2) in paragraph (3)(C)(ii), by striking "1998" and inserting "1999".

(b) PHASED-IN IMPLEMENTATION.—Section 1848(c)(2)(C)(ii) (42 U.S.C. 1395w-4(c)(2)(C)(ii)) is further amended—

(1) in subparagraph (C)(ii), in the matter following subclause (II), by inserting ", to the extent provided under subparagraph (G)," after "based", and

(2) by adding at the end the following new subparagraph:

"(G) TRANSITIONAL RULE FOR RESOURCE-BASED PRACTICE EXPENSE UNITS.—In applying subparagraph (C)(ii) for 1999, 2000, 2001, and any subsequent year, the number of units under such subparagraph shall be based 75 percent, 50 percent, 25 percent, and 0 percent, respectively, on the practice expense relative value units in effect in 1998 (or the Secretary's imputation of such units for new or revised codes) and the remainder on the relative value expense resources involved in furnishing the service.".

SEC. 10606. DISSEMINATION OF INFORMATION ON HIGH PER DISCHARGE RELATIVE VALUES FOR IN-HOSPITAL PHYSICIANS' SERVICES.

(a) DETERMINATION AND NOTICE CONCERNING HOSPITAL-SPECIFIC PER DISCHARGE RELATIVE VALUES.—

(1) IN GENERAL.—For 1999 and 2001 the Secretary of Health and Human Services shall determine for each hospital—

(A) the hospital-specific per discharge relative value under subsection (b); and

(B) whether the hospital-specific relative value is projected to be excessive (as determined based on such value represented as a percentage of the median of hospital-specific per discharge relative values determined under subsection (b)).

(2) NOTICE TO MEDICAL STAFFS AND CARRIERS.—The Secretary shall notify the medical executive committee of each hospital identifies under paragraph (1)(B) as having an excessive hospital-specific relative value, of the determinations made with respect to the medical staff under paragraph (1).

(b) DETERMINATION OF HOSPITAL-SPECIFIC PER DISCHARGE RELATIVE VALUES.—

(1) IN GENERAL.—For purposes of this section, the hospital-specific per discharge relative value for the medical staff of a hospital (other than a teaching hospital) for a year, shall be equal to the average per discharge relative value (as determined under section 1848(c)(2) of the Social Security Act) for physicians' services furnished to inpatients of the hospital by the hospital's medical staff (excluding interns and residents) during the second year preceding that calendar year, adjusted for variations in case-mix and disproportionate share status among hospitals (as determined by the Secretary under paragraph (3)).

(2) SPECIAL RULE FOR TEACHING HOSPITALS.—The hospital-specific relative value projected for a teaching hospital in a year shall be equal to the sum of—

(A) the average per discharge relative value (as determined under section 1848(c)(2) of such Act) for physicians' services furnished to inpatients of the hospital by the hospital's medical staff (excluding interns and residents) during the second year preceding that calendar year, and

(B) the equivalent per discharge relative value (as determined under such section) for physicians' services furnished to inpatients of the hospital by interns and residents of the hospital during the second year preceding that calendar year, adjusted for variations in case-mix, disproportionate share status, and teaching status among hospitals (as determined by the Secretary under paragraph (3)).

The Secretary shall determine the equivalent relative value unit per discharge for interns and residents based on the best available data and may make such adjustment in the aggregate.

(3) ADJUSTMENT FOR TEACHING AND DISPROPORTIONATE SHARE HOSPITALS.—The Secretary shall adjust the allowable per discharge relative values otherwise determined under this subsection to take into account the needs of teaching hospitals and hospitals receiving additional payments under subparagraphs (F) and (G) of section 1886(d)(5) of the Social Security Act. The adjustment for teaching status or disproportionate share shall not be less than zero.

(c) DEFINITIONS.—For purposes of this section:

(1) HOSPITAL.—The term "hospital" means a subsection (d) hospital as defined in section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)) .

(2) MEDICAL STAFF.—An individual furnishing a physician's service is considered to be on the medical staff of a hospital—

(A) if (in accordance with requirements for hospitals established by the Joint Commission on Accreditation of Health Organizations)—

(i) the individual is subject to bylaws, rules, and regulations established by the hospital to provide a framework for the self-governance of medical staff activities,

(ii) subject to the bylaws, rules, and regulations, the individual has clinical privileges granted by the hospital's governing body, and

(iii) under the clinical privileges, the individual may provide physicians" services independently within the scope of the individual's clinical privileges, or

(B) if the physician provides at least one service to an individual entitled to benefits under this title in that hospital.

(3) PHYSICIANS' SERVICES.—The term "physicians" services" means the services described in section 1848(j)(3) of the Social Security Act (42 U.S.C. 1395w-4(j)(3)).

(4) RURAL AREA; URBAN AREA.—The terms "rural area" and "urban area" have the meaning given those terms under section 1886(d)(2)(D) of such Act (42 U.S.C. 1395ww(d)(2)(D)).

(5) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services .

(6) TEACHING HOSPITAL.—The term "teaching hospital" means a hospital which has a teaching program approved as specified in section 1861(b)(6) of the Social Security Act (42 U.S.C. 1395x(b)(6)).

SEC. 10607. NO X-RAY REQUIRED FOR CHIROPRACTIC SERVICES.

(a) IN GENERAL.—Section 1861(r)(5) (42 U.S.C. 1395x(r)(5)) is amended by striking "demonstrated by X-ray to exist".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to services furnished on or after January 1, 1998.

SEC. 10608. TEMPORARY COVERAGE RESTORATION FOR PORTABLE ELECTROCARDIOGRAM TRANSPORTATION.

(a) IN GENERAL.—Effective for electrocardiogram tests furnished during 1998, the Secretary of Health and Human Services shall restore separate payment, under part B of title XVIII of the Social Security Act, for the transportation of electrocardiogram equipment (HCPCS code R0076) based upon the status code and relative value units established for such service as of December 31, 1996.

(b) DETERMINATION.—By not later than July 1, 1998, the Secretary of Health and Human Services shall determine, taking into account the study of coverage of portable electrocardiogram transportation conducted by the Comptroller General and other relevant information, including information submitted by interested parties, whether coverage of portable electrocardiogram transportation should be provided under part B of title XVIII of the Social Security Act.

CHAPTER 2—OTHER PAYMENT PROVISIONS

SEC. 10611. PAYMENTS FOR DURABLE MEDICAL EQUIPMENT.

(a) REDUCTION IN PAYMENT AMOUNTS FOR ITEMS OF DURABLE MEDICAL EQUIPMENT.—

(1) FREEZE IN UPDATE FOR COVERED ITEMS.—Section 1834(a)(14) (42 U.S.C. 1395m(a)(14)) is amended—

(A) by striking "and" at the end of subparagraph (A);

(B) in subparagraph (B)—

(i) by striking "a subsequent year" and inserting "1993, 1994, 1995, 1996, and 1997", and

(ii) by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

"(C) for each of the years 1998 through 2002, 0 percentage points; and

"(D) for a subsequent year, the percentage increase in the consumer price index for all urban consumers (U.S. urban average) for the 12-month period ending with June of the previous year.".

(2) UPDATE FOR ORTHOTICS AND PROSTHETICS.—Section 1834(h)(4)(A) (42 U.S.C. 1395m(h)(4)(A)) is amended—

(A) by striking ", and" at the end of clause (iii) and inserting a semicolon;

(B) in clause (iv), by striking "a subsequent year" and inserting "1996 and 1997", and

(C) by adding at the end the following new clauses:

"(v) for each of the years 1998 through 2002, 1 percent, and

"(vi) for a subsequent year, the percentage increase in the consumer price index for all urban consumers (United States city average) for the 12-month period ending with June of the previous year;".

(c) PAYMENT FREEZE FOR PARENTERAL AND ENTERAL NUTRIENTS, SUPPLIES, AND EQUIPMENT.—In determining the amount of payment under part B of title XVIII of the Social Security Act with respect to parenteral and enteral nutrients, supplies, and equipment during each of the years 1998 through 2002, the charges determined to be reasonable with respect to such nutrients, supplies, and equipment may not exceed the charges determined to be reasonable with respect to such nutrients, supplies, and equipment during 1995.

SEC. 10612. OXYGEN AND OXYGEN EQUIPMENT.

Section 1834(a)(9)(C) (42 U.S.C. 1395m(a)(9)(C)) is amended—

(1) by striking "and" at the end of clause (iii);

(2) in clause (iv)—

(A) by striking "a subsequent year" and inserting "1993, 1994, 1995, 1996, and 1997", and

(B) by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new clauses:

"(v) in each of the years 1998 through 2002, is 80 percent of the national limited monthly payment rate computed under subparagraph (B) for the item for the year; and

"(vi) in a subsequent year, is the national limited monthly payment rate computed under subparagraph (B) for the item for the year.".

SEC. 10613. REDUCTION IN UPDATES TO PAYMENT AMOUNTS FOR CLINICAL DIAGNOSTIC LABORATORY TESTS.

(a) CHANGE IN UPDATE.—Section 1833(h)(2)(A)(ii)(IV) (42 U.S.C. 1395l(h)(2)(A)(ii)(IV)) is amended by inserting "and 1998 through 2002" after "1995".

(b) LOWERING CAP ON PAYMENT AMOUNTS.—Section 1833(h)(4)(B) (42 U.S.C. 1395l(h)(4)(B)) is amended—

(1) in clause (vi), by striking "and" at the end;

(2) in clause (vii)—

(A) by inserting "and before January 1, 1998," after "1995,", and

(B) by striking the period at the end and inserting ", and"; and

(3) by adding at the end the following new clause:

"(viii) after December 31, 1997, is equal to 72 percent of such median.".

SEC. 10614. SIMPLIFICATION IN ADMINISTRATION OF LABORATORY TESTS.

(a) SELECTION OF REGIONAL CARRIERS.—

(1) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall—

(A) divide the United States into no more than 5 regions, and

(B) designate a single carrier for each such region,

for the purpose of payment of claims under part B of title XVIII of the Social Security Act with respect to clinical diagnostic laboratory tests (other than for independent physician offices) furnished on or after such date (not later than January 1, 1999) as the Secretary specifies.

(2) DESIGNATION.—In designating such carriers, the Secretary shall consider, among other criteria—

(A) a carrier's timeliness, quality, and experience in claims processing, and

(B) a carrier's capacity to conduct electronic data interchange with laboratories and data matches with other carriers.

(3) SINGLE DATA RESOURCE.—The Secretary may select one of the designated carriers to serve as a central statistical resource for all claims information relating to such clinical diagnostic laboratory tests handled by all the designated carriers under such part.

(4) ALLOCATION OF CLAIMS.—The allocation of claims for clinical diagnostic laboratory tests to particular designated carriers shall be based on whether a carrier serves the geographic area where the laboratory specimen was collected or other method specified by the Secretary.

(b) ADOPTION OF UNIFORM POLICIES FOR CLINICAL LABORATORY TESTS.—

(1) IN GENERAL.—Not later than July 1, 1998, the Secretary shall first adopt, consistent with paragraph (2), uniform coverage, administration, and payment policies for clinical diagnostic laboratory tests under part B of title XVIII of the Social Security Act, using a negotiated rulemaking process under subchapter III of chapter 5 of title 5, United States Code.

(2) CONSIDERATIONS IN DESIGN OF UNIFORM POLICIES.—The policies under paragraph (1) shall be designed to promote uniformity and program integrity and reduce administrative burdens with respect to clinical diagnostic laboratory tests payable under such part in connection with the following:

(A) Beneficiary information required to be submitted with each claim or order for laboratory tests.

(B) Physicians' obligations regarding documentation requirements and recordkeeping.

(C) Procedures for filing claims and for providing remittances by electronic media.

(D) The documentation of medical necessity.

(E) Limitation on frequency of coverage for the same tests performed on the same individual.

(3) CHANGES IN CARRIER REQUIREMENTS PENDING ADOPTION OF UNIFORM POLICY.—During the period that begins on the date of the enactment of this Act and ends on the date the Secretary first implements uniform policies pursuant to regulations promulgated under this subsection, a carrier under such part may implement changes relating to requirements for the submission of a claim for clinical diagnostic laboratory tests.

(4) USE OF INTERIM REGIONAL POLICIES.—After the date the Secretary first implements such uniform policies, the Secretary shall permit any carrier to develop and implement interim policies of the type described in paragraph (1), in accordance with guidelines established by the Secretary, in cases in which a uniform national policy has not been established under this subsection and there is a demonstrated need for a policy to respond to aberrant utilization or provision of unnecessary services. Except as the Secretary specifically permits, no policy shall be implemented under this paragraph for a period of longer than 2 years.

(5) INTERIM NATIONAL POLICIES.—After the date the Secretary first designates regional carriers under subsection (a), the Secretary shall establish a process under which designated carriers can collectively develop and implement interim national standards of the type described in paragraph (1). No such policy shall be implemented under this paragraph for a period of longer than 2 years.

(6) BIENNIAL REVIEW PROCESS.—Not less often than once every 2 years, the Secretary shall solicit and review comments regarding changes in the uniform policies established under this subsection. As part of such biennial review process, the Secretary shall specifically review and consider whether to incorporate or supersede interim, regional, or national policies developed under paragraph (4) or (5). Based upon such review, the Secretary may provide for appropriate changes in the uniform policies previously adopted under this subsection.

(7) NOTICE.— Before a carrier implements a change or policy under paragraph (3), (4), or

(5), the carrier shall provide for advance notice to interested parties and a 45-day period in which such parties may submit comments on the proposed change.

(c) Inclusion of Laboratory Representative on Carrier Advisory Committees.—The Secretary shall direct that any advisory committee established by such a carrier, to advise with respect to coverage, administration or payment policies under part B of title XVIII of the Social Security Act, shall include an individual to represent the interest and views of independent clinical laboratories and such other laboratories as the Secretary deems appropriate. Such individual shall be selected by such committee from among nominations submitted by national and local organizations that represent independent clinical laboratories.

SEC. 10615. UPDATES FOR AMBULATORY SURGICAL SERVICES.

Section 1833(i)(2)(C) (42 U.S.C. 1395l(i)(2)(C)) is amended by striking all that follows "shall be increased" and inserting the following: "as follows:

"(i) For fiscal years 1996 and 1997, by the percentage increase in the consumer price index for all urban consumers (U.S. city average) as estimated by the Secretary for the 12-month period ending with the midpoint of the year involved.

"(ii) For each of fiscal years 1998 through 2002 by such percentage increase minus 2.0 percentage points.

"(iii) For each succeeding fiscal year by such percentage increase.".

SEC. 10616. REIMBURSEMENT FOR DRUGS AND BIOLOGICALS.

(a) In General.—Section 1842 (42 U.S.C. 1395u) is amended by inserting after subsection (n) the following new subsection:

"(o) If a physician's, supplier's, or any other person's bill or request for payment for services includes a charge for a drug or biological for which payment may be made under this part and the drug or biological is not paid on a cost or prospective payment basis as otherwise provided in this part, the amount payable for the drug or biological is equal to 95 percent of the average wholesale price.".

(b) Effective Date.—The amendments made by subsection (a) apply to drugs and biologicals furnished on or after January 1, 1998.

SEC. 10617. COVERAGE OF ORAL ANTI-NAUSEA DRUGS UNDER CHEMOTHERAPEUTIC REGIMEN.

(a) In General.—Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)), as amended, is further amended—

(1) by striking "and" at the end of subparagraph (R); and

(2) by inserting after subparagraph (S) the following new subparagraph:

"(T) an oral drug (which is approved by the Federal Food and Drug Administration) prescribed for use as an acute anti-emetic used as part of an anticancer chemotherapeutic regimen if the drug is administered by a physician (or as prescribed by a physician)—

"(i) for use immediately before, at, or within 48 hours after the time of the administration of the anticancer chemotherapeutic agent; and

"(ii) as a full replacement for the anti-emetic therapy which would otherwise be administered intravenously.".

(b) Payment Levels.—Section 1834 (42 U.S.C. 1395m), as amended by sections 10421(a)(2) and 10431(b)(2), is amended by adding at the end the following new subsection:

"(m) Special Rules for Payment for Oral Anti-Nausea Drugs.—

"(1) Limitation on per dose payment basis.—Subject to paragraph (2), the per dose payment basis under this part for oral anti-nausea drugs (as defined in paragraph (3)) administered during a year shall not exceed 90 percent of the average per dose payment basis for the equivalent intravenous anti-emetics administered during the year, as computed based on the payment basis applied during 1996.

"(2) Aggregate limit.—The Secretary shall make such adjustment in the coverage of, or payment basis for, oral anti-nausea drugs so that coverage of such drugs under this part does not result in any increase in aggregate payments per capita under this part above the levels of such payments per capita that would otherwise have been made if there were no coverage for such drugs under this part.

"(3) Oral anti-nausea drugs defined.—For purposes of this subsection, the term 'oral anti-nausea drugs' means drugs for which coverage is provided under this part pursuant to section 1861(s)(2)(P).".

(c) Effective Date.—The amendments made by this section shall apply to items and services furnished on or after January 1, 1998.

SEC. 10618. RURAL HEALTH CLINIC SERVICES.

(a) Per-Visit Payment Limits for Provider-Based Clinics.—

(1) Extension of limit.—

(A) In general.—The matter in section 1833(f) (42 U.S.C. 1395l(f)) preceding paragraph (1) is amended by striking "independent rural health clinics" and inserting "rural health clinics (other than such clinics in rural hospitals with less than 50 beds)".

(B) Effective date.—The amendment made by subparagraph (A) applies to services furnished after 1997.

(2) Technical clarification.—Section 1833(f)(1) (42 U.S.C. 1395l(f)(1)) is amended by inserting "per visit" after "$46".

(b) Assurance of Quality Services.—

(1) In general.—Subparagraph (I) of the first sentence of section 1861(aa)(2) (42 U.S.C. 1395x(aa)(2)) is amended to read as follows:

"(I) has a quality assessment and performance improvement program, and appropriate procedures for review of utilization of clinic services, as the Secretary may specify,".

(2) Effective date.—The amendment made by paragraph (1) shall take effect on January 1, 1998.

(c) Waiver of Certain Staffing Requirements Limited to Clinics in Program.—

(1) In general.—Section 1861(aa)(7)(B) (42 U.S.C. 1395x(aa)(7)(B)) is amended by inserting before the period at the end the following: ", or if the facility has not yet been determined to meet the requirements (including subparagraph (J) of the first sentence of paragraph (2)) of a rural health clinic".

(2) Effective date.—The amendment made by paragraph (1) applies to waiver requests made after 1997.

(d) Refinement of Shortage Area Requirements.—

(1) Designation reviewed triennially.—Section 1861(aa)(2) (42 U.S.C. 1395x(aa)(2)) is amended in the second sentence, in the matter in clause (i) preceding subclause (I)—

(A) by striking "and that is designated" and inserting "and that, within the previous three-year period, has been designated"; and

(B) by striking "or that is designated" and inserting "or designated".

(2) Area must have shortage of health care practitioners.—Section 1861(aa)(2) (42 U.S.C. 1395x(aa)(2)), as amended by paragraph (1), is further amended in the second sentence, in the matter in clause (i) preceding subclause (I)—

(A) by striking the comma after "personal health services"; and

(B) by inserting "and in which there are insufficient numbers of needed health care practitioners (as determined by the Secretary)," after "Bureau of the Census)".

(3) Previously qualifying clinics grandfathered only to prevent shortage.—Section 1861(aa)(2) (42 U.S.C. 1395x(aa)(2)) is amended in the third sentence by inserting before the period "if it is determined, in accordance with criteria established by the Secretary in regulations, to be essential to the delivery of primary care services that would otherwise be unavailable in the geographic area served by the clinic".

(4) Effective dates; implementing regulations.—

(A) In general.—Except as otherwise provided, the amendments made by the preceding paragraphs take effect on January 1 of the first calendar year beginning at least one month after enactment of this Act.

(B) Current rural health clinics.—The amendments made by the preceding paragraphs take effect, with respect to entities that are rural health clinics under title XVIII of the Social Security Act on the date of enactment of this Act, on January 1 of the second calendar year following the calendar year specified in subparagraph (A).

(C) Grandfathered clinics.—

(i) In general.—The amendment made by paragraph (3) shall take effect on the effective date of regulations issued by the Secretary under clause (ii).

(ii) Regulations.—The Secretary shall issue final regulations implementing paragraph (3) that shall take effect no later than January 1 of the third calendar year beginning at least one month after enactment of this Act.

SEC. 10619. INCREASED MEDICARE REIMBURSEMENT FOR NURSE PRACTITIONERS AND CLINICAL NURSE SPECIALISTS.

(a) Removal of Restrictions on Settings.—

(1) In general.—Clause (ii) of section 1861(s)(2)(K) (42 U.S.C. 1395x(s)(2)(K)) is amended to read as follows:

"(ii) services which would be physicians' services if furnished by a physician (as defined in subsection (r)(1)) and which are performed by a nurse practitioner or clinical nurse specialist (as defined in subsection (aa)(5)) working in collaboration (as defined in subsection (aa)(6)) with a physician (as defined in subsection (r)(1)) which the nurse practitioner or clinical nurse specialist is legally authorized to perform by the State in which the services are performed, and such services and supplies furnished as an incident to such services as would be covered under subparagraph (A) if furnished incident to a physician's professional service, but only if no facility or other provider charges or is paid any amounts with respect to the furnishing of such services;".

(2) Conforming amendments.—(A) Section 1861(s)(2)(K) of such Act (42 U.S.C. 1395x(s)(2)(K)) is further amended—

(i) in clause (i), by inserting "and such services and supplies furnished as incident to such services as would be covered under subparagraph (A) if furnished incident to a physician's professional service," after "are performed,"; and

(ii) by striking clauses (iii) and (iv).

(B) Section 1861(b)(4) (42 U.S.C. 1395x(b)(4)) is amended by striking "clauses (i) or (iii) of subsection (s)(2)(K)" and inserting "subsection (s)(2)(K)".

(C) Section 1862(a)(14) (42 U.S.C. 1395y(a)(14)) is amended by striking "section 1861(s)(2)(K)(i) or 1861(s)(2)(K)(iii)" and inserting "section 1861(s)(2)(K)".

(D) Section 1866(a)(1)(H) (42 U.S.C. 1395cc(a)(1)(H)) is amended by striking "section 1861(s)(2)(K)(i) or 1861(s)(2)(K)(iii)" and inserting "section 1861(s)(2)(K)".

(E) Section 1888(e)(2)(A)(ii) (42 U.S.C. 1395yy(e)(2)(A)(ii)), as added by section 10401(a), is amended by striking "through (iii)" and inserting "and (ii)".

(b) Increased Payment.—

(1) Fee schedule amount.—Clause (O) of section 1833(a)(1) (42 U.S.C. 1395l(a)(1)) is amended to read as follows: "(O) with respect to services described in section 1861(s)(2)(K)(ii) (relating to nurse practitioner or clinical nurse specialist services), the amounts paid shall be equal to 80 percent of (i) the lesser of the actual charge or 85 percent of the fee schedule amount provided under section 1848, or (ii) in the case of services as an assistant at surgery, the lesser of the actual charge or 85 percent of the amount that would otherwise be recognized if performed by a physician who is serving as an assistant at surgery; and".

(2) Conforming amendments.—(A) Section 1833(r) (42 U.S.C. 1395l(r)) is amended—

(i) in paragraph (1), by striking "section 1861(s)(2)(K)(iii) (relating to nurse practitioner or clinical nurse specialist services provided in a rural area)" and inserting "section 1861(s)(2)(K)(ii) (relating to nurse practitioner or clinical nurse specialist services)";

(ii) by striking paragraph (2);

(iii) in paragraph (3), by striking "section 1861(s)(2)(K)(iii)" and inserting "section 1861(s)(2)(K)(ii)"; and

(iv) by redesignating paragraph (3) as paragraph (2).

(B) Section 1842(b)(12)(A) (42 U.S.C. 1395u(b)(12)(A)) is amended, in the matter preceding clause (i), by striking "clauses (i), (ii), or (iv) of section 1861(s)(2)(K) (relating to a physician assistants and nurse practitioners)" and inserting "section 1861(s)(2)(K)(i) (relating to physician assistants),".

(c) Direct Payment for Nurse Practitioners and Clinical Nurse Specialists.—

(1) In general.—Section 1832(a)(2)(B)(iv) (42 U.S.C. 1395k(a)(2)(B)(iv)) is amended by striking "provided in a rural area (as defined in section 1886(d)(2)(D))" and inserting "but only if no facility or other provider charges or is paid any amounts with respect to the furnishing of such services".

(2) Conforming amendment.—Section 1842(b)(6)(C) (42 U.S.C. 1395u(b)(6)(C)) is amended—

(A) by striking "clauses (i), (ii), or (iv)" and inserting "clause (i)"; and

(B) by striking "or nurse practitioner".

(d) Definition of Clinical Nurse Specialist Clarified.— Section 1861(aa)(5) (42 U.S.C. 1395x(aa)(5)) is amended—

(1) by inserting "(A)" after "(5)";

(2) by striking "The term 'physician assistant' " and all that follows through "who performs" and inserting "The term 'physician assistant' and the term 'nurse practitioner' mean, for purposes of this title, a physician assistant or nurse practitioner who performs"; and

(3) by adding at the end the following new subparagraph:

"(B) The term 'clinical nurse specialist' means, for purposes of this title, an individual who—

"(i) is a registered nurse and is licensed to practice nursing in the State in which the clinical nurse specialist services are performed; and

"(ii) holds a master's degree in a defined clinical area of nursing from an accredited educational institution.".

(e) Effective Date.—The amendments made by this section shall apply with respect to services furnished and supplies provided on and after January 1, 1998.

SEC. 10620. INCREASED MEDICARE REIMBURSEMENT FOR PHYSICIAN ASSISTANTS.

(a) Removal of Restriction on Settings.—Section 1861(s)(2)(K)(i) (42 U.S.C. 1395x(s)(2)(K)(i)) is amended—

(1) by striking "(I) in a hospital" and all that follows through "shortage area,", and

(2) by adding at the end the following: "but only if no facility or other provider charges or is paid any amounts with respect to the furnishing of such services,".

(b) Increased Payment.—Paragraph (12) of section 1842(b) (42 U.S.C. 1395u(b)), as amended by section 10619(b)(2)(B), is amended to read as follows:

"(12) With respect to services described in section 1861(s)(2)(K)(i)—

"(A) payment under this part may only be made on an assignment-related basis; and

"(B) the amounts paid under this part shall be equal to 80 percent of (i) the lesser of the actual charge or 85 percent of the fee schedule amount provided under section 1848 for the same service provided by a physician who is not a specialist; or (ii) in the case of services as an assistant at surgery, the lesser of the actual charge or 85 percent of the amount that would otherwise be recognized if performed by a physician who is serving as an assistant at surgery.".

(c) Removal of Restriction on Employment Relationship.—Section 1842(b)(6) (42 U.S.C. 1395u(b)(6)) is amended by adding at the end the following new sentence: "For purposes of clause (C) of the first sentence of this paragraph, an employment relationship may include any independent contractor arrangement, and employer status shall be determined in accordance with the law of the State in which the services described in such clause are performed.".

(d) Effective Date.—The amendments made by this section shall apply with respect to services furnished and supplies provided on and after January 1, 1998.

SEC. 10621. RENAL DIALYSIS-RELATED SERVICES.

(a) Auditing of Cost Reports.—The Secretary shall audit a sample of cost reports of renal dialysis providers for 1995 and for each third year thereafter.

(b) Implementation of Quality Standards.—The Secretary of Health and Human Services shall develop and implement, by not later than January 1, 1999, a method to measure and report quality of renal dialysis services provided under the medicare program under title XVIII of the Social Security Act in order to reduce payments for inappropriate or low quality care.

CHAPTER 3—PART B PREMIUM

SEC. 10631. PART B PREMIUM.

(a) In General.—The first, second and third sentences of section 1839(a)(3) (42 U.S.C. 1395r(a)(3)) are amended to read as follows: "The Secretary, during September of each year, shall determine and promulgate a monthly premium rate for the succeeding calendar year. That monthly premium rate shall be equal to 50 percent of the monthly actuarial rate for enrollees age 65 and over, determined according to paragraph (1), for that succeeding calendar year.".

(b) Conforming and Technical Amendments.—

(1) Section 1839.—Section 1839 (42 U.S.C. 1395r) is amended—

(A) in subsection (a)(2), by striking "(b) and (e)" and inserting "(b), (c), and (f)",

(B) in the last sentence of subsection (a)(3)—

(i) by inserting "rate" after "premium", and

(ii) by striking "and the derivation of the dollar amounts specified in this paragraph",

(C) by striking subsection (e), and

(D) by redesignating subsection (g) as subsection (e) and inserting that subsection after subsection (d).

(2) Section 1844.—Subparagraphs (A)(i) and (B)(i) of section 1844(a)(1) (42 U.S.C. 1395w(a)(1)) are each amended by striking "or 1839(e), as the case may be".

Subtitle H—Provisions Relating to Parts A and B

CHAPTER 1—PROVISIONS RELATING TO MEDICARE SECONDARY PAYER

SEC. 10701. PERMANENT EXTENSION AND REVISION OF CERTAIN SECONDARY PAYER PROVISIONS.

(a) Application to Disabled Individuals in Large Group Health Plans.—

(1) In general.—Section 1862(b)(1)(B) (42 U.S.C. 1395y(b)(1)(B)) is amended—

(A) in clause (i), by striking "clause (iv)" and inserting "clause (iii)",

(B) by striking clause (iii), and

(C) by redesignating clause (iv) as clause (iii).

(2) Conforming amendments.—Paragraphs (1) through (3) of section 1837(i) (42 U.S.C. 1395p(i)) and the second sentence of section 1839(b) (42 U.S.C. 1395r(b)) are each amended by striking "1862(b)(1)(B)(iv)" each place it appears and inserting "1862(b)(1)(B)(iii)".

(b) Individuals With End Stage Renal Disease.—

(1) In general.—Section 1862(b)(1)(C) (42 U.S.C. 1395y(b)(1)(C)) is amended—

(A) in the first sentence, by striking "12-month" each place it appears and inserting "30-month", and

(B) by striking the second sentence.

(2) Effective date.—The amendments made by paragraph (1) shall apply to items and services furnished on or after the date of the enactment of this Act and with respect to periods beginning on or after the date that is 18 months prior to such date.

(c) IRS-SSA-HCFA Data Match.—

(1) Social security act.—Section 1862(b)(5)(C) (42 U.S.C. 1395y(b)(5)(C)) is amended by striking clause (iii).

(2) Internal revenue code.—Section 6103(l)(12) of the Internal Revenue Code of 1986 is amended by striking subparagraph (F).

SEC. 10702. CLARIFICATION OF TIME AND FILING LIMITATIONS.

(a) Extension of Claims Filing Period.—Section 1862(b)(2)(B) (42 U.S.C. 1395y(b)(2)(B)) is amended by adding at the end the following new clause:

"(v) Claims-filing period.—Notwithstanding any other time limits that may exist for filing a claim under an employer group health plan, the United States may seek to recover conditional payments in accordance with this subparagraph where the request for payment is submitted to the entity required or responsible under this subsection to pay with respect to the item or service (or any portion thereof) under a primary plan within the 3-year period beginning on the date on which the item or service was furnished.".

(b) Effective Date.—The amendment made by subsection (a) applies to items and services furnished after 1990. The previous sentence shall not be construed as permitting any waiver of the 3-year-period requirement (imposed by such amendment) in the case of items and services furnished more than 3 years before the date of the enactment of this Act.

SEC. 10703. PERMITTING RECOVERY AGAINST THIRD PARTY ADMINISTRATORS.

(a) Permitting Recovery Against Third Party Administrators of Primary Plans.—Section 1862(b)(2)(B)(ii) (42 U.S.C. 1395y(b)(2)(B)(ii)) is amended—

(1) by striking “under this subsection to pay” and inserting “(directly, as a third-party administrator, or otherwise) to make payment”, and

(2) by adding at the end the following: “The United States may not recover from a third-party administrator under this clause in cases where the third-party administrator would not be able to recover the amount at issue from the employer or group health plan for whom it provides administrative services due to the insolvency or bankruptcy of the employer or plan.”.

(b) Clarification of Beneficiary Liability.—Section 1862(b)(1) (42 U.S.C. 1395y(b)(1)) is amended by adding at the end the following new subparagraph:

“(F) Limitation on beneficiary liability.—An individual who is entitled to benefits under this title and is furnished an item or service for which such benefits are incorrectly paid is not liable for repayment of such benefits under this paragraph unless payment of such benefits was made to the individual.”.

(c) Effective Date.—The amendments made by this section apply to items and services furnished on or after the date of the enactment of this Act.

CHAPTER 2—HOME HEALTH SERVICES

SEC. 10711. RECAPTURING SAVINGS RESULTING FROM TEMPORARY FREEZE ON PAYMENT INCREASES FOR HOME HEALTH SERVICES.

(a) Basing Updates to Per Visit Cost Limits on Limits for Fiscal Year 1993.—Section 1861(v)(1)(L) (42 U.S.C. 1395x(v)(1)(L)) is amended by adding at the end the following:

“(iv) In establishing limits under this subparagraph for cost reporting periods beginning after September 30, 1997, the Secretary shall not take into account any changes in the home health market basket, as determined by the Secretary, with respect to cost reporting periods which began on or after July 1, 1994, and before July 1, 1996.”.

(b) No Exceptions Permitted Based on Amendment.—The Secretary of Health and Human Services shall not consider the amendment made by subsection (a) in making any exemptions and exceptions pursuant to section 1861(v)(1)(L)(ii) of the Social Security Act (42 U.S.C. 1395x(v)(1)(L)(ii)).

SEC. 10712. INTERIM PAYMENTS FOR HOME HEALTH SERVICES.

(a) Reductions in Cost Limits.—Section 1861(v)(1)(L)(i) (42 U.S.C. 1395x(v)(1)(L)(i)) is amended—

(1) by moving the indentation of subclauses (I) through (III) 2-ems to the left;

(2) in subclause (I), by inserting “of the mean of the labor-related and nonlabor per visit costs for freestanding home health agencies” before the comma at the end;

(3) in subclause (II), by striking “, or” and inserting “of such mean,”;

(4) in subclause (III)—

(A) by inserting “and before October 1, 1997,” after “July 1, 1987,”, and

(B) by striking the comma at the end and inserting “of such mean, or”; and

(5) by striking the matter following subclause (III) and inserting the following:

“(IV) October 1, 1997, 105 percent of the median of the labor-related and nonlabor per visit costs for freestanding home health agencies.”.

(b) Delay In Updates.—Section 1861(v)(1)(L)(iii) (42 U.S.C. 1395x(v)(1)(L)(iii)) is amended by inserting “, or on or after July 1, 1997, and before October 1, 1997” after “July 1, 1996”.

(c) Additions to Cost Limits.—Section 1861(v)(1)(L) (42 U.S.C. 1395x(v)(1)(L)), as amended by section 10711(a), is amended by adding at the end the following new clauses:

“(v) For services furnished by home health agencies for cost reporting periods beginning on or after October 1, 1997, the Secretary shall provide for an interim system of limits. Payment shall not exceed the costs determined under the preceding provisions of this subparagraph or, if lower, the product of—

“(I) an agency-specific per beneficiary annual limitation calculated based 75 percent on the reasonable costs (including nonroutine medical supplies) for the agency's 12-month cost reporting period ending during 1994, and based 25 percent on the standardized regional average of such costs for the agency's region, as applied to such agency, for cost reporting periods ending during 1994, such costs updated by the home health market basket index; and

“(II) the agency's unduplicated census count of patients (entitled to benefits under this title) for the cost reporting period subject to the limitation.

“(vi) For services furnished by home health agencies for cost reporting periods beginning on or after October 1, 1997, the following rules apply:

“(I) For new providers and those providers without a 12-month cost reporting period ending in calendar year 1994, the per beneficiary limitation shall be equal to the median of these limits (or the Secretary's best estimates thereof) applied to other home health agencies as determined by the Secretary. A home health agency that has altered its corporate structure or name shall not be considered a new provider for this purpose.

“(II) For beneficiaries who use services furnished by more than one home health agency, the per beneficiary limitations shall be prorated among the agencies.”.

(d) Development of Case Mix System.—The Secretary of Health and Human Services shall expand research on a prospective payment system for home health agencies under the medicare program that ties prospective payments to a unit of service, including an intensive effort to develop a reliable case mix adjuster that explains a significant amount of the variances in costs.

(e) Submission of Data for Case Mix System.—Effective for cost reporting periods beginning on or after October 1, 1997, the Secretary of Health and Human Services may require all home health agencies to submit additional information that the Secretary considers necessary for the development of a reliable case mix system.

SEC. 10713. CLARIFICATION OF PART-TIME OR INTERMITTENT NURSING CARE.

(a) In General.—Section 1861(m) (42 U.S.C. 1395x(m)) is amended by adding at the end the following: “For purposes of paragraphs (1) and (4), the term ‘part-time or intermittent services’ means skilled nursing and home health aide services furnished any number of days per week as long as they are furnished (combined) less than 8 hours each day and 28 or fewer hours each week (or, subject to review on a case-by-case basis as to the need for care, less than 8 hours each day and 35 or fewer hours per week). For purposes of sections 1814(a)(2)(C) and 1835(a)(2)(A), ‘intermittent’ means skilled nursing care that is either provided or needed on fewer than 7 days each week, or less than 8 hours of each day for periods of 21 days or less (with extensions in exceptional circumstances when the need for additional care is finite and predictable).”.

(b) Effective Date.—The amendment made by subsection (a) applies to services furnished on or after October 1, 1997.

SEC. 10714. STUDY ON DEFINITION OF HOMEBOUND.

(a) Study.—The Secretary of Health and Human Services shall conduct a study of the criteria that should be applied, and the method of applying such criteria, in the determination of whether an individual is homebound for purposes of qualifying for receipt of benefits for home health services under the medicare program. Such criteria shall include the extent and circumstances under which a person may be absent from the home but nonetheless qualify.

(b) Report.—Not later than October 1, 1998, the Secretary shall submit a report to the Congress on the study conducted under subsection (a). The report shall include specific recommendations on such criteria and methods.

SEC. 10715. PAYMENT BASED ON LOCATION WHERE HOME HEALTH SERVICE IS FURNISHED.

(a) Conditions of Participation.—Section 1891 (42 U.S.C. 1395bbb) is amended by adding at the end the following:

“(g) Payment on Basis of Location of Service.—A home health agency shall submit claims for payment for home health services under this title only on the basis of the geographic location at which the service is furnished, as determined by the Secretary.”.

(b) Wage Adjustment.—Section 1861(v)(1)(L)(iii) (42 U.S.C. 1395x(v)(1)(L)(iii)) is amended by striking “agency is located” and inserting “service is furnished”.

(c) Effective Date.—The amendments made by this section apply to cost reporting periods beginning on or after October 1, 1997.

SEC. 10716. NORMATIVE STANDARDS FOR HOME HEALTH CLAIMS DENIALS,

(a) In General.—Section 1862(a)(1) (42 U.S.C. 1395y(a)(1)), as amended by section 10616(c), is amended—

(1) by striking “and” at the end of subparagraph (G),

(2) by striking the semicolon at the end of subparagraph (H) and inserting “, and”, and

(3) by inserting after subparagraph (H) the following new subparagraph:

“(I) the frequency and duration of home health services which are in excess of normative guidelines that the Secretary shall establish by regulation;”.

(b) Notification.—The Secretary of Health and Human Services may establish a process for notifying a physician in cases in which the number of home health service visits furnished under the medicare program pursuant to a prescription or certification of the physician significantly exceeds such threshold (or thresholds) as the Secretary specifies. The Secretary may adjust such threshold to reflect demonstrated differences in the need for home health services among different beneficiaries.

(c) Effective Date.—The amendments made by this section apply to services furnished on or after October 1, 1997.

SEC. 10717. NO HOME HEALTH BENEFITS BASED SOLELY ON DRAWING BLOOD.

(a) In General.—Sections 1814(a)(2)(C) and 1835(a)(2)(A) (42 U.S.C. 1395f(a)(2)(C), 1395n(a)(2)(A)) are each amended by inserting "(other than solely venipuncture for the purpose of obtaining a blood sample)" after "skilled nursing care".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply to home health services furnished after the 6-month period beginning after the date of enactment of this Act.

CHAPTER 3—BABY BOOM GENERATION MEDICARE COMMISSION

SEC. 10721. BIPARTISAN COMMISSION ON THE EFFECT OF THE BABY BOOM GENERATION ON THE MEDICARE PROGRAM.

(a) ESTABLISHMENT.—There is established a commission to be known as the Bipartisan Commission on the Effect of the Baby Boom Generation on the Medicare Program (in this section referred to as the "Commission").

(b) DUTIES.—

(1) IN GENERAL.—The Commission shall—

(A) examine the financial impact on the medicare program of the significant increase in the number of medicare eligible individuals which will occur beginning approximately during 2010 and lasting for approximately 25 years,

(B) make specific recommendations to the Congress respecting a comprehensive approach to preserve the medicare program for the period during which such individuals are eligible for medicare, and

(C) study the feasibility and desirability of establishing—

(i) an independent commission on medicare to make recommendations annually on how best to match the structure of the medicare program to available funding for the program,

(ii) an expedited process for consideration of such recommendations by Congress, and

(iii) a default mechanism to enforce Congressional spending targets for the program if Congress fails to approve such recommendations.

(2) CONSIDERATIONS IN MAKING RECOMMENDATIONS.—In making its recommendations, the Commission shall consider the following:

(A) The amount and sources of Federal funds to finance the medicare program, including the potential use of innovative financing methods.

(B) Methods used by other nations to respond to comparable demographic patterns in eligibility for health care benefits for elderly and disabled individuals.

(C) Modifying age-based eligibility to correspond to changes in age-based eligibility under the OASDI program.

(D) Trends in employment-related health care for retirees, including the use of medical savings accounts and similar financing devices.

(c) MEMBERSHIP.—

(1) APPOINTMENT.—The Commission shall be composed of 15 voting members as follows:

(A) The Majority Leader of the Senate shall appoint, after consultation with the minority leader of the Senate, 6 members, of whom not more than 4 may be of the same political party.

(B) The Speaker of the House of Representatives shall appoint, after consultation with the minority leader of the House of Representatives, 6 members, of whom not more than 4 may be of the same political party.

(C) The 3 ex officio members of the Board of Trustees of the Federal Hospital Insurance Trust Fund and of the Federal Supplementary Medical Insurance Trust Fund who are Cabinet level officials.

(2) CHAIRMAN AND VICE CHAIRMAN.—As the first item of business at the Commission's first meeting (described in paragraph (5)(B)), the Commission shall elect a Chairman and Vice Chairman from among its members. The individuals elected as Chairman and Vice Chairman may not be of the same political party and may not have been appointed to the Commission by the same appointing authority.

(3) VACANCIES.—Any vacancy in the membership of the Commission shall be filled in the manner in which the original appointment was made and shall not affect the power of the remaining members to execute the duties of the Commission.

(4) QUORUM.—A quorum shall consist of 8 members of the Commission, except that 4 members may conduct a hearing under subsection (f).

(5) MEETINGS.—

(A) The Commission shall meet at the call of its Chairman or a majority of its members.

(B) The Commission shall hold its first meeting not later than February 1, 1998.

(6) COMPENSATION AND REIMBURSEMENT OF EXPENSES.—Members of the Commission are not entitled to receive compensation for service on the Commission. Members may be reimbursed for travel, subsistence, and other necessary expenses incurred in carrying out the duties of the Commission.

(d) ADVISORY PANEL.—

(1) IN GENERAL.—The Chairman, in consultation with the Vice Chairman, may establish a panel (in this section referred to as the "Advisory Panel") consisting of health care experts, consumers, providers, and others to advise and assist the members of the Commission in carrying out the duties described in subsection (b). The panel shall have only those powers that the Chairman, in consultation with the Vice Chairman, determines are necessary and appropriate to assist the Commission in carrying out such duties.

(2) COMPENSATION.—Members of the Advisory Panel are not entitled to receive compensation for service on the Advisory Panel. Subject to the approval of the chairman of the Commission, members may be reimbursed for travel, subsistence, and other necessary expenses incurred in carrying out the duties of the Advisory Panel.

(e) STAFF AND CONSULTANTS.—

(1) STAFF.—The Commission may appoint and determine the compensation of such staff as may be necessary to carry out the duties of the Commission. Such appointments and compensation may be made without regard to the provisions of title 5, United States Code, that govern appointments in the competitive services, and the provisions of chapter 51 and subchapter III of chapter 53 of such title that relate to classifications and the General Schedule pay rates.

(2) CONSULTANTS.—The Commission may procure such temporary and intermittent services of consultants under section 3109(b) of title 5, United States Code, as the Commission determines to be necessary to carry out the duties of the Commission.

(f) POWERS.—

(1) HEARINGS AND OTHER ACTIVITIES.—For the purpose of carrying out its duties, the Commission may hold such hearings and undertake such other activities as the Commission determines to be necessary to carry out its duties.

(2) STUDIES BY GAO.—Upon the request of the Commission, the Comptroller General shall conduct such studies or investigations as the Commission determines to be necessary to carry out its duties.

(3) COST ESTIMATES BY CONGRESSIONAL BUDGET OFFICE.—

(A) Upon the request of the Commission, the Director of the Congressional Budget Office shall provide to the Commission such cost estimates as the Commission determines to be necessary to carry out its duties.

(B) The Commission shall reimburse the Director of the Congressional Budget Office for expenses relating to the employment in the office of the Director of such additional staff as may be necessary for the Director to comply with requests by the Commission under subparagraph (A).

(4) DETAIL OF FEDERAL EMPLOYEES.—Upon the request of the Commission, the head of any Federal agency is authorized to detail, without reimbursement, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties. Any such detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

(5) TECHNICAL ASSISTANCE.—Upon the request of the Commission, the head of a Federal agency shall provide such technical assistance to the Commission as the Commission determines to be necessary to carry out its duties.

(6) USE OF MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as Federal agencies and shall, for purposes of the frank, be considered a commission of Congress as described in section 3215 of title 39, United States Code.

(7) OBTAINING INFORMATION.—The Commission may secure directly from any Federal agency information necessary to enable it to carry out its duties, if the information may be disclosed under section 552 of title 5, United States Code. Upon request of the Chairman of the Commission, the head of such agency shall furnish such information to the Commission.

(8) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(9) PRINTING.—For purposes of costs relating to printing and binding, including the cost of personnel detailed from the Government Printing Office, the Commission shall be deemed to be a committee of the Congress.

(g) REPORT.—(1) Not later than May 1, 1999, the Commission shall submit to Congress a report containing its findings and recommendations regarding how to protect and preserve the medicare program in a financially solvent manner until 2030 (or, if later, throughout the period of projected solvency of the Federal Old-Age and Survivors Insurance Trust Fund). The report shall include detailed recommendations for appropriate legislative initiatives respecting how to accomplish this objective.

(2) Not later than 12 months after the date of the enactment of this Act, the Commission shall report to the Congress on the matters specified in subsection (b)(1)(C). If the Commission determines that it is feasible and desirable to establish the processes described in such subsection, the report under this paragraph shall include specific recommendations on changes in law (such as changes in the Congressional Budget Act of 1974 and the Balanced Budget and Emergency Deficit Control Act of 1985) as are needed to implement its recommendations.

(h) TERMINATION.—The Commission shall terminate 30 days after the date of submission of the report required in subsection (g).

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated

$1,500,000 to carry out this section. 60 percent of such appropriation shall be payable from the Federal Hospital Insurance Trust Fund, and 40 percent of such appropriation shall be payable from the Federal Supplementary Medical Insurance Trust Fund under title XVIII of the Social Security Act (42 U.S.C. 1395i, 1395t).

CHAPTER 4—PROVISIONS RELATING TO DIRECT GRADUATE MEDICAL EDUCATION

SEC. 10731. LIMITATION ON PAYMENT BASED ON NUMBER OF RESIDENTS AND IMPLEMENTATION OF ROLLING AVERAGE FTE COUNT.

Section 1886(h)(4) (42 U.S.C. 1395ww(h)(4)) is amended by adding after subparagraph (E) the following:

"(F) LIMITATION ON NUMBER OF RESIDENTS FOR CERTAIN FISCAL YEARS.—Such rules shall provide that for purposes of a cost reporting period beginning on or after October 1, 1997, the total number of full-time equivalent residents before application of weighting factors (as determined under this paragraph) with respect to a hospital's approved medical residency training program may not exceed the number of full-time equivalent residents with respect to the hospital's most recent cost reporting period ending on or before December 31, 1996. The Secretary may establish rules, consistent with the policies in the previous sentence and paragraph (6), with respect to the application of the previous sentence in the case of medical residency training programs established on or after January 1, 1997.

"(G) COUNTING INTERNS AND RESIDENTS FOR FY 1998 AND SUBSEQUENT YEARS.—

"(i) FY 1998.—For the hospital's first cost reporting period beginning during fiscal year 1998, subject to the limit described in subparagraph (F), the total number of full-time equivalent residents, for determining the hospital's graduate medical education payment, shall equal the average of the full-time equivalent resident counts for the cost reporting period and the preceding cost reporting period.

"(ii) SUBSEQUENT YEARS.—For each subsequent cost reporting period, subject to the limit described in subparagraph (F), the total number of full-time equivalent residents, for determining the hospital's graduate medical education payment, shall equal the average of the actual full-time equivalent resident counts for the cost reporting period and preceding two cost reporting periods.

"(iii) ADJUSTMENT FOR SHORT PERIODS.—If a hospital's cost reporting period beginning on or after October 1, 1997, is not equal to twelve months, the Secretary shall make appropriate modifications to ensure that the average full-time equivalent resident counts pursuant to clause (ii) are based on the equivalent of full 12-month cost reporting periods.".

SEC. 10732. PHASED-IN LIMITATION ON HOSPITAL OVERHEAD AND SUPERVISORY PHYSICIAN COMPONENT OF DIRECT MEDICAL EDUCATION COSTS.

(a) IN GENERAL.—Section 1886(h)(3) (42 U.S.C. 1395ww(h)(3)) is amended—

(1) in subparagraph (B), by inserting "subject to subparagraph (D)," after "subparagraph (A)", and

(2) by adding at the end the following:

"(D) PHASED-IN LIMITATION ON HOSPITAL OVERHEAD AND SUPERVISORY PHYSICIAN COMPONENT.—

"(i) IN GENERAL.—In the case of a hospital for which the overhead GME amount (as defined in clause (ii)) for the base period exceeds an amount equal to the 75th percentile of the overhead GME amounts in such period for all hospitals (weighted to reflect the full-time equivalent resident counts for all approved medical residency training programs), subject to clause (iv), the hospital's approved FTE resident amount (for periods beginning on or after October 1, 1997) shall be reduced from the amount otherwise applicable (as previously reduced under this subparagraph) by an overhead reduction amount. The overhead reduction amount is equal to the lesser of—

"(I) 20 percent of the reference reduction amount (described in clause (iii)) for the period, or

"(II) 15 percent of the hospital's overhead GME amount for the period (as otherwise determined before the reduction provided under this subparagraph for the period involved).

"(ii) OVERHEAD GME AMOUNT.—For purposes of this subparagraph, the term 'overhead GME amount' means, for a hospital for a period, the product of—

"(I) the percentage of the hospital's approved FTE resident amount for the base period that is not attributable to resident salaries and fringe benefits, and

"(II) the hospital's approved FTE resident amount for the period involved.

"(iii) REFERENCE REDUCTION AMOUNT.—

"(I) IN GENERAL.—The reference reduction amount described in this clause for a hospital for a cost reporting period is the base difference (described in subclause (II)) updated, in a compounded manner for each period from the base period to the period involved, by the update applied for such period to the hospital's approved FTE resident amount.

"(II) BASE DIFFERENCE.—The base difference described in this subclause for a hospital is the amount by which the hospital's overhead GME amount in the base period exceeded the 75th percentile of such amounts (as described in clause (i)).

"(iv) MAXIMUM REDUCTION TO 75TH PERCENTILE.—In no case shall the reduction under this subparagraph effected for a hospital for a period (below the amount that would otherwise apply for the period if this subparagraph did not apply for any period) exceed the reference reduction amount for the hospital for the period.

"(v) BASE PERIOD.—For purposes of this subparagraph, the term 'base period' means the cost reporting period beginning in fiscal year 1984 or the period used to establish the hospital's approved FTE resident amount for hospitals that did not have approved residency training programs in fiscal year 1984.

"(vi) RULES FOR HOSPITALS INITIATING RESIDENCY TRAINING PROGRAMS.—The Secretary shall establish rules for the application of this subparagraph in the case of a hospital that initiates medical residency training programs during or after the base period.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to per resident payment amounts attributable to periods beginning on or after October 1, 1997.

SEC. 10733. PERMITTING PAYMENT TO NON-HOSPITAL PROVIDERS.

(a) IN GENERAL.— Section 1886 (42 U.S.C. 1395ww) is amended by adding at the end the following:

"(k) PAYMENT TO NON-HOSPITAL PROVIDERS.—

"(1) REPORT.—The Secretary shall submit to Congress, not later than 18 months after the date of the enactment of this subsection, a proposal for payment to qualified non-hospital providers for their direct costs of medical education, if those costs are incurred in the operation of an approved medical residency training program described in subsection (h). Such proposal shall specify the amounts, form, and manner in which such payments will be made and the portion of such payments that will be made from each of the trust funds under this title.

"(2) EFFECTIVENESS.—Except as otherwise provided in law, the Secretary may implement such proposal for residency years beginning not earlier than 6 months after the date of submittal of the report under paragraph (1).

"(3) QUALIFIED NON-HOSPITAL PROVIDERS.—For purposes of this subsection, the term 'qualified non-hospital provider' means—

"(A) a Federally qualified health center, as defined in section 1861(aa)(4);

"(B) a rural health clinic, as defined in section 1861(aa)(2);

"(C) MedicarePlus organizations; and

"(D) such other providers (other than hospitals) as the Secretary determines to be appropriate.".

(b) PROHIBITION ON DOUBLE PAYMENTS; BUDGET NEUTRALITY ADJUSTMENT.—Section 1886(h)(3)(B) (42 U.S.C. 1395ww(h)(3)(B)) is amended by adding at the end the following: "The Secretary shall reduce the aggregate approved amount to the extent payment is made under subsection (k) for residents included in the hospital's count of full-time equivalent residents and, in the case of residents not included in any such count, the Secretary shall provide for such a reduction in aggregate approved amounts under this subsection as will assure that the application of subsection (k) does not result in any increase in expenditures under this title in excess of those that would have occurred if subsection (k) were not applicable.".

SEC. 10734. INCENTIVE PAYMENTS UNDER PLANS FOR VOLUNTARY REDUCTION IN NUMBER OF RESIDENTS.

(a) IN GENERAL.—Section 1886(h) (42 U.S.C. 1395ww(h)) is further amended by adding at the end the following new paragraph:

"(6) INCENTIVE PAYMENT UNDER PLANS FOR VOLUNTARY REDUCTION IN NUMBER OF RESIDENTS.—

"(A) IN GENERAL.—In the case of a voluntary residency reduction plan for which an application is approved under subparagraph (B), the qualifying entity submitting the plan shall be paid an applicable hold harmless percentage (as specified in subparagraph (E)) of the sum of—

"(i) amount (if any) by which—

"(I) the amount of payment which would have been made under this subsection if there had been a 5 percent reduction in the number of full-time equivalent residents in the approved medical education training programs of the qualifying entity as of June 30, 1997, exceeds

"(II) the amount of payment which is made under this subsection, taking into account the reduction in such number effected under the reduction plan; and

"(ii) the amount of the reduction in payment under 1886(d)(5)(B) (for hospitals participating in the qualifying entity) that is attributable to the reduction in number of residents effected under the plan below 95 percent of the number of full-time equivalent residents in such programs of such entity as of June 30, 1997.

"(B) APPROVAL OF PLAN APPLICATIONS.—The Secretary may not approve the application of an qualifying entity unless—

"(i) the application is submitted in a form and manner specified by the Secretary and by not later than March 1, 2000, "(ii) the application provides for the operation of a plan for the reduction in the number of full-time equivalent residents in the approved medical residency training programs of the entity consistent with the requirements of subparagraph (D);

"(iii) the entity elects in the application whether such reduction will occur over—

"(I) a period of not longer than 5 residency training years, or

"(II) a period of 6 residency training years,

except that a qualifying entity described in subparagraph (C)(i)(III) may not make the election described in subclause (II); and

"(iv) the Secretary determines that the application and the entity and such plan meet such other requirements as the Secretary specifies in regulations.

"(C) QUALIFYING ENTITY.—

"(i) IN GENERAL.—For purposes of this paragraph, any of the following may be a qualifying entity:

"(I) Individual hospitals operating one or more approved medical residency training programs.

"(II) Subject to clause (ii), two or more hospitals that operate such programs and apply for treatment under this paragraph as a single qualifying entity.

"(III) Subject to clause (iii), a qualifying consortium (as described in section 10735 of the Balanced Budget Act of 1997).

"(ii) ADDITIONAL REQUIREMENT FOR JOINT PROGRAMS.—In the case of an application by a qualifying entity described in clause (i)(II), the Secretary may not approve the application unless the application represents that the qualifying entity either—

"(I) in the case of an entity that meets the requirements of clause (v) of subparagraph (D) will not reduce the number of full-time equivalent residents in primary care during the period of the plan, or

"(II) in the case of another entity will not reduce the proportion of its residents in primary care (to the total number of residents) below such proportion as in effect as of the applicable time described in subparagraph (D)(vi).

"(iii) ADDITIONAL REQUIREMENT FOR CONSORTIA.—In the case of an application by a qualifying entity described in clause (i)(III), the Secretary may not approve the application unless the application represents that the qualifying entity will not reduce the proportion of its residents in primary care (to the total number of residents) below such proportion as in effect as of the applicable time described in subparagraph (D)(vi).

"(D) RESIDENCY REDUCTION REQUIREMENTS.—

"(i) INDIVIDUAL HOSPITAL APPLICANTS.—In the case of a qualifying entity described in subparagraph (C)(i)(I), the number of full-time equivalent residents in all the approved medical residency training programs operated by or through the entity shall be reduced as follows:

"(I) If base number of residents exceeds 750 residents, by a number equal to at least 20 percent of such base number.

"(II) Subject to subclause (IV), if base number of residents exceeds 500, but is less than 750, residents, by 150 residents.

"(III) Subject to subclause (IV), if base number of residents does not exceed 500 residents, by a number equal to at least 25 percent of such base number.

"(IV) In the case of a qualifying entity which is described in clause (v) and which elects treatment under this subclause, by a number equal to at least 20 percent of such base number.

"(ii) JOINT APPLICANTS.—In the case of a qualifying entity described in subparagraph (C)(i)(II), the number of full-time equivalent residents in all the approved medical residency training programs operated by or through the entity shall be reduced as follows:

"(I) Subject to subclause (II), by a number equal to at least 25 percent of such base number.

"(II) In the case of a qualifying entity which is described in clause (v) and which elects treatment under this subclause, by a number equal to at least 20 percent of such base number.

"(iii) CONSORTIA.—In the case of a qualifying entity described in subparagraph (C)(i)(III), the number of full-time equivalent residents in all the approved medical residency training programs operated by or through the entity shall be reduced by a number equal to at least 20 percent of such base number.

"(iv) MANNER OF REDUCTION.—The reductions specified under the preceding provisions of this subparagraph for a qualifying entity shall be below the base number of residents for that entity and shall be fully effective not later than—

"(I) the 5th residency training year in which the application under subparagraph (B) is effective, in the case of an entity making the election described in subparagraph (B)(iii)(I), or

"(II) the 6th such residency training year, in the case of an entity making the election described in subparagraph (B)(iii)(II).

"(v) ENTITIES PROVIDING ASSURANCE OF MAINTENANCE OF PRIMARY CARE RESIDENTS.—An entity is described in this clause if—

"(I) the base number of residents for the entity is less than 750;

"(II) the number of full-time equivalent residents in primary care included in the base number of residents for the entity is at least 10 percent of such base number; and

"(III) the entity represents in its application under subparagraph (B) that there will be no reduction under the plan in the number of full-time equivalent residents in primary care.

If a qualifying entity fails to comply with the representation described in subclause (III), the entity shall be subject to repayment of all amounts paid under this paragraph, in accordance with procedures established to carry out subparagraph (F).

"(vi) BASE NUMBER OF RESIDENTS DEFINED.—For purposes of this paragraph, the term 'base number of residents' means, with respect to a qualifying entity operating approved medical residency training programs, the number of full-time equivalent residents in such programs (before application of weighting factors) of the entity as of the most recent cost reporting period ending before June 30, 1997, or, if less, for any subsequent cost reporting period that ends before the date the entity makes application under this paragraph.

"(E) APPLICABLE HOLD HARMLESS PERCENTAGE.—

"(i) IN GENERAL.—For purposes of subparagraph (A), the 'applicable hold harmless percentage' is the percentages specified in clause (ii) or clause (iii), as elected by the qualifying entity in the application submitted under subparagraph (B).

"(ii) 5-YEAR REDUCTION PLAN.—In the case of an entity making the election described in subparagraph (B)(iii)(I), the percentages specified in this clause are, for the—

"(I) first and second residency training years in which the reduction plan is in effect, 100 percent,

"(II) third such year, 75 percent,

"(III) fourth such year, 50 percent, and

"(IV) fifth such year, 25 percent.

"(iii) 6-YEAR REDUCTION PLAN.—In the case of an entity making the election described in subparagraph (B)(iii)(II), the percentages specified in this clause are, for the—

"(I) first residency training year in which the reduction plan is in effect, 100 percent,

"(II) second such year, 95 percent,

"(III) third such year, 85 percent,

"(IV) fourth such year, 70 percent,

"(V) fifth such year, 50 percent, and

"(VI) sixth such year, 25 percent.

"(F) PENALTY FOR INCREASE IN NUMBER OF RESIDENTS IN SUBSEQUENT YEARS.—If payments are made under this paragraph to a qualifying entity, if the entity (or any hospital operating as part of the entity) increases the number of full-time equivalent residents above the number of such residents permitted under the reduction plan as of the completion of the plan, then, as specified by the Secretary, the entity is liable for repayment to the Secretary of the total amounts paid under this paragraph to the entity.

"(G) TREATMENT OF ROTATING RESIDENTS.—In applying this paragraph, the Secretary shall establish rules regarding the counting of residents who are assigned to institutions the medical residency training programs in which are not covered under approved applications under this paragraph.".

(b) RELATION TO DEMONSTRATION PROJECTS AND AUTHORITY.—

(1) Section 1886(h)(6) of the Social Security Act, added by subsection (a), shall not apply to any residency training program with respect to which a demonstration project described in paragraph (3) has been approved by the Health Care Financing Administration as of May 27, 1997. The Secretary of Health and Human Services shall take such actions as may be necessary to assure that (in the manner described in subparagraph (A) of such section) in no case shall payments be made under such a project with respect to the first 5 percent reduction in the base number of full-time equivalent residents otherwise used under the project.

(2) Effective May 27, 1997, the Secretary of Health and Human Services is not authorized to approve any demonstration project described in paragraph (3) for any residency training year beginning before July 1, 2006.

(3) A demonstration project described in this paragraph is a project that provides for additional payments under title XVIII of the Social Security Act in connection with reduction in the number of residents in a medical residency training program.

(c) INTERIM, FINAL REGULATIONS.—In order to carry out the amendment made by subsection (a) in a timely manner, the Secretary of Health and Human Services may first promulgate regulations, that take effect on an interim basis, after notice and pending opportunity for public comment, by not later than 6 months after the date of the enactment of this Act.

SEC. 10735. DEMONSTRATION PROJECT ON USE OF CONSORTIA.

(a) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the Secretary) shall establish a demonstration project under which, instead of making payments to teaching hospitals pursuant to section 1886(h) of the Social Security Act, the Secretary shall make payments under this section to each consortium that meets the requirements of subsection (b).

(b) QUALIFYING CONSORTIA.—For purposes of subsection (a), a consortium meets the requirements of this subsection if the consortium is in compliance with the following:

(1) The consortium consists of an approved medical residency training program in a teaching hospital and one or more of the following entities:

(A) A school of allopathic medicine or osteopathic medicine.

(B) Another teaching hospital, which may be a children's hospital.

(C) Another approved medical residency training program.

(D) A Federally qualified health center.

(E) A medical group practice.

(F) A managed care entity.

(G) An entity furnishing outpatient services.

(H) Such other entity as the Secretary determines to be appropriate.

(2) The members of the consortium have agreed to participate in the programs of graduate medical education that are operated by the entities in the consortium.

(3) With respect to the receipt by the consortium of payments made pursuant to this section, the members of the consortium have agreed on a method for allocating the payments among the members.

(4) The consortium meets such additional requirements as the Secretary may establish.

(c) AMOUNT AND SOURCE OF PAYMENT.—The total of payments to a qualifying consortium for a fiscal year pursuant to subsection (a) shall not exceed the amount that would have been paid under section 1886(h) of the Social Security Act for the teaching hospital (or hospitals) in the consortium. Such payments shall be made in such proportion from each of the trust funds established under title XVIII of such Act as the Secretary specifies.

SEC. 10736. RECOMMENDATIONS ON LONG-TERM PAYMENT POLICIES REGARDING FINANCING TEACHING HOSPITALS AND GRADUATE MEDICAL EDUCATION.

(a) IN GENERAL.—The Medicare Payment Advisory Commission (established under section 1805 of the Social Security Act and in this section referred to as the "Commission") shall examine and develop recommendations on whether and to what extent medicare payment policies and other Federal policies regarding teaching hospitals and graduate medical education should be reformed. Such recommendations shall include recommendations regarding each of the following:

(1) The financing of graduate medical education, including consideration of alternative broad-based sources of funding for such education and models for the distribution of payments under any all-payer financing mechanism.

(2) The financing of teaching hospitals, including consideration of the difficulties encountered by such hospitals as competition among health care entities increases. Matters considered under this paragraph shall include consideration of the effects on teaching hospitals of the method of financing used for the MedicarePlus program under part C of title XVIII of the Social Security Act.

(3) Possible methodologies for making payments for graduate medical education and the selection of entities to receive such payments. Matters considered under this paragraph shall include—

(A) issues regarding children's hospitals and approved medical residency training programs in pediatrics, and

(B) whether and to what extent payments are being made (or should be made) for training in the various nonphysician health professions.

(4) Federal policies regarding international medical graduates.

(5) The dependence of schools of medicine on service-generated income.

(6) Whether and to what extent the needs of the United States regarding the supply of physicians, in the aggregate and in different specialties, will change during the 10-year period beginning on October 1, 1997, and whether and to what extent any such changes will have significant financial effects on teaching hospitals.

(7) Methods for promoting an appropriate number, mix, and geographical distribution of health professionals.

(c) CONSULTATION.—In conducting the study under subsection (a), the Commission shall consult with the Council on Graduate Medical Education and individuals with expertise in the area of graduate medical education, including—

(1) deans from allopathic and osteopathic schools of medicine;

(2) chief executive officers (or equivalent administrative heads) from academic health centers, integrated health care systems, approved medical residency training programs, and teaching hospitals that sponsor approved medical residency training programs;

(3) chairs of departments or divisions from allopathic and osteopathic schools of medicine, schools of dentistry, and approved medical residency training programs in oral surgery;

(4) individuals with leadership experience from representative fields of non-physician health professionals;

(5) individuals with substantial experience in the study of issues regarding the composition of the health care workforce of the United States; and

(6) individuals with expertise on the financing of health care.

(d) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Commission shall submit to the Congress a report providing its recommendations under this section and the reasons and justifications for such recommendations.

SEC. 10737. MEDICARE SPECIAL REIMBURSEMENT RULE FOR CERTAIN COMBINED RESIDENCY PROGRAMS.

(a) IN GENERAL.—Section 1886(h)(5)(G) (42 U.S.C. 1395ww(h)(5)(G)) is amended—

(1) in clause (i), by striking "and (iii)" and inserting ", (iii), and (iv)"; and

(2) by adding at the end the following:

"(iv) SPECIAL RULE FOR CERTAIN COMBINED RESIDENCY PROGRAMS.—(I) In the case of a resident enrolled in a combined medical residency training program in which all of the individual programs (that are combined) are for training a primary care resident (as defined in subparagraph (H)), the period of board eligibility shall be the minimum number of years of formal training required to satisfy the requirements for initial board eligibility in the longest of the individual programs plus one additional year.

"(II) A resident enrolled in a combined medical residency training program that includes an obstetrics and gynecology program shall qualify for the period of board eligibility under subclause (I) if the other programs such resident combines with such obstetrics and gynecology program are for training a primary care resident.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply to combined medical residency programs for residency years beginning on or after July 1, 1998.

CHAPTER 5—OTHER PROVISIONS

SEC. 10741. CENTERS OF EXCELLENCE.

(a) IN GENERAL.—Title XVIII is amended by inserting after section 1888 the following:

"CENTERS OF EXCELLENCE

"SEC. 1889. (a) IN GENERAL.—The Secretary shall use a competitive process to contract with specific hospitals or other entities for furnishing services related to surgical procedures, and for furnishing services (unrelated to surgical procedures) to hospital inpatients that the Secretary determines to be appropriate. The services may include any services covered under this title that the Secretary determines to be appropriate, including post-hospital services.

"(b) QUALITY STANDARDS.—Only entities that meet quality standards established by the Secretary shall be eligible to contract under this section. Contracting entities shall implement a quality improvement plan approved by the Secretary.

"(c) PAYMENT.—Payment under this section shall be made on the basis of negotiated all-inclusive rates. The amount of payment made by the Secretary to an entity under this title for services covered under a contract shall be less than the aggregate amount of the payments that the Secretary would have otherwise made for the services.

"(d) CONTRACT PERIOD.—A contract period shall be 3 years (subject to renewal), so long as the entity continues to meet quality and other contractual standards.

"(e) INCENTIVES FOR USE OF CENTERS.—Entities under a contract under this section may furnish additional services (at no cost to an individual entitled to benefits under this title) or waive cost-sharing, subject to the approval of the Secretary.

"(f) LIMIT ON NUMBER OF CENTERS.—The Secretary shall limit the number of centers in a geographic area to the number needed to meet projected demand for contracted services.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to services furnished on or after October 1, 1997.

SEC. 10742. MEDICARE PART B SPECIAL ENROLLMENT PERIOD AND WAIVER OF PART B LATE ENROLLMENT PENALTY AND MEDIGAP SPECIAL OPEN ENROLLMENT PERIOD FOR CERTAIN MILITARY RETIREES AND DEPENDENTS.

(a) MEDICARE PART B SPECIAL ENROLLMENT PERIOD; WAIVER OF PART B PENALTY FOR LATE ENROLLMENT.—

(1) IN GENERAL.—In the case of any eligible individual (as defined in subsection (c)), the Secretary of Health and Human Services shall provide for a special enrollment period during which the individual may enroll under part B of title XVIII of the Social Security Act. Such period shall be for a period of 6 months and shall begin with the first month that begins at least 45 days after the date of the enactment of this Act.

(2) COVERAGE PERIOD.—In the case of an eligible individual who enrolls during the special enrollment period provided under paragraph (1), the coverage period under part B of title XVIII of the Social Security Act shall begin on the first day of the month following the month in which the individual enrolls.

(3) WAIVER OF PART B LATE ENROLLMENT PENALTY.—In the case of an eligible individual who enrolls during the special enrollment period provided under paragraph (1), there shall be no increase pursuant to section 1839(b) of the Social Security Act in the monthly premium under part B of title XVIII of such Act.

(b) Medigap Special Open Enrollment Period.—Notwithstanding any other provision of law, an issuer of a medicare supplemental policy (as defined in section 1882(g) of the Social Security Act)—

(1) may not deny or condition the issuance or effectiveness of a medicare supplemental policy that has a benefit package classified as "A", "B", "C", or "F" under the standards established under section 1882(p)(2) of the Social Security Act (42 U.S.C. 1395rr(p)(2)); and

(2) may not discriminate in the pricing of the policy on the basis of the individual's health status, medical condition (including both physical and mental illnesses), claims experience, receipt of health care, medical history, genetic information, evidence of insurability (including conditions arising out of acts of domestic violence), or disability;

in the case of an eligible individual who seeks to enroll (and is enrolled) during the 6-month period described in subsection (a)(1).

(c) Eligible Individual Defined.—In this section, the term "eligible individual" means an individual—

(1) who, as of the date of the enactment of this Act, has attained 65 years of age and was eligible to enroll under part B of title XVIII of the Social Security Act, and

(2) who at the time the individual first satisfied paragraph (1) or (2) of section 1836 of the Social Security Act—

(A) was a covered beneficiary (as defined in section 1072(5) of title 10, United States Code), and

(B) did not elect to enroll (or to be deemed enrolled) under section 1837 of the Social Security Act during the individual's initial enrollment period.

The Secretary of Health and Human Services shall consult with the Secretary of Defense in the identification of eligible individuals.

SEC. 10743. PROTECTIONS UNDER THE MEDICARE PROGRAM FOR DISABLED WORKERS WHO LOSE BENEFITS UNDER A GROUP HEALTH PLAN.

(a) No Premium Penalty for Late Enrollment.—The second sentence of section 1839(b) (42 U.S.C. 1395r(b)) is amended by inserting "and not pursuant to a special enrollment period under section 1837(i)(4)" after "section 1837)".

(b) Special Medicare Enrollment Period.—

(1) In general.—Section 1837(i) (42 U.S.C. 1395p(i)) is amended by adding at the end the following new paragraph:

"(4)(A) In the case of an individual who is entitled to benefits under part A pursuant to section 226(b) and—

"(i) who at the time the individual first satisfies paragraph (1) or (2) of section 1836—

"(I) is enrolled in a group health plan described in section 1862(b)(1)(A)(v) by reason of the individual's (or the individual's spouse's) current employment or otherwise, and

"(II) has elected not to enroll (or to be deemed enrolled) under this section during the individual's initial enrollment period; and

"(ii) whose continuous enrollment under such group health plan is involuntarily terminated at a time when the enrollment under the plan is not by reason of the individual's (or the individual's spouse's) current employment,

there shall be a special enrollment period described in subparagraph (B).

"(B) The special enrollment period referred to in subparagraph (A) is the 6-month period beginning on the date of the enrollment termination described in subparagraph (A)(ii).".

(2) Coverage period.—Section 1838(e) (42 U.S.C. 1395q(e)) is amended—

(A) by inserting "or 1837(i)(4)(B)" after "1837(i)(3)" the first place it appears, and

(B) by inserting "or specified in section 1837(i)(4)(A)(i)" after "1837(i)(3)" the second place it appears".

(c) Effective Date.—The amendments made by this section shall apply to involuntary terminations of coverage under a group health plan occurring on or after the date of the enactment of this Act.

SEC. 10744. PLACEMENT OF ADVANCE DIRECTIVE IN MEDICAL RECORD.

(a) In General.—Section 1866(f)(1)(B) (42 U.S.C. 1395cc(f)(1)(B)) is amended by striking "in the individual's medical record" and inserting "in a prominent part of the individual's current medical record".

(b) Effective Date.—The amendment made by subsection (a) shall apply to provider agreements entered into, renewed, or extended on or after such date (not later than 1 year after the date of the enactment of this Act) as the Secretary of Health and Human Services specifies.

Subtitle I—Medical Liability Reform

CHAPTER 1—GENERAL PROVISIONS

SEC. 10801. FEDERAL REFORM OF HEALTH CARE LIABILITY ACTIONS.

(a) Applicability.—This subtitle shall apply with respect to any health care liability action brought in any State or Federal court, except that this subtitle shall not apply to—

(1) an action for damages arising from a vaccine-related injury or death to the extent that title XXI of the Public Health Service Act applies to the action, or

(2) an action under the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.).

(b) Preemption.—This subtitle shall preempt any State law to the extent such law is inconsistent with the limitations contained in this subtitle. This subtitle shall not preempt any State law that provides for defenses or places limitations on a person's liability in addition to those contained in this subtitle or otherwise imposes greater restrictions than those provided in this subtitle.

(c) Effect on Sovereign Immunity and Choice of Law or Venue.—Nothing in subsection (b) shall be construed to—

(1) waive or affect any defense of sovereign immunity asserted by any State under any provision of law;

(2) waive or affect any defense of sovereign immunity asserted by the United States;

(3) affect the applicability of any provision of the Foreign Sovereign Immunities Act of 1976;

(4) preempt State choice-of-law rules with respect to claims brought by a foreign nation or a citizen of a foreign nation; or

(5) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign nation or of a citizen of a foreign nation on the ground of inconvenient forum.

(d) Amount in Controversy.—In an action to which this subtitle applies and which is brought under section 1332 of title 28, United States Code, the amount of noneconomic damages or punitive damages, and attorneys' fees or costs, shall not be included in determining whether the matter in controversy exceeds the sum or value of $50,000.

(e) Federal Court Jurisdiction Not Established on Federal Question Grounds.—Nothing in this subtitle shall be construed to establish any jurisdiction in the district courts of the United States over health care liability actions on the basis of section 1331 or 1337 of title 28, United States Code.

SEC. 10802. DEFINITIONS.

As used in this subtitle:

(1) Actual damages.—The term "actual damages" means damages awarded to pay for economic loss.

(2) Alternative dispute resolution system; ADR.—The term "alternative dispute resolution system" or "ADR" means a system established under Federal or State law that provides for the resolution of health care liability claims in a manner other than through health care liability actions.

(3) Claimant.—The term "claimant" means any person who brings a health care liability action and any person on whose behalf such an action is brought. If such action is brought through or on behalf of an estate, the term includes the claimant's decedent. If such action is brought through or on behalf of a minor or incompetent, the term includes the claimant's legal guardian.

(4) Clear and convincing evidence.—The term "clear and convincing evidence" is that measure or degree of proof that will produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established. Such measure or degree of proof is more than that required under preponderance of the evidence but less than that required for proof beyond a reasonable doubt.

(5) Collateral source payments.—The term "collateral source payments" means any amount paid or reasonably likely to be paid in the future to or on behalf of a claimant, or any service, product, or other benefit provided or reasonably likely to be provided in the future to or on behalf of a claimant, as a result of an injury or wrongful death, pursuant to—

(A) any State or Federal health, sickness, income-disability, accident or workers' compensation Act;

(B) any health, sickness, income-disability, or accident insurance that provides health benefits or income-disability coverage;

(C) any contract or agreement of any group, organization, partnership, or corporation to provide, pay for, or reimburse the cost of medical, hospital, dental, or income disability benefits; and

(D) any other publicly or privately funded program.

(6) Drug.—The term "drug" has the meaning given such term in section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)(1)).

(7) Economic loss.—The term "economic loss" means any pecuniary loss resulting from injury (including the loss of earnings or other benefits related to employment, medical expense loss, replacement services loss, loss due to death, burial costs, and loss of business or employment opportunities), to the extent recovery for such loss is allowed under applicable State law.

(8) Harm.—The term "harm" means any legally cognizable wrong or injury for which punitive damages may be imposed.

(9) Health benefit plan.—The term "health benefit plan" means—

(A) a hospital or medical expense incurred policy or certificate,

(B) a hospital or medical service plan contract,

(C) a health maintenance subscriber contract, or

(D) a MedicarePlus product (offered under part C of title XVIII of the Social Security Act),

that provides benefits with respect to health care services.

(10) Health care liability action.—The term "health care liability action" means a

civil action brought in a State or Federal court against a health care provider, an entity which is obligated to provide or pay for health benefits under any health benefit plan (including any person or entity acting under a contract or arrangement to provide or administer any health benefit), or the manufacturer, distributor, supplier, marketer, promoter, or seller of a medical product, in which the claimant alleges a claim (including third party claims, cross claims, counter claims, or distribution claims) based upon the provision of (or the failure to provide or pay for) health care services or the use of a medical product, regardless of the theory of liability on which the claim is based or the number of plaintiffs, defendants, or causes of action.

(11) HEALTH CARE LIABILITY CLAIM.—The term "health care liability claim" means a claim in which the claimant alleges that injury was caused by the provision of (or the failure to provide) health care services.

(12) HEALTH CARE PROVIDER.—The term "health care provider" means any person that is engaged in the delivery of health care services in a State and that is required by the laws or regulations of the State to be licensed or certified by the State to engage in the delivery of such services in the State.

(13) HEALTH CARE SERVICE.—The term "health care service" means any service for which payment may be made under a health benefit plan including services related to the delivery or administration of such service.

(14) MEDICAL DEVICE.—The term "medical device" has the meaning given such term in section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)).

(15) NONECONOMIC DAMAGES.—The term "noneconomic damages" means damages paid to an individual for pain and suffering, inconvenience, emotional distress, mental anguish, loss of consortium, injury to reputation, humiliation, and other nonpecuniary losses.

(16) PERSON.—The term "person" means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity, including any governmental entity.

(17) PRODUCT SELLER.—

(A) IN GENERAL.—Subject to subparagraph (B), the term "product seller" means a person who, in the course of a business conducted for that purpose—

(i) sells, distributes, rents, leases, prepares, blends, packages, labels, or is otherwise involved in placing, a product in the stream of commerce, or

(ii) installs, repairs, or maintains the harm-causing aspect of a product.

(B) EXCLUSION.—Such term does not include—

(i) a seller or lessor of real property;

(ii) a provider of professional services in any case in which the sale or use of a product is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(iii) any person who—

(I) acts in only a financial capacity with respect to the sale of a product; or

(II) leases a product under a lease arrangement in which the selection, possession, maintenance, and operation of the product are controlled by a person other than the lessor.

(18) PUNITIVE DAMAGES.—The term "punitive damages" means damages awarded against any person not to compensate for actual injury suffered, but to punish or deter such person or others from engaging in similar behavior in the future.

(19) STATE.—The term "State" means each of the several States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and any other territory or possession of the United States.

SEC. 10803. EFFECTIVE DATE.

This subtitle will apply to any health care liability action brought in a Federal or State court and to any health care liability claim subject to an alternative dispute resolution system, that is initiated on or after the date of enactment of this subtitle, except that any health care liability claim or action arising from an injury occurring prior to the date of enactment of this subtitle shall be governed by the applicable statute of limitations provisions in effect at the time the injury occurred.

CHAPTER 2—UNIFORM STANDARDS FOR HEALTH CARE LIABILITY ACTIONS

SEC. 10811. STATUTE OF LIMITATIONS.

A health care liability action may not be brought after the expiration of the 2-year period that begins on the date on which the alleged injury that is the subject of the action was discovered or should reasonably have been discovered, but in no case after the expiration of the 5-year period that begins on the date the alleged injury occurred.

SEC. 10812. CALCULATION AND PAYMENT OF DAMAGES.

(a) TREATMENT OF NONECONOMIC DAMAGES.—

(1) LIMITATION ON NONECONOMIC DAMAGES.—The total amount of noneconomic damages that may be awarded to a claimant for losses resulting from the injury which is the subject of a health care liability action may not exceed $250,000, regardless of the number of parties against whom the action is brought or the number of actions brought with respect to the injury.

(2) JOINT AND SEVERAL LIABILITY.—In any health care liability action brought in State or Federal court, a defendant shall be liable only for the amount of noneconomic damages attributable to such defendant in direct proportion to such defendant's share of fault or responsibility for the claimant's actual damages, as determined by the trier of fact. In all such cases, the liability of a defendant for noneconomic damages shall be several and not joint.

(b) TREATMENT OF PUNITIVE DAMAGES.—

(1) GENERAL RULE.—Punitive damages may, to the extent permitted by applicable State law, be awarded in any health care liability action for harm in any Federal or State court against a defendant if the claimant establishes by clear and convincing evidence that the harm suffered was the result of conduct—

(A) specifically intended to cause harm, or

(B) conduct manifesting a conscious, flagrant indifference to the rights or safety of others.

(2) PROPORTIONAL AWARDS.—The amount of punitive damages that may be awarded in any health care liability action subject to this subtitle shall not exceed 3 times the amount of damages awarded to the claimant for economic loss, or $250,000, whichever is greater. This paragraph shall be applied by the court and shall not be disclosed to the jury.

(3) APPLICABILITY.—This subsection shall apply to any health care liability action brought in any Federal or State court on any theory where punitive damages are sought. This subsection does not create a cause of action for punitive damages. This subsection does not preempt or supersede any State or Federal law to the extent that such law would further limit the award of punitive damages.

(4) BIFURCATION.—At the request of any party, the trier of fact shall consider in a separate proceeding whether punitive damages are to be awarded and the amount of such award. If a separate proceeding is requested, evidence relevant only to the claim of punitive damages, as determined by applicable State law, shall be inadmissible in any proceeding to determine whether actual damages are to be awarded.

(5) DRUGS AND DEVICES.—

(A) IN GENERAL.—(i) Punitive damages shall not be awarded against a manufacturer or product seller of a drug or medical device which caused the claimant's harm where—

(I) such drug or device was subject to premarket approval by the Food and Drug Administration with respect to the safety of the formulation or performance of the aspect of such drug or device which caused the claimant's harm, or the adequacy of the packaging or labeling of such drug or device which caused the harm, and such drug, device, packaging, or labeling was approved by the Food and Drug Administration; or

(II) the drug is generally recognized as safe and effective pursuant to conditions established by the Food and Drug Administration and applicable regulations, including packaging and labeling regulations.

(ii) Clause (i) shall not apply in any case in which the defendant, before or after premarket approval of a drug or device—

(I) intentionally and wrongfully withheld from or misrepresented to the Food and Drug Administration information concerning such drug or device required to be submitted under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) or section 351 of the Public Health Service Act (42 U.S.C. 262) that is material and relevant to the harm suffered by the claimant, or

(II) made an illegal payment to an official or employee of the Food and Drug Administration for the purpose of securing or maintaining approval of such drug or device.

(B) PACKAGING.—In a health care liability action for harm which is alleged to relate to the adequacy of the packaging or labeling of a drug which is required to have tamper-resistant packaging under regulations of the Secretary of Health and Human Services (including labeling regulations related to such packaging), the manufacturer or product seller of the drug shall not be held liable for punitive damages unless such packaging or labeling is found by the court by clear and convincing evidence to be substantially out of compliance with such regulations.

(c) PERIODIC PAYMENTS FOR FUTURE LOSSES.—

(1) GENERAL RULE.—In any health care liability action in which the damages awarded for future economic and noneconomic loss exceeds $50,000, a person shall not be required to pay such damages in a single, lump-sum payment, but shall be permitted to make such payments periodically based on when the damages are found likely to occur, as such payments are determined by the court.

(2) FINALITY OF JUDGMENT.—The judgment of the court awarding periodic payments under this subsection may not, in the absence of fraud, be reopened at any time to contest, amend, or modify the schedule or amount of the payments.

(3) LUMP-SUM SETTLEMENTS.—This subsection shall not be construed to preclude a settlement providing for a single, lump-sum payment.

(d) TREATMENT OF COLLATERAL SOURCE PAYMENTS.—

(1) INTRODUCTION INTO EVIDENCE.—In any health care liability action, any defendant may introduce evidence of collateral source payments. If any defendant elects to introduce such evidence, the claimant may introduce evidence of any amount paid or contributed or reasonably likely to be paid or contributed in the future by or on behalf of the claimant to secure the right to such collateral source payments.

(2) NO SUBROGATION.—No provider of collateral source payments shall recover any amount against the claimant or receive any lien or credit against the claimant's recovery or be equitably or legally subrogated the right of the claimant in a health care liability action.

(3) APPLICATION TO SETTLEMENTS.—This subsection shall apply to an action that is settled as well as an action that is resolved by a fact finder.

SEC. 10813. ALTERNATIVE DISPUTE RESOLUTION.

Any ADR used to resolve a health care liability action or claim shall contain provisions relating to statute of limitations, noneconomic damages, joint and several liability, punitive damages, collateral source rule, and periodic payments which are identical to the provisions relating to such matters in this subtitle.

TITLE XI—BUDGET ENFORCEMENT

SEC. 11001. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Budget Enforcement Act of 1997".

(b) TABLE OF CONTENTS.—

TITLE XI—BUDGET ENFORCEMENT

Sec. 11001. Short title; table of contents.

Subtitle A—Amendments to the Congressional Budget and Impoundment Control Act of 1974

Sec. 11101. Amendments to section 3.
Sec. 11102. Amendments to section 201.
Sec. 11103. Amendments to section 202.
Sec. 11104. Amendment to section 300.
Sec. 11105. Amendments to section 301.
Sec. 11106. Amendments to section 302.
Sec. 11107. Amendments to section 303.
Sec. 11108. Amendment to section 305.
Sec. 11109. Amendments to section 308.
Sec. 11110. Amendments to section 310.
Sec. 11111. Amendments to section 311.
Sec. 11112. Amendment to section 312.
Sec. 11113. Adjustments and Budget Committee determinations.
Sec. 11114. Effect of self-executing amendments on points of order in the House of Representatives.
Sec. 11115. Amendment of section 401 and repeal of section 402.
Sec. 11116. Repeal of title VI.
Sec. 11117. Amendments to section 904.
Sec. 11118. Repeal of sections 905 and 906.
Sec. 11119. Amendments to sections 1022 and 1024.
Sec. 11120. Amendment to section 1026.

Subtitle B—Amendments to the Balanced Budget and Emergency Deficit Control Act of 1985

Sec. 11201. Purpose.
Sec. 11202. General statement and definitions.
Sec. 11203. Enforcing discretionary spending limits.
Sec. 11204. Violent crime reduction trust fund.
Sec. 11205. Enforcing pay-as-you-go.
Sec. 11206. Reports and orders.
Sec. 11207. Exempt programs and activities.
Sec. 11208. General and special sequestration rules.
Sec. 11209. The baseline.
Sec. 11210. Technical correction.
Sec. 11211. Judicial review.
Sec. 11212. Effective date.
Sec. 11213. Reduction of preexisting balances and exclusion of effects of this Act from paygo scorecard.

Subtitle A—Amendments to the Congressional Budget and Impoundment Control Act of 1974

SEC. 11101. AMENDMENTS TO SECTION 3.

Section 3 of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 622) is amended—

(1) in paragraph (2)(A), by striking "and" at the end of clause (iii), by striking the period and inserting "; and" at the end of clause (iv), and by adding at the end the following:

"(v) entitlement authority and the food stamp program."; and

(2) in paragraph (9), by inserting ", but such term does not include salary or basic pay funded through an appropriation Act" before the period.

SEC. 11102. AMENDMENTS TO SECTION 201.

(a) TERM OF OFFICE.—The first sentence of section 201(a)(3) of the Congressional Budget Act of 1974 is amended to read as follows: "The term of office of the Director shall be four years and shall expire on January 3 of the year preceding a Presidential election.".

(b) REDESIGNATION OF EXECUTED PROVISION.—Section 201 of the Congressional Budget Act of 1974 is amended by redesignating subsection (g) (relating to revenue estimates) as subsection (f).

SEC. 11103. AMENDMENTS TO SECTION 202.

(a) ASSISTANCE TO BUDGET COMMITTEES.—The first sentence of section 202(a) of the Congressional Budget Act of 1974 is amended by inserting "primary" before "duty".

(b) ELIMINATION OF EXECUTED PROVISION.—Section 202 of the Congressional Budget Act of 1974 is amended by striking subsection (e) and by redesignating subsections (f), (g), and (h) as subsections (e), (f), and (g), respectively.

SEC. 11104. AMENDMENT TO SECTION 300.

The item relating to February 25 in the timetable set forth in section 300 of the Congressional Budget Act of 1974 is amended by striking "February 25" and inserting "Within 6 weeks after President submits budget".

SEC. 11105. AMENDMENTS TO SECTION 301.

(a) TERMS OF BUDGET RESOLUTIONS.—Section 301(a) of the Congressional Budget Act of 1974 is amended by striking ", and planning levels for each of the two ensuing fiscal years," and inserting "and for at least each of the 4 ensuing fiscal years".

(b) CONTENTS OF BUDGET RESOLUTIONS.—Paragraphs (1) and (4) of section 301(a) of the Congressional Budget Act of 1974 are amended by striking ", budget outlays, direct loan obligations, and primary loan guarantee commitments" each place it appears and inserting "and budget outlays".

(c) ADDITIONAL MATTERS.—Section 301(b) of the Congressional Budget Act of 1974 is amended by amending paragraph (7) to read as follows—

"(7) set forth pay-as-you-go procedures in the Senate whereby committee allocations, aggregates, and other levels can be revised for legislation within a committee's jurisdiction if such legislation would not increase the deficit for the first year covered by the resolution and will not increase the deficit for the period of 5 fiscal years covered by the resolution;".

(d) VIEWS AND ESTIMATES.—The first sentence of section 301(d) of the Congressional Budget Act of 1974 is amended by inserting "or at such time as may be requested by the Committee on the Budget," after "Code,".

(e) HEARINGS AND REPORT.—Section 301(e)(2) of the Congressional Budget Act of 1974 is amended by striking "total direct loan obligations, total primary loan guarantee commitments,".

(f) SOCIAL SECURITY CORRECTIONS.—Section 301(i) of the Congressional Budget Act of 1974 is amended by—

(1) inserting "SOCIAL SECURITY POINT OF ORDER.—" after "(i)"; and

(2) striking "as reported to the Senate" and inserting "(or amendment, motion, or conference report on such a resolution)".

SEC. 11106. AMENDMENTS TO SECTION 302.

(a) ALLOCATIONS AND SUBALLOCATIONS.—Subsections (a) and (b) of section 302 of the Congressional Budget Act of 1974 are amended to read as follows:

"(a) COMMITTEE SPENDING ALLOCATIONS.—

"(1) ALLOCATION AMONG COMMITTEES.—The joint explanatory statement accompanying a conference report on a budget resolution shall include allocations, consistent with the resolution recommended in the conference report, of the appropriate levels (for each fiscal year covered by that resolution and a total for all such years, except in the case of the Committee on Appropriations only for the first such fiscal year) of—

"(A) total new budget authority;

"(B) total outlays; and

"(C) in the Senate, social security outlays; among each committee of the House of Representatives or the Senate that has jurisdiction over legislation providing or creating such amounts.

"(2) NO DOUBLE COUNTING.—In the House of Representatives, any item allocated to one committee may not be allocated to another such committee.

"(3) FURTHER DIVISION OF AMOUNTS.—In the House of Representatives, the amounts allocated to each committee for each fiscal year, other than the Committee on Appropriations, shall be further divided between amounts provided or required by law on the date of filing of that conference report and amounts not so provided or required. The amounts allocated to the Committee on Appropriations for each fiscal year shall be further divided between discretionary and mandatory amounts or programs, as appropriate.

"(4) AMOUNTS NOT ALLOCATED.—(A) In the House of Representatives, if a committee receives no allocation of new budget authority or outlays, that committee shall be deemed to have received an allocation equal to zero for new budget authority or outlays.

"(B) In the Senate, if a committee receives no allocation of new budget authority, outlays, or social security outlays, that committee shall be deemed to have received an allocation equal to zero for new budget authority, outlays, or social security outlays.

"(5) SOCIAL SECURITY LEVELS IN THE SENATE.—

"(A) IN GENERAL.—For purposes of paragraph (1)(C), social security surpluses equal the excess of social security revenues over social security outlays in a fiscal year or years with such an excess and social security deficits equal the excess of social security outlays over social security revenues in a fiscal year or years with such an excess.

"(B) TAX TREATMENT.—For purposes of paragraph (1)(C), no provision of any legislation involving a change in chapter 1 of the Internal Revenue Code of 1986 shall be treated as affecting the amount of social security revenues or outlays unless such provision changes the income tax treatment of social security benefits.

"(6) Adjusting Allocation of Discretionary Spending in the House of Representatives.—(A) If a concurrent resolution on the budget is not adopted by April 15, the chairman of the Committee on the Budget of the House of Representatives shall submit to the House, as soon as practicable, an allocation under paragraph (1) to the Committee on Appropriations consistent with the discretionary spending limits contained in the most recently agreed to concurrent resolution on the budget for the second fiscal year covered by that resolution.

"(B) As soon as practicable after an allocation under paragraph (1) is submitted under this section, the Committee on Appropriations shall make suballocations and promptly report those suballocations to the House of Representatives.

"(b) Suballocations by Appropriation Committees.—As soon as practicable after a concurrent resolution on the budget is agreed to, the Committee on Appropriations of each House (after consulting with the Committee on Appropriations of the other House) shall suballocate each amount allocated to it for the budget year under subsection (a) among its subcommittees. Each Committee on Appropriations shall promptly report to its House suballocations made or revised under this paragraph.".

(b) Point of Order.—Section 302(c) of the Congressional Budget Act of 1974 is amended to read as follows:

"(c) Point of Order.—After the Committee on Appropriations has received an allocation pursuant to subsection (a) for a fiscal year, it shall not be in order in the House of Representatives or the Senate to consider any bill, joint resolution, amendment, motion, or conference report providing new budget authority for that fiscal year within the jurisdiction of that committee, until such committee makes the suballocations required by subsection (b).".

(c) Enforcement of Point of Order.—(1) Section 302(f)(1) of the Congressional Budget Act of 1974 is amended by—

(A) striking "providing new budget authority for such fiscal year or new entitlement authority effective during such fiscal year" and inserting "providing new budget authority for any fiscal year covered by the concurrent resolution";

(B) striking "appropriate allocation made pursuant to subsection (b) for such fiscal year" and inserting "appropriate allocation made under subsection (a) or any suballocation made under subsection (b), as applicable, for the fiscal year of the concurrent resolution or for the total of all fiscal years covered by the concurrent resolution"; and

(C) striking "of new discretionary budget authority or new entitlement authority to be exceeded" and inserting "of new discretionary budget authority to be exceeded".

(2) Section 302(f)(2) of the Congressional Budget Act of 1974 is amended to read as follows:

"(2) Enforcement of committee allocations and suballocations in the Senate.—After a concurrent resolution on the budget is agreed to, it shall not be in order in the Senate to consider any bill, joint resolution, amendment, motion, or conference report that would cause—

"(A) in the case of any committee except the Committee on Appropriations, the appropriate allocation of new budget authority or outlays under subsection (a) to be exceeded; or

"(B) in the case of the Committee on Appropriations, the appropriate suballocation of new budget authority or outlays under subsection (b) to be exceeded.".

(d) Separate Allocations.—Section 302(g) of the Congressional Budget Act of 1974 is amended to read as follows:

"(g) Separate Allocations.—The Committees on Appropriations and the Budget shall make separate allocations and suballocations under this section consistent with the categories in section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985."

SEC. 11107. AMENDMENTS TO SECTION 303.

(a) In General.—Section 303 of the Congressional Budget Act of 1974 is amended to read as follows:

"CONCURRENT RESOLUTION ON THE BUDGET MUST BE ADOPTED BEFORE LEGISLATION PROVIDING NEW BUDGET AUTHORITY, NEW SPENDING AUTHORITY, OR CHANGES IN REVENUES OR THE PUBLIC DEBT LIMIT IS CONSIDERED

"Sec. 303. (a) In General.—It shall not be in order in either the House of Representatives or the Senate to consider any bill, joint resolution, amendment, motion, or conference report as reported to the House or Senate which provides—

"(1) new budget authority for a fiscal year;

"(2) an increase or decrease in revenues to become effective during a fiscal year;

"(3) an increase or decrease in the public debt limit to become effective during a fiscal year;

"(4) in the Senate only, new spending authority (as defined in section 401(c)(2)) for a fiscal year; or

"(5) in the Senate only, outlays,

until the concurrent resolution on the budget for such fiscal year (or, in the Senate, a concurrent resolution on the budget covering such fiscal year) has been agreed to pursuant to section 301.

"(b) Exceptions.—(1) In the House of Representatives, subsection (a) does not apply to any bill or resolution—

"(A) providing advance discretionary new budget authority which first becomes available in a fiscal year following the fiscal year to which the concurrent resolution applies; or

"(B) increasing or decreasing revenues which first become effective in a fiscal year following the fiscal year to which the concurrent resolution applies.

After May 15 of any calendar year, subsection (a) does not apply in the House of Representatives to any general appropriation bill, or amendment thereto, which provides new budget authority for the fiscal year beginning in such calendar year.

"(2) In the Senate, subsection (a) does not apply to any bill or resolution making advance appropriations for the fiscal year to which the concurrent resolution applies and the two succeeding fiscal years.

(b) Conforming Amendment.—The item relating to section 303 in the table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking "new credit authority,".

SEC. 11108. AMENDMENT TO SECTION 305.

Section 305(a)(1) of the Congressional Budget Act of 1974 is amended by inserting "when the House is not in session" after "holidays" each place it appears.

SEC. 11109. AMENDMENTS TO SECTION 308.

Section 308 of the Congressional Budget Act of 1974 is amended—

(1)(A) in the side heading of subsection (a), by striking "OR NEW CREDIT AUTHORITY," and by striking the first comma and inserting "OR";

(B) in paragraphs (1) and (2) of subsection (a), by striking "or new credit authority," each place it appears and by striking the comma before "new spending authority" each place it appears and inserting "or";

(2) in subsection (b)(1), by striking "or new credit authority," and by striking the comma before "new spending authority" and inserting "or";

(3) in subsection (c), by inserting "and" after the semicolon at the end of paragraph (3), by striking "; and" at the end of paragraph (4) and inserting a period; and by striking paragraph (5); and

(4) by inserting "joint" before "resolution" each place it appears and, in subsection (b)(1), by inserting "joint" before "resolutions".

SEC. 11110. AMENDMENTS TO SECTION 310.

Section 310 of the Congressional Budget Act of 1974 is amended by—

(1) in subsection (a)(1), by inserting "and" after the semicolon at the end of subparagraph (B), by striking "subparagraphs (C) and (D), and by inserting after subparagraph (B) the following new subparagraph:

"(C) direct spending (as defined in section 250(c)(8) of the Balanced Budget and Emergency Deficit Control Act of 1985),"; and

(2) in subsection (c)(1)(A), by inserting "of the absolute value" after "20 percent" each place it appears.

SEC. 11111. AMENDMENTS TO SECTION 311.

Section 311 of the Congressional Budget Act of 1974 is amended to read as follows:

"NEW BUDGET AUTHORITY, NEW SPENDING AUTHORITY, AND REVENUE LEGISLATION MUST BE WITHIN APPROPRIATE LEVELS

"Sec. 311. (a) Enforcement of Budget Aggregates.—

"(1) In the House of Representatives.—Except as provided by subsection (c), after the Congress has completed action on a concurrent resolution on the budget for a fiscal year, it shall not be in order in the House of Representatives to consider any bill, joint resolution, amendment, motion, or conference report providing new budget authority for such fiscal year or reducing revenues for such fiscal year, if—

"(A) the enactment of such bill or resolution as reported;

"(B) the adoption and enactment of such amendment; or

"(C) the enactment of such bill or resolution in the form recommended in such conference report;

would cause the appropriate level of total new budget authority or total budget outlays set forth in the most recently agreed to concurrent resolution on the budget for such fiscal year to be exceeded, or would cause revenues to be less than the appropriate level of total revenues set forth in such concurrent resolution such fiscal year or for the total of all fiscal years covered by the concurrent resolution, except in the case that a declaration of war by the Congress is in effect.

"(2) In the Senate.—After a concurrent resolution on the budget is agreed to, it shall not be in order in the Senate to consider any bill, resolution, amendment, motion, or conference report that—

"(A) would cause the appropriate level of total new budget authority or total outlays set forth for the first fiscal year in such resolution to be exceeded; or

"(B) would cause revenues to be less than the appropriate level of total revenues set forth for the first fiscal year covered by such resolution or for the period including the first fiscal year plus the following 4 fiscal years in such resolution.

"(3) ENFORCEMENT OF SOCIAL SECURITY LEVELS IN THE SENATE.—After a concurrent resolution on the budget is agreed to, it shall not be in order in the Senate to consider any bill, resolution, amendment, motion, or conference report that would cause a decrease in social security surpluses or an increase in social security deficits derived from the levels of social security revenues and social security outlays set forth for the first fiscal year covered by the resolution and for the period including the first fiscal year plus the following 4 fiscal years in such resolution.

"(b) SOCIAL SECURITY LEVELS.—

"(1) IN GENERAL.—For the purposes of subsection (a)(3), social security surpluses equal the excess of social security revenues over social security outlays in a fiscal year or years with such an excess and social security deficits equal the excess of social security outlays over social security revenues in a fiscal year or years with such an excess.

"(2) TAX TREATMENT.—For the purposes of this section, no provision of any legislation involving a change in chapter 1 of the Internal Revenue Code of 1986 shall be treated as affecting the amount of social security revenues or outlays unless such provision changes the income tax treatment of social security benefits.

"(c) EXCEPTION IN THE HOUSE OF REPRESENTATIVES.—Subsection (a)(1) shall not apply in the House of Representatives to any bill, resolution, or amendment that provides new budget authority for a fiscal year or to any conference report on any such bill or resolution, if—

"(1) the enactment of such bill or resolution as reported;

"(2) the adoption and enactment of such amendment; or

"(3) the enactment of such bill or resolution in the form recommended in such conference report;

would not cause the appropriate allocation of new budget authority made pursuant to section 302(a) for such fiscal year, for the committee within whose jurisdiction such bill, resolution, or amendment falls, to be exceeded.".

SEC. 11112. AMENDMENT TO SECTION 312.

(a) IN GENERAL.—Section 312 of the Congressional Budget Act of 1974 is amended to read as follows:

"POINTS OF ORDER

"SEC. 312. (a) BUDGET COMMITTEE DETERMINATIONS.—For purposes of this title and title IV, the levels of new budget authority, budget outlays, spending authority as described in section 401(c)(2), direct spending, new entitlement authority, and revenues for a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the House of Representatives or the Senate, as the case may be.

"(b) DISCRETIONARY SPENDING POINT OF ORDER IN THE SENATE.—

"(1) Except as otherwise provided in this subsection, it shall not be in order in the Senate to consider any concurrent resolution on the budget (or amendment, motion, or conference report on such a resolution) that would exceed any of the discretionary spending limits in section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985.

"(2) This subsection shall not apply if a declaration of war by the Congress is in effect or if a joint resolution pursuant to section 258 of the Balanced Budget and Emergency Deficit Control Act of 1985 has been enacted.

"(c) MAXIMUM DEFICIT AMOUNT POINT OF ORDER IN THE SENATE.—It shall not be in order in the Senate to consider any concurrent resolution on the budget for a fiscal year under section 301, or to consider any amendment to that concurrent resolution, or to consider a conference report on that concurrent resolution—

"(1) if the level of total budget outlays for the first fiscal year that is set forth in that concurrent resolution or conference report exceeds the recommended level of Federal revenues set forth for that year by an amount that is greater than the maximum deficit amount, if any, specified in the Balanced Budget and Emergency Deficit Control Act of 1985 for such fiscal year; or

"(2) if the adoption of such amendment would result in a level of total budget outlays for that fiscal year which exceeds the recommended level of Federal revenues for that fiscal year, by an amount that is greater than the maximum deficit amount, if any, specified in the Balanced Budget and Emergency Deficit Control Act of 1985 for such fiscal year.

"(d) TIMING OF POINTS OF ORDER IN THE SENATE.—A point of order under this Act may not be raised against a bill, resolution, amendment, motion, or conference report while an amendment or motion, the adoption of which would remedy the violation of this Act, is pending before the Senate.

"(e) POINTS OF ORDER IN THE SENATE AGAINST AMENDMENTS BETWEEN THE HOUSES.—Each provision of this Act that establishes a point of order against an amendment also establishes a point of order in the Senate against an amendment between the Houses. If a point of order under this Act is raised in the Senate against an amendment between the Houses, and the Presiding Officer sustains the point of order, the effect shall be the same as if the Senate had disagreed to the amendment.

"(f) EFFECT OF A POINT OF ORDER ON A BILL IN THE SENATE.—In the Senate, if the Chair sustains a point of order under this Act against a bill, the Chair shall then send the bill to the committee of appropriate jurisdiction for further consideration.".

(b) CONFORMING AMENDMENT.—The item relating to section 312 in the table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking "Effect of point" and inserting "Point".

SEC. 11113. ADJUSTMENTS AND BUDGET COMMITTEE DETERMINATIONS.

(a) IN GENERAL.—Title III of the Congressional Budget Act of 1974 is amended by adding at the end the following new section:

"ADJUSTMENTS

"SEC. 314. (a) ADJUSTMENTS.—When—

"(1)(A) the Committee on Appropriations reports an appropriation measure for fiscal year 1998, 1999, 2000, 2001, or 2002 that specifies an amount for emergencies pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 or for continuing disability reviews pursuant to section 251(b)(2)(C) of that Act;

"(B) any other committee reports emergency legislation described in section 252(e) of that Act;

"(C) the Committee on Appropriations reports an appropriation measure for fiscal year 1998, 1999, 2000, 2001, or 2002 that includes an appropriation with respect to clause (i) or (ii), the adjustment shall be the amount of budget authority in the measure that is the dollar equivalent, in terms of Special Drawing Rights, of—

"(i) increases the United States quota as part of the International Monetary Fund Eleventh General Review of Quotas (United States Quota); or

"(ii) increases the maximum amount available to the Secretary of the Treasury pursuant to section 17 of the Bretton Woods Agreement Act, as amended from time to time (New Arrangements to Borrow); or

"(D) the Committee on Appropriations reports an appropriation measure for fiscal year 1998, 1999, or 2000 that includes an appropriation for arrearages for international organizations, international peacekeeping, and multilateral development banks during that fiscal year, and the sum of the appropriations for the period of fiscal years 1998 through 2000 do not exceed $1,884,000,000 in budget authority; or

"(2) a conference committee submits a conference report thereon;

the chairman of the Committee on the Budget of the Senate or House of Representatives shall make the adjustments referred to in subsection (c) to reflect the additional new budget authority for such matter provided in that measure or conference report and the additional outlays flowing in all fiscal years from such amounts for such matter.

"(b) APPLICATION OF ADJUSTMENTS.—The adjustments and revisions to allocations, aggregates, and limits made by the Chairman of the Committee on the Budget pursuant to subsection (a) for legislation shall only apply while such legislation is under consideration and shall only permanently take effect upon the enactment of that legislation.

"(c) CONTENT OF ADJUSTMENTS.—The adjustments referred to in subsection (a) shall consist of adjustments, as appropriate, to—

"(1) the discretionary spending limits as set forth in the most recently agreed to concurrent resolution on the budget;

"(2) the allocations made pursuant to the most recently adopted concurrent resolution on the budget pursuant to section 302(a); and

"(3) the budgetary aggregates as set forth in the most recently adopted concurrent resolution on the budget.

"(d) REPORTING REVISED SUBALLOCATIONS.—Following the adjustments made under subsection (a), the Committees on Appropriations of the Senate and the House of Representatives may report appropriately revised suballocations pursuant to section 302(b) to carry out this subsection.

"(e) DEFINITIONS.—As used in subsection (a)(1)(A), when referring to continuing disability reviews, the terms 'continuing disability reviews', 'additional new budget authority', and 'additional outlays' shall have the same meanings as provided in section 251(b)(2)(C)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985.".

(b) CONFORMING AMENDMENTS.—(1) Sections 302(g), 311(c), and 313(e) of the Congressional Budget Act of 1974 are repealed.

(2) The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by adding after the item relating to section 313 the following new item:

"Sec. 314. Adjustments.".

SEC. 11114. EFFECT OF SELF-EXECUTING AMENDMENTS ON POINTS OF ORDER IN THE HOUSE OF REPRESENTATIVES.

(a) EFFECT OF POINTS OF ORDER.—Title III of the Congressional Budget Act of 1974 is amended by adding after section 314 the following new section:

"EFFECT OF SELF-EXECUTING AMENDMENTS ON POINTS OF ORDER IN THE HOUSE OF REPRESENTATIVES

"SEC. 315. In the House of Representatives, if a provision of a bill, as reported, violates a section of this title or title IV and a self-executing rule providing for consideration of that bill modifies that provision to eliminate such violation, then such point of order shall not lie against consideration of that bill.".

(b) Conforming Amendment.—The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by adding after the item relating to section 314 the following new item:

"Sec. 315. Effect of self-executing amendments on points of order in the house of representatives.".

SEC. 11115. AMENDMENT OF SECTION 401 AND REPEAL OF SECTION 402.

(a) Section 401.—Subsections (a) and (b) of section 401 of the Congressional Budget Act of 1974 are amended to read as follows:

"BILLS PROVIDING NEW SPENDING AUTHORITY OR NEW CREDIT AUTHORITY

"Sec. 401. (a) Controls on Legislation Providing Spending Authority or Credit Authority.—It shall not be in order in either the House of Representatives or the Senate to consider any bill, joint resolution, amendment, motion, or conference report, as reported to its House which provides new spending authority described in subsection (c)(2)(A) or (B) or new credit authority, unless that bill, resolution, conference report, or amendment also provides that such new spending authority as described in subsection (c)(2) (A) or (B) or new credit authority is to be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

"(b) Legislation Providing Entitlement Authority.—It shall not be in order in either the House of Representatives or the Senate to consider any bill, joint resolution, amendment, motion, or conference report, as reported to its House which provides new spending authority described in subsection (c)(2)(C) which is to become effective before the first day of the fiscal year which begins during the calendar year in which such bill or resolution is reported.".

(b) Repealer of Section 402.—(1) Section 402 of the Congressional Budget Act of 1974 is repealed.

(2) Conforming Amendments.—(1) Sections 403 through 407 of the Congressional Budget Act of 1974 are redesignated as sections 402 through 406, respectively.

(2) The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by deleting the item relating to section 402 and by redesignating the items relating to sections 403 through 407 as the items relating to sections 402 through 406, respectively.

SEC. 11116. REPEAL OF TITLE VI.

(a) Repealer.—Title VI of the Congressional Budget Act of 1974 is repealed.

(b) Conforming Amendments.—The items relating to title VI of the table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 are repealed.

SEC. 11117. AMENDMENTS TO SECTION 904.

(a) Conforming Amendment.—Section 904(a) of the Congressional Budget Act of 1974 is amended by striking "(except section 905)" and by striking "V, and VI (except section 601(a))" and inserting "and V".

(b) Waivers.—Section 904(c) of the Congressional Budget Act of 1974 is amended to read as follows:

"(c) Waivers.—

"(1) Sections 305(b)(2), 305(c)(4), 306, 310(d)(2), 313, 904(c), and 904(d) of this Act may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.

"(2) Sections 301(i), 302(c), 302(f), 310(g), 311(a), and 315 of this Act and sections 258(a)(4)(C), 258(A)(b)(3)(C)(I), 258(B)(f)(1), 258B(h)(1), 258(h)(3), 258C(a)(5), and 258(C)(b)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985 may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.".

(c) Appeals.—Section 904(d) of the Congressional Budget Act of 1974 is amended to read as follows:

"(d) Appeals.—

"(1) Appeals in the Senate from the decisions of the Chair relating to any provision of title III or IV of section 1017 shall, except as otherwise provided therein, be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the resolution, concurrent resolution, reconciliation bill, or rescission bill, as the case may be.

"(2) An affirmative vote of three-fifths of the Members, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under sections 305(b)(2), 305(c)(4), 306, 310(d)(2), 313, 904(c), and 904(d) of this Act.

"(3) An affirmative vote of three-fifths of the Members, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under sections 301(i), 302(c), 302(f), 310(g), 311(a), and 315 of this Act and sections 258(a)(4)(C), 258(A)(b)(3)(C)(I), 258(B)(f)(1), 258B(h)(1), 258(h)(3), 258C(a)(5), and 258(C)(b)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985.".

(d) Expiration of Supermajority Voting Requirements.—Section 904 of the Congressional Budget Act of 1974 is amended by adding at the end the following:

"(e) Expiration of Certain Supermajority Voting Requirements.—Subsections (c)(2) and (d)(3) shall expire on September 30, 2002.".

SEC. 11118. REPEAL OF SECTIONS 905 AND 906.

(a) Repealer.—Sections 905 and 906 of the Congressional Budget and Impoundment Control Act of 1974 are repealed.

(b) Conforming Amendments.—The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking the items relating to sections 905 and 906.

SEC. 11119. AMENDMENTS TO SECTIONS 1022 AND 1024.

(a) Section 1022.—Section 1022(b)(1)(F) of Congressional Budget and Impoundment Control Act of 1974 is amended by striking "section 601" and inserting "section 251(c) the Balanced Budget and Emergency Deficit Control Act of 1985".

(b) Section 1024.—Section 1024(a)(1)(B) of Congressional Budget and Impoundment Control Act of 1974 is amended by striking "section 601(a)(2)" and inserting "section 251(c) the Balanced Budget and Emergency Deficit Control Act of 1985".

SEC. 11120. AMENDMENT TO SECTION 1026.

Section 1026(7)(A)(iv) of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking "and" and inserting "or".

Subtitle B—Amendments to the Balanced Budget and Emergency Deficit Control Act of 1985

SEC. 11201. PURPOSE.

This subtitle extends discretionary spending limits and pay-as-you-go requirements.

SEC. 11202. GENERAL STATEMENT AND DEFINITIONS.

(a) General Statement.—Section 250(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900(b)) is amended by striking the first two sentences and inserting the following: "This part provides for the enforcement of a balanced budget by fiscal year 2002 as called for in House Concurrent Resolution 84 (105th Congress, 1st session).".

(b) Definitions.—Section 250(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) by striking paragraph (4) and inserting the following:

"(4) The term 'category' means defense, nondefense, and violent crime reduction discretionary appropriations as specified in the joint explanatory statement accompanying a conference report on the Balanced Budget Act of 1997.";

(2) by striking paragraph (6) and inserting the following:

"(6) The term 'budgetary resources' means new budget authority, unobligated balances, direct spending authority, and obligation limitations.";

(3) in paragraph (9), by striking "submission of the fiscal year 1992 budget that are not included with a budget submission" and inserting "that budget submission that are not included with it";

(4) in paragraph (14), by inserting "first 4" before "fiscal years" and by striking "1995" and inserting "2006";

(5) by striking paragraphs (17) and (20) and by redesignating paragraphs (18), (19), and (21) as paragraphs (17), (18), and (19), respectively;

(6) in paragraph (17) (as redesignated), by striking "Omnibus Budgtet Reconciliation Act of 1990" and inserting "Balanced Budget Act of 1997";

(7) in paragraph (20) (as redesignated), by striking the second sentence; and

(8) by adding at the end the following new paragraph:

"(20) The term 'consultation', when applied to the Committee on the Budget of either the House of Representatives or of the Senate, means written communication with that committee that affords that committee an opportunity to comment on the matter that is the subject of the consultation before official action is taken on such matter.".

SEC. 11203. ENFORCING DISCRETIONARY SPENDING LIMITS.

(a) Extension Through Fiscal Year 2002.—Section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) in the side heading of subsection (a), by striking "1991–1998" and inserting "1997–2002";

(2) in subsection (a)(7) by inserting "(excluding Saturdays, Sundays, or legal holidays)" after "5 calendar days";

(3) in the first sentence of subsection (b)(1), by striking "1992, 1993, 1994, 1995, 1996, 1997 or 1998" and inserting "1997 or any fiscal year thereafter through 2002" and by striking "through 1998" and inserting "through 2002";

(4) in subsection (b)(1), by striking "the following:" and all that follows through "in concepts and definitions" the first place it appears and inserting "the following: the adjustments" and by striking subparagraphs (B) and (C);

(5) in subsection (b)(2), by striking "1991, 1992, 1993, 1994, 1995, 1996, 1997, or 1998" and inserting "1997 or any fiscal year thereafter through 2002", by striking "through 1998" and inserting "through 2002", and by striking subparagraphs (A), (B), (C), (E), and (G), and by redesignating subparagraphs (D), (F), and (H) as subparagraphs (A), (B), and (C), respectively;

(6) in subsection (b)(2)(A) (as redesignated), by striking "(i)", by striking clause (ii), and by inserting "fiscal" before "years";

(7) in subsection (b)(2)(B) (as redesignated), by striking everything after "the adjustment in outlays" and inserting "for a fiscal year is the amount of the excess but not to exceed 0.5 percent of the adjusted discretionary spending limit on outlays for that fiscal year in fiscal year 1997 or any fiscal year thereafter through 2002; and

(8) by adding at the end of subsection (b)(2) the following new subparagraphs:

"(D) ALLOWANCE FOR IMF.—If an appropriations bill or joint resolution is enacted for fiscal year 1998, 1999, 2000, 2001, or 2002 that includes an appropriation with respect to clause (i) or (ii), the adjustment shall be the amount of budget authority in the measure that is the dollar equivalent, in terms of Special Drawing Rights, of—

"(i) an increase in the United States quota as part of the International Monetary Fund Eleventh General Review of Quotas (United States Quota); or

"(ii) any increase in the maximum amount available to the Secretary of the Treasury pursuant to section 17 of the Bretton Woods Agreement Act, as amended from time to time (New Arrangements to Borrow).

"(E) ALLOWANCE FOR INTERNATIONAL ARREARAGES.—

"(i) ADJUSTMENTS.—If an appropriations bill or joint resolution is enacted for fiscal year 1998, 1999, or 2000 that includes an appropriation for arrearages for international organizations, international peacekeeping, and multilateral banks for that fiscal year, the adjustment shall be the amount of budget authority in such measure and the outlays flowing in all fiscal years from such budget authority.

"(ii) LIMITATIONS.—The total amount of adjustments made pursuant to this subparagraph for the period of fiscla years 1998 through 2000 shall not exceed $1,884,000,000 in budget authority.".

(b) SHIFTING OF DISCRETIONARY SPENDING LIMITS INTO THE BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985.—Section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at the end the following new subsection:

"(c) DISCRETIONARY SPENDING LIMIT.—As used in this part, the term 'discretionary spending limit' means—

"(1) with respect to fiscal year 1997, for the discretionary category, the current adjusted amount of new budget authority and outlays;

"(2) with respect to fiscal year 1998—

"(A) for the defense category: $269,000,000,000 in new budget authority and $266,823,000,000 in outlays;

"(B) for the nondefense category: $252,357,000,000 in new budget authority and $282,853,000,000 in outlays; and

"(C) for the violent crime reduction category: $5,500,000,000 in new budget authority and $3,592,000,000 in outlays;

"(3) with respect to fiscal year 1999—

"(A) for the defense category: $271,500,000,000 in new budget authority and $266,518,000,000 in outlays; and

"(B) for the nondefense category: $261,499,000,000 in new budget authority and $292,803,000,000 in outlays;

"(4) with respect to fiscal year 2000, for the discretionary category: $537,193,000,000 in new budget authority and $564,265,000,000 in outlays;

"(5) with respect to fiscal year 2001, for the discretionary category: $542,032,000,000 in new budget authority and $564,396,000,000 in outlays; and

"(6) with respect to fiscal year 2002, for the discretionary category: $551,074,000,000 in new budget authority and $560,799,000,000 in outlays;

as adjusted in strict conformance with subsection (b).".

SEC. 11204. VIOLENT CRIME REDUCTION TRUST FUND.

(a) SEQUESTRATION REGARDING VIOLENT CRIME REDUCTION TRUST FUND.—Section 251A of the Balanced Budget and Emergency Deficit Control Act of 1985 is repealed.

(b) CONFORMING AMENDMENT.—Section 310002 of Public Law 103-322 (42 U.S.C. 14212) is repealed.

SEC. 11205. ENFORCING PAY-AS-YOU-GO.

(a) EXTENSION.—Section 252 (2 U.S.C. 902) is amended—

(1) by striking subsections (a) and (b) and inserting the following:

"(a) PURPOSE.—The purpose of this section is to assure that any legislation enacted prior to September 30, 2002, affecting direct spending or receipts that increases the deficit will trigger an offsetting sequestration.

"(b) SEQUESTRATION.—

"(1) TIMING.—Within 15 calendar days after Congress adjourns to end a session and on the same day as a sequestration (if any) under sections 251 and 253, there shall be a sequestration to offset the amount of any net deficit increase in the budget year caused by all direct spending and receipts legislation (after adjusting for any prior sequestration as provided by paragraph (2)) plus any net deficit increase in the prior fiscal year caused by all direct spending and receipts legislation not reflected in the final OMB sequestration report for that year.

"(2) CALCULATION OF DEFICIT INCREASE.—OMB shall calculate the amount of deficit increase, if any, in the budget year by adding—

"(A) all applicable estimates of direct spending and receipts legislation transmitted under subsection (d) applicable to the budget year, other than any amounts included in such estimates resulting from—

"(i) full funding of, and continuation of, the deposit insurance guarantee commitment in effect on the date of enactment of this section; and

"(ii) emergency provisions as designated under subsection (e); and

"(B) the estimated amount of savings in direct spending programs applicable to the budget year resulting from the prior year's sequestration under this section or section 253, if any (except for any amounts sequestered as a result of any deficit increase in the fiscal year immediately preceding the prior fiscal year), as published in OMB's final sequestration report for that prior year; and

"(C) all applicable estimates of direct spending and receipts legislation transmitted under subsection (d) for the current year that are not reflected in the final OMB sequestration report for that year, other than any amounts included in such estimates resulting from emergency provisions as designated under subsection (e).";

(2) by amending subsection (c)(1)(B), by inserting "and direct" after "guaranteed";

(3) by amending subsection (d) to read as follows:

"(d) ESTIMATES.—

"(1) CBO ESTIMATES.—As soon as practicable after Congress completes action on any direct spending or receipts legislation, CBO shall provide an estimate of the budgetary effects of that legislation.

"(2) OMB ESTIMATES.—Not later than 5 calendar days (excluding Saturdays, Sundays, or legal holidays) after the enactment of any direct spending or receipts legislation, OMB shall transmit a report to the House of Representatives and to the Senate containing—

"(A) the CBO estimate of the budgetary effects of that legislation;

"(B) an OMB estimate of the budgetary effects of that legislation using current economic and technical assumptions; and

"(C) an explanation of any difference between the two estimates.

"(3) SCOPE OF ESTIMATES.—The estimates under this section shall include the amount of change in outlays or receipts, as the case may be, for the current year (if applicable), the budget year, and each outyear.

"(4) SCOREKEEPING GUIDELINES.—OMB and CBO, after consultation with each other and the Committees on the Budget of the House of Representatives and the Senate, shall—

"(A) determine common scorekeeping guidelines; and

"(B) in conformance with such guidelines, prepare estimates under this section."; and

(4) in subsection (e), by striking ", for any fiscal year from 1991 through 1998," and by striking "through 1995".

SEC. 11206. REPORTS AND ORDERS.

Section 254 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) by striking subsection (c) and redesignating subsections (d) through (k) as (c) through (j), respectively;

(2) in subsection (c)(2) (as redesignated), by striking "1998" and inserting "2002"; and

(3)(A) in subsection (f)(2)(A) (as redesignated), by striking "1998" and inserting "2002"; and

(B) in subsection (f)(3) (as redesignated), by striking "through 1998".

SEC. 11207. EXEMPT PROGRAMS AND ACTIVITIES.

(a) VETERANS PROGRAMS.—Section 255(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended as follows:

(1) In the item relating to Veterans Insurance and Indemnity, strike "Indemnity" and insert "Indemnities".

(2) In the item relating to Veterans' Canteen Service Revolving Fund, strike "Veterans'".

(3) In the item relating to Benefits under chapter 21 of title 38, strike "(36-0137-0-1-702)" and insert "(36-0120-0-1-701)".

(4) In the item relating to Veterans' compensation, strike "Veterans' compensation" and insert "Compensation".

(5) In the item relating to Veterans' pensions, strike "Veterans' pensions" and insert "Pensions".

(6) After the last item, insert the following new items:

"Benefits under chapter 35 of title 38, United States Code, related to educational assistance for survivors and dependents of certain veterans with service-connected disabilities (36-0137-0-1-702);

"Assistance and services under chapter 31 of title 38, United States Code, relating to training and rehabilitation for certain veterans with service-connected disabilities (36-0137-0-1-702);

"Benefits under subchapters I, II, and III of chapter 37 of title 38, United States Code, relating to housing loans for certain veterans and for the spouses and surviving spouses of certain veterans Guaranty and Indemnity Program Account (36-1119-0-1-704);

"Loan Guaranty Program Account (36-1025-0-1-704); and

"Direct Loan Program Account (36-1024-0-1-704).".

(b) CERTAIN PROGRAM BASES.—Section 255(f) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended to read as follows:

“(f) Optional Exemption of Military Personnel.—

“(1) The President may, with respect to any military personnel account, exempt that account from sequestration or provide for a lower uniform percentage reduction than would otherwise apply.

“(2) The President may not use the authority provided by paragraph (1) unless he notifies the Congress of the manner in which such authority will be exercised on or before the date specified in section 254(a) for the budget year.”.

(c) Other Programs and Activities.—(1) Section 255(g)(1)(A) of the Balanced Budget Emergency Deficit Control Act of 1985 is amended as follows:

(A) After the first item, insert the following new item:

“Activities financed by voluntary payments to the Government for goods or services to be provided for such payments;”.

(B) Strike “Thrift Savings Fund (26–8141–0–7–602);”.

(C) In the first item relating to the Bureau of Indian Affairs, insert “Indian land and water claims settlements and” after the comma.

(D) In the second item relating to the Bureau of Indian Affairs, strike “miscellaneous” and insert “Miscellaneous” and strike “, tribal trust funds”.

(E) Strike “Claims, defense (97–0102–0–1–051);”.

(F) In the item relating to Claims, judgments, and relief acts, strike “806” and insert “808”.

(G) Strike “Coinage profit fund (20-5811-0-2-803)”.

(H) Insert “Compact of Free Association (14–0415–0–1–808);” after the item relating to the Claims, judgments, and relief acts.

(I) Insert “Conservation Reserve Program (12–2319–0–1–302);” after the item relating to the Compensation of the President.

(J) In the item relating to the Customs Service, strike “852” and insert “806”.

(K) In the item relating to the Comptroller of the Currency, insert “, Assessment funds (20–8413–0–8–373)” before the semicolon.

(L) Strike “Director of the Office of Thrift Supervision;”.

(M) Strike “Eastern Indian land claims settlement fund (14–2202–0–1–806);”.

(N) After the item relating to the Exchange stabilization fund, insert the following new items:

“Farm Credit Administration, Limitation on Administrative Expenses (78–4131–0–3–351);

“Farm Credit System Financial Assistance Corporation, interest payment (20–1850–0–1–908);”.

(O) Strike “Federal Deposit Insurance Corporation;”.

(P) In the first item relating to the Federal Deposit Insurance Corporation, insert “(51–4064–0–3–373)” before the semicolon.

(Q) In the second item relating to the Federal Deposit Insurance Corporation, insert “(51–4065–0–3–373)” before the semicolon.

(R) In the third item relating to the Federal Deposit Insurance Corporation, insert “(51–4066–0–3–373)” before the semicolon.

(S) In the item relating to the Federal Housing Finance Board, insert “(95–4039–0–3–371)” before the semicolon.

(T) In the item relating to the Federal payment to the railroad retirement account, strike “account” and insert “accounts”.

(U) In the item relating to the health professions graduate student loan insurance fund, insert “program account” after “fund” and strike “(Health Education Assistance Loan Program) (75–4305–0–3–553)” and insert “(75–0340–0–1–552)”.

(V) In the item relating to Higher education facilities, strike “and insurance”.

(W) In the item relating to Internal revenue collections for Puerto Rico, strike “852” and insert “806”.

(X) Amend the item relating to the Panama Canal Commission to read as follows:

“Panama Canal Commission, Panama Canal Revolving Fund (95–4061–0–3–403);”.

(Y) In the item relating to the Medical facilities guarantee and loan fund, strike “(75–4430–0–3–551)” and insert “(75–9931–0–3–550)”.

(Z) In the first item relating to the National Credit Union Administration, insert “operating fund (25–4056–0–3–373)” before the semicolon.

(AA) In the second item relating to the National Credit Union Administration, strike “central” and insert “Central” and insert “(25–4470–0–3–373)” before the semicolon.

(BB) In the third item relating to the National Credit Union Administration, strike “credit” and insert “Credit” and insert “(25–4468–0–3–373)” before the semicolon.

(CC) After the third item relating to the National Credit Union Administration, insert the following new item:

“Office of Thrift Supervision (20–4108–0–3–373);”.

(DD) In the item relating to Payments to health care trust funds, strike “572” and insert “571”.

(EE) Strike “Compact of Free Association, economic assistance pursuant to Public Law 99–658 (14–0415–0–1–806);”.

(FF) In the item relating to Payments to social security trust funds, strike “571” and insert “651”.

(GG) Strike “Payments to state and local government fiscal assistance trust fund (20–2111–0–1–851);”.

(HH) In the item relating to Payments to the United States territories, strike “852” and insert “806”.

(II) Strike “Resolution Funding Corporation;”.

(JJ) In the item relating to the Resolution Trust Corporation, insert “Revolving Fund (22–4055–0–3–373)” before the semicolon.

(KK) After the item relating to the Tennessee Valley Authority funds, insert the following new items:

“Thrift Savings Fund;

“United States Enrichment Corporation (95–4054–0–3–271);

“Vaccine Injury Compensation (75–0320–0–1–551);

“Vaccine Injury Compensation Program Trust Fund (20–8175–0–7–551);”.

(2) Section 255(g)(1)(B) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended as follows:

(A) Strike “The following budget” and insert “The following Federal retirement and disability”.

(B) In the item relating to Black lung benefits, strike “lung benefits” and insert “Lung Disability Trust Fund”.

(C) In the item relating to the Court of Federal Claims Court Judges’ Retirement Fund, strike “Court of Federal”.

(D) In the item relating to Longshoremen’s compensation benefits, insert “Special workers compensation expenses,” before “Longshoremen’s”.

(E) In the item relating to Railroad retirement tier II, strike “retirement tier II” and insert “Industry Pension Fund”.

(3) Section 255(g)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended as follows:

(A) Strike the following items:

“Agency for International Development, Housing, and other credit guarantee programs (72–4340–0–3–151);

“Agricultural credit insurance fund (12–4140–0–1–351);”.

(B) In the item relating to Check forgery, strike “Check” and insert “United States Treasury check”.

(C) Strike “Community development grant loan guarantees (86–0162–0–1–451);”.

(D) After the item relating to the United States Treasury Check forgery insurance fund, insert the following new item:

“Credit liquidating accounts;”.

(E) Strike the following items:

“Credit union share insurance fund (25–4468–0–3–371);

“Economic development revolving fund (13–4406–0–3);

“Export-Import Bank of the United States, Limitation of program activity (83–4027–0–1–155);

“Federal deposit Insurance Corporation (51–8419–0–8–371);

“Federal Housing Administration fund (86–4070–0–3–371);

“Federal ship financing fund (69–4301–0–3–403);

“Federal ship financing fund, fishing vessels (13–4417–0–3–376);

“Government National Mortgage Association, Guarantees of mortgage-backed securities (86–4238–0–3–371);

“Health education loans (75–4307–0–3–553);

“Indian loan guarantee and insurance fund (14–4410–0–3–452);

“Railroad rehabilitation and improvement financing fund (69–4411–0–3–401);

“Rural development insurance fund (12–4155–0–3–452);

“Rural electric and telephone revolving fund (12-4230–8–3–271);

“Rural housing insurance fund (12–4141–0–3–371);

“Small Business Administration, Business loan and investment fund (73–4154–0–3–376);

“Small Business Administration, Lease guarantees revolving fund (73–4157–0–3–376);

“Small Business Administration, Pollution control equipment contract guarantee revolving fund (73–4147–0–3–376);

“Small Business Administration, Surety bond guarantees revolving fund (73–4156–0–3–376);

“Department of Veterans Affairs Loan guaranty revolving fund (36–4025–0–3–704);”.

(d) Low-Income Programs.—Section 255(h) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended as follows:

(1) Amend the item relating to Child nutrition to read as follows:

“State child nutrition programs (with the exception of special milk programs) (12–3539–0–1–605);”.

(2) Amend the item relating to the Women, infants, and children program to read as follows:

“Special supplemental nutrition program for women, infants, and children (WIC) (12–3510–0–1–605).”.

(e) Identification of Programs.—Section 255(i) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended to read as follows:

“(i) Identification of Programs.—For purposes of subsections (b), (g), and (h), each account is identified by the designated budget account identification code number set forth in the Budget of the United States Government 1996–Appendix, and an activity within an account is designated by the name of the activity and the identification code number of the account.”.

(f) Optional Exemption of Military Personnel.—Section 255(h) of the Balanced Budget and Emergency Deficit Control Act of 1985 (relating to optional exemption of military personnel) is repealed.

SEC. 11208. GENERAL AND SPECIAL SEQUESTRATION RULES.

(a) SECTION HEADING.—(1) The section heading of section 256 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking "**exceptions, limitations, and special rules**" and inserting "**general and special sequestration rules**".

(2) The item relating to section 256 in the table contents set forth in section 250(a) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended to read as follows:

"Sec. 256. General and special sequestration rules.".

(b) AUTOMATIC SPENDING INCREASES.—Section 256(a) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking paragraph (1) and redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(c) GUARANTEED AND DIRECT STUDENT LOAN PROGRAMS.—Section 256(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended to read as follows:

"(b) STUDENT LOANS.—(1) For all student loans under part B or D of title IV of the Higher Education Act of 1965 made during the period when a sequestration order under section 254 is in effect, origination fees under sections 438(c)(2) and 455(c) of that Act shall be increased by a uniform percentage sufficient to produce the dollar savings in student loan programs (as a result of that sequestration order) required by section 252 or 253, as applicable.

"(2) For any loan made during the period beginning on the date that an order issued under section 254 takes effect with respect to a fiscal year and ending at the close of such fiscal year, the origination fees which are authorized to be collected pursuant to sections 438(c)(2) and 455(c) of such Act shall be increased by 0.50 percent.".

(d) HEALTH CENTERS.—Section 256(e)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking the dash and all that follows thereafter and inserting "2 percent.".

(e) FEDERAL PAY.—Section 256(g)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by inserting "(including any amount payable under section 5303 or 5304 of title 5, United States Code)" after "such statutory pay system".

(f) TREATMENT OF FEDERAL ADMINISTRATIVE EXPENSES.—Section 256(h)(4) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking subparagraphs (D) and (H), by redesignating subparagraphs (E), (F), (G), and (I), as subparagraphs (D), (E), (F), and (G), respectively, and by adding at the end the following new subparagraph:

"(H) Farm Credit Administration.".

(g) COMMODITY CREDIT CORPORATION.—Section 256(j)(5) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended to read as follows:

"(5) DAIRY PROGRAM.—Notwithstanding other provisions of this subsection, as the sole means of achieving any reduction in outlays under the milk price support program, the Secretary of Agriculture shall provide for a reduction to be made in the price received by producers for all milk produced in the United States and marketed by producers for commercial use. That price reduction (measured in cents per hundred weight of milk marketed) shall occur under section 201(d)(2)(A) of the Agricultural Act of 1949 (7 U.S.C. 1446(d)(2)(A)), shall begin on the day any sequestration order is issued under section 254, and shall not exceed the aggregate amount of the reduction in outlays under the milk price support program that otherwise would have been achieved by reducing payments for the purchase of milk or the products of milk under this subsection during the applicable fiscal year.".

(h) EFFECTS OF SEQUESTRATION.—Section 256(k) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended as follows:

(1) In paragraph (1), strike "other than a trust or special fund account" and insert ", except as provided in paragraph (5)" before the period.

(2) Strike paragraph (4), redesignate paragraphs (5) and (6) as paragraphs (4) and (5), respectively, and amend paragraph (5) (as redesignated) to read as follows:

"(5) Budgetary resources sequestered in revolving, trust, and special fund accounts, and offsetting collections sequestered in appropriation accounts shall not be available for obligation during the fiscal year in which the sequestration occurs, but shall be available in subsequent years to the extent otherwise provided in law.".

SEC. 11209. THE BASELINE.

Section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) in subsection (b)(2) by amending subparagraph (A) to read as follows:

"(A)(i) Except as provided in clause (ii), no program with estimated current year outlays greater than $50,000,000 shall be assumed to expire in the budget year or the outyears.

"(ii) Clause (i) shall not apply to a program if legislation establishing or modifying that program contains a provision stating 'Section 257(b)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985 shall not apply to the program specified in   of this Act.', the blank space being filled in with the appropriate section or sections of that legislation.

"(iii) No bill, resolution, amendment, motion, or conference report shall be subject to a point of order under section 306 of the Congressional Budget Act of 1974 solely because it includes the provision specified in clause (ii).

"(iv) Upon the expiration of the suspensions contained in section 171 of Public Law 104–193 with regard to a program in such Act with estimated fiscal year outlays greater than $50,000,000, that program shall be assumed to operate under that Act as in effect immediately before reversion to the laws suspended by such Act."

(2) by adding the end of subsection (b)(2) the following new subparagraph:

"(D) If any law expires before the budget year or any outyear, then any program with estimated current year outlays greater than $50 million which operates under that law shall be assumed to continue to operate under that law as in effect immediately before its expiration.";

(3) in the second sentence of subsection (c)(5), by striking "national product fixed-weight price index" and inserting "domestic product chain-type price index"; and

(4) by striking subsection (e) and inserting the following:

"(e) ASSET SALES.—Amounts realized from the sale of an asset other than a loan asset shall not be counted against legislation if that sale would result in a financial cost to the Federal Government.".

SEC. 11210. TECHNICAL CORRECTION.

Section 258 of the Balanced Budget and Emergency Deficit Control Act of 1985, entitled "Modification of Presidential Order", is repealed.

SEC. 11211. JUDICIAL REVIEW.

Section 274 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended as follows:

(1) Strike "252" or "252(b)" each place it occurs and insert "254".

(2) In subsection (d)(1)(A), strike "257(l) to the extent that" and insert "256(a) if", strike the parenthetical phrase, and at the end insert "or".

(3) In subsection (d)(1)(B), strike "new budget" and all that follows through "spending authority" and insert "budgetary resources" and strike "or" after the comma.

(4) Strike subsection (d)(1)(C).

(5) Strike subsection (f) and redesignate subsections (g) and (h) as subsections (f) and (g), respectively.

(6) In subsection (g) (as redesignated), strike "base levels of total revenues and total budget outlays, as" and insert "figures", and "251(a)(2)(B) or (c)(2)," and insert "254".

SEC. 11212. EFFECTIVE DATE.

(a) EXPIRATION.—Section 275(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) by striking "Part C of this title, section" and inserting "Sections 251, 253, 258B, and";

(2) by striking "1995" and inserting "2002"; and

(3) by adding at the end the following new sentence: "The remaining sections of part C of this title shall expire September 30, 2006.".

(b) EXPIRATION.—Section 14002(c)(3) of the Omnibus Budget Reconciliation Act of 1993 (2 U.S.C. 900 note) is repealed.

SEC. 11213. REDUCTION OF PREEXISTING BALANCES AND EXCLUSION OF EFFECTS OF THIS ACT FROM PAYGO SCORECARD.

Upon the enactment of this Act, the Director of the Office of Management and Budget shall—

(1) reduce any balances of direct spending and receipts legislation for any fiscal year under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 to zero; and

(2) not make any estimates of changes in direct spending outlays and receipts under subsection (d) of such section 252 for any fiscal year resulting from the enactment of this Act or the Revenue Reconciliation Act of 1997.

The SPEAKER pro tempore. The gentleman from Ohio [Mr. KASICH] and the gentleman from South Carolina [Mr. SPRATT] each will be recognized for 90 minutes.

The Chair recognizes the gentleman from Ohio [Mr. KASICH].

Mr. KASICH. Mr. Speaker, I yield myself as much time as I may consume, and hopefully it will be short.

Let me just open the debate my making it very clear what we are about to do here today.

For those people who have watched the efforts to balance the budget over the course of the last 10 to 12 years, and I want to direct my remarks to a degree to my friend from Indiana, there has been great skepticism about any plan to balance the budget because what is involved is saying we will make the savings later in exchange for some increases or some tax increases today, and we will get around to it later.

What we are about to do today is to enact in permanent law the changes that are necessary in the entitlement programs that will accumulate the savings that will allow us to balance the budget over the course of the next 5 years, and so what I want everyone in this Chamber to understand is, as we enact the changes in permanent law, for example, that affect Medicare, we will accumulate savings as long as those changes in the law remain intact. In order for us to lose those savings, we would have to change the law again. We are not going to do that. We are not only going to do this in regard to Medicare in an effort to save Medicare and extend the life of Medicare for 10 years, but we are doing it in all the entitlement programs.

So what we are about today is to enact into permanent law those changes that will result in the savings of billions upon billions of dollars; over the course of the next 10 years, approximately a savings of $700 billion in mandatory savings, the largest in history.

At the same time, in this bill we are putting in place spending caps for the operations of Government. These spending caps mean that, if we spend more than what we have budgeted for, then we have the Sword of Damocles come down, and it just cuts all spending above those caps. Those caps are enforceable. Real savings will result from limiting the growth of the programs which operate the Government to a growth of about half a percent as compared to 6 percent over the last 10 years.

So what we are about doing today is to pass the first real bill that will enact the permanent changes into law that will result in a balanced budget by 2002. It is not a wish, a prayer, a hope, a dream; it is reality.

Mr. ROEMER. Mr. Speaker, will the gentleman yield?

Mr. KASICH. I yield to the gentleman from the Hoosier State.

Mr. ROEMER. Mr. Speaker, I appreciate the gentleman directing his events across the aisle in a bipartisan way because I intend to vote for this reconciliation package.

I would say that it is not only important to work in a bipartisan way to balance the budget, but this is a defining vote for the Democratic Party. It is a vote that, while working with our Democratic President and the majority Republican Party who control the House and the Senate, we have been able to save over $700 billion that we will not have to borrow over the next 10 years, and at the same time that many of us Democrats believe in balancing the budget, we believe in doing it in a fair, equitable and just manner.

Spending money on a brand-new initiative for children's health, $16 billion over 5 years for uninsured children; that would not have happened without our input into this process.

The largest Pell grant increase in the history of the Pell grant program to help our struggling families get their children a college education; that would not have happened without the President and the Democratic minorities in the Senate and the House working with the Republican majority.

There are lots of things that we believe very firmly will benefit the hard-working people of this country in this balanced budget proposal that we hope will receive a number of Democratic votes here on the floor, and I appreciate the hard work. And next door in the Buckeye State, with the gentleman from Ohio [Mr. KASICH], we oftentimes work together on some of the budgetary matters, and I am very anxious to work with the President and with the Senate, the other body, and improve this bill even further in conference.

Mr. KASICH. Mr. Speaker, I reclaim my time and suggest that I think what everyone should be very happy about today is that what we are about to do here again, so that there can be no confusion with our colleagues or the people who advise our colleagues, we are about enacting the real savings that will accumulate to balance the budget. It is not based on some targets, it is not based on some jerry-rigged mechanism. It is based on controlling the growth of entitlement programs in a variety of areas, and I want to commend the gentleman for being here and supporting this effort today.

Let me also spend a few minutes talking about the Medicare portion of this. We have not only enacted the savings that will preserve Medicare for 10 years, but at the same time we have also been able to offer a program that will give our senior citizens more choice on health care.

Furthermore, it will permit physicians to group together to compete against insurance companies. We think that allowing physicians to be able to group together to compete against insurance companies will result in consumers having a leg up on the current process. I am delighted it happened.

Furthermore, included in this is something that is controversial, but I want to commend the minority for not doing somersaults over this; it is the program to allow our senior citizens to have more choice by being able to purchase medical savings accounts in this product.

In addition to that, we have also got some control in the area of the home health care and skilled nursing facilities, which have been the most rapidly growing portion of Medicare. We are now going to have an item called prospective payments where we do not just turn the faucet on and let all the dollars run out. We want to hold people accountable who deliver these services.

So we have a variety of things in this program that, in fact, will empower seniors, give them more choices, we believe improve the quality of care, and at the same time save $115 billion over the next 5 years which is very similar to what we had proposed 2 years ago.

So I think this is just a terrific accomplishment. In the area of Medicaid we have released the States from a number of provisions designed by the Federal Government to tell States how to regulate the Medicaid program. We have decided that there are some reasonable provisions where the Governors of our country ought to be given flexibility to manage their program better so that they can provide more care to those who are in need of it without micromanaging the program from Washington. We think it is terrific.

And we did make a few reforms in welfare where we took a look at what we did last year, and we said if there are some areas where perhaps we could improve the bill, make it more compassionate, we agreed to do it. But we did not walk away from the basic commitment that we made to the American people to end the entitlement program, to make sure that able-bodied people go to work and to make sure that this program will be run at the State level.

Now I want to just suggest today that the ability to enact these programs is really a huge step forward in beginning to address the problem of what can be generational warfare in this country. We are by no means at an end. No one who watches this debate should think that everything is now copasetic. It is not.

We are, in fact, going to have to come back and give people more power, more flexibility, more control of the resources that they earn in their lifetime to invest in their own retirement, in a retirement program called Social Security where hopefully we can preserve that program and yet let people have more flexibility to earn more money based on their earnings. We know that there has to be a major overhaul of the Social Security program that will preserve, protect and enhance Social Security. We are going to have to work on a bipartisan basis in order to guarantee that our children are not consigned to spending all of their life working to pay our benefits. I think we can achieve it, and we are going to have to do it together because Social Security is as American as the flag and apple pie, and we are going to stand behind it, but we are going to have to improve it, and we are going to have to innovate it.

In the area of Medicare it is very clear that we are going to have to move toward a greater voucher system where senior citizens are going to hold a check and the health care providers in this country are going to have to compete for the right to provide quality care to our senior citizens.

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It is one of the answers that I believe will help us be able to deal with the tremendous influx into the retirement programs of our baby boomers, and in the area of Medicaid, a lot more reform needs to be done in Medicaid. Frankly, we have to wonder why we do not create a system where the baby boomers begin to provide for their own long-term care.

The gentlewoman from Connecticut is intimately involved in trying to create a program to really move Medicaid to be a program for the disabled and the children, and that we need to encourage the baby boomers in this country to buy long-term care insurance so that we do not become a burden on our children.

The fact is, we cannot afford a generational war in this country. What we have done is to take the first step to show the country that we can, in a responsible way, begin to get a handle on entitlement programs, balance the budget, transfer power from this city into the hands of individuals who are the recipients of these programs, bringing greater innovation, bringing greater imagination to the effectiveness of these programs by transferring them out of a Washington model and putting them into the hands of people across the country.

I think that if we can be successful here, we will gain some of the confidence of the American people that all of us know we must take to deal with the problems of the next generation; we will gain confidence and credibility from the public when we take that next difficult, but clearly exciting step to preserve many of these programs for the American people.

So today we have so many things that we can be proud of, so many things that we can be excited about. But this is that step that will provide for a balanced budget in the year 2002 in a real way.

Mr. Speaker, I reserve the balance of my time.

Mr. SPRATT. Mr. Speaker, I ask unanimous consent to yield 45 minutes to the gentlewoman from Connecticut [Ms. DELAURO], and that she be allowed to control and yield that time.

The SPEAKER pro tempore (Mr. DREIER). Is there objection to the request of the gentleman from South Carolina?

There was no objection.

Mr. SPRATT. Mr. Speaker, I yield myself such time as I may consume.

I cannot pass up the opportunity to observe, as I have before, why it is we are here at this moment. Five years ago, the date I always pick as January 13, 1993, just before George Bush left office, his Economic Report of the President came to the Congress and it indicated, projected, that the deficit for that year, fiscal year 1993, would be $332 billion. Within a few months, we passed in the House and in the Senate and sent to the President a deficit reduction plan, only with Democratic votes, passed by the skin of its teeth, which sought to cut that deficit in half over the next 5 fiscal years. The results are a matter of record.

The deficit fell in fiscal year 1993 to $255 billion, in fiscal 1994 to $203 billion, in fiscal year 1995 to $164 billion, and last year, September 30, 1996, the deficit was $107.8 billion. Both OMB and CBO projected that the deficit will be well below $75 billion on September 30, 1997, when we close the books on this fiscal year.

So we can credibly say that we are within reach of a balanced budget because of what we did at some political expense in 1993. This could be for many of us, a sweet occasion, a very satisfying moment. Instead, it is a little bittersweet.

Mr. Speaker, less than a month ago, we passed a budget agreement here in the House, sent it to the other body and they passed it as well, that deserved the name bipartisan. Mr. Speaker, 132 Democrats voted for that agreement, and today, 132 or more would come back to the well of the House and vote for it again if the budget agreement we made a few weeks ago were simply carried out, straightforwardly implemented in the bill that is before us.

Unfortunately, it is not. This bill does not fully realize the goals that we set out in the balanced budget agreement. It is still a work in process, very much something that is yet to be realized. That is why the administration requested us in a letter they sent today to pass a bill to move the process, not that they are endorsing this bill, but they endorse the process, because their expectation is that it can be perfected in conference, which remains to be seen.

Here are just a few of the ways that we have fallen short. The philosophy of our negotiation was that each side, Democrats and Republicans, would come out of the negotiation with something that each of us could claim we had won, some distinct victory. For our part we chose as a victory education, the President's request for education, and an initiative in the area of children's health care, another step toward providing health care for the millions of Americans who do not have it.

The goal we set for ourselves was to get at least 5 million children of the 10.5 million children in working poor families who do not have coverage covered with health insurance. We set aside an earmark $16 billion of new spending resources in this bill in order to accomplish that.

Unfortunately, the committee of jurisdiction in its mark of this bill gave us a block grant that provides us no assurance that this $16 billion will reach the children for whom it was intended. CBO has cast grave doubt as to whether we will even get a fraction of those children. So we have fallen short of a goal that we all ostensibly shared and should share, and that is, get at least half of that 10 million children covered. That is why I say this bill needs improvement.

Next, provisions were added to the bill that were never contemplated, never discussed in the course of the budget negotiations. In dealing with welfare to work and with workfare participants, provisions were added that would deny workfare participants the protections of the Federal Labor Standards Act, deny them the right to be called employees and all the rights, benefits and privileges pertinent thereto under Federal law.

In dealing with the food stamp provision which now requires able-bodied food stamp beneficiaries between the ages of 18 and 50 to work in order to get their food stamps, we have provided $1 billion in order to see to it that 350,000 workfare slots would be available so that these food stamp participants, if they could not find a job, could at least get workfare and continue to get their food stamps. We have not realized that goal in the bill before us.

Then in this bill, which is a must-pass piece of legislation, everybody knows it is a moving vehicle and it is going on a fast track, some bitter pills were added by people who are ardent proponents of various projects that have nothing to do with reconciliation. This bill contains a new medical malpractice code, a far-reaching innovation for the Federal Government. I voted for that before. I have actually written the title, the Rowland-Bilirakis bill that dealt with it, but there are many Members on my side for whom this is a bitter pill to swallow. The same goes for the Hyde amendment, which I voted for before, but many Members on my side simply think it has made the kids' care bill something that they cannot support until it is removed.

Go down the list; 500,000 MSA's, medical savings accounts, never discussed in our agreement, never contemplated, and scored by the Congressional Budget Office not to save money in a bill where we are trying to shore up and restore solvency to Medicare or shore up and eradicate the deficit; this will cost the Medicare Program $2 billion over the next 5 years, an expensive experiment.

So all of this is hard to swallow for Democrats. Some Democrats today, as a consequence, who could be counted on to come to the floor as they did in 1993, as they did just a few weeks ago, and vote to eradicate the deficit and balance the budget will be forced to vote no today. It is not because they do not want to balance the budget, it is because they think the deal that they supported just a few weeks ago has not been upheld and has been actually breached.

Some, like me, will vote for the budget reconciliation bill before us. I vote for it for two strong and substantial reasons. First of all, as the bill began to emerge from the pipeline of the different authorizing committees, and we began to note its problems that had to be corrected and cleaned up, the gentleman from Ohio [Mr. KASICH] worked in earnest and in good faith with me to work off a list of things that I thought we could correct here in the House between the reporting of the budget resolution and the rule that was considered today. Much of that was accomplished in the self-implementing, self-executing rule that we passed just a few minutes ago.

In that same spirit of good faith, I am betting that that same cooperation will continue into conference so that we can, through one means or another, negotiations with the Senate, the President's veto threat, whatever the device may be, we can take this work in progress and bring it back to what it was just a few weeks ago, a bill that we could call a balanced bill to balance the budget, a bill that is truly bipartisan, one that we can all vote for.

It is in the hope that we can obtain that objective that I will support this bill, but I say to all Members of the House, Democrats and Republicans alike, it is still very much a work in progress and it needs and requires a lot of work before final passage.

Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore. Without objection, the gentleman from Connecticut [Mr. SHAYS] will control the time of the gentleman from Ohio [Mr. KASICH].

There was no objection.

Mr. SHAYS. Mr. Speaker, I yield 4 minutes to the gentlewoman from Texas [Ms. GRANGER].

Ms. GRANGER. Mr. Speaker, I rise in strong support of the first balanced budget since 1969, the year that Neil Armstrong walked on the moon. Neil Armstrong's giant leap for mankind is the second thing I remember about 1969. Mr. Speaker, 1969, the last year the budget was balanced, was also the year my first child was born. I proudly watched that young man walk down the aisle to receive his doctor of jurisprudence just 3 weeks ago. That means my oldest son has not seen a balanced budget since the year he was born. My twins, born 2 years later, have never seen a balanced budget in their lifetimes.

Today we can change that. The legislation we consider today will balance the budget by 2002, if not sooner. Our plan will put the Federal budget into surplus through the year 2007. This is the most important thing we can do for our children's future.

But this plan does much more. In addition to helping our children, this balanced budget downsizes Washington to return power, money, and decisions back to families, neighborhoods, and communities. As the mayor of Fort Worth, TX, I learned that local communities need more power and less mandates from Washington. The balanced budget we will continue today will reduce Washington spending as a percentage of our economy to the lowest level since 1974.

This plan keeps our commitment to our parents and grandparents by preserving Medicare. This balanced budget adds 10 years to the life of Medicare; it provides our parents with more health care choices, the same health care choices as their children and grandchildren.

This plan keeps our commitment to education. I taught school for 9 years as a public school teacher, and I learned that there is nothing more important than education. By eliminating the deficit, a balanced budget will lower the cost of a typical student loan by nearly $9,000. College education will be more affordable to young men and women across this country.

This budget agreement keeps our commitment to future generations by balancing the budget; to our parents and grandparents by preserving Medicare; and to America's future by making education for our children more affordable and available. Let us stand up for America's children, its seniors and its students and its future and support this balanced budget agreement.

Ms. DELAURO. Mr. Speaker, I yield 16 minutes to the gentleman from Michigan [Mr. BONIOR].

Mr. BONIOR. Mr. Speaker, I thank my distinguished colleague from Connecticut for yielding me this time.

Mr. Speaker, this budget bill that we have on the floor breaks the deal, and it does so not in one or two places, it does so in about 12 different areas, major areas of law.

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What it also does, this bill and the tax bill we will consider tomorrow that the Republicans are rushing through this Congress will spawn the worst economic inequality that Americans have experienced in the past century. We are experiencing in this country today a situation in which those at the top are moving further and further away from the rest of the country.

We can see it. We used to be first in wages and benefits. Now we are 13th among Western developing countries. Eighty percent of the American people have not had a raise in wages since 1979. The top 20 percent are doing very well. The difference between the CEO in 1960 and the average worker was about 12 times difference in salaries. Today it is 209 times. They make 209 times more than the average worker. Now we are codifying all of that into law today and tomorrow.

The Republican tax bill we are going to deal with tomorrow gives more benefits to the richest 1 percent of Americans than to the bottom 60 percent combined. The top 1 percent get more than the 60 percent. Rollbacks in the corporate minimum tax is a $232 billion giveaway. Look at the chart here. Back in the early 1960's the corporations paid roughly close to 25 percent of the taxes in this country. It got down to about 7 percent in 1982.

It was so embarrassing to the Republicans and the rest of the country, because companies like Texaco and AT&T and Boeing were not paying any Federal taxes, so we put together a corporate minimum tax. It started to go up just a little bit since then.

This bill sends us this back down by giving them a $22 billion break; when we add all of the breaks on capital gains through inflation, $650 billion costs over the period of outyears.

Another point I would like to make is that the Republican tax bill actually raises taxes on the bottom 40 percent of Americans. It gives all these breaks to the people at the top, raises taxes on the bottom 40 percent. If the Republicans were not writing this into law, I would call it robbery.

The second point, the tax and spending bills give giant corporations the power to create second-class citizens who do not have the same rights as the rest of us. I ask the Members, is it fair to deny some Americans their rights under the Family and Medical Leave Act that we all worked so hard for here, the Equal Pay Act, the Civil Rights Protection Act, OSHA safety standards?

Is it right to deny a person the ability to defend themselves against sexual harassment? Is it fair to pay workers on a contract basis, denying them the minimum wage, health benefits, pension benefits? This country was founded on the basic principle that we are created equal, but these bills today and tomorrow say that some people, mostly families struggling to raise their children, are less than equal, that they do not deserve the same rights as other Americans. That is not just a slippery slope, that is a jagged cliff. If all Americans do not share the same rights, then none of us have them.

The third point, the Republican tax and spending bills violate the bipartisan budget agreement. Three of the most important violations are that it reneges on a third of the promised funding for education, shortchanging particularly students from working families. It also reneges on health care coverage for 90 percent of the children who will be covered under the original agreement, and gives this funding to States with no guarantee that they are going to spend it on kids for their health insurance.

The agreement called for covering 5 million children, but the spending bill covers only about 500,000, and leaves out 4.5 million children. It also effectively slashes funding for children's hospitals serving children from poor and working class families perhaps causing some of these vital hospitals to shut down.

These bills punish working families and reward the wealthiest and big nationals. More benefits to the richest 1 percent, and 60 percent of the rest of the folks, from zero to 60 percent, those benefits equal the top 1 percent. Is that just? Is that fair? We believe in a balanced budget, tax cuts for working families, and fairness. We will fight for that.

Tomorrow, with our tax bill that targets ours to working families, not the very wealthy in this country, we will fight that, and we will fight that today when we take on what the Republicans have proposed here with respect to what we believe is breaking the agreement.

Ms. DELAURO. Mr. Speaker, will the gentleman yield?

Mr. BONIOR. I yield to the gentlewoman from Connecticut.

Ms. DELAURO. Mr. Speaker, I thank the gentleman from Michigan for yielding to me, and want to pick up a couple of points he has laid out here.

I urge my colleagues to vote against this bill, because in fact it does violate the bipartisan budget we passed earlier this month. In particular one of the areas where it is an outrage is what they have done in the whole issue of health care for children in this country. It denies working families the help they need to provide health care for their children. They have violated that very basic tenet of this agreement. There is no assurance of coverage for at least half of the 10 million children in the Nation today who do not have access to health insurance.

Children living without health care coverage are hurt in so many ways in this country. They are less likely to have a family doctor, to receive preventive care, and they are less likely to have treatment for serious illnesses. They are less likely to grow up healthy and productive. The problem is not going away because every day in this country another 3,300 kids lose their health insurance.

Mr. BONIOR. That bears repeating; every day in this country 3,300 kids in this country lose health insurance because employers are cutting back these benefits. Where are the kids going to go? This plan does nothing, nothing for them.

Ms. DELAURO. I might just add, Mr. Speaker, that the agreement clearly states $16 billion would be spent to cover half the kids. It has been estimated by the Congressional Budget Office that the bill would cover only 520,000 of those 10 million kids. That is coverage of less than 20 percent of the children who do not have access to health care today.

I might add that the children who do not have access to health care today are the sons and the daughters of working families. These are people whose fathers and mothers are working every single day in order to protect their kids, and they are without health insurance.

This bill offers no assurance that even one additional child will receive health care insurance. But what my Republican colleagues have done is instead they are going to send this money to the States with no requirement at all that the funds be used to give kids the health care that they need. There is nothing that says that this money needs to be used to pay for health insurance for kids today.

The Republicans in fact are turning their back on working middle class families today. They are going to not allow our youngsters to grow up healthy and strong.

Mr. DOGGETT. Mr. Speaker, will the gentleman yield?

Mr. BONIOR. I yield to the gentleman from Texas.

Mr. DOGGETT. Mr. Speaker, I voted for this balanced budget agreement.

Mr. BONIOR. I did, too. So did the gentlewoman from Connecticut [Ms. DELAURO].

Mr. DOGGETT. Really, is not the measure what one would properly call a wreckonciliation bill, in that it wrecks the balanced budget agreement?

Mr. BONIOR. I agree 100 percent, in that it wrecks it on a number of fronts, some of which we have just talked about.

Mr. DOGGETT. Indeed, when we talked about getting a balanced budget agreement that has true balance, I always thought the idea was that there would be shared sacrifice, shared burden, but it would appear that those at the top of the economic ladder now get to share, and those that are trying to climb up, they just get the burden. Does it appear that way to the gentleman?

Mr. BONIOR. Mr. Speaker, I think the gentleman is absolutely correct. We can tell from this graph on the tax piece that the multinational corporations and giant corporations get a $22 billion break. We are talking about, as I said earlier, the top 1 percent getting as much in benefits as 60 percent of the American people, working Americans in this country. Where is the justice? Where is the fairness there?

Mr. DOGGETT. If there is a family out there, maybe both parents having to try to work just to make ends meet and at the same time trying to create a good family environment for their kids. If they work for someone that does not provide health insurance, this bill, this wreckonciliation bill, says to them, you have to go forward with no health insurance, but it says to a giant multinational corporation, can we cut your taxes a little bit more?

Mr. BONIOR. Mr. Speaker, the gentleman is right, he has got it. That is exactly where we are headed on this bill here. It is reneging on the promise that was made over the agreement. It is inequitable, it is unfair, and puts the burden on those who can least afford to bear it.

Mr. DOGGETT. Indeed, for the ordinary young working families, does this reconciliation bill really offer them much of anything?

Mr. BONIOR. It offers them virtually nothing.

In terms of the budget, let me just tell my Republican colleagues and those Members on the floor here, it was in 1993, if we are talking about offering people a balanced budget, it was Democrats on every single one of the votes that passed that bill that reduced the deficit from $300 billion.

It was in 1993 that we passed the balanced budget in this country. The budget was at about $300 billion. That bill, that was supported by Democrats only, not a Republican in the House and Senate supported that bill, brought the deficit down from an annual $300 billion deficit all the way down to roughly $60 billion this year.

What we are trying to do is maintain that, maintain that progress, and make it equitable in terms of working Americans. This bill does not do it. It moves us back in the opposite direction, with huge outyears, deficits in the outyears, because of what we will see tomorrow in the Republican bill on taxes by indexing capital gains. It does not distribute the benefits fairly in this particular bill, as we have discussed with children's health care, as we have discussed with a variety of other issues in terms of the workplace.

Mr. DEFAZIO. Mr. Speaker, will the gentleman yield?

Mr. BONIOR. I yield to the gentleman from Oregon.

Mr. DEFAZIO. Mr. Speaker, the gentleman just made the most salient point there. The cuts today are designed to cut taxes for the largest corporations in America and the wealthiest. Some of these cuts are extraordinarily cruel. They cannot be denied by my friends who will stand on the other side of the aisle: a 20-percent cut in home health oxygen benefits for seniors, and a freeze to the year 2002.

Let me just read from one constituent, of the many letters I got: Dixie McNutt, Springfield, OR, my hometown. Dixie says, "Having oxygen allows people like me to enjoy the comforts of home and to feel as though we are still an active part of the family. Without this benefit, the choice seems to be living at home without breathing, or spending our remaining days in the hospital, which would cost both Medicare and the patient much more."

So today, Congress will cut $2 billion out of home health oxygen benefits for seniors and the disabled to pay for one-tenth of the repeal and the gutting of the alternative minimum tax for corporations, because it will be too much, too much to ask the largest corporations in America to just pay maybe 5 or 10 percent of their profits in taxes, a fraction of what working Americans pay out of their paycheck every month. This is a travesty. It should not pass. I stand against this bill.

Mr. BONIOR. I thank my colleague.

Mr. Speaker, what we have here is a replay, really, of the last Congress. They are taking dollars out of children's hospitals, they are taking dollars that were intended for children's health insurance benefits, they are taking benefits away from workers all over this country, and where are they putting it? They are putting it into taking care of the biggest corporations in this country and the wealthiest individuals in this country. It is indeed one of the biggest transfers of wealth we will see here in many a moon.

Mr. KENNEDY of Rhode Island. Mr. Speaker, will the gentleman yield?

Mr. BONIOR. I yield to the gentleman from Rhode Island.

Mr. KENNEDY of Rhode Island. Mr. Speaker, I think what this reconciliation bill really does is it shows where the majority party, the Republican party's, true priorities are. Clearly, their priorities are not with our Nation's senior citizens, who are now going to get the cold shoulder because of the MSA accounts that are provided for in this bill, which basically allows the skimming to be done by insurance companies, so they can get the healthiest and wealthiest who do not have to pay the deductible, and be able to target those very healthy and wealthy people, leaving the poorest elderly, the most frail elderly, the ones that have the most costs to bear with respect to that.

In addition to that, the bill also, as the gentleman said, makes sure that we do not provide the needed investment for health insurance for children, making sure that all the children in this country get the necessary health care that they need.

Finally, as the gentleman mentioned, all this does is shift the burden of our taxes from the top 1 percent of this country to the bottom 60 percent. I think the gentleman pointed out correctly that, is it not correct that the tax cut that this reconciliation bill provides for, including the tax bill, has a tax cut larger for the top 1 percent than for the aggregate of the bottom 60 percent?

Mr. BONIOR. The gentleman has stated it correctly. The top 1 percent gets as much as the bottom 60 percent in this country.

Mr. KENNEDY of Rhode Island. While the senior citizens do not get the necessary health insurance, as my colleague, the gentleman from Oregon, just mentioned; while children do not get the necessary health insurance they need, and while legal immigrants still go without SSI, based upon the Republican discriminatory bill with respect to our legal immigrants not being provided adequate SSI coverage.

Mr. SANDERS. Mr. Speaker, will the gentleman yield?

Mr. BONIOR. I yield to the gentleman from Vermont.

Mr. SANDERS. Mr. Speaker, let us put this bill into the context of what is happening in America today. Everybody knows what is happening. The richest people are becoming richer, the middle class is being squeezed, and most of the new jobs being created are low-wage jobs.

Given that context, what sense is it that we have legislation under which 58 percent of the benefits go to the top 5 percent, corporations see a reduction in their tax burden, while the bottom 40 percent of income earners see no benefits at all? In other words, we have got this thing completely backwards. We are helping those people who do not need help, and we are not helping those people who are in desperate need of help. Furthermore, under this legislation, Medicare will be cut $115 billion over a 5-year period.

The Vermont Association of Hospitals estimates that will be a $75 million cut from hospitals, rural hospitals all over America who will be hurt, meaning there will be lower quality health care for our senior citizens.

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Tax breaks for the rich and the people who do not need it, cuts in Medicare and a reduction in the quality of health care for our senior citizens, those people who do need help, I urge a "no" vote on this absurd piece of legislation.

Mr. SHAYS. Mr. Speaker, I yield myself 1 minute, to say that tomorrow we will be debating the tax bill. As the bipartisan joint tax committee of Congress estimates, 76 percent of all the benefit goes to people who make less than $75,000, totally contrary to the facts that have been shouted out in the last 20 minutes. Ninety-two percent of the benefits go to people making under $100,000.

We will be debating the tax bill tomorrow. It will be very, very clear who benefits. We will realize the people who benefit are the middle class in this country. Today we are debating a spending bill, a spending bill that allows spending to go up 3 percent a year, that allows Medicare to go up at 7 percent a year each year, not a cut, a significant increase.

Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. SHAW].

Mr. SHAW. Mr. Speaker, I thank the gentleman for yielding me the time.

It is not necessary to stand here and yell when we have the facts with us. We definitely have the facts with us.

That is that 76 percent of the tax cuts that we are going to be talking about tomorrow, tax relief for American families, goes to families earning less than $70,000.

Now, people listening to this debate would wonder, where in the world are these figures coming from that are being screamed and yelled on the floor and all of these graphs and all of this yelling and signs that are going up? I can tell my colleagues where they came from. Treasury came up with an archaic formula in which they determine somebody's wealth by taking the rental value of the home that they own and add it to their income, the earnings of corporations in which they might own a few shares of stocks and putting that upon them, the economic value of their resources such as their automobile. Come on.

Unless the Democrats are going to come out and try to tax that, then this is an absolutely absurd argument. So let us get some truth here on the floor. Let us get to the situation where we are not yelling at each other, that we are simply talking facts. If we are putting that type of income on top of somebody when we start to try to come up with all these figures that simply are not true, I think that at that time we owe it to the American people, we certainly owe it to our colleagues to get up and say how did we determine that income. We do it by simple math and by the amount of earnings that people have. The facts are very clear.

This is the first tax relief the American people are getting in the last 16 years. There are some Members that are here on the floor debating that just cannot stand that idea. But I can tell my colleagues, Democrats and Republicans alike are going to carry this day and we are going to get the first tax relief for the American families in 16 years. That will vindicate this debate.

Mr. SHAYS. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona [Mr. HAYWORTH], who will point out that taxes went up in 1993 and are going down in 1997.

Mr. HAYWORTH. Mr. Speaker, I thank the gentleman from Connecticut for yielding me this time.

I am pleased to follow my chairman of the Subcommittee on Human Resources of the Committee on Ways and Means. I have been listening, Mr. Speaker, with great interest to the cavalier fashion in which fear replaces facts on the other side. It is sad to see that happen.

I do not think the point can be made often enough that when you cook the books, as the liberal minority has done, in the process you fricassee the facts.

Mr. Speaker, I do not know of anyone, including my friends on the minority side, I do not know of anyone who pays themselves rent to live in a house they own. Only in Washington, DC in the desperation of trying to concoct fear rather than new ideas, rather hospitals serving children from poor and working class families perhaps causing some of these vital hospitals to shut down.

These bills punish working families and reward the wealthiest and big nationals. More benefits to the richest 1 percent, and 60 percent of the rest of the folks, from zero to 60 percent, those benefits equal the top 1 percent. Is that just? Is that fair? We believe in a balanced budget, tax cuts for working families, and fairness. We will fight for that.

Tomorrow, with our tax bill that targets ours to working families, not the very wealthy in this country, we will fight that, and we will fight that today when we take on what the Republicans have proposed here with respect to what we believe is breaking the agreement.

Ms. DELAURO. Mr. Speaker, will the gentleman yield?

Mr. BONIOR. I yield to the gentlewoman from Connecticut.

Ms. DELAURO. Mr. Speaker, I thank the gentleman from Michigan for yielding to me, and want to pick up a couple of points he has laid out here.

I urge my colleagues to vote against this bill, because in fact it does violate the bipartisan budget we passed earlier this month. In particular one of the areas where it is an outrage is what they have done in the whole issue of health care for children in this country. It denies working families the help they need to provide health care for their children. They have violated that very basic tenet of this agreement. There is no assurance of coverage for at least half of the 10 million children in the Nation today who do not have access to health insurance.

Children living without health care coverage are hurt in so many ways in this country. They are less likely to have a family doctor, to receive preventive care, and they are less likely to have treatment for serious illnesses. They are less likely to grow up healthy and productive. The problem is not going away because every day in this country another 3,300 kids lose their health insurance.

Mr. BONIOR. That bears repeating; every day in this country 3,300 kids in this country lose health insurance because employers are cutting back these benefits. Where are the kids going to go? This plan does nothing, nothing for them.

Ms. DELAURO. I might just add, Mr. Speaker, that the agreement clearly states $16 billion would be spent to cover half the kids. It has been estimated by the Congressional Budget Office that the bill would cover only 520,000 of those 10 million kids. That is coverage of less than 20 percent of the children who do not have access to health care today.

I might add that the children who do not have access to health care today are the sons and the daughters of working families. These are people whose fathers and mothers are working every single day in order to protect their kids, and they are without health insurance.

This bill offers no assurance that even one additional child will receive health care insurance. But what my Republican colleagues have done is instead they are going to send this money to the States with no requirement at all that the funds be used to give kids the health care that they need. There is nothing that says that this money needs to be used to pay for health insurance for kids today.

The Republicans in fact are turning their back on working middle class families today. They are going to not allow our youngsters to grow up healthy and strong.

Mr. DOGGETT. Mr. Speaker, will the gentleman yield?

Mr. BONIOR. I yield to the gentleman from Texas.

Mr. DOGGETT. Mr. Speaker, I voted for this balanced budget agreement.

Mr. BONIOR. I did, too. So did the gentlewoman from Connecticut [Ms. DELAURO].

Mr. DOGGETT. Really, is not the measure what one would properly call a wreckonciliation bill, in that it wrecks the balanced budget agreement?

Mr. BONIOR. I agree 100 percent, in that it wrecks it on a number of fronts, some of which we have just talked about.

Mr. DOGGETT. Indeed, when we talked about getting a balanced budget agreement that has true balance, I always thought the idea was that there would be shared sacrifice, shared burden, but it would appear that those at the top of the economic ladder now get to share, and those that are trying to climb up, they just get the burden. Does it appear that way to the gentleman?

Mr. BONIOR. Mr. Speaker, I think the gentleman is absolutely correct. We can tell from this graph on the tax piece that the multinational corporations and giant corporations get a $22 billion break. We are talking about, as I said earlier, the top 1 percent getting as much in benefits as 60 percent of the American people, working Americans in this country. Where is the justice? Where is the fairness there?

Mr. DOGGETT. If there is a family out there, maybe both parents having to try to work just to make ends meet and at the same time trying to create a good family environment for their kids. If they work for someone that does not provide health insurance, this bill, this wreckonciliation bill, says to them, you have to go forward with no health insurance, but it says to a giant multinational corporation, can we cut your taxes a little bit more?

Mr. BONIOR. Mr. Speaker, the gentleman is right, he has got it. That is exactly where we are headed on this bill here. It is reneging on the promise that was made over the agreement. It is inequitable, it is unfair, and puts the burden on those who can least afford to bear it.

Mr. DOGGETT. Indeed, for the ordinary young working families, does this reconciliation bill really offer them much of anything?

Mr. BONIOR. It offers them virtually nothing.

In terms of the budget, let me just tell my Republican colleagues and those Members on the floor here, it was in 1993, if we are talking about offering people a balanced budget, it was Democrats on every single one of the votes that passed that bill that reduced the deficit from $300 billion.

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What we are trying to do is maintain that, maintain that progress, and make it equitable in terms of working Americans. This bill does not do it. It moves us back in the opposite direction, with huge outyears, deficits in the outyears, because of what we will see tomorrow in the Republican bill on taxes by indexing capital gains. It does not distribute the benefits fairly in this particular bill, as we have discussed with children's health care, as we have discussed with a variety of other issues in terms of the workplace.

Mr. DEFAZIO. Mr. Speaker, will the gentleman yield?

Mr. BONIOR. I yield to the gentleman from Oregon.

Mr. DEFAZIO. Mr. Speaker, the gentleman just made the most salient point there. The cuts today are designed to cut taxes for the largest corporations in America and the wealthiest. Some of these cuts are extraordinarily cruel. They cannot be denied by my friends who will stand on the other side of the aisle: a 20-percent cut in home health oxygen benefits for seniors, and a freeze to the year 2002.

Let me just read from one constituent, of the many letters I got: Dixie McNutt, Springfield, OR, my hometown. Dixie says, "Having oxygen allows people like me to enjoy the comforts of home and to feel as though we are still an active part of the family. Without this benefit, the choice seems to be living at home without breathing, or spending our remaining days in the hospital, which would cost both Medicare and the patient much more."

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Mr. BONIOR. I thank my colleague.

Mr. Speaker, what we have here is a replay, really, of the last Congress. They are taking dollars out of children's hospitals, they are taking dollars that were intended for children's health insurance benefits, they are taking benefits away from workers all over this country, and where are they putting it? They are putting it into taking care of the biggest corporations in this country and the wealthiest individuals in this country. It is indeed one of the biggest transfers of wealth we will see here in many a moon.

Mr. KENNEDY of Rhode Island. Mr. Speaker, will the gentleman yield?

Mr. BONIOR. I yield to the gentleman from Rhode Island.

Mr. KENNEDY of Rhode Island. Mr. Speaker, I think what this reconciliation bill really does is it shows where the majority party, the Republican party's, true priorities are. Clearly, their priorities are not with our Nation's senior citizens, who are now going to get the cold shoulder because of the MSA accounts that are provided for in this bill, which basically allows the skimming to be done by insurance companies, so they can get the healthiest and wealthiest who do not have to pay the deductible, and be able to target those very healthy and wealthy people, leaving the poorest elderly, the most frail elderly, the ones that have the most costs to bear with respect to that.

In addition to that, the bill also, as the gentleman said, makes sure that we do not provide the needed investment for health insurance for children, making sure that all the children in this country get the necessary health care that they need.

Finally, as the gentleman mentioned, all this does is shift the burden of our taxes from the top 1 percent of this country to the bottom 60 percent. I think the gentleman pointed out correctly that, is it not correct that the tax cut that this reconciliation bill provides for, including the tax bill, has a tax cut larger for the top 1 percent than for the aggregate of the bottom 60 percent?

Mr. BONIOR. The gentleman has stated it correctly. The top 1 percent gets as much as the bottom 60 percent in this country.

Mr. KENNEDY of Rhode Island. While the senior citizens do not get the necessary health insurance, as my colleague, the gentleman from Oregon, just mentioned; while children do not get the necessary health insurance they need, and while legal immigrants still go without SSI, based upon the Republican discriminatory bill with respect to our legal immigrants not being provided adequate SSI coverage.

Mr. SANDERS. Mr. Speaker, will the gentleman yield?

Mr. BONIOR. I yield to the gentleman from Vermont.

Mr. SANDERS. Mr. Speaker, let us put this bill into the context of what is happening in America today. Everybody knows what is happening. The richest people are becoming richer, the middle class is being squeezed, and most of the new jobs being created are low-wage jobs.

Given that context, what sense is it that we have legislation under which 58 percent of the benefits go to the top 5 percent, corporations see a reduction in their tax burden, while the bottom 40 percent of income earners see no benefits at all? In other words, we have got this thing completely backwards. We are helping those people who do not need help, and we are not helping those people who are in desperate need of help. Furthermore, under this legislation, Medicare will be cut $115 billion over a 5-year period.

The Vermont Association of Hospitals estimates that will be a $75 million cut from hospitals, rural hospitals all over America who will be hurt, meaning there will be lower quality health care for our senior citizens.

□ 1415

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Mr. SHAYS. Mr. Speaker, I yield myself 1 minute, to say that tomorrow we will be debating the tax bill. As the bipartisan joint tax committee of Congress estimates, 76 percent of all the benefit goes to people who make less than $75,000, totally contrary to the facts that have been shouted out in the last 20 minutes. Ninety-two percent of the benefits go to people making under $100,000.

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Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. SHAW].

Mr. SHAW. Mr. Speaker, I thank the gentleman for yielding me the time.

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Now, people listening to this debate would wonder, where in the world are these figures coming from that are being screamed and yelled on the floor and all of these graphs and all of this yelling and signs that are going up? I can tell my colleagues where they came from. Treasury came up with an archaic formula in which they determine somebody's wealth by taking the rental value of the home that they own and add it to their income, the earnings of corporations in which they might own a few shares of stocks and putting that upon them, the economic value of their resources such as their automobile. Come on.

Unless the Democrats are going to come out and try to tax that, then this is an absolutely absurd argument. So let us get some truth here on the floor. Let us get to the situation where we are not yelling at each other, that we are simply talking facts. If we are putting that type of income on top of somebody when we start to try to come up with all these figures that simply are not true, I think that at that time we owe it to the American people, we certainly owe it to our colleagues to get up and say how did we determine that income. We do it by simple math and by the amount of earnings that people have. The facts are very clear.

This is the first tax relief the American people are getting in the last 16 years. There are some Members that are here on the floor debating that just cannot stand that idea. But I can tell my colleagues, Democrats and Republicans alike are going to carry this day and we are going to get the first tax relief for the American families in 16 years. That will vindicate this debate.

Mr. SHAYS. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona [Mr. HAYWORTH], who will point out that taxes went up in 1993 and are going down in 1997.

Mr. HAYWORTH. Mr. Speaker, I thank the gentleman from Connecticut for yielding me this time.

I am pleased to follow my chairman of the Subcommittee on Human Resources of the Committee on Ways and Means. I have been listening, Mr. Speaker, with great interest to the cavalier fashion in which fear replaces facts on the other side. It is sad to see that happen.

I do not think the point can be made often enough that when you cook the books, as the liberal minority has done, in the process you fricassee the facts.

Mr. Speaker, I do not know of anyone, including my friends on the minority side, I do not know of anyone who pays themselves rent to live in a house they own. Only in Washington, DC in the desperation of trying to concoct fear rather than new ideas, rather than joining with us to decrease the tax burden on working Americans, decrease the size of government, have a limited and effective government, only in Washington do we see this kind of math.

To hear the minority whip come up and talk about the balanced budget taking shape in 1993, I was a private citizen. I know exactly what happened in 1993, the largest tax increase in American history. It took a new Congress cutting spending, it took a new Congress coming in and saying, let us reverse the culture of tax-and-spend to take the first fledgling steps in reducing by $50 billion the size of government to make it limited and effective.

And the truth of this tax cut, Mr. Speaker, is the following: 76 percent of the tax cuts go to benefit middle-income families, families making between $20,000 and $75,000 a year for, Mr. Speaker, we realize that those middle-income taxpayers are exactly that. They are not rich. They are working Americans. They deserve a break. They will get one.

Mr. SHAYS. Mr. Speaker, I yield 3 minutes to the gentleman from Florida [Mr. MILLER].

Mr. MILLER of Florida. Mr. Speaker, let us get clear what we are voting on today in the Balanced Budget Act. We are talking about the spending side of the equation. Tomorrow we are going to talk about the tax side of the equation. Because tomorrow we are going to vote on massive amounts of middle-class tax relief. But today we are talking about the spending side of the equation.

What we are talking about today is reining in the fiscal irresponsibility and spending that takes place here in Washington. When I first ran in 1992, I ran because it was a moral issue to me that this Government was building up an obscene and immoral debt that we were going to pass on to our children and grandchildren. It was wrong to build up a debt that today is over $19,000 for every man, woman, and child in the United States because we just overspend in Washington. The way we go about solving that problem is reining in the Federal Government.

I was pleased to be able to serve on the Committee on the Budget with the gentleman from Ohio [Mr. KASICH] back in 1993 and 1994. As a minority back then, we introduced a budget resolution that was called cut spending first because we recognized that is where the problem is. It is not that we tax too little in this country. It is because we spend too much. And what this bill is today is $700 billion of entitlement savings over the next 10 years. It needs to be done in a bipartisan fashion.

That is the reason I congratulate the gentleman from South Carolina [Mr. SPRATT] and the gentleman from Indiana [Mr. ROEMER] earlier who have always spoken in favor of this bill as a step in the direction for the final passage ultimately next month. So we have support on the other side of the aisle. It is too bad that the very liberal wing of the Democratic Party feels so adamant they need to demagogue that issue because what we are doing is the right thing for America's children and grandchildren of future generations to get the spending under control.

One of the very things I feel very positive about in this bill is Medicare. What we have is a Medicare Program that is going bankrupt. It will be bankrupt in 4 more years. We need to address this in a bipartisan fashion, which is exactly what has been done in this committee. In fact, the Committee on Ways and Means passed it with a 36 to 3 vote. Only three Democrats voted against it. The majority of Democrats voted for the Medicare position of this bill, because Medicare has to be preserved, has to be protected, has to be saved for our senior citizens.

In my district in Florida, Sarasota-Bradenton, Florida area, we have more seniors than any district in the country. So it is important to me for all the seniors in my district, I have an 87-year-old mother that is dependent on Medicare. So we need it for the seniors. But it is also a big jobs issue in my district with the hospitals and home care agencies and the doctors' offices, all needing their jobs, depending on this. So we need to preserve that program and save that program.

How do we go about doing that in this bill? What we do basically is we slow the rate of spending in Medicare. We slow the rate of spending so we are going to spend more money every year in Medicare. Right now we are spending about $5,200 per person on Medicare. In 5 years we will be spending $6,900 per person on Medicare. What we are going to do is go after waste, fraud, and abuse and we are going to give more choices to senior citizens.

It is a good program. I encourage my colleagues to support this. I hope we get strong support on the other side of the aisle.

Ms. DELAURO. Mr. Speaker, how much time remains of my time?

The SPEAKER pro tempore [Mr. DREIER]. The gentlewoman from Connecticut [Ms. DELAURO] has 29 minutes remaining, the gentleman from South Carolina [Mr. SPRATT] has 36 minutes remaining, and the gentleman from Connecticut [Mr. SHAYS] has 68 minutes remaining.

Ms. DELAURO. Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. LEVIN].

Mr. LEVIN. Mr. Speaker, three points on taxes. I hope the Republicans will listen. The 76 percent for families less than $70,000 is based on 5 years, apparently. We have never seen the analysis. I challenge them, give us a 10-year analysis. They leave out the tax breaks the second 5 years. Give it to us.

Second, Treasury, using the same methods used by the Reagan Treasury and the Bush Treasury, say two-thirds of the tax cuts under your bill go to the wealthy, the same method that was used by previous administrations.

Third, they bust the budget in the outyears. They bust it. So come here not with phony figures. Come here with the facts and we will debate them.

Mr. SHAYS. Mr. Speaker, I yield 3 minutes to the gentleman from Kentucky [Mr. BUNNING], who is a member of both the Committee on Ways and Means and the Committee on the Budget.

Mr. BUNNING. Mr. Speaker, I would like to say to my good friend from Michigan, he knows full well that the numbers we use are adjusted gross income numbers and they are factual. And just because Ronald Reagan and George Bush's Treasury Departments made a mistake, it is no sign that the Clinton administration has to continue making the same mistakes.

Mr. Speaker, I rise in strong support of the Balanced Budget Act of 1997. I am especially proud of the Medicare reforms in this bill, about a 7-percent increase over the 5 years, each year. Since Republicans took control of Congress, we have been working very hard to preserve and strengthen and protect Medicare.

The bill before us today does save Medicare from bankruptcy for at least the next 10 years and gives us time to figure out a long-term fix for the problem. But I think the most exciting part of this package is that it gives seniors more choices in picking the health care plan that best fits their needs.

I know some of the seniors like what they have right now. They do not want to change a thing. Fine. They do not have to move off Medicare part A or part B. They can simply do what they have been doing. But if they want to change, seniors will now be able to shop around for a PPO, an HMO, a medical savings account, another health care plan that covers something that Medicare does not cover right now like prescription drugs or eye glasses. And it will be paid for by Medicare. They might even be able to choose a new policy that allows them to get rid of Medigap supplemental plans that they are paying extra for right now.

In rural States like Kentucky, where folks sometimes do not have as many health options, this bill enables doctors and hospitals and other providers to band together to set up provider service networks to give seniors even more choices. Letting seniors choose, forcing health care providers to compete for their business are the keys in this Medicare reform package. This holds down the cost and saves enough money to keep Medicare going for years.

Of course, we also save a lot of money by making other important changes like reforming the medical malpractice rules and cracking down on waste, fraud and abuse.

□ 1430

But by empowering seniors, by giving them more choices, we take the biggest strides towards reforming and saving Medicare. By exercising the power to choose, seniors themselves will do most towards saving Medicare; they, not the Washington bureaucrats, will control their own futures.

I urge support of this bill and all the good things in it.

Ms. DeLAURO. Mr. Speaker, I yield myself 10 seconds. I think it bears merit to remember that it was the Republican majority in this House that wanted to cut the Medicare Program by $270 billion to pay for a tax break, $245 billion for the richest people in this country. It was the President and the people of this country that said no.

Mr. Speaker, I yield 2 minutes to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY. Mr. Speaker, I voted for the budget agreement approved last month because I do believe that our Nation must have a balanced budget that protects our priorities and respects our values. But, unfortunately, the Republican leadership did not even wait for the ink to dry on the deal before changing it.

In fact, the bill before us violates the budget deal in several critical ways. First, it fails to provide basic assistance to legal immigrants, which means that 16,000 elderly and disabled legal immigrants in New York will have the safety net cut out from under them.

The bill cuts more than $12 billion from hospitals and other health care providers in New York, and the children's health program fails to provide coverage for more than 4 million children. It denies American workers basic workplace protections, and it will hurt seniors and their families who depend on quality nursing care.

And this bill violates the basic reproductive rights of American women. Tucked away in the fine print of this legislation is an extreme provision, the Hyde amendment, that would permanently, for the first time, prohibit the use of Federal funds for abortion. This punitive prohibition would prevent millions of lower income women from obtaining vital reproductive health services and would personally create a two-tiered health care system.

We must not allow this to occur. Federal health programs must cover the full range of reproductive health care services, including abortion. This abortion restriction was not in the budget deal, and it should not be in the budget bill. We must not allow the Republicans to use the budget process to enact their radical anti-choice agenda. Again, the abortion restriction was not in the budget deal; and, therefore, it should not be in this budget bill.

I urge a "no" vote on this legislation.

Mr. SHAYS. Mr. Speaker, it is my pleasure to yield 3 minutes to the gentleman from Oklahoma, [Mr. J.C. WATTS].

Mr. WATTS of Oklahoma. Mr. Speaker, I rise in support of the Balanced Budget Act of 1997. We have a historic opportunity to come together in a bipartisan fashion and deliver on our promise to the American people to have a balanced budget by the year 2002.

As we debate this today, there are going to be people on the left and right arguing and bickering about programs that they want added or taken out, but we cannot allow this to divert our attention from the big picture. This is the first balanced budget in over 30 years. And it is interesting, it is the first tax cut in 16 years; and it is even more interesting that Tiger Woods was 5 years old the last time we had a tax cut.

We always hear, and we will continue to hear today, that the rich are getting the tax breaks. Let me tell my colleagues, as it has been said: 76 percent of our tax cut goes to people making from $25,000 to $75,000 a year. Let me tell my colleagues: Somebody making $75,000 a year in America that has two kids, they are working from paycheck to paycheck, trying to meet their monthly responsibilities.

We keep hearing that we are getting tax cuts for the wealthy industries, wealthy businesses in America. Over 90 percent of the businesses in the Fourth District of Oklahoma employ six people or less. These people are raving about this budget deal because they know they are going to get some relief from the ridiculous tax policies, these repressive and aggressive tax policies that we passed over the last 25 or 30 years.

When I came to Congress, I promised the people of the Fourth District of Oklahoma I would work to make Government live within its means, just like all the working families in Oklahoma and across the Nation must do every month.

I have five kids who I am trying to teach how to be responsible, and I know they are always watching their dad to try to see if he practices what he preaches. So today, when I cast my vote for fiscal responsibility and balancing the budget, I am showing my kids that I am serious.

Balancing the budget is the right thing to do. And if every Member in this Chamber does not vote to balance the budget because it is the responsible thing to do, then do it for your children so they will not have to inherit an America as pathetic as it is today, where you have got working families paying from 48 to 52 cents of every dollar they make in some Government tax or Government fee. Do it so the 5- and 6-year-olds out there will not have to spend 80 to 84 cents of every dollar they make in some type of Government tax or Government fee by the time they are 25 years of age.

My father taught me at an early age that you cannot spend out more money than you take in, and he said this: If your outgo exceeds your income, then your uplift will come to a downfall. That is pretty good advice to remember as we debate the balanced budget here today. It is advice I must follow in teaching my kids.

Friends, I urge everyone to support this balanced budget. It helps control runaway Washington spending, saves Medicare. Only in Washington, DC could an increase be a cut. It saves Medicare. We increase Medicare spending and provide much-needed tax relief for working families.

Ms. DeLAURO. Mr. Speaker, I yield 3 minutes to the gentleman from Missouri [Mr. CLAY].

Mr. CLAY. Mr. Speaker, I am not sure that there is a term in the vocabulary adequate to describe my level of disgust with this bill. The Republican majority began this process with proposals reported out of the Committee on Ways and Means and the Committee on Education and the Workforce that represented the most pernicious assault on the working poor I have witnessed as a 29-year Member of this body.

In response to the chorus of outrage that rang out against those proposals, the majority fabricated window dressing to make their proposals seem more moderate. But this new manager's amendment, rewritten by the Committee on Rules late last night, remains unfair, immoral and unconscionable.

Mr. Speaker, I have three fundamental objections to this bill. First, it establishes a new class of workers who would be treated like indentured servants without coverage under the landmark worker protection and civil rights laws. Second, it concocts a scheme of watered-down grievance procedures and remedies that would render millions of workers unprotected from discrimination and exploitation. And finally, Mr. Speaker, it endangers the job security and financial wellbeing of millions of current public sector employees by establishing a weak set of nondisplacement protections.

Here is why this proposal treats poor workers like second-class Americans. It denies so-called community service participants employee status and purports to use the old CWEP Program as precedent. But that program was quite different from the workfare program established in this proposal. Whereas that program had a strong training element, the community service program established by this proposal is work, pure and simple.

Community service workers will be employees in every sense of the term.

They will sweat like other workers, their children will get sick just like the children of other workers. And these workers have dreams and aspirations for their families just like other workers.

But this proposal says no, they are not the same and they do not deserve full respect and dignity. Although they will be employed to perform the same tasks performed by other workers, these welfare workers will be denied the protection of the Fair Labor Standards Act, the Occupational Safety and Health Act, the Family and Medical Leave Act and the many other important Federal laws. And those employed by nonprofit private sector employers will be denied the right to organize or bargain collectively.

The grievance procedures established in the rewritten proposal are a house of courts, substantially weaker than protections adopted by the Republicans on the Committee on Education and the Workforce. There is no provision to ensure that the grievances will be fairly heard and adjudicated. In a real blow against due process, there is no appeal from what may well turn out to be a kangaroo court.

Here is an example of how outrageous these grievance procedures are. A woman who has been sexually harassed may be required to seek redress from the very agency where the harassment occurred. Under this proposal that woman would not be entitled to a fair hearing, or the right to appeal an adverse decision. What have poor women done to deserve such indignity?

Finally, protections that were included in the education and work force proposal to ensure that community service workers are not used as pawns in a ploy to displace existing workers have been gutted by the manager's amendment. As reported by the Committee on Education and the Workforce, a welfare worker could not be assigned to an equivalent job if another individual was on layoff status. That protection has now been effectively stripped. As reported by committee, a welfare worker could not be assigned to a job if a consequence of that assignment was the partial displacement of an existing worker. Those protections have also been deleted.

Mr. Speaker, this legislation is nothing short of a bill of exploitation that will leave workers more vulnerable to racism, sexism, and unsafe workplaces. Rather than encouraging work, these provisions demean workers. I urge its resounding defeat.

Mr. SHAYS. Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. ARCHER], chairman of the Committee on Ways and Means.

Mr. ARCHER. Mr. Speaker, I thank the gentleman from Connecticut [Mr. SHAYS] for yielding me the time.

Mr. Speaker, today marks a great and a historic day. We are poised to vote on a matter that unites Americans from all generations. We stand ready to vote on a bill that brings the American people together like no other legislation before us.

With this vote, we can balance the budget to save the next generation from the crushing burden of debt, and we can save Medicare from bankruptcy so this generation of seniors can live their retirement years in peace, comfort, and security. It is high time that Washington put the needs of the American people first, and that is what we will do with this vote.

This legislation is bipartisan. Our plan to save Medicare was supported in the Committee on Ways and Means by a 36 to 3 vote. We came together, like the American people want us to do. We will save Medicare by giving seniors choices, by fighting fraud and abuse, and we even expand Medicare's benefits to include new preventive programs that seniors, particularly women, need and deserve.

We help people move from welfare to work by reinforcing the central message of last year's welfare reform law: If you are able to work, you should work. Welfare should not be a way of life. Yes, we made changes in last year's law. Many of the changes were requested by the President. But I am proud to say we uphold our Nation's values by helping people earn a paycheck instead of a welfare check.

I am particularly pleased that with this bill we will finally have a balanced budget. My 12th grandson was born last year, a little 2-pound premature baby. And when I looked at him in that incubator, I realized that when he grows up, his pro rata share on the national debt would be $189,000 during his lifetime.

It is unconscionable for our generation to leave that to our children and our grandchildren. And, for once, we will finally move toward a balanced budget and stop this continued increase in debt service charges for future generations.

Mr. Speaker, I yield back the balance of my time.

Ms. DELAURO. Mr. Speaker, I yield myself 10 seconds.

Mr. Speaker, the fact of the matter is that this spending bill takes away hospitals and nursing homes, reasonable and adequate reimbursement. Medicare solvency comes up 2 years short of the budget agreement. And there are deep cuts in the disproportionate share which adversely affect hospitals across this country. We are not improving the health of people in this country.

Mr. Speaker, I yield 2 minutes to the gentlewoman from New York [Ms. VELÁZQUEZ].

Ms. VELÁZQUEZ. Mr. Speaker, today we will vote on the Republican spending bill. The Republicans will say that this is a middle-class budget. Do not believe it for a minute.

In fact, the Republicans are financing tax cuts for the rich by waging war on working families and legal immigrants. And when they talk about a balanced budget, they do not finish the sentence. They should add that they are balancing the budget on the backs of legal immigrants and working families in our country. Not only that, but they are violating the terms of an agreement that they made to the President, the Democrats, and to the American people.

The Republican tax plan will give $27,000 in tax breaks to the wealthiest 1 percent. At the same time, they want to eliminate benefits to legal immigrants who become disabled in the future. These are people who have worked hard, raised families, and paid taxes. These are American values and they are values that immigrants to this country hold dear to their hearts.

Disability benefits are not handouts. How many times do we have to say this?

□ 1445

This is an issue of basic fairness. This budget agreement creates a huge double standard that will permit immigrants to be treated like second-class citizens. Why? To pay for huge tax breaks for the wealthy. Is that what this country is all about? Is that how a just society treats its elderly who become disabled? Is that the message to send to the rest of the world?

Mr. Speaker, this budget is really a disaster. It is cruel, it is unfair, and the American people will not stand for it.

Mr. SHAYS. Mr. Speaker, I ask unanimous consent to allow the gentleman from California [Mr. THOMAS] to control and yield as he may choose the next 12 minutes of our time.

The SPEAKER pro tempore [Mr. DREIER]. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

Mr. THOMAS. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, as we carry on what I guess passes for normal debate around here, I think we probably ought to pause for just a moment and not let our partisan juices flow quite as freely as they do sometimes, because quite frankly, the Medicare provision in this bill is remarkable. It is remarkable for a number of reasons, but I think primarily because it sets a standard for what I believe ought to be the way in which we work public policy.

The Medicare Program is as important as any policy that the Federal Government has. It is more important than cheap partisan shots. Trying to resolve one of the more difficult problems that faces all of us and, more importantly, the seniors in this country is important.

I think we have all come to the general agreement that people will consume as much health care as other people are willing to pay for. If in fact that is true, and I think we believe it is, our Medicare Program is clearly in trouble. Bankruptcy was facing it:

With an antiquated and out-of-date delivery system, especially with the rapid changes that are occurring in the private sector health care delivery system and the fact that some of the programs that we offer are as old as the bureaucracy that structured it; that is, we wait until people are sick before we deal with the problem instead of moving aggressively into preventive care and wellness.

This measure, passed by the Committee on Ways and Means and by the Subcommittee on Health, unanimously by the Subcommittee on Health, moves, I think, aggressively in the area of prevention, aggressively in the area of wellness, aggressively to address the question of bankruptcy, and aggressively to open up the system to a choice for seniors.

Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. STARK]), the ranking member of the Subcommittee on Health.

Mr. STARK. Mr. Speaker, I want to say on behalf of myself and many of the committee's Democrats that we would like to commend the gentleman from California [Mr. THOMAS], the full committee, and the Subcommittee on Health's staff director Chip Kahn for an open and consultative and bipartisan approach to the Medicare legislation. It is really a model, I suspect, of how the legislation should be written.

I am not sure I can quite make myself say that it is a model of legislation, but it was done in a tradition of past Medicare bills. It extends the life of the Medicare trust fund to 2007, it makes reforms in the way we pay providers, and it indeed adds some beneficiary improvements. I do not intend to vote for the budget bill, but it is not because of the Medicare portion. If anybody was thinking of that, I would dissuade them otherwise.

There are some things we should strongly oppose and do differently. We should oppose the Senate's provision to raise the age to 67, which causes more problems I think than it solves. I think we should oppose the Senate's copay provisions because we already charge Tiger Woods on $10 million, $300,000 a year for the same premium that somebody at $10,000 a year would pay $300 for and get the same benefit. Why punish Tiger Woods twice?

The managed care provisions need consumer protections on emergency appeals, and there are some antifraud provisions that we should add. We are going to see a report in the next few weeks that we are spending $20 billion, I think, on fraud. That needs to be improved. We can do that.

Mr. Speaker, I would urge my colleagues to applaud the work that was done. I would not have picked $115 billion as a cut, but that was the number given to our subcommittee and, considering that, they did a fair job of spreading those cuts to do the least amount of harm. Nobody liked it. If anybody had been smiling in the room, we probably would have had the wrong bill. But it was a good job, and I commend the chairman of the subcommittee for his work.

Mr. THOMAS. Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. JOHNSON], a valuable member of the subcommittee.

Mrs. JOHNSON of Connecticut. Mr. Speaker, let me commend the gentleman from California [Mr. THOMAS] for bringing forth a very thoughtful, constructive and bipartisan bill out of the subcommittee. It meets the goals of the budget resolution of extending the life of the Medicare Trust Fund until 2007, but it also makes sound structural changes to better control costs in the Medicare Program which will be especially important when the baby boomer generation begins to retire in 2010.

It increases spending per Medicare beneficiary from $5,480 this year to $6,911 in 2002. Most importantly, it gives Medicare recipients better choices of the kind of insurance coverage they want to select. It gives better choices and it gives better benefits. It has a good, solid preventive package, annual mammograms, comprehensive testing opportunities for prostate cancer, and adopts the prudent layperson's standard for emergency room care. So it guarantees access to emergency room care.

It also guarantees seniors who want to try a managed care plan that they can go back to not only Medicare but to their MediGap policy, thereby guaranteeing them the opportunity to try the kinds of plans that will provide far more benefits for the Medicare dollar.

Finally, it strengthens the protection for those who choose Medicare by strengthening the consumer protection package that governs Medicare managed care plans, providing more timely appeals procedures and in other ways strengthening those benefits. Equally importantly, it provides the opportunity for direct providers of services, doctors and hospitals, to get together and provide a managed care plan for the seniors in their area, a plan in which the medical decision will be totally controlled by the medical providers. This will guarantee better quality in all managed care systems, whether they are provider sponsored or whether they are insurance company sponsored. This is a giant step forward for health care for seniors in America.

Mr. SPRATT. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. RANGEL], the ranking member of the Committee on Ways and Means.

Mr. RANGEL. Mr. Speaker, this is one of the most important periods, I think, in our Nation's history, because it gives us an opportunity to reflect who we are and what made this Nation so great. I think the test is, how do we who are newcomers to this continent treat those who are even more new? As we move into world trade, our greatest asset is the diversity, because with the exception of the Native American, we have the benefit of all of the cultures of the entire world in this great country, and I am fortunate to have a lot of it in my great city of New York.

How many of my colleagues just enjoy thinking about how generations ago, from whatever country, whether it was in Europe or some other country, we had relatives who came to this country, many not with a lot of education or a lot of wealth but they came with a lot of hope. Many of them came illegally because we did not have the sophisticated way of checking. But we are not looking for them. Because those who came had on the docks people who came before them waving and screaming saying that these people are going to make a contribution to this great country. Even those of us who came in chains are saying, "This is a great country." Even the Native Americans are not asking to leave. It is a great country.

But with each wave that came, there was some group of people that wanted to hurt them. Ask the Jews, ask the Polish, ask the Irish. Ask the Italians. There was some group that came here that said the next group was not good enough. Because we Americans are so good in our thinking, we do not ask who was that group that was stamping the hands of those people who were climbing into America to become great citizens, but today the other side has put for the record who they are.

We are now saying if you come to this country, play by the rules, come in and you were working, coming in you had a sponsor, you did everything right, the sponsor died, you got old, you had an accident, we are saying, "You didn't come when our parents or grandparents came, so now we're changing the rules."

My colleagues are not changing the rules by this Congress for the United States of America, and my President, who represents Republicans and Democrats, today's history and tomorrow's history, is going to say, "We're not going to change these rules to save a couple of dollars to throw into capital gains indexing." What we are going to do is to make certain that anyone who wants to come to this great country will be able to come with the same rules and the same protections as for those who came and made this Nation so great.

Mr. THOMAS. Mr. Speaker, I yield myself 15 seconds. For the record, I would like to indicate that the gentleman from New York [Mr. RANGEL] did support the Medicare section of the provision coming out of the Committee on Ways and Means and his remarks were focused on other portions of the bill. I am sure Members understood that.

Mr. Speaker, I yield 2 minutes to the gentleman from Nevada [Mr. ENSIGN], a very valuable member of the subcommittee.

Mr. ENSIGN. Mr. Speaker, I especially want to compliment the gentleman from California [Mr. THOMAS], the chairman of the subcommittee, for all the great work that he has done, as well as the staff for the work that they have done on this Medicare bill.

I think that this is truly an historic moment in health care in the United States, because what we are doing with this Medicare bill is to try and begin to change our current sick care system. Yes, I said sick care system, because right now if you get sick, we will pay providers to get you better, but we will not pay providers very often to keep you healthy.

This Medicare bill, by providing the bill that I sponsored in the House of Representatives, the annual mammogram screening for women over 65, begins to say, we are going to catch breast cancer early in women over 65. Right now Medicare only pays for every other year mammograms. This is an important first step. But we also cover prostate screening, colorectal screening, and we begin to do some things about keeping diabetics healthier.

I also have a bill, it is called the Medical Nutrition Therapy Act, which we are going to study. We think that dieticians counseling people on nutrition will be able to keep diabetics, cancer patients, heart patients and many others healthier in the years to come to truly make this a true health care system.

Another portion of the bill that I am extremely proud of is the portion that deals with military retirees. Military retirees in the past have had access to great quality military medical care across the country, but because of base closure commissions that have locked military retirees out of facilities all over the country, military retirees are now being locked out of good quality medical care. And because when they turned 65 they had to choose whether to go into Medicare or not, many of them were promised lifetime health care and that promise has been taken back. Now if they choose to go into Medicare, there is a 10 percent penalty per year for them to go into Medicare. This bill will give them a 6-month window to get into Medicare. This is going to affect 100,000 of the people that so richly deserve a good quality health care system in this country.

Ms. DELAURO. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. MENENDEZ].

Mr. MENENDEZ. Mr. Speaker, I voted for the bipartisan balanced budget agreement. I had great hopes of transcending pointless ideological bickering and producing a model of consensus. But this bill is not the deal Republicans made with the President. The Republican budget bill weakens protection for workfare workers against race, sex, ethnic, and religious discrimination. It creates a two-tiered workplace with a permanently disadvantaged underclass. It does not protect legal residents. It endangers children's hospitals and those serving a disproportionate share of the poor and uninsured.

□ 1500

It slashes support for 2.7 million disabled people, and it destroys individual rights to recovery for medical malpractice.

These are radical changes. These adventures in radicalism were never in the bipartisan budget agreement, and they are not needed.

I hope my New Jersey colleagues know that this legislation will devastate New Jersey hospitals who have continued with their mission to treat all who enter their hospitals' emergency rooms or clinics including the indigent and uninsured. And it would send some of them into bankruptcy.

New Jersey is prepared to accept its share of the national burden in the name of a balanced budget, but this bill treats New Jersey and its hospitals in an inequitable manner. It punishes New Jersey for demonstrating a commitment to providing a lifesaving safety net for its most vulnerable residents.

As my colleagues know, according to the National Center for Children in Poverty, over 120,000 children under 6 years of age in New Jersey, 17 percent live in families with incomes at or below the poverty level, and yet under this agreement New Jersey is one of the States that receives a disproportionately smaller share of the block grant.

Finally, this proposal leaves out a legal immigrant who has a stroke, becomes paralyzed, contracts Alzheimer's disease after August of last year. It eliminates the safety net for law-abiding, hard-working, taxpaying elderly legal immigrants.

Mr. Speaker, it is a deal breaker. Let us not have a deal for the sake of a deal. Let us have a deal that is also balanced on the principles.

Mr. THOMAS. Mr. Speaker, I yield myself 30 seconds.

I tell the gentleman from New Jersey [Mr. MENENDEZ] that we have sat down with the Members from New Jersey. We believe we have addressed that problem. We have solved that problem just as we solved other problems, in concert with the gentleman from California [Mr. STARK], the gentleman from Maryland [Mr. CARDIN], the gentleman from Wisconsin [Mr. KLECZKA], the gentleman from Georgia [Mr. LEWIS] and the gentleman from California [Mr. BECERRA]. Those are the Democratic members of the Subcommittee on Health who voted unanimously in support of the work product in front of us.

Mr. Speaker, I yield 1 minute to the gentleman from Minnesota [Mr. RAMSTAD], a member of the Committee on Ways and Means.

Mr. RAMSTAD. Mr. Speaker, as a member of the Committee on Ways and Means I am grateful for the bipartisan pragmatic way in which we put together the Medicare portion of this bill before us today. Not only do we save Medicare from bankruptcy today, we preserve it for tomorrow's seniors.

I would like to focus briefly on the two specific reforms in the bill. One is a reform to make the AAPCC reimbursement formula, the Medicare reimbursement formula, more equitable to States like Minnesota. This is a major reform in the formula. It will mean more equity for States with rural populations and more health care options for Medicare beneficiaries in those States. For the first time there will be a payment floor and a blended formula to bring more fairness and equity to seniors in States like ours.

We also continue to develop new and innovative ways to provide health care to seniors by extending for 2 years the community nursing organization demonstration project. These are very, very important projects again to let seniors live in their own homes longer and also to save important Medicare dollars. This is a vital program for seniors.

Mr. Speaker, I urge all members to support this important legislation.

Ms. DELAURO. Mr. Speaker, I yield 2 minutes to the gentlewoman from Michigan [Ms. STABENOW].

Ms. STABENOW. Mr. Speaker, I rise having voted for the balanced budget agreement and I intend to support a balanced budget agreement on spending and tax cuts that reflects that agreement. Unfortunately, that is not what we have in front of us today.

There are good provisions, there has been good work done, and description has been made of bipartisan efforts in the area of Medicare and other important areas where work had been done and been done well. But this reminds me of the flood bill that was in front of us not long ago where we set down a road to solve a problem, to help people who had been afflicted by floods, and there was good work in the bill. Then piece after piece other things that were added that had nothing to do with the flood bill slowed down the process and almost stopped our ability to achieve the goal.

We have today something in front of us that has all kinds of extra provisions in it that were not in the balanced budget agreement. They take away from our ability to step forward and meet that agreement, and they do not include those things that were promised in that agreement such as making sure that children of working families, 5 million children, have adequate health care. But they do include all kinds of other provisions that have been thrown in and all kinds of other subjects.

So once again the public expects us to step up and solve the problem and to work together, and then one after another things get thrown in, and we are right back to where we started from without having the support needed to be able to solve the problem.

In voting "no" today I am very hopeful that a message will be sent to those working in the conference committee to take out those things that were not part of the balanced budget agreement, make sure that the provisions that are in there make sense for families, and then let us in a bipartisan way do what it is the American people ask us to do.

Mr. THOMAS. Mr. Speaker, I yield myself 15 seconds, and I tell the gentlewoman who just spoke that as a matter of fact, if she will examine the budget agreement in the area of children's insurance, the 16 billion which was required is part of the agreement; we met the agreement in that area.

Mr. Speaker, I yield 1 minute to the gentleman from Illinois [Mr. WELLER], a valued member of the committee.

Mr. WELLER. Mr. Speaker, I rise in support of this important legislation.

First, I want to commend the gentleman from California [Mr. THOMAS] and the ranking member, the gentleman from California [Mr. STARK] for their bipartisan effort. The bottom line is this legislation saves Medicare, and if my colleagues care about Medicare and if they want Medicare to be around for the next generation of seniors, they will vote "yes" for this legislation.

I am proud that the Committee on Ways and Means under the leadership of the gentleman from California [Mr. THOMAS] has worked closely with the President, with Members of both parties, to fashion a bipartisan solution to extending the life of Medicare. This legislation gives seniors more choices, protects the rights of seniors to choose their own physician and, frankly, offers many new options, new types of coverage, strictly in the area of breast cancer, mammograms for seniors, for women, as well as prostate cancer screening for men, important health care initiatives.

But there is also something that every senior brings up every time I have a senior meeting in my district: this issue of going after waste, fraud, and abuse in Medicare, and frankly I believe it is time that we go after the Medicare kings, those who abuse Medicare, with the same vengeance we have the welfare queens in the past. This legislation toughens penalties, provides "three strikes, you're out," and increases funding for Medicare.

I urge an "aye" vote.

Ms. DELAURO. Mr. Speaker, I yield myself 10 seconds.

I would like to mention that with regard to health care for children, what we find out from the Congressional Budget Office is that the estimate of that $16 billion, is that only 520,000 kids of the 10 million will be covered. The rest are not covered, that 20 percent of the children who do not have access to health care today.

Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. HINCHEY].

Mr. HINCHEY. Mr. Speaker, I must say that there is no balance in this plan that we are being asked to vote on this afternoon, nor does it balance the budget because it has to be seen in the context of the taxing bill that follows hard on its heels. These two bills in concert increase the budget deficit; they do not decrease it.

In fact, shortly into the next century the budget deficit will once again be approaching $100 billion under the Republican plan. Now is this being done by accident? I doubt it. They are doing it intentionally in order to create a circumstance where this Government can no longer afford to pay for the social programs like Medicare and Medicaid and Social Security, just as they tried to do in the 1981 tax cut. That will be the effect of it. Just when the baby boom generation reaches its retirement age, that is when the big deficits kick in under this plan.

The fact of the matter is that the budget today is almost in balance. We have reduced it over the last year some $290 billion, down now to about $50 billion, and if we left the present policies in place, the budget would be in balance shortly.

This bill that we are asked to vote on today is a bill that creates class warfare. It does so by creating those big budget deficits, and it also repeals the social contract for a large number of Americans. It destroys the dignity of work, and it creates a new under class for the first time. That is the extent to which this bill goes in its class warfare by actually creating a new under class of people, people who will be denied the rights of other workers.

Protection under the Fair Labor Standards Act, they will not have that protection. They will not have the protection of equal pay, they will not have protection under the civil rights law, they will not have the protection under OSHA, and they will not have protection from sexual harassment in the workplace.

Finally, what does it do for health care for children, as we have heard so often this afternoon? It does not provide care for 5 million, only for 500,000.

This is a bad bill and has bad implications now and for the future.

The SPEAKER pro tempore. Before the gentlewoman proceeds, the Chair wishes to inform the managers of the bill that the gentleman from Connecticut [Mr. SHAYS] has 47½ minutes remaining, the gentleman from South Carolina [Mr. SPRATT] has 30½ minutes remaining, the gentlewoman from Connecticut [Ms. DELAURO] has 17¼ minutes remaining, and the gentleman from California [Mr. THOMAS] has 1 minute remaining.

Ms. DELAURO. Mr. Speaker, I yield 2 minutes to the gentlewoman from Oregon [Ms. FURSE].

Ms. FURSE. Mr. Speaker, I supported the budget agreement, and the bill that is on the floor does not contain some of the provisions which I thought were very good and which led me to support the legislation in the Committee on Commerce. And those good provisions are, it extends preventive benefits for Medicare beneficiaries, including diabetes self-management training and blood strips, very important. It increases services and benefits in rural areas, and there is an extension here for States which are operating Medicaid demonstration projects under section 1115 waivers.

However it seems to me that we live by a rule which is that a deal is a deal and fair is fair, and there are things in the bill today which were not in the budget agreement, and I do not think that they are fair for all of our citizens.

One of the things it does is it sets up a two-tiered class of workers by defining that workers who receive welfare are not protected against race, sex, national origin, and religious discrimination, and that is just not fair. It undermines a woman's right to choose by taking the right to choose from poor women, those on Medicaid, and taking from them rights that other women have in this country. I do not think that is fair either.

Then it fails to protect legal immigrants who may become disabled after the welfare bill was signed into law. Mr. Speaker, that is not fair either.

It is my hope that the conference committee will strike the unfair provisions and ensure that the budget agreement is honored so that those of us who supported the budget agreement can indeed support a balanced budget and one which is fair and where the deal stays a deal.

Mr. SPRATT. Mr. Speaker, I yield 2 minutes to the gentlewoman from California [Ms. ROYBAL-ALLARD].

Ms. ROYBAL-ALLARD. Mr. Speaker, today we are debating a budget spending bill that violates the budget agreement and takes away some of the hope and promise built into the original agreement. First, the President and congressional leaders guaranteed $16 billion in health care coverage for 5 million uninsured children in our Nation.

□ 1515

The bill before us takes away that guarantee and creates a large block grant that could result in untargeted revenue sharing. In other words, the money does not have to be used to cover uninsured children.

Second, welfare reform was to provide a way for able-bodied adults to earn a living and free themselves from the dependency of welfare. Instead, this bill stigmatizes them and strips them of their self-esteem by eliminating workplace protections enjoyed by other American workers, protections such as overtime pay, OSHA, and the Civil Rights Act that protects working Americans from employment discrimination and sexual harassment.

This is a frightening thought when we consider that the majority of welfare-to-work recipients will be women, the most vulnerable to this type of discrimination. At a time when we are encouraging people to choose work over welfare, it is unconscionable to create a hostile work environment for these welfare-to-work recipients by undermining workplace standards.

Finally, the negotiators of the original budget agreement recognize that restoring aid to legal immigrants living in the country prior to August 23, 1996, and later become disabled is good policy and a needed improvement to last year's welfare bill.

This budget bill violates this promise to over 75,000 perspective elderly and disabled immigrants, 30,000 of which live in California. In essence, the majority is saying to these legal immigrants who have worked hard and played by the rules, you can work here and pay taxes into our system, but if you become disabled, we will abandon you.

I urge a "no" vote on this budget reconciliation bill.

Mr. SPRATT. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland [Mr. CARDIN].

Mr. CARDIN. Mr. Speaker, first let me thank the ranking member for yielding me this time.

Mr. Speaker, in regards to the Medicare provisions, I want to applaud the process that was used. It was a true bipartisan process. I want to congratulate the gentleman from California [Mr. THOMAS], the chairman of the Subcommittee on Health, and the gentleman from California [Mr. Stark], the ranking member. Working together, we were able to modernize the Medicare system and extend the solvency of the trust fund for another decade, and we did that protecting the beneficiaries.

Unlike the other body that looked at ways that will affect the beneficiaries by dealing with eligibility and age and means testing and home care copayments, we were able to modernize the Medicare system and extend benefits to our seniors because we worked together, Democrats and Republicans. We improved the process.

I am particularly pleased that we were able to add for the first time preventive health care benefits to Medicare so that it is not just a program for people who get sick, but that we keep our seniors healthy; that we provide for colorectal screening and mammography and diabetes self-management and prostate cancer screenings. We have provided improvements in the Medicare system that will help our seniors.

I am particularly pleased that we were also able to include the prudent layperson's standards for access to emergency care, another issue that we were concerned about in a bipartisan way; that we modernized the hospice benefits, and I could go on and on and on. We were able to do that because every member of the committee was respected for his or her views and we worked together as the process should work together.

Mr. Speaker, on Medicare, the system worked. There are other aspects of the budget where we have not had that same degree of cooperation, and I would hope that we would use the model that the committee was able to do on Medicare in working together to deal with the problems that we have and to improve the programs for our seniors. We could do that in more aspects of the budget agreement, and I hope we will as we move forward on the budget and work together in a bipartisan manner.

Mr. THOMAS. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore (Mr. DREIER). The gentleman from California is recognized for 1 minute.

Mr. THOMAS. Mr. Speaker, I thank the gentleman from Maryland. It was a pleasure working with him. My hope is that I will have an opportunity to work with him again on important legislation. He may deny me that chance by a decision he may make in another political arena. But the thing I admire most about the gentleman from Maryland is that he deals from a basis of fact.

We have heard a number of people repeat the $16 billion for 5 million children. For the last time, unchallenged, the Congressional Budget Office said the President's plan in his budget, $21.9 billion would produce only 830,000 children covered. If anyone stands up and says, there was a promise of 5 million children and someone reneged, they are playing fast and loose with the facts. The reason we were able to build the consensus was because members of Ways and Means did not do that. Shame on Members if they do it on the floor.

I would like to say, Mr. Speaker, that the Medicare provisions in this mark are outstanding because of the cooperation on both sides of the aisle, and I want to thank all of the members and staff for helping put this magnificent product together.

Ms. DELAURO. Mr. Speaker, I yield myself 25 seconds.

This bill does not help working middle-class American families. My colleagues on the other side of the aisle accuse us of waging class warfare. It is they, in fact, who have declared war on the middle-class and those people who strive to make their way into the middle-class. This bill makes deep cuts in programs for working families who depend on us for what they need to get done. It provides tax breaks for the wealthiest people in this country. I urge my colleagues to vote against it.

Mr. Speaker, I ask unanimous consent that the balance of my time be controlled by the gentleman from New Jersey [Mr. PALLONE].

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Connecticut?

There was no objection.

Mr. SHAYS. Mr. Speaker, I yield myself 20 seconds to point out that next year, if one has four children, one will have returned in taxes $1,200. If one makes $40,000, one will get back $1,200. That is a middle-class family, and I think they will be happy to get that.

Mr. Speaker, I yield 3 minutes to the gentleman from Florida [Mr. BILIRAKIS], who is the chairman of the Subcommittee on Health and the Environment of the Committee on Commerce.

Mr. BILIRAKIS. Mr. Speaker, I thank the gentleman for yielding.

Almost 2 weeks ago, Mr. Speaker, the Committee on Commerce forwarded to the House a budget reconciliation bill which reflects the hard work of many Members. I want to stress that all Members were given the opportunity to share their suggestions on improving this legislation, and many of their interests were incorporated into the bill and the chairman's mark or by the amendment process. The Democratic process was allowed to work.

Regarding Medicare, as a Member from a district that has a large number of seniors, I set as a major personal goal the protection of Medicare beneficiaries. And make no mistake about it, Medicare beneficiaries will be protected. In fact, our legislation contains many consumer protections that were not even considered by any of the prior Congresses. It addresses fraud and abuse within the Medicare program and ensures that the Medicare Trust Fund will remain solvent until the year 2008.

The legislation contains many worthwhile policy changes which would greatly benefit the elderly. All Medicare beneficiaries will be given a choice of coverage through a new Medicare Plus program. Medicare Plus would allow beneficiaries to decide whether they want to receive their Medicare coverage through traditional Medicare fee-for-service, or through a newly-created Medicare Plus plan, with the option, I repeat, with the option to return to traditional Medicare.

Regarding Medicaid, this legislation eliminates some of the lengthy waiver processes so States will obtain relief from burdensome Federal regulations. As a result, a State will have more time and more money to improve the quality of health care. Our committee was required by the budget agreement, if you will, to find savings in the States' disproportionate share programs. Our legislation accomplishes this task in as equitable a manner as is possible considering the parameters placed upon us.

Finally, our package establishes a new child health assistance program which provides grants to States in order to expand health access for currently uninsured children, a plan which received an 18 to 3, an 18 to 3 approval vote from the Democrats on the committee.

In conclusion, Mr. Speaker, I truly believe that this bill must be judged through the prism of our shared responsibility to our constituents and the Nation as a whole, and when our common interests are considered, it is important to bear in mind our ultimate goal: To deliver a balanced budget to the President's desk while at the same time reforming and saving Medicare and Medicaid without in any way hurting the beneficiaries.

Finally, I want to personally thank the majority and minority staff for their hard work. They have put in many hours over the past month, and I want them to know how much we all appreciate their efforts. I especially want to recognize Howard Cohen, Eric Berger, Kay Holcombe, Bridgett Taylor, and Ed Grossman.

Mr. SPRATT. Mr. Speaker, I yield 2 minutes to the gentlewoman from Michigan [Ms. RIVERS].

Ms. RIVERS. Mr. Speaker, I find much to criticize in this particular proposal, but I rise today to raise concerns about one particular element, that of medical savings accounts within the Medicare proposals.

The medical savings accounts were not part of the original budget deal and they represent a $2 billion burden on a Medicare system that is struggling to make it into the next century. I am concerned, Mr. Speaker, that only those who are relatively young and healthy may well make this choice and leave the rest of Medicare to treat those who are older, sicker, poorer, and therefore more expensive to care for.

Companies that currently offer MSA's do not want to enroll people with health problems and in fact are not required to do so under the law. As a matter of fact, I would share with my colleagues a communication between a would-be subscriber and Golden Rule Insurance Company in which Golden Rule responds, "Thank you for your interest in our company. We do currently market health insurance, including the medical savings accounts in your State. However, your medical condition of diabetes would not be one that would fall within our underwriting guidelines. Therefore, we would not be able to consider your coverage."

They go on to explain that their underwriting standards are very strict and this allows them to charge the lowest rates.

Mr. Speaker, my concern is that the wealthy and the healthy will leave Medicare, leaving the system to deal with those who are much sicker. We will see costs rise in a way that we cannot afford.

In addition, the MSA's in this bill are not just health plans, they are additional government checks written to those who have sufficient resources to take a risk on a high deductible plan. It is important for people to realize that MSA's can be used for nonmedical expenses as long as the balance of an account stays at 60 percent of the deductible. Moreover, if someone elects to take the money out of their medical savings accounts, up to 40 percent, they are not penalized, as long as they keep that balance.

This is not a health care option, this is just free money. Then, when the large medical expenses begin to loom in the future of the person, MSA holders can then game the system, go back to the main Medicare program and avoid personal responsibility for deductibles of up to $6,000, all the while demanding that the pool that they left behind, that they abandoned, now cover all of their costs.

It is not fair, and it is a good reason to vote no.

Mr. SHAYS. Mr. Speaker, I yield myself 5 seconds to point out that under the Medicare plan they have to take all; they cannot discriminate.

Mr. Speaker, I ask unanimous consent to yield 12 minutes to the gentleman from Florida [Mr. SHAW], who chairs the Subcommittee on Human Resources of the Committee on Ways and Means, the expert on welfare reform, and that he be allowed to control that time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

Mr. SPRATT. Mr. Speaker, I yield 3 minutes to the gentleman from Minnesota [Mr. SABO], former chairman of the Committee on the Budget.

Mr. SABO. Mr. Speaker, I thank my friend, the ranking member, for yielding. Let me say to him, I admire the work that he has done in behalf of this House and our caucus. It has been truly outstanding.

Mr. Speaker, I wish I could be here today to say that I could vote for this bill. I cannot, and I hope I will be able to when it comes back from conference committee.

Mr. Speaker, let me focus on one program that I think has the potential to be a great positive, but is a long way from achieving its goal. That is the program to expand coverage of uninsured children in this country.

□ 1530

There are many problems with the program as it is structured in the bill today. But let me focus on one that has not been subject to much discussion. The reality is that, however we resolve the various disputes that relate to the structure of children's health care, the States will play a vital role. The other reality is that many States have already acted in a very aggressive fashion through Medicaid or through other plans to expand and cover kids with health insurance, sometimes in the public sector and sometimes in the private sector.

Unfortunately, the way the bill is structured today, either by design or by accident, it is structured so it penalizes every State that has acted and rewards the States that have done nothing, or done very little. I think that is both unfair and bad public policy. It sends a totally wrong message to every State in this country that we ask to be aggressive and to be creative in dealing with problems in our country.

How does it happen? The question is, Do we measure the distribution from the Federal Government to the States on the basis of kids in need? I think we should. Unfortunately, the bill simply does it by the number of uninsured kids, which guarantees that every State that has acted is penalized. I would hope, as this bill goes to conference, that we resolve some of the definition of benefits and the scope of coverage in an adequate way, but let us also not penalize States for having acted.

Mr. SHAW. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, there have been several speakers who have come to the floor on the other side of the aisle who have, I am sure unintentionally, misstated what this bill says. I would like to say to them in the area of discrimination that people coming off of welfare certainly are not discriminated against. In fact, they are protected by title VI of the civil rights bill, which reads, and which is incorporated into the law, that "No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

Mr. Speaker, I yield 3 minutes to the gentlewoman from Washington [Ms. DUNN], a member of the Committee on Ways and Means.

Ms. DUNN. Mr. Speaker, I am pleased to speak in support of the provisions in the Balanced Budget Act that strengthen the welfare reform law signed into law last August by our President. We have made several improvements to our new welfare system, improvements that reinforce the value of work, not the dependence on welfare.

These changes also reflect a good-faith compromise that was made with the President on the transition from welfare to work for noncitizens. Our new bill maintains our basic policy on the matter of welfare and workfare for noncitizens as a policy that is based on the belief that taxpayer-funded assistance should be reserved for people who are citizens of the United States.

The budget reaffirms that people who come to America will be welcome to pursue the opportunities of our great Nation, but not to go on welfare. We encourage those individuals to seek support not from the taxpayer but from their relatives and their sponsors, as has long been the law in this Nation.

We came to a compromise, Mr. Speaker, on the issue of benefits for elderly and for disabled noncitizens who were already receiving assistance before the welfare reform bill was passed last August. To them this bill says: You will not be asked to play by different rules. The rules of the game will be the same. If you were in a nursing home on August 22, 1996, you will retain that benefit. If you were receiving SSI last August 22, you will continue to receive that assistance.

We have set $9 billion aside, and I will make that loud and clear; noncitizens getting benefits on August 22, 1996, are grandfathered, period.

In the era of the minimum wage, we guarantee that those on workfare will receive the minimum wage, but we also believe in calculating this minimum wage that food stamps as well as cash be considered. That total will determine how many hours of work a person will work.

The bill also includes a $3 billion welfare-to-work grant which specifically is targeted to the hardest hit. This money will be provided to areas with the highest concentrations of poverty, unemployment, and people on welfare. This grant truly will focus resources on the areas most in need. This is new money since last year's bill was signed, and it is another effort to get welfare money to people who truly need these dollars.

Mr. Speaker, I urge my colleagues to support this budget.

Mr. SPRATT. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. DAVIS].

Mr. DAVIS of Florida. Mr. Speaker, I rise in qualified support of the budget resolution. As a member of the Committee on the Budget, I have worked hard with the gentleman from South Carolina [Mr. SPRATT] and others to try to conform the budget resolution to the budget agreement, and to strike the balance between protecting our Nation's priorities and securing a reasonable approach toward a balanced budget. The budget agreement in fact did do that.

Unfortunately, the agreement just barely does that now. It still continues to balance the budget, and I will vote for it today for that reason, because it also protects our most important priorities. We are dangerously close to unraveling this agreement because of many extraneous matters that have been inserted in it, including some of which were specifically agreed not to be pursued as part of the budget agreement.

Let me share with the Members two of the more egregious examples. One is the alterations to the Federal Labor Standards Act that have been discussed, that have the effect of reducing people who are moving from welfare into work to second-class citizens in terms of some of the protections we otherwise afford to employees.

The second provision, which was specifically agreed not to be included in the budget agreement, was to treat legal immigrants differently with respect to eligibility for disability benefits. These are two provisions that must be fixed in the conference committee in order for this budget agreement, in order for the Budget Reconciliation Act, to pass.

I will vote for it today, but let us not repeat the same mistakes we made on flood relief. Let us not load up what otherwise could be a good bill with unrelated matters that will have the effect of forcing a veto and taking us off track.

Mr. Speaker, I rise in qualified support of H.R. 2015, the entitlement reform portion of the budget reconciliation package. I strongly supported the budget agreement and the resolution we passed last month. I believe that agreement represented a fair compromise and a good first step in restoring fiscal sanity to our Federal budget process. Now, a little over a month later, with the details of the plan filled in, there are serious questions whether certain provisions in the bill before us today violate both the spirit and the letter of the agreement.

Last Friday, I voted for this bill, in committee, with the clear understanding that a manager's amendment would be offered to fix many of the most egregious shortcomings in the bill. Some of them, such as the protection of low-income Medicare beneficiaries, the expansion of children's health coverage, and the minimum wage security for participants in workfare, have been modified. Unfortunately, critical differences have not yet been resolved on a range of issues including the restoration of benefits for legal immigrants—which was explicitly included in the agreement—and the application of all Fair Labor Standards Act protections to workfare participants.

I am concerned that we are again set to play politics and brinkmanship on an issue of vital importance to the American people. Last month, Congress loaded up the disaster supplemental appropriations bill with extraneous provisions the President was certain to veto. After weeks of delays, causing serious problems for the flood victims, we finally stopped the wars of rhetoric and posturing, and sent an appropriate bill to the President.

Now I am concerned that a similar mistake will be made on the balanced budget agreement—trying to push the President into a corner by adding extraneous items which have no place in a deficit reduction package. For example, medical malpractice reform is a serious issue which warrants serious consideration outside of this reconciliation bill but which only jeopardizes the chances that this package will ultimately be enacted into law.

Ultimately, I believe these issues will be addressed in the conference committee, the next step for this bill, and I will support the package today as a recommitment to the goals of the bipartisan budget agreement and in an effort to move this process forward to conference. My hope is that by the end of the conference, we will all be able to enthusiastically support the reconciliation bill representing both the letter and the spirit of the historic bipartisan agreement.

Mr. SHAW. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. ENGLISH], a very valuable member of the committee.

Mr. ENGLISH of Pennsylvania. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in strong support of the Balanced Budget Act, in part because this legislation contains a vital $3 billion welfare-to-work grant program to create a path for long-term welfare recipients to enter the work force. For welfare reform to work, we have to give the States and the localities the flexible tools they need to provide a transition for people to leave welfare, to escape the poverty trap, and to enter the mainstream of the American economy. This program, developed in the Committee on Ways and Means, does just that.

Mr. Speaker, the focus of this funding is on areas with the highest concentrations of poverty, unemployment, and welfare enrollment, so resources will be available to those areas with the greatest need. We know we do not have sufficient programs for incentives currently to help welfare recipients with little work experience successfully enter the work force. This program, coupled with the expanded work opportunity tax credit and the new welfare-to-work credit contained in the tax section of our budget, create real opportunities for the able-bodied poor to participate in the productive economy. It will encourage State policy creativity in developing local solutions to move people from welfare to work.

There is also a strong workfare provision in this bill. Just to remind the folks on the other side of the aisle, it contains protections for minimum wage. It contains protections for the 40-hour work week, for antidiscrimination legislation, protections for health and safety, protections for nondisplacement and a grievance procedure. To listen to the speeches on the floor this morning, we would think they have not read the bill.

Mr. Speaker, I urge all of my colleagues on both sides of the aisle, especially those representing depressed urban communities, to support this legislation and provide the assistance their constituents need to get out of the welfare trap.

Mr. SPRATT. Mr. Speaker, I yield 2 minutes to the gentleman from North Dakota [Mr. POMEROY].

Mr. POMEROY. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I intend to support the bill before us, although I find it to be a disappointingly close call. We are early in the legislative process on actually carrying through this historic balanced budget agreement reached earlier between congressional leaders and the President, and affirmed earlier by this Chamber in the budget resolution. Now that we get down to the actual business of the legislating language, I find that the package before us substantially carries forward the agreement and the resolution, getting us on a balanced budget footing. Unfortunately, it falls short of the guarantees explicitly that are part of the agreement, like the commitment to extend coverage to children.

In other areas, totally nonbudget items are jammed onto this bill, much like the nondisaster aid items that bedeviled us so in trying to get relief to the flood-stricken areas for weeks.

An area here that I find most disturbing is the expansion of portability and health insurance coverage Act, known as EPHIC. It is the old multiple employer welfare arrangement rejected in the last Congress, that has again been jammed into this bill. This provision, if ultimately enacted, would deprive ultimately millions of people in the workplace from their State-provided consumer protections in dealing with health insurance. Do we think that is a good idea? I certainly do not. But it is an important concept that, at least, would warrant debate.

When I went to the Committee on Rules to seek, along with a Republican colleague, a stand-alone debate on this nonbudget item, in the context of this act, we were not allowed it. It is a classic case of taking a policy nugget unrelated to the budget and jamming it into the bill. As far as I am concerned, this is a deal-breaker, and I will vote against the bill coming out of conference committee if it looks like the bill before us.

But we are not at that point in time. It is important to keep the process moving, and therefore, I urge a "yes" vote.

Mr. SPRATT. Mr. Speaker, I yield 1 minute to the gentleman from Minnesota [Mr. MINGE].

Mr. MINGE. Mr. Speaker, the legislation now moving through this body is unsettling to most of us. It is marketed by many as the path to balance the budget. Indeed, it appears we are more likely to balance the budget with this legislation than without it. However, I would like to emphasize, it is a close call. We should be humble when we talk about the legislation.

To move the process ahead to conference, to show support for the President, to demonstrate bipartisanship, I will vote for the bill. But let me add some caveats.

First, we need strong enforcement mechanisms in all legislation that affects the budget. Second, we must stop using the Social Security trust fund to mask the size of the deficit, and recognize the long-term train wreck that awaits us with the Social Security system if we do not aggressively move to fix it.

Finally, we must try harder. We must avoid exploding tax cuts, we must not give blank checks to programs, we must limit our appetite for weapons systems. This legislation is one small step in the political process. Let us move the process ahead.

Mr. SHAW. Mr. Speaker, I yield 3 minutes to the gentleman from Arizona [Mr. HAYWORTH], a valuable member of the Committee on Ways and Means, and a member of the Subcommittee on Human Resources.

□ 1545

Mr. Speaker, I thank the subcommittee chairman for yielding me the time.

Mr. Speaker, I would invite those who control the television cameras which broadcast these proceedings from coast to coast and around the world to take the proper perspective as I address in this well one of the dangers we face from those who would oppose this reconciliation act, one of the dangers we face from those who continue to distort what is at stake for the American people.

Mr. Speaker, I hold here H.R. 3734, one of the crowning achievements of the 104th Congress. Mr. Speaker, it is this bill that took the important steps in the 104th Congress to change welfare as we knew it, to move people from welfare to work.

Mr. Speaker, the danger in opposing the provisions that the new majority offers in this act would have the effect of taking this important piece of legislation and throwing it away, dropping it into the trash can, radically changing the intent of what transpires.

Good people can disagree. I will offer a perspective that needs to be heard, Mr. Speaker, by the American people and especially those who continue to champion the endless expansion of benefits and the destruction of welfare reform. Let me offer a real story from a real State, the 48th State in this Nation, the one that I represent, Arizona.

Let me quote to my colleagues the perspective of the Arizona Department of Economic Security director, Linda Blessing, in talking about the old welfare programs, "The status quo was not cutting it," and to further quote from her statement, "We handcuffed people into dependency."

Mr. Speaker, the facts are that we have moved in a successful, deliberate, commonsense fashion to move people from welfare to work. More than 38,000 welfare recipients have dropped off the roles in Arizona since 1994, when the height of the enrollment in our State in that year was 195,000. The taxpayer-supported welfare program in Arizona has helped 23,000 recipients find needed employment training, placed 6,800 recipients in jobs, that is an increase of 1,000 recipients from last year.

We need to continue the successful trend, allow States like my home State of Arizona to work with the $3 billion welfare-to-work grant to move yet more families from welfare to work. What we provide for this, this legislation does so because we have listened to the Governors. We have improved the legislation. We have expanded educational benefits. We have taken a commonsense approach. The Federal Government, along with State governments, both made great strides with the welfare reforms passed last year. Now is the time to provide those State and local governments with flexibility. Do not trash welfare reform; build on it. Adopt the resolution.

Mr. SPRATT. Mr. Speaker, I yield 30 seconds to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON LEE of Texas. Mr. Speaker, what my good friend from Arizona fails to acknowledge is that welfare reform in its best sense was bipartisan of Democrats and Republicans. What this spending bill does is takes the rights away from working welfare people, does not provide them with protections of fair labor standards laws, does not provide them with protection against sexual harassment, does not treat them as workers who get equal pay for equal work. That is why we are against this spending bill, because it dishes the welfare reform that we put together in a bipartisan Congress. I am ashamed of what is coming about in this pending bill.

Mr. SPRATT. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan [Mr. DINGELL], ranking member of the Committee on Commerce.

Mr. DINGELL. Mr. Speaker, I commend my good friend for the fine work which he has done on this very important subject. I had voted for the prior resolutions on this matter. I regret I will not be able to do so.

This budget suffers from a number of fatal defects, the most important of which, it breaches agreements contained in the earlier budget resolution and it will not achieve a balanced budget. There are a number of defects with regard to medical savings, with regard to moneys which should better be spent for preventive care such as mammographies, prostate cancer screening, and more. The bill treats the young people of this country poorly. It will not achieve a balanced budget. The Committee on Rules put in sweeping amendments to the section on spectrum auctions that have completely gutted taxpayer protections that were included in the Committee on Commerce's recommendations.

Our committee made sure that the public's assets would not be sold at fire sale prices by permitting spectrum auctions to be canceled if they did not raise a minimum amount of revenue. The policy changes included in this bill were rejected by the Committee on Commerce members, and for good reason; they do not protect American taxpayers. Indeed they do great harm to them.

My colleagues need to know one issue of permanent and paramount importance. A sizable portion of this budget bill is held together by sham and fraud consisting of phony revenue assumptions about the value of spectrum auctions. We know that the revenue assumptions here are phony. We have seen them before.

Last September Congress ordered a spectrum auction for the sole purpose of plugging a revenue gap. CBO estimated that the auction would raise $1.8 billion. Instead the auction produced just $13 million, less than one penny on the dollar. One speculator won the right to serve four States for a total of $4. It appears that the Committee on the Budget, like the Bourbons of France, have learned nothing from this and forget nothing also.

The evidence shows that the market for radio spectrum is saturated and demand is at an all-time low. Yet we are, under the aegis of the Committee on the Budget, proceeding to rush forward to sell out spectrum for pennies on the dollar under a pretense that it will balance the budget. In fact, it will not. The money is not there and we are looking at further deficits because of the fact that we have lied to ourselves, lied to each other, and lied to the American people.

Even the FCC chairman says his engineers cannot identify where at least half the spectrum will come from and that they have no idea how this will be accomplished. We have also learned that some of the spectrum identified for auction in this bill is currently used by the FAA. We can be sure then that this proposal will jeopardize the health and the safety of the flying public.

Beyond this, the GAO report says operations like Desert Storm could be severely impaired by the auction of radio frequencies. Can the Committee on the Budget or the Committee on Rules assure members of this committee that the bill will not have a disastrous effect on the viability of the Nation's military operations? Put your expertise against the GAO, which says that this puts our national defense effort at severe risk.

The losers here are going to be the American taxpayers who are not only being misled but who will continue to face a continued mounting budgetary deficit because of a phony set of assumptions and a doomed-to-fail policy on spectrum auctions.

Mr. SHAW. Mr. Speaker, I yield myself such time as I have remaining.

The SPEAKER pro tempore (Mr. DREIER). The gentleman from Florida [Mr. SHAW] is recognized for 4 minutes.

Mr. SHAW. Mr. Speaker, a year ago, approximately a year ago, I stood at this microphone in support of welfare reform, a most historic bill.

The gentlewoman from Texas a few moments ago said that she supported it. If we look at the voting records, she did not. She voted against it.

Ms. JACKSON-LEE of Texas. Mr. Speaker, will the gentleman yield?

Mr. SHAW. No, I will not, Mr. Speaker.

But I would like to give her the good news, that since welfare reform, since 1995, in the State of Texas the welfare rolls are down 24 percent. That is unheard of. It is unprecedented in the history of this country. Welfare reform has done more for the poor, the needy, than any piece of legislation that has ever come out of this Congress. And let there be no mistake about it. Those figures are out there and they are nationwide. Nationwide. It has been a tremendous success.

When I stood here a year ago I said there was still much work to be done. There were corrections to be made. I want to do away with some of the rhetoric and some of the misinformation that has been on this floor today. We do not provide or allow for in this bill any discrimination about people coming off of welfare. On unemployment, the people that are going into the private sector, they have all of the protection that any of the workers in this country have. Those that are working for their benefits, they have the protection against discrimination. However, there are a few protections they do not have. When their benefits run out, they cannot start collecting unemployment compensation. They do not have the FICA contributions. Those are things that there is disagreement in this conference about. I recognize that, but I must say to the Speaker and to my colleagues that once they get into the private sector, there is no difference between them and any other worker.

Ms. JACKSON-LEE of Texas. Mr. Speaker, will the gentleman yield?

Mr. SHAW. No, I will not.

Mr. Speaker, I would ask the Chair to admonish the gentlewoman from Texas not to interrupt me.

The SPEAKER pro tempore. The gentleman from Florida [Mr. SHAW] controls the time.

Mr. SHAW. Mr. Speaker, there is also another area that I think that there is great misunderstanding, there is the part referring to SSI for noncitizens. We have a genuine disagreement with the President. We thought we came up with a better solution. The President's plan would call for 60 percent of noncitizens, the elderly, to come off of SSI. We did not want to do that. So what we did, we grandfathered in all of the noncitizens that were receiving SSI on August 22, when the welfare bill was signed. We thought that was much fairer than pushing them out and then having them come back and prove that they were disabled, knowing that roughly half of them would never get back on and they would lose their Medicaid as well as their SSI payments.

This is very important. We thought ours was the more humane way to go. The President thought it was best to take the elderly off and exchange their benefits to allow people that were here on August 22 that might become disabled, most of them will not, but those that did become disabled sometime in the future could get onto SSI. It is a disagreement we have, but it I might say in the full committee, after we made our argument, no one even offered the President's plan. No one offered the President's plan in the Committee on Ways and Means. Why? Because they did not want to hear the argument that they were throwing the elderly off. I do not blame them. I would not have offered it either.

Another area that I would like to discuss is the area of minimum wage. In this bill, in a very bipartisan manner, we adopted the President's definition of minimum wage. We say in determination of minimum wage when working for your benefits that the only thing that will be included is the cash payments and the food stamps.

This is what the President wanted. This is what we gave to the President. This is a bipartisan bill and we have taken a bipartisan attitude in working with many of the Democrats. I hope that we get a good vote. Vote "yes" on the bill.

The SPEAKER pro tempore. The time of the gentleman from Florida [Mr. SHAW] has expired.

Mr. PALLONE. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. LEVIN].

Mr. LEVIN. Mr. Speaker, I speak as someone who supported the reform of AFDC and I very much continue to support it. Let me address two issues.

The Fair Labor Standards Act. I favor moving people off of welfare to work. They should not be treated as second-class citizens, and you do that. You take away the protection of the Fair Labor Standards Act, and then you go back in, the States must pay a minimum wage. They do not have the protection of Federal law. There is no clear enforcement, and you take away the protection against sexual harassment. Why? What do you do that for?

People should move from welfare to work. They should not be second-class citizens. Period.

In fact, our hope is the opposite, to maintain the dignity and the integrity of work. Legal immigrants; look, we did not offer the President's proposal. We offered something that built on that. It was turned down by one vote, even though there was the money there to pay for it. The gentlewoman from Washington said, well, everybody should play by the same rules. No, you are asking people who were here August of 1996, who became injured after that, to play by different rules. They are out in the cold. That is an irrational, inhumane line. We should not be drawing it.

I am going to vote against this bill in part because I am hoping that we will indeed have Mr. SHAW, whom I very much respect, in a bipartisan effort to work out these problems in conference committee. Do not treat anybody in this institution as a second-class citizen and do not renege on the budget agreement regarding legal immigrants. They were here legally. We should not differentiate people according to when they were disabled.

Mr. SHAYS. Mr. Speaker, I ask unanimous consent that the distinguished chairman of the Committee on Commerce, the gentleman from Virginia [Mr. BLILEY], control 12 minutes of the time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

The Chair recognizes the gentleman from Virginia [Mr. BLILEY].

Mr. BLILEY. Mr. Speaker, I yield myself 2½ minutes.

Mr. Speaker, we are at a historic point for this Congress. For the first time in 32 years, we have the ability to balance the Federal budget by the year 2002. The bipartisan agreement set forth by the administration and this Congress allows each of us the opportunity to address the most serious and immediate issues facing our Nation today. In particular, the Committee on Commerce labored long and hard to meet its shared goals of balancing the budget.

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We strengthened and preserved the Medicare Program. Today's beneficiaries will have access to a wide variety of coverage choices and a broader package of preventive benefits. They will be served by stronger antifraud measures and beneficiary protections. Tomorrow's Medicare beneficiaries are also served by this legislation which establishes a baby boom commission to identify solutions to the long-term fiscal threats facing the Medicare Program.

We adopted flexibility reforms under the Medicaid Program long sought by the States and proposed by the administration in its 1998 budget. It establishes new coverage options, including 12-month continuous coverage of children and enhanced managed care quality assurance standards.

Finally, the committee approved legislation that targets $16 billion to expand coverage and services to low-income uninsured children. Most of this fund is made available to the States through the Child Health Assistance Program, a matched mandatory grant program for low-income uninsured children. The program provides coverage and services such as immunizations and other medications that will expand coverage and provide much needed services to low-income uninsured children.

It is no small task to produce a package which extends the solvency of the Medicare Program, improves benefits for Medicare beneficiaries, and provides coverage and services for low-income uninsured children. But that is exactly what we have done. I am proud of the work that the Committee on Commerce has done, and I believe that every member of the committee and every Member of this House should be proud of supporting this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. SPRATT. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. DOGGETT].

Mr. DOGGETT. Mr. Speaker, as a member of the Committee on the Budget who has supported this balanced budget agreement, I view this reconciliation bill to implement it as most unfortunate. In fact, I think it should go under the title "wreckconciliation" because it really wrecks this balanced budget agreement. It lacks in enforcement provisions.

My colleagues will recall that we got a balanced budget agreement only at the last minute with some strange assumptions, a gyration that generated a spare $225 billion, or there would be a hole that big in the balanced budget agreement.

Well, yesterday the same thing happened. They were about $11 billion short yesterday; and instead of trimming spending or adjusting the tax breaks, they felt the best thing to do was to speculate on a spectrum auction that will occur over the next 5 years and manipulate the numbers to add $11 billion so that it would work out just right.

You see, this agreement is based on many questionable assumptions that we hope will come true. It represents promises. It represents a hope and a prayer. It represents a firm "maybe". But it certainly is not a guarantee that we will ever have a balanced budget. And that is why it is so important to have meaningful enforcement provisions, not some day in the future but right here in this agreement. It lacks them; and, therefore, I say it is a wreck of that budget agreement.

Well, if it is a wreck for our fiscal health, what about our physical health? For the 10 million American children who have no health insurance, growing by 3,000 children a day, it is truly a wreck because not one of them is guaranteed access to health insurance under this bill. And for Texans, it means almost $1 billion less for Texas hospitals.

This is a step backward. It is a step away from this budget agreement. And now is no time to avoid the need for enforcement of the budget agreement and for addressing the real health care concerns of working American families

Mr. BLILEY. Mr. Speaker, I yield 1½ minutes to the gentleman from Illinois [Mr. HASTERT].

Mr. HASTERT. Mr. Speaker, I thank the gentleman from Virginia [Mr. BLILEY] for yielding me the time, and I want to congratulate him on the work he has done.

Mr. Speaker, we hear a lot of speeches here. Some are pretty informational, and some really border on demagoguery, just plain demagoguery. But let us look at the facts.

The facts are, if KidCare services are dropped, at least 2.6 million low-income uninsured kids will lose. The analysis by CBO and CRS estimated that KidCare services will insure an additional 2.595 million children. Preserving the services of KidCare insures a grand total of 5 million currently uninsured children.

So what we saw a few minutes ago is not what we get. What we really get are kids that do not have insurance today being covered, being able to go to the doctor, being able to go to the emergency room, being able to be taken care of and get the inoculations they need.

The budget agreement calls for KidCare services, and not only services but the expanded coverage low-income and uninsured kids do not have today. The KidCare agreement provides children's health services. It helps hospitals and community health centers. That is where the entities are that can best help our children, the most unserved children today.

The budget agreement also provides and allows services to make support for our Nation's 70 Children's Hospitals possible. I thank the gentleman from Virginia [Mr. BLILEY], the chairman, for the fine work he has done.

Mr. SPRATT. Mr. Speaker, I yield 2¼ minutes to the gentleman from Texas [Mr. BENTSEN].

Mr. BENTSEN. Mr. Speaker, first of all I want to thank the gentleman from South Carolina [Mr. SPRATT], the ranking Democrat, for recognizing me and thank him for the work he has done on this bill.

My colleagues, this is a very difficult bill. On the one hand, there are some things in this bill that are really quite good. I commend the Committee on Commerce for the work that they did with respect to medical education and the carve-out of the AAPCC so the that managed-care companies will once and for all begin to share in the cost of medical education because they also share in the benefit. That is a very important issue. I hope that survives the conference, should this bill move through and pass today.

It also includes another provision which I have sponsored, as I have sponsored legislation dealing with medical education, dealing with Medigap or supplemental insurance, in providing for annual coverage and the ability for our senior citizens to really have a choice between managed care and fee-for-service by being able to move back and forth and not lose their right to that Medigap insurance.

It includes the PSO for providers such as hospitals and physicians to compete effectively with managed care in this new health care world that we have. Those are good things, and I hope they survive. And, of course, it does extend the Medicare Program and it does balance the budget, and that is good as well.

But, my colleagues, I still have great concerns about the Committee on Commerce portion dealing with disproportionate share under the Medicaid part of the bill. That would treat 13 States, including my home State of Texas, much differently than it would treat the other 37 States.

Those 13 States would receive a 40 percent cut in their disproportionate share in the year 2002, twice as much as the next nearest State under the formula that is used. And the formula is flawed because the formula uses as the baseline the fiscal year 1995 numbers, but it determines the State by using fiscal year 1997 numbers. The problem with this is they are using two different types of data. They are using data from fiscal year 1995 and data from fiscal year 1997. It is highly inequitable to the 13 States, including the State of Texas.

This matter absolutely must be fixed by the administration and by the conferees if this bill is going to be forwarded to all the States of the Union.

Mr. Speaker, I am voting for this legislation today to continue our process toward enacting a fair plan that balances the Federal budget for the first time since 1969. But I do so only after receiving the strong commitment of the Clinton administration and Budget Committee Chairman JOHN KASICH to correct a Medicaid cut formula that is unfair to Texas and 12 other States dependent on the Disproportionate Share Hospital [DSH] Program.

My future support for this legislation is contingent on the conference committee correcting the DSH formula so that it is fair to Texas. If that does not happen, I will not vote for the conference report.

I am pleased that, during debate on the rule for this legislation, Chairman KASICH repeated the pledge he made in the Budget Committee to change the DSH formula to make it more reasonable and fair. I am also pleased that Office of Management and Budget Director Franklin Raines has written me a letter stating:

> We will make correcting the DSH formula as it relates to high DSH states a priority in conference, and I look forward to developing an equitable solution to this problem.

I will enter the full text of this letter in the RECORD after my remarks.

I want to emphasize that I strongly support balancing the Federal budget. I supported the bipartisan balanced budget agreement between the President and the congressional leadership, and I voted for the budget resolution.

There are many things in this legislation that I support and applaud. I commend the Rules Committee for improvements it has made to ensure that this legislation does provide $16 billion to expand health insurance for children and protect low-income senior citizens from increases in Medicare premiums. I strongly support two provisions in the Medicare reform section that I have advocated and that would greatly benefit our Nation's health care system. These provisions, which are similar to legislation I have introduced, would help ensure that senior citizens have real choice under Medicare and our Nation continues to invest properly in medical education at teaching hospitals. Both of these provisions were included in the Commerce Committee version of Medicare reform, and I strongly urge that they be included in the final legislation.

The first provision would give senior citizens who transfer into a managed care plan the right to buy supplemental insurance, Medigap, which pays for prescriptions and other vital services, if they return to traditional fee-for-service Medicare. Seniors currently lack this right, and this is a tremendous obstacle to real choice in Medicare.

The second provision would ensure that Medicare managed care plans help fund medical education in the same as fee-for-service Medicare. The Commerce Committee proposal would carve out graduate medical education [GME], as well as disproportionate share hospital DSH, amounts from the average adjusted per capita cost [AAPCC] payment to Medicare managed care plans. This approach would ensure that this funding is used as intended to fund GME and DSH. This plan would not increase Federal spending; rather, it would recapture funds from the current Medicare managed care reimbursement formula so that all Medicare plans help pay for the cost of graduate medical education.

These provisions represent important progress. Nevertheless, I am strongly opposed to the Medicaid provisions of this bill that would so unfairly devastate the efforts of my State and many other States to provide necessary health care to the poorest patients. There is bipartisan agreement in Congress that we need to reform the disproportionate share hospital [DSH] program to contain costs and prevent abuse of the program. But these reforms must be fair and reasonable, not arbitrary and punitive as they are in this legislation.

Under this legislation, Texas and 12 other so-called high-DSH States would have their funding cut by twice the percentage of other States. In the year 2002, funding for high-DSH States would be cut by 40 percent, while funding for other States would be cut by 20 percent or not at all. As a result, 13 States contribute 57 percent of the savings required, while some States bear no cuts at all. These States are Alabama, Colorado, Connecticut, Kansas, Louisiana, Maine, Missouri, Nevada, New Hampshire, New Jersey, South Carolina, Tennessee, and Texas. These States would face the closure of rural and urban public hospitals and substantial reductions in necessary health care for uninsured or indigent patients, particularly children.

Additionally, the Nation's children's hospitals would inherit an unsustainable financial burden as their caseload is often mainly Medicaid or indigent care.

I had sought to offer an amendment that would take a more fair approach that cuts each State's DSH funding by the same percentage. High-DSH States still would be cut by larger dollar amounts, but the cuts would be proportional and all States would contribute. This would not have increased total expenditures. Unfortunately, this amendment was not allowed.

I am also concerned about provisions in this legislation that do not adequately protect the right of participants in welfare-to-work programs; that privatize the determination of eligibility agreement to use the full $16 billion to extend insurance coverage to uninsured children. These and other areas in which this legislation falls short of the budget agreement must be corrected by the conference committee.

I look forward to working with the administration and the conferees to address these issues and especially to ensure a more fair and responsible formula for cutting Medicaid DSH funding. The Medicaid DSH issue is vital to my State and many others, and I will not vote for a conference report that does not fairly resolve this issue.

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, June 25, 1997.

Hon. KEN BENTSEN,
U.S. House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE BENTSEN: Thank you for sharing with me your concerns about the impact of the disproportionate share hospital (DSH) payment reductions on the State of Texas in the House reconciliation bill.

The DSH savings proposal in the President's 1998 budget was designed to ensure that States with the highest DSH spending do not unfairly bear the impact of the savings policy. The Administration remains committed to this policy.

As Congress recognized in OBRA 1993, a DSH savings policy that did not take account of which States rely most heavily on DSH financing could have too harsh an impact on certain States and could likely affect their ability to cover services. Thus far, the DSH savings proposal in the House reconciliation bill does not fairly target the remaining DSH funds to States with the greatest need, and the Administration has urged the House to revisit the proposal in the President's budget.

We will make correcting the DSH formula as it relates to high DSH States a priority in conference, and I look forward to working with you to develop an equitable solution to this problem.

Thank you again for your call.

Sincerely,

FRANKLIN D. RAINES.

Mr. BLILEY. Mr. Speaker, I yield 1 minute to the gentleman from Iowa [Mr. GANSKE], a member of the committee.

Mr. GANSKE. Mr. Speaker, I rise in support of the Medicare reform provisions before us. In large part, the bills produced by the Committee on Commerce and the Committee on Ways and Means are very similar, but there are some important differences.

Unlike the Ways and Means bill, the Commerce provisions carve out graduate medical education and disproportionate share hospital payments from the monthly rate paid to Medicare plans. This is an important provision that should be enacted into law.

Currently, GME and DSH payments are included in the rate paid to Medicare HMO's. That money is supposed to be passed on to those hospitals which need additional support to train the next generation of health care providers and provide a safety net for the poorest and sickest Americans.

But there is much evidence that Medicare managed care plans fail to pass these funds through as intended. Supporters of the carve-out include the Physician Payment Review Commission and the Prospective Payment Assessment Commission. The impact on teaching and safety net hospitals is evident. The accounting firm of Deloitte and Touche wrote that "without some means to modify the AAPCC, support for education and patient care-related missions and care for the low-income poor will be diminished."

Mr. Speaker, it would be irresponsible for Congress not to ensure that these payments actively support specified missions.

Mr. SPRATT. Mr. Speaker, I yield 2 minutes to the gentlewoman from California [Ms. WOOLSEY].

Ms. WOOLSEY. Mr. Speaker, I ask my colleagues, why is it when the majority proposes spending cuts, it is women and children first?

I voted for the balanced budget agreement because I was really hopeful that roughneck politics had been passed aside to reach a grander goal. Democrats and Republicans were willing to give some to gain a lot. It was a textbook example of the art of compromise, actually. But somewhere between the House floor and the committee rooms, the deal unraveled and this unacceptable bill emerged, a bill that undermines the budget agreement and adds new provisions that were never even discussed and, in fact, have little to do with balancing the budget in the first place.

The bill sends funds that we targeted for child health coverage to States as block grants. This means Governors can spend the money for programs that have nothing to do with providing children with basic health care. Under this plan, less than half a million kids will get coverage. Talk about a sellout.

But that is not even the worst of it. The same leadership who shut down the Government and held flood victims hostage has once again included an extraneous, divisive issue in its must-pass legislation. The majority is using this bill to codify into law the Hyde amendment.

The Hyde amendment takes away reproductive rights for hundreds of thousands of poor women. Roe versus Wade does not exist when you cannot afford to pay the bill. This bill also takes away other rights from poor women. It drops women who are in welfare-to-work programs into a new under class of employees not entitled to protections, protections against sexual harassment, discrimination, unsafe workplaces, and unfair labor practices. I cannot support this bill.

Mr. BLILEY. Mr. Speaker, I yield such time as she may consume to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Speaker, I acknowledge the commitment of the gentleman from Ohio, Chairman KASICH, to working out the DSH payments in this bill.

Mr. Speaker, I rise in support of H.R. 2015, the Balanced Budget Act with reservations.

We are on the verge of passing legislation that, for the first time in more than a generation, will set us on the trail toward a balanced budget. This goal of a balanced budget is not an abstract exercise that some economists or "green-eyed shade types" thought-up in some ivory tower. It is an essential economic tool to get the savings and capital investment we desperately need for research and development, and new plant and equipment to rebuild the American economy; keep us competitive in the global economy and create the good jobs at good wages we need for this generation and those to come. For these reasons I believe we must keep this progress going with the full expectations that the final conference report will get strong endorsement.

Tomorrow, we will take up the legislation that will implement a genuine "Save and Invest" in America program. Today, we fulfill the promise we made to our children and grandchildren to make this Government live within its means.

So this debate today is about priorities. While I will support this legislation in order to keep this important legislative process moving forward, I want the people of New Jersey to know of my priorities and the improvements I believe we need.

Mr. Speaker, there is much to be proud about in this bill. In addition to the real spending cuts that will move our budget into balance, this legislation contains a new $16-billion initiative on children's health.

We are right to target $16 billion to help insure children who are not insured. The only question remains over what will be done with this money to achieve the goal of providing health care to children.

I rise today to remind you not to forget children's mental health as well as their physical health. Both are components of children's health that cannot be ignored.

Any health initiative must have parity treatment of mental health coverage. Yesterday, in the other body, an amendment passed that would require that any plan that included mental health benefits would provide those benefits in a nondiscriminatory manner. This should remain a part of this budget package.

On the negative side, I recognize that we must have genuine entitlement reform. Medicare is going bankrupt and this bill restores its solvency for another 10 years while we debate a long-term solution to this pressing problem.

This legislation moves in that direction. But without question, this area of savings raises the most concern, and I must state my healthy skepticism about how much can, or should, be accomplished in the near-term.

I am deeply concerned about the Commerce Committee provision of this bill that cuts $16 billion in Federal Medicaid matching funds from the disproportionate share hospital [DSH] payments. This could amount to a 17-percent cut in New Jersey in a vitally important program that serves our neediest patients. I am encouraged by the statement made during debate on the rule on this legislation by the chairman of the Budget Committee [Mr. KASICH], that this formula is unfair to New Jersey and other States and should be revised. I am looking forward to reviewing those revisions when this House considers the conference report on this bill.

We in New Jersey are also deeply concerned about the reductions in Medicare payments for high Medicare hospitals—many of which can be found in New Jersey—and the prospective payment system freeze for next year. These two provisions present serious burdens for New Jersey health care providers and could significantly affect the quality of care in our State.

Mr. Speaker, there is very little long-term Medicare reform in this bill. I, for one, support the establishment of a Bi-Partisan Blue Ribbon Medicare Commission—modeled after the very successful Greenspan Commission on Social Security in the mid-1980's—to make recommendations for preserving and protecting this vital program, which the Congress should enact confident that there is not any hidden "political agenda" to the recommendations.

Mr. Speaker, I am very troubled that this reconciliation package includes provision that allows associations to offer health care plans—the provision added in the Education Committee by my friend from Illinois, Mr. FAWELL.

This section of the reconciliation package raises two concerns. The first concern is the fact that budget reconciliation is a totally inappropriate forum for bringing forth such expansive legislation without proper analysis and open discussion of such important concerns as fiduciary standards.

This provision does not offer sufficient protection against fraud and abuse and contains solvency standards that are substantially weaker than most State standards. This poses the risk of significant losses for both plan participants and providers when plans fail.

We are being grossly irresponsible by including a major revision of ERISA law in this massive reconciliation bill.

My second concern is that this proposal does not help the health care situation in this country, but actually damages the integrity and health of group insurance coverage while reducing protections for patients.

We must carefully weigh the benefits of allowing associations the protections of being covered by national laws with the benefits of allowing State laws to determine consumer protections. While we do want to encourage companies to provide health care benefits to their employees and enlarge the prospects for small businesses to pool for insurance purposes, we must respect the right of each of the States to regulate the insurance industry within their boundaries. This proposal will drive us inextricably to national managed health insurance standards.

In other words, this legislation is significant, complex and perhaps one whose time has come but not in a reconciliation budget package.

This is no way to run a railroad or a legislative body. I will make every effort to ensure that this provision will be dropped in conference.

I am equally concerned that this legislation does not contain the strong budget enforcement mechanism introduced by Congressmen BARTON and MINGE. However, I will rely on the commitment from the Republican leadership that we will have a vote on this important legislation in July and that, if successful, this legislation will become part of the reconciliation process.

That process will not be without difficulty, but as we prepare to enact legislation that balances the Federal budget we should not kid ourselves into thinking that it will be easy to do. At the same time, we should acknowledge the terrible cost to our Nation if we do nothing.

Balancing the Federal budget is essential to protect our Nation's long-term financial health, and to ensure that the country our children and grandchildren inherit is as great as the one our parents gave us.

Mr. BLILEY. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. GREENWOOD].

Mr. GREENWOOD. Mr. Speaker, I thank the gentleman from Virginia [Mr. BLILEY] for yielding me the time.

Mr. Speaker, I rise with great enthusiasm to support this reconciliation package. This is why I came to Congress, to balance the budget. Today is a historic day for this Congress. But I want to specifically refer to the children's health care package.

The previous speaker somehow argued that children will be left uncovered by this bill as we in the Committee on Commerce have crafted it. To the contrary, what we have done is created the flexibility that the States need to provide Medicaid coverage, to provide direct health insurance purchases, and to provide direct services. And for those who criticize the provision of direct services, we must remember that if we did not provide children with direct health care services, those children would get no health care whatsoever.

We need to trust our Governors, we need to trust our State legislators and allow them to meet the health care needs of their children in the way that best suits their States' realities. I support this package enthusiastically and encourage my colleagues to do so, as well.

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Mr. SPRATT. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. ENGEL].

Mr. ENGEL. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise to oppose the Budget Reconciliation Spending Act.

While this bill contains fewer cuts than the drastic social spending reductions the Republicans have demanded in recent years, it still gives short shrift to America's seniors, workers, and immigrants.

Further, it violates several of the provisions of the budget agreement we passed only a few weeks ago.

First, the legislation misguidedly permits States to turn over Medicaid and Food Stamp Programs to private companies, many of which have demonstrated that they have not been able to efficiently administer other Government contracts.

An amendment in the Commerce Committee would have fixed this problem, but it was unwisely rejected by the Republican majority.

Second, the Medicare cuts are not as onerous as those of the 104th Congress. Still, the impact of reduced payments to providers will, in the end, be absorbed by needy seniors, resulting in poorer health care and diminished access to physicians.

I am further dismayed by the incorporation of the risky medical savings account proposal in the Medicare portion of the package.

This proposal will undermine the integrity of the Medicare Program by transferring critical funding away from the most needy beneficiaries to the healthiest, wealthiest senior citizens.

Third, I am pleased that the bill restores SSI and Medicaid to those legal immigrants who were receiving them when the welfare reform legislation was enacted last August.

Unfortunately, the budget agreement does not go far enough. Those immigrants who were here last August who only subsequently qualified for assistance, remain barred from receiving benefits. This is terribly unfair to those who had a reasonable expectation that the U.S. Government would assist them.

Finally, the budget reconciliation spending bill guts much of the minimum-wage increase which Congress passed last year, by exempting those in workfare jobs from the minimum-wage protection.

This is outrageous. Not only will this proposal take good jobs away from workers making as little as the minimum wage, but it will defeat the entire purpose behind workfare because program participants will not be able to earn a living wage in their jobs.

Mr. Speaker, once again, this bill represents an improvement over previous Republican budget cutting efforts. Unfortunately, it still cuts too much and helps too few.

I urge my colleagues to vote against the budget reconciliation spending bill.

Mr. SPRATT. Mr. Speaker, I yield 2 minutes to the gentlewoman from North Carolina [Mrs. CLAYTON].

Mrs. CLAYTON. Mr. Speaker, I thank the ranking member for yielding me this time.

Mr. Speaker, I really wanted to vote for this bill. In fact, I voted for the balanced budget agreement in the Committee on the Budget and voted for it on the floor with reservations. I knew there were things in there I had problems with. One of the things I had problems with, there was not enough food and nutrition. There are great needs in terms of hunger. It was not there. But in spite of that, it did have some good things in it.

Some of those good things were around children's health, around educational opportunities and tax provisions that are in there. On balance it was good to move for a balanced budget. But now we have an agreement that does not conform to all of those agreements. Although I knew I had some reservation, I do not ever expect that everything I want will be in the bill.

I can tell my colleagues, I am still looking forward to voting for a balanced budget, but I am unable to do that now. I want to tell my colleagues what I hope will be cleaned up after the conference. I hope indeed my colleagues find the compassion, or the reasonableness of at least giving people the work opportunity so they can have food stamps, so they are not thrown off the food stamp rolls. At least this rich country should be above that. I hope we will find in our hearts, and with all due respect and I know the gentleman from Florida [Mr. SHAW] is well-intending, I think when we are protecting welfare to work, age discrimination, sex discrimination generically and do not apply the same labor standards that are codified already in law, we are supposing to create a new set of protections for this group of people. It would be so much easier if we would just simply say the law that is already on the books and we would apply it to these people just as we apply it to everyone else. I think that is a gross error, and I think we have made a tragic mistake to create new provisions to speak to the same issues.

For those reasons, Mr. Speaker, I cannot support this bill as it is. I hope we will come back from the conference with an improved bill.

Mr. BLILEY. Mr. Speaker, I yield 1 minute to the gentleman from Georgia [Mr. NORWOOD], a member of the committee.

Mr. NORWOOD. Mr. Speaker, I am very pleased to support this bill for many reasons, but one of which is that the Committee on Commerce has done a marvelous job in trying to protect patients in the health care field as we move more and more from fee-for-service health care to managed care. I am extremely grateful to this committee for doing the right things for Medicare and Medicaid, those things that we want to do indeed for all the people of this country, but at this point we did get things into Medicare and Medicaid.

For example, for the first time we are actually going to allow the health care giver, the physician and the patient, to determine if they need a specialist, or the physician and the patient will actually determine if they need to be in the hospital, not a health care bureaucrat or an accountant.

With that, I thank the gentleman from Florida [Mr. BILIRAKIS], the chairman. I think we have a great bill, and I urge all Members to support it.

Mr. SPRATT. Mr. Speaker, I believe the provision the gentleman referred to was dropped in the manager's amendment.

Mr. Speaker, I yield 1½ minutes to the gentleman from Illinois [Mr. EVANS].

Mr. EVANS. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, H.R. 2015 would kill the efforts of the Department of Veterans Affairs from obtaining the resources it needs to meet the health care needs of our Nation's veterans.

Earlier this year the administration proposed that appropriations for VA health care remain constant at $17 billion a year for 5 years. Clearly the ability of the VA to provide needed health care service to the Nation's veterans could be seriously jeopardized if the resources required to provide that care were fixed, while the costs of providing care increased.

To offset the possible dire consequences of an appropriation freeze, the administration also proposed that VA retain funds it collects from third party payers, insurance companies for example, for some treatment provided by VA to certain veterans. The VA is attempting to collect funds for third party payments, but today those recovered funds are simply deposited by the VA into the General Treasury.

On a bipartisan basis the House Committee on Veterans' Affairs rejected this proposal. Our committee believed it jeopardized VA's ability to meet veterans' health care needs and we said so. We told the Committee on the Budget that Congress should continue to fully fund health care through the appropriations process. The Committee on the Budget, however, rejected our committee's views and our recommendations.

Under the Committee on the Budget's plan, appropriations for VA health care would not increase for 5 years and third party collections would be retained by the VA to provide veterans' health care. But now under H.R. 2015, the ability of the VA to provide veterans' health care has been further undermined, again ignoring the service provisions in the bill. This bill now makes VA's third party collections subject to appropriations.

Mr. BLILEY. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. BILBRAY], a member of the committee.

Mr. BILBRAY. Mr. Speaker, this afternoon we are hearing much talk about what is not in this bill and why they are finding excuses to vote against this bill. Let me give Members a major reason to vote for this bill for people who say they want to protect the most needy, the most disadvantaged in our society.

Mr. Speaker, for decades this Federal Government has mandated that we provide certain services across this country, and over the last few years we have mandated that poor working-class hospitals provide free emergency health care to illegal aliens. At the same time this Congress and other Congresses have mandated that, they have walked away from the responsibility to pay the bill for the emergency health care to illegal aliens. This bill, Mr. Speaker, has in it a fund set aside to finally reimburse those working-class hospitals that have been denied the reimbursement that they have deserved for so long.

I hope my colleagues who claim to represent the poor, the needy, the disadvantaged, the people that are not getting their fair share of health care and coverage, will stand up and say at least, look, this bill does include something that has been denied for much too long. Support this bill and finally start paying for the health care of the illegal aliens that we mandate to be serviced. Quit being a deadbeat dad.

Mr. SPRATT. Mr. Speaker, I yield 2 minutes to the gentlewoman from Hawaii [Mrs. MINK].

Mrs. MINK of Hawaii. I thank the ranking member for yielding me this time.

Mr. Speaker, I rise in opposition to this bill. This is not a reconciliation bill. It contains many things which are extremely irrelevant to the budget process. Many people have said, "Let's not try to meddle with a welfare reform bill that was only enacted last August. Let's see if it's going to work."

Yet here we are today in a budget reconciliation bill that severely cuts back on what I believe was intended when we passed the Welfare Reform Act. We said welfare to work, because work was an ethic we wanted to encourage. Everybody who goes to work gets paid. Yet here in the Budget Reconciliation Act, we have a work requirement where there is no additional compensation. We are going to take their cash welfare check, we are going to take their food stamps and we are going to add it together and say divide that up to the minimum wage and that is the amount of workfare you must do for the Government or for a nonprofit agency, without one penny of additional money.

Where is the work incentive that we are trying to build in the people that we were so-called trying to change their mode of life, getting them to go out and understanding the joy of earning additional money. That is absolutely taken away from them. The protections of being a worker are denied. Many of the protections, such as occupational health and safety, sex discrimination, all the things that ordinary workers would have. Family medical leave. These people who are on welfare that are being forced to go to work, forced to take workfare with no additional compensation will not have the protections of employees. They are not workers. They are second-class citizens in America.

We apologized for slavery over 100 years ago. Who is going to stand up and apologize for the slavery that is incorporated in this budget reconciliation bill? This is really degrading. I stood in defense of some of the rhetoric we heard in this Chamber about the importance of work. If my colleagues are going to require work, pay the people what they are entitled to receive.

Mr. Speaker, I rise to oppose the budget reconciliation bill because it establishes priorities that ignore the needs and interests of the most vulnerable of our constituents—the poor, the disabled, the elderly, the young, and, yes, our legal immigrants.

BENEFITS FOR LEGAL IMMIGRANTS

I am happy to note that the reconciliation bill exempts refugees and asylees from the SSI and Medicaid bans for 7 years.

Similarly, it is a positive sign that the House and Senate are making an attempt to restore SSI and Medicaid benefits to legal immigrants who were already on the rolls when the welfare law was enacted August 22, 1996.

However, this effort falls far short of restoring coverage in a meaningful way to elderly and disabled noncitizens.

Much has been said about how the reconciliation bill fails to live up to the bipartisan budget agreement. The budget agreement pledged to restore SSI and Medicaid for all legal immigrants ion the country before August 23, 1996, and who are now or later become disabled. Neither the House nor the Senate meet this test.

The House plan "grandfathered" in healthy, elderly noncitizens, but it fails to help legal immigrants who are healthy today but who later develop disabling conditions. It covers 75,000 fewer people than the bipartisan budget agreement.

The Senate budget plan was a little bit better, since it would let disabled noncitizens file for SSI through the end of this fiscal year. Nevertheless, it still covers 55,000 fewer people than the budget agreement does.

We could do more to help this population, but we are failing to do so. During its deliberations, the House Ways and means Committee found it had $2.3 billion left over. My colleague Mr. BECERRA proposed a $2.4 billion plan to cover all elderly and disabled legal immigrants in the country, even those not already on the SSI rolls. The committee had a rare chance to do the right thing, but they let it slip away. Now it appears that they saved this money simply to cut the taxes of affluent Americans who need it the least.

It is reprehensible to cut taxes for the rich, while leaving disabled and elderly legal immigrants destitute. We should restore SSI and Medicaid benefits to all legal immigrants, not merely those who were covered by the bipartisan budget agreement.

HEALTHCARE

The budget contains numerous cuts and policy changes that will have a devastating impact on the health of our most vulnerable populations. Medicare and Medicaid will be cut by almost $130 billion over 5 years, while individual rights to justice and State authority over the health plans of small employers are eliminated.

The budget targets the most vulnerable populations cutting Medicare by $115 billion over the next 5 years. Those in support of this legislation, both in the majority and minority, must constantly reassure themselves that these cuts are acceptable because most of the cuts are achieved through "reduced payments to doctors and hospitals." Despite their reassurances, there can be no denying that payment reductions to doctors and hospitals are passed on to Medicare beneficiaries. Medicare beneficiaries pay in decreased access to care and decreased quality of care. Medicare beneficiaries are the losers.

How many Members of Congress have received letters from constituents protesting extended waits for doctor's appointments because their physician can only see a limited number of Medicare beneficiaries each month, or that their doctor has dropped Medicare patients entirely because they lose money every time they see a Medicare patient? Do we expect more physicians to accept Medicare patients when payments are cut even further? Do we expect hospitals to make more room for Medicare patients when we are reducing payments to hospitals? How do these cuts improve access to care? Have we improved quality of care by turning physicians and hospitals into assembly line health care drive through windows?

The budget includes a demonstration project to test how medical savings accounts would work in the Medicare Program. We just passed a medical savings account demonstration project last year and we don't even know if that will be a success. Why are we now implementing a MSA demonstration project in Medicare?

Medicare should be the last place we should be testing MSA's. Medical savings accounts will attract the healthiest and least expensive to cover while the more expensive high risk individuals remain in traditional health insurance programs. With a greater density of high risk individuals in the traditional health plans, costs will rise creating additional strain on Medicare. Savings produced by medical savings accounts will be meager compared to the higher costs to cover individuals in traditional plans.

Meanwhile, Medicaid will be cut by $13.6 billion. These cuts will predominantly come from reductions in payments to hospitals that serve a disproportionate share of low income patients. Cuts to disproportionate share hospitals [DSH] will place enormous burdens on rural hospitals and hospitals in low-income areas. Why are we cutting from these areas when these are the populations that need access to care the most. Many facilities in low-income or rural areas will not be able to survive.

Also concerning Medicaid, the budget repeals the Boren amendment which requires State Medicaid Programs to pay a reasonable and adequate rate for facilities and services provided by hospitals and nursing homes. Once again, do we expect quality of care and access to care to improve by permitting State Medicaid Programs to shortchange hospitals and nursing homes? Beneficiaries will feel the cuts and beneficiaries will end up paying.

The budget bill attacks the rights of individuals in medical malpractice cases and attacks the authority of States to regulate the health plans of small employers.

This budget weakens individual protections from medical malpractice by capping noneconomic damages in medical malpractice cases at $250,000. This is an egregious injustice. No matter how severe the harm caused by medical malpractice, noneconomic compensation is limited to $250,000. To place an arbitrary limitation on the damages an individual can receive due to medical malpractice is an atrocity. This cap abolishes the rights from every American to receive just compensation from medical malpractice.

To top this off, this legislation puts a 2-year statute of limitation on medical liability cases, beginning on the date the injury occurred or should have reasonably been discovered, and no legal action could begin more than 5 years after the date of the alleged injury. Absolutely absurd.

Another disturbing provision included in the budget is the Expansion of Portability and Health Insurance Coverage [EPHIC] Act of 1997, which contrary to a popular theme that has dominated the direction of this Congress, removes State authority to regulate the health insurance plans of small employers and transfers regulatory authority to the Federal Government without adequate provisions and preparations to manage the additional responsibility. States have spent years crafting laws and regulations to govern the health insurance plans of small employers. This bill will preempt many carefully devised State provisions and assign authority to an unprepared Federal Government. Not only is this irresponsible but it is also a blatant disregard for the years of work done by State governments.

The budget agreement abandons the budget agreement with the President on children's health care. The budget fails to guarantee coverage for children and gives excessively generous authority to States. We must set minimum standards and requirements to insure that this funding is used efficiently and effectively.

Additionally, the children's health State allocation formula is based on the State's share of uninsured children. States that have worked the hardest on covering their children and have had the most success will get the least amount of funding while States that have done little will get a windfall. This allocation system rewards States that have done nothing while penalizing States that have made an extra effort to cover children.

Moreover, this legislation permanently enacts the Hyde amendment which in effect denies poor women their constitutional right to reproductive choice, and could jeopardize their access to health services.

This budget exemplifies how this Congress's priorities have deviated from fundamental principles and is a dishonorable failure of our responsibility to care for America's elderly and disabled.

WELFARE

Furthermore, Mr. Speaker, the most egregious provisions of this bill will allow States to place welfare recipients in indentured servitude by enacting a separate set of rules for welfare recipients working in public and nonprofit organizations.

These provisions were not part of the original budget agreement and they are not necessary to reach the budget savings called for in the budget resolution. It is simply another attempt to cast scorn on the poor of this country and denigrate their status in our society.

Under the bill before us today, welfare recipients who are forced to go to work in public service agencies and nonprofit organizations to work off their welfare benefits will not be treated as employees. The compensation they receive will not be considered wages or salary and they will not be afforded the same rights and protections under labor laws as other employees in this Nation. Furthermore, States will be able to count the combined TANF, formerly AFDC, and food stamps benefits in calculating whether welfare workers in workfare or community service jobs are receiving minimum wage.

What happened to equal work for equal pay, or does that just apply to the well-off in the Nation—and not the poor?

I am frankly astounded that the majority has advocated these changes to the welfare law because they are directly contrary to the emphasis of last year's bill, which was to empower welfare recipients with jobs, to promote the value of work, and to promote self-sufficiency through experiencing the dignity of work.

How can one experience the dignity of work if they are treated differently than every other employee, not paid a wage, not protected by labor laws, and relegated to a position most vulnerable to discrimination and abuse?

Under this legislation, welfare recipients, virtually all of whom are women, will not be protected against sexual harassment and sex discrimination as in title VII of the Civil Rights Act. They will not be protected under OSHA, the Fair Labor Standards Act, nor the Family and Medical Leave Act.

In short, welfare workers will be denied the most basic rights afforded every other person in the workplace. This is shameful, and a tragic step backward to a time when indentured servitude and slavery was condoned in this country.

Mr. BLILEY. Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. UPTON], a member of the committee.

Mr. UPTON. Mr. Speaker, I would like to talk a little bit about why Congress should retain the States' option to provide services as well as insurance coverage with their child health assistance program grants.

The children's health provisions of this budget agreement state that "the resources will be used in the most cost-effective manner to expand coverage and services for low-income and uninsured children with a goal of up to 5 million currently uninsured children being served."

Simply having a Medicaid card or private insurance plan is no guarantee of access to health care services in the many medically underserved rural and inner-city areas of this country. Community health centers are located in medically underserved rural and urban areas and may be the only source of care in many of those areas. These centers serve one out of every six low-income American children and one out of every seven uninsured children in the United States. In addition to providing health care services, community health centers are experienced in dealing with barriers to health care for children, such as transportation and language and cultural differences.

Mr. BLILEY. Mr. Speaker, I yield 3 minutes to the gentleman from Louisiana [Mr. TAUZIN], chairman of the Subcommittee on Telecommunications, Trade, and Consumer Protection.

Mr. TAUZIN. Mr. Speaker, let me first tell my colleagues that the Committee on Commerce had an awesome task. Assigned to us in the budget agreement was $2.2 trillion of budget savings over the period of time that this budget agreement is to operate. That was a huge undertaking. I think the gentleman has correctly pointed with pride to the work of every member of our committee in developing for the Committee on Rules in this package with the help of the Committee on the Budget a package of reforms that does in fact honorably meet those goals.

On the Subcommittee on Telecommunications, Trade, and Consumer Protection, we had a particularly arduous task of writing a section that would meet the Committee on the Budget's requirements of spectrum auctions and revenues to the government over the next 5 years in the face of some very disturbing recent trends, the most recent of which was an auction in April that yielded only one-half of 1 percent of the amount of money that the Committee on the Budget had earlier predicted that auction would yield for the Treasury.

Let me at first compliment the gentleman from Ohio [Mr. KASICH] and the members of the Committee on the Budget for working so carefully with the members of the Subcommittee on Telecommunications, Trade, and Consumer Protection in trying to resolve that arduous task and those numbers. What has been accomplished in the course of the last few days through negotiations with the Committee on Rules are provisions to help ensure that the next round of spectrum auctions are conducted much more responsibly.

Number one, it is clear from the language that we are going to vote on today that spectrum auctions of additional spectrum made available over the next 5 years for public use will be conducted with several new directions: No. 1, those spectrum auctions will be conducted after a time has been allowed for the current round of spectrum sales to clear the financial markets. As my colleagues know in the last successful auction, whereas we received bids of $23 billion, only about $11 billion was actually paid in because of difficulties in getting that spectrum out.

The new bill provides, in effect, that the new auctions will give enough time for bidders to know what is coming down the pike and will give enough time for the market to clear. The new provisions require in fact the FCC to examine new computer models for auctioning, such as the ones carried out in California where block auctioning is actually attempted to yield higher results for the Treasury. In short, those improvements have been added to the bill.

We have retained in this bill the committee's mark that specifies that the FCC can permit the continued analog broadcast as long as more than 5 percent of a community have not yet switched over to digital as this digital transformation occurs.

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We have retained the committee language that there must be minimum bids in these auctions. No more should we have bids on auction of a dollar at the marketplace.

In short this is a good package. I urge its adoption and commend the committee for its fine work.

Mr. PALLONE. Mr. Speaker, based on what was said before, it appears that the Republicans have significantly more time, so I reserve the balance of my time.

Mr. SHAYS. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan [Mr. SMITH].

Mr. SMITH of Michigan. Mr. Speaker, my vote will be in favor of passage of this bill, and H.R. 2037, the budget enforcement provisions, have been made part of this bill that will help us make sure that we enforce the provisions of our intent to balance the budget and make these spending cuts.

CONGRESSIONAL BUDGET & IMPOUNDMENT CONTROL ACT OF 1974

Permanently extends the requirement that budget resolutions cover a five-year period.

Similarly, extends indefinitely the enforcement of the five-year spending and revenue levels set forth in budget resolutions through points of order.

Simplifies and updates points of order that are used to enforce the budget resolution's spending and revenue levels.

Provides for adjustments in the budget resolution levels for legislation appropriating funds for designated emergencies, arrearages and the International Monetary Fund.

Eliminates the need to waive the Budget Act for a reported bill that violates the Act but is cured by a self-executing rule. In such cases, the point of order no longer lies against the bill.

AMENDMENTS TO THE BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985

Adjusts and extends statutory discretionary spending limits, which are enforced through sequestration, through fiscal year 2002.

Provides for adjustments in the discretionary spending limits for appropriations for emergencies, arrearages, and the International Monetary Fund.

Extends pay-as-you-go requirements, which provide that entitlement and tax legislation must be fully offset, through fiscal year 2002.

Modifies baseline that is used to "score" legislation so that committees get credit for eliminating entitlement programs.

Eliminates accrued paygo balance and savings from reconciliation to ensure that all savings are used for deficit reduction.

Mr. SHAYS. Mr. Speaker, I yield 2½ minutes to the gentleman from Illinois [Mr. FAWELL].

Mr. FAWELL. Mr. Speaker, I rise in support of the balanced budget bill and in particular the provision of the bill that will expand affordable health insurance to millions of workers, their spouses and their children. By including the Expanded Portability and Health Insurance Coverage Act, known as EPHIC, in this reconciliation, we advance bipartisan legislation which will make insurance available to millions of uninsured Americans.

The EPHIC legislation is consistent with the budget agreement's goal of expanding coverage to uninsured children.

The problem of the uninsured, both children and adults, is predominantly a problem of small businesses lacking affordable health coverage. Over 80 percent of the 40 million uninsured Americans live in families headed by a worker, most often in a small business. And over 80 percent of uninsured children are in a family headed by a worker, again, usually in a small business.

EPHIC addresses this problem by giving franchise networks, union plans, and bona fide trade, business and professional associations the ability to form group health plans. EPHIC gives retailers, wholesalers, printers, agricultural workers, grocers, churches, organizations such as the chambers of commerce and NFIB, the National Federation of Independent Business, the economies of scale and affordable coverage that large businesses have had for 23 years under the Federal ERISA law. In other words, finally the little guys will have what the big guys have had for decades, and I refer to the economies of scale to be able to have affordable health insurance for their employees.

In hearings before my subcommittee, witnesses estimated that small businesses could save between 30 and 60 percent in overhead costs and that up to one-half of the 40 million uninsured Americans would find affordable coverage in the private market under EPHIC.

Mr. Speaker, this tremendous expansion of coverage can be realized without spending one single tax dollar, without any government subsidies or any government mandates.

EPHIC is supported by nearly 100 organizations representing small businesses, large businesses, the self-employed, churches, hospitals, medical groups, agricultural, and rural interests and insurance companies. The bill currently has 152 cosponsors, including 23 Democrats.

Mr. Speaker, I think this is a sound idea whose time has come.

Mr. PALLONE. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, the best way for me to illustrate the flaws that are contained in this bill is to focus on the harm it does to our Nation's children. Beginning with children's health care, a majority of this House, myself included, voted for the balanced budget resolution which promised $16 billion to cover five million of the 10 million uninsured children in America today. But even though most of us wanted to cover all 10 million, we felt that acting in good faith we could get to 5 million now and then address the remaining later on. Well, guess what, Mr. Speaker, this bill does not even cover 1 million children. According to the Congressional Budget Office, the Republican leadership's proposal would provide coverage for about half a million children. The CBO assumes that much of the 16 billion will be passed on to hospitals and other providers who get shafted under this plan and basically not to purchase health insurance for children.

The Republican leadership, in effect, which is purporting to be the party of fiscal conservatism, takes $16 billion and, in my opinion, throws it away. The Democrats offered several alternatives to this impotent policy. First we sought to plug up the so-called direct services loophole that lets a State spend its money on purposes other than insuring kids. The Republicans defeated that amendment in the Committee on Commerce. Then Democrats proposed to expand Medicaid and outreach to cover more kids with an existing health insurance program that already works. We know that Medicaid works, but the Republicans said no to that too in the Committee on Commerce.

And finally we put forward a proposal by the Democratic Caucus Health Care Task Force, a comprehensive approach to expand Medicaid, give States matching grants to cover kids above the income levels that qualify for Medicaid and require private insurance companies to provide kids only policies at reasonable costs, and the Republicans shot that down too in the Committee on Commerce and again in the Committee on Rules when we proposed it the other day.

We are considering a bill today which violates the balanced budget agreement and which I supported as did most of my colleagues here. The bill we are considering today takes health care money away from children, it does not expand health care, it takes it away from children. This is not what we intended when we supported the balanced budget agreement, so we will not support this bill today. It is just another Republican attempt to cost shift, and unfortunately, Mr. Speaker, the cost shift is right on the backs of our Nation's children.

Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts [Mr. KENNEDY].

Mr. KENNEDY of Massachusetts. First of all, Mr. Speaker, I appreciate the gentleman from New Jersey yielding this time to me. I think we all ought to recognize the fine work that the gentleman from New Jersey [Mr. PALLONE] and others in the caucus have done in trying to bring attention to the fact that we have so many children in this country who still do not have basic health insurance.

Most people think that health insurance is provided as a matter of right to kids in America. The truth of the matter is that amongst the very poor children, that is true under the Medicaid Program. But again, working families, the children of taxicab drivers, the children of waiters and waitresses, working families simply do not have health insurance; and that is where this bill, I think, has had some dramatic failures.

I wanted to point out to my friend from New Jersey, Mr. PALLONE, that there is an additional problem with this language that is contained in this bill. The way the actual funding for the program would operate would allow the money to go to States where there are larger numbers of uninsured children. As a result, States like Massachusetts and Pennsylvania, States like Florida and Tennessee would be dramatically hurt under this proposal because in those States they have already taken action to insure large numbers of uninsured children. As a result, where States have chosen to step in and take responsibility for those kids, those States would actually be penalized under the formula that was passed by our Republican colleagues.

So I think that it is important that we have an opportunity to change this, and I was surprised that the Committee on Rules, particularly as the chairman comes from New York, where they have a significant program, did not allow us to offer an amendment to change that funding formula.

Mr. PALLONE. Mr. Speaker, I appreciate the comments of the gentleman from Massachusetts [Mr. KENNEDY].

Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. BROWN].

Mr. BROWN of Ohio. Mr. Speaker, I appreciate too, as the gentleman from Massachusetts [Mr. KENNEDY] said, the work the gentleman from New Jersey [Mr. PALLONE] has done on children's health. I am concerned in what has happened with Republican efforts to, quote unquote, cover some of these 10 million children that do not now have health insurance. Pretty clearly, the Democratic idea of using Medicaid, a program that is in place where administrative costs are low, a program that has a couple of decades of working effectively and efficiently to insure poor and near-poor children; it is in place, it works, it makes sense to do that.

I am concerned with the Republican plan for a bunch of reasons:

First, there was talk earlier of using all kinds of tax schemes. I am concerned about the tax schemes that the Republicans tried. Now I am concerned about this whole block grant effort that the Republicans want to use to just turn money over to the States, when it is clear from all kinds of analyses, whether it is the legislative budget office or other analyses, that show that in fact this money likely will not be there to insure children. It is more likely to be frittered away by Governors, and this is sort of something the Governors want because they want to play with this money.

We should have learned this in the last 5 years of what happened to something called disproportionate share, where all kinds of money went to the States that was not used for health care. Some cases it was used for things like highways, and we want to make sure this money, $16 billion goes to insure millions, not a few hundred thousand, but millions of children that now do not have health insurance directly through a Medicaid program, not frittered away so the Governors have some kind of slush fund to plug holes in their budgets. It simply does not make sense that way.

The SPEAKER pro tempore. The time of the gentleman from New Jersey [Mr. PALLONE] has expired.

Mr. SHAYS. Mr. Speaker, I yield 2 minutes to the gentleman from Delaware [Mr. CASTLE], the former Governor of Delaware.

Mr. CASTLE. Mr. Speaker, I thank the gentleman for yielding this time to me, and I rise in strongest support possible of H.R. 2015, the Balanced Budget Act of 1997.

This budget deal explicitly outlines the parameters by which this Congress will balance the Federal budget and reduce the deficit to zero by the year 2002. This is a truly historic achievement which demonstrates that, when we work in a bipartisan fashion, we can achieve the mission of fiscal restraint our constituents elected us to achieve. Our constituents have become increasingly cynical about government, and agreement will help restore confidence in the institutions and processes of government. It represents a triumph of the political system and a fulfillment of the voters' 1996 command to Congress to help solve our budget problems in a bipartisan fashion.

Passing the first balanced budget since man walked on the moon is a solid and constructive beginning. We need to look no further than the States which started this process about 25 years ago and in that time has started to balance their budgets, improve their economies and receive ratings of excellent or very good for all their budgetary restraints and have done a superior job. Our constituents will benefit from this.

It has been said by Alan Greenspan that interest rates may lower by 2 percent, and that is tremendous when we look at investment returns, lowering credit card and car loan rates, reducing mortgage payments, lowering consumer products' cost and creating more jobs and of course producing a better environment in which to provide tax relief.

With this 5-year budget we begin a long-distance marathon which will require us to remain steadfast in our desire to ensure that this budget agreement translates into a budget that delivers on its promise of less spending, a smaller government and tax relief for all Americans even after the year 2002. While I am concerned that stronger budget enforcement mechanisms were not included to ensure the deficit revenue and spending targets will be met, I am pleased that the Republican leadership has agreed to address this issue in July. This is a solid step forward and will help show the American people that now more than ever the Congress is engaged and committed to achieving a balanced budget.

Mr. PALLONE. Mr. Speaker, I reserve the balance of my time.

Mr. SHAYS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Virginia [Mr. MORAN].

Mr. MORAN of Virginia. Mr. Speaker, I actually rise in support of this budget agreement, but I particularly want to emphasize one aspect of it that has not gotten sufficient attention. All of us are concerned about the fact that there are about 41 million people who are uninsured in this country who cannot get the health care that they need. Now 80 percent of them are working, they are working; that is the main point, and they are working for small employers. But we cannot figure a way to get affordable, accessible health insurance to them.

The Fawell bill, which is included in the reconciliation bill, is the way to do that. It enables them to pool their employees so that they have leverage with insurance companies and they can purchase insurance for the first time for a large part of these 41 million uninsured people. Most of them are children.

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So I would hope that we would do this. It helps labor unions, it helps small businesses, it helps trade associations, it helps the American people who desperately need affordable health insurance.

Let me say, Mr. Speaker, I do not disagree with almost all of the objections that have been raised. I do object to the conclusion. I do think we ought to vote for this budget agreement. It moves us forward. I think we have made a major step in moving from an annual bookkeeping exercise to one where we debate real national priorities. We are going to have an opportunity to improve it on the Senate side, in the conference agreement, and certainly the President is going to insist that many of the Democrats' most serious objections are taken care of in the conference agreement.

I think that we ought to vote for this budget agreement, for this reconciliation package, and we certainly need to include the Fawell amendment in it if we want to really address people who need help with their affordable health insurance.

Mr. SHAYS. Mr. Speaker, I yield 2½ minutes to the gentleman from Missouri [Mr. TALENT], a member of the Committee on Education and the Workforce, but also the chairman of the Committee on Small Business.

Mr. TALENT. Mr. Speaker, I thank the gentleman for yielding me this time. I want to congratulate him on his outstanding work. I look forward to supporting this afternoon a historic bill that will provide a balanced budget for the American people, and then tomorrow, to support a bill that will provide tax relief within that framework. It is a historic and outstanding and bipartisan achievement and all of those behind it deserve congratulations.

I want to talk just a moment about a very important part of this bill. It is a part of the bill designed to preserve the integrity of the works provisions in last year's welfare bill, a bill that is working around the country. For the first time, welfare caseloads around the country are dropping. People are substituting paychecks for welfare checks, and that is so good for them and so good for their children and so good for their communities, but there is a danger here.

There are some folks in this body and some at the other end of Pennsylvania Avenue who want to adopt a provision that would make the work provisions unworkable, unaffordable to the States and unworkable in terms of their purpose.

Let me describe it with an illustration. Right now the work provisions require that certain parts of the able-bodied people on welfare have to go to work and if they cannot get a job in the private sector, they have to provide community service, and that is good. Let us suppose that they are helping out as a clerk, as a part-time clerk in some Government office 20 hours a week.

What these people are talking about doing would require that these individuals be paid comparable wages with people who are clerks in the area, maybe, $7, $8, $9 an hour. Plus they continue to get Medicaid, subsidized housing, food stamps, and they get all the other web of protections that we provide employees in this country: Unemployment compensation, workers' compensation, Family and Medical Leave Act, thus increasing the cost of this program, making it unaffordable to the States and turning it into a program that sucks people onto welfare. Because how unfair would that be to the individual who does not go on welfare and just gets a job as a clerk? All they have is their pay and the protections that we give employees. They do not get Medicaid or subsidized housing or food stamps.

The work provisions are designed to create a bridge from welfare to work, and by making it unaffordable we would knock down that bridge so that people would never get from welfare to employment. It was not intended in last year's bill, we should not do it now, it is the wrong thing to do.

What we provide in our bill is that individuals have to be paid the minimum wage; the FDC and their food stamps have to constitute the minimum wage. We provide them protection from discrimination, from unhealthy or unsafe conditions, and they can continue to enjoy their other welfare benefits. That is the way to go. Keep the workfare provision strong. Support this bill.

Mr. SHAYS. Mr. Speaker, I yield myself 30 seconds to point out to the gentlewoman from Hawaii who spoke earlier that in the State of Hawaii, the benefit that a welfare recipient receives is $13.65 an hour just for the cash payment and the food stamps. That is what they are required to pay off in a 20-hour work period. In the State of Connecticut, it is $10 an hour.

The kindest thing we can do for someone is to move them off welfare and into work, and this is what our legislation does.

Mr. Speaker, I reserve the balance of my time.

Mr. PALLONE. Mr. Speaker, I yield 1½ minutes to the gentleman from Arkansas [Mr. BERRY], one of my colleagues on the Democratic Health Care Task Force which put together a very comprehensive program to reach and cover the 10 million children that are uninsured.

Mr. BERRY. Mr. Speaker, I rise today in reluctant opposition to this budget package. I am a strong believer in the need to balance the Federal budget. I cosponsored legislation that would require a constitutional amendment to balance the budget.

Three weeks ago I supported the spending goals laid out in the budget resolution. Today, however, I cannot support the policies that have been crafted to stand behind those numbers.

One of the most troubling policies contained in this budget is the children's health reform package. Fiscally irresponsible, $16 billion, no strings attached, giveaway of the taxpayers' dollars. I am a strong supporter of ensuring that every child in America has access to affordable health care. However, this proposal does nothing to ensure that the $16 billion will go to those who need it most, the children. In fact, the Congressional Budget Office estimates that the $16 billion we are spending will cover only 520,000 children.

Let us do the math. Mr. Speaker, 520,000 children, $16 billion, $31,000 per child, $6,000 per child per year. Surely our hardworking taxpayers deserve a more cost-effective approach than this. Our approach allows States to expand the Medicaid Program, outreach to the children, and do a better job with the $16 billion. Our plan is more prudent. I urge my colleagues to support this alternative.

Mr. PALLONE. Mr. Speaker, I yield 1 minute to the gentlewoman from Oregon [Ms. FURSE].

Ms. FURSE. Mr. Speaker, what I would like to do is just sort of explain in simple terms what this Democratic alternative is. What we felt was that we needed a private-public partnership, that Government cannot do everything, private industry cannot do everything, but together we can attempt to reach those 10 million children. It is a disgrace, it is a disgrace that 10 million children have no health insurance.

So our package says, reach out to the kids who are eligible for Medicaid, bring them in. Provide a plan that will increase the Medicaid opportunities, and then do some insurance reform, simple insurance reform that will say, insurance companies, you have to provide a kids-only policy, one that will not be denied to children. So if a family has no health insurance, maybe they are not eligible for Medicaid, but they cannot afford $400, $500 a month, there will be a policy available for them, a kids-only policy. Can it be done? Absolutely. In the State of Oregon we have a kids-only policy, $35 a month. I ask my colleagues to support this alternative because it reaches out to all the children.

Mr. SHAYS. Mr. Speaker, I yield 1½ minutes to the gentleman from Georgia [Mr. KINGSTON].

Mr. KINGSTON. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, 1969: The Vietnam war, Woodstock, Neil Armstrong was on the Moon, Jimi Hendrix experience, Mod Squad, Walt Disney was not even controversial yet, Richard Nixon was President and the budget was balanced, but that was the last time.

Today our national debt is over $5 trillion. That is an inconceivable amount of money.

Let me illustrate. One million seconds equals 12 days. One billion seconds equals 32 years. One trillion seconds equals 32,000 years. This is not acceptable to America's children.

If we balance the budget through this bill, we will lower interest rates. Lowering interest rates 2 percent on a $75,000 home mortgage over 30 years will mean middle-class taxpayers pay $37,000 less on their home mortgage. If we balance the budget with this bill, we can create more jobs because we will have more economic growth, more opportunities for Americans, minorities, and middle-class citizens.

Finally, we can have lower taxes, because the burden of a huge Federal debt and interest on that debt will not be as great.

Mr. Speaker, this bill is good for the middle class, it is good for the children, it is good for the United States of America, and I urge my colleagues to join me in supporting the balanced budget.

Mr. SHAYS. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. BOEHNER], our conference chairman.

Mr. BOEHNER. Mr. Speaker, the House is voting today on a plan to make the government smaller, less costly, and more responsible and accountable to the people that it serves. Members from both sides of the aisle have crafted it, and appropriately so. There is no single issue that should unite us more than eliminating the Federal budget deficit, because when the Government fails to balance its budget, it is not just being irresponsible, it is restricting the freedom of ordinary Americans to realize the American dream.

More than perhaps any other quality, Americans cherish the notion of freedom. But Americans recognize that with freedom comes responsibility, a responsibility to live within our means, to realize that our actions today will impact the lives of our children tomorrow. They live within those rules and they expect no less from their Government.

The plan we are voting on today is evidence that Washington is at last beginning to take its responsibility seriously. It reduces the growth of Government spending by nearly $1 trillion over the next 10 years, reversing the legacy of bankruptcy that we are handing off to our children. It saves Medicare from bankruptcy, ensuring that seniors of today, and tomorrow, will continue to have this vital program well into the next century. It allows tax relief for families, and individuals, at every stage of their life so they will have the freedom to save and plan for their future.

Mr. Speaker, the American people are the real winners in this plan. By taking this next step toward balancing the budget for the first time in a generation, we take another giant leap toward restoring their freedom to chase the American dream. It is our responsibility to follow through on our promises that we have made to them.

Mr. SHAYS. Mr. Speaker, I yield 1 minute to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Speaker, I would say that I do believe that we should pass this program. Balancing the Federal budget is absolutely essential to protect the Nation's short-term, and long-term financial health and certainly to ensure our children and grandchildren a greater tomorrow.

I want to especially thank the chairman of the committee for his work that he is going to do, specifically mentioning the needs of New Jersey with respect to the Medicaid needs and the DSH formula.

I do want to say that I have a question and a reservation with respect to the Small Business Association ERISA reforms of the bill. I will be moving to correct those reforms. In my opinion, they do not belong in this bill, they really should be separated out, and I would hope that we could work on that in conference. But without reservation, we must support this as an ongoing program and assure that we are keeping our promise to the American people.

Mr. PALLONE. Mr. Speaker, I yield 1¼ minutes to the gentlewoman from California [Ms. ESHOO].

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Ms. ESHOO. Mr. Speaker, as the American people listen to us this afternoon as we engage in this great and important debate about our Nation's budget, it really is a statement of our values. The President came to the Congress, and in his State of the Union Message delivered part of the message, there were 10 million uninsured children relative to health care in our country.

The parties came together and said, this is a priority. We then went to write in, to fill in the blank, of how we would plan to insure the 10 million uninsured children in our country. There is only one plan that has been advanced that actually works and reaches out to the majority of the children in our country. It has not created a new entitlement, there are no unfunded mandates, but neither is it a giveaway to our Nation's Governors. It puts children first by building on the public system; by saying to the insurance companies, it says to the insurance companies that you can indeed offer children-only insurance policies. It rewards States that are doing even more for children, and it is the only plan, according to the CBO. The CBO says that the Republican plan will cover only 520,000. That is a deficit for our Nation.

I urge that we support this plan. I will not support the budget plan contingent upon this.

Mr. PALLONE. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I will put a longer statement in the RECORD on the health aspects of this budget reconciliation bill, but I do want to point out that we are missing an opportunity to cover children as fully as we might in the most certain and effective way we can.

What we have in the bill is a good start. What we have in the budget is $16 billion, but it would be most effective if we were certain that the money would be spent to buy guaranteed coverage with the benefits that children need.

We have a model for this and it works. It is called Medicaid. We ought to help States do a better job with that program, and with the block grant money, we ought to be sure it is spent on what we intend, to buy health insurance coverage for uninsured children. It is not supposed to be a pot of money for States to refinance their own health services facilities. It is not supposed to be a replacement for DSH, it is supposed to help kids.

We can do better. In Medicaid and Medicare, while there are some positive steps, it seems to me on balance I cannot endorse this legislation.

Mr. Speaker, we are missing an opportunity today to assure that we are extending coverage to millions of uninsured children in the most certain and effective way we can.

We have $16 billion to spend here. This is not enough to cover all the uninsured children, but it is a good start.

And it will be most effective if we are certain that the money is being spent to buy guaranteed coverage, with the benefits that children need.

We've got a model for this—and it works. It's called Medicaid. We ought to help States do a better job with that program.

And with the block grant money, we ought to be sure it's spent on what we intend: to buy health insurance coverage for uninsured children. It's not supposed to be a pot of funds for States to refinance their own health service facilities. It's not supposed to be a replacement for DSH. It's supposed to help kids.

We can do better.

And the changes this bill makes in Medicaid and Medicare are not acceptable.

I recognize that these provisions are dramatically improved from those brought before this House in the last Congress. But being better than something that was totally unacceptable is not good enough.

I also recognize that there are some things in this bill, particularly related to Medicare, that are very positive. The preventive care benefits added to Medicare are long overdue, and will be very helpful to Medicare beneficiaries.

But on balance, I cannot endorse this legislation.

I cannot vote in support of the establishment of medical savings accounts [MSA's] in the Medicare Program. I know this is a demonstration—but it is a massive one. And it is a bad one.

MSA's cost Medicare money. They cost $2 billion. This is money that should be left in the Medicare Trust Fund or spent on benefits that all Medicare beneficiaries need. Instead, we're spending $2 billion to benefit people who are healthier and wealthier. They leave the many Medicare beneficiaries of moderate income, the ones whose health is more precarious, bearing the cost. That is wrong.

The changes in how managed care organizations will be paid by Medicare are also extreme. They will cause severe problems in higher cost urban areas. An initial attempt to rationalize payments became a free-for-all in which HMO's in urban areas, and the beneficiaries who are enrolled in them, are the losers.

And while this bill is better as a result of the amendment approved by rules in its protection for low-income Medicare beneficiaries, it does not meet the budget agreement terms of full payment of the Medicare premium for people below 150 percent of poverty.

Many of the changes this bill makes in Medicaid are also not ones I can support. Put simply, the cuts in the disproportionate share program are too large, and they are not designed to protect either the hospitals that serve very large populations of low-income people, or States which have spent all of their DSH moneys on these kinds of hospitals.

I cannot vote for a proposal that will result in a 20 percent cut of DSH dollars in my own State of California by 2002. I cannot endorse a policy that leaves large public hospitals, children's hospitals and hospitals with low-income utilization rates of 25 percent or 30 percent without first call on the funds available.

I cannot support legislation that undermines a poor woman's right to choose.

Finally, I look at the bill currently being debated by our colleagues in the Senate, and I see a number of provisions that will be brought into conference that would make this bill considerably worse.

It is not good enough now. It should be made better. It must be made better before it will have my support.

Mr. PALLONE. Mr. Speaker, I yield 30 seconds to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE of Texas. Mr. Speaker, I acknowledge to the gentleman from Florida [Mr. SHAW], just as a correction, that I voted for the Deal amendment on welfare reform, which really worked, but I rise today because I do not want to pit children against my hospitals in Texas. I do not want to give a windfall to those Governors who may not focus on the need to insure the 10 million children who are uninsured.

We have a real health plan that does not pit hospitals against children. It is extremely valuable that we move forward on a budget reconciliation that protects workers, protects children, and provides for the hospitals in the State of Texas.

Mr. Speaker, I rise today to express my vehement opposition to H.R. 2015, the Budget Reconciliation Act. The problems with this bill are almost too numerous to list. However, I am compelled to report to the American people some of the most dismal aspects of this legislation.

First, H.R. 2015 contains a provision which reduces Medicaid spending by $11.4 billion, primarily by reducing payments to hospitals that serve a disproportionate share of low-income patients. The Disproportionate Share Hospital [DSH] program was created to ensure health care for the elderly, the indigent and the Nation's young people. It was specifically designed to reimburse hospitals that serve a disproportionate number of uninsured or indigent persons.

The DSH program is an integral part of the Medicaid Program in my home State of Texas. DSH is critical in providing quality health care to Texans who cannot otherwise afford it. A reduction in payments to these hospitals, therefore, discriminates against Texas because it singles out high-DSH States for cuts.

Without DSH funding, many of Texas' rural hospitals cannot continue to operate. Many counties will lose access to a medical center for hospital, outpatient and physician-based care. When those hospitals which serve the largest proportions of poor, low-income seniors and young persons suffer severe cuts in Federal funds, tens of thousands of low-income Americans will feel the pain.

Also included in this bill is a troubling provision commonly referred to as the Hyde amendment. This discriminatory provision would permanently prohibit the use of funds to pay for any abortion or to pay for any health plan that covers abortion, except if the life of the woman would be endangered, or if the pregnancy was the result of rape or incest. The inclusion of this language in the budget reconciliation bill would permanently write into Federal law a ban on abortion funding for low-income women and thus deny them access to vital reproductive health services that are available to others. This places disadvantaged and poor women in a substandard health environment which says to them that we do not care. This ban could force some women to resort to unsafe alternatives and others could suffer delays resulting in more risky procedures. One way or another, society will have to bear the costs of providing medical and support services for the eligible recipients under this block grant who are not able to terminate crisis pregnancies.

Let me now turn my attention to our Nation's immigrants. H.R. 2015 restores benefits to those low-income legal immigrants who were receiving SSI benefits when the welfare reform legislation was enacted last August and lost those benefits. However, this is nothing more than a Trojan Horse because the bill does not provide SSI benefits to legal immigrants who were in the country as of last August, were not receiving benefits in August, but who later became disabled despite the fact that this was part of the budget agreement. The President has threatened to veto the bill because of the absence of these benefits. We should not allow this Trojan Horse to leave the floor of the House.

Finally, the funding in H.R. 2015 for a children's health care initiative is turned into a block grant which even the Congressional Budget Office estimates may only cover 500,000 additional children—not the 5 million goal children agreed to in the budget negotiations. This seems to me to be obvious evidence that the concern some Republicans have expressed for the 10 million children without health care in our country, is little more than lip service. If their concern was deeply-felt we would find that H.R. 2015 provided a sincere effort to reach as many of these children as possible. It does not.

Mr. Speaker, I, like many of my colleagues would like nothing more than to vote for legislation that is a step toward bringing the national budget into balance and eliminating the deficit. I believe, however, that it is possible to do this in a manner that is balanced and compassionate. H.R. 2015 is neither and for this reason I oppose it and urge my colleagues to do the same.

Mr. SPRATT. Mr. Speaker, I yield the balance of my time to the gentleman from Texas [Mr. STENHOLM].

The SPEAKER pro tempore [Mr. DREIER]. The gentleman from Texas [Mr. STENHOLM] is recognized for 1¾ minutes.

Mr. STENHOLM. Mr. Speaker, I rise in support of this reconciliation bill. This bill takes another important step toward achieving a balanced budget. As one who believes that enactment of a fair and responsible plan to balance the budget by 2002 and beyond is critical to the future of our country, I believe it is extremely important that the House vote today to send this bill to conference and keep the process moving.

The efforts of President Clinton and Congress have resulted in 5 consecutive years of declining deficits and the lowest deficit since the Carter administration. The agreement builds on this tremendous achievement, and continues the glidepath to a balanced budget.

I am gratified that in numerous instances this reconciliation bill reflects the influence of Blue Dog budgets. The savings levels and the policies for Medicare and Medicaid and other programs are quite close to the savings levels and policies we predicted would comprise a reasonable compromise.

Anyone who has ever tried to lead knows there are a dozen attacks on why a plan is bad for every one suggestion of how it might be improved. I remain solidly in the camp of those who will work for a constructive compromise.

In that vein, I congratulate the President and his staff, the gentleman from Ohio [Mr. KASICH], the gentleman from South Carolina [Mr. SPRATT], and all of their staff for their hard labors which have brought us to this point. This has been a good-faith effort to work out the countless policy issues that need to be resolved for the budget agreement to achieve a savings in a fair and equitable manner.

I remain concerned about the impact of some of the policies of this reconciliation bill, and particularly I am very concerned about the impact that the policies for achieving the savings in the Medicaid Disproportionate Share Program will have a harmful effect on small rural and inner-city hospitals.

However, we need to remember that this bill has a long way to go before it is enacted into law. The administration will continue to work with Republicans and Democrats to work out these remaining problems. My primary concern is the lack of meaningful enforcement, but we will yet have another attempt at making that correction.

Mr. PALLONE. Mr. Speaker, I yield the balance of my time to the gentleman from California [Mr. FAZIO].

The SPEAKER pro tempore. The gentleman from California [Mr. FAZIO] is recognized for 1½ minutes.

Mr. FAZIO of California. Mr. Speaker, I am very disappointed at this point. I voted for the budget resolution, and I looked forward to the bipartisan cooperation we saw then put in place so we could vote today to send this bill to conference in the same bipartisan manner.

But the bill comes up short. We do not need a provision to take the Hyde language on abortion and make it permanent law. We need to pay more attention, for example, to the way in which we try to extend health care to the 10 million kids in our society that are not covered by insurance today.

First of all, we need an outreach program, because we know there are 3 million of them that are currently eligible for Medicaid who are not part of it. We need to expand the Medicaid program to try to broaden coverage throughout our States. On top of that, we need insurance reforms that will make it possible for parents to buy insurance for their children if the children do not get it where they work, or if the children are not covered.

Most of all, we need to work with the States to go after the kids of the working-poor families who are not covered, but simply, to make a grant to the States and tell them they can use it for almost any purpose is going to do nothing more than supplant existing State funds. We need to expand affordable insurance coverage and not simply go through a shell game with State and Federal dollars.

There are ways we can make this a better bill. I hope I can support it when it comes back from conference. I am optimistic I can. I want to give credit to the gentleman from Ohio [Mr. KASICH], my good friend, and the gentleman from South Carolina [Mr. SPRATT]. They have resolved a number of problems before they came here today. They have not gone as far as they must go.

The process should go forward, but those of us who remain unhappy with the progress we have made today need to keep before the President and this Congress the pressure to do a better job. I look forward to voting for a better job, and I hope it can be accomplished.

Mr. SHAYS. Mr. Speaker, I yield the balance of my time to the chairman, the gentleman from Ohio, [Mr. JOHN KASICH], the gentleman who began this long march toward a balanced budget in 1989.

Mr. KASICH. Mr. Speaker, let me first of all compliment my colleague and friend, the gentleman from South Carolina [Mr. SPRATT]. He has been obviously in a difficult position with some of his very top leadership aggressively opposing the agreement. He has also been a party on a day-to-day basis to the difficulty of being able to write this whole agreement, which has taken a period now of about 6 months. I want to thank him for his support. But I think the gentleman from South Carolina really is in a position to be able to understand what we have gone through on this, and to understand the good-faith efforts that have been made by all sides.

First of all, if we want to have an excuse to vote no, Members can come up with anything they want. I am very disappointed to see some of my friends and colleagues on the other side of the aisle coming up with nothing more than excuses to oppose this bill that is before us today, because the White House supports it. The reason why the White House supports it is because we have kept the spirit of this agreement.

Imagine this: about 4 or 5 months ago we started negotiating the entire operation of the Federal Government in an effort to balance the budget and come up with tax cuts. We ended up reaching an agreement. We kept our word to obviously let this House vote on two separate bills, the bills to cut spending to balance the budget, and tomorrow a bill to reduce the taxes and give some more power back to the American people.

We took this agreement, which was laid out in many, many pages, and we went to our committee chairmen, all of whom felt very strongly about the fact that they wanted to design some policies the way they thought made more sense.

I will just give the Members one example. The gentleman from Florida [Mr. SHAW] decided that he thought it was essential that we cover those people who are currently disabled who might find themselves off the rolls in a review process, our noncitizens. He decided it was more compassionate to help those people than to help a group of people who were here before the welfare bill was passed who might become disabled.

This was just an honest difference in terms of how we can spend money to be compassionate for people. It would be wrong, it would be unfair, and it would be unjust to accuse the gentleman from Florida [Mr. SHAW] of trying to violate the agreement. It was an honest difference in terms of how we would best help people who were in need.

Furthermore, the gentleman from Florida is the chairman of a subcommittee. He has the right to carry out some legislation, and at times the Speaker and I had to sit in rooms and we had to direct a whole panoply of activity across our conference under the grounds of making sure that this agreement was carried out in terms of its spirit.

Frankly, if Members take a look at the efforts that have been made contained in this reconciliation bill, we have done a job that is unparalleled in this House in modern times. The committee chairmen, constructively, to meet the agreement, they worked aggressively and with great bipartisan effort to bring the other side to this agreement, and at the end of the day I think we are pretty well there.

Let me just suggest one other thing that I would like Members to think about as they are in their offices, if they are a Democrat, when they want to come over here. Think about the House, for once. This is a terrific opportunity to join together to do something that we have not done in 30 years. We have a realistic chance. I predict, I believe, we will in fact have a bill. It will be signed into law. We will have a tax bill, it will pass, it will ultimately be signed into law. We are going to have a balanced budget. We are going to have tax cuts.

I think it represents a new opportunity for this House to push aside this partisan wrangling that we have been involved in over the period of the last several years and come together on something. This is just a matter of common sense. Mr. Speaker, if we had not lived up to the spirit of this accord, the administration would not be supporting the passage of this bill.

I ask Members to listen to their hearts and listen to their people. Do not listen to a bunch of people who want to find an excuse to keep this House divided, who want to find an excuse to nitpick, who want to find an excuse to downgrade the actions of our chairman, who tried to reach across the aisle and bring a document out here that really made sense and could really represent bipartisan spirit.

Let us just get out here today, come over here, give us a "yes" vote, move this bill into conference. There will be additional changes that will occur. But I would like to say to the rest of the Members in this House and to their staff and the people who watch this debate, it is a terrific day. We are going to balance the budget. The Berlin Wall of big government has fallen. There will be tax cuts. It is all going to happen because we stuck to principle. We believe in less government, we believe in shifting power, money, and influence from this city, and it is no longer rhetoric, Mr. Speaker, it is reality.

We are going to vote here today and we are going to move this process along, and at the end of the day, with the process of further give and take, not deviating from our principles, we will have signed into law before the end of this year the first balanced budget since man walked on the moon.

I think it gives the American people a little bit of hope that maybe some of us can get it right here in town, but let us not be confused. There is a proper role for the Federal Government, but into the future it will not be about the power of Government. It will be about the power of every man and every woman and every boy and every girl in this country to live their dreams, to be creative, innovative, be rewarded for their action, and to really, frankly, as we head into this third millennium, be able to gain speed in terms of the power of the United States to influence not just our hemisphere but the entire world, and to make a stand on which all of mankind can be proud.

Mr. OWENS. Mr. Speaker, I rise in strong opposition to the Budget Reconciliation Spending Act (H.R. 2015). Nothing is more important than the discussion of the budget. Our Nation's values are all locked up into the way it proceeds with its budget. What we really care about we should discover by watching what is included in the budget and understanding that what is really important to this Nation should be reflected in its budget. H.R. 2015 contains numerous modifications to entitlement programs—programs that are the last resort for many of America's children, women, and families.

While Congress is moving forward in the budget process, my colleagues must be reminded that our starting point—the White House-Republican budget agreement—was insufficient, especially in the area of education. We should have a budget which is not apologizing for the amount of money in it for education. It is crucial that we bring 21st century technology into our 19th century schools. The GAO estimates that we need $135 billion to rebuild our Nation's schools. My colleague from New York, Representative LOWEY, introduced a bill to forward the President's $5 billion initiative to stimulate funding to rebuild America's schools. These funds were not included in the White House-Republican agreement. Without the school construction initiative proposed by the President, many of the schools that have the greatest needs will not have the buildings to provide a safe and decent place for children to learn. The second area, is Head Start. There are an estimated 2.1 million children eligible for the Head Start Program. According to an analysis by the National Education Association, $11 billion is required to ensure that all of these children have access to early childhood learning, a crucial component in their developmental process. The funding necessary to serve these future American taxpayers again was not a part of the historic agreement. What message are we sending to the Nation by not funding this vital program for children 4 years old and under?

Today, we enter the stage in the budget process where permanent spending priorities are being proposed under H.R. 2015. The entitlement programs with the largest reduction in this bill are Medicare—$115 billion—and Medicaid—$11 billion. Why do we continue to cut Medicare and Medicaid? We do need to address Medicare and Medicaid in a new way, and stop the assumption that these programs are where most of the money is, and therefore justify proposals to cut Medicare and Medicaid. The savings that Medicare will yield will come from cutting payments to providers, $102 billion, mainly hospitals and health care plans, as well as $12.9 billion in increased premiums in Medicare part B to be paid by the Medicare beneficiaries.

That was yesterday's language. Today, the Republicans tell us that the increased premiums will be paid by some beneficiaries. These beneficiaries are described by their income percentage of the poverty level. For example, beneficiaries with incomes between 100 percent and 135 percent of the poverty level will not have Medicare part B premium increases; but, for those with incomes between 135 percent and 175 percent of the poverty level, the measure will cover that portion of the premium that is attributable to the transfer of home health services from Medicare part A to part B. Who will decide whether those with income at the 135 percent of poverty level be considered in the free category or premium increased category? Why are we being forced to move in a way which will penalize our elderly and our poor people?

The bill includes $16 billion over 5 years for a new child health assistance block grant. While $16 billion is better than nothing, it is estimated that the plan is far short of reaching one-half of the 10 million children who are without health coverage. Why has this funding for children's health care been changed to a block grant? Under the block grant concept, funds would be distributed to States based on the State's share of uninsured children, and then adjusted for the average cost of health. This appears to be a ball of confusion to me. We were grateful for the small step forward when we asked for funds to insure one-half of the uncovered children. Yet, the Congressional Budget Office recently released figures that indicate as few as 500,000 children would benefit from the block grant proposal. 500,000 is a mere drop in the bucket and embarrassingly short of the dramatic health care needs of this country's children.

Just a week ago, I welcomed the joint resolution celebrating the end of slavery in the

United States. I thought that it was a small gesture. However, it is an important one for a lot of Americans, both black and white, and I was pleased to see that not a single Member of the House of Representatives voted against this joint resolution introduced by the gentleman from Oklahoma [Mr. WATTS]. But today, when I see certain provisions included in the Welfare-to-Work Program, my pleasure is gone. The resolution that passed last week was simply a nonbinding, politically correct bill. Yet, today we are considering a bill that could become permanent law and would resort to a declassification of workers in the Workfare Program. I see benefits that every American in the workplace share not included in the welfare program. These workers, because they receive temporary assistance for needy families, would not be considered employees and would be deprived of protections under the Fair Labor Standards Act. These workers, both white and black, would be treated as second-class citizens. They would not be covered by the Equal Pay Act, title VII civil rights protection's SHA, or the family leave laws. Because they receive temporary assistance for needy families they are not protected against sexual harassment as other workers. This regulation states that "women subject to sexual harassment on a welfare-to-work assignment could be required to seek redress from the very agency that employed them." H.R. 2015 contains no appeals rights, and no court redress for workfare participants. Where is this Nation going? Where are our values? We have laws that protect all other workers from sexual harassment in the workplace. Are we sending the message that it is alright to sexually harass poor or needy women? This sounds like slavery all over again.

In direct breach of the so-called budget agreement, H.R. 2015 would sanction the discrimination and gross mistreatment of workfare participants. Yesterday, the New York Times documented a tragedy in which a 50-year-old Workfare participant in New York died on her job. Apparently, this individual suffered from coronary heart disease and was not able to work. Yet, the individual's well-documented medical history was allegedly ignored. The Times revealed that many workfare workers have complained about genuine health problems, and were still forced to work in conditions inimical to their health. And Congress' unconscionable answer to this is to ensure that wronged workfare workers have no Federal protections.

Moreover, H.R. 2015 reneges on the White House-Republican budget agreement's promise to restore benefits to legal, disabled immigrants who face termination from the SSI program in October. H.R. 2015 would ensure that those immigrants who received SSI before the date of the welfare reform bill's enactment, August 22, 1996, will continue to receive them. However, no provisions are made for those elderly, legal immigrants who were in the country by August 22 and became disabled after this date. At best, the omission of this protection reveals a distorted understanding of an agreement. At worst, it indicates a careless, despicable disregard for our legal immigrants who lack the ability to secure the resources needed to sustain a minimum standard of living.

Undoubtedly, this bill still needs more work. This Nation's budget must reflect our values. Our values do not rob the poor and our children to provide for the rich. We must educate our children, all ages. We must build new schools. We must provide child health care for all needy children. We must keep freedom alive for all citizens. And we must do all of this without cutting Medicare and Medicaid, thereby, penalizing our elderly and our poor. I urge my colleagues to reject this shameful budget bill and vote "no" against H.R. 2015.

Mrs. JOHNSON of Connecticut. Mr. Speaker, today I rise in support of the Balanced Budget Act of 1997. Specifically, I strongly support the provision that will allow any permanent resident who was receiving supplemental security income [SSI] as of the enactment of last year's welfare bill, August 22, 1996, to continue to do so.

I believe the noncitizen provisions in the Balanced Budget Act are compassionate and fair. By grandfathering everyone currently on SSI, it does not require anyone to undergo an eligibility redetermination process. I consider this to be essential, since those on SSI are some of our most vulnerable members of society—poor, elderly, and disabled. Imagine telling an 85-year-old widow who qualified for SSI under the elderly category that she may, or may not, lose her benefits based on whether the SSI employees determine her to be disabled as well as elderly. The disability determination process can be lengthy, detailed, and often full of uncertainties, especially for those with a limited command of English. I did not support eliminating SSI for those noncitizens already on the rolls last year, and I continue to oppose any efforts to take away benefits for this group of people. Subjecting 300,000 poor, elderly aliens to the SSI redetermination process is unjust.

I have been working closely with the Polish and Hispanic communities in my district to restore what I view as harmful cuts in benefits passed as part of the welfare bill. I cannot think of one group of people more vulnerable than the elderly and disabled dependent on supplementary security income. In addition to grandfathering all noncitizens on SSI as of last August, I support efforts to provide a bridge to those noncitizens who become disabled in the future. Legal permanent residents need to be aware of their options in the future, before they become disabled. If they work, or their spouse works, for 40 quarters, serve in the military, or become a U.S. citizen, legal residents will qualify for SSI. I am optimistic that most permanent residents will be prepared to meet at least one of these criteria and so protect themselves in case of a disabling accident.

As a bridge, for legal residents not qualified for SSI but who are borderline, I support a transition period so that noncitizens who came to the United States under the old rules and who are already borderline disabled or disabled but supported by family would be able to receive help.

I urge my colleagues to join me in support of the noncitizens provisions of the Balanced Budget Act of 1997.

Ms. CHRISTIAN-GREEN. Mr. Speaker, I rise in strong opposition to the budget reconciliation bill because it will hurt everyone from children to low income workers to legal immigrants.

Over 1 month ago, my colleagues on the other side of the aisle heralded the reaching an agreement with the President to balance the Federal budget by the year 2002. However, in an almost complete turnaround, this spending bill before the House today reflects a near complete repudiation of that agreement.

In addition to refusing to honor the budget agreement on health-care coverage for low-income elderly and uninsured children, the bill before us today makes deep cuts in the very important Disproportionate Share Hospital Program and the SSI State maintenance-of-effort.

Of particular concern to me and my colleagues who represent the over 4 million U.S. citizens in the U.S. territories and commonwealths, this spending bill completely eliminates all of the increments for inflation adjustments to the Medicaid Programs in these areas, that was provided in the balanced budget agreement. My constituents and those of my fellow congressional Delegates whose health care costs we cannot adequately meet at our present capped funding levels, were counting on even this small increase in our Medicaid payments.

The territories are capped under current law in the amount of Medicaid payments we can receive and as a result, our current funding level does not permit DSH payments to our already struggling hospitals. This very punitive decision not to provide this very needed increase in Medicaid payments for the territories will severely undermine the already fragile health-care delivery system and impact severely on children and the poor in the U.S. offshore areas.

This reconciliation bill defiantly turns its back on a hard fought bipartisan balanced budget agreement that reflected a compromise on many important and controversial issues. We must insist that the majority live up to the agreement they reached with the President by voting no on this deeply flawed bill.

Mr. VENTO. Mr. Speaker, I rise in opposition to this spending reconciliation bill. I supported the budget agreement worked out by President Clinton and Congress which mapped an outline for a plan to lead to a balanced budget by the year 2002. However, this reconciliation bill breaks the promises of that plan in numerous ways and includes several negative provisions that are unrelated to the budget or savings. This measure turns this budget bill into a "Where's Waldo" game. The majority has loaded the bill with so many distractions that I can scarcely notice the real budget deal anywhere.

The budget plan which we passed last month was a package of important compromises. Each of us would have changed certain priorities of that compromise package and adjusted the spending cuts and taxes differently, but we had, for the moment, found common ground in order to make progress. The resulting package was a sign that we as policymakers were willing to work together to compromise and collaborate in finding common ground, moving forward and doing what is possible in the next 18 months to achieve a socially and fiscally sound Federal Government. I voted for the plan last month even though certain provisions were imperfect.

The Republican majority is not standing by the promises, obligations, and good faith of that budget agreement. They are mauling and manipulating key provisions of the agreement in order to advance a different agenda which hurts working families, seniors, and legal immigrants. By breaking and reneging on the budget deal, the majority is risking a return to the political stalemate and the Government shutdown which we experienced during 1995–96, and more recently, the congressional disaster on the flood relief bill.

The Republicans have belatedly backtracked on a couple of their negative policy proposals. For instance, they are now agreeing to abide by the budget agreement and set aside $1.5 billion to help low-income seniors with rising Medicare premiums. The original bill, before it was changed yesterday in the Rules Committee, would have negated the budget agreement and set aside only one-third of that amount for low-income seniors.

But while they have changed a few provisions, many serious problems remain. The Republican majority is playing a pea and shell game with protections for legal immigrants. The budget agreement said that we would restore benefits for all legal immigrants who were in the country prior to August 23, 1996, and who are or later become disabled. This was but a partial solution to the problems legal immigrants face under the 1996 welfare reform law. Today's bill, however, does not follow through on that commitment and would deny any assistance to a legal tax-paying immigrant who suffers a tragedy and becomes disabled after August 1996. This was not the intent or the spirit of the budget agreement and no amount of Republican rhetoric will change that fact.

There are a host of other provisions which go against the budget agreement. A major point in the agreement was to provide health insurance coverage for 5 million of the 10 million uninsured children in America. However, this has been manipulated to provide so much flexibility to States that the money will not be spent on new children's health coverage. Instead, it will be substituted for existing State effort on a host of unrelated health care needs.

Also in the area of health insurance, Republicans have added several unrelated and negative provisions, which were not part of the budget agreement. First, the Republicans have added changes to medical liability laws to cap malpractice damages, a provision which may very well attract a Presidential veto. Republicans have also decided to try to add medical savings accounts to Medicare, which will drain money from the trust fund to primarily benefit healthier and wealthier seniors. In addition, the bill will allow States to privatize, or contract out the eligibility and enrollment functions of the Medicaid Program.

The bill allows for the creation of Multiple Employer Welfare Arrangements [MEWA's], or health insurance sponsored by associations. While those who attempt to put the best face on this describe it as another option for people to obtain health insurance, the effect of this bill would actually exempt such MEWA's from State regulation, meaning that they would not be subject to solvency requirements and consumer protections. This provision would have a very negative impact on Minnesota, undermining key Minnesota proactive health care reform efforts and would prevent other States from utilizing such initiatives.

Finally, the bill takes an antiworker stance by undermining basic employment protections for people on welfare. Those on welfare in the world of work must be accorded the same treatment as other workers. They are not second class workers or citizens.

All of these provisions are made worse by the fact that the companion budget tax break bill, which is to be considered tomorrow, overwhelmingly skews tax benefits to wealthier individuals and corporations. The people who will be impacted by the cutbacks and negative policy proposals we are voting on today, will not see the benefits of the tax package we are voting on tomorrow. In fact, in the GOP version of the tax breaks, 70 percent of the tax breaks will go to those with the top 20 percent of incomes. Because of the way the tax breaks are structured, working American families will not see the full benefit of the HOPE education credit or the child credit, not to mention the capital gains tax breaks.

It is unfortunate that the Republicans have chosen to add so many things to this budget bill, because the basic framework which was agreed upon in the budget deal was a positive framework. The budget deal which we agreed upon last month would have extended the Medicare trust fund, even while adding crucial preventive benefits to Medicare; preserved the Federal guarantee to Medicaid; strengthened environmental protection and enforcement; truly expanded health coverage for 5 million uninsured children; and increased investment in education, including increasing the amount and number of Pell grants, increases for Head Start, and key targeted tax breaks for higher education investments. The Clinton/congressional budget deal demonstrates that our country does not need to renege on basic commitments to the American people in order to balance the budget. We can invest in our Nation's future through health care, education, infrastructure, and the environment and still achieve sound budget goals.

However, the GOP majority, with this budget deal, is writing the law as if anything goes, irregardless of the commitments made in that budget agreement, and is trying to push through antiworker and antifamily proposals. I regret that the majority has taken this approach. I would have been supportive of a fair bill which followed through on the budget agreement in a reasonable manner, but this bill does not do that. Therefore, I regrettably, but forcefully urge my colleagues to vote against this measure which is unfair and reneges on the basic agreement.

Mr. MATSUI. Mr. Speaker, the Medicare proposal under consideration today was created using an open, bipartisan process. This process created a package with many provisions deserving of praise. It includes, for example, a proposal that helps military retirees in obtaining Medicare benefits by waiving a late enrollment penalty for those individuals who have traditionally relied on health care services on military bases. These men and women, who have dedicated their lives to serving the Armed Forces, now often find that the military base on which they have depended for health care is closing. This provision will help the honorable military retirees of Sacramento, CA, who will lose meaningful use of military health facilities when McClellan Air Force Base closes in 2001. I have previously introduced legislation to address this problem, and am pleased to see a solution in the package currently under consideration.

There are, however, a number of problems in the Medicare proposal approved in the Ways and Means Committee. First, unlike the Commerce Committee proposal, the Ways & Means plan fails to allocate graduate medical education expenses [GME], indirect medical education expenses [IME] and disproportionate share medical education expenses [IME] and disproportionate share hospital payments [DSH] directly to the hospitals which they are intended.

Congress legislated GME, IME, and DSH payments to help teaching hospitals and hospitals serving a disproportionately large share of low-income patients. When a Medicare beneficiary selects to enroll in managed care, however, these payments follow the Medicare managed care recipient directly to the managed care entity. Although the intention is that the payments will be passed through to hospitals, this is not always the case. Rather, money intended for these hospitals is often kept by the Managed care entities as profit or spent on other services.

This problem grows more severe as more enrollees enter managed care. In Sacramento, almost 45 percent of the Medicare population is in managed care. When these payments are not passed on to hospitals, the impact is felt. Carving out GME, IME, and DSH from managed care payments would enable teaching and DSH hospitals to receive the same types of subsidies under Medicare risk-contract arrangements that they do under fee-for-service Medicare. It would ensure that money intended for these hospitals is actually delivered.

There is a second proposal in the Ways and Means Committee Medicare bill that is unduly punitive to hospitals. Under current law, payments for inpatient hospital services are made under a prospective payment system [PPS], in which a predetermined rate is paid for each inpatient stay based on the patient's admitting diagnosis. PPS payment rates are updated annually. This Medicare proposal, however, would freeze the PPS update factor for the 1998 fiscal year.

The PPS freeze is not necessary to accomplish the goal of achieving a balanced budget. There are alternatives that would achieve the same level of savings with a less immediate impact on patient care and market dynamics.

In addition, any claim that the freeze will not harm hospitals contemplates a national average—but not specific areas or types of hospitals. We cannot ignore patients in our teaching hospitals and other hospitals with high Medicare caseloads simply because more financially secure hospitals will be able to weather this storm. Although the PPS update will freeze, no other aspect of hospital expenditures will remain stagnant. Wages, which represent a large part of hospital expenses, will still need to be paid, as will utilities and capital costs.

This measure is especially punitive to hospitals that are achieving the goals sought by the PPS method of payment. They have achieved savings because they provide the most efficient patient care. Now that hospitals have achieved a level of efficiency, it is fair for the Medicare Program to share in this success by reducing updates. Yet it is not necessary to do it all at once.

Finally, I must add my voice to the chorus of concern in opposition to medical savings accounts [MSA's] MSA's are not in need of a demonstration project. We already know that MSA's cannot work and, in fact, they would cause harm.

The demonstration project in this proposal would drain over $2 billion from the Medicare trust fund. These costs represent money being channeled directly to the savings accounts of healthy seniors at the expense of those who are not as fortunate. MSA's defy the very nature of insurance by establishing private accounts for healthy individuals rather than using those funds to balance the risk of all Medicare recipients.

The MSA proposal also lacks fundamental consumer protections. We know from experience that consumer protections are necessary when selling policies to the elderly and disabled. We do not need to demonstrate this again. There is a long history of seniors being victimized by unscrupulous insurance agents when being sold health insurance. This unfortunate practice led to the necessary strengthening of MediGap protections in 1990.

We face a new round of abuse under the current provision—seniors and the disabled will be sold MSA plans without full disclosure of the risk of high out-of-pocket costs they will face. Salespeople will focus on the potential for building up large savings accounts, and will hide details of the high $6,000 deductible and huge doctor bills above the Medicare approved rate. Over 80 percent of Medicare beneficiaries have incomes under $25,000 and cannot face deductibles of $6,000 or the potential for unlimited balance billing contained in this package.

I am pleased with a number of provisions in the current Medicare package. It is, however, not perfect. It is my hope that these imperfections will be corrected before it is enacted into law.

Mr. SISISKY. Mr. Speaker, I rise today to express my qualified support for the prevention initiatives in the Budget Reconciliation Spending Act.

H.R. 2015 extends Medicare coverage for several preventive tests, including colorectal cancer screening. This is a tremendous step forward. This is a better bill because of it.

Under budget rules, this prevention initiative has to be scored as costing the Treasury money. But, in reality, nothing could be further from the truth. In the long run, screening saves money. It saves Medicare the expense of months or years of costly care. Much more importantly, it saves lives.

Some of you may know that I am a colon cancer survivor. After having surgery to remove my cancer, I made a commitment to do everything I can to help others beat this terrible disease. This bill is a downpayment on that commitment.

There is one way this legislation could be improved, however. Unfortunately, H.R. 2015 limits the screening tests available to patients and doctors. It provides Medicare coverage for some tests, but denies coverage for a test called the barium enema.

I have had all these tests. Take my word for it—there is nothing pleasant about any of them. Cancer patients will not be demanding to have these tests unless their doctors think it's absolutely necessary.

And doctors are in the best position to decide whether these tests are necessary. Congress is not. It makes no sense for Congress to be legislating against specific screening tests. It makes no sense for us to dictate which of these tests should or should not be used.

On this issue, the experts have spoken loud and clear. The American Cancer Society, the Office of Technology Assessment, and the Agency for Health Care Policy and Research all agree that the barium enema is effective in detecting colorectal cancer.

Some of you may be aware of the controversy among advocates of the various colorectal cancer screening procedures. This dispute is unfortunate. But it is not a dispute that we should have to referee in this bill.

There is a fair and reasonable alternative. We can and should ask the Secretary of Health and Human Services to make coverage decisions based on the recommendations of experts.

I understand this is the solution adopted in the Senate Finance bill. I would hope that the House conferees will recognize the wisdom of this approach and recede to the Senate provision.

Nevertheless, I do strongly support this bill and its prevention initiatives. But I think we can make a good bill even better. We can follow the Senate's lead and let the experts decide which screening tests should be available.

Mr. STARK. Mr. Speaker, I am voting against the spending provisions of the budget resolution today for several reasons.

The Ways and Means Committee approved the Medicare title of the budget bill in a bipartisan manner. We were given a number—$115 billion—by the Budget Committee. $115 billion is a higher number than I would have liked, but it was what we were given. We've successfully made all the groups and lobbyists in town equally unhappy—a sure sign that we've done something right.

But there are still many unacceptable provisions in the Medicare title.

Medical savings accounts have no place in the Medicare Program. They are a terrible scam to rip off Medicare for the sake of insurance companies and healthy, wealthy beneficiaries. Every legitimate health care policy expert has concluded that MSA's would create extra costs, resulting in a weakened trust fund. The Congressional Budget Office estimates that the extra cost to Medicare for each person who signs up for an MSA will be $1,000 in 1999, rising to an extra $1,650 by 2007. These costs are far too great to bear when we are trying to cut Medicare spending in order to preserve the program for future generations.

We could have—and should have—done more to fight fraud and abuse in the Medicare Program. The administration proposed at least a half billion dollars worth of antifraud changes which the committee did not accept. The press reports that the Medicare Office of Inspector General will soon release an audit of Medicare that shows a fraud, waste and abuse rate of 14 percent. That means about $23 billion in Medicare payments should not be made each year. Over 5 years, that equals $115 billion—the same amount we are cutting in this bill. We will never stop every last dollar of fraud and error, but we should certainly be doing better. To leave any antifraud proposals on the table when so much is being lost is not fair to the taxpayer or to the beneficiary.

Tomorrow's tax bill is a great wasted opportunity for the Medicare Program. Consider this: If we did not pass a tax cut bill tomorrow, but kept the amount of money that is going to be given away—largely to the rich—in savings bonds for Medicare, we could extend the life of the Medicare trust fund past 2021. The public should ask politicians who talk about the need to restructure Medicare and cut back its benefits, why they voted for a tax break for the rich, instead of saving that money for Medicare.

As we move to conference on the Medicare provisions, I challenge my colleagues to fully consider the devastating effects of Medicare structural changes proposed by the Senate.

We must defeat the Senate's idea of raising the age of Medicare eligibility from 65 to 67. This proposal is certain to increase the number of uninsured when early retirees and those retiring at age 65 are unable to afford private insurance policies to bridge the gap until Medicare eligibility. We should be expanding health insurance coverage in America—not shrinking it.

The Senate has proposed increasing the part B premiums and even the deductible on the basis of one's income. Others are talking about forcing seniors into managed care plans, and turning the program into a defined contribution plan that will not keep pace with inflation.

The Republican spending bill is flawed in other areas as well.

The Republican health proposal for children's health falls far short of providing health insurance for 5 million children as called for under the balanced budget agreement. Instead, the Congressional Budget Office estimates it will cover only half a million children. The bill proposes an unaccountable block grant which would allow States to: supplant rather than supplement, existing health funds for children; provide health care providers with additional funding even if they don't add new services for children; and use funds in a manner that would catalyze State fiscal gamesmanship. There is no requirement that a single child receive health insurance coverage under the proposal.

In terms of welfare, the Republican bill makes a group of Americans, who must rely on welfare to support their children, second-class citizens. These citizens, who must work off their benefits, will have no clear protections from sexual harassment or employment discrimination, and will be deprived of other crucial worker protections. There is no requirement that workfare workers get the same benefits and working conditions as others working a similar length of time and doing the same type of work. This is simply not fair.

Additionally, the Republican bill restores SSI and Medicaid to 125,000 fewer legal immigrants than the bipartisan budget agreement by the year 2007. The budget proposal would allow States to cut benefits to elderly, blind, and disabled Americans.

I did not support the welfare reform bill that passed last Congress because it needlessly and cruelly throws over 1 million children into poverty, and I do not support the Republican proposals today. The Republican attempts to reform welfare will end in destitution and misery for many innocent children.

For these reasons, I urge my colleagues to vote against the spending portions of the Budget Reconciliation Act and to carefully scrutinize the Senate restructuring proposals as we move toward conference.

Mrs. MORELLA. Mr. Speaker, I rise in support of the Balanced Budget Act. This bill begins the process of implementing the historic balanced budget agreement between the President and Congress. While I will be working to improve this bill, I urge my colleagues to vote for it and move the process forward. We cannot afford to lose this opportunity to bring the budget into balance.

I am very pleased that this bill contains an amendment I offered in the Government Reform and Oversight Committee to provide the legislative fix necessary to ensure that the Federal Employees Health Benefits Program continues to deliver high quality health care at reasonable costs well into the future.

FEHBP is an outstanding program. It is the country's largest employer-based health insurance program, serving the health care needs of almost 10 million Federal employees, retirees, and their families. It enjoys high customer satisfaction—over 85 percent. In fact, when Congress considered health care reform in 1994, FEHBP was touted as a model.

Without the FEHBP provision contained in this legislation, however, FEHBP's success could come to a grinding halt. The "Big Six" formula that is currently used to compute the premiums for FEHBP expires in 1999. Seven years ago, one of the six plans used to compute the current formula, Aetna, dropped out. Since then, the Aetna proxy has been used in the calculation. Under current law set in OBRA 1993, the formula is set to revert to a "Big Five" formula—without the Aetna proxy. This would cause employee premiums to rise, on average, $276 per year. Federal employees and retirees simply cannot absorb such huge increases, nor should they.

Back in February, I requested OPM's technical assistance to compute a new FEHBP formula. In a meeting in my office, OPM presented a plan based on their actuarial analysis of FEHBP data. I made several changes, but we agreed on establishing a new formula that will be derived from taking a weighted average of all the plans and setting the maximum government contribution at 72 percent. This new weighted average computation will ensure that Federal employee premiums do not rise. Thus the Government's share and employees' share will remain the same.

This approach makes sense. It is fair, it is stable, and does not depend on carriers that may or may not drop out of the program. It will not result in distributional changes nor will it create winners and losers. CBO recognizes the problem caused by the "Big Six" formula's expiration and assumes that Congress will enact a legislative fix, keeping government and employee contributions the same. CBO estimates that this fix would actually save $28 million over 5 years. I want to thank my colleagues who helped me to move this amendment through the Government Reform and Oversight Committee; Mr. MICA, Mr. DAVIS, Mr. CUMMINGS, Mr. BURTON and Mr. HOYER. This provision will make a critical difference in the lives of the nearly 10 million Federal employees, retirees, and dependents covered by FEHBP.

This legislation's Civil Service provisions save $4.762 billion, derived from increased agency and employee contributions to retirement. Over the last several years, Federal retirees and employees have been asked to bear a disproportionate share of deficit reduction, and I oppose deriving savings of $4.762 billion from Federal employees. But despite my strong protests, the Budget Committee assigned the Committee on Government Reform and Oversight a target of $4.762 billion in savings. This target was derived from the President's original budget, where he actually proposed to save $6.5 billion from Federal employees and retirees. Clearly, I am not pleased that the budget agreement has presented us with such a dilemma, but to ignore the committee's instructions would have been abdicating our responsibility to the Committee on the Budget, which could have redistributed the cuts in a way that would inflict even more pain. There is no easy way to get to $4.7 billion in savings, but the proposal agreed upon by the Government Reform and Oversight Committee is the fairest. In the Civil Service Subcommittee, I helped to defeat an amendment that would have singled out one group of employees—CSRS emloyees—for increased employee contributions. The savings we are approving today would increase agency contributions by 1.51 percent and would increase employee contributions by .50 percent, phased in through 2002. These are not painless spending cuts. Federal retirement contributions are paid out of agencies' salaries and expense accounts—accounts that are already constricted from past budget reductions. Increasing agency contributions at this time will further tighten agency accounts and could lead to further reductions-in-force or furloughs. This increase amounts to an across-the-board spending cut that will affect every agency and program in the Federal Government.

I am pleased, however, that this legislation does not delay Federal retiree COLA's. President Clinton's original budget also contained a three-month delay in Federal civilian retiree cost-of-living adjustments [COLA's] through 2002. The President's budget, however, would have subjected neither Social Security beneficiaries nor military retirees to this delay, imposing an unfair burden on only one group of retirees. I am very pleased that there will be no COLA delay—and that the savings coming from the proposed delay were dropped. Furthermore, as the sponsor of the resolution against COLA delays, House Concurrent Resolution 13, I am pleased that 250 Members are now on record in opposition to COLA delays.

Medicare is among our most important Federal programs. It provides health insurance for over 37 million seniors and has dramatically reduced poverty among our senior population. Unless we make changes to ensure its solvency, however, it is in danger of going bankrupt in just 4 short years. Growing at the rate of 10 percent a year, Medicare is one of the fastest growing programs in the budget. According to the Medicare trustees, the Medicare part A Trust Fund will be bankrupt by 2001, and it pays out $40 million more than it takes in every day. One of the most important charges we face as a Congress is to preserve Medicare for today's seniors and for our future seniors. I thank my colleagues on the Ways and Means and Commerce committees for responsibly addressing Medicare's solvency crisis. By slowing its rate of growth and offering beneficiaries more choices, this legislation will extend the life of the part A Trust Fund for 10 years. This legislation also offers beneficiaries more consumer protections, particularly important as more and more seniors choose Medicare HMO's.

I am pleased that the bill includes the provisions of H.R. 1002, legislation to standardize Medicare coverage for bone density testing for the diagnosis and prevention of osteoporosis. I am the sponsor of this bill, along with Congresswoman NANCY JOHNSON, who championed this bill in the Ways and Means Committee, and Congresswomen NITA LOWEY and EDDIE BERNICE JOHNSON. I want to commend Ways and Means Health Subcommittee Chairman BILL THOMAS for his strong support; members of the Health Subcommittee, many of whom were cosponsors and strong advocates, and Commerce Subcommittee on Health and Environment Chairman MIKE BILIRAKIS, and members of the subcommittee who also worked on behalf of this provision. I also want to thank the staff of both subcommittees and their members for their hard work as well.

Osteoporosis is a major health problem affecting 28 million Americans, who either have the disease or are at risk due to low bone mass; 80 percent are women. The disease causes 1.5 million fractures annually at a cost of $13.8 billion—$38 million per day—in direct medical expenses, and osteoporotic fractures cost the Medicare Program 3 percent of its overall costs. In their lifetimes, one in two women and one in eight men over the age of 50 will fracture a bone due to osteoporosis. A woman's risk of a hip fracture is equal to her combined risk of contracting breast, uterine, and ovarian cancer.

Osteoporosis is largely preventable and thousands of fractures could be avoided if low bone mass was detected early and treated. We now have drugs that promise to reduce fractures by 50 percent. However, identification of risk factors alone cannot predict how much bone a person has and how strong bone is. Experts estimate that without bone density tests, up to 40 percent of women with low bone mass could be missed.

Unfortunately, Medicare's coverage of bone density tests is inconsistent. Instead of national coverage of scientifically approved types of bone density tests, Medicare leaves decisions to local Medicare insurance carriers. The definition of who is qualified to receive a bone mass measurement varies from carrier to carrier. Some carriers require beneficiaries to have suffered substantial bone loss before allowing coverage for a bone density test. For example, in about 20 States, the carriers require x ray proof of low bone mass or other abnormalities. Unfortunately, standard x ray tests do not reveal osteoporosis until 25 to 40 percent of bone mass has been lost.

One carrier allows a premenopausal woman to have a DXA test to determine whether hormone replacement therapy [HRT] is indicated. However, it does not allow the test to determine treatment for the postmenopausal women—the majority of Medicare beneficiaries. Other carriers have no specific rules to guide reimbursement and cover the tests on a haphazard case-by-case basis.

Inconsistency of bone mass measurement coverage policy is confusing and unfair to beneficiaries. The provisions embodying H.R. 1002 included in this bill will eliminate the confusion and standardize Medicare's coverage of bone mass measurement tests in order to avoid some of the 1.5 million fractures caused annually by osteoporosis.

I also commend Ways and Means Subcommittee on Health Chairman Bill Thomas, Congressman Ben Cardin, and Commerce Health Subcommittee Chairman Bilirakis for their sponsorship of H.R. 15, the Medicare preventive package in the bill providing for expanded coverage of mammography screening, pap smears, and pelvic exams, prostate and colorectal screening, and diabetes screening. I am pleased to be a cosponsor of H.R. 15, and I believe this expansion of preventive benefits will improve the detection and early treatment of these diseases. I also congratulate Congresswoman Barbara Kennelly and Congresswoman Elizabeth Furse, among others, with whom I have worked to expand coverage for mammography and diabetes screening.

I urge my colleagues to vote for the Balanced Budget Act. This bill combines the work of a number of committees, and implements the critical spending provisions of the balanced budget agreement. Without approval of this portion of the agreement, there will be no balanced budget. I am confident that further changes can be made in conference to improve the bill and gain the approval of a solid majority of Members and the President.

Mr. DEUTSCH. Mr. Speaker, I have been a longtime supporter of a balanced budget and I voted in support of the balanced budget agreement, but I cannot vote for H.R. 2015 because it veers too far from the agreement and includes some major policy changes that I cannot support.

One of the most important goals behind this legislation is to ensure the long-term solvency of the Medicare Program by containing the growth of program costs. One of the most successful ways we can do this, and have been doing this, is through managed care. However, Medicare managed care providers have been unfairly and dangerously targeted in this bill. The reality is that seniors join HMO's and are happy with their HMO's because these health plans provide seniors with extra benefits—like coverage of prescription drugs—that they would otherwise have to purchase Medigap supplemental insurance to cover. By radically reducing Medicare managed care payment rates, this bill will force Medicare HMO's to cut back services and limit the options available to seniors who might consider enrolling in HMO's. This is a horrible strategy for modernizing the Medicare Program.

This bill also cuts payment rates for critical services like home oxygen and assisted living devices, but it is these very home services that help seniors to stay out of hospitals and nursing homes. This is clearly inconsistent with a budget that seeks to control health care costs in the long run.

This bill also adds $2 billion in Medicare costs by adding medical savings accounts to the program. I supported the demonstration project for MSA's in the private market, but I do not think it is right for the Medicare Program. Instead of simply paying for the services that beneficiaries actually use, Medicare MSA's will pay healthy seniors when they do not use services. CBO has estimated that this will increase Medicare costs by $2 billion over 5 years. Why are we adding unnecessary costs like this when we are making such significant cuts to the program and increasing costs to beneficiaries?

This bill also makes the mistake of repealing quality assurances like the Boren amendment that have been put in place to protect seniors from the nursing home horrors that we saw before the Boren amendment was in place. It is just not necessary to lessen the quality of these programs to be cost-effective.

And then there's medical malpractice reform. Under this legislation, medical malpractice liability—in State and Federal courts—would limit noneconomic damages to $250,000. That means that retirees, homemakers, and the disabled who would not be able to demonstrate future economic loss would be capped at $250,000 in noneconomic damages no matter how grievous the injury is that they have suffered. Something as important as medical malpractice reform should not be tucked into this bill without complete hearings that would permit the public to express their views on medical malpractice reform.

I am very hopeful that these and other serious problems with this bill can be remedied in conference. I certainly support many of the provisions in this bill that I think will improve the Medicare Program, like the inclusion of preventive services such as mammography screening and colorectal cancer screening, and the expansion of beneficiary choice by adding options like provider sponsored networks to the program. But I cannot support the bill as it now stands when many of these provisions will actually hurt the very seniors these programs were designed to protect.

Mr. CONYERS. Mr. Speaker, I would like to bring to the Members' attention the provisions in the bill which would for the first time ever federalize the medical malpractice system. The proposals represent the most radical and one-sided liability limitations that have ever been considered by this legislative body. And why shouldn't they be—they were written by the AMA as part of a back room deal to obtain their support for Republican agenda, including their support for the proposed partial birth abortion ban.

The $250,000 cap on pain and is perhaps the most inequitable provision in the entire bill. Although harder to scientifically measure, noneconomic damages compensate real victims for real losses—including loss of sight, disfigurement, inability to bear children, incontinence, inability to feed or bathe oneself, or loss of a limb—that are simply not accounted for by lost wages or medical bills. This means that a woman or child facing excruciating pain and suffering for the rest of their life as a result of medical malpractice would have their right to compensation capped, but a CEO who couldn't perform his job because of the same exact injury would face no such cap.

The draconian new limitations on punitive damages will also penalize victims and protect wrongdoers. Under the Republican proposal, a doctor who fell asleep in the operating room or operated on the wrong patient could be completely insulated from punitive damages. The language goes so far as to cap the liability of a doctor who rapes his patient. Very often, punitive damages are the only way to truly deter such outrageous conduct, but this bill protects such people.

The new statute of limitations provision prohibits all victims from bringing any legal action more than 5 years after the negligence first occurred. It takes absolutely no account of the fact that many injuries caused by medical malpractice or faulty drugs take years or even decades to manifest themselves. Yet under the proposal, a patient who is negligently inflicted with HIV-infected blood and develops AIDS 6 years later would be forever barred from filing a medical malpractice or product liability claim.

The so-called periodic payment provisions are also blatantly antivictim. The bill would allow hospitals teetering on the verge of bankruptcy to delay and then completely avoid future financial obligations. And wrongdoers would have no obligation to pay any interest on any amount they owe to their victims.

The bill goes on and on, limiting injured victim's State law rights while protecting the most blatant possible malpractice one can imagine. The proponents of these measures couldn't care in the least how they effect the rights of the American people or the quality of medical care in this country—that's why they decided they didn't need to waste any time with committee markup or process.

A section-by-section itemization of my concerns regarding the medical malpractice provisions follows:

A. Statute of Limitations—Prohibits victims from bringing any state health care liability action more than two years after an injury is discovered or five years after the negligent conduct that caused the injury first occurred. Such a proposed new federal statute of limitations takes no account of the fact that many injuries caused by medical malpractice or faulty drugs often take years to manifest themselves. Thus under the proposal, a patient who is negligently inflicted with HIV-infected blood and develops AIDs six years later would be forever barred from filing a medical malpractice or product liability claim.

B. $250,000 Cap on Non-economic Damages—Caps the award of non-economic damages in medical malpractice actions at $250,000. The bulk of data indicates that dollar caps do not provide significant savings. Using information derived from a 1992 GAO study, the ABA's Special Committee on Medical Professional Liability found that state tort reform proposals "have not had any measurable impact on overall health [care] costs" and that personal health care spending had doubled between 1982 and 1990, regardless of the type of "reforms" adopted. A 1986 GAO study on the impact of specific tort changes on medical malpractice claims revealed that claims and insurance costs continue to rise despite state-adopted limits on victim compensation.

Even the total elimination of malpractice costs would provide only negligible savings to the health care system. According to separate reviews by the U.S. Department of Health and Human Services and CBO, the total amount of all liability premiums paid in the United States represents less than 1% of the Nation's health care costs. And factoring in the costs of so-called "defensive medicine" would not result in any significant additional savings to the health care system, according to both the CBO and the Congressional Office of Technology Assessment.

An additional concern with caps on non-economic damages is that they could unfairly penalize those victims who suffer the most severe injury and are most in need of financial security. Although harder to scientifically measure, non-economic damages compensate victims for real losses—such as loss of sight, disfigurement, inability to bear children, incontinence, inability to feed or bathe oneself, or loss of a limb—that are not accounted for in lost wages. And non-economic damage caps have been found to have a disproportionately negative impact on women, minorities, the poor, the young, and the unemployed; since they generally have less wages, a greater proportion of their losses is non-economic.

C. Joint and Several Liability—Eliminates the state doctrine of joint and several liability for non-economic damages. This will allow wrongdoers to profit at the expense of innocent victims, rather than forcing tortfeasors to allocate liability among themselves, as has traditionally been the case under state law. And since women, minorities, and the poor generally earn less wages, such limitations on non-economic damages could have a disproportionately negative impact on these groups.

D. Limits on Punitive Damages—Caps punitive damage awards at the greater of $250,000 or three times economic damages; limit the state law standard for the award of punitive damages to intentional or "consciously indifferent" conduct; allow a bifurcated proceeding to determine issues relating to punitive damages; and completely ban punitive damages in the case of drugs or other devices that have been approved by the FDA or any other drug "generally recognized as safe and effective" pursuant to FDA-established conditions.

These proposed limitations raise a number of concerns. Arbitrary caps on punitive damages may provide unjustified windfalls to the few tortfeasons responsible for blatant and wanton medical misconduct. (In fact, studies have shown that only 265 medical malpractice punitive awards were awarded in the United States in the 30 years between 1963 and 1993.) By insulating grossly negligent conduct, the proposed new federal standard for establishing punitive damages comes close to criminalizing tort law. Permitting defendants to bifurcate proceedings concerning the award of punitive damages may well lead to far more costly and time-consuming proceedings, again working to the disadvantage of injured victims. And banning punitive damages for FDA-approved products is likely to have a disproportionate impact on women, since they make up the largest class of victims of medical products.

E. Periodic Payments—Grants wrongdoers the option of paying damage awards in excess of $50,000 on a periodic basis. This provision would apply not only to future economic damages realized over time, such as lost wages, but to non-economic losses, like the loss of a limb, that are realized all at once. Also, in contrast to many state law periodic payment provisions, the Republican proposal does not seek to protect the victim from the risk of nonpayment resulting from future insolvency by the wrongdoer or to specify that future payments should be increased to account for inflation or to reflect change circumstances.

F. Collateral Source and Subrogation—In most states under the collateral source rule, a victim is able to obtain compensation for the full amount of damages incurred, and his or her health insurance provider is able to seek subrogation in respect of its own payments to the victim. This ensures that the true cost of damages lies with the wrongdoer while eliminating the possibility of double recovery by the victim. The Republican proposal would turn this system on its head by allowing tortfeasons to introduce evidence of potential collateral payments owing from the insurer to the victim. This could have the effect of shifting costs from negligent doctors to the health insurance system in general and taxpayers in particular, resulting in increased health premiums paid by workers and businesses.

Another problematic feature of Republican malpractice proposals has been their one-sided, anti-victim nature. For example, their proposal allows States to enact more restrictive caps and damage limitations, but not permit the states freedom to grant victims any greater legal rights. Their proposals also ignore a number of complex legal issues. For example, in the state law context, various damage caps have been held to violate state constitutional guarantees relating to equal protection, due process, and rights of trial by jury and access to the courts; and these very same concerns are likely to be present at the federal level. And by layering a system of federal rules on top of a two-century old system of state common law, the Republican proposals will inevitably lead to confusing conflicts, not only within the federal and state courts, but between federal and state courts.

Finally, I would like to note several other concerns I have with the legislation relating to judiciary's jurisdiction concerning civil rights and immigration. I am strongly opposed to provisions from the Economic and Educational Opportunities Committee print and the Ways and Means Committee print providing that participants in the workfare program will not be considered employees for purposes of Federal law. As a result, these workers may not be covered under many laws that have helped working people over the years, including title VII of the Civil Rights Act of 1964 and other laws designed to protect working people from unsafe workplaces, racial and sexual harassment, and unfair wages.

It is wrong and patently unfair to require people to go to work and at the same time, deny them legal protections against discrimination. Title VII provides for a broad set of remedies for employees that are discriminated against on thesis of race, color, religion, sex or national origin. Unless this provision is fixed, it could make former welfare recipients second class citizens and punish people who leave welfare by taking away their basic, fundamental rights.

The legislation also continues to restrict Social Security income and Medicaid eligibility to those immigrants who were receiving such benefits as of August 22, 1996. This is a blatant violation of, and retreat from the biparitsan budget agreement which had promised to restore these benefits to legal residents who subsequently become disabled. Legal residents pay taxes and contribute to our society in the same way citizens do, and there is no moral justification for excluding them from our Nation's safety net.

I urge the Members to join me in opposing this legislation.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I rise today with concern about the reductions made in this legislation for Medicaid disproportionate share hospital [DSH] funding. The reductions made to DSH funding in this legislation will have a dramatic effect on Medicaid funding going to Connecticut, and 12 other States in similar situations: Alabama, Colorado, Kansas, Louisiana, Maine, Missouri, Nevada, New Hampshire, New Jersey, South Carolina, Tennessee, and Texas. My home State of Connecticut is a high-DSH State, meaning that we have a number of low-income people who lack health insurance use Federal and State Medicaid funding to assist our hospitals that treat. Connecticut is acting responsibly by using available Federal funds to address the problem of people lacking health insurance. The DSH program is an integral part of Connecticut's overall Medicaid Program, involving over $400 million in combined Federal and State funding.

The DSH formula in this legislation is unfair and disproportionately impacts a handful of states, including Connecticut, who have invested in DSH programs. These States are legitimately accessing funds through the Medicaid Program, which is designed to enhance the health care coverage of low-income people. We must recognize that DSH is not separate from Medicaid, but a critical component of providing quality health care to those who cannot otherwise afford it. During the fiscal year, Connecticut is receiving $204 million in DSH funding from the Federal Government. Under this proposal, DSH funding would drop dramatically by 40 percent over the next 5 years, with the most dramatic decreases in the out years, going from $204 million to $123 million by 2002. A reduction of this magnitude would likely force States to drastically reduce their commitment to helping hospitals treat the uninsured, and this at a time when I and many colleagues believe Congress must ensure access to affordable health insurance for the uninsured.

I am very pleased that Budget Committee Chairman KASICH has expressed a commitment today to look at the DSH formula more closely as the bill moves into the conference committee process. Any cuts in the DSH program must be imposed equitably on all States, regardless of their percentage of DSH spending.

Mr. GREEN. Mr. Speaker, I strongly oppose the inclusion of provisions authorizing private companies to determine eligibility and to verify income for the Medicaid and Food Stamp Programs. These items have nothing to do with the Federal budget, except to potentially make it worse in the years ahead, and it represents a significant policy change with broad-ranging implications.

These public policy changes deserve extensive debate based on the actual merits and risks—not on inflated claims and misinformation. We need to spend real time considering the implications of allowing private, for-profit companies to determine who is or is not eligible for services under Medicaid and food stamps.

There are no assurances in these provisions that the contractors will be required to comply with the most basic requirements and procedures which public agencies routinely follow, especially those relating to accountability of funds. Recent privatization arrangements indicate that private contractors do not believe they have a comply with procedures taken for granted in the public sector. For example, the private industry in Philadelphia had to be sued several years ago in order to get information about its federally funded training and job placement activities. Similarly, the private one-stop centers in Massachusetts have failed to provide any placement information necessary to measure their effectiveness.

The privatization provisions make no assurances of any actual savings or efficiencies. Experience suggests that the opposite could occur under privatization. In the case of California, Lockheed Martin Information Management Services promised to build an automated child-support enforcement system by 1995. The total price promised was $99 million.

Today, its $304 million, with major cost overruns. A consulting firm recently told State officials that it found 1,400 errors caused by Lockheed Martin, and a recent legislative report said that there is no guarantee that the system will ever work statewide.

The most amazing feature of these provisions is that while responsibility for administration of the Medicaid and Food Stamp Programs can be privatized, the amendment has insured that legal liability for constitutional torts remains with the state. It does this by including the following: "For purposed of any Federal law, such determination shall be considered to be made by the State and by a State agency."

The legal effect of this sentence is two-fold. First, it permits a private company to make a binding legal determination as to who is eligible for benefits and who is not. Historically, only government officials have granted or denied public welfare benefits to needy citizens. The second effect is that for the purpose of Federal laws protecting civil rights, the determinations made by private contractors shall be considered to be made by the State. In short, the State will remain liable for constitutional torts even if they are committed by private contractors.

This policy will greatly benefit the private contractors who will have an asset rich co-defendant. It is only the States—who will retain liability while surrendering control—that will suffer. If these provisions are enacted, it will be appropriate to call if the Unfunded Mandate Act of 1997. The States will be left holding the bag for the mistakes made by the private entities.

There are no compelling reasons to go forward with wholesale privatization of the Medicaid and food stamp eligibility systems. In fact, we have not heard how access to services will be improved. And the public policy concerns, in particular public accountability, client privacy and the role of profit-making in serving the needy are overwhelming.

If we move forward with this idea, we will be neglecting our duty to our constituents to ensure the proper administration of the Medicaid and Food Stamps Programs. Substantial modifications to these programs deserve the full consideration of the Congress and should move through the regular legislative process. Privatization has nothing to do with balancing the budget and could place the agreement in jeopardy. In fact, the Office of Management and Budget has indicated its opposition to these provisions in a letter to the Rules Committee.

If you liked $100 hammers and $600 toilet seats, then you will like wholesale Medicaid and food stamp privatization. However, if you believe in public accountability of public funds, and providing care for our most vulnerable, then you will help me oppose these provisions.

Mr. GOODLING. Mr. Speaker, I rise in support of the Balanced Budget Act of 1997. This bill fulfills our promise to the American people: To balance the budget and make the Federal Government live within its means for the first time in over 30 years.

This bill puts into effect the bipartisan budget agreement negotiated last month. It proves that Congress and the administration can work together to find solutions that make sense.

The provisions marked up by the Committee on Education and the Workforce, which I chair, helps more people move from welfare into the work force; protects student loan programs, and helps millions of uninsured workers provide health insurance coverage to their families.

Mr. Speaker, consistent with the Budget Agreement, the bill before us today provides $3 billion of new funds to assist long-term welfare recipients into work.

Included under this part are provisions which ensure these funds will be directed through existing State and local employment and training systems as opposed to being used to establish a duplicative delivery system. This ensures that welfare to work programs will be part of local employment networks that include the private sector, elected officials, and local welfare agencies.

In addition, we have ensured that a vast majority of these welfare-to-work funds will be highly targeted to those areas with the highest concentration of long-term welfare recipients—allowing States and localities to make the best decisions on how best to assist these recipients into meaningful employment.

Let me also mention here the related labor provisions that are included as part of this welfare-to-work funding, because I can predict that we are going to continue to hear a lot of exaggerations and misstatements about what the bill actually says.

The bill has several important labor provisions. First, we apply Federal or State health and safety standards to any welfare recipient who is working with an employee who is covered by those standards. Second, we extend nondiscrimination laws to all participants in welfare-to-work activities; and third, we add provisions consistent with the administration with respect to providing minimum wage for workfare participants. Let me also clarify that if welfare recipients are hired as employees by a public or private employer, they are covered by the labor laws just as any other employee—including the minimum wage law.

Let's not lose sight of the reason for all of this: Welfare reform is premised largely on the belief that work is good, that even if one cannot be immediately employed that there are a lot of needs in our communities that people who receive welfare benefits can help attend to, and doing so helps both them and their communities.

It is clear what many on the other side of the aisle really want to do—end workfare as we know it. They didn't like it in 1988 welfare reform, they didn't like it under welfare reform last year, and they are trying again to kill it as part of the budget agreement.

Mr. Speaker, welfare reform is working because workfare is working—let's not stop success.

Mr. Speaker, let me briefly mention that this bill also helps ensure that students will continue to have access to funds for postsecondary education. The provisions we included will protect the student loan programs by making changes in the administration of both the guaranteed and the direct lending programs so that both will operate more efficiently.

Finally, Mr. Speaker, one other key component of our committee's budget reconciliation package is the legislation to expand health insurance coverage, through association health plans, to millions of employees of small businesses and the self-employed. By including in reconciliation the provisions of the Expanded Portability and Health Insurance Coverage Act of 1997, [EPHIC], we will empower millions of workers, their spouses and children to obtain more affordable health insurance through market-based reforms.

We are enabling small businesses to extend health care coverage to millions of American families who have no coverage at all today and are creating greater portability of coverage for many of those who already do.

EPHIC is consistent with the budget agreement, since it will expand health coverage to children at no additional Federal cost and give States more affordable coverage options to expand children's coverage under the $16 billion block grant in the bill.

The problem of the uninsured, both children and adults, is predominantly a problem of small businesses lacking access to affordable coverage. Over 80 percent of the 40 million uninsured are in families with at least 1 employed worker, the vast majority of whom are employed by small businesses or are self-employed. Small business experts testified, both last Congress and again at a hearing on EPHIC in May, that 20 million Americans who now lack coverage might gain it under the pools created by this bill. Moreover, over 80 percent of all uninsured children are in families with working parents.

Small businesses pay substantially more for insurance than do large corporations—that is why many cannot afford to offer coverage to their workers, even though they want to. EPHIC would expand the advantages that larger employers now enjoy to small- and medium-size employers by allowing such businesses to pool together, thus expanding coverage through the private market—without new taxes or costly mandates.

Mr. Speaker, I am confident that this bill will help more Americans achieve the American Dream by taking the first steps toward balancing our Federal budget and I urge my colleagues to join me in supporting it.

Mr. HOBSON. Mr. Speaker, I rise today to urge my colleagues to vote for the Balanced Budget Act.

This bill today is where the rubber meets the road. We promised to balance the budget, we reached an agreement with the White House to do it, and now that agreement is being enacted with this legislation.

This budget achieves a Federal spending level below 20 percent of GDP for the first time since 1974. It slows the growth of all Federal spending to just 3 percent for the next 5 years—that's a savings of $289 billion.

We also promised to save Medicare from bankruptcy and expand health care options for seniors, and we're doing that with this legislation.

Though I'm sure there might be some who disagree with small portions of this legislation, after all it is a very large bill, but we worked together across the aisle to get it done. This demonstrates that Congress and the administration can work together constructively—as they should—to solve problems.

There's one group of people that is getting everything it wants from this bill, and that's the generation of Americans who will take the mantle of leadership in the years to come.

Without the fundamental changes to Medicare and entitlement programs that we're enacting here, none of these valuable programs will be around for the next generation to enjoy. By acting now with this bill to save Medicare from bankruptcy and rein in the out-of-control costs of Medicaid, the next generation will inherit functioning, solvent programs and a national economy that is thriving and secure. That's the legacy I intend on leaving to my children, and it's the legacy the American people want us to leave to their children also. This bill makes it possible.

Join me today in standing up for responsible spending, for seniors, for our children and grandchildren's future, and voting to approve the Balanced Budget Act.

Mr. PACKARD. Mr. Speaker, I rise today in support of an issue that is of importance to families and workers across the nation—the Balanced Budget Act. Our budget proposal would give Americans the first balanced budget in 30 years, while providing tax relief for American families and shifting power, money and influence out of Washington and back to Americans at home.

Passage of the Balanced Budget Act will be a great victory for the American people. It will show the American people that we are on target and committed to balancing the budget by 2002. Budgets are about much more than numbers. They are about priorities and people. This budget is about replacing Washington values with real America's values. People know that one-size-fits all policies from Washington don't work. Our budget returns power back home where people know how to solve their problems best.

Furthermore, this budget proposal addresses the real concerns Americans have about stagnant wages and job security through tax relief and policies that will increase savings and investment. Greater savings and investment will provide our workers with the high-tech tools they need to compete successfully in the global marketplace—and that means more jobs and better pay.

By preparing our country to meet the challenges of the next century, our budget ensures that the American Dream—that our children will enjoy a future with more and better opportunities than we now enjoy—will live on for generations to come.

Mr. PAUL. Mr. Speaker, I rise today in opposition to the Balanced Budget Act (H.R. 2015), authorizing the expenditure of an additional $3 billion in taxpayer dollars on "Welfare to Work" programs as the Federal Government has no constitutional authority to spend taxpayer dollars on welfare-to-work programs.

Congress is once again engaging in the tired ritual of the 5-year balanced budget plan. Repeatedly over the past 25 years there have been lofty proclamations that the budget would be balanced in 5 years because of government forecasts of continued growth. Each 5 year plan was announced with great fanfare and happy feelings of bipartisanship, yet, each plan fails to balance the budget because the economic forecasting upon which they were based never reflect actual economic circumstances.

The Federal Government cannot predict exactly how the economy—the aggregate spending and saving habits of every individual in the nation—will behave over the course of the next 5 years. Because the economic situation in the future will be based upon the actions of individuals acting on their subjective preferences, these preferences are impossible to predict. The failure of every socialist government, whether totalitarian or democratic, to fulfill its leaders' promises of unlimited economic prosperity demonstrates the futility of government planning based upon the economic forecasts of government officials.

It is, however, only a matter of time before the burden of taxes, spending, debt, and inflation catapult America's economy into yet another recession. When the optimistic projects of growth prove to be based more in hope than reality, the budget figures will be "revised" and a future Congress will once again confront the questions of balancing the budget.

Even if the budget being considered by this Congress were guaranteed to balance the budget within 5 years, it should still be rejected because it fails to eliminate even one unconstitutional function of the Federal Government. Despite proclamations that "the era of Big Government is over", this budget actually increases taxpayer spending for many unconstitutional programs. The main problem with government policy today is not that the government cannot balance its books, but that the Federal Government is performing too many functions for which it lacks any constitutional authority.

Mr. Speaker, the authorization of an additional three billion dollars for a welfare-to-work program, is a perfect example of how the budget proposal fails to address the basic question of how the welfare state exceeds the constitutional limitations on the power of the Federal Government. Under the tenth amendment to the United States Constitution, the Federal Government has no authority to take money from the people of Texas to spend on welfare programs for the people of New York. Welfare and job training programs are strictly the province of the individual States.

The reconciliation proposal not only unconstitutionally spends Federal taxpayer funds on welfare programs, it dictates to the States how they must run their welfare-to-work programs. For example, States are required to spend 1 dollar of their own money for every 3 dollars of Federal money they receive, and they must distribute the funds according to a pre-determined Federal formula.

Short of defunding all welfare programs and transferring responsibility for those programs back to the States and the people, Congress should provide maximum flexibility to the States to manage these programs as State officials see fit. For example, the amendment offered and later withdrawn by Mr. JOHNSON to allow State governments to use nongovernmental personnel in the determination of eligibility under the Medicaid, Food Stamp, and special supplemental nutrition programs for Women, Infants, and Children, is a step toward restoring federalism in welfare policy. It is not for Washington to determine the strengths and weaknesses of such a plan, these decisions are solely the responsibility of the States.

In the name of transferring citizens from welfare to work, this bill provides millions of taxpayer dollars to move businesses onto the welfare rolls. Under this proposal, State governments may hand over taxpayer dollars to businesses for private sector job creation, employment, wage subsidies, on-the-job training, contacts with job placement companies, and job vouchers. By providing payments to private businesses who place and hire welfare recipients, Congress is creating a dangerous and powerful new constituency for welfare programs and, in effect, making it more difficult for future Congresses to reduce welfare expenditures.

The welfare-to-work proposal also creates powerful disincentives for businesses to give welfare recipients a chance at a new life through an entry-level job. If this proposal becomes law, welfare recipients in entry-level jobs will be entitled to receive the minimum wage and be covered by certain health and safety regulations. Because mandating wages and benefits increases the costs to businesses of hiring new workers, any wage, safety, or health regulations discourage the hiring of new employees. This is especially true in the case of marginal employees who lack well-developed job skills. This bill restricts welfare recipients' ability to find gainful employment; the very population this bill is allegedly targeted to benefit.

It is time to return to the most effective job creation machine in history—the free market. Any alternative necessarily results in sub-optimal employment. Government is institutionally incapable of creating bonafide jobs.

Private citizens acting freely are more than capable of caring for the needs of the less fortunate if the Federal Government stops appropriating so many of their resources for wasteful, bureaucratic, federal programs.

In conclusion, Mr. Speaker, I urge Congress to reject the phony balanced budget plan before us today as that plan rests on two dubious notions: 1. Government can predict the economic future of the country; 2. The burden of taxes and spending placed on the economy by government will not cause America to experience an economic downturn.

Furthermore, this proposal continues the Federal Government's unconstitutional micromanaging of State welfare programs. This bill extends corporate welfare in the form of subsidies to businesses which hire current welfare recipients thus creating a new client group for the welfare State.

Mr. Speaker, the only way to permanently balance the budget and end welfare as we know it is to cease all federal expenditures for redistributionist programs not authorized under the United States Constitution. Therefore, all Members of the House of Representatives sincerely committed to limited government must oppose this proposal and instead work to defund all unconstitutional programs and return the authority for welfare programs to those best able to manage them.

Mr. EVERETT. Mr. Speaker, While I support the vast majority of the provisions of this legislation to implement the balanced budget agreement, I must express my strong opposition to the dramatic cuts in the Medicaid Disproportionate Share Program (DSH) as recommended by the Commerce Committee.

Mr. Speaker, this provision proposes a 40 percent cut in DSH payments to 13 so-called "high DSH" States. This drastic cut unfairly and punitively targets Alabama and 12 other States with unfortunately high levels of women, children, elderly, disabled and indigent living in poverty. Simply put, a 40 percent reduction in DSH payments over 5 years will cause irreparable harm to Alabama's safety net hospitals, major urban teaching institutions and rural hospitals throughout the State. These hospitals, to a one, meet the highest standards of quality, access and compassion year after year.

Mr. Speaker, we have a responsibility to address and fulfill the health care needs of our large number of Medicaid and indigent patients. Governor Fob James and the Alabama Medicaid Commission are actively seeking savings, program improvements and increased state participation. While other provisions contained in HR 2015 would assist their efforts, the DSH reductions would devastate the Alabama Medicaid Program and endanger the health and well-being of Alabama's poor, elderly and disabled, who suffer enough living in poverty.

Mr. Speaker, I understand that the motion to recomit may address this matter, but I do not believe the motion is an appropriate avenue for resolution. The Leadership is aware of my concerns and has agreed to revisit this issue in conference. Hopefully, an agreement will be reached to change the formula to reflect a reasonable and compassionate funding allocation within the bonds of the budget plan.

Mr. KLECZKA. Mr. Speaker, included in this budget package is a provision which severely threatens every American who seeks medical treatment. Under the Ways and Means Medicare Title we are considering today, non-economic damages in medical malpractice suits will be limited to $250,000 per case—regardless of the number of persons or the number of actions brought. This, Mr. Speaker, is a terrible mistake.

Mr. Speaker, we simply cannot afford to weaken our current medical malpractice laws. In this age of managed care, the financial incentives of medicine have been completely turned around. In today's managed care world, doctors make more money by "managing care", by not practicing good medicine, by not ordering tests, by not doing surgeries.

The Republicans argue that the threat of malpractice suits is driving up medical costs unnecessarily. They argue that physicians are being forced to practice defensive medicine—forced to order additional unnecessary tests and procedures to cover themselves in case they might be sued. Mr. Speaker, this simply is not the case. In fact, a study conducted by the Office of Technology Assessment concluded that less than 8 percent of all diagnostic procedures are likely to be caused by conscious concern about malpractice.

The Office of Technology Assessment and the Congressional Budget Office who have thoroughly studied this issue have never found any evidence that defensive medicine is a significant health care cost. In fact, many times this so-called defensive medicine is, in reality, medically appropriate. Even the most liberal estimate of the cost of defensive medicine amounts to only 0.07 percent of total annual health care costs.

Furthermore, Mr. Speaker, a Harvard University Study indicated that of the 40 million hospital admission each year, 400,000 patients or 1% suffer preventable injuries from substandard care. 50,000 of these patients die from that care. The other 350,000 suffer non-fatal injuries resulting in 30 days disability or longer. Only 2 percent of these incidents—or, 8000 cases—actually make it to a malpractice trial. Clearly, malpractice, itself, is the true cost in today's health care system, not malpractice suits.

By weakening malpractice laws we are likely to encourage more careless—not more careful—medical care. Let's not take this dangerous step. The real victims in the medical malpractice debate are not the physicians—the real victims are the thousands of patients who are killed or injured each year due to medical negligence. We absolutely cannot afford to abandon the protections provided by our judicial system. Let's maintain the protections that our current malpractice laws provide.

Mr. BERRY. Mr. Speaker, I rise today in reluctant opposition to this budget package. I truly respect and admire those who worked long and hard to prepare this carefully crafted compromise. Both sides—the White House and Republican leaders—put aside many of their differences to agree to a budget that goes a long way toward putting our nation on healthy economic footing.

I am a strong believer in our need to balance the Federal budget. I am a co-sponsor of legislation that would require a constitutional amendment to balance the budget, and I supported the spending cuts contained in the original outline of this proposal.

Mr. Speaker, three weeks ago I voted in favor of the numbers. However, today, I cannot support the policies that have been crafted to stand behind those numbers.

I cannot, for example, support the package's Medicare legislation. While I believe that we all need to work together to ensure Medicare's solvency, this proposal increases beneficiary premiums by an amount that I cannot support. It cuts payments to the hospitals in my rural district at a rate that will be difficult to absorb. Rural hospitals already operate at much lower margins than their urban counterparts and will be disproportionally impacted by this proposal. Every single hospital administrator in my district has written me in opposition to this proposal.

In addition, it does not provide an adequate cushion against premium increases for the lowest-income. We can ensure Medicare's solvency for the long term without harming our seniors, and I think we must put some more thought into how to do that.

The bill also does not have an adequate enforcement mechanism, something that I believe is crucial if we really are committed to balancing the budget. It's one thing to tell America that we're going to put our fiscal checkbook in order, but it's another thing if we don't provide any incentive to do so. As this budget now stands, the federal budget will increase during the first 2 years, requiring that all cuts to Federal programs take place in the last 3 years. I don't believe that putting off until tomorrow what we rightly ought to have the political courage to do today will balance the budget. If anything, this package could make our federal deficit even worse.

In addition, the bill's plan to auction the broadcast spectrum may be too much, too fast. Counting on the revenues from this sale, without adequate protections for rural broadcasters, may jeopardize service in rural areas.

Likewise, the bill's children's health program, instead of being modeled after the successful initiatives being implemented in Arkansas and other States, is fiscally irresponsible, $16 billion no-strings-attached give-away that does not ensure that the funding will go to those who need it most—the children.

In fact, the Congressional Budget Office estimates that this $16 billion will cover less than 520,000 children of the 10 million now without health insurance. The average children's health insurance policy today costs about $800 a year—spending $16 billion for only 520,000 policies is a waste of our taxpayer's hard earned money. This proposal, in effect, costs taxpayers $6,000 per policy, per year. More cost-effective children's health insurance legislation, such as a plan I developed as co-chairman of the House Democratic Caucus' Health Task Force, is needed. Our plan, with a more prudent and responsible use of the $16 billion in the budget agreement, would cover an estimated 5 million children.

Also of note is the fact that this budget does not provide adequate safeguards to our senior citizens who rely on the Medicaid Program for their care. I will continue to oppose any budget, any legislation or any law that in any way endangers the health care of our senior citizens. I also oppose the bill's repeal of adequate payments to hospitals under the Medicaid Program and its repeal of important consumer protections, which could result in reduced services to those who rely on this important program in Arkansas.

Lastly, this budget repeals important labor and civil rights protections for those seeking to move from welfare to work. Last year, Congress voted to end the entitlement status of public assistance and we all agree that the cycle of welfare dependency should be stopped and that our citizens should be given the opportunity to obtain economic self-sufficiency. However, in doing so, we cannot expect former welfare recipients to work without the guaranteed protection granted to every other employee under the Fair Labor Standards Act.

While I support many of the concepts contained in this budget, I cannot in good conscience support it today. I believe, however, that other opportunities will exist in the near future to support a more reasonable and effective budget. The House's consideration of this proposal today is just the first step in what will be a long political process. The final version of the proposal, following a House-Senate conference committee, may be something I can support.

But today, with great regret, I must vote with my conscience and vote against this proposal.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise today to speak in opposition to this year's budget reconciliation bill. As the House considers this bill, I recall the words of the great Senator from Minnesota, Hubert Humprehy when he said:

> . . . that the moral test of government is how that government treats those who are in the dawn of life, the children; those who are in the twilight of life, the elderly; and those who are in the shadows of life—the sick, the needy and the handicapped.

Mr. Speaker, this reconciliation bill fails that crucial test of government's compassion for all those individuals. When this Republican package fails to provide welfare workers the leave to care for their children and parents under the Family Medical Leave Act, it fails the moral test of government. A Republican bill that backs away from the commitment between GOP leaders and the President to restore Federal aid to disabled legal immigrants fails the test of how the Government should treat those in the shadows of life, the people with disabilities—who pay their taxes.

Mr. Speaker, last week, certain members of the majority were behind the effort to issue an apology for slavery in this country. Less than a week later, their reconciliation bill states that benefits provided to welfare workers are not to be considered wages or compensation. Simply stated, this is an underhanded effort to deny welfare workers the labor and nondiscrimination protections that all other workers enjoy. In essence, this is confining the welfare worker to a modern day life of slavery. Mr. Speaker, how long will it take for the majority to apologize for this?

Mr. Speaker, just yesterday, we heard many colleagues on the other side of the aisle speak in grandiose tones about human rights violations in China when we voted on MFN. They opposed granting MFN because they believed that it would not help stop human rights and civil liberty abuses. Unfortunately, they are quick to ignore the human rights of our own people with a bill that restricts access to health care insurance, fair pay protections for welfare workers, weak sexual harassment protections and the rights and benefits of legal immigrants.

This bill continues to further the benefits of the rich while eroding the opportunities for the poor, the children, and those with disabilities. Mr. Speaker, I sincerely hope that any colleagues who voted for the budget resolution hoping that it would balance the budget while helping the unprotected, will now vote against this reconciliation bill as it falls tremendously short in helping those who need help the most.

Mr. Speaker, I ask my colleagues to oppose this bill and have our Government live up to its moral test of how it treats the most vulnerable and disadvantaged in our country.

Ms. McCARTHY of Missouri. Mr. Speaker, I rise to support passage of H.R. 2015, the Balanced Budget Act. Balancing the budget is one of the most important actions we can take to keep the economy strong, provide jobs, and keep the American dream alive for future generations. I offer my support to move the process forward because I see this bill as a work in progress. The measure has several problems that I hope will be resolved as the details are worked out in the Conference Committee. These are provisions that go beyond being characterized as difficult decisions; they are important issues that must be addressed or we will create problems larger than those we are trying to solve with this legislation.

One of the most serious issues for my home State of Missouri is the method by which we achieve the Medicaid savings called for in the budget agreement. All of the savings for Medicaid are targeted to come from the Disproportionate Share Hospital Program, and in particular, the formula that was reported out of the Commerce Committee targeted the greatest amount of cuts from the States that use the Disproportionate Share Program the most. While there may have been problems associated with the program in other States, Missouri runs a very efficient program and has always used the Disproportionate Share funds to compensate hospitals for the cost of providing care to the indigent and uninsured. The formula should be changed by the Conference Committee to better distribute the savings from the Disproprionate Share Program among all States that use those funds.

Another of the more serious problems with this bill is its complete disregard for sound spectrum policy. Once again, common sense has taken a back seat to budgetary needs, and another spectrum auction has been ordered that will not raise the funds that are expected. For the past 5 years, spectrum space has been sold to pay for our budget needs, yet each year the financial return on these auctions has decreased. The future market is uncertain since the current market is saturated with spectrum. In addition, the spectrum market devaluation affects minority and women-owned businesses who have been allowed to make a longer payment schedule for their previous spectrum investments.

A third item that must be improved is the provision relating to expanding health care coverage for uninsured children. As a member of the Democratic Children's Health Care Task Force, I support efforts to provide assistance to the estimated 10 million children in this country that currently are not insured. The Democratic alternative builds on the Medicaid Program, with an enhanced match which would provide children in need with the greatest chance for appropriate care and an adequate benefits package. The provisions of this bill use a block grant approach which, according to CBO, may only cover 500,000 additional children, not the 5 million goal outlined in the budget negotiations.

I commend all negotiators who have worked tirelessly on this legislation. The task of balancing the budget is not an easy one. We have to be prepared to make tough choices that may be difficult for our constituencies back home. The bill achieves an important goal that I have worked toward during my entire tenure in Congress, a balanced Federal budget. I therefore support efforts to send H.R. 2015 to the conference committee in the hope of further improvements prior to final passage.

Mr. POSHARD. Mr. Speaker, it is with great regret that I rise today in opposition to the budget reconciliation bill. During my tenure in Congress, I have championed balancing the budget and eliminating our deficit. I have proudly supported a balanced budget constitutional amendment, and I voted in favor of the balanced budget agreement reached by President Clinton and Members of Congress. In the past, I have voted for the budget alternative offered by the Blue Dog Coalition of conservative Democrats because it followed a formula that foregoes large tax cuts until our budget is balanced. The Blue Dog budget thereby avoided deep cuts in programs that benefit our most vulnerable citizens, postponing the rewards associated with a balanced budget until we have all made the sacrifices necessary to achieve this goal.

Mr. Speaker, I would like very much to be able to support the budget reconciliation before us today. I realize that it represents a huge step toward a goal that I have endorsed for years, and I appreciate the hard work and difficult choices of my colleagues that have allowed us to come this far. But I cannot vote for a budget that forces certain members of our society to bear such a tremendous burden while allowing others to enjoy the fruits of a balanced budget before one even exists. Those that will suffer under this bill are the same citizens that have already suffered too much. We cannot require sacrifice from some but not from others, and it is this conviction which will force me to vote against this bill, and to oppose the tax bill which will come before this House tomorrow.

I have no doubt that the up-front tax cuts in the reconciliation legislation will, in time, cause the deficit to explode, creating a situation where we respond by taking more money away from programs which help the neediest people in this country. Why should we work this hard and this long to arrive at a plan to balance the budget, only to have the course reverse a few years from now, forcing our colleagues and successors to solve the same problems all over again?

Among the specific provisions of this spending bill which cause me great concern is that which would permit privatization of administrative operations within the Food Stamp Program. I do not believe that private entities should be engaged in eligibility determinations for this or any other benefits program. In addition, I feel that this spending bill does a great disservice to our Nation's veterans, who have provided an invaluable contribution. Slashing their benefits is certainly not the way I want to demonstrate my gratitude. Furthermore, I must express my deep concern for the bill's piecemeal restoration of SSI benefits to legal immigrants. While I applaud provisions which return SSI and Medicaid benefits to those legal immigrants who were receiving them as of last August, I believe we must go further and guarantee benefits to those legal immigrants who were living in our country last summer but who unfortunately have become disabled since that time.

No. Mr. Speaker, this bill is not perfect. When I voted to support the balanced budget agreement, I knew that there was still work to be done, but I was confident that resulting reconciliation bills would address the major problems, and I would be able to support them in good conscience. Sadly, it appears I was wrong, and now I must make yet another of the tough choices that such a process always requires, and vote against this legislation. I care deeply about balancing our Federal budget and have worked as hard as anyone in this body to reach this goal. But as important as this end may be, I cannot support the means that my colleagues have decided to employ in order to reach it. It is simply not right to ask those who can least afford it to bear the burdens of our compromises. Until we agree that sacrifices must be made across the board, and until we agree that the rewards should be similarly enjoyed, I urge my colleagues to join me in opposing this budget legislation and in continuing to work to find equitable solutions. The goal of a balanced budget is well within our reach, but we are not quite there. Let's take the time and put in the effort to do this right, so that we can be proud of our contribution to the American people.

Mr. KLECZKA. Mr. Speaker, today we are debating a budget reconciliation bill that contains a Medical Savings Account, or MSA, demonstration project. We have seen this Medical Savings Account demonstration project debated on this floor before. Last Congress, we passed a law establishing MSA's for the under 65 population. This budget bill takes the MSA idea one dangerous step further by opening up an MSA option for 500,000 seniors enrolled in the Medicare Program. Mr. Speaker, MSAs may sound like a good thing, but in reality they are very risky.

Countless health care policy experts have concluded that MSA's will create extra costs for the Medicare Program and weaken the already compromised trust fund. The Congressional Budget Office estimated that the Republican demonstration included in this bill will cost the Federal Government over 5 years—$2.2 billion. In these times of budgetary austerity, when the Medicare trust fund is on the verge of collapse, I ask my colleagues: is this really where we ought to be targeting our precious resources?

Supporters of the MSA demonstration project argue that MSA's will enable seniors to take responsibility for their own health care because they will be more aware of what their health care choices really cost. In reality, Mr. Speaker, MSA's will give the bank accounts of wealthier and healthier people, who now cost Medicare very little, Federal money every year to spend as they see fit. MSA's will allow these individuals to leave the larger insurance pool and the shared risk that the large insurance pool provides. And, as a result, the Medicare Program will be left with only the poorer and the sicker individuals who are more costly to treat. Mr. Speaker, MSA's will undermine the very purpose of insurance—shared risk. A shared risk that spreads the high medical costs of the few, among the many other individuals who have low medical costs.

Mr. Speaker, adding MSA's to the Medicare Program is a terrible mistake. While we all support expanding seniors choices, we simply cannot afford the risks that the MSA's in this bill pose to the long-term financial stability of the Medicare Program.

Mr. MARKEY. Mr. Speaker, is it just me, or have we gone "Back to the Future." My colleagues on the other side of the aisle are once again presenting the American people with a false choice—slashing Medicare to provide huge tax breaks for the wealthiest Americans. The Republican leadership seems caught in a playback loop—putting on a straight face and arguing here on the floor and in committee that cutting $115 billion in Medicare spending will somehow save the program, despite the fact that not one dime of these savings goes to the trust fund, and despite the fact that the budget plan also includes an $85 billion tax break for the wealthy. That's nearly a dollar for dollar tradeoff.

And what would the Republicans have us trade off—health care for seniors versus health clubs for the wealthy—Medicare for maid service. Is this any way to make public policy?

Is it sensible to construct a public policy that sends 87 percent of the benefits of tax and entitlement changes to people in the top 20 percent of income levels in our country? Is it sensible to construct public policy that sends a measly 4 percent of the benefits to people in the bottom 60 percent of income levels?

"Holy hatchet job, Mr. Speaker" the Republican Party's dynamic duo of proposals for this week is a double-barreled attack on working families. Piled on top of last year's policy changes, the Republican tax scheme will actually reduce the after-tax income of the poorest 20 percent of our people by $420 per year. The top 20 percent in our country will get an after-tax raise of $2,500, and the top 1 percent get a whopping after-tax raise of $27,000.

"Riddle me this, Mr. Speaker:" What piece of legislation expands tax subsidies for IRA's, nearly doubles the maximums for estate taxes, and reduces the alternative minimum tax on huge corporations? Why, it's the so-called Taxpayer Relief Act that we will take up tomorrow.

Who would launch such a dastardly scheme?

Our colleagues on the other side of the aisle like to claim that Democrats are waging class warfare on tax and entitlement issues. Well, Mr. Speaker, the facts speak for themselves. The Republicans have launched an all-out attack on seniors and working families. When the top 20 percent in our country are getting 87 percent of the benefits of this supply-side scheme, and when the scheme actually increases taxes for the 40 percent of Americans who earn less than $27,000 per year, who is making war on whom?

This budget legislation makes the rich more comfortable and the poor more miserable. Only Mr. Freeze could produce a colder plan for seniors.

Mr. Speaker, we're not in Gotham City. We should be more focused on tax and entitlement equity, than on turning a cold shoulder to seniors and the less fortunate. But that's not what Republican tax-cut crusaders have proposed.

Republicans have voted to spend $2 billion on medical savings accounts [MSA's] to benefit the healthiest and wealthiest of our seniors. It's an experiment no less—and it comes at the same time that Republicans are proposing $115 billion in Medicare cuts to save the program.

The $115 billion that the budget resolution slashes from Medicare has little or nothing to do with saving the program. And, if we're not actually saving the program, why are we being asked to make cuts—why are we being asked to raise premiums for seniors and cut payments to hospitals, doctors, community health centers, and home health care?

Because Medicare once again has become the piggy bank to pay for tax breaks for the rich.

This budget not only protects corporate welfare and shields big defense contractors, it shamelessly sacrifices seniors for CEO's. The budget ax is being sharpened and Medicare is back on the chopping block—all because Republicans need to come up with the cash to balance the budget and give huge tax breaks to the wealthy. Now, we all applaud those who have had the good fortune to be wealthy and successful—but let's not make the rich richer at the expense of quality health care for seniors.

And make no mistake, the rich will get richer under the Republican plan—87 percent of the benefits of these tax and entitlement programs go to the top 20 percent in our country. On the tax cut alone, over 57 percent of this tax cut flows to families with incomes of more than $250,000, just 5 percent of all Americans. At the same time, this plan hikes taxes on the 40 percent of Americans who earn less than $27,000 per year.

Who will really pay the price for this Republican largesse? Who pays, our parents and grandparents that's who. These proud men and women have fought for this country, sacrificed for this country, and many survived the Great Depression and turned this country around and made it such an economic success.

Our seniors understand sacrifice. They struggled so that their children and grandchildren would have a better life, a more prosperous nation, and a more hopeful future.

But what will happen when Medicare and Medicaid are cut for working families. What additional burdens will middle-aged Americans have to bear? If seniors are unable to cover the cost of their health care, whom will they turn to? their adult children, of course. And in each of these families the $64,000 question will be, do we pay for mom and dad's health care or do we pay to send the kids to college. No middle-aged parent should have to make that choice.

We should not insult our seniors' legacy of sacrifice by allowing the leadership of this Congress to sacrifice them—our parents and grandparents—just to give a tax cut to the rich and super rich.

It was wrong in 1980. It was wrong in 1995. And it is wrong today.

We can do better than this. Join me in standing up for fairness. Vote against this proposal. Let's not cut Medicare for seniors just to give huge tax breaks to the wealthiest Americans.

SPECTRUM PROVISIONS OF THE BUDGET

We should be highly concerned about the increasing emphasis placed upon spectrum auction revenue to assist in balancing the Federal budget.

Placing budgetary priorities foremost in FCC licensing decisions ultimately shortchanges the American public because spectrum allocation and licensing decisions must encompass a broad interpretation of the public interest, of which taxpayer interests are but one part.

A short-term, temporary injection of cash into the Federal Treasury for the purpose of achieving revenue goals for an arbitrary 5-year budget target serves budgetary interests, but it does not necessarily serve the broader public interest.

This auction is not going to raise the money that the CBO and OMB believe it will. Moreover, we will not see all of the rest of the money that has already been bid in previous auctions because we are flooding the market and making it awash with spectrum.

There are literally billions that have to be collected from small businesses, women-owned firms and minority-owned firms who bid for spectrum at the FCC believing that they were bidding on a scarce resource. These are entities who historically have had difficulty in gaining access to capital. What will happen to their hopes of raising the funds necessary to get into the marketplace and compete if the Federal Government rushes to make more frequencies available for bidding to some of the largest companies on the planet

This spectrum auction proposal represents a departure from the principles of diversity that we built into the spectrum authority we granted the FCC as part of the 1993 budget. In 1993, we said that we wanted to see a democratization and diversity in the holding of FCC licenses. In this budget, after we finally saw minorities and women-owned businesses beginning to get access to this public resource, diversity and entrepreneurship is getting trumped by an increasing emphasis to simply let the deepest pockets bid on the spectrum. This is in direct contradiction to the message President Clinton delivered in California last week where he said that:

> We must continue to expand opportunity. Full participation in our strong and growing economy is the best antidote to envy, despair, and racism. We must press forward to move millions more from poverty and welfare to work; to bring the spark of enterprise to inner cities * * * We should not stop trying to equalize economic opportunity.

Further, the idea that an auction in the year 2001 for spectrum from the broadcasters that will not be returned to the Government in 2007 is a very dubious way to raise money. I offered an amendment in committee to make this return of spectrum more likely by requiring after 2001 that all new TV's be digital capable. That amendment was not agreed to.

CHANGES FROM COMMERCE COMMITTEE BILL

The bill before us allows the FCC the discretion—rather than mandatory based upon a 95 percent digital TV household penetration test—an extension of the date by which TV broadcasters must return their so-called "analog" spectrum from 2007 to some later date.

The bill, however, takes away a Commerce Committee requirement for minimum bids for FCC auctions. A few weeks ago, licenses for wireless communications services [WCS] in 4 states sold at auction for a total of $4. This WCS auction was estimated by CBO to raise $1.8 billion and yet raised only $13 million. Why should we condone a firesale on the public's assets.

[From the CQ's House Action Reports]

Changes to H.R. 2015, Balanced Budget Act

(By Joe Nyitray and Chuck Conlon)

The recommended rule automatically incorporates several changes into H.R. 2015, Balanced Budget Act, as reported by the Budget Committee.

SPECTRUM PROVISIONS

The rule modifies the bill's spectrum auction provisions to increase from $9.7 billion to $20.3 billion over five years the revenues that would be generated through sales of the radio broadcast spectrum. The increased revenue are accounted for by striking or relaxing numerous restrictions included in the bill on the FCC's ability to auction spectrum.

Among other changes, the rule strikes the bill's requirements that minimum bids equal two-thirds of previous CBO estimates, and that the FCC void spectrum auctions that fail to meet such minimums. It makes discretionary (rather than mandatory) FCC authority to extend the deadline of 2006 for referring the analog spectrum for television stations where more than 5% of the station's viewers continue to rely exclusively on over-the-air analog television signals; it requires the FCC to complete by the end of FY 2002 the bidding and assignment of licenses for returned analog television spectrum and spectrum used for UHF channels 60 through 69 (the bill only requires that bidding for such spectrum commence by July 1, 2001); it requires the FCC to "seek to assure" that low-power TV stations currently assigned to channels 60 through 69 be reassigned to a lower channel (the bill prohibits the auctioning of that spectrum unless such TV stations are reassigned to lower channels prior to such auctions); and it eliminates provisions that prohibit the reallocation of spectrum used by NASA for space research.

LOW-INCOME MEDICARE PREMIUM PROTECTION

The recommended rule adds an additional $1 billion to the $500 million already in the bill for Medicaid to help pay the Medicare Part B premium for low-income beneficiaries, thereby bringing the total up to $1.5 billion, the amount called for in the balanced budget agreement between the President and congressional leaders.

Mr. FRELINGHUYSEN. Mr. Speaker, I rise today in support of H.R. 2015, the Fiscal Year 1998 Balanced Budget Act.

My priority as a Member of Congress has been to work toward implementation of a balanced Federal budget. Over the course of the past 3 years, the Republican Congress has reduced the deficit and cut Government spending by $43 billion. We have also raised the level of debate on this issue to the point that we are at today. It took Republican leadership to get it to this point in history as we are about to vote on a proposal to balance the Federal budget by 2002—the first balanced Federal budget since 1969.

I am pleased to stand in support of taking the next step forward towards securing a better future for our children and for our country. This budget sets reasonable priorities for Federal Government spending. And, later this week, we will vote on another proposal to return money to the pockets of hard-working American citizens.

This agreement balances our country's economic needs with our commitment to our veterans, seniors, students, and hard-working taxpayers, and allows generous spending on programs that are important to them.

The package also contains important reforms to the Medicare program, that serves so many older Americans in my District and millions of Americans across the country. Under this agreement, the Medicare part A trust fund will be preserved and protected for at least 10 years. We make these reforms while increasing spending on the program each year.

Seniors will be given greater choices in their health care coverage. For the first time, beneficiaries will have the option of enrolling in medical savings accounts. The range of preventive benefits will be expanded to include mammography, diabetes, and prostate and colorectal cancer screenings.

The budget reconciliation package makes other important changes to the delivery of health care. States will be provided with greater flexibility to manage the Medicaid Program and in turn, Federal outlays on Medicaid will be reduced by approximately $11.4 billion over the next 5 years. At the same time, States will share a $16 billion block grant to provide health insurance for currently uninsured children from low-income families.

H.R. 2015 also makes reasonable changes to existing welfare and immigration laws that were enacted in the 104th Congress. It maintains the core reforms to welfare, SSI, and food stamps, yet restores benefits to a vulnerable group of legal immigrants, the aged and disabled, who were receiving SSI at the time the laws were signed.

As more and more Americans enroll in managed care, it is critical to address some concerns that have been raised about the management of these programs. H.R. 2015 includes a number of important consumer protections for Medicare and Medicaid recipients enrolled in managed care. Included are proposals to prohibit a managed care plan from preventing a physician from advising a patient, and requires that the length of a Medicaid recipients hospital stay be determined by the patient and doctor, instead of a health management organization.

For these, and many other reasons, I am pleased to support this budget that makes commonsense spending decisions, sets priorities, continues adequate levels of spending on important Federal programs to protect our health, safety, seniors, families, and children. This budget resolution is true to our commitment to balance the Federal budget and live within our means. It assures fiscal discipline and it takes power out of Washington and returns it to New Jersey and our neighborhoods.

The SPEAKER pro tempore. All time for debate has expired.

Pursuant to House Resolution 174, the bill is considered as read for amendment, and the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

□ 1715

MOTION TO RECOMMIT OFFERED BY MR. BROWN OF OHIO

Mr. BROWN of Ohio. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore (Mr. DREIER). Is the gentleman opposed to the bill?

Mr. BROWN of Ohio. In its current form, I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. BROWN of Ohio moves to recommit the bill H.R. 2015 to the Committee on the Budget with instructions to report the same back to the House forthwith with the following amendment:

Strike subtitle F of title III and insert the following:

Subtitle F—Child Health Insurance Initiative Act of 1997

SEC. 3500. SHORT TITLE OF SUBTITLE.

This subtitle may be cited as the "Child Health Insurance Initiative Act of 1997".

CHAPTER 1—IMPROVED OUTREACH

SEC. 3501. GRANT PROGRAM TO PROMOTE OUTREACH EFFORTS.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, for each fiscal year beginning with fiscal year 1998 to the Secretary of Health and Human Services, $25,000,000 for grants to States, localities, and nonprofit entities to promote outreach efforts to enroll eligible children under the medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) and related programs.

(b) USE OF FUNDS.—Funds under this section may be used to reimburse States, localities, and nonprofit entities for additional training and administrative costs associated with outreach activities. Such activities include the following:

(1) USE OF A COMMON APPLICATION FORM FOR FEDERAL CHILD ASSISTANCE PROGRAMS.—Implementing use of a single application form (established by the Secretary and based on the model application forms developed under subsections (a) and (b) of section 6506 of the Omnibus Budget Reconciliation Act of 1989 (42 U.S.C. 701 note; 1396a note)) to determine the eligibility of a child or the child's family (as applicable) for assistance or benefits under the medicaid program and under other Federal child assistance programs (such as the temporary assistance for needy families program under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), the food stamp program, as defined in section 3(h) of the Food Stamp Act of 1977 (7 U.S.C. 2012(h)), and the State program for foster care maintenance payments and adoption assistance payments under part E of title IV of the Social Security Act (42 U.S.C. 670 et seq.)).

(2) EXPANDING OUTSTATIONING OF ELIGIBILITY PERSONNEL.—Providing for the stationing of eligibility workers at sites, such as hospitals and health clinics, at which children receive health care or related services.

(c) APPLICATION, ETC.—Funding shall be made available under this section only upon the approval of an application by a State, locality, or nonprofit entity for such funding and only upon such terms and conditions as the Secretary specifies.

(d) ADMINISTRATION.—The Secretary may administer the grant program under this section through the identifiable administrative unit designated under section 509(a) of the Social Security Act (42 U.S.C. 709(a)) to promote coordination of medicaid and maternal and child health activities and other child health related activities.

CHAPTER 2—MEDIKIDS PROGRAM

SEC. 3521. STATE ENTITLEMENT TO PAYMENT FOR MEDIKIDS PROGRAM.

(a) IN GENERAL.—Each State that has a plan for a child health insurance program, or MediKids program, approved by the Secretary is entitled to receive, from amounts in the Treasury not otherwise appropriated and for each fiscal year beginning with fiscal year 1998, payment of the amounts provided under section 3523.

(b) APPLICATION.—The Secretary shall establish a procedure for the submittal and approval of plans for MediKids programs under this chapter. The Secretary shall approve the plan of a State for such a program if the Secretary determines that—

(1) the State is meeting the medicaid coverage requirements of section 3522(a), and

(2) the plan provides assurances satisfactory to the Secretary that the MediKids program will be conducted consistent with the applicable requirements of section 3522.

SEC. 3522. REQUIREMENTS FOR APPROVAL OF MEDIKIDS PROGRAM.

(a) ADEQUATE MEDICAID COVERAGE.—The medicaid coverage requirements of this subsection are the following:

(1) COVERAGE OF PREGNANT WOMEN AND CHILDREN AND INFANTS UP TO 185 PERCENT OF POVERTY.—The State has established 185 percent of the poverty line as the applicable percentage under section 1902(l)(2)(A) of the Social Security Act (42 U.S.C. 1396a(l)(2)(A)).

(2) COVERAGE OF CHILDREN UP TO 19 YEARS OF AGE.—The State provides, either through exercise of the option under section 1902(l)(1)(D) of such Act (42 U.S.C. 1396a(l)(1)(D)) or authority under section 1902(r)(2) of such Act (42 U.S.C. 1396a(r)(2)) for coverage under section 1902(l)(1)(D) of such Act of individuals under 19 years of age, regardless of date of birth.

(3) MAINTENANCE OF EFFORT.—

(A) MEDICAID.—Subject to subparagraph (B), the State—

(i) has not modified the eligibility requirements for children under the State medicaid plan, as in effect on January 1, 1997 in any manner that would have the effect of reducing the eligibility of children for coverage under such plan, and

(ii) will use the funds provided under this chapter to supplement and not supplant other Federal and State funds.

(B) WAIVER EXCEPTION.—Subparagraph (A) shall not apply to modifications made pursuant to an application for a waiver under section 1115 of the Social Security Act (42 U.S.C. 1315) submitted before January 1, 1997.

(b) COVERAGE OF UNINSURED CHILDREN.—

(1) IN GENERAL.—A MediKids program shall not provide benefits for children who are otherwise covered for such benefits under a medicaid plan or under a group health plan, health insurance coverage, or other health benefits coverage, but may expend funds for outreach and other activities in order to promote coverage under such plans.

(2) CONSTRUCTION.—Nothing in this subsection shall be construed as requiring a MediKids plan of a State to provide coverage for all near poverty level children described in paragraph (1) who are residing in the State.

(c) MEDICAID-EQUIVALENT BENEFITS.—Subject to subsection (d), a MediKids program shall provide benefits to eligible children for the equivalent items and services for which medical assistance is available (other than cost sharing) to children under the State's medicaid plan.

(d) PREMIUMS AND COST-SHARING.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), a MediKids program may—

(A) require the payment of premiums as a condition for coverage, but only for a covered child whose family income exceeds the poverty line;

(B) impose deductibles, coinsurance, copayments, and other forms of cost-sharing with respect to benefits under the program; and

(C) vary the levels of premiums, deductibles, coinsurance, copayments, and other cost-sharing based on a sliding scale related to the family income of the covered child.

(2) LIMITS ON PREMIUMS AND COST-SHARING.—The Secretary shall establish limits on the amount of cost-sharing expenses (including premiums, deductibles, coinsurance, copayments, and any other required financial contribution) that may be applied under the program. Such limits shall assure that total cost sharing expenses for children participating in such program are reasonable in relation to the income of their family (and taking into account the other types of expenses generally incurred by such families and family size) and that such cost sharing expenses do not unreasonably reduce access to the coverage or covered services provided under such program.

(3) NO COST SHARING FOR PREVENTIVE SERVICES.—A MediKids program may not impose deductibles, coinsurance, copayments, or similar cost sharing for preventive services.

SEC. 3523. PAYMENT AMOUNTS.

(a) TOTAL AMOUNT AVAILABLE.—

(1) IN GENERAL.—The total amount of funds that is available for payments under this chapter in any fiscal year is the base amount specified in paragraph (2) for the fiscal year reduced by the amount specified under paragraph (3) for the fiscal year.

(2) BASE AMOUNT.—The base amount specified under this paragraph for fiscal year 1998 and any subsequent fiscal year is $2,805,000,000.

(3) OFFSET FOR CERTAIN INCREASED MEDICAID EXPENDITURES.—

(A) IN GENERAL.—Subject to subparagraph (B), the amount specified under this paragraph for a fiscal year is the amount of aggregate additional Federal expenditures under made title XIX of the Social Security Act during the fiscal year that the Secretary estimates, before the beginning of the fiscal year, is attributable to imposition of the conditions described in section 3522(a). For purposes of applying the previous sentence, any Federal expenditures that result from an increase in the applicable percentage under section 1902(l)(2)(A) of the Social Security Act above the percentage in effect as of June 25, 1997, or from any exercise of an option described in section 3522(a)(2) effected on or after such date, shall be treated as additional Federal expenditures attributable to the imposition of the conditions described in section 3522(a).

(B) ADJUSTMENT TO REFLECT ACTUAL EXPENDITURES.—After the end of each fiscal year, the Secretary shall determine the actual amount of the additional Federal expenditures described in subparagraph (A) for the fiscal year. The Secretary shall adjust the amount otherwise specified under subparagraph (A) for subsequent years to take into account the amount by which the amounts estimated for previous fiscal years under such subparagraph were greater, or less than, the actual amount of the expenditures for such years.

(b) ALLOTMENT AMONG STATES.—

(1) IN GENERAL.—The Secretary shall establish a formula for the allotment of the total amount of funds available under subsection (a) among the qualifying States for each fiscal year.

(2) BASIS.—The formula shall be based upon the Secretary's estimate of the number of near poverty level children in the State as a proportion of the total of such numbers for all the qualifying States.

(3) CARRYFORWARD.—If the Secretary does not pay to a State under subsection (c) in a fiscal year the amount of its allotment in that fiscal year under this subsection, the amount of its allotment under this subsection for the succeeding fiscal year shall be increased by the amount of such shortfall.

(c) PAYMENTS.—

(1) IN GENERAL.—From the allotment of each qualifying State under subsection (b) for a fiscal year, the Secretary shall pay to the State for each quarter in the fiscal year an amount equal to 75 percent of the total amount expended during such quarter to carry out the State's MediKids program.

(2) NOT COUNTING COST SHARING.—For purposes of paragraph (1), if a MediKids program imposes premiums for coverage or requires payment of deductibles, coinsurance, copayments, or other cost sharing, under rules of the Secretary, expenditures attributable to such premiums or cost sharing shall not be taken into account under paragraph (1).

(d) STATE ENTITLEMENT.—This chapter constitutes budget authority in advance of appropriations Acts, and represents the obligation of the Federal Government to provide for the payment to qualifying States of amounts provided under this section.

SEC. 3529. DEFINITIONS.

For purposes of this chapter:

(1) The term "child" means an individual under 19 years of age.

(2) The term "medicaid plan" means the plan of medical assistance of a State under title XIX of the Social Security Act.

(3) The term "MediKids program" means a child health insurance program of a State under this title.

(4) The term "near poverty level child" means a child the family income of which (as defined by the Secretary) is at least 100 percent, but less than 300 percent, of the poverty line.

(5) The term "poverty line" has the meaning given such term in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by such section.

(6) The term "qualifying State" means a State with a MediKids program for which a plan is submitted and approved under this title.

(7) The term "Secretary" means the Secretary of Health and Human Services .

(8) The term "State" means the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

CHAPTER 3—CONTINUATION OF MEDICAID ELIGIBILITY FOR DISABLED CHILDREN WHO LOSE SSI BENEFITS

SEC. 3531. CONTINUATION OF MEDICAID ELIGIBILITY FOR DISABLED CHILDREN WHO LOSE SSI BENEFITS.

(a) IN GENERAL.—Section 1902(a)(10)(A)(i)(II) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)(i)(II)) is amended by inserting "(or were being paid as of the date of enactment of section 211(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104–193)) and would continue to be paid but for the enactment of that section" after "title XVI".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to medical assistance furnished on or after July 1, 1997.

CHAPTER 4—ASSURING CHILDREN'S ACCESS TO HEALTH INSURANCE

SEC. 3541. GUARANTEED AVAILABILITY OF INDIVIDUAL HEALTH INSURANCE COVERAGE TO UNINSURED CHILDREN.

(a) IN GENERAL.—Title XXVII of the Public Health Service Act, as added by section 111(a) of the Health Insurance Portability and Accountability Act of 1996, is amended by inserting after section 2741 the following new section:

"SEC. 2741A. GUARANTEED AVAILABILITY OF INDIVIDUAL HEALTH INSURANCE COVERAGE TO UNINSURED CHILDREN.

"(a) GUARANTEED AVAILABILITY.—

"(1) IN GENERAL.—Subject to the succeeding subsections of this section, each health insurance issuer that offers health insurance coverage (as defined in section 2791(b)(1)) in the individual market in a State, in the case of an eligible child (as defined in subsection (b)) desiring to enroll in individual health insurance coverage—

"(A) may not decline to offer such coverage to, or deny enrollment of, such child;

"(B) either (i) does not impose any preexisting condition exclusion (as defined in section 2701(b)(1)(A)) with respect to such coverage, or (ii) imposes such a preexisting condition exclusion only to the extent such an exclusion may be imposed under section 2701(a) in the case of an individual who is not a late enrollee; and

"(C) shall provide that the premium for the coverage is determined in a manner so that the ratio of the premium for such eligible children to the premium for eligible individuals described in section 2741(b) does not exceed the ratio of the actuarial value of such coverage (calculated based on a standardized population and a set of standardized utilization and cost factors) for children to such actuarial value for such coverage for such eligible individuals.

"(2) SUBSTITUTION BY STATE OF ACCEPTABLE ALTERNATIVE MECHANISM.—The requirement of paragraph (1) shall not apply to health insurance coverage offered in the individual market in a State in which the State is implementing an acceptable alternative mechanism under section 2744.

"(b) ELIGIBLE CHILD DEFINED.—In this part, the term 'eligible child' means an individual born after September 30, 1983, who has not attained 19 years of age and—

"(1) who is a citizen or national of the United States, an alien lawfully admitted for permanent residence, or an alien otherwise permanently residing in the United States under color of law;

"(2) who is not eligible for coverage under (A) a group health plan, (B) part A or part B of title XVIII of the Social Security Act, or (C) a State plan under title XIX of such Act (or any successor program), and does not have other health insurance coverage; and

"(3) with respect to whom the most recent coverage (if any, within the 1-year period ending on the date coverage is sought under this section) was not terminated based on a factor described in paragraph (1) or (2) of section 2712(b) (relating to nonpayment of premiums or fraud).

For purposes of paragraph (2)(A), the term 'group health plan' does not include COBRA continuation coverage.

"(c) INCORPORATION OF CERTAIN PROVISIONS.—

"(1) IN GENERAL.—Subject to paragraph (2), the provisions of subsections (c), (d), (e) and (f) (other than paragraph (1)) of section 2741 and section 2744 shall apply in relation to eligible children under subsection (a) in the same manner as they apply in relation to eligible individuals under section 2741(a).

"(2) SPECIAL RULES FOR ACCEPTABLE ALTERNATIVE MECHANISMS.—With respect to applying section 2744 under paragraph (1)—

"(A) the requirement in subsection (a)(1)(B) shall be applied instead of the requirement of section 2744(a)(1)(B);

"(B) the requirement in subsection (a)(1)(C) shall be applied instead of the requirement of section 2744(a)(1)(D); and

"(C) any deadline specified in such section shall be 1 year after the deadline otherwise specified.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take apply 1 year after the effective date for section 2741 of the Public Health Service Act (as provided under section 111(b)(1) of the Health Insurance Portability and Accountability Act of 1996).

AMENDMENT TO H.R. —. AS REPORTED

OFFERED BY MR. BARTON OF TEXAS

At the end of the bill, add the following new title:

TITLE XI—BUDGET PROCESS ENFORCEMENT

SEC. 11001. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "Balanced Budget Assurance Act of 1997".

(b) TABLE OF CONTENTS.—

TITLE XI—BUDGET PROCESS ENFORCEMENT

Sec. 11001. Short title and table of contents.
Sec. 11002. Definitions.

Subtitle A—Ensure That the Bipartisan Balanced Budget Agreement of 1997 Achieves Its Goal

Sec. 11101. Timetable.
Sec. 11102. Procedures to avoid sequestration or delay of new revenue reductions.
Sec. 11103. Effect on Presidents' budget submissions; point of order.
Sec. 11104. Deficit and revenue targets.
Sec. 11105. Direct spending caps.
Sec. 11106. Economic assumptions.
Sec. 11107. Revisions to deficit and revenue targets and to the caps for entitlements and other mandatory spending.

Subtitle B—Enforcement Provisions

Sec. 11201. Reporting excess spending.

Sec. 11202. Enforcing direct spending caps.
Sec. 11203. Sequestration rules.
Sec. 11204. Enforcing revenue targets.
Sec. 11205. Exempt programs and activities.
Sec. 11206. Special rules.
Sec. 11207. The current law baseline.
Sec. 11208. Limitations on emergency spending.

SEC. 11002. DEFINITIONS.

For purposes of this title:

(1) ELIGIBLE POPULATION.—The term "eligible population" shall mean those individuals to whom the United States is obligated to make a payment under the provisions of a law creating entitlement authority. Such term shall not include States, localities, corporations or other nonliving entities.

(2) SEQUESTER AND SEQUESTRATION.—The terms "sequester" and "sequestration" refer to or mean the cancellation of budgetary resources provided by discretionary appropriations or direct spending law.

(3) BREACH.—The term "breach" means, for any fiscal year, the amount (if any) by which outlays for that year (within a category of direct spending) is above that category's direct spending cap for that year.

(4) BASELINE.—The term "baseline" means the projection (described in section 11207) of current levels of new budget authority, outlays, receipts, and the surplus or deficit into the budget year and the outyears.

(5) BUDGETARY RESOURCES.—The term "budgetary resources" means new budget authority, unobligated balances, direct spending authority, and obligation limitations.

(6) DISCRETIONARY APPROPRIATIONS.—The term "discretionary appropriations" means budgetary resources (except to fund direct spending programs) provided in appropriation Acts. If an appropriation Act alters the level of direct spending or offsetting collections, that effect shall be treated as direct spending. Classifications of new accounts or activities and changes in classifications shall be made in consultation with the Committees on Appropriations and the Budget of the House of Representatives and the Senate and with CBO and OMB.

(7) DIRECT SPENDING.—The term "direct spending" means—

(A) budget authority provided by law other than appropriation Acts, including entitlement authority;

(B) entitlement authority; and

(C) the food stamp program.

If a law other than an appropriation Act alters the level of discretionary appropriations or offsetting collections, that effect shall be treated as direct spending.

(8) ENTITLEMENT AUTHORITY.—The term "entitlement authority" means authority (whether temporary or permanent) to make payments (including loans and grants), the budget authority for which is not provided for in advance by appropriation Acts, to any person or government if, under the provisions of the law containing such authority, the United States is obligated to make such payments to persons or governments who meet the requirements established by such law.

(9) CURRENT.—The term "current" means, with respect to OMB estimates included with a budget submission under section 1105(a) of title 31 U.S.C., the estimates consistent with the economic and technical assumptions underlying that budget.

(10) ACCOUNT.—The term "account" means an item for which there is a designated budget account designation number in the President's budget.

(11) BUDGET YEAR.—The term "budget year" means the fiscal year of the Government that starts on the next October 1.

(12) CURRENT YEAR.—The term "current year" means, with respect to a budget year, the fiscal year that immediately precedes that budget year.

(13) OUTYEAR.—The term "outyear" means, with respect to a budget year, any of the fiscal years that follow the budget year.

(14) OMB.—The term "OMB" means the Director of the Office of Management and Budget.

(15) CBO.—The term "CBO" means the Director of the Congressional Budget Office.

(16) BUDGET OUTLAYS AND OUTLAYS.—The terms "budget outlays" and "outlays" mean, with respect to any fiscal year, expenditures of funds under budget authority during such year.

(17) BUDGET AUTHORITY AND NEW BUDGET AUTHORITY.—The terms "budget authority" and "new budget authority" have the meanings given to them in section 3 of the Congressional Budget and Impoundment Control Act of 1974.

(18) APPROPRIATION ACT.—The term "appropriation Act" means an Act referred to in section 105 of title 1 of the United States Code.

(19) CONSOLIDATED DEFICIT.—The term "consolidated deficit" means, with respect to a fiscal year, the amount by which total outlays exceed total receipts during that year.

(20) SURPLUS.—The term "surplus" means, with respect to a fiscal year, the amount by which total receipts exceed total outlays during that year.

(21) DIRECT SPENDING CAPS.—The term "direct spending caps" means the nominal dollar limits for entitlements and other mandatory spending pursuant to section 11105 (as modified by any revisions provided for in this Act).

Subtitle A—Ensure That the Bipartisan Balanced Budget Agreement of 1997 Achieves Its Goal

SEC. 11101. TIMETABLE.

On or before:	Action to be completed:
January 15	CBO economic and budget update.
First Monday in February.	President's budget update based on new assumptions.
August 1	CBO and OMB updates.
August 15	Preview report.
Not later than November 1 (and as soon as practical after the end of the fiscal).	OMB and CBO Analyses of Deficits, Revenues and Spending Levels and Projections for the Upcoming Year.
November 1–December 15	Congressional action to avoid sequestration.
December 15	OMB issues final (look back) report for prior year and preview for current year.
December 15	Presidential sequester order or order delaying new/additional revenues reductions scheduled to take effect pursuant to reconciliation legislation enacted in calendar year 1997.

SEC. 11102. PROCEDURES TO AVOID SEQUESTRATION OR DELAY OF NEW REVENUE REDUCTIONS.

(a) SPECIAL MESSAGE.—If the OMB Analysis of Actual Spending Levels and Projections for the Upcoming Year indicates that—

(1) deficits in the most recently completed fiscal year exceeded, or the deficits in the budget year are projected to exceed, the deficit targets in section 11104;

(2) revenues in the most recently completed fiscal year were less than, or revenues in the current year are projected to be less than, the revenue targets in section 11104; or

(3) outlays in the most recently completed fiscal year exceeded, or outlays in the current year are projected to exceed, the caps in section 11104;

the President shall submit to Congress with the OMB Analysis of Actual Spending Levels and Projections for the Upcoming Year a special message that includes proposed legislative changes to—

(A) offset the net deficit or outlay excess;

(B) offset any revenue shortfall; or

(C) revise the deficit or revenue targets or the outlay caps contained in this Act;

through any combination of—

(i) reductions in outlays;

(ii) increases in revenues; or

(iii) increases in the deficit targets or expenditure caps, or reductions in the revenue targets, if the President submits a written determination that, because of economic or programmatic reasons, none of the variances from the balanced budget plan should be offset.

(b) INTRODUCTION OF THE PRESIDENT'S PACKAGE.—Not later than November 15, the message from the President required pursuant to subsection (a) shall be introduced as a joint resolution in the House of Representatives or the Senate by the chairman of its Committee on the Budget. If the chairman fails to do so, after November 15, the joint resolution may be introduced by any Member of that House of Congress and shall be referred to the Committee on the Budget of that House.

(c) HOUSE BUDGET COMMITTEE ACTION.—The Committee on the Budget of the House of Representatives shall, by November 15, report a joint resolution containing—

(1) the recommendations in the President's message, or different policies and proposed legislative changes than those contained in the message of the President, to ameliorate or eliminate any excess deficits or expenditures or any revenue shortfalls, or

(2) any changes to the deficit or revenue targets or expenditure caps contained in this Act, except that any changes to the deficit or revenue targets or expenditure caps cannot be greater than the changes recommended in the message submitted by the President.

(d) PROCEDURE IF THE COMMITTEES ON THE BUDGET OF THE HOUSE OF REPRESENTATIVES OR SENATE FAILS TO REPORT REQUIRED RESOLUTION.—

(1) AUTOMATIC DISCHARGE OF COMMITTEES ON THE BUDGET OF THE HOUSE.—If the Committee on the Budget of the House of Representatives fails, by November 20, to report a resolution meeting the requirements of subsection (c), the committee shall be automatically discharged from further consideration of the joint resolution reflecting the President's recommendations introduced pursuant to subsection (a), and the joint resolution shall be placed on the appropriate calendar.

(2) CONSIDERATION OF DISCHARGE RESOLUTION IN THE HOUSE.—If the Committee has been discharged under paragraph (1) above, any Member may move that the House of Representatives consider the resolution. Such motion shall be highly privileged and not debatable. It shall not be in order to consider any amendment to the resolution except amendments which are germane and which do not change the net deficit impact of the resolution.

(e) CONSIDERATION OF JOINT RESOLUTION IN THE HOUSE.—Consideration of resolution reported pursuant to subsection (c) or (d) shall be pursuant to the procedures set forth in section 305 of the Congressional Budget Act of 1974 and subsection (d).

(f) TRANSMITTAL TO SENATE.—If a joint resolution passes the House of Representatives pursuant to subsection (e), the Clerk of the House of Representatives shall cause the resolution to be engrossed, certified, and transmitted to the Senate within 1 calendar day of the day on which the resolution is passed. The resolution shall be referred to the Senate Committee on the Budget.

(g) REQUIREMENTS FOR SPECIAL JOINT RESOLUTION IN THE SENATE.—The Committee on the Budget of the Senate shall report not later than December 1—

(1) a joint resolution reflecting the message of the President; or

(2) the joint resolution passed by the House of Representatives, with or without amendment; or

(3) a joint resolution containing different policies and proposed legislative changes than those contained in either the message of the President or the resolution passed by the House of Representatives, to eliminate all or part of any excess deficits or expenditures or any revenue shortfalls, or

(4) any changes to the deficit or revenue targets, or to the expenditure caps, contained in this Act, except that any changes to the deficit or revenue targets or expenditure caps cannot be greater than the changes recommended in the message submitted by the President.

(h) PROCEDURE IF THE SENATE BUDGET COMMITTEE FAILS TO REPORT REQUIRED RESOLUTION.—

(1) AUTOMATIC DISCHARGE OF SENATE BUDGET COMMITTEE.—In the event that the Committee on the Budget of the Senate fails, by December 1, to report a resolution meeting the requirements of subsection (g), the committee shall be automatically discharged from further consideration of the joint resolution reflecting the President's recommendations introduced pursuant to subsection (a) and of the resolution passed by the House of Representatives, and both joint resolutions shall be placed on the appropriate calendar.

(2) CONSIDERATION OF DISCHARGE RESOLUTION IN THE SENATE.—(A) If the Committee has been discharged under paragraph (1), any member may move that the Senate consider the resolution. Such motion shall be highly privileged and not debatable. It shall not be in order to consider any amendment to the resolution except amendments which are germane and which do not change the net deficit impact of the resolution.

(B) Consideration of resolutions reported pursuant to subsections (c) or (d) shall be pursuant to the procedures set forth in section 305 of the Congressional Budget Act of 1974 and subsection (d).

(C) If the joint resolution reported by the Committees on the Budget pursuant to subsection (c) or (g) or a joint resolution discharged in the House of Representatives or the Senate pursuant to subsection (d)(1) or (h)(1) would eliminate less than—

(i) the entire amount by which actual or projected deficits exceed, or revenues fall short of, the targets in this Act; or

(ii) the entire amount by which actual or projected outlays exceed the caps contained in this Act;

then the Committee on the Budget of the Senate shall report a joint resolution, raising the deficit targets or outlay caps, or reducing the revenue targets for any year in which actual or projected spending, revenues or deficits would not conform to the deficit and revenue targets or expenditure caps in this Act.

(k) CONFERENCE REPORTS SHALL FULLY ADDRESS DEFICIT EXCESS.—It shall not be in order in the House of Representatives or the Senate to consider a conference report on a joint resolution to eliminate all or part of any excess deficits or outlays or to eliminate all or part of any revenue shortfall compared to the deficit and revenue targets and the expenditure caps contained in this Act, unless—

(1) the joint resolution offsets the entire amount of any overage or shortfall; or

(2) the House of Representatives and Senate both pass the joint resolution reported pursuant to subsection (j)(2).

The vote on any resolution reported pursuant to subsection (j)(2) shall be solely on the subject of changing the deficit or revenue targets or the expenditure limits in this Act.

SEC. 11103. EFFECT ON PRESIDENTS' BUDGET SUBMISSIONS; POINT OF ORDER.

(a) BUDGET SUBMISSION.—Any budget submitted by the President pursuant to section 1105(a) of title 31, United States Code, for each of fiscal years 1998 through 2007 shall be consistent with the spending, revenue, and deficit levels established in sections 11104 and 11105 or it shall recommend changes to those levels

(b) POINT OF ORDER.—It shall not be in order in the House of Representatives or the Senate to consider any concurrent resolution on the budget unless it is consistent with the spending, revenue, and deficit levels established in sections 11104 and 11105.

SEC. 11104. DEFICIT AND REVENUE TARGETS.

(a) CONSOLIDATED DEFICIT (OR SURPLUS) TARGETS.—For purposes of sections 11102 and 11107, the consolidated deficit targets shall be—

(1) for fiscal year 1998, $90,500,000,000;

(2) for fiscal year 1999, $89,700,000,000;

(3) for fiscal year 2000, $83,000,000,000;

(4) for fiscal year 2001, $53,300,000,000; and

(5) for fiscal year 2002, there shall be a surplus of not less than $1,400,000,000.

(b) CONSOLIDATED REVENUE TARGETS.—For purposes of sections 11102, 11107, 11201, and 11204, the consolidated revenue targets shall be—

(1) for fiscal year 1998, $1,601,800,000,000;

(2) for fiscal year 1999, $1,664,200,000,000;

(3) for fiscal year 2000, $1,728,100,000,000;

(4) for fiscal year 2001, $1,805,100,000,000; and

(5) for fiscal year 2002, $1,890,400,000,000.

SEC. 11105. DIRECT SPENDING CAPS.

(a) IN GENERAL.—Effective upon submission of the report by OMB pursuant to subsection (c), direct spending caps shall apply to all entitlement authority except for undistributed offsetting receipts and net interest outlays. For purposes of enforcing direct spending caps under this Act, each separate program shown in the table set forth in subsection (d) shall be deemed to be a category.

(b) BUDGET COMMITTEE REPORTS.—Within 30 days after enactment of this Act, the Budget Committees of the House of Representatives and the Senate shall file with their respective Houses identical reports containing account numbers and spending levels for each specific category.

(c) REPORT BY OMB.—Within 30 days after enactment of this Act, OMB shall submit to the President and each House of Congress a report containing account numbers and spending limits for each specific category.

(d) CONTENTS OF REPORTS.—All direct spending accounts not included in these reports under separate categories shall be included under the heading "Other Entitlements and Mandatory Spending". These reports may include adjustments among the caps set forth in this Act as required below, however the aggregate amount available under the "Total Entitlements and Other Mandatory Spending" cap shall be identical in each such report and in this Act and shall be deemed to have been adopted as part of this Act. Each such report shall include the actual amounts of the caps for each year of fiscal years 1998 through 2002 consistent with the concurrent resolution on the budget for FY 1998 for each of the following categories:

Earned Income Tax Credit,
Family Support,
Federal retirement:
Civilian/other,
Military,
Medicaid,
Medicare,
Social security,
Supplemental security income,
Unemployment compensation,
Veterans' benefits,
Medicare,
Other entitlements and mandatory spending, and
Aggregate entitlements and other mandatory spending.

(e) ADDITIONAL SPENDING LIMITS.—Legislation enacted subsequent to this Act may include additional caps to limit spending for specific programs, activities, or accounts with these categories. Those additional caps (if any) shall be enforced in the same manner as the limits set forth in such joint explanatory statement.

SEC. 11106. ECONOMIC ASSUMPTIONS.

Subject to periodic reestimation based on changed economic conditions or changes in eligible population, determinations of the direct spending caps under section 11105, any breaches of such caps, and actions necessary to remedy such breaches shall be based upon the economic assumptions set forth in the joint explanatory statement of managers accompanying the concurrent resolution on the budget for fiscal year 1998 (House Concurrent Resolution 84, 105th Congress).

SEC. 11107. REVISIONS TO DEFICIT AND REVENUE TARGETS AND TO THE CAPS FOR ENTITLEMENTS AND OTHER MANDATORY SPENDING.

(a) AUTOMATIC ADJUSTMENTS TO DEFICIT AND REVENUE TARGETS AND TO CAPS FOR ENTITLEMENTS AND OTHER MANDATORY SPENDING.—When the President submits the budget under section 1105(a) of title 31, United States Code, for any year, OMB shall calculate (in the order set forth below), and the budget and reports shall include, adjustments to the deficit and revenue targets, and to the direct spending caps (and those limits as cumulatively adjusted) for the current year, the budget year, and each outyear, to reflect the following:

(1) CHANGES TO REVENUE TARGETS.—

(A) CHANGES IN GROWTH.—For Federal revenues and deficits under laws and policies enacted or effective before July 1, 1997, growth adjustment factors shall equal the ratio between the level of year-over-year growth measured for the fiscal year most recently completed and the applicable estimated level for that year as described in section 11105.

(B) CHANGES IN INFLATION.—For Federal revenues and deficits under laws and policies enacted or effective before July 1, 1997, inflation adjustment factors shall equal the ratio between the level of year-over-year growth measured for the fiscal year most recently completed and the applicable estimated level for that year as described in section 11105.

(2) ADJUSTMENTS TO DIRECT SPENDING CAPS.—

(A) CHANGES IN CONCEPTS AND DEFINITIONS.—The adjustments produced by changes in concepts and definitions shall equal the baseline levels of new budget authority and outlays using up-to-date concepts and definitions minus those levels using the concepts and definitions in effect before such changes. Such changes in concepts and definitions may only be made in consultation with the Committees on Appropriations, the Budget, and Government Reform and Oversight and Governmental Affairs of the House of Representatives and the Senate.

(B) CHANGES IN NET OUTLAYS.—Changes in net outlays for all programs and activities exempt from sequestration under section 11204.

(C) CHANGES IN INFLATION.—For direct spending under laws and policies enacted or effective on or before July 1, 1997, inflation adjustment factors shall equal the ratio between the level of year-over-year inflation measured for the fiscal year most recently completed and the applicable estimated level for that years as described in section 11105 (relating to economic assumptions). For direct spending under laws and policies enacted or effective after July 1, 1997, there shall be no adjustment to the direct spending caps (for changes in economic conditions including inflation, nor for changes in numbers of eligible beneficiaries) unless—

(i) the Act or the joint explanatory statement of managers accompanying such Act providing new direct spending includes economic projections and projections of numbers of beneficiaries; and

(ii) such Act specifically provides for automatic adjustments to the direct spending caps in section 11105 based on those projections.

(D) CHANGES IN ELIGIBLE POPULATIONS.—For direct spending under laws and policies enacted or effective on or before July 1, 1997, the basis for adjustments under this section shall be the same as the projections underlying Table A–4, CBO Baseline Projections of Mandatory Spending, Including Deposit Insurance (by fiscal year, in billions of dollars), published in An Analysis of the President's Budgetary Proposals for Fiscal Year 1998, March 1997, page 53. For direct spending under laws and policies enacted or effective after July 1, 1997, there shall be no adjustment to the direct spending caps for changes in numbers of eligible beneficiaries unless—

(i) the Act or the joint explanatory statement of managers accompanying such Act providing new direct spending includes economic projections and projections of numbers of beneficiaries; and

(ii) such Act specifically provides for automatic adjustments to the direct spending caps in section 11105 based on those projections.

(E) INTRA-BUDGETARY PAYMENTS.—From discretionary accounts to mandatory accounts. The baseline and the discretionary spending caps shall be adjusted to reflect those changes.

(c) CHANGES TO DEFICIT TARGETS.—The deficit targets in section 11104 shall be adjusted to reflect changes to the revenue targets or changes to the caps for entitlements and other mandatory spending pursuant to subsection (a).

(d) PERMISSIBLE REVISIONS TO DEFICIT AND REVENUE TARGETS AND DIRECT SPENDING CAPS.—Deficit and revenue targets and direct spending caps as enacted pursuant to sections 11104 and 11105 may be revised as follows: Except as required pursuant to section 11105(a), direct spending caps may only be amended by recorded vote. It shall be a matter of highest privilege in the House of Representatives and the Senate for a Member of the House of Representatives or the Senate to insist on a recorded vote solely on the question of amending such caps. It shall not be in order for the Committee on Rules of the House of Representatives to report a resolution waiving the provisions of this subsection. This subsection may be waived in the Senate only by an affirmative vote of three-fifths of the Members duly chosen and sworn.

Subtitle B—Enforcement Provisions

SEC. 11201. REPORTING EXCESS SPENDING.

(a) ANALYSIS OF ACTUAL DEFICIT, REVENUE, AND SPENDING LEVELS.—As soon as practicable after any fiscal year, OMB shall compile a statement of actual deficits, revenues, and direct spending for that year. The statement shall identify such spending by categories contained in section 11105.

(b) ESTIMATE OF NECESSARY SPENDING REDUCTION.—Based on the statement provided under subsection (a), the OMB shall issue a report to the President and the Congress on December 15 of any year in which such statement identifies actual or projected deficits, revenues, or spending in the current or immediately preceding fiscal years in violation of the revenue targets or direct spending caps in section 11104 or 11105, by more than one percent of the applicable total revenues or direct spending for such year. The report shall include:

(1) All instances in which actual direct spending has exceeded the applicable direct spending cap.

(2) The difference between the amount of spending available under the direct spending caps for the current year and estimated actual spending for the categories associated with such caps.

(3) The amounts by which direct spending shall be reduced in the current fiscal year so that total actual and estimated direct spending for all cap categories for the current and immediately preceding fiscal years shall not exceed the amounts available under the direct spending caps for such fiscal years.

(4) The amount of excess spending attributable solely to changes in inflation or eligible populations.

SEC. 11202. ENFORCING DIRECT SPENDING CAPS.

(a) PURPOSE.—This subtitle provides enforcement of the direct spending caps on categories of spending established pursuant to section 11105. This section shall apply for any fiscal year in which direct spending exceeds the applicable direct spending cap.

(b) GENERAL RULES.—

(1) ELIMINATING A BREACH.—Each non-exempt account within a category shall be reduced by a dollar amount calculated by multiplying the baseline level of sequestrable budgetary resources in that account at that time by the uniform percentage necessary to eliminate a breach within that category.

(2) PROGRAMS, PROJECTS, OR ACTIVITIES.—Except as otherwise provided, the same percentage sequestration shall apply to all programs, projects and activities within a budget account.

(3) INDEFINITE AUTHORITY.—Except as otherwise provided, sequestration in accounts for which obligations are indefinite shall be taken in a manner to ensure that obligations in the fiscal year of a sequestration and succeeding fiscal years are reduced, from the level that would actually have occurred, by the applicable sequestration percentage or percentages.

(4) CANCELLATION OF BUDGETARY RESOURCES.—Budgetary resources sequestered from any account other than an trust, special or revolving fund shall revert to the Treasury and be permanently canceled.

(5) IMPLEMENTING REGULATIONS.—Notwithstanding any other provision of law, administrative rules or similar actions implementing any sequestration shall take effect within 30 days after that sequestration.

SEC. 11203. SEQUESTRATION RULES.

(a) GENERAL RULES.—For programs subject to direct spending caps:

(1) TRIGGERING OF SEQUESTRATION.—Sequestration is triggered if total direct spending subject to the caps exceeds or is projected to exceed the aggregate cap for direct spending for the current or immediately preceding fiscal year.

(2) CALCULATION OF REDUCTIONS.—Sequestration shall reduce spending under each separate direct spending cap in proportion to the amounts each category of direct spending exceeded the applicable cap.

(3) UNIFORM PERCENTAGES.—In calculating the uniform percentage applicable to the sequestration of all spending programs or activities within each category, or the uniform percentage applicable to the sequestration of nonexempt direct spending programs or activities, the sequestrable base for direct spending programs and activities is the total level of outlays for the fiscal year for those programs or activities in the current law baseline.

(4) PERMANENT SEQUESTRATION OF DIRECT SPENDING.—Obligations in sequestered direct spending accounts shall be reduced in the fiscal year in which a sequestration occurs and in all succeeding fiscal years. Notwithstanding any other provision of this section, after the first direct spending sequestration, any later sequestration shall reduce direct spending by an amount in addition to, rather than in lieu of, the reduction in direct spending in place under the existing sequestration or sequestrations.

(5) SPECIAL RULE.—For any direct spending program in which—

(A) outlays pay for entitlement benefits;

(B) a current-year sequestration takes effect after the 1st day of the budget year;

(C) that delay reduces the amount of entitlement authority that is subject to sequestration in the budget; and

(D) the uniform percentage otherwise applicable to the budget-year sequestration of a program or activity is increased due to the delay;

then the uniform percentage shall revert to the uniform percentage calculated under paragraph (3) when the budget year is completed.

(6) INDEXED BENEFIT PAYMENTS.—If, under any entitlement program—

(A) benefit payments are made to persons or governments more frequently than once a year; and

(B) the amount of entitlement authority is periodically adjusted under existing law to reflect changes in a price index (commonly called "cost of living adjustments");

sequestration shall first be applied to the cost of living adjustment before reductions are made to the base benefit. For the first fiscal year to which a sequestration applies, the benefit payment reductions in such programs accomplished by the order shall take effect starting with the payment made at the beginning of January following a final sequester. For the purposes of this subsection, veterans' compensation shall be considered a program that meets the conditions of the preceding sentence.

(7) LOAN PROGRAMS.—For all loans made, extended, or otherwise modified on or after any sequestration under loan programs subject to direct spending caps—

(A) the sequestrable base shall be total fees associated with all loans made extended or otherwise modified on or after the date of sequestration; and

(B) the fees paid by borrowers shall be increased by a uniform percentage sufficient to produce the dollar savings in such loan programs for the fiscal year or years of the sequestrations required by this section.

Notwithstanding any other provision of law, in any year in which a sequestration is in effect, all subsequent fees shall be increased by the uniform percentage and all proceeds from such fees shall be paid into the general fund of the Treasury.

(8) INSURANCE PROGRAMS.—Any sequestration of a Federal program that sells insurance contracts to the public (including the Federal Crop Insurance Fund, the National Insurance Development Fund, the National Flood Insurance fund, insurance activities of the Overseas Private Insurance Corporation, and Veterans' Life insurance programs) shall be accomplished by increasing premiums on contracts entered into extended or otherwise modified, after the date a sequestration order takes effect by the uniform sequestration percentage. Notwithstanding any other provision of law, for any year in which a sequestration affecting such programs is in effect, subsequent premiums shall be increased by the uniform percentage and all proceeds from the premium increase shall be paid from the insurance fund or account to the general fund of the Treasury.

(9) STATE GRANT FORMULAS.—For all State grant programs subject to direct spending caps—

(A) the total amount of funds available for all States shall be reduced by the amount required to be sequestered; and

(B) if States are projected to receive increased funding in the budget year compared to the immediately preceding fiscal year, sequestration shall first be applied to the estimated increases before reductions are made compared to actual payments to States in the previous year—

(i) the reductions shall be applied first to the total estimated increases for all States; then

(ii) the uniform reduction shall be made from each State's grant; and

(iii) the uniform reduction shall apply to the base funding levels available to states in the immediately preceding fiscal year only to the extent necessary to eliminate any remaining excess over the applicable direct spending cap.

(10) SPECIAL RULE FOR CERTAIN PROGRAMS.—Except matters exempted under section 11204 and programs subject to special rules set forth under section 11205 and notwithstanding any other provisions of law, any sequestration required under this Act shall reduce benefit levels by an amount sufficient to eliminate all excess spending identified in the report issued pursuant to section 11201, while maintaining the same uniform percentage reduction in the monetary value of benefits subject to reduction under this subsection.

(b) WITHIN-SESSION SEQUESTER.—If a bill or resolution providing direct spending for the current year is enacted before July 1 of that fiscal year and causes a breach within any direct spending cap for that fiscal year, 15 days later there shall be a sequestration to eliminate that breach within that cap.

SEC. 11204. ENFORCING REVENUE TARGETS.

(a) PURPOSE.—This section enforces the revenue targets established pursuant to section 11104. This section shall apply for any year in which actual revenues were less than the applicable revenue target in the preceding fiscal year or are projected to be less than the applicable revenue target in the current year.

(b) ESTIMATE OF NECESSITY TO SUSPEND NEW REVENUE REDUCTIONS.—Based on the statement provided under section 11201(a), OMB shall issue a report to the President and the Congress on December 15 of any year in which such statement identifies actual or projected revenues in the current or immediately preceding fiscal years lower than the applicable revenue target in section 11104, as adjusted pursuant to section 11106, by more than 1 percent of the applicable total revenue target for such year. The report shall include—

(1) all laws and policies described in subsection (c) which would cause revenues to decline in the calendar year which begins January 1 compared to the provisions of law in effect on December 15;

(2) the amounts by which revenues would be reduced by implementation of the provisions of law described in paragraph (1) compared to provisions of law in effect on December 15; and

(3) whether delaying implementation of the provisions of law described in paragraph (1) would cause the total for revenues in the projected revenues in the current fiscal year and actual revenues in the immediately preceding fiscal year to equal or exceed the total of the targets for the applicable years.

(c) NO CREDITS, DEDUCTIONS, EXCLUSIONS, PREFERENTIAL RATE OF TAX, ETC.—If any provision of the Internal Revenue Code of 1986 added by the Revenue Reconciliation Act of 1997 would (but for this section) first take effect in a tax benefit suspension year, such provision shall not take effect until the first calendar year which is not a tax benefit suspension year.

END OF SUSPENSION.—If the OMB report issued under section (a) following a tax benefit suspension your indicates that the total of revenues projected in the current fiscal year and actual revenues in he immediately proceeding year will equal or exceed the applicable targets the President shall sign an order ending the delayed phase-in of new tax cuts effective January 1. Such order shall provide that the new tax cuts shall take effect as if the provisions of this section had not taken effect.

(e) SUSPENSION OF BENEFITS BEING PHASED IN.—If, under any provision of the Internal Revenue Code of 1986, there is an increase in any benefit which would (but for this section) take effect with respect to a tax benefit suspension year, in lieu of applying subsection (c)—

(1) any increase in the benefit under such section with respect to such year and each subsequent calendar year shall be delayed 1 calendar year, and

(2) the level of benefit under such section with respect to the prior calendar year shall apply to such tax benefit suspension year.

(f) PERCENTAGE SUSPENSION WHERE FULL SUSPENSION UNNECESSARY TO ACHIEVE REVENUE TARGET.—If the application of subsections (c), (d), and (e) to any tax benefit suspension year would (but for this subsection) (1) all laws and policies described in subsection (c) which would cause revenues to decline in the calendar year which begins January 1 compared to the provisions of law in effect on December 15; subsections (c), (d), and (e) shall be applied such that the amount of each benefit which is denied is only the percentage of such benefit which is necessary to result in revenues equal to such target. Such percentage shall be determined by OMB, and the same percentage shall apply to such benefits.

(g) TAX BENEFIT SUSPENSION YEAR.—For purposes of this section, the term "tax benefit suspension year" means any calendar year if the statement issued under subsection (b) during the preceding calendar year indicates that—

(1) for the fiscal year ending in such preceding calendar year, actual revenues were lower than the applicable revenue target in section 11104, as adjusted pursuant to section 11106, for such fiscal year by more than 1 percent of such target, or

(2) for the fiscal year beginning in such preceding calendar year, projected revenues (determined without regard to this section) are estimated to be lower than the applicable revenue target in section 11104, as adjusted pursuant to section 11106, for such fiscal year by more than 1 percent of such target.

SEC. 11205. EXEMPT PROGRAMS AND ACTIVITIES.

The following budget accounts, activities within accounts, or income shall be exempt from sequestration—

(1) net interest;

(2) all payments to trust funds from excise taxes or other receipts or collections properly creditable to those trust funds;

(3) offsetting receipts and collections;

(4) all payments from one Federal direct spending budget account to another Federal budget account;

(5) all intragovernmental funds including those from which funding is derived primarily from other Government accounts;

(6) expenses to the extent they result from private donations, bequests, or voluntary contributions to the Government;

(7) nonbudgetary activities, including but not limited to—

(A) credit liquidating and financing accounts;

(B) the Pension Benefit Guarantee Corporation Trust Funds;

(C) the Thrift Savings Fund;

(D) the Federal Reserve System; and

(E) appropriations for the District of Columbia to the extent they are appropriations of locally raised funds;

(8) payments resulting from Government insurance, Government guarantees, or any other form of contingent liability, to the extent those payments result from contractual or other legally binding commitments of the Government at the time of any sequestration;

(9) the following accounts, which largely fulfill requirements of the Constitution or otherwise make payments to which the Government is committed—

Bureau of Indian Affairs, miscellaneous trust funds, tribal trust funds (14-9973-0-7-999);

Claims, defense;

Claims, judgments and relief act (20-1895-0-1-806);

Compact of Free Association, economic assistance pursuant to Public Law 99-658 (14-0415-0-1-806);

Compensation of the President (11-0001-0-1-802);

Customs Service, miscellaneous permanent appropriations (20-9992-0-2-852);

Eastern Indian land claims settlement fund (14-2202-0-1-806);

Farm Credit System Financial Assistance Corporation, interest payments (20-1850-0-1-351);

Internal Revenue collections of Puerto Rico (20-5737-0-2-852);

Payments of Vietnam and USS Pueblo prisoner-of-war claims (15-0104-0-1-153):

Payments to copyright owners (03-5175-0-2-376);

Salaries of Article III judges (not including cost of living adjustments);

Soldier's and Airman's Home, payment of claims (84–8930–0–7–705);

Washington Metropolitan Area Transit Authority, interest payments (46–0300–0–1–401);

(10) the following noncredit special, revolving, or trust-revolving funds—

Exchange Stabilization Fund (20–4444–0–3–155); and

Foreign Military Sales trust fund (11–82232–0–7–155).

(j) Optional Exemption of Military Personnel.—

(1) The President may, with respect to any military personnel account, exempt that account from sequestration or provide for a lower uniform percentage reduction that would otherwise apply.

(2) The President may not use the authority provided by paragraph (1) unless he notifies the Congress of the manner in which such authority will be exercised on or before the initial snapshot date for the budget year.

SEC. 11206. SPECIAL RULES.

(a) Child Support Enforcement Program.—Any sequestration order shall accomplish the full amount of any required reduction in payments under sections 455 and 458 of the Social Security Act by reducing the Federal matching rate for State administrative costs under the program, as specified (for the fiscal year involved) in section 455(a) of such Act, to the extent necessary to reduce such expenditures by that amount.

(b) Commodity Credit Corporation.—

(1) Effective date.—For the Commodity Credit Corporation, the date on which a sequestration order takes effect in a fiscal year shall vary for each crop of a commodity. In general, the sequestration order shall take effect when issued, but for each crop of a commodity for which 1-year contracts are issued as an entitlement, the sequestration order shall take effect with the start of the sign-up period for that crop that begins after the sequestration order is issued. Payments for each contract in such a crop shall be reduced under the same terms and conditions.

(2) Dairy program.—

(A) As the sole means of achieving any reduction in outlays under the milk price-support program, the Secretary of Agriculture shall provide for a reduction to be made in the price received by producers for all milk in the United States and marketed by producers for commercial use.

(B) That price reduction (measured in cents per hundred-weight of milk marketed) shall occur under subparagraph (A) of section 201(d)(2) of the Agricultural Act of 1949 (7 U.S.C. 1446(d)(2)(A)), shall begin on the day any sequestration order is issued, and shall not exceed the aggregate amount of the reduction in outlays under the milk price-support program, that otherwise would have been achieved by reducing payments made for the purchase of milk or the products of milk under this subsection during that fiscal year.

(3) Effect of delay.—For purposes of subsection (b)(1), the sequestrable base for Commodity Credit Corporation is the current-year level of gross outlays resulting from new budget authority that is subject to reduction under paragraphs (1) and (2).

(4) Certain authority not to be limited.—Nothing in this Act shall restrict the Corporation in the discharge of its authority and responsibility as a corporation to buy and sell commodities in world trade, or limit or reduce in any way any appropriation that provides the Corporation with funds to cover its realized losses.

(c) Earned Income Tax Credit.—

(1) The sequestrable base for earned income tax credit program is the dollar value of all current year benefits to the entire eligible population.

(2) In the event sequestration is triggered to reduce earned income tax credits, all earned income tax credits shall be reduced, whether or not such credits otherwise would result in cash payments to beneficiaries, by a uniform percentage sufficient to produce the dollar savings required by the sequestration.

(d) Regular and Extended Unemployment Compensation.—

(1) A State may reduce each weekly benefit payment made under the regular and extended unemployment benefit programs for any week of unemployment occurring during any period with respect to which payments are reduced under any sequestration order by a percentage not to exceed the percentage by which the Federal payment to the State is to be reduced for such week as a result of such order.

(2) A reduction by a State in accordance with paragraph (1) shall not be considered as a failure to fulfill the requirements of section 3304(a)(11) of the Internal Revenue Code of 1986.

(e) Federal Employees Health Benefits Fund.— For the Federal Employees Health Benefits Fund, a sequestration order shall take effect with the next open season. The sequestration shall be accomplished by annual payments from that Fund to the General Fund of the Treasury. Those annual payments shall be financed solely by charging higher premiums. The sequestrable base for the Fund is the current-year level of gross outlays resulting from claims paid after the sequestration order takes effect.

(f) Federal Housing Finance Board.—Any sequestration of the Federal Housing Board shall be accomplished by annual payments (by the end of each fiscal year) from that Board to the general fund of the Treasury, in amounts equal to the uniform sequestration percentage for that year times the gross obligations of the Board in that year.

(g) Federal Pay.—

(1) In general.— New budget authority to pay Federal personnel from direct spending accounts shall be reduced by the uniform percentage calculated under section 11203(c)(3), as applicable, but no sequestration order may reduce or have the effect of reducing the rate of pay to which any individual is entitled under any statutory pay system (as increased by any amount payable under section 5304 of title 5, United States Code, or any increase in rates of pay which is scheduled to take effect under section 5303 of title 5, United States Code, section 1109 of title 37, United States Code, or any other provision of law.

(2) Definitions.—For purposes of this subsection—

(A) the term "statutory pay system" shall have the meaning given that term in section 5302(1) of title 5, United States Code;

term "elements of military pay" means—

(i) the elements of compensation of members of the uniformed services specified in section 1009 of title 37, United States Code;

(ii) allowances provided members of the uniformed services under sections 403(a) and 405 of such title; and

(iii) cadet pay and midshipman pay under section 203(c) of such title; and

(C) the term "uniformed services" shall have the same meaning given that term in section 101(3) of title 37, United States Code.

(h) Medicare.—

(1) Timing of application of reductions.—

(A) In general.— Except as provided in subparagraph (B), if a reduction is made in payment amounts pursuant to sequestration order, the reduction shall be applied to payment for services furnished after the effective date of the order. For purposes of the previous sentence, in the case of inpatient services furnished for an individual, the services shall be considered to be furnished on the date of the individual's discharge from the inpatient facility.

(B) Payment on the basis of cost reporting periods.— In the case in which payment for services of a provider of services is made under title XVIII of the Social Security Act on a basis relating to the reasonable cost incurred for the services during a cost reporting period of the provider, if a reduction is made in payment amounts pursuant to a sequestration order, the reduction shall be applied to payment for costs for such services incurred at any time during each cost reporting period of the provider any part of which occurs after the effective date of order, but only (for each such cost reporting period) in the same proportion as the fraction of the cost reporting period that occurs after the effective date of the order.

(2) No increase in beneficiary charges in assignment-related cases.—If a reduction in payment amounts is made pursuant to a sequestration order for services for which payment under part B of title XVIII of the Social Security Act is made on the basis of an assignment described in section 1842(b)(3)(B)(ii), in accordance with section 1842(b)(6)(B), or under the procedure described in section 1870(f)(1) of such Act, the person furnishing the services shall be considered to have accepted payment of the reasonable charge for the services, less any reduction in payment amount made pursuant to a sequestration order, as payment in full.

(3) Part B premiums.—In computing the amount and method of sequestration from part B of title XVIII of the Social Security Act—

(A) the amount of sequestration shall be calculated by multiplying the total amount by which Medicare spending exceeds the appropriate spending cap by a percentage that reflects the ratio of total spending under Part B to total Medicare spending; and

(B) sequestration in the Part B program shall be accomplished by increasing premiums to beneficiaries.

(4) No effect on computation of AAPCC.—In computing the adjusted average per capita cost for purposes of section 1876(a)(4) of the Social Security Act, the Secretary of Health and Human Services shall not take into account any reductions in payment amounts which have been or may be effected under this part.

(i) Postal Service Fund.— Any sequestration of the Postal Service Fund shall be accomplished by annual payments from that Fund to the General Fund of the Treasury, and the Postmaster General of the United States and shall have the duty to make those payments during the first fiscal year to which the sequestration order applies and each succeeding fiscal year. The amount of each annual payment shall be—

(1) the uniform sequestration percentage, times

(2) the estimated gross obligations of the Postal Service Fund in that year other than those obligations financed with an appropriation for revenue forgone that year.

Any such payment for a fiscal year shall be made as soon as possible during the fiscal year, except that it may be made in installments within that year if the payment schedule is approved by the Secretary of the Treasury. Within 30 days after the sequestration order is issued, the Postmaster General shall submit to the Postal Rate Commission a plan for financing the annual payment for that fiscal year and publish that plan in the Federal Register. The plan may assume efficiencies in the operation of the Postal Service, reductions in capital expenditures, increases in the prices of services, or any combination, but may not assume a lower Fund surplus or higher Fund deficit and shall follow the requirements of existing law governing the Postal Service in all other respects. Within 30 days of the receipt of that plan, the Postal Rate Commission shall approve the plan or modify it in the manner that modifications are allowed under current law. If the Postal Rate Commission does not respond to the plan within 30 days, the plan submitted by the Postmaster General shall go into effect. Any plan may be later revised by the submission of a new plan to the Postal Rate Commission, which may approve or modify it.

(j) Power Marketing Administrations and T.V.A.— Any sequestration of the Department of Energy power marketing administration funds or the Tennessee Valley Authority fund shall be accomplished by annual payments from those funds to the General Fund of the Treasury, and the administrators of those funds shall have the duty to make those payments during the fiscal year to which the sequestration order applies and each succeeding fiscal year. The amount of each payment by a fund shall be—

(1) the direct spending uniform sequestration percentage, times

(2) the estimated gross obligations of the fund in that year other than those obligations financed from discretionary appropriations for that year.

Any such payment for a fiscal year shall be made as soon as possible during the fiscal year, except that it may be made in installments within that year if the payment schedule is approved by the Secretary of the Treasury. Annual payments by a fund may be financed by reductions in costs required to produce the pre-sequester amount of power (but those reductions shall not include reductions in the amount of power supplied by the fund), by reductions in capital expenditures, by increases in tax rates, or by any combination, but may not be financed by a lower fund surplus, a higher fund deficit, additional borrowing, delay in repayment of principal on outstanding debt and shall follow the requirements of existing law governing the fund in all other respects. The administrator of a fund or the TVA Board is authorized to take the actions specified in this subsection in order to make the annual payments to the Treasury.

(k) Business-like Transactions.—Notwithstanding any other provision of law, for programs which provide a business-like service in exchange for a fee, sequestration shall be accomplished through a uniform increase in fees (sufficient to produce the dollar savings in such programs for the fiscal year of the sequestration required by section 11201(a)(2), all subsequent fees shall be increased by the same percentage, and all proceeds from such fees shall be paid into the general fund of the Treasury, in any year for which a sequester affecting such programs are in effect.

SEC. 11207. THE CURRENT LAW BASELINE.

(a) Submission of Reports.—CBO and OMB shall submit to the President and the Congress reports setting forth the budget baselines for the budget year and the next nine fiscal years. The CBO report shall be submitted on or before January 15. The OMB report shall accompany the President's budget.

(b) Determination of the Budget Baseline.—(1) The budget baseline shall be based on the common economic assumptions set forth in section 11106, adjusted to reflect revisions pursuant to subsection (c).

(2) The budget baseline shall consist of a projection of current year levels of budget authority, outlays, revenues and the surplus or deficit into the budget year and the relevant outyears based on current enacted laws as of the date of the projection.

(3) For discretionary spending items, the baseline shall be the spending caps in effect pursuant to section 601(a)(2) of the Congressional Budget Act of 1974. For years for which there are no caps, the baseline for discretionary spending shall be the same as the last year for which there were statutory caps.

(4) For all other expenditures and for revenues, the baseline shall be adjusted by comparing unemployment, inflation, interest rates, growth and other economic indicators-and changes ineligible population-for the most recent period for which actual data are available, compared to the assumptions contained in section 11106.

(c) Revisions to the Baseline.—The baseline shall be adjusted for up-to-date economic assumptions when CBO submits its Economic and Budget Update and when OMB submits its budget update, and by August 1 each year, when CBO and OBM submit their midyear reviews.

SEC. 11208. LIMITATIONS ON EMERGENCY SPENDING.

(a) In General.—(1) Within the discretionary caps for each fiscal year contained in this Act, an amount shall be withheld from allocation to the appropriate committees of the House of Representatives and of the Senate and reserved for natural disasters and other emergency purposes.

(2) Such amount for each such fiscal year shall not be less than 1 percent of total budget authority and outlays available within those caps for that fiscal year.

(3) The amounts reserved pursuant to this subsection shall be made available for allocation to such committees only if—

(A) the President has made a request for such disaster funds;

(B) the programs to be funded are included in such request; and

(C) the projected obligations for unforeseen emergency needs exceed the 10-year rolling average annual expenditures for existing programs included in the Presidential request for the applicable fiscal year.

(4) Notwithstanding any other provision of law—

(A) States and localities shall be required to maintain effort and ensure that Federal assistance payments do not replace, subvert or otherwise have the effect of reducing regularly budgeted State and local expenditures for law enforcement, refighting, road construction and maintenance, building construction and maintenance or any other category of regular government expenditure (to ensure that Federal disaster payments are made only for incremental costs directly attributable to unforeseen disasters, and do not replace or reduce regular State and local expenditures for the same purposes);

(B) the President may not take administrative action to waive any requirement for States or localities to make minimum matching payments as a condition or receiving Federal disaster assistance and prohibit the President from taking administrative action to waive all or part of any repayment of Federal loans for the State or local matching share required as a condition of receiving Federal disaster assistance, and this clause shall apply to all matching share requirements and loans to meet matching share requirements under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) and any other Acts pursuant to which the President may declare a disaster or disasters and States and localities otherwise qualify for Federal disaster assistance; and

(C) a two-thirds vote in each House of Congress shall be required for each emergency to reduce or waive the State matching requirement of to forgive all or part of loans for the State matching share as required under the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

(b) Effect Budget Resolutions.—(1) All concurrent resolutions on the budget (including revisions) shall specify the amount of new budget authority and outlays within the discretionary spending cap that shall be withheld from allocation to the committees and reserved for natural disasters, and a procedure for releasing such funds for allocation to the appropriate committee. The amount withheld shall be equal to 1 percent of the total discretionary spending cap for fiscal year covered by the resolution, unless additional amounts are specified.

(2) The procedure for allocation of the amounts pursuant to paragraph (1) shall ensure that the funds are released for allocation only pursuant to the conditions contained in subsection (a)(3)(A) through (C).

(c) Restriction on Use of Funds.—Notwithstanding any other provision of law, the amount reserved pursuant to subsection (a) shall not be available for other than emergency funding requirements for particular natural disasters or national security emergencies so designated by Acts of Congress.

(d) New Point of Order.—(1) Title IV of the Congressional Budget Act of 1974 is amended by adding at the end the following new section:

"POINT OF ORDER REGARDING EMERGENCIES

"Sec. 408. It shall not be in order in the House of Representatives or the Senate to consider any bill or joint resolution, or amendment thereto or conference report thereon, containing an emergency designation for purposes of section 251(b)(2)(D) or 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 or of section 11207 of the Balanced Budget Assurance Act of 1997 if it also provides an appropriation or direct spending for any other item or contains any other matter, but that bill or joint resolution, amendment, or conference report may contain rescissions of budget authority or reductions of direct spending, or that amendment may reduce amounts for that emergency.".

(2) The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by inserting after the item relating to section 407 the following new item:

"Sec. 408. Point of order regarding emergencies.".

Mr. BROWN of Ohio (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

POINT OF ORDER

Mr. THOMAS. Mr. Speaker, I rise to a point of order that the amendment is not germane to the bill.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. THOMAS. Mr. Speaker, the budget process provisions prospectively amend another bill; that is, H.R. 2014, the Revenue Reconciliation Act of 1997, specifically section 11204(c). It suspends provisions in the Internal Revenue Code that are added by H.R. 2014 and is, therefore, beyond the scope.

The SPEAKER pro tempore. Does the gentleman from Texas [Mr. STENHOLM] wish to be heard on the point of order?

Mr. STENHOLM. Yes, Mr. Speaker.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Speaker, in rising to speak to the point of order, I will couple it with a parliamentary inquiry. It was my understanding, since the item in question is the enforcement mechanisms of the budget, what this motion to recommit includes is the entire Minge-Barton amendment that was denied an opportunity to be on the floor under the rule.

In the colloquy that occurred this morning, it was my understanding, and at least my friends on the other side of the aisle who acceded to this, that this would eventually be heard in a separate bill on the floor by July 24. In so doing, it would then be coupled, assuming it passes, would be coupled with the reconciliation bill so that the final conference report would include, if the House chooses to include this in the language of the bill, would be voted upon.

My question, Mr. Speaker, if that is the case, how can it be out of order for us to consider this amendment today when it will be in order to consider it on July 24?

The SPEAKER pro tempore. The Chair would respond by saying that he cannot make a determination as to what the legislative situation would be at some future date 3 weeks from now.

Mr. STENHOLM. Continuing my question as to the point of order, if it is the parliamentary judgment today that this is not in order to be heard as a motion to recommit, under what circumstance could it be possible for us to consider this at a later date?

The SPEAKER pro tempore. The Chair cannot anticipate what the conferees on this bill might do. That is something that will be considered at a future date.

Mr. STENHOLM. So the judgment of the Speaker is that today it is out of order but it might be in order at a later date?

The SPEAKER pro tempore. The Chair is not going to engage in some sort of hypothetical consideration as to what might take place several weeks from now.

Does the gentleman wish to be heard further on the point of order?

Mr. STENHOLM. Mr. Speaker, I would say this is a very curious circumstance, but I hope the entire House is listening because this is a very important matter for a lot of us who are supporting this entire budget process. I am very worried to have this amendment as part of the recommittal be held out of order and then have hope that perhaps in the future it will be in order. That bothers me, but I respect the Chair's decision today.

The SPEAKER pro tempore. Does the gentleman from Ohio [Mr. BROWN] wish to be heard on the point of order?

Mr. BROWN of Ohio. No, Mr. Speaker. We concede the point of order.

The SPEAKER pro tempore. The gentleman concedes the point of order?

Mr. BROWN of Ohio. We await the ruling of the Chair, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from California makes a point of order that the amendment contained in the motion to recommit with instructions is not germane to the bill. While the test of germaneness in this instance is measured against the bill as whole, the Chair notes that a portion of the amendment makes provisions of another bill not presently before the House, namely, the Revenue Reconciliation Act of 1997, contingent on achieving revenue targets in future fiscal years.

As such, the amendment is a prospective indirect change in a bill not yet considered by the House. The Chair holds that the amendment is thus not germane to the bill, H.R. 2015, and sustains the point of order.

MOTION TO RECOMMIT OFFERED BY MR. BROWN OF OHIO

Mr. BROWN of Ohio. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman still opposed to the bill?

Mr. BROWN of Ohio. Yes, Mr. Speaker, I am, more so than when the Chair asked the last time.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. BROWN of Ohio moves to recommit the bill H.R. 2015 to the Committee on the Budget with instructions to report the same back to the House forthwith with the following amendment:

Strike subtitle F of title III and insert the following:

Subtitle F—Child Health Insurance Initiative Act of 1997

SEC. 3500. SHORT TITLE OF SUBTITLE.

This subtitle may be cited as the "Child Health Insurance Initiative Act of 1997".

CHAPTER 1—IMPROVED OUTREACH

SEC. 3501. GRANT PROGRAM TO PROMOTE OUTREACH EFFORTS.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, for each fiscal year beginning with fiscal year 1998 to the Secretary of Health and Human Services, $25,000,000 for grants to States, localities, and nonprofit entities to promote outreach efforts to enroll eligible children under the medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) and related programs.

(b) USE OF FUNDS.—Funds under this section may be used to reimburse States, localities, and nonprofit entities for additional training and administrative costs associated with outreach activities. Such activities include the following:

(1) USE OF A COMMON APPLICATION FORM FOR FEDERAL CHILD ASSISTANCE PROGRAMS.—Implementing use of a single application form (established by the Secretary and based on the model application forms developed under subsections (a) and (b) of section 6506 of the Omnibus Budget Reconciliation Act of 1989 (42 U.S.C. 701 note; 1396a note)) to determine the eligibility of a child or the child's family (as applicable) for assistance or benefits under the medicaid program and under other Federal child assistance programs (such as the temporary assistance for needy families program under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), the food stamp program, as defined in section 3(h) of the Food Stamp Act of 1977 (7 U.S.C. 2012(h)), and the State program for foster care maintenance payments and adoption assistance payments under part E of title IV of the Social Security Act (42 U.S.C. 670 et seq.)).

(2) EXPANDING OUTSTATIONING OF ELIGIBILITY PERSONNEL.—Providing for the stationing of eligibility workers at sites, such as hospitals and health clinics, at which children receive health care or related services.

(c) APPLICATION, ETC.—Funding shall be made available under this section only upon the approval of an application by a State, locality, or nonprofit entity for such funding and only upon such terms and conditions as the Secretary specifies.

(d) ADMINISTRATION.—The Secretary may administer the grant program under this section through the identifiable administrative unit designated under section 509(a) of the Social Security Act (42 U.S.C. 709(a)) to promote coordination of medicaid and maternal and child health activities and other child health related activities.

CHAPTER 2—MEDIKIDS PROGRAM

SEC. 3521. STATE ENTITLEMENT TO PAYMENT FOR MEDIKIDS PROGRAM.

(a) IN GENERAL.—Each State that has a plan for a child health insurance program, or MediKids program, approved by the Secretary is entitled to receive, from amounts in the Treasury not otherwise appropriated and for each fiscal year beginning with fiscal year 1998, payment of the amounts provided under section 3523.

(b) APPLICATION.—The Secretary shall establish a procedure for the submittal and approval of plans for MediKids programs under this chapter. The Secretary shall approve the plan of a State for such a program if the Secretary determines that—

(1) the State is meeting the medicaid coverage requirements of section 3522(a), and

(2) the plan provides assurances satisfactory to the Secretary that the MediKids program will be conducted consistent with the applicable requirements of section 3522.

SEC. 3522. REQUIREMENTS FOR APPROVAL OF MEDIKIDS PROGRAM.

(a) ADEQUATE MEDICAID COVERAGE.—The medicaid coverage requirements of this subsection are the following:

(1) COVERAGE OF PREGNANT WOMEN AND CHILDREN AND INFANTS UP TO 185 PERCENT OF POVERTY.—The State has established 185 percent of the poverty line as the applicable percentage under section 1902(1)(2)(A) of the Social Security Act (42 U.S.C. 1396a(1)(2)(A)).

(2) Coverage of children up to 19 years of age.—The State provides, either through exercise of the option under section 1902(l)(1)(D) of such Act (42 U.S.C. 1396a(l)(1)(D)) or authority under section 1902(r)(2) of such Act (42 U.S.C. 1396a(r)(2)) for coverage under section 1902(l)(1)(D) of such Act of individuals under 19 years of age, regardless of date of birth.

(3) Maintenance of effort.—

(A) Medicaid.—Subject to subparagraph (B), the State—

(i) has not modified the eligibility requirements for children under the State medicaid plan, as in effect on January 1, 1997 in any manner that would have the effect of reducing the eligibility of children for coverage under such plan, and

(ii) will use the funds provided under this chapter to supplement and not supplant other Federal and State funds.

(B) Waiver exception.—Subparagraph (A) shall not apply to modifications made pursuant to an application for a waiver under section 1115 of the Social Security Act (42 U.S.C. 1315) submitted before January 1, 1997.

(b) Coverage of Uninsured Children.—

(1) In general.—A MediKids program shall not provide benefits for children who are otherwise covered for such benefits under a medicaid plan or under a group health plan, health insurance coverage, or other health benefits coverage, but may expend funds for outreach and other activities in order to promote coverage under such plans.

(2) Construction.—Nothing in this subsection shall be construed as requiring a MediKids plan of a State to provide coverage for all near poverty level children described in paragraph (1) who are residing in the State.

(c) Medicaid-Equivalent Benefits.—Subject to subsection (d), a MediKids program shall provide benefits to eligible children for the equivalent items and services for which medical assistance is available (other than cost sharing) to children under the State's medicaid plan.

(d) Premiums and Cost-Sharing.—

(1) In general.—Subject to paragraphs (2) and (3), a MediKids program may—

(A) require the payment of premiums as a condition for coverage, but only for a covered child whose family income exceeds the poverty line;

(B) impose deductibles, coinsurance, copayments, and other forms of cost-sharing with respect to benefits under the program; and

(C) vary the levels of premiums, deductibles, coinsurance, copayments, and other cost-sharing based on a sliding scale related to the family income of the covered child.

(2) Limits on premiums and cost-sharing.—The Secretary shall establish limits on the amount of cost-sharing expenses (including premiums, deductibles, coinsurance, copayments, and any other required financial contribution) that may be applied under the program. Such limits shall assure that total cost sharing expenses for children participating in such program are reasonable in relation to the income of their family (and taking into account the other types of expenses generally incurred by such families and family size) and that such cost sharing expenses do not unreasonably reduce access to the coverage or covered services provided under such program.

(3) No cost sharing for preventive services.—A MediKids program may not impose deductibles, coinsurance, copayments, or similar cost sharing for preventive services.

SEC. 3523. PAYMENT AMOUNTS.

(a) Total Amount Available.—

(1) In general.—The total amount of funds that is available for payments under this chapter in any fiscal year is the base amount specified in paragraph (2) for the fiscal year reduced by the amount specified under paragraph (3) for the fiscal year.

(2) Base amount.—The base amount specified under this paragraph for fiscal year 1998 and any subsequent fiscal year is $2,805,000,000.

(3) Offset for certain increased medicaid expenditures.—

(A) In general.—Subject to subparagraph (B), the amount specified under this paragraph for a fiscal year is the amount of aggregate additional Federal expenditures under made title XIX of the Social Security Act during the fiscal year that the Secretary estimates, before the beginning of the fiscal year, is attributable to imposition of the conditions described in section 3522(a). For purposes of applying the previous sentence, any Federal expenditures that result from an increase in the applicable percentage under section 1902(l)(2)(A) of the Social Security Act above the percentage in effect as of June 25, 1997, or from any exercise of an option described in section 3522(a)(2) effected on or after such date, shall be treated as additional Federal expenditures attributable to the imposition of the conditions described in section 3522(a).

(B) Adjustment to reflect actual expenditures.—After the end of each fiscal year, the Secretary shall determine the actual amount of the additional Federal expenditures described in subparagraph (A) for the fiscal year. The Secretary shall adjust the amount otherwise specified under subparagraph (A) for subsequent years to take into account the amount by which the amounts estimated for previous fiscal years under such subparagraph were greater, or less than, the actual amount of the expenditures for such years.

(b) Allotment Among States.—

(1) In general.—The Secretary shall establish a formula for the allotment of the total amount of funds available under subsection (a) among the qualifying States for each fiscal year.

(2) Basis.—The formula shall be based upon the Secretary's estimate of the number of near poverty level children in the State as a proportion of the total of such numbers for all the qualifying States.

(3) Carryforward.—If the Secretary does not pay to a State under subsection (c) in a fiscal year the amount of its allotment in that fiscal year under this subsection, the amount of its allotment under this subsection for the succeeding fiscal year shall be increased by the amount of such shortfall.

(c) Payments.—

(1) In general.—From the allotment of each qualifying State under subsection (b) for a fiscal year, the Secretary shall pay to the State for each quarter in the fiscal year an amount equal to 75 percent of the total amount expended during such quarter to carry out the State's MediKids program.

(2) Not counting cost sharing.—For purposes of paragraph (1), if a MediKids program imposes premiums for coverage or requires payment of deductibles, coinsurance, copayments, or other cost sharing, under rules of the Secretary, expenditures attributable to such premiums or cost sharing shall not be taken into account under paragraph (1).

(d) State Entitlement.—This chapter constitutes budget authority in advance of appropriations Acts, and represents the obligation of the Federal Government to provide for the payment to qualifying States of amounts provided under this section.

SEC. 3529. DEFINITIONS.

For purposes of this chapter:

(1) The term "child" means an individual under 19 years of age.

(2) The term "medicaid plan" means the plan of medical assistance of a State under title XIX of the Social Security Act.

(3) The term "MediKids program" means a child health insurance program of a State under this title.

(4) The term "near poverty level child" means a child the family income of which (as defined by the Secretary) is at least 100 percent, but less than 300 percent, of the poverty line.

(5) The term "poverty line" has the meaning given such term in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by such section.

(6) The term "qualifying State" means a State with a MediKids program for which a plan is submitted and approved under this title.

(7) The term "Secretary" means the Secretary of Health and Human Services .

(8) The term "State" means the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

CHAPTER 3—CONTINUATION OF MEDICAID ELIGIBILITY FOR DISABLED CHILDREN WHO LOSE SSI BENEFITS

SEC. 3531. CONTINUATION OF MEDICAID ELIGIBILITY FOR DISABLED CHILDREN WHO LOSE SSI BENEFITS.

(a) In General.—Section 1902(a)(10)(A)(i)(II) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)(i)(II)) is amended by inserting "(or were being paid as of the date of enactment of section 211(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104–193)) and would continue to be paid but for the enactment of that section" after "title XVI".

(b) Effective Date.—The amendment made by subsection (a) applies to medical assistance furnished on or after July 1, 1997.

CHAPTER 4—ASSURING CHILDREN'S ACCESS TO HEALTH INSURANCE

SEC. 3541. GUARANTEED AVAILABILITY OF INDIVIDUAL HEALTH INSURANCE COVERAGE TO UNINSURED CHILDREN.

(a) In General.—Title XXVII of the Public Health Service Act, as added by section 111(a) of the Health Insurance Portability and Accountability Act of 1996, is amended by inserting after section 2741 the following new section:

"SEC. 2741A. GUARANTEED AVAILABILITY OF INDIVIDUAL HEALTH INSURANCE COVERAGE TO UNINSURED CHILDREN.

"(a) Guaranteed Availability.—

"(1) In general.—Subject to the succeeding subsections of this section, each health insurance issuer that offers health insurance coverage (as defined in section 2791(b)(1)) in the individual market in a State, in the case of an eligible child (as defined in subsection (b)) desiring to enroll in individual health insurance coverage—

"(A) may not decline to offer such coverage to, or deny enrollment of, such child;

"(B) either (i) does not impose any preexisting condition exclusion (as defined in section 2701(b)(1)(A)) with respect to such coverage, or (ii) imposes such a preexisting condition exclusion only to the extent such an exclusion may be imposed under section 2701(a) in the case of an individual who is not a late enrollee; and

"(C) shall provide that the premium for the coverage is determined in a manner so that the ratio of the premium for such eligible children to the premium for eligible individuals described in section 2741(b) does not exceed the ratio of the actuarial value of such coverage (calculated based on a standardized population and a set of standardized utilization and cost factors) for children to such actuarial value for such coverage for such eligible individuals.

"(2) SUBSTITUTION BY STATE OF ACCEPTABLE ALTERNATIVE MECHANISM.—The requirement of paragraph (1) shall not apply to health insurance coverage offered in the individual market in a State in which the State is implementing an acceptable alternative mechanism under section 2744.

"(b) ELIGIBLE CHILD DEFINED.—In this part, the term 'eligible child' means an individual born after September 30, 1983, who has not attained 19 years of age and—

"(1) who is a citizen or national of the United States, an alien lawfully admitted for permanent residence, or an alien otherwise permanently residing in the United States under color of law;

"(2) who is not eligible for coverage under (A) a group health plan, (B) part A or part B of title XVIII of the Social Security Act, or (C) a State plan under title XIX of such Act (or any successor program), and does not have other health insurance coverage; and

"(3) with respect to whom the most recent coverage (if any, within the 1-year period ending on the date coverage is sought under this section) was not terminated based on a factor described in paragraph (1) or (2) of section 2712(b) (relating to nonpayment of premiums or fraud).

For purposes of paragraph (2)(A), the term 'group health plan' does not include COBRA continuation coverage.

"(c) INCORPORATION OF CERTAIN PROVISIONS.—

"(1) IN GENERAL.—Subject to paragraph (2), the provisions of subsections (c), (d), (e) and (f) (other than paragraph (1)) of section 2741 and section 2744 shall apply in relation to eligible children under subsection (a) in the same manner as they apply in relation to eligible individuals under section 2741(a).

"(2) SPECIAL RULES FOR ACCEPTABLE ALTERNATIVE MECHANISMS.—With respect to applying section 2744 under paragraph (1)—

"(A) the requirement in subsection (a)(1)(B) shall be applied instead of the requirement of section 2744(a)(1)(B);

"(B) the requirement in subsection (a)(1)(C) shall be applied instead of the requirement of section 2744(a)(1)(D); and

"(C) any deadline specified in such section shall be 1 year after the deadline otherwise specified.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take apply 1 year after the effective date for section 2741 of the Public Health Service Act (as provided under section 111(b)(1) of the Health Insurance Portability and Accountability Act of 1996).

Mr. BROWN of Ohio (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. BROWN of Ohio. Mr. Speaker, the Republican children's health care expansion proposal in the Budget Reconciliation Act before us today will not ensure real health insurance coverage for the maximum number of children in the most cost-effective manner. I am deeply concerned because the Republican plan does not offer a real guarantee of health care coverage for children or a real benefits package.

The Republican block grant contains a so-called direct services loophole which could mean that not a single taxpayer penny is used to provide health insurance for our Nation's 10 million uninsured children.

States would be free to divert Federal children's health care expansion funds from directly providing health care coverage for uninsured children to instead providing direct payments to hospitals who will suffer under the disproportionate share cuts in this bill. Just as many States misused the DSH program in the early 1990s to pay for highway repairs and other related programs, I fear that States will use these Federal funds to plug holes in shrinking State budgets. We surely should have learn our lesson.

I believe there are several superior programs to help extend coverage for uninsured children. Bipartisan legislation introduced by the gentleman from Michigan [Mr. DINGELL], the gentlewoman from New Jersey [Mrs. ROUKEMA], me, and others would provide children with a guaranteed, real health care benefits package which includes preventive care, hearing and vision services, and routine doctor visits.

The Democratic Caucus proposal, another plan which is part of this motion to recommit, would promote more effective outreach for Medicaid-eligible children who are not enrolled, allow for voluntary expansion of Medicaid coverage, establish a State grant program to fund innovative kids' health initiatives and require the issuance of affordable kids-only health insurance policies.

The Republican plan, Mr. Speaker, will cost too much, waste too many tax dollars, and fail to insure America's 10 million uninsured children.

Mr. Speaker, I yield to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Speaker, I want to commend my colleague for what he said about the reason we need to propose this Democratic alternative is because the Republicans have offered just a straight block grant. It does not mandate that these funds go to the children who need it. It gives too much discretion to the Governors who might use this money to fund other huge gaps created by this bill, like the unfair cuts to disproportionate share hospitals also known as DSH hospitals.

The Democratic Health Care Task Force has a plan, an alternative that contains four elements:

First, incentives for States to cover children under 19 years of age in families with less than $24,000 in income and pregnant women and infants in families with incomes up to $30,000 through an enhanced Medicaid match.

Second, we have a Medikids grant for States to help middle- and low-income families to purchase private insurance or participate in a State-sponsored expanded Medicaid package.

Third, we improve outreach efforts to ensure that nearly 3 million children eligible for Medicaid that are not enrolled in the program sign up for health insurance coverage.

And, fourth, insurance reforms to require private insurance companies to provide health care policies for children at reasonable premiums.

This four-pronged approach takes what we feel are the most positive aspects in Medicaid matching grants and private insurance reforms. It assists middle- and low-income families by providing affordable health insurance for their children. It assures that children are covered by an adequate benefits package and it provides that proper balance of State flexibility with public accountability.

I urge my colleagues to support the motion to recommit so that this House has a real opportunity to address the needs of the 10 million uninsured children in our country.

The SPEAKER pro tempore. Does any Member rise in opposition to the motion to recommit?

Mr. THOMAS. Mr. Speaker, I rise in opposition to the motion to recommit.

Mr. Speaker, we heard all day, speaker after speaker on the other side of the aisle go into the well and say that the provisions that the Republicans had structured were outside the scope of the budget agreement, that we had not lived up to the budget agreement, that oh, my goodness, how could you not live up to the budget agreement.

Mr. Speaker, this motion to recommit, guess what, does not live up to the budget agreement. It clearly states in the budget agreement that there are two areas where money can be spent for children's health care. One is in Medicaid. The other one is in block grants. Other possibilities are available if mutually agreeable. Mutually agreeable.

The fact of the matter is, this motion to recommit has mandatory language requiring private insurers to carry out the wish, yes, the demands of the Democrats. It is clearly beyond the budget agreement. How in the world can you folks spend all day telling us that provision after provision is unacceptable because it is outside the budget agreement and yet you offer a motion to recommit which is one, subject to a point of order, it is not germane, and, two, the entire rest of the context is outside of the budget agreement? Why do you not live up to what you preach.

I would simply tell my colleagues, the simple answer is to vote no on the motion to recommit.

Mr. Speaker, I yield to the gentleman from Virginia [Mr. BLILEY], chairman of the Committee on Commerce, who has the specific jurisdiction of this matter, which is outside the scope of the budget agreement.

Mr. BLILEY. Mr. Speaker, I thank the gentleman for yielding to me.

Here we go again. All day, speaker after speaker on this side of the aisle complaining about their Governors getting cut with the DSH payments and not going to be able to meet the targets. Well, in the Committee on Commerce we gave $16 billion for kid care and we said to the Governors, you furnish the health and you furnish the services and we did not restrict it and they are made pretty much whole for their Medicare budgets.

But what this recommit motion would do would require States to phase in all children up to age 19 in the Medicaid Program and would require States to increase their mandatory levels of eligibility for certain eligibility groups. These are costly changes. Many States do not have the budgetary resources to do them. That means these States will not be eligible or able to participate in kid care and the uninsured children in those States would be denied the coverage and services they need. It would require States to provide only the Medicaid benefits packages to children served by kid care.

This package is so expensive that States would not be able to afford to cover millions of children who would otherwise receive coverage under our plan. It would eliminate the ability of States to provide uninsured children the health services they need. This is a violation of the budget agreement, as the distinguished chairman of the Subcommittee on Health of the Committee on Ways and Means pointed out, which provided for coverage and services to uninsured low-income children.

In addition, it would mean that services would be denied to the 2.6 million children that CBO estimates would receive health care services under our plan.

Mr. THOMAS. Mr. Speaker, I yield to the gentleman from Illinois [Mr. HASTERT].

Mr. HASTERT. Mr. Speaker, bigger government, more bureaucrats, more restrictions on the States. As a matter of fact, we create more loopholes for the States to jump through and what we do is deny the States providing kid care for kids. So those 2.6 million children who were going to benefit from this program all of a sudden will not have States providing health care for them.

□ 1730

Too much bureaucracy, too much extra cost, too many new hoops to jump through. The States are not going to do it. The States are not going to follow this. And I think it is a bad idea at a bad time.

The SPEAKER pro tempore (Mr. DREIER). All time has expired.

PARLIAMENTARY INQUIRY

Mr. BROWN of Ohio. Mr. Speaker, parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. BROWN of Ohio. Mr. Speaker, is the language to which the gentleman from California [Mr. THOMAS] and the gentleman from Illinois [Mr. HASTERT] and the gentleman from Virginia [Mr. BLILEY] are referring the State optional program on the——

The SPEAKER pro tempore. The gentleman is not presenting a parliamentary inquiry.

Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. BROWN of Ohio. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 207, nays 223, not voting 4, as follows:

[Roll No. 240]

YEAS—207

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gonzalez
Goode
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Riggs
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson
Thurman
Tierney
Torres
Towns
Traficant
Turner
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn

NAYS—223

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Christensen
Coble
Coburn
Collins
Combest
Cook
Cooksey
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Molinari
Moran (KS)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda

Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOT VOTING—4

Chenoweth
Cox
Schiff
Yates

☐ 1748

Mr. HOSTETTLER and Mr. LARGENT changed their vote from "yea" to "nay."

Mr. LIPINSKI and Ms. WOOLSEY changed their vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. DREIER). The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. BONIOR. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 270, noes 162, not voting 3, as follows:

[Roll No. 241]

AYES—270

Aderholt
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Bilbray
Bilirakis
Bishop
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Boswell
Boyd
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clement
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Davis (FL)
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Etheridge
Everett
Ewing
Fawell
Foley
Forbes
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (OH)
Hamilton
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
John
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kennelly
Kim
Kingston
Kleczka
Klug
Knollenberg
Kolbe
LaHood
Lampson
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Luther
Maloney (CT)
Manzullo
Martinez
McCarthy (MO)
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntyre
McKeon
Mica
Miller (FL)
Minge
Molinari
Moran (VA)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Pomeroy
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Sanchez
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stenholm
Stump
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Thurman
Tiahrt
Traficant
Turner
Upton
Visclosky
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOES—162

Abercrombie
Ackerman
Allen
Andrews
Baldacci
Barrett (WI)
Becerra
Berman
Berry
Blagojevich
Blumenauer
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Cardin
Carson
Clay
Clayton
Clyburn
Conyers
Costello
Coyne
Cummings
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gonzalez
Green
Gutierrez
Hall (TX)
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
King (NY)
Klink
Kucinich
LaFalce
Lantos
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Maloney (NY)
Manton
Markey
Mascara
Matsui
McCarthy (NY)
McDermott
McGovern
McIntosh
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Millender-McDonald
Miller (CA)
Mink
Moakley
Mollohan
Moran (KS)
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Peterson (MN)
Pickett
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Rothman
Roybal-Allard
Rush
Sabo
Salmon
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Sherman
Skaggs
Slaughter
Stabenow
Stark
Stearns
Stokes
Strickland
Stupak
Thompson
Tierney
Torres
Towns
Velázquez
Vento
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn

NOT VOTING—3

Cox
Schiff
Yates

☐ 1809

The Clerk announced the following pairs: on this vote:

Mr. Schiff for, with Mr. Yates against.

Messrs. GORDON, WELDON of Florida, and BARR of Georgia changed their vote from "no" to "aye."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

THANKING MEMBERS FOR A COURTEOUS AND DIGNIFIED DEBATE ON THE BILL JUST PASSED

(Mr. KASICH asked and was given permission to address the House for 1 minute.)

Mr. KASICH. Mr. Speaker, I just wanted to take a moment to thank the House Members on both sides of the aisle for the kind of courtesies and dignity with which we conducted that last 3 hours worth of debate, and I want to thank the House for the opportunity to move this bill forward.

I had the sense out here on the floor as we wrapped up the debate, Mr. Speaker, that while there may be differences, may be there is a little ice melting here in our ability to be able to get along, to have differences and yet still maintain a good spirit about things, and I think that is nothing but good for the future of this House.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1636

Mr. BAESLER. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 1636.

The SPEAKER pro tempore (Mr. TIAHRT). Is there objection to the request of the gentleman from Kentucky?

There was no objection.

GENERAL LEAVE.

Mr. INGLIS of South Carolina. Mr. Speaker, I ask unanimous consent that all members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on H.R. 2015, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

☐ 1815

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. TIAHRT). Under the Speaker's announced policy of January 7, 1997, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

TRIBUTE TO JOSEPH HAEFELI

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado [Mr. BOB SCHAFFER] is recognized for 5 minutes.

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, I would like to take a moment to pay tribute to the contributions of a fine gentleman who has recently passed on. His contributions to this world have had a profound impact upon the lives he touched.

Mr. Joseph Haefeli is the man to whom I am referring. He came from God's country, the great State of Colorado in the city of Greeley. Mr. Haefeli was taken from us and called home to the Lord on March 15, 1997.

Mr. Haefeli was born on October 11, 1919. He attended the University of Northern Colorado, graduated from the University of California at Berkeley, and was a practicing doctor of optometry for 46 years. Part of his practice he served in the U.S. Air Force during World War II. Joseph Haefeli and his wife Julianne parented three children, John, Anne and Joseph. His daughter, Anne, gave him two wonderful grandchildren.

Joseph Haefeli defined the true meaning of giving to one's community. It would be hard to match his record of involvement in the community and his dedication to charity.

Joseph Haefeli was a member and past president of the Weld County Mental Health Association, member and past president of the Weld County United Way Board, chairman of the Well County Chapter of the American Red Cross, chairman of the Rotary Crippled Children's Committee, executive board member of the Longs Peak Council of Boy Scouts, member and trust chairman of the St. Mary's Catholic Church Council, chairman and board member of the Greeley Chapter of the Salvation Army.

Joseph Haefeli was awarded and named Distinguished Member of the U.S. Army Medical Regent by order of the Surgeon General. He went on to receive numerous honors from organizations such as the Chamber of Commerce, the Red Cross, the Lion's Club, Rotary International, and the Colorado Optometric Association, and many others.

Sir Joseph Haefeli was also vested as a Knight of the Equestrian Order of the Holy Sepulchre of Jerusalem in 1984, a Catholic organization that strives to sustain the spiritual life of all of its members and to support the church in Jerusalem, the Holy Land. The Order works to provide its members with a solid spiritual basis from which they can conduct their lives. Joseph Haefeli excelled in the Order and was not only a Knight of the Order, but was promoted Knight Commander with Star in 1996. This is a papal honor and the highest papal award to clergy or laity alike.

It was through this Order that I came into contact with Sir Joseph Haefeli. This pin that I wear on my lapel right above my congressional pin is the insignia of the Order and a signal of my brotherhood and fellowship with Joseph in the name of the Lord Jesus Christ. He sponsored me as a Knight of the Order which has brought deeper meaning to my spiritual life.

Sir John Owens wrote of Joseph Haefeli. "His life was devoted to his church and his fellow man and has brought credit and respect to them both."

Mr. Speaker, it is people like Joseph Haefeli who define the American spirit, that make our country so wonderful. The actions of a person like Joseph Haefeli are what gives us hope for a better tomorrow. If we could each give half of what he has contributed, this country would be a far better place for our children and our families.

Joe composed a prayer that I would like to share with the Members of the House entitled "From My Heart." It is indicative of his devotion and a clear sign of his rightful place now among the saints.

"I am a selfish man, dear Lord.
I have so much and still want more.
I want to be more generous and more kind,
More loving and more benign.
To do more good and be more thoughtful
And less sinful.
Even though You have blessed me many times,
I want and ask Your blessings
To continue in my time.
I want acceptance of your will,
Your guidance and Your rule,
To thank You for all of my happiness,
My sorrow and hurt too.
Each brings me nearer, Lord, to You.
I want and ask for Your forgiveness
And mercy also.
I want to praise You as my God and thank You
For all you have done for me.
What I really want the most is what
You want for me.
Jesus, I am a selfish man—maybe yes, maybe no
Because I want my family, my friends and all
To share these 'wants' and Your answers too.
Lord, I know You understand.
Help me to know what You want from me.
Amen."

—Written by Sir Joseph Haefeli, November of 1994.

Mr. Speaker, Mr. Haefeli will be missed and remembered always as a great American. Our prayers that the Lord might bless and protect his family and descendents, may his soul and all the souls of the faithfully departed, through the mercy of God, rest in peace.

DETROIT NEWSPAPER STRIKE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. BONIOR] is recognized for 5 minutes.

Mr. BONIOR. Mr. Speaker, tonight I want to take a few moments to pay tribute to some of the bravest and the strongest people that I know, those 2,000 men and women who are taking on two of the largest and the wealthiest and the most powerful corporations in our country, those 2,000 men and women who are standing strong in Detroit against Gannett and Knight-Ridder, those 2,000 men and women who have put their lives on hold for two years, been challenged economically, physically, emotionally, but are fighting for fairness and for justice and for what they believe in.

They are people like Kate DeSmet and Sandra Davis, they are people like Frank Brabanec and Stephen Olter, Mark Naumoff and Ben Solomon. They are the people that I met with last weekend when we held a rally and a march and did a civil action against those who would deny the over 2,000 men and women in Detroit their jobs at these newspapers.

We had over 120,000 people attend a rally in support of these brave men and women. Last Saturday morning I heard Frank Brabanec tell of being struck in the head, beaten, drug across the pavement. I saw hundreds of people holding picket signs with a picture of him being kicked. I heard Stephen Olter tell of being struck with a baton and a metal nut launched from a sling shot. I heard Mark Naumoff tell of being pinned under a gate when a truck knocked off its hinges and knocked it into a peaceful picket. I heard of Ben Solomon being handcuffed and then having pepper sprayed in his eyes.

These are the stories of the voices of the Detroit Newspaper lockout. They are the struggles that these men and women go through nearly every day as they fight for what is right. They are the same struggles our parents and our grandparents fought for, bled for, and sometimes died for. But they are the struggles that brought us a decent wage, that brought us pensions and health benefits, that brought us the weekend, that brought us safe working standards, that brought us overtime pay, that brought us all the things that help make the middle class in our country today and make our country as productive and as wealthy as it is.

They are the struggles that have raised the standards of living for every single American citizen, whether they belong to a union or not. We owe them a thank you. We owe them a thank you, not a kick in the side, as they were given in their efforts to bring justice to the workplace.

So tonight, Mr. Speaker, I say thank you to Frank and Stephen and to Mark and Ben, and to everyone who has fought for the dignity of American workers. I also stand with you. This is a struggle for human rights, for fairness and for justice; it is a struggle worth fighting for, and I can tell these workers, and I can tell 120,000 people who came from all over the country last weekend. In fact, we had people come from Europe to stand with our brothers and sisters, that we will win this struggle, because the News and the Free Press, the two papers in Detroit owned by Gannett and Knight-Ridder are wrong, they are disobeying the law, they are guilty, they are guilty of disrespect for the law by keeping these workers out.

A judge just last week ruled that they conducted themselves with unfair labor practices. They need to return these people to work so they can provide for their families. And we will be talking about this issue as we talked about the issue of the workers, the strawberry workers in California who are struggling to be able to be recognized with a decent wage and decent benefits. We will be talking about workers struggling in the poultry facilities in the Carolinas or the textile mills in the South or the steel workers at Pittston or the Caterpillar workers who have been struggling for years. These are American workers who deserve the respect of their government, of the corporate leaders in this country, and certainly their citizens.

So again, I thank those at the Detroit News, those who are fighting the News and the Free Press for justice and fairness for the American worker.

TAXPAYERS RELIEF ACT OF 1997

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. GINGRICH] is recognized for 5 minutes.

Mr. GINGRICH. Mr. Speaker, I rise to remind my colleagues that tomorrow, part 2 of the budget agreement, the historic agreement that has enabled us today to have a great victory for the American people by saving money, by reforming entitlements, by saving Medicare, that that agreement goes into phase 2 tomorrow with a very, very important Taxpayers Relief Act of 1997.

I want to take just a moment to remind my colleagues of the human side of the Taxpayers Relief Act of 1997. This is a bill which will provide more money for working taxpaying families with children; it will provide more money for folks who are going on to college and vocational and technical school; it will provide more money for families who have family farms or family ranches or family businesses and have the head of the family die and would potentially even lose that business to the IRS; and it provides for more resources to go to savings and investment and job creation, which is very vital if our welfare-to-work reform is going to succeed, because if we are going to ask people to leave welfare to go to work, we have to have enough economic growth, enough new jobs, in order to have the work for people to leave welfare to go to.

So the Taxpayers Relief Act of 1997 is very, very important. Let me put it in personal language. My sister-in-law and brother-in-law, Marilyn and Ray Heddleson out in Leetonia, Ohio have two young boys, Jon and Mark. Jon has graduated from high school, is about to go to college; Mark has one more year in high school. They know that the educational tax components of this is going to help them pay for the cost of those two boys being in school, and they know that when both of those boys are in school, that that is a lot of money for a working, middle class family.

My sister Robin and her husband David have two young girls, my nieces, Emily and Susan. They are not at that age yet, and they know that that $500 per child tax credit, $1,000 a year in extra take-home pay for their family means a lot and is going to enable them to do things, whether those things are saving for education, doing something with health care, doing something with the family; frankly, maybe just having fun and bonding closer together because they go on a vacation. I do not think we in Washington should define for parents what they think their priorities are for their children. This $500 per child tax credit creates the opportunity for those young folks to have a chance to have a better life.

My brother Randy and his wife Jill have two children, my niece Lauren and my nephew, Kevin. Again, they are not of the college-going age yet, but when they think about savings for college with the tax advantages of this bill, when they think about that extra $1,000 per year in take-home pay, having two children, when they think about the chance for when they go to college or vocational-technical school to have that extra tax credit, they know that we are going to help their family have a better future with this bill.

□ 1830

My oldest daughter, Kathy, owns a little company called the Carolina Coffee Company down in Greensboro, North Carolina. She actually lives in the district of the gentleman from North Carolina [Mr. HOWARD COBLE]. She knows, as a small business woman, that this bill is going to make it better for her employees, because they are going to have more take-home pay.

This bill is going to make it better in that college town, because there is going to be more help for people who go on to college and vo-tech school. And this bill has relief in it that helps small businesses.

She is also looking forward to the work that the gentleman from Ohio [Mr. ROB PORTMAN], has done on the commission to simplify and reform the IRS, because she knows if we will simplify taxes and simplify paperwork, we are going to have a dramatically better future for small business in this country. She knows that it is small businesses that create the jobs, that create a better future.

We all believe that it is very important to encourage people to save, to invest, to create jobs, because we know that if we are going to enter the 21st century and compete in the world market, if our children are going to compete with China and Japan and Korea, with Germany and France and Italy, with Brazil and Mexico, we need to have the best equipment and the best factories with the best jobs.

So this bill provides for the kind of incentives to save and invest and create jobs, called capital gains, because it cuts the tax on those who are willing to take the risk to create jobs, and that is very important to every citizen who wants a job, and it is very important to all of us who want our children to have the best jobs in the world.

Finally, this bill helps families that might have worked all their lives, who might have a family farm or a family ranch, who might have a small business they have created and worked on. We do not believe it is right for someone to have to visit the undertaker and the Internal Revenue Service the same week. We think that is just wrong.

We do not think it is right for someone to be in a position where they have worked all their life, they love their children and grandchildren, they have saved all their lives, and now the government is going to punish them when they die by taking away 55 percent of everything they save. We just think that is wrong.

So this bill begins to reduce the burden of the death tax, it begins to help small businesses and family farms so families can pass on to their children and their grandchildren their life's work.

So on balance, whether you are a young person with children who are young, and you are going to get that extra $500 per child. Remember, for a family with 3 children that is $1,500 in take-home pay more this coming cycle. So that year after year, let us say you have a child born, as our majority leader, the gentleman from Texas [DICK ARMEY], had a grandson born last week, Chris faces the prospect that over the next 16 or 17 years his parents are going to have $8,000 or $8,500 more before he gets of an age to go on to college or a technical school, and that is, we think, good for America; better for the family, better for the parents, better for the children, better for job creation, better in creating the work so people can leave welfare and go to work.

That is why we believe the Taxpayers Relief Act of 1997 is the right thing to do.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF A CONCURRENT RESOLUTION PROVIDING FOR ADJOURNMENT OF THE HOUSE AND SENATE FOR THE INDEPENDENCE DAY DISTRICT WORK PERIOD

Mr. SOLOMON, from the Committee on Rules, submitted a privileged report (Rept. No. 105–154) on the resolution (H. Res. 176) providing for consideration of a concurrent resolution providing for adjournment of the House and Senate for the Independence Day district work period, which was referred to the House Calendar and ordered to be printed.

THE REPUBLICAN TAX BILL BENEFITS SPECIAL INTERESTS AND THE WEALTHIEST AMERICANS

The SPEAKER pro tempore (Mr. TIAHRT). Under a previous order of the House, the gentleman from California [Mr. FAZIO] is recognized for 5 minutes.

Mr. FAZIO of California. Mr. Speaker, if the 1996 elections told this Congress anything, it was to work together in a bipartisan fashion. In my district in California and throughout the Nation Americans told us to put aside differences and provide a tax cut that makes sense.

Unfortunately, the Republicans who crafted their tax bill turned a deaf ear to the American people, to the President, and certainly to those of us on this side of the aisle. Instead, they chose to listen to the special interests that had inordinate influence in the way the campaigns were conducted.

Just look at their tax bill. The American people want education tax credits to make college affordable. Instead, what do they get? Not much for education, but large cuts in the capital gains tax for the wealthiest Americans, not just the farmers and small business people who build a business and deserve to sell it for retirement.

Americans want affordable child care, but what do they get instead? A bill that denies the $500 per child tax credit to 15 million families who work hard to make ends meet. Americans want the middle class to get tax relief and corporations to pay their fair share. But what do they get instead, in this bill? A proposal to wipe out the alternative minimum tax, which would allow the largest corporations in America to not pay a dime in taxes.

Remember, this debate is not about whether we should cut taxes, it is about who gets the benefits. When we act tomorrow on a tax bill, we will make a clear distinction between the two parties as to where our attention is focused. Who gets the benefits? On that there is a clear difference. The Democratic bill helps working families. The Republican bill, I regret, caters to the wealthy and the special interests.

Mr. Speaker, even by Washington standards there is some extraordinarily creative accounting going on by Republicans as they try to cook the numbers to show who benefits from their tax cut proposal. Now for the first time, truly independent comparisons of the Republican and Democratic tax plans are in. Here is what the U.S. News and World Report had to say when they conducted an independent comparison of the Republican and Democratic tax plans.

Calling the Republican calculations "ridiculous," it pointed out that the Republican tax plan is so tilted to the rich that Steve Forbes will face a lower tax rate than his house servant. "The GOP's tactical aim here," the magazine says, "is to put middle class voters against the 'undeserving poor.' Well, there is, it seems, a dime's worth of difference between the political parties after all," concludes the U.S. news and World Report.

For middle class working families, it is much more than a dime, it is the thousands of dollars in their pockets. The Democratic tax cut plan is the one that makes sense for America. It is fair, it promotes opportunity, and it rewards working families.

When we look back at the history of the last 15 years and we see the stagnant wages that have affected people who make from $25,000 to $50,000 to $75,000 a year, and we have limited options in a restrained budget deal, we have to make sure that we focus the relief on the people who need it most. Many of these people are not part of the stock market boom. They are not in position to share in the growth of this economy. They need to be considered first and foremost when we try to sort out our priorities in dealing with this tax bill.

Most economic analysts have indicated without political bias that fully 50 percent of the funds made available in the Republican tax proposal will go to the 5 percent at the very top of the income ladder. That does not seem to me to be in a fair and even an objective sense the right thing to do with limited resources available.

We have, I think, reached the point where the two parties will put away the myth that some have perpetuated that there is not a dime's worth of difference between us. Tomorrow we will vote on a Democratic alternative and then on a Republican bill. I think Members will find that there is a difference, and that the Democrats, in supporting their reform proposal, are standing up for the people who need us the most, who do not have the resources to take the vacations and to pay for the high cost of private educations, the people who simply want to get their kids a higher education, and who want a little bit of time, maybe on a long weekend, to make the long work week pay.

I certainly hope we will make the decision tomorrow that will be in their interests, and show once again, there is a dime's worth of difference, maybe thousands worth of difference between the two parties.

THE REPUBLICAN TAX BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. KINGSTON] is recognized for 5 minutes.

Mr. KINGSTON. Mr. Speaker, I am certainly glad tonight to have an opportunity to discuss this tax bill with my Democrat colleagues and Republican colleagues. Tomorrow we are going to vote on the first tax relief bill in 16 years. It is a bill that gives capital gains tax relief and a $500 per child tax credit, it gives death tax relief, a college scholarship or deduction, the HOPE scholarship, and the American dream IRA. Make no mistake, this tax bill is not perfect by any stretch of the imagination, but it is the first tax bill that we have had in over 16 years.

We are hearing a lot from the Democrats that this tax bill, or it is kind of interesting to hear it coming from some of the speakers, that for the first time they are saying, it is not a question of tax relief.

I do not understand that. They have had this Chamber for 40 years. They have never passed tax relief until Ronald Reagan shoved it on them. But they have been passing lots of tax increases, and what they are saying is, well, we want tax relief, but not this. Does that sound familiar?

If you are a watcher of politics, you will know this is the same thing they have always said on the budget: Of course we want to balance the budget, but not here, not now, not this bill. It is the same old thing.

Let us talk, Mr. Speaker, let us talk about who benefits from this, because we keep hearing that this is a tax cut for the wealthy. If Members will look at this chart, I invite my colleagues to see, this is a chart with information by the nonpartisan Joint Economic Committee. It shows that the tax relief, the bulk of it, will go, and this is about 76 percent, to families with a combined household income of $20,000 to $75,000. Over here is the $75,000 to $100,000. This area right here on this chart is 91 percent of the tax relief.

Now, will somebody who is wealthy get a little bit of tax relief? Yes, they will. I know that the Democrats hate folks who have succeeded. They just seem to love class warfare and they are not about to do it. So to keep their continuation of the debate on this rich, evil American, and it is interesting, sometime when you are working, maybe go out there and look at the person who is creating the jobs, and ask yourself, is this a mean, evil person?

But to show the low degree to which they will stoop in order to prove their point, what they have done is they have taken a household that makes $49,000 a year. Then they charge you rent on your own house that you may or may not be paying a mortgage on, but let us just say it is a $100,000 house. What the Democrats do is say that is worth $1,000 a month in rent. To your $49,000 they are going to add $12,000 in rent. If you have a parking space at your job they are going to charge you $30 or $40 a month in rent, and they are saying that is what it is worth, and they are going to add that to your income, and also gains on your pension plan, anything that is a benefit.

So when you are through with the Democratic tricks, the $49,000 income is worth $93,000. So if you are represented by a Democrat, I would invite you to write him or her and ask him, how did you come up with these numbers? And then ask yourself if you would really want somebody who understands math like that to represent you, and maybe you may want to think about qualifying for the job yourself.

This is the reality of taxes, which Democrats hate. That is that 95 percent of the taxes in America are paid by the people in the top 50 percent bracket. Why do we give middle class tax relief? Because those are the folks who are paying the taxes. What the Democrats want to do, if you are middle class, they want to take your $500 per child tax credit that you as a taxpayer are paying and give it to somebody who does not pay taxes. Think about this. A single woman with a 14-year-old and a 16-year-old, under the Republican plan, will get $1,000 in tax relief. Under the Democrat plan she will get zero. Yes, that is compassion, to the middle class.

Where will that money go? It will go to somebody who is not paying taxes. Does that make sense? Is that compassion? Is that what Members want? Just because this woman, this single mother of two is out there working and just because her children are over 12 years old, she is not going to get any tax relief, but the person who is not paying taxes will get that $500 per child tax relief.

In my district there was a young man, he is 30 years old. He was bragging to the newspaper the other day that he has fathered 30 kids. He has 30 children. I want to say this to him, more power to you as long as you pay for them. But the fact is he is not paying for them, you are paying for them. Under the Democrat plan the tax relief will go to him as a non-taxpayer.

I am telling the Members, it is a fraud. Vote for middle class tax relief. Vote for the Republican plan, and do not listen to the phony baloney that the Democrats are pushing.

□ 1845

THE LIFE OF MS. JEWEL LAFONTANT MANKARIOUS

The SPEAKER pro tempore (Mr. TIAHRT). Under a previous order of the House, the gentleman from Illinois [Mr. DAVIS] is recognized for 5 minutes.

Mr. DAVIS of Illinois. Mr. Speaker, as the Chicago Sun Times put it, "A jewel has died." That is Jewel Lafontant Makarious. I rise to pay tribute to a great woman, a great lady, a great Chicagoan, an accomplished lawyer, civil rights advocate, a great American, friend of Presidents and mother of John Rogers who is President of the Chicago Park District and President of Ariel Mutual Funds.

Active in Republican politics, Mrs. Mankarious was a close friend of Presidents Eisenhower, Nixon and Bush. She was a longtime civil rights activist and broke down barriers for blacks and women in both government and corporate America.

During the Eisenhower administration, she was assistant U.S. Attorney, the first black woman to hold that post. She was a good friend of Richard Nixon and seconded his nomination for President at the Republican National Convention in 1960. In 1972, she became the Deputy Solicitor General in the Justice Department and later served as U.S. Ambassador at Large for 4 years in the Bush administration and finished her government career as Coordinator of Refugee Affairs.

Her longtime friend, George JOHNSON, founder and chairman of JOHNSON Products, described her this way:

> She gave her legal services to the downtrodden people who could not fight for themselves. She fought for people who could not fight the system. She was a wonderful woman of great accomplishments.

Mrs. Lafontant was a trial lawyer, recognized for being one of the best. She was a founding member of the Congress of Racial Equality, participated in demonstrations and sit-ins. By 1969, she had sat on the board of 15 major corporations, including Jewel Foods, Mobile Oil and Trans World Airlines. She held office in the NAACP and was on the board of the American Civil Liberties Union.

I express my condolences to her son, John Rogers, and his family, and to her husband, Mr. Naguib Mankarious.

The Chicago Sun Times is indeed correct, she was indeed a jewel. America has benefited greatly from her life and her contributions. The annals of history will always remember the impact of Jewel Lafontant Mankarious.

THE POLICE STATE COMETH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. PAUL] is recognized for 5 minutes.

Mr. PAUL. Mr. Speaker, in a police state the police are national, powerful and authoritarian. Inevitably, national governments yield to the temptation to use the military to do the heavy lifting. Once the military is used for local police activity, however minor initially, the march toward martial law with centralized police using military troops as an adjunct force becomes irresistible.

Throughout our history, law enforcement in the United States has remained for the most part a local matter. In recent history, especially since the 1970s, the growth of Federal agencies to enforce tens of thousands of regulations, not even written even by Congress, has changed our attitude toward the proper use of police power as established under the Constitution. While this is annoying to many Americans, many of whom are voicing their resentment, the principle of a centralized police power has become acceptable and unchallenged by our political leaders today.

The emotional frenzy surrounding the war on drugs has allowed Federal police powers to escalate rapidly into the areas of financial privacy, gun ownership, border controls and virtually all other aspects of law enforcement. Many see this trend as dangerous to our liberties while doing little or nothing to solve the problems of violence, gang wars, deterioration of the inner cities or the decline of the public educational system.

The declared justification for military intervention at Mount Carmel, although never substantiated, was that the Branch Davidians were manufacturing amphetamines. This provided the legal cover for army tanks to use the poisonous gas which apparently resulted in the devastating fire in what was a military operation to enforce the law, something which in ordinary times would have been strictly a local law enforcement matter.

Despite the legitimate concerns surrounding nationalization of the police force and using the military to enforce local laws, the House just recently and overwhelmingly approved the use of 10,000 military troops to patrol U.S. borders, none of whom, however, expect to be deployed on the northern border. Rather than addressing the incentive of welfare benefits to legal and illegal aliens, Congress instead reinstated the funding to aliens which was struck in last year's budget welfare reform. The House evidently in its infinite wisdom believes that 10,000 troops will solve many of our social problems.

If this Nation's drug laws are not reconsidered, the tremendous incentive for quick profits will prevent any success that might otherwise result from more and more armed border agents.

But it is also the psychology behind this effort that so often allows the enforcement process to get out of hand, whether at Ruby Ridge or Waco. So far the military on our southern border has not exactly done itself proud.

In January of this year, the army shot and wounded an illegal immigrant near the Rio Grande Valley. Initially the Army said the alien fired twice at the soldiers and had been involved in a robbery. These facts, however, were never substantiated. Even worse, though, is the case of an 18-year-old exemplary high school student and U.S. citizen named Ezeqaiuel Hernandez who on May 20 was shot and killed after being tracked for 20 minutes. He was wounded but then was allowed to bleed to death. What is more, now that more evidence regarding the shooting has become available, the soldier pulling the trigger is the subject of an ongoing investigation. Perhaps to some, these are minor incidents but the issue of using military troops for routine law enforcement is indeed a serious matter.

According to an article by Thaddeus Herrick in the June 22 issue of the Houston Chronicle, changes in the law permitting the military to be used for law enforcement occurred during the Reagan administration and expanded steadily during the Bush and the Clinton administrations. Currently, about 700 troops are being used for law enforcement, mainly for the purpose of enforcing drug laws. However, with the new legislation working its way through Congress, the numbers could grow substantially. This does not include the 6,000 border control agents already manning the borders, a number which is slated to increase to 20,000 over the next 10 years.

Lawrence Korb, former Assistants Secretary of Defense under Reagan was and remains critical of the trends toward using military troops in this manner. His argument according to Herrick is that soldier's "whole mindset to is to go to war. They try to perform law enforcement but at some points their instincts may take over." This is a good warning which could be equally applied to our troops being used as civil policemen in foreign countries under the United Nations banner, such as has done recently in Haiti, Somalia and now as well in Bosnia. Korb has consistently opposed using the military on our borders.

The Clinton administration, in continuing the process begun by Reagan, defends his doing so. Don Maple a spokesperson for the National Drug Control Policy stated, "We believe there will always be a role for the military in law enforcement."

When the Mexican Government ignored the Mexican Constitution in the 1830s and used the military to enforce civil law in Texas, the Texas settlers would have no part of it. The Texians' strong objection and resistance to military law eventually led to the Battle of San Jacinto. Military law in the colonies led to a similar result. Congress must be more careful in ignoring this principle.

Until Congress addresses the failed policy of a national war on drugs and welfare state incentives which draw aliens across the borders in ever-increasing numbers, this unconstitutional national, centralized police state can only result in more loss of liberties in a never-ending battle fought at the expense of the American taxpayer.

CAMPAIGN FINANCE REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut [Mr. GEJDENSON] is recognized for 5 minutes.

Mr. GEJDENSON. Mr. Speaker, we are close to July 4, and it was not that long ago the President asked us to come to the Congress with a campaign finance reform bill that we would vote on by July 4, get it through the House, the Senate, and bring it to the President's desk.

There has been virtually no action on campaign finance reform. I think I know the reason. There is a fundamental difference between the majority of the Republicans and the majority of the Democrats. Enunciated by the Speaker, Speaker GINGRICH says, "One of the greatest myths of modern politics is that campaigns are too expensive. The political process in fact is underfunded, it is not overfunded."

Now, it is interesting because my colleague, the Speaker in particular, seems to say in almost every other category that there is too much money. If it is feeding children, he says there is too much money. We cannot throw money at the problem. If it is education, he does not want to throw money at the problem. But when it comes to campaigns, he thinks there is not enough money.

I find it very hard to grasp this concept. And if we take a look at what has happened here, things like low-income energy assistance has been cut by 50 percent since 1978. We have had community development banks have gone up 27 percent. Maternal and child health block grants have gone up 91 percent from 1978. Congressional campaigns have gone up 294 percent. It does not indicate a shortage of cash.

What it indicates is in reality that we spend way too much time raising money. And if one is running for the Senate in California, the last race was $14.4 million. In 1992, there was a cheap race for 10.4 million. And we come to an average of about $12.4 million. A winning candidate must raise $39,744 over the course of the 312 weeks to make sure they have the money for that race.

Now, there is a reason why the Republicans basically exercise their class warfare not just in the tax bill and not just in the budget authority and where they want to spend money, but why they want wealth to be represented in the political process, because they have a tremendous advantage.

So when one talks to the Speaker and he says he thinks you need more money, well, they have already got about a $200 million-some advantage in the campaign funding system that we have here today. I do not know how much more of an advantage he wants to have.

My belief is that the democratic institutions we have here ought to represent people and not just a way to funnel money into the political system. Candidates spend too much time raising money. The American people no longer have the confidence they once had in our system. It seems clear unless we change that, we will undermine this institution and all other institutions of this democracy.

When people hear about $50- and $100,000 contributions, they sit back and say, well, my participation does not matter. Why should I volunteer when somebody can write a check for a quarter of a million dollars? Why should I send in $50 or $75 or $100? It is going to disappear in the flood of money that is coming into politics.

We spend too much time raising money. We are losing our voters because of the money in the campaign, and it just is destroying the very fabric of our political system.

Now, what should we do? I think, one, we should make sure we do not rig the system to just give more power to those people who have money. The way I think we solve that is by picking an amount of money that the average citizen could participate in the political process.

I think there ought to be a $100 bill, a piece of legislation which I will enter in the next several weeks which will limit contributions to $100. I then want to put a tax on advertising, on television, radio and newspaper ads and use that money for a match to make that contribution about $700 worth of cash.

Then we need to limit spending. We have to have enough so that a new person can challenge an incumbent. But we do not want to spend our entire lives chasing money and doing fundraisers rather than representing our constituents or maybe even spending some time with our family.

The political crisis that is here is one of confidence in the institutions of this democracy. My parents survived Hitler and fled the Soviet Union to come to the United States, not simply because of its economic success but because this was a country that guaranteed freedoms and provided for participation in its democracy. Young people and old people alike believe they can no longer access this democracy unless they have a political action committee, unless they have thousands of dollars to give.

Let us give this democracy back to the people. Let us limit campaigns to $100 from an individual. Then I think we will find volunteers flowing back into the political system and participation of average Americans. This should not be a race about money. It ought to be a race about getting people into the system.

□ 1900

TAX CUTS FOR MIDDLE CLASS AMERICANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland [Mr. EHRLICH] is recognized for 5 minutes.

Mr. EHRLICH. Mr. Speaker, I rise today in support of the Taxpayers Relief Act and to talk about the class envy and the class warfare and the strategies that the American people and the producers in this country are absolutely sick of. I want to talk about it in the context of three particular taxes that we will be debating tomorrow in great detail.

First the capital gains tax, Mr. Speaker. Cutting capital gains helps middle-class people, clear and simple. People who pay capital gains need the ability to understand that they should not be penalized for being successful in this society, Mr. Speaker.

Consider these important facts from the Congressional Budget Office: About half of all families in this country own assets such as stocks, bonds, real estate, and businesses that generate capital gains. The elderly, and this is bad news for the generational warfare types in this House, the elderly realize a disproportionate amount of capital gains.

In 1993, those over 65 in this country realized 40 percent of all capital gains, although they make up just 12 percent of the population. They also paid 18 percent of all capital gains taxes. A Joint Economic Committee report in 1993 found that one-third of all taxpayers reporting capital gains had incomes of less than $30,000.

Why do folks in this country, who love to punish producers, who love to punish people who undertake risk in this society, why do they want to not index capital gains? Inflation is an unfair tax on producers in this country. To fight the indexation of capital gains, in my view, is grossly unfair.

The nonrefundable tax credit we have heard other speakers tonight talk about, this aspect of the child tax credit. Democrats claim the Ways and Means bill is unfair because it offers a nonrefundable credit to middle-income families. Over 18 million low-income families in this country receive a tax break already. It is called the earned income tax credit, and we spend $26 billion on that earned income tax credit.

Now folks on the other side of the aisle say that low-income workers should receive another tax break because they pay FICA taxes. And I hope the American people are listening to this argument tonight and tomorrow and in the weeks ahead. Payroll taxes are different from income taxes.

Income taxes, which low-income workers do not pay because of the earned-income tax credit, go to general revenues and are used for Government programs, for general revenue purposes. FICA taxes are earmarked for Social Security and Medicare. Revenues from FICA taxes go to the Social Security Trust Fund and are used to pay benefits under Medicare and Social Security.

Today, low-income workers, like all workers, are required to contribute to the Social Security system. They will receive all of what they pay into that system and more in the years ahead. And it is a very interesting difference between the parties when it comes to fairness, this concept of fairness.

The Democrats seem to define fairness as follows: Middle-income earners, in addition to financing the earned-income tax credit, should also subsidize the retirement and health benefits of low-income workers. In essence, they say it is unfair for the working poor to contribute to the Social Security and Medicare system which will return benefits to them when they retire.

Those of us on this side of the aisle define fairness as follows: All working Americans with kids deserve a tax break. Middle-income workers should not be responsible for subsidizing the payroll taxes paid by low-income workers. We all benefit from Social Security and Medicare, and we all need to contribute our fair share.

Last, the great class warfare attack of 1997, the alternative minimum tax. The AMT passed originally in 1986, Mr. Speaker, as part of the Tax Reform Act of 1986, with all good intentions to make sure that truly individuals wealthy and corporations could not avoid paying taxes, and I am fully in support of that have goal.

But I go to the factories, as many of us do, we talk to the small business people in the capital-intensive industries in this country, and they have got a problem with the alternative minimum tax. Like so many provisions of the Tax Code, the AMT has produced unintended consequences.

Let us be clear what the bill of the Committee on Ways and Means does not do in the way of alternative minimum tax. Under current law, the alternative minimum tax treats investment in business machinery and equipment as income rather than as an expense.

Under the proposal, it does not exempt the wealthy from paying taxes, it does not exempt companies from paying taxes. No companies with taxable income will be able to avoid paying taxes. We should all recognize this simple fact. Enough of class warfare. Enough of class envy. Let us go give a break to the producers and middle class of this country.

REPUBLICAN TAX CUT PACKAGE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California [Ms. WATERS] is recognized for 5 minutes.

Ms. WATERS. Mr. Speaker, the reconciliation spending bill that we just passed leaves me deeply concerned about this Congress and where we are heading. The spending package violated the letter and the spirit of the budget agreement and hit hardest at the working and poor families of our Nation that struggle every day to get by.

Before I speak about tomorrow's vote on the unfair Republican tax cut package, I want to say a few words about what we as a body have done in voting for this budget reconciliation spending bill.

While there are many serious attacks on working families in the spending bill, like privatizing portions of Medicaid and food stamps, slashing the Federal funding for those hospitals who serve a disproportionate share of low-income patients, and block-granting children's health care, one of the most serious attacks is against the minimum wage and workplace protections for workfare participants.

The budget reconciliation bill condemns working welfare recipients to second class citizenship. The bill specifically states that benefits provided to these workers in their jobs are not to be considered wages or compensation. With this devious language, the bill denies these hundreds of thousands of hard-working mothers and parents the rights that all American workers now enjoy, and it denies these workers the enforcement and remedial protections of the Fair Labor Standards Act. This is wrong. It must not be retained in the final passage of the bill.

Tomorrow we turn our attention to the other half of our Nation's budget, the tax cut package. The Republican leadership have made their priorities known with their budget proposals.

Their $835 billion tax cut package gives the wealthiest Americans the largest tax benefits and pushes the poor further into poverty. The wealthiest 20 percent of the U.S. population would receive a whopping 87 percent of the net benefits. But the bottom 60 percent would share only 4 percent of these tax benefits. In fact, the poorest 20 percent of the population that has only 4.5 percent of the Nation's after-tax income would receive none of the gain.

Most of the tax cuts benefit upper-income people. Open-ended estate tax cuts would benefit only the richest 1.5 percent of families. They give the wealthiest Americans deficit busting capital gains tax breaks. In addition, the Republicans have the audacity to propose that these tax breaks for the wealthy be indexed for inflation. And this is the same leadership that is opposed to cost-of-living increases for working Americans.

At the same time, the Republicans' proposal denies the working poor the tax relief they guarantee the rich. The Republicans took the President's education tax package, including the HOPE scholarship, and undermined its goal of reaching the neediest students. The Republican plan would cover only half of tuition costs, even for the first 2 years of college.

The bill also denies the $500 per child tax credit to over 15 million families. It does this by denying the full benefit of the child tax credit to the poorest of working poor, those who are eligible for the earned income tax credit. Contrary to what the Republicans allege, it is only those that are employed and pay payroll taxes that are eligible for their earned income tax credit. They deserve all the help they can get, and this bill denies them this much needed help.

We should not forget that the budget deal was a serious compromise from the President's original budget proposal, which many of us felt fell short of the Nation's needs in many critical areas.

For example, the measly $5 billion requested by the President for education infrastructure, that is, to fix up the Nation's schools, schools with no air conditioning, schools where the heating systems are broken, schools where windows and roofs need repair, all of this was denied, taken off the table because the Republicans said no.

But at the same time, conservative estimates put the real cost of addressing the infrastructure problem at over $100 billion, and we could not get them to agree to $5 billion. And what about a real jobs program that pays a living wage, instead of trying to pay the working poor subminimum wages and deny their workplace rights?

Let us be clear, this Republican tax bill is an outrage. We will all end up paying dearly for it in the end. It will make it much more difficult it address our Nation's real problems.

I urge my colleagues to vote against this unfair tax cut bill and reject this attack on working Americans and poor Americans.

TRIBUTE TO BISHOP EDWARD T. HUGHES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey [Mr. PAPPAS] is recognized for 5 minutes.

Mr. PAPPAS. Mr. Speaker, I rise today to pay tribute to Bishop Edward T. Hughes, the Second Bishop of Metuchen, NJ. Just this past Sunday, the 22nd of June, I attended a mass to celebrate his 50th year anniversary of ordination into the priesthood.

Over the past 50 years, Bishop Hughes has inspired, educated, counseled, and guided thousands in countless ways. So many of the people that I represent have been touched and aided by his kind words and actions. On a daily basis, Bishop Hughes has in a special way comforted those in times of sorrow and been an instrumental part of the joy and happiness of many families and individuals.

Bishop Hughes is a loving man that shepherds his flock with care and gentleness. He is an outspoken defender of the unborn and a foe of racism and bigotry. He fully understands the importance of his mission in spreading the word of God to his community. He has devoted his life to being a shepherd for the Lord by spreading spirituality and grace.

Through his good works and deeds, he has touched all those who have been in his presence. In today's fast paced environment and a world that is often filled with sadness and violence, he demonstrates how each of us can find a place for faith and remember what is good and right.

It was in early life that he, in 1938, at the tender age of 18, dedicated his life to serving Jesus Christ and entered St. Charles Seminary. Since that time he has used his wealth of knowledge to teach history and act as a positive role model for many young people.

Pope Paul VI recognized his outstanding service in 1976 and appointed him auxiliary Bishop of Philadelphia, and he was ordained Bishop in July of that year by John Cardinal Krol. As Bishop he met new challenges head-on and demonstrated his leadership on a national level, most recently as chairman of the National Conference of Catholic Bishops Implementation Committee for the Catechism of the Catholic Church.

In December of 1986 Pope John Paul II recognized what so many Roman Catholics in New Jersey and Pennsylvania had and named Bishop Hughes chief shepherd of the Diocese of Metuchen which consists of nearly a half million faithful. The Diocese has seen unprecedented growth during the Bishop's tenure. He has dedicated more than 15 churches and blessed numerous other facilities.

The Bishop has a keen sense of social responsibility and has reached out to community shelters, clinics, and other agencies of assistance to help those in need. He truly does the Lord's work.

Today there is an increased importance placed on cultural diversity and understanding. The Bishop has reached out to the Hispanic, Asian, African-American, and Portuguese members of the community and increased cultural understanding among these groups while spreading God's love of all people.

The Diocese of Metuchen has been very fortunate to the have him as their Bishop; and on behalf of the citizens of the 12th District of New Jersey, I would like to offer my congratulations and thank the Bishop for the time that he has devoted to the people of the Metuchen Diocese.

Bishop Hughes' motto is "Rejoice in the Lord always," and his life and service have truly been a model of just that.

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TAX RELIEF NOW

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin [Mr. NEUMANN] is recognized for 5 minutes.

Mr. NEUMANN. Mr. Speaker, I rise tonight to call attention to how far this Congress has come. In order to truly understand how much this Nation has changed over the last couple of years, since 1995, when there was a change of who was running this place out here, I think it is important we go back to the pre-1995 years and talk about what it was that made the American people so cynical, almost to a point that when somebody out of Washington says "here's what we're going to do," nobody believes him. I thought I would start with the Gramm-Rudman-Hollings Act of 1985.

This was back in the middle 1980's, when Congress started promising the American people a balanced budget. I was not here. I watched this thing very closely from the outside. I was a taxpayer building a business from the ground up at that point in time, working hard every day, and I watched this promise. I watched them promise us that they were going to balance the budget. Their promise was along this blue line in this chart. What they actually did is they followed the red line in this chart.

As my colleagues can see, their promises did not hold up. As a matter of fact, instead of getting to a balanced budget as originally promised in 1991, the deficits exploded. What did they do? They did the Washington thing, and many people in America, myself included, got even more upset with them. They put a new Gramm-Rudman-Hollings bill out. Since they could not meet the first one, they made up a new one. The second one had a blue line again. The blue line shows their promised route to a balanced budget, and the red line shows again what actually happened. The deficit exploded. Why did that happen? They could not curtail the growth of Government spending in Washington. They just plain could not resist reaching into your pocket, taking more money out and spending more money out here in Washington. There was a fundamental belief out here that the people in Washington knew better how to spend the American people's money than they knew how to spend it themselves.

This is kind of what was going on before 1995. We had the promise in 1985, the promise again in 1987, several more promises along the way. We got to 1993, and in 1993 they said we really do have to get this deficit under control, we know we have made these promises repeatedly so what we are going to do, they decided in 1993, this was the past again, they said we are going to raise taxes on the American people to try and get us closer to a balanced budget. It was the closest vote they have ever seen in this House. In both the House of Representatives and in the Senate, that tax increase that raised the gasoline tax and the Social Security tax, that 1993 tax increase, the biggest tax increase in American history, passed each House by one single, solitary vote. The American people rejected that, because in 1994, they said, "We're sick of the broken promises and we're tired of the tax increases. Washington should not be reaching into our pocket and taking more money out to try and get to a balanced budget."

In 1995, they elected a new group to Congress. They elected the Republicans to take over. The Republicans got here and they made a promise to the American people, too. We laid out a 7-year plan to get to a balanced budget. We are now in the third year of that 7-year plan, and this may very well be the best kept secret in Washington. We are in the third year of our 7-year plan to balance the budget and we are not only on track, but ahead of schedule.

In fiscal year 1996, this red column shows what was promised to the American people. This is the Republican promise of 1995 to the American people. We not only met that target, but the deficit was actually lower. As we started down our track to a balanced budget, the first year was in, and we hit the target.

This is what was promised to the American people in the second year, this red column. The blue column shows where we actually were. We have got 2 years under our belt now not only on track, but ahead of schedule.

Today what we are passing is the third year in this plan, and the third year in this plan is once again on track and ahead of schedule. We are in the third year of a 7-year plan to balance the Federal budget and, very different than the previous Congress, very, very different, we are not only on track but ahead of schedule.

How did all this happen? How did all of this come about? It came about because instead of reaching into the pockets of the American people and taking more money out through tax increases, instead of doing this, the new group that came here in 1995 said it would be a whole lot better if we curtailed the growth of Government spending. If we just controlled the Government spending habits out here in Washington, we would not need to raise taxes to be on track and ahead of schedule in balancing the budget, and that is what we did. Two years into this program, we have reduced the growth of Government spending by over 40 percent. We have literally got our arms around and curtailed the growth of Government spending to a point where today we passed a bill that is going to balance the budget at least by 2002, and we are tomorrow going to pass a bill that allows tax cuts for the American people.

I hear a lot of rhetoric about these tax cuts, but I know the middle-income folks understand what these tax cuts are. In a family of five, the people we see in church every Sunday, those folks know what the tax cuts are. They know if they have got three kids at home, one headed off to college, that they stand to receive $1,000 for the two kids, $500 for each one of them still home, and $1,500 for the one that is going off to college. They do not understand all this class warfare rhetoric, but they sure understand what the tax cuts are. It is a great time for America when we have not only balanced the budget but provided additional tax relief for the American people.

BUDGET RECONCILIATION TAX PROPOSALS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from North Carolina [Mrs. CLAYTON] is recognized for 5 minutes.

Mrs. CLAYTON. Mr. Speaker, the tax bill that we are here discussing and in particular the tax bill under the reconciliation package looks good on its face. Federal taxes are cut by a total of $133 billion over 5 years. I believe the American people deserve and want a tax cut. But the devil is in the details of the tax bill. The bill has a phased-in $500 per child tax credit. This is a very important and most needed credit. Most Americans would certainly want that and embrace that. But the bill does not allow the credit before an earned income tax calculation. What does that mean? It means that low-income, struggling working people would therefore not get the same benefit that most Americans would get because they would be denied to have that opportunity as those who make more. Some 28 million children would be denied this tax credit because they do not earn enough money to get a tax break.

Mr. Speaker, I believe the American people would be quite surprised to know, if some have their way, that the days of tax relief only for those who do not need tax relief are not over.

The bill provides for estate tax relief. Again, this is a very welcome initiative that farmers and small businesspersons in my State have been seeking for a long time. But here again the bill phases that relief in, $20,000 a year over 15 years, while immediate and more relief to working families is needed. They need a faster phase-in. That kind of relief really amounts to no relief for low and moderate income working families. They need help now. For generations, these families have struggled to maintain their family farms or their family-owned business, only to face the loss of them when the head of the family passes, and they are unable to pay the estate taxes because their liquid assets are limited.

And with regard to HOPE scholarships, a similar pattern emerges. Under the bill, working families would get $600 in relief, not the $1,500 that was just spoken about. That amount of money does not go far enough to help those families struggling to send their children to college.

The Democratic substitute, however, offers a better plan for lower and middle income families. In HOPE credits, they get $1,100 in tax relief. Estate tax relief is more in keeping with the realities of family-owned businesses. It is phased in at a faster rate and not over a 15-year period. And working families could still take advantage of the $500 tax credit. You do not deny poor working families that which you allow all other families to have.

In addition, the Democratic substitute sets a cap on capital gains. Most people want capital gains. But again a reasonable and a prudent approach given our budget goal is what is needed. And it does not index capital gains to inflation.

It is clear, Mr. Speaker, under close inspection, that the Democratic substitute is far more favorable to low and middle-income working families than the tax bill that will soon be before us that we will vote on tomorrow.

Mr. Speaker, working families in America indeed need tax relief. They want it and they should have it. But they need it now and they need a fair one. I submit that the Democratic substitute provides that necessary relief. The tax bill does not.

MFN FOR CHINA, AID TO BOSNIA IN FLOOD RELIEF BILL, AND DISNEY BOYCOTT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee [Mr. DUNCAN] is recognized for 5 minutes.

Mr. DUNCAN. Mr. Speaker, I rise tonight to mention three very important but unrelated topics. One is the vote yesterday to grant most-favored-nation status to China. Last year 141 Members voted against MFN status for China. Yesterday 173 voted against this status. This is an issue that is not going to go away and the opposition will continue to grow if the Chinese do not make major reforms and start doing better in relation to human rights. The Chinese should not take yesterday's vote as some type of endorsement of their very repressive policies. This is particularly true in relation to the horrible persecution of millions of Christians going on in China right now.

Michael Horowitz, a leader in speaking out against this persecution and who happens to be Jewish, said in a recent interview with Chuck Colson the following. He said, "I am speaking out on behalf of persecuted Christians precisely because I am a Jew in the most deeply rooted sense. I see eerie parallels between the way the elites of the world are dealing with Christians—who have become the scapegoats of choice for the thug regimes around the world—and the way the elites dealt with the Jews when Hitler came to power. Another parallel is the tongue-tied silence of the Christian community in the face of this persecution. A similar silence was evident in the years leading to the Holocaust. Silence, anybody's silence, in the face of persecution is deadly. So for me," Mr. Horowitz said, "sparking our campaign for awareness and action is the most important thing I expect to do. What thugs did to Jews, they are doing now to Christians. I put it to you, Chuck," Mr. Horowitz said, "Christians are becoming the Jews of the 21st century."

Also, the Chinese must start treating us more fairly in regard to trade. We have a trade deficit with China now at 40 to $50 billion, depending on whose estimate is used. Economists say conservatively that we lose 20,000 jobs per $1 billion. This means we may be losing as many as 1 million American jobs this year to China and we are losing even more to Japan. We cannot continue these huge trade deficits and resulting huge job losses, Mr. Speaker, for much longer without doing great harm and irreparable harm to this Nation. Already while our unemployment rate is very low, our underemployment rate is terrible. As I have said before, we are ending up with the best educated waiters and waitresses in the world precisely because we are sending so many good jobs to other countries.

Secondly, and briefly, Mr. Speaker, it was unconscionable to require us to vote for $2 billion more for Bosnia on the so-called flood relief bill. We sent far more to Bosnia than we did to North Dakota. There is no threat to our national security in Bosnia. There is no vital U.S. interest there. We cannot settle these centuries-old ethnic conflicts even if we pour our entire treasury into Bosnia. We need to put our own people first. We do not need our soldiers and sailors doing international social work. We need to bring our troops home now. I was very disappointed that yesterday we voted down the Hilleary amendment to bring our troops home by December 31. The President originally promised we would have our troops out after one year at the most and that was many months ago.

Third, Mr. Speaker, and lastly, the Hill newspaper reported today that no Members were willing to publicly support the Southern Baptists in their boycott of the Disney Company. Well, I know this boycott will not be successful against this extremely rich corporation. However, I for one, and I am a Presbyterian, not a Baptist, admire and respect the Southern Baptists for standing up for their beliefs and for trying to do what they and millions of people believe is morally right. We need much less sex and violence on television and in our movies and the Disney Corporation is not upholding family values as it once did.

TAXPAYER RELIEF ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas [Ms. JACKSON-LEE] is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today because we are about to take up a bill called by the Republican the Taxpayer Relief Act. If you look closely at this bill, a better name would be "The Rich get Richer Act."

This is no secret, Mr. Speaker. It's in all the newspapers, it's Republican payback time. It's no secret who the members on the other side of the aisle represent. More than half the benefits of the Republicans tax plan go to people who make an average of $250,000 a year. The next 25% of their tax breaks go to those making more than $75,000.

And who gets the crumbs, Mr. Speaker. Who is shortchanging the American working families? As is the usual case when the Republicans talk about relief, they talk about helping their wealthy friends. They are now working to cut taxes on the profits made from the sale of stocks and bonds beyond the amount of taxes paid on wages, they are working to end the corporate alternative minimum tax, they are working to give IRA tax preferences to the top 20% of taxpayers, and they are working hard to cut the taxes on estates that would benefit the top 2% of estates.

Mr. Speaker, the numbers are clear for the Republicans. Help the high incomes, help those in the highest tax brackets and the Republican know that they can help themselves. They know that the big corporations will help them if they end the alternative minimum tax so some of our largest corporations can avoid paying any taxes again. We closed this loophole some time ago and now they want to open it up again. It is no secret who is dancing with the Republicans, where their bread is buttered.

This is the party that cuts out working Americans making less than $15,900, 15 million working, tax paying wage-earners who the Republicans say are getting welfare if they are given the same $500 per child tax credit that Republicans say their friends making more than $250,000 should get.

Let's do the Republican math-make less than $15,900 and you don't need a $500 per child tax credit-make more than $250,000 and you do need the same tax credit. It doesn't take a rocket scientist to see where the Republicans are coming from.

In my own district, in the 18th Congressional District in Texas, the median household income in about $22,000 a year. Will the Republican bill help most of them? Will the tax cuts they are proposing help the majority of my constituents? Will the Republican cuts help the majority of American? How much do the Republicans think the American people will stand for?

This is where the American people can see the clear differences between the Democrats and the Republicans. The Democratic plan—the plan authored by the distinguished Ranking Member of the Ways and Means Committee, Representative CHARLES RANGEL—is a plan that gives tax relief where it is need-to working families, hard working taxpaying families.

The Democratic alternative calls for three-quarters of their tax breaks going to people making less than $58,000 a year. There are tax cuts for small business owners, there are tax credits for the parents of all of our children, there are tax breaks for families that are trying to send their children to college. Sure, the Republicans have their education tax plan, but it wouldn't help those going to our community colleges much.

Democrats have a fairer plan for capital gains cuts-the Republican plan now means that for wealthy investors, they will pay a lower effective rate on the profits of the sale of their stocks than a moderate income family pays on their wages. Democrats would allow those who are forced to sell their home at a loss some tax relief-the Republicans don't. Democrats target a fairer capital gains cut for small businesses and farmers. Our estate tax relief is aimed at giving families who want to pass on their small businesses a break rather than the well off who don't really need these kinds of tax cuts.

Mr. Speaker, it is time for the American people to draw the line in the sand. It is time for the working families out thee to be heard. It is time to stand up and be counted. Who does this House of the People stand for? There is nothing more basic than taxes and the difference between the Republicans tax package and the Democratic tax package is plain for Americans to see. It is time to stand up and really be counted.

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OPPOSITION TO THE TAX AND SPENDING PORTIONS OF THE RECONCILIATION BILL

The SPEAKER pro tempore (Mr. TIAHRT). Under a previous order of the House, the gentlewoman from Florida [Mrs. MEEK] is recognized for 5 minutes.

Mrs. MEEK of Florida. Mr. Speaker, I oppose both the tax provisions and the spending provisions of the reconciliation bill. I want to say why, Mr. Speaker.

The spending cuts that the House approved today fall mainly on the weakest members of our society, on the sick and on the elderly. Tomorrow we will be voting on tax cuts that mainly favor the wealthy. Today the House voted to rob from the poor so that tomorrow the majority can help the rich.

I think that is wrong, Mr. Speaker, and I oppose both parts of this strategy.

According to the Center on Budget and Policy Priorities, the poorest 20 percent of families, those with an average annual income of only $9,200 will get $63 less because of the majority cuts in Federal spending and changes in taxes. Think of this, Mr. Speaker. The wealthiest 1 percent of the families, those with an average annual income of $442,000 come out as big winners. They will have $27,000 more. That means that the extra money they get under this majority bill exceeds the total income of the poorest in this Nation.

I represent many of those people, Mr. Speaker. I seek an appeal to the Congress to look at this bill that has these tax cuts that will not help the poorest of the poor.

The majority here in the House wants to pay for these unfair tax cuts by squeezing large public hospitals like my public hospital in Miami, Jackson Memorial. It helps the poor and that is probably one of the few hospitals that must take the poor.

The Republican majority cuts the Medicare payments to hospitals by $38 billion over 5 years. The reported bill, Mr. Speaker, is one that will certainly rob from the poor. I think that it is wrong, and certainly I oppose this strategy because it does fall on the weakest members of our society. It also cuts for hospitals like my public hospital the disproportionate share payment to hospitals like Jackson Memorial by another 13 billion over 5 years.

You know who is going to take up that cost? The taxpayers, the middle income, the upper income, the poor; someone has to pay that share that no longer will the government assist in sharing enough to help hospitals like Jackson. That is a $51 billion hit on these kinds of hospitals.

These hospitals treat the poorest in our communities. It is the poor who would end up getting less health care.

Yesterday I tried to improve on part of the reconciliation bill by asking the Committee on Rules to make in order my bipartisan amendment to give supplemental security, which we call SSI, the Supplemental Security Income, and the Medicaid to 147,000 legal immigrants who have been living in this country who were in the country last August, but they are not covered by the reported Ways and Means proposal.

You know who is going to have to take care of them and give them the health care? You are, Mr. Speaker, and I and those of us who are able to pay for that because, if you were not poor or elderly or disabled when this bill passed last year, then you are still in this country, and now when you get to be 64 years old and you become disabled and elderly, you are not covered.

I offer this amendment with my dear colleague from Florida [Ms. ROS-LEHTINEN] and we also offer a way to pay for this, Mr. Speaker, for these needy people, but the Committee on Rules refused to let the House vote on our bipartisan way of improving the bill.

Mr. Speaker, we all would like to cut taxes. We know that the time has come that we can no longer spend where there are no resources. We understand that. We know that this is a time of belt tightening. We know that this is a time, as we go into the year 2000, that we must balance the budget. Well, you have decided to do that; the budget agreement has been cut. But this is not the time, not when we are asking the poor and the elderly to pay for the tax cuts.

There is a fair way to cut taxes, but the way of the leadership is the wrong way. It worsens the spread between our wealthiest citizens and our poorest citizens. No one is here to say that poor and middle class people are not supposed to pay taxes, but I am saying that if there is a gap, it should be one that is equitable and that the rich will pay their share as well as the middle income and the poor.

TAX CUTS SHOULD BE FAIR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas [Mr. SNYDER] is recognized for 5 minutes.

Mr. SNYDER. Mr. Speaker, I thank the staff for putting in yet another late evening here on behalf of the people of America.

Mr. Speaker, I support a balanced budget. I strongly support it and all the things it can do for the business climate in this country. I voted for the budget deal and was one of the two-thirds of the Democratic side that did vote for the budget deal for a balanced budget, and as we know here that includes a tax cut over the next 5 years totaling $135 billion.

Tomorrow we are going to make a choice about what type of tax cut we want, what type of tax cut do we think America would benefit from. And Mr. Speaker, I consider this to be the good side of partisanship, that there is going to be a choice we make tomorrow between the Republican plan and Democratic plan; and we are in the minority party, but we have an alternative that we think is better.

For me the issue comes down to what is the best tax cut plan for Arkansas. That is where I am from. What is going to be best for the working middle class families of Arkansas, for farmers, for self-employed, for the small business folks of Arkansas, for those American who play by the rules, work hard and pay taxes? Let me deal first, Mr. Speaker, with the child tax credit.

I am going to protect last names here, but this is Judy and her two lovely children, constituents of mine in central Arkansas. Judy makes $7.50 an hour. That works out to a total of $15,000 a year.

Now under the Republican plan because she qualifies for the earned income tax credit, a credit that has been supported by every President including Ronald Reagan since Ronald Reagan; because she takes advantage of that earned income tax credit, under the Republican plan, she will not qualify for the $300 or $500 per child tax credit.

Now the argument we hear is that, well, she does not pay income tax, that she does not pay income tax. Yes, she pays payroll taxes, but that does not count. I have a copy of her payroll stub. You know this is what we get every week or month, Mr. Speaker, and we look on here and we kind of get that empty feeling in our belly when we see how much taxes came out of it.

Yes, she pays income tax, but she also pays the payroll tax. And here is what she pays for her Medicare and her Social Security, the FICA tax, the payroll tax, that all employers and all working people in America pay.

Please do not tell her that she does not pay taxes. But because of the way the Republican plan is written, even though she has two children and pays $1,150 a year in payroll taxes, even though she pays that level of taxes, she does not qualify under the Republican bill for a per child tax credit even though she has those two lovely children. She plays by the rules, she pays her taxes. Some reward, Mr. Speaker, for being a good American.

Let me show you another picture. This is another family that are constituents of mine. This is Judy and her two children. Her children are older. She is to the point now she better be thinking about college, and I know Judy well enough to know that she is. She makes approximately $31,000 a year and she will qualify because of her income for the per child tax credit. But let us talk about the college aspect of it.

Under the Democratic plan she will be able to get $1,500, when the full credit kicks in, per child per year for her children's college for the first 2 years. But under the Republican plan she will also get $1,500 per child but it will be calculated differently. It will be calculated 50 percent of the first $3,000 of tuition and expenses. It sounds the same; does it not? They are both going to get $1,500. But it is not the same for Arkansas.

Pulaski Technical College in North Little Rock, the tuition is a thousand dollars, a little over a thousand dollars a year. For Foothills Technical Institute in White County, Arkansas, gods county, Mr. Speaker, if you are looking for a place to move, the total tuition per year is $672 a year. You take 50 percent of that, if you go to Foothills Technical, you will get about $350 tax credit, not the $1,500.

It is just wrong under that Republican bill to tell folks if you go to an expensive school, you get the full $1,500. If you choose to go to a 2-year community college or school like Foothills Technical Institute, you do not get the full credit even though your tuition is under $1,500.

Judy works hard, she plays by the rules, she pays taxes; she does much better under the Democratic bill, not the Republican alternative.

And finally today, Mr. Speaker, I had these letters delivered to my office from farmers throughout Arkansas, my district, and they are concerned, every one of them, about the estate tax. Every one of them is either handwritten or hand typed.

Folks say: Well, estate tax just favors the rich. If you are a small business person or a farmer, you are very concerned about that having to be broken up when you pass away. Under the Democratic plan the relief is immediate. Under the Republican plan the relief is delayed until the year 2007.

TAXPAYER RELIEF ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California [Ms. MILLENDER-MCDONALD] is recognized for 5 minutes.

Ms. MILLENDER-McDONALD. Mr. Speaker, I rise tonight to address one of the most important votes we will cast in the 105th Congress, and that is the tax cut bill. I strongly oppose the Taxpayer Relief Act which we will vote on tomorrow. I do so not because I am opposed to tax cuts. As a former chairwoman of revenue and taxation in the California State legislature, I am for tax cuts. But I am opposed to this relief bill which is not fair.

As the charts behind me demonstrate, the bulk of the tax relief is offered for the wealthiest taxpayers while the low and middle income taxpayers, the ones who live in California's 37th Congressional District, the district I represent, receive only nominal relief.

Mr. Speaker, 56 percent of the Republican tax cut plan will go to the wealthiest 5 percent of Americans, Americans who earn well over $200,000. Under the Republican plan, taxpayers who earn $26,900 to $44,500 will receive only 17.3 percent of the tax cuts. Moreover, for the lowest income earners, those who earn $6,600 to $15,900, the Republican tax cut plan amounts to what is in effect a tax hike.

This is not tax relief, but rather a tax ripoff for millions of hard-working middle class and lower income earning citizens. To provide such a tremendous tax cut to the wealthiest citizens of this country and at the same time increase taxes on American citizens who are earning the lowest income and are in the most need of a tax relief does not make any sense.

The Republican tax bill further denies the $500 child tax credit to 20 million working families who receive the earned income tax credit. This plan does not value their hard work even though their earnings place them at or barely above the rate of poverty, and this is earned income. They deserve the child tax credit as much as any other working family.

The Democratic alternative tax cut plan is the only real tax cut plan. It ensures that all Americans who receive tax relief receive tax relief and not just the wealthiest. Those middle class hard-working American citizens who need a tax cut, those who earn $26,900 to $44,500 will receive 58.4 percent of the tax relief under the Democratic plan. In effect the Democratic alternative shifts the bulk of the tax relief from the top 5 percent to the middle 40 percent of all American taxpayers.

The Democratic alternative tax cut plan also provides an estimated $37 billion in education tax credits, which is almost twice what is offered in the Republican plan. It includes $5.7 billion in homeowner tax credits and important tax relief for small businesses, farmers, and for families with children.

I do urge my colleagues to think about the American people we were elected to serve, to think about the millions of hard-working parents, trying to provide more than the basic needs of food, shelter and clothing for their children, but also a quality education, a healthy and safe environment to grow up in, and most important of all, Mr. Speaker, a quality future.

We must represent the American people and vote for a real tax cut plan that will help all American families.

□ 1945

HISTORIC VOTE AGAINST OUR VETERANS

The SPEAKER pro tempore (Mr. TIAHRT). Under a previous order of the House, the gentleman from Mississippi [Mr. TAYLOR] is recognized for 5 minutes.

Mr. TAYLOR of Mississippi. Mr. Speaker, tomorrow in Congress Democrats and Republicans alike will vote for a tax reduction. They are going to give the wealthiest contributors a big tax break. They are going to give the smaller contributors a smaller tax break. But when it comes to those who in my opinion contributed the most to our country, not with their wallets, but with their lives and with their blood, they are going to get nothing at all.

I am talking about our Nation's veterans and in particular, our Nation's military retirees. Mr. Speaker, today, your Congress had the opportunity to fulfill the promise of free health care for life for our Nation's military retirees, a promise that has been broken, a promise that remains broken every day.

Mr. Speaker, out of this entire year-long legislative session, today was the only day, according to the Parliamentarian, that legislation to restore to our Nation's military retirees the health care benefits that they were promised could be brought to the floor for a vote, and today I tried to do just that.

I am pleased to tell my colleagues that every single Democratic Member of Congress voted to help our Nation's military retirees, every single one. I regret to inform my colleagues that every single Republican Member of Congress, let me repeat this; every single Republican Member of Congress voted against helping our Nation's military retirees, even though the bill that would have helped them was introduced by a Republican, the gentleman from Colorado [Mr. HEFLEY].

I am a cosponsor of that bill and I am very proud to do so, because after all, if it is good for America, it really should not matter whether it is a Democratic or Republican idea. I am proud to say that every single Democratic Member of Congress took the same patriotic approach to Medicare subvention. They supported bringing Medicare subvention to the floor for a vote, even though the bill's sponsor is a Republican.

Why then, I ask the people on this side of the room, did every single Republican vote against it? Why did the 98 Republicans who cosponsored Medicare subvention vote against bringing it to the floor for a vote, despite a plea from the Retired Officers Association?

I will read a letter sent to me by the Retired Officers Association:

> Dear Representative Taylor: Based on discussions with you, we understand that you intend to make a motion to defeat the previous question, and if successful, to offer an amendment to H.R. 2015, the Budget Reconciliation Act, to allow Medicare to reimburse the Department of Defense for care provided to Medicare-eligible service beneficiaries in the Military Health Services System, a concept we refer to as Medicare subvention. The Retired Officers Association strongly supports this initiative.
>
> Medicare subvention is critical to help honor the lifetime health care commitment. Servicemembers were promised lifetime health care in return for the extraordinary sacrifices of a 20- to 30-year career in uniform. Now, after several rounds of base closures, massive personnel reductions, and the advent of Tricare Prime, most Medicare-eligible service beneficiaries have lost access to military facilities.

Servicemembers did not equivocate when called upon to serve this Nation during years of armed conflict. This Nation should not equivocate on its commitment to provide them lifetime access to military facilities.

This is the list, and I want to submit it for the RECORD, of the 98 Members, Republican Members of Congress, who cosponsored this measure, who will go home and tell their constituents they are for this, they want to help the military retirees, but when the chance comes, the once-in-a-year chance comes to put it into action, voted against it:

HEFLEY, WATTS, NORWOOD, ENSIGN, BONILLA, BARTLETT of Maryland, RAMSTAD, GOODLATTE, LEWIS of Kentucky, BALLENGER, BEREUTER, CUNNINGHAM, HERGER, STEARNS, DAN SCHAEFER of Colorado, MORELLA, YOUNG of Alaska, DAVIS of Virginia, MCHUGH, SENSENBRENNER, REGULA, JONES, SKEEN, SCARBOROUGH, RIGGS, STUMP, MCCOLLUM, CHRISTENSEN, HAYWORTH, WOLF, MCKEON, HUNTER, BAKER, SAXTON, PETRI, SAM JOHNSON of Texas, SHAW, KIM, CALVERT, BATEMAN, SOLOMON, who voted against it in Committee on Rules and on the floor; SHADEGG, MCCRERY, TIAHRT, FOLEY, PORTER, BILBRAY, PRYCE of Ohio, who voted against it in the Committee on Rules and on the floor; RILEY, POMBO, GRAHAM, BONO, CANADY, WELDON of Florida, PARKER, METCALF, WAMP.

Mr. Speaker, I will submit the remainder for the RECORD.

CAMPBELL, KELLY, HASTINGS, WA, SMITH, NJ, SMITH, TX, WICKER, CALLAHAN, KOLBE, BARTON, TX, LINDA SMITH, WA, GRANGER, LAHOOD, COLLINS, PAXON, DOOLITTLE, HANSEN, LINDER, HUTCHINSON, ROHRABACHER, HOSTETTLER, EMERSON, NETHERCUTT, DIAZ-BALART, EVERETT, WELLER, NEY, COMBEST, PACKARD, TALENT, MCINNIS, TAYLOR, NC, BOB SCHAFFER, CO, GALLEGLY, SHIMKUS, HORN, CHAMBLISS, CHENOWETH, FOX, PA, and GIBBONS.

Mr. Speaker, I want to remind people that this is the only chance we are going to get to vote on Medicare subvention. Do not go home for the Fourth of July parades and tell the veterans you are with them because they now know, and the CONGRESSIONAL RECORD will reflect, that when given the opportunity to do something for them, or do something for NEWT GINGRICH, you voted for NEWT GINGRICH and against our veterans.

Mr. Speaker, I include for the RECORD the material referred to earlier during my special order.

THE RETIRED OFFICERS ASSOCIATION,
Alexandria, VA, June 25, 1997.

Hon. GENE TAYLOR,
U.S. House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE TAYLOR: Based on discussions with you, we understand that you intend to make a motion to defeat the previous question, and if successful, to offer an amendment to HR 2015, the Budget Reconciliation Act, to allow Medicare to reimburse the Department of Defense for care provided to Medicare-eligible service beneficiaries in the Military Health Services System—a concept we refer to as Medicare subvention. The Retired Officers Association strongly supports this initiative.

Medicare subvention is critical to help honor the lifetime health care commitment. Servicemembers were promised lifetime health care in return for the extraordinary sacrifices of a 20- to 30-year career in uniform. Now, after several rounds of base closures, massive personnel reductions, and the advent of Tricare Prime, most Medicare-eligible service beneficiaries have lost access to military facilities.

Servicemembers did not equivocate when called upon to serve this Nation during years of armed conflict. This Nation should not equivocate on its commitment to provide them lifetime access to military facilities.

Medicare subvention will help honor that commitment while saving money—a "win-win" proposition for Medicare, for taxpayers and for those who served.

Sincerely,

MICHAEL A. NELSON,
President.

CUTTING MEDICARE BENEFITS TO THE ELDERLY TO PAY FOR TAX CUTS FOR THE WELL OFF

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts [Mr. OLVER] is recognized for 5 minutes.

Mr. OLVER. Mr. Speaker, the fat is in the fire. Today this House passed, with an almost unanimous vote on the part of the Republican Members, a bill that is going to cut $115 billion out of Medicare, which is going to end up producing lower-quality health care at higher costs for my mother, for all of the Members of this body for their mothers and grandmothers and grandfathers as well.

Tomorrow we are going to end up debating the tax bill, which the Republicans paid for today by the cuts in Medicare, and in the process of passing that bill they refused to protect, to renew, to affirm the promise that had been made to our veterans of a lifetime of health care for people who had served in the military services, and that is particularly important for the 12 million or so, or the remainder of the 12 million American veterans of the Second World War.

Well, Mr. Speaker, the more things change, the more they are the same. As Yogi Berra once said, deja vu all over again. That is what has happened here. Throughout the 104th Congress, the fight in this House of Representatives and in the Senate was over the massive cuts in medical care for senior citizens that were virtually equivalent to the total amount of the tax cuts that were going to be given, and here we are again, cutting Medicare, and that is rather similar, very similar to the amount of dollars that are needed to pay for the tax cut that comes next.

Mr. Speaker, the President and the Congress have made a balanced budget agreement, and there are going to be tax cuts as a part of that agreement. There will be tax cuts.

But the question that we are going to be deciding tomorrow, who is it that are going to get the tax cuts? The question is, who do Members of the Republican Party care about and defend and fight for, and who do Democrats care about and defend and fight for?

Well, the Republican plan for tax cuts and the Democratic alternative tax cut plan show clearly who Republicans and Democrats care about and fight for, and we will see that very clearly tomorrow, and in the days ahead. We will see it again and again in the days ahead.

Mr. Speaker, the Republicans have called their tax plan good for the middle class, and they say that their plan gives tax breaks to working families who really need it. This chart tells a somewhat different story.

The Republican plan, which is the plan that is in blue, gives almost two-thirds, 64 percent, of the tax reduction to one family out of six in America, those families, the 19 million families that already earn more than $100,000 a year. The Republican plan gives that one family out of six 64 percent of the tax reduction. Over here, the other five out of six families get 36 percent of the tax reduction, including that great middle class who have incomes between $25,000 and $100,000 a year, that great middle core of the American people, the middle class in America, and they get 36 percent of the tax cut.

The further great irony about this is Member after Member from the Republican Party has stood up tonight and talked about class warfare. Well, there is nothing that shows the class warfare better than to show that graph that shows 64 percent of the tax reduction in their plan going to one family, the wealthiest family out of every six families in the country. That is the class warfare that is involved. And the great irony is here that it goes even beyond that, because if we take this group of five out of six families over there in the blue piece on the left, the part that are going to get 36 percent of the tax reduction divided among them, it turns out that two out of those five, two families out of those five whose income is less than $25,000 a year, they are going to get nothing from the plan. That is the extent of the class warfare which is involved in this legislation which we will take up tomorrow.

TAX RELIEF FOR AMERICANS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from Missouri [Mr. HULSHOF] is recognized for 60 minutes as the designee of the majority leader.

Mr. HULSHOF. Mr. Speaker, obviously the topic of choice is the upcoming vote. I have been sitting here patiently for about an hour and a half waiting our turn for this special order and have consistently heard on the other side of the aisle about these tax breaks which we will have a chance to visit about and hopefully get the rest of the story out there, because I think unfortunately, too much rhetoric has been spewing out and we want to set the record straight.

I want to start this time that we have, Mr. Speaker, and relate to my colleagues something that happens on a regular basis when I go back to the Ninth Congressional District of Missouri. Hardly a day goes by, when I make it back every weekend, when I am not stopped at the supermarket or at the church or at some function back in Missouri, and a constituent comes up and says, Mr. HULSHOF, I am working longer, I am working harder than ever, and yet I barely have anything left over in my checkbook at week's end. When is Washington going to give me a break?

Well, Mr. Speaker, I am happy to announce that if tomorrow goes as we hope, we want the American people to know that tomorrow is the day they get a break. Tomorrow is the day that we let the American people know that we have been listening to them. We have heard them loud and clear.

I want to take these few minutes that we have, and some other colleagues in the Republican freshman class, and others to talk about some of the specifics. It is easy to paint pictures with a broad paintbrush. I think we need to talk about more specifics in this tax package and why it is good for middle America, why it is good for small business, why it is good for family farms.

For too long, Mr. Speaker, Washington has continued to spend and waste billions of dollars of Americans' tax money. From midnight basketball to dance lessons for convicts to $500 toilet seats for the Pentagon, Washington's spending has been out of control for too long. It is time for us here in Washington to spend less and to tax less. That is right. It is time for Washington to give hardworking Americans some much-needed tax relief.

□ 2000

Mr. Speaker, we have over a dozen colleges and universities in the Ninth District, and a lot of times, Mr. Speaker, I am invited to address or speak to some of the political science classes at the universities; in fact, some of the middle schools, elementary schools, and high schools that I have had the great opportunity to address.

One simple question that I get, oftentimes, is what is the difference between the two parties? What is the difference between the Democrats and the Republicans? I think the answer is somewhat simple. I have been here almost 6 months, and I tell those young people, soon to be voters, that both parties believe very passionately in democracy. Both parties, I believe, honestly are trying to achieve a better America.

I just think oftentimes, though, our vision on what will get us to a better America, that is what is the difference. Probably the single greatest difference between the two parties is the fact that we Republicans deeply believe that America is an overtaxed Nation. We believe it is a matter of principle that hard-working men and women in this country should be able to keep more of what they earn. We believe it is time for Americans who happen to be tuning in tonight, that they should not have to work so hard for the government to spend so much. We believe in tax relief for every stage of one's life.

For instance, do the American people really understand that they pay more in taxes than they do for food, clothing, and shelter combined? Do the American people understand that almost half of their income goes to a government tax of some kind?

Think about that, just for a minute. In your normal daily activities, when you wake up in the morning, grab that quick cup of coffee on the way to work, you have paid a sales tax on that cup of coffee. When you drive to work, you pay a gas tax. When you are at work, you are paying an income tax. Flip on a light and you are paying an electricity tax. Flush the toilet, there is a water tax. Get home at night, you pay a property tax. If you turn on television, sometimes you are going to pay a cable tax. When you die, many of us are going to have to face a death tax. It is just too much, and it has to stop. If we have this vote tomorrow, Mr. Speaker, we will have a much-needed step in the right direction.

Why is it, when anybody talks about allowing working families to keep more of their money—in fact, earlier tonight colleagues on the other side of the aisle said, when we were talking about keeping more of their money, they talk about ballooning the deficit, or wrecking the economy. Why is it that we never hear "It just can't be done" when it comes here in Washington to spending less of Americans' tax money? Why is it always unwise or risky if you want to keep what is rightfully yours, but it is never unwise or risky if Washington wants to spend more?

That is, Mr. Speaker, what I think we have accomplished today, and what we are going to accomplish tomorrow in this much-needed tax relief package.

I see that some of my colleagues are here, especially my friend, the gentleman from New Jersey [Mr. PAPPAS], who has been a champion particularly as it relates to tax relief for those who are trying to make a go of it in their homes, particularly with the home office deduction. I am not sure if that is specifically what he wants to talk about tonight, but I am happy to yield to my friend, the gentleman from New Jersey [Mr. PAPPAS].

Mr. PAPPAS. Mr. Speaker, I thank the gentleman for yielding to me, and for focusing on this special order and focusing on such a fundamental issue for the people of our country.

No, I want to talk about the death tax. Why I want to talk about the death tax, Mr. Speaker, is yesterday I received almost 30 letters from farmers in the Twelfth District of New Jersey, central New Jersey. Some of them, as Members can see, Mr. Speaker, were handwritten, some of them were typed, some of them obviously used laser printers, some used rather old typewriters.

But I would like to just briefly read a few of the sentences from some of them, without using any names, but I think really it describes very, very vividly what so many people in our country are feeling about their hope for the future of their farm and the opportunities that their children would have to continue the tradition of the family farm in the United States.

This is addressed to me:

> Dear Congressman Pappas: My wife and I own a farm in Hopewell Township. We were originally a dairy farm, but now raise crops such as wheat, corn, and hay. Seventy years ago I was born on this farm and have been working on it all my life. It has been in our family for almost 100 years, and is our major source of inheritance to give our children.
>
> Please repeal the Federal estate tax so all our hard work of keeping this farm will not be in vain. We want our children to have a better life without worry than we have had, because when we inherited the farm we had to pay heavy estate taxes. This should not be taxed again.

Another letter states:

> We own a farm in Pittstown which we have worked hard to maintain. We have paid the taxes on our land. We have paid income tax on the profits we have made, on improvements, and on the farm machinery necessary to keep it running. It is unfair to impose yet another tax on the value of our property when we die. This should not be legal.
>
> Please consider this letter as our vote to do away with the death tax. We do not wish our heirs to have to sell the family farm in order to send more money to Washington. If our farm were to be sold, it would undoubtedly become just another housing development in our already overcrowded State. Please do not let this happen. Vote to abolish the estate tax.

There are two more, if I may.

> I have been a dairy farmer in Hunterdon County for over 60 years. During the past several decades I have witnessed the near extinction of family farms in the State of New Jersey and their replacement with hundreds of residential developments. Many reasons exist for the decline in farming, but a major obstacle to the continuity of farming from one generation to the next is the Federal estate tax. Family farms are being forced to sell off major portions of their land to pay these taxes.
>
> I am writing to request your support for the repeal of the Federal estate tax. I would like to be able to keep my farm in the family and to offer my son and my grandson the opportunity to continue to farm into the next century.
>
> Dear Congressman Pappas: This letter is asking for a repeal of the Federal estate tax.

> This is unfair to families like myself, where the farm has been in the family for 200 years. It is a break-up of the mom and pop farm which has made this country what it is. Entire families have helped, from children who put stones on fences, as my husband did, who picked potato bugs off potato plants, as my uncle did, who put corn husks in hired hands' bedding, as I did.

The last one, which is just two sentences I would like to refer to, is from a lady who says, "Dear Congressman, I write this letter to you in memory of my husband. Our farm is located in Tewksbury Township, Hunterdon County, New Jersey. My husband was a dairy farmer and crop farmer for 50 years. He devoted his entire life to farming.

> Please repeal the Federal estate tax. Our son has the hope in his heart to continue farming. To repeal the Federal estate tax will make this hope a reality. Thank you so much for your consideration of this letter.

I would just like to hold this letter up, without showing the name, but she has a photocopy of her late husband as a young man sitting on his tractor, with a poem about him and what the farm meant to him.

Mr. Speaker, my colleague from Missouri, and now I see my colleague from Kansas, this is absolutely critical to allow family farms to continue to exist in our country.

Mr. HULSHOF. Mr. Speaker, in addition to the letters and support of relief from this punitive estate tax, has the gentleman received any letters urging us to continue the estate tax? Has the gentleman received any letters from his district in New Jersey urging us to put a heavier tax burden on family farmers or family businesses?

Mr. PAPPAS. If the gentleman will continue to yield, Mr. Speaker, absolutely not. This is, I believe, the single most important thing we can do to see the American dream a reality be continued, to have family-owned businesses, family-owned farms to be passed from one generation to the next.

The American dream for many people has become the American nightmare. Decisive action by this Congress to work towards incrementally raising the exemption but to eventually eliminate this estate tax, we owe it to the American people.

Mr. HULSHOF. Mr. Speaker, I appreciate the gentleman's comments, and I look forward to moving toward repeal. I know that the tax package that we have tomorrow, Mr. Speaker, does not accomplish the entire repeal of this very punitive tax.

Early in this Congress, as Members know, I introduced a bill with the gentleman from Illinois [Mr. CRANE] to repeal the death tax. We are moving in the right direction. What I want to do, I see my friend, the gentleman from Kansas, here, but before yielding to him, I know, and I cannot recall which speaker on the other side of the aisle misspoke, and I am sure it was an inadvertent misspeak, regarding what this tax package actually does. We phase up the exemption.

Right now the $600,000 exemption that precludes estates from being taxed was first instituted, I think, in 1987, and has not been indexed for inflation. What we are going to do is increase the exemption with tomorrow's tax relief package up to $1,000,000, not in 17 or 20 years, as I think the gentlewoman from Carolina mentioned, but actually over the next 10 years. We will phase it in, $650,000 in 1998 up to $750,000 in 1999, and then eventually up to $1 million by the year 2007.

I know the Federal death tax is something my friend, the gentleman from Kansas, is interested in. I am happy to yield to the gentleman from Kansas [Mr. MORAN].

Mr. MORAN of Kansas. Mr. Speaker, I appreciate the gentleman from Missouri yielding time to me. I did not necessarily know what I was going to speak about tonight, but I can certainly join in the remarks of the gentleman from New Jersey, because estate taxes are clearly a problem in our economy.

As I have listened over the last 6 months as a new Member of Congress, as I listened in 6 months of campaigning for this office to the people who live in the 66 counties of the western three-fourths of the State of Kansas, taxes are at the top of the list. They are at the top of the list because we have sapped the possibility of growing this economy, of creating new jobs, of creating a family lifestyle that is conducive to mom and dad both being at home.

So much of our effort as parents now goes into making ends meet, and so tomorrow when we debate and vote and hopefully pass a significant tax reduction, this may be the vote on the House floor that in the 6 months that I have served in this Congress may actually cause me to feel the best about my voting, because it is so important to us. It is so important to America, to its families, to its individuals, to our workers, to our business, to send a message that we hear loud and clear what the tax and regulatory environment created by Washington, D.C. does to America.

The death tax that the gentleman from New Jersey mentions is a perfect example. It destroys the hope, the hope of many American small business men and women, the hope of the family farmer, to pass on that farm or that small business to the next generation. It destroys the hope that the next generation can continue to earn a living, particularly in rural America.

My district is composed of people just like that, people whose incomes are not very high, but who have worked hard to develop each and every business and farm into as successful an operation as it can be, and to develop and to create wealth for the next generation.

Where I come from people are not knocking on our doors to take over that family business or that family farm. They are hoping that they can scrimp and save and create enough wealth that the next generation, that son or that daughter, has the opportunity to continue that farming operation or that small business, and unfortunately for Kansans and for Americans, for farmers and small business men and women, the death tax makes that very difficult.

Mr. Speaker, I did not realize until I got to Congress that the death tax raises only 1 percent of the Federal revenue. For all the havoc it creates on businessmen and women, on families, and on farmers, it is amazing to me that it only generates 1 percent. We go through so much pain and agony for $16 billion.

I come from Kansas, where $16 billion is still a heck of a lot of money, but in the overall scheme of this Federal budget we have created a nightmare for next to nothing. Worse than that, 65 percent, Mr. Speaker, of every dollar that we raise in estate taxes goes to collect and enforce the tax.

In fact, the Small Business Administration in 1992 actually estimated that 75 cents of every dollar collected went to collect and enforce the tax. What a crazy system, that would suggest we are going to spend 75 cents to collect $1. This tax really does need to be abolished. I know tomorrow we do not accomplish that, we do not accomplish everything we want in this regard, but it is a step in the right direction.

Who would think that we would be talking about reducing taxes? As I sat at home in Kansas and watched Congress over the last decade, we have talked about tax reductions year after year after year, we have talked about capital gains tax rate reductions, and increasing the exclusion for estate tax. We have talked and we have talked and we have talked. Now, for the first time in 16 years, we actually have the possibility of making a difference, and it will be more than talk hopefully after tomorrow.

This tax is so deadly, it kills business. Seventy percent of all family businesses do not survive the second generation. Eighty-seven percent of all businesses, small businesses, are not passed on to the third generation. Clearly, the $600,000 exemption is outdated. That exemption has been in place for 10 years, since 1987. If it was indexed for inflation, we would be talking about an exemption of $840,000.

□ 2015

This tax is bad for business. Sixty percent of businesses say they would add jobs in the coming year if it were not for the death tax. The economy would be $11 billion more productive without death taxes, according to the Heritage Foundation. And unfortunately this tax is good for attorneys and accountants. We certainly want them to have success in their businesses as well but think of the amount of resources and energy that goes into trying to avoid this tax. We spend almost $11,200 on the average, people do, in order to avoid this death tax by estate planning. So people who have access to professionals, people who plan their affairs, they fare better perhaps, having spent all that money to succeed. But think of all the people who do not know that is an option. Think of how inefficient it is that we spend money. So many people in this country do not have the opportunity to do what they know is right for them, for their personal finances, for their business success because they have to worry about estate taxes.

We need to get a tax system, we need to eliminate taxes that create so many impediments to people just doing what they know in commonsense everyday judgment would be good for them, their families and their businesses.

Forty-three percent of death taxes are paid on estates that are less than a million dollars. This is not a tax reduction that benefits the wealthy. And like the gentleman from New Jersey, I selected at random comments from my constituents. These are not people who are paid lobbyists who presumably sit outside the door and tell us how to vote on tax issues. These are people from home who face every day problems in trying to make ends meet and trying to pass on assets to the next generation, to their own sons and daughters. Many of them are farmers, many of them are small businesses.

Dear Jerry. This is a letter to the President, Mr. President, consider that 2,000 acres of farm ground in our family farm is worth about $500 an acre. You add in equipment and cattle, you are already up to a million dollars. After talking to a couple of implement dealers, they discovered that in 1986, a combine cost $139,000. Today it costs $14,000. A tractor that went for $45,000 just about 10 years ago is now $105,000. Take into account all those things and how do you save enough money to pay the estate tax upon your death? The answer is, it cannot be done and, therefore, the land, the cattle and the equipment will be sold in order to pay the taxes, leaving my son, my daughter, without the opportunity to continue in what already is a very difficult and risky business.

These people say, since the time that the $600,000 exemption was put into place, the costs to get in and stay in the farm business have greatly increased. This makes it very difficult for a father who wants to let his son continue the family farm after his death to leave him enough land, machinery and capital to continue to operate. We have watched young farmers have to sell their land to pay the taxes after their fathers die and not have enough money for a viable farming operation.

This person understands that the tax only raised 1 percent of Federal revenue. One percent of tax revenue flowing into the Treasury causes more trouble and grief to family business owner survivors than it is worth. Amen. That is true. The tax remains a burden on the family for years after death. Many farms have enough difficulties managing the loss of the primary owner, and then to have to pay taxes at a marginal rate of 55 percent, which when this tax was started the marginal rate, the highest rate was only 10 percent, today it is 55 percent, this violates the fundamentals of capitalism on which this country was founded.

With three generations actively farming, the repeal of the estate tax would allow us and other family farms and businesses to spend our time dealing with the challenges of the changing competitive world market instead of limiting our abilities due to the uncertainty of future tax burdens. Please repeal this cancer that cripples also the entrepreneurial spirit exhibited by small businesses across this great country.

This lady: Why should one work most of her life in building up her farm business and other assets to have it taken by the estate tax? The amount allowed today is too low, because with the inflated prices one is still subject to paying large taxes.

These are letters from Smith Center, Kansas; Elkhart, Kansas; Jamestown, Kansas; Jetmore, Kansas. These are people who understand on a day-to-day basis how difficult it is to succeed in business, to succeed on the farm and it is time that we move forward toward making their lives a better life for them and future generations.

I worry, Mr. Speaker, that we have not done what we need to do to convince the American people. We hear their problems, we understand that if we do not make changes today, they and their children will not have the opportunities that I and my parents had because they lived in a different world where government did not take the tax bite, time and time again, from birth to death.

Mr. Speaker, I rise in support of elimination of the death tax. I rise in support of our efforts tomorrow to begin the process. I hope that before the day is over, we could have smiles on our faces and the American people will know that we heard their message loud and clear.

Mr. HULSHOF. Mr. Speaker, the letters that you have with you and I think probably each of us have received from our individual constituencies typical letters of that; this is America, the backbone of our economy, small business, family farms who are crying out for relief. I had a unique experience today, running out of the office for our last vote and I bumped into a very nice woman, not a constituent but from Indiana, who had come 600 miles simply because we were getting ready to vote on this tax package tomorrow. She hand-delivered to me a letter. She is hand-delivering letters to almost all the Representatives and Senators here in Washington. And she visited with me a little bit about her plight. She retired as a court reporter to take care of her mother who needed some care, retired from her business and then her mother unfortunately passed away, I think in September of 1996, and then suddenly she had to face the reality of coughing up additional moneys to pay this heavy tax burden, this very punitive tax.

The letter that she gave me, and I would love to read it, but in the interest of time, I see my friend from Montana here as well, this sentence sums up everything when it comes to the Federal death tax. Quote, the time has come when death should not be a taxable event. Amen.

Mr. Speaker, I yield to the gentleman from Montana [Mr. HILL].

Mr. HILL. Mr. Speaker, I thank the gentleman from Missouri. I want to echo the comments of the gentleman from Kansas about the estate tax. I have had over 40 meetings since January in Montana. At every one of those town meetings people asked me about the death tax. The death tax today is the largest single threat to the family farm or ranch. What is happening in Montana, families are having to sell or liquidate their farm and ranch. In many instances they are being forced to subdivide those family farms and ranches in order to pay this tax. We have to keep in mind that this is not a tax on the heirs. This is a tax on the deceased. As the gentleman mentioned, it is time that death was not an event that created a tax burden.

I also want to point out that there is a link between the estate tax reform and capital gains tax. Because one of the things that many people do in planning their future, planning their estate is to in some combination give the property to their children, leave it in an estate or sell part of it in order to secure their own retirement. That is why it is so important for us to start with the capital gains tax reduction, which of course is part of the tax reform package that we are going to pass tomorrow.

I would just like to point out to my friends here in the hall and our colleagues that there are some arcane parts of this tax reduction program tomorrow, too. There is one that was particularly important to me because it was the first bill that I introduced as a Member of the Congress. That is to deal with the unfair alternative minimum tax calculation on deferred payment contracts for people in agriculture. I know that the gentleman from Missouri is familiar with that because he is on the Committee on Ways and Means. The IRS determined that those people who sell grain, for example, on a deferred payment contract were going to be obligated to pay the tax even though they had never received payment. And not only did they decide that they were going to have to do that, they decided that they were going to have to retroactively have to do it to 1986.

What in the world can a person do today to control their income that they received in 1986? It was an incredibly unfair decision on the part of the IRS. The first bill I introduced was a bill to rescind that decision. That is part of the House package on tax reform. There are other provisions, too. One of the unique provisions of this is that small businesses who invest in plant and machinery, who have a high depreciation because they are aggressively trying to have their business grow, can run into an alternative minimum tax problem. That is, they could be losing money and have to pay taxes under the alternative minimum tax because of the amount of depreciation, because they are too aggressively investing in their business, because they are too aggressively trying to create opportunities for people to go to work.

This bill helps deal with that problem, too. It eliminates the use of depreciation as triggering the alternative minimum tax. Those are small provisions, but they are all part of what we are trying to accomplish here, and that is to create an incentive for people to invest in creating new jobs, to increase the rate of growth in our economy and to raise the living standard of Americans and American workers.

Before I leave this subject, I also want to point out, it was important to me throughout my campaign and throughout my service here that we have got to help working families. Today, as the gentleman pointed out earlier, the gentleman from Missouri, the average working family is spending 40 percent of their income in taxes. They have one job in the family to support the government and a second job to support the family.

We make a down payment in reducing taxes for those working families with the $500-per-child family tax credit as well as some tuition tax credits. That will mean that a child born today under the provisions of this bill that we are going to vote on tomorrow, their family will save about $10,000 in taxes if they decide to go to higher education after graduating from school.

I am proud to be a part of the effort to pass this legislation. From my perspective, this is only a down payment on tax reduction. I know also that we are going to see more economic growth. We are going to see more opportunities. We are going to see a rising living standard, and the result of that is more revenues for government that are going to allow us to even reduce taxes further in the future.

I thank the gentleman from Missouri for allowing me to join him in this discussion this evening.

Mr. HULSHOF. Mr. Speaker, I appreciate my friend from Montana and his eloquent words, particularly with the AMT provision as it was penalizing farmers, the IRS, as you pointed out, changing rules in the middle of the game. I know that this actually occurred in a case up in Washington State where a farm family was audited. And because the IRS decided that if you defer your contract payments, in other words, when you take your grain to market and you get the check at the grain elevator, normally that is when income is derived according to the cash basis accounting system; that the IRS decided, no, not when you deliver your grain to market but when you enter into the contract in the preceding calendar year, that is when that deferred payment is subject to income.

Mr. HILL. Mr. Speaker, the gentleman is absolutely correct.

As a matter of fact, in 1986, Congress asserted in the law that agriculture would retain the cash basis accounting method. That meant that when you got the cash you paid the tax in that year. But the IRS determined by executive action, I guess, if you would call it, that Congress did not know what it was talking about. So it decided they would use the alternative minimum tax method of determining whether or not that was income or not.

The result was people were having to pay taxes on income they did not receive, clearly unfair. And I am proud of the fact that this measure that you worked so hard on in the committee is going to deal with this problem.

Mr. HULSHOF. Mr. Speaker, I appreciate the gentleman's comments. Certainly we tried to, in this package, not only help families, which we will have some time to visit with here in a minute, I see my friend from Texas is here as well.

The farm community is getting much-needed relief in tomorrow's tax package. We talked about the AMT provisions. We fought very hard to make sure that the pro-ethanol tax incentives, they are intact in tomorrow's package. There will be no anti-ethanol provision. That was quite a battle we had in our Committee on Ways and Means.

But fortunately, the package tomorrow that we have will not have any anti-ethanol provisions. I know we talked about the death taxes, which will help family farms. I was fortunate to have a farm co-op bill that will actually help the sale of processing facilities to farmer-owned co-ops, so that is in this tax package as well. So agriculture is getting some help in tomorrow's relief bill.

Mr. HILL. Mr. Speaker, I think it is important also to understand that this bill is going to restore the home office deduction, which is something that I fought for, another bill that I was a cosponsor on. Also it begins the process of helping us redefine independent contractors. That has been an issue in Montana, because we have so many self-employed people who offer services to others as an independent contractor. And the tax law is so confusing between State and Federal tax law.

This is an effort to simplify that and allow both the person offering those services and the person accepting those services to know that they are truly an independent contractor. So they are not going to have the IRS come out later and determine that there was some other status.

The important provision there is what we call a safe harbor provision; that is, that if you entered into an agreement with a person or offered your services in agreement with a person and there was a reasonable expectation that that was done in concurrence with the law, then there is a safe harbor. The IRS cannot come out and later say, no, we will reinterpret this and impose penalties and fines.

□ 2030

The record is clear. When the IRS does that, it usually puts the people out of business because the penalties can be so severe. It is not fair to people who employ independent contractors, and it deters people from starting a business where they are going to offer services.

I pointed out before to my colleagues that we have some unique kinds of people offering services in Montana. We have farriers, and we have ditch riders, and in agriculture and around, I have sheep shearers in Montana, people that go from ranch to ranch or from farm to farm offering their services; and there is a question whether or not those people are independent contractors.

This will create a safe harbor and makes the test so much simpler, so that is an important provision. It has not been reported widely in the press, But it is important to the people, the people of my State and the State of the gentleman from Missouri [Mr. HULSHOF] as well.

Mr. HULSHOF. Mr. Speaker, reclaiming my time, I am glad the gentleman from Montana [Mr. HILL] mentioned home office deduction.

A couple months ago I was able to participate in a field hearing that was actually conducted by the gentleman from Missouri [Mr. TALENT], who is the chairman of the Committee on Small Business. This was a field hearing in St. Charles, Missouri.

We had testimony at that field hearing from four women just regarding the home office deduction and why it was so essential that we give them some help. Right now, the IRS takes a very dim view of those who take a deduction that have offices in their homes, and I think this tax package tomorrow will help those women or those families and just restore some fundamental fairness.

For instance, if the gentleman had an office that he rented in his next door neighbor's home and he had a telephone line and fax machine and had some other things, and he paid rent in his next door neighbor's home for an office in that home, he could take that as a fully deductible expense. But if he had those same things in his home, the telephone line, the fax machine, he cannot in most instances take that deduction.

Of course, many women who want to rejoin the work force, their families have grown or their kids are going to school, they like to have the flexibility to stay home and yet be able to rejoin the work force, or start businesses and run them from their homes. So I think this tax package is very friendly to those individuals, men and women, that seek to use their homes and put offices in their homes.

Mr. HILL. If the gentleman would yield, I think it is important for us to remember that Henry Ford built the first Model A in his garage and Bill Gates started Microsoft in his garage. People start many small businesses today in their home or in their garage, and one of the things they need more than anything is cash flow in order to grow their business.

We are not talking here about providing people a deduction, a loophole. We are talking about people being able to deduct a legitimate expense in the conduct of their business. But by virtue of the fact that they operate it in their home, they may not be allowed that. Under this bill that would change. The people that start these businesses in their home would be able to be protected, not to pay taxes that others would have to pay.

Why is that important? Well, it is important because today most people start a business in their home. As the gentleman started out, most of the people starting these businesses today are women. This is one of the ways that we are creating more entrepreneurial opportunities for women, is by allowing them to have this deduction. It is extremely important.

It does not have a lot of impact on the budget, but it is going to have a lot of impact on our communities and on the future of this country, because many of those businesses also grow into very prosperous enterprises employing a lot of people. That is what this is about.

Mr. HULSHOF. Reclaiming my time, I appreciate the work of the gentleman on that home office deduction and the other tax measures that he visited about.

Our friend, the gentleman from Texas [Mr. BRADY], has been apparently waiting in the well. I will be happy to yield to him.

Mr. BRADY. I thank the gentleman from Missouri [Mr. HULSHOF] for yielding and for his leadership of our Republican freshmen class; and I appreciate the gentleman from Montana [Mr. HILL] talking about tax relief and how it is so needed for our family farms and independent businesses, who, I think it is genuinely agreed, bear the brunt of taxes and regulation in this country but are, in fact, the backbone of them.

In Texas we have a very proud entrepreneurial spirit, and we also have a very proud spirit of agriculture production and processing. We believe that for our State and for job creation for our families, that we have an opportunity this week of making two major improvements that will leave more money in the pocketbooks of our families and our communities.

I was thinking that I was 14 years old the last time we balanced the Federal budget in America. I am not that old today necessarily, but I do not want to wait until I am 114 years old or my grandkids are 14 years old before we see a balanced budget again. Like many of us, I would love to see it balanced right now. I would like to see double the tax cuts and double the spending cuts. But, in fact, we are making real improvement over where we are today.

My goal is to produce a balanced budget for America that is a true balanced budget, which does not borrow from the Social Security trust fund, does not take from highway trust funds or aviation trust funds or the military retirement trust fund, but stands on its own as a balanced budget just like our businesses or our families have to do.

In this country we have been, unfortunately, running deficits for decades. And today, if you talk about balancing the budget without using any of those funds, people look at you like you are crazy. It just seems to be too far distant a vision.

This 5-year balanced budget agreement gets us to the first step, gets us within sight of a true balanced budget. And from there we have the opportunity to balance our budget, as our businesses and our families do, to look our constituents in the eye and let them know that we are living within our means and we are not taking from our retirement programs to do so.

And if we balance the budget, we have an opportunity for real savings for people. The average American family, as I understand it, if we balance the budget and continue to balance the budget, will realize a savings of about $1,200 a year off their mortgage. Just about $100 a month less, then, they will be paying in their mortgage. Their auto loan will be about $180 a year less, and their student loan that they are paying off, $216 a year less. So just by living within our fiscal means and bringing about a balanced Federal budget, we have a chance of giving people tax relief.

When we add that onto tax relief from this bill that we are voting tomorrow, we have the opportunity to give families the $500 tax credit that they desperately need. We do need to eliminate the death tax because it is truly the most un-American tax we have today.

It is remarkable that, in a country built upon our heritage, hard work, entrepreneurship, that those families and businesses who risk the most, who work the hardest of any group, whether they are wealthy or poor, who put together a nest egg for their family so that they can pass it down to the next generation, that they would be prevented from doing so by our American tax laws. Whether it is independent business competing in the marketplace over decades to build that nest egg, or a family farm as stewards of the land for centuries to build that nest egg, we ought to be encouraging that type of behavior, not punishing it.

So while this tax bill is a good start on the inheritance tax and capital gains, we all, I believe, know that this is the first step and that we are going to continue to work to eliminate the death tax, to try to encourage more jobs and more investment, and that is going to produce results for us.

Today it also seems incredible that in Missouri, in South Dakota, Kansas and Texas, across this country, that most of us, our tax burden is such in America that in a two-parent family we have one parent working full time just to put food on the table and pay the electric bill, and we have another parent working full time just to pay their taxes. It is a process that, if we allow it to go unchecked, will damage and destroy this country.

Finally, too, we have an opportunity in this tax relief to also preserve Medicare, which, as my mom grows older, as your mom grows older, as our population ages, we do not have a choice anymore about preserving Medicare and making those changes. We have to do that or it will go bankrupt.

We have an opportunity, through the Republican proposal, to give our seniors choice, the same type of health care supermarket that Members of Congress, the President, that our Federal employees and their retirees receive, the same type of flexibility and an opportunity to root out the fraud and abuse that is running the cost of our health care up. We have an opportunity this week through these tax cuts and through our continued efforts on balancing the budget to make a real difference in this country.

I, for one, am committed to it. And I know, Representative HULSHOF, that in your leadership in the freshmen class you have been constantly pushing on deeper cuts. More spending and tax cuts move us quicker to a balanced budget and make all our efforts directed that way, and I am hopeful in the end that we will prevail.

Mr. HULSHOF. Mr. Speaker, reclaiming my time, I thank the gentleman from Texas [Mr. BRADY], and especially for his remarks and his work here in this body.

As we were awaiting this special order, I know there were at least half a dozen colleagues on the other side of the aisle who, again, were trying to turn this whole debate into class warfare. The facts are simple.

Mark Twain, his birth place is Hannibal, MO, which is in my district, I think Mark Twain once said that "There are lies. There are damn lies. And then there are statistics."

Rather than just give some vague percentages with bar charts, what I have got here, Mr. Speaker, is not on a percentage but the actual amount of money, of tax relief that is going back to certain income classes.

As my colleagues can see, if we will consider for those under $20,000 up to $75,000, clearly almost $90 billion in tax relief; 76 percent of this tax relief package is going to those who make less than $75,000 of annual income.

In fact, if you want to take a look at the amount of relief going to those under $20,000, over $5.5 billion. And those at the upper end of over $200,000 adjusted gross income get $1.4 billion. Clearly, we are trying to focus and target the relief to those on the lower end of the scale.

Now our friends on the other side talk about how it is that we are helping the wealthy. Well, it happens that part of this package is a capital gains relief targeted specifically to lower-income people. For instance, those that are in the 15-percent income tax bracket will see capital gains cut down to 10 percent.

This will help 5 million Americans. Two million Americans are senior citizens, like Don and Carnetta in my district. Don worked for 30 years for Wal-Mart and accumulated stock over the 30 years he worked for Wal-Mart; and he cannot afford to pay right now, under current law, the tax hit he is going to get if he sold those capital assets. We are giving him and his wife some relief, and they are not wealthy by any stretch of the imagination.

We have a $500-per-child tax credit. Heritage Foundation ran the numbers on this, and it happens that in the Ninth District of Missouri alone there are 89,493 children whose parents are going to benefit with this phased-in $500-per-child tax credit, nearly 90,000 kids whose parents are going to get to keep more of their money. That is almost $40 million that is going to stay in the Ninth District, that is going to stay in the pockets of those constituent parents that are trying to do best for their kids.

How is that, I ask anybody, how is that, by allowing that relief to go to those whose incomes are under $75,000, how is that a tax break for the wealthy? I submit to my colleagues it is not.

I am happy to yield to the gentleman from South Dakota [Mr. THUNE].

Mr. THUNE. Mr. Speaker, I want to thank the gentleman from Missouri, [Mr. HULSHOF] and my friend from Texas, [Mr. BRADY] as well, who has ties in South Dakota, I might add. So even though he has moved out of our fair State, we still accept him as part of our South Dakota family, so to speak.

But I would like to pick up on what he was just talking about. We had a former President who once said, "Facts are stubborn things." I think sometimes when we have these discussions about this particular subject, balancing the budget and tax relief for American families and individuals and businesses, we lose sight of the facts.

But if we look very simply at what some of those facts are, fact No. 1, it has been mentioned earlier: 76 percent of the tax relief in this agreement goes to people who are making less than $75,000. In fact, $254 billion over a 10-year period goes to bring relief to families in this country who have been overtaxed.

A second point I would make is, and I think this is one that gets lost sometimes, too, and that is, in order to have tax relief, you have to be paying taxes. Now we have we had people on the other side who have suggested that somehow this is tilted toward people on wealthy end of the spectrum. But the fact of the matter is, you cannot have tax relief unless you are paying taxes.

Now there are those who would suggest that, under our particular proposal, the per-child tax credit is not added on as an additional payment to the earned income tax credit that people are already receiving. Eighty percent of the earned-income tax credit is a payment, it is not a credit.

□ 2045

I think if we are going to say that you are going to get the $500 per child tax credit, it is important to note that you have to have income in order to have credit, to offset that income, to get the credit. It would be like if my 10-year-old daughter, if I told her there was going to be a $500 per child tax credit for people with red hair, and because she has red hair, she would be eminently qualified for that. But the fact of the matter is she does not pay taxes, so you cannot get a tax credit until you pay taxes. That is a fundamental misnomer that is being spread around here, and I think it is something that we all need to set straight.

The other thing I would say, this is a historic day, and I think we ought to be just bubbling with enthusiasm about what is happening around this place. This is the first time in 30 years that we have had a balanced Federal budget. This is the first time in 16 years that we are lowering taxes on American families and individuals. I think that as we go toward Independence Day, this ought to be a joyous occasion for the people in this country because for the first time in a long time, we are going to be able to declare independence for them from the shackles of big government.

I think it is very important that we make clear as well not only what we are for, but why we are for it. I think when we start talking about why we are for what we are for, it comes down to the fundamental issue that everything we are doing here, balancing the budget, lowering taxes, saving Medicare for the next generation, comes back to the basic premise that we want to see less power in Washington, D.C., and more power back on Main Streets in South Dakota, in Missouri and in Texas, and in the living rooms of the families of this country, so they have the freedom to make the decisions about their futures. I happen to believe that if they have the freedom to make those decisions that they will exercise those freedoms responsibly.

We have a lot of people in this country who would like to teach that you can have freedom from responsibility, but the fact of the matter is in order to have freedom, you have to have responsibility. We have a lot of hardworking men and women in America today who deserve the freedom to be able to exercise responsibly that freedom in a way that allows them to keep more of what they earn, in a way that puts more power and control, more decision making in their hands and less in Washington, DC, and that is why we are for what we are for.

That is the point I think that we need to make to the American people and why I hope that as this Independence Day rolls around, they have an opportunity to declare independence in this country and to hopefully enjoy the benefits of tax relief that is coming their way.

We have talked a lot as well about entitlement programs. I think it is important in this discussion, too, that we talk about what is being done to preserve and protect Medicare for another 10 years. How do we do that? Again by taking the power out of the government bureaucracy in Washington and putting it back in the hands of our senior citizens, by enabling them to choose medical savings accounts, by enabling them to get into provider sponsored organizations, managed care, not just health maintenance organizations but provider sponsored organizations, by giving more options, more choices.

That is what this is all about. It is about putting more power and more freedom in the hands of individuals in this country. I think that as we conclude this debate tomorrow, today we passed the entitlement reform side of it, the spending side, tomorrow we will pass the tax part of it, I think it is incredible what we are achieving here. I came here to do most of these very things, as did the gentleman from Missouri, as did the gentleman from Texas [Mr. BRADY], to accomplish things that we think are meaningful to the future of this country: Balancing the Federal budget, lowering taxes, saving Medicare, and putting more power back in the hands of the people in this country and less power in Washington, DC.

We have done all this. These are things that are incorporated. These are the principles upon which all the things that we voted on today and we will vote tomorrow, those are the principles on which we stand. I think it is important that the American people know not only what we are for, lower taxes, a balanced budget, but why we are for it, and that is to give them more freedom, more power, more control, more decision-making.

This is an incredibly historic occasion for us in this country, and I would hope that it is not lost on the American public what is happening in this institution for the first time in 30 years. It is amazing. It is good for my kids and for your future kids and grandkids and for the people in America who have held the promise for a long time that we would come down here and do something that is meaningful, about protecting their future and making sure that they have access and are not deprived of the American dream. As we continue to pursue this, this is the first step, but I hope it is the first step on a long journey to putting more power back in the hands of individuals and not in Washington, DC.

Mr. HULSHOF. I think the gentleman has enunciated very eloquently what it is we stand for and why it is that we sought office and what we are doing to accomplish the goals that many of us stood for and campaigned on. It is especially poignant, I think, when we look just a couple of years ago when we had a President who, with the liberals in control of this body, passed a tax hike.

There was a discussion about ever-expanding government bureaucracy, universal health care, and then suddenly the stark contrast, that we are returning power to the people, getting it out of this city and giving it back to the Main Streets and the local chambers of commerce and civic clubs all across this great land. I agree with the gentleman that this Fourth of July will certainly be a day to celebrate.

Mr. BRADY. If the gentleman will yield, as I was listening to the gentleman from South Dakota [Mr. THUNE], I was reminded of a quote attributed to your former famous constituent Mark Twain, who said "Nothing makes liars out of more honest citizens than the income tax." It is not simply because it is so complicated and people do not think it is fair. It is because when they are struggling so hard to make ends meet in South Dakota and make ends meet in Missouri, they do not believe the Federal Government is doing the same. Every dollar that we can cut taxes is a dollar we have not sent to Washington, that we are leaving back in our States and our communities. I am convinced most Americans are not seeking a safety net under them. They are objecting to the tax net that we have thrown over them. If we will provide them the relief that we have scheduled for this week, that they so desperately need, I am convinced we are going to get support across this country for deeper tax cuts and less spending and more local control, as the gentlemen have both stated so eloquently.

Mr. HULSHOF. I especially appreciate the comment the gentleman made earlier because again waiting for the special order to begin, barrage after barrage from our friends on the other side, particularly our Democratic colleague from Arkansas who talked about the earned income tax credit and how it was that the family that he mentioned, he had a nice portrait, a beautiful portrait of this family that was struggling, but yet who bore no tax liability because the earned income tax credit eliminated any tax liability. In other words, that family in Arkansas did not have to pay taxes to the Federal Government. And because we do have limited resources, this targeted tax relief is going to those people that have tax burdens. I think the gentleman pointed that out a few moments ago.

Mr. THUNE. If the gentleman will yield on that, I think it is incredibly important to make the distinction here that we are trying to bring tax relief to people who pay taxes and not increase payments for people who do not. That is a fundamental distinction that needs to be made.

Mr. HULSHOF. Our colleague from Arkansas further pointed out that this family in the portrait that he had, that they paid the payroll taxes and certainly paid taxes toward Medicare and somehow that that ennobled the family to receive these income tax credits. But the fact is that paying Medicare taxes and paying the payroll taxes entitles that family to reap the benefits of Medicare down the road or to reap the benefits of Social Security. So the fact that that family is paying those payroll taxes and Medicare taxes, those benefits will come and inure to that family at the appropriate time. But because we have limited resources and tax relief, we are trying to give tax relief to those Americans who most need it.

Mr. THUNE. If the gentleman will yield further on that, it is interesting again to see the irony here in that we are talking about not counting Social Security and Medicare payments toward a future benefit and yet when it comes to computing income to declare someone as being wealthy, we add retirement benefits, capital gains and imputed income from rental payments and everything else. There are a lot of things being done here with the numbers which I think we need to continue to put the facts out, and if we do, the people will agree with us.

Mr. HULSHOF. Mr. Speaker, I recognize we are down to our final minute or so. Let me just sum up that what we believe and especially in this vote tomorrow and the debate that we have on this tax relief package, letting Americans keep more of their money sounds like common sense to most of us, especially those of us who are newly elected Members. That seems to be a pretty radical idea here in Washington, DC. People in Washington should never ever forget that tax money belongs to the taxpayers and not to the government. It would be a big change from how things used to operate, but that change which comes tomorrow is long overdue. It is true and we have already heard it. We have gone back to the old divisive style of debate, this class warfare politics. I would hope and pray that we are beyond that. Instead of dividing Americans and pitting groups against each other, we should be working together to face our national challenges. We have a moral responsibility to ourselves and to our children not to tolerate such acts. We have a moral imperative to make it possible for everyone to climb the ladder of success.

Mr. Speaker, let me say to the parents who are struggling to make ends meet, the parents that are burning the candle at both ends to put food on the table and keep a roof overhead, the parents that are sacrificing their own needs and giving everything they have got to make sure that their children have every opportunity for a brighter future, we hear you. For those who believe that we spend too much in Washington, we agree. For those who believe that we tax too much in Washington, we agree. For those who believe we must balance the budget, cut wasteful Washington spending and provide permanent, real, meaningful tax relief, we agree. And for those that demand that we here in Washington do better than we have done in the past, we agree. If we can pass this tax package, Mr. Speaker, the next week and the Fourth of July will truly be a day that we can all celebrate our independence.

TRIBUTE TO SECRETARY OF VETERANS AFFAIRS JESSE BROWN

The SPEAKER pro tempore [Mr. TIAHRT]. Under the Speaker's announced policy of January 7, 1997, the gentlewoman from Florida [Ms. BROWN] is recognized for 60 minutes as the designee of the minority leader.

Ms. BROWN of Florida. Mr. Speaker, I rise today to pay a special tribute to someone that I feel is one of the brightest stars in President Clinton's administration, Secretary Jesse Brown. But before I begin, I would like to say a word about a woman who is in Washington today, a member of the Russian Duma, Mrs. Svetlana Go Voyz Da Va is the deputy chief of the Economic Policy Committee in the Russian Congress. During our visit this afternoon, we have agreed to set up an international conference where elected women, officials from Russia, France, England, Africa and the United States can meet to discuss solutions and strategies for the problems that face women across the world. These problems include education, labor, health care and poverty. We have pledged our cooperation and will continue to work together to help women and children throughout the world. As she said earlier today, "Why not?"

Mr. Speaker, it is my pleasure to rise today to recognize the great achievement of Secretary of Veterans Affairs Jesse Brown. Secretary Brown will leave his post on July 1st of this year after serving a distinguished 4 years with the administration. Secretary Jesse Brown, a combat-disabled Vietnam veteran, guided VA through a significant transition period where health care delivery systems evolved to reflect marketplace changes, where severe budgetary challenges presented themselves in the wake of deficit reduction, where growing demands were placed upon existing veterans' services, and where emerging illnesses from Gulf War veterans challenged the Nation's best physicians and scientists. Secretary Brown embraced all of these challenges with vigor and directed the Department of Veterans Affairs to be more responsive in the areas of claims processing, more sensible in its benefits for Agent Orange veterans, more proactive in developing programs for the significantly growing number of women veterans, and more compassionate with the treatment and compensation of Gulf War veterans suffering from illnesses. I commend Secretary Brown for his outstanding work in these areas, and I also call for Members of this House to observe his example and not abandon veterans in our budget, veterans who have fought so hard for this country.

□ 2100

The United States have the most comprehensive system of assistance for veterans in any Nation in the world.

Jesse Brown begins serving as Secretary of Veterans Affairs on January 22, 1993. As Secretary he directed the system that included hospitals, clinics, benefit programs and national cemeteries. In his vision statement Secretary Brown said, "Our vision is as simple and is noble. It is to provide our veterans with quality health care, timely benefits and burial with dignity."

I believe this simple statement says a lot about Secretary Brown. It shows how he has the leadership to put our Nation's veterans at the top of the priority list in terms of receiving benefits and service they deserve for fighting to protect this Nation's liberty and freedom.

I was most impressed with his motto, putting veterans first. Let me repeat that. The motto: Putting veterans first. That is exactly what he did as Secretary, and it is so important that we continue to do so.

I yield to my colleague the distinguished gentlewoman from Florida, CARRIE MEEK.

Mrs. MEEK of Florida. Thank you very much to my colleague, the gentlewoman from Jacksonville, FL Florida's Third Congressional District, who is held in outstanding esteem by everyone in the State of Florida and beyond. I want to thank her for this special order recognizing the contributions of Secretary Jesse Brown.

Mr. Speaker, I rise today not only to thank CORRINE BROWN for bringing this to the country, the accomplishments of Secretary Brown; he has been one of our Nation's most faithful and valiant veterans, and we want to thank this man because he has successfully led the Federal Government's second largest department for the past 4 years.

You do not get much glory out of Washington, hardly any praise. But this man is praiseworthy, and we are so happy to take the time to give him the praise that he deserves.

Three words, my dear friend, CORRINE BROWN, and to the Speaker, three words personify Jesse Brown: dedicated, heroic, accomplished.

The Department of Veterans Affairs was created by Executive order in 1930 as the Veterans Administration. At that time there were 54 hospitals, 4.7 million veterans and 31,600 employees. The Department that Jesse Brown, Secretary Brown, inherited in 1993 when he was sworn in by President Clinton as Secretary of VA, well, he was one, 1 of 266,000 employees responsible for a nationwide system of health care services, benefits and national cemeteries for America's 26.5 million veterans.

Dedicated, heroic, accomplished, Mr. Speaker.

Mr. Brown has successfully managed this huge department with great care and concern for the welfare of our Nation's veterans and has successfully led the charge to improve its operations and services.

Jesse Brown has been accomplished, Mr. Speaker. That is why the gentlewoman from Florida, CORRINE BROWN, called this special order, to raise the consciousness of this Nation about the accomplishments of this great man.

Jesse Brown's accomplishments at the VA and his outstanding service to veterans, they are not surprising given his distinguished career. Mr. Brown was a honors graduate of Chicago City College and also attended Roosevelt University in Chicago and Catholic University. Jesse Brown served in the Marine Corps in 1963 and was wounded in combat in Vietnam in 1965.

Heroic, Mr. Speaker. Secretary Jesse Brown is a hero.

Mr. Speaker, before his appointment as Secretary of VA, of the Veterans Administration, he spent his professional career as executive director with the Disabled American Veterans where he directed the DAV's Washington office. He has led legislative, employment and volunteer programs as well as advocacy efforts on behalf of disabled veterans and their families.

Mr. Brown has been criticized sometimes for his zealous advocacy on behalf of our Nation's veterans and their families. That is why he is a cut above a lot of bureaucrats who survive here in Washington. However, it was his faithful, consistent and abiding commitment to these national heroes that resulted in the success he has realized as head of VA.

Under Secretary Brown's leadership the VA has expanded benefits for veterans who were prisoners of war or were exposed to Agent Orange, radiation or mustard gas. He has expanded treatment services to those suffering from posttraumatic stress disorder. Secretary Brown successfully worked for the enactment of laws authorizing the VA to pay compensation for Persian Gulf war veterans' undiagnosed illnesses and to provide them with priority health care, the illnesses they may have incurred in the gulf.

I have seen Secretary Brown in action before the Committee on Appropriations. He has taken no shelter. He has pushed hard for veterans. Additionally, he has formed the task force whose recommended changes have led to reduction in the backlog of veterans' benefits through improved technology, redesigned work processes and more staff training.

The gentlewoman from Florida [Ms. BROWN], of the Third Congressional District of Florida, we can attest to the fact that many of our veterans had to wait for years before they got their claims adjusted. Secretary Brown cut that out. He made this system more efficient for the veterans of this country.

Mr. Brown's campaign of putting veterans first has formed the basis of his work to maintain the VA system as an independent provider, to broaden veterans' access to the system and to offer a continuum of comprehensive care. The Secretary's program coverage has spared numerous categories of veterans' concerns ranging from the homeless to women veterans' issues to sensitivity training for VA employees. He continues to press for changes to make the VA medical system competitive in a changing health care environment.

Mr. Speaker, I say Secretary Brown is dedicated. The Department of Veterans Affairs will lose a stellar leader when Jesse Brown leaves his position as Secretary this year. I ask my colleagues to join me in commending him for his success and thanking him for his outstanding service to our Nation through his dedicated service to our veterans.

Secretary Jesse Brown, I salute you as a leader of men and women who are willing to give their lives for our beloved country. God bless America, thank God for Jesse Brown.

Ms. BROWN of Florida. I thank the gentlewoman.

I yield to the gentleman from Illinois [Mr. DAVIS].

Mr. DAVIS of Illinois. First of all, I just want to commend and congratulate the distinguished gentlewoman from Florida [Ms. BROWN] for her sensitivity and enlightenment in organizing and bringing together this group who will give tribute to Jesse Brown. And so, Mr. Speaker, I rise today to recognize another great leader with roots in the Chicago community, another individual who lived in the congressional district which I am fortunate to represent. Rarely does an individual come along who possess qualities which tend to elude the multitudes.

This individual is driven. He must be if he is to set an example for those around him. This individual is intelligent, not only from the study of books or formal training, but from applying the lessons of life, lessons learned at the nadir of life's inevitable pitfalls and also those which come while at the pinnacles of its glorious triumphs.

This individual is selfless. If he was not, he might not be able to administer with wisdom and compassion the great resources with which he has been entrusted. This individual is a leader. But also a good follower, committed to service.

Mr. Speaker, I do not have to tell you that Jesse Brown is one such individual. He has maintained an exemplary record of service not only to the Nation's veteran community but to his family, numerous professional organizations and indeed to his country. Jesse's tireless efforts are certainly felt throughout my congressional district and all over America each day, a large veteran community with 3 major VA hospitals: Lakeside, Hines and West Side, all of which lie within the boundaries of my district in Chicago and the western suburbs.

As Secretary of Veterans Affairs, Jesse Brown worked diligently to insure that our Nation's veterans received the quality health care and other benefits which they are deserving. In fact, throughout his entire professional career Jesse Brown has worked to ensure that America lives up to the promises made to our veterans.

Oftentimes I did not have to ask Jesse Brown for a thing. I did not have to ask because he would not let me.

Jesse is proactive and meets issues head on. I admire his bold determination to guarantee that those who have served this country beyond her borders will not suffer and, in fact, will receive quality services and benefits.

I must tell you that Jesse's mother is a resident of Chicago, and I know that she beams with pride at the very mention of her son's name. I know veterans in my district who have nothing but positive things to say about Jesse and directly attribute their success to his lifelong efforts, and I can tell you that I know that all of us are perhaps stronger and better because we have had the benefit.

And so, Jesse, I know that we could not persuade you to stay. I know that if we did, we would be stealing your gift from those whom you will be moving on to enlighten, and if you taught us anything in this country, it is that your company is too precious to keep all to ourselves.

And so I say thank you on behalf of my constituents and veterans all over not only America, but all over the world. And I know that Jesse's heart is saddened when he thinks about the budget, our spending plan and tax cuts. We are passing laws which has taken away health care for veterans and doing nothing for military retirees. So maybe, Jesse, you are leaving at the right time because I know that it would be very difficult to do justice to veterans with all of these cuts and tax breaks for the rich as we balance the budget on the backs of the poor.

And so, Jesse, as you leave, hopefully the same people who voted for the flag will now learn to vote for veterans and their families. We thank you for being a great servant to the American people.

Ms. BROWN of Florida. I yield now to the gentleman from California [Mr. FILNER] from the committee.

Mr. FILNER. I thank the gentlewoman from Florida for having this special order for a very special person. That picture looks at us, and we know his warmth and his friendship and his charisma and his concern for so many people, and it just beams out from that picture, and we thank you for that.

As you said, I serve on the Committee on Veterans' Affairs, and although I greatly enjoy the challenges and responsibilities and even the frustrations involved with being a Member of Congress, my service on that committee is a source of particular satisfaction to me. Veterans are special and unique members of our American family, and it has been a great honor to work on their behalf.

Additionally, my service on the Committee on Veterans' Affairs has given me the opportunity to meet and work with many remarkable people, and the Secretary of Veterans Affairs, the Honorable Jesse Brown, is one of the most extraordinary.

Adlai Stevenson once said that patriotism is not a short and frenzied outburst of emotion but the tranquil and steady dedication of a lifetime. By this or any other definition Jesse Brown has lived the life of a patriot.

As a young man Jesse enlisted in the Marine Corps and was among the first American forces to be sent to Vietnam. In 1965 he was ambushed in a rice paddy outside Da Nang.

☐ 2115

In his letter of resignation to the President, Jesse described this life-altering event. As he said in 1965, in one short moment, my life was changed by a shot I never heard.

Subsequently, as we have heard already, Jesse went to work for the Disabled American Veterans and began his career as a passionate advocate for veterans. As he told the President over the succeeding 32 years, I have been driven by an obsession to make sure that veterans, whose lives have also been changed, are not disadvantaged by having honorably served in the military. That was Jesse Brown.

As Secretary, he demonstrated the same courage he showed as a marine in Vietnam. He spoke out on behalf of fellow veterans with a directness and honesty that was criticized by some, but deeply appreciated by every veteran in this Nation. He never faltered in his personal commitment, and never lost sight of his duty as Secretary to ensure our country never faltered in its commitment to our veterans.

I was honored to have Secretary Brown visit my district on several occasions. He spoke with veterans, he spoke to veterans, and they recognized him as one of their own. These veterans left those meetings more optimistic because they had met Jesse Brown.

I took him to high schools where he met our young people. They saw a man, a black man, a black man with a paralyzed arm, who sat in the Cabinet of the President of the United States, and I think those youngsters will have a better chance to succeed because they met Jesse Brown.

I took him to churches, and he could preach. He could preach. He was a different man in the church, and I know that my constituents who heard him were spiritually enriched because they met Jesse Brown.

He was an extraordinary man. I am proud to call him my friend, and like all of my colleagues tonight, we will miss him as Secretary of Veterans Affairs. I thank the gentlewoman for being so involved in this.

Ms. BROWN of Florida. Mr. Speaker, I thank the gentleman. I would now like to yield time to Delegate DONNA CHRISTIAN-GREEN, who I had the opportunity to visit her veterans, and also note the work that Secretary Brown has done for the veterans from the Virgin Islands.

Ms. CHRISTIAN-GREEN. Mr. Speaker, I thank my esteemed colleague, the gentlewoman from Florida [Ms. BROWN], who, as she said, traveled with me to the Virgin Islands to speak with our veterans, for organizing this Special Order and tribute to our outgoing Secretary of Veterans Affairs, the Honorable Jesse Brown and for affording me this time to offer remarks.

Mr. Speaker, I rise today to pay tribute to Secretary Brown on behalf of the veterans of the U.S. Virgin Islands. Though relatively small in absolute numbers, these brave men and women have served our country in per capita numbers unequaled by many States.

I am proud to say that I too come from a family of veterans who served, beginning with the First World War and, who along with the more than 26 million veterans nationwide, have benefited greatly because of the efforts and the advocacy of Secretary Jesse Brown.

While it would have been easy to overlook the veterans of our small, but beautiful territory, Secretary Brown, as always, putting each and every veteran first, and recognizing the uniqueness of our situation, traveled to the Virgin Islands to meet with our veterans and their families and to listen to their concerns.

Because of his caring and strong leadership, that visit marked a turning point in improved services for the veterans of St. Thomas, St. Croix, and St. John.

Mr. Speaker, I am honored to have this opportunity to add my voice to the many others in recognition and gratitude for the outstanding years of commitment and service to veterans, their families, and the Nation.

The legislature of the Virgin Islands and Senator Alicia Chucky Hansen, chair of its Committee on Veterans' Affairs, add their thanks and their congratulations.

So, Mr. Speaker, we reluctantly let him go, but we do so knowing that he will be leaving a better Veterans' Administration, and that he has laid the groundwork for ever improving services to our veterans. Mr. Speaker, we thank Secretary Jesse Brown and wish him well and God's blessings in all of his future endeavors.

I thank the gentlewoman for affording me this time.

Ms. BROWN of Florida. Now I would like to yield time to Congressman SANFORD BISHOP, who is also on the Committee on Veterans' Affairs.

Mr. BISHOP. Mr. Speaker, I thank the gentlewoman for yielding, and for giving me the opportunity to pay tribute to a friend and to a real friend of America's veterans. It is an honor to join my colleagues, especially the gentlewoman from Florida [Ms. BROWN], in honoring the outgoing Department of Veterans Affairs Secretary, Jesse Brown. He is a true American hero who has served his country with honor and with distinction. Moreover, he has been a real asset to the Clinton administration and his bold leadership in behalf of our Nation's veterans will definitely be missed.

Jesse Brown, a native of America's Midwest; a proud marine, a combat veteran, who served bravely in Vietnam and a disabled veteran who has worked for the past three decades to help make sure his fellow veterans receive the full benefits they have earned through their service and their sacrifice.

When he was named to the President's Cabinet as Secretary of Veterans Affairs in 1993, veterans everywhere knew that this would be an outstanding appointment, one that would provide strong, effective leadership for the core interests of veterans at the highest level of our national government. And it certainly has been.

During his tenure, Secretary Brown has been instrumental in the enactment of a landmark VA health care eligibility reform bill which promises to open up VA health care services to many more veterans and pave the way for improvements throughout the whole VA health care system.

Benefits for veterans suffering from exposure to agent orange in Vietnam and to the Persian Gulf illness, full payment of veterans' cost of living adjustments, expanded benefits for surviving spouses of veterans, greater employment protection for Americans who are called up for military service: These are just a few of the initiatives he has helped get enacted into law.

As a member of the House Committee on Veterans' Affairs, I have the privilege of working closely with him, and on these and other legislative goals, he proved to be a real bulldog, the tenacity that you would not normally see in a Cabinet member working in behalf of America's constituency.

The partnership between the Secretary and our committee has been exceptionally productive, and throughout our country's history, brave Americans have answered America's call, a great personal sacrifice. Jesse Brown sacrificed much. He served greatly, and he will be greatly missed in the office of veterans affairs.

Jesse Brown brings to my mind many, many very, very pleasant memories. He visited the Second Congressional District of Georgia on several occasions, and he touched the hearts of many, many veterans. It was heartwarming and it often brought tears to one's eyes to see him just as at ease with a young active duty military person, or a gold star wife, and he could remember her, having met her 10 or 15 years ago at a veterans service organization convention.

Jesse Brown is a very, very special individual. He genuinely loves the work that he has done for veterans. Dr. Benjamin Elijah Mays said that you make your living by what you get, but you make your life by what you give. Secretary Jesse Brown has truly made a life, for he has given so much and he has, indeed, made a life not just for himself, but for all of America's veterans and for that, we are forever grateful.

God bless Jesse Brown; God bless America.

Ms. BROWN of Florida. Mr. Speaker, I thank the gentleman.

Now I yield to the gentlewoman from Indiana [Ms. CARSON].

Ms. CARSON. Mr. Speaker, I thank the gentlewoman very much for bringing to the fore this tribute to the Honorable Jesse Brown. Truly Jesse Brown is an honorable man, and I would not want it to appear that we are doing anything tonight beyond commending Jesse Brown, even though it may sound as though we are doing something else about Jesse Brown. But I am glad that Jesse Brown has an opportunity to hear the praise and the accolades that he so richly deserves during his lifetime.

So, Mr. Speaker, and certainly to the people of the United States in general and to the veterans in particular, on July 1, an all-American public servant, the Honorable Jesse Brown will step down out of his formal role as Secretary of Veterans Affairs, a position that he has served honorably, tirelessly, courageously.

The Honorable Jesse Brown's public service as VA's Secretary is unparalleled. It is unsurpassed, it is uncompromising on behalf of this Nation's 26.5 million veterans. Mr. Brown directed the Federal Government's second largest department responsible for a nationwide system of health care services, benefit programs, and yes, indeed, cemeteries.

Mr. Brown enlisted in the Marine Corps in 1963 and was wounded during combat in 1965 while patrolling the Da Nang area of Vietnam. As a consequence, he is a member of the military order of the Purple Heart.

When he left the battlefield in Vietnam, he landed on the American battlefield for this Nation's veterans. He became a warrior for veterans in countless ways: Successfully working for the enactment of laws authorizing the VA to pay compensation for those veterans with undiagnosed illnesses and to provide them with priority health care for illnesses they possibly incurred in the gulf.

To reduce a backlog of veterans' benefit claims, the Secretary formed a task force whose recommended changes have led to improved technology, redesigned work processes and staff training.

Mr. Brown convened the first national summit meeting on homeless veterans under his leadership, expanded services to women veterans, including counseling for sexual trauma suffered in the military, new health centers with specialized treatment capabilities, and more full time coordinators for women's care at VA medical centers. Mr. Brown ordered sensitivity training for all of the employees as part of his campaign of putting veterans first. He guided the VA's role in the administration of health care reform.

In Mr. Brown's resignation statement recently he reminded this Nation that the Veterans Affairs Department "was formed to care for those men and women who placed themselves in harm's way. They are the citizen soldiers who have borne the battle, suffered the consequences of their determination to defend the freedoms we enjoy, and stood by our allies around the world when needed."

□ 2130

He reminds us that there is still much to do, not the least of which is to continually remind this Nation that all we enjoy under the Bill of Rights the laws of the land, and bountiful fruits of the Nation are ours because more than 1 million citizens died to protect those precious freedoms, and another 1½ million citizens came home wounded and scarred for life.

We can never fully repay them for their losses, but we must never forget them nor shove them aside when freedom is abundant and unchallenged. We cannot shove them aside when, under the guise of balancing the Federal budget, we deny and neglect those who fought ferociously for freedom all over this world.

So, Mr. Jesse Brown, in honor of all of your good work, we thank you, Mr. Secretary, for your heroic public service, and we are reminded tonight that unto whom much is given, much is required. Mr. Brown has certainly given us much, as Secretary of the Veterans Affairs Department. Our gratitude is eternal. Unto whom much is given, much is required, Mr. Speaker, lest we forget the veterans that Mr. Brown, who himself is a veteran, has so capably and ably represented.

Ms. BROWN of Florida. Mr. Speaker, I yield to the gentlewoman from California [Ms. JUANITA MILLENDER-MCDONALD].

Ms. MILLENDER-MCDONALD. Mr. Speaker, I would like to first thank my esteemed colleague, the gentlewoman from Florida Ms. CORINNE BROWN, for allowing us the opportunity to come tonight to, Mr. Speaker, applaud an outstanding American, an outstanding African-American, with commendations. That person is Veterans Affairs Secretary Jesse Brown, whom we all applaud for his tireless advocacy on behalf of America's veterans.

His departure from the Clinton administration creates a loss for veterans and for all of us. It will be hard to find another champion for veterans with such outstanding capabilities, commitment, and a track record of groundbreaking accomplishments.

Brown made a difference in the quality of veterans' lives. Brown was a veteran, and that experience enabled him to provide special leadership at a critical time of Government downsizing but increasing service needs.

Jesse Brown came to the office of Secretary with very unique qualifications. Brown grew up in Chicago's South Side and was recognized even as a youngster as a natural leader. He graduated from Chicago's City College, and later joined the U.S. Marines, where he served his country during the Vietnam war.

In 1965 Brown crossed a rice paddy near Da Nang when an enemy bullet shattered his right arm. He was awarded a Purple Heart. After a year of rehabilitation at a Naval Hospital, Brown joined the Disabled American Veterans, the DAV, as a service officer in Chicago. Brown said, that job offered fire to my life; it gave me a reason for living and a noble cause. He eventually became DAV's executive director. President Clinton appointed Brown to Secretary of Veterans Affairs in 1993. To say that Jesse Brown has fought in the trenches would not adequately describe Brown's efforts on behalf of veterans.

Some have said his commitment verges on obsession, but I think he would find a compliment in that assessment. Brown has championed American veterans' causes, especially during the budget-cutting debates, by pointing out that veterans' benefits are not entitlements. They are the equivalent of inalienable rights. Brown has asserted that veterans should not be discussed in the same breath as welfare recipients. "We can't spend billions preparing people to go to war and then, when they come home, nickel and dime them to death." That was Secretary Brown.

Secretary Brown has consistently reminded those of us here in Congress of the critical role played by American veterans and the respect they deserve for their efforts on our behalf. Some of Secretary Brown's accomplishments include changes in how the VA is run, changes that will allow VA doctors to treat veterans for whatever ails them, not just conditions linked to their active duty service. Brown's reforms also include care for children of veterans who may have spina bifida linked to a parent's duty in Vietnam, and Persian Gulf war veterans whose ailments cannot be linked to any specific illness.

Brown's reforms also enabled female veterans to finally have medical clinics at most VA facilities. As a female Member of Congress, I applaud Jesse Brown's sensitivity to the needs of women veterans and the changing composition of our U.S. military.

I know that whatever Jesse Brown tackles in this next phase of his public service, the veterans of America will be better off because of his efforts. Again, I commend Jesse Brown's many accomplishments and wish him all the best. And as one veteran would say to another one, and I am sure all American veterans are saying this, God bless America, God bless Jesse Brown, for having graced our stage. Again, I thank the gentlewoman from Florida for allowing us this opportunity.

Ms. BROWN of Florida. Mr. Speaker, I yield to the gentlewoman from Texas Ms. SHEILA JACKSON-LEE.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentlewoman from Florida for, one, her advocacy on behalf of veterans, and the recognition that it is important to give flowers when they can be accepted and received.

It was interesting to hear the gentlewoman from Indiana, who made a humorous remark: no, this is not Secretary Brown's eulogy. It is a commemoration and celebration for all of the service that he has given to so many. I am certainly grateful that the gentlewoman from Florida [Ms. BROWN], in her leadership in the veterans arena, recognized that he should not go quietly into the night.

Let me for a moment do the formal statement, and very briefly acknowledge Secretary Brown as a friend. How interesting, so many of us coming from so many different places around the country, California, Illinois, where he is from, and he spoke fondly, frequently, of Chicago and Illinois, Florida and Indiana and other places who have paid him tribute, to be able to stand here and call him a friend. That is very special.

Mr. Speaker, I say that he is a friend to all veterans. There is not a one that he comes upon, whether it is the veterans still living from World War I, or that veteran with a glitter in his eye from World War II or the Korean action, whether it was the Vietnam action or the Persian Gulf and other places unknown that we fail to remember, when he comes and sees these veterans, there is a spark, an excitement of recognition that a friend has come into their eyesight.

Jesse Brown served this Nation in uniform long before he came the Secretary of Veterans Affairs. His experience in and after military service provided much-needed insight and sensitivity into the plight of our Nation's veterans. Secretary Brown's slogan "Putting Veterans First" sounds almost like a campaign for the next election, "Putting the people first," but

Secretary Brown did not use this as a campaign slogan. It was a heartfelt commitment, putting veterans first, and putting that slogan into every action at every level of the Department of Veterans Affairs.

Under Secretary Brown's leadership the Department of Veterans Affairs had expanded benefits for veterans who were prisoners of war or exposed to Agent Orange, radiation or mustard gas, and has expanded treatment services to those suffering from post-traumatic stress disorder. Mr. Brown also directed the Veterans Affairs' aggressive research initiative to determine the causes of illnesses of Persian Gulf veterans.

Mr. Speaker, there is something special, albeit we have a great love for all of our veterans, but the special kindness that Secretary Brown had for our Vietnam veterans, the fondness and the relationship that he was able to show to those who still had relatives, loved ones, husbands, fathers, brothers, who were MIAs, he could empathize and sympathize realistically.

I remember as a member of the City Council in Houston how special to be part of those veterans who would come and celebrate Veterans Day or Memorial Day, and continue to raise up the POW and MIA flag. Secretary Brown knew this in his heart, that he must continue the fight dealing with veterans and dealing with those who were MIAs and who were POWs.

Secretary Brown convened the first National Summit on Homeless Veterans programs and medical centers, and I know that the standdown that we had in Houston, and that has occurred across the Nation, brought homeless veterans from around our community who felt loved and respected, because volunteers came every spring to cater to them and to allow them to get over some of the illnesses and addictions that many faced. Secretary Brown always acknowledged that these were veterans, too.

He expanded services to women veterans to include counseling for sexual trauma suffered in the military, new health centers with specialized treatment capabilities, and more full-time coordinators for women's care at Veterans Affairs medical centers.

My own Shirley Smith in Houston worked so very hard to have the women's section of the veterans hospital grow and thrive and make women feel comfortable. When I visited on many occasions, whether it was a holiday occasion and when we had Valentine's Day with the veterans, it was special to see women veterans, a true product of the work of Secretary Brown, feeling comfortable and being treated well with special services in our veterans hospitals.

I would like to salute Secretary Brown for his commitment to America's sick, homeless, and disabled veterans. As Secretary of Veterans Affairs, Secretary Brown was the best and brightest from his generation to take on the job of preparing the Department of Veterans Affairs for the next century.

Secretary Brown was an effective voice in the administration and on the Hill for this Nation's veterans. His leadership in the administration to promote and defend the interests of veterans in the making of policy that our Nation's government promulgated is worth noting tonight.

I said to the gentlewoman from Florida [Ms. BROWN], interestingly enough they both have the same last name, and it is appropriate to note that, no, they are not related, but apparently the Browns stand strong in America because they come, apparently, from the same good stock. That is the stock of serving this country well.

I have given my official compliments to Secretary Brown, and if the gentlewoman would allow, let me just say some things straight from the heart. First of all, the gentleman from California [Mr. FILNER] said something very special. The gentlewoman has his picture there on the floor, how wonderful it is that tonight we pay tribute to an African-American, an American war hero. How important it is for all of this Nation to recognize, as the flag is reflected behind the gentlewoman, that we are best when all of us can shine, Hispanics and Anglos and Asians and African-Americans. In this time when there has been a call for apologies for slavery, there has been a call for a dialog, it is important that this gentleman led our veterans.

I hope those who may be thinking of negative comments, that we do not need to live together in harmony, can look tonight and see that a man who stands tall by the name of Jesse Brown did not lead the Veterans Department as an African-American, but he led the Veterans Department as an American.

I think the many veterans and those who worked in our Veterans Affairs Department and those who worked in our veterans hospitals who happen to be people of color, and let me be honest with you, I heard from many who felt that in these hospitals sometimes, as employees, they were not treated the best; and I am trying to work with those in Houston who have concerns, but they felt that Secretary Brown cared about them and their treatment as employees, no matter what their racial background was.

I remember the sad times. The gentlewoman from Florida [Ms. BROWN] was right, we were here fighting to avoid the shutdown across this Nation in the 104th Congress. We wanted to avoid putting those people out on the street who worked hard every day in the veterans hospitals.

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When I was able to go back to my veterans hospital and see those people working without pay to keep the veterans there safe, it was because they believed in Secretary Jesse Brown, that he would not let them down. And he instructed his veterans hospitals to find any way possible to coordinate with local banks to reach out to avoid the employee's credit going bad or their being out of apartments or housing. He truly cared whether this government was shut down by my Republican colleagues.

So I am saddened somewhat that he is going to leave us from government, but I want to make a commitment to Jesse Brown, because tomorrow we will be putting forth a tax bill. And I heard just a few minutes ago some of my Republican colleagues talking about people who do not pay taxes, people making 15,000 and 20,000 and 25,000.

I know, when I have had a chance to talk to Secretary Brown, he said, you know, some of those people are veterans. Some of those people who have to get food stamps and work are veterans. So let me set the record straight, because I will be voting no on the Republican plan and it will be somewhat of a tribute to Secretary Jesse Brown.

That is because the EITC, the earned income tax credit, is important and because people making $25,000 a year, former members of the military, now veterans, are paying taxes.

Ms. BROWN of Florida. Mr. Speaker, would the gentlewoman believe that one-third of the homeless people are veterans, veterans who have slipped through the cracks? We owe service to these people who have paid their dues up front. When I look at the budget that is put forth tomorrow, I look with disgust, because we are sacrificing the veterans who have paid their dues. Perhaps it is a good time for Secretary Brown to leave, although we will miss him. He is and I am sure he will continue to be a strong voice for the veterans in this country.

Ms. JACKSON LEE of Texas. Mr. Speaker, as I come to a close, the gentlewoman is so very right. I know that you know this because I have heard you speak so eloquently on the floor about your veterans hospitals and trying to work so hard for the veterans in your area.

We thank the administration for giving Jesse Brown the latitude and leeway to fight for veterans. As I was saying, these individuals who are veterans, some homeless, but some who work every day, but they make $15,000 a year or $25,000 a year, let me set the record straight, since we will vote on the tax bill tomorrow.

They do pay taxes. They pay Social Security taxes. Payroll taxes are taken out. And it is important that we have a tax bill that responds to Americans who served their country, who may not be making $250,000 a year.

Jesse Brown used to go across this Nation. He came to my district several times. So many of us can account for his time. He was not sitting in his office with the door closed. He was on the road working and reaching out to veterans.

Let me tell you something tonight and to all of my colleagues, because I know that Jesse Brown will live and this is not his eulogy; my promise to you Secretary Brown is, one, to wish you well, and hopefully your voice will continue to be raised on behalf of the veterans as a private citizen. I have an obligation now to work with my colleagues, the gentlewoman from Florida, to ensure that the veterans of this Nation are continuously supported by this United States Congress.

Yes, to support tomorrow the fairest tax bill, the Democratic alternative that does not turn its back on the veterans of this country, the working men and women of this country, those that make $25,000, those that make $50,000, those who make $85,000, working every day to send their children to college, to make ends meet, those are the folks that we will be supporting. That is my promise and tribute to Secretary Brown, that I will continue to work for the 1,646.700 veterans in the State of Texas and, yes, the veterans all over this Nation.

Secretary Brown, we will miss you in your service to this Nation, but how proud you have made all of us for what you have done by offering almost your life on our behalf of freedom and, yes, fighting for the least of those, our brothers and sisters. God bless you and God bless America.

Ms. BROWN of Florida. Mr. Speaker, I thank the gentlewoman. Someone said earlier tonight, let the work I have done speak for me. It is clear that Secretary Brown has done the work, and we all are grateful.

The gentlewoman from Florida [Mrs. MEEK] wants to make a few closing remarks, but before she makes those remarks, I have a story that I want to share with America about Secretary Jesse Brown.

Often in this Chamber I hear bashing of government employees on this and government employees on that. I have got a story that tells how government should work. In my district that extends from Jacksonville to Orlando, in the Orlando area we had a serious problem as far as a facility for veterans. When the Base Closure Commission recommended closing the Naval Training Center in Orlando, which was devastating, we came up with how we could take that lemon and make it lemonade.

We invited the Secretary to come down to the Naval Training Center. He did. He viewed the hospital facility there. And he wrote the Secretary of Defense and asked him to give this facility to the veterans in this country. The Secretary of Defense gave the hospital to the veterans. They came, they needed an appropriation of $14 million.

Well, they came to me and we were able to get that $14 million in the budget. It was a win-win for the veterans in the area. And, of course, taking a lemon, making it lemonade.

But do you know that when the Republicans first took over, the first thing they did was to take that $14 million out?

I went to Orlando and met with the veterans and they got on the phone and called the Congresspeople from Florida, and we put that money back in. And today I can tell my colleagues that that hospital is up and operational, thanks to Secretary Brown.

That is an example of how government should work for the people.

Mr. Speaker, I now yield to the gentlewoman from Florida [Mrs. MEEK] for a few closing remarks.

Mrs. MEEK of Florida. Mr. Speaker, I thank the gentlewoman from the Third Congressional District of Florida.

The anecdotal record that you have just stated about Secretary Brown is proof in itself that he is a leader, that he is someone who knows management. He is a man who knows service.

I think his dictum was, service is the price you pay for the space which God has let you occupy. Secretary Brown was elevated to that position by President William Jefferson Clinton. I want to commend President William Jefferson Clinton for appointing Secretary Brown, for having the foresight to look for a man who had fought the wars and was back to this country. And the only thing he asked for was fairness for veterans.

It is wonderful to talk about Secretary Brown. That is why this seems a little like a eulogy, but it is not. It is not a memorial. He is a vibrant, young person who will leave here with all of the benefits accrued to a person who has been on Capitol Hill representing veterans.

We know we owe him a debt of gratitude. We owe you one for helping America understand about this great heroic gentleman who stepped out from the crowd, with a uniqueness and a cut above from the rest, to lead this country and to say to the world, we respect our veterans. We owe them a debt of gratitude for wanting to give up their lives for this country.

This is a unique tribute tonight. My heart is strangely warmed, as I know that people of this country, their hearts are warmed, and so are the veterans. We thank you. We thank America for having shared this fine gentleman who is of African descent and shared him with the world. I thank the gentlewoman.

Ms. BROWN of Florida. Mr. Speaker, I thank the gentlewoman from Florida.

As I close, I want to also thank President Clinton for appointing Secretary Brown as Secretary of the Department of Veterans Affairs. I often say when we begin our committee meetings, that Secretary Brown is one of the brightest spots in President Clinton's administration, but he is also one of the brightest spots in this country.

I guess I am going to say good luck. Joy go with you. Leave us here fighting. I know you are going to help us out when you can.

I thank my colleagues for joining me. I just want to thank Jesse Brown's family for letting him share this time with us. Let me say, God bless Secretary Jesse Brown and God bless America.

Mr. STUMP. Mr. Speaker, I rise on this occasion to offer remarks on the imminent departure of the Secretary of Veterans Affairs Jesse Brown. Secretary Brown is due to leave the helm of the second largest Federal agency at the conclusion of this month.

Special thanks should go to my Committee colleague Representative CORRINE BROWN of Florida for her efforts to organize this special order.

As the second secretary of this relatively new cabinet-level agency, I believe that Jesse Brown's steadfast advocacy has defined the role for future holders of this post.

No one has worked harder or more effectively to be an advocate for veterans. His decision to be an advocate inside the administration was both courageous and necessary. His passionate voice will be missed. Secretary Brown has truly been a "Secretary for Veterans Affairs."

We have had some differences in matters of policy. But we have shared—and we will continue to share—a sincere desire to serve our veterans. For I believe there is no higher calling than to serve those who have given to our country.

I want to take a moment to point out what I believe to be one of the major accomplishments of Secretary Brown's administration. His decision to hire Dr. Kizer as Undersecretary for VA Health Care, and permitting him to reshape the VA Health Care System, shows world-class vision. It was that kind of vision that was necessary for revitalization of the Nation's largest health care system.

I have been frustrated in the past by the lack of sustained progress in making our VA health care system better. I believe that with Dr. Kizer's stewardship, we are on the correct course. Secretary Brown should be highly commended for such foresight, and for the support he has provided to those who are improving the delivery of medical care services to our veterans.

On behalf of the entire VA Committee, I want to express my gratitude for Secretary Brown's undiminished support for veterans, and his willingness to speak on behalf of the veteran whenever it was needed. Secretary Brown, you have left an enduring legacy, and have raised the bar of expectations for your successors.

Mr. MASCARA. Mr. Speaker, I want to thank the gentlelady, and my colleague on the House Committee on Veterans' Affairs, for organizing this special order tonight to honor our esteemed Secretary of Veterans Affairs, Jesse Brown.

Jesse Brown came to his job with a long and distinguished career fighting for veterans and their needs. As the executive director of the Disabled American Veterans and a decorated veteran, Secretary Brown had already fought many battles in the trenches, joining with leaders of other veterans' service organizations in convincing the Bush administration that veterans' problems could not be ignored.

He is renowned for his "in-the-face," frank talk about what his department needs in the way of money and resources to serve veterans. Many stories abound about how he cornered President Clinton—or some other administration officials—and bluntly let them know veterans would suffer if their budget proposals became law. He personally got the President to agree to add millions to the VA budget—a step which made many budget crunchers winch and many veterans smile.

The Wall Street Journal put it best when it said that to Secretary Brown, veterans' benefits are not entitlement but "the equivalent of inalienable rights." To the Secretary, it is unconscionable that our Nation will not hesitate to spend billions to prepare for war and then wants to "nickel and dime" veterans.

I stand squarely with Secretary Brown in believing our Nation owes a deep and lasting obligation to veterans. I can only hope his successor will have the same level of passion for our veterans.

I know we are going to deeply miss Secretary Brown and I sincerely wish him the best in his future endeavors.

Mr. STOKES. Mr. Speaker, I want to thank my colleague, the distinguished lady from Florida, CORRINE BROWN, for reserving this special order. I join her and many others in paying tribute to Jesse Brown, the retiring Secretary of the Department of Veterans Affairs Secretary Brown has served in this post for 4½ years. His departure brings to a close a distinguished Cabinet assignment which earned him the respect and admiration of veterans, their families, and people across America.

In January 1993, Jesse Brown accepted the call from President Clinton to head the Department of Veterans Affairs. He took responsibility for directing the Federal Government's second largest department, responding nationwide to the need for health care services, benefits, programs, and national cemeteries for America's 26 million veterans. When the President asked Jesse Brown to head the Department of Veterans Affairs, he selected an outstanding individual who was more than prepared to meet the challenge.

Jesse Brown is a veteran of the Marine Corps. He was wounded during combat in 1965 while patrolling in the Danang area of Vietnam. Before joining the Clinton administration, he spent his professional career with the Disabled American Veterans, serving as its executive director from 1989 to 1993. While in this post, he earned a reputation as a fearless advocate for disabled veterans and their families.

Mr. Speaker, under the leadership of Secretary Brown, the Department of Veterans Affairs has entered a new level of commitment and service. These accomplishments are the direct result of Secretary Brown's strong leadership. During his tenure, the Veterans Department has expanded benefits for veterans who were prisoners of war or exposed to agent orange, radiation or mustard gas. The agency has also expanded treatment for those suffering from post-traumatic stress disorder. Further, Secretary Brown has undertaken an aggressive research initiative to determine the cause of illness for military personnel who were involved in the Persian Gulf war.

Secretary Brown has to his credit the fact that they convened the First National Summit on Homeless Veterans during his tenure. He oversaw the reorganization of the veterans health care system to broaden access to the system and offer the highest level of comprehensive care.

Mr. Speaker, I am the former chairman and now ranking minority member of the House Appropriations Subcommittee on Veterans Affairs—Housing and Urban Development—Independent Agencies. I know of no one more committed to service than Jesse Brown. Veterans and their families are the beneficiaries of his hard work and dedication.

Mr. Speaker, as he prepares to depart his post, we take this opportunity to recognize and thank Secretary Jesse Brown for a job well done. We salute his tireless efforts and wish him well in his future endeavors.

GENERAL LEAVE

Ms. BROWN of Florida. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of my special order, Secretary Jesse Brown.

The SPEAKER pro tempore (Mr. PAPPAS). Is there objection to the request of the gentlewoman from Florida?

There was no objection.

THE ECONOMY

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from Minnesota [Mr. GUTKNECHT] is recognized for 60 minutes.

Mr. GUTKNECHT. Mr. Speaker, perhaps I will not take the entire hour. There may be some colleagues coming down to join me in this special order tonight.

I want to talk a little bit about where we have been as a country; in other words, where we were, where we are and where we are going.

Mr. Speaker, it is my observation that for 40 years Washington had it wrong. For 40 years Congress thought that Washington knew best, that big bureaucracies could solve social problems. And so for 40 years, spending increased at double the inflation rate, taxes went up faster than the family's income, the debt ballooned and social problems got worse. Washington had it wrong.

Washington waged a war on poverty. We spent over $5 trillion on a war on poverty. But, Mr. Speaker, I encourage you to take a walk through any burned-out inner city, and you will see the victims of that war on poverty.

I ask you to ask yourself, who won the war on poverty? No, I think Washington had it wrong.

Washington overtaxed those who worked hard and, as some say, played by the rules. They squandered much of it on top-heavy programs that did little but breed more dependency.

When I was a child growing up and my parents raised three boys, I was the oldest of the three, my father was the sole breadwinner in our family. He worked in a factory. I am a blue collar kid. When I was growing up in the 1950's, the largest payment that the average family made was the house payment. In fact, families back then could afford to raise their kids on one paycheck, because the largest payment they made was the house payment. In fact, taxes back then averaged something like, Federal taxes, less than 4 percent of the family's income.

But today, according to the National Taxpayers Union, the average family in America today spends more for taxes than they do for food, clothing, and shelter combined.

No, I think Washington had it wrong. They thought if we took more money from families who were doing the right things and gave it to people who perhaps were doing the wrong things, we could solve those problems. And Washington was just wrong. We encouraged more irresponsibility, and we discouraged personal responsibility.

I want to show a chart here, because I had my staff do a little research. And it is something that I had suspected for a long time and I think this chart confirms it. What it shows is that since 1975, for every dollar that the Congress took in, and these red lines are really how much more the Congress was spending than it took in, for every dollar that they took in, for example, I think in the year 1976, for every dollar that Washington took in it spent $1.23.

The following year they got a little more frugal and dropped to $1.15. But if you take the averages from 1975 until 1994, for every dollar that Washington took in, it spent $1.21.

The good news is that since the Republicans took control of Congress, and these are the blue lines over here, that number has dropped to $1.08. And when we enact the budget that we voted on today here in the House and when that budget is finalized, we, in fact, will be spending 99 cents for every dollar that we take in. And we are laying the foundations for actually paying off the national debt. So things are changing here in Washington.

As my colleague, the gentleman from Wisconsin [Mr. NEUMANN], who put this chart together with the help of the House Committee on the Budget and the Congressional Budget Office, what it shows is that we have come a long way. Since the days when we consistently spent $1.20 for every dollar that we took in, right now we are actually ahead of budget, ahead of our goal and under budget.

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And what we see in the red lines, this was our 1995 budget plan, the 7-year plan that we put in effect 2 years ago when those of us came here in the 104th Congress and decided to change the way Washington does business. What we said was, in fiscal year 1997 we would have a deficit of $174 billion. Now that is a lot of money. But when I first came to Washington, some people were saying that we could actually be seeing deficits of something like $274 billion.

Well, there is a lot of good news. Because what has really happened, because we have had a stronger economy and because we eliminated about $50 billion worth of wasteful Washington spending, because we have begun to limit the growth in entitlements, because we are actually doing what the American people had wanted Congress to do for 40 years, we are ahead of schedule and under goal.

As a matter of fact, in our budget resolution of 1995 we said that the Congress would spend no more than $1,624 billion. That is still a lot of money. But we said that is the most we would spend in fiscal year 1997. Well, the good news is that we are actually going to spend only $1,622 billion. In other words, this Congress is actually going to spend less money than we said we would spend in this fiscal year 2 years ago.

Now that is the good news. And that news gets even better. Because the economy has been stronger than we expected, we have actually taken in over $100 billion more than we expected to take in; and, as a result, rather than having a $174 billion deficit this year, it is actually going to be less than $70 billion.

If we stay on that path and we have that kind of fiscal discipline, I believe that this Congress will balance the budget not by the year 2002 but actually by the year 2000. I think there are good economic reasons to believe that that is going to happen.

The best news is that we are balancing the budget while saving Medicare and providing significant tax relief for working families here in the United States. As I mentioned earlier, we are also laying the foundations for actually paying off that debt, making Social Security truly secure, and leaving our kids a debt-free future.

Now I would like to talk a little bit about some of the things, and there is going to be a real heated debate, and already there is a heated debate about what actually is in the tax relief package. I think the more the American people begin to understand what we are really talking about in terms of tax relief for working families and what it will do in terms of spurring more economic growth and growing the economic pie even more, I think the American people are going to overwhelmingly support this tax relief package.

First of all, the cornerstone of this tax relief package includes a $500-per-child tax credit. Now that is a credit, and I think a lot of the people do not understand the difference between a credit and a deduction. In other words, if you have three children under the age of 18, you are going to get $1,500 more to spend. That is take-home pay that you get to keep and spend on your family as you see fit, not as some Washington bureaucracy dictates or decides for you.

There is $35 billion in post-secondary education incentives. I can say this: As a baby boomer and a father who has one in college right now and two teenagers that I hope will go on to post-secondary education of some kind, that is real relief. That means real things to real families, $35 billion to encourage families, to make it easier for families to send their kids to post-secondary education options. I think that is a great component in this plan.

There is also a broad-based capital gains tax relief. Now some of our friends on the left talk about capital gains and they say that is tax cuts for the rich. Well, in some respects, maybe they are right. In fact, back in my southern Minnesota district I have a lot of farmers and small business people, and they understand capital gains tax relief more than anybody else.

They do understand that many people who pay a capital gains tax are rich for 1 day: the day they sell their farm, the day they sell their business, or the day that they sell an asset or some investment that they have held for a long period of time, and in most cases they have been paying taxes on that farm or that business or that investment all along the way. So capital gains taxes are about encouraging families to save and invest for their own future.

I think it was Abraham Lincoln that said that "You cannot help the poor by destroying the rich." If we make it more and more difficult for people to invest and save, it means that we are going to reduce the amount of capital in our economy, and that means ultimately fewer jobs.

So capital gains tax relief is about encouraging people to invest and save for their own future, and it is about growing this economy so we have more jobs for the people who really need them.

We also expand the individual retirement accounts and make it easier for people to save for their future that way. We have significant reduction in the death taxes.

Now some people are saying, well, this is not as good as it should be; and I guess we would have to agree. But it is a giant step forward in saying that just because you die does not mean the Federal Government has a right to step in and take up to 55 percent of your estate.

So those are the basic components of the tax relief package that we are talking about. This package is aimed directly at America's middle-income wage earners. There is going to be an awful lot of rhetoric and misinformation spread about what is in this tax bill.

But the best information that we have, according to the House Committee on Ways and Means, and I think it is backed up by the Congressional Budget Office, is that those who are earning under $20,000 will get about $5.5 billion worth of tax relief under our plan. Families between $20,000 and $75,000 worth of income are going to get 83.5 percent. Families that make between $75,000 and $100,000 will get about $19.3 billion, and those making over $200,000 will get $1.4 billion.

If you divide that up, just simple arithmetic, take a calculator to it, you can work this out back in your office or do it in your home, but what it really means is that over 75 percent of the tax relief that is in this tax relief package that we will vote on tomorrow on the floor of this House will go to families earning less than $75,000.

Now I know there are some people who say those folks are rich. But those who may be watching at home do not consider themselves to be rich. It is targeted at middle-class people.

Let us talk about saving the Medicare system from bankruptcy. One of the other problems we realized when we came here, when I came here in 1994, was that Medicare was in trouble and that if we did not take some serious action, according to the trustees of the Medicare trust fund, they said that the Medicare trust fund was going to go bankrupt in only a few years.

So we said, well, what can we do? Well, one person once said that insanity is doing more of what you have always done and expecting a different result. What Washington always used to do when they had a problem with health care or anything else, they would figure out a way to crank down on fees. If price controls had worked, well, I think Richard Nixon would have solved inflation back in the 1970's with his price control program, but price controls do not work.

What does work is the magic of the marketplace. We said, let us try to figure out ways to take some of the ideas that are working so well in the free market system, out where we are seeing inflation in the health care delivery system dropping to 2 and 3 percent, why can we not take some of those ideas, use competitive forces, give people more choices and actually use the miracle of the marketplace to help control cost?

That is exactly what we have done. But inside of that we are still allowing total Medicare expenditures under our plan to go from $5,480 per recipient, in other words, per senior citizen spending will be from $5,400 per senior citizen to almost $7,000 per senior citizen in the year 2002, in other words, in less than five years.

What we are really assuming, though, we are not cutting Medicare but we are slowing the rate of growth. We are slowing the rate of growth, and that ultimately will yield savings of about $115 billion. But most importantly, we are going to provide more choices to more seniors.

In fact, what I like to say to some of my folks is, we want to give seniors wherever they live the same kinds of choices that Members of Congress and Federal employees receive. If we structure this thing correctly, we think we are going to see lots of choices for these seniors.

One other important thing we have done, and I worked very hard on this and a lot of folks from other parts the United States have worked on it, we tried to change what is called the AAPCC formula and we made tremendous progress there. What that really means is, for those people who live in rural parts of the country, they are going to get closer to the same kind of payments for their managed care system if they decide to join managed care operations as those people that live in the big cities.

After all, that is only basic fairness, because those people that live in Mankato, Minnesota pay exactly the same taxes as someone who lives in Miami, Florida. So there is real fairness in this Medicare reform plan that we are putting forward, as well as reform which ultimately we believe will yield big savings while offering seniors more choices and actually more benefits.

This is another chart about Medicare, where we were, where we are going; and what it demonstrates is, what we are still doing is allowing the growth in spending in Medicare to go up, but at a much slower rate.

This Congress recognizes that doing more of the same will only get us in the same soup, so we are talking about real reforms. We are talking about reforms not only of Medicare but of welfare. Last year this Congress passed perhaps the most important welfare reform package that this country has seen, and it was about sending more of the power, the authority, the responsibility and the resources back to the States.

As I said earlier, for too long we thought that Washington had all the solutions, that Washington had it right, that Washington knew best, and that somehow Washington could make decisions to try and help people who were trapped in welfare, and all we really did was create more dependency. But as we evolved more of that back to the States, what we have seen is tremendous changes in what is happening in welfare across the country.

Let me just give a couple of statistics. My colleague, the gentleman from Florida [Mr. WELDON], is joining me, but I want to give a couple of statistics about what has happened with welfare and the case load since we came to Congress.

Nationwide, welfare rolls have dropped by 20 percent. Now, in real numbers that is 1,029,000 fewer families are on welfare today than when we came to Congress. And some of my colleagues and some of our conservative friends out in the audience say, well, that is wonderful because it saves money.

Well, the real goal of welfare reform is not saving money; it is about saving people, it is about saving families, and it is about saving children from one more generation of dependency on the welfare system.

In Minnesota, for example, 13,000 fewer families are on welfare today than when I came to Congress, and I am proud of that. In Wisconsin, where they have done an even better job, case loads have dropped by 97,000 people. In Oklahoma, case loads have dropped by 45,000. And that story is across every State, where we are seeing that States know best how to reform the system and encourage more personal responsibility.

I do have some other things, and I am joined now by the gentleman from Florida [Mr. WELDON], my good friend, the doctor, who came here with me in 1994, in the class of 1994, the 104th Congress. I yield some time to the gentleman.

Mr. WELDON of Florida. I thank the gentleman from Minnesota [Mr. GUTKNECHT].

Let me just say it is really truly a pleasure to be back here on the floor with my colleague tonight. I know back in the 104th Congress we did this many times when we were trying to move through so much of the important legislation that the American people had sent us here to do and one of the most important things my colleague has been talking about, which is welfare reform. It did take the Republican Congress, the 104th Congress, to deliver on the President's commitment to end welfare as we know it. And the impact that this is going to have, the gentleman is absolutely right, we should not equate it in terms of money saved.

The way we need to look at this is the impact that it will have on people's lives. The wrongness of the welfare system was driven home to me when I was a medical student. As my colleagues know, I am a physician.

I will never forget my first day on my Ob-Gyn rotation as a junior medical student. I was sent to the Erie County Medical Center to work in the clinic there, and my first patient the first day was a 15-year-old young lady who was pregnant out of wedlock.

I remember the tremendous feeling of grief that came over me as I was doing the initial evaluation on this young lady, and I just got to thinking about the impact that this is going to have on her life, that she may not be able to finish high school, that she may never be able to go to college, she may never be able to perhaps meet a fine young man, and she will have all the burdens of single parenthood.

Finally, I just could not control myself, and as I was asking her those questions that doctors will typically ask an expecting mother on their first evaluation regarding her health, I finally just said, "How could this have happened to you? I am so upset. You will not be able to finish high school."

I will never forget the words that she said to me. She said, and I have told people this and they do not believe it sometimes when I tell them this, but she said, "I deliberately got pregnant because I wanted to get out of my mother's place in the project and I wanted to get my own place."

As we have talked about here on this floor for years now, we have second and third generations on welfare, and that is not what welfare was meant to be. It was supposed to be a helping hand in a time of need. It was never intended to be a way of life. And it is truly amazing the impact that the welfare reform is having.

I know that some States passed welfare reform before the Federal reform went through. I have seen the data out of New Jersey, where Christine Todd Whitman in New Jersey passed welfare reform; Camden, New Jersey, dramatic reduction in the number of out-of-wedlock births without an increase in the number of abortions, suggesting that this program that paid more and more money for more children that were had out of wedlock was playing a role in the escalating rate of illegitimacy or fatherlessness.

As I am sure the gentleman from Minnesota [Mr. GUTKNECHT] is very well familiar, the thing that correlates the most, the highest, with very high incidence in a community of juvenile crime, of drug abuse, of illiteracy, of dropping out of high school, is the amount of fatherlessness.

□ 2215

There was a lady who wrote a book a few years ago and she made a statement that a woman needs a man like a fish needs a bicycle. She implied in that book that fatherhood was an unnecessary component for the continuation of our society, of our culture, of the human race. We have demonstrated beyond a shadow of a doubt that fatherhood is an essential component to the family unit. All we have to do is look at those communities that have the highest rate of fatherlessness and the extremely high rates of drug abuse, of juvenile crime, of illiteracy in those communities. It is absolutely criminal that this welfare program has played a role.

I harken back to that day, my first day in the OB-GYN clinic as a junior medical student, and that young lady looking at me with a cold calculating look in her eyes that this pregnancy was a planned pregnancy for her. I said to myself, at that moment, I said, we need to change the welfare system in this country. I had no idea that someday, of course, I would be here, like the gentleman, passing legislation.

I believe the welfare reform that we passed may prove to be the most important accomplishment of the Contract With America, of all the provisions in the contract, because of the relationship between welfare and fatherlessness and all those other social pathologies that I talked about, juvenile crime and illiteracy and declining educational scores.

But it is really I think wonderful to now be fulfilling more of that original Contract With America. Tomorrow we will be passing our tax cut. It is a smaller tax cut than I wanted. It was not the size of the tax cut that I wanted to see. I wanted to see the inheritance tax go to zero. I would like to see the capital gains rate phased out completely. This is the best we could get from the President. It is truly a middle-class tax cut.

Just as it was ironic that it took a Republican Congress to fulfill Bill Clinton's campaign promise of 1992 to end welfare as we know it, it is again taking a Republican Congress to fulfill his campaign pledge of 1992, which was at that time, a middle-class tax cut. The reason Bill Clinton campaigned on those issues in 1992 is because the polling data showed that people felt like they were overtaxed, the polling data also showed obviously that people felt the welfare system was not working, and I think the gentleman spoke very eloquently on that issue, that the welfare system was a huge failure.

So he knew that back then. Yet he did not deliver in 1993, he did not deliver in 1994, and he fought us on welfare reform in 1995 and 1996. Now he is unfortunately, well, at least it looks like he may go along with this middle-class tax cut. I think this is really a wonderful opportunity for the American public to see how the elected officials are really delivering on what they wanted.

I think one of the greatest crimes when somebody runs and says I am going to pass welfare reform and then does not do it and says I am going to give you a middle-class tax cut and then increases taxes, it is not just that he is not delivering on welfare reform and he is not delivering on the tax cut, he is also undermining, undercutting the faith of the people in the political leaders they elect to Washington.

One of the things that was most pleasing to me, and I do not know if the gentleman saw this, there was a recent poll on the public's opinion of the Congress in the United States and that the approval rating is about 50 percent, which certainly is nothing to write home to mom about, but it was 19 percent in 1993. Actually in the fall of 1994 it was 19 percent.

I think we are getting the job done. There is a lot more to do. This is the greatest country in the world. The gentleman talked earlier about growing up in the 1950s. I grew up in the 1950s as well. Our parents gave us a great heritage. They inherited that heritage from their parents. The goal, the plan here is to be able to leave our children, I know the gentleman has kids, I have a daughter, to leave our children the same kind of heritage that we were able to inherit from our parents.

I want to thank the gentleman for yielding. It is really a pleasure to be able to be here tonight with the gentleman and to discuss these issues.

Mr. GUTKNECHT. I am delighted to have the gentleman. As the gentleman was talking I was thinking about growing up in the 1950s, baby boomers. I tell the story often that when I graduated from college, the speaker at our commencement address was the director of the United States Census. Most people do not remember who spoke at their college commencement ceremonies, but I remember and I remember what he talked about. At the time I was 22 years old. He said, "Most of the people in this audience are 22 years old and most of you were born in 1951. There were more babies born in 1951 than any other single year. You are the peak of the baby boomers."

In many respects when the gentleman and I came here as baby boomers and as members of the new Republican majority, I think we came here understanding that we had a special place in history and we had a special responsibility. As baby boomers, I look at this and I look at welfare reform, I look at Medicare reform and saving Social Security and balancing the budget for our kids, I really see those issues in some respects as generational fairness and generational responsibility. Because both of my parents are living, I want to make certain that they are taken care of, I do not want to pull the rug out from under them in terms of Medicare or Social Security.

On the other hand, I have 3 kids and I look at them and I say what kind of a country are we going to leave them? Is it going to be a country that is filled with debt, dependency, despair? Is it going to be a country where all the decisions are made for people in Washington? I say, we have an opportunity to make a real difference. I think that is the reason that I ran, I think that is the reason the gentleman ran for the Congress, because I think the American people in many respects have been way out in front of us for a long time.

The gentleman talked about polls. It is always nice to talk about polls we like, and sometimes we ignore the polls we do not. But I think we all instinctively know deep down in our bones that the American people have been asking for, indeed demanding, that Congress live within its means, that they begin to return more of the power, more of the responsibility, more of the resources back to the local communities, because they know that Washington does not do it best.

They read stories every day, whether it is a $400 toilet seat or whether it is money wasted in Bosnia or whether it is money wasted on other things, and they look at the welfare system and say, "This is just a big waste. All you're really doing is encouraging people to be increasingly more irresponsible."

We look at all the statistics and the evidence and Washington has failed. I am not saying that. The American people are saying that. In the end, though, as the gentleman was talking, especially thinking about my parents and the gentleman's parents and that generation, in the end a lot of this debate is really about values. I think that in many respects, what really makes this whole country work, I have had a lot of discussions and I have thought a lot about this, that a value is something that you believe in strongly enough that it will get you to take action. Because if you say you believe in something and you do not do something about it, you really do not believe in it.

There are certain values that I think have made this country work. Literally from that day at Valley Forge to today, there are certain values that make this society work and that are the glue that holds us together. I think if I were to reduce it to about 5, I would say it is faith, family, work, thrift, and personal responsibility.

The unfortunate thing about the liberal welfare state, in my opinion, is they tended to undermine some of those values. In other words, if you pay people not to work, you undermine the work ethic. If you tell people that you cannot receive benefits through a faith-based system, you undermine faith. And if you undermine the family, if you give people their own apartment and encourage them to leave home and have babies out of wedlock, you undermine the real cornerstone, the real glue that holds this society together, and that is the American family. And so I think the American people sort of knew and they still know that there is something wrong with this system that eats away at the very fiber, the very values, the glue that holds a society together, and they wanted something done about it.

In that respect, I do not think they look at us and say, well, we want you to have all the answers. What they really say is give us more of the power and the decisionmaking back. That is what this tax plan is about.

I will tell a quick story. Going home last weekend, I am on the Committee on the Budget, I am proud to be a part of this Congress and I was proud to be a part of the 104th Congress as well, because I think we are beginning to turn this giant battleship around and we are beginning to sail it in the right direction. We have still got problems and we still make mistakes.

I told some people the other day that we recruit from the human face and we are subject to human frailties and we make mistakes. We have made plenty and we will make more. But I think on balance we are doing the right things and we are heading in the right direction. We are beginning to reinforce values, encourage Government accountability and encourage personal responsibility. We are starting to say, maybe there is a place for faith-based systems, whether we are talking about education, about welfare delivery, about something else. Again, we do not have all the answers, but I think we are moving in the right direction. I am proud to be a part of this Congress, I was proud to be a part of the Committee on the Budget that put this package together.

If I could, I would like to share a story. When I was going home this weekend, the Committee on the Budget met until about 7:30 Friday night, so I could not catch the last plane to go back to Rochester, MN. I flew back on Saturday morning. I did something that I do not do very much anymore, and I used to like to do this. Just look out the window. You are flying in an airplane, sometimes it is just nice to look out the window and daydream and think a bit. So I did that on the flight home. As I was flying, I looked down at this great country, and I began to think about all the great people who live here. This is a great country. It is filled with great people, and people with great dreams and people who were willing to take risks and risk their fortunes and perhaps build a business.

When I got home and my wife picked me up at the airport, we were driving home, we got to our neighborhood, about a block and a half from our house and one of our neighbors down there was having a garage sale. There was a family, they were getting out of their car and going up to this garage sale. They had used clothing and everything that goes on at garage sales. This family had four children. There were three older kids and there was one, one of those little chubbers, if the gentleman knows what I mean, that is sort of permanently attached to mom's hip. Mom was carrying the littlest one up to the garage sale. The others were running up. As we drove by, I thought, in this budget, we talk about numbers, $139 billion and 2.7 percent and all the other numbers, but in the end this budget and this tax bill is about real people. It is about real families. I thought about that family. To them, this tax bill means a lot. First of all to their kids it means a brighter future. It means that those kids have a better chance at the American dream. It means that we are not going to saddle them with debt that they will never be able to pay. But to that family itself, four kids, that is $2,000. I know, some of the people who are here in Washington, $2,000 does not seem like a lot of money, but to that family driving that car, going to that garage sale, $2,000 is a lot of money. That is money they can spend on their family, that they can save for their future. Then we think about the tax advantages as it relates to their education, for those kids' higher education. This is a very important tax bill for them. When we get involved in these debates here in Washington and we are talking percentages and billions of dollars, we sometimes forget all those people who live in this great country, all those people who take risks, all those people who invest, all those people who have families. Forty-one million children will benefit from this tax plan. I am proud of that. I think it is going to make a difference. I think it is going to mean a brighter future for those kids and for our country in general.

Mr. WELDON of Florida. I am really moved by the gentleman's comments, particularly as it relates to family. I was reminded as the gentleman was speaking of a family that goes to the church that I attend. They have five children. Ann and Bill Tanner, a lovely couple, with five kids, little stairsteps, from age 9 down to, I think their newest one is about a year old. Bill was working as an electrician. Now I think he is a caseworker for one of the county commissioners in Brevard County where I live. This translates to $2,500 a year for Bill.

□ 2230

And that means more money for clothes for the kids, money for vacation, something maybe that they have not been able to take for a long time.

So this is really about families, kids and peoples' lives, and, as you mentioned earlier in your special order here tonight, how back when our parents were raising us, that they sent just a small fraction of their income to Washington, and the biggest amount of the money went to pay the mortgage payment, and how now families are sending more to Washington than they spend on the mortgage payment and the food bill and the clothing bill.

It is amazing. Food, shelter and clothing do not consume as much as the bill from Uncle Sam. That is just wrong, and when you cannot put more money into the family pocketbook, it can make a real difference and a real difference in their lives.

And really what makes this country great, as you were looking down across the fruited plain at all the wonderful towns and cities that make this country the great country that it is, what makes those towns and cities work are the strong families in those communities, and it is really strong families that make strong communities that make strong nations.

Mr. Speaker, we for 40 years have been undermining the integrity of the family, and I was reminded as you were speaking about the failure of the welfare system of a book that I recently read by Marvin Olasky called The Tragedy of American Compassion, and it is really a fascinating book. If you have not read it, I would highly encourage it to all the Members of the House of Representatives, because Mr. Olasky is a very, very learned scholar, and he researched how we in America took care of the poor and needy in that time period in the late 1800s when Alexis de Tocqueville came to America and wrote his famous book.

One of the things he said in that book, Democracy in America, how he was amazed that there were no beggars and no homeless people on the streets of America, but if you went to London and Paris, that there were all these needy people there, and the thing that he discovered was that it was the faith-based organizations that were trying to intervene in the lives of people and to bring about a real hard change to enable them to be able to deal with their situation.

One of the great tragedies of our welfare system is there is no accountability, and you refer to that in your five principles that you mentioned. You mentioned faith. You mentioned family. You mentioned work, thrift, and you also mentioned personal responsibility, and that relates very much to accountability.

Personal responsibility involves if someone is in need, that you help them out if they are in need. But if they are in need because they are spending all their money on drugs or alcohol or they are not willing to work when they are able to work or they are engaging in other high risk behaviors, then I believe you have a responsibility not to help that person out because you keep them from dealing with the problems in their lives.

The great tragedy of this system is there is no accountability. You can be engaging in all kinds of behaviors that are very, very counterproductive that are an impediment to you being able to turn your life around. But the way the law is written, you cannot have any accountability, and simply by requiring people to work, it brings a very, very high level of accountability into this system. You cannot continue to get the benefits.

Faith is critically important. I have learned from experience that the people who really turn their lives around are the people who make a personal faith commitment and have a personal heart conversion where they can actually come to grips with the problems in their life and help them to be productive and become productive. It really boils down to what is the right thing to do and what is the best way to help the people out.

Marvin Olasky's book was fascinating because one of the things he did in the book, of course, was he dressed up as a homeless person and he went into many of these homeless shelters and these soup kitchens.

Mr. GUTKNECHT. Here in Washington, DC.

Mr. WELDON of Florida. He did some of it right here in Washington DC; that is right.

And one of the things he was amazed at, and I heard him, he not only talks about this in the book, I heard him speak. Nobody would ask him why he was homeless. Nobody would ask him what his name was even or if he had a family. They would give him a meal, they would give him clothes, they would help him to get to the shelter, but they would never personally get involved in his life. And he compared that to what went on at the turn of the century when we were more effectively dealing with many of these problems and how they did that, they actually spoke into the peoples' lives, they got to know them.

I think what it really boils down to is whether charity is being performed by the church or by the faith-based organizations or by the bureaucracy in Washington, the government, the faceless, heartless, bloodless bureaucracy that just dishes out checks or units in the complex, and it is that human intervention that really changes people.

It is funny we should be talking about family tonight because one of the things that led me to getting into politics was I formed an organization in the community that I lived in called the Family Forum back in 1990. Ultimately that got me more involved in the political process and brought me to the point where I ran for Congress in 1994, as you did. But it was the family, the breakdown of the family, that caused me to form that group, the Family Forum, to try to make a difference in our community to try to deal with the terrible breakdown of the American family that we were experiencing.

Mr. GUTKNECHT. And if I could, the real tragedy, it seems to me, is that in many respects well intentioned government programs have made the breakdown of the family even worse, and again I think the American people are way out in front of us on this. I think they know that. I do not think they have to read that.

I also want to indicate before we leave the story of Marvin Olasky, I have read his work, too. I have had a chance to meet with him several times, a remarkable human being, and his story is a terribly powerful story. And I would say this for the benefit of Members or those who may be watching: I am just about out, but I have a very abbreviated version of that. And I would make it available to Members who would like the story of Marvin Olasky and the Tragedy of American Compassion and the history of how we really dealt with poverty in America and what de Tocqueville meant when he said that America's greatness was in her goodness and that, if we ever fail to be good, we will fail to be great; and goodness was not about more and bigger government programs. Goodness was about what you did in your community and your neighborhood, what you did in terms of volunteering and sharing with those who were really down and out.

The interesting thing too about the whole welfare debate and discussion is that there are some very good examples of programs that do work, but those are not the models unfortunately which Washington decides to model in most cases.

The Mormon church has a very good welfare system for members of their church. The Salvation Army is far more efficient than any State in the Federal welfare system in terms of helping people. And the real goal is not just to feed people, not just to feed people in terms of their bodily needs, but to feed their soul as well; and if that is not a component, the results and the evidence is overwhelming that it is not particularly successful.

I yield back to you.

Mr. WELDON of Florida. Yes, I just want to briefly add to something you were talking about, however well-intentioned, the programs can undermine family integrity. And I just want to say this in defense of our colleagues on the other side of the aisle who in many ways have been defending the status quo in some instances particularly as it relates to welfare reform, and the intentions were good. I do not believe when Lyndon Johnson and the Democratic leadership of the House and the Senate passed some of these Great Society reforms they had any intention to see the kinds of consequences that resulted.

They were really trying to help people, and the unfortunate reality is that the amount of poverty increased or stayed the same and a lot of the other social pathologies got much, much worse. I know that the figures in New York where I grew up are astronomical in terms of the impact the Great Society programs had on family breakdown. I think, if you go into some of those inner-city communities, the illegitimacy rate or fatherlessness rate is 70 percent, whereas it was 25 percent. And the academic scores in those communities have gone downhill, whereas you could go into Harlem in the 1940's and the academic scores in Harlem were no different from what they were in the poorer white communities in the Lower East Side. They were about the same.

And the thing, it is not a racial thing at all. It has to do in my opinion with the breakdown in the family and the tremendous impact that fatherlessness has on those families.

Mr. Speaker, let me just say that I know there are a lot of hard-working single moms trying to raise kids at home and that many great Americans have come out of those single mom homes, and some of those women just do an absolutely fabulous job. But just the reality is when you look at the communities and you look at the impact that the welfare state has had in terms of promoting illegitimacy and the impact that that has had, in turn, on breaking down the family, and the road was paved with good intentions. And you are absolutely right, Gil, the American people knew for a long time before all the studies, before all the statistics came in. They knew that it was not working, and they were asking for change, and they were asking for change for years and years just as they have been asking for tax relief.

They have known for a long time that they are sending too much of their money to Washington, they are not getting their money's worth, the product is too expensive, and they need a refund. They need a little bit more in the family account and a little less money going up here.

And it is really, I think, long overdue to provide family tax relief. I think the family child credit is going to go a long way to helping a lot of working families to be able to take home more. I think the inheritance tax, though it is very small and it is phased in over many years, is a good start.

I think that tax is immoral, to take somebody who has worked their whole lifetime, pumped typically millions of dollars into the economy in terms of creating jobs, in terms of paying taxes, and then once they are dead to put along a death tax and then come along and basically appropriate a third of what they had earned their whole lifetime. In my opinion it is just morally wrong.

We are making some headway in that. And there is probably nothing that we could do more to stimulate our economy, to help create high-quality jobs, to help ensure that America remains the world's leader economically than to put through this capital gains reduction. I think the capital gains rate should be zero. If you want to have a thriving growing economy that is creating high quality jobs, you make the capital gains rate zero.

Now, we were not able to get that, but a capital gains rate, I believe, of 20 percent is a good start. I think it is going to go a long way to help a lot of middle class families better make ends meet.

Mr. GUTKNECHT. Mr. Speaker, I was just going to say that I was smiling because when my colleague was talking, it reminded me of talking about taxes and spending and balancing the budget and what we need to do in terms of tax relief.

There is a farmer I was talking about balancing the budget with, an old farmer in my district one day. And he said: You know, he said, the problem is not that we do not send enough money into Washington. He said the problem is Congress spends it faster than we can send it in. And if we stop and think about it, he encapsulated the big part of the problem we have had for the last 40 years. In fact, some would say, well, you know, we just need to raise taxes. Well, if tax increases had been the solution to our deficit problems, I submit that we would have had a huge surplus already.

I know when we first started this debate when we offered the Contract With America, there were people who said, well, you cannot balance the budget and provide tax relief; I mean that cannot be done. And you certainly cannot do it while you are saving the Medicare system. And what we are proving, I think, today and tomorrow is, yes, you can. If you hold government more accountable, if you limit the growth in entitlement programs, if you actually make some targeted cuts in domestic discretionary spending, if you hold government more accountable and you return more responsibility back to families and people and communities and States, you can balance the budget, you can save Medicare and you can reduce the tax burden on American families.

And that is the good news, and as I say, and as you indicated, this plan is not perfect.

□ 2245

We hope as we go forward that there will be more room for tax relief. We would hope that ultimately we would adopt language similar to that the gentleman from Wisconsin [Mr. NEUMANN] is talking about, in terms of as we go forward, if we are correct that if we reduce taxes, if we allow people to keep and spend and invest more of their own money that the economy will be stronger, which will mean more jobs, which will mean more tax revenue.

Actually, I have some numbers, I had the budget office run these numbers for me. Right now the economy is growing at about 3.8 percent. We do not assume that that is going to happen. Some people said early on, we balanced the budget by rosy economic scenarios. Actually, we assume under this budget plan that economic growth is going to drop off the table, that it is going to drop from 3.8 percent this year down to 2.1 percent next year.

I do not think most economists, I do not think most Members of this body believe that is going to happen. I think what is going to happen is the economy might slow slightly to something like 1.3 percent.

If that happens, though, if the economy just goes to what would be more of a historic average in terms of economic growth for the next 5 years, and I think with the tax relief, with the balanced budget plan, I think with lower interest rates, I think it is very believable that we will have at least 3.1 percent growth rate. If that happens, in the year 2001, we will have a $28 billion surplus, and in the year 2002, we will have a $120 billion surplus.

Now, what should we do with that surplus? Well, our colleague from Wisconsin says, and I think it is a good idea, we ought to take two-thirds of that and apply it to some of the trust funds, the Social Security trust fund, the highway trust fund, some of the other trust funds which Congress has been borrowing from over the years and we ought to take some of that and provide additional tax relief.

The gentleman has talked about lowering the capital gains tax even more, doing more work in terms of the death tax, doing more work for families, but that frees up even more opportunities so that hopefully we can grow the economy even faster so that more of the people who are currently trapped in the welfare state can find jobs, can get off the welfare rolls and get to payrolls and that really ought to be our goal.

In fact, talking about welfare and how this all ties together, I thought it took a lot of courage recently for the New Republic, which is by its own admission a liberal magazine, came out recently and said, we were wrong. When they said that our welfare reform plan would not work, they said they were wrong. Now they have come to the conclusion that 6 out of 10 people that were on welfare a few years ago really should be off welfare.

As we go forward, as the economy grows and as we get more educational opportunities to some of those people, I think we are going to open up the American dream to a much larger group of people, to people who for a generation have thought that the American dream was not for them. So if we really love those people, we have to help them find their way off the welfare rolls and on to payrolls.

Because I have said this, and I really believe it, that a job is more than the way one earns one's living, a job helps to define your very life. I think people who are jobless tend to think of themselves as being valueless. So we need to help those people, we need to give them the encouragement, and sometimes we have to give them a little nudge to get them out on their own and instead of being dependent, becoming independent.

So this is about reinforcing those values of faith, family, work, thrift, and personal responsibility. We do not have all the answers, but as I say, and I think the American people understand, as was reflected in the poll the gentleman mentioned earlier, I think the American people understand that we are now moving in the right direction, that Congress said it is doing what it said it was going to do, and most importantly, it is doing what they have wanted Congress to do for many, many years.

Mr. WELDON of Florida. Mr. Speaker, I thank the gentleman from Minnesota for yielding.

Let me just say that I too am a sponsor of the legislation of the gentleman from Wisconsin [Mr. NEUMANN] to deal with the issue of paying off the debt. His plan I think is a very good plan. Once we start showing some surplus after the budget is balanced, what are we going to do with that money? It is a real legitimate question. What do we do with that money?

There will be people in this body, there will be people in this city, who will want to spend it all. And to take some of that money and use it to pay off the debt early, a $5 trillion debt, use some of it to provide some more tax relief, and yes, use some of it for targeted important spending like on infrastructure.

We have not been spending the kind of money we need to for roads and highways. We have to keep in mind that when we pay off that debt sooner, the interest payments get smaller, and suddenly, it is a double benefit because we are spending about $360 billion paying interest on the debt. If we did not have to make interest payments today, there would be no deficit. We would have a $100 billion, $150 billion, $250 billion surplus that we would be arguing about if the people who preceded us had made the tough decisions and had not run up this kind of a debt.

What a wonderful situation to be in, where we have those kinds of surpluses and we could really talk about putting more money into needy areas in our Nation's infrastructure and needy areas such as more health care, for example, or better health care for Americans, and then to be able to take some of that money and return it back in the form of tax relief.

I know for me and my district, people would like to see more money on the space program. I am proud to be able to represent Kennedy Space Center, the home of our space shuttle program. People in my community always talk about when are we going to go back to the Moon? When are we going to go to Mars?

In those early years in the space program, in the 1960's, when we were making that investment, that critical investment in the Apollo program, in the

Mercury, in the Gemini program, entitlement spending was about 7 percent of spending. The debt service was 4 or 5 percent.

Mr. GUTKNECHT. Now it is 16 percent.

Mr. WELDON of Florida. Now it is 16 percent. So it is incredibly important that we balance the budget, that we pay off the debt, that we provide badly needed family tax relief, that we fix the welfare system as we have.

This is about the future. I am told by teachers, there is nothing that motivates kids more to study math and science than to talk about the space program. It just makes their eyes get big, and if we can relate what they are learning in the classroom to applications in our space program, it just gets them so excited.

I do not think there is anything that the American people are more proud of than the tremendous accomplishments of our astronauts and the people who work in our space programs. But yet we as a nation would never be able to do that if we were not able to have the financial resources to do it. The financial resources only come from managing our resources properly.

This is just simple stewardship. It is the same stewardship that families use back home.

The gentleman was talking about the farmer. I can tell the gentleman that I have met countless families in my district, some of them ranchers, some of them working in the citrus industry, some of them working in the space program who have said to me, why can Congress not just do things the way we do things around the kitchen table? We realize we cannot do everything every month, so we set some priorities. And that is what this budget proposal, a lot of it is about, and what the Republicans in the 104th Congress and the 105th Congress have been about.

Let me just say it has been a real pleasure to join with the gentleman in this colloquy tonight. I would say to the gentleman that he has been a stalwart activist in getting the job done and delivering on the promises we made to the American people in terms of balancing the budget, preserving Medicare, providing badly needed family tax relief, and finally, fixing welfare.

It has been a pleasure for me to be able to work with the gentleman and the leadership that the gentleman has provided in all of these areas and to join with the gentleman tonight in talking about this. Because this is about the future.

Mr. GUTKNECHT. Mr. Speaker, I thank the gentleman.

In closing I would just like to thank the gentleman from Florida [Mr. WELDON] for joining me tonight, but I also want to say that this is an important first step. This is not the end of the road, this is an important step. But it is about restoring accountability to Government, it is about encouraging more personal responsibility, and it is about sending more of the authority back to communities, neighborhoods, and to families.

For 40 years, Washington had it wrong. For 40 years they thought Washington knew best and for 40 years, both the bureaucracy and the debt ballooned.

Well, now that is changing. Families are winning, and with their help, we will keep winning this fight.

NEW EPA STANDARDS WILL HALT PROGRESS IN AIR POLLUTION REDUCTION

The SPEAKER pro tempore (Mr. PAPPAS). Under the Speaker's announced policy of January 7, 1997, the gentleman from Pennsylvania [Mr. KLINK] is recognized for 60 minutes.

Mr. KLINK. Mr. Speaker, we come to the floor tonight with a heavy heart because we were hoping that as Democrats and as Republicans, we would be able to talk to the administration and have them reach a commonsense conclusion as it pertained to the progress that we have made in this country in abating air pollution; in the way we have accommodated the growth of industry in this Nation. While making the air cleaner, we have been making progress.

The Clean Air Act itself is a tremendous success. We continue to clean the air, and no one predicts during the coming years that under the current standards for particulate matter and for ozone that we would continue to clean the air. But today, the President of the United States has recommended a tightening of those standards.

In essence, it is changing the finish line as we are about to complete the race. It is saying to the Governors across this Nation and saying to mayors of cities and villages across this Nation and other political local leaders that we in the Federal Government think that we want to change the rules. It is a bad decision, it is a bad decision for the health of this Nation, because what will happen is State implementation plans aimed at cleaning the air are going to come to a grinding halt. They will have to be changed.

Things that are being done by industry, things that are being done across this country that are working, that are cleaning the air, will have to be changed. We know that an additional 400 counties across this Nation will be thrown into noncompliance, and when that happens, there will not be an industrial development in those areas.

Now, the White House has said that well, you will have to work with us. With a wink and a nod, they are saying we are not really going to enforce these new standards right away.

Well, to the administration I would say you cannot have it both ways. You cannot say that we have to live by the letter of the law and we have to tighten these standards, we have to move forward, and that is the excuse they are giving us, and then say, but we are really not going to enforce these regulations.

In an area like my region in southwestern Pennsylvania where we have lost a tremendous number of jobs over several decades, we are beginning to come back. But that progress that we have made and the progress that we think we are going to make over the coming decade will be stymied if the decision that the President has made today is carried forward and the EPA changes these regulations.

We have had hearings in this Congress; we have had hearings in the House of Representatives; we have had hearings in the Senate, various committees, and the science is not there. They want to go to a new standard, Mr. Speaker, which is called PM2.5.

Now, that is a scientific term, and I apologize this late at night for using such a term, but what it amounts to is going from one size of particulate matter, whether that is soot coming out of a smokestack or whether it is dust blowing off of a field somewhere in agricultural country, or whether it is coming off of an automobile. This is particulate matter, something that is thrown off by industry, or it is thrown off by nature. They are going to change the size of the particle that they measure. They are going to go from what they call 10 microns to 2.5 microns, about one-fourth the size.

The only problem is, in this Nation we only have about 50 monitors that measure this, not enough to have accurate data. Until we build those monitors, until we analyze the data from those monitors, another 5 years will pass, and at the end of that time, by law, by the Clean Air Act itself, we would have to change these standards again.

There is a simpler way to do this: Allow the progress that the States have made to move forward, Mr. President. To you and to Carol Browner I would say, allow us to continue to clean the air. Mr. President, your actions now in fact take State and local officials who have been making progress off the hook, areas like Washington, DC, that have to be in compliance for ozone by the year 1999, so that we save those children that are on the playground that may be asthmatic.

☐ 2300

By 1999 we will hit the new standard. Not anymore. If the President gets his way with the new standards, if Carol Browner at EPA carries out these new standards, if we in Congress do not stop them, then we will give that 9- or 10-year-old on the playground in Washington, DC, not until 1999 to have cleaner air but until the year 2009, so that child will be away in college somewhere. We are postponing the tough decisions. We are allowing the air to remain dirtier in the shorter term, and we do not know if the science we are pushing forward is accurate science.

I have spoken about this several times over the last 2 weeks because this is important. It reflects whether or not we are going to continue an industrial expansion in the Northeast and in the Midwest, and whether or not we are going to be able to carry out our defense flights in certain areas where in fact the airplanes, whether the commercial and military airplanes, are able to fly or not at certain times of day, depending on what the pollution readings are for particulate matter or for ozone.

It does not deal with the idea of transport, that pollution travels from one State to the other carried by the wind. Indeed, our State of Pennsylvania is impacted tremendously by the pollution that is carried in from the States to our immediate west. And we, Mr. Speaker, in addition to that, have that air passing through Pennsylvania, it comes to the State of New Jersey, it comes to the State of Delaware, and others.

Nothing that the President has proposed today, nothing that Carol Browner has proposed prior to this, really deals with the transport issue. This is not something that is based on good common sense, it is not based on good science, because we do not have the monitors to know the truth.

I will take time now to yield to my colleague, the gentleman from southwestern Pennsylvania Mr. MIKE DOYLE, my colleague who has labored on this issue long and hard, who brings a tremendous amount of knowledge in his role on the Committee on Science, who has analyzed this issue, who sticks up for working men and women, sticks up for businesses, so they are able to expand and create jobs.

Mr. DOYLE. Mr. Speaker, I thank my good friend and colleague, the gentleman from Pennsylvania, RON KLINK, for yielding to me.

Mr. Speaker, I share with the gentleman great disappointment today about learning of the President's decision to endorse the new national ambient air quality standards. Unfortunately, this is a victory for politics over science.

Earlier today the Committee on Science's Subcommittee on Energy and Environment, of which I am a member, released a detailed report of our findings based upon three hearings we have held on the NAQS. Under the leadership of the chairman, the gentleman from California, Mr. KEN CALVERT, and the ranking member, the gentleman from Indiana, Mr. TIM ROEMER, we conducted an exhaustive examination of the scientific bases for the new standards. I believe that the recommendation of the subcommittee's reports are a more responsible and balanced approach than that of the administration.

The plan outlined by EPA and now backed by the President commits us to standards that will be of great economic cost before we know enough to be sure that they will yield any public health benefit. The existing body of scientific knowledge is clearly lacking, especially for particulate matter. Even the EPA agrees with that assessment.

In its 1997 update to its Office of Research and Development's strategic plan, EPA identified PM as one of its six high priority research topics because of, and I quote, "A high degree of uncertainty about the size and the composition of the particles that may be responsible for adverse health effects."

Mr. Speaker, I think we all agree that there is a great need for more research. In fact, in all the testimony I heard from all the experts in front of the Committee on Science, the only thing they all agreed upon was that we need more research. The Committee on Science has already addressed this issue by authorizing $50 million more for PM research. This would lead Members to wonder, why should we move forward with a regulatory approach before we know if there is a problem that needs to be regulated?

In the Committee on Science's first hearing on the standards, Dr. Joseph Motterley, the new head of the Clean Air Science Advisory Committee, spoke for many when he stated that going ahead with the new standards was necessary in order to ensure that monitoring and additional research is funded.

Is this any way to operate? A new standard should be science-based, not a tool to promote the installation of PM monitors or to fund more research. This is putting the cart before the horse. First you do adequate monitoring and research, then you draw conclusions, not the other way around.

Mr. Speaker, as we continue with this special order, I will get into greater detail about what the Committee on Science found.

Mr. KLINK. Mr. Speaker, I thank my colleague and my neighbor in Pennsylvania, Mr. MIKE DOYLE, for coming forward with me tonight. I know that it takes a tremendous amount of dedication to stay this late in the day, when we really finished nearly 5 hours ago with our votes. I really appreciate the fact that the gentleman has dedicated so much effort to this issue.

I want to say to my colleagues, Mr. Speaker, that we are not standing idly by. We are not waiting and just reacting and hanging our heads, although the President now has agreed with Carol Browner, as though we are defeated. We are not defeated. We are going to move forward in a bipartisan fashion. We will develop a game plan.

We have a bill, H.R. 1984, which says and would prohibit EPA from changing these standards for 5 years. The Republicans and the Democrats are standing together on this issue, saying what we will do is exactly what Mr. DOYLE suggested. We are willing to spend $75 million a year to build the monitors, to do the monitoring, collect the data, make sure the science is good, make sure that what we are doing is not a rush to judgment, make sure that there is a health benefit.

So in this era when Congress has been beat upon for being so partisan, on this issue it is common sense, so we can actually see good science used in an effective way to make sure that we are moving forward, keeping the air clean at the same time that we are promoting the growth of our industries and jobs for people in America.

We have said, as Republicans and Democrats, let us make sure we are doing this right. Even Carol Browner, the administrator of EPA, and others in the administration agree with us when we say that, regardless of what you do, the air will be cleaner 5 years from now than it is today. So if we are making progress, why stop that progress?

What the President has done today, Mr. Speaker, first of all is stick a finger in the eye of all of us on the Democratic side, in particular, who have written to him, who have called the administration over the many past months and said, Mr. President, sit down with us. You want to have a dialogue on race relations, you want to have a dialogue about this problem, you want to have a dialogue about that problem. We want to have a dialogue with you about clean air. It is important.

We do not want asthmatic kids to get sick and die. We do not want the elderly to be forced inside their houses different days of the year because of the weather and the air conditions. We come from Pittsburgh, Pennsylvania, where we know a little bit about dirty air.

We know what happened in Donora, Pennsylvania, decades ago when people were dropping dead in the street. In my previous life as a news reporter I interviewed the doctor who was down there running around as people were actually falling dead in the streets of Donora, Pennsylvania.

We have cleaned the air. We have moved forward. The Clean Air Act is working. As we said to the President, you called upon us when you wanted to pass your budget. You called upon us when you wanted to talk about other things that were important to your administration. This is life and death to the economy of our region. Before you make a decision, have your people or you sit down with us and let us have a dialogue.

Not only did we not have that dialogue before the President made his announcement today, he did not even acknowledge our letter. What does that say to the 600,000 people that live in each one of the 40 districts of the Members of Congress from his own party who said to the President, sit down with us. Parley with us, talk to us about the impact that this decision on changing the ambient air quality standards would have on our region, on our businesses, on the children and the elderly in our districts, on the health care facilities in our districts, which, unfortunately, more and more are becoming the largest industries, because we do not make anything anymore. Now you are going to chase away the economic expansion that is out there.

Mr. Speaker, the Conference of Mayors said in an overwhelming fashion yesterday to the President, Mr. President, you are going the wrong way. If you pursue this line of changing the air quality standards now, it is the wrong thing to do. Do not do it. The President has ignored them.

Governors across this Nation, and the President likes to remind us that he was a Governor, Governors across this Nation have said to the President, it is the wrong thing to do. He has ignored them. State legislators across this region, other elected officials, union officials, have said, Mr. President, it is the wrong thing to do. He has ignored them, deciding only to listen to one person and that is Carol Browner, the administrator at EPA.

Mr. Speaker, it is a mistake. It is an absolute mistake. The President has received bad advice. He has not sat down to talk to those of us, to even say later on to the gentlemen from Pennsylvania, Mr. KLINK and Mr. DOYLE, to the gentleman from Michigan [Mr. DINGELL], I think you are wrong.

At least have the discussion. Do us the honor for the people that we represent, people who you asked to vote for you, Mr. President, to sit down and have this conversation with us, have a dialogue with us. But you cannot do that. In fact, we found out from the news media today that you made your announcement. Is this the way we work together? Is this the politics of inclusion? What will be the impact on the businesses that are growing in our region?

Mr. DOYLE commented a few moments ago about Jim Motterley, the current head of CASAC, who also said, I will paraphrase, I do not have his exact words in front of me, that perhaps the money we would be spending to set new standards would be better spent to bring areas that are currently not in attainment into attainment.

We have counties across this Nation, regions across this Nation, that are out of the current attainment standards, but they are making progress. They are implementing standards to get there. This takes them off the hook. They no longer have to do that, because we have now said that the standard you have been striving to reach that you are still not in attainment with is not there anymore. We have created a new standard, so the air can be dirtier for a longer period of time.

Mr. Speaker, my colleagues understand that. We need Members of Congress to rally around, Democrats and Republicans in the House, in the Senate, to come onto our bill, H.R. 1984, so we can say to EPA that it is the will of Congress that we not change these standards while they are working, while we are cleaning up the air, while we are creating a healthier atmosphere in this Nation. Instead, let us do the right thing. Let us build those monitors for PM2.5. Let us deploy them. Let us collect the data, and 5 years down the road let us make a decision based on sound science.

Mr. Speaker, I yield to the gentleman from Pennsylvania [Mr. DOYLE].

Mr. DOYLE. Mr. Speaker, I want the gentleman to know all of us in the western Pennsylvania delegation have appreciated the gentleman's leadership on this issue. I was just thinking back when the gentleman was talking. I grew up in Swissvale, Pennsylvania. I have spent all 44 years of my life in the community of Swissvale. My father was a steel worker and worked on an Edgar Thompson steel mill in Braddock. He spent all of his life in that same town, as did my mother.

When our grandparents came over from Ireland and Italy, that is the town we settled in. That is not unlike many families in western Pennsylvania, who have spent a lifetime in this community. We remember what the air was like. We remember the days when there were orange specks on the car when we would come out in the morning, because the mills had let out, before there were stricter air controls. Nobody wants to return to those days. I know the gentleman has two children, I have been blessed with four. We care about our children. We want them to breathe clean air.

I get a little bit disturbed when the people who have been trying to frame this debate and those of us who have been questioning the science of these new clean air standards somehow do not want clean air for the community. The fact of the matter is the air in Pittsburgh is as clean as it has ever been.

In fact, in the past 5 years a study has shown that the air in Pittsburgh, just in the past 5 years, is 64 percent cleaner since when the old standards were implemented in 1990. We have already made tremendous progress. I think it is interesting to note, and a lot of people may not have realized, the American Lung Association of Western Pennsylvania has taken a position contrary to the national American Lung Association.

Mr. KLINK. Mr. Speaker, it is my understanding, and correct me if I am wrong, Mr. DOYLE, but it is my understanding that in 1996 and thus far in 1997 our Pittsburgh region has not been out of attainment.

Mr. DOYLE. Not a single exceedance in those 2 years, and only an average of four exceedances a year during the years 1991 to 1995, representing a 64 percent improvement in our air quality.

I think it is interesting. This is a letter from the American Lung Association of Western Pennsylvania. In the letter they start by saying, "We would like to thank you for the support of the work of our organization, and we want to share with you our grave concerns over the position on particulate matter taken by the American Lung Association.

"In its broad brush extremist overview of what it deems to be a widespread problem, the national American Lung Association is ignoring our stunning progress in cleaning up our local environment, and the overwhelmingly good to moderate air quality we enjoy, as well as the potentially devastating effect that this legislation could have on our region's economy."

This is from the American Lung Association of Western Pennsylvania.

☐ 2315

Mr. KLINK. Reclaiming my time, they realize the progress that has been made in southwestern Pennsylvania, they understand the good things that have been done with the air. And the gentleman brings up a fine point. This whole issue came to light when the National American Lung Association brought suit against the EPA, saying that back in 1987 when they went from total suspended particles to PM10, 10-micron size particles, since then, every 5 years they are supposed to revisit the issue.

They have not done that. So it is time to revisit. It does not say they have to delay. It does not say they have to make it more stringent. It simply says they have to deal with PM, or as we say, soot or dust in the air.

So here comes CASAC and they give the recommendation that we go from a 10 micron down to 2.5, but there are a lot of other things that they do not make recommendations about. We do not know, again, because we do not have the monitors, how bad the situation is.

So where did this ozone thing come from? Legally, and the gentleman I know would agree, we do not have to deal with ozone right now, particularly at a time when the transport issue of ozone from one State to another is just being dealt with by the transport group that has been studying it.

Mr. DOYLE. I think it is important for the public to understand these issues like transport zones. When we think of Pennsylvania and what has been happening, particularly in our region, as we lost jobs and factories in western Pennsylvania to States like Ohio and States west of us, yet western Pennsylvania is literally the victim of pollution that is blowing from the west over to the east.

If we cleaned up each source of pollution, every source of pollution in western Pennsylvania that was being caused in western Pennsylvania, we would still be out of attainment because of the pollution that blows across our borders from western States.

Mr. KLINK. Reclaiming my time, under the new standards. Under the old standards, we are fine. But under the new standards, the gentleman is right.

Mr. DOYLE. What is our State supposed to do? We said jokingly, maybe we need to set these giant fans up along the border and blow it back to Ohio. But the sad result of the situation is our young people are leaving western Pennsylvania because there is no opportunity there. And part of the reason there is no opportunity there is the factories are not locating in an area that is nonattainment because of the cost of compliance, and we are losing them to States like Ohio, who are sending their pollution over to western Pennsylvania.

I just want to take a second to read the summary. We just had this report released this afternoon. This is the report from the House Committee on Science, of which I am a member, and I want to read the summary because I think it is important for people to understand this:

"We have had regulations on large particulate matter, which is known as total suspended particles, that have been in place since 1971. Particles of 10 microns or less, PM10, have been regulated since 1987."

Now to give my colleagues an idea of what we are talking about here, a human hair is 75 microns. So we are talking about PM10, 10 microns, versus 75 microns, the size of a human hair.

And this issue is a very narrow one, "whether there is sufficient scientific evidence to impose an exact standard for particles below 2.5 microns at this time. Although much of the research EPA has compiled is suggestive, there are too many uncertainties in the data and the interpretation of that data to form an adequate basis for moving ahead with a strict PM2.5 standard at this time. The weaknesses of the epidemiological evidence discussed above are of particular concern. Our subcommittee has received testimony that, except for PM, EPA has never set a standard for criteria air pollution without clinical, animal, toxicological, and other studies supporting the epidemiological results. Yet studies such as this that do exist are inconsistent, and do not resolve but rather add to the uncertainties about the effects of PM2.5. Moreover, this committee has received testimony on many of the basic questions that still need to be addressed before we have a clear understanding of the impacts of PM2.5."

Chairman SENSENBRENNER I think said it right: "The citizens of this country have a right to expect that the new air quality standards be science-based. However, in this case, EPA has put the regulatory cart before the scientific horse."

Mr. KLINK. Reclaiming my time, the gentleman again makes good sense. To boil all of that down, the gentleman is right, when we talk about the width of a human hair being 75 microns and we have been measuring PM10, or 10 microns, that is about one-seventh the width of a human hair.

Now they are talking about going to one-fourth of one-seventh the size of a human hair. That tells us how crazy this is. They are talking about size alone. There are different kinds of particulate matter floating around. Some of it, as I said, is found in nature. We heard testimony in the Committee on Commerce, where they said if you live in an area like New Mexico where you have high alkaline soil that is blowing in the wind, you could have problems.

What about if some of these particulate matters that are being ingested into the lungs are more toxic than others? This is not addressed at all in these new ambient air quality standards suggested by Ms. Browner at EPA and now endorsed by the President.

What about a blend of different kinds of PM2.5? Does that cause more of a toxicological problem? We do not know because, as my distinguished colleague just pointed out, we do not have the studies. We do not have enough epidemiological studies, toxicological studies. All kinds of studies need to be done, and we do not have that data yet.

We also find ourselves in another particularly bad position. I do not like the fact that we are here on the floor tonight, I say to the gentleman from Pennsylvania [Mr. DOYLE], and Mr. Speaker, having this public disagreement with our own President.

I stood up in 1993 and gave this President a very, very difficult vote when he had a budget that he said the future of his presidency depended on, and I still bear the scars politically of that very tough vote. It was the right thing to do, because since 1993 the stock market has more than doubled, unemployment has gone down, we created employment, the deficit has plunged; and we, the Democrats that took that hard vote, need to have that credit, and the President needs to have the credit for putting that plan together.

So I have stood with this President when it was unpopular to stand with him. At other times when we disagreed, we have just agreed to disagree. One of those issues was on trade, it was on NAFTA, with a starkly different opinion of what this country's trade policy should be.

But I fear that what has been set up with a double whammy of the passage of NAFTA and now these proposed ambient air quality standards being tightened is the companies in our districts or that are looking at coming to our districts will say, "Congressman DOYLE, Congressman KLINK," and in fact some them have already said this to us, this is not something we are pulling out of a hat, it has happened, "we would be crazy to expand a plant or build a new plant in southwestern Pennsylvania when we could go to Mexico or to Canada, bring other products in because of NAFTA, with no tariff, and we do not have to play by the same environmental rules. We do not have to install the same scrubbers. We do not have to have the expensive pollution equipment." And so we find ourselves the victims of a double whammy.

How can the economy of this Nation continue to grow? That is the problem that the workers or potential workers, the kids that are in school, that are looking for jobs in our region, are going to have. We will not have the growth of jobs. They get caught in this double witching thing that is going on.

The fact of the matter is that when these new regulations go into effect, and with the ozone issue, the day that this happens, 400 counties across this Nation go out of attainment. In those counties, no one is going to come in if they are already out of attainment in the new standard and say, "I am going to build a factory. I am going to expand a factory here. I am going to create employment."

They are not going to build there. It is that simple. First of all, they may not be able to build because that day the local government probably cannot issue them a building permit. That happens immediately.

Now the EPA will say, "Wait a minute, Congressman KLINK, we do not say that you cannot have a building permit." Well, of course not. The EPA does not issue building permits. But they force the government leaders to make that kind of a decision. They force the kind of decision where the local government leaders might say, "You have to go to reformulating gasoline. You have to go to no further building construction in this region. You have to go to certain days that you are carpooling," or whatever it is that they have to do to reach at that attainment figure. The local government leaders are the ones that are stuck at the bottom.

It is this administration now and the EPA that is forcing the local leaders to make those decisions. That is why the Conference of Mayors says, "No, Mr. President do not do this." That is why the governors and the State legislators are saying to the Federal Government, "Do not force this upon us. The current system is working. You are going to put us into a situation where we cannot win, where we cannot expand the wealth of this Nation, where we cannot create new opportunities."

Mr. DOYLE. My colleague is so much on the point. It is not only new jobs, it is existing jobs too. I think right in the Monongahela Valley, the Clairton Coke Works. When we talk about the proud heritage that Pittsburgh had in the steel industry, as we all know, anyone that has lived in western Pennsylvania, we understand what has happened in the steel industry when the downsizing took place, when many hard-working western Pennsylvanians found themselves without work because of the collapse of the steel industry.

But we still have some plants up and operating. Edgar Thompson Steel Mill in Braddock, the steel mill that dad worked at; and the Clairton Coke Works, supplying coke all over the country, it is in production and it is at peak capacity.

Right now, if these new standards are implemented, a place like the Clairton Coke Works are going to be shut down. We have got five communities around Clairton, Glassport, Liberty, Lincoln borough, towns like that, where the major importer of those five communities is Clairton Coke Works.

And that is a situation where U.S. Steel is going to have to make a financial decision that they can no longer operate that plant because the cost of complying with these new regulations would exceed the profit margin. It just would not become economically feasible to do that any longer.

Mr. KLINK. The gentleman is on a very good point. I do not know how much USX has invested in Clairton. I have been by the Coke Works many times, dozens, hundreds of times probably. But I know that they have spent tens of millions of dollars modernizing and cleaning the air of that facility.

I have got small specialty steel companies and small chemical manufacturers in my district that have spent anywhere from $40 million since 1990, since the Clean Air Act amendments, to 160, 170 million per plant to clean the air. So the gentleman is right, that is what the President and EPA are doing right now. They are saying, "After you spent these tens of millions of dollars or hundreds of millions of dollars cleaning the air, it is working, forget about it. Now we are changing the rules. We are changing the standards." And do we have the science? No. Have we done the toxicological studies? No. Have we done all the other studies? Do we know what we are really doing? No.

I would say to the gentleman from Pennsylvania [Mr. DOYLE], we in Pennsylvania, as I mentioned on the floor before, we went through it with EPA where they were forcing us to go to centralized emission testing for the cars. And the Federal Government EPA cost the State of Pennsylvania a $145 million court settlement that came out of the pockets of the taxpayers of Pennsylvania and did not clean up one speck of air.

Mr. DOYLE. The gentleman is right. And when we talk about the President and EPA saying, "Work with us, you have got 10 years to make this compliance," what type of investments do you think U.S. Steel is going to make in the Clairton Coke Works knowing that this clock is ticking right now?

Let us talk about another subject that is very near and dear to both of us and to the very survival of the Monongahela Valley, and that is the Mon-Fayette Expressway. What is going to happen to projects like the Mon-Fayette Expressway when construction projects of that magnitude are going to have to be put on hold, too, because of these new standards?

I think it is an insult to the intelligence of the people in western Pennsylvania to believe, and as my colleague said it before, that we will put these new standards in because we have to follow the letter of the law, but now we are supposed to believe all of a sudden EPA is going to throw the rule book out and they are just going to arbitrarily on the enforcement side of things say, "Do not get nervous about this. You have got 10 years to do this. We are going to be very flexible with you. We are going to work with you on this."

I have not seen flexibility in the EPA in all the years that I have had to deal with them, and I do not believe for one second there is going to be flexibility once these new regs are implemented. And the losses that we are going to see will be not only to existing industries, but the fact that we are not going to see new industries make investments in this region and we are not going to see existing industries do any upgrading when we know what has happened.

□ 2330

We have a 400-county blacklist that is going to take place when these new standards are implemented. There are literally going to be 400 counties whose names are going to be "don't do business here, don't put a new factory here, don't make any upgrades or investment in your existing plant here, because pretty soon the bar is going to go from here up to here and it is going to cost you a fortune to comply with that."

What are we asking the President and EPA to do? Are we asking them to stop all efforts to clean the air? That is not what we are asking at all. There are plans in place as we speak. There is a SIP in place, a State Implementation Plan as we speak in western Pennsylvania, in the State of Pennsylvania, making the air cleaner in western Pennsylvania every day that we are here.

What were the recommendations which we made to the President? We said, postpone the standards. EPA should postpone the new standard until there is sufficient scientific data collected and analyzed. That is the first thing we asked. Secondly, we said further research is necessary, and we will give you the money to do the research. On the Committee on Science we authorized an additional $50 million. In the bill of the gentleman from Pennsylvania [Mr. KLINK], we are going to authorize an additional $75 million a year for 5 years to do research so that we can start to collect 2.5 and analyze it. We are doing that in this bill. We said we need a monitoring system to fund it and deploy it. The gentleman addressed that in his bill. Then we say EPA should make these data sets available. There are data sets that were in the Pope study, the Harvard six-city study that have yet to be released for independent review and analysis.

Here we are asking the EPA, asking President Clinton, the administration, not to stop cleaning the air, not to roll back any regulations that are in place. This is not going back to the old days. We are simply saying to them, let us continue to clean the air in western Pennsylvania and across the United States and while we are doing that, let us do some more research. Let us collect the data. Let us be certain that the hundreds of millions of dollars that are going to be spent on these new regulations are at least addressing a problem that is real and that when we get that new science and research, that once we have identified the cause of the problem, they do not know what it is about the particle.

The studies on 2.5 and 10 in one study both showed the same health effect. A lot of people were suggesting maybe it is not the size of the particle that is the culprit. Maybe it is not 2.5 we should be regulating. It may be something else within the particulate matter. All we are asking for is some more research, more science, more common sense as we continue to make the air cleaner in western Pennsylvania and across the country. I do not think that is a radical position. I think that is the common sense position that we have taken with this administration.

Mr. KLINK. Reclaiming my time from the gentleman, the gentleman makes a good point. Let me just switch it back over to ozone, which of course as we said was not addressed in the lawsuit, is not something that needs to be addressed right now. And what the administration and what Ms. Browner in fact has said is we are going to go from .12 parts per million over a 1-hour period to .08 parts per million over an 8-hour period. The people at CASAC said that you go .07, .08, .09. These sound like very small differences in numbers, but it is in fact going from .09 down to .08 that throw those 400 additional counties out of attainment. All of the scientists who came to us, everyone, said there is no bright line where the public health greatly improves from one level to another. So why are we throwing 400 counties out of attainment and not having a bright line that benefits people?

Mr. DOYLE. If the gentleman will yield on that, I think it is important for the public to understand, we use terms like CASAC and bright line, CASAC meaning the Clean Air Scientific Advisory Committee, but let us talk a little bit about this bright line thing too because I think it is important for people to understand. What the scientists were telling us is whether you set that standard where it is now or whether you lower it, there is no measurable difference in the health effect on individuals. They could not see any clear level to say, "Look, if you set it below this particular level, then it will be a great increase in health. This will greatly decrease the adverse health effects." They could not find where the line was on ozone to set where it would make any difference in the health.

The gentleman brings up a good point. Why would we want to shut down industry? Why would we want to displace jobs, put people out of work to set a line that we are not even certain that the line we are setting has any measurable health effect or any benefit?

Mr. KLINK. Following up on what the gentleman said, he mentioned that all of us, and this by the way I will mention just because both of us are from southwestern Pennsylvania, this is not a Pennsylvania issue, this is a New Mexico issue, it is a California issue, it is a Michigan, Ohio, Illinois, Indiana, Iowa, New York, all the States across this Nation will be impacted. We just both happen to be here at this late hour, both of us coming from southwestern Pennsylvania. Our region is not the only one that is going to be impacted. Our whole Nation is going to be impacted. The health of our whole Nation is going to be impacted by this decision. Indeed, the adverse effect to the wealth and the growth of industry of our Nation is going to be adversely impacted. This is not just a Pennsylvania issue.

But as the gentleman mentioned earlier, we grew up in southwestern Pennsylvania when people used to go out and brush the dust off their lawn, when there were certain days, and we kind of laugh about it now, but you would hang your laundry out, then you would kind of shake the dust off the laundry at the end of the day because of course the particulate matter would come floating down over your laundry as it hung outside. The air was dirty. People got sick. But as we have cleaned the air in southwestern Pennsylvania and other places across this Nation, in fact, they had the same experience in London back in the 1950s, the incidence of asthma has increased. Why is that? We do not know. There are many areas of speculation. But the point in fact is we do not know why in some instances when the air gets cleaner, asthma increases. Are there other factors?

Many people believe that outside air quality has very little to do with asthma, that it is an inside air problem. Some people recently have suggested this could have to do, and particularly in areas where there is poverty, where people are living in squalor, that there could be a protein or enzyme thrown off the waste products of cockroaches and other insects that are in homes. Is that part of the problem? We do not know. But if my colleagues would support me with H.R. 1984, we would have 5 years to do the study, we would have 5 years to continue on the track that we are on now to continually clean up the air, to improve the health of this Nation, to know where industry is going, while we spent $375 million doing this thing right, building the monitors, collecting the data, making sure that we are headed in the right direction for the health benefits of everyone.

I gave up a very good job to come to Congress. I am here because it is a wonderful honor to serve this Nation. I want to make the life of the people in my region and of this Nation better. That is why I am here. I also came here as I know the gentleman from Pennsylvania [Mr. DOYLE] did because we want to improve the economy of southwestern Pennsylvania, an area where 155,000 manufacturing jobs have been lost over a two-decade period, because we are selfish in a way. We want our children, his 4 children and my 2, to be able to grow up in southwestern Pennsylvania. I will be darned if I want them breathing air that I think is going to kill them or eventually kill or injure my grandchildren. This is not some excuse for industry. This is about what we feel is good science, what we feel is a prudent way of going about making decisions that impact the health and the wealth and productivity of this Nation.

Mr. DOYLE. That is really what it is all about. It is about the future and it is about our kids. The politically expedient thing to do would be to just go along with this. Both the gentleman from Pennsylvania [Mr. KLINK] and myself have been taken to task by the local Pittsburgh newspaper, by environmental groups that somehow we do not want the air to be as clean as they do. We know this is nonsense. This is not only about clean air for our kids, it is about a future for our kids in western Pennsylvania. That is what I think it is all about. The gentleman brought up a good point. I was reading an article just a couple of days ago that was suggesting that maybe one of the key contributing problems to these respiratory illnesses and asthma may not be so much the outside air but these hermetically-sealed office buildings that so many people are living in and as we have these new energy-efficient windows and people have got the air conditioning on and they have got all the windows shut and the air is not getting circulated through the house, that it may well be what we are breathing indoors can be much more damaging to us than what we are breathing outdoors, and people spend about 75 percent of their time indoors instead of outdoors. Particularly the reason a bill like H.R. 1984 makes so much sense. What we are saying is we need to find out about these things, we need to learn what is it that is causing these problems.

Mr. KLINK. Is there anything that the gentleman has read in the standards proposed by Administrator Browner and now endorsed by the President which would address this sick building syndrome that the gentleman has described?

Mr. DOYLE. I see nothing in the standards that would address it. This is a prime example of why more research is necessary. What we see in today's standards is not going to do anything. Administrator Browner when we had her before the committee, too, never wanted to discuss economic impacts, because she said, "I've got to make this decision based solely on a health decision and not on economic benefits."

I am sorry, but I have to look at the economic impacts to this legislation because we have got real people out there living in western Pennsylvania and all across this country that are going to suffer severe impacts as a result of these standards. I want to just read a study that has come out. There is some ongoing research by environmental economists such as Dr. Vernon Henderson, Brown University; Fred Reuter from Consat Research Corporation and the EPA's own draft regulatory impact analysis for PM. And the following economic impacts could well result from the proposed NAAQs which have just been okayed today by President Clinton. What are some of these consequences? Increased business operating costs, job losses, reductions in worker compensation, decreases in industrial output, and increased expenditures on road cleaning and air quality monitoring by local governments. They go on to say the areas experiencing these effects will be those that do not and in many cases literally cannot comply with the proposed PM–2.5 standard. Several hundred counties and as many as nearly 90 metropolitan areas will be in nonattainment when the full implementation period begins. As local, regional and controls yet to be developed are applied, these numbers will ultimately be substantially reduced, though 30 to 40 areas are likely to remain in nonattainment for many, many years and consequently much economic pain and damage will result lasting many, many years.

They say initially 20 to 25 percent of the entire U.S. population and labor force will reside in these nonattainment areas. Approximately 4 percent of the jobs in these areas will be lost if the proposed NAAQ's for PM-2.5 are adopted. These job losses will occur in nearly every sector of the economy and will be most substantial in the service industries. Workers who continue to be employed in these sectors in nonattainment areas will likely experience stress and uncertainty regarding their futures and their compensation. Small businesses will be disproportionately impacted and the capital cost in current dollars will exceed $100 billion. Those are real numbers affecting real people, not only in western Pennsylvania but across this whole United States.

Mr. KLINK. The gentleman is right and I am glad the direction that he is going with that. Because as he mentioned, Administrator Browner kept saying she has to base this not on economics but strictly on what is best for the health of the people. There are a lot of different things that create good or bad health conditions. When industry was crashing down around our ears in the Northeast and in the Midwestern United States people suffered a loss of jobs, a loss of health care benefits, there was increased domestic violence, higher crime rates in our community, higher suicide rates as people's lives fell apart, the social fabric of our community fell apart. If you do not have money in your pocket because you did not have a job and you did not have health care benefits, then your wife if she were pregnant could not go see a doctor for prenatal examination, your young children could not go see a doctor. Many times other people who were dependent on you, you yourself did not get to see a doctor. What was the adverse health impact? That will be seen again if we have the kind of loss of job production that we think we are going to see from this and all evidence we are going to have from this. But beyond that, the administrator says the air will still get cleaner. The Clean Air Act is working. People's health will continue to improve. So you cannot have it both ways.

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And that is exactly what they are attempting to do with this issue, and it is why, and I understand that our colleagues, many of them, have come up and thanked us for our leadership on this; many of them are signing on to H.R. 1984, particularly today. I got even calls today from Republicans and Democrats in the other body who are now interested in our efforts and want to coordinate their efforts with us.

We have been busy on both sides of the aisle dealing with reconciliation, trying to make this balanced budget program work for our constituents, and so many Members of the House and the other body have been focusing in on other issues. We have flagged this issue because it is so important, so vitally important to our region.

But I think that what the President did for us today, as he took what I think was not a very good step in a very poor direction by recommending these new ambient air quality standards, I think he has woken up. He has awakened the giant within this institution, and now I think that our Members on both sides of the aisle are going to focus on this, and we are going to move forward.

We have a couple of different legislative directions that we can go. We are thinking about them, but we are going to sit down with friends on both sides of the aisle, and we are going to try to figure out to protect both the health and wealth of this Nation.

Mr. DOYLE. I think it is so important that we get people on H.R. 1984, and I think it is important, too. What I fear is that because it is going to be a number of years before we start to see some of these effects because there is going to be a period of installing monitors and collecting data and things like this that, we are not going to see this immediate impact. I mean I think we are going to see businesses saying, well, if they were thinking to come to western Pennsylvania, that is going to be out, and we are not going to see investments in existing plans.

But I fear the public is going to be lulled into some complacency because they do not realize what we are talking about 10 years down the road. It is not going to immediately hit them, and when it does they are going to say what happened to us and where was everybody when this was taking place?

This is not a partisan issue. Here we both stand, Democrats, talking about our own administration, our own President, our own EPA administrator, and at some political risk saying we have got to come together, Democrats and Republicans from all regions of the country, and we are seeing cosponsors now on this bill from all regions of the country and from both parties.

This is not a partisan issue.

Mr. KLINK. On that point I want to repeat again, and I do not think I can say it enough, there is no pride with which we come here and talk about the fact that our President, the party, the President of our party, has made what we think is the wrong decision because he was given bad advice and he heeded that bad advice. We do not like to do that.

There is a political risk that is involved with that. This is not something— we tried as Members; I called the White House, I talked to the legislative liaison people at the White House time and time again, firing shots across their bow, letting them know that from a western Pennsylvania perspective, from a Midwest perspective, from a northeastern United States perspective that we have no choice but to go to war on this issue and begging this administration to sit down with us and talk to us, have a dialogue with us; do not force us to come to this point.

This is a battle which was thrust upon us, a battle which we must fight for our constituents, for the working blue collar men and women, for the small businesses, for the local elect officials, for the Governors, for the people who would have to implement these new standards at great risk and no certainty that we are headed down the right road. In fact the evidence is against it.

We cannot tell you how much it is that we are distressed by having to come to the floor over the last couple of weeks and being here again tonight to in fact have a family struggle within our own party in a very public way. This is not the fight that we desire. We hoped that we could sit down as statesmen, as men and women talking with the White House, talking with our friends on the other side of the aisle and coming to some kind of a conclusion as to what was best for this country.

All of our requests, including written letters to the President, have gone unanswered, and so it is that we have been forced to come to the floor of the House, Mr. Speaker, to seek the redress here in this institution where the people of our districts have elected us to come here to protect their interests, and it is to protect that interest that we rise tonight to make a plea to you, Mr. Speaker, and to other Members of this great Chamber to join us to make sure that this country is acting based on good science, that we are acting based on what is indeed the best interests of the working people and the businesses of this Nation.

I yield to the gentleman to close.

Mr. DOYLE. I would just close by saying that in 1994, when I came to this Congress, I promised the people of western Pennsylvania, who I am so privileged to represent, that I would put their interests ahead of the interests of my party and my President, and I also say to my wife Susan and my 4 kids, if they are watching this tonight, Michael, David, Kevin, Alexandra, that I am here for you, too, and for other families in western Pennsylvania.

This is important. This is about our future. This is why we stand here tonight opposing our President and our party on a decision that is going to be so wrong for the future of our country.

I would urge Members in both parties, Republicans and Democrats, to join the gentleman from Pennsylvania [Mr. KLINK] and I myself in sponsoring H.R. 1984. Together let us turn these rules back, let us give our children a future in this country.

Mr. KLINK. Let me also just say in reclaiming my time that I think we need to give credit to two of our friends who are original cosponsors of H.R. 1994, the gentleman from Michigan, Mr. Fred Upton, Republican, and the gentleman from Virginia, Mr. Boucher. They could not be here with us tonight, but this is a bipartisan effort. I am pleased to be one of the leads on this, glad to have my colleague from southwestern Pennsylvania and so many on board.

I think that we are very close to getting half of the Democrats in this House on our side on this issue. I think we have a tremendous number of Republicans.

It has to be veto proof. The President has sent us a clear message, whatever we do, whatever the legislative answer is, we have got to make it veto proof.

I think we have got some good numbers up, about 63 Members in the Senate that are hard numbers, so I think that we are headed in the right direction.

Again, we did not want to have to battle it this way; it has been thrust upon us.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. Pappas). The Chair would remind all Members to direct their remarks to the chair and not to the television viewing audience.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. SMITH of New Jersey (at the request of Mr. Armey) until 1 p.m. today, on account of medical reasons.

Mr. COX of California (at the request of Mr. Armey) for today, on account of medical reasons.

Mr. YATES (at the request of Mr. Gephardt) for today, on account of personal reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Capps) to revise and extend their remarks and include extraneous material:)

Mr. Bonior, for 5 minutes, today.

Mr. Fazio, for 5 minutes, today.

Mr. Davis of Illinois, for 5 minutes, today.

Mr. Gejdenson, for 5 minutes, today.

Mr. Allen, for 5 minutes, today.

Ms. Waters, for 5 minutes, today.

Ms. Brown of Florida, for 5 minutes, today.

Ms. Jackson-Lee of Texas, for 5 minutes, today.

Mrs. Clayton, for 5 minutes, today.

Mr. Owens, for 5 minutes, today.

Mr. Payne, for 5 minutes, today.

Mrs. Meek of Florida, for 5 minutes, today.

Mr. Snyder, for 5 minutes, today.

Ms. Millender-McDonald, for 5 minutes, today.

Mr. Taylor, for 5 minutes, today.

Mr. Stokes, for 5 minutes, today.

Mr. Olver, for 5 minutes, today.

(The following Members (at the request of Mr. Inglis) to revise and extend their remarks and include extraneous material:)

Mr. Ehrlich, for 5 minutes, today.

Mr. Pappas, for 5 minutes, today.

Mr. Neumann, for 5 minutes, today.

Mr. Jones, for 5 minutes, on June 26.

Mr. Duncan, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. Capps) and to include extraneous matter:)

Mr. Barrett of Wisconsin.

Ms. Lofgren.

Mr. Engel.

Mr. Sherman.

Mr. Vento.

Mr. Blagojevich.

Mr. Poshard.

Mr. Hamilton.

Mr. Ford.

Mr. Ortiz.

Mrs. Kennelly of Connecticut.

Mr. Sanders.

Mr. Frank of Massachusetts.

Mr. Pascrell.

Mr. Skelton.

Mr. Maloney of Connecticut.

Mr. Gordon.

Mrs. Lowey.

Mr. Capps.

Mr. Faleomavaega.

(The following Members (at the request of Mr. Inglis) and to include extraneous matter:)

Mr. Oxley.

Mr. Manzullo.

Mr. Hoekstra.

Mr. Bilirakis.

Mr. Cunningham.

Mr. McDade.

Mr. Saxton.

Mr. Doolittle.

Mr. Frelinghuysen.

(The following Members (at the request of Mr. Klink) and to include extraneous matter:)

Mr. Riley, in two instances.

Mr. Faleomavaega.

Mr. Farr of California.

Mr. Owens.

Mr. Bonior.

Mr. Matsui.

Mr. Deutsch.

Mr. Hastings of Washington.

ENROLLED BILLS SIGNED

Mr. THOMAS, from the Committee on House oversight, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1306. An act to amend Federal law to clarify the applicability of host State laws to any branch in such State of an out-of-State bank, and for other purposes.

H.R. 1902. An act to immunize donations made in the form of charitable gift annuities and charitable remainder trusts from the antitrust laws and State laws similar to the antitrust laws

ADJOURNMENT

Mr. KLINK. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 53 minutes p.m.), the House adjourned until tomorrow, June 26, 1997, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3943. A letter from the Acting General Counsel, Department of Housing and Urban Development, transmitting the Department's final rule—HOME Investment Partnerships Program: Technical Amendments to Final Rule [Docket No. FR-3962-F-04] (RIN: 2501-AC06) received June 23, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

3944. A letter from the Acting General Counsel, Department of Housing and Urban Development, transmitting the Department's final rule—The Secretary of HUD's Regulation of the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac): Book-Entry Procedures [Docket No. FR-4095-F-02] (RIN: 2501-AC35) received June 23, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

3945. A letter from the Acting General Counsel, Department of Housing and Urban Development, transmitting the Department's final rule—Delegation of Insuring Authority to Direct Endorsement Mortgagees; Interim Rule [Docket No. FR-4169-I-01] (RIN: 2502-AC87) received June 23, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

3946. A letter from the Acting General Counsel, Department of Housing and Urban Development, transmitting the Department's final rule—Opportunities for Youth: Youthbuild Program Further Streamlining [Docket No. FR-4226-F-01] (RIN: 2506-AB93) received June 23, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

3947. A letter from the Secretary of Housing and Urban Development, transmitting a draft of proposed legislation to facilitate the effective and efficient management of the homeless assistance programs of the Department of Housing and Urban Development, including the merger of such programs into one performance fund; to the Committee on Banking and Financial Services.

3948. A letter from the Secretary of Health and Human Services, transmitting the Department's annual report on the status and accomplishments of the runaway and homeless youth centers for fiscal year 1995, pursuant to 42 U.S.C. 5715(a); to the Committee on Education and the Workforce.

3949. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Motor Vehicle Content Labeling (National Highway Traffic Safety Administration) [Docket No. 92–64; Notice 11] (RIN: 2127–AG46) received June 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

3950. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Insurer Reporting Requirements; List of Insurers Required to File Reports (National Highway Traffic Safety Administration) [Docket No. 96–130; Notice 03] (RIN: 2127–AG56) received June 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

3951. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Federal-Aid Highway Systems (Federal Highway Administration) [Docket No. FHWA 97–2394] (RIN: 2125–AD74) received June 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3952. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Implementation of the 1995 Amendments to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW) (Coast Guard) [CGD 95–062] (RIN: 2115–AF26) received June 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3953. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Special Local Regulations; Deerfield Beach, Florida (Coast Guard) [CGD07–97–027] (RIN: 2115–AE46) received June 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3954. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Safety Zone; Fort Lauderdale, FL (Coast Guard) [COTP MIAMI 96–054] (RIN: 2115–AA97) received June 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3955. A letter from the Board Members, Railroad Retirement Board, transmitting a draft of proposed legislation to amend the Railroad Retirement Act and the Railroad Unemployment Insurance Act to ease administration of the railroad retirement and railroad unemployment insurance programs; to the Committee on Transportation and Infrastructure.

3956. A letter from the Secretary of Defense, transmitting the Department's annual report on Outreach Regarding Persian Gulf Illnesses; jointly to the Committees on Veterans' Affairs and National Security.

3957. A letter from the United States Trade Representative, transmitting a draft of proposed legislation to approve and implement the OECD Shipbuilding Trade Agreement; jointly to the Committees on Ways and Means and National Security.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HYDE: Committee on the Judiciary. H.R. 1086. A bill to codify without substantive change laws related to transportation and to improve the United States Code; with an amendment (Rept. 105–153). Referred to the House Calendar.

Mr. LINDER: Committee on Rules. House Resolution 176. Resolution providing for consideration of a concurrent resolution providing for adjournment of the House and Senate for the Independence Day district work period (Rept. 105–154). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BISHOP (for himself, Mr. BAESLER, Mr. BONO, Mr. BILBRAY, Mr. CAMP, Mr. CRAMER, Mrs. EMERSON, Mr. JOHN, Mr. PETERSON of Minnesota, Mr. PETERSON of Pennsylvania, Mr. PICKERING, Mr. STEARNS, Mr. SHIMKUS, and Mr. TAYLOR of Mississippi):

H.R. 2034. A bill to amend section 1926 of the Public Health Service Act to encourage States to strengthen their efforts to prevent the sale and distribution of tobacco products to individuals under the age of 18, and for other purposes; to the Committee on Commerce.

By Mr. GILMAN (for himself and Mr. HAMILTON):

H.R. 2035. A bill to authorize the transfer of naval vessels to certain foreign countries; to the Committee on International Relations.

By Mr. SHUSTER (for himself, Mr. DUNCAN, Mr. OBERSTAR, and Mr. LIPINSKI):

H.R. 2036. A bill to amend chapter 443 of title 49, United States Code, to extend the authorization of the aviation insurance program, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. SMITH of Michigan (for himself and Mr. KASICH):

H.R. 2037. A bill to amend the Congressional Budget Act of 1974 and the Balanced Budget and Emergency Deficit Control Act of 1985 to enforce the bipartisan budget agreement; to the Committee on the Budget, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CANADY of Florida (for himself, Mr. JENKINS, and Mr. HILLEARY):

H.R. 2038. A bill to amend the Migrant and Seasonal Agricultural Worker Protection Act to clarify the application of such act; to the Committee on Education and the Workforce.

By Mr. FALEOMAVAEGA:

H.R. 2039. A bill to take into trust for the Cheyenne-Arapaho Tribes of Oklahoma certain land in Oklahoma that was known as the Fort Reno Military Reservation and that was formerly part of the Cheyenne-Arapaho lands, and for other purposes; to the Committee on Resources.

By Mr. STUMP (for himself, Mr. EVANS, Mr. SKELTON, Mr. BACHUS, Mr. EVERETT, Mr. FILNER, Mr. QUINN, Mr. CLYBURN, and Mr. STEARNS):

H.R. 2040. A bill to amend title 38, United States Code, to deny burial in a federally funded cemetery to persons convicted of certain capital crimes; to the Committee on Veterans' Affairs.

By Mr. MATSUI:

H.R. 2041. A bill to suspend temporarily the duty on the production of anticancer drugs; to the Committee on Ways and Means.

H.R. 2042. A bill to suspend temporarily the duty on the production of anticancer drugs; to the Committee on Ways and Means.

H.R. 2043. A bill to suspend temporarily the duty on the production of anticancer drugs; to the Committee on Ways and Means.

H.R. 2044. A bill to suspend temporarily the duty on the production of anticancer drugs; to the Committee on Ways and Means.

H.R. 2045. A bill to suspend temporarily the duty on the production of anticancer drugs; to the Committee on Ways and Means.

H.R. 2046. A bill to suspend temporarily the duty on the production of anticancer drugs; to the Committee on Way and Means.

H.R. 2047. A bill to suspend temporarily the duty on the production of anti-HIV/anti-AIDS drugs; to the Committee on Ways and Means.

H.R. 2048. A bill to suspend temporarily the duty on the production of anti-HIV/anti-AIDS drugs; to the Committee on Ways and Means.

H.R. 2049. A bill to suspend temporarily the duty on the production of anticancer drugs; to the Committee on Ways and Means.

By Mr. FILNER (for himself and Mr. EVANS):

H.R. 2050. A bill to amend title 10, United States Code, to extend commissary and exchange store privileges to veterans with a service-connected disability rated at 30 percent or more and their dependents; to the Committee on National Security.

By Mr. FORD:

H.R. 2051. A bill to amend the Federal Election Campaign Act of 1971 to promote increased disclosure of spending on campaigns for election for Federal office, improve the ability of the Federal Election Commission to enforce the laws governing the financing of such campaigns, and for other purposes; to the Committee on House Oversight, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FRANK of Massachusetts:

H.R. 2052. A bill to amend the Immigration and Nationality Act with respect to cancellation of removal and waiver of exclusion for certain long-term resident aliens; to the Committee on the Judiciary.

By Mr. HINCHEY (for himself and Mr. GONZALEZ):

H.R. 2053. A bill to amend the Truth in Lending Act to prohibit the distribution of any negotiable check or other instrument with any solicitation to a consumer by a creditor to open an account under any consumer credit plan or to engage in any other credit transaction which is subject to such act, and for other purposes; to the Committee on Banking and Financial Services.

By Mr. HINCHEY (for himself, Mr. BOEHLERT, Mr. GILMAN, and Mr. HOUGHTON):

H.R. 2054. A bill to provide for the redesignation of a portion of State Route 17 in New York and Pennsylvania as Interstate Route 86; to the Committee on Transportation and Infrastructure.

By Mr. HOEKSTRA:

H.R. 2055. A bill to permit voters to vote for "None of the Above" in elections for Federal office and to require an additional election if "None of the Above" receives the most votes; to the Committee on House Oversight.

H.R. 2056. A bill to establish a national advisory referendum on limiting the terms of Members of Congress at the general election of 1998; to the Committee on House Oversight.

H.R. 2057. A bill to establish a national advisory referendum on a flat income tax rate, and requiring a national vote to raise taxes at the general election of 1998; to the Committee on House Oversight.

H.R. 2058. A bill to suspend temporarily the duty on phenmedipham; to the Committee on Ways and Means.

H.R. 2059. A bill to suspend temporarily the duty on ethofumesate; to the Committee on Ways and Means.

H.R. 2060. A bill to suspend temporarily the duty on desmedipham; to the Committee on Ways and Means.

H.R. 2061. A bill to provide that the voters of the United States be given the right, through advisory voter initiative, to propose the enactment and repeal of Federal laws in a national election; to the Committee on House Oversight, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LANTOS (for himself and Ms. Eshoo):

H.R. 2062. A bill to amend title 10, United States Code, to provide that certain individuals who would be eligible for military retired pay for nonregular service but for the fact that they did not serve on active duty during a period of conflict may be paid such retired pay if they served in the U.S. merchant marine during or immediately after World War II; to the Committee on National Security.

By Mrs. MALONEY of New York (for herself, Mr. Horn, Mr. Sabo, Mr. Sensenbrenner, Mr. Frost, Mr. Andrews, Mr. Clement, Mr. Engel, Mr. Evans, Mr. Lewis of Georgia, Mr. Lipinski, Mr. Owens, Mr. Manton, Ms. Rivers, and Mr. Wynn):

H.R. 2063. A bill to direct the Secretary of Health and Human Services to make available to the Secretary of the Treasury information from the National Directory of New Hires for use in collecting delinquent debt owed to the Federal Government, and for other purposes; to the Committee on Government Reform and Oversight.

By Mr. MANZULLO (for himself, Mr. Gilman, Mr. Gejdenson, Mr. Hamilton, Mr. Bereuter, Mr. Archer, Mr. Baldacci, Mr. Bentsen, Mr. Berman, Mr. Blumenauer, Mr. Boehner, Mr. Bryant, Mr. Callahan, Mr. Christensen, Mr. Deutsch, Mr. Dreier, Mr. English of Pennsylvania, Mr. Ewing, Mr. Fazio of California, Mr. Filner, Mr. Hastert, Mr. Hastings of Florida, Mr. Jefferson, Mrs. Kennelly of Connecticut, Mr. Kolbe, Mr. LaHood, Mr. Lantos, Mr. Livingston, Mr. Matsui, Mr. Menendez, Mr. Rangel, Mr. Rothman, Mr. Sherman, Mr. Shimkus, and Mr. Torres):

H.R. 2064. A bill to reauthorize the Overseas Private Investment Corporation, and for other purposes; to the Committee on International Relations.

By Mrs. MORELLA (for herself and Mr. Vento):

H.R. 2065. A bill to improve teacher mastery and use of educational technology; to the Committee on Education and the Workforce.

By Mr. OBERSTAR (for himself and Mr. Wise) (both by request):

H.R. 2066. A bill to restructure and reform the laws relating to Amtrak, and for other purposes; to the Committee on Transportation and Infrastructure.

By Ms. RIVERS:

H.R. 2067. A bill to direct the Secretary of the Treasury to incorporate certain features in the redesign of the U.S. currency so as to make such currency readily accessible to the visually impaired; to the Committee on Banking and Financial Services.

By Mr. SANDERS

H.R. 2068. A bill to provide for the establishment of a multiple-tier price support program for milk to assist milk producers to receive an adequate income from their dairy operations and to support long-term conservation practices by milk producers, while assuring sufficient low-cost dairy products for nutrition assistance programs; to the Committee on Agriculture.

By Mr. SANDERS (for himself, Mr. McGovern, and Mr. Lipinski):

H.R. 2069. A bill to amend the Export-Import Bank Act of 1945 to ensure that firms that have shown a commitment to reinvestment and job creation in the United States are given preference in obtaining financial assistance from the Export-Import Bank of the United States; to the Committee on Banking and Financial Services.

By Mr. SOLOMON (for himself and Mr. Condit):

H.R. 2070. A bill to amend title 18, United States Code, to provide for the mandatory testing for serious transmissible diseases of incarcerated persons whose bodily fluids come into contact with corrections personnel and notice to those personnel of the results of the tests, and for other purposes; to the Committee on the Judiciary.

By Mr. SANDERS (for himself, Mr. Evans, Mr. Filner, Mr. Lipinski, and Mr. Lewis of Georgia):

H.R. 2071. A bill to require the Federal Government, in procuring goods and services and in providing certain foreign trade and investment assistance relating to trade and exports, to give a preference to entities that adopt and enforce a corporate code of conduct and to provide for an annual administrative review and petition process to ensure compliance with such code; to the Committee on Government Reform and Oversight, and in addition to the Committees on International Relations, Banking and Financial Services, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HOEKSTRA:

H.J. Res. 85. Joint resolution proposing an amendment to the Constitution of the United States to give citizens of the United States the right to propose amendments to the Constitution by an initiative process; to the Committee on the Judiciary.

H.J. Res. 86. Joint resolution proposing an amendment to the Constitution of the United States to give citizens of the United States the right to recall elected officials; to the Committee on the Judiciary.

H.J. Res. 87. Joint resolution proposing an amendment to the Constitution of the United States to give citizens of the United States the right to enact and repeal laws by voting on legislation in a national election; to the Committee on the Judiciary.

By Mr. GILCHREST (for himself, Mr. Waxman, Mr. Ehlers, Mrs. Lowey, Mr. Porter, Ms. McCarthy of Missouri, Mr. Boehlert, Ms. Rivers, Mr. Gilman, Mr. Brown of California, Mrs. Morella, and Mr. Miller of California):

H. Con. Res. 106. Concurrent resolution expressing the sense of the Congress regarding the negotiation of an international climate change agreement; to the Committee on International Relations.

By Mr. McDADE:

H. Con. Res. 107. Concurrent resolution expressing the sense of the Congress that Little League Baseball Inc. was established to support and develop Little League baseball worldwide and should be entitled to all of the benefits and privileges available to nongovernmental international organizations; to the Committee on International Relations.

By Mr. ROYCE (for himself, Mr. Houghton, Mr. Payne, and Mr. Chabot):

H. Res. 175. Resolution expressing concern over the outbreak of violence in the Republic of Congo and the resulting threat to scheduled elections and constitutional government in that country; to the Committee on International Relations.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

139. The SPEAKER presented a memorial of the House of Representatives of the State of Ohio, relative to House Concurrent Resolution No. 13 memorializing Congress to examine the financial problems of self-employed and other reservists who were called to active duty in Operation Desert Storm and to pass legislation to provide relief; to the Committee on National Security.

140. Also, a memorial of the Legislature of the Territory of Guam, relative to Resolution No. 88 requesting Guam's Delegate to Congress, Congressman Robert A. Underwood, to petition the United States Congress to expeditiously amend the Organic Act of Guam to enact the critical requirement of being free from felony convictions for the posts of Governor and Lieutenant Governor of Guam; to the Committee on Resources.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 15: Mr. Torres and Mr. Cramer.

H.R. 66: Mr. Davis of Illinois.

H.R. 96: Mr. Pascrell.

H.R. 127: Mr. Manzullo.

H.R. 198: Mrs. Northup.

H.R. 297: Mr. Jefferson.

H.R. 301: Mr. Jefferson.

H.R. 373: Mr. Jefferson.

H.R. 383: Mr. Dicks.

H.R. 632: Mr. Souder, Mr. Minge, Mr. Barrett of Nebraska, Mr. Lewis of Kentucky, Ms. Rivers, Mr. Hill, and Mr. Watkins.

H.R. 681: Mr. Becerra.

H.R. 695: Mr. Crapo, Mr. Rogan, and Mr. Andrews.

H.R. 716: Mr. Hall of Texas, Mr. Walsh, and Mr. Traficant.

H.R. 741: Mr. Hill

H.R. 758: Mr. Fox of Pennsylvania, Mr. Latham, Mr. Baker, and Mr. Hunter.

H.R. 777: Mr. Towns, Ms. Millender-McDonald, Mr. Jefferson, Mr. Clyburn, Mr. KLINK, Mr. GUTIERREZ, Mr. BROWN of California, Mr. GREEN, Ms. EDDIE BERNICE JOHNSON of Texas, and Mr. HASTINGS of Florida.

H.R. 784: Ms. CARSON.

H.R. 795: Mr. DELLUMS, Mr. FILNER, and Mr. BONIOR.

H.R. 836: Mr. BILBRAY, Mr. BISHOP, Mr. BROWN of Ohio, Mr. CALVERT, Mrs. CLAYTON, Mr. CLYBURN, Mr. CONYERS, Mr. COYNE, Mr. DELLUMS, Mr. DIXON, Ms. DUNN of Washington, Mr. ENGEL, Mr. FOGLIETTA, Ms. FURSE, Mr. GREEN, Mr. GUTIERREZ, Mr. HASTINGS of Florida, Mr. HILLIARD, Mr. HORN, Mr. JEFFERSON, Mr. KENNEDY of Massachusetts, Mr. KENNEDY of Rhode Island, Mr. MARTINEZ, Mr. MCKEON, Mr. MOAKLEY, Ms. NORTON, Mr. PALLONE, Mr. PASTOR, Mr. RAHALL, Mr. ROMERO-BARCELÓ, Ms. ROYBAL-ALLARD, Mr. SANDERS, Mr. SERRANO, Mr. SOLOMON, Mr. STARK, Mr. STEARNS, Mr. STOKES, Mr. TOWNS, Mr. BARRETT of Wisconsin, Mr. BONIOR, Ms. BROWN of Florida, Mr. BROWN of California, Mr. CAPPS, Mr. FLAKE, Mr. GONZALEZ, Ms. HARMAN, Ms. KAPTUR, Mr. KIM, Mr. LEWIS of Georgia, Mr. PAYNE, Mr. RANGEL, Ms. WOOLSEY, Mr. CUMMINGS, Mr. JACKSON, Mr. FORD, Mr. REYES, Mr. TURNER, Mr. NEAL of Massachusetts, Ms. VELÁZQUEZ, Mr. WATT of North Carolina, Mr. WAXMAN, Mr. YATES, Mr. MARKEY, Mr. LEVIN, and Mrs. MCCARTHY of New York.

H.R. 885: Mr. FRANK of Massachusetts.

H.R. 886: Mr. FRANK of Massachusetts.

H.R. 888: Mr. FRANK of Massachusetts.

H.R. 907: Mr. DICKEY.

H.R. 920: Ms. VELÁZQUEZ.

H.R. 921: Mrs. THURMAN, Mr. DELLUMS, and Mr. FORD.

H.R. 934: Mr. COOKSEY and Mr. COLLINS.

H.R. 953: Mr. BROWN of Ohio.

H.R. 955: Mr. NEUMANN, Mr. COOK, and Mr. FORBES.

H.R. 1002: Mr. COOKSEY.

H.R. 1043: Mr. DOOLEY of California, Ms. WOOLSEY, and Mr. MCINTYRE.

H.R. 1061: Mr. MCGOVERN and Mr. HALL of Ohio.

H.R. 1174: Mr. OXLEY, Mr. BATEMAN, Mr. LANTOS, Ms. PRYCE of Ohio, Mr. RIGGS, Mr. HALL of Ohio, Mr. GREENWOOD, Mr. BLAGOJEVICH, Mr. BARCIA of Michigan, Mr. BOUCHER, Mr. BOEHLERT, Mr. HYDE, Mr. JACKSON, Mr. KIND of Wisconsin, Mr. SHIMKUS, Mr. BACHUS, and Mr. MCINNIS.

H.R. 1215: Mr. MARKEY and Mr. MOAKLEY.

H.R. 1270: Mr. GALLEGLY, Mr. POMEROY, Mr. BARR of Georgia, and Mr. PETERSON of Minnesota.

H.R. 1284: Mrs. KELLY.

H.R. 1290: Mr. SAXTON and Mr. TAUZIN.

H.R. 1300: Mr. MCHUGH.

H.R. 1329: Mr. FRANK of Massachusetts and Mr. WATT of North Carolina.

H.R. 1353: Mr. ENGEL.

H.R. 1367: Mr. BLAGOJEVICH and Mr. TOWNS.

H.R. 1373: Mr. JEFFERSON and Ms. DEGETTE.

H.R. 1382: Mr. NADLER.

H.R. 1383: Mr. BISHOP, Mr. FORD, Mr. JEFFERSON, and Mr. WYNN.

H.R. 1415: Mr. ROEMER, Mr. GILCHREST, Mr. KILDEE, Mr. CALLAHAN, Mr. GIBBONS, Mr. REYES, Mr. EHLERS, and Mr. LAFALCE.

H.R. 1437: Mr. BURTON of Indiana, Mr. EVANS, and Mr. TOWNS.

H.R. 1468: Mr. ACKERMAN and Mr. MARTINEZ.

H.R. 1480: Mr. SHAYS.

H.R. 1507: Mr. GREEN, Ms. MILLENDER-MCDONALD, Mr. MCNULTY, Ms. WOOLSEY, Mr. CLEMENT, Mr. HINOJOSA, Ms. RIVERS, Mr. LANTOS, and Mr. DAVIS of Virginia.

H.R. 1515: Mr. SHAW.

H.R. 1529: Mr. FORD.

H.R. 1538: Mr. RAMSTAD.

H.R. 1578: Mr. CASTLE.

H.R. 1579: Mr. CASTLE.

H.R. 1648: Mr. WATTS of Oklahoma, Mr. LUCAS of Oklahoma, Mr. ISTOOK, Mr. SANDLIN, and Mr. FROST.

H.R. 1689: Mr. STRICKLAND and Mr. BOUCHER.

H.R. 1773: Mr. NORWOOD.

H.R. 1782: Ms. LOFGREN.

H.R. 1813: Mr. UNDERWOOD, Ms. NORTON, Mr. HINCHEY, Mr. CAMPBELL, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. LOFGREN, Mr. PETERSON of Minnesota, Mrs. THURMAN, Mr. FORD, Mr. DELLUMS, and Ms. SLAUGHTER.

H.R. 1824: Ms. KILPATRICK, Mr. CLAY, Mr. DIXON, and Ms. EDDIE BERNICE JOHNSON of Texas.

H.R. 1842: Mrs. CUBIN, Mr. STUMP, and Mr. HAYWORTH.

H.R. 1863: Mr. GOODLING.

H.R. 1883: Mr. HORN and Mrs. TAUSCHER.

H.R. 1908: Mr. BARRETT of Wisconsin.

H. Con. Res. 13: Mr. FORD, Mr. SKAGGS, and Mrs. TAUSCHER.

H. Con. Res. 38: Mr. MANTON.

H. Con. Res. 52: Mr. ROTHMAN and Mr. TAYLOR of North Carolina.

H. Con. Res. 65: Mr. SKAGGS, Ms. SLAUGHTER, Mr. DIXON, and Mr. ROMERO-BARCELO.

H. Con. Res. 75: Mr. BLAGOJEVICH.

H. Res. 83: Mrs. MINK of Hawaii.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1636: Mr. BAESLER.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

19. The SPEAKER presented a petition of the New Jersey State Federation of Women's Clubs, relative to two Resolutions which were adopted by the New Jersey State Federation of Women's Clubs at their annual Convention, May, 1997; jointly to the Committees on International Relations and Ways and Means.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1775

OFFERED BY: MR. SANDERS

AMENDMENT NO. 1: At the end of title I, add the following new section:

SEC. 105. LIMITATION ON AMOUNTS AUTHORIZED TO BE APPROPRIATED.

(a) LIMITATION.—Except as provided in subsection (b), notwithstanding the total amount of the individual authorizations of appropriations contained in this Act, including the amounts specified in the classified Schedule of Authorizations referred to in section 102, there is authorized to be appropriated for fiscal year 1998 to carry out this Act not more than 90 percent of the total amount authorized to be appropriated by the Intelligence Authorization Act for Fiscal Year 1997.

(b) EXCEPTION.—Subsection (a) does not apply to amounts authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund by section 201.

SENATE—*Wednesday, June 25, 1997*

The Senate met at 9:20 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

God of hope, You have shown us that authentic hope always is rooted in Your faithfulness in keeping Your promises. We hear Your assurance, "Be not afraid, I am with you." We place our hope in Your problem-solving power, Your conflict-resolving presence, and Your anxiety-dissolving peace.

Lord, You have helped us discover the liberating power of an unreserved commitment to You. When we commit to You our lives and each of the challenges we face, we are not only released from the tension of living on our own limited resources, but a mysterious movement of Your providence begins. The company of heaven, plus people and circumstances begin to rally to our aid. Unexpected resources are released; unexplainable good things start happening. We claim the promise of Psalm 37:5,7 "Commit your way to the Lord, trust also in Him, and He will bring it to pass." In the name of our Lord and Saviour. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader, Senator STEVENS of Alaska, is recognized.

SCHEDULE

Mr. STEVENS. Thank you, Mr. President pro tempore. I have a message here from the majority leader.

For the information of all Senators, this morning, following remarks that I will make, the Senate will resume consideration of the reconciliation bill. At approximately 9:30 a.m. this morning the Senate will proceed to a series of back-to-back rollcall votes on or in relation to a number of amendments which were offered last evening, alternating between each side of the aisle and ending with the final passage of the Balanced Budget Act. Also, by consent, there will be 2 minutes of debate equally divided on each amendment prior to each vote. Therefore, Senators can expect a lengthy series of back-to-back rollcall votes as the Senate disposes of all amendments in order to the budget reconciliation bill.

Following final passage, the Senate is expected to proceed to consideration of S. 949, the Tax Fairness Act. As previously announced, all Members may expect busy sessions of the Senate the next couple of days as the Senate works to complete action on the budget reconciliation process prior to the Fourth of July recess.

THE RETIREMENT OF ROBERT J. OPINSKY

Mr. STEVENS. Mr. President, after a distinguished 40-year career with the U.S. Postal Service and its predecessor the Post Office Department, my good friend Robert J. Opinsky is retiring.

Bob traveled to Alaska in 1956 for a summer vacation. By the time the vacation was over, Bob was ready to become a full-time Alaskan.

He began working with the Post Office Department in Anchorage that year in 1956. By 1970, having served in almost every capacity at the Post Office, he was named Anchorage Postmaster.

When the Anchorage Division was created in 1986, Bob became Division Manager. He was the top Postal Service official in our state, responsible for the delivery and retail operations of all 209 post offices in Alaska.

There have been tremendous challenges during Bob's career, and he's met them with his characteristic quiet efficiency.

One example is how he managed to keep the mail flowing after Alaska's 1964 earthquake, which I remind the Senate measured 9.2 on the Richter scale.

Bob was foreman of delivery and collection at that time.

He worked around the clock and kept the mail moving, even though much of what we call southcentral Alaska was brought to its knees by the disaster.

As our population increased after North Slope oil was discovered and production began, Bob led a team which built and updated more than 50 post offices in a hurry to keep up with the growing number of Alaskans.

In his quiet manner, Bob made sure the task was accomplished quickly and efficiently.

Bob has also ensured that distinguished postal officials learn about Alaska.

Hosting several Postmasters General, the entire Postal Service Board of Governors and members of the Postal Rate Commission on their visits to Alaska, Bob has given them a firsthand view of the beauty of our State, and also an awareness of our unique problems.

I have traveled with Bob to postal functions all over our State: post office dedications, stamp ceremonies, or town meetings to discuss new facilities.

Everywhere we have gone together, it has been obvious how well-liked and respected Bob Opinsky is. He is an Alaskan's Alaskan, with a real can-do spirit.

While working his way up the ladder at the Post Office, Bob put himself through college. He worked hard to become the best manager in the Postal Service, and he has succeeded.

Many awards have come his way over four decades, but perhaps the recognition he most treasures is the Postmaster General Award for Executive Achievement, presented to him in 1991 by Postmaster General Tony Frank.

Bob is married to a lifelong Alaskan, the former Edith Jordet—Edie to many of our friends. They have raised three great children, William, John, and Celine.

Bob's Opinsky's kindness is legendary. His knowledge of the Postal Service is absolutely incredible. His gentleness has earned him the special respect of coworkers, neighbors, and friends. His unassuming demeanor masks a true competitor—a man who works to make sure that he and his people are at the top.

Retirement may mean that Bob's golf game may get a little better, and that he and Edie may have a chance to seek some sunshine during the winter months.

Best of all for me, Mr. President, Bob is my friend. Retirement won't change that.

On behalf of all Alaskans, whose lives have been enriched through the great postal services Bob has ensured for them through the years, I commend Bob Opinsky for a job well done, and wish him well as he explores new horizons.

I thank the Chair and yield back any time I might have.

BALANCED BUDGET ACT OF 1997

The PRESIDING OFFICER (Mr. ENZI). The Senate will now resume consideration of S. 947, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 947) to provide for reconciliation pursuant to section 104(a) of the concurrent resolution on the budget for the fiscal year 1998.

The Senate resumed the consideration of the bill.

Pending:

Harkin amendment No. 428, to reduce health care fraud, waste, and abuse

Gramm amendment No. 444, to provide waiver authority for penalties relating to failure to satisfy minimum participation rate.

Reed amendment No. 445, in the nature of a substitute.

Hutchison amendment No. 447, to modify the reductions for disproportionate share hospital payments.

Chafee/Rockefeller/Jeffords amendment No. 448, to clarify the standard benefits package and the cost-sharing requirements for the children's health initiative.

Durbin/Wellstone amendment No. 450, to provide food stamp benefits to child immigrants.

D'Amato/Harkin amendment No. 451, to improve health care quality and reduce health care costs by establishing a National Fund for Health Research.

Domenici (for Murkowski) amendment No. 455, to confirm Title IV, Energy Title, to the provisions of the bill, with respect to the use of underutilized Strategic Petroleum Reserve facilities.

Domenici (for Abraham/Levin) amendment No. 456, to extend the moratorium regarding HealthSource Saginaw until December 31, 2002.

Domenici (for Helms) amendment No. 458, to provide for inclusion of Stanly County, North Carolina in a large urban area under the Medicare program.

Domenici (for Helms) amendment No. 459, to provide for inclusion of Stanly County, North Carolina in a large urban area under the Medicare program.

Domenici (for McCain/Wyden) amendment No. 460, to provide for the continuation of certain State-wide medicaid waivers.

Domenici (for McCain) amendment No. 461, to provide for the treatment of certain Amerasian immigrants as refugees.

Domenici (for Jeffords) amendment No. 462, to require the Secretary of Health and Human Services to provide medicare beneficiaries with notice of the medicare cost-sharing assistance available under the medicaid program for specified low-income medicare beneficiaries.

Domenici (for Jeffords) amendment No. 463, to provide for the evaluation and quality assurance of the children's health insurance initiative.

Domenici (for Brownback) amendment No. 464, to establish procedures to ensure a balanced Federal budget by fiscal year 2002.

Domenici (for Allard) amendment No. 465, to expand medical savings accounts to families with uninsured children.

Domenici (for Chafee) amendment No. 466, to extend the authority of the Nuclear Regulatory Commission to collect fees through September 30, 2002.

Domenici (for Grassley) amendment No. 467, to preserve religious choice in long-term care.

Domenici (for Kyl) amendment No. 468, to allow medicare beneficiaries to enter into private contracts for services.

Domenici (for Specter) amendment No. 469, to extend premium protection for low-income medicare beneficiaries under the medicaid program.

Domenici (for Specter) amendment No. 470, to strike the limitations on DSH payments to institutions for mental diseases under the medicaid program.

Domenici (for Specter) amendment No. 471, to strike the limitations on Indirect Graduate Medical Education payments to teaching hospitals.

Domenici (for Burns) amendment No. 472, to provide that information contained in the National Directory of New Hires be deleted after 6 months.

Domenici (for Hutchinson) amendment No. 473, to clarify the number of individuals that may be treated as engaged in work for purposes of the mandatory work requirement for TANF block grants.

Domenici (for McCain) amendment No. 474, to provide for the extension and expansion of spectrum auction authority and to provide for the flexible use of electromagnetic spectrum.

Lautenberg amendment No. 475, to ensure that certain legal immigrants who become disabled are eligible for disability benefits.

Lautenberg (for Kerrey) amendment No. 476, to enhance taxpayer value in auctions conducted by the Federal Communications Commission.

Lautenberg (for Durbin) amendment No. 477, to provide food stamp benefits to child immigrants.

Lautenberg (for Rockefeller) amendment No. 478, to require balance billing protections for individuals enrolled in fee-for-service plans under the Medicare Choice program under part C of title XVIII of the Social Security Act.

Lautenberg (for Dodd) amendment No. 479, to provide for medicaid eligibility of disabled children who lose SSI benefits.

Lautenberg (for Murray) amendment No. 480, to clarify the family violence option under the temporary assistance to needy families program.

Lautenberg (for Dodd) amendment No. 481, to amend the provision with regard to transfer cases.

Lautenberg (for Levin) amendment No. 482, to allow vocational educational training to be counted as a work activity under the temporary assistance for needy families program for 24 months.

Lautenberg (for Wyden) amendment No. 483, to provide for the continuation of certain State-wide medicaid waivers.

Lautenberg (for Harkin) amendment No. 484, to make community action agencies, community development corporations and other non-profit organization eligible for welfare-to-work grants.

Lautenberg (for Feinstein) amendment No. 485, to provide that the hospital length of stay with respect to an individual shall be determined by the attending physician.

Lautenberg (for Feinstein) amendment No. 486, to provide additional funding for State emergency health services furnished to undocumented aliens.

Lautenberg (for Feinstein) amendment No. 487, to provide for the application of disproportionate share hospital-specific payment adjustments with respect to California.

Lautenberg (for Wellstone) amendment No. 488, to provide for actuarially sufficient reimbursement rates for providers.

Lautenberg (for Mikulski) amendment No. 489, to reinstate the requirements for provider payment rates.

Lautenberg (for Kennedy) amendment No. 490, to improve the provisions relating to the Higher Education Act of 1965.

Lautenberg (for Baucus) amendment No. 491, to prohibit cost-sharing for children in families with incomes that are less than 150 percent of the poverty line.

Lautenberg (for Kennedy) amendment No. 492, to ensure the provision of appropriate benefits for uninsured children with special needs.

Lautenberg (for Kennedy) amendment No. 493, to exempt severely disabled aliens from the ban on receipt of supplemental security income.

Lautenberg (for Conrad) amendment No. 494, to provide for medicaid eligibility of disabled children who lose SSI benefits.

Lautenberg (for Conrad) amendment No. 495, to establish a process to permit a nurse aide petition to have his or her name removed from the nurse aide registry under certain circumstances.

Lautenberg (for Kerrey) amendment No. 496, to strike the limitation on the coverage of abortions.

Lautenberg (for Kohl) amendment No. 497, to clarify that risk solvency standards established for managed care entities under the medicaid program shall not preempt any State standards that are more stringent.

Lautenberg (for Harkin) amendment No. 498, to allow funds provided under the welfare-to-work grant program to be used for the microloan demonstration program under the Small Business Act.

Domenici amendment No. 499, to provide SSI eligibility for disabled legal aliens.

Domenici (for Chafee/Rockefeller) amendment No. 500, to require that any benefits package offered under the block grant option for the children's health initiative includes hearing and vision services.

Domenici (for Chafee/Rockefeller) amendment No. 501, to require that nay benefits package offered under the block grant option for the children's health initiative includes hearing and vision services.

Roth (for D'Amato) amendment No. 502, to establish a Medicare anti-duplication provision.

Lautenberg (for Rockefeller) modified amendment No. 503, to extend premium protection for low-income medicare beneficiaries under the medicaid program.

Lautenberg (for Kennedy) amendment No. 504, to immediately transfer to part B certain home health benefits.

Roth (for Lott) amendment No. 505 (to amendment No. 448), to improve the children's health initiative.

Roth amendment No. 506, to make technical corrections and revisions.

Roth (for Lott) amendment No. 507 (to amendment No. 501), in the nature of a substitute.

Roth (for Lott) amendment No. 508 (to amendment No. 500), in the nature of a substitute.

Roth (for Lott) amendment No. 509 (to amendment No. 492), in the nature of a substitute.

Lautenberg (for Rockefeller) amendment No. 510, to require that any benefits package offered under the block grant option for the children's health initiative includes hearing and vision services.

Roth amendment No. 511, to provide a substitute for the children's health insurance initiatives.

Chafee amendment No. 512 (to amendment No. 511), to clarify the standard benefits package and the cost-sharing requirement for the children's health initiative.

Roth (for Lott) amendment No. 513 (to amendment No. 510), in the nature of a substitute.

Roth (for DeWine) amendment No. 427, to continue full-time-equivalent resident reimbursement for an additional one year under medicare for direct graduate medical education for residents enrolled in combined approved primary care medical residency training programs.

Motion to waive a point of order that Section 5822 of the bill violates section 313(b)(1)(A) of the Congressional Budget Act.

Motion to waive section 310(d) of the Congressional Budget Act with respect to consideration of Reed amendment No. 445, listed above.

Motion to waive section 305(b)(2) of the Congressional Budget Act with respect to consideration of D'Amato amendment No. 451, listed above.

The PRESIDING OFFICER. There will now be a series of votes on or in relation to the amendments not yet disposed of, in the order they were offered but alternating between parties.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum until the floor leader arrives.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. What is the pending business, Mr. President?

AMENDMENT NO. 428

The PRESIDING OFFICER. The question is on agreeing to the Harkin amendment No. 428.

The amendment (No. 428) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 444

Mr. STEVENS. Now what is the pending business, Mr. President?

The PRESIDING OFFICER. The Gramm amendment No. 444.

Mr. STEVENS. It is my understanding there is 1 minute on each side before it is voted upon.

The PRESIDING OFFICER. That is correct, 2 minutes equally divided.

Mr. STEVENS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

Mr. GRAMM. We don't need the yeas and nays.

Mr. STEVENS. I withdraw that.

Mr. GRAMM. Mr. President, I will be brief. I don't think this amendment is controversial anymore. We had a technical drafting error in the welfare bill last year where, after the conference had concluded, the staff added words that, in essence, made the work requirement discretionary with the Secretary. We were going to correct it in the welfare bill. However, Senator BOB GRAHAM raised some legitimate concerns about giving flexibility for regional recessions and for natural disasters. We have corrected that in this technical amendment. I submit it to my colleagues, and I thank the Chair.

The PRESIDING OFFICER. One minute in opposition?

Mr. GRAMM. There is no opposition that we know of.

Mr. STEVENS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I am authorized to yield back the remainder of the time on the other side and ask for adoption on the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment No. 444.

The amendment (No. 444) was agreed to.

Mr. GRAMM. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 445

The PRESIDING OFFICER. The question is on the Reed amendment No. 445. There is a motion to waive the Budget Act, and there is a request for the yeas and nays. There will be 1 minute for debate to a side.

Mr. STEVENS. Mr. President, Senator DOMINICI raised a budget point of order that the Reed amendment violated the Budget Act. This Reed substitute proposes to strike the Medicare age increase, means testing, copayment and adds balanced billing provisions and eliminates the medical savings accounts. The vote will occur on that point of order, is that correct?

The PRESIDING OFFICER. On the motion to waive, that is correct.

Mr. STEVENS. Is there 1 minute on the other side?

Mr. KERREY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REED. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator has 1 minute.

Mr. REED. Thank you, Mr. President. My amendment is simply the Finance Committee amendment with the correction of several factors: removal of the Medicare eligibility age, striking the home health care copayment, adds provisions for balanced billing, eliminates the means-testing provisions and also eliminates the medical savings accounts. This is a vote for solvency of the system, restoring those cuts necessary to maintain the system is solvent but rejecting those issues——

Mr. DOMENICI. May we have order in the Senate?

The PRESIDING OFFICER. Can we please have conversations cease so the Senator can be heard?

Mr. DOMENICI. Mr. President, I ask his 1 minute start over again. Nobody could hear because there wasn't order.

Mr. REED. I thank the Senator for his graciousness. Mr. President, my amendment would take the Finance Committee bill with its cuts to Medicare of about $115 billion and simply remove several provisions which I think jeopardize the long-term well-being and health of the Medicare system.

These provisions are: raising the age limit to 67; striking the home health care payment; it would add my amendment, the Medicare balanced billing protection; my amendment would also eliminate the provisions that means tests Medicare; and finally, it would eliminate the medical savings account.

This amendment would allow the Senate to vote for solvency of the Medicare system but not engage in some of these experiments that are in the Finance Committee bill, experiments which I think will weaken the overall system by driving healthy seniors away from Medicare and leaving the Medicare system to deal with very sick seniors, which is not a way to run a proper insurance program.

This measure, I believe, will restore solvency and allow a more comprehensive review of the Medicare system.

The PRESIDING OFFICER. All time has expired.

Mr. DOMENICI. Mr. President, I say to my fellow Senators, I raised a budget point of order that the Reed amendment violates the Budget Act. The Reed substitute proposes to undo everything we did yesterday. It proposes to strike the Medicare age increase, means testing, copayment, adds balanced billing provisions and eliminates medical savings accounts.

I ask for the yeas and nays, and I yield back whatever time I have remaining.

VOTE ON MOTION TO WAIVE THE BUDGET ACT

The PRESIDING OFFICER. The yeas and nays have been ordered.

The question is on agreeing to the motion to waive the Budget Act with respect to amendment No. 445. The clerk will call the roll.

The assistant legislative clerk called the roll.

The yeas and nays resulted—yeas 25, nays 75, as follows:

[Rollcall Vote No. 115 Leg.]

YEAS—25

Akaka
Biden
Boxer
Byrd
Cleland
Daschle
Dorgan
Durbin
Feingold
Ford
Harkin
Hollings
Inouye
Johnson
Kennedy
Lautenberg
Leahy
Levin
Mikulski
Murray
Reed
Reid
Rockefeller
Sarbanes
Wellstone

NAYS—75

Abraham
Allard
Ashcroft
Baucus
Bennett
Bingaman
Bond
Breaux
Brownback
Bryan
Bumpers
Burns
Campbell
Chafee
Coats
Cochran
Collins
Conrad
Coverdell
Craig
D'Amato
DeWine
Dodd
Domenici
Enzi
Faircloth
Feinstein

Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Jeffords
Kempthorne
Kerrey
Kerry
Kohl
Kyl
Landrieu
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Moseley-Braun
Moynihan
Murkowski
Nickles
Robb
Roberts
Roth
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Torricelli
Warner
Wyden

The PRESIDING OFFICER (Mr. ALLARD). On this question, the yeas are 25, the nays are 75. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected, the point of order is sustained and the amendment falls.

Mr. LOTT. I move to reconsider the vote.

Mr. STEVENS. I move to table the motion.

The motion to lay on the table was agreed to.

Mr. LOTT. Mr. President, I ask unanimous consent the remainder of the votes in the stacked sequence including final passage be limited to 10 minutes in length.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I want the Senators to know, and I am not sure they will all come up, we have 55 amendments that have been filed with numerous second degrees. We have a list here if anybody is interested. We have a few extra copies if Senators want to know what the agenda is.

What I would like to do, I say to Senator LAUTENBERG, Senator CHAFEE is negotiating and working on amendment No. 448. I would like to set it aside temporarily and move to the Durbin food stamps benefiting immigrant children.

Mr. LAUTENBERG. We have no problem with that.

The PRESIDING OFFICER. Without objection, the amendment will be laid aside.

The Senator from New Mexico.

The PRESIDING OFFICER. Without objection, the Hutchison amendment is laid aside.

AMENDMENT NO. 450

The PRESIDING OFFICER. The question now is on amendment No. 450.

Mr. DOMENICI. Mr. President, I make a point of order that the Durbin amendment is not germane.

Mr. BREAUX. I have a unanimous consent. I ask unanimous consent Michelle Prejean, a member of my staff, be allowed floor privileges today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. I make a point of order that the Durbin amendment No. 450 is out of order, is not germane.

Mr. DURBIN. Mr. President, I object to that.

First, I make a unanimous-consent request.

Mr. President, I ask unanimous consent that Anne Marie Murphy be allowed privileges of the floor during the debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is the Senator from Illinois moving to waive?

Mr. DURBIN. Mr. President, I am moving to waive the provisions of the Budget Act for consideration of this amendment, and I ask for the yeas and nays after the debate on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

There are 2 minutes equally divided. The Senator from Illinois.

Mr. DURBIN. Mr. President, I might say to my colleagues in the Senate this amendment seeks to right a wrong. It seeks to provide food stamp coverage for the children of legal immigrants to the United States. The welfare reform bill cut off food stamp protection for children—deserving qualified children—and really relegated over 200,000 children across the United States into a position where they do not have adequate nutrition.

It does not do our Nation a bit of good to deny these children food at a moment in their lives when it is important to their development. These kids are likely to become American citizens. They are likely to be our neighbors. They are likely to be our future workers.

Let us resolve that although we are trying to eradicate welfare as we know it, we will not take it out on the kids. The money that is used to pay for the food stamps for the children of these legal immigrants is an offset that comes from the administrative costs sent to the States. This is money that should be dedicated for the better purpose of feeding hungry, deserving children.

I ask my friends, regardless of your position on welfare reform, to make sure that we are dedicated in America to healthy children, not hungry children. I hope you will consider voting to waive the provisions of the Budget Act and approval of this amendment.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, the agreement that was put together with the President contains some food stamp changes. They have been adopted by the committees. We have never agreed on this one. In fact, it was not even brought up by the administration.

This amendment amends the welfare reform bill of last year by requiring food stamp benefits to child immigrants, paid for with State administrative moneys.

I yield remaining time on our side.

VOTE ON MOTION TO WAIVE THE BUDGET ACT

The PRESIDING OFFICER. The question is on agreeing to the motion of Senator DURBIN to waive the Budget Act for the consideration of amendment No. 450.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 48, nays 52, as follows:

[Rollcall Vote No. 116 Leg.]

YEAS—48

Akaka
Baucus
Biden
Bingaman
Boxer
Breaux
Bryan
Bumpers
Chafee
Cleland
Collins
Conrad
D'Amato
Daschle
Dodd
Dorgan
Durbin
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Hollings
Inouye
Johnson
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Murray
Reed
Reid
Robb
Rockefeller
Sarbanes
Snowe
Specter
Torricelli
Wellstone
Wyden

NAYS—52

Abraham
Allard
Ashcroft
Bennett
Bond
Brownback
Burns
Byrd
Campbell
Coats
Cochran
Coverdell
Craig
DeWine
Domenici
Enzi
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Jeffords
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Moynihan
Murkowski
Nickles
Roberts
Roth
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Stevens
Thomas
Thompson
Thurmond
Warner

The PRESIDING OFFICER. On this vote the yeas are 48, the nays are 52.

Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The point of order is sustained and the amendment falls.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The question before us now is the D'Amato-Harkin amendment. There will be 2 minutes of debate, equally divided.

Mr. DOMENICI. Mr. President, will Senator D'AMATO yield for a moment?

Mr. D'AMATO. Yes.

AMENDMENT NO. 476, AS MODIFIED

Mr. DOMENICI. We would like to move to amendment No. 476, the Kerrey amendment, because we are going to accept that. We like to do that from time to time.

I yield the floor.

The PRESIDING OFFICER. Without objection, we will move to the Kerrey amendment.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. This amendment deals with FCC auctions of spectrum. They had an action about a month ago where they auctioned off spectrum for about a dollar. Some of these spectrums went for that. This amendment establishes that the FCC shall have a floor, and the suggestion was that we modify it.

I ask unanimous consent that this amendment be modified to allow the FCC to establish a floor, unless it is in the national interest not to.

The PRESIDING OFFICER. Is there any objection?

Without objection, the amendment is so modified.

The amendment (No. 476), as modified, is as follows:

At the appropriate place in the bill insert the following:

SEC. . RESERVE PRICE.

In any auction conducted or supervised by the Federal Communications Commission (hereinafter the Commission) for any license, permit or right which has value, a reasonable reserve price shall be set by the Commission for each unit in the auction, unless the Commission determines it not to be in the public interest. The reserve price shall establish a minimum bid for the unit to be auctioned. If no bid is received above the reserve price for a unit, the unit shall be retained. The Commission shall re-assess the reserve price for that unit and place the unit in the next scheduled or next appropriate auction.

Mr. DOMENICI. We have no objection. It is cleared by the Commerce Committee on both sides.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 476), as modified, was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 451

Mr. DOMENICI. Now we can return to the D'Amato amendment.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. D'AMATO. Mr. President on behalf of Senator HARKIN, myself, Senators MACK, JEFFORDS, SPECTER, and ROCKEFELLER, we offer an amendment that will fulfill this Chamber's commitment, a commitment that it made on January 21 when it voted 89–0 to double the amount of funding for the National Institutes of Health to provide medical research. Everybody says we need more money for cancer research, heart research, and for Alzheimer's and diabetes. We say we are going to do it and we never do it.

This amendment says that any excessive funds that are saved, over and above that anticipated by this budget resolution, by Medicare and Medicaid, certified by the CBO, will then be utilized to meet these functions. Only after CBO has certified that there are excess savings will those savings be placed in this account.

Mr. President, that is keeping our commitment.

Mr. HARKIN. Mr. President, are there 10 seconds left?

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Could we have order, please?

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, this amendment, I regret to say, should be defeated. It creates a new overbudget trust fund for medical research. It is based on estimates. The biggest argument against it is if we save more money in Medicare than we expect under the budget agreement, it ought to go to Medicare. It ought not go to be used in an appropriated account.

Essentially, this says, if we save more money than was agreed upon by the White House and the Congress in Medicare, the extra money goes to a trust fund for NIH. I believe it ought to stay right where it is and be used by the Finance Committee for Medicare and other purposes.

I make a point of order that the amendment is not germane.

Mr. D'AMATO. I move to waive.

The PRESIDING OFFICER. The point of order has already been made.

VOTE ON MOTION TO WAIVE THE BUDGET ACT

The PRESIDING OFFICER. The question is on agreeing to the motion to waive the Budget Act in relation to the D'Amato amendment No. 451. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislation clerk proceeded to call the roll.

The yeas and nays resulted—yeas 46, nays 54, as follows:

[Rollcall Vote No. 117 Leg.]

YEAS—46

Akaka
Biden
Boxer
Breaux
Cleland
Conrad
D'Amato
Daschle
DeWine
Dorgan
Durbin
Faircloth
Feinstein
Ford
Graham
Grassley
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Mack
Moseley-Braun
Moynihan
Murkowski
Murray
Reed
Reid
Robb
Rockefeller
Sarbanes
Specter
Stevens
Thurmond
Torricelli
Warner
Wellstone
Wyden

NAYS—54

Abraham
Allard
Ashcroft
Baucus
Bennett
Bingaman
Bond
Brownback
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Collins
Coverdell
Craig
Dodd
Domenici
Enzi
Feingold
Frist
Glenn
Gorton
Gramm
Grams
Gregg
Hagel
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Kempthorne
Kerrey
Kyl
Lott
Lugar
McCain
McConnell
Mikulski
Nickles
Roberts
Roth
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Thomas
Thompson

The PRESIDING OFFICER. On this vote, the yeas are 46, the nays are 54. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to. The point of order is sustained and the amendment falls.

The question is on agreeing to the Murkowski amendment No. 455.

The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I would ask on behalf of Senator AKAKA, who wants to discuss it with us, that the Murkowski amendment be set aside and we proceed to the Abraham-Levin amendment, which will be a voice vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 456

The PRESIDING OFFICER. The question before the Senate now is on agreeing to the Abraham-Levin amendment No. 456.

The amendment (No. 456) was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote.

The PRESIDING OFFICER. The question now is on agreeing to the Helms amendment No. 459, 1 minute equally divided.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

The Senate will please come to order.

The Chair now recognizes the Senator from New Mexico.

Mr. DOMENICI. Could I have a quorum for just 2 minutes.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 455

Mr. DOMENICI. Mr. President, I believe we are ready to go to the Murkowski amendment No. 455, which will be accepted.

The PRESIDING OFFICER. Without objection.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. With reluctance, I ask support of this amendment, and obviously it has been done. But I want to make the point that the provision in the current bill is one that we have all committed to, and that is of having the strategic petroleum reserve and the reality that we are addressing it with the crisis on the budget. That is not the purpose. The Akaka amendment provided a purchase mechanism after 2002.

I think it is the right policy for this Nation, and we are only talking about $13 million a year. I think that is a small price to pay for energy security, but nevertheless recognizing the circumstances, why, I reluctantly ask support.

Mr. DOMENICI. We have no objection to the amendment.

Mr. MURKOWSKI. I thank Senator AKAKA for his role in encouraging the support of the strategic petroleum reserve.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

The Senate will please come to order. The Senator from Hawaii.

Mr. AKAKA. According to the Energy Committee, in the reconciliation proposal, this was supposed to be for 5 years. The committee is now recommending that it be extended to 10 years. My reason for keeping it at 5 years would be to have the other 5 years to be used for purchasing excess oil, and for that reason I am opposing this. But I am not objecting to it because Chairman MURKOWSKI is supporting this.

The PRESIDING OFFICER. The question is on agreeing to the amendment. Without objection, the amendment is agreed to.

The amendment (No. 455) was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote.

Mr. LAUTENBERG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 459 WITHDRAWN

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I, in behalf of Senator HELMS, withdraw amendment No. 459.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 459) was withdrawn.

Mr. DOMENICI. Now, I believe, according to the regular order, the Lautenberg amendment No. 475 on legal immigrants is next.

The PRESIDING OFFICER. The Senator is correct. The question before the Senate is on agreeing to the Lautenberg amendment No. 475. Time is evenly divided.

The Senator from New Mexico.

AMENDMENT NO 458

Mr. DOMENICI. Mr. President, I made a mistake. If Senator LAUTENBERG would permit me to correct it. In withdrawing the Helms amendment, I failed to then proceed to take up the amendment that he has that remains, and that is No. 458.

Could we make that in order right now?

The PRESIDING OFFICER. Without objection, amendment No. 458 is in order.

The question before the Senate is on agreeing to Helms amendment No. 458.

Mr. HELMS. Mr. President, in 1993, Stanly Memorial Hospital in Albermarle, NC, was reclassified as a rural instead of an urban hospital, resulting in a loss of $1.3 million each year in Medicare reimbursement.

Stanly County is the only county in North Carolina, and, I believe, in the Nation. that is touched by four different urban counties and two different Metropolitan Statistical Areas. SMH's primary competitors are in the adjacent large urban MSA's which include Davidson, Rowan, Cabarrus, and Union Counties.

By a purely bureaucratic decision, Stanley Memorial has been put in a position of having to compete with all of the Charlotte hospitals in recruitment of employees, managed care contracts, and doctors.

But since Stanly Memorial is not included in the Charlotte MSA, it receives 20 percent less for the very same Medicare services as delivered by competing hospitals in surrounding areas.

This amendment will correct this inequity by deeming Stanly County as part of the large urban area of Charlotte-Gastonia-Rock Hill, NC/SC.

Mr. DOMENICI. This amendment has been worked out on both sides, and it is acceptable.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 458) was agreed to.

Mr. DOMENICI. Now, under the regular order, would we return to Lautenberg 475?

The PRESIDING OFFICER. The question now before the Senate is on agreeing to the Lautenberg amendment No. 475.

Mr. DOMENICI. I need 2 minutes for a quorum to discuss this. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator will suspend. The Senate will please come to order. Senators will please carry their conversations to the cloakrooms.

The Senator from New Mexico.

AMENDMENT NO. 499 WITHDRAWN

Mr. DOMENICI. Mr. President, I withdraw my amendment No. 49 regarding the subject matter of the Lautenberg amendment. It is amendment 499, excuse me. It is 49 on our list. No. 499.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

The amendment (No. 499) was withdrawn.

AMENDMENT NO. 475

Mr. DOMENICI. We have agreed to accept the Lautenberg amendment and taking it to conference. We think it is the best way to resolve this issue which is between the two Houses and the White House. We all have different versions. And we agree to accept the amendment. I yield to him now for his minute.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. I thank the Chair. I thank the chairman of the committee for accepting this.

The purpose of the amendment is very simple. It is to provide fairness for people who come to this country legally, who paid their taxes in good faith and played by the rules, and then perhaps suffer from a serious disability caused by an accident or a serious illness.

Whatever the cause, they are here at our invitation, left unable to work and unable to support themselves. And so, Mr. President, the budget agreement includes a very specific provision to ensure that these people get help. Unfortunately, the bill before us provides funding for only 1 year of these benefits. I hope we will be able to hold this amendment. It is very important. I think it establishes our attitude about those who have come here at our invitation, and we say, pay your taxes, do your work, and then we want to take them out of the protection stream.

So I hope that this amendment, which will restore them personally, will take care of it.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 475) was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote.

Mr. LAUTENBERG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 460

The PRESIDING OFFICER. The question is on agreeing to the McCain amendment No. 460.

Mr. DOMENICI. Could we have order?

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, this amendment allows several States to go forward with some of the most innovative work being done in health care in America—in Senator MCCAIN's State and my own, several others. This amendment is budget neutral, but in our home State of Oregon, through the Oregon Health Plan, we have been able to serve upwards of 100,000 low-income families with an innovative approach. The administration supports these efforts. It is a chance to go forward in innovative health care, a critically important issue at this time.

I hope my colleagues will support this budget-neutral measure. I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Let me talk with Senator WYDEN for a minute about this. I understand from the distinguished chairman of the Finance Committee that the McCain-Wyden amendment, with reference to statewide Medicaid waivers, is in the chairman's, the managers' amendment which will be offered and accepted. And based on that, we would ask the Senator if he would withdraw the amendment. He can leave it on the list pending the adoption of that, if he would like.

Mr. WYDEN. Mr. President, with that assurance of the chairman of the full committee, Mr. ROTH, and the chairman of the Budget Committee, Mr. DOMENICI, who have been very helpful to Mr. SMITH and myself on behalf of our State, we are very pleased with this, and with that assurance, I am pleased to withdraw the amendment at this time and look forward to voting for the managers' amendment. I yield the floor.

Mr. DOMENICI. I thank the Senator.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

The amendment (No. 460) was withdrawn.

AMENDMENT NO. 478

The PRESIDING OFFICER. The question now before the Senate is the Rockefeller amendment No. 478. Time is equally divided.

The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, pursuant to section 313 of the Congressional Budget Act, I make a point of order that section 5001, creating section 1852(a)(5)(B), section 5001 creating section 1852(k)(2), and section 5001 creating section 1854(e)(3) of the pending bill are extraneous under section 313(b)(1)(A).

The PRESIDING OFFICER. Does the Senator yield the floor? The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. HUTCHINSON). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I don't really understand where we are. We thought the Senator was calling up an amendment, No. 478, requiring balanced billing protection for individuals enrolled in fee-for-service plans. Did the Senator call that amendment up? That is the order, the regular order.

Mr. ROCKEFELLER. I am making a point of order against the bill.

The PRESIDING OFFICER. The Senator from West Virginia made two points of order. Those points cannot be made while an amendment is pending.

Mr. DOMENICI. Which amendment is pending, No. 478?

The PRESIDING OFFICER. The amendment is No. 478, Senator ROCKEFELLER's amendment.

Mr. DOMENICI. Will the Chair state the ruling again, please? It is hard to hear.

The PRESIDING OFFICER. Those points of order cannot be made while this amendment is pending.

Mr. ROCKEFELLER. I say to the distinguished Senator from New Mexico, in lieu, then, of a point of order I would like to make a point of order against the balanced billing portion of the FFS section of the bill.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I understand. Is what you are suggesting that you want to withdraw your amendment and in lieu thereof make a point of order?

Mr. ROCKEFELLER. The Senator is correct.

Mr. DOMENICI. Will the Senator call that to the attention of the Chair that that is what he would like to do?

On behalf of Senator ROCKEFELLER, I ask his amendment be withdrawn and it be in order for him to make a point of order.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 478) was withdrawn.

Mr. DOMENICI. Now we need a clarification of what the point of order is.

The PRESIDING OFFICER. Would the Senator from West Virginia send the point of order to the desk?

Mr. ROCKEFELLER. It is on its way.

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I ask unanimous consent, and ask the distinguished Senator if he would accommodate us, that we set aside his point of order for just a moment and go to the next amendment while we work on it. The next amendment is going to be accepted.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AMENDMENT NO. 461

Mr. DOMENICI. The amendment we are going to is amendment No. 461, the McCain amendment.

Might we proceed to amendment 461? We have just received a unanimous consent to set this aside.

The PRESIDING OFFICER. Who yields time on the McCain amendment?

Mr. DOMENICI. I do.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, this is going to be accepted. This amendment will reclassify certain Amerasian immigrants as refugees to exempt them from the restrictions on receiving benefits under the welfare reform bill. It costs about $1 million and has been accepted on both sides.

Mr. LAUTENBERG. We have no objection.

Mr. BYRD. Mr. President, we cannot hear the explanation by the distinguished manager.

The PRESIDING OFFICER. The Senator is correct. The Senate be in order.

The Senator from New Jersey?

Mr. LAUTENBERG. Mr. President, I was saying we have no objection. We ought to move on, move this along.

Mr. DOMENICI. We yield any time we have.

Mr. BYRD. Mr. President, will the distinguished Senator repeat the statement? There is so much noise and confusion that I for one could not understand what Senator DOMENICI was saying.

Mr. DOMENICI. This McCain amendment would reclassify certain Amerasian immigrants as refugees. Thus, they would be entitled to benefits of people similarly situated. The amendment costs about $1 million per year, and those on our side who handle these matters have indicated they are willing to accept it. I understand the minority is willing to accept it.

Mr. LAUTENBERG. We have no objection.

THE PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 461) was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote.

Mr. LAUTENBERG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 479

The PRESIDING OFFICER. The question occurs on the Dodd amendment, No. 479. The Senator from Connecticut.

Mr. DODD. Mr. President, I hope this amendment will be agreed to. This is an amendment I think all of our colleagues can support. I am offering it on behalf of myself and the Senator from North Dakota, Senator CONRAD. It will preserve the Medicaid coverage for some 30,000 children who, if we do nothing else, are going to lose it. These are the most severe disabled children in the country. This was a slip, more than anything else, I think, when we passed the welfare reform law last year. We learned these children might lose their Medicaid coverage as a consequence of losing their SSI. Since then there has been a broad agreement we should step in and try to preserve health care for the most needy of all children. In fact, the bipartisan budget agreement called for continued Medicaid coverage for these children. So, this amendment merely plugs that gap that we had all agreed on. It simply honors the agreement. Its cost is modest. It is about $100 million over 5 years.

I can argue if we can find $16 billion to provide insurance for kids who lack it, surely we could set aside a fraction of that to provide insurance for children who stand to lose it. That is what we are faced with. If we do not do this, these 30,000 severely disabled children would be cut off.

Mr. LAUTENBERG. Mr. President, I rise in support of this amendment to restore Medicaid coverage for children who were removed from the SSI rolls in last year's welfare bill.

Mr. President, last year's welfare bill significantly restricted the types of disabilities that enable a child to qualify for the Supplemental Security Income Program. In some cases, the same disability that will qualify an adult for SSI now will be insufficient to quality a child. Among the children most likely to lose benefits are those who suffer from multiple problems, no one of which is severe enough to meet the more restrictive legal criteria, but the combined effect of which is substantial.

The Social Security Administration estimates that 135,000 low-income disabled children will be removed from the SSI as a result of the new law. Others put the number much higher.

In any case, since SSI eligibility is linked to Medicaid eligibility, many of these children will be terminated from the Medicaid Program, unless they qualify on other grounds. The administration believes that, in the end, about 30,000 disabled children from low income families will lose Medicaid coverage.

Mr. President, the loss of Medicaid coverage is likely to create serious problems for these families. Private insurance will be very difficult to find And even it it's available, the costs will reflect the conditions that these children have.

Compounding matters, these families also will be suffering large income losses because of the loss of their children's SSI benefits.

Mr. President, these families had low incomes even before these benefits were withdrawn. And now they are facing severe financial hardships. Allowing these to keep Medicaid coverage is the right thing to do. Otherwise, we are likely to see even more children become uninsured.

Mr. President, one of the core principles of the bipartisan budget agreement was to provide health care coverage for as many as 5 million uninsured children. And it was my understanding that the budget negotiators agreed to restore Medicaid for these roughly 30,000 SSI kids. Not as part of the $16 billion child health initiative, but as a separate, binding commitment. That is clearly the understanding of the administration, as well.

Unfortunately, Mr. President, Senator DOMENICI has a different recollection of what was agreed to, and I know he holds that view in good faith. So we have an honest disagreement.

But regardless of whose recollection is more accurate, Mr. President, I would urge my colleagues to protect these vulnerable children and their families.

Mr. President, I know that Senators on both sides of the aisle share a commitment to covering all of America's children. And so I hope that this amendment will win broad support.

Keep in mind that that these children don't just come from low-income families. They are disabled, even though they don't meet the new eligibility standards for SSI. And many of them will be become completely uninsured if we do not correct this problem.

I also want to make sure that Senators understand that this amendment would not restore any SSI benefits. All it would do is restore Medicaid coverage for these children. But that would greatly ease the hardships facing many of these families, and reduce the number of children who otherwise would join the ranks of the uninsured.

So, Mr. President, I hope my colleagues will stand with these 30,000 disabled children and their families, and will support this amendment.

The PRESIDING OFFICER. The time of the Senator has expired. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, first of all let me say it is the position of the committee of jurisdiction that these children are covered under the $16 billion child care provisions of the bill. Since that is the case, I first would ask the Senator if he would like to withdraw the amendment and confirm that. If not, I would make a point of order against the amendment and he would have to get 60 votes to pass it.

Mr. DODD. I realize we are running out of time. Let me, on the Senator's time—I raised this earlier, I say to the distinguished chairman of the Budget Committee. We are not convinced that is the case. I understood that was the argument made to me and that has not been confirmed. So we are running the risk here, if it is not the case. I would rather adopt the amendment. If it turns out it is OK, then we protected these children. If you do not do it, it's not part of the $16 billion, 30,000 disabled children lose their Medicaid benefits. We have to do it by law, and I would rather err on that side than err on the other side.

Mr. DOMENICI. I do greatly respect the Senator. I respect all Senators. But we really are operating on a 1-minute rule for each side. I think if we are going to speak longer we ought to get consent of the Senate to do that, and I do not address that just to Senator DODD.

We contend they are covered. I make a point of order under section 310 of the Budget Act.

Mr. DODD. I move to waive that.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

VOTE ON MOTION TO WAIVE THE BUDGET ACT

The PRESIDING OFFICER. The question is on agreeing to the motion to waive the Budget Act, section 310. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

The yeas and nays resulted—yeas 49, nays 51, as follows:

[Rollcall Vote No. 118 Leg.]

YEAS—49

Akaka
Baucus
Biden
Bingaman
Boxer
Breaux
Bryan
Bumpers
Campbell
Chafee
Cleland
Conrad
D'Amato
Daschle
Dodd
Dorgan
Durbin
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Reed
Reid
Robb
Rockefeller
Sarbanes
Specter
Torricelli
Wellstone
Wyden

NAYS—51

Abraham
Allard
Ashcroft
Bennett
Bond
Brownback
Burns
Byrd
Coats
Cochran
Collins
Coverdell
Craig
DeWine
Domenici
Enzi
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Roberts
Roth
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Stevens
Thomas
Thompson
Thurmond
Warner

The PRESIDING OFFICER. On this vote, the yeas are 49, the nays are 51. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained, and the amendment falls.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. May I have the attention of the Senate for just a moment?

The PRESIDING OFFICER. The Senate will be in order.

The Senator from New Mexico.

Mr. DOMENICI. Could I ask the clerk, how long have we been taking in terms of time on the rollcalls on the amendments?

The PRESIDING OFFICER. Votes are taking approximately 15 minutes.

Mr. DOMENICI. We are on 10-minute rollcall votes, I say to the Senators. The longer we take for these, the longer we go into the evening tonight. I really urge you to do your best to get here quickly so we can wrap them up in 10 minutes. I understand 10 to 11 is sufficient. I thank the Senate.

AMENDMENTS NOS. 462, 465, AND 466, WITHDRAWN

Mr. President, we can dispose of a number of amendments now. I ask unanimous consent, on behalf of Senator CHAFEE, that amendment No. 466 be withdrawn; on behalf of Senator JEFFORDS that amendment No. 462 be withdrawn.

On behalf of Senator ALLARD, are you going to withdraw your amendment, I ask the Senator?

Mr. ALLARD. Is the chairman going to make a point of order on my amendment?

Mr. DOMENICI. I have to, yes.

Mr. ALLARD. OK. I appreciate the chairman, Mr. President, giving me an opportunity just to speak a minute or two about this amendment.

Mr. President, I would like to take this time to discuss this amendment that would give families with uninsured children the opportunity to obtain proper health coverage.

My amendment would allow families with uninsured children to deposit money in a medical savings account to use for health care services. I believe it is critical to provide lower income families with the option to establish medical savings accounts. MSA's allow consumers to pay for medical expenses through affordable tax-deductible plans that are most suited to their needs.

Americans want choice in health care. It is time for the Federal Government to listen to the American people and make medical savings accounts an available option. Medical savings accounts are a viable free-market approach to ensuring greater access to affordable health care coverage for the uninsured.

I believe our efforts need to be focused on providing uninsured children with accessible health care services. My amendment would give these families the opportunity of setting aside MSA funds, especially benefiting those who are self-employed, between jobs, or employed where health coverage is not available.

I am hopeful that in the 105th Congress, we will be able to expand the availability of medical savings accounts.

My amendment is one step to achieving the goal of decreasing the number of uninsured children by providing families with the option to receive much needed health care coverage. By making more MSA's available, we can make it easier for parents to finance their children's health care; afterall, the health of our Nation's children is at stake.

I understand the position of the chairman having to raise this point of order. I just hope that the Finance Committee takes a closer look at medical savings accounts and the problem we have with uninsured children.

With that, I will go ahead and withdraw my amendment.

Mr. DOMENICI. I thank the Senator. Have they been withdrawn?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. We are prepared to——

The PRESIDING OFFICER. If the Senator will suspend, is amendment No. 465, included in the package of amendments to be withdrawn?

Mr. DOMENICI. It is; 466, 462, and 465

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments (Nos. 462, 465, and 466) were withdrawn.

AMENDMENTS NOS. 463, 480, AND 481, EN BLOC

Mr. DOMENICI. Now we are prepared to accept, en bloc—the Senators will use a minimum of time—amendment No. 480, Senator MURRAY'S amendment; amendment No. 463, Senator JEFFORDS on child health; and 481, Senator DODD'S amendment regarding transfers.

The PRESIDING OFFICER. Is there objection to agreeing to the amendments en bloc?

Mr. DODD. Do you want to explain them or not?

Mr. DOMENICI. I would feel very good if you did not explain them. But if you want to, it would be great. We can keep the three of you to 1 minute combined.

Mr. JEFFORDS. Mr. President, I waive explanation.

Mr. DOMENICI. I ask the Senator, will you waive explanation?

Mr. BYRD. Could we have an explanation?

Mr. DOMENICI. The first amendment is amendment No. 480 offered by the Senator from Washington [Mrs. MURRAY].

Mr. BYRD. Could we have an explanation?

Mr. DOMENICI. She is going to do that right now.

Mrs. MURRAY addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mrs. MURRAY. Thank you, Mr. President.

Mr. President, the amendment that I am offering simply clarifies that they can waive victims of domestic violence from the Welfare Act. This was an amendment that was unanimously accepted in the fiscal year 1998 budget resolution and in the welfare reform bill.

I thank my colleague from New Mexico, Senator DOMENICI, for his work on this issue and appreciate the acceptance by the Senate.

Mr. DOMENICI. Thank you, Mr. President.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, my amendment tells Governors that they should report how well their child health development grant that we gave them—the block grant—how well it is working. That is basically what it does.

Mr. DOMENICI. And Senator DODD.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, this amendment is very important to the hospitals across the country. Under the law, the first hospital that cannot provide care would have its fees reduced if the patient is sent to a second hospital that can provide acute care. That is a good idea. What happens, however, is that patients that are moved from the first hospital to a home setting, no longer needing acute care, the fees of the first hospital are also reduced. We did not intend that to be the case. This amendment corrects that mistake. This is broadly supported by every hospital across the country.

My colleague from New York, Senator D'AMATO, is my cosponsor on this, along with Senator LEAHY. We hope it will be accepted.

The PRESIDING OFFICER. Is there objection to considering the amendments en bloc?

Without objection, it is so ordered.

The question occurs on amendments 463, 480, and 481 en bloc.

Mr. BYRD. Mr. President, may we have an explanation of the other two amendments?

Mr. DOMENICI. We have had all three explained.

Mr. BYRD. All three have been explained?

The PRESIDING OFFICER. All three amendments were explained.

Mr. DOMENICI. Senator MURRAY has a freestanding amendment. She explained it. Senator JEFFORDS' is freestanding; and Senator DODD.

The amendments (Nos. 463, 480, and 481) were agreed to en bloc.

Mr. LAUTENBERG. I move to reconsider the vote.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 483, WITHDRAWN

Mr. DOMENICI. I have another amendment to withdraw, Senator WYDEN'S, No. 483.

Mr. WYDEN. Mr. President, because of its inclusion in the managers' package, that is appropriate at this time.

The PRESIDING OFFICER. Is there objection to withdrawing the amendment?

Mr. LAUTENBERG. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 483) was withdrawn.

Mr. DOMENICI. I wonder if we could try one other one to see if we could dispose of it before we have a debate on the Levin amendment.

Senator GRASSLEY has an amendment that I would ask, is it acceptable on the other side, long-term care? It has to do with religious choice.

Mr. LAUTENBERG. We are looking at that, Mr. President. If we can just defer for a few minutes, if it is all right with Senator GRASSLEY, and go on to some other business and come back to it.

Mr. DOMENICI. All right.

Regular order.

AMENDMENT NO. 482

The PRESIDING OFFICER. The question occurs on the Levin amendment No. 482.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, the National Governors' Association strongly supports allowing vocational education training to count toward meeting the work requirement under the welfare law. The current law allows a 12-month limit. The old requirement was 24 months. The Governors argue and the community colleges argue—and I think it is very persuasive—that being in vocational education should count toward that work requirement. There is no cost to the Treasury.

It will help people to complete a community college education and to count that toward the work requirement under the welfare bill.

Mr. JEFFORDS. Will the Senator yield?

Mr. LEVIN. I am happy to yield to the Senator from Vermont. He is a cosponsor of this amendment.

Mr. JEFFORDS. I support the amendment and have no problems with it being in our jurisdiction. Senator CHAFEE also supports it. He asked me to inform the Senate.

The PRESIDING OFFICER. Who wishes to speak in opposition to the amendment?

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. I yield the time in opposition to the distinguished Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, we had this debate during the welfare reform bill in the last session of Congress. We said we wanted people who are on welfare to work, not to go into more education and training. There is a time for that. We allow for education and training, but at a certain point in time we are going to require people to go to work.

Now, what this amendment says is, no, you do not have to go to work; continue education and training. This is a weakening of the work requirement. This is not going to get people into the workplace to learn the skills necessary to be competitive and to get good jobs and to improve their future.

This is more of the same what we have been doing here in Washington prior to the welfare reform bill. The President did not request this change. It is not in the budget agreement. It was not anything that anyone advocated. It should be defeated.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I make a point of order that the amendment violates section 313(b)(1)(A) of the Budget Act.

Mr. LEVIN. I move to waive the Budget Act for this amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

VOTE ON MOTION TO WAIVE THE BUDGET ACT

The PRESIDING OFFICER. The question occurs on agreeing to the motion to waive. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The yeas and nays resulted—yeas 55, nays 45, as follows:

[Rollcall Vote No. 119 Leg.]

YEAS—55

Abraham
Akaka
Baucus
Biden
Bingaman
Boxer
Breaux
Bryan
Bumpers
Byrd
Chafee
Cleland
Collins
Conrad
D'Amato
Daschle
Dodd
Dorgan
Durbin
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lugar
Mikulski
Moseley-Braun
Moynihan
Murray
Reed
Reid
Robb
Rockefeller
Sarbanes
Smith (OR)
Snowe
Specter
Stevens
Torricelli
Wellstone
Wyden

NAYS—45

Allard
Ashcroft
Bennett
Bond
Brownback
Burns
Campbell
Coats
Cochran
Coverdell
Craig
DeWine
Domenici
Enzi
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Kempthorne
Kyl
Lott
Mack
McCain
McConnell
Murkowski
Nickles
Roberts
Roth
Santorum
Sessions
Shelby
Smith (NH)
Thomas
Thompson
Thurmond
Warner

The PRESIDING OFFICER. On this question, the yeas are 55, the nays are 45. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained. The amendment falls.

Mr. DOMENICI. I move to reconsider the vote.

Mr. GRAMM. I move to lay it on the table.

The motion to lay on the table was agreed to.

AMENDMENT NOS. 485, 486, AND 487 WITHDRAWN

Mr. DOMENICI. Mr. President, on behalf of Senator FEINSTEIN, I withdraw amendments numbered 485, 486, and 487.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments (Nos. 485, 486, and 487) were withdrawn.

AMENDMENT NO. 484

Mr. DOMENICI. There is a Harkin amendment numbered 484 which we are prepared to accept, and then we will proceed to Senator KYL's amendment, and we will have a vote.

The PRESIDING OFFICER. Is there debate on the Harkin amendment No. 484?

Mr. DOMENICI. We yield back any time remaining.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the Harkin amendment numbered 484.

The amendment (No. 484) was agreed to.

The PRESIDING OFFICER. The Senator from Arizona.

AMENDMENT NO. 468

Mr. KYL. Mr. President, if I could have my colleagues' attention, this is amendment No. 468, designed to correct a technical corrections problem which ironically arose out of the Medicare Technical Act of 1994.

To describe it, you have been going to your doctor for 50 years. He says you need something done.

You say, "OK, do it."

He says, "Wait a minute, aren't you 65 years old now?"

You say, "Yes."

And he says, "I am sorry, I cannot treat you anymore."

"Why not?"

"Well, I don't treat Medicare patients."

"You do not have to submit the bill to Medicare. I will not submit the bill to Medicare. Let me pay you like I always have."

Sorry, HCFA says we cannot do that.

Mr. President, this is very simple. It allows for those 9 percent of the physicians who do not treat Medicare patients to continue to treat their patients as they always have. Those parties do not make a claim to Medicare, Medicare does not pay it, they simply go ahead and pay the doctor like they always have. This is not what was intended in the 1994 act, but because of the way HCFA's regulations have interpreted it, we need to make this technical correction.

I urge my colleagues to support the change.

Mr. LAUTENBERG. Mr. President, the Kyl amendment would allow something that is similar to balanced billing. It is, frankly, quite controversial. It does not belong, in my view, on a fast-track reconciliation bill. I hope we will oppose the amendment.

Mr. President, it is my view that the amendment is not germane. Therefore, I raise a point of order that the amendment violates section 305(b)(2) of the Congressional Budget Act of 1974.

Mr. KYL. Mr. President, I am going to move to waive the point of order. I wanted to indicate that this amendment has the support of sponsors, such as Senator LOTT, Senator DOMENICI, Senator ROTH, and others on our side. I hope we can do it.

Mr. DOMENICI. Does the Senator have any time remaining?

The PRESIDING OFFICER. All time has expired.

Does the Senator wish to make a motion?

Mr. KYL. I move to waive the point of order.

Mr. DOMENICI. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

VOTE ON MOTION TO WAIVE THE BUDGET ACT

The PRESIDING OFFICER. The question is on agreeing to the motion to waive the Budget Act on the amendment offered by the Senator from Arizona.

The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

Mr. FORD. I announce that the Senator from Hawaii [Mr. INOUYE] is necessarily absent.

The yeas and nays resulted—yeas 64, nays 35, as follows:

[Rollcall Vote No. 120 Leg.]

YEAS—64

Abraham
Allard
Ashcroft
Bennett
Biden
Bond
Breaux
Brownback
Burns
Campbell
Chafee
Coats
Cochran
Collins
Coverdell
Craig
D'Amato
DeWine
Dodd
Domenici
Enzi
Faircloth
Feinstein
Frist
Glenn
Gorton
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Jeffords
Kempthorne
Kyl
Landrieu
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Robb
Roberts
Roth
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—35

Akaka
Baucus
Bingaman
Boxer
Bryan
Bumpers
Byrd
Cleland
Conrad
Daschle
Dorgan
Durbin
Feingold
Ford
Graham
Harkin
Johnson
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Mikulski
Moseley-Braun
Moynihan
Murray
Reed
Reid
Rockefeller
Sarbanes
Torricelli
Wellstone
Wyden

NOT VOTING—1

Inouye

The PRESIDING OFFICER. On this vote, the yeas are 64, the nays are 35. Three-fifths of the Senators duly chosen and having voted in the affirmative, the motion is agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. LOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 468

The PRESIDING OFFICER. The question now occurs on the amendment of the Senator from Arizona.

The amendment (No. 468) was agreed to.

Mr. LOTT. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

The PRESIDING OFFICER. Without objection, the motion to lay on the table is agreed to.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. LOTT. Mr. President, I think we have been making good progress. Unfortunately, we have had far too many amendments that were carried over from last night.

I hope that at some point in the future we can come together with the leadership on both sides and come to an agreement on a better system of doing business than having these votes on important matters of 10 minutes. But for now we have been making good progress.

The managers on both sides and the staff have been working very hard to understand what these amendments are and to see if agreements can be worked out on them and to see if they can be accepted or whether or not they should be passed or defeated. But they need a little time now.

* * *

MORNING BUSINESS

Mr. LOTT. Mr. President, I ask that there now be a period for the transaction of morning business until the hour of 12:45 with Senators permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Mr. President, when the Senate resumes, the voting sequence will start at approximately 12:45. I urge all Senators to please be back in the Chamber in order to make the process as orderly as possible. This will give us a chance to get a bite to eat and for the staff to assess which one of these amendments we can accept or reject.

I yield the floor.

The PRESIDING OFFICER. Who seeks time?

Mr. ABRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. ABRAHAM. Thank you, Mr. President.

MFN STATUS FOR CHINA

Mr. ABRAHAM. Mr. President, I take this opportunity in morning business to talk briefly about an issue that I know a number of Members on both sides of the aisle care very much about.

Yesterday in the House of Representatives a resolution which would have opposed or ended America's most-favored-nation status relationship with the People's Republic of China was defeated. But in the wake of that defeat, I think we still have an obligation to examine closely the policies of the Chinese Government and to not simply criticize those policies in word but also act with respect to those policies indeed. To that end, I urge my colleagues to begin the examination process of what, separate from acting in the context of most-favored-nation status, we might do as a matter of American policy.

The concerns that many of us have with respect to human rights abuses in China, ranging from coercive family planning practices to religious persecution, to the events that occurred in Tiananmen Square just a few years ago, combined with a variety of other things, such as the activities in this country of certain Chinese companies that operate under the auspices of the People's Liberation Army—most recently the incidence in which AK–47 assault rifles were on their way to street gangs in Los Angeles, and happily that was prevented from occurring—but a variety of actions that I think demand a response from this country that goes beyond rhetoric.

To that end, I recently introduced legislation here in the Senate, the China Sanctions and Human Rights Advancement Act. I ask my colleagues to take a look at that legislation. Now that it is clear that the most-favored-nation status debate is over for this year, I think we should be looking at other options.

I believe this legislation embodies a variety of very targeted responses to the things that have gone on in the People's Republic of China that Americans are concerned about. It would, among other things, deny visas to those high-ranking Government officials who have engaged in some of the policies and practices that we deplore. It would upon the United States to vote "no" with respect to votes on loans to China by international multilateral development banks so that we will not have American taxpayers subsidizing the Chinese Government.

It would identify those Chinese companies who are operating in this country and take specific sanctions against those who have been identified as having engaged in inappropriate and illegal activities.

It would attempt to deal in a very specific way with the issues of the proliferation of weapons technologies that has gone on between the Government of China and nations such as Iran.

It has a wide array of components to it.

I ask that all Members who are concerned about the actions of the Chinese Government look at this legislation. This Senator is anxious to look at other ideas, because I think a response is warranted beyond the MFN debate itself.

Mr. President, with that I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SANTORUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

WELFARE REFORM

Mr. SANTORUM. Mr. President, after listening to some of the debate on amendments that are being offered and having the opportunity to come to the floor and defend what we did last year on the welfare reform bill, you would think by all of the amendments that are being discussed and by all of the gnashing of teeth that is going on here in the U.S. Senate today, that we have a welfare reform bill—the bill that passed this Congress last session and implemented by the States' 50 Governors—that we are having an abject failure; that horrible things are happening out there in the area of welfare that we have to now come back and save all of these people. I hate to disappoint anybody's party here. But the fact of the matter is that things are not all that bad. In fact, things are doing very, very well in the area of welfare. I will point to a couple of things as illustrations.

First, I have not seen one major newspaper write one bad article or editorial on the devastating effects of welfare reform passed by the last Congress. I assure you that if there were any devastating stories to be told, they would be telling them because of all these papers that were against the welfare reform bill that went through. The fact that we have not heard of horror stories and that we have not heard any gnashing of teeth from the media about what is going on is certainly a positive sign that things are actually going well.

I might also add that none of the press has come and said, "Gee, we were wrong." Welfare in Wisconsin—50 percent of the people have been dropped off the rolls, and are working. Across the country the average is 20 percent of welfare rolls have been reduced, and people are working—in case after case after case.

I spend at least one visit a week when I am back in the State of Pennsylvania going in and talking to people in education and training programs, homeless shelters—you name it—talking to the people who are intersecting with the welfare programs. And almost unanimously what I have gotten as feedback is, "This program is a program I wish you had passed earlier. I wouldn't be here today working. I wouldn't be here today getting the education and training I need, succeeding, and feeling better about myself had this bill not passed."

We have an unmitigated success in welfare. We threw the ball up in the air. The Governors of the 50 States jumped. They caught it, and they are running with the ball. They are doing positive things for the poor and for the disadvantaged all across America. I just think that we need to take some time here today in the midst of all of these amendments that says all of these people are being hurt. The fact of the matter is a vast majority are being helped tremendously by what went on in welfare reform.

I hope Members—frankly, those who supported welfare reform and those who did not—I hope that they will come to the floor and say, "Look, this program is working." From any objective criteria, people are working; people are going in and getting education and training that they never would have had before because, frankly, they needed that little shove. We are giving it to them. We are supplying them, and the Governors, with the child care that they need.

We have a lot of work to continue to do on that front and on some other fronts in the area of Medicare and other kinds of health coverage. But the Governors are working on that. They are taking this responsibility that we have given them—this flexibility that we have given them—very seriously and are doing a terrific job.

So I just want to set the record straight here on a day that might otherwise be seen as a day where welfare reform came under attack here in the U.S. Senate. What we are seeing in reality outside of Washington DC, outside of the Senate Chamber, where we continue to think of the welfare of the past and look to the future—go out there in those communities and find out the success stories, the wonderful, heartfelt stories of people who needed this piece of legislation and who needed this change in the welfare culture.

I think probably the most dramatic thing that I heard from someone who is not on welfare but someone who worked in the system is from two people who had been in the welfare casework role for 25 years in New Castle, PA. They came to me and said, "I can't thank you enough for changing the law to let me do what I wanted to do 25 years ago but never had the chance"—that is, help people get off welfare, help people actually use their ability and get the respect for themselves instead of just passing out checks and creating dependency. The person was actually thanking me, almost in tears, thanking us for giving him the opportunity to do what 30 years of welfare policy wouldn't let him do—that is, get people off of welfare, give them the incentive and the tools to make it off the dependency of the Government instead of ensuring that they would never leave by creating a meal ticket forever on welfare.

So I just want to reiterate one last time that anyone in this Chamber who believes that welfare reform is in bad shape and we need to go and rewrite the welfare bill because of all the terrible things that are going on out there, I suggest you go out there and you talk to the Nation's Governors, you talk to the people who are working in the system, you talk to the people who are going through the system, and you will hear a very different story than what you are hearing here today in the Senate.

I yield the floor.

Mr. DURBIN addressed the Chair.

The PRESIDING OFFICER. Who seeks time?

The Senator from Illinois is recognized.

Mr. DURBIN. I thank the Chair. I would like to respond to my colleague from Pennsylvania.

I voted for the welfare reform bill, and I thought it was long overdue. The welfare system in America definitely needs to be changed, reformed, and in many areas just plain abandoned. It was a system which had sustained many families, but it also captured many families and ensnared them in welfare dependency, and we knew it. And that is why on a bipartisan basis we voted for welfare reform. But I do not believe that it is accurate to assess the success of welfare reform strictly on the wisdom of that legislation.

Fortunately, we live in a time of an expanding economy that is creating jobs, creating opportunities for small businesses, for new housing starts. We are seeing the lowest controlled inflation in a long, long period of time. We are seeing the deficit come into control. And I have to say to my friend, the Republican from Pennsylvania, I don't think you can take any credit for that because, unfortunately, not a single Republican Member of this Senate at the time supported the President's plan for deficit reduction. It passed with all Democratic votes and the vote of the Vice President and passed by a scant margin in the House of Representatives with no Republican support. And because of the President's plan, we have had 5 straight years of deficit reduction and economic expansion, something the other party speaks of a lot but something the Democrats delivered.

And so when we talk about opportunities to come off welfare, what opportunity would there be if we were in a recession with fewer jobs for people who are searching for that first-time job opportunity. I am afraid very, very few. And I also have to take exception to the idea that this welfare reform was somewhere hammered into marble, Holy Writ, that should not be changed or addressed. The success of a man like Franklin Roosevelt as President of the United States was his recognition that he was not perfect. He would come up with good ideas and he would try to implement them. Some turned out to be wildly successful, like Social Security, others fell on their face. He had at least the good sense to come forward and say there are times when you should abandon a program or change it. The same is true when it comes to welfare reform.

I might remind my colleague from Pennsylvania that even this year the Republican leadership in the House and Senate acknowledged the shortcomings of our welfare reform bill, particularly when it came to those who are legal immigrants to the United States. That was a very unfair provision, to force people off of disability income because they were here strictly on the basis of being legal immigrants. These are not illegals but legally here in the United States. I offered an amendment today. I tried to correct another failing, as I see it, in the welfare reform bill and it relates to food for children, food stamps for children. These are children of legal immigrants living in the United States who were cut off their food stamps in April of this year. I will tell the Senator from Pennsylvania the decision of this Chamber today I think was the wrong one, to deny food stamps to these children. It is one that we will pay for over and over and over again. A hungry child in this country without appropriate nutrition is a child who is likely to have more medical problems, likely to fall behind in school, more likely to become a future welfare or crime statistic.

I cannot understand why this Congress, like so many businesses, and I guess so many people, cannot look ahead beyond the next budget. We live in a country where the biggest growth industry is the construction of prisons. There are 19 cities in my home State of Illinois competing right now not for a new business but for the latest prison to be built by our State. We have more people under lock and key in America than in any country other than Russia. Why?

Is it because we are just more violent, more prone to criminal activity? I think it is a much deeper question. It goes to our children, whether or not some of these kids can be rescued, can be saved, can be put on the right path in their lives. It involves a commitment. Yes, I believe in three strikes you're out, but I also believe in taking the necessary action to avoid the first strike. Give a child a chance with prenatal nutrition, with appropriate infant nutrition, with Head Start, with education, with mentoring, the kind of community support that counts. And yet this body I am afraid considers that to be squandering of national assets. We have all the money in the world to build a prison. We do not have all the money in the world to improve our schools. When my colleague, Senator CAROL MOSELEY-BRAUN, comes forward with the crumbling schools proposal that says let us make sure the schools our kids attend are safe, that they have appropriate care for the children there, we find out that there are many people particularly on the Republican side of the aisle who say that is something that our Government should not worry about. I disagree. The shiniest new building in many cities across America is a prison; the one that is crumbling down is a school. What message does that send to children, to families and to our Nation?

When this Senate decided today to defeat my amendment not to send food stamps to these children, I am afraid it is a decision we will pay for for years to come. These kids are likely to become citizens of the United States. They are likely to be our neighbors, kids seeking jobs in the future. We are penny-wise and pound-foolish when we do not provide the basic necessities of life like food and health care and education for children.

So, yes, I supported welfare reform. I think the economy has sustained the kind of growth which has given welfare reform an opportunity to flourish but, for goodness sakes, why aren't we investing in our children? Why has this become so partisan and so strident that when we stand up with the Levin amendment and talk about more time for vocational education so that kids can get off welfare and go to work, it becomes a partisan vote? The Republicans say no; the Democrats say yes. Nothing happens. For the kid, the young man, the young woman who needs a chance at education, that was an important vote. And this Senate said no. That does not make sense. End welfare but end it responsibly. Make an investment in America's kids, an investment that will pay off for many generations to come.

Mr. SANTORUM. Will the Senator yield for a question?

The PRESIDING OFFICER. The time of the Senator from Illinois has expired. Who seeks time?

Mr. BROWNBACK addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. BROWNBACK. I would like to quickly respond, if I could, to just a couple of comments. I hope we will not stand here and say that the welfare program, the changes that we made in the last Congress have been a failure. They have been a great success. Look in my home State of Kansas where welfare rolls have gone down 30 percent. And, yes, we have had a strong economy, but in the past we have had a strong economy when the welfare rolls have gone up. You have to change the incentives in the program. That is what we did in the last Congress. It was a positive step to move forward. So I hope that we do not make something a failure when it has been a strong success and people are working now rather than receiving payments from the Government and they are having more self-confidence themselves.

I think this is good for people, too, because with the past system the people on welfare, along with the people that paid for welfare, thought it was a horrible failure and a horrible system. We have changed the dynamics, and we have changed the incentives in this program to where the people are incentivized to work. And they feel good about it. They feel better about it. And this is a program that is going to work.

I think there are a lot of things we could spend money on that might well be good, but we have tended to do a lot of that in the past, to the point we are over $5 trillion in the hole. So that we just cannot keep voting for everything to be able to do it or else we are not going to get in balance.

MOST-FAVORED-NATION STATUS FOR CHINA

Mr. BROWNBACK. Mr. President, I would like to comment on the comments of the Senator from Michigan where he was addressing a foreign policy concern, and that is China.

Yesterday, the House voted on most-favored-nation status and extended that status toward China even though we are having a great deal of difficulty in that country, and I do think we need to take additional steps in addressing this issue of China and our relationships back and forth.

We have had problems with that nation expanding weapons of mass destruction, selling them to some of our enemies that we have around the world, particularly Iran. We have had problems with religious persecution, with forced abortion in that nation, and I think we need to step up and pass the issue of MFN.

The Senator from Michigan has a start in his bill when he is talking about some different areas where we can put pressure on that nation in our relationship there to encourage more religious freedom taking place and to discourage things like weapons proliferation.

RELIGIOUS PERSECUTION

On Monday of this week, Senators JOE LIEBERMAN and ROBERT BENNETT, along with myself, hosted a forum on religious persecution around the world. We found this was not just a problem in China. It is in the Middle East. It is in Africa. And we are talking about an issue that goes beyond just certain levels of discrimination, all the way to the point of slavery, to murder that is taking place in those countries.

A number of us came forward with solutions. Let's create a register of those people who are being persecuted around the world, and let's start to highlight it. Let's start a commission in areas of the Middle East, in Africa, focusing on this issue of the need for religious freedom. It is a founding principle of this country. People came here seeking freedom, seeking religious freedom. We are and we always will be best as a nation when we talk about principles. This is a guiding principle that we need to continue to move forward beyond this debate of MFN and focus nationally on this issue of what is taking place there. Create the register, create the commissions, focusing on this area. And I look forward to working with my colleagues, Senator LIEBERMAN and many others. I hope it will begin in us talking about something that is so basic to America, religious freedom. We need to implement that and move those around the world.

I yield the floor.

The PRESIDING OFFICER. Who seeks time?

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

(The remarks of Mr. KERRY pertaining to the introduction of S. 956 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

BALANCED BUDGET ACT OF 1997

Mr. DOMENICI. Parliamentary inquiry. Is it not time to return to consideration of the bill?

The PRESIDING OFFICER. Under the previous agreement, the Senate resumes consideration of S. 947. The Senator is correct.

The Senate continued with the consideration of the bill.

AMENDMENT NO. 467, AS MODIFIED

(Purpose: To preserve religious choice in long-term care)

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, in behalf of Senator GRASSLEY, I submit a modified amendment, No. 467. It has been cleared on both sides. I ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for Mr. GRASSLEY, proposes an amendment numbered 467, as modified.

Mr. DOMENICI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment, as modified, is as follows:

On page 689, between lines 2 and 3, insert the following:

"(iii) RELIGIOUS CHOICE.—The State, in permitting an individual to choose a managed care entity under clause (i) shall permit the individual to have access to appropriate religiously-affiliated long-term care facilities that are not pervasively sectarian and that provide comparable non-sectarian medical care. With respect to such access, the State shall permit an individual to select a facility that is not a part of the network of the managed care entity if such network does not provide access to appropriate faith-based facilities. Such facility that provides care under this clause shall accept the terms and conditions offered by the managed care entity to other providers in the network. No facility may be compelled to admit an individual if the medical director of that facility believes that the facility cannot provide the specific nursing care and services an enrollee requires.

Mr. DOMENICI. I yield any time we have on the amendment.

The PRESIDING OFFICER. All time is yielded back. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 467), as modified, was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 473, WITHDRAWN

Mr. DOMENICI. Mr. President, in behalf of Senator HUTCHISON, I seek the withdrawal of amendment No. 473. I ask it be withdrawn.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 473) was withdrawn.

AMENDMENT NO. 493

Mr. DOMENICI. Senator KENNEDY has an amendment, No. 493, Kennedy-Lautenberg. Senator LAUTENBERG introduced it for Senator KENNEDY, to exempt severely disabled aliens from the ban on receipt of supplemental income. It is at the desk. I indicate from our side that there is no objection. I understand from the Democratic side there is no objection.

Senator KENNEDY, is that correct?

Mr. KENNEDY. That is correct. I thank the chairman of the committee for his consideration. It is a serious issue and a heartrending issue for many different individuals. The willingness to accept this amendment is something we are very, very appreciative of. If I might just say a few words about it.

Under the budget reconciliation bill, legal immigrants who are already in this country can keep their SSI benefits. But for those who come in the future, SSI is only for citizens. They have to become citizens to qualify in the future, so your sponsor must take care of you until then.

This amendment creates a small exception to that rule. It enables immigrants who are too disabled to qualify for citizenship to retain their SSI eligibility.

Some immigrants and refugees—though not many—become too disabled to qualify for citizenship. Under this bill, their sponsors have to care for them for life. If they don't have sponsors, they have nowhere to turn.

One example is Vien Vu. His family fled Vietnam after years of serving side-by-side with the United States Armed Forces. But Vien Vu has Downs syndrome. He is 34 years old. The rest of his family has become American citizens but Vien will never qualify for citizenship. His family needs SSI to care for him for the rest of his life.

Mendel Tsadovich is a Latvian Holocaust survivor who is too mentally retarded to qualify for naturalization. In 1992, he and his family escaped as refugees from the anti-Semitism of the former Soviet Union. He is now 61 and living in New York. He is the only surviving member of his family, and depends on SSI for assistance. He has no sponsor.

Vien and Mendel are the lucky ones. They arrived before passage of last year's welfare law. So the reconciliation bill will continue their SSI coverage. But what about the Viens and Mendels who arrive in the future?

With the passage of the Lautenberg amendment this morning, my amendment costs almost nothing. CBO scores it as having little budget impact. So, we can help all those like Vien and Mendel and still balance the budget by 2002.

The number of immigrants this amendment affects is small, perhaps only a few thousand people a year. But these immigrants often depend on SSI benefits for their survival. If they do not have the ability to become citizens, Congress should not deny them the SSI benefits they need.

Mr. DOMENICI. Mr. President, I have a couple of seconds. I want to say, some may ask why I accepted this. Actually, it's a very tiny group of people. It covers those who are so seriously disabled that the disability disqualifies them from completing their naturalization process. Therefore, they cannot become citizens. They are noncitizens, but legal. As a result, they are denied benefits described in the Kennedy amendment for only that reason. So I agree to accept that.

THE PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 493) was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 469

Mr. DOMENICI. I understand the next amendment in order is by Senator SPECTER, No. 469. Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. DOMENICI. I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, I am offering this amendment on behalf of Senator ROCKEFELLER, Senator SANTORUM, Senator SNOWE, Senator COLLINS, and Senator CAMPBELL. It would ensure that $1.5 billion over 5 years of Medicare premium subsidies is provided to the low-income elderly with annual incomes up to $12,000 through expansion of the existing Medicaid Program, instead of what is in the current bill, to add $1.5 billion through a new State block grant program.

This amendment is preferable, by doing it on an existing program instead of setting up a new bureaucracy. It is necessary because the premium increases in the bill are permanent, but there is no guarantee of permanent subsidies for the 3.2 million poor senior citizens covered unless this amendment would be adopted.

I yield the remainder of my time to Senator ROCKEFELLER.

Mr. ROCKEFELLER. Mr. President, I point out that this amendment would help seniors making, on an annual basis, between $9,500 a year and $11,900 a year. It would simply take the principles of the Medicaid Program and carry them forward, and simply say those folks deserve to get help in the Medicare payment because they are so desperately poor. This is well established in Medicaid. We are now applying it to a new area and saying, rather than 120 percent of poverty, we are saying 120 percent of poverty to 150 percent of poverty. It is very sensible. It helps people.

This program is going to sunset in 5 years, but their costs are not going to sunset in 5 years. We think it is an amendment which both sides are willing to vote for.

The PRESIDING OFFICER. The time has expired. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, first I make a point of order that the amendment is not germane.

Mr. SPECTER. Mr. President, I move to waive.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DOMENICI. Mr. President, yesterday we provided $1.5 billion in new funds to assist Medicare beneficiaries between 120 and 150 percent of the poverty line with their part B premiums. That was expected under the agreement that we entered into with the White House. We provided these funds as a State program, providing maximum flexibility to reach these individuals in the greatest need. We do not need this additional program, which would create a new entitlement, which we can't afford. I urge my colleagues to oppose the amendment, or to support the point of order.

I yield the floor.

MOTION TO WAIVE THE BUDGET ACT

The PRESIDING OFFICER. The question is on the motion of the Senator from Pennsylvania to waive the Budget Act. The yeas and nays have been ordered.

The clerk will call the roll.

The bill clerk called the roll.

The PRESIDING OFFICER (Mr. GREGG). Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted, yeas 52, nays 48, as follows:

[Rollcall Vote No. 121 Leg.]

YEAS—52

Akaka
Baucus
Biden
Bingaman
Bond
Boxer
Breaux
Bryan
Bumpers
Byrd
Cleland
Collins
Conrad
D'Amato
Daschle
Dodd
Dorgan
Durbin
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Reed
Reid
Robb
Rockefeller
Santorum
Sarbanes
Snowe
Specter
Torricelli
Wellstone
Wyden

NAYS—48

Abraham
Allard
Ashcroft
Bennett
Brownback
Burns
Campbell
Chafee
Coats
Cochran
Coverdell
Craig
DeWine
Domenici
Enzi
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Roberts
Roth
Sessions
Shelby
Smith (NH)
Smith (OR)
Stevens
Thomas
Thompson
Thurmond
Warner

The PRESIDING OFFICER. On this vote, the yeas are 52, the nays are 48. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained, and the amendment falls.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. LAUTENBERG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. Mr. President, how much time did that vote take?

The PRESIDING OFFICER. That vote took 17 minutes.

Mr. DOMENICI. I understand the leader will be—

The PRESIDING OFFICER. If the Senator will suspend, I ask that there be order in the Chamber and that Members wishing to pursue discussions, and especially staff wishing to pursue discussions, take those discussions to the Cloakroom. We are not going to proceed until there is order so the Senator from New Mexico can be heard.

The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I repeat my question. How much time did the last vote take?

The PRESIDING OFFICER. The last vote took approximately 17 minutes.

Mr. DOMENICI. We are operating on a unanimous-consent agreement that says we will take 10 minutes for rollcall votes. I understand the leader will be along shortly and indicate we that will go to the 10-minute rule. But I am not going to hold Senators to that unless the leader comes and confirms it. But 17 minutes, that is an extra hour for people today; it seems like to me maybe longer.

We have a little business we can conduct at this point.

AMENDMENT NO. 495

Mr. DOMENICI. We are willing to accept a Conrad amendment dealing with the nurse aide registry.

I ask the Senator, are you willing to accept that on your side?

Mr. LAUTENBERG. We are.

Mr. DOMENICI. We yield back any time on the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is agreed to.

The amendment (No. 495) was agreed to.

Mr. DOMENICI. I move to reconsider the vote.

Mr. LAUTENBERG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 470

Mr. DOMENICI. Mr. President, I ask unanimous consent that Senator SPECTER's next amendment, which is 470, that it be temporarily set aside. And the Senator would like 30 seconds to explain why he is agreeing to that.

Mr. SPECTER. Mr. President, this is an amendment related to disproportionate share. Some States have been hit very hard because some of the funds have been used for mental health facilities. There has already been substantial improvement; illustratively, for Pennsylvania, which had been on the books to sustain a loss of $1.7 billion, it is down to $750 million. And the managers are now considering an amendment which would improve that situation materially.

So I agree with my distinguished colleague from New Mexico to set it aside temporarily with the hope we may be able to work it out, and ultimately have it withdrawn if a satisfactory resolution can be arrived at.

The PRESIDING OFFICER. Without objection, it is set aside.

Mr. DOMENICI. Mr. President, I ask one further unanimous consent, that Senator MIKULSKI's amendment No. 489 follow Senator SPECTER's amendment, which he will proceed with now, which is amendment 471.

I yield the floor.

The PRESIDING OFFICER. Is there objection?

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from West Virginia.

POINT OF ORDER

Mr. ROCKEFELLER. Mr. President, I ask for the regular order with regard to the point of order under the Byrd rule which was raised on the balanced billing.

The PRESIDING OFFICER. The Senator's point of order is the regular order.

Mr. DOMENICI. Mr. President, might I ask, how is the Chair going to rule? Parliamentary inquiry. Can't do that? I withdraw the question.

I move to waive the point of order and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion. The clerk will call the roll.

Mr. BYRD. Mr. President, may we have some explanation what we are about to vote on?

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia is recognized for 1 minute.

Mr. ROCKEFELLER. I urge my colleagues to vote no, against the motion to waive the Budget Act, so that we protect patients in these sorts of very special Medicare Choice programs who, unless we give them the protection, unless we vote no, doctors are going to be able to charge whatever they want. Everybody else under Medicare is under something called balanced billing. Balanced billing means you can only charge 15 percent more than what Medicare pays for it. This was agreed to in 1989 when we did a massive Medicare reform.

We should not be able to take a sort of special fee for service part of the new Medicare Choice and suddenly say that the doctor can charge them anything they want. They have no protection from balanced billing rules which protects all other people who are under Medicare. And it is the law of the land. It is a very important principle, a very important point. And since we have done this in 1989, since we have put a cap on the balanced billing, which the other side would have us let go, seniors have saved $2 billion since 1989.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico has 1 minute.

Mr. DOMENICI. Mr. President, I yield 40 seconds of that to Senator GRAMM. I will use 20.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, by giving a broad range of choices to our seniors, we have given them the ability to opt into a private fee-for-service health insurance policy.

Now, if we come along and start restricting the way that a private health insurance policy can function, and tell them how they are to bill for physician services, we take away the whole competitive nature of what we are trying to create. I know some people do not like the idea of expanding choices for seniors.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. GRAMM. But that is what we have done, and we need to preserve the ability of these mechanisms to function. It is important we waive the point of order.

Mr. DOMENICI. Mr. President, essentially this amendment will gut MSA's and private fee-for-service programs that come into this bill which permits seniors a wide array of options. They are gone essentially, for the regulatory mechanisms that will be imposed on them will make them a nullity.

VOTE ON MOTION TO WAIVE THE BUDGET ACT

The PRESIDING OFFICER. The question is on agreeing to the motion. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Utah [Mr. HATCH] is necessarily absent.

The yeas and nays resulted—yeas 62, nays, 37, as follows:

[Rollcall Vote No. 122 Leg.]

YEAS—62

Abraham
Allard
Ashcroft
Bennett
Biden
Bingaman
Bond
Breaux
Brownback
Burns
Campbell
Chafee
Coats
Cochran
Collins
Coverdell
Craig
D'Amato
DeWine
Domenici
Enzi
Faircloth
Feinstein
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hagel
Helms
Hutchinson
Hutchison
Inhofe
Jeffords
Kempthorne
Kerrey
Kyl
Landrieu
Lott
Lugar
Mack
McCain
McConnell
Moynihan
Murkowski
Nickles
Roberts
Roth
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Torricelli
Warner

NAYS—37

Akaka
Baucus
Boxer
Bryan
Bumpers
Byrd
Cleland
Conrad
Daschle
Dodd
Dorgan
Durbin
Feingold
Ford
Glenn
Graham
Harkin
Hollings
Inouye
Johnson
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Murray
Reed
Reid
Robb
Rockefeller
Sarbanes
Wellstone
Wyden

NOT VOTING—1

Hatch

The PRESIDING OFFICER. On this question, the yeas are 62, the nays are 37. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mr. DOMENICI. I move to reconsider the vote.

Mr. NICKLES. I move to lay it on the table.

The motion to lay on the table was agreed to.

Mr. LOTT. Mr. President, the Democratic leader and I have talked about the necessity to try to complete votes in the time prescribed. We have been warning and urging Members to stay in the Chamber to do these votes. It has taken about 50 minutes to do two votes. We did cut that last vote off with one Member missing. This is the final warning. From here on in after 10 minutes we are going to turn in the vote.

So please stay in the Chamber. Let's vote. We can save ourselves an hour or more if we do that. Please do that. Please cooperate with us and we can get our work done and get it done an hour or so earlier.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. DOMENICI. Mr. President, I believe under the rule, Senator SPECTER is up.

AMENDMENT NO. 471

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, this amendment eliminates the cuts on indirect grants in medical education. In 48 States there are 1,085 teaching hospitals which perform very, very valuable services. In addition to teaching professionals, they give basic health services, customarily in the inner cities. With a disproportionate share coming into effect, their financing is very, very important.

Beyond that, they give highly specialized patient care so that if you have some really extraordinary medical problem, where you go is to these graduate medical educational institutions.

These cuts would be crippling. I suggest that as a matter of priority they be eliminated from this bill.

Mr. DOMENICI. Mr. President, I yield 40 seconds of the 1 minute to Senator ROTH.

Mr. ROTH. Mr. President, I oppose this amendment. Simply put, according to most experts, Medicare today overpays for indirect medical education, which is a special Federal subsidy for training new doctors. We have substantially but responsibly reduced those payments in our bill, and, indeed, these payments will remain very generous. This amendment is not needed and would prevent us from meeting our budget instructions.

Mr. DOMENICI. Mr. President, this amendment will cost us $5.6 billion in this bill alone. The explanation given by the distinguished chairman seems to me to indicate we are going to be more than fair with reference to the indirect payment.

Mr. SPECTER. I believe I have 7 seconds remaining.

Mr. President, this will not require a waiver of the Budget Act, and although the sum is not insignificant, this is really important for America.

I ask that Senator D'AMATO be listed as a cosponsor.

Mr. DOMENICI. Some Senators might wonder why it is not subject to a point of order when it cuts $5.6 billion. That is because it is a motion to strike, and motions to strike are in order under the Budget Act regardless of their impact.

I move to table the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Pennsylvania.

The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 71, nays 29, as follows:

[Rollcall Vote No. 123 Leg.]

YEAS—71

Abraham
Allard
Ashcroft
Baucus
Bennett
Breaux
Brownback
Bryan
Burns
Campbell
Chafee
Coats
Cochran
Collins
Conrad
Coverdell
Craig
DeWine
Dodd
Domenici
Dorgan
Enzi
Feingold
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Kempthorne
Kerrey
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Moseley-Braun
Murkowski
Nickles
Reed
Robb
Roberts
Rockefeller
Roth
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Stevens
Thomas
Thompson
Torricelli
Warner

NAYS—29

Akaka
Biden
Bingaman
Bond
Boxer
Bumpers
Byrd
Cleland
D'Amato
Daschle
Durbin
Faircloth
Harkin
Inouye
Jeffords
Johnson
Kennedy
Kerry
Levin
Mikulski
Moynihan
Murray
Reid
Santorum
Sarbanes
Specter
Thurmond
Wellstone
Wyden

The motion to lay on the table the amendment (No. 471) was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote.

Mr. LAUTENBERG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The regular order would now be the Mikulski amendment.

AMENDMENT NO. 472, WITHDRAWN

Mr. DOMENICI. Mr. President, on behalf of Senator BURNS, I withdraw Senate amendment No. 472.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

The amendment (No. 472) was withdrawn.

AMENDMENT NO. 494, WITHDRAWN

Mr. DOMENICI. On behalf of Senator CONRAD, I withdraw amendment No. 494.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

The amendment (No. 494) was withdrawn.

AMENDMENT NO. 489

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Ms. MIKULSKI. Thank you very much. On behalf of Mr. WELLSTONE and myself, we have an amendment at the desk that will strike the committee action and restore something called the Boren amendment. The Boren amendment was passed and signed by President Reagan in 1981 to ensure adequate access to health care services for Medicaid beneficiaries.

The Boren amendment simply stated that payment rates for hospitals and nursing homes must be reasonable and adequate to meet the cost of operating the facilities. That is reimbursements by Medicaid. Now, under the committee action, we would take that away. We would give permission to States to further reduce payment rates to nursing homes at this time. This would have a devastating affect on quality care, and it would have a devastating affect on access to care for beneficiaries.

The simple fact is that Medicaid payment rates to nursing homes does affect quality and our ability to meet the standards that are mandated for health and safety. Nursing homes have stopped taking Medicaid patients. Because of that, I urge adoption of the amendment.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I yield 30 seconds of my minute to the Senator from Texas.

Mr. GRAMM. Mr. President, we are always looking for bipartisanship. The President is in favor of repealing the Boren amendment. The National Governors' Association is in favor of repealing the Boren amendment. The amendment of the Senator from Maryland will raise the deficit and reduce our savings by $1.2 billion. How does anybody know what is reasonable and adequate? The Boren amendment has produced endless lawsuits. States want to negotiate with hospitals and get the best rate they can. Repealing the Boren amendment takes it out of the courts.

Mr. DOMENICI. Mr. President, as we negotiated a balanced budget with the President and the Governors, the administration regularly said, "We want to provide flexibility." What is flexibility? Get rid of the Boren amendment. That is what they kept saying. Provide flexibility instead of the rigidity brought on by lawsuits. The Boren amendment should be dead. The President is not for it. Now someone wants to put it back in, and it will cost $1.2 billion to put something back in that didn't work.

I move to table the Mikulski amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays are ordered, and the clerk will call the roll.

The bill clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 66, nays 34, as follows:

[Rollcall Vote No. 124 Leg.]

YEAS—66

Abraham
Allard
Ashcroft
Baucus
Bennett
Bingaman
Bond
Breaux
Brownback
Bryan
Burns
Campbell
Chafee
Coats
Cochran
Collins
Conrad
Coverdell
Craig
DeWine
Domenici
Enzi
Faircloth
Feingold
Frist
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Jeffords
Kempthorne
Kerrey
Kohl
Kyl
Lautenberg
Leahy
Lott
Lugar
Mack
McCain
McConnell
Moynihan
Murkowski
Nickles
Robb
Roberts
Roth
Santorum
Sessions
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond

NAYS—34

Akaka
Biden
Boxer
Bumpers
Byrd
Cleland
D'Amato
Daschle
Dodd
Dorgan
Durbin
Feinstein
Ford
Glenn
Harkin
Inouye
Johnson
Kennedy
Kerry
Landrieu
Levin
Lieberman
Mikulski
Moseley-Braun
Murray
Reed
Reid
Rockefeller
Sarbanes
Shelby
Torricelli
Warner
Wellstone
Wyden

So the motion to lay on the table the amendment (No. 489) was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which

the motion to lay on the table was agreed to.

Mr. LOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. Mr. President, how much time did we use on that vote?

The PRESIDING OFFICER. Twelve minutes.

Mr. DOMENICI. I thank the Chair.

CHANGE OF VOTE

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KOHL. Thank you, Mr. President.

On rollcall vote 124, I voted "no." It was my intention to vote "yes." Therefore, I ask unanimous consent that I be permitted to change my vote. This will in no way change the outcome of the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The foregoing tally has been changed to reflect the above order.)

Mr. DOMENICI. Regular order.

AMENDMENT NO. 488

The PRESIDING OFFICER. Regular order is the amendment of the Senator from Minnesota, No. 488.

Mr. WELLSTONE. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will come to order.

We can move this along if Members in the room would withdraw their conversations to the Cloakroom, and if the staff will reserve their conversations.

The Senator from Minnesota is recognized.

Mr. WELLSTONE. Mr. President, if I could just say to you, I am not going to start, if I could ask for order.

The PRESIDING OFFICER. If the Senator will suspend, we are not going to proceed until the Senator from Minnesota can be fairly heard. The staff will reserve their conversations. It will help to move this along.

The Senator from Minnesota is recognized for 1 minute.

Mr. WELLSTONE. Mr. President, it is hard in this process because people want to talk. But these amendments have consequences for people's lives.

I would like to wait until we have order.

Mr. DOMENICI. Mr. President, we can't hear.

Mr. WELLSTONE. I have people talking all around me.

The PRESIDING OFFICER. The Senator from Minnesota is correct.

The Senator from Minnesota is recognized.

Mr. WELLSTONE. Thank you.

Mr. President, I offer this amendment with Senator MIKULSKI. We just repealed the Boren provision, which was an effort to make sure that there was reasonable and adequate rates of reimbursement. This was for nursing homes, children's hospitals, group care for people with disabilities.

What we do in this amendment is a compromise, colleagues. We just simply require that States provide assurance to the Secretary that the rates will be actuarially sufficient to ensure adequate care.

We don't have any vague standard. This is an actuarially sufficiency standard. We are just saying to States, let's have some standard that you can say you have had an independent analysis done and that you are providing the resources so the children's hospitals and nursing homes and group homes can provide adequate care to very vulnerable seniors, children and the disabled.

Please vote for this compromise. We can't wipe out all of these standards.

Other than that, I do not feel strongly about it.

The PRESIDING OFFICER. Who rises in opposition?

The Senator from New Mexico.

Mr. DOMENICI. Would Senator ROTH like some time on this?

I will give you half the time.

Mr. ROTH. All right. Mr. President, I rise in opposition to this amendment. It raises again the same questions that were raised in respect to the Boren amendment. The history of the Boren amendment is a classic example of unintended consequences as its been used to increase costs of the program rather than control costs. The Governors are in opposition as well as the administration.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. ROTH. I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico has 30 seconds.

Mr. DOMENICI. Mr. President, the Senate has just overwhelmingly agreed we do not need the Boren amendment back on the horizon, and I view this as a new, similar burden on trying to get reasonably priced care. Perhaps it will be known in the future not as the Boren amendment but the Wellstone amendment. But believe you me, it will be just as egregiously antiefficient as the previous one, for there will be many, many court interpretations of the language that is now going to be inserted as a test of whether or not the charges are fair.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DOMENICI. I make a point of order that amendment violates section 310 of the Budget Act.

Mr. WELLSTONE. I move to waive that.

The PRESIDING OFFICER. Is there a sufficient second on the motion to waive? There is a sufficient second.

The yeas and nays were ordered.

VOTE ON MOTION TO WAIVE THE BUDGET ACT

The PRESIDING OFFICER. The question is on agreeing to the motion to waive. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Ohio [Mr. GLENN] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 39, nays 60, as follows:

[Rollcall Vote No. 125 Leg.]

YEAS—39

Akaka
Baucus
Biden
Bingaman
Boxer
Bumpers
Byrd
Chafee
Cleland
Conrad
Daschle
Dodd
Dorgan
Durbin
Feinstein
Ford
Frist
Graham
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Murray
Reed
Reid
Rockefeller
Sarbanes
Torricelli
Wellstone
Wyden

NAYS—60

Abraham
Allard
Ashcroft
Bennett
Bond
Breaux
Brownback
Bryan
Burns
Campbell
Coats
Cochran
Collins
Coverdell
Craig
D'Amato
DeWine
Domenici
Enzi
Faircloth
Feingold
Gorton
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Kempthorne
Kerrey
Kohl
Kyl
Landrieu
Lott
Lugar
Mack
McCain
McConnell
Moynihan
Murkowski
Nickles
Robb
Roberts
Roth
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NOT VOTING—1

Glenn

The PRESIDING OFFICER. On this vote the yeas are 38; the nays are 61. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to. The point of order is sustained and the amendment falls.

Mr. DOMENICI. Mr. President, I move to reconsider the vote.

The PRESIDING OFFICER. Without objection, the motion to reconsider is laid on the table.

The motion to lay on the table was agreed to.

Mr. FRIST addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

CHANGE OF VOTE

Mr. FRIST. Mr. President, on rollcall vote No. 125, I voted no. It was my intention to vote "yea". I ask unanimous consent that I be permitted to change my vote. This will in no way change the outcome of the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The foregoing tally has been changed to reflect the above order.)

The PRESIDING OFFICER. The Senator from New Mexico.

AMENDMENT NO. 497 WITHDRAWN

Mr. DOMENICI. Mr. President, amendment No. 497, of Senator KOHL, I move to withdraw that in his behalf.

The PRESIDING OFFICER. Without objection, it is so ordered.

Amendment No. 497 was withdrawn.

AMENDMENT NO. 498

Mr. DOMENICI. There are two amendments we are going to accept, and then we will proceed to a Kennedy education amendment. The first is a Harkin amendment, No. 498, on micro-demonstration programs for welfare recipients under small business. Senator HARKIN, we have agreed to accept that. There is no objection on either side.

Mr. HARKIN. I appreciate that very much. I thank the chairman.

Mr. DOMENICI. I ask consent Senator BOND, chairman of the Small Business Committee, and Senator DOMENICI, be cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 498) was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote.

The PRESIDING OFFICER. Without objection, that motion is laid on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 491

Mr. DOMENICI. Senator BAUCUS has an amendment, No. 491, regarding cost-sharing provisions. We are prepared to accept that amendment at this time.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, the chairman of the committee has adequately described the amendment. I very much appreciate that he will accept the amendment.

THE PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 491) was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote.

The PRESIDING OFFICER. Without objection, the motion to reconsider is laid on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 490

Mr. DOMENICI. Now I believe amendment No. 490 by Senator KENNEDY is next.

The PRESIDING OFFICER. We shall not proceed to it until we have order. The Senator from Massachusetts is recognized for 1 minute.

Mr. DOMENICI. Will the Senator yield for a moment?

Mr. KENNEDY. Yes.

Mr. DOMENICI. Let me say for Senators' benefit, it looks like there are only three to four amendments left. So, if you can bear with us for just a little longer, I know this has been an ordeal. The only remaining thing after that would be the points of order, if any, that they might have on the Democrat side.

Mr. LAUTENBERG. We have a few.

Mr. DOMENICI. I yield the floor.

The PRESIDING OFFICER. If we could get the attention of the Senate again. If we could have conversations removed to the Cloakroom.

The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I yield myself 40 seconds, 20 seconds to my colleague, Senator DODD. We offered this together.

This amendment is supported by the American Council on Education and virtually all of the higher education agencies and organizations, as well as the student organizations. Effectively, it will reduce tuitions by $1.4 billion over the next 5 years, and it is fully paid for by the reduction in terms of the guarantees to the guaranty agencies from 98 to 95 percent of the loans. There are offsets there. The process that we have done in terms of the offsets is virtually identical to what was done by the Republican initiative in the reconciliation bill. I hope it will be successful. It will reduce student tuitions by at least $70.

Mr. DODD. Mr. President, there are $26 billion outstanding in student loans. This amendment has two parts. It does away with the automatically required administrative cost allowance, which is unnecessary. That can be dealt with in the higher education bill. And it cuts in half the origination fees, 4 percent to 2. It is a very big issue for families.

The PRESIDING OFFICER. Who rises in opposition?

Mr. JEFFORDS. Mr. President, I rise in opposition to the amendment offered by the Senator from Massachusetts, [Mr. KENNEDY]. Briefly, this amendment would rewrite title VII of the reconciliation bill, which includes the student loan provisions reported by the Committee on Labor and Human Resources by a vote of 17 to 1.

I have two major reasons for opposing this amendment. First, it will harm students by destabilizing the guaranteed loan program; and, second, it addresses issues which belong in the debate of reauthorization of the Higher Education Act—not the budget reconciliation bill.

Let me be clear. Adoption of the Kennedy amendment will harm students—not help them. No one in the Senate is more committed to improving educational opportunities than I am. I have worked to strengthen student loan programs for over 22 years. If I honestly believed that this amendment was in the best interests of students, I would support it. It is precisely because of my commitment to the well being of students, however, that I so strongly oppose this amendment.

I want to take a few minutes to explain exactly why this amendment is not in the best interests of students or their families and why it was rejected when it was considered by the Labor Committee.

First of all, it is important to understand that the proposal which was approved by the committee was carefully crafted to preserve two viable student loan programs—the Federal Family Education Loan [FFEL] Program, guaranteed loans, and the Federal Direct Loan Program. This proposal respects the so-called truce between the two programs which was reflected in the portion of the budget agreement calling for a fair distribution of savings between the two programs.

The amendment of the Senator from Massachusetts breaks this truce. In the name of helping students, this amendment would drain such a substantial portion of funds from guaranty agencies that the Congressional Budget Office estimate of the amendment assumes the failure of many of these agencies.

The provisions approved by the committee already recapture $1 billion in guaranty agency reserve funds over the next 5 years. The recall of these funds is conducted in such a way that guaranty agencies with low reserves—Arkansas, Connecticut, Georgia, Illinois, Massachusetts, Minnesota, Nebraska, New Hampshire, Oklahoma, Texas, Vermont, Washington, and Wisconsin—will not be forced to close their doors to the students who depend upon them.

The Kennedy amendment would nearly double the savings expected from guaranty agencies—calling for an additional $960 million reduction over 5 years. Because the amendment eliminates any assurance that guaranty agencies will receive an administrative cost allowance [ACA] from section 458 funds, the reductions absorbed by guaranty agencies could well be even higher.

The guaranteed student loan program serves 80 percent of the institutions of higher education in this country and provides over 60 percent of total student loan volume. Yet, the Kennedy amendment makes no provision whatsoever for mitigating the severe disruption to student borrowers which will occur when agencies inevitably fail. If the goal is to enhance the direct loan program by crippling the guaranteed program, this amendment will be remarkably effective. However, if the goal truly is to help students, we should be working together in the appropriate forum—which is reauthorization, not reconciliation.

Moreover, I would note that the proposed reduction in the loan origination fee charged to students would not take effect until July 1998. There is no compelling reason to consider this provision outside of the current effort to reauthorize the Higher Education Act.

Before closing, I would like to take a few minutes to discuss the proposal that was approved by the Labor Committee and provide the history and context for this debate.

The budget agreement approved by the Senate reflects the strong bipartisan support for education. The agreement provides for $35 billion in education related tax provisions, and assumes increased Federal support for special education, Head Start, and funding for literacy programs. The budget agreement supports providing an additional $7.6 billion for Pell grants allowing the maximum grant to grow from $2,700 to $3,000.

In addition, the subsidy for student loans is assumed to grow from $3.9 billion in 1998 to $4.1 billion in 2002. This will support growth in Federal student loan volume from $28.8 billion in 1998 to $35.8 billion in 2002. These provisions provide an unprecedented level of support for educational opportunity for students at all levels of education.

In order to accommodate this unprecedented level of support for students, the Senate budget resolution requires $1.792 billion in savings over 5 years from mandatory spending under the jurisdiction of the Committee on Labor and Human Resources.

The savings required by the agreement and submitted by the committee will not increase costs, reduce benefits, or limit access to loans for students and their families. In accordance with the budget agreement, this proposal attempts to maintain an equitable balance in the savings that are taken from the Federal Family Education Loan Program [FFEL] and the Federal Direct Lending Program [FDLP].

The budget submission approved by the committee achieves the required savings by recalling $1.028 billion in excess guaranty agency reserves, eliminating the $10 direct loan origination fee, and reducing the Department of Education's entitlement for the administration of the Federal direct lending program by $604 million. This language preserves a very delicate balance—it achieves major savings and preserves the viability of both loan programs, so that students will not be at risk of losing access to loans. The key provisions of title VII as reported by the Committee on Labor and Human Resources include:

A. ELIMINATION OF THE DIRECT LENDING LOAN ORIGINATION PAYMENT

This proposal repeals the provision authorizing the Federal payment of $10 per loan to schools and/or alternate originators who make direct loans. This repeal will provide five-year savings of $160 million.

B. RECALL OF EXCESS GUARANTY AGENCY RESERVES

The committee proposal requires the recall of $1.028 billion in reserves and requires each guaranty agency to deposit its share of the total excess reserves into a newly created restricted account in annual payments over the next five years.

C. REDUCTIONS IN SECTION 458 EXPENDITURES

Section 458 of the Higher Education Act provides funds to the Secretary of Education for the administrative expenses associated with the direct lending program as well as the administrative cost allowance paid to guaranty agencies for administration of FFEL programs. The committee proposal reduces section 458 expenditures in conformity with the budget agreement resulting in savings of $603 million over 5 years. The Department will continue to receive over $3.3 billion in this account over the next 5 years.

In order to ensure that these reductions are not redirected from direct lending to the FFEL program and to ensure that an equitable balance in savings is maintained between the two programs, the committee included a provision that reaffirms the Department of Education's obligation to continue to pay the administrative cost allowance to the guaranty agencies. This authority is capped at $170 million in each of fiscal years 1998 and 1999 and at $150 million in fiscal years 2000, 2001, and 2002.

In summary, these provisions reflect a commitment to preserving two viable student loan programs. Second, they reflect the belief that substantive changes in student aid policy should not be included within reconciliation but should be fully and carefully considered as part our comprehensive effort to reauthorize the Higher Education Act. Consistent with these principles, our proposal meets our budget instruction, preserves two loan programs, and retains the framework of the budget agreement. It deserves the support of the full Senate.

Finally, let me say that we are here today due to the budget agreement reached between the President and the leadership of the House and Senate. Whatever the disagreements may be about specific details, there is broad support for this agreement and its objectives. That is illustrated by the 17-to-1 vote for the Labor Committee's submission and by the similar margins of support for the proposals reported by other committees.

Certainly, the agreement is a series of compromises. Implicit in compromise is the fact that neither party got everything it wanted. In the student loan area, the core compromise was that a truce was to be declared in the battle between the Federal Family Education Loan Program—guaranteed loans—and the Federal Direct Loan Program. The approximately $1.8 billion in savings was to be equitably divided between the two programs.

The proposal reported by the committee honors that compromise: 57 percent of the savings are made in the guaranteed loan program and the remaining 43 percent come from direct lending. The amendment of the Senator from Massachusetts would destroy that balance.

When filling in the detail of a broad compromise, there is always the urge to push further toward one's preference. What the Senator is attempting to do is therefore understandable. But, we need to recognize the amendment for what it is. I urge my colleagues to join me in opposing it.

Mr. DOMENICI. I thank the Senator, the chairman of the committee on Labor, Health and Human Resources. The chairman opposes this.

Mr. President, the Kennedy amendment is a substitute to the Labor Committee's title. It violates the bipartisan agreement that we made with the President and with Democrats and Republicans. It is not germane to this bill before us. It violates the Byrd rule because it increases spending in the year 2002 and thereafter without any offsets. The Kennedy amendment reduces the student loan origination fees, and is offset by significant reductions in revenues to the lenders and guaranty agencies participating in student loan programs.

With that, I make a point of order that the Kennedy amendment is a violation of the Budget Act and the Byrd amendment.

Mr. DODD. I move to waive.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

VOTE ON MOTION TO WAIVE THE BUDGET ACT

The PRESIDING OFFICER. The question is on agreeing to the motion. The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any Senators in the Chamber who desire to change their vote?

The yeas and nays resulted, yeas 43, nays 57, as follows:

[Rollcall Vote No. 126 Leg.]

YEAS—43

Akaka
Baucus
Biden
Bingaman
Boxer
Breaux
Bryan
Bumpers
Byrd
Cleland
Conrad
Daschle
Dodd
Dorgan
Durbin
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Hollings
Inouye
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Reed
Reid
Robb
Rockefeller
Sarbanes
Torricelli
Wellstone
Wyden

NAYS—57

Abraham
Allard
Ashcroft
Bennett
Bond
Brownback
Burns
Campbell
Chafee
Coats
Cochran
Collins
Coverdell
Craig
D'Amato
DeWine
Domenici
Enzi
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Jeffords
Johnson
Kempthorne
Kyl
Landrieu

Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Roberts
Roth
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

The PRESIDING OFFICER. On this vote, the yeas are 43, the nays are 57. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained, and the amendment falls.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. LAUTENBERG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 490

Mr. SPECTER. Mr. President, I want to address my vote on the Kennedy-Dodd amendment regarding savings to be generated from direct and guaranteed loan programs. Although, I have ardently supported efforts to increase Pell grants and improve the ability of millions of American families to afford a college education for their children, the Kennedy-Dodd amendment would have disrupted the guaranteed student loan program substantially. It would have upset the balanced approach in the budget agreement to derive savings equitably from both direct and guaranteed loan programs.

I am advised that the Kennedy-Dodd amendment would create undue hardship on student borrowers by adversely impacting guaranteed lenders, which would lose part of their loan origination fees.

I look forward to working with Chairman JEFFORDS, Senator KENNEDY, and Senator DODD as the Senate considers these issues in the context of the Higher Education Act reauthorization later in the 105th Congress.

MOTION TO WAIVE THE BUDGET ACT, WITHDRAWN

Mr. DOMENICI. Mr. President, I ask that the motion of the Senator from Texas to waive the Budget Act with respect to the point of order lodged by Senator CONRAD last night be withdrawn.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Senator CONRAD had lodged the point of order.

The PRESIDING OFFICER. The regular order is the amendment by Senator MCCAIN.

Mr. DOMENICI. We have to complete business on this. We have withdrawn the waiver.

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

POINT OF ORDER

Mr. CONRAD. Mr. President, I make a point of order that section 5822 of the bill violates section 313(b)(1)(D) of the Budget Act.

The PRESIDING OFFICER. The point of order is sustained.

Mr. DOMENICI. And the amendment falls?

The PRESIDING OFFICER. That is correct.

AMENDMENT NO. 474

Mr. DOMENICI. Mr. President, I believe the next order of business is Senator MCCAIN's amendment. That is amendment No. 474. That is McCain-Lott-Domenici.

AMENDMENT NO. 474, AS MODIFIED

Mr. DOMENICI. I ask unanimous consent that I be permitted to modify that amendment by adding just the following words: ". . . including emergency auto service by nonprofit organizations, that . . ." I send the modification to the desk, and I understand the minority has no objection to the modification.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The amendment is so modified.

The amendment, as modified, is as follows:

On page 92, beginning with line 6, strike through line 24 on page 128 and insert the following:

SEC. 3001. SPECTRUM AUCTIONS.

(a) EXTENSION AND EXPANSION OF AUCTION AUTHORITY.—

(1) IN GENERAL.—Section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) is amended—

(A) by striking paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) GENERAL AUTHORITY.—If mutually exclusive applications are accepted for any initial license or construction permit that will involve an exclusive use of the electromagnetic spectrum, then, except as provided in paragraph (2), the Commission shall grant the license or permit to a qualified applicant through a system of competitive bidding that meets the requirements of this subsection. The Commission, subject to paragraphs (2) and (7) of this subsection, also may use auctions as a means to assign spectrum when it determines that such an auction is consistent with the public interest, convenience, and necessity, and the purposes of this Act.

"(2) EXCEPTIONS.—The competitive bidding authority granted by this subsection shall not apply to a license or construction permit the Commission issues—

"(A) for public safety services, including private internal radio services used by State and local governments and non-government entities, including Emergency Auto Service by non-profit organizations, that

"(i) are used to protect the safety of life, health, or property; and

"(ii) are not made commercially available to the public;

"(B) for public telecommunications services, as defined in section 397(14) of this Act, when the license application is for channels reserved for noncommercial use;

"(C) for spectrum and associated orbits used in the provision of any communications within a global satellite system;

"(D) for initial licenses or construction permits for new digital television service given to existing terrestrial broadcast licensees to replace their current television licenses;

"(E) for terrestrial radio and television broadcasting when the Commission determines that an alternative method of resolving mutually exclusive applications serves the public interest substantially better than competitive bidding; or

"(F) for spectrum allocated for unlicensed use pursuant to part 15 of the Commission's regulations (47 C.F.R. part 15), if the competitive bidding for licenses would interfere with operation of end-user products permitted under such regulations.";

(B) by striking "1998" in paragraph (11) and inserting "2007"; and

(C) by inserting after paragraph (13) the following:

"(14) OUT-OF-BAND EFFECTS.—The Commission and the National Telecommunications and Information Administration shall seek to create incentives to minimize the effects of out-of-band emissions to promote more efficient use of the electromagnetic spectrum. The Commission and the National Telecommunications and Information Administration also shall encourage licensees to minimize the effects of interference."

(2) CONFORMING AMENDMENT.—Subsection (i) of section 309 of the Communications Act of 1934 is repealed.

(b) AUCTION OF 45 MEGAHERTZ LOCATED AT 1,710–1,755 MEGAHERTZ.—

(1) IN GENERAL.—The Commission shall assign by competitive bidding 45 megahertz located at 1,710–1,755 megahertz no later than December 31, 2001, for commercial use.

(2) FEDERAL GOVERNMENT USERS.—Any Federal government station that, on the date of enactment of this Act, is assigned to use electromagnetic spectrum located in the 1,710–1,755 megahertz band shall retain that use until December 31, 2003, unless exempted from relocation.

(c) COMMISSION TO MAKE ADDITIONAL SPECTRUM AVAILABLE BY AUCTION.—

(1) IN GENERAL.—The Federal Communications Commission shall complete all actions necessary to permit the assignment, by September 30, 2002, by competitive bidding pursuant to section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)), of licenses for the use of bands of frequencies currently allocated by the Commission that—

(A) in the aggregate span not less than 55 megahertz;

(B) are located below 3 gigahertz; and

(C) as of the date of enactment of this Act, have not been—

(i) designated by Commission regulation for assignment pursuant to section 309(j);

(ii) identified by the Secretary of Commerce pursuant to section 113 of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923); or

(iii) allocated for Federal Government use pursuant to section 305 of the Communications Act of 1934 (47 U.S.C. 305).

(2) CRITERIA FOR REASSIGNMENT.—In making available bands of frequencies for competitive bidding pursuant to paragrph (1), the Commission shall—

(A) seek to promote the most efficient use of the electromagnetic spectrum;

(B) consider the cost of incumbent licensees of relocating existing uses to other bands of frequencies or other means of communication;

(C) consider the needs of public safety radio services;

(D) comply with the requirements of international agreements concerning spectrum allocations; and

(E) coordinate with the Secretary of Commerce when there is any impact on Federal Government spectrum use.

(3) NOTIFICATION TO THE SECRETARY OF COMMERCE.—The Commission shall attempt

to accommodate incumbent licenses displaced under this section by relocating them to other frequencies available to the Commission. The Commission shall notify the Secretary of Commerce whenever the Commission is not able to provide for the effective relocation of an incumbent licensee to a band of frequencies available to the Commission for assignment. The notification shall include—

(A) specific information on the incumbent licensee;

(B) the bands the Commission considered for relocation of the licensee; and

(C) the reasons the incumbent cannot be accommodated in these bands.

(4) Report to the Secretary of Commerce.—

(A) Technical report.—The Commission in consultation with the National Telecommunications and Information Administration, shall submit a detailed technical report to the Secretary of Commerce setting forth—

(i) the reasons the incumbent licensees described in paragraph (5) could not be accommodated in existing non-government spectrum; and

(ii) the Commission's recommendations for relocating those incumbents.

(B) NTIA use of report.—The National Telecommunications and Information Administration shall review this report when assessing whether a commercial licensee can be accommodated by being reassigned to a frequency allocated for government use.

(d) Indentification and Reallocation of Frequencies.—

(1) In general.—Section 113 of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 901 et seq.) is amended by adding at the end thereof the following:

"(f) Additional Reallocation Report.—If the Secretary receives a report from the Commission pursuant to section 3001(c)(6) of the Balanced Budget Act of 1997, the Secretary shall submit to the President, the Congress, and the Commission a report with the Secretary's recommendations.

"(g) Reimbursement of Federal Spectrum Users for Relocation Costs.—

"(1) In general.—

"(A) Acceptance of compensation authorized.—In order to expedite the efficient use of the electromagnetic spectrum, and notwithstanding section 3302(b) of title 31, United States Code, any Federal entity that operates a Federal Government station that has been identified by NTIA for relocation may accept payment, including in-kind compensation and shall be reimbursed if required to relocate by the service applicant, provider, licensee, or representative entering the band as a result of a license assignment by the Commission or otherwise authorized by Commission rules.

"(B) Duty to compensate ousted federal entity.—Any such service applicant, provider, licensee, or representative shall compensate the Federal entity in advance for relocating through monetary or in-kind payment for the cost of relocating the Federal entity's operations from one or more electromagnetic Spectrum frequencies to any other frequency or frequencies, or to any other telecommunications transmission media.

"(C) Compensable costs.—Compensation shall include, but not be limited to, the costs of any modification, replacement, or reissuance of equipment, facilities, operating manuals, regulations, or other relocation expenses incurred by that entity.

"(D) Disposition of payments.—Payments, other than in-kind compensation, pursuant to this section shall be deposited by electronic funds transfer in a separate agency account or accounts which shall be used to pay directly the costs of relocation, to repay or make advances to appropriations or funds which do or will initially bear all or part of such costs, or to refund excess sums when necessary, and shall remain available until expended.

"(E) Application to certain other relocations.—The provisions of this paragraph also apply to any Federal entity that operates a Federal Government station assigned to use electromagnetic spectrum identified for reallocation under subsection (a), if before the date of enactment of the Balanced Budget Act of 1997 the Commission has not identified that spectrum for service or assigned licenses or otherwise authorized service for that spectrum.

"(2) Petitions for relocation.—Any person seeking to relocate a Federal Government station that has been assigned a frequency within a band allocated for mixed Federal and non-Federal use under this Act shall submit a petition for relocation to NTIA. The NTIA shall limit or terminate the Federal Government station's operating license within 6 months after receiving the petition if the following requirements are met:

"(A) The proposed relocation is consistent with obligations undertaken by the United States in international agreements and with United States national security and public safety interests.

"(B) The person seeking relocation of the Federal Government station has guaranteed to defray entirely, through payment in advance, advance in-kind payment of costs, or a combination of payment in advance and advance in-kind payment, all relocation costs incurred by the Federal entity, including, but not limited to, all engineering, equipment, site acquisition and construction, and regulatory fee costs.

"(C) The person seeking relocation completes all activities necessary for implementing the relocation, including construction of replacement facilities (if necessary and appropriate) and identifying and obtaining on the Federal entity's behalf new frequencies for use by the relocated Federal Government station (if the station is not relocating to spectrum reserved exclusively for Federal use).

"(D) Any necessary replacement facilities, equipment modifications, or other changes have been implemented and tested by the Federal entity to ensure that the Federal Government station is able to accomplish successfully its purposes including maintaining communication system performance.

"(E) The Secretary has determined that the proposed use of any spectrum frequency band to which a Federal entity relocates its operations is suitable for the technical characteristics of the band and consistent with other uses of the band. In exercising authority under this subparagraph, the Secretary shall consult with the Secretary of Defense, the Secretary of State, and other appropriate Federal officials.

"(3) Right to reclaim.—If within one year after the relocation of a Federal Government station, the Federal entity affected demonstrates to the Secretary and the Commission that the new facilities or spectrum are not comparable to the facilities or spectrum from which the Federal Government station was relocated, the person who sought the relocation shall take reasonable steps to remedy any defects or pay the Federal entity for the costs of returning the Federal Government station to the electromagnetic spectrum from which the station was relocated.

"(h) Federal Action To Expedite Spectrum Transfer.—Any Federal Government station which operates on electromagnetic spectrum that has been identified for reallocation under this Act for mixed Federal and non-Federal use in any reallocation report under subsection (a), to the maximum extent practicable through the use of subsection (g) and any other applicable law, shall take prompt action to make electromagnetic spectrum available for use in a manner that maximizes efficient use of the electromagnetic spectrum.

"(i) Federal Spectrum Assignment Responsibility.—This section does not modify NTIA's authority under section 103(b)(2)(A) of this Act.

"(j) Definitions.—As used in this section—

"(1) The term 'Federal entity' means any department, agency, or instrumentality of the Federal Government that utilizes a Government station license obtained under section 305 of the 1934 Act (47 U.S.C. 305);

"(2) the term 'digital television services' means television services provided using digital technology to enhance audio quality and video resolution, as further defined in the Memorandum Opinion, Report, and Order of the Commission entitled 'Advanced Television Systems and Their Impact Upon the Existing Television Service,' MM Docket No. 87-268 and any subsequent FCC proceedings dealing with digital television; and

"(3) the term 'analog television licenses' means licenses issued pursuant to 47 CFR 73.682 et seq.".

(2) Section 114(a) of that Act (47 U.S.C. 924(a)) is amended by striking "(a) or (d)(1)" and inserting "(a), (d)(1), or (f)".

(e) Identification and Reallocation of Auctionable Frequencies.—

(1) Second report required.—Section 113(a) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923(a)) is amended by inserting "and within 6 months after the date of enactment of the Balanced Budget Act of 1997" after "Act of 1993".

(2) In general.—Section 113(b) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923(b)) is amended—

(A) by striking the caption of paragraph (1) and inserting "Initial reallocation report.—";

(B) by inserting "in the initial report required by subsection (a)" after "recommend for reallocation" in paragraph (1);

(C) by inserting "or (3)" after "paragraph (1)" each place it appears in paragraph (2); and

(D) by adding at the end thereof the following:

"(3) Second reallocation report.—The Secretary shall make available for reallocation a total of 20 megahertz in the second report required by subsection (a), for use other than by Federal Government stations under section 305 of the 1934 Act (47 U.S.C. 305), that is located below 3 gigahertz and that meets the criteria specified in paragraphs (1) through (5) of subsection (a).".

(3) Allocation and assignment.—Section 115 of that Act (47 U.S.C. 925) is amended—

(A) by striking "the report required by section 113(a)"; in subsection (b) and inserting "the initial reallocation report required by section 113(a)"; and

(B) by adding at the end thereof the following:

"(c) Allocation and Assignment of Frequencies Identified in the Second Allocation Report.—

"(1) Plan.—Within 12 months after it receives a report from the Secretary under section 113(f) of this Act, the Commission shall—

"(A) submit a plan, prepared in coordination with the Secretary of Commerce, to the President and to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Commerce, for the allocation and assignment under the 1934 Act of frequencies identified in the report; and

"(B) implement the plan.

"(2) Contents.—The plan prepared by the Commission under paragraph (1) shall consist of a schedule of reallocation and assignment of those frequencies in accordance with section 309(j) of the 1934 Act in time for the assignment of those licenses or permits by September 30, 2002.".

SEC. 3002. DIGITAL TELEVISION SERVICES.

Section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) is amended by adding at the end thereof the following:

"(15) Auction of recaptured broadcast television spectrum and potential digital television license fees.—

"(A) Limitations on terms of terrestrial television broadcast licenses.—

"(i) A television license that authorizes analog television services may not be renewed to authorize such services for a period that extends beyond December 31, 2006. The Commission shall extend or waive this date for any station in any television market unless 95 percent of the television households have access to digital local television signals, either by direct off-air reception or by other means.

"(ii) A commercial digital television license that is issued shall expire on September 30, 2003. A commercial digital television license shall be re-issued only subject to fulfillment of the licensee's obligations under subparagraph (C).

"(iii) No later than December 31, 2001, and every 2 years thereafter, the Commission shall report to Congress on the status of digital television conversion in each television market. In preparing this report, the Commission shall consult with other departments and agencies of the Federal government. The report shall contain the following information:

"(I) Actual consumer purchases of analog and digital television receivers, including the price, availability, and use of conversion equipment to allow analog sets to receive a digital signal.

"(II) The percentage of television households in each market that has access to digital local television signals as defined in paragraph (a)(1), whether such access is attained by direct off-air reception or by some other means.

"(III) The cost to consumers of purchasing digital television receivers (or conversion equipment to prevent obsolescence of existing analog equipment) and other related changes in the marketplace, such as increases in the cost of cable converter boxes.

"(B) Spectrum reversion and resale.—

"(i) The Commission shall—

"(I) ensure that, as analog television licenses expire pursuant to subparagraph (A)(i), each broadcaster shall return electromagnetic spectrum according to the Commission's direction; and

"(II) reclaim and organize the electromagnetic spectrum in a manner to maximize the deployment of new and existing services.

"(ii) Licensees for new services occupying electromagnetic spectrum previously used for the broadcast of analog television shall be selected by competitive bidding. The Commission shall start the competitive bidding process by July 1, 2001, with payment pursuant to the competitive bidding rules established by the Commission. The Commission shall report the total revenues from the competitive bidding by January 1, 2002.

"(D) Definitions.—As used in this paragraph—

"(i) the term 'digital television services' means television services provided using digital technology to enhance audio quality and video resolution, as further defined in the Memorandum Opinion, Report, and Order of the Commission entitled 'Advanced Television Systems and Their Impact Upon the Existing Television Service,' MM Docket No. 87-268 and any subsequent Commission proceedings dealing with digital television; and

"(ii) the term 'analog television licenses' means licenses issued pursuant to 47 CFR 73.682 et seq. .".

SEC. 3003. ALLOCATION AND ASSIGNMENT OF NEW PUBLIC SAFETY AND COMMERCIAL LICENSES.

(a) In General.—The Federal Communications Commission, not later than January 1, 1998, shall allocate from electromagnetic spectrum between 746 megahertz and 806 megahertz—

(1) 24 megahertz of that spectrum for public safety services according to terms and conditions established by the Commission, in consultation with the Secretary of Commerce and the Attorney General; and

(2) 36 megahertz of that spectrum for commercial purposes to be assigned by competitive bidding.

(b) Assignment.—The Commission shall—

(1) commence assignment of the licenses for public safety created pursuant to subsection (a) no later than September 30, 1998; and

(2) commence competitive bidding for the commercial licenses created pursuant to subsection (a) no later than March 31, 1998.

(c) Licensing of Unused Frequencies for Public Safety Radio Services.—

(1) Use of unused channels for public safety.—It shall be the policy of the Federal Communications Commission, notwithstanding any other provision of this Act or any other law, to waive whatever licensee eligibility and other requirements (including bidding requirements) are applicable in order to permit the use of unassigned frequencies for public safety purposes by a State or local government agency upon a showing that—

(A) no other existing satisfactory public safety channel is immediately available to satisfy the requested use;

(B) the proposed use is technically feasible without causing harmful interference to existing stations in the frequency band entitled to protection from such interference under the rules of the Commission; and

(C) use of the channel for public safety purposes is consistent with other existing public safety channel allocations in the geographic area of proposed use.

(2) Applicability.—Paragraph (1) shall apply to any application—

(A) is pending before the Commission on the date of enactment of this Act;

(B) was not finally determined under section 402 or 405 of the Communications Act of 1934 (47 U.S.C. 402 or 405) on May 15, 1997; or

(C) is filed after May 15, 1997.

(D) Protection of Broadcast TV Licensees During Digital Transition.—Public safety and commercial licenses granted pursuant to this subsection—

(1) shall enjoy flexibility in use, subject to—

(A) interference limits set by the Commission at the boundaries of the electromagnetic spectrum block and service area; and

(B) any additional technical restrictions imposed by the Commission to protect full-service analog and digital television licenses during a transition to digital television;

(2) may aggregate multiple licenses to create larger spectrum blocks and service areas;

(3) may disaggregate or partition licenses to create smaller spectrum blocks or service areas; and

(4) may transfer a license to any other person qualified to be a licensee.

(e) Protection of Public Safety Licensees During Digital Transition.—The Commission shall establish rules insuring that public safety licensees using spectrum reallocated pursuant to subsection (a)(1) shall not be subject to harmful interference from television broadcast licensees.

(f) Digital Television Allotment.—In assigning temporary transitional digital licenses, the Commission shall—

(1) minimize the number of allotments between 746 and 806 megahertz and maximize the amount of spectrum available for public safety and new services;

(2) minimize the number of allotments between 698 and 746 megahertz in order to facilitate the recovery of spectrum at the end of the transition;

(3) consider minimizing the number of allotments between 54 and 72 megahertz to facilitate the recovery of spectrum at the end of the transition; and

(4) develop an allotment plan designed to recover 78 megahertz of spectrum to be assigned by competitive bidding, in addition to the 60 megahertz identified in paragraph (a) of this subsection.

(g) Incumbent Broadcast Licensees.—Any person who holds an analog television license or a digital television license between 746 and 806 megahertz—

(1) may not operate at that frequency after the date on which the digital television services transition period terminates, as determined by the Commission; and

(2) shall surrender immediately the license or permit to construct pursuant to Commission rules.

(h) Definitions.—For purposes of this section—

(1) Commission.—The term "Commission" means the Federal Communications Commission.

(2) Digital television (DTV) service.—The term "digital television (DTV) service" means terrestrial broadcast services provided using digital technology to enhance audio quality and video resolution, as further defined in the Memorandum Opinion, Report, and Order of the Commission entitled "Advanced Television Systems and Their Impact Upon the Existing Television Service," MM Docket No. 87-268, or subsequent findings of the Commission.

(3) Digital television license.—The term "digital television license" means a full-service license issued pursuant to rules adopted for digital television service.

(4) Analog television license.—The term "analog television license" means a full-service license issued pursuant to 47 CFR 73.682 et seq.

(5) Public safety services.—The term "public safety services" means services whose sole or principal purpose is to protect the safety of life, health, or property.

(6) Service area.—The term "service area" means the geographic area over which a licensee may provide service and is protected from interference.

(7) Spectrum block.—The term "spectrum block" means the range of frequencies over which the apparatus licensed by the Commission is authorized to transmit signals.

SEC. 3004. FLEXIBLE USE OF ELECTROMAGNETIC SPECTRUM.

Section 303 of the Communications Act of 1934 (47 U.S.C. 303) is amended by adding at the end thereof the following:

"(y) Shall allocate electromagnetic spectrum so as to provide flexibility of use, except—

"(1) as required by international agreements relating to global satellite systems or other telecommunication services to which the United States is a party;

"(2) as required by public safety allocations;

"(3) to the extent that the Commission finds, after notice and an opportunity for public comment, that such an allocation would not be in the public interest;

"(4) to the extent that flexible use would retard investment in communications services and systems, or technology development thereby lessening the value of the electromagnetic spectrum; or

"(5) to the extent that flexible use would result in harmful interference among users.".

Mr. DOMENICI. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, this amendment is acceptable to the other side. It is the best we can do to try to achieve spectrum consistency with the Budget Act, and even with this amendment, we are somewhat short.

Senator MCCAIN does not insist on speaking. If he does, we yield to him right now.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. BYRD. Mr. President, what does the amendment do?

Mr. DOMENICI. Mr. President, this substitute amendment for title III offered by Senator MCCAIN, Senator LOTT, and myself, will help the committee get $4 billion closer toward its instruction on spectrum fees, and it does this without any fees. It has been approved by the Commerce Committee on both sides, Democrat and Republican, and there is no objection from the minority side with reference to this amendment.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 474, as modified.

The amendment (No. 474), as modified, was agreed to.

Mr. LAUTENBERG. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. Can I ask the minority, there is a D'Amato amendment we are asking if you can clear. We are getting close to the end here.

Mr. LAUTENBERG. We will accept that.

AMENDMENT NO. 502

Mr. DOMENICI. I ask the D'Amato amendment No. 502, Medicare antiduplication provisions, be called up. We have agreed with the minority and they with us that this is acceptable.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 502) was agreed to.

Mr. LAUTENBERG. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. Mr. President, according to our records, we have four amendments, but they are all waiting to see what the managers' amendment includes in it. If it includes the proper subject matter, then there will not be a presentation of those four amendments. So I think the managers are working on that, and maybe we need a little bit of time while they finish it, and the four Senators can look at it to see if it takes care of their concerns.

The PRESIDING OFFICER. The regular order is the Kennedy amendment No. 492.

Mr. DOMENICI. Yes, that is correct. Senator KENNEDY desires to withhold his amendment to see what the managers' amendment does; is that correct?

Mr. LAUTENBERG. Yes.

Mr. DOMENICI. Senator KERRY's amendment No. 496. I gather that you want to wait.

Mr. LAUTENBERG. Senator KERRY wants to wait and see what the managers' amendment does.

Mr. DOMENICI. And Senator ROCKEFELLER's amendment No. 503, we believe the same holds, and Senator KENNEDY's amendment regarding part B.

Might I discuss a few matters with the ranking minority member? I believe when we finish this, we will be finished with amendments. The only thing I can imagine left would be points of order to be lodged by anyone. We have none on our side.

Mr. LAUTENBERG. Mr. President, we have five in total that we will be happy to show the majority. I think Senator MURRAY has a point of order, and then we have the four remaining.

Mr. DOMENICI. I wonder if the time would be best spent if you let us see those. Maybe we can dispose of those and maybe agree we not have any votes, depending on what they are.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. COATS). Without objection, it is so ordered.

AMENDMENT NO. 506

Mr. DOMENICI. I understand that the chairman of the Finance Committee is ready with the managers' amendment, and I yield the floor. The amendment is numbered 506.

The PRESIDING OFFICER. The Senator from Delaware.

MODIFICATION TO AMENDMENT NO. 506

Mr. ROTH. Mr. President, I ask unanimous consent that amendment No. 506, the managers' amendment, be called up, and I send a modification to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

Under a previous order, the Senator has a right to modify his amendment, and the amendment is so modified.

The modification follows:

At the end of the amendment, add the following:

On page 774, strike lines 13 through 15, and insert the following:

"(A) for fiscal year 1999, 92 percent;

"(B) for fiscal year 2000, 85 percent; and

"(C) for fiscal years 2001 and 2002, 80 percent.

On page 775, strike lines 21 through 25 and insert the following:

"(C) STATES WITH STATE 1995 DSH SPENDING AMOUNTS ABOVE 3 PERCENT.—In the case of any State with a State 1995 DSH spending amount that is more than 3 percent of the Federal medical

On page 779, line 10, strike "2000" and insert "2001".

On page 779, line 11, strike "2001" and insert "2002".

On page 779, line 10, strike "2002" and insert "2003 and thereafter".

Mr. ROTH. Mr. President, the managers' amendment with the modification has been approved on both sides of the aisle. I urge its adoption.

Mr. BYRD. Mr. President, could someone explain what is in the managers' amendment?

Mr. ROTH. Yes, I am happy to explain to my distinguished friend from West Virginia. It includes two Medicare hospital-related provisions. The first is a modification to the Medicare PPS, exempt hospital payments, and the second is a hospital wage index classification.

The second makes three additions to the Medicaid provisions. These include a Grassley amendment that was adopted in committee on the effect of managed care on individuals with special needs, a clarification on the definition of provider taxes, and continuation of certain 1115 waivers. There are four provisions on welfare, clarification of the language on SSI, and Medicaid benefits of certain Indians. It makes a conforming amendment on work activities, and it confirms the maintenance-of-effort requirement to the existing welfare block grant. It also requires that half of the payments for job placement be provided after an individual has been placed in the work force for at least 6 months.

Finally, the modification to the managers' amendment also modifies the formula for achieving savings in the Disproportionate Share Hospital Program. The amendment provides a smoother transition for the States and delays the restrictions on payment to mental health facilities.

As I said, Mr. President, all these amendments have been cleared by both sides of the aisle. I urge their adoption.

Mr. MOYNIHAN. Mr. President, may I simply affirm the statement of the distinguished chairman. These are agreed to on both sides of the aisle.

The PRESIDING OFFICER. Is there further debate on the amendment as modified?

Mr. BYRD. Mr. President, I am not on the Budget Committee, I am not on the Finance Committee, but I do have a right to have a little knowledge of what we are voting on. By my not being a member of those committees—it might very well be stated as to what we are voting on—I may yet not understand it, but there are Senators in this body who can understand. It seems to me we are going a little fast.

Is this amendment divisible?

The PRESIDING OFFICER. In the opinion of the Chair, the amendment would be divisible.

Mr. BYRD. How many divisions would there be?

The PRESIDING OFFICER. There would be numerous divisions because the amendment hits the bill in a number of diverse places. We are attempting to assert the exact number.

The Senator from West Virginia is recognized.

Mr. BYRD. I yield to the distinguished Senator.

Mr. DOMENICI. Might I say to the distinguished Senator from West Virginia, I think you have been in this position and the position of this chairman many, many times. I do not know whether we ever have a chance to be in exactly this position when we have a reconciliation bill like this.

I might say, I think this amendment fits together a lot of concerns and fulfills a lot of concerns about the bill by many, many Senators. I hope the Senator would not ask for its division, but rather ask us to spend more time discussing it, which I believe, even though the consent agreement says a minute on a side, I think you might be clearly within your rights to say: This is a managers' amendment. Could we have some additional time? Certainly I would not object.

I objected one time in my life to giving the distinguished Senator from West Virginia additional time when time had run out, and I vividly remembered that for at least 5 years. It seemed like every time you looked at me it was reminding me that I had jumped up and objected to your getting time, additional time. I have never done that again, so I would not do it now.

I just wonder if that makes any sense to my friend from West Virginia.

Mr. BYRD. Mr. President, let me attempt to respond to the distinguished Senator.

I have a sense of what my responsibility is. I do not know what is in the managers' amendment. I have understood, in listening here, that there are various Senators who have amendments which are qualified and which are listed that they will call up unless the managers' amendment is satisfactory to them in respect to their several amendments.

Now, if each amendment is called up, we at least get 2 minutes for an explanation. We get no explanation here of what is in this managers' amendment. It is not my desire to hold up action on this measure. It is somewhat embarrassing to me to have to stand and admit that I don't know what is in this amendment. I have voted on amendments today that I had very, very slender knowledge as to what I was voting on.

I am not blaming anyone for this. I am not saying this to be critical of anyone. But I am concerned that here we are, before the American people, and it should be obvious to anyone who is viewing these actions that we are taking that many of us do not know what we are doing, what we are voting on, and these are very complex amendments. This is a very complex bill.

We are at a great disadvantage because we have only 20 hours on a reconciliation measure. I tried last year to get 50 hours on a reconciliation bill, and I believe I got a majority of votes, but I believe I lost because it ran afoul of the Byrd rule. Therefore, it required 60 votes. Thank heavens for the Byrd rule.

But, Mr. President, I do have a duty to my own conscience, if to no one else, and I am pretty sure I have a great duty to my constituents, to try to find out what's in the amendment we are about to vote on. In doing so, I am holding up the measure, I am delaying action on this measure. I am very well aware of it.

I know the burdens that are upon the leadership, the joint leadership. I know the burdens that are on the managers of this bill. I, at least, have some idea. They have done well. They have had heavy burdens. They have spent hours, they have spent hours when I was at home with my wife, Lady Byrd, and my little dog, Billy Byrd. But they have spent hours. I saw them working here last night. I cannot understand a great deal in watching that tube as to what is at issue here.

So I am considering asking for a division here. I think we have to shock this Senate one way or another into a realization that we have to change the rules with regard to reconciliation so that Members will have more time than we have. Here we are, we have run out of time, yet Senators have amendments that they want votes on. It is by unanimous consent that we have 2 minutes of explanation between each amendment. That is no way to operate.

I cannot help it, Mr. DOMENICI cannot help it, Mr. LAUTENBERG cannot help it, the two leaders can't help it. That's the rule, 20 hours.

There are Senators who insist on having votes on their amendments, and I think they have a right to have votes on their amendment. We are constrained by a rule here that just does not make sense. It may have made sense at one time. It does not anymore. We are living at a different time when we are under severe budget constraints and when the administration and the leadership enter into some kind of agreement of which I am not a part and about which I know little, other than what I read in the newspaper.

So I have taken the floor here today to call attention to this very sad situation in which we are expected to vote on something without knowing what we are voting on. As I say, we are caught on the horns of the dilemma, and I do not feel right within myself about raising these points of concern.

Now, the distinguished manager of the measure has suggested that we have an explanation of the amendments. That is all I am seeking in this instance. But I think we ought to get our collective heads together and try to work out some change in the rules whereby we will not be caught in this kind of situation.

The American people would be ashamed of us. I think they would be very disappointed, and disappointed in me, too. They sent me up here to represent the people of West Virginia, and I don't know what I am voting on here. Who can blame me? My staff can't find out overnight. This morning when I came in, some of my staff stayed late into the evening hours. When I came in this morning, they didn't have the amendments available. They hadn't been printed. We just can't operate wisely and with any kind of solid judgment in that fashion.

So I won't take more of the Senate's time now. But I do raise the specter of asking for a division, and a request for a division under the rules means that we vote on every divisible provision in that measure. And if I understood the Chair in response to my parliamentary inquiry, there must be scores of provisions which would be subject to division.

I am not going to put the Senate through that today, but I warn the Senate that we had better do something about this because, otherwise, some Senator is going to feel conscience-stricken enough one day to stand up and use the rules, and there are some Senators who know something about the rules. So I raise that question here just to put Senators on notice that one Senator—one Senator—can cause all Senators to sit back and realize what we are doing and the way we are doing it is not good, not good for the Senate, not good for the American people.

Mr. DOMENICI. Will the Senator yield?

Mr. BYRD. Yes, I will be happy to yield.

Mr. DOMENICI. Mr. President, I could not agree with the Senator more. But I think we have followed the rules—the general rules of the Budget Act, plus the Byrd rule interpretations—as best we can. I think everyone should know that one of the problems on any reconciliation bill is that when the time has run, people can still offer amendments. That is written right into the statute. It says that when the time has run, you can send amendments to the desk, and I assume one could stay forever—I don't mean literally—and they shall be voted on then and there. I believe it says there is no time on the amendment. We have gone from allowing 1 minute to 2 minutes to 3 minutes per amendment. We decided we would allow Senators to offer their amendments last night, thinking they would stay and offer them. We got caught in a trap because Senators started walking up to me and Senator LAUTENBERG and giving us their amendments and asking us, as managers, to introduce them for them. I guess I could have said no, and the literal interpretation would have been that if you are not going to be around here, you are not going to offer them.

That was the genesis of what happened this morning. We put them all in order and tried to encapsulate them so you could understand them, and there were 64 of them, plus a couple of points of order. So we have done the best we could. As a matter of fact, I am very grateful. I would guess that more than 30 amendments were withdrawn—maybe 35. Others were clearly very simple amendments, and maybe in adopting them we should have used a little more words of explanation than we did. If that is the case, as to any Senator or anybody listening, we will just try to do better. But that situation is the law.

Now, the law is, as you say it also. You can still divide those amendments and have that minute on every one, I assume. You know the rules better than I. I have learned them a little bit now. But I believe, from this point on, we only have a few left. We would be very glad on this one—I asked the chairman, and he would be glad to explain it now as much as you would like and answer any questions. I understand we would only have a few more, and three or four points of order, and, finally, this ordeal will be behind us. Again, you have reminded us of our responsibility. I thank the Senator for that.

Mr. BYRD. Mr. President, I don't need to remind the distinguished Senator from New Mexico of his responsibility or any other Senator of his or her responsibility. As I said earlier, I am not complaining about anyone. I sympathize and empathize with the managers of the measure. They have done the best they could. You can't do any better. We have all been caught in this situation. It is not to our liking. But the distinguished manager, the chairman of the Finance Committee, sought to explain to me a minute ago, in 2 minutes, what was in this managers' packet. I didn't know anything, and when he completed, I didn't know any more than when he started. As a matter of fact, I was probably more confused. I think we would have had a little better explanation if we had a division and had each amendment explained.

Mr. LAUTENBERG. If the Senator will yield, I would like to make a comment. When Senator BYRD makes a statement, talks about a rule, talks about the process, I think it is kind of like the investment banker's advertising slogan that "when they talk, everybody listens." When Senator BYRD speaks here, everybody listens, and much of the country at the same time, because of the experience and knowledge that he brings to this body and the concern that he has for being forthright with our constituents.

I would just like to say this to the Senator. There was a degree of diligence—excessive haste, I agree. I will say one thing. I think that we appropriately learned a lesson about the process of stacking votes. I even suggested to the distinguished Senator from West Virginia that perhaps another Byrd rule could be put into place. I don't have the courage to offer it in my own name. But another Byrd rule might say that no more than 5 amendments, or 4 or 5 votes, or something like that, could be stacked at any time so that we would not get ourselves into this mad dash not to deceive and not to obscure, but rather to accommodate this very complicated process.

As the Senator from West Virginia knows, the Senator from New Mexico and I spent roughly 2 months, almost every day, reviewing and negotiating the points in the budget agreement. We tried—I speak for myself, and I am sure the same situation occurred on the Republican side of the aisle—to keep our members on the committee informed because, as the distinguished former chairman of the Appropriations Committee knows, it is very hard to conduct an honest negotiation and debate when there are 20 people in the room. So what we tried to do is consolidate a consensus view and do it that way. So we met with the committee members and then we met with the members of the Democratic Caucus, because there were questions that arose.

So I have to say this to the distinguished Senator. In my 15 years here, I honestly don't think that there has been a tighter review of matters related to the budget resolution than I have seen, because I have been on the Budget Committee almost all of the time that I have been here. We kept learning each year. I found the chairman of the Budget Committee, the Senator from New Mexico, good to work with. We had lots of different views, but the one thing that we didn't differ on is that the other person had a right to respect, a right to offer their opinion, and we did it that way. It got tedious at times, especially when one could not listen to one's self. On the other hand, we did gain, seriously, a lot of knowledge during that period.

I would say this. As I look around the room, we have experts in specific areas. If you want to talk about health, you know you would be talking quickly to the Senator from Massachusetts, and others on different matters of concern. And these matters were reviewed, not perhaps as thoroughly as we would have liked because we were committed to a time constraint overall. But, last night, I was here with the distinguished chairman of the Finance Committee until past 10 o'clock—about 10:30—and we were hung up on a single amendment, reviewing it and trying to get into a position that we felt would satisfy our respective constituencies in the Senate, and back home, and across the country, as well. So the effort was put in.

I think there is a mistake in the process, or a fault in the process, that needs to be corrected. I thank the Senator for raising the issue because, in these last hours, I have heard complaints from other Members of the Senate, as well, about this being too quick, too rushed. But we had a commitment. This is an unusual budget, a budget committed to a goal of zero deficit in 5 years. A lot was packed into it. The negotiations included members of the administration. It has been a very complicated, very tedious process, but no one, in my view shirked their responsibility.

I hope that, from this point forward, we will remember another Byrd lesson. I remember many of them. Despite my white hair, I feel like I am going to "professor" BYRD's class when I do attend appropriations meetings or other meetings. I would say this, "professor": I don't know what kind of a report card I have gotten, but I hope that it is better than a failing one and that you will say, OK, go forward and learn from this and next time I want to see a better performance. Thank you very much.

Mr. BYRD. Mr. President, I don't propose to have the answer to this problem. But it just seems to me that we are always caught up against a holiday, where we have a break the next week. And here we have this bill, and we will have the tax portion of the reconciliation process that will follow after that. And we are asked to cut a little of the time off here, cut a little off there. It would seem to me that if we could get started on these measures earlier, we would not be faced with a situation in which the managers have to stay here far into the evening hours, while other Senators go home. It seems to me that if we had been able to get to this measure earlier, we could have had more time. But here we are, and it seems to work out this way upon every occasion, where we are backed up to a wall of some kind, where there is the attempt to cut 20 hours down to 15, 12, or 10, or an attempt to cut 50 down to 40 on the budget resolution. We always get the question, "Would you be willing to cut some time off of the 40 hours, cut it down to 30?" "Would you be willing to go home and come back Monday and say that 15 of the hours, or 10 hours, or 20 hours have been consumed?" So I suppose these situations could be avoided.

Let me get down to the point. Would someone explain what is in this amendment? As I explained, four or five Senators had amendments that they wanted to call up, but they were waiting to see what was in the managers' amendment. Those amendments must have been pretty important; otherwise, if they weren't in the managers' amendment, there would be a vote on each, some kind of vote, a vote by voice, a vote by division, or a vote by rollcall. There would be a vote and an explanation. Perhaps if we knew what was in those four or five major amendments, that would help.

Mr. REID. Will my friend yield?

Mr. BYRD. Yes.

Mr. REID. I say this to my friend from West Virginia and to the two managers of the bill. Speaking from my perspective only, I think that the explanations that have been given in 1 minute have been quite good. I am glad that the Senator from West Virginia asked for that, because I felt pretty comfortable voting on each amendment. I say this to my friend from West Virginia. If we look down the road to making this process better, we are not going to improve it by adding hours; we are going to improve it by making sure that amendments are offered before we finish the debate. If we have 50 hours, people are still going to offer all of these amendments at the end, if you have a loophole like this. I look forward to improving the system, but that we do it in whatever hours we have, and amendments should be offered during that time.

Mr. BUMPERS. Mr. President, will the Senator yield?

Mr. BYRD. Yes.

Mr. BUMPERS. Mr. President, we are all speaking here at the indulgence of the managers of the bill because there is no time left on this bill. I will not delay it for long.

First, I want to say that I have never been as happy with my decision not to seek reelection as I have been today. I have been voting on amendments that involve billions of dollars today with only a superficial or cursory knowledge of what I was voting on. I would not like to go home—and I don't speak for the rest of you but I expect I am speaking for the rest of you, too—I would hate to have to go home and explain to people what was involved in all of these amendments, particularly this one which I do not have a clue about.

But we must not lose sight of the point that the distinguished Senator from West Virginia made in the opening part of his statement a moment ago. That is, it is the rule that is the tyrant here with 20 hours to debate this part of the reconciliation bill and 20 hours to debate the tax portion of it, which is monumental and most probably will be the most significant important legislation we will deal with all year—20 hours. We will wind up at the end of that 20 hours precisely the way we have with this one. There will be a long list of amendments down there. Maybe we will have another unanimous-consent agreement where you are allowed 60 seconds to explain a bill that involves $10 billion.

We are not doing the people of this Nation a service as long as we allow this kind of a rule to put us in this kind of a straitjacket where we have to get up and openly confess that this system is not working as it ought to.

So, I applaud the Senator from West Virginia for his comments. He is right on target. Fifty hours ought to be a minimum for the consideration of a reconciliation bill.

I thank the Senator for making everybody aware of our shortcomings on this day.

Mr. BYRD. I thank the Senator.

Mr. President, I do not want to hold the floor longer. I apologize to the managers of the measure for imposing on them.

Is there some way that the distinguished Senator from New Mexico or the distinguished Senator from New Jersey can enlighten Senators as to what is in this managers' amendment—particularly, if I may say, with reference to the four or five amendments that have qualified and were being held back to see if the managers' amendment took care of those amendments?

As I understood it, Mr. KENNEDY had one amendment.

Mr. DOMENICI. On those four amendments we will try, if the chairman of the Finance Committee will explain, we will try to ask the Senators the relationship. It is not obvious on two of them that they are related at all, from what I could see. I think they were just trying to see how these major health matters are going to get clarified here, which is not in this amendment. I don't believe they are even in this amendment. So we will find that out, and before we vote, we will try to have an explanation.

Mr. BYRD. All right.

Mr. DOMENICI. Would the chairman like to explain in the best way possible what is in the amendment?

Is that what we would like to do next?

Mr. BYRD. That is what I would like.

May I say to the distinguished leader that he is frustrated with this process also. He said to me earlier today that we have to find some better way.

I do not want to be a part of a problem. I am hoping we can at least get some response from those who understand what is in the amendment so that the rest of us will at least go home feeling we did our best in understanding it and that we at least made it clear that something is wrong with the way the process is working.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I want to yield all of the time to the chairman of the Finance Committee. But I do want to make one statement.

My friend from Arkansas said, I guess, that today made him happy that he would soon stop being a Senator.

Let me make sure, if there are only six people listening on television, that this Senator would like to say that it makes me very proud what we are doing here. I am very proud of this bill. I am very proud of the balanced budget. I am very proud of how we got here and what we are doing here.

Frankly, if things keep going as well as this, I may break all longevity and stay here for a lot longer.

I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, if I may say so, I am encouraged very greatly by the news that the Senator from New Mexico will stay as long as possible, as does our distinguished friend and leader from West Virginia.

I say to my good friend from West Virginia, as he well knows, in every major piece of legislation there are a lot of technicalities and complexities involved in the legislation. In the efforts to draft them and put them in final shape, it becomes necessary to have a number of technical modifications at the end.

I would also say that in developing this legislation, it has been my intention to work with everyone, both in committee and on the floor. We have tried to include everybody—Republican, Democrats, senior Members, and junior Members.

So I think the process has been all-inclusive. Basically, what we have here in the so-called managers' amendment is sort of a cleanup of a number of matters that had to be modified to make them technically correct to take care in some cases of some of the concerns of individual Members. Each of these have been reviewed very carefully by the technicians who understand it.

I think part of the problem is that these are very complex matters that aren't easy to explain or even to understand. But let me point out, for example, that in the managers' amendment, the first section that deals with what is known as "PPS-exempt" hospital changes, it deals with technical changes as to how they are reimbursed.

For example, the first says strike the update formula and substitute with a zero; update for fiscal years 1998, 2001, and market basket, minus 3 percent in 2002.

In trying to reach the $115 billion savings that we are supposed to make in Medicare, we reduce payments to the providers. Normally the reimbursement each year reflects the cost-of-living or inflation. But in this particular case, in order to make savings and because the hospitals are doing reasonably well, we are reducing the reimbursement.

It is that kind of technical change that much of this deals with.

In another situation, we are—again in efforts to save money—reducing what is known as disproportion payment and we have based the recommendations on what an independent commission has recommended, and I might say that is what the administration has recommended as well. These, again, are all basically very technical.

But going back to the reduction of the disproportion, because both Democrat and Republican Members were concerned about reducing as much as was recommended by this independent board, we have slowed that phase-in a little bit to make it easier for those organizations to adjust.

So essentially I would say it is this kind of technical change that we are trying to deal with here rather than major policy.

I assure you that we have dealt with both managers—the Republican manager, the Democrat, and, of course, I might say that we have been working very closely with my good friend and colleague, PAT MOYNIHAN.

Mr. MOYNIHAN. You most assuredly have, sir.

Mr. ROTH. So I don't have any disagreement with our distinguished friend and leader as to the whole process, but we have in good faith tried to deal with the process and meet the time schedules that everybody has wanted us to achieve.

I could go on and read all of these, if you like, sir. But I will say they are highly technical.

The first one, I might point out, included two Medicare hospital-related provisions. As I said, the first is a modification as to how we reimburse what are called Medicare PPS-exempt hospitals. A PPS hospital is paid on a prospective payment basis. That was a means that was adopted many years ago to try to gain better control of expenditures than you have when you have cost reimbursements. The hospital knows that for a certain kind of function, they will be able to receive so much money—say, $1,000. And they know they have to live within that. So they have an incentive to try to keep those costs down. But now we are cutting because we have to make greater savings. The hospitals, according to our independent panel, are doing relatively well, and we are trying to cut it more.

The second is a hospital wage index classification and reimbursement. We deal or address the wage index, and a highly technical modification takes place there.

So, as I say, they are this kind of technical change basically in an effort to make legislative language accurate and achieve the goals that were intended by the policy.

Mr. BYRD. Mr. President, the distinguished Senator is certainly doing everything that he can in the best of faith to try to explain some things about this amendment. I am sure this could go on quite a long time. It is not that kind of detail that this Senator is seeking.

Let me say again that I am not accusing anyone of acting in bad faith. Everybody is acting in good faith.

May I ask the distinguished manager of the bill: What were the four amendments that I understood Senators were holding back on to see what was in the managers' amendment? If we could have some indication of what they were about, that would be satisfactory with me.

Mr. DOMENICI. Sure.

Let me say, Mr. President, to the Senator from West Virginia that there was a Hutchison amendment. It had to do disproportionate share of payments to hospitals, and there is a modification of that which had adversely affected Texas that is apparently somewhat ameliorated there. Senator SPECTER had the exact issue, and he had a disproportionate share of payments amendment. He is part of this overall agreement that is in this managers' amendment.

Then there was a Bob Kerrey abortion amendment that had nothing to do with this amendment. But I asked him to wait for the managers' amendment before he did something on it.

I assume that Senator MURRAY is going to make the point of order on that issue. But I am not certain of that.

Mr. KERREY. That is close enough. There was actually a modification that requires me to wait before I offer my amendment. Otherwise I will have to offer it twice.

Mr. DOMENICI. OK. Unless he waits for that, he will have to offer it again.

Then there was a Senator Kennedy uninsured children's amendment that also seems unrelated. But he indicated that he would like to wait and see what happened to this amendment.

That was the four that I mentioned.

I think that is the full stint of those amendments and the stories behind them.

I yield the floor.

Mr. BYRD. Mr. President, I thank all Senators, particularly the managers of the bill, the Senator from Delaware, and also the distinguished Senator from New York [Mr. MOYNIHAN]. I thank them all. I thank all of them.

I don't have any other questions to raise. I will not ask for a division. Senators have certainly done the best they could to go as far as they could in answer to this Senator's frustration. That is what we are talking about. We are all frustrated. It is the rule, and we ought to try to find some way to change it. I don't have any quarrel with any Senator in particular.

I thank all Senators.

The PRESIDING OFFICER. The pending question is the amendment, as modified, No. 506.

Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 506), as modified, was agreed to.

Mr. LAUTENBERG. Mr. President, I move to reconsider the vote by which the amendment, as modified, was agreed to.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Now, Mr. President, do we have the child health amendment ready?

Mr. JEFFORDS. Mr. President, I believe we are all set with a colloquy that has clarified the language.

Mr. DOMENICI. I would like to proceed with that. We are very, very close to having no amendments left except a Murray point of order and a Kennedy point of order.

Mr. KENNEDY. Mr. President, if is agreeable with the floor manager, I would call up our Medicare home health benefit transfer from part A to part B and proceed with that.

Mr. DOMENICI. I say to the Senator, I was trying, if I could, to get one amendment before you, but if it is not ready, we will go right to you.

Mr. KENNEDY. That is all right. We are here so we will accommodate whatever.

Mr. DOMENICI. Mr. President, the amendment, which is a product of many Senators on both sides, with reference to child health is not ready. Therefore, we would like to move to the point of order either by Senator MURRAY or Senator KENNEDY.

Is Senator MURRAY ready?

Mrs. MURRAY addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington is recognized.

POINT OF ORDER

Mrs. MURRAY. Mr. President, I make a point of order that section 1949(a)(2) of this act violates section 313(b)(1)(A) of the Congressional Budget Act.

Mr. President, as an appropriator, I object to the language included in this legislation by the Finance Committee that would make permanent a prohibition against Medicaid managed care funds being used for abortion services except in the cases of rape, incest, or where the woman's life is in danger. This is, for all intents and purposes, a permanent extension of the so-called Hyde amendment that has been included in every Labor-HHS and education appropriations bill since 1987. A reconciliation bill is not the proper vehicle for major abortion policy decisions. This is not how Congress has traditionally dealt with such decisions, and this is not how we should begin to deal with such decisions.

I know that some of my colleagues disagree——

Mr. LAUTENBERG. If the Senator will yield, Mr. President, this place is not in order. It is terribly unfair to the Senator. Her voice is soft, and we ought to make sure that we can hear it. She has an important message for all of us, and I resent the fact that people are talking and laughing and doing what they are doing.

Please, Mr. President, let us get order.

The PRESIDING OFFICER. Before the Senator from Washington proceeds, let me ask all Senators, if they would, to please take their conversations to the Cloakroom and give the Senator from Washington the courtesy of everyone hearing her remarks.

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum is suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. I might explain to the Senators the reason for the delay and the quorum call is that we are discussing with Senator MURRAY, with reference to a point of order, we are discussing exactly what it means and what it doesn't mean, and she has requested that we set it aside pending further discussion. So I so propose a unanimous-consent request to the Senate.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The point of order will be set aside.

AMENDMENT NO. 504

Mr. DOMENICI. I understand Senator KENNEDY has two remaining amendments. One has to do with home health care and the trust fund. I believe he is going to take that up now.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, if we could have the attention of the Senate.

The PRESIDING OFFICER. The Senate will be in order.

Mr. KENNEDY. Mr. President, this amendment would speed up the agreed-upon transfer of a portion of the Medicare home health benefit from part A to part B. This acceleration would extend the solvency of the Medicare trust fund by 2 years. It would not affect the deficit or seniors' premiums. We have maintained in our amendment that the premiums that have been agreed to would be maintained, or it would not affect the total amount of the benefit ultimately transferred.

It is strictly a bookkeeping transaction, but it will help save Medicare. It extends the solvency of the Medicare Program by 2 years. It was in the President's budget. It is a desired outcome for those who are interested in the financial security of the Medicare trust fund. We debated the stability and the security of the Medicare trust fund at length yesterday. This is a way of extending it by 2 years.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. DOMENICI. I yield time in opposition to Senator ROTH, chairman of the Finance Committee.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, I object to the amendment. We are transferring, over 7 years, home health care to part B, but we want to do it in seven segments because it is agreed that the beneficiaries should continue to pay 25 percent of the cost of the part B services. We do not want to put it all over the first year because we do not want to raise the premiums that rapidly.

So in order to be consistent, what we provide in the legislation is that the home health care will be transferred over 7 years. Each year an additional seventh will be included in the cost of the premium, so that will make the phasein much lower.

The PRESIDING OFFICER. Is there further debate?

The Senator from New Mexico.

Mr. KENNEDY. Mr. President, do I have any further time?

The PRESIDING OFFICER. Both sides have used their allotted time.

Mr. DOMENICI. Mr. President, I make a point of order that the Kennedy amendment violates the Budget Act in that the amendment is subject to the Byrd rule.

Mr. KENNEDY. Mr. President, I move to waive the point of order as made.

The PRESIDING OFFICER. The question is on agreeing to the motion to waive the point of order. All those in favor say yea.

Mr. KENNEDY. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. The yeas and nays have been requested. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

VOTE ON MOTION TO WAIVE THE BUDGET ACT

The PRESIDING OFFICER. The question is on agreeing to the motion to waive the Budget Act. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

The yeas and nays resulted—yeas 38, nays 62, as follows:

[Rollcall Vote No. 127 Leg.]

YEAS—38

Akaka
Bingaman
Boxer
Breaux
Bryan
Bumpers
Byrd
Cleland
Conrad
Daschle
Dodd
Dorgan
Durbin
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Inouye
Johnson
Kennedy
Kerry
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Murray
Reed
Reid
Robb
Rockefeller
Sarbanes
Torricelli
Wellstone
Wyden

NAYS—62

Abraham
Allard
Ashcroft
Baucus
Bennett
Biden
Bond
Brownback
Burns
Campbell
Chafee
Coats
Cochran
Collins
Coverdell
Craig
D'Amato
DeWine
Domenici
Enzi
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Jeffords
Kempthorne
Kerrey
Kohl
Kyl
Lott
Lugar
Mack
McCain
McConnell
Moseley-Braun
Moynihan
Murkowski
Nickles
Roberts
Roth
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

The PRESIDING OFFICER. On this vote, the yeas are 38, the nays are 62. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The point of order is sustained and the amendment falls.

Mr. LAUTENBERG. Mr. President, I move to reconsider the vote.

Mr. LOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 504

Mr. SPECTER. Mr. President, I have sought recognition to explain my views concerning the Kennedy amendment 504, which would have immediately transferred to Medicare part B the home health benefits currently paid for under the Medicare part A trust fund.

Payment for home health care is made from the part A trust fund for home health services such as part-time or intermittent nursing care provided by or under the supervision of a registered nurse or home health aide.

To protect the solvency of the part A trust fund, the bill shifts some of the home health costs on a 7-year phased-in basis from part A to part B.

The budget reconciliation bill reflects a careful compromise on protecting the solvency of the part A trust fund for all seniors without unduly burdening the taxpayers. Under the Kennedy amendment some of the bill's fiscal protections would have been dropped, and taxpayers would have effectively funded 100 percent of the home health services in fiscal year 1998, which would be unprecedented under Medicare. In my judgment that goes too far and adversely affects the present preferable balance.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, throughout the day I have been working with Senator CHAFEE and others with regard to amendments.

Mr. LAUTENBERG. May we have order, Mr. President?

The PRESIDING OFFICER. The Senate is not in order. The Senate will please come to order.

The majority leader.

UNANIMOUS CONSENT AGREEMENT

Mr. LOTT. Mr. President, I have been working with Senator CHAFEE and others, including Senator JEFFORDS, on a number of amendments that were offered last night as first- or second-degree amendments. I think we have worked out a process, now, that we are all comfortable with. Let me enter this unanimous-consent request and then we will have a brief colloquy also.

I ask unanimous consent the following amendments be withdrawn: Chafee amendment No. 448, Chafee amendment No. 500, Chafee amendment No. 501, Lott amendments Nos. 505, 507, 508, 509, Rockefeller amendment No. 510 and the Roth amendment No. 513;

I further ask unanimous consent that the Senate turn to the Roth amendment No. 511, and that all between lines 23 on page 22 and line 3 on page 23 be stricken;

I further ask the Senate then call up the Chafee amendment No. 512 to the Roth amendment No. 511, as modified, that the Chafee amendment be agreed to, and the Roth amendment, as amended, then be agreed to;

I further ask unanimous consent that when the committee amendment to S. 949, the Taxpayer Relief Act, is before the Senate, Senator ROTH be recognized to offer an amendment which is the text of the Roth amendment No. 511, as modified and amended, and the text of the Kennedy amendment, No. 492, if adopted by the Senate, to S. 947, to the language regarding the children's health initiative, and the amendment be agreed to;

Finally, I ask unanimous consent that it not be in order during the pendency of S. 949 to offer further amendments or motions regarding title XXI of the Social Security Act, except amendments regarding revenues and outlays.

The PRESIDING OFFICER. Is there objection?

Mr. CHAFEE. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. The Senator from Delaware——

The PRESIDING OFFICER. The Senator from Vermont will suspend. The Senate is not in order. Senators please take their conversations off the Senate floor. The Senator from Vermont.

Mr. JEFFORDS. If the chairman of the Finance Committee would give me his attention, as I read the unanimous-consent request, States would not be able to use the new funds under the children's health insurance initiative to provide health care coverage under either the block grant or to provide Medicaid for children over 200 percent of poverty.

This creates a real problem for a number of States. Vermont is currently covering all children aged 18 that have family incomes of 225 percent of poverty through its Medicaid Program. I would like to be assured that we will work to address this concern in the conference so that States have the ability to use the new funds to provide health care coverage for children over 200 percent of poverty. There are children above this level that need the help badly.

Mr. ROTH. Mr. President, I say to the Senator from Vermont, he has my assurance that we will discuss this concern in the conference committee. It is not my intent to penalize those States that have done a good job in covering their low-income children or to exclude needy children from coverage.

Mr. CHAFEE. I would like to address this, Mr. President, if I might, to the distinguished chairman of the Finance Committee. It is also my understanding that a State would be able to use any new funds to provide health coverage for children under 200 percent of poverty and use existing State dollars, normally used for this purpose, in order to provide health care coverage for children over 200 percent of poverty.

Mr. ROTH. Mr. President, section 2102 allows for the use of existing State funds to provide additional health care coverage for children over 200 percent of poverty.

Mr. CHAFEE. I thank the chairman for that. I also extend my thanks to the distinguished majority leader for helping us reach this unanimous-consent agreement. I believe the resolution of this problem has been a very good one. I thank, as I say, the majority leader and the chairman of our Finance Committee and other Senators who have worked on this, particularly on our side, Senator JEFFORDS.

Mr. GREGG. Reserving the right to object.

The PRESIDING OFFICER. The Senator from New Hampshire reserves the right to object.

Mr. GREGG. Is the practical effect of this amendment that there will only be two options available now to States: One would be to put the child in Medicaid, and the other would be to use a Blue Cross/Blue Shield standard option plan with hearing and eyeglasses?

Mr. ROTH. No; the choice is not limited to that. Under the option, the States must provide benefits that are the equivalent of a Blue Cross standard plan. But I emphasize the word "equivalent," because it means considerable flexibility. I should point out, it also includes vision and hearing services.

Mr. CHAFEE. That is right. The State can use its own funds. If it has been using its funds for other types of services, they can continue using their State funds for those other types of services.

Mr. GREGG. Further reserving the right to object.

The PRESIDING OFFICER. The Senator from New Hampshire further reserves the right to object.

Mr. GREGG. The practical effect of this then is that the programmatic activities are specifically mandated as being either a Medicaid Program or a Blue Cross/Blue Shield equivalent program, is that not correct?

Mr. ROTH. That is correct.

Mr. GREGG. I have very serious reservations about this. I presume the leaders worked hard on reaching this agreement, and I presume that there is going to be further consideration of this issue.

Mr. LOTT. As a matter of fact, Mr. President, if I can respond to the Senator's reservation, I noted when I read through this that there were a series of amendments that had been offered in a variety of ways affecting this particular area: Three by Senator CHAFEE, four by myself, one by Senator ROTH, one by Senator ROCKEFELLER. So this is quite a laboriously worked-out process.

The Senator from Vermont, as a matter of fact, is not particularly happy with some provisions still remaining, and he had an amendment that would have tried to change that. A number of others—Senator NICKLES of Oklahoma—I believe, had something. But this unanimous-consent agreement was worked out in a way that a number of Senators decided not to go forward with their objections.

I personally don't agree with this, but it is the best way that we could work through about six or eight amendments that were pending in a reasonable and fair way, and it certainly will have another day in court.

Mr. GREGG. Well, on that representation, I won't object, but I have serious reservations, I must say.

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I say to my colleagues, I think the majority leader is exactly right, and I congratulate him, as well as Senator ROTH and his excellent staff, as well as Senators CHAFEE, JEFFORDS, and many others who worked on it.

As the majority leader has indicated, it has been a very laborious, long process in which things sort of just gradually, tectonically moved together, but very, very slowly.

The point is that we can say now children are going to have good benefits, and that doesn't mean that they have to pick a particular plan. There is not a mandate in this that they have to pick this plan or that plan, but they will be able to get the kinds of benefits that we have as Senators, as Federal workers.

I think, frankly, we have an obligation to make sure our children have plans. Preventive care, hospital care, doctor care, prescription, vision and hearing is in this. That is very important for early years, preventive care.

So I think, frankly, it has been extremely complicated, it has taken a long time, but I think it is a good compromise, a good agreement, and I congratulate those who brought it together.

Mr. LOTT. Mr. President, also, before I renew my unanimous-consent request, Senator BREAUX was also involved in this exercise and was helpful. I express my appreciation to him.

I renew my unanimous-consent request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. I yield the floor, Mr. President.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I thank the distinguished Senator from West Virginia, Senator ROCKEFELLER, for his help in this. As he mentioned, this has been a very long, long difficult process. He has been very helpful.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, if it is agreeable with the floor managers, I am prepared to move ahead with my amendment dealing with children's benefits.

Mr. DOMENICI. I believe that is the last amendment, except the three points of order that are going to be submitted by the Democratic floor leader en bloc.

Mr. KERREY. I still have my amendment.

Mr. DOMENICI. Sorry, I forgot. I thought that was going with Senator MURRAY when she withdraws her point of order. It is different?

Mr. KERREY. Yes.

Mr. DOMENICI. Can we recognize Senator MURRAY for a moment? She intends to speak to the Senate with reference to her previous point of order.

POINT OF ORDER, WITHDRAWN

Mrs. MURRAY. Mr. President, I withdraw my previous point of order, but I want this body to know that I object to the language in this bill that essentially makes Hyde permanent and affects those States whose managed care plans now cover medically necessary abortions. Unfortunately, the way the language was cleverly drafted, my point of order would have unintended consequences.

I go back to what my colleague from West Virginia said to all of us a few minutes ago. I think as we move toward final passage, I hope we all understand the severe consequences of the many different arenas in this bill.

I withdraw my point of order.

The PRESIDING OFFICER. The Senator has a right to withdraw her point of order. The point of order is withdrawn.

The Senator from Massachusetts.

AMENDMENT NO. 492

Mr. KENNEDY. Mr. President, I call up our amendment dealing with the special health needs of children. I call up the amendment on behalf of myself and Senator HARKIN.

First of all, I commend the Senators for getting us where we are in terms of the new health benefits package for children, but there are some very critical needs for children, children with disabilities, children who are developmentally delayed and children with special needs.

Those needs are not attended to, and that is why this amendment is supported by the Consortium of Citizens with Disabilities, the American Academy of Pediatrics, the American Association of Retarded Citizens and the National Alliance for the Mentally Ill.

This will ensure that, in those particular areas, the children will receive what is medically necessary. The Federal employees program is targeted to adults and not toward children. This recognizes that there are special needs for children in these areas, and it permits what is medically necessary. It is a limited program, but it is vital in terms of the special needs of those children. I hope that it will be agreed to.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I yield 40 seconds of our time to Senator ROTH, and I will use 20 seconds.

Mr. ROTH. Mr. President, I oppose the Kennedy amendment. As we have just been discussing, we have carefully crafted and negotiated the issue of the benefits package for the new children's health initiative. This amendment would break that agreement by requiring additional benefits. It does the very opposite of what we want to do. We want to provide flexibility to the States, and this would be a major step in the wrong direction.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, this would change a bipartisan compromise in the committee and make a long list of benefits mandatory. Thus, it would fly in the face of reform and make it more difficult for the States to deliver quality care for less money. In essence, it is apt to produce less quality care under the rubric of supplying all of the specifics, even if you could get better care with less specifics.

I move to table the Kennedy amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table amendment No. 492. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 57, nays 43, as follows:

[Rollcall Vote No. 128 Leg.]

YEAS—57

Abraham
Allard
Ashcroft
Baucus
Bennett
Bond
Breaux
Brownback
Burns
Campbell
Coats
Cochran
Collins
Coverdell
Craig
D'Amato
DeWine
Domenici
Enzi
Faircloth
Frist
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Kempthorne
Kerrey
Kyl
Lott
Lugar
Mack
McCain
McConnell
Moynihan
Murkowski
Nickles
Roberts
Roth
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—43

Akaka
Biden
Bingaman
Boxer
Bryan
Bumpers
Byrd
Chafee
Cleland
Conrad
Daschle
Dodd
Dorgan
Durbin
Feingold
Feinstein
Ford
Glenn
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Murray
Reed
Reid
Robb
Rockefeller
Sarbanes
Specter
Torricelli
Wellstone
Wyden

The motion to lay on the table the amendment (No. 492) was agreed to.

Mr. DOMENICI. I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 427

Mr. DOMENICI. Mr. President, there is an amendment pending at the desk, an amendment for Senator DEWINE that is No. 427.

I am going to send, at his request and with the approval of the minority, a modification. This amendment, as modified, will amend the Social Security Act to continue full-time equivalent resident reimbursement for 1 additional year under Medicare for direct graduate medical education for residents enrolled in combined approved primary care medical residency training programs.

AMENDMENT NO. 427, AS MODIFIED

Mr. DOMENICI. I send the modification to the desk, and ask unanimous consent that we call up the amendment as modified.

The PRESIDING OFFICER. Is there objection to modifying the amendment?

Without objection, it is so ordered. The amendment is modified.

The amendment (No. 427), as modified, is as follows:

At the appropriate place in chapter 3 of subtitle F of division 1 of title V, insert the following:

SEC. . MEDICARE SPECIAL REIMBURSEMENT RULE FOR PRIMARY CARE COMBINED RESIDENCY PROGRAMS.

(a) IN GENERAL.—Section 1886(h)(5)(G) of the Social Security Act (42 U.S.C. 1395ww(h)(5)(G)) is amended—

(1) in clause (i), by striking "and (iii)" and inserting ", (iii), and (iv)"; and

(2) by adding at the end the following:

"(iv) SPECIAL RULE FOR PRIMARY CARE COMBINED RESIDENCY PROGRAMS.—(I) In the case of a resident enrolled in a combined medical residency training program in which all of the individual programs (that are combined) are for training a primary care resident (as defined in subparagraph (H)), the period of board eligibility shall be the minimum number of years of formal training required to satisfy the requirements for initial board eligibility in the longest of the individual programs plus one additional year.

"(II) A resident enrolled in a combined medical residency training program that includes an obstetrics and gynecology program qualifies for the period of board eligibility under subclause (I) if the other programs such resident combines with such obstetrics and gynecology program are for training a primary care resident.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply to combined medical residency training programs in effect on or after January 1, 1998.

Mr. DOMENICI. I believe that amendment is acceptable.

I yield back any time I might have.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 427), as modified, was agreed to.

Mr. DOMENICI. I move to reconsider the vote.

Mr. LAUTENBERG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENTS NOS. 447, 464, 470, 477, AND NO. 503, AS MODIFIED, WITHDRAWN

Mr. DOMENICI. I ask unanimous consent to withdraw five amendments that remain: 447, Senator HUTCHISON; 464, Senator BROWNBACK; 470, Senator SPECTER; 477, Senator DURBIN; and 503, Senator ROCKEFELLER.

The PRESIDING OFFICER. Is there objection?

Without objection, the amendments are withdrawn.

The amendments (Nos. 447, 464, 470, 477, and No. 503), as modified, were withdrawn.

Mr. DOMENICI. Mr. President, there is one additional amendment by Senator KERREY.

The PRESIDING OFFICER. The Senate will come to order.

Mr. DOMENICI. One additional amendment by Senator KERREY, which will require a vote. Then there will be three points of order en bloc by the minority. We will not seek to overrule them. We will accept them. The provisions will then cause those portions of the bill to fail, to drop. Following that, we will have final passage.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

AMENDMENT NO. 496, AS MODIFIED

Mr. KERREY. Mr. President, I ask unanimous consent to modify my originally filed amendment since the managers' amendment changes the language that my amendment seeks to strike.

The PRESIDING OFFICER. Is there objection to the modification?

Without objection, the amendment is modified.

The amendment (No. 496), as modified, is as follows:

At the appropriate place in section 2106, as added by section 5801, strike all matter related to "use limited to State Program Expenditures" and insert the following:

"(d) USE LIMITED TO STATE PROGRAM EXPENDITURES.—Funds provided to an eligible State under this title shall only be used to carry out the purposes of this title."

Mr. KERREY. Mr. President, there is language in the bill that imposes what has been imposed typically in the appropriations process, permanently imposing a restriction on the use of Federal money for payment for abortions. I know it is very controversial, a lot of fun to debate. But by putting it in permanent law, we are doing something entirely different than has been done before.

Second, I would say to my colleagues, this affects only low-income teenagers. That is basically what we are doing, saying to low-income teenagers that we are not going to allow taxpayer money to be used for abortions.

Third, I would say, for those who say, "Well, that's right, we don't want to use taxpayer money for abortions," we do not have a similar restriction on our salaries, we do not have a similar restriction on any other Federal employee's salary. If we have income coming to us, that is taxpayer income.

If you want to be consistent here, you want to say you are going to treat low-income teenagers the same as our teenagers are treated, then you would have to put restrictions on how we can spend our salaries as well.

I hope that this amendment will pass and we will strike this language. If you want to bring the Hyde amendment up, I think it is much more appropriate to do so not on appropriations bills.

Mr. DOMENICI. I yield time in opposition to Senator NICKLES.

Mr. NICKLES. Mr. President, I rise in opposition to the amendment of Senator KERREY. We put in language in this bill to make sure in this new program—we created a new program for health care for kids, for teenagers. What we are doing in this amendment is saying this health care program should not include abortion or money for elective abortion.

We basically said no public funds would be used for abortion —only if the abortion is necessary to save the life of the mother or in cases of rape or incest. That is consistent with the Medicaid Program. That is consistent with Federal health care policies that we have for Federal employees right now, and we certainly should not create a new program that says, "Oh, you can have abortion on demand, paid for by taxpayers." We will spend billions of dollars. We should not be saying those billions are eligible for teenagers for elective abortion.

I urge my colleagues to vote no on the Kerrey amendment.

Mr. KERREY. I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. ABRAHAM). Is there a sufficient second?

There is a sufficient second.

The yeas and nays have been ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment No. 496, as modified.

The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 39, nays 61, as follows:

[Rollcall Vote No. 129 Leg.]

YEAS—39

Akaka
Baucus
Bingaman
Boxer
Bryan
Bumpers
Campbell
Chafee
Daschle
Dodd
Durbin
Feingold
Feinstein
Glenn
Harkin
Hollings
Inouye
Jeffords
Kennedy
Kerrey
Kerry
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Reed
Robb
Rockefeller
Sarbanes
Specter
Stevens
Torricelli
Wellstone
Wyden

NAYS—61

Abraham
Allard
Ashcroft
Bennett
Biden
Bond
Breaux
Brownback
Burns
Byrd
Cleland
Coats
Cochran
Collins
Conrad
Coverdell
Craig
D'Amato
DeWine
Domenici
Dorgan
Enzi
Faircloth
Ford
Frist
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Johnson
Kempthorne
Kohl
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Reid
Roberts
Roth
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Thomas
Thompson
Thurmond
Warner

The amendment (No. 496) as modified, was rejected.

Mr. DOMENICI. Mr. President, I move to reconsider the vote.

Mr. KERREY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will please come to order.

The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I am just waiting for the minority manager to make a point of order, and we will be ready to go to final passage.

POINT OF ORDER

Mr. DASCHLE. Mr. President, pursuant to section 313 of the Congressional Budget Act, I make a point of order that the following sections of the pending bill are extraneous to the reconciliation instructions of the respective committee of jurisdiction: section 5713, section 5833, and section 5987.

The PRESIDING OFFICER. The Chair sustains the points of order.

Mr. ROBB. Mr. President, I rise today to discuss S. 947, the Balanced Budget Act of 1997. I'm pleased that we've come together in a bipartisan way—both sides of the aisle, both sides of the Capitol, and both ends of Pennsylvania Avenue—to craft a plan that brings us a step closer to fiscal sanity.

The good news, Mr. President, is that the bill before us realizes roughly $137 billion in savings over the next 5 years. And that's good news for our country and for our children and our grandchildren.

S. 947 provides additional years of solvency to the Medicare hospital trust fund, reforms payment methodologies for skilled nursing facilities, home health, and outpatient entities, and includes greater choice—and expanded preventive benefits—for millions of Medicare beneficiaries. As a cosponsor of the original Chafee-Rockefeller child health bill, I'm delighted that this bill contains $16 billion to expand access to health care for America's children, most of whom live in the home of an American worker.

Someday, our children will be grateful for the $16 billion we invested in their health care, Mr. President. And they will be grateful that we succeeded today in saving $137 billion in future debt—debt we will not ask them to pay.

But our children will not be grateful if we don't take this opportunity in this budget to tackle long-term entitlement reform in a systemic way.

We all know the statistics. While entitlements and interest on the national debt represented just 30 percent of our budget in 1963, they will absorb 70 percent by the year 2002. And even more alarmingly, if we don't make changes in the way we do business around here, entitlements and interest on the debt will absorb the entire Federal revenue base by the year 2012. How then can we responsibly invest in our children? How can we sustain the transportation infrastructure needed to support a thriving economy in the next century? How do we pay our soldiers, repair our subs and carriers, and invest in the technology we need to remain the last great superpower on Earth?

Mr. President, despite the fact that the vast majority of economists have told us that we need to adjust the consumer price index to accurately reflect inflation, we have no legislative CPI adjustment in this package. Opponents say that since we don't need a legislative CPI adjustment to balance the budget in 5 years, it's not in this plan. But what about when the baby boom generation retires, Mr. President, when just three workers—and then two—will support each Social Security beneficiary?

The Finance Committee had the courage to include a provision in this bill to gradually increase the eligibility age for Medicare from 65 today to 67 by the year 2027. This provision has been under assault—and will continue to be—from many sides. Some who oppose it argue that this is not the time. And while I'm committed to identifying methods to provide access for those who may encounter a lapse in coverage—and this bill creates a bipartisan commission that will look at the feasibility of a Medicare buy-in program—when will the time be right? We had a good vote in support of this eligibility increase in the Senate and we have to fight to retain it in conference.

Finally, the home health copay and the affluence testing for wealthy seniors which were included in the committee mark and which were supported by the majority of the Senate during two rollcall votes held yesterday will likely not survive conference as well, Mr. President. These provisions are in danger even though we all know we have to find responsible ways to reduce the Federal cost of Medicare. While affluence testing of part B premiums is a political lightning rod, it is good public policy. It is simply indefensible to require lower income families, many who cannot afford health insurance for their own children today, to continue to help subsidize 75 percent of the Medicare premiums of wealthy seniors.

We have much to do, Mr. President, to fulfill our obligation to leave our children a strong economic future and a quality of life equal to the one we inherited from our own parents. The first step is to balance our budget—and I hope the bill before us accomplishes that goal. The next step—and it is an essential one—is to tackle long term, systemic entitlement reform that will protect both the solvency of Medicare and Social Security and the economic security of the generations that follow us.

I hope the conferees will not make those goals even harder to achieve in the future.

With that plea Mr. President, I yield the floor.

THE BUDGET RECONCILIATION BILL MUST PROTECT LEGAL IMMIGRANTS

Mr. KENNEDY. Mr. President, I continue to be concerned about actions by Congress that hurt legal immigrants.

Last year, Congress passed a so-called welfare reform bill. This harsh bill cut off legal immigrants from most Federal assistance programs for the first time in history. It permanently banned legal immigrants from SSI and food stamps. It banned them for 5 years from AFDC, Medicaid, and other programs. And, it gave the States the option of permanently banning them from these programs.

We quickly saw the effect of these extreme provisions. Panic spread through the immigrant community. The Social Security Administration sentnotices to legal elderly and disabled immigrants that they would soon lose their SSI benefits. Numerous reports in the press told of legal immigrants who would be turned out of nursing homes, or cut off from disability payments. Some legal immigrants took their own lives, rather than burden their families. Thankfully, many Members of Congress realized that these provisions went too far.

This budget reconciliation bill corrects many of those mistakes. Members of the Finance Committee and Budget Committee showed impressive leadership in developing this bill. They recognized that the immigrants affected by last year's harsh cuts are individuals and families who came here legally. By and large, they are family members—mothers, fathers, and sons, daughters—of American citizens. They play by the rules, pay their taxes, and serve in the Armed Forces. They can be drafted. They can volunteer. We have hundreds of them in Bosnia today. They are future citizens trying to make new lives for themselves and their families in this country. I commend the committees for working so hard to come up with a bipartisan proposal.

This bill allows legal immigrants who are already receiving SSI to continue their SSI payments. It preserves SSI coverage for immigrants already in the United States who become disabled in the future, and for future immigrants who are too severely disabled to go through the process of naturalization to become citizens. It extends the exemption for refugees from 5 to 7 years. It exempts children from the 5-year ban on Medicaid eligibility.

There is still much more to be done to correct the problems created for immigrants by last year's welfare reform law. But, overall, this bill makes worthwhile progress toward restoring a safety net for immigrants who fall on hard times. I hope that Senators will do all they can to see that the immigrant provisions in this bill are retained in the Senate-House conference and final bill.

MEDICARE REFORM

Mr. GRAMS. Mr. President, I rise today in support of some very important Medicare reforms made within the reconciliation package before us. Specifically, I am pleased the committee included reforms to the formula used to determine the reimbursement rate for health plans under the Medicare Program to make it fairer and more equitable for States like Minnesota and other parts of rural America, changes to ensure better access to emergency medical services, and an expansion of Medical Savings Accounts.

Reform of the Adjusted Average Per Capita Cost formula has been needed for years because the formula has discriminated against seniors who choose to live and retire in rural communities. It has penalized States like Minnesota which are efficient in delivering health care services, and in doing so, discouraged quality health care. Since being elected to the Senate in 1994, I have made restoring fairness and equity to Medicare recipients in Minnesota and other parts of rural America a top priority.

Mr. President, we are all aware of the fact that the current Medicare reimbursement formula discriminates against Minnesota by giving our State the second-lowest payment rates in the Nation. Not one county in the entire State of Minnesota, or in 15 other States, receives the national average of $467 in AAPCC payment per month.

Because of these low reimbursement rates, managed care organizations have been discouraged from offering our senior citizens many of the alternative health plans available in other parts of the country, plans which offer additional benefits such as eyeglasses and prescription drugs. Clearly, this is a problem which should have been addressed long ago.

In February, several of my colleagues and I introduced S. 359, the Medicare Payment Equity Act, which would have established a floor of 80 percent of the national adjusted capitation rate for the year and made the AAPCC formula more equitable by blending the national and county specific percentage. More recently, I cosponsored S. 862, authored by Senator GRASSLEY, which followed the same lines of reform and even more closely resembles what was ultimately passed by the Finance Committee. Under the leadership of Finance Chairman ROTH and through the tireless efforts of Senators THOMAS, BURNS, GRASSLEY, and ROBERTS, we have succeeded in beginning to fix the Medicare formula to make it fairer for Minnesota's seniors and right some of the wrongs against us.

The AAPCC reforms contained in the reconciliation bill are a very important step in restoring fairness and providing greater choices for Medicare recipients who live in Minnesota, particularly in rural communities. This truly represents a great victory for Minnesota's senior citizens as we close the long-standing gap of inequity in the Medicare Program.

Mr. President, this legislation also addresses another important issue in which I have been deeply involved. In January, Senator GRAHAM of Florida and I introduced S. 238, the Emergency Medical Services Efficiency Act, to establish a reasonable standard for determining Medicare reimbursement for EMS services. Our bill would ensure that EMS providers would be reimbursed based upon a prudent layperson standard, rather than the ultimate diagnosis of a physician. This revised definition will ensure that EMS providers are prepared to meet the challenges facing them as they work to improve their services.

All of us depend daily on the readiness, efficiency, and immediate response of our emergency medical system. And while many of us take it for granted, we all want it to work well when we need it. Many of the men and women who risk their lives delivering emergency care have told me the system can be improved, yet their desire to improve the services they provide has rarely been recognized by Congress. This provision in the reconciliation bill is the first step in helping EMS providers help themselves become more efficient. I would like to thank Senator GRAHAM for his efforts in the Finance Committee to see that this important issue was included in the package.

Finally, I would like to thank Chairman ROTH for his efforts to include an expansion of Medical Savings Accounts. In developing a Medicare Choice Program modeled on the Federal Employee Health Benefits plan, this will offer, for the first time, a real choice to America's seniors.

Again, I commend and thank Chairman ROTH and his Finance Committee colleagues for including these important changes in the reconciliation spending package.

BIPARTISAN BUDGET AGREEMENT ITEMS TO BE ACHIEVED IN APPROPRIATIONS PROCESS

Mr. DOMENICI. Mr. President, I rise to address some concerns expressed by the administration with regard to two items they believe should be in this reconciliation bill. I would like to clarify what we assumed in the 1998 budget resolution for those items.

The bipartisan budget agreement did include assumptions on additional funding for unemployment insurance benefits integrity and on extension of fees for SSI State supplemental benefit administration. In both instances, the budget resolution assumed that these proposals would be implemented by the Appropriations Committee, and therefore the authorizing committees were not instructed to achieve these savings in reconciliation. The budget resolution is the basis for scoring congressional action and cannot be changed in an ad hoc manner, that is, without passing another concurrent resolution to change it.

I would ask the chairman of the Appropriations Committee if it is not also his understanding that these proposals are to be considered by his committee?

Mr. STEVENS. As chairman of the Appropriations Committee, I am committed to working with the chairman, and the administration regarding the levels of funding assumed in the bipartisan budget agreement that are within purview of the Appropriations Committee. It is my understanding that the Subcommittee on Labor, Health and Human Services, and Education has been working with the Office of Management and Budget with regard to the proposals you have mentioned.

Mr. DOMENICI. I thank the Senator for helping clarify this matter.

COVERAGE OF CERTAIN SERVICES IN RELIGIOUS NONMEDICAL HEALTH CARE INSTITUTIONS UNDER THE MEDICARE AND MEDICAID PROGRAMS

Mr. KENNEDY. Mr. President, I strongly support the provisions in this bill to ensure the continuation of Medicare and Medicaid reimbursement for secular nursing services in religious nonmedical health care institutions. These provisions ensure that strong religious beliefs are not a barrier to Medicare and Medicaid benefits.

When Medicaid and Medicare were enacted over 30 years ago, Congress included a special provision granting a religious accommodation for members of the church, so that they could receive benefits for care in their facilities comparable to the benefits available to others for similar cases.

For 30 years, the Christian Science Church relied on Medicare and Medicaid benefits and built a health care system that assists thousands of men and women. At a time when the Health Care Finance Administration has expressed increasing concerns about fraud and abuse in Medicare and Medicaid, there are no complaints about the Christian Science Church. Members of the church only ask to practice their religion without unnecessary interference.

Last summer, however, a Minnesota district court determined that the provisions in the Medicare and Medicaid statutes onto the Christian Science Church are unconstitutional. As Judge Kyle stated in his opinion, "legislative accommodation of religious beliefs is a valuable and worthy enterprise, but here * * * the accommodation has gone too far and too strongly favors the convictions of one particular sect."

However, the court also recognized the fundamental injustice that Christian Scientists were required to pay the taxes for Medicare and Medicaid, but could not receive the benefits of these programs. The court also recognized the purpose underlying the original statutes. The court clearly identified the statutory language referring to the church as the problem, not the goal of providing comparable benefits to those who disavow traditional medical treatment because of their religious beliefs.

The provision in the reconciliation bill meets this goal without undermining the Constitution. All references to the Christian Science Church are eliminated. The provision will grant reimbursement for secular nonmedical nursing services to any person who, because of religious beliefs, does not believe in medical care and relies on faith healing in a religious nonmedical health care institution. As with other aspects of this health care system, the Health Care Finance Administration will closely monitor the provision for fraud, abuse, and public health concerns.

The chairmen of the House and Senate Judiciary Committees, the chairman of the House Ways and Means Committee, the chairman of the Senate Finance Committee, and I have worked closely to ensure the constitutionality of this provision.

This provision meets the worthwhile goals of the original Medicare and Medicaid laws, while meeting constitutional concerns. It deserves to be enacted into law so that the needed benefits will continue to be available.

FOOD STAMPS FOR CROSS-BORDER NATIVE AMERICANS

Mr. JEFFORDS. Mr. President, I know it is too late for Chairman ROTH to include this change in the manager's amendment, but I did want to raise it before we finish here today.

As the chairman knows, thanks to a provision in both the Finance and Ways and Means packages, native Americans who are entitled to cross the U.S. border under the Jay Treaty are not affected by last year's welfare law restrictions on providing SSI to aliens. Unfortunately, due to jurisdictional considerations, neither the Finance nor the Ways and Means Committees included food stamps in this provision. Preliminary estimates indicate that such an inclusion would not incur significant cost.

I understand Senator LUGAR is supportive of the inclusion of food stamps and I hope the chairman and ranking member will work with me and other Members during conference with the House to include a food stamp modification.

Mr. SMITH of New Hampshire. Mr. President, I rise today to commend my colleagues on the Armed Services Committee and the Finance Committee for having the courage to follow through on a promise the Government made long ago to career military personnel. I know the future of health care for elderly military retirees is an issue that deeply concerns many of us, and I am pleased that we have found a financially responsible solution to the growing problem of health care access for this group of retired personnel.

With the Defense Department expected to complete full implementation of the Tricare medical plan within the year, many retirees, who made it their lives' work to defend our freedom, face the certain loss of medical benefits when they turn 65 unless Congress acts now. As a member of the Armed Services Committee, I am deeply disturbed by this prospect. That is why I have consistently supported responsible initiatives to guarantee the future of DOD health care for Medicare-eligible military retirees.

In New Hampshire, I have witnessed firsthand the impact of defense downsizing on health care resources for this vulnerable population. When Pease Air Force Base closed in 1991, thousands of aging retirees were left to compete with active duty personnel and military retirees from neighboring States for fewer spaces in the New England DOD health care system. Once Tricare takes hold, this group will lose any remaining access to the military system they now enjoy because the Defense Department can no longer afford to offer these retirees the medical benefits they were promised. This is unacceptable.

After 4 years of meetings, hearings, and failed legislative initiatives, the Senate has finally reached a workable solution to the health care crisis now facing Medicare-eligible military retirees. Medicare subvention, as the plan is known, will allow the Defense Department to seek reimbursement from Medicare for the cost of treating eligible retired military personnel. By authorizing the DOD to carry out a 3-year Medicare subvention test program, the Senate has taken a decisive step toward restoring military retirees' faith in the country they honorably served. I am pleased to have supported Medicare subvention since the proposal's inception, and I look forward to working with my colleagues in the coming years to ensure that our Government does not shirk the responsibility of providing elderly military retirees with the quality, affordable health care they deserve.

I thank the chair and I yield the floor.

MEDICARE SUBVENTION

Mr. INHOFE. Mr. President, throughout each year we address a number of Medicare issues. This year, we have a Medicare issue within the reconciliation bill which is related to military health care, specifically, Medicare subvention. Without Medicare subvention, military treatment facilities cannot receive reimbursement from Medicare for care the facilities provide to military retirees who are also eligible for Medicare. With Medicare subvention, we can continue to improve the quality of life for military personnel, their families, and retired service members and their families by providing them with alternative access to treatment.

Because health care is such an important aspect of quality of life in the military, it is imperative that we continue to provide our military personnel and retirees with the access which they were promised. Currently, because the access of military retirees age 65 and over is on a space-available basis and due to overcrowding of military treatment facilities, finding adequate medical care has proven increasingly difficult if not impossible. Clearly, this is not a trend we want to continue if we hope to retain and recruit the quality and quantity of men and women needed to fight and win wars in the future.

Medicare subvention would fulfill the commitment made to our former service members by allowing Medicare to reimburse the Department of Defense [DOD] for care provided to members who are Medicare-eligible beneficiaries. I believe that Medicare subvention would be fiscally beneficial to Medicare and would make available an important revenue source that will enable and encourage DOD to provide care to over-65 retirees. Further, Medicare will save money because DOD can provide care less expensively than civilian providers. This is clearly a win-win situation for both the DOD and Medicare.

Clearly, ending access to military medical facilities when beneficiaries reach an age when they will most need it is fundamentally unfair. Our veterans have earned our support, and they deserve the best access to medical care that we can make available. I believe that Medicare subvention is a necessary step in the right direction, and I fully support the Medicare subvention provisions found in the reconciliation bill.

FOOD STAMP NUTRITION EDUCATION

Mr. SANTORUM. Mr. President, I support the amendment offered by the Senator from Texas, and I commend her for her diligent work in fighting fraud in the Food Stamp Program. I would also like to thank her for working with me to address a concern of mine with regard to food stamp nutrition education.

For 2 years, the Reading Terminal Farmers' Market trust participated in a partnership with the USDA to develop a community-based nutrition education program in Philadelphia. Using a Federal share to match private grants from the Knight, Pew and Kellogg Foundations, the trust established the Philadelphia nutrition education network to integrate nutrition education into ongoing food distribution and health programs. The Philadelphia School District, Allegheny University of Health Sciences, WIC, the Archdiocese of Philadelphia and others were engaged as partners in the network, which reached over 17,000 children and adults in 1996.

By all accounts, this program was a success; and last summer, when the one-time cooperative agreement with USDA expired, the Trust sought to continue their important work under the existing food stamp nutrition education program. In June 1996, the Trust submitted a food stamp nutrition education plan requesting matching funds for a nutrition education plan in four low-income communities and at the Reading Terminal Market. Unfortunately, USDA regulations only permit a Federal match for local or State government funding. Since the Reading Terminal Farmers' Market Trust relies upon private contributions to fund their programs, USDA determined that they were not eligible to participate in the food stamp nutrition education program.

Since last summer, my office has been working with Reading Terminal Farmers' Market Trust to find a way for this program to continue. It is my understanding that nutrition education programs in Vermont and New York City have encountered similar problems with USDA matching funds. I have worked with Chairman LUGAR of the Agriculture Committee and Senator LEAHY to craft an amendment that will address these problems, and I am grateful to the Senator from Texas for including this language as section 2 of her amendment.

The language in this amendment will enable nonprofits and State agencies to receive grants in order to operate nutrition education programs that are coordinated among a broad range of food distribution and social service providers. In order to reach the maximum amount of eligible individuals and to leverage private funds for this endeavour, private donations will be made eligible to match the Federal grant.

The amendment provides $600,000 for grants for each of fiscal years 1998 through 2001, and no individual grant may exceed $200,000.

This provision has the support of Agriculture Committee Chairman LUGAR and Senator LEAHY.

FINAL REGULATIONS ON SOCIAL SECURITY INSURANCE DETERMINATIONS FOR CHILDREN

Mr. JEFFORDS. Mr. President, during the consideration of this important bill, I would like to bring to your attention developments regarding the administration's recently released SSI regulations for children. Through sections 211 and 212 of Public Law 104–193, the Personal Responsibility and Work Opportunity Act of 1996, Congress established a new eligibility test requiring that children show the presence of "marked and severe functional limitations" to become eligible for Supplemental Security Income [SSI] disability benefits. Additionally, under these new rules up to 300,000 children who are currently eligible for SSI will undergo a redetermination assessment over the next several months.

On February 11, 1997, in an attempt to implement these provisions, the Social Security Administration issued interim final regulations that require a level of disability that meets or equals the listings of impairments criteria. As stated in a letter written by nine of my colleagues and me to the President in April, I believe this regulation establishes an overly severe standard that misinterprets the intent of Congress to reform the SSI program for children with disabilities. SSA's test would remove up to 135,000 SSI disabled children this year alone. Thus, thousands of severely disabled children would face a loss of needed SSI benefits—contrary to the will of Congress.

I believe the Social Security Administration should establish a comprehensive functional test at a stricter severity level than the former individualized functional assessment test, but one that does not harm children with serious disabilities. A test protecting children with severely disabling conditions—including those with one marked and one moderate condition—would accurately reflect the intent of Congress. The administration has estimated this test would terminate 45,000 children this year, and close to 250,000 over 6 years.

Mr. President, I have already heard from constituents in my State of Vermont whose children will soon lose their SSI benefits. These families have nowhere else to turn. Such predicaments present troubling moral and budgetary questions—how to provide for those families who are shut off from desperately needed SSI benefits, and whether these regulations will simply shift the costs of providing for children with disabilities from SSI to other Federal entitlement programs, or to the States as communities react to these troubling cases. Such cost shifting would eliminate any significant savings gained. Additionally, the loss of SSI benefits will force families to move their children to costly out-of-home placement, as parents would no longer have the financial support to stay at home and care for the disabled child.

This is a matter that I will be pursuing with the Administration with the intent of reconciling the Administration's interpretation with the regulations passed by Congress during the welfare debate last fall.

WELFARE-TO-WORK GRANT PROGRAM

Mr. HARKIN. The pending legislation provides $3 billion to establish a Welfare-To-Work Program and specifies the activities for which the funding may be used. The list of allowable activities does not allow assistance for education or training activities with the exception of on-the-job-training.

Mr. ROTH. That is correct.

Mr. HARKIN. Over the past several years I have met with a number of welfare recipients, caseworkers and others to discuss the issue of welfare reform in the State of Iowa. The discussions have also included a number of individuals who have successfully made the transition from welfare to self-sufficient employment. In many cases, the key to this successful transition was participation in post-secondary classroom training. I understand that the pending legislation prohibits use of the Welfare-To-Work Programs funds for this purpose but want to clarify that States may continue to use Federal funds received under the temporary Assistance for Needy Families Program or their own resources for post-secondary classroom training.

Mr. ROTH. The Senator is correct. TANF does have some restrictions on vocational education activities, however States may use these funds or their own State funds for the education and training activities described by the Senator.

Mr. HARKIN. I thank the Senator for making that clear. I have another question.

The Welfare-To-Work Program provides formula grants to States and requires States to develop a formula for distribution of the funds within the State in consultation with sub-State areas. However, it is not clear what types of entities are eligible to provide the welfare-to-work services and that States have flexibility on this score.

In 1989, Iowa established 11 Family Development and Self-Sufficiency Programs to work with welfare recipients with a history of long-term dependency on the program and those who were at risk of long term dependency. These projects, 10 at nonprofit organizations, have been evaluated and have demonstrated success in moving welfare recipients off of welfare and into self-sufficient employment. In addition, a number of community action agencies and community development corporations have also been working with welfare recipients on exactly the kind of activities envisioned by the pending legislation.

I just want to make sure that a State may provide funding from the Welfare-To-Work Program to entities such as community action agencies, community development corporations and other nonprofit organizations.

Mr. ROTH. That is correct. States may provide funding to these types of organizations.

Mr. HARKIN. I thank the Senator.

Mr. GRAMS. Mr. President, when Congress and the President reached agreement on the broad outlines of plan to balance the Federal budget, I had hoped that I could stand before the Senate during debate on the reconciliation legislation and proudly announce my full support. It is with deep regret, Mr. President, that I cannot. After careful examination of S. 947, the Balanced Budget Act of 1997, I have come to the conclusion that this legislation is good for Washington but bad for the taxpayers, and because it is not in the best interests of the working Americans we represent, I must reluctantly oppose it. Here are the major grounds on which I base my decision.

As I have said in previous statements before this Chamber, I have made the pursuit of a balanced budget my top priority in Congress, and have always said that I would support a budget plan that meets three specific criteria: First, it must shrink the size and scope of Government and return money—and the power those dollars represent—to the taxpayers; second, it must balance the budget by the year 2002 with steadily declining deficits each year without the use of rosy economic scenarios; and third, it must provide meaningful, broad-based tax relief to working families.

Tax relief, of course, will be dealt with in the other half of the reconciliation package. While there are many good provisions included in the bill, this so-call spending reduction legislation still fails to meet those pro-taxpayer standards.

First and foremost, like the budget agreement on which this reconciliation legislation is based, this bill does not shrink Government and return power to the taxpayers. In fact, it does the opposite; it increases mandatory spending. In the next 5 years, total mandatory spending would increase from $825 billion in 1997 to $1.1 trillion in 2002, a growth of 32 percent. Over the next five years, Medicare will increase at a rate of 6.1 percent and Medicaid will increase nearly 7 percent each year from the inflated baseline. Instead of eliminating wasteful spending to reduce the Federal deficit, this budget plan actually creates numerous new programs, including $34 billion in new entitlement programs funded by the taxpayers' hard-earned dollars.

In doing so, the plan has erased all of the savings achieved in last year's landmark welfare reform legislation. The reconciliation legislation includes about $24 billion in spending for new children's health care initiatives, while adding back $14.2 billion in welfare benefits for legal aliens and food stamp recipients.

Under this legislation, the Federal Government will spend $1.2 trillion on welfare alone over the next 5 years. That is $15 billion higher than the CBO projected. Of every dollar collected by the IRS, 14 cents goes to welfare programs, with less than 1 cent dedicated to tax relief for working families.

The fundamental flaw of the bill and the major source of my opposition to it is the new entitlement programs it creates. Such spending is a serious mistake at a time when we should control the explosive growth of mandatory spending and reduce the size of the Federal Government. History tells us that earlier entitlement programs started small, with perhaps the best of intentions, but have since exploded and now consume about 70 percent of all Federal revenues. To my disappointment, Washington has still not learned its lesson.

Second, Mr. President, despite some positive changes, including structure changes in Medicare, the entitlement programs remain intact. This not only breaks our promise to the American people on fundamental entitlement restructuring, but also ensures that big Government lives on by allowing Washington to avoid the hard choices it must make to address our long-term fiscal imbalances.

Without fundamental changes, the imbalance between the Government's entitlement promises and the funds it will have available to pay for them will eventually shatter our economy. In its recent report, "Long-Term Budgetary Pressures and Policy Options," the Congressional Budget Office warns us that if these long-term budgetary pressures are not relieved, Federal budget deficits would mount and could seriously erode future economic growth. The Federal deficit would increase from 1.4 percent of GDP, or $107 billion today to 30 percent of GDP in 2035, nearly $11 trillion. The debt held by the public would increase from 50 percent of GDP, or $3.9 trillion in 1996 to 250 percent of GDP, $91 trillion in 2035. Such rapid growth of the Federal debt and deficit will bankrupt this great Nation.

This gloomy picture has been confirmed by the recently released report of the Social Security and Medicare boards of trustees. Without clear changes in public policy to address the financial imbalance, the hospital insurance fund, one of the Medicare trust funds, will be bankrupt in just 4 years. The Medicare trust fund will run a deficit of $13 billion this year. By 2001, it will run a deficit of $49 billion and go broke. The disability insurance trust fund will be bankrupt in 2015, and Social Security trust funds will be bankrupt in 2029. And we do not have any clear and agreed public policy to address this imbalance.

Although the proponents of the legislation claim that it will avert the crisis of Medicare bankruptcy until 2007, the fix is temporary and is no more than tinkering with the system. Accounting gimmicks are also applied to extend the life of Medicare. It shifts home health care from part A to part B and use the general account to cover the deficits of the trust fund. This means a surge of new spending in Medicare in the future that taxpayers will be obligated to fund.

Third, unlike the Balanced Budget Act produced by the Republican Congress in 1996, this Balanced Budget Act does not result in steadily declining deficits, because the savings are achieved not through honest accounting but through rosy economic scenarios. Although this legislation claims over $117 billion savings in Medicare and $8 billion in Medicaid, all of the spending cuts result from a baseline projection of Government spending in which programs are assumed to grow according to such factors as the rate of inflation, population growth, and formulas written into the law.

Any honest budget plan must reach balance through steadily declining deficits every year; in other words, the deficit must be lower each year than the preceding one. This 5-year budget agreement actually increases the deficit for the first 2 years, then projects enough of a reduction in the final 2 years to reach balance. The deficit under this budget will go up by $23 billion next year, from $67 billion this year to $90 billion, and remain as high as $90 billion in 1999. Over 70 percent of the deficit reduction will not occur until after President Clinton leaves the White House. A significant percentage of the plan's deficit reduction results from optimistic economic assumptions, not sound policy changes.

A budget plan must also be based on real numbers and not the inflated budget estimates that have been used in the past to justify more spending and higher taxes. This budget agreement fails on that score as well by continuing to use the inflated budget estimates of the past to mask the spending increases it contains. I cannot support a budget that uses such gimmicks simply to make the numbers add up on paper.

In its analysis of the budget, the Heritage Foundation concluded that "a credible plan to balance the Federal budget must result in a smaller Government that costs less and leaves much more money in the pockets of working Americans. The current reconciliation bill not only fails these important tests, but in many cases would implement policies that are worse than taking no action at all."

Our current sound economic growth has reduced the budget deficit to a 17-year low without any fiscal constrains and reforms. We should use this historic opportunity to balance the budget in less than 5 years, start to pay back our $5.4 trillion national debt, and address our long-term fiscal imbalances. Unfortunately, we have once again missed this opportunity.

Mr. President, under the legislation before us, Washington will spend more of the taxpayers' hard-earned dollars creating new entitlement programs, while expanding old programs just to please the big-spending politicians and the special interest groups they feed. That is not the budget the taxpayers of Minnesota are expecting. That is not the budget Congress owes America's working families. But that is the budget Washington claims is the right answer. I regret that I do not agree, and cannot therefore support the spending portion of the budget reconciliation legislation.

AMENDMENT NO. 445

Mr. SPECTER. Mr. President, I would like to take this opportunity to explain my vote in opposition to the motion to waive the Budget Act for consideration of the substitute amendment offered by Senator REED.

To its credit, the Reed substitute did not contain the Medicare home health care/copayment language or the 65–67 Medicare age eligibility language in the reported bill. I voted against both of those provisions on independent votes yesterday and continue to be concerned about their inclusion in S. 947.

Notwithstanding those elements of the Reed amendment, I could not support it because it failed to include an important provision or medical savings accounts for Medicare beneficiaries.

EXEMPTION FROM AUCTIONS FOR PUBLIC SAFETY RADIO SERVICES AND ALLOCATION OF SPECTRUM FOR PUBLIC SAFETY AND PUBLIC SERVICE ENTITIES

Mr. BRYAN. Mr. President, I rise in support of the proposal to ensure that sufficient radio spectrum is made available for public safety and maintenance of the Nation's critical infrastructure, such as pipeline, railroad, and electric, gas and water utility services. With the success of spectrum auctions for commercial radio services, the FCC has been reluctant to allocate sufficient spectrum for these vital services. This legislation will expand the FCC's authority to auction spectrum, but not at the expense of entities that we have entrusted to protect the safety of life, health and property and to provide essential public services.

In adopting rules for the use of this new spectrum, I hope the FCC will promote the development of shared public safety/public service radio systems. In Nevada, it was recognized several years ago that it would be prohibitively expensive for any one public safety agency or public service utility to build and maintain a state-of-the-art 2-way radio system to cover this vast territory and provide the service features these various agencies need. Several key public service and public safety organizations took the initiative to pool their resources to build a system that would share backbone infrastructure, such as mountaintop repeater sites and radio frequencies. Through software partitioning, each user has its own discreet and secure virtual private network on this shared infrastructure. The parties first had to secure waivers of the FCC's rules so that nongovernment entities could share public safety frequencies on a not-for-profit basis. Initial system users include the Nevada Department of Transportation, University of Nevada law enforcement personnel, City of North Las Vegas, Sierra Pacific Power Company, and the Nevada Power Company. Other utilities and state and local government agencies are also looking to partner in the system, which currently covers more than half of the State's geography.

Shared public safety/public safety radio networks such as the one we have pioneered in Nevada have many advantages: First, joint use of a system is a spectrally efficient; second, during disasters and emergencies, there is a great need for interoperability between emergency response agencies and public service utilities that is easily accommodated on the shared system; third, equipment can be loaned from one entity to another on an as-needed basis during specific emergencies or special situations; fourth, other agencies and utilities can be added to the system without system duplication of facilities; fifth, smaller, rural agencies can access state-of-the-art technology that would otherwise be beyond their reach; and sixth, taxpayer and utility ratepayer costs can be significantly reduced.

Does the Senator from Arizona agree that these shared public safety/public service radio networks should be promoted?

Mr. McCAIN. Yes, I agree. I would also like to offer my support for the allocation of new spectrum for use by public safety and public service organizations, and would urge the FCC to adopt rules that would facilitate, if not promote, the development of shared radio systems by such entities. I also know that Senators STEVENS, LOTT, and BURNS have been very concerned and involved in this issue. I look forward to working with them and Senator BRYAN to ensure that the Commission takes such action as necessary to deal with this subject and I am also hopeful that we can, if needed, clarify any problem with this language in conference.

WHAT IS RIGHT FOR MEDICARE

Mr. DORGAN. Mr. President, the votes on this reconciliation bill included two votes on spending cuts in the Medicare Program. The two controversial amendments dealt with increasing the eligibility age for Medicare from age 65 to 67 and income-testing of Medicare for upper income beneficiaries.

I support the change that will result in substantial savings through reduction of Medicare reimbursements to providers. I also agree with other changes that will improve and streamline the program.

However, I voted against the proposal included in the committee's bill which would increase the eligibility age from 65 to 67 and the proposal to impose a means-test for higher-income beneficiaries.

I am willing to consider supporting both of these proposals under the right conditions, which I will describe below but I think it is inappropriate to be making Medicare cuts on the spending side of reconciliation in order to make room for larger tax cuts on the revenue side of reconciliation.

Whatever changes are made in Medicare should be made exclusively and specifically for the purpose of extending the solvency of Medicare—not for the purpose of providing additional room for tax cuts, the bulk of which are proposed to go to upper income earners in the United States. We must look at the right ways to keep Medicare solvent without breaking faith with the country's senior citizens.

Asking senior citizens who make more than $50,000 to pay higher prices for their Medicare policies so that investors who make $500,000 can be given tax cuts seems inappropriate to me. There's no denying a direct connection when the Medicare proposals are made in the context of a reconciliation bill that includes spending and taxing. The act of achieving Medicare savings then becomes intertwined with the desire for tax cuts on the revenue side.

The reconciliation bill specifically calls for a commission to make recommendations on long term changes necessary to ensure the solvency of the Medicare Program. I support that and I hope that such a commission will be established quickly and will ultimately result in solid recommendations which the Congress can then act on quickly.

When we are able to look at recommendations which are developed specifically for the purpose of extending Medicare solvency, then I am willing to consider changes to Medicare, including means-testing and/or increasing the eligibility age under the following conditions.

First, with respect to increasing the eligibility age, if and when we do that, we must be prepared to respond to the question of what happens to those senior citizens whose incomes are inadequate to pay the higher cost of private health care insurance between age 65 and 67 when they would no longer be covered. Changing the eligibility age from 65 to 67 without providing some mechanism to provide for the availability of affordable insurance coverage for the citizens in that age group would simply mean we have millions more uninsured Americans. Low income senior citizens between the ages of 65 and 67 will never be able to afford the kind of premiums that will be assessed by the health care industry to insure people of that age. So, the eligibility age increase cannot simply be considered on its own as it was in the reconciliation bill. Nor can it be argued that the increase in the eligibility age parallels the increase in the social security retirement age. The ramifications are very different for increasing the medicare eligibility age.

Second, with respect to means-testing or income-testing, as it is called, I am willing to support means-testing for Medicare, but again, only on the condition that the means-testing itself is done for the purpose of extending the solvency of Medicare and not part of a reconciliation bill that is designed to cut spending in a way that will accommodate additional tax cuts.

The temptation is too great for those in Congress who never supported the Medicare bill in the first place. It is a concern of mine that the proposed changes to Medicare in this bill are there not for the purpose of increasing the solvency of Medicare, but rather are there to accommodate tax cuts for upper income Americans. This, in my judgement, undercuts the Medicare Program.

AMENDMENT NO. 428

Mr. McCAIN. Mr. President, I am proud to have cosponsored amendment No. 428, which will significantly reduce fraud, abuse, and waste in the Medicare system. This is an issue which I have been working on for many years and I am pleased to have been joined in this battle to combat fraud and abuse in our health care system by my colleague from Iowa, Senator TOM HARKIN.

This important amendment introduced by Senator HARKIN incorporates portions of my legislation, the Medicare Whistleblower Act S. 235, which would assist Medicare beneficiaries with identifying provider fraud in the Medicare system.

Over and over again, I have heard from seniors about their personal experiences with fraudulent and negligent billings throughout the Medicare Program. Many of these seniors say that their Medicare bills frequently include charges for medical services which they never received, double billings for a specific treatment, or charges which are disproportionate and severely marked up. Usually, most of these seniors have no idea what Medicare is being billed on their behalf, and they have no way to obtain a detailed explanation from the Medicare providers.

These personal stories from senior citizens are confirmed by analyses and detailed studies. According to the General Accounting office, fraud and abuse in our Nation's health care system costs taxpayers as much as $100 billion each year. Medicare fraud alone costs about $17 billion per year which is about 10 percent of the program's costs.

This is quite disconcerting, especially in light of the financial problems facing our Medicare system.

A fundamental problem with the Medicare system is that most beneficiaries are not concerned with the costs of the program because the Government is responsible for them. One of my constituents shared with me an experience he had when his provider double-billed Medicare for his treatment and the provider told him not to be concerned about it because "Medicare is paying the bill." This is an outrage and we cannot allow this flagrant abuse of taxpayer dollars to continue. Remember, when Medicare overpays, we all over-pay, and costs to beneficiaries and the taxpayers spiral while the financial sustainability of the program is violated.

The amendment addresses this fundamental problem in the Medicare program by strengthening the procedures for detecting and identifying fraud and waste in the Medicare system. Beneficiaries would be given the right to request and receive a written itemized copy of their medical bill from their Medicare health care provider. This itemized bill should be provided to the beneficiary within 30 days of the provider's receipt of their request. If anyone knowingly fails to provides a beneficiary with an itemized bill they will be subject to a civil fine. Once the beneficiary receives the itemized bill they would have 90 days to report any inappropriate billings to Medicare. The Medicare intermediaries and carriers would then have to review the bills and determine whether an inappropriate payment has been made and what amount should be reimbursed to the Medicare system.

I recognize that provider fraud is not the sole source of waste and abuse in the Medicare system, and I wholeheartedly support other initiatives which address beneficiary fraud. However, studies indicate that provider fraud is most prevalent and the greatest concern for the system, making initiatives such as this one which specifically target provider fraud very important.

It is imperative that we put an end to the rampant abuse and fraud in the Medicare system. I wholeheartedly believe that this provision would contribute significantly to this effort.

Mr. LIEBERMAN. Mr. President, the reconciliation bill contains provisions that impact most of the programs and services provided by the Federal Government. Few people in the United States are not touched in some way by the changes we have voted for during this debate. I would like to touch upon just a few of the provisions.

The bill includes significant progress toward protecting the Medicare Program. Without the changes included in this legislation, the Medicare trust fund would go bankrupt in 2001. The changes include the first major structural changes to Medicare in its 30-year history. The Senate bill modernizes Medicare by offering seniors the option of choosing from among a range of quality private health plans in addition to existing fee-for-service Medicare. It includes important new health insurance coverage for the Nation's children. It returns a degree of protection for people who live and work in our country, but because of foreign birth are not citizens of the United States.

The bill makes substantial advances in ensuring that Medicare and Medicaid beneficiaries can get comparative information to help them choose the best available health care plan for their needs. An amendment I sponsored with Senators CHAFEE, JEFFORDS, KERREY, BREAUX, WYDEN, and KENNEDY requires that includes comparative information on benefits, cost sharing, premiums, service area, quality and performance including disenrollment, satisfaction, health process and outcomes, grievance procedures, supplemental benefits, and physician reimbursement method be provided to Medicaid recipients in managed care. In many cases, Medicaid managed care plans have significant differences in the treatment of asthma, immunization, heart disease, diabetes, and other problems endemic to the Medicaid population. This amendment should assist Medicaid beneficiaries in choosing high-quality plans, and through competition among plans, increase the quality of all.

The bill also included an important demonstration program for Medicare based on the Government's own employee health care plan. That demonstration program includes provisions to improve the quality of health care for Americans based on a bill I sponsored, S. 795, the Federal Health Care Quality, Consumer Information and Protection Act.

The dramatic drive of millions of people into managed care was all geared toward stopping unacceptable cost increases in healthcare. Now cost increases have slowed and it is time to focus on quality. Congress has made some initial, spasmodic efforts, such as last year's drive-through delivery legislation. The health care quality provisions in this demonstration program represents an effort to take a more comprehensive and durable approach to improving health care quality.

The Government has a powerful tool we think has gone unused—its purchasing power. The Federal Government is the single biggest purchaser of health care in the country. If we use that purchasing power wisely, the quality of health care in the country will be pulled upward dramatically. If we don't, the Federal Government will drag down the efforts the private sector is making to improve their employee's quality of health care.

If the bill passes, the Government will only purchase Medicare coverage in this demonstration program that satisfies two requirements:

First, plans will have to provide information that allows people to make straightforward plan-to-plan comparisons of health care quality. With that information, Medicare beneficiaries could look up the plans in their area to see which had the best record of care for the elderly. Empowering consumers with comparative quality information would force health care plans to compete continuously and aggressively on quality resulting in ongoing health care improvements.

Second, all health care plans in the demonstration would have to meet certain minimum criteria or they couldn't be purchased by the Federal Government. Setting uniform federal criteria provides a powerful tool to address quality issues that emerge from the rapidly evolving health care industry. Existing accrediting agencies like the National Committee on Quality Assurance for Quality Assurance [NCQA] or the Joint Commission on Accreditation of Healthcare Organizations [JCAHO] could be licensed to certify that the health care plans are in compliance with the minimum criteria which should minimize bureaucratic duplication.

Finally, to hold this proposed system together and prevent the standards from becoming outdated, an Office of Competition is created within the U.S. Department of Health and Human Services. The Director of the Office of Competition will set and update the basic requirements for comparative data and minimum criteria. They will also work out a formula to pay for value. High quality plans will get paid slightly more than low quality plans.

The Director will draw on the expertise already developed by large private purchasers and coordinate with them in improving the purchasing requirements over time.

The stakes are high. This year over $1 trillion, almost one-seventh of the economy, will go toward health care services. Purchasers, both private and public, need to demand quality from the health care marketplace. Today you can identify a good stereo, a good car, or a good shampoo. But, you can't get the most basic information about the quality of your healthcare. That lack of information on health care quality is no longer acceptable, it can be fixed, and the Government should join the best corporate purchasers in the repair effort.

I am deeply concerned about one aspect of the Medicare package that is included in this budget reconciliation bill. The Senate Finance Committee has enacted a series of reforms that would dramatically change the methodology by which payments are made to Medicare managed care plans as well as the new plans envisioned in the bill. This new payment structure would result in a redistribution of Medicare resources that is very beneficial to areas that have low health care costs and very damaging to areas where the delivery of health care services is much more costly.

In my home State of Connecticut, seniors in four of our eight counties would suffer from Medicare managed care payments that, under this bill, would decline by more than 20 percent relative to current law. Don't misunderstand—I support actions to keep the Medicare trust fund solvent. But these reformulations don't just produce savings—they fundamentally shift expenditures from high cost to low cost areas. In one Connecticut county, this legislation would extract 57 times more savings from seniors enrolled in managed care than would the House Ways and Means Committee bill, which achieves similar savings. These are sobering figures—and they do not even take into account the impact of the bill's risk adjustment mechanism, which would automatically reduce Medicare payments by an additional 5 percent for all new managed care enrollees in their first year of enrollment.

This legislation over-reaches in seeking to achieve a greater measure of geographic equity in the Medicare payment system. Instead of making the modest adjustments that are needed to improve the fairness of the current system, this bill calls for sweeping reforms that would disrupt the coverage of many seniors in order to help others.

Tragically, many of those who would be hurt the most are low-income seniors who already have selected Medicare managed care plans because they need the additional benefits—such as prescription drug coverage, and dental and vision care—and the low out-of-pocket costs that many of these plans offer. These low-income seniors cannot afford to expose themselves to the high deductibles and copayments of the Medicare fee-for-service system, nor can they afford to purchase an expensive supplemental Medigap policy.

As I consider this issue, I think about the many areas in Connecticut that have suffered from economic downturns in recent years and, even today, are not enjoying the strong economic growth that is evident throughout much of the country. Seniors in these areas are particularly vulnerable. Considering that a disproportionate number of Medicare managed care enrollees are low-income seniors, I believe we should proceed carefully as we contemplate reforms that affect their coverage. For many of these seniors, a reduction in their Medicare benefits would cause severe financial hardship.

I want to emphasize that I have no desire to be involved in any contest that pits the Medicare beneficiaries of Connecticut against those of Iowa, Nebraska or any other State. I completely support the expansion of new health care choices to all seniors, regardless of where they live. I am convinced, however, that this can be accomplished without awarding 60-percent payment increases for certain low-cost areas—many of which tend to be sparsely populated—at the expense of other areas where large numbers of seniors are already enrolled in private health plan options. The number of seniors who would be penalized by this shortsighted approach far exceeds the number who would benefit.

I strongly believe that a more cautious, thoughtful approach is warranted. For example, a 70/30 blend between local and national payment rates would go a long ways toward eliminating the disparities that currently exist—without causing massive cuts in certain areas. In addition, a minimum annual update for all plans, combined with some kind of link between growth in fee-for-service spending and managed care spending, would help to assure that the resources available to Medicare managed care plans do not fall hopelessly behind the growth in medical inflation. It is totally unrealistic to think that we can allow payments to decrease in certain areas—while actual costs are increasing by 5 or 6 percent annually—without having any adverse affect on seniors.

As we move forward with Medicare reform, we need to acknowledge that it is, in fact, more costly to serve Medicare beneficiaries in some areas of the country than others. There are legitimate reasons why it costs more to deliver health care services in densely populated urban areas. The wages of medical personnel and the capital costs of medical facilities differ considerably from region to region and from State to State. Even within individual States, medical costs vary from county to county. To discount this economic reality, as this legislation does, is sheer folly.

Perhaps the most troublesome component of this Medicare payment proposal is the new enrollee risk adjustment mechanism. This provision arbitrarily and automatically reduces Medicare payments by 5 percent for all new managed care enrollees—regardless of their age or health status—in their first year of enrollment. I have serious concerns about the implications of this proposal. How are we supposed to promote competition within the Medicare Program if we begin by saying that everyone who leaves the fee-for-service system will be subject to a 5 percent penalty? This new enrollee tax will limit beneficiary choice by discouraging health plans from entering markets in which seniors do not have private health plan options at this time. Everyone in this chamber should be deeply alarmed by this misguided provision.

Having given this Medicare payment proposal an honest and thoughtful evaluation, I am convinced that we should work toward a more sensible and well-reasoned approach when this legislation is considered in the Senate-House conference committee. I want to state very clearly that I do not have a problem with the amount of Medicare savings this legislation would achieve; I just believe we have an obligation to achieve these savings in ways that do not disrupt the coverage of seniors. I urge my colleagues to join me in calling for a new approach.

AMENDMENT NO. 460

Mr. McCAIN. Mr. President, I am proud to have offered an amendment to the budget reconciliation package which provides incentives for States with expanding access to health care coverage under the Medicaid system to devise innovative and cost effective programs. This amendment is important to any State interested in best serving the health care needs of its people.

My amendment authorizes the continuation of a State's Medicaid managed care program operating under a section 1115 waiver. States would have the option of requesting an automatic extension of their waiver program for 3 years or permanently continuing their waiver managed care program if it has successfully operated for at least 5 years and has demonstrated an ability to successfully contain costs and provide access to health care.

In addition, this amendment allows these same States to utilize their own resources to revise their programs and expand coverage, while reducing both State and Federal costs.

The amendment will assist States in expanding health care coverage to their most vulnerable populations. This is something Congress has spent a great deal of time talking about during this session of Congress in terms of children. But children are not the only ones for whom health coverage is a priority. There are still millions of people in this country who live below the poverty line who do not have coverage. Unfortunately, we often forget about these individuals.

Several States have led the way in innovation for expanding coverage through cost containment: Tennessee, Oregon, Rhode Island, Hawaii, and Arizona. My home State, Arizona, was the first to recognize that improved quality, better access and reduced costs could be achieved through the appropriate use of managed care as an integrated approach to health care for low income people.

These States have summoned the political will and marshaled their State resources to improve their health care programs while reducing both State and Federal costs. Many new States are now following the examples set by the pioneers and have filed statewide section 1115 waiver requests to move their programs into managed care.

In Arizona, 72 percent of the voters decided last fall that health care should be available to everyone under the poverty line. Arizona already covers children up to 133 percent over the poverty line. This means Arizona decided to cover the 50,000 men and women without children who live under the poverty line. This is their only hope of health care coverage.

Unfortunately, the administration has recently erected additional barriers to Arizona's initiative. In spite of the substantial savings documented by Health Care Financing Administration [HCFA] evaluators since the program began in 1982, more than enough to offset the cost of expanding coverage, the administration would not allow Arizona to reinvest these savings it achieved over a traditional fee-for-service program in expanded coverage. Nor will HCFA allow the State credit for their program's expected savings over the next 5 years.

States like Arizona which have successfully been operating under an 1115 Medicaid waiver should not be penalized for a change in Federal guidelines which occurred after the program began. No one is questioning whether these States have saved the Federal Government millions. Arizona, Tennessee, Hawaii, Rhode Island, and any other State with such a proven track record, should be allowed to use the managed care savings it achieved over a traditional fee-for-service program to expand coverage for their most vulnerable populations.

This important amendment assists States in providing access to health care for the most vulnerable populations.

MEDICAL RESEARCH

Mr. HARKIN. Mr. President, I would like to submit for the RECORD some of the many letters I have received in support of Senator D'AMATO's and my amendment to S. 947, the Balanced Budget Act of 1997, to create a medical research fund. These letters show the widespread grassroots support for this amendment which would expand support for medical research above and beyond what is currently being done at the National Institutes of Health [NIH].

The people behind these letters understand what many recent studies have demonstrated—that investments in medical research can both save lives and lower Medicare costs through the development of more cost-effective treatments and by delaying the onset of illness. They understand that while health care spending devours nearly $1 trillion annually, the United States devotes less than 2 percent of its total health care budget to health research. These letters are from people that understand the importance of increased funding for biomedical research. I ask unanimous consent that these letters in support of the medical research amendment be submitted for the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

Thank you.

AMERICAN ASSOCIATION FOR
CANCER RESEARCH, INC.,
Philadelphia, PA, June 25, 1997.

Hon. TOM HARKIN,
Hon. AL D'AMATO,
Hon. ARLEN SPECTER,
Hon. CONNIE MACK,
Hon. TOM DASCHLE,
Hon. BARBARA BOXER,
Hon. JAY ROCKEFELLER.

DEAR SENATORS: Bluntly, while debate rages over the budget, 1 mother, father, brother, sister or friend dies every 57 seconds in this country from cancer.

On behalf of the 14,000 cancer researchers searching for treatments, cures and prevention weapons in this country and the 1.3 million people who get cancer every year, we urge you on in your quest to find more funding for research and education!

The medical research amendment you are proposing is essential to continue to find resources to support the growing underfunded research programs at the NIH.

It is essential amendments like this pass to support all of our efforts to build a healthy America.

Sincerely,

DONALD S. COFFEY, Ph.D.,
President.

PARKINSON'S ACTION NETWORK,
Santa Rosa, CA June 25, 1997.

Hon. TOM HARKIN,
Hon. ARLEN SPECTER,
Hon. CONNIE MACK,
Hon. ALFONSE D'AMATO,
Hon. JOHN D. ROCKEFELLER,
Hon. BARBARA BOXER,
Hon. TOM DASCHLE.

DEAR SENATORS: Thank you for your efforts to increase funds provided to the National Institutes of Health through the creation of a Health Research Fund.

A million Americans suffer from Parkinson's disease, a neurological disorder that causes increasing tremor, stiffness and slowness of movement, eventually leaving us unable to move or speak. I have lived with Parkinson's for ten years, watching Parkinson's increasingly disable me, and seeing others like former Congressman Mo Udall lose the battle to the point of total immobility. The human suffering that results from Parkinson's is immense and incalculable, but this condition also produces a fiscal nightmare: Parkinson's is estimated to cost at least $25 billion a year in medical care, disability benefits, assisted living and lost productivity. The cost is so high because we typically live in a disabled state for a long time, and the battle against less of function is ongoing and expensive.

Meanwhile, there is immense scientific promise, with Parkinson's described by scientists as "one of the brightest spots in brain research." Nonetheless, the research is in slow motion, stymied by inadequate funding: the federal research budget for Parkinson's totals only about $30 million or $30 per American afflicted. The current federal policy on Parkinson's wastes billions in public and private dollars coping with the effects of the disease, when millions of dollars could be put toward finding a cure.

The Congress is moving toward a dramatic reversal in this policy, by support for the Udall Parkinson's Research bill, which would authorize $100 million to adequately invest in this research. The bill is co-sponsored by 57 Senators and 202 Congressmembers, and we expect to see it enacted very soon. This momentum could be derailed by the present allocation for health programs in the 1998 budget agreement. If not corrected this year in appropriations for the National Institutes of Health, the present funding disparity almost surely will continue, leaving the human and fiscal nightmare to go on unabated.

Your amendment can fix this funding problem, return fiscal sanity to this policy, and give hope to our struggling and desperate community today.

Thank you from the bottom of our hearts for your efforts.

Sincerely,

JOAN I. SAMUELSON,
President, Parkinson's Action Network.

CYSTIC FIBROSIS FOUNDATION,
Bethesda, MD, June 25, 1997.

Hon. THOMAS HARKIN,
Hon. ALFONSE D'AMATO,
Hon. ARLEN SPECTER,
Hon. CONNIE MACK,
Hon. THOMAS DASCHLE,
Hon. BARBARA BOXER,
Hon. JOHN ROCKEFELLER.

DEAR SENATORS, Today, there are more than 30,000 children and young adults in the United States suffering as a result of cystic fibrosis. There is a way to stop this—Medical Research.

Your amendment is vital to the support of finding treatments and ultimately the cure for this devastating disease.

Just at a time when there are so many possible breakthroughs, grants cannot be funded, contracts are not given, clinical trials go unfunded, and education programs do not begin.

As a nation, as parents, we simply cannot let nearly 80 percent of our research opportunities slip away or be delayed.

The one approved program that we do not fund may hold the cure.

Sincerely yours,

ROBERT J. BEALL, Ph.D.,
President and CEO.

RESEARCH SOCIETY ON ALCOHOLISM,
Austin, TX, June 24, 1997.

Hon. TOM HARKIN, Hon. ALFONSE D'AMATO, Hon. ARLEN SPECTER, Hon. CONNIE MACK, Hon. TOM DASCHLE, Hon. BARBARA BOXER, Hon. JOHN ROCKEFELLER,
U.S. Senate,
Washington, DC.

DEAR SENATORS: On behalf of the 1,100 members of the Research Society on Alcoholism, I am writing to unequivocally support the Medical Research Amendment. The Research Society on Alcoholism is a professional research society whose members conduct basic, clinical, and psychosocial research on alcoholism and alcohol abuse.

Alcoholism is a tragedy that touches all Americans. One in ten Americans will suffer from alcoholism or alcohol abuse. It's cost to the nation is nearly $100 billion annually. Research holds the promise of developing effective methods for the prevention and treatment of this far reaching disease.

The Medical Research Amendment is an answer to the problem of desperately needed research funds. An investment of this type will create the ability for the National Institutes of Health to fund grant applications that will lead to advancements in all areas of health research. At this time of unprecedented opportunities in alcohol research, this amendment provides much needed assistance.

Thank you for your support of the research community. Please do not hesitate to contact me if I can be of assistance in any way.

Sincerely,

IVAN DIAMOND, Ph.D.,
President.

COLLEGE ON PROBLEMS OF
DRUG DEPENDENCE, INC.,
Richmond, VA, June 24, 1997.

Hon. TOM HARKIN,
Hon. ALFONSE D'AMATO,
Hon. ARLEN SPECTER,
Hon. CONNIE MACK,
Hon. TOM DASCHLE,
Hon. BARBARA BOXER,
Hon. JOHN ROCKEFELLER,
U.S. Senate, Washington, DC.

DEAR SENATORS: The College on Problems of Drug Dependence (CPDD) is the leading scientific society in the field of drug abuse. On behalf of our nationwide membership I am writing to lend our support to the Medical Research Amendment. Our commitment to research advances and their positive implication for the future is strengthened by this amendment and its commitment to the research community.

An estimated 30 million Americans suffer from drug and alcohol addiction. Alarmingly, of the 59 million women of child bearing age, nearly 5 million are using illicit drugs such as marijuana, cocaine, and heroin. Economically, drug and alcohol abuse cost this country more than $1600 billion annually. Research is the answer to understanding this complex and devastating problem.

The Medical Research Amendment is the answer to a long standing problem facing the United States, the undervalued commodity of research. Research can provide us with the elusive answers to questions of addiction, drug abuse, and treatment. This amendment is an investment in the future of America and not just the National Institutes of Health.

Thank you for your support of research and its advances. Please do not hesitate to contact me if I can be of assistance in the future.

Sincerely,

ROBERT L. BALSTER, Ph.D.,
Public Policy Officer.

COLLEGE OF PHYSICIANS &
SURGEONS OF COLUMBIA UNIVERSITY,
New York, NY, June 25, 1997.

Hon. ALFONSE D'AMATO,
U.S. Senate, Hart Senate Office Building, Washington, DC.
Hon. TOM HARKIN,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATORS AL AND TOM: On behalf of Columbia University College of Physicians and Surgeons, I wish to express our support for the amendment offered by Senators D'Amato, Harkin, Specter, and Mack to provide additional funds over appropriated amounts for the National Institutes of Health that is being offered to the Budget Reconciliation Bill.

Current amounts for NIH are truly insufficient to fulfill the objectives of NIH and the promise of biomedical research. We have the opportunity to find the genetic basis of disease and cures for illnesses such as Parkinson's, cancer, diabetes, and others that afflict millions of Americans. The contributions potentially offered by this amendment will save millions of lives and billions of dollars.

Support for biomedical research is one of the most important investments Congress can make in the health and welfare of our citizens. All of us in academic medicine thank you for your leadership and vision.

Sincerely,

HERBERT PARDES, M.D.,
Vice President for Health Sciences,
and Dean of the Faculty of Medicine.

THE NATIONAL COALITION
FOR CANCER RESEARCH,
Washington, DC, June 25, 1997.

Hon. TOM HARKIN,
Hon. ALFONSE D'AMATO,
Hon. ARLEN SPECTER,
Hon. CONNIE MACK,
Hon. JOHN D. ROCKEFELLER,
Hon. BARBARA BOXER,
Hon. TOM DASCHLE,
U.S. Senate,
Washington, DC.

DEAR SENATORS: The 55,000 cancer researchers, nurses, physicians, and health care workers, tens of thousands of cancer survivors and their families; 40,000 children with cancer and their families, 82 cancer hospitals and cancer centers across the country, and more than 2 million volunteers who make up the National Coalition for Cancer Research commend your medical research amendment to the fiscal year 1998 Senate Reconciliation Bill.

It is the Coalition's central conviction that the solution to the complex problems surrounding cancer—the reduction in morbidity, mortality, and the high costs of medical care—will come in a stepwise manner from the generation of new knowledge through research. Additional federal support for cancer research as provided by your Health Research Fund will abet the human and financial costs of cancer.

We must remember that despite the declining death rates of the past few years, in the United States, men have a 1 in 2 lifetime risk of developing cancer, and women have a 1 in 3 risk. Cancer is still the second leading cause of death and is expected to be the leading cause of death by the turn of the century. The direct costs of health care services to cancer patients is currently estimated at more than $104 billion annually and is increasing each year. The generation of new knowledge through research into the molecular events involved in the cause and progression of cancer should lead to increasingly effective means of protection and treatment, the only means to stop the spread of disease, and curtail these costs.

The Coalition recognizes that the Congress is pressed with securing savings in the Medicare and Medicaid programs, and applauds your attention to the need to invest in biomedical research to stop the spread of diseases which cause long term care costs. The Coalition commends your amendment which secures additional resources for biomedical research because, without doubt, research is the gateway to progress against cancer.

Thank you for seizing this opportunity now to do something of utmost importance for our country.

Sincerely,

ALBERT H. OWENS, Jr.,
President.

NATIONAL DOWN SYNDROME SOCIETY,
New York, NY, June 25, 1997.

Hon. TOM HARKIN,
Hon. ALFONSE D'AMATO,
Hon. ARLEN SPECTER,
Hon. CONNIE MACK,
Hon. THOMAS DASCHLE,
Hon. BARBARA BOXER,
Hon. JOHN ROCKEFELLER.

DEAR SENATORS: One in every 800 children is born with Down Syndrome and there are over 350,000 people with this condition in the U.S. today. It is the most commonly occurring chromosomal abnormality, resulting when an individual possesses three, rather than usual two, copies of the 21st chromosome.

Medical research supported by the National Institutes of Health is our only hope in developing better therapeutics to treat those individuals who have Down syndrome and to help us better understand the causes of this disease so we can one day prevent it from occurring. The National Down Syndrome Society has just entered a historic public-private research initiative with the National Institutes of Child Health and Human Development to examine behavior and cognitive development of individuals with Down syndrome. This project is an important first step in increasing our understanding of this disease.

Thank you for your efforts and commitment to ensuring the longterm viability of our medical research infrastructure. We support your efforts to establish a National Fund for Health Research to ensure the NIH has the resources necessary to continue to advance medical science in the United States.

Sincerely,

MYRA E. MADNICK,
Executive Director.

ALLIANCE FOR AGING RESEARCH,
Washington, DC, June 25, 1997.

Hon. TOM HARKIN,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR HARKIN: The Alliance for Aging Research, an independent not-for-profit organization working to improve the health and independence of older Americans, applauds and strongly supports an amendment to establish a National Fund for Health Research. We understand this fund would be established in the Treasury to expand support for medical research through the National Institutes of Health.

As you know, the Alliance has consistently made the case that the most effective means to achieve savings in Medicare and Medicaid is by improving the health status of older Americans. The most effective long-term strategy is to advance biomedical research and to apply what we learn to improved geriatric health management and prevention of chronic disease. Studies released this year from Duke University show a steady decline in chronic disability since the 1980s among this nation's older population, saving Medicare billions of dollars.

In a special report presented by the Alliance to the White House Conference on Aging, we stated that by postponing physical dependency for older Americans by just one month would save the nation $5 billion a year in health care and nursing home costs. Postponing the onset of Alzheimer's Disease by just five years would, in time, save $50 billion a year in health care costs. And a five-year delay in the onset of cardiovascular disease could save an estimated $69 billion a year.

Your amendment would be a first step toward fulfilling the commitment made by the Senate through the Mack Sense of the Senate calling for a doubling of the NIH in the next five years. We understand this would in no way take the place of the Congressional appropriations to the NIH.

Unless we discover better ways to treat, prevent or postpone diseases of aging, the costs to the nation will grow exponentially in the decades ahead. Again, I commend you and your colleagues invaluable support for a strong national investment in medical research.

Best regards,

DANIEL PERRY,
Executive Director.

AUTISM SOCIETY OF AMERICA,
Bethesda, MD, June 25, 1997.

Hon. TOM HARKIN,
Hon. ALFONSE D'AMATO,
Hon. ARLEN SPECTER,
Hon. CONNIE MACK,
Hon. THOMAS DASCHLE,
Hon. BARBARA BOXER,
Hon. JOHN ROCKEFELLER.

DEAR SENATORS: I am writing on behalf of the Autism Society of America to support your amendment to establish a National Fund for Health Research with additional savings that may result from changes made by the Balanced Budget Act which exceed the savings called for in the Budget Resolution. As the amount of discretionary funds available for medical research funding continues to shrink, we must find other ways to ensure that our research infrastructure is maintained.

Autism is a developmental disability that typically appears during the first three years of life. It is believed to be a genetically-based neurological disorder that affects more than 400,000 individuals in the United States, making it the third most prevalent developmental disability. Autism is four times more prevalent in boys than girls, and knows no racial, ethnic nor social boundaries. Family income, lifestyle, and educational levels do not affect the chance of autism's occurrence. The estimated health care cost associated with autism is greater than $13 billion a year.

At the present time, there is no prevention, treatment, or cure for autism. Our only hope in better understanding autism is through research. NIH is embarking on many exciting research endeavors focused on autism. In fact, NIH Director Harold Varmus has said numerous times that the time is right for autism research—we now have the tools to help us begin to unlock the mysteries of this disorder.

We appreciate your commitment to identify an additional source of funding for medical research and for giving individuals with autism the hope that through research we will find a treatment and cure.

Sincerely,

SANDRA H. KOWNACKI,
President.

DEPRESSIVE AND MANIC-DEPRESSIVE ASSOCIATION,
Chicago, IL, June 25, 1997.

Hon. TOM HARKIN,
Hon. ALFONSE D'AMATO,
Hon. ARLEN SPECTER,
Hon. CONNIE MACK,
Hon. THOMAS DASCHLE,
Hon. BARBARA BOXER,
Hon. JOHN ROCKEFELLER.

DEAR SENATORS: Medical Research is critical to individuals suffering for depressive illnesses. On behalf of the more than 65,000 members of the National Depressive and Manic-Depressive Association I am writing to support your amendment to establish a National fund for Health Research.

Depressive illnesses are treatable diseases. Without the research advances we have seen over the last 20 years, many individuals suffering from depressive illnesses would not have the opportunities they have today to participate as contributing members of our society. New therapeutics which have been developed through research are giving them this chance.

In any given year, 17.4 million American adults have some form of depressive illness such as major depression, bipolar disorder, or chronic, moderate depression. These conditions account for more than $148 billion in direct health care costs, and indirect costs. Such as lost work days for patients and care givers. Investments in biomedical and behavioral research on mental disorders are imperative for preventing and treating these debilitating illnesses and controlling the costs associated with them.

Thank you for your efforts to expand our national commitment to medical research!

Sincerely,

LYDIA LEWIS,
Executive Director.

Mr. BIDEN. Mr. President, this budget bill—which would put us on a path to eliminating the budget deficit in the year 2002—contains numerous reforms of the Medicare program. In addition, the bill would restore short-term solvency to part A of Medicare—the part that pays hospital bills and will otherwise be bankrupt in 4 years. I have no objection to most of the Medicare reform provisions, and I will vote for this bill overall.

However, I want to talk briefly about two provisions that I oppose and explain why I voted to take them out of this bill.

First, Mr. President, this bill would raise the age at which a person becomes eligible for Medicare from the current age 65 to age 67. I voted to keep the eligibility age at 65. While this increase would be gradual and would be phased in over the next 30 years—so it would not affect any current seniors—I think it moves us in the wrong direction. What we should be doing is making sure that more, not fewer, people have health insurance.

Changing the current law so that today's workers will have to wait until they are 66 or 67 before they become eligible for Medicare threatens to add millions of people to the rolls of the uninsured. It is my understanding that 70 percent of Americans who retire between the ages of 60 and 65 will have no health insurance through their employers. If they have health insurance at all, they are paying exorbitant rates to buy it on their own.

Increasing the eligibility age for Medicare by 2 years would leave most of these people unprotected for 2 more years. This result is totally counter to why we created Medicare in the first place: To make sure that older Americans have access to health care services when they are likely to need it the most. Raising the eligibility age for Medicare without addressing the issue of those who will lose—or those who will continue not to have—health insurance is a glaring gap in this proposal.

Now, it has been argued by supporters of this change that because the Social Security retirement age will gradually increase to age 67, the eligibility age for Medicare should increase at the same time. But, Mr. President, there is no rational basis for linking Social Security and Medicare. They are two separate and distinct programs. If it is good policy to raise the Medicare eligibility age to 67—which I do not think it is at this time—then those arguments need to be presented. It is not good enough simply to say, "Well, that's what we're doing with Social Security." And, I should note, that even when the Social Security retirement age increases, people will still have the option of early retirement at age 62. That is not the case with Medicare. It is all or nothing. And, we should not tell people between 65 and 67 that they get nothing.

The second provision that I opposed would have—for the first time—imposed means testing on higher income seniors. Under the plan, the monthly premiums for Medicare part B, which pays for doctor services, would have been based on how much income a person has. Now, I have long said that I believe it is not unfair or inappropriate to have wealthy seniors pay more for their Medicare coverage. So I support means testing in principle. But I am not sure that the means testing scheme in this bill is either fair or appropriate—and I think we ought to be sure of both before we make such a significant change in this program.

This legislation was just drafted last week. Until noon yesterday—Tuesday—this bill would have charged wealthier seniors higher deductibles under part B. But, then at midday, just a couple of hours before we voted on this issue, the bill was changed so that retirees with greater income would pay higher premiums, not higher deductibles. The fact that this last minute change was made just exemplifies the problem of trying to address this issue with haste.

The premium increases in this budget bill are very substantial, and they would hit individuals with incomes over $50,000 and couples with incomes over $75,000. But we really do not know yet what the effect of these increases would be on these families, or on the Medicare system itself. This is why we need to proceed with greater caution.

What we do in this budget bill—and what we must do—is what we have done many times in the last 30 years: Make the changes necessary to ensure the solvency of the Medicare Hospital Trust Fund over the next 10 years. To address the long-term concerns once the baby boom generation reaches retirement age, I have previously called for the establishment of a bipartisan commission to study the situation and make recommendations. This bill establishes just such a commission, and instructs it to report back to Congress in a year.

My point is that neither the increase in the Medicare eligibility age nor means testing are necessary to solve the short-term financial problems of the Medicare system. Instead, these are issues that the new commission should look at. In making significant changes to the Medicare program—among the most successful Federal programs ever—we need to do so with great thoughtfulness and deliberation.

These changes have no immediate impact on the Medicare trust fund or on our general goal of balancing the overall Federal budget by 2002. In short, there is no reason why we cannot wait until we have the benefit of the recommendations of the bipartisan commission—within the next year—before we take action of this nature. That is why I supported taking these changes out of the budget bill, and why I supported Senator REED's alternative Medicare proposal to make only those changes needed to make sure that Medicare remains financially solvent.

MEDICARE PROVISIONS

Mr. McCAIN. Mr. President, the Senate took several difficult votes in the last 2 days related to Medicare reform. After carefully considering each of the amendments offered in the Senate, I cast my vote in favor of preserving and protecting the long-term solvency of the Medicare system.

I voted for an amendment to eliminate the bill's provisions which would require means testing of Medicare premiums. I also voted for an amendment which would have simply delayed the implementation of premium means testing until the year 2000. I believe it is foolish to hastily make such a drastic change as this without the benefit of an indepth study of the entire Medicare Program. Unfortunately, both of these amendments failed.

I am concerned about the bill's provisions which would delay the eligibility age for Medicare to 67 from the current age of 65. However, the bill would not implement this change until the year 2003, which will not affect current beneficiaries and, I believe, will allow us to assess this change within the context of a larger study of the program.

The bill does establish a bipartisan commission to study the entire Medicare Program and make recommendations for the changes necessary to keep the program solvent beyond the year 2001, which is when the trustees have reported the program will be bankrupt. I believe we should wait for the commission's recommendations before enacting any fundamental changes to the program. However, I felt it was important to show a willingness to consider taking a first step toward long-term structural changes in order to give impetus to the commission's work.

The budget reconciliation bill before the Senate contains many key provisions to expand benefits under Medicare and incorporate choice and competition into the current program. For example, the bill authorizes Medicare coverage of mammography screening, colorectal screening, bone mass measurement, and diabetes management. It also creates a Medicare Choice Program and a demonstration program for medical savings accounts for seniors. It contains provisions designed to eliminate waste and fraud in the Medicare system which could result in significant savings. These are improvements to Medicare for which I have fought for many years.

I believe firmly that our priority must remain protecting the Medicare system from bankruptcy by the year 2001, and I will continue to work toward that goal.

AMENDMENT NO. 482

Mr. LEVIN. Mr. President, the Levin-Jeffords amendment increases from 12 to 24 months the limit on the amount of vocational education training that a State can count toward meeting its work requirement under the new Temporary Assistance for Needy Families Program. Under the old welfare law, recipients could attend postsecondary vocational education training for up to 24 months. I strongly support the new law's emphasis on moving welfare recipients more quickly into jobs, but I am troubled by the law's restriction on vocational education training, limiting it to 12 months. Two-year community college study, for instance, would not meet the requirement.

Mr. President, the limitation on postsecondary education training raises a number of concerns, not the least of which is whether persons may be forced into low-paying, short-term employment that will lead them back onto public assistance because they are unable to support their families.

Study after study indicates that short-term training programs raise the income of workers only marginally, while completion of at least a 2-year associate degree has greater potential of breaking the cycle of poverty for welfare recipients. According to the U.S. Census Bureau, the median earnings of adults with an associate degree are 30 percent higher than adults with only a high school diploma or its recognized equivalent.

Mr. President, let me just give some examples. The following are jobs that a person could prepare for in a two-year community college program and the salary range generally applicable to the positions:

NATIONWIDE

Accounting, $14,000-$28,000.
Computer technician, $14,000-$31,000.
Law enforcement, $13,500-$25,000.
Dental hygiene, $18,000-$60,000.
Respiratory therapy tech, $21,000-$32,000.

MICHIGAN

Computer programing, $24,800-$42,900.
Radiology technician, $22.235-$32.425.
Legal assistant, $28,630-$30,000.
Child care development (supervisor), $23,590-$29,724.
Registered nurse, $24,400-$38,135.

Mr. President, the National Governors Association recognizes the merits of this amendment and has called for its passage. I urge my colleagues to support it because it will help us reach the new law's intended goal of getting families permanently off of welfare and onto self-sufficiency.

In closing, I ask unanimous consent to have printed in the RECORD two articles that are relevant to this issue which appeared in the February 17, 1997, USA Today and the June 1, 1996, New York Times.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From USA Today, Feb. 17, 1997]

COLLEGE OFF LIMITS IN WELFARE PLAN

(By John Ritter)

States rushing to get welfare recipients off the rolls and into jobs are telling some college students on public assistance to drop out and find work.

Under the old welfare system, recipients of cash grants could go to school full-time. The new law, with its emphasis on moving welfare recipients quickly into jobs, restricts educational options.

Short-term job training and a year of vocational education are approved "work activities" under the new federal law, passed last year, but regular college and community college study are not.

So even as President Clinton preaches education as the route to prosperity, welfare reform is forcing recipients—predominantly single mothers—to forsake school for low-paying jobs.

States must put bigger proportions of their welfare caseloads to work—25% this year, 50% by 2002—or lose funds.

"The emphasis has shifted from how can we retrain people or pick up where their education left off to how can we move them into work," says Elaine Ryan of the American Public Welfare Association.

By one estimate, as many as 700,000 single parents on welfare are enrolled in higher education and training.

In California, 125,000 welfare recipients attend community colleges. The City University of New York system has 20,500 welfare students.

Schools already are lobbying state legislatures to find ways to keep these students and their tuition reimbursements.

But prospects are not bright.

[From the New York Times, June 1, 1996]

WORKFARE RULES CAUSE ENROLLMENT TO FALL, CUNY SAYS

(By Karen W. Orenson)

New rules introduced by New York City Mayor Rudolph Giuliani's administration that require all welfare recipients to work have led thousands of students to drop out of college or not enroll, according to officials at the City University of New York. The decline in enrollment is significant, CUNY officials say, because studies show that college gives people on welfare a good chance to get better jobs at higher pay.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, let me take 1 minute, and then we are going to final passage. I want to thank everybody for their cooperation. Under a very difficult process and procedure, I think we did very well. On a number of issues, there was great bipartisan support. I thank those on the other side of the aisle who have supported this overall package, and I hope the vote is overwhelming. Tonight we complete the first step of three legs. The three legs are to get the deficit down by reducing spending; second is for us to get a good tax bill for all Americans; third is to do the appropriations bills in a manner that is consistent with the agreement and which doesn't violate the Budget Act.

I believe this is a historic beginning, and I am very pleased to be part of it. I thank everyone here for their role. I thank all eight committees that assumed their burden and produced their reconciliation package. Mostly, I thank Senator ROTH, the chairman of the Finance Committee, and Senator MOYNIHAN, his Democratic manager, and all those on the Finance Committee who worked to produce a bipartisan bill.

The lesson learned is that we can get things done that are difficult but good for the American people in a bipartisan way if we just work at it. I believe the best example we have of that is the Finance Committee this year. All the other committees had lesser responsibilities, but they provided their savings without rancor and with almost unanimity and, if not, a unanimity of spirit. I believe there is no process that would have let us in the U.S. Senate get this much work done. If this bill were freestanding and the tax bill were freestanding without the protections of the Budget Act, I just ask you to dream about what might happen. First, I think each bill could take 4 or 5 weeks, I think the amendments could run into the hundreds, and the bill could look like something completely different by the time we finished than what we started with. So we take some bad with the good in this difficult process called the reconciliation bill.

I thank the ranking member of the Budget Committee not only for the work here on the floor, but actually as we moved through the last 3½ months, Senator LAUTENBERG has been very good to work with, and we produced a good package, which will show up here in a bipartisan vote tonight. I thank the Senator. We produced a good bill.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. LAUTENBERG. Mr. President, I will be brief. I sense that everybody would like to hear a long speech, but I am going to disappoint them. I just want to say, Mr. President, that I, too, enjoyed my work with the distinguished chairman of the Budget Committee. We managed to resolve all of our problems without too much dispute, without any confrontation. There wasn't a moment that we walked out on anything. This reconciliation bill is consistent with that. We did, as it was appropriately noted, rush through some things. But that does not at all, in my view, suggest that we rushed through and didn't have the appropriate knowledge or review of the items that we were processing.

I thought it was a job very well done. I must say, if we didn't have some time constraint on this, Heaven knows how long we would all be here. We would see summer come and go and we would still be debating.

Again, I enjoyed the process and my first time at bat with the Budget Committee in the position that I have. I thoroughly enjoyed it. I hope that Senator DOMENICI will, as my ranking member in the not-too-distant future, also enjoy it. I promise to be cooperative.

I want to thank the staff of the Policy Committee, but particularly my senior staff here—Bruce King, Sander Lurie, Nell Mays, Marty Morris, Amy Abraham, John Cahill, Jodi Grant, Matt Greenwald, Phil Karsting, Sue Nelson, Jon Rosenwasser, Jim Klumpner, and Mitch Warren—who did a terrific job, as I know Bill Hoagland and his team did. I won't go through the names, but I will say that I have gotten to know them and respect them and admire the work they have done. I thank everybody for their cooperation, particularly my colleagues on this side.

Mr. DOMENICI. Mr. President, Senator GRAMM would like 30 seconds.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. GRAMM. Mr. President, I have heard a lot of people speak in my 13 years in the Senate, but I don't think I have ever seen anybody do a better job of taking complicated issues and explaining them in a very short time as Senator DOMENICI has done in the last 2 days. I think we have made history on this bill, and I think the Senator from New Mexico has been a very important part of that.

Mr. DOMENICI. I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 73, nays 27, as follows:

[Rollcall Vote No. 130 Leg.]

YEAS—73

Abraham
Allard
Ashcroft
Baucus
Bennett
Biden
Bond
Breaux
Brownback
Bryan
Burns
Campbell
Chafee
Cleland
Coats
Cochran
Collins
Conrad
Coverdell
Craig
D'Amato
DeWine
Domenici
Enzi
Feingold
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Gramm
Grassley
Gregg
Hagel
Hatch
Hutchinson
Hutchison
Inhofe
Jeffords
Kempthorne
Kerrey
Kohl
Kyl
Landrieu
Leahy
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Moseley-Braun
Moynihan
Murkowski
Nickles
Robb
Roberts
Rockefeller
Roth
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner
Wyden

NAYS—27

Akaka
Bingaman
Boxer
Bumpers
Byrd
Daschle
Dodd
Dorgan
Durbin
Faircloth
Grams
Harkin
Helms
Hollings
Inouye
Johnson
Kennedy
Kerry
Lautenberg
Levin
Mikulski
Murray
Reed
Reid
Sarbanes
Torricelli
Wellstone

The bill (S. 947), as amended, was passed.

(The text of the bill will be printed in a future edition of the RECORD.)

Mr. ROTH. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROTH. Mr. President, in my opening statement, I thanked my good friend and colleague, Senator MOYNIHAN, my colleague on the Finance Committee, and our staff for their excellent work. I would be remiss, however, if I failed to conclude without again expressing my appreciation for these diligent professionals—men and women who work into the wee, wee hours, late nights, early mornings, and weekends to help us craft a bill that could find the kind of success that this has found on the Senate floor.

I would like to particularly thank the following majority and minority staff of the Finance Committee who worked so hard on this bill, including Lindy Paull, Frank Polk, Julie James, Dennis Smith, Gioia Bonmartini, Alexander Vachon, Dee Dee Spitznagel, Joan Woodward, Brig Gulya, Mark Patterson, David Podoff, Faye Drummond, Kristen Testa, Doug Steiger, Rick Werner, and Rakesh Singh.

Again, I am grateful for the outstanding work that they did. And I believe that it merits the thanks and gratitude of all of us.

REVENUE RECONCILIATION ACT OF 1997

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. ROTH. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of S. 949, the Tax Fairness Act.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will report.

The bill clerk read as follows:

A bill (S. 949) to provide revenue reconciliation pursuant to section 104(b) of the concurrent resolution on the budget for fiscal year 1998.

The Senate proceeded to consider the bill.

PRIVILEGE OF THE FLOOR

Mr. ROTH. Mr. President, I ask unanimous consent that the following Finance Committee staff members be granted full floor access for the duration of floor consideration of S. 949, the Revenue Reconciliation Act of 1997.

I include Mark Prater, Doug Fisher, Brig Gulya, Sam Olchyk, Rosemary Becchi, Tom Roesser, Joan Woodward, Julie James, Dennis Smith, and, in addition, I request full floor access for Ashley Miller and John Duncan of my personal staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROTH. Mr. President, earlier this month I read an article by Dana Mack, a mother and the author of a new book, "The Assault on Parenthood: How Our Culture Undermines the Family." It was powerfully persuasive. Her thesis was that parents today love their families as much as, if not more than, ever—that today's parents are attentive and even more committed than those of an earlier generation but that they are pressed economically.

In her studies, Ms. Mack discovered that the most serious challenges faced by parents today are economic challenges.

Listen to her statistics. It costs the average American couple today twice—twice—the proportion of their yearly household income to pay the mortgage than it cost their parents; average Federal income payroll taxes rose from 2 percent of family earnings in 1950 to 24 percent in 1990; health costs have skyrocketed in the past 20 years, sending 4 to 5 million women to work for medical insurance alone.

Consider these statistics along with the one that has been repeated often in the debate over real tax relief—that American families pay more in taxes than they do for food, clothing, and shelter combined—and it becomes apparent how important this Taxpayer Relief Act of 1997 is. Tax relief is no longer a partisan issue, and I was encouraged by the spirited cooperation that was exhibited in the Senate Finance Committee as we deliberated and then reported this bipartisan bill out of committee.

Such a bipartisan effort allows me to stand on the floor and say without hype or hyperbole that today is, indeed, a historic day. It is historic because this proposal is truly bipartisan, and, as a consequence, Americans can look forward to their first significant tax cut in 16 years. It is historic because the Taxpayer Relief Act of 1997 is part of a budget reconciliation that will lead our Nation to a balanced budget in 2002.

And because of our efforts to ensure bipartisan cooperation, the Finance Committee bill we consider today contains a balanced and fair package of tax relief measures. It includes proposals important to both Democrats and Republicans, and it is structured to provide major tax relief—relief to America's hard working and overburdened families.

There were three criteria that guided our work. We wanted tax relief for middle-income families, tax relief to promote education, and tax relief to stimulate economic growth, opportunity, and jobs.

With these objectives in mind, we crafted a bill that includes a $500 per child tax credit, and an increase in the exemption amount for purposes of the alternative minimum tax, a provision that will save millions of middle-income families from experiencing the headaches of AMT.

We crafted a bill that contains tax measures to assist students and their parents in affording the cost of postsecondary education. These include the $1,500 Hope scholarship tax credit, a $2,500 student loan interest deduction, and a permanent extension of the tax-free treatment of employer-provided educational assistance.

We also included the tax-free treatment of State-sponsored prepaid tuition assistance plans, a new education IRA serving both education and retirement needs, tax incentives for teacher training and school construction, and a repeal of the tax exempt bond cap.

To promote savings, investment, and economic growth, we expanded IRA's.

We did this by doubling the income limits on the tax deductible IRA so that more families can set up an IRA. We expanded the spousal IRA. For the first time, homemakers will be able to save up to $2,000 annually regardless of their spouse's participation, in an employer pension plan. And we also created a new nondeductible IRA Plus account. A very important part of this IRA Plus is that it will allow penalty-free withdrawals for first-time home purchases and periods of long-term unemployment. And to promote investment and jobs we included a capital gains tax cut, dropping the top rate to 20 percent. This will create new incentives for venture capital.

For families, this bill offers relief from the estate tax, the tax that can rob a family of its farm or business when a father or mother passes away. To help these families, we raise the unified credit to $1 million per estate by 2006, and we provide tax-free treatment for family-owned farms and businesses for up to $1 million.

Each of these is an important step, Mr. President. The fact that these were included in a bipartisan proposal indicates that business as usual is changing in Washington. The Senate is willing to lay aside partisan politics to provide Americans with the kind of tax relief they need.

As with any bipartisan effort, not everyone will be fully satisfied with this proposal. For my part, I would like to see greater tax relief, and I consider this the first in a series of steps that I hope will lead to deeper tax cuts and eventual long-term reform. But this bipartisan effort signals an important beginning, one which is built upon a foundation of principles we share, whether we be Republican or Democrat.

Eighty-two percent of this tax relief is made up by our family tax cut and education assistance, priorities that we all share. As I have said, it represents the biggest tax cut in 16 years, tax relief that is focused on middle-income families.

But beyond these major tax cuts, our proposal contains a number of important smaller items. These include the extension of certain expiring tax provisions. For example, we extend the R&D tax credit, a credit that helps our exporters compete in world markets to maintain our leading edge in several key industries.

We make the orphan drug credit permanent and allow for contributions of full value of appreciated stock to charitable foundations. We also extend and expand the work opportunity tax credit to assist welfare recipients and others in getting jobs.

The Taxpayer Relief Act of 1997 contains a package of measures to help the District of Columbia get on its feet, including a reduced capital gains tax rate and a first-time homebuyer tax credit. It contains a guaranteed and secure source of funding for Amtrak to enable our national rail passenger system to move to privatization. And it also has a measure allowing taxpayers to expense the cost of cleaning up brownfields, as well as several measures to help taxpayers who have been victims of floods in the Upper Midwest. And finally, we offer tax simplification in the pension, individual, foreign, and small business areas.

Mr. President, this package includes several revenue raisers that partially offset the cost of the tax cut. The most prominent is an extension and improvement of the funding stream for our national aviation system and a 20-cent tax on cigarettes. Beyond these, we close loopholes in the foreign tax area, as well as in the area of corporate-owned life insurance and tax shelter reporting.

I wish to express my sincere appreciation for the spirit of bipartisanship that prevailed as we crafted this tax relief package. It has been a successful, productive experience because we have worked together, taking the recommendations and concerns of each member of the Finance Committee, as well as the recommendations of our colleagues outside of the committee, and we have put together a package that is workable, a package that will go a long ways toward offering relief, especially to America's overburdened middle class.

Now, I realize that in the course of debating this proposal in the Chamber there will be those who stand against this bipartisan bill. In a partisan effort, there will be those who attack this tax relief bill. Before they begin their arguments, however, I want to put them on notice. I want them to understand that the lion's share of the tax package—82 percent—goes for the family tax credit and the education package. Eighty-two percent is directed to middle-income families.

I want them to understand that according to the Joint Committee on Taxation, at least three-quarters or 75 percent goes to families making $75,000 or less, and at least 90 percent goes to families making $100,000 or less.

These are the facts, and they are understood on both sides of the aisle. They are understood by those who believe that the time has come to provide real, meaningful tax relief to hard-working families that have been overburdened for too long.

They are understood by those who realize, as President Clinton has said, that the era of big Government is over and now Washington must promote an environment where the genius of enterprise and the market economy can sustain long-term economic growth and bring jobs and security to families everywhere.

I began my remarks by quoting an article that highlights the economic strain placed on families today, and let me close by using three hypothetical Delaware families and show how the Taxpayer Relief Act of 1997 will benefit each of them.

Let's begin with a single mother whom we will call Judy Smith. Judy has two young children. She works as a legal secretary in Wilmington making $35,000 a year. Currently, she pays over $3,000 in Federal income taxes—over $3,000. Now, to put that into perspective, $3,000 is what her family of three will pay all year to buy the food they eat at home. In other words, Judy's paying the Federal Government what it costs to feed her family.

Now, when the Taxpayer Relief Act of 1997 becomes law, Judy's taxes will be cut by $1,000—$500 for each child. A third of her Federal tax liability will be gone. And what can Judy do with that extra $1,000?

I am sure she can think of a number of good uses, but if she wants—again thanks to the Taxpayers Relief Act of 1997—Judy will be able to set up education IRA's for her two children.

The second hypothetical family I want to introduce you to is a married couple, Jim and Julie Wilson. The Wilsons own a farm in Sussex County. They have three children. Jim works the farm and Julie is a homemaker. They earn $55,000 per year from their farm. Of that $55,000, they pay over $5,500 in Federal income taxes—fifty-five hundred dollars. That, Mr. President, is more than they will pay for all the food they consume at home during the year. After the Taxpayers Relief Act of 1997, however, the Wilson's taxes will be cut by $1,500—$500 for each child. Julie Wilson will be able to set up a homemaker IRA to save for her retirement.

If Delaware adopts a State-sponsored prepaid tuition plan, the Wilsons will be able to participate in the plan and save for their children's college education. Looking far ahead, if the farm prospers, Jim and Julie will be able to pass it on to their children free of the burden of the estate tax. All of these benefits to this middle-income family are contained in the Taxpayers Relief Act of 1997.

Finally, Mr. President, let's look at a young two income couple. We'll call then John and Susan Jones. They live and work in Dover, DE. College graduates, John is a veterinarian and Susan is a physical therapist. They make $75,000 and have one young child. Under current law, the Jones family pays about $11,500 in Federal income taxes. After we pass the Taxpayers Relief Act of 1997, the Jones will be able to deduct a portion of the interest on their student loans. They will receive the $500 per child tax credit, and they will be able to set up IRA Plus accounts for themselves and an education IRA for their child.

It is for families like these that we have created the Taxpayers Relief Act of 1997. It is because of its fairness that this bill received strong bipartisan support in committee. I believe the Finance Committee fairly reflects the Senate as a whole—as well as the broad interests and concerns of the constituents our Members represent. This is their package. It delivers to the American people what they asked us to do in the last election—a bipartisan and fair return of the fiscal dividend accruing from a balanced budget.

I am grateful to all who worked so long as so well to draft this bill. I am grateful for Senator MOYNIHAN's leadership, as well as for the other members of the committee who allowed bipartisan cooperation to prevail throughout the process. And again, Mr. President—as I did yesterday—I thank the professional capable staff of the Senate Finance Committee for their countless hours and lost sleep. This was, indeed, an heroic effort, and it is my honor to bring it to the floor.

(Ms. COLLINS assumed the Chair.)

Mr. BYRD. Madam President, will the Senator yield if he has completed his statement?

Mr. ROTH. I will be happy to yield.

Mr. BYRD. Will the Senator indicate what the plan is for the rest of the day and tomorrow?

Mr. ROTH. It is my plan to continue for several hours this evening, probably until 9, 9:30, 10, come back in the morning around 9:30 and proceed throughout the day.

Mr. BYRD. When you say your plan is to continue to about 9 or 9:30 tonight—was that it?

Mr. ROTH. That is my thought now, yes.

Mr. BYRD. Will there be amendments called up?

Mr. ROTH. Yes, amendments will be called up, but there will be no votes tonight. They will be held over until the morning.

Mr. BYRD. What is the plan with regard to votes on tomorrow?

Mr. ROTH. There will be votes, hopefully, throughout the day.

Mr. BYRD. Beginning when?

Mr. ROTH. The first vote, I think, I would say to my good friend from West Virginia, would start around 9:30.

Mr. BYRD. Does the Senator plan to attempt to stack these votes this evening if amendments are called up?

Mr. ROTH. Yes. It has been announced by the leader that there will be no more votes tonight, so if we complete debate on any amendment, it would be stacked in the morning.

Mr. BYRD. I had not heard any announcement with regard to the modus operandi with respect to this bill, insofar as the evening is concerned, and actions on tomorrow.

What I am concerned about is it appears to me we are going to get ourselves right back in the same situation that we were in today with stacked votes and only a couple of minutes for explanations and some Senators like myself really not knowing what is in the amendments.

Mr. ROTH. I do not expect that many amendments to be raised tonight. I will say at most it will be one or two, and there will be time in the morning for the sponsors and opponents to review the pros and cons of the amendments.

I would, of course, urge Members to bring their amendments to the floor.

Mr. BYRD. I thought most Members were leaving when I saw them lined up for the vote. Does the Senator contemplate any point in time when all amendments will be presented to the Senate? Is there going to be a deadline of that, as to a time? I think in connection with the bill that was passed today, it seems to me that all amendments had to be offered before the close of business, or by the close of business, last evening. What is the plan in regard to this measure?

Mr. ROTH. We do not have any plan at this time to say amendments have to be submitted by such and such a time. But, of course, as you know, there is a 20-hour limitation on reconciliation. So, hopefully, everybody will bring their amendments down early so they can be considered early and we can avoid the situation that we had of a lot of Senators bringing their amendments at the end.

Mr. BYRD. How much time does the Senator plan to have between amendments on tomorrow for explanations of the stacked amendments?

Mr. ROTH. I hadn't really considered that.

Mr. BYRD. I am not trying to create problems for the Senator.

Mr. ROTH. No, I understand. I would say we would give 5 minutes to a side.

Mr. BYRD. Five minutes to a side?

Mr. ROTH. Yes; 10 minutes.

Mr. BYRD. That would be quite an improvement over what we have been seeing with only 2 minutes and so much noise in the Chamber it was difficult for Senators to hear what was being said in the 2 minutes.

Mr. ROTH. I think the situation, of course, arose on the legislation we just passed upon because people did not bring their amendments in until the last minute and then, under the rules, there is no more time. You know better than I, in a sense, giving 2 minutes goes beyond the rule.

Mr. BYRD. Well, could we have a limitation on the number of amendments that will be called up this evening and stacked for tomorrow morning?

Mr. ROTH. I suspect our real problem is going to be to get people down here to offer them. But I don't want to discourage anyone in the course, so I would prefer not to try to limit it, for that reason.

Mr. BYRD. Yes. Does the Senator have any idea how much time is going to be—there is a total of 20 hours on the measure. Does the Senator have an idea how much time we will have of the 20 hours on tomorrow?

Mr. ROTH. No, I can't really answer that.

Going back to your question about tonight, if we could bring up six tonight, that would be a maximum and I would be pleased at that.

Mr. BYRD. I realize the Senator is not in a position to make certain pronouncements that would be binding on others interested in the measure, but I am concerned lest we tomorrow find ourselves short of time; quite a number of votes that have been stacked, not much time for explaining those amendments and, in the final analysis, voting on the measures that we know very little, if anything, about. I am not talking about the Senator. He is on the committee. He knows what is in the amendments.

Mr. ROTH. No. I appreciate what the Senator is saying.

Mr. BYRD. I will probably have two amendments. One of my amendments—I may offer an amendment that will attempt to extend the time on reconciliation measures. So I might say to the Senator, I want to be able to call up that amendment tomorrow, if I am able to develop one in the short amount of time that we have.

I have another amendment that I have been working on, and I hope we could count on, say, 4 minutes equally divided between each amendment that is stacked, so we would get 2 minutes on a side. I find the explanations that are offered on amendments between votes are more edifying, in many instances, than the debates that went along earlier. Most Senators are able to capsule their remarks and focus more. But I really don't think a minute to a side is enough. I have seen some Senators cut off in the middle of sentences because the minute ran out. So, if we could say 4 minutes equally divided, would the Senator be agreeable to that?

Mr. ROTH. I would certainly be agreeable at this stage, I would say to the distinguished Senator. Once we utilize the full time, it is something I might want to review from time to time. But I understand what the former majority leader is saying, and I appreciate his reasoning behind it.

So, as far as the morning is concerned, I assure him there will be 4 minutes equally divided on any amendment.

Mr. BYRD. I believe that the rule with regard to reconciliation bills provides for 2 hours on any amendment.

Mr. ROTH. I think that is correct.

Mr. BYRD. And 1 hour on any amendment to an amendment. That being the case, if the Senators so chose, they could use up the 20 hours on several amendments.

Mr. ROTH. That is correct. That is, I guess, part of the basic structure of the reconciliation. I think, to be candid, that was deliberately done at that time.

Mr. BYRD. Circumstances have changed since that measure was written.

Mr. ROTH. And we all learn from experience.

Mr. BYRD. I had a lot to do with writing that in 1974.

Mr. ROTH. You played a critical role.

Mr. BYRD. Things were different then. If I could foresee what I now see, looking backward, I probably would have changed it a little bit. But, in any event, I thank the distinguished Senator. I didn't want to intrude on his time or impose on him, but I am just concerned, as I said today, and frustrated—without complaining about any individual. I don't find fault with any individual.

Mr. ROTH. I fully understand.

Mr. BYRD. Every individual is acting in good faith. With that understanding that we will have 4 minutes equally divided between each amendment and there is no deadline at this point in time drawn with regard to the offering of amendments, I will yield the floor.

Mr. ROTH. I agree that on any amendments considered and stacked today, there will be 4 minutes prior to the votes tomorrow.

Mr. BYRD. I thank the distinguished Senator.

Mr. ROTH. I thank the Senator for the exchange.

Mr. MOYNIHAN. Mr. President, as we begin the debate on the second of two budget reconciliation bills called for under the concurrent resolution on the budget for fiscal year 1998, I again want to commend and thank the chairman of the Finance Committee, Senator ROTH, for the fine bipartisan manner in which he has led us this year. I look forward to that spirit of bipartisanship continuing today as we work toward the adoption of the tax bill by the full Senate.

It is my belief, although it is not much shared just now in Congress or in the White House, that this is no time for tax cuts. Just yesterday, in a report released by Treasury Secretary Rubin, the International Monetary Fund, in its annual review of the U.S. economy, stated that the United States should delay tax cuts "in order to achieve an earlier reduction in the budget deficit" and strengthen the credibility of the balanced-budget pact between Congress and President Clinton.

Were it up to this Senator, we would continue on the deficit reduction course begun in the Omnibus Budget Reconciliation Act of 1993, which has had extraordinary results. The economy is in its best shape in 30 years. CBO projects that the deficit will be $67 billion for fiscal year 1997, far below original estimates. Inflation was just two-tenths of 1 percent in May—equivalent to an annual inflation rate of only 2 percent. The unemployment rate stands at 4.8 percent, its lowest in more than a quarter century, and the Wall Street Journal reported today that the measurement of consumer confidence in the economy is at a 28-year high.

Given this success, we may well come to regret having enacted the tax cuts in this bill. Nevertheless, we do not have a majority in the 105th Congress. The congressional leadership and the President have agreed that there will be tax cuts this year. And so given that reality, I joined with other Democratic members of the Finance Committee in working with Chairman ROTH—in a bipartisan mode—to help shape the bill now before us. The resulting legislation is not altogether what some of us would prefer, but even so it does include a number of redeeming provisions.

I would particularly wish to commend and thank the chairman for the inclusion of the following provisions: Making permanent the single most successful tax incentive for education, the exclusion from income of employer-provided educational assistance under section 127. The Roth-Moynihan bill to make 127 permanent now has over 50 cosponsors, including all 20 members of the Finance Committee; repealing the cap on issuance of section 501(c)(3) bonds for universities, colleges, and nonhospital health facilities; providing $2.3 billion in funding for Amtrak by allocating one-half cent per gallon of the Federal gasoline excise tax; and extending the fair-market value deductibility of gifts of appreciated property to private foundations.

Mr. ROTH. Madam President, I say to my friends and colleagues, please come down and present your amendments. The bill is now open to amendment.

Mr. BROWNBACK addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. BROWNBACK. Thank you very much, Madam President. I first want to congratulate the Senator from Delaware for an excellent bill he has put forward on an important topic. We are finally talking about tax cuts, something we should have been talking about for a long period of time, but we haven't since 1981. This is a great day. I think it is a great opening that we are finally doing something about the tax burden on the American people, where they are paying over 40 percent of their income in taxes. I congratulate the chairman of the Finance Committee for raising this.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BROWNBACK. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROWNBACK. Madam President, as I was stating briefly earlier, I want to recognize the work of the Finance Committee chairman, who is doing an extraordinary job and doing something we haven't done since 1981, and that is cut taxes. We need to do this, we need to do it to stimulate the economy.

Mr. ROTH. Will the Senator yield?

Mr. BROWNBACK. Yes, I will.

Mr. ROTH. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

POINT OF ORDER

Mr. BROWNBACK. Madam President, we have had some good discussions here. Looking at the overall tax cut bill that we have, which I think is very important that we do, I am congratulatory toward the chairman.

I chair the District of Columbia Subcommittee. We have really been looking strong at what we need to do in the District of Columbia to make us a shining city. The chairman has done an extraordinary job of including things like zeroing out capital gains on real property in the District of Columbia, something I think we ought to look at nationwide, but let us try it here first.

We also have in there a provision for new homeowners and new home buyers, a $5,000 tax credit provision in there for new home buyers in the District of Columbia to attract people back to Washington, DC, to make it a shining city.

Unfortunately, there is one other provision, section 602, in the bill that creates an economic development corporation—requires the creation of an economic development corporation—in order to access some of the tax credits. I have great difficulty with this entity. It is something that would have to be created by the District of Columbia Committee. It is an entity that would have condemnation authority. It is an entity that would have a broad base of authority, appointed by the President. It is in effect going to be a department of commerce for the District of Columbia with a lot more authority and a lot more power.

I do not think that survives the Byrd rule test, and I raise the point of order on section 602 of Senate bill 949 under the Revenue Reconciliation Act of 1997, the Byrd rule provision, because I believe these are extraneous. I think this is an ill-conceived concept even though I am very supportive of what the chairman has done overall for the District of Columbia. He is stepping up to solve the problem. But I do not think this provision is the way to go. I do raise a point of order under the Byrd rule to that particular provision, section 602.

Mr. ROTH. Madam President, first, let me say that I appreciate the interest and concern expressed by my colleague from Kansas. I will and do hereby, under section 904 of the Budget Act, move to waive the point of order raised by him.

I urge that in the meantime he might work with my staff to see if we can develop some alternative that meets his concern with the present language and see if we cannot develop something that will move this proposition ahead.

Mr. BROWNBACK. Madam President, I will take those suggestions to heart and will see if we can work something out.

Let me again say one more time, this chairman—anybody in Washington, DC, watching this should be thankful for what he has done in stepping up and solving a tough problem of how we do make this a shining city again. I applaud that effort and will work with his staff to see if we can resolve particular concerns that he has before a vote tomorrow.

Mr. ROTH. I thank the Senator from Kansas.

The PRESIDING OFFICER. The motion to waive is pending.

Mr. ROTH. Madam President, I ask unanimous consent that it be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROTH. At this time it is my pleasure to call upon my distinguished colleague from the State of North Dakota.

Mr. DORGAN. Madam President, I rise this evening to offer some amendments. I will do so and understand that they will be set aside for other business to be conducted after these amendments. I wanted to have an opportunity to discuss them, some of which I hope the chairman and ranking member will be able to support. Others I expect they will not.

But I do so with great respect. And I say, as I begin this process, that I was very impressed that the chairman of the Finance Committee, the Senator from Delaware, clearly sought bipartisanship and sought a working relationship with all members of the committee as he constructed the piece of legislation that is now on the floor of the Senate. I, for one, applaud him for that.

Some of the proposals in this piece of legislation I think are excellent proposals, I support them. Others, I would have written differently. And that is the purpose of offering some amendments. But generally speaking, I think the Senator from Delaware has done the Senate a service by saying, when the committee writes a bill, he wants to involve all members of the committee. Instead of, as is so often the case here in the Senate, having a political debate ending up with the worst of what each has to offer, reaching out and getting the best of what both sides have to offer on these issues makes a great deal of sense.

So I begin by paying my compliments to the manner in which the Finance Committee wrote this bill. As I said, some parts of the bill I support very strongly. Other parts, I would have written differently and would like to change. That is the purpose for this discussion.

MOTION TO REFER

Mr. DORGAN. Madam President, let me describe a motion to refer I intend to offer that I want to get a vote on as we proceed. It is a motion that would do the following:

We are proposing, and Congress will likely allow to become law, a series of tax cuts. I support some of these proposals. I want to be certain, however, that the direction that we are heading is a direction that will not explode the deficit in the outyears.

We are all familiar with the stories about the 1981 tax cut proposals and the discussion about the fiscal policy in which we then had less revenue but built up our military spending, double, and then entitlements continued to rise, and the result was we blew a real hole in the Federal deficit.

I am going to propose a trigger, in essence. I will do it, however, in a different manner. I will do it with a motion to refer the bill back to the committee with instructions to report back with an amendment providing for a mechanism to temporarily suspend sections of the bill dealing with capital gains and the IRA's in any fiscal year after the year 2002 if two things occur:

One, the Congressional Budget Office reports that the revenues lost due to the bill have exceeded the budget agreement's restrictions on tax cuts, and, two, the Department of the Treasury reports there has been a deficit in the previous fiscal year.

My point is very simple. I would like us to have some safety mechanism in this piece of legislation that says, if where we are headed beyond the first 5 years results in additional Federal budget deficits, that then we could suspend temporarily a part of these tax changes so that we can get the budget back into balance.

I have proposed it the way I have proposed it because I do not want us to discover that we are having budget deficits in the outyears simply because we are spending more money. That is not my purpose. But I do want to be in a circumstance here or have the Senate be in a situation that if the amount of tax cuts exceed the revenues that we had an agreement for in this piece of legislation, and if the Treasury Department reports that we had a deficit the previous year, that four sections of this tax cut would be temporarily suspended in order to get the budget back in balance.

That will be one of my recommendations. I do that simply because I want us to be certain beyond the first 5 years that we maintain the fiscal discipline that I think is commendable and I think is necessary.

We have, I think, achieved some things together in this Congress with a budget agreement, one which I voted for. I do not want to blow that apart in the sixth, seventh or eighth years out believing then, well, we balanced the budget for 5 years and then all of a sudden the budget is out of balance and in a deficit condition once again.

So I send this motion to refer to the desk and ask for its consideration.

The PRESIDING OFFICER. The clerk will report the motion to refer.

The assistant legislative clerk read as follows:

> The Senator from North Dakota [Mr. DORGAN] moves to refer the bill, S. 949, to the Committee on the Budget, with instructions to report the bill back to the Senate within 3 calendar days of session with an amendment providing for a mechanism to sunset temporarily Sections 301, 302, 304 and 311 of the bill in any fiscal year after fiscal year 2002, if (1) the Congressional Budget Office reports that the revenues lost due to the bill have exceeded the budget agreement's restrictions on tax cuts and (2) the Department of the Treasury reports that there has been a deficit in the previous fiscal year.

Mr. DORGAN. Next, Madam President and the chairman of the committee, I intend to offer three amendments that are relatively small, targeted amendments that deal with the issue of disasters, natural disasters. Most of us recognize that we have spent a lot of time talking about disaster relief and issues affecting people dealing with flood disasters, earthquake disasters, tornadoes and fires and so on.

We had a circumstance in our region of the country where the Red River had a massive flood, a 500-year flood. We had 90 percent of a community of 50,000 people who were displaced out of their homes, many hundreds of those homes—nearly 1,000 homes—have been totally and permanently destroyed.

In many of those cases, all of their records were destroyed as well. People left with a half hour's notice and only the clothes they were wearing and lost everything. The Internal Revenue Service knowing that this happened the first week or so of April, second week of April, they said, "We will allow an extension to file income tax returns." It is pretty clear people fleeing a flood and who have lost everything, including all of their records, will not be able to file tax returns on April 15.

So the Internal Revenue Service said they would extend the tax filing deadline. I appreciate that. And it made a lot of sense because hundreds of those people, thousands of those people could not have complied, people in South Dakota, Minnesota, and North Dakota.

The IRS said, "We will consider a tax return timely filed if it's filed by the end of May." Then as this flood continued, they moved it to August, and that is where it is.

The IRS said to those victims of that disaster, "If you file by that date, there will be no penalty because we have moved the filing date," recognizing you could not possibly comply. But then the IRS said, "But you are going to have to pay interest because we don't have the authority to waive the interest." The disaster victims have asked the question, "Well, if it is considered timely filed, why are we being charged interest?" And the Internal Revenue Service said, "Well, you're being charged interest because we don't have the capability of waiving it."

The Treasury Secretary said he is sympathetic to my amendment, he will support it. I have talked to the majority on this, and I hope this will be one that—it will have an almost insignificant revenue consequence, but just makes sense. It gives the IRS the authority clearly to do what it wants to do and should do but does not now have the authority to do.

Madam President, I ask unanimous consent to set aside the motion to refer.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 515

(Purpose: To authorize the Secretary of the Treasury to abate the accrual of interest on income tax underpayments by taxpayers located in Presidentially declared disaster areas if the Secretary extends the time for filing returns and payment of tax (and waives any penalties relating to the failure to so file or so pay) for such taxpayers)

Mr. DORGAN. I offer the amendment and send it to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN] proposes an amendment numbered 515.

Mr. DORGAN. Madam President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 211, between lines 5 and 6, insert the following:

SECTION 724. ABATEMENT OF INTEREST ON UNDERPAYMENTS BY TAXPAYERS IN PRESIDENTIALLY DECLARED DISASTER AREAS.

(a) IN GENERAL.—Section 6404 (relating to abatements) is amended by adding at the end the following:

"(h) ABATEMENT OF INTEREST ON UNDERPAYMENTS BY TAXPAYERS IN PRESIDENTIALLY DECLARED DISASTER AREAS.—

"(1) IN GENERAL.—If the Secretary extends for any period the time for filing income tax returns under section 6081 and the time for paying income tax with respect to such returns under section 6161 (and waives any penalties relating to the failure to so file or so pay) for any taxpayer located in a Presidentially declared disaster area, the Secretary shall abate for such period the assessment of any interest prescribed under section 6601 on such income tax.

"(2) PRESIDENTIALLY DECLARED DISASTER AREA.—For purposes of paragraph (1), the term 'Presidentially declared disaster area' means, with respect to any taxpayer, any area which the President has determined warrants assistance by the Federal Government under the Disaster Relief and Emergency Assistance Act.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to disasters declared after December 31, 1996.

Mr. DORGAN. Madam President, I will be brief on the next two amendments. They relate to the same issues. As I indicated, the first dealt with the waiver of interest, which I hope we can do. It will have almost insignificant consequence, but will be significant to the disaster's victims.

The others, I have been visiting with the staff of the majority and the minority and other Members.

One deals with the question of the use of IRAs by victims of the disaster who now find themselves with a need to invest in their home to repair it, but they do not have any money except that which is in an IRA, or the need to invest in a business that has been destroyed, and they have no resources except that which is in an IRA. I hope with the chairman that we can find a way to provide that opportunity. I am happy to provide a reasonable limit on it.

I offer the amendment and hope we can visit about it in the ensuing hours prior to this bill's conclusion.

Let me offer that amendment.

AMENDMENT NO. 516

(Purpose: To provide tax relief for taxpayers located in Presidentially declared disaster areas, and for other purposes)

Mr. DORGAN. I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the previous amendment will be set aside.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN] proposes an amendment numbered 516.

Mr. DORGAN. I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 211, between lines 5 and 6, insert the following:

SEC. 724. DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT ACCOUNTS MAY BE USED WITHOUT PENALTY TO REPLACE OR REPAIR PROPERTY DAMAGED IN PRESIDENTIALLY DECLARED DISASTER AREAS.

(a) IN GENERAL.—Section 72(t)(2) (relating to exceptions to 10-percent additional tax on early distributions), as amended by sections 203 and 303, is amended by adding at the end the following new subparagraph:

"(G) DISTRIBUTIONS FOR DISASTER-RELATED EXPENSES.—Distributions from an individual retirement plan which are qualified disaster-related distributions.".

(b) QUALIFIED DISASTER-RELATED DISTRIBUTIONS.—Section 72(t), as amended by sections 203 and 303, is amended by adding at the end the following new paragraph:

"(9) QUALIFIED DISASTER-RELATED DISTRIBUTIONS.—For purposes of paragraph (2)(E)—

"(A) IN GENERAL.—The term 'qualified disaster-related distribution' means any payment or distribution received by an individual to the extent that the payment or distribution is used by such individual within 60 days of the payment or distribution to pay for the repair or replacement of tangible property which is disaster-damaged property. Such term shall only include any payment or distribution which is made during the 2-year period beginning on the date of the determination referred to in subparagraph (C).

"(B) DISASTER-DAMAGED PROPERTY.—The term 'disaster-damaged property' means property—

"(i) which was located in a disaster area on the date of the determination referred to in subparagraph (C), and

"(ii) which was destroyed or substantially damaged as a result of the disaster occurring in such area.

"(C) DISASTER AREA.—The term 'disaster area' means an area determined by the President to warrant assistance by the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments and distributions after December 31, 1996, with respect to disasters occurring after such date.

SEC. 725. ELIMINATION OF 10 PERCENT FLOOR FOR DISASTER LOSSES.

(a) GENERAL RULE.—Section 165(h)(2)(A) (relating to net casualty loss allowed only to the extent it exceeds 10 percent of adjusted gross income) is amended by striking clauses (i) and (ii) and inserting the following new clauses:

"(i) the amount of the personal casualty gains for the taxable year,

"(ii) the amount of the federally declared disaster losses for the taxable year (or, if lesser, the net casualty loss), plus

"(iii) the portion of the net casualty loss which is not deductible under clause (ii) but only to the extent such portion exceeds 10 percent of the adjusted gross income of the individual.

For purposes of the preceding sentence, the term 'net casualty loss' means the excess of personal casualty losses for the taxable year over personal casualty gains.".

(b) FEDERALLY DECLARED DISASTER LOSS DEFINED.—Section 165(h)(3) (relating to treatment of casualty gains and losses) is amended by adding at the end the following new subparagraph:

"(C) FEDERALLY DECLARED DISASTER LOSS.—The term 'federally declared disaster loss' means any personal casualty loss attributable to a disaster occurring in an area subsequently determined by the President of the United States to warrant assistance by the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act.".

(c) CONFORMING AMENDMENT.—The heading for section 165(h)(2) is amended by striking "NET CASUALTY LOSS" and inserting "NET NONDISASTER CASUALTY LOSS".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to losses attributable to disasters occurring after December 31, 1996, including for purposes of determining the portion of such losses allowable in taxable years ending before such date pursuant to an election under section 165(i) of the Internal Revenue Code of 1986.

Strike section 751 of the bill.

On page 239, strike lines 18 and 19.

On page 239, lines 20, strike "(5)" and insert "(4)".

On page 240, line 1, strike "(6)" and insert "(5)".

Mr. DORGAN. Madam President, let me ask unanimous consent that amendment No. 516 be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 517

(Purpose: To impose a lifetime cap of $1,000,000 on capital gains reduction)

Mr. DORGAN. I offer one additional amendment this evening to be sent to the desk. Let me describe the amendment before I send it to the desk. It is an amendment that I wrote years ago, and I have offered it previously but feel that I want to offer it again on the issue of capital gains. I have long felt when we provide capital gains differential treatment that we should provide a lifetime limit on the amount of capital gains one is able to take at a preferred tax rate.

I have proposed in the past, and will propose with this amendment, a $1 million lifetime limit on capital gains tax treatment per taxpayer. I will describe later, and we will have an opportunity tomorrow to discuss some of these issues, but I really feel that the Congress should address this with respect to capital gains.

Let me make one additional point. There are some—and we can have a philosophical discussion about the tax situation—some that say, let us exempt income from investments which tend to favor those who invest. Why not say, let us exempt income from work and favor those who work, or maybe a balance between those who work and those who invest. But I have great difficulty believing that somehow investment has more merit than work.

Let's index investment. Let's index the income from work. I want to have a discussion in the context of capital gains as to why do we always in Congress, when we talk about giving some break or cuts, why do we always talk about taxing work and exempting investment? It is not that I am opposing trying to provide encouragement to investment, but why not provide similar encouragement to work?

I want to have that discussion on the issue of capital gains, and I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN] proposes an amendment numbered 517.

Mr. DORGAN. Madam President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 96, strike lines 11 through 16, and insert:

"(3) ADJUSTED NET CAPITAL GAIN.—For purposes of this subsection—

"(A) In general.—The term 'adjusted net capital gain' means net capital gain determined without regard to—

"(A) IN GENERAL.—The term 'adjusted net capital gain' means net capital gain determined without regard to—

"(i) collectibles gain, and

"(ii) unrecaptured section 1250 gain.

"(B) $1,000,000 LIFETIME LIMITATION.—

"(i) IN GENERAL.—The adjusted net capital gain for any taxable year shall not exceed $1,000,000, reduced by the aggregate adjusted net capital gain for all prior taxable years.

"(ii) SPECIAL RULE FOR JOINT RETURNS.—The amount of the adjusted net capital gain taken into account under this section on a joint return for any taxable year shall be allocated equally between the spouses for purposes of applying the limitation under clause (i) for any succeeding taxable year.

"(C) CAPITAL GAINS RATE REDUCTION NOT TO APPLY TO CERTAIN TAXPAYERS.—The adjusted net capital gain for any taxable year in the case of any of the following taxpayers shall be zero:

"(i) An individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins.

"(ii) A married individual (within the meaning of section 7703) filing a separate return for the taxable year.

"(iii) An estate or trust.

Mr. DORGAN. A final comment. I wanted to offer these amendments so we could begin discussing them. I hope a couple of them might be accepted and a couple of them we can have votes on, especially the issue of triggering the tax cuts beyond the first 5 years to make certain we are not once again experiencing a Federal deficit in the long term. I am very interested—and I will be here to talk tomorrow—about other issues with respect to an alternative that I think has great merit.

Let me leave, as I began, to compliment the Senator from Delaware. There are a number of provisions in his piece of legislation I support and think have great merit. I hope some of the amendments that I offer and others offer that will improve the bill might be accepted, as well. If we can get the best of what both sides have to offer in this debate, the Congress will pass a tax bill that is worthy of consideration by the American people.

Madam President, I yield the floor.

AMENDMENT NO. 518

(Purpose: To repeal the depletion allowance available to hardrock mining companies already enjoying substantial subsidies due to the largesse associated with the 1872 mining law)

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. BUMPERS. I send an amendment to the desk.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS], for himself, Mr. GREGG, and Mr. ROBB, proposes an amendment numbered 518.

Mr. BUMPERS. Madam President, I ask unanimous consent the reading of the amendment be dispensed.

The amendment is as follows:

At the appropriate place in the bill add the following new section:

SEC. . REPEAL OF DEPLETION ALLOWANCE FOR CERTAIN HARDROCK MINES.

(a) IN GENERAL.—The first sentence of section 611(a) of the Internal Revenue Code of 1986, 26 U.S.C. 611(a), is amended by inserting immediately after "mines" the following: "(except for hardrock mines located on land subject to the general mining laws or on land patented under the general mining laws unless such patented land was acquired (subsequent to the date the patent was issued), pursuant to an arms-length transaction prior to June 25, 1997)".

(b) DEFINITIONS.—Section 611 of the Internal Revenue Code of 1986 is amended by redesignating subsection (c) as subsection (d) and inserting after subsection (b) the following new subsection:

(c) DEFINITIONS.—For purposes of subsection (a), 'general mining laws' means those Acts which comprise chapters 2, 12A, and 16, and sections 161 and 162 of title 30 of the United States Code."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

Mr. BUMPERS. Madam President, this is the 9th consecutive year that I have tried my very best to do justice to the taxpayers of the United States. I have heard an awful lot of talk in the last 60 days by people on both sides of the aisle about the $135 billion in tax cuts for those long-suffering taxpayers. I do not intend to debate the merits of the tax cuts tonight.

What I want to debate is the cynicism, the contradiction, the hypocrisy of talking about doing justice to the taxpayers on one hand by giving them a massive tax cut, and at the same time allow the biggest mining companies in the world to take billions of dollars worth of gold off land that belongs to the taxpayers of the United States and not pay one red cent for the privilege and then turn around and give these same mining companies an enormous tax break which they never did anything to deserve.

In 1872, Ulysses Grant signed the famous mining law of 1872 that encouraged people to go West and stake 20-acre claims. The 1872 mining law is still firmly intact. There are now over 330,000 claims that have been legitimately filed that belong to people who went out and simply drove 4 stakes in the ground every 20 acres and then went down to the courthouse and filed their claim. In addition, there are approximately 650 applications that have been filed with the Bureau of Land Management for patents on some of those claims which would permit the applicants to buy the land for $2.50 or $5 an acre.

The people in the Senate do not pay much attention to this issue. They apparently pay little attention to the people watching C-SPAN because they are the ones who are getting the shaft.

Madam President, can you imagine this scenario. Newmont Mining Co., one of the biggest mining companies in the world, has a gold mine in Nevada. They pay the owners of the land on which that gold mine is situated an 18 percent gross royalty for the gold they take off that land. However, when they mine on public, taxpayer-owned land, they do not pay one red cent to the taxpayers of this country.

And you wonder why the people of this country are cynical. You wonder why the words "corporate welfare" were used so generously around here when we were looking for offsets for this massive tax cut, and this bill comes back to us from the Finance Committee with not a word about corporate welfare.

Do you know what else these mining companies do? They find somebody that has a bunch of claims that they think have some potential, and they buy the claims and then they mine it. Then they go to the Bureau of Land Management and say, "We have commercial gold or silver on this land and we want to buy it, and we will give you the princely sum of either $2.50 an acre or $5 an acre."

Do you know what Bruce Babbitt, the Secretary of Interior, has to do? He has to, by law, give them a deed to that land. Here is what has happened just in the past several years.

Barrick Gold Co. paid the U.S. taxpayers $9,000. Do you know what they got for that? They got almost 2,000 acres in Nevada with 11 billion dollars worth of gold on it. It belongs to the taxpayers of the United States. Do you know what the taxpayers are going to get for that $11 billion? Zip, zero, nothing. No royalty, no severance tax, no reclamation fee, and then they take a 15 percent depletion allowance on the gold they take out. We not only give it to them for $2.50 an acre or $5 an acre, we give them a depletion allowance for mining what they never paid for.

In 1995, Faxe Kalk, a Danish company, bought land in Idaho containing 1 billion dollars' worth of travertine. Do you know what they paid the taxpayers of the United States for this land containing the $1 billion in minerals? They paid $275.

There is an application pending at the Bureau of Land Management right now by the Stillwater Mining Co. for about 2,000 acres of Forest Service land in Montana. Stillwater will pay a maximum of $10,000 for that land. What do you think lies under that 2,000 acres of land? This is their figure, not mine: 38 billion dollars worth of palladium and platinum—$38 billion. Do you know who that belongs to? It belongs to the taxpayers of the United States. Do you know what the taxpayers of the United States are going to get in exchange for their $38 billion? You guessed it—the shaft. Nothing, not a penny. And people stand up and defend this thing as though it is some kind of a righteous cause.

These mining companies do not mind paying private property owners a royalty. They pay the States a royalty when they mine on State lands. They also pay the states a severance tax. It is only when the land belongs to the taxpayers of the United States that they object.

When you hear people in the coffee shops in your hometown talk about Government being sold off to the highest bidder, you cannot find a better case of it. The Halls of Congress and the Senate office buildings have been so full of lobbyists since I announced I was going to try to do away with the depletion allowance for companies mining on public land, you could not stir them with a stick. I can hardly get down the hall from my office because the Finance Committee office is between my office and the elevator.

So what I am saying, Madam President, let's at least have the courage to tell the taxpayers of this country that we are not going to give the mining companies, after we give them lands for $5 an acre, a 15 percent depletion allowance to mine minerals they never paid for.

When the oil companies buy a lease in the ocean, when the coal companies buy a lease on lands in the West, when the natural gas companies explore for gas on Federal lands, any time they find it, they pay a royalty for the interest in the minerals. They take a depletion allowance and they are entitled to a depletion allowance because, by definition, if you are depleting a capital asset, that is a legitimate thing to do when you paid for it in the first place. The oil and gas companies deplete oil and gas, and they have a right to do it. They paid a handsome price for it, and they are depleting an asset they paid for. These people paid nothing.

What have the taxpayers gotten out of this besides not 1 red cent in royalties? Well, for openers, they have gotten 557,000 abandoned mine sites, 57 of which are on the Superfund list. The Mineral Policy Center says that the estimated cost of cleaning up the mess that these mining companies have left us is between $31 billion and $72 billion.

I hate to be repetitive, but just to emphasize the point, let me go through it again. The mining companies give the taxpayers $5 an acre for gold. They take billions of dollars worth of gold off the land. They pay the taxpayers no royalty at all, they get a 15 percent depletion allowance; and then they leave an unmitigated environmental disaster, which is going to cost the taxpayers of this Nation between $31 billion and $72 billion to clean up.

Madam President, I have announced that I would not seek reelection, and in deliberating on that decision, I got to thinking about debates, what would be debated, what would be said, who would say it, and how would you respond. And I thought, how would you respond to an accusation that you voted for allowing the gold and silver and palladium and platinum mining companies to continue raping and pillaging the taxpayers of this country—all the time you are talking about a big tax cut for the taxpayers because they deserve it? And how are you going to pay for the tax cut? You are going to pay for the lion's share of it by cutting Medicare by $115 billion. You can put any face on it you want. I didn't vote for it. I have no intention of voting for it. Take $115 billion off Medicare and that, in turn, will come off of services for the elderly, part of the most vulnerable in our society, and then you ask your opponent, did you vote for that? Yes, I voted for that. Well, this $115 billion that you cut in Medicare, what did you do with it? We gave it away in tax cuts to the wealthiest people in America. You didn't put it on the deficit? No, we didn't put it on the deficit. You are going to balance the budget by cutting taxes? Isn't that the same old line you gave us back in 1981 that gave us a $5.3 trillion debt? Then what if somebody said, how about those mining companies? I have heard Senator BUMPERS, and I have read in the paper some of the things he said—for 9 years—about how the mining companies take billions of dollars worth of gold off of what is or was Federal lands, and they pay nothing for it, isn't that true? It is true. Nobody will deny it. And they don't pay 1 red cent. It gives corporate welfare a bad name.

The Western Senators, which have gold mines in their States on Federal lands, ask what if you bought a mining claim from some nester that staked out 500 acres, and the mining companies pay him handsomely for it, aren't they entitled to a depletion? Now, that is a neat way to avoid the issue. It also makes this point. When you buy 500-acre claims, for example, from some old nester that has been sitting on them for 10 years, they not only pay him a handsome price for it, they pay him a royalty, or what we call residual, an override. Now, they are willing to pay State's royalties, they are willing to pay private owner's royalties, and when they buy this land from some old nester that staked it 10 or 20 years ago, they are willing to pay him a royalty. It is only if the words "U.S." are on it anyplace that they don't want to pay a penny in royalty.

The questions I ask every year, and the questions that never get answered, are: Why are you willing to do this to the taxpayers? Why are you willing to pay a royalty of 18 percent on private lands in Nevada? Why are you willing to pay an average of 5 percent on all private lands in the United States? Why are you willing to pay the States a severance tax? Why are you willing to pay the States a royalty on their lands? But when it comes to lands that belong to the taxpayers of the United States, you are not willing to pay 1 red cent? Everybody falls silent when you pose those questions.

(Mr. BROWNBACK assumed the Chair.)

Mr. BUMPERS. Well, Mr. President, all but the freshman who just came in here this year have heard this debate before. A lot of people here have heard this debate in spades over the years. The problem is identical to what it was 9 years ago when I brought it up the first time. It is the most egregious, outrageous scam being perpetrated on the people of this country.

I have only got a year and a half left here, but I promise you, I am going to bring this up until the last day I am in the U.S. Senate. I am immensely offended by it. I cannot believe my colleagues have allowed it to continue. We have made one or two little modest gains—very modest gains. But the mining companies are fighting like sabertoothed tigers—they are standing in the hallways, they are in the committee rooms, they are all over the place—to protect the greatest sweetheart piece of corporate welfare in the history of mankind.

I yield the floor.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. MURKOWSKI. Mr. President, I thank the Chair. I have listened to my good friend from Arkansas embellish one of his favorite subjects, and that, of course, is the American mining industry as we know it today.

I think it is fair to say that we have had, with the minority, a continuing, ongoing effort to try and bring about changes in our mining law—meaningful changes that are supported by the industry, meaningful changes that are supported by the minority. Unfortunately, we haven't been able to generate a resolve of many of these issues. But I think it is fair to say that the attack today proposed by my friend from Arkansas is not just an attack on the percentage depletion allowance, but, in reality, it is an attack on the American mining industry as we know it today.

Now, I don't know about my friend from Arkansas coming over here, but I didn't run into anybody in the Halls. I didn't run into any lobbyists. Nobody has talked to me. I venture to say that if you walk out now, you won't run into any either.

What we are looking at here is a matter of equity for an industry that is very important to our Nation, to our security interests, who must compete in a worldwide marketplace. We are either competitive or we are not.

For the information of my friend from Arkansas, the value, in 1995, of the combined contribution of the mineral industry to Arkansas was $744 million. So when he says "they don't pay one red cent," well, they contributed $744 million to the economy of Arkansas. In Alabama, it is $2 billion; in Arizona, it is $9 billion; in Texas, it is $7 billion; in New York, it is $8.3 billion. So when you say they don't pay anything, let's look at the working men and women in the mining industry today, and let's look a little more closely at reality.

What is proposed by my friend from Arkansas—and he is right, it is a punative proposal, as he has been working at it for 9 years and he is committed until the day he leaves to work on it. I admire that spirit. But he is not telling you the whole story. There was a proposal by the administration earlier this year to do away with percentage depletion for this industry. And the important thing, Mr. President—and I would like my friend from Arkansas to acknowledge the reality of it—it was rejected by both the Finance Committee in the Senate and the House Ways and Means Committee, and it should also be rejected by the full Senate.

When you strip away the rhetoric—and there is lots of it around here—on this matter, the issue boils down to one simple question: whether this body wants to go on record now in support of a nearly $700 million tax increase on the domestic mining industry. We talk about tax bills, we talk about tax breaks, we talk about stimulating how much more earnings the average family member can make and take home and save. But this proposal by my friend from Arkansas would tax America's mining industry an additional $700 million—and this is a domestic industry, mind you. Well, I think it is fair to say—and I think most of you would agree—that the Treasury will never see anywhere near $700 million from this proposal, because this latest assault on the industry will simply speed up one thing—the departure of the mining industry from our shores.

This is a worldwide market. You compete or you don't compete. Now, the continuing decline of this industry is reflected on the chart I have on my left. As my colleagues can see, jobs in this industry have been declining dramatically. Let's look at it. Metals make up the gold, silver, lead, and zinc production. The others are in iron ore and copper. In 1980, we had 98,000 jobs; today, we have 51,000 jobs. This is the gold, silver, lead, and zinc. That is not to assume we are not using as much gold, silver, lead, and zinc. We are. We are importing it from other countries. Why? Because we are not as competitive in the world marketplace.

Iron ore. In 1980, we had 21,000 workers. In 1995, we had 9,000. Where has the industry gone? It has gone to South America, South Africa. That is the reality we live under. Now, does my friend simply want to tax this industry another $700 million and drive it offshore? That is what is going to happen, make no mistake about it.

The copper industry. In 1980, 30,000 jobs; today, 15,000 jobs in the United States It isn't that we don't have the minerals. We are not competitive in an international marketplace. My friend from Arkansas simply ignores that reality. He never mentions it. It is always they are getting a free ride. He doesn't mention the jobs that are created in each State or the contribution associated with what that prosperity means to the families.

I think it is important to point these things out. These are accurate figures. This is the condition of the industry today. It competes worldwide. The jobs, Mr. President, that have disappeared are good-paying jobs. Make no mistake about it, these are not the MacDonalds minimum-wage jobs. The average yearly wage for miners is nearly $46,000, one of the highest wage levels of any segment of America's workers. That doesn't include the benefits provided for these workers.

What does the Senator from Arkansas propose to do with these workers if you tax the industry that much more? Are these people going to be retrained? They are going to be out of a job. They are going to be on welfare. You know where these jobs are going to go. They are going to go to Latin America, Canada, Indonesia, the Philippines, and Central Asia.

For example, gold mining exploration budgets have been dipping in the United States from a high of $149 million in 1992 to $120 million in 1996. But at the same time spending in Central and South America has increased more than five times—from $28 million in 1992 to $145 million last year. These are investments that could have and should have been made in the United States but for the hostile environment that this industry, which is a basic industry in the United States, faces at home.

If this tax increase is approved, we will merely hasten the further decline of this domestic industry, for instead of using capital to invest in exploration and development in new sites in the United States, the mining industry will be forced to abandon new projects at home. It will have to close marginally profitable mines with the loss of hundreds, if not thousands of permanent good-paying jobs.

Mr. President, the underlying predicate of this amendment, I think, is fatally flawed for it assumes that mining operations on Federal lands are cost-free. That is what my friend from Arkansas said. He said "not one red cent" did they pay for it. Nothing is further from the truth. Mining operations on Federal lands are not cost-free. It is a myth that patenting of land under the Mining Act of 1872 is somehow an easy event; that it simply is as easy perhaps as going out and writing a check to the Federal Government. That is not reality.

The reality is that the exploration process leading to the discovery of valuable mineral deposits can cost several hundreds of thousands of dollars per claim just for the drilling, the sampling, and the expense associated with proving up that claim.

I also note that in some cases mineral patent applications can contain as many as 500 claims per application, and the cost of processing a single claim can run $35,000 to $40,000 to $45,000. Multiply that by 400 or 500 claims. What do you have? You have $19 million in costs merely for processing claims. So when the Senator from Arkansas says they are not "paying one red cent," that is not reality.

Moreover, the time required to explore land and permit it before mining begins has increased dramatically, with a concomitant increase in the cost of mining. The average time for simply permitting new mines, as my friend from Arkansas is well aware, on Federal land has increased from 1 year to 3 to 5 years. And over the course of the last 4 years it has averaged close to 5 years.

Where is it going to be in another few years? At some point in time you are going to overload this. They are not going to be competitive in the domestic market. Where are they going? They will go where they have to go to survive, and that unfortunately is outside the United States.

Once the companies have passed all of the hurdles, a company then faces the daunting capital costs that are associated with bringing a modern mine on line.

This isn't like the chicken industry. This is an industry that is volatile relative to costs. Costs are not necessarily controllable in the mining industry because you run into different types of production exposure. Some of it is very, very deep. Some of it can have water in the mines. There are many, many unknowns associated with that. And the biggest risk is that you develop a mine and you have no assurance that your price is going to stay stable. The price fluctuates dramatically. But you have made a tremendous capital investment, and you are risking this capital relative to your belief that you can operate an efficient mine, an efficient operation, and control costs. But the unknowns are very, very high.

In my own State, we recently opened a mine called the Fort Knox Mine which began operations outside Fairbanks. The company invested nearly $375 million in capital before a single ounce of gold had been mined, or refined, on that project.

So they don't pay a red cent. They put up $375 million in advance on the supposition that they would be able to generate a reasonable return. Now the price of gold has dropped to a point where their margins are within a couple of dollars. That is the reality associated with that kind of a business.

I think my colleagues will agree that there is no free ride when it comes to the cost of exploration, acquisition, development, and processing in the industry—whether on Federal or private land. Yet, the amendment before us assumes little or no costs to the industry when mining on Federal land.

Mr. President, the rationale for the percentage depletion allowance is it recognizes the unique nature of resource depletion by providing a realistic and practical method for the creation of funding necessary to replace the diminished resource.

Moreover, percentage depletion reflects reality. This is a reality unlike in the chicken business. It is a reality that when the mines are exhausted, the companies must replace the depleted deposits of mineral resources, which are more difficult and in many cases more expensive to develop. These new deposits, because of lower grade ores, could create more difficulty in mining and development. They could be more expensive to operate.

So where do you go after you deplete your mine and when the economics are that you can't generate a recovery? You go find a new one to stay in business, and hopefully it will be of the quality of the last one. But you have no guarantee.

Hence, the justification for the percentage depletion allowance, as it responds to the unique nature of mineral deposits, provides for realistic and practical methods of reflecting the decreasing value of a mine as the mine is depleted. That is what it is all about. It helps companies maintain the capital necessary to make future investments for replacement of mineral resources.

I would also note that minerals are commodities whose prices are set, as I said, by the world marketplace. With an increase in mining costs with the repeal of the percentage depletion allowance, what are you going to do? You can't pass it on to the purchasers in the form of higher selling prices. You either absorb it and take a loss and ultimately if your losses are too high, you go out of business.

Mr. President, I would also point out that mining companies commonly package mining rights from a variety of sources into a single operation. For example, a large open-pit mining operation may include private property acquired through homestead laws, patent and mining claims, unpatented claims, States lands, and so forth.

The repeal of percentage depletion—as proposed by my friend from Arkansas—from those mining rights which originate with the mining law of 1872 would require a complex system, so complex that we would have to track every single shovel of ore on the mining site. In other words, some of it would be from lands that originated through private property, homestead laws, unpatented claims, State lands. How do you sort that out? What will likely be the result is that the depletion allowance would apply to a shovel of ore from one location but not a shovel of ore from an identical ore body 10 feet away.

That is simply absurd. But that is the solution that is suggested in this amendment.

Mr. President, I think there is no doubt that percentage depletion for minerals in mines on Federal lands is clearly appropriate tax policy. But I would suggest to all of my colleagues that this amendment is not about depletion on lands obtained under the Mining Act of 1872. As I indicated in my opening statement, this amendment is about the act itself. This is really just another attempt to gain leverage on the industry by attacking the depletion allowance.

Remember, Mr. President, by adopting the proposal in the amendment of the Senator from Arkansas, we would be going on record as supporting nearly a $700 million tax increase on America's domestic mining industry.

I can categorically state, Mr. President, that the U.S. mining industry agrees, they agree with the Senator from Arkansas, that the mining law of 1872 is substantially due for an overhaul. And we have passed reforms, ultimately to see them vetoed by the President. But I continue to work to see that this law is reformed. I continue to work with my friend from Arkansas and my colleagues on the other side to accomplish such a result, and we have been doing it for the last several years. The industry has supported the concept of a 5-percent net proceeds royalty, a fair market value for land—a fair market value for land—a permanent maintenance fee, and the earmarking of revenues generated from mineral production on Federal lands to create and fund abandoned mines and cleanup programs.

These are the things that are mentioned by my friend from Arkansas. He is concerned about abandoned claims and the cleanup. We provide for that in our proposed legislation. The Senator from Arkansas makes quite a point of the wide variance in royalties. What he doesn't point out is that the royalty agreements on private lands are just that. They are agreements. Those agreements are made between two parties. The determination of what the costs are to be allocated out is something that the Senator from Arkansas doesn't look into. He just simply says, "Well, there is a 10-percent royalty here. There is an 11-percent royalty here. And the 5-percent royalty is not applicable." You have to go into what the royalty consists of. A 5-percent net proceeds royalty is fair. It is one that I support. A number of my colleagues basically support substantial changes in the 1872 mining law which we are attempting to address and hope to have before this body yet this year.

There are a couple of other interesting things, Mr. President. The administration has never sought to develop compromise legislation that reforms the 1872 law while offering the U.S. mining industry the economic ability to develop Federal mineral assets. That is a fact. This amendment, as with the administration's identical budget proposal, is clearly designed to bring the industry to its knees by putting a $700 million tax on the industry. Remember, as we reflect on the merits, that this matter has been studied and gone into in great detail by both the House and the Senate—the Senate Finance Committee and the House Ways and Means Committee. Both have said, no, this increased tax on the mining industry of $700 million is not justifiable.

So it is acknowledged we want to overhaul the 1872 mining law, but that is not what we are debating today.

What we are debating today in this amendment is an amendment that would simply kill the domestic mining industry in this country, make no mistake about it. As you look at the merits of an adequate royalty, it has to be based on consideration of comparisons that are real. Just what is the negotiated in and out of a higher royalty figure does not necessarily represent the return to the Government agency. This is modeled exactly after the royalty program that is currently operating in one of the most prosperous States for mining, and that is the State of Nevada.

My colleagues from Nevada I see are on the floor. I am sure that they will point that out.

So, in conclusion, let us recognize where we are on this. This is a $700 million tax proposal on our mining industry, our domestic industry.

One final point I would like to bring up is the matter of germaneness. This amendment is not germane. This amendment does not belong on this bill. At the appropriate time a point of order will be made. I urge my colleagues not to support a waiver of the point of order.

Mr. President, I yield the floor.

Mr. BRYAN addressed the Chair.

The PRESIDING OFFICER. Who yields time to the Senator from Nevada?

Mr. BRYAN. I say to the distinguished chairman of the Finance Committee, I would be happy to yield.

Mr. ROTH. Mr. President, I ask unanimous consent that the following list of staff members of the Joint Committee on Taxation be granted full floor access for the duration of S. 949 and that the list be printed in the RECORD.

It should be noted that these staff members will not be in the Chamber all at the same time but will rotate on and off as needed. There is a long list, and I will just submit it.

The PRESIDING OFFICER. Without objection, it is so ordered.

The list is as follows:

JOINT COMMITTEE ON TAXATION

Steven Arwin.
Tom Barthold.
Ben Hartley.
Harold Hirsch.
Ken Kies.
Kent Killelea.
Roberta Mann.
Laurie Mathews.
Alysa McDaniel.
Joe Mikrut.
John Navaratil.
Joe Nega.
Judy Owens.
Cecily Rock.
Bernard Schmitt.
Mary Schmitt.
Carolyn Smith.
Maxine Terry.
Mel Thomas.
Barry Wold.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I wonder if we might possibly get a time agreement here. I have talked to the chief opponents of my amendment. We have two Senators from Nevada here, and as I understand it there are a couple more besides Senator CRAIG of Idaho, and Senator MURKOWSKI has just finished his statement. I was just wondering—we have an hour each, but I was just wondering if we could, since this is in the evening if they could—I don't know of anybody else on my side. Senator GREGG is my chief cosponsor, and he is not going to be here this evening. I wonder if we could allow people to come in and speak as long as they want to tonight with the understanding we will have 20 minutes equally divided in the morning on the vote. How does that sound?

Mr. MURKOWSKI. I think we have a number of Senators on our side we want to accommodate so why not let them speak as long as they want.

Mr. BUMPERS. Let them speak as long as they want with the understanding we will have a 20-minute time agreement equally divided tomorrow morning. I make that request.

Mr. DURBIN. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. I have an amendment which I would like to offer this evening. I want to accommodate the Members who wish to speak on this issue, but I would like to have some understanding we would have an opportunity. I would need 15 or 20 minutes to offer my amendment this evening.

Mr. REID. Will the Senator yield?

Mr. DURBIN. I would be happy to yield.

Mr. REID. I think the Senator from Nevada would like probably 10 minutes?

Mr. BRYAN. At most, 10 minutes.

Mr. REID. Ten minutes.

Mr. CRAIG. No more than 10 minutes. That could conclude at least for this evening debate on this issue.

Mr. REID. We will visit during Senator BRYAN's statement and we may be able to cut that down a little bit and decide what procedure we are going to follow.

During the time Senator BRYAN is speaking, we will get together and try to accommodate the Senator from Illinois.

Mr. DURBIN. I thank the Senator.

Mr. MURKOWSKI. Mr. President, if I may, I ask unanimous consent to have printed in the RECORD an article from the Wall Street Journal called "Gold Mining Firms Act to Meet Price-Slump Challenge," which I think makes my point to the increasing of difficulty in meeting production costs with the declining price of minerals in the world marketplace today.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

Gold-Mining Firms Act To Meet Price-Slump Challenge—They Reduce Costs, Scratch New Mines, With No Quick Relief in Sight

(By Mark Heinzl and Aaron Lucchetti)

Gold companies are hunkering down, struggling to weather one of the most prolonged slumps in gold prices in years.

Mining companies are slashing costs and tearing up plans for new mines as the price of the precious metal continues to slide to three-year lows. Just since November the price of gold futures traded on the New York Mercantile Exchange's Comex division has plunged to $353.40 an ounce from above $380. The skidding price is enough to turn many high-cost mines into money-losing duds and spoils the economics of many planned projects.

"No question, if prices stay at this range, you will see fewer new gold mines," says Dennis Wheeler, chairman and chief executive officer of Coeur D'Alene Mines Corp. in Coeur D'Alene, Idaho.

Many analysts believe gold prices will linger at current levels or lower for several months. Gold prices have been pushed downward by slumping investment demand and the fear of increasing supplies from central banks. In Europe, central banks have been pressured to sell their gold reserves in an effort to meet debt requirements for European monetary union in 1999.

OUTLOOK FOR INVESTMENT

Unless the stock market experiences a hefty correction or inflation rears its head, gold investment demand probably will remain low as investors turn to financial investments with higher returns.

"It would take a very substantial market correction of about 15% to turn things around for gold," says William O'Neill, chief futures strategist for Merrill Lynch & Co. The price could bottom out at between $330 and $350 an ounce, before turning slightly upward, analysts say. The decline in the mineral's price has sent investors in gold-mining stocks running for cover. The Toronto Stock Exchange's gold-stock index has dropped 8.5% since mid-November. Last year investors were focused on gold companies with potential discoveries of new deposits; this year "we will see the market start to reward companies that have cash flow, production and reserve value," says Victor Flores, a gold-fund manager with United Services Advisers Inc., a San Antonio mutual fund company.

WRITE-DOWN ON PROJECT

An early casualty of gold's weakness is the Casa Berardi mine in Quebec. One of its owners, Toronto-based TVX Gold Inc., recently announced plans to shutter the mine, which eats up more than $350 an ounce in cash operating costs. The company said it will take an undetermined write-down on the project.

At five of the 22 largest U.S. mines, cash costs to produce gold are at or above $347.30 an ounce, the 39-month low that gold touched last week. At current prices "most mines are keeping their head above water, but the others will have to take cost-cutting measures, from stopping low-grade production to shutting the mine down," says John L. Dobra, an economist at the University of Nevada-Reno.

"CHALLENGING TIMES" AHEAD

About 10%-15% of the world's gold mining could be postponed if prices stay at current levels for a sustained period, says Jeffrey M. Christian, managing director of CPM Group, an industry consultant. World-wide, gold is produced at an average cash cost of $257 an ounce, says Gold Fields Mineral Services Ltd., a London industry research consultant. However, the total cost including capital expenditures comes to $315 an ounce, only about $40 an ounce lower than the current commodity price.

"Every company is looking very carefully" at cutting costs, says Leanne Baker, gold analyst for Salomon Brothers Inc. Companies are expected to reduce spending in exploration, administration and low-grade gold mining, which has a higher cost of production, analysts say.

Coeur D'Alene Mines has recently laid off 4% of its staff, halted all charitable donations and sold the company jet in an effort to make up lost profits. "We anticipate more challenging times ahead," says Mr. Wheeler, its chief executive.

Pegasus Gold Inc., a Spokane, Wash., gold concern that mines about 570,000 ounces a year, has also taken steps to survive in the new lower price range. The company recently announced it would reduce its exploration budget by about 20%, freeze senior-management salaries and delay construction on new gold projects in Montana and Chile until 1998.

"We looked at the current gold market and our cost structure, and we just needed to reduce spending," says John Pearson, director of investor relations for Pegasus. Mr. Pearson says the construction delay will shift about $100 million in capital spending to 1998, when the company will reassess the market. "Right now, the whole gold market is a negative environment; investor sentiment is weak," he says.

Lower gold prices have also hurt Echo Bay Mines Ltd., a Denver company struggling to increase its gold reserves and production. The company recently took a charge of $77 million after ripping up plans to develop its big Alaska gold project, Alaska-Juneau, and also canceled common-share dividend payments to conserve cash after a string of quarterly losses. Gold's recent nose-dive "made the economics that much more difficult" for the project, says Echo Bay's chief financial officer, Peter Cheesbrough.

While marginal projects and mines fall by the wayside, the price slide is also heating up the competition between mining companies for exceptional, higher-grade gold projects. Lower prices are expected to heighten the gold industry's consolidation. "We'll continue to see merger mania," predicts CPM Group's Mr. Christian.

Placer Dome Inc., a Vancouver, British Columbia, gold miner, is offering $4.5 billion in stock in a battle against Toronto-based Barrick Gold Corp. The price: Bre-X Minerals Ltd. of Calgary, Alberta, and its Indonesian Busang gold deposit. Bre-X says Busang could produce as much as four million ounces of gold a year at cash operating costs below $100 an ounce, compared with Placer Dome's cash costs of about $240 an ounce.

With Busang, Placer Dome could "rid themselves of their higher-cost, more risky mines," says Marc Cohen, a gold mining analyst at PaineWebber Inc. Indeed, if Placer Dome gets the Indonesian mine, the company says smaller projects in Mexico, Costa Rica or Australia could be shelved, especially if prices stay weak.

The deals have been getting bigger. Homestake Mining Co., San Francisco, and Newmount Mining Corp., Denver, both recently offered more than $2 billion in stock to acquire Santa Fe Pacific Gold Corp., which analysts say has a solid production and exploration profile.

Meanwhile, low gold prices are hurting most companies' results, especially relatively unhedged producers such as Echo Bay and Homestake, analysts say. Hedging involves using derivatives such as options and futures to lock in future revenue from gold.

Some companies were blind-sided by gold's fall. Montreal-based Cambior Inc. dropped its overall hedge position in 1996 to roughly one year's worth of production from the company's more traditional level of two years, says Henry Roy, Cambior's chief financial officer. Cambior's remaining hedge position leaves about 50% of the 500,000 ounces in annual output hedged at nearly $440 an ounce.

The PRESIDING OFFICER. The Senator from Nevada.

The Senator from Alaska is yielding to the Senator from Nevada such time as he might consume?

Mr. ROTH. Mr. President, I would be willing to informally agree that tomorrow there be 20 minutes equally divided prior to a vote.

Mr. REID. On this amendment.

Mr. ROTH. On this amendment.

Mr. BUMPERS. The distinguished floor manager is just suggesting to proceed as we were with the understanding there be 20 minutes equally divided tomorrow morning on this amendment.

That is essentially my unanimous consent request.

Mr. REID. Reserving the right to object, I would rather that Senator BRYAN proceed. That would give us an opportunity to speak and take about 10 minutes and then we would be happy to consider the unanimous consent request.

Mr. BUMPERS. Will the Senator repeat that?

Mr. REID. Senator BRYAN is going to speak for approximately 10 minutes. During that time, we have some procedural things we would like to discuss before we enter into a unanimous-consent agreement, because it may not be this amendment we will be debating. It may be a second degree.

Mr. BUMPERS. I understand you may offer a second-degree amendment this evening, and I certainly have no objection to that. I need to be gone from here for about an hour, and that is one of the reasons, I do not mind telling you, I am trying to get an agreement here so I will feel free to leave the floor for an hour. Perhaps we ought to just keep going here.

Mr. REID. Yes. I say to my friend from Arkansas, we will be real quick, and as soon as Senator BRYAN finishes we will work something out with the Senator.

The PRESIDING OFFICER. Who yields time?

Mr. BRYAN. Will the distinguished Senator from Alaska yield the Senator from Nevada 10 minutes? I believe I can do it in a shorter time.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. MURKOWSKI. We are not keeping time, I would advise my friend from Nevada. So I have yielded the floor.

Mr. BRYAN. I thank the Senator.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. BRYAN. I thank the distinguished Senator from Alaska, and I very much appreciate his statement, which I think effectively deals with the amendment that our friend from Arkansas has offered.

Let me preface my comments while the distinguished Senator from Arkansas is in the Chamber that he noted that at the end of this Congress he will not be a candidate for reelection and this will represent his last Congress as a Member of this body. I must say that I regret the decision of the Senator from Arkansas. He has a distinguished record of public service in his own State as Governor and as a Member of this body. I have been pleased to share common cause with him on many, many issues which I believe in his public policy pronouncements are correct for the country, and he, indeed, has been a visionary in some of the things he wishes to do.

I do not quarrel for one moment with his sincerity. I know the depth of his conviction and I know them to be deeply entertained. I believe, however, that the Senator's zeal for this issue has obscured some of the facts that I think important for us to understand before we follow the course of action that he would suggest to us.

First, I want to point out the importance of this industry to my own State and to correct what is oftentimes, because of an oversimplified presentation, an impression that is given that the industry pays no taxes. We hear this continuously in the course of the debate on the mining law of 1872.

According to the National Mining Association, the industry, coal and hard rock, paid more than $600 million in Federal taxes in 1995. The General Accounting Office issued a report recently—this is not a publication that emanates from the mining industry but a General Accounting Office report—that indicates the average tax rate for the mining industry from 1987 to 1992 was 35 percent. Now, that is compared with 23 percent for the automobile industry, 19 percent for the chemical industry, and 33 percent for the transportation industry. In Nevada alone, the gold mining industry paid more than $141 million in State and local taxes in 1995, including $32.7 million in property taxes.

So let no one who is listening to this argument be misled that the industry pays no taxes, that it is given a free ride. That simply is not true. The industry pays a substantial amount of taxes at the Federal level, at the State level, and at the local level.

This issue really is not about the depletion allowance. This is really the stalking horse for an issue which we have been debating for some years, and that is the mining law of 1872. There is no disagreement among Members that the mining law of 1872 needs to be updated and modernized. The industry recognizes that and is in agreement, and my colleague from Arkansas recognizes that. And there is, indeed, fundamental agreement on the general areas that need to be updated.

Let me just refresh my colleagues' memories and identify the issues. The industry acknowledges that a royalty needs to be paid, and they are prepared to pay a 5 percent net proceeds royalty.

Now, there is a difference as to how much the industry should pay, but there is a recognition on behalf of the industry that a net proceeds royalty tax is appropriate and the industry is prepared to pay that.

Second, there is a recognition that the mining law of 1872 needs to be changed, and those who gain access pursuant to the law of 1872 need to pay a fair market value for the surface estate, in addition to the royalty which I have just indicated. That is a second area of agreement, the fair market value.

Third, there is a fundamental recognition, if entry is gained as it is under the mining law of 1872 and there is no longer utilization of the land for that purpose, of the possibility of revert, allowing the Secretary of the Interior to revoke the authority and to reenter the lands at his discretion.

There is a recognition of the need to pay a permanent maintenance fee for every claim that is held on Federal lands, and that fee needs to be made permanent; that an abandoned mines land fund should be established, and that as part of that a reclamation requirement be imposed as well.

VISIT TO THE SENATE BY MEMBERS OF THE COLOMBIA NATIONAL SENATE

Mr. BRYAN. It is my understanding, Mr. President, that we are honored by the presence of dignitaries. I will yield the floor and simply ask unanimous consent that after their introduction, I might be recognized again for purposes of continuing my comments. If the Senate is agreeable to that, I will yield the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who seeks recognition? The Senator from Florida.

Mr. GRAHAM. Mr. President, first, I thank my good friend and colleague from Nevada for his generosity in allowing us to take a moment at this time to introduce some distinguished guests. I might say that Senator BRYAN visited Colombia in March of this year and I think came away with some of the same positive feelings about the country and the people that I share.

We are honored today to have visitors, members of the Colombia National Senate: First, Senator Luis Londono, the President of the Colombia National Senate; Senator Amilkar Acosta, the President-elect; Senator Luis Velez, Senator Carlos Garcia, Senator German Vargas, and Senator Luis Perez.

I present these members of the Colombia National Senate to the Members of the United States Senate.

I thank the Chair.

The PRESIDING OFFICER. The Chair thanks the Senator from Florida. We welcome our guests. We are delighted to have them here in America.

RECESS

The PRESIDING OFFICER. Without objection, the Senate will stand in recess for 3 minutes in order to greet our guests.

Thereupon, the Senate, at 7:43 p.m., recessed until 7:49 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. BROWNBACK].

REVENUE RECONCILIATION ACT OF 1997

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

AMENDMENT NO. 518

Mr. BRYAN. Mr. President, as I have indicated, there is broad agreement within the industry that the mining law of 1872 needs to be updated. There is agreement in those areas that have been identified as: 5 percent net proceeds royalty; the fair market value of the surface estate; that a reverter provision be provided so that in the event the property is no longer used for mining purposes, the Secretary of the Interior would have the right to reclaim the land for public purposes; that there be a reclamation requirement and a permanent maintenance fee as part of that reclamation. So, there is a broad agreement that the mining law of 1872 needs to be reformed.

In the context of this debate, the issue is not whether the mining law of 1872 should remain inviolate, unchanged and sacrosanct, it is a question of how it needs to be updated to reflect the realities of the latter part of the 20th century. In that respect, the mining industry has been engaged in a dialog, now, for the better part of the last decade. There is obviously disagreement as to the specifics. I am hopeful, before my colleague, the distinguished senior Senator from Arkansas, retires from this body, that we can indeed have an agreement on these issues and produce a piece of legislation that all of us can embrace.

Let me speak specifically to the provisions that are contained in the proposal of the Senator from Arkansas. He would, in effect, repeal the percentage depletion allowance as it has existed in the code, in one form or another, since 1913. A percentage depletion allowance is not, as the senior Senator from Arkansas suggests, a giveaway to the mining industry. Rather, it is a longstanding tax policy that recognizes the unique nature of the mining industry.

Congress has long recognized that the principal capital asset of a mineral producer is its mineral reserves, the ore body itself. These mineral reserves are classified as wasting assets. As the minerals are produced or sold, the mineral deposit from which they are taken is gradually exhausted. Indeed, that is the history of every mining exploration in the history of my own State. These ore bodies are not inexhaustible; they last for a finite period of time, and the tax law reflects the reality of those circumstances.

That was first recognized in 1913, when the Congress allowed a portion of the value of these assets or reserves to be deducted from taxable income to allow producers to replace that ore body, their wasting asset. So depletion is similar to the depreciation allowance for the use of physical properties. It is an allowance that allows an investor in natural resources to recover his capital outlay in the mineral through a depletion allowance to producers to simply level the playing field between those classes of taxpayers. So, although it is unique, its underlying premise, its principle is the same: to recognize that the asset is not inexhaustible, that it has a finite lifespan, and the Tax Code reflects that circumstance.

The capital investment necessary for modern mining is astronomical. It is not unusual to anticipate capital expenditures that will exceed $1 billion when opening a new mine. So the notion that somehow this land is turned over and immediately the next day the entrant is able to extract a large body of ore and make fantastic profits with no outlay, either in terms of ultimate tax liability or expenditures, simply is divorced from reality. Many explorations prove unsuccessful; that is, the quality of the reserves are simply unsustainable in terms of their economic feasibility. And that is a reality.

Many claims turn out to be unsuccessful because the mineral is not identified and cannot be located for purposes other than exploration. So the risks here in a mining operation are enormous. The Bumpers amendment would repeal the percentage depletion allowance for only those minerals obtained from land granted under the 1872 mining law. I think therein lies the true nature of the Bumpers amendment. This has little or nothing to do with tax reform. It seeks to punish the mining industry because Congress has been unable to reach an agreement on reforming the mining law of 1872. And that is patently unfair.

We recognize that reform needs to occur. The dialog continues. As I have indicated, I am hopeful that in this Congress it will be possible for us to achieve an agreement with respect to that reform.

Moreover, as the Senator from Alaska pointed out earlier, this industry is part, as other parts of our economy are, of a global competition. For us to remain competitive in America it will be very important for us not to impose a tax system that is viewed as so punitive as to discourage mineral exploration in its entirety.

I speak with some personal knowledge of the situation because, in my own State, we have gone through a series of mining booms. The origin of Nevada's history—born, as it was, during the Civil War—is a result of the first great mineral discovery in our State, the Comstock Lode, in 1859. That discovery, which brought thousands of people into what is now Nevada, laid the predicate for Nevada's admission to statehood. The mining industry was such an important part of the early economy in Nevada that the first attempt at statehood failed because of the way the State Constitution, as then proposed, contemplated the imposition of the tax on mining. So our heritage is linked to this industry, and the taxable implications are something that all of us in Nevada are very mindful of.

That mining boom lasted for a period of roughly 25 years. By the end of the century, the ore bodies having been depleted in the Comstock Lode, Nevada's mining industry was in a pronounced state of recession. It was resurrected ever so briefly during the period of World War I, and then declined at the end of that war. The modern period really began about 10 or 15 years ago, with the technology that makes it possible to recover microscopic particles of gold, so small, so minute that they are undetected by the human eye.

So this is an industry which has had a series of cyclical ups and downs. The suggestion of recklessly imposing this new tax structure is something that apprehends great fear for all of us in Nevada because of the sensitive nature of the industry and its transitory nature, based upon market circumstances as well as the ability to continue to locate new bodies of ore.

For Nevada and for America, it has been a good industry. It employs about 120,000 people in America. In my own State, it employs 15,000. And, as has been pointed out by the Senator from Alaska, if one looks at the pay scale of major industries in America, the average salary in mining is close to $46,000 a year, and in the context of the debate that we had earlier today about Medicare and Medicaid, and coverage of hospital and physician services, most mining companies provide a full range of insurance coverage for their employees and their dependents. So they have been good citizens with us in Nevada. And they have contributed immeasurably to the prosperity that we enjoy in Nevada.

In point of fact, Nevada produces more in the way of gold than any other State in the country. Indeed, if we were a separate country, we would rank internationally somewhere among fourth, fifth and sixth in terms of production worldwide. So this is a major industry with enormous significance to my State, that pays good money to good people. We are not going to allow that industry to be devastated by an improvident, zealous attack on the industry and the failure to properly consider what the impact of this would be.

Let me, by way of a concluding comment, indicate what kind of an administrative nightmare this provision would be. As I indicated a moment ago, this change would apply only with respect to those minerals that are recovered under public lands, under lands which were entered pursuant to the provision of the mining law of 1872. That suggests that a mining operation is finitely defined and that an operation that derives its origin from entry under the mining law of 1872 is a separate and distinct and discrete operation from that part of the operation in which the mining company may have acquired title to the property through private sale.

Indeed, if you look at the mining operations that currently exist in my own State, and if you look at the source of title or occupancy of those lands, you will find as many as five or six different derivative sources for the occupation and/or title or patent to those claims. So it would be an administrative nightmare in allocating this new system of taxation to a single operator on a single mine who is mining bodies of ore through different areas within a fairly confined area of a few of those acres. So it is totally impractical.

I hope my colleagues recognize that this is not the sort of thing we should do without giving due deliberation to the broader issue which will be discussed during this Congress and I hope will be resolved, and that is to deal with the update of the mining law of 1872. That is what this debate ought to be about, rather than a punitive approach which is taken in the proposed Bumpers amendment.

I hope, at the appropriate time, my colleagues will join us in rejecting this proposal and allow us to continue the debate with respect to reform during the course of this Congress.

I yield the floor.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER (Mr. ENZI). The Senator from Idaho.

Mr. REID. Will my friend from Idaho yield for a minute?

Mr. CRAIG. I yield.

Mr. REID. Senator BUMPERS is off the floor, but he asked if I would propound a unanimous consent request on his behalf. First of all, I suggest that the unanimous consent request will be that at the time debate is completed in the morning, a point of order will be raised against this amendment on the basis of germaneness.

Mr. CRAIG. Will the Senator from Nevada withhold for a moment? Staff has, I believe, comprised that unanimous consent request and will provide it to you.

Mr. REID. The one thing I ask, because he has been so patient here, is that the Senator from Illinois—he has been waiting here for several hours while we worked our situation out —would it be appropriate that he be allowed, as part of the unanimous consent request, to offer the next amendment?

Mr. CRAIG. We have to check with the floor managers.

Mr. President, while that is going on, let me reclaim my time and discuss the Bumpers amendment for a few moments.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I join the Senator from Alaska and the two Senators from Nevada in our commitment and belief that the 1872 mining law deserves to be reformed. These four Senators have worked for the last 4 to 5 years to bring responsible and sensitive reform to this old, but very important, law, a law that has served our country well on public lands that allows an individual to go forth to explore, to discover and to develop the mineral wealth of our country.

It is also important to recognize that this is a public resource, and there needs to be an appropriate balancing act in the effective utilization of a public resource and a return to the taxpayer of the value of that resource.

Because the 1872 mining law was really intended at a very early time in our country's history to be a development law that allowed growth and development primarily in the public lands of Western States, I, a Western Senator, along with the Senator from Alaska and the two Senators from Nevada as Western Senators, saw a need, along with a good many others of our colleagues, to provide good reform to this old law to allow the mining industry to go forth, to assure there would be a right to discover, a right to develop, but to do all of that in the context of sound environmental policy and, for the first time, to propose a royalty on hard-rock mining; also, to recognize that there was a surface value that is no longer there and an absolute sense of a need to develop western lands. So, therefore, there ought to be a market value placed on the surface rights that one gained as they gained title through the patenting process which allowed that public resource to go to private utilization.

But for 4 years, this administration has literally refused us the right to do that. This Senate passed mining law reform. It was in the budget reconciliation 2 years ago, and the President vetoed it. So for the Senator from Arkansas to stand on the floor this evening and say there has been no meaningful mining law reform isn't quite true. There has been a very aggressive effort on the part of this Senator; the Senator from Alaska, the chairman of the Energy and Natural Resources Committee; the Senator from Louisiana, now retired, Senator Johnston, who was the chairman of that committee; and, of course, the Senators from Nevada who understand the importance of mining, as I do, because it is a critical part of their economic base and the resource development in their State.

The Senator from Arkansas has another vision of mining. It is called nomining. For some reason, he believes that this is a source of wealth to the Treasury of this country, and when he sees millions of dollars invested, somehow he immediately equates that as millions of dollars returned to the Treasury, when the fact is that while money can be returned to the Treasury, it takes an average of $400 million to develop an operating mine today, to make sure it is in compliance with the Clean Air Act and the Clean Water Act, to make sure it meets the NEPA requirements, to make sure it is operated in a sound environmental way, while returning a profit to the company and to the investors that put up the nearly $400 million for that development.

Unlike other kinds of resources, minerals are not sold in Little Rock at a Little Rock value or Boise, ID, at a Boise value. They are sold in Little Rock or in Boise based on a world value, a world market, because gold and silver and iron, zinc and lead, and all of those kinds of things that make up the fundamental base of the industrial society that we enjoy are traded in a world environment.

When that price slips, so it slips at the mine. A mine that one year can be very profitable, the next year can be very unprofitable and can lose money. That has been and is the history of mining in our country. You talk about striking it rich, that happens in mining, but I also know a lot of miners who struck it poor.

A mining company in our State just a year ago called me and said they wanted me to know that they were shutting down a major mining operation in one of the counties in the State of Idaho. Why? After they had invested millions of dollars, their exploration didn't pan out to be quite what they thought it ought to be. Their drilling didn't determine the projections of the ore body that existed. So they were shutting it down and walking away and writing off millions and millions of dollars of cost in the development of a mill and a plant and a site and all of those necessary tools to bring that mineral out of the ground to the smelter in a refined way.

I say nothing new on the floor of the Senate tonight. I only bring current the 200-plus-year history of the mining industry of our Nation.

But reform is necessary, and this Senator, along with the Senator from Alaska—the two Senators from Nevada have just authored a new mining law reform approach. We sat down with the Senator from Arkansas and his staff to try to see if we could not build a bipartisan compromise. That hasn't happened yet, and we want that to happen. We believe in the reform.

But what the amendment of the Senator from Arkansas proposes tonight is not constructive. It doesn't add to the overall effort to build strong mining law for this country that allows continued development in an environmentally sound way, to build the resource and the wealth base of our Nation and to assure a domestic supply of minerals and metals.

It does quite the opposite. It goes directly at mining industries in this country, and it could very well render them marginal and, in some instances, less than profitable. When that happens, the mining industry doesn't stay around. It very quickly closes its doors and the average job of $46,000 a year goes wanting, and that mining industry goes to Peru or to Chile or to Colombia or to Ecuador or to Mexico to build the wealth base of those countries and to deny us the $100 billion industry that we have here.

I don't think that makes good sense. I never have. And I can't understand the thinking of the Senator from Arkansas in that regard, other than he just appears to have it out for the mining industry.

In my State, it is an important industry. Nationwide, it is tens of thousands of very high-paying jobs, and there is no question that this industry contributes a great deal to our country and hundreds of millions of dollars to the economy on an annualized basis.

The mining industry already pays taxes. Somehow, because they are able to patent public resources and then develop them, the Senator from Arkansas suggests they pay nothing, they "get a free ride." That one example on the bottom line of the chart of the Senator from Arkansas is an Idaho-based operation. There may be a billion dollar's worth of reserves in the ground, but that operation isn't operating today. They are not functioning, and the reason they are not is that they are not current in the economy of the marketplace. They may have invested millions of dollars, and they may have paid the Federal Government through the process of the $2.50 an acre surface value in the patenting process, but they are not returning any money today, and their mine sits idle. That is not unusual. That is the way the mining industry works. That is the way it has always worked. My guess is it won't change.

The mining industry already pays an average in Federal taxes at 32 percent, according to the General Accounting Office. Because of the corporate alternative minimum tax, they currently pay a very high rate. But the Senator from Arkansas says, "Whoop, that's not good enough, stick them again 8 to 10 percent." So we get them up to 42 percent. Why do you want to pay 42 percent on your income flow if you can move across the border and pay less? That is exactly what has happened. The Senator from Alaska and the Senators from Nevada spoke very clearly about that in their past statements. The exodus out of this country of the mining industry and the jobs and the expertise and the engineering that flows with it is a tragedy to which we shouldn't contribute.

So I hope that Senators will recognize that we shouldn't be legislating more in relation to this tax bill that we have before us. This comes outside of the agreement. We have worked very hard, and, I must say, the chairman and the ranking minority member of the Finance Committee have done what I think is an excellent job in working to stay inside an agreement that the leadership of the Senate and the House and the President struck as it related to revenue and tax relief.

Tax relief ought to be creating jobs, it ought to be promoting economic development, it ought to be growing our economy instead of shrinking it, instead of destroying thousands of jobs that I believe this kind of legislation and the Bumpers amendment would accomplish.

I have before me a chart that talks about the combined direct and indirect contribution of the metals mining industry to the economy of the individual States of this Nation. I could go through that, but here is the bottom line, Mr. President.

The bottom line is $134,378,000,000 a year. Is that in the pocket of some mining executive? Absolutely not. It is in the work force of Caterpillar equipment in Illinois. It is spread across the country in the supplies and the direct and indirect services that provide for the mining industry. It is in the chemical industry of Delaware.

I am amazed, but I look down here and see that in Connecticut alone is $1,792,000,000—Connecticut—directly attributable to the mining industry of the country. I did not know there was a mine in Connecticut. Well, there probably is not, but there are major corporate headquarters and there are suppliers, and those suppliers create jobs.

Of course, when you have a broad-based industry like metals and mining, all States benefit. Literally every State in the Nation has nearly $100 million or more in value of directly associated or related jobs to the metal and the mineral industry of our country.

That is why we should not be stepping forward in some form to destroy it. We ought to be promoting it. Most importantly, the Senator from Arkansas ought to be working with the Senators from Nevada and from Idaho and from Alaska to get reform that we all want so that the mining industry of the country can know the ground on which it operates and the law to which it must comply. That is what we ought to be about.

So I hope that tomorrow when we vote on the Bumpers amendment, we can vote it down, recognizing that when we deal with reform in the mining industry, let us deal with it in a comprehensive way in the appropriate authorizing committee with the hearings that are necessary to make sure that what we do fits so that we do not wound an industry that has provided for us well and that continues to employ tens of thousands of people across our country and provide well over $100 billion annually to the wealth base of this country. That is the issue.

I yield the floor.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I ask through the Chair to the manager of the bill, is the unanimous-consent request now ready to be propounded?

Mr. ROTH. No. We are still waiting for clearance on the Democratic side.

Mr. REID. Mr. President, the chairman of the Energy and Water Committee entered into the RECORD this evening a news article that was printed earlier this year in the Wall Street Journal. The news article says a great deal about the debate that is taking place here tonight.

We can talk about all the jobs that mining produces—and there are over 100,000 of them in the United States alone—we can talk about all the direct and indirect income that it generates for States, but the most important thing that I think brings this in proper perspective is to look at what is happening to mining today.

"Gold-Mining Firms Act to Meet Price-Slump Challenge."

The price of gold has dropped precipitously. The price of gold is low. As indicated in this article, "[Mining Companies] Reduce Costs, Scratch New Mines, With No Quick Relief in Sight."

The article says, among other things:

> Mining companies are slashing costs and tearing up plans for new mines as the price of the precious metal continues to slide to three-year lows. . .[the prices] plunged to $353.40 an ounce . . . The skidding price is enough to turn many high-cost mines into money-losing duds and spoils the economics of many planned projects.

Dennis Wheeler, chairman and chief executive officer of Coeur D'Alene Mines, which is headquartered in Coeur D'Alene, ID, says, "No question, * * * you will see fewer new gold mines."

This is a quote from this article.

> Gold prices have been pushed downward by slumping investment demand and the fear of increasing supplies from central banks.
>
> At [least] five of the 22 largest U.S. mines, cash costs to produce gold are at or above $347.30 an ounce. . .

What this means, Mr. President, is that the cost of gold is not enough to meet the costs of producing the gold. That is why in Nevada you have seen companies laying off people. That is why you have seen mines going out of business. At this stage they have been the small operations, but the big ones are going to come unless something happens to raise the price of gold or to cut costs, or both.

> Coeur D'Alene Mines has recently laid off 4% of its staff, halted all charitable donations, and [as Mr. Wheeler said] . . . "We anticipate more challenging times ahead."

And that, Mr. President, is an understatement.

Pegasus Gold is a substantial company based in Spokane, WA. They have operations in the State of Nevada. They mine over half a million ounces of gold a year. But they have taken steps to survive in the new lower price range, or trying to survive.

> The company recently announced it would reduce its exploration budget by about 20%, freeze senior-management salaries and delay construction on new gold projects in Montana . . .

Echo Bay Mines, a Denver-based company has operations in the State of Nevada, among other places. Lower gold prices have also hurt Echo Bay, causing its gold reserves to go down.

> The company recently took a charge of $77 million after ripping up plans to develop its big Alaska gold project [in] Alaska-Juneau . . .

Now, I say, Mr. President, this is only a little example. So $77 million they spent before they turned a single spade of dirt.

A little operation outside the town of Searchlight, NV, where I was born, still maintain my residence—that operation took about $100 million before they could do any mining. It is a relatively small operation.

Echo Bay:

> . . . also canceled common-share dividend payments to conserve cash after a string of quarterly losses.

Many, many gold companies are suffering the same fate as the few of these that I have referred to out of this article.

Gold mining companies are having real difficulty. As has been indicated already on the floor, the General Accounting Office has indicated that gold companies now—the mining industry now—is paying about a 32 percent effective tax rate. Now, if this goes up, as indicated by my friend from Idaho, they will be out of business in a large scale.

This amendment, Mr. President, would create an administrative nightmare for the Department of the Interior. For example, the origin of the claims and lands currently being mined, they could not be tracked, or if they could it would be extremely difficult. Often these claims have been owned and conveyed at arm's-length transactions.

How do you go back and effectuate this depletion allowance that he wants to dispose of? Many properties are obtained through a variety of ways other than the 1872 mining law. Remember, they have been mining in the State of Nevada since the 1840's. Many claims were filed prior to the 1872 mining law.

Mining companies often put together their operation from private property acquired through laws, both State and Federal.

How would we keep track of ore on a property that has several different property origins? The depletion allowance would apply to a shovel of ore for one location but not to a shovel of ore identical to that just 10 feet away.

In principle, there is little difference between allowing mineral producers a depletion allowance and allowing a manufacturer to depreciate a plant and equipment.

In the process of manufacturing, the manufacture's equipment requires replacement.

Therefore, a depletion allowance for mineral producers a simply levels the playing field between these classes of taxpayers.

Again this amendment unfairly targets the western mining industry.

This amendment is an attempt to do mining law reform, and this is not the place or time for such an effort.

If this Congress wants to rewrite the current mining law then it should begin in the Energy and Natural Resources Committee, not on the Senate floor tonight.

The Bumpers amendment proposes to eliminate the percentage depletion for non-fuel minerals.

This amendment to eliminate Percentage Depletion is an ill-conceived and ill-advised attempt to circumvent congressional efforts to reform current mining law.

The U.S. mining industry has long agreed that the mining law is due for an overhaul.

Serious efforts to accomplish such a result have taken place over the past several years.

Legislation has reached the President's desk that would have, among other things, imposed significant royalties on minerals produced from new mines developed on Federal lands.

The administration has never sought to develop compromise legislation that reforms the mining law.

This amendment is simply another attempt to attack the industry on yet another front.

The capital investment necessary for modern mining is astronomical.

It is not unusual to anticipate capital expenditures well in excess of $1 billion when opening a new mine.

With the repeal of the investment tax credit, the extension of depreciable lives, and the imposition of the alternative minimum tax, the tax burden on the U.S. mining industry is significant and burdensome.

The most recent GAO report on the subject indicates that the mining industry is currently paying a 32 percent effective tax rate.

It is estimated by the State of Nevada that this proposal would result in the following: 2,300 jobs; $220 million in economic output; and $68 million loss in household earnings.

The PRESIDING OFFICER. The Senator's time and the opposition's time has expired.

Mr. REID. There is no time. There is no time.

The PRESIDING OFFICER. On a reconciliation bill there is an hour.

Mr. REID. Oh, all time is gone? That is fine.

Senator BUMPERS left anticipating that there would be a unanimous-consent request entered. I certainly want to do that before I leave today, if at all possible.

Mr. ROTH. Mr. President, I ask unanimous consent that at 9:30 a.m., on Thursday, there be an additional 20 minutes for debate equally divided between Senator MURKOWSKI and Senator BUMPERS, and immediately following that debate time, Senator MURKOWSKI be recognized to raise a point of order against the Bumpers amendment; and further, immediately following a motion to waive, the Senate proceed to a vote in relation to the Bumpers amendment; to be immediately followed by 20 minutes of debate equally divided in the usual form prior to a vote on or in relation to the Dorgan amendment No. 517; to be followed by 10 minutes of debate equally divided in the usual form on the Dorgan motion to refer, with Senator ROTH being recognized to raise a point of order against the Dorgan motion to refer; and, further, immediately following a motion to waive, the Senate proceed to a vote in relation to the Dorgan amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. DURBIN. I ask unanimous consent that Anne Marie Murphy of my staff be accorded floor privileges during the consideration of S. 949.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 519

[Purpose: To increase the deduction for health insurance costs of self-employed individuals, and to increase the excise tax on tobacco products]

Mr. DURBIN. Mr. President, I would like to present an amendment for floor consideration.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

The clerk will report.

The bill clerk read as follows:

The Senator from Illinois [Mr. DURBIN], for himself, Mr. DORGAN, Mr. DASCHLE, and Mr. HARKIN, proposes an amendment numbered 519.

Mr. DURBIN. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 267, between lines 15 and 16, insert the following:

SEC. 780. DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS INCREASED.

(a) IN GENERAL.—Section 162(l)(1) (relating to special rules for health insurance costs of self-employed individuals) is amended to read as follows:

"(1) ALLOWANCE OF DEDUCTION.—In the case of an individual who is an employee within the meaning of section 401(c)(1), there shall be allowed as a deduction under this section an amount equal to the amount paid during the taxable year for insurance which constitutes medical care for the taxpayer, the taxpayer's spouse, and dependents.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1996.

On page 337, beginning with line 14, strike all through page 339, line 15, and insert the following:

(a) CIGARETTES.—Subsection (b) of section 5701 is amended—

(1) by striking "$12 per thousand ($10 per thousand on cigarettes removed during 1991 or 1992)" in paragraph (1) and inserting "$27.50 per thousand", and

(2) by striking "$25.20 per thousand ($21 per thousand on cigarettes removed during 1991 or 1992)" in paragraph (2) and inserting "$57.75 per thousand".

(b) CIGARS.—Subsection (a) of section 5701 is amended—

(1) by striking "$1.125 cents per thousand (93.75 cents per thousand on cigars removed during 1991 or 1992)" in paragraph (1) and inserting "$2.531 cents per thousand", and

(2) by striking "equal to" and all that follows in paragraph (2) and inserting "equal to 28.6875 percent of the price for which sold but not more than $67.50 per thousand."

(c) CIGARETTE PAPERS.—Subsection (c) of section 5701 is amended by striking "0.75 cent (0.625 cent on cigarette papers removed during 1991 and 1992)" and inserting "1.69 cents".

(d) CIGARETTE TUBES.—Subsection (d) of section 5701 is amended by striking "1.5 cents (1.25 cents on cigarette tubes removed during 1991 or 1992)" and inserting "3.38 cents".

(e) SMOKELESS TOBACCO.—Subsection (e) of section 5701 is amended—

(1) by striking "36 cents (30 cents on snuff removed during 1991 and 1992)" in paragraph (1) and inserting "$1.9933 cents", and

(2) by striking "12 cents (10 cents on chewing tobacco removed during 1991 or 1992)" in paragraph (2) and inserting "75.33 cents".

(f) PIPE TOBACCO.—Subsection (f) of section 5701 is amended by striking "67.5 cents (56.25 cents on pipe tobacco removed during 1991 or 1992)" and inserting "$1.5188 cents".

(g) IMPOSITION OF EXCISE TAX ON MANUFACTURE OR IMPORTATION OF ROLL-YOUR-OWN TOBACCO.—

(1) IN GENERAL.—Section 5701 (relating to rate of tax) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) ROLL-YOUR-OWN TOBACCO.—On roll-your-own tobacco, manufactured in or imported into the United States, there shall be imposed a tax of 81 cents per pound (and a proportionate tax at the like rate on all fractional parts of a pound)."

Mr. DURBIN. Mr. President, simply put, this amendment which I have offered asks that we move toward more equitable tax treatment for the self-employed with respect to the deductibility of their health insurance premiums within this budget process. I believe this issue enjoys wide support among my colleagues in the Senate.

I would like to draw my colleagues' attention to a letter which has been sent to the Senate Finance Committee signed by over half of the membership of this body. A total of 53 Senators have urged that there be movement in this legislation toward the equitable treatment for the self-employed with respect to the deductibility of health insurance premiums.

Today, I would like to reaffirm our commitment to helping the self-employed afford health insurance and receive parity with their corporate competitors who can already deduct 100 percent of their health insurance premiums by passing this amendment.

Let me say at the outset, the term "self-employed" is a term of art used in the Tax Code but for those who are following the progress of this debate, they may be interested in the people who fall into the category of the self-employed. Those would include, of course, entrepreneurs, small business people, family farmers and the like. It is the fastest growing segment of the American economy.

More and more people are starting businesses. More and more people aspire to own their own businesses. More and more women are getting involved in entrepreneurial endeavors. So this amendment addresses a problem which exists and one which can only become worse as more people get into self-employment categories and still do not enjoy the same positive tax treatment as corporations and their employees.

There are over 23 million self-employed in the United States today. Unfortunately, over 5 million of these people have no health insurance. The rate is higher for self-employed people than the rate for salaried and waged workers. On the average, salaried and waged workers have only 16.8 percent of their membership uninsured, as against 25 percent of the self-employed that are uninsured.

The simple fact of the matter is there is a 50 percent higher likelihood that a person is uninsured—without health insurance—if they are self-employed, as opposed to being a salaried employee. Not only are the self-employed less likely to have health insurance, but those that do pay on the average 30 percent more for their health insurance premiums. They do not have access to group health insurance. They pay some of the highest rates in the Nation.

For those who follow closely the National Federation of Independent Businesses, which as I understand it is the largest organization of small businesses in America, they might be interested to know that when their membership was surveyed nationwide last year and asked their No. 1 issue for Washington, it was not capital gains; their No. 1 issue was the cost of health insurance. When I traveled across Chicago last year and met many entrepreneurs and small business people, I asked them the challenges they face, and time again they said, it is such a great concern to us and to our families that once having left the protection of a group health insurance plan and having moved into self-employment, into small business, or in many cases to family farms, they found themselves unable to afford health insurance.

I can recall a telephone call to my congressional office, when I served in the House. A woman called when she heard of my interest in this issue and said, "I want to tell you my family story." It is one that is repeated many times on farms across America. She said, "I was at home as a farm wife raising our children, raising the family. Then I decided I had to go to work in town." She said to me, "Congressman"—I was a Congressman—"Congressman, the reason I work is because the salary I earn pays for two things: Day care for my children, which otherwise I would take care of at home, and the premiums for health insurance for our farm family." That story is repeated many times over, across the United States, where people are struggling to come up with the resources to be able to afford health insurance.

Currently, the self-employed in America may only take a tax deduction of 40 percent for the cost of health insurance premiums. However, corporations and their employees enjoy a full 100 percent deductibility. This is not fair.

I once asked some of the older Members of the House who had been around during many, many years of debate on tax bills why this disparity existed, why would we take one group of Americans working for businesses and give them full deductibility of health insurance, and say to self-employed people, you can only deduct 40 percent. I was certain there had to be some rationale behind this dichotomy. I spoke to Sam Gibbons, now retired Congressman from Florida, who served on the House Ways and Means Committee for many years. He said there is no good explanation for it. It came about sometime after World War II when corporations and unions asked for this advantage and it was given to them. The self-employed did not speak out. Health insurance was not a major issue, and as a consequence this dichotomy, this divergence in the deductibility of health insurance became enshrined in law.

Scheduled increases in current law for the deduction of the self-employed will slowly, slowly increase from the current level to 45 percent by 2002. We are talking about waiting 5 years for it to go up 5 percent more for deductibility, and then even by 2006, almost 10 years from now, under current law the deductibility for self-employment will only be 80 percent—never reaching 100 percent deductibility of a corporation or big business. That is a very long time for self-employed people to wait.

We should make progress on this issue on increasing deductibility this year within this budget package. Farmers and many other hard-working, self-employed individuals, including many women who recently started small businesses in record numbers, deserve help in this area, sooner rather than later.

You might take into consideration this fact: Of the 10 million uninsured children in America today, 1.3 million of them live in families where there is at least one parent who is self-employed. These children comprise approximately 13 percent of all uninsured children. So for these families, for the breadwinners who own the small businesses, for the family farmers and for their children, this is a very critical amendment.

Now, the obvious question to be asked of myself and others who come to the floor with changes in the Tax Code is this: How are you going to pay for it? How will you provide the resources to offset the cost of giving this new deduction to the self-employed? I will tell you, upfront, we raise the tobacco tax, the Federal tobacco tax.

The current cigarette tax is 24 cents per package. The current tax on smokeless tobacco is about 2.7 cents, for snuff; and 2.3 cents for a pouch of chewing tobacco. This bill increases the cigarette tax by 20 cents per pack to 44 cents. That is the bill that comes out of the Senate Finance Committee. It increases the tax on smokeless tobacco products by the same 83 percent. That will raise the tax to around 5 cents for snuff, 4.2 cents for chewing tobacco.

The amendment I offer to provide the deductibility, full deductibility for health premiums for the self-employed, is paid for by adding about 10 cents to the tax on cigarettes, about 10 cents, a tax—maybe a fraction higher that might be necessary to make certain that it meets this budgetary requirement. Ten cents, 10 pennies for a person buying a package of tobacco.

What will we buy as a Nation for these 10 pennies? We will buy protection for millions of Americans who today do not have it, health insurance that they can afford, giving them fair treatment under the Tax Code, saying to people who buy tobacco products you will pay a few pennies more for those products. We, as a Nation, will see great benefit coming to many families and many children across America.

We are waiting for a formal revenue estimate from the Joint Tax Committee. We have been in negotiation with them. We are told that the amount of the tax on a package of cigarettes may be slightly over 10 cents, but we are in this range of between 10 and 11 cents.

What happens when you raise the price of a package of cigarettes, as this bill does, by 20 cents already? Fewer children buy them. As you make tobacco products more expensive, kids stay away. Now, isn't that a good idea? Don't we all agree that to have 3,000 children start smoking for the first time every day in the United States is a bad idea? Shouldn't we discourage this addiction of our children? I think we all agree on that. I think even the tobacco companies have come to acknowledge that they are a major part of the problem that we have today in addiction to nicotine and tobacco.

In addition to taking care of a lot of children who are uninsured and a lot of self-employed and their families by increasing the tax on tobacco products slightly, by 10 cents or a few fractions beyond that, we will discourage children from using tobacco products. Is that a critical problem in our country? I think we all know that it is. Teenage smoking in America has risen by nearly 50 percent since 1991.

I will close with just a few brief remarks about the sales tax and just say to my colleagues it would be foolish, foolish, for us to ignore the reality that tobacco taxes are going to increase. We have asked for a survey of State existing tobacco taxes as of today. What are the taxes in each State imposed by those States and their legislatures on tobacco products? I say to my friends and colleagues if you will take a look here, you will see that more and more State legislatures are dramatically increasing tobacco taxes as a source of revenue.

For example, let me give you a few. In the State of Hawaii, the State cigarette tax will go from 60 cents to 80 cents in just a few weeks. In the State of Maine, the cigarette tax is going to double from 37 cents to 74 cents by the end of the year. In the State of Alaska, the tax rate on cigarettes and tobacco products will move from 29 cents to $1 dollar by the end of the year. In the State of Utah, from 26½ cents to 51.5 cents. State legislatures understand this is a good source of revenue. The Senate Finance Committee understood that when it added a 20-cent tobacco tax.

So I ask my colleagues to seriously consider a very minor increase of about 10 cents a pack to tobacco and measure it against what we will win as a Nation. We had this long debate a few years ago about universal health care. I certainly believe in it and subscribe to it. We did not finish that debate with a work product that achieved results. I hope with this amendment, though, we can move forward on the path toward moving more people into the protection of health insurance. The 5 million uninsured self-employed people deserve that type of protection. Those self-employed and their children will benefit greatly from this amendment.

I know that this may be a tough amendment for the Senate Finance Committee. I have watched the course of this debate over the last couple of days and it is clear that they do not always warm up to suggestions of change. Maybe this time there might be an exception. Maybe with the bipartisan support of some 53 Senators, the members of the Senate Finance Committee, the leadership, might consider this amendment. It is one which would greatly enhance the tax package which they offered.

I yield back the floor and offer my amendment.

AMENDMENT NO. 520

(Purpose: To provide for children's health insurance initiatives)

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, I now send to the desk the amendment that was reported out by the Finance Committee regarding the children's health insurance initiative. This amendment provides $8 billion over 5 years for children's health insurance coverage.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Delaware [Mr. ROTH] proposes an amendment numbered 520.

Mr. ROTH. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

AMENDMENT NO. 521 TO AMENDMENT NO. 520

(Purpose: To improve the children's health initiative)

Mr. ROTH. I now send to the desk a second-degree amendment pursuant to the order of the Senate agreed to today which incorporates the provisions of the Roth and Chafee amendments on the children's health initiative.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Delaware [Mr. ROTH] proposes an amendment numbered 521 to amendment No. 520.

Mr. ROTH. I ask unanimous consent that the reading of the amendment be dispensed.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. ROTH. I ask the Chair this question: Do I understand correctly that the second-degree amendment which I offer is by virtue of today's order of the Senate considered adopted?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROTH. Mr. President, I ask unanimous consent to lay it aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 519

Mr. DURBIN. Mr. President, might I inquire of the chairman of the Senate Finance Committee, can we reach some agreement about debate that will be allowed on my amendment tomorrow when it is considered?

Mr. ROTH. I have to tell my good friend, no, we cannot agree at this time.

Mr. DURBIN. So under the rules would the amendment automatically be considered tomorrow or subject to any debate?

Mr. ROTH. It could come up tomorrow but we cannot limit debate at the present time.

Mr. DURBIN. My current understanding, I have 43 minutes left on the debate on this amendment and the opposition has 59 minutes as we have concluded debate this evening?

The PRESIDING OFFICER. The Senator is correct.

Mr. FORD. Would the chairman give me a couple of minutes to make a statement as it relates to the Durbin amendment?

Mr. ROTH. Two minutes?

Mr. FORD. Two minutes.

Mr. President, no one here in the Chamber is opposed to helping children. We have tried our best over the years, and we are trying our best now. It seems like every time you want some money you go to tobacco. We have had Senators from the other side of the aisle that voted against tax on tobacco or any other excise tax because they thought that was the prerogative of the State, and the Senator from Illinois just laid out how much additional tax is going on. So we have a negotiated agreement that people are getting something they never thought they would be able to get. We have to get that through Congress.

Now, if we had 10 cents from this committee, and 20 cents there, and 43 cents tomorrow, we have killed the agreement and there is no way the income can equal the projection because with a dollar additional on a pack of cigarettes we lose 20 percent of production and have a 20 percent reduction.

We are trying to get in this package reduction of teen smoking or underage smoking. We have a criteria there if they do not do it, they pay more money. Yet we are putting it where they cannot do that.

I say to my friends, I am from a tobacco State, absolutely, and I plead guilty to that. I am going to represent them the best I can, but pile on, pile on, pile on—you are not going to have any money left. The States won't be able to get any money and their budgets will be behind, our projections will not reach that total, we will be behind, so everybody piles on tobacco.

I hope you will take a step back with all these crocodile tears I see around here. I understand those. But there is some point where we have to meet reality, and reality is do you want to complete a job that is started or do you want to do something that will unbalance this budget within a very short period of time.

I thank the Chair, and I thank the Senator for allowing me the time.

The PRESIDING OFFICER. The Chair recognizes the Senator from Illinois.

The PRESIDING OFFICER. Who yields time?

Mr. ROTH. How long would the Senator from Illinois like?

Ms. MOSELEY-BRAUN. Five minutes.

Mr. ROTH. I yield 5 minutes to the distinguished Senator from Illinois.

Ms. MOSELEY-BRAUN. Mr. President, I am the first woman in history to serve on the Senate Finance Committee, and I have been just delighted to work with the chairman and his staff and my ranking member, Senator MOYNIHAN. They have been accommodating, they have been supportive and they have listened. And I have to say that this was the third occasion that I have had to work on a tax bill. While the tax bill did not result as I would have written it, at the same time, I can think of no better group with which to work than the members of the Senate Finance Committee and, particularly, its leadership.

Mr. President, I want to share a few preliminary thoughts about the tax bill. I intend to file an expanded statement at a later time. At the outset, I want to say that I intend to vote for this bill. It was worked on by the committee. We worked hard on behalf of the goals of achieving a balanced budget. We worked hard on behalf of achieving an opportunity for the American people to focus their resources in the most productive way for our economy as a whole.

When I came to Congress, my overarching goal was to create a more fiscally responsible environment, a better fiscal environment for our children. We needed to reverse the trend to borrow, to pay for things now, at the cost of having our children pay back our debts and foreclosing their options and opportunities. Even though it caused some consternation, I supported a balanced budget amendment precisely because I believe that we have an obligation to prepare and to make it easier for our children than our parents left it for us. I believed that we had to ensure that we do not leave our children in greater debt than our parents left to us.

So my main focus in coming here to Congress was to focus in on getting some order about our fiscal house, reducing the deficit, and actually beginning to create the framework in which our economy can go forward, and the strength that not having this burden of debt would have given it. For that reason, I also took the position that it was not time yet for us to go into providing for tax cuts, that we needed to restrain our desire to cut taxes until such time as our fiscal house was in order. Deficit reduction should have been our goal as a matter not only of our fiscal responsibility, but of generational fairness. And so I started off with that proposition from the very beginning.

In 1993, the first year I was here in the Senate, I voted for the budget that President Clinton submitted that began the path toward deficit reduction. Since that bill, which was very controversial at the time—I remember people calling it the "biggest tax increase in history," even though it only increased taxes on the very top wage earners or top income earners in our country. It was very controversial at the time. In fact, in the election that followed, a number of people lost office because people thought they had sent our country on the wrong fiscal path.

However, that bill has proved, I think, over time, to be the jump-start that this economy needed in order to give rise not only to the booming stock market and booming economy that we have seen, but the deficit reduction that we have seen. Since the time of that vote, the deficit has gone from about $290 billion—almost $300 billion—to $65 billion this year. Now, without a tax cut, we could have retired our debt entirely before the year 2002. While it is a fact that some of the economists argue that we don't need to worry about deficits and we don't need to retire our debt, at the same time, I think there is an expectation from the American people that we would do everything we could to get that done in as timely a fashion as possible. Reducing the deficit would have had the effect of lowering interest rates and would enable us to provide even larger tax cuts, once we have paid all our bills. But that is not the case at this time. There is consensus for cutting taxes this year—a budget deal that explicitly tailored the amounts of net tax cut and outlays with some specific parameters.

So since there is consensus on the tax cut that came out of the Budget Committee, and that is the direction we have been ordered to take in the Finance Committee, I believed that the tax cut given should be targeted to provide the maximum benefit to relieve families of the tax burden that they have to carry. Unfortunately, this bill only partially meets that goal.

The problem, as I see it, and my one sadness about what we have seen here, is that this tax bill is not progressive. To make the bill progressive, the distribution of the tax cuts should allow the largest portion of the tax cut to go to the greatest number of families. This is simply community fairness. Unfortunately, this bill still allocates the largest amount of the tax cut to the fewest number of Americans instead of the other way around.

This bill allows some 22 million American families to receive almost $40 billion in tax cuts, while 88 million families receive only about $20 billion from this tax cut. The average tax cut that will be received by families making less than $17,000 a year will be about $12. Families with incomes of less than $33,000 a year will receive an average of $64 from this tax cut. Families with incomes of less than $55,000 will receive an average $274 from this tax cut. Families earning less than $94,000 will receive an average of $583 from this tax cut. However, if you go beyond that, families with incomes above $94,000 will receive an average of $1,789 from this tax cut.

In short, Mr. President, the 22 million Americans making over $100,000 will receive 65 percent of the tax cut here, while the 88 million people earning under $100,000 will receive about 34 percent of the tax cut.

Now, there is no question that tax cuts are always popular. Many of the tax cuts which give rise to this result are popular, particularly the estate tax, capital gains reduction, and IRA expansion. But it seems to me that just based on sheer numbers, working class people should have fared better. Even though we tried to remedy some of these issues, we were not successful. Senator ROCKEFELLER and I, for example, tried to remedy the effect of the $500-per-child tax credit; nonetheless, a majority of the working poor will be excluded from the largest part of this bill.

Well, Mr. President, I have taken up my 2 minutes. I thank the chairman for his indulgence. I want to point out that, as we direct these issues of tax policy, we should be mindful that, if we really care about family values, about our total community, we need to have tax fairness as a guiding principle in our deliberations, with the greatest benefit going to the greatest number. It seems to me that what ought not to guide our deliberation is just what sounds good or what is politically popular or easy to do. We could have done a better job with this tax bill. I know the chairman tried and the ranking member tried; we all tried. This bill is a better bill than the House bill by a long shot. But, at the same time, I hope as we go into conference, we will be mindful that there are an awful lot of working people and families out there who need our help, and we have an opportunity and an obligation to give it to them.

Thank you, Mr. President. I thank the chairman for his indulgence.

I yield the floor.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the pending amendment be temporarily laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 522

(Purpose: To provide for a trust fund for District of Columbia school renovations)

Mr. JEFFORDS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Vermont [Mr. JEFFORDS] proposes an amendment numbered 522.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning on page 168, line 8, strike all through page 174, line 19, and insert the following:

"SEC. 1400B. TRUST FUND FOR DC SCHOOLS.

"(a) CREATION OF FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Trust Fund for DC Schools', consisting of such amounts as may be appropriated or credited to the Fund as provided in this section.

"(b) TRANSFER TO TRUST FUND OF AMOUNTS EQUIVALENT TO CERTAIN TAXES.—

"(1) IN GENERAL.—There are hereby appropriated to the Trust Fund for DC Schools amounts equivalent to the revenues received in the Treasury from the applicable percentage of the income taxes imposed by this chapter after December 31, 1997, and before January 1, 2003, on individual taxpayers during their residency in the District of Columbia.

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the term 'applicable percentage' means the percentage necessary, as determined by the Secretary, to result in revenues equal to the net losses in revenues to the Treasury that would have occurred during the period beginning after December 31, 1997, and before January 1, 2003, if the section identified as section 1400B of the Internal Revenue Code of 1986 as added by section 601 of S. 949, 105th Congress, as reported by the Committee on Finance of the Senate, had been enacted.

"(3) TRANSFER OF AMOUNTS.—The amounts appropriated by paragraph (1) shall be transferred at least monthly from the general fund of the Treasury to the Trust Fund for DC Schools on the basis of estimates made by the Secretary of the amounts referred to in such paragraph. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

"(c) EXPENDITURES FROM FUND.—

"(1) IN GENERAL.—Amounts in the Trust Fund for DC Schools shall be available, without fiscal year limitation, in an amount not to exceed $70,000,000 for the period beginning after December 31, 1997, and ending before January 1, 2008, for qualified service expenses with respect to State or local bonds issued by the District of Columbia to finance the construction, rehabilitation, and repair of schools under the jurisdiction of the government of the District of Columbia.

"(2) QUALIFIED SERVICE EXPENSES.—The term 'qualified service expenses' means expenses incurred after December 31, 1997, and certified by the District of Columbia Control Board as meeting the requirements of paragraph (1) after giving 60-day notice of any proposed certification to the Subcommittees on the District of Columbia of the Committees on Appropriations of the House of Representatives and the Senate.

"(d) REPORT.—It shall be the duty of the Secretary to hold the Trust Fund for DC Schools and to report to the Congress each year on the financial condition and the results of the operations of such Fund during the preceding fiscal year and on its expected condition and operations during the next fiscal year. Such report shall be printed as a House document of the session of the Congress to which the report is made.

"(e) INVESTMENT.—

"(1) IN GENERAL.—It shall be the duty of the Secretary to invest such portion of the Trust Fund for DC Schools as is not, in the Secretary's judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired—

"(A) on original issue at the issue price, or

"(B) by purchase of outstanding obligations at the market price.

"(2) SALE OF OBLIGATIONS.—Any obligation acquired by the Trust Fund for DC Schools may be sold by the Secretary at the market price.

"(3) INTEREST ON CERTAIN PROCEEDS.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Trust Fund for DC Schools shall be credited to and form a part of the Trust Fund for DC Schools."

Mr. JEFFORDS. Mr. President, this is a scaled-down, in fact, a way scaled-down version of an amendment that I offered in the Finance Committee markup. It failed on a very close vote, with the full amount of close to $900 million. This is an attempt to ensure that this next winter we do not have the kinds of emergencies we have faced with the inability to finance the school repairs necessary to keep the DC schools open.

This amendment is to the provisions in the bill dealing with the District of Columbia. What this will do—hopefully, if accepted—is also place in the hands of those at the conference an amendment to help in the most critical area this city faces, and that is the decreasing capacity of its schools to even stand up, to keep the kids out of rain, and to protect the boilers from blowing up, and everything else.

It is a modest start of only $70 million, but it will open a path, hopefully, that may be utilized in case these emergencies continue to increase. What it strikes is a provision in the bill that is only a $75 million provision.

The provision that is in the bill attempts to set up some sort of tax credit system for businesses and people in the District of Columbia interested in having assistance in developing businesses. That is all very fine. I point out and emphasize again and again that that provision is in the House bill. So if mine does pass, it still will be in the committee of conference, and the members, then, will have a choice of whether they desire to try and protect the city schools from shutting down, or whether they prefer to use this provision with respect to tax credits.

Let me give you the dimensions of the school problems in this city. First, very briefly, we have, for better or worse, one of the worst school systems in this country—and this is the Nation's Capital. I remind all of my colleagues that we have accepted responsibility for those schools. We have basically replaced the city council with the control board. We have replaced the school board with the board of trustees. We have given authority to the control board to basically run the city. Yet, the capacity of the city to do anything about its schools is greatly limited. Although they have substantial revenues, those revenues are critical and important to just keeping the schools open. They have $2 billion in necessary code repairs in order to make these schools up to code.

Each year, we have had emergency appropriations to try and handle this situation. Those emergency appropriations have been in the terms of $20 million, $30 million, $40 million, $50 million a year. This is in an attempt to find a way to take care of those problems through the appropriations process in its normal form.

I point out that these tax breaks that are included, which I will strike, really do nothing to bring middle-class families back to the District. The only thing that will bring families back to the District is a school system that will provide them with schools in which their children will learn something. We have one of the worst records, as far as our students go, of any city in the country. Without that, all the other things we try to do here will not bring back the middle-class families, unless we take care of the school system.

I point out that Andrew Brimmer, chairman of the DC Control Board, says that the impact of the tax break provisions in this bill will do little or nothing. We must improve the schools and public safety. Let's get real in the efforts to help the city. Every week I travel the DC schools I see leaky faucets and roofs, broken boilers, and I could go on. The boilers are going to be the critical problem this next year. They are likely to shut the schools down in the middle of winter unless we do something. The students are suffering every day.

All my amendment will do is allow the committee of conference to have another option, along with the one I am striking, in order to be able to take care of some of the emergency repairs for the schools. So, Mr. President, I also point out what has been lost and how we have hamstrung this city to do anything about it. The District has lost more than 200,000 residents since 1970; 200,000 people have moved out. And 50,000 have moved out in this decade alone. The only way to stem this tide is to improve the District services.

There is a time and a place for tax breaks. Again, this is just putting another option on the table. But you don't offer tax breaks to attract residents back to a city where the schools are collapsing around them. That is like giving free popcorn to keep people in the seats in a burning theater.

This isn't going to work. It is important that we do something about it.

So, Mr. President, I want to make sure that we have an opportunity to give a seat to that conference committee for the kids in this city so that they may have a chance to see their schools restored to the point where this city can be proud of them and proud of their school system.

Mr. President, I reserve the remainder of my time.

Mr. ROTH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROTH. Mr. President, the pending amendment is not germane to the provisions of the reconciliation measure. I therefore raise a point of order against the amendment under section 305(b)(2) of the Budget Act.

The PRESIDING OFFICER. Until the time has been used or yielded back, the point of order is not in order.

Mr. JEFFORDS. Mr. President, I am not clear on the situation. The point of order does not lie at this time?

The PRESIDING OFFICER. The point of order is not in order until all time has been used or yielded back.

Mr. ROTH. Mr. President, I withdraw the point of order and ask that the matter be laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROTH. I now yield 5 minutes to the distinguished Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. Mr. President, I thank the chairman for the time.

AMENDMENT NO. 518

Mr. THOMAS. Mr. President, I wanted to talk very briefly about an issue that is before the body with regard to an amendment on mining law reform.

First, let me just say very briefly that I am delighted that this debate is going on. I am delighted that we are talking about tax relief for the first time really seriously in 10 years. We are going to hear a lot about different kinds of details. We will hear a lot of different views, and that is healthy. That is the way it ought to be.

There are many here who do not support tax relief. I understand that. It is a legitimate point of view—not one I share—of those who do not want tax relief but would rather have more Government spending. We have not had tax relief since the early 1980's. It is time we do that.

I certainly want to congratulate the chairman of the Finance Committee for bringing this package forward. It is time that we gave some relief to working families, and relieve people who are paying taxes and allow families to keep more of their own money. That is what it is all about.

We hear people say, "Well, there shouldn't be tax relief because we need to balance the budget." Their notion is that you have to balance the budget and continue to spend more. But what we ought to be doing is controlling spending. And that is part of what this package does.

We heard earlier in the evening debate about mining. I wanted to talk just a bit about two aspects of that. One is there is an amendment, of course, which would eliminate the depletion allowance for hard-rock mining. However, in the presentation we heard more about the mining law of 1872 than we did about the depletion.

Let me tell you that we would have a revised mining law of 1872 if we could get some of those who constantly complain about it to agree to something. I have been here in the House, and now in the Senate for 2 years. We have had this every year. We have been very close to having a decision. But the very folks who complain the most about not revising it are the ones who never find anything to agree to.

I can tell you that there has been agreement on the idea of having royalties from the users, from the producers, and from nearly everyone here. There has been agreement on the idea of paying marketplace price for the land, or in fact not taking title to the land. That could well be done. And I would suggest that those who complain the most about change are the ones that cause it not to happen.

I simply want to say that when you want to start talking about depletion allowance and talking about the fact that the minerals are there and free, I want to tell you that they are not free. They are not doing you much good unless there is a substantial kind of investment to extract those minerals—probably as much as $400,000 or $500,000 to be able to do it at all.

The value of the resource is not there unless someone has an incentive to invest the money to do the mining. And then, of course, the idea is to create jobs. The idea is to create jobs. Some 2,300 jobs in Nevada—high-paying jobs in the neighborhood of $50,000 a year as compared to $25,000 as a national average. These are the kind of jobs that are there. With tremendous investment in these kinds of jobs there is revenue. There are taxes, and there is payment. We ought to encourage that rather than discourage it.

The suggestion was made that somehow mining goes on and there is no reclamation of land. That is not true. There were in earlier years a lack of reclamation laws but there are not now. There are tons of laws that cause reclamation.

So, Mr. President, I do not want to go on forever. But I do want to tell you that mining is one of the basic industries in this country—that minerals are relatively valueless unless there is someone willing to make the investment to extract them. They create some of the highest-paying jobs in this country. They generate local taxes. They generate taxes through wages. And they are very much part of our economy—an economy that tends to be forced out of this country by continuing to raise taxes.

I suspect this issue is not a proper one to have there. But it is one we are talking about, and voting on in the morning.

I urge my associates here in the Senate to vote against the Bumpers proposal.

Mr. President, I yield the floor.

Mr. ALLARD addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. Mr. President, first of all, are we in a quorum call?

The PRESIDING OFFICER. We are not in a quorum call. But we are in controlled time. The Senator from Delaware controls time.

Mr. ALLARD. Mr. President, I ask the Senator from Delaware for permission to go ahead and make some comments, a general floor statement, and then I would like to introduce an amendment.

Mr. ROTH. I yield the Senator 10 minutes.

Mr. ALLARD. I thank the Senator. I would like to, Mr. President, compliment the chairman for his hard work on this particular piece of legislation.

Mr. President, this week I am confident that the Senate will approve the largest tax cut since the Reagan tax cuts of 1981. And it is about time.

In the 16 years since the last tax cut, Congress has enacted two major tax increases—one in 1990, and the other in 1993.

Mr. President, it is time for a change. It is time to put American families ahead of Washington, DC's insatiable appetite for more Government spending.

Taxes are now higher than they have ever been. Taxes constitute one-third of the economy. And Tax Freedom Day—the day to which the average American works to pay the combined Federal, State, and local tax burden—and that date is May 9. It is the latest it has ever been.

Mr. President, I view this tax cut as a downpayment. My long-term objective is to ensure that no American family pays more than 25 percent of its income in taxes.

A balanced Federal budget, and a reasonable level of taxation should be the twin objectives of Congress as we enter the next century.

I invite all of my colleagues to support this tax cut and to help ensure that the bridge to the 21st century does not become a giant toll bridge.

Today I would like to focus on what I call the growth tax. This is typically referred to as the capital gains tax, a term which liberals often use derisively to help create the impression that only the rich pay the growth tax.

In fact, as you may know, Mr. President, nearly all Americans own capital, and they experience a tax on that capital when they sell a house or when they sell stocks or a small business or a farm or a ranch.

Under our current Tax Code, gains on capital investment are taxed at a 28-percent Federal rate, and often an additional 5 percent or more in State taxes comes in on top of that. This is the growth tax, and this is among the highest growth tax of any major industrial nation.

The real growth tax is often much higher than 28 percent. This is because our Tax Code does not protect Americans from taxation on capital gains that result only from inflation. This means, for example, that an investment held for 10 years where up to one-third of the gain can be due to inflation, taxes are due even on this.

This is clearly one of the most unfair aspects of this tax. Government policies contribute to inflation, and Government then turns around and taxes its citizens on that inflation.

For this reason, Mr. President, I intend to fight very hard to see that indexing is included in our growth tax cut. The House bill wisely includes this provision—and I commend Chairman BILL ARCHER for this. The Senate bill, unfortunately, does not yet have indexing. Hopefully, by the end of the week, it will.

Some have dismissed indexing as too costly for this tax bill. But for me this is an issue of fundamental fairness. It is wrong for the Federal Government to tax its citizens on inflation.

It is not too costly not to include indexing. Indexing simply means that Americans would be permitted to disregard any gains due solely to inflation, and then pay taxes only on real gains.

Mr. President, let's take a look at how this capital gains growth tax hits ordinary working Americans beginning with their home.

The Tax Code generally allows gains on a personal residence to be deferred as long as the proceeds are used to purchase another larger home. However, many Americans eventually pay capital gains on their home, particularly as they get older and find that their residence has appreciated substantially in value.

Our tax bill deals with this issue by exempting all but the very rich from any taxation on gains from their principal residence. This is a long overdue reform.

Next, let's look at financial investments. Stocks are a frequent source of capital gains taxes, and stock ownership today is more widespread than ever before. Stock ownership has doubled in the last 7 years to the point where 43 percent of all adult Americans own stocks.

Obviously, with those numbers, Mr. President, it is spread throughout society. Today, half of the investors are women and half are noncollege graduates.

Stocks are typically held for retirement, education expenses, and other long-term goals. This is precisely the type of savings and investment that we need in our economy. Investments foster business expansion, and job creation. Capital is the lifeblood of a free market economy. Clearly you cannot have capitalism without capital. And our Tax Code should encourage capital investment.

Mr. President, I cannot leave this topic without talking about small business owners and farmers.

There is no clearer area where the growth tax makes no sense. Millions of American families put their lives into building small businesses and farms. Often those businesses or farms are sold to finance a decent retirement. But this can occur only after Uncle Sam gets his cut of 28 percent of all the gains. Often, over half of these gains are due only to inflation. It is no wonder that millions of our most ambitious citizens have lost faith in our tax system.

Fortunately, Mr. President, tax relief is on the way. This bill lowers the growth tax from 28 to 20 percent for most families, and those in the lowest tax bracket would pay only 10 percent. This tax cut would help make life easier for millions of Americans, and it will help our economy to grow and create new jobs.

To those Americans who own a home, who save for retirement or who own a small business or farm, I say that next time a liberal says that capital gains are only for the rich, remember, he is thinking of you.

AMENDMENT NO. 523

(Purpose: To strike the extension of the Temporary Federal Unemployment Surtax)

Mr. ALLARD. Mr. President, I now would like to send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows.

The Senator from Colorado [Mr. ALLARD] proposes an amendment numbered 523.

Mr. ALLARD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 397, strike section 881.

Mr. ALLARD. This amendment would strike section 881 of the tax bill.

This section extends the so-called temporary unemployment surtax on small business and other employers through the year 2007. The House tax bill does not include this provision. The Senate bill, unfortunately, does. I rise to support the House position on this matter.

The description of this provision put out by the committee notes that in 1976 Congress passed a temporary surtax of .2 percent of taxable wages to be added to the unemployment tax rate.

I would suggest that at a minimum, if we are going to keep extending this tax, we ought to be honest with the American worker and small business owners and stop calling this a temporary tax. Enough is enough.

Between 1970 and 1990, there have been three unemployment tax rate increases and three wage base increases. These have resulted in a dramatic increase in the unemployment tax burden. There is no reason to continue this temporary surtax when we have the lowest unemployment in a quarter century and a full trust fund. This is no more than an additional and unfair general revenue raising.

The reason for the unemployment surtax no longer exists. The temporary surtax was put in place in 1976 in order to repay borrowing of the Federal unemployment trust fund from the general fund of the Treasury. Even though the borrowings were repaid in May 1987, Congress has continued to extend the surtax in tax bill after tax bill. As of today, all the States' reservoirs now have surpluses.

Since 1987, the surtax has been used solely to raise revenue to pay for tax packages. The tax takes money out of the private economy for no valid reason.

I have two concerns with this surtax. First, the Federal Government is breaking its commitment to employers and to workers that this added tax would be temporary. Clearly, it is not temporary, and if this provision remains in the bill and is enacted, the tax will have been in place for 30 years. This is not the way Government should do business.

The second problem I have is that we should not be imposing unnecessary payroll taxes. Payroll taxes cost jobs. Because small businesses are generally labor intensive, payroll taxes, which are a tax on labor, strike small businesses particularly hard. Payroll taxes are paid whether there is a profit or a loss.

I would note that high payroll taxes in Europe, particularly in Germany, is one of the principal reasons that unemployment is so high. This should be a warning to us to work steadily to limit the payroll tax on U.S. businesses.

Mr. President, I understand that there is some concern about my amendment, so I will withdraw this amendment and urge the Senate to agree to the House position on this issue.

There are a number of Senators, and I can assure you there are many thousands of small businesses, that would like to see this provision out of the bill, but before I withdraw my amendment, I would like to make an inquiry to the distinguished chairman of the Finance Committee, Senator ROTH. In light of the fact that this tax was to be a temporary tax, would the chairman consider either removing the provision in conference or modifying it to at least terminate the tax more quickly than proposed in the bill?

Mr. ROTH. I am happy to answer the question raised by the distinguished Senator. I understand the concerns he has expressed. I understand the impact it has on small business. I say to him that this is an aspect of our proposal that was recommended by the administration, but I will certainly, in going into conference with the House Members, keep in mind the concern the Senator has expressed and look at this matter very carefully.

Mr. ALLARD. I thank the chairman for his sincerity and real concern about the surtax, and I would just, in conclusion, reflect on some of my own experiences with the surtax. When it was first applied in 1976, I was just basically starting out in my small business. I had just been in business 4 or 5 years. I had not been in business long enough to have to pay any unemployment compensation, never had to have any turnover in my business, but every dime counted in that new business. And when that surtax was imposed on that small business that I was starting at the time, it did have an impact.

I do not believe we can continue to disregard the impact that these unemployment taxes have on small businesses, particularly the small businesses that are just starting out. We need to encourage people to go in business for themselves. We need to encourage people to someday think in terms of being their own boss and being self-sufficient. These types of tax provisions do have a disproportionate impact on small businesses, particularly those just starting out.

With that, I yield back the remainder of my time.

I thank the Senator.

The PRESIDING OFFICER. The amendment is withdrawn.

The amendment (No. 523) was withdrawn.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, I yield the distinguished Senator from Montana 10 minutes.

The PRESIDING OFFICER. The Senator from Montana.

AMENDMENT NO. 518

Mr. BURNS. I thank the Senator. I thank the Chair.

Earlier this evening an amendment was offered to do away with the depletion allowance on mining. It seems every year we have to go through this process really explaining what the National Mining Act is all about.

Yes, we have been awfully close to coming up with some kind of agreement for reform of the act. We have been so close that everybody agreed, but one would get the feeling—although it seemed like it fell apart, I get the distinct feeling that those who would reform the act or be the reformers want the issue rather than the results. I am always reminded of John Adams when he come back to the Congress and was asked about an issue. He said duty is ours; results are reserved to God.

Let us look at the intent of the Mining Act. It is as true today as it was in the days it was written. This act has been around about 120 or 125 years. I would say to anybody who lives in this country and owns property, even though it may be his private home in an urban area, the ownership of his own home, which means land ownership or property ownership, which has been one of the cornerstones of America, the building of America and the freedom of us as a people, has been the result of a land tenure act. It was a way that we moved all the lands in this United States of America into private ownership.

That is what the Mining Act was all about. We have had only two, I think, maybe three, major land tenure acts. One of them was the Homestead Act, and that was a result of the Louisiana Purchase, where you were deeded 160 acres of land, and if you proved it up to be viable, then they gave you ownership of that land. And ever since then, it has changed hands many times, but it has allowed us to own property, land, and real estate. It has been the cornerstone of our economy.

In mining, it was a little bit different, but yet it was a land tenure act. It was a deal struck by this Government that owned millions of acres of land telling a miner that if you go out and you find a mineral, whether it be precious metals or trace minerals or whatever, and it has value and you prove it up to be a viable enterprise, we will guarantee you the surface of that land and access to that deposit. You invest your money, and if there is nothing there, we do not as a government owe you anything and you can go merrily on the way, and the land belongs and stays in the ownership of the Government of the United States of America.

I think I would be laughed out of this building if I went down to appropriations and said I have a government agency that wants to explore for silver or gold or platinum or palladium or anything else and asked for an appropriation of $20 million to explore and to prove up a claim. That is risking a lot of taxpayers' money. I would be told, why, this is the craziest thing we have ever heard. Taxpayers didn't give us the money for such a cockamamy idea of going out and exploring for that mineral.

So what did we do? We struck a deal. You invest, Mr. Miner, your money, your time, your equipment. If you find it, that's good. If you do not, then the Government is not out anything. But we guaranteed access and we guaranteed surface rights if a mineral or precious metal was found.

The National Mining Act was never an environmental act. It does not exempt mining companies from the environmental laws that are in place both by the State and the Federal Government. They are not exempt of that—clean air, clean water. They are required to reclaim it after the mine has been mined out. All it was, was to guarantee Americans access to a precious metal or mineral. Yet, those who would want to change it say that is no longer important.

We could have settled on royalties, could have settled on land price, could have settled on all of that. But the reformers refused to accept it. So I say, before we do too much changing, let's really understand what the law is all about, because it works today as it did whenever the law was made the law of the land. It seems like there are a lot of folks who do not understand that. They did not understand the Homestead Act either. This country eats, provides food for its families, cheaper than any other society in the world as a percentage of your paycheck going solely for food for your family. That was done because American agriculture owns the land. It is their farm. They make it produce. It is as competitive as selling shoes or watermelons. It does not make any difference. But all of that was the result of a land tenure act called the Homestead Act.

Why do we have to turn around and explain this every time this issue comes up? Yet, there are those who would like to twist and turn and not really represent the act for what it really is and why it was designed that way. They say gold miners get rich on gold. Where is it used, for jewelry? No, not really. We wouldn't even have a space program if we didn't have gold and silver, because there is as much of it used in electronics as there is in jewelry.

The only platinum or palladium mine is found in Montana. It is the only one in this country. It is one of three in the whole world. If you didn't have palladium, you wouldn't have catalytic converters to protect our air. Yet, there would be those who would say maybe it is not a necessity—until we look at the manufacturing and our science and our technologies, of what these trace minerals and these other minerals are really worth to this country.

Do we want to get as dependent on our precious metals and minerals as we are on oil? We are almost 51 percent dependent on oil from offshore. Is that energy policy? Does that give us energy security? I don't think so.

So we have to be very, very cautious whenever we start talking about a subject and a law that a lot of people say, "Well, they're ripping off the Government." What's just the opposite is true. Because that mine provides jobs; it provides a tax base in many counties. In the West, that is the only thing they have. It provides public safety and roads and schools. It is the backbone of that county's economy. Yet, there are those who say tourism is growing and it is taking over and we don't need mining anymore. I don't know of anybody who wants to stand around and flip hamburgers for $4.25 an hour, or whatever it is, when you could probably get a better job producing something, producing wealth for this country. It just doesn't make a lot of sense.

Those of us who come out of, let's say, natural resources or agriculture, I guess we look at it a little bit different. But you look at it different when you come up through those ranks, as some of us in this room have done, including the Presiding Officer who is in the chair tonight. It doesn't hurt to have a little dirt under your fingernails so you understand what makes things go in this country. All new wealth, all new wealth produced in this country comes from either the renewable resource of the Earth and, sometimes, some of it from the finite resources that are found in this Earth. That is where new wealth is produced. It is produced nowhere else. Every one of us chase the dollar around. But, especially in the renewables, that is the real worth of a nation. And those renewables were produced on private land ownership where people took care of it, managed their resources and made a community and a State and a nation grow.

So, when we start talking about the national mining act and how it should be changed, let's be very cautious and remember why it was passed in the first place. Why it was passed in the first place—mining is very, very risky. I can't go to Appropriations and appropriate money just to go out and scratch around the hills and try to find a gold nugget, because it just will not happen.

So I will oppose the Bumpers amendment tomorrow. I think there will be a point of order raised on it anyway. But, nonetheless, let's not forget just exactly the reason the mining act was passed and why it works today, just like it did when it was passed 120 years ago.

Mr. President, I yield the floor.

ELECTRIC UTILITY INDUSTRY

Mr. MURKOWSKI. Mr. President, the utility industry is undergoing drastic change as a result of deregulation.

I know that municipal utilities are concerned about the tax-exempt status of their outstanding debt if they enter the competitive market. I also know that investor-owned utilities are concerned about municipal utilities using their tax-exempt debt and their tax-exempt status to gain an unfair competitive advantage. In addition, there are a host of issues relating to how electric cooperatives will fare in the emerging competitive marketplace.

I believe that we need to re-examine the Tax Code to determine how best to ensure a level playing field in the era of electricity deregulation and competition.

Because of the importance of this issue to consumers, investors, the electric power industry, and to our economy, as I told Treasury Secretary Rubin in an April 22 letter, I believe this is a matter for Congress, not the IRS, to decide.

Mr. ROTH. How does the chairman of the Energy Committee suggest we proceed?

Mr. MURKOWSKI. Mr. President, I have asked the Joint Committee on Taxation to prepare a complete analysis of tax provisions relevant to the electric utility industry. Once this report has been prepared, I believe our committees should hold hearings and make recommendations once we have had a chance to thoroughly examine these issues.

Mr. ROTH. Mr. President, I agree with the suggestion of the chairman of the Energy Committee.

Mr. MURKOWSKI. Mr. President, I thank the chairman of the Finance Committee and I look forward to working with him.

MORNING BUSINESS

Mr. GRASSLEY. Mr. President, on behalf of the majority leader, I have the task of asking unanimous consent that there now be a period for the transaction of morning business with Senators permitted to speak for up to 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Tuesday, June 24, 1997, the Federal debt stood at $5,336,557,573,448.51. (Five trillion, three hundred thirty-six billion, five hundred fifty-seven million, five hundred seventy-three thousand, four hundred forty-eight dollars and fifty-one cents)

One year ago, June 24, 1996, the Federal debt stood at $5,110,927,000,000. (Five trillion, one hundred ten billion, nine hundred twenty-seven million)

Five years ago, June 24, 1992, the Federal debt stood at $3,941,032,000,000. (Three trillion, nine hundred forty-one billion, thirty-two million)

Ten years ago, June 24, 1987, the Federal debt stood at $2,293,521,000,000. (Two trillion, two hundred ninety-three billion, five hundred twenty-one million)

Fifteen years ago, June 24, 1982, the Federal debt stood at $1,070,688,000,000 (One trillion, seventy billion, six hundred eighty-eight million) which reflects a debt increase of more than $4 trillion—$4,265,869,573,448.51 (Four trillion, two hundred sixty-five billion, eight hundred sixty-nine million, five hundred seventy-three thousand, four hundred forty-eight dollars and fifty-one cents) during the past 15 years.

U.S. FOREIGN OIL CONSUMPTION FOR WEEK ENDING JUNE 20

Mr. HELMS. Mr. President, the American Petroleum Institute reports that for the week ending June 20, the U.S. imported 7,630,000 barrels of oil each day, 301,000 barrels fewer than the 7,931,000 imported each day during the same week a year ago.

While this is one of the very few weeks that Americans imported less oil than the same week a year ago, Americans relied on foreign oil for 54.4 percent of their needs last week, and there are no signs that the upward spiral will abate. Before the Persian Gulf war, the United States obtained approximately 45 percent of its oil supply from foreign countries. During the Arab oil embargo in the 1970's, foreign oil accounted for only 35 percent of America's oil supply.

Anybody else interested in restoring domestic production of oil? By U.S. producers using American workers?

Politicians had better ponder the economic calamity sure to occur in America if and when foreign producers shut off our supply—or double the already enormous cost of imported oil flowing into the U.S.—now 7,630,000 barrels a day.

THE CIVIL RIGHTS ACT OF 1997

Mr. HATCH. Mr. President, last year, I stated on the Senate floor that "our country stands at a crossroads on the path it travels in relations among the different races and ethnic groups that make up the American people. Down one path is the way of mutual understanding and goodwill; the way of equal opportunity for individuals; the way of seriously and persistently addressing our various social problems as America's problems. * * * Down the other path is the way of mutual suspicion, fear, ill will, and indifference; the way of group rights and group preferences."

I am proud to stand today with my colleagues in the House and the Senate, and others who have worked so hard for the cause of opportunity, to announce the introduction of the Civil Rights Act of 1997. The act represents our best efforts to recommit the nation to the ideal of equal opportunity for every American—to emphasize that we must resist the temptation to define the nation's problems in narrow racial terms, and rather must roll up our sleeves and begin the hard work of dealing with our problems as Americans, and as fellow human beings.

Of course, our critics will imply that those of us who today reject divisive racial preferences and distinctions do so because we underestimate the social, economic, and discriminatory obstacles some Americans face. President Clinton, for example, told his audience in San Diego last week that "[t]he vast majority of [Californians who supported that state's Proposition 209] did it with a conviction that discrimination and isolation are no longer barriers to achievement." But that is just plain wrong.

To the contrary, last week in the Senate Judiciary Committee we heard from a panel of ordinary citizens who movingly told us of their experiences with discrimination in America. Among them was a Chinese-American mother from San Francisco, Charlene Loen, who told us how her young son Patrick was denied admission to an elite public magnet school, Lowell High School, because he is Chinese. The school district's efforts to ensure diversity among its students led it to employ a system of racial preference that had the effect of capping Chinese enrollment in many of its schools, forcing Chinese children to score much higher on entrance exams than children of other races. At virtually every public school Ms. Loen approached, she was first asked whether Patrick was Chinese, and when learning that he was, would inform Ms. Loen that Patrick need not apply. The Chinese quota was in effect full. Ladies and gentlemen, that is not the promise of America.

There should be no question that discrimination indeed continues to deny opportunities to too many Americans. At the Judiciary Committee's recent hearing we heard from black Americans, white Americans, Asian Americans, and even a victim of an outrageous hate crime. But the question that we all must answer is whether one American's racial suffering should be valued above another's. It is a question that will only become more complicated and more urgent as our population grows ever more diverse.

As we in the Judiciary Committee now know, when we prefer individuals of one race, we must by definition discriminate against individuals of another. But America's great social divide can never be crossed until we begin the work of building a bridge of racial reconciliation. By saying today, with the introduction of this act, that the Federal Government stands for the principle that racial discrimination in all its forms is wrong, we hope to take a small step forward on the path to healing the nation's racial wounds by recognizing that every American is equal before the law.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 12:44 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the House:

H.R. 1316. An act to amend chapter 87 of title 5, United States Code, with respect to the order of precedence to be applied in the payment of life insurance benefits.

The message also announced that pursuant to the provisions of section 3 of Public Law 94–304, the Speaker appoints the following Members of the House to the Commission on Security and Cooperation in Europe: Mr. HOYER, Mr. MARKEY, Mr. CARDIN, and Ms. SLAUGHTER.

The message also announced that the House agrees to the following concurrent resolution, in which it requests the concurrence of the Senate:

House Concurrent Resolution 102. Concurrent resolution expressing the sense of the Congress that the cost of government spending and regulatory programs should be reduced so that American families will be able to keep more of what they earn.

At 5:12 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the amendments of the Senate to the bill (H.R. 1306) to amend the Federal Deposit Insurance Act to clarify the applicability of host State laws to any branch in such State of an out-of-State bank.

At 6:28 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2015. An act to provide for reconciliation pursuant to subsections (b)(1) and (c) of section 105 of the concurrent resolution on the budget for fiscal year 1998.

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

H.R. 1306. An act to amend Federal law to clarify the applicability of host State laws to any branch in such State of an out-of-State bank, and for other purposes.

H.R. 1902. An act to immunize donations made in the form of charitable gift annuities and charitable remainder trusts from the antitrust laws and State laws similar to the antitrust laws.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent and referred as indicated:

H.R. 1316. An act to amend chapter 87 of title 5, United States Code, with respect to the order of precedence to be applied in the payment of life insurance benefits; to the Committee on Governmental Affairs.

The following measure was read and referred as indicated:

House Concurrent Resolution 102. Concurrent resolution expressing the sense of the Congress that the cost of government spending and regulatory programs should be reduced so that American families will be able to keep more of what they earn; to the Committee on Governmental Affairs.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on June 19, 1997 he had presented to the President of the United States, the following enrolled bill:

S. 342. An act to extend certain privileges, exemptions, and immunities to Hong Kong Economic and Trade Offices.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–2322. A communication from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, a draft of proposed legislation relative to the Apalachicola-Chattahoochee-Flint and Alabama Coosa-Tallapossa River Basin Compact Act; to the Committee on the Judiciary.

EC–2323. A communication from the General Counsel, Federal Retirement Thrift Investment Board, transmitting, pursuant to law, a rule relative to death benefits from the Thrift Savings Plan, received on June 16, 1997; to the Committee on Governmental Affairs.

EC–2324. A communication from the Acting Assistant Attorney General, Civil Rights Division, U.S. Department of Justice, transmitting, pursuant to law, a report of a rule entitled "Redress Provisions for Persons of Japanese Ancestry"; to the Committee on Governmental Affairs.

EC–2325. A communication from the General Counsel, Office of the Secretary, Department of Transportation, transmitting, a report of a rule entitled "Federal-Aid Highway Systems" (RIN2125—AD74), received on June 20, 1997; to the Committee on Environment and Public Works.

EC–2326. A communication from the Assistant Secretary for Human Resources and Administration, Department of Energy, transmitting, pursuant to law, a report of a proposed amendment to a Privacy Act System of Records; to the Committee on Governmental Affairs.

EC–2327. A communication from the Acting Comptroller General of the U.S., transmitting, pursuant to law, a report relative to the General Accounting Office issued in May 1997; to the Committee on Governmental Affairs.

EC–2328. A communication from the General Counsel, Federal Retirement Thrift Investment Board, transmitting, pursuant to law, a rule relative to information to participants in the Thrift Savings Plan, received on June 20, 1997; to the Committee on Governmental Affairs.

EC–2329. A communication from the General Counsel, Federal Retirement Thrift Investment Board, transmitting, pursuant to law, a rule relative to contributions to the Thrift Savings Plan by an employee, received on June 20, 1997; to the Committee on Governmental Affairs.

EC–2330. A communication from the General Counsel, Office of the Secretary, Department of Transportation, transmitting, pursuant to law, five rules relative to Airworthiness Directives (RIN2120-AA64) received on June 23, 1997; to the Committee on Commerce, Science, and Transportation.

EC–2331. A communication from the General Counsel, Office of the Secretary, Department of Transportation, transmitting, pursuant to law, six rules relative to modification of class E airspace received on June 23, 1997; to the Committee on Commerce, Science, and Transportation.

EC–2332. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, a rule relative to North Carolina's scup commercial quota, received on June 23, 1997; to the Committee on Commerce, Science, and Transportation.

EC–2333. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, a rule relative to lobster harvest in the Northwestern Hawaiian Islands received on June 23, 1997; to the Committee on Commerce, Science, and Transportation.

EC–2334. A communication from the Secretary of Commerce, transmitting, pursuant to law, a report entitled "National Implementation Plan for Modernization of the National Weather Service for Fiscal Year 1998"; to the Committee on Commerce, Science, and Transportation.

EC–2335. A communication from the General Counsel, Office of the Secretary, Department of Transportation, transmitting, pursuant to law, five rules relative to safety and security zone regulations in Fort Lauderdale, Florida received on June 20, 1997; to the Committee on Commerce, Science, and Transportation.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. THURMOND, from the Committee on Armed Services:

AIR FORCE

The following-named officer for appointment in the Reserve of the Air Force to the grade indicated under title 10, United States Code, section 12203:

To be major general

Brig. Gen. Wallace W. Whaley, 1451

The following-named officer for appointment in the U.S. Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Henry T. Glisson, 2048

ARMY

The following U.S. Army Reserve officers for promotion in the Reserve of the Army to the grades indicated under title 10, United States Code, sections 14101, 14315 and 12203(a):

To be brigadier general

Col. Herbert L. Altshuler, 8024

The following-named officers for promotion in the Regular Army of the United States to the grade indicated under title 10, United States Code, sections 611(a) and 624:

To be major general

Brig. Gen. Phillip R. Anderson, 3613
Brig. Gen. Burwell B. Bell III, 7158
Brig. Gen. Bryan D. Brown, 2565
Brig. Gen. Julian H. Burns, Jr., 6198
Brig. Gen. Michael T. Byrnes, 3271
Brig. Gen. John S. Caldwell, Jr., 8372
Brig. Gen. Reginal G. Clemmons, 8649
Brig. Gen. George F. Close, Jr., 3767
Brig. Gen. Carl H. Freeman, 0411
Brig. Gen. Joseph R. Inge, 8482
Brig. Gen. Phillip R. Kensinger, Jr., 0022
Brig. Gen. Donald L. Kerrick, 7369
Brig. Gen. Larry J. Lust, 3201
Brig. Gen. John J. Marcello, 0589
Brig. Gen. Timothy J. Maude, 3591
Brig. Gen. Dan K. McNeill, 4203
Brig. Gen. Paul T. Mikolashek, 2507
Brig. Gen. Mary E. Morgan, 3594
Brig. Gen. Bruce K. Scott, 8736
Brig. Gen. Jerry L. Sinn, 7044
Brig. Gen. James R. Snider, 6531
Brig. Gen. Edward Soriano, 3068
Brig. Gen. Julian A. Sullivan, Jr., 0245
Brig. Gen. John D. Thomas, Jr., 4220
Brig. Gen. Howard J. von Kaenel, 8603
Brig. Gen. William S. Wallace, 1708
Brig. Gen. William E. Ward, 9000
Brig. Gen. David S. Weisman, 2064

The following-named officer for appointment in the U.S. Army to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. David K. Heebner, 6059

The following Army National Guard of the United States officers for appointment in the Reserve of the Army to the grade indicated under title 10, United States Code, section 12203:

To be major general

Brig. Gen. Darrel P. Baker, 3645
Brig. Gen. Murrel J. Bowen, Jr., 3419
Brig. Gen. John D. Havens, 8278
Brig. Gen. Eugene S. Imai, 4034
Brig. Gen. Thomas D. Kinley, 4548
Brig. Gen. Federico Lopez III, 0744
Brig. Gen. Joel W. Norman, 9456
Brig. Gen. John C. Rowland, 0461

To be brigadier general

Col. John C. Atkinson, 8232
Col. John A. Bathke, 6037
Col. William H. Hall, 6256
Col. Dennis A. Kamimura, 1117
Col. Eugene P. Klynoot, 5848
Col. Dennis D. Krsnak, 8983
Col. Benny M. Paulino, 5606
Col. James L. Pruitt, 4534
Col. Edwin H. Roberts, Jr., 0530
Col. Charles L. Rosenfeld, 2361
Col. John R. Scales, 7861
Col. John A. Tymeson, 5473
Col. Brian D. Winter, 0493

ARMY

The following-named officers for appointment in the U.S. Army to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Richard A. Chilcoat, 0462
Maj. Gen. Thomas N. Burnette, Jr., 2524
Maj. Gen. Paul J. Kern, 5577

To be general

Lt. Gen. Eric K. Shinseki, 3256

To be lieutenant general

Maj. Gen. Robert S. Coffey, 3824
Maj. Gen. John W. Hendrix, 7900

MARINE CORPS

The following-named officer for appointment in the U.S. Marine Corps to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Frank Libutti, 7862
Maj. Gen. John E. Rhodes, 6880

NAVY

The following-named officers for appointment in the Reserve of the Navy to the grade indicated under title 10, United States Code, section 12203:

To be rear admiral

Rear Adm. (lh) William H. Butler, 0815
Rear Adm. (lh) Casey W. Coane, 8883
Rear Adm. (lh) William E. Herron, 9271
Rear Adm. (lh) Stephen T. Keith, 7895
Rear Adm. (lh) William J. Logan, 2986

The following-named officer for appointment in the U.S. Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be vice admiral

Rear Adm. Henry C. Giffin III, 4832

The following-named officers for appointment in the U.S. Navy to the grade indicated under title 10, United States Code, section 624:

To be rear admiral

Rear Adm. (lh) Timothy R. Beard, 3629
Rear Adm. (lh) David L. Brewer III, 8778
Rear Adm. (lh) Stanley W. Bryant, 0482
Rear Adm. (lh) Toney M. Bucchi, 9527
Rear Adm. (lh) William W. Copeland, Jr., 7826
Rear Adm. (lh) John W. Craine, Jr., 9037
Rear Adm. (lh) Robert E. Frick, 6699
Rear Adm. (lh) Paul G. Gaffney II, 0479
Rear Adm. (lh) Edmund P. Giambastiani, Jr., 8318
Rear Adm. (lh) John J. Grossenbacher, 5514
Rear Adm. (lh) James B. Hinkle, 6582
Rear Adm. (lh) Gordon S. Holder, 2235
Rear Adm. (lh) Martin J. Mayer, 0493
Rear Adm. (lh) Barbara E. McGann, 1961
Rear Adm. (lh) Charles W. Moore, Jr., 5696
Rear Adm. (lh) John B. Nathman, 6751
Rear Adm. (lh) William R. Schmidt, 6316
Rear Adm. (lh) Robert C. Williamson, 8427

To be rear admiral (lower half)

Capt. Joseph W. Dyer, Jr., 0881

(The above nominations were reported with the recommendation that they be confirmed.)

Mr. THURMOND. Mr. President, for the Committee on Armed Services, I report favorably 17 nomination lists in the Air Force, Army, Marine Corps, and the Navy which were printed in full in the CONGRESSIONAL RECORDS of January 9, February 5, April 7, May 15, June 2, 6, 10, and 11, 1997, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORDS of January 9, February 5, April 7, May 15, June 2, 6, 10, and 11, 1997, at the end of the Senate proceedings.)

**In the Army there are 345 appointments to the grade of colonel (list begins with John A. Adams) (Reference No. 155).

**In the Army there are 130 appointments to the grade of colonel (list begins with Robert T. Anderson) (Reference No. 194).

**In the Marine Corps there is 1 appointment to the grade of colonel (Gilda A. Jackson) (Reference No. 271).

**In the Air Force there is 1 appointment to the grade of major (Andrew J. Jorgensen) (Reference No. 315).

**In the Army there are 34 appointments to the grade of lieutenant colonel (list begins with Charles R. Bailey) (Reference No. 316).

**In the Army there are 5 appointments to the grade of major (list begins with Chessley R. Atchison) (Reference No. 317).

**In the Marine Corps there is 1 appointment to the grade of colonel (Richard L. Songer) (Reference No. 318).

**In the Marine Corps there are 51 appointments to the grade of captain (list begins with Robert E. Ballard) (Reference No. 319).

**In the Navy there is 1 appointment to the grade of commander (Timothy S. Garrold) (Reference No. 320).

**In the Marine Corps Reserve there are 47 appointments to the grade of colonel (list begins with David J. Biow) (Reference No. 352).

**In the Navy there are 348 appointments to the grade of captain (list begins with James P. Adams) (Reference No. 353).

**In the Army Reserve there are 3 appointments to the grade of colonel (list begins with Robert R. Bottin, Jr.,) (Reference No. 360).

**In the Marine Corps there is 1 appointment to the grade of colonel (John M. Metterle) (Reference No. 367).

**In the Marine Corps there is 1 appointment to the grade of lieutenant colonel (John J. Egan) (Reference No. 368).

**In the Army there are 269 appointments to the grade of major (list beings with Doreen M. Agin) (Reference No. 369).

**In the Army there are 377 appointments to the grade of major (list beings with Bret T. Ackermann) (Reference No. 370).

**In the Navy there are 216 appointments to the grade of captain (list beings with Christine L. Abelein) (Reference No. 373).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. KERRY (for himself, Mr. BUMPERS, Mr. HARKIN, Mr. GRASSLEY, Ms. LANDRIEU, Mr. CLELAND, Mr. LIEBERMAN, Mr. WELLSTONE, Mr. LEVIN, Ms. SNOWE, and Mr. LAUTENBERG):

S. 956. A bill to amend section 7(m) of the Small Business Act to establish a Welfare-to-Work Microloan Pilot Program; to the Committee on Small Business.

By Mr. BINGAMAN (for himself, Mr. JEFFORDS, Mr. BOND, Mr. MACK, and Mr. D'AMATO):

S. 957. A bill to establish a Pension ProSave system which improves the retirement income security of millions of American workers by encouraging employers to make pension contributions on behalf of employees, by facilitating pension portability, by preserving and increasing retirement savings, and by simplifying pension law; to the Committee on Labor and Human Resources.

By Mr. MOYNIHAN (for himself and Mr. D'AMATO):

S. 958. A bill to provide for the redesignation of a portion of State Route 17 in New York and Pennsylvania as Interstate Route 86; to the Committee on Environment and Public Works.

By Mr. LAUTENBERG:

S. 959. A bill to amend chapter 44 of title 18, United States Code, to prohibit the sale or transfer of a firearm to, or the possession if a firearm by, any person who is intoxicated; to the Committee on the Judiciary.

By Mr. DODD (for himself and Mr. LIEBERMAN):

S. 960. A bill to amend the Atomic Energy Act of 1954 to authorize the Nuclear Regulatory Commission to direct that a portion of any civil penalty assessed be used to assist local communities; to the Committee on Environment and Public Works.

By Mr. INOUYE (by request):

S. 961. A bill to provide for rail passenger programs; to the Committee on Commerce, Science, and Transportation.

By Mr. BOND:

S. 962. A bill to amend the Indian Gaming Regulatory Act with respect to certain gaming practices on tribal lands held in trust by the Secretary of the Interior, and for other purposes; to the Committee on Indian Affairs.

By Mr. CHAFEE (for himself, Mr. GRAHAM, Mrs. BOXER, Mr. BENNETT, Mr. HATCH, and Mr. MOYNIHAN):

S. 963. A bill to establish a transportation credit assistance pilot program, and for other purposes; to the Committee on Environment and Public Works.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Ms. MOSELEY-BRAUN [for herself and Mr. DURBIN]:

S. Res. 103. A resolution to congratulate the Chicago Bulls on winning the 1997 National Basketball Association Championship and proving themselves to be one of the best teams in NBA history; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KERRY (for himself, Mr. BUMPERS, Mr. HARKIN, Mr. GRASSLEY, Ms. LANDRIEU, Mr. CLELAND, Mr. LIEBERMAN, Mr. WELLSTONE, Mr. LEVIN, Ms. SNOWE, and Mr. LAUTENBERG):

S. 956. A bill to amend section 7(m) of the Small Business Act to establish a Welfare-to-Work Microloan Pilot Program; to the Committee on Small Business.

THE WELFARE-TO-WORK MICROLOAN PILOT PROGRAM ACT OF 1997

Mr. KERRY. Mr. President, I send a bill to the desk and ask for its appropriate referral.

Mr. President, I am pleased to introduce today the Welfare-to-Work Microloan Pilot Program Act of 1997, and I do so with Senators BUMPERS, HARKIN, GRASSLEY, LANDRIEU, CLELAND, LIEBERMAN, WELLSTONE, LEVIN, SNOWE, and LAUTENBERG. I thank and congratulate all of them for their commitment to this important program. This legislation will assure that Americans who have had to rely on public assistance have the same opportunities as other Americans to start and operate a small business.

Mr. President, America is the home of the entrepreneurial frontier. Here, anyone can explore boundless opportunities to try new things, to begin again, and to build new lives. Americans have inherited characteristics from the frontiersmen—embracing risk, change, and individualism—and applied it directly to starting and expanding American small businesses. As the ranking member of the Small Business Committee and a Senator from Massachusetts, I am honored to represent a State that employs more and more people and continues to fuel the national economy and job market. Massachusetts' 360,000 small firms are employing over 50 percent of our workers. From 1991 to 1995, all American businesses with fewer than 500 employees created 11 million new jobs, while businesses with more than 500 employees cut three million jobs overall.

I want to open the entrepreneurial frontier to all Americans who want to leave the welfare system behind and build new lives for themselves and their children.

The Welfare-to-Work Microloan Pilot Program is geared to assist people in moving people from welfare into the work force, not just as workers but as entrepreneurs. It is more than a jobs bill. It will not only build businesses, but it will build communities. This bill builds on the foundation of the SBA's remarkable Microloan Program which allows businesses and startup companies to receive development counseling and small loans of up to $25,000. The average microloan size is only $10,800. Under the Welfare-to-Work Microloan Pilot Program local organizations will serve welfare recipients by using SBA grants for intensive business development assistance. In addition, the bill will allow local organizations to help future business owners overcome two of the greatest obstacles that they have, access to affordable transportation and convenient child care.

Mr. President, I urge my colleagues to support this legislation—to assure that the American dream can be realized by all Americans and future generations. We must build a system now that will help our children. One in five of America's children—14.3 million—live in poverty. Two-thirds of welfare recipients are children. If we want to lift them up and out of poverty, we must give them new opportunities to explore and benefit from the resources of America's frontier. We must act now to provide their parents and guardians with a map across the entrepreneurial frontier.

Mr. President, the fact is that this type of program has already worked, and I just want to share a couple of quick examples with you. One of the people who has already received this type of grant under the Microloan Pilot Project is Karla Brown, owner of Ashmont Flowers Plus in Boston. In 1990, she found herself divorced with a young daughter, a mountain of debt, bad credit and unemployed as a result of major surgery. After being on disability for 3 years, she decided to start her own business. In 1993, she started selling flowers at a subway station. As the business grew, she leveraged the resources of local organizations, developed a business plan, received an SBA funded Microloan, and opened a store in Codman Square, a critical commercial node in a low-income neighborhood in Boston. With a $19,000 loan from the Jewish Vocational Service in Boston and a tremendous commitment to become a successful entrepreneur, she is now the proud owner of a business that has annual sales of $100,000 and employs two people part-time. Karla Brown's big idea of a flower shop was one of many new businesses applauded by an article entitled "SBA Microloans Fuel Big Ideas" in a recent issue of the U.S. Chamber of Commerce's magazine.

Karla is joined by others on this entrepreneurial frontier. In 1995, the Western Massachusetts Enterprise Fund made a loan of less than $10,000 to a divorced, single mother who was receiving public assistance. The woman believed in her own skills as a hairdresser and her own personal efforts. With the help of her community organization, she developed a marketing plan, targeted special underserved markets—homebound elderly, group home residents' and disabled people—and, in just 2 years, she is now busy with appointments all day long and has never missed a loan payment. In fact, under the SBA's Microloan Program, the Government has not lost one dime in the 6 years of operation because loan repayment rates are so high. The reason this program is so successful is because the SBA provides grants for technical assistance for the loan recipients and helps to make certain that these ventures are successful.

Another Massachusetts organization, Jobs for Fall River, Inc., saw the potential in a 35-year-old woman who was relying on welfare while caring for her elderly mother and her young son. She wanted to start a business to design clothing. Her first attempt at the enterprise failed because she was not able to afford the child care, transportation costs, and operating costs for running the business without a loan. However, after attending an 8-week intensive training session, she was able, through the assistance of Jobs for Fall River and SBA-provided funding, to develop a business plan and receive a loan in May of 1996.

We can open the entrepreneurial frontier for more Americans on public assistance with the Welfare to Work Microloan Pilot Program—partnering the resources of the SBA with local organizations like the Western Massachusetts Enterprise Fund, Jobs for Fall River, and the Jewish Vocation Services in Boston.

During a recent hearing before the Small Business Committee, an inspiring witness from Iowa, Mr. John Else of the Institute of Social and Economic Development, told of the successes his organization is working with welfare recipients under the SBA Microloan Program. Individuals in their program have a business success rate that is three times higher than the average for new businesses. His testament, combined with the requests of other local organizations for more flexibility to help this community, convinced me that we need to expand the success of this program.

Opening the frontier for more small businesses is critical to achieving the aims of welfare reform. States are now facing tall goals to reduce the welfare roles—their caseloads must be reduced by 25 percent this year under the new law. The growth in job creation is directly parallel to the growth in small businesses. In America today, there are over 22 million small businesses compared with only 14,000 big businesses. We see more women than ever exploring the entrepreneurial frontier. Women-owned businesses represent one-third of all U.S. companies, contribute more than $1.5 trillion in sales to the U.S. economy, and employ more people than the Fortune 500. Women-owned sole proprietorships have a start-up rate twice that of male-owned businesses. It is important for us to help women move into entrepreneurial roles because women comprise a large share of welfare roles. I suggest that the program I am introducing today is an excellent way to move people from welfare into the marketplace, not just as workers and wage earners, but as business creators, as people who will be able to provide jobs for other people as well as gain their own self-sufficiency.

Because the record shows that during the 6 years of the Microloan pilot project the Federal Government has not suffered one loss, we ought to be prepared to replicate these results with programs that create more jobs and enhance the economy. I hope my colleagues will support this effort.

Mr. HARKIN. Mr. President, I rise to express support for the Welfare-to-Work Microloan Pilot Program Act of 1997. The existing Small Business Administration [SBA] Microloan Program has enjoyed great success in moving people off welfare and helping them start their own business. The welfare-to-work initiative will not only continue this success, but it will also improve the services provided by the current Microloan Program.

The existing Microloan Program has two components. First, it works to provide short-term loans of up to $25,000 to small businesses. SBA makes these loans through various nonprofit organizations that have close ties to their communities. Second, the Microloan Program also provides technical assistance to help clients learn important skills such as accounting, marketing, and advertising.

It is important that we continue the Microloan Program, and we must also look to implement other services that will make it more effective. The welfare-to-work initiative does just that by establishing a 3-year program that will continue and expand upon the existing program. Like the current law, this bill will extend loans and technical assistance, but it will also allow for more business planning and training assistance prior to extending loans to welfare recipients. It will also allow intermediaries to use supplemental grants to help borrowers with transportation and child care expenses. Extending these services is essential in order to allow welfare recipients who don't have the money for transportation and child care to participate in the program.

An example of the Microloan Program's success is the Institute for Social and Economic Development [ISED] in Iowa City, IA. ISED is different from most development corporations in the Microloan Program because it does not extend loans to its clients. Rather, it provides technical assistance and will act as an intermediary to set up a loan between their client and a bank. ISED's technical assistance program provides structured training in which clients develop plans for a profitable business. Due to this effort, ISED has enjoyed an extremely high success rate, with 70 percent of its client's businesses still operational. This statistic becomes even more impressive considering that of all the small businesses started across the Nation in the last 8 years over 70 percent no longer exist.

We must recognize that the welfare-to-work initiative benefits both welfare recipients and our taxpayers. The Microloan Program presents welfare recipients with the preferable option of self-employment as a means to move off welfare. At the same time, it saves the State money and moves people from being welfare recipients to taxpayers. In Iowa, nearly 400 welfare recipients have started and maintained their own small business, and the total savings to the State have been $1 million in welfare benefits alone.

The welfare-to-work initiative gives welfare recipients the opportunity to be self-sufficient. It provides the entrepreneur with the money to start a business, and the skills and services to maintain it.

By Mr. BINGAMAN (for himself, Mr. JEFFORDS, Mr. BOND, Mr. MACK, and Mr. D'AMATO):

S. 957. A bill to establish a Pension ProSave system which improves the retirement income security of millions of American workers by encouraging employers to make pension contributions on behalf of employees, by facilitating pension portability, by perserving and increasing retirement savings, and by simplifying pension law; to the Committee on Labor and Human Resources.

THE RETIREMENT SECURITY FOR ALL AMERICANS PENSION PRO-SAVE ACT

Mr. BINGAMAN. Mr. President, the problem of retirement security is an ever mounting challenge to the future welfare of our Nation. More than 51 million Americans are not covered by any kind of pension plan. The aging of the baby boom generation will dramatically increase the retired population in proportion to the working population early in the next century. By the year 2029, when the youngest baby boomers reach age 65, more than 68 million persons will be older than 65—accounting for more than 20 percent of the U.S. population, compared to just 12 percent today.

In my own State of New Mexico just 29 percent of our work force has some kind of pension plan. As this chart shows, New Mexico has the worst ranking in the Nation in terms of workers covered by pensions. Just a few States have private sector working populations with over 50 percent covered by pensions.

Our Nation is facing certain crisis if we fail to take steps to correct this problem of people working until retirement—and finding that their Social Security benefits fail to maintain adequate and acceptable living standards. Despite the proliferation of retirement products in various forms of IRA's and 401(K) plans, patterns clearly show that those who earn enough to save probably do. Our problem is that over the last 18 years, we have had no increase in the percentage of our work force that is participating in a qualified pension program.

Those who are well off and can look forward to retirement security cannot afford to just abandon those who are not. We have a market failure that we must address, particularly as the Nation's traditional safety net is being rolled back because of budget cuts on so many other fronts. I am not opposed to improving and even expanding the pension plans of those who have them now. My concerns, however, are focused on the reality that we are improving existing pension plans, expanding IRA opportunities and creating new forms of individual retirement accounts, but we are still doing absolutely nothing to get a large portion of our uncovered work force covered by some degree of retirement savings.

The costs of doing what we need to do will be large. But let's think for a moment about the IRA provisions in the tax bill we are discussing today. The IRA expansion provisions in the Senate version of the bill cost approximately $3.3 billion during the first 5 years and $20.5 billion in the following 5 years. These costs may be appropriate and necessary—but at the same time, we need to confront the revenue impact of covering the parts of our society that currently have no retirement savings at all. I think that it is poor public policy to expand only one-half of the equation like we have been doing.

Mr. President, in order to ensure that this Congress does face the issue of retirement security for all working Americans and not just the fortunate minority who are saving, I am here to introduce the "Retirement Security for All Americans Pension Pro-Save Act."

The bill I am introducing outlines a concept for pension expansion and portability that has been discussed in this Chamber several times over the last several decades but which has not evolved until now as legislation. The Pension ProSave System, a clearinghouse for individual pension accounts, would improve the retirement income security of millions of working Americans by encouraging employees to make contributions on their behalf, by facilitating pension portability, by preserving and significantly increasing retirement savings and by simplifying pension law.

Mr. President, this plan is not aimed at the existing pension and savings structures in this country. This proposal targets those who are working their way toward retirement—and will have little or nothing to supplement their Social Security benefits. Despite 18 years of availability of simplified pension plans, pension coverage remains low in the small business sector. Even when covered by a tax-advantaged pension plan, workers do not always continue to save their pension assets when they can receive them when moving from one place of employment to another. Tax penalties unfortunately have not been very successful in discouraging the spending of these mid-career retirement savings disbursements. Of the $47.9 billion in pre-retirement distributions made in 1990, less than 20% of recipients reported putting the entire distribution into another tax-qualified retirement plan.

The Pension ProSave Clearinghouse is modeled after the highly successful Teachers Insurance and Annuity Association-College Retirement Equity Fund [TIAA-CREF], the largest private pension system in the world with assets over $136 billion and about 1.7 million participants at about 5,500 institutions. Not replacing existing pension programs, Pension ProSave is designed to supplement these other programs and will increase pension coverage to millions of Americans.

The benefits of Pension ProSave are first, that this plan would provide an incentive and a simple, hassle free way for employers to provide portable pension benefits to their workers. Employees could also make matching contributions to their accounts on a 2:1 basis to a maximum of $6,000. The employer's contributions also would not exceed $6,000. Mr. President, I want to emphasize that these are the employee's accounts—not the government's and not the employer's. These accounts will remain with those workers the duration of their lives.

Second, Pension ProSave would stop the leakage of retirement savings by furnishing employer's pension contributions into a privately managed, pension portability clearinghouse. Worker's account balances would be invested and managed by private sector firms in diversified portfolios.

Let me explain how Pension ProSave would work. Any employer wishing to take advantage of the Pension ProSave Program would furnish the names of all employees, employed for at least 6 months and over 21 years of age, to the ProSave Portability Clearinghouse established in this Act. The employer will indicate each employee's salary and the uniform percentage of all salaries which the employer will contribute to employee ProSave accounts. The employer will have the option of changing its percentage contribution each year, as long as that contribution equals at least 1 percent. This can help business owners—who want to provide pension benefits to their employees—avoid getting locked into a rate that remains fixed while the economic performance of their small businesses may be volatile.

Once a ProSave account is established for an employee, the employer will forward contributions to the account at the time of each paycheck or at least prior to the end of that year.

With the agreement of the employee, an employer who has another defined benefit or defined contribution plan for its employees and who does not choose to establish ProSave accounts will still be able to use the portability clearinghouse as a repository for retirement funds of an employee who is leaving its employ. When a worker leaves one job where retirement benefits have accrued, the employee may request the employer to deposit the cash value of those retirement benefits—or any portion of them—in the ProSave account of the employee at the portability clearinghouse.

Mr. President, the funds contributed by an employer to the retirement security of his or her employees by way of a ProSave account will remain there and be invested at the direction of the employee until retirement. The portability clearinghouse will contract with investment firms to manage funds through the clearinghouse. Investment options would include a fixed income fund, an equity fund, a government securities fund, small business capitalization fund, an international fund, and an infrastructure fund. Accounts would be valued on a daily basis, and participants could transfer funds among investment accounts at intervals determined by an oversight board, perhaps at monthly or quarterly intervals. Employers will have no responsibility for administering a pension fund or managing funds for employees who have left their employment. This should be very attractive to businesses that do not desire to carry long-term responsibilities for workers who have moved on.

While employer contributions are locked into the Pension ProSave accounts until retirement, funds contributed by the employee are available to be loaned for certain purposes and under terms established by the Portability Clearinghouse Board.

At retirement, account balances would be paid out either in the form of an annuity—with survivor benefits—or a lump sum retirement. Spousal consent would be required.

Mr. President, I have no doubt that some who oppose this plan will rattle the cages and make claims that this act is nothing but more big Government, another bureaucratic institution that spreads the Government further into our lives. These claims will be wrong—and will only serve to help maintain an economic reality that permits those best off in our society to save up to $30,000 a year on a tax-advantaged basis. Others in simple 401(k) plans can save up to $9,500 a year. It is unacceptable that workers who don't have an available pension plan—can only save $2,000 a year in IRA accounts.

We have a responsibility not only to create a more equitable savings structure for those Americans who have the desire and wherewithal to save—but also to the many Americans who are low-income workers who move from job to job eventually to retirement, finding then that nothing has accrued to help them in their retirement years.

Government had a role in establishing IRA's and 401(k)'s. Now we must do what we can to provide incentives to employers to provide modest retirement security for more employees. This plan is an enabler—it creates a structure, similar in many ways to the TIAA-CREF model established at the beginning of this century by Andrew Carnegie to provide pension portability for professors and university employees moving between one higher education institution and another.

This is an issue in which the Government does have an important role to play because the market has failed to provide the extension of pension coverage to 51 million Americans. Pension ProSave promotes savings, helps more people reach retirement with pensions, helps buffer against the turbulence of the economy, and provides many employers with a good vehicle for profit-sharing. All of these are benefits for our Nation as a whole.

For the employer, Pension ProSave provides a hassle-free, no red-tape way to make contributions to a pension—and frees employers from the responsibility and requirement of administering a pension plan.

The plan also increases the amount of the tax-deferred savings permitted for the employer and each employee. It gives the employer a vehicle for profit-sharing, and the employer escapes any and all responsibility for the employee's pension. Funds contributed to Pension ProSave will be exempt from other savings limits under current law for other pension products. This should provide a powerful incentive to owners of small businesses who can save more themselves if they make equivalent commitments to their employees.

For the employee, the benefits are most importantly that millions of pension-uncovered workers in this country will get coverage. This plan increases the amount of tax-deferred savings permitted to each employee, provides immediate vesting, and removes the concern that employees might have about the solvency of pension plans or their previous employers. Among other benefits, Pension ProSave eliminates political corruption in the administration of pension funds and provides one account that can be permanently maintained and in which funds can continually accrue no matter the number of job changes in a worker's career.

By having national visibility, Pension ProSave would make the concept of saving for retirement more attractive and appealing to employees. This plan would increase employer pension contributions on behalf of their workers without existing pension plans, rather than relying on 401(k) plans that are funded largely by employees' voluntary saving decisions. Employers would be able to make voluntary, tax-deductible contributions on behalf of their workers and would have flexibility in the amount they contribute each year.

Vesting would be immediate. Plan sponsors would be relieved of the expense and responsibility of providing financial education to their employees and the legal implications of providing investment options.

Mr. President, I think that one cause of the extraordinary economic anxiety in our Nation is related to the eroding sense of financial security at retirement. A recent study of workers' views of their present and future economic circumstances found that most people believe that despite the twists, turns, and pitfalls in our rapidly changing economy, they can chart a successful course to retirement. But their anxiety levels were extremely high when concerns about the solvency of Social Security and about the great number of Americans without pension benefits were mentioned.

Americans include retirement security in their personal strategies for economic success. I believe that America is calling for a credible proposal that will get more of our citizens covered by some kind of pensions.

There is no doubt that the costs will be high and will impact the Nation's short term tax revenue. However, it is also clear that increasing retirement savings will help bolster national savings, which will help spur more long-term investment and economic growth. The high cost of this plan would be true of any plan that succeeds in establishing more retirement security for our working population. We seem to be willing to sustain high costs for expanding retirement opportunities for some; I just think we need to make sure that we are doing whatever we can to provide retirement savings coverage to the rest of society.

These are costs that we must consider and should bear—for the long term benefit of our Nation in whole. Establishing Pension Pro-Save accounts is an investment that will help our Nation better able to cope with the retirement savings crisis that we will certainly face in the future.

Mr. JEFFORDS. Mr. President, I am pleased to be an original cosponsor of the Pension ProSave Act with Senator JEFF BINGAMAN of New Mexico. Senator BINGAMAN has done yeoman's work in drafting this bill. I hope my colleagues will take time to read the bill and join us as cosponsors.

As the average age of Americans is rising at a steady rate, we all have become more aware of the importance of retirement programs and retirement security. At the same time, only about half of all workers are covered by a retirement program—and of those, many who are covered, work for a Federal, State, or local government entity. An incredible 87 percent of workers employed by small businesses, those with fewer than 20 employees, have no private retirement or pension coverage. Less than 40 percent of the 33 million Americans aged 65 and older collect a pension, other than Social Security. These numbers are cause for concern.

There are three sources for retirement security: Social Security, personal savings and a pension. Our bill has been offered in an effort to expand pension coverage, especially among small business establishments where coverage and participation is least likely to occur. The complexity and expense involved in setting up a pension plan is daunting. It is outside the grasp of many small businesses. In addition to administrative complexity and the cost of hiring an actuary, accountant and a lawyer to set up a plan, a small business often decides against plan sponsorship because of laws and regulations that actually discriminate against them, such as the prohibition on matching contributions for self-employed individuals, or limitations on contributions for small plans that are even lower than those permitted for the medium-sized or large pension plan.

Pension ProSave would permit the establishment of either a simplified defined contribution or a defined benefit pension plan or both, with greatly reduced recordkeeping, reporting and regulatory requirements. The ProSave system encourages thrift, through its defined contribution provisions, which are individual account plans and similar in concept to an IRA or a 401(k) plan, and through its simplified defined benefit plan provisions which are traditional pension plans promising a specific benefit payment upon retirement.

In addition, one of the most appealing features of Pension ProSave is the portability clearinghouse. The clearinghouse would make it easier for workers with ProSave accounts to take their pensions with them as they change jobs. True pension portability has been a most elusive objective for policymakers and yet it is one of the most important features that Americans want in pension programs.

A lack of portability also discourages long-term pension savings because it can encourage leakage. Pension system leakage occurs when a worker changes jobs and either cashes out a pension benefit or receives a lump sum distribution from a retirement plan and spends the money, rather than saving it. Taxing distributions has not stopped leakage from the system. The more difficult it is for that worker to transfer his account from one plan to another, the more likely it is that the worker will just spend the money. The more complicated and punitive the laws and regulations surrounding pension rollovers, the less likely a worker is to bother to make one. He or she will simply pay the penalty tax and spend the money.

Consequently, pension experts have spent a great deal of time and effort trying to figure out ways to ease these pension rollovers and overcome obstacles to portability so that people can save their all retirement money in a single account.

Let me pause for a moment to say that while Pension ProSave's portability feature is the result of many years of consultation and careful drafting, we realize that it would be quite difficult to justify a new government sponsored entity in these days of fiscal stringency. Our experience with the Pension Benefit Guaranty Corp. leads me to suggest that there could be a more efficient means of making Pension ProSave accounts portable than by establishing a new government sponsored entity to manage and invest them.

Individual retirement accounts (IRAs) are portable and yet can be invested in banks, certificates of deposit, mutual funds, equities or any number of other investment vehicles. Should we permit Pension ProSave accounts to be managed and invested in the private sector and if so, how should that be accomplished? By leveraging the power of the private sector, savers have the potential for more investment choices, and for higher rates of return on their investments. In addition, there currently exists in the private sector, mutual fund/401(k) clearinghouses which are used to track individual accounts and keep records of investments and account balances. Are these models for the Pension ProSave clearinghouse?

I look forward to hearing about these and other substantive and drafting issues from experts who are concerned about increasing retirement savings at the individual level and in increasing retirement coverage among small businesses where it is needed the most. I am especially interested in the concept of a simplified defined benefit plan which is portable and hope that we can explore that issue when hearings are held on this bill in the Labor and Human Resources Committee. Pension ProSave Act is a good bill. I am proud to cosponsor it and thank Senator BINGAMAN for his leadership in bringing us together to introduce it.

By Mr. MOYNIHAN (for himself and Mr. D'AMATO):

S. 958. A bill to provide for the redesignation of a portion of State Route 17 in New York and Pennsylvania as Interstate Route 86; to the Committee on Environment and Public Works.

THE REDESIGNATION OF ROUTE 17 AS INTERSTATE 86 ACT OF 1997

Mr. MOYNIHAN. Mr. President, I rise today with my distinguished fellow Senator from New York to introduce legislation that will redesignate sections of New York and Pennsylvania Route 17 as Interstate 86. The southern tier of New York has waited over 40 years for this historic legislation that will correct a mistake made in 1955 that has contributed to the economic decline of this once prosperous region.

When the original plans were being developed for the New York Interstate System, Route 17 was to be designated the main east-west interstate route. The (Federal) Bureau of Public Roads thought otherwise. They preferred the New York State Thruway which was already under construction using State moneys. Albany did not object nor did representatives of the region.

The error had no significance at the time, since no special funding was available for interstates. The very next year, however, the Federal-Aid Highway Act of 1956 was enacted, creating a Highway Trust Fund to be funded through gasoline taxes. The Federal Government would now pay 90 percent of the cost of any interstate segment. The Southern Tier Expressway—Route 17—was not eligible for those interstate funds.

In the 1950's the region was still bustling—IBM was in Binghamton, half the television sets in the world were built in Elmira, Corning was a high tech contender, and Jamestown was a major manufacturing center. What begun as an Indian trail, became a great railroad, and a strikingly creative industrial corridor, was allowed to languish.

It is time we do something about it.

This legislation we introduce today would finally ameliorate the legacy of an opportunity missed long ago.

The bill would immediately designate 360 miles of Route 17 between Erie, PA and Harriman, NY, that meet Federal interstate construction standards as Interstate 86, creating connections to I–90, I–390, I–81, I–84, and I–87. The remaining 30 miles of Route 17 would be designated as a future part of the interstate system and will become I–86 as soon as the State Department of Transportation upgrades them. I am confident the NYDOT, working together with the Federal Highway Administration, will soon have the rest of Route 17 up to interstate standards.

The southern tier region, along with the rest of Upstate New York, has suffered enduring economic hardship and job losses, even as the national economy has boomed. The bill I propose to redesignate Route 17 as I–86 would help enhance the visibility of this important region and highlight its potential for business development and tourism.

I would also like to recognize the efforts of Samara Barend, a southern tier native, who was so effective in mobilizing support for this issue. I urge my colleagues to join with me in support of this most important legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 958

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

Congress finds that—

(1) the designation of a portion of State Route 17 in New York and Pennsylvania as an Interstate route would promote the visibility of the region, the potential of the region for business development and tourism, and the economic regrowth of the region; and

(2) a major portion of State Route 17 is a logical addition to the Interstate System and will provide an east-west interstate

highway that benefits a large region of New York and Pennsylvania that has suffered competitively from the lack of such a highway.

SEC. 2. DESIGNATION OF PORTION OF STATE ROUTE 17 IN NEW YORK AND PENNSYLVANIA AS INTERSTATE ROUTE 86.

(a) In General.—Subject to subsection (b)(2), the portion of State Route 17 located between the junction of State Route 17 and Interstate Route 87 in Harriman, New York, and the junction of State Route 17 and Interstate Route 90 near Erie, Pennsylvania, is designated as Interstate Route 86.

(b) Substandard Features.—

(1) Upgrading.—Each segment of State Route 17 described in subject (a) that does not substantially meet the Interstate System design standards under section 109(b) of title 23, United States Code, in effect on the date of enactment of this Act shall be upgraded in accordance with plans and schedules developed by the applicable State.

(2) Designation.—Each segment of State Route 17 that on the date of enactment of this Act is not at least 4 lanes wide, separated by a median, and grade-separated shall—

(A) be designated as a future part of the Interstate System; and

(B) become part of Interstate Route 86 at such time as the Secretary of Transportation determines that the segment substantially meets the Interstate System design standards described in paragraph (1).

(c) Treatment of Route.—

(1) Mileage limitation.—The mileage of Interstate Route 86 designated under subsection (a) shall not be charged against the limitation established by the first sentence of section 103(e)(1) of title 23, United States Code.

(2) Federal financing responsibility—

(A) In general.—Subject to subparagraph (B), the designation of Interstate Route 86 under subsection (a) shall not create increased Federal financial responsibility with respect to the designated Route.

(B) Use of certain funds.—A State may use funds available to the State under paragraphs (1) and (5)(B) of section 104(b) of title 23, United States Code, to eliminate substandard features, and to resurface, restore, rehabilitate, or reconstruct, any portion of the designated Route.

By Mr. LAUTENBERG:

S. 959. A bill to amend chapter 44 of title 18, United States Code, to prohibit the sale or transfer of a firearm to, or the possession if a firearm by, any person who is introxicated; to the Committee on the Judiciary.

THE NO GUNS FOR DRUNKS ACT OF 1997

Mr. LAUTENBERG. Mr. President, today I am introducing legislation to prohibit firearm sales to, and possession by, individuals who are obviously intoxicated.

Mr. President, a casual observer might think that this legislation is not necessary. Most Americans probably think that it is already illegal to sell a gun to a visibly intoxicated person. At the very least, the average citizen likely believes that it is only common sense that a gun dealer would never sell a gun to a drunk customer. Unfortunately, neither assumption is correct. Some gun dealers do sell guns and ammunition to visibly intoxicated persons. My bill will deter these sales, and punishes those who persist in making such dangerous sales.

Federal and state laws currently prohibit the sale of alcohol to obviously drunk individuals, to protect both the intoxicated individual and others. Likewise, it is against the law for intoxicated persons to operate a motor vehicle. Unbelievably, it is not against Federal law to sell a firearm to a visibly intoxicated individual, or for an intoxicated person to possess a firearm.

Worse still, Mr. President, some firearms dealers simply ignore common sense and sell guns and ammunition to any customers if they are clearly intoxicated. The absence of a legal prohibition on such sales allows these gun dealers to escape liability for the absolutely tragic, and foreseeable, consequences of such outrageous conduct.

For instance, Deborah Kitchen, a mother of five children, is now a quadriplegic after being shot by her ex-boyfriend with a rifle he had purchased from a Florida K mart. This man was so drunk when he purchased the rifle that the store clerk had to fill out the Federal firearm purchase form on his behalf. By his own admission, the ex-boyfriend had consumed a fifth of whisky and a case of beer the day he shot Ms. Kitchen. Nevertheless, the store sold him a .22 caliber bolt action rifle and a box of bullets. He then used these to paralyze Ms. Kitchen from the neck down.

Ms. Kitchen sued the K mart for it's outrageous conduct. A jury found the store liable of common law negligence, and returned a verdict in the amount of $12 million. A Florida appeals court overturned the jury's verdict, citing the lack of statutory prohibition on the sale of firearms to intoxicated persons.

Or, Mr. President, consider the case of Anthony Buczkowski, who suffered severe injury after being shot by a drunken ammunition purchaser. William McKay stumbled into a Michigan K mart store after a day-long drinking spree. Although obviously drunk and an admitted "mess", he was still sold a box of shotgun shells. He later used this ammunition to shoot Mr. Buczkowski. Although the trial court entered a judgment against K mart for the damages suffered by Mr. Buczkowski, the Michigan Supreme Court reversed, citing a lack of legal prohibition for such sales.

Unfortunately, common sense and a sense of civic obligation have not been sufficient enough to deter these sales. Perhaps the threat of criminal and civil liability will do the job. Mr. President, it is my fervent hope that this legislation, if enacted, will end any future sales of guns and ammunition to intoxicated persons.

Mr. President, I do not claim that most licensed gun dealers do or would sell guns or ammunition to intoxicated individuals. But the fact is that these sales do occur—and when they happen, the consequences can be devastating.

Mr. President, our country now understands that alcohol and automobiles are a deadly mix. Common sense, and heartbreaking experience, tells us that alcohol and guns also do not mix. It is time that our laws reflect this common sense notion.

I urge my colleagues to support this bill, and ask unanimous consent that a copy of the legislation be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 959

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FIREARMS PROHIBITIONS RELATING TO INTOXICATED PERSONS.

Section 922(d) of title 18, United States Code, is amended—

(1) in subsection (d)—

(A) in paragraph (9), by striking the period at the end and inserting "; or"; and

(B) by adding at the end the following:

"(10) is intoxicated from the use of alcohol or a controlled substance (as that term is defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)))."; and

(2) in subsection (s)(3)(B)—

(A) in clause (vi), by striking "and" at the end;

(B) in clause (vii), by adding "and" at the end;

(C) by adding at the end the following:

"(viii) is not intoxicated from the use of alcohol or a controlled substance (as that term is defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));".

By Mr. DODD (for himself and Mr. Lieberman):

S. 960. A bill to amend the Atomic Energy Act of 1954 to authorize the Nuclear Regulatory Commission to direct that a portion of any civil penalty assessed by used to assist local communities; to the Committee on Environment and Public Works.

THE DISTRESSED COMMUNITIES SUPPORT ACT

Mr. DODD. Mr. President, I rise today to introduce legislation to help communities that suffer when nuclear power plants operate in an unsafe manner.

As most of my colleagues know, when the NRC discovers safety violations at a nuclear power plant, it is authorized to fine that facility for its transgressions, and these fines have been as high as $1.25 million. Under current law these fines go directly into the federal treasury, with no allowances being made for the communities that are home to these deficient nuclear power plants. When a nuclear facility is poorly operated, it often creates severe safety, environmental, and economic concerns for surrounding communities. Therefore, it is only fair that those communities should receive a portion of any NRC fines to go toward addressing matters of local concern. That is why I have introduced the Distressed Communities Support Act.

This legislation is simple and straightforward—it would allow 50 percent of the fines levied by the NRC against nuclear facilities to be funneled back to communities adversely affected by the plant's mismanagement.

The Distressed Communities Support Act would be extremely helpful to towns adjacent to nuclear plants which may be trying to develop special health, safety, and environmental programs. More important, this bill would help communities where the safety violations of the nuclear plant require that the plant be permanently shut down and decommissioned.

It is a fact that nuclear plants around the country are aging, making it increasingly difficult for many of them to meet safety standards and remain operational. Therefore, it is important that communities throughout the country have increased access to resources to deal with problems caused by negligent nuclear plants. In my home state of Connecticut, the time to help local communities is now.

The Connecticut Yankee nuclear plant in Haddam, Connecticut is in the beginning stages of decommissioning. In light of numerous safety violations, the Nuclear Regulatory Commission ordered the plant closed until these safety concerns were addressed. Then, in December of 1996, the owners of Connecticut Yankee decided to permanently close the facility. This decision came despite the fact that the license for the facility was set to expire in 2007. While the owners of Connecticut Yankee had chosen to permanently close the plant, the NRC continued its review of the safety violations, and fined Connecticut Yankee $650,000.

This early decommissioning of this plant will have a dramatic impact on Haddam and other surrounding towns. Connecticut Yankee was the area's largest employer and represented almost half of the tax base in the town of Haddam—a town of just under 7,500 residents. It employed more than 300 individuals. The sudden loss of tax revenue and jobs will have a devastating impact on this area, and the town may well be forced to raise local taxes and make cuts in town services, including the public schools.

In addition to the economic impact is the serious health and environmental impact of the way in which this facility was run. The people of Haddam and surrounding towns are facing difficult days as they contend with radioactive waste and related problems.

While local officials and residents are looking at innovative ways to rebuild their town's tax base, Haddam needs and clearly deserves financial assistance to get on the road to economic recovery. As we look for ways to provide financial assistance for this community, it only seems logical that some portion of the $650,000 in fines should go toward helping these people.

It is even more fitting that a town like Haddam should receive some federal assistance, because the federal government is partly responsible for this town's problems. NRC Commissioner Shirley Jackson has stated that the NRC failed to adequately regulate this plant to ensure safety, and stricter monitoring could have prevented a number of the problems that this plant has experienced. A recent GAO report released by Senator LIEBERMAN details the failings of the NRC in overseeing CT Yankee and other plants.

In most every case where a nuclear power plant's negligence prompts a fine by the NRC, the communities surrounding the plant will feel some negative repercussions. Therefore, I believe that a portion of these fines should be available to the affected communities.

While the Distressed Communities Support Act will not solve all of the problems of towns like Haddam, Connecticut, it is a fair and simple initiative that will provide relief to thousands of Americans.

I hope my colleagues will join me in supporting this bill.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 960

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 1. USE OF PORTION OF CIVIL PENALTY ASSESSED BY THE NUCLEAR REGULATORY COMMISSION TO ASSIST LOCAL COMMUNITIES.

Section 234 of the Atomic Energy Act of 1954 (42 U.S.C. 2282) is amended by adding at the end the following:

"d. USE OF PORTION OF CIVIL PENALTY TO ASSIST LOCAL COMMUNITIES.—In imposing a civil penalty on a person, the Commission may direct the person to pay 50 percent of the amount of the civil penalty to local communities to protect local communities from the adverse economic and other affects of a violation of this Act or of decommissioning of a facility under this Act.".

By Mr. BOND:

S. 962. A bill to amend the Indian Gaming Regulatory Act with respect to certain gaming practices on tribal lands held in trust by the Secretary of the Interior, and for other purposes; to the Committee on Indian Affairs.

THE GAMBLING CLARIFICATION ACT OF 1997

Mr. BOND. Mr. President, I rise to introduce legislation to reform the Indian Gaming Regulatory Act. There is, as I speak, a tribe that is attempting to move into the State of Missouri to build a large gambling casino. I do not believe the tribe is entitled to build this casino under the Indian gaming law, but while Secretary Babbitt has indicated he would consider our views in making his decision, he may rule in favor of the tribe and those who favor gambling. The only way to reverse his decision would be for Congress to change the law and I plan to start that process now.

As my colleagues know, Mr. President, the Indian Gaming Regulatory Act became law in 1988 to address the rapid growth of gambling on Indian tribal lands. The Supreme Court affirmed the sovereignty of Indian tribes and upheld their right to conduct gambling on their tribal lands, holding that such a right could only be abrogated by an act of Congress. Recognizing that it is the policy of the majority of the States to prohibit or drastically regulate gambling and recognizing that many of the citizens of these States regard gambling as morally repugnant, Congress passed the Indian Gambling Regulatory Act.

The intent of the Indian Gaming Regulatory Act is to balance tribal sovereignty with a State's interest in regulating and controlling gambling. The bill attempted to accomplish this by bringing parties to a mutual table to work out an agreement for regulating gambling on reservations consistent with State policy. But the spirit of the legislation is one of containment, to limit gambling and control its growth. IGRA pursues the objective by narrowly restricting the circumstances by which gaming can be conducted on land acquired by tribes after the date of passage of the statute, October 17, 1988. However, like many pieces of regulation, unforeseen circumstances arise, loopholes open and language proves to be too vague or obtusely drafted. Such is the case with IGRA. My legislation does not attempt to reopen or rewrite the bill, but it does attempt to address some of the legislative voids that affect my State and others.

A first step for a tribe to conduct gaming on Indian land is to petition the Secretary of the Interior to have land taken into trust, this permits the tribe to benefit from the tax advantages afforded Indian tribes. While such trust petitions are under review by the Secretary, he is instructed to review the petition considering the best interests of both the tribe and the surrounding community. Furthermore, while such a petition is under review, elected officials have an opportunity to confront the Secretary with any concerns regarding gambling on that land or any objections that community members may hold regarding gambling. The statute, however, does not require the tribe to declare to the Secretary that land will be used for gambling. Furthermore, there is nothing in the statute that would prohibit a tribe from representing to the local community and the Secretary that land will be used for an unobjectionable purpose, only to begin using the land for gambling after it has been placed in trust.

My legislation will require a tribe that is planning to begin conducting gambling on newly acquired tribal land to inform the Secretary during the trust application process that the land in question will in fact be used for gambling. Tribes with land held in trust that have not made such a declaration to the Secretary will be prohibited from using that land for gambling until such time as the tribe applies with the Secretary to have that land held in trust for the specific purpose of gambling. I believe this language will encourage the tribes to be open and upfront regarding their gambling plans for the trust land and is in the best interests of communities to be affected by gambling and in the best interests of the tribal-community relations. Communities that have serious concerns with the introduction of gambling to their neighborhoods will be given the opportunity to register their concerns with their elected officials and with the Secretary of the Interior. Tribes will also be disinclined to misrepresent their intentions or engage in any deceptive tactics to acquire land to begin or expand their gambling operations, which will go a long way to abating any suspicion between the tribes and the surrounding communities.

This language also clarifies the language regarding tribes in the State of Oklahoma, a State where there is no tribal reservations, attempting to spread their gaming operations into a neighboring State. I believe such a practice was not foreseen by the original statute and is inconsistent with the spirit of that statute. Specifically, my legislation will permit an Oklahoma tribe to expand their gaming operations into a neighboring state, but only when the tribe is located in that State and the gaming will be conducted within the boundaries of a former reservation. My State is confronted with a situation where a tribe has purchased land reaching across the State border into Missouri and the tribe is attempting to use that recently purchased land to claim residency in Missouri for the purpose of the statute. To me, that is exploiting the loose drafting of a statutory language. I do not believe the tribe is located in Missouri as contemplated by the statute and, therefore, is not entitled to bring a casino into this Missouri community over the overwhelming objections of Missourians. My bill will make this section clear.

Finally, the Indian Gaming statute authorizes tribes to conduct gaming on their reservations and other trust lands to the extent that gaming is permitted in that State. Such language is consistent with other Federal law by which tribes are subject to the criminal laws of the State but they are not subject to the regulations of the State. The Missouri constitution prohibits land-based gaming, gaming of this class may only be conducted on floating facilities on the Missouri River or Mississippi River. This prohibition was a popular referendum passed by the people of the State and the State legislature endorsed the objection to land-based gaming in a resolution. My legislation clearly states the Missouri Constitution contains a prohibition on land-based casinos and may not be interpreted in any way to permit class III land-based gaming. I might add that where a State has spoken so clearly—and the State constitution is certainly a clear statement of intent—I find it absurd that outsiders can just come in and do what the local people have said they oppose.

Mr. President, my proposals are not an exhaustive list, but the statute has caused a situation in my State that this legislation will address. I understand that the chairman of the Committee on Indian Affairs will be pursuing a larger package of amendments to address the problems in the gaming laws. I encourage him to do so, I look forward to working with him and I encourage my colleagues to join us in this effort. I want to conclude by reiterating that Federal Indian gambling legislation is intended to control and contain Indian gambling. Unfortunately the legislation is riddled with loopholes that out-of-State gambling interests can exploit through tribes like the Eastern Shawnee to operate gambling parlors. The people of southwest Missouri do not want any kind of casino gambling and I am going to do everything I can do legislatively and through the regulatory process to stop it.

I ask unanimous consent to include a copy of the bill and a brief question and answer in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

S. 962

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Gaming Clarification Act of 1997".

SEC. 2. LAND BASED GAMING PROHIBITION OF THE CONSTITUTION OF THE STATE OF MISSOURI.

Section 20(b) of the Indian Gaming Regulatory Act (25 U.S.C. 2719(b)) is amended by adding at the end the following:

"(4) Section 39(e) of article III of the Constitution of the State of Missouri, which authorizes the legislature of the State to permit games of chance only upon the Missouri River or the Mississippi River, conducted on excursion gambling boats and floating facilities—

"(A) is a prohibitory measure; and

"(B) may not be construed to permit land-based class III gaming of any kind for any purpose.".

SEC. 3. APPLICABILITY OF RESTRICTIONS.

Section 20(b) of the Indian Gaming Regulatory Act (25 U.S.C. 2719(b)), as amended by section 2, is further amended by adding at the end the following:

"(5) Notwithstanding any other provision of this subsection, subsection (a) shall apply to any lands acquired by the Secretary in trust for the benefit of an Indian tribe after the date specified in that subsection, if, at the time of the taking of those lands into trust, those lands are located outside of the State in which the Indian tribe is located.".

SEC. 4. DECLARATION OF INTENT TO CONDUCT GAMING.

Section 20 of the Indian Gaming Regulatory Act (25 U.S.C. 4719) is amended by adding at the end the following:

"(e) DECLARATION OF INTENT TO CONDUCT GAMING.—

(1) IN GENERAL.—Except as provided in paragraph (2), notwithstanding any other provision of law, including any other provision of this Act, lands taken into trust for an Indian tribe after the date of enactment of the Gaming Clarification Act of 1997, shall not, for the purposes of this Act, be considered to be Indian lands upon which class II or class III gaming may be conducted in accordance with this Act.

"(2) EXCEPTION.—With respect to trust lands described in paragraph (1) of an Indian tribe, class II or class III gaming may be conducted on those lands in accordance with this Act if—

"(A) the Indian tribe submits an application to the Secretary of the Interior that contains an explicit declaration of the intent of the Indian tribe to conduct gaming on those lands; and

"(B) the Secretary of the Interior, in accordance with procedures established by the Secretary, including reviewing the applicability of subsection (b)(4), approves the declaration contained in the petition.".

QUESTIONS AND ANSWERS ABOUT SENATOR BOND'S INDIAN GAMBLING LEGISLATION

Why is this legislation needed?

The people of Southwest Missouri and their elected representatives have valiantly fought against the Eastern Shawnee tribes proposed casino project in Seneca. In addition, Creative Gaming International, the gambling company that is working with the tribe to establish the casino, has also purchased land near Branson where they intend to open another casino. At this time the tribe's application to have the Seneca land taken into federal trust is pending with the Secretary of the Interior. While Senator Bond has repeatedly asked Interior Secretary Babbitt to deny the tribe's petition, the outcome is uncertain. Loopholes in the Indian Gaming Regulatory Act (IGRA), the federal legislation that regulates Indian gambling, need to be closed to prevent tribes from locating in states where local citizens oppose gambling.

Will this legislation interfere with the legal action that the State has taken?

Senator Bond did not want to pursue any angle that would interfere with any other efforts taken at the state level to keep the casino out. The Attorney General of Missouri filed suit on August 19, 1996, but filed a motion to dismiss the case on November 18, 1996, which was granted on November 27, 1996. The fact that the case has been dropped means Bond's legislation will not interfere with state efforts to stop the casino.

Is this a fix for Missouri or a change in the gaming statute affecting all tribes?

Both. As the situation in Missouri illustrates, the federal statute intended to control the growth of this sort of gambling is vague, poorly drafted and full of loopholes. The Eastern Shawnee tribe is depending on this vague statute and its loopholes to move into Missouri and open a casino, activities that are directly contrary to the intent of the statute. By focusing on several of the legal loopholes, I believe we can solve the problem facing the State of Missouri and other states whose citizens object to gambling facilities.

Can this legislation pass?

Absolutely. The Senate Committee on Indian Affairs is proceeding with legislation this session to correct many of the defects with the laws governing Indian gambling. Bond has met with the committee chairman, Sen. Ben Nighthorse Campbell, and he is aware of the situation in Missouri. Sen. Campbell has several concerns with the law that are similar to Missouri's and has pledged his cooperation to correct this problem.

Congress sometimes moves slowly; does Bond have an alternative plan?

Through his membership on the Senate Appropriations Committee, Bond is well-situated to add language to the annual Department of Interior Appropriations bill which would prevent the Secretary of the Interior from placing this land into trust.

Hasn't the Eastern Shawnee tribe tried to assure local citizens that they no longer intend to develop a casino site on the Seneca land?

Talk is cheap. The tribe has not amended their petition application with the Department of Interior to reflect the fact that they no longer intend to open a casino. Also, Creative Gaming International, the New Jersey company working with the tribe, noted in a press release just last Friday that they were continuing to pursue "Native American gaming in southwest Missouri."

By Mr. CHAFEE (for himself, Mr. GRAHAM, Mrs. BOXER, Mr. BENNETT, Mr. HATCH, and Mr. MOYNIHAN):

S. 963. A bill to establish a transportation credit assistance pilot program, and for other purposes; to the Committee on Environment and Public Works.

THE TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION ACT OF 1997

Mr. CHAFEE. Mr. President, today I am introducing the Transportation Infrastructure Finance and Innovation Act of 1997,—or, TIFIA. The purpose of the bill is to bridge the gap between the Nation's substantial infrastructure needs and limited Federal funds. I am pleased to report that Senators GRAHAM of Florida, BOXER, HATCH, BENNETT, and MOYNIHAN have joined me in cosponsoring this important measure.

I think we can all agree that there is a clear shortfall of public funding to meet the Nation's transportation needs. Our effort to balance the Federal budget only makes the challenge of meeting these critical needs all the more difficult.

The goals of our bill are to offer the sponsors of major transportation projects a new tool to make the most of limited Federal resources, stimulate additional investment in our Nation's infrastructure, and encourage greater private sector participation in meeting our transportation needs.

TIFIA establishes a new Federal credit program for surface transportation. It will provide $800 million in credit assistance over six years to public and private entities, with the purpose of leveraging as much as $16 billion in Federal funds for major transportation projects. In turn, this Federal investment could help leverage total investment in infrastructure from other public and private entities of $40 to $50 billion. Eligible forms of credit assistance available through our proposal include loans, loan guarantees, and lines of credit.

WHAT KINDS OF PROJECTS WOULD QUALIFY FOR THIS ASSISTANCE?

National significance. Projects participating in this program must be determined by the Secretary of Transportation to be "regionally or nationally" significant. Projects must enhance the national transportation system, reduce traffic congestion, and protect the environment.

Large projects. This program is targeted at large projects that are difficult, if not impossible, to fund through traditional means such as using a State's annual allocation in the Federal highway program. Projects participating in the program must cost at least 100 million dollars, or 50 percent of a State's most recent annual apportionment of federal-aid highway funds, whichever is less.

Eligibility. The project must be a surface transportation facility eligible for federal assistance—i.e., a highway, transit, passenger rail, or intermodal facility.

State and local support. The project must be included in the State transportation plan and be in the approved State Transportation Improvement Program.

User charges. Projects must be self-financing through user fees or other non-federal revenue sources.

WHY IS THIS PROGRAM NEEDED IN ADDITION TO STATE INFRASTRUCTURE BANKS?

The new credit assistance program will supplement existing Federal programs, such as the State Infrastructure Banks or SIB's. Large projects of national importance are simply too big to be financed by SIB's. As start-up financial institutions, SIB's are limited in the amount of assistance they can provide in the near term. The credit assistance available through TIFIA will help fill this gap in the near term.

WILL THE FEDERAL GOVERNMENT SHOULDER ALL OF THE RISK FOR THESE PROJECTS?

No, under TIFIA, the Federal Government will participate in the new credit assistance program as a minor investor. Our bill limits Federal participation to 33 percent of total project costs.

I want to emphasize that the new credit assistance program established in TIFIA is a limited, six-year pilot program. The ultimate objective of the program is to phase out Federal participation in these large projects and allow private capital investment to take on this function. It is time to try a new approach and see how it works.

The benefits of private sector involvement in this area are enormous. Giving the private sector a larger role will reduce project costs and advance construction schedules. It also will attract much needed private capital, and more equitably distribute risks between public and private sectors.

Now more than ever, we must preserve the strengths of the transportation system we have in place. Yet, we also must anticipate the future, addressing new problems with innovative solutions. This new credit program is just the sort of creative mechanism we should be advancing.

It is my hope that the new credit assistance program in the bill I introduce today will be included as part of the reauthorization of the Intermodal Surface Transportation Efficiency Act. As I have said before, the ISTEA reauthorization process must reach out for ideas on creative ways, like this one, to finance our infrastructure needs. The combination of our nation's transportation infrastructure needs and the significant fiscal constraints at all levels of government make this effort imperative. This measure has the endorsement of the American Road and Transportation Builders Association; PSA, the Bond Market Trade Association; the Internationals Union of Operating Engineers; the Building and Construction Trades Department; and Project America. I urge my colleagues to give this sensible measure their support.

Mr. President, I ask unanimous consent that the text and description of the bill be included in the RECORD.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Transportation Infrastructure Finance and Innovation Act of 1997".

SEC. 2. FINDINGS.

Congress finds that—

(1) a well-developed system of transportation infrastructure is critical to the economic well-being, health, and welfare of the people of the United States;

(2) traditional public funding techniques such as grant programs are unable to keep pace with the infrastructure investment needs of the United States because of budgetary constraints at the Federal, State, and local levels of government;

(3) major transportation infrastructure facilities that address critical national needs, such as intermodal facilities, border crossings, and multistate trade corridors, are of a scale that exceeds the capacity of Federal and State assistance programs in effect on the date of enactment of this Act;

(4) new investment capital can be attracted to infrastructure projects that are capable of generating their own revenue streams through user charges or other dedicated funding sources; and

(5) a Federal credit program for projects of national significance can complement existing funding resources by filling market gaps, thereby leveraging substantial private co-investment.

SEC. 3. DEFINITIONS.

In this Act:

(1) ELIGIBLE PROJECT COSTS.—The term "eligible project costs" means amounts substantially all of which are paid by, or for the account of, an obligor in connection with a project, including the cost of—

(A) development phase activities, including planning, feasibility analysis, revenue forecasting, environmental review, permitting, preliminary engineering and design work, and other preconstruction activities;

(B) construction, reconstruction, rehabilitation, replacement, and acquisition of real property (including land related to the project and improvements to land), environmental mitigation, construction contingencies, and acquisition of equipment; and

(C) interest during construction, reasonably required reserve funds, capital issuance expenses, and other carrying costs during construction.

(2) FEDERAL CREDIT INSTRUMENT.—The term "Federal credit instrument" means a secured loan, loan guarantee, or line of credit authorized to be made available under this Act with respect to a project.

(3) LENDER.—The term "lender" means any non-Federal qualified institutional buyer (as defined in section 230.144A(a) of title 17, Code of Federal Regulations (or any successor regulation), known as Rule 144A(a) of the Securities and Exchange Commission and issued under the Securities Act of 1933 (15 U.S.C. 77a et seq.)), including—

(A) a qualified retirement plan (as defined in section 4974(c) of the Internal Revenue Code of 1986) that is a qualified institutional buyer; and

(B) a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986) that is a qualified institutional buyer.

(4) LINE OF CREDIT.—The term "line of credit" means an agreement entered into by the Secretary with an obligor under section 6 to provide a direct loan at a future date upon the occurrence of certain events.

(5) LOAN GUARANTEE.—The term "loan guarantee" means any guarantee or other pledge by the Secretary to pay all or part of the principal of and interest on a loan or other debt obligation issued by an obligor and funded by a lender.

(6) LOCAL SERVICER.—The term "local servicer" means—

(A) a State infrastructure bank established under title 23, United States Code; or

(B) a State or local government or any agency of a State or local government that is responsible for servicing a Federal credit instrument on behalf of the Secretary.

(7) OBLIGOR.—The term "obligor" means a party primarily liable for payment of the principal of or interest on a Federal credit instrument, which party may be a corporation, partnership, joint venture, trust, or governmental entity, agency, or instrumentality.

(8) PROJECT.—The term "project" means any surface transportation facility eligible for Federal assistance under title 23 or chapter 53 of title 49, United States Code.

(9) PROJECT OBLIGATION.—The term "project obligation" means any note, bond, debenture, or other debt obligation issued by an obligor in connection with the financing of a project, other than a Federal credit instrument.

(10) SECURED LOAN.—The term "secured loan" means a direct loan or other debt obligation issued by an obligor and funded by the Secretary in connection with the financing of a project under section 5.

(11) STATE.—The term "State" has the meaning given the term in section 101(a) of title 23, United States Code.

(12) SUBSTANTIAL COMPLETION.—The term "substantial completion" means the opening of a project to vehicular or passenger traffic.

SEC. 4. DETERMINATION OF ELIGIBILITY AND PROJECT SELECTION.

(a) ELIGIBILITY.—To be eligible to receive financial assistance under this Act, a project shall meet the following criteria:

(1) INCLUSION IN TRANSPORTATION PLANS AND PROGRAMS.—The project—

(A) shall be included in the State transportation plan required under section 135 of title 23, United States Code; and

(B) at such time as an agreement to make available a Federal credit instrument is entered into under this Act, shall be included in the approved State transportation improvement program required under section 134 of that title.

(2) APPLICATION.—A State, a local servicer identified under section 7(a), or the entity undertaking the project shall submit a project application to the Secretary.

(3) ELIGIBLE PROJECT COSTS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), to be eligible for assistance under this Act, a project shall have eligible project costs that are reasonably anticipated to equal or exceed the lesser of—

(i) $100,000,000; or

(ii) 50 percent of the amount of Federal-aid highway funds apportioned for the most recently-completed fiscal year under title 23, United States Code, to the State in which the project is located.

(B) INTELLIGENT TRANSPORTATION SYSTEM PROJECTS.—In the case of a project involving the installation of an intelligent transportation system, eligible project costs shall be reasonably anticipated to equal or exceed $30,000,000.

(4) DEDICATED REVENUE SOURCES.—Project financing shall be repayable in whole or in part by user charges or other dedicated revenue sources.

(5) PUBLIC SPONSORSHIP OF PRIVATE ENTITIES.—In the case of a project that is undertaken by an entity that is not a State or local government or an agency or instrumentality of a State or local government, the project that the entity is undertaking shall be publicly sponsored as provided in paragraphs (1) and (2).

(b) SELECTION AMONG ELIGIBLE PROJECTS.—

(1) ESTABLISHMENT.—The Secretary shall establish criteria for selecting among projects that meet the eligibility criteria specified in subsection (a).

(2) INCLUDED CRITERIA.—The selection criteria shall include the following:

(A) The extent to which the project is nationally or regionally significant, in terms of generating economic benefits, supporting international commerce, or otherwise enhancing the national transportation system. Specific factors determining national significance shall include the extent to which the project—

(i) is part of the National Highway System and related connectors as specified in section 103(b) of title 23, United States Code;

(ii) promotes regional, interstate, or international commerce;

(iii) enables United States manufacturers to deliver their goods to domestic and foreign markets in a more timely, cost-effective manner;

(iv) stimulates new economic activity and job creation;

(v) reduces traffic congestion, thereby increasing workforce productivity; and

(vi) protects and enhances the environment, including by enhancing air quality through the reduction of congestion and decreased fuel and oil consumption.

(B) The creditworthiness of the project, including a determination by the Secretary that any financing for the project has appropriate security features, such as a rate covenant, to ensure repayment. The Secretary shall require each project applicant to provide a preliminary rating opinion letter from a nationally recognized bond rating agency.

(C) The extent to which assistance under this Act would foster innovative public-private partnerships and attract private debt or equity investment.

(D) The likelihood that assistance under this Act would enable the project to proceed at an earlier date than the project would otherwise be able to proceed.

(E) The extent to which the project uses new technologies, including intelligent transportation systems, that enhance the efficiency of the project.

(F) The amount of budget authority required to fund the Federal credit instrument made available under this Act.

(c) FEDERAL REQUIREMENTS.—The following provisions of law shall apply to funds made available under this Act and projects assisted with the funds:

(1) Section 113 of title 23, United States Code.

(2) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).

(3) The National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(4) The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

(5) Section 5333 of title 49, United States Code.

SEC. 5. SECURED LOANS.

(a) IN GENERAL.—

(1) AGREEMENTS.—Subject to paragraphs (2) and (3), the Secretary may enter into agreements with 1 or more obligors to make secured loans, the proceeds of which shall be used—

(A) to finance eligible project costs; or

(B) to refinance interim construction financing of eligible project costs;

of any project selected under section 4.

(2) LIMITATION ON REFINANCING OF INTERIM CONSTRUCTION FINANCING.—A loan under paragraph (1) shall not refinance interim construction financing under paragraph (1)(B) later than 1 year after the date of substantial completion of the project.

(3) AUTHORIZATION PERIOD.—The Secretary may enter into a loan agreement during any of fiscal years 1998 through 2003.

(b) TERMS AND LIMITATIONS.—

(1) IN GENERAL.—A secured loan under this section with respect to a project shall be on such terms and conditions and contain such covenants, representations, warranties, and requirements (including requirements for audits) as the Secretary determines appropriate.

(2) MAXIMUM AMOUNT.—The amount of the secured loan shall not exceed 33 percent of the reasonably anticipated eligible project costs.

(3) PAYMENT.—The secured loan—

(A) shall be payable, in whole or in part, from revenues generated by any rate covenant, coverage requirement, or similar security feature supporting the project obligations or from a dedicated revenue stream; and

(B) may have a lien on revenues described in subparagraph (A) subject to any lien securing project obligations.

(4) INTEREST RATE.—The interest rate on the secured loan shall be equal to the yield on marketable United States Treasury securities of a similar maturity to the maturity of the secured loan on the date of execution of the loan agreement.

(5) MATURITY DATE.—The final maturity date of the secured loan shall be not later than 35 years after the date of substantial completion of the project.

(6) NONSUBORDINATION.—The secured loan shall not be subordinated to the claims of any holder of project obligations in the event of bankruptcy, insolvency, or liquidation of the obligor.

(7) FEES.—The Secretary may establish fees at a level sufficient to cover the costs to the Federal Government of making a secured loan under this section.

(c) REPAYMENT.—

(1) SCHEDULE.—The Secretary shall establish a repayment schedule for each secured loan under this section based on the projected cash flow from project revenues and other repayment sources.

(2) COMMENCEMENT.—Scheduled loan repayments of principal or interest on a secured loan under this section shall commence not later than 5 years after the date of substantial completion of the project.

(3) SOURCES OF REPAYMENT FUNDS.—The sources of funds for scheduled loan repayments under this section shall include tolls, user fees, or other dedicated revenue sources.

(4) DEFERRED PAYMENTS.—

(A) AUTHORIZATION.—If, at any time during the 10 years after the date of substantial completion of the project, the project is unable to generate sufficient revenues to pay scheduled principal and interest on the secured loan, the Secretary may, pursuant to established criteria for the project agreed to by the entity undertaking the project and the Secretary, allow the obligor to add unpaid principal and interest to the outstanding balance of the secured loan.

(B) INTEREST.—Any payment deferred under subparagraph (A) shall—

(i) continue to accrue interest in accordance with subsection (b)(4) until fully repaid; and

(ii) be scheduled to be amortized over the remaining term of the loan beginning not later than 10 years after the date of substantial completion of the project in accordance with paragraph (1).

(5) PREPAYMENT.—

(A) USE OF EXCESS REVENUES.—Any excess revenues that remain after satisfying scheduled debt service requirements on the project obligations and secured loan and all deposit requirements under the terms of any trust agreement, bond resolution, or similar agreement securing project obligations may be applied annually to prepay the secured loan without penalty.

(B) USE OF PROCEEDS OF REFINANCING.—The secured loan may be prepaid at any time without penalty from the proceeds of refinancing from non-Federal funding sources.

(d) SALE OF SECURED LOANS.—As soon as practicable after substantial completion of a project, the Secretary shall sell to another entity or reoffer into the capital markets a secured loan for the project if the Secretary determines that the sale or reoffering can be made on favorable terms.

(e) LOAN GUARANTEES.—

(1) IN GENERAL.—The Secretary may provide a loan guarantee to a lender in lieu of making a secured loan if the Secretary determines that the budgetary cost of the loan guarantee is substantially the same as that of a secured loan.

(2) TERMS.—The terms of a guaranteed loan shall be consistent with the terms set forth in this section for a secured loan, except that the rate on the guaranteed loan and any prepayment features shall be negotiated between the obligor and the lender, with the consent of the Secretary.

SEC. 6. LINES OF CREDIT.

(a) IN GENERAL.—

(1) AGREEMENTS.—The Secretary may enter into agreements to make available lines of credit to 1 or more obligors in the form of direct loans to be made by the Secretary at future dates on the occurrence of certain events for any project selected under section 4.

(2) USE OF PROCEEDS.—The proceeds of a line of credit made available under this section shall be available to pay debt service on project obligations issued to finance eligible project costs, extraordinary repair and replacement costs, operation and maintenance expenses, and costs associated with unexpected Federal or State environmental restrictions.

(b) TERMS AND LIMITATIONS.—

(1) IN GENERAL.—A line of credit under this section with respect to a project shall be on such terms and conditions and contain such covenants, representations, warranties, and requirements (including requirements for audits) as the Secretary determines appropriate.

(2) MAXIMUM AMOUNTS.—

(A) TOTAL AMOUNT.—The total amount of the line of credit shall not exceed 33 percent of the reasonably anticipated eligible project costs.

(B) ONE-YEAR DRAWS.—The amount drawn in any 1 year shall not exceed 20 percent of the total amount of the line of credit.

(3) DRAWS.—Any draw on the line of credit shall represent a direct loan and shall be made only if net revenues from the project (including capitalized interest, any debt service reserve fund, and any other available reserve) are insufficient to pay debt service on project obligations.

(4) INTEREST RATE.—The interest rate on a direct loan resulting from a draw on the line of credit shall be equal to the yield on 30-year marketable United States Treasury securities as of the date on which the line of credit is obligated.

(5) SECURITY.—The line of credit—

(A) shall be made available only in connection with a project obligation secured, in whole or in part, by a rate covenant, coverage requirement, or similar security feature or from a dedicated revenue stream; and

(B) may have a lien on revenues described in subparagraph (A) subject to any lien securing project obligations.

(6) PERIOD OF AVAILABILITY.—The line of credit shall be available during the period beginning on the date of substantial completion of the project and ending not later than 10 years after that date.

(7) RIGHTS OF THIRD PARTY CREDITORS.—

(A) AGAINST FEDERAL GOVERNMENT.—A third party creditor of the obligor shall not have any right against the Federal Government with respect to any draw on the line of credit.

(B) ASSIGNMENT.—An obligor may assign the line of credit to 1 or more lenders or to a trustee on the lenders' behalf.

(8) NONSUBORDINATION.—A direct loan under this section shall not be subordinated to the claims of any holder of project obligations in the event of bankruptcy, insolvency, or liquidation of the obligor.

(9) FEES.—The Secretary may establish fees at a level sufficient to cover the costs to the Federal Government of providing a line of credit under this section.

(10) RELATIONSHIP TO OTHER CREDIT INSTRUMENTS.—A line of credit under this section shall not be issued for a project with respect to which another Federal credit instrument under this Act is made available.

(c) REPAYMENT.—

(1) SCHEDULE.—The Secretary shall establish a repayment schedule for each direct loan under this section based on the projected cash flow from project revenues and other repayment sources.

(2) TIMING.—All scheduled repayments of principal or interest on a direct loan under this section shall commence not later than 5 years after substantial completion of the project and be fully repaid, with interest, by the date that is 20 years after the end of the period of availability specified in subsection (b)(6).

(3) SOURCES OF REPAYMENT FUNDS.—The sources of funds for scheduled loan repayments under this section shall include tolls, user fees, or other dedicated revenue sources.

SEC. 7. PROJECT SERVICING.

(a) REQUIREMENT.—The State in which a project that receives financial assistance under this Act is located may identify a local servicer to assist the Secretary in servicing the Federal credit instrument made available under this Act.

(b) AGENCY; FEES.—If a State identifies a local servicer under subsection (a), the local servicer—

(1) shall act as the agent for the Secretary; and

(2) may receive a servicing fee, subject to approval by the Secretary.

(c) LIABILITY.—A local servicer identified under subsection (a) shall not be liable for the obligations of the obligor to the Secretary or any lender.

(d) ASSISTANCE FROM EXPERT FIRMS.—The Secretary may retain the services of expert firms in the field of municipal and project finance to assist in the underwriting and servicing of Federal credit instruments.

SEC. 8. OFFICE OF INFRASTRUCTURE FINANCE.

(a) DUTIES OF THE SECRETARY.—Section 301 of title 49, United States Code, is amended—

(1) in paragraph (7), by striking "and" at the end;

(2) in paragraph (8), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(9) develop and coordinate Federal policy on financing transportation infrastructure, including the provision of direct Federal credit assistance and other techniques used to leverage Federal transportation funds.".

(b) OFFICE OF INFRASTRUCTURE FINANCE.—

(1) IN GENERAL.—Chapter 1 of title 49, United States Code, is amended by adding at the end the following:

"§ 113. Office of Infrastructure Finance

"(a) ESTABLISHMENT.—The Secretary of Transportation shall establish within the Office of the Secretary an Office of Infrastructure Finance.

"(b) DIRECTOR.—The Office shall be headed by a Director who shall be appointed by the Secretary not later than 180 days after the date of enactment of this section.

"(c) FUNCTIONS.—The Director shall be responsible for—

"(1) carrying out the responsibilities of the Secretary described in section 301(9);

"(2) carrying out research on financing transportation infrastructure, including educational programs and other initiatives to support Federal, State, and local government efforts; and

"(3) providing technical assistance to Federal, State, and local government agencies and officials to facilitate the development and use of alternative techniques for financing transportation infrastructure.".

(2) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 49, United States Code, is amended by adding at the end the following:

"113. Office of Infrastructure Finance.".

SEC. 9. STATE AND LOCAL PERMITS.

The provision of financial assistance under this Act with respect to a project shall not—

(1) relieve any recipient of the assistance of any obligation to obtain any required State or local permit or approval with respect to the project;

(2) limit the right of any unit of State or local government to approve or regulate any rate of return on private equity invested in the project; or

(3) otherwise supersede any State or local law (including any regulation) applicable to the construction or operation of the project.

SEC. 10. REGULATIONS.

The Secretary may issue such regulations as the Secretary determines appropriate to carry out this Act and the amendments made by this Act.

SEC. 11. FUNDING.

(a) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this Act—

(A) $40,000,000 for fiscal year 1998;

(B) $60,000,000 for fiscal year 1999;

(C) $100,000,000 for fiscal year 2000;

(D) $150,000,000 for fiscal year 2001;

(E) $200,000,000 for fiscal year 2002; and

(F) $250,000,000 for fiscal year 2003.

(2) AVAILABILITY.—Amounts made available under paragraph (1) shall remain available until expended.

(b) CONTRACT AUTHORITY.—Notwithstanding any other provision of law, approval by the Secretary of a Federal credit instrument that uses funds made available under this Act shall be deemed to be acceptance by the United States of a contractual obligation to fund the Federal credit instrument.

(c) LIMITATIONS ON CREDIT AMOUNTS.—For each of fiscal years 1998 through 2003, principal amounts of Federal credit instruments made available under this Act shall be limited to the amounts specified in the following table:

Fiscal year:	Maximum amount of credit:
1998	$800,000,000
1999	$1,200,000,000
2000	$2,000,000,000
2001	$3,000,000,000
2002	$4,000,000,000
2003	$5,000,000,000.

SEC. 12. REPORT TO CONGRESS.

Not later than 4 years after the date of enactment of this Act, the Secretary shall submit to Congress a report summarizing the financial performance of the projects that are receiving, or have received, assistance under this Act, including a recommendation as to whether the objectives of this Act are best served—

(1) by continuing the program under the authority of the Secretary;

(2) by establishing a Government corporation or Government-sponsored enterprise to administer the program; or

(3) by phasing out the program and relying on the capital markets to fund the types of infrastructure investments assisted by this Act without Federal participation.

THE TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION ACT OF 1997

SEC. 1. SHORT TITLE; TABLE OF CONTENTS

This section identifies a new Federal credit assistance program for surface transportation facilities as the Transportation Infrastructure Finance and Innovation Act of 1997.

SEC. 2. FINDINGS

This section recites Congressional findings that a comprehensive surface transportation infrastructure system is crucial to the economic health of the Nation. Traditional methods of funding transportation projects, including Federal grants, are insufficient to meet the Nation's infrastructure investment needs. The funding gap is particularly acute for large projects of National significance, due to their scale and complexity. A new Federal credit program for transportation will help address these projects' special needs by supplementing existing Federal programs and leveraging private debt and equity capital.

This bill is designed to provide an initial infusion of Federal credit assistance over the next six years to facilitate the development of large, capital-intensive infrastructure facilities through public-private partnerships, consisting of a State or local governmental project sponsor and one of more private sector firms involved in the design, construction or operation of the facility. The Federal credit program is oriented to those projects which have the potential to be self-supporting from user charges or other non-Federal dedicated funding sources. The program is structured to fill to specific market gaps through Federal participation as a minority investor. The ultimate objective is to phase out Federal participation and encourage private capital investment to fulfill this function.

The program should result in additional surface transportation facilities being developed more quickly and at a lower cost than would be the case under conventional public procurement, funding and ownership.

SEC. 3. DEFINITIONS

This section sets forth the definitions for terms used in this title. The key terms are listed below:

A "Project" is defined as any surface transportation facility eligible under the provisions of title 23 as well as chapter 53 of title 49, United States Code. Permitted projects would include free or tolled highways, bridges and tunnels; mass transportation facilities and vehicles; commuter and inter-city rail passenger facilities and vehicles; intermodal passenger terminals; and intermodal freight and port facilities (excluding privately-owned rail rolling stock).

The term "Eligible Project Costs" is defined to include those costs of a capital nature incurred by a sponsor in connection with developing an infrastructure project. These costs fall into three categories: (I) preconstruction costs relating to planning, design, and securing governmental permits and approvals; (ii) hard costs relating to the design and construction (or rehabilitation) of a project; and (iii) related soft costs associated with the financing of the project, such as interest during construction, reserve accounts, and issuance expenses. It would not include operation or maintenance costs.

An "Obligor" is defined as any entity (whether a State or local governmental unit or agency, a private entity authorized by such governmental unit to develop a project, or a public-private partnership) that is a borrower involving a secured loan, loan guarantee, or line of credit under this title.

A "Local Servicer" is defined as a state infrastructure bank or other designated State or local governmental agency which may service the credit program on behalf of the Department of Transportation within that State.

"Substantial Completion" is defined as the date when a project opens to vehicular, passenger, or freight traffic.

Other definitions specify types of lenders, project obligations, and Federal credit instruments—including secured loans, loan guarantees, and lines of credit.

SEC. 4. DETERMINATION OF ELIGIBILITY AND PROJECT SELECTION

This section defines the threshold eligibility criteria for a project to receive Federal credit assistance and outlines the basis upon which the Secretary will select among potential candidates. The Secretary's determination of a project's eligibility will be based on both quantitative and qualitative factors.

To ensure that the project enjoys both State and local support the project must be included in the State's plan and program and, if the project is in a metropolitan area, it must satisfy all metropolitan planning requirements of 23 U.S.C. 134. The State or State-designated entity will be responsible for forwarding the project application to the Secretary.

In terms of size, the project must be reasonably anticipated to cost at least $100 million or an amount equal to 50 percent of a State's annual Federal-aid highway apportionments, whichever is less. This two-fold test is designed to allow small and rural States to accommodate projects otherwise too large for their transportation programs. Based on FY 1997 apportionments, eighteen States could qualify projects costing less than $100 million, with the minimum allocation equaling approximately $40 million.

An exception to this size threshold would be projects involving the installation of intelligent transportation systems, which would need to cost at least $30 million.

In addition, a project must be supported at least in part by user charges, to encourage the development of new revenue streams and the participation by the private sector.

Project applicants meeting the threshold eligibility criteria then will be evaluated by the Secretary based on a number of factors. Of prime importance, the project must be deemed by the Secretary to be "nationally or regionally significant" in terms of facilitating the movement of people and goods in a more efficient and cost-effective manner, resulting in significant economic benefits. Among the other factors which the Secretary will take into account are: the likelihood that the Federal assistance will enable the project to proceed at an earlier date; the degree to which the project leverages non-Federal resources, including private sector capital; and its overall creditworthiness.

This section also provides that all requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.), and section 5333 of title 49 and section 113 of title 23, United States Code (relating to wage protections), shall apply to funds made available under this title and projects assisted with such funds.

SEC. 5. SECURED LOANS

This section establishes a temporary lending program whereby the Secretary may make direct Federal loans in fiscal years 1998 through 2003 to demonstrate to the capital markets the viability of making transportation infrastructure investments where returns depend on excess project cash flows. It is intended to help the capital markets develop the capability to replace the role of the Federal government by the end of the authorization period in helping finance the costs of large projects of national significance. The loans are contemplated to be made up front as combined construction and permanent financing, although the title allows the Federal loan to be made up to a year after construction is completed for those projects that have arranged interim construction financing.

A secured loan could be in an amount up to 33 percent of the reasonably anticipated cost of a project, and could have a final maturity as long as 35 years after the date the project opens (substantial completion). The interest rate would be established at the time the loan agreement was executed, and would equal the prevailing yield on comparable term U.S. Treasury bonds. Loan repayments would be required to start within five years after the date of substantial completion and are payable from user fees or dedicated revenue streams.

The terms and conditions of each loan would be negotiated between the Secretary and the borrower, and would allow a lien on project revenue subject to a lien securing other project debt. In the event of default and bankruptcy, insolvency or liquidation of the obligor, the loan is not subordinated to the claims of any other lender. A key feature would allow the Secretary, for a period up to 10 years following project completion, to defer principal and interest payments should project revenues prove insufficient. Any deferred payments during this "ramp-up" period would accrue with interest, and this amount will be amortized over the remaining term of the loan. Such a flexible payment schedule (allowing for deferrals during the project's ramp-up phase) should assist the project in obtaining an "investment grade" bond rating (that is, BBB or higher) on its capital markets indebtedness. Excess revenues or proceeds of refinancing from non-Federal funding sources could be used to prepay the secured loans without penalty.

The Secretary is to determine whether a secured loan can be sold to another entity or reoffered into the capital markets on favorable terms as soon as possible after substantial completion.

In lien of funding secured loans directly, the Secretary may provide loan guarantees to lenders, provided the budgetary cost based on credit-worthiness is similar. This feature is designed to attract voluntary investment from pension funds and other institutional investors. Guaranteed loans would not be permitted to be issued on a tax-exempt basis.

SEC. 6. LINES OF CREDIT

This section authorizes the Secretary to enter into agreements to make direct loans to projects at future dates upon certain conditions occurring. Such agreement would be in the form of a standby line of credit.

In contrast to a secured loan provided under section 5, the line of credit would not be for the purpose of funding construction costs as part of the project's initial capitalization. Rather, the line of credit would be drawn upon if needed to pay debt service and other project expenses (such as extraordinary repair and replacement, or operation and maintenance) during the critical "ramp-up" period after the facility has opened. The line is designed to facilitate project sponsors' access private capital by assisting them in obtaining investment grade ratings on their debt.

It is intended that the financial institutions such as bond insurers will develop the capability to replace this temporary role of the Federal government in providing lines of credit for large transportation infrastructure projects by the end of the authorization period.

The secured loans and the line of credit are intended to address projects with different financial needs based on their pro-forma capital structures. The secured loans will be most attractive to those projects that must demonstrate to private lenders or capital markets debt investors that there is adequate coverage "going in" based on maximum annual debt service, and where the cost of the Federal loan compares favorably with the cost of other borrowing alternatives. A line of credit is more likely to be used by projects that are able to issue capital markets debt on favorable terms with an ascending debt service pattern, but need to demonstrate access to contingent sources of capital to support such debt service in the event revenues fail to grow as quickly as annual payments of principal and interest.

This section sets forth various limitations on the availability of draws on a line of credit. A draw on the line will represent a direct loan. A line of credit could only be drawn upon after the project had used up other available revenues and reserves, and it could only be accessed for a period of up to 10 years after a project had been substantially completed.

The total amount of draws could not exceed 33 percent of reasonably anticipated eligible project costs, as is the case with secured loans. The borrower could draw down up to 20 percent of the line of credit each year (i.e., the entire amount could be drawn down during the first five years of a ten year credit line, if needed.)

Any draws would need to be fully repaid, with interest, within 20 years of the end of the 10-year availability period following substantial completion of the project. The interest rate for any draw would be established at the time the line of credit agreement was entered into, at a rate equal to the then-prevailing yield on 30 year U.S. Treasury bonds. The repayment of the draw would be secured in a manner similar to the secured loan.

To avoid "double-dipping," a borrower could not combine a line of credit with a secured loan for any given project.

SEC. 7. PROJECT SERVICING

The program will use State or local governmental agencies to assist the Secretary in servicing each credit instrument. The State may designate its State infrastructure bank or some other public agency to serve as the local servicing agent for the credit instrument.

The local servicing agent would function as a financing conduit, much like a mortgage company, and with the Secretary's approval it could charge a servicing fee. It would not be financially liable in any way for the credit provided; rather, it would assist in the disbursement and collection of funds. It is required that the local servicing agent set up a separate account from its other activities to receive the Federal credit proceeds for disbursal to the borrower, and to receive loan repayments for remittance to the Secretary.

SEC. 8. OFFICE OF INFRASTRUCTURE FINANCE

The Secretary will establish an Office of Infrastructure Finance to manage the credit program and provide related technical and educational assistance.

Program guidelines will be established by the Secretary in order to ensure the program operates prudently and efficiently, including requiring obligors to provide annual audits.

SEC. 9. STATE AND LOCAL PERMITS

This section states that this title in no way supersedes any existing State or local laws, regulations, or project approval requirements.

SEC. 10. FUNDING

This section provides contract authority to fund the budgetary or subsidy costs of the Federal credit instruments provided. (Subsidy costs, which are defined in and required to be funded by budget authority under the Federal Credit Reform Act of 1990, represent the present value of expected cash flows for each credit instrument, taking into account the default risk as well as any interest rate subsidy. Since this title requires all secured loans to be made at rate equal to the comparable term U.S. Treasury rate, there will be no interest subsidy element.) The contract authority would remain available until expended, and would be paid out of the highway account of the Highway Trust Fund.

The section also establishes a limit each year on the maximum amount of credit assistance that may be offered under this title.

Fiscal year	Budget (contract) authority	Nominal credit limit
1998	$40,000,000	$800,000,000
1999	$60,000,000	$1,200,000,000
2000	$100,000,000	$2,000,000,000
2001	$150,000,000	$3,000,000,000
2002	$200,000,000	$4,000,000,000
2003	$250,000,000	$5,000,000,000

SEC. 110. REPORT TO CONGRESS

This section requires the Secretary to summarize the activities and results of the assistance programs and mechanisms provided under this title, including whether they are succeeding in encourage the private capital markets to invest in large transportation infrastructure projects. The report shall be made within four years of enactment of the title and include recommendations on whether the programs should be continued or phased out by the end of the authorization period as planned.

Mrs. BOXER. Mr. President, I would like to ask the distinguished Senator from Rhode Island, Senator CHAFEE, who is the chairman of the Senate Committee on Environment and Public Works, on which I am pleased to serve, a question about his proposed Transportation Finance and Innovation Act.

Mr. CHAFEE. I will be pleased to yield to a question from my California colleague.

Mrs. BOXER. I thank the Senator. I also want to thank the Chairman for his support for a number of critical transportation projects in California and in particular, the Alameda Transportation Corridor project. As the Chairman knows, he supported my efforts to designate the Corridor a High Priority Corridor in the National Highway System Designation Act of 1995. That in turn led President Clinton to include in his fiscal year 1997 budget request funding to support a $400 million direct Federal loan for the project, which was approved by Congress last year.

As Senator CHAFEE, knows, California has major need for transportation investment due in large part to the tremendous increase in international trade flowing through the state. While this trade has helped bring California out of the economic recession earlier this decade, it has also placed tremendous strain on our infrastructure. No where is this more apparent than at our border with Mexico. Unfortunately, after the implementation of the North American Free Trade Agreement, the Federal Government provided no special assistance to the border States to deal with the expected doubling of commercial truck traffic through these border trade corridors. As the Senator knows from his recent tour of the area, narrow rural highways or city streets are being expected to carry heavy, continuous commercial truck traffic.

In response to this need, I introduced the Border Infrastructure, Safety and Congestion Relief Act. A section of my bill would provide Federal funds to state infrastructure banks or authorities to finance border improvement projects. We know that some projects could be financed more efficiently under partnerships with the private sector. I understand Senator CHAFEE's bill on Transportation Finance and Innovation would provide an infusion of Federal credit assistance over the next six years to help construct large, high-cost infrastructure facilities. My question for the Chairman is this, would border crossing facilities and trade corridors be eligible for this type of Federal financing under your bill?

Mr. CHAFEE. The Senator is correct. Through the efforts of Senator BOXER, I have become aware of the need for border infrastructure investment and of her own legislation which has been referred to our committee. The Transportation Finance and Innovation Act embraces the innovative finance objectives of the Boxer bill. Border crossing facilities and multi-State trade corridors are clearly eligible and the selection criteria specifically includes those projects which promote international commerce. This bill will enable United States manufacturers to deliver their goods to domestic and foreign markets in a more timely, and cost-effective manner.

Mrs. BOXER. I thank the Chairman. I am proud to be an original cosponsor of the Transportation Finance and Innovation Act. Several projects in California could benefit potentially from this legislation, not only in the border region but with the Alameda Corridor project in Los Angeles and the Bay Area Rapid Transit extension to San Francisco International Airport. I appreciate Senator CHAFEE's hard work and vision to present new innovations and ideas on financing transportation investments needed to keep our economy competitive in the world.

Mr. GRAHAM. Mr. President, I am pleased to join my colleague from Rhode Island—the distinguished chairman of the Senate Environment and Public Works Committee—in the introduction of an initiative to help address our nation's infrastructure needs. Our initiative aims to harness the resources and energies of the public and the private sectors, and have them work in concert to ensure that a 21st century America has a modern system of roads, highways, and other critical public works assets. We are calling this new partnership the Transportation Infrastructure Finance and Innovation Act of 1997—TIFIA.

Mr. President, the numbers paint a stark and disturbing picture of the state of our nation's infrastructure. A survey of our nation's community water system estimated that a minimum of $138.4 billion are needed over a 20 year period for the purposes of installing, upgrading, or replacing water mains, pipes, and processing facilities. Houston Mayor Bob Lanier, Chairman of the Rebuild America Coalition, reports that "57 percent of highway pavement in all but a handful of states is in poor or mediocre condition; in some of the most populous regions, the figure is as high as 70%." The U.S. Department of Transportation estimates that our nation must invest an additional $33 billion in surface transportation in order to stay ahead of future growth, congestion, and development. We are also faced with 187,000 structurally deficient and functionally obsolete bridges. According to the Federal Highway Administration, a minimum of $8.2 billion is required to improve and correct bridge conditions.

In addition to these needs, we are faced with the important and challenging task of balancing the federal budget in order to preserve the health and prosperity of future generations of Americans. In order to achieve this goal and still meet our nation's infrastructure needs, our actions must be a combination of traditional as well as new and innovative means of financing.

Specifically, I believe that we need to do the following: First, we need to provide for a more efficient use of resources going to improve and develop our nation's infrastructure. We need to better utilize cost-saving tools and techniques so that we can stretch our nation's public investment dollars as far as possible in this time of limited federal funds. Second, we need to raise the level of traditional resources so that states will have a larger pool of dollars, including federal dollars, available for infrastructure development. Third, we need to attract and facilitate new and innovative financing sources, such as private investment. By fostering greater private-public partnerships, we can provide additional funding resources for states and communities. Finally, we need to develop and support innovative construction and financing mechanisms, such as State Infrastructure Banks (SIBs) and the legislation we are introducing today, TIFIA.

In the face of declining federal investment in infrastructure amidst tight fiscal constraints, TIFIA enables communities and states to utilize creative methods for addressing our nation's infrastructure needs. TIFIA would provide $800 million in federal credit assistance for major transportation infrastructure projects costing in excess of $100 million. The legislation provides a model in which states could use federal loans to develop large projects that have the potential to be self-supporting.

Projects which would be candidates for receiving assistance under this program include: The Western Extension of the George Bush Freeway in Texas; the Broken Arrow Expressway in Oklahoma; the widening of US Highway 219 in New York; the Interstate 15 rebuilding project in Utah; the Border Infrastructure project in Southern California; and the Florida High Speed Rail.

In my state of Florida, the state's Department of Transportation is proposing the Florida High Speed Rail project, which would connect the major metropolitan areas of Miami, Orlando, and Tampa, and be the first true high speed rail line in our nation. Japan and nations in Europe have already made major progress in high speed rail transportation—but this progress has been contingent on support from their national governments. TIFIA could provide important credit support for such projects of national significance.

Creative financing for infrastructure development is crucial as we enter the 21st century and are confronted with the extensive needs which can only be addressed through new and visionary approaches. In this Congress, we are scheduled to reauthorize both the Clean Water Act and ISTEA, the Intermodal Surface Transportation Efficiency Act, which governs our nation's highway system—two major infrastructure bills which address pressing needs that affect the daily lives of citizens nationwide.

As we focus on these two major bills, it is my hope that we will take steps to improve the state of our nation's public works system in a substantial and effective manner. TIFIA should be used as one model for taking these steps using a creative private-public financing approach. In fact, it is my hope that this legislation will be incorporated into ISTEA.

We should create new partnerships which will help us to meet current and future needs while acknowledging the limited resources available to us in this fiscal environment. If we are to rebuild our nation's infrastructure, and lay the groundwork for the next generation of transportation infrastructure, we will need to develop innovative financing programs such as TIFIA.

It is my hope that after we complete the Highway Program bill—with the inclusion of TIFIA as an innovative financing title—we will develop similar mechanisms for addressing the financing requirements of other major public works needs such as clean water systems and perhaps even school construction.

We should heed the wisdom found in the words of Daniel Burnham, a prominent architect who served as chairman of a commission charged with redeveloping the District of Columbia, "Think no small ideas. Small ideas have no magic to stir men's minds." Let us use this bill as the starting point from which to make a serious and substantial dent in our national development needs.

Mr. President, I thank the Chairman for his leadership in this area and look forward to working closely with him as we work to pass this bill and reauthorize the Highway Program.

ADDITIONAL COSPONSORS

S. 364

At the request of Mr. LIEBERMAN, the name of the Senator from Michigan [Mr. ABRAHAM] was added as a cosponsor of S. 364, a bill to provide legal standards and procedures for suppliers of raw materials and component parts for medical devices.

S. 387

At the request of Mr. HATCH, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 387, a bill to amend the Internal Revenue Code of 1986 to provide equity to exports of software.

S. 492

At the request of Mr. SARBANES, the name of the Senator from Nevada [Mr. BRYAN] was added as a cosponsor of S. 492, a bill to amend certain provisions of title 5, United States Code, in order to ensure equality between Federal firefighters and other employees in the civil service and other public sector firefighters, and for other purposes.

S. 496

At the request of Mr. CHAFEE, the name of the Senator from Illinois [Mr. DURBIN] was added as a cosponsor of S. 496, a bill to amend the Internal Revenue Code of 1986 to provide a credit against income tax to individuals who rehabilitate historic homes or who are the first purchasers of rehabilitated historic homes for use as a principal residence.

S. 507

At the request of Mr. HATCH, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of S. 507, a bill to establish the United States Patent and Trademark Organization as a Government corporation, to amend the provisions of title 35, United States Code, relating to procedures for patent applications, commercial use of patents, reexamination reform, and for other purposes.

S. 551

At the request of Mr. GREGG, the names of the Senator from Ohio [Mr. DEWINE] and the Senator from Iowa [Mr. GRASSLEY] were added as cosponsors of S. 551, a bill to amend the Occupational Safety and Health Act of 1970 to make modifications to certain provisions.

S. 682

At the request of Mr. HARKIN, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 682, a bill to amend title 32, United States Code, to make available not less than $200,000,000 each fiscal year for funding of activities under National Guard drug interdiction and counterdrug activities plans.

S. 755

At the request of Mr. CAMPBELL, the name of the Senator from Colorado [Mr. ALLARD] was added as a cosponsor of S. 755, a bill to amend title 10, United States Code, to restore the provisions of chapter 76 of that title (relating to missing persons) as in effect before the amendments made by the National Defense Authorization Act for Fiscal Year 1997 and to make other improvements to that chapter.

S. 872

At the request of Mr. ROBERTS, the name of the Senator from North Dakota [Mr. DORGAN] was added as a cosponsor of S. 872, a bill to amend the Internal Revenue Code of 1986 to provide for the nonrecognition of gain for sale of stock to certain farmers' cooperatives, and for other purposes.

SENATE JOINT RESOLUTION 6

At the request of Mr. KYL, the names of the Senator from New Hampshire [Mr. GREGG], the Senator from Nebraska [Mr. HAGEL], and the Senator from Colorado [Mr. CAMPBELL] were added as cosponsors of Senate Joint Resolution 6, a joint resolution proposing an amendment to the Constitution of the United States to protect the rights of crime victims.

SENATE RESOLUTION 94

At the request of Mr. WARNER, the names of the Senator from Montana [Mr. BURNS], the Senator from Rhode Island [Mr. CHAFEE], and the Senator from Louisiana [Mr. BREAUX] were added as cosponsors of Senate Resolution 94, a resolution commending the American Medical Association on its 150th anniversary, its 150 years of caring for the United States, and its continuing effort to uphold the principles upon which Nathan Davis, M.D. and his colleagues founded the American Medical Association to "promote the science and art of medicine and the betterment of public health."

AMENDMENT NO. 469

At the request of Mr. SPECTER the names of the Senator from Pennsylvania [Mr. SANTORUM], the Senator from Maine [Ms. SNOWE], the Senator from Maine [Ms. COLLINS], and the Senator from Colorado [Mr. CAMPBELL] were added as cosponsors of amendment No. 469 proposed to S. 947, an original bill to provide for reconciliation pursuant to section 104(a) of the concurrent resolution on the budget for fiscal year 1998.

AMENDMENT NO. 471

At the request of Mr. SPECTER the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of amendment No. 471 proposed to S. 947, an original bill to provide for reconciliation pursuant to section 104(a) of the concurrent resolution on the budget for fiscal year 1998.

AMENDMENT NO. 492

At the request of Mr. KENNEDY the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of amendment No. 492 proposed to S. 947, an original bill to provide for reconciliation pursuant to section 104(a) of the concurrent resolution on the budget for fiscal year 1998.

AMENDMENT NO. 498

At the request of Mr. HARKIN the names of the Senator from Iowa [Mr. GRASSLEY], the Senator from Massachusetts [Mr. KERRY], the Senator from Arkansas [Mr. BUMPERS], and the Senator from Minnesota [Mr. WELLSTONE] were added as cosponsors of amendment No. 498 proposed to S. 947, an original bill to provide for reconciliation pursuant to section 104(a) of the concurrent resolution on the budget for fiscal year 1998.

At the request of Mr. DOMENICI his name, and the name of the Senator from Missouri [Mr. BOND] were added as cosponsors of amendment No. 498 proposed to S. 947, supra.

SENATE RESOLUTION 103—TO CONGRATULATE THE CHICAGO BULLS

Ms. MOSELEY-BRAUN (for herself and Mr. DURBIN) submitted the following resolution; which was considered and agreed to:

S. RES. 103

Whereas the Chicago Bulls at 69–13, posted the second best regular season record in the history of the National Basketball Association;

Whereas the Bulls once again roared through the playoffs, sweeping the Washington Bullets and defeating the Atlanta Hawks in 5 games, before beating the Miami Heat in 5 games to return to the NBA Finals for the second straight year;

Whereas the Bulls displayed a potent offense and stifling defense throughout the playoffs before beating the Utah Jazz to win their second consecutive NBA championship, their fifth in the last 7 years;

Whereas head coach Phil Jackson and the entire coaching staff skillfully led the Bulls through a 69-win season and a 15-4 playoff run;

Whereas Michael Jordan and Scottie Pippen were again named to the NBA's "All-Defensive First Team", the only 2 players from the same team to be so named, and were each voted to be among the 50 greatest players in NBA history;

Whereas Michael Jordan won his record ninth scoring title, is the sixth leading scorer in NBA history, and was named playoff most valuable player for the fifth time in 5 playoff appearances;

Whereas Scottie Pippen again exhibited his outstanding offensive and defensive versatility, providing himself to be one of the best all-round players in the NBA;

Whereas the quickness, tireless defensive effort, and athleticism of the colorful Dennis Rodman, who won his sixth straight rebounding title, keyed a strong Bulls front line;

Whereas veteran guard Ron Harper, in shutting down many of the league's top point guards throughout the playoffs, demonstrated the defensive skills that have made him a cornerstone of the league's best defense;

Whereas center Luc Longley frustrated many of the all-star caliber centers that he faced in this year's playoffs while at times providing a much needed scoring lift;

Whereas Toni Kukoc, despite injury, displayed his awesome variety of offensive skills in both assisting on, and hitting, several big short when the Bulls needed them most;

Whereas Steve Kerr, with his laser-like 3-point shooting, sparked many a Bulls rally and hit the championship winning shot in game 6 of the NBA finals;

Whereas the outstanding play of Brian Williams and Jason Caffey, and the tenacious defense of Randy Brown, each of whom came off the bench to provide valuable contributions, were an important part of each Bulls victory;

Whereas Jud Buechler and Robert Parish provided valuable contributions throughout the season and the playoffs, both on and off the court, at times giving the Bulls the emotional lift they needed; and

Whereas the regular season contributions of injured center Bill Wennington, forward Dickey Simpkins, and rookie Matt Steigenga, both on the court and in practice, again demonstrated the total devotion of Bulls personnel to the team concept that has made the Bulls one of the great sports dynasties of modern times: Now, therefore, be it

Resolved, That the Senate congratulates the Chicago Bulls on winning the 1997 National Basketball Association championship.

AMENDMENTS SUBMITTED

THE TAX FAIRNESS ACT OF 1997

BOND (AND OTHERS) AMENDMENT NO. 514

(Ordered to lie on the table.)

Mr. BOND (for himself, Mr. ENZI, Mr. NICKLES, Mrs. HUTCHISON, and Mr. HAGEL) submitted an amendment intended to be proposed by them to the bill, S. 949, to provide revenue reconciliation pursuant to section 104(b) of the concurrent resolution on the budget for fiscal year 1998; as follows:

On page 212, between lines 11 and 12, insert the following:

SEC. . DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS INCREASED.

(a) IN GENERAL.—Section 162(1)(1) (relating to special rules for health insurance costs of self-employed individuals) is amended to read as follows:

"(1) ALLOWANCE OF DEDUCTION.—In the case of an individual who is an employee within the meaning of section 401(c)(1), there shall be allowed as a deduction under this section an amount equal to the amount paid during the taxable year for insurance which constitutes medical are for the taxpayer, the taxpayer's spouse, and dependents.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1996.

DORGAN AMENDMENTS NOS. 515–517

Mr. DORGAN proposed three amendments to the bill, S. 949, supra; as follows:

AMENDMENT NO. 515

On page 211, between lines 5 and 6, insert the following:

SEC. 724. ABATEMENT OF INTEREST ON UNDERPAYMENTS BY TAXPAYERS IN PRESIDENTIALLY DECLARED DISASTER AREAS.

(a) IN GENERAL.—Section 6404 (relating to abatements) is amended by adding at the end the following:

"(h) ABATEMENT OF INTEREST ON UNDERPAYMENTS BY TAXPAYERS IN PRESIDENTIALLY DECLARED DISASTER AREAS.—

"(1) IN GENERAL.—If the Secretary extends for any period of time for filing income tax returns under section 6081 and the time for paying income tax with respect to such returns under section 6161 (and waives any penalties relating to the failure to so file or so pay) for any taxpayer located in a Presidentially declared disaster area, the Secretary shall abate for such period the assessment of any interest prescribed under section 6601 on such income tax.

"(2) PRESIDENTIALLY DECLARED DISASTER AREA.—For purposes of paragraph (1), the term 'Presidentially declared disaster area' means, with respect to any taxpayer, any area which the President has determined warrants assistance by the Federal Government under the Disaster Relief and Emergency Assistance Act.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to disasters declared after December 31, 1996.

AMENDMENT NO. 516

On page 211, between lines 5 and 6, insert the following:

SEC. 724. DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT ACCOUNTS MAY BE USED WITHOUT PENALTY TO REPLACE OR REPAIR PROPERTY DAMAGED IN PRESIDENTIALLY DECLARED DISASTER AREA.

(a) IN GENERAL.—Section 72(t)(2) (relating to exceptions to 10-percent additional tax on early distributions), as amended by sections 203 and 303, is amended by adding at the end the following new subparagraph:

"(G) DISTRIBUTIONS FOR DISASTER-RELATED EXPENSES.—Distributions from an individual retirement plan which are qualified disaster-related distributions.".

(b) QUALIFIED DISASTER-RELATED DISTRIBUTIONS.—Section 72(t), as amended by sections 203 and 303, is amended by adding at the end the following new paragraph:

"(9) QUALIFIED DISASTER-RELATED DISTRIBUTIONS.—For purposes of paragraph (2)(E)—

"(A) IN GENERAL.—The term 'qualified disaster-related distribution' means any payment or distribution received by an individual to the extent that the payment or distribution is used by such individual within 60 days of the payment or distribution to pay for the repair or replacement of tangible property which is disaster-damaged property. Such term shall only include any payment or distribution which is made during the 2-year period beginning on the date of the determination referred to in subparagraph (C).

"(B) DISASTER-DAMAGED PROPERTY.—The term 'disaster-damaged property' means property—

"(i) which was located in a disaster area on the date of the determination referred to in subparagraph (C), and

"(ii) which was destroyed or substantially damaged as a result of the disaster occurring in such area.

"(C) DISASTER AREA.—The term 'disaster area' means an area determined by the President to warrant assistance by the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act.".

"(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments and distributions after December 31, 1996, with respect to disasters occurring after such date.

SEC. 725. ELIMINATION OF 10 PERCENT FLOOR FOR DISASTER LOSSES.

"(a) GENERAL RULE.—Section 165(h)(2)(A) (relating to net casualty loss allowed only to the extent it exceeds 10 percent of adjusted gross income) is amended by striking clauses (i) and (ii) and inserting the following new clauses:

"(i) the amount of the personal casualty gains for the taxable year,

"(ii) the amount of the federally declared disaster losses for the taxable year (or, if lesser, the net casualty loss), plus

"(iii) the portion of the net casualty loss which is not deductible under clause (ii) but only to the extent such portion exceeds 10 percent of the adjusted gross income of the individual.

For purposes of the preceding sentence, the term 'net casualty loss' means the excess of personal casualty losses for the taxable year over personal casualty gains.".

(b) FEDERALLY DECLARED DISASTER LOSS DEFINED.—Section 165(h)(3) (relating to treatment of casualty gains and losses) is amended by adding at the end the following new subparagraph:

"(C) FEDERALLY DECLARED DISASTER LOSS.—The term 'federally declared disaster loss' means any personal casualty loss attributable to a disaster occurring in an area subsequently determined by the President of the United States to warrant assistance by the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act.".

(c) CONFORMING AMENDMENT.—The heading for section 165(h)(2) is amended by striking "NET CASUALTY LOSS" and inserting "NET NONDISASTER CASUALTY LOSS".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to losses attributable to disasters occurring after December 31, 1996, including for purposes of determining the portion of such losses allowable in taxable years ending before such date pursuant to an election under section 165(i) of the Internal Revenue Code of 1986.

Strike section 751 of the bill.

On page 239 strike lines 18 and 19.

On page 239, line 20, strike “(5)” and insert “(4)”.

On page 240, line 1, strike “(6)” and insert “(5)”.

AMENDMENT NO. 517

On page 96, strike lines 11 through 16, and insert:

“(3) ADJUSTED NET CAPITAL GAIN.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘adjusted net capital gain’ means net capital gain determined without regard to—

“(i) collectibles gain, and

“(ii) unrecaptured section 1250 gain.

“(B) $1,000,000 LIFETIME LIMITATION.—

“(i) IN GENERAL.—The adjusted net capital gain for any taxable year shall not exceed $1,000,000, reduced by the aggregate adjusted net capital gain for all prior taxable years.

“(ii) SPECIAL RULE FOR JOINT RETURNS.—The amount of the adjusted net capital gain taken into account under this section on a joint return for any taxable year shall be allocated equally between the spouses for purposes of applying the limitation under clause (i) for any succeeding taxable year.

“(C) CAPITAL GAINS RATE REDUCTION NOT TO APPLY TO CERTAIN TAXPAYERS.—The adjusted net capital gain for any taxable year in the case of any of the following taxpayers shall be zero:

“(i) An individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins.

“(ii) A married individual (within the meaning of section 7703) filing a separate return for the taxable year.

“(iii) An estate or trust.

BUMPERS (AND OTHERS) AMENDMENT NO. 518

Mr. BUMPERS (for himself, Mr. GREGG, and Mr. ROBB) proposed an amendment to the bill, S. 949, supra; as follows:

At the appropriate place in the bill add the following new section:

SEC. . REPEAL OF DEPLETION ALLOWANCE FOR CERTAIN HARDROCK MINES.

(a) IN GENERAL.—The first sentence of section 611(a) of the Internal Revenue Code of 1986, 26 U.S.C. 611(a), is amended by inserting immediately after “mines” the following: “(except for hardrock mines located on land subject to the general mining laws or on land patented under the general mining laws unless such patented land was acquired (subsequent to the date the patent was issued), pursuant to an arms-length transaction prior to June 25, 1997)”.

(b) DEFINITION.—Section 611 of the Internal Revenue Code of 1986 is amended by redesignating subsection (c) as subsection (d) and inserting after subsection (b) the following new subsection:

“(c) DEFINITIONS.—For purposes of subsection (a), ‘general mining laws’ means those Acts which comprise chapters 2, 12A, and 16, and sections 161 and 162 of title 30 of the United States Code.”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

DURBIN (AND OTHERS) AMENDMENT NO. 519

Mr. DURBIN (for himself, Mr. DORGAN, Mr. DASCHLE, and Mr. HARKIN) proposed an amendment to the bill, S. 949, supra; as follows:

On page 267, between lines 15 and 16, insert the following:

SEC. 780. DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS INCREASED.

(a) IN GENERAL.—Section 162(l)(1) (relating to special rules for health insurance costs of self-employed individuals) is amended to read as follows:

“(1) ALLOWANCE OF DEDUCTION.—In the case of an individual who is an employee within the meaning of section 401(c)(1), there shall be allowed as a deduction under this section an amount equal to the amount paid during the taxable year for insurance which constitutes medical care for the taxpayer, the taxpayer's spouse, and dependents.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1996.

On page 337, beginning with line 14, strike all through page 339, line 15, and insert the following:

(a) CIGARETTES.—Subsection (b) of section 5701 is amended—

(1) by striking “$12 per thousand ($10 per thousand on cigarettes removed during 1991 or 1992)” in paragraph (1) and insert “$27.50 per thousand”, and

(2) by striking “$25.20 per thousand ($21 per thousand on cigarettes removed during 1991 or 1992)” in paragraph (2) and insert “$57.75 per thousand”,

(b) CIGARS.—Subsection (a) of section 5701 is amended—

(1) by striking “1.125 cents per thousand (93.75 cents per thousand on cigars removed during 1991 or 1992)” in paragraph (1) and inserting “$2.531 cents per thousand”, and

(2) by striking “equal to” and all that follows in paragraph (2) and inserting “equal to 28.6875 percent of the price for which sold but not more than $67.50 per thousand.

(c) CIGARETTE PAPERS.—Subsection (c) of section 5701 is amended by striking “0.75 cent (0.625 cent on cigarette papers removed during 1991 or 1992)” and inserting “1.69 cents”.

(d) CIGARETTE TUBES.—Subsection (d) of section 5701 is amended by striking “1.5 cents (1.25 cents on cigarette tubes removed during 1991 or 1992)” and inserting “3.38 cents”.

(e) SMOKELESS TOBACCO.—Subsection (e) of section 5701 is amended—

(1) by striking “36 cents (30 cents on snuff removed during 1991 or 1992)” in paragraph (1) and inserting “$1.9933 cents”, and

(2) by striking “12 cents (10 cents on chewing tobacco removed during 1991 or 1992)” in paragraph (2) and inserting “75.33 cents”.

(f) PIPE TOBACCO.—Subsection (f) of section 5701 is amended by striking “67.5 cents (56.25 cents on pipe tobacco removed during 1991 or 1992)” and inserting “$1.5188 cents”.

(g) IMPOSITION OF EXCISE TAX ON MANUFACTURE OR IMPORTATION OF ROLL-YOUR-OWN TOBACCO.—

(1) IN GENERAL.—Section 5701 (relating to rate of tax) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

“(g) ROLL-YOUR-OWN TOBACCO.—On roll-your-own tobacco, manufactured in or imported into the United States, there shall be imposed a tax of 81 cents per pound (and a proportionate tax at the like rate on all fractional parts of a pound).”

ROTH AMENDMENT NO. 520

Mr. ROTH proposed an amendment to the bill, S. 949, supra; as follows:

At the appropriate place, insert the following:

TITLE —CHILDREN'S HEALTH INSURANCE INITIATIVES

SEC. . ESTABLISHMENT OF CHILDREN'S HEALTH INSURANCE INITIATIVES.

(a) IN GENERAL.—The Social Security Act is amended by adding at the end the following:

“TITLE XXI—CHILD HEALTH INSURANCE INITIATIVES

“SEC. 2101. PURPOSE.

The purpose of this title is to provide funds to States to enable such States to expand the provision of health insurance coverage for low-income children. Funds provided under this title shall be used to achieve this purpose through outreach activities described in section 2106(a) and, at the option of the State through—

“(1) a grant program conducted in accordance with section 2107 and the other requirements of this title; or

“(2) expansion of coverage of such children under the State medicaid program who are not required to be provided medical assistance under section 1902(l) (taking into account the process of individuals aging into eligibility under subsection (l)(1)(D)).

“SEC. 2102. DEFINITIONS.

In this title:

“(1) BASE-YEAR COVERED LOW-INCOME CHILD POPULATION.—The term ‘base-year covered low-income child population’ means the total number of low-income children with respect to whom, as of fiscal year 1996, an eligible State provides or pays the cost of health benefits either through a State funded program or through eligibility under the State plan under title XIX (including under a waiver of such plan), as determined by the Secretary.

“(2) CHILD.—The term ‘child’ means an individual under 19 years of age.

“(3) ELIGIBLE STATE.—The term ‘eligible State’ means, with respect to a fiscal year, a State that—

“(A) provides, under section 1902(l)(1)(D) or under a waiver, for eligibility for medical assistance under a State plan under title XIX of individuals under 19 years of age, regardless of date of birth; and

“(B) has submitted to the Secretary under section 2104 a program outline that—

“(i) sets forth how the State intends to use the funds provided under this title to provide health insurance coverage for low-income children consistent with the provisions of this title; and

“(ii) is approved under section 2104; and

“(iii) otherwise satisfies the requirements of this title.

“(4) FEDERAL MEDICAL ASSISTANCE PERCENTAGE.—The term ‘Federal medical assistance percentage’ means, with respect to a State, the meaning given that term under section 1905(b).

“(5) FEHBP-EQUIVALENT CHILDREN'S HEALTH INSURANCE COVERAGE.—The term ‘FEHBP-equivalent children's health insurance coverage’ means, with respect to a State, any plan or arrangement that provides, or pays the cost of, health benefits that the Secretary has certified are actuarially equivalent to the benefits required to be offered for a child under chapter 89 of title 5, United States Code, and that otherwise satisfies State insurance standards and requirements.

“(6) INDIANS.—The term ‘Indians’ has the meaning given that term in section 4(c) of the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.).

“(7) Low-income child.—The term ‘low-income child’ means a child in a family whose income is below 200 percent of the poverty line for a family of the size involved.

“(8) Poverty line.—The term ‘poverty line’ has the meaning given that term in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by such section.

“(9) Secretary.—The term ‘Secretary’ means the Secretary of Health and Human Services.

“(10) State.—The term ‘State’ means each of the 50 States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands.

“(11) State children’s health expenditures.—The term ‘State children’s health expenditures’ means the State share of expenditures by the State for providing children with health care items and services under—

“(A) the State plan for medical assistance under title XIX;

“(B) the maternal and child health services block grant program under title V;

“(C) the preventive health services block grant program under part A of title XIX of the Public Health Services Act (42 U.S.C. 300w et seq.);

“(D) State-funded programs that are designed to provide health care items and services to children;

“(E) school-based health services programs;

“(F) State programs that provide uncompensated or indigent health care;

“(G) county-indigent care programs for which the State requires a matching share by a county government or for which there are intergovernmental transfers from a county to State government; and

“(H) any other program under which the Secretary determines the State incurs uncompensated expenditures for providing children with health care items and services.

“(12) State medicaid program.—The term ‘State medicaid program’ means the program of medical assistance provided under title XIX.

“SEC. 2103. APPROPRIATION.

“(a) Appropriation.—

“(1) In general.—Subject to subsection (b), out of any money in the Treasury of the United States not otherwise appropriated, there is appropriated for the purpose of carrying out this title—

“(A) for each of fiscal years 1998 and 1999, $1,000,000,000;

“(B) for each of fiscal years 2000 through 2002, $2,000,000,000; and

“(C) for each of fiscal years 2003 through 2007, $0.

“(2) Availability.—Funds appropriated under this section shall remain available without fiscal year limitation, as provided under section 2105(b)(4).

“(b) Reduction for Increased Medicaid Expenditures.—With respect to each of the fiscal years described in subsection (a)(1), the amount appropriated under subsection (a)(1) for each such fiscal year shall be reduced by an amount equal to the amount of the total Federal outlays under the medicaid program under title XIX resulting from—

“(1) the amendment made by section 5732 of the Balanced Budget Act of 1997 (regarding the State option to provide 12-month continuous eligibility for children);

“(2) increased enrollment under State plans approved under such program as a result of outreach activities under section 2106(a); and

“(3) the requirement under section 2102(3)A) to provide eligibility for medical assistance under the State plan under title XIX for all children under 19 years of age who have families with income that is at or below the poverty line.

“(c) State Entitlement.—This title constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide for the payment to States of amounts provided in accordance with the provisions of this title.

“(d) Effective Date.—No State is eligible for payments under section 2105 for any calendar quarter beginning before October 1, 1997.

“SEC. 2104. PROGRAM OUTLINE.

“(a) General Description.—A State shall submit to the Secretary a program outline, consistent with the requirements of this title, that—

“(1) identifies which of the 2 options described in section 2101 the State intends to use to provide low-income children in the State with health insurance coverage;

“(2) describes the manner in which such coverage shall be provided; and

“(3) provides such other information as the Secretary may require.

“(b) Other Requirements.—The program outline submitted under this section shall include the following:

“(1) Eligibility standards and methodologies.—A summary of the standards and methodologies used to determine the eligibility of low-income children for health insurance coverage under a State program funded under this title.

“(2) Eligibility screening; coordination with other health coverage.—A description of the procedures to be used to ensure—

“(A) through both intake and followup screening, that only low-income children are furnished health insurance coverage through funds provided under this title; and

“(B) that any health insurance coverage provided for children through funds under this title does not reduce the number of children who are provided such coverage through any other publicly or privately funded health plan.

“(3) Indians.—A description of how the State will ensure that Indians are served through a State program funded under this title.

“(c) Deadline for submission.—A State program outline shall be submitted to the Secretary by not later than March 31 of any fiscal year (October 1, 1997, in the case of fiscal year 1998).

“SEC. 2105. DISTRIBUTION OF FUNDS.

“(a) Establishment of Funding Pools.—

“(1) In general.—From the amount appropriated under section 2103(a)(1) for each fiscal year, determined after the reduction required under section 2103(b), the Secretary shall, for purposes of fiscal year 1998, reserve 85 percent of such amount for distribution to eligible States through the basic allotment pool under subsection (b) and 15 percent of such amount for distribution through the new coverage incentive pool under subsection (c)(2)(B)(ii).

“(2) Annual adjustment of reserve percentages.—The Secretary shall annually adjust the amount of the percentages described in paragraph (1) in order to provide sufficient basic allotments and sufficient new coverage incentives to achieve the purpose of this title.

“(b) Distribution of Funds Under the Basic Allotment Pool.—

“(1) States.—

“(A) In general.—From the total amount reserved under subsection (a) for a fiscal year for distribution through the basic allotment pool, the Secretary shall first set aside 0.25 percent for distribution under paragraph (2) and shall allot from the amount remaining to each eligible State not described in such paragraph the State’s allotment percentage for such fiscal year.

“(B) State’s allotment percentage.—

“(i) In general.—For purposes of subparagraph (A), the allotment percentage for a fiscal year for each State is the percentage equal to the ratio of the number of low-income children in the base period in the State to the total number of low-income children in the base period in all States not described in paragraph (2).

“(ii) Number of low-income children in the base period.—In clause (i), the number of low-income children in the base period for a fiscal year in a State is equal to the average of the number of low-income children in the State for the period beginning on October 1, 1992, and ending on September 30, 1995, as reported in the March 1994, March 1995, and March 1996 supplements to the Current Population Survey of the Bureau of the Census.

“(2) Other states.—

“(A) In general.—From the amount set aside under paragraph (1)(A) for each fiscal year, the Secretary shall make allotments for such fiscal year in accordance with the percentages specified in subparagraph (B) to Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands, if such States are eligible States for such fiscal year.

“(B) Percentages specified.—The percentages specified in this subparagraph are in the case of—

“(i) Puerto Rico, 91.6 percent;

“(ii) Guam, 3.5 percent;

“(iii) the Virgin Islands, 2.6 percent;

“(iv) American Samoa, 1.2 percent; and

“(v) the Northern Mariana Islands, 1.1 percent.

“(3) Three-year availability of amounts allotted.—Amounts allotted to a State pursuant to this subsection for a fiscal year shall remain available for expenditure by the State through the end of the second succeeding fiscal year.

“(4) Procedure for distribution of unused funds.—The Secretary shall determine an appropriate procedure for distribution of funds to eligible States that remain unused under this subsection after the expiration of the availability of funds required under paragraph (3). Such procedure shall be developed and administered in a manner that is consistent with the purpose of this title.

“(c) Payments.—

“(1) In general.—The Secretary shall—

“(A) before October 1 of any fiscal year, pay an eligible State an amount equal to 1 percent of the amount allotted to the State under subsection (b) for conducting the outreach activities required under section 2106(a); and

“(B) make quarterly fiscal year payments to an eligible State from the amount remaining of such allotment for such fiscal year in an amount equal to the Federal medical assistance percentage for the State, as determined under section 1905(b)(1), of the cost of providing health insurance coverage for a low-income child in the State plus the applicable bonus amount.

“(2) Applicable bonus.—

“(A) In general.—For purposes of paragraph (1), the applicable bonus amount is—

"(i) 5 percent of the cost, with respect to a period, of providing health insurance coverage for the base-year covered low-income child population (measured in full year equivalency); and

"(ii) 10 percent of the cost, with respect to a period, of providing health insurance coverage for the number (as so measured) of low-income children that are in excess of such population.

"(B) SOURCE OF BONUSES.—

"(i) BASE-YEAR COVERED LOW-INCOME CHILD POPULATION.—A bonus described in subparagraph (A)(i) shall be paid out of an eligible State's allotment for a fiscal year.

"(ii) FOR OTHER LOW-INCOME CHILD POPULATIONS.—A bonus described in subparagraph (A)(ii) shall be paid out of the new coverage incentive pool reserved under subsection (a)(1).

"(3) DEFINITION OF COST OF PROVIDING HEALTH INSURANCE COVERAGE.—For purposes of this subsection the cost of providing health insurance coverage for a low-income child in the State means—

"(A) in the case of an eligible State that opts to use funds provided under this title through the medicaid program, the cost of providing such child with medical assistance under the State plan under title XIX; and

"(B) in the case of an eligible State that opts to use funds provided under this title under section 2107, the cost of providing such child with health insurance coverage under such section.

"(4) LIMITATION ON TOTAL PAYMENTS.—With respect to a fiscal year, the total amount paid to an eligible State under this title (including any bonus payments) shall not exceed 85 percent of the total cost of a State program conducted under this title for such fiscal year.

"(5) MAINTENANCE OF EFFORT.—No funds shall be paid to a State under this title if—

"(A) in the case of fiscal year 1998, the State children's health expenditures are less than the amount of such expenditures for fiscal year 1996; and

"(B) in the case of any succeeding fiscal year, the State children's health expenditures described in section 2102(11)(A) are less than the amount of such expenditures for fiscal year 1996, increased by a medicaid child population growth factor determined by the Secretary.

"(6) ADVANCE PAYMENT; RETROSPECTIVE ADJUSTMENT.—The Secretary may make payments under this subsection for each quarter on the basis of advance estimates of expenditures submitted by the State and such other investigation as the Secretary may find necessary, and shall reduce or increase the payments as necessary to adjust for any overpayment or underpayment for prior quarters.

"SEC. 2106. USE OF FUNDS.

"(a) SET-ASIDE FOR OUTREACH ACTIVITIES.—

"(1) IN GENERAL.—From the amount allotted to a State under section 2105(b) for a fiscal year, each State shall conduct outreach activities described in paragraph (2).

"(2) OUTREACH ACTIVITIES DESCRIBED.—The outreach activities described in this paragraph include activities to—

"(A) identify and enroll children who are eligible for medical assistance under the State plan under title XIX; and

"(B) conduct public awareness campaigns to encourage employers to provide health insurance coverage for children.

"(b) STATE OPTIONS FOR REMAINDER.—A State may use the amount remaining of the allotment to a State under section 2105(b) for a fiscal year, determined after the payment required under section 2105(c)(1)(A), in accordance with section 2107 or the State medicaid program (but not both).

"(c) PROHIBITION ON USE FOR ABORTIONS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), no funds provided under this title may be used to pay for any abortion or to assist in the purchase, in whole or in part, of health benefit coverage that includes coverage of abortion.

"(2) EXCEPTION.—Paragraph (1) shall not apply to an abortion if necessary to save the life of the mother or if the pregnancy is the result of an act of rape or incest.

"(d) USE LIMITED TO STATE PROGRAM EXPENDITURES.—Funds provided to an eligible State under this title shall only be used to carry out the purpose of this title.

"(e) ADMINISTRATIVE EXPENDITURES.—Not more than 10 percent of the amount allotted to a State under section 2105(b), determined after the payment required under section 2105(c)(1)(A), shall be used for administrative expenditures for the program funded under this title.

"(f) NONAPPLICATION OF FIVE-YEAR LIMITED ELIGIBILITY FOR MEANS-TESTED PUBLIC BENEFITS.—The provisions of section 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613) shall not apply with respect to a State program funded under this title.

"SEC. 2107. STATE OPTION FOR THE PURCHASE OR PROVISION OF CHILDREN'S HEALTH INSURANCE.

"(a) STATE OPTION.—

"(1) IN GENERAL.—An eligible State that opts to use funds provided under this title under this section shall use such funds to—

"(A) subsidize payment of employee contributions for health insurance coverage for a dependent low-income child that is available through group health insurance coverage offered by an employer in the State; or

"(B) to provide FEHBP-equivalent children's health insurance coverage for low-income children who reside in the State.

"(2) PRIORITY FOR LOW-INCOME CHILDREN.—A State that uses funds provided under this title under this section shall not cover low-income children with higher family income without covering such children with a lower family income.

"(3) DETERMINATION OF ELIGIBILITY AND FORM OF ASSISTANCE.—An eligible State may establish any additional eligibility criteria for the provision of health insurance coverage for a low-income child through funds provided under this title, so long as such criteria and assistance are consistent with the purpose and provisions of this title.

"(4) COVERAGE OF CERTAIN BENEFITS.—Any eligible State that opts to use funds provided under this title under this section for the coverage described in paragraph (1)(B) is encouraged to include as part of such coverage, coverage for items and services needed for vision, hearing, and dental health.

"(b) NONENTITLEMENT.—Nothing in this section shall be construed as providing an entitlement for an individual or person to any health insurance coverage, assistance, or service provided through a State program funded under this title. If, with respect to a fiscal year, an eligible State determines that the funds provided under this title are not sufficient to provide health insurance coverage for all the low-income children that the State proposes to cover in the State program outline submitted under section 2104 for such fiscal year, the State may adjust the applicable eligibility criteria for such children appropriately or adjust the State program in another manner specified by the Secretary, so long as any such adjustments are consistent with the purpose of this title.

"SEC. 2108. PROGRAM INTEGRITY.

"The following provisions of the Social Security Act shall apply to eligible States under this title in the same manner as such provisions apply to a State under title XIX:

"(1) Section 1116 (relating to administrative and judicial review).

"(2) Section 1124 (relating to disclosure of ownership and related information).

"(3) Section 1126 (relating to disclosure of information about certain convicted individuals).

"(4) Section 1128A (relating to exclusion from individuals and entities from participation in State health care plans).

"(5) Section 1128B(d) (relating to criminal penalties for certain additional charges).

"(6) Section 1132 (relating to periods within which claims must be filed).

"(7) Section 1902(a)(4)(C) (relating to conflict of interest standards).

"(8) Section 1903(i) (relating to limitations on payment).

"(9) Section 1903(w) (relating to limitations on provider taxes and donations).

"(10) Section 1905(a)(B) (relating to the exclusion of care or services for any individual who has not attained 65 years of age and who is a patient in an institution for mental diseases from the definition of medical assistance).

"(11) Section 1921 (relating to state licensure authorities).

"(12) Sections 1902(a)(25), 1912(a)(1)(A), and 1903(o) (insofar as such sections relate to third party liability).

"SEC. 2109. ANNUAL REPORTS.

"(a) ANNUAL STATE ASSESSMENT OF PROGRESS.—An eligible State shall—

"(1) assess the operation of the State program funded under this title in each fiscal year, including the progress made in providing health insurance coverage for low-income children; and

"(2) report to the Secretary, by January 1 following the end of the fiscal year, on the result of the assessment.

"(b) REPORT OF THE SECRETARY.—The Secretary shall submit to the appropriate committees of Congress an annual report and evaluation of the State programs funded under this title based on the State assessments and reports submitted under subsection (a). Such report shall include any conclusions and recommendations that the Secretary considers appropriate.".

(b) CONFORMING AMENDMENT.—Section 1128(h) (42 U.S.C. 1320a-7(h)) is amended by—

(1) in paragraph (2), by striking "or" at the end;

(2) in paragraph (3), by striking the period and inserting ", or"; and

(3) by adding at the end the following:

"(4) a program funded under title XXI.".

SEC. . APPLICABILITY.

If, on the date of enactment of this Act, the Social Security Act contains a title XXI, the amendments made to the Social Security Act by this title shall not take effect, except that amounts appropriated under such title XXI for a fiscal year shall be increased by the amounts that would have been appropriated for such fiscal year under section 2103 of the Social Security Act, as added by this title.

ROTH AMENDMENT NO. 521

Mr. ROTH proposed an amendment to amendment No. 520 proposed by him to the bill, S. 949, supra; as follows:

On page 1, line 2 of the amendment strike all after the first word and insert the following:

____—CHILDREN'S HEALTH INSURANCE INITIATIVES

SEC. ____. ESTABLISHMENT OF CHILDREN'S HEALTH INSURANCE INITIATIVES.

(a) IN GENERAL.—The Social Security Act is amended by adding at the end the following:

"TITLE XXI—CHILD HEALTH INSURANCE INITIATIVES

"SEC. 2101. PURPOSE.

"The purpose of this title is to provide funds to States to enable such States to expand the provision of health insurance coverage for low-income children. Funds provided under this title shall be used to achieve this purpose through outreach activities described in section 2106(a) and, at the option of the State through—

"(1) a grant program conducted in accordance with section 2107 and the other requirements of this title; or

"(2) expansion of coverage of such children under the State medicaid program who are not required to be provided medical assistance under section 1902(l) (taking into account the process of individuals aging into eligibility under subsection (l)(1)(D)).

"SEC. 2102. DEFINITIONS.

"In this title:

"(1) BASE-YEAR COVERED LOW-INCOME CHILD POPULATION.—The term 'base-year covered low-income child population' means the total number of low-income children with respect to whom, as of fiscal year 1996, an eligible State provides or pays the cost of health benefits either through a State funded program or through expanded eligibility under the State plan under title XIX (including under a waiver of such plan), as determined by the Secretary. Such term does not include any low-income child described in paragraph (3)(A) that a State must cover in order to be considered an eligible State under this title.

"(2) CHILD.—The term 'child' means an individual under 19 years of age.

"(3) ELIGIBLE STATE.—The term 'eligible State' means, with respect to a fiscal year, a State that—

"(A) provides, under section 1902(l)(1)(D) or under a waiver, for eligibility for medical assistance under a State plan under title XIX of individuals under 17 years of age in fiscal year 1998, and under 19 years of age in fiscal year 2000, regardless of date of birth;

"(B) has submitted to the Secretary under section 2104 a program outline that—

"(i) sets forth how the State intends to use the funds provided under this title to provide health insurance coverage for low-income children consistent with the provisions of this title; and

"(ii) is approved under section 2104; and

"(iii) otherwise satisfies the requirements of this title; and

"(C) satisfies the maintenance of effort requirement described in section 2105(c)(5).".

"(4) FEDERAL MEDICAL ASSISTANCE PERCENTAGE.—The term 'Federal medical assistance percentage' means, with respect to a State, the meaning given that term under section 1905(b). Any cost-sharing imposed under this title may not be included in determining Federal medical assistance percentage for reimbursement of expenditures under a State program funded under this title.

"(5) FEHBP-EQUIVALENT CHILDREN'S HEALTH INSURANCE COVERAGE.—The term 'FEHBP-equivalent children's health insurance coverage' means, with respect to a State, any plan or arrangement that provides, or pays the cost of, health benefits that the Secretary has certified are equivalent to or better than the services covered for a child, including hearing and vision services, under the standard Blue Cross/Blue Shield preferred provider option service benefit plan offered under chapter 89 of title 5, United States Code.

"(6) INDIANS.—The term 'Indians' has the meaning given that term in section 4(c) of the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.).

"(7) LOW-INCOME CHILD.—The term 'low-income child' means a child in a family whose income is below 200 percent of the poverty line for a family of the size involved.

"(8) POVERTY LINE.—The term 'poverty line' has the meaning given that term in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by such section.

"(9) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services.

"(10) STATE.—The term 'State' means each of the 50 States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands.

"(11) STATE CHILDREN'S HEALTH EXPENDITURES.—The term 'State children's health expenditures' means the State share of expenditures by the State for providing children with health care items and services under—

"(A) the State plan for medical assistance under title XIX;

"(B) the maternal and child health services block grant program under title V;

"(C) the preventive health services block grant program under part A of title XIX of the Public Health Services Act (42 U.S.C. 300w et seq.);

"(D) State-funded programs that are designed to provide health care items and services to children;

"(E) school-based health services programs;

"(F) State programs that provide uncompensated or indigent health care;

"(G) county-indigent care programs for which the State requires a matching share by a county government or for which there are intergovernmental transfers from a county to State government; and

"(H) any other program under which the Secretary determines the State incurs uncompensated expenditures for providing children with health care items and services.

"(12) STATE MEDICAID PROGRAM.—The term 'State medicaid program' means the program of medical assistance provided under title XIX.

"SEC. 2103. APPROPRIATION.

"(a) APPROPRIATION.—

"(1) IN GENERAL.—Subject to subsection (b), out of any money in the Treasury of the United States not otherwise appropriated, there is appropriated for the purpose of carrying out this title—

"(A) for each of fiscal years 1998 and 1999, $1,000,000,000;

"(B) for each of fiscal years 2000 through 2002, $2,000,000,000; and

"(C) for each of fiscal years 2003 through 2007, $0.

"(2) AVAILABILITY.—Funds appropriated under this section shall remain available without fiscal year limitation, as provided under section 2105(b)(4).

"(b) REDUCTION FOR INCREASED MEDICAID EXPENDITURES.—With respect to each of the fiscal years described in subsection (a)(1), the amount appropriated under subsection (a)(1) for each such fiscal year shall be reduced by an amount equal to the amount of the total Federal outlays under the medicaid program under title XIX resulting from—

"(1) the amendment made by section 5732 of the Balanced Budget Act of 1997 (regarding the State option to provide 12-month continuous eligibility for children);

"(2) increased enrollment under State plans approved under such program as a result of outreach activities under section 2106(a); and

"(3) the requirement under section 2102(3)A) to provide eligibility for medical assistance under the State plan under title XIX for all children under 19 years of age who have families with income that is at or below the poverty line.

"(c) STATE ENTITLEMENT.—This title constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide for the payment to States of amounts provided in accordance with the provisions of this title.

"(d) EFFECTIVE DATE.—No State is eligible for payments under section 2105 for any calendar quarter beginning before October 1, 1997.

"SEC. 2104. PROGRAM OUTLINE.

"(a) GENERAL DESCRIPTION.—A State shall submit to the Secretary for approval a program outline, consistent with the requirements of this title, that—

"(1) identifies, on or after the date of enactment of the Balanced Budget Act of 1997, which of the 2 options described in section 2101 the State intends to use to provide low-income children in the State with health insurance coverage;

"(2) describes the manner in which such coverage shall be provided; and

"(3) provides such other information as the Secretary may require.

"(b) OTHER REQUIREMENTS.—The program outline submitted under this section shall include the following:

"(1) ELIGIBILITY STANDARDS AND METHODOLOGIES.—A summary of the standards and methodologies used to determine the eligibility of low-income children for health insurance coverage under a State program funded under this title.

"(2) ELIGIBILITY SCREENING; COORDINATION WITH OTHER HEALTH COVERAGE.—A description of the procedures to be used to ensure—

"(A) through both intake and followup screening, that only low-income children are furnished health insurance coverage through funds provided under this title; and

"(B) that any health insurance coverage provided for children through funds under this title does not reduce the number of children who are provided such coverage through any other publicly or privately funded health plan.

"(3) INDIANS.—A description of how the State will ensure that Indians are served through a State program funded under this title.

"(c) DEADLINE FOR SUBMISSION.—A State program outline shall be submitted to the Secretary by not later than March 31 of any fiscal year (October 1, 1997, in the case of fiscal year 1998).

"SEC. 2105. DISTRIBUTION OF FUNDS.

"(a) ESTABLISHMENT OF FUNDING POOLS.—

"(1) IN GENERAL.—From the amount appropriated under section 2103(a)(1) for each fiscal year, determined after the reduction required under section 2103(b), the Secretary shall, for purposes of fiscal year 1998, reserve 85 percent of such amount for distribution to eligible States through the basic allotment pool under subsection (b) and 15 percent of such amount for distribution through the new coverage incentive pool under subsection (c)(2)(B)(ii).

"(2) ANNUAL ADJUSTMENT OF RESERVE PERCENTAGES.—The Secretary shall annually adjust the amount of the percentages described in paragraph (1) in order to provide sufficient basic allotments and sufficient new coverage incentives to achieve the purpose of this title.

"(b) DISTRIBUTION OF FUNDS UNDER THE BASIC ALLOTMENT POOL.—

"(1) STATES.—

"(A) IN GENERAL.—From the total amount reserved under subsection (a) for a fiscal year for distribution through the basic allotment pool, the Secretary shall first set aside 0.25 percent for distribution under paragraph (2) and shall allot from the amount remaining to each eligible State not described in such paragraph the State's allotment percentage for such fiscal year.

"(B) STATE'S ALLOTMENT PERCENTAGE.—

"(i) IN GENERAL.—For purposes of subparagraph (A), the allotment percentage for a fiscal year for each State is the percentage equal to the ratio of the number of low-income children in the base period in the State to the total number of low-income children in the base period in all States not described in paragraph (2).

"(ii) NUMBER OF LOW-INCOME CHILDREN IN THE BASE PERIOD.—In clause (i), the number of low-income children in the base period for a fiscal year in a State is equal to the average of the number of low-income children in the State for the period beginning on October 1, 1992, and ending on September 30, 1995, as reported in the March 1994, March 1995, and March 1996 supplements to the Current Population Survey of the Bureau of the Census.

"(2) OTHER STATES.—

"(A) IN GENERAL.—From the amount set aside under paragraph (1)(A) for each fiscal year, the Secretary shall make allotments for such fiscal year in accordance with the percentages specified in subparagraph (B) to Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands, if such States are eligible States for such fiscal year.

"(B) PERCENTAGES SPECIFIED.—The percentages specified in this subparagraph are in the case of—

"(i) Puerto Rico, 91.6 percent;

"(ii) Guam, 3.5 percent;

"(iii) the Virgin Islands, 2.6 percent;

"(iv) American Samoa, 1.2 percent; and

"(v) the Northern Mariana Islands, 1.1 percent.

"(3) THREE-YEAR AVAILABILITY OF AMOUNTS ALLOTTED.—Amounts allotted to a State pursuant to this subsection for a fiscal year shall remain available for expenditure by the State through the end of the second succeeding fiscal year.

"(4) PROCEDURE FOR DISTRIBUTION OF UNUSED FUNDS.—The Secretary shall determine an appropriate procedure for distribution of funds to eligible States that remain unused under this subsection after the expiration of the availability of funds required under paragraph (3). Such procedure shall be developed and administered in a manner that is consistent with the purpose of this title.

"(c) PAYMENTS.—

"(1) IN GENERAL.—The Secretary shall—

"(A) before October 1 of any fiscal year, pay an eligible State an amount equal to 1 percent of the amount allotted to the State under subsection (b) for conducting the outreach activities required under section 2106(a); and

"(B) make quarterly fiscal year payments to an eligible State from the amount remaining of such allotment for such fiscal year in an amount equal to the Federal medical assistance percentage for the State (as defined under section 2102(4) and determined without regard to the amount of Federal funds received by the State under title XIX before the date of enactment of this title) of the Federal and State incurred cost of providing health insurance coverage for a low-income child in the State plus the applicable bonus amount.

"(2) APPLICABLE BONUS.—

"(A) IN GENERAL.—For purposes of paragraph (1), the applicable bonus amount is—

"(i) 5 percent of the Federal and State incurred cost, with respect to a period, of providing health insurance coverage for children covered at State option among the base-year covered low-income child population (measured in full year equivalency) (including such children covered by the State through expanded eligibility under the medicaid program under title XIX before the date of enactment of this title, but excluding any low-income child described in section 2102(3)(A) that a State must cover in order to be considered an eligible State under this title); and

"(ii) 10 percent of the Federal and State incurred cost, with respect to a period, of providing health insurance coverage for children covered at State option among the number (as so measured) of low-income children that are in excess of such population.

"(B) SOURCE OF BONUSES.—

"(i) BASE-YEAR COVERED LOW-INCOME CHILD POPULATION.—A bonus described in subparagraph (A)(i) shall be paid out of an eligible State's allotment for a fiscal year.

"(ii) FOR OTHER LOW-INCOME CHILD POPULATIONS.—A bonus described in subparagraph (A)(ii) shall be paid out of the new coverage incentive pool reserved under subsection (a)(1).

"(3) DEFINITION OF COST OF PROVIDING HEALTH INSURANCE COVERAGE.—For purposes of this subsection the cost of providing health insurance coverage for a low-income child in the State means—

"(A) in the case of an eligible State that opts to use funds provided under this title through the medicaid program, the cost of providing such child with medical assistance under the State plan under title XIX; and

"(B) in the case of an eligible State that opts to use funds provided under this title under section 2107, the cost of providing such child with health insurance coverage under such section.

"(4) LIMITATION ON TOTAL PAYMENTS.—With respect to a fiscal year, the total amount paid to an eligible State under this title (including any bonus payments) shall not exceed 85 percent of the total cost of a State program conducted under this title for such fiscal year.

"(5) MAINTENANCE OF EFFORT.—

"(A) DEEMED COMPLIANCE.—A State shall be deemed to be in compliance with this provision if—

"(i) it does not adopt income and resource standards and methodologies that are more restrictive than those applied as of June 1, 1997, for purposes of determining a child's eligibility for medical assistance under the State plan under title XIX; and

"(ii) in the case of fiscal year 1998 and each fiscal year thereafter, the State children's health expenditures defined in section 2102(11) are not less than the amount of such expenditures for fiscal year 1996.

"(B) FAILURE TO MAINTAIN MEDICAID STANDARDS AND METHODOLOGIES.—A State that fails to meet the conditions described in subparagraph (A) shall not receive—

"(i) funds under this title for any child that would be determined eligible for medical assistance under the State plan under title XIX using the income and resource standards and methodologies applied under such plan as of June 1, 1997; and

"(ii) any bonus amounts described in paragraph (2)(A)(ii).

"(C) FAILURE TO MAINTAIN SPENDING ON CHILD HEALTH PROGRAMS.—A State that fails to meet the condition described in subparagraph (A)(ii) shall not receive funding under this title.

"(6) ADVANCE PAYMENT; RETROSPECTIVE ADJUSTMENT.—The Secretary may make payments under this subsection for each quarter on the basis of advance estimates of expenditures submitted by the State and such other investigation as the Secretary may find necessary, and shall reduce or increase the payments as necessary to adjust for any overpayment or underpayment for prior quarters.

"SEC. 2106. USE OF FUNDS.

"(a) SET-ASIDE FOR OUTREACH ACTIVITIES.—

"(1) IN GENERAL.—From the amount allotted to a State under section 2105(b) for a fiscal year, each State shall conduct outreach activities described in paragraph (2).

"(2) OUTREACH ACTIVITIES DESCRIBED.—The outreach activities described in this paragraph include activities to—

"(A) identify and enroll children who are eligible for medical assistance under the State plan under title XIX; and

"(B) conduct public awareness campaigns to encourage employers to provide health insurance coverage for children.

"(b) STATE OPTIONS FOR REMAINDER.—A State may use the amount remaining of the allotment to a State under section 2105(b) for a fiscal year, determined after the payment required under section 2105(c)(1)(A), in accordance with section 2107 or the State medicaid program (but not both). Nothing in the preceding sentence shall be construed as limiting a State's eligibility for receiving the 5 percent bonus described in section 2105(c)(2)(A)(i) for children covered by the State through expanded eligibility under the medicaid program under title XIX before the date of enactment of this title.

"(c) PROHIBITION ON USE OF FUNDS.—No funds provided under this title may be used to provide health insurance coverage for—

"(1) families of State public employees; or

"(2) children who are committed to a penal institution.

"(d) USE LIMITED TO STATE PROGRAM EXPENDITURES.—Funds provided to an eligible State under this title shall only be used to carry out the purpose of this title (as described in section 2101), and any health insurance coverage provided with such funds may include coverage of abortion only if necessary to save the life of the mother or if the pregnancy is the result of an act of rape or incest.

"(e) ADMINISTRATIVE EXPENDITURES.—

"(1) IN GENERAL.—Not more than the applicable percentage of the amount allotted to a State under section 2105(b) for a fiscal year, determined after the payment required under section 2105(c)(1)(A), shall be used for administrative expenditures for the program funded under this title.

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage with respect to a fiscal year is—

"(A) for the first 2 years of a State program funded under this title, 10 percent;

"(B) for the third year of a State program funded under this title, 7.5 percent; and

"(C) for the fourth year of a State program funded under this title and each year thereafter, 5 percent.

"(f) NONAPPLICATION OF FIVE-YEAR LIMITED ELIGIBILITY FOR MEANS-TESTED PUBLIC BENEFITS.—The provisions of section 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613) shall not apply with respect to a State program funded under this title.

"(g) AUDITS.—The provisions of section 506(b) shall apply to funds expended under this title to the same extent as they apply to title V.

"(h) REQUIREMENT TO FOLLOW STATE PROGRAM OUTLINE.—The State shall conduct the program in accordance with the program outline approved by the Secretary under section 2104.

"SEC. 2107. STATE OPTION FOR THE PURCHASE OR PROVISION OF CHILDREN'S HEALTH INSURANCE.

"(a) STATE OPTION.—

"(1) IN GENERAL.—An eligible State that opts to use funds provided under this title under this section shall use such funds to provide FEHBP-equivalent children's health insurance coverage for low-income children who reside in the State.

"(2) PRIORITY FOR LOW-INCOME CHILDREN.—A State that uses funds provided under this title under this section shall not cover low-income children with higher family income without covering such children with a lower family income.

"(3) DETERMINATION OF ELIGIBILITY AND FORM OF ASSISTANCE.—An eligible State may establish any additional eligibility criteria for the provision of health insurance coverage for a low-income child through funds provided under this title, so long as such criteria and assistance are consistent with the purpose and provisions of this title.

"(4) AFFORDABILITY.—An eligible State may impose any family premium obligations or cost-sharing requirements otherwise permitted under this title on low-income children with family incomes that exceed 150 percent of the poverty line. In the case of a low-income child whose family income is at or below 150 percent of the poverty line, limits on beneficiary costs generally applicable under title XIX apply to coverage provided such children under this section.

"(b) NONENTITLEMENT.—Nothing in this section shall be construed as providing an entitlement for an individual or person to any health insurance coverage, assistance, or service provided through a State program funded under this title. If, with respect to a fiscal year, an eligible State determines that the funds provided under this title are not sufficient to provide health insurance coverage for all the low-income children that the State proposes to cover in the State program outline submitted under section 2104 for such fiscal year, the State may adjust the applicable eligibility criteria for such children appropriately or adjust the State program in another manner specified by the Secretary, so long as any such adjustments are consistent with the purpose of this title.

"SEC. 2108. PROGRAM INTEGRITY.

"The following provisions of the Social Security Act shall apply to eligible States under this title in the same manner as such provisions apply to a State under title XIX:

"(1) Section 1116 (relating to administrative and judicial review).

"(2) Section 1124 (relating to disclosure of ownership and related information).

"(3) Section 1126 (relating to disclosure of information about certain convicted individuals).

"(4) Section 1128 (relating to exclusion from individuals and entities from participation in State health care plans).

"(5) Section 1128A (relating to civil monetary penalties).

"(6) Section 1128B (relating to criminal penalties).

"(7) Section 1132 (relating to periods within which claims must be filed).

"(8) Section 1902(a)(4)(C) (relating to conflict of interest standards).

"(9) Section 1903(i) (relating to limitations on payment).

"(10) Section 1903(m)(5) (as in effect on the day before the date of enactment of the Balanced Budget Act of 1997).

"(11) Section 1903(w) (relating to limitations on provider taxes and donations).

"(12) Section 1905(a)(B) (relating to the exclusion of care or services for any individual who has not attained 65 years of age and who is a patient in an institution for mental diseases from the definition of medical assistance).

"(13) Section 1921 (relating to state licensure authorities).

"(14) Sections 1902(a)(25), 1912(a)(1)(A), and 1903(o) (insofar as such sections relate to third party liability).

"(15) Sections 1948 and 1949 (as added by section 5701(a)(2) of the Balanced Budget Act of 1997).

"SEC. 2109. ANNUAL REPORTS.

"(a) ANNUAL STATE ASSESSMENT OF PROGRESS.—An eligible State shall—

"(1) assess the operation of the State program funded under this title in each fiscal year, including the progress made in providing health insurance coverage for low-income children; and

"(2) report to the Secretary, by January 1 following the end of the fiscal year, on the result of the assessment.

"(b) REPORT OF THE SECRETARY.—The Secretary shall submit to the appropriate committees of Congress an annual report and evaluation of the State programs funded under this title based on the State assessments and reports submitted under subsection (a). Such report shall include any conclusions and recommendations that the Secretary considers appropriate.".

(b) CONFORMING AMENDMENT.—Section 1128(h) (42 U.S.C. 1320a–7(h)) is amended by—

(1) in paragraph (2), by striking "or" at the end;

(2) in paragraph (3), by striking the period and inserting ", or"; and

(3) by adding at the end the following:

"(4) a program funded under title XXI.".

SEC. ____. APPLICABILITY.

If, on the date of enactment of this Act, the Social Security Act contains a title XXI, the amendments made to the Social Security Act by this title shall not take effect, except that amounts appropriated under such title XXI for a fiscal year shall be increased by the amounts that would have been appropriated for such fiscal year under section 2103 of the Social Security Act, as added by this title.

JEFFORDS AMENDMENT NO. 522

Mr. JEFFORDS proposed an amendment to the bill, S. 949, supra; as follows:

Beginning on page 168, line 8, strike all through page 174, line 19, and insert the following:

"SEC. 1400B. TRUST FUND FOR DC SCHOOLS.

"(a) CREATION OF FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Trust Fund for DC Schools', consisting of such amounts as may be appropriated or credited to the Fund as provided in this section.

"(b) TRANSFER TO TRUST FUND OF AMOUNTS EQUIVALENT TO CERTAIN TAXES.—

"(1) IN GENERAL.—There are hereby appropriated to the Trust Fund for DC Schools amounts equivalent to the revenues received in the Treasury from the applicable percentage of the income taxes imposed by this chapter after December 31, 1997, and before January 1, 2003, on individual taxpayers during their residency in the District of Columbia.

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the term 'applicable percentage' means the percentage necessary, as determined by the Secretary, to result in revenues equal to the net losses in revenues to the Treasury that would have occurred during the period beginning after December 31, 1997, and before January 1, 2003, if the section identified as section 1400B of the Internal Revenue Code of 1986 as added by section 601 of S. 949, 105th Congress, as reported by the Committee on Finance of the Senate, had been enacted.

"(3) TRANSFER OF AMOUNTS.—The amounts appropriated by paragraph (1) shall be transferred at least monthly from the general fund of the Treasury to the Trust Fund for DC Schools on the basis of estimates made by the Secretary of the amounts referred to in such paragraph. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

"(c) EXPENDITURES FROM FUND.—

"(1) IN GENERAL.—Amounts in the Trust Fund for DC Schools shall be available, without fiscal year limitation, in an amount not to exceed $70,000,000 for the period beginning after December 31, 1997, and ending before January 1, 2008, for qualified service expenses with respect to State or local bonds issued by the District of Columbia to finance the construction, rehabilitation, and repair of schools under the jurisdiction of the government of the District of Columbia.

"(2) QUALIFIED SERVICE EXPENSES.—The term 'qualified service expenses' means expenses incurred after December 31, 1997, and certified by the District of Columbia Control Board as meeting the requirements of paragraph (1) after giving 60-day notice of any proposed certification to the Subcommittees on the District of Columbia of the Committees on Appropriations of the House of Representatives and the Senate.

"(d) REPORT.—It shall be the duty of the Secretary to hold the Trust Fund for DC Schools and to report to the Congress each year on the financial condition and the results of the operations of such Fund during the preceding fiscal year and on its expected condition and operations during the next fiscal year. Such report shall be printed as a House document of the session of the Congress to which the report is made.

"(e) INVESTMENT.—

"(1) IN GENERAL.—It shall be the duty of the Secretary to invest such portion of the Trust Fund for DC Schools as is not, in the Secretary's judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired—

"(A) on original issue at the issue price, or

"(B) by purchase of outstanding obligations at the market price.

"(2) SALE OF OBLIGATIONS.—Any obligation acquired by the Trust Fund for DC Schools may be sold by the Secretary at the market price.

"(3) INTEREST ON CERTAIN PROCEEDS.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Trust Fund for DC Schools shall be credited to and from a part of the Trust Fund for DC Schools."

ALLARD AMENDMENT NO. 523

Mr. ALLARD proposed an amendment to the bill, S. 949, supra; as follows:

On page 397, strike section 881.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON INDIAN AFFAIRS

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Senate Committee on Indian Affairs be authorized to meet during the session of the Senate on Wednesday, June 25, 1997 at 2:00 p.m. in room 562 of the Dirksen Senate Building to conduct an Oversight Hearing on the Administration's proposal to restructure Indian gaming fee assessments.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, June 25, 1997 at 2:00 p.m. to hold a hearing on: "Judicial Nominations."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Wednesday, June 25, 1997 beginning at 2:00 p.m. until business is completed, to receive testimony on Campaign Finance—Are Political Contributions Voluntary: Union Dues and Corporation Activity.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. DOMENICI. The Committee on Veterans' Affairs would like to request unanimous consent to hold a hearing to take testimony from the General Accounting Office, the Department of Veterans Affairs, and the Department of Defense relative to the GAO reort "Gulf War Illnesses: Improved Monitoring of Clinical Progress and Re-examination of Research Emphasis Needed". The hearing will be held on June 25, 1997, at 9:30 a.m., in room 216 of the Hart Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY AND SPACE

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Science, Technology and Space Subcommittee of the Committee on Commerce, Science and Transportation be authorized to meet on Wednesday, June 25, 1997 at 2:00 p.m. on U.S. Fire Administration and Office of the Associate Administrator for Commercial Space Transportation—FY 98 Budget.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. ROTH. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet in Executive Session today at 5:30 p.m. in order to vote to report out routine military nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO COL. RANDALL INOUYE, COMMANDER, BALTIMORE DISTRICT, U.S. ARMY CORPS OF ENGINEERS

• Mr. SARBANES. Mr. President, I rise today to pay tribute to Col. Randall Inouye, Commander of the Baltimore District, U.S. Army Corps of Engineers. Col. Inouye is moving on to a new assignment in the Pentagon and I want to express my appreciation for the fine work that he has done.

In the 3 short years in which Col. Inouye has commanded the Baltimore District he has proved to be one of the best and most accomplished District Engineers. During his tenure in Baltimore, the colonel helped spearhead Maryland's flood mitigation task force—a Federal, State, and local partnership effort to help communities rebuild after the devastating floods of 1996. This task force is now being used as a model for similar efforts throughout the nation. Under his leadership, the Poplar Island restoration project—the largest habitat restoration project ever undertaken in the United States—was initiated. Poplar Island is the first large-scale project to make beneficial use of dredged material and will help protect and promote the recovery of the Chesapeake Bay while at the same time preserving the vitality of the Port of Baltimore. Similarly, Col. Inouye was responsible for many other important environmental restoration and water resource development activities in the region, including the successful restoration of 32 acres of emergent tidal wetlands at Kenilworth Marsh—the largest and last remaining freshwater tidal wetland on the Anacostia; the Maryland coastal bays initiative; and the Tolchester and Brewerton Channel improvement projects, to name only a few. As District Engineer, Col. Inouye also directed and oversaw the succeessful completion of numerous military construction projects in Maryland from the Army's Research Labs at Aberdeen Proving Ground and Adelphi to the Defense Information School at Fort Meade to the new Walter Reed Army Institute of Research at Forest Glen.

I came to know Col. Inouye shortly after he assumed command of the Baltimore District and have had the privilege of working closely with him over the past three years on many initiatives throughout Maryland, including those mentioned above. In every instance, the Colonel has distinguished himself for his responsiveness and commitment to getting the job done. He has set a new standard of excellence and accomplishment for other District Engineers to emulate.

In recognition of his outstanding service to the Baltimore District and other commands, Col. Inouye has received numerous awards and commendations including the Legion of Merit, the Meritorious Service Medal and the Army Commendation Medal. But perhaps more importantly, his efforts have earned him the respect and admiration of everyone with whom he has worked. I know that many Marylanders join me in expressing appreciation for his contributions toward improving the quality of life in our State and in wishing him the best in his new endeavors.•

HONORING DR. JAN KARSKI

• Mr. LAUTENBERG. Mr. President, I rise today to honor an individual who truly personifies courage and compassion. When the dark night of Nazi occupation descended across most of Europe, and the spark of humanity was crushed beneath Gestapo jack boots, Dr. Jan Karski knew that he couldn't just curse the darkness.

Dr. Karski was a wartime courier for the Polish underground, and he is often credited as being the first person to alert the Allies about the existence of the death camps and the extermination of the Jews.

Karski's secret work began in 1939. He was riding in a cattle car, with other Polish soldiers, heading for forced labor in Germany, when he jumped from the window and joined the underground movement. Between the winter of 1939 and the early summer of 1940, Karski was sent by the underground back and forth from Warsaw to France on successful missions as a courier. However, in 1940 he was arrested by the Nazis in Slovakia and brutally tortured. Eventually, he was rescued by the Polish underground and continued to fight for freedom.

Karski clandestinely surveyed conditions in the Warsaw Jewish Ghetto and even volunteered to be smuggled into the Belzic death camp to gather evidence of the Nazi's extermination policies. In 1943, he was sent by the Polish government-in-exile to inform American officials about the situation in his native country, among the prominent individuals he met with was President Roosevelt. In fact, shortly after meeting with Karski, Roosevelt ordered the creation of the American Refugee Board, an organization whose main task was to protect Jewish escapees and place them in the United States.

After the war, when Poland traded Nazi totalitarianism for Soviet totalitarianism, Karski moved to the United States. He earned his Ph.D. in Georgetown and has been teaching at the university since 1952. Among other honors, Karski has received the highest Polish military decoration, a special citation by the United Nations, and was declared a "Righteous Gentile Among Nations" by the state of Israel.

Mr. President, the great humanitarian Albert Schweitzer once noted, "A great person helps others, but a good person touches the lives of others." If that's true, then Dr. Karski proves that good and great can exist in the same individual. He continually demonstrated that one person can make a difference, and at a time when many were content to curse the darkness, he kept the candles of hope and humanity burning. Undoubtedly, he is an example for our times and a hero for the ages.•

FAIR PLAY ACT

• Ms. SNOWE. Mr. President, I am extremely pleased to note that this week we celebrate the 25th anniversary of title IX, landmark legislation that has played an enormous role in leveling the playing field—literally—for women in sports. I was also pleased last week to join my colleagues, Senator MOSELEY-BRAUN, KENNEDY, and MIKULSKI, to mark this anniversary by introducing the Fair Play Act, legislation which will take the next important step in increasing educational and athletic opportunities for young women.

There is no question that sports are just as important an activity for girls and women as they are for boys and men. Through sports, girls and women can get a feel for the positive competitive spirit which was, until recently, the almost exclusive property of boys and men. Women and girls who participate in sports develop self-confidence, dedication, a sense of team spirit, and an ability to work under pressure—traits which enhance all aspects of their lives. In fact, 80 percent of women identified as key leaders in Fortune 500 companies have sports backgrounds.

When I was a young girl growing up, girls and women did not have much opportunity to participate in competitive athletics. But the enactment of title IX of the Education Amendments of 1972 changed all that, by requiring that women be afforded equitable opportunities to participate in high school and college athletics. Since title IX's enactment, women and girls across the Nation have met the challenge of participating in competitive sports in record numbers. Since 1972, the number of college women participating in competitive athletics has gone from fewer than 32,000 to over 110,000 in 1994–95. Before title IX, fewer than 300,000 high school girls played competitive sports. By 1996, that number had climbed to almost 2.4 million.

Today, women across America are taking bats, lacrosse sticks, and javelins to the glass ceiling—shattering the myth that there are "men's" sports and there are "women's" sports. But a quarter-century after title IX's enactment, there is still much more to be done. According to a recent NCAA study, only 23 percent of all current college athletic budgets are allocated to women, and women receive only 38 percent of athletic scholarship dollars. Only 27 percent of funding spent to recruit new athletes target women. In high-school athletic competitions, there are two boys to every one girl participating.

The Fair Play Act, which we introduced to mark the 25th anniversary of Title IX, is designed to strengthen this important legislation and therefore enhance women's athletic and educational opportunities. Under current law, colleges and universities are required to compile information about their men's and women's athletic programs, including participation rates, operating and recruitment budgets, the availability of scholarships, revenues generated from athletic programs, and coaches' salaries. They are required to update this information annually and make it available to prospective students and others upon request. Because there is no central repository for this information, however, it is difficult for students to obtain and evaluate it or put it into context.

The Fair Play Act is designed to correct this by directing colleges and universities to send information they already collect on their men's and women's athletic programs to the Department of Education, and directs the department to publish an annual report and make this information widely available by distributing the annual report to high schools, and establishing a toll free number and a web site. This bill will give students and families access to the kind of information they need to make informed decisions about where to go to school, and will help the Department of Education enforce title IX compliance in the area of athletics.

The first 25 years of title IX have been an enormous success. Now, it's time for us to help millions of other girls and women get off the bleachers, the sidelines, and the viewing stands and onto the fields, the pitchers' mounds, and the courts. I urge my colleagues to support this legislation, and look forward to seeing what the next 25 years hold for women's accomplishments in sports.•

MARVIN H. POPE

• Mr. MOYNIHAN. Mr. President, our age has lost a scholar of epic achievement and range with the passing of Marvin H. Pope of the Yale Divinity School. A Biblical scholar of unsurpassed originality and range, he died at age 80 in the First Church of Round Hill, Greenwich, CT, just after he and his wife Ingrid had read a passage from the Bible for the congregation. He was an effervescent member of the American Schools of Oriental Research, where he will be mourned as well as celebrated.

As was said about Job, it could be said of Marvin H. Pope: ". . . thou hast blessed the work of his hands, and his substance is increased in the land." I ask that an an article on Marvin Pope, from the New York Times be printed in the RECORD.

The article follows:

[From the New York Times, June 1997]

MARVIN POPE, 80, PROFESOR AND AUTHORITY ON ANCIENT UGARIT

(By Holcomb B. Noble)

Marvin H. Pope, a retired Yale professor who was one of the world's leading authorities on Ugarit, the ancient city in Syria where excavations shed important light on the ancient Scriptures, died on Sunday at First Church of Round Hill in Greenwich, Conn. He was 80.

He and his wife had just finished reading passages from the Bible to the congregation and returned to their pew when he collapsed.

Mr. Pope was a professor of Near Eastern languages and civilizations from 1949 to 1986 and taught at the Yale Divinity School and in the religious studies department.

In addition, he helped prepare the first major revision of the King James Version of the Bible, the Revised Standard Version, in the 1940's. In the 1980's he worked with others advising the National Council of Churches on the New Revised Standard Version, which removed some traditional language regarded as sexist. These are the two versions used in most Protestant churches.

Many of Mr. Pope's contributions to the study of the Hebrew text of the Bible and to modern English translations stemmed from a day in 1928 when a farmer plowing a field in northern Syria struck what he thought was a stone. It emerged, instead, as part of the extensive remains, uncovered by archeologists over the next year, of a cosmopolitan city on the Mediterranean that had thrived in 2000 B.C. but had been ransacked and burned in about 1200 B.C.

Among the discoveries were Ugaritic art and clay tablets whose language was similar to biblical Hebrew, of which Mr. Pope, over the years, became a major translator. They added significant new meanings, nuances and detail to the early writings of the Old Testament and the culture of their time. The tablets were traced to a period from 1500 B.C to 1180 B.C.

Mr. Pope's work on the tablets resulted in his retranslations from the ancient Hebrew of the entire books of Job and the Song of Songs, and a lengthy commentary about them both, published in 1973 and 1977 by the Anchor Bible Series. Robert R. Wilson, a professor of religious studies at Yale, said those two translations were "the brilliant works of a master scholar" and added to the general understanding of an age and its poetry.

Scholars said that one of the difficulties in translating the early tablets was that the words had been crammed onto the surfaces with less regard for their legibility than whether they would fit. It was often difficult to determine, as a result, which line of poetry followed which. Mr. Pope was able to arrange the lines in proper sequence and poetic form.

Another difficulty was that the meanings of the first lines of the verses tended to be echoed in the second lines but with rarer language. Mr. Pope was one of the few able to capture the meaning of the rarer passages.

He visited the site of the 1929 excavations, near the modern town of Latakia, north of Damascus, though most of his studies took place in Paris, where the hundreds of tablets were put on display.

A man whose wit made him popular among generations of Yale students, he said that one of his findings was that Baal, chief god of the Ugarits, was not always chief, as scholars had thought, but had maneuvered to take over from the god El, whom he kicked further upstairs.

Marvin Hoyle Pope was born on June 23, 1916, in Durham, N.C., the son of Charles and Bessie Cleveland Sorrell Pope. He earned a bachelor's degree in 1938 at Duke University, where he was signed up by mistake for a course in Hebrew. He remained in the course, which led him to a master's degree in Semitic languages and literature in 1939. He received a doctorate from Yale in 1949.

His first wife, Helen Thompson Pope, died in 1979.

In addition to his wife, Ingrid Bloomquist Pope, he is survived by a son, Marvin Jr., and a daughter, Beverly, both of New Haven; three stepchildren, Dennis Bloomquist of Great Falls, VA, Diane B. Connelly of Shaker Heights, OH, and Laurel B. Shields of Austin, TX.; a sister, Mary Gladys Hodges of Durham, NC and eight grandchildren.●

BIOMATERIALS ACCESS ASSURANCE ACT

● Mr. ABRAHAM. Mr. President, I rise to speak today on Senate bill 364, the Biomaterials Access Assurance Act, which I am proud to cosponsor. I have long been a proponent for civil justice reform and other legislative measures relating to product liability. As an original cosponsor of product liability reform legislation (S. 648), I have long supported the biomaterials liability reform provisions contained in it. I am also pleased to cosponsor those provisions as a separate measure, although in my view we need both general product liability reforms and biomaterials liability reforms.

This Nation's tort system is in dire need of repair. To maintain the status quo is not only costing consumers millions of dollars each year but also many lives will be lost if change does not occur soon. The Biomaterials Access Assurance Act approaches the subject of tort reform from a different perspective—the perspective of millions of Americans who face life-threatening diseases. These are the people who have the most to gain and everything to lose if Congress refuses to listen to their pleas.

The purpose of this act is straightforward. S. 364 attempts to gain a foothold on our legal system's slippery slope by shielding companies who supply raw materials to manufacturers of life-saving medical devices. The Biomaterials Access Assurance Act will prevent the impending shortage of biomaterials suppliers by permitting these companies to be quickly dismissed from a lawsuit provided they had no part in the manufacture or selling of a device and all contractual specifications had been met. Currently it is common practice for suppliers to be dragged into costly litigation even though these companies are not involved in the creation or marketing of a product. In fact, in almost every case thus far, biomaterials suppliers are not found liable in these type of lawsuits. S. 364 squashes illegitimate attempts for windfall profits and more importantly, ensures these life-saving medical devices will be in abundant supply.

Right now, the escalating expense suppliers unfairly incur defending their product continues to drive many out of the U.S. market. As a result, it is becoming increasingly more difficult for manufacturers of medical devices to find biomaterials suppliers with the raw materials necessary to produce their products. Replacement heart valves, pacemakers, and brain shunts are but a small selection of the devices which rely on raw material suppliers.

My colleague from Arizona, Senator McCAIN, mentioned in an earlier statement that 13 biomaterial supply companies have been driven out of business due to concerns about the risk of unwarranted litigation. Sadly, the people whose lives depend on these raw materials for survival are the ones who will pay the ultimate price. Unfortunately a family living in my home State of Michigan illustrates my point.

Recently Mr. And Mrs. Traxler of Fremont, MI, told me of their family's desperate need to find help for their young daughter, Sarah. The parents explained to me when Sarah was 2 months old she experienced a traumatic brain injury. As a result of the injury, Sarah now requires a shunt that drains fluid away from her brain. The shunt will need replacing soon and her parents are deeply worried that if medical manufacturers are forced into bankruptcy, the shunts keeping Sarah alive will no longer be available. In their letter, Sarah's parents explain, "Because of the recent lawsuits involving breast implants and other medical devices, many biomaterials manufacturers have discontinued supplying the raw materials used to make medical devices. Because the sale of these raw materials represent such a small percentage of their total revenues, they do not feel it is worth the risk of having to defend themselves in court and they have discontinued supplying these materials to medical device manufacturers."

This is a sad commentary on the state of this Nation's legal system. Clearly, reform is needed and must be implemented soon to help protect the life of Sarah Traxler and countless others like her. For this reason, I ask my colleagues many of whom are parents themselves, to support this critical legislation.●

TRIBUTE TO KARIN ELKIS WEINSTEIN

● Mr. LAUTENBERG. Mr. President, today I want to congratulate Karin Elkis, who is being honored on June 30, 1997 as the Sid Levy Memorial Volunteer of the Year by the Jewish Community Center of South Jersey. This annual award is presented to the volunteer who best captures the JCC's commitment to community service and self-giving. Karin is in charge of the Lautenberg Senate office in South Jersey and it is of no surprise to me that she is receiving this honor. Karin gets more done in one hour than most people accomplish in a single day. She is energetic, caring, selfless, and always thinking about others. She brings the same commitment and concern to her volunteer activities that she brings to her work to serve the people of New Jersey.

Despite a more than full time job, three young children, and other family responsibilities, Karin has found time to make a major contribution to the JCC by chairing its Festival of Arts, Books and Culture this year. Further, she's served as a liaison to the Early Childhood Department, a member of the Budget Committee, chaired the Camp Committee and been a member of the Executive Committee. If I listed all of her activities at the JCC over the past few years, this statement would be longer than a James Michener novel.

Through her work, Karin has touched the lives of many. She is truly an extraordinary person, with many talents, enormous energy and drive, and a compassionate heart. I am proud to have Karin on my staff and to include her as a friend. She makes an enormous contribution to the South Jersey community, through her work as a Senate employee and her work as a volunteer.

Mr. President, I again congratulate Karin on this well deserved recognition. I know that she will continue to serve the people of New Jersey in many ways for years to come and that our pride in her accomplishments will continue to be justified.●

CLEANING THE AIR

● Mr. LEAHY. Mr. President, for the past 5 months, we have been engaged in a troubling debate on how best to protect the health of our children, our elderly and our environment. Since the Environmental Protection Agency announced the proposed new standards for air quality, we have witnessed an unprecedented campaign by industry to block these new standards. Opponents instantly attacked the goals rather than sitting down to work with Congress and the administration on how to achieve these goals in a reasonable and cost-effective timeframe. I applaud EPA Administrator Carol Browner for standing up against the onslaught of industry backlash on the new standards. Today, President Clinton showed equal commitment by supporting the thrust of Administrator Browner's recommendation. This decision will reduce the smog and soot that drifts into Vermont from outside the State. I congratulate President Clinton for standing up for the health of our children and our environment. We can now begin the process of finding the most cost-effective means of implementing these standards.

In Vermont, we recognize the benefits of high environmental standards. Over the years, conservationists and the business community have worked together to protect the environment. Vermonters know that a healthy environment promotes a healthy economy. Yet despite our commitment, Vermont and other Northeastern States have become the dumping ground for pollution that seeps across our borders each night with the wind. The new ozone standard makes the biggest pollutors accountable and will reduce the burden on States in the Northeast in their battle to maintain our high standards for air quality. Acid rain taught us that tough State environmental standards were not enough to protect us. We saw some of our healthiest forests die off from pollution borne from outside our region. This situation demands tough national environmental standards to ensure a level playing field.

The new air standards will address two central issues: Where the smog and soot is landing and how to use new scientific evidence to continue improving efforts to protect public health. We learned from the acid rain debate that emissions from dirty coal-fired powerplants in the Midwest can be transported farther than 500 miles. More than 40 percent of the pollution in Vermont is from outside the state. We also know that utility restructuring will encourage increased generation at the powerplants in the Midwest. The new standards proposed by EPA will reduce the smog and soot that drifts into Vermont from these powerplants. Today's decision is a clear victory for the Northeast because we now have a standard that will reduce air pollution at its source.

Since the passage of the Clean Air Act we have made considerable strides in reducing some pollutants. The level of lead pollution we and our children breathe today is one-tenth what it was a decade ago. That figure by itself is a tribute to the success of the original Clean Air Act. If we learned one thing from the acrimonious debate in Congress last year on environmental issues, it is that the American people do not want to halt the progress we have made and merely rest on our environmental laurels. Americans want to keep moving forward on cleaning up our environment. Unfortunately, as I listen to the debate on the Clean Air Act this Congress, I fear that we are not heeding their call. Instead of looking at ways to strengthen the Clean Air Act, we are trying to undercut the existing regulations.

Today, the President recognized the 130 million Americans in 170 major cities who continue to breathe unhealthy air. Congress should listen as well and approve the standards. I will work with my colleagues in the Senate to oppose efforts to block the implementation of these new standards. Members of the House of Representatives have already launched their attack on the standards by introducing legislation to block the President's decision and weaken these standards. It is important to Vermont and to the Nation that we set aside the acrimonious debate that occurred on these standards and work together to develop a cost-effective implementation plan.

The recommendations of the Ozone Transport Assessment Group that were approved by 32 States lay out several concrete steps to clean up our air in the Northeast. I challenge Administrator Browner and the administration to move quickly on these recommendations. In particular, I want Congress and the administration to look at what probably has become one of the largest loopholes in the Clean Air Act: Allowing the dirtiest power plants to continue to operate with vastly inadequate pollution controls. The need to go back and close this loophole now—in this session of Congress—assumes greater urgency because of the deregulation of the electric utility industry.

Tomorrow's United Nations conference on the environment reminds us that we share the air, the water and our planet. There can be no greater legacy that we leave behind for our children and grandchildren than a society secure in its commitment to a healthy and environmentally sound future.●

BLOOMINGTON-NORMAL'S "NOT IN OUR TOWN" PROGRAM

● Mr. DURBIN. Mr. President, I rise today to recognize the people of Bloomington-Normal, IL, for their efforts to stem the growth of hate crimes and racial intolerance. Their commitment to taking proactive measures to prevent division and promote understanding serves as a model for communities across the Nation.

Inspired by the film "Not in Our Town," which tells the story of how Billings, MT, joined together in response to rampant hate crimes, the citizens of Bloomington-Normal created their own "Not in Our Town" program. They were not, however, responding to hate crimes or clear racial unrest. Instead, these Twin Cities chose to create a vehicle for awareness and prevention, to stop hate crimes before they started. This type of program is without a doubt ahead of its time.

Designed to increase public knowledge about the threat of racial violence, the program is carried out in a variety of ways. Adult and youth discussions and forums are regularly held. All city entrances are marked with "no racism" signs. Many city workers wear "Not in Our Town" buttons, and all city vehicles are marked with "Not in Our Town" bumper stickers. Clearly, it's difficult to be in Bloomington-Normal without knowing that prejudice and violence will not be accepted. In addition to these efforts, the city has also sponsored two anti-racism marches, which give citizens the opportunity to demonstrate their commitment to the program and its goals not only to each other, but to surrounding communities as well.

Perhaps most vital to the program's success are its youth discussion groups. As one teen noted, "History is going to repeat itself if the youth aren't taught about the Holocaust and slavery * * * they won't know any better." "Not in Our Town" provides young people a way to learn how local events are part of national issues, and more importantly, how community action can really make a difference for people everywhere.

As President Clinton begins a new initiative to have a national conversation about race and diversity, Bloomington-Normal has truly taken the lead in providing a model that all Americans can follow when organizing their home towns to discuss and confront what is perhaps our most important issue.●

THE SLAUGHTER OF REFUGEES IN CONGO MUST CEASE

● Mr. BIDEN. Mr. President, the government of the Democratic Republic of Congo must bring to an immediate end the systematic search and slaughter of Rwandan refugees, or else face isolation from the international community. Recent media reports allege the methodical execution of Rwandan refugees still hiding in the former Zaire by the Congolese military. Unless these atrocities are halted, Mr. Kabila should not expect ready support in the United States for his efforts to rebuild his country.

News reports the last several weeks have alleged the existence of mass grave sites of Rwandan refugees. As of yet, we do not know for certain if these reports are accurate, and if so, by whose hands the refugees were slaughtered. A team of United Nations investigators arrived in Congo last week to initiate an investigation of these claims. Media reports of Congolese government directives to hinder this investigation, if accurate, are intolerable. The government of Congo must bring to an immediate end the persecution of the remaining Rwandan refugees, and actively assist the U.N. in its efforts to locate and repatriate these Rwandan nationals.

According to reports of the United Nations and various nongovernmental organizations, thousands of Rwandan refugees continue to hide in the Democratic Republic of Congo. The U.N. High Commissioner for Refugees estimates that between 200,000 and 250,000 refugees are still missing in Congo. While the actual number may be uncertain, what is clear is that a significant number of Rwandan refugees remain within Congolese borders.

These refugees consist mostly of Rwandan Hutus who fled their country after the 1994 genocide that took the lives of an estimated 800,000 Tutsis and moderate Hutus. Despite the large numbers of refugees who have already returned to their homes in Rwanda, a considerable number remain in Congo, many of them women and children. Many are exhausted and weak from almost three years of constant movement, malnutrition and illness.

Clearly there exists the very real likelihood that among the Rwandan refugees who remain in Congo are those responsible for the 1994 Rwandan genocide. If so, they should be returned to Rwanda and held accountable for their crimes before their own countrymen at the International War Crimes Tribunal. There is absolutely no justification for the execution of any Rwandan refugee in Congo.

Unfortunately, reports of persecution of Rwandan refugees in Kabila's Congo are not entirely new. Such claims have been associated with the Alliance of Democratic Forces for the Liberation of Congo since its early battlefield victories in eastern Zaire. However, Laurent Kabila earlier this month in a meeting with Ambassador Bill Richardson committed himself to assist international efforts to account for and repatriate Rwandan refugees in his country. The successful resolution of the refugee issue in Congo has serious consequences for the future of his country.

Failure to follow through on this commitment seriously calls into question the credibility of the Kabila government to deliver on its promises to the world and its own people. The U.N. team in Congo so far has not encountered any difficulties. If Mr. Kabila expects to receive the support of the international community, it is imperative that he fulfill his earlier pledge and secure the access the United Nations needs to locate and repatriate the refugees. If Mr. Kabila does not live up to his existing commitments on the issue of the Rwandan refugees, it's unclear what confidence there will be for his promises of democracy and peace for the Congolese people.●

SENIOR CITIZENS' MEDICARE FREEDOM TO CONTRACT ACT

● Mr. KYL. Mr. President, I rise as the sponsor of the Senior Citizens Medicare Freedom to Contract Act. The act would provide a technical correction in the Medicare Technical Corrections Act of 1994 (42 USCS section 1395, et. seq.), which was signed into law in November 1995.

The Medicare Technical Corrections Act of 1994 contained a subtle—and, based on the CONGRESSIONAL RECORD, clearly unintended—change in statutory language.

The Health Care Financing Administration [HCFA] interprets this change as expanding existing restrictions on private payments in Medicare cases in which claims are filed, to all cases involving Medicare enrolled individuals, regardless of whether a claim is filed.

If HCFA imposes this interpretation through regulations reportedly now being drafted, HCFA would have the authority to completely prohibit Medicare enrolled who do not submit reimbursement claims to HCFA, and who do not have claims submitted on their behalf, and who are willing to pay their own bills in full—from paying non-Medicare physicians out of pocket for needed Medicare-covered services.

Even without the regulations, the view of HCFA is clear.

HCFA Administrator Bruce Vladek states that the "law requires that physicians submit claims on behalf of beneficiaries. Violations of these requirements are subject to sanctions such as civil monetary penalties and exclusion from Medicare."

Tom Ault, HCFA Director of Policy Development, has said that "for doctors to implement private contracts is illegal."

HCFA's Director of the Bureau of Policy, Kathleen Buto, states that: A physician can choose not to treat Medicare beneficiaries. However, once a physician renders services to a Medicare beneficiary, he or she is subject to Medicare's requirements and regulations, regardless of the physician's participation as a Medicare provider. A physician's failure to comply with the claim filing requirement violates Medicare law and subjects him or her to possible monetary penalties.

Clearly, this change does not reflect the intent of the Congress.

If HCFA's interpretation is imposed by regulation, the result will be that seniors not have the right to choose treatments for which they can afford to pay in full to a non-Medicare participating physician.

This will occur due to the fact that many physicians and other providers are unwilling to participate in Medicare since Medicare reimbursement frequently covers only 70 to 75 percent of the actual cost of care.

Under HCFA's proposed regulations, physicians and other providers, who do not participate in Medicare, would be prohibited from accepting private payments for their services.

Congress clearly never intended this result.

Nor does this change reflect the will of the American people.

In a November 5, 1996, Wirthlin Worldwide Poll, 60 percent believe that Americans should be able to add their own money to Government payments in order to get unrationed health services.

Surely, a law that made it illegal to supplement with private funds the amount received from Social Security would be met with disbelief and derision.

But this is exactly what HCFA has threatened to do, thereby restricting health care choice for seniors.

HCFA's policy would also end the practice of cost shifting, whereby doctors have an incentive to treat more Medicare patients who can't afford to supplement Medicare's low-reimbursement rate with funds from those who choose to pay out of pocket.

To address this problem, senior citizens' medicare freedom to contract amendment simply states: "[n]othing * * * shall prohibit a physician or other provider who does not provide items or services under the Medicare Program from entering into a private contract with a Medicare beneficiary for health services for which no claim for payment is submitted * * * section 1805(a)]."

Because the strategy for enactment has changed, the bill was not introduced in the 105th Congress.

However, in the 104th Congress, this legislation was cosponsored by Senators LOTT, CRAIG, GREGG, COCHRAN, NUNN, HELMS, FAIRCLOTH, BENNETT, KEMPTHORNE, MACK, MURKOWSKI, and INHOFE.

This legislation is strongly supported by the American Medical Association, the Seniors Coalition, the National Right to Life Committee, and several other national health care organizations.

Although this legislation has not yet been scored by the CBO, allowing seniors to pay for services rather than submitting claims to HCFA would plausibly be viewed by the CBO as a budgetary savings for purposes of the Byrd rule.

Furthermore, this legislation calls for HCFA to report to Congress in 2002 regarding the impact of this legislation on Medicare.

Mr. President, I urge my colleagues to support this technical clarification to the Medicare statute.●

THE NEW HAVEN LIGHT

● Mr. LIEBERMAN. Mr. President, I rise today to commemorate the 150th anniversary of New Haven Light, also known as the Five Mile Point Lighthouse in New Haven, CT. One of New England's most recognizable landmarks, New Haven Light has weathered countless storms yet still stands its silent watch over the waters of Long Island Sound and one of the region's busiest ports.

This year's annual SNET New Haven Harborfest is made all the more special by the anniversary of this beloved landmark and local treasure. I commend those who have worked so hard to preserve New Haven Light and maintain the vitality of New Haven's harbor and Long Wharf district.

This Nation's proud history is forever linked with the important waterways of New England. From the battles in the War for Independence to the economic prosperity of the late 20th century, ports like New Haven Harbor have always played a critical role in the development of the United States. I am proud to stand today and recognize the importance of New Haven Harbor as well as celebrate the milestone anniversary of New Haven Light.•

SOCIAL SECURITY PROPOSAL FROM FORMER SENATORS

• Mr. DURBIN. Mr. President, our friend and former colleague in this body, Paul Simon, has always been outspoken in his leadership on national issues. He continues to contribute to the national debate as the director of the Public Policy Institute at Southern Illinois University in Carbondale.

Paul recently gathered together a number of former Senators to consider the issue of Social Security. The group developed a Social Security proposal which they believe will provide a solvent Social Security system for the next 75 years.

I ask that the letter I received from this group be printed in the RECORD.

The letter follows:

PUBLIC POLICY INSTITUTE, SOUTHERN ILLINOIS UNIVERSITY AT CARBONDALE,
Carbondale, IL, May 28, 1997.

Hon. RICHARD J. DURBIN,
U.S. Senate,
Washington, DC.

DEAR FRIEND: Four of us—your former colleagues, two Republicans and two Democrats—who will not be seeking office again recently met to discuss an issue of great importance to the nation: the future of Social Security's retirement trust fund.

If this problem is not addressed immediately, the difficulties will mount and the long-run picture for both the fund and the confidence in our system of government is grim. The sooner you address this problem, the easier it will be to resolve. Postponing responsible action may be temporarily politically attractive, but history will be harsh on those who ducked when action was needed.

We believe that salvaging Social Security requires these two fundamental changes:

1. Congress should act to correct the Consumer Price Index to reflect reality.

2. Congress should remove the cap on the taxable amount of income covered by Social Security.

The fundamental decisions on the future of Social Security should not be in the hands of technicians, but in the hands of those who are elected by the people to reflect the values of this nation and to make fundamental decisions.

If you accept the recommendations we make, you will provide the nation with a solvent Social Security retirement system, along with a much healthier fiscal base.

If the sacrifices that we call upon people to make are accepted, the trust fund should be secure for the lifetime of our children and grandchildren. That is no small gift to the future of our nation. You are in a position to make that contribution.

This is a time that calls for your leadership. We respectfully ask you to meet this challenge.

JOHN DANFORTH.
PAUL SIMON.
DAVID PRYOR.
ALAN SIMPSON.•

TOM HARTMANN

• Mr. TORRICELLI. Mr. President, I rise today in recognition of Tom Hartmann as he celebrates seventy-five wonderful years. Tom has been a cornerstone of academic life at Rutgers University, and he has made equally significant contributions to political and civic life in the State of New Jersey. It is a pleasure for me to be able to honor his past accomplishments.

Prior to his academic career, Tom served admirably in the United States Marine Corps, flying 89 combat missions in the Pacific as a dive bomber pilot, during World War II. As a result of his efforts, he received the Navy Cross for valor. Upon returning to the United States, Tom transferred his sense of duty to the community. As the Associate Director of the New Jersey Office of Economic Opportunity, and then as Deputy Director of the Governor's commission on the Newark riots, Tom has played an important role in promoting better community relations within the State of New Jersey.

As a Rutgers alumnus, I am proud to say that I have known Tom Hartmann personally. Tom's integrity and commitment to New Jersey's youth are two of the qualities I have admired most. He has worked to pass these same qualities along to the thousands of students who have sat in his classes or listened to him speak. There is no mistaking the sheer joy Tom has brought to his profession.

Without his guidance and counseling, few Rutgers students would be as successful as they are today. This impact has been felt most in the political arena as Rutgers students have sought to make a name for themselves. A number of state and national government officials, including myself, have been the direct recipients of his advice. It is fair to say that Tom has a gift for crystallizing a student's goals and talents in order to make some of the most difficult career decisions easy.

Tom's political astuteness is well-known at all levels of government. He worked closely with my predecessor, Senator Bradley, for many years on some of the most complex issues of our time. I have sought advice from Tom on more than one occasion, and his counsel has been welcome. Tom's ability to assess the political implications of any decision is truly invaluable, and I thank him for the years of support he has provided.

Tom's contributions have done much for the future of New Jersey, and our nation as a whole. I congratulate Tom on a job well done, and I wish him the best for seventy-five more years of happiness.•

REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT NO. 105–8

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the injunction of secrecy be removed from the following treaty transmitted to the Senate on June 25, 1997, by the President of the United States.

Tax Convention with Swiss Confederation (Treaty Document No. 105–8.)

I further ask that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message of the President is as follows:

To the Senate of the United States:

I transmit herewith for Senate advice and consent to ratification the Convention Between the United States of America and the Swiss Confederation for the Avoidance of Double Taxation with Respect to Taxes on Income, signed at Washington, October 2, 1996, together with a Protocol to the Convention. An enclosed exchange of notes with an attached Memorandum of Understanding, transmitted for the information of the Senate, provides clarification with respect to the application of the Convention in specified cases. Also transmitted is the report of the Department of State concerning the Convention.

This Convention, which is similar to tax treaties between the United States and other Organization for Economic Cooperation and Development (OECD) nations, provides maximum rates of tax to be applied to various types of income and protection from double taxation of income. The Convention also provides for exchange of information and sets forth rules to limit the benefits of the Convention so that they are available only to residents that are not engaged in treaty shopping.

I recommend that the Senate give early and favorable consideration to this Convention and give its advice and consent to ratification.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 25, 1997.*

AMENDING THE PRESIDENT JOHN F. KENNEDY ASSASSINATION RECORDS COLLECTION ACT OF 1992

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 1553, which was received from the House.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 1553) to amend the President John F. Kennedy Assassination Records Collection Act of 1992 to extend the authorization of the Assassination Records Review Board until September 30, 1998.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. GRASSLEY. I ask unanimous consent that the bill be considered read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 1553) was considered read the third time, and passed.

CONGRATULATING THE CHICAGO BULLS ON WINNING THE 1997 NATIONAL BASKETBALL ASSOCIATION CHAMPIONSHIP

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 103, submitted earlier today by Senators MOSELEY-BRAUN and DURBIN.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 103) to congratulate the Chicago Bulls on winning the 1997 National Basketball Association Championship, and proving themselves to be one of the best teams in NBA history.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Ms. MOSELEY-BRAUN. Mr. President, on behalf of the City of Chicago, and the State of Illinois, I would like to offer this Senate Resolution with my friend and colleague from Illinois, Senator DICK DURBIN, congratulating the Chicago Bulls for winning the 1997 National Basketball Association Championship.

The Bulls have now repeated, once again, as champions—winning for the fifth time in seven years. This year's triumph expands the team's indisputable place in history.

I say to my colleagues from Utah, Senator HATCH and Senator BENNETT, that their great State of Utah was well represented in this championship series that ended Friday in Chicago. We should all applaud the Utah Jazz for a successful season, and an enormously exciting NBA Finals.

The Bulls have put together an exceptional season and a remarkable dynasty. There should be no doubt that the Bulls are the best team in the 50 year history of the NBA, and that Michael Jordan is the best player. Despite suffering from flu-like symptoms, Jordan scored a dramatic 38 points in game 5 to lift his team to a crucial victory. To say "His Airness" is the Most Valuable Player is truly an understatement.

And each and every Bulls player is a superb individual basketball player. What makes them all so very special is the way they have come together, under Coach Phil Jackson's guidance, to blend their talents as the team, playing in a way that makes each of them better. That is the real hallmark of champions.

The Bulls have become a national and international sensation. They have brought millions together as fans and as admirers. Bulls fever cuts across race and ethnic lines and knows no national boundary. You can go to the far reaches of the globe and see a Bulls hat, or a Michael Jordan jersey.

In recognition of the Bulls' historic accomplishment, it is my pleasure to offer this congratulatory resolution, and I urge my colleagues to swiftly approve its passage.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to en bloc, that the motion to reconsider be laid upon the table, and that any statements relating thereto be placed in the RECORD as if read at the appropriate place.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 103) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 103

Whereas the Chicago Bulls at 69-13, posted the second best regular season record in the history of the National Basketball Association;

Whereas the Bulls once again roared through the playoffs, sweeping the Washington Bullets and defeating the Atlanta Hawks in 5 games, before beating the Miami Heat in 5 games to return to the NBA Finals for the second straight year;

Whereas the Bulls displayed a potent offense and stifling defense throughout the playoffs before beating the Utah Jazz to win their second consecutive NBA championship their fifth in the last 7 years;

Whereas head coach Phil Jackson and the entire coaching staff skillfully led the Bulls through a 69-win season and a 15-4 playoff run;

Whereas Michael Jordan and Scottie Pippen were again named to the NBA's "All-Defensive First Team", the only 2 players from the same team to be so named, and were each voted to be among the 50 greatest players in NBA history;

Whereas Michael Jordan won his record ninth scoring title, is the sixth leading scorer in NBA history, and was named playoff most valuable player for the fifth time in 5 playoff appearances;

Whereas Scottie Pippen again exhibited his outstanding offensive and defensive versatility, proving himself to be one of the best all-around players in the NBA;

Whereas the quickness, tireless defensive effort, and athleticism of the colorful Dennis Rodman, who won his sixth straight rebounding title, keyed a strong Bulls front line;

Whereas veteran guard Ron Harper, in shutting down many of the league's top point guards throughout the playoffs, demonstrated the defensive skills that have made him a cornerstone of the league's best defense;

Whereas center Luc Longley frustrated many of the all-star caliber centers that he faced in this year's playoffs while at times providing a much needed scoring lift;

Whereas Toni Kukoc, despite injury, displayed his awesome variety of offensive skills in both assisting on, and hitting, several big shots when the Bulls needed them most;

Whereas Steve Kerr, with his laser-like 3-point shooting, sparked many a Bulls rally and hit the championship winning shot in game 6 of the NBA finals;

Whereas the outstanding play of Brian Williams and Jason Caffey, and the tenacious defense of Randy Brown, each of whom came off the bench to provide valuable contributions, were an important part of each Bulls victory;

Whereas Jud Buechler and Robert Parish provided valuable contributions throughout the season and the playoffs, both on and off the court, at times giving the Bulls the emotional lift they needed; and

Whereas the regular season contributions of injured center Bill Wennington, forward Dickey Simpkins, and rookie Matt Steigenga, both on the court and in practice, again demonstrated the total devotion of Bulls personnel to the team concept that has made the Bulls one of the great sports dynasties of modern times: Now, therefore, be it

Resolved, That the Senate congratulates the Chicago Bulls on winning the 1997 National Basketball Association championship.

UNANIMOUS-CONSENT AGREEMENT—H. CON. RES. 216

Mr. GRASSLEY. Mr. President, I ask unanimous consent to confirm the language in H. Con. Res. 216 (104th Congress) providing for a ceremony commemorating the placement of the Portrait Monument in the Capitol rotunda during the 105th Congress.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENT BY THE DEMOCRATIC LEADER

The PRESIDING OFFICER. The Chair, on behalf of the Democratic leader, pursuant to Public Law 104-293, appoints James J. Exon, of Nebraska, as a member of the Commission to Assess the Organization of the Federal Government to Combat the Proliferation of Weapons of Mass Destruction.

APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to the provisions of Public Law 99-93, as amended by Public Law 99-151, appoints the Senator from Alabama [Mr. SESSIONS] as a member of the United States Senate Caucus on International Narcotics Control.

The Chair, on behalf of the Vice President, pursuant to the provisions of Public Law 99-93, as amended by Public Law 99-151, appoints the Senator from California [Mrs. FEINSTEIN] as a member of the United States Senate Caucus on International Narcotics Control.

ORDERS FOR THURSDAY, JUNE 26, 1997

Mr. GRASSLEY. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 9:30 a.m. on Thursday, June 26; I further ask unanimous consent that on Thursday, immediately following the prayer, the routine requests through the morning hour be granted and the Senate immediately resume consideration of S. 949, the Tax Fairness Relief Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—S. 949

Mr. GRASSLEY. Mr. President, I yield back 2 hours and 39 minutes of the time on the bill for the majority side, and on behalf of the ranking minority member, I yield back 3 hours and 54 minutes on the bill for the Democratic side. I do that as a member of the Finance Committee, speaking for the majority.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that with respect to three votes ordered tomorrow morning, that no amendments be in order prior to the previously ordered votes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. I also ask unanimous consent that following the ordered votes on Thursday, the Democratic leader be recognized to offer the Democratic alternative, and there be 4 hours of debate to be equally divided in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE INDEFINITELY POSTPONED—S. 947

Mr. GRASSLEY. I further ask consent that S. 947 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. GRASSLEY. Mr. President, for the information of all Senators, tomorrow at 9:30 a.m., the Senate will resume consideration of S. 949, the Tax Relief Act of 1997. By previous consent, at 9:30 a.m. there will be 20 minutes for debate, equally divided between Senator MURKOWSKI and Senator BUMPERS, with a vote occurring in relation to the Bumpers amendment at the expiration of that time.

Following the vote on the Bumpers amendment, there will be 20 minutes of debate equally divided in the usual form, with a vote on or in relation to the Dorgan amendment, No. 517, occurring at the expiration of time, to be followed by 10 minutes of debate, equally divided in the usual form, on the Dorgan motion to refer. The Senate then will proceed to a vote in relation to the Dorgan motion.

In addition, all other amendments offered this evening, and amendments offered during Thursday's session, will be subject to rollcall votes throughout the day as we make progress on the Taxpayer Relief Act. Therefore, Senators can anticipate numerous rollcall votes on Thursday.

As a reminder to all Members, beginning at approximately 9:50 a.m., Thursday morning, the Senate will begin voting on the Bumpers amendment and the two aforementioned Dorgan amendments.

ORDER FOR ADJOURNMENT

Mr. GRASSLEY. Mr. President, if there is no further business to come before the Senate, I now ask that the Senate stand in adjournment under the previous order, following remarks that I will make.

The PRESIDING OFFICER. Without objection, it is so ordered.

CALLING FOR FURTHER INVESTIGATION OF THE FBI CRIME LAB

Mr. GRASSLEY. Mr. President, I have spoken before this body several times about the serious problems in the FBI crime lab. The Justice Department's Inspector General has done the country a great service by uncovering the sloppiness and wrongdoing of certain lab examiners.

A dozen such examiners are criticized in the IG's April 15 report for testifying beyond their expertise, and for changing lab reports. The IG found no criminal violations. Yet the wrongful testimony and the altering of reports by these examiners almost all redounded to the benefit of the prosecution, rather than to the defendant.

This is a curious phenomenon, in my mind. Why weren't the changes more randomly distributed? How come they all benefitted the prosecution? Those are rather obvious questions.

And so I thought a lot about what was done by the IG to determine motive or intent on the part of the examiners whose actions he criticized. And I have come to the conclusion that the IG's methodology was insufficient for determining motive or intent. And so, further investigation is warranted.

The reasons for why further investigation is warranted were laid out in a letter I sent to the Attorney General on June 11. For starters, there was the April 16 Wall Street Journal front-page story on lab examiner Michael Malone. In that article, Agent Malone is cited for improper testimony in several cases, by judges and others.

The Wall Street Journal broke new ground in uncovering problems in the FBI lab. First, it showed that wrongdoing by lab examiners has not been relegated to the three units investigated by the IG. Malone was assigned to a fourth unit—hairs and fibers. And second, it underscored the fundamental flaw in the IG's investigative methodology; namely, that it failed to review, for patterns of wrongdoing, all the cases of each examiner who was severely criticized in his report.

To illustrate the point, it is interesting to note that in the IG's report, Agent Malone is criticized for wrongdoing in only one case—that of ALCEE L. HASTINGS. Yet, the Journal reporter researched open-source case data and found numerous instances of apparent wrongdoing by Malone in other cases. If an enterprising reporter could do such a review, why couldn't the IG?

And so I asked the Attorney General to conduct further investigation of those examiners, including Malone, who were severely criticized in the IG report. All cases worked on by each one of these examiners should be reviewed independently to determine if there is a pattern similar to what the Journal found in the case of Malone. Only then would we see the full scope of each agent's actions. If any patterns exist, those cases should be reviewed for administrative action, for undisclosed Brady material, for civil liability, or for misconduct involving obstruction of justice or perjury.

There's some importance and urgency attached to my request. I understand that the IG has referred the findings of his report to the Pubic Integrity Section for possible criminal prosecution. In my view, they have been referred without sufficient follow-up investigation, thereby increasing the likelihood of declinations. I do not intend to stand by and watch declinations being handed out when some very obvious stones have been left unturned.

My request was that the following agents' cases be reviewed by DOJ prior to any decision by Pubic Integrity:

For possible involvement in altering reports: J. Thomas Thurman; J. Christopher Ronay; Wallace Higgins; David Williams; Alan Jordan.

For possible false testimony: David Williams, Roger Martz; Charles Calfee; Terry Rudolph; Michael Malone; John Hicks; Richard Hahn.

For possible undisclosed Brady material: Robert Webb.

On April 16, I met with the IG, Michael Bromwich, and raised with him the subject of the Wall Street Journal article on Malone. I discussed my belief that his methodology was flawed, and that I would request in writing, after studying his report, that all cases involving lab examiners whose work he severely criticized in his report be investigated further. Thus, the IG has been aware for some time that my request would be forthcoming.

In my discussions with the IG on April 16, one notable issue came up. I asked the IG if he had found possible criminal wrongdoing on the part of any of the lab personnel. He said "no." I then asked him if he had detected a patter of wrongdoing by any agent, as the Journal seemed to find with Malone. He said "no." I asked him if he even reviewed all the cases of any of the criticized agents. He said "no."

These responses are troubling to me because the IG has gone out of his way to say he found no possible criminal activity by lab personnel. It sounds to me like he didn't even look for it. In fact, he told me in my office way back in February—well after his investigation was finished—that it wasn't in his charter to look for possible criminal activity. Therefore, due diligence requires further investigation such as I have requested. Otherwise, the public's full confidence cannot be restored.

In a specific instance, for example, the IG had critized Agent Williams for "backwards science"; i.e., tailoring evidence at the crime scene to evidence found elsewhere, such as at a suspect's home. I asked the IG if his finding of backwards science conducted by Williams didn't warrant further investigation for possible criminal intent.

The IG responded that Williams gave a plausible explanation in his defense; namely, that Williams actually believed that was the proper way to conduct an investigation—in other words, "backwards." The IG said the five blue ribbon scientists who investigated the lab believed Williams' explanation.

Mr. President, I could not believe my ears. First of all, the scientists are not prosecutors. Second, whether Williams' explanation was believed or not, the IG should have reviewed the rest of Williams' cases.

Such a review would have shown one of two things: Either he did do all of his investigations backwards, in which case his explanation would hold up but all of his cases should be considered suspect; or, he did some investigations correctly and some backwards, in which case his explanation would be undermined, and intent would be an issue. At the moment, because of the IG's flawed methodology, we don't know which is correct.

The IG did not even review the second World Trade Center case to see if Williams gave similarly false testimony in court, as he had in the first World Trade Center case. I understand Williams' testimony in the second case was the same as in the first case. If so, this might have established a pattern in the IG's investigation.

Meanwhile, at a May 13 hearing before the House Subcommittee on Crime, the IG admitted, under questioning from Congressman ROBERT WEXLER, that alterations to lab reports appeared to be biased in favor of the prosecution's position. This is a serious matter because it could go to the issue of motive.

It is also not clear to me whether the IG was aware of an FBI internal review in 1994 and 1995 of alterations and changes of lab reports after allegations were made by two lab scientists. James Corby, chief of the Materials Analysis Unit, conducted the review. Dr. Corby verified numerous instances of alterations, many of which were material changes. He concluded that they were clearly intentional. In a memo to his section chief, J.J. Kearney, dated January 13, 1995, Dr. Corby stated the following, with respect to the intentional changes:

> A[n] FBI Laboratory report is evidence. Often times the report itself is entered into evidence during the trial proceedings. The fact that SSA [redacted name] did make unauthorized changes in these reports could have resulted in serious consequences during legal proceedings and embarrassment to the Laboratory as well as the entire FBI.

The FBI's Office of the General Counsel [OGC] apparently concurred. A memorandum from General Counsel Howard Shapiro to the Lab's director, M.E. Ahlerich, dated June 12, 1995, reiterated the lab's policy of not altering reports, and warned that, "* * * failure to follow this policy could subject the FBI and/or individual employees to civil or criminal liability."

Mr. President, I previously placed these documents in the RECORD on March 20, 1997.

The documents and arguments I have advanced on this issue present a compelling case for further investigation. We have yet to hear an equally compelling counter-argument from either the Attorney General, or the IG. The issue of my request came up at the Attorney General's weekly press conference of June 12. A wire story later that evening by the Associated Press, quoted Ms. Reno as simply saying the following:

> We have not seen any basis for criminal inquiry.

Mr. President, I don't know whether or not the Attorney General had read my letter before giving that quote. But I assure you, that if the AG had read it, she would see there is plenty of basis for criminal inquiry.

I also asked Ms. Reno for a response by last week. I have yet to hear a peep out of her office. In my view, the Attorney General needs to act quickly and provide a compelling rebuttal to the facts I laid out in my June 11 letter to her. To simply say "We have not seen any basis for criminal inquiry" is simply not credible. I, for one, have seen sufficient basis.

In the same June 12 AP story, the IG took issue with my statement that he did not do a criminal investigation. The IG said he did a hybrid, criminal/administrative inquiry. The IG may not recall the conversation we had in my office in February. He was asked to respond to a comment in a letter I had received dated February 21, 1997 from then-Deputy FBI Director Weldon Kennedy. The comment was the following:

> * * * [T]he Department of Justice Office of the Inspector General found no instances of perjury, evidence tampering, evidence fabrication, or failure to report exculpatory evidence.

In my office, the IG was asked if he even looked for that. He responded no, because that wasn't in his charter.

Regardless of what is or isn't in his charter, the fact is the IG did nothing to establish intent. If he wants to cite the questioning of David Williams and the backwards science as a probing of intent, well I'll simply rest my case.

It is not my intention to criticize the IG's work. To the contrary, I consider it a landmark effort and an important service for the American people. I have nothing but praise for Mr. Bromwich, his team of investigators, and the five blue ribbon scientists.

But it cannot stop there. There are too many stones left unturned. There is a culture that needs reforming. There's still a cowboy element running loose in that lab.

It seems to me that the IG investigation is merely a point of departure. It identified individuals whose work should be more thoroughly scrutinized. Failure to conduct follow-up investigation can only further erode the public's dwindling confidence in Federal law enforcement.

Meanwhile, Mr. President, I await the Attorney General's overdue response to my letter.

IGNORING THE FACTS AND TWISTING THE TRUTH

Mr. GRASSLEY. Mr. President, today I would like to talk about two letters from the Department of Defense, DOD.

The first letter is dated June 11, 1997.

The second one is dated June 13, 1997—just 2 days later.

Both letters are addressed to the editor of The Hill newspaper, Mr. Albert Eisele.

Both are signed by the Assistant Secretary of Defense for Public Affairs, Mr. Kenneth H. Bacon.

Both were written in response to an article I wrote about Mr. John Hamre in the June 4 issue of the Hill.

Mr. Hamre is the Chief Financial Officer at the Pentagon.

He has been selected by Secretary Cohen to become the next Deputy Secretary of Defense.

I oppose this nomination for the reason I gave in the Hill article.

Mr. Hamre is aggressively pursuing a progess payment policy that the inspector general has declared illegal.

Mr. Bacon charges that my article ignores the facts and twists the truth.

Ironically, Mr. Bacon's letters prove he is the one who ignores the facts and twists the truth.

He sent the second letter to correct misinformation in the first one.

Mr. President, I ask unanimous consent to have his letters and my article printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ASSISTANT SECRETARY OF DEFENSE,
Washington, DC, June 11, 1997.

ALBERT EISELE,
Editor, The Hill, Washington, DC.

LETTER TO THE EDITOR: Last week Senator Charles Grassley authored an article condemning John Hamre, currently the Comptroller at DoD and the nominee to be Deputy Secretary of Defense ("Sen. Grassley looks for missing $50 billion at DoD," June 4, 1997). It is a serious distortion of Mr. Hamre's record. The facts actually prove the opposite of Senator Grassley's contentions. It is imperative that The Hill publish a correction.

First, Senator Grassley stated "the books at DoD are in such shambles that as much as $50 billion cannot be traced." DoD's books were in very bad shape when Mr. Hamre signed on back in 1993, and they are still troubled, but the facts show that the situation is dramatically improved. Back in 1993, DoD's so-called "problem disbursements" exceeded $34 billion. Last month the total was under $8 billion, a 74% reduction in three years.

Second, Senator Grassley stated that Mr. Hamre has left DoD's funds vulnerable to theft and abuse. The facts are quite different. Mr. Hamre created a dedicated organization—Operation Mongoose—to undertake fraud detection and prevention. He and the DoD Inspector General have hosted governmentwide conferences on fraud prevention. Mr. Hamre is the first, and to my understanding the only, Comptroller that ever initiated an anti-deficiency investigation on himself, asking the DoD Inspector General to review accounts under his jurisdiction.

Third, Senator Grassley claimed Hamre "presided over a scheme" to make illegal process payments. Again, the facts are quite different. Mr. Hamre, working with the DoD Inspector General, has carried out the IG's recommendations on progress payments. Senator Grassley claimed Hamre "tried to legalize the crime" by proposing legislative changes concerning progress payments. That legislation was first proposed by the Inspector General.

Fourth, Sen. Grassley claims Hamre understated his problems through "a clever bureaucratic trick to make the problem look a lot smaller than it really is." The facts are rather different. Rather than report three categories of problem disbursements together, he reported all three categories in two separate tables. None of the data has been dropped and all of it is made available every month to the General Accounting Office.

Reading Sen. Grassley's article is like looking at a distortion mirror in an amusement park. The image he paints is wildly distorted and in most cases is totally reversed from the truth. Facts do matter, even in Washington, and Senator Grassley has not presented the facts.

KENNETH H. BACON,
Assistant Secretary of Defense for Public Affairs.

ASSISTANT SECRETARY OF DEFENSE,
Washington, DC, June 13, 1997.

ALBERT EISELE,
Editor, The Hill, Washington, DC.

DEAR MR. EISELE, I am sorry we have not been able to establish phone contact. In the interim. I thought it would be useful to send you the attached clarification to the letter Ken Bacon sent to The Hill on Wednesday, June 11.

In reviewing the letter we felt that some points were not clear and we want to ensure that our response is as accurate as possible. We hope you will publish this revised letter.

I can be reached at 703–697–0713. Thank you for your assistance in this matter.

Sincerely,

CLIFFORD H. BERNHATH,
Principal Deputy Assistant Secretary of Defense for Public Affairs.

ASSISTANT SECRETARY OF DEFENSE,
Washington, DC, June 13, 1997.

ALBERT EISELE,
Editor, The Hill, Washington, DC.

LETTER TO THE EDITOR: Last week Senator Charles Grassley authored an article condemning John Hamre, currently the Comptroller at DoD and the nominee to be Deputy Secretary of Defense ("Sen. Grassley looks for missing $50 billion at DoD," June 4, 1997). It is a serious distortion of Mr. Hamre's record. The facts actually prove the opposite of Senator Grassley's contentions. It is imperative that The Hill publish a correction.

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Second, Senator Grassley stated that Mr. Hamre has left DoD's funds vulnerable to theft and abuse. The facts are quite different. Mr. Hamre created a dedicated organization—Operation Mongoose—to undertake fraud detection and prevention. He and the DoD Inspector General have hosted government-wide conferences on fraud prevention. Mr. Hamre is the first, and to my understanding the only, Comptroller that ever initiated an anti-deficiency investigation on himself, asking the DoD Inspector General to review accounts under his jurisdiction.

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Fourth, Senator Grassley claims Hamre understated his problems through "a clever bureaucratic trick to make the problem look a lot smaller than it really is." The facts are rather different. Rather than report three categories of problem disbursements together, he reported all three categories in two separate tables. None of the data has been dropped and all of it is made available every month to the General Accounting Office.

Reading Senator Grassley's article is like looking at a distortion mirror in an amusement park. The image he paints is wildly distorted and in most cases is totally reversed from the truth. Facts do matter, even in Washington, and Senator Grassley has not presented the facts.

KENNETH H. BACON,
Assistant Secretary of Defense for Public Affairs.

[From the Hill, June 4, 1997]

SEN. GRASSLEY LOOKS FOR MISSING $50 BILLION AT DOD

AGE-OLD PRACTICE OF COOKING THE BOOKS AT THE PENTAGON IS ALIVE AND WELL

(By Sen. Charles E. Grassley)

Between 1989 and 1993, a man named James Edward McGill was paid $3,025,677.99 by the United States Navy for phony claims. With nothing more than a mailbox, a couple of rubber stamps and blank government forms, McGill set up a business to cheat the taxpayers. He delivered no goods. He did no work. But he had no trouble doing business with the Navy. Pure chance, rather than internal controls at the Defense Department (DoD), put an end to this scam. Unfortunately for the taxpayers, the McGill case does not stand alone.

The sad truth is, the books at the DoD are in such shambles that as much as $50 billion cannot be traced. The department flunks every single audit by its chief financial officer (CFO). And the inspector general (IG) expects the DoD to continue falling short "well into the next century." When you can't audit the books, you don't know how money is being spent. The result is a multi-million dollar money pipe left vulnerable to theft and abuse.

The problem described here is exacerbated by an illegal operation used by the Pentagon to make progress payments on contracts. Under this policy, payments are deliberately charged to the wrong accounts. Once payments are made, the DoD attempts to "adjust" the accounting ledgers to make it look as though the checks were charged to the right accounts when the money was, in fact, charged to some other account. The entire process leads to over-, under-and erroneous payments.

Presiding over this scheme since October 1993 has been the comptroller and CFO for the DoD, John J. Hamre. In his official position, Hamre is responsible under the Chief Financial Officer Act of 1990 "to strengthen internal controls and improve financial accounting." However, instead of meeting a pledge to reform the process, Hamre tried to legalize the crime. Earlier this year, he circulated for comment draft legislation to sanction the payment procedures declared illegal by the IG and authorized by Hamre at CFO.

A fundamental issue is at stake. In 1992, the IG stated that the DoD's progress payment procedures "result in the rendering of false accounts and violations" of Title 31,Section 1301 of the U.S. Code. This law embodies a sacred constitutional principle. Only Congress decides how public money may be spent. Section 1301 requires that public money be spent as proscribed in the appropriations acts. Congressional committees spend considerable effort each year segregating public money in different accounts. For example, the DoD appropriations bill might require procurement money be used for production work and not for R&D purposes. Hamre's payment policy shatters the integrity of the appropriations accounts. It spends money according to an arbitrary scheme dreamed up by DoD bureaucrats.

While this payment scheme was in place before Hamre's time, he had a golden opportunity to fix this problem. But every time the issue has popped up on his radar screen he's protected the scheme. Under his leadership, the DoD's progress payment operation has flourished and achieved a new level of sophistication.

When Hamre became CFO he, in fact, did declare war on financial mismanagement. Today, he cites "steep drops in contract overpayments." But his claims are not supported by the facts. Three reports of the General Accounting Office (GAO) issued during the last three years contradict Hamre's success stories. The most recent analysis of the GAO concludes that the DoD's progress payment scheme is the biggest single driver behind overpayments. And each of these reports shows that the DoD has no check in place to detect overpayments. Virtually every overpayment ever examined by the GAO was detected by recipients of checks, not by the government. In most cases, contractors voluntarily refunded the overpayments.

If Hamre was serious about eliminating overpayments, why didn't he shut down the progress payments operation? If he has no capability whatsoever to detect overpayments, where does he get the data that shows a steep drop in such payments? How does he know they are going down if he doesn't know how many there are? Perhaps this means the contractors are no longer making voluntary refunds.

Hamre also has claimed his financial reforms have produced sharp drops in unmatched disbursements. Again, the claims don't stand up to scrutiny. In fact, Hamre has used a clever bureaucratic trick to make the problem look a lot smaller than it really is. In December 1996, he issued a decree that arbitrarily redefined the entire universe of problem disbursements. He simply made the universe smaller by excluding huge numbers of unreconciled disbursements from the totals appearing in official reports. This was not missed by the GAO. In yet another report, the independent analysts challenged Hamre's approach. The GAO concluded that the DoD is understating the size of problem disbursements by at least $25 billion. So, instead of the $18 billion claimed by Hamre, at least $50 billion of tax dollars are unaccounted for.

Because of these facts, I stand opposed to the nomination of Hamre for deputy secretary of defense. My personal feelings have absolutely nothing to do with my position, as charged by some. Rather, I have reached my conclusion based on the facts. If government does not hold accountable the official who is responsible by law, then who?

While Hamre inherited a major problem caused by years of neglect, he took aggressive action to perpetuate the mess. True, Hamre has made a lot of promises and statements about reforming the process. But good intentions never get the job done at the Pentagon. The bottom line is, these kinds of problems cannot be corrected unless those in charge are held accountable. Awarding promotions to leadership that drops the ball is a green light for con artists like James Edward McGill.

Mr. GRASSLEY. Mr. President, I think it would be very helpful to make a side-by-side comparison of these two letters.

It would help bring my main point about Mr. Hamre into sharper focus.

Mr. Bacon's two letters are identical in every respect but one.

A major discrepancy exists between the last paragraph on the first page of the first letter and the same paragraph in the second letter.

I would like to quote from that portion of the first letter.

This is Mr. Bacon talking:

> Senator GRASSLEY claimed Hamre presided over a scheme to make illegal progress payments. Again, the facts are quite different. Mr. Hamre, working with the DOD IG, has carried out the IG's recommendations on progress payments. Senator GRASSLEY claimed Hamre tried to legalize the crime by proposing legislative changes concerning progress payments.
>
> That legislation was first proposed by the IG.

Mr. Bacon's statements do not square with the facts. They are inaccurate.

Mr. President, I pride myself on always doing my homework and always sticking to the facts.

My article on Mr. Hamre's illegal progress payment policy is no exception.

I have documents to back up every point I have made.

From day one, I have never strayed from the facts and conclusions presented by the DOD IG.

From day one, the IG and legal counsel have maintained that the department's progress payment policy "results in the rendering of false accounts and violation of the law."

Nothing has changed since the IG issued its report in March 1992.

The illegal progress payment policy remains in effect at this very moment.

The IG has consistently maintained that the "status quo is unacceptable" and that the policy must be brought into compliance with the law.

After 5 years of unproductive meetings, the IG recommended that the department seek "legislative relief."

The IG proposed a temporary exemption from the law, while the progress payment operation was being overhauled.

But when the draft language hit the street late 1996, it was not at all what the IG had in mind.

This language was drafted by the Defense Finance and Accounting Service but was Mr. Hamre's brain child.

It was far reaching, comprehensive and permanent.

The IG and legal counsel came unglued when they saw it and killed it in the end.

Mr. President, those are the facts—according to the IG—not according to the Senator from Iowa.

Mr. Bacon's first letter is out of sync with the facts.

When the IG, Ms. Eleanor Hill, saw Mr. Bacon's first letter, I am told, she blew her top.

She picked up the phone and called Mr. Bacon. He was on travel, but his principal deputy, Mr. Bernath, was in his office over at the Pentagon.

She confronted him with the truth.

He agreed right then and there to retract the false and misleading statements in Mr. Bacon's first letter.

Mr. President, that's how we ended up with Mr. Bacon's second letter.

I would now like to quote from the revised portion of his second letter:

> Mr. Hamre, working with the DOD IG, is working to carry out the IG's recommendations on progress payments. Senator Grassley claimed Hamre tried to legalize the crime by proposing legislative changes concerning progress payments. Prior to proposing legislation, Mr. Hamre had discussed with the DOD IG the possibility of seeking legislative relief if it was too difficult for the department to comply with the current statute.

These revisions give Mr. Bacon's letter an entirely new meaning.

"Is working to carry out" is a far cry from "has carried out."

"Discussed with the DOD IG" is a far cry from "first proposed by the DOD IG."

The revisions—demanded by the IG—strengthen my main point, Mr. President. They showcase Mr. Hamre's shortcomings.

I need to thank Mr. Bacon.

His letters make my case:

Mr. Hamre has failed to carry out the IG's recommendations and bring his policy into compliance with the law.

Mr. Hamre's policy continues to operate outside the law at this very moment, and that's exactly why he felt like he needed legislation.

He needed to cover his back side.

He needed legal cover for his illegal policy.

Now, I would like to commend Mr. Bacon for being more truthful and accurate.

But there's one little problem.

His first letter still stands as a matter of record.

Where did the misinformation come from in the first place?

Did Mr. Bacon dream it up by himself? Or did someone set him up? If so, who? Did Mr. Hamre have any knowledge of this letter?

Mr. President, I have written Mr. Bacon. He needs to answer my questions.

Mr. President, I ask unanimous consent to have this letter printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, June 18, 1997.

Hon. KENNETH H. BACON,
Assistant Secretary of Defense for Public Affairs, Washington, DC.

DEAR MR. BACON: I am writing in response to your letters of June 11, 1997 and June 13, 1997, to Mr. Albert Eisele, Editor of The Hill.

Your letters attempt to address some of the points I raised in an editorial piece, which appeared in the June 4, 1997 issue of The Hill.

Mr. Bacon, you suggest that I have distorted the truth and ignored the facts. On the contrary, I pride myself on doing my homework and always sticking to the facts, and my article on Mr. Hamre's illegal progress payments policy is no exception. Ironically, it is clear from the revisions you were forced to make in your second letter—to correct errors you made in your first letter—that it is you who has ignored the facts and distorted the truth.

From day one, I have never strayed from the facts and the conclusions presented by the Department of Defense (DOD) Inspector General (IG). From day one, the IG and legal counsel have maintained that the department's progress payment policy "results in the rendering of false accounts and violation of the law." Nothing has changed since the IG issued its report in March 1992. The illegal progress payment policy remains in effect at this moment. From day one, the IG has maintained that "the status quo is unacceptable" and the policy must be brought into compliance with the law. After five years of endless meetings and "seeing no light at the end of the tunnel," the IG recommended that the department consider seeking "legislative relief." The idea was to obtain a temporary exemption from the law—while the progress payment operation was overhauled. The language itself was drafted at Mr. Hamre's direction—not by the IG but by the Defense Finance and Accounting Service. When that language hit the street, it was not at all what the IG had envisioned. It was far reaching and comprehensive and permanent. The IG and legal counsel expressed strong objections to it and killed it in the end.

Those are the facts, Mr. Bacon. If you have any questions about the facts, I suggest you contact the IG. You need to talk with Mr. Bob Lieberman. He is the Assistant IG for Auditing. His number is 703-604-8901. He will set you straight. He knows the progress payments issue from top to bottom and beginning to end. He's the expert.

When you speak to Mr. Lieberman, you will quickly discover that you are the one who departed from the facts. You will quickly discover that your first letter contains inaccurate, misleading, and even false information. This is the most offensive portion of your letter:

"Mr. Hamre, working with the DOD Inspector General, has carried out the IG's recommendations on progress payments. Senator Grassley claimed Hamre "tried to legalize the crime" by proposing legislative changes concerning progress payments. That legislation was first proposed by the Inspector General."

After you signed and mailed this letter to the Hill, I was given a copy. I immediately realized that your primary assertion was false. The suggestion that Mr. Hamre had brought his progress payments policy into compliance with the law was totally and completely wrong. It did not square with the facts—as I know them. So I sent your letter to the IG for comment to make sure I wasn't off base. I have been told that the IG, Ms. Eleanor Hill, was enraged when she saw that statement. She called your office to complain. You were on travel, but she spoke with your deputy. He agreed to retract your false and misleading statements. As a result of the IG's complaint, you sent a second, revised letter to The Hill. This one is dated June 13, 1997. The false statements have been removed from this letter. They have been replaced by statements that constitute a fairly accurate reflection of the facts. The revised statement is as follows:

"Mr. Hamre, working with the DOD Inspector General, is working to carry out the IG's recommendations on progress payments. Senator Grassley claimed Hamre "tried to legalize the crime" by proposing legislative changes concerning progress payments. Prior to proposing legislation, Mr. Hamre had discussed with the DOD Inspector General the possibility of seeking legislative relief if it was too difficult for the Department to comply with the current statute."

Mr. Bacon, your second letter takes a big step in the right direction. "Is working to carry out" is a far cry from "has carried out," and "discussed with the DOD IG" is a far cry from "first proposed by the DOD IG." Those corrections conform with the facts as I understand them.

Mr. Bacon, the corrections you made in your second letter strengthen my main point and showcase Mr. Hamre's shortcomings. In fact, they make my case: Mr. Hamre has failed to carry out the IG's recommendations and bring his progress payment policy into compliance with the law. His progress payment policy continues to operate outside of the law at this very moment, and he knows it. That's exactly why he proposed legislation. He wanted legal cover for an illegal operation. He wanted to sanction a policy that the IG had declared illegal and that he had personally authorized. As I said, he wanted to legalize the crime. And finally, this legislation was not dreamed up by the IG. It was the brain child of Mr. Hamre and the Defense Finance and Accounting Service.

I commend you for trying to be more accurate and truthful, but your original letter still stands as a matter of record. You signed and mailed it. How did that happen? Was the misinformation of your own making, or did someone else set you up? I would like some answers.

Mr. Bacon, I would like to understand the true origins of the false information contained in your first letter. Is this something you dreamed up on your own? If not, where did you get the information? What organization within the department provided this information? Please provide the name and title of the person who supplied this information. And did you discuss this particular piece of information with Mr. Hamre? Did Mr. Hamre have any knowledge of this information? Was Mr. Hamre aware of your letter before it was mailed to The Hill?

I request a response to my questions by June 24, 1997.

Your cooperation in this matter would be appreciated.

Sincerely,

CHARLES E. GRASSLEY,
U.S. Senator.

Mr. GRASSLEY. Mr. President, I hope my colleagues will take the time to make a side-by-side comparison of Mr. Bacon's first and second letter.

A side-by-side comparison of the two letters will help them to understand who is sticking to the facts and telling the truth, and who isn't.

I yield the floor.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 9:30 tomorrow morning.

Thereupon, the Senate, at 10:11 p.m., adjourned until Thursday, June 26, 1997, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate June 25, 1997:

THE JUDICIARY

SONIA SOTOMAYOR, OF NEW YORK, TO BE U.S. CIRCUIT JUDGE FOR THE SECOND CIRCUIT, VICE J. DANIEL MAHONEY, DECEASED.

DEPARTMENT OF DEFENSE

RUDY DELEON, OF CALIFORNIA, TO BE UNDER SECRETARY OF DEFENSE FOR PERSONNEL AND READINESS, VICE EDWIN DORN, RESIGNED.

EXTENSIONS OF REMARKS

TEACHER TECHNOLOGY TRAINING ACT OF 1997

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1997

Mr. VENTO. Mr. Speaker, I rise today in support of the Teacher Technology Training Act of 1997 offered by my friend and colleague, Representative MORELLA, who heads the Science Committee's Subcommittee on Technology. I am proud to be a sponsor of this important legislative initiative.

Hooking schools to the Internet and improving access to technology are crucial first steps towards ensuring our Nation's students can compete in the increasingly global economy of the 21st century. However, access to technology is only half the equation. Making sure teachers and students are able to do more than admire the brand new computers in their classrooms and actually use them is the second half of the equation. The Internet is truly the world's first global teaching tool, but we will never realize the power and potential of the Internet as a teaching tool until we equip teachers with the necessary training to know how to optimize its use in the classroom.

The Teacher Training Technology Act is a legislative initiative introduced in Congress geared solely towards funding for teacher training in technology. Many Federal programs have money available for teacher training, but there are frankly too many claims and demands on these funds to accommodate teacher technology training. Included in the President's Technology and Literacy Program, is a proposal set aside of funds for technology in education, but a glaring defect is that no funds are focused specifically on technology training for teachers.

This legislation recognizes the technology training deficit and provides for both in-service training for existing teachers, and pre-service training for new teachers, so that both groups will be getter prepared in the classroom.

Just as a dictionary cannot be used as a resource by someone who is unable to read, computers in our classroom are only useful to the extent that teachers are able to understand their operation and apply this know how in the classroom today and tomorrow. I ask that my colleagues support this bipartisan legislation.

U.S. GIRL SCOUT GOLD AWARD

HON. PETER HOEKSTRA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1997

Mr. HOEKSTRA. Mr. Speaker, today I would like to salute three outstanding young women who have been honored with the Girl Scout Gold Award by the Michigan Pine and Dunes Girl Scout Council in Muskegon, MI. Debbie Christenson, Shannon Jones, and Randi Durst were honored May 15, 1997 for earning the Gold Award, the highest achievement award in U.S. girl scouting.

The Girl Scout Gold Award symbolizes outstanding accomplishments in the areas of leadership, community service, career planning, and personal development. To receive the award, a Girl Scout must earn four interest project patches, the career exploration pin, the Senior Girl Scout Leadership Award, and the Senior Girl Scout Challenge, as well as design and implement a Girl Scout Gold Award project.

As members of the Michigan Pine and Dunes Girl Scout Council, Debbie, Shannon, and Randi have been working toward the Girl Scout Gold Award for over a year. Debbie completed her Gold Award project in the area of developing pride for girl scouting in younger members by honoring the Girl Scout founder, Juliette Low. For her project, Shannon coordinated and promoted the 85th anniversary celebration of girl scouting, while Randi's project was in the area of scholarship funding for wider opportunity participants.

I would like to commend these three young women for the significant service they have provided to their community and their country and congratulate them on receiving the Girl Scout Gold Award.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1998

SPEECH OF

HON. DOC HASTINGS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, June 23, 1997

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 1119) to authorize appropriations for fiscal years 1998 and 1999 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal years 1998 and 1999, and for other purposes.

Mr. HASTINGS of Washington. Mr. Chairman, many Department of Energy sites have dramatically downsized over the past three years. In fact, each of the three largest sites—Hanford, Savannah River, and Oak Ridge—have seen reductions in employment of at least 30 percent during this time frame. Each has had its work force reduced by at least 3,100 employees. This has had a dramatic impact on these areas, especially those located away from a metropolitan area.

In spite of these reductions, the committee cut section 3161 economic transition funding from $70 million to $22 million—more than a 60 percent reduction.

My amendment would restore $44 million to the program, and require that the Department contract with a private auditing firm to conduct a study examining the impact of the program in the past 2 years, and an estimate of the number of jobs created in each community under the 3161 program.

This is a responsible, commonsense way to ensure that current programs continue, but that we also take steps to ensure that the money is spent efficiently.

If the report suggests otherwise, Congress can then take action to address the program's deficiencies.

As a result, I urge a "yes" vote on this amendment.

SPECIAL RECOGNITION OF A. JASON BONAPARTE

HON. ROD R. BLAGOJEVICH

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1997

Mr. BLAGOJEVICH. Mr. Speaker, it is my privilege to rise to recognize high school senior, A. Jason Bonaparte, for his outstanding contributions to our community as a member of the Beautillion 1997 Program. The success of our Nation lies in the hands of our youth as they mature into the next generation of decisionmaking adults. It is particularly reassuring to see a young man such as Jason make a concerted effort to secure his future and the future of our Nation.

This spring, Jason Bonaparte achieved two important milestones. In addition to receiving a high school diploma, he also graduated from the Beautillion 1997 Program. Sponsored by the Alpha Phi Alpha Fraternity, this program is dedicated to assisting in the advancement of African-American males in our communities. The Beautillion prepares a select group of individuals for life in college and beyond through various educational, outreach, and service-orientated activities. Jason and his fellow participants took on tough issues facing our Nation through discussion groups, and had an opportunity to gain valuable insight from community leaders through a guest lecture series.

The hard work and dedication of Jason Bonaparte and his fellow participants in the Beautillion Program is deserving of our recognition. In their efforts, these young men have become role models for our Nation's youth. The have made a positive investment, not only in their own lives, but in the future of our country as a whole. I commend them on their efforts.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

DISAPPROVAL OF MOST-FAVORED-NATION TREATMENT FOR CHINA

SPEECH OF

HON. HAROLD E. FORD, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1997

Mr. FORD. Mr. Speaker, I rise today to oppose this resolution. The debate today comes down to two simple questions: Will we choose to isolate China, or will we remain actively engaged with China through trade and economic cooperation?

The 20th century will be recorded as the American century Mr. Speaker, because as a nation, we led the world in trade, in human rights and in international cooperation. If we expect to lay claim to the 21st century, as we did the 20th, we must engage China—a nation which will emerge as one of the most powerful in the world.

There is no doubt that China has serious human rights problems that must be addressed. But there are more effective means to address these concerns without hurting American jobs, such as, implementing targeted sanctions and enforcing existing international trade laws.

Furthermore, Mr. Speaker, maintaining normal trade relations, which is all MFN does, provides America with a meaningful forum to influence important human rights issues.

Tomorrow's marketplace will be shaped by the forces of technology and globalization. Studies tell us that in the 21st century, 90 percent of today's kindergarten students will be working in jobs that do not exist today. Many of these jobs will be export driven, and many of these exports will go to China. If America disengages from China, our ability to compete in that global marketplace will be undermined. I urge my colleagues to oppose this resolution.

A TRIBUTE TO CHIEF DEPUTY DON LANQUIST

HON. BRAD SHERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1997

Mr. SHERMAN. Mr. Speaker, I rise today to honor Chief Deputy Don Lanquist for 30 years of distinguished service to our community and the Ventura County Sheriff's Department. John F. Kennedy measured a man's success in public service according to four criteria—courage, judgment, integrity, and dedication. Chief Deputy Don Lanquist not only possesses these virtues, but serves as an example of what a leaders should be.

When most people think of Don, they think of someone they can always go to in order to get the job done. He is able to follow projects from inception to completion, personally working each and every step along the way.

The Todd Road Jail Facility, a nationally recognized showcase facility, is one example of his exceptional work. Don began with the idea of building a new jail, requisitioned the funding from legislators, aided in project design and development, and planned the inauguration of the new facility. Few people are capable of following projects to completion especially with such success. This is just one of the many reasons the citizens of Thousand Oaks honor him today.

In addition to his contributions to law enforcement and public protection, I would like to recognize Don today for his compassionate treatment of other people. He is an extraordinary leader because he always puts the feelings of others first. His leadership, however, does not end with his job. Don has also served on the State Sheriff's Association and on the California Board of Corrections.

Chief Deputy Lanquist is truly able to accomplish monumental tasks and has indeed led his field of custody operations in to the 21st century. His successes in prisoner management and rehabilitation have contributed to Ventura County's reputation as one of the Nation's safest counties.

I ask my esteemed colleagues today to join the family, friends, and citizens of Ventura County in recognizing Chief Deputy Don Lanquist for 30 years of exceptional service. His hard work and dedication make him a role model for all in our community.

FLOODING IN MILWAUKEE

HON. THOMAS M. BARRETT

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1997

Mr. BARRETT of Wisconsin. Mr. Speaker, this past weekend southeastern Wisconsin experienced serious flooding when more than 7 inches of rain fell within 12 hours, forcing hundreds of my constituents from their homes and causing millions of dollars in damages. Many residents of Milwaukee County were without electricity, trying to rescue their valuable possessions, furniture, major appliances, and other household essentials from flooded and mud-caked basements. Schools, roads, government buildings, and municipal equipment also suffered significant damage. In fact, my family and I spent 2 days getting a foot and a half of water out of our own basement.

Since the flooding began, I have been in contact with local and State disaster officials, as well as the Federal Emergency Management Agency [FEMA] and the Small Business Administration [SBA], to coordinate a response to this disaster. Today, FEMA officials are in Milwaukee to survey the damage and provide a preliminary damage assessment [PDA] to the President as he decides whether to declare the region a Federal disaster area. I am confident that the people of Milwaukee will work together to repair the damage caused by the flooding, and that we will be successful in our efforts to rebuild.

As a result of this disaster, I was not present during rollcall votes 225, 226, and 227 on Monday, June 23. I strongly support these three amendments to the Defense authorization bill, and had I been present, I would have voted "aye" on each. I am pleased that the House approved these amendments overwhelmingly, and I look forward to their consideration in the Senate.

TRIBUTE TO CHIEF GALEN W. BROOKENS

HON. PETER HOEKSTRA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1997

Mr. HOEKSTRA. Mr. Speaker, it is my great pleasure today to honor Galen W. Brookens, who is retiring this year as chief of police at the Fremont Police Department in Fremont, MI.

Chief Brookens began his distinguished career with the Fremont Police Department on March 16, 1963, as a patrolman. He served in this capacity until January 1, 1968, when he went to work as an investigator for the twenty-seventh circuit court. In December 1968, he returned to the Fremont Police Department after accepting the position of chief of police.

Throughout his career, Chief Brookens has played an instrumental role in the community he has served. In 1979, he aided in the development and institution of the 911 system in Newaygo County, the second county in Michigan to provide this service, and also worked to establish the Silent Observer Program. He has served as chairman and board member of the Michigan Law Enforcement Officers Training Council, the Newaygo County Administrative Officers Association, and the Michigan Chiefs of Police. In 1982, Chief Brookens received the "Service Above Self" award from the Rotary Club for his role in the development of an alcohol rehabilitation program in Newaygo County, his willingness to speak and teach at Fremont High School and various civic organizations, and his service and devotion to the First Reformed Church as a Sunday school teacher, deacon, and choir member. In addition, Chief Brookens has been given numerous awards, certificates, and commendations for exemplary police work and selfless service to the community of Fremont.

For 33 years, Chief Brookens has dedicated his career to serving others. His work in the community has been an invaluable asset that has affected, and will continue to affect, the lives of many. As he retires, I would like to give him my thanks for his years of public service to the citizens of Fremont, and wish him all the best in his future endeavors.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1998

SPEECH OF

HON. DOC HASTINGS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, June 23, 1997

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 1119) to authorize appropriations for fiscal years 1998 and 1999 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal years 1998 and 1999, and for other purposes.

Mr. HASTINGS of Washington. Mr. Chairman, the 1997 Department of Defense Authorization Act included several provisions designed to encourage the Department of Energy to implement reforms in the management of environmental cleanup programs.

Unfortunately, Department management continues to struggle with ongoing cleanup programs, as evidenced by the problems facing the Pit 9 project in Idaho, and problems with the transition to new contractors at a number of sites.

Recognizing these programs, a bipartisan group of lawmakers spent several months studying the Department system. Working with our colleagues, with our constituents, and with the Nation's Governors and State attorneys general, we came up with a series of recommendations which were designed to help cut through the redtape and bureaucracy surrounding the DOE cleanup system.

These provisions were included in the House version of the 1997 Defense bill, and are now a part of Public Law 104–260.

Unfortunately, the Department has virtually ignored congressional intent, and has failed to implement almost every single one of these recommendations. For instance:

The Department has taken no action to reappoint site managers at each cleanup site, as required by section 3173 of the bill.

The Department has failed to submit to Congress a report on section 3175, which requires the establishment of a technology deployment program at DOE sites.

To the best of my knowledge, the Department has failed to comply with section 3174 of the law, which requires that the Secretary certify that any new Department paperwork requirements—called orders—are necessary for "the protection of human health and the environment or safety, the fulfillment of legal requirements, or the conduct of critical administrative functions." This was meant to reduce the absolutely unbelievable amount of paperwork that exists in the DOE system.

The Department has failed to work with State leaders to ensure that the provisions cover sites other than the Hanford Nuclear Reservation in my district, as suggested by section 3172.

And until this past month, the Department had ignored provisions that Congress had included to speed up transfers of funding from one project to another. And although these limited reprogrammings have recently been approved at Hanford and Savannah River, Department budget officials are apparently misinterpreting even these simple procedures.

Mr. Chairman, Congress included these provisions as a subtle reminder to the Department that the time for reform had come. The Department's decision to ignore these provisions demonstrates that they have little interest in taking the steps necessary to assure Congress that the $6 billion we appropriate for these programs is well spent.

This amendment strengthens the existing provisions by making a number of the changes mandatory, instead of voluntary. It will empower the site manager to take action to enhance environmental restoration at the site. It puts a 2-month limit on the amount of time that DOE headquarters may take to review urgent budget transfer requests. It gives the site manager the responsibility for considering the cost and risk reduction benefits in making decisions in cleanup actions.

Some have argued that this will grant unilateral authority to the site manager. That is simply not true. The Secretary will retain the ultimate decision making authority. And the Secretary is also given the authority to remove a site manager, if he sees fit.

Mr. Chairman, it was my original intention that this amendment should cover all Department of Energy sites. However, we agreed at this point to limit it to the Hanford site, with the expectation that the Department will seek to apply similar provisions across the complex.

This is a simple, but commonsense step towards imposing responsible management on a Department which has clearly demonstrated that it has had problems managing the billions of dollars that we have given them each year. As a result, I would urge my colleagues to support this provision.

CONGRATULATIONS TO THE HORACE O'BRYANT MIDDLE SCHOOL'S CONCERT CHOIR AND SERENADES

HON. PETER DEUTSCH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1997

Mr. DEUTSCH. Mr. Speaker, I rise today to congratulate the Horace O'Bryant Middle School's Concert Choir and Serenaders which was commended as the best overall choir among all middle and high school choirs in the Nation. The group from Horace O'Bryant recently won the top award in the finals at the All American Music Festival in Orlando, FL.

About 60 middle schoolers comprise the choir and about half of them also participate in the Serenaders, a dancing jazz show choir. Much of their repertoire consists of popular melodies from movies and television shows.

I am proud to see that music is still so great a part of our children's lives. The Key West Citizen said it well when it declared that "We can share this triumph with the kids and their teachers because we know that their music lights the way to a harmonious future for all of us."

Mr. Speaker, I applaud these students of their diligence and commitment to music and for their excellent representation of Florida in this prestigious national competition. Also to be commended are the team's choral director, parents, and school principal, who gave their time and support.

HONORING RICHARD SILVER'S 55 YEARS OF SERVICE

HON. MICHAEL BILIRAKIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1997

Mr. BILIRAKIS. Mr. Speaker, I rise today to recognize Richard Silver's 55 years of service to our Nation and its veterans.

Mr. Silver is currently the director of the James Haley VA Medical Center in Tampa, FL. Since 1979, he has guided what is, in my opinion, one of the best VA medical facilities in the country. The Center serves veterans from around my home State of Florida and provides them with the quality care they deserve. He has used an active teaching role and close professional relationship with the University of South Florida College of Medicine.

Before coming to Tampa, Richard served in the same position at the Brockton and Northampton VA Medical Centers in Massachusetts. He has also served as the assistant hospital director at East Orange, NJ, and was director of personnel service in the Department of Medicine and Surgery at the VA Central Office. In total, he has over 55 years of service to our country.

In addition to devoting his life to the care of our Nation's veterans, Mr. Silver also served in the U.S. Army as a captain while he was assigned to the Combat Engineers in the South Pacific.

Richard has devoted his life to protecting our Nation and those who answered the call in its time of need. He has an exemplary career of service that is worthy of recognition.

Mr. Speaker, I would like to congratulate Richard Silver and wish him continued success in his work at the Tampa VA.

TRIBUTE TO GEORGE SCHMIEDEL

HON. JAMES H. MALONEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1997

Mr. MALONEY of Connecticut. Mr. Speaker, it gives me great pleasure to rise today to honor Mr. George Schmiedel for his outstanding service to the citizens of Connecticut. On this Friday, June 27, Mr. Schmiedel will retire after 30 years of service as the registrar of voters for my hometown of Danbury, CT.

Mr. Schmiedel is a lifelong resident of Danbury, CT, and a 1948 graduate of Danbury High School. He is a dedicated member and active participant at St. Peter's Church. In addition to his lengthy and distinguished service to the city of Danbury, Mr. Schmiedel also was employed for 19 years by the John Hancock Insurance Co. He and his wife, Sally, are the proud parents of three children: Mark, Steven, and Brenda, and have five grandchildren.

Mr. Schmiedel has a long history of outstanding commitment to the community of Danbury. His membership and service in the Arthritis Association, the American Cancer Society, the Catholic War Veterans, and the Danbury Democratic Club has made a lasting contribution and has made him an invaluable member of our community.

Mr. Schmiedel's extended service is a testimony to his dedication to the citizens of Connecticut and a reflection of his personal concern for the people of Danbury. Mr. Speaker, I ask you and my other distinguished colleagues to join me in commending Mr. George Schmiedel for his dedicated service and to congratulate him on his retirement.

TRIBUTE TO THE FBI AND CIA

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1997

Mr. OXLEY. Mr. Speaker, I wish to commend the Federal Bureau of Investigation and the Central Intelligence Agency for the apprehension of a suspect in the murder of two CIA employees and the wounding of three other individuals near Langley 4 years ago.

According to reports, FBI agents took the confessed killer into custody in a covert operation near the Afghan-Pakistani border with intelligence support from the CIA, ending a 4-year international manhunt. The dawn raid was executed without incident.

This case demonstrates the vital importance of maintaining a strong U.S. intelligence community. It also reminds us of the value of perseverance in the pursuit of justice.

Mr. Speaker, I am proud of the work done by the FBI and the CIA last week. All America thanks them.

ENCRYPTION BILL: AN EXERCISE IN DECEPTION

HON. ZOE LOFGREN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1997

Ms. LOFGREN. Mr. Speaker, last week the Senate Commerce Committee reported a bill, S. 909, sponsored by Senators McCain and Kerrey, which largely embodies the latest administration proposals to deal with encryption technology. This misguided legislation (S. 909) would be a great leap backward in the effort to reform current American export restrictions on encryption and remove serious impediments to the competitiveness of our Nation's high-tech industry.

In addition, by proposing unprecedented domestic controls on the use of encryption, the McCain-Kerrey bill also poses serious threats to fundamental civil liberties and privacy rights. I believe that the Senate effort is propelled largely by a lack of understanding of both the worldwide prevalence of strong encryption and the technical challenges posed by the massive key recovery-escrow infrastructure envisioned in the bill.

Earlier this week, Mr. Dan Gillmore, columnist for the San Jose Mercury News discussed the problems with S. 909 and strongly urged a rejection of the McCain-Kerrey approach. I submit his column into the Congressional Record.

[From the San Jose Mercury News, June 23, 1997]

ENCRYPTION BILL: FEDERAL EXERCISE IN SELF-DECEPTION

(By Dan Gillmor)

As a bill bearing his name zipped last week through the Senate Commerce Committee he heads, Arizona Republican John McCain said, "This bill carefully seeks to balance the concerns of law enforcement with individual privacy concerns."

The legislation, co-sponsored by Nebraska Democrat Bob Kerrey and two other Democrats, was the latest futile attempt in Congress to achieve the impossible: compromise on an issue that fundamentally has no middle ground.

The issue is encryption, the scrambling of digital information. Try as they might, lawmakers must eventually understand the reality. When it comes to the privacy of personal information in the digital age, we have two simple choices. Either we allow people to encrypt their messages, using scrambling and unscrambling "keys" to which only they have access, or we do not.

Governments are certain that bad people will use encryption to help achieve bad ends. They're right. But their cure would shred our basic liberties.

So the Clinton administration and its allies—the McCain-Kerrey legislation is widely viewed as an administration-approved plan—are pushing a policy that would force us to put descrambling keys in the hands of third parties. Then, when law enforcement people wanted to see our communications, they'd simply get the keys from that third party.

The McCain-Kerrey bill pretends to stop short of that. It would force government agencies to use only electronic hardware and software that included this key-recovery scheme. It would also require the same system for anyone using a network that is funded in any way by federal funds, including virtually all university networks.

While one section calls the system "voluntary" for private individuals, the rest of the legislation would make it all but impossible to resist. Hardware and software companies, which so far have resisted the government's moves, will be much more likely to simply give in and build this key-recovery method into all of their products if they have to build it into ones bought by the government. Consumers need options, not monolithic products.

Another section of the bill would, in effect, require even private citizens to use such software—and therefore give their keys to the third parties—if they want to buy anything online. People tend to use what they have in front of them.

There's nothing wrong with the idea of letting a third party hold onto a descrambling key in certain cases. As former White House official Jock Gill noted recently on an Internet mailing list, all government communications should use such a system so the public can keep an eye on what the government is doing in our name and with our money. We'll need to create a system, of course, where such oversight doesn't end up forcing the public to use exactly the same technology for its own encryption needs—or at least keep private keys out of the hands of centralized third parties.

Companies, meanwhile, will need to hold onto the business-related keys of employees, so that vital records won't be lost when someone leaves or dies. But I can't think of many companies that will be happy about giving the vault keys to third parties they can't control.

Private citizens also should consider giving their keys to trusted third parties, just as they give their house keys to neighbors when on vacation trips. I intend to do just that—but it's none of the government's business who gets my personal encryption key. I need strong encryption, as the digital age arrives, because more and more of my life will exist on these public networks.

The practical difficulties of setting up a centralized key-recovery system are immense. Even if it could be done, I would never trust such a government-run system to be even remotely secure from corruption. I remember the Social Security employees who sold personal information to outsiders. I've also seen too much evidence that governments tend to abuse liberties when they have too much power—and the McCain-Kerrey bill would allow virtually anyone at any level of law enforcement to have access to private information on the flimsiest pretext, not even requiring a court order.

Kerrey's participation in this latest travesty is sad. He needs no lessons in courage. He lost part of a leg in Vietnam. Later, as he stood up to the know-nothings who would ban flag-burning, he noted that our strength comes partly from our ability to express ourselves even in ways that offend many others.

Now, however, Kerrey is aligning himself with a much more dangerous crowd of know-nothings: those who'd ban our right to keep private information private. He may believe this is about finding common ground; if so, someone has fed him falsehoods. His proposal, if enacted, would create the worst invasion of our fundamental liberty in many decades.

If you care even slightly about your privacy in the future, pick up a pen today and write your Senators and member of the House of Representatives. Tell them to reject the Clinton-McCain-Kerrey approach. Tell them you value your privacy and won't give it up without a fight. And remind them that you vote.

A TRIBUTE TO SAN DIEGO POSTAL EMPLOYEES

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1997

Mr. CUNNINGHAM. Mr. Speaker, I rise once again to pay tribute to the U.S. Postal Service employees of San Diego. Again, a survey, conducted by Price Waterhouse, has confirmed that 95 percent of all letters mailed to and from Dan Diego arrived on time. This places San Diego mail carriers second best in the Nation; 1 percentage point behind first place.

The Postal Service employees of San Diego should be proud of their excellent service. While the national slogan for the Postal Service is "We Deliver," San Diego postal employees say, "We deliver on time" and this survey proves that they do.

I want to personally recognize San Diego District Manager Danny Jackson, the Margaret L. Sellers Processing and Distribution Center Manager Thomas Wilson, and the San Diego Postmaster Glenn Crouch. Along with every postal employee in San Diego, they have the right to be proud of their accomplishments. They have once again brought national recognition to San Diego and enhanced our reputation as America's finest city.

Every San Diegan should join me in expressing gratitude to our Postal Service employees in San Diego and their commitment to be the best of the best.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1998

SPEECH OF

HON. DOC HASTINGS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, June 23, 1997

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 1119) to authorize appropriations for fiscal years 1998 and 1999 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal years 1998 and 1999, and for other purposes.

Mr. HASTINGS of Washington. Mr. Chairman, I have been working closely with Mr. HALL to clarify the terms and conditions of Department of Energy property transfers. In Washington State, economic development activities are largely undertaken by ports. However, the Department has been unclear as to whether ports are eligible to apply for surplus Department of Energy property. I am pleased that the guidelines established pursuant to the Hall amendment will address these issues.

Past Congresses have set up a series of provisions which govern the transfer of Federal Government property to other agencies, to local governments, or to economic development organizations. A special provision was created for Department of Energy waste cleanup sites, which frequently are contaminated, or near contaminated areas.

By allowing the Government to transfer unproductive properties, the taxpayer will benefit by eliminating costly maintenance and security expenses. Second, it will provide additional opportunities for economic growth in communities which are suffering from dramatically reduced Department of Energy budgets. This is particularly important given the National Security Committee's decision to reduce section 3161 economic transition funding from $70 million to $22 million.

Mr. Chairman, the work force in my district has been cut by 31 percent in the past 3 years. Savannah River is seeing a reduction of 1,800 employees as we speak. And Oak Ridge, Rocky Flats, and Fernald have all seen work force reductions of between 20 percent and 30 percent.

This amendment will enable local economic development agencies to more easily acquire surplused Federal property and bring in private sector employers. I thank Mr. HALL and urge the adoption of the amendment.

CHILTON COUNTY ALABAMA CELEBRATES THE 50TH ANNIVERSARY OF THE CHILTON COUNTY PEACH FESTIVAL

HON. BOB RILEY

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1997

Mr. RILEY. Mr. Speaker, I rise today in recognition of the Chilton County Peach Festival. Chilton County is known across the country for the fine peaches it produces. Each year the Chilton County Peach Festival pays tribute to these peaches and the growers who produce them. The Clanton Jaycees, the sponsors of the festival, work alongside the Chilton County fruit growers to make this event a success. This year is particularly exciting not only because of the bumper crop of peaches, but because this year marks the 50th anniversary of the Chilton County Peach Festival.

The first festival was held in 1947 in Thorsby, AL. It was sponsored by the Clanton Kiwanis Club, the Thorsby Business Men's Club, the Thorsby Civic Club, the Clanton Lion's Club, and the Clanton Chamber of Commerce. The Chilton County Chamber of Commerce has also sponsored the event. The festival was eventually moved to Clanton, the county seat. For many years the energetic young men and women of the Clanton Jaycees have devoted countless hours to this festival, making it the largest event in Chilton County.

The festival is celebrated each June with a parade, a peach queen contest, and a peach auction. The auction provides funds that allows the Clanton Jaycees to perform charitable work throughout the year, including furnishing Christmas presents for children from economically disadvantaged families. The parade has numerous entries, including the winners of the Chilton County Peach Queen contest and their courts. The three queens are chosen by judges during contests held the week of the festival. The winners are crowned as Miss Peach, Junior Miss Peach, and Little Miss Peach. We would like to extend our congratulations to the winners and to all the former queens returning for this anniversary celebration.

Chilton County peach growers truly deserve this annual tribute. These growers have worked through years of droughts, floods, insect infestations, and bitter cold to protect the trees from harm and save the crop that is so valuable to the economy of Chilton County. In fact, the peaches these growers produce account for approximately 75 percent of the peaches grown in Alabama. The peach industry brings an estimated $40 million dollars to Chilton County every year. These peaches are sold at local markets that attract many tourists who want to buy the famous fruit and mouthwatering products made from them, such as peach ice cream. Peaches from Chilton County also can be found in grocery store produce sections across the country.

We would like to extend our congratulations to the people of Chilton County on the 50th anniversary of the Chilton County Peach Festival. We would also like to pay special tribute to the Clanton Jaycees and the Chilton County peach growers, who make it all possible.

FORT RENO

HON. ENI F.H. FALEOMAVAEGA

OF AMERICAN SAMOA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1997

Mr. FALEOMAVAEGA. Mr. Speaker, I rise today to introuce legislation to resolve a longstanding land dispute between the United States and the Cheyenne and Arapaho Tribes of Oklahoma.This land, known as Fort Teno, was used as a military reserve and was later transferrred to the Department of Agriculture. Currently, this Department has a small research station there.

The Fort Reno land were part of the original Cheyenne-Arapaho reservation created by Executive order in 1869. The lands were removed from the reservation, again by Executive order, in 1883. It was the understanding of the tribes that these land would be returned to the when the military no longer needed the lands, but this provision is not clearly documented.

Congress later transferred portions of the land to the Departments of Agriculture and Justice, and these departments continue to use the land to the exclusion of the Indians. Several attempts have been made in the House to return the land to the tribes, but no bill has ever been enacted into law.

A 1975 statute states Federal land located within original Indian territory which becomes excess to the needs of the agency maintaining jurisdiction over the land should be returned to the tribe whose reservation originally included the land. By operation of this statute, the lands should have been returned to the tribes 2 years ago.

While legal arguments can be made that the tribes have been compensated for this land in a prior land settlement, I am not persuaded that these two tribes have been treated fairly in their dealings with the U.S. Government, and urge my colleagues to support this legislation so that we may provide a final, equitable resolution to this dispute.

Mr. Speaker, a copy of the bill and a brief section by section analysis follows.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress finds the following:

(1) The original Cheyenne-Arapaho Indian Reservation in western Oklahoma, which included the land known as the Fort Reno Military Reservation, was established by the Medicine Lodge Creek Treaty of 1867 and reaffirmed by Executive order in 1869.

(2) The Fort Reno Military Reservation lands include sites used by the Tribe for the Sun Dance and other religious and cultural purposes, burial sites, and medicine gathering areas.

SEC. 2. LAND TAKEN INTO TRUST.

(a) IN GENERAL., The land described in subsection (b) is hereby taken into trust for the Cheyenne-Arapaho Tribes of Oklahoma.

(b) LAND DESCRIBED. The land taken into trust pursuant to subsection (a) is that land in Canadian County, Oklahoma, described as follows:

(1) All of sections 1, 2, 3, and 4, Township 12 North, Range 8 West, Indian Meridian.

(2) Those portions of sections 25 and 26 lying south of the North Canadian River, Township 13 North, Range 8 West, Indian Meridian.

(3) That portion of section 26 lying west of the North Canadian River, Township 13 North, Range 8 West, Indian Meridian.

(4) All of sections 27, 28, 33, 34, 35, and 36, Township 13 North, Range 8 West, Indian Meridian.

SEC. 3. USE OF PORTION OF LAND BY BUREAU OF PRISONS.

The Secretary, with the consent of and on terms agreeable to the Business Committee of the Tribe, may lease to the United States for use by the Bureau of Prisons of the Department of Justice in connection with the Federal Reformatory at El Reno, Oklahoma, all or part of the land described as the south half of section 1 and the south half of section 2, Township 12 North, Range 8 West, Indian Meridian.

SEC. 4. PRIOR EASEMENTS, LICENSES, PERMITS, AND COMMITMENTS.

(a) NONREVOCABLE; TIME-LIMITED.—(1) A nonrevocable easement, license, permit, or commitment with respect to the lands described in section 2 shall continue in effect for the period for which it was granted or made if such nonrevocable easement, license, permit, or commitment was granted or made—

(A) on or before the date of the enactment of this Act;

(B) by the Secretary of War or by the Secretary of Agriculture; and

(C) for a specified, limited period of time.

(2) An easement, license, permit, or commitment described in paragraph (1) may be renewed by the Secretary upon such terms and conditions as the Secretary considers advisable.

(b) REVOCABLE; INDEFINITE DURATION.—An easement, license, permit, or commitment which exists on the date of the enactment of this Act with respect to the lands described in section 2 may be continued or renewed by the Secretary if—

(1) the easement, license, permit, or commitment is revocable or of indefinite duration, and

(2) the Secretary considers such continuance or renewal to be in the public interest.

(c) USE OF LAND BY BUREAU OF PRISONS.—(1) In the case of lands described in paragraph (2), the Secretary may continue or renew an easement, right-of-way, or permit to land, only if such easement, right-of-way, or permit is—

(A) in effect on the date of the enactment of this Act;

(B) limited to use or maintenance of water lines, roads to and from the sewage disposal plant, or sewage effluent lakes from the sewage disposal plant located on the land;

(C) granted for use by Bureau of Prisons of the Department of Justice; and

(D) useful to the Bureau of Prisons for purposes of maintaining the sewage disposal plant located on the land.

(2) The land referred to in paragraph (1) is that land described in section 2 that is located in—

(A) section 1, Township 12 North, Range 8 West, Indian Meridian; and

(B) the southeast quarter of section 36, Township 13 North, Range 8 West, Indian Meridian.

SEC. 5. BUILDINGS AND OTHER IMPROVEMENTS.

The Secretary may—

(1) make any Federally owned buildings, improvements, or facilities (including any personal property used in connection with such buildings, improvements, or facilities) located on the land described in section 2 available to the Tribe for their use; and

(2) convey any Federal owned buildings, improvements, or facilities (including any personal property used in connection with such buildings, improvements, or facilities) located on the land described in section 2 to the Tribe in accordance with the Act entitled "An Act to authorize the Secretary of the Interior to convey to Indian tribes certain federally owned buildings, improvements, or facilities on tribal lands or on lands reserved for Indian administration" approved August 6, 1956 (25 U.S.C. 443a).

SEC. 6. ELIGIBILITY FOR FEDERAL SERVICES AND BENEFITS.

For the purposes of the eligibility for and delivery of all services and benefits provided to Indians because of their status as federally recognized, those members of the Tribe residing in Canadian County, Oklahoma, shall be deemed to be resident on or near an Indian reservation.

SEC. 7. EFFECT ON TREATIES.

No provision of this Act shall be construed to constitute an amendment, modification, or interpretation of any treaty to which the Tribe or any other Indian tribe is a party nor to any right secured to the Tribe or any other Indian tribe by any treaty.

SEC. 8. DEFINITIONS.

For purposes of this Act:

(1) The term "Secretary" means the Secretary of the Interior.

(2) The term "Tribe" means the Cheyenne-Arapaho Tribes of Oklahoma.

SECTION BY SECTION ANALYSIS

Section 1: Describes the lands originally part of the Fort Reno reserve to be transferred from the Department of Agriculture to the Department of the Interior in trust for the tribes.

Section 2: In addition to the land retained by the Bureau of Prisons, this section authorizes use by the Bureau of Prisons of part of the transferred lands, subject to the approval of the tribes.

Section 3: Authorizes the continuation of current easements, licenses, permits and other current uses by the Bureau of Prisons for as long as the current uses continue.

Section 4: Authorizes, but does not require, that ownership of the buildings currently located on the lands may be transferred to the tribes.

Section 5: Recognizes members of the tribes who live near the tribal reservation as eligible for tribal benefits.

Section 6: Specifies that this legislation will not be construed as amending any treaty between the United States and any federally-recognized Indian tribe.

Section 7: Defines the term "Secretary" and "Tribe" with respect to the subject legislation.

THE IMPORTANCE OF MEANINGFUL HEALTH CARE FOR CHILDREN

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1997

Mr. MATSUI. Mr. Speaker, the bipartisan budget deal that President Clinton and Congress have agreed to includes a $16 billion fund to extend health care coverage to 5 million children over 5 years. The proposal before us, however, extends coverage to only 500,000 additional children a year. This is clearly insufficient.

One reason why so few children would obtain coverage is that the current proposal contains loopholes that allow the $16 billion fund to substitute for new cuts in Federal Medicaid spending. States would also be permitted to use the fund as a source of general revenue to cover costs totally unrelated to health care, such as paving roads and financing tax cuts. The funding intended for children essentially creates a new State slush fund with no accountability.

The proposal before us represents a wasted opportunity. Approximately 20 million children lack health insurance for at least part of the year. In California, almost 20 percent of all children lack health insurance. These are children of working families. Nearly 9 out of 10 uninsured children have at least one parent who works. Almost two-thirds of these parents work full time.

Changes must be made before we invest billions of dollars in a block grant that does not achieve its intended purpose. The Child Health Insurance and Lower Deficit Act (H.R. 1364) and the Child Health Insurance Act (H.R. 1363), legislation that I have cosponsored with Representative NANCY JOHNSON, contain provisions that, if adopted, would add necessary structure to the block grants and truly enable children to receive needed health insurance.

Proposals in these bills ensure that allocated funds would be appropriately directed to deliver solid health care coverage to more children. For example, States are directed to contract with insurance companies or community health center networks to provide services directly to children. Coverage would include access to pediatric primary and specialty care providers, including centers of pediatric specialized treatment expertise. In addition, the bills make sure that States provide a benefits package either equivalent to the Medicaid package or comparable to a standard plan currently offered under the Federal Employees Health Benefits Program. These basic requirements would not handcuff states; rather, they would create a structure that would guarantee that children in working families finally obtain meaningful health care.

We have a unique opportunity to achieve the laudable goal of insuring children. Yet if we do not add necessary safeguards and enhancements, we will not accomplish this goal. Let's not waste this opportunity.

A TRIBUTE TO THE BERNARDSVILLE NEWS

HON. RODNEY P. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1997

Mr. FRELINGHUYSEN. Mr. Speaker, I rise today to pay tribute to The Bernardsville News, an institution that has brightened the lives and expanded the horizons of north central New Jerseyans for the past century. This Saturday, June 28, 1997, The Bernardsville News and those that print it will celebrate its 100th anniversary. Mr. Speaker, I am honored and proud to be included in this wonderful celebration.

In the era of media moguls and mega mergers, where corporate behemoths like Disney and Ted Turner battle over billions, it seems nothing is consistent anymore. That is precisely what makes this hallmark so significant. For 100 years, the journalists and editors at The Bernardsville News have recorded the current events of New Jersey—the people, the places, and the effects they've had on our lives and communities.

The newspaper has been a mainstay of the community since its debut as The Bernardsville Beacon in February, 1897, followed by its second issue on March 6, 1897, when it appeared as The Bernardsville News.

The News has been guided by a series of five publishing families, starting with a local Presbyterian minister and his son in 1897, who founded the newspaper before selling it in 1902 to the H.C. Rowell family who in turn sold it to Levi and Helena Trumbull in 1907.

Levi Trumbull, 74 at the time of his purchase of the paper, ran the newspaper until poor health forced him into an ill-fated sale of the paper in 1915 to its competitors, The Bernardsville Recorder newspaper whose owners ran the paper for about 7 months, accumulated massive debts and disappeared.

That merger created the Recorder Publishing Co., however, which is the corporate name of the newspaper's publishing company today.

The Trumbull family reclaimed the newspaper in February 1916 and their son Carl Trumbull ran the newspaper until 1955 when his family sold to Charles McDermott.

McDermott added a second newspaper, The Mendham-Chester Tribune, and sold both newspapers to The Bernardsville News' current owners, Cortlandt and Nancy Parker, in 1957.

The Parker family is celebrating its 40th anniversary of ownership this year and has expanded the newspaper group from two community newspapers to 14 weekly newspapers, including two newspapers serving large condominium complexes in the area, with paid combined circulation of about 50,000 households in northern Somerset County, Morris County and northern Hunterdon County in central New Jersey.

The Parkers' four children follow the Parker tradition by maintaining an active involvement in producing these newspapers. This tradition of service has brought us a vivid chronicle of history and a record of events both current and past, and it has helped preserve many public and private institutions in New Jersey. For this we can only say thank you.

Readership is testament to initial quality of product. But longevity is testament to the commitment and dedication of professionals who have succeeded in keeping The Bernardsville News on every coffee table and front porch in Far Hills, Peapack-Gladstone, Bedminster Township and Bernards Township for the past 100 years.

Mr. Speaker, if the current quality of The Bernardsville News is any indication, I have every confidence that a similar group of grateful New Jerseyans will gather in 2097 for the 200th Anniversary Celebration of The Bernardsville News.

TRIBUTE TO CHARLES C. MILONAS

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1997

Mr. BONIOR. Mr. Speaker, today, I would like to congratulate Dr. Charles C. Milonas for his dedication to improving our educational system. On June 30, 1997, he will celebrate three decades of service on boards of education.

Throughout the years, Dr. Charles Milonas has been committed to providing better schools in Macomb County. In 1967, Dr. Milonas began serving on the Clintondale School Board as the treasurer and secretary. After 4 years, Dr. Milonas ran for a seat on the Macomb Intermediate School Board where he has served with distinction to this date. Over the years, he has also been an active member of the Macomb School Boards Association, the Michigan Association of School Boards, and the National School Board Association. His leadership and commitment have made him a key player in the education of the children in our area.

When he was growing up, Charles Milonas was a serious student who always placed a high value on education. After attending Northeastern High School, he went on to receive his B.S. from Wayne State University and his D.D.S. from Northwestern University Dental School. He completed his postgraduate work at Walter Reed Army Medical School and the University of Detroit. Dr. Milonas learned from his own experience how important it is to have a strong educational background. This is the legacy that he has passed on to the children of our community.

The dedicated involvement of Dr. Milonas has not been motivated by fame or fortune, but by his desire to inspire and guide children. Dr. Milonas has said, "We all should carry a magic light in our hearts to guide our children through the adversities of life." On behalf of the students and parents in the community, I would like to thank Dr. Charles Milonas for his dedication to education.

IN MEMORY OF JACQUES YVES COUSTEAU

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1997

Mr. FARR of California. Mr. Speaker, I come before you today to pay tribute to a man who is well-known around the world for his pioneering work in the field of marine research, conservation and education. Jacques Yves Cousteau passed away this morning in Paris, at the age of 87.

Jacques Cousteau was an inventor, an explorer, and a concerned citizen of our world. He invented a waterproof housing for an underwater movie camera in 1936, and in 1943, with French engineer Emile Gagnon created the Aqualung, which allowed divers to swim untethered underwater for several hours. Cousteau fought for the French in WWII, and the Aqualung was used by divers to locate and remove enemy mines after the war. In 1950 he purchased the ship *Calypso* from which to conduct his explorations of the world oceans, beginning the work for which he is perhaps best known: bringing the excitement of the oceans to the public.

He showed people around the world the beauty of ocean ecosystems, exploring the depths with a sense of adventure, exposing the oceans as the last earthy frontier to be explored, as exciting and amazing as any exploration into space. He lectured, produced amazing underwater photography, and published many books. Two of his films, "The Silent World" (1956) and "World Without Sun" (1966) won Academy Awards for best documentary. His television program, "The Undersea World of Jacques Cousteau" (1968–1976) also brought the marvels of his expeditions and the undersea world into American homes, as well as the lasting image of him, jauntily smiling from the deck of the *Calypso*, clad in his black rubber wetsuit.

In 1974 he began The Cousteau Society, an organization whose membership now totals over 300,000 worldwide, to help raise public awareness of ocean issues and help promote wise management of our ocean resources. His work did not end at the shore, however, and he was active on many environmental issues, including the potentially devastating effects of overpopulation. He was awarded the Medal of Freedom by President Ronald Reagan in 1985, and in 1989, was honored by the French with membership in the French Academy.

He inspired many to love the sea, and to pursue careers in marine science. My district, the Monterey Bay area of California, has been particularly blessed in its connection to an incredibly diverse and abundant marine environment. Off our shores we have the Monterey Bay National Marine Sanctuary, the largest marine protected area in the country, encompassing environments that vary from the rocky intertidal to the incredible depths of the Monterey Canyon. Around the bay we have 18 institutions with world class, ongoing research in the marine environment. Over 1.7 million people visit our Monterey Bay Aquarium each year, to witness the amazing life we have off our shores, and to educate themselves about ocean life and human impacts which threaten it.

All ocean scientists, educators and managers owe a debt of gratitude to Jacques Cousteau for raising the public awareness and support of marine research and conservation.

In a recent interview, Cousteau was asked the question "Which area of pollution worries you the most?", to which he responded "I don't make a separation, I worry about the entire system. Our way of managing the Earth is wrong."

I would leave you with the thought that we can no longer plead ignorance of our aquatic environments. Through the work of Jacques Cousteau, and thousands of other marine scientists, we are now more aware than ever of the amazing wonder and fragility of our ocean ecosystems. But our greatest tribute to this man, and this knowledge, should be the efforts we make to ensure the protection and wise management of our ocean resources.

CONGRATULATIONS TO THE RED DEVILS OF MAPLESVILLE HIGH SCHOOL

HON. BOB RILEY

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1997

Mr. RILEY. Mr. Speaker, I rise today to recognize an outstanding school from my home district. Maplesville High School, while not only committed to academic excellence, has achieved an amazing accomplishment. On May 16, 1997, the Red Devils captured the State title in Class 1–A baseball, finishing up with the school's first 30-win season. While this victory is impressive, the win's significance is only compounded when added to the string of victories the school has posted during the last 2 scholastic years. During the years 1995 through 1997, the students of Maplesville combined to win four 1–A State titles in three separate sports, including football, girl's basketball, and twice in boy's baseball.

I would like to commend the students of Maplesville High School and state that it is not only an honor for me but for all the people who are a part of Maplesville to recognize these athlete/students' achievements. The courage they displayed in pursuing their victory is indicative of the character traits—including dedication, a strong work ethic, and pride—we all hope today's students graduating from high school possess. The four trophies that stand vigil at Maplesville are poignant reminders of the accomplishments and the victories that the students earned. These trophies are also testimony to the aspirations a group of people can achieve if they are willing to work as a team, aiming at a common goal.

Though the State championships the school have amassed are quite impressive, I would also like to call attention to the fact that these student/athletes, who have balanced both academics and sports, have managed to collectively excel beyond expectation, persevering in the face of adversity. Each of these teams have achieved what no other in the State of Alabama can boast—they are No. 1 and the best in Alabama.

HONORING CALIFORNIA HIGHWAY PATROL OFFICERS LARRY STEINKRAUS AND NICK BASSOLINO

HON. WALTER H. CAPPS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1997

Mr. CAPPS. Mr. Speaker, I rise to pay tribute to the selfless dedication of the men and women of the Department of the California Highway Patrol. The CHP was created on August 14, 1929, with the sole purpose of insuring safety, security, and service for the public. Today, the CHP is served by over 6,700 men and women.

Two examples of the dedication and service to the driving public and specifically to the residents of the 22d Congressional District of the State of California are retiring Officers Larry Steinkraus and Nick Bassolino. Both officers served the country in the military before entering law enforcement. As the commercial officers assigned to secure the safety of the roads of our community they were personally responsible for removing over 11,600 unsafe commercial vehicles over the last 12 years. Officer Steinkraus served as a California Highway Patrol officer for over 28 years in total and Officer Bassolino served 30 years.

Mr. Speaker, today we honor Officer Larry Steinkraus and Officer Nick Bassolino as they retire from their brilliant careers in public service. They have truly displayed the courage, honesty, and professionalism that the California Highway Patrol brings to the residents of the State of California.

INTRODUCTION OF GOOD CORPORATE CITIZENSHIP AND FEDERAL PROCUREMENT INCENTIVES ACT

HON. BERNARD SANDERS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1997

Mr. SANDERS. Mr. Speaker, at a time when some American corporations commonly use large-scale layoffs in order to reap hundreds of millions of dollars in profits on the stock market, demand give-backs in order to pit American workers in competition with cheap, unprotected foreign workers, and invest overseas to escape health, safety, and environmental standards here at home, we do not believe that the United States Government should be rewarding such shortsighted companies with billions of dollars in federal contracts vis-a-vis companies that are good corporate citizens here at home and overseas. Instead, we should be using the purchasing power of the Federal Government to reward socially responsible and environmentally responsible companies.

Every year the U.S. Government buys more than $200 billion in goods and services, ranging from weapons systems to cleaning supplies, making it the largest customer in the American marketplace. This purchasing power needs to be harnessed—through targeted procurement preferences—and used as an engine of progress and as a powerful source of marketplace leverage to reward exemplary corporate behavior in the bottom line.

The economist Adam Smith recognized that free markets, left to their own devices, do not deal with matters of economic justice and social equity, let alone environmental sustainability. In that vein, our Federal Government should also be doing more than just trying to save a buck. Uncle Sam should be an enlightened consumer and encourage more of the business community to practice good corporate citizenship. Just as with the individual citizen, the good corporate citizen should be expected to act ethically and should be rewarded accordingly in the marketplace. That means not only acting responsibly as a company in producing goods and services, but also responding to the needs and interests of host communities as well as employees and customers. This approach is far from revolutionary because companies of all sizes and sectors have realized that good conduct can result in long-term profitability. That is why more than 100 U.S. companies have already adopted codes of conduct to govern their internal operations and external affairs.

My colleagues, Congressmen EVANS, FILNER, LIPINSKI, and LEWIS join me today in introducing legislation to give a substantial preference, when bidding on Federal contracts, to companies that adopt and enforce a corporate code of conduct and open their operations to outside monitoring of compliance. In other words, priority will go to companies which provide a safe and healthy workplace, avoid racial or gender discrimination, comply with laws that ensure fair competition, and uphold a responsible environmental record at home and in their overseas operations.

Specifically, our bill—the Good Corporate Citizenship and Federal Procurement Incentives Act—does the following:

Requires the director of each Federal agency to establish procedures to give a preference to contracting with companies that have adopted and are enforcing codes of conduct;

Requires that corporate codes of conduct build upon the workplace code of conduct recently agreed upon by the Apparel Industry Partnership as well as the model business principles developed and announced in 1995 after lengthy White House consultations with business leaders, public interest groups, and concerned individuals;

Ensures that all employees are well informed about the specific provisions of the corporate code of conduct adopted by their employing company;

Establishes an annual Federal interagency review, a public petition process, and public hearings to be spearheaded by the U.S. Department of Commerce to investigate and determine whether companies that have been awarded preferences are, in fact, complying with and enforcing their corporate codes of conduct;

Allows any person or organization—including independent monitors—with pertinent factual information to file a petition and request a public hearing on evidence that a company that has received or is receiving a procurement preference is not in compliance with its own corporate code of conduct; and

Authorizes Federal agencies to take into account when extending trade mission support, OPIC/EX–IM Bank assistance and other taxpayer-financed benefits and to withdraw, suspend, or limit procurement preferences awarded on a contract or company basis or both as a result of investigations and public hearing(s) in which it is determined that a company is not enforcing its corporate code of conduct. The decisions of Federal agencies in this regard would also be subject to judicial review.

Mr. Speaker, this is very timely and groundbreaking legislation to give a significant preference in the awarding of more than $200 billion in Federal contracts to U.S. companies that practice good corporate citizenship day in and day out.

TRIBUTE TO CLARA BARTON HIGH SCHOOL

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1997

Mr. OWENS. Mr. Speaker, I rise today to pay tribute to the students of Clara Barton High School of Brooklyn, NY. They have not been celebrated as sports heroes. They are not entertainment celebrities. But a tradition has been established in academic excellence at Clara Barton High School. These students have tirelessly dedicated themselves to achieving academic excellence.

Clara Barton High School recently won fourth place in the "We the People * * * The Citizen and the Constitution" competition sponsored by the Center for Civic Education. This national competition is organized to encourage young people to learn more about our Constitution and how our Government works. In this competition, students demonstrate their knowledge of the Constitution and the Bill of Rights before simulated congressional committees composed of constitutional scholars, lawyers, journalists, and Government leaders. Students compete as classes after completing a comprehensive course of study on the Constitution to qualify for the competition. The national finalists must win congressional district and State competitions to advance to this point.

This is the second time Clara Barton has placed fourth in the contest and the sixth time that they have made it to the national finals as State champions. It is quite evident that something great is going on at Clara Barton High School. I congratulate the members of the team from Clara Barton High School in my district in Brooklyn. My hat goes off to you. I want to congratulate each student because I think this is part of the process of creating an environment in America where education is exalted, where academic and intellectual activities are raised to a new level. We must create an atmosphere where our students are inspired and given incentives to strive for excellence.

These are the students who strive for excellence in understanding the Bill of Rights and the Constitution: Nicole Aljoe, Munira Basir, Letricia Bennett, Michelle Bennett, Katherine Bernard, Slahudin Bholai, Dafina Westbrook-Broady, Keusha Carrington, Shakira Chang, Calvin Coleman, Dean Douglas, Nirva Dube, Iesha Etheridge, Jonathan Ewars, Migdalia Feliberty, Sean Forde, Sharkara Godet, Oslen Grant, Moshesh Harris, Rochelin Herold, Christopher Hubbard, Sonia Hurble, Tiffany Jefferson, Generva John, Anthony Marin, Anisah Miley, Travis Moorer, Calistia Nanton, Franchelica Nunez, Damian O'Connor, Ayo Ogun, Emmanuel Onasile, Tamara Osbourne, Charlene Palmerm, Carolina Perez, Natalie Pierre, Raquel Rivera, Tanisha Simpson, Camille Sinclair, Vysaisha Singh, Vijay Sookedo, Sharon St. Hill, Karrien Stone, Naquida Taylor, and Andrea Telford.

The students at Clara Barton High School come from very diverse socioeconomic and ethnic backgrounds. It was the most diverse team to appear at the national contest. The diversity of my district is reflected in the names of these children. My district has Cambodian, Chinese and Pakistani residents. There are a whole array of people from all of the islands of the Caribbean including Haitians. It is a wonderful mixture, and represents a part of America's rainbow.

I wish to congratulate Dr. Leo Casey who was the teacher and coach of the Clara Barton team. Thanks to Dr. Casey such a winning tradition at Clara Barton High School has been established. This clearly shows his talent for nurturing the academic achievements of the students. I also want to congratulate Mrs. Florence Smith, a former high school teacher, who served as the volunteer coordinator for my office. If Members want to talk about volunteer services in harmony with the great conference recently held in Philadelphia here is an example of the kind of volunteers that we have in America. There are committed people who retire and, in some cases, spend more time in volunteer activities after retirement than they did when they were working.

Congratulations to all the people who made it happen. In my congressional district, the Clara Barton High School team is sponsored not only by my office but by the Central Brooklyn Martin Luther King Commission. In fact, the money raised to first send this team to Albany and Washington, DC was gathered by the Central Brooklyn Martin Luther King Commission. There are some other organizations that have also become sponsors. Children's Times is a publication on education. Judge Thomas Jones and his wife have been very instrumental in encouraging the young people at Clara Barton High School and in raising money to make certain that they were able to go to Albany and Washington, DC. So it has become a group enterprise of great magnitude. It is one of those activities that we should see more of nationwide.

I salute the Clara Barton High School championship team from the 11th Congressional District of New York for their outstanding performance. I would also like to congratulate all the schools and all the youngsters across America who are champions in intellectual and academic activities.

TRIBUTE TO GENE MEYERS

HON. BILL PASCRELL, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1997

Mr. PASCRELL. Mr. Speaker, Mrs. ROUKEMA of New Jersey and I would like to call to your attention Gene Meyers of Hawthorne, New Jersey.

Gene is a lifelong resident of Hawthorne and graduated from Hawthorne High School. He is a founding member of the Hawthorne Chamber of Commerce and was a catalyst in making it one of the largest Chambers in North Jersey. He served in many capacities with the Chamber of Commerce including President and has been integral in implementing the Chamber's goal of making Hawthorne a more vibrant community.

Gene has been President and CEO of Hawthorne Chevrolet for three decades. Hawthorne Chevrolet was founded by his uncle, Fred C. Meyers in 1927, and Gene built the company to be the success it is today. The company is one of the largest Chevrolet Dealerships in the State of New Jersey and ranks in the top 60 in the country. Gene has also been the President and CEO of Paramus Auto Mall since 1995 and has served as President of the Tri-State Dealers Association, an association of Chevrolet dealers in New York, New Jersey and Connecticut.

Gene further prioritizes community through his involvement with the Hawthorne Boys and Girls Club. He serves as a member of the Board of Directors and calls Bingo every Sunday night. Even though he has been successful, he has not forgotten what is important. Gene is President of the Hawthorne Republican Unit.

Gene and his wife Florence are the proud parents of Mark, Cindy, Steven, Ron and Scott, and they have three grandchildren, Steven, Michelle and Jamie.

Mr. Speaker, we ask that you join us, our colleagues, Gene's family and friends, and the Borough of Hawthorne in recognizing Gene Meyers' outstanding and invaluable service to the community.

DR. BETTY SHABAZZ

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1997

Mrs. KENNELLY of Connecticut. It is with great sadness that I mark the passage of one of our generations' remarkable women—Dr. Betty Shabazz. She first became known to us in tragedy, and she leaves us in tragedy. But in the 30 years between her husband's assassination and her own death, she led a life filled with family, friends, and achievement.

One of her daughters said she wanted to think of her mother's death as a transition. And that would be a good way to think of her life as well. She lived all the drama and change of her generation. We saw her transition from a young woman, mother of six little children, who had seen her husband murdered before her eyes to a universally admired speaker for social justice and civil rights. We came to know her as a respected professional in the fields of nursing, public health administration, and education. To those closest to her, she was mother, confidante, friend. But to many others, she was role model, trailblazer, and inspiration. America is richer for her life and her contributions, and she will be greatly missed.

The love Betty Shabazz bore her husband survived his death. The love she bore her children and their children will survive her death. I know I join with my colleagues in offering my deepest sympathy to her family.

CITYHOOD FOR CITRUS HEIGHTS

HON. JOHN T. DOOLITTLE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1997

Mr. DOOLITTLE. Mr. Speaker, I would like to call to your attention a very momentous occasion which will be taking place in my district. Next week, in recognition of a 12-year effort that went all the way to the United States Supreme Court, thousands of my constituents will join together to celebrate the recent incorporation of the City of Citrus Heights.

On November 5, 1996, by a vote of 62.5% to 37.5%, Cityhood for Citrus Heights was finally achieved. Its 14.2 miles and 88,000 residents makes it the largest city to incorporate in the State of California and the first new city in Sacramento County in half a century.

On that same day, the residents of Citrus Heights also elected five City Council members to represent them and carry forth the City's mission statement of commitment to providing high quality, economical, and responsive services to their community.

It gives me great pleasure today to recognize those inaugural Citrus Heights City Council members before the U.S. House of Representatives: Honorable William C. Hughes, Mayor, Honorable Roberta MacGlashan, Vice Mayor, Honorable Alma E. Kenyon, Council Member, Honorable Tim Raney, Council Member, and Honorable James C. Shelby, Council Member.

Mr. Speaker, you will also be interested to learn that Citrus Heights was first known in the 1850's as Sylvan and was settled by miners who raised livestock in the hills northeast of Sacramento. A real estate developer renamed the area to Citrus Heights in 1910 in an attempt to attract more settlers from the Midwest.

In 1859, Sylvan School was built and, in 1862, moved to Sylvan Corners. In 1928, the school building was renovated into a clubhouse and moved to a half-acre lot on Sylvan Road, where it currently stands and where Citrus Heights' time capsule will be buried later this month.

One of Citrus Heights' main streets, Greenback Lane, was a dirt wagon road in the 1860's and 1870's and received its name when the County paid landowners in "greenbacks" worth about 30 cents to the dollar.

Citrus Heights has one of Sacramento County's leading retail centers—Sunrise Mall—which is hosting the five-day celebration of Citrus Heights' incorporation. The "City Lights for Downtown Citrus Heights" grand celebration begins on July 1 with the "State of the City" celebration and culminates with "The Ball on the Mall" on July 5.

Mr. Speaker, I ask that you join me, our colleagues, the residents of the City of Citrus Heights and Sacramento County in celebrating Citrus Heights' long-awaited and well-deserved entry into "Cityhood."

TO RECOGNIZE THE INTERNATIONAL CHARACTER OF LITTLE LEAGUE BASEBALL INCORPORATED

HON. JOSEPH M. McDADE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1997

Mr. McDADE. Mr. Speaker, today I rise to invite my colleagues to join with me in supporting Little League Baseball by cosponsoring the resolution I have introduced to recognize the international character of Little League Baseball Incorporated.

In 1964, Little League Baseball was incorporated by the Congress in Public Law 88–378. The Little League Baseball incorporating legislation was approved unanimously in both the House and the Senate. It was signed by President Lyndon B. Johnson on July 16, 1964.

At that time, we in the Congress recognized the unique contribution of Little League Baseball to our Nation's young people. Little League involvement has long provided a valuable outlet for healthy activity and training under good leadership in the atmosphere of wholesome community participation for generations of Americans. It teaches not just the rudiments of the game but the basics of teamwork and fair play that children need to become good and decent citizens.

The original law set out the objective and purpose of Little League Baseball. It was "to promote, develop, supervise, and voluntarily assist in all lawful ways the interest of boys who will participate in Little League baseball."

Today, Little League Baseball Incorporated is active in promoting and supervising youth—both boys and girls—worldwide in participating in Little League. It has chartered more than 18,000 baseball or softball leagues in 85 countries, across six continents.

Little League Baseball is planning a new facility—the Little League Baseball European Leadership Training Center—which will provide a home for clinics and training programs and will serve as the site for the European Little League Baseball playoffs. It is to be located in Kutno, Poland.

The Center will be a 35-acre complex to host baseball sports clinics, adult volunteer training programs as well as youth development programs.

Unfortunately, although the Polish Little League Baseball Foundation established to direct the construction of the facilities and playing fields in Kutno is a nonprofit organization, they are being denied an exemption from the Polish Value-Added Tax.

Since the Polish Finance Ministry does not classify Little League Baseball as an international organization, the VAT will be applied to the approximately $4 million for the project.

The application of the VAT could cost this charitable organization up to $880,000.

Let's clarify for the world to know—Little League Baseball Incorporated is a worldwide, international organization. It should be accorded all of the benefits and privileges available to nongovernmental international organizations.

I'd ask all my colleagues to cosponsor this resolution to say to the Polish Finance Ministry—Let's play ball!

TRIBUTE TO MILDRED JONES

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1997

Mrs. LOWEY. Mr. Speaker, I wish to pay tribute to a remarkable woman from my district who recently left us.

For more than 40 years, Mildred Jones served her community and nation. She represented the World YWCA at the United Nations for 15 years, worked for UNICEF, chaired the Mission Commission in the 1990s, and helped organize several international conferences on women—including the 1995 Beijing Conference. Closer to home, she served her community at the White Plains Presbyterian Church, soliciting support for programs that provide food and shelter to the homeless and housing for senior citizens.

Mildred Jones touched the lives of people all over the world. She will be sorely missed. Mr. Speaker, in her honor, I wish to have portions of her 1997 United Presbyterian Church "Woman of the Year" nomination included in the RECORD for all to read. May she inspire each and every one of us.

WOMAN OF THE YEAR NOMINATION UNITED PRESBYTERIAN CHURCH, USA 1997

Mrs. Jones represented the World YWCA at the United Nations from 1971 until 1996. As a representative of a non-governmental organization at the UN, she chaired the NGO committee for UNICEF. During the International Year of the Child in 1979, she worked professionally in the UNICEF office and was the U.S. representative and side to Canon Moerman, head of the UN's International Year of the Child.

In her work with UNICEF, Mrs. Jones was instrumental in aggressively promoting a boycott of the Nestle Company to combat the marketing of baby formula milk to mothers in African countries. (Formula milk requires the addition of water, and the water in many African communities was typhoid-ridden. UNICEF presented alternative educational programs for breast feeding.)

As a church elder and chair of the Mission Commission in the 1990's, Mrs. Jones was an important spearhead in developing a Mentoring Program involving church members who work with the children of homeless families living in temporary housing.

Throughout her more than 40 years of service to the YMCA, UN and UNICEF (as well as her concurrent service in the White Plains Presbyterian Church), Mrs. Jones has worked creatively and effectively for the well-being of children. She helped organize international causes to reduce high child-mortality rates by means of methods such as breast-feeding, immunization, oral rehydration therapy, and growth monitoring. Helping to empower the powerless does not happen without critics. During the planning for the International Year of the Child, Mrs. Jones received an angry letter from an executive in a prominent woman's organization demanding that the U.S. withdraw support for the IYC because it was a "Communist Conspiracy". Mrs. Jones firmly rejected that idea, pointing out that, in fact, the Soviet Union had refused to participate in the IYC, stating that their children were well cared for and didn't need help.

In her mission work with the White Plains Presbyterian Church, Mrs. Jones was active in gaining support for several outreach programs: SWAP (a program to renovate old buildings in inner-city Yonkers); Ecumenical Emergency Food Pantry; Kingsley House (a senior citizens' apartment house jointly funded by the White Plains church and New York State); and SHORE (Sheltering the Homeless is Our Responsibility, a community-wide program).

Mildred Jones served on the Board of Directors of the National YWCA, 1955–1970, and was vice-president of the Board, 1967–1970. She was a member of the Executive Committee of the World YWCA, 1967–1975, and VP of the World YWCA, 1971–1975. As part of her UN and UNICEF work, Mrs. Jones helped organize three world conferences about and for women (Mexico, Copenhagen and Beijing.) She was a model for women in her church work, also: one of the first women to be ordained an elder in White Plains, Clerk of Session for eight years, a member of Session, off on an, for nearly 25 years.

HONORING SMITHVILLE FIDDLERS' JAMBOREE AS AN OUTSTANDING NATIONAL JAMBOREE AND CRAFTS FESTIVAL

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1997

Mr. GORDON. Mr. Speaker, I rise today to acknowledge the Smithville Fiddlers' Jamboree and Crafts Festival and The National Championship for Country Musician Beginners which are a great source of civic and cultural pride in Smithville, Tennessee.

As a matter of fact, it was recently named the Official Jamboree and Crafts Festival of the State of Tennessee. Since the Festival's inception in 1972, attendance has grown from 16 States represented and 8,000 people present to 44 States and four foreign countries represented with over 110,000 people attending in 1996.

The Smithville Jamboree has set high standards of excellence for music, crafts, hospitality and fellowship. The Jamboree has been televised each year and broadcast worldwide, and has even had the distinction of being featured in the National Geographic Traveler and Southern Living. An example of how popular the Annual Jamboree has become worldwide, was its recent listing in the International Datebook of the New York Times on Sunday, June 8.

The Jamboree and Festival, which is held annually over the Fourth of July holiday, has been named one of the top 100 tourist events in North America, according to a list compiled by the American Bus Association. Additionally, the Jamboree has been selected as a "Top 20 Tourist Favorite" by the Southeast Tourism Society, which includes the states of Tennessee, North Carolina, South Carolina, Georgia, Florida, Mississippi, Louisiana, Alabama, and Virginia.

I congratulate the founders of this event, the staff, and volunteers who have kept and continue to keep this piece of American tradition alive. I further recognize the local community organizations who have worked so diligently to make this event a success year after year. They include: Smithville/DeKalb Chamber of Commerce, Rotary Club, Merchants Association, Smithville Volunteer Fire Department and local individuals who begin planning in early January. They work all the way up until a new Champion Fiddler of the Upper Cumberland and the National Championships for Country Music Beginners are announced.

As always, the 1997 Jamboree and Crafts Festival stands to be recognized as the best ever. On behalf of all those who dedicate their hard work and effort to making this event possible, I encourage all who might be traveling through the great State of Tennessee to stop off, kick back and enjoy this time honored tradition of old-time Appalachian country music, dance, and authentic Appalachian art and culture.

INTRODUCTION OF THE PUBLIC VOICE CAMPAIGN REFORM ACT OF 1997

HON. HAROLD E. FORD, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1997

Mr. FORD. Mr. Speaker, at the beginning of the 105th Congress, the President challenged Congress to enact campaign finance reform legislation before the Fourth of July. As we approach this landmark date, Congress has yet to hold the first hearing on campaign finance reform legislation. At the same time, both political parties continue to aggressively solicit soft money from corporate donors, while the Federal Election Commission, the body charged by Congress with enforcing our election laws is starved for cash and is immobilized by partisan gridlock.

Today, I will introduce campaign finance reform legislation to strengthen enforcement of election laws, increase disclosure, ban soft money and provide reduced broadcast time to political candidates. For too long, the Federal Election Commission has been a paper tiger in a jungle of money-dominated campaigns. President Clinton has stated that in order to clean up campaigns and strengthen the FEC, "we need a clean break from the past." This legislation gives us a chance to break from the past by requiring the President to appoint an independent seventh Commissioner recommended by the existing six members. The seventh Commissioner would serve as Chairman, and all of the Commissioners would be limited to one 6 year term. Under the current law, the Commission is split evenly between Democrats and Republicans.

Furthermore, Mr. Speaker, this bill will allow the FEC to charge a filing fee for candidates, political committees and parties who meet minimum thresholds of financial activity. This provision will give the agency a degree of financial independence that the Congress refuses to give it in annual appropriations. It has been endorsed by the eminent scholars Thomas Mann of the Brookings Institution and Norman Ornstein of the American Enterprise Institute.

The bill also restores the FEC's ability to conduct random audits of candidates, PACs and parties, and allows the Commission to refer a case to the Justice Department as soon as the FEC believes there may have been criminal activity. These two provisions and others in the bill have been recommended by the author is of the respected University of Southern California campaign finance study entitled New Realities, New Thinking.

The pervasive influence of money in politics, especially soft money, has tainted our political process and threatens to eclipse the fundamental principle that every person's vote counts the same. I applaud the President's recent call to strengthen the FEC and ban soft money, Mr. Speaker. Now it is time for the Congress to act. This legislation will restore fairness to our political process by banning soft money.

Further, it will require broadcasters, who stand to benefit from the use of digital airwaves—channels which belong to the public—to fulfill their public interest obligations by offering reduced television time to political candidates. In the past 25 years, spending by political candidates and political committees has risen dramatically. In 1972, candidates spent $25 million on television advertising. In 1996, candidates spent $500 million on political advertising. The high cost of television advertising requires candidates and incumbents to spend a disproportionate amount of time raising money, has increased the influence of special interests, makes it difficult for challenges to compete with incumbents, and interferes with candidates' efforts to communicate with voters.

In the 1996 election cycle, over $2 billion was spent on Federal elections. Over $266 million of this was in unregulated soft money. This constituted a 224% increase in soft money spending by the Republicans and a 257% increase by Democrats. Soft money has become the legal loophole through which candidates and parties are driving a mack truck, and it is time to close this loophole once and for all.

Mr. Speaker, 22 years ago Congress created the Federal Election Commission because, in the words of the agency's charter, "our representative form of government needed protection from the corrosive influence of unlimited and undisclosed political contributions." As we approach the celebration of our nation's birth, let's give the American people a gift that will stem their distrust and cynicism of our political system. Let's fulfill the obligation we made to them in 1975 by enacting meaningful campaign finance reform legislation.

IN MEMORY OF MISSOURI NEWSMAN WILLIAM LESTER "LES" SIMPSON

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1997

Mr. SKELTON. Mr. Speaker, on Monday, June 16, 1997, the State of Missouri lost a distinguished citizen. William Lester "Les" Simpson of Odessa, MO, passed away in Lexington, MO at the age of 88.

In 1926, Mr. Simpson started a lifelong career in the news business at his father's Rolla

(MO) Times. In 1944, he and his wife Madeline bought the Holden Progress, where he became publisher. In 1990, they moved to Odessa, where he resided until his death.

Mr. Simpson was a member of the Missouri Press Association, serving as president in 1957, and the Central Missouri Press Association, of which he was president in 1950. He was inducted into the MPA Hall of Fame in 1992. He was also the recipient of distinguished service awards from Northeast, Northwest, and Central Missouri press associations and received the Merril Chilcote Award in 1995 from the Northwest Missouri Press Association. Mr. Simpson also served on the board of regents at Central Missouri State University in Warrensburg, MO from 1959–77, serving as board vice president from 1961–65, and president from 1965–71. He received the CMSU Distinguished Service Award in 1995.

Mr. Simpson was a 50-year member of the Holden Masonic Lodge and Order of Eastern Star. He was past president and member of the Holden Chamber of Commerce and a member of the Ararat Shrine of Kansas City.

He was preceded in death by his wife Madeline in 1992, as well as three brothers and one sister. He is survived by a daughter, Betty Spaar of Odessa, who continues in her father's footsteps as the publisher of the newspaper, The Odessan. Also surviving are three sisters, five grandchildren, and a great-grandson. I know that this body joins me in expressing sympathy to the family of this outstanding Missourian.

HAPPY 150TH BIRTHDAY TO THE CITY OF NEW BEDFORD

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1997

Mr. FRANK of Massachusetts. Mr. Speaker. One of the legislative accomplishments of which I am most proud is my role, along with others in the Massachusetts Congressional delegation, in securing passage last year of the legislation which created a national park in the City of New Bedford, commemorating the City's crucial role as a world whaling center. The fact that New Bedford played a leading role in the history of whaling is of course chronicled most famously in Herman Melville's Moby-Dick, but, although the whaling industry has long since moved elsewhere and now largely come to an end, the city is still a remarkable storehouse of information on the history of whaling, and the establishment of the national park will bring that story to millions of visitors in the coming years.

While the people of New Bedford are looking forward to sharing that history—and the many other important contributions their city has made to American culture—they have been celebrating their history on their own for decades. In fact, I was honored to have had the chance to participate in a parade in April in honor of the 150th anniversary of New Bedford's incorporation as a city, an event attended by more than 50,000 people. Of course New Bedford as a community has existed much longer than 150 years, but it is surely no accident that its incorporation as a city dates to the heyday of the whaling industry there. Since 1847, New Bedford, like so many other American cities, has gone through many changes and many stages of economic development, but its residents have continued to work to make the city a better place to live, while still preserving its wonderful history.

And New Bedford has been an extraordinary city indeed. Beyond its role in the whaling industry, New Bedford has been the home of many "firsts" and other important events in American history, and I would like to take note of several. It is no surprise that the city was involved in a number of key maritime events, including, in the 1770s, the construction of Old Ironsides by George Claghorn, a New Bedford resident and ship builder. Also, in 1783, the American Ship *Bedford*, owned by William Rotch, Jr. of New Bedford, became the first vessel to display the American flag in English waters. And, it was in 1896 that the city's Joshua Slocum competed the first solo trip around the world in his sloop "Spray."

The city also played a key role in the fight for an end to slavery, and for fair treatment generally of African Americans. It was an important site on the Underground Railroad, and in 1838, a fugitive slave and his wife traveled to New Bedford from Newport, Rhode Island at the invitation of two quakers who invited him to share their carriage. Upon arriving in New Bedford, where he lived for several years and played an active role in the Underground Railroad, this former slave took the name of Frederick Douglass, and, under that name, became one of the best known African American authors and activists in our nation's history. In 1848, Lewis Temple, an African American blacksmith invented the Temple Toggle Harpoon, which revolutionized the whaling industry. And, in 1863, Sgt. William Carney of New Bedford saved the American flag in a Civil War battle at Fort Wagner, where he fought with members of the Massachusetts 54th Regiment, made up of black soldiers (a battle depicted in the film "Glory"). Sgt. Carney was later the first black recipient of the Congressional Medal of Honor.

Other New Bedford historical events of note include the 1853 opening of the city's Free Public Library (this was the nation's second free library, opening its doors just weeks after the first opened in Boston); the 1871 founding of St. John the Baptist Catholic Church, the first Portuguese Catholic Church in North America; and the 1874 writing of "Robert's Rules of Order" by Captain Henry Robert, then stationed at the city's Fort Taber (which was designed by Robert E. Lee).

Beyond these specific events, the history of New Bedford illustrates the strengths and challenges of older industrial area in our country from the latter half of the nineteenth century through the end of the twentieth. Most important, it demonstrates the importance of the commitment and character of a city's residents in creating a vibrant community.

The whaling industry which was so essential to New Bedford has of course ended as an ongoing commercial activity. But, the city remains one of the centers of fishing in the world, and one example of the creative spirit of the people of New Bedford is the extent to which they have blended the maritime history of the city into its ongoing economic life. Too often in America respect for history and tradition is somehow considered to be a detraction from a concern with current economic activity. Indeed, many urban areas in this country during the middle part of this century, began, in one way or another, to separate their waterfronts from their main commercial centers. In New Bedford, however, the waterfront has always had an important place of pride in the economic life and culture of the city, and this experience is a graphic repudiation of the idea that tradition and economic activity must perpetually be in conflict. Rather, as shown so clearly in New Bedford, they can be mutually reinforcing to everyone's benefit.

New Bedford also has a proud history as one of the industrial centers of this country, serving as an important hub of the garment and textile industry. While this has meant that the city—and the region—has also become an example of the shortsightedness of national trade and industrial policies which often promote the interests of some at the expense of others, once again, the spirit of the people of New Bedford has been strengthened by these adverse trends. And, now in its 151st year, New Bedford continues to strive for economic expansion that takes full advantage of twenty-first century norms. The city is striving hard for a number of improvements in the transportation grid which serves the region, and which, when brought to fruition, hold great promise for significant economic expansion.

Another area where New Bedford has an important lesson for the rest of the country is in dealing with the consequences of past environmental damage. Until fairly recently in our nation's history we paid very little attention to the negative effects of air and water pollution. For the past twenty-five years we have worked hard to address the environmental problems that have arisen in cities and towns throughout the country. New Bedford, as one of the older industrial areas of the country, was not immune from the effects of the pre-environmental regime in which so little attention was paid to the cleanliness of our air and water. But, today, in cooperation with the Environmental Protection Agency, which has shown a great deal of responsiveness to the City's needs, New Bedford is an example of how to proceed in a constructive fashion to address past environmental difficulties while maximizing current economic potential. With the ongoing work to restore the city's harbor, ensure the protection of Buzzards Bay's waters, convert abandoned manufacturing sites into opportunities for new economic growth, explore the potential of aquaculture, and in so many other ways, the people of New Bedford continue to strive for an appropriate balance between sensitivity to the environment and economic growth.

Finally, New Bedford reminds America of a lesson which, sadly, the country appears to be very much in need of remembering: the importance of immigration in building this great country, culturally, socially and economically. As a port, New Bedford has long been a center of immigration. Today, people continue to immigrate in large numbers to the area from Portugal, the Azores, Madeira and the Republic of Cape Verde. All continue to be a source of vitality for the city, and those of us who point to the industrious and valued work force that constitutes one of the city's great assets know that immigration is a major factor in the composition of the work force. Furthermore, the city's example is an excellent argument in favor of a continuation of the generous attitude toward immigration that the United States has traditionally held, but which, unfortunately, is now being questioned in some quarters.

Mr. Speaker, in the years ahead at the appropriate anniversaries on which people take stock of the city's condition, I believe we will be able to look back to today as a period when the people of New Bedford, working together as they have so often in the past, continued to make important strides in both transforming the city's economy to prepare it for the twenty-first century and in preserving its incredibly rich legacy. I have represented New Bedford in the United States House of Representatives since January of 1993, and in that capacity it is a great honor as well as a distinct pleasure for me to join in celebrating with the people of the city on this glorious 150th birthday.

EXTENSION OF REMARKS IN SUPPORT OF BILL TO REFORM THE EXPORT-IMPORT BANK TO BE MORE RESPONSIBLE TO AMERICAN JOBS

HON. BERNARD SANDERS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1997

Mr. SANDERS. Mr. Speaker, I rise today in support of a bill which I introduced today, with Mr. LIPINSKI of Illinois and Mr. MCGOVERN of Massachusetts as original cosponsors. This bill would require the Export-Import Bank of the United States, when selecting among firms to provide financial assistance, to give preference to any firm which has shown a commitment to reinvestment and job creation in the United States.

Mr. Speaker, this bill gets at, I believe the heart of the issue of the relationship between the U.S. Government, the taxpayers of this country and corporate America.

Mr. Speaker, let me tell you a little bit about some of the companies which have received financial assistance from the Export-Import Bank in recent years—and you tell me whether these are really the best companies that the middle income people of this country should be subsidizing. According to information from Ex-IM, among the top 25 companies which receive assistance from Ex-Im are Boeing, General Electric, and AT&T. Let's take a brief look at these companies and see whether these really are the types of companies that the American taxpayers should be rewarding.

In terms of employment, in 1990 Boeing had 155,900 employees. In 1996, it had 103,600 employees—a decline of 52,300 jobs during that period. In other words, it laid off ⅓ of its workforce, despite being the top recipient of Ex-Im aid.

Mr. Speaker, General Electric is the number two recipient of Ex-Im aid. In 1975 GE had 667,000 American workers. Twenty years later, it had 398,000, a decline of 269,000 jobs. General Electric CEO Jack Welch, is well known for his ruthlessness in moving GE jobs to anyplace in the world where he can get cheap labor—Mexico, China, and other poor Third World countries. Is this really the type of company we want to be rewarding with taxpayer subsidies? Downsizing American workers has been at the core of the Jack Welch philosophy at GE, and Ex-Im is actually providing millions of dollars in support of this company.

As for AT&T, in 1995 AT&T laid off 40,000 workers. Interestingly enough, reports show that in that same year, AT&T provided its CEO, Robert Allen, with $15 million in options plus a $11 million grant.

My point, Mr. Speaker, is that the entire approach of Ex-Im in terms of job creation is too narrow. They approach the idea of "jobs through exports" on a project-by-project basis, and ignore the totality of what the company is doing.

My bill is quite simple. This bill would simply require the Export-Import Bank to look at the totality of the situation. And if there is a company that is showing a commitment to job creation and reinvestment in the United States, then that company should receive preference for assistance.

I urge my colleagues to support this legislation.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, June 26, 1997, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JUNE 27

10:00 a.m.
Judiciary
Technology, Terrorism, and Government Information Subcommittee
To hold hearings to examine the threat of domestic terrorism, focusing on allegations from the recent trial of Timothy McVeigh in the Oklahoma City bombing.
SD–226

JULY 8

9:00 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings to review the cost effectiveness, necessity and efficacy of the operation of the Rural Utilities Service, and to examine the effects of potential electricity deregulation on rural America and the Rural Electric Cooperative System.
SR–332

10:00 a.m.
Governmental Affairs
To hold hearings to examine certain matters with regard to the committee's special investigation on campaign financing.
SR–325

JULY 9

10:00 a.m.
Governmental Affairs
To continue hearings to examine certain matters with regard to the committee's special investigation on campaign financing.
SR–325

Joint Economic
To hold hearings on tradable emissions.
2325 Rayburn Building

JULY 10

10:00 a.m.
Appropriations
District of Columbia Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the government of the District of Columbia.
SD–192

Governmental Affairs
To continue hearings to examine certain matters with regard to the committee's special investigation on campaign financing.
SR–325

2:00 p.m.
Energy and Natural Resources
National Parks, Historic Preservation, and Recreation Subcommittee
To hold oversight hearings to review the preliminary findings of the General Accounting Office concerning a study on the health, condition, and viability of the range and wildlife populations in Yellowstone National Park.
SD–366

JULY 15

10:00 a.m.
Governmental Affairs
To resume hearings to examine certain matters with regard to the committee's special investigation on campaign financing.
SR–325

JULY 16

9:00 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings to examine the importance of alternative fuels in addressing future national security concerns, focusing on agriculture's vulnerability to energy price volatility, the contribution of home-grown renewable alternative fuels, and the role of new technologies in making agriculture more energy efficient while increasing yields.
SR–332

10:00 a.m.
Governmental Affairs
To continue hearings to examine certain matters with regard to the committee's special investigation on campaign financing.
SR–325

JULY 17

10:00 a.m.
Governmental Affairs
To continue hearings to examine certain matters with regard to the committee's special investigation on campaign financing.
SR–325

JULY 22

10:00 a.m.
Governmental Affairs
To resume hearings to examine certain matters with regard to the committee's special investigation on campaign financing.
SR–325

JULY 23

9:00 a.m.
Finance
International Trade Subcommittee
To hold hearings with the Caucus on International Narcotics Control on the threat to U.S. trade and finance from drug trafficking and international organized crime.
SD–215

10:00 a.m.
Governmental Affairs
To continue hearings to examine certain matters with regard to the committee's special investigation on campaign financing.
SR–325

JULY 24

10:00 a.m.
Governmental Affairs
To continue hearings to examine certain matters with regard to the committee's special investigation on campaign financing.
SR–325

JULY 29

9:00 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings to examine the effect of the Federal Agriculture Improvement and Reform Act (P.L. 104-127) on price and income volatility, and the proper role of the Federal government to manage volatility and protect the integrity of agricultural markets.
SR–332

10:00 a.m.
Governmental Affairs
To resume hearings to examine certain matters with regard to the committee's special investigation on campaign financing.
SR–325

JULY 30

9:00 a.m.
Finance
International Trade Subcommittee
To resume hearings with the Caucus on International Narcotics Control on the threat to U.S. trade and finance from drug trafficking and international organized crime.
SD–215

10:00 a.m.
Governmental Affairs
To resume hearings to examine certain matters with regard to the committee's special investigation on campaign financing.
SR–325

JULY 31

9:00 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings to examine how trade opportunities and international agricultural research can stimulate economic growth in Africa, thereby enhancing African food security and increasing U.S. exports.
SR–332

10:00 a.m.
Governmental Affairs
To continue hearings to examine certain matters with regard to the committee's special investigation on campaign financing.
SR–325

CANCELLATIONS

JUNE 26

9:30 a.m.
Labor and Human Resources
Children and Families Subcommittee
To hold oversight hearings on the implementation of the Family and Medical Leave Act.
SD–430

POSTPONEMENTS

JUNE 26

2:00 p.m.
Judiciary
Immigration Subcommittee
To hold hearings on proposals to extend the Visa Waiver Pilot Program, including S. 290, to establish a visa waiver pilot program for nationals of Korea who are traveling in tour groups to the United States.
SD–226

HOUSE OF REPRESENTATIVES—*Thursday, June 26, 1997*

The House met at 10 a.m.

The Reverend Lloyd W. Johnson, Jr., St. Paul's Episcopal Church, Pekin, IL, offered the following prayer:

Almighty God, who hast given us this good land for our heritage: We humbly beseech thee that we may always prove ourselves a people mindful of thy favor and glad to do thy will.

Bless our land with honorable industry, sound learning, and pure manners. Save us from violence, discord, and confusion; from pride and arrogance, and from every evil way. Defend our liberties, and fashion into one united people the multitudes brought hither out of many kindreds and tongues. Endue with the spirit of wisdom those to whom in thy name we entrust the authority of government, especially the Members of this House of Representatives, that there may be justice and peace at home, and that, through obedience to thy law, we may show forth thy praise among the nations of the Earth.

In the time of prosperity, fill our hearts with thankfulness, and in the day of trouble, suffer not our trust in thee to fail; all which we ask through Jesus Christ our Lord. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. The Chair will lead the House in the Pledge of Allegiance.

The SPEAKER led the House in the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 1553. An act to amend the President John F. Kennedy Assassination Records Collection Act of 1992 to extend the authorization of the Assassination Records Review Board until September 30, 1998.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will receive five 1-minutes on each side.

WELCOMING REV. LLOYD W. JOHNSON, JR.

(Mr. LAHOOD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAHOOD. Mr. Speaker, we are privileged to have Rev. Lloyd W. Johnson, Jr., as our guest chaplain today. A native of Hartford, CT, Reverend Johnson has served as a priest of the Episcopal Church for 30 years. He is presently the Rector of St. Paul's Episcopal Church in Pekin, IL, which is in my district.

Born to Lloyd and Vera Johnson in 1939, he was raised in Connecticut and Vermont. In 1963, Reverend Johnson graduated from the University of Miami with a degree in business administration. He later was awarded his master of divinity degree from Nashotah House, a seminary of the Episcopal Church in Wisconsin.

Ordained to the ministry in 1966, he has served congregations of the Episcopal Church in southern Florida and in central Illinois.

Now Reverend Johnson is married to Jane Fontaine Gray, and together they have raised three children: A son, Mark, who toils in the House of Representatives as deputy chief of staff to our friend, the gentleman from Tennessee, Congressman ED BRYANT; Andrew, living and working in New Orleans; and Mary, living and working in San Antonio.

Above and beyond his ministerial duties, Reverend Johnson and his wife have devoted the majority of their free time to supporting the establishment of marriage through volunteer service in the ministry of Worldwide Marriage Encounter.

Mr. Speaker, I hope you will join me in welcoming Reverend and Mrs. Johnson to this Chamber and in thanking him for his words of thanksgiving and prayer. Welcome, Reverend Johnson.

TAX RELIEF ACT OF 1997

(Mr. GINGRICH asked and was given permission to address the House for 1 minute.)

Mr. GINGRICH. Mr. Speaker, I rise to point out to my colleagues that yesterday the House cast a vote for the future by passing the first balanced budget in 29 years. This will give our children and grandchildren lower taxes, lower interest rates, more economic opportunity.

Today we cast a historic vote for America's families by passing the first tax cut in 16 years. Think of it. Tiger Woods was 5 years old the last time we had a tax cut. That is how long it has been. And while he was growing up, we had tax increase after tax increase. Now, finally, he wins the Masters and we win taxes, as time goes on. So I think that the people have a good reason to be interested and excited.

Those of our Members and those of the public who are interested, we have a new website, Speakernews.house.gov, which I recommend because one of the goals of this Congress is not only to return your money to you, but to return your Government to you by giving you the information that you can gain access to, so you do not need a lobbyist, you do not need a trade association, you do not need anyone between you and information about the U.S. Congress.

If you would like more information on the first tax cut in 16 years and first balanced budget agreement in 29 years, all you have to do is enter Speakernews.house.gov and you can get all the information at no cost, without paying anybody. Because you, as a citizen, deserve to know what your Congress is doing.

TAX CUTS: A WINDFALL FOR THE RICH

(Mr. PALLONE asked and was given permission to address the House for 1 minute.)

Mr. PALLONE. Mr. Speaker, the word is getting out to most Americans that the Republican bill being considered today provides tax cuts to the rich and not for the working middle class. But today I read in the New York Times that there is another huge tax break for the wealthy that most of us did not know about.

Buried in the estate tax section of the big tax cut bill is an obscure provision that would cost the Government $9 million a year in lost revenue and give a bonanza worth thousands of dollars to about a thousand wealthy taxpayers.

A tax lawyer in New York, who spoke on the condition that his name may not be used, said his client, who he would not identify, stood to save at least $100,000 in taxes if this provision in question became law.

Who knows what other tax breaks for rich individuals or corporations are in the Republican bill we will consider today? I urge my colleagues to vote "no" on this windfall for the rich at the expense of working Americans.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

H.R. 1270 WILL DESTROY ENVIRONMENT

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, here we go again. Wake up America. The headline news from a June 20th New York Times article reads: "Doubt Cast on Prime Site as Nuclear Waste Dump." The article states that "researchers have found that rain water, which could dissolve nuclear waste, has seeped from the top of the mountain to 800 feet into its innards, where high-level waste would be stored, in just 40 years, much faster than scientists had predicted."

The scientists had originally believed that it would take hundreds of thousands of years to travel the same distance. The article goes on to say that the find "raises the possibility that radiation would be spread into the environment much sooner then they anticipated."

Mr. Speaker, H.R. 1270 will destroy the environment and endanger lives. Do not waste your votes. I urge my colleagues to oppose this very bad bill.

FISCAL YEAR 1998 TAX BILL

(Mr. DAVIS of Illinois asked and was given permission to address the House for 1 minute.)

Mr. DAVIS of Illinois. Mr. Speaker, Voltaire once said that the purpose of politics is to take as much money as you can from one group of people and give it to another.

It seems to me that that is exactly what my Republican colleagues have taken a page from, taking money from the low-income working class families so that they can give it to the rich, taking milk out of the mouth of babes so that the richest 5 percent of the people in our country get a break. Denying working families the opportunity to send their sons and daughters to college so that the rich, the wealthiest 1 percent of families, can boost their incomes by an average of $27,000 per year.

If this is what America is about, then I say, "Gimme a break." That is why I support the Rangel Democratic alternative which will allow millions of Americans to realize real savings.

I also urge my colleagues to continue to do more, and that is why I have introduced a measure that will give working families with children up to age 18 additional relief and would further target capital gains credits for these families.

EPA IN OUR WALLETS AGAIN

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the EPA is once again in our wallets. The EPA is forcing American companies and workers to cough up $60 billion for new clean air regulations. To boot, EPA's own scientists say these regulations are not justified. Now if that is not enough to file your chapter 7, Congress never approved them. Beam me up. Talk about a government coming at us. IRS one day, EPA the next.

Wake up, Congress. The people did not elect the EPA. They elected a Congress to run our Government. I say fire these fat-cat bureaucrats of the EPA who are so dumb they could throw themselves at the ground and miss. After all, we can hire regulators a lot cheaper from Korea to screw our country up.

I yield back the balance of any more of this pollution.

□ 1015

AMERICA IS OVERTAXED

(Mr. HEFLEY asked and was given permission to address the House for 1 minute.)

Mr. HEFLEY. Mr. Speaker, American people are certainly not undertaxed. From the moment you wake up to the moment you go to sleep, and even while you are sleeping, you are being taxed.

When you have your morning coffee, you pay a coffee tax. When you take a shower, you pay a water tax. When you get in a car to drive to work, you pay a gas tax and a property tax. While you are at work, you are accruing an income tax. You pay electricity taxes all day and when you get home at night and turn on your TV, you pay a cable tax. Even when you flush the toilet, you are paying a tax.

Americans are tired of paying so much in taxes for a government that is so lacking in accountability and responsibility. Today we have a tax reduction bill. It does not go as far as I would like, but it is the first step toward getting government off the backs of the people and probably the only tax relief bill we will get past the veto pen of Bill Clinton.

Mr. Speaker, support real tax relief for all Americans today.

TAX RELIEF FOR THE WEALTHY VERSUS TAX RELIEF FOR THE NATION

(Mr. MILLER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MILLER of California. Mr. Speaker, today the American public will witness the difference between the two parties. Today the Republicans will put on the House floor a tax bill that will provide the overwhelming amount of benefits to the top 1 percent of the taxpayers in this country, taxpayers earning in excess of $250,000, that will get $27,000 in tax relief while the lower 60 percent of the taxpayers in this country will get only 12 percent of that relief.

What does that mean? That means that millions of American families who work every day, go to work, pay their taxes, starting police officers, school teachers and others with children, will not get the benefit of this tax bill. Why will they not get the benefit of this tax bill? Because the Republicans have decided that this should be tax relief for the wealthy as opposed to tax relief for the Nation. They have decided that this tax relief should be directed at those who need it the least and it should be taken from those who need it the most.

Mr. Speaker, that is the difference that will be debated on this floor today. That is why this legislation eventually will be vetoed by the President of the United States.

THE 50TH WEDDING ANNIVERSARY OF GROVER AND LORENE HOBBS

(Mr. BARR of Georgia asked and was given permission to address the House for 1 minute.)

Mr. BARR of Georgia. Mr. Speaker, 50 years ago this Saturday, Grover Hobbs and Lorene Fincher were married in Heard County, GA. After Grover served 7 years as a gunner in World War II, he went to work for Lorene's father, where they first met.

After they wed, they lived on a small farm in Harrisonville, GA, and every day Grover commuted to Hapeville, GA, to work for Ford Motor Co. During this time, Lorene worked at Callaway Mills until she decided to quit in order to raise their three children. In 1975, Grover and Lorene sold the farm and went to work for Milliken Mills until their retirement in the late 1980's.

In addition to working hard and raising a great family, the Hobbses helped to found the Harrisonville Baptist Church in which, as a church service, they regularly visit the local nursing home.

It is extremely heart warming, Mr. Speaker, to see two people so devoted to church, their family, and of course to each other. Their commitment truly personifies what marriage ought to be. I would like to extend the warmest of congratulations to Grover and Lorene Hobbs for years past and years to come of a happy and healthy marriage on their 50th wedding anniversary.

REPUBLICAN TAX BILL OFFERS BONANZA FOR AFFLUENT, CRUMBS FOR WORKING CLASS

(Ms. VELÁZQUEZ asked and was given permission to address the House for 1 minute.)

Ms. VELÁZQUEZ. Mr. Speaker, the Republicans will stand here today and say that they are bringing tax relief to the middle class. They complain that the Democrats are being less than honest about the Republicans' attack on working families. Well, Mr. Speaker, even the Wall Street Journal, no friend of the Democrats, agreed with us.

Here it is in the Wall Street Journal. The Republican bill is, and I quote, "a bonanza for the affluent, crumbs for the working class." It "shamefully short changes the working poor." The Wall Street Journal says that under the Republican plan, Bill Gates will get a $4,000 tax break for education expenses, while a new police officer making $23,000 will be denied a tax credit for his kids.

Mr. Speaker, if the Republicans are not listening to the American people and they are not listening to the Wall Street Journal, it seems obvious who they are listening to, to their campaign contributors.

PROVIDING FOR CONSIDERATION OF CONCURRENT RESOLUTION PROVIDING FOR ADJOURNMENT OF HOUSE AND SENATE FOR INDEPENDENCE DAY DISTRICT WORK PERIOD

Mr. LINDER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 176 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 176

Resolved, That upon the adoption of this resolution it shall be in order, any rule of the House to the contrary notwithstanding, to consider a concurrent resolution providing for adjournment of the House and Senate for the Independence Day district work period.

The SPEAKER pro tempore (Mr. UPTON). The gentleman from Georgia [Mr. LINDER] is recognized for 1 hour.

Mr. LINDER. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts [Mr. MOAKLEY], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 176 provides for the consideration in the House of a concurrent resolution providing for the adjournment of the House and Senate for the Independence Day district work period. All points of order are waived against the resolution and its consideration.

As Members are aware, section 309 of the Budget Act states that the House cannot adjourn for more than 3 calendar days in July if it has not completed actions on all appropriations bills. In addition, section 310 requires that reconciliation legislation if directed by the budget resolution, be completed before such an adjournment.

Ordinarily, these two potential points of order against an adjournment resolution for the Fourth of July District Work Period are waived by unanimous consent. In fact, we attempted to work with the minority to reach an acceptable unanimous consent agreement. When we were in the minority, we consistently allowed these unanimous consent agreements. This year, however, the minority rejected our request.

It is true that the Congress has not completed its work on the appropriations bills and the reconciliation legislation, and I guess I can understand the despondency of the minority. The past few days have not been enjoyable for those who support high taxes and big government solutions.

However, these are extraordinary times for those of us who support the axiom that the Government is too big and spends too much. In fact, I would say that this Congress, more than any other, has led the way in exhibiting fiscal sanity.

No, the appropriations bills and the reconciliation legislation are not yet complete. However, balancing the budget is more difficult than the practice of past Congresses, which simply passed irresponsible debt on to our grandchildren.

America was headed for a future in which interest on the debt would surpass spending on the defense of our Nation, a future in which Medicare would go bankrupt by 2002, and a future which had taxpayers giving more and more of their hard-earned money to support a bloated Washington bureaucracy.

Our Nation could have lost control of its destiny, but this Congress took action to save Medicare, pass a balanced budget and provide massive tax relief for our families. These are truly historic accomplishments.

Independence Day is a time to celebrate the birth of this Nation and the perseverance of the Founding Fathers who fought the heavy hand of government and oppressive taxes. The budget passed by this Congress reduces the oppressive taxes on American families and balances the budget.

Mr. Speaker, this resolution simply allows us to go home to our friends and neighbors to listen to what our constituents have to say about issues that are important to their lives. As we celebrate the birth of our Nation with them, I believe they will be very pleased to celebrate the triumph of lower taxes, less Government and more freedom.

Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I thank the gentleman from Georgia [Mr. LINDER] for yielding me the customary half hour, and I yield myself such time as I may consume.

Mr. Speaker, this resolution is one more way for the Republican leadership to go on vacation before their work is done. It is one more way for my Republican colleagues to get out of their responsibilities to the people of this country, and I think it is a bad idea. Normally adjournment resolutions are privileged, but in the rare cases when Congress fails to get its work done, the Budget Act kicks in and exposes these adjournment resolutions to points of order.

According to the Budget Act, Mr. Speaker, the House cannot adjourn for more than 3 days unless it passes all its appropriations bills and unless the reconciliation bill has been signed into law. Mr. Speaker, we all know the appropriations bills are nowhere near finished.

The first part of the reconciliation bill passed the House only last night and the second part of the reconciliation bill will be considered for the first time later today. The Senate has just started debating the reconciliation bill and the conference committee has not even met yet. In other words, Mr. Speaker, if you are waiting for these spending bills to be finished, please do not hold your breath.

Mr. Speaker, the American people sent us to Congress to act responsibly and the Congressional Budget Act gives us some very specific responsibilities. Section 300 requires that Congress complete action on reconciliation legislation by June 15 and pass all 13 appropriations bills by June 30. Mr. Speaker, this Congress has not even come close. The appropriations bills may not seem urgent now, but unless the House does its work and unless the House gives the Senate enough time to do its work, we will be approaching another September 30 without all appropriations bills being signed. If we fail to finish the appropriations bills and they are not signed into law, the American people could very well see their Government shut down for the third time under the Republican leadership's watch. All because the Republican leadership has not done their work.

That is not the worst of it, Mr. Speaker. What the Republican leadership has done is even worse than what they have not done. This week the Republican leadership unveiled their tax and entitlement package and, Mr. Speaker, it does not look good. Under the Republican bill, the families of 40 percent of American children will get no tax relief because their income is too low.

Let me add, Mr. Speaker, these people are not on welfare. These people actually work for a living. Meanwhile, according to the Center on Budget and Policy Priorities, the Republican bill provides 87 percent of its benefits to the richest 20 percent of Americans while the 40 million families with the lowest income may actually lose money.

Even the Treasury Department says that when this bill has been fully implemented, the top 1 percent of taxpayers will get nearly 20 percent of the benefits, and the bottom 60 percent will get only 12 percent of the benefits.

Once again, Mr. Speaker, the Republican leadership is taking from the poor and the middle class and giving to the rich. It is a Robin Hood reversal. It does not stop there, Mr. Speaker. According to today's New York Times, a small provision in this Republican bill will take $9 million and split it among 1,000 wealthy taxpayers. Some of these taxpayers actually stand to gain $100,000 each under this bill.

Mr. Speaker, not 5 miles from here are American children who do not get enough to eat during the summer because they have lost their school lunches, but my Republican colleagues still want to hand those enormous tax breaks to the very richest Americans and hand just about nothing to the rest.

Mr. Speaker, the American people do not think millionaires need more money. They think everyone else needs child tax credits and tuition tax credits. The American people do not think the richest 1 percent of Americans need a $27,000 tax break and certainly not if it is going to cost the poorest 20 percent of American families $63 apiece to give it to them. But that is exactly what my Republican colleagues want to do.

On the other hand, Mr. Speaker, the House Democrats have put together a bill that gives tax relief to the people that really need it, the middle class, people who are trying to send their kids to college, working families, and family-owned businesses.

I urge my colleagues to join me in opposing this resolution. This Congress should be helping the middle class and not padding the pockets of millionaires.

☐ 1030

And we should have finished our work a long time ago.

Mr. Speaker, I reserve the balance of my time.

Mr. LINDER. Mr. Speaker, I yield myself 1 minute to respond to the gentleman from Massachusetts who is so concerned that we have not completed our work.

The same argument came up 1 year ago on this same issue because the Democrats at that time were again not cooperative on unanimous consent. My colleague, the gentleman from Florida [Mr. DIAZ-BALART], went back 6 years prior to 1996 and discovered that not once, not once during those 6 years were all 13 appropriations bills passed by the July recess; and indeed, if we go back 40 years, one time, 1988, were all the appropriations bills passed by the July recess.

Mr. MOAKLEY. Mr. Speaker, I take the gentleman's words down calling me dishonest.

Mr. LINDER. Mr. Speaker, I apologize and ask unanimous consent to withdraw the words.

The SPEAKER pro tempore. Without objection, the words are withdrawn.

There was no objection.

Mr. MOAKLEY. Mr. Speaker, I would like to ask the gentleman to look at the last year of Speaker Foley when we passed all 13 appropriations bills.

Mr. LINDER. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. SOLOMON], the chairman of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, I will not withdraw my words. I am not going to impugn anybody's integrity. But I am going to talk about two kinds of baloney, two kinds. One is the baloney about why we are not going home this week and why we ought to stay here and work, because that is a lot of baloney; and then I am going to talk about complaining about the tax cuts, and let me tell my colleagues that is a lot of baloney on the other side of the aisle.

Let us talk about it for a minute. First of all, the gentleman from Massachusetts [Mr. MOAKLEY], my good friend, and I have the greatest respect for him, I literally love him. He is my ranking member over on the other side of the aisle. He sings little Irish ditties, and he really keeps us in a good mood, so I certainly would never impugn his integrity. But let me just say he mentioned something about how we ought to stay here and deal with this business.

As my colleagues know, back in 1993 the Democrat-controlled House and the Democrat-controlled Senate and the Democrat-controlled White House under President Clinton gave us on October 10 the biggest tax increase in history. Now that was, I beg my colleagues' pardon, on August 10. Now that is several, a couple of months down the road yet, but we Republicans, having taken control of the House and the Senate, are now giving the American people one of the biggest tax cuts in American history, and we are doing it way ahead of that August 10 date. So boy, we are on line.

So let us just talk for a minute about not having the work done. As my colleagues know, we have just passed the largest spending cut bill in centuries here; OK. Seven hundred billion dollars in entitlement controls; come over here and read them. And we had about 53 good Democrats vote for this yesterday along with the overwhelming majority of Republicans, and the President of the United States, thank goodness, is going to sign the bill over the objections of the big spenders on that side of the aisle.

Now let us talk about the big spenders for a minute because I am going to sit here for the next hour and I am going to keep track of all of the people who come over here and start complaining about this tax cut; OK? Mr. Speaker, I want you to listen. These Members who oppose the tax cuts, keep in mind that every single one of them are going to be on the National Taxpayers Union's list of biggest spenders.

Now why do my colleagues think they want to oppose this tax cut? Because they want to keep the money in the Federal coffers so that they can spend it and the American people cannot.

Now let me tell my colleagues something about this tax cut here. There is a $500 tax credit for people with children. Now that means a family of 3, and in my Hudson River Valley municipalities all 157 of them, that is about what we are made up with; we are an average of a family with 3 children, and this is going to give them $500 per child tax credit every year for the next 15 years. Now add that up; that is $1,500 a year we are putting back into the pockets of that family, 15 years. Quick calculation: that must add up to about $22,500 a year over 15 years; and if they invest it properly, it is going to be worth maybe $40,000, $50,000 or $60,000 over 15 years. Do my colleagues know what that does at paying college tuitions?

I just put five kids through college. My wife and I had five children in 7 years, and we struggled all those years to raise those children and then to put them through college. Let me tell my colleagues $65,000 would have been a godsend to us, but we did not have this $1,500 tax credit at that time; we are going to get it today.

So I want my colleagues to come over here, and I want them to do what is right for the American people. I want them to vote for this tax cut package. But in the meantime we are going to keep track of all of them that come over here, and they will be the biggest spenders in the Congress, and they will have been here for years spending the taxpayers' money. So let us just keep track of it, and then we are going to send it out to all their constituents and let them know that our colleagues can spend their money better than they can.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, my chairman of the Committee on Rules and I are very, very friendly, and this debate is strictly on the issue. But actually up in his office, really being ourselves, we really do get along, and actually I was looking forward when he talked about baloney because I thought he was talking about the menu of those people that I represent. As my colleagues know, his people are going to be eating steaks when this tax bill goes through; my people are going to be eating baloney.

Mr. Speaker, I yield 15 minutes to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Speaker, I thank the gentleman from Massachusetts for yielding the time.

I also want to say that I do not think that the American people do believe it is baloney if we stay here and do the work they sent us to do here.

House rules say that we cannot go on vacation until it is finished with appropriations work, and we know that the work has not been finished, otherwise we would not be here asking for a waiver. And the reason why the work is not finished is because what we have seen here is that the Republican majority has spent their time crafting a tax bill that in fact benefits the rich at the expense of average American families. And in fact we have a historic opportunity and the American public has an opportunity to take a look at what is in a Republican tax cut proposal and what is in a Democratic tax cut proposal because the Democrats in fact have a very sound and solid tax cut proposal.

My colleagues on the other side of the aisle accuse us of waging class warfare in this debate, but in fact it is the Republican tax bill that is a declaration of war on working middle-class families in America. Under the Republican bill, over half the tax benefits go to the top 5 percent of Americans, those making an average of $250,000 a year. And quite honestly what this bill does, it gives a $22 billion tax break to the largest businesses and corporations in the United States by scaling back the alternative minimum tax which was in fact proposed and supposed to ensure that large corporations pay at least some taxes the way that ordinary working families pay taxes in this country every year.

But do not just take my word for it. Let us take a look at this morning's headlines. The Washington Post: No to a bad tax bill. And I quote: "The tax bill will be the great atrocity", is what the Washington Post says this morning. The New York Times, quote: "Break for a few rich, for the rich few, sneaks into the tax cut bill". We are going to see $9 million a year in lost revenue to the United States to give a bonanza worth thousands of dollars to 1,000 wealthy taxpayers. What about working middle-class families in this country?

Mr. MILLER of California. Mr. Speaker, will the gentlewoman yield?

Ms. DELAURO. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Speaker, I think the gentlewoman asked the absolutely pertinent question here, what about working middle-class families, and it is pointed out in this morning's Wall Street Journal. What we see is people who were earning $23,000 a year with two children will find that at the end of that year they will not get the benefits of this child's tax credit, they will not get the benefits because the Republicans have decided that the benefits will only go to those individuals at the top levels.

Rather than sharing this tax cut, rather than sharing the money that is now being accumulated because of the efforts to balance the budget over the last 5 years with these middle-class families, they have decided, as the gentlewoman pointed out, that half of the benefits will go to the top 5 percent of the people in this country.

And so people who are going to work every day as law enforcement officials, as fire protection people, as teachers, as oil refinery workers are going to find out that they will not qualify for that.

In fact, in my State of California 56 percent of the children will not be eligible for the child tax credit, and I think that is what is going to happen to working families, and I thank the gentlewoman for pointing that out.

Ms. DELAURO. Mr. Speaker, I thank my colleague.

Mr. PALLONE. Mr. Speaker, will the gentlewoman yield?

Ms. DELAURO. I yield to my colleague from New Jersey.

Mr. PALLONE. Mr. Speaker, I just wanted to say I am looking at some figures with regard to New York State, the gentleman from New York [Mr. SOLOMON] who spoke before on the Republican side. It says that tax plans, the child credit, the child credit under the Republican plan would exclude 53 to 56 percent of the children in New York State; 3,183,357 New York kids will be ineligible under the House plan for the child tax credit. This is from Citizens for Tax Justice, a nonpartisan Washington-based research organization that released a study today showing that the proposed child credit in the pending House of Representatives tax plan would exclude 56 percent of New York children. The Senate bill would exclude 53 percent. Obviously the families of New York have been promised a child tax credit for 3 years, but now many of them, the majority of them will actually get nothing.

Ms. DELAURO. That is absolutely right. I just say that there is a Los Angeles Times article this morning: Take from the poor give to the rich. The current Republican tax and entitlement package denies help to 28 million working families.

Mr. FRANK of Massachusetts. Mr. Speaker, will the gentlewoman yield?

Ms. DELAURO. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Speaker, my colleagues ought to make clear the basis on which the Republicans are denying these families that participation in the tax cut. They are apparently under the impression that Social Security payroll taxes are not taxes but are a voluntary gift that the lowest earning people in America make to the Government. What the Republican bill does is to say that people who get the earned income tax credit will not be eligible on the whole for this other credit.

Now the earned income tax credit was something that Ronald Reagan thought well of, but the current group has made some of us who believe in moderation nostalgic for Mr. Reagan from time to time because what they say is this. The earned income tax credit compensates people who have families, by and large, who make 20 and 25 and $26,000 a year and who pay the highest percentage of their income in taxes of any of us because every penny they make is fully taxed under the Social Security payroll tax. And what the earned income tax credit does is offset to some extent the regressiveness of the Social Security payroll tax, and people who get the earned income tax credit, they do not get the earned income tax credit unless they are working or paying payroll tax on all of their income and they are then getting some credit for that less than the aggressiveness. And the Republicans are now saying, "If that's your situation, you're not a taxpayer." They said we cannot give this to people, they do not pay taxes.

Mr. Speaker, if Social Security payroll taxes are not taxes, then I guess we need a new dictionary and that is how it becomes so regressive. What they are saying to people is, "You are paying these very aggressive Social Security taxes," for which, by the way, according to the Senate they have to wait a couple more years to get anything for medical care, "and we are going to deny you as a consequence of that the tax credit."

Ms. DELAURO. I will just say that, if we are Bill Gates we are going to get a tax credit, but a police officer who is making $23,000 a year who might be happy to get the earned income tax, paying taxes, is going to be denied a child tax credit.

Mr. FRANK of Massachusetts. The argument that we have heard from Republicans, from the Speaker, and others that, "Oh, you shouldn't give the tax credit to these people who don't pay any taxes," they forget to say income taxes or capital gains taxes, that is true. Very few of these people making 23 and $24,000 a year are paying capital gains taxes. They are paying the Social Security taxes in the most aggressive way; that is the group of people who are getting hurt by this.

Mr. MILLER of California. The fact is many young families starting out with young children pay more in payroll taxes, Social Security than they pay in income taxes. But the Republican plan will not give them the benefit of the $500 child credit.

What does that mean? That means that these working families making 20, $25,000 a year are going to find themselves without the benefit of this. They still have two young children. They are still struggling hard. But the Republicans do not understand that because one does not make a lot of money does not mean they do not work hard. They work very hard and they pay the most regressive taxes, and they refuse to give the child credit to those families.

Mr. FRANK of Massachusetts. Mr. Speaker, if the gentlewoman will continue to yield, the gentleman is absolutely right, and I think what we have here is something we can offer up to the dictionary. This is the definition of adding insult to injury. These working people who work in hard jobs at relatively low wages are injured by the Republican bill by being denied the tax credit that everybody else gets. Even if they have two and three children, their children do not qualify, and then they are insulted by being characterized as people who do not work and as simply tax eaters.

□ 1045

I would just close by saying we have this national effort, I thought, to help people get off welfare and into the wage-earning pool. Well, it is precisely the formal welfare recipients who are being told to go to work, who are being required to go to work, who will then be penalized by the way the Republican tax bill is crafted, because they will go to work at the beginning at relatively low wages, will pay a full Social Security tax for every penny they earn, but not get the tax credit.

Mr. WYNN. Mr. Speaker, will the gentlewoman yield?

Ms. DELAURO. I yield to the gentleman from Maryland.

Mr. WYNN. Mr. Speaker, I share my colleague's concern. I too am appalled when I hear the Republicans suggest that the Democratic tax plan amounts to welfare. It is basically tax fairness. They are giving all of the tax breaks to the wealthy. The top 5 percent are getting over 50 percent of the tax breaks under their proposal, and then when we say that the Democratic alternative provides tax relief for the truly working middle class, they suggest it is welfare.

I did a little research and an article in the Wall Street Journal indicated that a police officer in Gwinnett County, GA, incidentally the Speaker's district, makes about $23,000 a year. Under their program, he is not eligible for a tax break, yet he pays payroll taxes. He is, in fact, the working middle class of people who are excluded by the proposal of the Republicans.

Basically what they are offering us is not tax relief for Americans, it is tax relief for the rich. My grandmother used to say when I was a kid, the rich get richer, the poor get poorer. I think we are seeing it in action today.

Ms. STABENOW. Mr. Speaker, will the gentlewoman yield?

Ms. DELAURO. I yield to the gentlewoman from Michigan.

Ms. STABENOW. Mr. Speaker, if I could just add to that, that police officer making $23,000 is getting a tax benefit through something called earned income tax credit. The Republican plan is saying, if one is getting one tax deduction, one cannot get a second, meaning the $500 children's tax credit as we see it.

Mr. MOAKLEY. Mr. Speaker, will the gentlewoman yield?

Ms. DELAURO. I yield to the gentleman from Massachusetts.

Mr. MOAKLEY. Mr. Speaker, I would like to say I have just been handed an item from the Citizens For Tax Justice, which is a nonpartisan Washington-based research group, saying that 897,000 Massachusetts children would be ineligible under the House plan, and 850,000 would be ineligible under the Senate plan. That is 48 percent of Massachusetts' children ineligible under the House plan and 46 percent ineligible under the Senate plan. This is not a good bill for children.

Ms. STABENOW. Mr. Speaker, will the gentlewoman yield?

Ms. DELAURO. I yield to the gentlewoman from Michigan.

Ms. STABENOW. Mr. Speaker, if I might just continue in talking about fairness, when we each do our taxes, we use tax deductions. What the Republican plan is saying is if one gets one tax deduction, one cannot get the $500 children's tax credit; but yet if one makes three times that salary and one gets a lot of different tax deductions, one gets the $500. That makes absolutely no sense. For those on the upper end who get lots of tax deductions, they ought to be treated the same, or the folks at the low end who ought to get a couple breaks ought to get the same benefit of the $500.

Ms. DELAURO. Mr. Speaker, reclaiming my time, the 1,000 families who are going to get some, and it is quoted in the article today, could get up to $100,000 in that particular tax cut and are probably going to get many others.

I think another area which is important to mention in this debate is that with the Democratic tax cut proposal, we are going to see working families who want to get their kids to school and provide education for their kids; education in this country has been the great equalizer to allow families to be able to have their kids succeed.

The Democratic proposal is for the full $1,500 tax credit for college students, where the Republican proposal would cut that in half, would not allow working families to realize a HOPE scholarship and provide them with all of the help they might be able to get to get their kids to school.

Mr. ALLEN. Mr. Speaker, will the gentlewoman yield?

Ms. DELAURO. I yield to the gentleman from Maine.

Mr. ALLEN. Mr. Speaker, the gentlewoman makes a very good point. Because in fact, the HOPE credit, the HOPE scholarship would be offset, reduced dollar for dollar by the amount of a Pell grant. So here again we have the same situation, where if one gets a Pell grant one cannot get the full benefit of a HOPE scholarship.

It seems to me that this Republican tax bill ought to be judged by two standards. One is fairness and the other is fiscal responsibility. We have talked a fair bit about fairness.

This bill provides 41 percent of its benefits to the top 1 percent of the taxpayers, those whose household incomes are over $240,000 a year. In contrast, 20 percent of those in lower tax brackets would not receive any benefit. It is simply not fair.

Also, in terms of fiscal responsibility, we look out at the second 10 years, and we are going to be giving up $500 to $600 million in tax revenues that is not going to help a balanced budget. We need a balanced budget that we can get to and stay with, and these tax cuts explode in the outyears, they are not fiscally responsible, and they ought to be rejected for that reason as well.

Mr. LINDER. Mr. Speaker, I yield myself 1½ minutes just to respond to some of these remarks we have been hearing.

The liberals have always trotted out liberal so-called nonpartisan organizations to argue against letting people keep more of what they earn, and we are seeing it now. How do these people get wealthy? Let me tell my colleagues how the administration determines who is wealthy.

They determine what one's income is, say it is $50,000 a year, and then the Treasury Department says, but, aha, if one is living in one's own home and one could rent it for $10,000, one must consider that as more income, even though one does not get it. If one owns an asset that has appreciated in value and have not sold it, their proposal says, if it has grown in value, one must consider that as part of one's annual wealth. So they have bogused up these numbers to make everybody appear wealthy so they can transfer more money as welfare to the poor. This is an effort to undermine last year's welfare reform.

I would like to also point out that their arguments go against the Joint Tax Committee's argument, which is the only official organ for determining distribution tables. The Joint Tax Committee says the following: Ninety-three percent of the benefits go to people with incomes of less than $100,000 a year; 76 percent of the benefits go to people with incomes below $75,000 a year. That simply is a fact. It is not a comfortable fact for liberals, but it is a fact.

Mr. Speaker, I yield 4 minutes to the gentleman from Florida [Mr. SCARBOROUGH].

Mr. SCARBOROUGH. Mr. Speaker, I do not know what it is, maybe it is the summer heat, maybe it is the 50th anniversary of Roswell, but the Democrats, the liberals, actually the radicals that control this party are crawling out from underneath their rocks and once again showing why they were voted out in 1994.

Here we have people that increase the crushing tax burden on the American family from 10 percent when they gain control to something like 50.2 percent, according to NTU, in 1994, lecturing us on taxes. They gave us the highest tax increase in the history of this country a few years ago, and yet they are still talking about how if we actually give tax relief to Americans, that it is going to crush the poor children 5 miles from the Capitol.

I think they have got it backward. The children 5 miles from the Capitol that are suffering are suffering because of higher taxes and bigger Government spending and more regulations that they are going to shove down the American people's throats this summer. I think if they talk about the problems in south central L.A. or in Chicago, it is because government has failed, the big taxing and big spending policies have failed.

Let me challenge every one of these big spenders, every one of these people that have supported taxes over the years, to stand up and tell us how much they care about the children 5 miles from this Capitol when the delegate from Washington, DC begged for tax relief. The gentlewoman from the District of Columbia said please, give us a flat tax. Please cut taxes in Washington, DC. She was abandoned by every single liberal that stands up here today and acts as if they really do care about what happens 5 miles from this Capitol; and no, I am anticipating the gentleman's question, I will not yield. My colleagues on the other side of the aisle all have already put on their sideshow.

I want somebody that stood up a few minutes ago talking about how much they care about the residents of this inner city and the residents of inner cities all over the country to stand up and tell me that yes, they do support the tax plan of the gentlewoman from the District of Columbia [Ms. NORTON] for tax reduction in this city.

My colleagues cannot have it both ways. They cannot say sure, we want to help them, and yet every time there is a chance to cut taxes and give tax relief to American people, my colleagues fight it time and time again.

This is not about protecting the poor. My colleagues know that tax relief has helped the poor. History has shown it time and time again. This is about protecting the coffers of the Federal Treasury and keeping more and more money in Washington, DC and not allowing it to get out.

Again, I challenge anybody, and I especially challenge the ranking member who I am sure does sing really good Irish ditties, and a man that I respect watching him work, I challenge him. I would challenge the ranking member and again, any other liberal that stood up here opposing tax relief talking about how they care about what happens 5 miles from Washington, DC to stand up and say yes, we will support the plan of the gentlewoman from the District of Columbia [Ms. NORTON] for a flat tax in Washington, DC. If so, then I think that is a good start to agree that Americans need tax relief.

Like the Delegate from Washington, DC recognizes herself, big spending, big taxing, big government has failed. What Americans need now is tax relief, and tax relief helps everybody.

My colleagues just cannot have it both ways. They cannot quote liberal columnists like Al Hunt, they cannot quote liberal agencies run by, I believe, Ralph Nader, and then come in here and say they want to help people in the inner cities when they turn their backs on the very delegates from those inner cities who beg for tax relief.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume.

I am glad my colleague brought that up. What he is talking about is exactly what I am going to do. The Democratic alternative does help these children 5 miles from here. The Rangel alternative does help these children 5 miles from here, but it does not give those 1,000 people up to $100,000 additional tax break.

Mr. Speaker, I reserve the balance of my time.

Mr. LINDER. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. SOLOMON], chairman of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, first of all, I have some good news for my colleagues. Well, no, it is not good news for the big spenders, because the Supreme Court a few minutes ago, within the last hour, just threw out the case of the opponents of the line-item veto for lack of standing. Whoopee. We won another one.

Now, let us just answer some of the people here that are talking about people with children are not going to get this tax cut, this $500 tax credit. Again, here we go with the baloney again. Anybody paying Federal income taxes is going to get that tax cut, make no mistake about it.

Now, we are also hearing about this 5 percent, that all of the tax cuts are going to 5 percent of the most rich. Let me state the facts for you. Seventy-two percent of these tax cuts in this bill are going to people with incomes between $20,000 and $70,000, and that means people on Social Security as well, who may be working and paying a little income tax as well.

Mr. Speaker, I heard the gentleman from Massachusetts [Mr. FRANK] stand up here and talk about the regressiveness of the Social Security payroll tax. Well, what is the payroll tax and why was it established under Franklin Delano Roosevelt? It was a forced savings account so that the American people, all of them who work, would have to save a little bit for the rainy day so that they would not become wards of the State and the rest of us who did save would have to end up supporting them.

□ 1100

That is what it is all about. Nothing regressive about it. It means that with the first few thousand dollars of your income you are going to put away a little bit of that. That is the way it should be.

Now people are complaining that maybe some people with incomes of $25,000 do not pay any income tax and therefore they do not get this credit. Let me tell them what we are going to do. In this spending cut bill we are cutting back on Federal regulation.

If Members look at the other taxes they pay in town, city, village, and county taxes and all of the fees, it is caused mostly by this Federal Government, their mandates. We are not going to mandate on local governments anymore, forcing them to raise land taxes.

So come on over here, vote for this tax cut bill, and let us give it to the President. I have a feeling he is going to sign it.

Mr. LINDER. Mr. Speaker, I yield 3 minutes to the gentleman from South Dakota [Mr. THUNE].

Mr. THUNE. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I was sitting in my office listening to the debate that was going on over here, and I could not help but feel the need to come over and respond. There is a lot of liberal drivel going on in this Chamber right now. I cannot help but get up here and say something in response to that.

If I were on the other side I would be crushed, too, I really would. Because we have worked with their President to balance the budget, lower taxes, and save Medicare. This is an indictment of big Government. We are saying today we are interested in doing something to address a problem that has been around this place for 30 years. We have not had the courage to balance the budget, to lower the tax burden, or to address a bigger and bigger Government in this country.

I cannot help but listen as well and respond to what is being said about trying to somehow gear this thing so that it affects people in lower-income categories.

People in my State, in South Dakota, understand the difference between the income tax and the payroll tax. You pay 6.2 percent of your income when you get a payday, so you will have a security program, a retirement program when you retire. You pay 1.45 percent so you will have a health care program when you retire. You are paying that for a benefit. You cannot have a tax credit if you do not pay taxes.

What this simply says, and I think the distinction, the difference we are drawing here is that we want to bring tax relief to people who are paying taxes, and they want to increase payments, welfare payments, to people who are not. It is that simple. You cannot have it that way. If you are going to have a tax credit, you have to pay taxes.

I used the illustration last night, if we told people with red hair they were going to get a tax credit, my daughter would qualify. But she does not pay taxes, so she cannot get a tax credit. The Medicare and Social Security payment are retirement programs that people pay into so they will get a benefit later on. They cannot have a tax credit unless they are paying taxes.

I would say to my colleagues here that we have a definition problem. We have a definition problem here, because we have to draw a distinction between a tax credit and a government payment. The earned income tax credit today, 80 percent of it is a payment. It is not a credit. Let us make that very, very clear. So people who are currently getting an earned income tax credit are already offsetting the payroll tax they pay in Social Security and Medicare.

What the gentleman is saying is that he wants to give them another $500 payment on top of them. That is not a tax credit, that is a government payment. There is an important distinction here which needs to be made. I am getting tired of listening to the rhetoric on the other side.

This ought to be a great day for America. They ought to be working with us balancing the budget, lowering taxes. I was just looking at some statistics from the IRS here. Thirty-seven percent of the taxes are paid by people who make less than $75,000. The balance, 63 percent, is paid by those who make more than that. Yet 76 percent of the tax relief in this package goes to people who make less than $75,000.

This is a good day for America, it is a good day for taxpayers. It is a good day for this institution. We ought to be working together to get this job done.

Mr. LINDER. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. BOEHNER].

Mr. BOEHNER. Mr. Speaker, I think we need to take a deep breath and all calm down a little bit, because all we are talking about doing is allowing the American people to keep a little more of what they earn so they do not have to send it to Washington.

I understand some of my friends on the other side of the aisle do not really want to do that because they want more Washington spending. I do not denigrate the position that they have taken for 60 years, that Washington has the answers and we have to get this money to Washington so Washington can do great things for us. Most of us in this Chamber, Democrats and Republicans, believe it is time to allow the American people to make more of those decisions on their own.

So this package today that lowers taxes, the first tax cut from Washington in 16 years, is aimed at American middle-class taxpayers who are bearing the biggest burden today.

What does this plan do? It provides an IRA for parents who pay taxes who want to send their children to college. It lets them save tax-free. It provides a tax credit for parents who are sending their children on to college or other postsecondary education. It provides a $500 per child tax credit to American families that make under, roughly, $100,000.

Fourth, homeowners, it allows someone to sell their home, and 95 percent of the American people who own homes are going to be able to sell their homes and not pay any tax on the gain from the sale of their home.

What we are trying to do here is to try to help every taxpayer in the country at every stage of their life. Whether they are parents with children, trying to raise them, parents with children trying to send them to college, whether it is people trying to save for their own retirement, with our cut in capital gains taxes and the cut in the taxes on the sale of their home, we are trying to help all taxpayers. This is good policy.

Mr. LINDER. Mr. Speaker, I yield 2 minutes to my colleague, the gentleman from Georgia [Mr. NORWOOD].

Mr. NORWOOD. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I think for a long time we have been trying to make an effort to let people who pay taxes keep more of their own hard-earned money. Yet all we hear is that all of this is for the rich. Let us talk about what "rich" means.

Mr. Speaker, 2.4 million elementary and high school teachers have family incomes, and they are considered rich; 1.7 million union members have family incomes, and they are considered rich; 8.1 million Federal, State, and local government workers have family incomes, and they are considered rich; 120,000 editors and reporters across the country are considered rich; and 4.2 million mechanics and repairmen and construction workers have family incomes that under the administration's definition of rich, they are considered rich.

I would like to ask, if I might, for anybody on that side to stand up and when they say we are returning money to the rich, define what they mean by rich. If Members believe we should have everybody receive a $500 per child tax credit, even those who do not pay taxes, they should be honest enough to call it what they are talking about. They are talking about a welfare program.

What we are trying to do is return some of the hard-earned money that working people in this country earn who work every day. If Members want other children and other families who are not paying taxes to have a $500 per child tax credit, say so, but be honest about it. Call it what it is. It is a welfare program.

Mr. MOAKLEY. Mr. Speaker, I yield 6 minutes to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Speaker, I listened to the gentleman from Georgia, and I want to point out exactly the type of person that the Democrats are trying to help, the person who is out there working.

We mentioned the Georgia policeman. This is from the Wall Street Journal today. This is a starting police officer in Gwinnett County, GA, coincidentally part of Speaker GINGRICH's district. He is paid $23,078 a year. If his family has two kids, it gets $1,668 in earned income tax credit, this is the deduction we were talking about before, which offsets his $675 in Federal taxes, and yields a check for $993. But that family pays $1,760 in payroll taxes, and another $354 in Federal excise taxes. That is even after this deduction that we are talking about.

The out-of-pocket Federal taxes for this family would be at least $1,121 a year, and in reality, more like $2,800 a year. What we are saying is that that policeman right now, under this Republican proposal, does not get that $500 deduction, the child tax credit. That person is paying payroll taxes to the Federal Government, excise taxes to the Federal Government. The gentleman is saying that that Georgia policeman, who is out there every day on the line, is a welfare recipient. That is exactly what the gentleman is saying. That is what the Democrats are saying is not right.

Mr. DOGGETT. Mr. Speaker, will the gentleman yield?

Mr. PALLONE. I yield to the gentleman from Texas.

Mr. DOGGETT. Mr. Speaker, we are of course back here today to discuss another wreckconciliation bill. We are having another big wreck in Congress, even bigger than the one yesterday; and of course it is true that the liberals in Washington are causing this wreck, those who are so liberal with the truth that they defy reality.

I would ask the gentleman, in light of some of those who had been so liberal in the truth, if he is aware of a time in American history, in the entire history of this country, when a majority party would come to this floor and ask to adjourn for a week or 10 days and not have passed one single appropriations bill, not one? Is the gentleman aware of any time in American history when that has happened?

We are not talking about passing them automatically, but not passing a single bill; but they are leaving, are they not, presenting a present to the limousine crowd in giving them a tax break? I am sure the gentleman from New Jersey, like me, we have nothing against limousines, we have nothing against country clubs. We just think if tax cuts are so good, why not share them with the working families of America and give them a chance to climb up the economic ladder and have a limousine of their own? Is that not correct?

Mr. PALLONE. Exactly. I appreciate that.

Mr. MILLER of California. Mr. Speaker, will the gentleman yield?

Mr. PALLONE. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Speaker, under the original Contract With America, that police officer was going to get that tax credit. But what they decided this year was they wanted to give more money to the wealthy, so they had to cut that police officer out of their tax plan, but that was the original promise in the Contract With America. They just decided they would rather deal with the people on Wall Street instead of the people on Main Street.

Mr. PALLONE. I would add also, Mr. Speaker, that Senator LOTT in his Republican plan early this year, just like the Contract With America, also promised that child credit to that Georgia policeman. So now all of a sudden the Republican leadership has changed its mind, because they want to give that money to the fat cats, to their wealthy contributors.

Ms. STABENOW. Mr. Speaker, will the gentleman yield?

Mr. PALLONE. I yield to the gentlewoman from Michigan.

Ms. STABENOW. Mr. Speaker, I find it humorous, as a new Member coming in in January from Michigan, to hear the word "liberal" thrown around all the time. I want Members to know that for someone coming from Michigan who was in the State Senate, I sponsored the State's largest property tax cut as a Democrat. I understand what middle-class tax cuts look like and feel like. This is not it.

As the gentleman knows, we are talking about what we want to see happen for average folks, to put money in their pocket, to send their kids to school, pay for child care, be able to get a tax break when they sell their home, be able to get a tax break on their small business, if someone passes away, be able to get a tax break on their family-owned business and their family-owned farm. What we are talking about here is how we make sure that the majority of the dollars that keep this country going, to create jobs, go directly into the pockets of middle class Americans. Is that not what we are talking about?

Mr. PALLONE. Absolutely. The gentlewoman pointed out, we were only talking about Federal taxes, payroll taxes, excise taxes. That Georgia policeman is probably paying property taxes. He may be paying other State or local taxes. They are saying he is on welfare.

Ms. STABENOW. Not only that, he probably is investing in a home. Most middle class Americans are investing in savings through equity in their homes, and we want to make sure they are getting the tax breaks; that when you talk about capital gains tax cuts, that he is going to get protected when he sells his home; if he wants to send his kids to college, he is going to get the maximum tax break, and that if he goes on to invest in a small business at some point, he is again going to get a maximum tax break.

Mr. DEFAZIO. Mr. Speaker, will the gentleman yield?

Mr. PALLONE. I yield to the gentleman from Oregon.

Mr. DEFAZIO. Mr. Speaker, our colleagues on the other side are so concerned that a starting police officer at $23,000 or a young teacher at $23,000 might get a tax credit for their children, but they are not concerned that the changes they are making in the alternative minimum tax would give tax rebates to large corporations like Texas Utilities, that did not pay a penny in Federal taxes.

The only reason they paid $19 million on their $1 billion profit was the AMT, and their repeal of the AMT will give them a tax rebate of $18 million on taxes they did not even pay, and we do not have a penny for the police officer or a penny for the young teacher. It is outrageous.

Mr. GEJDENSON. Mr. Speaker, will the gentleman yield?

Mr. PALLONE. I yield to the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Speaker, the question is about choices: are we going to give the policeman a choice of buying his family and kids new clothes for school or having a decent diet, or is somebody going to be able to extend their European vacation going over on the Concorde? Where is this House at? Are we going to help people who have to take care of kids and the basic needs of a family, while the wealthiest Americans are trying to figure out whether they can extend their trip to London for the weekend?

Mr. LINDER. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. SOLOMON].

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Mr. SOLOMON. Mr. Speaker, it shows that some people are watching C-SPAN. I just got a call from one of my constituents making $23,500. He said he hears Members on the Democrat side railing about the excise taxes and the payroll taxes. He said, "Why don't you cut those, JERRY?" I said, I will be glad to. Just let them make these amendments in order, offer them and we will accept them.

We want to cut everybody's taxes, all kinds of taxes, and that is why we have got this bill. The gentleman from Massachusetts [Mr. MOAKLEY], the gentlewoman from Connecticut [Ms. DELAURO], the gentleman from California [Mr. MILLER], the gentleman from Maryland [Mr. WYNN], the gentleman from Massachusetts [Mr. FRANK], the gentleman from Connecticut [Mr. GEJDENSON], the gentleman from Oregon [Mr. DEFAZIO], all the bigger spenders in the Congress, according to the National Taxpayers Union.

I include the entire list of big spenders for the RECORD.

NATIONAL TAXPAYERS UNION BIG SPENDERS OF 1993

ALABAMA

Rep. Tom Bevill.
Rep. Robert E. Cramer.
Rep. Earl F. Hilliard.

ARIZONA

Rep. Karan English.
Rep. Ed Pastor.

ARKANSAS

Sen. Dale Bumpers.
Sen. David Pryor.
Rep. Ray Thornton.

CALIFORNIA

Sen. Barbara Boxer.
Sen. Dianne Feinstein.
Rep. Xavier Becerra.
Rep. Howard L. Berman.
Rep. George E. Brown.
Rep. Ronald V. Dellums.
Rep. Julian C. Dixon.
Rep. Don Edwards.
Rep. Anna G. Eshoo.
Rep. Sam Farr.
Rep. Vic Fazio.
Rep. Bob Filner.
Rep. Dan Hamburg.
Rep. Jane Harman.
Rep. Tom Lantos.
Rep. Matthew G. Martinez.
Rep. Robert T. Matsui.
Rep. George Miller.
Rep. Norman Y. Mineta.
Rep. Nancy Pelosi.
Rep. Lucille Roybal-Allard.
Rep. Pete Stark.
Rep. Esteban E. Torres.
Rep. Walter R. Tucker.
Rep. Maxine Waters.
Rep. Henry A. Waxman.
Rep. Lynn Woolsey.

COLORADO

Sen. Ben Nighthorse Campbell.
Rep. David E. Skaggs.

CONNECTICUT

Sen. Christopher J. Dodd.
Rep. Rosa DeLauro.
Rep. Sam Gejdenson.
Rep. Barbara B. Kennelly.

DELAWARE

Sen. Joseph R. Biden Jr.

FLORIDA

Sen. Bob Graham.
Rep. Jim Bacchus.
Rep. Corrine Brown.
Rep. Peter Deutsch.
Rep. Sam M. Gibbons.
Rep. Alcee L. Hastings.
Rep. Harry A. Johnston.
Rep. Carrie P. Meek.
Rep. Pete Peterson.

Rep. Karen L. Thurman.

GEORGIA

Rep. Sanford D. Bishop.
Rep. George Darden.
Rep. John Lewis.
Rep. Cynthia A. McKinney.

HAWAII

Sen. Daniel K. Akaka.
Sen. Daniel K. Inouye.
Rep. Neil Abercrombie.
Rep. Patsy T. Mink.

ILLINOIS

Sen. Carol Moseley-Braun.
Sen. Paul Simon.
Rep. Cardiss Collins.
Rep. Richard J. Durbin.
Rep. Lane Evans.
Rep. Luis V. Gutierrez.
Rep. Mel Reynolds.
Rep. Dan Rostenkowski.
Rep. Bobby L. Rush.
Rep. George E. Sangmeister.
Rep. Sidney R. Yates.

INDIANA

Rep. Frank McCloskey.
Rep. Peter J. Visclosky.

IOWA

Sen. Tom Harkin.
Rep. Neal Smith.

KANSAS

Rep. Dan Glickman.

KENTUCKY

Sen. Wendell H. Ford.
Rep. Romano L. Mazzoli.

LOUISIANA

Sen. John B. Breaux.
Sen. J. Bennett Johnston.
Rep. Cleo Fields.
Rep. William J. Jefferson.

MAINE

Sen. George J. Mitchell.
Rep. Thomas H. Andrews.

MARYLAND

Sen. Barbara A. Mikulski.
Sen. Paul S. Sarbanes.
Rep. Benjamin L. Cardin.
Rep. Steny H. Hoyer.
Rep. Kweisi Mfume.
Rep. Albert R. Wynn.

MASSACHUSETTS

Sen. Edward M. Kennedy.
Sen. John Kerry.
Rep. Barney Frank.
Rep. Joseph P. Kennedy.
Rep. Edward J. Markey.
Rep. Joe Moakley.
Rep. Richard E. Neal.
Rep. John W. Olver.
Rep. Gerry E. Studds.

MICHIGAN

Sen. Carl Levin.
Sen. Donald W. Riegle Jr.
Rep. David E. Bonior.
Rep. Bob Carr.
Rep. Barbara-Rose Collins.
Rep. John Conyers.
Rep. John D. Dingell.
Rep. William D. Ford.
Rep. Dale E. Kildee.
Rep. Sander M. Levin.

MINNESOTA

Sen. Paul Wellstone.
Rep. James L. Oberstar.
Rep. Martin Olav Sabo.
Rep. Bruce F. Vento.

MISSISSIPPI

Rep. G.V. Montgomery.
Rep. Bennie Thompson.
Rep. Jamie L. Whitten.

MISSOURI

Rep. William L. Clay.
Rep. Richard A. Gephardt.
Rep. Ike Skelton.
Rep. Harold L. Volkmer.
Rep. Alan Wheat.

MONTANA

Sen. Max Baucus.
Rep. Pat Williams.

NEVADA

Sen. Harry Reid.
Rep. James Bilbray.

NEW JERSEY

Rep. Robert Menendez.
Rep. Donald M. Payne.
Rep. Robert G. Torricelli.

NEW MEXICO

Rep. Bill Richardson.

NEW YORK

Sen. Daniel Patrick Moynihan.
Rep. Gary L. Ackerman.
Rep. Eliot L. Engel.
Rep. Floyd H. Flake.
Rep. Maurice D. Hinchey.
Rep. George J. Hochbrueckner.
Rep. Nita M. Lowey.
Rep. Thomas J. Manton.
Rep. Michael R. McNulty.
Rep. Jerrold Nadler.
Rep. Major R. Owens.
Rep. Charles B. Rangel.
Rep. Charles E. Schumer.
Rep. Jose E. Serrano.
Rep. Louise M. Slaughter.
Rep. Edolphus Towns.
Rep. Nydia M. Velázquez.

NORTH CAROLINA

Rep. Eva Clayton
Rep. W.G. Hefner.
Rep. Stephen L. Neal.
Rep. David Price.
Rep. Charlie Rose.
Rep. Melvin Watt.

OHIO

Sen. John Glenn.
Sen. Howard M. Metzenbaum.
Rep. Douglas Applegate.
Rep. Sherrod Brown.
Rep. Tony P. Hall.
Rep. Tom Sawyer.
Rep. Louis Stokes.
Rep. Ted Strickland.

OKLAHOMA

Rep. Mike Synar.

OREGON

Rep. Elizabeth Furse.
Rep. Mike Kopetski.
Rep. Ron Wyden.

PENNSYLVANIA

Sen. Harris Wofford.
Rep. Lucien E. Blackwell.
Rep. Robert A. Borski.
Rep. William J. Coyne.
Rep. Thomas M. Foglietta.
Rep. Paul E. Kanjorski.
Rep. John P. Murtha.

RHODE ISLAND

Sen. Claiborne Pell.
Rep. Jack Reed.

SOUTH CAROLINA

Sen. Ernest F. Hollings.
Sen. James E. Clyburn.
Sen. Butler Derrick.
Rep. John M. Spratt.

SOUTH DAKOTA

Sen. Tom Daschle.

TENNESSEE

Sen. Harlan Mathews.
Sen. Jim Sasser.
Rep. Harold E. Ford.

TEXAS

Rep. Jack Brooks.
Rep. John Bryant.
Rep. Jim Chapman.
Rep. Ronald D. Coleman.
Rep. E. de la Garza.
Rep. Martin Frost.
Rep. Henry B. Gonzalez.
Rep. Gene Green.
Rep. Eddie Bernice Johnson.
Rep. Solomon P. Ortiz.
Rep. J.J. Pickle.
Rep. Frank Tejeda.
Rep. Craig Washington.
Rep. Charles Wilson.

VERMONT

Sen. Patrick J. Leahy.
Rep. Bernard Sanders.

VIRGINIA

Rep. Rick Boucher.
Rep. Leslie L. Byrne.
Rep. James P. Moran.
Rep. Robert C. Scott.

WASHINGTON

Sen. Patty Murray.
Rep. Norm Dicks.
Rep. Mike Kreidler.
Rep. Jim McDermott.
Rep. Al Swift.
Rep. Jolene Unsoeld.

WEST VIRGINIA

Sen. Robert C. Byrd.
Sen. John D. Rockefeller IV.
Rep. Alan B. Mollahan.
Rep. Nick J. Rahall.
Rep. Bob Wise.

WISCONSIN

Rep. Gerald D. Kleczka.
Rep. David R. Obey.

Mr. LINDER. Mr. Speaker, I yield 1 minute to the gentleman from Georgia [Mr. NORWOOD].

Mr. NORWOOD. Mr. Speaker, I rise to tell my friend from New Jersey, the problem with that Georgia policeman is that he most assuredly will receive some tax relief on this, because you have raised taxes so high over the last 20 years that I guarantee you his wife is having to work, too. So when we combine those incomes, that family will indeed, and I remind you again that 2.4 million teachers are going to get some tax relief, 4.2 million mechanics and repairmen and construction workers are going to get some tax relief. I know you call everybody rich who has a job, but those are the people who are paying into this Government, and it is high time we let them have some more of their own income because most assuredly they can spend it much wiser than we do up here.

Mr. MOAKLEY. Mr. Speaker, I yield 2½ minutes to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Speaker, I wanted to enter into the RECORD the study from the Citizens for Tax Justice that shows just how many children are excluded from this tax credit and point out that in the State of Georgia, the previous speaker's home State, the Republican tax plan excludes 49 to 52 percent of Georgia kids. The Citizens for

Tax Justice study says that the House plan, the Republican plan, would exclude 52 percent of Georgia's children and the Senate tax plan would exclude 49 percent of Georgia's children. They would not receive it, including that police officer.

Mr. Speaker, I yield to the gentleman from Maine [Mr. ALLEN].

Mr. ALLEN. Mr. Speaker, I thank the gentleman for yielding. I just want to refer to a couple of other States here, first my home State of Maine, the Citizens for Tax Justice report indicates that 45 percent of the children in the State of Maine will not get the benefit of this $500-per-child tax credit. A little bit of that is because of age but almost all of it is because of this income floor.

The gentleman from South Dakota who was speaking earlier should recognize that the number for his State is the same; 45 percent of the children in that State will be ineligible for the $500-per-child tax credit and it is the same reason. The fact is that this tax credit, this tax bill is weighted very heavily for the wealthiest people in this society. It provides 41 percent of its benefits to the top 1 percent of taxpayers and those in lower tax brackets, the lowest 20 percent, are expected to pay maybe an additional $60 a year. They do not get the benefits of this.

I agree with my friend from Florida on one point he said; this is not about protecting the poor. It is not. It is about protecting hard-working middle-income Americans and making sure that they get the benefit, they get some of the benefit of this tax bill, and they are not getting it now.

Mr. PALLONE. Mr. Speaker, we have a statistic here that just shows you that the billionaire, Bill Gates, would get capital gains and estate tax reductions and even a new IRA provision that would let him take a $4,000 tax break for educational expenses for his kids, but that Georgia policeman making $23,000 is denied a tax credit for his kids.

Mr. Speaker, I yield to the gentlewoman from Michigan [Ms. STABENOW].

Ms. STABENOW. Mr. Speaker, I think it is important for people that are watching today, it gets very confusing when we are talking about a lot of different statistics about where the tax relief goes. The reality is that in this, in the Republican proposal, we are talking about the top 5 percent of Americans who make $250,000 or more. That is what we are talking about in terms of where the bulk of the tax relief goes.

Mr. LINDER. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. DREIER].

Mr. DREIER. Mr. Speaker, I thank my friend from Atlanta for yielding me the time.

Mr. Speaker, I want to say that this has become a very, very sad time for me, having worked since the beginning of this Congress and actually in many previous Congresses on this issue of the capital gains tax cut. I have about 165 Democrats and Republicans who joined as cosponsors of H.R. 14.

The gentleman from Florida [Mr. SCARBOROUGH] has been one of our great fighters on behalf of reducing the top rate on capital gains, knowing full well that it is not a tax cut for the rich. We have been able to successfully throw that us-versus-them class warfare mentality out throughout the debate on capital gains. We got the President in the agreement to acknowledge that reducing the top rate on capital gains will in fact benefit the middle-income wage earner. In fact a study that we did found that the average family of four, if we were to get to a 14- or 15-percent rate, would see their take-home pay increase by $1,500. Those are the ones who benefit from things like a capital gains tax rate reduction. Yes, there are people today in this country who are unemployed and we need to get capital invested so that we can create job opportunities for them.

So the reason this is a sad day is that many of my Democratic colleagues who have joined as cosponsors of H.R. 14 have unfortunately now been drawn in by their party to this trap of saying that this is simply a tax cut for the rich. Nothing could be further from the truth. We will hear it time and time again that 76 percent of the benefits go to people earning between $20,000 and $75,000. Ninety-three percent of the benefits go to people with incomes of less than $100,000.

So the fact is, we are there trying desperately to help those struggling middle-income wage earners create greater opportunities, improve their quality of life, and things like a capital gains tax rate reduction will do just that. So I just want to say that it saddens me that we have seen the debate come down to this level.

Mr. MOAKLEY. Mr. Speaker, I yield the balance of my time to the gentleman from Maine [Mr. BALDACCI].

Mr. BALDACCI. Mr. Speaker, we have been down this road before, where we were offered trickle-down tax cuts in the 1980's, that benefited the very well to do and did not get down to working men and women and those families. Those incomes have been stagnant. They have not gotten any rewards for their work. Their tax rates and tax burdens have increased. What we need to do is to better focus the tax breaks on working men and women, as the Democratic substitute has done, and not to allow trickle-down to happen again. All that happened with trickle-down is the heavy lifting was done by the working men and women and the people who are trying to provide for their families at the expense of those who were getting heavy from their lifting.

If we are going to reform welfare, if we are going to reward work, we are going to need to make sure that working men and women have the opportunities of tax credits for education, tax credits for health care, to make sure that they can provide for their families and not go down through the trickle-down economic theories that we went through in the early 1980's.

They got nothing but debt and deficit and that left people out of work or at very low incomes. So I think the important thing to do is to not support the rule and to not support the proposal that has been put forward.

Mr. LINDER. Mr. Speaker, I yield myself the balance of my time.

The people watching this on C-SPAN must be thoroughly confused by now, because according to the comments from the other side, virtually everybody in America is wealthy. They have been quoting all day Citizens for Tax Justice, a so-called nonpartisan think tank which is in fact connected to Ralph Nader. The American people ought to know that.

The fact of the matter is the Heritage Foundation and other studies such as the Tax Foundation have said that the Republican plan covers 11 more, 11 million, the Republican plan covers 11 million more children than the President's plan. Indeed, the gentleman from California [Mr. MILLER] has been concerned about the children being excluded. The Republican plan in his own district covers 24,735 more children than the President's plan.

The President and the Treasury Department have been simply unfair to this debate because they recalculated wealth. And in fact they included in your income to consider how wealthy you are such items as employer costs such as payroll taxes, fringe benefits, and pensions. Their proposal says that those people must consider that as their income, even though they do not get it, and goes so far as to say that if they could rent their home out, the home they are living in and buying, that 10,000 a year must be considered income also.

Under their calculation of income and who is wealthy, 2.4 million elementary and high school teachers, over half of the teachers in this Nation are considered under their standards rich; 1 out of every 10 union members, 1.7 million of them, under their standards are rich; 8.1 million Federal, State, and local government workers under their measurement are rich. The honest deduction is this, the Joint Committee on Taxation has made it very clear, 93 percent of the benefits go to families with incomes under $100,000. Indeed the largest part of this package is the child tax credit, the single largest part of the benefit is the child tax credit and that is capped at $110,000 for couples also and $55,000 for singles. So this is a fair plan. It is fair for all.

For the rest of this day, those of you watching this debate are going to hear the same class warfare, the same argument that the rich are benefiting when in fact the Joint Committee on Taxation makes it clear that 76 percent goes to people with family incomes less than $75,000 a year. They are going to be very surprised to discover how wealthy they are tonight.

But when we pass this we will have for the first time in 16 years provided decent, honest, and across-the-board tax relief for all Americans at every stage in life.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

Mr. LINDER. Mr. Speaker, I ask unanimous consent that if an electronic vote on House Concurrent Resolution 108 occurs immediately after an electronic vote on another question, then the minimum time for that electronic vote on agreeing to the concurrent resolution may be 5 minutes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

GENERAL LEAVE

Mr. MOAKLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to extend their remarks during the debate on House Resolution 176.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. MOAKLEY. Mr. Speaker, I include for the RECORD the following:

METHODOLOGY PROBLEMS AND MULTIBILLION DOLLAR ERRORS PRODUCE LARGE DISTORTIONS IN TAXPAYERS UNION RATINGS

The tally of Congressional voting records which the National Taxpayers Union Foundation released today is marred by flawed methodology and multi-billion dollar errors, according to a Center on Budget and Policy Priorities analysis of the NTUF tally.

The deficiencies in the NTUF analysis are sufficiently serious as to make its tally of little value, the Center said. The Center also reported that NTUF's mistakes and methodological errors tend to have a greater adverse effect on members of the minority party than on members of the majority party and that some of its interpretations of its vote tally appear to be marked by partisan leanings.

ENTITLEMENT TREATMENT MAKES MANY WHO VOTED TO REDUCE SPENDING LOOK LIKE THEY VOTED TO INCREASE SPENDING

The NTUF tallies are dominated by entitlement spending. But the NTUF entitlement spending figures are flawed. Most notably, the cost of federal entitlement programs will automatically rise $54.5 billion between FY 1995 and FY 1996 because of such factors as the annual cost-of-living adjustment in Social Security, veterans, and other benefits, the increase in the number of Americans reaching age 65 and qualifying for Social Security and Medicare, and normal year-to-year increases in doctor and hospital fees. NTUF charges all Members of Congress with voting to increase entitlement spending by this $54.5 billion, although no such votes occurred. This distorts the NTUF tallies.

One hundred fifty-one of the 172 House Democrats, the one House independent, and the one House Republican who NTUF says voted to increase spending in 1995—as well as all 28 Senate Democrats and the one Senate Republican who NTUF said voted to raise spending—should have been tallied as voting to decrease spending. These are the members whom the NTUF rating shows as voting to increase spending but by less than $54.5 billion. When the automatic increases that occurred without any vote and that were due to factors such as the Social Security COLA are put to the side, these members voted to lower spending.

Most citizens who hear about the NTUF tally will assume these members voted to make programs more costly than they would otherwise be. Few will understand that NTUF is charging these members with voting to increase spending merely because the member did not vote to cancel Social Security cost-of-living adjustments, deny Medicare benefits to those newly turning 65, or make cuts yielding equivalent savings.

NTUF EXAGGERATES SIZE OF SOME SPENDING CUTS

Those members whom NTUF shows as voting to reduce spending would be given credit for reducing spending by a larger amount if this $54.4 billion in automatic entitlement spending were not counted against them. At the same time, NTUF gives many of these same members more credit than they are due for reducing spending in other areas because of mistakes in counting votes for various bills the House and Senate passed.

When a member voted both for an authorization bill and an appropriations bill that cover the same programs, NTUF is supposed to make an adjustment to avoid a double-count. But it sometimes neglects to do so. It incorrectly gives members who voted for the Amtrak reauthorization bill and the transportation appropriations bill credit twice for the same Amtrak cuts. This also is true of cuts in the Interstate Commerce Commission.

NTUF also overstates the cuts in the FY 1996 agriculture appropriations bill by $5 billion due to an error involving farm price supports.

Still other problems in NTUF's methodology stem from the fact that NTUF counts votes for authorization bills for discretionary programs as votes to increase or decrease spending even though authorization bills do not cause discretionary spending to increase or decrease. Only the discretionary spending caps and appropriations bills do that.

LARGEST DEFICIT REDUCTION PLAN NOT GIVEN APPROPRIATE CREDIT

While NTUF sometimes presents its vote tally as a measure of fiscal responsibility, this is not accurate. NTUF ignores many votes to reduce or increase the deficit.

NTUF does not count votes to increase or decrease government subsidies that are provided through the tax code, which many experts, the General Accounting Office, the Joint Tax Committee, and individuals such as Alan Greenspan call "tax expenditures." If a member votes to cut health programs to fund a corporate tax subsidy without reducing the deficit, NTUF rates the member as voting to cut spending. A member who votes against such a measure does less well in the NTUF rankings.

This approach adversely affects the rankings of a substantial number of House and Senate members who voted for the "Coalition" budget. The Coalition budget, developed by a group of House Democrats, reduced the deficit more than the Republican reconciliation bill. While the Republican plan cut programs more, it also contained large tax cuts, including expansion of a number of corporate and individual tax expenditures. By contract, the Coalition budget contained no tax cuts and reduced some tax expenditures. Although the Coalition budget reduced the deficit more, members voting for it fare less well in the NTUF rankings than members voting for the Republican budget.

Particularly serious is NTUF's mischaracterization of "Blue Dog" Democrats who supported the Coalition budget as being opponents of cuts in discretionary spending. Many House members voted against various appropriations bills that would cut discretionary spending because of "riders" attached to these bills that would weaken environmental protection and health and safety standards—or because the members disagreed with where the discretionary spending cuts were being made—not because the members opposed cutting discretionary spending.

In fact, a number of members who voted against various appropriations bills voted for the Coalition budget, which contained binding discretionary spending caps that would force more than $300 billion in discretionary spending reductions over seven years. NTUF fails to count votes to lower the binding discretionary spending caps as votes to cut spending, an egregious error. This affects all members who voted for budgets that would reduce the caps.

NTUF'S REMARKABLE SCORING OF VOICE VOTES

NTUF "scores" a number of voice votes, even though not all members may have been in favor of the measure in question. In this area, NTUF has altered its methodology since 1994.

Even members who were out of town and missed the vote altogether are scored as having voted to increase or reduce spending on voice votes.

The NTUF methodology on these voice votes has a more damaging effect on Democrats than on Republicans. NTUF scores voice votes on amendments to some bills. If the members voted for final passage of the bill, NTUF then cancels out the voice vote. But if the member voted against final passage, NTUF leaves the voice vote in its tally. If you are in the minority, you are more likely to be charged with the cost of voice vote amendments that add spending, as most of the amendments that NTUF counts did, since you are more likely not to vote for final passage of the bill.

NTUF's use of voice votes is different now than it was in 1994. At that time, it did not score voice votes on amendments.

The Center on Budget and Policy Priorities is a nonpartisan research organization and policy institute that conducts research and analysis on a range of government policies and programs, and specializes in issues related to fiscal policy. Is is supported primarily by foundation grants.

PARLIAMENTARY INQUIRIES

Mr. LINDER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. LINDER. Mr. Speaker, if those extensions of remarks on this debate are admitted to the RECORD, must they be on the subject which is the resolution under consideration, or can they be on the tax bill?

The SPEAKER pro tempore. It would be on this subject.

Mr. LINDER. They must be on this subject, or they would be out of order?

The SPEAKER pro tempore. The request specified that it covered the subject of the resolution.

Mr. LINDER. On the subject of the resolution.

Mr. WISE. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. WISE. Mr. Speaker, is that saying that anyone submitting remarks in the context that they have been offered during the last hour would not be permitted or that someone would be trying to censor them in order to get them into the RECORD?

The SPEAKER pro tempore. The issue before the House is on the propriety of the resolution making in orders a Fourth of July recess beginning today. Under House rules, any remarks that are relevant to the rubric of that resolution would be in order and would come within the unanimous-consent request and printed in distinctive style.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MOAKLEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 230, nays 194, not voting 10, as follows:

[Roll No. 242]

YEAS—230

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Boswell
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cooksey
Crane
Crapo
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Dixon
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kelly
Kim
King (NY)
Kingston
Klink
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Manzullo
McCarthy (NY)
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Molinari
Moran (KS)
Morella
Murtha
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Pastor
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NAYS—194

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Berman
Berry
Bishop
Blagojevich
Bonior
Borski
Boucher
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Goode
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Lantos
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McDermott
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Payne
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson
Thurman
Tierney
Torres
Towns
Turner
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NOT VOTING—10

Bentsen
Castle
Cox
Cubin
Flake
Gonzalez
Kasich
Owens
Rush
Schiff

□ 1149

Mrs. ROUKEMA and Mr. McINTOSH changed their vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PROVIDING FOR ADJOURNMENT OF THE HOUSE FROM THURSDAY, JUNE 26, 1997, TO TUESDAY, JULY 8, 1997, AND RECESS OR ADJOURNMENT OF THE SENATE FROM THURSDAY, JUNE 26, 1997, OR THEREAFTER, TO MONDAY, JULY 7, 1997

Mr. SOLOMON. Mr. Speaker, I offer a privileged concurrent resolution (H. Con. Res. 108) and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 108

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on the legislative day of Thursday, June 26, 1997, it stand adjourned until 12:30 p.m. on Tuesday, July 8, 1997, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns at the close of business on Thursday, June 26, 1997, Friday, June 27, 1997, Saturday, June 28, 1997, or Sunday, June 29, 1997, pursuant to a motion made by the Majority Leader, or his designee, in accordance with this concurrent resolution, it stand recessed or adjourned until noon on Monday, July 7, 1997, or such time on that day as may be specified by the Majority Leader or his designee in the motion to recess or adjourn, or until noon on the second day after members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

SUPREME COURT LETS LINE-ITEM VETO LAW STAND

(Mr. SOLOMON asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous material.)

Mr. SOLOMON. Mr. Speaker, I submit for the Record the entire text of the Supreme Court decision throwing out the challenge to the line-item veto by a vote of 7 to 2.

Supreme Court Lets Line-Item Veto Law Stand

JUSTICES RULE SENATORS LACKED STANDING TO CHALLENGE THE LAW

Washington (AllPolitcs, June 26).—In a victory for line-item veto supporters, the Supreme Court ruled today that a group of senators who challenged the law did not have legal standing to do so. The law will likely face a second constitutional review, but for now it stands.

The line-item veto, approved by Congress in March 1996, allows the president to strike individual spending items from larger measures.

A group of congressional lawmakers, led by Sen. Robert Byrd of West Virginia, opposed the law and sued the Clinton Administration on grounds that the law usurped congressional authority to write the nation's laws.

"After Congress, made up of 535 individuals, passes a law and sends it to the president, he signs it into law," Byrd said. The line-item veto "would allow him to change that law unilaterally and that's not constitutional, that's not right, that's wrong," he said.

But with today's decision, the Supreme Court decided the lawmakers lacked the standing to file such a suit. The case is Raines vs, Byrd, 96–1671.

It's usually risky to read too much into the justices' questions during oral argument. But when the case was heard, some of them wondered out loud whether lawmakers on the losing side had standing to sue, or whether someone affected by an actual exercise of the line-item veto would have to claim an injury for the case to move forward. So far, Clinton has yet to exercise the new power, because no spending bills have reached him yet.

"Practically, it is a majority of Congress that has caused this injury, not the president," Justice Ruth Bader Ginsburg said during oral arguments. "They are only injured by their own folly."

The high court had agreed to rule on a fast-track basis. But justices did not address the underlying constitutional issue of the transfer of power from the legislative to executive branch, since the justices' decision solely addressed whether the lawmakers could legally challenge the measure.

In early April, U.S. District Court Judge Thomas Penfield Jackson ruled that the line-item veto law violates the Constitution's separation of powers, which gives Congress the power to tax and spend.

"Where the president signs a bill but then purports to cancel parts of it, he exceeds his constitutional authority and prevents both houses of Congress from participating in the exercise of lawmaking authority," Jackson wrote. "Never before has Congress attempted to give away the power to shape the content of a statute of the United States, as the Act purports to do . . . Congress has turned the constitutional division of responsibilities for legislating on its head."

Frederick D. Raines, Director, Office of Management and Budget, Et Al., Appellants v. Robert C. Byrd Et Al., No. 96–1671, Supreme Court of the United States, 1997 U.S. Lexis 4040, May 27, 1997, Argued, June 26, 1997, Decided

PRIOR HISTORY: ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA.

Syllabus: Appellees, Members of the 104th Congress, voted "nay" when Congress passed the Line Item Veto Act (Act), which gives the President the authority to cancel certain spending and tax benefit measures after he has signed them into law. The day after the Act went into effect, they filed suit against appellants, Executive Branch officials, challenging the Act's constitutionality. The District Court denied appellants' motion to dismiss, finding that appellees' claim that the Act diluted their Article I voting power was sufficient to confer Article III standing; and that their claim was ripe, even though the President had not yet used the Act's cancellation authority, because they found themselves in a position of [*2] unanticipated and unwelcome subservience to the President before and after their votes on appropriations bills. The court then granted appellees summary judgment, holding that the Act violated the Presentment Clause, Art. I, §7, cl. 2, and constituted an unconstitutional delegation of legislative power to the President.

Held: Appellees lack standing to bring this suit. Pp. 6–19.

(a) The federal courts have jurisdiction over this dispute only if it is case or controversy. Art. III, §2. In order to meet the standing element of the case-of-controversy requirement, appellees must allege a personal injury that is particularized, concrete, and otherwise judicially cognizable. *Lujan v. Defenders of Wildlife, 504 U.S. 555, 561; Allen v. Wright, 468 U.S. 737, 751*. This Court insists on strict compliance with the jurisdictional standing requirement, see, e.g., *id., at 752*, and its standing inquiry is especially rigorous when reaching the merits of a dispute would force it to decide the constitutionality of an action taken by one of the other two branches of the Federal Government. Pp. 6–8.

(b) This Court has never had occasion to rule on [*3] the legislative standing question presented here. Appellees are not helped by *Powell v. McCormack, 395 U.S. 486, 496, 512–514*, in which the Court held that a Congressman's challenge to the constitutionality of his exclusion from the House of Representatives presented an Article III case or controversy. Appellees have not been singled out for specially unfavorable treatment as opposed to other Members of their respective bodies, but claim that the Act causes a type of institutional injury which damages all Members of Congress equally. And their claim is based on a loss of political power, not loss of something to which they are personally entitled, such as their seats as Members of Congress after their constituents elected them. Pp. 8–10.

(c) Appellees' claim also does not fall within the Court's holding in *Coleman v. Miller, 307 U.S. 433*, the one case in which standing has been upheld for legislators claiming an institutional injury. There, the Court held that state legislators who had been locked in a tie vote that would have defeated the State's ratification of a proposed federal constitutional amendment, and who alleged that their votes were nullified when [*4] the Lieutenant Governor broke the tie by casting his vote for ratification, had "a plain, direct and adequate interest in maintaining the effectiveness of their votes." *Id., at 438*. In contrast, appellees have not alleged that they voted for a specific bill, that there were sufficient votes to pass the bill, and that the bill was nonetheless deemed defeated. In the vote on the Act, their votes were given full effect; they simply lost that vote. To uphold standing here would require a drastic extension of Coleman, even accepting appellees' argument that the Act has changed the "meaning" and "effectiveness" of their vote on appropriations bills, for there is a vast difference between the level of vote nullification at issue in Coleman and the abstract dilution of institutional power appellees allege. Pp. 10–14.

(d) Historical practice cuts against appellees' position as well. Several episodes in our history show that in analogous confrontations between one or both Houses of Congress and the Executive Branch, no suit was brought on the basis of claimed injury to official authority or power. If appellees' claim were sustained, presumably several Presidents would have had [*5] standing to challenge the Tenure of Office Act, which prevented the removal of a presidential appointee without Congress' consent; the Attorney General could have challenged the one-House veto provision because it rendered his authority provisional rather than final; President Ford could have challenged the Federal Election Campaign Act's appointment provisions which were struck down in *Buckley* v. *Valeo, 424 U.S. 1;* and a Member of Congress could have challenged the validity of President Collidge's pocket veto that was sustained in *The Pocket Veto Case, 279 U.S. 655*. While a system granting such standing would not be irrational, our Constitution's regime contemplates a more restrictive role for Article III courts. See *United States* v. *Richardson, 418 U.S. 166, 192* (Powell, J., concurring). Pp. 14–18.

(e) Some importance must be attached to the fact that appellees have not been authorized to represent their respective Houses in this action, and indeed both Houses actively oppose their suit. In addition, the conclusion reached here neither deprives Members of Congress of an adequate remedy—since they may repeal the Act or exempt appropriations bills from [*6] its reach—nor forecloses the Act from constitutional challenge by someone who suffers judicially cognizable injury resulting from it P. 18.

956 F. Supp. 25, vacated and remanded.

Judges: Rehnquist, C. J., delivered the opinion of the Court, in which O'Connor, Scalia, Kennedy, Thomas, and Ginsburg, JJ., joined. Souter, J., filed an opinion concurring in the judgment, in which Ginsburg, J., joined. Stevens, J., and Breyer, J., filed dissenting opinions.

Opinion By: Rehnquist.

Opinion: Chief Justice Rehnquist delivered the opinion of the Court.*

*Justice Ginsburg joins this opinion.

The District Court for the District of Columbia declared the Line Item Veto Act unconstitutional. On this direct appeal, we hold that appellees lack standing to bring this suit, and therefore direct that the judgment of the District Court be vacated and the complaint dismissed.

I

The appellees are six Members of Congress, four of whom served as Senators and two of whom served as Congressmen in the 104th Congress (1995–1996).[1] On March [*7] 27, 1996, the Senate passed a bill entitled the Line Item Veto Act by a vote of 69–31. All four appellee Senators voted "nay." 142 Cong. Rec. S2995. The next day, the House of Representatives passed the identical bill by a vote of 232–177. Both appellee Congressmen voted "nay." Id., at H2986. On April 4, 1996, the President signed the Line Item Veto Act (Act) into law. Pub. L. 104–130, 110 Stat. 1200, codified at *2 U.S.C.A. §691* et seq. (Supp. 1997). The Act went into effect on January 1, 1997. See Pub. L. 104–130, §5. The next day, appellees filed a complaint in the District Court for the District of Columbia against the two appellants, the Secretary of the Treasury and the Director of the Office of Management and Budget, alleging that the Act was unconstitutional. [*8]

The provisions of the Line Item Veto Act do not use the term "veto." Instead, the President is given the authority to "cancel" certain spending and tax benefit measures after he has signed them into law. Specifically, the Act provides:

"The President may, with respect to any bill or joint resolution that has been signed into law pursuant to Article I, section 7, of the Constitution of the United States, cancel in whole—(1) any dollar amount of discretionary budget authority; (2) any item of new direct spending; or (3) any limited tax benefit; if the President—

"(A) determines that such cancellation will—(i) reduce the Federal budget deficit; (ii) not impair any essential Government functions; and (iii) not harm the national interest; and

"(B) notifies the Congress of such cancellation by transmitting a special message . . . within five calendar days (excluding Sundays) after the enactment of the law [to which the cancellation applies]." §691(a) (some indentations omitted).

The President's "cancellation" under the Act takes effect when the "special message" notifying Congress of the cancellation is received in the House and Senate. With respect to dollar amounts [*9] of "discretionary budget authority," a cancellation means "to rescind." §691e(4)(A). With respect to "new direct spending" items or "limited tax benefits," a cancellation means that the relevant legal provision, legal obligation, or budget authority is "prevented . . . from having legal force or effect." §§691e(4)(B), (C).

The Act establishes expedited procedures in both Houses for the consideration of "disapproval bills," §691d, bills or joint resolutions which, if enacted into law by the familiar procedures set out in Article I, §7 of the Constitution, would render the President's cancellation "null and void," §691b(a). "Disapproval bills" may only be one sentence long and must read as follows after the enacting clause: "That Congress disapproves of cancellations ______ as transmitted by the President in a special message on ______ regarding ______" §691e(6)(C). (The blank spaces correspond to the cancellation reference numbers as set out in the special message, the date of the President's special message, and the public law number to which the special message relates, respectively. Ibid.)

The Act provides that "any Member of Congress or any individual adversely [*10] affected by [this Act] may bring an action, in the United States District Court for the District of Columbia, for declaratory judgment and injunctive relief on the ground that any provision of this part violates the Constitution." §692(a)(1). Appellees brought suit under this provision, claiming that "the Act violates Article I" of the Constitution. Complaint P17. Specifically, they alleged that the Act "unconstitutionally expands the President's power," and "violates the requirements of bicameral passage and presentiment by granting to the President, acting alone, the authority to 'cancel' and thus repeal provisions of federal law." Ibid. They alleged that the act injured them "directly and concretely . . . in their official capacities" in three ways:

"The Act . . . (a) alters the legal and practical effect of all votes they may cast on bills containing such separately vetoable items, (b) divests the [appellees] of their constitutional role in the repeal of legislation, and (c) alters the constitutional balance of powers between the Legislative and Executive Branches, both with respect to measures containing separately vetoable items and with respect to other matters [*11] coming before Congress." Id., P14.

Appellants moved to dismiss for lack of jurisdiction, claiming (among other things) that appellees lacked standing to sue and that their claim was not ripe. Both sides also filed motions for summary judgment on the merits. On April 10, 1997, the District Court (i) denied appellants' motion to dismiss, holding that appellees had standing to bring this suit and that their claim was ripe, and (ii) granted appellees' summary judgment motion, holding that the Act is unconstitutional. *956 F. Supp. 25.* As to standing, the court noted that the Court of Appeals for the District of Columbia "has repeatedly recognized Members' standing to challenge measures that affect their constitutionally prescribed lawmaking powers." *Id., at 30* (citing, e.g., *Michel v. Anderson, 14 F. 3d 623, 625 (CADC 1994); Moore v. U.S. House of Representatives, 733 F. 2d 946, 950–952 (CADC 1984)).* See also *956 F. Supp., at 31* ("The Supreme Court has never endorsed the [Court of Appeals'] analysis of standing in such cases"). The court held that appellees' claim that the Act "diluted their Article I voting power" was sufficient to confer Article III standing: [*12] "[Appellees'] votes mean something different from what they meant before, for good or ill, and [appellees] who perceive it as the latter are thus 'injured' in a constitutional sense whenever an appropriations bill comes up for a vote, whatever the President ultimately does with it. . . . Under the Act the dynamic of lawmaking is fundamentally altered. Compromises and trade-offs by individual lawmakers must take into account the President's item-by-item cancellation power looming over the end product." Ibid.

The court held that appellees' claim was ripe even though the President had not yet used the "cancellation" authority granted him under the Act: "Because [appellees] now find themselves in a position of unanticipated and unwelcome subservience to the president before and after they vote on appropriations bills, Article III is satisfied, and this Court may accede to Congress' directive to address the constitutional cloud over the Act as swiftly as possible." *Id., at 32* (referring to §692(a)(1), the section of the Act granting Members of Congress the right to challenge the Act's constitutionality in court). On the merits, the court held that the Act violated the Presentment [*13] Clause, Art. I, §7, cl. 2, and constituted an unconstitutional delegation of legislative power to the *President. 956 F. Supp., at 33, 35, 37–38.*

The Act provides for a direct, expedited appeal to this Court. §692(b) (direct appeal to Supreme Court); §692(c) ("It shall be the duty of . . . the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any [suit challenging the Act's constitutionality] brought under [§3(a) of the Act]"). On April 18, eight days after the District Court issued its order, appellants filed a jurisdictional statement asking us to note probable jurisdiction, and on April 21, appellees filed a memorandum in response agreeing that we should note probable jurisdiction. On April 23, we did so. 520 U.S. (1977). We established an expedited briefing schedule and heard oral argument on May 27.[2] We now hold that appellees have no standing to bring this suit, and therefore direct that the judgment of the District Court be vacated and the complaint dismissed. [*14]

II

Under Article III, §2 of the Constitution, the federal courts have jurisdiction over this dispute between appellants and appellees only if it is a "case" or "controversy." This is a "bedrock requirement." *Valley Forge Christian College v. Americans United for Separation of Church and State, Inc., 454 U.S. 464, 471 (1982).* As we said in *Simon v. Eastern Ky. Welfare Rights Organization, 426 U.S. 26, 37 (1976),* "No principle is more fundamental to the judiciary's proper role in our system of government than the constitutional limitation of federal-court jurisdiction to actual cases or controversies."

One element of the case-or-controversy requirement is that appellees, based on their complaint, must establish that they have standing to sue. *Lujan v. Defenders of Wildlife, 504 U.S. 555, 561 (1992)* (plaintiff bears burden of establishing standing). The standing inquiry focuses on whether the plaintiff is the proper party to bring this suit, *Simon, supra, at 38,* although that inquiry "often turns on the nature and source of the claim asserted," *Warth v. Seldin, 422 U.S. 490, 500 (1975).* To meet the standing requirements of Article III, "[a] [*15] plaintiff must allege personal injury fairly traceable to the defendant's allegedly unlawful conduct and likely to be redressed by the requested relief." *Allen v. Wright, 468 U.S. 737, 751 (1984)* (emphasis added). For our purposes, the italicized words in this quotation from Allen are the key ones. We have consistently stressed that a plaintiff's complaint must establish that he has a "personal stake" in the alleged dispute, and that the alleged injury suffered is particularized as to him. See, e.g., *Lujan, 504 U.S., at 560–561 and n. 1* (to have standing, the plaintiff must have suffered a "particularized" injury, which means that "the injury must affect the plaintiff in a personal and individual way"); *Bender v. Williamsport Area School Dist., 475 U.S. 534, 543–544 (1986)* (school board member who "has no personal stake in the outcome of the litigation" has no standing); *Simon, supra, at 39* ("The necessity that the plaintiff who seeks to invoke judicial power stand to profit in some personal interest remains an Art. III requirement").

We have also stressed that the alleged injury must be legally and judicially cognizable. This requires, among other [*16] things, that the plaintiff have suffered "an invasion of a legally protected interest which is . . . concrete and particularized," *Lujan, 504 U.S., at 560,* and that the dispute is "traditionally thought to be capable of resolution through the judicial process," *Flast v. Cohen, 392 U.S. 83, 97 (1968).* See also *Allen, 468 U.S., at 752* ("Is the injury too abstract, or otherwise not appropriate, to be considered judicially cognizable?").

We have always insisted on strict compliance with this jurisdictional standing requirement. See, e.g. ibid. (under Article III, "federal courts may exercise power only 'in the last resort, and as a necessity'") (quoting *Chicago & Grand Trunk R. Co. v. Wellman, 143 U.S. 339, 345 (1892)); Muskrat v. United States, 219 U.S. 346, 356 (1911)* (*From its earliest history this Court has consistently declined to exercise any powers other than those which are strictly judicial in their nature"). And our standing inquiry has been especially rigorous when reaching the merits of the dispute would force us to decide whether an action taken by one of the other two branches of the Federal Government was unconstitutional. See, [*17] e.g., *Bender, supra, at 542; Valley Forge, supra, at 473–474.* As we said in *Allen, supra, at 752,* "the law of Art. III standing is built on a single basic idea—the idea of separation of powers." In the light of this overriding and time-honored concern about keeping the Judiciary's power within its proper constitutional sphere,[3] we must put aside the natural urge to proceed directly to the merits of this important dispute and to "settle" it for the sake of convenience and efficiency. Instead, we must carefully inquire as to whether appellees have met their burden of establishing that their claimed injury is personal, particularized, concrete, and otherwise judicially cognizable. [*18]

III

We have never had occasion to rule on the question of legislative standing, presented here.[4] In *Powell* v. *McCormack, 395 U.S. 486, 496, 512–514 (1969),* we held that a Member of Congress' constitutional challenge to his exclusion from the House of Representatives (and his consequent loss of salary) presented an Article III case or controversy. But Powell does not help appellees. First, appellees have not been singled out for specially unfavorable treatment as opposed to other Members of their respective bodies. Their claim is that the Act causes a type of institutional injury (the diminution of legislative power), which necessarily damages all Members of Congress and both Houses of Congress equally. See n. 7, infra. Second, appellees do not claim that they have been deprived of something to which they personally are entitled—such as their seats as Members of Congress after their constituents had elected them. Rather, appellees' claim of standing is based on a loss of political power, not loss of any private right, which would make the injury more concrete. Unlike the injury claimed by Congressman Adam Clayton Powell, the injury claimed by the Members [*19] of Congress here is not claimed in any private capacity but solely because they are members of Congress. See Complaint P14 (purporting to sue "in their official capacities"). If one of the Members were to retire tomorrow, he would no longer have a claim; the claim would be possessed by his successor instead. The claimed injury thus runs (in a sense) with the Member's seat, a seat which the Member holds (it may quite arguably be said) as trustee for his constituents, not as a prerogative of personal power. See the Federalist No. 62, p. 378 (J. Madison) (C. Rossiter ed. 1961) ("It is a misfortune incident to republican government, though in a less degree than to other governments, that those who administer it may forget their obligations to their constituents and prove unfaithful to their important trust"). [*20]

The one case in which we have upheld standing for legislators (albeit state legislators) claiming an institutional injury is *Coleman* v. *Miller, 307 U.S. 433 (1939).* Appellees, relying heavily on this case, claim that they, like the state legislators in Coleman, "have a plain, direct and adequate interest in maintaining the effectiveness of their votes," *id., at 438,* sufficient to establish standing. In Coleman, 20 of Kansas' 40 State Senators voted not to ratify the proposed "Child Labor Amendment" to the Federal Constitution. With the vote deadlocked 20–20, the amendment ordinarily would not have been ratified. However, the State's Lieutenant Governor, the presiding officer of the State Senate, cast a deciding vote in favor of the amendment, and it was deemed ratified (after the State House of Representatives voted to ratify it). The 20 State Senators who have voted against the amendment, joined by a 21st State Senator and three State House Members, filed an action in the Kansas Supreme Court seeking a writ of mandamus that would compel the appropriate state officials to recognize that the legislature had not in fact ratified the amendment. That court held [*21] that the members of the legislature had standing to bring their mandamus action, but ruled against them on the merits. See *id., at 436–437.*

This Court affirmed. By a vote of 5–4, we held that the members of the legislature had standing.[5] In explaining our holding, we repeatedly emphasized that if these legislators (who were suing as a bloc) were correct on the merits, then their votes not to ratify the amendment were deprived of all validity: [*22]

"Here, the plaintiffs include twenty senators, whose votes against ratification have been overridden and virtually held for naught although if they are right in their contentions their votes would have been sufficient to defeat ratification. We think that these senators have a plain, direct, and adequate interest in maintaining the effectiveness of their votes." *Id., at 438* (emphasis added).

"The twenty senators were not only qualified to vote on the question of ratification but their votes, if the Lieutenant governor were excluded as not being a part of the legislature for that purpose, would have been decisive in defeating the ratifying resolution." *Id., at 441* (emphasis added).

"We find no departure from principle in recognizing in the instant case that at least the twenty senators whose votes, if their contention were sustained, would have been sufficient to defeat the resolution ratifying the proposed constitutional amendment, have an interest in the controversy which, treated by the state court as a basis for entertaining and deciding the federal questions, is sufficient to give the Court jurisdiction to review that decision." [*23] *Id., at 446* (emphasis added).

It is obvious, then, that our holding in Coleman stands (at most, see n. 8, infra) for the proposition that legislators whose votes would have been sufficient to defeat (or enact) a specific legislative act have standing to sue if that legislative action goes into effect (or does not go into effect), on the ground that their votes have been completely nullified.[6]

It should be equally [*24] obvious that appellees' claim does not fall within our holding in Coleman, as thus understood. They have not alleged that they voted for a specific bill, that there were sufficient votes to pass the bill, and that the bill was nonetheless deemed defeated. In the vote on the Line Item Veto Act, their votes were given full effect. They simply lost that vote.[7] Nor can they allege that the Act will nullify their votes in the future in the same way that the votes of the Coleman legislators had been nullified. In the future, a majority of Senators and Congressmen can pass or reject appropriations bills; the Act has no effect on this process. In addition, a majority of Senators and Congressmen can vote to repeal the Act, or to exempt a given appropriations bill (or a given provision in an appropriations bill) from the Act; again, the Act has no effect on this process. Coleman thus provides little meaningful precedent for appellees' argument.[8] [*25]

Nevertheless, appellees rely heavily on our statement in Coleman that the Kansas senators had "a plan, direct, and adequate interest in maintaining the effectiveness of their votes." Appellees claim that this statement applies to them because their votes on future appropriations [*26] bills (assuming a majority of Congress does not decide to exempt those bills from the Act) will be less "effective" than before, and that the "meaning" and "integrity" of their vote has changed. Brief for Appellees 24, 28. The argument goes as follows. Before the Act, Members of Congress could be sure that then they voted for, and Congress passed, an appropriations bill that included funds for project X, one of two things would happen: (1) the bill would become law and all of the projects listed in the bill would go into effect, or (ii) the bill would not become law and none of the projects listed in the bill would go into effect. Either way, a vote for the appropriations bill meant a vote for a package of projects that were inextricably linked. After the Act, however, a vote for an appropriations bill that includes Project X means something different. Now, in addition to the two possibilities listed above, there is a third option: the bill will become law and then the President will "cancel" project X.[9] [*27]

Even taking appellees at their word about the change in the "meaning" and "effectiveness" of their vote for appropriations bills which are subject to the Act, we think their argument pulls Coleman too far from its moorings. Appellees' use of the word "effectiveness" to link their argument to Coleman stretches the word far beyond the sense in which the Coleman opinion used it. There is a vast difference between the level of vote nullification at issue in Coleman and the abstract dilution of institutional legislative power that is alleged here. To uphold standing here would require a drastic extension of Coleman. We are unwilling to take that step.

Not only do appellees lack support from precedent, but historical practice appears to cut against them as well. It is evident from several episodes in our history that in analogous confrontations between one or both Houses of Congress and the Executive Branch, no suit was brought on the basis of claimed injury to official authority or power. The Tenure of Office Act, passed by Congress and the Executive Branch, no suit was brought on the basis of claimed injury to official authority or power. The Tenure of Office Act, passed by Congress over the veto of President Andrew Johnson in 1867, was a thorn in the side of succeeding Presidents until it was finally repealed at the [*28] behest of President Grover Cleveland in 1887. See generally W. Rehnquist, Grand Inquests: The Historic Impeachments of Justice Samuel Chase and President Andrew Johnson 210–235, 260–268 (1992). It provided that an official whose appointment to an Executive Branch office required confirmation by the Senate could not be removed without the consent of the Senate. 14 Stat. 430, ch. 154. In 1868, Johnson removed his Secretary of War, Edwin M. Stanton. Within a week, the House of Representatives impeached Johnson. 1 Trial of Andrew Johnson, President of the

United States, Before the Senate of the United States on Impeachment by the House of Representatives for High Crimes and Misdemeanors 4 (1868). One of the principal charges against him was that his removal of Stanton violated the Tenure of Office Act. Id., at 6–8. At the conclusion of his trial before the Senate, Johnson was acquitted by one vote. 2 id., at 487, 496–498. Surely Johnson had a stronger claim of diminution of his official power as a result of the Tenure of Office Act than do the appellees in the present case. Indeed, if their claim were sustained, it would appear that President Johnson would have had standing to [*29] challenge the Tenure of Office Act before he ever thought about firing a cabinet member, simply on the grounds that it altered the calculus by which he would nominate someone to his cabinet. Yet if the federal courts had entertained an action to adjudicate the constitutionality of the Tenure of Office Act immediately after its passage in 1867, they would have been improperly and unnecessarily plunged into the bitter political battle being waged between the President and Congress.

Succeeding Presidents—Ulysses S. Grant and Grover Cleveland—urged Congress to repeal the Tenure of Office Act, and Cleveland's plea was finally heeded in 1887. 24 Stat. 500, ch. 353. It occurred to neither of these Presidents that they might challenge the Act in an Article III court. Eventually, in a suite brought by a plaintiff with traditional Article III standing, this Court did have the opportunity to pass on the constitutionality of the provision contained in the Tenure of Office Act. A sort of mini-Tenure of Office Act covering only the Post Office Department had been enacted in 1872, 17 Stat. 284, ch. 335, §2, and it remained on the books after the Tenure of Office Act's repeal in 1887. In the last [*30] days of the Woodrow Wilson administration, Albert Burleson, Wilson's Postmaster General, came to believe that Frank Myers, the Postmaster in Portland, Oregon, had committed fraud in the course of his official duties. When Myers refused to resign, Burleson, acting at the direction of the President, removed him. Myers sued in the Court of Claims to recover lost salary. In *Myers v. United States, 272 U.S. 52 (1926)*, more than half a century after Johnson's impeachment, this Court held that Congress could not require senatorial consent to the removal of a Postmaster who had been appointed by the President with the consent of the Senate. *Id., at 106–107, 173, 176.* In the course of its opinion, the Court expressed the view that the original Tenure of Office Act was unconstitutional. Id., at 176. See also id., at 173 ("This Court has, since the Tenure of Office Act, manifested an earnest desire to avoid a final settlement of the question until it should be inevitably presented, as it is here").

If the appellees in the present case have standing, presumably President Wilson, or Presidents Grant and Cleveland before him, would likewise have had standing, and could have [*31] challenged the law preventing the removal of a presidential appointee without the consent of Congress. Similarly, in *INS v. Chadha, 462 U.S. 919 (1983)*, the Attorney General would have had standing to challenge the one-House veto provision because it rendered his authority provisional rather than final. By parity of reasoning, President Gerald Ford could have sued to challenge the appointment provisions of the Federal Election Campaign Act which were struck down in *Buckley v. Valeo, 424 U.S. 1 (1976)*, and a Member of Congress could have challenged the validity of President Coolidge's pocket veto that was sustained in *The Pocket Veto Case, 279 U.S. 655 (1929)*.

There would be nothing irrational about a system which granted standing in these cases; some European constitutional courts operate under one or another variant of such a regime. See, e.g., Favoreu, Constitutional Review in Europe, in Constitutionalism and Rights 38, 41 (L. Henkin & A. Rosenthal eds. 1990); Wright Sheive, Central and Eastern European Constitutional Courts and the Antimajoritarian Objection to Judicial Review, 26 Law & Pol'y Int'l Bus. 1201, 1209 (1995); A. Stone, The Birth of Judicial [*32] Politics in France 232 (1992); D. Kommers, Judicial Politics in West Germany: A Study of the Federal Constitutional Court 106 (1976). But it is obviously not the regime that has obtained under our Constitution to date. Our regime contemplates a more restricted role for Article III courts, well expressed by Justice Powell in his concurring opinion in *United States v. Richardson, 418 U.S. 166 (1974)*:

"The irreplaceable value of the power articulated by Mr. Chief Justice Marshall [in *Marbury v. Madison, 1 Cranch 137 (1803)*] lies in the protection it has afforded the constitutional rights and liberties of individual citizens and minority groups against oppressive or discriminatory government action. It is this role, not some amorphous general supervision of the operations of government, that has maintained public esteem for the federal courts and has permitted the peaceful coexistence of the countermajoritarian implications of judicial review and the democratic principles upon which our Federal Government in the final analysis rests." *Id. at 192.*

IV

In sum, appellees have alleged no injury to themselves as individuals (contra Powell), the institutional [*33] injury they allege is wholly abstract and widely dispersed (contra Coleman), and their attempt to litigate this dispute at this time and in this form is contrary to historical experience. We attach some importance to the fact that appellees have not been authorized to represent their respective Houses of Congress in this action, and indeed both Houses actively oppose their suit.[10] See note 2, supra. We also note that our conclusion neither deprives Members of Congress of an adequate remedy (since they may repeal the Act or exempt appropriations bills from its reach), nor forecloses the Act from constitutional challenge (by someone who suffers judicially cognizable injury as a result of the Act). Whether the case would be different if any of these circumstances were different we need not now decide. [*34]

We therefore hold that these individual members of Congress do not have a sufficient "personal stake" in this dispute and have not alleged a sufficiently concrete injury to have established Article III standing.[11] The judgment of the District Court is vacated, and the case is remanded with instructions to dismiss the complaint for lack of jurisdiction.

It is so ordered.

Concur by: Souter

Concur: [*35]

Justice Souter, concurring in the judgment, with whom Justice Ginsburg joins, concurring.

Appellees claim that the Line Item Veto Act, Pub. L. 104–130, 110 Stat. 1200, codified at 2 *U.S.C. A. §691* et seq. (Supp. 1997), is unconstitutional because it grants the President power, which Article I vests in Congress, to repeal a provision of federal law. As Justice Stevens points out, appellees essentially claim that, by granting the President power to repeal statutes, the Act injures them by depriving them of their official role in voting on the provisions that become law. See post, at 2–3. Under our precedents, it is fairly debatable whether this injury is sufficiently "personal" and "concrete" to satisfy the requirements of Article III.[12]

There is, first, difficulty in applying the rule that an injury [*36] on which standing is predicated be personal, not official. If our standing doctrine recognized this as a distinction with a dispositive effect, the injury claimed would not qualify: the Court is certainly right in concluding that appellees sue not in personal capacities, but as holders of seats in the Congress. See ante, at 9. And yet the significance of this distinction is not so straightforward. In *Braxton County Court* v. *West Virginia ex rel. State Tax Comm'rs, 208 U.S. (1908)*, it is true, we dismissed a challenge by a county court to a state tax law for lack of jurisdiction, broadly stating that "'the interest of a [party seeking relief] in this court should be a personal and not an official interest,'" *id., at 198* (quoting *Smith* v. *Indiana, 191 U.S. 138, 149 (1903); accord, Joint Anti-Fascist Refugee Comm.* v. *McGrath, 341 U.S. 123, 151 (1951)* (Frankfurter, J., concurring). But the Court found Braxton County "inapplicable" to a challenge by a group of state legislators in *Coleman* v. *Miller, 307 U.S. 433, 438, and n. 3 (1939)*, and found the legislators had standing even though they claimed no injury but a deprivation of official [*37] voting power, *id., at 437–446.*[13] Thus, it is at least arguable that the official nature of the harm here does not preclude standing. [*38]

Nor is appellees' injury so general that, under our case law, they clearly cannot satisfy the requirement of concreteness. On the one hand, appellees are not simply claiming harm to their interest in having government abide by the Constitution, which would be shard to the same extent by the public at large and thus provide no basis for suit, see, e.g., *Valley Forge Christian College v. Americans United for Separation of Church and State, Inc., 454 U.S. 464, 482–483 (1982); Schlesinger v. Reservists Comm. to Stop the War, 418 U.S. 208, 217, 220 (1974); Fairchild v. Hughes, 258 U.S. 126, 129–130 (1922)*. Instead, appellees allege that the Act deprives them of an element of their legislative power; as a factual matter they have a more direct and tangible interest in the preservation of that power than the general citizenry has. Cf. *Coleman, supra, at 438* (concluding that state legislators had a "plain" and "direct" interest in the effectiveness of their votes); see also *Hendrick v. Walters, 865 P. 2d 1232, 1236–1238 (Okla. 1993)* Concluding that a legislator had a personal interest in a suit to determine whether the Governor had lawfully assumed [*39] office due to substantial interaction between the Governor and legislature); *Colorado General Assembly v. Lamm, 704 P. 2d 1371, 1376–1378 (Colo. 1985)* (concluding that the legislature had suffered an injury in fact as a result of the Governor's exercise of his line item veto power). On the other hand, the alleged, continuing deprivation of federal legislative power is not as specific or limited as the nullification of the decisive votes of a group of legislators in connection with a specific item of legislative consideration in Coleman, being instead shared by all the members of the official class who could suffer that injury, the Members of Congress.[14] [*40]

Because it is fairly debatable whether appellees' injury is sufficiently personal and concrete to give them standing, it behooves us to resolve the question under more general separation-of-powers principles underlying our standing requirements. See *Allen* *v.Wright, 468 U.S. 737, 752 (1984); United States v. Richardson, 418 U.S. 166, 188–197 (1974)* (Powell, J., concurring). While "our constitutional structure [does not] require . . . that the Judicial Branch shrink from a confrontation with the other two coequal branches, "*Valley Forge Christian College, supra, at 474,* we have cautioned that respect for the separation of powers requires the Judicial Branch to exercise restraint in deciding constitutional issues by resolving those implicating the powers of the three branches of Government as a "last resort," see ibid. The counsel of restraint in this case begins with the fact that a dispute involving only officials, and the official interests of those, who serve in the branches of the National Government lies far from the model of the traditional common-law cause of action at the conceptual core of the case-or-controversy requirement, see Joint Anti-Fascist [*41] *Refugee Comm., supra, at 150, 152* (Frankfurter, J., concurring). although the contest here is not formally between the political branches (since Congress passed the bill augmenting Presidential power and the President signed it), it is in substance an inter-branch controversy about calibrating the legislative and executive powers, as well as an intrabranch dispute between segments of Congress itself. Intervention in such a controversy would risk damaging the public confidence that is vital to the functioning of the Judicial Branch, cf. *Valleg Forge Christian College, supra, at 474* (quoting *Richardson, supra, at 188* (Powell, J., concurring)), by embroiling the federal courts in a power contest nearly at the height of its political tension.

While it is true that a suit challenging the constitutionality of this Act brought by a party from outside the Federal Government would also involve the Court in resolving the dispute over the allocation of power between the political branches, it would expose the Judicial Branch to a lesser risk. Deciding a suit to vindicate an interest outside the Government raises no specter of judicial readiness to enlist on one side of a political tug-of-war, [*42] since "the propriety of such action by a federal court has been recognized since *Marbury v. Madison, 1 Cranch 137 (1803)." Valley Forge Christian College, supra, at 473–474.* And just as the presence of a party beyond the Government places the Judiciary at some remove form the political forces, the need to await injury to such a plaintiff allows the courts some greater separation in the time between the political resolution and the judicial review.

"By connecting the censureship of the laws with the private interests of members of the community, . . . the legislation is protected from wanton assailants, and from the daily aggressions of party-spirit." 1 A. de Tocqueville, Democracy in America 105 (Schoken ed. 1961).

The virtue of waiting for a private suit is only confirmed by the certainty that another suit can come to us. The parties agree, and I see no reason to question, that if the President "cancels" a conventional spending or tax provision pursuant to the Act, the putative beneficiaries of that provision will likely suffer a cognizable injury and thereby have standing under Article III. See Brief for United States 19–20, and n. 10; Brief for Appellees 32–33. [*43] By depriving beneficiaries of the money to which they would otherwise be entitled, a cancellation would produce an injury that is "actual," "personal and individual," and involve harm to a "legally protected interest," *Lujan v. Defenders of Wildlife, 504 U.S. 555, 560, and n. 1 (1992)* (internal quotation marks omitted); assuming the canceled provision would not apply equally to the entire public, the injury would be "concrete," *id., at 560, 573–574;* and it would be "fairly traceable to the challenged action of the" executive officials involved in the cancellation, *id., at 560* (internal quotation marks omitted), as well as probably "redressable by a favorable decision," *id., at 561* (internal quotation marks and citation omitted). See, e.g., *Train v. City of New York, 420 U.S. 35, 40 (1975)* (suit by City of New York seeking proper allotment of federal funds). While the Court has declined to lower standing requirements simply because no one would otherwise be able to litigate a claim, see *Valley Forge Christian College, 454 U.S. at 489; Schlesinger, 418 U.S., at 227; United States v. Richardson, supra, at 179,* the certainty of a plaintiff [*44] who obviously would have standing to bring a suit to court after the politics had at least subsided from a full boil is a good reason to resolve doubts about standing against the plaintiff invoking an official interest, cf. *Joint Anti-Fascist Refugee Comm., 341 U.S., at 153–154* (Frankfurter, Jr., concurring) (explaining that the availability of another person to bring suit may affect the standing calculus).

I therefore conclude that appellees' alleged injuries are insufficiently personal and concrete to satisfy Article III standing requirements of personal and concrete harm. Since this would be so in any suit under the conditions here, I accordingly find no cognizable injury to appellees.

Dissent by: Stevens; Breyer

Dissent: Justice Stevens, dissenting.

The Line Item Veto Act purports to establish a procedure for the creation of laws that are truncated versions of bills that have been passed by the Congress and presented to the President for signature. If the procedure were valid, it would deny every Senator and every Representative any opportunity to vote for or against the truncated measure that survives the exercise of the President's cancellation authority. Because the opportunity to [*45] cast such votes is a right guaranteed by the text of the Constitution, I think it clear that the persons who are deprived of that right by the Act have standing to challenge its constitutionality. Moreover, because the impairment of that constitutional right has an immediate impact on their official powers, in my judgment they need not wait until after the President has exercised his cancellation authority to bring suit. Finally, the same reason that the respondents have standing provides a sufficient basis for concluding that the statute is unconstitutional.

Article I, §7, of the Constitution provides that every Senator and every Representative has the power to vote on "Every Bill . . . before it become a law" either as a result of its having been signed by the president or as a result of its "Reconsideration" in the light of the President's "Objections."[15] In contrast, the Line Item Veto Act establishes a mechanism by which bills passed by both Houses of Congress will eventually produce laws that have not passed either House of Congress and that have not been voted on by any Senator or Representative.

"Every Bill which shall have passed the House of Representatives and the Senate, shall, before it become a law, be presented to the President of the United States: If he approve he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it. If after such Reconsideration two thirds of that House shall agree to pass the Bill, it shall be sent, together with the Objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a Law. But in all such cases the Votes of both Houses shall be determined by Yeas and Nays, and the Names of the Persons voting for and against the Bill shall be entered on the Journal of each House respectively. If any Bill shall not be returned by the President within ten Days (Sundays excepted) after it shall have been presented to him, the Same shall be a Law, in like Manner as if he had signed it, unless the Congress by their Adjournment prevent its Return, in which Case it shall not be a Law." U.S. Const., Art. I, §7. [*46]

Assuming for the moment that this procedure is constitutionally permissible, and that the President will from time to time exercise the power to cancel portions of a just-enacted law, it follows that the statute deprives every Senator and every Representative of the right to vote for or against measures that may become law. The appellees cast their challenge to the constitutionality of the Act in a slightly different way. Their complaint asserted that the Act "alters the legal and practical effect of all votes they may cast on bills containing such separately vetoable items" and "divest them of their constitutional role in the repeal of legislation." Complaint P 14. These two claimed injuries are at base the same as the injury on which I rest my analysis. The reason the complaint frames the issues in the way that it does is related to the Act's technical operation. Under the Act, the President would receive and sign a bill exactly as it passed both Houses, and would exercise his partial veto power only after the law had been enacted. See *2 U.S.C.A. §691*(a) (Supp. 1997). The appellees thus articulated their claim as a combination of the diminished effect of their initial [*47] vote and the circumvention of their right to participate in the subsequent repeal. Whether one looks at the claim from this perspective, or as a simple denial of their right to vote on the precise text that will ultimately become law, the basic nature of the injury caused by the Act is the same.

In my judgment, the deprivation of this right—essential to the legislator's office—constitutes a sufficient injury to provide every Member of Congress with standing to challenge the constitutionality of the statue. If the dilution of any individual voter's power to elect representatives provides that voter with standing—as it surely does, see, e.g., *Baker* v. *Carr, 369 U.S. 186, 204–208 (1962)*—the deprivation of the right possessed by each Senator and Representative to vote for or against the precise text of any bill before it becomes law must also be a sufficient injury to create Article III standing for them.[16] Although, as Justice Breyer demonstrates, see ante at 2–5 (dissenting opinion), the majority's attempt to distinguish *Coleman* v. *Miller, 307 U.S. 433, 438 (1939),* is not persuasive, I need not rely on that case to support my view that the Members of Congress [*48] have standing to sue in this instance. In Coleman, the legislators complained that their votes were denied full effectiveness. See Ibid.; see also *Dyer* v. *Blair, 390 F. Supp. 1291, 1297, n.12 (ND Ill. 1975).* But the law at issue here does not simply alter the effect of the legislators votes; it denies them any opportunity at all to cast votes for or against the truncated versions of the bills presented to the President.[17] [*49]

Moreover, the appellees convincingly explain how the immediate, constant threat of the partial veto power has a palpable effect on their current legislative choices. See Brief for Appellees 23–25, 29–31. Because the Act has this immediate and important impact on the powers of Members of Congress, and on the manner in which they undertake their legislative responsibilities, they need not await an exercise of the President's cancellation authority to institute the litigation that the statute itself authorizes. See *2 U.S. C.A. §692*(a)(1) (Supp. 1997).

Given the fact that the authority at stake is granted by the plain and unambiguous text of Article I, it is equally clear to me that the statutory attempt to eliminate it is invalid.

Accordingly, I would affirm the judgment of the District Court.

Justice Breyer, dissenting.

As the majority points out, Congress has enacted a specific statute (signed by the President) granting the plaintiffs authority to bring this case. Ante, at 3, citing *2 U.S.C. §692*(a)(1). That statutory authorization "eliminates any prudential standing limitations and significantly lessens the risk of unwanted conflict with the Legislative Branch." [*50] Ante, at 8, n. 3. Congress, however, cannot grant the federal courts more power than the Constitution itself authorizes us to exercise. Cf. *Hayburn's Case, 2 Dall. 409 (1792).* Thus, we can proceed to the merits only if the "judicial Power" of the United States—"extending to . . . Cases, in Law and Equity" and to "Controversies"—covers the dispute before us. U.S. Const., Art. III, §2.

I concede that there would be no case or controversy here were the dispute before us not truly adversary, or were it not concrete and focused. But the interests that the parties assert are genuine and opposing, and the parties are therefore truly adverse. Compare *Chicago & Grand Trunk R. Co. v. Wellman, 143 U.S. 339 (1892).* Moreover, as Justice Stevens points out, the harm that the plaintiffs suffer (on their view of the law) consists in part of the systematic abandonment of laws for which a majority voted, in part of the creation of other laws in violation of procedural rights which (they say) the Constitution provides them, and in part of the consequent and immediate impediment to their ability to do the job that the Constitution requires them to do. See ante, at 1–2, 4 (Stevens, [*51] J., dissenting); Complaint P14; App. 34–36, 39–40, 42–46, 54–55, 57–59, 62–64. Since federal courts might well adjudicate cases involving comparable harms in other contexts (such as purely private contexts), the harm at issue is sufficiently concrete, Cf., e.g., Bennett v. Spear, 520 U.S. , (1997) (slip op. at 11–19); *Northeastern Fla. Chapter, Associated Gen. Contractors of America v. Jacksonville, 508 U.S. 656 (1993).* See also ante, at 2–3, (Souter, J., concurring in judgment). The harm is focused and the accompanying legal issues are both focused and of the sort that this Court is used to deciding. See, e.g., *United States v. Munoz-Flores, 495 U.S. 385, 392–396 (1990).* The plaintiffs therefore do not ask the Court "to pass upon" an "abstract, intellectual problem," but to determine "a concrete, living contest between" genuine "adversaries." *Coleman v. Miller, 307 U.S. 433, 460 (1939)* (Frankfurter, J., dissenting).

Nonetheless, there remains a serious constitutional difficulty due to the fact that this dispute about lawmaking procedures arises between government officials and is brought by legislators. The critical question is [*52] whether or not this dispute, for that reason, is so different in form from those "matters that were the traditional concern of the courts at Westminster" that it falls outside the scope of Article III's judicial power. Ibid. Justice Frankfurter explained this argument in his dissent in Coleman, saying that courts traditionally "leave intra-parliamentary controversies to parliaments and outside the scrutiny of law courts. The procedures for voting in legislative assemblies—who are members, how and when they should vote, what is the requisite number of votes for different phases of legislative activity, what votes were cast and how they were counted—surely are matters that not merely concern political action, but are of the very essence of political action, if 'political' has any connotation at all. . . . In no sense are they matters of 'private damage.' They pertain to legislators not as individuals but as political representatives executing the legislative process. To open the law courts to such controversies is to have courts sit in judgment on the manifold disputes engendered by procedures for voting in legislative assemblies." *Id., at 469–470.*

Justice Frankfurter [*53] dissented because, in his view, the "political" nature of the case, which involved legislators, placed the dispute outside the scope of Article III's "case" or "controversy" requirement. Nonetheless, the Coleman court rejected his argument.

Although the majority today attempts to distinguish Coleman, ante, at 9–14, I do not believe that Justice Frankfurter's argument or variations on its theme can carry the day here. First, as previously mentioned, the jurisdictional statute before us eliminates all but constitutional considerations, and the circumstances mentioned above remove all but the "political" or intragovernmental" aspect of the constitutional issue. Supra, at 1–2.

Second, the Constitution does not draw an absolute line between disputes involving a "personal" harm and those involving an "official" harm. Cf. ante, at 6, 9. See ante, at 2, n. 2 (Souter, J., concurring in judgment). Justice Frankfurter himself said that this Court had heard cases involving injuries suffered by state officials in their official capacities. *Coleman, supra, at 466* (citing *Blodgett v. Silberman, 277 U.S. 1 (1928).* and *Boynton v. Hutchinson, 291 U.S. [*54] 656*, cert. dism'd on other grounds, *292 U.S. 601 (1934)).* See also, e.g., *Will v. Calvert Fire Ins. Co., 437 U.S. 655, 661 (1978)* (federal district judge appealing mandamus issued against him in respect to a docket-keeping matter); *Board of Ed. of Central School Dist. No. 1 v. Allen, 392 U.S. 236, 241, n. 5 (1968)* (indicating that school board has standing where members must either violate oath or risk loss of school funds and expulsion from office). Coleman itself involved injuries in the plaintiff legislators' official capacity. And the majority in this case, suggesting that legislators might have standing to complain of rules that "denied" them "their vote . . . in a discriminatory manner," concedes at least the possibility that any constitutional rule distinguishing "official" from "personal" injury is not absolute. Ante, at 12, n. 7. See also ante, at 9.

Third, Justice Frankfurter's views were dissenting views, and the dispute before us, when compared to Coleman, presents a much stronger claim, not a weaker claim, for constitutional justiciability. The lawmakers in Coleman complained of a lawmaking procedure that, at worst, improperly [*55] counted Kansas as having ratified one proposed constitutional amendment, which had been ratified by only 5 other States, and rejected by 26, making it unlikely that it would ever become law. *Coleman, supra, at 436.* The lawmakers in this case complain of a lawmaking procedure that threatens the validity of many laws (for example, all appropriations laws) that Congress regularly and frequently enacts. The systematic nature of the harm immediately affects the legislators ability to do their jobs. The harms here are more serious, more pervasive, and more immediate than the harm at issue in Coleman. Cf. *Valley Forge Christian College v. Americans United For Separation of Church and State, Inc., 454 U.S. 464, 471 (1982),* quoting *Chicago & Grand Trunk R. Co. v. Wellman, 143 U.S., at 345* (judicial power " 'is legitimate only in the last resort, and as a necessity in the determination of a real, earnest and vital controversy' ").

The majority finds a difference in the fact that the validity of the legislators' votes was directly at issue in Coleman.

"Our holding in Coleman stands . . . for the proposition that legislators whose votes would have been sufficient [*56] to defeat (or enact) a specific legislative act have standing to sue if that legislative action goes into effect (or does not go into effect), on the ground that their votes have been completely nullified." Ante, at 11.

But since many of the present plaintiffs will likely vote in the majority for at least some appropriations bills that are then subject to presidential cancellation, I think that—on their view of the law—their votes are threatened with nullification too. Cf. ante, at 11–12, n. 6, 13–14.

The majority also suggests various distinctions arising out of the fact that Coleman involved a state legislature, rather than the federal Congress. Ante, at 13, n. 8. See also ante, at 3, n. 3 (Souter, J., concurring in judgment). But Justice Frankfurter treated comparable arguments as irrelevant, and the Coleman majority did not disagree. *Coleman, 307 U.S., at 462, 465–466 and n. 6* (Frankfurter, J., dissenting); *id., at 446.* While I recognize the existence of potential differences between state and federal legislators, I do not believe that those differences would be determinative here, where constitutional, not prudential, considerations are [*57] at issue, particularly given the Constitution's somewhat comparable concerns for state authority and the presence here of a federal statute (signed by the President) specifically authorizing this lawsuit. Compare ante, at 4–5 (Souter, J., concurring in judgment). And in light of the immediacy of the harm, I do not think that the possibility of a later challenge by a private plaintiff, see ante, at 5–6 (Souter, J., concurring in judgment), could be constitutionally determinative. Finally, I do not believe that the majority's historical examples primarily involving the Executive Branch and involving lawsuits that were not brought, ante, at 14–17, are legally determinative. See ante, at 4, n. 3 (Stevens, J., dissenting).

In sum, I do not believe that the Court can find this case nonjusticiable without overruling Coleman. Since it does not do so, I need not decide whether the systematic nature, seriousness, and immediacy of the harm would make this dispute constitutionally justiciable even in Coleman's absence. Rather, I can and would find this case justiciable on Coleman's authority. I add that because the majority has decided that this dispute is not [*58] now justiciable and has expressed no view on the merits of the appeal, I shall not discuss the merits either, but reserve them for future argument.

NOTES

[1] Three of the Senators—Robert Byrd, Carl Levin, and Daniel Patrick Moynihan—are still Senators. The fourth—Mark Hatfield—retired at the end of the 104th Congress. The two Congressmen—David Skaggs and Henry Waxman—remain Congressmen.

[2] The House Bipartisan Legal Advisory Group (made up of the Speaker, the Majority Leader, the Minority Leader, and the two Whips) and the Senate filed a joint brief as amici curiae urging that the District Court be reversed on the merits. Their brief states that they express no position as to appellees' standing.

[3] It is settled that Congress cannot erase Article III's standing requirements by statutorily granting the right to sue to a plaintiff who would not otherwise have standing. *Gladstone, Realtors v. Village of Bellwood, 441 U.S. 91, 100 (1979).* We acknowledge, though, that Congress' decision to grant a particular plaintiff the right to challenge an act's constitutionality (as here, see §692(a)(1), supra, at 3) eliminates any prudential standing limitations and significantly lessens the risk of unwanted conflict with the Legislative Branch when that plaintiff brings suit. See, e.g., Bennett v. Spear, 520 U.S. ___ (1997) (slip op., at 9–10).

[4] Over strong dissent, the Court of Appeals for the District of Columbia Circuit has held that Members of Congress may have standing when (as here) they assert injury to their institutional power as legislators. See, e.g., *Kennedy v. Sampson, 511 F. 2d 430, 435–436 (CADC 1974); Moore v. United States House of Representatives, 733 F. 2d 946, 951 (CADC 1984); id., at 956* (Scalia, J., concurring in result); *Barnes v. Kline, 759 F. 2d 21, 28–29 (CADC 1985); id., at 41* (Bork, J., dissenting). But see *Holtzman v. Schlesinger, 484 F. 2d 1307, 1315 (CA2 1973)* (Member of Congress has no standing to challenge constitutionality of American military operations in Vietnam war); *Harrington v. Schlesinger, 528 F. 2d 455, 459 (CA4 1975)* (same).

[5] Chief Justice Hughes wrote an opinion styled "the opinion of the Court." *Coleman, 307 U.S., at 435.* Four Justices concurred in the judgment, partially on the ground that the legislators lacked standing. See *id., at 456–457* (opinion of Black, J., joined by Roberts, Frankfurter, and Douglas, JJ.); *id., at 460* (opinion of Frankfurter, J., joined by Roberts, Black, and Douglas, JJ.). Two justices dissented on the merits. *See id., at 470* (opinion of Butler, J., joined by McReynolds, J.). Thus, even though there were only two justices who joined Chief Justice Hughes's opinion on the merits, it is apparent that the two dissenting Justices joined his opinion as to the standing discussion. Otherwise, Justice Frankfurter's opinion denying standing would have been the controlling opinion.

[6] See also *Bender v. Williamsport Area School Dist., 475 U.S. 534, 544-545, n. 7 (1986)* (in dicta, suggesting hypothetically that if state law authorized a school board to take action only by unanimous consent, if a school board member voted against a particular action, and if the board nonetheless took the action, the board member "might claim that he was legally entitled to protect 'the effectiveness of [his] vote,' Coleman[, *307 U.S., at 438,]* . . .but in that event [he] would have to allege that his vote was diluted or rendered nugatory under state law").

[7] Just as appellees cannot show that their vote was denied or nullified as in Coleman (in the sense that a bill they voted for would have become law if their vote had not been stripped of its validity), so are they unable to show that their vote was denied or nullified in a discriminatory manner (in the sense that their vote was denied its full validity in relation to the votes of their colleagues). Thus, the various hypotheticals offered by appellees in their briefs and discussed during oral argument have no applicability to this case. See Reply Brief for Appellees 6 (positing hypothetical law in which "first-term Members were not allowed to vote on appropriations bills," or in which "every Member was disqualified on grounds of partiality from voting on major federal projects in his or her own district"); Tr. of Oral Arg. 17 ("Question: But [Congress] might have passed a statute that said the Senator from Iowa on hog-farming matters should have only half-a-vote. Would they have standing to challenge that?").

[8] Since we hold that Coleman may be distinguished from the instant case on this ground, we need not decide whether Coleman may also be distinguished in other ways. For instance, appellants have argued that Coleman has no applicability to a similar suit brought in federal court, since that decision depended on the fact that the Kansas Supreme Court "treated" the senators' interest in their votes "as a basis for entertaining and deciding the federal questions." *307 U.S., at 446.* They have also argued that Coleman has no applicability to a similar suit brought by federal legislators, since the separation-of-powers concerns present in such a suit were not present in Coleman, and since any federalism concerns were eliminated by the Kansas Supreme Court's decision to take jurisdiction over the case.

[9] Although Congress could reinstate Project X through a "disapproval bill," it would assumedly take two-thirds of both Houses to do so, since the President could be expected to veto the Project X "disapproval bill." But see Robinson, Public Choice Speculations on the Item Veto, *74 Va. L. Rev. 403, 411-412 (1988)* (political costs that President would suffer in important congressional districts might limit use of line-item veto).

[10] Cf. *Bender, 475 U.S., at 544* ("Generally speaking, members of collegial bodies do not have standing to perfect an appeal the body itself has declined to take"); *United States v. Ballin, 144 U.S. 1, 7 (1892)* ("The two houses of Congress are legislative bodies representing larger constituencies. Power is not vested in any one individual, but in the aggregate of the members who compose the body, and its action is not the action of any separate member or number of members, but the action of the body as a whole").

[11] In addition, it is far from clear that this injury is "fairly traceable" to appellants, as our precedents require, since the alleged cause of appellees's injury is not appellants' exercise of legislative power but the actions of their own colleagues in Congress in passing the Act. Cf. *Holtzman v. Schlesinger, 484 F. 2d 1307, 1315 (CA2 1973)* ("Representative Holtzman . . . has not been denied any right to vote on [the war in Cambodia] by any action of the defendants [Executive Branch officials]. . . . The fact that her vote was ineffective was due to the contrary votes of her colleagues and not the defendants herein").

[12] While Congress may, by authorizing suit for particular parties, remove any prudential standing barriers, as it has in this case, see, ante, at 8, n. 3, it may not reduce the Article III minimums.

[13] As appellants note, it is also possible that the impairment of certain official powers may support standing for Congress, or one House thereof, to seek the aid of the Federal Judiciary. See Brief for United States 26, n. 14 (citing *McGrain* v. *Daugherty, 273 U.S. 135, 174 (1927)).* And, as appellants concede, see Brief for United States 20–21, 25–28, an injury to official authority may support standing for a government itself or its duly authorized agents, see, e.g., *Diamond* v. *Charles, 476 U.S. 54, 62 (1986)* (noting that "a State has standing to defend the constitutionality of its statute" in federal court); *ICC* V. *Oregon-Washington R. & Nav. Co., 288 U.S. 14, 25–27 (1933)* (explaining that a federal agency had standing to appeal. because an official or an agency could be designated to defend the interests of the Federal Government in federal court); *Coleman* v. *Miller, 307 U.S. 433, 441–445 (1939)* (discussing cases).

[14] As the Court explains, Coleman may well be distinguishable on the further ground that it involved a suit by state legislators that did not implicate either the separation-of-powers concerns raised in this case or corresponding federalism concerns (since the Kansas Supreme Court had exercised jurisdiction to decide a federal issue). See ante, at 13, n. 8.

[15] The full text of the relevant paragraph of §7 provides:

"Every Bill which shall have passed the House of Representatives and the Senate, shall, before it becomes a law, be presented to the President of the United States: If he approves he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it. If after such Reconsideration two thirds of that House shall agree to pass the Bill, it shall be sent, together with the Objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a Law. But in all such Cases the Votes of both Houses shall be determined by Yeas and Nays, and the Names of the Persons voting for and against the Bill shall be entered on the Journal of each House respectively. If any Bill shall not be returned by the President within ten Days (Sundays excepted) after it shall have been presented to him, the Same shall be a Law, in Like Manner as if he had signed it, unless the Congress by their Adjournment prevent its Return, in which Case it shall not be a Law." U.S. Const., Art. I, §7.

[16] The respondents' assertion of their right to vote on legislation is not simply generalized interest in the proper administration of government, cf. *Allen v. Wright, 468 U.S. 737, 754 (1984)*, and the legislators' personal interest in the ability to exercise their constitutionally ensured power to vote on laws is certainly distinct from the interest that an individual citizen challenging the Act might assert.

[17] The majority's reference to the absence of any similar suit in earlier disputes between Congress and the President, see ante, at 14–17, does not strike me as particularly relevant. First, the fact that others did not choose to bring suit does not necessarily mean the Constitution would have precluded them from doing so. Second, because Congress did not authorize declaratory judgment actions until the Federal Declaratory Judgment Act of 1934, 48 Stat. 955, the fact that President Johnson did not bring such an action in 1868 is not entirely surprising.

TAXPAYER RELIEF ACT OF 1997

The SPEAKER pro tempore (Mr. ROGAN). Pursuant to House Resolution 174 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2014.

□ 1155

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2014) to provide for reconciliation pursuant to subsections (b)(2) and (d) of section 105 of the concurrent resolution on the budget for fiscal year 1998, with Mr. GOODLATTE in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Texas [Mr. ARCHER] and the gentleman from New York [Mr. RANGEL] each will control 90 minutes.

The Chair recognizes the gentleman from Texas [Mr. ARCHER].

Mr. ARCHER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, it has been 16 years since the American people have received tax relief, 16 years. While taxes have not gone down for such a long time, they surely have gone up over and over again. For too many years, the Government has failed to listen to those who sent us here. For too many years, taxes went up, spending went up, and the size and power of Washington Government went up.

But in the last 2½ years, since the American people elected a new Congress, I am proud to say that the era of big government is over and the era of big taxes is over. With the vote that we cast today, we will tell the American people that we have heard their message. It is time for Washington to tax less, so that the American people can do more.

This plan provides tax relief for life. It lets people keep more of the money that they make so that they can spend it or save it as they see fit. This plan will be a helping hand from the childhood years to the education years, from the saving years to the retirement years.

It offers a $500 per child tax credit, including teenagers. It provides educational tax relief so parents can send their children to college. It creates incentives for people to work hard and save by reducing the capital gains tax rate, and by expanding the individual retirement accounts. It even provides long overdue relief from the death tax.

This plan is dedicated to America's forgotten middle-income taxpayers. Fully 76 percent of the tax relief in this plan goes to people with incomes between $20,000 and $75,000 a year.

When it comes to taxes, my philosophy is simple. We must cut taxes because tax money does not belong to the government; it belongs to the middle-income workers of America who earned it, who made it and who are entitled to spend it in the way that they want to spend it. People in Washington, I think, sometimes forget that, but I never will.

Yesterday a young couple working in Manassas, VA, came to Washington. They are middle income. The husband and wife both have to work in order to make ends meet. They are the backbone of this country. With two children, I told them yesterday and I repeat it today, tax relief is dedicated to them. A working mom and dad, they get up every morning, go to work, play by the rules and try every day to make ends meet. Because they are middle income, they should not lose this credit as they do on the suggested Democrat substitute.

□ 1200

Even with a strong economy they know how tough it can be to get by, especially with teenage children. They both have to work so they can live the American dream.

Some Democrats in Washington consider them rich and want to take the $500-per-child credit away, but we will not let that happen. Like millions of other middle-income Americans they need and deserve tax relief, and that is what the vote today is all about.

Today's vote is about providing tax relief to the people who pay taxes. We are not only providing tax relief to the couple I mentioned, Debbie and Phil Spindle, we are cutting wasteful Washington spending so we can balance the budget for their children, James and Philip, and for the grandchildren one day they will have.

Remember, my colleagues, balancing the budget and providing tax relief are not matters of accounting; they are issues involving our values, our sense of right and wrong, how to be helpful and how to make the government work for a change. In the end what we are doing is downsizing the power and the scope of Washington, DC, and upsizing the power, responsibilities, and opportunities of the American people.

So in closing I dedicate this vote to Debbie and Phil Spindle of Manassas and to the millions of other middle-income Americans who have their taxes raised and want relief. What we do today we do for Debbie and Phil and working couples across this country who are trying to make ends meet, trying to rear their children, trying to provide an education. They are the backbone of America.

Mr. Chairman, I reserve the balance of my time.

Mr. RANGEL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, there is a lot of talk about this being the first tax cut in 16 years. We do not hear much about what President is the one that is advocating the tax cut. We do not hear much about how the economy has improved from a deficit that was inherited toward a balanced budget, and our major problem today is that people have a different concept of the middle class.

President Clinton has reached out to my Republican friends and said, "Can't we work together?"

Mr. Chairman, I think the President will speak for himself in saying what a terrible disappointment it has been where the White House, the policy makers, has been excluded from the Republican bill.

Bipartisanship means Democrats and Republicans working together with the President of the United States, and the President now says that this has moved so far away from the issue of fairness that he would not be able to sign the Republican bill.

Even in the State of Texas they have so skewed and increased the number of people that will be ineligible for the child credit that half of the kids in Texas and over half of the kids in the State of New York will be ineligible for the family tax credit.

It seems to me that fairness is something that should govern, but somehow if we can find people who are working every day, paying taxes to local and State government, that when it comes to saying give them a break, the people on the other side think that people who work in low incomes are asking for welfare.

Mr. Chairman, I think it is arrogant and all Americans ought to be indignant, when people do not even consider going on welfare and they work every day, they work with their families. We will hear cases like this, but we are saying, "We have to pass over you because we want to make tax lighter on the very richest of Americans."

It seemed to me, too, that when my colleagues get a chance to see the Democratic substitute, we really believe that we should have strong law enforcement but we should concentrate on our school system the same way the other side of the aisle concentrates on death penalties and jail sentences. What we are talking about is that the Democratic bill improves our public educational system, brings in the private sector working as partners. We do not just talk about diplomas, we talk about jobs, and we are talking about getting America to move forward in this next century with productivity, effectiveness and the education to do the job we have to do.

Mr. Chairman, I now would like to hold onto the time that we have for the other speakers that are here, and I do hope that people listen and see the difference between how we can deal with a tax bill in a bipartisan manner in which the President would want and how our Republican friends deserted and left him, locked him out of the room when these important decisions were made.

Mr. Chairman, I reserve the balance of my time.

Mr. ARCHER. Mr. Chairman, I yield 4 minutes to the gentleman from Ohio [Mr. KASICH] who has really brought us here, a gentleman who has spent so many untold hours working so we can achieve the goal of a balanced budget for our children and their children with tax relief.

Mr. KASICH. Mr. Chairman, I have to take a moment to pay very high tribute to the gentleman from Texas [Mr. ARCHER], and I would like the Members of the House to note something that is very significant that sometimes goes unnoticed in this debate. Americans all of my lifetime argued that lobbyists, the special interest groups, should not be able to carve out special benefits for themselves because they had powerful lobbyists or fancy lawyers, and in fact for many, many years, the years in which we were in the minority, the Tax Code had benefits carved out for special interest groups who because of the slickness and because of their ability to meet with the right people, to gain access to the right people, were able to carve out in the Tax Code loopholes that were not fair.

Now I listened to this from liberals all these years about the need to close loopholes, and it took the elevation of the gentleman from Texas [Mr. ARCHER] to become chairman of the Committee on Ways and Means so that over the course of the last 2 years we have closed loopholes, we have closed loopholes on those powerful special interest groups that were able to carve out benefits that should have flowed to all hard-working American taxpayers.

Contained in this tax bill are the closing of loopholes to the rich and the powerful, and when we closed those loopholes we were able to, instead of giving special benefits to a select group of people, we were able to have a more broad-based tax cut program that would do a number of things:

One, a child tax credit. Every family with kids who pay taxes under the income level $100,000 are going to get a $500 tax credit. Got two kids? Keeps $1,000 in their pockets. We do not want them to give it to the Government. We want them to be enhanced, we want them to be made more powerful. The child tax credit is all about putting power in the pockets of America's families and to reinforce that most precious American institution.

Second, capital gains tax cut. Look, folks, I am the son of a blue collar worker. The bottom line on a capital gains tax cut is this: "If you take a risk, if you work hard, if you put what you have on the table to build something, you ought to get a reward for it. You ought not to be punished for it." And there are millions upon millions of middle income Americans who will realize benefits under the capital gains tax cut, but it is about what is right about America, the idea that if someone takes a risk, they ought to get a reward.

Estate taxes? We want to reduce estate taxes. Why? Mr. Chairman, for those men and women who build businesses, who have high blood pressure, who have bypasses, who have employed many, many people and help many families across this country . For those men and women that made the great sacrifice, at the end of the day they should not have to give 55 percent of everything they earn to the Government. They ought to be able to give more to their families. They ought to be able to give more to their communities.

The bottom line is today we are significantly beginning to shift not just power and not just influence but our constituents' money away from this city, back into their hands.

Now as we get these tax cuts, as we get more personal power, it is not good enough. It is not good enough to bury that money in the backyard and just buy a fancy boat. Part of the responsibility as we get more of our money back is not just to take care of our family, but to help in our own communities, to help heal the communities across this country.

The gentleman from Texas [Mr. ARCHER] has done a terrific job. He has fought the powerful special interests, he has closed loopholes, he has provided tax relief to the American people. He has helped people who take risks, he has helped people who have built businesses, and he has given them a reason to let every boy and girl in this country know that in America if someone works hard, if they sacrifice, they can get ahead, and if we can couple that with some good old fashioned American values, America will shine on.

Mr. RANGEL. Mr. Chairman, I yield 15 minutes to the gentleman from Washington [Mr. MCDERMOTT].

Mr. MCDERMOTT. Mr. Chairman, I would like to begin by saying that the last speaker talked about the child credit. I think everyone should know that 50 percent of the children in Ohio, the State he represents, will not get the child credit. That is more than 1.4 million children in that State will not get this so-called fair tax credit.

Mr. Chairman, I want to talk about the fact that Democrats always want to reduce taxes but they want to do it fairly, and that is, really, I think, we ought to have a little discussion out here about this question because fairness is a central issue in taxation in this country, in a democracy.

We started on taxation without representation. That was what the whole thing was about. That is how we came into existence. But in this debate we have to have honesty.

I listen to the special orders that go on in this place, and a couple of nights ago one of the Members got up and said it is important for the American people to understand when they hear things like, "If you're earning $20,000, you're not going to get a tax cut," there is a very good reason that a family of four earning $20,000 is not going to get a tax cut. Listen to this: They do not pay Federal taxes.

Since I was 16 years old I have been working. I started at the National Tea Store in Illinois, and every week we got a check and always got a tax stub with it, and I have always looked at my tax stub. And everybody watching and thinking about this should take out their tax stub and look at it. On my tax stub it says I pay Federal tax. That is withholding tax on the income.

Then there is something called FICA.

In my FICA tax, 7 percent of what I pay is Federal taxes. It goes to pay for Medicare and Social Security. Anybody who is paying FICA is paying taxes. They are paying Federal taxes. The other side here wants to say, "If you don't have to pay income tax on a 1040, you're not paying taxes." But if someone is a $20,000 worker in this country and they are paying 7 percent of their $20,000 on FICA taxes, they are paying Federal taxes, and they ought to be able to get the tax breaks in this bill.

There are a number of issues that I think we ought to talk about, and, Mr. Chairman, the gentleman from Louisiana [Mr. JEFFERSON] knows about capital gains. Let us talk about the fairness of capital gains in this bill that the Republicans have put out here.

Mr. JEFFERSON. Mr. Chairman, will the gentleman yield?

Mr. MCDERMOTT. I yield to the gentleman from Louisiana.

Mr. JEFFERSON. Mr. Chairman, I appreciate the gentleman yielding to me.

The question is whether ordinary working families, ordinary working people, will benefit from this capital gains tax relief. The answer is very few of them will, because to get tax relief they have to own capital assets, and very, very few working families own capital assets in this country.

For instance last year if someone made between zero and $25,000, they paid 2.2 percent of all the capital gains taxes paid in the country. If they earned between $50,000 and $100,000, they paid 8 percent of all the capital gains taxes.

Mr. MCDERMOTT. The gentleman means up to 50 percent.

Mr. JEFFERSON. Up to $50,000, 10 percent of the capital gains taxes were paid, and between $50,000 and $100,000, another 16 percent of those persons paid capital gains tax. So between zero and $100,000, 26 percent of the capital gains taxes were paid, which means that above $100,000, 74 percent of all the capital gains taxes were paid in the country. Which means, to put it another way, if we give a break in capital gains, we are going to give a break that is going to affect, 76 percent of the capital gains tax is going to affect 4 to 5 percent of the taxpayers in this country.

☐ 1215

Put another way, if one makes over $200,000, one paid 60 percent of the capital gains taxes last year. That is 1 percent of all of the taxpayers in this country; 110,000 taxpayers out of 110 million taxpayers in America.

So a great part of this bill, $8 billion a year, is going to end up in benefits for the top 1 percent of the earners in our country, people who make over $200,000 and who, on the average, make $650,000 a year. So if people are watching this television program now and are expecting a capital gains tax cut and are making $30,000 or less, even if one makes $50,000, as we just talked about, they can turn the TV off and go and do something more meaningful, because there is nothing in this bill that is really going to help those people.

But if one makes over $200,000, they want to stay tuned, because there is a whole lot here that is going to get them out of a big bunch of trouble. Those people are going to save collectively, as a group, $7 billion to $8 billion a year out of this bill just on the capital gains issue.

On the estate tax, it does not get any better. Out of the 2.5 million people who died last year, only 39,000 paid estate taxes. That is less than 2 percent.

Mr. MCDERMOTT. Mr. Chairman, reclaiming my time, is the gentleman saying that we are writing this provision on estate taxes for 1.8 percent of the people?

Mr. JEFFERSON. Mr. Chairman, if the gentleman will yield, those are the only people who are affected by this whole discussion about estate taxes.

Mr. MCDERMOTT. Mr. Chairman, I would ask the gentleman, is that fair?

Mr. JEFFERSON. Mr. Chairman, it is not fair, because it leaves out, as the gentleman can see, 98 percent of the taxpayers in one case, and in another case leaves out almost 99 percent for any meaningful tax relief.

This is a bill for people who make a lot of money and who have a great deal in their estates, and that is about it. It is not a bill that is going to help middle-income people or working families.

Mr. MCDERMOTT. Mr. Chairman, once again reclaiming my time, what is the level that the gentleman would say that people should stay and watch this program and it is going to do some good for them? What kind of income level would it really mean?

Mr. JEFFERSON. Mr. Chairman, if one makes more $200,000 a year, stay tuned on capital gains taxes. If one makes more than $100,000, they might want to watch part of the program. But $200,000 should really stay tuned.

Mr. McDERMOTT. Mr. Chairman, how much money would the gentleman say one would have to have to stay tuned for the estate taxes?

Mr. JEFFERSON. Mr. Chairman, for the estate taxes, if one's estate net is over $600,000 last year, of course one paid estate taxes. This is going to raise it about to $700,000 or so on their side; $750,000 I think it goes this year.

So I suppose that if one has net estates of over that amount of money, less than 1 percent of the people in the country, then those people want to stay tuned also. But for everybody else, if people are watching this thing on TV to see what is in it for them on estate taxes and capital gains taxes, they might want to turn the TV off and engage in something else more meaningful.

Mr. McDERMOTT. Mr. Chairman, reclaiming my time, I think that goes to the whole question of fairness and it really says this whole thing is skewed to the people at the top.

Mr. Chairman, we were talking before about the issue of, let us take a family making $23,000, living in Georgia, a police officer. What is he going to get out of this tax bill?

Mrs. THURMAN. Mr. Chairman, will the gentleman yield?

Mr. McDERMOTT. I yield to the gentlewoman from Florida.

Mrs. THURMAN. Mr. Chairman, he gets nothing out of this tax bill.

Mr. McDERMOTT. Nothing? Wait a minute. The gentlewoman is telling me a police officer who makes $23,000 is going to get nothing out of this tax bill?

Mrs. THURMAN. Mr. Chairman, he certainly will not get the part that has been debated over the last couple of years, and it has been the last couple of years where we have begun to talk about this $500 child credit or family credit so that we could make sure that every child was given the same advantages.

Under this, it is my understanding, unless somebody can correct me, that somebody even under $30,000 would not be eligible or would not have the advantage of that $500 tax credit. So if one has two children, it is not there.

In fact, for those who read the article this morning, it actually goes through a situation about a police officer who might be being paid about $23,078 a year starting off, has two kids, he does get an earned income tax credit, and he gets the earned income tax credit not because he is staying home, but because he is out there working every day.

Mr. McDERMOTT. Mr. Chairman, I would reclaim my time and inquire of the gentlewoman, we are talking always about working people here?

Mrs. THURMAN. Mr. Chairman, absolutely. Working, every day getting up, or they are not eligible for any of this.

That is something that goes back to the Reagan years when it started and everybody believed that for hard-working people this was important that this happened. So now they are going to get up and they are going to believe that next April, they have two children and they think, guess what? I am actually going to receive possibly $1,000 because I have two children. They are going to be sorely displeased with what happens in their tax next year.

Mr. Chairman, the other thing that is interesting to me, it is the only place in this bill at all that one is penalized for taking advantage of what is available to people in the Tax Code today. Let me just say this. If one gets the example of having an IRA, which is also in this piece of legislation, which most of us support is a good idea to invest and to do those kinds of things.

Mr. McDERMOTT. Mr. Chairman, does the gentlewoman think the average policeman making $23,000 has the money to put into an IRA?

Mrs. THURMAN. Oh, no, no. Or probably they are trying to buy their first house, so they do not have anything to sell. I would love the gentleman from Louisiana [Mr. JEFFERSON] to talk about just what a capital gains is, because I think sometimes we get lost in words up here. What is a capital gains? Where does that capital gains come from? Generally, for these folks, it could have been the sale of a house.

Well, if one is just starting off and trying to buy a house, one is not going to have a capital gains in this. So here we go. We have an IRA issue in here that is being proposed, we have a capital gains issue in here, and then on top of that, we have an education savings account that we can do up to $10,000 a year.

Now, I do not know very many people at that $23,000 level that will have the advantage of any of those, but those folks that can take advantage of that part of the tax structure get no penalty at all. I mean they continue to get everything, plus the $500 child credit.

The only people that are getting penalized would be those below $30,000 that really would have no access to some of these other areas of the tax bill.

Mr. BECERRA. Mr. Chairman, will the gentleman yield?

Mr. McDERMOTT. I yield to the gentleman from California.

Mr. BECERRA. Mr. Chairman, listening to all of this, for those of us in a place like Los Angeles, a State as big as California is, to know that more than half of the children in California will not get a child tax credit through this bill.

Mr. McDERMOTT. Mr. Chairman, reclaiming my time, the gentleman is talking now about families who are working, with children, working families?

Mr. BECERRA. Mr. Chairman, working families.

Mr. McDERMOTT. Mr. Chairman, half the kids in California do not get the tax break.

Mr. BECERRA. Mr. Chairman, if the gentleman will continue to yield, more than half of the kids, from what we have been able to determine, in this tax bill, they will not have an opportunity to take advantage of this child tax credit, even though they work full time.

Mr. McDERMOTT. And pay FICA taxes. They are paying Federal taxes.

Mr. BECERRA. Mr. Chairman, what is more interesting, I have a district in Los Angeles where it is mostly working class. The median income is somewhere around $25,000.

Mr. McDERMOTT. Mr. Chairman, I would say to the gentleman, just like the policeman in Georgia.

Mr. BECERRA. Yes, Mr. Chairman, just like the policeman there.

Mr. Chairman, if the gentleman will yield further, to know that 70,000 or so families, working families in my district are probably at risk of not being able to participate in something that is being touted as something for all families with children is unconscionable, but that is where we are heading.

If we could put a name to some of those faces. This individual does not live in my district, she happens to live in Missouri. Her name is Robin Acree. She earns about $21,000. She is divorced, she has three kids, age 14, 17, and 19. Now, it is interesting, under the 1995 bill that this Republican House passed, Robin would have qualified for a $500 tax credit, child tax credit. Under this year's bill, she does not get a cent. Even though she pays somewhere over $2,100 in taxes, income taxes, payroll taxes, she will get zero out of this.

Now, Robin lives in Missouri, she is not in my district in California, but she works just as hard, I imagine, as any of the folks and the families in my district that are also to be left out. I do not understand why under one bill this House was willing to give her a $500 tax credit, but now this year she gets zero, even though she pays more than $2,200 in taxes.

Mr. McDERMOTT. Mr. Chairman, reclaiming my time, maybe they needed the money that would have gone to this lady to give the tax breaks to the people who need the estate tax break up at the top.

Mr. BECERRA. Mr. Chairman, certainly we are going to do away with $135 billion worth of money.

Mr. McDERMOTT. And she does not get a nickel.

Mr. BECERRA. Not a nickel of it, Mr. Chairman.

Mr. McDERMOTT. And she is working.

Mr. BECERRA. Working full time.

Mr. McDERMOTT. Paying taxes.

Mr. BECERRA. Paying taxes. Has one child in college.

Mr. McDERMOTT. Mr. Chairman, how could that be fair?

Mr. BECERRA. Mr. Chairman, if the gentleman will continue to yield, I know it is not fair to Robin. I am fortunate, I got myself a good education, I am making a decent salary. She is working just as hard as any one of us, and there is no reason why she should not be able to take advantage of that.

Mr. McDERMOTT. Mr. Chairman, reclaiming my time again, if I could inquire of the gentleman from Louisiana [Mr. JEFFERSON], we were talking before about the whole issue of what a really smart person would do with this tax bill if they wanted to make a lot of money. Tell us about how one could play the game with this bill.

Mr. JEFFERSON. Mr. Chairman, this is what we might call a back-to-the-future kind of an idea here in this tax bill that takes us back to the idea of tax loopholes and tax shelters.

Now, there are any number of ways this game could be played out, but any time one has a marginal tax rate on individual income that is 39 percent and a capital gains rate that is 20 percent, which is roughly 20 points in the differential, one is going to have a great incentive for people to find and cover ways to avoid paying taxes on salaries and to find a way to pay taxes on capital gains. So it is a natural incentive and it is made far greater under this bill.

There are any number of ways that people can take advantage of this. Let us just talk about a couple. If one has a high income, then one has a higher capability, ordinarily speaking, of borrowing money. And one probably has a home that is worth a lot more than somebody that does not have a high income. So right now to make a home loan, the interest on the home loan is deductible. If one wants to get involved in a big capital acquisition like a stock purchase, one could take a home loan with deductible interest and buy a big stock purchase with it and take advantage of this huge capital gains break we are going to give the folks who are dealing in stocks.

Mr. McDERMOTT. Mr. Chairman, does the gentleman think that a policeman in Georgia could take a loan on his house and buy a big stock purchase?

Mr. JEFFERSON. Mr. Chairman, a policeman in Georgia probably has a smaller house, probably would take a loan to send his kids to college, is not going to be for some big differential like that, plus there is not going to be enough money to play that much in the stock market with. So it will not be available for that person. At the very top of that level, if a person has a big salary from a big company, he can take his salary in stocks rather than take it in ordinary income, and therefore avoid paying the tax on the stock.

Mr. McDERMOTT. Mr. Chairman, it is not fair.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. The Chair will remind all Members engaging in dialog to yield and reclaim time each time that they yield or reclaim time.

Mr. ARCHER. Mr. Chairman, I yield myself such time as I may consume briefly to say that the bottom line of all of the colloquy that we just heard is that the Democrats want to take money away from families who are middle income with children, who pay taxes, pay income taxes, and they want to give it to people who do not pay any income taxes.

This bill should be a middle-income taxpayer relief bill that was promised by the President in 1992 and not be siphoning money away from them and giving it to people who pay no income tax.

Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. ENGLISH], a respected member of the Committee on Ways and Means.

Mr. ENGLISH of Pennsylvania. Mr. Chairman, I rise in very strong support of the Taxpayer Relief Act, legislation that will provide tax relief to people who pay taxes. Under this plan, 76 percent of the tax relief goes to people who make less than $75,000 a year, and over $100 billion of the tax relief out of $135 billion in our bill goes to the child tax credit and education tax relief.

Our tax cut plan makes the Tax Code a little fairer, not only by helping families, but also by encouraging economic growth and by creating and protecting good paying American jobs.

One of the ways we do this is by reforming the AMT. Now, the AMT is what is called the alternative minimum tax, but it should be called the anti-manufacturing tax. The AMT is one of the biggest tax barriers to the competitiveness of the American manufacturing sector. It penalizes companies that try to invest in jobs and improve their productivity. It directly penalizes companies that create the most desirable jobs in America by taxing companies when they buy equipment rather than taxing them on their profits. The AMT tax penalty directly encourages companies to create new jobs offshore. It is a job killer, stunting new job creation and imperiling existing good paying jobs right here in America.

The AMT even hurts the environment. It imposes what amounts to a 22-percent tax penalty on companies that invest in pollution control equipment. Because it does all of these things to companies in a down cycle, the AMT is really the "kick-them-when-they-are-down" tax, hitting basic industries and union workers when they are more vulnerable.

If we reform the AMT as proposed in this bill, studies have shown that it will increase the GDP growth by 1.6 percent and increase business investment by 7.9 percent. That will allow us to build a high-wage economy for the next century and restore the American dream for millions of working families.

If my colleagues care about these things, I urge you to vote for this bill.

□ 1230

Mr. ARCHER. Mr. Chairman, will the gentleman yield?

Mr. ENGLISH of Pennsylvania. I yield to the gentleman from Texas.

Mr. ARCHER. Mr. Chairman, I ask the gentleman, Is it not also true that as this negative impact on buying equipment occurs, does it not work against antipollution equipment also, and therefore make it more difficult to clean up the air and the water?

Mr. ENGLISH of Pennsylvania. That is exactly my point, Mr. Chairman. And this should be a good green vote, to vote for this tax act.

Mr. RANGEL. I yield myself 5 seconds, Mr. Chairman.

I would just like to point out that we can get all the statistics we want, but if we ask the Governors of the States, under the Republican bill almost half of the children will not get the credit that the President wants, and that is more than 1.6 million children.

Mr. Chairman, I reserve the balance of my time.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Kentucky [Mr. BUNNING], a respected member of the Committee on Ways and Means.

Mr. BUNNING. Mr. Chairman, I rise in strong support of the Taxpayers Relief Act.

It has been 16 years since Americans got real tax relief. Now it is time we start letting them keep more of their own money instead of being forced to send it to Washington, D.C.

By giving families a child tax credit, by cutting the death tax that ruins small business and family-owned farms, by cutting capital gains taxes for families who sell their homes, by making education more affordable, we are saying that Washington needs to tax less so Americans can spend more.

Two specific parts of this package that I have been pushing really help illustrate this point. The first is the tax cut for withdrawals from State-run prepaid education plans. This bill lets families who save for their kids' college education to withdraw up to $40,000 tax-free with these plans. This means that in Kentucky, where the families of over 2,600 students are already saving in our plan, it is about to become a whole lot easier to educate their children with this plan.

Another exciting part of this tax package is the reform of the home office deduction. Fourteen million men and women, mostly women, are now making a living working at home. But because of the snafu in the tax law, they cannot deduct the expenses like other businesses.

At a time when companies are downsizing and workers are striking out on their own, this does not make any sense. We should not be penalizing these entrepreneurs. We ought to be encouraging them. This bill reforms the tax rules to do just that.

Last, both of these examples highlight the pivotal ideas behind this bill. We are getting Government off the backs of the people so they can do more on their own.

Mr. Chairman, it has been 16 years since the average American got some tax relief. It is time to do more. I support this bill and urge Members to do the same.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. CAMP], another respected member of the Committee on Ways and Means.

Mr. CAMP. Mr. Chairman, I thank the chairman of the committee for yielding time to me.

Mr. Chairman, I rise in strong support of the tax relief bill before us today. This bill, the first tax relief in 16 years, represents a significant first step in our efforts to allow middle-income taxpayers to keep more of what they earn.

Today the average American pays more in taxes than they do for food, clothing, and housing combined. This tax relief bill will help stem this tide. This bill provides a $500-per-child tax credit, which will help 41 million children. Some people want to stop the tax credit once a child reaches 13. Our bill realizes that the cost of raising a child does not get any cheaper; in fact, costs rise.

This bill also eases the death tax, so our Nation's farmers and small business owners can pass their legacy on to their children. More than 60 percent of the family-owned businesses fold before reaching the second generation, not because of poor management, but because the Government taxes them at up to 50 percent.

We also make it easier for children to realize the goal of a college education by including and improving the President's HOPE scholarship proposal. We are hearing a lot about distribution charts that show who benefits from tax relief, and by how much.

In order to cook the numbers, the administration calculates how much you could earn if you rented your house and then adds this amount to your income. This is how they make you seem richer than you really are. In addition, they include your pension fund, your health benefits, and your life insurance to your income. The result is that the number of families with incomes between $50,000 and $75,000 rises by 25 percent under that plan.

The nonpartisan Joint Committee on Taxation estimates that 76 percent of the tax relief in this bill goes to Americans earning under $75,000 a year. Lost in this debate is a fundamental idea that Washington has ignored for 16 years. It is the idea that it is your money. The Government is not entitled to it, you are. You earned it. You know how best to spend it, and you deserve to keep it.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes and 15 seconds to the gentleman from California [Mr. HERGER], another respected member of the Committee on Ways and Means.

Mr. HERGER. Mr. Chairman, this legislation provides tax relief to Americans who pay taxes. Under this plan, 76 percent of the tax relief goes to Americans who make less than $75,000. American families are struggling under the burden of increasing taxes and deserve relief.

The average American now pays almost 40 percent of their income to local, State, and Federal taxes, more than they spend on food, clothing, and shelter combined. Our tax plan provides needed relief by allowing families to keep more of their money through a $500 per child tax credit.

In my northern California congressional district alone, 89,000 children will benefit from the child tax credit, and more than 41 million children will benefit from it nationwide. A family with one child will get $500 taken off the top of their tax bill. A family with two children will get $1,000 taken off of their tax bill, and so on.

Mr. Chairman, voting against this tax plan is to look into the faces of 41 million children and say, sorry, we are not going to help you. Voting against this tax cut is saying no to giving Americans more freedom to spend their own money, and voting against this tax cut is saying no to helping struggling families that are just trying to get by.

Mr. Chairman, families have not had significant tax relief since 1981, 16 long years. Is it not about time we give them a break? They deserve it. I urge my colleagues to support this measure.

Mr. ARCHER. Mr. Chairman, will the gentleman yield?

Mr. HERGER. I yield to the gentleman from Texas.

Mr. ARCHER. Mr. Chairman, I ask the gentleman if he can point out for the Members here from these charts precisely where this tax relief goes. The first chart shows that 90 percent of the tax relief over 10 years goes to families and to education, with $23 billion as a small item that goes to the other areas of relief.

The second chart shows 76 percent of the tax relief goes to people with annual earnings under $75,000.

Mr. HERGER. I thank the chairman.

Mr. ARCHER. Mr. Chairman, I yield 3 minutes and 50 seconds to the respected gentlewoman from Connecticut [Mrs. JOHNSON], a member of the Committee on Ways and Means and the chairman of the Subcommittee on Oversight.

Ms. JOHNSON of Connecticut. Mr. Chairman, I thank the chairman for yielding time to me.

Mr. Chairman, I am proud to rise in strong support of the first tax-cutting bill in 16 years. Today we adopt tax relief for working, tax-paying families, and powerful incentives for economic growth and job creation.

How does the bill help women, children, and fathers? It delivers benefits sooner and provides more generous benefits than the Democrats' alternative. True, it does not help nontax-paying working families. That is because they were our first priority. That is because a few years ago we adopted legislation that wipes out the burden of payroll taxes for working families who do not earn enough to pay any income taxes.

Now we move to relieve the tax burden of families earning enough to pay income taxes. We do not wipe out their payroll tax benefit, as we have done for families receiving the EITC. We merely offer them a modest $500-per-child reduction in their income tax liability in recognition of the fact that they are hard-working, tax-paying families in America.

Second, this tax bill increases the maximum deduction for child care costs. While for families over $60,000 we gradually reduce half of this benefit, that is far less than the Democrats' draconian repeal of the $500-per-child tax credit for families over $60,000. Again, the Republican bill provides a more generous bill sooner than does the alternative.

Third, this bill helps families save for college, helps kids through HOPE scholarships, helps women who want to set up a business in their home through the home office deduction, and helps senior women, who are the biggest winners, through capital gains benefits.

Further, Mr. Chairman, there are many important provisions in this bill that will help our economy grow more rapidly and create high-paying jobs.

Mr. Chairman, the R&D tax credit helps businesses develop new products, the kind of products they need to compete in a global economy. Capital gains cuts will shift capital to job-creating growth industries and particularly help our seniors, who hold 80 percent of America's assets. It also makes the orphan drug tax credit permanent, which will truly explode the research projects focused on rare diseases.

It helps teachers exercise their current rights to increase their pension benefits by buying back service years at a time in their lives when they can afford it. Finally, it helps States collect their taxes so that can be controlled at the State level as well as the Federal level.

Mr. Speaker, this is a great tax bill, a great step forward. I am proud to support it. I call Members' attention to the charts.

Mr. ARCHER. Mr. Chairman, will the gentlewoman yield?

Mrs. JOHNSON of Connecticut. I yield to the gentleman from Texas.

Mr. ARCHER. Mr. Chairman, I ask that the gentlewoman point out on the chart the part that supports the comments she has made, that the Republican plan gives more money to families with dependent care expenses, which is over in the right-hand chart, and that the Republican plan gives more money to families with children compared to the Democrat plan or to the Clinton plan.

Mrs. JOHNSON of Connecticut. Mr. Chairman, we are far more generous to families. We give them the benefits sooner, give them to more families, and we retain it longer.

I am proud to rise in strong support of the first tax cutting bill in 16 years. Today we adopt tax relief for working, tax-paying families, and powerful incentives for economic growth and job creation.

How does this bill help women, children, and fathers? It delivers benefits sooner and provides more generous benefits than the Democrats' alternative. True, it doesn't help nontax-paying working families. That's because they were our first priority. We adopted legislation to wipe out the burden of payroll taxes for those working families. Now we just relieve—modestly—just the income tax burden of those above the tax subsidy level who work and pay taxes. Unfortunately, the Democrats pay for additional benefits for working people who pay no income or payroll taxes by limiting to $300 the credit for tax-paying, working families until 2001.

Second, this tax bill increases the maximum deduction for child care costs. And while families over $60,000 will gradually lose half of this benefit that is far less than the Democrats' draconian repeal of the $500 child credit for all families over $60,000. Again the Republican bill provides more generous benefits sooner.

Third, this bill helps families save for college, helps kids through HOPE scholarships, helps women who want to set up a business in their home through the home office deduction, and helps senior women who are the biggest winners through capital gains reductions.

Further, Mr. Chairman, there are many important provisions in this bill that will help our economy grow more rapidly and create high-paying jobs. The research and development tax credit is an important incentive that encourages U.S. corporations to develop the products they need to compete globally. If the United States fails to provide some assistance to American companies, many—such as the aerospace, electronics, chemical, health technology, and telecommunications industries—will find it difficult to compete in an increasingly globalized marketplace. With Federal dollars in basic and applied research shrinking—and R&D a strong priority of our major foreign trade competitors—the extension of the R&D credit is critical. In fact, studies show that United States firms spend only about one-third as much as their German counterparts, and only two-thirds as much as Japan on research and product and development.

Capital gains reductions will shift capital to job creation, growth industries, and particularly help our seniors who hold 80 percent of the assets in our country. It is estimated that nearly $8 trillion of capital gains are locked in by people unwilling to sell their assets and be hit with a punitive tax. It is the sale and reinvestment of these very assets which creates the new capital needed to start up, modernize, or expand the businesses of the future. Many countries do not tax their long-term capital gains, giving foreign companies a competitive edge over their American counterparts. And this provision is particularly important to America's retirees, most of whom are women. Seniors hold 80 percent of our assets and 50 percent of those benefiting from capital gains have incomes under $50,000. So this capital gains relief will really help the retiree who needs to replace a roof and sell some stock to do it. Capital gains, the research and development credit, and reform of the alternative minimum tax will put Americans' capital where jobs can be created.

The bill also makes the orphan drug tax credit permanent, which will explode the research projects focused on cures for rare diseases. In the past, while the year-to-year extension of this widely-supported tax credit has helped encourage research on rare diseases, I believe the certainty of a permanent extension will cause an explosion in those critical projects. When Congress made the low-income-housing tax credit permanent several years ago, interest in the program skyrocketed, resulting in better quality housing and yielding 25 percent greater benefit for our tax dollars. The permanent extension of the orphan drug tax credit, in my view, will result in a similar explosion of new drugs to treat rare diseases.

Finally, I would like to mention two lesser-known but important provisions that are included in H.R. 2014. One helps teachers exercise their current rights to increase their pension benefits by buying back service years when they can afford it. For example, a teacher who worked for several years in New York but spent most of her career in Connecticut would receive a pension based on years of service in Connecticut. Under State law, she has the option to purchase the years worked in other States, however, her ability to do so is limited by annual contribution restrictions. This bill gives greater flexibility to teachers and other public employees to be able to buy back years of service, thereby raising their pension benefit.

And finally, this bill helps States collect their taxes so tax burdens can be held down on America's hard-working folks at the State as well as Federal level. Currently, 32 States already allow the Federal Government to participate in their State income tax refund offset programs. This provision reciprocates, providing a great benefit to States while actually saving the Federal Government a small amount of revenue.

Mr. Chairman, this tax bill takes many important steps forward to stimulate economic growth and high-paying jobs and to help working, tax-paying families. I urge my colleagues to support it.

Mr. RANGEL. Mr. Chairman, I yield myself 1 minute.

The President said he wanted working families, not welfare families, to get a tax break for their kids. So no matter how we cut it with charts, the bottom line is going to be how many kids are going to be denied because certain people thought they did not make enough money.

Almost half of the children in Connecticut, 44 percent, more than 430,000 children, will be denied because these working families are not entitled to the benefits under the Republican bill; and 56 percent in California, that is over 5 million children, will be denied. These are working families.

Half of the children in Michigan, 1.3 million children of working families, will be denied under the Republican plan; and 50 percent in the State of Kentucky, children of working families, will be denied the benefit that the President thought he had a promise made on when he went into a dialog with the Republicans.

For these reasons the President finds the unfairness, and for these reasons, he would veto.

Mr. Chairman, I yield 15 minutes to the gentleman from Michigan [Mr. BONIOR], the Democratic whip.

□ 1245

Mr. BONIOR. Mr. Chairman, I thank my colleague for yielding me this time and for the outstanding job that he has done on this piece of legislation, the Democratic alternative.

Let me point out, before I begin my remarks, that the charts that we have just seen on this side of the aisle, when they talked about the child tax credit, let me just reinforce the comments by the gentleman from New York [Mr. RANGEL]. The percentage of dependent children ineligible for this $500 child tax credit in the State of Texas, 54 percent; 54 percent of kids from families in the State of Texas do not get it. In Connecticut, 44 percent of the children would not be able to get it. So when they put up these charts, it is just for a select few. It is not for the hard-working, middle-income folks that really need it the most.

America's working families deserve a tax cut. The Democratic tax plan gives it to them. Under the Democratic plan, 71 percent of the tax cuts go to households earning less than $100,000. Under the Democratic plan, the $500 child care credit goes to lower- and middle-income families, the teachers, the police officers, the nurses, the people who are working harder than ever to achieve the American dream. Under the Democratic plan, the HOPE scholarship is fully funded, making it possible for people from working families to afford that 13th and 14th year of education. The Democratic plan helps America's working families.

The Republican bill we are debating does just the opposite. It punishes America's working families and rewards the wealthy and the biggest corporations. The New York Times said this bill, the Republican bill, showers tax cuts on the Nation's wealthiest families.

Conservative commentator Kevin Phillips said, this bill is a payback to big contributors. Speaker GINGRICH admitted this last month, when he spoke to hundreds of wealthy contributors at a black tie dinner given by the Republican Party. People paid as much as a quarter of a million dollars each to go to that dinner. He said, whatever you have given, this is the Speaker to these wealthy contributors, whatever you have given is a tiny token of what you have saved.

That is what he is paying them back with today, their bill, what they have saved.

Who is paying for this giveaway to the rich? America's working families. Under the Republican tax bill, the working parents of almost 1.4 million children in Michigan, in my State, will be excluded from the child care credit. That is almost half the children in Michigan. Under the Republican tax bill, the value of the HOPE scholarships is slashed, in direct violation of the budget agreement. The Republicans are taking money away from family credit, away from education credit, away from working Americans, so that the corporate interests, the corporate titans can avoid paying taxes at all.

According to the Treasury Department, the Republican tax bill gives more benefits to the richest 1 percent, listen to this figure, the richest 1 percent of Americans, than to the bottom 60 percent combined. Today's Wall Street Journal described the Republican plan as, and I quote, a bonanza for the affluent, crumbs for the working class.

If the Republicans were not writing this lopsided tax bill into law, we would call it robbery. This tax bill rolls back the corporate minimum tax which says to big corporations, you have got to pay something like the rest of us. We had in the 1980's corporations like Texaco and Boeing and AT&T that were not paying any Federal income taxes. The corporations in the early 1960's would pick up about 25 percent of the tax load in this country. That has decreased because these large corporations paid no income taxes to the point that they were down to about 7 percent of the load in the mid-1980's. Everybody was embarrassed so we passed a corporate minimum tax where they were required to pay something. Now under this bill, the Republicans want to give them a $22 billion tax break to get that percentage back down to the low disgraceful numbers.

Mr. RANGEL. Mr. Chairman, will the gentleman yield?

Mr. BONIOR. I yield to the gentleman from New York.

Mr. RANGEL. Mr. Chairman, the gentleman is saying that successful corporations enjoying tax welfare benefits that now are forced by laws of the Congress to pay taxes, that in the Republican bill is just wiped out.

Mr. BONIOR. They move away from responsibility on the part of the corporations in paying any taxes at all in this country at the Federal level.

Mr. RANGEL. Mr. Chairman, if the gentleman will continue to yield, and for years all we have said is that they have a responsibility to pay something.

Mr. BONIOR. Mr. Chairman, they need to be part of the community of people who support our economy, our country and share the load. If they are not paying it, working people are going to pick up the difference. That is the problem here. Their bill is top-heavy in terms of benefits to those at the top; crumbs, as the Wall Street Journal and the New York Times and others have scribbled it, for working people.

There is no equity in their bill. That is why the poll that came out this morning said the American people support the Democratic bill over the Republican bill by a 2-to-1 margin, 60 to 30 percent. On top of all of this, their bill, this tax bill that the Republicans are offering actually raises taxes on the bottom 40 percent of Americans. Raises taxes.

This Republican bill also includes and encourages big corporations to redefine their employees as contract workers. What does that mean? That means you can define your people who work for you as contract workers and you do not have to worry about paying them the minimum wage. You do not have to worry about paying them health benefits or pension benefits. Under the Republican plan, the rich get richer, America's middle-income families have to work twice as hard just to stay even.

The Republicans tout their $500 child care credit. It is a good idea, but only if you actually give it to the families who need it. Today's Wall Street Journal notes that in Speaker GINGRICH's suburban district, a newly-hired police officer earning $23,000 a year, married with two kids, would not qualify for the child care credit under the Republican plan. Why? Well, the Republicans say that is because this police officer already receives the earned income tax credit. The child care credit would constitute welfare, they say. That is right. The Republicans are saying that a young police officer who is trying to raise a family, who puts his life on the line every day for $23,000 a year and pays thousands of dollars in taxes, payroll taxes, excise taxes, does not deserve a tax credit to help his family. None, zip, nothing, zero.

The richest 1 percent of Americans get a tax break that is worth more than that police officer makes all year under their bill. The richest 1 percent get more than the police officer makes all year. That is an absolute outrage. It is not right. It is not what this country is all about. It is America's working families who need this tax cut. According to a poll, as I said today, the American people agree with our position. Let us give them a tax cut that they can use and be proud of and we can help working families with.

Mr. GREEN. Mr. Chairman, will the gentleman yield?

Mr. BONIOR. I yield to the gentleman from Texas.

Mr. GREEN. Mr. Chairman, I have sat here on the floor and listened this morning, and time and time again we have had folks come up and say, we are going to help the struggling families with the first tax cut in 16 years. The gentleman said, and I know we have had Members come up on the floor, for example, the $500 child tax credit in Kentucky, over 50 percent, over 50 percent of the children will not be eligible for it. In my State of Texas, 54 percent of the children will not be able to enjoy that child care credit. And I know that is correct.

The other thing that I wanted to ask about is, a lot of us support a capital gains tax cut. But in the Democratic alternative, we have a solution in there. The small investor, the person who is not making a living investing but is really the person who is investing in it and we set a cap of $600,000 as a lifetime on capital gains tax cuts. So if somebody is making a living investing, if they are playing the stock market and that is their living, they are not getting a benefit from the person maybe working in a factory in Michigan or working in on a ship channel in Houston. We are encouraging people who are the workers to also invest and they get that capital gains tax cut. That is what I hear.

When I talk to people who say we want a capital gains tax cut and I say, what if you make your living as a stockbroker; no, they ought to pay regular income. Well, that is what the Democratic alternative is doing. It is making sure that that individual who is investing in part of this great country and this great free enterprise system will be able to take a tax cut. That is why the Democratic alternative is so important.

Mr. BONIOR. The gentleman has aptly described the difference between the capital gains provisions in our bill and their bill. In addition to that, of course, the problem with their capital gains provision is that it is indexed and it explodes in the outyears and creates these humongous deficits, $650 billion drained in the outyears, which will put us right back to where we were when this Congress unfortunately did the

1982 tax and spending bills that put us into debt for so many years. The gentleman is absolutely right. Ours is targeted to working families, to people who invest for a decent length of time and who are interested in the future of their families and their communities and who are not there to make it on a rollover basis, on a daily basis.

Mr. WISE. Mr. Chairman, will the gentleman yield?

Mr. BONIOR. I yield to the gentleman from West Virginia, who under the Republican plan would have 56 percent of his children ineligible for the child credit.

Mr. WISE. Mr. Chairman, I support tax cuts for rewarding work, particularly to those people who are getting up every morning, getting their kids off to school, driving to work, putting in a full day, playing by the rules. And at the end of the day they are going to find out, 56 percent of them are going to find out at least that their children did not qualify for the guts of this bill, which is a child care tax credit.

In West Virginia, where two-thirds of our working families, working families make $30,000 or less and we know that those making $25,000 or less, if they have two children, most likely will not see one dime of the child care credit. This thing is just a figment. This is illusory; it is a hoax. What do I tell the coal miner, the steel worker? What do I tell the State troopers, computer technicians, the chemical worker, the school teachers, all of those who think that there is something for them under this bill?

Yet if they are under $57,000 a year, according to the Treasury Department, they are only receiving 22 percent of the benefits in that package, while those over $100,000 a year get over 60 percent of the benefits of this package. It is simply not appropriate.

So that is why I support, and I have to ask, how can we say that this bill is about giving children tax relief when most of our States and in West Virginia, it is 56 percent, 56 percent of the children get no tax relief under the child care credit?

So this is why this is a bad bill, why I am voting today for the Democratic alternative which does give tax relief to the working people who need it most. But I am not voting for a bill that denies 56 percent of children of working parents a child care tax credit.

Mr. BONIOR. Mr. Chairman, I thank the gentleman. I might remind Members today that originally those 56 percent of the kids under the original Contract for America were going to get some of those dollars. But all of a sudden, all the big boys came in and they said, wait a minute, we want to make sure we get our capital gains index. We want to make sure we get this taken care of and that taken care of.

Of course, in the New York Times today there was an article that I do not believe I have with me right here, but they point out a special rifle-shot provision which will provide huge amounts of money. Right here, a break for a rich few snuck into the bill. They talk about $9 million a year in lost revenue and giving a bonanza worth thousands of dollars to about 1,000 wealthy taxpayers. That is what was snuck into this bill overnight and that is why kids in huge percentages, 56 percent from West Virginia, 50 percent from Michigan, New Jersey, my friend from New Jersey is standing up today, 48 percent of the kids will not be eligible for a child tax credit in his State. That is who is getting short cut today to take care of the fat cats and the big boys.

Mr. MENENDEZ. Mr. Chairman, will the gentleman yield?

Mr. BONIOR. I yield to the gentleman from New Jersey.

Mr. MENENDEZ. Mr. Chairman, I thank the gentleman for yielding to me.

No wonder 60 percent of the American public said the Democratic tax cutting plan is the plan that they want, because we address working and tax-paying families in our plan.

What we do in that respect is try to provide greater tax relief for lower- and middle-income families, immediate estate tax relief for farms and small family owned businesses, a capital gains tax cut for small businesses and also for being able to sell your home. To the extent that over 1.1 million New Jerseyans, children, get absolutely no relief under this bill and to the extent that there are real families like Anna Gonzalez, who just sent me a fax and said, I am employed as a medical office technologist for the Bayonne Dental Group. I have been working there for a year, making over $20,000 in 1997. I have three kids. I pay for child care. Unfortunately, the Republican child tax credit gives me no benefit at all.

That is a real person, a real family struggling to stay off welfare, to be working, to produce for this country. This is the family-friendly Congress supposedly. Yet the Republican tax plan works against working families, tax-paying families, families who we should be preserving in this tax cutting bill. That is why Democrats stand up for tax cutting for working families.

Mr. Chairman, I include for the RECORD the letter to which I referred:

ANNA L. GONZALEZ,
Bayonne, NJ, June 23, 1997.

Due to my job responsibilities, I am unable to appear in person for this News Conference. I would like to show my concern in regard to the guidelines for receiving the proposed Child Tax Credit. As a single mother of three children, living on a single income, I would like to stress the importance of how a Child Tax Credit would help to alleviate some of the financial burdens that come with raising a family on a single income.

I am employed as a Medical Office Technologist for the Bayonne Group of Bayonne, New Jersey. I've been working there for 1 year, and will earn $20,202 in 1997. I pay $93 per week for child care which totals to $4,836 per year. I pay for the child care in order to be able to work.

Unfortunately, the Republican Child Tax Credit proposal is targeted against those who need it most, those who are an inch away from going into the welfare system. We are the working poor, who work to pay for child care, food, and a roof over our family's heads and not much more. The Child Tax Credit should be given to financially benefit the children, and I think the children from a low-income family would benefit greatly by receiving this Credit. However, my family would receive NO BENEFIT AT ALL from the proposed Child Tax Credit.

I am eligible for a Dependent Care Tax Credit that reduces my income tax liability to zero. Therefore, I would receive no benefit from the Child Tax Credit passed by the Ways and Means Committee.

Sincerely,

ANNA L. GONZALEZ.

Mr. Chairman, Democrats want greater tax relief for lower- and middle-income families, immediate estate tax relief for farms and small family-owned businesses, a capital gains tax cut for small businesses, and help for post-secondary education.

The Republican tax bill is like the deal to divide the gold mine. The rich Republicans get the gold and the American people get the shaft.

More than half of the benefits of the Republican tax plan go to the wealthiest 5 percent—people making an average of $250,000 a year.

Under the Democratic plan 71 percent of the tax benefits go to families earning less than $100,000.

The Republican plan would cover only half of tuition costs for the first 2 years of college. The only tax relief for the third and fourth years comes from savings plans that only wealthier families can afford to join.

Under the Democratic plan, HOPE Scholarship credits would be available for all 4 years of post-secondary-education. After the first 2 years, a scholarship credit of 20 percent of tuition costs is available. These HOPE scholarship credits are available to all students who live in families with incomes under $80,000. The HOPE scholarship credits are not reduced by a student's Pell Grant and other nontaxable Federal scholarships. The Democratic plan makes permanent the tax-free treatment of employer-provided education assistance.

The Republican bill denies the $500 per child tax credit to 15 million families, by refusing to extend the credit to many working parents who qualify for an earned income tax credit, or to families who only pay payroll taxes. More than one-half of the children in New Jersey would be completely ineligible.

The Democratic plan allows families to offset payroll and income taxes and would continue the existing day care credit.

The Republican plan grants massive tax breaks to wealthy people who make money by selling their stocks, bonds, art works and antiques. Republicans also have designed their proposal so that it explodes over time and could wreck the balanced budget.

The Democratic Plan targets capital gains relief to homeowners, not mansion owners.

The Republican plan provides large estate tax breaks to very wealthy families. Only 1.5

percent of families currently pay any estate taxes.

The Democratic plan gives relief for those who dedicated their lives to building the family farm or small business.

The Democratic tax package is a better deal for more people. It gives the most tax relief to lower and middle-income families: immediate estate tax relief for farms and mom-and-pop businesses, a capital gains tax cut for small businesses, and provides $40 billion in for kids to get a college education.

Remember who is making the greatest contribution to reducing the deficit, it is the vast majority of Americans. I can only speak for my district. Most of my people are honest, hard working people who don't have capital gains on their art collectibles. They don't have lavish deductions for business expenses. They will never make enough money to ever worry about estate taxes. They would love the opportunity to pay a minimum alternative tax.

The Republican tax bill abandons 60 percent of all families, giving them a miserly 12 percent of the tax cuts. The Democratic tax cut substitute looks out for my people and their families. That is why the American people favored the Democratic tax plan by more than 2 to 1 when asked by the Wall Street Journal/NBC new poll. Support the Democratic substitute.

Ms. KILPATRICK. Mr. Chairman, will the gentleman yield?

Mr. BONIOR. I yield to the gentlewoman from Michigan.

Ms. KILPATRICK. Mr. Chairman, did I understand the gentleman to say that over 1.3 million children in Michigan will not be able to take advantage of this child credit?

Mr. BONIOR. Mr. Chairman, the gentlewoman is absolutely correct.

Ms. KILPATRICK. Mr. Chairman, did I further understand the gentleman to say that only 1 percent of Americans, the wealthy Americans, will be able to take advantage, and that 60 percent of the bottom rung of Americans will not take advantage of this?

Mr. BONIOR. The benefits in this tax bill for the top 1 percent equal that for the bottom 60 percent, so that 1 percent of the taxpayers in this country are getting as much as the 60 percent at the bottom in this country.

Ms. KILPATRICK. Mr. Chairman, the Republican tax bill would deny tax credits for another 4 million lower middle-income children. Forty percent—two out of every five children—would be ineligible for the credit because their family's incomes are not high enough. The total number of children denied this credit because their families do not make enough money would be 28 million. The Republican's highly touted $500 tax credit that is nonrefundable allegedly gives tax relief to families. While corporations will reap a $22 billion windfall in this bill, 28 million children would get nothing.

The Republican tax bill denies tax credits to working families. For example, a family of four with two children with no child care expenses would not receive any credit unless its income exceeded $24,385. Moreover, if the family had child care expenses, it could earn as much as $27,180 and fail to qualify for the credit. Also, families that have more than two children, or have high mortgage or health care costs and itemize their deductions, could make close to $30,000 and still not qualify for the credit.

The Democratic tax bill has real child care tax credits. The Democratic bill does not compute a family's child care tax credit after the earned income tax credit [EITC] is figured. This is a significant difference—millions of lower- to middle-income families owe income tax before EITC is calculated, but have little or no income tax obligation remaining after EITC is calculated. Under the Democratic bill, these families would be covered.

The Republican tax bill's largest tax cuts—capital gains, individual retirement accounts, estate, and corporate taxes—provide most of their benefits to the rich. The richest 1 percent get more of the overall tax break than the bottom 60 percent combined. According to the Center on Budget and Policy Priorities, the Joint Tax Committee's distribution tables do not reflect any of the benefits that taxpayers would receive from these four provisions.

The Democratic tax bill makes the benefits in these four areas, especially for working people, fair. It provides 71 percent of the tax breaks to families earning $100,000 or less. It provides a capital gains tax cut, an estate tax cut, and tax cuts for small businesses, family farms, and homeowners. The only way that you are eligible for these tax breaks is if you work and pay taxes.

Mr. RANGEL. Mr. Chairman, the official count of Democratic and Republican votes, how many Republicans voted for the Clinton budget that created the atmosphere so that we can even think about tax cuts?

Mr. BONIOR. Mr. Chairman, let me see here. I have my old 1993 count here, and there was not one Republican who voted for the 1993 budget that got us down from $300 billion.

Mr. RANGEL. Mr. Chairman, we really cannot cut taxes when we have a deficit, can we?

Mr. BONIOR. Mr. Chairman, the gentleman is right.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. The gentleman from Michigan [Mr. BONIOR] has the time and should indicate each time he yields or reclaims the time.

□ 1300

Mr. ARCHER. Mr. Chairman, I yield 3 minutes to the gentleman from Mississippi [Mr. PARKER].

Mr. PARKER. Mr. Chairman, I thank the gentleman from Texas [Mr. ARCHER], the chairman, for yielding me the time.

Mr. Chairman, I was very interested in the comments made by the minority whip and by the ranking member talking about one particular aspect of the committee's bill dealing with AMT. I think a very wise part of this bill has been the removal of the depreciation penalty from AMT.

It is fascinating to me that people always come to the floor of this House and they scream and yell about jobs going overseas, about companies leaving our Nation and us losing jobs. It is fascinating to me that people talk about that and at the same time they scream about the companies in this country that are not investing in their own companies and staying up, being modern, being able to produce, increase their productivity. Let me tell my colleagues what the most burdensome part of AMT is and how it has been removed from this bill.

In order for any company to modernize and be able to create new jobs and increase productivity, they must put money into the company. You do that by using depreciation, because equipment is just like people: It gets old, it wears out, and it eventually dies.

Depreciation is not a gift, it is an allowance to a company to modernize and to buy new equipment and to be state of the art. But what we did when we implemented AMT, and it was a terrible mistake, is we told companies we are going to allow to have depreciation, "But, by the way, if you invest in your company, what we are going to do is we are going to say that does not count."

So what we say to these companies is, "We are going to penalize you, take away your depreciation, and force you to pay money to the Government in taxes," and companies are penalized for investing. That is a fascinating situation in which we put companies on a day-to-day basis in this Nation. As a matter of fact, they are rewarded for not investing.

Every union member in this Nation should rise up in revolt when leaders in this country say we should have a penalty on depreciation. It keeps them from having more productivity. It prevents them from losing jobs overseas. It prevents their salaries from raising. It is the most ridiculous, asinine piece of any tax legislation I have ever seen.

It needs to be changed. And the gentleman from Texas [Mr. ARCHER], the chairman, in this bill has changed it. It will mean more jobs in this country than anything else in this bill.

Mr. RANGEL. Mr. Chairman, I yield myself 30 seconds to tell the gentleman from Mississippi [Mr. PARKER] that Democrats apologize to him that the corporations, because we are asking them to pay some minimum tax and they wipe that out, but the reason we do it is because two-thirds of the children in Mississippi will not get the child credit under the Republican bill, and that is over a half million children. That is why we cannot be that generous in excluding corporations from paying taxes.

Mr. ARCHER. Mr. Chairman, I yield myself 1½ minutes simply to respond to some of the information that has been misrepresented to this House.

The gentleman from Michigan [Mr. BONIOR] said, and it is a broken record, he has used it for so many years, it does not matter what the tax bill is before the Congress, it is always the rich get richer and all of these breaks go to the rich.

It is unfortunate we have to deal with this economic class warfare rhetoric over and over again. Frankly, I am offended by it at a time when this President and all of us should be pulling all Americans together instead of dividing them. But the Joint Committee evaluation of this bill, and bear in mind they are the official estimator, bear in mind they are nonpartisan, they advise Democrats and Republicans, House and Senate, shows that in the top 1 percent of income category, they will pay more under this bill. Their effective rate will go up from 29.9 to 30.5 percent. I do not know where these numbers come from that say the rich get richer.

The article in the New York Times which said that there would be 1,000 taxpayers who would get some kind of relief is a proposal made by the administration for simplification of the Tax Code. We put it in the bill because it was sent to us by the administration asking us to simplify the code. If they do not like it, we will take it out. But it is ridiculous for this sort of an allegation to be made against a bill when we are simply trying to simplify the code.

So Americans should understand that the rhetoric of class warfare, based on inaccurate figures in the first place, is not what this should be all about.

Mr. Chairman, I yield 2½ minutes to the gentleman from Illinois [Mr. WELLER], a respected member of the Committee.

Mr. WELLER. Mr. Chairman, I rise in support of this very important piece of legislation. I am so proud that this House overwhelmingly passed with bipartisan support yesterday legislation to implement a bipartisan balanced budget agreement.

Today a key part of the balanced budget agreement, which is lower taxes for working families, will be passed by the House as well and deserves bipartisan support. I think it is important to note that this is the first real tax relief bill for working families in Illinois, in the land of Lincoln, in 16 years.

I also feel it is very important to note who receives the vast majority of this tax relief. Now the Joint Committee on Taxation, which is a bipartisan committee made up of Democrats and Republicans, it is respected and trusted by both sides and it is nonpolitical, they have honest numbers. If you look at the chart that they provided when analyzing this tax bill, they note that over three-fourths of the tax relief which is provided in this tax bill that we are going to be voting on today goes to families with incomes between $20,000 and $75,000, a group of people that most of us would call working middle-class families. Seventy-five percent of the tax relief goes to families with incomes of between $20,000 and $75,000.

Let me point this out again. In this bill, 75 percent, actually 76 percent of the tax relief goes to families with incomes between $20,000 and $75,000. That is real tax relief for people in my home State, the working families that I represent. In fact, a family in Illinois with a median income of $44,000 will see tax relief of over $10,000 over the lifetime of this bill, $3,000 more than the President proposed with his proposal earlier this year.

Clearly, this is a better deal for those who pay taxes and work hard back in Illinois. We include tax relief for families with children, $500-per-child tax credit. In the 11th District of Illinois that I represent, 110,000 children will benefit, 33,000 more than the President proposes.

Education incentives help send kids to college, capital gains tax deductions create jobs, individual retirement accounts encourage savings, death tax relief helps small business and agriculture pass on someone's fruit of their labors to the next generation, and welfare-to-work tax incentives.

This legislation deserves bipartisan support. Again, the bulk of the tax relief, 75 percent, goes to families with incomes between $20,000 and $75,000. Working and middle-class families are the beneficiaries of this tax bill, which deserves bipartisan support.

Mr. ARCHER. Mr. Chairman, I yield 4 minutes to the gentlewoman from Washington [Ms. DUNN], a respected member of the Committee on Ways and Means.

Ms. DUNN. Mr. Chairman, for the first time in 16 years, women across America are getting a tax cut. The truth is our tax bill helps women throughout their lives, at home and in the workplace. The only people who think that tax relief in this bill is not good for women are those who do not believe we women can manage our own money. That kind of thinking is passe.

What does this tax relief package really do for us? First of all, the mothers of 41 million American children will be able to keep more of their money. The child tax credit is money that desperately is needed to make ends meet. The child tax credit is money that can be used to pay for school, for clothes, for groceries, or for those often unexpected expenses that come with raising children.

Women and their families will also get a lot of help in sending their children to college. The cost of higher education these days is overwhelming. I just had two kids in college. I know.

Finally, women are provided additional options through our bill to save for their retirement through expanded IRA's that they can get involved. The fact is that women live longer than men, yet we also often have less savings. We should not force women these days into choosing whether to buy shoes for their 8-year-old daughter today or being able to put money aside for their own retirement later.

Let me talk about the workplace. Today women are starting businesses at twice the rate of men. Our lower capital gains tax leaves more vital capital in the hands of women-owned businesses, in the hands of women investors and women entrepreneurs.

Why is this so important to women? The reason is that in a very late survey, 1995, it was discovered that 84 percent of women-owned businesses used their personal savings to get their businesses started. We need to be able to give them this choice.

Here is another example. After death of a spouse where a woman is left with the family home as her only major asset, when she sells that home a reduction in the estate tax, relief which we offer her, is terribly significant to her. These are dollars that will make her life a little easier. It will help her make ends meet a little bit better during a tough time.

The American dream is for everyone, I say to my colleagues, including women. It is a little bit better place for our kids if we did right, little bit better place for our loved ones. But the current death tax is so onerous that the owner of a family farm or a family business who dies and leaves a home or business to his children, these kids often have to sell their business or their home simply to pay the debt of inheritance taxes, and all of this at a very, very tough time, sensitive time in the lives of those family people.

Let me give you an example of a woman who lives in my district in North Bend, WA. She lives on 50 acres of timber her parents bought when she was a little girl of four.

When her folks died, they left her the timber farm at a value of 155 percent in estate taxation, so she had to log 20 acres of prime timber. That meant cutting trees that were 60 years old.

Helen did not want to cut those mature trees, but she had to to get the money. She was paid $565,000 for the timber. Immediately she paid 21 percent to the forester, and then she paid Federal estate taxes, State taxes, and her lawyers. Not a penny was left, and neither was the beautiful timber that had been enjoyed in that neighborhood by folks who hiked through it and by animals that lived there.

Finally, Mr. Chairman, this bill helps provide women the flexibility to start home-based businesses while at the same time staying home to take care of their children. No longer will women be forced to go to a job and leave their kids at home in order to pay the family's tax bill. I urge my colleagues to support this woman-friendly tax relief bill.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Nebraska [Mr. CHRISTENSEN], another respected member of the Committee on Ways and Means.

Mr. CHRISTENSEN. Mr. Chairman, this bill is perhaps the best piece of small business legislation to come down the pike in over 40 years. Think about it: Capital gains reductions, death tax reforms, helping the independent contractor, the small business owner. The No. 1 piece of legislation, according to small business. Last year the White House Conference on Small Business said it was their No. 1 issue. Sixteen hundred delegates from all across the country, they came and thought about it and talked about it, and then took a number of sampling policies, talked with their members and said the No. 1 issue for small business in this country was reforming the independent contractor legislation, getting simplifications so that the IRS could help decide who is and who is not an independent contractor, who is and who is not an employee, bringing some clarification to this needed area.

□ 1315

For 26 years the gentleman from Texas [Mr. ARCHER] has been here fighting for capital gains, fighting for small business owners. This is a historic day, that the Democrat, the minority side, is talking about tax cuts, that they are talking about we want tax cuts, too, we just do not want quite as much, that it has gone so far, that this debate has come this far. The American people owe the gentleman from Texas [Mr. ARCHER] a debt of gratitude for the fact that he has been here, he has been fighting in the vineyards, he has been a lonely voice for a very long time, but now the President is on his side. We are going to pick up 40, 50, maybe 100 Democrats on this vote. The small business community thanks him, the American people thank him. This is a great tax package for small business America.

Mr. RANGEL. Mr. Chairman, I yield 3½ minutes to the gentlewoman from Connecticut [Mrs. KENNELLY], a senior member of the Committee on Ways and Means.

Mrs. KENNELLY of Connecticut. I thank the gentleman from New York [Mr. RANGEL] for yielding me this time.

Mr. Chairman, I would like to note that the gentleman who just spoke is from Nebraska. In Nebraska almost half the children there will not get the child credit under the Republican bill on the floor today.

Mr. Chairman, I was on the way to speak here just a little while ago. I had my statement in my hand. I was going to talk as I have talked for years, 10 years I have been on the Committee on Ways and Means, about the earned income tax credit. Then I said, why should I talk about that today? Everybody is talking about it. And I should be happy but I am not because of the way the earned income tax credit is being used in relation to the child credit. And so I thought I would give the genesis of the earned income tax credit.

I got involved in 1986 in tax reform and began to look at this legislation and put forth some proposals in that statute. I looked up the history, and it became law, the earned income tax credit, in 1975. The Senator from Louisiana, Senator Long, who was head of the Finance Committee, our tax counterpart in the Senate, understood something. He understood that because of the payroll tax and inflation and the way we did our taxes in this country, for some people who worked hard, it was not worth working when you took out the payroll tax. He introduced the earned income tax credit so those people could keep the fruit of their labor. That tax was little then, but it grew.

In 1986 when I got involved, it was bigger. But it was complicated to apply for it and a lot of people did not. In 1990, President Bush was President. He was looking at his budget. He had a chief of staff named John Sununu. He latched on to a piece of legislation I had introduced, the Kennelly bill, about the earned income tax credit, and he put it in President Bush's budget. I was so delighted. But then it went over to the Senate side and Senator Bentsen got involved and he took a piece of it, he had it, for a good reason, for health insurance for children. Then there was another piece taken, I believe John Sununu did it, for the President, he put it in and that was a tiny tot credit. If you stayed home with your child, with your baby under 1, you got some of this earned income tax credit. Lo and behold, it got so complicated, it had more money and people were not using it.

But then in 1993, something happened. Our President, Mr. Clinton, understood the earned income tax credit like Senator Long did. So what he did was infuse a very large amount of money into it, $23 billion. He understood you could not have it complicated because people would not apply for it. So there we were with the earned income tax credit finally working. You used it against Federal income tax, payroll tax, or the other income tax. Your income tax. I thought that I could relax, and I was very pleased. Then lo and behold we came to this year.

But wait, I forgot one year. 1994. How could I forget 1994? We got a new majority, they had a contract for America, and they had the earned income tax credit in, and yes, they did it the right way. You could play off your earned income tax credit against payroll tax or your income tax and everything was OK. But now we have got this bill before us today. We have got a child credit, a good child credit, except I look down and I see the child credit is played off against the earned income tax credit. That means if you have the earned income tax credit and you put that against your Federal income tax and then you do not have any more credit to go against your payroll tax.

What that means, Mr. Chairman, is the Republican plan would provide a $500 child credit for 39 million people, a lot, but the Democratic plan before us, 60 million children get it. Please, I have worked on this a long time. Let us do it the right way again.

Mr. ARCHER. Mr. Chairman, I yield myself 15 seconds to respond to the gentlewoman. Obviously she has not noted the changes in this bill that were accomplished by the rule that was passed, because under the rule, any taxpayer with adjusted gross income of under $60,000 will not lose the dependent care credit under the bill now before the House.

Mr. Chairman, I yield 3 minutes to the gentleman from Georgia [Mr. COLLINS], a respected member of the Committee on Ways and Means.

Mr. COLLINS. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, a lot of comments have been made here today by different Members in reference to the President and his willingness to reach out and the Members of this side of the aisle and their willingness to reach back and also to reach out with ideas. I want to relate a conversation, a personal conversation that I had with President Bill Clinton in April of 1995, standing in the little White House in Warm Springs, GA, the Georgia home of F.D.R., F.D.R., who was considered the working man and the little man's friend. As we were departing that day, I looked at the President, and I said, "You know, sir, we have to look after the little man because the big man can take care of himself. But every now and then you have to give just a little something to the big man so he'll help the little guy."

And the President was nodding in agreement. And I said, "Mr. President, that's our tax bill, the tax bill of the 104th Congress." Little known to each of us that day, we would not be back with that tax bill but one time, just one opportunity to pass and accept it. But we are back again in the 105th Congress. We are back with a lot of the good ideas that he says, "Yes, there are a lot of good things in this tax bill that we will eventually agree on." But there is the old saying, "Opportunity only knocks once, temptation will beat the door down."

We missed that opportunity in the 104th Congress, but we are back with those good ideas, not only our good ideas but some ideas of the President's, in the area of education, AMT relief that the President has proposed, capital gains relief that the President has proposed. This debate is good, it is real good. It is pointing out some differences yet that we still have in this bill. But we have an opportunity here today to move this bill forward, pass it, move it into conference, work on those additional ideas and differences that we have.

Let us not miss this opportunity. Let us work on the good points and the good parts that we have put in, that the President has put in, and let us work on those differences to improve this bill over the next 2 to 3 weeks, and let us give tax relief to the little man, the working people of this country, and let us also give some assistance to those who can help those working people by providing them jobs.

A lot has been said about the AMT. Business people understand that. They understand oftentimes under the AMT provisions you can actually lose money and still have a tax liability, and it drives behavior of business that also deletes a lot of jobs. A lot has been mentioned about the type of equipment that is purchased that comes under the AMT. Most of those jobs are assembly line jobs, union jobs.

This is a good bill and by the time we get through with it in 2 to 3 weeks, I know it is going to be a lot better. Let us take advantage of opportunity and let us move this piece of legislation forward.

Mr. ARCHER. Mr. Chairman, I yield 3 minutes to the gentleman from Louisiana [Mr. McCRERY], another respected member of the Committee on Ways and Means.

Mr. McCRERY. Mr. Chairman, my colleagues have heard and will continue to hear criticism from some telling them that the Republicans have written a tax cut that benefits big corporations. I am here to plead guilty, sort of. I say "sort of" because there is much in this bill which directly benefits middle-class families, the $500 per child tax credit, education assistance, and exclusions for capital gains on home sales. In fact, most of the tax relief in this bill goes to middle-income families. But our tax cut will benefit corporations, and those who criticize that just do not get it. They cannot see that benefiting those who create jobs ultimately benefits workers as well.

Let us look at just one industry in my home State of Louisiana, forest products. Forestry in my State employs some 8,000 in harvesting and transplanting trees and another 26,000 in forest products manufacturing jobs and some 113,000 Louisianans own forestland. Tree farmers in Louisiana plant seedlings, then they wait, 20, 25, 30 years. They endure the threats of flood, fire and infestation. All the while they incur expenses caring for their crop and all the while inflation ticks along. After a couple of decades, if the trees are still standing, they are cut and sold. The capital gains tax reductions in this bill will reward those landowners who risk their capital to grow those trees, and because of the potential for greater rewards, more landowners will decide to risk their capital to grow trees, which will in turn provide our forest products industries with a ready, affordable source of raw material for their factories, which in turn will provide good-paying jobs for a great many people in Louisiana and across our country.

But for those jobs to stay here in the United States, our factories must be competitive in the world marketplace. For our industries to be competitive, they must continue to increase their productivity. To increase their productivity, they must continually invest in new equipment for their operations. The alternative minimum tax makes it much more difficult for forest products companies to invest in plant and equipment when they need to.

This bill gives some relief from the perverse consequences of the AMT, which will allow more timely investment by forest products industries, giving them a better chance to compete worldwide while continuing to pay high wages and benefits to their employees. The forest products industry and those who work in it will benefit from the tax relief in this bill. That is helpful to an industry that is very important to my State. But there are other industries, ones important to other States around this country, which will also benefit.

I urge my colleagues not to attempt to defeat this bill by demagoging it as a tax cut to big, faceless corporations. Corporations are not faceless. They are the faces of all those who work for them and the faces of all those whose retirement funds are invested in them. Let us quit trying to win political points by dividing Americans by income. Let us work together to provide an economic climate that will create jobs for everybody and make everybody richer.

Mr. RANGEL. Mr. Chairman, I yield 10 seconds to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY of Connecticut. Mr. Chairman, I would like to respectfully say to the gentleman from Texas [Mr. ARCHER] that he misunderstood me. I did thank him on the floor the other day for the dependent credit under $60,000. What I was talking about is something else he could do in conference and that is to fix those under $30,000 who cannot get the child care credit.

Mr. RANGEL. Mr. Chairman, I yield myself 15 seconds to point out that we wish we could afford the luxury of having corporations that make money not to pay taxes, but again it is just not fair because we would rather see whether we can change the Republican bill and maybe we can in conference. In its present form, 58 percent of the children of Louisiana would not be eligible and that is 3 out of 5; two-thirds of the kids in Mississippi will not receive it; 52 percent of the kids in Georgia will not receive it; 41 percent in the State of Washington will not receive it; half of those in Illinois will not receive it.

Mr. Chairman, I yield 4 minutes to the gentleman from Wisconsin [Mr. KLECZKA].

Mr. KLECZKA. Mr. Chairman, when the gentleman from Texas [Mr. ARCHER] started out the debate, he indicated that he is going to dedicate this tax bill to Debbie and Bill from Manassas. But what the Republicans are not telling Debbie and Bill and other Americans is about a provision in this bill which will have a devastating impact on workers, men and women alike, and their benefits.

□ 1330

The provision I am about to talk to is disguised in this legislation as tax bill clarification. What I am talking about is the independent contractor language inserted by the Republicans on the committee, and let us use Bill from Manassas as the example.

Let us say Bill is a plumber. If this provision passes into law, Bill could go to his company on Monday of next week, ABC Plumbing Company, and the employer is going to say, "Under a provision passed by the Republicans I don't have to call you, and I don't have to treat you as an employee anymore. I'm going to call you and treat you as an independent person, an independent contractor." Bill is going to say:

"Well, why?"

He says, "Well, you have your education for being a plumber, you have your own tools, for the most part you work off the employer's premises; that's a definition of independent. So, Bill, you're not my employee anymore; we're going to pay you by the job, and if you go to Christine Place to replace a hot water heater on Monday or Tuesday, I'll give you a hundred bucks, you do the job, you keep the money."

But what happens to Bill and what happens to Debbie and their family and their kids is that under this provision Bill has no retirement plan. For years he has been paying part of it, the employer has been paying part of it. "Being independent now, Bill, I, the employer, don't have to offer you a retirement."

"Well, how about health insurance?"

"It's a split. I pay 20 percent, you pay a portion. I have family health coverage. Sorry, Debbie and Bill. As an independent, get your own. Take that hundred bucks I gave you to replace the water heater, get your own coverage."

Well, let us say Bill is injured seriously on the job, loses an arm. Under the current practice and under Bill's current condition, he gets workers compensation, which will take care of him should something like that occur. "Under this provision, Bill, you're independent. You don't get workers' comp from us, get it yourself if you can."

And how about the slow period in the fall? Bill is off for a couple of weeks. Right now the employer gives him unemployment compensation, and it helps feed the family. Under this provision Bill does not get any workers' compensation or unemployment compensation.

Also, currently under the current situation, Bill pays one-half of his Social Security and Medicare hospital tax, 7.65, the employer pays the other half. Under this provision, "Bill, you pay the entire 15 percent. I, the employer, pay nothing."

That is what is in this bill. That is the beginning of the end for employee benefits and protections as we know them today.

And know full well I view this as the biggest gift to employers, and if I were dedicating this bill to anyone, Bill and Debbie from Manassas, I would not dedicate it to them because they are going to lose, they are going to lose under this provision. I will dedicate it to the ABC Plumbing Companies of the world and other people who are going to treat their employees in this manner.

And know full well it is not only plumbers that are covered. Under this provision it could be the airline pilots, it could be teachers, it could be police officers, plumbers, electricians.

This is a new way to do business. This is a gift, a dangerous gift to employers who choose to treat their employees this way. And I am saying, and I have talked to the administration, they will not sign this bill with that provision in it.

But I challenge the Republicans, if they are going to dedicate this bill to working families, talk about this provision, talk about how this is going to harm them, how dangerous this is. And I ask my colleagues to vote against this bill if for no other reason than this provision.

I can put up with the harassment on union dues because unions happened to help Democrats in the last election. So it is a provision. Go and stick it to the unions. But this one is the harmful one. This is the one that forces me to vote against this legislation, and I ask my colleagues on behalf of Debbie and Bill and all other Americans to oppose this particular legislation.

Mr. CHRISTENSEN. Mr. Chairman, I yield myself 30 seconds to respond to the gentleman from Wisconsin's accusations.

First of all, it is a mutual agreement. There must be a signed agreement from the individual involved and also the person that we are contracting with. There is an independence and an investment component of this independent contractor legislation, so it is not a unilateral decision by one person to make that decision.

Second of all, it is the No. 1 area in small-business America that needs to be fixed under the code, and the White House Conference on Small Business decided this. So it is not something that is just being unilaterally decided by Republicans. It was a joint decision by also the administration with the White House Conference on Small Business.

With that, Mr. Chairman, I yield 2 minutes to the gentleman from Dallas, TX, Mr. SAM JOHNSON.

Mr. SAM JOHNSON of Texas. Mr. Chairman, as my colleagues know, this tax relief bill gives part of America back to Americans who pay too much in taxes. There is not a Member here who can deny that this bill provides relief to families through the $500 per child tax credit. Gives entrepreneurs and companies the opportunity to create more job opportunities in America by lowering the capital gains tax rate than the alternative minimum tax, allows families to keep their farms or small businesses by providing death tax relief and gives more Americans a way to send their kids to college and buy a first home by expanding IRAs.

During this debate there are going to be two different arguments about what tax cuts mean. By the time we finish, I think our differences will be clear. To Democrats tax cuts mean less money here in Washington for this Government to spend. To us Americans tax cuts means people will keep more of the money that they work so hard to earn. In America we ought not to discriminate on the basis of race or gender, and we also should not discriminate on the basis of income.

We in Congress have a responsibility to bring Americans together for everyone's benefit, not divide them with class warfare rhetoric. Seventy-six percent of the tax cuts in this bill go to people making under $75,000, and a hundred percent of these tax cuts go to all Americans, who are overtaxed. Neither the President nor Democrats in Congress should stand in the way of hardworking Americans getting a break from high taxes.

As my colleagues know, Americans want, need, and deserve their tax relief now.

Mr. CHRISTENSEN. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. BOEHNER].

Mr. BOEHNER. Mr. Chairman, America has enjoyed many months of uninterrupted economic recovery. But the recovery is not enough. If we are to prevail in the long run, we must expand the long won strength of our economy. To achieve these greater gains, one step above all is essential, the enactment this year of a substantial reduction and revision in Federal income taxes. This will increase the purchasing power of American families and businesses in every tax bracket with the greatest increase going to our low income consumers. It will encourage the initiative and risk taking on which our free system depends and reinforce the American principle of additional reward for additional efforts.

The enactment this year of tax relief overshadows all other domestic problems in this Congress, for we cannot leave the cause of peace and freedom if we cease to set the pace here at home.

Mr. Chairman, these are not my words. These words were spoken three decades ago in 1963 during the State of the Union Address by our President at that time, John F. Kennedy. President Kennedy made this statement as a man ahead of his time with a bold vision for America's future. He showed the courage to look past the skeptics, to look past the pessimists and call Americans to action in defense of their freedom.

Today we find ourselves at a similar crossroads, on the edge of a new century with new challenges to the freedoms of Americans and their families. Bold action again is needed to unshackle the American spirit. The question is whether our President will seek inspiration from his hero, John Kennedy, and join us in restoring freedom to overtaxed, overburdened and overwhelmed American families.

Mr. Chairman, today's vote is really about that. It is about freedom, freedom for Americans to save, to spend, to invest and to contribute to their own communities instead of handing an ever increasing amount to our government, their hopes and dreams along with it.

Passing this bill today, Washington takes a small step in the right direction.

Mr. RANGEL. Mr. Chairman, I yield 30 seconds to the gentleman from Wisconsin [Mr. KLECZKA].

Mr. KLECZKA. Mr. Chairman, let me respond to the gentleman from Nebraska on the independent contractor, the provision that employees lose their benefits.

First of all, the White House conference did meet made up of small business people. As part of that group there were no working men and women who could object to this provision, and the question of whether or not it is voluntary. If someone's employer calls them on Monday and says, "Sign on the dotted line or you have no job, you have no income," they are going to sign. And that is exactly what happened at Microsoft, where the employees were forced to sign the statement that they are independent contractors. So do not tell me this was voluntary; this was forced, and any employee who does not sign on the dotted line goes home with no pay.

Mr. RANGEL. Mr. Chairman, I yield myself 30 seconds.

When the bottom line is there, we will find that over half of the kids from working families in the State of Texas, in the State of Ohio will not benefit under the Republican bill.

Mr. Chairman, I yield 10 minutes to the gentleman from California [Mr. MATSUI], a senior member of the Committee on Ways and Means.

Mr. MATSUI. Mr. Chairman, I thank the gentleman from New York, the ranking member of the Committee on Ways and Means, for yielding this time to me.

Mr. Chairman, we have been hearing from the Republicans capital gains tax cuts, estate tax cuts. They want to eliminate the alternative minimum tax on corporations in America. They want to have back ended IRA's.

We must have amnesia in this room here today because just 24 hours ago we were saying how wonderful the agreement was with the President on balancing the Federal budget. And now all of a sudden we are talking about these enormous tax cuts.

I added up all the tax cuts that the Republicans have been taking about. Over a 10-year period these tax cuts come to $600 billion or about $60 billion a year. That is why the President in the budget agreement said over 10 years it can be no more than a net of $250 billion, less than half of the total tax cuts as they add up.

We thought the Republicans were going to be moderate, that they were going to try to compromise, they were going to pick and choose and prioritize what tax cuts they wanted to give the American public. What they did instead was committed a little duplicity. What they did was they phased these tax cuts in. They phased them in over a 10-, 12-, 15-year period.

For example, the capital gains tax cut does not come into effect until the year 2001, and as a result of that what we are going to see is, yes, the net tax cuts for the first 10 years will be $250 billion. Revenue loss of $250 billion.

But then if we look at this chart, we will find that in the year 2007, 2007 alone, it will be $41 billion just in that 1 year alone. Then by the year 2017 it will be $90 billion of revenue loss in that 1 year alone. It will make the deficits we had over the last 15 years look like chicken feed compared to the deficits that will occur when the children and the grandchildren are becoming the age when they want to buy a home or employment.

We are a great competitive Nation. We had growth over the last 6 years. We have been the strongest economy in the world. And the Republicans, if this bill passes and becomes law, will drag this economy down so that we will be a banana republic. We cannot afford this tax bill, which is going to explode the deficit, and the American public has to know that.

Mr. CARDIN. Mr. Chairman, will the gentleman yield?

Mr. MATSUI. I yield to the gentleman from Maryland.

Mr. CARDIN. Mr. Chairman, the gentleman is right. Yesterday we were talking about trying to balance the Federal budget and keep it balanced. We should learn from what happened in 1981 when we created the climate for exploding deficits. This bill should be known, since we are going on the Fourth of July break at the end of today, as the Fireworks Tax Act of 1997. We are going to have exploding deficits if this bill is passed in a way that it has been presented.

The gentleman points out in that chart very clearly the difference between the Democratic bill and the Republican bill. The Democrat bill has a capital gains tax cut in it, but it is mindful of how much we can afford in its target. The Republicans not only put in a differential rate for capital gains, but also indexing, and another chart that the gentleman has there really points out the fact of how we are going to have exploding deficits if this bill passes and is enacted the way that it has been presented.

It is convenient in the year 2002, the year that we have advertised that we are going to have a balanced budget, that the capital gains tax actually produces more revenue for the Treasury, and why? Because in that year the Republican bill allows people to sell and buy back their assets to get a lower capital gains rate and then to be able to take advantage of indexing. They get it twice.

To make matters worse, the indexing requires a 3-year holding period so the revenue losses will not be felt until we are well past the budget window.

□ 1345

We want to make sure that we do the right thing as far as the deficit of this country is concerned, that we actually have a balanced budget. We have all been arguing in this budget that we want to balance the Federal budget and keep it balanced. We should learn from history in 1981. This is just one of about five or six provisions in the Republican bill that advertises very little revenue loss in the first 5 years, but they explode in the outyears and we will have huge deficits.

The point that my colleague is making, the chart that he is showing, I hope that the American people will understand that if we vote for this tax bill that is on the floor today, we are voting for large deficits in the future.

Mr. TANNER. Mr. Chairman, will the gentleman yield?

Mr. MATSUI. I yield to the gentleman from Tennessee.

Mr. TANNER. Mr. Chairman, I want to follow up, if I could. I come from the wing of the Democratic Party here in the Congress that thinks that it is important that we get our Nation's books in balance. As a matter of fact, a group called The Coalition had a budget proposal that had entitlement reform and no tax cuts in the belief that more people in this country would benefit if we could get our Nation's books in order and get the Government out of the credit market as fast as possible, borrowing the least amount possible, as soon as possible. We did not prevail on that.

So there was an agreement reached between the President and the leadership of the Congress that we would have a tax bill now.

Well, we, in an effort to try to be constructive in the process, think that any tax bill ought to be responsible from the standpoint of the outyears. This one, I think, falls short on that score.

I do not see how we, as stewards of this land in our time in public office here, can think about leaving a country to our children and grandchildren that is as financially weak as this one will surely be if all we do is a touch and go in the year 2002, and then climb aboard the space shuttle and take back off on a rocket ship to oblivion and debt. I am afraid that is exactly what is going to happen in these outyears.

This bill was cleverly scored in the first 5 years. Some of us agree with the prospect of estate tax relief and capital gains tax relief because we think that tax relief, if we are going to have a tax bill now, makes sense from a standpoint of economic activity and generational transfer of property. But these outyears, this is something that the American people really ought to worry about, because it is going to affect every family.

There are a lot of statistics being bantered about; people read them different ways. This affects us all, no matter who we are.

Mr. MATSUI. Mr. Chairman, reclaiming my time, I thank the gentleman from Tennessee. The gentleman indicates that this is really going to affect our children and grandchildren.

Mr. LEVIN. Mr. Chairman, will the gentleman yield?

Mr. MATSUI. I yield to the gentleman from Michigan.

Mr. LEVIN. Mr. Chairman, if the gentleman from California [Mr. MATSUI] would trade places with me for a moment, I want the American public to see these two charts. This is based on material from the Treasury Department. The Democratic tax cut plan, 71 percent of Democratic tax cuts go to low- and middle-income families. Two-thirds of the Republican tax cuts go to the wealthy based on Treasury material.

Here is the 10-year analysis by the Republicans of their plan. It is right here. This is it. There is nothing. There is nothing. The Joint Tax Committee will not supply a 10-year distribution analysis. I will tell my colleagues why.

First of all, it puts to a lie, to a falsehood the notion that my colleagues have said 76-percent of the tax relief goes to people making below $75,000. Those are 5-year figures. The other chart, about 90 percent goes to families and education has 10 years on it, but not the 76 percent figure. It is based on 5 years because most of the tax cuts, the second 5 years, go to wealthy families, and my Republican colleagues are trying to hide it.

Second, those second 5-year tax cuts explode the deficit, and my Republican colleagues do not want to admit it. They do not want to admit what the effect is. That is it purely and simply. We have begged our Republican colleagues, come forth with a 10-year distribution analysis, and they will not do it.

My Republican colleagues challenge the Treasury figures, but they are the same methodology used by Reagan and Bush Treasury Departments, and they come up and nitpick about imputing this or imputing that. The fact of the matter remains that the analysis by Treasury is this: 71 percent of the Democratic plan goes to low-income families, and here it is. Your plan: Treasury Department analysis, two-thirds of the Republicans' plan go to the wealthy.

If my Republican colleagues do not like the Treasury Department figures, come up with something better than this. The American public will never believe my Republican colleagues' blank slate. They explode the deficit and they benefit the very wealthy to the detriment of middle-income families.

We can do much better than this, and we are going to do that in conference. Americans need a fair tax cut.

Mr. ARCHER. Mr. Chairman, I yield myself 30 seconds simply to respond and say to the gentleman that it is not just minuscule as to the Treasury imputing rental value as income to someone that owns their own home and lives in it and it makes them wealthy. The joint committee, while it was still being run by the Democrat Congress, dropped that from their analysis because they knew it was wrong. The Treasury is still using it. Yes, it was used under Bush, and yes, it was used under Reagan. It was wrong, and it is wrong today. The American people understand that.

Mr. Chairman, I yield 3 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Chairman, I am going to vote for the bill. There are tax cuts for working families, a $500-per-child tax credit, reduction in capital gains, and other elements I like. It will encourage savings, investments, and jobs.

There are elements of the bill I do not support, such as independent contractor matters and teacher retirement situations, but I am convinced they can be removed in conference and should not stop this bill.

But as far as this alternative minimum tax, very simple. This AMT eliminates depreciation benefits; thus, it discourages investment; thus, it kills jobs. In 1995 President Clinton agreed with the gentleman from Texas [Mr. ARCHER], and I believe he was on target then and should support the chairman now.

In addition, when companies consider opening a new plant in America, they shudder and open a plant overseas. In addition, companies must often decide under this law whether they are going to pay workers' wages or taxes.

This is a nonissue.

But I want to talk about the political spin here. Unfortunately, to win the spin we have all played to class warfare: rich, poor; workers, companies; politics and partisanship; politics of division; politics of confusion; politics of fear. I think it is wrong; I think it is bad. I think our country is overregulated, overtaxed.

Mr. Chairman, my dad was a lifelong Democrat, I say to my colleagues, and my dad never worked for a poor guy. I want to today as a Democrat thank every man and woman in America, every entrepreneur that made an investment, that thought enough of my dad and our family to give us a job. They hired my dad. I want to thank them for that.

I would also like to say that it is very simple today, I say to my colleagues. Our Tax Code penalizes achievement, it promotes dependence, it kills investment, it ships jobs overseas, it discourages savings. It has destroyed families, it has destroyed the families in many cases that the Democrats stand for. I hope we come to realize that.

The bottom line: This bill is better than the current law. I am a Democrat, and I want tax cuts. There are a lot of Democrats in America that want tax cuts. I am going to vote for it, and I am going to ask the chairman to give us fairness on the independent contractor issue and on that teacher retirement issue.

But there is one last thing. I think this Tax Code must be incentivized to recycle the money of the risk-taking entrepreneurs throughout America. We should not demean them, we should not punish them with our talk, and we certainly should not scare their money overseas. There is too much of that.

Quite frankly, anyone over there that can jump up and say, TRAFICANT, this vote hurts you politically; I think it does. But I think this vote of mine will help America. That is the bottom line.

Mr. ARCHER. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. PAXON].

Mr. PAXON. Mr. Chairman, I find it appropriate that as the Nation prepares to celebrate Independence Day, this House is cutting taxes for our hard-working families back home. For too long liberals have treated the middle class as their personal ATM machine, a cash cow to pay for their big government schemes. They taxed your income, they taxed your gas, your cable, your electricity, your house, and they even taxed you when you died.

Liberals have come up with all kinds of clever new taxes, never giving a thought for a second to the people that have to pay those taxes, people like the truck driver who cannot afford to send his daughter to college, or the nurse and police officer who cannot give their twin sons some new school clothes.

Well, today, for those folks and millions more, we declare independence from big government and high taxes. In fact, 76 percent of our tax cuts go to those families who earn less than $75,000 a year.

Our plan includes education and per-child tax credits to make it a little easier for families to raise their kids.

Mr. Chairman, for the American taxpayers, the Fourth of July comes early this year, and for once, it is not the taxpayers who are getting barbecued.

Mr. ARCHER. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. DREIER].

Mr. DREIER. Mr. Chairman, this capital gains issue is one that I believe is very important, and it is unfortunate that we see this class warfare thing going on over and over and over again.

When we testified on H.R. 14, the capital gains reduction package to take it from 28 to 14 percent before the Committee on Ways and Means, we had the gentleman from Florida [Mr. DEUTSCH] join us. He has stood in this well time and time again, talking about the fact that 63 million American families own mutual funds today.

It seems to me that we should look at the fact that 85 percent of the returns that are filed are among people who have less than $100,000 a year in income. That is very apparent; it cannot be forgotten, and class warfare is unfortunate. The late Paul Tsongas was right when he said, the problem with my Democratic Party is that they love employees, but they hate employers.

Mr. ARCHER. Mr. Chairman, I yield 1 minute to the gentleman from Alabama [Mr. RILEY].

Mr. RILEY. Mr. Chairman, here we go again. The liberal crowd is absolutely dismayed that this tax bill today does not contain tax relief for individuals who do not work and do not pay taxes. The other side of the aisle just does not get it.

Mr. Chairman, we believe that in order to qualify for tax relief that one ought to at least work and at least pay taxes. Seventy-six percent of the tax relief included in this legislation will benefit working families who earn less than $75,000 a year.

So let us stop the rhetoric and the scare tactics and talk about the truth. The truth is the big spenders on the other side of the aisle will now have less money to squander on wasteful Government spending. The American taxpayer works until May 9 to earn enough income to pay an entire year's worth of taxes. And the cost of Government regulations, the average American's debt to the government will not be satisfied until July 3. That is right. Americans this year will spend more than 6 months working for the government.

Let us stop this insanity and vote for H.R. 2014.

□ 1400

Mr. RANGEL. Mr. Chairman, I yield myself 10 seconds to respond that there is nobody on this side that is saying that, if you do not work, you should get the child credit. Let us not talk about class war. The only class of people that we are talking about benefiting and the President wants benefited by this legislation are hard-working Americans. If you do not work, you do not get it.

Mr. Chairman, I yield 2 minutes to the gentleman from Oregon [Mr. BLUMENAUER].

Mr. BLUMENAUER. Mr. Chairman, I personally am disappointed and saddened with the turn of this debate on a tax cut proposal. In the rush to pass the Republican tax program, we are leaving behind the vast majority of Americans. It shortchanges working families, some of whom will end up paying more to concentrate the relief to the top 1 percent, who have already received the bulk of Congress' generosity over the last 20 years. Instead, we should be concentrating on provisions that would give all working families more equitable treatment.

The most burdensome tax for working families is the Social Security payroll tax, which takes a bite out of everyone, but falls most heavily on those who make lower incomes and on small business people. The simple remedy of a credit against the Social Security tax would help those who need it most, still give the richest Americans a reduction, as well as, most important, create jobs, because employing Americans would be more economically advantageous.

Another adjustment that would be simple, low cost, and make a huge difference would be exempting the profit from the sale of residential property from capital gains. This is the capital gains cut that would reach most Americans. It would cost the Treasury almost nothing, because most people do not pay that tax now. They simply hold onto their property or roll it over to buy more expensive property. Nobody pays it but the dumb, the distressed, and the divorced.

This would enable families to make wiser decisions about homes that best serve their family circumstances, not the Tax Code, while it reverses a perverse tax incentive that promotes urban sprawl. Sadly, we are missing this opportunity to make America competitive and to help working families, while we read of the special interest provisions that are stuffed into this bill. How quickly the Republican Committee on Ways and Means have forgotten all the talk last year about tax simplification and fairness.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Oklahoma [Mr. WATKINS], another respected member of the Committee on Ways and Means.

Mr. WATKINS. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I returned to Congress because I wanted my time to be effective. I wanted a balanced budget for the future of our children and our grandchildren. A future that would allow them to compete and succeed in a 21st century global economy.

Mr. Chairman, I want to thank you so much for offering us to shape that economy. An economy that will allow us to be more competitive. I did not want my children or the children or grandchildren in this country to end up having a Shanghai address. The great economic competition of Southeast Asia and China will place us in the situation where many of our children will have to be looking overseas for jobs if we do not reduce taxation, reduce taxation and reduce litigation.

Mr. Chairman, this particular bill allows us to have a better economy for the 21st century. Yes, it helps the children of middle class America by having a child tax credit, also an education tax credit, but the capital gains tax reductions and relief on the alternative minimum tax will allow us to maintain and sustain economic growth. That is a key economic variable. That is the card that my friends on the other side of the aisle keep overlooking.

If we sustain this kind of economic growth, Mr. Chairman, we will be able to look at having another tax cut next year, and reducing our deficit a great deal more to personally reach a balanced budget a lot quicker than the year 2002.

The budget we passed yesterday was based on an economic growth of 2.1 percent, very conservative numbers. Our growth is presently at 5.5 percent plus. If we could sustain and maintain that growth, yes we will have the kind of economic growth where we can give a tax cut again next year, and where we will be able to balance the budget a lot quicker. What a gift to give the American families.

Let me say, Mr. Chairman, this is not only an immediate help to American families, but the key element of a historic budget that will allow us to have the economic growth for the future. We must shape and craft an economy with less taxes, less regulations, and less litigation, so we can compete in the most competitive global economy that has existed in the history of our country. This is truly a victory for the American families.

Mr. RANGEL. Mr. Chairman, I yield myself 15 seconds.

Mr. Chairman, I would just point out that we want all of the kids of working families to receive this benefit. Over half of the kids in Oklahoma will not receive it under the Republican plan. Over half of the kids in Alabama will not receive it. Fifty-six percent of the kids in New York will not receive it. Almost half of the kids in Ohio will not receive it.

Mr. Chairman, I yield 4 minutes to the distinguished gentleman from Georgia [Mr. LEWIS], a civil rights leader, a member of the Democratic leadership.

Mr. HEFNER. Mr. Chairman, will the gentleman yield?

Mr. LEWIS of Georgia. I yield to the gentleman from North Carolina.

Mr. HEFNER. Mr. Chairman, they say what goes around comes around. In 1981 we heard the same arguments. We passed a package that was unfair in 1981, and we have a package today that repeats it. It is not fair.

If the people want to complain about us engaging in warfare and passing a tax package that benefits the wealthy, quit offering the packages that do not help the working people. But if Members want another package like they had in 1981, this is their baby.

Mr. LEWIS of Georgia. Mr. Chairman, it is time to be frank and honest about this tax bill. Republicans used budget gimmicks, smoke and mirrors, to hide the true effect of their plan. Why? Because the American people know the Republicans are looking out for Wall Street and wealthy Republican supporters.

This debate is not about whether to have a tax cut. Democrats support a tax cut. This debate is about who will get the tax cut, Wall Street or Main Street. Democrats support a child tax credit for all working families. We support a HOPE scholarship to help our children, all of our children, go to college. We support allowing middle class American families to sell their homes without paying taxes.

But this is not what the Republicans want. The Republicans deny more than 10 million working parents a child tax credit, parents who pay billions of dollars in Federal taxes. Republicans cut in half President Clinton's HOPE scholarship for millions of middle class students. Why? So they can give a huge tax break to the rich.

Republicans may tell us a different story, but do not be fooled. The Republican tax bill is not the Good Samaritan on the Jericho road. Do not be misled. What do the Republicans give a family of four making $24,000 a year? Nothing. What do Republicans give the mother who has left welfare to work at a minimum wage job? Nothing.

Yesterday Republicans raised the Medicare premium on the elderly. Today the Republicans will give the elderly middle class nothing. What do the Republicans give millions of working families? Nothing, nothing, nothing.

Empty Republican promises will not help hard-working families live the American dream. Republicans give a $22 billion tax break to America's largest corporations. They give 20 percent of that tax break to people with an average income of half a million dollars. At the same time, the Republicans raise taxes on people earning less than $10,000 a year.

Republicans will steal from the poor and give to the rich. When fully phased in, Republicans give 60 percent of their tax cut to the wealthiest 10 percent of Americans. That does not leave much for America's middle class.

I would say to the gentleman from New York [Mr. RANGEL], Mr. Chairman, I was not here for voodoo economics. I did not vote for trickle-down economics that did not trickle down. We must not make the mistakes of the past. We must not travel down that road again. We must not let the Republicans hide a huge tax cut for the rich behind empty promises for the middle class.

Mr. Speaker, let us give a real tax cut to hard-working American families. I urge all of my colleagues to reject, to vote against, this Republican tax scheme for the rich and support the Democrat middle class tax cut for all Americans.

Mr. ARCHER. Mr. Chairman, I yield myself 2½ minutes.

Mr. Chairman, I would simply say that my friend, the gentleman from Georgia [Mr. LEWIS], makes a very excellent and emotional presentation. And he is right in some regards; he is right, we do not give income tax relief to people who do not pay income taxes, absolutely right. Those people in the middle-income category who pay income taxes, who bear the burden, who have received nothing in the last 16 years, do get the majority of the relief under this bill.

As for Wall Street and Main Street, I do not know how Wall Street benefits from the child credit. I do not know how Wall Street benefits from the education credit. But over a 10-year period, and if this is not true let it be refuted on the other side, $250 billion is the net tax relief. It is $225 billion over 10 years that goes to the child credit, which cannot be given to anybody who has over $100,000 in income, and to the educational tax relief. How does that help Wall Street?

Mr. KASICH. Mr. Chairman, will the gentleman yield?

Mr. ARCHER. I yield to the gentleman from Ohio.

Mr. KASICH. Mr. Chairman, I also want to say what confuses me is I was in this Congress for over a decade listening to people talk about all these big giveaways to the rich, powerful special interests. Yet, the then-majority did not have the guts to take any of those special benefits away by closing loopholes.

It was finally when the gentleman from Texas [Mr. BILL ARCHER] became chairman of the Committee on Ways and Means that we decided to deny special benefits to companies in Puerto Rico that were not living up to the spirit of the deal, to help people in Puerto Rico, and as the chairman of the Committee on Ways and Means that has closed a whole lot of loopholes and denied these loopholes to special interest groups so people who are normal, average working families can get tax relief, we ought to be given credit about that by everybody, on both sides of the aisle.

Mr. ARCHER. Mr. Chairman, this has been distorted also, and I would further add into the debate that over a 10-year period, and normally the House works only on 5 years, those are our rules, but because this is a special deal with the Senate, and the Senate works off of 10 years, we are now looking at both, over 10 years with this tax relief the budget is still balanced at the end of 10 years.

Mr. RANGEL. Mr. Chairman, I yield myself 1 minute and 10 seconds.

Mr. Chairman, it is just how we are designating these working people who are working every day, who will not receive the benefit, that is almost half of the families. We keep saying they do not pay taxes.

Mr. ARCHER. Mr. Chairman, will the gentleman yield?

Mr. RANGEL. I yield to the gentleman from Texas.

Mr. ARCHER. Mr. Chairman, they do not pay income taxes, I would say to my friend, the gentleman from New York.

Mr. RANGEL. Mr. Chairman, they cannot do this to the working people. It is just not fair to do it. If they are going out and paying taxes for clothes, for food, they do not care whether it is the city tax, the State tax, the Federal tax. These are working, proud people who do not want welfare.

The President said, the bipartisan committee said, if you are working and you have kids, we want to help you. But now we are saying, we really did not mean you people who do not have the Federal liability; we cannot help you.

Mr. ARCHER. The gentleman is absolutely right. If you pay in any income tax, you get relief under this bill. If you do not pay any income tax, you do not get relief. The gentleman is correct.

Mr. RANGEL. Taxes they can pay, and if it is not Federal income taxes and they are working hard, they do not count.

Mr. ARCHER. This is an income tax relief bill. That is correct. Those people who pay income tax get income tax relief.

Mr. Chairman, I yield 3 minutes to the gentleman from Florida [Mr. SHAW], another respected member of the Committee on Ways and Means, and the chairman of the Subcommittee on Human Resources.

Mr. SHAW. Mr. Chairman, I thank the chairman for yielding me this time.

Mr. Chairman, I think people who are watching this debate have to be just totally confused at this time. I think the gentleman from Texas [Mr. ARCHER], the chairman, has made a point very, very clearly. If you do not pay income taxes, you do not get income tax relief. Yet, when we hear the speeches going on in the well, as they are talking about all these people are rich, I am sorry, I do not think somebody who makes $20,000 a year is rich. Those are the people, between $20,000 and $70,000, they are the ones who are getting the major part of the relief in this bill, up to 76 percent.

□ 1415

That is the bulk of where this relief is coming from. Look at the child credit, the tax credit for people who have kids, this is a huge part of this bill, a huge part, and this does not go to the very wealthy, as I would define very wealthy. It goes to middle-income America.

I think when you look at the bill and you try to put it on balance, there are some Members in this House who just cannot stand the idea of giving the American people some tax relief. It has been 16 years. Republicans tried to do it last year. We were in the last Congress, it was vetoed. We have now come together working with the administration in trying to give America a very much-needed tax bill and give them the first tax cut in the last 16 years. That is what we need to talk about.

All the rhetoric and all the voice raising and all the yelling and screaming in the well of the House or at any of the microphones around the House is not going to change that. The figures do not lie. That is where the bulk of the tax break is going and that is where it is going to be.

One thing that I think all of us need to talk about and need to be concerned about, that is job creation. When we encourage corporate America, encourage small businesses, encourage the American people to invest in jobs, machinery and equipment, we become more competitive. When we talk about our jobs going overseas, we are trying to bring them home. We want people that have invested in machinery and equipment, that creates jobs. We want them to be able to get the tax write-offs that they deserve through the depreciation process. The depreciation process is just simply being able to subtract from your income a small portion every year of your investment so that at the end of the time, you just have not poured money down the drain. The same Members that are complaining about this are the same Members that complain about our jobs going overseas. You cannot have it both ways. We need economic development, economic growth in this country. We have had good economic growth but the jobs have not kept up. Wages have not kept up.

This is what this bill is going to do. Let us get away from the rhetoric. Let us stick with the facts and let us support the bill.

Mr. ARCHER. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. THOMAS] another very respected member of the Committee on Ways and Means, who is also chairman of the Subcommittee on Health.

Mr. THOMAS. Mr. Chairman, first of all I want to thank the chairman of the Committee on Ways and Means for yielding me the time, but more importantly, for working cooperatively to produce a bill of which all of us can be proud.

I have listened to this debate carefully, and frankly there are two themes that just baffle me. But that is okay. You folks baffle me often. One of them is that you have come to the floor and you have presented a number of charts which explain by graph lines that if you give more of the American people's money back to them, that is, leave it in their pocket, that somehow the Government is going to go into deficit. It is a very simple and fundamental question. What is the economic engine of this economy? Where are jobs created?

We believe the economic engine is the individual, not the Government. It is quite clear when you make the argument that if you leave money in the pocket of citizens to invest, to grow, to create jobs, you are threatening the deficit of the Government. You are wrong. What that does is grow the economic pie. It means they are going to have a better life and there will be more revenue available to the Government.

I know you do not believe that because you do not believe in leaving more money in the pockets of the citizens.

The other thing that I have marveled about in terms of the presentation today is that there is one myth that you absolutely have to perpetuate. I was pleased yesterday on the front page of the Washington Post that the myth that there were aliens who visited the Roswell, NM, area 51, I apologize if some of you do not believe that it is a myth; if you believe it is reality, then it just proves my point even more, but I think we are beginning to realize that it is a myth. We have just recently realized that spicy foods do not cause ulcers. That is an old wives' tale. That is a myth, it is Bacteria.

There is another other myth that is trying to be perpetuated on the floor of the House today. And that is if Republicans put together a tax cut, it must be for the rich. It cannot be any other way. They say aliens landed in Roswell, spicy foods cause you ulcers, Republicans' tax packages are for the rich.

Let me give you an example of how far the Democrats have had to go to maintain the myth that this tax package is for the rich.

Let us take a family that really has not had a very good year this year. It is the Smith family. There are three of them, Mr. and Mrs. Smith and their son, Tom, who is 16 years old. Mr. Smith worked in a foundry but because a lot of the work they are doing is being supplanted by imports, the job really has been threatened for some time. Mr. Smith was worried. He had an accident on the job and, as a matter of fact, the foundry closed down. He is getting workmen's comp because of his accident and he did get some severance pay from the company. They are fortunate, though, because over the years they have been able to save their money and they bought a modest home. They are living in the home. He has an insurance policy that is slowly getting bigger, like most of you have. And son, Tom, feeling pretty proud for a 16-year-old, works at a fast-food store to give himself some pocket change and help out around the house sometimes. He feels very good about it.

In real life, that family profile produces no tax paid. As a matter of fact, they could earn another $10,000 under current law and there would be no tax paid.

Look what the Democrats can do to this family, using their economic income profile. Do not look at the $70,000-a-year people. That is even worse. Look at the Smith family.

All of a sudden in their family income profile, Mr. Smith must count his $5,000 of separation pay. Tom Smith's fast food money goes onto the ledger, $3,000, the $5,000 for workmen's comp, that is added to their income, and guess what, that modest home they live in that would after expenses rent for $500 a month, requires that you slap another $6,000 on their income. Under the Democrats' arguments about who is getting the benefits in this tax cut, the Smiths would have made $20,000 last year. And if you then take the current tax structure and impose it upon what they say the Smith family earned, under their economic income test, these poor folks, the fellow on workmen's comp who lost his job, whose kid felt pretty good about working, winds up owing $772 in taxes.

That is what they do to reality to keep the myth alive that the Republicans have tax cuts for the rich.

REAL LIFE

Gross income for Mr. and Mrs. Smith, $5,000 (separation pay).

Standard deduction, ($6,000).

Personal exemptions (for Mr. and Mrs. Smith and son Tom), ($7,950).

Taxable income, ($9,850).

In real life, the Smiths owe no tax.

DEMOCRATS' FAMILY INCOME COMPENSATION

Mr. Smith (separation pay), $5,000 (separation pay).

Mrs. Smith, none.

Tom Smith (fast food res. salary), $3,000.

Mr. Smith's workman's compensation, $5,000.

Increase in value of life insurance policy, $1,000.

Imputed rental value of home, $6,000.

Total, $20,000.

Standard deduction, ($6,900).

Personal exemptions (for all three family members), ($7,950).

Taxable income, $5,150.

Taxable income, $5,150.

If Democrats' family income was law, Smiths would owe $772.50 in taxes.

Mr. RANGEL. Mr. Chairman, I yield myself 10 seconds.

The real myth is that this is a bipartisan bill. The person who reached out to make it bipartisan is the President of the United States. He will evaluate it and he will find out that it has to be vetoed.

Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts [Mr. MARKEY], an outstanding Member of this Congress.

Mr. MARKEY. Mr. Chairman, first of all, this budget is a house of cards. There are so many assumptions built into the Republican budget and tax bill that it is important for them to keep them separate. Yesterday, the budget. Then after a respectful overnight wait, we bring the tax breaks out here onto the floor. Today they give the tax breaks to the people who do not need them. Do they give them to the people who they hurt yesterday? Well, they say, with bleeding palms yesterday on the floor, look how much we would like to help those uninsured children. We have no money. Look how much it hurts us to cut the Medicare for the elderly. We have no money. And then after a respectful overnight wait, the tax break fairy shows up on the floor on the Republican side, sprinkling tax breaks across America. And who do they give them to? Do they give them to the families with uninsured children? No. Do they give them to the elderly on Medicare? No. They give them disproportionately, overwhelmingly to those that come from families of $100,000 or more.

Now, Mr. Chairman, these are the same Members who said that the Democrats in 1993, when they voted to reduce the deficit from $300 billion down to $50 billion today, were going to ruin the American economy. What do they do? They bring out a proposal here that increases the deficit next year and the year after and the year after and the year after and in the year 2001 magically it is going to balance itself. And how are they going to do it? Auction off spectrum. Auction off spectrum, like Rumpelstiltskin forcing the young maiden to spin gold.

Mr. ARCHER. Mr. Chairman, will the gentleman yield?

Mr. MARKEY. I yield to the gentleman from Texas.

Mr. ARCHER. Mr. Chairman, the gentleman just said that the benefits in the child credit went to families over $100,000. I am sure he did not mean to say that.

Mr. MARKEY. Mr. Chairman, I absolutely did. And it is an incontrovertible truth. That is how the tax benefit breaks, if you look at it over the 10-year period, as we should have done with the Reagan tax break in 1981, which ultimately turned out to be that kind of pinata of goodies for the rich.

Mr. ARCHER. Mr. Chairman, I yield myself 15 seconds to say that the tax benefits for families with children go almost totally to people under $100,000 in annual income. The gentleman knows that. He did not mean to distort it and say they all went to people over $100,000.

Mr. Chairman, I yield 2 minutes and 30 seconds to the gentleman from Arizona [Mr. HAYWORTH], respected member of the Committee on Ways and Means.

Mr. HAYWORTH. Mr. Chairman, I thank the chairman of the Committee on Ways and Means. I believe it was Art Linkletter in a joking vein who reminded us all that kids say the darndest things. I must tell you today, Mr. Chairman, that listening to the gentleman from Massachusetts, I am reminded that liberals say the darndest things.

Let us say it as it really has been. The gentleman from Massachusetts talks about a house of cards. Here is the problem, Mr. Chairman. It is that the liberals on this side have built a house on credit cards, going to the American people time and time again to take more money out of their pockets, and the gentleman from Massachusetts speaks of a tax break fairy. No indeed, Mr. Chairman, a tax break reality is what the American people deserve. And that is what they receive under the majority's plan.

The gentleman from Massachusetts, indeed our friends on this side of the aisle, all know that this tax bill provides tax relief to working Americans. Indeed, well over 70 percent of the tax breaks here go to families earning between $20,000 and $75,000 a year. In my State of Arizona, 570,000 children will be eligible for the $500-per-child tax credit—$438 million in education tax benefits will go to Arizona families. And all Arizona small businessmen and ranch owners and farmers will benefit from an increase in the death tax exemption.

No, the fact is, Mr. Chairman, this plan makes imminent sense. Again, to echo the curious findings of my friend from Massachusetts who spoke about Rumpelstiltskin, the sad fact is that while this Government has not demanded the firstborn child of every family, it has asked for more and more and more of the average family's income until the tax-and-spenders who dominated Washington for so long asked for more and more and more to the point where, Mr. Chairman, the average family in this country pays more in taxes than on food, shelter, and clothing combined.

In the name of fairness, we ask the American people to join with us and let us make sure the American people hang onto more of their own money, send less of it here to Washington. That is the key to our future success. That is the true bridge to the 21st century.

Mr. RANGEL. Mr. Chairman, I yield myself 10 seconds to point out to the gentleman from Arizona that as a result of the Republican bill, working Arizonan families that do not pay the Federal income tax but pay taxes on everything that they eat and drink in Arizona will be denied the benefits under the Clinton bill.

Mr. Chairman, I yield 2 minutes to the distinguished gentlewoman from California [Ms. WATERS], chairperson of the Congressional Black Caucus.

□ 1430

Ms. WATERS. Mr. Chairman, I rise today in strong opposition to the Republican reconciliation tax bill. Their $85 billion tax cut package gives the wealthiest huge tax benefits while ignoring the plight of the working and poor families who struggle every day to get by.

The combined effect of their spending and tax bill also gives the wealthiest 20 percent of the U.S. population a whopping 87 percent of the net benefits, while the bottom 60 percent would share only 4 percent of the net benefits.

In fact, under the Republican tax bill, the average savings for the 20.7 percent of families with incomes between $30,000 and $50,000 would be a measly $38. At the same time, the wealthiest 1.4 percent of households would get a tax break of over $21,000.

These tax cuts that benefit upper-income people include open-ended estate tax cuts that benefit only the richest 1.5 percent of families and include the deficit-busting capital gains tax breaks. At the same time, the Republicans' proposal denies the working poor the tax relief they guarantee the rich.

The Republicans took the President's education tax package, including the HOPE scholarship, and undermined its goal of reaching the neediest students.

The bill undercuts the wages and benefits of millions of workers by enabling employers to consider them independent contractors and not employees.

The bill also denies the $500-per-child tax credit to over 15 million families. Let me give my colleagues an example of what this means. In the State of California, 56 percent of the children do not get the child credit under the Republican bill. That is more than 5.5 million.

The Republican tax bill is an outrage. They do not want us to say it, but we are going to say it over and over again; it benefits the wealthiest in this Nation. I urge a "no" vote.

Mr. ARCHER. Mr. Chairman, I yield 1 minute to the gentleman from Illinois [Mr. MANZULLO].

Mr. MANZULLO. Mr. Chairman, the people of the district I represent earn between $30,000 and $40,000 a year. What does that mean to them? It means that 113,600 children in my congressional district are eligible for the $500-per-child tax credit.

That means that people in the district I represent will have an additional $48 million in money that they otherwise would have paid to the Federal Government. It means to those people that they will be able to keep an additional $1,500 in money they would have paid for Federal income tax in their own pockets to give to their kids who are going to college.

Who is the beneficiary of this? It is the people that I represent, the hard-working Americans, the ones earning between $30,000 and $40,000 a year. It is 113,000 children in the district that I represent. A good tax cut bill for the hard-working, middle-income American families.

Mr. RANGEL. Mr. Chairman, I yield myself 10 seconds.

Mr. Chairman, we are very pleased about the number of children that get the benefit. That is what the President wants. We are very disturbed that 1.8 million, that is half the kids in Illinois, will not get it.

Mr. Chairman, I yield 3 minutes to the gentleman from South Carolina [Mr. SPRATT], the Democratic leader of the Committee on the Budget, and publicly thank him for the bipartisan effort that he made on behalf of the President and the country.

Mr. SPRATT. Mr. Chairman, I thank the gentleman from New York [Mr. RANGEL] for yielding me the time.

Mr. Chairman, I have been in this House for 15 years, and it has taken all of those years for us to get to this point, a day when we can honestly say a balanced budget is within our reach.

Over the last 5 years, we have lowered the deficit by 65 percent, brought it from a projected $332 billion in fiscal 1993 to $10 billion last year. This year, it is projected to be $65 billion, the lowest level in 20 years. We have succeeded, in part, because we finally restored the revenue base of the Federal

Government, due in part, large part, to the tax bill that we Democrats passed in 1993.

Corporate income tax revenues this year are up by $72 billion, more than 70 percent over 1992. And, indeed, the only reason we are standing here debating a tax bill, or debating a balanced budget bill yesterday, is that CBO came up with $225 billion in additional revenues.

Now having come this far, our object is clear. We want to balance the budget, we want to finish the job, we want to get there by 2002. But we do not want to blow this opportunity, having come so close to the target. To move a 5-year budget in a divided government, we have got to have bipartisan consensus; and to have that consensus, we had to agree to tax cuts. Both sides, in truth, want them.

But since the overriding objective is a balanced budget, we had to agree that the tax cuts stay within strict limits: $85 billion in net revenue losses over the first 5 years, $250 billion over the full 10. We fixed those limits, once again, because we have come so far and we did not want to lose the ground we gained, to put our objective back any further or risk the objective. But it is so far out that it would be beyond resolution.

The first fault I have with their tax bill is it does not meet our objective. Specifically, it goes beyond limits laid down by our budget agreement. It breaks the letter of the agreement because the revenue losses in it add up to $4 billion too much over 10 years in the amount we specified. That is because the Committee on Rules yesterday removed the cutbacks in ethanol tax preferences without replacing them with anything.

This is not my back-of-the-envelope estimate, it is a ruling rendered yesterday by our official scorekeeper, the Congressional Budget Office. The CBO refused the attempt to score this bill as though the ethanol bill will expire in time. Four billion dollars is not a lot of money in a budget that runs into the trillions, but it is the spirit. It is sort of a manipulative spirit that gives me the most problem, and it runs throughout this particular tax bill.

Look what happens to capital gains. Let me say something: I am for capital gains tax cuts, and I am one of the Members who are in this House that will benefit from tax cuts, I should be frank to say, that we are going to get. But let me say I do not want a double-barreled tax cut, low preferential rate coupled with indexation, if it has to come at the expense of millions of children who will not get the tax credit, if it has to come at the expense of families on the EITC. This is a bill that should be rejected because it did not keep the budget agreement, it is not fair, and it included the extraneous provisions in the first place.

Vote against this bill. Vote for the Democratic substitute.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland [Mr. GILCHREST] for a colloquy.

Mr. GILCHREST. Mr. Chairman, I thank the gentleman from Texas [Mr. ARCHER] for yielding me the time, and I thank him for the opportunity to have this colloquy with him.

In the State of Maryland, as in many other States, it is common practice for school boards to contract out school busing services to independent contractor schoolbus drivers. Nearly every school district on the Eastern Shore has operated under such a contractual arrangement for decades.

Recently, however, the Internal Revenue Service made a determination that under the 20-factor common law test used to classify workers for Federal tax purposes, the Maryland school boards are required to treat these schoolbus drivers as employees of the school districts. These school districts are faced with a closing agreement that takes effect September 1 under which the school districts would be forced to purchase the buses from the independent contractor owner-operators and make them employees of the school district.

The IRS determination will disrupt longstanding contractual relationships that are beneficial to both the school districts and the self-employed schoolbus drivers who provide this vital service.

My understanding is that the safe harbor for independent contractors in section 934 of the bill will cover the longstanding contractual relationships between Maryland school boards and their independent contractor schoolbus drivers.

Mr. ARCHER. Mr. Chairman, will the gentleman yield?

Mr. GILCHREST. I yield to the gentleman from Texas.

Mr. ARCHER. Mr. Chairman, based on the facts that the gentleman has outlined, the Maryland school boards' existing contractual arrangements would be covered by the safe harbor, and that is the intent of the committee.

Mr. GILCHREST. Mr. Chairman, I thank the gentleman for that clarification. However, I do have a lingering concern about the Maryland school districts' problem. Under the December 31 effective date of the independent contractor safe harbor contained in the bill, many school districts will be forced, since they have this contract beginning in September, the school districts will be forced to sign the contract and potentially lose their buses and their independent status.

Mr. ARCHER. Mr. Chairman, the committee intends that section 934 would address the Maryland situation, among many others. However, we now understand that the provision's effective date may be too late to thoroughly address the problem in the Maryland counties.

I assure the gentleman I will seek to correct this problem during the conference.

Mr. RANGEL. Mr. Chairman, I yield 1½ minutes to the distinguished gentleman from North Carolina [Mr. PRICE].

Mr. PRICE of North Carolina. Mr. Speaker, I rise today in opposition to the Republican tax bill and in favor of the Democratic tax relief plan. The Republican plan distorts our priorities as a nation and, in particular, does not do enough for one of the most important resources our country has, our students.

First of all, the Republican bill cuts the value of the President's HOPE scholarship in half, severely limiting tuition relief for the neediest students and students attending community colleges. In addition, while the Democratic alternative would permanently extend the tax credit for employer-provided education assistance, the Republican bill offers only a short and temporary 6-month extension.

Perhaps the worst offenses in this bill concern graduate students. Graduate students are barely scraping by on small stipends to finance huge tuition costs. But the Republican bill creates a tax on these graduate students who work part time as teaching assistants and research assistants and receive, in return, a reduction in their tuition. Under the Republican bill, graduate students would be taxed on this tuition reduction, increasing their tax burden in many cases by as much as $3,000 or $4,000 a year.

The Durham Herald Sun recently reported that the Committee on Ways and Means spokesman commented that graduate students may not make much money while they are in school, but many—and he seems to think they are all going to be doctors or lawyers—will be earning very high salaries shortly after graduation. He went on to call graduate students "privileged," the sort of group that quote, "ought to be the first to pay."

Well, if you are a graduate student, you certainly are going to pay. And if you want to use the HOPE scholarship to finance your tuition cost, forget it. Under the Republican bill you cannot because graduate students are totally ineligible.

Many Members today are expressing their support for tax cuts for hard-working Americans. But the competing bills before us differ greatly in the benefits they offer to working and middle-class Americans. And as Mr. SPRATT has just stressed, they also differ in their fiscal responsibility, in the extent to which they keep the lid on the deficit in future years. The Republican bill cuts taxes for corporations and for the wealthiest Americans. But it increases taxes on graduate students and does little to help students struggling to attend college. We can and should do better, and the Democratic alternative shows us the way.

Vote for the Democratic alternative that does justice to this country's priorities and values.

Mr. HULSHOF. Mr. Chairman, I yield myself such time as I may consume.

I strongly support the tax package that came out of our Committee on Ways and Means. I am privileged to serve on that committee.

When I go back home, Mr. Speaker, I am inevitably asked the question, usually by high school students, "What is the difference between Republicans and Democrats?" And I try to tell them, Mr. Chairman:

I believe both parties, of course, believe in democracy. I believe both on either side of this aisle believe in a better America. But I think our vision of how to get to a better America is where we find other differences.

I know, certainly, that those of us on our side of the aisle believe that America is an overtaxed nation. We believe it is a matter of principle that hard-working men and women in this country stop working so hard for the Government.

As a newly elected Member, I have got to tell my colleagues that I am a little bit incredulous. Why is it that when we talk about letting people keep more of their money, that that is such a novel, radical idea? Why is it that when we talk about making Washington spend less, that somehow we are talking about blowing up the deficit?

I believe, as a fundamental principle, in letting the hard-working people in this country keep more of what they earn. It is their money. It is not the Government's money.

Mr. Chairman, I go back home, hopefully, after today and after a hard week, and I am going to get a chance to sit on our front porch with my wife and visit with our neighbors. I think it is best to let the decisions about how their tax money should be spent, that they are better to make that decision, better than I am.

For those that continue to talk about these capital gains cuts, since when did fighting and working for the American dream, when did it become a scarlet letter? When did it become appropriate for us to scold and even punish or penalize those that have tried to get ahead?

□ 1445

Mr. Chairman, this tax package helps the economy, it helps all Americans. For those that are trying to achieve the American dream. We encourage every business owner, every investor, every inventor, every farmer, every business man, every woman, every stockholder, every homeowner to invest in America's neighborhoods and workplaces by significantly reducing this tax on savings and investment, otherwise known as capital gains. But we continue to resort to this old style politics of class warfare. I had hoped as a newly elected Member that we were beyond that. Instead of dividing America, instead of pitting one group against another, why are we not working together? Why are we not trying to forge a consensus? Why are we not celebrating this day?

Next week when we are home, Mr. Chairman, we have a chance, of course, to celebrate our Nation's independence, July 4. I believe that if we support this Republican tax package, that we will be providing a symbolic victory for those folks who truly want to celebrate their independence.

Mr. Chairman, I yield 1 minute to the gentleman from Colorado [Mr. HEFLEY].

Mr. HEFLEY. Mr. Chairman, I rise to support this bill even though it does not go as far as I would like it to. I think our goal should be to get rid of the capital gains tax, to get rid of the death tax. But I look at this package and see what it means to the folks in my home State of Colorado. It means that the hardworking high school student from central Denver who cannot go to college right now will be able to get some help with books and tuition. It means that the middle-class family in Colorado Springs struggling on a two-family income may be able to take the vacation they have not been able to take because they can keep more of the money they have earned.

It means that the family farm in LaJunta, the one that has been in the same family for generations, may be able to stay in that family, and that the mom and pop store in Greeley may be able to stay in the family and the kids will not be saddled with unbearable inheritance taxes.

Yes, I support this bill because it will create jobs across the State of Colorado and those who have had trouble getting jobs will have a bigger job market and be able maybe to become productive again.

Mr. Chairman, that is what this tax bill and this tax cut does to the people of Colorado and for all Americans. I urge my colleagues to support this legislation. America needs a tax break.

Mr. RANGEL. Mr. Chairman, I yield 1 minute to the gentleman from Vermont [Mr. SANDERS].

Mr. SANDERS. Mr. Chairman, I think everybody knows what is going on in America economically. The people on the top have never had it so good. The middle class is shrinking, and most working people are struggling hard to make a living.

Given that reality, look at the absurdity of this Republican tax proposal. Instead of helping working people and the middle class, 58 percent of the benefits go to the upper 5 percent. After giving out all of those tax breaks, they necessitate $115 billion cuts in Medicare, which in my State of Vermont will be a $75 million cut over a 5-year period, which will mean deteriorating health care services for our senior citizens. Huge tax breaks for the rich, significant cuts in health care for our senior citizens.

The bottom 40 percent of wage earners get no cuts at all. What an absurd proposal. Let us defeat it.

Mr. CHRISTENSEN. Mr. Chairman, I yield 1 minute to the gentleman from Colorado, [Mr. BOB SCHAFFER].

Mr. BOB SCHAFFER of Colorado. Mr. Chairman, this is a picture of my grandmother. Here she is, a small little child. This is her in Ukraine when she was a little baby. This is her soon-to-be husband, this is my grandfather in Ukraine before they both immigrated, or when they immigrated to the United States. Three percent of their income was taxed by the Federal Government.

How far we have come. Here is their great grandchildren, my children. They were born into a world where they owe $20,000 as their share of the national debt. This is their share. The party that has been in charge for 40 years has taken our country from this to this. The land that my grandparents immigrated to in search of freedom and liberty and low taxes and opportunity has become a country where nearly 50 percent of the average family income is taken away, confiscated through taxation at the Federal, State, and local level.

Here is a farmer from Colorado standing next to me. Democrats suggest he is rich. He is an average American. He deserves a tax break.

Mr. RANGEL. Mr. Chairman, I yield 1½ minutes to the gentleman from Arkansas [Mr. SNYDER].

Mr. SNYDER. Mr. Chairman, today we are considering the first tax cut bill in 16 years. Let us choose the right tax cut bill for working and middle-class families. This is one of my constituents, Ingrid, and her two lovely children. She makes $7.50 an hour, which comes out to approximately $15,000 a year. Every week or every month, like everybody in America, she gets a paycheck. This is a copy of her check stub. On it it shows what kind of State, Federal, and payroll taxes she pays, and I circled the payroll tax. The right tax bill for her is the Democratic bill because the Republican bill pretends that she does not really pay these Federal taxes.

That is just wrong, Mr. Chairman. It is the wrong bill for millions of families like her.

This is another set of my constituents. This is Judy and her two daughters. They are older, they are teenagers. She needs to be thinking about college. Under the Democratic bill she will get the full $1,500 tax credit per year for the first 2 years of college. Why is that important? Because college tuition at our 2-year colleges can vary from $800 to $1,500 a year. Under the Republican bill she would only get 50 percent credit for that. It is not fair that she is forced and her children are forced to consider going to more expensive schools just to take advantage of a full tax credit for college.

Mr. Chairman, the Republican bill is the wrong bill for working middle-class families. I am going to vote for the Democratic alternative.

Mr. CHRISTENSEN. Mr. Chairman, I yield 2½ minutes to the distinguished gentleman from Nevada [Mr. ENSIGN].

Mr. ENSIGN. Mr. Chairman, I rise in support of the Republican tax bill today because it is truly time for us to give tax relief to all Americans but especially to those in the middle income categories. I want to talk about two couples, very close friends of mine. One of the couples, they both work at Hertz Rent A Car. One works at the counter, the other one works actually in the parking lot. Between the two salaries, they make about $70,000 a year, not including benefits.

According to the Democrats and how they would calculate their salary on imputed income and the like, they would probably make about $120,000 a year. But let us take what they say on their tax returns. It is around $70,000, two average middle income-type people. They have two kids. What the Republican tax bill will do is give this middle-income family $1,000 per year in a child tax credit. It will also give them the opportunity to send their kids to college. But it also gives them, because of the capital gains tax reduction, the incentive to save and invest for the future.

Another couple, he is a police officer, a sergeant who actually has been in Las Vegas for years working for the police department; she is a receptionist. They make somewhere around $75,000 a year. This chart here clearly shows that both of these couples will get 76 percent of this tax break. According to what all Americans look at, and that is what does their tax return show how much income they make.

The Democrats have been cooking the books this entire time. When people ask you how much money do you make, you do not think about the numbers the Democrats are using. You think about what the numbers show on your tax return. Those are the real numbers, not the cooking the books number.

Mr. Chairman, this tax bill is truly for working class American citizens. Does it also go to some of the wealthy? Yes. But the vast majority of this bill by any common sense figures goes to people in the middle income categories in America.

Mr. Chairman, I urge a strong yes vote to allow working Americans to keep more of the money that they earned, not the money sent to the Government.

Mr. RANGEL. Mr. Chairman, I yield 1½ minutes to the gentleman from North Dakota [Mr. POMEROY].

Mr. POMEROY. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, this is not a balanced bill. A look at what it does to help folks save for retirement tells the whole story.

First, the bill will actually force the retirement benefits of many retired college professors to be reduced, cut benefits 3 to 5 percent. Then the bill does absolutely nothing to help middle income Americans save for retirement by expanding individual retirement accounts to make it a little easier for them to put money away. No, it does not do anything there at all.

Rather, it creates a brand new tax break that benefits the most affluent seniors. The great majority of this new tax break, called backloaded IRA's, goes to the wealthiest 5 percent in this country. And so as it is with retirement savings, it is throughout this bill. Most of us get nothing. And the wealthiest get the most.

With retirement savings, it is so unfortunate this decision has been made. Folks need help putting money away for retirement. But rather than extend help to those who need it the most, middle income and working income families, the bill does nothing. Rather, it creates all of the benefit for those who already have the money saved for retirement, the country's most affluent.

Mr. Chairman, reject this bill. We can make it much better.

Mr. CHRISTENSEN. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. STEARNS].

Mr. STEARNS. Mr. Chairman, I keep hearing from that side of the aisle, they talk about fairness and equality. Let me ask them to listen carefully to an example of a classroom of students about to take a final exam.

Some students worked hard all year, were well prepared for the exam, while other students routinely chose to blow off homework assignments and skip most of the reading. I think most school teachers today recognize that scenario. The students who worked hard all year, surprise, surprise, almost always do better on the final exam than those who goofed off. But what if the exam results were tallied and then the equality police, on this side of the aisle, came in and said "That's not fair. That's not equal. We need to have equality"? So they go in, the equality police come in and take a few points from those that scored the highest and give it to those that scored at the bottom. Suddenly they declare, "Then, that is fair."

My question is, "Fair to whom?"

Mr. RANGEL. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts [Mr. OLVER].

Mr. OLVER. Mr. Chairman, today we are debating alternative bills which provide identical tax cuts over 5 years. Now, Americans expect Republicans to be for the wealthy, but they are shocked when they come to realize how much the Republicans have helped the wealthiest Americans.

The Republican Taxpayer Relief Act is class warfare—the Republican bill when fully implemented gives the one of every six American families whose earnings are more than $100,000 a year almost two-thirds of the tax cut. The other five out of six families get just over one-third of the tax benefits.

By contrast, our Democratic alternative gives over 70 percent of the total tax cuts to those five of six families whose earnings are less than $100,000 a year.

The Republican bill actually gives no net tax relief to working families whose incomes are below $27,000 a year. That happens to be the group of Americans who pay the largest percentage of their income in taxes of every kind in this country.

By contrast, our Democratic alternative gives those working families the benefits of the child tax credit and education tax credit that the Republicans give only to higher income families.

So Republicans give nothing to the 40 million families whose earnings are less than $27,000 per year. They give one-third of their tax cut to the half of American families who earn between $27,000 and $100,000 per year, and they give two-thirds of their tax cuts to the one of six families who earn more than $100,000 per year.

Americans are pretty smart. They have learned to expect that Republicans help the wealthiest. Under the Republican bill, the rich get very much richer, middle income America gets the leftovers at the banquet and the poor lose their shirts.

That is truly class warfare.

Mr. ARCHER. Mr. Chairman, I yield 1 minute to the gentleman from Indiana [Mr. BUYER].

□ 1500

Mr. BUYER. Mr. Chairman, I thank the gentleman for yielding this time to me.

I had to come to the House floor. I had to come here because it is obvious that there are truths, there are nontruths. I believe there are unequivocal statements of fact and there are truths that are self-evident.

I now understand that the creators of this institution here put "in God we trust" because we are going to have to trust God here because the facts are getting spun out so far. America watching this debate says, "My gosh, I don't even know who to believe or what to believe. Listen to all these numbers."

Mr. Chairman, it is an attempt here by this side to somehow frame that they are the only ones who care about children and seniors, that they are the only ones who care about the poor. That is false, but that is politics.

Let me tell my colleagues what the administration did. Confused by all these numbers? Treasury, in order to calculate these numbers that this side of the aisle is using, calculated family income not the way one calculates their family income when they work. They went in and did a family income economic assessment. And what Treasury did was, they took the adjusted gross income and added to it what the administration's guess is about other forms of income.

So believe me, what they did was something as bizarre as saying, "If you own your own home, and if that family lived in the house and had you been renting that house, if you paid yourself rent, $800 a month, the Treasury then would add $9,600 to your family's income." What that is, is Alice in Wonderland calculations that show that the tax benefits are going to wealthier people.

This is a complete distortion, and I want America to wake up that there is a complete distortion here. If I have an axiom for the moment, it is that in Washington, DC, facts and truth may be interesting things but often irrelevant.

Mr. RANGEL. Mr. Chairman, I would just like to thank the gentleman for clarifying the tax bill.

Mr. Chairman, I yield 1½ minutes to the distinguished gentleman from Texas [Mr. STENHOLM] who has been so helpful in drafting the Democratic alternative.

Mr. STENHOLM. Mr. Chairman, I rise in opposition to the committee bill. I do not come to this point lightly because there are many things in this bill that I support. However, this bill has two serious shortcomings that compel me to vote against it.

First, this bill is fiscally irresponsible and will ultimately undo the benefit of our work yesterday to balance the budget. Second, this bill does not sufficiently target tax relief to small businesses, farmers, and working men and women.

In our current budget environment we cannot approve every worthwhile tax cut, just as we cannot fund every worthwhile spending program. Given this reality, we must set priorities in deciding how to target tax cuts.

This bill has its priorities backward. The capital gains reduction does not distinguish between Wall Street speculators and individuals who make investments that create jobs. This bill terribly shortchanges family farmers and small businesses in the area of estate tax relief in order to provide tax breaks that are good but much less critical. The House will have an opportunity, though, to provide meaningful estate tax relief and targeted capital gains reduction by voting for the Blue Dog motion to recommit later today.

Finally, I am extremely concerned about the impact that this bill will have on our efforts to balance the budget. The cost of this bill will explode in the next century, sending the deficit back up again. The harm to our economic future that will result from an exploding deficit will overwhelm any benefit that this tax bill will have in the short run. It would be morally irresponsible for this generation to enjoy the benefits of a short-term tax cut and leave our children and grandchildren with increased debt and a weak economy.

Mr. ARCHER. Mr. Chairman, I yield myself 15 seconds simply to respond.

The gentleman knows that this is a 10-year budget as demanded by the White House and that it is in balance by the end of 10 years, and that is way into the next century. It is not an exploding deficit, but of course rhetoric seems to command this debate.

Mr. Chairman, I yield 1½ minutes to the gentleman from Ohio [Mr. GILLMOR] for the purpose of a colloquy.

Mr. GILLMOR. Mr. Chairman, I appreciate the chairman giving me the opportunity to engage in a colloquy in respect to a particular problem affecting my congressional district. One section of the Taxpayer Relief Act provides a $15.50 tax to be placed on the arrival of international airline passengers from destinations outside the United States. While this tax may make sense for passengers flying from London to Washington, it does not make sense when the distance is negligible, and I seek to have this section adjusted.

Here is the problem. Griffing Flying Service from Sandusky, OH, flies charter aircraft from Sandusky to Pelee Island in Lake Erie and back. Pelee Island is only 25 miles from Sandusky, but it nonetheless lies in the territorial waters of Canada. Under certain circumstances flights from Pelee Island could be subject to the $15.50 international arrival tax proposed in the House bill. That means that a $20 plane ride now would cost $35.50, which would effectively terminate Griffing's service to Pelee and give the business to a competing Canadian-owned ferryboat service.

As a matter of simple fairness and common sense we should not have this tax apply in such a situation. I seek to have the chairman's assurances that Griffing Air Service and other short distance aircraft operations on the United States-Canadian border should not be subject to this onerous tax.

Mr. ARCHER. Mr. Chairman, will the gentleman yield?

Mr. GILLMOR. I yield to the gentleman from Texas.

Mr. ARCHER. Mr. Chairman, I assure the gentleman from Ohio that during the House-Senate conference we will address this matter so that U.S. air charter operations such as these will not be unfairly penalized by modifications affecting international travel.

Mr. GILLMOR. Mr. Chairman, I thank the gentleman.

Mr. RANGEL. Mr. Chairman, I yield 1 minute to the gentleman from Tennessee [Mr. CLEMENT].

Mr. CLEMENT. Mr. Chairman, what kind of America do we envision for the future? What kind of America do our constituents expect? I think all of us know, whether it be the Democratic plan or Republican plan, we are going to have some kind of tax relief this year. We have been fighting for it for a long time and it is going to come.

But what about it?

Americans want greater accessibility and affordability to education, Americans want tax exclusions on home sales, Americans want a child tax credit, Americans want greater exemptions for estate planning.

More than ever before, America's prosperity hinges on how we educate and train our people. Every day more Americans find an education out of reach of their pocketbooks. HOPE scholarships are a sensible way to address this problem; so are tax deductions. We must understand that every investment we make today enhances the dividends we receive tomorrow.

Yes, let us support the Democratic plan. It offers courage for the future. The American people want nothing less.

Mr. ARCHER. Mr. Chairman, I yield 1 minute to the gentlewoman from Florida [Mrs. FOWLER].

Mrs. FOWLER. Mr. Chairman, today is truly a historic day. For the first time in 16 years millions of American taxpayers are headed toward receiving real tax relief from the Federal Government. Among the key items of the Taxpayer Relief Act are a $500-per-child tax credit and dependent care credits, substantial tax breaks to offset college expenses, estate tax relief and capital gains relief. These and other measures in this bill will yield significant relief to middle class Americans.

According to one nationally recognized Big Six accounting firm, a married couple with two children and a household income of $35,000 a year could see its tax liability cut by over $1,000 a year under this package. Now if one of those children were in college, that relief would nearly double.

Mr. Chairman this legislation represents a strong, balanced package of tax relief for our constituents. I urge its adoption.

Mr. RANGEL. Mr. Chairman, I yield 1 minute to the gentleman from Tennessee [Mr. FORD].

Mr. FORD. Mr. Chairman, today as we debate this tax relief package I think what we clearly see is Democrats and Republicans both want tax relief, but the issue boils down to those who work, play by the rules here in America and believe in the American dream, that they too deserve a tax break. They too have the right and should have the privilege to know that their children will go to schools with roofs over their heads, with air-conditioning in their schools, and will have the opportunity to go to college if indeed they work hard and play by the rules.

Mr. Chairman, I salute the hard work that the President, the Republicans, and the Democrats put forth on this bill, but I say to my colleagues as a new Member, we have heard the debate about middle class and rich Americans and poor Americans, but let us give a tax break to those who get up and go to work every day. Let us not put a value on work. Who are we to decide what workers and what Americans will get a tax break because we do not feel they earn enough or contribute enough to the American economy?

I say to my friends in this Chamber, Democrats and Republicans alike, do it for the next generation. Give tax relief to those American who get up every day, work hard and play by the rules.

Mr. ARCHER. Mr. Chairman, I yield 1 minute to the gentleman from South Carolina [Mr. GRAHAM].

Mr. GRAHAM. Mr. Chairman, congratulations on a super effort to give a little money and power back to the American people.

One thing I want to say: I was outside listening to the debate. If my colleagues have got kids at home, go and mark down on the calendar that the Democratic and Republican parties on the same day put a bill in to cut taxes.

I am not going to say a bad thing about my friends on the other side of the aisle. I appreciate them trying to cut taxes and send some money and power back home. I just wish they would stop distorting what we are trying to do. They are making everybody in America rich to get the numbers up. But that is OK. This is a good day. Both parties are trying to send back some of their money. Unfortunately, one party cannot let go of the past by demagoging everything we do. We will get over that one day.

Two and a half years we have been in charge, and the best results I can show the American people what it means to have us in charge is we got both parties wanting to cut taxes. Quit trying to defend stuff, Mr. Chairman. Be happy. This is a good day the Lord hath made and let us rejoice in it.

Mr. RANGEL. Mr. Chairman, I yield 1 minute to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Chairman, when people ask me what are the three most important issues facing the Congress, I always say: the children, the children, the children. But a close look at the Republican tax break bill shows that the rich are the winners in this bill and the losers, the losers are the children, the children, the children.

The children are losers because 40 million children are not eligible for the tax credit. The children are losers because the HOPE scholarships will be cut in half in the Republican tax bill. The children are losers because the economic security of their families is threatened by the concentrated and reckless assault on the American family, the American worker and the American dream.

Do not let children be losers, Mr. Chairman. We should all vote for the Democratic tax cut which is a vote for fairness, for opportunity and for work. Children can tell us, looking at this:

"Mirror, mirror, on the wall, who is the fairest of them all?"

Clearly the fairest of them all is the Democratic tax cut for working, low and moderate income families in America. I urge my colleagues to oppose the Republican tax break for the wealthy and support the Democratic tax plan for fairness.

Mr. ARCHER. Mr. Chairman, I yield myself 1 minute.

The gentleman from South Carolina was correct. This is a bipartisan effort, finally, to give back money to people that they have earned, finally let them keep more of their money, and I am happy that my friends on the Democrat side of the aisle are joining with us in this. I know it is difficult for them because their book on tax reductions is about one-sixteenth of an inch thick, but they are trying very hard to follow our lead and to give tax reductions to the American people, and that is something the American people I hope will appreciate, that this effort now is bipartisan.

Mr. Chairman, I reserve the balance of my time.

Mr. RANGEL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I guess bipartisan means liberal Republicans and conservative Republicans but did not include many Democrats, but anyway let us move on.

Mr. Chairman, I yield 1 minute to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the ranking member very much for his leadership and I thank my friend from Texas for his concern and initiative.

I do think that I will certainly adhere to those on the other side of the aisle, trust God and thank God, but I will thank God that the Democrats have offered a rebuttal to this tax plan offered by the Republicans that will show a large number, 54 percent of the children in Texas, who will not get the child credit plan under the Republican bill. That is more than 3.3 million children.

□ 1515

Then there are those in my district that are only making $31,000. They will not get the tax plan.

The real issue is, we are rushing this. The question is, who benefits? None of those who are making under $100,000 a year. It is important that we come together and deliberate. Why are we rushing this? This is not a fair tax bill, and it is not coming from just those of us on this side of the aisle.

The Wall Street Journal on Thursday, June 26, has indicated that the numbers that the Republicans have are distorted, and in fact, that the numbers do not suggest that those individuals who need it most will get the tax plan. I would hope that we vote for the Democratic alternative.

Mr. Chairman, I rise today to speak out in vigorous opposition to this outrageous short-changing of American working families. This bill clearly helps those Americans who do not need help. This bill is steak and cake for the wealthy and the crumbs for working families.

Mr. Chairman, Americans want us to help them in sending their children to college. But, look at the educational provisions of this bill. The budget agreement called for $37 billion for helping those families who need help in sending their children to college. But, the Republicans only have $22 billion in their version of the budget agreement and look how they want to use tax relief for education.

The Republican plan allows the deduction of up to $10,000 a year for college costs. These deductions were originally aimed at lower and middle class families who need the help. But, now there are no income limits on the deductions which means that it is worth twice as much to families in the top tax brackets-to families that do not need Government subsidies to send their children to college.

The HOPE scholarship has been changed to give less to students from lower-income and middle-income families who are more likely to attend community colleges. Students attending the more expensive schools are getting the biggest benefit. Is this a fair plan? Is this the greatest good for the greatest number of Americans who are trying to put their children through college? Certainly not. But that's what the Republicans want.

In the area of capital gains, the benefits for the wealthy is even more astounding. Under the Republican plan, a wealthy investor could pay a lower effective rate of taxes on a profit from the sale of stocks than moderate-income families pay on their wages and on interest they get on their savings accounts.

I ask you, Is this fair? Is it fair that the selling of a piece of paper should be taxed at a lower rate than the hard earned wages of working class families? Clearly not. But that's what the Republicans want.

Mr. Chairman, we are all trying to end the deficits that are building our national debt and strangling our ability to invest in the future of America. But, look what this tax bill does to the deficits in the long run. Look what this bill will cost our children.

The deficits explode after the initial 5- and 10-year phase-ins, $650 billion deficits in the out years as the effects of the cuts for the rich really begin to be felt. These are the years when the baby-boomers will begin to retire and when we can least afford this kind of fiscal explosion.

Mr. Chairman, this bill is rotten for working American families and kills Government investment for our children. I urge Members to vote against this patently unfair bill.

Mr. RANGEL. Mr. Chairman, I yield 1 minute to the gentleman from North Carolina [Mr. ETHERIDGE].

Mr. ETHERIDGE. Mr. Chairman, I rise to oppose this Republican bill. Let me tell my colleagues why. Fifty-one percent of the children in North Carolina will not be eligible for benefits under this plan. That is 1.1 million children. Hard-working families in my district and across America deserve a break from the burden of Federal taxes, but it should be fair. Unfortunately, this bill neglects the needs of our North Carolina families and provides an unfair windfall for the wealthiest of Americans.

I strongly support a balanced budget. I voted yesterday for spending cuts that will make that happen. I strongly support helping our middle class families, and I have written legislation to provide estate tax relief for our farmers and small businesses, and I strongly support education tax relief under the Rangel substitute to help families put their children through college.

I am a Democrat, and I am for tax cuts, but I am for tax cuts that are fair to all the people in this country, and this bill is absolutely not fair to the children in America.

Mr. RANGEL. Mr. Chairman, I yield 1 minute to the gentlewoman from Colorado [Ms. DEGETTE].

Ms. DEGETTE. Mr. Chairman, I support tax relief for working families in America. It is not right that so many hard-working parents are struggling to make ends meet. Yet, instead of helping these families today, we are slamming the door on them. We are telling school teachers, law enforcement officers, factory workers and nurses and every other hard-working American that we just do not care about their economic struggles. We are telling the next generation that we prefer tax giveaways to America's wealthy at the expense of real deficit reduction.

Let me tell my colleagues what is really happening in my home State of Colorado. Forty percent of the kids under this proposal will be left behind, kids from moderate and low-income families. Nearly 96 percent of the 23 million children whose parents earn less than $23,000 would be denied any child care credit under this bill. This is inexcusable.

I urge my colleagues to pause for a moment and think about what this means to their constituents back home, think about the struggling families they are leaving behind with this bill, think about the next generation. Let us pave a straight path, not a U-turn.

Mr. RANGEL. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. DOYLE].

Mr. DOYLE. Mr. Chairman, I rise in strong support of the Democratic tax cut plan. I came to Congress in 1995 committed to balancing the budget, and in an effort to move the budget process forward, I was one of the 51 Democrats who voted for the reconciliation spending bill yesterday.

I subscribe to the view that we should balance the budget first and then consider tax cuts. However, this bipartisan budget agreement demands that tax cuts be enacted this year. I recognize we must work within these given parameters, so I will support equitable, responsible tax relief that adheres to the budget agreement.

The Democratic alternative will provide tax relief for middle class families that can really use it and is still compatible with real long-term deficit reduction. It is a stronger measure than the Republican plan because it goes further in helping middle class families cope with the cost of owning a home and paying for their kids' college education.

However, the biggest difference is the fact that the alternative is more economically responsible and fair. It does not lay the groundwork for decades of mounting debt.

Mr. Chairman, I ask that Members support the Democratic plan.

Mr. RANGEL. Mr. Chairman I yield myself the balance of my time.

I really think that this President of the United States has singled out one of the most important issues that we as Americans face, and that is whether or not we are paying attention to hard-working Americans as relates to the burden of taxes that we placed on them. Our President saw fit to reach out and to recognize that in the House and Senate, Democrats did not win, but he won, and the Republicans won.

To that extent, he thought he was pulling together a group to present to the American people a bipartisan agreement as to spending in the budget and in reducing taxes, and in providing assistance for American education. Somewhere along the line, when it got to taxes, our Republican colleagues forgot the bipartisanship, because to my knowledge, the Secretary Treasurer, representing the President, did not know what was in that package until the chairman released it. Notwithstanding that, there was great hope that during the process of amendment, that we might work out a bill that would lend itself for the President of the United States to say, it is not all that I wanted, it is not all the Democrats wanted, but it is the basis for us to move forward in a bipartisan way. Notwithstanding my feelings about it, I knew one thing was abundantly clear, that the American people did want and did deserve a bipartisan effort.

Now when we get to what do we have left here, the President of the United States looked at the package and said, but where is the Democratic part of this? Why did Congress elect to put something in the bill that would be so costly, no matter how much we would want to do it, and I am talking about capital gains indexing, when the President has made it known, at least informally, that he did not think that the budget agreement could afford that luxury. And where would Congress go to get the money to pay for this type of thing?

A lot of debate is being had today by my Republican friends in saying, if one does not pay Federal income taxes, one does not get Federal relief. Well, let me congratulate them, because up until yesterday, they were actually calling these people that work every day receiving welfare, and I am glad to see that has stopped, because as mean-spirited as it sounds to other people who work and the people that the President had included, it is so important that when we say tax relief, that my colleagues on the other side do not start a class system.

There is one group of people that we should talk about, and that is the working class. I promise that there is no reason for us to call people by class, except my Republican colleagues are saying that if these people do not make enough money to pay Federal taxes, then the taxes they pay for food for their children, the taxes they pay for clothes, the excise taxes, and these are Federal taxes that are put on airplane flights, these are taxes. Why should they be so sophisticated because they do not make that much money that they should understand now that they belong to a different class?

The President and the Congress allowed people to believe that when we say $500 for a child tax credit, that we really mean it. And if we can find a way to give to the working people, the people that find that inflation has eaten them up, the people that every time they see an excise tax, it means more to them than it means to people that get the salary we get. We do not care how much a bottle of milk goes up or a loaf of bread, but to many families, these changes in supermarket costs mean how much money they would have for other things.

So let me join with the Republicans in saying, let us stop this class war and let us start talking about the people who work and do not put them in different categories. If one is a working American, they deserve the relief that the President wants.

I do not know how long we will be able to stick with this bipartisanship. The President is looking for the principles of fairness. The President is looking for his HOPE scholarship that somehow was promised around $35 billion. Somewhere along the line the President thinks that he lost several billions, and that he did not see anything close to what he thought was an agreement.

Mr. Chairman, we Democrats, we have stuck together. We have gone to the President, we have provided an alternative, we have stuck with his principles, and one of the most important things is we expand on the education package. So, Mr. Chairman, I think it is safe to say, without getting involved in the class war, that there is a difference philosophically between the Democratic program and the Republican program.

We are asking that my colleagues join with the President of the United States. We can reject this package today by the Republicans. We can do better with an alternative that we are working with, and maybe if we allow this to go into conference that we will be able to pick out the best from both of the bills and allow us to come forward once again in an effort to be bipartisan.

Mr. Chairman, I yield back the balance of my time.

Mr. ARCHER. Mr. Chairman, I yield the balance of my time to the gentleman from Texas [Mr. ARMEY], the respected majority leader of the House of Representatives.

Mr. ARMEY. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, let me first pay my regards to the committee for the fine work that they have done on writing this bill. It is such a privilege for me to be here today and to stand here in support of this legislation and to stand here, quite frankly, in appreciation for this legislation.

This legislation is tax reduction for American families. It is legislation that realizes that American families come in all shapes and sizes and all configurations of income-earners, and with all configurations of problems, but all American families are tied together today by some common understandings and some common hopes and dreams, and that it is our job in Congress to reflect our understanding of these things faced by the American family and to represent the best of their hopes and dreams.

I think of mom and dad sitting around the kitchen table looking at the little ones and thinking about all of the things they want to do for them. We have all done that while we are doing our bills at the first of the month, scared half to death we will run out of paycheck before we run out of bills. And every time we do that we start with the realization that at the beginning of that month, our taxes are too high and if they were lower, we could do more for the kids.

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Mr. Chairman, I realize that mom and dad struggled on that, and yet they accept their responsibility and they say, to the best of our ability to understand it, we will do our duty to support the programs for this country, and yes, especially those programs that touch our heart, because they are programs that help those who are more needy than ourselves. So while we struggle with our taxes, we appreciate the fact that for the low-income, the working poor, there is an earned income tax credit that allows them to offset those terribly burdensome payroll taxes; that somebody has understood and cared about that.

I am willing to pay my share of the taxes, and I am willing to do that in appreciation that someone with a lesser job than mine, a smaller income, the same hopes and dreams for their children, have a little relief for that burden.

Yet I know, we all know, if we could have that $500 for a tax credit, we could do so much for each and every one of these children every year; if we both work, mom and dad both work, and we get that child care tax credit, we do not need the $500 per child tax credit as much as a family that has only one income earner. Because we have the second paycheck and we get some compensation with the child tax credit, we are willing to accept the trade offer, my $500 a year for this child credit, over and against the tax credit. That is fair.

I look at my neighbor and I look at me and I see the difference in the way we construct our families, they are configured, and I say that is fair. We all accept that.

We all need tax reductions, but we need to reduce the taxes on those people who are paying the taxes. If we think in terms of giving tax breaks to people who have no tax liability, the $500 child tax deduction means, when you finish filing your taxes and you know what you have to pay, you take the $500 away from that tax liability. If I do not have anything to pay, I have nothing from which to make the subtraction.

Mr. Chairman, then we dream about children and their education. We want to save. We know the importance of savings. We want children to see that. There is the idea of the education savings account, so we can have a hand in determining where our children will go to school. The tuition tax deduction is so important.

I just finished with five children going through school. I remember when I was a grad student raising my own baby girl, Kathy. That money we paid out for tuition, we thought then and think now, there ought to be a deduction on that in your taxes. It is fair.

We put that in there, because we understand how we struggled in order to pay that tuition and those fees so that education can be obtained. That is the best of our dream for our children, that they will have that education, and we can afford for us to do that, for us to work with them and for them to do that.

Parents begin a married life, and I look at my son David and his beautiful wife, Laurie, with my gorgeous grandbaby with his grandpa's eyes, and they say, we want to own our own home. They struggled hard to save money for a down payment. They want to own their own home. They do not want somebody to credit the hypothetical rent they would pay themselves if they were renting it out instead of living in it as a double increase in their tax, in their income, some hypothetical way to say you do not deserve a tax break.

They need the tax break. They need the American dream savings account so they can again save for their children, so they can save for emergencies. They work so hard and they try so hard, and they do not begrudge other people the help we give.

I laugh at that because, when the little ones are little, of course you know they cost money and the $500 is very important, but they do not stop costing money at the age of 13. We know by fact from the Department of Agriculture that at the age of 12 they jump up to $1,000 more. Mom and dad know that. Why do the people on the other side of the aisle not understand that: the prom dresses, braces, all the things that come?

Are we going to cut it off at age 13? No, we say. Let us keep it in effect until the child is 17, before his 18th birthday. Then, as long as we can, let us give this relief to moms and dads. We do that.

Now, about the time the child is 13 or 14, mom and dad begin to have a different realization in their life. They begin to understand that the best of the American dream is not to have our own home for the children, but the best of the American dream is to get them out of it. So we know that saving for that education is going to pay off someday when that youngster will have a chance for a job.

When will we get the best job opportunities for our children? When the economy is growing more, when people are willing to make investments. I was talking to a machinist just a few months ago in Dallas, TX. He was looking at the machine on which he worked.

He said: Congressman, I can get better levels of tolerance, I can do better quality work, I have more productivity with this than I had before. I can work all my life and I could not afford to buy a machine for myself like this machine. I thank those folks that saved, I thank those folks that invested, for putting that machine in place so that I can have a better job, and I can make a higher rate of pay and I can do more for my children.

Working men and women know better than anyone else, if you are a truck driver, if you do not have the truck, you do not have a job. Investment is what gives you the capital with which to work. The capital gains tax reduction is about jobs.

How about that family that decides, let us get together and build our own business? Mom and dad and the kids pitch in. They build their own business, they want and need to be able to make the investments, to make it safe. The alternative minimum tax should not come down on them. The alternative minimum tax says, if you are investing in your business and if you are building your business and you are taking depreciation under the Tax Code, and it comes to the point where you do not have any net earnings that are taxable, you have to pay taxes on earnings you did not have.

Mr. Chairman, my colleagues are saying on the $500 per child tax credit, let us give it to somebody who has no tax liability, and on the alternative minimum tax, let us put taxes on people who have no earnings. They have it exactly backwards.

What does that mean? It means mom and dad are going to build a business. You build a business so you can provide a living for your family. You hope it is a success and you hope it is something the kids can be proud of. They look at the youngsters, and my dad when I was young was a grain dealer and built his own business, he looked at us and said, one of these boys should take over that business. It is my creation, my life's work.

That did not happen. He could not pass it on. When he died, half of it went to government. Do you think your dad works all his life, mom pitches in, as my mom did, as partners, so that at the time of their death the government can come and take half of their life's work away from their children? This is not fair. This is not fair. We try to give the family some relief for that. If you have just some kind of accomplishment, some kind of a legacy that you can hold, the family farm has been in the family for three generations and it has to be sold for taxes, that is not right.

We hear about this being an unfair tax bill. This is a fair tax bill. It is a tax bill that knows the goodness of the American people and respects the goodness of the American people. It is a tax bill that says, Mr. and Mrs. America, we know your dreams, we know how hard you work, we know how much you share your caring and your good fortune with other people and how little you begrudge somebody else a break and a reduction of taxes.

Mr. and Mrs. America, we want to give you, at this time that we are marching towards a balanced budget, at this time when we can afford to do so, we want to give you a reduction in your taxes that reflects our understanding of your goodness, where you can look at us, look at the bill, and hear us say through this legislation, Mr. and Mrs. America, we are on your side. We agree with you. This tax should be a tax that allows you to do the things you dream about getting to do. It should not be a tax that tells you you must do those things that people in Washington think you should do.

It should not only know the goodness of the American people, but it should respect that goodness and it should reward that goodness. It should say, you are Americans. You deserve to be free because you accept your responsibilities, and we endorse that and we reward it by letting you keep more of your own hard-earned dollars.

Mr. Chairman, this is good legislation for America. I am proud to be associated with it. I am proud to tell my son and my daughter, build your business, save for the kids' education, have success in your life, and when your days are over whatever it is that you have done in your life for your children will be your source of joy and happiness, and can probably be manifest in their life as you leave what you have to them, instead of to the government.

How can we do better to respect the children of this great Nation?

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. LATOURETTE). The Chair would remind all Members that comments by Members should be directed towards the Chair and no other party.

Mr. PORTMAN. Mr. Chairman, the alternative minimum tax [AMT] is recognized on a bipartisan basis as one of the most punitive provisions in the Tax Code. Simply put, it's a job killer. It also is one of the most complicated provisions in the Tax Code—accounting for as much as 26 percent of tax compliance costs. Anyone concerned about tax simplification and the integrity of the Tax Code has to be alarmed about the AMT.

The current AMT was enacted in 1986 to ensure that no individual or business taxpayer with substantial economic income can avoid significant tax liability by using exclusions, deductions, and credits. While the drafters of the AMT might have been well-intentioned, in reality there is no longer a sound policy justification for this onerous and complicated provision.

H.R. 2014, the tax cut package being considered today, doesn't repeal the AMT but it does provide some important AMT relief and that's good news for American workers. AMT relief will help put U.S. firms on more equal footing with our international competitors by eliminating the tax penalty on investments in new plant and equipment in the United States. The bill also averts an AMT trainwreck for individuals by indexing the annual exemption for the AMT. Without this change, there will be a ten-fold increase over the next 10 years in the number of individuals who will be subject to the AMT.

Mr. Chairman, I think the AMT provisions are an important job creating component of this bill and I hope it can be enacted soon.

Mr. STARK. Mr. Chairman, I cannot support H.R. 2014, a bill to provide $85 billion in tax cuts because I believe the provisions of this bill are unfair and unwise.

Our country would be far better off to delay tax cuts for a few years until we have a balanced budget. After almost two decades of trying to recover from the Reagan cuts of 1981, we should have learned that large tax cuts given when a budget is not yet balanced can create havoc for decades. We have not learned our lesson; this majority persists in pushing tax cuts with abandon.

If we had the surplus, I would prefer to invest $85 billion to preserve the Medicare system—$85 billion would guarantee solvency past the year 2020, providing assurance of health security for millions of seniors. The majority party rejects that option.

If the Nation had a balanced budget, I could support tax cuts but they would have to benefit all workers, not just the upper brackets. I could support education benefits, if they went to all young people, not just those whose parents have $10,000 a year to stuff in an education fund.

If the Nation had a balanced budget, I could support a child credit to help the hard working families with the costs of raising children. I could never support the illusion of a family credit which is held out to all families but, in reality, available only to more affluent families.

If the Nation had a balanced budget, I could support rate reduction for all taxpayers not just those who make their money from Wall Street investments.

We don't have a balanced budget today. Until this bill got the House floor, the Nation was on the path to a balanced budget but we are not quite there. Perversely, in a bill designed to balance the budget, we are today considering measures which will have devastating budget results that go well into the next century.

We owe it to our constituents, our children and ourselves to vote "no" on this bill.

Mr. CUNNINGHAM. Mr. Chairman, I rise in enthusiastic support of the Taxpayer Relief Act.

After a 17-year wait, the American people finally receive tax relief under this measure. Families with children get a $500-per-child tax credit. There's tax relief to help with college. There's relief from the capital gains tax, which will help spur investment and grow the economy. And there's relief from the onerous death tax, so Americans who have built their businesses with their own hard work will be more able to pass their businesses on to their children.

It is remarkable to contrast this product of a Republican Congress with the product adopted in 1993 by a Democratic Congress. President Clinton was elected in 1992, with a Democratic Congress, and enacted the largest tax increase in history without a single Republican vote in the House or the other body. President Clinton was re-elected in 1996, with a Republican Congress, and now we are working together to provide Americans the middle-class tax relief that he promised 5 years ago, but has thus far failed to deliver—until now.

Together with the bill we adopted yesterday cutting spending and preserving Medicare, this tax relief contributes to a balanced Federal budget, and ends the tide of red ink and deficits that threaten our future.

Other Members have discussed in detail the many excellent provisions of this bill. I would like to focus on just one. I would like to talk about how this legislation includes my provision to encourage companies to invest their computers and technology to upgrade our children's classrooms.

THE NEED FOR THE 21ST CENTURY CLASSROOM ACT

The General Accounting Office reported in 1995 that "America's schools are not designed or equipped for the 21st century." Yet, we all know that an excellent education that provides American children with a fighting chance at the American Dream includes rigorous academic basic instruction—plus the new requirement for technological literacy and proficiency in working with computers. The need for technological literacy is immediate. By the year 2000, just 3 years way, 60 percent of American jobs will require high technology skills. Thus, without early training in technological literacy, many of our future leaders will start their adult lives at a severe economic disadvantage.

While America's classrooms are supported by dedicated teachers, involved families, and bright young children, many of our Nation's classrooms lack the important technological resources that they need to prepare both teachers and students for a technologically advanced present and future. While we are daily amazed at the ways that advanced technology has improved America's economic competitiveness, transformed commerce and communications, and improved the quality of life of millions of Americans, that same advanced technology has not yet made as transforming an impact on the way schools educate children. The Internet and the World Wide Web are revolutionizing the way individuals and organizations share and find information. Yet only 14 percent of our classrooms have a telephone jack, and about 1 in 50 are connected to the Internet. Furthermore, the most common computer in our Nation's schools is the Apple 2c, introduced over a decade ago and now on display at the Smithsonian Institution; and while 50 percent of schools have local area computer networks [LAN's], less than 10 percent of those networks connect with computers in classrooms.

Therefore, bringing America's classrooms into the 21st century requires a major national investment in technology, including computers, software, and interactive interconnectivity.

How can we accomplish this task?

We have three choices. We can do nothing, which appears inexpensive but bears an immense cost in lost opportunity and foregone economic growth. We can create and expand Federal Government programs which invest in education technology. However, because of the immense scale of the need, and because primary and secondary education are primarily a local and State responsibility, bringing our classrooms into the 21st century is best done in a manner that does not increase Federal Government expenditures or bureaucracy. Or we can encourage and maximize private investment for this purpose, keeping control as close as possible to the children, parents, and teachers who will benefit. This last choice is the option taken by the 21st Century Classrooms Act.

We are fortunate that many businesses invest their time and resources into classrooms. But we must do more, and we can do better.

The tremendous need for additional computer equipment and software in our classrooms, plus the wave of computer upgrades taking place among businesses in the United States, argue persuasively for an additional financial incentive to encourage businesses to invest their equipment into 21st century classrooms.

The bipartisan balanced budget agreement offers Congress an opportunity to expand technological investment in our schools through specialized tax incentives. The budget agreement includes tax relief for American families. And it also includes tax cuts related to education—but only for higher education. With so many students entering universities, community colleges and other higher education needing remedial coursework, it is right and wise for Congress to use this opportunity to spur private investment into technology upgrades for K–12 education.

PROVISIONS OF THE 21ST CENTURY CLASSROOMS ACT

The 21st Century Classrooms Act (Cunningham—H.R. 1153), included in the Taxpayer Relief Act as title II, subtitle C, sec. 223, is designed to spur private investment for technological upgrades to create and sustain a greater number of 21st century classrooms. Enactment of the 21st Century Classrooms Act will help provide schools the tools they need to offer a better education to our young people, increase local private investment in our schools, and ensure a better future for our country.

This provision expands the tax deduction currently available to computer manufacturers making donations of high-tech equipment to university research institutions. It expands the class of donors to include any corporation, not just computer manufacturers. And it expands the class of recipients to include K–12 schools, certain private foundations, and certain other recipients whose primary purpose is to support K–12 education.

The measure is intended to provide corporations a greater incentive to donate the right kind of quality computer equipment and technology toward K–12 education. It takes advantage of the many ways such donations may be accomplished, including donations to computer recycling programs whose primary purpose is supporting K–12 education. It limits the expanded tax deduction to donations of relatively new equipment of 2 years age or less. It also limits the expanded tax deduction to donations which will expressly fit productively into the recipient's education plan.

PRACTICAL EXAMPLES OF HOW THE 21ST CENTURY CLASSROOMS ACT WORKS

Let me describe how this tax incentive works. For example, if a corporation buys a computer as an asset, it pays $1,000, which is the basis. If it sells the computer a year later, it may receive $400 in cash. If the company donates the computer to a nonprofit or school under current law, it may take a charitable tax deduction of the lower of fair market value—$400—or the amount that has not been depreciated. If the company donates the computer to an eligible K–12 education recipient under this act, however, it may take a charitable tax deduction of $1,000, which is the basis of $1,000, plus one-half of the asset's appreciation, which is zero.

If a corporation buys a computer as inventory, for example, it pays $500 to build it. If it sells the computer on the open market, it receives $1,000 in cash. If instead of selling the computer, the company donates it to a nonprofit or school—not to a scientific research institution—it may take a charitable tax deduction of $500, which is the lower of fair market value—$1,000—or the amount that has not depreciated, an amount equal to or less than the basis of $500. If instead of selling the computer, the company donates it to a qualified scientific research institution under current law, it may take a charitable tax deduction of $750, which is the $500 basis, plus one half of the $500 appreciation, totaling no more than twice the basis. And, finally, if instead of selling the computer, the company donates it to a qualified K–12 education recipient under the 21st Century Classrooms Act, it may take the charitable tax deduction of $750, which is now only available to donations to certain scientific research institutions.

This measure is designed to work hand-in-hand with the educational connectivity provisions of the Telecommunications Act. As the Federal Communications Commission develops regulations to insure that schools have affordable high-technology telecommunications connectivity available to them, the 21st Century Classrooms Act accelerates the availability of high-tech equipment in our schools and our classrooms.

SUPPORTED BY EDUCATORS AND CORPORATIONS

The 21st Century Classrooms Act has gained the support of over 30 members of the House, both Republicans and Democrats, including the chairman of the House Education and Workforce Committee, Mr. GOODLING. And obviously it was included in the Taxpayer Relief Act by the Ways and Means Committee Chairman, Mr. ARCHER.

Let me summarize just a few of the letters I have received in support of this measure:

Dr. Bertha Pendleton, superintendent of San Diego City Schools, says "The 21st Century Classroom Act will provide additional incentives for private enterprise to involve themselves in preparing students for future employment by giving tax (deductions) to corporations who donate used computer equipment to schools. We applaud this effort and fully support this measure to help further education technology."

Michael Casserly, executive director of the Council of the Great City Schools, says "the Council is supportive of incentives to attract contemporary technology into our schools, particularly the neediest schools. As such, the Council is also supportive of H.R. 1153.* * * Congratulations on your success.* * *"

Thomas Tauke, executive vice president of government affairs for Nynex, says, "Nynex fully supports your efforts to encourage businesses to invest in our children. Your new legislative proposal, the 21st Century Classrooms Act for Private Technology Investment, through its expanded tax incentives, will enable schools to immerse students into the new technological environment that they will live and work in!"

There are many more letters of support. But these excerpts summarize the enthusiasm which greets this initiative to technologically upgrade our K–12 classrooms.

IN APPRECIATION

There are many men and women who deserve credit for helping me to develop this measure, and include it into our bipartisan Taxpayer Relief Act.

In San Diego County, I want to specifically recognize Scott Himelstein and Bill Lynch at the Lynch Foundation for Children, John and Diana Detwiler at the Detwiler Foundation Computers for Schools Program in San Diego, and the students, teachers and principals at all of the San Diego County schools that showed me their education technology and their need for more. I also want to express my appreciation to the House Republican Leadership and to Chairman ARCHER for including this provision into the Taxpayer Relief Act.

Mr. Chairman, a vote today for the Taxpayer Relief Act provides Americans long overdue tax cuts. It also spurs private investment into technology upgrades for our schools and for our children, through inclusion of the 21st Century Classrooms Act.

I encourage adoption and enactment of this bill.

Mr. CONYERS. Mr. Chairman, I rise in opposition to the so-called Taxpayer Relief Act. Yet again, the majority has demonstrated that their first priority is to line the pockets of the richest Americans at the expense of working, taxpaying families.

I urge you not to be fooled by the majority's effort to pull the wool over the American taxpayers' eyes. Despite claims to the contrary, this tax bill will devastate both middle- and working-class families in order to pay for tax breaks for the rich. The majority has done everything possible to ensure that the wealthiest families will get the bulk of the benefits. A recent study by the Center for Budget and Policy Priorities found that the effect of the combined budget and tax bills will give a $27,000 annual boost to the top 1 percent of Americans while raising taxes for the bottom 20 percent of families.

Not only does this bill work against families, it is fiscally unsound and irresponsible. Paying for these tax breaks will cost us $85 billion over the next 5 years. In the next 10 years, that amount jumps up to $250 billion. And 10 years after that we will be spending $700 billion on these tax cuts. If you support this bill, you will be giving away $700 billion in tax breaks to the wealthiest Americans. All of America's taxpaying families should share fairly in any tax cuts that we propose, not just the select few who will profit under this bill.

With these facts in mind, I hope that you will join me in asking a few questions of the bill's supporters. We should ask why they constructed a bill where the bottom 60 percent of our population shares only 4 percent of the benefits and the top 20 percent of the U.S. population receives 87 percent of the benefits from this tax cut. We should ask why they support a bill that adds to the assault on our already fragile social safety net. We should ask them why they're giving a capital gains break to the 5 percent of Americans who earn $100,000 a year and will reap 75 percent of the benefits.

But don't expect an answer to any of these questions. With their underhanded approach, the majority has abandoned millions of hardworking, taxpaying Americans. If the supporters of these tax breaks on both sides of the aisle wanted to be honest about this bill's effects, they should stand up and tell the American people: "We don't care if you can't afford day care for your children. We don't care if you can't afford to send your sons and daughters to college. We don't care that our tax and budget plans will assure that the rich get richer at your expense."

But don't expect this kind of honesty from a group that has constructed a child tax credit that is more restrictive than the one proposed in the contract on America. Passing this bill will mean that virtually all families with incomes under $20,000 a year would not be eligible for this child tax credit. If you support this bill, 28 million of our neediest children and their families will receive no tax credit because their incomes are too low to qualify. We cannot allow such an attack on the American family to continue unchecked.

I urge my colleagues to oppose this inequitable tax cut. Unlike Mr. GINGRICH, who labels any proposal that gives lower and middle class families their proper share of these tax cuts welfare, I believe that hardworking Americans should be treated fairly under any tax cut proposal. I hope that you will demand answers to the questions I have raised and join me in exposing this bill for what it really is—a thinly veiled scheme to provide welfare for the rich.

Mr. STEARNS. Mr. Chairman, I would like to talk to you about an amendment I offered at the Rules Committee to the Budget Reconciliation Act. This amendment would have established a national fund for health research. I offered this amendment because I believe one of the best ways to bring health care costs down is to fund health care research. Did you know that nearly four to five peer reviewed projects deemed worthy of funding by the National Institutes of Health [NIH] are not funded?

The purpose of my amendment was to provide additional funds for biomedical research by investing 1 percent of the Medicare savings included in the bill in critical projects at NIH. This would accomplished by transferring to this account each year an amount equal to 1 percent of the savings which are achieved in that year from the Medicare amendment included in the 1997 Budget Reconciliation Act. It is estimated that this would provide approximately $1.2 billion over 5 years.

This amendment provides that funds deposited in the research fund shall be distributed among NIH centers in the same proportion as provided in the regular appropriations bill. It is estimated that an additional 1,000 or more research grants could be funded over 5 years in such critical areas as Alzheimer's, Parkinson's disease, diabetes, breast cancer, etc.

It also ensures that the full $155 billion of savings required are still achieved by providing that no funds will be transferred to the NIH unless net savings to Medicare are estimated by CBO to reach the $115 billion level. Thus, no transfer would occur until gross savings exceed $116.5 billion. It does not impose any new taxes.

Less than 3 percent of the nearly $1 trillion our Nation spends on health care is devoted to health research, while the defense industry spends 15 percent of its budget on research and development.

Public opinion surveys have shown that Americans want more Federal resources put into health research and are willing to pay for it. That is why I support the initiative to double the NIH budget over the next 5 years.

The Alliance for Aging has recently conducted a study that supports the savings for health care costs for the elderly and permanently disabled who are Medicare eligible by investing in biomedical research efforts as proposed under my amendment.

In 1995, NIH issued a report that found the economic burden of several diseases was estimated to be of tremendous proportions. For instance: The costs involved with heart disease was $128 billion; cancer, $104 billion; Alzheimer's, $100 billion; diabetes, $138 billion; mental disorders, $148 billion; arthritis, $65 billion, stroke, $30 billion, and osteoporosis, $10 billion.

It is apparent to me that we must do all that we can to either prevent or least slow down the onset of these diseases. And we know that many of these diseases do not strike until we are in our golden years. These years would, in fact, be golden if we could prevent or least find a way to treat diseases such as Alzheimer's.

Current data tells us that one-third of the $1 trillion spent on health care today goes to people 65 and older. In a scant 15 years, the baby boom generation will begin qualifying for Social Security and Medicare and so, too, will their susceptibility to age-related diseases.

That is why it is incumbent upon us to find better ways to treat, prevent, or slow down these diseases and we can and must do this through research funded by the National Institutes of Health because the future costs of health care will increase dramatically as the boomers begin to experience these age-related maladies.

In these days of trying to balance the budget, we must not lose sight of the fact that by delaying the onset of diseases such as Alzheimer's, stroke, and cardiovascular disease we would save an estimated $35 billion through a reduction in the need for nursing home care. Now, to my way of thinking that's not chump change.

Ample evidence exists to demonstrate that health research has improved the quality of health care in the United States. Advances such as the development of vaccines, the cure of many childhood cancers, drugs that effectively treat a host of diseases and disorders, a process to protect our Nation's blood supply from HIV virus, progress against cardiovascular disease including heart attack and stroke, and new strategies for the early detection and treatment of diseases such as colon, breast, and prostate cancer clearly demonstrates the benefits of health research.

Expanded Medicare research is critical to holding down the long-term costs of the Medicare Program under title XVIII of the Social Security Act. For example, recent research had demonstrated that delaying the onset of debilitating and costly conditions like Alzheimer's disease could reduce general health care and Medicare costs by billions of dollars annually. I am hopeful that such a proposal will be enacted by Congress in the future.

Mr. KOLBE. Mr. Chairman, this is a great day for this House and for the citizens of the United States. Today we take a giant step in providing the tax relief that Americans so desperately need and deserve.

Today we are about to let people keep more of their income to spend as they want—not as the Federal Government wants. This is the right thing to do. Taxpayers deserve to enjoy more of the fruits of their labors. The Federal Government has become too greedy, continually increasing the burden on our citizens so Washington can distribute taxpayer earnings to other groups in society. Today we begin to reverse that condition. Even so, we still have a long way to go.

Mr. Chairman, I am pleased with many provisions of this bill. But two stand out as especially important for working Americans. The child tax credit and the education incentives. These provisions actually put money back in the pockets of ordinary, middle income people and help them provide for their children's education.

Taxpayers with children get to take $500 per child off their total tax liability. Think of what that means to a young family struggling to get ahead and give their children opportunities.

This bill gives families who send their children to college or other post secondary institutions a chance to keep more of their earnings to help with those higher education expenses. It provides a tax credit, up to $1,500 for each student, for half of the tuition and related expenses during the first 2 years of college or vocational training. It provides a $10,000 deduction per student per year for expenses through State prepaid tuition plans or education investment accounts. Further, it allows families to make penalty-free withdrawals from any IRA to cover the cost of education after high school Think what a relief this will be for hardworking families struggling to make sure their kids get an education.

Mr. Chairman, I wish we could be voting on bigger tax cuts. I wish the capital gains tax had been cut more. I wish we had abolished the estate tax. I wish we had given more relief in many areas. But I am very happy with this major step forward. I am going to consider it a substantial down payment on a commitment we made to the American people 4 years ago when we promised to downsize Government, balance the budget, and cut taxes.

We must continue to work in this House and in this Congress to totally deliver that promise in the next few years.

Mr. CRANE. Mr. Chairman, I rise in enthusiastic support of this bill to provide long-overdue tax relief to the American people.

I have heard criticisms of this bill primarily from liberals who are playing the old tired game of class warfare. I find their arguments—that this tax relief is unfairly targeted to the rich—rather ridiculous. These class warfare antagonists are from the same crowd who in 1993 rammed through the largest tax increase in the history of our Republic. It is no wonder that they are resisting the attempt by House Republicans to allow Americans to keep more of their own money, rather than sending it to Washington's bureaucrats.

The liberal misinformation campaign about this tax package is so out of touch with reality that they are alienating their overtaxed rank and file constituents. The fact of the matter is that the vast majority of the tax relief in this bill is provided for individuals, not corporations. More specifically, over 71 percent of the tax relief in this bill will go to those who earn between $20,000 and $75,000 a year. I do not know what some of my liberal colleagues consider the rich, but a family earning $40,000 a year with two children living in Palatine, IL, a city in my district, is far from rich.

Let me put this in another perspective. It has been 16 years since American taxpayers have had a significant tax cut from Washington. President Clinton signed the largest tax increase in history in 1993 and then vetoed a major tax cut bill, the Balanced Budget Act, in 1995. All the while, middle-income families have shouldered the largest tax burden than at any other time in our history. A family at the median income level budgets over half of their annual income to pay for government at all levels. Tax relief for them is long overdue.

I am pleased to see a number of items in this bill that I have been working on for some time. For example, I have promoted legislation to increase the value of the tax exemption for children and other dependents. The $500-per-child tax credit will give parents this tax relief I have sought for so long. In addition, I have pushed for capital gains tax relief, provided in this bill, which is so valuable to home and small business owners. I also support the relief in this bill from the estate or death tax which has been particularly devastating on family farms and small businesses. I would rather abolish the capital gains and death taxes, but I believe this bill makes significant improvements in both areas.

While the bulk of this bill provides tax cuts to individuals, employers also receive some much-needed tax relief. And let me make it clear that tax relief for businesses is about job creation, competitiveness in world markets, and more money in the pockets of American workers. Although the Constitution protects its citizens from double jeopardy in criminal cases, the Tax Code offers no similar protection. The alternative-minimum-tax [AMT] forces businesses into double jeopardy with two different sets of tax rules, the regular corporate schedule and the AMT schedule. If, after following the complex rules and regulations in the corporate tax code, the company does not owe enough taxes, they must start all over with the AMT code, with its own rules and regulations. The compliance costs, in addition to the tax burden, has hurt the competitiveness of U.S. businesses against foreign businesses. This translates into lost jobs and lower wages for American workers. H.R. 2014 provides some much-needed relief from the burdens of the AMT.

If I had any criticism of this bill, it is that it does not provide as much tax relief as the American people deserve. I also appreciate the view of those who suggest that this bill does not provide for Tax Code simplification. I, too, am disappointed on both of these counts, but given the current political situation in Washington, we must deal with a President who, despite his rhetoric, is not interested in providing large-scale tax relief or reform to our country. Given these constraints, I believe that Chairman BILL ARCHER of our Committee on Ways and Means did an admirable job in constructing this tax bill.

I urge my colleagues to support H.R. 2014 and I look forward to moving ahead and meeting with members of the other body to put the finishing touches on tax relief for Americans. I only hope that the President will see fit to sign this bill into law.

Mr. KLECZKA. Mr. Chairman, I rise today to voice two major concerns regarding H.R. 2014, the reconciliation tax legislation before the House today. I understand that section 1053 of this bill is Republican payback against the unions who mainly supported Democrats in the last election. I object to use of the Tax Code to punish political adversaries, but that is not even among the two main reasons I will cast my vote against this bill today.

To begin with, I believe we should give the American people capital gains tax relief, but this bill clearly provides more than is reasonable. It both cuts the capital gains rates as well as indexes the values of assets for inflation. I am all for providing relief, but considering the huge potential revenue loss of these combined provisions 10, 15, or 20 years from now, we should pare down the capital gains cuts to a more reasonable size. After all, as the bill stands today, the capital gains cuts lead to a loss of $36 billion in 2003 through 2007 alone. This bill should either cut the capital gains rate or index assets, but not both.

But, Mr. Chairman, I rise today mainly to express my concerns about another provision in the tax bill before us today that could have a devastating impact on workers and their benefits. The measure is not only bad policy, but it does not belong in this bill in the first place. It is an attack on working men and women disguised as a Tax Code clarification. It could lead to the end of employee benefits and workplace protections as we know it.

The provision, innocently labeled as a safe harbor for independent contractors, would permit many employers to reclassify their workers as independent contractors and thus deny those workers employee benefits and worker protections.

Much of the social safety net enjoyed by workers in this country depends on employment status. Workers classified as independent contractors are not eligible for employer-provided health insurance or pensions. Independent contractors are not eligible for unemployment compensation. Independent contractors also have to pay the employer side of the Social Security and Medicare payroll taxes, an additional 7.65 percent.

In addition, although this provision purports to be limited to classification for tax purposes, it is likely that employers will also treat workers as independent contractors for other purposes. Worker compensation laws, minimum wage and hour laws, occupational safety laws, and age discrimination laws do not apply in the case of workers classified as independent contractors.

Reclassification is already being used against workers and this bill would make it even easier for employers to drop worker wages, benefits, and protections. The potential for abuse of this provision is real. Last year the Department of Labor found that 134 workers in Ohio were improperly classified as independent contractors and were receiving as little as $1.50 per hour. In October of last year, the Ninth Circuit Court of Appeals found that Microsoft must pay benefits to a group of workers that the company had intentionally misclassified as independent contractors. Reclassification has been regularly employed by some in the construction industry with respect to laborers and other workers such as supervised carpenters, masons, plumbers, and electricians. This practice is being carried out across this country by both large and small employers.

This provision—identical to H.R. 1972 of last Congress—too easily allows an employee to be reclassified as an independent contractor. The measure establishes a test which is too easy to meet, and therefore many workers could be reclassified if it were to become law. First, the worker must sign a written agreement providing that he or she will not be treated as an employee. This is not voluntary in any sense of the word: if a worker wants the job, he is going to have to sign that agreement or he returns home without work. Under the measure, once the written agreement has been signed, a worker can be classified as an independent contractor if the worker meets one criteria in test 1 and one criteria in test 2.

Test 1: The worker—has a significant investment in assets or training; or incurs significant unreimbursed expenses; or agrees to perform services for a particular time or to complete a specific result; or is paid primarily on a commission basis; or purchases products for resale.

Test 2: The worker—has a principal place of business; or does not primarily provide the service at the employer's place of business; or pays fair market rent for use of the employer's place of business; or is not required to perform services exclusively for the employer, and in the current, preceding, or subsequent year has: performed a significant amount of services for others, or offered to perform services for others through advertising, solicitations, or listing with referral agencies, or provided services under a registered business name.

Let me give an example to illustrate my point. Bill is a plumber who is an employee for a plumbing construction and repair company. If this provision were to pass into law, Bill would meet the criteria under this provision because he has his own tools and has paid for his own training and performs his work onsite at residences and businesses throughout the metropolitan area. Therefore he could be reclassified as an independent contractor. He would now have to pay double—about 15 percent—his previous payroll tax for Social Security and Medicare while his former employer would pay nothing. He could lose the ability to participate in the company pension plan. If either Bill or his wife, Debbie, needed to see a doctor, they might be surprised to find that they no longer had employer health coverage through Bill's work. If Bill was badly injured on the job, he might be disappointed to find that he could no longer collect workers compensation to help put food on the table and pay the mortgage while laid up. If he was laid off during a slow period, he might show up at his State labor office to collect unemployment, but would no longer qualify for unemployment insurance through his employer.

Similar reclassifications could occur not just for other tradespeople like electricians and carpenters, but also delivery people, policemen, reporters, and others.

It is not only workers who are concerned about this provision, but conscientious firms who are wary of unfair competition by unscrupulous employers. A group of construction industry employers testified before the Senate Finance Committee on June 5 of this year opposing a similar proposal. The Mechanical/Electrical/Sheet Metal Alliance consists of the Mechanical Contractors Association, the National Electrical Contractors Association, and the Sheet Metal and Air Conditioning Contractors National Association. They testified that: "the Alliance does not support the proposals under consideration today because we are gravely concerned that the proposed classification criteria—when applied to the skilled construction workforce—would jeopardize the entire structure of training, health and welfare, pension and other workforce development and retention benefits." Citing a Bureau of Labor Statistics study showing independent contractors disproportionately represented in construction, the construction industry alliance witness alleged that: "The rise of worker misclassification in construction has nothing to do with career enhancement and everything to do with unfair low-wage competition."

The alliance alleged that this provision represents a threat to those conscientious construction businesses that undertake to pay, at the very least, the legally obligated minimum employer overhead taxes that are a legitimate cost of doing business. He concluded by stating that "businesses that cannot afford to pay for the social policy objectives of unemployment insurance, social security and workers compensation should not per permitted greater leeway to avoid paying for these established social responsibility programs and shifting even greater costs on their employees, fair employers and the government, as well."

This is a dangerous provision that will result in a race to the bottom where working men and women will lose workplace benefits and protections as we know them while legitimate employers will be forced to reduce benefits and worker protections to compete with unscrupulous employers taking advantage of the Republican independent contractor provision.

Mr. Chairman, because of the presence of this ill-conceived provision and the combination of both a capital gains rate cut in addition to capital gains indexing, I must vote against the bill before us today. I am hopeful that during conference my concerns will be addressed and I will be able to support the final version of this legislation.

Mr. DINGELL. Mr. Chairman, a few weeks ago. I cast my vote in favor of the budget resolution with the hope that it would yield a well-reasoned reconciliation package which I could support. Clearly, the majority has failed to assembled such a package.

I have heard the quote, "Here we go again," used by some of my Republican colleagues. While I applaud the rhetorical effulgence and I agree that it is appropriate in this instance, I question the context in which it is being used. The legacy of that former President—who so eloquently spoke those words—is the massive Federal debt we are confronting today. So, after a careful review of this tax package, the only proper conclusion is, "Here we go again."

We have yet to learn the lesson of 1981. Yesterday, I spoke of how the proposed $20.3 billion savings from the broadcast spectrum auctions are an illusion. It isn't surprising that those very savings account for nearly one quarter of the offset for the tax package.

The budget gimmickry used for the capital gains tax cut will explode the deficit after 2002. Because wealthy Americans can pay their accrued capital gains in 2002 to receive the benefit of indexation, the end result is a one time $6 billion golden egg paid to the U.S. Treasury. It is a Ponzi scheme which benefits the wealthiest Americans, a throwback to the "voodoo economics" another Republican President warned us against.

In 1948, my father argued against a Republican plan to allow employers to skip out on Social Security taxes. It is ironic that I am here nearly 50 years later to argue the same position. This bill allows employers to easily reclassify employees as independent contractors and to deny employees health care coverage as well as their Social Security contribution. Republicans speak of class warfare; it is obvious who is on the offensive. This is a blatant assault on hard-working Americans.

It is clear that we are not talking about granting tax relief for those who need it most. A majority of the benefits in this package go to the wealthiest Americans and it squeezes those who need relief most, the working poor. Why will millionaires be able to sell off stock portfolios and pay less in taxes than middle-class Americans currently pay on income tax? It is shameful.

The Democratic substitute would correct these flaws. Our tax relief plan would allow the parents of 24 million more children to benefit from the $500-per-child tax credit. Capital gains and estate tax relief are targeted towards small businesses and families. It permits homeowners to who sell their homes at a loss to take a tax deduction. Most importantly, two-thirds of the benefit go to those making less than $75,000.

I urge all of my colleagues to oppose this shameful Republican tax scheme and vote for the Democratic substitute.

Mr. COYNE. Mr. Chairman, I rise today in opposition to the tax provisions of the 1997 reconciliation bill. I oppose this legislation for a number of reasons. The most important reason is that I believe that now is not the time for tax cuts. I believe that such a move would be irresponsible. Given the widespread support in Congress for a tax cut bill, however, I believe that a much more equitable bill could—and should—be enacted.

The economy today is in better shape than at any other time in the last 25 years. The economy is growing and inflation is low. The Federal deficit has been reduced from more than 6 percent of our national output to roughly 1 percent. These are things to celebrate, and I join with my colleagues in rejoicing over our good fortune and relatively responsible management. But as tempting as it would be to indulge ourselves, given these happy circumstances, in cutting taxes, I believe that it would be unwise and irresponsible to do so. It is at just such a prosperous time that we should begin addressing the long-term problems that we know will confront us in a few short years. Let's not wait until a crisis is upon us and more draconian solutions are necessary. Let us show some leadership today.

What problems lie on the horizon? What should we be doing instead of enacting tax cuts? In the coming years, we will face an increasingly competitive global economy and a demographic shift unparalleled in modern history. We will need to dedicate more of our national resources to caring for an increasingly older population and taking steps to increase our economic productivity. That means taking modest steps now to ensure the long-term solvency of Social Security and Medicare. That means keeping Federal deficits under control. That means investing in our infrastructure and promoting research and development. It means investing in early childhood development and improving public education. It means increasing access to higher education. And it means making health care available to all Americans. Our country would be better served by addressing these challenges than by cutting taxes for the affluent.

In addition, I am concerned that these tax cuts will increase Federal deficits substantially once they are fully phased in. I feel compelled to remind my colleagues that the last time we indulged in a package of massive tax cuts, we precipitated a long series of budget deficits that we are still paying off. As every spendthrift knows, you can have a pretty good time spending borrowed money, but eventually the money runs out and the loan comes due. The massive budget deficits of the Reagan years helped spur economic growth following the recession of the early 1980's, but at a heavy cost. Much of the more than $200 billion in interest payments the Federal Government makes each year is due to the deficit spending of the 1980's. The tax cuts enacted in 1981 contributed substantially to those deficits. Similarly, the tax cuts contained in the legislation we are considering here today will produce large revenue losses in the coming decades—just when the retirement of the baby boom generation will place increasing pressure on the Federal budget. I believe that the short-term benefits this legislation would provide would be more than offset in the outyears by the long-term fiscal difficulties that it would produce. That is a second reason that I believe these tax cuts are unwise.

As I stated earlier, however, it is clear that Congress intends to pass a substantial tax bill this year. Given the likelihood that we will, in fact, do so, I strongly believe that we should pass a bill that is more equitable than the bill we have before us today. The Republicans have produced a bill that would do relatively little for the average American family.

The $500 family tax credit is not refundable, which means that families that do not have any Federal income tax liability will not receive any family tax credit money. Many low-income families make so little money that they have no Federal income tax liability. While these families pay a significant percentage of their incomes in Federal payroll and excise taxes, many of them will nevertheless be denied the family credit. In addition, under the House Republicans' bill, the family tax credit is stacked after the earned income tax credit, meaning that taxpayers must offset their tax liability with the EITC before they can claim the family credit. Given that the family credit is nonrefundable, many working families will not have enough income tax liability left to claim the credit; other working families will receive far less than the full $500 credit. In all of these cases, the low- and moderate-income families who deserve and need a tax break as much or more than more affluent families will receive little or no tax relief under this bill. This is especially unfortunate, given that a modest increase in their disposable income would make a real difference in their lives.

Other provisions in this legislation would reduce taxes on capital gains and index future capital gains for inflation. These provisions would do little or nothing for most Americans, whose major life-time capital gain, the sale of their home after age 55, already goes untaxed in most cases. And because most capital gains taxes are paid by the wealthiest Americans, such a change would reduce the progressivity of the Federal Tax Code significantly. Moreover, the lower capital gains tax rate and the indexation of capital gains for inflation would result in a substantial Federal revenue loss in the years beyond the 5- and 10-year windows used in the budget reconciliation process. That revenue loss would kick in at just the time when the Federal Government will need to increase spending substantially for Social Security and Medicare to cover the costs associated with the retirement of the baby boom generation.

Similarly, this legislation has changed the college tuition tax credit proposed by President Clinton so that only taxpayers that spend over $3,000 on college costs will get the full $1,500 credit. The President's HOPE credit would have provided a full dollar-for-dollar tax credit for the first $1,500 in higher education costs. These changes from the President's proposal would make the credit less helpful to the low-income students who often attend low-cost community colleges, and they could prevent some of these students from pursuing education beyond high school. Such an outcome would deny many low-income individuals access to educational opportunity, but we would all suffer from the adverse impact that this outcome would have on our country's productivity.

The pattern is clear. The distributional effects of this tax cut package are abysmal. More than half of the tax relief in this bill would go to the top 5 percent of taxpayers—those with incomes of more than $100,000—once its provisions are completely phased in. If Congress is determined to pass a tax cut, it should at least ensure that the bulk of the tax relief that it provides goes to the people who need it most—the hard-pressed, hard-working low- and moderate-income households that are playing by the rules and struggling to make ends meet.

There are a number of other objectionable provisions in this legislation, too many to be mentioned here. Let me just mention one in passing. The bill would change the way in which independent contractor status is determined. This change would most likely have the result of stripping thousands—and perhaps millions—of workers of their employee status and the benefits that that status conveys. It could lead to lower pay, the loss of health insurance coverage, ineligibility for pensions, and the loss of protection under State and Federal labor and workplace safety laws for many hard-working individuals.

Mr. Chairman, this legislation has very serious problems. I urge my colleagues to reject a major tax cut and, instead, to address the long-term fiscal problems that confront our country. Barring that approach, I urge them to work with me to produce a reconciliation bill that we can all support—one that provides tax relief for America's working families in a fiscally responsible fashion.

Mr. VENTO. Mr. Chairman, this legislation reminds me of Cinderella's stepsister trying to slip a size 10 foot in a size 5 glass slipper. It just won't work. And hopefully the American people will, like the Prince's emissary, discover what a fraud this legislation is.

I supported the budget framework adopted by Congress this year. Frankly, I was concerned and did have reservations about the tax portion of the agreement. I was concerned that the Republican majority would not be able to resist the opportunity to load up the tax bill with provisions that benefit the very rich at the expense of working and middle class Americans and that despite its rhetoric, the majority leadership is willing to sacrifice deficit reduction and the real progress that we have made over the past 4 years.

Unfortunately, these fears have been realized. Like children in a candy store, the majority party has not been able to restrain themselves from loading up with goodies. Like all candy, this bill is fattening. It will fatten the pocketbooks of the wealthiest in our Nation while swelling the Federal deficit.

The nonpartisan research organization, the Citizens for Tax Justice, has analyzed the real impacts of this tax bill. Their analysis has determined that 57 percent of the benefits of the tax cuts will go to people with incomes over $109,000, while average families, with incomes between $21,000 and $57,500, will only receive 17 percent of the benefits. Incredibly, families with income levels below $21,000 will get no tax cut or could actually pay more taxes under this bill. This outcome is particularly harsh for young families trying to succeed. The discrepancy between the very rich and ordinary working families is highlighted by the disclosure that this tax bill contains a $9 million tax break that benefits approximately 1,000 individuals.

Through a creative implementation schedule, the tax bill masks the true impact the loss of revenue and size of the tax breaks, resulting in a gap between tax expenditures and program expenditures. Just when the American taxpayer thinks the long fight to end the Federal deficit is at an end, the full impact of this backend loaded legislation will hit. The Center on Budget and Policy Priorities estimates that the Republican tax bill will blow a hole of between $600 and $700 billion for the second 10-year period from 2008 through 2017. That type of fiscal time bomb should not be fused by the passage of such a tax policy measure. Indexation of various tax breaks in this measure further digs the deficit hole that we are trying to extract ourselves from, experience would dictate and common sense prevail that such aspects of the Tax Code shouldn't be placed on automatic.

While I do not support the present tax bill, I do strongly support the alternative that will be offered today. That alternative provides a more targeted approach to tax relief. The Democratic substitute legislation fulfills the commitment to helping middle and working class families and children to afford the costs of post-secondary education. This alternative provides a child credit and does not deny that credit to families that have lower incomes and whose major tax payments are the payroll tax. The Democratic substitute maintains the commitment to estate tax reform and to reducing the real estate capital gains taxes without mortgaging our future. It permits the full earned income tax credit to remain in place, benefiting the working poor.

Mr. Chairman, the Rangel alternative builds upon the outstanding success that Congress has had in working with President Clinton to reduce the deficit. This has not been an easy process but now that the goal of a balanced budget is so close we must not yield to the siren call of tax breaks without discipline. We cannot and should not turn back on that progress to merely score political points. I urge my colleague to support meaningful deficit reduction and balanced tax reform by passing the Democratic alternative.

Mr. SOUDER. Mr. Chairman, on Wednesday, May 21, the Christian Action Network, a nonprofit lobbying organization dedicated to the protection of the American family, tried to display art funded by the National Endowment for the Arts on the steps of the U.S. Capitol as part of their touring exhibit, "A Graphic Picture is Worth a Thousand votes." The purpose of this touring exhibit is to protest NEA funding of obscene and anti-Christian art.

However, the U.S. Capitol Police would not let the Christian Action Network display the NEA funded art on the basis that the art was obscene. In addition, the Capitol Police confiscated 17 pieces of NEA-funded art and are seeking a warrant for the arrest of Christian Action Network president, Martin Mawyer.

The simple fact that the U.S. Capitol Police would not let the Christian Action Network display this art proves Mr. Mawyer's point that the National Endowment for the Arts is using taxpayer money to pay for obscenity and to support people who produce illegal art. The NEA is an affront to religious beliefs, heritage, and sense of fairness and the agency needs to be eliminated. It has been proven over and over again that simple restrictions and reforms on the NEA don't work.

Jane Alexander maintains that she has cleaned up the NEA but this is clearly in doubt. For instance, the NEA has given $112,700 over the past 3 years to Women Make Movies, Inc., a nonprofit organization that produces and distributes independent films by and about women. One such film was "Watermelon Woman" which portrays graphic sex images, is strewn with graphic and degrading sexual language, and portrays the use of illegal drugs as a normal recreational activity. There are at least 14 other controversial films distributed by Women Makes Movies, Inc.

The Federal Government should not be in the business of determining what is art and what isn't art. Individual citizens and private groups should have the freedom to choose what art we wish to patronize and what we choose to ignore.

Today, I would like to enter into the CONGRESSIONAL RECORD a copy of a brief article from the May 30th edition of Human Events which covered Christian Action Network's art exhibit on Capitol Hill. I urge my colleagues to read this article and to vote to abolish the National Endowment for the Arts for fiscal year 1998.

[From Human Events, May 30, 1997]

CAPITOL POLICE CONFISCATE NEA 'ART' AS OBSCENE

On May 21, the U.S. Capitol Police confiscated 17 pieces of taxpayer-funded "art" displayed on the Capitol steps as a part of an exhibit put on by the Christian Action Network (CAN). Congress' security force is now seeking an arrest warrant for CAN President Martin Mawyer for publicly displaying obscene images.

The National Endowment for the Arts (NEA), long a target of conservatives for being wrong in principle, wasting taxpayer money and funding obscene and blasphemous art, granted federal funds to the artists who created the unfit-to-be-seen works. "Finally," Mawyer told Human Events, "someone in law enforcement authority has decided this is obscene. . . . Now, when we go around from [congressional] district to district to increase support for eliminating the NEA, we can show pictures of the Capitol Hill police confiscating this."

NEA-funded photographs titled "Bobby Masturbating" and "Woman Castrating a Man" were among the confiscated material, as was a collection of stories called the "Highways Brochure." One of them "included a description of sex with [House Speaker] Newt Gingrich's mother," said Mawyer.

U.S. Capitol Police spokesman Sgt. Dan Nichols said May 22, "It is up to the U.S. attorney's office for the District of Columbia to decide whether or not to issue a warrant. We will probably submit an affidavit today, perhaps tomorrow." He said they were definitely seeking Mawyer's arrest.

Since taking over Congress, Republicans have cut the NEA's budget to $99.5 million a year. But conservatives vow to enforce a deal struck in 1995 with House GOP moderates which called for the complete elimination of the NEA's funding by Fiscal 1998.

Mr. BERRY. Mr. Chairman, I rise today in regretful opposition to the Republican tax proposal.

I am a strong supporter of tax relief for the American family and for our small business. Were I to craft the perfect tax package, I would devote over half of its tax relief to small business—reducing the estate tax so that families can pass on their business from generation to generation—establishing a better home office deduction—including provisions to allow for some independent contracting. In addition, I would provide relief for our families by including a $500 per-child tax credit—the President's tax credits for higher education—and deductibility of tuition and expenses.

This proposal violates the bipartisan budget deal and results in an escalating deficit over the next 10 years. Not only does it not meet our objectives of balancing the budget, it worsens the deficit.

My ideal proposal would not include the Republicans' costly reduction in tax cuts to large corporations that explode our Nation's deficit and make it impossible to balance the Federal budget. While I support and will continue to fight for the enactment of the small business proposals included in the Republican package, and would in fact have preferred a larger reduction in the estate tax, I cannot support a return to the so-called trickle down economics that resulted in the rapid expansion of our national deficit since 1981. I am old enough to remember the incredibly adverse impact of the Reagan plan on our national economy.

In casting this vote today, I had to carefully consider what was best for those I represent—the citizens of the First District. I believe that the immediate, temporary political gain from supporting this Republican tax reform proposal is not worth the ultimate, long-term harm to America's economy that would result from the enactment of this tax package. The Republican tax proposal makes a lot of promises but does not contain any mechanism to ensure that the budget will continue to be balanced. It is fiscally irresponsible—phasing in the largest tax cuts over a 10-year period harms the budget and will destroy the deficit.

The Blue Dog Democratic alternative that I am supporting today is better for the American taxpayer, and better for American small business, than the Republican proposal for the following reasons: Our bill eliminates the so-called back loading from the Republican plan, which harms the economy in the long term and will increase the federal deficit; it provides more estate tax relief than the Republican plan—phasing it in immediately for our family farms and businesses; it eliminates the corporate welfare provisions in the Republic bill and dedicates that money to deficit reduction; and, it includes a $500 per-child tax credit; the President's Hope Scholarship, and deductibility of tuition for students.

Mr. Chairman, today's vote is simply the first step in a long budget process. I am confident that Congress will be able to work in a bipartisan manner to provide meaningful tax relief to America's families and small businesses.

Mr. FAZIO of California. Mr. Chairman, I thank the ranking member.

It is easy to see what the special interests want in a tax cut. Just look at the Republican bill.

But American families, according to a poll in the Wall Street Journal published today, want two things: A tax cut to make college affordable, and a tax credit so they can afford child care.

On both counts, the Democratic alternative wins hands down.

Instead of being loaded with fat capital gains cuts and benefits for corporations, it puts higher education in reach for millions of more Americans.

Instead of tax breaks for the rich, it makes community college an option for nearly every American who wants the opportunity to enroll.

Instead of massive estate tax reductions, it allows workers who want to learn new skills needed in our changing economy, tax credits so they can afford to learn—and earn—much more.

This debate isn't about whether we cut taxes. It's who we cut them for.

The Democratic plan is the one that makes the most sense for our economy, for education, and for our future.

Mr. UNDERWOOD. Mr. Chairman, it is truly unfortunate that this bill shortchanges the working poor of this Nation and carves out tremendous benefits for the wealthy. Those who need the relief the most are given the least under this legislation. It uses the language of helping all families with children but delivers to only half—the top half. But Mr. Chairman, I rise this afternoon to bring to the attention of my colleagues an issue of specific concern to Guam and the Insular areas—the airline tax provision contained in this reconciliation bill. I want my colleagues to know when they vote for this bill they will be voting to treat American citizens as foreigners. The new international tax of $15.50 for both departure and arrival may be a good idea when applied to just that—international passengers—but unfortunately this tax goes beyond just taxing international tourists. It affects American citizens flying from Guam traveling to the mainland United States. This issue has been addressed by a special rule for other communities that face a similar burden during an already costly trip to the U.S. mainland. I hope that the chairman examines this provision in conference and works to bring fairness in a bipartisan way to our American citizens from Guam and the other insular areas.

Mr. DUNCAN. Mr. Chairman, as members of the House of Representatives, we each hold dear to us a number of founding principles which make our democracy truly exceptional. One of these principles I am sure we all cherish is sensible, responsible, and coordinated government.

It has been a long-standing, established practice in the aviation industry to deduct as current expenses the costs of FAA-mandated aircraft safety inspections, maintenance, and repairs.

Recently, however, the IRS has sought to drastically reverse this policy. This reversal forces the cost of major FAA-mandated safety inspections, maintenance, and repairs to be capitalized, rather than being immediately expensed. This action unfairly penalizes airlines for complying with the FAA's mandated safety regulations.

Further, the IRS has not submitted this change to Congress as proposed regulation, nor as a proposed regulation change. If it had, these actions would be open to public scrutiny, interagency coordination and congressional review.

Changing tax-policy on airline safety-related activities should be consistent with, not contradict, the actions of the FAA. It is bad public policy to create a tax penalty on the safety-related efforts that others within the administration are trying to encourage.

In addition, the IRS, by avoiding the regulatory rulemaking and legislative process, is denying the public, other affected agencies, and, to some degree, even Congress participation in this aviation safety policy matter.

Mr. PORTMAN. Mr. Chairman, as many of you know, for the last year, I have cochaired the Commission on Restructuring the Internal Revenue Service. Yesterday we issued our report—the culmination of a year-long study of the IRS. One of our central recommendations deals with the need to simplify our tax system. In fact, quoting from our report, the Commission "strongly recommends that Congress and the President work toward simplifying the tax code wherever possible."

We provided Congress with 60 specific provisions of the tax code that the tax writing committees could consider simplifying or reforming. And, I'm pleased to note that, under the leadership of Chairman ARCHER, 23 of these tax simplification proposals are in this bill.

I'd like to mention two: providing broad capital gains tax relief for those who sell their homes; and protecting State and local public pension plans from needless IRS regulation.

Several months ago, BEN CARDIN and I introduced legislation to provide a capital gains exclusion from taxes for home sales. Under our proposal, which is incorporated in this bill, the number of people paying capital gains on the sale of a home will be reduced from 150,000 to 10,000 a year. This provision will eliminate the need to keep detailed records and file complicated reports. Mr. Speaker, that's real simplification.

And by doing away with the current rollover rules and the limited "over 55 exclusion," homeowners will have more flexibility. They no longer will be forced to buy up in order avoid the tax bite. This will allow homeowners to use their savings to plan for retirement, meet education expenses for their kids and otherwise enhance their quality of life.

Our proposal recognizes that a home is the primary source of savings for most American families. Instead of forcing homeowners to give up all the money they've made on their home sale to Uncle Sam, Congress can give families a real break.

The second proposal, which I also authored with BEN CARDIN, will ensure that State and local pension plans will not have to undergo unnecessary and costly testing of their plans for compliance with complicated pension coverage rules. These rules are inappropriate for public plans. In fact, participation in public pension plans is often mandatory, and full-time public employees enjoy almost twice the pension coverage rate of their counterparts in the private sector. Furthermore, State and local governmental plans already come under a high level of scrutiny from elected officials, voters, and the media. There simply is no need to burden plans with unnecessary IRS regulations and costs.

Mr. Chairman, both of these proposals offer true simplification. I'm pleased the Ways and Means Committee included them and I'd like to note that the other body has incorporated them in its tax package as well. I urge my colleagues to support H.R. 2014.

Mr. PACKARD. Mr. Chairman, Americans are working harder than ever before, too often struggling to make ends meet, even with two incomes. The Taxpayer Relief Act is a first step toward allowing taxpayers to keep more of what they earn. We need to send more money back to hard-working Americans and keep it out of the Government coffers.

The Taxpayer Relief Act gives the American people the tax relief they deserve. We are helping every taxpayer at every stage of life. This tax relief proposal helps every taxpayer at every stage of life. Our child tax credit will help parents meet the needs of children and teenagers. Higher education is more within reach because we have built on the President's HOPE education proposal. And those who have worked hard, played by the rules and saved for retirement will be rewarded, not penalized.

Mr. Chairman, critics of our tax relief plan claim that it is geared toward the rich. Three-quarters of the tax relief provided in this proposal will go to those earning less than $75,000. I'd say it's obvious that hard-working, middle-income Americans benefit the most from our plan.

Under our plan, the typical family of four with a household income of $35,000 a year would see its taxes slashed 40 percent from $2,625 to $1,573 a year. If one child were in college, the tax relief would rise to 78 percent. This is real relief for middle-income families.

Mr. Chairman, the average Californian spends 2 hours and 45 minutes of each working day laboring to pay taxes. This is greater than the time worked to pay for food, shelter and clothing combined. It hasn't always been that way. Our plan ensures that this will not be the case in the future.

Hard-working, tax-paying citizens have finally won a major victory. Tax relief has become a reality because the American people spoke loudly and we have listened.

Ms. VELAZQUEZ. Mr. Chairman, I rise in strong opposition to this tax giveaway for the rich act of 1997. From capital gains tax breaks to hidden loopholes for the privileged few—Republicans have loaded this budget.

America's wealthy have much to celebrate under this bill—41 percent of the tax cuts will benefit taxpayers making more than $250,000. Meanwhile, families earning less than $23,000 will get no tax relief. This is unfair, Mr. speaker. Democrats and the American people will not stand for this tax sham.

Who do Republicans think they are fooling? They want to fatten the pockets of the rich and of the big corporations. Even the Wall Street Journal admits that the poor and middle class are given scraps. Just look at how this outrageous bill treats working mothers.

Republicans promised a $500 child tax credit to help all families. But now they want to exclude more than half of the children around the country. In New York alone, they would exclude over 3 million children. To Republicans, the child tax credit is acceptable only for a wealthy family, but they call it welfare for a working family.

If that injustice is not enough, Republicans want to punish 2 million working, middle-class women by reducing their child tax credit for child care. it is sad that the party of "family values" does not want to help working families.

Real tax relief should go to the struggling single mother with children, to the low-income family fighting poverty, to the middle class who carry the vast majority of the tax burden. These are the victims of your tax bill. These are the Americans who will suffer. We need tax relief that fairly benefits all communities.

The Republicans could not be trusted to keep their word under the budget agreement. And, they cannot be trusted with our children's future. They have failed working women. They have failed our children. They have failed the hard-working American family struggling to bring in a paycheck.

I strongly urge my colleagues to fail this outrageous Republican tax plan.

Mrs. McCARTHY of New York. Mr. Chairman: I rise in support of H.R. 2014, the budget reconciliation tax legislation.

When I talk to my constituents back home, they tell me overwhelmingly that taxes are by far their biggest concern. The median household income in the Fourth Congressional District is 50 percent higher than the national average, but we are not rich, because taxes and the cost of electricity take so much out of our pockets. It is not uncommon for a two-income household in my district to make over $70,000 a year and still just get by, having trouble putting their kids through college.

Long Island is a great place to live and raise a family, but the tax burden is driving young people and businesses away from our region. My constituents tell me that the best way to ensure Long Island remains productive and healthy is through tax relief.

The bill we are debating today is far from perfect, but I cannot in good conscience deny my constituents much-needed relief from taxes by letting the perfect be the enemy of the good. This bill will make a positive difference in the lives of people in my district, and for that reason alone, I plan to support it.

The family tax credit will provide relief for families struggling to make ends meet. The capital gains tax reductions will provide direct tax relief for the Fourth District, where the average home value is $173,600. The bill also provides needed estate tax reform, increasing the exemption from $600,000 to $1 million. This will help family-owned businesses in New York, a State which has over 600,000 small businesses.

Most importantly, this bill will provide tax incentives for higher education. My constituents believe very strongly in the importance of education, and they tell me that they want the Federal Government to help prepare young people for the future. As a member of the House Education and the Workforce Committee, I believe expanding access to education will lead young people to success in life and away from crime and gun violence.

As I said, there are several provisions in this bill which trouble me. For one thing, I am deeply concerned that section 931 will threaten the economic well-being of thousands of bakery drivers and their families. This provision, which would drastically overturn longstanding Federal policy, was attached to this bill with no debate or discussion in committee or the full House.

in addition, I oppose provisions which would reduce the retirement savings of current and future college and university retirees by removing the tax-exempt status of the Teachers Insurance and Annuity Association-College Retirement Equities Fund [TIAA–CREF].

Furthermore, I am afraid that provisions of this bill unfairly penalize graduate students by repealing section 117(d), which makes remitted tuition tax-free, and by failing to extend the section 127 exclusion for employer-provided tuition assistance for graduate students. As a cosponsor of H.R. 127, legislation to permanently extend section 127 for both undergraduate and graduate students, I will work to make this provision fair for all higher education students.

I pledge my continued efforts in the coming weeks to address these concerns, and I am hopeful that the bill will be improved in the conference committee. More importantly, I plan to work hard to ensure that Congress passes immediate, meaningful tax relief for the families and businesses of the Fourth Congressional District and the entire Nation.

Mr. POMEROY. Mr. Chairman, I believe that there are three important principles that Congress and the President should follow in delivering tax relief for American families: First, tax cuts should not explode the deficit in future years, increasing the tax burden on our children; second, the majority of the tax cut benefits should flow to those who need it most, working and middle-income families; and third, tax cuts should enhance the economic and retirement security of average Americans.

Unfortunately, in my view, the Ways and Means tax bill fails to adhere to these principles. I am especially concerned about the bill's shortcoming with regard to retirement security. First, the bill makes the wrong choices when it comes to expanding individual retirement accounts [IRA's]. And second, it targets educators for pension reductions.

Mr. Chairman, I am a strong proponent of expanding IRA's for working and middle-income families and have introduced legislation to do so. Yet, there is a right way to go about IRA expansion and a wrong way. The right way is to create new savers by providing extra tax incentives for low-wage workers and making more middle-income families eligible for IRA tax deductions. Working income Americans have tremendous difficulty saving today amid the press of monthly expenses and it is toward this group that we should direct IRA tax savings.

Unfortunately, the bill before goes about IRA expansion in precisely the wrong way. It establishes so-called backloaded IRA's which almost exclusively benefit the wealthy and which absolutely explode in cost outside the budget window. With backloaded IRA's, wealthy individuals can place substantial amounts of their investment income in an account where earnings and distributions will never be taxed. While the well-to-do can shelter their income in this way, backloaded IRA's do nothing to provide tax relief to the low- and moderate-income families who have such a difficult time saving for retirement. In fact, while taxpayers with incomes in the top 5 percent would save thousands per year with backloaded IRA's, families in the bottom 40 percent would realize no tax savings whatsoever.

Mr. Chairman, if there was one group whose retirement security we should all want to protect it is the dedicated individuals who educate our children. Yet, this bill singles out for pension reductions the educators who work to impart knowledge and values to our young people, the researchers who achieve the scientific and medical breakthroughs so critical to our quality of life, and the office and service workers who help make our universities the pride of the world. These are the people who have been served for 80 years by the Teachers Insurance and Annuity Association-College Retirement Equities Fund [TIAA–CREF].

This tax bill would revoke the longstanding tax-exempt status of TIAA–CREF's pension operations, a change which could reduce the incomes of retired university personnel by as much as 3 to 5 percent. And we're not talking about a group of wealthy professors here. The average TIAA–CREF beneficiary earns less than $12,000 per year in pension income. Mr. Chairman, at a time when we are rightly trying to attract the very best talent to help educate our Nation's children, we should not single out educators and jeopardize their retirement security.

Mr. Chairman, I urge may colleagues to oppose this tax bill. The Senate has taken a more balanced approach and I sincerely hope that the tax bill will come back from the conference in a form that we can all support. However, this bill represents the wrong tax relief priorities and undermines rather than advances our Nation's retirement security.

Mr. OWENS. Mr. Chairman, I rise in vehement opposition to H.R. 2014, the Budget Reconciliation Tax Act. It is appalling that just 1 month ago, Republicans enjoyed photo opportunities and media blitzes in which they celebrated an historic agreement between the White House and the Republican leadership. Unsurprisingly, the parameters of this agreement have begun to unravel and H.R. 2014 represents the consummate slap in the face to everyone who was told that this agreement was honorable and genuinely beneficial to all of the children, women, and men of America. It must be exposed the H.R. 2014 is a moral and economic sneak attack on people who are not lucky enough to be rich, realize capital gains, utilize a corporate depreciation allowance, work on a job that provides real benefits.

At a time when individuals are bearing a larger share of the Federal tax burden, H.R. 2014 includes changes to U.S. tax policy which would overwhelmingly benefit the corporate wealth. H.R. 2014 would reduce the capital gains tax and modify the estate tax structure. According to the Center on Budget and Policy Priorities, the top 20 percent of the U.S. population would receive 87 percent of the benefits, while the bottom 60 percent of the population would receive a paltry 4 percent of these tax benefits. In fact, the wealthiest 1 percent of the population would enjoy a rise in after-tax income of approximately $27,000. And more than half of the benefits of the Republican tax plan would go to the wealthiest 5 percent—people making an average of $250,000 a year.

Moreover, H.R. 2014 would deny the highly publicized child tax credit to working-class families. Some families would be able to benefit from the $500 per child tax credit. However, those lower income families who receive the earned income tax credit [EITC] and have no Federal tax liability would be declared ineligible for the child credit—15 million families. Under H.R. 2014, the child tax credit could be nonrefundable and reduced by amounts received by families under EITC or the dependent care tax credit—which pays a portion of child care expenses. This means that a family with two children earning $25,000 per year would not receive the child credit. Republicans argue that the credit is not for families who have no Federal tax liability. Unfortunately, this shortsighted argument presents only half the picture: These families still pay payroll taxes, State taxes, and local taxes. As such, they deserve relief.

The Republicans further contend that families already receive a credit [EITC] and should not benefit from another one. This argument is laughable given that the majority is prepared to repeal and scale back the alternative minimum tax [AMT]—a tax that was first levied in 1969 and strengthened in 1986 when it was discovered that corporations took advantage of hundred of billions of dollars' worth of tax breaks and ended up paying no income taxes at all. The scaling back and repeal of AMT is expected to cost U.S. taxpayers an abominable $22 billion over a 10-year period. Because the Tax Code is rife with more than $70 billion in tax breaks, deductions, and credits—corporate welfare—billion-dollar corporations can end up owning $0 in taxes.

In despicable disregard for the nonwealthy American worker, Republicans have included a provision in H.R. 2014 that would expand the definition of independent contractor providing employers wholesale freedom to change the classification of their workers from employees to independent contractors. No one prepared the American people for another assault on the average worker and this provision was definitely not apart of the White House-Republican budget agreement. If a worker is classified as an employee then he or she is protected by a myriad of laws regarding minimum wage, overtime pay, workers' compensation, and health care and retirement benefits packages. However, if a worker is classified as an independent contractor, the employer can deny this worker these very basic protections and benefits. It is estimated that millions of workers would be affected should this provision be enacted into law.

Finally, H.R. 2014 would provide small tax incentives to economically depressed areas in the District of Columbia—a laudable goal at first glance. However, given the overall economic hunger in many U.S. cities, including our Capital City, the crumbs in this bill are grossly inadequate. The bill would designate a number of areas in the District of Columbia as enterprise zones for 5 years—four specific areas and any census tract where the poverty level is at least 35 percent. However, the Democratic substitute bill would expand the number of current empowerment zones from 9 to 29—and the number of enterprise communities from 20 to 100. Empowerment zones receive a combination of tax incentives and Federal grants in order to enhance employment opportunities and encourage community development in blighted areas. In 1994, when the first round of Federal EX's and EC's was completed, out of the 500 applications, only 29 were awarded. There are hundreds of cities in the United States with double-digit unemployment rates and high poverty rates and the Republicans wish to focus only on the District of Columbia—a city where a great deal of media attention is concentrated. We cannot be satisfied by this pittance when the overall need is so dramatic.

The Children's Defense Fund, Public Citizen, National Low-Income Housing Coalition, AFL–CIO, the National Education Association, and two dozen other organizations have circulated a letter to Members of Congress in collective opposition to the regressive tax cuts that are included in H.R. 2014. They state unequivocally,

> We * * * urge you to oppose significant tax cuts for our Nation's wealthiest citizens. * * * The budget accord diverts important resources to tax reductions * * * we hope you will focus on moderate tax cuts for low and middle-income Americans, not tax subsidies for the wealthy that have little economic rationale and blow a hole in the deficit.

I challenge my colleagues to declare the Republican crown jewel null and void. Send it back to the drawing board and bring the American people and this Congress a bill that is fair and genuinely poised to provide the economic relief that is needed by all of our communities and families. A great injustice is taking place. Vote "no;; on H.R. 2014.

Mr. COSTELLO. Mr. Chairman, I rise today in opposition to the Republican leadership's tax bill. While I have supported a balanced budget amendment since coming to Congress in 1988, this bill mostly provides tax relief for upper income Americans with little relief for middle-income families.

A report issued by the Center on Budget and Policy Priorities shows that under this bill, the very wealthiest 1 percent of families would get their incomes boosted by an average of $27,000 a year, while families struggling at the bottom 20 percent of the economic ladder actually end up losing an average of $63 a year.

I will be supporting the Democratic alternative because it ensures that over 70 percent of the tax cuts go to families earning less than $100,000 per year. The American people want to see our Federal budget balanced. However, lower- and middle-income families need tax incentives themselves as they struggle to make ends meet financially.

The cost of college education for children is of major concern to many lower- and middle-income families. College tuition rates continue to increase at a staggering rate each year. The Democratic bill makes the HOPE scholarship tax credit available for all 4 years of college education, instead of just 2 years under the GOP bill. In the final 2 years, a 20-percent credit for tuition costs would be available. Also, the HOPE scholarship credits would not be reduced by a student's Pell grant and other nontaxable Federal scholarships.

Many middle-income families operate small businesses and farms and need estate and gift tax reform. The Democratic substitute raises the exemption among from paying estate taxes from $600,000 to $1 million effective January 1, 1998, instead of the year 2007 in the Republican version. Many of our family farms and family-owned businesses cannot survive from one generation to the next because of the high taxes our current laws bring about. Family-owned businesses are vital to expand our national economy, and this substitute allows for these businesses and farms to thrive.

Finally, the Democratic bill targets the capital gains reductions to middle-income American families. Mr. Speaker, I realize that difficult choice have to be made to take on a challenge as large as reducing the Federal debt once and for all by 2002. However, I cannot support legislation which ignores the financial needs of lower- and middle-income families in order to benefit the wealthy.

All time for general debate has expired.

The CHAIRMAN pro tempore. Pursuant to the rule, the amendment numbered 2 in the CONGRESSIONAL RECORD is adopted. The bill, as amended, is considered as an original bill for the purpose of further amendment and is considered as read.

The text of H.R. 2014, as amended, pursuant to House Resolution 174, is as follows:

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Taxpayer Relief Act of 1997".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; amendment of 1986 Code.

TITLE I—CHILD TAX CREDIT; TAX INCENTIVES FOR DEPENDENT CARE AND HEALTH CARE FOR CHILDREN

Sec. 101. Child tax credit.
Sec. 102. Inflation adjustment of limits and other modifications of dependent care credit.

TITLE II—EDUCATION INCENTIVES

Subtitle A—Tax Benefits Relating to Education Expenses

Sec. 201. Hope credit for higher education tuition and related expenses.
Sec. 202. Deduction for qualified higher education expenses.
Sec. 203. Penalty-free withdrawals from individual retirement plans for higher education expenses.
Sec. 204. Expenses for education which supplements elementary and secondary education.

Subtitle B—Expanded Education Investment Savings Opportunities

Sec. 211. Eligible educational institutions permitted to maintain qualified tuition programs; other modifications of qualified State tuition programs.
Sec. 212. Education investment accounts.

Subtitle C—Other Education Initiatives

Sec. 221. Extension of exclusion for employer-provided educational assistance.
Sec. 222. Increase in limitation on qualified 501(c)(3) bonds other than hospital bonds.
Sec. 223. Contributions of computer technology and equipment for elementary or secondary school purposes.
Sec. 224. Treatment of cancellation of certain student loans.

TITLE III—SAVINGS AND INVESTMENT INCENTIVES

Subtitle A—Retirement Savings

Sec. 301. Establishment of American Dream IRA.

Subtitle B—Capital Gains

PART I—INDIVIDUAL CAPITAL GAINS

Sec. 311. 20 percent maximum capital gains rate for individuals.
Sec. 312. Indexing of certain assets acquired after December 31, 2000, for purposes of determining gain.
Sec. 313. Exemption from tax for gain on sale of principal residence.

PART II—CORPORATE CAPITAL GAINS

Sec. 321. Reduction of alternative capital gain tax for corporations.

TITLE IV—ALTERNATIVE MINIMUM TAX REFORM

Sec. 401. Adjustment of exemption amounts for taxpayers other than corporations.
Sec. 402. Exemption from alternative minimum tax for small corporations.
Sec. 403. Repeal of adjustment for depreciation.
Sec. 404. Minimum tax not to apply to farmers' installment sales.

TITLE V—ESTATE, GIFT, AND GENERATION-SKIPPING TAX PROVISIONS

Subtitle A—Estate and Gift Tax Provisions

Sec. 501. Cost-of-living adjustments relating to estate and gift tax provisions.
Sec. 502. 20-year installment payment where estate consists largely of interest in closely held business.
Sec. 503. No interest on certain portion of estate tax extended under section 6166, reduced interest on remaining portion, and no deduction for such reduced interest.
Sec. 504. Extension of treatment of certain rents under section 2032A to lineal descendants.
Sec. 505. Clarification of judicial review of eligibility for extension of time for payment of estate tax.
Sec. 506. Gifts may not be revalued for estate tax purposes after expiration of statute of limitations.
Sec. 507. Termination of throwback rules for domestic trusts.
Sec. 508. Unified credit of decedent increased by unified credit of spouse used on split gift included in decedent's gross estate.
Sec. 509. Reformation of defective bequests, etc., to spouse of decedent.

Subtitle B—Generation-Skipping Tax Provisions

Sec. 511. Severing of trusts holding property having an inclusion ratio of greater than zero.
Sec. 512. Expansion of exception from generation-skipping transfer tax for transfers to individuals with deceased parents.

TITLE VI—EXTENSION AND MODIFICATION OF CERTAIN EXPIRING PROVISIONS

Sec. 601. Research tax credit.
Sec. 602. Contributions of stock to private foundations.
Sec. 603. Work opportunity tax credit.
Sec. 604. Orphan drug tax credit.
Sec. 605. Budgetary treatment of expiring preferential excise tax rates which are dedicated to trust funds.

TITLE VII—INCENTIVES FOR REVITALIZATION OF THE DISTRICT OF COLUMBIA

Sec. 701. Tax incentives for revitalization of the District of Columbia.
Sec. 702. Incentives conditioned on other DC reform.

TITLE VIII—WELFARE-TO-WORK INCENTIVES

Sec. 801. Incentives for employing long-term family assistance recipients.

TITLE IX—MISCELLANEOUS PROVISIONS

Subtitle A—Provisions Relating to Excise Taxes

Sec. 901. Repeal of tax on diesel fuel used in recreational boats.
Sec. 902. Continued application of tax on imported recycled Halon-1211.
Sec. 903. Uniform rate of tax on vaccines.
Sec. 904. Operators of multiple gasoline retail outlets treated as wholesale distributor for refund purposes.
Sec. 905. Exemption of electric and other clean-fuel motor vehicles from luxury automobile classification.

Subtitle B—Provisions Relating to Pensions and Fringe Benefits

Sec. 911. Section 401(k) plans for certain irrigation and drainage entities.
Sec. 912. Extension of moratorium on application of certain nondiscrimination rules to State and local governments.
Sec. 913. Treatment of certain disability benefits received by former police officers or firefighters.
Sec. 914. Portability of permissive service credit under governmental pension plans.
Sec. 915. Gratuitous transfers for the benefit of employees.
Sec. 916. Treatment of certain transportation on non-commercially operated aircraft as a fringe benefit excludable from gross income.
Sec. 917. Minimum pension accrued benefit distributable without consent increased to $5,000.
Sec. 918. Clarification of certain rules relating to employee stock ownership plans of S corporations.

Subtitle C—Revisions Relating to Disasters

Sec. 921. Authority to postpone certain tax-related deadlines by reason of presidentially declared disaster.
Sec. 922. Use of certain appraisals to establish amount of disaster loss.
Sec. 923. Treatment of livestock sold on account of weather-related conditions.
Sec. 924. Mortgage financing for residences located in disaster areas.

Subtitle D—Provisions Relating to Employment Taxes

Sec. 931. Clarification of employment tax status of individuals distributing bakery products.
Sec. 932. Clarification of standard to be used in determining employment tax status of retail securities brokers.
Sec. 933. Clarification of exemption from self-employment tax for certain termination payments received by former insurance salesmen.
Sec. 934. Standards for determining whether individuals are not employees.

Subtitle E—Provisions Relating to Small Businesses

Sec. 941. Waiver of penalty through 1998 on small businesses failing to make electronic fund transfers of taxes.
Sec. 942. Clarification of treatment of home office use for administrative and management activities.

Subtitle F—Other Provisions

Sec. 951. Use of estimates of shrinkage for inventory accounting.
Sec. 952. Assignment of workmen's compensation liability eligible for exclusion relating to personal injury liability assignments.
Sec. 953. Tax-exempt status for certain State worker's compensation act companies.
Sec. 954. Election to continue exception from treatment of publicly traded partnerships as corporations.
Sec. 955. Exclusion from unrelated business taxable income for certain sponsorship payments.
Sec. 956. Associations of holders of timeshare interests to be taxed like other homeowners associations.
Sec. 957. Additional advance refunding of certain Virgin Island bonds.
Sec. 958. Nonrecognition of gain on sale of stock to certain farmers' cooperatives.
Sec. 959. Exception from reporting of real estate transactions for sales and exchanges of certain principal residences.
Sec. 960. Increased deductibility of business meal expenses for individuals subject to Federal hours of service.
Sec. 961. Qualified lessee construction allowances for short-term leases.
Sec. 962. Tax treatment of consolidations of life insurance departments of mutual savings banks.
Sec. 963. Offset of past-due, legally enforceable State tax obligations against overpayments.
Sec. 964. Exemption of the incremental cost of a clean fuel vehicle from the limits on depreciation for vehicles.
Sec. 965. Tax benefits for law enforcement officers killed in the line of duty.
Sec. 966. Temporary suspension of taxable income limit on percentage depletion for marginal production.

Subtitle G—Extension of Duty-Free Treatment Under Generalized System of Preferences; Tariff Treatment of Certain Equipment and Repair of Vessels

Sec. 971. Generalized system of preferences.
Sec. 972. Equipment and repair of vessels.

Subtitle H—United States-Caribbean Basin Trade Partnership Act

Sec. 981. Short title.
Sec. 982. Findings and policy.
Sec. 983. Definitions.
Sec. 984. Temporary provisions to provide NAFTA parity to partnership countries.
Sec. 985. Effect of NAFTA on sugar imports from beneficiary countries.
Sec. 986. Duty-free treatment for certain beverages made with Caribbean rum.
Sec. 987. Meetings of trade ministers and USTR.
Sec. 988. Report on economic development and market oriented reforms in the Caribbean.

TITLE X—REVENUES

Subtitle A—Financial Products

Sec. 1001. Constructive sales treatment for appreciated financial positions.
Sec. 1002. Limitation on exception for investment companies under section 351.
Sec. 1003. Modification of rules for allocating interest expense to tax-exempt interest.

Sec. 1004. Gains and losses from certain terminations with respect to property.

Sec. 1005. Determination of original issue discount where pooled debt obligations subject to acceleration.

Sec. 1006. Denial of interest deductions on certain debt instruments.

Subtitle B—Corporate Organizations and Reorganizations

Sec. 1011. Tax treatment of certain extraordinary dividends.

Sec. 1012. Application of section 355 to distributions followed by acquisitions and to intragroup transactions.

Sec. 1013. Tax treatment of redemptions involving related corporations.

Sec. 1014. Modification of holding period applicable to dividends received deduction.

Subtitle C—Other Corporate Provisions

Sec. 1021. Registration and other provisions relating to confidential corporate tax shelters.

Sec. 1022. Certain preferred stock treated as boot.

Subtitle D—Administrative Provisions

Sec. 1031. Reporting of certain payments made to attorneys.

Sec. 1032. Decrease of threshold for reporting payments to corporations performing services for Federal agencies.

Sec. 1033. Disclosure of return information for administration of certain veterans programs.

Sec. 1034. Continuous levy on certain payments.

Sec. 1035. Modification of levy exemption.

Sec. 1036. Confidentiality and disclosure of returns and return information.

Sec. 1037. Returns of beneficiaries of estates and trusts required to file returns consistent with estate or trust return or to notify secretary of inconsistency.

Subtitle E—Excise Tax Provisions

Sec. 1041. Extension and modification of Airport and Airway Trust Fund taxes.

Sec. 1042. Kerosene taxed as diesel fuel.

Sec. 1043. Restoration of Leaking Underground Storage Tank Trust Fund taxes.

Sec. 1044. Application of communications tax to long-distance prepaid telephone cards.

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TITLE I—CHILD TAX CREDIT; MODIFICATION OF DEPENDENT CARE CREDIT

SEC. 101. CHILD TAX CREDIT.

(a) In General.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 23 the following new section:

"SEC. 24. CHILD TAX CREDIT.

"(a) Allowance of Credit.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to $500 multiplied by the number of qualifying children of the taxpayer.

"(b) Limitations.—

"(1) Limitation based on adjusted gross income.—For limitation based on adjusted gross income, see section 26(c).

"(2) Reduction for dependent care credit.—In the case of taxable years beginning after December 31, 1999—

"(A) In general.—The credit allowed by subsection (a) for the taxable year (determined after paragraph (1) but before paragraph (3)) shall be reduced by the amount equal to 50 percent of the credit allowed under section 21 for such taxable year (determined after section 26(c)).

"(B) Exception based on adjusted gross income.—

"(i) In general.—Subparagraph (A) shall not apply to a taxpayer whose modified adjusted gross income for the taxable year does not exceed the threshold amount.

"(ii) Phasein of reduction.—If the modified adjusted gross income of the taxpayer for the taxable year exceeds the threshold amount by less than $5,000, the amount of the reduction under subparagraph (A) shall be an amount which bears the same ratio to the amount of such reduction (determined without regard to this clause) as the excess of the taxpayer's modified adjusted gross income over the threshold amount bears to $5,000. In the case of a joint return, the preceding sentence shall be applied by substituting '$10,000' for '$5,000' each place it appears.

"(iii) Threshold amount.—For purposes of this subparagraph, the term 'threshold amount' means—

"(I) $60,000 in the case of a joint return,

"(II) $33,000 in the case of an individual who is not married, and

"(III) $25,000 in the case of a married individual filing a separate return.

For purposes of this clause, marital status shall be determined under section 7703.

"(iv) Modified adjusted gross income.—For purposes of this subparagraph, the term 'modified adjusted gross income' has the meaning given such term by section 26(c).".

"(C) No reduction for dependent care of individuals incapable of self-care.—Subparagraph (A) shall not apply to so much of the credit which would have been allowed under section 21 (determined without regard to section 26(c)) if only qualifying individuals described in subparagraph (B) or (C) of section 21(b)(1) were taken into account.

"(3) Limitation based on amount of tax.—The credit allowed by subsection (a) (determined after paragraphs (1) and (2)) shall not exceed the excess (if any) of—

"(A) the taxpayer's regular tax liability for the taxable year reduced by the credits allowable against such tax under this subpart (other than this section), over

"(B) the sum of—

"(i) the taxpayer's tentative minimum tax for such taxable year (determined without regard to the alternative minimum tax foreign tax credit), plus

"(ii) the credit allowed for the taxable year under section 32.

"(c) Qualifying Child.—For purposes of this section—

"(1) In general.—The term 'qualifying child' means any individual if—

"(A) the taxpayer is allowed a deduction under section 151 with respect to such individual for the taxable year,

"(B) such individual has not attained the age of 17 as of the close of the calendar year in which the taxable year of the taxpayer begins, and

"(C) such individual bears a relationship to the taxpayer described in section 32(c)(3)(B).

"(2) Exception for certain noncitizens.—The term 'qualifying child' shall not include any individual who would not be a dependent if the first sentence of section 152(b)(3) were applied without regard to all that follows 'resident of the United States'.

"(d) Taxable Year Must Be Full Taxable Year.—Except in the case of a taxable year closed by reason of the death of the taxpayer, no credit shall be allowable under this section in the case of a taxable year covering a period of less than 12 months.

"(e) Phasein of Credit.—In the case of taxable years beginning in 1998, subsection (a) shall be applied by substituting '$400' for '$500'.".

(b) High Risk Pools Permitted To Cover Dependents of High Risk Individuals.—Paragraph (26) of section 501(c) is amended by adding at the end the following flush sentence:

"A qualifying child (as defined in section 24(c)) of an individual described in subparagraph (B) (without regard to this sentence) shall be treated as described in subparagraph (B).".

(c) Conforming Amendments.—

(1) Subsection (a) of section 26 is amended by inserting "(other than the credit allowed by section 24)" after "credits allowed by this subpart".

(2) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 23 the following new item:

"Sec. 24. Child tax credit.".

(d) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

(e) Notice of Credit.—The Secretary of the Treasury or his delegate shall include in any booklet of instructions for Form 1040, 1040A, or 1040EZ prepared by such Secretary for filing individual income tax returns for taxable years beginning in 1998 a notice which states only the following: "The Taxpayer Relief Act of 1997 which was recently passed by the Congress has fulfilled its promise to provide tax relief to American families. The Act's child tax credit allows American families to reduce their taxes by $400 per child for 1998 and $500 per child after 1998. You may wish to check with your employer about changing your tax withholding.".

(f) Adjustments to Withholding.—

(1) In general.—The Secretary of the Treasury or his delegate shall modify the tables and procedures under section 3402 of the Internal Revenue Code of 1986 such that every employer making payment of wages during calendar year 1998 to any specified employee—

(A) shall reduce the amount deducted and withheld as tax under chapter 24 of such Code for any payroll or other period during such year to reflect such period's proportionate share of the child care credit amount, and

(B) shall, before implementing such reduction, provide reasonable notice to such employees that such a reduction will apply to each specified employee who does not provide the employer with the notice referred to in paragraph (5).

(2) Specified employee.—For purposes of this subsection, the term "specified employee" means any employee—

(A) whose wages from the employer on an annualized basis are reasonably expected to be at least $30,000 but not more than $100,000, and

(B) who claims more than the base number of withholding exemptions on the withholding exemption certificate furnished to the employer.

For purposes of the preceding sentence, the term "base number" means 1 withholding exemption if the certificate reflects withholding for an unmarried individual and 2 withholding exemptions if the certificate reflects withholding for a married individual.

(3) Child care credit amount.—For purposes of this subsection, the term "child care credit amount" means the lesser of $800 or the amount equal to the product of—

(A) $400, and

(B) the number of withholding exemptions claimed by the employee on the withholding exemption certificate furnished to the employer to the extent such number exceeds the base number (as defined in paragraph (2)) of such exemptions.

(4) Proportionate share.—For purposes of this subsection, except as provided by the Secretary of the Treasury or his delegate, a period's proportionate share of the child care credit amount is the amount which bears the same ratio to the child care credit amount as the number of days in such period bears to 365.

(5) Notice to have subsection not apply to employee.—This subsection shall not apply to any employee who provides written notice (in such form as the Secretary shall prescribe) to the employer of such employee's decision not to have this subsection apply to such employee.

(6) Definitions.—Terms used in this subsection which are also used in chapter 24 of the Internal Revenue Code of 1986 shall have the respective meanings given such terms by such chapter.

SEC. 102. INFLATION ADJUSTMENT OF LIMITS AND OTHER MODIFICATIONS OF DEPENDENT CARE CREDIT.

(a) Inflation Adjustment.—

(1) In general.—Subsection (c) of section 21 (relating to expenses for household and dependent care services necessary for gainful employment) is amended to read as follows:

"(c) Dollar Limit on Amount Creditable.—

"(1) In general.—The amount of the employment-related expenses incurred during any taxable year which may be taken into account under subsection (a) shall not exceed—

"(A) $2,400 if there is 1 qualifying individual with respect to the taxpayer for such taxable year, or

"(B) $4,800 if there are 2 or more qualifying individuals with respect to the taxpayer for such taxable year.

The amount determined under subparagraph (A) or (B) (whichever is applicable) shall be reduced by the aggregate amount excludable from gross income under section 129 for the taxable year.

"(2) INFLATION ADJUSTMENT.—In the case of taxable years beginning in a calendar year after 1997, each of the dollar amounts contained in paragraph (1) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 1996' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $50, such amount shall be rounded to the next lowest multiple of $50.".

(2) CONFORMING AMENDMENT.—Paragraph (2) of section 21(d) is amended by striking "(c)(1)" and inserting "(c)(1)(A)" and by striking "(c)(2)" and inserting "(c)(1)(B)".

(b) REDUCTION OF BENEFIT BASED ON ADJUSTED GROSS INCOME.—

(1) IN GENERAL.—Section 26 is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) REDUCTION OF DEPENDENT CARE CREDIT AND CHILD CREDIT BASED ON ADJUSTED GROSS INCOME.—

"(1) IN GENERAL.—The aggregate amount which would (but for subsection (a), this subsection, and paragraphs (2) and (3) of section 24(b)) be allowed under sections 21 and 24 shall be reduced (but not below zero) by $25 for each $1,000 (or fraction thereof) by which the taxpayer's modified adjusted gross income exceeds the threshold amount. For purposes of the preceding sentence, the term 'modified adjusted gross income' means adjusted gross income increased by any amount excluded from gross income under section 911, 931, or 933.

"(2) THRESHOLD AMOUNT.—For purposes of paragraph (1), the term 'threshold amount' means—

"(A) $110,000 in the case of a joint return,

"(B) $75,000 in the case of an individual who is not married, and

"(C) $55,000 in the case of a married individual filing a separate return.

For purposes of this paragraph, marital status shall be determined under section 7703.

"(3) REMAINING CREDIT TREATED AS ATTRIBUTABLE TO DEPENDENT CARE TAX CREDIT.—The aggregate amount allowable under sections 21 and 24 after the application of paragraph (1) shall be treated as allowable solely under section 21 to the extent such amount does not exceed the amount allowable under section 21 (determined without regard to section 21(a)(3)).".

(2) CONFORMING AMENDMENTS.—

(A) Subsection (a) of section 21 is amended by adding at the end the following new paragraph:

"(3) LIMITATION BASED ON ADJUSTED GROSS INCOME.—

"For limitation based on adjusted gross income, see section 26(c).".

(B) The section heading for section 26 is amended by inserting before the period "; phaseout of certain credits based on income".

(C) The item relating to section 26 in the table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting before the period "; phaseout of certain credits based on income".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

TITLE II—EDUCATION INCENTIVES

Subtitle A—Tax Benefits Relating to Education Expenses

SEC. 201. HOPE CREDIT FOR HIGHER EDUCATION TUITION AND RELATED EXPENSES.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 25 the following new section:

"SEC. 25A. HIGHER EDUCATION TUITION AND RELATED EXPENSES.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year the amount equal to 50 percent of qualified tuition and related expenses paid by the taxpayer during such taxable year for education furnished during any academic period beginning in such year.

"(b) LIMITATIONS.—

"(1) DOLLAR LIMITATION.—The amount allowed as a credit under subsection (a) for any taxable year with respect to the qualified tuition and related expenses of any 1 individual shall not exceed $1,500.

"(2) CREDIT ALLOWED ONLY FOR 2 TAXABLE YEARS.—No credit shall be allowed under subsection (a) for a taxable year with respect to the qualified tuition and related expenses of an individual unless the taxpayer elects to have this section apply with respect to such individual for such year. An election under this paragraph shall not take effect with respect to an individual for any taxable year if an election under this paragraph (by the taxpayer or any other individual) is in effect with respect to such individual for any 2 prior taxable years.

"(3) CREDIT ALLOWED FOR YEAR ONLY IF INDIVIDUAL IS AT LEAST ½ TIME STUDENT FOR PORTION OF YEAR.—No credit shall be allowed under subsection (a) for a taxable year with respect to the qualified tuition and related expenses of an individual unless such individual is an eligible student for at least one academic period which begins during such year.

"(4) CREDIT ALLOWED ONLY FOR FIRST TWO YEARS OF POSTSECONDARY EDUCATION.—No credit shall be allowed under subsection (a) for a taxable year with respect to the qualified tuition and related expenses of an individual if the individual has completed (before the beginning of such taxable year) the first 2 years of postsecondary education at an eligible educational institution.

"(c) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

"(1) IN GENERAL.—The amount which would (but for this subsection) be taken into account under subsection (a) for the taxable year shall be reduced (but not below zero) by the amount determined under paragraph (2).

"(2) AMOUNT OF REDUCTION.—The amount determined under this paragraph is the amount which bears the same ratio to the amount which would be so taken into account as—

"(A) the excess of—

"(i) the taxpayer's modified adjusted gross income for such taxable year, over

"(ii) $40,000 ($80,000 in the case of a joint return), bears to

"(B) $10,000 ($20,000 in the case of a joint return).

"(3) MODIFIED ADJUSTED GROSS INCOME.—The term 'modified adjusted gross income' means the adjusted gross income of the taxpayer for the taxable year increased by any amount excluded from gross income under section 911, 931, or 933.

"(d) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED TUITION AND RELATED EXPENSES.—

"(A) IN GENERAL.—The term 'qualified tuition and related expenses' means tuition and fees required for the enrollment or attendance of—

"(i) the taxpayer,

"(ii) the taxpayer's spouse, or

"(iii) any dependent of the taxpayer with respect to whom the taxpayer is allowed a deduction under section 151,

at an eligible educational institution and books required for courses of instruction of such individual at such institution.

"(B) EXCEPTION FOR EDUCATION INVOLVING SPORTS, ETC.—Such term does not include expenses with respect to any course or other education involving sports, games, or hobbies, unless such course or other education is part of the individual's degree program.

"(C) EXCEPTION FOR NONACADEMIC FEES.—Such term does not include student activity fees, athletic fees, insurance expenses, or other expenses unrelated to an individual's academic course of instruction.

"(2) ELIGIBLE EDUCATIONAL INSTITUTION.—The term 'eligible educational institution' means an institution—

"(A) which is described in section 481 of the Higher Education Act of 1965 (20 U.S.C. 1088), as in effect on the date of the enactment of this section, and

"(B) which is eligible to participate in a program under title IV of such Act.

"(3) ELIGIBLE STUDENT.—The term 'eligible student' means, with respect to any academic period, a student who—

"(A) meets the requirements of section 484(a)(1) of the Higher Education Act of 1965 (20 U.S.C. 1091(a)(1)), as in effect on the date of the enactment of this section, and

"(B) is carrying at least ½ the normal full-time work load for the course of study the student is pursuing.

"(4) OTHER TERMS RELATING TO THE HIGHER EDUCATION ACT.—The following terms shall have the meanings prescribed in regulations under section 481(g) of the Higher Education Act of 1965 (20 U.S.C. 1088(g)), as added by the Student Financial Aid Improvements Act of 1997:

"(A) Academic period.

"(B) Normal full-time workload.

"(C) First two years of postsecondary education.

"(e) TREATMENT OF EXPENSES PAID BY DEPENDENT.—If a deduction under section 151 with respect to an individual is allowed to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins—

"(1) no credit shall be allowed under subsection (a) to such individual for such individual's taxable year, and

"(2) qualified tuition and related expenses paid by such individual during such individual's taxable year shall be treated for purposes of this section as paid by such other taxpayer.

"(f) TREATMENT OF CERTAIN PREPAYMENTS.—If qualified tuition and related expenses are paid by the taxpayer during a taxable year for an academic period which begins during the first 3 months following such taxable year, such academic period shall be treated for purposes of this section as beginning during such taxable year.

"(g) SPECIAL RULES.—

"(1) IDENTIFICATION REQUIREMENT.—No credit shall be allowed under subsection (a) to a taxpayer with respect to the qualified tuition and related expenses of an individual unless the taxpayer includes the name and taxpayer identification number of such individual on the return of tax for the taxable year.

"(2) Adjustment for certain scholarships, etc.—The amount of qualified tuition and related expenses otherwise taken into account under subsection (a) with respect to an individual for an academic period shall be reduced (before the application of subsections (b) and (c)) by the sum of any amounts paid for the benefit of such individual which are allocable to such period as—

"(A) a qualified scholarship which is excludable from gross income under section 117,

"(B) an educational assistance allowance under chapter 30, 31, 32, 34, or 35 of title 38, United States Code, or under chapter 1606 of title 10, United States Code, and

"(C) a payment (other than a gift, bequest, devise, or inheritance within the meaning of section 102(a)) for such individual's educational expenses, or attributable to such individual's enrollment at an eligible educational institution, which is excludable from gross income under any law of the United States.

"(3) Denial of credit if student convicted of a felony drug offense.—No credit shall be allowed under subsection (a) for qualified tuition and related expenses for the enrollment or attendance of a student for any academic period if such student has been convicted of a Federal or State felony offense consisting of the possession or distribution of a controlled substance before the end of the taxable year with or within which such period ends.

"(4) Denial of double benefit.—No credit shall be allowed under this section for any expense for which a deduction is allowed under any other provision of this chapter.

"(5) No credit for married individuals filing separate returns.—If the taxpayer is a married individual (within the meaning of section 7703), this section shall apply only if the taxpayer and the taxpayer's spouse file a joint return for the taxable year.

"(6) Nonresident aliens.—If the taxpayer is a nonresident alien individual for any portion of the taxable year, this section shall apply only if such individual is treated as a resident alien of the United States for purposes of this chapter by reason of an election under subsection (g) or (h) of section 6013.

"(h) Inflation Adjustments.—

"(1) Dollar limitation on amount of credit.—

"(A) In general.—In the case of a taxable year beginning after 1998, the $1,500 amount in subsection (b)(1) shall be increased by an amount equal to—

"(i) such dollar amount, multiplied by

"(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 1997' for 'calendar year 1992' in subparagraph (B) thereof.

"(B) Rounding.—If any amount as adjusted under subparagraph (A) is not a multiple of $50, such amount shall be rounded to the next lowest multiple of $50.

"(2) Income limits.—

"(A) In general.—In the case of a taxable year beginning after 2000, the $40,000 and $80,000 amounts in subsection (c)(2) shall each be increased by an amount equal to—

"(i) such dollar amount, multiplied by

"(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 1999' for 'calendar year 1992' in subparagraph (B) thereof.

"(B) Rounding.—If any amount as adjusted under subparagraph (A) is not a multiple of $5,000, such amount shall be rounded to the next lowest multiple of $5,000.

"(i) Regulations.—The Secretary may prescribe such regulations as may be necessary or appropriate to carry out this section, including regulations providing for a recapture of credit allowed under this section in cases where there is a refund in a subsequent taxable year of any amount which was taken into account in determining the amount of such credit.".

(b) Extension of Procedures Applicable to Mathematical or Clerical Errors.—Paragraph (2) of section 6213(g) (relating to the definition of mathematical or clerical errors) is amended by striking "and" at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting ", and", and by inserting after subparagraph (H) the following new subparagraph:

"(I) an omission of a correct TIN required under section 25A(g)(1) (relating to higher education tuition and related expenses) to be included on a return.".

(c) Returns Relating to Tuition and Related Expenses.—

(1) In general.—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by inserting after section 6050R the following new section:

"SEC. 6050S. RETURNS RELATING TO HIGHER EDUCATION TUITION AND RELATED EXPENSES.

"(a) In General.—Any person—

"(1) which is an eligible educational institution which receives payments for qualified tuition and related expenses with respect to any individual for any calendar year, or

"(2) which is engaged in a trade or business and which, in the course of such trade or business, makes payments during any calendar year to any individual which constitute reimbursements or refunds (or similar amounts) of qualified tuition and related expenses of such individual,

shall make the return described in subsection (b) with respect to the individual at such time as the Secretary may by regulations prescribe.

"(b) Form and Manner of Returns.—A return is described in this subsection if such return—

"(1) is in such form as the Secretary may prescribe,

"(2) contains—

"(A) the name, address, and TIN of the individual with respect to whom payments described in subsection (a) were received from (or were paid to),

"(B) the name, address, and TIN of any individual certified by the individual described in subparagraph (A) as the taxpayer who will claim the individual as a dependent for purposes of the deduction allowable under section 151 for any taxable year ending with or within the calendar year, and

"(C) the—

"(i) aggregate amount of payments for qualified tuition and related expenses received with respect to the individual described in subparagraph (A) during the calendar year, and

"(ii) aggregate amount of reimbursements or refunds (or similar amounts) paid to such individual during the calendar year, and

"(D) such other information as the Secretary may prescribe.

"(c) Application to Governmental Units.—For purposes of this section—

"(1) a governmental unit or any agency or instrumentality thereof shall be treated as a person, and

"(2) any return required under subsection (a) by such governmental entity shall be made by the officer or employee appropriately designated for the purpose of making such return.

"(d) Statements To Be Furnished to Individuals With Respect to Whom Information Is Required.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return under subparagraph (A) or (B) of subsection (b)(2) a written statement showing—

"(1) the name, address, and phone number of the information contact of the person required to make such return, and

"(2) the aggregate amounts described in subsection (b)(2)(C).

The written statement required under the preceding sentence shall be furnished on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made.

"(e) Definitions.—For purposes of this section, the terms 'eligible educational institution' and 'qualified tuition and related expenses' have the meanings given such terms by section 25A.

"(f) Returns Which Would Be Required To Be Made by 2 or More Persons.—Except to the extent provided in regulations prescribed by the Secretary, in the case of any amount received by any person on behalf of another person, only the person first receiving such amount shall be required to make the return under subsection (a).

"(g) Regulations.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section. No penalties shall be imposed under section 6724 with respect to any return or statement required under this section until such time as such regulations are issued.".

(2) Assessable penalties.—

(A) Subparagraph (B) of section 6724(d)(1) (relating to definitions) is amended by redesignating clauses (ix) through (xiv) as clauses (x) through (xv), respectively, and by inserting after clause (viii) the following new clause:

"(ix) section 6050S (relating to returns relating to payments for qualified tuition and related expenses),".

(B) Paragraph (2) of section 6724(d) is amended by striking "or" at the end of the next to last subparagraph, by striking the period at the end of the last subparagraph and inserting ", or", and by adding at the end the following new subparagraph:

"(Z) section 6050S(d) (relating to returns relating to qualified tuition and related expenses).".

(3) Clerical amendment.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6050R the following new item:

"Sec. 6050S. Returns relating to higher education tuition and related expenses.".

(d) Coordination With Section 135.—Subsection (d) of section 135 is amended by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and by inserting after paragraph (1) the following new paragraph:

"(2) Coordination with higher education credit.—The amount of the qualified higher education expenses otherwise taken into account under subsection (a) with respect to the education of an individual shall be reduced (before the application of subsection (b)) by the amount of such expenses which are taken into account in determining the credit allowable to the taxpayer or any other person under section 25A with respect to such expenses.".

(e) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 25 the following new item:

"Sec. 25A. Higher education tuition and related expenses.".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to expenses paid after December 31, 1997 (in taxable years ending after such date), for education furnished in academic periods beginning after such date.

SEC. 202. DEDUCTION FOR QUALIFIED HIGHER EDUCATION EXPENSES.

(a) DEDUCTION ALLOWED.— Part VII of subchapter B of chapter 1 (relating to additional itemized deductions for individuals) is amended by redesignating section 221 as section 222 and by inserting after section 220 the following new section:

"SEC. 221. QUALIFIED HIGHER EDUCATION EXPENSES.

"(a) ALLOWANCE OF DEDUCTION.—In the case of an individual, there shall be allowed as a deduction the amount of qualified higher education expenses paid by the taxpayer during the taxable year for education furnished during any academic period (within the meaning of section 25A) beginning in such year.

"(b) LIMITATIONS.—

"(1) ANNUAL LIMIT.—The amount allowed as a deduction under subsection (a) for any taxable year with respect to expenses paid for education furnished to any 1 individual shall not exceed the lesser of—

"(A) $10,000, or

"(B) the amount includible in the taxpayer's gross income for such taxable year by reason of a distribution from a qualified tuition program (as defined in section 529), or an education investment account (as defined in section 530), the beneficiary of which is such individual.

"(2) AGGREGATE LIMIT.—The amount allowed as a deduction under subsection (a) to the taxpayer or any other individual with respect to expenses paid for education furnished to any 1 individual shall not exceed $40,000 for all taxable years.

"(3) DEDUCTION ALLOWED FOR YEAR ONLY IF INDIVIDUAL IS AT LEAST ½ TIME STUDENT FOR PORTION OF YEAR.—No deduction shall be allowed under subsection (a) for a taxable year with respect to the qualified higher education expenses of an individual unless such individual is an eligible student (as defined in section 25A(d)(3)) for at least one academic period which begins during such year.

"(4) DEDUCTION ALLOWED ONLY FOR FIRST 4 YEARS OF POSTSECONDARY EDUCATION.—No deduction shall be allowed under subsection (a) for a taxable year with respect to the qualified higher education expenses of an individual if the individual has completed (before the beginning of such taxable year) the equivalent of the first 4 years of postsecondary education at an eligible educational institution (determined under the rules of section 25A).

"(5) COORDINATION WITH CREDIT FOR HIGHER EDUCATION EXPENSES.—No deduction shall be allowed under this section for a taxable year with respect to the qualified higher education expenses of an individual if an election is in effect under section 25A with respect to such individual for such taxable year.

"(c) QUALIFIED HIGHER EDUCATION EXPENSES.—The term 'qualified higher education expenses' means qualified higher education expenses (as defined in section 529) for the education of—

"(1) the taxpayer,

"(2) the taxpayer's spouse, or

"(3) any dependent of the taxpayer with respect to whom the taxpayer is allowed a deduction under section 151,

at an eligible educational institution (as defined in section 529(e)(5)).

"(d) TREATMENT OF EXPENSES PAID BY DEPENDENT.—If a deduction under section 151 with respect to an individual is allowed to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins—

"(1) no deduction shall be allowed under subsection (a) to such individual for such individual's taxable year, and

"(2) qualified higher education expenses paid by such individual during such individual's taxable year shall be treated for purposes of this section as paid by such other taxpayer.

"(e) COORDINATION WITH AMOUNTS INCLUDIBLE IN GROSS INCOME UNDER SECTION 529 OR 530.—If any deduction is allowed under subsection (a) with respect to the qualified higher education expenses of an individual with respect to whom the taxpayer is allowed a deduction under section 151(c), any amount which would (but for this subsection) be includible in such individual's gross income by reason of section 529 or section 530 shall be includible in the gross income of the taxpayer and not such individual.

"(f) ADJUSTMENT FOR CERTAIN SCHOLARSHIPS, ETC.—The amount of qualified higher education expenses otherwise taken into account under subsection (a) with respect to an individual for an academic period shall be reduced (before the application of subsection (b)) by the sum of—

"(1) the aggregate amount of the reductions under section 25A(g)(2) for the benefit of such individual for such period, and

"(2) the amount excludable from gross income under section 135 by reason of such expenses with respect to such individual which are allocable to such period.

"(g) DENIAL OF DEDUCTION IF STUDENT CONVICTED OF A FELONY DRUG OFFENSE.—No deduction shall be allowed under subsection (a) for qualified higher education expenses for the enrollment or attendance of a student for any academic period if such student has been convicted of a Federal or State felony offense consisting of the possession or distribution of a controlled substance before the end of the taxable year with or within which such period ends.

"(h) DENIAL OF DOUBLE BENEFIT.—No deduction shall be allowed under subsection (a) for any expense for which a deduction is allowed to the taxpayer under any other provision of this chapter.".

(b) DEDUCTION ALLOWED WHETHER OR NOT TAXPAYER ITEMIZES OTHER DEDUCTIONS.—

(1) IN GENERAL.—Subsection (b) of section 63 is amended by striking "and" at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting ", and", and by adding at the end the following new paragraph:

"(3) the deduction allowed by section 221 (relating to deduction for qualified higher education expenses).".

(2) CONFORMING AMENDMENT.—Subsection (d) of section 63 is amended by striking "and" at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting ", and", and by adding at the end the following new paragraph:

"(3) the deduction allowed by section 221 (relating to deduction for qualified higher education expenses).".

(c) PHASEOUT OF EXCLUSION FOR QUALIFIED TUITION REDUCTIONS.—Subsection (d) of section 117 is amended by redesignating the last paragraph as paragraph (4) and by adding at the end the following new paragraph:

"(5) PHASEOUT OF EXCLUSION.—

"(A) TERMINATION.—Paragraph (1) shall not apply to any qualified tuition reduction for any course of instruction beginning after December 31, 2001.

"(B) PHASEOUT.—The amount excludable from gross income under paragraph (1) for any course of instruction beginning in a calendar year after 1997 and before 2002 shall not exceed the applicable percentage (determined in accordance with the following table) for such calendar year of the amount which would be so excludable but for this subparagraph:

In the case of calendar year:	**The applicable percentage is:**
1998	80
1999	60
2000	40
2001	20.".

(d) TECHNICAL AMENDMENTS.—

(1) Subparagraph (A) of section 529(e)(3) is amended by inserting "(except as provided in section 221(e))" after "distributee".

(2) The table of sections for part VII of subchapter B of chapter 1 is amended by striking the item relating to section 221 and inserting:

"Sec. 221. Qualified higher education expenses.

"Sec. 222. Cross reference.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to expenses paid after December 31, 1997 (in taxable years ending after such date), for education furnished in academic periods beginning after such date.

SEC. 203. PENALTY-FREE WITHDRAWALS FROM INDIVIDUAL RETIREMENT PLANS FOR HIGHER EDUCATION EXPENSES.

(a) IN GENERAL.—Paragraph (2) of section 72(t) (relating to exceptions to 10-percent additional tax on early distributions from qualified retirement plans) is amended by adding at the end the following new subparagraph:

"(E) DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT PLANS FOR HIGHER EDUCATION EXPENSES.—Distributions to an individual from an individual retirement plan to the extent such distributions do not exceed the qualified higher education expenses (as defined in paragraph (7)) of the taxpayer for the taxable year. Distributions shall not be taken into account under the preceding sentence if such distributions are described in subparagraph (A), (C), or (D) or to the extent paragraph (1) does not apply to such distributions by reason of subparagraph (B).".

(b) DEFINITION.—Section 72(t) is amended by adding at the end the following new paragraph:

"(7) QUALIFIED HIGHER EDUCATION EXPENSES.—For purposes of paragraph (2)(E)—

"(A) IN GENERAL.—The term 'qualified higher education expenses' means qualified higher education expenses (as defined in section 529(e)(3) without regard to subparagraph (C) thereof) for education furnished to—

"(i) the taxpayer,

"(ii) the taxpayer's spouse, or

"(iii) any child (as defined in section 151(c)(3)) or grandchild of the taxpayer or the taxpayer's spouse,

at an eligible educational institution (as defined in section 529(e)(5)).

"(B) Coordination with other benefits.—The amount of qualified higher education expenses for any taxable year shall be reduced as provided in section 25A(g)(2).".

(c) Effective Date.—The amendments made by this section shall apply to distributions after December 31, 1997, with respect to expenses paid after such date (in taxable years ending after such date), for education furnished in academic periods beginning after such date.

SEC. 204. EXPENSES FOR EDUCATION WHICH SUPPLEMENTS ELEMENTARY AND SECONDARY EDUCATION.

(a) In General.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 25A, as added by this title, the following new section:

"SEC. 25B. EXPENSES FOR EDUCATION WHICH SUPPLEMENTS ELEMENTARY AND SECONDARY EDUCATION.

"(a) Allowance of Credit.—In the case of an individual, there shall be allowed a credit against the tax imposed by this chapter for the taxable year an amount equal to 50 percent of the qualifying educational assistance expenses paid by the taxpayer during the taxable year.

"(b) Limitations.—

"(1) Dollar limitation.—The amount allowed as a credit under subsection (a) for any taxable year with respect to the qualified educational assistance expenses of any 1 individual shall not exceed $150.

"(2) Reduction of credit based on adjusted gross income.—

"(A) In general.—The aggregate amount which would (but for this paragraph) be allowed by this section shall be reduced (but not below zero) by $25 for each $1,000 (or fraction thereof) by which the taxpayer's modified adjusted gross income exceeds the threshold amount. For purposes of the preceding sentence, the term 'modified adjusted gross income' means adjusted gross income increased by any amount excluded from gross income under section 911, 931, or 933.

"(B) Threshold amount.—For purposes of subparagraph (A), the term 'threshold amount' means—

"(i) $80,000 in the case of a joint return,

"(ii) $50,000 in the case of an individual who is not married, and

"(iii) $40,000 in the case of a married individual filing a separate return.

For purposes of this subparagraph, marital status shall be determined under section 7703.

"(c) Qualified Educational Assistance Expenses.—For purposes of this section—

"(1) In general.—The term 'qualified educational assistance expenses' means amounts paid to a qualified entity to provide supplementary education to any dependent (within the meaning of section 152) of the taxpayer—

"(A) who is less than 18 years of age as of the close of the taxable year, and

"(B) who is enrolled as a full-time student in an elementary or secondary school.

"(2) Supplementary education.—For purposes of paragraph (1), supplementary education is education provided with respect to reading, mathematics, or any subject that the dependent student is studying at the time in elementary or secondary school classes. Eligible courses of study shall not include courses providing assistance with respect to preparation for college entrance examinations.

"(3) Qualified entity.—The term 'qualified entity' means a person that is accredited as a supplementary education service provider by an accreditation organization that is recognized by the Secretary of Education or by any other agency, association, or group that is certified by the Secretary for purposes of this section.".

(b) Clerical Amendment.—The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 25A the following new item:

"Sec. 25B. Expenses for education which supplements elementary and secondary education.".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

Subtitle B—Expanded Education Investment Savings Opportunities

SEC. 211. ELIGIBLE EDUCATIONAL INSTITUTIONS PERMITTED TO MAINTAIN QUALIFIED TUITION PROGRAMS; OTHER MODIFICATIONS OF QUALIFIED STATE TUITION PROGRAMS.

(a) Eligible Educational Institutions Permitted to Maintain Qualified Tuition Programs.—Paragraph (1) of section 529(b) (defining qualified State tuition program) is amended by inserting "or by one or more eligible educational institutions" after "maintained by a State or agency or instrumentality thereof".

(b) Qualified Higher Education Expenses To Include Room and Board.—Paragraph (3) of section 529(e) (defining qualified higher education expenses) is amended to read as follows:

"(3) Qualified higher education expenses.—

"(A) In general.—The term 'qualified higher education expenses' means tuition, fees, books, supplies, and equipment required for the enrollment or attendance of a designated beneficiary at an eligible education institution.

"(B) Room and board included for students who are at least half-time.—In the case of an individual who is an eligible student (as defined in section 25A(d)(3)) for any academic period, such term shall also include reasonable costs for such period (as determined under the qualified tuition program) incurred by the designated beneficiary for room and board while attending such institution. The amount treated as qualified higher education expenses by reason of the preceding sentence shall not exceed the minimum amount (applicable to the student) included for room and board for such period in the cost of attendance (as defined in section 472 of the Higher Education Act of 1965, 20 U.S.C. 1087ll, as in effect on the date of the enactment of this paragraph) for the eligible educational institution for such period.

"(C) Exclusion for graduate level courses.—Such term shall not include expenses for any graduate level course of a kind normally taken by an individual pursuing a program leading to a law, business, medical, or other advanced academic or professional degree. Such courses shall not be taken into account in determining whether an individual is described in subsection (f)(3)(A).".

(c) Additional Modifications.—

(1) Member of family.—Paragraph (2) of section 529(e) (relating to other definitions and special rules) is amended to read as follows:

"(2) Member of family.—The term 'member of the family' means—

"(A) an individual who bears a relationship to another individual which is a relationship described in paragraphs (1) through (8) of section 152(a), and

"(B) the spouse of any individual described in subparagraph (A).".

(2) Eligible educational institution.—Section 529(e) is amended by adding at the end the following:

"(5) Eligible educational institution.—The term 'eligible educational institution' means an institution—

"(A) which is described in section 481 of the Higher Education Act of 1965 (20 U.S.C. 1088), as in effect on the date of the enactment of this paragraph, and

"(B) which is eligible to participate in a program under title IV of such Act.".

(3) No contributions after beneficiary attains age 18; distributions required in certain cases.—Subsection (b) of section 529 (as amended by subsection (f) of this section) is amended by adding at the end the following new paragraph:

"(7) Restrictions relating to age of beneficiary; completion of education.—

"(A) In general.—A program shall be treated as a qualified tuition program only if—

"(i) no contribution is accepted on behalf of a designated beneficiary after the date on which such beneficiary attains age 18, and

"(ii) any balance to the credit of a designated beneficiary (if any) on the account termination date shall be distributed within 30 days after such date to such beneficiary (or in the case of death, the estate of the beneficiary).

"(B) Account termination date.—For purposes of subparagraph (A), the term 'account termination date' means whichever of the following dates is the earliest:

"(i) The date on which the designated beneficiary completes the equivalent of 4 years of post-secondary education (whether or not at the same eligible educational institution).

"(ii) The date on which the designated beneficiary attains age 30.

"(iii) The date on which the designated beneficiary dies.".

(4) Estate and gift tax treatment.—

(A) Gift tax treatment.—

(i) Paragraph (2) of section 529(c) is amended to read as follows:

"(2) Gift tax treatment of contributions.—For purposes of chapters 12 and 13, any contribution to a qualified tuition program on behalf of any designated beneficiary—

"(A) shall be treated as a completed gift to such beneficiary which is not a future interest in property, and

"(B) shall not be treated as a qualified transfer under section 2503(e).".

(ii) Paragraph (5) of section 529(c) is amended to read as follows:

"(5) Other gift tax rules.—For purposes of chapters 12 and 13—

"(A) Treatment of distributions.—In no event shall a distribution from a qualified tuition program be treated as a taxable gift.

"(B) Treatment of designation of new beneficiary.—The taxes imposed by chapters 12 and 13 shall apply to a transfer by reason of a change in the designated beneficiary under the program (or a rollover to the account of a new beneficiary) only if the new beneficiary is a generation below the generation of the old beneficiary (determined in accordance with section 2651).".

(B) Estate tax treatment.—Paragraph (4) of section 529(c) is amended to read as follows:

"(4) ESTATE TAX TREATMENT.—

"(A) IN GENERAL.—No amount shall be includible in the gross estate of any individual for purposes of chapter 11 by reason of an interest in a qualified tuition program.

"(B) AMOUNTS INCLUDIBLE IN ESTATE OF DESIGNATED BENEFICIARY IN CERTAIN CASES.—Subparagraph (A) shall not apply to amounts distributed on account of the death of a beneficiary.".

(5) LIMITATION ON CONTRIBUTIONS TO QUALIFIED TUITION PROGRAMS NOT MAINTAINED BY A STATE.—Subsection (b) of section 529 is amended by adding at the end the following new paragraph:

"(9) LIMITATION ON CONTRIBUTIONS TO QUALIFIED TUITION PROGRAMS NOT MAINTAINED BY A STATE.—In the case of a program not maintained by a State or agency or instrumentality thereof, such program shall not be treated as a qualified tuition program unless it limits the annual contribution to the program on behalf of a designated beneficiary to an amount equal to the lesser of—

"(A) $5,000, or

"(B) the excess of—

"(i) $50,000, over

"(ii) the aggregate amount contributed to such program on behalf of such beneficiary for all prior taxable years.".

(d) ADDITIONAL TAX ON AMOUNTS NOT USED FOR HIGHER EDUCATION EXPENSES.—Section 529 is amended by adding at the end the following new subsection:

"(f) IMPOSITION OF ADDITIONAL TAX.—

"(1) IN GENERAL.—The tax imposed by this chapter for any taxable year on any taxpayer who receives a payment or distribution from a qualified tuition program which is includible in gross income shall be increased by 10 percent of the amount which is so includible.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply if the payment or distribution is—

"(A) used for qualified higher education expenses of the designated beneficiary,

"(B) made to a beneficiary (or to the estate of the designated beneficiary) on or after the death of the designated beneficiary,

"(C) attributable to the designated beneficiary's being disabled (within the meaning of section 72(m)(7)), or

"(D) made on account of a scholarship, allowance, or payment described in subparagraph (A), (B), or (C) of section 135(d)(1) received by the account holder to the extent the amount of the payment or distribution does not exceed the amount of the scholarship, allowance, or payment.

"(3) EXCESS CONTRIBUTIONS RETURNED BEFORE DUE DATE OF RETURN.—In the case of a qualified tuition program not maintained by a State or any agency or instrumentality thereof, paragraph (1) shall not apply to the distribution to a contributor of any contribution made during a taxable year on behalf of a designated beneficiary to the extent that such contribution exceeds the limitation in section 4973(e) if—

"(A) such distribution is received on or before the day prescribed by law (including extensions of time) for filing such contributor's return for such taxable year, and

"(B) such distribution is accompanied by the amount of net income attributable to such excess contribution.

Any net income described in subparagraph (B) shall be included in the gross income of the contributor for the taxable year in which such excess contribution was made.".

(e) COORDINATION WITH EDUCATION SAVINGS BOND.—Section 135(c)(2) (defining qualified higher education expenses) is amended by adding at the end the following:

"(C) CONTRIBUTIONS TO QUALIFIED TUITION PROGRAM.—Such term shall include any contribution to a qualified tuition program (as defined in section 529) on behalf of a designated beneficiary (as defined in such section) who is an individual described in subparagraph (A); but there shall be no increase in the investment in the contract for purposes of applying section 72 by reason of the portion of such contribution which is not includible in gross income by reason of this subparagraph.".

(f) TAX ON EXCESS CONTRIBUTIONS.—

(1) IN GENERAL.—Subsection (a) of section 4973 is amended by striking "or" at the end of paragraph (2) and by inserting after paragraph (3) the following new paragraphs:

"(4) a qualified tuition program (as defined in section 529) not maintained by a State or any agency or instrumentality thereof, or

"(5) an education investment account (as defined in section 530),".

(2) EXCESS CONTRIBUTIONS DEFINED.—Section 4973 is amended by adding at the end the following new subsection:

"(e) EXCESS CONTRIBUTIONS TO PRIVATE QUALFIED TUITION PROGRAM AND EDUCATION INVESTMENT ACCOUNTS.—For purposes of this section—

"(1) IN GENERAL.—In the case of private education investment accounts maintained for the benefit of any 1 beneficiary, the term 'excess contributions' means the amount by which the amount contributed for the taxable year to such accounts exceeds the lesser of—

"(A) the excess of—

"(i) $5,000, over

"(ii) the aggregate amount contributed to all qualified tuition programs (as defined in section 529) maintained by a State or any agency or instrumentality thereof on behalf of such beneficiary for such taxable year, or

"(B) the excess of—

"(i) $50,000, over

"(ii) the sum of—

"(I) the aggregate amount contributed to such accounts for all prior taxable years, and

"(II) the aggregate amount contributed to all qualified tuition programs (as defined in section 529) maintained by a State or any agency or instrumentality thereof on behalf of such beneficiary for such taxable year and all prior taxable years.

"(2) PRIVATE EDUCATION INVESTMENT ACCOUNT.—For purposes of paragraph (1), the term 'private education investment account' means—

"(A) a qualified tuition program (as defined in section 529) not maintained by a State or any agency or instrumentality thereof, and

"(B) an education investment account (as defined in section 530).

"(3) SPECIAL RULES.—For purposes of paragraph (1), the following contributions shall not be taken into account:

"(A) Any contribution which is distributed out of the education investment account in a distribution to which section 530(c)(3)(B) applies.

"(B) Any contribution to a qualified tuition program (as so defined) described in section 530(b)(2)(B) from any such account.

"(C) Any rollover contribution.".

(g) TECHNICAL AMENDMENTS.—

(1) Paragraph (2) of section 26(b) is amended by redesignating subparagraphs (E) through (P) as subparagraphs (F) through (Q), respectively, and by inserting after subparagraph (D) the following new subparagraph:

"(E) section 529(f) (relating to additional tax on certain distributions from qualified tuition programs),".

(2) The text of section 529 is amended by striking "qualified State tuition program" each place it appears and inserting "qualified tuition program".

(3) Subsection (b) of section 529 is amended by striking paragraph (3) and by redesignating paragraphs (4) through (7) as paragraphs (3) through (6), respectively.

(4)(A) The section heading of section 529 is amended to read as follows:

"SEC. 529. QUALIFIED TUITION PROGRAMS.".

(B) The item relating to section 529 in the table of sections for part VIII of subchapter F of chapter 1 is amended by striking "State".

(5)(A) The heading for part VIII of subchapter F of chapter 1 is amended to read as follows:

"PART VIII—HIGHER EDUCATION SAVINGS ENTITIES".

(B) The table of parts for subchapter F of chapter 1 is amended by striking the item relating to part VIII and inserting:

"Part VIII. Higher education savings entities.".

(h) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall take effect on January 1, 1998.

(2) EXPENSES TO INCLUDE ROOM AND BOARD, ETC.—The amendments made by subsection (b) and (c)(2) shall apply to distributions after December 31, 1997, with respect to expenses paid after such date (in taxable years ending after such date), for education furnished in academic periods beginning after such date.

(3) PENALTY FOR NONEDUCATION WITHDRAWALS.—The amendment made by subsection (d) shall apply to distributions after December 31, 1997.

(4) COORDINATION WITH EDUCATION SAVINGS BONDS.—The amendment made by subsection (e) shall apply to taxable years beginning after December 31, 1997.

(5) ESTATE AND GIFT TAX CHANGES.—

(A) GIFT TAX CHANGES.—Paragraphs (2) and (5) of section 529(c) of the Internal Revenue Code of 1986, as amended by this section, shall apply to transfers (including designations of new beneficiaries) made after the date of the enactment of this Act.

(B) ESTATE TAX CHANGES.—Paragraph (4) of such section 529(c) shall apply to estates of decedents dying after June 8, 1997.

SEC. 212. EDUCATION INVESTMENT ACCOUNTS.

(a) IN GENERAL.—Part VIII of subchapter F of chapter 1 (relating to qualified State tuition programs) is amended by adding at the end the following new section:

"SEC. 530. EDUCATION INVESTMENT ACCOUNTS.

"(a) GENERAL RULE.—An education investment account shall be exempt from taxation under this subtitle. Notwithstanding the preceding sentence, the education investment account shall be subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated business income of charitable organizations).

"(b) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) EDUCATION INVESTMENT ACCOUNT.—The term 'education investment account' means a trust created or organized in the United States exclusively for the purpose of paying the qualified higher education expenses of the account holder, but only if the written governing instrument creating the trust meets the following requirements:

"(A) No contribution will be accepted—

"(i) unless it is in cash,

"(ii) after the date on which the account holder attains age 18, or

"(iii) in excess of $5,000 for the taxable year.

"(B) The trustee is a bank (as defined in section 408(n)) or another person who demonstrates to the satisfaction of the Secretary that the manner in which that person will administer the trust will be consistent with the requirements of this section.

"(C) No part of the trust assets will be invested in life insurance contracts.

"(D) The assets of the trust shall not be commingled with other property except in a common trust fund or common investment fund.

"(E) Any balance in the account will be distributed as required under section 529(b)(8)(B) (as if such account were a qualified tuition program).

For $50,000 limit on aggregate contributions to accounts, see section 4973(e).

"(2) Qualified higher education expenses.—

"(A) In general.—The term 'qualified higher education expenses' has the same meaning given such term by section 529(e)(3).

"(B) Qualified tuition programs.—Such term shall include amounts paid or incurred to purchase tuition credits or certificates, or to make contributions to an account, under a qualified tuition program (as defined in section 529(b)) for the benefit of the account holder.

"(3) Eligible educational institution.—The term 'eligible educational institution' has the meaning given such term by section 529(e)(5).

"(4) Account holder.—The term 'account holder' means the individual for whose benefit the education investment account is established.

"(c) Tax Treatment of Distributions.—

"(1) In general.—Any amount paid or distributed shall be includible in gross income as required by section 529(c)(3) (determined as if such account were a qualified tuition program).

"(2) Special rules for applying estate and gift taxes with respect to account.—Rules similar to the rules of paragraphs (2), (4), and (5) of section 529(c) shall apply for purposes of this section.

"(3) Additional tax for distributions not used for educational expenses.—

"(A) In general.—The tax imposed by section 529(f) shall apply to payments and distributions from an education investment account in the same manner as such tax applies to qualified tuition programs (as defined in section 529).

"(B) Excess contributions returned before due date of return.—Subparagraph (A) shall not apply to the distribution to a contributor of any contribution paid during a taxable year to an education investment account to the extent that such contribution exceeds the limitation in section 4973(e) if such distribution (and the net income with respect to such excess contribution) meet requirements comparable to the requirements of section 529(f)(3).

"(4) Rollover contributions—Paragraph (1) shall not apply to any amount paid or distributed from an education investment account to the extent that the amount received is paid into another education investment account for the benefit of the account holder or a member of the family (within the meaning of section 529(e)(2)) of the account holder not later than the 60th day after the date of such payment or distribution. The preceding sentence shall not apply to any payment or distribution if it applied to any prior payment or distribution during the 12-month period ending on the date of the payment or distribution.

"(5) Change in account holder.—Any change in the account holder of an education investment account shall not be treated as a distribution for purposes of paragraph (1) if the new account holder is a member of the family (as so defined) of the old account holder.

"(6) Special rules for death and divorce.—Rules similar to the rules of paragraphs (7) and (8) of section 220(f) shall apply.

"(d) Tax Treatment of Accounts.—Rules similar to the rules of paragraphs (2) and (4) of section 408(e) shall apply to any education investment account.

"(e) Community Property Laws.—This section shall be applied without regard to any community property laws.

"(f) Custodial Accounts.—For purposes of this section, a custodial account shall be treated as a trust if the assets of such account are held by a bank (as defined in section 408(n)) or another person who demonstrates, to the satisfaction of the Secretary, that the manner in which he will administer the account will be consistent with the requirements of this section, and if the custodial account would, except for the fact that it is not a trust, constitute an account described in subsection (b)(1). For purposes of this title, in the case of a custodial account treated as a trust by reason of the preceding sentence, the custodian of such account shall be treated as the trustee thereof.

"(g) Reports.—The trustee of an education investment account shall make such reports regarding such account to the Secretary and to the account holder with respect to contributions, distributions, and such other matters as the Secretary may require under regulations. The reports required by this subsection shall be filed at such time and in such manner and furnished to such individuals at such time and in such manner as may be required by those regulations.".

(b) Tax on Prohibited Transactions.—

(1) In general.—Paragraph (1) of section 4975(e) (relating to prohibited transactions) is amended by striking "or" at the end of subparagraph (D), by redesignating subparagraph (E) as subparagraph (F), and by inserting after subparagraph (D) the following new subparagraph:

"(E) an education investment account described in section 530, or".

(2) Special rule.—Subsection (c) of section 4975 is amended by adding at the end of subsection (c) the following new paragraph:

"(5) Special rule for education investment accounts.—An individual for whose benefit an education investment account is established and any contributor to such account shall be exempt from the tax imposed by this section with respect to any transaction concerning such account (which would otherwise be taxable under this section) if section 530(d) applies with respect to such transaction.".

(c) Failure To Provide Reports on Education Investment Accounts.—

(1) In general.—Paragraph (2) of section 6693(a) (relating to failure to provide reports on individual retirement accounts or annuities) is amended by striking "and" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", and", and by adding at the end the following new subparagraph:

"(C) section 530(g) (relating to education investment accounts).".

(2) Clerical amendment.—The section heading for section 6693 is amended by striking **"INDIVIDUAL RETIREMENT"** and inserting **"CERTAIN TAX-FAVORED"**.

(d) Technical Amendments.—

(1) Subparagraph (F) of section 26(b)(2), as added by the preceding section, is amended by inserting before the comma "and section 530(c)(3) (relating to additional tax on certain distributions from education investment accounts)".

(2) Subparagraph (C) of section 135(c)(2), as added by the preceding section, is amended by inserting ", or to an education investment account (as defined in section 530) on behalf of an account holder (as defined in such section)," after "(as defined in such section)".

(3) The table of sections for part VIII of subchapter F of chapter 1 is amended by adding at the end the following new item:

"Sec. 530. Education investment accounts.".

(4) The item relating to section 6693 in the table of sections for part I of subchapter B of chapter 68 is amended by striking "individual retirement" and inserting "certain tax-favored".

(e) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

Subtitle C—Other Education Initiatives

SEC. 221. EXTENSION OF EXCLUSION FOR EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE.

(a) In General.—Subsection (d) of section 127 (relating to educational assistance programs) is amended to read as follows:

"(d) Termination.—This section shall not apply to expenses paid with respect to courses of instruction beginning after December 31, 1997.".

(b) Effective Date.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1996.

SEC. 222. INCREASE IN LIMITATION ON QUALIFIED 501(C)(3) BONDS OTHER THAN HOSPITAL BONDS.

(a) In General.—The text of paragraph (1) of section 145(b) is amended by striking "$150,000,000." and inserting "the limitation determined in accordance with the following table:

In the case of calendar year:	The limitation is:
1998	$160,000,000
1999	170,000,000
2000	180,000,000
2001	190,000,000
2002 or thereafter	200,000,000.".

(b) Conforming Amendment.—The heading for subsection (b) of section 145 is amended by striking "$150,000,000".

(c) Effective Date.—The amendments made by this section shall take effect on January 1, 1998.

SEC. 223. CONTRIBUTIONS OF COMPUTER TECHNOLOGY AND EQUIPMENT FOR ELEMENTARY OR SECONDARY SCHOOL PURPOSES.

(a) Contributions of Computer Technology and Equipment for Elementary or Secondary School Purposes.—Subsection (e) of section 170 is amended by adding at the end the following new paragraph:

"(6) Special rule for contributions of computer technology and equipment for elementary or secondary school purposes.—

"(A) Limit on reduction.—In the case of a qualified elementary or secondary educational contribution, the reduction under paragraph (1)(A) shall be no greater than the amount determined under paragraph (3)(B).

"(B) Qualified elementary or secondary educational contribution.—For purposes of this paragraph, the term 'qualified elementary or secondary educational contribution' means a charitable contribution by a corporation of any computer technology or equipment, but only if—

“(i) the contribution is to—

“(I) an educational organization described in subsection (b)(1)(A)(ii), or

“(II) an entity described in section 501(c)(3) and exempt from tax under section 501(a) (other than an entity described in subclause (I)) that is organized primarily for purposes of supporting elementary and secondary education,

“(ii) the contribution is made not later than 2 years after the date the taxpayer acquired the property (or in the case of property constructed by the taxpayer, the date the construction of the property is substantially completed),

“(iii) substantially all of the use of the property by the donee is for use within the United States for educational purposes in any of the grades K–12 that are related to the purpose or function of the organization or entity,

“(iv) the property is not transferred by the donee in exchange for money, other property, or services, except for shipping, installation and transfer costs,

“(v) the property will fit productively into the entity's education plan, and

“(vi) the entity's use and disposition of the property will be in accordance with the provisions of clauses (iii) and (iv).

“(C) CONTRIBUTION TO PRIVATE FOUNDATION.—A contribution by a corporation of any computer technology or equipment to a private foundation (as defined in section 509) shall be treated as a qualified elementary or secondary educational contribution for purposes of this paragraph if—

“(i) the contribution to the private foundation satisfies the requirements of clauses (ii) and (iv) of subparagraph (B), and

“(ii) within 30 days after such contribution, the private foundation—

“(I) contributes the property to an entity described in clause (i) of subparagraph (B) that satisfies the requirements of clauses (iii) through (vi) of subparagraph (B), and

“(II) notifies the donor of such contribution.

“(D) SPECIAL RULE RELATING TO CONSTRUCTION OF PROPERTY.—For the purposes of this paragraph, the rules of paragraph (4)(C) shall apply.

“(E) DEFINITIONS.—For the purposes of this paragraph—

“(i) COMPUTER TECHNOLOGY OR EQUIPMENT.—The term ‘computer technology or equipment’ means computer software (as defined by section 197(e)(3)(B)), computer or peripheral equipment (as defined by section 168(i)(2)(B)), and fiber optic cable related to computer use.

“(ii) CORPORATION.—The term ‘corporation’ has the meaning given to such term by paragraph (4)(D).”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the calendar year in which this Act is enacted.

SEC. 224. TREATMENT OF CANCELLATION OF CERTAIN STUDENT LOANS.

(a) CERTAIN DIRECT STUDENT LOANS THE REPAYMENT OF WHICH IS INCOME CONTINGENT.—Paragraph (1) of section 108(f) is amended by striking “any student loan if” and all that follows and inserting “any student loan if—

“(A) such discharge was pursuant to a provision of such loan under which all or part of the indebtedness of the individual would be discharged if the individual worked for a certain period of time in certain professions for any of a broad class of employers, or

“(B) in the case of a loan made under part D of title IV of the Higher Education Act of 1965 which has a repayment schedule established under section 455(e)(4) of such Act (relating to income contingent repayments), such discharge is after the maximum repayment period under such loan (as prescribed under such part).”.

(b) CERTAIN LOANS BY EXEMPT ORGANIZATIONS.—

(1) IN GENERAL.—Paragraph (2) of section 108(f) (defining student loan) is amended by striking “or” at the end of subparagraph (B) and by striking subparagraph (D) and inserting the following:

“(D) any educational organization described in section 170(b)(1)(A)(ii) if such loan is made—

“(i) pursuant to an agreement with any entity described in subparagraph (A), (B), or (C) under which the funds from which the loan was made were provided to such educational organization, or

“(ii) pursuant to a program of such educational organization which is designed to encourage its students to serve in occupations with unmet needs or in areas with unmet needs and under which the services provided by the students (or former students) are for or under the direction of a governmental unit or an organization described in section 501(c)(3) and exempt from tax under section 501(a).

The term ‘student loan’ includes any loan made by an educational organization so described or by an organization exempt from tax under section 501(a) to refinance a loan meeting the requirements of the preceding sentence.”.

(2) EXCEPTION FOR DISCHARGES ON ACCOUNT OF SERVICES PERFORMED FOR CERTAIN LENDERS.—Subsection (f) of section 108 is amended by adding at the end the following new paragraph:

“(3) EXCEPTION FOR DISCHARGES ON ACCOUNT OF SERVICES PERFORMED FOR CERTAIN LENDERS.—Paragraph (1) shall not apply to the discharge of a loan made by an organization described in paragraph (2)(D) (or by an organization described in paragraph (2)(E) from funds provided by an organization described in paragraph (2)(D)) if the discharge is on account of services performed for either such organization.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to discharges of indebtedness after the date of the enactment of this Act.

TITLE III—SAVINGS AND INVESTMENT INCENTIVES

Subtitle A—Retirement Savings

SEC. 301. ESTABLISHMENT OF AMERICAN DREAM IRA.

(a) IN GENERAL.—Subpart A of part I of subchapter D of chapter 1 (relating to pension, profit-sharing, stock bonus plans, etc.) is amended by inserting after section 408 the following new section:

“SEC. 408A. AMERICAN DREAM IRA.

“(a) GENERAL RULE.—Except as provided in this section, an American Dream IRA shall be treated for purposes of this title in the same manner as an individual retirement plan.

“(b) AMERICAN DREAM IRA.—For purposes of this title, the term ‘American Dream IRA’ or ‘AD IRA’ means an individual retirement plan (as defined in section 7701(a)(37)) which is designated at the time of the establishment of the plan as an American Dream IRA. Such designation shall be made in such manner as the Secretary may prescribe.

“(c) TREATMENT OF CONTRIBUTIONS.—

“(1) NO DEDUCTION ALLOWED.—No deduction shall be allowed under section 219 for a contribution to an AD IRA.

“(2) CONTRIBUTION LIMIT.—

“(A) IN GENERAL.—The aggregate amount of contributions for any taxable year to all AD IRAs maintained for the benefit of an individual shall not exceed $2,000.

“(B) INFLATION ADJUSTMENT.—In the case of taxable years beginning in a calendar year after 1998, the $2,000 amount contained in subparagraph (A) shall be increased by an amount equal to—

“(i) such dollar amount, multiplied by

“(ii) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting ‘calendar year 1997’ for ‘calendar year 1992’ in subparagraph (B) thereof.

If the amount as adjusted under the preceding sentence is not a multiple of $50, such amount shall be rounded to the next lowest multiple of $50.

“(3) CONTRIBUTIONS PERMITTED AFTER AGE 70½.—Contributions to an AD IRA may be made even after the individual for whom the account is maintained has attained age 70½.

“(4) MANDATORY DISTRIBUTION RULES NOT TO APPLY, ETC.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), subsections (a)(6) and (b)(3) of section 408 (relating to required distributions) and section 4974 (relating to excise tax on certain accumulations in qualified retirement plans) shall not apply to any AD IRA.

“(B) POST-DEATH DISTRIBUTIONS.—Rules similar to the rules of section 401(a)(9) (other than subparagraph (A) thereof) shall apply for purposes of this section.

“(5) RULES RELATING TO ROLLOVER CONTRIBUTIONS.—

“(A) IN GENERAL.—No rollover contribution may be made to an AD IRA unless it is a qualified rollover contribution.

“(B) COORDINATION WITH LIMIT.—A qualified rollover contribution shall not be taken into account for purposes of paragraph (2).

“(6) TIME WHEN CONTRIBUTIONS MADE.—For purposes of this section, the rule of section 219(f)(3) shall apply.

“(d) DISTRIBUTION RULES.—For purposes of this title—

“(1) GENERAL RULES.—

“(A) EXCLUSIONS FROM GROSS INCOME.—Any qualified distribution from an AD IRA shall not be includible in gross income.

“(B) NONQUALIFIED DISTRIBUTIONS.—In applying section 72 to any distribution from an AD IRA which is not a qualified distribution, such distribution shall be treated as made from contributions to the AD IRA to the extent that such distribution, when added to all previous distributions from the AD IRA, does not exceed the aggregate amount of contributions to the AD IRA. For purposes of the preceding sentence, all AD IRAs maintained for the benefit of an individual shall be treated as 1 account.

“(C) EXCEPTION FROM PENALTY TAX.—Section 72(t) shall not apply to—

“(i) any qualified distribution from an AD IRA, and

“(ii) any qualified first-time homebuyer distribution (whether or not a qualified distribution) from an AD IRA.

“(2) QUALIFIED DISTRIBUTION.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘qualified distribution’ means any payment or distribution—

“(i) made on or after the date on which the individual attains age 59½,

“(ii) made to a beneficiary (or to the estate of the individual) on or after the death of the individual, "(iii) attributable to the individual's being disabled (within the meaning of section 72(m)(7)), or

"(iv) which is a qualified first-time homebuyer distribution.

"(B) Distributions within 5 years.—No payment or distribution shall be treated as a qualified distribution if—

"(i) it is made within the 5-taxable year period beginning with the 1st taxable year for which the individual made a contribution to an AD IRA (or such individual's spouse made a contribution to an AD IRA) established for such individual, or

"(ii) in the case of a payment or distribution properly allocable (as determined in the manner prescribed by the Secretary) to a qualified rollover contribution (or income allocable thereto), it is made within the 5-taxable year period beginning with the taxable year in which the rollover contribution was made.

Clause (ii) shall not apply to a qualified rollover contribution from an AD IRA.

"(3) Rollovers.—

"(A) In general.—Paragraph (1) shall not apply to any distribution which is transferred in a qualified rollover contribution to an AD IRA.

"(B) Income inclusion for rollovers from non-AD IRAs.—

"(i) In general.—In the case of any distribution to which this subparagraph applies—

"(I) sections 72(t) and 408(d)(3) shall not apply (but section 4980A shall apply), and

"(II) any amount required to be included in gross income by reason of this paragraph shall be so included ratably over the 4-taxable year period beginning with the taxable year in which the distribution is made.

"(ii) Distributions to which subparagraph applies.—This subparagraph shall apply to a distribution before January 1, 1999, from an individual retirement plan (other than an AD IRA) maintained for the benefit of an individual to an AD IRA maintained for the benefit of such individual if such distribution would be a qualified rollover contribution were such individual retirement plan an AD IRA.

"(iii) Conversions.—The conversion of an individual retirement plan (other than an AD IRA) to an AD IRA shall be treated for purposes of this subparagraph as a distribution from such plan to such AD IRA.

"(C) Additional reporting requirements.—The Secretary shall require that trustees of AD IRAs, trustees of individual retirement plans, or both, whichever is appropriate, shall include such additional information in reports required under section 408(i) as is necessary to ensure that amounts required to be included in gross income under subparagraph (B) are so included.

"(4) Qualified first-time homebuyer distribution.—For purposes of this section—

"(A) In general.—The term 'qualified first-time homebuyer distribution' means any payment or distribution received by an individual to the extent such payment or distribution is used by the individual before the close of the 60th day after the day on which such payment or distribution is received to pay qualified acquisition costs with respect to a principal residence of a first-time homebuyer who is such individual, the spouse of such individual, or any child, grandchild, or ancestor of such individual or the individual's spouse.

"(B) Lifetime dollar limitation.—The aggregate amount of payments or distributions received by an individual which may be treated as qualified first-time homebuyer distributions for any taxable year shall not exceed the excess (if any) of—

"(i) $10,000, over

"(ii) the aggregate amounts treated as qualified first-time homebuyer distributions with respect to such individual for all prior taxable years.

"(C) Qualified acquisition costs.—For purposes of this paragraph, the term 'qualified acquisition costs' means the costs of acquiring, constructing, or reconstructing a residence. Such term includes any usual or reasonable settlement, financing, or other closing costs.

"(D) First-time homebuyer; other definitions.—For purposes of this paragraph—

"(i) First-time homebuyer.—The term 'first-time homebuyer' means any individual if—

"(I) such individual (and if married, such individual's spouse) had no present ownership interest in a principal residence during the 2-year period ending on the date of acquisition of the principal residence to which this paragraph applies, and

"(II) subsection (h) or (k) of section 1034 (as in effect on the day before the date of the enactment of this section) did not suspend the running of any period of time specified in section 1034 (as so in effect) with respect to such individual on the day before the date the distribution is applied pursuant to subparagraph (A).

"(ii) Principal residence.—The term 'principal residence' has the same meaning as when used in section 121.

"(iii) Date of acquisition.—The term 'date of acquisition' means the date—

"(I) on which a binding contract to acquire the principal residence to which subparagraph (A) applies is entered into, or

"(II) on which construction or reconstruction of such a principal residence is commenced.

"(E) Special rule where delay in acquisition.—If any distribution from any individual retirement plan fails to meet the requirements of subparagraph (A) solely by reason of a delay or cancellation of the purchase or construction of the residence, the amount of the distribution may be contributed to an individual retirement plan as provided in section 408(d)(3)(A)(i) (determined by substituting '120 days' for '60 days' in such section), except that—

"(i) section 408(d)(3)(B) shall not be applied to such contribution, and

"(ii) such amount shall not be taken into account in determining whether section 408(d)(3)(A)(i) applies to any other amount.

"(e) Qualified Rollover Contribution.—For purposes of this section, the term 'qualified rollover contribution' means a rollover contribution to an AD IRA from another such account, but only if such rollover contribution meets the requirements of section 408(d)(3).".

(b) Repeal of Nondeductible Contributions.—

(1) Subsection (f) of section 219 is amended by striking paragraph (7).

(2) Paragraph (5) of section 408(d) is amended by striking the last sentence.

(3) Section 408(o) is amended by adding at the end the following new paragraph:

"(5) Termination.—This subsection shall not apply to any designated nondeductible contribution for any taxable year beginning after December 31, 1997.".

(4) Subsection (b) of section 4973 is amended by striking the last sentence.

(c) Excess Distributions Tax Not To Apply.—

(1) Subparagraph (A) of section 4980A(d)(3) is amended by inserting "(other than AD IRAs, as defined in section 4980A(b))" after "individual retirement plans".

(2) Subparagraph (B) of section 4980A(e)(1) is amended by inserting "other than an AD IRA (as defined in section 408A(b))" after "retirement plan".

(d) Excess Contributions.—

(1) Section 4973 is amended by adding at the end the following new subsection:

"(f) Excess Contributions to American Dream IRAs.—For purposes of this section, in the case of American Dream IRAs, the term 'excess contributions' means the amount by which the amount contributed for the taxable year to such IRAs exceeds the limitation in section 408A(c)(2).".

(2) Subsection (b) of section 4973 is amended by adding at the end the following new sentence: "For purposes of this subsection, an American Dream IRA shall not be treated as an individual retirement plan.".

(e) Clerical Amendment.—The table of sections for subpart A of part I of subchapter D of chapter 1 is amended by inserting after the item relating to section 408 the following new item:

"Sec. 408A. American Dream IRA.".

(f) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

Subtitle B—Capital Gains

PART I—INDIVIDUAL CAPITAL GAINS

SEC. 311. 20 PERCENT MAXIMUM CAPITAL GAINS RATE FOR INDIVIDUALS.

(a) In General.—Subsection (h) of section 1 (relating to maximum capital gains rate) is amended to read as follows:

"(h) Maximum Capital Gains Rate.—

"(1) In general.—If a taxpayer has a net capital gain for any taxable year, the tax imposed by this section for such taxable year shall not exceed the sum of—

"(A) the base tax amount,

"(B) 10 percent of so much of the taxpayer's adjusted net capital gain (or, if less, taxable income) as does not exceed the excess (if any) of—

"(i) the amount of taxable income which would (without regard to this paragraph) be taxed at a rate of 15 percent or less, over

"(ii) the taxable income reduced by the adjusted net capital gain, plus

"(C) 20 percent of the taxpayer's adjusted net capital gain (or, if less, taxable income) in excess of the amount on which a tax is determined under subparagraph (B).

"(2) Net capital gain taken into account as investment income.—For purposes of this subsection, the net capital gain for any taxable year shall be reduced (but not below zero) by the amount which the taxpayer takes into account as investment income under section 163(d)(4)(B)(iii).

"(3) Base tax amount.—For purposes of paragraph (1), the base tax amount is the lesser of—

"(A) a tax computed at the rates and in the same manner as if this subsection had not been enacted on taxable income reduced by the adjusted net capital gain, or

"(B) the sum of—

"(i) a tax computed at the rates and in the same manner as if this subsection had not been enacted on the greater of—

"(I) taxable income reduced by the net capital gain, or

"(II) the amount of taxable income taxed at a rate below 28 percent,

"(ii) a tax of 26 percent of the lesser of—

"(I) the section 1250 gain, or

"(II) the amount of taxable income in excess of the sum of the amount on which tax is determined under clause (i) plus the net capital gain determined without regard to section 1250 gain, plus

"(iii) a tax of 28 percent of the amount of taxable income in excess of the sum of—

"(I) the adjusted net capital gain, plus

"(II) the sum of the amounts on which tax is determined under clauses (i) and (ii).

"(4) ADJUSTED NET CAPITAL GAIN.—For purposes of this subsection, the term 'adjusted net capital gain' means net capital gain determined without regard to—

"(A) collectibles gain,

"(B) section 1202 gain, and

"(C) section 1250 gain.

"(5) COLLECTIBLES GAIN.—For purposes of paragraph (4)—

"(A) IN GENERAL.—The term 'collectibles gain' means gain from the sale or exchange of a collectible (as defined in section 408(m) without regard to paragraph (3) thereof) which is a capital asset held for more than 1 year but only to the extent such gain is taken into account in computing gross income.

"(B) COORDINATION WITH SECTION 1022.—Gain from the disposition of a collectible which is an indexed asset to which section 1022(a) applies shall be disregarded for purposes of this subsection. A taxpayer may elect to treat any collectible specified in such election as not being an indexed asset for purposes of section 1022. Any such election, and any specification therein, once made, shall be irrevocable.

"(C) PARTNERSHIPS, ETC.—For purposes of subparagraph (A), any gain from the sale of an interest in a partnership, S corporation, or trust which is attributable to unrealized appreciation in the value of collectibles shall be treated as gain from the sale or exchange of a collectible. Rules similar to the rules of section 751 shall apply for purposes of the preceding sentence.

"(6) SECTION 1202 GAIN.—For purposes of paragraph (4), the term 'section 1202 gain' means gain from the sale or exchange of any qualified small business stock (as defined in section 1202(c)) held more than 5 years which is taken into account in computing gross income.

"(7) SECTION 1250 GAIN.—For purposes of paragraph (4), the term 'section 1250 gain' means the excess (if any) of—

"(A) the amount which would be treated as ordinary income under section 1245 if all section 1250 property disposed of by the taxpayer were section 1245 property, over

"(B) the amount treated as ordinary income under section 1250.

In the case of a taxable year which includes May 7, 1997, section 1250 gain shall be determined by taking into account only the gain properly taken into account for the portion of the taxable year after May 6, 1997.

"(8) PRE-EFFECTIVE DATE GAIN.—

"(A) IN GENERAL.—In the case of a taxable year which includes May 7, 1997, adjusted net capital gain shall be determined without regard to pre-May 7, 1997, gain.

"(B) PRE-MAY 7, 1997, GAIN.—The term 'pre-May 7, 1997, gain' means the amount which would be adjusted net capital gain for the taxable year if adjusted net capital gain were determined by taking into account only the gain or loss properly taken into account for the portion of the taxable year before May 7, 1997.

"(C) SPECIAL RULES FOR PASS-THRU ENTITIES.—In applying subparagraph (A) with respect to any pass-thru entity, the determination of when gains and loss are properly taken into account shall be made at the entity level.

"(D) PASS-THRU ENTITY DEFINED.—For purposes of subparagraph (C), the term 'pass-thru entity' means—

"(i) a regulated investment company,

"(ii) a real estate investment trust,

"(iii) an S corporation,

"(iv) a partnership,

"(v) an estate or trust, and

"(vi) a common trust fund.".

(b) MINIMUM TAX.—

(1) IN GENERAL.—Subsection (b) of section 55 is amended by adding at the end the following new paragraph:

"(3) MAXIMUM RATE OF TAX ON NET CAPITAL GAIN OF NONCORPORATE TAXPAYERS.—The amount determined under the first sentence of paragraph (1)(A)(i) shall not exceed the sum of—

"(A) the lesser of—

"(i) the amount determined under such first sentence computed at the rates and in the same manner as if this paragraph had not been enacted on the taxable excess reduced by the adjusted net capital gain (as defined in section 1(h)(4)), or

"(ii) the sum of—

"(I) the amount determined under such first sentence computed at the rates and in the same manner as if this paragraph had not been enacted on the taxable excess reduced by the sum of the adjusted net capital gain (as so defined) and the section 1250 gain (as defined in section 1(h)(7)), plus

"(II) 26 percent of the lesser of the section 1250 gain (as so defined) or the taxable excess reduced by the adjusted net capital gain (as so defined),

"(B) a tax of 10 percent of so much of the taxpayer's adjusted net capital gain (or, if less, taxable excess) as does not exceed the amount on which a tax is determined under section 1(h)(1)(B), plus

"(C) a tax of 20 percent of the taxpayer's adjusted net capital gain (or, if less, taxable excess) in excess of the amount on which tax is determined under subparagraph (B).".

(2) CONFORMING AMENDMENT.—Clause (ii) of section 55(b)(1)(A) is amended by striking "clause (i)" and inserting "this subsection".

(c) OTHER CONFORMING AMENDMENTS.—

(1) Subsection (d) of section 291 is amended by inserting at the end the following new sentence: "Any capital gain dividend treated as having been paid out of such difference to a shareholder which is not a corporation retains its characters as section 1250 gain for purposes of applying section 1(h) to such shareholder.".

(2) Paragraph (1) of section 1445(e) is amended by striking "28 percent" and inserting "20 percent".

(3) The second sentence of section 7518(g)(6)(A), and the second sentence of section 607(h)(6)(A) of the Merchant Marine Act, 1936, are each amended by striking "28 percent" and inserting "20 percent".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years ending after May 6, 1997.

(2) WITHHOLDING.—The amendment made by subsection (c)(2) shall apply only to amounts paid after the date of the enactment of this Act.

(3) APPLICATION OF ESTIMATED TAX RULES.—Clause (i) of section 6654(d)(1)(C) of the Internal Revenue Code of 1986 shall be applied by substituting "109 percent" for "110 percent" where the preceding taxable year referred to in such clause is a taxable year beginning in calendar year 1996.

(4) APPLICATION OF ESTIMATED TAX RULES FOR 1998.—Clause (i) of section 6654(d)(1)(C) of the Internal Revenue Code of 1986 shall be applied by substituting "105 percent" for "110 percent" where the preceding taxable year referred to in such clause is a taxable year beginning in calendar year 1997.

SEC. 312. INDEXING OF CERTAIN ASSETS ACQUIRED AFTER DECEMBER 31, 2000, FOR PURPOSES OF DETERMINING GAIN.

(a) IN GENERAL.—Part II of subchapter O of chapter 1 (relating to basis rules of general application) is amended by inserting after section 1021 the following new section:

"SEC. 1022. INDEXING OF CERTAIN ASSETS ACQUIRED AFTER DECEMBER 31, 2000, FOR PURPOSES OF DETERMINING GAIN.

"(a) GENERAL RULE.—

"(1) INDEXED BASIS SUBSTITUTED FOR ADJUSTED BASIS.—Solely for purposes of determining gain on the sale or other disposition by a taxpayer (other than a corporation) of an indexed asset which has been held for more than 3 years, the indexed basis of the asset shall be substituted for its adjusted basis.

"(2) EXCEPTION FOR DEPRECIATION, ETC.—The deductions for depreciation, depletion, and amortization shall be determined without regard to the application of paragraph (1) to the taxpayer or any other person.

"(3) EXCEPTION FOR PRINCIPAL RESIDENCES.—Paragraph (1) shall not apply to any disposition of the principal residence (within the meaning of section 121) of the taxpayer .

"(b) INDEXED ASSET.—

"(1) IN GENERAL.—For purposes of this section, the term 'indexed asset' means—

"(A) common stock in a C corporation (other than a foreign corporation), and

"(B) tangible property,

which is a capital asset or property used in the trade or business (as defined in section 1231(b)).

"(2) STOCK IN CERTAIN FOREIGN CORPORATIONS INCLUDED.—For purposes of this section—

"(A) IN GENERAL.—The term 'indexed asset' includes common stock in a foreign corporation which is regularly traded on an established securities market.

"(B) EXCEPTION.—Subparagraph (A) shall not apply to—

"(i) stock of a foreign investment company (within the meaning of section 1246(b)),

"(ii) stock in a passive foreign investment company (as defined in section 1296),

"(iii) stock in a foreign corporation held by a United States person who meets the requirements of section 1248(a)(2), and

"(iv) stock in a foreign personal holding company (as defined in section 552).

"(C) TREATMENT OF AMERICAN DEPOSITORY RECEIPTS.—An American depository receipt for common stock in a foreign corporation shall be treated as common stock in such corporation.

"(c) INDEXED BASIS.—For purposes of this section—

"(1) GENERAL RULE.—The indexed basis for any asset is—

"(A) the adjusted basis of the asset, increased by

"(B) the applicable inflation adjustment.

"(2) APPLICABLE INFLATION ADJUSTMENT.—The applicable inflation adjustment for any asset is an amount equal to—

"(A) the adjusted basis of the asset, multiplied by

"(B) the percentage (if any) by which—

"(i) the chain-type price index for GDP for the last calendar quarter ending before the asset is disposed of, exceeds "(ii) the chain-type price index for GDP for the last calendar quarter ending before the asset was acquired by the taxpayer.

The percentage under subparagraph (B) shall be rounded to the nearest 1/10 of 1 percentage point.

"(3) CHAIN-TYPE PRICE INDEX FOR GDP.—The chain-type price index for GDP for any calendar quarter is such index for such quarter (as shown in the last revision thereof released by the Secretary of Commerce before the close of the following calendar quarter).

"(d) SUSPENSION OF HOLDING PERIOD WHERE DIMINISHED RISK OF LOSS; TREATMENT OF SHORT SALES.—

"(1) IN GENERAL.—If the taxpayer (or a related person) enters into any transaction which substantially reduces the risk of loss from holding any asset, such asset shall not be treated as an indexed asset for the period of such reduced risk.

"(2) SHORT SALES.—

"(A) IN GENERAL.—In the case of a short sale of an indexed asset with a short sale period in excess of 3 years, for purposes of this title, the amount realized shall be an amount equal to the amount realized (determined without regard to this paragraph) increased by the applicable inflation adjustment. In applying subsection (c)(2) for purposes of the preceding sentence, the date on which the property is sold short shall be treated as the date of acquisition and the closing date for the sale shall be treated as the date of disposition.

"(B) SHORT SALE PERIOD.—For purposes of subparagraph (A), the short sale period begins on the day that the property is sold and ends on the closing date for the sale.

"(e) TREATMENT OF REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.—

"(1) ADJUSTMENTS AT ENTITY LEVEL.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the adjustment under subsection (a) shall be allowed to any qualified investment entity (including for purposes of determining the earnings and profits of such entity).

"(B) EXCEPTION FOR CORPORATE SHAREHOLDERS.—Under regulations—

"(i) in the case of a distribution by a qualified investment entity (directly or indirectly) to a corporation—

"(I) the determination of whether such distribution is a dividend shall be made without regard to this section, and

"(II) the amount treated as gain by reason of the receipt of any capital gain dividend shall be increased by the percentage by which the entity's net capital gain for the taxable year (determined without regard to this section) exceeds the entity's net capital gain for such year determined with regard to this section, and

"(ii) there shall be other appropriate adjustments (including deemed distributions) so as to ensure that the benefits of this section are not allowed (directly or indirectly) to corporate shareholders of qualified investment entities.

For purposes of the preceding sentence, any amount includible in gross income under section 852(b)(3)(D) shall be treated as a capital gain dividend and an S corporation shall not be treated as a corporation.

"(C) EXCEPTION FOR QUALIFICATION PURPOSES.—This section shall not apply for purposes of sections 851(b) and 856(c).

"(D) EXCEPTION FOR CERTAIN TAXES IMPOSED AT ENTITY LEVEL.—

"(i) TAX ON FAILURE TO DISTRIBUTE ENTIRE GAIN.—If any amount is subject to tax under section 852(b)(3)(A) for any taxable year, the amount on which tax is imposed under such section shall be increased by the percentage determined under subparagraph (B)(i)(II). A similar rule shall apply in the case of any amount subject to tax under paragraph (2) or (3) of section 857(b) to the extent attributable to the excess of the net capital gain over the deduction for dividends paid determined with reference to capital gain dividends only. The first sentence of this clause shall not apply to so much of the amount subject to tax under section 852(b)(3)(A) as is designated by the company under section 852(b)(3)(D).

"(ii) OTHER TAXES.—This section shall not apply for purposes of determining the amount of any tax imposed by paragraph (4), (5), or (6) of section 857(b).

"(2) ADJUSTMENTS TO INTERESTS HELD IN ENTITY.—

"(A) REGULATED INVESTMENT COMPANIES.—Stock in a regulated investment company (within the meaning of section 851) shall be an indexed asset for any calendar quarter in the same ratio as—

"(i) the average of the fair market values of the indexed assets held by such company at the close of each month during such quarter, bears to

"(ii) the average of the fair market values of all assets held by such company at the close of each such month.

"(B) REAL ESTATE INVESTMENT TRUSTS.—Stock in a real estate investment trust (within the meaning of section 856) shall be an indexed asset for any calendar quarter in the same ratio as—

"(i) the fair market value of the indexed assets held by such trust at the close of such quarter, bears to

"(ii) the fair market value of all assets held by such trust at the close of such quarter.

"(C) RATIO OF 80 PERCENT OR MORE.—If the ratio for any calendar quarter determined under subparagraph (A) or (B) would (but for this subparagraph) be 80 percent or more, such ratio for such quarter shall be 100 percent.

"(D) RATIO OF 20 PERCENT OR LESS.—If the ratio for any calendar quarter determined under subparagraph (A) or (B) would (but for this subparagraph) be 20 percent or less, such ratio for such quarter shall be zero.

"(E) LOOK-THRU OF PARTNERSHIPS.—For purposes of this paragraph, a qualified investment entity which holds a partnership interest shall be treated (in lieu of holding a partnership interest) as holding its proportionate share of the assets held by the partnership.

"(3) TREATMENT OF RETURN OF CAPITAL DISTRIBUTIONS.—Except as otherwise provided by the Secretary, a distribution with respect to stock in a qualified investment entity which is not a dividend and which results in a reduction in the adjusted basis of such stock shall be treated as allocable to stock acquired by the taxpayer in the order in which such stock was acquired.

"(4) QUALIFIED INVESTMENT ENTITY.—For purposes of this subsection, the term 'qualified investment entity' means—

"(A) a regulated investment company (within the meaning of section 851), and

"(B) a real estate investment trust (within the meaning of section 856).

"(f) OTHER PASS-THRU ENTITIES.—

"(1) PARTNERSHIPS.—

"(A) IN GENERAL.—In the case of a partnership, the adjustment made under subsection (a) at the partnership level shall be passed through to the partners.

"(B) SPECIAL RULE IN THE CASE OF SECTION 754 ELECTIONS.—In the case of a transfer of an interest in a partnership with respect to which the election provided in section 754 is in effect—

"(i) the adjustment under section 743(b)(1) shall, with respect to the transferor partner, be treated as a sale of the partnership assets for purposes of applying this section, and

"(ii) with respect to the transferee partner, the partnership's holding period for purposes of this section in such assets shall be treated as beginning on the date of such adjustment.

"(2) S CORPORATIONS.—In the case of an S corporation, the adjustment made under subsection (a) at the corporate level shall be passed through to the shareholders. This section shall not apply for purposes of determining the amount of any tax imposed by section 1374 or 1375.

"(3) COMMON TRUST FUNDS.—In the case of a common trust fund, the adjustment made under subsection (a) at the trust level shall be passed through to the participants.

"(4) INDEXING ADJUSTMENT DISREGARDED IN DETERMINING LOSS ON SALE OF INTEREST IN ENTITY.—Notwithstanding the preceding provisions of this subsection, for purposes of determining the amount of any loss on a sale or exchange of an interest in a partnership, S corporation, or common trust fund, the adjustment made under subsection (a) shall not be taken into account in determining the adjusted basis of such interest.

"(g) DISPOSITIONS BETWEEN RELATED PERSONS.—

"(1) IN GENERAL.—This section shall not apply to any sale or other disposition of property between related persons except to the extent that the basis of such property in the hands of the transferee is a substituted basis.

"(2) RELATED PERSONS DEFINED.—For purposes of this section, the term 'related persons' means—

"(A) persons bearing a relationship set forth in section 267(b), and

"(B) persons treated as single employer under subsection (b) or (c) of section 414.

"(h) TRANSFERS TO INCREASE INDEXING ADJUSTMENT.—If any person transfers cash, debt, or any other property to another person and the principal purpose of such transfer is to secure or increase an adjustment under subsection (a), the Secretary may disallow part or all of such adjustment or increase.

"(i) SPECIAL RULES.—For purposes of this section—

"(1) TREATMENT OF IMPROVEMENTS, ETC.—If there is an addition to the adjusted basis of any tangible property or of any stock in a corporation during the taxable year by reason of an improvement to such property or a contribution to capital of such corporation—

"(A) such addition shall never be taken into account under subsection (c)(1)(A) if the aggregate amount thereof during the taxable year with respect to such property or stock is less than $1,000, and

"(B) such addition shall be treated as a separate asset acquired at the close of such taxable year if the aggregate amount thereof during the taxable year with respect to such property or stock is $1,000 or more.

A rule similar to the rule of the preceding sentence shall apply to any other portion of an asset to the extent that separate treatment of such portion is appropriate to carry out the purposes of this section.

"(2) ASSETS WHICH ARE NOT INDEXED ASSETS THROUGHOUT HOLDING PERIOD.—The applicable inflation adjustment shall be appropriately reduced for periods during which the asset was not an indexed asset.

"(3) TREATMENT OF CERTAIN DISTRIBUTIONS.—A distribution with respect to stock in a corporation which is not a dividend shall be treated as a disposition.

"(4) ACQUISITION DATE WHERE THERE HAS BEEN PRIOR APPLICATION OF SUBSECTION (a)(1) WITH RESPECT TO THE TAXPAYER.—If there has been a prior application of subsection (a)(1) to an asset while such asset was held by the taxpayer, the date of acquisition of such asset by the taxpayer shall be treated as not earlier than the date of the most recent such prior application.

"(5) COLLAPSIBLE CORPORATIONS.—The application of section 341(a) (relating to collapsible corporations) shall be determined without regard to this section.

"(j) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.".

(b) CLERICAL AMENDMENT.—The table of sections for part II of subchapter O of chapter 1 is amended by inserting after the item relating to section 1021 the following new item:

"Sec. 1022. Indexing of certain assets acquired after December 31, 2000, for purposes of determining gain.".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to the disposition of any property the holding period of which begins after December 31, 2000.

(2) CERTAIN TRANSACTIONS BETWEEN RELATED PERSONS.—The amendments made by this section shall not apply to the disposition of any property acquired after December 31, 2000, from a related person (as defined in section 1022(g)(2) of the Internal Revenue Code of 1986, as added by this section) if—

(A) such property was so acquired for a price less than the property's fair market value, and

(B) the amendments made by this section did not apply to such property in the hands of such related person.

(d) ELECTION TO RECOGNIZE GAIN ON ASSETS HELD ON JANUARY 1, 2001.—For purposes of the Internal Revenue Code of 1986—

(1) IN GENERAL.—A taxpayer other than a corporation may elect to treat—

(A) any readily tradable stock (which is an indexed asset) held by such taxpayer on January 1, 2001, and not sold before the next business day after such date, as having been sold on such next business day for an amount equal to its closing market price on such next business day (and as having been reacquired on such next business day for an amount equal to such closing market price), and

(B) any other indexed asset held by the taxpayer on January 1, 2001, as having been sold on such date for an amount equal to its fair market value on such date (and as having been reacquired on such date for an amount equal to such fair market value).

(2) TREATMENT OF GAIN OR LOSS.—

(A) Any gain resulting from an election under paragraph (1) shall be treated as received or accrued on the date the asset is treated as sold under paragraph (1) and shall be recognized notwithstanding any provision of the Internal Revenue Code of 1986.

(B) Any loss resulting from an election under paragraph (1) shall not be allowed for any taxable year.

(3) ELECTION.—An election under paragraph (1) shall be made in such manner as the Secretary of the Treasury or his delegate may prescribe and shall specify the assets for which such election is made. Such an election, once made with respect to any asset, shall be irrevocable.

(4) READILY TRADABLE STOCK.—For purposes of this subsection, the term "readily tradable stock" means any stock which, as of January 1, 2001, is readily tradable on an established securities market or otherwise.

SEC. 313. EXEMPTION FROM TAX FOR GAIN ON SALE OF PRINCIPAL RESIDENCE.

(a) IN GENERAL.—Section 121 (relating to one-time exclusion of gain from sale of principal residence by individual who has attained age 55) is amended to read as follows:

"SEC. 121. EXCLUSION OF GAIN FROM SALE OF PRINCIPAL RESIDENCE.

"(a) EXCLUSION.—Gross income shall not include gain from the sale or exchange of property if, during the 5-year period ending on the date of the sale or exchange, such property has been owned and used by the taxpayer as the taxpayer's principal residence for periods aggregating 2 years or more.

"(b) LIMITATIONS.—

"(1) DOLLAR LIMITATION.—The amount of gain excluded from gross income under subsection (a) with respect to any sale or exchange shall not exceed $250,000 ($500,000 in the case of a joint return where both spouses meet the use requirement of subsection (a)).

"(2) APPLICATION TO ONLY 1 SALE OR EXCHANGE EVERY 2 YEARS.—

"(A) IN GENERAL.—Subsection (a) shall not apply to any sale or exchange by the taxpayer if, during the 2-year period ending on the date of such sale or exchange, there was any other sale or exchange by the taxpayer or his spouse to which subsection (a) applied.

"(B) PREMARRIAGE SALES BY SPOUSE NOT TAKEN INTO ACCOUNT.—If, but for this subparagraph, subsection (a) would not apply to a sale or exchange by a married individual by reason of a sale or exchange by such individual's spouse before their marriage—

"(i) subparagraph (A) shall be applied without regard to the sale or exchange by such individual's spouse, but

"(ii) the amount of gain excluded from gross income under subsection (a) with respect to the sale or exchange by such individual shall not exceed $250,000.

"(C) PRE-MAY 7, 1997, SALES NOT TAKEN INTO ACCOUNT.—Subparagraph (A) shall be applied without regard to any sale or exchange before May 7, 1997.

"(c) EXCLUSION FOR TAXPAYERS FAILING TO MEET CERTAIN REQUIREMENTS.—

"(1) IN GENERAL.—In the case of a sale or exchange to which this subsection applies, the ownership and use requirements of subsection (a) shall not apply and subsection (b)(2) shall not apply; but the amount of gain excluded from gross income under subsection (a) with respect to such sale of exchange shall not exceed—

"(A) the amount which bears the same ratio to the amount which would be so excluded if such requirements had been met, as

"(B) the shorter of—

"(i) the aggregate periods, during the 5-year period ending on the date of such sale or exchange, such property has been owned and used by the taxpayer as the taxpayer's principal residence, or

"(ii) the period after the date of the most recent prior sale or exchange by the taxpayer or his spouse to which subsection (a) applied and before the date of such sale or exchange,

bears to 2 years.

"(2) SALES AND EXCHANGES TO WHICH SUBSECTION APPLIES.—This subsection shall apply to any sale or exchange if—

"(A) subsection (a) would not (but for this subsection) apply to such sale or exchange by reason of—

"(i) a failure to meet the ownership and use requirements of subsection (a), or

"(ii) subsection (b)(2), and

"(B) such sale or exchange is by reason of a change in place of employment, health, or, to the extent provided in regulations, other unforeseen circumstances.

"(d) SPECIAL RULES.—

"(1) JOINT RETURNS.—For purposes of this section, if a husband and wife make a joint return for the taxable year of the sale or exchange of the property, subsection (a) shall, subject to the provisions of subsection (b), apply if either spouse meets the ownership and use requirements of subsection (a) with respect to such property.

"(2) PROPERTY OF DECEASED SPOUSE.—For purposes of this section, in the case of an unmarried individual whose spouse is deceased on the date of the sale or exchange of property, the period such unmarried individual owned such property shall include the period such deceased spouse held such property before death.

"(3) PROPERTY OF DIVORCED SPOUSE.—For purposes of this section, in the case of an individual holding property transferred to such individual incident to divorce (within the meaning of section 1041(c))—

"(A) the period such individual owns such property shall include the period the former spouse owned the property, and

"(B) the dollar limitation applicable under paragraph (1) shall not be less than the amount such limitation would have been had the sale or exchange occurred on the date the divorce became final.

"(4) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—For purposes of this section, if the taxpayer holds stock as a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), then—

"(A) the holding requirements of subsection (a) shall be applied to the holding of such stock, and

"(B) the use requirements of subsection (a) shall be applied to the house or apartment which the taxpayer was entitled to occupy as such stockholder.

"(5) INVOLUNTARY CONVERSIONS.—

"(A) IN GENERAL.—For purposes of this section, the destruction, theft, seizure, requisition, or condemnation of property shall be treated as the sale of such property.

"(B) APPLICATION OF SECTION 1033.—In applying section 1033 (relating to involuntary conversions), the amount realized from the sale or exchange of property shall be treated as being the amount determined without regard to this section, reduced by the amount of gain not included in gross income pursuant to this section.

"(C) PROPERTY ACQUIRED AFTER INVOLUNTARY CONVERSION.—If the basis of the property sold or exchanged is determined (in whole or in part) under section 1033(b) (relating to basis of property acquired through involuntary conversion), then the holding and use by the taxpayer of the converted property shall be treated as holding and use by the taxpayer of the property sold or exchanged.

"(6) RECOGNITION OF GAIN ATTRIBUTABLE TO DEPRECIATION.—Subsection (a) shall not apply to so much of the gain from the sale of any property as does not exceed the portion of the depreciation adjustments (as defined in section 1250(b)(3)) attributable to periods after May 6, 1997, in respect of such property.

"(7) DETERMINATION OF USE DURING PERIODS OF OUT-OF-RESIDENCE CARE.—In the case of a taxpayer who—

"(A) becomes physically or mentally incapable of self-care, and

"(B) owns property and uses such property as the taxpayer's principal residence during the 5-year period described in subsection (a) for periods aggregating at least 1 year,

then the taxpayer shall be treated as using such property as the taxpayer's principal residence during any time during such 5-year period in which the taxpayer owns the property and resides in any facility (including a nursing home) licensed by a State or political subdivision to care for an individual in the taxpayer's condition.

"(8) DETERMINATION OF MARITAL STATUS.—In the case of any sale or exchange, for purposes of this section—

"(A) the determination of whether an individual is married shall be made as of the date of the sale or exchange, and

"(B) an individual legally separated from his spouse under a decree of divorce or of separate maintenance shall not be considered as married.

"(9) SALES OF LIFE ESTATES AND REMAINDER INTERESTS.—For purposes of this section—

"(A) IN GENERAL.—This section shall not fail to apply to the sale or exchange of an interest in a principal residence by reason of such interest being a life estate or a remainder interest in such residence, but this section shall apply only to one such interest in such residence which is sold or exchanged separately.

"(B) EXCEPTION FOR SALES TO RELATED PARTIES.—Subparagraph (A) shall not apply to any sale to, or exchange with, any person who bears a relationship to the taxpayer which is described in section 267(b) or 707(b).

"(e) DENIAL OF EXCLUSION FOR EXPATRIATES.—This section shall not apply to any sale or exchange by an individual if the treatment provided by section 877(a)(1) applies to such individual.

"(f) ELECTION TO HAVE SECTION NOT APPLY.—This section shall not apply to any sale or exchange with respect to which the taxpayer elects not to have this section apply.

"(g) RESIDENCES ACQUIRED IN ROLLOVERS UNDER SECTION 1034.—For purposes of this section, in the case of property the acquisition of which by the taxpayer resulted under section 1034 (as in effect on the day before the date of the enactment of this sentence) in the nonrecognition of any part of the gain realized on the sale or exchange of another residence, in determining the period for which the taxpayer has owned and used such property as the taxpayer's principal residence, there shall be included the aggregate periods for which such other residence (and each prior residence taken into account under section 1223(7) in determining the holding period of such property) had been so owned and used.".

(b) REPEAL OF NONRECOGNITION OF GAIN ON ROLLOVER OF PRINCIPAL RESIDENCE.—Section 1034 (relating to rollover of gain on sale of principal residence) is hereby repealed.

(c) CONFORMING AMENDMENTS.—

(1) The following provisions of the Internal Revenue Code of 1986 are each amended by striking "section 1034" and inserting "section 121": sections 25(e)(7), 56(e)(1)(A), 56(e)(3)(B)(i), 143(i)(1)(C)(i)(I), 163(h)(4)(A)(i)(I), 280A(d)(4)(A), 464(f)(3)(B)(i), 1033(h)(4), 1274(c)(3)(B), 6334(a)(13), and 7872(f)(11)(A).

(2) Paragraph (4) of section 32(c) is amended by striking "(as defined in section 1034(h)(3))" and by adding at the end the following new sentence: "For purposes of the preceding sentence, the term 'extended active duty' means any period of active duty pursuant to a call or order to such duty for a period in excess of 90 days or for an indefinite period.".

(3) Subparagraph (A) of 143(m)(6) is amended by inserting "(as in effect on the day before the date of the enactment of the Taxpayer Relief Act of 1997)" after "1034(e)".

(4) Subsection (e) of section 216 is amended by striking "such exchange qualifies for nonrecognition of gain under section 1034(f)" and inserting "such dwelling unit is used as his principal residence (within the meaning of section 121)".

(5) Section 512(a)(3)(D) is amended by inserting "(as in effect on the day before the date of the enactment of the Taxpayer Relief Act of 1997)" after "1034".

(6) Paragraph (7) of section 1016(a) is amended by inserting "(as in effect on the day before the date of the enactment of the Taxpayer Relief Act of 1997)" after "1034" and by inserting "(as so in effect)" after "1034(e)".

(7) Paragraph (3) of section 1033(k) is amended to read as follows:

"(3) For exclusion from gross income of gain from involuntary conversion of principal residence, see section 121.".

(8) Subsection (e) of section 1038 is amended to read as follows:

"(e) PRINCIPAL RESIDENCES.—If—

"(1) subsection (a) applies to a reacquisition of real property with respect to the sale of which gain was not recognized under section 121 (relating to gain on sale of principal residence); and

"(2) within 1 year after the date of the reacquisition of such property by the seller, such property is resold by him,

then, under regulations prescribed by the Secretary, subsections (b), (c), and (d) of this section shall not apply to the reacquisition of such property and, for purposes of applying section 121, the resale of such property shall be treated as a part of the transaction constituting the original sale of such property.".

(9) Paragraph (7) of section 1223 is amended by inserting "(as in effect on the day before the date of the enactment of the Taxpayer Reief Act of 1997)" after "1034".

(10) Paragraph (7) of section 1250(d) is amended to read as follows:

"(7) DISPOSITION OF PRINCIPAL RESIDENCE.—Subsection (a) shall not apply to a disposition of property to the extent used by the taxpayer as his principal residence (within the meaning of section 121, relating to gain on sale of principal residence).".

(11) Subsection (c) of section 6012 is amended by striking "(relating to one-time exclusion of gain from sale of principal residence by individual who has attained age 55)" and inserting "(relating to gain from sale of principal residence)".

(12) Paragraph (2) of section 6212(c) is amended by striking subparagraph (C) and by redesignating the succeeding subparagraphs accordingly.

(13) Section 6504 is amended by striking paragraph (4) and by redesignating the succeeding paragraphs accordingly.

(14) The item relating to section 121 in the table of sections for part III of subchapter B of chapter 1 is amended to read as follows:

"Sec. 121. Exclusion of gain from sale of principal residence.".

(15) The table of sections for part III of subchapter O of chapter 1 of such Code is amended by striking the item relating to section 1034.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to sales and exchanges after May 6, 1997.

(2) SALES BEFORE DATE OF ENACTMENT.—At the election of the taxpayer, the amendments made by this section shall not apply to any sale or exchange before the date of the enactment of this Act.

(3) BINDING CONTRACTS.—At the election of the taxpayer, the amendments made by this section shall not apply to a sale or exchange after the date of the enactment of this Act, if—

(A) such sale or exchange is pursuant to a contract which was binding on such date, or

(B) without regard to such amendments, gain would not be recognized under section 1034 of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of this Act) on such sale or exchange by reason of a new residence acquired on or before such date or with respect to the acquisition of which by the taxpayer a binding contract was in effect on such date.

This paragraph shall not apply to any sale or exchange by an individual if the treatment provided by section 877(a)(1) of the Internal Revenue Code of 1986 applies to such individual.

PART II—CORPORATE CAPITAL GAINS

SEC. 321. REDUCTION OF ALTERNATIVE CAPITAL GAIN TAX FOR CORPORATIONS.

(a) IN GENERAL.—Section 1201 is amended to read as follows:

"SEC. 1201. ALTERNATIVE TAX FOR CORPORATIONS.

"(a) GENERAL RULE.—If for any taxable year a corporation has 8-year gain, then, in lieu of the tax imposed by sections 11, 511, and 831 (a) and (b) (whichever is applicable), there is hereby imposed a tax (if such tax is less than the tax imposed by such sections) which shall consist of the sum of—

"(1) a tax computed on the taxable income reduced by the amount of the 8-year gain, at the rates and in the manner as if this subsection had not been enacted, plus

"(2) a tax of the applicable percentage of the amount of the 8-year gain (or, if less, taxable income).

"(b) APPLICABLE PERCENTAGE.—For purposes of subsection (a)—

"(1) IN GENERAL.—The term 'applicable percentage' means—

"(A) 32 percent for the portion of any taxable year within 1998,

"(B) 31 percent for the portion of any taxable year within 1999, and

"(C) 30 percent for the portion of any taxable year after 1999.

"(2) FISCAL YEAR TAXPAYERS.—

"(A) TAXABLE YEARS BEGINNING IN 1997.—In applying this section to taxable years beginning in 1997, 8-year gain shall not exceed the 8-year gain determined by taking into account only gains and losses properly taken into account for the portion of the taxable year after December 31, 1997.

"(B) TAXABLE YEARS BEGINNING IN 1998 OR 1999.—In the case of a taxable year beginning in 1998 or 1999 which includes portions of 2 calendar years, the applicable percentage shall be applied separately to such portions by taking into account—

"(i) in the case of the first such portion, the lesser of—

"(I) the 8-year gain determined by taking into account only gains and losses properly taken into account for such portion, or

"(II) the 8-year gain determined for the entire taxable year, and

"(ii) in the case of the second such portion, the 8-year gain (and the taxable income) determined for the entire taxable year reduced by the amount on which tax is determined under subsection (a)(2) for the first such portion determined under clause (i).

"(C) SPECIAL RULE FOR PASS-THRU ENTITIES.—Section 1(h)(8)(C) shall apply for purposes of this paragraph.

"(c) 8-YEAR GAIN.—For purposes of this section, the term '8-year gain' means the lesser of—

"(1) the amount of long-term capital gain which would be computed for the taxable year if only gain from the sale or exchange of property held by the taxpayer for more than 8 years were taken into account, or

"(2) net capital gain.

The determination under the preceding sentence shall be made without regard to collectibles gain (as defined in section 1(h)(5)) or section 1250 gain (as defined in section 1(h)(7)).

"(d) CROSS REFERENCES.—

"For computation of the alternative tax—

"(1) in the case of life insurance companies, see section 801(a)(2),

"(2) in the case of regulated investment companies and their shareholders, see section 852(b)(3)(A) and (D), and

"(3) in the case of real estate investment trusts, see section 857(b)(3)(A).".

(b) TECHNICAL AMENDMENTS.—

(1) Subsection (d) of section 291 is amended by striking "subsection (a)(1) to such shareholder" and inserting "subsection (a)(1) and section 1201 to such shareholder".

(2) Clause (iii) of section 852(b)(3)(D) is amended by striking "65 percent" and inserting "the applicable percentage" and by inserting at the end the following new sentence: "For purposes of the preceding sentence, the term 'applicable percentage' means the percentage equal to the excess of 100 percent over the percentage applicable under section 1201(a).".

(3)(A) Subparagraph (B) of section 852(b)(3) is amended to read as follows:

"(B) TREATMENT OF CAPITAL GAIN DIVIDENDS BY SHAREHOLDERS.—

"(i) IN GENERAL.—Except as provided in clause (ii), a capital gain dividend shall be treated by the shareholders as gain from the sale or exchange of a capital asset held for more than 1 year.

"(ii) COORDINATION WITH 8-YEAR HOLDING PERIOD FOR CORPORATE NET CAPITAL GAIN.—The portion of any capital gain dividend designated by the company as allocable to gain from the sale or exchange of property held by the company for more than 8 years shall be treated as gain from the sale or exchange of a capital asset held for more than 8 years. Rules similar to the rules of subparagraph (C) shall apply to any designation under the preceding sentence.".

(B) Clause (i) of section 851(b)(3)(D) is amended by adding at the end thereof the following new sentence: "Rules similar to the rules of subparagraph (B) shall apply in determining character of the amount to be so included by any such shareholder which is a corporation.".

(4) Subparagraph (B) of section 857(b)(3) is amended to read as follows:

"(B) TREATMENT OF CAPITAL GAIN DIVIDENDS BY SHAREHOLDERS.—

"(i) IN GENERAL.—Except as provided in clause (ii), a capital gain dividend shall be treated by the shareholders or holders of beneficial interests as gain from the sale or exchange of a capital asset held for more than 1 year.

"(ii) COORDINATION WITH 8-YEAR HOLDING PERIOD FOR CORPORATE NET CAPITAL GAIN.—The portion of any capital gain dividend designated by the company as allocable to gain from the sale or exchange of property held by the company for more than 8 years shall be treated as gain from the sale or exchange of a capital asset held for more than 8 years. Rules similar to the rules of subparagraph (C) shall apply to any designation under the preceding sentence.".

(5) Subsection (c) of section 584 is amended—

(A) by inserting "but not more than 8 years" after "1 year" each place it appears in paragraph (2),

(B) by striking "and" at the end of paragraph (2), and

(C) by redesignating paragraph (3) as paragraph (4) and inserting after paragraph (2) the following new paragraph:

"(3) as part of its gains and losses from sales or exchanges of capital assets held for more than 8 years, its proportionate share of the gains and losses of the common trust fund from sales or exchanges of capital assets held for more than 8 years, and".

(6) Subparagraph (E) of section 904(b)(3) is amended by adding at the end the following new clause:

"(iv) REGULATIONS.—The Secretary shall prescribe regulations that adjust the limitation under subsection (a) to reflect the rate differential for 8-year gain (as defined in section 1201(c)) between the highest rate of tax specified in section 11(b) and the alternate rate of tax under section 1201(a) and the limitation on the deduction for capital losses under section 1211.".

(c) EFFECTIVE DATES.—The amendments made by this section shall apply to taxable years ending after December 31, 1997.

TITLE IV—ALTERNATIVE MINIMUM TAX REFORM

SEC. 401. ADJUSTMENT OF EXEMPTION AMOUNTS FOR TAXPAYERS OTHER THAN CORPORATIONS.

(a) IN GENERAL.—Subsection (d) of section 55 is amended by adding at the end the following new paragraph:

"(4) ADJUSTMENT OF EXEMPTION AMOUNTS FOR TAXPAYERS OTHER THAN CORPORATIONS.—

"(A) TAXABLE YEARS BEGINNING BEFORE JANUARY 1, 2008.—In the case of any taxable year beginning in a calendar year after 1998 and before 2008—

"(i) IN GENERAL.—The dollar amount applicable under paragraph (1)(A) for any odd-numbered calendar year—

"(I) shall be $1,000 greater than the dollar amount applicable under paragraph (1)(A) for the prior odd-numbered calendar year, and

"(II) shall apply to taxable years beginning in such odd-numbered calendar year and the succeeding calendar year.

"(B) TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 2007.—In the case of any taxable year beginning in a calendar year after 2007, the dollar amount applicable under paragraph (1)(A) for taxable years beginning in 2007 shall be increased by an amount equal to the product of—

"(i) such dollar amount, and

"(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 2006' for 'calendar year 1992' in subparagraph (B) thereof.

If any increase determined under the preceding sentence is not a multiple of $100, such increase shall be rounded to the next lowest multiple of $100.

"(C) OTHER AMOUNTS.—

"(i) The dollar amount applicable under paragraph (1)(B) for any taxable year shall be an amount equal to 75 percent of the dollar amount applicable under paragraph (1)(A) for such year.

"(ii) The dollar amount applicable under paragraph (1)(C) for any taxable year shall be an amount equal to 50 percent of the dollar amount applicable under paragraph (1)(A) for such year.".

(b) CONFORMING AMENDMENT.—The last sentence of section 55(d)(3) is amended by striking "$165,000 or (ii) $22,500" and inserting "the minimum amount of such income (as so determined) for which the exemption amount under paragraph (1)(C) is zero, or (ii) such exemption amount (determined without regard to this paragraph)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

SEC. 402. EXEMPTION FROM ALTERNATIVE MINIMUM TAX FOR SMALL CORPORATIONS.

(a) IN GENERAL.—Section 55 (relating to alternative minimum tax imposed) is amended by adding at the end the following new subsection:

"(e) EXEMPTION FOR SMALL CORPORATIONS.—

"(1) IN GENERAL.—The tentative minimum tax of a corporation shall be zero for any taxable year if—

"(A) such corporation met the $5,000,000 gross receipts test of section 448(c) for any prior taxable year beginning after December 31, 1996, and

"(B) such corporation would meet such test for the taxable year and all prior taxable years beginning after December 31, 1997, if such test were applied by substituting '$7,500,000' for '$5,000,000'

"(2) PROSPECTIVE APPLICATION OF MINIMUM TAX IF SMALL CORPORATION CEASES TO BE SMALL.—In the case of a corporation whose tentative minimum tax is zero for any prior taxable year by reason of paragraph (1), the application of this part for taxable years beginning with the first taxable year such corporation ceases to be described in paragraph (1) shall be determined without regard to transactions entered into or other items arising in taxable years prior to such first taxable year.

"(3) LIMITATION ON USE OF CREDIT FOR PRIOR YEAR MINIMUM TAX LIABILITY.—In the case of a taxpayer whose tentative minimum tax for any taxable year is zero by reason of paragraph (1), the amount described in paragraph (2) of section 53(b) shall not be less than the greater of—

"(A) the tentative minimum tax for the taxable year, or

"(B) 25 percent of so much of the regular tax liability (reduced by the credit allowed by section 27) as exceeds $25,000.

Rules similar to the rules of section 38(c)(3)(B) shall apply for purposes of the preceding sentence.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. 403. REPEAL OF ADJUSTMENT FOR DEPRECIATION.

(a) IN GENERAL.—Clause (i) of section 56(a)(1)(A) is amended by inserting "and before January 1, 1999," after "December 31, 1986,".

(b) STUDY.—

(1) IN GENERAL.—Because it is the intent of Congress that the amendment made by subsection (a) not have the result of permitting any corporation with taxable income from current year operations to pay no Federal income tax, the Secretary of the Treasury or his delegate shall conduct a study to determine whether such amendment has that result and, if so, the policy implications of that result.

(2) REPORT.—The report of such study shall be submitted to the Committee on Ways and

Means of the House of Representatives and the Committee on Finance of the Senate not later than January 1, 2001.

SEC. 404. MINIMUM TAX NOT TO APPLY TO FARMERS' INSTALLMENT SALES.

(a) In General.—The last sentence of paragraph (6) of section 56(a) (relating to treatment of installment sales in computing alternative minimum taxable income) is amended to read as follows: "This paragraph shall not apply to any disposition—

"(A) in the case of a taxpayer using the cash receipts and disbursements method of accounting, described in section 453(l)(2)(A) (relating to farm property), or

"(B) with respect to which an election is in effect under section 453(l)(2)(B) (relating to timeshares and residential lots).".

(b) Effective Dates.—

(1) In general.—The amendment made by this section shall apply to dispositions in taxable years beginning after December 31, 1987.

(2) Special rule for 1987.—In the case of taxable years beginning in 1987, the last sentence of section 56(a)(6) of the Internal Revenue Code of 1986 (as in effect for such taxable years) shall be applied by inserting "or in the case of a taxpayer using the cash receipts and disbursements method of accounting, any disposition described in section 453C(e)(1)(B)(ii)" after "section 453C(e)(4)".

TITLE V—ESTATE, GIFT, AND GENERATION-SKIPPING TAX PROVISIONS

Subtitle A—Estate and Gift Tax Provisions

SEC. 501. COST-OF-LIVING ADJUSTMENTS RELATING TO ESTATE AND GIFT TAX PROVISIONS.

(a) Increase in Unified Estate and Gift Tax Credit.—

(1) Estate tax credit.—

(A) In general.—Subsection (a) of section 2010 (relating to unified credit against estate tax) is amended by striking "$192,800" and inserting "the applicable credit amount".

(B) Applicable credit amount.—Section 2010 is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) Applicable Credit Amount.—For purposes of this section—

"(1) In general.—For purposes of this section, the applicable credit amount is the amount of the tentative tax which would be determined under the rate schedule set forth in section 2001(c) if the amount with respect to which such tentative tax is to be computed were the applicable exclusion amount determined in accordance with the following table:

"In the case of estates of decedents dying, and gifts made during:	The applicable exclusion amount is:
1998	$650,000
1999	$750,000
2000	$765,000
2001 through 2004	$775,000
2005	$800,000
2006	$825,000
2007 or thereafter	$1,000,000.

"(2) Cost-of-living adjustment.—In the case of any decedent dying, and gift made, in a calendar year after 2007, the $1,000,000 amount set forth in paragraph (1) shall be increased by an amount equal to—

"(A) $1,000,000, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 2006' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $10,000, such amount shall be rounded to the next lowest multiple of $10,000.".

(C) Estate tax returns.—Paragraph (1) of section 6018(a) is amended by striking "$600,000" and inserting "the applicable exclusion amount in effect under section 2010(c) for the calendar year which includes the date of death".

(D) Phaseout of graduated rates and unified credit.—Paragraph (2) of section 2001(c) is amended by striking "$21,040,000" and inserting "the amount at which the average tax rate under this section is 55 percent".

(E) Estates of nonresidents not citizens.—Subparagraph (A) of section 2102(c)(3) is amended by striking "$192,800" and inserting "the applicable credit amount in effect under section 2010(c) for the calendar year which includes the date of death".

(2) Unified gift tax credit.—Paragraph (1) of section 2505(a) is amended by striking "$192,800" and inserting "the applicable credit amount in effect under section 2010(c) for such calendar year".

(b) Alternate Valuation of Certain Farm, Etc., Real Property.—Subsection (a) of section 2032A is amended by adding at the end the following new paragraph:

"(3) Inflation adjustment.—In the case of estates of decedents dying in a calendar year after 1998, the $750,000 amount contained in paragraph (2) shall be increased by an amount equal to—

"(A) $750,000, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 1997' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $10,000, such amount shall be rounded to the next lowest multiple of $10,000.".

(c) Annual Gift Tax Exclusion.—Subsection (b) of section 2503 is amended—

(1) by striking the subsection heading and inserting the following:

"(b) Exclusions From Gifts.—

"(1) In general.—",

(2) by moving the text 2 ems to the right, and

(3) by adding at the end the following new paragraph:

"(2) Inflation adjustment.—In the case of gifts made in a calendar year after 1998, the $10,000 amount contained in paragraph (1) shall be increased by an amount equal to—

"(A) $10,000, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 1997' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $1,000, such amount shall be rounded to the next lowest multiple of $1,000.".

(d) Exemption From Generation-Skipping Tax.—Section 2631 (relating to GST exemption) is amended by adding at the end the following new subsection:

"(c) Inflation Adjustment.—In the case of an individual who dies in any calendar year after 1998, the $1,000,000 amount contained in subsection (a) shall be increased by an amount equal to—

"(1) $1,000,000, multiplied by

"(2) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 1997' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $10,000, such amount shall be rounded to the next lowest multiple of $10,000.".

(e) Amount Subject to Reduced Rate Where Extension of Time for Payment of Estate Tax on Closely Held Business.—Subsection (j) of section 6601 is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) Inflation adjustment.—In the case of estates of decedents dying in a calendar year after 1998, the $1,000,000 amount contained in paragraph (2)(A) shall be increased by an amount equal to—

"(A) $1,000,000, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 1997' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $10,000, such amount shall be rounded to the next lowest multiple of $10,000.".

(f) Effective date.—The amendments made by this section shall apply to the estates of decedents dying, and gifts made, after December 31, 1997.

SEC. 502. 20-YEAR INSTALLMENT PAYMENT WHERE ESTATE CONSISTS LARGELY OF INTEREST IN CLOSELY HELD BUSINESS.

(a) In General.—Section 6166(a) (relating to extension of time for payment of estate tax where estate consists largely of interest in closely held business) is amended by striking "10" in paragraph (1) and the heading thereof and inserting "20".

(b) Effective Date.—The amendments made by this section shall apply to estates of decedents dying after December 31, 1997.

SEC. 503. NO INTEREST ON CERTAIN PORTION OF ESTATE TAX EXTENDED UNDER SECTION 6166, REDUCED INTEREST ON REMAINING PORTION, AND NO DEDUCTION FOR SUCH REDUCED INTEREST.

(a) No Interest and Reduced Interest.—

(1) In general.—Paragraphs (1) and (2) of section 6601(j) (relating to 4-percent rate on certain portion of estate tax extended under section 6166), as amended by section 501(e), are amended to read as follows:

"(1) In general.—If the time for payment of an amount of tax imposed by chapter 11 is extended as provided in section 6166, then in lieu of the annual rate provided by subsection (a)—

"(A) no interest shall be paid on the no-interest portion of such amount, and

"(B) interest on so much of such amount as exceeds such no-interest portion shall be paid at a rate equal to 45 percent of the annual rate provided by subsection (a).

For purposes of this subsection, the amount of any deficiency which is prorated to installments payable under section 6166 shall be treated as an amount of tax payable in installments under such section.

"(2) No-interest portion.—For purposes of this section, the term 'no-interest portion' means the lesser of—

"(A)(i) the amount of the tentative tax which would be determined under the rate schedule set forth in section 2001(c) if the amount with respect to which such tentative tax is to be computed were the sum of $1,000,000 and the applicable exclusion amount in effect under section 2010(c), reduced by

"(ii) the applicable credit amount in effect under section 2010(c), or

"(B) the amount of the tax imposed by chapter 11 which is extended as provided in section 6166.".

(2) CONFORMING AMENDMENTS.—

(A) Section 6601(j), as amended by section 501, is amended—

(i) by striking "4-percent" each place it appears in paragraph (3) and inserting "no-interest", and

(ii) by striking "4-PERCENT RATE ON CERTAIN PORTION OF" in the heading and inserting "RATE ON".

(B) Section 6166(b)(7)(A)(iii) is amended to read as follows:

"(iii) for purposes of applying section 6601(j) (relating to rate on estate tax extended under section 6166), the no-interest portion shall be zero.".

(C) Section 6166(b)(8)(A)(iii) is amended to read as follows:

"(iii) NO-INTEREST PORTION NOT TO APPLY.—For purposes of applying section 6601(j) (relating to rate on estate tax extended under section 6166), the no-interest portion shall be zero.".

(b) DISALLOWANCE OF INTEREST DEDUCTION.—

(1) ESTATE TAX.—Paragraph (1) of section 2053(c) is amended by adding at the end the following new subparagraph:

"(D) SECTION 6166 INTEREST.—No deduction shall be allowed under this section for any interest payable under section 6601 on any unpaid portion of the tax imposed by section 2001 for the period during which an extension of time for payment of such tax is in effect under section 6166.".

(2) INCOME TAX.—Subparagraph (E) of section 163(h)(2) is amended by striking "or 6166".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after December 31, 1997.

SEC. 504. EXTENSION OF TREATMENT OF CERTAIN RENTS UNDER SECTION 2032A TO LINEAL DESCENDANTS.

(a) GENERAL RULE.—Paragraph (7) of section 2032A(c) (relating to special rules for tax treatment of dispositions and failures to use for qualified use) is amended by adding at the end the following new subparagraph:

"(E) CERTAIN RENTS TREATED AS QUALIFIED USE.—For purposes of this subsection, a surviving spouse or lineal descendant of the decedent shall not be treated as failing to use qualified real property in a qualified use solely because such spouse or descendant rents such property to a member of the family of such spouse or descendant on a net cash basis. For purposes of the preceding sentence, a legally adopted child of an individual shall be treated as the child of such individual by blood.".

(b) CONFORMING AMENDMENT.—Section 2032A(b)(5)(A) is amended by striking the last sentence.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to leases entered into after December 31, 1976.

SEC. 505. CLARIFICATION OF JUDICIAL REVIEW OF ELIGIBILITY FOR EXTENSION OF TIME FOR PAYMENT OF ESTATE TAX.

(a) IN GENERAL.—Part IV of subchapter C of chapter 76 of the Internal Revenue Code of 1986 (relating to declaratory judgments) is amended by adding at the end the following new section:

"SEC. 7479. DECLARATORY JUDGMENTS RELATING TO ELIGIBILITY OF ESTATE WITH RESPECT TO INSTALLMENT PAYMENTS UNDER SECTION 6166.

"(a) CREATION OF REMEDY.—In a case of actual controversy involving a determination by the Secretary of (or a failure by the Secretary to make a determination with respect to)—

"(1) whether an election may be made under section 6166 (relating to extension of time for payment of estate tax where estate consists largely of interest in closely held business) with respect to an estate, or

"(2) whether the extension of time for payment of tax provided in section 6166(a) has ceased to apply with respect to an estate,

upon the filing of an appropriate pleading, the Tax Court may make a declaration with respect to whether such election may be made, whether such extension has ceased to apply, or the amount of such installment payments. Any such declaration shall have the force and effect of a decision of the Tax Court and shall be reviewable as such.

"(b) LIMITATIONS.—

"(1) PETITIONER.—A pleading may be filed under this section, with respect to any estate, only—

"(A) by the executor of such estate, or

"(B) by any person who has assumed an obligation to make payments under section 6166 with respect to such estate (but only if each other such person is joined as a party).

"(2) EXHAUSTION OF ADMINISTRATIVE REMEDIES.—The court shall not issue a declaratory judgment or decree under this section in any proceeding unless it determines that the petitioner has exhausted all available administrative remedies within the Internal Revenue Service. A petitioner shall be deemed to have exhausted its administrative remedies with respect to a failure of the Secretary to make a determination at the expiration of 180 days after the date on which the request for such determination was made if the petitioner has taken, in a timely manner, all reasonable steps to secure such determination.

"(3) TIME FOR BRINGING ACTION.—If the Secretary sends by certified or registered mail notice of his determination as described in subsection (a) to the petitioner, no proceeding may be initiated under this section unless the pleading is filed before the 91st day after the date of such mailing.".

(b) CLERICAL AMENDMENT.—The table of sections for part IV of subchapter C of chapter 76 of such Code is amended by adding at the end the following new item:

"Sec. 7479. Declaratory judgments relating to eligibility of estate with respect to installment payments under section 6166.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to the estates of decedents dying after the date of the enactment of this Act.

SEC. 506. GIFTS MAY NOT BE REVALUED FOR ESTATE TAX PURPOSES AFTER EXPIRATION OF STATUTE OF LIMITATIONS.

(a) IN GENERAL.—Section 2001 (relating to imposition and rate of estate tax) is amended by adding at the end the following new subsection:

"(f) VALUATION OF GIFTS.—If—

"(1) the time has expired within which a tax may be assessed under chapter 12 (or under corresponding provisions of prior laws) on the transfer of property by gift made during a preceding calendar period (as defined in section 2502(b)), and

"(2) the value of such gift is shown on the return for such preceding calendar period or is disclosed in such return, or in a statement attached to the return, in a manner adequate to apprise the Secretary of the nature of such gift,

the value of such gift shall, for purposes of computing the tax under this chapter, be the value of such gift as finally determined for purposes of chapter 12.".

(b) MODIFICATION OF APPLICATION OF STATUTE OF LIMITATIONS.—Paragraph (9) of section 6501(c) is amended to read as follows:

"(9) GIFT TAX ON CERTAIN GIFTS NOT SHOWN ON RETURN.—If any gift of property the value of which (or any increase in taxable gifts required under section 2701(d) which) is required to be shown on a return of tax imposed by chapter 12 (without regard to section 2503(b)), and is not shown on such return, any tax imposed by chapter 12 on such gift may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time. The preceding sentence shall not apply to any item which is disclosed in such return, or in a statement attached to the return, in a manner adequate to apprise the Secretary of the nature of such item. The value of any item which is so disclosed may not be redetermined by the Secretary after the expiration of the period under subsection (a).".

(c) DECLARATORY JUDGMENT PROCEDURE FOR DETERMINING VALUE OF GIFT.—

(1) IN GENERAL.—Part IV of subchapter C of chapter 76 is amended by inserting after section 7476 the following new section:

"SEC. 7477. DECLARATORY JUDGMENTS RELATING TO VALUE OF CERTAIN GIFTS.

"(a) CREATION OF REMEDY.—In a case of an actual controversy involving a determination by the Secretary of the value of any gift shown on the return of tax imposed by chapter 12 or disclosed on such return or in any statement attached to such return, upon the filing of an appropriate pleading, the Tax Court may make a declaration of the value of such gift. Any such declaration shall have the force and effect of a decision of the Tax Court and shall be reviewable as such.

"(b) LIMITATIONS.—

"(1) PETITIONER.—A pleading may be filed under this section only by the donor.

"(2) EXHAUSTION OF ADMINISTRATIVE REMEDIES.—The court shall not issue a declaratory judgment or decree under this section in any proceeding unless it determines that the petitioner has exhausted all available administrative remedies within the Internal Revenue Service.

"(3) TIME FOR BRINGING ACTION.—If the Secretary sends by certified or registered mail notice of his determination as described in subsection (a) to the petitioner, no proceeding may be initiated under this section unless the pleading is filed before the 91st day after the date of such mailing.".

(2) CLERICAL AMENDMENT.—The table of sections for such part IV is amended by inserting after the item relating to section 7476 the following new item:

"Sec. 7477. Declaratory judgments relating to value of certain gifts.".

(d) CONFORMING AMENDMENT.—Subsection (c) of section 2504 is amended by striking ", and if a tax under this chapter or under corresponding provisions of prior laws has been assessed or paid for such preceding calendar period".

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a) and (c) shall apply to gifts made after the date of the enactment of this Act.

(2) SUBSECTION (b)—The amendment made by subsection (b) shall apply to gifts made in calendar years ending after the date of the enactment of this Act.

SEC. 507. TERMINATION OF THROWBACK RULES FOR DOMESTIC TRUSTS.

(a) ACCUMULATION DISTRIBUTIONS.—

(1) IN GENERAL.—Section 665 is amended by adding at the end the following new subsection:

"(f) SPECIAL RULE FOR UNITED STATES TRUSTS.—For purposes of this subpart, in the case of a trust other than a foreign trust, any distribution in any taxable year beginning after the date of the enactment of this subsection shall be computed without regard to any undistributed net income.".

(2) CONFORMING AMENDMENT.—Subsection (b) of section 665 is amended by inserting "except as provided in subsection (f)," after "subpart,".

(b) PROPERTY TRANSFERRED TO TRUSTS.—Subsection (e) of section 644 is amended by striking "or" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting ", or ", and by adding at the end the following new paragraph:

"(5) in the case of a trust other than a foreign trust, any sale or exchange of property after the date of the enactment of this paragraph.".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to distributions in taxable years beginning after the date of the enactment of this Act.

(2) TRANSFERRED PROPERTY.—The amendments made by subsection (b) shall apply to sales or exchanges after the date of the enactment of this Act.

SEC. 508. UNIFIED CREDIT OF DECEDENT INCREASED BY UNIFIED CREDIT OF SPOUSE USED ON SPLIT GIFT INCLUDED IN DECEDENT'S GROSS ESTATE.

(a) IN GENERAL.—Section 2010 (relating to unified credit against estate tax) is amended by adding at the end the following new subsection:

"(d) TREATMENT OF UNIFIED CREDIT USED BY SPOUSE ON SPLIT-GIFT INCLUDED IN DECEDENT'S GROSS ESTATE.—If—

"(1) the decedent was the donor of any gift one-half of which was considered under section 2513 as made by the decedent's spouse, and

"(2) the amount of such gift is includible in the gross estate of the decedent by reason of section 2035, 2036, 2037, or 2038,

the amount of the credit allowable by subsection (a) to the estate of the decedent shall be increased by the amount of the unified credit allowed against the tax imposed by section 2501 on the amount of such gift considered under section 2513 as made by such spouse.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to gifts made after the date of the enactment of this Act.

SEC. 509. REFORMATION OF DEFECTIVE BEQUESTS, ETC., TO SPOUSE OF DECEDENT.

(a) IN GENERAL.—Subsection (b) of section 2056 (relating to bequests, etc., to surviving spouse) is amended by adding at the end the following new paragraph:

"(11) REFORMATIONS PERMITTED.—

"(A) IN GENERAL.—In the case of any interest in property with respect to which a deduction would be allowable under subsection (a) but for a provision of this subsection, if—

"(i) the surviving spouse is entitled to all of the income from the property for life,

"(ii) no person other than such spouse is entitled to any distribution of such property during such spouse's life, and

"(iii) there is a change of a governing instrument (by reformation, amendment, construction, or otherwise) as of the applicable date which results in the satisfaction of the requirements of such provision as of the date of the decedent's death,

the determination of whether such deduction is allowable shall be made as of the applicable date.

"(B) SPECIAL RULE WHERE TIMELY COMMENCEMENT OF REFORMATION.—Clauses (i) and (ii) of subparagraph (A) shall not apply to any interest if, not later than the date described in subparagraph (C)(i), a judicial proceeding is commenced to change such interest into an interest which satisfies the requirements of the provision by reason of which (but for this paragraph) a deduction would not be allowable under subsection (a) for such interest.

"(C) APPLICABLE DATE.—For purposes of subparagraph (A), the term 'applicable date' means—

"(i) the last date (including extensions) for filing the return of tax imposed by this chapter, or

"(ii) if a judicial proceeding is commenced to comply with such provision, the time when the changes pursuant to such proceeding are made.

"(D) SPECIAL RULE.—If the change referred to in subparagraph (A)(iii) is to qualify the passage of the interest under paragraph (7), subparagraph (A) shall apply only if the election under paragraph (7)(B) is made.

"(E) STATUTE OF LIMITATIONS.—If a judicial proceeding described in subparagraph (C)(ii) is commenced with respect to any interest, the period for assessing any deficiency of tax attributable to such interest shall not expire before the date 1 year after the date on which the Secretary is notified that such provision has been complied with or that such proceeding has been terminated.".

(b) COMPARABLE RULE FOR GIFT TAX.—Section 2523 (relating to gift to spouse) is amended by adding at the end the following new subsection:

"(j) REFORMATIONS PERMITTED.—Rules similar to the rules of section 2056(b)(11) shall apply for purposes of this section.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying, and gifts made, after the date of the enactment of this Act.

Subtitle B—Generation-Skipping Tax Provisions

SEC. 511. SEVERING OF TRUSTS HOLDING PROPERTY HAVING AN INCLUSION RATIO OF GREATER THAN ZERO.

(a) IN GENERAL.—Subsection (a) of section 2642 (relating to inclusion ratio) is amended by adding at the end the following new paragraph:

"(3) SEVERING OF TRUSTS HOLDING PROPERTY HAVING AN INCLUSION RATIO OF GREATER THAN ZERO.—

"(A) IN GENERAL.—If a trust holding property having an inclusion ratio of greater than zero is severed in a qualified severance, at the election of the trustee of such trust, the trusts resulting from such severance shall be treated as separate trusts for purposes of this chapter and 1 such trust shall have an inclusion ratio of 1 and the other such trust shall have an inclusion ratio of zero.

"(B) QUALIFIED SEVERANCE.—For purposes of subparagraph (A), the term 'qualified severance' means the creation of 2 trusts from a single trust if each property held by the single trust was divided between the 2 created trusts such that one trust received an interest in each such property equal to the applicable fraction of the single trust. Such term includes any other severance permitted under regulations prescribed by the Secretary.

"(C) ELECTION.—The election under this paragraph shall be made at the time prescribed by the Secretary. Such an election, once made, shall be irrevocable.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to severances after the date of the enactment of this Act.

SEC. 512. EXPANSION OF EXCEPTION FROM GENERATION-SKIPPING TRANSFER TAX FOR TRANSFERS TO INDIVIDUALS WITH DECEASED PARENTS.

(a) IN GENERAL.—Section 2651 (relating to generation assignment) is amended by redesignating subsection (e) as subsection (f), and by inserting after subsection (d) the following new subsection:

"(e) SPECIAL RULE FOR PERSONS WITH A DECEASED PARENT.—

"(1) IN GENERAL.—For purposes of determining whether any transfer is a generation-skipping transfer, if—

"(A) an individual is a descendant of a parent of the transferor (or the transferor's spouse or former spouse), and

"(B) such individual's parent who is a lineal descendant of the parent of the transferor (or the transferor's spouse or former spouse) is dead at the time the transfer (from which an interest of such individual is established or derived) is subject to a tax imposed by chapter 11 or 12 upon the transferor (and if there shall be more than 1 such time, then at the earliest such time),

such individual shall be treated as if such individual were a member of the generation which is 1 generation below the lower of the transferor's generation or the generation assignment of the youngest living ancestor of such individual who is also a descendant of the parent of the transferor (or the transferor's spouse or former spouse), and the generation assignment of any descendant of such individual shall be adjusted accordingly.

"(2) LIMITED APPLICATION OF SUBSECTION TO COLLATERAL HEIRS.—This subsection shall not apply with respect to a transfer to any individual who is not a lineal descendant of the transferor (or the transferor's spouse or former spouse) if, at the time of the transfer, such transferor has any living lineal descendant.".

(b) CONFORMING AMENDMENTS.—

(1) Section 2612(c) (defining direct skip) is amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(2) Section 2612(c)(2) (as so redesignated) is amended by striking "section 2651(e)(2)" and inserting "section 2651(f)(2)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to terminations, distributions, and transfers occurring after December 31, 1997.

TITLE VI—EXTENSIONS

SEC. 601. RESEARCH TAX CREDIT.

(a) IN GENERAL.—Paragraph (1) of section 41(h) (relating to termination) is amended—

(1) by striking "May 31, 1997" and inserting "December 31, 1998", and

(2) by striking in the last sentence "during the first 11 months of such taxable year." and inserting "during the 30-month period beginning with the first month of such year. The 30 months referred to in the preceding sentence shall be reduced by the number of full months after June 1996 (and before the first month of such first taxable year) during which the taxpayer paid or incurred any amount which is taken into account in determining the credit under this section.".

(b) TECHNICAL AMENDMENTS.—

(1) Subparagraph (B) of section 41(c)(4) is amended to read as follows:

"(B) ELECTION.—An election under this paragraph shall apply to the taxable year for which made and all succeeding taxable years unless revoked with the consent of the Secretary.".

(2) Paragraph (1) of section 45C(b) is amended by striking "May 31, 1997" and inserting "December 31, 1998".

(c) Effective Date.—The amendments made by this section shall apply to amounts paid or incurred after May 31, 1997.

SEC. 602. CONTRIBUTIONS OF STOCK TO PRIVATE FOUNDATIONS.

(a) In General.—Clause (ii) of section 170(e)(5)(D) (relating to termination) is amended by striking "May 31, 1997" and inserting "December 31, 1998".

(b) Effective Date.—The amendment made by subsection (a) shall apply to contributions made after May 31, 1997.

SEC. 603. WORK OPPORTUNITY TAX CREDIT.

(a) Extension.—

(1) In general.—Subparagraph (B) of section 51(c)(4) (relating to termination) is amended by striking "September 30, 1997" and inserting "September 30, 1998".

(2) Effective date.—The amendment made by paragraph (1) shall apply to individuals who begin work for the employer after September 30, 1997.

(b) Work Opportunity Credit Allowed Against Minimum Tax.—

(1) In General.—Subsection (c) of section 38 (relating to limitation based on amount of tax) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) Special rules for work opportunity credit.—

"(A) In general.—In the case of the work opportunity credit—

"(i) this section and section 39 shall be applied separately with respect to the credit, and

"(ii) in applying paragraph (1) to the credit—

"(I) subparagraph (A) shall not apply, and

"(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the work opportunity credit).

"(B) Work opportunity credit.—For purposes of this subsection, the term 'work opportunity credit' means the credit allowable under subsection (a) by reason of section 51(a).".

(2) Conforming amendment.—Subclause (II) of section 38(c)(2)(A)(ii) is amended by inserting "or the work opportunity credit" after "employment credit".

(3) Effective date.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 1997.

(c) Percentage of Wages Allowed as Credit.—

(1) In general.—Subsection (a) of section 51 (relating to determination of amount) is amended by striking "35 percent" and inserting "40 percent".

(2) Application of credit for individuals performing fewer than 400 hours of services.—Paragraph (3) of section 51(i) is amended to read as follows:

"(3) Individuals not meeting minimum employment periods.—

"(A) Reduction of credit for individuals performing fewer than 400 hours of services.—In the case of an individual who has completed at least 120 hours, but less than 400 hours, of services performed for the employer, subsection (a) shall be applied by substituting '25 percent' for '40 percent'.

"(B) Denial of credit for individuals performing fewer than 120 hours of services.—No wages shall be taken into account under subsection (a) with respect to any individual unless such individual has completed at least 120 hours of services performed for the employer.".

(3) Effective date.—The amendments made by this subsection shall apply to individuals who begin work for the employer after September 30, 1997.

(d) Modification of Eligibility Requirement Based on Period on Welfare.—

(1) In general.—Subparagraph (A) of section 51(d)(2) (defining qualified IV–A recipient) is amended by striking all that follows "a IV–A program" and inserting "for any 9 months during the 18-month period ending on the hiring date.".

(2) Conforming amendment.—Subparagraph (A) of section 51(d)(3) is amended to read as follows:

"(A) In general.—The term 'qualified veteran' means any veteran who is certified by the designated local agency as being a member of a family receiving assistance under a food stamp program under the Food Stamp Act of 1977 for at least a 3-month period ending during the 12-month period ending on the hiring date.".

(3) Effective date.—The amendments made by this subsection shall apply to individuals who begin work for the employer after September 30, 1997.

SEC. 604. ORPHAN DRUG TAX CREDIT.

(a) In General.—Section 45C (relating to clinical testing expenses for certain drugs for rare diseases or conditions) is amended by striking subsection (e).

(b) Effective Date.—The amendment made by subsection (a) shall apply to amounts paid or incurred after May 31, 1997.

SEC. 605. BUDGETARY TREATMENT OF EXPIRING PREFERENTIAL EXCISE TAX RATES WHICH ARE DEDICATED TO TRUST FUNDS.

(a) In General.—Subparagraph (C) of section 257(b)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985 (relating to the baseline) is amended by inserting before the period "; except that any expiring preferential rate (and any credit or refund related thereto) shall be assumed not to be extended".

(b) Estimate of Revenue Gain From Correcting Baseline.—For purposes of estimating revenues under budget reconciliation, the impact of the amendment made by subsection (a) on the calculation of the baseline shall be determined in the same manner as if such amendment were an amendment to the Internal Revenue Code of 1986.

(c) Budget Act Point of Order.—For purposes of section 311(a) of the Congressional Budget Act of 1974, the appropriate level of revenues shall be determined on the assumption that any expiring preferential rate (and any credit or refund related thereto) of any excise tax dedicated to a trust fund shall expire according to current law.

(d) Effective Date.—The amendment made by subsection (a) shall apply to budget years beginning after the date of the enactment of this Act.

TITLE VII—INCENTIVES FOR REVITALIZATION OF THE DISTRICT OF COLUMBIA

SEC. 701. TAX INCENTIVES FOR REVITALIZATION OF THE DISTRICT OF COLUMBIA.

(a) In General.—Chapter 1 is amended by adding at the end the following new subchapter:

"Subchapter W—District of Columbia Enterprise Zone

"Sec. 1400. Establishment of DC Zone.
"Sec. 1400A. Tax-exempt economic development bonds.
"Sec. 1400B. Credit for equity investments in and loans to District of Columbia businesses.
"Sec. 1400C. Zero percent capital gains rate.
"Sec. 1400D. Credit to provide equivalent of 10 percent rate bracket in lieu of 15 percent bracket.

"SEC. 1400. ESTABLISHMENT OF DC ZONE.

"(a) In General.—The applicable DC area is hereby designated as the District of Columbia Enterprise Zone. For purposes of this title (except as otherwise provided in this subchapter), the District of Columbia Enterprise Zone shall be treated as an empowerment zone designated under subchapter U.

"(b) Applicable DC Area.—For purposes of subsection (a), the term 'applicable DC area' means the area consisting of—

"(1) the census tracts located in the District of Columbia which are part of an enterprise community designated under subchapter U before the date of the enactment of this subchapter, and

"(2) all other census tracts—

"(A) which are located in the District of Columbia, and

"(B) for which the poverty rate is not less than 35 percent.

"(c) District of Columbia Enterprise Zone.—For purposes of this subchapter, the terms 'District of Columbia Enterprise Zone' and 'DC Zone' mean the District of Columbia Enterprise Zone designated by subsection (a).

"(d) Special Rule for Application of Employment Credit.—In the case of the DC Zone, section 1396 (relating to empowerment zone employment credit) shall be applied by substituting "20" for "15" in the table contained in section 1396(b). The preceding sentence shall apply only with respect to qualified zone employees, as defined in section 1396(d), determined by treating no area other than the DC Zone as an empowerment zone or enterprise community.

"(e) Time For Which Designation Applicable.—

"(1) In general.—The designation made by subsection (a) shall apply for the period beginning on January 1, 1998, and ending on December 31, 2002.

"(2) Coordination with DC enterprise community designated under subchapter U.—The designation as an enterprise community, under subchapter U, of the census tracts referred to in subsection (b)(1) shall terminate on December 31, 2002.

"SEC. 1400A. TAX-EXEMPT ECONOMIC DEVELOPMENT BONDS.

"(a) In General.—In the case of the District of Columbia Enterprise Zone—

"(1) subsection (a) of section 1394 (relating to tax-exempt facility bonds for empowerment zones and enterprise communities) applies only with respect to bonds issued by the Economic Development Corporation, and

"(2) subparagraph (A) of section 1394(c)(1) (relating to limitation on amount of bonds) shall be applied by substituting '$15,000,000' for '$3,000,000'.

"(b) Economic Development Corporation.—For purposes of this section, the term 'Economic Development Corporation' means an entity which is created by Federal law in 1997 as part of the District of Columbia government.

"(c) Period of Applicability.—This section shall apply to bonds issued during the period beginning on January 1, 1998, and ending on December 31, 2002.

"SEC. 1400B. CREDIT FOR EQUITY INVESTMENTS IN AND LOANS TO DISTRICT OF COLUMBIA BUSINESSES.

"(a) General Rule.—For purposes of section 38, the DC Zone investment credit determined under this section for any taxable year is—

"(1) the qualified lender credit for such year, and

“(2) the qualified equity investment credit for such year.

“(b) QUALIFIED LENDER CREDIT.—For purposes of this section—

“(1) IN GENERAL.—The qualified lender credit for any taxable year is the amount of credit specified for such year by the Economic Development Corporation with respect to qualified District loans made by the taxpayer.

“(2) LIMITATION.—In no event may the qualified lender credit with respect to any loan exceed 25 percent of the cost of the property purchased with the proceeds of the loan.

“(3) QUALIFIED DISTRICT LOAN.—For purposes of paragraph (1), the term ‘qualified district loan’ means any loan for the purchase (as defined in section 179(d)(2)) of property to which section 168 applies (or would apply but for section 179) (or land which is functionally related and subordinate to such property) and substantially all of the use of which is in the District of Columbia and is in the active conduct of a trade or business in the District of Columbia. A rule similar to the rule of section 1397C(a)(2) shall apply for purposes of the preceding sentence.

“(c) QUALIFIED EQUITY INVESTMENT CREDIT.—

“(1) IN GENERAL.—For purposes of this section, the qualified equity investment credit determined under this section for any taxable year is an amount equal to the percentage specified by the Economic Development Corporation (but not greater than 25 percent) of the aggregate amount paid in cash by the taxpayer during the taxable year for the purchase of District business investments.

“(2) DISTRICT BUSINESS INVESTMENT.—For purposes of this subsection, the term ‘District business investment’ means—

“(A) any District business stock, and

“(B) any District partnership interest.

“(3) DISTRICT BUSINESS STOCK.—For purposes of this subsection—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the term ‘District business stock’ means any stock in a domestic corporation if—

“(i) such stock is acquired by the taxpayer at its original issue (directly or through an underwriter) solely in exchange for cash, and

“(ii) as of the time such stock was issued, such corporation was engaged in a trade or business in the District of Columbia (or, in the case of a new corporation, such corporation was being organized for purposes of engaging in such a trade or business).

“(B) REDEMPTIONS.—A rule similar to the rule of section 1202(c)(3) shall apply for purposes of this paragraph.

“(4) QUALIFIED DISTRICT PARTNERSHIP INTEREST.—For purposes of this subsection, the term ‘qualified District partnership interest’ means any interest in a partnership if—

“(A) such interest is acquired by the taxpayer from the partnership solely in exchange for cash, and

“(B) as of the time such interest was acquired, such partnership was engaging in a trade or business in the District of Columbia (or, in the case of a new partnership, such partnership was being organized for purposes of engaging in such a trade or business).

A rule similar to the rule of paragraph (3)(B) shall apply for purposes of this paragraph.

“(5) RECAPTURE OF CREDIT UPON CERTAIN DISPOSITIONS OF DISTRICT BUSINESS INVESTMENTS.—

“(A) IN GENERAL.—If a taxpayer disposes of any District business investment (or any other property the basis of which is determined in whole or in part by reference to the adjusted basis of such investment) before the end of the 5-year period beginning on the date such investment was acquired by the taxpayer, the taxpayer's tax imposed by this chapter for the taxable year in which such distribution occurs shall be increased by the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted solely from reducing to zero any credit determined under this section with respect to such investment.

“(B) EXCEPTIONS.—Subparagraph (A) shall not apply to any gift, transfer, or transaction described in paragraph (1), (2), or (3) of section 1245(b).

“(C) SPECIAL RULE.—Any increase in tax under subparagraph (A) shall not be treated as a tax imposed by this chapter for purposes of—

“(i) determining the amount of any credit allowable under this chapter, and

“(ii) determining the amount of the tax imposed by section 55.

“(6) BASIS REDUCTION.—For purposes of this title, the basis of any District business investment shall be reduced by the amount of the credit determined under this section with respect to such investment.

“(d) LIMITATION ON AMOUNT OF CREDIT.—

“(1) IN GENERAL.—The amount of the DC Zone investment credit determined under this section with respect to any taxpayer for any taxable year shall not exceed the credit amount allocated to such taxpayer for such taxable year by the Economic Development Corporation.

“(2) OVERALL LIMITATION.—The aggregate credit amount which may be allocated by the Economic Development Corporation under this section shall not exceed $75,000,000.

“(3) CRITERIA FOR ALLOCATING CREDIT AMOUNTS.—The allocation of credit amounts under this section shall be made in accordance with criteria established by the Economic Development Corporation. In establishing such criteria, such Corporation shall take into account—

“(A) the degree to which the business receiving the loan or investment will provide job opportunities for low and moderate income residents of the DC Zone, and

“(B) whether such business is within the DC Zone.

“(e) ECONOMIC DEVELOPMENT CORPORATION.—For purposes of this section, the term ‘Economic Development Corporation’ has the meaning given such term by section 1400A(b).

“(f) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out this section.

“(g) APPLICATION OF SECTION.—This section shall apply to any credit amount allocated for taxable years beginning after December 31, 1997, and before January 1, 2003.

“SEC. 1400C. ZERO PERCENT CAPITAL GAINS RATE.

“(a) EXCLUSION.—Gross income shall not include qualified capital gain from the sale or exchange of any DC Zone asset held for more than 5 years.

“(b) DC ZONE ASSET.—For purposes of this section—

“(1) IN GENERAL.—The term ‘DC Zone asset’ means—

“(A) any DC Zone business stock,

“(B) any DC Zone partnership interest, and

“(C) any DC Zone business property.

“(2) DC ZONE BUSINESS STOCK.—

“(A) IN GENERAL.—The term ‘DC Zone business stock’ means any stock in a domestic corporation which is originally issued after December 31, 1997, if—

“(i) such stock is acquired by the taxpayer, before January 1, 2003, at its original issue (directly or through an underwriter) solely in exchange for cash,

“(ii) as of the time such stock was issued, such corporation was a DC Zone business (or, in the case of a new corporation, such corporation was being organized for purposes of being a DC Zone business), and

“(iii) during substantially all of the taxpayer's holding period for such stock, such corporation qualified as a DC Zone business.

“(B) REDEMPTIONS.—A rule similar to the rule of section 1202(c)(3) shall apply for purposes of this paragraph.

“(3) DC ZONE PARTNERSHIP INTEREST.—The term ‘DC Zone partnership interest’ means any capital or profits interest in a domestic partnership which is originally issued after December 31, 1997, if—

“(A) such interest is acquired by the taxpayer, before January 1, 2003, from the partnership solely in exchange for cash,

“(B) as of the time such interest was acquired, such partnership was a DC Zone business (or, in the case of a new partnership, such partnership was being organized for purposes of being a DC Zone business), and

“(C) during substantially all of the taxpayer's holding period for such interest, such partnership qualified as a DC Zone business.

A rule similar to the rule of paragraph (2)(B) shall apply for purposes of this paragraph.

“(4) DC ZONE BUSINESS PROPERTY.—

“(A) IN GENERAL.—The term ‘DC Zone business property’ means tangible property if—

“(i) such property was acquired by the taxpayer by purchase (as defined in section 179(d)(2)) after December 31, 1997, and before January 1, 2003,

“(ii) the original use of such property in the DC Zone commences with the taxpayer, and

“(iii) during substantially all of the taxpayer's holding period for such property, substantially all of the use of such property was in a DC Zone business of the taxpayer.

“(B) SPECIAL RULE FOR BUILDINGS WHICH ARE SUBSTANTIALLY IMPROVED.—

“(i) IN GENERAL.—The requirements of clauses (i) and (ii) of subparagraph (A) shall be treated as met with respect to—

“(I) property which is substantially improved by the taxpayer before January 1, 2003, and

“(II) any land on which such property is located.

“(ii) SUBSTANTIAL IMPROVEMENT.—For purposes of clause (i), property shall be treated as substantially improved by the taxpayer only if, during any 24-month period beginning after December 31, 1997, additions to basis with respect to such property in the hands of the taxpayer exceed the greater of—

“(I) an amount equal to the adjusted basis of such property at the beginning of such 24-month period in the hands of the taxpayer, or

“(II) $5,000.

“(6) TREATMENT OF SUBSEQUENT PURCHASERS, ETC.—The term ‘DC Zone asset’ includes any property which would be a DC Zone asset but for paragraph (2)(A)(i), (3)(A), or (4)(A)(ii) in the hands of the taxpayer if such property was a DC Zone asset in the hands of a prior holder.

“(7) 5-YEAR SAFE HARBOR.—If any property ceases to be a DC Zone asset by reason of paragraph (2)(A)(iii), (3)(C), or (4)(A)(iii) after the 5-year period beginning on the date the taxpayer acquired such property, such property shall continue to be treated as meeting the requirements of such paragraph; except that the amount of gain to which subsection (a) applies on any sale or exchange of such property shall not exceed the amount which would be qualified capital gain had such property been sold on the date of such cessation.

"(c) DC ZONE BUSINESS.—For purposes of this section, the term 'DC Zone business' means any entity which is an enterprise zone business (as defined in section 1397B), determined by treating no area other than the DC Zone as an empowerment zone or enterprise community.

"(d) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) QUALIFIED CAPITAL GAIN.—Except as otherwise provided in this subsection, the term 'qualified capital gain' means any gain recognized on the sale or exchange of—

"(A) a capital asset, or

"(B) property used in the trade or business (as defined in section 1231(b)).

"(2) GAIN BEFORE 1998 OR AFTER 2007 NOT QUALIFIED.—The term 'qualified capital gain' shall not include any gain attributable to periods before January 1, 1998, or after December 31, 2007.

"(3) CERTAIN GAIN ON REAL PROPERTY NOT QUALIFIED.—The term 'qualified capital gain' shall not include any gain which would be treated as ordinary income under section 1250 if section 1250 applied to all depreciation rather than the additional depreciation.

"(4) INTANGIBLES AND LAND NOT INTEGRAL PART OF DC ZONE BUSINESS.—The term 'qualified capital gain' shall not include any gain which is attributable to real property, or an intangible asset, which is not an integral part of a DC Zone business.

"(5) RELATED PARTY TRANSACTIONS.—The term 'qualified capital gain' shall not include any gain attributable, directly or indirectly, in whole or in part, to a transaction with a related person. For purposes of this paragraph, persons are related to each other if such persons are described in section 267(b) or 707(b)(1).

"(e) CERTAIN OTHER RULES TO APPLY.—Rules similar to the rules of subsections (g), (h), (i)(2), and (j) of section 1202 shall apply for purposes of this section.

"(f) SALES AND EXCHANGES OF INTERESTS IN PARTNERSHIPS AND S CORPORATIONS WHICH ARE DC ZONE BUSINESSES.—In the case of the sale or exchange of an interest in a partnership, or of stock in an S corporation, which was a DC Zone business during substantially all of the period the taxpayer held such interest or stock, the amount of qualified capital gain shall be determined without regard to—

"(1) any gain which is attributable to real property, or an intangible asset, which is not an integral part of a DC Zone business, and

"(2) any gain attributable to periods before January 1, 1998, or after December 31, 2007.

"SEC. 1400D. CREDIT TO PROVIDE EQUIVALENT OF 10 PERCENT RATE BRACKET IN LIEU OF 15 PERCENT BRACKET.

"(a) IN GENERAL.—In the case of a DC Zone individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 5 percent of so much of the taxpayer's taxable income for the year as does not exceed the highest amount of such income which is subject to the 15 percent rate under section 1.

"(b) DC ZONE INDIVIDUAL.—For purposes of this section, the term 'DC Zone individual' means an individual who has a principal place of abode in the District of Columbia Enterprise Zone for not less than 183 days of the taxable year.

"(c) CREDIT NOT TO APPLY TO ESTATE OR TRUST.—This section shall not apply to an estate or trust.

"(d) COORDINATION WITH OTHER CREDITS.—For purposes of this chapter, the credit under this section shall be treated as a credit under subpart A of part IV of subchapter A.

"(e) TERMINATION.—This section shall not apply to any taxable year beginning after December 31, 2007.".

(b) CREDITS MADE PART OF GENERAL BUSINESS CREDIT.—

(1) Subsection (b) of section 38 is amended by striking "plus" at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting ", plus", and by adding at the end the following new paragraph:

"(13) the DC Zone investment credit determined under section 1400B(a).".

(2) Subsection (d) of section 39 is amended by adding at the end the following new paragraph:

"(8) NO CARRYBACK OF DC ZONE CREDITS BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the credit under section 1400B, or to the credits under subchapter U by reason of section 1400, may be carried back to a taxable year ending before the date of the enactment of sections 1400B and 1400.".

(3) Subsection (c) of section 196 is amended by striking "and" at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting ", and", and by adding at the end the following new paragraph:

"(8) the DC Zone investment credit determined under section 1400B(a).".

(c) CLERICAL AMENDMENT.—The table of subchapters for chapter 1 is amended by adding at the end the following new item:

"Subchapter W. District of Columbia Enterprise Zone.".

(d) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act.

SEC. 702. INCENTIVES CONDITIONED ON OTHER DC REFORM.

The amendments made by section 701 shall not take effect unless an entity known as the Economic Development Corporation is created by Federal law in 1997 as part of the District of Columbia government.

TITLE VIII—WELFARE-TO-WORK INCENTIVES

SEC. 801. INCENTIVES FOR EMPLOYING LONG-TERM FAMILY ASSISTANCE RECIPIENTS.

(a) IN GENERAL.—Subpart F of part IV of subchapter A of chapter 1 is amended by inserting after section 51 the following new section:

"SEC. 51A. TEMPORARY INCENTIVES FOR EMPLOYING LONG-TERM FAMILY ASSISTANCE RECIPIENTS.

"(a) DETERMINATION OF AMOUNT.—For purposes of section 38, the amount of the welfare-to-work credit determined under this section for the taxable year shall be equal to—

"(1) 35 percent of the qualified first-year wages for such year, and

"(2) 50 percent of the qualified second-year wages for such year.

"(b) QUALIFIED WAGES DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified wages' means the wages paid or incurred by the employer during the taxable year to individuals who are long-term family assistance recipients.

"(2) QUALIFIED FIRST-YEAR WAGES.—The term 'qualified first-year wages' means, with respect to any individual, qualified wages attributable to service rendered during the 1-year period beginning with the day the individual begins work for the employer.

"(3) QUALIFIED SECOND-YEAR WAGES.—The term 'qualified second-year wages' means, with respect to any individual, qualified wages attributable to service rendered during the 1-year period beginning on the day after the last day of the 1-year period with respect to such individual determined under paragraph (2).

"(4) ONLY FIRST $10,000 OF WAGES PER YEAR TAKEN INTO ACCOUNT.—The amount of the qualified first-year wages, and the amount of qualified second-year wages, which may be taken into account with respect to any individual shall not exceed $10,000 per year.

"(5) WAGES.—

"(A) IN GENERAL.—The term 'wages' has the meaning given such term by section 51(c), without regard to paragraph (4) thereof.

"(B) CERTAIN AMOUNTS TREATED AS WAGES.—The term 'wages' includes amounts paid or incurred by the employer which are excludable from such recipient's gross income under—

"(i) section 105 (relating to amounts received under accident and health plans),

"(ii) section 106 (relating to contributions by employer to accident and health plans),

"(iii) section 127 (relating to educational assistance programs) or would be so excludable but for section 127(d), but only to the extent paid or incurred to a person not related to the employer, or

"(iv) section 129 (relating to dependent care assistance programs).

The amount treated as wages by clause (i) or (ii) for any period shall be based on the reasonable cost of coverage for the period, but shall not exceed the applicable premium for the period under section 4980B(f)(4).

"(C) SPECIAL RULES FOR AGRICULTURAL AND RAILWAY LABOR.—If such recipient is an employee to whom subparagraph (A) or (B) of section 51(h)(1) applies, rules similar to the rules of such subparagraphs shall apply except that—

"(i) such subparagraph (A) shall be applied by substituting '$10,000' for '$6,000', and

"(ii) such subparagraph (B) shall be applied by substituting '$833.33' for '$500'.

"(c) LONG-TERM FAMILY ASSISTANCE RECIPIENTS.—For purposes of this section—

"(1) IN GENERAL.—The term 'long-term family assistance recipient' means any individual who is certified by the designated local agency (as defined in section 51(d)(10))—

"(A) as being a member of a family receiving assistance under a IV-A program (as defined in section 51(d)(2)(B)) for at least the 18-month period ending on the hiring date.

"(B)(i) as being a member of a family receiving such assistance for 18 months beginning after the date of the enactment of this section, and

"(ii) as having a hiring date which is not more than 2 years after the end of the earliest such 18-month period, or

"(C)(i) as being a member of a family which ceased to be eligible after the date of the enactment of this section for such assistance by reason of any limitation imposed by Federal or State law on the maximum period such assistance is payable to a family, and

"(ii) as having a hiring date which is not more than 2 years after the date of such cessation.

"(2) HIRING DATE.—The term 'hiring date' has the meaning given such term by section 51(d).

"(d) CERTAIN RULES TO APPLY.—

"(1) IN GENERAL.—Rules similar to the rules of section 52, and subsections (d)(11), (f), (g), (i) (as in effect on the day before the date of the enactment of the Taxpayer Reief

Act of 1997), (j), and (k) of section 51, shall apply for purposes of this section.

"(2) Credit to be part of general business credit, etc.—References to section 51 in section 38(b), 280C(a), and 1396(c)(3) shall be treated as including references to this section.

"(e) Coordination With Work Opportunity Credit.—If a credit is allowed under this section to an employer with respect to an individual for any taxable year, then for purposes of applying section 51 to such employer, such individual shall not be treated as a member of a targeted group for such taxable year.

"(f) Termination.—This section shall not apply to individuals who begin work for the employer after April 30, 1999.".

(b) Clerical Amendment.—The table of sections for subpart F of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 51 the following new item:

"Sec. 51A. Temporary incentives for employing long-term family assistance recipients.".

(c) Effective Date.—The amendments made by this section shall apply to individuals who begin work for the employer after December 31, 1997.

TITLE IX—MISCELLANEOUS PROVISIONS

Subtitle A—Provisions Relating to Excise Taxes

SEC. 901. REPEAL OF TAX ON DIESEL FUEL USED IN RECREATIONAL BOATS.

(a) In General.—Subparagraph (B) of section 6421(e)(2) (defining off-highway business use) is amended by striking clauses (iii) and (iv).

(b) Conforming Amendments.—

(1) Subparagraph (A) of section 4041(a)(1) is amended—

(A) by striking ", a diesel-powered train, or a diesel-powered boat" each place it appears and inserting "or a diesel-powered train", and

(B) by striking "vehicle, train, or boat" and inserting "vehicle or train".

(2) Paragraph (1) of section 4041(a) is amended by striking subparagraph (D).

(3) Paragraph (2) of section 9503(f) is amended by striking subparagraph (C) and by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively.

(c) Effective Date.—The amendments made by this section shall take effect on January 1, 1998.

SEC. 902. CONTINUED APPLICATION OF TAX ON IMPORTED RECYCLED HALON-1211.

(a) In General.—Paragraph (1) of section 4682(d) is amended by striking "recycled halon" and inserting "recycled Halon-1301 or recycled Halon-2402".

(b) Effective Date.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 903. UNIFORM RATE OF TAX ON VACCINES.

(a) In General.—Subsection (b) of section 4131 is amended to read as follows:

"(b) Amount of Tax.—

"(1) In general.—The amount of the tax imposed by subsection (a) shall be 84 cents per dose of any taxable vaccine.

"(2) Combinations of vaccines.—If any taxable vaccine is described in more than 1 subparagraph of section 4132(a)(1), the amount of the tax imposed by subsection (a) on such vaccine shall be the sum of the amounts for the vaccines which are so included.".

(b) Taxable Vaccines.—Paragraph (1) of section 4132(a) is amended to read as follows:

"(1) Taxable vaccine.—The term 'taxable vaccine' means any of the following vaccines which are manufactured or produced in the United States or entered into the United States for consumption, use, or warehousing:

"(A) Any vaccine containing diphtheria toxoid.

"(B) Any vaccine containing tetanus toxoid.

"(C) Any vaccine containing pertussis bacteria, extracted or partial cell bacteria, or specific pertussis antigens.

"(D) Any vaccine against measles.

"(E) Any vaccine against mumps.

"(F) Any vaccine against rubella.

"(G) Any vaccine containing polio virus.

"(H) Any HIB vaccine.

"(I) Any vaccine against hepatitis B.

"(J) Any vaccine against chicken pox.".

(c) Conforming Amendment.—Subsection (a) of section 4132 is amended by striking paragraphs (2), (3), and (4) and by redesignating paragraphs (5) through (8) as paragraphs (2) through (5), respectively.

(d) Effective Date.—The amendments made by this section shall take effect on October 1, 1997.

SEC. 904. OPERATORS OF MULTIPLE GASOLINE RETAIL OUTLETS TREATED AS WHOLESALE DISTRIBUTOR FOR REFUND PURPOSES.

(a) In General.—Subparagraph (B) of section 6416(a)(4) (defining whole distributor) is amended by adding at the end the following new sentence: "Such term includes any person who makes retail sales of gasoline at 10 or more retail motor fuel outlets.".

(b) Effective Date.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 905. EXEMPTION OF ELECTRIC AND OTHER CLEAN-FUEL MOTOR VEHICLES FROM LUXURY AUTOMOBILE CLASSIFICATION.

(a) In General.—Subsection (a) of section 4001 (relating to imposition of tax) is amended to read as follows:

"(a) Imposition of Tax.—

"(1) In general.—There is hereby imposed on the 1st retail sale of any passenger vehicle a tax equal to 10 percent of the price for which so sold to the extent such price exceeds the applicable amount.

"(2) Applicable amount.—

"(A) In general.—Except as provided in subparagraphs (B) and (C), the applicable amount is $30,000.

"(B) Qualified clean-fuel vehicle property.—In the case of a passenger vehicle which is propelled by a fuel which is not a clean-burning fuel to which is installed qualified clean-fuel vehicle property (as defined in section 179A(c)(1)(A)) for purposes of permitting such vehicle to be propelled by a clean-burning fuel, the applicable amount is equal to the sum of—

"(i) $30,000, plus

"(ii) the increase in the price for which the passenger vehicle was sold (within the meaning of section 4002) due to the installation of such property.

"(C) Purpose built passenger vehicle.—

"(i) In general.—In the case of a purpose built passenger vehicle, the applicable amount is equal to 150 percent of $30,000.

"(ii) Purpose built passenger vehicle.—For purposes of clause (i), the term 'purpose built passenger vehicle' means a passenger vehicle produced by an original equipment manufacturer and designed so that the vehicle may be propelled primarily by electricity.".

(b) Conforming Amendments.—

(1) Subsection (e) of section 4001 (relating to inflation adjustment) is amended to read as follows:

"(e) Inflation Adjustment.—

"(1) In general.—The $30,000 amount in subparagraphs (A), (B)(i), and (C)(i) of subsection (a)(2) shall be increased by an amount equal to—

"(A) $30,000, multiplied by

"(B) the cost-of-living adjustment under section 1(f)(3) for the calendar year in which the vehicle is sold, determined by substituting 'calendar year 1990' for 'calendar year 1992' in subparagraph (B) thereof.

"(2) Rounding.—If any amount as adjusted under paragraph (1) is not a multiple of $2,000, such amount shall be rounded to the next lowest multiple of $2,000.".

(2) Subsection (f) of section 4001 (relating to phasedown) is amended by striking "subsection (a)" and inserting "subsection (a)(1)".

(3) Subparagraph (B) of section 4003(a)(2) is amended to read as follows:

"(B) the appropriate applicable amount as determined under section 4001(a)(2).".

(c) Effective Date.—The amendments made by this section shall apply to sales and installations occurring on or after the date of the enactment of this Act.

Subtitle B—Provisions Relating to Pensions and Fringe Benefits

SEC. 911. SECTION 401(K) PLANS FOR CERTAIN IRRIGATION AND DRAINAGE ENTITIES.

(a) In General.—Subparagraph (B) of section 401(k)(7) (relating to rural cooperative plan) is amended—

(1) by striking "and" at the end of clause (iii), by redesignating clause (iv) as clause (v), and by inserting after clause (iii) the following new clause:

"(iv) any organization which—

"(I) is a mutual irrigation or ditch company described in section 501(c)(12) (without regard to the 85 percent requirement thereof), or

"(II) is a district organized under the laws of a State as a municipal corporation for the purpose of irrigation, water conservation, or drainage, and", and

(2) in clause (v), as so redesignated, by striking "or (iii)" and inserting ", (iii), or (iv)".

(b) Effective Date.—The amendments made by subsection (a) shall apply to years beginning after December 31, 1997.

SEC. 912. EXTENSION OF MORATORIUM ON APPLICATION OF CERTAIN NONDISCRIMINATION RULES TO STATE AND LOCAL GOVERNMENTS.

(a) General Nondiscrimination and Participation Rules.—

(1) Nondiscrimination requirements.—Section 401(a)(5) (relating to qualified pension, profit-sharing, and stock bonus plans) is amended by adding at the end the following:

"(G) Governmental plans.—Paragraphs (3) and (4) shall not apply to a governmental plan (within the meaning of section 414(d)).".

(2) Additional participation requirements.—Section 401(a)(26)(H) (relating to additional participation requirements) is amended to read as follows:

"(H) Exception for governmental plans.—This paragraph shall not apply to a governmental plan (within the meaning of section 414(d)).".

(3) Minimum participation standards.—Section 410(c)(2) (relating to application of participation standards to certain plans) is amended to read as follows:

"(2) A plan described in paragraph (1) shall be treated as meeting the requirements of this section for purposes of section 401(a), except that in the case of a plan described in subparagraph (B), (C), or (D) of paragraph (1), this paragraph shall only apply if such plan meets the requirements of section 401(a)(3) (as in effect on September 1, 1974).".

(b) Participation Standards for Qualified Cash or Deferred Arrangements.—Section 401(k)(3) (relating to application of participation and discrimination standards) is amended by adding at the end the following:

"(G)(i) The requirements of subparagraph (A)(i) and (C) shall not apply to a governmental plan (within the meaning of section 414(d)).

"(ii) The requirements of subsection (m)(2) (without regard to subsection (a)(4)) shall apply to any matching contribution of a governmental plan (as so defined).".

(c) Nondiscrimination Rules for Section 403(b) Plans.—Section 403(b)(12) (relating to nondiscrimination requirements) is amended by adding at the end the following:

"(C) Governmental plans.—For purposes of paragraph (1)(D), the requirements of subparagraph (A)(i) shall not apply to a governmental plan (within the meaning of section 414(d)).".

(d) Effective Date.—

(1) In general.—The amendments made by this section apply to taxable years beginning on or after the date of enactment of this Act.

(2) Treatment for years beginning before date of enactment.—A governmental plan (within the meaning of section 414(d) of the Internal Revenue Code of 1986) shall be treated as satisfying the requirements of sections 401(a)(3), 401(a)(4), 401(a)(26), 401(k), 401(m), 403 (b)(1)(D) and (b)(12), and 410 of such Code for all taxable years beginning before the date of enactment of this Act.

SEC. 913. TREATMENT OF CERTAIN DISABILITY BENEFITS RECEIVED BY FORMER POLICE OFFICERS OR FIREFIGHTERS.

(a) General Rule.—For purposes of determining whether any amount to which this section applies is excludable from gross income under section 104(a)(1) of the Internal Revenue Code of 1986, the following conditions shall be treated as personal injuries or sickness in the course of employment:

(1) Heart disease.

(2) Hypertension.

(b) Amounts To Which Section Applies.—This section shall apply to any amount—

(1) which is payable—

(A) to an individual (or to the survivors of an individual) who was a full-time employee of any police department or fire department which is organized and operated by a State, by any political subdivision thereof, or by any agency or instrumentality of a State or political subdivision thereof, and

(B) under a State law (as amended on May 19, 1992) which irrebuttably presumed that heart disease and hypertension are work-related illnesses but only for employees separating from service before July 1, 1992; and

(2) which was received in calendar year 1989, 1990, or 1991.

(c) Waiver of Statute of Limitations.—If, on the date of the enactment of this Act (or at any time within the 1-year period beginning on such date of enactment) credit or refund of any overpayment of tax resulting from the provisions of this section is barred by any law or rule of law, credit or refund of such overpayment shall, nevertheless, be allowed or made if claim therefore is filed before the date 1 year after such date of enactment.

SEC. 914. PORTABILITY OF PERMISSIVE SERVICE CREDIT UNDER GOVERNMENTAL PENSION PLANS.

(a) In General.—Section 415(b)(2) (relating to the limitation for defined benefit plans) is amended by adding at the end the following new subparagraph:

"(J) Purchase of permissive service credit.—

"(i) Benefits treated as derived from employer contributions.—For purposes of this section, the term 'annual benefit' shall include the accrued benefit derived from contributions to a governmental plan (within the meaning of section 414(d)) to purchase permissive service credit.

"(ii) Definition of permissive service credit.—For purposes of this subparagraph, the term 'permissive service credit' means credit—

"(I) for a period of service recognized by a governmental plan for purposes of calculating an employee's accrued benefit under such plan,

"(II) which such employee has not received (or has forfeited), and

"(III) which such employee may receive only by making a contribution, as determined under the governmental plan, which does not exceed the amount (actuarially determined under the terms of such governmental plan) necessary to fund the accrued benefit attributable to such period of service.

"(iii) No effect on employer 'pick-up' contributions.—Nothing in this subparagraph shall be construed as preventing the application of section 414(h) to contributions to purchase permissive service credit.".

(b) Conforming Amendment.—Section 415(c)(2) is amended by adding at the end the following new sentence: "The term 'annual addition' shall not include contributions to purchase permissive service credit (within the meaning of subsection (b)(2)(J)).".

(c) Effective Date.—The amendments made by this section shall apply to years beginning after December 31, 1997.

SEC. 915. GRATUITOUS TRANSFERS FOR THE BENEFIT OF EMPLOYEES.

(a) In General.—Subparagraph (C) of section 664(d)(1) and subparagraph (C) of section 664(d)(2) are each amended by striking the period at the end thereof and inserting "or, to the extent the remainder interest is in qualified employer securities (as defined in paragraph (3)(C)), is to be transferred to an employee stock ownership plan (as defined in section 4975(e)(7)) in a qualified gratuitous transfer (as defined by subsection (g)).".

(b) Qualified Gratuitous Transfer Defined.—Section 664 is amended by adding at the end the following new subsection:

"(g) Qualified Gratuitous Transfer of Qualified Employer Securities.—

"(1) In general.—For purposes of this section, the term 'qualified gratuitous transfer' means a transfer of qualified employer securities to an employee stock ownership plan (as defined in section 4975(e)(7)) but only to the extent that—

"(A) the securities transferred previously passed from a decedent dying before January 1, 1999, to a trust described in paragraph (1) or (2) of subsection (d),

"(B) no deduction under section 404 is allowable with respect to such transfer,

"(C) such plan contains the provisions required by paragraph (3),

"(D) such plan treats such securities as being attributable to employer contributions but without regard to the limitations otherwise applicable to such contributions under section 404, and

"(E) the employer whose employees are covered by the plan described in this paragraph files with the Secretary a verified written statement consenting to the application of sections 4978 and 4979A with respect to such employer.

"(2) Exception.—The term 'qualified gratuitous transfer' shall not include a transfer of qualified employer securities to an employee stock ownership plan unless—

"(A) such plan was in existence on August 1, 1996,

"(B) at the time of the transfer, the decedent and members of the decedent's family (within the meaning of section 267(c)(4)) own (directly or through the application of section 318(a)) no more than 10 percent of the value of the stock of the corporation referred to in paragraph (4), and

"(C) immediately after the transfer, such plan owns (after the application of section 318(a)(4)) at least 60 percent of the value of the outstanding stock of the corporation.

"(3) Plan requirements.—A plan contains the provisions required by this paragraph if such plan provides that—

"(A) the qualified employer securities so transferred are allocated to plan participants in a manner consistent with section 401(a)(4),

"(B) plan participants are entitled to direct the plan as to the manner in which such securities which are entitled to vote and are allocated to the account of such participant are to be voted,

"(C) an independent trustee votes the securities so transferred which are not allocated to plan participants,

"(D) each participant who is entitled to a distribution from the plan has the rights described in subparagraphs (A) and (B) of section 409(h)(1),

"(E) such securities are held in a suspense account under the plan to be allocated each year, up to the limitations under section 415(c), after first allocating all other annual additions for the limitation year, up to the limitations under sections 415 (c) and (e), and

"(F) on termination of the plan, all securities so transferred which are not allocated to plan participants as of such termination are to be transferred to, or for the use of, an organization described in section 170(c).

For purposes of the preceding sentence, the term 'independent trustee' means any trustee who is not a member of the family (within the meaning of section 267(c)(4)) of the decedent or a 5-percent shareholder. A plan shall not fail to be treated as meeting the requirements of section 401(a) by reason of meeting the requirements of this subsection.

"(4) Qualified employer securities.—For purposes of this section, the term 'qualified employer securities' means employer securities (as defined in section 409(l)) which are issued by a domestic corporation—

"(A) which has no outstanding stock which is readily tradable on an established securities market, and

"(B) which has only 1 class of stock.

"(5) Treatment of securities allocated by employee stock ownership plan to persons related to decedent or 5-percent shareholders.—

"(A) In general.—If any portion of the assets of the plan attributable to securities acquired by the plan in a qualified gratuitous transfer are allocated to the account of—

"(i) any person who is related to the decedent (within the meaning of section 267(b)), or

"(ii) any person who, at the time of such allocation or at any time during the 1-year period ending on the date of the acquisition of qualified employer securities by the plan, is a 5-percent shareholder of the employer maintaining the plan,

the plan shall be treated as having distributed (at the time of such allocation) to such person or shareholder the amount so allocated.

"(B) 5-PERCENT SHAREHOLDER.—For purposes of subparagraph (A), the term '5-percent shareholder' means any person who owns (directly or through the application of section 318(a)) more than 5 percent of the outstanding stock of the corporation which issued such qualified employer securities or of any corporation which is a member of the same controlled group of corporations (within the meaning of section 409(l)(4)) as such corporation. For purposes of the preceding sentence, section 318(a) shall be applied without regard to the exception in paragraph (2)(B)(i) thereof.

"(C) CROSS REFERENCE.—

"For excise tax on allocations described in subparagraph (A), see section 4979A.

"(6) TAX ON FAILURE TO TRANSFER UNALLOCATED SECURITIES TO CHARITY ON TERMINATION OF PLAN.—If the requirements of paragraph (3)(F) are not met with respect to any securities, there is hereby imposed a tax on the employer maintaining the plan in an amount equal to the sum of—

"(A) the amount of the increase in the tax which would be imposed by chapter 11 if such securities were not transferred as described in paragraph (1), and

"(B) interest on such amount at the underpayment rate under section 6621 (and compounded daily) from the due date for filing the return of the tax imposed by chapter 11.".

(c) CONFORMING AMENDMENTS.—

(1) Section 401(a)(1) is amended by inserting "or by a charitable remainder trust pursuant to a qualified gratuitous transfer (as defined in section 664(g)(1))," after "stock bonus plans),".

(2) Section 404(a)(9) is amended by inserting after subparagraph (B) the following new subparagraph:

"(C) A qualified gratuitous transfer (as defined in section 664(g)(1)) shall have no effect on the amount or amounts otherwise deductible under paragraph (3) or (7) or under this paragraph.".

(3) Section 415(c)(6) is amended by adding at the end thereof the following new sentence:

"The amount of any qualified gratuitous transfer (as defined in section 664(g)(1)) allocated to a participant for any limitation year shall not exceed the limitations imposed by this section, but such amount shall not be taken into account in determining whether any other amount exceeds the limitations imposed by this section.".

(4) Section 415(e) is amended—

(A) by redesignating paragraph (6) as paragraph (7), and

(B) by inserting after paragraph (5) the following new paragraph:

"(6) SPECIAL RULE FOR QUALIFIED GRATUITOUS TRANSFERS.—Any qualified gratuitous transfer of qualified employer securities (as defined by section 664(g)) shall not be taken into account in calculating, and shall not be subject to, the limitations provided in this subsection.".

(5) Subparagraph (B) of section 664(d)(1) and subparagraph (B) of section 664(d)(2) are each amended by inserting "and other than qualified gratuitous transfers described in subparagraph (C)" after "subparagraph (A)".

(6) Paragraph (4) of section 674(b) is amended by inserting before the period "or to an employee stock ownership plan (as defined in section 4975(e)(7)) in a qualified gratuitous transfer (as defined in section 664(g)(1))".

(7) Section 2055(a) is amended—

(i) by striking "or" at the end of paragraph (3),

(ii) by striking the period at the end of paragraph (4) and inserting "; or", and

(iii) by inserting after paragraph (4) the following new paragraph:

"(5) to an employee stock ownership plan if such transfer qualifies as a qualified gratuitous transfer of qualified employer securities within the meaning of section 664(g).".

(8) Paragraph (8) of section 2056(b) is amended to read as follows:

"(8) SPECIAL RULE FOR CHARITABLE REMAINDER TRUSTS.—

"(A) IN GENERAL.—If the surviving spouse of the decedent is the only beneficiary of a qualified charitable remainder trust who is not a charitable beneficiary nor an ESOP beneficiary, paragraph (1) shall not apply to any interest in such trust which passes or has passed from the decedent to such surviving spouse.

"(B) DEFINITIONS.—For purposes of subparagraph (A)—

"(i) CHARITABLE BENEFICIARY.—The term 'charitable beneficiary' means any beneficiary which is an organization described in section 170(c).

"(ii) ESOP BENEFICIARY.—The term 'ESOP beneficiary' means any beneficiary which is an employee stock ownership plan (as defined in section 4975(e)(7)) that holds a remainder interest in qualified employer securities (as defined in section 664(g)(4)) to be transferred to such plan in a qualified gratuitous transfer (as defined in section 664(g)(1)).

"(iii) QUALIFIED CHARITABLE REMAINDER TRUST.—The term 'qualified charitable remainder trust' means a charitable remainder annuity trust or a charitable remainder unitrust (described in section 664).".

(9) Section 4947(b) is amended by inserting after paragraph (3) the following new paragraph:

"(4) SECTION 507.—The provisions of section 507(a) shall not apply to a trust which is described in subsection (a)(2) by reason of a distribution of qualified employer securities (as defined in section 664(g)(4)) to an employee stock ownership plan (as defined in section 4975(e)(7)) in a qualified gratuitous transfer (as defined by section 664(g)).".

(10) The last sentence of section 4975(e)(7) is amended by inserting "and section 664(g)" after "section 409(n)"

(11) Subsection (a) of section 4978 is amended—

(A) by inserting "or acquired any qualified employer securities in a qualified gratuitous transfer to which section 664(g) applied" after "section 1042 applied", and

(B) by inserting before the period at the end of subparagraph (B) "60 percent of the total value of all employer securities as of such disposition in the case of any qualified employer securities in a qualified gratuitous transfer to which section 664(g) applied)".

(12) Paragraph (2) of section 4978(b) is amended—

(A) by inserting "or acquired in the qualified gratuitous transfer to which section 664(g) applied" after "section 1042 applied", and

(B) by inserting "or to which section 664(g) applied" after "section 1042 applied" in subparagraph (C) thereof.

(13) Subsection (c) of section 4978 is amended by striking "written statement" and all that follows and inserting "written statement described in section 664(g)(1)(E) or in section 1042(b)(3) (as the case may be).".

(14) Paragraph (2) of section 4978(e) is amended by striking the period and inserting "; except that such section shall be applied without regard to subparagraph (B) thereof for purposes of applying this section and section 4979A with respect to securities acquired in a qualified gratuitous transfer (as defined in section 664(g)(1)).".

(15) Subsection (a) of section 4979A is amended to read as follows:

"(a) IMPOSITION OF TAX.—If—

"(1) there is a prohibited allocation of qualified securities by any employee stock ownership plan or eligible worker-owned cooperative, or

"(2) there is an allocation described in section 664(g)(5)(A),

there is hereby imposed a tax on such allocation equal to 50 percent of the amount involved.".

(16) Subsection (c) of section 4979A is amended to read as follows:

"(c) LIABILITY FOR TAX.—The tax imposed by this section shall be paid by—

"(1) the employer sponsoring such plan, or

"(2) the eligible worker-owned cooperative, which made the written statement described in section 664(g)(1)(E) or in section 1042(b)(3)(B) (as the case may be).".

(17) Section 4979A is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) SPECIAL STATUTE OF LIMITATIONS FOR TAX ATTRIBUTABLE TO CERTAIN ALLOCATIONS.—The statutory period for the assessment of any tax imposed by this section on an allocation described in subsection (a)(2) of qualified employer securities shall not expire before the date which is 3 years from the later of—

"(1) the 1st allocation of such securities in connection with a qualified gratuitous transfer (as defined in section 664(g)(1)), or

"(2) the date on which the Secretary is notified of the allocation described in subsection (a)(2).".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers made by trusts to, or for the use of, an employee stock ownership plan after the date of the enactment of this Act.

SEC. 916. TREATMENT OF CERTAIN TRANSPORTATION ON NON-COMMERCIALLY OPERATED AIRCRAFT AS A FRINGE BENEFIT EXCLUDABLE FROM GROSS INCOME.

(a) IN GENERAL.—Subsection (b) of section 132 (relating to no-additional-cost service defined) is amended to read as follows:

"(b) NO-ADDITIONAL-COST SERVICE DEFINED.—For purposes of this section, the term 'no-additional-cost service' means any service provided by an employer to an employee for use by such employee if—

"(1) such service—

"(A) is offered for sale to customers in the ordinary course of the line of business of the employer in which the employee is performing services, or

"(B) consists of transportation on an aircraft, if—

"(i) transportation on such aircraft is not offered for sale to customers,

"(ii) such transportation for use by such employee is provided on a flight made in the ordinary course of the trade or business of an employer which owns or leases such aircraft for use in such trade or business, and

"(iii) the flight on which the transportation is provided would have been made whether or not such employee was transported on the flight, and

"(2) the employer incurs no substantial additional cost (including forgone revenue) in providing such service to the employee (determined without regard to any amount paid by the employee for such service).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services provided after December 31, 1997.

SEC. 917. MINIMUM PENSION ACCRUED BENEFIT DISTRIBUTABLE WITHOUT CONSENT INCREASED TO $5,000.

(a) IN GENERAL.—Subparagraph (A) of section 411(a)(11) (relating to restrictions on certain mandatory distributions) is amended by striking "$3,500" and inserting "the applicable limit".

(b) APPLICABLE LIMIT.—Paragraph (11) of section 411(a) is amended by adding at the end the following new subparagraph:

"(D) APPLICABLE LIMIT.—

"(i) IN GENERAL.—For purposes of subparagraph (A), the applicable limit is $5,000.

"(ii) INFLATION ADJUSTMENT.—In the case of plan years beginning in a calendar year after 1998, the dollar amount contained in clause (i) shall be increased by an amount equal to—

"(I) such dollar amount, multiplied by

"(II) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 1997' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $50, such amount shall be rounded to the next lowest multiple of $50.".

(c) CONFORMING AMENDMENTS.—

(1) Section 411(a)(7)(B), paragraphs (1) and (2) of section 417(e), and section 457(e)(9) are each amended by striking "$3,500" each place in appears (other than the headings) and inserting "the applicable limit under section 411(a)(11)(D)".

(2) The headings for paragraphs (1) and (2) of section 417(e) and subparagraph (A) of section 457(e)(9) are each amended by striking "$3,500" and inserting "APPLICABLE LIMIT".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after the date of the enactment of this Act.

SEC. 918. CLARIFICATION OF CERTAIN RULES RELATING TO EMPLOYEE STOCK OWNERSHIP PLANS OF S CORPORATIONS.

(a) CERTAIN CASH DISTRIBUTIONS PERMITTED.—

(1) Paragraph (2) of section 409(h) is amended by adding at the end the following new subparagraph:

"(B) PLAN MAINTAINED BY S CORPORATION.—In the case of a plan established and maintained by an S corporation which otherwise meets the requirements of this subsection or section 4975(e)(7), such plan shall not be treated as failing to meet the requirements of this subsection or section 401(a) merely because it does not permit a participant to exercise the right described in paragraph (1)(A) if such plan provides that the participant entitled to a distribution has a right to receive the distribution in cash.".

(2) Paragraph (2) of section 409(h) is amended—

(A) by striking "a plan which" in the first sentence and inserting the following:

"(A) IN GENERAL.—A plan which", and

(B) by moving the text before subparagraph (B) 2 ems to the right.

(b) SHAREHOLDER-EMPLOYEES NOT TREATED AS OWNER-EMPLOYEES UNDER TAX ON PROHIBITED TRANSACTIONS.—The last sentence of section 4975(d) is amended by striking all that follows "preceding sentence," through "Revision Act of 1982,".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

Subtitle C—Revisions Relating to Disasters

SEC. 921. AUTHORITY TO POSTPONE CERTAIN TAX-RELATED DEADLINES BY REASON OF PRESIDENTIALLY DECLARED DISASTER.

(a) IN GENERAL.—Chapter 77 is amended by inserting after section 7508 the following new section:

"SEC. 7508A. AUTHORITY TO POSTPONE CERTAIN TAX-RELATED DEADLINES BY REASON OF PRESIDENTIALLY DECLARED DISASTER.

"(a) IN GENERAL.—In the case of a taxpayer determined by the Secretary to be affected by a Presidentially declared disaster (as defined by section 1033(h)(3)), the Secretary may prescribe regulations under which a period of up to 90 days may be disregarded in determining, under the internal revenue laws, in respect of any tax liability (including any penalty, additional amount, or addition to the tax) of such taxpayer—

"(1) whether any of the acts by the taxpayer described in paragraph (1) of section 7508(a) were performed within the time prescribed therefor, and

"(2) the amount of any credit or refund.

"(b) INTEREST ON OVERPAYMENTS AND UNDERPAYMENTS.—Subsection (a) shall not apply for the purpose of determining interest on any overpayment or underpayment.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 is amended by inserting after the item relating to section 7508 the following new item:

"Sec. 7508A. Authority to postpone certain tax-related deadlines by reason of presidentially declared disaster.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to any period for performing an act that has not expired before the date of the enactment of this Act.

SEC. 922. USE OF CERTAIN APPRAISALS TO ESTABLISH AMOUNT OF DISASTER LOSS.

(a) IN GENERAL.—Subsection (i) of section 165 is amended by adding at the end the following new paragraph:

"(4) USE OF DISASTER LOAN APPRAISALS TO ESTABLISH AMOUNT OF LOSS.—Nothing in this title shall be construed to prohibit the Secretary from prescribing regulations or other guidance under which an appraisal for the purpose of obtaining a loan of Federal funds or a loan guarantee from the Federal Government as a result of a Presidentially declared disaster (as defined by section 1033(h)(3)) may be used to establish the amount of any loss described in paragraph (1) or (2).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 923. TREATMENT OF LIVESTOCK SOLD ON ACCOUNT OF WEATHER-RELATED CONDITIONS.

(a) DEFERRAL OF INCOME INCLUSION.—Subsection (e) of section 451 (relating to special rules for proceeds from livestock sold on account of drought) is amended—

(1) by striking "drought conditions, and that these drought conditions" in paragraph (1) and inserting "drought, flood, or other weather-related conditions, and that such conditions"; and

(2) by inserting ", FLOOD, OR OTHER WEATHER-RELATED CONDITIONS" after "DROUGHT" in the subsection heading.

(b) INVOLUNTARY CONVERSIONS.—Subsection (e) of section 1033 (relating to livestock sold on account of drought) is amended—

(1) by inserting ", flood, or other weather-related conditions" before the period at the end thereof; and

(2) by inserting ", FLOOD, OR OTHER WEATHER-RELATED CONDITIONS" after "DROUGHT" in the subsection heading.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales and exchanges after December 31, 1996.

SEC. 924. MORTGAGE FINANCING FOR RESIDENCES LOCATED IN DISASTER AREAS.

Subsection (k) of section 143 (relating to mortgage revenue bonds; qualified mortgage bond and qualified veteran's mortgage bond) is amended by adding at the end the following new paragraph:

"(11) SPECIAL RULES FOR RESIDENCES LOCATED IN DISASTER AREAS.—In the case of a residence located in an area determined by the President to warrant assistance from the Federal Government under the Disaster Relief and Emergency Assistance Act (as in effect on the date of the enactment of the Taxpayer Relief Act of 1997), this section shall be applied with the following modifications to financing provided with respect to such residence within 1 year after the date of the disaster declaration:

"(A) Subsection (d) (relating to 3-year requirement) shall not apply.

"(B) Subsections (e) and (f) (relating to purchase price requirement and income requirement) shall be applied as if such residence were a targeted area residence.

The preceding sentence shall apply only with respect to bonds issued after December 31, 1996, and before January 1, 2000.".

Subtitle D—Provisions Relating to Employment Taxes

SEC. 931. CLARIFICATION OF EMPLOYMENT TAX STATUS OF INDIVIDUALS DISTRIBUTING BAKERY PRODUCTS.

(a) INTERNAL REVENUE CODE.—Subparagraph (A) of section 3121(d)(3) is amended by striking "bakery products,".

(b) SOCIAL SECURITY ACT.—Subparagraph (A) of section 210(j)(3) of the Social Security Act is amended by striking "bakery products,".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services performed after December 31, 1997.

SEC. 932. CLARIFICATION OF STANDARD TO BE USED IN DETERMINING EMPLOYMENT TAX STATUS OF SECURITIES BROKERS.

(a) IN GENERAL.—In determining for purposes of the Internal Revenue Code of 1986 whether a registered representative of a securities broker-dealer is an employee (as defined in section 3121(d) of the Internal Revenue Code of 1986), no weight shall be given to instructions from the service recipient which are imposed only in compliance with investor protection standards imposed by the Federal Government, any State government, or a governing body pursuant to a delegation by a Federal or State agency.

(b) EFFECTIVE DATE.—Subsection (a) shall apply to services performed after December 31, 1997.

SEC. 933. CLARIFICATION OF EXEMPTION FROM SELF-EMPLOYMENT TAX FOR CERTAIN TERMINATION PAYMENTS RECEIVED BY FORMER INSURANCE SALESMEN.

(a) INTERNAL REVENUE CODE.—Section 1402 (relating to definitions) is amended by adding at the end the following new subsection:

"(k) CODIFICATION OF TREATMENT OF CERTAIN TERMINATION PAYMENTS RECEIVED BY FORMER INSURANCE SALESMEN.—Nothing in subsection (a) shall be construed as including in the net earnings from self-employment of an individual any amount received during the taxable year from an insurance company on account of services performed by such individual as an insurance salesman for such company if—

"(1) such amount is received after termination of such individual's agreement to perform such services for such company,

"(2) such individual performs no services for such company after such termination and before the close of such taxable year,

"(3) such individual enters into a covenant not to compete against such company which applies to at least the 1-year period beginning on the date of such termination, and

"(4) the amount of such payment—

"(A) depends solely on policies sold by such individual during the last year of such agreement and the extent to which such policies remain in force for some period after such termination, and

"(B) does not depend to any extent on length of service or overall earnings from services performed for such company.".

(b) Social Security Act.—Section 211 of the Social Security Act is amended by adding at the end the following new subsection:

"Codification of Treatment of Certain Termination Payments Received by Former Insurance Salesmen

"(j) Nothing in subsection (a) shall be construed as including in the net earnings from self-employment of an individual any amount received during the taxable year from an insurance company on account of services performed by such individual as an insurance salesman for such company if—

"(1) such amount is received after termination of such individual's agreement to perform such services for such company,

"(2) such individual performs no services for such company after such termination and before the close of such taxable year,

"(3) such individual enters into a covenant not to compete against such company which applies to at least the 1-year period beginning on the date of such termination, and

"(4) the amount of such payment—

"(A) depends solely on policies sold by such individual during the last year of such agreement and the extent to which such policies remain in force for some period after such termination, and

"(B) does not depend to any extent on length of service or overall earnings from services performed for such company.".

(c) Effective Date.—The amendments made by this section shall apply to payments after December 31, 1997.

SEC. 934. STANDARDS FOR DETERMINING WHETHER INDIVIDUALS ARE NOT EMPLOYEES.

(a) In General.—Chapter 25 (general provisions relating to employment taxes) is amended by adding after section 3510 the following new section:

"SEC. 3511. STANDARDS FOR DETERMINING WHETHER INDIVIDUALS ARE NOT EMPLOYEES.

"(a) General Rule.—For purposes of this title, and notwithstanding any provision of this title to the contrary, if the requirements of subsections (b), (c), and (d) are met with respect to any service performed by any individual, then with respect to such service—

"(1) the service provider shall not be treated as an employee,

"(2) the service recipient shall not be treated as an employer, and

"(3) the payor shall not be treated as an employer.

"(b) Service Provider Requirements With Regard to Service Recipient.—For the purposes of subsection (a), the requirements of this subsection are met if the service provider, in connection with performing the service—

"(1) has a significant investment in assets and/or training,

"(2) incurs significant unreimbursed expenses,

"(3) agrees to perform the service for a particular amount of time or to complete a specific result and is liable for damages for early termination without cause,

"(4) is paid primarily on a commissioned basis, or

"(5) purchases products for resale.

"(c) Additional Service Provider Requirements With Regard to Others.—For the purposes of subsection (a), the requirements of this subsection are met if—

"(1) the service provider—

"(A) has a principal place of business,

"(B) does not primarily provide the service in the service recipient's place of business, or

"(C) pays a fair market rent for use of the service recipient's place of business; or

"(2) the service provider—

"(A) is not required to perform service exclusively for the service recipient, and

"(B) in the year involved, or in the preceding or subsequent year—

"(i) has performed a significant amount of service for other persons,

"(ii) has offered to perform service for other persons through—

"(I) advertising,

"(II) individual written or oral solicitations,

"(III) listing with registries, agencies, brokers, and other persons in the business of providing referrals to other service recipients, or

"(IV) other similar activities, or

"(iii) provides service under a business name which is registered with (or for which a license has been obtained from) a State, a political subdivision of a State, or any agency or instrumentality of 1 or more States or political subdivisions.

"(d) Written Document Requirements.—For purposes of subsection (a), the requirements of this subsection are met if the services performed by the individual are performed pursuant to a written contract between such individual and the person for whom the services are performed, or the payor, and such contract provides that the individual will not be treated as an employee with respect to such services for purposes of this subtitle or subtitle A.

"(e) Special Rules.—For purposes of this section—

"(1) If for any taxable year any service recipient or payor fails to meet the applicable reporting requirements of sections 6041(a), 6041A(a), or 6051 with respect to a service provider, then, unless such failure is due to reasonable cause and not willful neglect, this section shall not apply in determining whether such service provider shall not be treated as an employee of such service recipient or payor for such year.

"(2) If the service provider is performing services through an entity owned in whole or in part by such service provider, then the references to 'service provider' in subsections (b) through (d) may include such entity, provided that the written contract referred to in paragraph (1) of subsection (d) may be with either the service provider or such entity and need not be with both.

"(f) Definitions.—For the purposes of this section—

"(1) Service Provider.—The term 'service provider' means any individual who performs service for another person.

"(2) Service Recipient.—Except as provided in paragraph (5), the term 'service recipient' means the person for whom the service provider performs such service.

"(3) Payor.—Except as provided in paragraph (5), the term 'payor' means the person who pays the service provider for the performance of such service in the event that the service recipients do not pay the service provider.

"(4) In Connection With Performing the Service.—The term 'in connection with performing the service' means in connection or related to—

"(A) the actual service performed by the service provider for the service recipients or for other persons for whom the service provider has performed similar service, or

"(B) the operation of the service provider's trade or business.

"(5) Exceptions.—The terms 'service recipient' and 'payor' do not include any entity which is owned in whole or in part by the service provider.".

(b) Clerical Amendment.—The table of sections for chapter 25 is amended by adding at the end the following new item:

"Sec. 3511. Standards for determining whether individuals are not employees.".

(c) Effective Date.—The amendments made by this section shall apply to services performed after December 31, 1997.

Subtitle E—Provisions Relating to Small Businesses

SEC. 941. WAIVER OF PENALTY THROUGH 1998 ON SMALL BUSINESSES FAILING TO MAKE ELECTRONIC FUND TRANSFERS OF TAXES.

No penalty shall be imposed under the Internal Revenue Code of 1986 solely by reason of a failure by a person to use the electronic fund transfer system established under section 6302(h) of such Code if—

(1) such person is a member of a class of taxpayers first required to use such system on or after July 1, 1997, and

(2) such failure occurs before January 1, 1999.

SEC. 942. CLARIFICATION OF TREATMENT OF HOME OFFICE USE FOR ADMINISTRATIVE AND MANAGEMENT ACTIVITIES.

(a) In General.—Paragraph (1) of section 280A(c) is amended by adding at the end the following new sentence: "For purposes of subparagraph (A), the term 'principal place of business' includes a place of business which is used by the taxpayer for the administrative or management activities of any trade or business of the taxpayer if there is no other fixed location of such trade or business where the taxpayer conducts substantial administrative or management activities of such trade or business.".

(b) Effective Date.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1997.

Subtitle F—Other Provisions

SEC. 951. USE OF ESTIMATES OF SHRINKAGE FOR INVENTORY ACCOUNTING.

(a) In General.—Section 471 (relating to general rule for inventories) is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

"(b) Estimates of Inventory Shrinkage Permitted.—A method of determining inventories shall not be deemed not to clearly reflect income solely because it utilizes estimates of inventory shrinkage that are confirmed by a physical count only after the last day of the taxable year if—

"(1) the taxpayer normally does a physical count of inventories at each location on a regular and consistent basis, and

"(2) the taxpayer makes proper adjustments to such inventories and to its estimating methods to the extent such estimates are greater than or less than the actual shrinkage.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall apply to taxable years ending after the date of the enactment of this Act.

(2) COORDINATION WITH SECTION 481.—In the case of any taxpayer permitted by this section to change its method of accounting to a permissible method for any taxable year—

(A) such changes shall be treated as initiated by the taxpayer,

(B) such changes shall be treated as made with the consent of the Secretary, and

(C) the period for taking into account the adjustments under section 481 by reason of such change shall be 4 years.

SEC. 952. ASSIGNMENT OF WORKMEN'S COMPENSATION LIABILITY ELIGIBLE FOR EXCLUSION RELATING TO PERSONAL INJURY LIABILITY ASSIGNMENTS.

(a) IN GENERAL.—Subsection (c) of section 130 (relating to certain personal injury liability assignments) is amended—

(1) by inserting ", or as compensation under any workmen's compensation act," after "(whether by suit or agreement)" in the material preceding paragraph (1),

(2) by inserting "or the workmen's compensation claim," after "agreement," in paragraph (1), and

(3) by striking "section 104(a)(2)" in paragraph (2)(D) and inserting "paragraph (1) or (2) of section 104(a)".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to claims under workmen's compensation acts filed after the date of the enactment of this Act.

SEC. 953. TAX-EXEMPT STATUS FOR CERTAIN STATE WORKER'S COMPENSATION ACT COMPANIES.

(a) IN GENERAL.—Section 501(c)(27) (relating to membership organizations under workmen's compensation acts) is amended by adding at the end the following:

"(B) Any organization (including a mutual insurance company) if—

"(i) such organization is created by State law and is organized and operated under State law exclusively to—

"(I) provide workmen's compensation insurance which is required by State law or with respect to which State law provides significant disincentives if such insurance is not purchased by an employer, and

"(II) provide related coverage which is incidental to workmen's compensation insurance,

"(ii) such organization must provide workmen's compensation insurance to any employer in the State (for employees in the State or temporarily assigned out-of-State) which seeks such insurance and meets other reasonable requirements relating thereto,

"(iii)(I) the State makes a financial commitment with respect to such organization either by extending the full faith and credit of the State to debt of such organization or by providing the initial operating capital of such organization and (II) in the case of periods after the date of enactment of this subparagraph, the assets of such organization revert to the State upon dissolution, and

"(iv) the majority of the board of directors or oversight body of such organization are appointed by the chief executive officer or other executive branch official of the State, by the State legislature, or by both.".

(b) CONFORMING AMENDMENTS.—Section 501(c)(27) of such Code is amended by inserting "(A)" after "(27)", by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively, and by redesignating clauses (i) and (ii) of subparagraphs (B) and (C) (before redesignation) as subclauses (I) and (II), respectively.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. 954. ELECTION TO CONTINUE EXCEPTION FROM TREATMENT OF PUBLICLY TRADED PARTNERSHIPS AS CORPORATIONS.

(a) IN GENERAL.—Section 7704 is amended by adding at the end thereof the following new subsection:

"(g) EXCEPTION FOR EXISTING PUBLICLY TRADED PARTNERSHIPS.—

"(1) IN GENERAL.—Subsection (a) shall not apply to an existing publicly traded partnership which elects the application of this subsection and consents to the application of the tax imposed by paragraph (3).

"(2) EXISTING PUBLICLY TRADED PARTNERSHIP.—For purposes of this section, the term 'existing publicly traded partnership' means any publicly traded partnership to which subsection (a) does not apply as of the date of the enactment of this paragraph (other than by reason of subsection (c)(1)).

"(3) ADDITIONAL TAX ON ELECTING PUBLICLY TRADED PARTNERSHIPS.—

"(A) IMPOSITION OF TAX.—There is hereby imposed for each taxable year on the income of every electing publicly traded partnership a tax equal to 15 percent of the gross income for such taxable year from the active conduct of trades and businesses by the partnership.

"(B) ELECTING PUBLICLY TRADED PARTNERSHIP.—For purposes of this paragraph, the term 'electing publicly traded partnership' means any partnership for which the consent under paragraph (1) is in effect.

"(C) ADJUSTMENTS IN THE CASE OF TIERED PARTNERSHIPS.—For purposes of this paragraph, if the income of the partnership includes its distributive share of income from another partnership for any taxable year, the gross income referred to in subparagraph (A) shall include the gross income of such other partnership from the active conduct of trades and businesses of such other partnership (in lieu of such distributive share). A similar rule shall apply in the case of lower-tiered partnerships.

"(D) TREATMENT OF TAX.—For purposes of this title, the tax imposed by this paragraph shall be treated as imposed by chapter 1 other than for purposes of determining the amount of any credit allowable under chapter 1.

"(4) ELECTION.—An election and consent under this subsection shall apply to the taxable year for which made and all subsequent taxable years unless revoked by the partnership. Such revocation may be made without the consent of the Secretary, but, once so revoked, may not be reinstated.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. 955. EXCLUSION FROM UNRELATED BUSINESS TAXABLE INCOME FOR CERTAIN SPONSORSHIP PAYMENTS.

(a) IN GENERAL.—Section 513 (relating to unrelated trade or business income) is amended by adding at the end the following new subsection:

"(i) TREATMENT OF CERTAIN SPONSORSHIP PAYMENTS.—

"(1) IN GENERAL.—The term 'unrelated trade or business' does not include the activity of soliciting and receiving qualified sponsorship payments.

"(2) QUALIFIED SPONSORSHIP PAYMENTS.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified sponsorship payment' means any payment made by any person engaged in a trade or business with respect to which there is no arrangement or expectation that such person will receive any substantial return benefit other than the use or acknowledgement of the name or logo (or product lines) of such person's trade or business in connection with the activities of the organization that receives such payment. Such a use or acknowledgement does not include advertising such person's products or services (including messages containing qualitative or comparative language, price information or other indications of savings or value, an endorsement, or an inducement to purchase, sell, or use such products or services).

"(B) LIMITATIONS.—

"(i) CONTINGENT PAYMENTS.—The term 'qualified sponsorship payment' does not include any payment if the amount of such payment is contingent upon the level of attendance at one or more events, broadcast ratings, or other factors indicating the degree of public exposure to one or more events.

"(ii) ACKNOWLEDGEMENTS OR ADVERTISING IN PERIODICALS.—The term 'qualified sponsorship payment' does not include any payment which entitles the payor to an acknowledgement or advertising in regularly scheduled and printed material published by or on behalf of the payee organization that is not related to and primarily distributed in connection with a specific event conducted by the payee organization.

"(3) ALLOCATION OF PORTIONS OF SINGLE PAYMENT.—For purposes of this subsection, to the extent that a portion of a payment would (if made as a separate payment) be a qualified sponsorship payment, such portion of such payment and the other portion of such payment shall be treated as separate payments.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to payments solicited or received after December 31, 1997.

SEC. 956. ASSOCIATIONS OF HOLDERS OF TIMESHARE INTERESTS TO BE TAXED LIKE OTHER HOMEOWNERS ASSOCIATIONS.

(a) TIMESHARE ASSOCIATIONS INCLUDED AS HOMEOWNER ASSOCIATIONS.—

(1) IN GENERAL.—Paragraph (1) of section 528(c) (defining homeowners association) is amended—

(A) by striking "or a residential real estate management association" and inserting ", a residential real estate management association, or a timeshare association" in the material preceding subparagraph (A),

(B) by striking "or" at the end of clause (i) of subparagraph (B), by striking the period at the end of clause (ii) of subparagraph (B) and inserting ", or", and by adding at the end of subparagraph (B) the following new clause:

"(iii) owners of timeshare rights to use, or timeshare ownership interests in, association property in the case of a timeshare association,", and

(C) by inserting "and, in the case of a timeshare association, for activities provided to or on behalf of members of the association" before the comma at the end of subparagraph (C).

(2) TIMESHARE ASSOCIATION DEFINED.—Subsection (c) of section 528 is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) TIMESHARE ASSOCIATION.—The term 'timeshare association' means any organization (other than a condominium management association) meeting the requirement of subparagraph (A) of paragraph (1) if any member thereof holds a timeshare right to use, or a timeshare ownership interest in, real property constituting association property.".

(b) EXEMPT FUNCTION INCOME.—Paragraph (3) of section 528(d) is amended by striking "or" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", or", and by adding at the end the following new subparagraph:

"(C) owners of timeshare rights to use, or timeshare ownership interests in, real property in the case of a timeshare association.".

(c) RATE OF TAX.—Subsection (b) of section 528 (relating to certain homeowners associations) is amended by inserting before the period "(32 percent of such income in the case of a timeshare association)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

SEC. 957. ADDITIONAL ADVANCE REFUNDING OF CERTAIN VIRGIN ISLAND BONDS.

Subclause (I) of section 149(d)(3)(A)(i) of the Internal Revenue Code of 1986 shall not apply to the second advance refunding of any issue of the Virgin Islands which was first advance refunded before June 9, 1997, if the debt provisions of the refunding bonds are changed to repeal the priority first lien requirement of the refunded bonds.

SEC. 958. NONRECOGNITION OF GAIN ON SALE OF STOCK TO CERTAIN FARMERS' COOPERATIVES.

(a) IN GENERAL.—Section 1042 (relating to sales of stock to employee stock ownership plans or certain cooperatives) is amended by adding at the end the following new subsection:

"(g) APPLICATION OF SECTION TO SALES OF STOCK IN AGRICULTURAL REFINERS AND PROCESSORS TO ELIGIBLE FARM COOPERATIVES.—

"(1) IN GENERAL.—This section shall apply to the sale of stock of a qualified refiner or processor to an eligible farmers' cooperative.

"(2) QUALIFIED REFINER OR PROCESSOR.—For purposes of this subsection, the term 'qualified refiner or processor' means a domestic corporation—

"(A) substantially all of the activities of which consist of the active conduct of the trade or business of refining or processing agricultural or horticultural products, and

"(B) which purchases more than one-half of such products to be refined or processed from—

"(i) farmers who make up the eligible farmers' cooperative which is purchasing stock in the corporation in a transaction to which this subsection is to apply, and

"(ii) such cooperative.

"(3) ELIGIBLE FARMERS' COOPERATIVE.—For purposes of this section, the term 'eligible farmers' cooperative' means an organization to which part I of subchapter T applies which is engaged in the marketing of agricultural or horticultural products.

"(4) SPECIAL RULES.—In applying this section to a sale to which paragraph (1) applies—

"(A) the eligible farmers' cooperative shall be treated in the same manner as a cooperative described in subsection (b)(1)(B),

"(B) subsection (b)(2) shall be applied by substituting '100 percent' for '30 percent' each place it appears,

"(C) the determination as to whether any stock in the domestic corporation is a qualified security shall be made without regard to whether the stock is an employer security or to subsection (c)(1)(A), and

"(D) paragraphs (2)(D) and (7) of subsection (c) shall not apply.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to sales after December 31, 1997.

SEC. 959. EXCEPTION FROM REPORTING OF REAL ESTATE TRANSACTIONS FOR SALES AND EXCHANGES OF CERTAIN PRINCIPAL RESIDENCES.

(a) IN GENERAL.—Subsection (e) of section 6045 (relating to return required in the case of real estate transactions) is amended by adding at the end the following new paragraph:

"(5) EXCEPTION FOR SALES OR EXCHANGES OF CERTAIN PRINCIPAL RESIDENCES.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to any sale or exchange of a residence for $250,000 or less if the person referred to in paragraph (2)(A) receives written assurance in a form acceptable to the Secretary from the seller that—

"(i) such residence is the principal residence (within the meaning of section 121) of the seller,

"(ii) there is no federally subsidized mortgage financing assistance with respect to the mortgage on such residence, and

"(iii) the seller meets the requirements of section 121(a) with respect to such sale or exchange.

If such assurance includes an assurance that the seller is married, the preceding sentence shall be applied by substituting '$500,000' for '$250,000'.

"(B) SELLER.—For purposes of this paragraph, the term 'seller' includes the person relinquishing the residence in an exchange.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to sales and exchanges after the date of the enactment of this Act.

SEC. 960. INCREASED DEDUCTIBILITY OF BUSINESS MEAL EXPENSES FOR INDIVIDUALS SUBJECT TO FEDERAL HOURS OF SERVICE.

(a) IN GENERAL.—Section 274(n) (relating to only 50 percent of meal and entertainment expenses allowed as deduction) is amended by adding at the end the following new paragraph:

"(3) SPECIAL RULE FOR INDIVIDUALS SUBJECT TO FEDERAL HOURS OF SERVICE.—

"(A) IN GENERAL.—In the case of any expenses for food or beverages consumed while away from home (within the meaning of section 162(a)(2)) by an individual during, or incident to, the period of duty subject to the hours of service limitations of the Department of Transportation, paragraph (1) shall be applied by substituting 'the applicable percentage' for '50 percent'.

"(B) APPLICABLE PERCENTAGE.—For purposes of this paragraph, the term 'applicable percentage' means the percentage determined under the following table:

"For taxable years beginning in calendar year—	The applicable percentage is—
1998 or 1999	55
2000 or 2001	60
2002 or 2003	65
2004 or 2005	70
2006 or 2007	75
2008 or thereafter	80.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1997.

SEC. 961. QUALIFIED LESSEE CONSTRUCTION ALLOWANCES FOR SHORT-TERM LEASES.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 is amended by inserting after section 109 the following new section:

"SEC. 110. QUALIFIED LESSEE CONSTRUCTION ALLOWANCES FOR SHORT-TERM LEASES.

"(a) IN GENERAL.—Gross income of a lessee does not include any amount received in cash (or treated as a rent reduction) by a lessee from a lessor—

"(1) under a short-term lease of retail space, and

"(2) for the purpose of such lessee's constructing or improving qualified long-term real property for use in such lessee's trade or business at such retail space,

but only to the extent that such amount does not exceed the amount expended by the lessee for such construction or improvement.

"(b) CONSISTENT TREATMENT BY LESSOR.—Qualified long-term real property constructed or improved in connection with any amount excluded from a lessee's income by reason of subsection (a) shall be treated as nonresidential real property by the lessor.

"(c) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED LONG-TERM REAL PROPERTY.—The term 'qualified long-term real property' means nonresidential real property which is part of, or otherwise present at, the retail space referred to in subsection (a) and which reverts to the lessor at the termination of the lease.

"(2) SHORT-TERM LEASE.—The term 'short-term lease' means a lease (or other agreement for occupancy or use) of retail space for 15 years or less (as determined under the rules of section 168(i)(3)).

"(3) RETAIL SPACE.—The term 'retail space' means real property leased, occupied, or otherwise used by a lessee in its trade or business of selling tangible personal property or services to the general public.

"(d) INFORMATION REQUIRED TO BE FURNISHED TO SECRETARY.—Under regulations, the lessee and lessor described in subsection (a) shall, at such times and in such manner as may be provided in such regulations, furnish to the Secretary—

"(1) information concerning the amounts received (or treated as a rent reduction) and expended as described in subsection (a), and

"(2) any other information which the Secretary deems necessary to carry out the provisions of this section.".

(b) TREATMENT AS INFORMATION RETURN.—Subparagraph (A) of section 6724(d)(1)(A) is amended by striking "or" at the end of clause (vii), by adding "or" at the end of clause (viii), and by adding at the end the following new clause:

"(ix) section 110(d) (relating to qualified lessee construction allowances for short-term leases),".

(c) CROSS REFERENCE.—Paragraph (8) of section 168(i) (relating to treatment of leasehold improvements) is amended by adding at the end the following new subparagraph:

"(C) CROSS REFERENCE.—

"For treatment of qualified long-term real property constructed or improved in connection with cash or rent reduction from lessor to lessee, see section 110(b).".

(d) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 is amended by inserting after the item relating to section 109 the following new item:

"Sec. 110. Qualified lessee construction allowances for short-term leases.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to leases entered into after the date of the enactment of this Act.

SEC. 962. TAX TREATMENT OF CONSOLIDATIONS OF LIFE INSURANCE DEPARTMENTS OF MUTUAL SAVINGS BANKS.

(a) GENERAL RULE.—Section 594 (relating to alternative tax for mutual savings banks conducting life insurance business) is amended by adding at the end thereof the following new subsection:

"(c) TREATMENT OF CONSOLIDATIONS.—If 2 or more life insurance departments to which subsection (a) applied are consolidated into a single life insurance company pursuant to a requirement of State law—

"(1) such consolidation shall be treated as a reorganization described in section 368(a)(1)(E), and

"(2) any payments required to be made to policyholders in connection with such consolidation shall be treated as policyholder dividends deductible under section 808 but only if—

"(A) such payments are only with respect to policies in effect immediately before such consolidation,

"(B) such payments are only with respect to policies which are participating before and after such consolidation,

"(C) such payments shall cease with respect to any policy if such policy lapses after such consolidation,

"(D) the policyholders before such consolidation had no divisible right to the surplus of any such department and had no right to vote, and

"(E) the approval of such policyholders was not required for such consolidation.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on December 31, 1991.

SEC. 963. OFFSET OF PAST-DUE, LEGALLY ENFORCEABLE STATE TAX OBLIGATIONS AGAINST OVERPAYMENTS.

(a) IN GENERAL.—Section 6402 is amended by redesignating subsections (e) through (i) as subsections (f) through (j), respectively, and by inserting after subsection (d) the following new subsection:

"(e) COLLECTION OF PAST-DUE, LEGALLY ENFORCEABLE STATE TAX OBLIGATIONS.—

"(1) IN GENERAL.—Upon receiving notice from any State that a named person owes a past-due, legally enforceable State tax obligation to such State, the Secretary shall, under such conditions as may be prescribed by the Secretary—

"(A) reduce the amount of any overpayment payable to such person by the amount of such State tax obligation;

"(B) pay the amount by which such overpayment is reduced under subparagraph (A) to such State and notify such State of such person's name, taxpayer identification number, address, and the amount collected; and

"(C) notify the person making such overpayment that the overpayment has been reduced by an amount necessary to satisfy a past-due, legally enforceable State tax obligation.

If an offset is made pursuant to a joint return, the notice under subparagraph (B) shall include the names, taxpayer identification numbers, and addresses of each person filing such return.

"(2) OFFSET PERMITTED ONLY AGAINST RESIDENTS OF STATE SEEKING OFFSET.—Paragraph (1) shall apply to an overpayment by any person for a taxable year only if the address shown on the return for such taxable year is an address within the State seeking the offset.

"(3) PRIORITIES FOR OFFSET.—Any overpayment by a person shall be reduced pursuant to this subsection—

"(A) after such overpayment is reduced pursuant to—

"(i) subsection (a) with respect to any liability for any internal revenue tax on the part of the person who made the overpayment,

"(ii) subsection (c) with respect to past-due support, and

"(iii) subsection (d) with respect to any past-due, legally enforceable debt owed to a Federal agency, and

"(B) before such overpayment is credited to the future liability for any Federal internal revenue tax of such person pursuant to subsection (b).

If the Secretary receives notice from 1 or more agencies of the State of more than 1 debt subject to paragraph (1) that is owed by such person to such an agency, any overpayment by such person shall be applied against such debts in the order in which such debts accrued.

"(4) NOTICE; CONSIDERATION OF EVIDENCE.—No State may take action under this subsection until such State—

"(A) notifies the person owing the past-due State tax liability that the State proposes to take action pursuant to this section,

"(B) gives such person at least 60 days to present evidence that all or part of such liability is not past-due or not legally enforceable,

"(C) considers any evidence presented by such person and determines that an amount of such debt is past-due and legally enforceable, and

"(D) satisfies such other conditions as the Secretary may prescribe to ensure that the determination made under subparagraph (C) is valid and that the State has made reasonable efforts to obtain payment of such State tax obligation.

"(5) PAST-DUE, LEGALLY ENFORCEABLE STATE TAX OBLIGATION.—For purposes of this subsection, the term 'past-due, legally enforceable State tax obligation' means a debt—

"(A)(i) which resulted from—

"(I) a judgment rendered by a court of competent jurisdiction which has determined an amount of State tax to be due, or

"(II) a determination after an administrative hearing which has determined an amount of State tax to be due, and

"(ii) which is no longer subject to judicial review, or

"(B) which resulted from a State tax which has been assessed but not collected, the time for redetermination of which has expired, and which has not been delinquent for more than 10 years.

For purposes of this paragraph, the term 'State tax' includes any local tax administered by the chief tax administration agency of the State.

"(6) REGULATIONS.—The Secretary shall issue regulations prescribing the time and manner in which States must submit notices of past-due, legally enforceable State tax obligations and the necessary information that must be contained in or accompany such notices. The regulations shall specify the types of State taxes and the minimum amount of debt to which the reduction procedure established by paragraph (1) may be applied. The regulations may require States to pay a fee to reimburse the Secretary for the cost of applying such procedure. Any fee paid to the Secretary pursuant to the preceding sentence shall be used to reimburse appropriations which bore all or part of the cost of applying such procedure.

"(7) ERRONEOUS PAYMENT TO STATE.—Any State receiving notice from the Secretary that an erroneous payment has been made to such State under paragraph (1) shall pay promptly to the Secretary, in accordance with such regulations as the Secretary may prescribe, an amount equal to the amount of such erroneous payment (without regard to whether any other amounts payable to such State under such paragraph have been paid to such State).".

(b) DISCLOSURE OF CERTAIN INFORMATION TO STATES REQUESTING REFUND OFFSETS FOR PAST-DUE, LEGALLY ENFORCEABLE STATE TAX OBLIGATIONS.—

(1) Paragraph (10) of section 6103(l) is amended by striking "(c) or (d)" each place it appears and inserting "(c), (d), or (e)".

(2) The paragraph heading for such paragraph (10) is amended by striking "SECTION 6402(c) OR 6402(d)" and inserting "SUBSECTION (c), (d), OR (e) OF SECTION 6402".

(c) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 6402 is amended by striking "(c) and (d)" and inserting "(c), (d), and (e)".

(2) Paragraph (2) of section 6402(d) is amended by striking "and before such overpayment" and inserting "and before such overpayment is reduced pursuant to subsection (e) and before such overpayment".

(3) Subsection (f) of section 6402, as redesignated by subsection (a), is amended—

(A) by striking "(c) or (d)" and inserting "(c), (d), or (e)", and

(B) by striking "Federal agency" and inserting "Federal agency or State".

(4) Subsection (h) of section 6402, as redesignated by subsection (a), is amended by striking "subsection (c)" and inserting "subsection (c) or (e)".

(d) AMENDMENTS APPLIED AFTER TECHNICAL CORRECTIONS TO PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996.—

(1) Section 110(l) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 is amended by striking paragraphs (4), (5), and (7) (and the amendments made by such paragraphs), and the Internal Revenue Code of 1986 shall be applied as if such paragraphs (and amendments) had never been enacted.

(2) For purposes of applying the amendments made by this section other than this subsection, the provisions of this subsection shall be treated as having been enacted immediately before the other provisions of this section.

(e) EFFECTIVE DATE.—The amendments made by this section (other than subsection (d)) shall apply to refunds payable under section 6402 of the Internal Revenue Code of 1986 after December 31, 1998.

SEC. 964. EXEMPTION OF THE INCREMENTAL COST OF A CLEAN FUEL VEHICLE FROM THE LIMITS ON DEPRECIATION FOR VEHICLES.

(a) IN GENERAL.—Section 280F(a)(1) (relating to limiting depreciation on luxury automobiles) is amended by adding at the end the following new subparagraph:

"(C) SPECIAL RULE FOR CERTAIN CLEAN-FUEL PASSENGER AUTOMOBILES.—

"(i) MODIFIED AUTOMOBILES.—In the case of a passenger automobile which is propelled by a fuel which is not a clean-burning fuel to which is installed qualified clean-fuel vehicle property (as defined in section 179A(c)(1)(A)) for purposes of permitting such vehicle to be propelled by a clean burning fuel (as defined in section 179A(e)(1)), subparagraph (A) shall not apply to the cost of the installed qualified clean burning vehicle property as depreciated pursuant to section 168 by applying the rules under subsections (b)(1), (d)(1), and (e)(3)(B) thereof.

"(ii) PURPOSE BUILT PASSENGER VEHICLES.—In the case of a purpose built passenger vehicle (as defined in section 4001(a)(2)(C)(ii)), each of the annual limitations specified in subparagraph (A) shall be tripled.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service on or after the date of enactment of this Act and before January 1, 2005.

SEC. 965. TAX BENEFITS FOR LAW ENFORCEMENT OFFICERS KILLED IN THE LINE OF DUTY.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by redesignating section 138 as section 139 and by inserting after section 137 the following new section:

"SEC. 138. SURVIVOR BENEFITS ATTRIBUTABLE TO SERVICE BY A LAW ENFORCEMENT OFFICER WHO IS KILLED IN THE LINE OF DUTY.

"(a) IN GENERAL.—Gross income shall not include any amount paid as a survivor annuity on account of the death of a law enforcement officer killed in the line of duty—

"(1) if such annuity is provided under a governmental plan which meets the requirements of section 401(a) to the spouse (or a former spouse) of the law enforcement officer or to a child of such officer, and

"(2) to the extent such annuity is attributable to such officer's service as a law enforcement officer.

"(b) EXCEPTIONS.—

"(1) IN GENERAL.—Subsection (a) shall not apply with respect to the death of any law enforcement officer if—

"(A) the death was caused by the intentional misconduct of the officer or by such officer's intention to bring about such officer's death,

"(B) the officer was voluntarily intoxicated (as defined in section 1204 of the Omnibus Crime Control and Safe Streets Act of 1968) at the time of death, or

"(C) the officer was performing such officer's duties in a grossly negligent manner at the time of death.

"(2) EXCEPTION FOR BENEFITS PAID TO CERTAIN INDIVIDUALS.—Subsection (a) shall not apply to any payment to an individual whose actions were a substantial contributing factor to the death of the officer.

"(c) LAW ENFORCEMENT OFFICER.—For purposes of this section, the term 'law enforcement officer' means an individual serving a public agency (as defined in section 1204 of the Omnibus Crime Control and Safe Streets Act of 1968) in an official capacity, with or without compensation, as a law enforcement officer (as defined in such section).".

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 is amended by striking the last item and inserting the following new items:

"Sec. 138. Survivor benefits attributable to service by a law enforcement officer who is killed in the line of duty.

"Sec. 139. Cross references to other Acts.".

(c) EFFECTIVE DATE.—The amendments made by this subsection shall apply to amounts received in taxable years beginning after December 31, 1996, with respect to individuals dying after such date.

SEC. 966. TEMPORARY SUSPENSION OF TAXABLE INCOME LIMIT ON PERCENTAGE DEPLETION FOR MARGINAL PRODUCTION.

In the case of taxable years beginning after December 31, 1997, and before January 1, 2000, paragraph (1) of section 613A(d) of the Internal Revenue Code of 1986 shall not apply to so much of the allowance for depletion computed under section 613A(c) of such Code as is attributable to paragraph (6) thereof.

Subtitle G—Extension of Duty-Free Treatment Under Generalized System of Preferences; Tariff Treatment of Certain Equipment and Repair of Vessels

SEC. 971. GENERALIZED SYSTEM OF PREFERENCES.

(a) EXTENSION OF DUTY-FREE TREATMENT UNDER SYSTEM.—Section 505 of the Trade Act of 1974 (19 U.S.C. 2465) is amended by striking "May 31, 1997" and inserting "May 31, 1999".

(b) RETROACTIVE APPLICATION FOR CERTAIN LIQUIDATIONS AND RELIQUIDATIONS.—

(1) IN GENERAL.—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law and subject to paragraph (2), the entry—

(A) of any article to which duty-free treatment under title V of the Trade Act of 1974 would have applied if the entry had been made on May 31, 1997, and

(B) that was made after May 31, 1997, and before the date of the enactment of this Act,

shall be liquidated or reliquidated as free of duty, and the Secretary of the Treasury shall refund any duty paid with respect to such entry. As used in this subsection, the term "entry" includes a withdrawal from warehouse for consumption.

(2) REQUESTS.—Liquidation or reliquidation may be made under paragraph (1) with respect to an entry only if a request therefor is filed with the Customs Service, within 180 days after the date of the enactment of this Act, that contains sufficient information to enable the Customs Service—

(A) to locate the entry; or

(B) to reconstruct the entry if it cannot be located.

SEC. 972. EQUIPMENT AND REPAIR OF VESSELS.

(a) TARIFF TREATMENT.—Section 466 of the Tariff Act of 1930 (19 U.S.C. 1466), is amended by adding at the end the following new subsection:

"(i)(1) The duty imposed by subsection (a) shall not apply with respect to activities occurring in a Shipbuilding Agreement Party, with respect to—

"(A) self-propelled seagoing vessels of 100 gross tons or more that are used for transportation of goods or persons or for performance of a specialized service (including, but not limited to, ice breakers and dredges), and

"(B) tugs of 365 kilowatts or more.

A vessel shall be considered 'self-propelled seagoing' if its permanent propulsion and steering provide it all the characteristics of self-navigability in the high seas.

"(2) As used in this subsection—

"(A) the term 'Shipbuilding Agreement Party' means a state or separate customs territory that is a signatory to the Shipbuilding Agreement; and

"(B) the term 'Shipbuilding Agreement' means The Agreement Respecting Normal Competitive Conditions in the Commercial Shipbuilding and Repair Industry, resulting from negotiations under the auspices of the Organization for Economic Cooperation and Development, and entered into on December 21, 1994.".

(b) APPLICABILITY.—The amendment made by subsection (a) applies only with respect to activities occurring in a Shipbuilding Agreement Party (as defined in section 466(i) of the Tariff Act of 1930) during the 1-year period beginning on the date of the enactment of this Act.

Subtitle H—United States-Caribbean Basin Trade Partnership Act

SEC. 981. SHORT TITLE.

This subtitle may be cited as the "United States-Caribbean Basin Trade Partnership Act".

SEC. 982. FINDINGS AND POLICY.

(a) FINDINGS.—The Congress makes the following findings:

(1) The United States apparel industry is a major component of the United States manufacturing sector of the United States, employing nearly 825,000 people who are located in every State in the country. The United States apparel industry consumes 42 percent of the fabric produced by United States textile mills, which employ more than 650,000 people.

(2) In 1973 the United States apparel industry supplied 88 percent of the garments consumed by Americans, and in 1995 that share fell to less than 50 percent.

(3) Countries in the Western Hemisphere offer the greatest opportunities for increased exports of United States textile and apparel products.

(4) Given the greater propensity of countries located in the Western Hemisphere to use United States components and to purchase United States products compared to other countries, increased trade and economic activity between the United States and countries in the Western Hemisphere will create new jobs in the United States as a result of expanding export opportunities.

(5) The Caribbean Basin Economic Recovery Act represents a permanent commitment by the United States to encourage the development of strong democratic governments and revitalized economies in neighboring countries in the Caribbean Basin.

(6) The economic security of the countries in the Caribbean Basin is potentially threatened by the diversion of investment to Mexico as a result of the North American Free Trade Agreement.

(7) Offering NAFTA equivalent benefits to Caribbean Basin beneficiary countries, pending their eventual accession to the NAFTA or a free trade agreement comparable to the NAFTA, will promote the growth of free enterprise and economic opportunity in the region, and thereby enhance the national security interests of the United States.

(b) POLICY.—It is the policy of the United States—

(1) to assure that the domestic textile and apparel industry remains competitive in the global marketplace by encouraging the formation and expansion of "partnerships" between the textile and apparel industry of the United States and the textile and apparel industry of various countries located in the Western Hemisphere; and

(2) to offer to the products of Caribbean Basin partnership countries tariffs and quota treatment equivalent to that accorded to products of NAFTA countries, and to seek the accession of these partnership countries to the NAFTA or a free trade agreement comparable to the NAFTA at the earliest possible date, with the goal of achieving full participation in the NAFTA or in a free trade agreement comparable to the NAFTA by all partnership countries by not later than January 1, 2005.

SEC. 983. DEFINITIONS.

As used in this Act:

(1) PARTNERSHIP COUNTRY.—The term "partnership country" means a beneficiary country as defined in section 212(a)(1)(A) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702(a)(1)(A)).

(2) NAFTA.—The term "NAFTA" means the North American Free Trade Agreement entered into between the United States, Mexico, and Canada on December 17, 1992.

(3) TRADE REPRESENTATIVE.—The term "Trade Representative" means the United States Trade Representative.

(4) WTO AND WTO MEMBER.—The terms "WTO" and "WTO member" have the meanings given those terms in section 2 of the Uruguay Round Agreements Act (19 U.S.C. 3501).

SEC. 984. TEMPORARY PROVISIONS TO PROVIDE NAFTA PARITY TO PARTNERSHIP COUNTRIES.

(a) TEMPORARY PROVISIONS.—Section 213(b) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(b)) is amended to read as follows:

"(b) IMPORT-SENSITIVE ARTICLES.—

"(1) IN GENERAL.—Subject to paragraphs (2) through (5), the duty-free treatment provided under this title does not apply to—

"(A) textile and apparel articles which are subject to textile agreements;

"(B) footwear not designated at the time of the effective date of this title as eligible articles for the purpose of the generalized system of preferences under title V of the Trade Act of 1974;

"(C) tuna, prepared or preserved in any manner, in airtight containers;

"(D) petroleum, or any product derived from petroleum, provided for in headings 2709 and 2710 of the HTS;

"(E) watches and watch parts (including cases, bracelets and straps), of whatever type including, but not limited to, mechanical, quartz digital, or quartz analog, if such watches or watch parts contain any material which is the product of any country with respect to which HTS column 2 rates of duty apply; or

"(F) articles to which reduced rates of duty apply under subsection (h).

"(2) NAFTA TRANSITION PERIOD TREATMENT OF CERTAIN TEXTILE AND APPAREL ARTICLES.—

"(A) EQUIVALENT TARIFF AND QUOTA TREATMENT.—During the transition period—

"(i) the tariff treatment accorded at any time to any textile or apparel article that originates in the territory of a partnership country shall be identical to the tariff treatment that is accorded at such time under section 2 of the Annex to an article described in the same 8-digit subheading of the HTS that is an originating good of Mexico and is imported into the United States;

"(ii) duty-free treatment under this title shall apply to any textile or apparel article that is imported into the United States from a partnership country and that—

"(I) is assembled in a partnership country, from fabrics wholly formed and cut in the United States from yarns formed in the United States, and is entered—

"(aa) under subheading 9802.00.80 of the HTS; or

"(bb) under chapter 61 or 62 of the HTS if, after such assembly, the article would have qualified for treatment under subheading 9802.00.80 of the HTS, but for the fact the article was subjected to bleaching, dyeing, stone-washing, enzyme-washing, acid-washing, perma-pressing, or similar processes or embroidery; or

"(II) is knit-to-shape in a partnership country from yarns wholly formed in the United States;

"(III) is made from fabric knit in a partnership country from yarns wholly formed in the United States;

"(IV) is cut and assembled in a partnership country from yarns wholly formed in the United States; or

"(V) is identified under subparagraph (C) as a handloomed, handmade, or folklore article of such country and is certified as such by the competent authority of such country; and

"(iii) no quantitative restriction under any bilateral textile agreement may be applied to the importation into the United States of any textile or apparel article that—

"(I) originates in the territory of a partnership country, or

"(II) qualifies for duty-free treatment under subclause (I), (II), (III), (IV), or (V) of clause (ii).

"(B) NAFTA TRANSITION PERIOD TREATMENT OF NONORIGINATING TEXTILE AND APPAREL ARTICLES.—

"(i) PREFERENTIAL TARIFF TREATMENT.—Subject to clause (ii), the President may place in effect at any time during the transition period with respect to any textile or apparel article that—

"(I) is a product of a partnership country, but

"(II) does not qualify as a good that originates in the territory of a partnership country,

tariff treatment that is identical to the in-preference-level tariff treatment accorded at such time under Appendix 6.B of the Annex to an article described in the same 8-digit subheading of the HTS that is a product of Mexico and is imported into the United States. For purposes of this clause, the 'in-preference-level tariff treatment' accorded to an article that is a product of Mexico is the rate of duty applied to that article when imported in quantities less than or equal to the quantities specified in Schedule 6.B.1, 6.B.2., or 6.B.3. of the Annex for imports of that article from Mexico into the United States.

"(ii) LIMITATIONS ON CERTAIN ARTICLES.—(I) Tariff treatment under clause (i) may be extended, during any calendar year, to not more than 45,000,000 square meter equivalents of cotton or man-made fiber apparel, to not more than 1,500,000 square meter equivalents of wool apparel, and to not more than 25,000,000 square meter equivalents of goods entered under subheading 9802.00.80 of the HTS.

"(II) Except as provided in subclause (III), the amounts set forth in subclause (I) shall be allocated among the 7 partnership countries with the largest volume of exports to the United States of textile and apparel goods in calendar year 1996, based upon a pro rata share of the volume of textile and apparel goods of each of those 7 countries that entered the United States under subheading 9802.00.80 of the HTS during the first 12 months of the 14-month period ending on the date of the enactment of the United States-Caribbean Basin Trade Partnership Act.

"(III) Five percent of the amounts set forth in subclause (I) shall be allocated among the partnership countries, other than those to which subclause (II) applies, based upon a pro rata share of the exports to the United States of textile and apparel goods of each of those countries during the first 12 months of the 14-month period ending on the date of the enactment of the United States-Caribbean Basin Trade Partnership Act.

"(iii) PRIOR CONSULTATION.—The President may implement the preferential tariff treatment described in clause (i) only after consultation with representatives of the United States textile and apparel industry and other interested parties regarding—

"(I) the specific articles to which such treatment will be extended,

"(II) the annual quantities of such articles that may be imported at the preferential duty rates described in clause (i), and

"(III) the allocation of such annual quantities among beneficiary countries.

"(C) HANDLOOMED, HANDMADE, AND FOLKLORE ARTICLES.—For purposes of subparagraph (A), the Trade Representative shall consult with representatives of the partnership country for the purpose of identifying particular textile and apparel goods that are mutually agreed upon as being handloomed, handmade, or folklore goods of a kind described in section 2.3 (a), (b), or (c) or Appendix 3.1.B.11 of the Annex.

"(D) BILATERAL EMERGENCY ACTIONS.—(i) The President may take—

"(I) bilateral emergency tariff actions of a kind described in section 4 of the Annex with respect to any textile or apparel article imported from a partnership country if the application of tariff treatment under subparagraph (A) to such article results in conditions that would be cause for the taking of such actions under such section 4 with respect to an article described in the same 8-digit subheading of the HTS that is imported from Mexico; or

"(II) bilateral emergency quantitative restriction actions of a kind described in section 5 of the Annex with respect to imports of any textile or apparel article described in subparagraph (B)(i) (I) and (II) if the importation of such article into the United States results in conditions that would be cause for the taking of such actions under such section 5 with respect to a like article that is a product of Mexico.

"(ii) The requirement in paragraph (5) of section 4 of the Annex (relating to providing compensation) shall not be deemed to apply to a bilateral emergency action taken under this subparagraph.

"(iii) For purposes of applying bilateral emergency action under this subparagraph—

"(I) the term 'transition period' in sections 4 and 5 of the Annex shall be deemed to be the period defined in paragraph (5)(D); and

"(II) any requirements to consult specified in section 4 or 5 of the Annex are deemed to be satisfied if the President requests consultations with the partnership country in question and the country does not agree to consult within the time period specified in such section.

"(3) NAFTA TRANSITION PERIOD TREATMENT OF CERTAIN OTHER ARTICLES ORIGINATING IN BENEFICIARY COUNTRIES.—

"(A) EQUIVALENT TARIFF TREATMENT.—

"(i) IN GENERAL.—Subject to clause (ii), the tariff treatment accorded at any time during the transition period to any article referred to in any of subparagraphs (B) through (F) of paragraph (1) that originates in the territory of a partnership country shall be identical to the tariff treatment that is accorded at such time under Annex 302.2 of the NAFTA to an article described in the same 8-digit subheading of the HTS that is an originating good of Mexico and is imported into the United States.

"(ii) EXCEPTION.—Clause (i) does not apply to any article accorded duty-free treatment under U.S. Note 2(b) to subchapter II of chapter 98 of the HTS.

"(B) RELATIONSHIP TO SUBSECTION (h) DUTY REDUCTIONS.—If at any time during the transition period the rate of duty that would (but for action taken under subparagraph (A)(i) in regard to such period) apply with respect to any article under subsection (h) is a rate of duty that is lower than the rate of duty resulting from such action, then such lower rate of duty shall be applied for the purposes of implementing such action.

"(4) CUSTOMS PROCEDURES.—

"(A) IN GENERAL.—

"(i) The obligations under chapter 5 of the NAFTA regarding customs procedures, as such obligations apply to the exporting country, shall apply to importations under paragraphs (2) and (3) of articles from partnership countries.

"(ii) The Secretary of the Treasury shall prescribe regulations that require, as a condition of entry, that any importer of record that claims preferential treatment under paragraph (2) or (3) must comply with requirements similar in all material respects to the requirements of article 502.1 of the NAFTA. The certificate of origin that otherwise would be required under this subparagraph shall not be required in the case of an article imported under paragraph (2) or (3) if such certificate of origin would not be required under article 503 of the NAFTA for a similar importation from Mexico.

"(B) PENALTIES FOR ENGAGING IN TRANSSHIPMENT OR OTHER CUSTOMS FRAUD.—If an exporter is determined under the laws of the United States to have engaged in illegal transshipment of textile or apparel products from a partnership country, then the President shall deny all benefits under this title to such exporter, and any successors of such exporter, for a period of 2 years.

"(C) STUDY BY USTR ON COOPERATION OF OTHER COUNTRIES CONCERNING CIRCUMVENTION.—The Trade Representative, in consultation with the United States Commissioner of Customs, shall conduct a study analyzing the extent to which each partnership country—

"(i) has cooperated fully with the United States, consistent with its domestic laws and procedures, in instances of circumvention or alleged circumvention of existing quotas on imports of textile and apparel goods, to establish necessary relevant facts in the places of import, export, and, where applicable, transshipment, including investigation of circumvention practices, exchanges of documents, correspondence, reports, and other relevant information, to the extent such information is available;

"(ii) has taken appropriate measures, consistent with its domestic laws and procedures, against exporters and importers involved in instances of false declaration concerning fiber content, quantities, description, classification, or origin of textile and apparel goods; and

"(iii) has penalized the individuals and entities involved in any such circumvention, consistent with its domestic laws and procedures, and has worked closely to seek the cooperation of any third country to prevent such circumvention from taking place in that third country.

The Trade Representative shall submit to the Congress, not later than October 1, 1998, a report on the study conducted under this subparagraph.

"(5) DEFINITIONS.—For purposes of this subsection—

"(A) The term 'the Annex' means Annex 300–B of the NAFTA.

"(B) The term 'NAFTA' means the North American Free Trade Agreement entered into between the United States, Mexico, and Canada on December 17, 1992.

"(C) The term 'partnership country' means a beneficiary country.

"(D) The term 'textile or apparel article' means any article referred to in paragraph (1)(A) that is a good listed in Appendix 1.1 of the Annex.

"(E) The term 'transition period' means, with respect to a partnership country, the period that begins on January 1, 1998, and ends on the earlier of—

"(i) December 31, 1998; or

"(ii) the date on which—

"(I) the United States first applies the NAFTA to the partnership country upon its accession to the NAFTA, or

"(II) there enters into force with respect to the United States and the partnership country a free trade agreement comparable to the NAFTA that makes substantial progress in achieving the negotiating objectives set forth in section 108(b)(5) of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3317(b)(5)).

"(F) An article shall be deemed as originating in the territory of a partnership country if the article meets the rules of origin for a good set forth in chapter 4 of the NAFTA, and, in the case of an article described in Appendix 6.A of the Annex, the requirements stated in such Appendix 6.A for such article to be treated as if it were an originating good. In applying such chapter 4 or Appendix 6.A with respect to a partnership country for purposes of this subsection—

"(i) no countries other than the United States and partnership countries may be treated as being Parties to the NAFTA,

"(ii) references to trade between the United States and Mexico shall be deemed to refer to trade between the United States and partnership countries, and

"(iii) references to a Party shall be deemed to refer to the United States or a partnership country, and references to the Parties shall be deemed to refer to any combination of partnership countries or the United States.".

(b) DETERMINATION REGARDING RETENTION OF DESIGNATION.—Section 212(e)(1) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702(e)) is amended—

(1) by inserting "(A)" after "(1)";

(2) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(3) by adding at the end the following:

"(B)(i) Based on the President's review and analysis described in subsection (f), the President may determine if the preferential treatment under section 213(b)(2) and (3) should be withdrawn, suspended, or limited with respect to any article of a partnership country. Such determination shall be included in the report required by subsection (f).

"(ii) Withdrawal, suspension, or limitation of the preferential treatment under section 213(b)(2) and (3) with respect to a partnership country shall be taken only after the requirements of subsection (a)(2) and paragraph (2) of this subsection have been met.".

(c) REPORTING REQUIREMENTS.—Section 212(f) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702(f)) is amended to read as follows:

"(f) REPORTING REQUIREMENTS.—Not later than 1 year after the date of the enactment of the United States-Caribbean Basin Trade Partnership Act and at the close of each 3-year period thereafter, the President shall submit to the Congress a complete report regarding the operation of this title, including—

"(1) with respect to subsections (b) and (c) of this section, the results of a general review of beneficiary countries based on the considerations described in such subsections;

"(2) with respect to subsection (c)(4), the degree to which a country follows accepted rules of international trade provided for under the General Agreement on Tariffs and Trade and the World Trade Organization;

"(3) with respect to subsection (c)(9), the extent to which beneficiary countries are providing or taking steps to provide protection of intellectual property rights comparable to the protection provided to the United States in bilateral intellectual property rights agreements;

"(4) with respect to subsection (b)(2) and subsection (c)(5), the extent that beneficiary countries are providing or taking steps to provide protection of investment and investors comparable to the protection provided to the United States in bilateral investment treaties;

"(5) with respect to subsection (c)(3), the extent that beneficiary countries are providing the United States with equitable and reasonable market access in the product sectors for which benefits are provided under this title;

"(6) with respect to subsection (c)(11), the extent that beneficiary countries are cooperating with the United States in administering the provisions of section 213(b); and

"(7) with respect to subsection (c)(8), the extent that beneficiary countries are meeting the internationally recognized worker rights criteria under such subsection.

In the first report under this subsection, the President shall include a review of the implementation of section 213(b), and his analysis of whether the benefits under paragraphs (2) and (3) of such section further the objectives of this title and whether such benefits should be continued.".

(d) CONFORMING AMENDMENT.—Section 213(a)(1) of the Caribbean Basin Economic Recovery Act is amended by inserting "and except as provided in section 213(b)(2) and (3)," after "Tax Reform Act of 1986,".

SEC. 985. EFFECT OF NAFTA ON SUGAR IMPORTS FROM BENEFICIARY COUNTRIES.

The President shall monitor the effects, if any, that the implementation of the NAFTA has on the access of beneficiary countries under the Caribbean Basin Economic Recovery Act to the United States market for sugars, syrups, and molasses. If the President considers that the implementation of the NAFTA is affecting, or will likely affect, in an adverse manner the access of such countries to the United States market, the President shall promptly—

(1) take such actions, after consulting with interested parties and with the appropriate committees of the House of Representatives and the Senate, or

(2) propose to the Congress such legislative actions,

as may be necessary or appropriate to ameliorate such adverse effect.

SEC. 986. DUTY-FREE TREATMENT FOR CERTAIN BEVERAGES MADE WITH CARIBBEAN RUM.

Section 213(a) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(a)) is amended—

(1) in paragraph (5), by striking "chapter" and inserting "title"; and

(2) by adding at the end the following new paragraph:

"(6) Notwithstanding paragraph (1), the duty-free treatment provided under this title shall apply to liqueurs and spirituous beverages produced in the territory of Canada from rum if—

"(A) such rum is the growth, product, or manufacture of a beneficiary country or of the Virgin Islands of the United States;

"(B) such rum is imported directly from a beneficiary country or the Virgin Islands of the United States into the territory of Canada, and such liqueurs and spirituous beverages are imported directly from the territory of Canada into the customs territory of the United States;

‘‘(C) when imported into the customs territory of the United States, such liqueurs and spirituous beverages are classified in subheading 2208.90 or 2208.40 of the HTS; and

‘‘(D) such rum accounts for at least 90 percent by volume of the alcoholic content of such liqueurs and spiritous beverages.’’.

SEC. 987. MEETINGS OF TRADE MINISTERS AND USTR.

(a) SCHEDULE OF MEETINGS.—The President shall take the necessary steps to convene a meeting with the trade ministers of the partnership countries in order to establish a schedule of regular meetings, to commence as soon as is practicable, of the trade ministers and the Trade Representative, for the purpose set forth in subsection (b).

(b) PURPOSE.—The purpose of the meetings scheduled under subsection (a) is to reach agreement between the United States and partnership countries on the likely timing and procedures for initiating negotiations for partnership to accede to the NAFTA, or to enter into mutually advantageous free trade agreements with the United States that contain provisions comparable to those in the NAFTA and would make substantial progress in achieving the negotiating objectives set forth in section 108(b)(5) of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3317(b)(5)).

SEC. 988. REPORT ON ECONOMIC DEVELOPMENT AND MARKET ORIENTED REFORMS IN THE CARIBBEAN.

(a) IN GENERAL.—The Trade Representative shall make an assessment of the economic development efforts and market oriented reforms in each partnership country and the ability of each such country, on the basis of such efforts and reforms, to undertake the obligations of the NAFTA. The Trade Representative shall, not later than July 1, 1998, submit to the President and to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report on that assessment.

(b) ACCESSION TO NAFTA.—

(1) ABILITY OF COUNTRIES TO IMPLEMENT NAFTA.—The Trade Representative shall include in the report under subsection (a) a discussion of possible timetables and procedures pursuant to which partnership countries can complete the economic reforms necessary to enable them to negotiate accession to the NAFTA. The Trade Representative shall also include an assessment of the potential phase-in periods that may be necessary for those partnership countries with less developed economies to implement the obligations of the NAFTA.

(2) FACTORS IN ASSESSING ABILITY TO IMPLEMENT NAFTA.—In assessing the ability of each partnership country to undertake the obligations of the NAFTA, the Trade Representative should consider, among other factors—

(A) whether the country has joined the WTO;

(B) the extent to which the country provides equitable access to the markets of that country;

(C) the degree to which the country uses export subsidies or imposes export performance requirements or local content requirements;

(D) macroeconomic reforms in the country such as the abolition of price controls on traded goods and fiscal discipline;

(E) progress the country has made in the protection of intellectual property rights;

(F) progress the country has made in the elimination of barriers to trade in services;

(G) whether the country provides national treatment to foreign direct investment;

(H) the level of tariffs bound by the country under the WTO (if the country is a WTO member);

(I) the extent to which the country has taken other trade liberalization measures; and

(J) the extent which the country works to accommodate market access objectives of the United States.

(c) PARITY REVIEW IN THE EVENT A NEW COUNTRY ACCEDES TO NAFTA.—If—

(1) a country or group of countries accedes to the NAFTA, or

(2) the United States negotiates a comparable free trade agreement with another country or group of countries,

the Trade Representative shall provide to the committees referred to in subsection (a) a separate report on the economic impact of the new trade relationship on partnership countries. The report shall include any measures the Trade Representative proposes to minimize the potential for the diversion of investment from partnership countries to the new NAFTA member or free trade agreement partner.

TITLE X—REVENUES

Subtitle A—Financial Products

SEC. 1001. CONSTRUCTIVE SALES TREATMENT FOR APPRECIATED FINANCIAL POSITIONS.

(a) IN GENERAL.—Part IV of subchapter P of chapter 1 is amended by adding at the end the following new section:

‘‘SEC. 1259. CONSTRUCTIVE SALES TREATMENT FOR APPRECIATED FINANCIAL POSITIONS.

‘‘(a) IN GENERAL.—If there is a constructive sale of an appreciated financial position—

‘‘(1) the taxpayer shall recognize gain as if such position were sold, assigned, or otherwise terminated at its fair market value on the date of such constructive sale (and any gain shall be taken into account for the taxable year which includes such date), and

‘‘(2) for purposes of applying this title for periods after the constructive sale—

‘‘(A) proper adjustment shall be made in the amount of any gain or loss subsequently realized with respect to such position for any gain taken into account by reason of paragraph (1), and

‘‘(B) the holding period of such position shall be determined as if such position were originally acquired on the date of such constructive sale.

‘‘(b) APPRECIATED FINANCIAL POSITION.—For purposes of this section—

‘‘(1) IN GENERAL.—Except as provided in paragraph (2), the term ‘appreciated financial position’ means any position with respect to any stock, debt instrument, or partnership interest if there would be gain were such position sold, assigned, or otherwise terminated at its fair market value.

‘‘(2) EXCEPTIONS.—The term ‘appreciated financial position’ shall not include—

‘‘(A) any position with respect to straight debt (as defined in section 1361(c)(5)(B) without regard to clause (iii) thereof), and

‘‘(B) any position which is marked to market under any provision of this title or the regulations thereunder.

‘‘(3) POSITION.—The term ‘position’ means an interest, including a futures or forward contract, short sale, or option.

‘‘(c) CONSTRUCTIVE SALE.—For purposes of this section—

‘‘(1) IN GENERAL.—A taxpayer shall be treated as having made a constructive sale of an appreciated financial position if the taxpayer (or a related person)—

‘‘(A) enters into a short sale of the same or substantially identical property,

‘‘(B) enters into an offsetting notional principal contract with respect to the same or substantially identical property,

‘‘(C) enters into a futures or forward contract to deliver the same or substantially identical property,

‘‘(D) in the case of an appreciated financial position that is a short sale or a contract described in subparagraph (B) or (C) with respect to any property, acquires the same or substantially identical property, or

‘‘(E) to the extent prescribed by the Secretary in regulations, enters into 1 or more other transactions (or acquires 1 or more positions) that have substantially the same effect as a transaction described in any of the preceding subparagraphs.

‘‘(2) EXCEPTION FOR SALES OF NONPUBLICLY TRADED PROPERTY.—The term ‘constructive sale’ shall not include any contract for sale of any stock, debt instrument, or partnership interest which is not a marketable security (as defined in section 453(f)) if the contract settles within 1 year after the date such contract is entered into.

‘‘(3) EXCEPTION FOR CERTAIN CLOSED TRANSACTIONS.—In applying this section, there shall be disregarded any transaction (which would otherwise be treated as a constructive sale) during the taxable year if—

‘‘(A) such transaction is closed before the end of the 30th day after the close of such taxable year, and

‘‘(B) in the case of a transaction which is closed during the 90-day period ending on such 30th day—

‘‘(i) the taxpayer holds the appreciated financial position throughout the 60-day period beginning on the date such transaction is closed, and

‘‘(ii) at no time during such 60-day period is the taxpayer's risk of loss with respect to such position reduced by reason of a circumstance which would be described in section 246(c)(4) if references to stock included references to such position.

‘‘(4) RELATED PERSON.—A person is related to another person with respect to a transaction if—

‘‘(A) the relationship is described in section 267 or 707(b), and

‘‘(B) such transaction is entered into with a view toward avoiding the purposes of this section.

‘‘(d) OTHER DEFINITIONS.—For purposes of this section—

‘‘(1) FORWARD CONTRACT.—The term ‘forward contract’ means a contract to deliver a substantially fixed amount of property for a substantially fixed price.

‘‘(2) OFFSETTING NOTIONAL PRINCIPAL CONTRACT.—The term ‘offsetting notional principal contract’ means, with respect to any property, an agreement which includes—

‘‘(A) a requirement to pay (or provide credit for) all or substantially all of the investment yield (including appreciation) on such property for a specified period, and

‘‘(B) a right to be reimbursed for (or receive credit for) all or substantially all of any decline in the value of such property.

‘‘(e) SPECIAL RULES.—

‘‘(1) TREATMENT OF SUBSEQUENT SALE OF POSITION WHICH WAS DEEMED SOLD.—If—

‘‘(A) there is a constructive sale of any appreciated financial position,

‘‘(B) such position is subsequently disposed of, and

‘‘(C) at the time of such disposition, the transaction resulting in the constructive sale of such position is open with respect to the taxpayer or any related person,

solely for purposes of determining whether the taxpayer has entered into a constructive sale of any other appreciated financial position held by the taxpayer, the taxpayer shall be treated as entering into such transaction immediately after such disposition. For purposes of the preceding sentence, an assignment or other termination shall be treated as a disposition.

"(2) Certain trust instruments treated as stock.—For purposes of this section, an interest in a trust which is actively traded (within the meaning of section 1092(d)(1)) shall be treated as stock.

"(3) Multiple positions in property.—If a taxpayer holds multiple positions in property, the determination of whether a specific transaction is a constructive sale and, if so, which appreciated financial position is deemed sold shall be made in the same manner as actual sales.

"(f) Regulations.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.".

(b) Election of Mark to Market for Securities Traders and for Traders and Dealers in Commodities.—Subsection (d) of section 475 (relating to mark to market accounting method for dealers in securities) is amended by adding at the end the following new paragraph:

"(4) Election of mark to market for securities traders and for traders and dealers in commodities.—

"(A) In general.—In the case of a person—

"(i) who is engaged in a trade or business to which this paragraph applies, and

"(ii) who elects to be treated as a dealer in securities for purposes of this section with respect to such trade or business,

subsections (a), (b)(3), (c)(3), and (e) and the preceding provisions of this subsection (or, in the case of a dealer in commodities, this section) shall apply to all commodities and securities held by such person in any trade or business with respect to which such election is in effect in the same manner as if such person were a dealer in securities and all references to securities included references to commodities.

"(B) Application of paragraph.—This paragraph shall apply to any active trade or business—

"(i) as a trader in securities, or

"(ii) as a trader or dealer in commodities.

"(C) Exception for certain holdings of traders.—In the case of a trader in securities or commodities, subsection (a) shall not apply to any security or commodity (to which subsection (a) would otherwise apply solely by reason of this paragraph) if such security or commodity is clearly identified in the trader's records (before the close of the day applicable under subsection (b)(2)) as being held other than in a trade or business to which the election under subparagraph (A) is in effect. A security or commodity so identified shall be treated as described in subsection (b)(1).

"(D) Commodity.—For purposes of this paragraph, the term 'commodities' includes only commodities of a kind customarily dealt in on an organized commodity exchange.

"(E) Election.—An election under this paragraph may be made separately for each trade or business and without the consent of the Secretary. Such an election, once made, shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.".

(c) Clerical Amendment.—The table of sections for part IV of subchapter P of chapter 1 is amended by adding at the end the following new item:

"Sec. 1259. Constructive sales treatment for appreciated financial positions.".

(d) Effective Dates.—

(1) In general.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to any constructive sale after June 8, 1997.

(2) Exception for sales of positions, etc. held before June 9, 1997.—A constructive sale before June 9, 1997, and the property to which the position involved in the transaction relates, shall not be taken into account in determining whether any other constructive sale after June 8, 1997, has occurred if, within before the close of the 30-day period beginning on the date of the enactment of this Act, such position and property are clearly identified in the taxpayer's records as offsetting. The preceding sentence shall cease to apply as of the date the taxpayer ceases to hold such position or property.

(3) Special rule.—In the case of a decedent dying after June 8, 1997, if—

(A) there was a constructive sale on or before such date of any appreciated financial position,

(B) the transaction resulting in such constructive sale of such position remains open (with respect to the decedent or any related person) for not less than 2 years after the date of such transaction (whether such period is before or after such date), and

(C) such transaction is not closed within the 30-day period beginning on the date of the enactment of this Act,

then, for purposes of such Code, such position (and any property related thereto, as determined under the principles of section 1259(d)(1) of such Code (as so added)) shall be treated as property oonstituting rights to receive an item of income in respect of a decedent under section 691 of such Code.

(4) Election of securities traders, and for traders and dealers in commodities, to be treated as dealers in securities.—

(A) In general.—The amendment made by subsection (b) shall apply to taxable years ending after the date of the enactment of this Act.

(B) 4-year spread of adjustments.—In the case of a taxpayer who elects under section 475(d)(4) of the Internal Revenue Code of 1986 (as added by this section) to change its method of accounting for its first taxable year ending after the date of the enactment of this Act, the net amount of the adjustments required to be taken into account by the taxpayer under section 481 of the Internal Revenue Code of 1986 shall be taken into account ratably over the 4-taxable year period beginning with such first taxable year.

SEC. 1002. LIMITATION ON EXCEPTION FOR INVESTMENT COMPANIES UNDER SECTION 351.

(a) In General.—Paragraph (1) of section 351(e) (relating to exceptions) is amended by adding at the end the following: "For purposes of the preceding sentence, the determination of whether a company is an investment company shall be made—

"(A) by taking into account all stock and securities held by the company, whether or not readily marketable, and

"(B) by treating all of the following as securities:

"(i) Money.

"(ii) Any financial instrument (as defined in section 731(c)(2)(C)).

"(iii) Any foreign currency.

"(iv) Any interest in a real estate investment trust, a common trust fund, a regulated investment company, or a publicly traded partnership (as defined in section 7704(b)).

"(v) Any interest described in clause (iv), (v), or (vi) of section 731(c)(2)(B) (or which would be so described without regard to any reference to active trading or marketability).

"(vi) Any other asset specified in regulations prescribed by the Secretary.".

(b) Effective Date.—

(1) In general.—The amendment made by subsection (a) shall apply to transfers after June 8, 1997, in taxable years ending after such date.

(2) Binding contracts.—The amendment made by subsection (a) shall not apply to any transfer pursuant to a written binding contract in effect on June 8, 1997, that provides for the transfer of a fixed amount of property, and at all times thereafter before such transfer.

SEC. 1003. MODIFICATION OF RULES FOR ALLOCATING INTEREST EXPENSE TO TAX-EXEMPT INTEREST.

(a) Pro Rata Allocation Rules Applicable to Corporations.—

(1) In general.—Paragraph (1) of section 265(b) is amended by striking "In the case of a financial institution" and inserting "In the case of a corporation".

(2) Only obligations acquired after June 8, 1997, taken into account.—Subparagraph (A) of section 265(b)(2) is amended by striking "August 7, 1986" and inserting "June 8, 1997 (August 7, 1986, in the case of a financial institution)".

(3) Small issuer exception not to apply.—Subparagraph (A) of section 265(b)(3) is amended by striking "Any qualified" and inserting "In the case of a financial institution, any qualified".

(4) Exception for certain bonds acquired on sale of goods or services.—Subparagraph (B) of section 265(b)(4) is amended by adding at the end the following new sentence: "In the case of a taxpayer other than a financial institution, such term shall not include a nonsalable obligation acquired by such taxpayer in the ordinary course of business as payment for goods or services provided by such taxpayer to any State or local government.".

(5) Look-thru rules for partnerships.—Paragraph (6) of section 265(b) is amended by adding at the end the following new subparagraph:

"(C) Look-thru rules for partnerships.—In the case of a corporation which is a partner in a partnership, such corporation shall be treated for purposes of this subsection as holding directly its allocable share of the assets of the partnership.".

(6) Application of pro rata disallowance on affiliated group basis.—Subsection (b) of section 265 is amended by adding at the end the following new paragraph:

"(7) Application of disallowance on affiliated group basis.—

"(A) In general.—For purposes of this subsection, all members of an affiliated group filing a consolidated return under section 1501 shall be treated as 1 taxpayer.

"(B) Treatment of insurance companies.—This subsection shall not apply to an insurance company, and subparagraph (A) shall be applied without regard to any member of an affiliated group which is an insurance company.".

(6) De minimis exception for nonfinancial institutions.—Subsection (b) of section 265

is amended by adding at the end the following new paragraph:

"(8) De minimis exception for nonfinancial institutions.—In the case of a corporation, paragraph (1) shall not apply for any taxable year if the amount described in paragraph (2)(A) with respect to such corporation does not exceed the lesser of—

"(A) 2 percent of the amount described in paragraph (2)(B), or

"(B) $1,000,000.

The preceding sentence shall not apply to a financial institution or to a dealer in tax-exempt obligations.".

(7) Clerical amendment.—The subsection heading for section 265(b) is amended by striking "Financial Institutions" and inserting "Corporations".

(b) Application of Section 265(a)(2) With Respect to Controlled Groups.—Paragraph (2) of section 265(a) is amended after "obligations" by inserting "held by the taxpayer (or any corporation which is a member of a controlled group (as defined in section 267(f)(1)) which includes the taxpayer)".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 1004. GAINS AND LOSSES FROM CERTAIN TERMINATIONS WITH RESPECT TO PROPERTY.

(a) Application of Capital Treatment to Property Other Than Personal Property.—

(1) In general.—Paragraph (1) of section 1234A (relating to gains and losses from certain terminations) is amended by striking "personal property (as defined in section 1092(d)(1))" and inserting "property".

(2) Effective date.—The amendment made by paragraph (1) shall apply to terminations more than 30 days after the date of the enactment of this Act.

(b) Application of Capital Treatment, Etc. to Obligations Issued by Natural Persons.—

(1) In general.—Section 1271(b) is amended to read as follows:

"(b) Exception for Certain Obligations.—

"(1) In general.—This section shall not apply to—

"(A) any obligation issued by a natural person before June 9, 1997, and

"(B) any obligation issued before July 2, 1982, by an issuer which is not a corporation and is not a government or political subdivision thereof.

"(2) Termination.—Paragraph (1) shall not apply to any obligation purchased (within the meaning of section 179(d)(2)) after June 8, 1997.".

(2) Effective date.—The amendment made by paragraph (1) shall take effect on the date of enactment of this Act.

SEC. 1005. DETERMINATION OF ORIGINAL ISSUE DISCOUNT WHERE POOLED DEBT OBLIGATIONS SUBJECT TO ACCELERATION.

(a) In General.—Subparagraph (C) of section 1272(a)(6) (relating to debt instruments to which the paragraph applies) is amended by striking "or" at the end of clause (i), by striking the period at the end of clause (ii) and inserting ", or", and by inserting after clause (i) the following:

"(iii) any pool of debt instruments the yield on which may be reduced by reason of prepayments (or to the extent provided in regulations, by reason of other events).

To the extent provided in regulations prescribed by the Secretary, in the case of a small business engaged in the trade or business of selling tangible personal property at retail, clause (iii) shall not apply to debt instruments incurred in the ordinary course of such trade or business while held by such business.".

(b) Effective Dates.—

(1) In general.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

(2) Change in method of accounting.—In the case of any taxpayer required by this section to change its method of accounting for its first taxable year beginning after the date of the enactment of this Act—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as made with the consent of the Secretary, and

(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481 of the Internal Revenue Code of 1986 shall be taken into account ratably over the 4-taxable year period beginning with such first taxable year.

SEC. 1006. DENIAL OF INTEREST DEDUCTIONS ON CERTAIN DEBT INSTRUMENTS.

(a) In General.—Section 163 (relating to deduction for interest) is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

"(k) Disallowance of Deduction on Certain Debt Instruments of Corporations.—

"(1) In general.—No deduction shall be allowed under this chapter for any interest paid or accrued on a disqualified debt instrument.

"(2) Disqualified debt instrument.—For purposes of this subsection, the term 'disqualified debt instrument' means any indebtedness of a corporation which is payable in equity of the issuer or a related party.

"(3) Special rules for amounts payable in equity.—For purposes of paragraph (2), indebtedness shall be treated as payable in equity of the issuer or a related party only if—

"(A) a substantial amount of the principal or interest is required to be paid or converted, or at the option of the issuer or a related party is payable in, or convertible into, such equity,

"(B) a substantial amount of the principal or interest is required to be determined, or at the option of the issuer or a related party is determined, by reference to the value of such equity, or

"(C) the indebtedness is part of an arrangement which is reasonably expected to result in a transaction described in subparagraph (A) or (B).

For purposes of subparagraphs (A) and (B), principal or interest shall be treated as required to be so paid, converted, or determined if it may be required at the option of the holder or a related party and there is a substantial certainty the option will be exercised.

"(4) Related party.—For purposes of this subsection, a person is a related party with respect to another person if such person bears a relationship to such other person described in section 267(b) or 707(b).

"(5) Regulations.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection, including regulations preventing avoidance of this subsection through the use of an issuer other than a corporation.".

(b) Effective Date.—

(1) In general.—The amendment made by this section shall apply to disqualified debt instruments issued after June 8, 1997.

(2) Transition rule.—The amendment made by this section shall not apply to any instrument issued after June 8, 1997, if such instrument is—

(A) issued pursuant to a written agreement which was binding on such date and at all times thereafter,

(B) described in a ruling request submitted to the Internal Revenue Service on or before such date, or

(C) described on or before such date in a public announcement or in a filing with the Securities and Exchange Commission required solely by reason of the distribution.

Subtitle B—Corporate Organizations and Reorganizations

SEC. 1011. TAX TREATMENT OF CERTAIN EXTRAORDINARY DIVIDENDS.

(a) Treatment of Extraordinary Dividends in Excess of Basis.—Paragraph (2) of section 1059(a) (relating to corporate shareholder's recognition of gain attributable to nontaxed portion of extraordinary dividends) is amended to read as follows:

"(2) Amounts in excess of basis.—If the nontaxed portion of such dividends exceeds such basis, such excess shall be treated as gain from the sale or exchange of such stock for the taxable year in which the extraordinary dividend is received.".

(b) Treatment of Redemptions Where Options Involved.—Paragraph (1) of section 1059(e) (relating to treatment of partial liquidations and non-pro rata redemptions) is amended to read as follows:

"(1) Treatment of partial liquidations and certain redemptions.—Except as otherwise provided in regulations—

"(A) Redemptions.—In the case of any redemption of stock—

"(i) which is part of a partial liquidation (within the meaning of section 302(e)) of the redeeming corporation,

"(ii) which is not pro rata as to all shareholders, or

"(iii) which would not have been treated (in whole or in part) as a dividend if any options had not been taken into account under section 318(a)(4),

any amount treated as a dividend with respect to such redemption shall be treated as an extraordinary dividend to which paragraphs (1) and (2) of subsection (a) apply without regard to the period the taxpayer held such stock. In the case of a redemption described in clause (iii), only the basis in the stock redeemed shall be taken into account under subsection (a).

"(B) Reorganizations, etc.—An exchange described in section 356 which is treated as a dividend shall be treated as a redemption of stock for purposes of applying subparagraph (A).".

(c) Time for Reduction.—Paragraph (1) of section 1059(d) is amended to read as follows:

"(1) Time for reduction.—Any reduction in basis under subsection (a)(1) shall be treated as occurring at the beginning of the ex-dividend date of the extraordinary dividend to which the reduction relates.".

(d) Effective Dates.—

(1) In general.—The amendments made by this section shall apply to distributions after May 3, 1995.

(2) Transition rule.—The amendments made by this section shall not apply to any distribution made pursuant to the terms of—

(A) a written binding contract in effect on May 3, 1995, and at all times thereafter before such distribution, or

(B) a tender offer outstanding on May 3, 1995.

(3) Certain dividends not pursuant to certain redemptions.—In determining

whether the amendment made by subsection (a) applies to any extraordinary dividend other than a dividend treated as an extraordinary dividend under section 1059(e)(1) of the Internal Revenue Code of 1986 (as amended by this Act), paragraphs (1) and (2) shall be applied by substituting "September 13, 1995" for "May 3, 1995".

SEC. 1012. APPLICATION OF SECTION 355 TO DISTRIBUTIONS FOLLOWED BY ACQUISITIONS AND TO INTRAGROUP TRANSACTIONS.

(a) Distributions Followed by Acquisitions.—Section 355 (relating to distribution of stock and securities of a controlled corporation) is amended by adding at the end the following new subsection:

"(e) Recognition of Gain Where Certain Distributions of Stock or Securities Are Followed by Acquisition.—

"(1) General rule.—If there is a distribution to which this subsection applies, the following rules shall apply:

"(A) Acquisition of controlled corporation.—If there is an acquisition described in paragraph (2)(A)(ii) with respect to any controlled corporation, any stock or securities in the controlled corporation shall not be treated as qualified property for purposes of subsection (c)(2) of this section or section 361(c)(2).

"(B) Acquisition of distributing corporation.—If there is an acquisition described in paragraph (2)(A)(ii) with respect to the distributing corporation, the controlled corporation shall recognize gain in an amount equal to the amount of net gain which would be recognized if all the assets of the distributing corporation (immediately after the distribution) were sold (at such time) for fair market value. Any gain recognized under the preceding sentence shall be treated as long-term capital gain and shall be taken into account for the taxable year which includes the day after the date of such distribution.

"(2) Distributions to which subsection applies.—

"(A) In general.—This subsection shall apply to any distribution—

"(i) to which this section (or so much of section 356 as relates to this section) applies, and

"(ii) which is part of a plan (or series of related transactions) pursuant to which 1 or more persons acquire directly or indirectly stock representing a 50-percent or greater interest in the distributing corporation or any controlled corporation.

"(B) Plan presumed to exist in certain cases.—If 1 or more persons acquire directly or indirectly stock representing a 50-percent or greater interest in the distributing corporation or any controlled corporation during the 4-year period beginning on the date which is 2 years before the date of the distribution, such acquisition shall be treated as pursuant to a plan described in subparagraph (A)(ii) unless it is established that the distribution and the acquisition are not pursuant to a plan or series of related transactions.

"(C) Coordination with subsection (d).—This subsection shall not apply to any distribution to which subsection (d) applies.

"(3) Special rules relating to acquisitions.—

"(A) Certain acquisitions not taken into account.—Except as provided in regulations, the following acquisitions shall not be treated as described in paragraph (2)(A)(ii):

"(i) The acquisition of stock in any controlled corporation by the distributing corporation.

"(ii) The acquisition by a person of stock in any controlled corporation by reason of holding stock in the distributing corporation.

"(iii) The acquisition by a person of stock in any successor corporation of the distributing corporation or any controlled corporation by reason of holding stock in such distributing or controlled corporation.

"(iv) The acquisition of stock in a corporation if shareholders owning directly or indirectly a 50-percent or greater interest in the distributing corporation or any controlled corporation before such acquisition own indirectly a 50-percent or greater interest in such distributing or controlled corporation after such acquisition.

This subparagraph shall not apply to any acquisition if the stock held before the acquisition was acquired pursuant to a plan described in subparagraph (A)(ii).

"(B) Asset acquisitions.—Except as provided in regulations, for purposes of this subsection, if the assets of the distributing corporation or any controlled corporation are acquired by a successor corporation in a transaction described in subparagraph (A), (C), or (D) of section 368(a)(1) or any other transaction specified in regulations by the Secretary, the shareholders (immediately before the acquisition) of the corporation acquiring such assets shall be treated as acquiring stock in the corporation from which the assets were acquired.

"(4) Definition and special rules.—For purposes of this subsection—

"(A) 50-percent or greater interest.—The term '50-percent or greater interest' has the meaning given such term by subsection (d)(4).

"(B) Distributions in title 11 or similar case.—Paragraph (1) shall not apply to any distribution made in a title 11 or similar case (as defined in section 368(a)(3)).

"(C) Aggregation and attribution rules.—

"(i) Aggregation.—The rules of paragraph (7)(A) of subsection (d) shall apply.

"(ii) Attribution.—Section 355(d)(8)(A) shall apply in determining whether a person holds stock or securities in any corporation.

"(D) Successors and predecessors.—For purposes of this subsection, any reference to a controlled corporation or a distributing corporation shall include a reference to any predecessor or successor of such corporation.

"(E) Statute of limitations.—If there is an acquisition to which paragraph (1) (A) or (B) applies—

"(i) the statutory period for the assessment of any deficiency attributable to any part of the gain recognized under this subsection by reason of such acquisition shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may by regulations prescribe) that such acquisition occurred, and

"(ii) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.

"(5) Regulations.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection, including regulations—

"(A) providing for the application of this subsection where there is more than 1 controlled corporation,

"(B) treating 2 or more distributions as 1 distribution where necessary to prevent the avoidance of such purposes, and

"(C) providing for the application of rules similar to the rules of subsection (d)(6) where appropriate for purposes of paragraph (2)(B).".

(b) Section 355 Not To Apply to Certain Intragroup Transactions.—Section 355, as amended by subsection (a), is amended by adding at the end the following new subsection:

"(f) Section Not To Apply to Certain Intragroup Transactions.—Except as provided in regulations, this section shall not apply to the distribution of stock from 1 member of an affiliated group filing a consolidated return to another member of such group, and the Secretary shall provide proper adjustments for the treatment of such distribution, including (if necessary) adjustments to—

"(1) the adjusted basis of any stock which—

"(A) is in a corporation which is a member of such group, and

"(B) is held by another member of such group, and

"(2) the earnings and profits of any member of such group.".

(c) Determination of Control in Certain Divisive Transactions.—

(1) Section 351 transactions.—Section 351(c) (relating to special rule) is amended to read as follows:

"(c) Special Rules Where Distribution to Shareholders.—

"(1) In general.—In determining control for purposes of this section—

"(A) the fact that any corporate transferor distributes part or all of the stock in the corporation which it receives in the exchange to its shareholders shall not be taken into account, and

"(B) if the requirements of section 355 are met with respect to such distribution, the shareholders shall be treated as in control of such corporation immediately after the exchange if the shareholders hold at least a 50-percent interest in such corporation immediately after the distribution.

"(2) 50-percent interest.—For purposes of this subsection, the term '50-percent interest' means stock possessing 50 percent of the total combined voting power of all classes of stock entitled to vote and 50 percent of the total value of shares of all classes of stock.".

(2) D reorganizations.—Section 368(a)(2)(H) (relating to special rule for determining whether certain transactions are qualified under paragraph (1)(D)) is amended to read as follows:

"(H) Special rules for determining whether certain transactions are qualified under paragraph (1)(D).—For purposes of determining whether a transaction qualifies under paragraph (1)(D)—

"(i) in the case of a transaction with respect to which the requirements of subparagraphs (A) and (B) of section 354(b)(1) are met, the term 'control' has the meaning given such term by section 304(c), and

"(ii) in the case of a transaction with respect to which the requirements of section 355 are met, the shareholders described in paragraph (1)(D) shall be treated as having control of the corporation to which the assets are transferred if such shareholders hold a 50-percent or greater interest (as defined in section 351(c)(2)) in such corporation immediately after the transfer.".

(d) Effective Dates.—

(1) Section 355 rules.—The amendments made by subsections (a) and (b) shall apply to distributions after April 16, 1997.

(2) Divisive transactions.—The amendments made by subsection (c) shall apply to transfers after the date of the enactment of this Act.

(3) TRANSITION RULE.—The amendments made by this section shall not apply to any distribution after April 16, 1997, if such distribution is—

(A) made pursuant to a written agreement which was binding on such date and at all times thereafter,

(B) described in a ruling request submitted to the Internal Revenue Service on or before such date, or

(C) described on or before such date in a public announcement or in a filing with the Securities and Exchange Commission required solely by reason of the distribution.

This paragraph shall not apply to any written agreement, ruling request, or public announcement or filing unless it identifies the unrelated acquirer of the distributing corporation or of any controlled corporation, whichever is applicable.

SEC. 1013. TAX TREATMENT OF REDEMPTIONS INVOLVING RELATED CORPORATIONS.

(a) STOCK PURCHASES BY RELATED CORPORATIONS.—The last sentence of section 304(a)(1) (relating to acquisition by related corporation other than subsidiary) is amended to read as follows: "To the extent that such distribution is treated as a distribution to which section 301 applies, the transferor and the acquiring corporation shall be treated in the same manner as if the transferor had transferred the stock so acquired to the acquiring corporation in exchange for stock of the acquiring corporation in a transaction to which section 351(a) applies, and then the acquiring corporation had redeemed the stock it was treated as issuing in such transaction.".

(b) COORDINATION WITH SECTION 1059.—Clause (iii) of section 1059(e)(1)(A), as amended by this title, is amended to read as follows:

"(iii) which would not have been treated (in whole or in part) as a dividend if—

"(I) any options had not been taken into account under section 318(a)(4), or

"(II) section 304(a) had not applied,".

(c) SPECIAL RULE FOR ACQUISITIONS BY FOREIGN CORPORATIONS.—Section 304(b) (relating to special rules for application of subsection (a)) is amended by adding at the end the following new paragraph:

"(5) ACQUISITIONS BY FOREIGN CORPORATIONS.—

"(A) IN GENERAL.—In the case of any acquisition to which subsection (a) applies in which the acquiring corporation is a foreign corporation, the only earnings and profits taken into account under paragraph (2)(A) shall be those earnings and profits—

"(i) which are attributable (under regulations prescribed by the Secretary) to stock of the acquiring corporation owned (within the meaning of section 958(a)) by a corporation or individual which is—

"(I) a United States shareholder (within the meaning of section 951(b)) of the acquiring corporation, and

"(II) the transferor or a person who bears a relationship to the transferor described in section 267(b) or 707(b), and

"(ii) which were accumulated during the period or periods such stock was owned by such person while the acquiring corporation was a controlled foreign corporation.

"(B) APPLICATION OF SECTION 1248.—For purposes of subparagraph (A), the rules of section 1248(d) shall apply except to the extent otherwise provided by the Secretary.

"(C) REGULATIONS.—The Secretary shall prescribe such regulations as are appropriate to carry out the purposes of this paragraph.".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to distributions and acquisitions after June 8, 1997.

(2) TRANSITION RULE.—The amendments made by this section shall not apply to any distribution or acquisition after June 8, 1997, if such distribution or acquisition is—

(A) made pursuant to a written agreement which was binding on such date and at all times thereafter,

(B) described in a ruling request submitted to the Internal Revenue Service on or before such date, or

(C) described in a public announcement or filing with the Securities and Exchange Commission on or before such date.

SEC. 1014. MODIFICATION OF HOLDING PERIOD APPLICABLE TO DIVIDENDS RECEIVED DEDUCTION.

(a) IN GENERAL.—Subparagraph (A) of section 246(c)(1) is amended to read as follows:

"(A) which is held by the taxpayer for 45 days or less during the 90-day period beginning on the date which is 45 days before the date on which such share becomes ex-dividend with respect to such dividend, or".

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 246(c) is amended to read as follows:

"(2) 90-DAY RULE IN THE CASE OF CERTAIN PREFERENCE DIVIDENDS.—In the case of stock having preference in dividends, if the taxpayer receives dividends with respect to such stock which are attributable to a period or periods aggregating in excess of 366 days, paragraph (1)(A) shall be applied—

"(A) by substituting '90 days' for '45 days' each place it appears, and

"(B) by substituting '180-day period' for '90-day period'.".

(2) Paragraph (3) of section 246(c) is amended by adding "and" at the end of subparagraph (A), by striking subparagraph (B), and by redesignating subparagraph (C) as subparagraph (B).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to dividends received or accrued after the 30th day after the date of the enactment of this Act.

Subtitle C—Other Corporate Provisions

SEC. 1021. REGISTRATION AND OTHER PROVISIONS RELATING TO CONFIDENTIAL CORPORATE TAX SHELTERS.

(a) IN GENERAL.—Section 6111 (relating to registration of tax shelters) is amended by redesignating subsections (d) and (e) as subsections (e) and (f), respectively, and by inserting after subsection (c) the following new subsection:

"(d) CERTAIN CONFIDENTIAL ARRANGEMENTS TREATED AS TAX SHELTERS.—

"(1) IN GENERAL.—For purposes of this section, the term 'tax shelter' includes any entity, plan, arrangement, or transaction—

"(A) a significant purpose of the structure of which is the avoidance or evasion of Federal income tax for a direct or indirect participant which is a corporation,

"(B) which is offered to any potential participant under conditions of confidentiality, and

"(C) for which the tax shelter promoters may receive fees in excess of $100,000 in the aggregate.

"(2) CONDITIONS OF CONFIDENTIALITY.—For purposes of paragraph (1)(B), an offer is under conditions of confidentiality if—

"(A) the potential participant to whom the offer is made (or any other person acting on behalf of such participant) has an understanding or agreement with or for the benefit of any promoter of the tax shelter that such participant (or such other person) will limit disclosure of the tax shelter or any significant tax features of the tax shelter, or

"(B) any promoter of the tax shelter—

"(i) claims, knows, or has reason to know,

"(ii) knows or has reason to know that any other person (other than the potential participant) claims, or

"(iii) causes another person to claim,

that the tax shelter (or any aspect thereof) is proprietary to any person other than the potential participant or is otherwise protected from disclosure to or use by others.

For purposes of this subsection, the term 'promoter' means any person or any related person (within the meaning of section 267 or 707) who participates in the organization, management, or sale of the tax shelter.

"(3) PERSONS OTHER THAN PROMOTER REQUIRED TO REGISTER IN CERTAIN CASES.—

"(A) IN GENERAL.—If—

"(i) the requirements of subsection (a) are not met with respect to any tax shelter (as defined in paragraph (1)) by any tax shelter promoter, and

"(ii) no tax shelter promoter is a United States person,

then each United States person who discussed participation in such shelter shall register such shelter under subsection (a).

"(B) EXCEPTION.—Subparagraph (A) shall not apply to a United States person who discussed participation in a tax shelter if—

"(i) such person notified the promoter in writing (not later than the close of the 90th day after the day on which such discussions began) that such person would not participate in such shelter, and

"(ii) such person does not participate in such shelter.

"(4) OFFER TO PARTICIPATE TREATED AS OFFER FOR SALE.—For purposes of subsections (a) and (b), an offer to participate in a tax shelter (as defined in paragraph (1)) shall be treated as an offer for sale.".

(b) PENALTY.—Subsection (a) of section 6707 (relating to failure to furnish information regarding tax shelters) is amended by adding at the end the following new paragraph:

"(3) CONFIDENTIAL ARRANGEMENTS.—

"(A) IN GENERAL.—In the case of a tax shelter (as defined in section 6111(d)), the penalty imposed under paragraph (1) shall be an amount equal to the greater of—

"(i) 50 percent of the fees paid to all promoters of the tax shelter with respect to offerings made before the date such shelter is registered under section 6111, or

"(ii) $10,000.

Clause (i) shall be applied by substituting '75 percent' for '50 percent' in the case of an intentional failure or act described in paragraph (1).

"(B) SPECIAL RULE FOR PARTICIPANTS REQUIRED TO REGISTER SHELTER.—In the case of a person required to register such a tax shelter by reason of section 6111(d)(3)—

"(i) such person shall be required to pay the penalty under paragraph (1) only if such person actually participated in such shelter,

"(ii) the amount of such penalty shall be determined by taking into account under subparagraph (A)(i) only the fees paid by such person, and

"(iii) such penalty shall be in addition to the penalty imposed on any other person for failing to register such shelter.".

(c) MODIFICATIONS TO SUBSTANTIAL UNDERSTATEMENT PENALTY.—

(1) RESTRICTION ON REASONABLE BASIS FOR CORPORATE UNDERSTATEMENT OF INCOME TAX.—Subparagraph (B) of section 6662(d)(2) is amended by adding at the end the following new flush sentence:

"For purposes of clause (ii)(II), in no event shall a corporation be treated as having a reasonable basis for its tax treatment of an item attributable to a multiple-party financing transaction if such treatment does not clearly reflect the income of the corporation.".

(2) MODIFICATION TO DEFINITION OF TAX SHELTER.—Clause (iii) of section 6662(d)(2)(C) is amended by striking "the principal purpose" and inserting "a significant purpose".

(d) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 6707(a) is amended by striking "The penalty" and inserting "Except as provided in paragraph (3), the penalty".

(2) Subparagraph (A) of section 6707(a)(1) is amended by striking "paragraph (2)" and inserting "paragraph (2) or (3), as the case may be".

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to any tax shelter (as defined in section 6111(d) of the Internal Revenue Code of 1986, as amended by this section) interests in which are offered to potential participants after the Secretary of the Treasury prescribes guidance with respect to meeting requirements added by such amendments.

(2) MODIFICATIONS TO SUBSTANTIAL UNDERSTATEMENT PENALTY.—The amendments made by subsection (c) shall apply to items with respect to transactions entered into after the date of the enactment of this Act.

SEC. 1022. CERTAIN PREFERRED STOCK TREATED AS BOOT.

(a) SECTION 351.—Section 351 (relating to transfer to corporation controlled by transferor) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) NONQUALIFIED PREFERRED STOCK NOT TREATED AS STOCK.—

"(1) IN GENERAL.—For purposes of subsections (a) and (b), the term 'stock' shall not include nonqualified preferred stock.

"(2) NONQUALIFIED PREFERRED STOCK.—For purposes of paragraph (1)—

"(A) IN GENERAL.—The term 'nonqualified preferred stock' means preferred stock if—

"(i) the holder of such stock has the right to require the issuer or a related person to redeem or purchase the stock,

"(ii) the issuer or a related person is required to redeem or purchase such stock,

"(iii) the issuer or a related person has the right to redeem or purchase the stock and, as of the issue date, it is more likely than not that such right will be exercised, or

"(iv) the dividend rate on such stock varies in whole or in part (directly or indirectly) with reference to interest rates, commodity prices, or other similar indices.

"(B) LIMITATIONS.—Clauses (i), (ii), and (iii) of subparagraph (A) shall apply only if the right or obligation referred to therein may be exercised within the 20-year period beginning on the issue date of such stock and such right or obligation is not subject to a contingency which, as of the issue date, makes remote the likelihood of the redemption or purchase.

"(C) EXCEPTIONS FOR CERTAIN RIGHTS OR OBLIGATIONS.—

"(i) IN GENERAL.—A right or obligation shall not be treated as described in clause (i), (ii), or (iii) of subparagraph (A) if—

"(I) it may be exercised only upon the death, disability, or mental incompetency of the holder, or

"(II) in the case of a right or obligation to redeem or purchase stock transferred in connection with the performance of services for the issuer or a related person (and which represents reasonable compensation), it may be exercised only upon the holder's separation from service from the issuer or a related person.

"(ii) EXCEPTION.—Clause (i)(I) shall not apply if the stock relinquished in the exchange, or the stock acquired in the exchange is in—

"(I) a corporation if any class of stock in such corporation or a related party is readily tradable on an established securities market or otherwise, or

"(II) any other corporation if such exchange is part of a transaction or series of transactions in which such corporation is to become a corporation described in subclause (I).

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) PREFERRED STOCK.—The term 'preferred stock' means stock which is limited and preferred as to dividends and does not participate (including through a conversion privilege) in corporate growth to any significant extent.

"(B) RELATED PERSON.—A person shall be treated as related to another person if they bear a relationship to such other person described in section 267(b) or 707(b).

"(4) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection and sections 354(a)(2)(C), 355(a)(3)(D), and 356(e). The Secretary may also prescribe regulations, consistent with the treatment under this subsection and such sections, for the treatment of nonqualified preferred stock under other provisions of this title.".

(b) SECTION 354.—Paragraph (2) of section 354(a) (relating to exchanges of stock and securities in certain reorganizations) is amended by adding at the end the following new subparagraph:

"(C) NONQUALIFIED PREFERRED STOCK.—

"(i) IN GENERAL.—Nonqualified preferred stock (as defined in section 351(g)(2)) received in exchange for stock other than nonqualified preferred stock (as so defined) shall not be treated as stock or securities.

"(ii) RECAPITALIZATIONS OF FAMILY-OWNED CORPORATIONS.—

"(I) IN GENERAL.—Clause (i) shall not apply in the case of a recapitalization under section 368(a)(1)(E) of a family-owned corporation.

"(II) FAMILY-OWNED CORPORATION.—For purposes of this clause, except as provided in regulations, the term 'family-owned corporation' means any corporation which is described in clause (i) of section 447(d)(2)(C) throughout the 8-year period beginning on the date which is 5 years before the date of the recapitalization. For purposes of the preceding sentence, stock shall not be treated as owned by a family member during any period described in section 355(d)(6)(B).".

(c) SECTION 355.—Paragraph (3) of section 355(a) is amended by adding at the end the following new subparagraph:

"(D) NONQUALIFIED PREFERRED STOCK.—Nonqualified preferred stock (as defined in section 351(g)(2)) received in a distribution with respect to stock other than nonqualified preferred stock (as so defined) shall not be treated as stock or securities.".

(d) SECTION 356.—Section 356 is amended by redesignating subsections (e) and (f) as subsections (f) and (g), respectively, and by inserting after subsection (d) the following new subsection:

"(e) NONQUALIFIED PREFERRED STOCK TREATED AS OTHER PROPERTY.—For purposes of this section—

"(1) IN GENERAL.—Except as provided in paragraph (2), the term 'other property' includes nonqualified preferred stock (as defined in section 351(g)(2)).

"(2) EXCEPTION.—The term 'other property' does not include nonqualified preferred stock (as so defined) to the extent that, under section 354 or 355, such preferred stock would be permitted to be received without the recognition of gain.".

(e) CONFORMING AMENDMENTS.—

(1) Subparagraph (B) of section 354(a)(2) and subparagraph (C) of section 355(a)(3)(C) are each amended by inserting "(including nonqualified preferred stock, as defined in section 351(g)(2))" after "stock".

(2) Subparagraph (A) of section 354(a)(3) and subparagraph (A) of section 355(a)(4) are each amended by inserting "nonqualified preferred stock and" after "including".

(3) Section 1036 is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

"(b) NONQUALIFIED PREFERRED STOCK NOT TREATED AS STOCK.—For purposes of this section, nonqualified preferred stock (as defined in section 351(g)(2)) shall be treated as property other than stock.".

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to transactions after June 8, 1997.

(2) TRANSITION RULE.—The amendments made by this section shall not apply to any transaction after June 8, 1997, if such transaction is—

(A) made pursuant to a written agreement which was binding on such date and at all times thereafter,

(B) described in a ruling request submitted to the Internal Revenue Service on or before such date, or

(C) described on or before such date in a public announcement or in a filing with the Securities and Exchange Commission required solely by reason of the distribution.

Subtitle D—Administrative Provisions

SEC. 1031. REPORTING OF CERTAIN PAYMENTS MADE TO ATTORNEYS.

(a) IN GENERAL.—Section 6045 (relating to returns of brokers) is amended by adding at the end the following new subsection:

"(f) RETURN REQUIRED IN THE CASE OF PAYMENTS TO ATTORNEYS.—

"(1) IN GENERAL.—Any person engaged in a trade or business and making a payment (in the course of such trade or business) to which this subsection applies shall file a return under subsection (a) and a statement under subsection (b) with respect to such payment.

"(2) APPLICATION OF SUBSECTION.—

"(A) IN GENERAL.—This subsection shall apply to any payment to an attorney in connection with legal services (whether or not such services are performed for the payor).

"(B) EXCEPTION.—This subsection shall not apply to the portion of any payment which is required to be reported under section 6041(a) (or would be so required but for the dollar limitation contained therein) or section 6051.".

(b) REPORTING OF ATTORNEYS' FEES PAYABLE TO CORPORATIONS.—The regulations providing an exception under section 6041 of the Internal Revenue Code of 1986 for payments made to corporations shall not apply to payments of attorneys' fees.

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to payments made after December 31, 1997.

SEC. 1032. DECREASE OF THRESHOLD FOR REPORTING PAYMENTS TO CORPORATIONS PERFORMING SERVICES FOR FEDERAL AGENCIES.

(a) IN GENERAL.—Subsection (d) of section 6041A (relating to returns regarding payments of remuneration for services and direct sales) is amended by adding at the end the following new paragraph:

"(3) PAYMENTS TO CORPORATIONS BY FEDERAL EXECUTIVE AGENCIES.—

"(A) IN GENERAL.—Notwithstanding any regulation prescribed by the Secretary before the date of the enactment of this paragraph, subsection (a) shall apply to remuneration paid to a corporation by any Federal executive agency (as defined in section 6050M(b)).

"(B) EXCEPTION.—Subparagraph (A) shall not apply to—

"(i) services under contracts described in section 6050M(e)(3) with respect to which the requirements of section 6050M(e)(2) are met, and

"(ii) such other services as the Secretary may specify in regulations prescribed after the date of the enactment of this paragraph.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to returns the due date for which (determined without regard to any extension) is more than 90 days after the date of the enactment of this Act.

SEC. 1033. DISCLOSURE OF RETURN INFORMATION FOR ADMINISTRATION OF CERTAIN VETERANS PROGRAMS.

(a) GENERAL RULE.—Subparagraph (D) of section 6103(l)(7) (relating to disclosure of return information to Federal, State, and local agencies administering certain programs) is amended by striking "Clause (viii) shall not apply after September 30, 1998.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 1034. CONTINUOUS LEVY ON CERTAIN PAYMENTS.

(a) IN GENERAL.—Section 6331 (relating to levy and distraint) is amended—

(1) by redesignating subsection (h) as subsection (i), and

(2) by inserting after subsection (g) the following new subsection:

"(h) CONTINUING LEVY ON CERTAIN PAYMENTS.—

"(1) IN GENERAL.—The effect of a levy on specified payments to or received by a taxpayer shall be continuous from the date such levy is first made until such levy is released. Notwithstanding section 6334, such continuous levy shall attach to up to 15 percent of any specified payment due to the taxpayer.

"(2) SPECIFIED PAYMENT.—For the purposes of paragraph (1), the term 'specified payment' means—

"(A) any Federal payment other than a payment for which eligibility is based on the income or assets (or both) of a payee,

"(B) any payment described in paragraph (4), (7), (9), or (11) of section 6334(a), and

"(C) any annuity or pension payment under the Railroad Retirement Act or benefit under the Railroad Unemployment Insurance Act described in subsection (a)(6) of this section.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to levies issued after the date of the enactment of this Act.

SEC. 1035. MODIFICATION OF LEVY EXEMPTION.

(a) IN GENERAL.—Section 6334 (relating to property exempt from levy) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) LEVY ALLOWED ON CERTAIN SPECIFIED PAYMENTS.—Any payment described in subparagraph (B) or (C) of section 6331(h)(2) shall not be exempt from levy if the Secretary approves the levy thereon under section 6331(h).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to levies issued after the date of the enactment of this Act.

SEC. 1036. CONFIDENTIALITY AND DISCLOSURE OF RETURNS AND RETURN INFORMATION.

(a) IN GENERAL.—Subsection (k) of section 6103 is amended by adding at the end the following new paragraph:

"(8) LEVIES ON CERTAIN GOVERNMENT PAYMENTS.—

"(A) DISCLOSURE OF RETURN INFORMATION IN LEVIES ON FINANCIAL MANAGEMENT SERVICE.—In serving a notice of levy, or release of such levy, with respect to any applicable government payment, the Secretary may disclose to officers and employees of the Financial Management Service—

"(i) return information, including taxpayer identity information,

"(ii) the amount of any unpaid liability under this title (including penalties and interest), and

"(iii) the type of tax and tax period to which such unpaid liability relates.

"(B) RESTRICTION ON USE OF DISCLOSED INFORMATION.—Return information disclosed under subparagraph (A) may be used by officers and employees of the Financial Management Service only for the purpose of, and to the extent necessary in, transferring levied funds in satisfaction of the levy, maintaining appropriate agency records in regard to such levy or the release thereof, notifying the taxpayer and the agency certifying such payment that the levy has been honored, or in the defense of any litigation ensuing from the honor of such levy.

"(C) APPLICABLE GOVERNMENT PAYMENT.—For purposes of this paragraph, the term 'applicable government payment' means—

"(i) any Federal payment (other than a payment for which eligibility is based on the income or assets (or both) of a payee) certified to the Financial Management Service for disbursement, and

"(ii) any other payment which is certified to the Financial Management Service for disbursement and which the Secretary designates by published notice.".

(b) CONFORMING AMENDMENTS.—

(1) Section 6301(p) is amended—

(A) in paragraph (3)(A), by striking "(2), or (6)" and inserting "(2), (6), or (8), and

(B) in paragraph (4), by inserting "(k)(8)," after "(j) (1) or (2)," each place it appears.

(2) Section 552a(a)(8)(B) of title 5, United States Code, is amended by striking "or" at the end of clause (v), by adding "or" at the end of clause (vi), and by adding at the end the following new clause:

"(vii) matches performed incident to a levy described in section 6103(k)(8) of the Internal Revenue Code of 1986;".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to levies issued after the date of the enactment of this Act.

SEC. 1037. RETURNS OF BENEFICIARIES OF ESTATES AND TRUSTS REQUIRED TO FILE RETURNS CONSISTENT WITH ESTATE OR TRUST RETURN OR TO NOTIFY SECRETARY OF INCONSISTENCY.

(a) DOMESTIC ESTATES AND TRUSTS.—Section 6034A (relating to information to beneficiaries of estates and trusts) is amended by adding at the end the following new subsection:

"(c) BENEFICIARY'S RETURN MUST BE CONSISTENT WITH ESTATE OR TRUST RETURN OR SECRETARY NOTIFIED OF INCONSISTENCY.—

"(1) IN GENERAL.—A beneficiary of any estate or trust to which subsection (a) applies shall, on such beneficiary's return, treat any reported item in a manner which is consistent with the treatment of such item on the applicable entity's return.

"(2) NOTIFICATION OF INCONSISTENT TREATMENT.—

"(A) IN GENERAL.—In the case of any reported item, if—

"(i)(I) the applicable entity has filed a return but the beneficiary's treatment on such beneficiary's return is (or may be) inconsistent with the treatment of the item on the applicable entity's return, or

"(II) the applicable entity has not filed a return, and

"(ii) the beneficiary files with the Secretary a statement identifying the inconsistency,

paragraph (1) shall not apply to such item.

"(B) BENEFICIARY RECEIVING INCORRECT INFORMATION.—A beneficiary shall be treated as having complied with clause (ii) of subparagraph (A) with respect to a reported item if the beneficiary—

"(i) demonstrates to the satisfaction of the Secretary that the treatment of the reported item on the beneficiary's return is consistent with the treatment of the item on the statement furnished under subsection (a) to the beneficiary by the applicable entity, and

"(ii) elects to have this paragraph apply with respect to that item.

"(3) EFFECT OF FAILURE TO NOTIFY.—In any case—

"(A) described in subparagraph (A)(i)(I) of paragraph (2), and

"(B) in which the beneficiary does not comply with subparagraph (A)(ii) of paragraph (2),

any adjustment required to make the treatment of the items by such beneficiary consistent with the treatment of the items on the applicable entity's return shall be treated as arising out of mathematical or clerical errors and assessed according to section 6213(b)(1). Paragraph (2) of section 6213(b) shall not apply to any assessment referred to in the preceding sentence.

"(4) DEFINITIONS.—For purposes of this subsection—

"(A) REPORTED ITEM.—The term 'reported item' means any item for which information is required to be furnished under subsection (a).

"(B) APPLICABLE ENTITY.—The term 'applicable entity' means the estate or trust of which the taxpayer is the beneficiary.

"(5) ADDITION TO TAX FOR FAILURE TO COMPLY WITH SECTION.—For addition to tax in the case of a beneficiary's negligence in connection with, or disregard of, the requirements of this section, see part II of subchapter A of chapter 68.".

(b) FOREIGN TRUSTS.—Subsection (d) of section 6048 (relating to information with respect to certain foreign trusts) is amended by adding at the end the following new paragraph:

"(5) UNITED STATES PERSON'S RETURN MUST BE CONSISTENT WITH TRUST RETURN OR SECRETARY NOTIFIED OF INCONSISTENCY.—Rules similar to the rules of section 6034A(c) shall apply to items reported by a trust under subsection (b)(1)(B) and to United States persons referred to in such subsection.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns of beneficiaries and owners filed after the date of the enactment of this Act.

Subtitle E—Excise Tax Provisions

SEC. 1041. EXTENSION AND MODIFICATION OF AIRPORT AND AIRWAY TRUST FUND TAXES.

(a) FUEL TAXES.—

(1) AVIATION FUEL.—Clause (ii) of section 4091(b)(3)(A) is amended by striking "September 30, 1997" and inserting "September 30, 2007".

(2) AVIATION GASOLINE.—Subparagraph (B) of section 4081(d)(2) is amended by striking "September 30, 1997" and inserting "September 30, 2007".

(3) NONCOMMERCIAL AVIATION.—Subparagraph (B) of section 4041(c)(3) is amended by striking "September 30, 1997" and inserting "September 30, 2007".

(b) TICKET TAXES.—

(1) PERSONS.—Clause (ii) of section 4261(g)(1)(A) is amended by striking "September 30, 1997" and inserting "September 30, 2007".

(2) PROPERTY.—Clause (ii) of section 4271(d)(1)(A) is amended by striking "September 30, 1997" and inserting "September 30, 2007".

(c) MODIFICATIONS TO TAX ON TRANSPORTATION OF PERSONS BY AIR.—

(1) IN GENERAL.—Section 4261 (relating to imposition of tax) is amended by striking subsections (a), (b), and (c) and inserting the following new subsections:

"(a) IN GENERAL.—There is hereby imposed on the amount paid for taxable transportation of any person a tax equal to 7.5 percent of the amount so paid.

"(b) DOMESTIC SEGMENTS OF TAXABLE TRANSPORTATION.—

"(1) IN GENERAL.—There is hereby imposed on the amount paid for each domestic segment of taxable transportation by air a tax in the amount determined in accordance with the following table for the calendar year in which the segment begins:

In the case of segments beginning during:	The tax is:
1997 or 1998	$2.00
1999	$2.25
2000	$2.50
2001	$2.75
2002 or thereafter	$3.00.

"(2) DOMESTIC SEGMENT.—For purposes of this section, the term 'domestic segment' means any segment which is taxable transportation described in section 4262(a)(1).

"(3) CHANGES IN SEGMENTS BY REASON OF REROUTING.—If—

"(A) a ticket is purchased for transportation between 2 locations on specified flights, and

"(B) at the initiation of the air carrier after such purchase, there is a change in the route taken which changes the number of domestic segments, but there is no change in the amount charged for such transportation, the tax imposed by paragraph (1) shall be determined without regard to such change in route.

"(c) USE OF INTERNATIONAL TRAVEL FACILITIES.—

"(1) IN GENERAL.—There is hereby imposed a tax of $15.50 on any amount paid (whether within or without the United States) for any transportation of any person by air, if such transportation begins or ends in the United States.

"(2) EXCEPTION FOR TRANSPORTATION ENTIRELY TAXABLE UNDER SUBSECTION (a).—This subsection shall not apply to any transportation all of which is taxable under subsection (a) (determined without regard to sections 4281 and 4282).

"(3) SPECIAL RULE FOR ALASKA AND HAWAII.—In any case in which the tax imposed by paragraph (1) applies to a domestic segment, such tax shall apply only on departure.".

(2) SPECIAL RULES.—Section 4261 is amended by redesignating subsections (e), (f), and (g), as subsections (f), (g), and (h), respectively, and by inserting after subsection (d) the following new subsection:

"(e) SPECIAL RULES.—

"(1) AMOUNTS PAID OUTSIDE THE UNITED STATES.—In the case of amounts paid outside the United States for taxable transportation, the taxes imposed by subsections (a) and (b) shall apply only to segments of such transportation which begin and end in the United States.

"(2) AMOUNTS PAID FOR RIGHT TO AWARD FREE OR REDUCED RATE AIR TRANSPORTATION.—Any amount paid (and the value of any other benefit provided) to an air carrier (or any related person) for the right to provide mileage awards for (or other reductions in the cost of) any transportation of persons by air shall be treated for purposes of subsection (a) as an amount paid for taxable transportation, and such amount shall be taxable under subsection (a) without regard to any other provision of this subchapter. The Secretary shall prescribe rules which reallocate items of income, deduction, credit, exclusion, or other allowance to the extent necessary to prevent the avoidance of tax imposed by reason of this paragraph.

"(3) INFLATION ADJUSTMENT OF DOLLAR RATES OF TAX.—

"(A) IN GENERAL.—In the case of taxable events in a calendar year after the last nonindexed year, the dollar amount contained in subsection (b) and the dollar amount contained in subsection (c) shall each be increased by an amount equal to—

"(i) such dollar amount, multiplied by

"(ii) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting the year before the last nonindexed year for 'calendar year 1992' in subparagraph (B) thereof.

If any increase determined under the preceding sentence is not a multiple of 10 cents, such increase shall be rounded to the nearest multiple of 10 cents.

"(B) LAST NONINDEXED YEAR.—For purposes of subparagraph (A), the last nonindexed year is—

"(i) 2002 in the case of a dollar amount contained in subsection (b), and

"(ii) 1998 in the case of a dollar amount contained in subsection (c).

"(C) TAXABLE EVENT.—For purposes of subparagraph (A), in the case of the tax imposed subsection (b), the beginning of the domestic segment shall be treated as the taxable event.".

(3) SECONDARY LIABILITY OF CARRIER FOR UNPAID TAX.—Subsection (c) of section 4263 is amended by striking "subchapter—" and all that follows and inserting ", such tax shall be paid by the carrier providing the initial segment of such transportation which begins or ends in the United States.".

(d) MODIFICATION OF RULES ON AIRLINE FARE ADVERTISING.—Subsection (b) of section 7275 (relating to advertising) is amended by striking "shall—" and all that follows and inserting "shall—

"(1) separately state—

"(A) the amount to be paid for such transportation, and

"(B) the amount of the taxes imposed by subsections (a), (b), and (c) of section 4261 at a location proximate to (and in a type size not less than half the type size of) the statement of the amount described in subparagraph (A), and

"(2) describe such taxes substantially as: 'user taxes to pay for airport construction and airway safety and operations'.".

(e) INCREASED AIRPORT AND AIRWAY TRUST FUND DEPOSITS.—

(1) Paragraph (1) of section 9502(b) is amended—

(A) by striking "(to the extent that the rate of the tax on such gasoline exceeds 4.3 cents per gallon)" in subparagraph (C), and

(B) by striking "to the extent attributable to the Airport and Airway Trust Fund financing rate" in subparagraph (C).

(2) Section 9502 is amended by striking subsection (f).

(f) EFFECTIVE DATES.—

(1) FUEL TAXES.—The amendments made by subsection (a) shall apply take effect on October 1, 1997.

(2) TICKET TAXES.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the amendments made by subsections (b) and (c) shall apply to transportation beginning on or after October 1, 1997.

(B) TREATMENT OF AMOUNTS PAID FOR TICKETS PURCHASED BEFORE DATE OF ENACTMENT.—The amendments made by subsection (c) shall not apply to amounts paid for a ticket purchased before the date of the enactment of this Act for a specified flight beginning on or after October 1, 1997.

(C) AMOUNTS PAID FOR RIGHT TO AWARD MILEAGE AWARDS.—

(i) IN GENERAL.—Paragraph (2) of section 4261(e) of the Internal Revenue Code of 1986 (as added by the amendment made by subsection (c)) shall apply to amounts paid after September 30, 1997.

(ii) PAYMENTS WITHIN CONTROLLED GROUP.—For purposes of clause (i), any amount paid after June 11, 1997, and before October 1, 1997, by 1 member of a controlled group for a right which is described in such section 4261(e)(2) and is furnished by another member of such group after September 30, 1997, shall be treated as paid after September 30, 1997. For purposes of the preceding sentence, all persons treated as a single employer under subsection (a) or (b) of section 52 of such Code shall be treated as members of a controlled group.

(3) ADVERTISING.—The amendment made by subsection (d) shall take effect on October 1, 1997.

(4) INCREASED DEPOSITS INTO AIRPORT AND AIRWAY TRUST FUND.—The amendments made by subsection (e) shall apply with respect to taxes received in the Treasury on and after October 1, 1997.

(g) DELAYED DEPOSITS OF AIRLINE TICKET TAX REVENUES.—Notwithstanding section 6302 of the Internal Revenue Code of 1986, in the case of deposits of taxes imposed by section 4261 of the Internal Revenue Code of 1986, the due date for any such deposit which would (but for this subsection) be required to be made—

(1) after August 14, 1997, and before October 1, 1997, shall be October 10, 1997, or

(2) after June 30, 1998, and before October 1, 1998, shall be October 13, 1998.

SEC. 1042. KEROSENE TAXED AS DIESEL FUEL.

(a) IN GENERAL.—Subsection (a) of section 4083 (defining taxable fuel) is amended by striking "and" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", and", and by adding at the end the following new subparagraph:

"(C) kerosene.".

(b) RATE OF TAX.—Clause (iii) of section 4081(a)(2)(A) is amended by inserting "or kerosene" after "diesel fuel".

(c) Exemptions From Tax; Refunds to Vendors.—

(1) In general.—Section 4082 (relating to exemptions for diesel fuel) is amended by striking "diesel fuel" each place it appears in subsections (a) and (c) and inserting "diesel fuel and kerosene".

(2) Certain kerosene exempt from dyeing requirement.—Section 4082 is amended by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new subsection:

"(c) Exceptions to Dyeing Requirements.—

"(1) Aviation-grade kerosene.—Subsection (a)(2) shall not apply to a removal, entry, or sale of aviation-grade kerosene (as determined under regulations prescribed by the Secretary) if the person receiving the kerosene is registered under section 4101 with respect to the tax imposed by section 4091.

"(2) Use for non-fuel feedstock purposes.—Subsection (a)(2) shall not apply to kerosene—

"(A) received by pipeline or barge for use by the person receiving the kerosene in the manufacture or production of any substance (other than gasoline, diesel fuel, or special fuels referred to in section 4041), or

"(B) to the extent provided in regulations, removed or entered—

"(i) for such a use by the person removing or entering the kerosene, or

"(ii) for resale by such person for such a use by the purchaser,

but only if the person receiving, removing, or entering the kerosene and such purchaser (if any) are registered under section 4101 with respect to the tax imposed by section 4081.".

(3) Refunds.—

(A) Subsection (l) of section 6427 is amended by inserting "or kerosene" after "diesel fuel" each place it appears in paragraphs (1), (2), and (5) (including the heading for paragraph (5)).

(B) Paragraph (5) of section 6427(l) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

"(B) Sales of kerosene not for use in motor fuel.—Paragraph (1)(A) shall not apply to kerosene sold by a vendor—

"(i) for any use if such sale is from a pump which (as determined under regulations prescribed by the Secretary) is not suitable for use in fueling any diesel-powered highway vehicle or train, or

"(ii) to the extent provided by the Secretary, for blending with heating oil to be used during periods of extreme or unseasonable cold.".

(C) Subparagraph (C) of section 6427(l)(5), as redesignated by subparagraph (B) of this paragraph, is amended by striking "subparagraph (A)" and inserting "subparagraph (A) or (B)".

(D) The heading for subsection (l) of section 6427 is amended by inserting ", Kerosene," after "Diesel fuel".

(d) Conforming Amendments.—

(1) Paragraph (2) of section 4041(a) is amended by striking "kerosene, gas oil, or fuel oil" and inserting "gas oil, fuel oil".

(2) Paragraph (1) of section 4041(c) is amended by striking "any liquid" and inserting "kerosene and any other liquid".

(3)(A) The heading for section 4082 is amended by inserting "**AND KEROSENE**" after "**DIESEL FUEL**".

(B) The table of sections for subpart A of part III of subchapter A of chapter 32 is amended by inserting "and kerosene" after "diesel fuel" in the item relating to section 4082.

(4) Subsection (b) of section 4083 is amended by striking "gasoline, diesel fuel," and inserting "taxable fuels".

(5) Subsection (a) of section 4093 is amended by striking "any liquid" and inserting "kerosene and any other liquid".

(6) The material following subparagraph (F) of section 6416(b)(2) is amended by inserting "or kerosene" after "diesel fuel".

(7) Paragraphs (1) and (3) of section 6427(f), and the heading for section 6427(f), are each amended by inserting "kerosene," after "diesel fuel,".

(8) Paragraph (2) of section 6427(f) is amended by striking "or diesel fuel" each place it appears and inserting ", diesel fuel, or kerosene".

(9) Subparagraph (A) of section 6427(i)(3) is amended by striking "or diesel fuel" and inserting ", diesel fuel, or kerosene".

(10) The heading for paragraph (4) of section 6427(i) is amended to read as follows:

"(4) Special rule for refunds under subsection (l).—"

(11) Paragraph (1) of section 6715(c) is amended by inserting "or kerosene" after "diesel fuel".

(12)(A) The text of section 7232 is amended by striking "gasoline, lubricating oil, diesel fuel" and inserting "any taxable fuel (as defined in section 4083)".

(B) The section heading for section 7232 is amended to read as follows:

"SEC. 7232. FAILURE TO REGISTER UNDER SECTION 4101, FALSE REPRESENTATIONS OF REGISTRATION STATUS, ETC.".

(C) The table of sections for part II of subchapter A of chapter 75 is amended by striking the item relating to section 7232 and inserting the following:

"Sec. 7232. Failure to register under section 4101, false representations of registration status, etc.".

(13) Sections 9503(b)(1)(E) and 9508(b)(2) are each amended by striking "and diesel fuel" and inserting ", diesel fuel, and kerosene".

(14) Subparagraph (B) of section 9503(b)(5) is amended by striking "or diesel fuel" and inserting ", diesel fuel, or kerosene".

(15) Paragraphs (1)(B) and (2) of section 9503(f) are each amended by inserting "or kerosene" after "diesel fuel" each place it appears.

(e) Effective Date.—The amendments made by this section shall take effect on July 1, 1998.

(f) Floor Stock Taxes.—

(1) Imposition of tax.—In the case of kerosene which is held on July 1, 1998, by any person, there is hereby imposed a floor stocks tax of 24.3 cents per gallon.

(2) Liability for tax and method of payment.—

(A) Liability for tax.—A person holding kerosene on July 1, 1998, to which the tax imposed by paragraph (1) applies shall be liable for such tax.

(B) Method of payment.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe.

(C) Time for payment.—The tax imposed by paragraph (1) shall be paid on or before August 31, 1998.

(3) Definitions.—For purposes of this subsection—

(A) Held by a person.—Kerosene shall be considered as "held by a person" if title thereto has passed to such person (whether or not delivery to the person has been made).

(B) Secretary.—The term "Secretary" means the Secretary of the Treasury or his delegate.

(4) Exception for exempt uses.—The tax imposed by paragraph (1) shall not apply to kerosene held by any person exclusively for any use to the extent a credit or refund of the tax imposed by section 4081 of the Internal Revenue Code of 1986 is allowable for such use.

(5) Exception for fuel held in vehicle tank.—No tax shall be imposed by paragraph (1) on kerosene held in the tank of a motor vehicle or motorboat.

(6) Exception for certain amounts of fuel.—

(A) In general.—No tax shall be imposed by paragraph (1) on kerosene held on July 1, 1998, by any person if the aggregate amount of kerosene held by such person on such date does not exceed 2,000 gallons. The preceding sentence shall apply only if such person submits to the Secretary (at the time and in the manner required by the Secretary) such information as the Secretary shall require for purposes of this paragraph.

(B) Exempt fuel.—For purposes of subparagraph (A), there shall not be taken into account fuel held by any person which is exempt from the tax imposed by paragraph (1) by reason of paragraph (4) or (5).

(C) Controlled groups.—For purposes of this paragraph—

(i) Corporations.—

(I) In general.—All persons treated as a controlled group shall be treated as 1 person.

(II) Controlled group.—The term "controlled group" has the meaning given to such term by subsection (a) of section 1563 of such Code; except that for such purposes the phrase "more than 50 percent" shall be substituted for the phrase "at least 80 percent" each place it appears in such subsection.

(ii) Nonincorporated persons under common control.—Under regulations prescribed by the Secretary, principles similar to the principles of clause (i) shall apply to a group of persons under common control where 1 or more of such persons is not a corporation.

(7) Coordination with section 4081.—No tax shall be imposed by paragraph (1) on kerosene to the extent that tax has been (or will be) imposed on such kerosene under section 4081 or 4091 of such Code.

(8) Other laws applicable.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4081 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply with respect to the floor stock taxes imposed by paragraph (1) to the same extent as if such taxes were imposed by such section 4081.

SEC. 1043. RESTORATION OF LEAKING UNDERGROUND STORAGE TANK TRUST FUND TAXES.

Paragraph (3) of section 4081(d) is amended by striking "shall not apply after December 31, 1995" and inserting "shall apply after the date of the enactment of the Taxpayer Relief Act of 1997 and before October 1, 2002".

SEC. 1044. APPLICATION OF COMMUNICATIONS TAX TO LONG-DISTANCE PREPAID TELEPHONE CARDS.

(a) In General.—Subsection (b) of section 4251 is amended—

(1) by adding at the end the following new paragraph:

"(3) Long-distance prepaid telephone cards and similar arrangements.—Any amount paid (and the value of any other benefit provided) to a provider of communications services (or any related person) for the right to award, sell, or otherwise make available telephone service (or reductions in the cost of such service) other than local telephone service through prepaid telephone cards or any similar arrangement shall be treated as an amount paid for communications services. The Secretary shall prescribe rules which reallocate items of income, deduction, credit, exclusion, or other allowance to the extent necessary to prevent the avoidance of tax imposed by reason of this paragraph.", and

(2) by inserting "AND SPECIAL RULE" after "DEFINITIONS" in the heading.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to amounts paid on or after the date of the enactment of this Act.

(2) PAYMENTS WITHIN CONTROLLED GROUP.—For purposes of paragraph (1), any amount paid after June 11, 1997, and before the date of the enactment of this Act by 1 member of a controlled group for a right which is described in section 4251(b)(3) of the Internal Revenue Code of 1986 (as added by this section) and is furnished by another member of such group shall be treated as paid on the date of the enactment of this Act. For purposes of the preceding sentence, all persons treated as a single employer under subsection (a) or (b) of section 52 of such Code shall be treated as members of a controlled group.

Subtitle F—Provisions Relating to Tax-Exempt Entities

SEC. 1051. EXPANSION OF LOOK-THRU RULE FOR INTEREST, ANNUITIES, ROYALTIES, AND RENTS DERIVED BY SUBSIDIARIES OF TAX-EXEMPT ORGANIZATIONS.

(a) IN GENERAL.—Paragraph (13) of section 512(b) is amended to read as follows:

"(13) SPECIAL RULES FOR CERTAIN AMOUNTS RECEIVED FROM CONTROLLED ENTITIES.—

"(A) IN GENERAL.—If an organization (in this paragraph referred to as the 'controlling organization') receives (directly or indirectly) a specified payment from another entity which it controls (in this paragraph referred to as the 'controlled entity'), notwithstanding paragraphs (1), (2), and (3), the controlling organization shall include such payment as an item of gross income derived from an unrelated trade or business to the extent such payment reduces the net unrelated income of the controlled entity (or increases any net unrelated loss of the controlled entity). There shall be allowed all deductions of the controlling organization directly connected with amounts treated as derived from an unrelated trade or business under the preceding sentence.

"(B) NET UNRELATED INCOME OR LOSS.—For purposes of this paragraph—

"(i) NET UNRELATED INCOME.—The term 'net unrelated income' means—

"(I) in the case of a controlled entity which is not exempt from tax under section 501(a), the portion of such entity's taxable income which would be unrelated business taxable income if such entity were exempt from tax under section 501(a) and had the same exempt purposes (as defined in section 513A(a)(5)(A)) as the controlling organization, or

"(II) in the case of a controlled entity which is exempt from tax under section 501(a), the amount of the unrelated business taxable income of the controlled entity.

"(ii) NET UNRELATED LOSS.—the term 'net unrelated loss' means the net operating loss adjusted under rules similar to the rules of clause (i).

"(C) SPECIFIED PAYMENT.—For purposes of this paragraph, the term 'specified payment' means any interest, annuity, royalty, or rent.

"(D) DEFINITION OF CONTROL.—For purposes of this paragraph—

"(i) CONTROL.—The term 'control' means—

"(I) in the case of a corporation, ownership (by vote or value) of more than 50 percent of the stock in such corporation,

"(II) in the case of a partnership, ownership of more than 50 percent of the profits interests or capital interests in such partnership, or

"(III) in any other case, ownership of more than 50 percent of the beneficial interests in the entity.

"(ii) CONSTRUCTIVE OWNERSHIP.—Section 318 (relating to constructive ownership of stock) shall apply for purposes of determining ownership of stock in a corporation. Similar principles shall apply for purposes of determining ownership of interests in any other entity.

"(E) RELATED PERSONS.—The Secretary shall prescribe such rules as may be necessary or appropriate to prevent avoidance of the purposes of this paragraph through the use of related persons.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

(2) CONTROL TEST.—In the case of taxable years beginning before January 1, 1999, an organization shall be treated as controlling another organization for purposes of section 512(b)(13) of the Internal Revenue Code of 1986 (as amended by this section) only if it controls such organization within the meaning of such section, determined by substituting "80 percent" for "50 percent" each place it appears in subparagraph (D) thereof.

SEC. 1052. LIMITATION ON INCREASE IN BASIS OF PROPERTY RESULTING FROM SALE BY TAX-EXEMPT ENTITY TO A RELATED PERSON.

(a) IN GENERAL.—Part IV of subchapter O of chapter 1 (relating to special rules for gain or loss on disposition of property) is amended by redesignating section 1061 as section 1062 and by inserting after section 1060 the following new section:

"SEC. 1061. BASIS LIMITATION FOR SALE OR EXCHANGE OF PROPERTY BY TAX-EXEMPT ENTITY TO RELATED PERSON.

"(a) GENERAL RULE.—In the case of a sale or exchange of property directly or indirectly between a tax-exempt entity and a related person, the basis of the related person in the property acquired shall not exceed the adjusted basis of such property (immediately before the exchange) in the hands of the tax-exempt entity, increased by the amount of gain recognized to the tax-exempt entity on the transfer which is subject to tax under section 511.

"(b) DEFINITIONS.—For purposes of this section—

"(1) TAX-EXEMPT ENTITY.—The term 'tax-exempt entity' means any entity which is exempt from the tax imposed by this chapter.

"(2) RELATED PERSON.—The term 'related person' means any person bearing a relationship to the tax-exempt entity which is described in section 267(b) or 707(b)(1). For purposes of applying section 267(b)(2) under the preceding sentence, such an entity shall be treated as if it were an individual.".

(b) CLERICAL AMENDMENT.—The table of sections for part IV of subchapter O of chapter 1 is amended by striking the last item and inserting the following:

"Sec. 1061. Basis limitation for sale or exchange of property by tax-exempt entity to related person.
"Sec. 1062. Cross references.".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to sales and exchanges after June 8, 1997.

(2) BINDING CONTRACTS.—The amendments made by this section shall not apply to any sale or exchange pursuant to a written contract which was binding on June 8, 1997, and at all times thereafter before the sale or exchange.

SEC. 1053. MODIFICATIONS TO EXCEPTION FROM REPORTING, ETC. OF LOBBYING ACTIVITIES.

(a) IN GENERAL.—Paragraph (3) of section 6033(e) (relating to exception where dues generally nondeductible) is amended to read as follows:

"(3) EXCEPTION WHERE DUES GENERALLY NONDEDUCTIBLE.—

"(A) IN GENERAL.—Paragraph (1)(A) shall not apply to an organization if more than 90 percent of the amount of the aggregate annual dues (or similar payments) paid to such organization are paid—

"(i) by individuals or families whose annual dues (or similar amounts) are less than $100, or

"(ii) by organizations which are exempt from tax.

For purposes of the preceding sentence, all organizations sharing a name, charter, historic affiliation, or similar characteristics and coordinating their lobbying activities shall be treated as 1 organization.

"(B) INFLATION ADJUSTMENT.—In the case of dues for annual periods beginning in any calendar year after 1998, the dollar amount contained in subparagraph (A)(i) shall be increased by an amount equal to—

"(i) such dollar amount, multiplied by

"(ii) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 1997' for 'calendar year 1992' in subparagraph (B) thereof.

If any increase determined under the preceding sentence is not a multiple of $5, such increase shall be rounded to the nearest multiple of $5.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1997.

SEC. 1054. TERMINATION OF CERTAIN EXCEPTIONS FROM RULES RELATING TO EXEMPT ORGANIZATIONS WHICH PROVIDE COMMERCIAL-TYPE INSURANCE.

(a) IN GENERAL.—Subparagraphs (A) and (B) of section 1012(c)(4) of the Tax Reform Act of 1986 shall not apply to any taxable year beginning after December 31, 1997.

(b) SPECIAL RULES.—In the case of an organization to which section 501(m) of the Internal Revenue Code of 1986 applies solely by reason of the amendment made by subsection (a)—

(1) no adjustment shall be made under section 481 (or any other provision) of such Code on account of a change in its method of accounting for its first taxable year beginning after December 31, 1997, and

(2) for purposes of determining gain or loss, the adjusted basis of any asset held on the 1st day of such taxable year shall be treated as equal to its fair market value as of such day.

(c) RESERVE WEAKENING AFTER JUNE 8, 1997.—Any reserve weakening after June 8, 1997, by an organization described in subsection (b) shall be treated as occurring in such organizations 1st taxable year beginning after December 31, 1997.

(d) REGULATIONS.—The Secretary of the Treasury or his delegate may prescribe rules for providing proper adjustments for organizations described in subsection (b) with respect to short taxable years which begin during 1998 by reason of section 843 of the Internal Revenue Code of 1986.

Subtitle G—Other Revenue Provisions

SEC. 1061. TERMINATION OF SUSPENSE ACCOUNTS FOR FAMILY CORPORATIONS REQUIRED TO USE ACCRUAL METHOD OF ACCOUNTING.

(a) IN GENERAL.—Subsection (i) of section 447 (relating to method of accounting for corporations engaged in farming) is amended by adding at the end the following new paragraph:

"(7) TERMINATION.—

"(A) IN GENERAL.—No suspense account may be established under this subsection by any corporation required by this section to change its method of accounting for any taxable year ending after June 8, 1997.

"(B) PHASEOUT OF EXISTING SUSPENSE ACCOUNTS.—

"(i) IN GENERAL.—Each suspense account under this subsection shall be reduced (but not below zero) for each taxable year beginning after June 8, 1997, by an amount equal to the lesser of—

"(I) the applicable portion of such account, or

"(II) 50 percent of the taxable income of the corporation for the taxable year, or, if the corporation has no taxable income for such year, the amount of any net operating loss (as defined in section 172(c)) for such taxable year.

For purposes of the preceding sentence, the amount of taxable income and net operating loss shall be determined without regard to this paragraph.

"(ii) COORDINATION WITH OTHER REDUCTIONS.—The amount of the applicable portion for any taxable year shall be reduced (but not below zero) by the amount of any reduction required for such taxable year under any other provision of this subsection.

"(iv) INCLUSION IN INCOME.—Any reduction in a suspense account under this paragraph shall be included in gross income for the taxable year of the reduction.

"(C) APPLICABLE PORTION.—For purposes of subparagraph (B), the term 'applicable portion' means, for any taxable year, the amount which would ratably reduce the amount in the account (after taking into account prior reductions) to zero over the period consisting of such taxable year and the remaining taxable years in such first 20 taxable years.

"(D) AMOUNTS AFTER 20TH YEAR.—Any amount in the account as of the close of the 20th year referred to in subparagraph (C) shall be treated as the applicable portion for each succeeding year thereafter to the extent not reduced under this paragraph for any prior taxable year after such 20th year.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after June 8, 1997.

SEC. 1062. MODIFICATION OF TAXABLE YEARS TO WHICH NET OPERATING LOSSES MAY BE CARRIED.

(a) IN GENERAL.—Subparagraph (A) of section 172(b)(1) (relating to years to which loss may be carried) is amended—

(1) by striking "3" in clause (i) and inserting "2", and

(2) by striking "15" in clause (ii) and inserting "20".

(b) RETENTION OF 3-YEAR CARRYBACK FOR CASUALTY LOSSES OF INDIVIDUALS.—Paragraph (1) of section 172(b) is amended by adding at the end the following new subparagraph:

"(F) CASUALTY LOSSES OF INDIVIDUALS.—Subparagraph (A)(i) shall be applied by substituting '3 years' for '2 years' with respect to the portion of the net operating loss of an individual for the taxable year which is attributable to losses of property arising from fire, storm, shipwreck, or other casualty, or from theft.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to net operating losses for taxable years beginning after the date of the enactment of this Act.

SEC. 1063. EXPANSION OF DENIAL OF DEDUCTION FOR CERTAIN AMOUNTS PAID IN CONNECTION WITH INSURANCE.

(a) DENIAL OF DEDUCTION FOR PREMIUMS.—Paragraph (1) of section 264(a) is amended to read as follows:

"(1) Premiums on any life insurance policy, or endowment or annuity contract, if the taxpayer is directly or indirectly a beneficiary under the policy or contract.".

(b) INTEREST ON POLICY LOANS.—Paragraph (4) of section 264(a) is amended by striking "individual, who" and all that follows and inserting "individual.".

(c) PRO RATA ALLOCATION OF INTEREST EXPENSE TO POLICY CASH VALUES.—Section 264 is amended by adding at the end the following new subsection:

"(e) PRO RATA ALLOCATION OF INTEREST EXPENSE TO POLICY CASH VALUES.—

"(1) IN GENERAL.—No deduction shall be allowed for that portion of the taxpayer's interest expense which is allocable to unborrowed policy cash values.

"(2) ALLOCATION.—For purposes of paragraph (1), the portion of the taxpayer's interest expense which is allocable to unborrowed policy cash values is an amount which bears the same ratio to such interest expense as—

"(A) the taxpayer's average unborrowed policy cash values of life insurance policies, and annuity and endowment contracts, issued after June 8, 1997, bears to

"(B) the average adjusted bases (within the meaning of section 1016) for all assets of the taxpayer.

"(3) UNBORROWED POLICY CASH VALUES.—The term 'unborrowed policy cash value' means, with respect to any life insurance policy or annuity or endowment contract, the excess of—

"(A) the cash surrender value of such policy or contract determined without regard to any surrender charge, over

"(B) the amount of any loan in respect of such policy or contract.

"(4) EXCEPTION FOR CERTAIN POLICIES AND CONTRACTS COVERING OFFICERS, DIRECTORS, AND EMPLOYEES.—Paragraph (1) shall not apply to any policy or contract owned by an entity engaged in a trade or business which covers any individual who is an officer, director, or employee of such trade or business at the time first covered by the policy or contract, and such policies and contracts shall not be taken into account under paragraph (2).

"(5) EXCEPTION FOR POLICIES AND CONTRACTS HELD BY NATURAL PERSONS; TREATMENT OF PARTNERSHIPS AND S CORPORATIONS.—

"(A) POLICIES AND CONTRACTS HELD BY NATURAL PERSONS.—

"(i) IN GENERAL.—This subsection shall not apply to any policy or contract held by a natural person.

"(ii) EXCEPTION WHERE BUSINESS IS BENEFICIARY.—If a trade or business is directly or indirectly the beneficiary under any policy or contract, to the extent of the unborrowed cash value of such policy or contract, such policy or contract shall be treated as held by such trade or business and not by a natural person.

"(iii) SPECIAL RULES.—

"(I) CERTAIN TRADES OR BUSINESSES NOT TAKEN INTO ACCOUNT.—Clause (ii) shall not apply to any trade or business carried on as a sole proprietorship and to any trade or business performing services as an employee.

"(II) LIMITATION ON UNBORROWED CASH VALUE.—The amount of the unborrowed cash value of any policy or contract which is taken into account by reason of clause (ii) shall not exceed the benefit to which the trade or business is entitled under the policy or contract.

"(iv) REPORTING.—The Secretary shall require such reporting from policyholders and issuers as is necessary to carry out clause (ii). Any report required under the preceding sentence shall be treated as a statement referred to in section 6724(d)(1).

"(B) TREATMENT OF PARTNERSHIPS AND S CORPORATIONS.—In the case of a partnership or S corporation, this subsection shall be applied at the partnership and corporate levels.

"(6) SPECIAL RULES.—

"(A) COORDINATION WITH SUBSECTION (a) AND SECTION 265.—If interest on any indebtedness is disallowed under subsection (a) or section 265—

"(i) such disallowed interest shall not be taken into account for purposes of applying this subsection, and

"(ii) for purposes of applying paragraph (2)(B), the adjusted bases otherwise taken into account shall be reduced (but not below zero) by the amount of such indebtedness.

"(B) COORDINATION WITH SECTION 263A.—This subsection shall be applied before the application of section 263A (relating to capitalization of certain expenses where taxpayer produces property).".

"(7) INTEREST EXPENSE.—The term 'interest expense' means the aggregate amount allowable to the taxpayer as a deduction for interest (within the meaning of section 265(b)(4)) for the taxable year (determined without regard to this subsection, section 265(b), and section 291).

"(8) AGGREGATION RULES.—

"(A) IN GENERAL.—All members of a controlled group (within the meaning of subsection (d)(5)(B)) shall be treated as 1 taxpayer for purposes of this subsection.

"(B) TREATMENT OF INSURANCE COMPANIES.—This subsection shall not apply to an insurance company, and subparagraph (A) shall be applied without regard to any insurance company.".

(b) TREATMENT OF INSURANCE COMPANIES.—

(1) Clause (ii) of section 805(a)(4)(C) is amended by inserting ", or out of the increase for the taxable year in policy cash values (within the meaning of section 264(e)(3)(A)) of life insurance policies and annuity and endowment contracts to which section 264(e) applies" after "tax-exempt interest".

(2) Clause (iii) of section 805(a)(4)(D) is amended by striking "and" and inserting ", the increase for the taxable year in policy cash values (within the meaning of section 264(e)(3)(A)) of life insurance policies and annuity and endowment contracts to which section 264(e) applies, and".

(3) Subparagraph (B) of section 807(a)(2) is amended by striking "interest," and inserting "interest and the amount of the policyholder's share of the increase for the taxable year in policy cash values (within the meaning of section 264(e)(3)(A)) of life insurance

policies and annuity and endowment contracts to which section 264(e) applies,".

(4) Subparagraph (B) of section 807(b)(1) is amended by striking "interest," and inserting "interest and the amount of the policyholder's share of the increase for the taxable year in policy cash values (within the meaning of section 264(e)(3)(A)) of life insurance policies and annuity and endowment contracts to which section 264(e) applies,".

(5) Paragraph (1) of section 812(d) is amended by striking "and" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting ", and", and by adding at the end the following new subparagraph:

"(D) the increase for any taxable year in the policy cash values (within the meaning of section 264(e)(3)(A)) of life insurance policies and annuity and endowment contracts to which section 264(e) applies.".

(6) Subparagraph (B) of section 832(b)(5) is amended by striking "and" at the end of clause (i), by striking the period at the end of clause (ii) and inserting ", and", and by adding at the end the following new clause:

"(iii) the increase for the taxable year in policy cash values (within the meaning of section 264(e)(3)(A)) of life insurance policies and annuity and endowment contracts to which section 264(e) applies.".

(c) CONFORMING AMENDMENT.—Subparagraph (A) of section 265(b)(4) is amended by inserting ", section 264," before "and section 291".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to contracts issued after June 8, 1997, in taxable years ending after such date. For purposes of the preceding sentence, any material increase in the death benefit or other material change in the contract shall be treated as a new contract but the addition of covered lives shall be treated as a new contract only with respect to such additional covered lives. For purposes of this subsection, an increase in the death benefit under a policy or contract issued in connection with a lapse described in section 501(d)(2) of the Health Insurance Portability and Accountability Act of 1996 shall not be treated as a new contract.

SEC. 1064. ALLOCATION OF BASIS AMONG PROPERTIES DISTRIBUTED BY PARTNERSHIP.

(a) IN GENERAL.—Subsection (c) of section 732 is amended to read as follows:

"(c) ALLOCATION OF BASIS.—

"(1) IN GENERAL.—The basis of distributed properties to which subsection (a)(2) or (b) is applicable shall be allocated—

"(A)(i) first to any unrealized receivables (as defined in section 751(c)) and inventory items (as defined in section 751(d)(2)) in an amount equal to the adjusted basis of each such property to the partnership, and

"(ii) if the basis to be allocated is less than the sum of the adjusted bases of such properties to the partnership, then, to the extent any decrease is required in order to have the adjusted bases of such properties equal the basis to be allocated, in the manner provided in paragraph (3), and

"(B) to the extent of any basis not allocated under subparagraph (A), to other distributed properties—

"(i) first by assigning to each such other property such other property's adjusted basis to the partnership, and

"(ii) then, to the extent any increase or decrease in basis is required in order to have the adjusted bases of such other distributed properties equal such remaining basis, in the manner provided in paragraph (2) or (3), whichever is appropriate.

"(2) METHOD OF ALLOCATING INCREASE.—Any increase required under paragraph (1)(B) shall be allocated among the properties—

"(A) first to properties with unrealized appreciation in proportion to their respective amounts of unrealized appreciation before such increase (but only to the extent of each property's unrealized appreciation), and

"(B) then, to the extent such increase is not allocated under subparagraph (A), in proportion to their respective fair market values.

"(3) METHOD OF ALLOCATING DECREASE.—Any decrease required under paragraph (1)(A) or (1)(B) shall be allocated—

"(A) first to properties with unrealized depreciation in proportion to their respective amounts of unrealized depreciation before such decrease (but only to the extent of each property's unrealized depreciation), and

"(B) then, to the extent such decrease is not allocated under subparagraph (A), in proportion to their respective adjusted bases (as adjusted under subparagraph (A)).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to distributions after the date of the enactment of this Act.

SEC. 1065. REPEAL OF REQUIREMENT THAT INVENTORY BE SUBSTANTIALLY APPRECIATED.

(a) IN GENERAL.—Paragraph (2) of section 751(a) is amended to read as follows:

"(2) inventory items of the partnership,".

(b) CONFORMING AMENDMENTS.—

(1) Subsection (d) of section 751 is amended to read as follows:

"(d) INVENTORY ITEMS.—For purposes of this subchapter, the term 'inventory items' means—

"(1) property of the partnership of the kind described in section 1221(1),

"(2) any other property of the partnership which, on sale or exchange by the partnership, would be considered property other than a capital asset and other than property described in section 1231,

"(3) any other property of the partnership which, if sold or exchanged by the partnership, would result in a gain taxable under subsection (a) of section 1246 (relating to gain on foreign investment company stock), and

"(4) any other property held by the partnership which, if held by the selling or distributee partner, would be considered property of the type described in paragraph (1), (2), or (3).".

(2) Sections 724(d)(2), 731(a)(2)(B), 731(c)(6), 732(c)(1)(A) (as amended by the preceding section), 735(a)(2), and 735(c)(1) are each amended by striking "section 751(d)(2)" and inserting "section 751(d)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales, exchanges, and distributions after the date of the enactment of this Act.

SEC. 1066. EXTENSION OF TIME FOR TAXING PRECONTRIBUTION GAIN.

(a) IN GENERAL.—Sections 704(c)(1)(B) and 737(b)(1) are each amended by striking "5 years" and inserting "10 years".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to property contributed to a partnership after June 8, 1997.

SEC. 1067. RESTRICTIONS ON AVAILABILITY OF EARNED INCOME CREDIT FOR TAXPAYERS WHO IMPROPERLY CLAIMED CREDIT IN PRIOR YEAR.

(a) IN GENERAL.—Section 32 is amended by redesignating subsections (k) and (l) as subsections (l) and (m), respectively, and by inserting after subsection (j) the following new subsection:

"(k) RESTRICTIONS ON TAXPAYERS WHO IMPROPERLY CLAIMED CREDIT IN PRIOR YEAR.—

"(1) TAXPAYERS MAKING PRIOR FRAUDULENT OR RECKLESS CLAIMS.—

"(A) IN GENERAL.—No credit shall be allowed under this section for any taxable year in the disallowance period.

"(B) DISALLOWANCE PERIOD.—For purposes of paragraph (1), the disallowance period is—

"(i) the period of 10 taxable years after the most recent taxable year for which there was a final determination that the taxpayer's claim of credit under this section was due to fraud, and

"(ii) the period of 2 taxable years after the most recent taxable year for which there was a final determination that the taxpayer's claim of credit under this section was due to reckless or intentional disregard of rules and regulations (but not due to fraud).

"(2) TAXPAYERS MAKING IMPROPER PRIOR CLAIMS.—In the case of a taxpayer who is denied credit under this section for any taxable year as a result of the deficiency procedures under subchapter B of chapter 63, no credit shall be allowed under this section for any subsequent taxable year unless the taxpayer provides such information as the Secretary may require to demonstrate eligibility for such credit.".

(b) DUE DILIGENCE REQUIREMENT ON INCOME TAX RETURN PREPARERS.—Section 6695 is amended by adding at the end the following new subsection:

"(g) FAILURE TO BE DILIGENT IN DETERMINING ELIGIBILITY FOR EARNED INCOME CREDIT.—Any person who is an income tax preparer with respect to any return or claim for refund who fails to comply with due diligence requirements imposed by the Secretary by regulations with respect to determining eligibility for, or the amount of, the credit allowable by section 32 shall pay a penalty of $100 for each such failure.".

(c) EXTENSION PROCEDURES APPLICABLE TO MATHEMATICAL OR CLERICAL ERRORS.—Paragraph (2) of section 6213(g) (relating to the definition of mathematical or clerical errors) is amended by striking "and" at the end of subparagraph (H), by striking the period at the end of subparagraph (I) and inserting ", and", and by inserting after subparagraph (I) the following new subparagraph:

"(J) an omission of information required by section 32(k)(2) (relating to taxpayers making improper prior claims of earned income credit).".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

SEC. 1068. LIMITATION ON PROPERTY FOR WHICH INCOME FORECAST METHOD MAY BE USED.

(a) LIMITATION.—Subsection (g) of section 167 is amended by adding at the end the following new paragraph:

"(6) LIMITATION ON PROPERTY FOR WHICH INCOME FORECAST METHOD MAY BE USED.—The depreciation deduction allowable under this section may be determined under the income forecast method or any similar method only with respect to—

"(A) property described in paragraph (3) or (4) of section 168(f),

"(B) copyrights,

"(C) books,

"(D) patents, and

"(E) other property specified in regulations.

Such methods may not be used with respect to any amortizable section 197 intangible (as defined in section 197(c)).".

(b) DEPRECIATION PERIOD FOR RENT-TO-OWN PROPERTY.—

(1) IN GENERAL.—Subparagraph (A) of section 168(e)(3) (relating to 3-year property) is amended by striking "and" at the end of clause (i), by striking the period at the end of clause (ii) and inserting ", and", and by adding at the end the following new clause:

"(iii) any qualified rent-to-own property.".

(2) 4-YEAR CLASS LIFE.—The table contained in section 168(g)(3)(B) is amended by inserting before the first item the following new item:

"(A)(iii) .... 4 ".

(3) DEFINITION OF QUALIFIED RENT-TO-OWN PROPERTY.—Subsection (i) of section 168 is amended by adding at the end the following new paragraph:

"(14) QUALIFIED RENT-TO-OWN PROPERTY.—

"(A) IN GENERAL.—The term 'qualified rent-to-own property' means property held by a rent-to-own dealer for purposes of being subject to a rent-to-own contract.

"(B) RENT-TO-OWN DEALER.—The term 'rent-to-own dealer' means a person that, in the ordinary course of business, regularly enters into rent-to-own contracts with customers for the use of consumer property, if a substantial portion of those contracts terminate and the property is returned to such person before the receipt of all payments required to transfer ownership of the property from such person to the customer.

"(C) CONSUMER PROPERTY.—The term 'consumer property' means tangible personal property of a type generally used within the home. Such term shall not include cellular telephones and any computer or peripheral equipment (as defined in section 168(i)).

"(D) RENT-TO-OWN CONTRACT.—The term 'rent-to-own contract' means any lease for the use of consumer property between a rent-to-own dealer and a customer who is an individual which—

"(i) is titled 'Rent-to-Own Agreement' or 'Lease Agreement with Ownership Option,' or uses other similar language,

"(ii) provides for level, regular periodic payments (for a payment period which is a week or month),

"(iii) provides that legal title to such property remains with the rent-to-own dealer until the customer makes all the payments described in clause (ii) or early purchase payments required under the contract to acquire legal title to the item of property,

"(iv) provides a beginning date and a maximum period of time for which the contract may be in effect that does not exceed 156 weeks or 36 months from such beginning date (including renewals or options to extend),

"(v) provides for level payments within the 156-week or 36-month period that, in the aggregate, generally exceed the normal retail price of the consumer property plus interest,

"(vi) provides for payments under the contract that, in the aggregate, do not exceed $10,000 per item of consumer property,

"(vii) provides that the customer does not have any legal obligation to make all the payments referred to in clause (ii) set forth under the contract, and that at the end of each payment period the customer may either continue to use the consumer property by making the payment for the next payment period or return such property to the rent-to-own dealer in good working order, in which case the customer does not incur any further obligations under the contract and is not entitled to a return of any payments previously made under the contract, and

"(viii) provides that the customer has no right to sell, sublease, mortgage, pawn, pledge, encumber, or otherwise dispose of the consumer property until all the payments stated in the contract have been made.".

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after the date of the enactment of this Act.

SEC. 1069. REPEAL OF SPECIAL RULE FOR RENTAL USE OF VACATION HOMES, ETC., FOR LESS THAN 15 DAYS.

(a) IN GENERAL.—Section 280A (relating to disallowance of certain expenses in connection with business use of home, rental of vacation homes, etc.) is amended by striking subsection (g).

(b) NO BASIS REDUCTION UNLESS DEPRECIATION CLAIMED.—Section 1016 is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) SPECIAL RULE WHERE RENTAL USE OF VACATION HOME, ETC., FOR LESS THAN 15 DAYS.—If a dwelling unit is used during the taxable year by the taxpayer as a residence and such dwelling unit is actually rented for less than 15 days during the taxable year, the reduction under subsection (a)(2) by reason of such rental use in any taxable year beginning after December 31, 1997, shall not exceed the depreciation deduction allowed for such rental use.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. 1070. EXPANSION OF REQUIREMENT THAT INVOLUNTARILY CONVERTED PROPERTY BE REPLACED WITH PROPERTY ACQUIRED FROM AN UNRELATED PERSON.

(a) IN GENERAL.—Subsection (i) of section 1033 is amended to read as follows:

"(i) REPLACEMENT PROPERTY MUST BE ACQUIRED FROM UNRELATED PERSON IN CERTAIN CASES.—

"(1) IN GENERAL.—If the property which is involuntarily converted is held by a taxpayer to which this subsection applies, subsection (a) shall not apply if the replacement property or stock is acquired from a related person. The preceding sentence shall not apply to the extent that the related person acquired the replacement property or stock from an unrelated person during the period applicable under subsection (a)(2)(B).

"(2) TAXPAYERS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to—

"(A) a C corporation,

"(B) a partnership in which 1 or more C corporations own, directly or indirectly (determined in accordance with section 707(b)(3)), more than 50 percent of the capital interest, or profits interest, in such partnership at the time of the involuntary conversion, and

"(C) any other taxpayer if, with respect to property which is involuntarily converted during the taxable year, the aggregate of the amount of realized gain on such property on which there is realized gain exceeds $100,000. In the case of a partnership, subparagraph (C) shall apply with respect to the partnership and with respect to each partner. A similar rule shall apply in the case of an S corporation and its shareholders.

"(3) RELATED PERSON.—For purposes of this subsection, a person is related to another person if the person bears a relationship to the other person described in section 267(b) or 707(b)(1).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to involuntary conversions occurring after June 8, 1997.

SEC. 1071. TREATMENT OF EXCEPTION FROM INSTALLMENT SALES RULES FOR SALES OF PROPERTY BY A MANUFACTURER TO A DEALER.

(a) IN GENERAL.—Paragraph (2) of section 811(c) of the Tax Reform Act of 1986 is hereby repealed.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

(2) COORDINATION WITH SECTION 481.—In the case of any taxpayer required by this section to change its method of accounting for any taxable year—

(A) such changes shall be treated as initiated by the taxpayer,

(B) such changes shall be treated as made with the consent of the Secretary, and

(C) the net amount of the adjustments required to be taken into account under section 481(a) of the Internal Revenue Code of 1986 shall be taken into account ratably over the 4 taxable year period beginning with the first taxable year beginning after the date of the enactment of this Act.

TITLE XI—SIMPLIFICATION AND OTHER FOREIGN-RELATED PROVISIONS

Subtitle A—General Provisions

SEC. 1101. TREATMENT OF COMPUTER SOFTWARE AS FSC EXPORT PROPERTY.

(a) IN GENERAL.—Subparagraph (B) of section 927(a)(2) (relating to property excluded from eligibility as FSC export property) is amended by inserting ", and other than computer software (whether or not patented)" before ", for commercial or home use".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to gross receipts attributable to periods after December 31, 1997, in taxable years ending after such date.

(c) PHASEIN OF TREATMENT.—For purposes of the Internal Revenue Code of 1986—

(1) 1998.—In the case of gross receipts attributable to calendar year 1998, the amendment made by subsection (a) shall apply to only ⅓ of such gross receipts.

(2) 1999.—In the case of gross receipts attributable to calendar year 1999, the amendment made by subsection (a) shall apply to only ⅔ of such gross receipts.

SEC. 1102. ADJUSTMENT OF DOLLAR LIMITATION ON SECTION 911 EXCLUSION.

(a) GENERAL RULE.—Paragraph (2) of section 911(b) is amended by—

(1) by striking "of $70,000" in subparagraph (A) and inserting "equal to the exclusion amount for the calendar year in which such taxable year begins", and

(2) by adding at the end the following new subparagraph:

"(D) EXCLUSION AMOUNT.—

"(i) IN GENERAL.—The exclusion amount for any calendar year is the exclusion amount determined in accordance with the following table (as adjusted by clause (ii)):

"For calendar year—	The exclusion amount is—
1998	$72,000
1999	74,000
2000	76,000
2001	78,000
2002 and thereafter	80,000.

"(ii) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 2007, the $80,000 amount in clause (i) shall be increased by an amount equal to the product of—

"(I) such dollar amount, and

"(II) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting '2006' for '1992' in subparagraph (B) thereof.

If any increase determined under the preceding sentence is not a multiple of $100, such increase shall be rounded to the next lowest multiple of $100.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. 1103. CERTAIN INDIVIDUALS EXEMPT FROM FOREIGN TAX CREDIT LIMITATION.

(a) GENERAL RULE.—Section 904 (relating to limitations on foreign tax credit) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) CERTAIN INDIVIDUALS EXEMPT.—

"(1) IN GENERAL.—In the case of an individual to whom this subsection applies for any taxable year—

"(A) the limitation of subsection (a) shall not apply,

"(B) no taxes paid or accrued by the individual during such taxable year may be deemed paid or accrued under subsection (c) in any other taxable year, and

"(C) no taxes paid or accrued by the individual during any other taxable year may be deemed paid or accrued under subsection (c) in such taxable year.

"(2) INDIVIDUALS TO WHOM SUBSECTION APPLIES.—This subsection shall apply to an individual for any taxable year if—

"(A) the entire amount of such individual's gross income for the taxable year from sources without the United States consists of qualified passive income,

"(B) the amount of the creditable foreign taxes paid or accrued by the individual during the taxable year does not exceed $300 ($600 in the case of a joint return), and

"(C) such individual elects to have this subsection apply for the taxable year.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) QUALIFIED PASSIVE INCOME.—The term 'qualified passive income' means any item of gross income if—

"(i) such item of income is passive income (as defined in subsection (d)(2)(A) without regard to clause (iii) thereof), and

"(ii) such item of income is shown on a payee statement furnished to the individual.

"(B) CREDITABLE FOREIGN TAXES.—The term 'creditable foreign taxes' means any taxes for which a credit is allowable under section 901; except that such term shall not include any tax unless such tax is shown on a payee statement furnished to such individual.

"(C) PAYEE STATEMENT.—The term 'payee statement' has the meaning given to such term by section 6724(d)(2).

"(D) ESTATES AND TRUSTS NOT ELIGIBLE.—This subsection shall not apply to any estate or trust.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1997.

SEC. 1104. EXCHANGE RATE USED IN TRANSLATING FOREIGN TAXES.

(a) ACCRUED TAXES TRANSLATED BY USING AVERAGE RATE FOR YEAR TO WHICH TAXES RELATE.—

(1) IN GENERAL.—Subsection (a) of section 986 (relating to translation of foreign taxes) is amended to read as follows:

"(a) FOREIGN INCOME TAXES.—

"(1) TRANSLATION OF ACCRUED TAXES.—

"(A) IN GENERAL.—For purposes of determining the amount of the foreign tax credit, in the case of a taxpayer who takes foreign income taxes into account when accrued, the amount of any foreign income taxes (and any adjustment thereto) shall be translated into dollars by using the average exchange rate for the taxable year to which such taxes relate.

"(B) EXCEPTION FOR CERTAIN TAXES.—Subparagraph (A) shall not apply to any foreign income taxes—

"(i) paid after the date 2 years after the close of the taxable year to which such taxes relate, or

"(ii) paid before the beginning of the taxable year to which such taxes relate.

"(C) EXCEPTION FOR INFLATIONARY CURRENCIES.—Subparagraph (A) shall not apply to any foreign income taxes the liability for which is denominated in any inflationary currency (as determined under regulations).

"(D) CROSS REFERENCE.—

"For adjustments where tax is not paid within 2 years, see section 905(c).

"(2) TRANSLATION OF TAXES TO WHICH PARAGRAPH (1) DOES NOT APPLY.—For purposes of determining the amount of the foreign tax credit, in the case of any foreign income taxes to which subparagraph (A) of paragraph (1) does not apply—

"(A) such taxes shall be translated into dollars using the exchange rates as of the time such taxes were paid to the foreign country or possession of the United States, and

"(B) any adjustment to the amount of such taxes shall be translated into dollars using—

"(i) except as provided in clause (ii), the exchange rate as of the time when such adjustment is paid to the foreign country or possession, or

"(ii) in the case of any refund or credit of foreign income taxes, using the exchange rate as of the time of the original payment of such foreign income taxes.

"(3) FOREIGN INCOME TAXES.—For purposes of this subsection, the term 'foreign income taxes' means any income, war profits, or excess profits taxes paid or accrued to any foreign country or to any possession of the United States.".

(2) ADJUSTMENT WHEN NOT PAID WITHIN 2 YEARS AFTER YEAR TO WHICH TAXES RELATE.—Subsection (c) of section 905 is amended to read as follows:

"(c) ADJUSTMENTS TO ACCRUED TAXES.—

"(1) IN GENERAL.—If—

"(A) accrued taxes when paid differ from the amounts claimed as credits by the taxpayer,

"(B) accrued taxes are not paid before the date 2 years after the close of the taxable year to which such taxes relate, or

"(C) any tax paid is refunded in whole or in part,

the taxpayer shall notify the Secretary, who shall redetermine the amount of the tax for the year or years affected. The Secretary may prescribe adjustments to tax pools under sections 902 and 960 in lieu of the redetermination under the preceding sentence.

"(2) SPECIAL RULE FOR TAXES NOT PAID WITHIN 2 YEARS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), in making the redetermination under paragraph (1), no credit shall be allowed for accrued taxes not paid before the date referred to in subparagraph (B) of paragraph (1).

"(B) TAXES SUBSEQUENTLY PAID.—Any such taxes if subsequently paid shall be taken into account for the taxable year to which such taxes relate (and translated as provided in section 986(a)(2)(A)).

"(3) ADJUSTMENTS.—The amount of tax (if any) due on any redetermination under paragraph (1) shall be paid by the taxpayer on notice and demand by the Secretary, and the amount of tax overpaid (if any) shall be credited or refunded to the taxpayer in accordance with subchapter B of chapter 66 (section 6511 et seq.).

"(4) BOND REQUIREMENTS.—In the case of any tax accrued but not paid, the Secretary, as a condition precedent to the allowance of the credit provided in this subpart, may require the taxpayer to give a bond, with sureties satisfactory to and approved by the Secretary, in such sum as the Secretary may require, conditioned on the payment by the taxpayer of any amount of tax found due on any such redetermination. Any such bond shall contain such further conditions as the Secretary may require.

"(5) OTHER SPECIAL RULES.—In any redetermination under paragraph (1) by the Secretary of the amount of tax due from the taxpayer for the year or years affected by a refund, the amount of the taxes refunded for which credit has been allowed under this section shall be reduced by the amount of any tax described in section 901 imposed by the foreign country or possession of the United States with respect to such refund; but no credit under this subpart, or deduction under section 164, shall be allowed for any taxable year with respect to any such tax imposed on the refund. No interest shall be assessed or collected on any amount of tax due on any redetermination by the Secretary, resulting from a refund to the taxpayer, for any period before the receipt of such refund, except to the extent interest was paid by the foreign country or possession of the United States on such refund for such period.".

(b) AUTHORITY TO USE AVERAGE RATES.—

(1) IN GENERAL.—Subsection (a) of section 986 (as amended by subsection (a)) is amended by redesignating paragraph (3) as paragraph (4) and inserting after paragraph (2) the following new paragraph:

"(3) AUTHORITY TO PERMIT USE OF AVERAGE RATES.—To the extent prescribed in regulations, the average exchange rate for the period (specified in such regulations) during which the taxes or adjustment is paid may be used instead of the exchange rate as of the time of such payment.".

(2) DETERMINATION OF AVERAGE RATES.—Subsection (c) of section 989 is amended by striking "and" at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting ", and", and by adding at the end thereof the following new paragraph:

"(6) setting forth procedures for determining the average exchange rate for any period.".

(3) CONFORMING AMENDMENTS.—Subsection (b) of section 989 is amended by striking "weighted" each place it appears.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a)(1) and (b) shall apply to taxes paid or accrued in taxable years beginning after December 31, 1997.

(2) SUBSECTION (a)(2).—The amendment made by subsection (a)(2) shall apply to taxes which relate to taxable years beginning after December 31, 1997.

SEC. 1105. ELECTION TO USE SIMPLIFIED SECTION 904 LIMITATION FOR ALTERNATIVE MINIMUM TAX.

(a) GENERAL RULE.—Subsection (a) of section 59 (relating to alternative minimum tax foreign tax credit) is amended by adding at the end thereof the following new paragraph:

"(3) ELECTION TO USE SIMPLIFIED SECTION 904 LIMITATION.—

"(A) IN GENERAL.—In determining the alternative minimum tax foreign tax credit for any taxable year to which an election under this paragraph applies—

"(i) subparagraph (B) of paragraph (1) shall not apply, and

"(ii) the limitation of section 904 shall be based on the proportion which—

"(I) the taxpayer's taxable income (as determined for purposes of the regular tax) from sources without the United States (but not in excess of the taxpayer's entire alternative minimum taxable income), bears to

"(II) the taxpayer's entire alternative minimum taxable income for the taxable year.

"(B) Election.—

"(i) In general.—An election under this paragraph may be made only for the taxpayer's first taxable year which begins after December 31, 1997, and for which the taxpayer claims an alternative minimum tax foreign tax credit.

"(ii) Election revocable only with consent.—An election under this paragraph, once made, shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.".

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. 1106. TREATMENT OF PERSONAL TRANSACTIONS BY INDIVIDUALS UNDER FOREIGN CURRENCY RULES.

(a) General Rule.—Subsection (e) of section 988 (relating to application to individuals) is amended to read as follows:

"(e) Application to Individuals.—

"(1) In general.—The preceding provisions of this section shall not apply to any section 988 transaction entered into by an individual which is a personal transaction.

"(2) Exclusion for certain personal transactions.—If—

"(A) nonfunctional currency is disposed of by an individual in any transaction, and

"(B) such transaction is a personal transaction,

no gain shall be recognized for purposes of this subtitle by reason of changes in exchange rates after such currency was acquired by such individual and before such disposition. The preceding sentence shall not apply if the gain which would otherwise be recognized on the transaction exceeds $200.

"(3) Personal transactions.—For purposes of this subsection, the term 'personal transaction' means any transaction entered into by an individual, except that such term shall not include any transaction to the extent that expenses properly allocable to such transaction meet the requirements of section 162 or 212 (other than that part of section 212 dealing with expenses incurred in connection with taxes).".

(b) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. 1107. ALL NONCONTROLLED SECTION 902 CORPORATIONS WHICH ARE NOT PASSIVE FOREIGN INVESTMENT COMPANIES IN ONE FOREIGN TAX LIMITATION BASKET.

(a) In General.—Subparagraph (E) of section 904(d)(2) (relating to noncontrolled section 902 corporations) is amended by adding at the end the following new clause:

"(iv) All non-PFIC's treated as one.—All noncontrolled section 902 corporations which are not passive foreign investment companies (as defined in section 1297) shall be treated as one noncontrolled section 902 corporation for purposes of paragraph (1). The Secretary may prescribe regulations regarding the treatment of distributions out of earnings and profits for periods prior to the taxpayer's acquisition of such stock.".

(b) Effective Date.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2001.

Subtitle B—Treatment of Controlled Foreign Corporations

SEC. 1111. GAIN ON CERTAIN STOCK SALES BY CONTROLLED FOREIGN CORPORATIONS TREATED AS DIVIDENDS.

(a) General Rule.—Section 964 (relating to miscellaneous provisions) is amended by adding at the end thereof the following new subsection:

"(e) Gain on Certain Stock Sales by Controlled Foreign Corporations Treated as Dividends.—

"(1) In general.—If a controlled foreign corporation sells or exchanges stock in any other foreign corporation, gain recognized on such sale or exchange shall be included in the gross income of such controlled foreign corporation as a dividend to the same extent that it would have been so included under section 1248(a) if such controlled foreign corporation were a United States person. For purposes of determining the amount which would have been so includible, the determination of whether such other foreign corporation was a controlled foreign corporation shall be made without regard to the preceding sentence.

"(2) Same country exception not applicable.—Clause (i) of section 954(c)(3)(A) shall not apply to any amount treated as a dividend by reason of paragraph (1).

"(3) Clarification of deemed sales.—For purposes of this subsection, a controlled foreign corporation shall be treated as having sold or exchanged any stock if, under any provision of this subtitle, such controlled foreign corporation is treated as having gain from the sale or exchange of such stock.".

(b) Amendment of Section 904(d).—Clause (i) of section 904(d)(2)(E) is amended by striking "and except as provided in regulations, the taxpayer was a United States shareholder in such corporation".

(c) Effective Dates.—

(1) The amendment made by subsection (a) shall apply to gain recognized on transactions occurring after the date of the enactment of this Act.

(2) The amendment made by subsection (b) shall apply to distributions after the date of the enactment of this Act.

SEC. 1112. MISCELLANEOUS MODIFICATIONS TO SUBPART F.

(a) Section 1248 Gain Taken Into Account in Determining Pro Rata Share.—

(1) In general.—Paragraph (2) of section 951(a) (defining pro rata share of subpart F income) is amended by adding at the end thereof the following new sentence: "For purposes of subparagraph (B), any gain included in the gross income of any person as a dividend under section 1248 shall be treated as a distribution received by such person with respect to the stock involved.".

(2) Effective date.—The amendment made by paragraph (1) shall apply to dispositions after the date of the enactment of this Act.

(b) Basis Adjustments in Stock Held by Foreign Corporation.—

(1) In general.—Section 961 (relating to adjustments to basis of stock in controlled foreign corporations and of other property) is amended by adding at the end thereof the following new subsection:

"(c) Basis Adjustments in Stock Held by Foreign Corporation.—Under regulations prescribed by the Secretary, if a United States shareholder is treated under section 958(a)(2) as owning any stock in a controlled foreign corporation which is actually owned by another controlled foreign corporation, adjustments similar to the adjustments provided by subsections (a) and (b) shall be made to the basis of such stock in the hands of such other controlled foreign corporation, but only for the purposes of determining the amount included under section 951 in the gross income of such United States shareholder (or any other United States shareholder who acquires from any person any portion of the interest of such United States shareholder by reason of which such shareholder was treated as owning such stock, but only to the extent of such portion, and subject to such proof of identity of such interest as the Secretary may prescribe by regulations).".

(2) Effective date.—The amendment made by paragraph (1) shall apply for purposes of determining inclusions for taxable years of United States shareholders beginning after December 31, 1997.

(c) Clarification of Treatment of Branch Tax Exemptions or Reductions.—

(1) In general.—Subsection (b) of section 952 is amended by adding at the end thereof the following new sentence: "For purposes of this subsection, any exemption (or reduction) with respect to the tax imposed by section 884 shall not be taken into account.".

(2) Effective date.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1986.

SEC. 1113. INDIRECT FOREIGN TAX CREDIT ALLOWED FOR CERTAIN LOWER TIER COMPANIES.

(a) Section 902 Credit.—

(1) In general.—Subsection (b) of section 902 (relating to deemed taxes increased in case of certain 2nd and 3rd tier foreign corporations) is amended to read as follows:

"(b) Deemed Taxes Increased in Case of Certain Lower Tier Corporations.—

"(1) In general.—If—

"(A) any foreign corporation is a member of a qualified group, and

"(B) such foreign corporation owns 10 percent or more of the voting stock of another member of such group from which it receives dividends in any taxable year,

such foreign corporation shall be deemed to have paid the same proportion of such other member's post-1986 foreign income taxes as would be determined under subsection (a) if such foreign corporation were a domestic corporation.

"(2) Qualified group.—For purposes of paragraph (1), the term 'qualified group' means—

"(A) the foreign corporation described in subsection (a), and

"(B) any other foreign corporation if—

"(i) the domestic corporation owns at least 5 percent of the voting stock of such other foreign corporation indirectly through a chain of foreign corporations connected through stock ownership of at least 10 percent of their voting stock,

"(ii) the foreign corporation described in subsection (a) is the first tier corporation in such chain, and

"(iii) such other corporation is not below the sixth tier in such chain.

The term 'qualified group' shall not include any foreign corporation below the third tier in the chain referred to in clause (i) unless such foreign corporation is a controlled foreign corporation (as defined in section 957) and the domestic corporation is a United States shareholder (as defined in section 951(b)) in such foreign corporation. Paragraph (1) shall apply to those taxes paid by a member of the qualified group below the third tier only with respect to periods during which it was a controlled foreign corporation.".

(2) Conforming amendments.—

(A) Subparagraph (B) of section 902(c)(3) is amended by adding "or" at the end of clause (i) and by striking clauses (ii) and (iii) and inserting the following new clause:

"(ii) the requirements of subsection (b)(2) are met with respect to such foreign corporation.".

(B) Subparagraph (B) of section 902(c)(4) is amended by striking "3rd foreign corporation" and inserting "sixth tier foreign corporation".

(C) The heading for paragraph (3) of section 902(c) is amended by striking "WHERE DOMESTIC CORPORATION ACQUIRES 10 PERCENT OF FOREIGN CORPORATION" and inserting "WHERE FOREIGN CORPORATION FIRST QUALIFIES".

(D) Paragraph (3) of section 902(c) is amended by striking "ownership" each place it appears.

(b) Section 960 Credit.—Paragraph (1) of section 960(a) (relating to special rules for foreign tax credits) is amended to read as follows:

"(1) Deemed paid credit.—For purposes of subpart A of this part, if there is included under section 951(a) in the gross income of a domestic corporation any amount attributable to earnings and profits of a foreign corporation which is a member of a qualified group (as defined in section 902(b)) with respect to the domestic corporation, then, except to the extent provided in regulations, section 902 shall be applied as if the amount so included were a dividend paid by such foreign corporation (determined by applying section 902(c) in accordance with section 904(d)(3)(B)).".

(c) Effective Date.—

(1) In general.—The amendments made by this section shall apply to taxes of foreign corporations for taxable years of such corporations beginning after the date of enactment of this Act.

(2) Special rule.—In the case of any chain of foreign corporations described in clauses (i) and (ii) of section 902(b)(2)(B) of the Internal Revenue Code of 1986 (as amended by this section), no liquidation, reorganization, or similar transaction in a taxable year beginning after the date of the enactment of this Act shall have the effect of permitting taxes to be taken into account under section 902 of the Internal Revenue Code of 1986 which could not have been taken into account under such section but for such transaction.

Subtitle C—Treatment of Passive Foreign Investment Companies

SEC. 1121. UNITED STATES SHAREHOLDERS OF CONTROLLED FOREIGN CORPORATIONS NOT SUBJECT TO PFIC INCLUSION.

Section 1296 is amended by adding at the end the following new subsection:

"(e) Exception for United States Shareholders of Controlled Foreign Corporations.—

"(1) In general.—For purposes of this part, a corporation shall not be treated with respect to a shareholder as a passive foreign investment company during the qualified portion of such shareholder's holding period with respect to stock in such corporation.

"(2) Qualified portion.—For purposes of this subsection, the term 'qualified portion' means the portion of the shareholder's holding period—

"(A) which is after December 31, 1997, and

"(B) during which the shareholder is a United States shareholder (as defined in section 951(b)) of the corporation and the corporation is a controlled foreign corporation.

"(3) New holding period if qualified portion ends.—

"(A) In general.—Except as provided in subparagraph (B), if the qualified portion of a shareholder's holding period with respect to any stock ends after December 31, 1997, solely for purposes of this part, the shareholder's holding period with respect to such stock shall be treated as beginning as of the first day following such period.

"(B) Exception.—Subparagraph (A) shall not apply if such stock was, with respect to such shareholder, stock in a passive foreign investment company at any time before the qualified portion of the shareholder's holding period with respect to such stock and no election under section 1298(b)(1) is made.".

SEC. 1122. ELECTION OF MARK TO MARKET FOR MARKETABLE STOCK IN PASSIVE FOREIGN INVESTMENT COMPANY.

(a) In General.—Part VI of subchapter P of chapter 1 is amended by redesignating subpart C as subpart D, by redesignating sections 1296 and 1297 as sections 1297 and 1298, respectively, and by inserting after subpart B the following new subpart:

"Subpart C—Election of Mark to Market For Marketable Stock

"Sec. 1296. Election of mark to market for marketable stock.

"SEC. 1296. ELECTION OF MARK TO MARKET FOR MARKETABLE STOCK.

"(a) General Rule.—In the case of marketable stock in a passive foreign investment company which is owned (or treated under subsection (g) as owned) by a United States person at the close of any taxable year of such person, at the election of such person—

"(1) If the fair market value of such stock as of the close of such taxable year exceeds its adjusted basis, such United States person shall include in gross income for such taxable year an amount equal to the amount of such excess.

"(2) If the adjusted basis of such stock exceeds the fair market value of such stock as of the close of such taxable year, such United States person shall be allowed a deduction for such taxable year equal to the lesser of—

"(A) the amount of such excess, or

"(B) the unreversed inclusions with respect to such stock.

"(b) Basis Adjustments.—

"(1) In general.—The adjusted basis of stock in a passive foreign investment company—

"(A) shall be increased by the amount included in the gross income of the United States person under subsection (a)(1) with respect to such stock, and

"(B) shall be decreased by the amount allowed as a deduction to the United States person under subsection (a)(2) with respect to such stock.

"(2) Special rule for stock constructively owned.—In the case of stock in a passive foreign investment company which the United States person is treated as owning under subsection (g)—

"(A) the adjustments under paragraph (1) shall apply to such stock in the hands of the person actually holding such stock but only for purposes of determining the subsequent treatment under this chapter of the United States person with respect to such stock, and

"(B) similar adjustments shall be made to the adjusted basis of the property by reason of which the United States person is treated as owning such stock.

"(c) Character and Source Rules.—

"(1) Ordinary treatment.—

"(A) Gain.—Any amount included in gross income under subsection (a)(1), and any gain on the sale or other disposition of marketable stock in a passive foreign investment company (with respect to which an election under this section is in effect), shall be treated as ordinary income.

"(B) Loss.—Any—

"(i) amount allowed as a deduction under subsection (a)(2), and

"(ii) loss on the sale or other disposition of marketable stock in a passive foreign investment company (with respect to which an election under this section is in effect) to the extent that the amount of such loss does not exceed the unreversed inclusions with respect to such stock,

shall be treated as an ordinary loss. The amount so treated shall be treated as a deduction allowable in computing adjusted gross income.

"(2) Source.—The source of any amount included in gross income under subsection (a)(1) (or allowed as a deduction under subsection (a)(2)) shall be determined in the same manner as if such amount were gain or loss (as the case may be) from the sale of stock in the passive foreign investment company.

"(d) Unreversed Inclusions.—For purposes of this section, the term 'unreversed inclusions' means, with respect to any stock in a passive foreign investment company, the excess (if any) of—

"(1) the amount included in gross income of the taxpayer under subsection (a)(1) with respect to such stock for prior taxable years, over

"(2) the amount allowed as a deduction under subsection (a)(2) with respect to such stock for prior taxable years.

The amount referred to in paragraph (1) shall include any amount which would have been included in gross income under subsection (a)(1) with respect to such stock for any prior taxable year but for section 1291.

"(e) Marketable Stock.—For purposes of this section—

"(1) In general.—The term 'marketable stock' means—

"(A) any stock which is regularly traded on—

"(i) a national securities exchange which is registered with the Securities and Exchange Commission or the national market system established pursuant to section 11A of the Securities and Exchange Act of 1934, or

"(ii) any exchange or other market which the Secretary determines has rules adequate to carry out the purposes of this part,

"(B) to the extent provided in regulations, stock in any foreign corporation which is comparable to a regulated investment company and which offers for sale or has outstanding any stock of which it is the issuer and which is redeemable at its net asset value, and

"(C) to the extent provided in regulations, any option on stock described in subparagraph (A) or (B).

"(2) Special rule for regulated investment companies.—In the case of any regulated investment company which is offering for sale or has outstanding any stock of which it is the issuer and which is redeemable at its net asset value, all stock in a passive foreign investment company which it owns directly or indirectly shall be treated as marketable stock for purposes of this section. Except as provided in regulations, similar treatment as marketable stock shall apply in the case of any other regulated investment company which publishes net asset valuations at least annually.

"(f) Treatment of Controlled Foreign Corporations Which are Shareholders in Passive Foreign Investment Companies.—In the case of a foreign corporation which is a controlled foreign corporation and which owns (or is treated under subsection (g) as owning) stock in a passive foreign investment company—

"(1) this section (other than subsection (c)(2)) shall apply to such foreign corporation in the same manner as if such corporation were a United States person, and

"(2) for purposes of subpart F of part III of subchapter N—

"(A) any amount included in gross income under subsection (a)(1) shall be treated as foreign personal holding company income described in section 954(c)(1)(A), and

"(B) any amount allowed as a deduction under subsection (a)(2) shall be treated as a deduction allocable to foreign personal holding company income so described.

"(g) Stock Owned Through Certain Foreign Entities.—Except as provided in regulations—

"(1) In general.—For purposes of this section, stock owned, directly or indirectly, by or for a foreign partnership or foreign trust or foreign estate shall be considered as being owned proportionately by its partners or beneficiaries. Stock considered to be owned by a person by reason of the application of the preceding sentence shall, for purposes of applying such sentence, be treated as actually owned by such person.

"(2) Treatment of certain dispositions.—In any case in which a United States person is treated as owning stock in a passive foreign investment company by reason of paragraph (1)—

"(A) any disposition by the United States person or by any other person which results in the United States person being treated as no longer owning such stock, and

"(B) any disposition by the person owning such stock,

shall be treated as a disposition by the United States person of the stock in the passive foreign investment company.

"(h) Coordination With Section 851(b).—For purposes of paragraphs (2) and (3) of section 851(b), any amount included in gross income under subsection (a) shall be treated as a dividend.

"(i) Stock Acquired From a Decedent.—In the case of stock of a passive foreign investment company which is acquired by bequest, devise, or inheritance (or by the decedent's estate) and with respect to which an election under this section was in effect as of the date of the decedent's death, notwithstanding section 1014, the basis of such stock in the hands of the person so acquiring it shall be the adjusted basis of such stock in the hands of the decedent immediately before his death (or, if lesser, the basis which would have been determined under section 1014 without regard to this subsection).

"(j) Coordination With Section 1291 for First Year of Election.—

"(1) Taxpayers other than regulated investment companies.—

"(A) In general.—If the taxpayer elects the application of this section with respect to any marketable stock in a corporation after the beginning of the taxpayer's holding period in such stock, and if the requirements of subparagraph (B) are not satisfied, section 1291 shall apply to—

"(i) any distributions with respect to, or disposition of, such stock in the first taxable year of the taxpayer for which such election is made, and

"(ii) any amount which, but for section 1291, would have been included in gross income under subsection (a) with respect to such stock for such taxable year in the same manner as if such amount were gain on the disposition of such stock.

"(B) Requirements.—The requirements of this subparagraph are met if, with respect to each of such corporation's taxable years for which such corporation was a passive foreign investment company and which begin after December 31, 1986, and included any portion of the taxpayer's holding period in such stock, such corporation was treated as a qualified electing fund under this part with respect to the taxpayer.

"(2) Special rules for regulated investment companies.—

"(A) In general.—If a regulated investment company elects the application of this section with respect to any marketable stock in a corporation after the beginning of the taxpayer's holding period in such stock, then, with respect to such company's first taxable year for which such company elects the application of this section with respect to such stock—

"(i) section 1291 shall not apply to such stock with respect to any distribution or disposition during, or amount included in gross income under this section for, such first taxable year, but

"(ii) such regulated investment company's tax under this chapter for such first taxable year shall be increased by the aggregate amount of interest which would have been determined under section 1291(c)(3) if section 1291 were applied without regard to this subparagraph.

Clause (ii) shall not apply if for the preceding taxable year the company elected to mark to market the stock held by such company as of the last day of such preceding taxable year.

"(B) Disallowance of deduction.—No deduction shall be allowed to any regulated investment company for the increase in tax under subparagraph (A)(ii).

"(k) Election.—This section shall apply to marketable stock in a passive foreign investment company which is held by a United States person only if such person elects to apply this section with respect to such stock. Such an election shall apply to the taxable year for which made and all subsequent taxable years unless—

"(1) such stock ceases to be marketable stock, or

"(2) the Secretary consents to the revocation of such election.

"(l) Transition Rule for Individuals Becoming Subject to United States Tax.—If any individual becomes a United States person in a taxable year beginning after December 31, 1997, solely for purposes of this section, the adjusted basis (before adjustments under subsection (b)) of any marketable stock in a passive foreign investment company owned by such individual on the first day of such taxable year shall be treated as being the greater of its fair market value on such first day or its adjusted basis on such first day.".

(b) Coordination With Interest Charge, Etc.—

(1) Paragraph (1) of section 1291(d) is amended by adding at the end the following new flush sentence:

"Except as provided in section 1296(j), this section also shall not apply if an election under section 1296(k) is in effect for the taxpayer's taxable year.".

(2) The subsection heading for subsection (d) of section 1291 is amended by striking "Subpart B" and inserting "Subparts B and C".

(3) Subparagraph (A) of section 1291(a)(3) is amended to read as follows:

"(A) Holding period.—The taxpayer's holding period shall be determined under section 1223; except that—

"(i) for purposes of applying this section to an excess distribution, such holding period shall be treated as ending on the date of such distribution, and

"(ii) if section 1296 applied to such stock with respect to the taxpayer for any prior taxable year, such holding period shall be treated as beginning on the first day of the first taxable year beginning after the last taxable year for which section 1296 so applied.".

(c) Treatment of Mark-to-Market Gain Under Section 4982.—

(1) Subsection (e) of section 4982 is amended by adding at the end thereof the following new paragraph:

"(6) Treatment of gain recognized under section 1296.—For purposes of determining a regulated investment company's ordinary income—

"(A) notwithstanding paragraph (1)(C), section 1296 shall be applied as if such company's taxable year ended on October 31, and

"(B) any ordinary gain or loss from an actual disposition of stock in a passive foreign investment company during the portion of the calendar year after October 31 shall be taken into account in determining such regulated investment company's ordinary income for the following calendar year.

In the case of a company making an election under paragraph (4), the preceding sentence shall be applied by substituting the last day of the company's taxable year for October 31.".

(2) Subsection (b) of section 852 is amended by adding at the end thereof the following new paragraph:

"(10) Special rule for certain losses on stock in passive foreign investment company.—To the extent provided in regulations, the taxable income of a regulated investment company (other than a company to which an election under section 4982(e)(4) applies) shall be computed without regard to any net reduction in the value of any stock of a passive foreign investment company with respect to which an election under section 1296(k) is in effect occurring after October 31 of the taxable year, and any such reduction shall be treated as occurring on the first day of the following taxable year.".

(3) Subsection (c) of section 852 is amended by inserting after "October 31 of such year" the following: ", without regard to any net reduction in the value of any stock of a passive foreign investment company with respect to which an election under section 1296(k) is in effect occurring after October 31 of such year,".

(d) Conforming Amendments.—

(1) Sections 532(b)(4) and 542(c)(10) are each amended by striking "section 1296" and inserting "section 1297".

(2) Subsection (f) of section 551 is amended by striking "section 1297(b)(5)" and inserting "section 1298(b)(5)".

(3) Subsections (a)(1) and (d) of section 1293 are each amended by striking "section 1297(a)" and inserting "section 1298(a)".

(4) Paragraph (3) of section 1297(b), as redesignated by subsection (a), is hereby repealed.

(5) The table of sections for subpart D of part VI of subchapter P of chapter 1, as redesignated by subsection (a), is amended to read as follows:

"Sec. 1297. Passive foreign investment company.
"Sec. 1298. Special rules.".

(6) The table of subparts for part VI of subchapter P of chapter 1 is amended by striking the last item and inserting the following new items:

"Subpart C. Election of mark to market for marketable stock.

"Subpart D. General provisions.".

(e) CLARIFICATION OF GAIN RECOGNITION ELECTION.—The last sentence of section 1298(b)(1), as so redesignated, is amended by inserting "(determined without regard to the preceding sentence)" after "investment company".

SEC. 1123. EFFECTIVE DATE.

The amendments made by this subtitle shall apply to—

(1) taxable years of United States persons beginning after December 31, 1997, and

(2) taxable years of foreign corporations ending with or within such taxable years of United States persons.

Subtitle D—Repeal of Excise Tax on Transfers to Foreign Entities

SEC. 1131. REPEAL OF EXCISE TAX ON TRANSFERS TO FOREIGN ENTITIES; RECOGNITION OF GAIN ON CERTAIN TRANSFERS TO FOREIGN TRUSTS AND ESTATES.

(a) REPEAL OF EXCISE TAX.—Chapter 5 (relating to transfers to avoid income tax) is hereby repealed.

(b) RECOGNITION OF GAIN ON CERTAIN TRANSFERS TO FOREIGN TRUSTS AND ESTATES.—Subpart F of part I of subchapter J of chapter 1 is amended by adding at the end the following new section:

"SEC. 684. RECOGNITION OF GAIN ON CERTAIN TRANSFERS TO CERTAIN FOREIGN TRUSTS AND ESTATES.

"(a) IN GENERAL.—In the case of any transfer of property by a United States person to a foreign estate or trust, for purposes of this subtitle, such transfer shall be treated as a sale or exchange for an amount equal to the fair market value of the property transferred, and the transferor shall recognize as gain the excess of—

"(1) the fair market value of the property so transferred, over

"(2) the adjusted basis (for purposes of determining gain) of such property in the hands of the transferor.

"(b) EXCEPTION.—Subsection (a) shall not apply to a transfer to a trust by a United States person if such person is treated as the owner of such trust under section 671.".

(b) OTHER ANTI-AVOIDANCE PROVISIONS REPLACING REPEALED EXCISE TAX.—

(1) GAIN RECOGNITION ON EXCHANGES INVOLVING FOREIGN PERSONS.—Section 1035 is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) EXCHANGES INVOLVING FOREIGN PERSONS.—To the extent provided in regulations, subsection (a) shall not apply to any exchange having the effect of transferring property to any person other than a United States person.".

(2) TRANSFERS TO FOREIGN CORPORATIONS.—Section 367 is amended by adding at the end the following new subsection:

"(f) OTHER TRANSFERS.—To the extent provided in regulations, if a United States person transfers property to a foreign corporation as paid-in surplus or as a contribution to capital (in a transaction not otherwise described in this section), such foreign corporation shall not, for purposes of determining the extent to which gain shall be recognized on such transfer, be considered to be a corporation.".

(3) CERTAIN TRANSFERS TO PARTNERSHIPS.—Section 721 is amended by adding at the end the following new subsection:

"(c) REGULATIONS RELATING TO TRANSFERS TO FOREIGN PERSONS.—The Secretary may provide by regulations that subsection (a) shall not apply to gain realized on the transfer of property to a partnership if such gain, when recognized, will be includible in the gross income of a person other than a United States person.".

(4) REPEAL OF U.S. SOURCE TREATMENT OF DEEMED ROYALTIES.—Subparagraph (C) of section 367(d)(2) is amended to read as follows:

"(C) AMOUNTS RECEIVED TREATED AS ORDINARY INCOME.—For purposes of this chapter, any amount included in gross income by reason of this subsection shall be treated as ordinary income.".

(5) TRANSFERS OF INTANGIBLES TO PARTNERSHIPS.—

(A) Subsection (d) of section 367 is amended by adding at the end the following new paragraph:

"(3) REGULATIONS RELATING TO TRANSFERS OF INTANGIBLES TO PARTNERSHIPS.—The Secretary may provide by regulations that the rules of paragraph (2) also apply to the transfer of intangible property by a United States person to a partnership in circumstances consistent with the purposes of this subsection.".

(B) Section 721 is amended by adding at the end the following new subsection:

"(d) TRANSFERS OF INTANGIBLES.—

"For regulatory authority to treat intangibles transferred to a partnership as sold, see section 367(d)(3).".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Subsection (h) of section 814 is amended by striking "or 1491".

(2) Section 1057 (relating to election to treat transfer to foreign trust, etc., as taxable exchange) is hereby repealed.

(3) Section 6422 is amended by striking paragraph (5) and by redesignating paragraphs (6) through (13) as paragraphs (5) through (12), respectively.

(4) The table of chapters for subtitle A is amended by striking the item relating to chapter 5.

(5) The table of sections for part IV of subchapter O of chapter 1 is amended by striking the item relating to section 1057.

(6) The table of sections for subpart F of part I of subchapter J of chapter 1 is amended by adding at the end the following new item:

"Sec. 684. Recognition of gain on certain transfers to certain foreign trusts and estates.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

Subtitle E—Information Reporting

SEC. 1141. CLARIFICATION OF APPLICATION OF RETURN REQUIREMENT TO FOREIGN PARTNERSHIPS.

(a) IN GENERAL.—Section 6031 (relating to return of partnership income) is amended by adding at the end the following new subsection:

"(e) FOREIGN PARTNERSHIPS.—

"(1) EXCEPTION FOR FOREIGN PARTNERSHIP.—Except as provided in paragraph (2), the preceding provisions of this section shall not apply to a foreign partnership.

"(2) CERTAIN FOREIGN PARTNERSHIPS REQUIRED TO FILE RETURN.—Except as provided in regulations prescribed by the Secretary, this section shall apply to a foreign partnership for any taxable year if for such year, such partnership has—

"(A) gross income derived from sources within the United States, or

"(B) gross income which is effectively connected with the conduct of a trade or business within the United States.

The Secretary may provide simplified filing procedures for foreign partnerships to which this section applies.".

(b) SANCTION FOR FAILURE BY FOREIGN PARTNERSHIP TO COMPLY WITH SECTION 6031 TO INCLUDE DENIAL OF DEDUCTIONS.—Subsection (f) of section 6231 is amended—

(1) by striking "LOSSES AND" in the heading and inserting "DEDUCTIONS, LOSSES, AND", and

(2) by striking "loss or" each place it appears and inserting "deduction, loss, or".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 1142. CONTROLLED FOREIGN PARTNERSHIPS SUBJECT TO INFORMATION REPORTING COMPARABLE TO INFORMATION REPORTING FOR CONTROLLED FOREIGN CORPORATIONS.

(a) IN GENERAL.—So much of section 6038 (relating to information with respect to certain foreign corporations) as precedes paragraph (2) of subsection (a) is amended to read as follows:

"SEC. 6038. INFORMATION REPORTING WITH RESPECT TO CERTAIN FOREIGN CORPORATIONS AND PARTNERSHIPS.

"(a) REQUIREMENT.—

"(1) IN GENERAL.—Every United States person shall furnish, with respect to any foreign business entity which such person controls, such information as the Secretary may prescribe relating to—

"(A) the name, the principal place of business, and the nature of business of such entity, and the country under whose laws such entity is incorporated (or organized in the case of a partnership);

"(B) in the case of a foreign corporation, its post-1986 undistributed earnings (as defined in section 902(c));

"(C) a balance sheet for such entity listing assets, liabilities, and capital;

"(D) transactions between such entity and—

"(i) such person,

"(ii) any corporation or partnership which such person controls, and

"(iii) any United States person owning, at the time the transaction takes place—

"(I) in the case of a foreign corporation, 10 percent or more of the value of any class of stock outstanding of such corporation, and

"(II) in the case of a foreign partnership, at least a 10-percent interest in such partnership; and

"(E)(i) in the case of a foreign corporation, a description of the various classes of stock outstanding, and a list showing the name and address of, and number of shares held by, each United States person who is a shareholder of record owning at any time during the annual accounting period 5 percent or more in value of any class of stock outstanding of such foreign corporation, and

"(ii) information comparable to the information described in clause (i) in the case of a foreign partnership.

The Secretary may also require the furnishing of any other information which is similar or related in nature to that specified in the preceding sentence or which the Secretary determines to be appropriate to carry out the provisions of this title.".

(b) DEFINITIONS.—

(1) IN GENERAL.—Subsection (e) of section 6038 (relating to definitions) is amended—

(A) by redesignating paragraphs (1) and (2) as paragraphs (2) and (4), respectively,

(B) by inserting before paragraph (2) (as so redesignated) the following new paragraph:

"(1) Foreign business entity.—The term 'foreign business entity' means a foreign corporation and a foreign partnership.", and

(C) by inserting after paragraph (2) (as so redesignated) the following new paragraph:

"(3) Partnership-related definitions.—

"(A) Control.—A person is in control of a partnership if such person owns directly or indirectly more than a 50 percent interest in such partnership.

"(B) 50-percent interest.—For purposes of subparagraph (A), a 50-percent interest in a partnership is—

"(i) an interest equal to 50 percent of the capital interest, or 50 percent of the profits interest, in such partnership, or

"(ii) to the extent provided in regulations, an interest to which 50 percent of the deductions or losses of such partnership are allocated.

For purposes of the preceding sentence, rules similar to the rules of section 267(c) (other than paragraph (3)) shall apply, except so as to consider a United States person as owning such an interest which is owned by a person which is not a United States person.

"(C) 10-percent interest.—A 10-percent interest in a partnership is an interest which would be described in subparagraph (B) if '10 percent' were substituted for '50 percent' each place it appears.".

(2) Clerical amendment.—The paragraph heading for paragraph (2) of section 6038(e) (as so redesignated) is amended by inserting "of corporation" after "Control".

(c) Modification of Sanctions on Partnerships and Corporations for Failure To Furnish Information.—

(1) In general.—Subsection (b) of section 6038 is amended—

(A) by striking "$1,000" each place it appears and inserting "$10,000", and

(B) by striking "$24,000" in paragraph (2) and inserting "$50,000".

(d) Reporting by 10-Percent Partners.—Subsection (a) of section 6038 is amended by adding at the end the following new paragraph:

"(5) Information required from 10-percent partner of controlled foreign partnership.—In the case of a foreign partnership which is controlled by United States persons holding at least 10-percent interests (but not by any one United States person), the Secretary may require each United States person who holds a 10-percent interest in such partnership to furnish information relating to such partnership, including information relating to such partner's ownership interests in the partnership and allocations to such partner of partnership items.".

(e) Technical Amendments.—

(1) The following provisions of section 6038 are each amended by striking "foreign corporation" each place it appears and inserting "foreign business entity":

(A) Paragraphs (2) and (3) of subsection (a).

(B) Subsection (b).

(C) Subsection (c) other than paragraph (1)(B) thereof.

(D) Subsection (d).

(E) Subsection (e)(4) (as redesignated by subsection (b)).

(2) Subparagraph (B) of section 6038(c)(1) is amended by inserting "in the case of a foreign business entity which is a foreign corporation," after "(B)".

(3) Paragraph (8) of section 318(b) is amended by striking "6038(d)(1)" and inserting "6038(d)(2)".

(4) Paragraph (4) of section 901(k) is amended by striking "foreign corporation" and inserting "foreign corporation or partnership".

(5) The table of sections for subpart A of part III of subchapter A of chapter 61 is amended by striking the item relating to section 6038 and inserting the following new item:

"Sec. 6038. Information reporting with respect to certain foreign corporations and partnerships.".

(f) Effective Date.—The amendments made by this section shall apply to annual accounting periods of foreign partnerships beginning after the date of the enactment of this Act.

SEC. 1143. MODIFICATIONS RELATING TO RETURNS REQUIRED TO BE FILED BY REASON OF CHANGES IN OWNERSHIP INTERESTS IN FOREIGN PARTNERSHIP.

(a) No Return Required Unless Changes Involve 10-Percent Interest in Partnership.—

(1) In general.—Subsection (a) of section 6046A (relating to returns as to interests in foreign partnerships) is amended by adding at the end the following new sentence: "Paragraphs (1) and (2) shall apply to any acquisition or disposition only if the United States person directly or indirectly holds at least a 10-percent interest in such partnership either before or after such acquisition or disposition, and paragraph (3) shall apply to any change only if the change is equivalent to at least a 10-interest in such partnership.".

(2) 10-percent interest.—Section 6046A is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) 10-Percent Interest.—For purposes of subsection (a), a 10-percent interest in a partnership is an interest described in section 6038(e)(3)(C).".

(b) Modification of Penalty on Failure to Report Changes in Ownership Interests in Foreign Corporations and Partnerships.—Subsection (a) of section 6679 (relating to failure to file returns, etc., with respect to foreign corporations or foreign partnerships) is amended to read as follows:

"(a) Civil Penalty.—

"(1) In general.—In addition to any criminal penalty provided by law, any person required to file a return under section 6035, 6046, or 6046A who fails to file such return at the time provided in such section, or who files a return which does not show the information required pursuant to such section, shall pay a penalty of $10,000, unless it is shown that such failure is due to reasonable cause.

"(2) Increase in penalty where failure continues after notification.—If any failure described in paragraph (1) continues for more than 90 days after the day on which the Secretary mails notice of such failure to the United States person, such person shall pay a penalty (in addition to the amount required under paragraph (1)) of $10,000 for each 30-day period (or fraction thereof) during which such failure continues after the expiration of such 90-day period. The increase in any penalty under this paragraph shall not exceed $50,000.

"(3) Reduced penalty for returns relating to foreign personal holding companies.—In the case of a return required under section 6035, paragraph (1) shall be applied by substituting '$1,000' for '$10,000', and paragraph (2) shall not apply.".

(c) Effective Date.—The amendments made by this section shall apply to transfers and changes after the date of the enactment of this Act.

SEC. 1144. TRANSFERS OF PROPERTY TO FOREIGN PARTNERSHIPS SUBJECT TO INFORMATION REPORTING COMPARABLE TO INFORMATION REPORTING FOR SUCH TRANSFERS TO FOREIGN CORPORATIONS.

(a) In General.—Paragraph (1) of section 6038B(a) (relating to notice of certain transfers to foreign corporations) is amended to read as follows:

"(1) transfers property to—

"(A) a foreign corporation in an exchange described in section 332, 351, 354, 355, 356, or 361, or

"(B) a foreign partnership in a contribution described in section 721 or in any other contribution described in regulations prescribed by the Secretary,".

(b) Exceptions.—Section 6038B is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

"(b) Exceptions for Certain Transfers to Foreign Partnerships; Special Rule.—

"(1) Exceptions.—Subsection (a)(1)(B) shall apply to a transfer by a United States person to a foreign partnership only if—

"(A) the United States person holds (immediately after the transfer) directly or indirectly at least a 10-percent interest (as defined in section 6046A(d)) in the partnership, or

"(B) the value of the property transferred (when added to the value of the property transferred by such person or any related person to such partnership or a related partnership during the 12-month period ending on the date of the transfer) exceeds $100,000.

For purposes of the preceding sentence, the value of any transferred property is its fair market value at the time of its transfer.

"(2) Special rule.—If by reason of an adjustment under section 482 or otherwise, a contribution described in subsection (a)(1) is deemed to have been made, such contribution shall be treated for purposes of this section as having been made not earlier than the date specified by the Secretary.".

(c) Modification of Penalty Applicable to Foreign Corporations and Partnerships.—Paragraph (1) of section 6038B(b) is amended by striking "equal to" and all that follows and inserting "equal to 10 percent of the fair market value of the property at the time of the exchange (and, in the case of a contribution described in subsection (a)(1)(B), such person shall recognize gain as if the contributed property had been sold for such value at the time of such contribution).".

(d) Effective Date.—

(1) In general.—The amendments made by this section shall apply to transfers made after the date of the enactment of this Act.

(2) Election of retroactive effect.—Section 1494(c) of the Internal Revenue Code of 1986 shall not apply to any transfer after August 20, 1996, if the person otherwise required to file a return with respect to such transfer elects to apply the amendments made by this section to transfers after August 20, 1996. The Secretary of the Treasury or his delegate may prescribe simplified reporting under the preceding sentence.

SEC. 1145. EXTENSION OF STATUTE OF LIMITATION FOR FOREIGN TRANSFERS.

(a) In General.—Paragraph (8) of section 6501(c) (relating to failure to notify Secretary under section 6038B) is amended to read as follows:

"(8) Failure to notify Secretary of certain foreign transfers.—In the case of any information which is required to be reported to the Secretary under section 6038, 6038A, 6038B, 6046, 6046A, or 6048, the time for assessment of any tax imposed by this title with respect to any event or period to which such information relates shall not expire before the date which is 3 years after the date on which the Secretary is furnished the information required to be reported under such section.''.

(b) Effective Date.—The amendment made by subsection (a) shall apply to information the due date for the reporting of which is after the date of the enactment of this Act.

SEC. 1146. INCREASE IN FILING THRESHOLDS FOR RETURNS AS TO ORGANIZATION OF FOREIGN CORPORATIONS AND ACQUISITIONS OF STOCK IN SUCH CORPORATIONS.

(a) In General.—Subsection (a) of section 6046 (relating to returns as to organization or reorganization of foreign corporations and as to acquisitions of their stock) is amended to read as follows:

''(a) Requirement of return.—

''(1) In general.—A return complying with the requirements of subsection (b) shall be made by—

''(A) each United States citizen or resident who becomes an officer or director of a foreign corporation if a United States person (as defined in section 7701(a)(30)) meets the stock ownership requirements of paragraph (2) with respect to such corporation,

''(B) each United States person—

''(i) who acquires stock which, when added to any stock owned on the date of such acquisition, meets the stock ownership requirements of paragraph (2) with respect to a foreign corporation, or

''(ii) who acquires stock which, without regard to stock owned on the date of such acquisition, meets the stock ownership requirements of paragraph (2) with respect to a foreign corporation,

''(C) each person (not described in subparagraph (B)) who is treated as a United States shareholder under section 953(c) with respect to a foreign corporation, and

''(D) each person who becomes a United States person while meeting the stock ownership requirements of paragraph (2) with respect to stock of a foreign corporation.

In the case of a foreign corporation with respect to which any person is treated as a United States shareholder under section 953(c), subparagraph (A) shall be treated as including a reference to each United States person who is an officer or director of such corporation.

''(2) Stock ownership requirements.—A person meets the stock ownership requirements of this paragraph with respect to any corporation if such person owns 10 percent or more of—

''(A) the total combined voting power of all classes of stock of such corporation entitled to vote, or

''(B) the total value of the stock of such corporation.''.

(b) Effective Date.—The amendment made by this section shall take effect on January 1, 1998.

Subtitle F—Determination of Foreign or Domestic Status of Partnerships

SEC. 1151. DETERMINATION OF FOREIGN OR DOMESTIC STATUS OF PARTNERSHIPS.

(a) In General.—Paragraph (4) of section 7701(a) is amended by inserting before the period ''unless, in the case of a partnership, the partnership is more properly treated as a foreign partnership under regulations prescribed by the Secretary''.

(b) Effective Date.—The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

Subtitle G—Other Simplification Provisions

SEC. 1161. TRANSITION RULE FOR CERTAIN TRUSTS.

(a) In General.—Paragraph (3) of section 1907(a) of the Small Business Job Protection Act of 1996 is amended by adding at the end the following flush sentence:

''To the extent prescribed in regulations by the Secretary of the Treasury or his delegate, a trust which was in existence on August 20, 1996 (other than a trust treated as owned by the grantor under subpart E of part I of subchapter J of chapter 1 of the Internal Revenue Code of 1986), and which was treated as a United States person on the day before the date of the enactment of this Act may elect to continue to be treated as a United States person notwithstanding section 7701(a)(30)(E) of such Code.''.

(b) Effective Date.—The amendment made by subsection (a) shall take effect as if included in the amendments made by section 1907(a) of the Small Business Job Protection Act of 1996.

SEC. 1162. REPEAL OF STOCK AND SECURITIES SAFE HARBOR REQUIREMENT THAT PRINCIPAL OFFICE BE OUTSIDE THE UNITED STATES.

(a) In General.—The last sentence of clause (ii) of section 864(b)(2)(A) (relating to stock or securities) is amended by striking '', or in the case of a corporation'' and all that follows and inserting a period.

(b) Effective Date.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1997.

Subtitle H—Other Provisions

SEC. 1171. DEFINITION OF FOREIGN PERSONAL HOLDING COMPANY INCOME.

(a) Income From Notional Principal Contracts and Payments in Lieu of Dividends.—

(1) In general.—Paragraph (1) of section 954(c) (defining foreign personal holding company income) is amended by adding at the end the following new subparagraphs:

''(F) Income from notional principal contracts.—Net income from notional principal contracts. Any item of income, gain, deduction, or loss from a notional principal contract entered into for purposes of hedging any item described in any preceding subparagraph shall not be taken into account for purposes of this subparagraph but shall be taken into account under such other subparagraph.

''(G) Payments in lieu of dividends.—Payments in lieu of dividends which are made pursuant to an agreement to which section 1058 applies.''.

(2) Conforming amendment.—Subparagraph (B) of section 954(c)(1) is amended—

(A) by striking the second sentence, and

(B) by striking ''also'' in the last sentence.

(b) Exception for Dealers.—Paragraph (2) of section 954(c) is amended by adding at the end the following new subparagraph:

''(C) Exception for dealers.—Except as provided in subparagraph (A), (E), or (G) of paragraph (1) or by regulations, in the case of a regular dealer in property (within the meaning of paragraph (1)(B)), forward contracts, option contracts, or similar financial instruments (including notional principal contracts and all instruments referenced to commodities), there shall not be taken into account in computing foreign personal holding income any item of income, gain, deduction, or loss from any transaction (including hedging transactions) entered into in the ordinary course of such dealer's trade or business as such a dealer.''.

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 1172. PERSONAL PROPERTY USED PREDOMINANTLY IN THE UNITED STATES TREATED AS NOT PROPERTY OF A LIKE KIND WITH RESPECT TO PROPERTY USED PREDOMINANTLY OUTSIDE THE UNITED STATES.

(a) In General.—Subsection (h) of section 1031 (relating to exchange of property held for productive use or investment) is amended to read as follows:

''(h) Special Rules for Foreign Real and Personal Property.—For purposes of this section—

''(1) Real property.—Real property located in the United States and real property located outside the United States are not property of a like kind.

''(2) Personal property.—

''(A) In general.—Personal property used predominantly within the United States and personal property used predominantly outside the United States are not property of a like kind.

''(B) Predominant use.—Except as provided in subparagraph (C) and (D), the predominant use of any property shall be determined based on—

''(i) in the case of the property relinquished in the exchange, the 2-year period ending on the date of such relinquishment, and

''(ii) in the case of the property acquired in the exchange, the 2-year period beginning on the date of such acquisition.

''(C) Property held for less than 2 years.—Except in the case of an exchange which is part of a transaction (or series of transactions) structured to avoid the purposes of this subsection—

''(i) only the periods the property was held by the person relinquishing the property (or any related person) shall be taken into account under subparagraph (B)(i), and

''(ii) only the periods the property was held by the person acquiring the property (or any related person) shall be taken into account under subparagraph (B)(ii).

''(D) Special rule for certain property.—Property described in any subparagraph of section 168(g)(4) shall be treated as used predominantly in the United States.''.

(b) Effective Date.—

(1) In general.—The amendment made by this section shall apply to transfers after June 8, 1997, in taxable years ending after such date.

(2) Binding contracts.—The amendment made by this section shall not apply to any transfer pursuant to a written binding contract in effect on June 8, 1997, and at all times thereafter before the disposition of property. A contract shall not fail to meet the requirements of the preceding sentence solely because—

(A) it provides for a sale in lieu of an exchange, or

(B) the property to be acquired as replacement property was not identified under such contract before June 9, 1997.

SEC. 1173. HOLDING PERIOD REQUIREMENT FOR CERTAIN FOREIGN TAXES.

(a) In General.—Section 901 is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

''(k) Minimum Holding Period for Certain Taxes.—

''(1) Withholding taxes.—

''(A) In general.—In no event shall a credit be allowed under subsection (a) for any withholding tax on a dividend with respect to stock in a corporation if—

''(i) such stock is held by the recipient of the dividend for 15 days or less during the 30-

day period beginning on the date which is 15 days before the date on which such share becomes ex-dividend with respect to such dividend, or

"(ii) to the extent that the recipient of the dividend is under an obligation (whether pursuant to a short sale or otherwise) to make related payments with respect to positions in substantially similar or related property.

"(B) WITHHOLDING TAX.—For purposes of this paragraph, the term 'withholding tax' includes any tax determined on a gross basis; but does not include any tax which is in the nature of a prepayment of a tax imposed on a net basis.

"(2) DEEMED PAID TAXES.—In the case of income, war profits, or excess profits taxes deemed paid under section 853, 902, or 960 through a chain of ownership of stock in 1 or more corporations, no credit shall be allowed under subsection (a) for such taxes if—

"(A) any stock of any corporation in such chain (the ownership of which is required to obtain credit under subsection (a) for such taxes) is held for less than the period described in paragraph (1)(A)(i), or

"(B) the corporation holding the stock is under an obligation referred to in paragraph (1)(A)(ii).

"(3) 45-DAY RULE IN THE CASE OF CERTAIN PREFERENCE DIVIDENDS.—In the case of stock having preference in dividends and dividends with respect to such stock which are attributable to a period or periods aggregating in excess of 366 days, paragraph (1)(A)(i) shall be applied—

"(A) by substituting '45 days' for '15 days' each place it appears, and

"(B) by substituting '90-day period' for '30-day period'.

"(4) EXCEPTION FOR CERTAIN TAXES PAID BY SECURITIES DEALERS.—

"(A) IN GENERAL.—Paragraphs (1) and (2) shall not apply to any qualified tax with respect to any security held in the active conduct in a foreign country of a securities business of any person—

"(i) who is registered as a securities broker or dealer under section 15(a) of the Securities Exchange Act of 1934,

"(ii) who is registered as a Government securities broker or dealer under section 15C(a) of such Act, or

"(iii) who is licensed or authorized in such foreign country to conduct securities activities in such country and is subject to bona fide regulation by a securities regulating authority of such country.

"(B) QUALIFIED TAX.—For purposes of subparagraph (A), the term 'qualified tax' means a tax paid to a foreign country (other than the foreign country referred to in subparagraph (A)) if—

"(i) the dividend to which such tax is attributable is subject to taxation on a net basis by the country referred to in subparagraph (A), and

"(ii) such country allows a credit against its net basis tax for the full amount of the tax paid to such other foreign country.

"(C) REGULATIONS.—The Secretary may prescribe such regulations as may be appropriate to prevent the abuse of the exception provided by this paragraph.

"(5) CERTAIN RULES TO APPLY.—For purposes of this subsection, the rules of paragraphs (3) and (4) of section 246(c) shall apply.

"(6) TREATMENT OF BONA FIDE SALES.—If a person's holding period is reduced by reason of the application of the rules of section 246(c)(4) to any contract for the bona fide sale of stock, the determination of whether such person's holding period meets the requirements of paragraph (2) shall be made as of the date such contract is entered into.

"(7) TAXES ALLOWED AS DEDUCTION, ETC.—Sections 275 and 78 shall not apply to any tax which is not allowable as a credit under subsection (a) by reason of this subsection.".

(b) NOTICE OF WITHHOLDING TAXES PAID BY REGULATED INVESTMENT COMPANY.—Subsection (c) of section 853 (relating to foreign tax credit allowed to shareholders) is amended by adding at the end the following new sentence: "Such notice shall also include the amount of such taxes which (without regard to the election under this section) would not be allowable as a credit under section 901(a) to the regulated investment company by reason of section 901(k).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to dividends paid or accrued more than 30 days after the date of the enactment of this Act.

SEC. 1174. PENALTIES FOR FAILURE TO DISCLOSE POSITION THAT CERTAIN INTERNATIONAL TRANSPORTATION INCOME IS NOT INCLUDIBLE IN GROSS INCOME.

(a) IN GENERAL.—Section 883 is amended by adding at the end the following new subsection:

"(d) PENALTIES FOR FAILURE TO DISCLOSE POSITION THAT CERTAIN INTERNATIONAL TRANSPORTATION INCOME IS NOT INCLUDIBLE IN GROSS INCOME.—

"(1) IN GENERAL.—A taxpayer who, with respect to any tax imposed by this title, takes the position that any of its gross income derived from the international operation of 1 or more ships or aircraft is not includible in gross income by reason of paragraph (1) or (2) of subsection (a) or paragraph (1) or (2) of section 872(b) (or by reason of any applicable treaty) shall be entitled to such treatment only if such position is disclosed (in such manner as the Secretary may prescribe) on the return of tax for such tax (or any statement attached to such return).

"(2) ADDITIONAL PENALTIES FOR FAILING TO DISCLOSE POSITION.—If a taxpayer fails to meet the requirement of paragraph (1) for any taxable year with respect to the international operation of 1 or more ships or 1 or more aircraft—

"(A) the amount of the income from the international operation to which such failure relates—

"(i) which is from sources without the United States, and

"(ii) which is attributable to a fixed place of business in the United States,

shall be treated for purposes of this title as effectively connected with the conduct of a trade or business within the United States, and

"(B) no deductions or credits shall be allowed which are attributable to income from the international operation to which the failure relates.

"(3) REASONABLE CAUSE EXCEPTION.—This subsection shall not apply to a failure to disclose a position if it is shown that such failure is due to reasonable cause and not due to willful neglect.".

(b) CONFORMING AMENDMENTS.—Paragraphs (1) and (2) of section 872(b), and paragraphs (1) and (2) of section 883(a), are each amended by striking "Gross income" each place it appears and inserting "Except as provided in section 883(d), gross income".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

(2) COORDINATION WITH TREATIES.—The amendments made by this section shall not apply in any case where their application would be contrary to any treaty obligation of the United States.

(d) INFORMATION TO BE PROVIDED BY CUSTOMS SERVICE.—The United States Custom Service shall provide the Secretary of the Treasury or his delegate with such information as may be specified by such Secretary in order to enable such Secretary to determine whether ships which are not registered in the United States are engaged in transportation to or from the United States.

SEC. 1175. DENIAL OF TREATY BENEFITS FOR CERTAIN PAYMENTS THROUGH HYBRID ENTITIES.

A foreign person shall be entitled under any income tax treaty of the United States with a foreign country to any reduced rate of any withholding tax imposed by the Internal Revenue Code of 1986 on an item of income derived through any partnership or other pass-thru entity only to the extent that such item is treated for purposes of the taxation laws of such foreign country as an item of income of such person. The preceding sentence shall not apply if—

(1) the treaty contains a provision addressing the applicability of the treaty in the case of an item of income derived through a partnership, or

(2) the foreign country imposes tax on a distribution of such item of income from such partnership to such person.

SEC. 1176. INTEREST ON UNDERPAYMENTS NOT REDUCED BY FOREIGN TAX CREDIT CARRYBACKS.

(a) IN GENERAL.—Subsection (d) of section 6601 is amended by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and by inserting after paragraph (1) the following new paragraph:

"(2) FOREIGN TAX CREDIT CARRYBACKS.—If any credit allowed for any taxable year is increased by reason of a carryback of tax paid or accrued to foreign countries or possessions of the United States, such increase shall not affect the computation of interest under this section for the period ending with the filing date for the taxable year in which such taxes were in fact paid or accrued, or, with respect to any portion of such credit carryback from a taxable year attributable to a net operating loss carryback or a capital loss carryback from a subsequent taxable year, such increase shall not affect the computation of interest under this section for the period ending with the filing date for such subsequent taxable year.".

(b) CONFORMING AMENDMENT TO REFUNDS ATTRIBUTABLE TO FOREIGN TAX CREDIT CARRYBACKS.—

(1) IN GENERAL.—Subsection (f) of section 6611 is amended by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and by inserting after paragraph (1) the following new paragraph:

"(2) FOREIGN TAX CREDIT CARRYBACKS.—For purposes of subsection (a), if any overpayment of tax imposed by subtitle A results from a carryback of tax paid or accrued to foreign countries or possessions of the United States, such overpayment shall be deemed not to have been made before the filing date for the taxable year in which such taxes were in fact paid or accrued, or, with respect to any portion of such credit carryback from a taxable year attributable to a net operating loss carryback or a capital loss carryback from a subsequent taxable year, such overpayment shall be deemed not to have been made before the filing date for such subsequent taxable year.".

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (4) of section 6611(f) (as so redesignated) is amended—

(i) by striking "PARAGRAPHS (1) AND (2)" and inserting "PARAGRAPHS (1), (2), AND (3)", and

(ii) by striking "paragraph (1) or (2)" each place it appears and inserting "paragraph (1), (2), or (3)".

(B) Clause (ii) of section 6611(f)(4)(B) (as so redesignated) is amended by striking "and" at the end of subclause (I), by redesignating subclause (II) as subclause (III), and by inserting after subclause (I) the following new subclause:

"(II) in the case of a carryback of taxes paid or accrued to foreign countries or possessions of the United States, the taxable year in which such taxes were in fact paid or accrued (or, with respect to any portion of such carryback from a taxable year attributable to a net operating loss carryback or a capital loss carryback from a subsequent taxable year, such subsequent taxable year), and".

(C) Subclause (III) of section 6611(f)(4)(B)(ii) (as so redesignated) is amended by inserting "(as defined in paragraph (3)(B))" after "credit carryback" the first place it appears.

(D) Section 6611 is amended by striking subsection (g) and by redesignating subsections (h) and (i) as subsections (g) and (h), respectively.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to carrybacks arising in taxable years beginning after the date of the enactment of this Act.

SEC. 1177. CLARIFICATION OF PERIOD OF LIMITATIONS ON CLAIM FOR CREDIT OR REFUND ATTRIBUTABLE TO FOREIGN TAX CREDIT CARRYFORWARD.

(a) IN GENERAL.—Subparagraph (A) of section 6511(d)(3) is amended by striking "for the year with respect to which the claim is made" and inserting "for the year in which such taxes were actually paid or accrued".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxes paid or accrued in taxable years beginning after the date of the enactment of this Act.

SEC. 1178. MISCELLANEOUS CLARIFICATIONS.

(a) ATTRIBUTION OF DEEMED PAID FOREIGN TAXES TO PRIOR DISTRIBUTIONS.—Subparagraph (B) of section 902(c)(2) is amended by striking "deemed paid with respect to" and inserting "attributable to".

(b) FINANCIAL SERVICES INCOME DETERMINED WITHOUT REGARD TO HIGH-TAXED INCOME.—Subclause (II) of section 904(d)(2)(C)(i) is amended by striking "subclause (I)" and inserting "subclauses (I) and (III)".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

TITLE XII—SIMPLIFICATION PROVISIONS RELATING TO INDIVIDUALS AND BUSINESSES

Subtitle A—Provisions Relating to Individuals

SEC. 1201. BASIC STANDARD DEDUCTION AND MINIMUM TAX EXEMPTION AMOUNT FOR CERTAIN DEPENDENTS.

(a) BASIC STANDARD DEDUCTION.—

(1) IN GENERAL.—Paragraph (5) of section 63(c) (relating to limitation on basic standard deduction in the case of certain dependents) is amended by striking "shall not exceed" and all that follows and inserting "shall not exceed the greater of—

"(A) $500, or

"(B) the sum of $250 and such individual's earned income.".

(2) CONFORMING AMENDMENT.—Paragraph (4) of section 63(c) is amended—

(A) by striking "(5)(A)" in the material preceding subparagraph (A) and inserting "(5)", and

(B) by striking "by substituting" and all that follows in subparagraph (B) and inserting "by substituting for 'calendar year 1992' in subparagraph (B) thereof—

"(i) 'calendar year 1987' in the case of the dollar amounts contained in paragraph (2) or (5)(A) or subsection (f), and

"(ii) 'calendar year 1997' in the case of the dollar amount contained in paragraph (5)(B).".

(b) MINIMUM TAX EXEMPTION AMOUNT.—Subsection (j) of section 59 is amended to read as follows:

"(j) TREATMENT OF UNEARNED INCOME OF MINOR CHILDREN.—

"(1) IN GENERAL.—In the case of a child to whom section 1(g) applies, the exemption amount for purposes of section 55 shall not exceed the sum of—

"(A) such child's earned income (as defined in section 911(d)(2)) for the taxable year, plus

"(B) $5,000.

"(2) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 1998, the dollar amount in paragraph (1)(B) shall be increased by an amount equal to the product of—

"(A) such dollar amount, and

"(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting '1997' for '1992' in subparagraph (B) thereof.

If any increase determined under the preceding sentence is not a multiple of $50, such increase shall be rounded to the nearest multiple of $50.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. 1202. INCREASE IN AMOUNT OF TAX EXEMPT FROM ESTIMATED TAX REQUIREMENTS.

(a) IN GENERAL.—Paragraph (1) of section 6654(e) (relating to exception where tax is small amount) is amended by striking "$500" and inserting "$1,000".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. 1203. OPTIONAL METHODS FOR COMPUTING SECA TAX COMBINED.

(a) INTERNAL REVENUE CODE.—

(1) IN GENERAL.—Subsection (h) of section 1402 is amended to read as follows:

"(h) OPTIONAL METHOD FOR COMPUTING SELF-EMPLOYMENT INCOME.—

"(1) INDIVIDUALS.—In the case of any trade or business which is carried on by an individual—

"(A) if the gross income derived by him from such trade or business is not more than the upper limit for the taxable year, the net earnings from self-employment derived by him from such trade or business may, at his option, be deemed to be 66⅔ percent of such gross income, or

"(B) if the gross income derived by him from such trade or business is more than the upper limit for the taxable year and the net earnings from self-employment derived by him from such trade or business (computed under subsection (a) without regard to this sentence) are less than the lower limit for the taxable year, the net earnings from self-employment derived by him from such trade or business may, at his option, be deemed to be the lower limit for the taxable year.

"(2) MEMBER OF A PARTNERSHIP.—In the case of a member of a partnership carrying on any trade or business—

"(A) if his distributive share of the gross income of the partnership derived from such trade or business (after such gross income has been reduced by the sum of all payments to which section 707(c) applies) is not more than the upper limit for the taxable year, his distributive share of income described in section 702(a)(8) derived from such trade or business may, at his option, be deemed to be an amount equal to 66⅔ percent of his distributive share of such gross income (after such gross income has been so reduced), or

"(B) if his distributive share of the gross income of the partnership derived from such trade or business (after such gross income has been reduced by the sum of all payments to which section 707(c) applies) is more than the upper limit for the taxable year and his distributive share (whether or not distributed) of income described in section 702(a)(8) derived from such trade or business (computed under this subsection without regard to this sentence) is less than the lower limit for the taxable year, his distributive share of income described in section 702(a)(8) derived from such trade or business may, at his option, be deemed to be the lower limit for the taxable year.

"(3) UPPER AND LOWER LIMITS.—For purposes of this subsection—

"(A) LOWER LIMIT.—The lower limit for any taxable year is the sum of the amounts applicable under section 213(d) of the Social Security Act for calendar quarters ending with or within such taxable year.

"(B) UPPER LIMIT.—The upper limit for any taxable year is the amount equal to 150 percent of the lower limit for such taxable year.

"(4) DETERMINATION OF GROSS INCOME.—For purposes of this subsection, the term 'gross income' means—

"(A) in the case of any such trade or business in which the income is computed under a cash receipts and disbursements method, the gross receipts from such trade or business reduced by the cost or other basis of property which was purchased and sold in carrying on such trade or business, adjusted (after such reduction) in accordance with the provisions of paragraphs (1) through (7) and paragraph (9) of subsection (a), and

"(B) in the case of any such trade or business in which the income is computed under an accrual method, the gross income from such trade or business, adjusted in accordance with the provisions of paragraphs (1) through (7) and paragraph (9) of subsection (a).

"(5) INCOME DERIVED FROM MORE THAN 1 TRADE OR BUSINESS.—For purposes of this subsection, if an individual (including a member of a partnership) derives gross income from more than 1 such trade or business, such gross income (including his distributive share of the gross income of any partnership derived from any such trade or business) shall be deemed to have been derived from one trade or business.

"(6) ELECTION.—The option under this subsection shall be allowed for any taxable year only if elected on the first return filed for such taxable year.".

(2) CONFORMING AMENDMENT.—Subsection (a) of section 1402 is amended by striking all that follows the first sentence following paragraph (15) and inserting "For optional method of determining net earnings from self-employment, see subsection (h).".

(b) SOCIAL SECURITY ACT.—Subsection (g) of section 211 of the Social Security Act is amended to read as follows:

"(g) OPTIONAL METHOD FOR COMPUTING SELF-EMPLOYMENT INCOME.—

"(1) INDIVIDUALS.—In the case of any trade or business which is carried on by an individual—

"(A) if the gross income derived by him from such trade or business is not more than the upper limit for the taxable year, the net earnings from self-employment derived by him from such trade or business may, at his option, be deemed to be 66⅔ percent of such gross income, or

"(B) if the gross income derived by him from such trade or business is more than the upper limit for the taxable year and the net earnings from self-employment derived by him from such trade or business (computed under subsection (a) without regard to this sentence) are less than the lower limit for the taxable year, the net earnings from self-employment derived by him from such trade or business may, at his option, be deemed to be the lower limit for the taxable year.

"(2) MEMBER OF A PARTNERSHIP.—In the case of a member of a partnership carrying on any trade or business—

"(A) if his distributive share of the gross income of the partnership derived from such trade or business (after such gross income has been reduced by the sum of all payments to which section 707(c) of the Internal Revenue Code of 1986 applies) is not more than the upper limit for the taxable year, his distributive share of income described in section 702(a)(8) of such Code derived from such trade or business may, at his option, be deemed to be an amount equal to 66⅔ percent of his distributive share of such gross income (after such gross income has been so reduced), or

"(B) if his distributive share of the gross income of the partnership derived from such trade or business (after such gross income has been reduced by the sum of all payments to which section 707(c) of such Code applies) is more than the upper limit for the taxable year and his distributive share (whether or not distributed) of income described in section 702(a)(8) of such Code derived from such trade or business (computed under this subsection without regard to this sentence) is less than the lower limit for the taxable year, his distributive share of income described in section 702(a)(8) of such Code derived from such trade or business may, at his option, be deemed to be the lower limit for the taxable year.

"(3) UPPER AND LOWER LIMITS.—For purposes of this subsection—

"(A) LOWER LIMIT.—The lower limit for any taxable year is the sum of the amounts applicable under section 213(d) for calendar quarters ending with or within such taxable year.

"(B) UPPER LIMIT.—The upper limit for any taxable year is the amount equal to 150 percent of the lower limit for such taxable year.

"(4) DETERMINATION OF GROSS INCOME.—For purposes of this subsection, the term 'gross income' means—

"(A) in the case of any such trade or business in which the income is computed under a cash receipts and disbursements method, the gross receipts from such trade or business reduced by the cost or other basis of property which was purchased and sold in carrying on such trade or business, adjusted (after such reduction) in accordance with the provisions of paragraphs (1) through (6) and paragraph (8) of subsection (a), and

"(B) in the case of any such trade or business in which the income is computed under an accrual method, the gross income from such trade or business, adjusted in accordance with the provisions of paragraphs (1) through (6) and paragraph (8) of subsection (a).

"(5) INCOME DERIVED FROM MORE THAN 1 TRADE OR BUSINESS.—For purposes of this subsection, if an individual (including a member of a partnership) derives gross income from more than 1 such trade or business, such gross income (including his distributive share of the gross income of any partnership derived from any such trade or business) shall be deemed to have been derived from one trade or business.

"(6) ELECTION.—The option under this subsection shall be allowed for any taxable year only if elected on the first return filed for such taxable year.".

(2) CONFORMING AMENDMENT.—Subsection (a) of section 211 of the Social Security Act is amended by striking all that follows the first sentence following paragraph (15) and inserting "For optional method of determining net earnings from self-employment, see subsection (g).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. 1204. TREATMENT OF CERTAIN REIMBURSED EXPENSES OF RURAL MAIL CARRIERS.

(a) IN GENERAL.—Section 162 (relating to trade or business expenses) is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

"(o) TREATMENT OF CERTAIN REIMBURSED EXPENSES OF RURAL MAIL CARRIERS.—

"(1) GENERAL RULE.—In the case of any employee of the United States Postal Service who performs services involving the collection and delivery of mail on a rural route and who receives qualified reimbursements for the expenses incurred by such employee for the use of a vehicle in performing such services—

"(A) the amount allowable as a deduction under this chapter for the use of a vehicle in performing such services shall be equal to the amount of such qualified reimbursements; and

"(B) such qualified reimbursements shall be treated as paid under a reimbursement or other expense allowance arrangement for purposes of section 62(a)(2)(A) (and section 62(c) shall not apply to such qualified reimbursements).

"(2) DEFINITION OF QUALIFIED REIMBURSEMENTS.—For purposes of this subsection, the term 'qualified reimbursements' means the amounts paid by the United States Postal Service to employees as an equipment maintenance allowance under the 1991 collective bargaining agreement between the United States Postal Service and the National Rural Letter Carriers' Association. Amounts paid as an equipment maintenance allowance by such Postal Service under later collective bargaining agreements that supersede the 1991 agreement shall be considered qualified reimbursements if such amounts do not exceed the amounts that would have been paid under the 1991 agreement, adjusted for changes in the Consumer Price Index (as defined in section 1(f)(5)) since 1991.".

(b) TECHNICAL AMENDMENT.—Section 6008 of the Technical and Miscellaneous Revenue Act of 1988 is hereby repealed.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. 1205. TREATMENT OF TRAVELING EXPENSES OF CERTAIN FEDERAL EMPLOYEES ENGAGED IN CRIMINAL INVESTIGATIONS.

(a) IN GENERAL.—Subsection (a) of section 162 is amended by adding at the end the following new sentence: "The preceding sentence shall not apply to any Federal employee during any period for which such employee is certified by the Attorney General (or the designee thereof) as traveling on behalf of the United States in temporary duty status to investigate, or provide support services for the investigation of, a Federal crime.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts paid or incurred with respect to taxable years ending after the date of the enactment of this Act.

SEC. 1206. PAYMENT OF TAX BY COMMERCIALLY ACCEPTABLE MEANS.

(a) GENERAL RULE.—Section 6311 is amended to read as follows:

"SEC. 6311. PAYMENT OF TAX BY COMMERCIALLY ACCEPTABLE MEANS.

"(a) AUTHORITY TO RECEIVE.—It shall be lawful for the Secretary to receive for internal revenue taxes (or in payment for internal revenue stamps) any commercially acceptable means that the Secretary deems appropriate to the extent and under the conditions provided in regulations prescribed by the Secretary.

"(b) ULTIMATE LIABILITY.—If a check, money order, or other method of payment, including payment by credit card, debit card, or charge card so received is not duly paid, or is paid and subsequently charged back to the Secretary, the person by whom such check, or money order, or other method of payment has been tendered shall remain liable for the payment of the tax or for the stamps, and for all legal penalties and additions, to the same extent as if such check, money order, or other method of payment had not been tendered.

"(c) LIABILITY OF BANKS AND OTHERS.—If any certified, treasurer's, or cashier's check (or other guaranteed draft), or any money order, or any other means of payment that has been guaranteed by a financial institution (such as a credit card, debit card, or charge card transaction which has been guaranteed expressly by a financial institution) so received is not duly paid, the United States shall, in addition to its right to exact payment from the party originally indebted therefor, have a lien for—

"(1) the amount of such check (or draft) upon all assets of the financial institution on which drawn,

"(2) the amount of such money order upon all the assets of the issuer thereof, or

"(3) the guaranteed amount of any other transaction upon all the assets of the institution making such guarantee,

and such amount shall be paid out of such assets in preference to any other claims whatsoever against such financial institution, issuer, or guaranteeing institution, except the necessary costs and expenses of administration and the reimbursement of the United States for the amount expended in the redemption of the circulating notes of such financial institution.

"(d) PAYMENT BY OTHER MEANS.—

"(1) AUTHORITY TO PRESCRIBE REGULATIONS.—The Secretary shall prescribe such regulations as the Secretary deems necessary to receive payment by commercially acceptable means, including regulations that—

"(A) specify which methods of payment by commercially acceptable means will be acceptable,

"(B) specify when payment by such means will be considered received,

"(C) identify types of nontax matters related to payment by such means that are to be resolved by persons ultimately liable for payment and financial intermediaries, without the involvement of the Secretary, and

“(D) ensure that tax matters will be resolved by the Secretary, without the involvement of financial intermediaries.

“(2) AUTHORITY TO ENTER INTO CONTRACTS.—Notwithstanding section 3718(f) of title 31, United States Code, the Secretary is authorized to enter into contracts to obtain services related to receiving payment by other means where cost beneficial to the Government.

“(3) SPECIAL PROVISIONS FOR USE OF CREDIT CARDS.—If use of credit cards is accepted as a method of payment of taxes pursuant to subsection (a)—

“(A) a payment of internal revenue taxes (or a payment for internal revenue stamps) by a person by use of a credit card shall not be subject to section 161 of the Truth-in-Lending Act (15 U.S.C. 1666), or to any similar provisions of State law, if the error alleged by the person is an error relating to the underlying tax liability, rather than an error relating to the credit card account such as a computational error or numerical transposition in the credit card transaction or an issue as to whether the person authorized payment by use of the credit card,

“(B) a payment of internal revenue taxes (or a payment for internal revenue stamps) shall not be subject to section 170 of the Truth-in-Lending Act (15 U.S.C. 1666i), or to any similar provisions of State law,

“(C) a payment of internal revenue taxes (or a payment for internal revenue stamps) by a person by use of a debit card shall not be subject to section 908 of the Electronic Fund Transfer Act (15 U.S.C. 1693f), or to any similar provisions of State law, if the error alleged by the person is an error relating to the underlying tax liability, rather than an error relating to the debit card account such as a computational error or numerical transposition in the debit card transaction or an issue as to whether the person authorized payment by use of the debit card,

“(D) the term ‘creditor’ under section 103(f) of the Truth-in-Lending Act (15 U.S.C. 1602(f)) shall not include the Secretary with respect to credit card transactions in payment of internal revenue taxes (or payment for internal revenue stamps), and

“(E) notwithstanding any other provision of law to the contrary, in the case of payment made by credit card or debit card transaction of an amount owed to a person as the result of the correction of an error under section 161 of the Truth-in-Lending Act (15 U.S.C. 1666) or section 908 of the Electronic Fund Transfer Act (15 U.S.C. 1693f), the Secretary is authorized to provide such amount to such person as a credit to that person's credit card or debit card account through the applicable credit card or debit card system.

“(e) CONFIDENTIALITY OF INFORMATION.—

“(1) IN GENERAL.—Except as otherwise authorized by this subsection, no person may use or disclose any information relating to credit or debit card transactions obtained pursuant to section 6103(k)(8) other than for purposes directly related to the processing of such transactions, or the billing or collection of amounts charged or debited pursuant thereto.

“(2) EXCEPTIONS.—

“(A) Debit or credit card issuers or others acting on behalf of such issuers may also use and disclose such information for purposes directly related to servicing an issuer's accounts.

“(B) Debit or credit card issuers or others directly involved in the processing of credit or debit card transactions or the billing or collection of amounts charged or debited thereto may also use and disclose such information for purposes directly related to—

“(i) statistical risk and profitability assessment;

“(ii) transferring receivables, accounts, or interest therein;

“(iii) auditing the account information;

“(iv) complying with Federal, State, or local law; and

“(v) properly authorized civil, criminal, or regulatory investigation by Federal, State, or local authorities.

“(3) PROCEDURES.—Use and disclosure of information under this paragraph shall be made only to the extent authorized by written procedures promulgated by the Secretary.

“(4) CROSS REFERENCE.—

“For provision providing for civil damages for violation of paragraph (1), see section 7431.”.

(b) SEPARATE APPROPRIATION REQUIRED FOR PAYMENT OF CREDIT CARD FEES.—No amount may be paid by the United States to a credit card issuer for the right to receive payments of internal revenue taxes by credit card without a separate appropriation therefor.

(c) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 64 is amended by striking the item relating to section 6311 and inserting the following:

“Sec. 6311. Payment of tax by commercially acceptable means.”.

(d) AMENDMENTS TO SECTIONS 6103 AND 7431 WITH RESPECT TO DISCLOSURE AUTHORIZATION.—

(1) Subsection (k) of section 6103 (relating to confidentiality and disclosure of returns and return information) is amended by adding at the end the following new paragraph:

“(8) DISCLOSURE OF INFORMATION TO ADMINISTER SECTION 6311.—The Secretary may disclose returns or return information to financial institutions and others to the extent the Secretary deems necessary for the administration of section 6311. Disclosures of information for purposes other than to accept payments by checks or money orders shall be made only to the extent authorized by written procedures promulgated by the Secretary.”.

(2) Section 7431 (relating to civil damages for unauthorized disclosure of returns and return information) is amended by adding at the end the following new subsection:

“(g) SPECIAL RULE FOR INFORMATION OBTAINED UNDER SECTION 6103(k)(8).—For purposes of this section, any reference to section 6103 shall be treated as including a reference to section 6311(e).”.

(3) Section 6103(p)(3)(A) is amended by striking “or (6)” and inserting “(6), or (8)”.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the day 9 months after the date of the enactment of this Act.

Subtitle B—Provisions Relating to Businesses Generally

SEC. 1211. MODIFICATIONS TO LOOK-BACK METHOD FOR LONG-TERM CONTRACTS.

(a) LOOK-BACK METHOD NOT TO APPLY IN CERTAIN CASES.—Subsection (b) of section 460 (relating to percentage of completion method) is amended by adding at the end the following new paragraph:

“(6) ELECTION TO HAVE LOOK-BACK METHOD NOT APPLY IN DE MINIMIS CASES.—

“(A) AMOUNTS TAKEN INTO ACCOUNT AFTER COMPLETION OF CONTRACT.—Paragraph (1)(B) shall not apply with respect to any taxable year (beginning after the taxable year in which the contract is completed) if—

“(i) the cumulative taxable income (or loss) under the contract as of the close of such taxable year, is within

“(ii) 10 percent of the cumulative look-back taxable income (or loss) under the contract as of the close of the most recent taxable year to which paragraph (1)(B) applied (or would have applied but for subparagraph (B)).

“(B) DE MINIMIS DISCREPANCIES.—Paragraph (1)(B) shall not apply in any case to which it would otherwise apply if—

“(i) the cumulative taxable income (or loss) under the contract as of the close of each prior contract year, is within

“(ii) 10 percent of the cumulative look-back income (or loss) under the contract as of the close of such prior contract year.

“(C) DEFINITIONS.—For purposes of this paragraph—

“(i) CONTRACT YEAR.—The term ‘contract year’ means any taxable year for which income is taken into account under the contract.

“(ii) LOOK-BACK INCOME OR LOSS.—The look-back income (or loss) is the amount which would be the taxable income (or loss) under the contract if the allocation method set forth in paragraph (2)(A) were used in determining taxable income.

“(iii) DISCOUNTING NOT APPLICABLE.—The amounts taken into account after the completion of the contract shall be determined without regard to any discounting under the 2nd sentence of paragraph (2).

“(D) CONTRACTS TO WHICH PARAGRAPH APPLIES.—This paragraph shall only apply if the taxpayer makes an election under this subparagraph. Unless revoked with the consent of the Secretary, such an election shall apply to all long-term contracts completed during the taxable year for which election is made or during any subsequent taxable year.”.

(b) MODIFICATION OF INTEREST RATE.—

(1) IN GENERAL.—Subparagraph (C) of section 460(b)(2) is amended by striking “the overpayment rate established by section 6621” and inserting “the adjusted overpayment rate (as defined in paragraph (7))”.

(2) ADJUSTED OVERPAYMENT RATE.—Subsection (b) of section 460 is amended by adding at the end the following new paragraph:

“(7) ADJUSTED OVERPAYMENT RATE.—

“(A) IN GENERAL.—The adjusted overpayment rate for any interest accrual period is the overpayment rate in effect under section 6621 for the calendar quarter in which such interest accrual period begins.

“(B) INTEREST ACCRUAL PERIOD.—For purposes of subparagraph (A), the term ‘interest accrual period’ means the period—

“(i) beginning on the day after the return due date for any taxable year of the taxpayer, and

“(ii) ending on the return due date for the following taxable year.

For purposes of the preceding sentence, the term ‘return due date’ means the date prescribed for filing the return of the tax imposed by this chapter (determined without regard to extensions).”.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to contracts completed in taxable years ending after the date of the enactment of this Act.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply for purposes of section 167(g) of the Internal Revenue Code of 1986 to property placed in service after September 13, 1995.

"(1) INDIVIDUALS.—In the case of any trade or business which is carried on by an individual—

"(A) if the gross income derived by him from such trade or business is not more than the upper limit for the taxable year, the net earnings from self-employment derived by him from such trade or business may, at his option, be deemed to be 66⅔ percent of such gross income, or

"(B) if the gross income derived by him from such trade or business is more than the upper limit for the taxable year and the net earnings from self-employment derived by him from such trade or business (computed under subsection (a) without regard to this sentence) are less than the lower limit for the taxable year, the net earnings from self-employment derived by him from such trade or business may, at his option, be deemed to be the lower limit for the taxable year.

"(2) MEMBER OF A PARTNERSHIP.—In the case of a member of a partnership carrying on any trade or business—

"(A) if his distributive share of the gross income of the partnership derived from such trade or business (after such gross income has been reduced by the sum of all payments to which section 707(c) of the Internal Revenue Code of 1986 applies) is not more than the upper limit for the taxable year, his distributive share of income described in section 702(a)(8) of such Code derived from such trade or business may, at his option, be deemed to be an amount equal to 66⅔ percent of his distributive share of such gross income (after such gross income has been so reduced), or

"(B) if his distributive share of the gross income of the partnership derived from such trade or business (after such gross income has been reduced by the sum of all payments to which section 707(c) of such Code applies) is more than the upper limit for the taxable year and his distributive share (whether or not distributed) of income described in section 702(a)(8) of such Code derived from such trade or business (computed under this subsection without regard to this sentence) is less than the lower limit for the taxable year, his distributive share of income described in section 702(a)(8) of such Code derived from such trade or business may, at his option, be deemed to be the lower limit for the taxable year.

"(3) UPPER AND LOWER LIMITS.—For purposes of this subsection—

"(A) LOWER LIMIT.—The lower limit for any taxable year is the sum of the amounts applicable under section 213(d) for calendar quarters ending with or within such taxable year.

"(B) UPPER LIMIT.—The upper limit for any taxable year is the amount equal to 150 percent of the lower limit for such taxable year.

"(4) DETERMINATION OF GROSS INCOME.—For purposes of this subsection, the term 'gross income' means—

"(A) in the case of any such trade or business in which the income is computed under a cash receipts and disbursements method, the gross receipts from such trade or business reduced by the cost or other basis of property which was purchased and sold in carrying on such trade or business, adjusted (after such reduction) in accordance with the provisions of paragraphs (1) through (6) and paragraph (8) of subsection (a), and

"(B) in the case of any such trade or business in which the income is computed under an accrual method, the gross income from such trade or business, adjusted in accordance with the provisions of paragraphs (1) through (6) and paragraph (8) of subsection (a).

"(5) INCOME DERIVED FROM MORE THAN 1 TRADE OR BUSINESS.—For purposes of this subsection, if an individual (including a member of a partnership) derives gross income from more than 1 such trade or business, such gross income (including his distributive share of the gross income of any partnership derived from any such trade or business) shall be deemed to have been derived from one trade or business.

"(6) ELECTION.—The option under this subsection shall be allowed for any taxable year only if elected on the first return filed for such taxable year.".

(2) CONFORMING AMENDMENT.—Subsection (a) of section 211 of the Social Security Act is amended by striking all that follows the first sentence following paragraph (15) and inserting "For optional method of determining net earnings from self-employment, see subsection (g).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. 1204. TREATMENT OF CERTAIN REIMBURSED EXPENSES OF RURAL MAIL CARRIERS.

(a) IN GENERAL.—Section 162 (relating to trade or business expenses) is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

"(o) TREATMENT OF CERTAIN REIMBURSED EXPENSES OF RURAL MAIL CARRIERS.—

"(1) GENERAL RULE.—In the case of any employee of the United States Postal Service who performs services involving the collection and delivery of mail on a rural route and who receives qualified reimbursements for the expenses incurred by such employee for the use of a vehicle in performing such services—

"(A) the amount allowable as a deduction under this chapter for the use of a vehicle in performing such services shall be equal to the amount of such qualified reimbursements; and

"(B) such qualified reimbursements shall be treated as paid under a reimbursement or other expense allowance arrangement for purposes of section 62(a)(2)(A) (and section 62(c) shall not apply to such qualified reimbursements).

"(2) DEFINITION OF QUALIFIED REIMBURSEMENTS.—For purposes of this subsection, the term 'qualified reimbursements' means the amounts paid by the United States Postal Service to employees as an equipment maintenance allowance under the 1991 collective bargaining agreement between the United States Postal Service and the National Rural Letter Carriers' Association. Amounts paid as an equipment maintenance allowance by such Postal Service under later collective bargaining agreements that supersede the 1991 agreement shall be considered qualified reimbursements if such amounts do not exceed the amounts that would have been paid under the 1991 agreement, adjusted for changes in the Consumer Price Index (as defined in section 1(f)(5)) since 1991.".

(b) TECHNICAL AMENDMENT.—Section 6008 of the Technical and Miscellaneous Revenue Act of 1988 is hereby repealed.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. 1205. TREATMENT OF TRAVELING EXPENSES OF CERTAIN FEDERAL EMPLOYEES ENGAGED IN CRIMINAL INVESTIGATIONS.

(a) IN GENERAL.—Subsection (a) of section 162 is amended by adding at the end the following new sentence: "The preceding sentence shall not apply to any Federal employee during any period for which such employee is certified by the Attorney General (or the designee thereof) as traveling on behalf of the United States in temporary duty status to investigate, or provide support services for the investigation of, a Federal crime.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts paid or incurred with respect to taxable years ending after the date of the enactment of this Act.

SEC. 1206. PAYMENT OF TAX BY COMMERCIALLY ACCEPTABLE MEANS.

(a) GENERAL RULE.—Section 6311 is amended to read as follows:

"SEC. 6311. PAYMENT OF TAX BY COMMERCIALLY ACCEPTABLE MEANS.

"(a) AUTHORITY TO RECEIVE.—It shall be lawful for the Secretary to receive for internal revenue taxes (or in payment for internal revenue stamps) any commercially acceptable means that the Secretary deems appropriate to the extent and under the conditions provided in regulations prescribed by the Secretary.

"(b) ULTIMATE LIABILITY.—If a check, money order, or other method of payment, including payment by credit card, debit card, or charge card so received is not duly paid, or is paid and subsequently charged back to the Secretary, the person by whom such check, or money order, or other method of payment has been tendered shall remain liable for the payment of the tax or for the stamps, and for all legal penalties and additions, to the same extent as if such check, money order, or other method of payment had not been tendered.

"(c) LIABILITY OF BANKS AND OTHERS.—If any certified, treasurer's, or cashier's check (or other guaranteed draft), or any money order, or any other means of payment that has been guaranteed by a financial institution (such as a credit card, debit card, or charge card transaction which has been guaranteed expressly by a financial institution) so received is not duly paid, the United States shall, in addition to its right to exact payment from the party originally indebted therefor, have a lien for—

"(1) the amount of such check (or draft) upon all assets of the financial institution on which drawn,

"(2) the amount of such money order upon all the assets of the issuer thereof, or

"(3) the guaranteed amount of any other transaction upon all the assets of the institution making such guarantee,

and such amount shall be paid out of such assets in preference to any other claims whatsoever against such financial institution, issuer, or guaranteeing institution, except the necessary costs and expenses of administration and the reimbursement of the United States for the amount expended in the redemption of the circulating notes of such financial institution.

"(d) PAYMENT BY OTHER MEANS.—

"(1) AUTHORITY TO PRESCRIBE REGULATIONS.—The Secretary shall prescribe such regulations as the Secretary deems necessary to receive payment by commercially acceptable means, including regulations that—

"(A) specify which methods of payment by commercially acceptable means will be acceptable,

"(B) specify when payment by such means will be considered received,

"(C) identify types of nontax matters related to payment by such means that are to be resolved by persons ultimately liable for payment and financial intermediaries, without the involvement of the Secretary, and

“(D) ensure that tax matters will be resolved by the Secretary, without the involvement of financial intermediaries.

“(2) Authority to enter into contracts.—Notwithstanding section 3718(f) of title 31, United States Code, the Secretary is authorized to enter into contracts to obtain services related to receiving payment by other means where cost beneficial to the Government.

“(3) Special provisions for use of credit cards.—If use of credit cards is accepted as a method of payment of taxes pursuant to subsection (a)—

“(A) a payment of internal revenue taxes (or a payment for internal revenue stamps) by a person by use of a credit card shall not be subject to section 161 of the Truth-in-Lending Act (15 U.S.C. 1666), or to any similar provisions of State law, if the error alleged by the person is an error relating to the underlying tax liability, rather than an error relating to the credit card account such as a computational error or numerical transposition in the credit card transaction or an issue as to whether the person authorized payment by use of the credit card,

“(B) a payment of internal revenue taxes (or a payment for internal revenue stamps) shall not be subject to section 170 of the Truth-in-Lending Act (15 U.S.C. 1666i), or to any similar provisions of State law,

“(C) a payment of internal revenue taxes (or a payment for internal revenue stamps) by a person by use of a debit card shall not be subject to section 908 of the Electronic Fund Transfer Act (15 U.S.C. 1693f), or to any similar provisions of State law, if the error alleged by the person is an error relating to the underlying tax liability, rather than an error relating to the debit card account such as a computational error or numerical transposition in the debit card transaction or an issue as to whether the person authorized payment by use of the debit card,

“(D) the term ‘creditor’ under section 103(f) of the Truth-in-Lending Act (15 U.S.C. 1602(f)) shall not include the Secretary with respect to credit card transactions in payment of internal revenue taxes (or payment for internal revenue stamps), and

“(E) notwithstanding any other provision of law to the contrary, in the case of payment made by credit card or debit card transaction of an amount owed to a person as the result of the correction of an error under section 161 of the Truth-in-Lending Act (15 U.S.C. 1666) or section 908 of the Electronic Fund Transfer Act (15 U.S.C. 1693f), the Secretary is authorized to provide such amount to such person as a credit to that person's credit card or debit card account through the applicable credit card or debit card system.

“(e) Confidentiality of Information.—

“(1) In general.—Except as otherwise authorized by this subsection, no person may use or disclose any information relating to credit or debit card transactions obtained pursuant to section 6103(k)(8) other than for purposes directly related to the processing of such transactions, or the billing or collection of amounts charged or debited pursuant thereto.

“(2) Exceptions.—

“(A) Debit or credit card issuers or others acting on behalf of such issuers may also use and disclose such information for purposes directly related to servicing an issuer's accounts.

“(B) Debit or credit card issuers or others directly involved in the processing of credit or debit card transactions or the billing or collection of amounts charged or debited thereto may also use and disclose such information for purposes directly related to—

“(i) statistical risk and profitability assessment;

“(ii) transferring receivables, accounts, or interest therein;

“(iii) auditing the account information;

“(iv) complying with Federal, State, or local law; and

“(v) properly authorized civil, criminal, or regulatory investigation by Federal, State, or local authorities.

“(3) Procedures.—Use and disclosure of information under this paragraph shall be made only to the extent authorized by written procedures promulgated by the Secretary.

“(4) Cross reference.—

“For provision providing for civil damages for violation of paragraph (1), see section 7431.”.

(b) Separate Appropriation Required for Payment of Credit Card Fees.—No amount may be paid by the United States to a credit card issuer for the right to receive payments of internal revenue taxes by credit card without a separate appropriation therefor.

(c) Clerical Amendment.—The table of sections for subchapter B of chapter 64 is amended by striking the item relating to section 6311 and inserting the following:

“Sec. 6311. Payment of tax by commercially acceptable means.”.

(d) Amendments to Sections 6103 and 7431 With Respect to Disclosure Authorization.—

(1) Subsection (k) of section 6103 (relating to confidentiality and disclosure of returns and return information) is amended by adding at the end the following new paragraph:

“(8) Disclosure of information to administer section 6311.—The Secretary may disclose returns or return information to financial institutions and others to the extent the Secretary deems necessary for the administration of section 6311. Disclosures of information for purposes other than to accept payments by checks or money orders shall be made only to the extent authorized by written procedures promulgated by the Secretary.”.

(2) Section 7431 (relating to civil damages for unauthorized disclosure of returns and return information) is amended by adding at the end the following new subsection:

“(g) Special Rule for Information Obtained Under Section 6103(k)(8).—For purposes of this section, any reference to section 6103 shall be treated as including a reference to section 6311(e).”.

(3) Section 6103(p)(3)(A) is amended by striking “or (6)” and inserting “(6), or (8)”.

(e) Effective Date.—The amendments made by this section shall take effect on the day 9 months after the date of the enactment of this Act.

Subtitle B—Provisions Relating to Businesses Generally

SEC. 1211. MODIFICATIONS TO LOOK-BACK METHOD FOR LONG-TERM CONTRACTS.

(a) Look-Back Method Not To Apply in Certain Cases.—Subsection (b) of section 460 (relating to percentage of completion method) is amended by adding at the end the following new paragraph:

“(6) Election to have look-back method not apply in de minimis cases.—

“(A) Amounts taken into account after completion of contract.—Paragraph (1)(B) shall not apply with respect to any taxable year (beginning after the taxable year in which the contract is completed) if—

“(i) the cumulative taxable income (or loss) under the contract as of the close of such taxable year, is within

“(ii) 10 percent of the cumulative look-back taxable income (or loss) under the contract as of the close of the most recent taxable year to which paragraph (1)(B) applied (or would have applied but for subparagraph (B)).

“(B) De minimis discrepancies.—Paragraph (1)(B) shall not apply in any case to which it would otherwise apply if—

“(i) the cumulative taxable income (or loss) under the contract as of the close of each prior contract year, is within

“(ii) 10 percent of the cumulative look-back income (or loss) under the contract as of the close of such prior contract year.

“(C) Definitions.—For purposes of this paragraph—

“(i) Contract year.—The term ‘contract year’ means any taxable year for which income is taken into account under the contract.

“(ii) Look-back income or loss.—The look-back income (or loss) is the amount which would be the taxable income (or loss) under the contract if the allocation method set forth in paragraph (2)(A) were used in determining taxable income.

“(iii) Discounting not applicable.—The amounts taken into account after the completion of the contract shall be determined without regard to any discounting under the 2nd sentence of paragraph (2).

“(D) Contracts to which paragraph applies.—This paragraph shall only apply if the taxpayer makes an election under this subparagraph. Unless revoked with the consent of the Secretary, such an election shall apply to all long-term contracts completed during the taxable year for which election is made or during any subsequent taxable year.”.

(b) Modification of Interest Rate.—

(1) In general.—Subparagraph (C) of section 460(b)(2) is amended by striking “the overpayment rate established by section 6621” and inserting “the adjusted overpayment rate (as defined in paragraph (7))”.

(2) Adjusted overpayment rate.—Subsection (b) of section 460 is amended by adding at the end the following new paragraph:

“(7) Adjusted overpayment rate.—

“(A) In general.—The adjusted overpayment rate for any interest accrual period is the overpayment rate in effect under section 6621 for the calendar quarter in which such interest accrual period begins.

“(B) Interest accrual period.—For purposes of subparagraph (A), the term ‘interest accrual period’ means the period—

“(i) beginning on the day after the return due date for any taxable year of the taxpayer, and

“(ii) ending on the return due date for the following taxable year.

For purposes of the preceding sentence, the term ‘return due date’ means the date prescribed for filing the return of the tax imposed by this chapter (determined without regard to extensions).”.

(c) Effective Date.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to contracts completed in taxable years ending after the date of the enactment of this Act.

(2) Subsection (b).—The amendments made by subsection (b) shall apply for purposes of section 167(g) of the Internal Revenue Code of 1986 to property placed in service after September 13, 1995.

SEC. 1212. MINIMUM TAX TREATMENT OF CERTAIN PROPERTY AND CASUALTY INSURANCE COMPANIES.

(a) IN GENERAL.—Clause (i) of section 56(g)(4)(B) (relating to inclusion of items included for purposes of computing earnings and profits) is amended by adding at the end the following new sentence: "In the case of any insurance company taxable under section 831(b), this clause shall not apply to any amount not described in section 834(b).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1997.

Subtitle C—Simplification Relating to Electing Large Partnerships

PART I—GENERAL PROVISIONS

SEC. 1221. SIMPLIFIED FLOW-THROUGH FOR ELECTING LARGE PARTNERSHIPS.

(a) GENERAL RULE.—Subchapter K (relating to partners and partnerships) is amended by adding at the end the following new part:

"PART IV—SPECIAL RULES FOR ELECTING LARGE PARTNERSHIPS

"Sec. 771. Application of subchapter to electing large partnerships.

"Sec. 772. Simplified flow-through.

"Sec. 773. Computations at partnership level.

"Sec. 774. Other modifications.

"Sec. 775. Electing large partnership defined.

"Sec. 776. Special rules for partnerships holding oil and gas properties.

"Sec. 777. Regulations.

"SEC. 771. APPLICATION OF SUBCHAPTER TO ELECTING LARGE PARTNERSHIPS.

"The preceding provisions of this subchapter to the extent inconsistent with the provisions of this part shall not apply to an electing large partnership and its partners.

"SEC. 772. SIMPLIFIED FLOW-THROUGH.

"(a) GENERAL RULE.—In determining the income tax of a partner of an electing large partnership, such partner shall take into account separately such partner's distributive share of the partnership's—

"(1) taxable income or loss from passive loss limitation activities,

"(2) taxable income or loss from other activities,

"(3) net capital gain (or net capital loss)—

"(A) to the extent allocable to passive loss limitation activities, and

"(B) to the extent allocable to other activities,

"(4) tax-exempt interest,

"(5) applicable net AMT adjustment separately computed for—

"(A) passive loss limitation activities, and

"(B) other activities,

"(6) general credits,

"(7) low-income housing credit determined under section 42,

"(8) rehabilitation credit determined under section 47,

"(9) foreign income taxes,

"(10) the credit allowable under section 29, and

"(11) other items to the extent that the Secretary determines that the separate treatment of such items is appropriate.

"(b) SEPARATE COMPUTATIONS.—In determining the amounts required under subsection (a) to be separately taken into account by any partner, this section and section 773 shall be applied separately with respect to such partner by taking into account such partner's distributive share of the items of income, gain, loss, deduction, or credit of the partnership.

"(c) TREATMENT AT PARTNER LEVEL.—

"(1) IN GENERAL.—Except as provided in this subsection, rules similar to the rules of section 702(b) shall apply to any partner's distributive share of the amounts referred to in subsection (a).

"(2) INCOME OR LOSS FROM PASSIVE LOSS LIMITATION ACTIVITIES.—For purposes of this chapter, any partner's distributive share of any income or loss described in subsection (a)(1) shall be treated as an item of income or loss (as the case may be) from the conduct of a trade or business which is a single passive activity (as defined in section 469). A similar rule shall apply to a partner's distributive share of amounts referred to in paragraphs (3)(A) and (5)(A) of subsection (a).

"(3) INCOME OR LOSS FROM OTHER ACTIVITIES.—

"(A) IN GENERAL.—For purposes of this chapter, any partner's distributive share of any income or loss described in subsection (a)(2) shall be treated as an item of income or expense (as the case may be) with respect to property held for investment.

"(B) DEDUCTIONS FOR LOSS NOT SUBJECT TO SECTION 67.—The deduction under section 212 for any loss described in subparagraph (A) shall not be treated as a miscellaneous itemized deduction for purposes of section 67.

"(4) TREATMENT OF NET CAPITAL GAIN OR LOSS.—For purposes of this chapter, any partner's distributive share of any gain or loss described in subsection (a)(3) shall be treated as a long-term capital gain or loss, as the case may be.

"(5) MINIMUM TAX TREATMENT.—In determining the alternative minimum taxable income of any partner, such partner's distributive share of any applicable net AMT adjustment shall be taken into account in lieu of making the separate adjustments provided in sections 56, 57, and 58 with respect to the items of the partnership. Except as provided in regulations, the applicable net AMT adjustment shall be treated, for purposes of section 53, as an adjustment or item of tax preference not specified in section 53(d)(1)(B)(ii).

"(6) GENERAL CREDITS.—A partner's distributive share of the amount referred to in paragraph (6) of subsection (a) shall be taken into account as a current year business credit.

"(d) OPERATING RULES.—For purposes of this section—

"(1) PASSIVE LOSS LIMITATION ACTIVITY.—The term 'passive loss limitation activity' means—

"(A) any activity which involves the conduct of a trade or business, and

"(B) any rental activity.

For purposes of the preceding sentence, the term 'trade or business' includes any activity treated as a trade or business under paragraph (5) or (6) of section 469(c).

"(2) TAX-EXEMPT INTEREST.—The term 'tax-exempt interest' means interest excludable from gross income under section 103.

"(3) APPLICABLE NET AMT ADJUSTMENT.—

"(A) IN GENERAL.—The applicable net AMT adjustment is—

"(i) with respect to taxpayers other than corporations, the net adjustment determined by using the adjustments applicable to individuals, and

"(ii) with respect to corporations, the net adjustment determined by using the adjustments applicable to corporations.

"(B) NET ADJUSTMENT.—The term 'net adjustment' means the net adjustment in the items attributable to passive loss activities or other activities (as the case may be) which would result if such items were determined with the adjustments of sections 56, 57, and 58.

"(4) TREATMENT OF CERTAIN SEPARATELY STATED ITEMS.—

"(A) EXCLUSION FOR CERTAIN PURPOSES.—In determining the amounts referred to in paragraphs (1) and (2) of subsection (a), any net capital gain or net capital loss (as the case may be), and any item referred to in subsection (a)(11), shall be excluded.

"(B) ALLOCATION RULES.—The net capital gain shall be treated—

"(i) as allocable to passive loss limitation activities to the extent the net capital gain does not exceed the net capital gain determined by only taking into account gains and losses from sales and exchanges of property used in connection with such activities, and

"(ii) as allocable to other activities to the extent such gain exceeds the amount allocated under clause (i).

A similar rule shall apply for purposes of allocating any net capital loss.

"(C) NET CAPITAL LOSS.—The term 'net capital loss' means the excess of the losses from sales or exchanges of capital assets over the gains from sales or exchange of capital assets.

"(5) GENERAL CREDITS.—The term 'general credits' means any credit other than the low-income housing credit, the rehabilitation credit, the foreign tax credit, and the credit allowable under section 29.

"(6) FOREIGN INCOME TAXES.—The term 'foreign income taxes' means taxes described in section 901 which are paid or accrued to foreign countries and to possessions of the United States.

"(e) SPECIAL RULE FOR UNRELATED BUSINESS TAX.—In the case of a partner which is an organization subject to tax under section 511, such partner's distributive share of any items shall be taken into account separately to the extent necessary to comply with the provisions of section 512(c)(1).

"(f) SPECIAL RULES FOR APPLYING PASSIVE LOSS LIMITATIONS.—If any person holds an interest in an electing large partnership other than as a limited partner—

"(1) paragraph (2) of subsection (c) shall not apply to such partner, and

"(2) such partner's distributive share of the partnership items allocable to passive loss limitation activities shall be taken into account separately to the extent necessary to comply with the provisions of section 469.

The preceding sentence shall not apply to any items allocable to an interest held as a limited partner.

"SEC. 773. COMPUTATIONS AT PARTNERSHIP LEVEL.

"(a) GENERAL RULE.—'

"(1) TAXABLE INCOME.—The taxable income of an electing large partnership shall be computed in the same manner as in the case of an individual except that—

"(A) the items described in section 772(a) shall be separately stated, and

"(B) the modifications of subsection (b) shall apply.

"(2) ELECTIONS.—All elections affecting the computation of the taxable income of an electing large partnership or the computation of any credit of an electing large partnership shall be made by the partnership; except that the election under section 901, and any election under section 108, shall be made by each partner separately.

"(3) LIMITATIONS, ETC.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), all limitations and other provisions affecting the computation of the taxable income of an electing large partnership or the computation of any credit of an electing large partnership shall be applied at the partnership level (and not at the partner level).

“(B) Certain limitations applied at partner level.—The following provisions shall be applied at the partner level (and not at the partnership level):

“(i) Section 68 (relating to overall limitation on itemized deductions).

“(ii) Sections 49 and 465 (relating to at risk limitations).

“(iii) Section 469 (relating to limitation on passive activity losses and credits).

“(iv) Any other provision specified in regulations.

“(4) Coordination with other provisions.—Paragraphs (2) and (3) shall apply notwithstanding any other provision of this chapter other than this part.

“(b) Modifications to Determination of Taxable Income.—In determining the taxable income of an electing large partnership—

“(1) Certain deductions not allowed.—The following deductions shall not be allowed:

“(A) The deduction for personal exemptions provided in section 151.

“(B) The net operating loss deduction provided in section 172.

“(C) The additional itemized deductions for individuals provided in part VII of subchapter B (other than section 212 thereof).

“(2) Charitable deductions.—In determining the amount allowable under section 170, the limitation of section 170(b)(2) shall apply.

“(3) Coordination with section 67.—In lieu of applying section 67, 70 percent of the amount of the miscellaneous itemized deductions shall be disallowed.

“(c) Special Rules for Income From Discharge of Indebtedness.—If an electing large partnership has income from the discharge of any indebtedness—

“(1) such income shall be excluded in determining the amounts referred to in section 772(a), and

“(2) in determining the income tax of any partner of such partnership—

“(A) such income shall be treated as an item required to be separately taken into account under section 772(a), and

“(B) the provisions of section 108 shall be applied without regard to this part.

“SEC. 774. OTHER MODIFICATIONS.

“(a) Treatment of Certain Optional Adjustments, Etc.—In the case of an electing large partnership—

“(1) computations under section 773 shall be made without regard to any adjustment under section 743(b) or 108(b), but

“(2) a partner's distributive share of any amount referred to in section 772(a) shall be appropriately adjusted to take into account any adjustment under section 743(b) or 108(b) with respect to such partner.

“(b) Credit Recapture Determined at Partnership Level.—

“(1) In general.—In the case of an electing large partnership—

“(A) any credit recapture shall be taken into account by the partnership, and

“(B) the amount of such recapture shall be determined as if the credit with respect to which the recapture is made had been fully utilized to reduce tax.

“(2) Method of taking recapture into account.—An electing large partnership shall take into account a credit recapture by reducing the amount of the appropriate current year credit to the extent thereof, and if such recapture exceeds the amount of such current year credit, the partnership shall be liable to pay such excess.

“(3) Dispositions not to trigger recapture.—No credit recapture shall be required by reason of any transfer of an interest in an electing large partnership.

“(4) Credit recapture.—For purposes of this subsection, the term ‘credit recapture’ means any increase in tax under section 42(j) or 50(a).

“(c) Partnership Not Terminated by Reason of Change in Ownership.—Subparagraph (B) of section 708(b)(1) shall not apply to an electing large partnership.

“(d) Partnership Entitled to Certain Credits.—The following shall be allowed to an electing large partnership and shall not be taken into account by the partners of such partnership:

“(1) The credit provided by section 34.

“(2) Any credit or refund under section 852(b)(3)(D).

“(e) Treatment of REMIC Residuals.—For purposes of applying section 860E(e)(6) to any electing large partnership—

“(1) all interests in such partnership shall be treated as held by disqualified organizations,

“(2) in lieu of applying subparagraph (C) of section 860E(e)(6), the amount subject to tax under section 860E(e)(6) shall be excluded from the gross income of such partnership, and

“(3) subparagraph (D) of section 860E(e)(6) shall not apply.

“(f) Special Rules for Applying Certain Installment Sale Rules.—In the case of an electing large partnership—

“(1) the provisions of sections 453(l)(3) and 453A shall be applied at the partnership level, and

“(2) in determining the amount of interest payable under such sections, such partnership shall be treated as subject to tax under this chapter at the highest rate of tax in effect under section 1 or 11.

“SEC. 775. ELECTING LARGE PARTNERSHIP DEFINED.

“(a) General Rule.—For purposes of this part—

“(1) In general.—The term ‘electing large partnership’ means, with respect to any partnership taxable year, any partnership if—

“(A) the number of persons who were partners in such partnership in the preceding partnership taxable year equaled or exceeded 100, and

“(B) such partnership elects the application of this part.

To the extent provided in regulations, a partnership shall cease to be treated as an electing large partnership for any partnership taxable year if in such taxable year fewer than 100 persons were partners in such partnership.

“(2) Election.—The election under this subsection shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.

“(b) Special Rules for Certain Service Partnerships.—

“(1) Certain partners not counted.—For purposes of this section, the term ‘partner’ does not include any individual performing substantial services in connection with the activities of the partnership and holding an interest in such partnership, or an individual who formerly performed substantial services in connection with such activities and who held an interest in such partnership at the time the individual performed such services.

“(2) Exclusion.—For purposes of this part, an election under subsection (a) shall not be effective with respect to any partnership if substantially all the partners of such partnership—

“(A) are individuals performing substantial services in connection with the activities of such partnership or are personal service corporations (as defined in section 269A(b)) the owner-employees (as defined in section 269A(b)) of which perform such substantial services,

“(B) are retired partners who had performed such substantial services, or

“(C) are spouses of partners who are performing (or had previously performed) such substantial services.

“(3) Special rule for lower tier partnerships.—For purposes of this subsection, the activities of a partnership shall include the activities of any other partnership in which the partnership owns directly an interest in the capital and profits of at least 80 percent.

“(c) Exclusion of Commodity Pools.—For purposes of this part, an election under subsection (a) shall not be effective with respect to any partnership the principal activity of which is the buying and selling of commodities (not described in section 1221(1)), or options, futures, or forwards with respect to such commodities.

“(d) Secretary May Rely on Treatment on Return.—If, on the partnership return of any partnership, such partnership is treated as an electing large partnership, such treatment shall be binding on such partnership and all partners of such partnership but not on the Secretary.

“SEC. 776. SPECIAL RULES FOR PARTNERSHIPS HOLDING OIL AND GAS PROPERTIES.

“(a) Computation of Percentage Depletion.—In the case of an electing large partnership, except as provided in subsection (b)—

“(1) the allowance for depletion under section 611 with respect to any partnership oil or gas property shall be computed at the partnership level without regard to any provision of section 613A requiring such allowance to be computed separately by each partner,

“(2) such allowance shall be determined without regard to the provisions of section 613A(c) limiting the amount of production for which percentage depletion is allowable and without regard to paragraph (1) of section 613A(d), and

“(3) paragraph (3) of section 705(a) shall not apply.

“(b) Treatment of Certain Partners.—

“(1) In general.—In the case of a disqualified person, the treatment under this chapter of such person's distributive share of any item of income, gain, loss, deduction, or credit attributable to any partnership oil or gas property shall be determined without regard to this part. Such person's distributive share of any such items shall be excluded for purposes of making determinations under sections 772 and 773.

“(2) Disqualified person.—For purposes of paragraph (1), the term ‘disqualified person’ means, with respect to any partnership taxable year—

“(A) any person referred to in paragraph (2) or (4) of section 613A(d) for such person's taxable year in which such partnership taxable year ends, and

“(B) any other person if such person's average daily production of domestic crude oil and natural gas for such person's taxable year in which such partnership taxable year ends exceeds 500 barrels.

“(3) Average daily production.—For purposes of paragraph (2), a person's average daily production of domestic crude oil and natural gas for any taxable year shall be computed as provided in section 613A(c)(2)—

"(A) by taking into account all production of domestic crude oil and natural gas (including such person's proportionate share of any production of a partnership),

"(B) by treating 6,000 cubic feet of natural gas as a barrel of crude oil, and

"(C) by treating as 1 person all persons treated as 1 taxpayer under section 613A(c)(8) or among whom allocations are required under such section.

"SEC. 777. REGULATIONS.

"The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this part.".

(b) CLERICAL AMENDMENT.—The table of parts for subchapter K of chapter 1 is amended by adding at the end the following new item:

"Part IV. Special rules for electing large partnerships.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership taxable years beginning after December 31, 1997.

SEC. 1222. SIMPLIFIED AUDIT PROCEDURES FOR ELECTING LARGE PARTNERSHIPS.

(a) GENERAL RULE.—Chapter 63 is amended by adding at the end thereof the following new subchapter:

"Subchapter D—Treatment of electing large partnerships

"Part I. Treatment of partnership items and adjustments.

"Part II. Partnership level adjustments.

"Part III. Definitions and special rules.

"PART I—TREATMENT OF PARTNERSHIP ITEMS AND ADJUSTMENTS

"Sec. 6240. Application of subchapter.

"Sec. 6241. Partner's return must be consistent with partnership return.

"Sec. 6242. Procedures for taking partnership adjustments into account.

"SEC. 6240. APPLICATION OF SUBCHAPTER.

"(a) GENERAL RULE.—This subchapter shall only apply to electing large partnerships and partners in such partnerships.

"(b) COORDINATION WITH OTHER PARTNERSHIP AUDIT PROCEDURES.—

"(1) IN GENERAL.—Subchapter C of this chapter shall not apply to any electing large partnership other than in its capacity as a partner in another partnership which is not an electing large partnership.

"(2) TREATMENT WHERE PARTNER IN OTHER PARTNERSHIP.—If an electing large partnership is a partner in another partnership which is not an electing large partnership—

"(A) subchapter C of this chapter shall apply to items of such electing large partnership which are partnership items with respect to such other partnership, but

"(B) any adjustment under such subchapter C shall be taken into account in the manner provided by section 6242.

"SEC. 6241. PARTNER'S RETURN MUST BE CONSISTENT WITH PARTNERSHIP RETURN.

"(a) GENERAL RULE.—A partner of any electing large partnership shall, on the partner's return, treat each partnership item attributable to such partnership in a manner which is consistent with the treatment of such partnership item on the partnership return.

"(b) UNDERPAYMENT DUE TO INCONSISTENT TREATMENT ASSESSED AS MATH ERROR.—Any underpayment of tax by a partner by reason of failing to comply with the requirements of subsection (a) shall be assessed and collected in the same manner as if such underpayment were on account of a mathematical or clerical error appearing on the partner's return. Paragraph (2) of section 6213(b) shall not apply to any assessment of an underpayment referred to in the preceding sentence.

"(c) ADJUSTMENTS NOT TO AFFECT PRIOR YEAR OF PARTNERS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), subsections (a) and (b) shall apply without regard to any adjustment to the partnership item under part II.

"(2) CERTAIN CHANGES IN DISTRIBUTIVE SHARE TAKEN INTO ACCOUNT BY PARTNER.—

"(A) IN GENERAL.—To the extent that any adjustment under part II involves a change under section 704 in a partner's distributive share of the amount of any partnership item shown on the partnership return, such adjustment shall be taken into account in applying this title to such partner for the partner's taxable year for which such item was required to be taken into account.

"(B) COORDINATION WITH DEFICIENCY PROCEDURES.—

"(i) IN GENERAL.—Subchapter B shall not apply to the assessment or collection of any underpayment of tax attributable to an adjustment referred to in subparagraph (A).

"(ii) ADJUSTMENT NOT PRECLUDED.—Notwithstanding any other law or rule of law, nothing in subchapter B (or in any proceeding under subchapter B) shall preclude the assessment or collection of any underpayment of tax (or the allowance of any credit or refund of any overpayment of tax) attributable to an adjustment referred to in subparagraph (A) and such assessment or collection or allowance (or any notice thereof) shall not preclude any notice, proceeding, or determination under subchapter B.

"(C) PERIOD OF LIMITATIONS.—The period for—

"(i) assessing any underpayment of tax, or

"(ii) filing a claim for credit or refund of any overpayment of tax,

attributable to an adjustment referred to in subparagraph (A) shall not expire before the close of the period prescribed by section 6248 for making adjustments with respect to the partnership taxable year involved.

"(D) TIERED STRUCTURES.—If the partner referred to in subparagraph (A) is another partnership or an S corporation, the rules of this paragraph shall also apply to persons holding interests in such partnership or S corporation (as the case may be); except that, if such partner is an electing large partnership, the adjustment referred to in subparagraph (A) shall be taken into account in the manner provided by section 6242.

"(d) ADDITION TO TAX FOR FAILURE TO COMPLY WITH SECTION.—

"For addition to tax in case of partner's disregard of requirements of this section, see part II of subchapter A of chapter 68.

"SEC. 6242. PROCEDURES FOR TAKING PARTNERSHIP ADJUSTMENTS INTO ACCOUNT.

"(a) ADJUSTMENTS FLOW THROUGH TO PARTNERS FOR YEAR IN WHICH ADJUSTMENT TAKES EFFECT.—

"(1) IN GENERAL.—If any partnership adjustment with respect to any partnership item takes effect (within the meaning of subsection (d)(2)) during any partnership taxable year and if an election under paragraph (2) does not apply to such adjustment, such adjustment shall be taken into account in determining the amount of such item for the partnership taxable year in which such adjustment takes effect. In applying this title to any person who is (directly or indirectly) a partner in such partnership during such partnership taxable year, such adjustment shall be treated as an item actually arising during such taxable year.

"(2) PARTNERSHIP LIABLE IN CERTAIN CASES.—If—

"(A) a partnership elects under this paragraph to not take an adjustment into account under paragraph (1),

"(B) a partnership does not make such an election but in filing its return for any partnership taxable year fails to take fully into account any partnership adjustment as required under paragraph (1), or

"(C) any partnership adjustment involves a reduction in a credit which exceeds the amount of such credit determined for the partnership taxable year in which the adjustment takes effect,

the partnership shall pay to the Secretary an amount determined by applying the rules of subsection (b)(4) to the adjustments not so taken into account and any excess referred to in subparagraph (C).

"(3) OFFSETTING ADJUSTMENTS TAKEN INTO ACCOUNT.—If a partnership adjustment requires another adjustment in a taxable year after the adjusted year and before the partnership taxable year in which such partnership adjustment takes effect, such other adjustment shall be taken into account under this subsection for the partnership taxable year in which such partnership adjustment takes effect.

"(4) COORDINATION WITH PART II.—Amounts taken into account under this subsection for any partnership taxable year shall continue to be treated as adjustments for the adjusted year for purposes of determining whether such amounts may be readjusted under part II.

"(b) PARTNERSHIP LIABLE FOR INTEREST AND PENALTIES.—

"(1) IN GENERAL.—If a partnership adjustment takes effect during any partnership taxable year and such adjustment results in an imputed underpayment for the adjusted year, the partnership—

"(A) shall pay to the Secretary interest computed under paragraph (2), and

"(B) shall be liable for any penalty, addition to tax, or additional amount as provided in paragraph (3).

"(2) DETERMINATION OF AMOUNT OF INTEREST.—The interest computed under this paragraph with respect to any partnership adjustment is the interest which would be determined under chapter 67—

"(A) on the imputed underpayment determined under paragraph (4) with respect to such adjustment,

"(B) for the period beginning on the day after the return due date for the adjusted year and ending on the return due date for the partnership taxable year in which such adjustment takes effect (or, if earlier, in the case of any adjustment to which subsection (a)(2) applies, the date on which the payment under subsection (a)(2) is made).

Proper adjustments in the amount determined under the preceding sentence shall be made for adjustments required for partnership taxable years after the adjusted year and before the year in which the partnership adjustment takes effect by reason of such partnership adjustment.

"(3) PENALTIES.—A partnership shall be liable for any penalty, addition to tax, or additional amount for which it would have been liable if such partnership had been an individual subject to tax under chapter 1 for the adjusted year and the imputed underpayment determined under paragraph (4) were an actual underpayment (or understatement) for such year.

"(4) IMPUTED UNDERPAYMENT.—For purposes of this subsection, the imputed underpayment determined under this paragraph with respect to any partnership adjustment is the underpayment (if any) which would result—

"(A) by netting all adjustments to items of income, gain, loss, or deduction and by treating any net increase in income as an underpayment equal to the amount of such net increase multiplied by the highest rate of tax in effect under section 1 or 11 for the adjusted year, and

"(B) by taking adjustments to credits into account as increases or decreases (whichever is appropriate) in the amount of tax.

For purposes of the preceding sentence, any net decrease in a loss shall be treated as an increase in income and a similar rule shall apply to a net increase in a loss.

"(c) ADMINISTRATIVE PROVISIONS.—

"(1) IN GENERAL.—Any payment required by subsection (a)(2) or (b)(1)(A)—

"(A) shall be assessed and collected in the same manner as if it were a tax imposed by subtitle C, and

"(B) shall be paid on or before the return due date for the partnership taxable year in which the partnership adjustment takes effect.

"(2) INTEREST.—For purposes of determining interest, any payment required by subsection (a)(2) or (b)(1)(A) shall be treated as an underpayment of tax.

"(3) PENALTIES.—

"(A) IN GENERAL.—In the case of any failure by any partnership to pay on the date prescribed therefor any amount required by subsection (a)(2) or (b)(1)(A), there is hereby imposed on such partnership a penalty of 10 percent of the underpayment. For purposes of the preceding sentence, the term 'underpayment' means the excess of any payment required under this section over the amount (if any) paid on or before the date prescribed therefor.

"(B) ACCURACY-RELATED AND FRAUD PENALTIES MADE APPLICABLE.—For purposes of part II of subchapter A of chapter 68, any payment required by subsection (a)(2) shall be treated as an underpayment of tax.

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) PARTNERSHIP ADJUSTMENT.—The term 'partnership adjustment' means any adjustment in the amount of any partnership item of an electing large partnership.

"(2) WHEN ADJUSTMENT TAKES EFFECT.—A partnership adjustment takes effect—

"(A) in the case of an adjustment pursuant to the decision of a court in a proceeding brought under part II, when such decision becomes final,

"(B) in the case of an adjustment pursuant to any administrative adjustment request under section 6251, when such adjustment is allowed by the Secretary, or

"(C) in any other case, when such adjustment is made.

"(3) ADJUSTED YEAR.—The term 'adjusted year' means the partnership taxable year to which the item being adjusted relates.

"(4) RETURN DUE DATE.—The term 'return due date' means, with respect to any taxable year, the date prescribed for filing the partnership return for such taxable year (determined without regard to extensions).

"(5) ADJUSTMENTS INVOLVING CHANGES IN CHARACTER.—Under regulations, appropriate adjustments in the application of this section shall be made for purposes of taking into account partnership adjustments which involve a change in the character of any item of income, gain, loss, or deduction.

"(e) PAYMENTS NONDEDUCTIBLE.—No deduction shall be allowed under subtitle A for any payment required to be made by an electing large partnership under this section.

"PART II—PARTNERSHIP LEVEL ADJUSTMENTS

"Subpart A. Adjustments by Secretary.
"Subpart B. Claims for adjustments by partnership.

"Subpart A—Adjustments by Secretary

"Sec. 6245. Secretarial authority.
"Sec. 6246. Restrictions on partnership adjustments.
"Sec. 6247. Judicial review of partnership adjustment.
"Sec. 6248. Period of limitations for making adjustments.

"SEC. 6245. SECRETARIAL AUTHORITY.

"(a) GENERAL RULE.—The Secretary is authorized and directed to make adjustments at the partnership level in any partnership item to the extent necessary to have such item be treated in the manner required.

"(b) NOTICE OF PARTNERSHIP ADJUSTMENT.—

"(1) IN GENERAL.—If the Secretary determines that a partnership adjustment is required, the Secretary is authorized to send notice of such adjustment to the partnership by certified mail or registered mail. Such notice shall be sufficient if mailed to the partnership at its last known address even if the partnership has terminated its existence.

"(2) FURTHER NOTICES RESTRICTED.—If the Secretary mails a notice of a partnership adjustment to any partnership for any partnership taxable year and the partnership files a petition under section 6247 with respect to such notice, in the absence of a showing of fraud, malfeasance, or misrepresentation of a material fact, the Secretary shall not mail another such notice to such partnership with respect to such taxable year.

"(3) AUTHORITY TO RESCIND NOTICE WITH PARTNERSHIP CONSENT.—The Secretary may, with the consent of the partnership, rescind any notice of a partnership adjustment mailed to such partnership. Any notice so rescinded shall not be treated as a notice of a partnership adjustment, for purposes of this section, section 6246, and section 6247, and the taxpayer shall have no right to bring a proceeding under section 6247 with respect to such notice. Nothing in this subsection shall affect any suspension of the running of any period of limitations during any period during which the rescinded notice was outstanding.

"SEC. 6246. RESTRICTIONS ON PARTNERSHIP ADJUSTMENTS.

"(a) GENERAL RULE.—Except as otherwise provided in this chapter, no adjustment to any partnership item may be made (and no levy or proceeding in any court for the collection of any amount resulting from such adjustment may be made, begun or prosecuted) before—

"(1) the close of the 90th day after the day on which a notice of a partnership adjustment was mailed to the partnership, and

"(2) if a petition is filed under section 6247 with respect to such notice, the decision of the court has become final.

"(b) PREMATURE ACTION MAY BE ENJOINED.—Notwithstanding section 7421(a), any action which violates subsection (a) may be enjoined in the proper court, including the Tax Court. The Tax Court shall have no jurisdiction to enjoin any action under this subsection unless a timely petition has been filed under section 6247 and then only in respect of the adjustments that are the subject of such petition.

"(c) EXCEPTIONS TO RESTRICTIONS ON ADJUSTMENTS.—

"(1) ADJUSTMENTS ARISING OUT OF MATH OR CLERICAL ERRORS.—

"(A) IN GENERAL.—If the partnership is notified that, on account of a mathematical or clerical error appearing on the partnership return, an adjustment to a partnership item is required, rules similar to the rules of paragraphs (1) and (2) of section 6213(b) shall apply to such adjustment.

"(B) SPECIAL RULE.—If an electing large partnership is a partner in another electing large partnership, any adjustment on account of such partnership's failure to comply with the requirements of section 6241(a) with respect to its interest in such other partnership shall be treated as an adjustment referred to in subparagraph (A), except that paragraph (2) of section 6213(b) shall not apply to such adjustment.

"(2) PARTNERSHIP MAY WAIVE RESTRICTIONS.—The partnership shall at any time (whether or not a notice of partnership adjustment has been issued) have the right, by a signed notice in writing filed with the Secretary, to waive the restrictions provided in subsection (a) on the making of any partnership adjustment.

"(d) LIMIT WHERE NO PROCEEDING BEGUN.—If no proceeding under section 6247 is begun with respect to any notice of a partnership adjustment during the 90-day period described in subsection (a), the amount for which the partnership is liable under section 6242 (and any increase in any partner's liability for tax under chapter 1 by reason of any adjustment under section 6242(a)) shall not exceed the amount determined in accordance with such notice.

"SEC. 6247. JUDICIAL REVIEW OF PARTNERSHIP ADJUSTMENT.

"(a) GENERAL RULE.—Within 90 days after the date on which a notice of a partnership adjustment is mailed to the partnership with respect to any partnership taxable year, the partnership may file a petition for a readjustment of the partnership items for such taxable year with—

"(1) the Tax Court,

"(2) the district court of the United States for the district in which the partnership's principal place of business is located, or

"(3) the Claims Court.

"(b) JURISDICTIONAL REQUIREMENT FOR BRINGING ACTION IN DISTRICT COURT OR CLAIMS COURT.—

"(1) IN GENERAL.—A readjustment petition under this section may be filed in a district court of the United States or the Claims Court only if the partnership filing the petition deposits with the Secretary, on or before the date the petition is filed, the amount for which the partnership would be liable under section 6242(b) (as of the date of the filing of the petition) if the partnership items were adjusted as provided by the notice of partnership adjustment. The court may by order provide that the jurisdictional requirements of this paragraph are satisfied where there has been a good faith attempt to satisfy such requirement and any shortfall of the amount required to be deposited is timely corrected.

"(2) INTEREST PAYABLE.—Any amount deposited under paragraph (1), while deposited, shall not be treated as a payment of tax for purposes of this title (other than chapter 67).

"(c) SCOPE OF JUDICIAL REVIEW.—A court with which a petition is filed in accordance with this section shall have jurisdiction to determine all partnership items of the partnership for the partnership taxable year to which the notice of partnership adjustment relates and the proper allocation of such items among the partners (and the applicability of any penalty, addition to tax, or additional amount for which the partnership may be liable under section 6242(b)).

"(d) Determination of Court Reviewable.—Any determination by a court under this section shall have the force and effect of a decision of the Tax Court or a final judgment or decree of the district court or the Claims Court, as the case may be, and shall be reviewable as such. The date of any such determination shall be treated as being the date of the court's order entering the decision.

"(e) Effect of Decision Dismissing Action.—If an action brought under this section is dismissed other than by reason of a rescission under section 6245(b)(3), the decision of the court dismissing the action shall be considered as its decision that the notice of partnership adjustment is correct, and an appropriate order shall be entered in the records of the court.

"SEC. 6248. PERIOD OF LIMITATIONS FOR MAKING ADJUSTMENTS.

"(a) General Rule.—Except as otherwise provided in this section, no adjustment under this subpart to any partnership item for any partnership taxable year may be made after the date which is 3 years after the later of—

"(1) the date on which the partnership return for such taxable year was filed, or

"(2) the last day for filing such return for such year (determined without regard to extensions).

"(b) Extension by Agreement.—The period described in subsection (a) (including an extension period under this subsection) may be extended by an agreement entered into by the Secretary and the partnership before the expiration of such period.

"(c) Special Rule in Case of Fraud, Etc.—

"(1) False return.—In the case of a false or fraudulent partnership return with intent to evade tax, the adjustment may be made at any time.

"(2) Substantial omission of income.—If any partnership omits from gross income an amount properly includible therein which is in excess of 25 percent of the amount of gross income stated in its return, subsection (a) shall be applied by substituting '6 years' for '3 years'.

"(3) No return.—In the case of a failure by a partnership to file a return for any taxable year, the adjustment may be made at any time.

"(4) Return filed by secretary.—For purposes of this section, a return executed by the Secretary under subsection (b) of section 6020 on behalf of the partnership shall not be treated as a return of the partnership.

"(d) Suspension When Secretary Mails Notice of Adjustment.—If notice of a partnership adjustment with respect to any taxable year is mailed to the partnership, the running of the period specified in subsection (a) (as modified by the other provisions of this section) shall be suspended—

"(1) for the period during which an action may be brought under section 6247 (and, if a petition is filed under section 6247 with respect to such notice, until the decision of the court becomes final), and

"(2) for 1 year thereafter.

"Subpart B—Claims for Adjustments by Partnership

"Sec. 6251. Administrative adjustment requests.

"Sec. 6252. Judicial review where administrative adjustment request is not allowed in full.

"SEC. 6251. ADMINISTRATIVE ADJUSTMENT REQUESTS.

"(a) General Rule.—A partnership may file a request for an administrative adjustment of partnership items for any partnership taxable year at any time which is—

"(1) within 3 years after the later of—

"(A) the date on which the partnership return for such year is filed, or

"(B) the last day for filing the partnership return for such year (determined without regard to extensions), and

"(2) before the mailing to the partnership of a notice of a partnership adjustment with respect to such taxable year.

"(b) Secretarial Action.—If a partnership files an administrative adjustment request under subsection (a), the Secretary may allow any part of the requested adjustments.

"(c) Special Rule in Case of Extension Under Section 6248.—If the period described in section 6248(a) is extended pursuant to an agreement under section 6248(b), the period prescribed by subsection (a)(1) shall not expire before the date 6 months after the expiration of the extension under section 6248(b).

"SEC. 6252. JUDICIAL REVIEW WHERE ADMINISTRATIVE ADJUSTMENT REQUEST IS NOT ALLOWED IN FULL.

"(a) In General.—If any part of an administrative adjustment request filed under section 6251 is not allowed by the Secretary, the partnership may file a petition for an adjustment with respect to the partnership items to which such part of the request relates with—

"(1) the Tax Court,

"(2) the district court of the United States for the district in which the principal place of business of the partnership is located, or

"(3) the Claims Court.

"(b) Period for Filing Petition.—A petition may be filed under subsection (a) with respect to partnership items for a partnership taxable year only—

"(1) after the expiration of 6 months from the date of filing of the request under section 6251, and

"(2) before the date which is 2 years after the date of such request.

The 2-year period set forth in paragraph (2) shall be extended for such period as may be agreed upon in writing by the partnership and the Secretary.

"(c) Coordination With Subpart A.—

"(1) Notice of partnership adjustment before filing of petition.—No petition may be filed under this section after the Secretary mails to the partnership a notice of a partnership adjustment for the partnership taxable year to which the request under section 6251 relates.

"(2) Notice of partnership adjustment after filing but before hearing of petition.—If the Secretary mails to the partnership a notice of a partnership adjustment for the partnership taxable year to which the request under section 6251 relates after the filing of a petition under this subsection but before the hearing of such petition, such petition shall be treated as an action brought under section 6247 with respect to such notice, except that subsection (b) of section 6247 shall not apply.

"(3) Notice must be before expiration of statute of limitations.—A notice of a partnership adjustment for the partnership taxable year shall be taken into account under paragraphs (1) and (2) only if such notice is mailed before the expiration of the period prescribed by section 6248 for making adjustments to partnership items for such taxable year.

"(d) Scope of Judicial Review.—Except in the case described in paragraph (2) of subsection (c), a court with which a petition is filed in accordance with this section shall have jurisdiction to determine only those partnership items to which the part of the request under section 6251 not allowed by the Secretary relates and those items with respect to which the Secretary asserts adjustments as offsets to the adjustments requested by the partnership.

"(e) Determination of Court Reviewable.—Any determination by a court under this subsection shall have the force and effect of a decision of the Tax Court or a final judgment or decree of the district court or the Claims Court, as the case may be, and shall be reviewable as such. The date of any such determination shall be treated as being the date of the court's order entering the decision.

"PART III—DEFINITIONS AND SPECIAL RULES

"Sec. 6255. Definitions and special rules.

"SEC. 6255. DEFINITIONS AND SPECIAL RULES.

"(a) Definitions.—For purposes of this subchapter—

"(1) Electing large partnership.—The term 'electing large partnership' has the meaning given to such term by section 775.

"(2) Partnership item.—The term 'partnership item' has the meaning given to such term by section 6231(a)(3).

"(b) Partners Bound by Actions of Partnership, Etc.—

"(1) Designation of partner.—Each electing large partnership shall designate (in the manner prescribed by the Secretary) a partner (or other person) who shall have the sole authority to act on behalf of such partnership under this subchapter. In any case in which such a designation is not in effect, the Secretary may select any partner as the partner with such authority.

"(2) Binding effect.—An electing large partnership and all partners of such partnership shall be bound—

"(A) by actions taken under this subchapter by the partnership, and

"(B) by any decision in a proceeding brought under this subchapter.

"(c) Partnerships Having Principal Place of Business Outside the United States.—For purposes of sections 6247 and 6252, a principal place of business located outside the United States shall be treated as located in the District of Columbia.

"(d) Treatment Where Partnership Ceases To Exist.—If a partnership ceases to exist before a partnership adjustment under this subchapter takes effect, such adjustment shall be taken into account by the former partners of such partnership under regulations prescribed by the Secretary.

"(e) Date Decision Becomes Final.—For purposes of this subchapter, the principles of section 7481(a) shall be applied in determining the date on which a decision of a district court or the Claims Court becomes final.

"(f) Partnerships in Cases Under Title 11 of the United States Code.—The running of any period of limitations provided in this subchapter on making a partnership adjustment (or provided by section 6501 or 6502 on the assessment or collection of any amount required to be paid under section 6242) shall, in a case under title 11 of the United States Code, be suspended during the period during which the Secretary is prohibited by reason of such case from making the adjustment (or assessment or collection) and—

"(1) for adjustment or assessment, 60 days thereafter, and

"(2) for collection, 6 months thereafter.

"(g) Regulations.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this subchapter, including regulations—

"(1) to prevent abuse through manipulation of the provisions of this subchapter, and

"(2) providing that this subchapter shall not apply to any case described in section 6231(c)(1) (or the regulations prescribed thereunder) where the application of this subchapter to such a case would interfere with the effective and efficient enforcement of this title.

In any case to which this subchapter does not apply by reason of paragraph (2), rules similar to the rules of sections 6229(f) and 6255(f) shall apply.".

(b) CLERICAL AMENDMENT.—The table of subchapters for chapter 63 is amended by adding at the end thereof the following new item:

"Subchapter D. Treatment of electing large partnerships.".

SEC. 1223. DUE DATE FOR FURNISHING INFORMATION TO PARTNERS OF ELECTING LARGE PARTNERSHIPS.

(a) GENERAL RULE.—Subsection (b) of section 6031 (relating to copies to partners) is amended by adding at the end the following new sentence: "In the case of an electing large partnership (as defined in section 775), such information shall be furnished on or before the first March 15 following the close of such taxable year.".

(b) TREATMENT AS INFORMATION RETURN.—Section 6724 is amended by adding at the end the following new subsection:

"(e) SPECIAL RULE FOR CERTAIN PARTNERSHIP RETURNS.—If any partnership return under section 6031(a) is required under section 6011(e) to be filed on magnetic media or in other machine-readable form, for purposes of this part, each schedule required to be included with such return with respect to each partner shall be treated as a separate information return.".

SEC. 1224. RETURNS MAY BE REQUIRED ON MAGNETIC MEDIA.

Paragraph (2) of section 6011(e) (relating to returns on magnetic media) is amended by adding at the end thereof the following new sentence:

"Notwithstanding the preceding sentence, the Secretary shall require partnerships having more than 100 partners to file returns on magnetic media.".

SEC. 1225. TREATMENT OF PARTNERSHIP ITEMS OF INDIVIDUAL RETIREMENT ACCOUNTS.

Subsection (b) of section 6012 is amended by adding at the end thereof the following new paragraph:

"(6) IRA SHARE OF PARTNERSHIP INCOME.—In the case of a trust which is exempt from taxation under section 408(e), for purposes of this section, the trust's distributive share of items of gross income and gain of any partnership to which subchapter C or D of chapter 63 applies shall be treated as equal to the trust's distributive share of the taxable income of such partnership.".

SEC. 1226. EFFECTIVE DATE.

The amendments made by this part shall apply to partnership taxable years ending on or after December 31, 1997.

PART II—PROVISIONS RELATED TO TEFRA PARTNERSHIP PROCEEDINGS

SEC. 1231. TREATMENT OF PARTNERSHIP ITEMS IN DEFICIENCY PROCEEDINGS.

(a) IN GENERAL.—Subchapter C of chapter 63 is amended by adding at the end the following new section:

"SEC. 6234. DECLARATORY JUDGMENT RELATING TO TREATMENT OF ITEMS OTHER THAN PARTNERSHIP ITEMS WITH RESPECT TO AN OVERSHELTERED RETURN.

"(a) GENERAL RULE.—If—

"(1) a taxpayer files an oversheltered return for a taxable year,

"(2) the Secretary makes a determination with respect to the treatment of items (other than partnership items) of such taxpayer for such taxable year, and

"(3) the adjustments resulting from such determination do not give rise to a deficiency (as defined in section 6211) but would give rise to a deficiency if there were no net loss from partnership items,

the Secretary is authorized to send a notice of adjustment reflecting such determination to the taxpayer by certified or registered mail.

"(b) OVERSHELTERED RETURN.—For purposes of this section, the term 'oversheltered return' means an income tax return which—

"(1) shows no taxable income for the taxable year, and

"(2) shows a net loss from partnership items.

"(c) JUDICIAL REVIEW IN THE TAX COURT.—Within 90 days, or 150 days if the notice is addressed to a person outside the United States, after the day on which the notice of adjustment authorized in subsection (a) is mailed to the taxpayer, the taxpayer may file a petition with the Tax Court for redetermination of the adjustments. Upon the filing of such a petition, the Tax Court shall have jurisdiction to make a declaration with respect to all items (other than partnership items and affected items which require partner level determinations as described in section 6230(a)(2)(A)(i)) for the taxable year to which the notice of adjustment relates, in accordance with the principles of section 6214(a). Any such declaration shall have the force and effect of a decision of the Tax Court and shall be reviewable as such.

"(d) FAILURE TO FILE PETITION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), if the taxpayer does not file a petition with the Tax Court within the time prescribed in subsection (c), the determination of the Secretary set forth in the notice of adjustment that was mailed to the taxpayer shall be deemed to be correct.

"(2) EXCEPTION.—Paragraph (1) shall not apply after the date that the taxpayer—

"(A) files a petition with the Tax Court within the time prescribed in subsection (c) with respect to a subsequent notice of adjustment relating to the same taxable year, or

"(B) files a claim for refund of an overpayment of tax under section 6511 for the taxable year involved.

If a claim for refund is filed by the taxpayer, then solely for purposes of determining (for the taxable year involved) the amount of any computational adjustment in connection with a partnership proceeding under this subchapter (other than under this section) or the amount of any deficiency attributable to affected items in a proceeding under section 6230(a)(2), the items that are the subject of the notice of adjustment shall be presumed to have been correctly reported on the taxpayer's return during the pendency of the refund claim (and, if within the time prescribed by section 6532 the taxpayer commences a civil action for refund under section 7422, until the decision in the refund action becomes final).

"(e) LIMITATIONS PERIOD.—

"(1) IN GENERAL.—Any notice to a taxpayer under subsection (a) shall be mailed before the expiration of the period prescribed by section 6501 (relating to the period of limitations on assessment).

"(2) SUSPENSION WHEN SECRETARY MAILS NOTICE OF ADJUSTMENT.—If the Secretary mails a notice of adjustment to the taxpayer for a taxable year, the period of limitations on the making of assessments shall be suspended for the period during which the Secretary is prohibited from making the assessment (and, in any event, if a proceeding in respect of the notice of adjustment is placed on the docket of the Tax Court, until the decision of the Tax Court becomes final), and for 60 days thereafter.

"(3) RESTRICTIONS ON ASSESSMENT.—Except as otherwise provided in section 6851, 6852, or 6861, no assessment of a deficiency with respect to any tax imposed by subtitle A attributable to any item (other than a partnership item or any item affected by a partnership item) shall be made—

"(A) until the expiration of the applicable 90-day or 150-day period set forth in subsection (c) for filing a petition with the Tax Court, or

"(B) if a petition has been filed with the Tax Court, until the decision of the Tax Court has become final.

"(f) FURTHER NOTICES OF ADJUSTMENT RESTRICTED.—If the Secretary mails a notice of adjustment to the taxpayer for a taxable year and the taxpayer files a petition with the Tax Court within the time prescribed in subsection (c), the Secretary may not mail another such notice to the taxpayer with respect to the same taxable year in the absence of a showing of fraud, malfeasance, or misrepresentation of a material fact.

"(g) COORDINATION WITH OTHER PROCEEDINGS UNDER THIS SUBCHAPTER.—

"(1) IN GENERAL.—The treatment of any item that has been determined pursuant to subsection (c) or (d) shall be taken into account in determining the amount of any computational adjustment that is made in connection with a partnership proceeding under this subchapter (other than under this section), or the amount of any deficiency attributable to affected items in a proceeding under section 6230(a)(2), for the taxable year involved. Notwithstanding any other law or rule of law pertaining to the period of limitations on the making of assessments, for purposes of the preceding sentence, any adjustment made in accordance with this section shall be taken into account regardless of whether any assessment has been made with respect to such adjustment.

"(2) SPECIAL RULE IN CASE OF COMPUTATIONAL ADJUSTMENT.—In the case of a computational adjustment that is made in connection with a partnership proceeding under this subchapter (other than under this section), the provisions of paragraph (1) shall apply only if the computational adjustment is made within the period prescribed by section 6229 for assessing any tax under subtitle A which is attributable to any partnership item or affected item for the taxable year involved.

"(3) CONVERSION TO DEFICIENCY PROCEEDING.—If—

"(A) after the notice referred to in subsection (a) is mailed to a taxpayer for a taxable year but before the expiration of the period for filing a petition with the Tax Court under subsection (c) (or, if a petition is filed with the Tax Court, before the Tax Court makes a declaration for that taxable year), the treatment of any partnership item for the taxable year is finally determined, or any such item ceases to be a partnership item pursuant to section 6231(b), and

"(B) as a result of that final determination or cessation, a deficiency can be determined with respect to the items that are the subject of the notice of adjustment,

the notice of adjustment shall be treated as a notice of deficiency under section 6212 and any petition filed in respect of the notice shall be treated as an action brought under section 6213.

“(4) FINALLY DETERMINED.—For purposes of this subsection, the treatment of partnership items shall be treated as finally determined if—

“(A) the Secretary enters into a settlement agreement (within the meaning of section 6224) with the taxpayer regarding such items,

“(B) a notice of final partnership administrative adjustment has been issued and—

“(i) no petition has been filed under section 6226 and the time for doing so has expired, or

“(ii) a petition has been filed under section 6226 and the decision of the court has become final, or

“(C) the period within which any tax attributable to such items may be assessed against the taxpayer has expired.

“(h) Special Rules if Secretary Incorrectly Determines Applicable Procedure.—

“(1) SPECIAL RULE IF SECRETARY ERRONEOUSLY MAILS NOTICE OF ADJUSTMENT.—If the Secretary erroneously determines that subchapter B does not apply to a taxable year of a taxpayer and consistent with that determination timely mails a notice of adjustment to the taxpayer pursuant to subsection (a) of this section, the notice of adjustment shall be treated as a notice of deficiency under section 6212 and any petition that is filed in respect of the notice shall be treated as an action brought under section 6213.

“(2) SPECIAL RULE IF SECRETARY ERRONEOUSLY MAILS NOTICE OF DEFICIENCY.—If the Secretary erroneously determines that subchapter B applies to a taxable year of a taxpayer and consistent with that determination timely mails a notice of deficiency to the taxpayer pursuant to section 6212, the notice of deficiency shall be treated as a notice of adjustment under subsection (a) and any petition that is filed in respect of the notice shall be treated as an action brought under subsection (c).”.

(b) Treatment of Partnership Items in Deficiency Proceedings.—Section 6211 (defining deficiency) is amended by adding at the end the following new subsection:

“(c) Coordination With Subchapter C.—In determining the amount of any deficiency for purposes of this subchapter, adjustments to partnership items shall be made only as provided in subchapter C.”.

(c) Clerical Amendment.—The table of sections for subchapter C of chapter 63 is amended by adding at the end the following new item:

“Sec. 6234. Declaratory judgment relating to treatment of items other than partnership items with respect to an oversheltered return.”.

(d) Effective Date.—The amendments made by this section shall apply to partnership taxable years ending after the date of the enactment of this Act.

SEC. 1232. PARTNERSHIP RETURN TO BE DETERMINATIVE OF AUDIT PROCEDURES TO BE FOLLOWED.

(a) In General.—Section 6231 (relating to definitions and special rules) is amended by adding at the end the following new subsection:

“(g) Partnership Return To Be Determinative of Whether Subchapter Applies.—

“(1) DETERMINATION THAT SUBCHAPTER APPLIES.—If, on the basis of a partnership return for a taxable year, the Secretary reasonably determines that this subchapter applies to such partnership for such year but such determination is erroneous, then the provisions of this subchapter are hereby extended to such partnership (and its items) for such taxable year and to partners of such partnership.

“(2) DETERMINATION THAT SUBCHAPTER DOES NOT APPLY.—If, on the basis of a partnership return for a taxable year, the Secretary reasonably determines that this subchapter does not apply to such partnership for such year but such determination is erroneous, then the provisions of this subchapter shall not apply to such partnership (and its items) for such taxable year or to partners of such partnership.”.

(b) Effective Date.—The amendment made by this section shall apply to partnership taxable years ending after the date of the enactment of this Act.

SEC. 1233. PROVISIONS RELATING TO STATUTE OF LIMITATIONS.

(a) Suspension of Statute Where Untimely Petition Filed.—Paragraph (1) of section 6229(d) (relating to suspension where Secretary makes administrative adjustment) is amended by striking all that follows “section 6226” and inserting the following: “(and, if a petition is filed under section 6226 with respect to such administrative adjustment, until the decision of the court becomes final), and”.

(b) Suspension of Statute During Bankruptcy Proceeding.—Section 6229 is amended by adding at the end the following new subsection:

“(h) Suspension During Pendency of Bankruptcy Proceeding.—If a petition is filed naming a partner as a debtor in a bankruptcy proceeding under title 11 of the United States Code, the running of the period of limitations provided in this section with respect to such partner shall be suspended—

“(1) for the period during which the Secretary is prohibited by reason of such bankruptcy proceeding from making an assessment, and

“(2) for 60 days thereafter.”.

(c) Tax Matters Partner in Bankruptcy.—Section 6229(b) is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

“(2) SPECIAL RULE WITH RESPECT TO DEBTORS IN TITLE 11 CASES.—Notwithstanding any other law or rule of law, if an agreement is entered into under paragraph (1)(B) and the agreement is signed by a person who would be the tax matters partner but for the fact that, at the time that the agreement is executed, the person is a debtor in a bankruptcy proceeding under title 11 of the United States Code, such agreement shall be binding on all partners in the partnership unless the Secretary has been notified of the bankruptcy proceeding in accordance with regulations prescribed by the Secretary.”.

(d) Effective Dates.—

(1) Subsections (a) and (b).—The amendments made by subsections (a) and (b) shall apply to partnership taxable years with respect to which the period under section 6229 of the Internal Revenue Code of 1986 for assessing tax has not expired on or before the date of the enactment of this Act.

(2) Subsection (c).—The amendment made by subsection (c) shall apply to agreements entered into after the date of the enactment of this Act.

SEC. 1234. EXPANSION OF SMALL PARTNERSHIP EXCEPTION.

(a) In General.—Clause (i) of section 6231(a)(1)(B) (relating to exception for small partnerships) is amended to read as follows:

“(i) In general.—The term ‘partnership’ shall not include any partnership having 10 or fewer partners each of whom is an individual (other than a nonresident alien), a C corporation, or an estate of a deceased partner. For purposes of the preceding sentence, a husband and wife (and their estates) shall be treated as 1 partner.”.

(b) Effective Date.—The amendment made by this section shall apply to partnership taxable years ending after the date of the enactment of this Act.

SEC. 1235. EXCLUSION OF PARTIAL SETTLEMENTS FROM 1-YEAR LIMITATION ON ASSESSMENT.

(a) In General.—Subsection (f) of section 6229 (relating to items becoming nonpartnership items) is amended—

(1) by striking “(f) Items Becoming Nonpartnership Items.—If” and inserting the following:

“(f) Special Rules.—

“(1) ITEMS BECOMING NONPARTNERSHIP ITEMS.—If”,

(2) by moving the text of such subsection 2 ems to the right, and

(3) by adding at the end the following new paragraph:

“(2) SPECIAL RULE FOR PARTIAL SETTLEMENT AGREEMENTS.—If a partner enters into a settlement agreement with the Secretary with respect to the treatment of some of the partnership items in dispute for a partnership taxable year but other partnership items for such year remain in dispute, the period of limitations for assessing any tax attributable to the settled items shall be determined as if such agreement had not been entered into.”.

(b) Effective Date.—The amendment made by this section shall apply to settlements entered into after the date of the enactment of this Act.

SEC. 1236. EXTENSION OF TIME FOR FILING A REQUEST FOR ADMINISTRATIVE ADJUSTMENT.

(a) In General.—Section 6227 (relating to administrative adjustment requests) is amended by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and by inserting after subsection (a) the following new subsection:

“(b) Special Rule in Case of Extension of Period of Limitations Under Section 6229.—The period prescribed by subsection (a)(1) for filing of a request for an administrative adjustment shall be extended—

“(1) for the period within which an assessment may be made pursuant to an agreement (or any extension thereof) under section 6229(b), and

“(2) for 6 months thereafter.”.

(b) Effective Date.—The amendment made by this section shall take effect as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982.

SEC. 1237. AVAILABILITY OF INNOCENT SPOUSE RELIEF IN CONTEXT OF PARTNERSHIP PROCEEDINGS.

(a) In General.—Subsection (a) of section 6230 is amended by adding at the end the following new paragraph:

“(3) SPECIAL RULE IN CASE OF ASSERTION BY PARTNER’S SPOUSE OF INNOCENT SPOUSE RELIEF.—

“(A) Notwithstanding section 6404(b), if the spouse of a partner asserts that section 6013(e) applies with respect to a liability that is attributable to any adjustment to a partnership item, then such spouse may file with the Secretary within 60 days after the notice of computational adjustment is mailed to the spouse a request for abatement of the assessment specified in such notice. Upon receipt of such request, the Secretary shall abate the assessment. Any reassessment of the tax with respect to which an abatement is made under this subparagraph shall be subject to the deficiency procedures prescribed by subchapter B. The period for making any such reassessment shall not expire before the expiration of 60 days after the date of such abatement.

"(B) If the spouse files a petition with the Tax Court pursuant to section 6213 with respect to the request for abatement described in subparagraph (A), the Tax Court shall only have jurisdiction pursuant to this section to determine whether the requirements of section 6013(e) have been satisfied. For purposes of such determination, the treatment of partnership items under the settlement, the final partnership administrative adjustment, or the decision of the court (whichever is appropriate) that gave rise to the liability in question shall be conclusive.

"(C) Rules similar to the rules contained in subparagraphs (B) and (C) of paragraph (2) shall apply for purposes of this paragraph.".

(b) CLAIMS FOR REFUND.—Subsection (c) of section 6230 is amended by adding at the end the following new paragraph:

"(5) RULES FOR SEEKING INNOCENT SPOUSE RELIEF.—

"(A) IN GENERAL.—The spouse of a partner may file a claim for refund on the ground that the Secretary failed to relieve the spouse under section 6013(e) from a liability that is attributable to an adjustment to a partnership item.

"(B) TIME FOR FILING CLAIM.—Any claim under subparagraph (A) shall be filed within 6 months after the day on which the Secretary mails to the spouse the notice of computational adjustment referred to in subsection (a)(3)(A).

"(C) SUIT IF CLAIM NOT ALLOWED.—If the claim under subparagraph (B) is not allowed, the spouse may bring suit with respect to the claim within the period specified in paragraph (3).

"(D) PRIOR DETERMINATIONS ARE BINDING.—For purposes of any claim or suit under this paragraph, the treatment of partnership items under the settlement, the final partnership administrative adjustment, or the decision of the court (whichever is appropriate) that gave rise to the liability in question shall be conclusive.".

(c) TECHNICAL AMENDMENTS.—

(1) Paragraph (1) of section 6230(a) is amended by striking "paragraph (2)" and inserting "paragraph (2) or (3)".

(2) Subsection (a) of section 6503 is amended by striking "section 6230(a)(2)(A)" and inserting "paragraph (2)(A) or (3) of section 6230(a)".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982.

SEC. 1238. DETERMINATION OF PENALTIES AT PARTNERSHIP LEVEL.

(a) IN GENERAL.—Section 6221 (relating to tax treatment determined at partnership level) is amended by striking "item" and inserting "item (and the applicability of any penalty, addition to tax, or additional amount which relates to an adjustment to a partnership item)".

(b) CONFORMING AMENDMENTS.—

(1) Subsection (f) of section 6226 is amended—

(A) by striking "relates and" and inserting "relates.", and

(B) by inserting before the period ", and the applicability of any penalty, addition to tax, or additional amount which relates to an adjustment to a partnership item".

(2) Clause (i) of section 6230(a)(2)(A) is amended to read as follows:

"(i) affected items which require partner level determinations (other than penalties, additions to tax, and additional amounts that relate to adjustments to partnership items), or".

(3)(A) Subparagraph (A) of section 6230(a)(3), as added by section 14317, is amended by inserting "(including any liability for any penalty, addition to tax, or additional amount relating to such adjustment)" after "partnership item".

(B) Subparagraph (B) of such section is amended by inserting "(and the applicability of any penalties, additions to tax, or additional amounts)" after "partnership items".

(C) Subparagraph (A) of section 6230(c)(5), as added by section 14317, is amended by inserting before the period "(including any liability for any penalties, additions to tax, or additional amounts relating to such adjustment)".

(D) Subparagraph (D) of section 6230(c)(5), as added by section 14317, is amended by inserting "(and the applicability of any penalties, additions to tax, or additional amounts)" after "partnership items".

(4) Paragraph (1) of section 6230(c) is amended by striking "or" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", or", and by adding at the end the following new subparagraph:

"(C) the Secretary erroneously imposed any penalty, addition to tax, or additional amount which relates to an adjustment to a partnership item.".

(5) So much of subparagraph (A) of section 6230(c)(2) as precedes "shall be filed" is amended to read as follows:

"(A) UNDER PARAGRAPH (1) (A) OR (C).—Any claim under subparagraph (A) or (C) of paragraph (1)".

(6) Paragraph (4) of section 6230(c) is amended by adding at the end the following: "In addition, the determination under the final partnership administrative adjustment or under the decision of the court (whichever is appropriate) concerning the applicability of any penalty, addition to tax, or additional amount which relates to an adjustment to a partnership item shall also be conclusive. Notwithstanding the preceding sentence, the partner shall be allowed to assert any partner level defenses that may apply or to challenge the amount of the computational adjustment.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership taxable years ending after the date of the enactment of this Act.

SEC. 1239. PROVISIONS RELATING TO COURT JURISDICTION, ETC.

(a) TAX COURT JURISDICTION TO ENJOIN PREMATURE ASSESSMENTS OF DEFICIENCIES ATTRIBUTABLE TO PARTNERSHIP ITEMS.—Subsection (b) of section 6225 is amended by striking "the proper court." and inserting "the proper court, including the Tax Court. The Tax Court shall have no jurisdiction to enjoin any action or proceeding under this subsection unless a timely petition for a readjustment of the partnership items for the taxable year has been filed and then only in respect of the adjustments that are the subject of such petition.".

(b) JURISDICTION TO CONSIDER STATUTE OF LIMITATIONS WITH RESPECT TO PARTNERS.—Paragraph (1) of section 6226(d) is amended by adding at the end the following new sentence:

"Notwithstanding subparagraph (B), any person treated under subsection (c) as a party to an action shall be permitted to participate in such action (or file a readjustment petition under subsection (b) or paragraph (2) of this subsection) solely for the purpose of asserting that the period of limitations for assessing any tax attributable to partnership items has expired with respect to such person, and the court having jurisdiction of such action shall have jurisdiction to consider such assertion.".

(c) TAX COURT JURISDICTION TO DETERMINE OVERPAYMENTS ATTRIBUTABLE TO AFFECTED ITEMS.—

(1) Paragraph (6) of section 6230(d) is amended by striking "(or an affected item)".

(2) Paragraph (3) of section 6512(b) is amended by adding at the end the following new sentence:

"In the case of a credit or refund relating to an affected item (within the meaning of section 6231(a)(5)), the preceding sentence shall be applied by substituting the periods under sections 6229 and 6230(d) for the periods under section 6511(b)(2), (c), and (d).".

(d) VENUE ON APPEAL.—

(1) Paragraph (1) of section 7482(b) is amended by striking "or" at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting ", or", and by inserting after subparagraph (E) the following new subparagraph:

"(F) in the case of a petition under section 6234(c)—

"(i) the legal residence of the petitioner if the petitioner is not a corporation, and

"(ii) the place or office applicable under subparagraph (B) if the petitioner is a corporation.".

(2) The last sentence of section 7482(b)(1) is amended by striking "or 6228(a)" and inserting ", 6228(a), or 6234(c)".

(e) OTHER PROVISIONS.—

(1) Subsection (c) of section 7459 is amended by striking "or section 6228(a)" and inserting ", 6228(a), or 6234(c)".

(2) Subsection (o) of section 6501 is amended by adding at the end the following new paragraph:

"(3) For declaratory judgment relating to treatment of items other than partnership items with respect to an oversheltered return, see section 6234.".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership taxable years ending after the date of the enactment of this Act.

SEC. 1240. TREATMENT OF PREMATURE PETITIONS FILED BY NOTICE PARTNERS OR 5-PERCENT GROUPS.

(a) IN GENERAL.—Subsection (b) of section 6226 (relating to judicial review of final partnership administrative adjustments) is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

"(5) TREATMENT OF PREMATURE PETITIONS.—If—

"(A) a petition for a readjustment of partnership items for the taxable year involved is filed by a notice partner (or a 5-percent group) during the 90-day period described in subsection (a), and

"(B) no action is brought under paragraph (1) during the 60-day period described therein with respect to such taxable year which is not dismissed,

such petition shall be treated for purposes of paragraph (1) as filed on the last day of such 60-day period.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to petitions filed after the date of the enactment of this Act.

SEC. 1241. BONDS IN CASE OF APPEALS FROM CERTAIN PROCEEDING.

(a) IN GENERAL.—Subsection (b) of section 7485 (relating to bonds to stay assessment of collection) is amended—

(1) by inserting "penalties," after "any interest,", and

(2) by striking "aggregate of such deficiencies" and inserting "aggregate liability of the parties to the action".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982.

SEC. 1242. SUSPENSION OF INTEREST WHERE DELAY IN COMPUTATIONAL ADJUSTMENT RESULTING FROM CERTAIN SETTLEMENTS.

(a) IN GENERAL.—Subsection (c) of section 6601 (relating to interest on underpayment, nonpayment, or extension of time for payment, of tax) is amended by adding at the end the following new sentence: "In the case of a settlement under section 6224(c) which results in the conversion of partnership items to nonpartnership items pursuant to section 6231(b)(1)(C), the preceding sentence shall apply to a computational adjustment resulting from such settlement in the same manner as if such adjustment were a deficiency and such settlement were a waiver referred to in the preceding sentence.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to adjustments with respect to partnership taxable years beginning after the date of the enactment of this Act.

SEC. 1243. SPECIAL RULES FOR ADMINISTRATIVE ADJUSTMENT REQUESTS WITH RESPECT TO BAD DEBTS OR WORTHLESS SECURITIES.

(a) GENERAL RULE.—Section 6227 (relating to administrative adjustment requests) is amended by adding at the end the following new subsection:

"(e) REQUESTS WITH RESPECT TO BAD DEBTS OR WORTHLESS SECURITIES.—In the case of that portion of any request for an administrative adjustment which relates to the deductibility by the partnership under section 166 of a debt as a debt which became worthless, or under section 165(g) of a loss from worthlessness of a security, the period prescribed in subsection (a)(1) shall be 7 years from the last day for filing the partnership return for the year with respect to which such request is made (determined without regard to extensions).".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall take effect as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982.

(2) TREATMENT OF REQUESTS FILED BEFORE DATE OF ENACTMENT.—In the case of that portion of any request (filed before the date of the enactment of this Act) for an administrative adjustment which relates to the deductibility of a debt as a debt which became worthless or the deductibility of a loss from the worthlessness of a security—

(A) paragraph (2) of section 6227(a) of the Internal Revenue Code of 1986 shall not apply,

(B) the period for filing a petition under section 6228 of the Internal Revenue Code of 1986 with respect to such request shall not expire before the date 6 months after the date of the enactment of this Act, and

(C) such a petition may be filed without regard to whether there was a notice of the beginning of an administrative proceeding or a final partnership administrative adjustment.

PART III—PROVISION RELATING TO CLOSING OF PARTNERSHIP TAXABLE YEAR WITH RESPECT TO DECEASED PARTNER, ETC.

SEC. 1246. CLOSING OF PARTNERSHIP TAXABLE YEAR WITH RESPECT TO DECEASED PARTNER, ETC.

(a) GENERAL RULE.—Subparagraph (A) of section 706(c)(2) (relating to disposition of entire interest) is amended to read as follows:

"(A) DISPOSITION OF ENTIRE INTEREST.—The taxable year of a partnership shall close with respect to a partner whose entire interest in the partnership terminates (whether by reason of death, liquidation, or otherwise).".

(b) CLERICAL AMENDMENT.—The paragraph heading for paragraph (2) of section 706(c) is amended to read as follows:

"(2) TREATMENT OF DISPOSITIONS.—".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership taxable years beginning after December 31, 1997.

Subtitle D—Provisions Relating to Real Estate Investment Trusts

SEC. 1251. CLARIFICATION OF LIMITATION ON MAXIMUM NUMBER OF SHAREHOLDERS.

(a) RULES RELATING TO DETERMINATION OF OWNERSHIP.—

(1) FAILURE TO ISSUE SHAREHOLDER DEMAND LETTER NOT TO DISQUALIFY REIT.—Section 857(a) (relating to requirements applicable to real estate investment trusts) is amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(2) SHAREHOLDER DEMAND LETTER REQUIREMENT; PENALTY.—Section 857 (relating to taxation of real estate investment trusts and their beneficiaries) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) REAL ESTATE INVESTMENT TRUSTS TO ASCERTAIN OWNERSHIP.—

"(1) IN GENERAL.—Each real estate investment trust shall each taxable year comply with regulations prescribed by the Secretary for the purposes of ascertaining the actual ownership of the outstanding shares, or certificates of beneficial interest, of such trust.

"(2) FAILURE TO COMPLY.—

"(A) IN GENERAL.—If a real estate investment trust fails to comply with the requirements of paragraph (1) for a taxable year, such trust shall pay (on notice and demand by the Secretary and in the same manner as tax) a penalty of $25,000.

"(B) INTENTIONAL DISREGARD.—If any failure under paragraph (1) is due to intentional disregard of the requirement under paragraph (1), the penalty under subparagraph (A) shall be $50,000.

"(C) FAILURE TO COMPLY AFTER NOTICE.—The Secretary may require a real estate investment trust to take such actions as the Secretary determines appropriate to ascertain actual ownership if the trust fails to meet the requirements of paragraph (1). If the trust fails to take such actions, the trust shall pay (on notice and demand by the Secretary and in the same manner as tax) an additional penalty equal to the penalty determined under subparagraph (A) or (B), whichever is applicable.

"(D) REASONABLE CAUSE.—No penalty shall be imposed under this paragraph with respect to any failure if it is shown that such failure is due to reasonable cause and not to willful neglect.".

(b) COMPLIANCE WITH CLOSELY HELD PROHIBITION.—

(1) IN GENERAL.—Section 856 (defining real estate investment trust) is amended by adding at the end the following new subsection:

"(k) REQUIREMENT THAT ENTITY NOT BE CLOSELY HELD TREATED AS MET IN CERTAIN CASES.—A corporation, trust, or association—

"(1) which for a taxable year meets the requirements of section 857(f)(1), and

"(2) which does not know, or exercising reasonable diligence would not have known, whether the entity failed to meet the requirement of subsection (a)(6),

shall be treated as having met the requirement of subsection (a)(6) for the taxable year.".

(2) CONFORMING AMENDMENT.—Paragraph (6) of section 856(a) is amended by inserting "subject to the provisions of subsection (k)," before "which is not".

SEC. 1252. DE MINIMIS RULE FOR TENANT SERVICES INCOME.

(a) IN GENERAL.—Paragraph (2) of section 856(d) (defining rents from real property) is amended by striking subparagraph (C) and the last sentence and inserting:

"(C) any impermissible tenant service income (as defined in paragraph (7)).".

(b) IMPERMISSIBLE TENANT SERVICE INCOME.—Section 856(d) is amended by adding at the end the following new paragraph:

"(7) IMPERMISSIBLE TENANT SERVICE INCOME.—For purposes of paragraph (2)(C)—

"(A) IN GENERAL.—The term 'impermissible tenant service income' means, with respect to any real or personal property, any amount received or accrued directly or indirectly by the real estate investment trust for—

"(i) services furnished or rendered by the trust to the tenants of such property, or

"(ii) managing or operating such property.

"(B) DISQUALIFICATION OF ALL AMOUNTS WHERE MORE THAN DE MINIMIS AMOUNT.—If the amount described in subparagraph (A) with respect to a property for any taxable year exceeds 1 percent of all amounts received or accrued during such taxable year directly or indirectly by the real estate investment trust with respect to such property, the impermissible tenant service income of the trust with respect to the property shall include all such amounts.

"(C) EXCEPTIONS.—For purposes of subparagraph (A)—

"(i) services furnished or rendered, or management or operation provided, through an independent contractor from whom the trust itself does not derive or receive any income shall not be treated as furnished, rendered, or provided by the trust, and

"(ii) there shall not be taken into account any amount which would be excluded from unrelated business taxable income under section 512(b)(3) if received by an organization described in section 511(a)(2).

"(D) AMOUNT ATTRIBUTABLE TO IMPERMISSIBLE SERVICES.—For purposes of subparagraph (A), the amount treated as received for any service (or management or operation) shall not be less than 150 percent of the direct cost of the trust in furnishing or rendering the service (or providing the management or operation).

"(E) COORDINATION WITH LIMITATIONS.—For purposes of paragraphs (2) and (3) of subsection (c), amounts described in subparagraph (A) shall be included in the gross income of the corporation, trust, or association.".

SEC. 1253. ATTRIBUTION RULES APPLICABLE TO TENANT OWNERSHIP.

Section 856(d)(5) (relating to constructive ownership of stock) is amended by adding at the end the following: "For purposes of paragraph (2)(B), section 318(a)(3)(A) shall be applied under the preceding sentence in the case of a partnership by taking into account only partners who own (directly or indirectly) 25 percent or more of the capital interest, or the profits interest, in the partnership.".

SEC. 1254. CREDIT FOR TAX PAID BY REIT ON RETAINED CAPITAL GAINS.

(a) GENERAL RULE.—Paragraph (3) of section 857(b) (relating to capital gains) is amended by redesignating subparagraph (D) as subparagraph (E) and by inserting after subparagraph (C) the following new subparagraph:

"(D) TREATMENT BY SHAREHOLDERS OF UNDISTRIBUTED CAPITAL GAINS.—

"(i) Every shareholder of a real estate investment trust at the close of the trust's taxable year shall include, in computing his long-term capital gains in his return for his taxable year in which the last day of the trust's taxable year falls, such amount as the trust shall designate in respect of such shares in a written notice mailed to its shareholders at any time prior to the expiration of 60 days after the close of its taxable year (or mailed to its shareholders or holders of beneficial interests with its annual report for the taxable year), but the amount so includible by any shareholder shall not exceed that part of the amount subjected to tax in subparagraph (A)(ii) which he would have received if all of such amount had been distributed as capital gain dividends by the trust to the holders of such shares at the close of its taxable year.

"(ii) For purposes of this title, every such shareholder shall be deemed to have paid, for his taxable year under clause (i), the tax imposed by subparagraph (A)(ii) on the amounts required by this subparagraph to be included in respect of such shares in computing his long-term capital gains for that year; and such shareholders shall be allowed credit or refund as the case may be, for the tax so deemed to have been paid by him.

"(iii) The adjusted basis of such shares in the hands of the holder shall be increased with respect to the amounts required by this subparagraph to be included in computing his long-term capital gains, by the difference between the amount of such includible gains and the tax deemed paid by such shareholder in respect of such shares under clause (ii).

"(iv) In the event of such designation, the tax imposed by subparagraph (A)(ii) shall be paid by the real estate investment trust within 30 days after the close of its taxable year.

"(v) The earnings and profits of such real estate investment trust, and the earnings and profits of any such shareholder which is a corporation, shall be appropriately adjusted in accordance with regulations prescribed by the Secretary.

"(vi) As used in this subparagraph, the terms 'shares' and 'shareholders' shall include beneficial interests and holders of beneficial interests, respectively.".

(b) CONFORMING AMENDMENTS.—

(1) Clause (i) of section 857(b)(7)(A) is amended by striking "subparagraph (B)" and inserting "subparagraph (B) or (D)".

(2) Clause (iii) of section 852(b)(3)(D) is amended by striking "by 65 percent" and all that follows and inserting "by the difference between the amount of such includible gains and the tax deemed paid by such shareholder in respect of such shares under clause (ii).".

SEC. 1255. REPEAL OF 30-PERCENT GROSS INCOME REQUIREMENT.

(a) GENERAL RULE.—Subsection (c) of section 856 (relating to limitations) is amended—

(1) by adding "and" at the end of paragraph (3),

(2) by striking paragraphs (4) and (8), and

(3) by redesignating paragraphs (5), (6), and (7) as paragraphs (4), (5), and (6), respectively.

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (G) of section 856(c)(5), as redesignated by subsection (a), is amended by striking "and such agreement shall be treated as a security for purposes of paragraph (4)(A)".

(2) Paragraph (5) of section 857(b) is amended by striking "section 856(c)(7)" and inserting "section 856(c)(6)".

(3) Subparagraph (C) of section 857(b)(6) is amended by striking "section 856(c)(6)(B)" and inserting "section 856(c)(5)(B)".

SEC. 1256. MODIFICATION OF EARNINGS AND PROFITS RULES FOR DETERMINING WHETHER REIT HAS EARNINGS AND PROFITS FROM NON-REIT YEAR.

Subsection (d) of section 857 is amended by adding at the end the following new paragraph:

"(3) DISTRIBUTIONS TO MEET REQUIREMENTS OF SUBSECTION (a)(2)(B).—Any distribution which is made in order to comply with the requirements of subsection (a)(2)(B)—

"(A) shall be treated for purposes of this subsection and subsection (a)(2)(B) as made from the earliest accumulated earnings and profits (other than earnings and profits to which subsection (a)(2)(A) applies) rather than the most recently accumulated earnings and profits, and

"(B) to the extent treated under subparagraph (A) as made from accumulated earnings and profits, shall not be treated as a distribution for purposes of subsection (b)(2)(B).".

SEC. 1257. TREATMENT OF FORECLOSURE PROPERTY.

(a) GRACE PERIODS.—

(1) INITIAL PERIOD.—Paragraph (2) of section 856(e) (relating to special rules for foreclosure property) is amended by striking "on the date which is 2 years after the date the trust acquired such property" and inserting "as of the close of the 3d taxable year following the taxable year in which the trust acquired such property".

(2) EXTENSION.—Paragraph (3) of section 856(e) is amended—

(A) by striking "or more extensions" and inserting "extension", and

(B) by striking the last sentence and inserting: "Any such extension shall not extend the grace period beyond the close of the 3d taxable year following the last taxable year in the period under paragraph (2).".

(b) REVOCATION OF ELECTION.—Paragraph (5) of section 856(e) is amended by striking the last sentence and inserting: "A real estate investment trust may revoke any such election for a taxable year by filing the revocation (in the manner provided by the Secretary) on or before the due date (including any extension of time) for filing its return of tax under this chapter for the taxable year. If a trust revokes an election for any property, no election may be made by the trust under this paragraph with respect to the property for any subsequent taxable year.".

(c) CERTAIN ACTIVITIES NOT TO DISQUALIFY PROPERTY.—Paragraph (4) of section 856(e) is amended by adding at the end the following new flush sentence:

"For purposes of subparagraph (C), property shall not be treated as used in a trade or business by reason of any activities of the real estate investment trust with respect to such property to the extent that such activities would not result in amounts received or accrued, directly or indirectly, with respect to such property being treated as other than rents from real property.".

SEC. 1258. PAYMENTS UNDER HEDGING INSTRUMENTS.

Section 856(c)(5)(G) (relating to treatment of certain interest rate agreements), as redesignated by section 1255, is amended to read as follows:

"(G) TREATMENT OF CERTAIN HEDGING INSTRUMENTS.—Except to the extent provided by regulations, any—

"(i) payment to a real estate investment trust under an interest rate swap or cap agreement, option, futures contract, forward rate agreement, or any similar financial instrument, entered into by the trust in a transaction to reduce the interest rate risks with respect to any indebtedness incurred or to be incurred by the trust to acquire or carry real estate assets, and

"(ii) gain from the sale or other disposition of any such investment,

shall be treated as income qualifying under paragraph (2).".

SEC. 1259. EXCESS NONCASH INCOME.

Section 857(e)(2) (relating to determination of amount of excess noncash income) is amended—

(1) by striking subparagraph (B),

(2) by striking the period at the end of subparagraph (C) and inserting a comma,

(3) by redesignating subparagraph (C) (as amended by paragraph (2)) as subparagraph (B), and

(4) by adding at the end the following new subparagraphs:

"(C) the amount (if any) by which—

"(i) the amounts includible in gross income with respect to instruments to which section 860E(a) or 1272 applies, exceed

"(ii) the amount of money and the fair market value of other property received during the taxable year under such instruments, and

"(D) amounts includible in income by reason of cancellation of indebtedness.".

SEC. 1260. PROHIBITED TRANSACTION SAFE HARBOR.

Clause (iii) of section 857(b)(6)(C) (relating to certain sales not to constitute prohibited transactions) is amended by striking "(other than foreclosure property)" in subclauses (I) and (II) and inserting "(other than sales of foreclosure property or sales to which section 1033 applies)".

SEC. 1261. SHARED APPRECIATION MORTGAGES.

(a) BANKRUPTCY SAFE HARBOR.—Section 856(j) (relating to treatment of shared appreciation mortgages) is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) COORDINATION WITH 4-YEAR HOLDING PERIOD.—

"(A) IN GENERAL.—For purposes of section 857(b)(6)(C), if a real estate investment trust is treated as having sold secured property under paragraph (3)(A), the trust shall be treated as having held such property for at least 4 years if—

"(i) the secured property is sold or otherwise disposed of pursuant to a case under title 11 of the United States Code,

"(ii) the seller is under the jurisdiction of the court in such case, and

"(iii) the disposition is required by the court or is pursuant to a plan approved by the court.

"(B) Exception.—Subparagraph (A) shall not apply if—

"(i) the secured property was acquired by the trust with the intent to evict or foreclose, or

"(ii) the trust knew or had reason to know that default on the obligation described in paragraph (5)(A) would occur.".

(b) Clarification of Definition of Shared Appreciation Provision.—Clause (ii) of section 856(j)(5)(A) is amended by inserting before the period "or appreciation in value as of any specified date".

SEC. 1262. WHOLLY OWNED SUBSIDIARIES.

Section 856(i)(2) (defining qualified REIT subsidiary) is amended by striking "at all times during the period such corporation was in existence".

SEC. 1263. EFFECTIVE DATE.

The amendments made by this part shall apply to taxable years beginning after the date of the enactment of this Act.

Subtitle E—Provisions Relating to Regulated Investment Companies

SEC. 1271. REPEAL OF 30-PERCENT GROSS INCOME LIMITATION.

(a) General Rule.—Subsection (b) of section 851 (relating to limitations) is amended by striking paragraph (3), by adding "and" at the end of paragraph (2), and by redesignating paragraph (4) as paragraph (3).

(b) Technical Amendments.—

(1) The material following paragraph (3) of section 851(b) (as redesignated by subsection (a)) is amended—

(A) by striking out "paragraphs (2) and (3)" and inserting "paragraph (2)", and

(B) by striking out the last sentence thereof.

(2) Subsection (c) of section 851 is amended by striking "subsection (b)(4)" each place it appears (including the heading) and inserting "subsection (b)(3)".

(3) Subsection (d) of section 851 is amended by striking "subsections (b)(4)" and inserting "subsections (b)(3)".

(4) Paragraph (1) of section 851(e) is amended by striking "subsection (b)(4)" and inserting "subsection (b)(3)".

(5) Paragraph (4) of section 851(e) is amended by striking "subsections (b)(4)" and inserting "subsections (b)(3)".

(6) Section 851 is amended by striking subsection (g) and redesignating subsection (h) as subsection (g).

(7) Subsection (g) of section 851 (as redesignated by paragraph (6)) is amended by striking paragraph (3).

(8) Section 817(h)(2) is amended—

(A) by striking "851(b)(4)" in subparagraph (A) and inserting "851(b)(3)", and

(B) by striking "851(b)(4)(A)(i)" in subparagraph (B) and inserting "851(b)(3)(A)(i)".

(9) Section 1092(f)(2) is amended by striking "Except for purposes of section 851(b)(3), the" and inserting "The".

(c) Effective Date.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

Subtitle F—Taxpayer Protections

SEC. 1281. REASONABLE CAUSE EXCEPTION FOR CERTAIN PENALTIES.

(a) Information on Deductible Employee Contributions.—Subsection (g) of section 6652 (relating to information required in connection with deductible employee contributions) is amended by adding at the end the following new sentence: "No penalty shall be imposed under this subsection on any failure which is shown to be due to reasonable cause and not willful neglect.".

(b) Reports on Status as Qualified Small Business.—Subsection (k) of section 6652 (relating to failure to make reports required under section 1202) is amended by adding at the end the following new sentence: "No penalty shall be imposed under this subsection on any failure which is shown to be due to reasonable cause and not willful neglect.".

(c) Returns of Personal Holding Company Tax by Foreign Corporations.—Section 6683 (relating to failure of foreign corporation to file return of personal holding company tax) is amended by adding at the end the following new sentence: "No penalty shall be imposed under this section on any failure which is shown to be due to reasonable cause and not willful neglect.".

(d) Failure To Make Required Payments.—Subparagraph (A) of section 7519(f)(4) is amended by adding at the end the following new sentence: "No penalty shall be imposed under this subparagraph on any failure which is shown to be due to reasonable cause and not willful neglect.".

(e) Effective Date.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 1282. CLARIFICATION OF PERIOD FOR FILING CLAIMS FOR REFUNDS.

(a) In General.—Paragraph (3) of section 6512(b) (relating to overpayment determined by Tax Court) is amended by adding at the end the following flush sentence:

"In a case described in subparagraph (B) where the date of the mailing of the notice of deficiency is during the third year after the due date (with extensions) for filing the return of tax and no return was filed before such date, the applicable period under subsections (a) and (b)(2) of section 6511 shall be 3 years.".

(b) Effective Date.—The amendment made by subsection (a) shall apply to claims for credit or refund for taxable years ending after the date of the enactment of this Act.

SEC. 1283. REPEAL OF AUTHORITY TO DISCLOSE WHETHER PROSPECTIVE JUROR HAS BEEN AUDITED.

(a) In General.—Subsection (h) of section 6103 (relating to disclosure to certain Federal officers and employees for purposes of tax administration, etc.) is amended by striking paragraph (5) and by redesignating paragraph (6) as paragraph (5).

(b) Conforming Amendment.—Paragraph (4) of section 6103(p) is amended by striking "(h)(6)" each place it appears and inserting "(h)(5)".

(c) Effective Date.—The amendments made by this section shall apply to judicial proceedings commenced after the date of the enactment of this Act.

SEC. 1284. CLARIFICATION OF STATUTE OF LIMITATIONS.

(a) In General.—Subsection (a) of section 6501 (relating to limitations on assessment and collection) is amended by adding at the end thereof the following new sentence: "For purposes of this chapter, the term 'return' means the return required to be filed by the taxpayer (and does not include a return of any person from whom the taxpayer has received an item of income, gain, loss, deduction, or credit).".

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 1285. AWARDING OF ADMINISTRATIVE COSTS.

(a) Right to Appeal Tax Court Decision.—Subsection (f) of section 7430 (relating to right of appeal) is amended by adding at the end the following new paragraph:

"(3) Appeal of tax court decision.—An order of the Tax Court disposing of a petition under paragraph (2) shall be reviewable in the same manner as a decision of the Tax Court, but only with respect to the matters determined in such order.".

(b) Period for Applying to IRS for Costs.—Subsection (b) of section 7430 (relating to limitations) is amended by adding at the end the following new paragraph:

"(5) Period for applying to irs for administrative costs.—An award may be made under subsection (a) by the Internal Revenue Service for reasonable administrative costs only if the prevailing party files an application with the Internal Revenue Service for such costs before the 91st day after the date on which the final decision of the Internal Revenue Service as to the determination of the tax, interest, or penalty is mailed to such party.".

(c) Period for Petitioning of Tax Court for Review of Denial of Costs.—Paragraph (2) of section 7430(f) (relating to right of appeal) is amended—

(1) by striking "appeal to" and inserting "the filing of a petition for review with", and

(2) by adding at the end the following new sentence: "If the Secretary sends by certified or registered mail a notice of such decision to the petitioner, no proceeding in the Tax Court may be initiated under this paragraph unless such petition is filed before the 91st day after the date of such mailing.".

(d) Effective Date.—The amendments made by this section shall apply to civil actions or proceedings commenced after the date of the enactment of this Act.

SEC. 1286. PENALTY FOR UNAUTHORIZED INSPECTION OF TAX RETURNS OR TAX RETURN INFORMATION.

(a) In General.—Part I of subchapter A of chapter 75 (relating to crimes, other offenses, and forfeitures) is amended by adding after section 7213 the following new section:

"SEC. 7213A. UNAUTHORIZED INSPECTION OF RETURNS OR RETURN INFORMATION.

"(a) Prohibitions.—

"(1) Federal employees and other persons.—It shall be unlawful for—

"(A) any officer or employee of the United States, or

"(B) any person described in section 6103(n) or an officer or employee of any such person,

willfully to inspect, except as authorized in this title, any return or return information.

"(2) State and other employees.—It shall be unlawful for any person (not described in paragraph (1)) willfully to inspect, except as authorized in this title, any return or return information acquired by such person or another person under a provision of section 6103 referred to in section 7213(a)(2).

"(b) Penalty.—

"(1) In general.—Any violation of subsection (a) shall be punishable upon conviction by a fine in any amount not exceeding $1,000, or imprisonment of not more than 1 year, or both, together with the costs of prosecution.

"(2) Federal officers or employees.—An officer or employee of the United States who is convicted of any violation of subsection (a) shall, in addition to any other punishment, be dismissed from office or discharged from employment.

"(c) Definitions.—For purposes of this section, the terms 'inspect', 'return', and 'return information' have the respective meanings given such terms by section 6103(b).".

(b) Technical Amendments.—

(1) Paragraph (2) of section 7213(a) is amended by inserting "(5)," after "(m)(2), (4),".

(2) The table of sections for part I of subchapter A of chapter 75 is amended by inserting after the item relating to section 7213 the following new item:

"Sec. 7213A. Unauthorized inspection of returns or return information.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to violations occurring on and after the date of the enactment of this Act.

SEC. 1287. CIVIL DAMAGES FOR UNAUTHORIZED INSPECTION OF RETURNS AND RETURN INFORMATION; NOTIFICATION OF UNLAWFUL INSPECTION OR DISCLOSURE.

(a) CIVIL DAMAGES FOR UNAUTHORIZED INSPECTION.—Subsection (a) of section 7431 is amended—

(1) by striking "DISCLOSURE" in the headings for paragraphs (1) and (2) and inserting "INSPECTION OR DISCLOSURE", and

(2) by striking "discloses" in paragraphs (1) and (2) and inserting "inspects or discloses".

(b) NOTIFICATION OF UNLAWFUL INSPECTION OR DISCLOSURE.—Section 7431 is amended by redesignating subsections (e) and (f) as subsections (f) and (g), respectively, and by inserting after subsection (d) the following new subsection:

"(e) NOTIFICATION OF UNLAWFUL INSPECTION AND DISCLOSURE.—If any person is criminally charged by indictment or information with inspection or disclosure of a taxpayer's return or return information in violation of—

"(1) paragraph (1) or (2) of section 7213(a),

"(2) section 7213A(a), or

"(3) subparagraph (B) of section 1030(a)(2) of title 18, United States Code,

the Secretary shall notify such taxpayer as soon as practicable of such inspection or disclosure.".

(c) NO DAMAGES FOR INSPECTION REQUESTED BY TAXPAYER.—Subsection (b) of section 7431 is amended to read as follows:

"(b) EXCEPTIONS.—No liability shall arise under this section with respect to any inspection or disclosure—

"(1) which results from a good faith, but erroneous, interpretation of section 6103, or

"(2) which is requested by the taxpayer.".

(d) CONFORMING AMENDMENTS.—

(1) Subsections (c)(1)(A), (c)(1)(B)(i), and (d) of section 7431 are each amended by inserting "inspection or" before "disclosure".

(2) Clause (ii) of section 7431(c)(1)(B) is amended by striking "willful disclosure or a disclosure" and inserting "willful inspection or disclosure or an inspection or disclosure".

(3) Subsection (f) of section 7431, as redesignated by subsection (b), is amended to read as follows:

"(f) DEFINITIONS.—For purposes of this section, the terms 'inspect', 'inspection', 'return', and 'return information' have the respective meanings given such terms by section 6103(b).".

(4) The section heading for section 7431 is amended by inserting "**INSPECTION OR**" before "**DISCLOSURE**".

(5) The table of sections for subchapter B of chapter 76 is amended by inserting "inspection or" before "disclosure" in the item relating to section 7431.

(6) Paragraph (2) of section 7431(g), as redesignated by subsection (b), is amended by striking "any use" and inserting "any inspection or use".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to inspections and disclosures occurring on and after the date of the enactment of this Act.

TITLE XIII—SIMPLIFICATION PROVISIONS RELATING TO ESTATE AND GIFT TAXES

SEC. 1301. GIFTS TO CHARITIES EXEMPT FROM GIFT TAX FILING REQUIREMENTS.

(a) IN GENERAL.—Section 6019 is amended by striking "or" at the end of paragraph (1), by adding "or" at the end of paragraph (2), and by inserting after paragraph (2) the following new paragraph:

"(3) a transfer with respect to which a deduction is allowed under section 2522, except that this paragraph shall apply with respect to a transfer of property (other than a transfer described in section 2522(d)) only if the entire value of such property is allowed as a deduction under section 2522,".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to gifts made after the date of the enactment of this Act.

SEC. 1302. CLARIFICATION OF WAIVER OF CERTAIN RIGHTS OF RECOVERY.

(a) AMENDMENT TO SECTION 2207A.—Paragraph (2) of section 2207A(a) (relating to right of recovery in the case of certain marital deduction property) is amended to read as follows:

"(2) DECEDENT MAY OTHERWISE DIRECT.—Paragraph (1) shall not apply with respect to any property to the extent that the decedent in his will (or a revocable trust) specifically indicates an intent to waive any right of recovery under this subchapter with respect to such property.".

(b) AMENDMENT TO SECTION 2207B.—Paragraph (2) of section 2207B(a) (relating to right of recovery where decedent retained interest) is amended to read as follows:

"(2) DECEDENT MAY OTHERWISE DIRECT.—Paragraph (1) shall not apply with respect to any property to the extent that the decedent in his will (or a revocable trust) specifically indicates an intent to waive any right of recovery under this subchapter with respect to such property.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to the estates of decedents dying after the date of the enactment of this Act.

SEC. 1303. TRANSITIONAL RULE UNDER SECTION 2056A.

(a) GENERAL RULE.—In the case of any trust created under an instrument executed before the date of the enactment of the Revenue Reconciliation Act of 1990, such trust shall be treated as meeting the requirements of paragraph (1) of section 2056A(a) of the Internal Revenue Code of 1986 if the trust instrument requires that all trustees of the trust be individual citizens of the United States or domestic corporations.

(b) EFFECTIVE DATE.—The provisions of subsection (a) shall take effect as if included in the provisions of section 11702(g) of the Revenue Reconciliation Act of 1990.

SEC. 1304. CLARIFICATIONS RELATING TO DISCLAIMERS.

(a) PARTIAL TRANSFER-TYPE DISCLAIMERS PERMITTED.—Paragraph (3) of section 2518(c) (relating to certain transfers treated as disclaimers) is amended by inserting "(or an undivided portion of such interest)" after "entire interest in the property".

(b) RETENTION OF INTEREST BY DECEDENT'S SPOUSE PERMITTED IN TRANSFER-TYPE DISCLAIMERS.—Paragraph (3) of section 2518(c) is amended by adding at the end the following new flush sentence:

"For purposes of the preceding sentence, a written transfer by the spouse of the decedent of property to a trust shall not fail to be treated as a transfer of such spouse's interest in such property by reason of such spouse having an interest in such trust.".

(c) DISCLAIMERS ARE EFFECTIVE FOR INCOME TAX PURPOSES.—Subsection (a) of section 2518 is amended by inserting "and subtitle A" after "this subtitle" each place it appears.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers creating an interest in the person disclaiming, and disclaimers, made after the date of the enactment of this Act.

SEC. 1305. INCREASE OF AMOUNT OF LAPSE OF GENERAL POWER OF APPOINTMENT NOT TREATED AS RELEASE FOR PURPOSES OF ESTATE AND GIFT TAX (5 OR 5 POWER).

(a) ESTATE TAX.—Subparagraph (A) of section 2041(b)(2) (relating to lapse of power) is amended by striking "$5,000" and inserting "$10,000".

(b) GIFT TAX.—Paragraph (1) of section 2514(e) (relating to lapse of power) is amended by striking "$5,000" and inserting "$10,000".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 1306. TREATMENT FOR ESTATE TAX PURPOSES OF SHORT-TERM OBLIGATIONS HELD BY NONRESIDENT ALIENS.

(a) IN GENERAL.—Subsection (b) of section 2105 is amended by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting ", and", and by inserting after paragraph (3) the following new paragraph:

"(4) obligations which would be original issue discount obligations as defined in section 871(g)(1) but for subparagraph (B)(i) thereof, if any interest thereon (were such interest received by the decedent at the time of his death) would not be effectively connected with the conduct of a trade or business within the United States.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to estates of decedents dying after the date of the enactment of this Act.

SEC. 1307. CERTAIN REVOCABLE TRUSTS TREATED AS PART OF ESTATE.

(a) IN GENERAL.—Subpart A of part I of subchapter J (relating to estates, trusts, beneficiaries, and decedents) is amended by adding at the end the following new section:

"SEC. 646. CERTAIN REVOCABLE TRUSTS TREATED AS PART OF ESTATE.

"(a) GENERAL RULE.—For purposes of this subtitle, if both the executor (if any) of an estate and the trustee of a qualified revocable trust elect the treatment provided in this section, such trust shall be treated and taxed as part of such estate (and not as a separate trust) for all taxable years of the estate ending after the date of the decedent's death and before the applicable date.

"(b) DEFINITIONS.—For purposes of subsection (a)—

"(1) QUALIFIED REVOCABLE TRUST.—The term 'qualified revocable trust' means any trust (or portion thereof) which was treated under section 676 as owned by the decedent of the estate referred to in subsection (a) by reason of a power in the grantor (determined without regard to section 672(e)).

"(2) APPLICABLE DATE.—The term 'applicable date' means—

"(A) if no return of tax imposed by chapter 11 is required to be filed, the date which is 2 years after the date of the decedent's death, and

"(B) if such a return is required to be filed, the date which is 6 months after the date of the final determination of the liability for tax imposed by chapter 11.

"(c) ELECTION.—The election under subsection (a) shall be made not later than the time prescribed for filing the return of tax imposed by this chapter for the first taxable year of the estate (determined with regard to extensions) and, once made, shall be irrevocable.".

(b) COMPARABLE TREATMENT UNDER GENERATION-SKIPPING TAX.—Paragraph (1) of section 2652(b) is amended by adding at the end the following new sentence: "Such term shall not include any trust during any period the trust is treated as part of an estate under section 646.".

(c) CLERICAL AMENDMENT.—The table of sections for such subpart A is amended by adding at the end the following new item:

"Sec. 646. Certain revocable trusts treated as part of estate.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to estates of decedents dying after the date of the enactment of this Act.

SEC. 1308. DISTRIBUTIONS DURING FIRST 65 DAYS OF TAXABLE YEAR OF ESTATE.

(a) IN GENERAL.—Subsection (b) of section 663 (relating to distributions in first 65 days of taxable year) is amended by inserting "an estate or" before "a trust" each place it appears.

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 663(b) is amended by striking "the fiduciary of such trust" and inserting "the executor of such estate or the fiduciary of such trust (as the case may be)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 1309. SEPARATE SHARE RULES AVAILABLE TO ESTATES.

(a) IN GENERAL.—Subsection (c) of section 663 (relating to separate shares treated as separate trusts) is amended—

(1) by inserting before the last sentence the following new sentence: "Rules similar to the rules of the preceding provisions of this subsection shall apply to treat substantially separate and independent shares of different beneficiaries in an estate having more than 1 beneficiary as separate estates.", and

(2) by inserting "or estates" after "trusts" in the last sentence.

(b) CONFORMING AMENDMENT.—The subsection heading of section 663(c) is amended by inserting "ESTATES OR" before "TRUSTS".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after the date of the enactment of this Act.

SEC. 1310. EXECUTOR OF ESTATE AND BENEFICIARIES TREATED AS RELATED PERSONS FOR DISALLOWANCE OF LOSSES, ETC.

(a) DISALLOWANCE OF LOSSES.—Subsection (b) of section 267 (relating to losses, expenses, and interest with respect to transactions between related taxpayers) is amended by striking "or" at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting "; or", and by adding at the end the following new paragraph:

"(13) Except in the case of a sale or exchange in satisfaction of a pecuniary bequest, an executor of an estate and a beneficiary of such estate.".

(b) ORDINARY INCOME FROM GAIN FROM SALE OF DEPRECIABLE PROPERTY.—Subsection (b) of section 1239 is amended by striking the period at the end of paragraph (2) and inserting ", and" and by adding at the end the following new paragraph:

"(3) except in the case of a sale or exchange in satisfaction of a pecuniary bequest, an executor of an estate and a beneficiary of such estate.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 1311. LIMITATION ON TAXABLE YEAR OF ESTATES.

(a) IN GENERAL.—Section 645 (relating to taxable year of trusts) is amended to read as follows:

"SEC. 645. TAXABLE YEAR OF ESTATES AND TRUSTS.

"(a) ESTATES.—For purposes of this subtitle, the taxable year of an estate shall be a year ending on October 31, November 30, or December 31.

"(b) TRUSTS.—

"(1) IN GENERAL.—For purposes of this subtitle, the taxable year of any trust shall be the calendar year.

"(2) EXCEPTION FOR TRUSTS EXEMPT FROM TAX AND CHARITABLE TRUSTS.—Paragraph (1) shall not apply to a trust exempt from taxation under section 501(a) or to a trust described in section 4947(a)(1).".

(b) CLERICAL AMENDMENT.—The table of sections for subpart A of part I of subchapter J of chapter 1 is amended by striking the item relating to section 645 and inserting the following new item:

"Sec. 645. Taxable year of estates and trusts.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after the date of the enactment of this Act.

SEC. 1312. TREATMENT OF FUNERAL TRUSTS.

(a) IN GENERAL.—Subpart F of part I of subchapter J of chapter 1 is amended by adding at the end the following new section:

"SEC. 684. TREATMENT OF FUNERAL TRUSTS.

"(a) IN GENERAL.—In the case of a qualified funeral trust—

"(1) subparts B, C, D, and E shall not apply, and

"(2) no deduction shall be allowed by section 642(b).

"(b) QUALIFIED FUNERAL TRUST.—For purposes of this subsection, the term 'qualified funeral trust' means any trust (other than a foreign trust) if—

"(1) the trust arises as a result of a contract with a person engaged in the trade or business of providing funeral or burial services or property necessary to provide such services,

"(2) the sole purpose of the trust is to hold, invest, and reinvest funds in the trust and to use such funds solely to make payments for such services or property for the benefit of the beneficiaries of the trust,

"(3) the only beneficiaries of such trust are individuals who have entered into contracts described in paragraph (1) to have such services or property provided at their death,

"(4) the only contributions to the trust are contributions by or for the benefit of such beneficiaries,

"(5) the trustee elects the application of this subsection, and

"(6) the trust would (but for the election described in paragraph (5)) be treated as owned by the beneficiaries under subpart E.

"(c) DOLLAR LIMITATION ON CONTRIBUTIONS.—

"(1) IN GENERAL.—The term 'qualified funeral trust' shall not include any trust which accepts aggregate contributions by or for the benefit of an individual in excess of $7,000.

"(2) RELATED TRUSTS.—For purposes of paragraph (1), all trusts having trustees which are related persons shall be treated as 1 trust. For purposes of the preceding sentence, persons are related if—

"(A) the relationship between such persons is described in section 267 or 707(b),

"(B) such persons are treated as a single employer under subsection (a) or (b) of section 52, or

"(C) the Secretary determines that treating such persons as related is necessary to prevent avoidance of the purposes of this section.

"(3) INFLATION ADJUSTMENT.—In the case of any contract referred to in subsection (b)(1) which is entered into during any calendar year after 1998, the dollar amount referred to paragraph (1) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, by substituting 'calendar year 1997' for 'calendar year 1992' in subparagraph (B) thereof.

If any dollar amount after being increased under the preceding sentence is not a multiple of $100, such dollar amount shall be rounded to the nearest multiple of $100.

"(d) APPLICATION OF RATE SCHEDULE.—Section 1(e) shall be applied to each qualified funeral trust by treating each beneficiary's interest in each such trust as a separate trust.

"(e) TREATMENT OF AMOUNTS REFUNDED TO BENEFICIARY ON CANCELLATION.—No gain or loss shall be recognized to a beneficiary described in subsection (b)(3) of any qualified funeral trust by reason of any payment from such trust to such beneficiary by reason of cancellation of a contract referred to in subsection (b)(1). If any payment referred to in the preceding sentence consists of property other than money, the basis of such property in the hands of such beneficiary shall be the same as the trust's basis in such property immediately before the payment.

"(f) SIMPLIFIED REPORTING.—The Secretary may prescribe rules for simplified reporting of all trusts having a single trustee.".

(b) CLERICAL AMENDMENT.—The table of sections for subpart F of part I of subchapter J of chapter 1 is amended by adding at the end the following new item:

"Sec. 684. Treatment of funeral trusts.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 1313. ADJUSTMENTS FOR GIFTS WITHIN 3 YEARS OF DECEDENT'S DEATH.

(a) GENERAL RULE.—Section 2035 is amended to read as follows:

"SEC. 2035. ADJUSTMENTS FOR CERTAIN GIFTS MADE WITHIN 3 YEARS OF DECEDENT'S DEATH.

"(a) INCLUSION OF CERTAIN PROPERTY IN GROSS ESTATE.—If—

"(1) the decedent made a transfer (by trust or otherwise) of an interest in any property, or relinquished a power with respect to any property, during the 3-year period ending on the date of the decedent's death, and

"(2) the value of such property (or an interest therein) would have been included in the decedent's gross estate under section 2036, 2037, 2038, or 2042 if such transferred interest or relinquished power had been retained by the decedent on the date of his death,

the value of the gross estate shall include the value of any property (or interest therein) which would have been so included.

"(b) INCLUSION OF GIFT TAX ON GIFTS MADE DURING 3 YEARS BEFORE DECEDENT'S DEATH.—The amount of the gross estate (determined without regard to this subsection) shall be increased by the amount of any tax paid under chapter 12 by the decedent or his estate on any gift made by the decedent or his spouse during the 3-year period ending on the date of the decedent's death.

"(c) Other Rules Relating to Transfers Within 3 Years of Death.—

"(1) In general.—For purposes of—

"(A) section 303(b) (relating to distributions in redemption of stock to pay death taxes),

"(B) section 2032A (relating to special valuation of certain farms, etc., real property), and

"(C) subchapter C of chapter 64 (relating to lien for taxes),

the value of the gross estate shall include the value of all property to the extent of any interest therein of which the decedent has at any time made a transfer, by trust or otherwise, during the 3-year period ending on the date of the decedent's death.

"(2) Coordination with section 6166.—An estate shall be treated as meeting the 35 percent of adjusted gross estate requirement of section 6166(a)(1) only if the estate meets such requirement both with and without the application of paragraph (1).

"(3) Marital and small transfers.—Paragraph (1) shall not apply to any transfer (other than a transfer with respect to a life insurance policy) made during a calendar year to any donee if the decedent was not required by section 6019 (other than by reason of section 6019(2)) to file any gift tax return for such year with respect to transfers to such donee.

"(d) Exception.—Subsection (a) shall not apply to any bona fide sale for an adequate and full consideration in money or money's worth.

"(e) Treatment of Certain Transfers From Revocable Trusts.—For purposes of this section and section 2038, any transfer from any portion of a trust during any period that such portion was treated under section 676 as owned by the decedent by reason of a power in the grantor (determined without regard to section 672(e)) shall be treated as a transfer made directly by the decedent.".

(b) Clerical Amendment.—The table of sections for part III of subchapter A of chapter 11 is amended by striking "gifts" in the item relating to section 2035 and inserting "certain gifts".

(c) Effective Date.—The amendments made by this section shall apply to the estates of decedents dying after the date of the enactment of this Act.

SEC. 1314. CLARIFICATION OF TREATMENT OF SURVIVOR ANNUITIES UNDER QUALIFIED TERMINABLE INTEREST RULES.

(a) In General.—Subparagraph (C) of section 2056(b)(7) is amended by inserting "(or, in the case of an interest in an annuity arising under the community property laws of a State, included in the gross estate of the decedent under section 2033)" after "section 2039".

(b) Effective Date.—The amendment made by this section shall apply to estates of decedents dying after the date of the enactment of this Act.

SEC. 1315. TREATMENT UNDER QUALIFIED DOMESTIC TRUST RULES OF FORMS OF OWNERSHIP WHICH ARE NOT TRUSTS.

(a) In General.—Subsection (c) of section 2056A (defining qualified domestic trust) is amended by adding at the end the following new paragraph:

"(3) Trust.—To the extent provided in regulations prescribed by the Secretary, the term 'trust' includes other arrangements which have substantially the same effect as a trust.".

(b) Effective Date.—The amendment made by this section shall apply to estates of decedents dying after the date of the enactment of this Act.

SEC. 1316. OPPORTUNITY TO CORRECT CERTAIN FAILURES UNDER SECTION 2032A.

(a) General Rule.—Paragraph (3) of section 2032A(d) (relating to modification of election and agreement to be permitted) is amended to read as follows:

"(3) Modification of election and agreement to be permitted.—The Secretary shall prescribe procedures which provide that in any case in which the executor makes an election under paragraph (1) (and submits the agreement referred to in paragraph (2)) within the time prescribed therefor, but—

"(A) the notice of election, as filed, does not contain all required information, or

"(B) signatures of 1 or more persons required to enter into the agreement described in paragraph (2) are not included on the agreement as filed, or the agreement does not contain all required information,

the executor will have a reasonable period of time (not exceeding 90 days) after notification of such failures to provide such information or signatures.".

(b) Effective Date.—The amendment made by subsection (a) shall apply to the estates of decedents dying after the date of the enactment of this Act.

SEC. 1317. AUTHORITY TO WAIVE REQUIREMENT OF UNITED STATES TRUSTEE FOR QUALIFIED DOMESTIC TRUSTS.

(a) In General.—Subparagraph (A) of section 2056A(a)(1) is amended by inserting "except as provided in regulations prescribed by the Secretary," before "requires".

(b) Effective Date.—The amendment made by this section shall apply to estates of decedents dying after the date of the enactment of this Act.

TITLE XIV—SIMPLIFICATION PROVISIONS RELATING TO EXCISE TAXES, TAX-EXEMPT BONDS, AND OTHER MATTERS

Subtitle A—Excise Tax Simplification

PART I—EXCISE TAXES ON HEAVY TRUCKS AND LUXURY CARS

SEC. 1401. INCREASE IN DE MINIMIS LIMIT FOR AFTER-MARKET ALTERATIONS FOR HEAVY TRUCKS AND LUXURY CARS.

(a) In General.—Sections 4003(a)(3)(C) and 4051(b)(2)(B) (relating to exceptions) are each amended by striking "$200" and inserting "$1,000".

(b) Effective Date.—The amendments made by subsection (a) shall apply to installations on vehicles sold after the date of the enactment of this Act.

SEC. 1402. CREDIT FOR TIRE TAX IN LIEU OF EXCLUSION OF VALUE OF TIRES IN COMPUTING PRICE.

(a) In General.—Subsection (e) of section 4051 is amended to read as follows:

"(e) Credit Against Tax for Tire Tax.—If—

"(1) tires are sold on or in connection with the sale of any article, and

"(2) tax is imposed by this subchapter on the sale of such tires,

there shall be allowed as a credit against the tax imposed by this subchapter an amount equal to the tax (if any) imposed by section 4071 on such tires.".

(b) Conforming Amendment.—Subparagraph (B) of section 4052(b)(1) is amended by striking clause (iii), by adding "and" at the end of clause (ii), and by redesignating clause (iv) as clause (iii).

(c) Effective Date.—The amendments made by this section shall take effect on January 1, 1998.

PART II—PROVISIONS RELATED TO DISTILLED SPIRITS, WINES, AND BEER

SEC. 1411. CREDIT OR REFUND FOR IMPORTED BOTTLED DISTILLED SPIRITS RETURNED TO DISTILLED SPIRITS PLANT.

(a) In General.—Section 5008(c)(1) (relating to distilled spirits returned to bonded premises) is amended by striking "withdrawn from bonded premises on payment or determination of tax" and inserting "on which tax has been determined or paid".

(b) Effective Date.—The amendment made by subsection (a) shall take effect on the 1st day of the 1st calendar quarter that begins at least 90 days after the date of the enactment of this Act.

SEC. 1412. AUTHORITY TO CANCEL OR CREDIT EXPORT BONDS WITHOUT SUBMISSION OF RECORDS.

(a) In General.—Section 5175(c) (relating to cancellation of credit of export bonds) is amended by striking "on the submission of" and all that follows and inserting "if there is such proof of exportation as the Secretary may by regulations require.".

(b) Effective Date.—The amendment made by subsection (a) shall take effect on the 1st day of the 1st calendar quarter that begins at least 90 days after the date of the enactment of this Act.

SEC. 1413. REPEAL OF REQUIRED MAINTENANCE OF RECORDS ON PREMISES OF DISTILLED SPIRITS PLANT.

(a) In General.—Section 5207(c) (relating to preservation and inspection) is amended by striking "shall be kept on the premises where the operations covered by the record are carried on and".

(b) Effective Date.—The amendment made by subsection (a) shall take effect on the 1st day of the 1st calendar quarter that begins at least 90 days after the date of the enactment of this Act.

SEC. 1414. FERMENTED MATERIAL FROM ANY BREWERY MAY BE RECEIVED AT A DISTILLED SPIRITS PLANT.

(a) In General.—Section 5222(b)(2) (relating to receipt) is amended to read as follows:

"(2) beer conveyed without payment of tax from brewery premises, beer which has been lawfully removed from brewery premises upon determination of tax, or".

(b) Clarification of Authority To Permit Removal of Beer Without Payment of Tax for Use as Distilling Material.—Section 5053 (relating to exemptions) is amended by redesignating subsection (f) as subsection (i) and by inserting after subsection (e) the following new subsection:

"(f) Removal for Use as Distilling Material.—Subject to such regulations as the Secretary may prescribe, beer may be removed from a brewery without payment of tax to any distilled spirits plant for use as distilling material.".

(c) Clarification of Refund and Credit of Tax.—Section 5056 (relating to refund and credit of tax, or relief from liability) is amended—

(1) by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) Beer Received at a Distilled Spirits Plant.—Any tax paid by any brewer on beer produced in the United States may be refunded or credited to the brewer, without interest, or if the tax has not been paid, the brewer may be relieved of liability therefor, under regulations as the Secretary may prescribe, if such beer is received on the bonded premises of a distilled spirits plant pursuant to the provisions of section 5222(b)(2), for use in the production of distilled spirits.”, and

(2) by striking “or rendering unmerchantable” in subsection (d) (as so redesignated) and inserting “rendering unmerchantable, or receipt on the bonded premises of a distilled spirits plant”.

(d) Effective Date.—The amendments made by this section shall take effect on the 1st day of the 1st calendar quarter that begins at least 90 days after the date of the enactment of this Act.

SEC. 1415. REPEAL OF REQUIREMENT FOR WHOLESALE DEALERS IN LIQUORS TO POST SIGN.

(a) In General.—Section 5115 (relating to sign required on premises) is hereby repealed.

(b) Conforming Amendments.—

(1) Section 5681(a) is amended by striking “, and every wholesale dealer in liquors,” and by striking “section 5115(a) or”.

(2) Section 5681(c) is amended—

(A) by striking “or wholesale liquor establishment, on which no sign required by section 5115(a) or” and inserting “on which no sign required by”, and

(B) by striking “or wholesale liquor establishment, or who” and inserting “or who”.

(3) The table of sections for subpart D of part II of subchapter A of chapter 51 is amended by striking the item relating to section 5115.

(c) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 1416. REFUND OF TAX TO WINE RETURNED TO BOND NOT LIMITED TO UNMERCHANTABLE WINE.

(a) In General.—Section 5044(a) (relating to refund of tax on unmerchantable wine) is amended by striking “as unmerchantable”.

(b) Conforming Amendments.—

(1) Section 5361 is amended by striking “unmerchantable”.

(2) The section heading for section 5044 is amended by striking “UNMERCHANTABLE”.

(3) The item relating to section 5044 in the table of sections for subpart C of part I of subchapter A of chapter 51 is amended by striking “unmerchantable”.

(c) Effective Date.—The amendments made by this section shall take effect on the 1st day of the 1st calendar quarter that begins at least 90 days after the date of the enactment of this Act.

SEC. 1417. USE OF ADDITIONAL AMELIORATING MATERIAL IN CERTAIN WINES.

(a) In General.—Section 5384(b)(2)(D) (relating to ameliorated fruit and berry wines) is amended by striking “loganberries, currants, or gooseberries,” and inserting “any fruit or berry with a natural fixed acid of 20 parts per thousand or more (before any correction of such fruit or berry)”.

(b) Effective Date.—The amendment made by this section shall take effect on the 1st day of the 1st calendar quarter that begins at least 90 days after the date of the enactment of this Act.

SEC. 1418. DOMESTICALLY PRODUCED BEER MAY BE WITHDRAWN FREE OF TAX FOR USE OF FOREIGN EMBASSIES, LEGATIONS, ETC.

(a) In General.—Section 5053 (relating to exemptions), as amended by section 1414(b), is amended by inserting after subsection (f) the following new subsection:

“(g) Removals for Use of Foreign Embassies, Legations, Etc.—

“(1) In general.—Subject to such regulations as the Secretary may prescribe—

“(A) beer may be withdrawn from the brewery without payment of tax for transfer to any customs bonded warehouse for entry pending withdrawal therefrom as provided in subparagraph (B), and

“(B) beer entered into any customs bonded warehouse under subparagraph (A) may be withdrawn for consumption in the United States by, and for the official and family use of, such foreign governments, organizations, and individuals as are entitled to withdraw imported beer from such warehouses free of tax.

Beer transferred to any customs bonded warehouse under subparagraph (A) shall be entered, stored, and accounted for in such warehouse under such regulations and bonds as the Secretary may prescribe, and may be withdrawn therefrom by such governments, organizations, and individuals free of tax under the same conditions and procedures as imported beer.

“(2) Other rules to apply.—Rules similar to the rules of paragraphs (2) and (3) of section 5362(e) shall apply for purposes of this subsection.”.

(b) Effective Date.—The amendment made by subsection (a) shall take effect on the 1st day of the 1st calendar quarter that begins at least 90 days after the date of the enactment of this Act.

SEC. 1419. BEER MAY BE WITHDRAWN FREE OF TAX FOR DESTRUCTION.

(a) In General.—Section 5053 (relating to exemptions), as amended by section 1418(a), is amended by inserting after subsection (g) the following new subsection:

“(h) Removals for Destruction.—Subject to such regulations as the Secretary may prescribe, beer may be removed from the brewery without payment of tax for destruction.”.

(b) Effective Date.—The amendment made by subsection (a) shall take effect on the 1st day of the 1st calendar quarter that begins at least 90 days after the date of the enactment of this Act.

SEC. 1420. AUTHORITY TO ALLOW DRAWBACK ON EXPORTED BEER WITHOUT SUBMISSION OF RECORDS.

(a) In General.—The first sentence of section 5055 (relating to drawback of tax on beer) is amended by striking “found to have been paid” and all that follows and inserting “paid on such beer if there is such proof of exportation as the Secretary may by regulations require.”.

(b) Effective Date.—The amendment made by subsection (a) shall take effect on the 1st day of the 1st calendar quarter that begins at least 90 days after the date of the enactment of this Act.

SEC. 1421. TRANSFER TO BREWERY OF BEER IMPORTED IN BULK WITHOUT PAYMENT OF TAX.

(a) In General.—Part II of subchapter G of chapter 51 is amended by adding at the end the following new section:

“SEC. 5418. BEER IMPORTED IN BULK.

“Beer imported or brought into the United States in bulk containers may, under such regulations as the Secretary may prescribe, be withdrawn from customs custody and transferred in such bulk containers to the premises of a brewery without payment of the internal revenue tax imposed on such beer. The proprietor of a brewery to which such beer is transferred shall become liable for the tax on the beer withdrawn from customs custody under this section upon release of the beer from customs custody, and the importer, or the person bringing such beer into the United States, shall thereupon be relieved of the liability for such tax.”.

(b) Clerical Amendment.—The table of sections for such part II is amended by adding at the end the following new item:

“Sec. 5418. Beer imported in bulk.”.

(c) Effective Date.—The amendments made by this section shall take effect on the 1st day of the 1st calendar quarter that begins at least 90 days after the date of the enactment of this Act.

SEC. 1422. TRANSFER TO BONDED WINE CELLARS OF WINE IMPORTED IN BULK WITHOUT PAYMENT OF TAX.

(a) In General.—Part II of subchapter F of chapter 51 is amended by inserting after section 5363 the following new section:

“SEC. 5364. WINE IMPORTED IN BULK.

“Wine imported or brought into the United States in bulk containers may, under such regulations as the Secretary may prescribe, be withdrawn from customs custody and transferred in such bulk containers to the premises of a bonded wine cellar without payment of the internal revenue tax imposed on such wine. The proprietor of a bonded wine cellar to which such wine is transferred shall become liable for the tax on the wine withdrawn from customs custody under this section upon release of the wine from customs custody, and the importer, or the person bringing such wine into the United States, shall thereupon be relieved of the liability for such tax.”.

(b) Clerical Amendment.—The table of sections for such part II is amended by inserting after the item relating to section 5363 the following new item:

“Sec. 5364. Wine imported in bulk.”.

(c) Effective Date.—The amendments made by this section shall take effect on the 1st day of the 1st calendar quarter that begins at least 90 days after the date of the enactment of this Act.

PART III—OTHER EXCISE TAX PROVISIONS

SEC. 1431. AUTHORITY TO GRANT EXEMPTIONS FROM REGISTRATION REQUIREMENTS.

(a) In General.—Section 4222(b)(2) (relating to export) is amended—

(1) by striking “in the case of any sale or resale for export,”, and

(2) by striking “Export” and inserting “Under regulations”.

(b) Effective Date.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 1432. REPEAL OF EXPIRED PROVISIONS.

(a) Piggy-Back Trailers.—Section 4051 (relating to imposition of tax on heavy trucks and trailers sold at retail) is amended by striking subsection (d) and by redesignating subsection (e) as subsection (d).

(b) Deep Seabed Mining.—

(1) In general.—Subchapter F of chapter 36 (relating to tax on removal of hard mineral resources from deep seabed) is hereby repealed.

(2) Conforming amendment.—The table of subchapters for chapter 36 is amended by striking the item relating to subchapter F.

(c) Ozone-Depleting Chemicals.—

(1) Paragraph (1) of section 4681(b) is amended by striking subparagraphs (B) and (C) and inserting the following new subparagraph:

“(B) Base tax amount.—The base tax amount for purposes of subparagraph (A) with respect to any sale or use during any calendar year after 1995 shall be $5.35 increased by 45 cents for each year after 1995.”.

(2) Subsection (g) of section 4682 is amended to read as follows:

"(g) CHEMICALS USED AS PROPELLANTS IN METERED-DOSE INHALERS.—

"(1) EXEMPTION FROM TAX.—

"(A) IN GENERAL.—No tax shall be imposed by section 4681 on—

"(i) any use of any substance as a propellant in metered-dose inhalers, or

"(ii) any qualified sale by the manufacturer, producer, or importer of any substance.

"(B) QUALIFIED SALE.—For purposes of subparagraph (A), the term 'qualified sale' means any sale by the manufacturer, producer, or importer of any substance—

"(i) for use by the purchaser as a propellant in metered dose inhalers, or

"(ii) for resale by the purchaser to a 2d purchaser for such use by the 2d purchaser.

The preceding sentence shall apply only if the manufacturer, producer, and importer, and the 1st and 2d purchasers (if any) meet such registration requirements as may be prescribed by the Secretary.

"(2) OVERPAYMENTS.—If any substance on which tax was paid under this subchapter is used by any person as a propellant in metered-dose inhalers, credit or refund without interest shall be allowed to such person in an amount equal to the tax so paid. Amounts payable under the preceding sentence with respect to uses during the taxable year shall be treated as described in section 34(a) for such year unless claim thereof has been timely filed under this paragraph.".

Subtitle B—Tax-Exempt Bond Provisions

SEC. 1441. REPEAL OF $100,000 LIMITATION ON UNSPENT PROCEEDS UNDER 1-YEAR EXCEPTION FROM REBATE.

Subclause (I) of section 148(f)(4)(B)(ii) (relating to additional period for certain bonds) is amended by striking "the lesser of 5 percent of the proceeds of the issue or $100,000" and inserting "5 percent of the proceeds of the issue".

SEC. 1442. EXCEPTION FROM REBATE FOR EARNINGS ON BONA FIDE DEBT SERVICE FUND UNDER CONSTRUCTION BOND RULES.

Subparagraph (C) of section 148(f)(4) is amended by adding at the end the following new clause:

"(xvii) TREATMENT OF BONA FIDE DEBT SERVICE FUNDS.—If the spending requirements of clause (ii) are met with respect to the available construction proceeds of a construction issue, then paragraph (2) shall not apply to earnings on a bona fide debt service fund for such issue.".

SEC. 1443. REPEAL OF DEBT SERVICE-BASED LIMITATION ON INVESTMENT IN CERTAIN NONPURPOSE INVESTMENTS.

Subsection (d) of section 148 (relating to special rules for reasonably required reserve or replacement fund) is amended by striking paragraph (3).

SEC. 1444. REPEAL OF EXPIRED PROVISIONS.

(a) Paragraph (2) of section 148(c) is amended by striking subparagraph (B) and by redesignating subparagraphs (C), (D), and (E) as subparagraphs (B), (C), and (D), respectively.

(b) Paragraph (4) of section 148(f) is amended by striking subparagraph (E).

SEC. 1445. EFFECTIVE DATE.

The amendments made by this subtitle shall apply to bonds issued after the date of the enactment of this Act.

Subtitle C—Tax Court Procedures

SEC. 1451. OVERPAYMENT DETERMINATIONS OF TAX COURT.

(a) APPEAL OF ORDER.—Paragraph (2) of section 6512(b) (relating to jurisdiction to enforce) is amended by adding at the end the following new sentence: "An order of the Tax Court disposing of a motion under this paragraph shall be reviewable in the same manner as a decision of the Tax Court, but only with respect to the matters determined in such order.".

(b) DENIAL OF JURISDICTION REGARDING CERTAIN CREDITS AND REDUCTIONS.—Subsection (b) of section 6512 (relating to overpayment determined by Tax Court) is amended by adding at the end the following new paragraph:

"(4) DENIAL OF JURISDICTION REGARDING CERTAIN CREDITS AND REDUCTIONS.—The Tax Court shall have no jurisdiction under this subsection to restrain or review any credit or reduction made by the Secretary under section 6402.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 1452. REDETERMINATION OF INTEREST PURSUANT TO MOTION.

(a) IN GENERAL.—Subsection (c) of section 7481 (relating to jurisdiction over interest determinations) is amended to read as follows:

"(c) JURISDICTION OVER INTEREST DETERMINATIONS.—

"(1) IN GENERAL.—Notwithstanding subsection (a), if, within 1 year after the date the decision of the Tax Court becomes final under subsection (a) in a case to which this subsection applies, the taxpayer files a motion in the Tax Court for a redetermination of the amount of interest involved, then the Tax Court may reopen the case solely to determine whether the taxpayer has made an overpayment of such interest or the Secretary has made an underpayment of such interest and the amount thereof.

"(2) CASES TO WHICH THIS SUBSECTION APPLIES.—This subsection shall apply where—

"(A)(i) an assessment has been made by the Secretary under section 6215 which includes interest as imposed by this title, and

"(ii) the taxpayer has paid the entire amount of the deficiency plus interest claimed by the Secretary, and

"(B) the Tax Court finds under section 6512(b) that the taxpayer has made an overpayment.

"(3) SPECIAL RULES.—If the Tax Court determines under this subsection that the taxpayer has made an overpayment of interest or that the Secretary has made an underpayment of interest, then that determination shall be treated under section 6512(b)(1) as a determination of an overpayment of tax. An order of the Tax Court redetermining interest, when entered upon the records of the court, shall be reviewable in the same manner as a decision of the Tax Court.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 1453. APPLICATION OF NET WORTH REQUIREMENT FOR AWARDS OF LITIGATION COSTS.

(a) IN GENERAL.—Paragraph (4) of section 7430(c) (defining prevailing party) is amended by adding at the end thereof the following new subparagraph:

"(D) SPECIAL RULES FOR APPLYING NET WORTH REQUIREMENT.—In applying the requirements of section 2412(d)(2)(B) of title 28, United States Code, for purposes of subparagraph (A)(iii) of this paragraph—

"(i) the net worth limitation in clause (i) of such section shall apply to—

"(I) an estate but shall be determined as of the date of the decedent's death, and

"(II) a trust but shall be determined as of the last day of the taxable year involved in the proceeding, and

"(ii) individuals filing a joint return shall be treated as 1 individual for purposes of clause (i) of such section, except in the case of a spouse relieved of liability under section 6013(e).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to proceedings commenced after the date of the enactment of this Act.

SEC. 1454. PROCEEDINGS FOR DETERMINATION OF EMPLOYMENT STATUS.

(a) IN GENERAL.—Subchapter B of chapter 76 (relating to proceedings by taxpayers and third parties) is amended by redesignating section 7435 as section 7436 and by inserting after section 7434 the following new section:

"SEC. 7435. PROCEEDINGS FOR DETERMINATION OF EMPLOYMENT STATUS.

"(a) CREATION OF REMEDY.—If, in connection with an audit of any person, there is an actual controversy involving a determination by the Secretary as part of an examination that—

"(1) one or more individuals performing services for such person are employees of such person for purposes of subtitle C, or

"(2) such person is not entitled to the treatment under subsection (a) of section 530 of the Revenue Act of 1978 with respect to such an individual,

upon the filing of an appropriate pleading, the Tax Court may determine whether such a determination by the Secretary is correct. Any such determination by the Tax Court shall have the force and effect of a decision of the Tax Court and shall be reviewable as such.

"(b) LIMITATIONS.—

"(1) PETITIONER.—A pleading may be filed under this section only by the person for whom the services are performed.

"(2) TIME FOR FILING ACTION.—If the Secretary sends by certified or registered mail notice to the petitioner of a determination by the Secretary described in subsection (a), no proceeding may be initiated under this section with respect to such determination unless the pleading is filed before the 91st day after the date of such mailing.

"(3) NO ADVERSE INFERENCE FROM TREATMENT WHILE ACTION IS PENDING.—If, during the pendency of any proceeding brought under this section, the petitioner changes his treatment for employment tax purposes of any individual whose employment status as an employee is involved in such proceeding (or of any individual holding a substantially similar position) to treatment as an employee, such change shall not be taken into account in the Tax Court's determination under this section.

"(c) SMALL CASE PROCEDURES.—

"(1) IN GENERAL.—At the option of the petitioner, concurred in by the Tax Court or a division thereof before the hearing of the case, proceedings under this section may (notwithstanding the provisions of section 7453) be conducted subject to the rules of evidence, practice, and procedure applicable under section 7463 if the amount of employment taxes placed in dispute is $10,000 or less for each calendar quarter involved.

"(2) FINALITY OF DECISIONS.—A decision entered in any proceeding conducted under this subsection shall not be reviewed in any other court and shall not be treated as a precedent for any other case not involving the same petitioner and the same determinations.

"(3) CERTAIN RULES TO APPLY.—Rules similar to the rules of the last sentence of subsection (a), and subsections (c), (d), and (e), of section 7463 shall apply to proceedings conducted under this subsection.

"(d) SPECIAL RULES.—

"(1) Restrictions on assessment and collection pending action, etc.—The principles of subsections (a), (b), and (d) of section 6213, section 6214(a), section 6503(a), and section 6512 shall apply to proceedings brought under this section in the same manner as if the Secretary's determination described in subsection (a) were a notice of deficiency.

"(2) Awarding of costs and certain fees.—Section 7430 shall apply to proceedings brought under this section.

"(e) Employment Tax.—The term 'employment tax' means any tax imposed by subtitle C.".

(b) Conforming Amendments.—

(1) Subsection (d) of section 6511 is amended by adding at the end the following new paragraph:

"(7) Special period of limitation with respect to self-employment tax in certain cases.—If—

"(A) the claim for credit or refund relates to an overpayment of the tax imposed by chapter 2 (relating to the tax on self-employment income) attributable to Tax Court determination in a proceeding under section 7435, and

"(B) the allowance of a credit or refund of such overpayment is otherwise prevented by the operation of any law or rule of law other than section 7122 (relating to compromises),

such credit or refund may be allowed or made if claim therefor is filed on or before the last day of the second year after the calendar year in which such determination becomes final.".

(2) Sections 7453 and 7481(b) are each amended by striking "section 7463" and inserting "section 7435(c) or 7463".

(3) The table of sections for subchapter B of chapter 76 is amended by striking the last item and inserting the following:

"Sec. 7435. Proceedings for determination of employment status.

"Sec. 7436. Cross references.".

(c) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

Subtitle D—Other Provisions

SEC. 1461. EXTENSION OF DUE DATE OF FIRST QUARTER ESTIMATED TAX PAYMENT BY PRIVATE FOUNDATIONS.

(a) In General.—Paragraph (3) of section 6655(g) is amended by adding at the end the following new sentence: "In the case of a private foundation, subsection (c)(2) shall be applied by substituting 'May 15' for 'April 15'.".

(b) Effective Date.—The amendment made by subsection (a) shall apply for purposes of determining underpayments of estimated tax for taxable years beginning after the date of the enactment of this Act.

SEC. 1462. CLARIFICATION OF AUTHORITY TO WITHHOLD PUERTO RICO INCOME TAXES FROM SALARIES OF FEDERAL EMPLOYEES.

(a) In General.—Subsection (c) of section 5517 of title 5, United States Code, is amended by striking "or territory or possession" and inserting ", territory, possession, or commonwealth".

(b) Effective Date.—The amendment made by subsection (a) shall take effect on January 1, 1998.

SEC. 1463. CERTAIN NOTICES DISREGARDED UNDER PROVISION INCREASING INTEREST RATE ON LARGE CORPORATE UNDERPAYMENTS.

(a) General Rule.—Subparagraph (B) of section 6621(c)(2) (defining applicable date) is amended by adding at the end the following new clause:

"(iii) Exception for letters or notices involving small amounts.—For purposes of this paragraph, any letter or notice shall be disregarded if the amount of the deficiency or proposed deficiency (or the assessment or proposed assessment) set forth in such letter or notice is not greater than $100,000 (determined by not taking into account any interest, penalties, or additions to tax).".

(b) Effective Date.—The amendment made by subsection (a) shall apply for purposes of determining interest for periods after December 31, 1997.

TITLE XV—TECHNICAL AMENDMENTS RELATED TO SMALL BUSINESS JOB PROTECTION ACT OF 1996 AND OTHER LEGISLATION

SEC. 1501. AMENDMENTS RELATED TO SMALL BUSINESS JOB PROTECTION ACT OF 1996.

(a) Amendments Related to Subtitle A.—

(1) Amendment related to section 1116.—Paragraph (1) of section 6050R(c) is amended by striking "name and address" and inserting "name, address, and phone number of the information contact".

(2) Amendment to section 1116.—Paragraphs (1) and (2)(C) of section 1116(b) of the Small Business Job Protection Act of 1996 shall each be applied as if the reference to chapter 68 were a reference to chapter 61.

(b) Amendment Related to Subtitle B.—Subsection (c) of section 52 is amended by striking "targeted jobs credit" and inserting "work opportunity credit".

(c) Amendments Related to Subtitle C.—

(1) Amendment related to section 1302.—Subparagraph (B) of section 1361(e)(1) is amended by striking "and" at the end of clause (i), striking the period at the end of clause (ii) and inserting ", and", and adding at the end the following new clause:

"(iii) any charitable remainder annuity trust or charitable remainder unitrust (as defined in section 664(d)).".

(2) Effective date for section 1307.—

(A) Notwithstanding section 1317 of the Small Business Job Protection Act of 1996, the amendments made by subsections (a) and (b) of section 1307 of such Act shall apply to determinations made after December 31, 1996.

(B) In no event shall the 120-day period referred to in section 1377(b)(1)(B) of the Internal Revenue Code of 1986 (as added by such section 1307) expire before the end of the 120-day period beginning on the date of the enactment of this Act.

(3) Amendment related to section 1308.—Subparagraph (A) of section 1361(b)(3) is amended by striking "For purposes of this title" and inserting "Except as provided in regulations prescribed by the Secretary, for purposes of this title".

(4) Amendments related to section 1316.—

(A) Paragraph (2) of section 512(e) is amended by striking "within the meaning of section 1012" and inserting "as defined in section 1361(e)(1)(C)".

(B) Paragraph (7) of section 1361(c) is redesignated as paragraph (6).

(C) Subparagraph (B) of section 1361(b)(1) is amended by striking "subsection (c)(7)" and inserting "subsection (c)(6)".

(D) Paragraph (1) of section 512(e) is amended by striking "section 1361(c)(7)" and inserting "section 1361(e)(6)".

(d) Amendments Related to Subtitle D.—

(1) Amendments related to section 1421.—

(A) Subsection (i) of section 408 is amended in the last sentence by striking "30 days" and inserting "31 days".

(B) Subparagraph (H) of section 408(k)(6) is amended by striking "if the terms of such pension" and inserting "of an employer if the terms of simplified employee pensions of such employer".

(C)(i) Subparagraph (B) of section 408(l)(2) is amended—

(I) by inserting "and the issuer of an annuity established under such an arrangement" after "under subsection (p)", and

(II) in clause (i), by inserting "or issuer" after "trustee".

(ii) Paragraph (2) of section 6693(c) is amended—

(I) by inserting "or issuer" after "trustee", and

(II) in the heading, by inserting "and issuer" after "trustee".

(D) Subsection (p) of section 408 is amended by adding at the end the following new paragraph:

"(8) Coordination with maximum limitation under subsection (a).—In the case of any simple retirement account, subsections (a)(1) and (b)(2) shall be applied by substituting 'the sum of the dollar amount in effect under paragraph (2)(A)(ii) of this subsection and the employer contribution required under subparagraph (A)(iii) or (B)(i) of paragraph (2) of this subsection, whichever is applicable' for '$2,000'.".

(E) Clause (i) of section 408(p)(2)(D) is amended by adding at the end the following new sentence: "If only individuals other than employees described in subparagraph (A) or (B) of section 410(b)(3) are eligible to participate in such arrangement, then the preceding sentence shall be applied without regard to any qualified plan in which only employees so described are eligible to participate.".

(F) Subparagraph (D) of section 408(p)(2) is amended by adding at the end the following new clause:

"(iii) Grace period.—In the case of an employer who establishes and maintains a plan under this subsection for 1 or more years and who fails to meet the requirements of this subparagraph for any subsequent year due to any acquisition, disposition, or similar transaction involving another such employer, rules similar to the rules of section 410(b)(6)(C) shall apply for purposes of this subparagraph.".

(G) Paragraph (5) of section 408(p) is amended in the text preceding subparagraph (A) by striking "simplified" and inserting "simple".

(2) Amendments related to section 1422.—

(A) Clause (ii) of section 401(k)(11)(D) is amended by striking the period and inserting "if such plan allows only contributions required under this paragraph.".

(B) Paragraph (11) of section 401(k) is amended by adding at the end the following new subparagraph:

"(E) Cost-of-living adjustment.—The Secretary shall adjust the $6,000 amount under subparagraph (B)(i)(I) at the same time and in the same manner as under section 408(p)(2)(E).".

(C) Subparagraph (A) of section 404(a)(3) is amended—

(i) in clause (i), by striking "not in excess of" and all that follows and inserting the following: "not in excess of the greater of—

"(I) 15 percent of the compensation otherwise paid or accrued during the taxable year to the beneficiaries under the stock bonus or profit-sharing plan, or

"(II) the amount such employer is required to contribute to such trust under section 401(k)(11) for such year.", and

(ii) in clause (ii), by striking "15 percent" and all that follows and inserting the following "the amount described in subclause (I) or (II) of clause (i), whichever is greater, with respect to such taxable year.".

(D) Subparagraph (B) of section 401(k)(11) is amended by adding at the end the following new clause:

"(iii) ADMINISTRATIVE REQUIREMENTS.—

"(I) IN GENERAL.—Rules similar to the rules of subparagraphs (B) and (C) of section 408(p)(5) shall apply for purposes of this subparagraph.

"(II) NOTICE OF ELECTION PERIOD.—The requirements of this subparagraph shall not be treated as met with respect to any year unless the employer notifies each employee eligible to participate, within a reasonable period of time before the 60th day before the beginning of such year (and, for the first year the employee is so eligible, the 60th day before the first day such employee is so eligible), of the rules similar to the rules of section 408(p)(5)(C) which apply by reason of subclause (I).".

(3) AMENDMENT RELATED TO SECTION 1433.—The heading of paragraph (11) of section 401(m) is amended by striking "ALTERNATIVE" and inserting "ADDITIONAL ALTERNATIVE".

(4) AMENDMENT RELATED TO SECTION 1462.—The paragraph (7) of section 414(q) added by section 1462 of the Small Business Job Protection Act of 1996 is redesignated as paragraph (9).

(5) CLARIFICATION OF SECTION 1450.—

(A) Section 403(b)(11) of the Internal Revenue Code of 1986 shall not apply with respect to a distribution from a contract described in section 1450(b)(1) of such Act to the extent that such distribution is not includible in income by reason of section 403(b)(8) of such Code (determined after the application of section 1450(b)(2) of such Act).

(B) This paragraph shall apply as if included in section 1450 of the Small Business Job Protection Act of 1996.

(e) AMENDMENT RELATED TO SUBTITLE E.—Subparagraph (A) of section 956(b)(1) is amended by inserting "to the extent such amount was accumulated in prior taxable years" after "section 316(a)(1)".

(f) AMENDMENTS RELATED TO SUBTITLE F.—

(1) AMENDMENTS RELATED TO SECTION 1601.—

(A) The heading of section 30A is amended to read as follows:

"SEC. 30A. PUERTO RICO ECONOMIC ACTIVITY CREDIT.".

(B) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended in the item relating to section 30A by striking "Puerto Rican" and inserting "Puerto Rico".

(C) Paragraph (1) of section 55(c) is amended by striking "Puerto Rican" and inserting "Puerto Rico".

(2) AMENDMENTS RELATED TO SECTION 1606.—

(A) Clause (ii) of section 9503(c)(2)(A) is amended by striking "(or with respect to qualified diesel-powered highway vehicles purchased before January 1, 1999)".

(B) Subparagraph (A) of section 9503(e)(5) is amended by striking "; except that" and all that follows and inserting a period.

(3) AMENDMENTS RELATED TO SECTION 1607.—

(A) Subsection (f) of section 4001 (relating to phasedown of tax on luxury passenger automobiles) is amended—

(i) by inserting "and section 4003(a)" after "subsection (a)", and

(ii) by inserting ", each place it appears," before "the percentage".

(B) Subsection (g) of section 4001 (relating to termination) is amended by striking "tax imposed by this section" and inserting "taxes imposed by this section and section 4003" and by striking "or use" and inserting ", use, or installation".

(4) AMENDMENTS RELATED TO SECTION 1609.—

(A) Subsection (l) of section 4041 is amended—

(i) by inserting "or a fixed-wing aircraft" after "helicopter", and

(ii) in the heading, by striking "HELICOPTER".

(B) The last sentence of section 4041(a)(2) is amended by striking "section 4081(a)(2)(A)" and inserting "section 4081(a)(2)(A)(i)".

(C) Subsection (b) of section 4092 is amended by striking "section 4041(c)(4)" and inserting "section 4041(c)(2)".

(D) Subsection (g) of section 4261 (as redesignated by title X) is amended by inserting "on that flight" after "dedicated".

(E) Paragraph (1) of section 1609(h) of such Act is amended by striking "paragraph (3)(A)(i)" and inserting "paragraph (3)(A)".

(F) Paragraph (4) of section 1609(h) of such Act is amended by inserting before the period "or exclusively for the use described in section 4092(b) of such Code".

(5) AMENDMENTS RELATED TO SECTION 1616.—

(A) Subparagraph (A) of section 593(e)(1) is amended by inserting "(and, in the case of an S corporation, the accumulated adjustments account, as defined in section 1368(e)(1))" after "1951,".

(B) Paragraph (7) of section 1374(d) is amended by adding at the end the following new sentence: "For purposes of applying this section to any amount includible in income by reason of section 593(e), the preceding sentence shall be applied without regard to the phrase '10-year'.".

(6) AMENDMENTS RELATED TO SECTION 1621.—

(A) Subparagraph (A) of section 860L(b)(1) is amended in the text preceding clause (i) by striking "after the startup date" and inserting "on or after the startup date".

(B) Paragraph (2) of section 860L(d) is amended by striking "section 860I(c)(2)" and inserting "section 860I(b)(2)".

(C) Subparagraph (B) of section 860L(e)(2) is amended by inserting "other than foreclosure property" after "any permitted asset".

(D) Subparagraph (A) of section 860L(e)(3) is amended by striking "if the FASIT" and all that follows and inserting the following new flush text after clause (ii):

"if the FASIT were treated as a REMIC and permitted assets (other than cash or cash equivalents) were treated as qualified mortgages.".

(E)(i) Paragraph (3) of section 860L(e) is amended by adding at the end the following new subparagraph:

"(D) INCOME FROM DISPOSITIONS OF FORMER HEDGE ASSETS.—Paragraph (2)(A) shall not apply to income derived from the disposition of—

"(i) an asset which was described in subsection (c)(1)(D) when first acquired by the FASIT but on the date of such disposition was no longer described in subsection (c)(1)(D)(ii), or

"(ii) a contract right to acquire an asset described in clause (i).".

(ii) Subparagraph (A) of section 860L(e)(2) is amended by inserting "except as provided in paragraph (3)," before "the receipt".

(g) AMENDMENTS RELATED TO SUBTITLE G.—

(1) EXTENSION OF PERIOD FOR CLAIMING REFUNDS FOR ALCOHOL FUELS.—Notwithstanding section 6427(i)(3)(C) of the Internal Revenue Code of 1986, a claim filed under section 6427(f) of such Code for any period after September 30, 1995, and before October 1, 1996, shall be treated as timely filed if filed before the 60th day after the date of the enactment of this Act.

(2) AMENDMENTS TO SECTIONS 1703 AND 1704.—Sections 1703(n)(8) and 1704(j)(4)(B) of the Small Business Job Protection Act of 1996 shall each be applied as if such sections referred to section 1702 instead of section 1602.

(h) AMENDMENTS RELATED TO SUBTITLE H.—

(1) AMENDMENTS RELATED TO SECTION 1806.—

(A) Subparagraph (B) of section 529(e)(1) is amended by striking "subsection (c)(2)(C)" and inserting "subsection (c)(3)(C)".

(B) Subparagraph (C) of section 529(e)(1) is amended by inserting "(or agency or instrumentality thereof)" after "local government".

(C) Paragraph (2) of section 1806(c) of the Small Business Job Protection Act of 1996 is amended by striking so much of the first sentence as follows subparagraph (B)(ii) and inserting the following:

"then such program (as in effect on August 20, 1996) shall be treated as a qualified State tuition program with respect to contributions (and earnings allocable thereto) pursuant to contracts entered into under such program before the first date on which such program meets such requirements (determined without regard to this paragraph) and the provisions of such program (as so in effect) shall apply in lieu of section 529(b) of the Internal Revenue Code of 1986 with respect to such contributions and earnings.".

(2) AMENDMENTS RELATED TO SECTION 1807.—

(A) Paragraph (2) of section 23(a) is amended to read as follows:

"(2) YEAR CREDIT ALLOWED.—The credit under paragraph (1) with respect to any expense shall be allowed—

"(A) in the case of any expense paid or incurred before the taxable year in which such adoption becomes final, for the taxable year following the taxable year during which such expense is paid or incurred, and

"(B) in the case of an expense paid or incurred during or after the taxable year in which such adoption becomes final, for the taxable year in which such expense is paid or incurred.".

(B) Subparagraph (B) of section 23(b)(2) is amended by striking "determined—" and all that follows and inserting the following: "determined without regard to sections 911, 931, and 933.".

(C) Paragraph (1) of section 137(b) (relating to adoption assistance programs) is amended by striking "amount excludable from gross income" and inserting "of the amounts paid or expenses incurred which may be taken into account".

(D)(i) Subparagraph (C) of section 414(n)(3) is amended by inserting "137," after "132,".

(ii) Paragraph (2) of section 414(t) is amended by inserting "137," after "132,".

(iii) Paragraph (1) of section 6039D(d) is amended by striking "or 129" and inserting "129, or 137".

(i) AMENDMENTS RELATED TO SUBTITLE I.—

(1) AMENDMENT RELATED TO SECTION 1901.—Subsection (b) of section 6048 is amended in the heading by striking "GRANTOR" and inserting "OWNER".

(2) AMENDMENTS RELATED TO SECTION 1903.—Clauses (ii) and (iii) of section 679(a)(3)(C) are each amended by inserting ", owner," after "grantor".

(3) AMENDMENTS RELATED TO SECTION 1907.—

(A) Clause (ii) of section 7701(a)(30)(E) is amended by striking "fiduciaries" and inserting "persons".

(B) Subsection (b) of section 641 is amended by adding at the end the following new sentence: "For purposes of this subsection, a foreign trust or foreign estate shall be treated as a nonresident alien individual who is not present in the United States at any time.".

(4) Effective Date Related to Subtitle I.—The Secretary of the Treasury may by regulations or other administrative guidance provide that the amendments made by section 1907(a) of the Small Business Job Protection Act of 1996 shall not apply to a trust with respect to a reasonable period beginning on the date of the enactment of such Act, if—

(A) such trust is in existence on August 20, 1996, and is a United States person for purposes of the Internal Revenue Code of 1986 on such date (determined without regard to such amendments),

(B) no election is in effect under section 1907(a)(3)(B) of such Act with respect to such trust,

(C) before the expiration of such reasonable period, such trust makes the modifications necessary to be treated as a United States person for purposes of such Code (determined with regard to such amendments), and

(D) such trust meets such other conditions as the Secretary may require.

(j) Effective Date.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall take effect as if included in the provisions of the Small Business Job Protection Act of 1996 to which they relate.

(2) Certain administrative requirements with respect to certain pension plans.—The amendment made by subsection (d)(2)(D) shall apply to calendar years beginning after the date of the enactment of this Act.

SEC. 1502. AMENDMENTS RELATED TO HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996.

(a) Amendments Related to Section 301.—

(1) Paragraph (2) of section 26(b) is amended by striking "and" at the end of subparagraph (N), by striking the period at the end of subparagraph (O) and inserting ", and", and by adding at the end the following new subparagraph:

"(P) section 220(f)(4) (relating to additional tax on medical savings account distributions not used for qualified medical expenses).".

(2) Paragraph (3) of section 220(c) is amended by striking subparagraph (A) and redesignating subparagraphs (B) through (D) as subparagraphs (A) through (C), respectively.

(3) Subparagraph (C) of section 220(d)(2) is amended by striking "an eligible individual" and inserting "described in clauses (i) and (ii) of subsection (c)(1)(A)".

(4) Subsection (a) of section 6693 is amended by adding at the end the following new sentence:

"This subsection shall not apply to any report which is an information return described in section 6724(d)(1)(C)(i) or a payee statement described in section 6724(d)(2)(X).".

(5) Paragraph (4) of section 4975(d) is amended by striking "if, with respect to such transaction" and all that follows and inserting the following: "if section 220(e)(2) applies to such transaction.".

(b) Amendment Related to Section 321.—Subparagraph (B) of section 7702B(c)(2) is amended in the last sentence by inserting "described in subparagraph (A)(i)" after "chronically ill individual".

(c) Amendment Related to Section 322.—Subparagraph (B) of section 162(l)(2) is amended by adding at the end the following new sentence: "The preceding sentence shall be applied separately with respect to—

"(i) plans which include coverage for qualified long-term care services (as defined in section 7702B(c)) or are qualified long-term care insurance contracts (as defined in section 7702B(b)), and

"(ii) plans which do not include such coverage and are not such contracts.".

(d) Amendments Related to Section 323.—

(1) Paragraph (1) of section 6050Q(b) is amended by inserting ", address, and phone number of the information contact" after "name".

(2)(A) Paragraph (2) of section 6724(d) is amended by striking so much as follows subparagraph (Q) and precedes the last sentence, and inserting the following new subparagraphs:

"(R) section 6050R(c) (relating to returns relating to certain purchases of fish),

"(S) section 6051 (relating to receipts for employees),

"(T) section 6052(b) (relating to returns regarding payment of wages in the form of group-term life insurance),

"(U) section 6053(b) or (c) (relating to reports of tips),

"(V) section 6048(b)(1)(B) (relating to foreign trust reporting requirements),

"(W) section 4093(c)(4)(B) (relating to certain purchasers of diesel and aviation fuels),

"(X) section 408(i) (relating to reports with respect to individual retirement plans) to any person other than the Secretary with respect to the amount of payments made to such person, or

"(Y) section 6047(d) (relating to reports by plan administrators) to any person other than the Secretary with respect to the amount of payments made to such person.".

(B) Subsection (e) of section 6652 is amended in the last sentence by striking "section 6724(d)(2)(X)" and inserting "section 6724(d)(2)(Y)".

(e) Amendment Related to Section 325.—Clauses (ii) and (iii) of section 7702B(g)(4)(B) are each amended by striking "Secretary" and inserting "appropriate State regulatory agency".

(f) Amendments Related to Section 501.—

(1) Paragraph (4) of section 264(a) is amended by striking subparagraph (A) and all that follows through "by the taxpayer." and inserting the following:

"(A) is or was an officer or employee, or

"(B) is or was financially interested in,

any trade or business carried on (currently or formerly) by the taxpayer.".

(2) The last 2 sentences of section 264(d)(2)(B)(ii) are amended to read as follows:

"For purposes of subclause (II), the term 'applicable period' means the 12-month period beginning on the date the policy is issued (and each successive 12-month period thereafter) unless the taxpayer elects a number of months (not greater than 12) other than such 12-month period to be its applicable period. Such an election shall be made not later than the 90th day after the date of the enactment of this sentence and, if made, shall apply to the taxpayer's first taxable year ending on or after October 13, 1995, and all subsequent taxable years unless revoked with the consent of the Secretary.".

(3) Subparagraph (B) of section 264(d)(4) is amended by striking "the employer" and inserting "the taxpayer".

(4) Subsection (c) of section 501 of the Health Insurance Portability and Accountability Act of 1996 is amended by striking paragraph (3).

(5) Paragraph (2) of section 501(d) of such Act is amended by striking "no additional premiums" and all that follows and inserting the following: "a lapse occurring by reason of no additional premiums being received under the contract after October 13, 1995.".

(g) Amendments Related to Section 511.—

(1) Subparagraph (B) of section 877(d)(2) is amended by striking "the 10-year period described in subsection (a)" and inserting "the 10-year period beginning on the date the individual loses United States citizenship".

(2) Subparagraph (D) of section 877(d)(2) is amended by adding at the end the following new sentence: "In the case of any exchange occurring during such 5 years, any gain recognized under this subparagraph shall be recognized immediately after such loss of citizenship.".

(3) Paragraph (3) of section 877(d) is amended by inserting "and the period applicable under paragraph (2)" after "subsection (a)".

(4) Subparagraph (A) of section 877(d)(4) is amended—

(A) by inserting "during the 10-year period beginning on the date the individual loses United States citizenship" after "contributes property" in clause (i),

(B) by inserting "immediately before such contribution" after "from such property", and

(C) by striking "during the 10-year period referred to in subsection (a),".

(5) Subparagraph (C) of section 2501(a)(3) is amended by striking "decedent" and inserting "donor".

(6)(A) Clause (i) of section 2107(c)(2)(A) is amended by striking "such foreign country in respect of property included in the gross estate" and inserting "such foreign country".

(B) Subparagraph (C) of section 2107(c)(2) is amended to read as follows:

"(C) Proportionate share.—In the case of property which is included in the gross estate solely by reason of subsection (b), such property's proportionate share is the percentage which the value of such property bears to the total value of all property included in the gross estate solely by reason of subsection (b).".

(h) Amendments Related to Section 512.—

(1) Subpart A of part III of subchapter A of chapter 61 is amended by redesignating the section 6039F added by section 512 of the Health Insurance Portability and Accountability Act of 1996 as section 6039G and by moving such section 6039G to immediately after the section 6039F added by section 1905 of the Small Business Job Protection Act of 1996.

(2) The table of sections for subpart A of part III of subchapter A of chapter 61 is amended by striking the item relating to the section 6039F related to information on individuals losing United States citizenship and inserting after the item relating to the section 6039F related to notice of large gifts received from foreign persons the following new item:

"Sec. 6039G. Information on individuals losing United States citizenship.".

(3) Paragraph (1) of section 877(e) is amended by striking "6039F" and inserting "6039G".

(i) Effective Date.—The amendments made by this section shall take effect as if included in the provisions of the Health Insurance Portability and Accountability Act of 1996 to which such amendments relate.

SEC. 1503. AMENDMENTS RELATED TO TAXPAYER BILL OF RIGHTS 2.

(a) Amendment Related to Section 1311.—Subsection (b) of section 4962 is amended by striking "subchapter A or C" and inserting "subchapter A, C, or D".

(b) Amendments Related to Section 1312.—

(1)(A) Paragraph (10) of section 6033(b) is amended by striking all that precedes subparagraph (A) and inserting the following:

"(10) the respective amounts (if any) of the taxes imposed on the organization, or any organization manager of the organization, during the taxable year under any of the following provisions (and the respective amounts (if any) of reimbursements paid by the organization during the taxable year with respect to taxes imposed on any such organization manager under any of such provisions):".

(B) Subparagraph (C) of section 6033(b)(10) is amended by adding at the end the following: "except to the extent that, by reason of section 4962, the taxes imposed under such section are not required to be paid or are credited or refunded,".

(2) Paragraph (11) of section 6033(b) is amended to read as follows:

"(11) the respective amounts (if any) of—

"(A) the taxes imposed with respect to the organization on any organization manager, or any disqualified person, during the taxable year under section 4958 (relating to taxes on private excess benefit from certain charitable organizations), and

"(B) reimbursements paid by the organization during the taxable year with respect to taxes imposed under such section,

except to the extent that, by reason of section 4962, the taxes imposed under such section are not required to be paid or are credited or refunded,".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of the Taxpayer Bill of Rights 2 to which such amendments relate.

SEC. 1504. MISCELLANEOUS PROVISIONS.

(a) AMENDMENTS RELATED TO ENERGY POLICY ACT OF 1992.—

(1) Paragraph (1) of section 263(a) is amended by striking "or" at the end of subparagraph (F), by striking the period at the end of subparagraph (G) and inserting "; or", and by adding at the end the following new subparagraph:

"(H) expenditures for which a deduction is allowed under section 179A.".

(2) Subparagraph (B) of section 312(k)(3) is amended—

(A) by striking "179" in the heading and the first place it appears in the text and inserting "179 or 179A", and

(B) by striking "179" the last place it appears and inserting "179 or 179A, as the case may be".

(3) Paragraphs (2)(C) and (3)(C) of section 1245(a) are each amended by inserting "179A," after "179,".

(4) The amendments made by this subsection shall take effect as if included in the amendments made by section 1913 of the Energy Policy Act of 1992.

(b) AMENDMENTS RELATED TC URUGUAY ROUND AGREEMENTS ACT.—

(1) Paragraph (1) of section 6621(a) is amended in the last sentence by striking "subsection (c)(3))" and inserting "subsection (c)(3), applied by substituting 'overpayment' for 'underpayment')".

(2) Subclause (II) of section 412(m)(5)(E)(ii) is amended by striking "clause (i)" and inserting "subclause (I)".

(3) Subparagraph (A) of section 767(d)(3) of the Uruguay Round Agreements Act is amended in the last sentence by striking "(except that" and all that follows through "into account)".

(4) The amendments made by this subsection shall take effect as if included in the sections of the Uruguay Round Agreements Act to which they relate.

(c) AMENDMENT RELATED TO OMNIBUS BUDGET RECONCILIATION ACT OF 1993.—

(1) Paragraph (6) of section 168(j) (defining Indian reservation) is amended by adding at the end the following new flush sentence:

"For purposes of the preceding sentence, such section 3(d) shall be applied by treating the term 'former Indian reservations in Oklahoma' as including only lands which are within the jurisdictional area of an Oklahoma Indian tribe (as determined by the Secretary of the Interior) and are recognized by such Secretary as eligible for trust land status under 25 CFR Part 151 (as in effect on the date of the enactment of this sentence).".

(2) The amendment made by paragraph (1) shall apply as if included in the amendments made by section 13321 of the Omnibus Budget Reconciliation Act of 1993, except that such amendment shall not apply—

(A) with respect to property (with an applicable recovery period under section 168(j) of the Internal Revenue Code of 1986 of 6 years or less) held by the taxpayer if the taxpayer claimed the benefits of section 168(j) of such Code with respect to such property on a return filed before March 18, 1997, but only if such return is the first return of tax filed for the taxable year in which such property was placed in service, or

(B) with respect to wages for which the taxpayer claimed the benefits of section 45A of such Code for a taxable year on a return filed before March 18, 1997, but only if such return was the first return of tax filed for such taxable year.

(d) AMENDMENT RELATED TO TAX REFORM ACT OF 1986.—Paragraph (3) of section 1059(d) is amended by striking "subsection (a)(2)" and inserting "subsection (a)".

(e) AMENDMENT RELATED TO TAX REFORM ACT OF 1984.—

(1) Section 267(f) is amended by adding at the end the following new paragraph:

"(4) DETERMINATION OF RELATIONSHIP RESULTING IN DISALLOWANCE OF LOSS, FOR PURPOSES OF OTHER PROVISIONS.—For purposes of any other section of this title which refers to a relationship which would result in a disallowance of losses under this section, deferral under paragraph (2) shall be treated as disallowance.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in section 174(b) of the Tax Reform Act of 1984.

(f) CLERICAL AMENDMENTS.—

(1) Clause (iii) of section 163(j)(2)(B) is amended by striking "clause (i)" and inserting "clause (ii)".

(2) Paragraph (1) of section 665(d) is amended in the last sentence by striking "or 669(d) and (e)".

(3) Subsection (g) of section 1441 (relating to cross reference) is amended by striking "one-half" and inserting "85 percent".

(4) Paragraph (1) of section 2523(g) is amended by striking "qualified remainder trust" and inserting "qualified charitable remainder trust".

(5) Subsection (d) of section 9502 is amended by redesignating the paragraph added by section 806 of the Federal Aviation Reauthorization Act of 1996 as paragraph (6).

The CHAIRMAN pro tempore. No other amendment is in order except the further amendment numbered 1 in the CONGRESSIONAL RECORD. That amendment may be offered only by the gentleman from New York [Mr. RANGEL] or his designee, shall be considered as read, shall be debatable for 1 hour, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for a division of the question.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. RANGEL

Mr. RANGEL. Mr. Chairman, I offer an amendment in the nature of a substitute No. 1, pursuant to the rule.

The CHAIRMAN pro tempore. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute No. 1 offered by Mr. RANGEL:

Strike all after enacting clause, and insert the following:

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Revenue Reconciliation Act of 1997".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

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SEC. 2. MODIFICATIONS OF CERTAIN REQUIREMENTS.

(a) MODIFICATION OF DEPOSIT OF AIRLINE TICKET TAX REVENUES.—Deposits of taxes imposed by section 4261 of the Internal Revenue Code of 1986 which (but for this subsection) would be required to be made on or after July 1, 2001, and before October 1, 2001, shall be made on October 10, 2001.

(b) MODIFICATION OF ESTIMATED TAX PROVISIONS.—Subparagraph (C) of section 6654(d)(1) of the Internal Revenue Code of 1986 shall not apply in determining the amount of any required installment for a taxable year beginning in calendar year 2001.

TITLE I—TAX INCENTIVES FOR HIGHER EDUCATION

SEC. 101. HOPE SCHOLARSHIP CREDITS.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 23 the following new section:

"SEC. 24. HOPE SCHOLARSHIP CREDITS.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year the amount equal to the sum of—

"(1) the 100-Percent Hope Scholarship Credit, and

"(2) the 20-Percent Hope Scholarship Credit.

"(b) AMOUNT OF CREDITS.—For purposes of this section—

"(1) HOPE CREDIT.—

"(A) IN GENERAL.—The 100-Percent Hope Scholarship Credit is the amount of the qualified higher education expenses paid by the taxpayer during the taxable year for education furnished to an individual during any academic period beginning in such taxable year, but only if this paragraph applies to such individual for such taxable year.

"(B) DOLLAR LIMITATION.—The amount of the 100-Percent Hope Scholarship Credit determined under this paragraph with respect to any individual shall not exceed—

"(i) $1,100 for taxable years beginning in 1997, 1998, or 1999,

"(ii) $1,200 for taxable years beginning in 2000, or

"(iii) $1,500 for taxable years beginning in 2001 or thereafter.

"(C) 100-PERCENT HOPE SCHOLARSHIP CREDIT ALLOWED FOR ONLY 2 TAXABLE YEARS.—This paragraph shall apply for a taxable year with respect to the qualified higher education expenses of an individual only if the taxpayer elects to have this section apply with respect to such individual for such year. An election under this subparagraph shall not take effect with respect to an individual for any taxable year if an election under this subparagraph (by the taxpayer or any other individual) is in effect with respect to such individual for any 2 prior taxable years.

"(D) 100-PERCENT HOPE SCHOLARSHIP CREDIT ALLOWED ONLY FOR FIRST 2 YEARS OF POSTSECONDARY EDUCATION.—This paragraph shall not apply for a taxable year with respect to the qualified higher education expenses of an individual if the individual has completed (before the beginning of such taxable year) the first 2 years of postsecondary education at an institution of higher education.

"(2) 20-PERCENT HOPE SCHOLARSHIP CREDIT.—

"(A) IN GENERAL.—The 20-Percent Hope Scholarship Credit is 20 percent of the qualified higher education expenses paid by the taxpayer during the taxable year for education furnished to an individual during any academic period beginning in such taxable year. Education expenses with respect to an individual for whom a Hope credit is determined for the taxable year shall not be taken into account under this paragraph.

"(B) DOLLAR LIMITATION.—The amount of qualified higher education expenses taken into account under subparagraph (A) for any taxable year shall not exceed—

"(i) $4,000 for taxable years beginning in 1997, 1998, or 1999,

"(ii) $5,000 for taxable years beginning in 2000,

"(iii) $7,500 for taxable years beginning in 2001, or

"(iv) $10,000 for taxable years beginning in 2002 or thereafter.

"(3) CREDIT ALLOWED FOR YEAR ONLY IF INDIVIDUAL IS AT LEAST ½ TIME STUDENT FOR PORTION OF YEAR.—No credit shall be allowed under subsection (a) for a taxable year with respect to the qualified higher education expenses of an individual unless such individual is an eligible student for at least one academic period which begins during such year.

"(c) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

"(1) IN GENERAL.—The amount which would (but for this section) be allowed as a credit under subsection (a) for the taxable year shall be reduced (but not below zero) by the amount determined under paragraph (2).

"(2) AMOUNT OF REDUCTION.—The amount determined under this paragraph is the amount which bears the same ratio to the credit which would be so allowed as—

"(A) the excess of—

"(i) the taxpayer's modified adjusted gross income for such taxable year, over

"(ii) $50,000 ($80,000 in the case of a joint return), bears to

"(B) $20,000.

"(3) MODIFIED ADJUSTED GROSS INCOME.—The term 'modified adjusted gross income' means the adjusted gross income of the taxpayer for the taxable year increased by any amount excluded from gross income under section 911, 931, or 933.

"(d) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED HIGHER EDUCATION EXPENSES.—

"(A) IN GENERAL.—The term 'qualified higher education expenses' means tuition and fees required for the enrollment or attendance of—

"(i) the taxpayer,

"(ii) the taxpayer's spouse, or

"(iii) any dependent of the taxpayer with respect to whom the taxpayer is allowed a deduction under section 151,

at an institution of higher education.

"(B) EXCEPTION FOR EDUCATION INVOLVING SPORTS, ETC.—Such term does not include expenses with respect to any course or other education involving sports, games, or hobbies, unless such course or other education is part of the individual's degree program.

"(C) EXCEPTION FOR NONACADEMIC FEES.—Such term does not include student activity fees, athletic fees, insurance expenses, or other expenses unrelated to an individual's academic course of instruction.

"(2) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' means an institution—

"(A) which is described in section 481 of the Higher Education Act of 1965 (20 U.S.C. 1088), as in effect on the date of the enactment of this section, and

"(B) which is eligible to participate in a program under title IV of such Act.

"(3) ELIGIBLE STUDENT.—The term 'eligible student' means, with respect to any academic period, a student who—

"(A) meets the requirements of section 484(a)(1) of the Higher Education Act of 1965 (20 U.S.C. 1091(a)(1)), as in effect on the date of the enactment of this section, and

"(B) is carrying at least ½ the normal full-time work load for the course of study the student is pursuing.

"(e) TREATMENT OF EXPENSES PAID BY DEPENDENT.—If a deduction under section 151 with respect to an individual is allowed to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins—

"(1) no credit shall be allowed under subsection (a) to such individual for such individual's taxable year, and

"(2) qualified higher education expenses paid by such individual during such individual's taxable year shall be treated for purposes of this section as paid by such other taxpayer.

"(f) TREATMENT OF CERTAIN PREPAYMENTS.—If qualified higher education expenses are paid by the taxpayer during a taxable year for an academic period which begins during the first 3 months following such taxable year, such academic period shall be treated for purposes of this section as beginning during such taxable year.

"(g) SPECIAL RULES.—

"(1) DENIAL OF CREDIT IF INDIVIDUAL CONVICTED OF DRUG OFFENSE.—No credit shall be allowed under subsection (a) with respect to the qualified higher education expenses of an individual for any taxable year if the individual has been convicted before the end of such year of a Federal or State felony offense consisting of the possession or distribution of a controlled substance.

"(2) DENIAL OF CREDIT IF INDIVIDUAL FAILS TO MAKE SATISFACTORY ACADEMIC PROGRESS.—If—

"(A) if a credit is allowable under this section with respect to the qualified higher education expenses of an individual for any taxable year, and

"(B) such individual failed to make satisfactory academic progress described in section 484(c) of the Higher Education Act of 1965 during such year,

no credit shall be allowed under subsection (a) with respect to qualified higher education expenses of such individual for a succeeding taxable year.

"(3) NO DOUBLE BENEFIT.—No credit shall be allowed under subsection (a) for any taxable year for any expense for which a deduction is allowed under any other provision of this chapter.

"(4) IDENTIFICATION REQUIREMENT.—No credit shall be allowed under subsection (a) to a taxpayer with respect to the qualified higher education expenses of an individual unless the taxpayer includes the name and taxpayer identification number of such individual on the return of tax for the taxable year.

"(5) ADJUSTMENT FOR CERTAIN SCHOLARSHIPS.—The amount of qualified higher education expenses otherwise taken into account under subsection (b) with respect to an individual for an academic period shall be reduced (before the application of any dollar limitation under this section) by the sum of—

"(A) any amounts paid for the benefit of such individual which are allocable to such period as—

"(i) a qualified scholarship which is excludable from gross income under section 117,

"(ii) an educational assistance allowance under chapter 30, 31, 32, 34, or 35 of title 38, United States Code, or under chapter 1606 of title 10, United States Code,

"(iii) a payment which is excludable from gross income under section 127, or

"(iv) a payment (other than a gift, bequest, devise, or inheritance within the meaning of section 102(a)) for such individual's educational expenses, or attributable to such individual's enrollment at an institution of higher education, which is excludable from gross income under any law of the United States, and

"(B) the amount excludable from gross income under section 135 which is allocable to such expenses with respect to such individual for such period.

"(6) NO CREDIT FOR MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—If the taxpayer is a married individual (within the meaning of section 7703), this section shall apply only if the taxpayer and the taxpayer's spouse file a joint return for the taxable year.

"(7) NONRESIDENT ALIENS.—If the taxpayer is a nonresident alien individual for any portion of the taxable year, this section shall apply only if such individual is treated as a resident alien of the United States for purposes of this chapter by reason of an election under subsection (g) or (h) of section 6013.

"(h) INFLATION ADJUSTMENTS.—

"(1) DOLLAR LIMITATION ON AMOUNT OF CREDIT.—

"(A) IN GENERAL.—In the case of a taxable year beginning after 2001, each applicable dollar amount contained in subsection (b) shall be increased by an amount equal to—

"(i) such dollar amount, multiplied by

"(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 2000' for 'calendar year 1992' in subparagraph (B) thereof.

"(B) ROUNDING.—If any amount as adjusted under subparagraph (A) is not a multiple of $50, such amount shall be rounded to the next lowest multiple of $50.

"(2) INCOME LIMITS.—

"(A) IN GENERAL.—In the case of a taxable year beginning after 2000, the $50,000 and $80,000 amounts in subsection (c)(2) shall each be increased by an amount equal to—

"(i) such dollar amount, multiplied by

"(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 1999' for 'calendar year 1992' in subparagraph (B) thereof.

"(B) ROUNDING.—If any amount as adjusted under subparagraph (A) is not a multiple of $5,000, such amount shall be rounded to the next lowest multiple of $5,000.

"(i) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary or appropriate to carry out this section, including regulations providing for a recapture of credit allowed under this section in cases where there is a refund in a subsequent taxable year of any amount which was taken into account in determining the amount of such credit."

(b) EXTENSION OF PROCEDURES APPLICABLE TO MATHEMATICAL OR CLERICAL ERRORS.—Paragraph (2) of section 6213(g) (relating to the definition of mathematical or clerical errors) is amended by striking "and" at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting ", and", and by inserting after subparagraph (H) the following new subparagraph:

"(I) an omission of a correct TIN required under section 24(g)(4) (relating to higher education tuition and fees) to be included on a return."

(c) RETURNS RELATING TO HIGHER EDUCATION EXPENSES.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by inserting after section 6050R the following new section:

“SEC. 6050S. RETURNS RELATING TO HIGHER EDUCATION EXPENSES.

“(a) In General.—Any person—

“(1) which is an institution of higher education which receives payments for qualified higher education expenses with respect to any individual for any calendar year, or

“(2) which is engaged in a trade or business which, in the course of such trade or business makes payments during any calendar year to any individual which constitute reimbursements or refunds (or similar amounts) of qualified higher education expenses of such individual,

shall make the return described in subsection (b) with respect to the individual at such time as the Secretary may by regulations prescribe.

“(b) Form and Manner of Returns.—A return is described in this subsection if such return—

“(1) is in such form as the Secretary may prescribe,

“(2) contains—

“(A) the name, address, and TIN of the individual with respect to whom payments described in subsection (a) were received from (or were paid to),

“(B) the name, address, and TIN of any individual certified by the individual described in subparagraph (A) as the taxpayer who will claim the individual as a dependent for purposes of the deduction allowable under section 151 for any taxable year ending with or within the calendar year,

“(C) the—

“(i) aggregate amount of payments for qualified higher education expenses received with respect to the individual described in subparagraph (A) during the calendar year, and

“(ii) aggregate amount of reimbursements or refunds (or similar amounts) paid to such individual during the calendar year, and

“(D) such other information as the Secretary may prescribe.

“(c) Application to Governmental Units.—For purposes of this section—

“(1) a governmental unit or any agency or instrumentality thereof shall be treated as a person, and

“(2) any return required under subsection (a) by such governmental entity shall be made by the officer or employee appropriately designated for the purpose of making such return.

“(d) Statements To Be Furnished to Individuals With Respect to Whom Information Is Required.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return under subparagraph (A) or (B) of subsection (b)(2) a written statement showing—

“(1) the name, address, and phone number of the information contact of the person required to make such return, and

“(2) the aggregate amounts described in subparagraph (C) of subsection (b)(2).

The written statement required under the preceding sentence shall be furnished on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made.

“(e) Definitions.—For purposes of this section, the terms ‘institution of higher education’ and ‘qualified higher education expenses’ have the respective meanings given such terms by section 24.

“(f) Returns Which Would Be Required To Be Made by 2 or More Persons.—Except to the extent provided in regulations prescribed by the Secretary, in the case of any amount received by any person on behalf of another person, only the person first receiving such amount shall be required to make the return under subsection (a).

“(g) Regulations.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section. No penalties shall be imposed under section 6724 with respect to any return or statement required under this section until such time as such regulations are issued.”

(2) Assessable penalties.—Section 6724(d) (relating to definitions) is amended—

(A) in paragraph (1)(B) by redesignating clauses (x) through (xv) as clauses (xi) through (xvi), respectively, and by inserting after clause (ix) of such paragraph the following new clause:

“(x) section 6050S (relating to returns relating to payments for qualified higher education expenses),”, and

(B) in paragraph (2) by striking “or” at the end of the next to last subparagraph, by striking the period at the end of the last subparagraph and inserting “, or”, and by adding at the end the following new subparagraph:

“(Z) section 6050S(d) (relating to returns relating to qualified higher education expenses).”

(3) Clerical amendment.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6050R the following new item:

“Sec. 6050S. Returns relating to higher education expenses.”

(d) Conforming Amendment.—The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 23 the following new item:

“Sec. 24. Hope scholarship credits.”

(e) Credit Allowed Against Minimum Tax.—Section 26 is amended by adding at the end the following new subsection:

“(c) Scholarship Credits Allowed Against Minimum Tax.—Subsection (a) shall not apply to the credit allowable under section 24, but the amount of the credit allowed by that section shall not exceed the sum of—

“(1) the regular tax liability for the taxable year reduced by the sum of the credits allowable under this subpart (other than section 24), and

“(2) the minimum tax imposed by section 55.”

(f) Effective Date.—The amendments made by this section shall apply to expenses paid after December 31, 1996 (in taxable years ending after such date), for education furnished in academic periods beginning after June 30, 1997.

SEC. 102. EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE PROGRAMS.

(a) Permanent Extension.—Section 127 (relating to exclusion for educational assistance programs) is amended by striking subsection (d) and by redesignating subsection (e) as subsection (d).

(b) Repeal of Limitation on Graduate Education.—The last sentence of section 127(c)(1) is amended by striking “, and such term also does not include any payment for, or the provision of any benefits with respect to, any graduate level course of a kind normally taken by an individual pursuing a program leading to a law, business, medical, or other advanced academic or professional degree”.

(c) Effective Dates.—

(1) Extension.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1996.

(2) Graduate education.—The amendment made by subsection (b) shall apply with respect to expenses relating to courses beginning after June 30, 1997.

TITLE II—PUBLIC-PRIVATE EDUCATION PARTNERSHIPS

SEC. 201. PURPOSE.

The purpose of this title is to facilitate the establishment of working partnerships of public school educators, businesses, labor, and community groups to—

(1) enhance the academic curriculum for education and training below the postsecondary level,

(2) increase graduation and employment rates,

(3) better prepare students for the rigors of college and the increasingly complex workforce, and

(4) promote the global leadership position of the United States economy,

by providing a no-cost source of capital to eligible local education agencies for the cost of establishing specialized academies in distressed areas (referred to as “education zones”).

SEC. 202. INCENTIVES FOR EDUCATION ZONES.

(a) In General.—Part III of subchapter U of chapter 1 (relating to additional incentives for empowerment zones), as amended by subsection (b), is amended by inserting after subpart B the following new subpart:

“Subpart C—Incentives for Education Zones

“Sec. 1397B. Credit to holders of qualified zone academy bonds.”

“SEC. 1397B. CREDIT TO HOLDERS OF QUALIFIED ZONE ACADEMY BONDS.

“(a) Allowance of Credit.—In the case of a taxpayer who holds a qualified zone academy bond on the credit allowance date of such bond which occurs during the taxable year, there shall be allowed as a credit against the tax imposed by this chapter for such taxable year the amount determined under subsection (b).

“(b) Amount of Credit.—

“(1) In general.—The amount of the credit determined under this subsection with respect to any qualified zone academy bond is the amount equal to the product of—

“(A) the credit rate determined by the Secretary under paragraph (2) for the month in which such bond was issued, multiplied by

“(B) the face amount of the bond held by the taxpayer on the credit allowance date.

“(2) Determination.—During each calendar month, the Secretary shall determine a credit rate which shall apply to bonds issued during the following calendar month. The credit rate for any month is the percentage which the Secretary estimates will permit the issuance of qualified zone academy bonds without discount and without interest cost to the issuer.

“(c) Limitation Based on Amount of Tax.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

“(1) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

“(2) the sum of the credits allowable under part IV of subchapter A (other than subpart C thereof, relating to refundable credits).

“(d) Qualified Zone Academy Bond.—For purposes of this section—

“(1) In general.—The term ‘qualified zone academy bond’ means any bond issued as part of an issue if—

“(A) 95 percent or more of the proceeds of such issue are to be used for a qualified purpose with respect to a qualified zone academy established by an eligible local education agency, "(B) the bond is issued by a State or local government within the jurisdiction of which such academy is located,

"(C) the issuer—

"(i) designates such bond for purposes of this section,

"(ii) certifies that it has written assurances that the private business contribution requirement of paragraph (2) will be met with respect to such academy, and

"(iii) certifies that it has the written approval of the eligible local education agency for such bond issuance, and

"(D) the term of each bond which is part of such issue does not exceed the maximum term permitted under paragraph (3).

"(2) PRIVATE BUSINESS CONTRIBUTION REQUIREMENT.—

"(A) IN GENERAL.—For purposes of paragraph (1), the private business contribution requirement of this paragraph is met with respect to any issue if the eligible local education agency that established the qualified zone academy has written commitments from private entities to make qualified contributions having a present value (as of the date of issuance of the issue) of not less than 10 percent of the proceeds of the issue.

"(B) QUALIFIED CONTRIBUTIONS.—For purposes of subparagraph (A), the term 'qualified contribution' means any contribution (of a type and quality acceptable to the eligible local education agency) of—

"(i) equipment for use in the qualified zone academy (including state-of-the-art technology and vocational equipment),

"(ii) technical assistance in developing curriculum or in training teachers in order to promote appropriate market driven technology in the classroom,

"(iii) services of employees as volunteer mentors,

"(iv) internships, field trips, or other educational opportunities outside the academy for students, or

"(v) any other property or service specified by the eligible local education agency.

"(3) TERM REQUIREMENT.—During each calendar month, the Secretary shall determine the maximum term permitted under this paragraph for bonds issued during the following calendar month. Such maximum term shall be the term which the Secretary estimates will result in the present value of the obligation to repay the principal on the bond being equal to 50 percent of the face amount of the bond. Such present value shall be determined using as a discount rate the average annual interest rate of tax-exempt obligations having a term of 10 years or more which are issued during the month. If the term as so determined is not a multiple of a whole year, such term shall be rounded to the next highest whole year.

"(4) QUALIFIED ZONE ACADEMY.—

"(A) IN GENERAL.—The term 'qualified zone academy' means any public school (or academic program within a public school) which is established by and operated under the supervision of an eligible local education agency to provide education or training below the postsecondary level if—

"(i) such public school or program (as the case may be) is designed in cooperation with business to enhance the academic curriculum, increase graduation and employment rates, and better prepare students for the rigors of college and the increasingly complex workforce,

"(ii) students in such public school or program (as the case may be) will be subject to the same academic standards and assessments as other students educated by the eligible local education agency,

"(iii) the comprehensive education plan of such public school or program is approved by the eligible local education agency, and

"(iv)(I) such public school is located in an empowerment zone or enterprise community (including any such zone or community designated after the date of the enactment of this section), or

"(II) there is a reasonable expectation (as of the date of issuance of the bonds) that at least 35 percent of the students attending such school or participating in such program (as the case may be) will be eligible for free or reduced-cost lunches under the school lunch program established under the National School Lunch Act.

"(B) ELIGIBLE LOCAL EDUCATION AGENCY.—The term 'eligible local education agency' means any local education agency as defined in section 14101 of the Elementary and Secondary Education Act of 1965.

"(5) QUALIFIED PURPOSE.—The term 'qualified purpose' means, with respect to any qualified zone academy—

"(A) constructing or renovating the public school facility in which the academy is established,

"(B) providing equipment for use at such academy,

"(C) developing course materials for education to be provided at such academy, and

"(D) training teachers and other school personnel in such academy.

"(e) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—

"(1) NATIONAL LIMITATION.—There is a national zone academy bond limitation for each calendar year. Such limitation is $10,000,000,000 for 1998, 1999, 2000, 2001, and 2002, and zero thereafter.

"(2) ALLOCATION OF LIMITATION.—The national zone academy bond limitation for a calendar year shall be allocated by the Secretary among the States on the basis of their respective populations of individuals below the poverty line (as defined by the Office of Management and Budget). The limitation amount allocated to a State under the preceding sentence shall be allocated by the State education agency to qualified zone academies within such State.

"(3) DESIGNATION SUBJECT TO LIMITATION AMOUNT.—The maximum aggregate face amount of bonds issued during any calendar year which may be designated under subsection (d)(1) with respect to any qualified zone academy shall not exceed the limitation amount allocated to such academy under paragraph (2) for such calendar year.

"(4) CARRYOVER OF USED LIMITATION.—If for any calendar year—

"(A) the limitation amount for any State, exceeds

"(B) the amount of bonds issued during such year which are designated under subsection (d)(1) with respect to qualified zone academies within such State,

the limitation amount for such State for the following calendar year shall be increased by the amount of such excess.

"(f) OTHER DEFINITIONS.—For purposes of this section—

"(1) CREDIT ALLOWANCE DATE.—The term 'credit allowance date' means, with respect to any issue, the last day of the 1-year period beginning on the date of issuance of such issue and the last day of each successive 1-year period thereafter.

"(2) BOND.—The term 'bond' includes any obligation.

"(3) STATE.—The term 'State' includes the District of Columbia and any possession of the United States.

"(g) CREDIT INCLUDED IN GROSS INCOME.—Gross income includes the amount of the credit allowed to the taxpayer under this section."

(b) CONFORMING AMENDMENTS.—

(1) Subchapter U of chapter 1 (as in effect before the amendment made by subsection (a)) is amended by redesignating subpart C as subpart D, and by redesignating sections 1397B, 1397C, and 1397D as sections 1397D, 1397E, and 1397F, respectively.

(2) Subsection (b) of section 1394 is amended—

(A) by striking "section 1397C" in paragraph (2) and inserting "section 1397E", and

(B) by striking "section 1397B" in paragraph (3) and inserting "section 1397D".

(3) The table of subparts for part III of subchapter U of chapter 1 is amended by striking the last item and inserting the following:

"Subpart C. Incentives for education zones.

"Subpart D. General provisions."

(4) The table of sections for subpart D of such part III, as so redesignated, is amended to read as follows:

"Sec. 1397D. Enterprise zone business defined.

"Sec. 1397E. Qualified zone property defined."

(5) The table of sections for part IV of subchapter U of chapter 1 is amended to read as follows:

"Sec. 1397F. Regulations."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after December 31, 1997.

TITLE III—FAMILY TAX RELIEF

SEC. 301. CREDIT FOR FAMILIES WITH YOUNG CHILDREN.

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 (relating to refundable credits) is amended by inserting after section 34 the following new section:

"SEC. 34A. FAMILIES WITH YOUNG CHILDREN.

"(a) ALLOWANCE OF CREDIT.—

"(1) IN GENERAL.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to $500 multiplied by the number of eligible children of the taxpayer for the taxable year.

"(2) PHASE-IN OF CREDIT.—In the case of taxable years beginning before January 1, 2001, paragraph (1) shall be applied by substituting '$300' for '$500'.

"(b) PHASEOUT OF CREDIT.—

"(1) IN GENERAL.—The amount of the credit allowed under subsection (a) shall be reduced (but not below zero) by the amount determined under paragraph (2).

"(2) AMOUNT OF REDUCTION.—The amount determined under this paragraph equals the amount which bears the same ratio to the credit (determined without regard to this subsection) as—

"(A) the excess of—

"(i) the taxpayer's adjusted gross income for such taxable year, over

"(ii) $60,000, bears to

"(B) $15,000.

Any amount determined under this paragraph which is not a multiple of $10 shall be rounded to the next lowest $10.

"(3) ADJUSTED GROSS INCOME.—For purposes of this subsection, adjusted gross income of any taxpayer shall be increased by any amount excluded from gross income under section 911, 931, or 933.

"(c) ELIGIBLE CHILD.—For purposes of this section, the term 'eligible child' means any child (as defined in section 151(c)(3)) of the taxpayer—

"(1) who has not attained age 18 as of the close of the calendar year in which the taxable year of the taxpayer begins,

"(2) who is a dependent of the taxpayer with respect to whom the taxpayer is allowed a deduction under section 151 for such taxable year, and

"(3) whose TIN is included on the taxpayer's return for such taxable year.

"(d) LIMITATION BASED ON AMOUNT OF TAX.—

"(1) IN GENERAL.—The credit allowed by subsection (a) for the taxable year shall not exceed the sum of—

"(A) the tax imposed by this chapter for the taxable year (reduced by the sum of the other credits allowable under this part against such tax other than under this subpart, relating to refundable credits), and

"(B) the taxpayer's social security taxes for such taxable year.

"(2) SOCIAL SECURITY TAXES.—For purposes of paragraph (1)—

"(A) IN GENERAL.—The term 'social security taxes' means, with respect to any taxpayer for any taxable year—

"(i) the amount of the taxes imposed by sections 3101 and 3201(a) on amounts received by the taxpayer during the calendar year in which the taxable year begins,

"(ii) ½ of the amount of the taxes imposed by section 1401 on the self-employment income of the taxpayer for the taxable year, and

"(iii) ½ of the amount of the taxes imposed by section 3211(a)(1) on amounts received by the taxpayer during the calendar year in which the taxable year begins.

"(B) COORDINATION WITH SPECIAL REFUND OF SOCIAL SECURITY TAXES.—The term 'social security taxes' shall not include any taxes to the extent the taxpayer is entitled to a special refund of such taxes under section 6413(c).

"(C) SPECIAL RULE.—Any amounts paid pursuant to an agreement under section 3121(l) (relating to agreements entered into by American employers with respect to foreign affiliates) which are equivalent to the taxes referred to in subparagraph (A)(i) shall be treated as taxes referred to in such subparagraph.

"(e) INFLATION ADJUSTMENTS.—In the case of a taxable year beginning in a calendar year after 2000—

"(1) IN GENERAL.—The $500 and $60,000 amounts contained in subsections (a)(1) and (b)(2) shall each be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 1999' for 'calendar year 1992' in subparagraph (B) thereof.

"(2) INCREASE IN PHASEOUT RANGE.—If the dollar amount in effect under subsection (a)(1) for any taxable year exceeds $500, subsection (b)(2)(B) shall be applied by substituting an amount equal to 30 times such dollar amount for '$15,000'.

"(3) ROUNDING.—If any amount as adjusted under paragraph (1) is not a multiple of $100, such amount shall be rounded to the next lowest multiple of $100.

"(f) SPECIAL RULES.—

"(1) AMOUNT OF CREDIT MAY BE DETERMINED UNDER TABLES.—The amount of the credit allowed by this section may be determined under tables prescribed by the Secretary.

"(2) CERTAIN OTHER RULES APPLY.—Rules similar to the rules of subsections (c)(1)(E) and (F), (d), and (e) of section 32 shall apply for purposes of this section."

(b) CLERICAL AMENDMENT.—The table of sections for subpart C of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 34 the following new item:

"Sec. 34A. Families with young children."

(c) CONFORMING AMENDMENT.—Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting before the period ", or from section 34A of such Code".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

TITLE IV—CAPITAL GAINS RELIEF

Subtitle A—Exemption From Tax for Gain on Sale of Principal Residence

SEC. 401. EXEMPTION FROM TAX FOR GAIN ON SALE OF PRINCIPAL RESIDENCE.

(a) IN GENERAL.—Section 121 (relating to one-time exclusion of gain from sale of principal residence by individual who has attained age 55) is amended to read as follows:

"SEC. 121. EXCLUSION OF GAIN FROM SALE OF PRINCIPAL RESIDENCE.

"(a) EXCLUSION.—Gross income shall not include gain from the sale or exchange of property if, during the 5-year period ending on the date of the sale or exchange, such property has been owned and used by the taxpayer as the taxpayer's principal residence for periods aggregating 2 years or more.

"(b) LIMITATIONS.—

"(1) DOLLAR LIMITATION.—The amount of gain excluded from gross income under subsection (a) with respect to any sale or exchange shall not exceed $250,000 ($500,000 in the case of a joint return where both spouses meet the use requirement of subsection (a)).

"(2) APPLICATION TO ONLY 1 SALE OR EXCHANGE EVERY 2 YEARS.—

"(A) IN GENERAL.—Subsection (a) shall not apply to any sale or exchange by the taxpayer if, during the 2-year period ending on the date of such sale or exchange, there was any other sale or exchange by the taxpayer to which subsection (a) applied.

"(B) PRIOR SALES BY SPOUSE NOT TAKEN INTO ACCOUNT.—If, but for this subparagraph, subsection (a) would not apply to a sale or exchange by a married individual filing a joint return solely by reason of a prior sale or exchange by such individual's spouse—

"(i) subparagraph (A) shall be applied without regard to the sale or exchange by such individual's spouse or any ownership or use by such spouse, but

"(ii) the amount of gain excluded from gross income under subsection (a) with respect to the sale or exchange by such individual shall not exceed $250,000.

"(C) PRE-EFFECTIVE DATE SALES NOT TAKEN INTO ACCOUNT.—Subparagraph (A) shall be applied without regard to any sale or exchange before May 7, 1997.

"(c) EXCLUSION FOR TAXPAYERS FAILING TO MEET CERTAIN REQUIREMENTS.—

"(1) IN GENERAL.—In the case of a sale or exchange to which this subsection applies, the ownership and use requirements of subsection (a) shall not apply and subsection (b)(2) shall not apply; but the amount of gain excluded from gross income under subsection (a) with respect to such sale of exchange shall not exceed—

"(A) the amount which bears the same ratio to the amount which would be so excluded if such requirements had been met, as

"(B) the shorter of—

"(i) the aggregate periods, during the 5-year period ending on the date of such sale or exchange, such property has been owned and used by the taxpayer as the taxpayer's principal residence, or

"(ii) the period after the date of the most recent prior sale or exchange by the taxpayer or his spouse to which subsection (a) applied and before the date of such sale or exchange,

bears to 2 years.

"(2) SALES AND EXCHANGES TO WHICH SUBSECTION APPLIES.—This subsection shall apply to any sale or exchange if—

"(A) subsection (a) would not (but for this subsection) apply to such sale or exchange by reason of—

"(i) a failure to meet the ownership and use requirements of subsection (a), or

"(ii) subsection (b)(2), and

"(B) such sale or exchange is by reason of a change in place of employment, health, or other unforeseen circumstances.

"(d) SPECIAL RULES.—

"(1) JOINT RETURNS.—For purposes of this section, if a husband and wife make a joint return for the taxable year of the sale or exchange of property, both spouses shall be treated as meeting the ownership requirement of subsection (a) with respect to such property if either spouse meets such requirement.

"(2) PROPERTY OF DECEASED SPOUSE.—For purposes of this section, in the case of an unmarried individual whose spouse is deceased on the date of the sale or exchange of property, the period such unmarried individual owned such property shall include the period such deceased spouse held such property before death.

"(3) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—For purposes of this section, if the taxpayer holds stock as a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), then—

"(A) the holding requirements of subsection (a) shall be applied to the holding of such stock, and

"(B) the use requirements of subsection (a) shall be applied to the house or apartment which the taxpayer was entitled to occupy as such stockholder.

"(4) INVOLUNTARY CONVERSIONS.—

"(A) IN GENERAL.—For purposes of this section, the destruction, theft, seizure, requisition, or condemnation of property shall be treated as the sale of such property.

"(B) APPLICATION OF SECTION 1033.—In applying section 1033 (relating to involuntary conversions), the amount realized from the sale or exchange of property shall be treated as being the amount determined without regard to this section, reduced by the amount of gain not included in gross income pursuant to this section.

"(C) PROPERTY ACQUIRED AFTER INVOLUNTARY CONVERSION.—If the basis of the property sold or exchanged is determined (in whole or in part) under section 1033(b) (relating to basis of property acquired through involuntary conversion), then the holding and use by the taxpayer of the converted property shall be treated for purposes of this section as holding and use by the taxpayer of the property sold or exchanged.

"(5) RECOGNITION OF GAIN ATTRIBUTABLE TO DEPRECIATION.—Subsection (a) shall not apply to so much of the gain from the sale of any property as does not exceed the portion of the depreciation adjustments (as defined in section 1250(b)(3)) attributable to periods after December 31, 1996, in respect of such property.

"(6) DETERMINATION OF USE DURING PERIODS OF OUT-OF-RESIDENCE CARE.—In the case of a taxpayer who—

"(A) becomes physically or mentally incapable of self-care, and

"(B) owns property and uses such property as the taxpayer's principal residence during the 5-year period described in subsection (a) for periods aggregating at least 1 year,

then the taxpayer shall be treated as using such property as the taxpayer's principal residence during any time during such 5-year period in which the taxpayer owns the property and resides in any facility (including a nursing home) licensed by a State or political subdivision to care for an individual in the taxpayer's condition.

"(7) Determination of marital status.—In the case of any sale or exchange, for purposes of this section—

"(A) the determination of whether an individual is married shall be made as of the date of the sale or exchange, and

"(B) an individual legally separated from his spouse under a decree of divorce or of separate maintenance shall not be considered as married.

"(e) Election To Have Section Not Apply.—This section shall not apply to any sale or exchange with respect to which the taxpayer elects not to have this section apply.

"(f) Residences Acquired in Rollovers Under Section 1034.—For purposes of this section, in the case of property the acquisition of which by the taxpayer resulted under section 1034 (as in effect on the day before the date of the enactment of this sentence) in the nonrecognition of any part of the gain realized on the sale or exchange of another residence, in determining the period for which the taxpayer has owned and used such property as the taxpayer's principal residence, there shall be included the aggregate periods for which such other residence (and each prior residence taken into account under section 1223(7) in determining the holding period of such property) had been so owned and used."

(b) Repeal of Nonrecognition of Gain on Rollover of Principal Residence.—Section 1034 (relating to rollover of gain on sale of principal residence) is hereby repealed.

(c) Conforming Amendments.—

(1) The following provisions of the Internal Revenue Code of 1986 are each amended by striking "section 1034" and inserting "section 121": sections 25(e)(7), 56(e)(1)(A), 56(e)(3)(B)(i), 143(i)(1)(C)(i)(I), 163(h)(4)(A)(i)(I), 280A(d)(4)(A), 464(f)(3)(B)(i), 1033(k)(3), 1274(c)(3)(B), 6334(a)(13), and 7872(f)(11)(A).

(2) Paragraph (4) of section 32(c) is amended by striking "(as defined in section 1034(h)(3))" and by adding at the end the following new sentence: "For purposes of the preceding sentence, the term 'extended active duty' means any period of active duty pursuant to a call or order to such duty for a period in excess of 90 days or for an indefinite period."

(3) Subparagraph (A) of 143(m)(6) is amended by inserting "(as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1997)" after "1034(e)".

(4) Subsection (e) of section 216 is amended by striking "such exchange qualifies for nonrecognition of gain under section 1034(f)" and inserting "such dwelling unit is used as his principal residence (within the meaning of section 121)".

(5) Section 512(a)(3)(D) is amended by inserting "(as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1997)" after "1034".

(6) Paragraph (7) of section 1016(a) is amended by inserting "(as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1997)" after "1034" and by inserting "(as so in effect)" after "1034(e)".

(7) Paragraph (3) of section 1033(k) is amended to read as follows:

"(3) For exclusion from gross income of gain from involuntary conversion of principal residence, see section 121."

(8) Subsection (e) of section 1038 is amended to read as follows:

"(e) Principal residences.—If—

"(1) subsection (a) applies to a reacquisition of real property with respect to the sale of which gain was not recognized under section 121 (relating to gain on sale of principal residence), and

"(2) within 1 year after the date of the reacquisition of such property by the seller, such property is resold by him,

then, under regulations prescribed by the Secretary, subsections (b), (c), and (d) of this section shall not apply to the reacquisition of such property and, for purposes of applying section 121, the resale of such property shall be treated as a part of the transaction constituting the original sale of such property."

(9) Paragraph (7) of section 1223 is amended by inserting "(as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1997)" after "1034".

(10) Section 1250(d)(7) is amended to read as follows:

"(7) Principal residence.—Subsection (a) shall not apply to a disposition to the extent that gain from the disposition is excluded from gross income under section 121."

(11) Paragraph (2) of section 6212(c) is amended by striking subparagraph (C) and by redesignating the succeeding subparagraphs accordingly.

(12) Section 6504 is amended by striking paragraph (4) and by redesignating the succeeding paragraphs accordingly.

(13) The item relating to section 121 in the table of sections for part III of subchapter B of chapter 1 is amended to read as follows:

"Sec. 121. Exclusion of gain from sale of principal residence."

(14) The table of sections for part III of subchapter O of chapter 1 is amended by striking the item relating to section 1034.

(d) Effective Date.—

(1) In general.—The amendments made by this section shall apply to sales and exchanges on or after May 7, 1997.

(2) Transitional rule.—At the election of the taxpayer, the amendments made by this section shall not apply to—

(A) a sale or exchange on or before the date of the enactment of this Act, or

(B) a sale or exchange after such date of enactment, if—

(i) such sale or exchange is pursuant to a contract which was binding on such date, and at all times thereafter before such sale or exchange, or

(ii) without regard to such amendments, gain would not be recognized under section 1034 of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of this Act) on such sale or exchange by reason of a new residence acquired on or before such date.

SEC. 402. CAPITAL LOSS DEDUCTION ALLOWED WITH RESPECT TO SALE OR EXCHANGE OF PRINCIPAL RESIDENCE.

(a) In General.—Subsection (c) of section 165 (relating to limitation on losses of individuals) is amended by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting "; and", and by adding at the end the following new paragraph:

"(4) losses (not in excess of $250,000) arising from the sale or exchange of the principal residence (within the meaning of section 121) of the taxpayer."

(b) Effective Date.—The amendment made by subsection (a) shall apply to sales and exchanges on or after May 7, 1997, in taxable years ending after such date.

Subtitle B—Lifetime Capital Gains Rate Reduction for Nontradable Property

SEC. 411. LIFETIME CAPITAL GAINS RATE REDUCTION FOR NONTRADABLE PROPERTY.

(a) In General.—Subsection (h) of section 1 (relating to maximum capital gains rate) is amended to read as follows:

"(h) Maximum Capital Gains Rate.—If a taxpayer has a net capital gain for any taxable year, the tax imposed by this section for such taxable year shall not exceed the sum of—

"(1) a tax computed at the rates and in the manner as if this subsection had not been enacted on the greater of—

"(A) taxable income reduced by the amount of the net capital gain, or

"(B) the amount of taxable income taxed at a rate below 18 percent, plus

"(2) the sum of—

"(A) 18 percent of the lifetime qualified net capital gain (or if lesser, the amount of taxable income in excess of the amount taxed under paragraph (1)), plus

"(B) 28 percent of the excess of the net capital gain (or if lesser, the amount of taxable income in excess of the amount taxed under paragraph (1)) over the lifetime qualified net capital gain for the taxable year.

For purposes of the preceding sentence, the net capital gain for any taxable year shall be reduced (but not below zero) by the amount which the taxpayer elects to take into account as investment income for the taxable year under section 163(d)(4)(B)(iii). In the case of a taxpayer only subject to tax under this section at the 15 percent rate, the amount of the tax under paragraph (1)(B) on net capital gain shall be determined at a rate of 7.5 percent."

(b) Definition.—Section 1 is amended by adding at the end thereof the following new subsection:

"(i) Lifetime Qualified Net Capital Gain

"(1) In general.—For purposes of subsection (h), the lifetime qualified net capital gain is the qualified net gain for the taxable year.

"(2) Limitation.—

"(A) In general.—The amount of the qualified net gain taken into account under paragraph (1) for any taxable year shall not exceed $600,000 reduced by the aggregate amount of the qualified net gain taken into account under this subsection by the taxpayer for prior taxable years.

"(B) Special rule for joint returns.—The amount of the qualified net gain taken into account under this subsection on a joint return for any taxable year shall be allocated equally between the spouses for purposes of determining the limitation under subparagraph (A) for any succeeding taxable year.

"(3) Qualified net gain.—For purposes of paragraph (1), the term 'qualified net gain' means the lesser of—

"(A) the net capital gain for the taxable year, or

"(B) the net capital gain for the taxable year determined by only taking into account gains and losses from sales and exchanges on or after May 7, 1997, of qualified assets.

A taxpayer may elect for any taxable year not to take into account under this subsection all (or any portion) of the qualified net gain for such taxable year. Such an election, once made, shall be irrevocable.

"(4) Qualified assets.—For purposes of this subsection, the term 'qualified assets' means any property held for more than 3 years other than—

"(A) stock or securities for which there is a market on an established securities market or otherwise, and

"(B) property (other than stock or securities) of a kind regularly traded on an established market.

Such term shall not include any qualified small business stock (as defined in section 1202) nor the principal residence of the taxpayer.

"(5) Subsection not to apply to certain individuals.—This subsection shall not apply to any individual who has not attained age 25 before the close of the taxable year.

"(6) Subsection Not to Apply to Certain Taxpayers.—This subsection shall not apply to—

"(A) a married individual (within the meaning of section 7703) filing a separate return for the taxable year, or

"(B) an estate or trust.

"(7) Special Rules.—

"(A) Treatment of certain sales of interests in partnerships, etc.—For purposes of this subsection, any gain from the sale or exchange of a qualified asset which is an interest in a partnership, S corporation, or trust shall not be treated as gain from the sale or exchange of a qualified asset to the extent such gain is attributable to unrealized appreciation in the value of property described in subparagraph (A) or (B) of paragraph (4) which is held by such entity. Rules similar to the rules of section 751(f) shall apply for purposes of the preceding sentence.

"(B) Special rule for pass-thru entities.—

"(i) In general.—In applying this subsection with respect to any pass-thru entity—

"(I) the determination of when the sale or exchange occurs shall be made at the entity level, and

"(II) any gain attributable to such entity shall in no event be treated as gain from sale or exchange of a qualified asset if interests in such entity are described in subparagraph (A) or (B) of paragraph (4).

"(ii) Pass-thru entity defined.—For purposes of clause (i), the term 'pass-thru-entity' means—

"(I) a regulated investment company,

"(II) a real estate investment trust,

"(III) an S corporation,

"(IV) a partnership,

"(V) an estate or trust, and

"(VI) a common trust fund."

(c) Treatment of Collectibles.—

(1) In general.—Section 1222 is amended by inserting after paragraph (11) the following new paragraph:

"(12) Special rule for collectibles.—

"(A) In general.—Any gain or loss from the sale or exchange of a collectible shall be treated as a short-term capital gain or loss (as the case may be), without regard to the period such asset was held. The preceding sentence shall apply only to the extent the gain or loss is taken into account in computing taxable income.

"(B) Treatment of certain sales of interests in partnerships, etc.—For purposes of subparagraph (A), any gain from the sale or exchange of an interest in a partnership, S corporation, or trust which is attributable to unrealized appreciation in the value of collectibles held by such entity shall be treated as gain from the sale or exchange of a collectible. Rules similar to the rules of section 751(f) shall apply for purposes of the preceding sentence.

"(C) Collectible.—For purposes of this paragraph, the term 'collectible' means any capital asset which is a collectible (as defined in section 408(m) without regard to paragraph (3) thereof)."

(2) Charitable deduction not affected.—

(A) Paragraph (1) of section 170(e) is amended by adding at the end thereof the following new sentence: "For purposes of this paragraph, section 1222 shall be applied without regard to paragraph (12) thereof (relating to special rule for collectibles)."

(B) Clause (iv) of section 170(b)(1)(C) is amended by inserting before the period at the end thereof the following: "and section 1222 shall be applied without regard to paragraph (12) thereof (relating to special rule for collectibles)".

(d) Minimum Tax Treatment.—Clause (i) of section 55(b)(1)(A) is amended to read as follows:

"(i) In general.—In the case of a taxpayer other than a corporation, the tentative minimum tax for the taxable year is the sum of—

"(I) 18 percent of so much of the taxable excess as does not exceed the lifetime qualified net capital gain for the taxable year,

"(II) 26 percent of so much of the ordinary taxable excess as does not exceed $175,000, plus

"(III) 28 percent of so much of the ordinary taxable excess as exceeds $175,000.

For purposes of the preceding sentence, the term 'ordinary taxable excess' means the taxable excess reduced by the lifetime qualified net capital gain. The amount determined under this clause shall be reduced by the alternative minimum tax foreign tax credit for the taxable year."

(e) Effective Date.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years ending on or after May 7, 1997.

TITLE V—ESTATE TAX RELIEF

SEC. 501. FAMILY-OWNED BUSINESS EXCLUSION.

(a) In General.—Part III of subchapter A of chapter 11 (relating to gross estate) is amended by inserting after section 2033 the following new section:

"SEC. 2033A. FAMILY-OWNED BUSINESS EXCLUSION.

"(a) In General.—In the case of an estate of a decedent to which this section applies, the value of the gross estate shall not include the lesser of—

"(1) the adjusted value of the qualified family-owned business interests of the decedent otherwise includible in the estate, or

"(2) $400,000, increased by the amount (if any) of the limitation under this paragraph not claimed by the estate of a previously deceased spouse of the decedent.

"(b) Estates to Which Section Applies.—

"(1) In general.—This section shall apply to an estate if—

"(A) the decedent was (at the date of the decedent's death) a citizen or resident of the United States,

"(B) the sum of—

"(i) the adjusted value of the qualified family-owned business interests described in paragraph (2), plus

"(ii) the amount of the gifts of such interests determined under paragraph (3),

exceeds 50 percent of the adjusted gross estate, and

"(C) during the 8-year period ending on the date of the decedent's death there have been periods aggregating 5 years or more during which—

"(i) such interests were owned by the decedent or a member of the decedent's family, and

"(ii) there was material participation (within the meaning of section 2032A(e)(6)) by the decedent or a member of the decedent's family in the operation of the business to which such interests relate.

"(2) Includible qualified family-owned business interests.—The qualified family-owned business interests described in this paragraph are the interests which—

"(A) are included in determining the value of the gross estate (without regard to this section), and

"(B) are acquired by any qualified heir from, or passed to any qualified heir from, the decedent (within the meaning of section 2032A(e)(9)).

"(3) Includible gifts of interests.—The amount of the gifts of qualified family-owned business interests determined under this paragraph is the excess of—

"(A) the sum of—

"(i) the amount of such gifts from the decedent to members of the decedent's family taken into account under subsection 2001(b)(1)(B), plus

"(ii) the amount of such gifts otherwise excluded under section 2503(b),

to the extent such interests are continuously held by members of such family (other than the decedent's spouse) between the date of the gift and the date of the decedent's death, over

"(B) the amount of such gifts from the decedent to members of the decedent's family otherwise included in the gross estate.

"(c) Adjusted Gross Estate.—For purposes of this section, the term 'adjusted gross estate' means the value of the gross estate (determined without regard to this section)—

"(1) reduced by any amount deductible under paragraph (3) or (4) of section 2053(a), and

"(2) increased by the excess of—

"(A) the sum of—

"(i) the amount of gifts determined under subsection (b)(3),

"(ii) the amount (if more than de minimis) of other transfers from the decedent to the decedent's spouse (at the time of the transfer) within 10 years of the date of the decedent's death, plus

"(iii) the amount of other gifts (not included under clause (i) or (ii)) from the decedent within 3 years of such date, other than gifts to members of the decedent's family otherwise excluded under section 2503(b), over

"(B) the sum of the amounts described in clauses (i), (ii), and (iii) of subparagraph (A) which are otherwise includible in the gross estate.

For purposes of the preceding sentence, the Secretary may provide that de minimis gifts to persons other than members of the decedent's family shall not be taken into account.

"(d) Adjusted Value of the Qualified Family-Owned Business Interests.—For purposes of this section, the adjusted value of any qualified family-owned business interest is the value of such interest for purposes of this chapter (determined without regard to this section), reduced by the excess of—

"(1) any amount deductible under paragraph (3) or (4) of section 2053(a), over

"(2) the sum of—

"(A) any indebtedness on any qualified residence of the decedent the interest on which is deductible under section 163(h)(3), "(B) any indebtedness to the extent the taxpayer establishes that the proceeds of such indebtedness were used for the payment of educational and medical expenses of the decedent, the decedent's spouse, or the decedent's dependents (within the meaning of section 152), plus

"(C) any indebtedness not described in clause (i) or (ii), to the extent such indebtedness does not exceed $10,000.

"(e) Qualified Family-Owned Business Interest.—

"(1) In general.—For purposes of this section, the term 'qualified family-owned business interest' means—

"(A) an interest as a proprietor in a trade or business carried on as a proprietorship, or

"(B) an interest in an entity carrying on a trade or business, if—

"(i) at least—

"(I) 50 percent of such entity is owned (directly or indirectly) by the decedent and members of the decedent's family,

"(II) 70 percent of such entity is so owned by members of 2 families, or

"(III) 90 percent of such entity is so owned by members of 3 families, and

"(ii) for purposes of subclause (II) or (III) of clause (i), at least 30 percent of such entity is so owned by the decedent and members of the decedent's family.

"(2) Limitation.—Such term shall not include—

"(A) any interest in a trade or business the principal place of business of which is not located in the United States,

"(B) any interest in an entity, if the stock or debt of such entity or a controlled group (as defined in section 267(f)(1)) of which such entity was a member was readily tradable on an established securities market or secondary market (as defined by the Secretary) at any time within 3 years of the date of the decedent's death,

"(C) any interest in a trade or business not described in section 542(c)(2), if more than 35 percent of the adjusted ordinary gross income of such trade or business for the taxable year which includes the date of the decedent's death would qualify as personal holding company income (as defined in section 543(a)), or

"(D) that portion of an interest in a trade or business that is attributable to—

"(i) cash or marketable securities, or both, in excess of the reasonably expected day-to-day working capital needs of such trade or business, and

"(ii) any other assets of the trade or business (other than assets used in the active conduct of a trade or business described in section 542(c)(2)), the income of which is described in section 543(a) or in subparagraph (B), (C), (D), or (E) of section 954(c)(1) (determined by substituting 'trade or business' for 'controlled foreign corporation').

"(3) Rules regarding ownership.—

"(A) Ownership of entities.—For purposes of paragraph (1)(B)—

"(i) Corporations.—Ownership of a corporation shall be determined by the holding of stock possessing the appropriate percentage of the total combined voting power of all classes of stock entitled to vote and the appropriate percentage of the total value of shares of all classes of stock.

"(ii) Partnerships.—Ownership of a partnership shall be determined by the owning of the appropriate percentage of the capital interest in such partnership.

"(B) Ownership of tiered entities.—For purposes of this section, if by reason of holding an interest in a trade or business, a decedent, any member of the decedent's family, any qualified heir, or any member of any qualified heir's family is treated as holding an interest in any other trade or business—

"(i) such ownership interest in the other trade or business shall be disregarded in determining if the ownership interest in the first trade or business is a qualified family-owned business interest, and

"(ii) this section shall be applied separately in determining if such interest in any other trade or business is a qualified family-owned business interest.

"(C) Individual ownership rules.—For purposes of this section, an interest owned, directly or indirectly, by or for an entity described in paragraph (1)(B) shall be considered as being owned proportionately by or for the entity's shareholders, partners, or beneficiaries. A person shall be treated as a beneficiary of any trust only if such person has a present interest in such trust.

"(f) Tax Treatment of Failure To Materially Participate in Business or Dispositions of Interests.—

"(1) In general.—There is imposed an additional estate tax if, within 10 years after the date of the decedent's death and before the date of the qualified heir's death—

"(A) the material participation requirements described in section 2032A(c)(6)(B) are not met with respect to the qualified family-owned business interest which was acquired (or passed) from the decedent,

"(B) the qualified heir disposes of any portion of a qualified family-owned business interest (other than by a disposition to a member of the qualified heir's family or through a qualified conservation contribution under section 170(h)),

"(C) the qualified heir loses United States citizenship (within the meaning of section 877) or with respect to whom an event described in subparagraph (A) or (B) of section 877(e)(1) occurs, and such heir does not comply with the requirements of subsection (g), or

"(D) the principal place of business of a trade or business of the qualified family-owned business interest ceases to be located in the United States.

"(2) Additional estate tax.—

"(A) In general.—The amount of the additional estate tax imposed by paragraph (1) shall be equal to—

"(i) the applicable percentage of the adjusted tax difference attributable to the qualified family-owned business interest (as determined under rules similar to the rules of section 2032A(c)(2)(B)), plus

"(ii) interest on the amount determined under clause (i) at the underpayment rate established under section 6621 for the period beginning on the date the estate tax liability was due under this chapter and ending on the date such additional estate tax is due.

"(B) Applicable percentage.—For purposes of this paragraph, the applicable percentage shall be determined under the following table:

"If the event described in paragraph (1) occurs in the following year of material participation:	**The applicable percentage is:**
1 through 6	100
7	80
8	60
9	40
10	20.

"(g) Security Requirements for Noncitizen Qualified Heirs.—

"(1) In general.—Except upon the application of subparagraph (F) or (M) of subsection (h)(3), if a qualified heir is not a citizen of the United States, any interest under this section passing to or acquired by such heir (including any interest held by such heir at a time described in subsection (f)(1)(C)) shall be treated as a qualified family-owned business interest only if the interest passes or is acquired (or is held) in a qualified trust.

"(2) Qualified trust.—The term 'qualified trust' means a trust—

"(A) which is organized under, and governed by, the laws of the United States or a State, and

"(B) except as otherwise provided in regulations, with respect to which the trust instrument requires that at least 1 trustee of the trust be an individual citizen of the United States or a domestic corporation.

"(h) Other Definitions and Applicable Rules.—For purposes of this section—

"(1) Qualified heir.—The term 'qualified heir'—

"(A) has the meaning given to such term by section 2032A(e)(1), and

"(B) includes any active employee of the trade or business to which the qualified family-owned business interest relates if such employee has been employed by such trade or business for a period of at least 10 years before the date of the decedent's death.

"(2) Member of the family.—The term 'member of the family' has the meaning given to such term by section 2032A(e)(2).

"(3) Applicable rules.—Rules similar to the following rules shall apply:

"(A) Section 2032A(b)(4) (relating to decedents who are retired or disabled).

"(B) Section 2032A(b)(5) (relating to special rules for surviving spouses).

"(C) Section 2032A(c)(2)(D) (relating to partial dispositions).

"(D) Section 2032A(c)(3) (relating to only 1 additional tax imposed with respect to any 1 portion).

"(E) Section 2032A(c)(4) (relating to due date).

"(F) Section 2032A(c)(5) (relating to liability for tax; furnishing of bond).

"(G) Section 2032A(c)(7) (relating to no tax if use begins within 2 years; active management by eligible qualified heir treated as material participation).

"(H) Section 2032A(e)(10) (relating to community property).

"(I) Section 2032A(e)(14) (relating to treatment of replacement property acquired in section 1031 or 1033 transactions).

"(J) Section 2032A(f) (relating to statute of limitations).

"(K) Section 6166(b)(3) (relating to farmhouses and certain other structures taken into account).

"(L) Subparagraphs (B), (C), and (D) of section 6166(g)(1) (relating to acceleration of payment).

"(M) Section 6324B (relating to special lien for additional estate tax)."

(b) Clerical Amendment.—The table of sections for part III of subchapter A of chapter 11 is amended by inserting after the item relating to section 2033 the following new item:

"Sec. 2033A. Family-owned business exclusion."

(c) Effective Date.—The amendments made by this section shall apply to estates of decedents dying after December 31, 1997.

TITLE VI—EXTENSION OF EXPIRING PROVISIONS

SEC. 601. RESEARCH CREDIT.

(a) In General.—Section 41(h)(1) is amended—

(1) by striking "May 31, 1997" and inserting "May 31, 1998", and

(2) by striking the last sentence.

(b) Conforming Amendment.—Section 45C(b)(1)(D) is amended by striking "1997" and inserting "1998".

(c) Effective Date.—The amendment made by subsection (a) shall apply to taxable years ending after May 31, 1997.

SEC. 602. ORPHAN DRUG CREDIT MADE PERMANENT.

(a) In General.—Subsection (e) of section 45C is hereby repealed.

(b) Effective Date.—The amendment made by subsection (a) shall apply to amounts paid or incurred in taxable years ending after May 31, 1997.

SEC. 603. CONTRIBUTIONS OF APPRECIATED STOCK.

(a) In General.—Clause (ii) of section 170(e)(5)(D) is amended by striking "May 31, 1997" and inserting "May 31, 1998".

(b) Effective Date.—The amendment made by subsection (a) shall apply to contributions made after May 31, 1997.

SEC. 604. EXTENSION AND MODIFICATION OF WORK OPPORTUNITY CREDIT.

(a) Extension of Credit.—Subparagraph (B) of section 51(c)(4) (relating to termination) is amended by striking "September 30, 1997" and inserting "September 30, 1998".

(b) Percentage of Wages Allowed as Credit.—

(1) In general.—Subsection (a) of section 51 (relating to determination of amount) is amended by striking "35 percent" and inserting "40 percent".

(2) Application of credit for individuals performing fewer than 400 hours of services.—Paragraph (3) of section 51(i) is amended to read as follows:

"(3) Individuals not meeting minimum employment periods.—

"(A) Reduction of credit for individuals performing fewer than 400 hours of services.—In the case of an individual who has completed at least 120 hours, but less than 400 hours, of services performed for the employer, subsection (a) shall be applied by substituting '25 percent' for '40 percent'.

"(B) Denial of credit for individuals performing fewer than 120 hours of services.—No wages shall be taken into account under subsection (a) with respect to any individual unless such individual has completed at least 120 hours of services performed for the employer."

(c) Modification of Eligibility Requirement Based on Period on Welfare.—Subparagraph (A) of section 51(d)(2) (defining qualified IV–A recipient) is amended by striking all that follows "a IV–A program" and inserting "for any 9 months during the 18-month period ending on the hiring date."

(d) Certain Older Food Stamp Recipients Treated as Members of Targeted Group.—Paragraph (8) of section 51(d) (defining qualified food stamp recipient) is amended to read as follows:

"(8) Qualified food stamp recipient.—

"(A) In general.—The term 'qualified food stamp recipient' means any individual who is certified by the designated local agency—

"(i) as having attained age 18 but not age 25 on the hiring date, and

"(ii) as being a member of a family receiving assistance under a food stamp program under the Food Stamp Act of 1977 for the 6-month period ending on the hiring date.

"(B) Certain older recipients.—The term 'qualified food stamp recipient' includes any individual who is certified by the designated local agency—

"(i) as having attained age 18 but not age 50 on the hiring date,

"(ii) as being a recipient of benefits under the food stamp program who is affected by section 6(o) of the Food Stamp Act of 1977 but who has not been made ineligible for refusing to work in accordance with section 6(o)(2)(A) of such Act, or failing to comply with the requirements of a work program under subparagraph (B), (C), or (D) of section 6(o)(2)(A) of such Act, and

"(iii) as having a hiring date which is not more than 1 year after the date of such cessation.

"(C) Termination.—In lieu of applying subsection (c)(4), this subsection shall not apply to amounts paid or incurred with respect to an individual who begins work for the employer after September 30, 2000."

(e) Effective Date.—The amendments made by this section shall apply to individuals who begin work for the employer after the date of the enactment of this Act.

TITLE VII—EMPOWERMENT ZONES, ETC.

Subtitle A—Empowerment Zones

SEC. 701. ADDITIONAL EMPOWERMENT ZONES WITH CURRENT LAW BENEFITS.

(a) In General.—Paragraph (2) of section 1391(b) (relating to designations of empowerment zones and enterprise communities) is amended—

(1) by striking "9" and inserting "11",

(2) by striking "6" and inserting "8", and

(3) by striking "750,000" and inserting "1,000,000".

(b) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act, except that designations of new empowerment zones made pursuant to such amendments shall be made during the 180-day period beginning on the date of the enactment of this Act.

SEC. 702. DESIGNATION OF ADDITIONAL EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES.

(a) In General.—Section 1391 (relating to designation procedure for empowerment zones and enterprise communities) is amended by adding at the end the following new subsection:

"(g) Additional Designations Permitted.—

"(1) In general.—In addition to the areas designated under subsection (a)—

"(A) Enterprise communities.—The appropriate Secretaries may designate in the aggregate an additional 80 nominated areas as enterprise communities under this section, subject to the availability of eligible nominated areas. Of that number, not more than 50 may be designated in urban areas and not more than 30 may be designated in rural areas.

"(B) Empowerment zones.—The appropriate Secretaries may designate in the aggregate an additional 20 nominated areas as empowerment zones under this section, subject to the availability of eligible nominated areas. Of that number, not more than 15 may be designated in urban areas and not more than 5 may be designated in rural areas.

"(2) Period designations may be made.—A designation may be made under this subsection after the date of the enactment of this subsection and before January 1, 1999.

"(3) Modifications to eligibility criteria, etc.—

"(A) Poverty rate requirement.—

"(i) In general.—A nominated area shall be eligible for designation under this subsection only if the poverty rate for each population census tract within the nominated area is not less than 20 percent and the poverty rate for at least 90 percent of the population census tracts within the nominated area is not less than 25 percent.

"(ii) Treatment of census tracts with small populations.—A population census tract with a population of less than 2,000 shall be treated as having a poverty rate of not less than 25 percent if—

"(I) more than 75 percent of such tract is zoned for commercial or industrial use, and

"(II) such tract is contiguous to 1 or more other population census tracts which have a poverty rate of not less than 25 percent (determined without regard to this clause).

"(iii) Exception for developable sites.—Clause (i) shall not apply to up to 3 noncontiguous parcels in a nominated area which may be developed for commercial or industrial purposes. The aggregate area of noncontiguous parcels to which the preceding sentence applies with respect to any nominated area shall not exceed 1,000 acres (2,000 acres in the case of an empowerment zone).

"(iv) Certain provisions not to apply.—Section 1392(a)(4) (and so much of paragraphs (1) and (2) of section 1392(b) as relate to section 1392(a)(4)) shall not apply to an area nominated for designation under this subsection.

"(v) Special rule for rural empowerment zones and enterprise communities.—The Secretary of Agriculture may designate not more than 1 empowerment zone, and not more than 5 enterprise communities, in rural areas without regard to clause (i) if such areas satisfy emigration criteria specified by the Secretary of Agriculture.

"(B) Size limitation.—

"(i) In general.—The parcels described in subparagraph (A)(iii) shall not be taken into account in determining whether the requirement of subparagraph (A) or (B) of section 1392(a)(3) is met.

"(ii) Special rule for rural areas.—If a population census tract (or equivalent division under section 1392(b)(4)) in a rural area exceeds 1,000 square miles or includes a substantial amount of land owned by the Federal, State, or local government, the nominated area may exclude such excess square mileage or governmentally owned land and the exclusion of that area will not be treated as violating the continuous boundary requirement of section 1392(a)(3)(B).

"(C) Aggregate population limitation.—The aggregate population limitation under the last sentence of subsection (b)(2) shall not apply to a designation under paragraph (1)(B).

"(D) Previously designated enterprise communities may be included.—Subsection (e)(5) shall not apply to any enterprise community designated under subsection (a) that is also nominated for designation under this subsection.

"(E) Indian reservations may be nominated.—

"(i) In general.—Section 1393(a)(4) shall not apply to an area nominated for designation under this subsection.

"(ii) Special rule.—An area in an Indian reservation shall be treated as nominated by a State and a local government if it is nominated by the reservation governing body (as determined by the Secretary of Interior)."

(b) Employment Credit Not To Apply to New Empowerment Zones.—Section 1396 (relating to empowerment zone employment credit) is amended by adding at the end the following new subsection:

"(e) Credit Not To Apply to Empowerment Zones Designated Under Section 1391(g).—This section shall be applied without regard to any empowerment zone designated under section 1391(g)."

(c) Increased Expensing Under Section 179 Not To Apply in Developable Sites.—

Section 1397A (relating to increase in expensing under section 179) is amended by adding at the end the following new subsection:

"(c) Limitation.—For purposes of this section, qualified zone property shall not include any property substantially all of the use of which is in any parcel described in section 1391(g)(3)(A)(iii)."

(d) Set Aside for Areas With Employment Losses in Financial Service Industries.—Section 1391 is amended by adding at the end the following new subsection:

"(g) Set Aside for Areas With Employment Losses in Financial Service Industries.—

"(1) In general.—At least 3 of the additional empowerment zones authorized under this section by reason of the enactment of the Revenue Reconciliation Act of 1997 shall be nominated areas described in paragraph (2).

"(2) Description.—A nominated area is described in this paragraph if—

"(A) at least 12 percent of the wages attributable to private, nonagricultural employment in the area during 1989, and subject to tax under section 3301 during such year, were in the financial institution and real estate sectors, and

"(B) the employment in such area in such sectors for the calendar year preceding the calendar year in which such area is nominated for designation is 10 percent (or, if lesser, 5,000 full-time equivalent jobs) less than such employment during 1989.

The requirement of subparagraph (B) shall not be met if substantially all of such decline in employment is attributable to 1 employer. Data for the labor market area which includes the nominated area may be used for purposes of this paragraph if data is not separately available for the nominated area.

"(3) Central business district eligible.—Subparagraph (D) of section 1392(a)(3) shall not apply to a nominated area described in paragraph (2).

"(4) Financial services businesses eligible.—For purposes of this part, the term 'enterprise zone business' includes any entity (or portion of an entity) if substantially all the activities of such entity (or portion thereof) consists of engaging in a banking, insurance, financing, or similar business in an empowerment zone designated by reason of this subsection."

(e) Conforming Amendments.—

(1) Subsections (e) and (f) of section 1391 are each amended by striking "subsection (a)" and inserting "this section".

(2) Section 1391(c) is amended by striking "this section" and inserting "subsection (a)".

SEC. 703. VOLUME CAP NOT TO APPLY TO ENTERPRISE ZONE FACILITY BONDS WITH RESPECT TO NEW EMPOWERMENT ZONES.

(a) In General.—Section 1394 (relating to tax-exempt enterprise zone facility bonds) is amended by adding at the end the following new subsection:

"(f) Bonds for Empowerment Zones Designated Under Section 1391(g).—

"(1) In general.—In the case of a new empowerment zone facility bond—

"(A) such bond shall not be treated as a private activity bond for purposes of section 146, and

"(B) subsection (c) of this section shall not apply.

"(2) Limitation on amount of bonds.—

"(A) In general.—Paragraph (1) shall apply to a new empowerment zone facility bond only if such bond is designated for purposes of this subsection by the local government which nominated the area to which such bond relates.

"(B) Limitation on bonds designated.—The aggregate face amount of bonds which may be designated under subparagraph (A) with respect to any empowerment zone shall not exceed—

"(i) $60,000,000 if such zone is in a rural area,

"(ii) $130,000,000 if such zone is in an urban area and the zone has a population of less than 100,000, and

"(iii) $230,000,000 if such zone is in an urban area and the zone has a population of at least 100,000.

"(C) Special rules.—

"(i) Coordination with limitation in subsection (c).—Bonds to which paragraph (1) applies shall not be taken into account in applying the limitation of subsection (c) to other bonds.

"(ii) Current refunding not taken into account.—In the case of a refunding (or series of refundings) of a bond designated under this paragraph, the refunding obligation shall be treated as designated under this paragraph (and shall not be taken into account in applying subparagraph (B)) if—

"(I) the amount of the refunding bond does not exceed the outstanding amount of the refunded bond, and

"(II) the refunded bond is redeemed not later than 90 days after the date of issuance of the refunding bond.

"(3) New empowerment zone facility bond.—For purposes of this subsection, the term 'new empowerment zone facility bond' means any bond which would be described in subsection (a) if only empowerment zones designated under section 1391(g) were taken into account under sections 1397B and 1397C."

(b) Effective Date.—The amendment made by this section shall apply to obligations issued after the date of the enactment of this Act.

SEC. 704. MODIFICATIONS TO ENTERPRISE ZONE FACILITY BOND RULES FOR ALL EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES.

(a) Modifications Relating to Enterprise Zone Business.—Paragraph (3) of section 1394(b) (defining enterprise zone business) is amended to read as follows:

"(3) Enterprise zone business.—

"(A) In general.—Except as modified in this paragraph, the term 'enterprise zone business' has the meaning given such term by section 1397B.

"(B) Modifications.—In applying section 1397B for purposes of this section—

"(i) Businesses in enterprise communities eligible.—References in section 1397B to empowerment zones shall be treated as including references to enterprise communities.

"(ii) Waiver of requirements during startup period.—A business shall not fail to be treated as an enterprise zone business during the startup period if—

"(I) as of the beginning of the startup period, it is reasonably expected that such business will be an enterprise zone business (as defined in section 1397B as modified by this paragraph) at the end of such period, and

"(II) such business makes bona fide efforts to be such a business.

"(iii) Reduced requirements after testing period.—A business shall not fail to be treated as an enterprise zone business for any taxable year beginning after the testing period by reason of failing to meet any requirement of subsection (b) or (c) of section 1397B if at least 35 percent of the employees of such business for such year are residents of an empowerment zone or an enterprise community. The preceding sentence shall not apply to any business which is not a qualified business by reason of paragraph (1), (4), or (5) of section 1397B(d).

"(C) Definitions relating to subparagraph (B).—For purposes of subparagraph (B)—

"(i) Startup period.—The term 'startup period' means, with respect to any property being provided for any business, the period before the first taxable year beginning more than 2 years after the later of—

"(I) the date of issuance of the issue providing such property, or

"(II) the date such property is first placed in service after such issuance (or, if earlier, the date which is 3 years after the date described in subclause (I)).

"(ii) Testing period.—The term 'testing period' means the first 3 taxable years beginning after the startup period.

"(D) Portions of business may be enterprise zone business.—The term 'enterprise zone business' includes any trades or businesses which would qualify as an enterprise zone business (determined after the modifications of subparagraph (B)) if such trades or businesses were separately incorporated."

(b) Modifications Relating to Qualified Zone Property.—Paragraph (2) of section 1394(b) (defining qualified zone property) is amended to read as follows:

"(2) Qualified zone property.—The term 'qualified zone property' has the meaning given such term by section 1397C; except that—

"(A) the references to empowerment zones shall be treated as including references to enterprise communities, and

"(B) section 1397C(a)(2) shall be applied by substituting 'an amount equal to 15 percent of the adjusted basis' for 'an amount equal to the adjusted basis'."

(c) Effective Date.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

SEC. 705. MODIFICATIONS TO ENTERPRISE ZONE BUSINESS DEFINITION FOR ALL EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES.

(a) In General.—Section 1397B (defining enterprise zone business) is amended—

(1) by striking "80 percent" in subsections (b)(2) and (c)(1) and inserting "50 percent",

(2) by striking "substantially all" each place it appears in subsections (b) and (c) and inserting "a substantial portion",

(3) by striking ", and exclusively related to," in subsections (b)(4) and (c)(3),

(4) by adding at the end of subsection (d)(2) the following new flush sentence:

"For purposes of subparagraph (B), the lessor of the property may rely on a lessee's certification that such lessee is an enterprise zone business.",

(5) by striking "substantially all" in subsection (d)(3) and inserting "at least 50 percent", and

(6) by adding at the end the following new subsection:

"(f) Treatment of Businesses Straddling Census Tract Lines.—For purposes of this section, if—

"(1) a business entity or proprietorship uses real property located within an empowerment zone,

"(2) the business entity or proprietorship also uses real property located outside the empowerment zone,

"(3) the amount of real property described in paragraph (1) is substantial compared to the amount of real property described in paragraph (2), and

"(4) the real property described in paragraph (2) is contiguous to part or all of the real property described in paragraph (1),

then all the services performed by employees, all business activities, all tangible property, and all intangible property of the business entity or proprietorship that occur in or is located on the real property described in paragraphs (1) and (2) shall be treated as occurring or situated in an empowerment zone."

(b) Effective Dates.—

(1) In general.—The amendments made by this section shall apply to taxable years beginning on or after the date of the enactment of this Act.

(2) Special rule for enterprise zone facility bonds.—For purposes of section 1394(b) of the Internal Revenue Code of 1986, the amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

Subtitle B—Brownfields

SEC. 711. EXPENSING OF ENVIRONMENTAL REMEDIATION COSTS.

(a) In General.—Part VI of subchapter B of chapter 1 is amended by adding at the end the following new section:

"SEC. 198. EXPENSING OF ENVIRONMENTAL REMEDIATION COSTS.

"(a) In General.—A taxpayer may elect to treat any qualified environmental remediation expenditure which is paid or incurred by the taxpayer as an expense which is not chargeable to capital account. Any expenditure which is so treated shall be allowed as a deduction for the taxable year in which it is paid or incurred.

"(b) Qualified Environmental Remediation Expenditure.—For purposes of this section—

"(1) In general.—The term 'qualified environmental remediation expenditure' means any expenditure—

"(A) which is otherwise chargeable to capital account, and

"(B) which is paid or incurred in connection with the abatement or control of hazardous substances at a qualified contaminated site.

"(2) Special rule for expenditures for depreciable property.—Such term shall not include any expenditure for the acquisition of property of a character subject to the allowance for depreciation which is used in connection with the abatement or control of hazardous substances at a qualified contaminated site; except that the portion of the allowance under section 167 for such property which is otherwise allocated to such site shall be treated as a qualified environmental remediation expenditure.

"(c) Qualified Contaminated Site.—For purposes of this section—

"(1) Qualified contaminated site.—

"(A) In general.—The term 'qualified contaminated site' means any area—

"(i) which is held by the taxpayer for use in a trade or business or for the production of income, or which is property described in section 1221(1) in the hands of the taxpayer,

"(ii) which is within a targeted area, and

"(iii) at or on which there has been a release (or threat of release) or disposal of any hazardous substance.

"(B) Taxpayer must receive statement from state environmental agency.—An area shall be treated as a qualified contaminated site with respect to expenditures paid or incurred during any taxable year only if the taxpayer receives a statement from the appropriate agency of the State in which such area is located that such area meets the requirements of clauses (ii) and (iii) of subparagraph (A).

"(C) Appropriate state agency.— For purposes of subparagraph (B), the appropriate agency of a State is the agency designated by the Administrator of the Environmental Protection Agency for purposes of this section. If no agency of a State is designated under the preceding sentence, the appropriate agency for such State shall be the Environmental Protection Agency.

"(2) Targeted area.—

"(A) In general.—The term 'targeted area' means—

"(i) any population census tract with a poverty rate of not less than 20 percent,

"(ii) a population census tract with a population of less than 2,000 if—

"(I) more than 75 percent of such tract is zoned for commercial or industrial use, and

"(II) such tract is contiguous to 1 or more other population census tracts which meet the requirement of clause (i) without regard to this clause,

"(iii) any empowerment zone or enterprise community (and any supplemental zone designated on December 21, 1994), and

"(iv) any site announced before February 1, 1997, as being included as a brownfields pilot project of the Environmental Protection Agency.

"(B) National priorities listed sites not included.—Such term shall not include any site which is on, or proposed for, the national priorities list under section 105(a)(8)(B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (as in effect on the date of the enactment of this section).

"(C) Certain rules to apply.—For purposes of this paragraph the rules of sections 1392(b)(4) and 1393(a)(9) shall apply.

"(d) Hazardous Substance.—For purposes of this section—

"(1) In general.—The term 'hazardous substance' means—

"(A) any substance which is a hazardous substance as defined in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and

"(B) any substance which is designated as a hazardous substance under section 102 of such Act.

"(2) Exception.—Such term shall not include any substance with respect to which a removal or remedial action is not permitted under section 104 of such Act by reason of subsection (a)(3) thereof.

"(e) Deduction Recaptured as Ordinary Income on Sale, Etc.—Solely for purposes of section 1245, in the case of property to which a qualified environmental remediation expenditure would have been capitalized but for this section—

"(1) the deduction allowed by this section for such expenditure shall be treated as a deduction for depreciation, and

"(2) such property (if not otherwise section 1245 property) shall be treated as section 1245 property solely for purposes of applying section 1245 to such deduction.

"(f) Coordination With Other Provisions.—Sections 280B and 468 shall not apply to amounts which are treated as expenses under this section.

"(g) Regulations.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section."

(b) Clerical Amendment.—The table of sections for part VI of subchapter B of chapter 1 is amended by adding at the end the following new item:

"Sec. 198. Expensing of environmental remediation costs."

(c) Effective Date.—The amendments made by this section shall apply to expenditures paid or incurred after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 712. USE OF REDEVELOPMENT BONDS FOR ENVIRONMENTAL REMEDIATION.

(a) Environmental Remediation Included as Redevelopment Purpose.—Subparagraph (A) of section 144(c)(3) (relating to redevelopment purposes) is amended by striking "and" at the end of clause (iii), by striking the period at the end of clause (iv) and inserting ", and", and by adding at the end the following new clause:

"(v) costs incurred in connection with abatement or control of hazardous substances at a qualified contaminated site (as defined in section 198(c)) if such costs are incurred pursuant to an environmental remediation plan which was approved by the Administrator of the Environmental Protection Agency or by the head of any State or local government agency designated by the Administrator to carry out the Administrator's functions under this clause."

(b) Certain Requirements Not To Apply To Redevelopment Bonds for Environmental Remediation.—Subsection (c) of section 144 is amended by adding at the end the following new paragraph:

"(9) Certain requirements not to apply to redevelopment bonds for environmental remediation.—In the case of any bond issued as part of an issue 95 percent or more of the proceeds of which are to finance costs referred to in paragraph (3)(A)(v)—

"(A) paragraph (2)(A)(i) shall not apply,

"(B) paragraph (2)(A)(ii) shall not apply to any issue issued by the governing body described in paragraph (4)(A) with respect to the area which includes the site,

"(C) the requirement of paragraph (2)(B)(ii) shall be treated as met if—

"(i) the payment of the principal and interest on such issue is secured by taxes imposed by a governmental unit, or

"(ii) such issue is approved by the applicable elected representative (as defined in section 147(f)(2)(E)) of the governmental unit which issued such issue (or on behalf of which such issue was issued),

"(D) subparagraphs (C) and (D) of paragraph (2) shall not apply,

"(E) subparagraphs (C) and (D) of paragraph (4) shall not apply, and

"(F) if the real property referred to in clause (iii) of paragraph (3)(A) is 1 or more dwelling units, such clause shall apply only if the requirements of section 142(d) or 143 (as the case may be) are met with respect to such units."

(c) Penalty for Failure To Satisfactorily Complete Remediation Plan.—Subsection (b) of section 150 is amended by adding at the end thereof the following new paragraph:

"(7) Qualified contaminated site remediation bonds.—In the case of financing provided for costs described in section 144(c)(3)(A)(v), no deduction shall be allowed under this chapter for interest on such financing during any period during which there is a determination by the Administrator of the Environmental Protection Agency (or by the head of any State or local government agency designated by the Administrator to carry out the Administrator's functions under this paragraph) that the remediation plan under which such costs were incurred was not satisfactorily completed."

(d) Effective Date.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

Subtitle C—Welfare to Work Credit

SEC. 721. WELFARE TO WORK CREDIT.

(a) ADDITIONAL TEMPORARY INCENTIVES FOR EMPLOYING LONG-TERM FAMILY ASSISTANCE RECIPIENTS.—Section 51 (relating to amount of work opportunity credit) is amended by inserting after subsection (d) the following new subsection:

"(e) ADDITIONAL TEMPORARY INCENTIVES FOR EMPLOYING LONG-TERM FAMILY ASSISTANCE RECIPIENTS.—

"(1) TREATMENT AS MEMBER OF TARGETED GROUP.—A long-term family assistance recipient shall be treated for purposes of this section as a member of a targeted group.

"(2) MODIFICATION TO PERCENTAGE AND YEARS OF CREDIT.—In the case of a long-term family assistance recipient, the amount of the work opportunity credit determined under this section for the taxable year shall be equal to the sum of—

"(A) 50 percent of the qualified first-year wages, and

"(B) 50 percent of the qualified second-year wages.

"(3) MODIFICATION TO AMOUNT OF WAGES TAKEN INTO ACCOUNT.—In the case of a long-term family assistance recipient—

"(A) $10,000 OF WAGES MAY BE TAKEN INTO ACCOUNT.—In lieu of applying subsection (b)(3), the amount of the qualified first-year wages, and the amount of qualified second-year wages, which may be taken into account with respect to any individual shall not exceed $10,000 per year.

"(B) CERTAIN AMOUNTS TREATED AS WAGES.—The term 'wages' includes amounts paid or incurred by the employer which are excludable from such recipient's gross income under—

"(i) section 105 (relating to amounts received under accident and health plans),

"(ii) section 106 (relating to contributions by employer to accident and health plans),

"(iii) section 127 (relating to educational assistance programs) or would be so excludable but for section 127(d), but only to the extent paid or incurred to a person not related to the employer, or

"(iv) section 129 (relating to dependent care assistance programs).

The amount treated as wages by clause (i) or (ii) for any period shall be based on the reasonable cost of coverage for the period, but shall not exceed the applicable premium for the period under section 4980B(f)(4).

"(C) SPECIAL RULES FOR AGRICULTURAL AND RAILWAY LABOR.—If such recipient is an employee to which subparagraph (A) or (B) of subsection (h)(1) applies—

"(i) such subparagraph (A) shall be applied by substituting '$10,000' for '$6,000', and

"(ii) such subparagraph (B) shall be applied by substituting '$825' for '$500'.

"(D) TERMINATION.—In lieu of applying subsection (c)(4), this subsection shall not apply to amounts paid or incurred with respect to an individual who begins work for the employer after September 30, 2000.

"(4) LONG-TERM FAMILY ASSISTANCE RECIPIENT.—For purposes of this subsection, the term 'long-term family assistance recipient' means any individual who is certified by the designated local agency—

"(A) as being a member of a family receiving assistance under a IV-A program (as defined in subsection (d)(2)(B)) for at least the 18-month period ending on the hiring date,

"(B)(i) as being a member of a family receiving such assistance for any 18-month period beginning after the date of the enactment of this subsection, and

"(ii) as having a hiring date which is not more than 2 years after the end of the earliest such 18-month period, or

"(C)(i) as being a member of a family which ceased to be eligible after the date of the enactment of this subsection for such assistance by reason of any limitation imposed by Federal or State law on the maximum period such assistance is payable to a family, and

"(ii) as having a hiring date which is not more than 2 years after the date of such cessation.

"(5) QUALIFIED SECOND-YEAR WAGES.—For purposes of this subsection, the term 'qualified second-year wages' means, with respect to any individual, the qualified wages attributable to service rendered during the 1-year period beginning on the day after the last day of the 1-year period with respect to such individual determined under subsection (b)(2)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to individuals who begin work for the employer after the date of the enactment of this Act.

Subtitle D—Community Development Financial Institutions

SEC. 731. CREDIT FOR QUALIFIED EQUITY INVESTMENTS IN COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits) is amended by adding at the end the following new section:

"SEC. 45E. QUALIFIED EQUITY INVESTMENTS IN COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS.

"(a) GENERAL RULE.—For purposes of section 38, the community development financial institution investment credit for any taxable year is an amount equal to the applicable percentage of the qualified equity investment made by the taxpayer during the taxable year.

"(b) APPLICABLE PERCENTAGE.—For purposes of subsection (a), the term 'applicable percentage' means, with respect to any investment, 25 percent, or, if the CDFI Fund establishes a lower percentage with respect to such investment for purposes of this section, such lower percentage.

"(c) QUALIFIED EQUITY INVESTMENT.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified equity investment' means any stock or partnership interest in a community development financial institution (as defined in section 103 of the Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4702))—

"(A) if such institution is designated for purposes of this section by the CDFI Fund,

"(B) if such stock or partnership interest is acquired by the taxpayer at its original issue from the institution (directly or through an underwriter) in exchange for money or other property, and

"(C) to the extent the amount of such investment is designated for such purposes by such Fund.

Rules similar to the rules of section 1202(c)(3) shall apply for purposes of subparagraph (B).

"(2) CRITERIA FOR DESIGNATING INSTITUTIONS.—Designations under paragraph (1)(A) shall be made in accordance with criteria established by the CDFI Fund. In establishing such criteria, the CDFI Fund shall take into account the requirements and criteria set forth in sections 105(b) and 107 of such Act.

"(3) CDFI FUND.—The term 'CDFI Fund' means the Community Development Financial Institutions Fund established by section 104 of such Act.

"(d) LIMITATION ON AMOUNT OF CREDIT.—

"(1) IN GENERAL.—The amount of credit determined under this section for any qualified equity investment shall not exceed the credit amount allocated to such investment by the CDFI Fund.

"(2) OVERALL LIMITATION.—The aggregate credit amount which may be allocated by the CDFI Fund under this section shall not exceed $100,000,000.

"(e) RECAPTURE OF CREDIT WHERE DISPOSITION OF EQUITY INVESTMENT WITHIN 5 YEARS.—

"(1) IN GENERAL.—If the taxpayer disposes of any investment with respect to which a credit was determined under subsection (a) (or any other property the basis of which is determined in whole or in part by reference to the adjusted basis of such investment) before the end of the 5-year period beginning on the date such investment was made, the tax imposed by this chapter for the taxable year in which such disposition occurs shall be increased by the aggregate decrease in tax of the taxpayer resulting from the credit determined under this subsection (a) with respect to such investment.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply to any gift, transfer, or transaction described in paragraph (1), (2), or (3) of section 1245(b).

"(3) SPECIAL RULE.—Any increase in tax under paragraph (1) shall not be treated as a tax imposed by this chapter for purposes of—

"(A) determining the amount of any credit allowable under this chapter, and

"(B) determining the amount of the tax imposed by section 55.

"(f) BASIS REDUCTION.—The basis of any qualified equity investment shall be reduced by the amount of any credit determined under this section with respect to such investment.

"(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out this section. Such regulations may provide for the recapture of the credit under this section with respect to investments in institutions which cease to satisfy the criteria established by the CDFI Fund for designation under subsection (c)(1)(A).

"(h) TERMINATION.—This section shall not apply to any investment made after December 31, 2006."

(b) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 is amended by striking "plus" at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting ", plus", and by adding at the end the following new paragraph:

"(13) the community development financial institution investment credit determined under section 45E(a)."

(c) CREDIT ALLOWED AGAINST REGULAR AND MINIMUM TAX.—

(1) IN GENERAL.—Subsection (c) of section 38 (relating to limitation based on amount of tax) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) SPECIAL RULES FOR COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION INVESTMENT CREDIT.—

"(A) IN GENERAL.—In the case of the community development financial institution investment credit—

"(i) this section and section 39 shall be applied separately with respect to the credit, and

"(ii) in applying paragraph (1) to the credit—

"(I) 75 percent of the tentative minimum tax shall be substituted for the tentative minimum tax under subparagraph (A) thereof, and

"(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the community development financial institution investment credit).

"(B) COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION INVESTMENT CREDIT.—For purposes of this subsection, the term 'community development financial institution investment credit' means the credit allowable under subsection (a) by reason of section 45E(a)."

(2) CONFORMING AMENDMENT.—Subclause (II) of section 38(c)(2)(A)(ii) is amended by inserting "and the community development financial institution investment credit" after "employment credit".

(d) LIMITATION ON CARRYBACK.—Subsection (d) of section 39 is amended by adding at the end the following new paragraph:

"(9) NO CARRYBACK OF COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION INVESTMENT CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the credit under section 45E may be carried back to a taxable year ending before the date of the enactment of section 45E."

(e) DEDUCTION FOR UNUSED CREDIT.—Subsection (c) of section 196 is amended by striking "and" at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting ", and", and by adding at the end the following new paragraph:

"(8) the community development financial institution investment credit determined under section 45E(a)."

(f) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

"Sec. 45E. Qualified equity investments in community development financial institutions."

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to investments made after the date of the enactment of this Act.

TITLE VIII—OTHER TAX RELIEF

SEC. 801. SUSPENSION OF STATUTE OF LIMITATIONS ON FILING REFUND CLAIMS DURING PERIODS OF DISABILITY.

(a) IN GENERAL.—Section 6511 (relating to limitations on credit or refund) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) RUNNING OF PERIODS OF LIMITATION SUSPENDED WHILE TAXPAYER IS FINANCIALLY DISABLED.—

"(1) IN GENERAL.—In the case of an individual, the running of the periods specified in subsections (a), (b), and (c) shall be suspended during any period of such individual's life that such individual is financially disabled.

"(2) FINANCIALLY DISABLED.—

"(A) IN GENERAL.—For purposes of paragraph (1), an individual is financially disabled if such individual is unable to manage his financial affairs by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. An individual shall not be considered to have such an impairment unless proof of the existence thereof is furnished in such form and manner as the Secretary may require.

"(B) EXCEPTION WHERE INDIVIDUAL HAS GUARDIAN, ETC.—An individual shall not be treated as financially disabled during any period that such individual's spouse or any other person is authorized to act on behalf of such individual in financial matters."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to claims for credit or refund for periods ending after the date of the enactment of this Act.

SEC. 802. MODIFICATIONS OF PUERTO RICO ECONOMIC ACTIVITY CREDIT.

(a) EXTENSION OF CREDIT.—Section 30A(g) (relating to application of credit) is amended by striking ", and before January 1, 2006".

(b) TAXPAYERS OTHER THAN EXISTING CLAIMANTS ELIGIBLE FOR CREDIT.—Section 30A(a)(2) (defining qualified domestic corporation) is amended to read as follows:

"(2) QUALIFIED DOMESTIC CORPORATION.—For purposes of paragraph (1), the term 'qualified domestic corporation' means a domestic corporation with respect to which section 936(a)(4)(B) does not apply for the taxable year."

(c) REPEAL OF BASE PERIOD CAP.—Section 30A(a)(1) is amended by striking the last sentence.

(d) CONFORMING AMENDMENTS.—

(1) Section 30A(a)(3) is amended to read as follows:

"(3) SEPARATE APPLICATION.—For purposes of determining the amount of the credit allowed under this section, this section (and so much of section 936 as relates to this section) shall be applied separately with respect to Puerto Rico."

(2) Section 30A(e)(1) is amended by inserting "but not including subsection (j) thereof" after "thereunder".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. 803. TREATMENT OF SOFTWARE AS FSC EXPORT PROPERTY.

(a) IN GENERAL.—Section 927(a)(2)(B) (relating to excluded property) is amended by inserting "computer software," after "other than".

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by this section shall apply to software licenses granted after the date of the enactment of this Act in taxable years ending after such date.

(2) EXCEPTION FOR EXISTING LICENSES.—The amendment made by this section shall not apply to software licenses granted by a licensor after the date of the enactment of this Act if, on such date, the person to whom the license is granted (or any related person) held a substantially similar license granted by the licensor (or any related person).

TITLE IX—INCENTIVES FOR THE DISTRICT OF COLUMBIA

SEC. 901. TAX INCENTIVES FOR REVITALIZATION OF THE DISTRICT OF COLUMBIA.

(a) IN GENERAL.—Chapter 1 is amended by adding at the end the following new subchapter:

"Subchapter W—Incentives for Revitalization of the District of Columbia

"Sec. 1400A. Employment credit.
"Sec. 1400B. Additional expensing.
"Sec. 1400C. Tax-exempt economic development bonds.
"Sec. 1400D. Credit for equity investments in and loans to District of Columbia businesses.
"Sec. 1400E. Definitions.
"Sec. 1400F. Status of Economic Development Corporation for District of Columbia.

"SEC. 1400A. EMPLOYMENT CREDIT.

"(a) AMOUNT OF CREDIT.—For purposes of section 38, the amount of the District of Columbia employment credit determined under this section for the taxable year shall be equal to 40 percent of the qualified first-year wages for such year.

"(b) QUALIFIED FIRST-YEAR WAGES.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified first-year wages' means wages paid or incurred by the employer during the taxable year which are attributable to services rendered by an employee of the employer—

"(A) during the 1-year period beginning on the day the employee begins work for the employer, and

"(B) while the employee is a qualified District employee.

"(2) ONLY FIRST $10,000 OF WAGES TAKEN INTO ACCOUNT.—The amount of the qualified first-year wages which may be taken into account with respect to any individual for all taxable years of an employer shall not exceed $10,000.

"(3) COORDINATION WITH WORK OPPORTUNITY CREDIT.—The amount of the credit determined under this section with respect to qualified first-year wages of an individual shall be reduced by the amount of the work opportunity credit determined under section 51 with respect to such wages.

"(c) QUALIFIED DISTRICT EMPLOYEE.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'qualified District employee' means any employee of an employer if—

"(A) the principal place of abode of such employee throughout the 1-year period described in subsection (b)(1)(A)—

"(i) is within the District of Columbia, and

"(ii) in the case of an individual who is not a member of a targeted group (within the meaning of section 51(d)), is within a population census tract having a poverty rate of at least 15 percent,

"(B)(i) substantially all of the services performed during such period by such employee for such employer are performed within the District of Columbia in a trade or business of the employer, or

"(ii) the principal place of business of the employer is within the District of Columbia, and

"(C) in the case of an individual who is not a member of a targeted group (within the meaning of section 51(d)), as of the beginning of such period it is reasonable to expect that the compensation to be paid to such individual for services performed during such period for the employer will be less than $28,500.

"(2) CERTAIN PERSONS NOT ELIGIBLE.—The term 'qualified District employee' shall not include—

"(A) any individual described in subparagraph (A), (B), or (C) of section 51(i)(1) (relating to related individuals),

"(B) any individual described in section 51(i)(2) (relating to nonqualifying rehires), determined by treating qualified District employees as members of a targeted group,

"(C) any 5-percent owner (as defined in section 416(i)(1)(B)),

"(D) any individual employed by the employer unless such individual—

"(i) is employed by the employer for at least 180 days, or

"(ii) has completed at least 400 hours of services performed for the employer, and

"(E) any individual employed by the employer at any facility described in section 144(c)(6)(B).

Rules similar to the rules of section 1396(d)(3) shall apply for purposes of subparagraph (D).

"(d) DEFINITION AND SPECIAL RULES.—For purposes of this section—

"(1) WAGES.—The term 'wages' has the same meaning as when used in section 51, including amounts treated as wages by section 51(e)(3)(B); except that subsections (c)(4) and (e)(3)(D) shall not apply.

"(2) CONTROLLED GROUPS.—All employers treated as a single employer under subsection (a) or (b) of section 52 shall be treated as a single employer, and the credit (if any) determined under this section with respect to each such employer shall be its proportionate share of the wages giving rise to such credit.

"(3) CERTAIN OTHER RULES MADE APPLICABLE.—Rules similar to the rules of subsections (j) and (k) of section 51, and subsections (c), (d), and (e) of section 52, shall apply.

"(4) CERTIFICATION OF PRINCIPAL PLACE OF ABODE.—An individual shall not be treated as meeting the requirement of subsection (c)(1)(A) unless requirements similar to the requirements of section 51(d)(11) are met.

"(5) COST-OF-LIVING ADJUSTMENT OF $28,500 LIMIT.—In the case of any period during a calendar year after 1997, the dollar amount contained in subsection (c)(1)(C) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 1996' for 'calendar year 1992' in subparagraph (B) thereof.

"(6) OTHER INCENTIVES.—

"(A) EXTENSION OF ADDITIONAL TEMPORARY INCENTIVE FOR EMPLOYING LONG-TERM FAMILY ASSISTANCE RECIPIENTS RESIDING IN THE DISTRICT OF COLUMBIA.—In the case of a long-term family assistance recipient (as defined in section 51(e)(4)), section 51(e)(3)(D) shall be applied by substituting 'September 30, 2002' for 'September 30, 2000' if—

"(i) such individual's principal place of abode is within the District of Columbia during the period described in section 51(e)(3), and

"(ii) the requirement of clause (i) or (ii) of subsection (c)(1)(B) is met during such period with respect to such individual.

"(B) EXTENSION OF WORK OPPORTUNITY CREDIT.—In the case of wages paid to a member of a targeted group (within the meaning of section 51(d)) while such member's principal place of abode is within the District of Columbia, section 51(c)(4)(B) shall be applied by substituting 'September 30, 2002' for 'September 30, 1998'.

"(e) APPLICATION OF SECTION.—This section shall apply with respect to individuals who begin work for the employer on and after the date of the enactment of this section and before October 1, 2002.

"SEC. 1400B. ADDITIONAL EXPENSING.

"(a) GENERAL RULE.—In the case of a qualified District business, for purposes of section 179—

"(1) the limitation under section 179(b)(1) shall be increased by the lesser of—

"(A) $20,000, or

"(B) the cost of section 179 property which is qualified District property placed in service during the taxable year, and

"(2) the amount taken into account under section 179(b)(2) with respect to any section 179 property which is qualified District property shall be 50 percent of the cost thereof.

"(b) RECAPTURE.—Rules similar to the rules under section 179(d)(10) shall apply with respect to any qualified District property which ceases to be used in the District of Columbia by a District business.

"(c) COORDINATION WITH SECTION 1397A.—In no event shall qualified District property be treated as qualified zone property for purposes of section 1397A.

"(d) APPLICATION OF SECTION.—This section shall apply to property placed in service after December 31, 1997, and before January 1, 2002.

"SEC. 1400C. TAX-EXEMPT ECONOMIC DEVELOPMENT BONDS.

"(a) IN GENERAL.—For purposes of part IV of subchapter B of this chapter (relating to tax exemption requirements for State and local bonds), the term 'exempt facility bond' includes any bond issued as part of an issue 95 percent or more of the net proceeds (as defined in section 150(a)(3)) of which are to be used to provide any District facility.

"(b) DISTRICT FACILITY.—For purposes of this section, the term 'District facility' means any District property the principal user of which is a qualified District business, and any land which is functionally related and subordinate to such property.

"(c) LIMITATION ON AMOUNT OF BONDS.—Subsection (a) shall not apply to any issue if the aggregate amount of outstanding District facility bonds allocable to any person (taking into account such issue) exceeds $15,000,000.

"(d) CERTAIN RULES TO APPLY.—

"(1) IN GENERAL.—Rules similar to the rules of subsections (c)(2), (d), and (e) of section 1394, and subparagraphs (B)(ii), (C), and (D) of section 1394(b)(3), shall apply for purposes of this section.

"(2) REQUIREMENTS AFTER TESTING PERIOD.—A business shall not fail to be treated as a qualified District business for purposes of this section for any taxable year beginning after the testing period (as defined in section 1394(b)(3)(C)) by reason of failing to meet any requirement of subsection (b) or (c) of section 1397B. The preceding sentence shall not apply to any business which is not a qualified business by reason of paragraph (1), (4), or (5) of section 1397B(d).

"(e) APPLICATION OF SECTION.—This section shall apply to bonds issued after the date of the enactment of this section and before January 1, 2003.

"SEC. 1400D. CREDIT FOR EQUITY INVESTMENTS IN AND LOANS TO DISTRICT OF COLUMBIA BUSINESSES.

"(a) GENERAL RULE.—For purposes of section 38, the District investment credit determined under this section for any taxable year is—

"(1) the qualified lender credit for such year, and

"(2) the qualified equity investment credit for such year.

"(b) QUALIFIED LENDER CREDIT.—For purposes of this section—

"(1) IN GENERAL.—The qualified lender credit for any taxable year is the amount of credit specified for such year by the Economic Development Corporation with respect to qualified District loans made by the taxpayer.

"(2) LIMITATION.—In no event may the qualified lender credit with respect to any loan exceed 25 percent of the cost of the property purchased with the proceeds of the loan.

"(3) QUALIFIED DISTRICT LOAN.—For purposes of paragraph (1), the term 'qualified district loan' means any loan for the purchase (as defined in section 179(d)(2)) of property to which section 168 applies (or would apply but for section 179) (or land which is functionally related and subordinate to such property) and substantially all of the use of which is in the District of Columbia and is in the active conduct of a trade or business in the District of Columbia. A rule similar to the rule of section 1397C(a)(2) shall apply for purposes of the preceding sentence.

"(c) QUALIFIED EQUITY INVESTMENT CREDIT.—

"(1) IN GENERAL.—For purposes of this section, the qualified equity investment credit determined under this section for any taxable year is an amount equal to the percentage specified by the Economic Development Corporation (but not greater than 25 percent) of the aggregate amount paid in cash by the taxpayer during the taxable year for the purchase of District business investments.

"(2) DISTRICT BUSINESS INVESTMENT.—For purposes of this subsection, the term 'District business investment' means—

"(A) any District business stock, and

"(B) any District partnership interest.

"(3) DISTRICT BUSINESS STOCK.—For purposes of this subsection—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'District business stock' means any stock in a domestic corporation if—

"(i) such stock is acquired by the taxpayer at its original issue (directly or through an underwriter) in exchange for cash, and

"(ii) as of the time such stock was issued, such corporation was engaged in a trade or business in the District of Columbia (or, in the case of a new corporation, such corporation was being organized for purposes of engaging in such a trade or business).

"(B) REDEMPTIONS.—A rule similar to the rule of section 1202(c)(3) shall apply for purposes of this paragraph.

"(4) QUALIFIED DISTRICT PARTNERSHIP INTEREST.—For purposes of this subsection, the term 'qualified District partnership interest' means any interest in a partnership if—

"(A) such interest is acquired by the taxpayer from the partnership solely in exchange for cash, and

"(B) as of the time such interest was acquired, such partnership was engaging in a trade or business in the District of Columbia (or, in the case of a new partnership, such partnership was being organized for purposes of engaging in such a trade or business).

"(5) DISPOSITIONS OF DISTRICT BUSINESS INVESTMENTS.—

"(A) IN GENERAL.—If a taxpayer disposes of any District business investment (or any other property the basis of which is determined in whole or in part by reference to the adjusted basis of such investment) before the end of the 5-year period beginning on the date such investment was acquired by the taxpayer, the taxpayer's tax imposed by this chapter for the taxable year in which such distribution occurs shall be increased by the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted solely from reducing to zero any credit determined under this section with respect to such investment.

"(B) EXCEPTIONS.—Subparagraph (A) shall not apply to any gift, transfer, or transaction described in paragraph (1), (2), or (3) of section 1245(b).

"(C) SPECIAL RULE.—Any increase in tax under subparagraph (A) shall not be treated as a tax imposed by this chapter for purposes of—

"(i) determining the amount of any credit allowable under this chapter, and

"(ii) determining the amount of the tax imposed by section 55.

"(6) Basis reduction.—For purposes of this title, the basis of any District business investment shall be reduced by the amount of the credit determined under this section with respect to such investment.

"(d) Limitation on Amount of Credit.—

"(1) In general.—The amount of the District investment credit determined under this section with respect to any taxpayer for any taxable year shall not exceed the credit amount allocated to such taxpayer for such taxable year by the Economic Development Corporation.

"(2) Overall limitation.—The aggregate credit amount which may be allocated by the Economic Development Corporation under this section shall not exceed $95,000,000.

"(3) Criteria for allocating credit amounts.—The allocation of credit amounts under this section shall be made in accordance with criteria established by the Economic Development Corporation. In establishing such criteria, such Corporation shall take into account—

"(A) the degree to which the business receiving the loan or investment will provide job opportunities for low and moderate income residents of the District of Columbia, and

"(B) whether such business is within a population census tract in the District of Columbia having a poverty rate of at least 15 percent.

"(e) Regulations.—The Secretary shall prescribe such regulations as may be appropriate to carry out this section.

"(f) Application of Section.—This section shall apply to any credit amount allocated for taxable years beginning after December 31, 1997, and before January 1, 2003.

"SEC. 1400E. DEFINITIONS.

"(a) Qualified District Business.—For purposes of this subchapter, the term 'qualified District business' means a corporation, partnership, or proprietorship which would be a qualified business entity (as defined in section 1397B) or a qualified proprietorship (as defined in such section) if—

"(1) the District of Columbia were an empowerment zone (and there were no other empowerment zones or enterprise communities), and

"(2) section 1397B(b)(1) did not apply.

"(b) Qualified District Property.—For purposes of this subchapter, the term 'qualified District property' means any property which would be qualified zone property (as defined in section 1397C) if—

"(1) the District of Columbia were an empowerment zone (and there were no other empowerment zones or enterprise communities),

"(2) paragraph (1)(A) of section 1397C(a) referred to the date of the enactment of this section,

"(3) paragraph (1)(B) of section 1397C(a) did not apply, and

"(4) paragraph (2) of section 1397C(a) were applied by substituting 'an amount equal to 15 percent of the adjusted basis' for 'an amount equal to the adjusted basis'.

"(c) Economic Development Corporation.—For purposes of this subchapter, the term 'Economic Development Corporation' means the Economic Development Corporation hereafter established by law for the District of Columbia.

"SEC. 1400F. STATUS OF ECONOMIC DEVELOPMENT CORPORATION FOR DISTRICT OF COLUMBIA.

"(a) In General.—For purposes of this title and the Social Security Act, the Economic Development Corporation is an agency of the District of Columbia.

"(b) Bond Authority.—The Economic Development Corporation shall be allocated 50 percent of the private activity bond volume cap allocated to the District of Columbia under section 146. Notwithstanding section 146(e), the District of Columbia may not alter the allocation under the preceding sentence."

(b) Credits Made Part of General Business Credit.—

(1) Subsection (b) of section 38 is amended by striking "plus" at the end of paragraph (12), by striking the period at the end of paragraph (13) and inserting a comma, and by adding at the end the following new paragraphs:

"(14) the District of Columbia employment credit determined under section 1400A(a), plus

"(15) the District investment credit determined under section 1400D(a)."

(2) Subsection (d) of section 39 is amended by adding at the end the following new paragraph:

"(10) No carryback of district of columbia employment and investment credits before effective date.—No portion of the unused business credit for any taxable year which is attributable to the credit under section 1400A or 1400D may be carried back to a taxable year ending before the date of the enactment of such sections."

(3) Subsection (c) of section 196 is amended by striking "and" at the end of paragraph (7), by striking the period at the end of paragraph (8) and inserting a comma, and by adding at the end the following new paragraphs:

"(9) the District of Columbia employment credit determined under section 1400A(a), and

"(10) the District investment credit determined under section 1400D(a)."

(c) Clerical Amendment.—The table of subchapters for chapter 1 is amended by adding at the end the following new item:

"Subchapter W. Incentives for revitalization of the District of Columbia."

(d) Effective Date.—This section shall take effect on the date of the enactment of this Act.

TITLE X—REVENUES

Subtitle A—Financial Products

SEC. 1001. CONSTRUCTIVE SALES TREATMENT FOR APPRECIATED FINANCIAL POSITIONS.

(a) In General.—Part IV of subchapter P of chapter 1 is amended by adding at the end the following new section:

"SEC. 1259. CONSTRUCTIVE SALES TREATMENT FOR APPRECIATED FINANCIAL POSITIONS.

"(a) In General.—If there is a constructive sale of an appreciated financial position—

"(1) the taxpayer shall recognize gain as if such position were sold, assigned, or otherwise terminated at its fair market value on the date of such constructive sale (and any gain shall be taken into account for the taxable year which includes such date), and

"(2) for purposes of applying this title for periods after the constructive sale—

"(A) proper adjustment shall be made in the amount of any gain or loss subsequently realized with respect to such position for any gain taken into account by reason of paragraph (1), and

"(B) the holding period of such position shall be determined as if such position were originally acquired on the date of such constructive sale.

"(b) Appreciated Financial Position.—For purposes of this section—

"(1) In general.—Except as provided in paragraph (2), the term 'appreciated financial position' means any position with respect to any stock, debt instrument, or partnership interest if there would be gain were such position sold, assigned, or otherwise terminated at its fair market value.

"(2) Exceptions.—The term 'appreciated financial position' shall not include—

"(A) any position with respect to straight debt (as defined in section 1361(c)(5)(B) without regard to clause (iii) thereof), and

"(B) any position which is marked to market under any provision of this title or the regulations thereunder.

"(3) Position.—The term 'position' means an interest, including a futures or forward contract, short sale, or option.

"(c) Constructive Sale.—For purposes of this section—

"(1) In general.—A taxpayer shall be treated as having made a constructive sale of an appreciated financial position if the taxpayer (or a related person)—

"(A) enters into a short sale of the same or substantially identical property,

"(B) enters into an offsetting notional principal contract with respect to the same or substantially identical property,

"(C) enters into a futures or forward contract to deliver the same or substantially identical property,

"(D) in the case of an appreciated financial position that is a short sale or a contract described in subparagraph (B) or (C) with respect to any property, acquires the same or substantially identical property, or

"(E) to the extent prescribed by the Secretary in regulations, enters into 1 or more other transactions (or acquires 1 or more positions) that have substantially the same effect as a transaction described in any of the preceding subparagraphs.

"(2) Exception for sales of nonpublicly traded property.—The term 'constructive sale' shall not include any contract for sale of any stock, debt instrument, or partnership interest which is not a marketable security (as defined in section 453(f)) if the contract settles within 1 year after the date such contract is entered into.

"(3) Exception for certain closed transactions.—In applying this section, there shall be disregarded any transaction (which would otherwise be treated as a constructive sale) during the taxable year if—

"(A) such transaction is closed before the end of the 30th day after the close of such taxable year, and

"(B) in the case of a transaction which is closed during the 90-day period ending on such 30th day—

"(i) the taxpayer holds the appreciated financial position throughout the 60-day period beginning on the date such transaction is closed, and

"(ii) at no time during such 60-day period is the taxpayer's risk of loss with respect to such position reduced by reason of a circumstance which would be described in section 246(c)(4) if references to stock included references to such position.

"(4) Related person.—A person is related to another person with respect to a transaction if—

"(A) the relationship is described in section 267 or 707(b), and

"(B) such transaction is entered into with a view toward avoiding the purposes of this section.

"(d) Other Definitions.—For purposes of this section—

"(1) Forward contract.—The term 'forward contract' means a contract to deliver a substantially fixed amount of property for a substantially fixed price.

"(2) Offsetting notional principal contract.—The term 'offsetting notional principal contract' means, with respect to any property, an agreement which includes—

"(A) a requirement to pay (or provide credit for) all or substantially all of the investment yield (including appreciation) on such property for a specified period, and

"(B) a right to be reimbursed for (or receive credit for) all or substantially all of any decline in the value of such property.

"(e) Special Rules.—

"(1) Treatment of subsequent sale of position which was deemed sold.—If—

"(A) there is a constructive sale of any appreciated financial position,

"(B) such position is subsequently disposed of, and

"(C) at the time of such disposition, the transaction resulting in the constructive sale of such position is open with respect to the taxpayer or any related person,

solely for purposes of determining whether the taxpayer has entered into a constructive sale of any other appreciated financial position held by the taxpayer, the taxpayer shall be treated as entering into such transaction immediately after such disposition. For purposes of the preceding sentence, an assignment or other termination shall be treated as a disposition.

"(2) Certain trust instruments treated as stock.—For purposes of this section, an interest in a trust which is actively traded (within the meaning of section 1092(d)(1)) shall be treated as stock.

"(3) Multiple positions in property.—If a taxpayer holds multiple positions in property, the determination of whether a specific transaction is a constructive sale and, if so, which appreciated financial position is deemed sold shall be made in the same manner as actual sales.

"(f) Regulations.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section."

(b) Election of Mark to Market for Securities Traders and for Traders and Dealers in Commodities.—Subsection (d) of section 475 (relating to mark to market accounting method for dealers in securities) is amended by adding at the end the following new paragraph:

"(4) Election of mark to market for securities traders and for traders and dealers in commodities.—

"(A) In general.—In the case of a person—

"(i) who is engaged in a trade or business to which this paragraph applies, and

"(ii) who elects to be treated as a dealer in securities for purposes of this section with respect to such trade or business,

subsections (a), (b)(3), (c)(3), and (e) and the preceding provisions of this subsection (or, in the case of a dealer in commodities, this section) shall apply to all commodities and securities held by such person in any trade or business with respect to which such election is in effect in the same manner as if such person were a dealer in securities and all references to securities included references to commodities.

"(B) Application of paragraph.—This paragraph shall apply to any active trade or business—

"(i) as a trader in securities, or

"(ii) as a trader or dealer in commodities.

"(C) Exception for certain holdings of traders.—In the case of a trader in securities or commodities, subsection (a) shall not apply to any security or commodity (to which subsection (a) would otherwise apply solely by reason of this paragraph) if such security or commodity is clearly identified in the trader's records (before the close of the day applicable under subsection (b)(2)) as being held other than in a trade or business to which the election under subparagraph (A) is in effect. A security or commodity so identified shall be treated as described in subsection (b)(1).

"(D) Commodity.—For purposes of this paragraph, the term 'commodities' includes only commodities of a kind customarily dealt in on an organized commodity exchange.

"(E) Election.—An election under this paragraph may be made separately for each trade or business and without the consent of the Secretary. Such an election, once made, shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary."

(c) Clerical Amendment.—The table of sections for part IV of subchapter P of chapter 1 is amended by adding at the end the following new item:

"Sec. 1259. Constructive sales treatment for appreciated financial positions."

(d) Effective Dates.—

(1) In general.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to any constructive sale after June 8, 1997.

(2) Exception for sales of positions, etc. held before June 9, 1997.—A constructive sale before June 9, 1997, and the property to which the position involved in the transaction relates, shall not be taken into account in determining whether any other constructive sale after June 8, 1997, has occurred if, within before the close of the 30-day period beginning on the date of the enactment of this Act, such position and property are clearly identified in the taxpayer's records as offsetting. The preceding sentence shall cease to apply as of the date the taxpayer ceases to hold such position or property.

(3) Special rule.—In the case of a decedent dying after June 8, 1997, if—

(A) there was a constructive sale on or before such date of any appreciated financial position,

(B) the transaction resulting in such constructive sale of such position remains open (with respect to the decedent or any related person) for not less than 2 years after the date of such transaction (whether such period is before or after such date), and

(C) such transaction is not closed within the 30-day period beginning on the date of the enactment of this Act,

then, for purposes of such Code, such position (and any property related thereto, as determined under the principles of section 1259(d)(1) of such Code (as so added)) shall be treated as property constituting rights to receive an item of income in respect of a decedent under section 691 of such Code.

(4) Election of securities traders, and for traders and dealers in commodities, to be treated as dealers in securities.—

(A) In general.—The amendment made by subsection (b) shall apply to taxable years ending after the date of the enactment of this Act.

(B) 4-year spread of adjustments.—In the case of a taxpayer who elects under section 475(d)(4) of the Internal Revenue Code of 1986 (as added by this section) to change its method of accounting for its first taxable year ending after the date of the enactment of this Act, the net amount of the adjustments required to be taken into account by the taxpayer under section 481 of the Internal Revenue Code of 1986 shall be taken into account ratably over the 4-taxable year period beginning with such first taxable year.

SEC. 1002. LIMITATION ON EXCEPTION FOR INVESTMENT COMPANIES UNDER SECTION 351.

(a) In General.—Paragraph (1) of section 351(e) (relating to exceptions) is amended by adding at the end the following: "For purposes of the preceding sentence, the term 'investment company' includes any company if more than 80 percent of the value of the assets of such company (other than assets held in the ordinary course of a trade or business for sale to customers) is attributable to—

"(A) money,

"(B) any financial instrument (as defined in section 731(c)(2)(C)),

"(C) any foreign currency,

"(D) any interest in a real estate investment trust, a common trust fund, a regulated investment company, or a publicly traded partnership (as defined in section 7704(b)),

"(E) any interest described in clause (iv), (v), or (vi) of section 731(c)(2)(B) (or which would be so described without regard to any reference to active trading or marketability),

"(F) any other asset specified in regulations prescribed by the Secretary, or

"(G) any combination of the foregoing."

(b) Effective Date.—

(1) In general.—The amendment made by subsection (a) shall apply to transfers after June 8, 1997, in taxable years ending after such date.

(2) Binding contracts.—The amendment made by subsection (a) shall not apply to any transfer pursuant to a written binding contract in effect on June 8, 1997, that provides for the transfer of a fixed amount of property, and at all times thereafter before such transfer.

SEC. 1003. MODIFICATION OF RULES FOR ALLOCATING INTEREST EXPENSE TO TAX-EXEMPT INTEREST.

(a) Pro Rata Allocation Rules Applicable to Corporations.—

(1) In general.—Paragraph (1) of section 265(b) is amended by striking "In the case of a financial institution" and inserting "In the case of a corporation".

(2) Only obligations acquired after June 8, 1997, taken into account.—Subparagraph (A) of section 265(b)(2) is amended by striking "August 7, 1986" and inserting "June 8, 1997 (August 7, 1986, in the case of a financial institution)".

(3) Small issuer exception not to apply.—Subparagraph (A) of section 265(b)(3) is amended by striking "Any qualified" and inserting "In the case of a financial institution, any qualified".

(4) Exception for certain bonds acquired on sale of goods or services.—Subparagraph (B) of section 265(b)(4) is amended by adding at the end the following new sentence: "In the case of a taxpayer other than a financial institution, such term shall not include a nonsaleable obligation acquired by such taxpayer in the ordinary course of business as payment for goods or services provided by such taxpayer to any State or local government."

(5) Look-thru rules for partnerships.—Paragraph (6) of section 265(b) is amended by adding at the end the following new subparagraph:

"(C) Look-thru rules for partnerships.—In the case of a corporation which is a partner in a partnership, such corporation shall be treated for purposes of this subsection as holding directly its allocable share of the assets of the partnership."

(6) APPLICATION OF PRO RATA DISALLOWANCE ON AFFILIATED GROUP BASIS.—Subsection (b) of section 265 is amended by adding at the end the following new paragraph:

"(7) APPLICATION OF DISALLOWANCE ON AFFILIATED GROUP BASIS.—

"(A) IN GENERAL.—For purposes of this subsection, all members of an affiliated group filing a consolidated return under section 1501 shall be treated as 1 taxpayer.

"(B) TREATMENT OF INSURANCE COMPANIES.—This subsection shall not apply to an insurance company, and subparagraph (A) shall be applied without regard to any member of an affiliated group which is an insurance company."

(6) DE MINIMIS EXCEPTION FOR NONFINANCIAL INSTITUTIONS.—Subsection (b) of section 265 is amended by adding at the end the following new paragraph:

"(8) DE MINIMIS EXCEPTION FOR NONFINANCIAL INSTITUTIONS.—In the case of a corporation, paragraph (1) shall not apply for any taxable year if the amount described in paragraph (2)(A) with respect to such corporation does not exceed the lesser of—

"(A) 2 percent of the amount described in paragraph (2)(B), or

"(B) $1,000,000.

The preceding sentence shall not apply to a financial institution or to a dealer in tax-exempt obligations."

(7) CLERICAL AMENDMENT.—The subsection heading for section 265(b) is amended by striking "FINANCIAL INSTITUTIONS" and inserting "CORPORATIONS".

(b) APPLICATION OF SECTION 265(a)(2) WITH RESPECT TO CONTROLLED GROUPS.—Paragraph (2) of section 265(a) is amended after "obligations" by inserting "held by the taxpayer (or any corporation which is a member of a controlled group (as defined in section 267(f)(1)) which includes the taxpayer)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 1004. GAINS AND LOSSES FROM CERTAIN TERMINATIONS WITH RESPECT TO PROPERTY.

(a) APPLICATION OF CAPITAL TREATMENT TO PROPERTY OTHER THAN PERSONAL PROPERTY.—

(1) IN GENERAL.—Paragraph (1) of section 1234A (relating to gains and losses from certain terminations) is amended by striking "personal property (as defined in section 1092(d)(1))" and inserting "property".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to terminations more than 30 days after the date of the enactment of this Act.

(b) APPLICATION OF CAPITAL TREATMENT, ETC. TO OBLIGATIONS ISSUED BY NATURAL PERSONS.—

(1) IN GENERAL.—Section 1271(b) is amended to read as follows:

"(b) EXCEPTION FOR CERTAIN OBLIGATIONS.—

"(1) IN GENERAL.—This section shall not apply to—

"(A) any obligation issued by a natural person before June 9, 1997, and

"(B) any obligation issued before July 2, 1982, by an issuer which is not a corporation and is not a government or political subdivision thereof.

"(2) TERMINATION.—Paragraph (1) shall not apply to any obligation purchased (within the meaning of section 179(d)(2)) after June 8, 1997."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of enactment of this Act.

SEC. 1005. DETERMINATION OF ORIGINAL ISSUE DISCOUNT WHERE POOLED DEBT OBLIGATIONS SUBJECT TO ACCELERATION.

(a) IN GENERAL.—Subparagraph (C) of section 1272(a)(6) (relating to debt instruments to which the paragraph applies) is amended by striking "or" at the end of clause (i), by striking the period at the end of clause (ii) and inserting ", or", and by inserting after clause (i) the following:

"(iii) any pool of debt instruments the yield on which may be reduced by reason of prepayments (or to the extent provided in regulations, by reason of other events).

To the extent provided in regulations prescribed by the Secretary, in the case of a small business engaged in the trade or business of selling tangible personal property at retail, clause (iii) shall not apply to debt instruments incurred in the ordinary course of such trade or business while held by such business."

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer required by this section to change its method of accounting for its first taxable year beginning after the date of the enactment of this Act—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as made with the consent of the Secretary, and

(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481 of the Internal Revenue Code of 1986 shall be taken into account ratably over the 4-taxable year period beginning with such first taxable year.

SEC. 1006. DENIAL OF INTEREST DEDUCTIONS ON CERTAIN DEBT INSTRUMENTS.

(a) IN GENERAL.—Section 163 (relating to deduction for interest) is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

"(k) DISALLOWANCE OF DEDUCTION ON CERTAIN DEBT INSTRUMENTS OF CORPORATIONS.—

"(1) IN GENERAL.—No deduction shall be allowed under this chapter for any interest paid or accrued on a disqualified debt instrument.

"(2) DISQUALIFIED DEBT INSTRUMENT.—For purposes of this subsection, the term 'disqualified debt instrument' means any indebtedness of a corporation which is payable in equity of the issuer or a related party.

"(3) SPECIAL RULES FOR AMOUNTS PAYABLE IN EQUITY.—For purposes of paragraph (2), indebtedness shall be treated as payable in equity of the issuer or a related party only if—

"(A) a substantial amount of the principal or interest is required to be paid or converted, or at the option of the issuer or a related party is payable in, or convertible into, such equity,

"(B) a substantial amount of the principal or interest is required to be determined, or at the option of the issuer or a related party is determined, by reference to the value of such equity, or

"(C) the indebtedness is part of an arrangement which is reasonably expected to result in a transaction described in subparagraph (A) or (B).

For purposes of subparagraphs (A) and (B), principal or interest shall be treated as required to be so paid, converted, or determined if it may be required at the option of the holder or a related party and there is a substantial certainty the option will be exercised.

"(4) RELATED PARTY.—For purposes of this subsection, a person is a related party with respect to another person if such person bears a relationship to such other person described in section 267(b) or 707(b).

"(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection, including regulations preventing avoidance of this subsection through the use of an issuer other than a corporation."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall apply to disqualified debt instruments issued after June 8, 1997.

(2) TRANSITION RULE.—The amendment made by this section shall not apply to any instrument issued after June 8, 1997, if such instrument is—

(A) issued pursuant to a written agreement which was binding on such date and at all times thereafter,

(B) described in a ruling request submitted to the Internal Revenue Service on or before such date, or

(C) described on or before such date in a public announcement or in a filing with the Securities and Exchange Commission required solely by reason of the distribution.

Subtitle B—Corporate Organizations and Reorganizations

SEC. 1011. TAX TREATMENT OF CERTAIN EXTRAORDINARY DIVIDENDS.

(a) TREATMENT OF EXTRAORDINARY DIVIDENDS IN EXCESS OF BASIS.—Paragraph (2) of section 1059(a) (relating to corporate shareholder's recognition of gain attributable to nontaxed portion of extraordinary dividends) is amended to read as follows:

"(2) AMOUNTS IN EXCESS OF BASIS.—If the nontaxed portion of such dividends exceeds such basis, such excess shall be treated as gain from the sale or exchange of such stock for the taxable year in which the extraordinary dividend is received."

(b) TREATMENT OF REDEMPTIONS WHERE OPTIONS INVOLVED.—Paragraph (1) of section 1059(e) (relating to treatment of partial liquidations and non-pro rata redemptions) is amended to read as follows:

"(1) TREATMENT OF PARTIAL LIQUIDATIONS AND CERTAIN REDEMPTIONS.—Except as otherwise provided in regulations—

"(A) REDEMPTIONS.—In the case of any redemption of stock—

"(i) which is part of a partial liquidation (within the meaning of section 302(e)) of the redeeming corporation,

"(ii) which is not pro rata as to all shareholders, or

"(iii) which would not have been treated (in whole or in part) as a dividend if any options had not been taken into account under section 318(a)(4),

any amount treated as a dividend with respect to such redemption shall be treated as an extraordinary dividend to which paragraphs (1) and (2) of subsection (a) apply without regard to the period the taxpayer held such stock. In the case of a redemption described in clause (iii), only the basis in the stock redeemed shall be taken into account under subsection (a).

"(B) REORGANIZATIONS, ETC.—An exchange described in section 356(a)(1) which is treated as a dividend under section 356(a)(2) shall be treated as a redemption of stock for purposes of applying subparagraph (A)."

(c) TIME FOR REDUCTION.—Paragraph (1) of section 1059(d) is amended to read as follows:

"(1) Time for reduction.—Any reduction in basis under subsection (a)(1) shall be treated as occurring at the beginning of the ex-dividend date of the extraordinary dividend to which the reduction relates."

(d) Effective Dates.—

(1) In general.—The amendments made by this section shall apply to distributions after May 3, 1995.

(2) Transition rule.—The amendments made by this section shall not apply to any distribution made pursuant to the terms of—

(A) a written binding contract in effect on May 3, 1995, and at all times thereafter before such distribution, or

(B) a tender offer outstanding on May 3, 1995.

(3) Certain dividends not pursuant to certain redemptions.—In determining whether the amendment made by subsection (a) applies to any extraordinary dividend other than a dividend treated as an extraordinary dividend under section 1059(e)(1) of the Internal Revenue Code of 1986 (as amended by this Act), paragraphs (1) and (2) shall be applied by substituting "September 13, 1995" for "May 3, 1995".

SEC. 1012. APPLICATION OF SECTION 355 TO DISTRIBUTIONS FOLLOWED BY ACQUISITIONS AND TO INTRAGROUP TRANSACTIONS.

(a) Distributions Followed by Acquisitions.—Section 355 (relating to distribution of stock and securities of a controlled corporation) is amended by adding at the end the following new subsection:

"(e) Recognition of Gain Where Certain Distributions of Stock or Securities Are Followed by Acquisition.—

"(1) General rule.—If there is a distribution to which this subsection applies, the following rules shall apply:

"(A) Acquisition of controlled corporation.—If there is an acquisition described in paragraph (2)(A)(ii) with respect to any controlled corporation, any stock or securities in the controlled corporation shall not be treated as qualified property for purposes of subsection (c)(2) of this section or section 361(c)(2).

"(B) Acquisition of distributing corporation.—If there is an acquisition described in paragraph (2)(A)(ii) with respect to the distributing corporation, the controlled corporation shall recognize gain in an amount equal to the amount of net gain which would be recognized if all the assets of the distributing corporation (immediately after the distribution) were sold (at such time) for fair market value. Any gain recognized under the preceding sentence shall be treated as long-term capital gain and shall be taken into account for the taxable year which includes the day after the date of such distribution.

"(2) Distributions to which subsection applies.—

"(A) In general.—This subsection shall apply to any distribution—

"(i) to which this section (or so much of section 356 as relates to this section) applies, and

"(ii) which is part of a plan (or series of related transactions) pursuant to which 1 or more persons acquire directly or indirectly stock representing a 50-percent or greater interest in the distributing corporation or any controlled corporation.

"(B) Plan presumed to exist in certain cases.—If 1 or more persons acquire directly or indirectly stock representing a 50-percent or greater interest in the distributing corporation or any controlled corporation during the 4-year period beginning on the date which is 2 years before the date of the distribution, such acquisition shall be treated as pursuant to a plan described in subparagraph (A)(ii) unless it is established that the distribution and the acquisition are not pursuant to a plan or series of related transactions.

"(C) Coordination with subsection (d).—This subsection shall not apply to any distribution to which subsection (d) applies.

"(3) Special rules relating to acquisitions.—

"(A) Certain acquisitions not taken into account.—Except as provided in regulations, the following acquisitions shall not be treated as described in paragraph (2)(A)(ii):

"(i) The acquisition of stock in any controlled corporation by the distributing corporation.

"(ii) The acquisition by a person of stock in any controlled corporation by reason of holding stock in the distributing corporation.

"(iii) The acquisition by a person of stock in any successor corporation of the distributing corporation or any controlled corporation by reason of holding stock in such distributing or controlled corporation.

"(iv) The acquisition of stock in a corporation if shareholders owning directly or indirectly a 50-percent or greater interest in the distributing corporation or any controlled corporation before such acquisition own indirectly a 50-percent or greater interest in such distributing or controlled corporation after such acquisition.

This subparagraph shall not apply to any acquisition if the stock held before the acquisition was acquired pursuant to a plan described in subparagraph (A)(ii).

"(B) Asset acquisitions.—Except as provided in regulations, for purposes of this subsection, if the assets of the distributing corporation or any controlled corporation are acquired by a successor corporation in a transaction described in subparagraph (A), (C), or (D) of section 368(a)(1) or any other transaction specified in regulations by the Secretary, the shareholders (immediately before the acquisition) of the corporation acquiring such assets shall be treated as acquiring stock in the corporation from which the assets were acquired.

"(4) Definition and special rules.—For purposes of this subsection—

"(A) 50-percent or greater interest.—The term '50-percent or greater interest' has the meaning given such term by subsection (d)(4).

"(B) Distributions in title 11 or similar case.—Paragraph (1) shall not apply to any distribution made in a title 11 or similar case (as defined in section 368(a)(3)).

"(C) Aggregation and attribution rules.—

"(i) Aggregation.—The rules of paragraph (7)(A) of subsection (d) shall apply.

"(ii) Attribution.—Section 355(d)(8)(A) shall apply in determining whether a person holds stock or securities in any corporation.

"(D) Successors and predecessors.—For purposes of this subsection, any reference to a controlled corporation or a distributing corporation shall include a reference to any predecessor or successor of such corporation.

"(E) Statute of limitations.—If there is an acquisition to which paragraph (1) (A) or (B) applies—

"(i) the statutory period for the assessment of any deficiency attributable to any part of the gain recognized under this subsection by reason of such acquisition shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may by regulations prescribe) that such acquisition occurred, and

"(ii) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.

"(5) Regulations.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection, including regulations—

"(A) providing for the application of this subsection where there is more than 1 controlled corporation,

"(B) treating 2 or more distributions as 1 distribution where necessary to prevent the avoidance of such purposes, and

"(C) providing for the application of rules similar to the rules of subsection (d)(6) where appropriate for purposes of paragraph (2)(B)."

(b) Section 355 Not To Apply to Certain Intragroup Transactions.—Section 355, as amended by subsection (a), is amended by adding at the end the following new subsection:

"(f) Section Not To Apply to Certain Intragroup Transactions.—Except as provided in regulations, this section shall not apply to the distribution of stock from 1 member of an affiliated group filing a consolidated return to another member of such group, and the Secretary shall provide proper adjustments for the treatment of such distribution, including (if necessary) adjustments to—

"(1) the adjusted basis of any stock which—

"(A) is in a corporation which is a member of such group, and

"(B) is held by another member of such group, and

"(2) the earnings and profits of any member of such group."

(c) Determination of Control in Certain Divisive Transactions.—

(1) Section 351 transactions.—Section 351(c) (relating to special rule) is amended to read as follows:

"(c) Special Rules Where Distribution to Shareholders.—

"(1) In general.—In determining control for purposes of this section—

"(A) the fact that any corporate transferor distributes part or all of the stock in the corporation which it receives in the exchange to its shareholders shall not be taken into account, and

"(B) if the requirements of section 355 are met with respect to such distribution, the shareholders shall be treated as in control of such corporation immediately after the exchange if the shareholders hold at least a 50-percent interest in such corporation immediately after the distribution.

"(2) 50-percent interest.—For purposes of this subsection, the term '50-percent interest' means stock possessing 50 percent of the total combined voting power of all classes of stock entitled to vote and 50 percent of the total value of shares of all classes of stock."

(2) D reorganizations.—Section 368(a)(2)(H) (relating to special rule for determining whether certain transactions are qualified under paragraph (1)(D)) is amended to read as follows:

"(H) Special rules for determining whether certain transactions are qualified under paragraph (1)(D).—For purposes of determining whether a transaction qualifies under paragraph (1)(D)—

"(i) in the case of a transaction with respect to which the requirements of subparagraphs (A) and (B) of section 354(b)(1) are met, the term 'control' has the meaning given such term by section 304(c), and

"(ii) in the case of a transaction with respect to which the requirements of section 355 are met, the shareholders described in paragraph (1)(D) shall be treated as having control of the corporation to which the assets are transferred if such shareholders hold a 50-percent or greater interest (as defined in section 351(c)(2)) in such corporation immediately after the transfer."

(d) Effective Dates.—

(1) Section 355 rules.—The amendments made by subsections (a) and (b) shall apply to distributions after April 16, 1997.

(2) Divisive transactions.—The amendments made by subsection (c) shall apply to transfers after the date of the enactment of this Act.

(3) Transition rule.—The amendments made by this section shall not apply to any distribution after April 16, 1997, if such distribution is—

(A) made pursuant to a written agreement which was binding on such date and at all times thereafter,

(B) described in a ruling request submitted to the Internal Revenue Service on or before such date, or

(C) described on or before such date in a public announcement or in a filing with the Securities and Exchange Commission required solely by reason of the distribution.

This subparagraph shall not apply to any written agreement, ruling request, or public announcement or filing unless it identifies the unrelated acquirer of the distributing corporation or of any controlled corporation, whichever is applicable.

SEC. 1013. TAX TREATMENT OF REDEMPTIONS INVOLVING RELATED CORPORATIONS.

(a) Stock Purchases by Related Corporations.—The last sentence of section 304(a)(1) (relating to acquisition by related corporation other than subsidiary) is amended to read as follows: "To the extent that such distribution is treated as a distribution to which section 301 applies, the transferor and the acquiring corporation shall be treated in the same manner as if the transferor had transferred the stock so acquired to the acquiring corporation in exchange for stock of the acquiring corporation in a transaction to which section 351(a) applies, and then the acquiring corporation had redeemed the stock it was treated as issuing in such transaction."

(b) Coordination With Section 1059.—Clause (iii) of section 1059(e)(1)(A), as amended by this title, is amended to read as follows:

"(iii) which would not have been treated (in whole or in part) as a dividend if—

"(I) any options had not been taken into account under section 318(a)(4), or

"(II) section 304(a) had not applied,".

(c) Special Rule for Acquisitions by Foreign Corporations.—Section 304(b) (relating to special rules for application of subsection (a)) is amended by adding at the end the following new paragraph:

"(5) Acquisitions by foreign corporations.—

"(A) In general.—In the case of any acquisition to which subsection (a) applies in which the acquiring corporation is a foreign corporation, the only earnings and profits taken into account under paragraph (2)(A) shall be those earnings and profits—

"(i) which are attributable (under regulations prescribed by the Secretary) to stock of the acquiring corporation owned (within the meaning of section 958(a)) by a corporation or individual which is—

"(I) a United States shareholder (within the meaning of section 951(b)) of the acquiring corporation, and

"(II) the transferor or a person who bears a relationship to the transferor described in section 267(b) or 707(b), and

"(ii) which were accumulated during the period or periods such stock was owned by such person while the acquiring corporation was a controlled foreign corporation.

"(B) Application of section 1248.—For purposes of subparagraph (A), the rules of section 1248(d) shall apply except to the extent otherwise provided by the Secretary.

"(C) Regulations.—The Secretary shall prescribe such regulations as are appropriate to carry out the purposes of this paragraph."

(d) Effective Date.—

(1) In general.—The amendments made by this section shall apply to distributions and acquisitions after June 8, 1997.

(2) Transition rule.—The amendments made by this section shall not apply to any distribution or acquisition after June 8, 1997, if such distribution or acquisition is—

(A) made pursuant to a written agreement which was binding on such date and at all times thereafter,

(B) described in a ruling request submitted to the Internal Revenue Service on or before such date, or

(C) described in a public announcement or filing with the Securities and Exchange Commission on or before such date.

SEC. 1014. MODIFICATION OF HOLDING PERIOD APPLICABLE TO DIVIDENDS RECEIVED DEDUCTION.

(a) In General.—Subparagraph (A) of section 246(c)(1) is amended to read as follows:

"(A) which is held by the taxpayer for 45 days or less during the 90-day period beginning on the date which is 45 days before the date on which such share becomes ex-dividend with respect to such dividend, or".

(b) Conforming Amendments.—

(1) Paragraph (2) of section 246(c) is amended to read as follows:

"(2) 90-day rule in the case of certain preference dividends.—In the case of stock having preference in dividends, if the taxpayer receives dividends with respect to such stock which are attributable to a period or periods aggregating in excess of 366 days, paragraph (1)(A) shall be applied—

"(A) by substituting '90 days' for '45 days' each place it appears, and

"(B) by substituting '180-day period' for '90-day period'."

(2) Paragraph (3) of section 246(c) is amended by adding "and" at the end of subparagraph (A), by striking subparagraph (B), and by redesignating subparagraph (C) as subparagraph (B).

(c) Effective Date.—The amendments made by this section shall apply to dividends received or accrued after the 30th day after the date of the enactment of this Act.

Subtitle C—Other Corporate Provisions

SEC. 1021. REGISTRATION AND OTHER PROVISIONS RELATING TO CONFIDENTIAL CORPORATE TAX SHELTERS.

(a) In General.—Section 6111 (relating to registration of tax shelters) is amended by redesignating subsections (d) and (e) as subsections (e) and (f), respectively, and by inserting after subsection (c) the following new subsection:

"(d) Certain Confidential Arrangements Treated as Tax Shelters.—

"(1) In general.—For purposes of this section, the term 'tax shelter' includes any entity, plan, arrangement, or transaction—

"(A) a significant purpose of the structure of which is the avoidance or evasion of Federal income tax for a direct or indirect participant which is a corporation,

"(B) which is offered to any potential participant under conditions of confidentiality, and

"(C) for which the tax shelter promoters may receive fees in excess of $100,000 in the aggregate.

"(2) Conditions of confidentiality.—For purposes of paragraph (1)(B), an offer is under conditions of confidentiality if—

"(A) the potential participant to whom the offer is made (or any other person acting on behalf of such participant) has an understanding or agreement with or for the benefit of any promoter of the tax shelter that such participant (or such other person) will limit disclosure of the tax shelter or any significant tax features of the tax shelter, or

"(B) any promoter of the tax shelter—

"(i) claims, knows, or has reason to know,

"(ii) knows or has reason to know that any other person (other than the potential participant) claims, or

"(iii) causes another person to claim,

that the tax shelter (or any aspect thereof) is proprietary to any person other than the potential participant or is otherwise protected from disclosure to or use by others.

For purposes of this subsection, the term 'promoter' means any person or any related person (within the meaning of section 267 or 707) who participates in the organization, management, or sale of the tax shelter.

"(3) Persons other than promoter required to register in certain cases.—

"(A) In general.—If—

"(i) the requirements of subsection (a) are not met with respect to any tax shelter (as defined in paragraph (1)) by any tax shelter promoter, and

"(ii) no tax shelter promoter is a United States person,

then each United States person who discussed participation in such shelter shall register such shelter under subsection (a).

"(B) Exception.—Subparagraph (A) shall not apply to a United States person who discussed participation in a tax shelter if—

"(i) such person notified the promoter in writing (not later than the close of the 90th day after the day on which such discussions began) that such person would not participate in such shelter, and

"(ii) such person does not participate in such shelter.

"(4) Offer to participate treated as offer for sale.—For purposes of subsections (a) and (b), an offer to participate in a tax shelter (as defined in paragraph (1)) shall be treated as an offer for sale."

(b) Penalty.—Subsection (a) of section 6707 (relating to failure to furnish information regarding tax shelters) is amended by adding at the end the following new paragraph:

"(3) Confidential arrangements.—

"(A) In general.—In the case of a tax shelter (as defined in section 6111(d)), the penalty imposed under paragraph (1) shall be an amount equal to the greater of—

"(i) 50 percent of the fees paid to all promoters of the tax shelter with respect to offerings made before the date such shelter is registered under section 6111, or

"(ii) $10,000.

Clause (i) shall be applied by substituting '75 percent' for '50 percent' in the case of an intentional failure or act described in paragraph (1).

"(B) Special rule for participants required to register shelter.—In the case of a person required to register such a tax shelter by reason of section 6111(d)(3)—

"(i) such person shall be required to pay the penalty under paragraph (1) only if such person actually participated in such shelter,

"(ii) the amount of such penalty shall be determined by taking into account under subparagraph (A)(i) only the fees paid by such person, and

"(iii) such penalty shall be in addition to the penalty imposed on any other person for failing to register such shelter."

(c) Modifications to Substantial Understatement Penalty.—

(1) Restriction on reasonable basis for corporate understatement of income tax.—Subparagraph (B) of section 6662(d)(2) is amended by adding at the end the following new flush sentence:

"For purposes of clause (ii)(II), in no event shall a corporation be treated as having a reasonable basis for its tax treatment of an item attributable to a multiple-party financing transaction if such treatment does not clearly reflect the income of the corporation."

(2) Modification to definition of tax shelter.—Clause (iii) of section 6662(d)(2)(C) is amended by striking "the principal purpose" and inserting "a significant purpose".

(d) Conforming Amendments.—

(1) Paragraph (2) of section 6707(a) is amended by striking "The penalty" and inserting "Except as provided in paragraph (3), the penalty".

(2) Subparagraph (A) of section 6707(a)(1) is amended by striking "paragraph (2)" and inserting "paragraph (2) or (3), as the case may be".

(e) Effective Date.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to any tax shelter (as defined in section 6111(d) of the Internal Revenue Code of 1986, as amended by this section) interests in which are offered to potential participants after the Secretary of the Treasury prescribes guidance with respect to meeting requirements added by such amendments.

(2) Modifications to substantial understatement penalty.—The amendments made by subsection (c) shall apply to items with respect to transactions entered into after the date of the enactment of this Act.

SEC. 1022. CERTAIN PREFERRED STOCK TREATED AS BOOT.

(a) Section 351.—Section 351 (relating to transfer to corporation controlled by transferor) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) Nonqualified Preferred Stock Not Treated as Stock.—

"(1) In general.—For purposes of subsections (a) and (b), the term 'stock' shall not include nonqualified preferred stock.

"(2) Nonqualified preferred stock.—For purposes of paragraph (1)—

"(A) In general.—The term 'nonqualified preferred stock' means preferred stock if—

"(i) the holder of such stock has the right to require the issuer or a related person to redeem or purchase the stock,

"(ii) the issuer or a related person is required to redeem or purchase such stock,

"(iii) the issuer or a related person has the right to redeem or purchase the stock and, as of the issue date, it is more likely than not that such right will be exercised, or

"(iv) the dividend rate on such stock varies in whole or in part (directly or indirectly) with reference to interest rates, commodity prices, or other similar indices.

"(B) Limitations.—Clauses (i), (ii), and (iii) of subparagraph (A) shall apply only if the right or obligation referred to therein may be exercised within the 20-year period beginning on the issue date of such stock and such right or obligation is not subject to a contingency which, as of the issue date, makes remote the likelihood of the redemption or purchase.

"(C) Exceptions for certain rights or obligations.—

"(i) In general.—A right or obligation shall not be treated as described in clause (i), (ii), or (iii) of subparagraph (A) if—

"(I) it may be exercised only upon the death, disability, or mental incompetency of the holder, or

"(II) in the case of a right or obligation to redeem or purchase stock transferred in connection with the performance of services for the issuer or a related person (and which represents reasonable compensation), it may be exercised only upon the holder's separation from service from the issuer or a related person.

"(ii) Exception.—Clause (i)(I) shall not apply if the stock relinquished in the exchange, or the stock acquired in the exchange is in—

"(I) a corporation if any class of stock in such corporation or a related party is readily tradable on an established securities market or otherwise, or

"(II) any other corporation if such exchange is part of a transaction or series of transactions in which such corporation is to become a corporation described in subclause (I).

"(3) Definitions.—For purposes of this subsection—

"(A) Preferred stock.—The term 'preferred stock' means stock which is limited and preferred as to dividends and does not participate (including through a conversion privilege) in corporate growth to any significant extent.

"(B) Related person.—A person shall be treated as related to another person if they bear a relationship to such other person described in section 267(b) or 707(b).

"(4) Regulations.—The Secretary may prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection and sections 354(a)(2)(C), 355(a)(3)(D), and 356(e). The Secretary may also prescribe regulations, consistent with the treatment under this subsection and such sections, for the treatment of nonqualified preferred stock under other provisions of this title."

(b) Section 354.—Paragraph (2) of section 354(a) (relating to exchanges of stock and securities in certain reorganizations) is amended by adding at the end the following new subparagraph:

"(C) Nonqualified preferred stock.—

"(i) In general.—Nonqualified preferred stock (as defined in section 351(g)(2)) received in exchange for stock other than nonqualified preferred stock (as so defined) shall not be treated as stock or securities.

"(ii) Recapitalizations of family-owned corporations.—

"(I) In general.—Clause (i) shall not apply in the case of a recapitalization under section 368(a)(1)(E) of a family-owned corporation.

"(II) Family-owned corporation.—For purposes of this clause, except as provided in regulations, the term 'family-owned corporation' means any corporation which is described in clause (i) of section 447(d)(2)(C) throughout the 8-year period beginning on the date which is 5 years before the date of the recapitalization. For purposes of the preceding sentence, stock shall not be treated as owned by a family member during any period described in section 355(d)(6)(B)."

(c) Section 355.—Paragraph (3) of section 355(a) is amended by adding at the end the following new subparagraph:

"(D) Non qualified preferred stock.—Nonqualified preferred stock (as defined in section 351(g)(2)) received in a distribution with respect to stock other than nonqualified preferred stock (as so defined) shall not be treated as stock or securities."

(d) Section 356.—Section 356 is amended by redesignating subsections (e) and (f) as subsections (f) and (g), respectively, and by inserting after subsection (d) the following new subsection:

"(e) Nonqualified Preferred Stock Treated as Other Property.—For purposes of this section—

"(1) In general.—Except as provided in paragraph (2), the term 'other property' includes nonqualified preferred stock (as defined in section 351(g)(2)).

"(2) Exception.—The term 'other property' does not include nonqualified preferred stock (as so defined) to the extent that, under section 354 or 355, such preferred stock would be permitted to be received without the recognition of gain."

(e) Conforming Amendments.—

(1) Subparagraph (B) of section 354(a)(2) and subparagraph (C) of section 355(a)(3)(C) are each amended by inserting "(including nonqualified preferred stock, as defined in section 351(g)(2))" after "stock".

(2) Subparagraph (A) of section 354(a)(3) and subparagraph (A) of section 355(a)(4) are each amended by inserting "nonqualified preferred stock and" after "including".

(3) Section 1036 is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

"(b) Nonqualified Preferred Stock Not Treated as Stock.—For purposes of this section, nonqualified preferred stock (as defined in section 351(g)(2)) shall be treated as property other than stock."

(f) Effective Date.—

(1) In general.—The amendments made by this section shall apply to transactions after June 8, 1997.

(2) Transition rule.—The amendments made by this section shall not apply to any transaction after June 8, 1997, if such transaction is—

(A) made pursuant to a written agreement which was binding on such date and at all times thereafter,

(B) described in a ruling request submitted to the Internal Revenue Service on or before such date, or

(C) described on or before such date in a public announcement or in a filing with the Securities and Exchange Commission required solely by reason of the distribution.

Subtitle D—Administrative Provisions

SEC. 1031. REPORTING OF CERTAIN PAYMENTS MADE TO ATTORNEYS.

(a) In General.—Section 6045 (relating to returns of brokers) is amended by adding at the end the following new subsection:

"(f) Return Required in the Case of Payments to Attorneys.—

"(1) In general.—Any person engaged in a trade or business and making a payment (in the course of such trade or business) to which this subsection applies shall file a return under subsection (a) and a statement under subsection (b) with respect to such payment.

"(2) Application of subsection.—

"(A) In general.—This subsection shall apply to any payment to an attorney in connection with legal services (whether or not such services are performed for the payor).

"(B) Exception.—This subsection shall not apply to the portion of any payment which is required to be reported under section 6041(a) (or would be so required but for the dollar limitation contained therein) or section 6051."

(b) Reporting of Attorneys' Fees Payable to Corporations.—The regulations providing an exception under section 6041 of the Internal Revenue Code of 1986 for payments made to corporations shall not apply to payments of attorneys' fees.

(c) Effective Date.—The amendment made by this section shall apply to payments made after December 31, 1997.

SEC. 1032. DECREASE OF THRESHOLD FOR REPORTING PAYMENTS TO CORPORATIONS PERFORMING SERVICES FOR FEDERAL AGENCIES.

(a) In General.—Subsection (d) of section 6041A (relating to returns regarding payments of remuneration for services and direct sales) is amended by adding at the end the following new paragraph:

"(3) Payments to corporations by Federal executive agencies.—

"(A) In general.—Notwithstanding any regulation prescribed by the Secretary before the date of the enactment of this paragraph, subsection (a) shall apply to remuneration paid to a corporation by any Federal executive agency (as defined in section 6050M(b)).

"(B) Exception.—Subparagraph (A) shall not apply to—

"(i) services under contracts described in section 6050M(e)(3) with respect to which the requirements of section 6050M(e)(2) are met, and

"(ii) such other services as the Secretary may specify in regulations prescribed after the date of the enactment of this paragraph."

(b) Effective Date.—The amendment made by this section shall apply to returns the due date for which (determined without regard to any extension) is more than 90 days after the date of the enactment of this Act.

SEC. 1033. DISCLOSURE OF RETURN INFORMATION FOR ADMINISTRATION OF CERTAIN VETERANS PROGRAMS.

(a) General Rule.—Subparagraph (D) of section 6103(l)(7) (relating to disclosure of return information to Federal, State, and local agencies administering certain programs) is amended by striking "Clause (viii) shall not apply after September 30, 1998."

(b) Effective Date.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 1034. CONTINUOUS LEVY ON CERTAIN PAYMENTS.

(a) In General.—Section 6331 (relating to levy and distraint) is amended—

(1) by redesignating subsection (h) as subsection (i), and

(2) by inserting after subsection (g) the following new subsection:

"(h) Continuing Levy on Certain Payments.—

"(1) In general.—The effect of a levy on specified payments to or received by a taxpayer shall be continuous from the date such levy is first made until such levy is released. Notwithstanding section 6334, such levy shall attach up to 15 percent of any salary or pension payment due to the taxpayer.

"(2) Specified payments.—For the purposes of paragraph (1), the term 'specified payments' means—

"(A) Federal payments other than payments for which eligibility is based on the income or assets (or both) of a payee,

"(B) payments described in subsection (a)(4) (relating to unemployment benefits), and

"(C) payments described in subsection (a)(11) (relating to certain public assistance payments)."

(b) Effective Date.—The amendment made by subsection (a) shall apply to levies issued after the date of the enactment of this Act.

SEC. 1035. RETURNS OF BENEFICIARIES OF ESTATES AND TRUSTS REQUIRED TO FILE RETURNS CONSISTENT WITH ESTATE OR TRUST RETURN OR TO NOTIFY SECRETARY OF INCONSISTENCY.

(a) Domestic Estates and Trusts.—Section 6034A (relating to information to beneficiaries of estates and trusts) is amended by adding at the end the following new subsection:

"(c) Beneficiary's Return Must Be Consistent With Estate or Trust Return or Secretary Notified of Inconsistency.—

"(1) In general.—A beneficiary of any estate or trust to which subsection (a) applies shall, on such beneficiary's return, treat any reported item in a manner which is consistent with the treatment of such item on the applicable entity's return.

"(2) Notification of inconsistent treatment.—

"(A) In general.—In the case of any reported item, if—

"(i)(I) the applicable entity has filed a return but the beneficiary's treatment on such beneficiary's return is (or may be) inconsistent with the treatment of the item on the applicable entity's return, or

"(II) the applicable entity has not filed a return, and

"(ii) the beneficiary files with the Secretary a statement identifying the inconsistency,

paragraph (1) shall not apply to such item.

"(B) Beneficiary receiving incorrect information.—A beneficiary shall be treated as having complied with clause (ii) of subparagraph (A) with respect to a reported item if the beneficiary—

"(i) demonstrates to the satisfaction of the Secretary that the treatment of the reported item on the beneficiary's return is consistent with the treatment of the item on the statement furnished under subsection (a) to the beneficiary by the applicable entity, and

"(ii) elects to have this paragraph apply with respect to that item.

"(3) Effect of failure to notify.—In any case—

"(A) described in subparagraph (A)(i)(I) of paragraph (2), and

"(B) in which the beneficiary does not comply with subparagraph (A)(ii) of paragraph (2),

any adjustment required to make the treatment of the items by such beneficiary consistent with the treatment of the items on the applicable entity's return shall be treated as arising out of mathematical or clerical errors and assessed according to section 6213(b)(1). Paragraph (2) of section 6213(b) shall not apply to any assessment referred to in the preceding sentence.

"(4) Definitions.—For purposes of this subsection—

"(A) Reported item.—The term 'reported item' means any item for which information is required to be furnished under subsection (a).

"(B) Applicable entity.—The term 'applicable entity' means the estate or trust of which the taxpayer is the beneficiary.

"(5) Addition to tax for failure to comply with section.—For addition to tax in the case of a beneficiary's negligence in connection with, or disregard of, the requirements of this section, see part II of subchapter A of chapter 68."

(b) Foreign Trusts.—Subsection (d) of section 6048 (relating to information with respect to certain foreign trusts) is amended by adding at the end the following new paragraph:

"(5) United States person's return must be consistent with trust return or Secretary notified of inconsistency.—Rules similar to the rules of section 6034A(c) shall apply to items reported by a trust under subsection (b)(1)(B) and to United States persons referred to in such subsection."

(c) Effective Date.—The amendments made by this section shall apply to returns of beneficiaries and owners filed after the date of the enactment of this Act.

Subtitle E—Excise and Employment Tax Provisions

SEC. 1041. EXTENSION AND MODIFICATION OF AIRPORT AND AIRWAY TRUST FUND TAXES.

(a) Fuel Taxes.—

(1) Aviation fuel.—Clause (ii) of section 4091(b)(3)(A) is amended by striking "September 30, 1997" and inserting "September 30, 2007".

(2) Aviation gasoline.—Subparagraph (B) of section 4081(d)(2) is amended by striking "September 30, 1997" and inserting "September 30, 2007".

(3) Noncommercial aviation.—Subparagraph (B) of section 4041(c)(3) is amended by striking "September 30, 1997" and inserting "September 30, 2007".

(b) Ticket Taxes.—

(1) Persons.—Clause (ii) of section 4261(g)(1)(A) is amended by striking "September 30, 1997" and inserting "September 30, 2007".

(2) Property.—Clause (ii) of section 4271(d)(1)(A) is amended by striking "September 30, 1997" and inserting "September 30, 2007".

(c) Modifications to Tax on Transportation of Persons by Air.—Subsection (c) of section 4261 (relating to use of international travel facilities) is amended to read as follows:

"(c) Use of International Travel Facilities.—

"(1) In general.—There is hereby imposed a tax of $10 on any amount paid (whether within or without the United States) for any transportation of any person by air, if such transportation begins or ends in the United States.

"(2) Exception for transportation entirely taxable under subsection (a).—This subsection shall not apply to any transportation all of which is taxable under subsection (a) (determined without regard to sections 4281 and 4282).

"(3) Special rule for Alaska and Hawaii.—In any case in which the tax imposed by paragraph (1) applies to a domestic segment, such tax shall apply only on departure.

"(4) Inflation adjustment.—

"(A) In general.—In the case of transportation beginning in a calendar year after 1998, the dollar amount contained in paragraph (1) shall be increased by an amount equal to—

"(i) such dollar amount, multiplied by

"(ii) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 1997' for 'calendar year 1992' in subparagraph (B) thereof.

"(B) ROUNDING.—If any increase determined under subparagraph (A) is not a multiple of 10 cents, such increase shall be rounded to the nearest multiple of 10 cents."

(d) EFFECTIVE DATES.—

(1) FUEL TAXES.—The amendment made by subsection (a) shall apply take effect on October 1, 1997.

(2) TICKET TAXES.—

(A) IN GENERAL.—The amendments made by subsections (b) and (c) shall apply to transportation beginning on or after October 1, 1997.

(B) TREATMENT OF AMOUNTS PAID FOR TICKETS PURCHASED BEFORE DATE OF ENACTMENT.—The amendments made by subsection (c) shall not apply to amounts paid for a ticket purchased before the date of the enactment of this Act for a specified flight beginning on or after October 1, 1997.

SEC. 1042. CREDIT FOR TIRE TAX IN LIEU OF EXCLUSION OF VALUE OF TIRES IN COMPUTING PRICE.

(a) IN GENERAL.—Subsection (e) of section 4051 is amended to read as follows:

"(e) CREDIT AGAINST TAX FOR TIRE TAX.—If—

"(1) tires are sold on or in connection with the sale of any article, and

"(2) tax is imposed by this subchapter on the sale of such tires,

there shall be allowed as a credit against the tax imposed by this subchapter an amount equal to the tax (if any) imposed by section 4071 on such tires."

(b) CONFORMING AMENDMENT.—Subparagraph (B) of section 4052(b)(1) is amended by striking clause (iii), by adding "and" at the end of clause (ii), and by redesignating clause (iv) as clause (iii).

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1998.

SEC. 1043. RESTORATION OF LEAKING UNDERGROUND STORAGE TANK TRUST FUND TAXES.

Paragraph (3) of section 4081(d) is amended by inserting before the period ", and before the date of the enactment of the Revenue Reconciliation Act of 1997".

SEC. 1044. REINSTATEMENT OF OIL SPILL LIABILITY TRUST FUND TAX.

(a) IN GENERAL.—Paragraph (1) of section 4611(f) is amended by striking "December 31, 1989, and before January 1, 1995" and inserting "December 31, 1997". Paragraph (2) of section 4611(f) is hereby repealed.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 1998.

SEC. 1045. EXTENSION OF FEDERAL UNEMPLOYMENT SURTAX.

(a) IN GENERAL.—Section 3301 is amended by striking "equal to—" and all that follows through "thereafter;" and inserting "6.2 percent in the case of calendar year 1998 and each calendar year thereafter".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to calendar years beginning after December 31, 1997.

Subtitle F—Provisions Relating to Tax-Exempt Entities

SEC. 1051. EXPANSION OF LOOK-THRU RULE FOR INTEREST, ANNUITIES, ROYALTIES, AND RENTS DERIVED BY SUBSIDIARIES OF TAX-EXEMPT ORGANIZATIONS.

(a) IN GENERAL.—Paragraph (13) of section 512(b) is amended to read as follows:

"(13) SPECIAL RULES FOR CERTAIN AMOUNTS RECEIVED FROM CONTROLLED ENTITIES.—

"(A) IN GENERAL.—If an organization (in this paragraph referred to as the 'controlling organization') receives (directly or indirectly) a specified payment from another entity which it controls (in this paragraph referred to as the 'controlled entity'), notwithstanding paragraphs (1), (2), and (3), the controlling organization shall include such payment as an item of gross income derived from an unrelated trade or business to the extent such payment reduces the net unrelated income of the controlled entity (or increases any net unrelated loss of the controlled entity). There shall be allowed all deductions of the controlling organization directly connected with amounts treated as derived from an unrelated trade or business under the preceding sentence.

"(B) NET UNRELATED INCOME OR LOSS.—For purposes of this paragraph—

"(i) NET UNRELATED INCOME.—The term 'net unrelated income' means—

"(I) in the case of a controlled entity which is not exempt from tax under section 501(a), the portion of such entity's taxable income which would be unrelated business taxable income if such entity were exempt from tax under section 501(a) and had the same exempt purposes (as defined in section 513A(a)(5)(A)) as the controlling organization, or

"(II) in the case of a controlled entity which is exempt from tax under section 501(a), the amount of the unrelated business taxable income of the controlled entity.

"(ii) NET UNRELATED LOSS.—the term 'net unrelated loss' means the net operating loss adjusted under rules similar to the rules of clause (i).

"(C) SPECIFIED PAYMENT.—For purposes of this paragraph, the term 'specified payment' means any interest, annuity, royalty, or rent.

"(D) DEFINITION OF CONTROL.—For purposes of this paragraph—

"(i) CONTROL.—The term 'control' means—

"(I) in the case of a corporation, ownership (by vote or value) of more than 50 percent of the stock in such corporation,

"(II) in the case of a partnership, ownership of more than 50 percent of the profits interests or capital interests in such partnership, or

"(III) in any other case, ownership of more than 50 percent of the beneficial interests in the entity.

"(ii) CONSTRUCTIVE OWNERSHIP.—Section 318 (relating to constructive ownership of stock) shall apply for purposes of determining ownership of stock in a corporation. Similar principles shall apply for purposes of determining ownership of interests in any other entity.

"(E) RELATED PERSONS.—The Secretary shall prescribe such rules as may be necessary or appropriate to prevent avoidance of the purposes of this paragraph through the use of related persons."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

(2) CONTROL TEST.—In the case of taxable years beginning before January 1, 1999, an organization shall be treated as controlling another organization for purposes of section 512(b)(13) of the Internal Revenue Code of 1986 (as amended by this section) only if it controls such organization within the meaning of such section, determined by substituting "80 percent" for "50 percent" each place it appears in subparagraph (D) thereof.

Subtitle G—Foreign-Related Provisions

SEC. 1061. DEFINITION OF FOREIGN PERSONAL HOLDING COMPANY INCOME.

(a) INCOME FROM NOTIONAL PRINCIPAL CONTRACTS AND PAYMENTS IN LIEU OF DIVIDENDS.—

(1) IN GENERAL.—Paragraph (1) of section 954(c) (defining foreign personal holding company income) is amended by adding at the end the following new subparagraph:

"(F) INCOME FROM NOTIONAL PRINCIPAL CONTRACTS.—Net income from notional principal contracts. Any item of income, gain, deduction, or loss from a notional principal contract entered into for purposes of hedging any item described in any preceding subparagraph shall not be taken into account for purposes of this subparagraph but shall be taken into account under such other subparagraph.

"(G) PAYMENTS IN LIEU OF DIVIDENDS.—Payments in lieu of dividends which are made pursuant to an agreement to which section 1058 applies."

(2) CONFORMING AMENDMENT.—Subparagraph (B) of section 954(c)(1) is amended—

(A) by striking the second sentence, and

(B) by striking "also" in the last sentence.

(b) EXCEPTION FOR DEALERS.—Paragraph (2) of section 954(c) is amended by adding at the end the following new subparagraph:

"(C) EXCEPTION FOR DEALERS.—Except as provided in subparagraph (A), (E), or (G) of paragraph (1) or by regulations, in the case of a regular dealer in property (within the meaning of paragraph (1)(B)), forward contracts, option contracts, or similar financial instruments (including notional principal contracts and all instruments referenced to commodities), there shall not be taken into account in computing foreign personal holding income any item of income, gain, deduction, or loss from any transaction (including hedging transactions) entered into in the ordinary course of such dealer's trade or business as such a dealer."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 1062. PERSONAL PROPERTY USED PREDOMINANTLY IN THE UNITED STATES TREATED AS NOT PROPERTY OF A LIKE KIND WITH RESPECT TO PROPERTY USED PREDOMINANTLY OUTSIDE THE UNITED STATES.

(a) IN GENERAL.—Subsection (h) of section 1031 (relating to exchange of property held for productive use or investment) is amended to read as follows:

"(h) SPECIAL RULES FOR FOREIGN REAL AND PERSONAL PROPERTY.—For purposes of this section—

"(1) REAL PROPERTY.—Real property located in the United States and real property located outside the United States are not property of a like kind.

"(2) PERSONAL PROPERTY.—

"(A) IN GENERAL.—Personal property used predominantly within the United States and personal property used predominantly outside the United States are not property of a like kind.

"(B) PREDOMINANT USE.—Except as provided in subparagraph (C) and (D), the predominant use of any property shall be determined based on—

"(i) in the case of the property relinquished in the exchange, the 2-year period ending on the date of such relinquishment, and

"(ii) in the case of the property acquired in the exchange, the 2-year period beginning on the date of such acquisition.

"(C) Property held for less than 2 years.—Except in the case of an exchange which is part of a transaction (or series of transactions) structured to avoid the purposes of this subsection—

"(i) only the periods the property was held by the person relinquishing the property (or any related person) shall be taken into account under subparagraph (B)(i), and

"(ii) only the periods the property was held by the person acquiring the property (or any related person) shall be taken into account under subparagraph (B)(ii).

"(D) Special rule for certain property.—Property described in any subparagraph of section 168(g)(4) shall be treated as used predominantly in the United States."

(b) Effective Date.—

(1) In general.—The amendment made by this section shall apply to transfers after June 8, 1997, in taxable years ending after such date.

(2) Binding contracts.—The amendment made by this section shall not apply to any transfer pursuant to a written binding contract in effect on June 8, 1997, and at all times thereafter before the disposition of property. A contract shall not fail to meet the requirements of the preceding sentence solely because—

(A) it provides for a sale in lieu of an exchange, or

(B) the property to be acquired as replacement property was not identified under such contract before June 9, 1997.

SEC. 1063. HOLDING PERIOD REQUIREMENT FOR CERTAIN FOREIGN TAXES.

(a) In General.—Section 901 is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

"(k) Minimum Holding Period for Certain Taxes.—

"(1) In general.—No credit shall be allowed to the taxpayer under subsection (a) for any income, war profits, or excess profits tax by reason of a dividend or other inclusion with respect to stock in a foreign corporation or a regulated investment company if—

"(A) such stock is held by the taxpayer for 15 days or less during the 30-day period beginning on the date which is 15 days before the date on which such share becomes ex-dividend with respect to such dividend, or

"(B) to the extent that the taxpayer is under an obligation (whether pursuant to a short sale or otherwise) to make related payments with respect to positions in substantially similar or related property.

"(2) Lower tier corporations.—To the extent that the credit otherwise allowable under subsection (a) is for taxes deemed paid under section 853, 902, or 960 through a chain of ownership of stock in 1 or more other foreign corporations, no credit shall be allowed under subsection (a) for such taxes to the extent—

"(A) attributable to stock held by any corporation in such chain for less than the period described in paragraph (1)(A), or

"(B) that such corporation is under an obligation referred to in paragraph (1)(B).

"(3) 45-day rule in the case of certain preference dividends.—In the case of stock having preference in dividends, if the taxpayer receives dividends with respect to such stock which are attributable to a period or periods aggregating in excess of 366 days, paragraph (1)(A) shall be applied—

"(A) by substituting '45 days' for '15 days' each place it appears, and

"(B) by substituting '90-day period' for '30-day period'.

"(4) Exception for certain taxes paid by securities dealers.—

"(A) In general.—Paragraphs (1) and (2) shall not apply to any qualified tax with respect to any security held in the active conduct in a foreign country of a securities business of any person—

"(i) who is registered as a securities broker or dealer under section 15(a) of the Securities Exchange Act of 1934,

"(ii) who is registered as a Government securities broker or dealer under section 15C(a) of such Act, or

"(iii) who is licensed or authorized in such foreign country to conduct securities activities in such country and is subject to bona fide regulation by a securities regulating authority of such country.

"(B) Qualified tax.—For purposes of subparagraph (A), the term 'qualified tax' means a tax paid to a foreign country (other than the foreign country referred to in subparagraph (A)) if—

"(i) the dividend to which such tax is attributable is subject to taxation on a net basis by the country referred to in subparagraph (A), and

"(ii) such country allows a credit against its net basis tax for the full amount of the tax paid to such other foreign country.

"(C) Regulations.—The Secretary may prescribe such regulations as may be appropriate to prevent the abuse of the exception provided by this paragraph.

"(5) Certain rules to apply.—For purposes of this subsection, the rules of paragraphs (3) and (4) of section 246(c) shall apply.

"(6) Taxes allowed as deduction, etc.—Sections 275 and 78 shall not apply to any tax which is not allowable as a credit under subsection (a) by reason of this subsection."

(b) Notice of Withholding Taxes Paid by Regulated Investment Company.—Subsection (c) of section 853 (relating to foreign tax credit allowed to shareholders) is amended by adding at the end the following new sentence: "Such notice shall also include the amount of such taxes which (without regard to the election under this section) would not be allowable as a credit under section 901(a) to the regulated investment company by reason of section 901(k)."

(c) Effective Date.—The amendments made by this section shall apply to dividends paid or accrued more than 30 days after the date of the enactment of this Act.

SEC. 1064. PENALTIES FOR FAILURE TO DISCLOSE POSITION THAT CERTAIN INTERNATIONAL TRANSPORTATION INCOME IS NOT INCLUDIBLE IN GROSS INCOME.

(a) In General.—Section 883 is amended by adding at the end the following new subsection:

"(d) Penalties for Failure to Disclose Position That Certain International Transportation Income Is Not Includible in Gross Income.—

"(1) In general.—A taxpayer who, with respect to any tax imposed by this title, takes the position that any of its gross income derived from the international operation of 1 or more ships or aircraft is not includible in gross income by reason of paragraph (1) or (2) of subsection (a) or paragraph (1) or (2) of section 872(b) (or by reason of any applicable treaty) shall be entitled to such treatment only if such position is disclosed (in such manner as the Secretary may prescribe) on the return of tax for such tax (or any statement attached to such return).

"(2) Additional penalties for failing to disclose position.—If a taxpayer fails to meet the requirement of paragraph (1) for any taxable year with respect to the international operation of 1 or more ships or one or more aircraft—

"(A) the amount of the income from the international operation to which such failure relates—

"(i) which is from sources without the United States, and

"(ii) which is attributable to a fixed place of business in the United States,

shall be treated for purposes of this title as effectively connected with the conduct of a trade or business within the United States, and

"(B) no deductions or credits shall be allowed which are attributable to income from the international operation to which the failure relates.

"(3) Reasonable cause exception.—This subsection shall not apply to a failure to disclose a position if it is shown that such failure is due to reasonable cause and not due to willful neglect."

(b) Conforming Amendments.—Paragraphs (1) and (2) of section 872(b), and paragraph (1) and (2) of 883(a), are each amended by striking "Gross income" each place it appears and inserting "Except as provided in section 883(d), gross income".

(c) Effective Date.—

(1) In general.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

(2) Coordination with treaties.—The amendments made by this section shall not apply in any case where their application would be contrary to any treaty obligation of the United States.

(d) Information To Be Provided by Customs Service.—The United States Custom Service shall provide the Secretary of the Treasury or his delegate with such information as may be specified by such Secretary in order to enable such Secretary to determine whether ships which are not registered in the United States are engaged in transportation to or from the United States.

SEC. 1065. INTEREST ON UNDERPAYMENTS NOT REDUCED BY FOREIGN TAX CREDIT CARRYBACKS.

(a) In General.—Subsection (d) of section 6601 is amended by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and by inserting after paragraph (1) the following new paragraph:

"(2) Foreign tax credit carrybacks.—If any credit allowed for any taxable year is increased by reason of a carryback of tax paid or accrued to foreign countries or possessions of the United States, such increase shall not affect the computation of interest under this section for the period ending with the filing date for the taxable year in which such taxes were in fact paid or accrued, or, with respect to any portion of such credit carryback from a taxable year attributable to a net operating loss carryback or a capital loss carryback from a subsequent taxable year, such increase shall not affect the computation of interest under this section for the period ending with the filing date for such subsequent taxable year."

(b) Conforming Amendment to Refunds Attributable to Foreign Tax Credit Carrybacks.—

(1) In general.—Subsection (f) of section 6611 is amended by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and by inserting after paragraph (1) the following new paragraph:

"(2) Foreign tax credit carrybacks.—For purposes of subsection (a), if any overpayment of tax imposed by subtitle A results from a carryback of tax paid or accrued to foreign countries or possessions of the United States, such overpayment shall be deemed not to have been made before the filing date for the taxable year in which such taxes were in fact paid or accrued, or, with respect to any portion of such credit carryback from a taxable year attributable to a net operating loss carryback or a capital loss carryback from a subsequent taxable year, such overpayment shall be deemed not to have been made before the filing date for such subsequent taxable year."

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (4) of section 6611(f) (as so redesignated) is amended—

(i) by striking "PARAGRAPHS (1) AND (2)" and inserting "PARAGRAPHS (1), (2), AND (3)", and

(ii) by striking "paragraph (1) or (2)" each place it appears and inserting "paragraph (1), (2), or (3)".

(B) Clause (ii) of section 6611(f)(4)(B) (as so redesignated) is amended by striking "and" at the end of subclause (I), by redesignating subclause (II) as subclause (III), and by inserting after subclause (I) the following new subclause:

"(II) in the case of a carryback of taxes paid or accrued to foreign countries or possessions of the United States, the taxable year in which such taxes were in fact paid or accrued (or, with respect to any portion of such carryback from a taxable year attributable to a net operating loss carryback or a capital loss carryback from a subsequent taxable year, such subsequent taxable year), and".

(C) Subclause (III) of section 6611(f)(4)(B)(ii) (as so redesignated) is amended by inserting "(as defined in paragraph (3)(B))" after "credit carryback" the first place it appears.

(D) Section 6611 is amended by striking subsection (g) and by redesignating subsections (h) and (i) as subsections (g) and (h), respectively.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to carrybacks arising in taxable years beginning after the date of the enactment of this Act.

Subtitle H—Other Revenue Provisions

SEC. 1071. TERMINATION OF SUSPENSE ACCOUNTS FOR FAMILY CORPORATIONS REQUIRED TO USE ACCRUAL METHOD OF ACCOUNTING.

(a) IN GENERAL.—Subsection (i) of section 447 (relating to method of accounting for corporations engaged in farming) is amended by adding at the end the following new paragraph:

"(7) TERMINATION.—

"(A) IN GENERAL.—No suspense account may be established under this subsection by any corporation required by this section to change its method of accounting for any taxable year ending after June 8, 1997.

"(B) PHASEOUT OF EXISTING SUSPENSE ACCOUNTS.—

"(i) IN GENERAL.—Each suspense account under this subsection shall be reduced (but not below zero) for each taxable year beginning after June 8, 1997, by an amount equal to the lesser of—

"(I) the applicable portion of such account, or

"(II) 50 percent of the taxable income of the corporation for the taxable year, or, if the corporation has no taxable income for such year, the amount of any net operating loss (as defined in section 172(c)) for such taxable year.

For purposes of the preceding sentence, the amount of taxable income and net operating loss shall be determined without regard to this paragraph.

"(ii) COORDINATION WITH OTHER REDUCTIONS.—The amount of the applicable portion for any taxable year shall be reduced (but not below zero) by the amount of any reduction required for such taxable year under any other provision of this subsection.

"(iv) INCLUSION IN INCOME.—Any reduction in a suspense account under this paragraph shall be included in gross income for the taxable year of the reduction.

"(C) APPLICABLE PORTION.—For purposes of subparagraph (B), the term 'applicable portion' means, for any taxable year, the amount which would ratably reduce the amount in the account (after taking into account prior reductions) to zero over the period consisting of such taxable year and the remaining taxable years in such first 20 taxable years.

"(D) AMOUNTS AFTER 20TH YEAR.—Any amount in the account as of the close of the 20th year referred to in subparagraph (C) shall be treated as the applicable portion for each succeeding year thereafter to the extent not reduced under this paragraph for any prior taxable year after such 20th year."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after June 8, 1997.

SEC. 1072. ALLOCATION OF BASIS AMONG PROPERTIES DISTRIBUTED BY PARTNERSHIP.

(a) IN GENERAL.—Subsection (c) of section 732 is amended to read as follows:

"(c) ALLOCATION OF BASIS.—

"(1) IN GENERAL.—The basis of distributed properties to which subsection (a)(2) or (b) is applicable shall be allocated—

"(A) first to any unrealized receivables (as defined in section 751(c)) and inventory items (as defined in section 751(d)(2)) in an amount equal to the adjusted basis of each such property to the partnership (or if the basis to be allocated is less than the sum of the adjusted bases of such properties to the partnership, in the manner provided in paragraph (3)), and

"(B) to the extent of any remaining basis, to other distributed properties—

"(i) first to the extent of each such property's adjusted basis to the partnership, and

"(ii) then, to the extent any increase or decrease in basis is required in order to have the adjusted bases of such other distributed properties equal such remaining basis, in the manner provided in paragraph (2) or (3), whichever is appropriate.

"(2) METHOD OF ALLOCATING INCREASE.—Any increase required under paragraph (1)(B) shall be allocated among the properties—

"(A) first to properties with unrealized appreciation in proportion to their respective amounts of unrealized appreciation before such increase (but only to the extent of each property's unrealized appreciation), and

"(B) then, to the extent such increase is not allocated under subparagraph (A), in proportion to their respective fair market values.

"(3) METHOD OF ALLOCATING DECREASE.—Any decrease required under paragraph (1)(A) or (1)(B) shall be allocated—

"(A) first to properties with unrealized depreciation in proportion to their respective amounts of unrealized depreciation before such decrease (but only to the extent of each property's unrealized depreciation), and

"(B) then, to the extent such decrease is not allocated under subparagraph (A), in proportion to their respective adjusted bases (as adjusted under subparagraph (A))."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to distributions after the date of the enactment of this Act.

SEC. 1073. REPEAL OF REQUIREMENT THAT INVENTORY BE SUBSTANTIALLY APPRECIATED.

(a) IN GENERAL.—Paragraph (2) of section 751(a) is amended to read as follows:

"(2) inventory items of the partnership,".

(b) CONFORMING AMENDMENTS.—

(1) Subsection (d) of section 751 is amended to read as follows:

"(d) INVENTORY ITEMS.—For purposes of this subchapter, the term 'inventory items' means—

"(1) property of the partnership of the kind described in section 1221(1),

"(2) any other property of the partnership which, on sale or exchange by the partnership, would be considered property other than a capital asset and other than property described in section 1231,

"(3) any other property of the partnership which, if sold or exchanged by the partnership, would result in a gain taxable under subsection (a) of section 1246 (relating to gain on foreign investment company stock), and

"(4) any other property held by the partnership which, if held by the selling or distributee partner, would be considered property of the type described in paragraph (1), (2), or (3)."

(2) Sections 724(d)(2), 731(a)(2)(B), 731(c)(6), 732(c)(1)(A) (as amended by the preceding section), 735(a)(2), and 735(c)(1) are each amended by striking "section 751(d)(2)" and inserting "section 751(d)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales, exchanges, and distributions after the date of the enactment of this Act.

SEC. 1074. EXTENSION OF TIME FOR TAXING PRECONTRIBUTION GAIN.

(a) IN GENERAL.—Sections 704(c)(1)(B) and 737(b)(1) are each amended by striking "5 years" and inserting "10 years".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to property contributed to a partnership after June 8, 1997.

SEC. 1075. LIMITATION ON PROPERTY FOR WHICH INCOME FORECAST METHOD MAY BE USED.

(a) LIMITATION.—Subsection (g) of section 167 is amended by adding at the end the following new paragraph:

"(6) LIMITATION ON PROPERTY FOR WHICH INCOME FORECAST METHOD MAY BE USED.—The depreciation deduction allowable under this section may be determined under the income forecast method or any similar method only with respect to—

"(A) property described in paragraph (3) or (4) of section 168(f),

"(B) copyrights,

"(C) books,

"(D) patents, and

"(E) other property specified in regulations.

Such methods may not be used with respect to any amortizable section 197 intangible (as defined in section 197(c))."

(b) DEPRECIATION PERIOD FOR RENT-TO-OWN PROPERTY.—

(1) IN GENERAL.—Subparagraph (A) of section 168(e)(3) (relating to 3-year property) is amended by striking "and" at the end of clause (i), by striking the period at the end of clause (ii) and inserting ", and", and by adding at the end the following new clause:

"(iii) any qualified rent-to-own property."

(2) 4-YEAR CLASS LIFE.—The table contained in section 168(g)(3)(B) is amended by inserting before the first item the following new item:

"(A)(iii) .... 4 "

(3) DEFINITION OF QUALIFIED RENT-TO-OWN PROPERTY.—Subsection (i) of section 168 is amended by adding at the end the following new paragraph:

"(14) QUALIFIED RENT-TO-OWN PROPERTY.—

"(A) IN GENERAL.—The term 'qualified rent-to-own property' means property held by a rent-to-own dealer for purposes of being subject to a rent-to-own contract.

"(B) RENT-TO-OWN DEALER.—The term 'rent-to-own dealer' means a person that, in the ordinary course of business, regularly enters into rent-to-own contracts with customers for the use of consumer property, if a substantial portion of those contracts terminate and the property is returned to such person before the receipt of all payments required to transfer ownership of the property from such person to the customer.

"(C) CONSUMER PROPERTY.—The term 'consumer property' means tangible personal property of a type generally used within the home. Such term shall not include cellular telephones and any computer or peripheral equipment (as defined in section 168(i)).

"(D) RENT-TO-OWN CONTRACT.—The term 'rent-to-own contract' means any lease for the use of consumer property between a rent-to-own dealer and a customer who is an individual which—

"(i) is titled 'Rent-to-Own Agreement' or 'Lease Agreement with Ownership Option,' or uses other similar language,

"(ii) provides for level, regular periodic payments (for a payment period which is a week or month),

"(iii) provides that legal title to such property remains with the rent-to-own dealer until the customer makes all the payments described in clause (ii) or early purchase payments required under the contract to acquire legal title to the item of property,

"(iv) provides a beginning date and a maximum period of time for which the contract may be in effect that does not exceed 156 weeks or 36 months from such beginning date (including renewals or options to extend),

"(v) provides for level payments within the 156-week or 36-month period that, in the aggregate, generally exceed the normal retail price of the consumer property plus interest,

"(vi) provides for payments under the contract that, in the aggregate, do not exceed $10,000 per item of consumer property,

"(vii) provides that the customer does not have any legal obligation to make all the payments referred to in clause (ii) set forth under the contract, and that at the end of each payment period the customer may either continue to use the consumer property by making the payment for the next payment period or return such property to the rent-to-own dealer in good working order, in which case the customer does not incur any further obligations under the contract and is not entitled to a return of any payments previously made under the contract, and

"(viii) provides that the customer has no right to sell, sublease, mortgage, pawn, pledge, encumber, or otherwise dispose of the consumer property until all the payments stated in the contract have been made."

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after the date of the enactment of this Act.

SEC. 1076. REPEAL OF SPECIAL RULE FOR RENTAL USE OF VACATION HOMES, ETC., FOR LESS THAN 15 DAYS.

(a) IN GENERAL.—Section 280A (relating to disallowance of certain expenses in connection with business use of home, rental of vacation homes, etc.) is amended by striking subsection (g).

(b) NO BASIS REDUCTION UNLESS DEPRECIATION CLAIMED.—Section 1016 is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) SPECIAL RULE WHERE RENTAL USE OF VACATION HOME, ETC., FOR LESS THAN 15 DAYS.—If a dwelling unit is used during the taxable year by the taxpayer as a residence and such dwelling unit is actually rented for less than 15 days during the taxable year, the reduction under subsection (a)(2) by reason of such rental use in any taxable year beginning after December 31, 1997, shall not exceed the depreciation deduction allowed for such rental use."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. 1077. EXPANSION OF REQUIREMENT THAT INVOLUNTARILY CONVERTED PROPERTY BE REPLACED WITH PROPERTY ACQUIRED FROM AN UNRELATED PERSON.

(a) IN GENERAL.—Subsection (i) of section 1033 is amended to read as follows:

"(i) REPLACEMENT PROPERTY MUST BE ACQUIRED FROM UNRELATED PERSON IN CERTAIN CASES.—

"(1) IN GENERAL.—If the property which is involuntarily converted is held by a taxpayer to which this subsection applies, subsection (a) shall not apply if the replacement property or stock is acquired from a related person. The preceding sentence shall not apply to the extent that the related person acquired the replacement property or stock from an unrelated person during the period applicable under subsection (a)(2)(B).

"(2) TAXPAYERS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to—

"(A) a C corporation,

"(B) a partnership in which 1 or more C corporations own, directly or indirectly (determined in accordance with section 707(b)(3)), more than 50 percent of the capital interest, or profits interest, in such partnership at the time of the involuntary conversion, and

"(C) any other taxpayer if, with respect to property which is involuntarily converted during the taxable year, the aggregate of the amount of realized gain on such property on which there is realized gain exceeds $100,000. In the case of a partnership, subparagraph (C) shall apply with respect to the partnership and with respect to each partner. A similar rule shall apply in the case of an S corporation and its shareholders.

"(3) RELATED PERSON.—For purposes of this subsection, a person is related to another person if the person bears a relationship to the other person described in section 267(b) or 707(b)(1)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to involuntary conversions occurring after June 8, 1997.

SEC. 1078. TREATMENT OF EXCEPTION FROM INSTALLMENT SALES RULES FOR SALES OF PROPERTY BY A MANUFACTURER TO A DEALER.

(a) IN GENERAL.—Paragraph (2) of section 811(c) of the Tax Reform Act of 1986 is hereby repealed.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

(2) COORDINATION WITH SECTION 481.—In the case of any taxpayer required by this section to change its method of accounting for any taxable year—

(A) such changes shall be treated as initiated by the taxpayer,

(B) such changes shall be treated as made with the consent of the Secretary, and

(C) the net amount of the adjustments required to be taken into account under section 481(a) of the Internal Revenue Code of 1986 shall be taken into account ratably over the 4 taxable year period beginning with the first taxable year beginning after the date of the enactment of this Act.

The CHAIRMAN pro tempore. Pursuant to House Resolution 174, the gentleman from New York [Mr. RANGEL] and a Member opposed each will control 30 minutes.

Does the gentleman from Texas [Mr. ARCHER] wish to control the time in opposition?

Mr. ARCHER. Yes, Mr. Chairman, I do.

The CHAIRMAN pro tempore. The gentleman from Texas [Mr. ARCHER] will be recognized for 30 minutes in opposition.

The Chair recognizes the gentleman from New York [Mr. RANGEL].

Mr. RANGEL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the President of the United States, as I pointed out, made an effort to get a bipartisan bill. It is still referred to by the chairman of the Committee on Ways and Means as a bipartisan bill. The President has reviewed that bill, the President has, the Secretary of the Treasury has. They think that it is very difficult for them to see the goals and objectives that they wanted to have.

One of the classic examples would be in the area of education. The President sees the dream of an America, that our economic growth would be based on productivity, and he knows so well that in this area of education is where we are lacking. We have one of the biggest imports into China, American education. Those people are going there, picking up our technology, and through 1½ billion people, they are able to be more productive.

Which area are we going in America? We have the prison population growing, not our education population. We have 1.5 million people in jail, not only not productive, but hundreds of billions of dollars is being paid just to keep them incarcerated.

In the Democratic alternative that we are talking about, we take it even further than the President's plan, and say, start in our public school systems, but do not try to do it alone. Bring in our private sector. What will be the jobs demanded in 10 years, in 20 years, in 30 years? Formulate that in a partnership with the schools so that the employees will be able to come from the communities in which they live, and when they graduate from high school, when they graduate from college, they not only would have the pomp, the circumstance, and the diploma, but they would have a job, so they will not be dependent on society.

Clearly we have seen a division in our way of thinking. We have an opportunity now to have a bill that is fair for Americans. The President is not going to tolerate that the other party dictate who are working Americans. You can use your formulas, make up your charts, but if you are working, the President of the United States insists that you get the child credit to assist you with some of the problems that you face.

The President is not going to accept the capital gains tax indexing. We went out of our way to make certain that we can make it freer for the small business person, the farmer, those people that have special needs. But we cannot afford to have, in the next 5, 10, 15, 20 years, revenue losses that our budget cannot carry.

So since we know that the President says that the Republican bill is not bipartisan, it is born politically dead on arrival, it is going to be defeated, let us pick up what we can to make certain that we have an alternative that can go into conference, and invite our Republican friends to learn what bipartisanship is about.

We have swallowed a lot on our side. We ask you to really work with us so we can take to the American people not a battle based on class but a bipartisan effort to show that we can work together, liberals and conservatives, Democrats and Republicans, with the President of the United States for a better America.

Mr. Chairman, I reserve the balance of my time.

Mr. ARCHER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I welcome the remarks of the gentleman from New York [Mr. RANGEL]. I certainly work to achieve bipartisanship. I would say to the gentleman, since we have worked so hard in plowing this ground for tax relief for middle-income Americans, beginning with the Contract With America in 1994, that I would welcome his joining us in a bipartisan effort to pass this bill.

While my proposal offers tax relief for life, the Democrat substitute provides tax relief for a portion of life. It is helpful to parents with children but it does not help the children once they grow up to become taxpayers. The Democrat substitute contains provisions that actually hurt the taxpayer. The manner in which they stack the child credit and the EITC represents a back-door increase in welfare spending. The substitute has a $300-per-child tax credit through the year 2001, not $500, which hard-hit families need; takes money away from middle-income parents who pay income taxes and gives it to people who do not pay income taxes or who already receive a large check from the Government.

Republicans think income tax relief should be reserved for people who pay income taxes. They have waited 16 years for this relief. And it should be devoted to them. And, yes, we do not give the tax credit, which is an income tax credit, to those who pay no income tax.

The substitute actually raises taxes because it cancels the scheduled drop in the FUTA tax, the Federal unemployment tax, which is a tax on payroll, a tax on work and is a discouragement for job creation.

Their education provisions, just like the President's, risk driving up college costs for all Americans, thanks to their inflationary nature.

Finally, the capital gains provision is way too limited to protect domestic savings and to increase risk-taking in the development of more business opportunities and greater job creation.

Mr. Chairman, I believe clearly that although the Democrats are trying and trying very hard, and I applaud them for that, that they should rather join us in a program that really gives relief, which has been too long in coming, creates the opportunity for job expansion, economic growth, and greater jobs for Americans who are now finally trying to get off welfare and to break the cycle of dependency. I urge a vote against the substitute.

Mr. Chairman, I reserve the balance of my time.

Mr. RANGEL. Mr. Chairman, I yield 1 minute and 30 seconds to the gentleman from Texas [Mr. DOGGETT].

Mr. DOGGETT. Mr. Chairman, one of the many good reasons to oppose this Republican tax bill is the fact that it actually increases taxes on some Americans, a tax on educational opportunity.

There are universities all across this country who assist their graduate students who work as teaching assistants, as research assistants, by reducing their tuition and lowering their cost of education. Under the current law, when graduate students get that help, their tuition assistance is not taxable. But under this bill, as proposed by the Republicans, those students who represent our future will face a significant tax increase while at the same time the Republican bill will give many tax breaks to the rich and famous of America.

These teaching and research assistants are providing assistance with over 40 percent of the courses at many of our largest universities. They get by on $12,000 to $15,000 a year at the same time they are trying to get an education and help others get an education.

At the University of Texas in Austin, we have more of these graduate students than any other college in the country. To Joe and Sheryl Schaefer, this is not just some arcane print in the Tax Code. Rather, these two neuroscientists who represent our future and who also happen to be the parents of a young baby while they maintain a near perfect 4-point average at the University of Texas, they will not get a dime from the child tax credit under this Republican bill.

But they will face such a substantial increase in their taxes under this bill that they have told me that one or both of them will have to drop out of graduate school.

I have heard the same thing from other graduate students across this country. Hiking taxes on young Americans like this, which the Democratic substitute does not do but the Republican tax bill does do, is a tax on education. It is in the wrong direction. Let us live up to our commitment on education and reject the tax increase.

Mr. ARCHER. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. THOMAS], respected member of the Committee on Ways and Means, chairman of the Subcommittee on Health.

Mr. THOMAS. Mr. Chairman, I thank my chairman for yielding me the time.

I talked earlier about the fact that the Democrats are just loath to have the myth of Republicans only cutting taxes for the rich and so they have had to create a ridiculous explanation of how much someone has to argue that this is for the wealthy. But I now realize that they have another problem; that is, they have tax package envy.

It is amazing to listen to the Democrats put together a tax package. Is it not interesting in their tax package they have a child credit? We have a child credit; they have a child credit. But it is a whole lot like Hollywood, when you walk down the movie sets, they are a facade. It looks like a house but it is really just a fake front. They do not give $500 to families until 2001.

We have capital gains. They have capital gains. There is that front, looks like capital gains. Walk through the door. It is not available to people who trade in public securities. There is a lifetime cap of $600,000, but they need that section for their tax bill.

Education, there is no incentive here to save and to grow and to teach people that education is valuable, and we have a structure that will allow you to nurture growth for education. It is a 100 percent pass-through.

Let me tell my colleagues, as soon as those institutions out there, in my background as a teacher, once you have a $10,000 checkoff spot on your income tax, do you know how much tuition is going to go up? Do you know what the argument is going to be? Just pass it through. Where is quality? Where is growth? Where is incentive?

But they have got that facade. Estate tax, have to have the estate tax facade. It is there not for individuals, just small businesses. Expiring provision, got to have a section on expiring provisions. Read the fine print. It is only for 1 year. Why bother? Because they have tax package envy. We have expiring provisions. They have to have expiring provisions.

And then to really show you the game, all day the gentleman from New York has been talking about giving hardworking people relief, not just those who pay income taxes, but those people who pay other taxes as well. Well, one of the biggest taxes that are paid are payroll taxes. If an employer pays a payroll tax, that is money not available to go to the worker.

Guess what, in the fine print of their tax package is the perpetuation of a payroll tax, $6.3 billion over 5 years. While they are saying we ought to give some relief to those who pay payroll taxes, they are perpetuating a tax which guarantees workers will get less.

Tax package envy, I am really surprised. It looks pretty good. It looks a lot like ours, but beware, it is a Hollywood set.

Mr. RANGEL. Mr. Chairman, I yield 1 minute to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Chairman, the issue is not whether there is going to be a tax cut. It is who going to get most of it. Under the Republican tax bill, you have the biggest transfer of wealth out of the pockets of low- and middle-income families to the most well-off families in this country that we have had since 1981. The Republican package does not contribute to long-term deficit reduction. It threatens it.

The Democratic bill, by contrast, provides far more help to families who make less than $75,000 a year. It does not penalize working mothers who need child care because they are concerned about their children. It helps Main Street rather than Wall Street.

I am not envious at all of the Republican package. I am appalled by the fact that it once again, as they have done continuously in this Congress, tried to use virtually every other piece of the tax package as a Trojan horse to drive through this place a giant bonanza for the wealthiest 100,000 or 200,000 tax-paying families in this country. That is wrong and the Democratic package tries to correct it.

Mr. ARCHER. Mr. Chairman, I yield 3 minutes to a respected member of the Committee on Ways and Means, the gentleman from Arizona [Mr. HAYWORTH].

Mr. HAYWORTH. Mr. Chairman, I listened with great interest to the ranking member of the Committee on Appropriations. I have a great deal of respect for the gentleman from Wisconsin. But I think this points out the fundamental difference between our two major parties. Indeed, to echo the comments of my colleague from California, sadly, sadly so many of our friends on the other side are unalterably opposed to the American people hanging onto more of their own money and sending less of it here to Washington that they would try to nitpick an agreement broadly arrived at with the President of the United States.

Mr. Chairman, all we need do is listen to the hardworking American people. One of my constituents, via telefax, a small business owner, Jon Cramer, points out the wisdom of those who live far beyond the Beltway in the great State of Arizona, when he says, "JD, you cannot give an income tax break to those who do not pay income taxes."

It is a very simple thought. Not fraught with cruelty, as some would suggest, but a commonsense compassion. And again it is important to note the reality of the evaluation by the nonpartisan Joint Tax Commission that tells us that fully, fully 76 percent of the tax relief in the Republican plan goes to families earning between $20 and $75,000 a year.

Indeed, for those who lament and would claim the greatest tax breaks go to the wealthy, well, it is interesting to evaluate who they believe is wealthy. Mr. Chairman, I do not believe anyone here who is a homeowner pays rent to himself, and yet that is the twisted evaluation that comes from the highly partisan report from the Treasury Department.

No, I believe that the majority tax plan is the best and I believe that, sadly, though our friends on the other side rhetorically come here to the well and say that, yes, they have now embraced tax cuts, history is an incredible teacher. It shows us, Mr. Chairman, that for the first time in 16 years, the first time in over a decade and a half, a new majority is finally about the business of giving Americans, working Americans, much-needed tax relief.

My colleague from California said it well, and I do not impugn the motives of those on the other side who are trying to catch up and proffer some sort of tax relief. Indeed, in a sense, Mr. Chairman, it is a measure of how far we have come, but sadly the minority substitute has miles and miles and dollars and dollars to go before it is credible.

Mr. RANGEL. Mr. Chairman, I yield myself such time as I may consume to say that I am a member of this bipartisan Joint Committee on Taxation. I have not hired any staff. I have not seen any reports. I know it is bipartisan because the chairman said it was. But if we would be kind enough to release this bipartisan statement so we would know what is in it, I think the American people will have a better idea about our differences.

Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. BENTSEN].

Mr. BENTSEN. Mr. Chairman, I rise in opposition to H.R. 2014 and in support of the substitute of gentleman from New York.

Mr. Chairman, I support the bipartisan balanced budget agreement and I support responsible tax relief, but I cannot support the legislation before us today because it is unfair and fiscally irresponsible. This legislation does not do enough to help middle-income families. What it does is set off a tax time bomb that will drain revenue from the Treasury and cause budget deficits to explode again and completely undermine our efforts to balance the budget for the first time since 1969.

Mr. Chairman, I support responsible tax relief. I have introduced legislation to reduce the capital gains tax on a sliding scale based on how long an asset is held, which I believe would be both economically productive and fiscally responsible. But this legislation makes no distinction between productive and unproductive investments and will do little to spur economic growth. Even worse, it includes inflation indexing that would cause revenue losses to explode after it fully takes effect.

This bill is also unfair in many ways. It gives more than half its benefits to the wealthiest 5 percent of Americans, people making an average of $250,000 a year. It denies the full $500 per child tax credit to 15 million working, taxpaying, wage-earning parents because it doesn't let them count the credit against their payroll taxes. It limits tax breaks on college for those most in need of this assistance by providing only half of the $1,500 tuition tax credit originally proposed by the President. And it penalizes working families by cutting back on their child tax credit if they have child care expenses.

Even worse, Mr. Chairman, middle-income families will be penalized again in the future when the costs of this tax legislation explode and cause massive budget deficits to build up again. Then we would face the choice of either increasing taxes or cutting vital programs such as Medicare, Medicaid, and education to pay for these exploding tax cuts.

And explode they will. This tax bill is full of gimmicks to limit the costs of the tax cuts in the first 5 years and to hide their true long-term costs. The size of the net tax cuts grows rapidly after the first 5 years. In the second 5 years, net tax cuts grow at 15 percent per year, much faster than inflation or growth in the size of the economy. The explosion will be even worse outside the 10-year horizon.

We need responsible tax relief that helps our families and keeps the Federal budget in balance. That is what the Democratic substitute will provide. The majority of the tax cuts in the substitute benefit middle-income Americans. It provides a full $1,500 tuition tax credit for each of the first 2 years of college and a credit of 20 percent of tuition costs after the first 2 years. This is a vital investment because, in today's global, high technology economy, higher levels of education are required than ever before. While the capital gains tax reduction in the substitute does not conform with that which I believe is most productive, it is more responsible than that contained in H.R. 2014. This substitute also provides tax relief to families who are selling their home, the biggest investment for most middle-income families; it helps families struggling to keep the family business and the family farm in the family; and it does not contain back loaded provisions that explode the deficit.

The Democratic substitute is more fair and more responsible. I urge a "no" vote on the bill and a "yes" vote on the Democratic substitute.

Mr. RANGEL. Mr. Chairman, I yield 3 minutes to the gentleman from Massachusetts [Mr. NEAL].

Mr. NEAL of Massachusetts. Mr. Chairman, what we have here is a continuation of the argument that began in 1993. Late in the evening hour, without one Republican vote, the Democratic Members of this House voted for a deficit reduction plan that worked. That is what has brought us here today to the position of where we can discuss tax cuts for the American people.

I recall that evening because of the hand wringing that we heard from the other side. I remember the doomsday prophets who took on the well on the other side and predicted that the modern American economy would be wrecked because of what the President and the Democratic majority at that time were doing here in the House. What has been the result? Four years of unparalleled economic prosperity and economic growth where each quarter seems almost to get better than the previous quarter. It has almost defied modern imagination because the Democrats had the courage to take on the issue of deficit reduction in a real way. So today this is a continuation of that argument. This is not an argument about tax cuts.

□ 1600

We all agree that this is the time for tax cuts. What we honestly bicker about today in this institution is simply this: Who is to get these tax cuts?

Now, we can believe the people that gave us our Social Security and Medicare and the 8-hour workday and the notion that everybody in America ought to be able to try their hand at college, people like me, who went to college because of Social Security, or we can accept the arguments of those on the other side that now they are the champions of middle-class Americans because they favor tax cuts for the people who reside on Wall Street.

The simple truth is that the Democratic substitute that we have today is not tax cut envy; it speaks to middle America. It assists 12 million Americans who are struggling with the costs of tuition. It does address the issue of estate tax relief. It speaks to capital gains.

And we forced the issue of capital gains in this simple sense: We believe that for middle-income Americans the most capital asset they are ever going to have is their home. We argue on their behalf today that they need relief.

We address the issue of middle-income tax relief in our Democratic alternative. Offer an affirmative vote. Vote for the Democratic alternative.

Mr. ARCHER. Mr. Chairman, I yield 1½ minutes to the gentleman from Ohio [Mr. CHABOT].

Mr. CHABOT. Mr. Chairman, I think we all know when a big government liberal gets his hands on your money, he is going to be very reluctant to give it back. Today we are hearing from a lot of our liberal friends on the other side of the aisle who are facing that very dilemma.

In 1993 this Congress, then under control of the liberal Democrats and joined by President Clinton, engineered the largest single peacetime tax increase in American history. Shortly thereafter, the taxpayers decided to elect a Republican Congress; and today that Republican Congress is attempting to cut taxes.

Mr. Chairman, the howling has started. Our liberal friends have come to the well, one after another, waging what amounts to class warfare, trying to convince us that tax cuts for working families are somehow unfair.

Like it or not, Mr. Chairman, we are going to pass a bill today that cuts taxes for American families, that cuts taxes for those who sell their homes, that cuts the death tax. Hopefully the President will not stand in our way.

We keep hearing "tax cuts for the rich, tax cuts for the rich." Seventy-five percent of the tax cuts that we are talking about go to people who make less than $75,000. Let me repeat that. Seventy-five percent of the tax cuts that we are talking about go to people who make less than $75,000.

So what is the liberal Democrats' definition of the rich? I guess it is anybody who has got a job. So let us pass the tax cuts. Let us get away from all this "tax cuts for the rich." Let us do something for the American people.

Mr. RANGEL. Mr. Chairman, I yield 2½ minutes to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Chairman, working Americans are in need of tax relief. They are also in need of their country balancing its budget. The Republican bill fails average, hard-working Americans on both counts.

Al Hunt of the Wall Street Journal says of the Gingrich-Archer plan that it is, and I quote, "a bonanza for the affluent, crumbs for the working class, and eventually costly." In fact, it will likely cost over $600 billion in the second 10-year period from 2008 through 2017. The capital gains, IRA, and estate tax provisions alone are more expensive in the year 2007 than they are in the entire first 5 years.

Look at this chart. On the far right here is the first 5 years of their tax cut where, lo and behold, the capital gains brings us money. That is the bait. The switch, in 2007 alone the capital gains explode into the loss of revenue. Who is going to pay for that?

Last weekend's NBC-Wall Street Journal poll said that two-thirds of Americans reject the Republicans' bonanza for the affluent and support the Democratic tax cut for mainstream working Americans who need relief from the burden they bear from income taxes but also, as the chairman surely knows, those half of Americans who pay more in FICA than they do in income taxes.

Hunt's characterization of the Republicans' failure to give relief to most working Americans who need it is an effort which, and I quote, "shamefully shortchanges the working poor," that is what the other bill does, and I am not envious at all of that bill, I say to the gentleman from Arizona [Mr. HAYWORTH].

In 1993 Republicans led the Nation into deep debt, a course not reversed until President Clinton's budget was adopted in 1993, as has been pointed out, without one Republican vote. That resulted in five straight years of deficit reduction, the first time that has happened in this century.

We Democrats are for giving tax cuts to working Americans, small businessmen and family farmers, and our alternative does just that. We should reject the Republican's repeat of the 1981 disaster. We should give real cuts to those most pressed in our society Americans who are going to work daily, staying off welfare and raising their children, making America stronger for their efforts.

Mr. ARCHER. Mr. Chairman. I yield 3 minutes to the gentleman from Louisiana [Mr. MCCRERY], another well-respected member of the Committee on Ways and Means.

Mr. MCCRERY. Mr. Chairman, I thank the gentleman from Texas [Mr. ARCHER] for yielding. I just want to talk for a couple minutes about their question of children in working families that will not receive the tax credit.

I think what everybody should know is that those children or at least the families of those children already receive a tax credit, the earned income tax credit. Even though those families do not have any income tax liability, in other words, even though those families pay zero in income taxes, we provide them with a tax credit. We send money back to them from Washington, even though they do not send any income taxes to Washington, so we already give those families a tax credit.

Our bill provides some income tax relief through an income tax credit to families with children who pay income taxes. Now, having talked to a lot of folks down in my district on the street about this, that kind of makes sense to them. If you pay income taxes, you need a tax break, you need the child tax credit. If you do not pay income taxes, you should not get an income tax credit. I think that probably makes sense to most Americans, and that is what we are trying to do in our bill. If we want to talk about increasing welfare benefits, which is what the earned income tax credit is, then we can do that.

I happen to like the earned income tax credit. I think it is sound policy. It does encourage people to get off welfare and into work. But that is a different subject from giving hard-working, tax-paying Americans a tax break. So I hope that the public will not be confused by the continual harangue from the other side that we are not giving the families of certain numbers of children this tax break. We already give them a tax break. We already give them money back when they pay no taxes.

So the bill that the Democrats have proposed is, in effect, an increase on welfare benefits, not a true income tax credit for folks who pay income tax.

Mr. RANGEL. Mr. Chairman, I yield myself such time as I may consume, and I would just like to say to the gentleman that it is a hurting thing when you are talking about working Americans with children asking for welfare, whether they all are asking for the dignity to continue to work, and sever the benefits that other working families would get.

Mr. RANGEL. Mr. Chairman, I yield 1½ minutes to the gentleman from Maine [Mr. ALLEN].

Mr. ALLEN. Mr. Chairman, I thank the gentleman from New York [Mr. RANGEL] for yielding.

In the course of this debate there has been a lot of reference by the other side to the fact that 76 percent of the benefits of this tax cut will go to families earning $75,000 a year or less. We have heard that number over and over again, 75 percent, 76 percent.

It is a bogus number because it does not include, when they measure family income they do not include interest, they do not include dividends, they do not include investment income in municipal bonds, they do not include money from other investments. If you have someone earning $200,000 in dividends and interest, they are listed on the records of the Joint Committee on Taxation here as earning nothing unless they have income of $30,000 or so. The 76 percent is a bogus number.

If we look at the Treasury figures, those numbers measure dividends, they measure all sorts of investment income. When we look at those numbers, only 22 percent of the benefits of this tax cut go to families earning $75,000 or less. Twenty-two percent is the real number, not 76 percent.

Now, by contrast, the Democratic substitute provides 58 percent of its benefits to families earning less than $75,000. That is the truth. There is a huge difference between 22 percent and 58 percent. The Democratic substitute provides tax relief for working families because, let us face it, those families who get $200,000 in dividend income are earning more than $75,000.

Mr. ARCHER. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. DELAY], the majority whip of the House of Representatives.

Mr. DELAY. Mr. Chairman, I appreciate the chairman yielding me this time. I rise in opposition to this substitute and in support of the Taxpayers Relief Act of 1997.

It has been 16 years since the taxpayers of America have had tax relief from the Federal Government, and today's bill is long overdue. But instead of embracing tax relief, the Democrat minority embraces class warfare.

America's working families are forced to pay over 50 percent of their salaries to the government because of high taxes and costly regulations. No wonder it takes one parent to work for the Government while the other parent works for the family. Instead of working with us to ease that tax burden, the minority leadership offers in their substitute more welfare.

It should come as no surprise that the members of the minority oppose this bill. Asking liberals to go support tax relief is like asking aliens to come back to Roswell. If it has not happened in the last 50 years, it probably will not happen in the next 50 years.

The liberals oppose tax cuts but they choose to cloak their opposition in the rhetoric of class warfare. Frankly, this rhetoric is giving me a headache. It is like listening to my daughter Mandy's favorite music. The beat is simple, the volume is loud, but the ultimate contribution to society is meaningless.

Mr. Chairman, we need less rhetoric for the Democrats regarding taxes and more illumination. Our tax cuts help working families in all stages of life, from those who have children to those who are grandparents, from those who want to save for a retirement to those who want to invest in the future of America. Working families are not necessarily rich in wealth, but they are rich in spirit.

The liberals believe that these people do not deserve tax relief, and I think that is pretty sad. So I just urge my colleagues to reject this weak substitute and vote for America's first tax cut in 17 years.

□ 1645

Mr. RANGEL. Mr. Chairman, I yield such time as he may consume to the gentleman from Louisiana [Mr. JEFFERSON].

Mr. JEFFERSON. Mr. Chairman, I rise in opposition to the Republican's so-called Taxpayer Relief Act and in support of the Democratic substitute. We are all for tax cuts, Democrats and Republicans. But, the question is, will middle-income families, the working families of our country, get any relief from the Republican's capital gains tax cut? The answer is very, very little, if at all. This is necessarily true because middle-class working families own very little of the capital assets that are taxed at capital gains rates today. If your family made between zero and $25,000 last year, you were in an income group that paid 2.2 percent of the capital gains taxes. Those who made between $25,000 and $50,000 paid another 8 percent of the capital gains taxes. And, if you made between $100,000 and $200,000, you paid 16 percent of the capital gains taxes.

The fact is that 60 percent of all capital gains taxes paid in 1996 were paid by taxpayers who made more than $200,000. These super rich taxpayers, make up only 1 percent of all the taxpayers in America; only 110,000 tax filers out of more than 110 million taxpayers, and they get a tax break of roughly $7 billion a year. So how do we make capital gains tax breaks fair to working families?

The Democratic substitute does it by targeting the capital gains tax relief to small businesses, family farms, and homeowners. It leaves out most families that make more than $100,000 a year, and gives 76 percent of its tax relief to families that make less than $100,000 a year.

The Democratic substitute targets family farm owners and small business owners for its estate tax relief, assets that keep families together and that usually represents a lifetime of work and investment.

The Republican's bill gets worse still on capital gains. Not only do more than half of the capital gains tax breaks in this bill go to the top 1 percent, it is going to open the door to an old stripe of shenanigan that only the super rich taxpayer can play. It will reintroduce the opportunity for clever new tax shelters. This is because there will now be under the Republican bill a 20 percent differential between the top marginal rate of 39 percent that high-income earners will have to pay on salaries and the 20 percent capital gains rate that Republicans are pushing on the floor.

If you were a high-income taxpayer making more than $100,000 a year, wouldn't you rather pay a 20 percent rate on your earnings that a 39 percent rate? Of course you would. So what you would do, with your lawyer or your tax accountant, is devise ways to re-characterize your income from income from a salary to income from a capital asset. Thus, by changing the name of your income, or as a tax lawyer would say, by recharacterizing your income, you could save 20 percent of the taxes that you otherwise would have to pay. It's a great deal if you can get. But you can only get it if you are one of the super rich in our country. This is a back to the future tax bill. It's the same old story all over again—if you are a working stiff, you work and pay your taxes; and if you are a high-income taxpayer, you find a loophole to get out of paying. This Republican bill provides loopholes big enough to drive a Brink's truck through, and that's exactly what the high-income taxpayers of this country are going to do. the Republican bill is an unfair, unprogressive, inefficient, complex tax proposal. The Democratic substitute solves these problems.

Like we used to say in the Louisiana legislature, the Republican tax bill is a snake and we ought to kill it. Then pass the Democratic substitute.

Mr. RANGEL. Mr. Chairman, I yield 8 minutes to the gentleman from California [Mr. BECERRA].

Mr. BECERRA. Mr. Chairman, I thank the gentleman from New York for yielding the time, and if I could, just in taking in all this debate, and we are now discussing the Democratic alternative, it strikes me that there are two provisions that really make it clear why the Democratic alternative is so much better than the bill we have before us from the Republican majority.

First, when my colleagues talk about the child tax credit, when any working American comes home with that pay stub and that American looks down the list of taxes paid, I do not think the American says, well, that was excise tax, that was payroll tax, that was income tax. She knows she paid taxes. And for those here in this Chamber to say that those taxes paid by that individual making $20,000, $23,000, $28,000 do not count verges on being un-American to me because that is a tax paid to provide for the operation of this government and the programs that we all use.

Second, the average cost of a community college education, a public community college education, is about $1,200. Under the Republican tax bill, they will get a credit, but only half of that, $600.

In our bill we try to reflect what the President agreed or thought he agreed to do with the Republicans when he negotiated a budget deal, and that was to give them a $1,200 tax credit for education.

Two ways that the deal was broken. There are other ways the deal was broken. The gentleman from Texas [Mr. DOGGETT] mentioned one, that we are going to be taxing graduate students. That seems to me to be so unfair, and I see the gentlewoman from Michigan [Ms. STABENOW] here.

Ms. STABENOW. Mr. Chairman, will the gentleman yield?

Mr. BECERRA. I yield to the gentlewoman from Michigan to make some remarks.

Ms. STABENOW. Mr. Chairman, I appreciate my friend from California yielding to me regarding the issue of graduate students because there is an important difference between the Democratic and Republican plan. As we know, in the Republican plan they take away what is now tuition tax relief. If someone is a graduate student, and I received a number of letters from Michigan State University graduate students in my district indicating that they are receiving right now about $15,000 in salary for teaching graduate courses, and that is in addition to some relief that they get by being given tuition, free tuition, in order to be able to go to school, the Republican plan would now tax that tuition that they are given as part of their salaries. And so my $15,000 graduate student that is working their way through school will add $1,000 to their tax bill. That is a huge tax cut, $1,000 on a $15,000 salary. The other piece that is so important about the Democratic plan——

Mr. BECERRA. Reclaiming my time, they are taxing graduate students and they are collecting $430 million in taxes as a result of doing that, and at the same time they are giving corporations a tax windfall and not asking them to pay any taxes. Does that seem fair?

Ms. STABENOW. It is not fair, and one of the reasons I am proud to support the Democrat plan is that we fulfill the commitment of giving over $35 billion; I believe it is over $40 billion, to education-related tax relief so anyone going to school can further their education to get a good job, and that graduate student will not actually see a tax increase.

It is amazing to me that as we are talking about tax cuts today that for too many of my constituents they are going to see an actual tax increase, and I am not going to support a tax increase on those folks.

Mr. BECERRA. Mr. Chairman, I yield to the gentleman from Louisiana [Mr. JEFFERSON].

Mr. JEFFERSON. Mr. Chairman, I think what is really important is that the Republicans are using gimmicks in this whole operation. Just as they are in the education tax credit area, so they are doing it in the capital gains area. When they tell us that 75 percent of the capital gains taxes go to ordinary folks who are middle-income taxpayers, what they are saying in the first 5 years when they use this idea of induced sales, this gimmick of induced sales, but when we look past the first 5 years there is a huge windfall for those high-income taxpayers, and this is, after all, a 10-year window we are dealing with here, not the first 5 years.

So we need to tell the whole story that this Democratic substitute does it quite differently. We come up front with what we are talking about here, we give the capital gains tax to people who need it, the small business owners, those people who are small farmers and folks who are homeowners. These are the folks who make up the heart of America, and these are the people who are hard-working folks who need the help, and we concentrate our capital gains relief to them, and this is no gimmick, this is real relief for those people.

Ms. STABENOW. Mr. Chairman, will the gentleman yield?

Mr. BECERRA. I yield to the gentlewoman from Michigan.

Ms. STABENOW. Mr. Chairman, I came to Congress in January representing middle-Michigan, middle-class working men and women in Michigan who want to receive tax relief directly in their pockets. What I see is a basic philosophical difference about how to create jobs and grow the economy in this country. Republicans say give it to those at the top, it trickles down. We say put it directly in the pockets, money directly in the pockets of middle-income working people, whether it is their house, sending their children to college, their children, their small business, their farm, put it in their pocket; they will turn around, buy cars, buy houses, take care of their children. That is how we create jobs and that is why I support this proposal.

Mr. BECERRA. Mr. Chairman, I see one of the gentlewoman's colleagues is also interested and I will recognize the gentlewoman from Michigan [Ms. KILPATRICK] in a second. If I can just mention this child tax credit we have been talking about all day, 73 million children in this country under the age of 18. Under the Democratic alternative, 60 million children will be provided with a tax credit. Under the Republican plan, 39 million children; 21 million children will not.

Ms. STABENOW. Would the gentleman from California say that again, please, for us?

Mr. BECERRA. Sixty million children under the Democratic alternative will qualify for the child tax credit. Under the Republican plan, 39 million. Twenty-one million children in America will not qualify under the Republican plan that will under the Democratic plan.

Ms. KILPATRICK. Mr. Chairman, will the gentleman yield?

Mr. BECERRA. I yield to the gentlewoman from Michigan.

Ms. KILPATRICK. Mr. Chairman, for those reasons we need to support this tax plan. The Democratic plan takes care of more American families, it offers more opportunities for America's children, and it offers the tax cuts to those families who need the tax cuts, hardworking families who pay taxes.

So I thank the gentleman from California for yielding, and I hope and encourage my colleagues to vote for the Democratic plan, the tax plan that does offer tax cuts to America's working families.

The Republican tax bill would deny tax credits for another 4 million lower middle income children. Forty percent—2 out of every 5 children—would be ineligible for the credit because their family's incomes are not high enough. The total number of children denied this credit because their families do not make enough money would be 28 million. The Republican's highly touted $500 tax credit that is nonrefundable allegedly gives tax relief to families. While corporations will reap a $22 billion windfall in this bill, 28 million children would get nothing.

The Republican tax bill denies tax credits to working families. For example, a family of four with two children with no child care expenses would not receive any credit unless its income exceeded $24,385. Moreover, if the family had child care expenses, it could earn as much as $27,180 and fail to qualify for the credit. Also, families that have more than two children, or have high mortgage or health care costs and itemize their deductions, could make close to $30,000 and still not qualify for the credit.

The Democratic tax bill has real child credit tax credits. The Democratic bill does not compute a family's child care tax credit after the earned income tax credit [EITC] is figured. This is a significant difference—millions of lower- to middle-income families owe income tax before EITC is calculated, but have little or no income tax obligation remaining after EITC is calculated. Under the Democratic bill, these families would be covered.

The Republican tax bill's largest tax cuts—capital gains, Individual Retirement Accounts, estate, and corporate taxes—provide most of their benefits to the rich. The richest 1 percent get more of the overall tax break than the bottom 60 percent combined. According to the Center on Budget and Policy Priorities, the Joint Tax Committee's distribution tables do not reflect any of the benefits that taxpayers would receive from these four provisions.

The Democratic tax bill makes the benefits in these four areas, especially for working people, fair. It provides 71 percent of the tax breaks to families earning $100,000 or less. It provides a capital gains tax cut, an estate tax cut, and tax cuts for small businesses, family farms, and homeowners. The only way that you are eligible for these tax breaks is if you work and pay taxes.

Mr. BECERRA. Reclaiming my time, Mr. Chairman, just in closing because I know we are going to run out of time, is just mention the reason there is a difference of 21 million children is because we do what we can to provide a tax break for those families that are earning $30,000 and under. The Republicans unfortunately say it is not worth it because they do not believe that that tax that we are imposing on those families is worth counting.

So it is a difference of opinion. There is a difference in values here.

Ms. STABENOW. Mr. Chairman, will the gentleman yield?

Mr. BECERRA. I yield to the gentlewoman from Michigan.

Ms. STABENOW. Mr. Chairman, we have talked a lot today about a police officer in Georgia. I would like to just like to share with my colleague my police officers' starting salary in Lansing, MI, as well as my firefighters.' They start at $26,800, working hard. These are folks with families, protecting my community whether it is for fires or from crime. Under the proposal the Republicans have, they will not receive the full $500 child tax credit because they get another tax credit. Under the Democratic plan my firefighters and police officers will receive the total amount of tax credits and deductions that they ought to receive to be able to help take care of their families. Folks with higher incomes get lots of different tax credits. I want my firefighters and my police officers to be able to get what they have now in tax credits and be able to get the full value of the $500-per-child tax credit.

Mr. BECERRA. I do not know what the gentlewoman from Michigan did but she is bringing out all her colleagues from Michigan.

Mr. LEVIN. Mr. Chairman, will the gentleman yield?

Mr. BECERRA. I yield to the gentleman from Michigan.

Mr. LEVIN. Mr. Chairman, just quickly I want to say again about this 76 percent figure that the Republicans have used. It is at best a 5-year figure.

One of the benefits of going to conference would be that the Republicans here will have to face up to the consequences of their bill over 10 years. What it means in terms of exploding the deficit and what it means in terms of fairness, the Democratic alternative is fiscally responsible and fair. The Republican proposal is irresponsible fiscally and unfair both in education and the child credit among others.

I urge that we support the Democratic alternative.

Mr. ARCHER. Mr. Chairman, I yield such time as he may consume to the gentleman from Missouri [Mr. BLUNT].

Mr. BLUNT. Mr. Chairman, I have some concerns about this bill that I think could be handled in conference. I will be supporting the Republican bill that gives relief to American families today.

Mr. Chairman, while I intend to support this tax relief bill today, I want the record to reflect my concern about two provisions of the bill that I strongly oppose. One is the limited renewal of employer provided continuing undergraduate education reimbursement. While the Senate tax bill extends the current law section 127 exemption permanently, the House bill extends sec. 127 until December 31, 1997.

Nearly two-thirds of major employers in southwest Missouri offer this benefit, affecting over 60,000 workers in Springfield and Joplin alone. These employers include a chicken processor, a fan belt manufacturer, a paper goods processor, and a ball bearings producer. Without a long-term extension of section 127, many of these companies will discontinue this benefit, denying their employees the help they need to improve their skills.

The second provision I oppose is the elimination of tax exempt treatment of tuition reduction provided to employees of educational institutions. Again, the Senate bill maintains the current law. The majority of people who take this benefit are staff members, not faculty.

The person who cleans toilets for $7 an hour so that both of her children can attend college at the same time would have to pay taxes on a tuition benefit that far exceeds her income. Graduate teaching assistants at an institution like Tulane would pay taxes on a tuition benefit of $20,930 per year with an income stipend that is far lower than the tuition benefit.

Let me be clear that I am not concerned about the president of Harvard or the person who heads up the medical program at Johns Hopkins. What I object to is raising taxes on people who clean chickens for a living or work as security guards at colleges. It is simply unthinkable that we would make it harder for people who make fan belts or work at a college to go to school, get a graduate degree, or work at a job that makes higher education affordable for their kids.

While I do intend to vote for the bill today, I do so only because I have been assured by the Republican leadership that they will work to address my concerns before the final version of this legislation comes back before the House next month. The American people have long deserved the tax relief we are considering today, and I look forward to working with Chairman ARCHER and our leadership as the bill goes to conference.

Mr. ARCHER. Mr. Chairman, I yield 30 seconds to the gentleman from Louisiana [Mr. MCCRERY].

Mr. MCCRERY. Mr. Chairman, I just wanted 30 seconds to respond to my good friend from California. Nobody on this side of the aisle said that payroll taxes were not taxes. Certainly they are taxes. We recognize that and we created the earned income tax credit specifically for that purpose, to give those families some tax relief against the burden of those payroll taxes. But they do not pay any income taxes so we are not going to give them income tax relief.

So I just wanted to make that point crystal clear. They are taxes, we believe they are taxes, we already give them a credit against those taxes.

Mr. ARCHER. Mr. Chairman, I yield such time as he may consume to the gentleman from Minnesota [Mr. RAMSTAD], a respected member of the Committee on Ways and Means.

Mr. RAMSTAD. Mr. Chairman, I thank my distinguished chairman for yielding this time to me and for his strong leadership in bringing this Taxpayers Relief Act to the floor to provide hardworking Americans with the most substantial tax relief since 1981, Mr. Chairman. This tax relief bill here today truly does cover people at all stages of life, from the childhood years through the education years to the savings years and into the retirement years.

But in addition to the five major provisions in this tax bill which have been debated most extensively here today, the child tax credit, the education tax incentives, the capital gains tax relief, the extension of IRAs and reduction in death taxes, I would like to focus on three provisions which have not gotten much attention today but are very, very important to help victims of the recent flooding in the Red River Valley, and I would like to thank the chairman and the other members of the Committee on Ways and Means who worked together in a bipartisan way, who listened to those flood victims when we were there in the Red River Valley at those town meetings, particularly the gentleman from North Dakota [Mr. POMEROY] and the gentleman from Minnesota [Mr. PETERSON] on the other side of the aisle who worked to help craft these provisions.

This bill today, this tax relief bill, includes special mortgage revenue bond rules for those people to rebuild their homes, their apartment buildings and houses in the flood areas. It includes extensions of IRS deadlines for flood area taxpayers. And it also includes special IRS rules for sales of livestock caused by the horrible historic flooding in the Red River Valley.

Mr. Chairman, this bill will help real people right away. This bill will not only help all taxpayers at all stages of their life, but particularly right now those people in the Red River Valley who have been devastated, devastated by the horrible flooding. This Congress has listened to those people at those town meetings elsewhere, when the mayors came out here. The Committee on Ways and Means has responded. I strongly urge my colleagues to pass this important bill.

Mr. ARCHER. Mr. Chairman, I yield 1 minute to the gentleman from Illinois [Mr. SHIMKUS].

Mr. SHIMKUS. Mr. Chairman, this debate speaks highly in support of tax reform, a fairer, flatter, simpler Tax Code, but as a new Member this debate has also been very disheartening.

As a West Point cadet I lived by a motto: I will not lie, cheat or steal nor tolerate those who do. As an Army officer we said an officer's word is his bond. I am here to tell my colleagues 75 percent of these tax cuts go to those who make $75,000 or less.

Let us reject the Democratic proposal and continue the work that the American people sent us here to do.

□ 1630

Mr. ARCHER. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. FOX].

Mr. FOX of Pennsylvania. Mr. Chairman, I thank the gentleman for his leadership on this bill.

The majority bill, Mr. Chairman, will give the hard-working Americans their first tax cut in 16 years. It will allow millions of hard-working American families the opportunity to keep more of their own money and make their own decisions about what they do with it.

I am especially pleased with provisions that deal with assistance in education. The House tax relief plan provides millions of college-age students and their parents with a $1,500 tax credit that provides 15 percent of expenses for the first 2 years of college, vocational training, or other postsecondary education program.

Moreover, parents and students are also provided with a $10,000 deduction per student per year for expenses with State prepaid tuition plans for education investment accounts and families making penalty-free withdrawals from any IRA to help further cover the cost of college, vocational training, or other postsecondary education program.

This House Republican plan will also allow families to make contributions to non-State-operated education investment accounts to encourage savings for college, and I would ask support for the majority proposal from the Committee on Ways and Means.

Mr. ARCHER. Mr. Chairman, I reserve the balance of my time.

Mr. RANGEL. Mr. Chairman, I yield 2 minutes to the gentlewoman from California [Ms. SANCHEZ].

Ms. SANCHEZ. Mr. Chairman, tonight I wanted to be in my hometown with my constituents, the people who worked hard to get me here. But they recognize the historic importance of the vote we are about to take on this bill. As we are casting our votes, I urge my colleagues to carefully consider every American who will be affected by our actions today.

This is a monumental day. Before us we have the opportunity to vote on a bill which will affect the life of every single American. But before we take that vote, we must really think about whether or not every hard-working American is being treated equally. Will all Americans, including single parents, workers who are struggling to get by on the minimum wage, and families with schoolchildren receive the benefits promised from this tax bill?

I am a fiscal conservative. I agree with my colleagues on both sides of the aisle that we must balance the budget, that we should cut taxes, and that we must cut spending. Today's proposed tax bill has big problems. However, the Democratic substitute addresses the capital gains tax, the child tax credit, and the education tax credit in a more equitable fashion than the proposed Republican tax bill.

Working-class Americans should not be excluded from the majority of the tax cuts. Working-class Americans should not continue to carry the burden of taxes without sufficient relief, and working-class Americans deserve fair tax relief from this Congress.

If this bill does pass and go to conference, I hope the conferees will remember the pledge that we made for equality of tax relief. Fairness in taxation is what we pledged to the American people. Fairness is what we must deliver in our actions here today.

Yesterday, it was with much hesitation that I voted in favor of the spending bill. Although this bill may not follow through on all of the promises of the balanced budget agreement, it is an important first step as the budget moves to conference.

Mr. ARCHER. Mr. Chairman, I have no further requests for time, and I will close, so I would encourage the gentleman from New York [Mr. RANGEL] to use the balance of his time.

Mr. RANGEL. Mr. Chairman, I yield 30 seconds to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the gentleman for yielding to me.

Let me briefly say that I rise in strong support of the Democratic alternative on two counts. One, just take as an example the chairman of Microsoft who would get capital gains and estate tax reductions and even a new IRA provision under the Republican plan that would also let him take a $4,000 tax break for educational expenses, while at the same time a working police officer in my district in Houston and a working police officer in the Speaker's district would not be allowed to get a tax credit for their children, or to benefit from this particular Republican bill. The bill on the Democratic side allows for working Americans to receive tax cuts.

Mr. Chairman, I rise today in support of the Democratic alternative to H.R. 2014. The Democratic plan authored by the distinguished ranking member of the Ways and Means Committee, Representative CHARLES RANGEL, is the fairer tax plan. It is the plan that gives tax relief to those who need it—to hard-working tax-paying families. The Democratic substitute provides 71 percent of tax cuts to families earning less than $100,000.

The Republican plan, in striking contrast, overwhelmingly benefits the wealthiest at the expense of working families. A recent analysis by the Center for Budget and Policy Priorities highlighted this disparity and revealed that between the Republican tax bill and spending bill voted on yesterday, the very wealthiest 1 percent of families will have their incomes boosted by an average of $27,000 a year, while struggling families in the bottom 20 percent of the economic ladder actually end up losing $63 a year. According to an analysis of the Republican bill by the Treasury Department, the richest 1 percent get more of the overall tax breaks than the bottom 60 percent combined.

The disparities between the Democratic and Republican plans are most obvious in the areas of education and child care tax credits. The differences illustrate clearly the lack of concern in the Republican plan for our Nation's working families.

The Democratic alternative would make the $500 child credit available to families who work and pay taxes—and who earn less than $75,000. This ensures that millions more children would qualify for the tax credit than do under the Republican bill. The Republican bill denies adequate tax relief to 15 million working, tax-paying families by refusing to give them the full $500 child tax credit for the earned income tax credit. This would mean that a working family with two children earning $25,000 would not receive the $500 child credit.

Democrats understand that college affordability is a priority for American families and so the Democratic substitute provides the full $1,500 HOPE scholarship tuition tax credit for the first 2 years of postsecondary education including vocational and 2-year educational programs, as well as a credit of 20 percent of tuition costs after the first 2 years. The Republican bill, however, skimps on tax breaks for college by providing only half of the $1,500 HOPE tuition tax credit and only for the first 2 years of college illustrating that the Democratic plan is the one that protects and provides for the concerns of working families.

Additionally, the Democratic alternative provides immediate and targeted tax relief to small businesses and family farms. It does not give capital gains tax breaks to wealthy people whose principal assets are stocks, bonds, and collectibles as the Republican plan does.

Finally, the Republican bill gives large corporations a $22 billion windfall by scaling back the corporate minimum tax. The Democratic alternative contains no such provision.

Mr. Chairman, it is abundantly clear that H.R. 2014, the Republican tax plan, is one that is designed to benefit the wealthy in our Nation. It is for this reason that I stand resolutely behind the Democratic alternative—a balanced tax package that is good for working families and good for America.

Mr. RANGEL. Mr. Chairman, I yield 30 seconds to the gentlewoman from California [Ms. WOOLSEY].

Ms. WOOLSEY. Mr. Chairman, it is absolutely certain that we knew when we passed the balanced budget that the devil would be in the details. Well, this bill is full of devils. I would urge everyone who really wants to help working families and to support educational opportunities to vote it down.

Mr. RANGEL. Mr. Chairman, I yield the remainder of the time for closing purposes to the gentleman from Missouri [Mr. GEPHARDT], the Democratic minority leader.

Mr. GEPHARDT. Mr. Chairman, I rise tonight in favor of the Rangel Democratic bill and to speak in favor of it over the Republican bill.

I rise to raise a simple question, which is who should be getting the lion's share of the benefit from this tax cut bill. Everybody is for tax cuts. I am, the Republicans are, I think every Member of the House is happy tonight that we are here on the floor talking about tax cuts. The reason we are here, in my view, is that the Democratic Party in 1993 produced this deficit dividend as a result of courageous votes cast by Democrats, all Democrats in 1993. Now we are very near to balancing the budget. Some say we might even balance the budget next year as a result of that action.

So the question is, who gets the tax cut? I believe, and I think Democrats believe, that this tax cut should go to hard-working, middle-income families and families struggling to get into the middle class.

I refer the Members to these charts. The Republican bill gives 19 million families the lion's share of their tax cut, about 70 percent, to families earning over $100,000 a year. They only give about 30 percent of their tax cut to families earning less than $100,000, whereas with the Democratic tax bill we give the lion's share of our tax cut to families earning below $100,000 a year, 91 million families. We give a tax cut to families earning over $100,000 a year, but it is less of a tax cut. We want everybody to have a tax cut, we just want the lion's share of it to go to hard-working middle income families and families trying to get into the middle class.

My colleagues may say why? Why do we insist that the tax cut go to people in the middle and trying to get into the middle? There is a simple reason. The people at the top, the 19 million families that are the top earners in the country have seen their income over the last 20 years go up by about 50 percent. We are thrilled that their income has gone up. God bless them. I wish everybody in this country would have their income go up by 50 percent. But the truth is, the people below $100,000 a year in income over the last 20 years has seen their income stay in place, or they have even fallen behind. It is that central fact that leads us to the conclusion that the people under $100,000 a year are the people that ought to claim the lion's share of this tax cut.

Now, our tax cut is a families first tax cut. Let us talk about the child credit for a minute. A lot has been made of the fact that in the Republican bill families earning $20,000 and $25,000 a year do not get the full child credit because we, together, Republicans and Democrats, decided to cut these families' taxes by the earned income credit on a couple of occasions over the last 10 years, trying to help those hard-working families do well. Now we are being told that we cannot give them the child credit because they are on welfare.

How dare anyone say that someone is on welfare who goes to work every day earning $17,000 and $20,000 and $25,000 a year. They are paying taxes. They are paying the Social Security tax. They are paying Federal excise taxes, they are paying State taxes, they are paying local taxes, they are paying lots of taxes, and they need help. And they above everyone need the child credit.

Now, let us talk about education. What is more important in today's world than getting an education? We are in a global economy. We have to have highly productive workers. We all know that mental capability is the most important thing, the currency of the world economy. And we are saying, let us make sure every young person in this country, no matter what their income, gets a chance to go to college. The President has talked about it now for 5 years.

Ben Naes lives in my district in Barnhart, MO. He is 21 years old. He just came through community college. He is trying now to go to State university. If our tax bill had been in place last year, he would have gotten an $1,100 tax credit or his family would have so he could go to college. Under the Republican bill, he would have gotten about a $700 credit. More importantly, next year when these bills might be in place, he is going on to State university. He could get $600 out of our bill to go to State university; under the Republican bill, not a red cent of help for Ben Naes. Ben Naes got a 3.9 in community college. He wants to be a biochemist. He could be a biochemist and would not come out with a mountain of debt if the Democratic bill were in place.

Mr. Chairman, I remember when I wanted to go to college. My dad was a milk truck driver and we did not have a lot of money. And my mother took me down to the church that we went to, Third Baptist Church in St. Louis and we sat down across from the pastor and we asked if we could have a loan from the church. I am old enough, we did not have Pell grants, we did not have loans, we did not have tax bills that gave credits, and the minister of our church had a little scholarship fund and he gave us $500, which helped toward the $1,500 tuition at my college. Ben Naes maybe can go to the church and get that kind of a loan, but he needs more than that to get to the State university today. He needs the Democratic tax bill to help him go to college.

Now, let me end by saying this: As my colleagues go to vote on these two bills, put out of your mind everything you have heard from every lobbyist, put out of your mind everything that you have seen in ads put in by special interest groups in the newspapers, put out of your mind everything that you have been told by the people who have had the ability to approach you in the halls or call you up; put out of your mind what people at fundraising events have told you about what should happen in this tax bill, and put in your mind the people that you represent in your district and remember that the median household income in this country is $35,000 a year. Put them in your mind. Put Ben Naes in your mind and vote for a tax bill that in good conscience helps the hard-working middle-income families of this country. Let us pass the Democratic tax bill, the Rangel bill, which is the best bill.

Mr. ARCHER. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, as I have listened to this debate, I have been struck by the philosophical difference that still exists between some in the Democrat Party and the rest of us who are trying to change the way Washington works.

As Republicans and some Democrats move forward to balance the budget and reduce the tax burden on the American people, we have made our governing philosophy clear. We believe that the strength of this great Nation lies not with the Government, but with its people. Left to their own, without Government interference, red tape or excessive taxation, there is no problem that the people cannot solve. We have proved that over and over again in our history. We also believe that the great social experiment of the last 30 years has led to an unparalleled expansion of the Federal Government. It is clear, it is in the books. But sadly, it has failed to solve our Nation's most difficult problems, whether they be education or drugs, or family breakdown. They have gotten worse, not better.

The Government we inherited along with the bankruptcy on whose brink we have been left has overextended its reach and has made promises that no government can actually fill. This is, after all, only a government. It cannot take the tax dollars that are earned by one citizen, hand them to another citizen, and then believe that it has improved the lot of either. For 30 years we tried that. It is called tax and spend.

Mr. Chairman, the time has come to admit that tax and spend has failed. It is time to reduce the size of Government to stop wasteful Washington spending and give the tax dollars back to the people who earn them. It is time we stopped punishing the successful. Instead, we must help more Americans so that everyone can become successful, so that that ladder of upward mobility is available to all of us. We do not stay in one income category in the United States; we take advantage of our opportunities.

My father was broke in 1932. He lost his job. He was in default on his home mortgage. He started from scratch on borrowed money. He took the risk. He spent the work hours. Yes, he earned, but he came back, and ultimately he achieved the American dream of a small businessman, yes, a small businessman who was successful.

When we listen to the economic class warfare in this country, we would think everyone stays in the same income category throughout their entire life. We would think that people who save for a lifetime for an asset and sell it one time in their life, perhaps for $150,000, or $200,000 is rich. But they did not have that income in every year. But those are the kinds of statistics that distort the rhetoric on these tax bills.

□ 1645

It is time to bring the American people together. It is time to put economic class warfare aside. We all share in this opportunity in this great country.

I would like to have heard the debate rhetoric in 1961, when President John F. Kennedy proposed the first major reduction in capital gains taxes, the first major across-the-board tax relief. How would that have disturbed you, I say to my colleagues over here on the Democrat side? What would your rhetoric have been to the John F. Kennedy tax relief bill that spurred economic growth in this country?

And he spoke to that to the American people. He did not indulge in economic class warfare. He spoke about what is right for the country to generate jobs, to generate growth, to generate more opportunity for all Americans. It is clear from this debate that the Democrat caucus remains a liberal caucus. The overwhelming majority of the Democrat party, the party I once belonged to, insists that the Government in Washington remains the only solution and represents the best hope of how to solve our problems.

Yes, if we could only spend more money, my friends on the other side of the aisle argue, we could make our Nation's problems go away. While the world has changed, the Democrat leadership has not. They still cling to the notion that an ever-expanding Federal Government, one that requires more taxes from its citizens, is the best hope we have to solve our problems.

While the heart of the Democrats may sound as if they are in the right place, their fingers surely are in the wrong place, because their fingers remain stuck deep in the wallets of middle-income working income tax-paying Americans, trying to take from one citizen in order to give to another.

Yet, it is true that this bill is limited to tax relief for middle-income families who pay income taxes. We will not take away from those families and their children to give to families who pay no income tax. That is not what this particular bill is all about. Other bills in the past have done that. There is time to address those problems. This, as President Clinton said when he campaigned in 1992, should be a tax relief bill for middle-income Americans who pay income taxes.

To my friends across the aisle I have a simple message: Let it go, let it go, let it go. We have tried your way. For 30 years we raised taxes and we increased spending. It is now our turn. It is the turn of silent, hard-working Americans who have paid and paid and paid to see their earnings redistributed to others.

And to my friends across the aisle, hear my plea: vote for your constituents, not your leadership. Exercise your judgment. Show your independence. Do what you know is right. Vote for the taxpayer, and vote for the majority Taxpayer Relief Act.

Mr. CLAY. Mr. Chairman, few issues that we will debate this Congress better illustrate the gulf that exists between Democratic and Republican priorities for working families. The measure before us launches an unprecedented transfer of wealth from the poor and middle class to the wealthy. According to the Citizens for Tax Justice, 41 percent of the tax cuts in this plan go to the top 1 percent of taxpayers.

By contrast, taxpayers with incomes in the lower 40 percent would see no benefits, and some would get a tax hike.

The education related tax credits shortchange lower-income families as well. It provides a nonrefundable tax credit equal to half the college expenses up to $3,000 a year. The credit will be unavailable to most low-income families because it is not refundable. It significantly disadvantages students who attend lower tuition institutions such as community colleges, because the credit only includes tuition, not living expenses.

The proposal also discriminates against low-income families by reducing the amount of tax credit by the amount of any Pell grant award. By contrast the Democratic alternative tax proposal provides a $1,500 tax credit that will be accessible to middle income and poor families. The credit will be refundable, thus benefiting low- and middle-income students, and does not have a Pell grant offset.

The Democratic alternative allows the credit to be used for all college expenses and includes a 20-percent tax credit for the remaining years of college.

The Republican plan has been totally repudiated by the Clinton administration. In a letter to Chairman ARCHER this week, Secretary Rubin concluded that education package falls nearly $13 billion short of the agreed goal of $35 billion in tax cuts for education directs more benefits toward upper-income families while reducing the benefits to lower-income families.

I urge my colleagues to reject this flawed, unjust tax scheme and adopt the Democratic alternative plan.

Mr. DOYLE. Mr. Chairman, I am in strong support of the Democratic substitute. My constituents in western Pennsylvania, and I believe that the budget deficit is one of the most important issues facing our country. Consequently, it is absolutely crucial that this reconciliation legislation provides for a budget which is brought into balance and then stays in balance. Unfortunately, this Republican revenue bill, which has been crafted by Chairman ARCHER, is riddled with gimmicks, back loaded tax expenditures, and false assumptions which will explode the deficit after 2002. The Democratic alternative, on the other hand, will provide tax relief for middle-class families that can really use it and is still compatible with real, long-term deficit reduction.

The Republican estate tax provisions are a prime example of the short-sighted nature of their plan. Like the Democratic alternative, the archer bill doubles the estate tax exemption from $600,000 to $1 million. However, the chairman's plan implements this change over the course of an entire decade. In doing so, Chairman ARCHER is able to mask the real costs of his proposal, which will not be felt until well after 2002.

Because the Democratic estate tax provisions are more clearly focused, the costs are manageable and affordable, even when fully implemented. As a result, the Democratic alternative provides for nearly immediate reform of estate taxes. Rather than waiting until 2007, the small business people and farmers, who desperately need estate tax relief, would be able to utilize the $1 million exemption next year. This nearly immediate phase-in could help thousands more family owned businesses than the Archer plan.

In addition, I believe that we can spur economic growth and empower millions of middle-class investors by reducing the capital gains tax rates in an economically conservative manner. However, the Archer capital gains plan is not only socially inequitable, it is fiscally irresponsible. In fact, it is timed to provide a fleeting increase in revenues, which helps bring the budget into balance in 2002. But then, in the following years, the costs of this program sky rocket.

This gimmick is part of the chairman's proposal to index capital gains for inflation after 2002. In order to qualify for the indexing on assets held before 2001 investors will have to pay between $10 and $12 billion in taxes, as part of a one time mark-to-market levy. With the help of this one time infusion, the Archer capital gains plan will actually result in an overall revenue increase of $2.7 billion from 1997 to 2002. However, in the 5 years following the 2002 target date, the capital gains provisions will cost $37.5 billion, and they will continue to increase steadily for years to come.

I am troubled by these tax cuts which will explode in the out years because, for some time, I have subscribed to the view that we should balance the budget first, and then consider tax cuts. However, this bipartisan budget agreement demands that tax cuts be enacted this year. I recognize this compromise is perhaps our best chance to balance the budget, and I do not wish to risk scuttling the process by fighting such a substantial component. I believe it is crucial that we all work within the defined parameters, so I will support prudent, responsible tax relief for middle-class families which adheres to the budget agreement.

The Democratic substitute provides such relief. Because it abides by the budget accord, it advances capital gains tax cuts, estate tax relief, and a per-child tax credit. But, it is a stronger measure than the Archer plan in that it goes further in helping middle-class families cope with the costs of owning a home and paying for their kids' college education. Similarly, it contains initiatives not included in the Republican plan which I strongly support, such as incentives for environmental cleanups, economic development, and local school construction.

However, the biggest difference is the fact that the alternative is more economically responsible and fair. It does not lay the groundwork for decades more of mounting debt, and it gives relief to the working, middle-class families who have been struggling to get by. While over 71 percent of the benefits in the alternative go to families earning under $100,000 a year, these same families receive only around one-third of the benefits under the Republican plan, when fully phased-in. In light of this, I think it is safe to say that this Democratic substitute is the real middle-class tax cut.

The Archer tax proposal would cause the deficit to behave like a rubber ball that is dropped from high in the air. Rather than hitting the ground with a dull thud, the Archer cuts will cause the deficit to bounce right back, out of control once again. It seems to me that if the leadership were serious about holding the deficit down, they would include strict deficit enforcement provisions that go beyond an exentison of the pay-as-you-go requirements. As a cosponsor of the Budget Enforcement Act, a bill that would lock in deficit reduction, I have been working with Members from both sides of the aisle to have this measure attached to this reconciliation legislation. The Republican leadership has said that the Budget Enforcement Act will be brought to the floor next month. While I am disappointed they would not allow us to offer it as an amendment to there conciliation legislation, I am pleased it will be considered. However, the Rules Committee chairman has indicated that the bill may be altered before coming to the floor. I believe it would be a grave mistake for the leadership to weaken the Budget Enforcement Act in any way.

Given the structure of the Archer plan a return to deficit spending appears nearly inevitable, and if we allow the deficit to bounce up again after 2002, we will have accomplished nothing. Actually, we will have done something worse than nothing. We will have cynically brought the budget into check for one passing moment just to reap political rewards.

Mr. Chairman, this would be unconscionable. We must balance the budget and keep it balanced. If we are going to have tax relief, we must be fiscally responsible and we must target those truly in need of relief. The Democratic alternative meets these criteria. The Archer plan does not. I urge my colleagues make a vote for the long-term economic health of this country and support the Democratic substitute.

Mr. POSHARD. Mr. Chairman, I rise today in opposition to this bill and in support of the substitute offered by my Democratic colleagues. I have worked hard for many years toward the goal of a balanced Federal budget, because I felt I owed that to my constituents, and to all hard working American taxpayers and their children. And while I am proud of this Congress and the administration for beginning the balancing process by working together and making some of the tough choices we are all going to be required to make, I will not blindly support whatever reconciliation bill comes to the floor, simply because it carries the label of a balanced budget agreement.

As I have said, I believe that balancing the budget is our obligation to working families and the children who eventually must bear the financial burdens of the choices we make today. But a balanced budget is not worth supporting if, in the final analysis, it actually hurts the people we claim to have been working for all along. The tax package before us today ignores those to whom I feel we owe a duty, and it rewards those who are least in need of relief. Why work so hard to balance our budget, to finally arrive at a place where we can afford to offer tax cuts, only to have the vast majority of cuts go to the wealthiest 20 percent of Americans? This not why I have toiled for so many years, promoting fiscal responsibility, supporting a balanced budget amendment, opposing wasteful spending. No, Mr. Speaker, I have worked in pursuit of a different goal: to provide security, stability, and relief to the most vulnerable among us.

The balanced budget plan crafted by President Clinton and congressional leaders called for a fair distribution of tax cuts, and I voted in support of that agreement. If I thought that mandate was carried out in the bill before us, I would vote for it as well. Unfortunately, somewhere along the way, fairness and equity have fallen by the wayside, and we are left with a dramatically uneven plan which not only prematurely provides our wealthiest citizens, with the benefits of a balanced budget, it also deprives low-income and middle-class citizens—the same people who will be forced to bear much of the burden associated with new spending cuts—of similar benefits. This plan is unjust and unjustifiable, and I urge my colleagues to oppose the Republican bill and vote instead for the Democratic substitute. No plan is perfect, and we all recognize how much work remains to be done in conference and beyond. But that should not be an excuse for complacency today. We have an opportunity to send a better bill to the conferees, and that is what I plan to do by supporting the substitute.

Only half of America's children would be covered under the highly touted child tax credits in the Republican tax bill. A shocking 49.9 percent of children nationwide would be completely ineligible for the $500 child credit under the House plan because the credit would not be available to many moderate- and low-income families. In contrast, the child credit in the Democratic substitute would cover 71 percent of American children, including 91 percent of those children whose families' incomes are in the lowest 20 percent. Likewise, the education credits, the capital gains cuts and the alternative minimum tax provisions in the Democratic substitute are the ones that truly live up to the promises of the budget agreement.

We must also think about the years beyond 2002 and take care to ensure that what we do now in the name of short-term gain does not cause new hardships in the decades to follow. Too many of the Republican tax cuts are poised to explode in the 5 years after balance is reached, erasing whatever benefits we may have realized and creating the likelihood of additional cuts in the very programs upon which our neediest citizens depend. My conscience will not allow me to force such burdens on our children and grandchildren, and I have not waited patiently and worked diligently for so long to achieve balance, only to see it disappear in a cloud of smoke in just a few short years.

Mr. Chairman, the process of balancing the budget requires us all to make difficult choices, and I have made yet another today. I will support the Democratic substitute tax bill because I believe it is the right thing to do for my constituents, for our children, and for all hard-working Americans who have already been asked to sacrifice so much. The substitute provides a fair alternative, it lives up to the promises made in the budget agreement, it does not sacrifice long-term stability for short-term gain, and it is a plan that we can be proud to present to the American people.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, the tax plan presented by my Republican colleagues ventures far from the best interest of the average American citizen. However, the Democratic alternative runs parallel to the needs of middle income families.

Mr. Chairman, the Republican tax plan is designed to benefit those who are in the least need of a break. Analysis shows that 50 percent of the benefits from the bill will benefit the wealthiest 5 percent of American citizens. The Democrats propose an alternative plan that citizens for tax justice estimates will deliver three-fourths of tax benefits to middle- and lower-income Americans. The bill will give a tax break to those individuals who own and sell stock bonds, leaving the average middle- to low-income American without tax relief.

The Democratic alternative will give the tax break to homeowners, small business owners, and farmers, those who need it most. In addition, the alternative will give some form of tax break to every middle- to low-income working family. The Republican tax bill, however, denies a $500 tax break to 15 million families by not extending breaks to those who qualify under the earned income tax credit [EITC].

The future of America rests on the education of our children. I am sure both Republicans and Democrats alike will agree to this statement. The Republicans respond by giving a narrow $1,500 hope scholarship to the few attending certain colleges. Of course this will only apply to those attending private expensive colleges. Colleges that low-income Americans cannot afford. In contrast, the Democratic alternative will give scholarships to students of working families attending community colleges.

The Republican tax plan does not answer the Nation's plea for higher educational opportunity for all its children when their plan gives the wealthiest individuals $16,000 within a 4-year span. This is more than the amount given to lower-income families through a Pell grant. The message from such actions is that the education of the few is more important than the education of lower income children. We do not agree. The education of all children is vital to the growth and development of our country. Therefore the Democratic alternative plan will concentrate most of its resources toward the education of children from families with limited incomes that are struggling to pay for college.

The conclusion is clear. Reject the Republican tax plan just for the wealthy and support the Democratic alternative plan that includes hard-working average Americans. Are we a government just for the rich or a government for all of its people?

Mr. POMEROY. Mr. Chairman, Republicans and Democrats have agreed on a bipartisan budget plan that includes $85 billion in net tax relief over the next 5 years and $250 billion over the next 10 years. There is no disagreement between the parties over the amount of tax cuts to be provided. However, there is a sharp difference of opinion over how those resources should be allocated.

I believe there are two important principles that Congress should follow in delivering tax relief for American families: First tax cuts should not explode the deficit in future years which would increase the debt and tax burden on our children, and second, the majority of the tax cut benefits should flow to those who need it most, working and middle-income families. In my view, the Democratic alternative to the Ways and Means tax bill far better upholds these principles.

Mr. Chairman, the Ways and Means bill loses sight of the most important objective of the bipartisan budget agreement—a sustainable balanced budget. Although the revenue loss in this bill is nearly within the 10-year limits established by the budget agreement, it contains several provisions that will trigger exploding revenue loss in future years and throw the budget out of balance. For instance, the revenue loss from the back-loaded IRA provision that allows wealthy individuals to shelter their income from taxation grows at 73 percent per year. The revenue loss from the repeal of the alternative minimum tax [AMT] that ensures that America's large corporations pay their fair share of taxes grows at 49 percent per year. As a result of these provisions and others, the cost of this bill over the second 10 years skyrockets to $650–$750 billion and endangers the future fiscal health of our Nation.

Second, given the limited resources that are available to cut taxes while still balancing the budget, I believe it is critical that those resources be targeted to those who need it most—working and middle-income families. The Democratic alternative is far superior to the Ways and Means bill in this regard. The committee bill provides two-thirds of the tax benefits to the top 20 percent of income earners whereas the alternative give two-thirds of the tax benefit to families on the bottom 80 percent of the income scale.

Mr. Chairman, the alternative tax bill is also superior to the committee bill in delivering estate and capital gains tax relief to family farmers and small business. The committee bill slowly increases the estate tax exemption from the current $600,000 to $1 million over the next 10 years. The alternative, on the other hand, raises the exemption to $1 million on January 1 next year for family-owned farms and businesses. The committee bill would reduce the capital gains tax from 28 to 20 percent whereas the alternative reduces the tax rate to 18 percent without exploding the deficit by limiting the rate reduction to farm, business, and real estate assets.

In summary, Mr. Chairman, the Democratic tax alternative delivers tax relief to those who need it while better protecting the prospects for a sustainable balanced budget over the long-term. I sincerely hope the tax bill that emerges from the House-Senate conference committee will fulfill these objective so that it can be enacted with strong bipartisan support.

Ms. WATERS. Mr. Chairman, I rise today in support of the Democratic alternative tax bill. The Democratic Caucus finally came to the realization that Republican style tax-relief for the rich is not the kind of tax relief that should be adopted by this Congress.

Not all tax relief is bad. But, Republican style tax relief is immoral. The Republican tax plan benefits the rich plain and simple. The Democratic Caucus has finally defined, shaped and organized sensible tax relief for the people who need it and deserve it—the low-wage and middle-income workers of America.

The Republicans denied tax cuts to the poorest, hardest working Americans. Waitresses, drug store clerks, janitors, maids, busboys, hospital attendants, garment workers, receptionists, aides, elevator operators, farm workers, dishwashers, department store clerks, and bank tellers—these hardest-working, poorest-paid Americans are the ones who really deserve a tax break. What is in the Republican tax plan for them? Nothing, nothing, and nothing.

In the Democratic alternative, nearly three-quarters of the tax benefits go to middle- and lower-income families making less than $58,000 a year. The Republicans give the majority of their tax breaks to the wealthiest 5 percent of Americans—those making an average of $250,000 a year.

The Democratic family tax credit covers 20 million more low-income children than the Republican plan. The Republicans want to deny the family credit to 28 million children from families making less than $20,000 per year.

The Democratic alternative would also stimulate economic investment in economically distressed urban communities across the country—including my own district—by honoring the commitment made as part of the budget agreement to authorize a second round of the Empowerment Zone and Enterprise Community Program.

The Democratic alternative values working families over increasing corporate profits and tax breaks for the wealthy. I urge my colleagues to help working America. Support the Democratic plan.

The CHAIRMAN pro tempore (Mr. LATOURETTE). All time has expired.

The question is on the amendment in the nature of a substitute offered by the gentleman from New York [Mr. RANGEL].

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. RANGEL. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 197, noes 235, not voting 3, as follows:

[Roll No. 243]

AYES—197

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeGette
Delahunt
DeLauro
Dellums
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gonzalez
Goode
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
McNulty
Meek
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Scott

Serrano
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm

Stokes
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson
Thurman
Tierney
Torres
Towns
Turner

Velázquez
Vento
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn

NOES—235

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeFazio
DeLay
Deutsch
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest

Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Molinari
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley

Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Upton
Visclosky
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOT VOTING—3

Meehan
Schiff
Yates

□ 1710

Messrs. PEASE, YOUNG of Alaska, SHADEGG, and Mrs. SMITH of Washington changed their vote from "aye" to "no."

Mr. DELAHUNT and Mr. DOGGETT changed their vote from "no" to "aye."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore (Mr. LATOURETTE). Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. LAHOOD) having assumed the chair, Mr. LATOURETTE, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2014) to provide for reconciliation pursuant to subsections (b)(2) and (d) of section 105 of the concurrent resolution on the budget for fiscal year 1998, pursuant to House Resolution 174, he reported the bill, as amended pursuant to that rule, back to the House.

The SPEAKER pro tempore. Under the rule, the previous question is ordered and the amendment is agreed to.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. PETERSON OF MINNESOTA

Mr. PETERSON of Minnesota. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. PETERSON of Minnesota. I am opposed to the bill in its current form, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. PETERSON of Minnesota moves to recommit the bill H.R. 2014 to the Committee on the Budget with instructions to report the same back to the House forthwith with the following amendments:

Strike subsection (c) of section 1 and titles I, II, III, IV, V, VI, VII, VIII, IX, XI, XII, XIII, XIV, and XV.

Redesignate title X (relating to revenues), and each of the sections contained therein, as title I, and sections of title I, as appropriate.

Add at the end of the bill the following new title:

TITLE II—ADDITIONAL PROVISIONS

SEC. 201. ADDITIONAL PROVISIONS.

It is the sense of the House of Representatives that additional provisions should be added to the Internal Revenue Code of 1986 so that:

(1) CAPITAL GAINS REDUCTIONS.—

(A) REDUCTION IN CAPITAL GAINS TAX FOR NONCORPORATE TAXPAYERS.—Effective as of May 7, 1997, there is excluded from gross income of noncorporate taxpayers the following percentages of capital gains from the sale or exchange of assets:

(i) 10 percent for assets held at least 1 year.

(ii) 20 percent for assets held at least 2 years.

(iii) 30 percent for assets held at least 3 years.

(iv) 40 percent for assets held at least 4 years.

(v) 50 percent for assets held five or more years.

(B) GAINS ON SALE OF PRINCIPAL RESIDENCE.—Up to $250,000 in gain realized on the sale or exchange of a principal residence is excluded from taxation.

(2) ESTATE AND GIFT TAXES.—

(A) AMOUNTS EXCLUDED BY UNIFIED CREDIT.—The unified credit allowed to the estate of every decedent is increased, resulting in the following amounts being excluded from the estate tax:

(i) $700,000 in the case of decedents dying in 1998.

(ii) $800,000 in the case of decedents dying in 1999.

(iii) $850,000 in the case of decedents dying in 2000.

(iv) $900,000 in the case of decedents dying in 2001.

(v) $1,000,000 in the case of decedents dying in 2002.

(vi) $1,100,000 in the case of decedents dying in 2003.

(vii) $1,200,000 in the case of decedents dying in 2004 and thereafter.

(B) FAMILY FARMS AND BUSINESSES.—In addition to subparagraph (A), family farms and businesses are allowed to exclude from the gross estate up to $1,000,000, beginning in calendar year 1998.

(3) CHILD TAX CREDIT.—There is allowed against the income tax of an individual a nonrefundable credit for dependents under age 17 in the following amounts:

(A) $300 in taxable years beginning in 1997, 1998, and 1999, and

(B) $500 thereafter.

The credit is phased out for taxpayers whose adjusted gross income is between $60,000 and $75,000.

(4) TAX REDUCTIONS RELATED TO EDUCATIONAL EXPENSES.—There is allowed against the income tax of an individual—

(A) a credit of $1,500 per year for up to two years for higher education expenses, which credit—

(i) beginning with adjusted gross income of $50,000 ($80,000 in the case of a joint return), is phased out ratably over a range of $20,000; and

(ii) is phased in by substituting—

(I) '$1,100' for '$1,500' in taxable years beginning in 1997, 1998, and 1999, and

(II) '$1,200' for '$1,500' in the taxable year beginning in 2000; and

(B) a deduction of $10,000 ($5,000 in 1997 and 1998) for higher education fees and tuition, which amount is phased out ratably over a range of $20,000, beginning with adjusted gross income of $50,000 ($80,000 in the case of a joint return).

Mr. PETERSON of Minnesota (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

□ 1715

Mr. PETERSON of Minnesota. Mr. Speaker, I offer a motion to recommit, on behalf of my colleagues in the Blue Dog Coalition, that provides tax relief to mainstream America, small businesses, farmers, and working families, and does all of that in a fiscally responsible way.

First of all, I want to thank our leadership for allowing us to offer this. I also want to thank my Blue Dog colleagues for their hard work and determination in developing this alternative tax bill. And finally, I want to thank the gentleman from New York [Mr. RANGEL] and his staff for all of their assistance.

First of all, Mr. Speaker, we are going to hear about a chart that I just received when I walked in from Joint Tax that says we are $4.7 billion over in the first 5 years. This is the first I have seen of this. We do not agree with this, and we cannot really respond because we do not know the basis for these numbers. Clearly, this can fit within the $85 billion. It also says we are at $230 billion over the 10 years. So I just want to make that clear, and this will fit within the terms of the budget agreement.

A lot of Democrats in this body, Mr. Speaker, support tax cuts, and we always have, just as President Clinton has supported tax relief for American families. But if we are going to provide tax relief and balance the budget at the same time, tax relief must be well-constructed and targeted to working families and it must not bust the budget.

Mr. Speaker, the tax bill before us today is deficient in many respects and should be defeated. It is overly complicated. It is not targeted. It may send the budget deficit up once again outside the 10-year budget window.

The capital gains provisions in this bill are overly complicated. It will be difficult to use in the real world, and the indexation of capital gains will require so much record keeping that it is going to cause taxpayers out there a real problem to use. And this is probably going to cause us more fiscal problems in the future because of indexation.

The children's tax credit is more costly than we need to do because it includes families going up to $110,000 income. The estate tax relief income in this bill is phased in over too long a period and is less than many of us on both sides of the aisle want to do. And the backloaded IRAs in the committee bill are a bad idea that cost over $13 billion in 10 years and explode the deficit out into the future.

The alternative minimum tax provisions in the committee bill that will cost $40 billion over 10 years are also troublesome to many of us and, like other provisions in this bill, are likely to send the deficit up in the future.

What we did in this motion is really very simple. We are recommending that the Committee on Ways and Means develop a better, fairer tax bill that rewards the people who make our country work. Small businesses create 85 percent of the new jobs in this country, farmers and the working people that work on those farms and small businesses.

This bill contains a capital gains tax provision that is simple, that provides for capital gains relief like the old way we did it, that rewards long-term investment, economic growth, and job development. Our capital gains provision is simple. It provides for an exclusion from income of 10 percent per year, up to 50 percent at 5 years. So you get 10 percent; at 5 years you get a 50-percent exclusion from income.

The motion also contains immediate estate tax relief for small businesses and farmers. An exemption for closely held businesses and ranches and family farms is immediately increased to $1 million next year. It also increases the unified credit to $1 million in 2002 and $1.2 million in 2004, the first increase in this unified credit since 1976.

My motion to recommit also includes a family tax credit that provides a $500 credit for children under 17 because we believe that this will strengthen families, and this is phased out between $60,000 and $75,000 of income, not $110,000 like the committee bill.

The motion also includes the President's $1,500 HOPE scholarship, $10,000 tuition tax deductions, tax breaks that the President proposed.

It is that simple: Real capital gains relief that rewards long-term investment, immediate estate tax relief, a family tax credit, and education tax breaks for American families, real sustained immediate tax relief for American families, farms, and businesses.

Mr. Speaker, we provide these tax breaks without breaking the bank because we do not backload our provisions. This motion will not explode the deficit. This motion is responsible tax policy. And what is more, this motion provides more capital gains relief, more estate tax relief, a better, more family-friendly children's tax cut, and the important education tax breaks that most of us support.

Mr. Speaker, if this motion passes the Committee on Ways and Means, then the Committee on the Budget, can quickly return to the floor with a better tax bill, a tax bill that reflects our values. that is fair, that is good for families, good for farms, good for small businesses.

Mr. Speaker, I urge my colleagues to support this motion to recommit.

Mr. GINGRICH. Mr. Speaker, I rise in opposition to the motion to recommit.

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman from Georgia [Mr. GINGRICH], the Speaker, is recognized for 5 minutes.

Mr. GINGRICH. Mr. Speaker, let me begin, if I might, with the comment by my friend over there who referred to the recent Presidential message, asking "Is that a veto?" Because I think one of the things that makes today so exciting is that in fact this is a bill that the President is going to sign; that in fact yesterday the President sent up a letter supporting the bill that came up yesterday.

I am not sure whether our friend who had that comment voted with the President yesterday or voted against him. But the fact is, there is a bipartisan effort to balance the budget, to save Medicare, and to cut taxes.

This is a hard, difficult thing. It has involved much rhetoric, much negotiating, and it does not come easily, and yet it is very, very important for the American people on three levels. It is very important for rebuilding their trust in the institutions of government. It is very important for the future of their country's economy. And it is very important, at a personal level, for individuals to have a chance to have a little more take-home pay, a little more money for their children, a little more money to go to college or vocational-technical school, a little better chance to keep their family farm or family business, a little better chance to invest and create jobs and save.

These are not small things. And the fact is, we have worked with the President. It is our full expectation, as the White House said again, I think as recently as this morning, that when the negotiations are done both of these bills will be signed. That is very good for the American people.

Now my friend, the gentleman from Minnesota [Mr. PETERSON] offered a motion to recommit, and that certainly is a process that is legitimate. We frankly cannot comment on the detail because the version we had earlier has been changed so much, so I do not want to spend a lot of time. I understand that we go through these exercises.

I would point out that that motion, if we understand it based on the material we got 4 minutes ago, does increase the deficit in 1998 by $7 billion, does increase the deficit in 1999 by $11 billion. Over 5 years, it is our best estimate, having only looked at it for 4 minutes, that it is a $50 billion tax cut, not an $85 billion tax cut. But the truth is, we do not fully know because this was a political gesture offered for political reasons so that my friend could vote for something a little different.

What I can report is that the Farm Bureau, having looked at all of our efforts, is endorsing the Archer bill. I can report that the National Federation of Independent Business, the leading small business group in America, having looked at the opportunities, is endorsing the Taxpayer Relief Act that the gentleman from Texas [Mr. ARCHER] has offered.

I can report that again and again groups that care about children, groups that care about families, groups that care about personal take-home pay, groups that care about small business, groups that care about family farms, groups that care about saving and investment and job creation have endorsed the Archer bill.

Why have they done that? Because it is a bill that was designed seriously with serious study, that evolved over a period of time, that was accurately scored, that was out in the open, that everybody had a chance to see, that did not change in the last 5 minutes before a vote.

So I would say to all of my colleagues, the only legitimate serious vote on the motion to recommit is "no" because the fact is, no one knows what is in the motion to recommit. No one knows how it would score. No one knows the implications. It is a nice, brief political publicity gesture. And then we should all vote "yes".

I would say even to my friends on the left who find it hard, if they voted for the 1993 tax increase, this is their chance to do a little bit to return some of it back to the American people.

Let me just say that for too many years this city raised taxes, increased spending, created a big deficit, and did not care about the future. It took care of this year's political needs at the expense of our children's future. The leadership from the gentleman from Ohio [Mr. KASICH] and the gentleman from Texas [Mr. ARCHER] and from so many people working with President Clinton, we have pulled together a real effort to balance the budget, to save Medicare, to cut taxes, and to give our children and our country a better future. That is why we should all vote "yes" on final passage.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Ms. PETERSON of Minnesota. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 164, noes 268, not voting 3, as follows:

[Roll No. 244]

AYES—164

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barcia
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Boswell
Boucher
Boyd
Brown (CA)
Brown (OH)
Capps
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeGette
Delahunt
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Flake
Ford
Frost
Furse
Gejdenson
Gonzalez
Goode
Green
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kaptur
Kennedy (MA)
Kennelly
Kildee
Kind (WI)
Kleczka
Klink
LaFalce
Lampson
Lantos
Levin
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McHale
McIntyre
McKinney
McNulty
Menendez
Millender-McDonald
Minge
Mink
Moakley
Mollohan
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Peterson (MN)
Pickett
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Roemer
Rothman
Rush
Sabo
Sanchez
Sandlin
Sawyer
Schumer
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stenholm
Stokes
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson
Thurman
Towns
Turner
Vento
Watt (NC)
Wexler
Weygand
Wise
Woolsey
Wynn

NOES—268

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Bosski
Brady
Brown (FL)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeFazio
DeLauro
DeLay
Dellums
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foglietta
Foley
Forbes
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Greenwood
Gutierrez
Gutknecht
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
Kennedy (RI)
Kilpatrick
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
Kucinich
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McDade
McGovern
McHugh
McInnis
McIntosh
McKeon
Meek
Metcalf
Mica
Miller (CA)
Miller (FL)
Molinari
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Payne
Pease
Pelosi
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Rivers
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Roybal-Allard
Royce
Ryun
Salmon
Sanders
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Scott
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stark
Stearns
Strickland
Stump
Sununu
Talent
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Tierney
Torres
Traficant
Upton
Velázquez
Visclosky
Walsh
Wamp
Waters
Watkins
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOT VOTING—3

Meehan
Schiff
Yates

□ 1742

Mr. DELLUMS and Mr. KENNEDY of Rhode Island changed their vote from "aye" to "no."

Mr. NADLER and Mr. MOLLOHAN changed their vote from "no" to "aye."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. LAHOOD). The question is on the final passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. ARCHER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 253, noes 179, not voting 3, as follows:

[Roll No. 245]

AYES—253

Aderholt
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Boswell
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clement
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Davis (VA)
Deal
DeLay

Diaz-Balart
Dickey
Dicks
Dooley
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (TX)
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
John
Johnson (CT)
Johnson, Sam
Jones
Kasich

Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Maloney (CT)
Manzullo
McCarthy (NY)
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McIntyre
McKeon
Metcalf
Mica
Miller (FL)
Molinari
Moran (KS)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs

Riley
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanchez
Sandlin
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Turner
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOES—179

Abercrombie
Ackerman
Allen
Andrews
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boucher
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Campbell
Capps
Cardin
Carson
Clay
Clayton

Clyburn
Conyers
Costello
Coyne
Cummings
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dingell
Dixon
Doggett
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Flake

Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gonzalez
Green
Gutierrez
Hall (OH)
Hamilton
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (WI)
Johnson, E.B.
Kanjorski

Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McDermott
McGovern
McHale
McKinney
McNulty
Meek
Menendez
Millender-McDonald

Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Rothman
Roybal-Allard
Rush
Sabo
Sanders
Sawyer

Schumer
Scott
Serrano
Skaggs
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Thompson
Thurman
Tierney
Torres
Towns
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn

NOT VOTING—3

Meehan
Schiff
Yates

□ 1800

The Clerk announced the following pair:

On this vote:

Mr. Schiff for, with Mr. Yates against.

Mr. SHERMAN changed his vote from "no" to "aye."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2016, MILITARY CONSTRUCTION APPROPRIATIONS ACT, 1998

Mrs. MYRICK, from the Committee on Rules, submitted a privileged report (Rept. No. 105–156) on the resolution (H. Res. 178) providing for consideration of the bill (H.R. 2016) making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 1998, and for other purposes, which was referred to the House Calendar and ordered to be printed.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO HAVE UNTIL MIDNIGHT TUESDAY, JULY 1, 1997, TO FILE REPORT ON BILL MAKING APPROPRIATIONS FOR DEPARTMENT OF INTERIOR AND RELATED AGENCIES, FISCAL YEAR 1998

Mr. REGULA. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight Tuesday, July 1, 1997, to file a privileged report on a bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1998, and for other purposes.

The SPEAKER pro tempore (Mr. LAHOOD). Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. All points of order are reserved on the bill.

SUNDRY MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Sherman Williams, one of his secretaries.

EXPRESSING THE SENSE OF CONGRESS RELATING TO ELECTIONS IN ALBANIA SCHEDULED FOR JUNE 29, 1997

Mr. GILMAN. Mr. Speaker, I ask unanimous consent that the Committee on International Relations be discharged from further consideration of the concurrent resolution (H. Con. Res. 105) expressing the sense of the Congress relating to the elections in Albania scheduled for June 29, 1997, and ask for its immediate consideration in the House.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. TRAFICANT. Reserving the right to object, Mr. Speaker, I do not plan to object, but I would like to yield now to the distinguished chairman for an explanation.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding.

At this time, Mr. Speaker, as Albanian democracy is at a crossroads, our thoughts and prayers are with the people of Albania struggling to safeguard the progress they have made toward democracy and a market-based economy.

The Albanian people have suffered enormous hardships throughout this century. We have always been hopeful that, having expelled their former Communist overlords, the way would be open for Albania's citizens to enjoy the true benefits of economic and political progress.

The events that unfolded late last year with the insolvency and the collapse of several major investment houses came as a deep disappointment. The violence that erupted earlier this year was a true shock to most Members of the Congress, including myself. Those forces or individuals who seek to reap profit or political gain from the unrest are to be condemned, and they should have no place in Albania's future.

Mr. Speaker, it is now time for us to support Albania and to make certain that the Albanians can resurrect their civil society under legitimate governmental authority. A decisive event will be taking place in the national parliamentary elections that were scheduled for this Sunday, June 29.

Those elections must be held under strict conditions that ensure the results are perceived as a legitimate expression of the political voices of the Albanian people. The process must be open, must be free and fair, so all political viewpoints have the opportunity to be heard, and the Albanian people can exercise their own judgment as to which political choices they need to make.

Whatever the outcome, as long as the election meets these standards, the parties in Albania must respect the results. A large number of international election monitors will be present, and I trust that they will be able to report favorably on the elections.

Mr. Speaker, we have a duty to continue to give all practical support to the Albanian people, who have demonstrated their good will toward our people and toward our own Government.

Accordingly, I urge our Members to unanimously support this important resolution. Our Committee on International Relations considered it just yesterday, and adopted a resolution asking that it be considered on suspension, but the leadership, realizing the time-sensitive nature of this issue, has been good enough to schedule it under unanimous-consent procedures.

Finally, I would like to thank the gentleman from Indiana [Mr. HAMILTON] for his cooperation in moving this resolution to the floor in time to have this statement recorded prior to the elections. I also want to thank the gentleman from Ohio [Mr. TRAFICANT], the sponsor of this resolution, for his efforts on this behalf, and more broadly, for his efforts on behalf of the Albanian democracy and the Albanian people.

Mr. TRAFICANT. Mr. Speaker, I want to thank the chairman. I thank all for giving this opportunity.

In March 1991, Albania held free elections for the first time in 45 years. Now that fragile democracy has been threatened. The Communists have threatened not to honor the outcome of this election unless they themselves are successful. This resolution states the United States of America and our Congress support free and open elections in Albania, and urges all the parties to respect the decision of the will of the people in that collective vote.

This would not be possible without the help of the gentleman from New York [Mr. GILMAN], and he has certainly helped the cause of freedom around the world.

There is one last thing before I close. Albania could possibly become another Bosnia. This is an important issue that we undertake. I urge the Members to support it.

Mrs. KELLY. Mr. Speaker, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentlewoman from New York.

Mrs. KELLY. Mr. Speaker, I rise this evening simply to concur with the distinguished chairman of the Committee on International Relations. We have in Albania a situation where there is a nation emerging from a long darkness into the full-fledged sunshine of democracy. I feel that we in Congress need to do all that we can to support and encourage this nation.

I strongly stand behind the distinguished gentleman from Ohio [Mr. TRAFICANT] and the distinguished chairman of the Committee on International Relations, the gentleman from New York [Mr. GILMAN].

I thank the gentleman very much for yielding.

Mr. GILMAN. Mr. Speaker, I thank the gentlewoman from New York for her comments.

Mr. TRAFICANT. Mr. Speaker, it is an honor to stand here on behalf of the movement of freedom and democracy in Albania. Speaker Pjeter Arbnori has fought hard and struggled for that opportunity. The people of Albania will have that opportunity.

Mr. Speaker, I support the resolution and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 105

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that—

(1) the elections in Albania scheduled for June 29, 1997, should be free and open; and

(2) all political parties of Albania should honor the results of such elections.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GILMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on House Concurrent Resolution 105, the matter just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

PERMISSION FOR COMMITTEE ON BANKING AND FINANCIAL SERVICES TO HAVE UNTIL MIDNIGHT THURSDAY, JULY 3, 1997, TO FILE REPORT ON H.R. 10, FINANCIAL SERVICES COMPETITION ACT OF 1997

Mr. GILMAN. Mr. Speaker, I ask unanimous consent that the Committee on Banking and Financial Services have until midnight on Thursday, July 3, 1997, to file its report on H.R. 10, the Financial Services Competition Act of 1997.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. FAZIO of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FAZIO of California. Mr. Speaker, I rise in order to yield to the majority to learn about next week's schedule, or I should say the week after next's legislative program.

Mr. HASTERT. Mr. Speaker, will the gentleman yield?

Mr. FAZIO of California. I yield to the gentleman from Illinois.

Mr. HASTERT. Mr. Speaker, I am pleased to announce that we have completed our legislative business for the week. With the passage of the Balanced Budget Act and the Taxpayer Relief Act this week we have made an important first step in our fight against welfare spending and for lower taxes. This bill just passed brings American families the first tax cut in 16 years.

With that today, we begin the Fourth of July district work period; and although the majority whip will distribute an official schedule next week, I would now like to outline some of the major legislation the House will be considering upon our return.

The House will reconvene on Tuesday, July 8, at 12:30 p.m. for morning hour and 2 p.m. for legislative business. We will postpone any recorded votes until 5 p.m. on Tuesday so our colleagues from the west coast can have time to get back to Washington.

On Tuesday the House will take up H.R. 849, a corrections day bill to prohibit illegal aliens from receiving relocation assistance; a number of suspensions, a list of which will be distributed next week; and the Military Construction Appropriations Act, which will be subject to a rule.

On Wednesday, July 9, and Thursday, July 10, the House will meet at 10 a.m., and on Friday, July 11, the House will meet at 9 a.m. to take up the Intelligence Authorization Act and the Interior appropriations bill. We will finish legislative business by 2 p.m. on Friday, July 11.

I wish everyone a wonderful Independence Day, and I thank the gentleman for yielding time to me.

Mr. FAZIO of California. Reclaiming my time, Mr. Speaker, I simply have two questions. That would go to the Friday, July 11, schedule.

Is the gentleman really seriously expecting votes that day, or is that a possibility for eventual termination that might somehow go away during the week?

Mr. HASTERT. We have planned a full schedule with appropriations bills being heard. It is our intent that we will be in session that Friday until, I think, 2 p.m.

Mr. FAZIO of California. During the week does the gentleman expect us to have any evenings beyond 6 or 7?

Mr. HASTERT. I think most of the evenings we will be done by 7 p.m.

Mr. FAZIO of California. Mr. Speaker, I thank the gentleman, and I wish all my colleagues a happy Fourth of July, as well.

GENERAL LEAVE

Mr. HASTERT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2014, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

GRANTING MEMBERS OF THE HOUSE PRIVILEGE TO EXTEND REMARKS AND INCLUDE EXTRANEOUS MATERIAL IN CONGRESSIONAL RECORD FOR TODAY

Mr. HASTERT. Mr. Speaker, I ask unanimous consent that for today all Members be permitted to extend their remarks and to include extraneous material in that section of the RECORD entitled "Extension of Remarks."

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY, JULY 9, 1997

Mr. HASTERT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday, July 9, 1997.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

AUTHORIZING SPEAKER AND MINORITY LEADER TO ACCEPT RESIGNATIONS AND MAKE APPOINTMENTS NOTWITHSTANDING ADJOURNMENT

Mr. HASTERT. Mr. Speaker, I ask unanimous consent that notwithstanding any adjournment of the House until Tuesday, July 8, 1997, the Speaker, the majority leader, and minority leader will be authorized to accept resignations and to make appointments authorized by law or by the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

DESIGNATION OF THE HONORABLE CONSTANCE A. MORELLA TO ACT AS SPEAKER PRO TEMPORE TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS THROUGH TUESDAY, JULY 8, 1997

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
June 26, 1997.

I hereby designate the Honorable CONSTANCE A. MORELLA or, if not available to perform this duty, the Honorable THOMAS M. DAVIS to act as Speaker pro tempore to sign enrolled bills and joint resolutions through Tuesday, July 8, 1997.

NEWT GINGRICH,
Speaker of the House of Representatives.

The SPEAKER pro tempore. Without objection, the designation is agreed to.

There was no objection.

□ 1815

REPORT ON NATIONAL EMERGENCY WITH RESPECT TO LIBYA—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 105–101)

The SPEAKER pro tempore (Mr. LAHOOD) laid before the House the following message from the President of the United States; which was read and without objection, referred to the Committee on International Relations and ordered printed.

To the Congress of the United States:

I hereby report to the Congress on the developments since my last report of January 10, 1997, concerning the national emergency with respect to Libya that was declared in Executive Order 12543 of January 7, 1986. This report is submitted pursuant to section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c); section 204(c) of the International Emergency Economic Power Act ("IEEPA") 50 U.S.C. 1703(c); and section 505(c) of the International Security and Development Cooperation Act of 1985, 22 U.S.C. 2349aa–9(c).

1. As previously reported, on January 2, 1997, I renewed for another year the national emergency with respect to Libya pursuant to the IEEPA. This renewal extended the current comprehensive financial and trade embargo against Libya in effect since 1986. Under these sanctions, virtually all trade with Libya is prohibited, and all assets owned or controlled by the Libyan government in the United States or in the possession or control of U.S. persons are blocked.

2. There have been no amendments to the Libyan Sanctions Regulations, 31 C.F.R. Part 550 (the "Regulations"), administered by the Office of Foreign Assets Control (OFAC) of the Department of the Treasury, since my last report on January 10, 1997.

3. During the last 6-month period, OFAC reviewed numerous applications for licenses to authorize transactions under the Regulations. Consistent with OFAC's ongoing scrutiny of banking transactions, the largest category of license approvals (68) concerned requests by non-Libyan persons or entities to unblock transfers interdicted because of what appeared to be Government of Libya interests. Two licenses authorized the provision of legal services to the Government of Libya in connection with actions in U.S. courts in which the Government of Libya was named as defendant. Licenses were also issued authorizing diplomatic and U.S. government transactions and to permit U.S. companies to engage in transactions with respect to intellectual property protection in Libya. A total of 75 licenses were issued during the reporting period.

4. During the current 6-month period, OFAC continued to emphasize to the international banking community in the United States the importance of identifying and blocking payments made by or on behalf of Libya. The office worked closely with the banks to assure the effectiveness in interdiction software systems used to identify such payments. During the reporting period, more than 100 transactions potentially involving Libya were interdicted.

5. Since my last report, OFAC collected 13 civil monetary penalties totaling nearly $90,000 for violations of the U.S. sanctions against Libya. Ten of the violations involved the failure of banks to block funds transferred to Libyan-controlled financial institutions or commercial entities in Libya. Three U.S. corporations paid the OFAC penalties for export violations as part of the global plea agreements with the Department of Justice. Sixty-seven other cases are in active penalty processing.

6. Various enforcement actions carried over from previous reporting periods have continued to be aggressively pursued. Numerous investigations are ongoing and new reports of violations are being scrutinized.

7. The expenses incurred by the Federal Government in the 6-month period from January 7 through July 6, 1997,

that are directly attributable to the exercise of the powers and authorities conferred by the declaration of the Libyan national emergency are estimated at approximately $660,000.00. Personnel costs were largely centered in the Department of the Treasury (particularly in the Office of Foreign Assets Control, the Office of the General Counsel, and the U.S. Customs Service), the Department of State, and the Department of Commerce.

8. The policies and the actions of the Government of Libya continue to pose an unusual and extraordinary threat to the national security and foreign policy of the United States. In adopting United Nations Security Council Resolution 883 in November 1993, the Security Council determined that the continued failure of the Government of Libya to demonstrate by concrete actions its renunciation of terrorism, and in particular its continued failure to respond fully and effectively to the requests and decisions of the Security Council in Resolutions 731 and 748, concerning the bombing of the Pan Am 103 and UTA 772 flights, constituted a threat to international peace and security. The United States will continue to coordinate its comprehensive sanctions enforcement efforts with those of other U.N. member states. We remain determined to ensure that the perpetrators of the terrorist acts against Pan Am 103 and UTA 772 are brought to justice. The families of the victims in the murderous Lockerbie bombing and other acts of Libyan terrorism deserve nothing less. I shall continue to exercise the powers at my disposal to apply economic sanctions against Libya fully and effectively, so long as those measures are appropriate, and will continue to report periodically to the Congress on significant developments as required by law.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 26, 1997.*

ANNUAL REPORT OF CORPORATION FOR PUBLIC BROADCASTING, 1996—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with accompanying papers, without objection, referred to the Committee on Commerce.

To the Congress of the United States:

In accordance with the Communications Act of 1934, as amended (47 U.S.C. 396(i)), I transmit herewith the Annual Report of the Corporation for Public Broadcasting for Fiscal Year 1996 and the Inventory of the Federal Funds Distributed to Public Telecommunications Entities by Federal Departments and Agencies: Fiscal Year 1996.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 26, 1997.*

H.R. 1494, THE APPREHENSION OF TAINTED MONEY ACT

(Mr. GEKAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEKAS. Mr. Speaker, I wish the gentleman from New Jersey had remained so that he would be able to assert that the provision that he was talking about in the inheritance tax portion of the tax bill was recommended for the package by the Democrats, the Clinton administration Secretary of the Treasury. And we are wondering whether or not Senator KENNEDY or Senator ROCKEFELLER or which Member of the Senate has approved of that provision. So we welcome debate with the gentleman from New Jersey about the source of that provision.

In the meantime, we remember, do we not, when the Democratic National Committee declared that some moneys that they had received, thousands of dollars from a convicted drug dealer, were illegal contributions to the Democratic National Committee. We were all shocked, not just by that but by the assertion that the Democratic National Committee was going to return this money to the convicted drug dealer. That is more shocking than anything.

We have introduced legislation to cause those kinds of declarations to result in illegal moneys being put in escrow to see if the taxpayers can recover some of this money for good purposes, not for drug purposes.

Mr. Speaker, once again, I would like to draw the attention of this body and the Nation to an absurdity in Federal election law—an absurdity that is causing criminals and alleged wrongdoers to be rewarded with thousands of dollars in tainted money.

Federal election law requires political committees that have received illegal campaign funds to return that money to the illegal donors who gave it. This means that the very people who inject tainted money into our campaign finance system get that money back—if their wrongdoing is discovered.

I have introduced legislation to correct this absurdity.

The Apprehension of Tainted Money Act (H.R. 1494) would tie up illegal campaign contributions that a political committee would otherwise return to donors and give Federal officials a chance to investigate. Specifically, if a political committee were returning illegal, or certain other campaign contributions, it would have to transfer this tainted money to an escrow account at the Federal Election Commission. Funds in the escrow account could be used by the FEC or the Justice Department to pay appropriate fines and penalties under our election or criminal laws.

There is a special urgency and importance behind my message today because of two events happening next week.

First, June 30 marks the date on which the Democrat National Committee long ago promised to return the tainted money it received during the 1996 election cycle. This money was used by the DNC in the election, so justice is not done by returning the tainted money at this late date. But to add injury to injury—a mere insult would be a blessing here—this tainted money is going back to the illegal contributors who gave it! Having influenced a Federal election and perpetrated a fraud on the American people, these criminals are getting back the tools of their trade!

Second, July 4 is the date next week which President Clinton made a target in his State of the Union Address for Congress to get campaign finance reform legislation to him for signature. As everyone knows, the ambitious reforms have hit many stumbling blocks, and they are not likely to pass. Therefore, modest, incremental reforms like this one—which only tries to assure that campaign finance laws are enforced—must move forward.

I introduced my tainted money bill on April 30. The House Judiciary Subcommittee on Commercial and Administrative Law held a hearing on this bill on May 14. We took testimony from the Federal Election Commission, the Department of Justice, election law practitioners, and an ethics and campaign finance watchdog organization. In light of their very instructive testimony, we have revised the bill, improving it in a variety of ways.

At the appropriate time, I will offer my revision as a substitute for the original language of the bill because of the many improvements the revision makes. Among them, the revised bill extends its coverage to illegal soft money contributions. The revised version also gives the Federal Election Commission disgorgement authority so that the FEC can prevent unjust enrichment of campigan contributors who would receive a return of tainted money.

The revised bill ensures that 'innocent' contributors—those who have not violated election law or who have mistakenly violated the law in a trivial way—are not subjected to public embarrassment or stigma.

The revised version also improves the "escrow trigger" so that more illegal contributions go into escrow, while only a small number of innocent contributions would be delayed by return through the escrow process. The "automatic return trigger," which assures that agencies cannot keep money in escrow forever, is changed so that the Federal Election Commission and Department of Justice can keep investigations confidential if prudence requires it.

There are several other changes that improve the legislation further. I will happily make available to any member a copy of the revision and documentation of the changes.

As I have said before, there should be no delay in moving this legislation forward. Tainted money is out there right now awaiting return to the people who violated our laws in giving it. The Apprehension of Tainted Money Act (H.R. 1494) would simply stop this practice and advance the uncontroversial goal of enforcing current campaign finance law.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Lundegan, one of its clerks, announced that the Senate had passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 108. Concurrent resolution providing for an adjournment or recess of the two Houses.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

NEW TAX PLAN DOES NOT FULFILL BARGAIN WITH AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas [Ms. JACKSON-LEE] is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, the reason why it is difficult to be at this podium is because I thought it was extremely important to take a moment to explain to the American people just what occurred here today.

Mr. Speaker, first of all, it is interesting that this debate began more than 2 years ago with a claim to the American people that the real focus would be on changing radically the tax system. Whether it was on a consumption tax or a flat tax, the key was simplification and equality. At least that is what we thought the debate was all about.

But, Mr. Speaker, in the course of dealing with the political winds, today we voted on a tax bill that is unequal and does not hold its bargain and its partnership with the American people. First of all, let me share that included in these documents will be the so-called changes that were made in the tax bill. It is recognized that, yes, there were some tax cuts made by the Republicans, but it also is accurate that that tax cut does not impact the bulk of working Americans.

Mr. Speaker, there was some representation about the Joint Committee on Taxation, holding that body, bipartisan that it is supposed to be, as the standard bearer to suggest that the Republican tax bill does meet the requirements of working Americans.

They do seem to suggest that those making between $20,000 and $75,000 would get 71 percent of the tax cuts under the Republican bills, and those making $75,000 to $100,000, 16 percent. But yet the Treasury Department calculations of that same bill indicate the real facts.

Under that bill, those making 30,000 to 75,000, the bill that was just passed, get a mere 19 percent. Nineteen percent of those who make that amount of money would be able to get tax cuts under the Republican bill. Mr. Speaker, $75,000 to 100,000, if that is a taxpayer's earnings, only 13 percent would be able to come under the Republican bill. But if they made over 100,000 up to 200,000, 32 percent would benefit. And if they made over 200,000-plus, 31 percent would benefit.

Mr. Speaker, let me simply say that it is not only those of us who voted against the Republican bill that acknowledge that it is skewed to the high-income individuals in this country who have not asked for a tax cut. The Wall Street Journal on Thursday, June 26 said, "According to more reliable Treasury estimates, when the bill is fully effective, the top 1 percent of taxpayers would get 19 percent of the benefits under the House bill. Conversely, the bottom three-fifths of families get only 12 percent."

This same article notes that the Republican-run Congressional Tax Committee, the very tax committee that says those who make 20,000 to 75,000 will get 71 percent, in this article, the Wall Street Journal says, not necessarily a captive of the so-called Democratic liberals, says, "The Republican-run congressional tax committee has put out phony estimates of both the distribution effects and costs only calculating the first 5 years. The bills are back-loaded so that the tax cuts for capital gains, estate taxes, and new retirement accounts explode in 5 to 10 years."

Mr. Speaker, we went to the floor today and we called on God. Some of us, those in the Republican side, wanted to claim John F. Kennedy. Well, let me cite the last time we made major tax cuts: Under the Reagan administration in 1981. That skewing of tax cuts resulted in the trillion dollar deficit that we face in this country. Many would argue that it was tax and spend.

We all understand that there is a connection between taxation and spending. But, yet, my colleagues on the other side of the aisle want to argue against the budget plan of 1993. Mr. Speaker, I was not here; that offered to the American people today the lowest deficit in our history, some $50 billion and going down.

So now we have heard the American people. But we responded to the trillion dollar debt created by the Reagan tax plan giving all of it to the rich by creating a difficult vote in 1993 that, yes, raised some of the taxes. But, Mr. Speaker, it brought the deficit down. And then the American people spoke again and said they wanted a balanced budget. I have voted for a balanced budget. But in saying that, they said something else.

Mr. Speaker, if I can add these in the record, let me say as I close, they said something else. They said they believe in the Democratic tax plan because it stood for working Americans, those making under $75,000. This is what my colleagues voted for: confusion and one-sidedness. I hope we will get this straightened out.

Mr. Speaker, I include the following for the RECORD:

Forty-five percent of the children in Texas do not get the child credit under the Republican bill. That's more than 3.3 million children.

[From the Wall Street Journal, June 26, 1997]

THIS REPUBLICAN TAX-CUT DOG WON'T HUNT

(By Albert R. Hunt)

"Taxes are the killing fields for Democrats," Grover Norquist, the irrepressible conservative activist, predicted to Time magazine this week.

After the government shutdown and minimum wage defeats of the last Congress and the disaster relief debacle of last month, the GOP hopes that finally the political game is being played on their turf. They're living in yesteryear.

The case for any tax cut in this booming economy is dubious. If President Clinton gets his way, precious few additional kids are going to get college education because of this tax bill. If the Republicans get their way, the tax bill is going to add precious few jobs.

Moreover, voters should feel duped by this debate. Last year, the Republicans stressed a simpler and flatter tax code; their proposals create more special preferences and a more complicated code. In 1996, the Democrats emphasized equity; whatever emerges, however, will be skewed heavily to upper-income individuals and exacerbate the income gap between rich and poor.

Thus the battle over the size and shape of tax cuts over the next month is about politics. The heart of the GOP tax cut effort—capital gains and estate tax relief—resonates with campaign contributors, not with voters. When it comes to the specific proposals before Congress today, according to this past weekend's Wall Street Journal/NBC News poll, Americans side with the Democrats by a lopsided 2-to-1 margin.

The House and Senate both likely will pass separate Republican-crafted bills this week. Both bills, however, are so bad—a bonanza for the affluent, crumbs for the working class and eventually costly—that President Clinton will enjoy enormous leverage in the negotiations over distribution and costs. The Republican-run congressional tax committee has put out phony estimates of both the distribution effects and the costs, only calculating the first five years; the bills are back-loaded so that tax cuts for capital gains, estate taxes and new retirement accounts explode in five to 10 years.

According to more reliable Treasury estimates, when the bill is fully effective, the top 1% of taxpayers would get 19.3% of the benefits under the House bill and 13.3% under the Senate version. Conversely, the bottom three-fifths of families get only about 12% in both measures. The liberal Center on Budget and Policy Priorities argues that the Treasury underestimates the case; it calculates that under the House Republican tax and spending measures, the poorest 20% of the population would actually lose income while the wealthiest 1% ultimately would get an annual average tax cut of $27,155.

Under this so-called balanced-budget agreement, the net tax cuts can't exceed $250 billion over the next 10 years. But with the back-loading in the following 10 years, the

House bill would cost between $650 billion and $700 billion, while the Senate version would cost around $600 billion.

Even worse, in order to shoehorn in tax breaks for their wealthier constituents, the Republican bills shamefully shortchange the working poor. Conservatives have long argued that the tax code shouldn't be used to redistribute income. Yet that's exactly what these Republican bill do.

A critical issue is whether the politically popular, if economically questionable, $500 child credit goes to the working poor. Last week House Speaker Newt Gingrich charged that the Democrats' efforts to give more to the working poor amounted to a "welfare" sop.

Republicans would deny the child credit to workers who already are receiving the earned income tax credit. They argue that since the EITC wipes out income tax liabilities for these people, they don't deserve the credit.

The real reason they want to deny these taxpayers the credit is that they want to use the money for tax breaks on capital gains, estates and retirement accounts. Both the GOP's Contract With America in 1994 and the tax bill that Senate Republican leader Trent Lott introduced earlier this year proposed to give the child care credit to EITC beneficiaries. The House bill would deny this to six million kids and the Senate bill would deny it to four million in this category. Moreover, ever since the EITC was enacted in 1975, its purpose was to offset not only income taxes but the regressive payroll taxes that all of these recipients pay; until it became a budgetary inconvenience, most Republicans supported that notion.

This is best illustrated by a real situation. A starting police officer in Gwinnett County, GA.—coincidentally part of Speaker Gingrich's district—is paid $23,078 a year. If his family has two kids, it gets a $1,668 earned income tax credit, which offsets its $675 in federal taxes and yields a check for $993. But that family pays $1,760 in payroll taxes (most economists would also add the employer's share of payroll taxes too) and another $354 in federal excise taxes. Thus, even after the EITC, this police officer's family's out-of-pocket federal taxes would be at least $1,121 and in reality more like $2,881.

Mr. Gingrich and company apparently believe giving that young police officer and his family the child credit is welfare. In truth, these are working people who most need help. The bottom line in the House GOP tax measure: Bill Gates would get capital gains and estate tax reductions and even a new IRA provision that would let him take a $4,000 tax break for educational expenses for his kids, but a $23,000-a-year rookie cop would be denied a tax credit for his kids.

The Clinton administration is calculating how to reshape the tax legislation in the next month and may set some benchmarks for what's unacceptable. One possibility under consideration is that the cost of the tax cuts in the second 10 years couldn't exceed $500 billion, about halfway between the House Democratic and Republican measures. And top administration officials say that at least 40% of the tax-cut benefits should go to the bottom 60% of taxpayers. That would still be regressive but much less onerous.

Republicans hope—and more than a few Democrats fear—that if the president gets his college tuition tax breaks, he'll cave on the other issues. Some also note that many of those Lincoln bedroom guests and campaign contributors of 1996 would do very well by these tax bills.

But congressional Republicans are notorious in misjudging Bill Clinton if the politics are on his side. In this fight, that's where they are.

WEI JINGSHENG SUFFERS BEATING IN CHINESE PRISON

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California [Ms. PELOSI] is recognized for 5 minutes.

Ms. PELOSI. Mr. Speaker, I rise in great sadness this evening to report to our colleagues in the House of Representatives that, since the activity on this floor earlier this week regarding sending a signal to China about our seriousness about human rights, there are reports out of Beijing, both Reuters and AP, that veteran dissident Wei Jingsheng has been severely beaten by other prison inmates who were told they could get reduced prison sentences if they attacked him.

Mr. Speaker, Wei Jingsheng is known as the Sakharov of China. He is the leading pro-democracy dissident there and has been in prison for 14 years. He has been in prison since the Democracy Wall demonstrations in 1979. He was released for a couple of months when China wanted to get the Olympics, and then rearrested after a meeting with Assistant Secretary of State John Shattuck, Secretary for Human Rights and Democracy.

Mr. Speaker, Wei has been there and he will not be contrite. He will not apologize for his pro-democratic statements and he is sentenced to another 14-year sentence for speaking out peacefully for pro-democratic change. He is being beaten by the other inmates, as I said, and they are getting reduced sentences if they strike him. His health is not good, it has not been good, and he is not receiving appropriate medical attention.

Mr. Speaker, I am very pleased that our Democratic leader in the House, the gentleman from Missouri [Mr. GEPHARDT] has written to Secretary Albright regarding the news about Wei Jingsheng. He expressed his concern about the reports and mentioned that Wei has been a symbol of hope for those who wish to confront Chinese tyranny. The gentleman mentioned that he as well as many of us are great admirers of Wei's commitment to the struggle for freedom. The gentleman from Missouri urges Secretary Albright to raise the issue at the highest levels during her upcoming trip to Hong Kong and use all diplomatic and other available sources to fight for Wei's safety and release.

Mr. Speaker, Wei Jingsheng has received the European Parliament's Sakharov Prize. He has been nominated for the Nobel Peace Prize, and he is being kicked in the neck in the Chinese prisons and his tormenters are given time off for that so-called good behavior.

I bring this up at this time because there is a delegation leaving for Hong Kong for the changeover that will take place on June 30. Secretary Albright has stated that she will not attend the event which is the swearing in of the puppet legislature.

Mr. Speaker, just as a matter of background, briefly, there is a democratically elected legislature called Legco in Hong Kong. In preparation for the takeover, the Chinese regime has appointed a puppet legislature which will take over July 1 as they throw out the democratically elected legislature. So much for Democratic freedoms in Hong Kong.

It is a travesty that this Government of the United States, especially under the circumstances of Wei Jingsheng's torment, will be sending our consul general to legitimize this illegal legislature that is going to be sworn in on Tuesday.

Mr. Speaker, I call upon the Secretary of State, who never intended to attend the legislative swearing in in the first place because the administration knew that it was not appropriate, to withdraw the possibility that the consul general to Hong Kong, the representative of the United States, and other representatives of the State Department not attend. Not attend.

And, Mr. Speaker, I would certainly hope that no Member of the Congress of the United States would legitimize the illegal legislature that has been handpicked by Beijing to replace the democratically elected legislature. Its term has at least one more year to run.

It is interesting to me, though, to see the contradiction from the administration. On the one hand, they used on this floor and in their correspondence, and they used in a letter from the President of the United States, the name of Martin Lee as the leading democrat in Hong Kong, as the leading person to say support MFN for China; it is good for Hong Kong. And they used his credentials as the top democratically elected legislator in Hong Kong. Martin Lee, Martin Lee. He is a champion of democracy and his name was used earlier on the floor this week. And now Martin Lee will be ousted, replaced by a puppet legislature, and we in the United States, the greatest democracy in the world, will have our representatives there to legitimize that effort.

Mr. Speaker, I urge Members of Congress not to attend. I urge the administration not to send representatives to that swearing in.

SUPPORT FOR WEI JINGSHENG

(Mr. GINGRICH asked and was given permission to address the House for 1 minute.)

Mr. GINGRICH. Mr. Speaker, I simply want to associate myself with all of those who are concerned about the news reports begun by Reuters, quote "China imposes new punishments on dissident Wei."

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As somebody who has supported opening a dialog with the Chinese Government, I simply want to say that I hope that the Secretary of State is going to make the strongest possible representation on behalf of Mr. Wei, that the United States Government is going to insist on an accounting for what is happening to him and that we are going to make clear to the Chinese Government that our commitment to human rights, our concern for political prisoners and our insistence on some standard of decency are real, run across all of American society, and that they should not assume that one vote one way or the other on a particular item indicates that they have a blank check to oppress human beings.

I appreciate the gentlewoman from California for bringing this to the House's attention. I hope that Secretary Albright will make the strongest possible representation on this issue.

CLINTON'S ENDORSEMENT OF THE NEW EPA AIR REGULATIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. KNOLLENBERG] is recognized for 5 minutes.

Mr. KNOLLENBERG. Mr. Speaker, I rise today to express my absolute disappointment, frankly disgust with the President's decision endorsing the EPA's stricter regulations on air pollution. The President says that the reason for imposing these new rigorous regulations was because he, and I, quote, thinks kids ought to be healthy. I agree with him. But I also think it is in the best interest of America's kids if their parents are able to remain employed.

And frankly, the new proposals may in fact hurt our kids. The current clean air standards already require cities to have emission-control plans to ensure the air is cleaner each year. As stated in the June 24 Wall Street Journal, current emission control plans will be thrown out while the new ones are being written. This will actually slow, slow the clean air progress perhaps for years. And in the process our workers will be placed at risk. The unions know these standards will cost workers their jobs. That is why many are opposing the EPA's stricter standards.

I think we need to ask ourselves, when is enough enough? How many jobs must we lose to clean up the air more than it is? There is a point of diminishing returns where the cost far outweighs any benefits. Mr. Speaker, the Browner-Gore-Clinton EPA standards reaches that point.

We have made great progress in the last 20 years. Today the air is cleaner than it has ever been. When our current standards were put in place, the majority of our States and communities could not comply. Today over 96 percent, over 96 percent of our communities in nearly every State is able to comply with the current standards. Compliance has carried an expensive price tag but improving our environment and our air was necessary to protect the future of our country.

I believe we have succeeded. Now is not the time to turn the tables on these successes and apply more regulations and tougher standards on our communities, our workers and our families.

Right now, Mr. Speaker, the President is about to make perfect the enemy of good. Pushed by the most radical, including the Vice President and EPA Administrator Carol Browner, he is about to sacrifice our workers, our jobs and our economy at the altar of perfect air.

I and many others are not ready to blindly follow. I think we know the facts. We studied the circumstances and we have seen the data. For example, a New England Journal of Medicine study has said our children are harmed more by cockroaches, dust mites and mold than by our current air. Only 4 of the EPA's 21 scientists who serve on the Clean Air Scientific Advisory Committee actually supported the tougher standards that the President has endorsed. Even Newsweek provided a feature issue on how to protect your children from asthma. And almost nothing in that article, nothing focused on our current air standards as the problem.

The PR game has begun and the President is beginning to play his part on the bully pulpit. But I would suggest we not buy the snake oil that is being sold. His evidence is razor-thin and the costs are steep for our communities, our businesses, our workers, and our families.

Today we have a strong coalition, Republicans included, Democrats, business leaders, workers, who oppose these new regulations. I believe we need to stop the new EPA regulations before they do damage to America.

We need to commend our communities for the great progress that they have made on clean air and progress they have made. Instead, it seems President Clinton wants to reward them by punishing them with these impossible standards which they may never ever be able to meet.

COMMUNICATION FROM THE CHAIRMAN OF THE COMMITTEE ON THE BUDGET REGARDING CURRENT LEVELS OF SPENDING AND REVENUES REFLECTING ACTION COMPLETED AS OF JUNE 12, 1997 FOR FISCAL YEARS 1997–2001

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. KASICH] is recognized for 5 minutes.

Mr. KASICH. Mr. Speaker, on behalf of the Committee on the Budget and pursuant to sections 302 and 311 of the Congressional Budget Act, I am submitting for printing in the CONGRESSIONAL RECORD an updated report on the current levels of on-budget spending and revenues for fiscal year 1997 and for the 5-year period, fiscal year 1997 through fiscal year 2001.

This report is to be used in applying the fiscal year 1997 budget resolution (H. Con. Res. 178), for legislation having spending or revenue effects in fiscal years 1997 through 2001.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE BUDGET,
Washington, DC, June 19, 1997.

Hon. NEWT GINGRICH,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: To facilitate application of sections 302 and 311 of the Congressional Budget Act, I am transmitting a status report on the current levels of on-budget spending and revenues for fiscal year 1997 and for the 5-year period fiscal year 1997 through fiscal year 2001.

The term "current level" refers to the amounts of spending and revenues estimated for each fiscal year based on laws enacted or awaiting the President's signature as of June 12, 1997.

The first table in the report compares the current level of total budget authority, outlays, and revenues with the aggregate levels set by H. Con. Res. 178, the concurrent resolution on the budget for fiscal year 1997 as adjusted pursuant to 606(e) of the Budget Act for continuing disability reviews. This comparison is needed to implement section 311(a) of the Budget Act, which creates a point of order against measures that would breach the budget resolution's aggregate levels. The table does not show budget authority and outlays for years after fiscal year 1997 because appropriations for those years have not yet been considered.

The second table compares the current levels of budget authority, outlays, and new entitlement authority of each direct spending committee with the "section 602(a)" allocations for discretionary action made under H. Con. Res. 178 for fiscal year 1997 and for fiscal years 1997 through 2001. "Discretionary action" refers to legislation enacted after adoption of the budget resolution. This comparison is needed to implement section 302(f) of the Budget Act, which creates a point of order against measures that would breach the section 602(a) discretionary action allocation of new budget authority or entitlement authority for the committee that reported the measure. It is also needed to implement section 311(b), which exempts committees that comply with their allocations from the point of order under section 311(a).

The third table compares the current levels of discretionary appropriations for fiscal year 1997 with the revised "section 602(b)" sub-allocations of discretionary budget authority and outlays among Appropriations subcommittees. This comparison is also needed to implement section 302(f) of the Budget Act, because the point of order under that section also applies to measures that would breach the applicable section 602(b) sub-allocation. The revised section 602(b) sub-allocations were filed by the Appropriations Committee on September 27, 1996.

Sincerely,

JOHN R. KASICH,
Chairman.

Enclosures.

REPORT TO THE SPEAKER FROM THE COMMITTEE ON THE BUDGET—STATUS OF THE FISCAL YEAR 1997 CONGRESSIONAL BUDGET ADOPTED IN HOUSE CONCURRENT RESOLUTION 178

[Reflecting action completed as of June 12, 1997—On-budget amounts, in millions of dollars]

	Fiscal years—	
	1997	1997–2001
Appropriate Level (as amended by P.L. 104–93):		
Budget authority	1,314,935	6,956,507
Outlays	1,311,321	6,898,627
Revenues	1,083,728	5,913,303
Current Level:		
Budget authority	1,324,402	([1])
Outlays	1,324,181	([1])
Revenues	1,104,262	5,975,917
Current Level over(+)/under(−) Appropriate Level:		
Budget authority	9,467	([1])

REPORT TO THE SPEAKER FROM THE COMMITTEE ON THE BUDGET—STATUS OF THE FISCAL YEAR 1997 CONGRESSIONAL BUDGET ADOPTED IN HOUSE CONCURRENT RESOLUTION 178—Continued

[Reflecting action completed as of June 12, 1997—On-budget amounts, in millions of dollars]

	Fiscal years—	
	1997	1997–2001
Outlays	12,860	([1])
Revenues	20,534	62,614

[1] Not applicable because annual appropriations Acts for Fiscal Years 1997 through 2001 will not be considered until future sessions of Congress.

BUDGET AUTHORITY

FY 1997 budget authority exceeds the appropriate level set by H. Con. Res. 178 as amended by P.L. 104–93. Enactment of measures providing any new budget authority for FY 1997 would be subject to point of order under section 311(a) of the Congressional Budget Act of 1974.

OUTLAYS

FY 1997 outlays exceed the appropriate level set by H. Con. Res. 178 as amended by P.L. 104–93. Enactment of measures providing any new outlays for FY 1997 would be subject to point of order under section 311(a) of the Congressional Budget Act of 1974.

REVENUES

Enactment of any measure that would result in any revenue loss in excess of **$20,534,000,000** for FY 1997 (if not already included in the current level estimate) or in excess of **$62,614,000,000** for FY 1997 through 2001 (if not already included in the current level) would cause revenues to be less than the recommended levels of revenue set by H. Con. Res. 178.

DIRECT SPENDING LEGISLATION—COMPARISON OF CURRENT LEVEL WITH COMMITTEE ALLOCATIONS PURSUANT TO BUDGET ACT SECTION 602(a), REFLECTING ACTION COMPLETED AS OF JUNE 12, 1997

[Fiscal years, in millions of dollars]

	1997			1997–2001		
	BA	Outlays	NEA	BA	Outlays	NEA
House Committee:						
Agriculture:						
Allocation	0	0	0	0	0	4,996
Current level	5	5	5	55	55	55
Difference	5	5	5	55	55	−4,941
National Security:						
Allocation	−1,579	−1,579	0	−664	−664	0
Current level	−102	−102	−21	−289	−289	−34
Difference	1,477	1,477	−21	375	375	−34
Banking, Finance and Urban Affairs:						
Allocation	−128	−3,700	0	−711	−4,004	0
Current level	0	−6	0	0	0	0
Difference	128	3,694	0	711	4,004	0
Economic and Educational Opportunities:						
Allocation	−912	−800	−152	−3,465	−3,153	7,669
Current level	1,967	1,635	1,816	11,135	10,296	8,852
Difference	2,879	2,435	1,968	14,600	13,449	1,183
Commerce:						
Allocation	0	0	370	−14,540	−14,540	−41,710
Current level	3	3	492	242	195	1,430
Difference	3	3	122	14,782	14,735	43,140
International Relations:						
Allocation	0	0	0	0	0	0
Current level	−1	−1	0	−1	−1	0
Difference	−1	−1	0	−1	−1	0
Government Reform & Oversight:						
Allocation	−1,078	−1,078	−289	−4,605	−4,605	1,668
Current level	0	0	0	0	0	0
Difference	1,078	1,078	289	4,605	4,605	1,668
House Oversight:						
Allocation	0	0	0	0	0	0
Current level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Resources:						
Allocation	−91	−90	−12	−1,401	−1,460	−59
Current level	−19	−20	0	−144	−167	0
Difference	72	70	12	1,257	1,293	59
Judiciary:						
Allocation	0	0	0	−357	−357	0
Current level	3	3	0	45	45	0
Difference	3	3	0	402	402	0
Transportation & Infrastructure:						
Allocation	2,280	0	0	125,989	521	2
Current level	2,345	65	12	4,748	121	56
Difference	65	65	12	−121,241	−400	54
Science:						
Allocation	0	0	0	−13	−13	0
Current level	0	0	0	0	0	0
Difference	0	0	0	13	13	0
Small Business:						
Allocation	0	0	0	0	0	0
Current level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Veterans' Affairs:						
Allocation	−90	−90	224	−919	−919	3,475
Current level	0	0	3	0	0	−52
Difference	90	90	−221	919	919	−3,527
Ways and Means:						
Allocation	−8,973	−9,132	−2,057	−134,211	−134,618	−10,743
Current level	8,338	8,302	−2,840	73,457	73,476	−38,717
Difference	17,311	17,434	−783	207,668	208,094	−27,974
Select Committee on Intelligence:						
Allocation	0	0	0	0	0	0
Current level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Total Authorized:						
Allocation	−10,571	−16,469	−1,916	−34,897	−163,812	−38,038
Current level	12,539	9,884	−533	89,248	83,731	−28,410
Difference	23,110	26,353	1,383	124,145	247,543	9,628

DISCRETIONARY APPROPRIATIONS FOR FISCAL YEAR 1997—COMPARISON OF CURRENT LEVEL WITH SUBALLOCATIONS PURSUANT TO BUDGET ACT SECTION 602(b)

[In millions of dollars]

	Revised 602(b) suballocations (Sept. 27, 1996)				Current level reflecting action completed as of June 12, 1997				Difference			
	General purpose		Violent crime		General purpose		Violent crime		General purpose		Violent crime	
	BA	O	BA	O	BA	O	BA	O	BA	O	BA	O
Agriculture, Rural Development	12,960	13,380	0	0	13,051	13,427	0	0	91	47	0	0
Commerce, Justice, State	24,493	24,939	4,525	2,951	24,812	25,059	4,526	2,954	319	120	1	3
Defense	245,065	243,372	0	0	242,193	242,737	0	0	−2,872	−635	0	0
District of Columbia	719	719	0	0	719	719	0	0	0	0	0	0
Energy & Water Development	19,421	19,652	0	0	19,951	19,922	0	0	530	270	0	0
Foreign Operations	11,950	13,311	0	0	12,267	13,310	0	0	317	−1	0	0
Interior	12,118	12,920	0	0	12,492	13,184	0	0	374	264	0	0
Labor, HHS & Education	65,625	69,602	61	38	70,684	71,780	61	39	5,059	2,178	0	1
Legislative Branch	2,180	2,148	0	0	2,204	2,132	0	0	24	−16	0	0
Military Construction	9,983	10,360	0	0	9,793	10,334	0	0	−190	−26	0	0
Transportation	12,190	35,453	0	0	10,463	35,638	0	0	−1,727	185	0	0
Treasury-Postal Service	11,016	10,971	97	84	11,621	11,299	97	83	605	328	0	−1
VA–HUD–Independent Agencies	64,354	78,803	0	0	60,876	79,195	0	0	−3,478	392	0	0
Reserve/Offsets	768	219	0	0	−2,750	−5,850	0	0	−3,518	−6,069	0	0
Grand total	492,842	535,849	4,683	3,073	488,376	532,886	4,684	3,076	−4,466	−2,963	1	3

Note.—Amounts in Current Level column for Reserve/Offsets are for Spectrum sales and BIF/SAIF. Those items are credited to the Appropriations Committee for FY 1997 only.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 19, 1997.
Hon. JOHN KASICH,
Chairman, Committee on the Budget,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Pursuant to section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended, this letter and supporting detail provide an up-to-date tabulation of the on-budget current levels of new budget authority, estimated outlays, and estimated revenues for fiscal year 1997. These estimates are compared to the appropriate levels for those items contained in the 1997 Concurrent Resolution on the Budget (H. Con. Res. 178) and are current through June 12, 1997. A summary of this tabulation follows:

[In millions of dollars]

	House current level	Budget resolution (H. Con. Res. 178)	Current level +/− resolution
Budget Authority	1,324,402	1,314,935	+9,467
Outlays	1,324,181	1,311,321	+12,860
Revenues:			
1997	1,104,262	1,083,728	+20,534
1997–2001	5,975,917	5,913,303	+62,614

Since my last report, dated April 10, 1997, Congress has cleared and the President has signed the 1997 Emergency Supplemental Appropriations Act (P.L. 105–18). These actions have changed the current level of budget authority and outlays.

Sincerely,

JUNE E. O'NEILL,
Director.

PARLIAMENTARIAN STATUS REPORT—105TH CONGRESS, 1ST SESSION, HOUSE ON-BUDGET SUPPORTING DETAIL FOR FISCAL YEAR 1997, AS OF CLOSE OF BUSINESS JUNE 12, 1997

[In millions of dollars]

	Budget authority	Outlays	Revenues
PREVIOUSLY ENACTED			
Revenues	....	....	1,101,533
Permanents and other spending legislation	855,751	814,110	....
Appropriation legislation	753,927	788,263	....
Offsetting receipts	−271,843	−271,843	....
Total previously enacted	1,337,835	1,330,530	1,101,533
ENACTED THIS SESSION			
Airport and Airway Trust Fund Tax Reinstatement Act, 1997 (P.L. 105–2).	....	....	2,730
1997 Emergency Supplemental Appropriations Act (P.L. 105–18)	−6,497	281	....
APPROPRIATED ENTITLEMENTS AND MANDATORIES			
Budget resolution baseline estimates of appropriated entitlements and other mandatory programs not yet enacted	−6,936	−6,630	....
TOTALS			
Total Current Level	1,324,402	1,324,181	1,104,262
Total Budget Resolution	1,314,935	1,311,321	1,083,728
Amount remaining:			
Under Budget Resolution	....	....	....
Over Budget Resolution	9,467	12,860	20,534
ADDENDUM			
Emergencies:			
Funding that has been designated as an emergency requirement by the President and the Congress	9,198	1,913	....
Funding that has been designated as an emergency requirement only by the Congress and is not available for obligation until requested by the President	345	304	....
Total emergencies:	9,543	2,217	....
Total current level including emergencies	1,333,945	1,326,398	1,104,262

RELIGIOUS FREEDOM AMENDMENT—SYMPTOM OR CAUSE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. PAUL] is recognized for 5 minutes.

Mr. PAUL. Mr. Speaker, yesterday's Supreme Court decision in City of Boerne versus Flores is being touted as a blow to religious liberty and the Religious Freedom Restoration Act of 1993. It is, however, a blow to neither. The case of City of Boerne versus Flores came to the Supreme Court as a result of the zoning laws in Boerne, Texas which restricted the uses to which Reverend Cummings could put the property belonging to the Roman Catholic Church for which he worked. These particular zoning restrictions were not directed at Reverend Cummings or the Roman Catholic Church. The zoning laws were not even directed at religious organizations or churches generally. Rather, these zoning restrictions were directed at property owners in general in the name of historic preservation. These facts, however, beg the question as to why this case was argued instead as a violation of religious liberties protected by the first amendment.

What made this an issue of religious freedom in the court and "court of public opinion" is perhaps a symptom of the U.S. Supreme Court's holding in Village of Euclid, Ohio versus Ambler Realty Co. (1926) in which the Court sanctioned the abandonment of individual rights to property in the name of zoning for the "collective good." For those whose property rights are regulated away, devalued, or "taken" regulatorily, it is a natural symptom to expect these aggrieved parties to cling to whatever Constitutional liberties might still gain them a sympathetic ear in the courts. Those destroying flag-like property scramble for protection under the banner of free expression and Reverend Cummins sought property rights protection elsewhere within the first amendment, namely, religious freedom. Absent local, state, or federal governments' realization that such dilemmas are hopelessly irreconcilable outside a framework of individual property rights, similar cases will continue to find their way to various levels of the judicial system as those suffering infringements upon their rights in property, grope for justice against the collective expropriation which has become not only the rule, but the rule of law, in this country.

It is no accident that a case such as this did not originate in Houston, Pasadena, or Alvin, Texas. Each of these cities have allowed the marketplace, through a series of voluntary contractual exchanges, (rather than a central-planning-style zoning board), to determine how private property is most effectively developed.

The first amendment is meaningless absent a respect for property rights. Freedom of the press is a mere sham without the right to own paper and ink. Freedom of religion is vacuous absent the right to own a pulpit from which to preach or at least a place in which to practice or worship. Until this country's lawmakers and courts restore a system of Constitutional jurisprudence respective of the inextricable nature of so-called economic and fundamental liberties, all liberties will be subject to eradication at the whim of the legislatures, the courts, or both.

HONORING GENERAL THOMAS S. MOORMAN, Jr.

The SPEAKER pro tempore (Mr. PEASE). Under a previous order of the House, the gentleman from Maryland [Mr. HOYER] is recognized for 5 minutes.

Mr. HOYER. Mr. Speaker, I rise today to acknowledge and applaud the life and labors of my friend, Gen. Thomas S. Moorman, Jr., the Vice Chief of Staff of the U.S. Air Force.

The gentleman from Tennessee [Mr. WAMP], in his suggestion to yield to me, mentioned that I wanted to speak about an American patriot. He was absolutely correct.

Mr. Speaker, it is a very special honor for me to congratulate General Moorman on his retirement. Forty years ago, General Moorman and I attended Suitland High School together. I graduated in 1957 and General Moorman graduated in 1958. I knew then that Tom Moorman was going to achieve great heights.

I had the distinct pleasure of serving as Tom's campaign chair when he ran and won his bid for president of the student council at Suitland High School in 1957. I say to my colleagues, Suitland High School is about 15 minutes from this Capitol building. Even at the age of 17, General Moorman displayed outstanding leadership skills. That foreshadowed his future success.

After graduating from high school, he attended Dartmouth College, and was a distinguished military graduate of the Air Force Reserve Officer Training Corps program in 1962. For the past three and a half decades General Moorman has served this great Nation in a number of different and important ways.

General Moorman comes from a rich heritage of service to our military and our Nation. His father was a brigadier general at Andrews Air Force Base, located in Prince Georges County, and was then commanding the weather service for the U.S. Air Force. His father retired after completing a tour as superintendent of the U.S. Air Force Academy in Colorado Springs.

His father's example of excellence and service to country propelled Tom to the pinnacle of his profession as a four-star general. En route to his position, General Moorman served in a variety of intelligence and reconnaissance related positions around the world. Our country is particularly indebted to him for his contributions to the growth and exploitation of space as a key element of our national security strategy.

His legacy of involvement in space activities began with the planning and organization for the establishment of the Air Force Space Command which he would later head. His program provided management mobility for the conception and maturation of Air Force surveillance, communication, navigation and weather satellites, space launch vehicles, and ground-based and strategic radars.

Mr. Speaker, his numerous military awards and decorations include, among others, the Distinguished Service Medal, the Defense Superior Service Medal, the Legion of Merit with oak leaf cluster, the Meritorious Service Medal with oak leaf cluster, the Air Force Commendation Medal with oak leaf cluster, and the National Intelligence Distinguished Service Medal.

In addition, he has received other prestigious awards from the aerospace community, including the National Geographic Society's Thomas D. White U.S. Air Force Space Trophy, the Dr. Robert H. Goddard Memorial Trophy, the Ira C. Eaker Fellowship Award, and the Eugene M. Zukert Management Award.

Among many accomplishments, General Moorman's greatest contribution has been his leadership related to the space programs. As I have said, he has played a pivotal role in establishing national and Defense Department space policy and developing improved space capabilities.

Mr. Speaker, the scriptures remind us "that he that is faithful with little shall be faithful with much." This reference epitomizes the energy and work ethic of General Moorman. His early days at Suitland High to his climb as Vice Chief of Staff have included multiple tasks, always pursued with the very same tenacity. He has been faithful to his principles, to his beloved Air Force, and to his country.

The United States, Mr. Speaker, is indebted to Gen. Thomas S. Moorman, Jr., for selfless service. His careful and ceaseless efforts have laid a foundation for the space and Air Force capabilities which will be a vital part of a strong national security in the 21st century.

I am pleased today, Mr. Speaker, to celebrate before this Congress the accomplishments and retirement of my close and good friend, Thomas Moorman. However, I count him as a friend not for the stars on his uniform but for his integrity and his service to his country.

On behalf of my colleagues in the Congress and as a proud friend, I wish General Moorman sincere thanks for a his commitment and his success. Tom, may your retirement be filled with new opportunities and God's richest effort blessings.

Mr. Speaker, a good nation expresses its profound appreciation for a job well done. Our Nation is more secure and stronger for your having served and led the world's finest Air Force.

THE ECONOMY

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from Minnesota [Mr. GUTKNECHT] is recognized for 60 minutes as the designee of the majority leader.

Mr. GUTKNECHT. Mr. Speaker, I am joined tonight by my colleague, the gentleman from Tennessee [Mr. WAMP] who came here with me in 1994, in the class of the 104th Congress. We are going to talk tonight a little bit about where we were, where we are, and where we are going.

We want to talk about what has happened here in this last week because this is a very happy day. It is a happy day, I think, for this Congress. I think it is a very happy day for this country, and most importantly, I think it is a wonderful day for our children, because through this week we have passed for the first time in a generation a balanced budget plan that will in fact balance the people's books.

We have also passed the first tax relief in 16 years that is targeted for middle-class American families. This has been a very, very good week for America's children and for America's families.

I think to really understand how much has happened in the last 3 years here in Washington, I think we have to go back and look at what was happening for the last 40 years. I believe that for the last 40 years Washington had it wrong. For 40 years Washington thought that Washington knew best that bigger bureaucracies could solve social problems. So for 40 years, spending here at the Federal level increased at nearly double the inflation rate, taxes went up faster than family incomes, the debt ballooned and social problems got worse.

Washington had it wrong.

Washington waged a war on poverty. Washington spent over $5 trillion in that war, and if you take a walk through any burned-out inner city, you will see the victims that that war has brought us.

Ask yourself, who won the war on poverty? I believe that Washington had it wrong.

Washington overtaxed those who worked hard and played by the rules, and they squandered much of it on top-heavy programs that did little but breed more dependency.

When I was growing up, I think when the gentleman from Tennessee [Mr. WAMP] was growing up, we are both baby boomers. I was born in 1951. Most people do not remember who spoke at their college commencement, but I do. When I graduated from college, the speaker was the director of the United States Census. And he told us that there were more kids born in 1951 than any other single year. We are the peak of the baby boomers.

So when I came to Washington, it was with a special responsibility because my parents are still living. They are on Social Security. They are on Medicare. I obviously feel that I have a very strong responsibility to them.

But I also have three children. One of them is already in college and, hopefully, the other two will go on to some form of postsecondary education. So I also understand we have a moral responsibility to our children as well.

Things have changed a lot though since I was growing up. When I was a kid growing up, and I would assume this is true for the gentleman from Tennessee [Mr. WAMP] as well, the largest single payment that my parents made, and my folks were able to raise me and two brothers on one paycheck. That was really the norm back in the 1950s.

Part of the reason they could do that was that the largest single payment that they made every month was the house payment. Now the largest payment that most families, the average family makes is to the government.

As a matter of fact, the Taxpayers Union says that the typical American family with a median income in the United States today spends more for taxes, when you factor in the sales tax, the income taxes at both the State and Federal level, property taxes and all the other hidden taxes that people pay, the average American family pays more for taxes than they do for food, clothing and shelter combined.

So for 40 years Washington had it wrong. I want to yield to my colleague from Tennessee [Mr. WAMP] and perhaps talk a little bit about what things were like and part of the reason that he decided to "wamp" Congress.

Mr. WAMP. Mr. Speaker, I appreciate the gentleman yielding to me.

I hope that after I speak for a moment about taxes and I yield back the time, that you might recognize the gentleman from Maryland [Mr. HOYER] who has to recognize a patriot. He was not here earlier and, rather than his waiting for an entire hour, if there is any way that we could allow some time to be yielded to him, I would appreciate that.

But while we are on this track about taxes, I was also born in the 1950s. I think today is a day that we should stop, the gentleman from Minnesota discussed what life was like in the 1950s, and just reflect a little bit about the growth of the Federal Government and what has happened. Because I think it is worthwhile to look back.

In 1957, when I was born, my parents paid less than 10 percent of every dollar they made in combined taxes, local, State and Federal put together. The Federal tax rate was only a third of that, but they only paid a dime out of every dollar.

We now know that in today's world, that figure is approximately half. As a matter of fact, Tax Freedom Day is going to take place next week, on Thursday, July 3. That is incredible because July 4, the following day, is Independence Day. And this year independence from the government is actually the day before we celebrate as a Nation that great day each year, Independence Day, because it is going to be July 3 this year before the average American has actually worked long enough to pay all of the taxes that they owe plus the cost of regulation. It is now more than half of every dollar they make.

Let me say this, because I have got a son Westin and a daughter Coty, and I do not want them to work until October to pay the government and then keep what is left.

We know the stress that this problem has placed on American families because let me tell you, the level of taxation is directly tied to how much quality time you have in your family. You talked about the stress that has caused most families to have two wage earners. Mom and dad are both working.

My mother did not work. Thankfully, she did not have to. She spent more time with us. Now moms and dads are both having to work. We also know the family is splitting up and actually single moms I think have it worst of all. And do you know, we need to focus on this issue.

While we are talking about taxes, and we have been debating the level of tax relief, but the fact is there are very few people left now in Washington that will actually argue on behalf of not giving some of the American people their money back, because we had the large tax increase in 1993.

I think we ought to reflect not on just what has happened in the last 2½ years but what has happened in the last 4½ years.

The President of the United States, in his first 2 years, went out of bounds. He went too far to the left. Largest tax increase in history, turning health care over to the Federal Government. The country said, whoa, we did not elect you President to do that.

This President is a savvy politician so he moved back to the middle, moved back towards the middle, was reelected, moving rapidly back towards the middle. Now he is in agreement that we need to balance the budget within 5 years, reform Medicare, regardless of what was said during the last year's campaign. Now there is bipartisan agreement that we have to do what is right for Medicare to keep it solvent for our senior citizens who so much rely on it and give some tax relief back to the American people, to stimulate the economy and to give that working mother who right now is about hopeless, if she has two children, she is going to get $1,000 back.

How important is that for the lady who busts her tail to try to keep her head above water? It is very difficult for a working single mother to take care of her family, go to work, maybe work two jobs, some people working three jobs, just to get by, very little hope. Hope is where it is at. That is what is wrong with so many of our children. They do not have hope. And they are growing cynical.

We cannot let our country cross the bridge from skepticism, which they are supposed to be somewhat skeptical of the government. Our Fathers thought that was healthy. But cynicism is disconnecting. No hope. What will I do? Why should I try?

We want to give them some hope and reverse the tide, go back the other way, give them a third of that tax increase of 1993, which caused a political change in Washington, give them a third of that tax increase back. And that is what the Congress did today.

It is not completely through, but today was a step in the right direction.

I want to yield back to the gentleman, but I want to continue this dialogue about where we are on the size of government, the accountability of the government, and why this is real progress.

□ 1845

Albeit, not perfect, but it is real progress.

Mr. GUTKNECHT. We will get back to that.

Mr. Speaker, we were just beginning to speak about how the winds of change have begun to sweep through Washington. I have got a chart up here I am going to talk about in a minute, about how really graphically I think it shows how things are changing here in Washington.

But I think the first indication that things were changing in Washington was the debate we had when we first came here about welfare. For 40 years the answer to poverty and welfare in this country was to build bigger bureaucracies, to take more money away from working families and redistribute it through a complicated welfare system that was created and run here in Washington. The bureaucracy got bigger, and we actually saw an increase in poverty. The real tragedy of the welfare system was not that it cost too much money. The tragedy is that it created too much dependency.

Once again we could see the examples, we could see the victims all around us. I think the American people, as is so often the case, were way out in front of us and they said:

> You have got to change this system. It is just wrong. What we are doing is creating dependency. We are creating more illegitimacy. We are creating less hope.

And as you said earlier, when you reach that point where you have no hope, I think that is saddest indictment of all. So some of us said we have got to reform this welfare system, and that Washington does not necessarily know best. There were States like Wisconsin and Michigan and other great States led by great governors that said:

> Let us run welfare, send more of the resources and decision-making back to our

States, let us supply some of our thinking and creative tough love, and we can go a long ways towards reforming this system and reducing the amount of dependency and perhaps encourage more personal responsibility.

That is exactly what we did, and the results are overwhelming. I do not know if my colleague even knows this, but since we were elected to Congress, there are over one million families that are no longer dependent on the welfare system. As I say, that is terrific news, not just because it saves money but, more importantly, because it is going to save people and it is going to save families and it is saving children from one more generation of dependency.

At first, when we first started talking about welfare reform, it was called radical and it would not work and it would hurt people. But ultimately, I think as John Adams used to say, "facts are stubborn things." We ultimately prevailed in that debate. We got the President to sign that welfare reform.

I was very heartened to learn that even the New Republic, which is by its own admission a liberal magazine, now acknowledges that they were wrong and that the welfare reform that we passed really is working. With a little nudge, as many as 60 percent of the people who were on welfare before can be nudged onto payrolls and off the welfare rolls.

I would like to yield to the gentleman from Tennessee [Mr. WAMP] to talk a little bit about what is happening in his State and around the country, and some of his observations on welfare and poverty and dependency and personal responsibility.

Mr. WAMP. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, if we analyze what is happening out here in our country today, in 1997, and we really yearn, as I do, for a renewed sense of ownership from the people of our government and our country, I actually attempt, which may be thinking out of the box, to represent people who are so alienated or so hopeless they may not even be registered to vote. They may have just completely given up on the government, thinking that Washington is just out of control, it is going in the wrong directions, politicians are all the same.

My colleagues know what I am talking about, because we have all met those people. Many of them just kind of brush you off. They do not want to have anything to do with you. But if we can repair that bridge, to use the President's term, with those folks, and through real change and persistence convince those people that, yes, this country is worth fighting for and, yes, we can fix any problem that we have and for a sustained period of time, I would not expect them to automatically buy into the notion that Washington is finally changing. Because for so long they saw reform come, and then it really was not reform, and they thought that maybe some progress was being made or they wanted to think that, and it did not happen.

So I am really encouraged that we might be able to re-energize these people with a sense of hope that will cause this next generation to vote again, to be active citizens, to take ownership in this great Nation because it is worth fighting for and we cannot afford not to.

I do not want to oversimplify it, but there is a lot of talk now of what caused these million families to go back to work and there is a lot of credit taken. The President wants to take credit and the Congress wants to take credit. We all should remember, as Americans, that great things can happen when it does not matter who gets the credit.

Some of my folks back home, they do not have much confidence in the President, so they basically say, "Well, y'all can do what you want to up there, but you cannot work with him." Listen, the American people elected him, and our President is there for three and a half years. If he is willing to come over towards the middle and meet us on a balanced budget plan to try to leave his place in history, we should meet him there, we should shake his hand and say, "We are going to try to work with you."

The only people fighting that I can see really are the people on the far left. They had their day. They had their day. In the 1960s they promoted the Great Society, the concept that the Federal Government could solve the woes of America, and that was an experiment that failed. We now, being the beautiful country that we are, get up off the ground and dust ourselves off. The people sent some of us here to try to fix this, and it is not easy.

The Founding Fathers never wanted it to be easy. They created such a complex system of government, with separation of powers between the executive and legislative branch, they even cut the legislative branch in half so we have got another body over here to deal with, and it is very complicated to change. But I can assure people that the process has begun.

This big ship of state that was going so much in the wrong direction slowly over time has begun to turn. If we move that big ship of state one degree back in the right direction, over time you totally alter the destination. That is what is happening in this budget agreement.

I was cautiously optimistic all along, wondering if we could make it real, if it would survive, if either side would diminish or bail out of the agreement. I did not want to get too excited about it until I knew more of the details.

This week I worked with the leadership on an issue called enforcement provisions. The gentleman from Texas [Mr. BARTON] and the gentleman from Delaware [Mr. CASTLE] and I have been in and out the leadership rooms.

This week with all of the leaders of the majority side and the leadership of the blue dog Democrats on the minority side to try to bring a freestanding bill, which they have agreed to do in the month of July, to this floor and, if it passes, to roll it into the reconciliation bill and make it a part of this agreement to make sure that, if the projections in this agreement do not go as well as we hope they will, the assumptions do not live up to their expectation, that there are some floats built in so that we stay on track, so that we actually follow through on this agreement, unlike Gramm-Rudman and previous budget agreements that the Congress did not stick with or stick to, that we will actually do that.

Why? Because we, as a country, are on that bridge between skepticism and cynicism, and we cannot lose that next generation. We cannot lose them. We have got to have them. We have challenges. We need them engaged. We need them to be hopeful and optimistic.

The whole idea is that through this process we can abandon some of the notions of the past that Federal Government is a cure-all for America and move more in the direction of responsibility, individual responsibility, corporate responsibility. We are first responsible for ourselves, then our immediate family, then our community, our citizens at large.

The Federal Government should be one of the last places that we go. But for years and even decades in a row, the Federal Government was the first place people wanted to go, and the Founding Fathers never intended that. Actually, the $5.3 trillion debt is evidence of that tendency for years to go to the Federal Government first to try to solve the problems of America.

I want to commend our class's colleague, the gentleman from Wisconsin [Mr. NEUMANN], who has come up with a very responsible plan to not just balance the budget and to potentially balance the budget ahead of our schedule, 2002, even earlier, right at the turn of the century, but also to pay off the debt.

□ 1900

Because balancing the budget is one thing, and we should all support a reasonable plan to balance the budget while protecting legitimate priorities, and we have come together on that in an unprecedented and, I think, a historic way.

But then what about the debt? What about that? Let us go ahead and address that while we are getting the American people fired up about their country again and with a renewed optimism, and then say what do we do to get out of debt. We have a plan. I am sure the gentleman is a cosponsor, I am a cosponsor of the Neumann plan to pay this debt off by the year 2026. I believe we can do it. It is a patriotic challenge of our generation. The economy is good; basically, the world is at peace. We have a few conflicts. America has survived.

Let me tell my colleague, this is where we, our generation, should accept this as our challenge, because thank God we are not at war and we do not have the challenges that our parents and our grandparents had to go through so that we could be here today, and we should be grateful for that, but we should not coast. We should not rest. We should not take it easy, and we should not be hopeless.

We should stand up to the challenge and face this as a national imperative to get our country back out of debt and be on solid ground. Why? Because the debt is as much as our defense budget. The interest on the debt every year is as much as we pay for national defense, or as much as we pay for Medicare. Those dollars do not feed children, they do not house the homeless, they do not do one bit of good for anyone. They are wasted dollars. If we could reverse that tendency, every dollar we save could go for a productive cause. We have to invest the scarce dollars that the Federal Government collects from its people, and they are too high. The amount of money we are spending on the Federal level is too high. We have to restore more accountability.

Steps are being made; more progress can be made.

Mr. GUTKNECHT. Mr. Speaker, I think the gentleman has raised a number of good points. There is some tremendously good news. I, frankly, am not surprised at skepticism, because we have had Gramm-Rudman, we have had lots of budget deals, and lots of times what Congress would do is they would say, well, if you would just let us raise taxes a little bit more, then we would balance the budget. Well, what happened? They raised the taxes, they never cut the spending, and the budget deficit continued to grow.

So there is a good deal of skepticism. Sometimes we need a report card. If we think we are going to get to Chicago, once in a while we have to say, are we headed in the right direction?

Let me just share with the gentleman, and I think the gentleman probably knows this, but some of our Members do not. In our 1995 budget resolution we said that we would spend $1,624 billion in fiscal year 1997, that is the fiscal year we are in right now. We said we would spend $1,624 billion. The good news is that we are only going to spend $1,622 billion. So we are actually going to spend less in that fiscal year than we said we would spend 2 years ago. That is good news.

But I think the news gets even better. Because the economy has been a lot stronger than you or I or any of the economists, the President, the GAO, the CBO, and all the other people who keep score, the economy has been a lot stronger. More people have confidence now in America, they have confidence in the economy, they are out buying homes and cars and investing in new production, and so forth. So we have actually taken in about $100 billion more in revenue than we expected to take in. At the same time, we have actually spent less than we said we were going to spend. So I think that is great news.

I want to show this chart for the benefit of the gentleman and others who may be watching in their offices. But this is another example how the winds of change are really beginning to blow through Washington. The wind is actually changing, the direction is changing, that battleship is turning, because since 1975 to 1995, for 20 years, every year, if we take an average, these red lines is how much more the Congress spent than it took in.

If we average it all out, and it varied from $1.09 to $1.35, but for every dollar the Congress took in, it spent an average of $1.21. I am happy to report that since we came here, that we have a new Committee on Appropriations, a new Committee on the Budget, and a new Committee on Ways and Means chair, that since we came to Congress, I would say to the gentleman, that that average has dropped to $1.08. With this budget agreement it ultimately will reach 99 cents. If we can get to that 99 cent level, and this is where the plan of the gentleman from Wisconsin [Mr. NEUMANN] comes in, that is when we not only balance the budget on a year-to-year basis, but we begin to pay down some of that debt.

I think we ought to set, in terms of a goal of generational fairness, that our generation, the baby boomers, while we are protecting Social Security, while we are protecting Medicare we are going to pay off that debt so that we can leave our kids a debt-free future. I think that is a future that is worth fighting for. That is the way we can guarantee that the next generation and the generation after that will have their shot at the American dream.

Mr. Speaker, as I said earlier, for 40 years I think Washington had it wrong. They thought that they could spend their way to prosperity, and that is the reason that we are spending as much for interest on the national debt as we do for national security and some of the other things that the gentleman talked about. So we have to change that.

But it is changing. The good news is that we are spending less than we expected to spend, we are taking in more revenue than we expected to take in. Frankly, I have some of the number crunchers for the Committee on the Budget and I serve on the Committee on the Budget with the gentleman from Wisconsin [Mr. NEUMANN] and the gentleman from Ohio [Mr. KASICH] and a lot of other good folks.

I had them run the numbers and I said, what if the economy slows down a little bit. One of the myths is that this budget agreement is based on rosy economic scenarios. Right now the economy is growing at about 3.8 percent per year. Our budget agreement assumes that that growth rate is going to drop to 2.1 percent. Frankly, I think it is going to keep going on a much faster rate. So I asked the Committee on the Budget if they would just run some numbers and tell me what would happen if yes, the economic growth rate slowed, but it slowed to more of the average where it has been for the last 15 to 20 years, which is about a 3.2 percent growth rate.

If we do that, the interesting thing is that: First, the budget balances in the year 2000, and by the year 2002 we will have a surplus of over $200 billion in the Treasury. No one knows what is going to happen next year or 5 years from now. I think the gentleman's recommendations for some kind of enforcement provisions is a very good one and we ought to give it very careful consideration.

Mr. Speaker, I think the good news is we are keeping our promise, we are ahead of schedule, we are under budget, we are doing what we said we are going to do, and I think the American people understand that.

I would like to yield back to the gentleman and maybe we can talk a little more about making government more accountable and encouraging more personal responsibility and what else is happening with the budget.

Mr. WAMP. Well, we also talked about the economy. I think it is important to look at what the economy may do in the short run. I am convinced that it will be a real shot in the arm to an economy that is already performing well if we follow through on tax relief. I believe when people look back and say well, how did this economic trend continue for this long, frankly, I think one of the reasons is because the American people sent this new Congress here and they actually saw us reducing spending.

Now, as the gentleman knows, I serve on the Committee on Appropriations, and just this week we marked up, we wrote the legislation, for the legislative appropriations bill. Now, there are 13 appropriations bills that have to be passed out to fund the discretionary portion of the Federal Government. It is an interesting trend what has happened since 1965, but in 1965, the Congress actually appropriated about two-thirds of the money, and a third of the money was entitlements, automatic spending.

Well, that has just about reversed from 1965 to 1996, last year, where it is just the opposite. Entitlements and interest have two-thirds, and we only appropriate about one-third. Of that one-third that we appropriate, as you well know, about half of it is defense, and the other half is all the other nondefense discretionary bills put together.

So here we are making these reductions in this small portion of the Federal budget, but we have shown Wall Street, we have shown the American people, that we are willing to reduce spending for the first time in 26 years. The legislative branch, which we voted on this week, actually is experiencing a freeze after in the last 2 years a slight reduction actually, in actual dollars, not indexed for inflation, but in actual dollars, and previously we had reduced that legislative budget so much, first saying let us clean up our own House, let us start here in the Congress itself, reduce the staff, reduce the committees, reduce the legislative budget. We did that.

As a matter of fact, if all of the other appropriations bills were treated the same as the legislative appropriations bill, I was told this week the budget would be balanced in 2 years.

Mr. GUTKNECHT. Mr. Speaker, it would be balanced today if we had started in 1995.

Mr. WAMP. That is right. If we started prospectively, I am told the budget would be balanced in 2 years.

So things are going in the right direction. I believe that the markets are a reflection today of the renewed confidence that things are changing in Washington.

Mr. GUTKNECHT. Mr. Speaker, it is not just the markets, it is consumer confidence. I think there was a report out yesterday that consumer confidence is about at a record all-time high.

The American people in Washington for the first time say what they mean, mean what they say and do everything within their power to actually get it done.

I want to talk a little bit about this chart, because I mentioned it earlier. If the gentleman can see the red bars, going back to our 7-year balanced budget plan, which unfortunately the President vetoed and only parts of it actually became law, but thanks to the hard work of the folks on the Committee on Appropriations where they cut about $50 billion in wasteful spending and we also began the process of reforming and controlling the growth of entitlements, but this was our plan over 7 years.

Those are the red bars of what the deficits would be. The blue bars are where we actually are. And again, it points out, we said we would have a budget deficit in fiscal year 1997 of $174 billion. It is really going to be something more like $70 billion. Because of slower economic growth projected for next year, it does take a slight move up, but frankly, I think if we are anywhere close, and this goes back to another point that we both made, that if we talk to economists, if we talk to regular folks and we asked them what do they think will happen to the economy if everybody believes that Congress is going to balance the books, No.1; and No.2, if we allow them to keep and spend and save more of their money, do they think the economy will slow down, or do they think it will remain strong?

Virtually everyone that I have talked to from some of the top economists to some of the top business people to just regular folks at the barber shop, they believe that if we allow people to keep more of their own money and if we are serious about balancing the budget, real interest rates are going to come down and real economic growth is going to remain strong.

So that is why I believe, and I am not an incurable optimist, but I think I can back this up and time will prove me right, that if we actually can get this budget plan signed into law and begin the process of allowing families to keep and spend and invest more of their own money, I think we are going to have a strong economy, not just for the next year, but probably well into the next century.

Mr. WAMP. Mr. Speaker, I would like to say this again. Sometimes back home I get in trouble for being too honest, brutally honest at times about what really the situation is here in Washington as I explain it to people and do radio talk shows or town meetings or whatever. If we are talking about the deficit for this coming fiscal year, which is fiscal year 1998, and as the gentleman has pointed out, it is $49 billion less than our plan when the Congress came in and passed the 7-year balanced budget plan, the deficit for fiscal year 1998, according to our glidepath that we originally passed, was going to be $139 billion, and now this new plan, as agreed upon by the President, has a $90 billion budget deficit and we discussed the fact that it is up from last year, part of that, though, and in all fairness and in brutal candor to the American people, which I believe that they now expect and deserve, is that the President in this agreement wanted to increase some discretionary spending in the short run over what he calls his priorities.

Again, this is a system that has worked very well for over 200 years in this country. It includes an executive branch with veto power. We have to have a supermajority, a two-thirds vote of both bodies to override his veto.

□ 1915

This Congress does not have that. If we want to see progress made at the end of the day, there has to be some compromise on both sides. I want the folks back home, some of my wonderful, hardcore conservative friends who say we should not have been increasing domestic spending in the short run in order to get this agreement, in an ideal world I agree, but for 3½ years politically we do not have an ideal world. We have a split government with an executive branch from one party and a legislative branch solidly from the other party. Where we can, we are going to need to work together.

I think the American people last year said, you all let the temperature down just a bit. The 104th Congress was a little too partisan. Try to work together. Do not engage in shallow, divisive rhetoric, because at the end of the day, in my opinion, there are only two kinds of politicians, only two kinds of leaders, those that unite and those that divide.

The politics of division is not good for America. It has been very popular in recent years. They even have phrases called wedge issues. By definition that is an issue that will split people into two parts, and then you can pander to one part because the wedge issue divided that group of people.

The politics of division has now risen to prominence in America. I think that is part of the cynicism, is they do not like attack politics. They do not like the politics of division. There are leaders who have succeeded by bringing people together. The politics of unity. Alex Haley, a wonderful Tennesseean, used to say, find the good and praise it.

We need to find what it is we can agree on and come together on that, and set aside for the purpose of that discussion and for the moment our differences, and certainly not allow the politics of division to win the day.

That is not an exclusive propensity for either side of the aisle. I believe neither party has an exclusive on integrity and ideas, and frankly, I believe there are Members of both parties in Washington and across the country that engage too much in the politics of division and not near enough in the politics of unity. We need more leaders in this country that will say, OK, what can we agree on? Where can we meet in the middle?

Instead of saying, well, you just cannot trust the President, I think we should say, if the President is willing to meet us close to the middle, what can we agree with?

So the deficit does right there tick up in the short run, but we get real entitlement reform to save Medicare, keep it solvent, because it is hemorrhaging.

Mr. GUTKNECHT. Absolutely.

Mr. WAMP. Medicare, even though it was demagogued, they called it medagoguery in the last election cycle; it is hemorrhaging, losing millions of dollars every day until we fix it. In order to fix it, we have to rein it in. In order to get that accomplished, we have to say, Mr. President, what does it take to get your agreement? We would not have had the agreement.

Frankly, it is not an ideal situation. The ideology cannot win the day. There is a pragmatism that has to set in. In this country today we have this mixed government. We are not going to have another election to change that, so what can we do in the meantime to try to reach some common ground? Move the country forward, engage in the politics of unification again, because our country has so many problems, I am afraid if we do not work together in this city and across this land.

Mr. GUTKNECHT. Mr. Speaker, I would say to the gentleman I generally agree with what he has said, although I would phrase it somewhat differently. I think in the book of Ecclesiastes it talks about there is a time for everything, a time for war and a time for peace. In politics there is a time for confrontation. There are clearly some times when you have to draw a line in the sand and say, beyond this point there is simply is no retreat.

Perhaps we engaged in too much confrontation during the last Congress. But on the other hand, there is also a time for cooperation. I know some of my supporters, as the gentleman has back in Tennessee, really, they kind of like the politics of confrontation. Clearly they see it sometimes as a spectator sport. But in the end we have to do what is best for America. We have to do what is best for American kids and what is best for American seniors.

So in some respects, if the gentleman and I were to sit down and write a budget agreement, probably it would not look exactly like the one we voted on this week. The same is true with the tax bill. If I could have written the tax bill, it probably would have been significantly different than the one I was proud to vote for today.

In the end, this is about getting 218 votes here in the House, 51 votes in the Senate, and getting the President to sign it. I think the great news is that after going through some of the politics of confrontation, which in my opinion were important because they began to lay the foundations for where we are today, I honestly do not believe that we would have a budget agreement as good as the one we have, had we not been willing to demonstrate in the last Congress that we were willing to stand and fight. I think we would not have had as good a Medicare reform plan as we have today if we had not been willing to demonstrate that we were willing to fight for the principles we believed in.

On the other hand, we had to make some compromises. We could not completely ignore some of the President's priorities. There will be more money in education which I think generally, though, when people begin to analyze it, I think they are going to like some of the stuff that is going to be done for education. I know education, whether we are in Tennessee or Minnesota or wherever, is a very high priority with the American people.

So yes, it is a compromise. It is cooperation. We are trying to work together, because we understand that the greater good is what is really good for the American people.

Mr. WAMP. Mr. Speaker, I appreciate the gentleman yielding to me, and I have enjoyed this discussion immensely. I think it is a worthy effort that we have engaged here in Washington.

Mr. GUTKNECHT. Reclaiming my time, Mr. Speaker, I did want to talk just briefly, and we ought to spend a couple of minutes talking about the tax bill we passed today. I think there has been, just as we had a little bit of disinformation about Medicare, we have heard a little bit of disinformation about the tax plan.

I just want to say, and these are from the Committee on the Budget, the Committee on Ways and Means, I am sorry, but they have all been confirmed by the Joint Committee on Taxation. I would hope that whether people live in Minnesota or in Tennessee, wherever they are, that they would get the facts.

I think the facts speak for themselves. The bulk of the tax relief that is in this package, in fact, I think it is very accurate to say that 75 percent of the tax relief that we passed today is targeted at families that earn less than $75,000. Despite all the disinformation that has been spread, I think families can figure that out for themselves.

I would like to tell the story, I was going home last week. I was driving into our neighborhood and there was a garage sale. There was a family getting out of a rather beat-up car. They were going up to this garage sale. They had three kids that were able to walk and then there was one chubber that was about maybe 8 or 9 months old that was permanently attached to mom's hip, you know that type.

I thought about our tax relief package in this budget. I really thought, you know, this is what this is all about, because by balancing the budget we are preserving the American dream for those kids, and by passing this tax relief package we are going to provide real tax relief to families like that, millions of families like that.

This tax relief package will benefit 41 million children in this country, and $500 times those four kids is $2,000. That may not seem like a lot of money to some of the folks in Washington, some of the well-paid lobbyists who hang around these halls, but $2,000 to the typical family with four kids, that is a lot of money.

Take that family at $40,000 with three kids, and that is $1,500 plus the educational benefits, so this is a great package for American families. I am proud of it. It is not exactly the plan I would have written, maybe not the plan the gentleman would have written, but it is a great plan for America's families.

Mr. WAMP. If the gentleman will continue to yield, Mr. Speaker, under this agreement, which I now believe at some point will be signed into law and enacted and the people will actually receive this tax relief, 767,000 children in the State of Tennessee alone will qualify so that their parents receive a $500 tax credit in the coming year. That is incredible, just to think about 767,000 just in the State of Tennessee.

There was a lot of debate on the floor today about who is wealthy and who is not wealthy. Working families in this country, just because you have a job and own a home, a lot of the definition we heard today, if you own your own home you were classified by their definition today as wealthy. I hope you do own your own home, regardless of what it is worth. Home ownership is a great thing in this country, something that should be held up for hope and for opportunity as a goal that people should have.

I do not care if that single mom I was talking about earlier is making $18,000 a year or $30,000 a year, but if she has children 16 years old or under she needs that relief right now. That is going to help her, and I think it is going to stimulate our economy.

Then the other two areas of tax relief that I really believe in that are part of this agreement is increasing the level of death tax on families for assets. In my part of the world in Tennessee, many parts of my district are rural, where families own a farm. That farm has risen in value. It is called inflation that brought it up. They did not pay that much for it, but they have had it for a long time. They did not pay that much for it. They did not have that much to pay, but maybe they got it from their parents, and now the farm is worth more than $600,000, so if their parents die they would have to sell the farm, many of them, in order to pay the taxes, sell the family farm. That is unfair. This is an unfair tax. We should continue to lift that exemption as high as we can take it.

Then the capital gains tax is being reduced, the rate, and it is an unfair tax, too, because it is another tax on inflation. Other industrialized countries that we compete with in a global economy do not even have a capital gains tax rate, like Japan and Germany. We need to not tax inflation. We need to have incentives for people to save and invest that stimulates the economy.

We have an argument in this country over supply-side economics or not, but the fact is tax relief in the right way stimulates the economy and generates more revenue than it ever costs on the budget side. I really believe this is a step in the right direction.

I appreciate the gentleman's time tonight. I have enjoyed our colloquy. I hope the American people maybe better understand what we are trying to accomplish in good faith in this city at this critical moment in our great country's history. I hope the gentleman has a grand Fourth of July back in Minnesota.

Mr. GUTKNECHT. Mr. Speaker, I thank the gentleman from Tennessee. It has been a great a hour. It has gone very fast.

I would just like to close by saying this, this is an important first step. This was a very important week for American families, because we are beginning to restore accountability to government. We are starting to encourage more personal responsibility. We are sending more of the authority, the responsibility, and the resources back to neighborhoods and communities, and most importantly, to families.

As I said earlier, for 40 years Washington had it wrong. Washington thought that Washington knew best. For 40 years both the bureaucracy and the debt ballooned, and what happened? Our social problems got worse. The real answers to most of our social problems cannot be found here in Washington. They are with our families. That is what this week was about. That is what our budget is about. That is what our tax plan is about. Our families in America are winning now, and with their help, we are going to keep them winning.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. YATES (at the request of Mr. GEPHARDT) after 12 noon today, on account of personal reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. SERRANO) to revise and extend their remarks and include extraneous material:)

Mr. BONIOR, for 5 minutes, today.

Mr. FRANK of Massachusetts, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Ms. PELOSI, for 5 minutes, today.

(The following Members (at the request of Mr. KNOLLENBERG) to revise and extend their remarks and include extraneous material:)

Mr. CHABOT, for 5 minutes, today.

Mr. SCARBOROUGH, for 5 minutes, today.

Mr. KNOLLENBERG, for 5 minutes, today.

Mr. KASICH, for 5 minutes, today.

Mr. PAUL, for 5 minutes, today.

ENROLLED BILL SIGNED

Mr. THOMAS, from the Committee on House Oversight, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 1553. An act to amend the President John F. Kennedy Assassination Records Collection Act of 1992 to extend the authorization of the Assassination Records Review Board until September 30, 1998.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMAS, from the Committee on House Oversight reported that that committee did on this day present to the President, for his approval, bills of the House of the following titles:

H.R. 1306. An act to amend Federal law to clarify the applicability of host State laws to any branch in such State of an out-of-State bank, and for other purposes; and

H.R. 1902. An act to immunize donations made in the form of charitable gift annuities and charitable remainder trusts from the antitrust laws and State laws similar to the antitrust laws.

ADJOURNMENT

Mr. GUTKNECHT. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

The SPEAKER pro tempore (Mr. PEASE). Pursuant to the provisions of House Concurrent Resolution 108 of the 105th Congress, the House stands adjourned until 12:30 p.m. on Tuesday, July 8, 1997, for morning hour debates.

Thereupon (at 7 o'clock and 27 minutes p.m.), pursuant to House Concurrent Resolution 108, the House adjourned until Tuesday, July 8, 1997, at 12:30 p.m. for morning hour debates.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3958. A letter from the Acting Administrator, Farm Service Agency, transmitting the Agency's final rule—Livestock Indemnity Program (Commodity Credit Corporation) (RIN: 0560–AF15) received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3959. A letter from the Assistant to the Board, Board of Governors of the Federal Reserve System, transmitting the Board's final rule—Reserve Requirements of Depository Institutions and Issue and Cancellation of Capital Stock of Federal Reserve Banks [Regulations D and I; Docket No. R–0963] received June 24, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

3960. A letter from the Director, Office of Management and Budget, transmitting OMB's estimate of the amount of discretionary new budget authority and outlays for the current year (if any) and the budget year provided by H.R. 1871, pursuant to Public Law 101—508, section 13101(a) (104 Stat. 1388—578); to the Committee on the Budget.

3961. A letter from the Assistant Secretary for Special Education and Rehabilitative Services, Department of Education, transmitting Final Priorities——Research in Education of Individuals with Disabilities Program, pursuant to 20 U.S.C. 1232(f); to the Committee on Education and the Workforce.

3962. A letter from the Assistant General Counsel for Regulations, Department of Education, transmitting the Department's report on the Notice of Final Funding Priorities for programs administered by the Office of Special Education and Rehabilitative Services, pursuant to 5 U.S.C. 801(a)(1)(B); to the Committee on Education and the Workforce.

3963. A letter from the Secretary of Health and Human Services, transmitting the Annual Report for Fiscal Year 1996 of the Administration on Aging, pursuant to 42 U.S.C. 3018; to the Committee on Education and the Workforce.

3964. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; New Jersey 15 Percent Rate of Progress Plan and Phase I and II Ozone Implementation Plans [Region II Docket No. NJ28–2–170, FRL–5850–2] received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

3965. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval of Revisions to the Tennessee State Implementation Plan Regarding Visibility [TN 104–1–9706(b); TN 148–1–9705(b); FRL–5849–1] received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

3966. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Acid Rain Program: Phase II Early Reduction Credits [FRL–5845–3] received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

3967. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Technical Amendments to Test Rules and Enforceable Testing Consent Agreements/Testing Consent Orders [OPPTS–40030; FRL–5728–5] received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

3968. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Medical Devices; Reclassification of the Infant Radiant Warmer [Docket No. 85N–0285] received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

3969. A letter from the Deputy Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Indirect Food Additives: Adhesives and Components of Coatings; and Adjuvants, Production Aids, and Sanitizers [Docket No. 96F–0292] received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

3970. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially to Japan (Transmittal No. DTC–57–97), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

3971. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially to the United Kingdom (Transmittal No. DTC–81–97), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

3972. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed manufacturing license agreement for production of major military equipment with Saudi Arabia (Transmittal No. DTC–1–97), pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

3973. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the semi-annual report for the period April 1, 1996 to September 30, 1996 listing Voluntary Contributions made by the United States Government to International Organizations, pursuant to 22 U.S.C. 2226(b)(1); to the Committee on International Relations.

3974. A communication from the President of the United States, transmitting the bimonthly report on progress toward a negotiated settlement of the Cyprus question, including any relevant reports from the Secretary General of the United Nations, pursuant to 22 U.S.C. 2373(c); to the Committee on International Relations.

3975. A letter from the Acting Assistant Secretary, Bureau of Export Administration, transmitting the Bureau's final rule—Revisions to the Export Administration Regulations: Additions to the Entity List [Docket No. 970428099–7150–02] (RIN: 0694–AB60) received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

3976. A letter from the Acting Assistant Secretary, Bureau of Export Administration, transmitting the Bureau's final rule—Revisions to the Export Administration Regulations: Additions to Entity List: National Development Centre, Pakistan; and Indian Rare Earths, Ltd., India [Docket No. 970428099–7151–03] (RIN: 0694–AB60) received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

3977. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the Department's final rule—Schedule of Fees for Consular Services, Department of State and Overseas Embassies and Consulates, Diversity LOTTery Fee (Bureau of Consular Affairs) [Public Notice 2555] received June 11, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

3978. A letter from the Acting Chairman of the Council, Council of the District of Columbia, transmitting a copy of D.C. Act 12–84, "BNA Washington, Inc., Real Property Tax Deferral Temporary Amendment Act of 1997" received June 25, 1997, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform and Oversight.

3979. A letter from the Acting Chairman of the Council, Council of the District of Columbia, transmitting a copy of D.C. Act 12–83, "Procurement Reform Temporary Amendment Act of 1997" received June 25, 1997, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform and Oversight.

3980. A letter from the Executive Director, District of Columbia Retirement Board, transmitting the personal financial disclosure statements of Board members, pursuant to D.C. Code section 1—732 and 1—734(a)(1)(A); to the Committee on Government Reform and Oversight.

3981. A letter from the Comptroller General, General Accounting Office, transmitting a list of all reports issued or released in May 1997, pursuant to 31 U.S.C. 719(h); to the Committee on Government Reform and Oversight.

3982. A letter from the Director, Office of the Secretary, Department of Defense, transmitting the Department's final rule—DoD Freedom of Information Act Program Regulation [DoD 5400.7–R] (RIN: 0790–AG48) received June 23, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

3983. A letter from the Assistant Secretary for Human Resources and Administration, Department of Energy, transmitting a report of proposed revision to a system of records subject to the Privacy Act; to the Committee on Government Reform and Oversight.

3984. A letter from the Inspector General, General Services Administration, transmitting the Office's Audit Report Register, including all financial recommendations, for the period ending March 31, 1997, pursuant to Public Law 100—504, section 104(a) (102 Stat. 2525); to the Committee on Government Reform and Oversight.

3985. A letter from the Regulatory Policy Official, National Archives and RECORDS Administration, transmitting the Administration's final rule—NARA Reproduction Fee Schedule (RIN: 3095–AA71) received June 25, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

3986. A letter from the Director, Office of Personnel Management, transmitting the Office's report on the Federal Employees Family Friendly Leave Act; to the Committee on Government Reform and Oversight.

3987. A letter from the Secretary of Defense, transmitting the semiannual report of the Inspector General and classified annex for the period October 1, 1996, through March 31, 1997, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

3988. A letter from the Senior Deputy Assistant Administrator, Bureau for Legislative and Public Affairs, U.S. Agency for International Development, transmitting a report of activities under the Freedom of Information Act for the calendar year 1996, pursuant to 5 U.S.C. 552(d); to the Committee on Government Reform and Oversight.

3989. A letter from the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Magnuson-STEVENS Act Provisions; Foreign Fishing Vessels in Internal Waters; Reporting Requirements [Docket No. 970304043–7145–03; I.D. 061397A] (RIN: 0648–AJ59) received June 25, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

3990. A letter from the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Scallop Fisheries Off Alaska; 1997–98 Harvest Specifications [Docket No. 970613138–7138–01; I.D. 060397E] (RIN: 0648–AF81) received June 24, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

3991. A letter from the Executive Director, Congressional Medal of Honor Society of the United States of America, transmitting the annual financial report of the Society for calendar year 1996, pursuant to 36 U.S.C. 1101(19) and 1103; to the Committee on the Judiciary.

3992. A letter from the Assistant Attorney General, Department of Justice, transmitting a draft of proposed legislation to grant the consent of Congress to the Apalachicola-Chattahoochee-Flint River Basin Compact and the Alabama-Coosa-Tallapoosa River Basin Compact; to the Committee on the Judiciary.

3993. A letter from the Assistant Attorney General, Department of Justice, transmitting a draft of proposed legislation entitled the "Victims' Rights Act of 1997"; to the Committee on the Judiciary.

3994. A letter from the Assistant Attorney General, Department of Justice, transmitting a draft of proposed legislation entitled the "Child Support Recovery Amendments Act of 1997"; to the Committee on the Judiciary.

3995. A letter from the Attorney, National Council on Radiation Protection and Measurements, transmitting the 1996 annual report of independent auditors who have audited the records of the National Council on Radiation Protection and Measurements, pursuant to Public Law 88—376, section 14(b) (78 Stat. 323); to the Committee on the Judiciary.

3996. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Safety Zone Regulations; City of Astoria Fourth of July Fireworks, Columbia River, Astoria OR (Coast Guard) [CGD13–97–007] (RIN: 2115–AA97) received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3997. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Safety Zone Regulations; Oregon Food Bank Blues Festival Fireworks Display, Willamette River, Portland OR (Coast Guard) [CGD13–97–009] (RIN: 2115–AA97) received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3998. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Safety Zone Regulations; Pensacola, Pensacola Bay, Gulf of Mexico, FL (Coast Guard) (RIN: 2115–AA97) received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3999. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Safety Zone Regulations; Oak Park 4th of July Fireworks Display, Willamette River, Portland OR (Coast Guard) [CGD13–97–010] (RIN: 2115–AA97) received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4000. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Safety Zone Regulations; Kennewick Old Fashioned Fourth of July Fireworks Display, Columbia River, Kennewick WA (Coast Guard) [CGD13–97–008] (RIN: 2115–AA97) received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4001. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Safety Zone

Regulations; St. Helens 4th of July Fireworks Display, Columbia River, St. Helens OR [CGD13–97–011] (RIN: 2115–AA97) received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4002. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Safety Zone Regulations; Macy's 1997 Fourth of July Fireworks, East River, New York (Coast Guard) [CGD01–97–041] (RIN: 2115–AA97) received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4003. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Safety Zone Regulations; Saint Peter's Fiesta Fireworks, Gloucester, MA (Coast Guard) [CGD1–97–040] (RIN: 2115–AA97) received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4004. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Safety Zone Regulations; Destin Pass, Destin, FL (Coast Guard) [Regulation 97–04] (RIN: 2115–AA97) received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4005. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Safety Zone Regulations; BT Global Challenge Race, Boston Harbor, MA (Coast Guard) [CGD01–97–042] (RIN: 2115–AA97) received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4006. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Safety Zone Regulations; St. Andrew Bay, Panama City Marina, Panama City FL (Coast Guard) [Regulation 97–14] (RIN: 2115–AA97) received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4007. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Use of MIL–C–915 cable on Merchant Vessels (Coast Guard) [CGD 97–030] (RIN: 2115–ZZ00) received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4008. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Programs for Chemical Drug and Alcohol Testing of Commercial Vessel Personnel; Implementation of Drug Testing in Foreign Waters (Coast Guard) [CGD 95–011] (RIN: 2115–AF02) received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4009. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Inflatable Liferafts; Correction (Coast Guard) [CGD 85–205] (RIN: 2115–AC51) received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4010. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Special Local Regulation: The "Great Connecticut River Raft Race," Middletown, CT (Coast Guard) [CGD01–95–178] (RIN: 2115–AE46) received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4011. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Special Local Regulations for Marine Events; Virginia is for Lovers Cup Unlimited Hydroplane Races, Willoughby Bay, Norfolk, Virginia (Coast Guard) [CGD 05–97–043] (RIN: 2115–AE46) received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4012. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Antarctic Treaty Environmental Protection Protocol (Coast Guard) [CGD 97–015] (RIN: 2115–AF43) received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4013. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Puget Sound and adjacent waters, WA-regulated navigation (Coast Guard) [CGD13–97–003] (RIN: 2115–AE84) received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4014. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Equivalency of Caribbean Cargo Ship Safety Code (Coast Guard) [CGD 97–026] (RIN: 2115–ZZ01) received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4015. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Technical Amendments; Organizational Changes; Miscellaneous Editorial Changes and Conforming Amendments (Coast Guard) [CGD 97–023] (RIN: 2115–ZZ02) received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4016. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Hazardous Materials: Shipping Description and Packaging of Oxygen Generators; Extension of Effective Date and Corrections (Research and Special Programs Administration) [Docket No. HM–224A] (RIN: 2137–AD02) received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4017. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Availability of Interpretations of Hazardous Materials and Pipeline Safety Regulations; Correction (Research and Special Programs Administration) [Docket No. RSPA–97–2522 (RSP–3)] (RIN: 2137–AD00) received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4018. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Kodiak, AK (Federal Aviation Administration) [Airspace Docket No. 97–AAL–4] (RIN: 2120–AA66) received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4019. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Driggs, Idaho (Federal Aviation Administration) [Airspace Docket No. 97–ANM–6] received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4020. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; University of Maryland, Baltimore, MD (Federal Aviation Administration) [Airspace Docket No. 97–AEA–023] (RIN: 2120–AA66) received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4021. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Fort McHenry, MD (Federal Aviation Adminstration) [Airspace Docket No. 97–AEA–022] (RIN: 2120–AA66) received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4022. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Centerville, MD (Federal Aviation Administration) [Airspace Docket No. 97–AEA–021] (RIN: 2120–AA66) received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4023. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Sayre, PA (Federal Aviation Administration) [Airspace Docket No. 97–AEA–020] (RIN: 2120–AA66) received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4024. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments (Federal Aviation Administration) [Docket No. 28943; Amdt. No. 1804] (RIN: 2120–AA65) received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4025. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments (Federal Aviation Administration) [Docket No. 28944; Amdt. No. 1805] (RIN: 2120–AA65) received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4026. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments (Federal Aviation Administration) [Docket No. 28942; Amdt. No. 1803] (RIN: 2120–AA65) received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4027. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Amendment of Class D Airspace; Idaho Falls, Idaho (Federal Aviation Administration) [Airspace Docket No. 97–ANM–5] received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4028. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; de Havilland Model DHC–8–100 and -300 Series Airplanes (Federal Aviation Administration) [Docket No. 96–NM–73–AD; Amdt. 39–10055; AD 97–13–08] (RIN: 2120–AA64) received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4029. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; McDonnell Douglas Helicopter Systems Model MD-900 Helicopters (Federal Aviation Administration) [Docket No. 96-SW-35-AD; Amdt. 39-10056; AD 97-13-09] (RIN: 2120-AA64) received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4030. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Airbus Model A300-B2 and -B4 Series Airplanes, Excluding Model A300-600 Series Airplanes, Equipped with General Electric CF6-50 Series Engines or Pratt & Whitney JT9D-59A Engines (Federal Aviation Administration) [Docket No. 96-NM-165-AD; Amdt 39-10050; AD 97-13-04] (RIN: 2120-AA64) received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4031. A letter from the Secretary of Transportation, transmitting a report on the Evaluation of the U.S. Department of Transportation State Infrastructure Bank Pilot Program: Status as of February 28, 1997; to the Committee on Transportation and Infrastructure.

4032. A letter from the Secretary of Transportation, transmitting a report on Highway Signs for the National Highway System; to the Committee on Transportation and Infrastructure.

4033. A letter from the Secretary of Commerce, transmitting the "National Implementation Plan For Modernization Of The National Weather Service For Fiscal Year 1998," pursuant to Public Law 102—567, section 703(a) (106 Stat. 4304); to the Committee on Science.

4034. A letter from the Secretary of Veterans Affairs, transmitting a draft of proposed legislation to amend sections 2306 and 2403 of title 38, United States Code, to authorize memorialization of deceased spouses and surviving spouses of veterans and deceased members of the Armed Forces whose remains are not available for interment; to the Committee on Veterans' Affairs.

4035. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Last-In, First-Out Inventories [Rev. Rul. 97-28] received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

4036. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Treatment of Hong Kong and China [Notice 97-40] received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

4037. A letter from the Assistant Secretary of Defense, transmitting a letter notifying Congress that the report concerning the tax deductibility of nonreimburseable expenses incurred by members of Reserve components in connection with military service required by the National Defense Authorization Act for Fiscal Year 1997 will be submitted no later than July 31, 1997; jointly to the Committees on National Security and Ways and Means.

4038. A letter from the Administrator, Agency for International Development, transmitting a quarterly update report on development assistance program allocations for FY 1997, pursuant to 22 U.S.C. 2413(a); jointly to the Committees on International Relations and Appropriations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BLILEY: Committee on Commerce. H.R. 1276. A bill to authorize appropriations for fiscal years 1998 and 1999 for the research, development, and demonstration activities of the Environmental Protection Agency, and for other purposes; with an amendment (Rept. 105-99 Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. GOODLING: Committee on Education and the Workforce. H.R. 1818. A bill to amend the Juvenile Justice and Delinquency Prevention Act of 1974 to authorize appropriations for fiscal years 1998, 1999, 2000, and 2001, and for other purposes; with an amendment (Rept. 105-155). Referred to the Committee of the Whole House on the State of the Union.

Mrs. MYRICK: Committee on rules. House Resolution 178. Resolution providing for consideration of the bill (H.R. 2016) making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 1998, and for other purposes (Rept. 105-156). Referred to the House Calendar.

Mr. McCOLLUM: Committee on the Judiciary. House Concurrent Resolution 75. Resolution expressing the sense of the Congress that States should work more aggressively to attack the problem of violent crimes committed by repeat offenders and criminals serving abbreviated sentences (Rept. 105-157). Referred to the House Calendar.

Mr. McCOLLUM; Committee on the Judiciary. H.R. 1847. A bill to improve the criminal law relating to fraud against consumers; with an amendment (Rep. 105-158). Referred to the Committee of the Whole House on the State of the Union.

Mr. McCOLLUM: Committee on the Judiciary. H.R. 1898. A bill to amend title 18 of the United States Code to penalize the rape of minors in Federal prisons. (Rept. 105-159). Referred to the Committee of the Whole House on the State of the Union.

Mr. McCOLLUM: Committee on the Judiciary. House Resolution 154. Resolution expressing the sense of the House that the Nation's children are its most valuable assets and that their protection should be the Nation's highest priority (Rept. 105-160). Referred to the House Calendar.

Mr. McCOLLUM: Committee on the Judiciary. H.R. 103. A bill to expedite State reviews of criminal records of applicants for private security officer employment, and for other purposes (Rept. 105-161 Pt. 1). Ordered to be printed.

Mr. McCOLLUM: Committee on the Judiciary. H.R. 1840. A bill to provide a law enforcement exception to the prohibition on the advertising of certain electronic devices (Rept. 105-162). Referred to the Committee of the Whole House on the State of the Union.

REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of rule X, the following action was taken by the Speaker:

H.R. 695. A bill to amend title 18, United States Code, to affirm the rights of U.S. persons to use and sell encryption and to relax export controls on encryption; with an amendment; referred to the Committees on Commerce, National Security, and the Permanent Select Committee on intelligence for a period ending not later than September 5, 1997, for consideration of such provisions of the bill and amendment reported by the Committee on the Judiciary as fall within the jurisdiction of those committees pursuant to clause 1(e) and (k), rule X and rule XLVIII, respectively.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 5 of rule X the following action was taken by the Speaker:

H.R. 695. Referral to the Committee on International Relations extended for a period ending not later than July 25, 1997.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. THORNBERRY:

H.R. 2072. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income gain from oil and gas produced from certain recovered inactive wells; to the Committee on Ways and Means.

By Mr. GOODLATTE:

H.R. 2073. A bill to prohibit fundraising at the White House and elsewhere; to the Committee on the Judiciary.

H.R. 2074. A bill to amend the Federal Election Campaign Act of 1971 to expedite the availability of reports submitted to the Federal Election Commission, and for other purposes; to the Committee on House Oversight.

H.R. 2075. A bill to amend the Federal Election Campaign Act of 1971 to require the disclosure of certain information by persons conducting polls by telephone during campaigns for election for Federal office; to the Committee on House Oversight.

H.R. 2076. A bill to amend the National Voter Registration Act of 1993 to repeal the requirement that States provide for voter registration by mail and to require applicants for voter registration to provide a Social Security number and actual proof of U.S. citizenship, and for other purposes; to the Committee on House Oversight.

By Mr. BROWN of California (for himself, Mr. GUTIERREZ, Mrs. MALONEY of New York, Mr. FILNER, Ms. CHRISTIAN-GREEN, Mr. CLAY, Mr. DELLUMS, Mr. OLVER, Mrs. TAUSCHER, and Mr. ACKERMAN):

H.R. 2077. A bill to establish a National Forest Preserve consisting of certain Federal lands in the Sequoia National Forest in the State of California to protect and preserve remaining Giant Sequoia ecosystems and to provide increased recreational opportunities in connection with such ecosystems; to the Committee on Resources.

By Mr. CAMPBELL (for himself, Mr. CANADY of Florida, and Mr. BOUCHER):

H.R. 2078. A bill to amend title VII of the Civil Rights Act of 1964 to clarify the intent of Congress to hold individuals responsible for discriminatory acts committed by them in employment; to the Committee on Education and the Workforce.

By Mr. CAMPBELL (for himself and Mr. EHLERS):

H.R. 2079. A bill to require implementation of an alternative program for providing a benefit or employment preference under Federal law; to the Committee on the Judiciary.

By Mr. CAMPBELL (for himself and Mr. CANADY of Florida):

H.R. 2080. A bill to amend title VII of the Civil Rights Act of 1964 to establish criminal liability for unlawful discrimination based on disparate treatment; to the Committee on Education and the Workforce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CANADY of Florida (for himself, Mrs. MORELLA, Mr. SMITH of New Jersey, Mr. OLVER, Ms. STABENOW, Mr. EVANS, Mr. NORWOOD, Mr. TRAFICANT, Mrs. KELLY, Mr. MORAN of Virginia, Mr. FOLEY, Mrs. LOWEY, and Mr. FARR of California):

H.R. 2081. A bill to provide for an enumeration of family caregivers as part of the 2000 decennial census of population; to the Committee on Government Reform and Oversight.

By Mr. CLEMENT:

H.R. 2082. A bill to establish a Commission to conduct a comprehensive legal and factual study of the navigational, flood control, economic development, recreational, and economic impacts of the future structure, competitiveness, and financial viability of TVA, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Science, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. COOK:

H.R. 2083. A bill to prohibit the shipment of spent nuclear fuel to the Goshute Indian reservation in Utah; to the Committee on Transportation and Infrastructure.

By Mr. DAVIS of Illinois:

H.R. 2084. A bill to amend the Internal Revenue Code of 1986 to provide for maximum capital gains tax rate of 15, 22, and 30 percent for individuals; to the Committee on Ways and Means.

By Mr. EVANS (for himself, Ms. PELOSI, Mr. FRANK of Massachusetts, Mr. STARK, Mr. SANDERS, Ms. KAPTUR, and Mr. BONIOR):

H.R. 2085. A bill to amend the Export-Import Bank Act of 1945 to ensure that the provision of assistance for exports to China is conditioned upon adherence to responsible conduct; to the Committee on Banking and Financial Services.

By Mr. GILLMOR (for himself, Mr. LARGENT, Mr. DEAL of Georgia, Mr. BILBRAY, Mr. DOYLE, Mr. WHITFIELD, Mr. BONILLA, Mr. GRAHAM, Mr. STENHOLM, Mr. SHIMKUS, Mr. OXLEY, Mr. FRELINGHUYSEN, and Mr. LEWIS of California):

H.R. 2086. A bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to limit the portion of the Superfund expended for administration, oversight, support, studies, design, investigations, monitoring, assessment, and evaluation, and enforcement activities; to the Committee on Commerce, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GILLMOR:

H.R. 2087. A bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to require that polluters are responsible for the cleanup of hazardous substances, and for other purposes; to the Committee on Commerce, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. KELLY:

H.R. 2088. A bill to provide for the surviving spouse and dependent children of public safety officers who are killed in performance of their official duties, and for other purposes; to the Committee on Education and the Workforce.

By Mr. KILDEE (for himself and Mr. BONO):

H.R. 2089. A bill to authorize leases on the Cabazon Indian Reservation for terms not to exceed 99 years; to the Committee on Resources.

By Mr. LAZIO of New York (for himself, Mr. ENGEL, Mrs. MORELLA, Mr. PASCRELL, Mr. KING of New York, Mr. MILLER of California, Ms. DELAURO, Mr. PALLONE, Mrs. KELLY, Mr. MASCARA, Ms. KAPTUR, Mr. ACKERMAN, Mr. KENNEDY of Rhode Island, Mr. MANTON, Mrs. MCCARTHY of New York, and Mr. MCGOVERN):

H.R. 2090. A bill ordering the preparation of a Government report detailing injustices suffered by Italian-Americans during World War II, and a formal acknowledgment of such injustices by the President; to the Committee on the Judiciary.

By Mr. LINDER (for himself and Mr. NORWOOD):

H.R. 2091. A bill to amend the Appalachian Regional Development Act of 1965 to add Elbert County and Hart County, GA, to the Appalachian region; to the Committee on Transportation and Infrastructure.

By Mr. MENENDEZ (for himself, Mr. DIAZ-BALART, Mr. GILMAN, Ms. ROS-LEHTINEN, and Mr. DEUTSCH):

H.R. 2092. A bill to withhold United States assistance for programs or projects of the International Atomic Energy Agency in Cuba, and for other purposes; to the Committee on International Relations.

By Ms. NORTON:

H.R. 2093. A bill to temporarily waive the Medicaid enrollment composition rule for D.C. Health Cooperative; to the Committee on Commerce.

By Mr. PALLONE (for himself and Mr. BILBRAY):

H.R. 2094. A bill to amend the Federal Water Pollution Control Act to improve the quality of coastal recreation waters, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. PORTER (for himself, Mr. DREIER, Mr. KOLBE, Mr. SALMON, Mr. MATSUI, Ms. DUNN of Washington, Mr. GILMAN, Mr. LAZIO of New York, Mrs. MORELLA, Mr. LEVIN, Mr. DICKEY, Mr. SPENCE, Mr. HOBSON, Mr. HORN, Mr. PALLONE, Ms. JACKSON-LEE, Mr. SCARBOROUGH, Mr. WICKER, Mr. GILCHREST, Mrs. LOWEY, Mr. FOX of Pennsylvania, Mr. BACHUS, Mr. RADANOVICH, Mr. DOOLEY of California, Ms. PRYCE of Ohio, Mr. MCHALE, Mr. REGULA, Ms. DEGETTE, Mr. ENGLISH of Pennsylvania, Mr. ROEMER, Mr. ROHRABACHER, Mr. NETHERCUTT, Mr. PETERSON of Pennsylvania, Mr. HALL of Texas, Mr. MANZULLO, and Mr. POSHARD):

H.R. 2095. A bill to provide for certain activities regarding the promotion of respect for human rights, the development of democratic government and the development of the rule of law within the People's Republic of China, and for other purposes; to the Committee on International Relations, and in addition to the Committees on Intelligence (Permanent Select), and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. RANGEL (by request):

H.R. 2096. A bill to promote the growth of free enterprise and economic opportunity in the Caribbean Basin region, increase trade and investment between the Caribbean Basin region and the United States, and encourage the adoption by Caribbean Basin countries of policies necessary for participation in the free trade area of the Americas; to the Committee on Ways and Means.

By Mr. SANFORD:

H.R. 2097. A bill to amend the Internal Revenue Code of 1986 to correct the treatment of tax exempt financing of professional sports facilities; to the Committee on Ways and Means.

By Mr. SKEEN (for himself, Mr. SCHIFF, and Mr. REDMOND):

H.R. 2098. A bill to establish the National Cave and Karst Research Institute in the State of New Mexico, and for other purposes; to the Committee on Resources.

By Mr. SMITH of Michigan:

H.R. 2099. A bill to provide that cost-of-living adjustments to payments made under Federal law and to Federal tax benefits shall be determined using a new price index; to the Committee on Ways and Means, and in addition to the Committees on Education and the Workforce, National Security, Government Reform and Oversight, and Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. STEARNS:

H.R. 2100. A bill to establish a demonstration project to authorize certain covered beneficiaries under the military health care system, including the dependents of active duty military personnel and retired members and their dependents, to enroll in the Federal Employees Health Benefits program and to ensure their future health security through the use of medical savings accounts; to the Committee on Government Reform and Oversight, and in addition to the Committees on National Security, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SUNUNU:

H.R. 2101. A bill to amend the Internal Revenue Code of 1986 to exclude qualified conservation easements from a decedent's gross estate, exempt from tax the gain on the sale of qualified forest land to government entities or conservation groups, and for other purposes; to the Committee on Ways and Means.

By Mr. TALENT:

H.R. 2102. A bill to amend the Hazardous and Solid Waste Amendments of 1984 to repeal the sunset of the Environmental Protection Agency Office of Ombudsman, and for other purposes; to the Committee on Commerce.

By Mr. THORNBERRY (for himself, Mr. STENHOLM, Mr. THUNE, Mr. COMBEST, Mr. LIVINGSTON, and Mr. SESSIONS):

H.R. 2103. A bill to amend the Federal Meat Inspection Act and the Poultry Products Inspection Act to provide for the eventual removal of intrastate distribution restrictions on State inspected meat and poultry; to the Committee on Agriculture.

By Mrs. THURMAN:

H.R. 2104. A bill to ensure that persons who enroll in the managed health care program of the Department of Defense known as TRICARE Prime retain coverage under the program in any TRICARE region; to the Committee on National Security.

By Mr. TOWNS

H.R. 2105. A bill to amend section 552a of title 5, United States Code, to provide for the maintenance of certain health information in cases where a health care facility has closed or a health benefit plan sponsor has ceased to do business; to the Committee on Government Reform and Oversight.

By Mr. SOLOMON:

H. Con. Res. 108. Concurrent resolution providing for an adjournment of the two Houses; considered and agreed to.

By Mr. GOODLATE:

H. Res. 177. Resolution prohibiting any personal staff employee of a Member of the House of Representatives from holding a paid position in the campaign of the employing Member; to the Committee on House Oversight.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

141. The SPEAKER presented a memorial of the Legislature of the State of New Hampshire, relative to House Joint Resolution 4 urging the United States Congress, FERC, and other federal agencies to continue to cooperate with and support state eforts to restructure the electric utility industry and promote retail competition; to the Committee on Commerce.

142. Also, a memorial of the Senate of the Commonwealth of Pennsylvania, relative to Senate Resolution No. 38 urging the President of the United States and Congress make the $1 billion of Federal moneys already earmarked for abandoned mine land reclamation available to states to clean up and make safe our abandoned mine lands; to the Committee on Resources.

143. Also, a memorial of the General Assembly of the State of Nevada, relative to Senate Joint Resolution No. 6 expressing the support of the Nevada Legislature for the Southern Nevada Public Land Management Act of 1997 and for the sale or other transfer of public land managed by the Federal Government in the Las Vegas Valley if the transfer does not adversely affect sparsely populated and rural counties in Nevada; to the Committee on Resources.

144. Also, a memorial of the Senate of the State of Illinois, relative to Senate Resolution No. 73 urging the United States Congress to enact legislation exempting Mother Teresa and the Missionaries of Charity from work permit fees while caring for the sick and the dying in our country, enabling them to use their funds for charitable works; to the Committee on the Judiciary.

145. Also, a memorial of the Senate of the Commonwealth of Pennsylvania, relative to Senate Resolution No. 28 urging the Congress of the United States to immediately review the Federal Unified Gift and Estate Tax and to act either to repeal the law, or to give special exemptions to family owned farms and businesses, or to raise the unified credit against the Gift and Estate Taxes, or to defer estate tax payments over a period of time; to the Committee on Ways and Means.

146. Also, a memorial of the Senate of the Commonwealth of Pennsylvania, relative to Senate Resolution No. 48 memorializing Congress to select VISN 4 to participate in the demonstration project provided for in House Resolution 1362 and to participate in all demonstration programs for Medicare-eligible veterans; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. MCINTYRE introduced a bill (H.R. 2106) for the relief of the estate of William R. Holden and the estate of John Davis; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 12: Mrs. MALONEY of New York, Ms. PELOSI, and Ms. WOOLSEY.

H.R. 18: Mr. EHRLICH, Mr. SNYDER, and Mr. JEFFERSON.

H.R. 23: Ms. VELÁZQUEZ, Mr. MCGOVERN, Mr. ANDREWS, Mr. PASCRELL, Mr. PAYNE, Mr. OWENS, Mr. MORAN of Virginia, Mr. MARTINEZ, Mr. HINCHEY, Mr. ABERCROMBIE, Mr. BROWN of California, Mr. THOMPSON, Mr. OLVER, Mr. KILDEE, Ms. WOOLSEY, Mr. WISE, Mr. YATES, Mr. DELLUMS, Mr. FATTAH, Mr. MASCARA, Mr. GONZALEZ, Mrs. CLAYTON, Mr. BROWN of Ohio, Mr. DAVIS of Illinois, Ms. LOFGREN, Mr. TIERNEY, Mr. LANTOS, Mr. EVANS, Mr. NADLER, Ms. NORTON, Mr. UNDERWOOD, Mr. TORRES, Mr. STARK, Mr. RAHALL, Mr. FRANK of Massachusetts, Ms. KAPTUR, Mr. MILLER of California, Mr. KIND of Wisconsin, Mr. SANDERS, Ms. WATERS, Mr. FILNER, Ms. MCKINNEY, Mr. RANGEL, Mr. OBERSTAR, Mr. KUCINICH, Mr. HILLIARD, Ms. CHRISTIAN-GREEN, Mr. MCHALE, Mr. LEWIS of Georgia, Mr. HOLDEN, Mr. LUTHER, Mr. BONIOR, Mr. ALLEN, Mr. BECERRA, Mr. ROTHMAN, Mr. BLAGOJEVICH, Ms. ESHOO, and Mr. NEY.

H.R. 38: Mr. MORAN of Virginia and Mr. PETERSON of Minnesota.

H.R. 44: Mr. MORAN of Virginia.

H.R. 51: Mrs. EMERSON.

H.R. 58: Mr. JEFFERSON.

H.R. 65: Mr. ETHERIDGE.

H.R. 76: Mr. DELAHUNT.

H.R. 96: Mr. MURTHA.

H.R. 109: Mr. LEWIS of Georgia, Mr. BORSKI, and Mr. BONIOR..

H.R. 127: Mr. DAN SCHAEFER of Colorado.

H.R. 145: Ms. VELÁZQUEZ and Ms. MCKINNEY.

H.R. 165: Mr. WELDON of Florida and Mr. MATSUI.

H.R. 195: Mr. GREENWOOD.

H.R. 213: Mr. JEFFERSON.

H.R. 218: Mr. SESSIONS, Mr. HERGER, and Mr. SCARBOROUGH.

H.R. 230: Mr. MCCRERY and Mr. CALLAHAN.

H.R. 241: Mr. JEFFERSON.

H.R. 303: Mr. TAYLOR of North Carolina and Mr. ETHERIDGE..

H.R. 306: Mr. ENGEL, Mr. JEFFERSON, and Ms. MILLENDER-MCDONALD.

H.R. 312: Mr. HAYWORTH.

H.R. 339: Mr. SCARBOROUGH.

H.R. 347: Mr. GIBBONS.

H.R. 388: Mr. BILIRAKIS.

H.R. 466: Ms. STABENOW.

H.R. 471: Mr. SHERMAN.

H.R. 521: Mr. GILCHREST and Mr. CRAMER.

H.R. 536: Mr. ADAM SMITH of Washington.

H.R. 574: Mr. LANTOS.

H.R. 586: Mr. MASCARA.

H.R. 604: Mr. MANZULLO.

H.R. 616: Mrs. JOHNSON of Connecticut.

H.R. 630: Mr. CAMPBELL.

H.R. 631: Mr. GIBBONS.

H.R. 695: Mr. BONILLA and Ms. ROS-LEHTINEN.

H.R. 699: Mr. JEFFERSON.

H.R. 715: Mrs. ROUKEMA.

H.R. 716: Mr. SCHIFF.

H.R. 746: Mr. COSTELLO, Mr. PAUL, Mr. GILCHREST, Mr. TIAHRT, and Mr. GOODLING.

H.R. 755: Mr. SISISKY and Mr. GOODLATTE.

H.R. 758: Mr. TIAHRT, Mr. GIBBONS, Mr. COOKSEY, Mr. DAVIS of Virginia, Ms. GRANGER, Mr. PORTER, Mr. GREENWOOD, and Mr. WHITE.

H.R. 807: Mr. HANSEN.

H.R. 815: Mr. DICKS, Mr. SPENCE, Mr. WATKINS, Mr. CANADY of Florida, Mr. BAKER, Mr. FOLEY, and Mrs. CUBIN.

H.R. 816: Mr. GIBBONS.

H.R. 836: Ms. ESHOO, Mr. RUSH, Mr. DAVIS of Illinois, Mr. SAWYER, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. JACKSON-LEE, Mr. ORTIZ, Mr. HINOJOSA, Mrs. LOWEY, Ms. DEGETTE, Mr. NADLER, Mr. HOYER, Mr. LAFALCE, Ms. CARSON, MR. SHERMAN, Ms. KILPATRICK, Mr. OLVER, Mr. HALL of Ohio, Mr. GEPHARDT, and Mr. MCGOVERN.

H.R. 871: Mr. ANDREWS.

H.R. 875: Mr. SPENCE, Mr. GEKAS, Mrs. MCCARTHY of New York, and Mr. ABERCROMBIE.

H.R. 893: Mr. MCGOVERN, Mr. ABERCROMBIE, and Mr. ALLEN.

H.R. 901: Mr. ENSIGN, Mr. ADERHOLT, Mr. THOMAS, Mr. OXLEY, Mr. SNOWBARGER, and Mr. CHRISTENSEN.

H.R. 922: Mr. GOODLATTE.

H.R. 923: Mr. GOODLATTE.

H.R. 925: Mr. VENTO.

H.R. 931: Mr. STARK, Mr. TAYLOR of North Carolina, Ms. SLAUGHTER, and Ms. PELOSI.

H.R. 953: Ms. FURSE, Ms. JACKSON-LEE, Ms. MILLENDER-MCDONALD, Ms. WATERS, and Ms. ROYBAL-ALLARD.

H.R. 955: Mr. PASCRELL.

H.R. 969: Mr. DELLUMS, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. FROST, Mr. HORN, and Mr. PASTOR.

H.R. 981: Mrs. CLAYTON and Mr. JEFFERSON.

H.R. 982: Ms. DELAURO and Ms. JACKSON-LEE.

H.R. 991: Mr. LUTHER.

H.R. 1010: Mr. CHRISTENSEN, Mrs. KELLY, Mr. COLLINS, and Mr. PETERSON of Minnesota.

H.R. 1018: Mr. WATT of North Carolina.

H.R. 1031: Mr. GRAHAM.

H.R. 1036: Mr. ADERHOLT, Mr. CHAMBLISS, Mrs. CHENOWETH, Mr. COLLINS, Mr. DICKEY, and Mr. POMBO.

H.R. 1059: Mr. HEFLEY, Mr. TALENT, and Mr. BARCIA of Michigan.

H.R. 1060: Mr. LARGENT, Mr. NEY, Mr. WATKINS, Mrs. MYRICK, Mr. HAYWORTH, Mr. HEFNER, Mr. JONES, Mr. DAVIS of Virginia, Mr. GILCHREST, Mr. JEFFERSON, Mr. BISHOP, and Mr. MALONEY of Connecticut.

H.R. 1111: Mr. SKELTON, Mr. WEXLER, Mr. RUSH, Mr. FRANK of Massachusetts, Mr. ACKERMAN, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. MILLENDER-MCDONALD, Mr. DAVIS of Illinois, Mr. SCHUMER, Ms. ROS-LEHTINEN, Mr. JACKSON, Mr. DELLUMS, Mr. EVANS, Ms. PELOSI, and Mr. REYES.

H.R. 1114: Mr. EHLERS.

H.R. 1129: Ms. STABENOW and Mr. BENTSEN.

H.R. 1147: Mr. THORNBERRY.

H.R. 1153: Mr. KENNEDY of Rhode Island.

H.R. 1169: Mr. ENGEL.

H.R. 1173: Mrs. THURMAN, Mr. ENGLISH of Pennsylvania, Mr. FATTAH, Mr. OLVER, and Mr. THOMPSON.

H.R. 1176: Mr. STARK and Mr. WELDON of Pennsylvania.

H.R. 1264: Mr. BLAGOJEVICH.

H.R. 1270: Mr. RILEY, Mr. GEKAS, and Mr. GOODLATTE.

H.R. 1285: Mr. CAMP.

H.R. 1296: Mrs. EMERSON.

H.R. 1298: Mrs. MCCARTHY of New York.

H.R. 1322: Mrs. MYRICK and Mr. CHABOT.

H.R. 1353: Mr. THOMPSON.

H.R. 1361: Mr. BILIRAKIS and Mr. PALLONE.

H.R. 1371: Mr. MCHUGH, Mr. EVANS, Mr. POSHARD, and Mr. REGULA.

H.R. 1375: Mr. FOLEY, Mrs. LOWEY, and Mr.GRAHAM.

H.R. 1378: Ms. GRANGER, Mr. BARR of Georgia, Mr. RAMSTAD, Mr. BRADY, and Mr. NEY.

H.R. 1398: Mr. KLECZKA.

H.R. 1404: Ms. DELAURO, Mr. FAZIO of California, Ms. SLAUGHTER, Mr. STARK, Ms. ESHOO, Mr. BROWN of Ohio, Mr. FATTAH, Mr. ANDREWS, Mr. VENTO, Mr. BECERRA, Mr. STOKES, Mr. SAWYER, Mr. CUMMINGS, Mr. FALEOMAVAEGA, Mr. LANTOS, Mr. GONZALEZ, Ms. SANCHEZ, Mr. MARTINEZ, Ms. LOFGREN, Mr. MORAN of Virginia, Mr. DAVIS of Illinois, Mr. TOWNS, Ms. NORTON, Mr. CONYERS, Mr. ACKERMAN, Mr. YATES, Ms. BROWN of Florida, Mr. MANTON, and Mr. RANGEL.

H.R. 1426: Mr. HAYWORTH, Mr. SANDERS, and Ms. WOOLSEY.

H.R. 1437: Mr. ENGEL and Mr. KANJORSKI.

H.R. 1450: Mrs. MALONEY of New York.

H.R. 1492: Mr. SHERMAN and Mr. NETHERCUTT.

H.R. 1493: Mr. HUTCHINSON, Mr. GOODLATTE, and Mr. MCCOLLUM.

H.R. 1521: Mr. ENGLISH of Pennsylvania and Mr. NETHERCUTT.

H.R. 1534: Mr. WELLER, Mr. MCINTOSH, Mr. ENGLISH of Pennsylvania, Mr. BARCIA of Michigan, Mr. HERGER, Mr. CUNNINGHAM, Mr. MCINNIS, Mr. TURNER, Mr. CANADY of Florida, and Mr. THORNBERRY.

H.R. 1539: Mr. CUNNINGHAM.

H.R. 1560: Mr. TIAHRT and Mr. MCDADE.

H.R. 1592: Mr. MCKEON.

H.R. 1595: Mr. GOODLING, Mr. DICKEY, Mr. TALENT, and Mr. NORWOOD.

H.R. 1596: Mr. CALVERT.

H.R. 1601: Mr. ADAM SMITH of Washington.

H.R. 1625: Mr. GREENWOOD, Ms. PRYCE of Ohio, Mr. SAM JOHNSON, Mr. MILLER of Florida, Mr. KOLBE, Mr. DELAY, Mr. GIBBONS, Mr. NETHERCUTT, Mr. COOK, Mrs. NORTHUP, Mr. BURR of North Carolina, Mr. SESSIONS, and Mr. BACHUS.

H.R. 1689: Mr. DAN SCHAEFER of Colorado.

H.R. 1710: Mr. STUMP, Mr. TAYLOR of North Carolina, Mr. HORN, Mr. BOEHNER, Mr. FRANKS of New Jersey, Mr. HOSTETTLER, Mr. WATTS of Oklahoma, Mr. LUCAS of Oklahoma, Mr. DOOLITTLE, Mr. THORNBERRY, Mr. ROYCE, Mr. BURTON of Indiana, Mr. SAXTON, Mr. DELAY, Mr. BRADY, Mr. MOAKLEY, Mr. MEEHAN, Mr. BAESLER, Mr. BALLENGER, Mr. SESSIONS, Mr. BONILLA, Mr. HUTCHINSON, and Ms. GRANGER.

H.R. 1716: Mr. QUINN.

H.R. 1719: Mr. GIBBONS, Mr. NORWOOD, and Mr. SESSIONS.

H.R. 1748: Ms. SLAUGHTER and Mrs. MALONEY of New York.

H.R. 1754: Mr. SANDERS, Mr. BLAGOJEVICH, Mr. HUTCHINSON, Mr. BARCIA of Michigan, Mrs. KELLEY, and Mr. PASTOR.

H.R. 1766: Mr. CLEMENT, Mr. SOLOMON, Mr. DAVIS of Virginia, Mr. NORWOOD, Mrs. THURMAN, Mr. HAYWORTH, Mr. WHITFIELD, Mr. WOLF, Mr. ANDREWS, and Mr. ADAM SMITH of Washington.

H.R. 1788: Mr. BROWN of California.

H.R. 1810: Mr. CANADY of Florida, Mr. EHLERS, and Mr. NORWOOD.

H.R. 1815: Mr. FRANK of Massachusetts, Ms. SLAUGHTER, Mr. ACKERMAN, and Mr. PAYNE.

H.R. 1818: Mr. DAVIS of Florida, Mr. ABERCROMBIE, Mr. SOUDER, and Mr. KUCINICH.

H.R. 1824: Ms. MILLENDER-MCDONALD, Ms. CARSON, and Mr. THOMPSON.

H.R. 1839: Mr. WYNN, Mr. LARGENT, and Mr. GORDON.

H.R. 1870: Mr. HASTINGS of Florida, Mr. LAFALCE, Mr. FILNER, and Mrs. MALONEY of New York.

H.R. 1873: Mr. FATTAH.

H.R. 1874: Mr. FILNER and Mr. MARTINEZ.

H.R. 1876: Mr. GORDON, Ms. LOFGREN, and Mr. CALVERT.

H.R. 1955: Mr. CUNNINGHAM, Mr. TALENT, and Mr. BARRETT of Wisconsin.

H.R. 1972: Mr. GILCHREST and Mr. GILLMOR.

H.R. 1984: Mr. MURTHA, Mr. TANNER, Mr. STRICKLAND, Mr. KANJORSKI, Mr. SKELTON, Mr. CRAMER, Mr. HEFNER, Mr. PICKERING, Mr. BURR of North Carolina, Mrs. NORTHUP, Mr. KNOLLENBERG, Mr. SNOWBARGER, Mrs. EMERSON, Mr. HALL of Texas, and Mr. TRAFICANT.

H.R. 2003: Mr. PETERSON of Minnesota, Mr. HOLDEN, Ms. HARMAN, Mr. TURNER, MR. BAESLER, Mr. JOHN, and Mr. UPTON.

H.R. 2006: Mr. SANDERS, Mr. GUTIERREZ, and Mr. ENGEL.

H.R. 2009: Mr. OLVER, Mr. UNDERWOOD, Mr. ACKERMAN, and Mr. BONIOR.

H.R. 2011: Mr. SNOWBARGER.

H.R. 2023: Mr. STRICKLAND, Ms. FURSE, Mr. JOHNSON of Wisconsin, and Mr. OBEY.

H.R. 2029: Mr. NETHERCUTT.

H.R. 2038: Mr. SMITH of Oregon, Mr. STENHOLM, and Mr. HUTCHINSON.

H.J. Res. 71: Mrs. MYRICK and Mr. CHABOT.

H. Con. Res. 6: Mr. HORN.

H. Con. Res. 10: Mr. DAVIS of Illinois and Mr. BARCIA.

H. Con. Res. 19: Mr. ENGEL and Mr. SHERMAN.

H. Con. Res. 55: Mr. BROWN of California.

H. Con. Res. 65: Mr. TAYLOR of North Carolina, Mr. ENSIGN, Mr. SAWYER, and Mr. GEPHARDT.

H. Con. Res. 80: Mr. MASCARA and Mr. DIAZ-BALART.

H. Con. Res. 81: Mr. BLUMENAUER, Mr. FILNER, Mr. SUNUNU, Mr. CUMMINGS, Mr. HORN, Mr. ROTHMAN, Mr. BOEHLERT, Mr. NEY, Mr. GEJDENSON, Mr. ROHRABACHER, Mr. LIPINSKI, Mr. HOLDEN, and Mr. BROWN of California.

H. Con. Res. 96: Mrs. MCCARTHY of New York.

H. Con. Res. 103: Mr. ROEMER, Mr. OWENS, Mr. ANDREWS, Mr. KUCINICH, Mr. CLAY, Mr. HINOJOSA, Mr. STARK, Mr. BECERRA, Mr. FATTAH, and Mr. BARCIA of Michigan.

H. Res. 144: Mr. TIAHRT, Mr. SNOWBARGER, and Mr. MCDADE.

SENATE—*Thursday, June 26, 1997*

The Senate met at 9:30 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. Today's prayer will be offered by a guest Chaplain, the Rev. Dr. Charles E. Poole, First Baptist Church, in the city of Washington, DC.

We are pleased to have the reverend with us.

PRAYER

The guest Chaplain, Dr. Charles E. Poole, pastor of First Baptist Church, Washington, DC, offered the following prayer:

Eternal and Almighty God, we give thanks for these, Your children, who gather in this place, day after day, to invest their best energies in shaping the life of the Nation.

We pray, O God, that You will bless the men and women who serve in this Senate. Give them wisdom and insight from beyond themselves. Give them the abiding patience that lasts longer than mere tolerance, the embracing perspective that sees larger than simple partisanship, and the enduring peace that goes deeper than outward circumstance. Hold each of them, and their families, in Your strong hands. Bless them, O God, with quiet spaces and restful moments in the midst of their very public lives in this very noisy world.

We pray in the quiet assurance that You are with us, and in the abiding hope that we will be with You. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader, Senator COCHRAN from Mississippi, is recognized.

WELCOME, DR. CHARLES E. POOLE

Mr. COCHRAN. Mr. President, it gives me a special pleasure this morning to welcome our guest Chaplain who has delivered the opening prayer, Dr. Charles E. Poole.

He is currently serving as pastor of the First Baptist Church of the city of Washington, DC, but he and his family will be moving soon to Mississippi where he has accepted the call to serve as pastor of my church, Northminster Baptist Church in Jackson, MS. We are delighted to have this very special person come to our State and serve in this way. We appreciate very much his being our guest Chaplain this morning and delivering such a fine prayer.

Dr. Poole earned his undergraduate degree from Mercer University in Macon, GA, and graduate degrees in divinity from the Southeastern Baptist Theological Seminary in Wake Forest, NC.

Before he became pastor of the First Baptist Church in Washington, he served for several years as the pastor of the First Baptist Church of Macon, GA. He was also on the board of trustees of Mercer University in Macon for 5 years. He is an outstanding clergyman who is well respected here in the Washington area. His sermons and other writings have been published and very favorably received.

He and his wife Marcia have two children, Joshua and Maria. We are looking forward to getting to know all of them better.

We thank him, on behalf of all Senators, for his contribution to today's session.

SCHEDULE

Mr. COCHRAN. Mr. President, at the request of the majority leader, I am pleased to make the following announcement relating to the schedule of the Senate. For the information of all Senators, this morning the Senate will resume consideration of S. 949, the Taxpayer Relief Act of 1997. By previous consent, there will be 20 minutes for debate equally divided between Senator MURKOWSKI and Senator BUMPERS, with a vote occurring in relation to the Bumpers amendment at approximately 9:50 a.m. Following the vote on the Bumpers amendment, there will be 20 minutes of debate equally divided in the usual form with a vote on or in relation to the Dorgan amendment No. 517 regarding capital gains. Following that vote, there will be 10 minutes of debate equally divided in the usual form on the Dorgan motion to refer. The Senate then will proceed to a vote in relation to the DORGAN motion.

All other amendments offered last night and amendments offered during today's session will be subject to rollcall votes throughout the day as we make progress on the Taxpayer Relief Act. Therefore, Senators can anticipate numerous rollcall votes on this bill during today's session of the Senate.

REVENUE RECONCILIATION ACT OF 1997

The PRESIDING OFFICER (Mr. COATS). Under the previous order, the clerk will report S. 949.

The assistant legislative clerk read as follows:

A bill (S. 949) to provide revenue reconciliation pursuant to section 104(b) of the concurrent resolution on the budget for fiscal year 1998.

The Senate resumed consideration of the bill.

Pending:

A motion to waive the Congressional Budget Act with respect to consideration of Section 602 of the bill.

Dorgan motion to refer the bill to the Committee on the Budget, with instructions.

Dorgan amendment No. 515, to authorize the Secretary of the Treasury to abate the accrual of interest on income tax underpayments by taxpayers located in Presidentially declared disaster areas if the Secretary extends the time for filing returns and payment of tax (and waives any penalties relating to the failure to so file or so pay) for such taxpayers.

Dorgan amendment No. 516, to provide tax relief for taxpayers located in Presidentially declared disaster areas.

Dorgan amendment No. 517, to impose a lifetime cap of $1,000,000 on capital gains reduction.

Bumpers amendment No. 518, to repeal the depletion allowance available to certain hardrock mining companies.

Durbin amendment No. 519, to increase the deduction for health insurance costs of self-employed individuals, and to increase the excise tax on tobacco products.

Roth amendment No. 520, to provide for children's health insurance initiatives.

Jeffords amendment No. 522, to provide for a trust fund for District of Columbia school renovations.

The PRESIDING OFFICER. Who yields time?

AMENDMENT NO. 518

Mr. BUMPERS. I yield 5 minutes to my coauthor of this amendment, Senator GREGG.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized to speak for up to 5 minutes.

Mr. GREGG. Mr. President, just to recap where we are, basically, the Senator from Arkansas has authored an amendment to end the ability to take the depletion allowance for mining companies for that part of their mining activity which occurs on public land.

Now, let's understand the facts here. A mining company comes along and it buys the right to mine on public land for the value of, I think, $2.50 an acre. For example, in 1995, ASARCO bought 349 acres for $1,745, which had 3 billion dollars' worth of assets on it. Public land, public land. And then a Danish company came along, and for $275 bought 110 acres, which had 1 billion dollars' worth of assets on it. Then a Canadian company came along and spent $9,000 for 1,800 acres which had 11 billion dollars' worth of assets on it.

That, in and of itself, is a bit of an affront to the American taxpayer. That is not what we are debating here. We are debating an even greater affront—

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

an even greater affront—because after they bought this land for $2.50 an acre, they then go out and take a depletion allowance against that land. Now, it is not against the equipment they are using to mine the land. They can deduct that. They have a right to do that. No, it is a depletion allowance against land which is publicly owned, taxpayers' land. It is not their land. It is taxpayers' land which they bought for $2.50 an acre, and now they get to take a depletion allowance which costs $400 million over the next 5 years.

Excuse me, what dinner party am I at? Is the Mad Hatter here? Is the Queen of Hearts here? What is this? We have the taxpayers first subsidizing an $11 billion, a $1 billion, and a $3 billion asset purchase which flows to these companies, and then we have the taxpayers subsidizing a depletion allowance which flows to these mining companies. And what does the taxpayer get back for all of this? $2.50 an acre. It is corporate welfare, corporate pork. The term can be applied at a variety of different levels.

What it is, is wrong. It is wrong that the depletion allowance should be available for land which is public land that is purchased at these outrageously low prices. It doubles up the insult. It doubles up the insult to the American taxpayer.

I strongly support the initiative of the Senator from Arkansas. I cannot understand how anyone who would believe that the American taxpayer deserves some modicum of respect would not also support this proposal. It simply is an attempt to try to correct just a small sliver of what is a very significant and inappropriate affront to the American taxpayer. It is costing us a lot of money, money that we should not have to pay.

I heard somebody say, well, this is a tax increase. My goodness, how could you argue that? A tax increase? What we are doing is hammering the taxpayers, expecting the American taxpayer to pick up a depletion allowance on top of having already picked up a loss for having sold this property at a ridiculously low price in light of what the value of the asset being conveyed is. It is not a tax increase. What it is is an attack on the taxpayer. It should not occur any longer.

The Senator from Arkansas is right in his amendment. I am happy to join him.

I yield back the remainder of my time.

Mr. REID. Does the Senator from Alaska yield?

Mr. MURKOWSKI. I am happy to yield to my friend from Nevada 3 minutes.

Mr. REID. Mr. President, last evening we talked about the price of gold based upon a Wall Street Journal article earlier this year. Let me advise all my friends here in the U.S. Senate that last Friday gold hit a 4-year low, $336 an ounce, which basically means companies are laying people off and some companies are going out of business. That is a fact.

Mr. President, as I stated last night, this amendment is an ill-conceived and ill-advised attempt to circumvent congressional efforts to reform the current mining law.

The U.S. mining industry is in agreement that the mining law is due for some changes. Serious efforts to accomplish such a result have taken place over the last several years.

In 1990 and 1991, efforts were made here to have a patent moratorium. That failed. Following that, though, Senators DOMENICI and REID offered an alternative to a patent moratorium. We required payment of fair market value for the surface of the land. We said any land that was patented that was not used for mining purposes would revert to the Federal Government. We also required compliance with state reclamation laws. This was in an amendment offered here that passed this body by a vote of 52 to 44.

It went to the House, and they knew their argument that they use here every day, about the patents being offered for nothing, would be taken away. They rejected this good-faith effort of the U.S. Senate to reform the mining law. It was rejected in conference. We tried.

We came back later on, Mr. President, in 1993, and imposed a maintenance fee on unpatented claims of $100 per claim. The Government collected over $50 million in 1 year for that. It is not as if we have not sought change.

In the Senate and the House, in 1993, bills passed. They were killed in conference because it was not perfect. There is now in effect and has been since 1995 a moratorium on the issuance of further patents. The only ones that patents could be issued upon were those that were in the pipeline. That has been in effect since 1995. There has been reform of the mining law.

In 1995 and 1996, there was legislation offered to reform the law. We have run into roadblocks from people who want to kill the good because they want the perfect.

I suggest this amendment unfairly targets the Western mining industry. We have sought reform. There has been reform that has taken place. This amendment is an attempt to do mining law reform, and this is not the place or time for such an effort. It should go through the committee process that is led by the able chairman of the committee, the Senator from Alaska.

If this Congress wants to change the current mining law, then it should begin its efforts in the Energy and Natural Resources Committee and not in the reconciliation bill.

Mr. MURKOWSKI. I yield 1 minute to the Senator from Utah.

Mr. HATCH. Mr. President, I rise today to oppose the amendment by my colleagues, Senator BUMPERS and Senator GREGG. This amendment would repeal the percentage depletion allowance for mineral extraction. It would, however, only repeal this allowance for minerals extracted from any land obtained pursuant to the provisions of the mining law of 1872. This amendment is discriminatory and bad policy.

Minerals are not free for the taking or inexpensive to mine just because they are on land obtained from the 1872 mining law. In truth, significant capital is invested during the development of a mine. Capital costs often reach close to $400 million to develop a major mine.

In addition, there is a lot of time invested in the development of any mine, and it has increased even more in recent years. Just getting a permit for a new mine on Federal lands has increased from a 1-year time frame to 3 or 5 years over the last 4 years.

The rationale for the depletion allowance provisions in the Tax Code are not just targeted to mineral extraction. They are the same for oil and natural gas, coal, and metals extraction as well. This allowance recognizes the unique nature of resource extraction. It is designed to provide a practical method of measuring the decreasing value of a deposit as the materials are extracted. It recognizes that the replacement cost of new mines are always higher in real terms. This allowance helps the mining industry to generate the capital needed to bring new mines into production.

Mr. President, mines mean jobs. They are not just vacuums sucking our minerals out of the land at a low cost. They are economic entities that extract valuable resources for circulation in the economy and provide millions of jobs for American citizens. These are direct jobs. But, mining produces essential raw materials for manufacturing in other industies. Think about the untold number of jobs that are indirectly linked to mining.

Moreover, jobs in the mining industry are not just minimum wage jobs, either, Mr. President. The Bureau of Labor Statistics tells us that the average mining wage is $45,270 per year. This is significantly higher than the average national wage of $27,845.

This amendment would have a severe effect on the mining industry. It means thousands of lost jobs. These jobs are high-paying jobs that raise the standard of living of millions of workers.

This amendment means a significant reduction in mining activities all over the Nation. This will have a corresponding effect on the tax base and economies of the areas dependent on a sound and viable mining industry.

The effects of this amendment will not only be felt in Western States, where mining is abundant, but will be felt across the Nation.

This amendment destroys more than just the economics of mining communities. It also harms the stewardship of our national mineral wealth. Companies will be encouraged to spend their scarce exploration and development funds in an atmosphere more favorable to them. The political and regulatory climates overseas already beckon to our mining companies. By making our tax climate so unfavorable for these mining companies, we are practically giving them the push they need to move overseas.

Make no mistake about it, this amendment will have an effect on our national production. Imports will replace the loss of domestic production, moving high-paying jobs and economic activity to other countries. This is not the way to ensure a stable economy in the United States.

Mr. President, let's put aside the fact that this is such bad tax policy. This amendment is an administrative nightmare. Most mining projects consist of land and rights obtained from a variety of sources. For example, a large open pit mining operation may include private property acquired through homestead laws, patented mining claims, unpatented claims, State lands, and 1872 mining law land. How is a company supposed to figure out where a mineral comes from?

This amendment would require mining companies to find some way of tracing the ore extracted just from the mining rights obtained from the 1872 mining law. This would often mean that the depletion allowance would apply to a shovel of ore from one location, but not to a shovel of identical ore from 10 feet away. This is ridiculous.

This amendment does not appear to be an attack on the percentage depletion allowance for mineral extraction. It is only targeted at a specific segment of this industry relating the 1872 mining law.

I do not disagree that this mining law should be debated and reformed. I do not agree that it should be reformed using a piecemeal approach through the Tax Code. If we are going to reform the 1872 mining law, let us do it in a thoughtful, comprehensive manner.

I urge my colleagues to join me in opposing this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. MURKOWSKI. I yield 1 minute to the Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho is recognized for 1 minute.

Mr. CRAIG. Mr. President, several assertions have been made on the floor this morning that this is not a tax increase if we repeal this depletion allowance. It was also suggested that mining companies don't pay taxes. Wrong, wrong, and wrong again.

The average mining company pays 32 percent tax with minimum alternative. This would increase it to over 42 percent. I would like to inform the Senator from New Hampshire that mining companies invest about $400 million in each mining operation. He is raising taxes on mining companies that employ thousands of people, in one of the highest paid wage industries in the Nation. He is also attacking the very industrial base of our country. When you come from a State where you have to pledge not to raise taxes, I guess you can raise them if there is some political advantage to do so. That appears to be the case here this morning.

It is all politics, with no sensitivity toward the strength of the industrial base of this country and the opportunity to continue to provide strong high-paying jobs in the public land States of our Nation.

Mr. MURKOWSKI. Mr. President, I yield 2 minutes to the Senator from Nevada.

The PRESIDING OFFICER. The Senator from Nevada is recognized for 2 minutes.

Mr. BRYAN. I thank the Chair. Mr. President, this is the wrong place and the wrong time to be considering an amendment of this nature. This would make a fundamental change in the tax law with respect to the percentage depletion for the recovery of mineral deposits, a provision that has been in the Tax Code for more than six decades. It would discriminate against only one type of mining activity—that which occurs on the public lands.

The proponents of this amendment really are debating today changes they want to seek in the mining law of 1872. I do not disagree that changes need to be made. We are prepared, in representing a State in which this is such an important industry, to provide for royalty provisions, fair market value of the surface, as well as reclamation efforts. The ore body itself is a wasting asset. So a depletion allowance for mineral recovery is analogous to depreciation permitted on the improvements on real property. So this is not some exotic provision in the Tax Code. It recognizes that the ore body itself will be exhausted in a finite period of time, and it seeks to provide that kind of tax coverage.

Finally, I want to point out, as my colleague from Utah pointed out, that this would be an administrative nightmare. At least one particular mining activity in my own State is derived at the source of title or possession of the land from six different sources. So you would have to identify where the minerals recovered are from six different sources in order to apply the provisions of the law.

I urge its rejection.

The PRESIDING OFFICER. Who yields time?

Mr. BUMPERS. Mr. President, I yield myself such time as I may use.

The PRESIDING OFFICER. The Senator from Arkansas has 5 minutes 45 seconds remaining.

Mr. BUMPERS. Mr. President, I have never heard so many stale arguments in my life. This is like saying we will give General Motors the steel to build cars if they will hire some people to do it. This is a simple question of giving the biggest mining companies in the world the taxpayer's resources. That is who we are talking about. This doesn't belong to the 10 Senators from the Western States. This gold and silver belongs to the taxpayers—the people I have heard talk about so many times on this tax bill, that "we are going to give a tax cut to the long-suffering taxpayers" and, at the same time, give away billions of dollars worth of gold, silver, platinum, and palladium that belongs to the taxpayers.

This amendment has nothing to do with the gold companies' depletion, even on private lands. It has nothing to do with depletion on State lands. It has to do with the lands they got from the U.S. Government for nothing. And we are paying them to take it. We are giving them a depletion allowance to mine gold that we gave them.

There is a lot more mining that goes on on private and State lands than goes on on Federal lands. They are not going offshore. They are not going broke. Here is the big ad by Barrick Mining Co. in the Mining World News: "Developing Your Gold Property to its Full Potential."

> Work with a new partner, Barrick Gold. You may not have dealt with us before, but you should know we are the world's most profitable gold producer.

And well they should be; they don't pay anything for it. This means $400 million to the taxpayers of this country over the next 5 years. They are perfectly willing to pay an 18-percent royalty on private lands. They are perfectly willing to pay 5 to 18-percent on State lands. They pay severance taxes, reclamation fees, and royalties to everybody under the shining Sun—except the taxpayers of the United States, who own it.

Let me say to my colleagues. Each one of you who are defending this proposition, let me ask you this: You go home and tell your friends, your supporters—I am not talking about the mining companies, I am talking about the taxpayers—I want you to tell the people back home that if you had 500 acres of land and had $18 billion or $11 billion worth of gold under it—or in the case of Stillwater Mining Co. in Montana, $38 billion worth of palladium and platinum on 2,000 acres—if you owned it, and I came to you and I said that I am going to relieve you of all these billions of dollars worth of gold, I will get rid of it for you, what would you pay me? We can't pay you for it. We are just going to get rid of the gold for you. You would say, get thee hence to the nearest psychiatrist for a saliva test. I cannot believe that, year after year, we listen to these stale arguments about how people are going offshore, and they create jobs. So does some small struggling businessman that hires 10 people in your State, but you don't give him all of his resources to produce something with.

Mr. President, it is time that this body stood up to its duty. This is not about the mining law. This is simply saying, in those narrow cases, where we gave them the land, and they are mining it and not paying a dime to the taxpayers of this country in any kind of a fee, we are saying, for God's sake, let's not pay them to take it. At least take the depletion allowance from them.

I reserve the balance of my time.

The PRESIDING OFFICER. Who yields time?

Mr. MURKOWSKI. I yield myself the balance of the time on our side.

Mr. President, is there any question about whether this is a tax increase or not? Let's recognize what the Joint Tax Committee has said. They said it is a tax increase. It raises $686 million. If that isn't a tax increase, I don't know what is. What we have here, Mr. President, is not a new proposal, but a punitive proposal that was offered earlier this year and rejected by the Finance Committee, rejected by the House Ways and Means Committee, and it should be rejected by the full Senate.

When you strip away all the rhetoric, this issue boils down to whether or not we are going to place a $700 million tax increase on the domestic mining industry. This proposal, as it stands, will speed up the departure of the mining industry from our shores.

Let's look at this chart briefly. It shows what is happening with employment in the mining industry for metal, iron ore and copper. Let's look a little more closely at metal mining, which includes gold, silver, lead, and zinc from 1980 to 1995. In 1980 there were 98,000 jobs; by 1995 that had dropped to 51,000 jobs. In copper, it went from 30,000 jobs in 1980 to 15,000 in 1995. These numbers show what is happening to the mining industry in this country. What will happen if we place an additional $700 million in tax burden on them? They have to sell their gold, silver, copper, lead, and zinc at the world prevailing price, not the price in the United States. So where are the good-paying jobs going to go? They are going to go to Canada, Latin America, and Indonesia.

We pride ourselves on cutting taxes and yet this amendment would throw a $700 million tax increase at the American mining industry. That is what the Bumpers amendment would do. It adds $700 million to the cost of producing minerals in the United States. Every Member of this body can figure out for themselves what effect this would have on the American mining industry. If you can't produce your product for a profit, for the price that is offered, you are out of business, that is what happens.

Finally, Mr. President, let's make no mistake about it, this amendment is not about depletion on lands obtained under the Mining Act of 1872. The amendment is about the law itself. This is just an overt attempt to gain negotiating leverage on the industry. The U.S. mining industry agrees with Senator BUMPERS, as do I, that this law is long overdue for overhaul. Let's sit down with the administration and reform the 1872 mining law, but let's not impose a punitive $700 million tax on the industry merely to gain negotiating leverage at the bargaining table. As a consequence, I urge my colleagues to oppose this punitive tax and vote against waiving the Budget Act.

Mr. President, at the conclusion, I am going to raise a point of order that the amendment is not germane under section 305 (b)(2) of the Budget Act.

The PRESIDING OFFICER. The Senator from Alaska has 6 seconds. The Senator from Arkansas has 40 seconds.

Mr. MURKOWSKI. I yield back our time.

The PRESIDING OFFICER. The Senator from Alaska yields back his time.

Mr. BUMPERS. Mr. President, I ask unanimous consent that Senator AKAKA and Senator FEINGOLD be added as cosponsors of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, this is the ninth year I have stood on this floor and tried to prick the conscience of the Members of this body about this last remaining egregious scam on the American people. Next year, when some of you are up for reelection, I expect you are going to see some 30-second spots on this. What is it your opponent will say? What is it that makes you want to give away billions and billions of dollars of the taxpayers' money and us get nothing in return? Why do you tell your Chamber of Commerce you will handle their money like it was your own? Anybody in this body would be disqualified from being a Senator if he answered the question I posed a moment ago, "Yes, I will let them come and take gold off my property for nothing." Why, of course, you would not.

This is a very narrowly drafted amendment. It is crafted not to discriminate. It simply says that if you mine gold on private lands, fine, get a depletion. Oil companies, coal companies, and gas companies are entitled to a depletion. But when you give resources of the U.S. taxpayers away for nothing, and then allow them to take a 15 percent depletion, which is worth $400 million of the taxpayers' money, and you turn around here in this tax bill and say we are going to give it back to you, don't give it away in the first place. For God's sake, colleagues, do your duty.

I yield the floor.

The PRESIDING OFFICER. All time has expired.

Mr. MURKOWSKI. Mr. President, I raise a point of order that the amendment is not germane under section 305(b)(2) of the Budget Act.

Mr. GREGG. Mr. President, I move to waive the Budget Act and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

VOTE ON MOTION TO WAIVE THE BUDGET ACT

The PRESIDING OFFICER. The question is on agreeing to the motion.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Kansas [Mr. ROBERTS] is necessarily absent.

The yeas and nays resulted—yeas 36, nays 63, as follows:

[Rollcall Vote No. 131 Leg.]

YEAS—36

Akaka
Biden
Boxer
Bumpers
Chafee
Coats
Collins
Dodd
Durbin
Feingold
Feinstein
Glenn
Graham
Gregg
Harkin
Jeffords
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Murray
Reed
Robb
Rockefeller
Sarbanes
Smith (NH)
Snowe
Torricelli
Wellstone
Wyden

NAYS—63

Abraham
Allard
Ashcroft
Baucus
Bennett
Bingaman
Bond
Breaux
Brownback
Bryan
Burns
Byrd
Campbell
Cleland
Cochran
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Domenici
Dorgan
Enzi
Faircloth
Ford
Frist
Gorton
Gramm
Grams
Grassley
Hagel
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Inouye
Johnson
Kempthorne
Kyl
Landrieu
Lott
Lugar
Mack
McCain
McConnell
Moynihan
Murkowski
Nickles
Reid
Roth
Santorum
Sessions
Shelby
Smith (OR)
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NOT VOTING—1

Roberts

The PRESIDING OFFICER. The Senate will be in order.

On this vote, the yeas are 36, the nays are 63. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to. The point of order is sustained. The amendment falls.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote.

Mr. CRAIG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 517

The PRESIDING OFFICER. The pending issue, under the previous order, is amendment No. 517.

Mr. MOYNIHAN. Mr. President, may we have order.

The PRESIDING OFFICER. The Senate will be in order.

Under the previous order on amendment No. 517, time is 20 minutes under the control of the Senator—time is equally divided on the amendment of the Senator from North Dakota. No. 517 is the pending business. Who yields time?

Who yields time?

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. MOYNIHAN. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Is it the case that we have agreed to 20 minutes equally divided so that the time is automatically provided Senator DORGAN?

The PRESIDING OFFICER. The Senator is correct.

Mr. MOYNIHAN. I thank the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I have offered an amendment that is relatively simple and it deals with the issue of capital gains. Capital gains, as most of us know, has long been a controversial issue here in the Congress.

Some will remember, if they relate back to the good old days of the Tax Code—I call the good old days those old days in which there were people in this country who would do things not because the market system suggested they should do them, but because the Tax Code provided incentives to do them. I do not think they were good old days, but there was created in this country an army of people whose lives were devoted to figuring out how you can convert ordinary income to capital gains and make money off the Tax Code, and how you can decide to build what the market system says you should not build but still make money because the Tax Code provides the incentives to build it.

Well, we got rid of that army of accountants and lawyers and others in the tax shelter industry with the 1986 Tax Reform Act.

The proposal for a capital gains tax preference in the bill that comes to the floor of the Senate has no limitation. I did not take Latin so I don't know if "totus porcus" means whole hog, but I certainly think the term applies to this capital gains tax proposal. You can convert unlimited amounts of ordinary income to capital gains and have the tax break that is imbedded in this bill forever.

I propose the following. If a capital gains tax break truly is proposed in order to help those families who save for their kids' college education, to help a small business, to help a family farm that might sell the business or the farm, then let us have at least some reasonable limitation on the capital gains tax benefit.

It is interesting; in this country we have two different philosophies of taxation. One says let us tax work. If you are on a payroll someplace and working, let us tax work. And nobody worries much about the consequence of that. Nobody worries about the impact of inflation on the wage and says let us index work salaries for inflation. Nobody says that.

If you work and you take a shower at the end of the day after you work because you worked hard and you sweat, you earned an honest wage, you pay a tax up here and nobody is running around this Chamber saying, gee, let's index that for inflation. Let's talk about a work gains index. Nobody talks about that.

But then others say let us tax work, but let us exempt investment. Somebody else is an investor, takes a shower in the morning, does not get dirty during the day, does not sweat, sits in a chair someplace and invests, we have all kinds of folks running around the Capitol saying, oh, we have to do something to provide incentives for people who get their income that way.

Let us tax the income from work and let us exempt the income from investments, that is what is at the root of this debate. Now, the question is, who gets what and who has what?

Here is a chart that describes very well why I have offered this amendment. The bulk of the capital gains go to those in the very upper income bracket. One-half of 1 percent of the taxpayers of this country have gains of $200,000 or more, and they get fully half of the capital gains that people get in this country. So when you say let us give a tax benefit through capital gains and have no limit on it, what you are saying is let us provide an enormous benefit to the upper income folks. Eighty-nine percent of the taxpayers that have capital gains have very small capital gains, under $10,000. And all of that in aggregate, 90 percent of the taxpayers have 15 percent of the dollar amount of the capital gains in this country.

So, to repeat, one-half of 1 percent of taxpayers get half of the Nation's capital gains, the bulk of the capital gains. And nine-tenths of the taxpayers get about one-sixth of the capital gains. It is clear that any attempt to give a tax break to capital gains income will disproportionately benefit folks in the very upper income bracket.

My proposal is very simple. It says let us limit the capital gains tax preference in this bill to $1 million in a taxpayer's lifetime, $1 million. We will give you a tax preference on capital gains for a million dollars. Isn't $1 million enough? Should there not be some limitation? Is there no end? Is there no bottom to this pot? Or do we just insist that somehow investment has greater merit than work and we will continue to fight and struggle to reward investment and penalize work by saying let us tax work and exempt investment.

This is a painfully simple amendment. I have offered it previously here in the Congress. I hope that as we now begin this effort to restore a capital gains preference, we at least will have the good sense to limit it.

So that is the amendment I have offered. I reserve the remainder of my time. I would like to respond to some of the comments that are made, but, Mr. President, this amendment will have a significant impact on the construction of a capital gains tax preference. I do not propose we abolish it. I propose instead we limit it to $1 million per taxpayer in the taxpayer's lifetime.

I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. ROTH. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator from Delaware is recognized for 3 minutes.

(Mr. GREGG assumed the chair.)

Mr. ROTH. Mr. President, I rise in strong opposition to the amendment that is offered by my good friend and colleague from North Dakota, but I do first want to commend him for his perseverance on this issue. I know it is a matter of great interest to him, a matter that he feels very strongly about. As he said in yesterday's statement, he has been sponsoring this type of legislation for many years.

Mr. President, I must oppose this amendment for several reasons. First of all, let me point out that the principle purpose for reducing the capital gains tax is to encourage more investment. In this competitive world of today and in this global economy, it is critically important that we make the best utilization of the capital we have so that we are in a strong competitive position. A lower capital gains tax will encourage greater investment. It will encourage better utilization of our assets.

Why would we want to impose some kind of arbitrary limit that will have the effect of limiting investments? We are trying to free up hundreds of millions, if not billions, of dollars to the best investment available to help ensure that we are creating in this country an environment of growth, jobs, and opportunity.

Let me just look at this matter from another point of view; from the standpoint of small business. I know my distinguished friend from North Dakota is, indeed, a friend of small business. The tax laws currently provide a 50 percent capital gains exclusion from investments in qualifying small business stock. Currently, the tax laws provide that an investor who has gained from qualifying small business stock can exclude up to $10 million of capital gains from a single investment—10 times more than the $1 million cap. I understand that in the Democratic substitute amendment that is ultimately going to be offered, it is provided that we should double this limit; this $10 million limit should become $20 million from a single investment. So the question I must ask my friends on the other side of the aisle who argue a $20 million capital gains exclusion is appropriate from a single small business investment yet, at the same time, argue to limit capital gains from all other investments to only $1 million over a taxpayer's lifetime—the two provisions are totally inconsistent, in my judgment they make no sense, and I hope the Senate will agree with my concern.

Let me make one further observation. This amendment also raises some very significant administrative problems. Under the amendment, individuals will have to keep track of all their investment gains, not for 1 year, not for 5 years or 10 years, but for decades—a tremendously burdensome matter. Think of how this amendment would affect the Internal Revenue Service. I doubt the IRS has adequate resources to administer the voluminous information that would have to be maintained if this amendment becomes law. It would be an administrative nightmare for the IRS to have to try to enforce this provision.

But let me go back to the first point which I think is most important, that the reason we are reducing the capital gains tax is to encourage more investment. To try to limit it to $1 million makes no sense and is in conflict with the basic purpose of the agreement that was reached by the Senate Finance Committee. It makes no sense. It is inconsistent with the provisions now contained in the law for small business stock, which can be excluded for up to $10 million of capital gains; and, as I already pointed out, it is proposed in the so-called Democratic substitute that this limit be doubled to $20 million.

So I oppose this legislation and hope the Senate agrees with this opposition.

Mr. President, at this time I am happy to yield 7 minutes to the Senator from Utah.

The PRESIDING OFFICER. The Chair will advise the Senator from Delaware that he only has 2½ minutes remaining on the amendment, and the Senator from North Dakota has 4 minutes 42 seconds.

Mr. BENNETT. In that case, Mr. President, I ask I be recognized for 2½ minutes.

Mr. ROTH. Mr. President, I yielded myself, I think it was 3 minutes. Is it not normally the practice to advise the speaker when he has come to that?

The PRESIDING OFFICER. Regrettably, the Chair did not hear the reference to 3 minutes. We will restore the time if the Senator so desires.

Mr. DORGAN. Mr. President, the Senator did ask to be notified after 3 minutes. I have no objection to that.

Mr. ROTH. I thank the distinguished Senator from North Dakota for his courtesy. I yield such time as is remaining to the Senator from Utah.

The PRESIDING OFFICER. The Senator from Utah is recognized for 7 minutes.

Mr. BENNETT. Mr. President, I have addressed this issue before and do not want to spend a great deal of time in repetition. But I think we should focus on what we are really talking about when we talk about capital gains tax. There are many who say, "Well, the people who have a capital gain are wealthy and we are letting them off the hook if we do not tax that wealth." What we are really talking about, in accumulated capital, is where will that capital be deployed?

Recently there have been studies as to the number of millionaires in the United States and how they got their money. Overwhelmingly, the money comes from one of two sources: They inherit it or they start businesses. You do not become a millionaire by saving your wages. You become a millionaire by creating something in the form of a company and then seeing it grow. When you die your children inherit it, and then they fall into the first category. That has to do with death taxes.

But millionaires come from risk-taking, millionaires come from entrepreneurial activity. Where do jobs come from? They come from risk-taking, they come from entrepreneurial activity. As I have said here on the floor, in the real world as opposed to the classroom, millionaires who are the result of entrepreneurial activity have an itch to stay entrepreneurial. Once they have seen their investment become what they call on the market a mature investment, many, many times they want to move on. They want to take their money out of a mature investment and put it into another entrepreneurial activity. But the present level of capital gains taxation prevents them from doing that, at least psychologically.

Again, on the floor I have given examples of people who have seen their investment grow tremendously in a high-risk circumstance. They got the rewards that came from taking that risk and now they want to move on and take another risk, create more jobs and accumulate capital and wealth in this country. When they calculate what happens to them under the capital gains tax they say, "I am not going to do it. I can't afford it." And they leave their money tied up in a mature investment, whereas the opportunity in an entrepreneurial investment is denied them by the capital gains tax.

There is one thing that they do, and I have seen this—indeed, if I may, Mr. President, I have done this myself, to my sorrow. With the entrepreneurial itch saying let's put some money in a new startup circumstance, but feeling that your own money is locked up because of the capital gains tax, the itch becomes so strong that you put money into the entrepreneurial activity anyway, only you borrow it. And now the entrepreneurial activity has to carry not only the responsibility of a fair return, but enough money to pay the interest.

I will not belabor it because I have given major speeches on this issue before. But I think the cap proposed by my friend from North Dakota, while well-intentioned, would in fact impede the flow of capital, it would move us in a direction that would ultimately redound to the disadvantage of the economy. I remind you once again, the Chairman of the Federal Reserve Board, who is concerned with watching money move around the economy and would like to see as much money as possible into entrepreneurial activity, has recommended to us that the ideal capital gains rate for this country should be zero. I am not bold enough to propose that on the floor because I know it would not pass. But I always remind people of that because that is the direction in which I think we ought to go.

For that reason I oppose this amendment.

The PRESIDING OFFICER. Who yields time? The Senator from North Dakota.

Mr. DORGAN. Mr. President, I was staying right with the Senator from Utah until he mentioned the Chairman of the Federal Reserve Board. In ancient Rome they used to have augurs, and the practice of augury was to read the flight of birds and the entrails of dead cattle in order to predict the future.

I have said perhaps the Fed could use some augurs, given their recent performance. They indicated that if unemployment ever fell below 6 percent we would have a brand new wave of inflation. Unemployment has been under 6 percent for 38 months and of course inflation is down, way down. But that is another subject for another day.

The folks at the top of the income structure in this country already have a 30-percent tax differential on capital gains. They pay 30 percent less on capital gains than ordinary income tax rates. My proposal to limit to $1 million for a lifetime the capital gains tax benefits in this bill will effectively relate to about 1 percent of the taxpayers.

I do not disagree with the comments by the Senator from Utah about the germ of an idea and the spark of interest to own a business and that is where success is developed and that is where millionaires come from. I do not disagree with that at all.

I would make this point, however. There are people out here working today who have that same instinct inside of wanting to own their own business and wanting to build a business. Their only stream of income is a wage, and they pay a higher tax on that wage than is being proposed for capital gains. Because of that higher tax they may not be able to accumulate the capital to invest in the business and become the entrepreneur and become successful and make a lot of money.

So my suggestion is this. We have other streams of income in this country which we measure for tax purposes. We have rents, we have salaries, we have capital gains, we have a range of interests, we have a range of incomes. And there are those who take out one stream of income, one kind of income called capital gains and say let's give a tax break to capital gains.

I am not opposed under any circumstance to a tax break for capital gains. We now have one, the 30 percent tax preference. What I oppose is a circumstance where the bulk of the tax preference goes to such a few in the population. I am saying we ought to do this differently, and I have felt that way for 10, 15 years. I think it would be good for the country to do it differently.

I say this finally. If we go back to the "totus porcus" approach for capital gains—buy a share of stock, hold it 6 months and 1 day and get a tax preference—go back to the broad approach, much of which is proposed here, we will resurrect the tax shelter industry, resurrect an army of people in the tax shelter industry, and we will rue the day we do it.

The tax shelter industry is to productive enterprise like professional wrestling is to the performing arts. I defy anyone to tell me one good thing that comes from the tax shelter industry in this country. We largely got rid of it in 1986 with the 1986 bill, and I am worried very much we create now a new set of circumstances to allow taxpayers of this country to hire the best minds in America, not for productive enterprise but to tell them how can they create, from their stream of income, capital gains by which they can make money off the Tax Code. That is my great concern. So I propose we limit the capital gains treatment for a taxpayer to $1 million during the taxpayer's lifetime.

Mr. BENNETT. Mr. President, will the Senator yield for a question? Does the time permit that?

Mr. DORGAN. How much time do I have?

The PRESIDING OFFICER. The Senator from North Dakota has 1 minute.

Mr. BENNETT. I shan't intrude further. I thank the Senator.

Mr. DORGAN. We will have an opportunity to discuss this further. I respect the views of the two Senators who spoke in opposition to this amendment. I would say we are talking in the outyears about $4 billion to $5 billion a year without my limitation. That $4 billion to $5 billion I would like to use to reduce taxes on wages to the extent we can.

The tax increases in this country have come from payroll taxes now. Two-thirds of the American workers pay more in payroll taxes than they do in income taxes, and I would have structured the tax bill completely differently than it is now structured. I would have addressed the issue of burgeoning payroll taxes which tries to be a clothes hanger on all of the acts of creating a job to say, "By the way, we are going to hang all of these social obligations on the act of creating a job."

I am very concerned about that in terms of the disincentive it gives to someone in business to create new jobs. I don't want to go far afield, but there is no social program we discuss in Congress that is as important or effective as a good job to cure what ails this country.

So this $1 million limitation makes good sense. I hope Members of the Senate will consider it and hope that we will have a chance to vote on it.

The PRESIDING OFFICER. The Senator's time has expired. The Senator from Delaware has 2 minutes and 55 seconds.

Mr. ROTH. Mr. President, I yield back the remainder of the time and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 517. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Kansas [Mr. ROBERTS] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 24, nays 75, as follows:

[Rollcall Vote No. 132 Leg.]

YEAS—24

Akaka
Boxer
Byrd
Conrad
Daschle
Dorgan
Durbin
Feingold
Ford
Harkin
Hollings
Inouye
Johnson
Kennedy
Lautenberg
Leahy
Levin
Mikulski
Murray
Reed
Robb
Rockefeller
Sarbanes
Wellstone

NAYS—75

Abraham
Allard
Ashcroft
Baucus
Bennett
Biden
Bingaman
Bond
Breaux
Brownback
Bryan
Bumpers
Burns
Campbell
Chafee
Cleland
Coats
Cochran
Collins
Coverdell
Craig
D'Amato
DeWine
Dodd
Domenici
Enzi
Faircloth
Feinstein
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Jeffords
Kempthorne
Kerrey
Kerry
Kohl
Kyl
Landrieu
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Moseley-Braun
Moynihan
Murkowski
Nickles
Reid
Roth
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Torricelli
Warner
Wyden

NOT VOTING—1

Roberts

The amendment (No. 517) was rejected.

Mr. ROTH. I move to reconsider the vote.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

VISIT TO THE SENATE BY THE PRIME MINISTER OF AUSTRALIA

Mr. MOYNIHAN. On behalf of the distinguished chairman of the Committee on Foreign Relations, Mr. HELMS, I ask unanimous consent that the Senate stand in recess for 3 minutes that we might greet our distinguished visitor, the Honorable John Howard, the Prime Minister of Australia.

[Applause.]

RECESS

There being no objection, the Senate, at 11:10 a.m., recessed until 11:14 a.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. BURNS].

REVENUE RECONCILIATION ACT OF 1997

The Senate continued with the consideration of the bill.

MOTION TO REFER

The PRESIDING OFFICER. The order of business is the motion made by the Senator from North Dakota, a motion to refer to the Budget Committee with instructions.

I believe 10 minutes of debate, equally divided, are in order, am I not correct?

Mr. MOYNIHAN. The Chair is always correct.

I yield 5 minutes to the Senator from North Dakota.

Mr. DORGAN. Mr. President, I will be brief. This motion is relatively simple.

My concern about where we are heading is this. I am concerned that we will decide to have balanced the budget and provided substantial tax cuts. And then, because the tax cuts are so backloaded, in the second 5 years our country will find itself back in a deficit.

I propose that we remedy that by having a trigger mechanism that would sunset the provisions of capital gains and the IRA's in the following circumstances: First, if the estimated loss as a result of the tax cuts exceeds our current expectations; and second, if the Treasury Department says we are running a deficit in the previous fiscal year.

My point is very simple. If we begin to run a deficit, and if running a deficit is because the cost of these tax cuts exceeds what we now think it will be, I would like us to trigger them off so we can get the budget back in balance. I just do not want to get into a circumstance that we have found ourselves in previously. We do not want to think we will turn out all right, and find 7 years down the road a huge Federal deficit.

I point out that the tax cuts in this bill are fairly well backloaded, and the upper-income tax cuts, just as an example, $17.8 billion in 2002, the same tax cuts will cost nearly $100 billion in the year 2007. My fear is because the tax cuts are backloaded we could find ourselves in a circumstance where we are right back into a deficit.

Again, the two points are this: If the cost of the tax cuts significantly exceeds what we estimated them to be, and if we have had a deficit in the previous fiscal year, then my motion would trigger a repeal, temporary repeal, of four provisions of the tax cut dealing with capital gains and IRA's.

I reserve the balance of my time.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. At the appropriate time I will make a point of order against the motion to refer on two grounds.

Let me point out in the beginning that this is a matter that was not included in the budget agreement. It introduces a new aspect to the agreement that is not consistent with what we have discussed before.

I yield 2 minutes to the Senator from New Mexico.

Mr. DOMENICI. Mr. President, first of all, we discussed all of these issues in the very lengthy negotiation with the White House. Their packages in the past have been gifted by having the tax cuts be temporary. That is the way the President's budgets have been in the past. He finally came to the realization that that was not fair to the American taxpayers. So that concept was eliminated from the budget agreement. We are going to give taxpayers a tax cut, period.

But also the argument that is being made that this may somehow explode in the outyears, we have an agreement that for the first 10 years it will not exceed $250 billion. I understand the valuation of this package is that we have done that in this finance bill. It is only $247 billion over 10 years. That is the best we can do. We are right on the money.

I believe we ought to leave the agreement alone and leave this very good tax bill alone.

Mr. ROTH. I yield the remaining time to the Senator from Oklahoma.

The PRESIDING OFFICER. There are 3 minutes and 17 seconds remaining.

Mr. NICKLES. I urge my colleagues to vote no on this motion. This motion basically says if we do not meet the targets we will have automatic tax increases. You did not hear it the other way around—you did not hear if we do meet the targets, we will have automatic decreases.

The question is, are we spending too much, or are we taxing too little? The Senator from North Dakota obviously thinks if there is a deficit we need more taxes. We need to reach in and take more away from taxpayers. I disagree with that. That is the President's position.

As the Senator from New Mexico said, he had automatic tax increases in the outyears. We did not agree with that in the leadership package with the President. We said no, the tax cuts will be permanent. They will be real, and they are not stacked toward higher income. Despite what some of my colleagues said, 82 percent of tax cuts are directed towards families with children and for education. That is family friendly.

So I will just urge my colleagues, if we are going to have an automatic deficit reduction, make sure we meet the targets. Let's work on the spending side. Let's have something automatically that will reduce Government spending. I really do believe the problem is not that we are undertaxed. I really believe that the problem is we are overspent.

I urge my colleagues to vote no on this motion.

Mr. ROTH. Has all time been yielded back?

The PRESIDING OFFICER. All time has not been yielded back. The Senator from Delaware has 1 minute and 45 seconds and the Senator from North Dakota has 2 minutes, 54 seconds.

Mr. DORGAN. Mr. President, I say to the Senator from Oklahoma, I am not suggesting that we should increase taxes. I am saying to the extent that we now reduce taxes and reduce revenue, and to the extent that that helps cause another Federal deficit in the second 5 years because the cost of those tax cuts explodes, I say we should put an insurance or safety mechanism in this bill to prevent us from running a deficit again.

Now, I hope that we will have learned from the last decade. There is merit, and I compliment the Members of this Congress who care about the Federal deficit, there is merit in fiscal discipline in dealing with the deficit. I just urge if we have a circumstance where we can provide protection in the outyears against an exploding of the Federal deficit, again we try to do that.

I am somewhat concerned that the chairman will make a point of order against my motion. I understand that there will be a budget enforcement mechanism offered by the Senator from New Mexico. Will a point of order will be made against them? Enforcement mechanisms that provide protection against an explosion of the Federal deficit make great sense to me. That is the proposal that I offer with this trigger.

I reserve the balance of my time.

Mr. NICKLES. Mr. President, again, I just say that there are two sides to the question. We started some new spending programs. We have a program called Kid Care, and the agreement was for it to be $16 billion. It has grown already to $24 billion. Guess what? That additional $8 billion is only for 5 years. We do not even pretend it goes the next 5 years. So what about if that program explodes?

My point being, the motion of the Senator from North Dakota is if we do not meet deficit targets we have automatic tax increases, or we will tell people they can have capital gains for 5 years but not beyond, or tell people they can have an IRA this year, but not in the future?

I think we should restrain spending, not increase taxes. I urge my colleagues to vote no on this motion.

I yield the balance of my time.

Mr. DORGAN. Well, let us suppose that in 7, 8, or 9 years we see the deficit begin to explode on us. Is the Senator suggesting that we cut health care for kids, but that we retain tax cuts that are backloaded, that are six and eight times as large in the year 2007 than in the year 2002, and are for the largest income earners in this country? I would like to see us vote on that in the U.S. Senate.

My point is we are making deliberate decisions about the Tax Code here, some good decisions, some I think are not so good.

We need to think about the consequences of these decisions. This motion would help us do that. If the tax cuts exceed the expected amount and if we are also running a deficit in the outyears, four provisions of this tax cut bill would be temporarily suspended.

That is my motion to refer today. I hope the Senate would consider it favorably.

I yield back the balance of my time.

The PRESIDING OFFICER. All time has expired. The Senator from Delaware.

Mr. ROTH. Mr. President, I make a point of order against the motion to refer on two grounds. First, that it is not germane to the bill under section 305 of the budget, and second that the motion includes budget process matters not reported from the Budget Committee, in violation of section 306.

Mr. DORGAN. Mr. President, pursuant to Section 904(c) of the Congressional Budget Act, I move to waive

Section 305(b) to Section 306 of that act with respect to my motion.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

VOTE ON MOTION TO WAIVE THE BUDGET ACT

The PRESIDING OFFICER. The question is on agreeing to the motion to waive the Budget Act. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Kansas [Mr. ROBERTS] and the Senator from New York [Mr. D'AMATO] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 34, nays 64, as follows:

[Rollcall Vote No. 133 Leg.]

YEAS—34

Akaka
Biden
Bingaman
Boxer
Bumpers
Byrd
Conrad
Daschle
Dodd
Dorgan
Durbin
Feingold
Feinstein
Ford
Glenn
Harkin
Hollings
Inouye
Johnson
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Moseley-Braun
Murray
Reed
Reid
Robb
Sarbanes
Torricelli
Wellstone
Wyden

NAYS—64

Abraham
Allard
Ashcroft
Baucus
Bennett
Bond
Breaux
Brownback
Bryan
Burns
Campbell
Chafee
Cleland
Coats
Cochran
Collins
Coverdell
Craig
DeWine
Domenici
Enzi
Faircloth
Frist
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Jeffords
Kempthorne
Kerrey
Kyl
Landrieu
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moynihan
Murkowski
Nickles
Rockefeller
Roth
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NOT VOTING—2

D'Amato
Roberts

The PRESIDING OFFICER. On this vote the yeas are 34, the nays are 64. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The point of order is sustained on both grounds.

The motion to refer is not in order.

The Senator from New York.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. NICKLES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MOYNIHAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

BALANCED BUDGET ACT OF 1997—EXTRANEOUS MATERIAL

Mr. ROTH. Mr. President, pursuant to section 313(b)(1)(c) of the Congressional Budget Act, I submit a list on behalf of the Committee on the Budget of the extraneous material in S. 947 the, Balanced Budget Act of 1997, as reported. I ask unanimous consent that the list be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BALANCED BUDGET RECONCILIATION ACT OF 1997—EXTRANEOUS PROVISIONS

Senate	
Provision	Comments/Violation
	AGRICULTURE, NUTRITION, AND FORESTRY
Sec. 1001	Hardship waiver continues after 2002 which means title has a net cost. Byrd rule (b)(1)(E): Increases outlays or decreases revenues for a year after 2002 and the title results in a net increase in outlays or net decrease in revenues in that year.
	BANKING, HOUSING, AND URBAN AFFAIRS
	There are no extraneous provisions in this title.
	COMMERCE, SCIENCE, AND TRANSPORTATION
Sec. 3002 where it adds "(15)(A)(iii)" p. 110 lines 1-25, p.111 lines 1-4	Report to Congress on digital TV conversion, Byrd rule (b)(1)(A).
	ENERGY AND NATURAL RESOURCES
Sec. 4001—first proviso	Funds resulting from the leasing or other use of a reserve facility on or after October 1, 2002 shall be available to the Secretary of Energy without further appropriation, for the purchase of petroleum products for the reserve. Byrd rule (b)(1)(A): Produces no change in outlays or revenues during the fiscal years covered by the reconciliation instructions.
	FINANCE—DIRECT SPENDING
Medicare:	
Sec. 5013	Requires Secretary of HHS to study PACE Program. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 5015(c)	HHS Study of Social HMO Integration into Medicare Choice. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 5021	Authorization of the Nation Bipartisan Commission on the Future of Medicare. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 5022	Authorization of the Medicare Payment Advisory Commission to replace the Prospective Payment Assessment Commission and the Physician Payment Review Commission. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 5153(a) & (b)	Authorization and study of Rural Hospital Flexibility Program. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 5156(c) and (d)	Reports related to telemedicine. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 5217	GAO fraud and abuse report date due amendment. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 5302	Study on Payments for Long-Term Care Hospitals. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 5364	Study on Definition of Homebound. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 5366	Inclusion of Costs of Service in Explanation of Benefits. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 5521(c)	Study and Report on Clinical Lab Payments. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Medicaid:	
Sec. 5701(b)	Reports on Medicaid Managed Care. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 5711(b)	Study and Report on the Boren Amendment. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Welfare:	
Sec. 5821	Evaluations of Welfare to Work program and Report to Congress. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 5823	Clarification of states ability to sanction an individual receiving TANF for noncompliance. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 5871	Sense of the Senate regarding the correction of Cost Living Adjustment. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
	GOVERNMENTAL AFFAIRS
	There are no extraneous provisions in this title.
	LABOR AND HUMAN RESOURCES
Sec. 7001(a)(4)	Allows guarantee agencies to use earnings from excess guarantee agency reserves placed in restricted accounts for limited purposes. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
	VETERANS' AFFAIRS
	There are extraneous provisions in this title.

REVENUE RECONCILIATION ACT OF 1997

The Senate continued with the consideration of the bill.

Mr. ROTH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, prior to the vote, it was my understanding that the Democratic amendment would now be in order. Is that correct?

The PRESIDING OFFICER. The Senator from South Dakota is correct.

AMENDMENT NO. 527

(Purpose: To provide tax relief for working families, to increase the rate and spread the benefits of economic growth, and for other purposes)

Mr. DASCHLE. Mr. President, I have the amendment at the desk, and I ask for its consideration.

The PRESIDING OFFICER (Mr. BROWNBACK). The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from South Dakota [Mr. DASCHLE], for himself, Mr. BINGAMAN, Mr. CONRAD, Ms. MIKULSKI, Mrs. BOXER, Mr. DODD, Mr. KERRY, Ms. LANDRIEU, Mr. CLELAND, Mr. DURBIN, Mr. KENNEDY, Mr. FORD, and Mr. LAUTENBERG, proposes an amendment numbered 527.

Mr. DASCHLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. DASCHLE. Mr. President, this debate today and tomorrow is not about whether to cut taxes but how to cut them. Democrats support a tax cut, but we want them to be the right kind. We want them to be fair, especially to working families.

I congratulate Senator ROTH and Senator MOYNIHAN and the Members on both sides of the aisle for the bipartisan effort to improve the House bill. In many ways it is a substantial improvement of the bill passed by the House Ways and Means Committee. But in the view of many Democrats, problems still remain in the version that is now before us.

Under both the House and the Senate plans, the top 1 percent of taxpayers, people making over $350,000 a year, receive more than the bottom 60 percent put together, people making under $50,000.

This chart depicts very well what the circumstances are. In the Archer bill, 67 percent of all the benefits in the tax bill go to the highest 20 percent. In the Roth bill, 65 percent of all the benefits go to the top 20 percent. In the bill that we are presenting as an alternative today, 20 percent of the benefits go to the top 20 percent, but 75 percent of the benefits go to the middle 60 percent.

So the distribution, the progressivity of the alternative plan that we are presenting today, is a significant improvement for working families across this country.

The people who have yet to share fully in the economic recovery are in the bottom 60 percent, the bottom four quintiles of income distribution, not in the top 1 percent. They ought to be the ones to largely benefit from the plan that this Congress and ultimately that this country enacts into law.

But instead of helping identify middle-class families, the House and Senate bills shortchange them—9.2 percent in the middle 20 percent, 2.4 percent in the next to the bottom quintile, 2.3 percent under Roth, and a very small percentage of the benefits actually go to middle-class working families as the Finance Committee bill is written today.

We can do better than this. We owe the American people better than this, and our bill attempts to do that.

We recognize that we are in the minority, and many Democrats, recognizing that, have worked closely with our Republican colleagues to do the best we can to reflect a better distribution. Many of us will support the final passage if we are not successful in passing this version because we don't want the perfect to be the enemy of the good.

But it is important for the American people to know what we could have done and what we would have done were we to be in the majority.

So we are offering this comprehensive alternative but with an expectation of having a good debate and contrasting the Finance Committee-passed bill, which is dominated by the Republican majority, with our Democratic alternative.

Our Democratic alternative really has four objectives.

First and foremost, what I have just described, we want to ensure that there is fairness for working families.

Second, we want to target the growth incentives to those companies and those activities where we can do the most good.

Third, we want to ensure that we put an emphasis on education.

And, fourth, we don't want a tax time bomb. We don't want to explode the deficit at some point in the future given the terrific effort that has been put forth in recent years to bring the deficit down and ultimately to balance the Federal budget.

So our goal is to do all of those things and stay within the bounds and the confines of the budget agreement that was agreed to by the administration and leadership in both the House and the Senate.

Our plan then delivers on all counts. We provide a fair, targeted approach to middle-class families, and we do that in a number of ways.

Most importantly, we recognize that it is an income tax that working families are most concerned about. They don't pay as much Federal income tax as they pay other forms of taxes that affect them directly.

Middle-class families are faced with a substantial tax liability that falls outside the realm of income tax today. In fact, 99 percent of all working families who earn less than $21,000 pay more in payroll taxes than they do in income taxes; 97 percent of those who make between $21,000 and $41,000 pay more in payroll taxes than they do in income tax; 90 percent of those who make $41,000 to $62,000 actually pay more in payroll tax than they do in income tax. Even in the category that we would call middle-class families, $62,000 to $94,000, 65 percent, well over half, almost two-thirds of them, pay more payroll tax than they do income tax. It is only in the top fifth, those making more than $94,000 that actually pay, the majority of them, more income tax than they do payroll tax.

So one of the key features, one of the centerpieces of our bill, is to ensure that we recognize where the tax liability is for working families.

So we apply the child tax credit against the payroll tax as well as against the income tax because it is the payroll tax where we can do the most good for most working families.

We have a chart that really depicts the circumstances for working families today—families, in this case, making somewhere between $22,000 and $41,000. After they take their deductibles, after they get down to their net income, they pay an average of $252 in income taxes and over $3,828 in payroll taxes. So their liability for payroll tax is substantially higher. Not only do 99 percent of them pay more in payroll tax than income tax, what they pay is so much more—$3,828 versus $252 in income tax.

So our bill provides an opportunity for those who are saddled with a far greater degree of liability for payroll tax to be able to address it in the most effective way. That child tax credit would be made applicable to both the payroll tax and the income tax.

We also do something else. As the current Finance Committee bill is written, the earned-income tax credit is calculated first. And then, if there is anything left, they are eligible for the child tax credit.

Mr. President, we stack them in just the reverse fashion. We provide the child tax credit first so that they have the full use of that credit against either payroll tax or income tax, and then we allow the earned-income tax credit to kick in.

So we provide working families an opportunity first to use the child tax credit against the payroll tax, and second to be sure that they have the full opportunity to use it by stacking it ahead of an EITC, the earned-income tax credit, if they are indeed eligible for it.

So we make the bill fairer, and from those fairness proposals that we provide that distributional analysis that so clearly slows the contrast—I will just put this chart up briefly again to clarify it again. That is how we get this great distributional breakdown—75 percent of the benefits going to the middle 60 percent of all income brackets.

That is why there is such a difference between the 25 percent and 10 percent and 9 percent in this case or 32 percent and 21 and 19 in the case of the fourth 20 percent. So we really provide a far better distributional opportunity for working class families than anything else.

But that is what our first goal was, to ensure fairness, to ensure that those who need it the most have the most opportunity to benefit from a bill like this.

Our second goal, as we said, was to ensure that we provide the maximum degree of opportunity to businesses that really need the kind of help that these tax tools can provide. In order to do that right, what we want to be able to do is target the capital gains and the other tax features in ways that will ensure that we provide the most bang for the buck. We eliminate the huge capital gains windfall for the top 1 percent. In the currently drafted Senate Finance Committee bill, we change their flat 20 percent capital gains rate, which benefits the top bracket most, to an equal 30-percent capital gains exclusion for all income brackets.

Let me explain what we are attempting to do in this case. Right now, because of the flat cap of 28 percent on capital gains taxes, those in the top income tax bracket actually get a benefit of about 30 percent in capital gains exclusion because of the cap. What we do is apply that capital gains exclusion, that 30 percent, across all income brackets, thereby giving working families, those who are making $60,000 or $80,000 or $100,000, the same opportunity to use the 30-percent exclusion that the upper income bracket currently has available to them.

So we expand that 30 percent across the entire array of income brackets in order to assure that people who want to invest in this country, who want to benefit from the tremendous economic opportunity and the growth that we would like to continue here will benefit—that is, will benefit those who can use it the most. So we provide more opportunities for that to happen.

We also try to do a number of things that will target small businesses and family farms. We cut the capital gains rate nearly twice as deeply for most small businesses. What we provide is a 50-percent exclusion for investment into companies with assets of under $100 million, startup companies—a 50-percent exclusion across all income brackets. Startup companies which need that investment, that cannot compete with General Electric or cannot compete with Westinghouse or IBM, these are companies that really need the additional incentive, and we provide it to them. And then we say if you are really a startup company with assets under $25 million, we are going to allow you to roll over your capital gains taxes entirely if you reinvest within 6 months. So there is no capital gains on an investment in a company with assets under $25 million.

When it comes to targeting the benefits to the businesses where we could do the most good by having the 30-percent exclusion for all working families, by including a 50-percent exclusion for businesses under $100 million and a complete rollover of taxes for those companies with assets under $25 million, in addition to the $500,000 exclusion on all households, on the sale of all houses, we provide, in my view, the best package that has yet been proposed to the Senate with regard to how to use the capital gains tools most effectively.

We also do something that the NFIB, the National Federation of Independent Business, and many business organizations that said is their No. 1 priority. We make health insurance fully deductible for the self-employed—fully deductible. That is not in the Finance Committee bill, but it is in the Democratic alternative.

So, Mr. President, when you look at all the different ways in which we try to help small, Main Street businesses, we provide a substantial degree of additional assistance to those families who need it the most. But we do not limit ourselves just to small business. We also address the problem of inheritance tax with farmers today.

Currently, small businesses and farmers who want to keep a business or a family farm in the family are finding it exceedingly difficult to do that. You cannot do that if you have to pay the inheritance taxes, in many cases, on small businesses or family farms that you want to keep in the family. So we increase by $900,000 the exemption for those businesses and family farms which are truly kept in the family. We will provide a $1.5 million inheritance tax exemption for those businesses and family farms that want to be kept in the family as generations move on.

So, Mr. President, I think this is a very significant array of tax tools to help those across this country, whether they are workers, businesses, or farmers, in an effort to do as much as possible to help business succeed in this increasingly competitive and yet optimistic economic outlook that we face in the country today.

That is the second goal—providing the greatest degree of capital growth to those areas where we can do the most good.

The third goal is education. And, again, I will say what I said at the beginning. I think the Finance Committee deserves great credit for a lot of the things they did in that bill to try to advance education through our Tax Code, to do a number of things that will be very helpful and beneficial not only to students but to working families and to schools themselves. We just think you can do a lot better. We think that instead of just 2 years for the HOPE credit, we ought to be providing 4 years of HOPE credit opportunities. Instead of just ensuring that we provide the KIDSAVE option, bonus credit for education IRA savings, we ought to ensure that we provide for a complete Pell grant eligibility. We do not penalize Pell grant recipients. We provide the full KIDSAVE option, but we do not say you can have one or the other. We are not going to penalize those who take out the Pell grant, as well. So we want to do as much as we can to ensure through the HOPE credit, through the KIDSAVE, through Pell grants the full opportunity to use the benefits that the Federal Government provides to ensure that people have a chance to go to school. We do not think that the limited funding for crumbling schools in the bill is going to be adequate enough. We provide additional funding for crumbling schools, as well.

So, Mr. President, when it comes to education, these tools are going to go a lot further in ensuring that every single student has the opportunity to go to school and to take full advantage of the opportunities that we provide in this tax bill to help offset the increasing costs of going to college today.

Finally, Mr. President, we think it is very important that we be fiscally responsible. That was our fourth goal. We are concerned about the tax time bomb. The Senate bill currently is very heavily backloaded. The billions of dollars in additional cost in the year 2017 cause us great concern; $830 billion is what has been estimated by the Joint Tax Committee as the cost in the year 2017 for the Senate bill today. The cumulative cost in the year 2007 is $250 billion; in the year 2002, 5 years from now, $85 billion. So while we live within the confines of the budget agreement in 5 and in 10 years, we are not so sure that we do that in the outyears, in the years beyond 10 years. What happens in the year 2017 when we have to face the prospect of a loss of revenue of some $830 billion?

Mr. President, we can do better than that as well. I think it is very important that we try to maintain the fiscal discipline that we have acquired in recent years, that has brought so many great economic dimensions to our country and to our future as a result of the discipline and the wise decisions that we made as far back as 1993.

So, Mr. President, in summary, our Democratic alternative is truly a families first tax plan, providing the greatest degree of relief to middle-class families across this country regardless of whether they are laborers or business people or farmers. We have shown it is possible to be progrowth, profairness and profiscal responsibility at the same time. Our bill provides help for working class families, provides good help for those businesses and industries that want to continue to grow in this rapidly growing economy in a competitive way. We provide the greatest degree of assistance to education of any tax bill available in the Congress today. And we do it all in the context of fiscal responsibility, our fourth goal.

Mr. President, I HOPE our colleagues will take a good look at this plan. I am excited about it. I believe in it. I think a lot of people would like to see this legislation passed over and above what has been proposed by the Finance Committee in spite of the good work they have done in many areas.

I might add that the Secretary of the Treasury has just sent a letter that is very laudatory of the effort made by our Democratic caucus, and I ask unanimous consent at this time that a letter dated June 26 sent to me by the Secretary of the Treasury, Robert Rubin, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE TREASURY
Washington, DC, June 26, 1997.

Hon. TOM DASCHLE,
Minority Leader, U.S. Senate,
Washington, DC.

DEAR TOM: I want to commend you and the other Senate Democrats for your tax proposal.

Any tax-cut package must meet four basic tests to reflect sound policy. First of all, the tax cuts must be fiscally responsible by avoiding an explosion in out year costs. Second, the tax cuts must provide a fair balance of benefits for working Americans. Third, the tax cuts must encourage economic growth. Fourth, the tax package must reflect the terms of the bipartisan budget agreement including a significant expansion of educational opportunities for Americans of all ages. We believe that your overall package meets each of these tests.

We are particularly pleased that your proposal gives American families the help they need to make investments in education and life-long learning. The decision to include a HOPE scholarship proposal mirrors our initiative to make education more affordable and to make the 13th and 14th grades universal. You have improved our initial proposal by allowing students who receive Pell Grants and still pay tuition to receive the HOPE scholarship. We fully endorse that change. Although our tuition deduction plans differ in some particulars, we are pleased that your proposal incorporates the full $10,000 tax benefit for tuition paid—regardless of its source. Like our proposal, your tuition plan will help families who are not wealthy enough to pay for the entire amount of tuition out of savings and are therefore forced to borrow. It will also help Americans undertake lifelong learning so that they can take advantage of the opportunities—and meet the challenges—of the new economy.

We are pleased that your proposal includes a child tax credit that can be offset against payroll taxes, thereby helping millions of working families raise their children. In contrast to the Senate Finance Committee bill, this feature will help ensure that many low-income families receive the full benefit of the child credit.

At the same time, your proposal includes several of the President's priorities that were part of the budget agreement—including an expansion of Empowerment Zones and Enterprise Communities, and the Brownfields tax incentives. Your proposal also addresses many of the President's other priorities—including a permanent extension of the exclusion for employer-provided educational assistance.

In sum, your tax-cut plan is a welcome and important proposal. While we continue to analyze specific provisions, we support the overall structure of the plan. We hope that members of both parties will give it careful consideration and will work with us to enact a tax-cut package that meets our four tests.

Sincerely,

ROBERT E. RUBIN.

Mr. DASCHLE. I yield the floor.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, I yield myself such time as I may take.

The PRESIDING OFFICER. The Senator is recognized.

Mr. ROTH. Mr. President, I rise in opposition to the substitute amendment proposed by the distinguished minority leader. The proposal that passed the Senate Finance Committee with overwhelming bipartisan support is simply a better package. The Taxpayers Relief Act of 1997 is fair, it is bipartisan, and, most importantly, it provides long overdue tax relief for middle-income families.

It makes clear that the consensus which is, indeed, developing on Capitol Hill is that the days of big, intrusive, overbearing Government are coming to an end. I am, indeed, pleased by the work and cooperation exhibited by the members of our Finance Committee. Our bill contains the best thinking and the most workable policies from both sides of the political aisle.

Mr. President, from the very beginning, I asked for ideas from all members of the Finance Committee, Republican and Democrat alike. We asked that they put their ideas in writing, and these were reviewed carefully and many incorporated into the initial draft. Again and again, we consulted with each other, met informally and discussed, and I can say I think the end product, our bill, was, indeed, the best thinking and most workable policies from both sides of the political aisle, and I might add, as well, from both ends of Pennsylvania Avenue, because we carefully reviewed and considered the proposals of the White House as well as those of the Congress.

It was put together constructively with an eye to providing American families the tax relief they need to encourage education, something that everybody wants for their children, and, most importantly, creating economic conditions that will promote jobs, opportunity, and growth for all the American people. Finally, let me point out the Finance Committee proposal meets the guidelines of the budget agreement.

The substitute amendment introduced by the distinguished minority leader today is not, in my humble opinion, a reflection of the growing consensus and bipartisan spirit that is reflected in the Finance Committee proposal. And it contains several major flaws which I would like to address. It does not—and I emphasize the word "not"—provide immediate tax relief for middle-class American families. It does not. Again, I emphasize the word "not," it does not effectively address the need to promote and improve educational opportunities for American youths. It does not promote meaningful savings, investment, economic growth.

The Chairman of the Federal Reserve said that the most important need of this country is to encourage savings, savings on the part of the American people. I regret that the substitute amendment was not drafted in such a way that draws the best each party has to offer in the debate over tax relief.

Let me address each of these concerns a little more specifically. A major distinction between the child credit in the proposed Daschle amendment and the Finance Committee bill is the way the credit is phased out. The minority leader's amendment would phase the child credit out over a fixed dollar amount. The way he does this, families earning over $70,000 would actually see an increase in their share of the tax burden. While these families under current law have a marginal tax rate of 28 percent, Senator DASCHLE's amendment would increase their rate up to 41 percent. That is a tax increase, not tax relief.

Beyond this, the Senate Finance Committee child credit gives a larger credit sooner, whereas the minority leader's credit phases in over time. Let's ask the American families, which one do they prefer?

Another major concern that I have with the minority leader's amendment is that it makes the child tax credit refundable. In other words, individuals who pay no income tax will receive a check from the Government. The Senate Finance Committee, in a bipartisan effort, considered and rejected the idea of making the credit refundable. Even the credit included in the administration's budget proposal was nonrefundable. Frankly, there are, indeed, very, very serious compliance problems associated with trying to administer a refundable tax credit. This was shown clearly by the administration in the package of reform proposals they released earlier this year to address fraud and error rates with respect to the Earned Income Tax Credit program. Frankly, it has been estimated that the fraud and error in that program is as high as 20 percent. It is obvious from the performance of IRS in this area that they are not equipped, at least at this stage, to administer a refundable program, at least another one, since they are already having such difficulties with the one already on the books. Our tax system works much more effectively when we reduce the amount of taxes people have to pay, rather than when the Government tries to give money back to Americans.

These are just a few of my concerns with the Daschle amendment regarding the child tax credit. There are other major concerns with this alternative proposal. For example, concerning education, the minority leader's alternative will result in tuition inflation, the last thing parents need. The education tax proposals contained in the Finance Committee tax bill represent the very best ideas from both ends of Pennsylvania Avenue. In studying the administration's HOPE scholarship tax credit, frankly the Finance Committee was very concerned about tuition inflation. In the past 15 years, college tuition has increased 234 percent—234 percent. For this reason, we carefully, and again in bipartisan cooperation, Republicans and Democrats working together, crafted a proposal that will help keep tuition costs down. The Finance Committee proposal provides a 50-percent tax credit for the first $3,000 of tuition expenses; 75 percent of the first $2,000 of tuition expenses for students attending a community college. This will not encourage tuition inflation.

I cannot emphasize too much the importance of discouraging tuition inflation. In the Finance Committee we had a number of hearings where young people came and testified about the problem they had in paying for college tuition and expenses. One young lady, who was the daughter of a single parent, put herself through dental school with the help of her mother, and ended her college with a debt of something like $90,000. There is something wrong when our hard-working young students have to end their college careers and start their adult careers with that kind of debt overhanging them. So I cannot emphasize too much the importance of discouraging tuition inflation.

In addition to the HOPE scholarship tax credit and the education tax proposals contained in the Finance Committee bill, our design is to help families through all stages of education. These proposals include a permanent extension of employer-provided education assistance for undergraduate and graduate education. This is a proposal that has long been endorsed, sponsored jointly by my distinguished colleague Senator MOYNIHAN and myself. Our proposals include a student loan interest deduction as well as tax-free savings for graduate and undergraduate education. Our proposal also provides penalty-free IRA withdrawals for postsecondary and graduate education, a deduction for teacher training course work, a repeal of the tax exempt bond cap for new construction projects, and it helps in the construction of elementary and secondary school building.

As I have said, the educational proposals in the Finance Committee bill were crafted carefully. They had strong support on both sides of the political aisle as well as throughout the education community. A letter I received from the Association of American Universities and the National Association of Independent Colleges and Universities demonstrates this strong support. In part, that letter reads:

> The higher education related tax provisions being considered by the Senate Finance Committee will make higher education more accessible for undergraduate and graduate students.

Let me repeat that. The Association of American Universities and the National Association of Independent Colleges and Universities wrote the committee that our education-related tax proposals "will make higher education more accessible for undergraduate and graduate students." And it goes on to say it will "help ensure that the Nation has the highly educated, well trained work force it will need for the 21st century."

Speaking of the 21st century, an analysis of the alternative plan introduced by my distinguished colleague, Senator DASCHLE, shows it does not contain nearly the kind of policies that are needed to keep America's economy strong. The incentives to save and invest that are contained in the Finance Committee bill are seriously weakened if not abandoned in the Daschle alternative. In the area of capital gains, for example, the Finance Committee tax relief bill was a bipartisan measure that passed by the overwhelming majority of 18 to 2. It received this broad support because of its fairness and the understanding by Members on both sides of the aisle that America needs capital for a bright and prosperous future.

The capital gains proposal in the Finance Committee bill is fair. According to recent IRS statistics, about 13.2 million individual taxpayers reported capital gains in 1994. Over 11 million of these taxpayers had gross incomes of less than $100,000, and over 7 million had incomes of less than $50,000. In other words, 50 percent of individuals with capital gains had incomes of less than 50,000 and reducing the capital gains tax to 20 percent will represent a real and significant tax break for millions of middle-income taxpayers.

It will create capital formation for jobs, opportunity and growth, most important objectives for the future. This, after all, remains our objective. It reflects what the American people have asked us to do. I am proud of the way Members of the Senate have come together from the right and from the left to give their best efforts to the Taxpayer Relief Act of 1997. Let us not undermine such a positive consensus with an amendment that does not reflect the bipartisan spirit we achieved with the Finance Committee legislation.

Mr. President, the bottom line is that the Daschle amendment does not—does not spell relief. The incentives to save and invest that are contained in the Finance Committee bill are seriously weakened, if not abandoned, in the Daschle alternative.

Let me say in conclusion, again, that we urge the Senate to reject the Daschle amendment and support the Senate Finance Committee bill which was endorsed by a vote of 18 to 2.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I ask unanimous consent that I be permitted to yield 2 minutes to the Senator from California without losing my right to the floor, and then I will proceed on our time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERRY. I yield 2 minutes to the Senator from California.

Mrs. BOXER. That was going to be my request. I ask for 3 minutes.

Mr. KERRY. I yield 3 minutes.

Mrs. BOXER. Mr. President, there is something that the chairman said that calls for a response. I am pleased to stand here today endorsing the Democratic leader's proposal. The way we should cut taxes in this country should be a fair way, it should be good for children, it should be good for working families, it should be good for small business, and that is what this proposal offers.

I say to my colleagues on both sides of the aisle, in 1993, we had two ways to approach the issue of economic recovery: the Democratic way, which passed by one vote, I might say, and the Republican way, which failed. Here we stand being able to cut taxes for the American people because we were right, because the kind of economic policy we put into place in 1993 has worked.

We have seen deficit reduction that has surpassed our imagination. We are down to $70 billion from a high of $290 billion when President Clinton took over as President. We have seen 11 million or 12 million new jobs created. We have seen an economic recovery finally hitting my State that is making this day possible.

So I say to the American people, they ought to look at the two plans. Again, we have a Republican plan, and we have a Democratic plan. Many of us may wind up voting in the end for the Republican plan. We will vote for amendments to change it, and if they are not adopted, we may well do that. But I think the Democratic leader's plan is the fair way, and let me say why.

Deloitte & Touche did an analysis of the Republican plan in the Senate, and in terms of hard, cold dollars—and they are a very incredible accounting firm, objective—they go through the taxes that would be owed under the Republican plan by a married couple with two children, one in college and one under the age of 18. What they come up with is that the household with an income of $20,000 will get a $375 break. The very highest break goes to people—listen to this—earning over $1 million a year. They would get $2,400 back. That surpasses the people in the entire middle class. They get more money if they earn $1 million back than any other part of this economic spectrum.

So in fairness, the Democratic plan has got it. It changes that. It doesn't give the most to the most wealthy, to those who earn over $1 million.

Second, children. My colleague talks about how children are going to be helped by the Republican plan, but in the Democratic plan, we help all the children.

Under this particular plan, only 50 percent of the children in California, Mr. President, get help, because this child care credit is not refundable off your payroll taxes. What we have to understand in this Senate is that people pay more in income tax. They pay payroll taxes. We say you shouldn't be denied a child credit if you fall into that category.

Mr. President, I want to help all the children. I want to help small business by gearing capital gains cuts to them. That is what we do on our side.

Finally, I thank the chairman of the committee for helping me with the Computer Donations Act and the 401(k) protection plan that he has agreed to look at for us. I just want to say, it is a good moment for us because the economic recovery is so strong, we are in a position to give something back to the American people, and I am pleased about that.

I yield to my colleague from Massachusetts and thank him for his generosity.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, I yield myself such time as I may use.

Mr. President, as I listened to the distinguished chairman of the committee talk about the virtues of this bill, I kept hearing language trying to describe the bill saying it is bipartisan, it meets the demands of all the people, it has followed the guidelines, somehow suggesting that merely by saying these things, it is true, that these are the things that are in this bill. But when you look behind each of those descriptive adjectives, there is a different reality.

First of all, with respect to the bipartisanship, everybody understands that the Republicans control the committee. The Republicans could have reported out whatever they wanted to do, and that the only way there would be any capacity to improve it somewhat from what people viewed as a very draconian position was to become involved and play along.

Everybody in the Senate and every observer understands that just because people vote for it to come out of the committee and have played a role in helping to bring it back from a precipice doesn't mean it is where it ought to be, or that it represents the best that we could achieve or the fairest that we could achieve.

Indeed, a number of people who voted to send it out of the committee will vote for the Democratic alternative because it really represents much more of what they would have liked to have gotten but couldn't get because of the dynamics of how things work in a committee.

It isn't enough to say that this is good for all the people. The charts, the statistics just contradict it. It is so obvious that it almost defies imagination, and we really have to spend a lot of time on it. The fact is that the bottom 20 percent of Americans under the House plan, the Archer plan, got 0.5 percent of the savings of the tax bill. Under the Roth bill, originally they come up with 0.4 percent, but under the Democratic alternative, they did better than either, with 5.1 percent, not an enormous difference. The reason for the lack of the enormous difference is that you have the earned income tax credit and you don't have earnings sufficient on an income tax form to be able to provide credit savings that go to people at the lowest end because of the way the tax structure works. We understand that.

But when I hear the chairman say that middle Americans do the best, that is where the statistics tell a contrary story. No matter how many times our colleagues on the other side of the aisle try to say this is good for middle America, this is for all Americans. All Americans, just look at the facts.

Under the Archer bill, it was 9.2 percent that went to the next 20 percent of income earners; the second to the lowest 20 percent. Under the Roth bill, 2.3 percent. Under the Democratic alternative, it is 16.3 percent—16.3 percent versus 2.3 percent. You can ask any child in the fifth or sixth grade, or almost any grade, if they know the difference, whether 16.3 percent is more than 2.3 percent. But under the Democratic alternative, the second 20 percent of income earners in America will get 16 percent versus the Roth 2.3 percent. That is a very significant difference.

But then I move up in the income scale to the third 20 percent of income earners. Under the Archer bill, it was 9.2 percent. Under the Roth bill, it is 10 percent. But under the Democratic bill, it is 25 percent—25 percent versus 10 percent. It is very clear on its face that the average American income earner does better under the Democratic alternative than they will under the Republican bill.

In the fourth 20 percent, and we are moving up in income now, we are talking in the $50,000 to $75,000 range, that is a considerable amount above the mean earnings of most Americans. That 20 percent in the Roth bill would get 21 percent; in the Democratic bill they would get 32.3 percent. What you have here, Mr. President, is just a stark difference, but here is the most significant difference, and I ask Americans to focus on this. It is a very significant difference.

Under the Archer bill and under the Roth bill, the highest 20 percent of income earners in America, the people earning more than $100,000, the millionaires, the billionaires, they would get 67 percent—67.9 to be precise—under the Archer bill, 65.5 under the Roth bill—65.5 percent. But under the Democratic bill, they get only 20.8 percent. So there is an enormous difference in the distribution in what people will get.

Mr. President, I know that our colleagues on the other side of the aisle will say, well, that's what happens automatically, that people with the money are going to get the capital gains tax cut, they are going to put their capital into investments, it is automatic that if you have a specific percentage of reduction, those people are going to get the lion's share of the break.

It is automatic if that is the break you write into law, but there is nobody here whose arm is being twisted or who is being forced to write that into law. We have the prerogative of deciding how we are going to divide up the benefits of this tax break.

I listen to my colleagues say that the Democratic alternative is really terrible when it comes to capital investment and savings because it isn't as generous in the capital gains tax cut. Ask most Americans what they think the economy in America is doing today? Why has the stock market doubled in the last few years? Why is the stock market at a record high? Why are so many businesses reporting profits that are at record level? Why are so many chief executive officers now earning 223 times the earnings of the average worker when 20 years ago it was only about 25 times the earnings of the average worker? Corporate America is doing very well today, very well, and I am glad. I voted for a bill in 1993 that helped corporate America to do pretty well today. And it has resulted in 4½ straight years of deficit reduction.

But you have to ask yourself, if capital gains tax difference between 28 and 20 percent is so great, why is America doing so well today? It hasn't stopped some of the greatest mergers and acquisitions in American history from taking place. I don't think any economist in the Nation believes fundamentally—will we release some capital? The answer is yes. I happen to be for a capital gains tax cut, and I think it is beneficial to release some capital. But I think there are ways to do it that spread the fairness and that respect a sort of evenhandedness and a playing field that is more fair than what we are going to witness here.

Mr. President, the Finance Committee has given us a list of tax breaks, the benefits of which flow chiefly to the wealthiest Americans. Nearly 43 percent of all the benefits will go to the wealthiest 10 percent of American income earners. I want to say that again. Forty-three percent of the Republican proposal goes to 10 percent of Americans, and under their proposal, 60 percent of the hard-working middle class of America and the poorest of Americans will share 12.7 percent.

So 60 percent of America is going to be fighting for 12 percent of the tax benefits, while 10 percent of America gets 43 percent of the tax benefits. I can't believe that any American really believes that that is fair distribution of the benefits of this, Mr. President. I think it sets a new standard of unfairness. It is a transfer of wealth, a transfer of wealth from hard-working middle Americans, middle-income earners to the wealthiest and to the people who have done the best over the last few years.

If you do not believe that these are the people who have done the best in the last few years, just take a look at the charts. Take a look at the statistics which come from every single one of our Government agencies and analysts in the private sector.

The bottom 20 percent of income earners in America in 1975 were earning $18,947, on average. In 1985, they were earning $18,816. They lost income. And in the year 1995, 20 years later, they were earning $19,070, which was an increase of about $110 or so over 20 years.

The next 20 percent of income earners went from a $30,701 average in 1975, to $32,415 in 1985, to $32,895 in 1995. So they had about a $380 gross increase, on average, in 10 years; and they had a $2,000 increase before that. When you factor in inflation, it is a loss. They lost income over those 20 years.

You know who did not lose income over those 20 years? The people who are being rewarded the most in this tax bill. The only people in America who grew in that period of time were the top 20 percent of income earners. And they grew more than 100 percent. Yet people are finding a wonderful rationale to come to the floor and suggest that in 1997 there is a new standard of fairness which is prepared to give to those who got the most even more. It is extraordinary.

Mr. President, we have the ability to write a different distribution. It is up to us. And in the Democratic alternative that Senator DASCHLE has proposed, the poorest 60 percent of Americans receive 46 percent of the tax cuts. Some people could make an argument that the poorest 60 percent ought to earn 100 percent of the tax cut or maybe 75 percent of the tax cut or 60 percent.

We have tried to respect the notion that we do want to spread it out and we do want to respect the notion of savings and growth and encourage a capital gains tax. So we settled on the notion that those 60 percent—rather than scrambling for 12.7 percent of the total tax cut—would get 46 percent of those tax cuts.

In the Finance Committee proposal, people earning between $30,000 and $85,000 get only 30 percent of the tax cut, Mr. President. That is what I call and most people look at as middle class in America—$30,000 to $85,000. And they receive only 30 percent of the tax cut. So when the chairman says, under our bill we are spreading this evenly among everybody, look at what the middle class gets. The very people he said are the best beneficiaries are getting only 30 percent of this, the vast majority going to those who have done the best in recent years.

By any measure, Mr. President, I think the Democratic alternative is sound economically, and I think it is fair because it helps those who actually need a tax break to raise a child or to go to college or to start a business or to generate one of those high-wage 21st century, high-value-added jobs. And this is one of the crucial differences between our parties and, I think, between these two measures.

For us, deficit reduction and the tax cut is a policy. I think for the Republicans it is an end in and of itself. For us, it is a means to an end, not the objective to be achieved, but a means of achieving the larger objective, which is creating more jobs, making sure our human resources are attended to; whereas, for them, I think that just getting that cut somehow has become a goal and a target.

The problem is, that in doing so, our friends on the other side of the aisle are offering America a choice that I am confident most Americans are not aware of. This tax bill is backloaded with a time bomb, because while in the beginning it does not have all of the negative impact of the massive tax cut to the wealthy and shares some at the front end so they can say, look how you are going to do well at the first part of this, at the back end you balloon the amount of lost revenue, which will have a very significant impact under any circumstances, but obviously particularly if there were to be a downturn in the current revenues or in the economy.

So you have a tax cut that for the first 5 years is $85 billion going back to the American people. But the second 5 years, it is going to cost $250 billion. And 10 years after that, when baby boomers are retiring and when Medicare and Social Security are being strained at a much greater degree than they are now, you are going to have a cost in this tax bill of $650 to $700 billion.

Our policy, on the other hand, in my judgment, lays out the right set of priorities, Mr. President. We have cut capital gains in the past at times in America's history where the economy really mandated it. But I find it hard to understand, given how well the stock market is doing and how well investments are doing generically and how extraordinarily competently the corporate sector has moved to deal with some of the competitive issues that we faced during the 1980's and the early part of the 1990's—I think they deserve enormous credit for having done so—but having done so, one has to ask the question, what is there in today's economic indices that suggest sound economic policy in having such a broad loss of revenue for the capital gains tax, which in itself is so broad that you are making a choice not to give more revenue back to the middle class?

I mean, that is the tradeoff here. If you are going to give the full breadth of the capital gains tax cut to the higher end, you have less money available to give to the middle end. I think most Americans would join me in asking a very simple question. Why should somebody be rewarded for the sale of their Persian rugs or their art or their yachts, which do not contribute significantly to the kind of economic activity that we are talking about? Certainly it accrues capital to them, I understand, and they will spend some of that capital and invest some of that capital, but what is the justification for expanding the capital gains reduction from a 28 percent tax only to a 20 percent tax or lower in order to encourage that kind of transaction?

So in the Democrat alternative, what we have done is I think sensible. We want to reward the risk-taker and the entrepreneur who creates new jobs and who put their money on the line in an entrepreneurial effort to try to broaden the tax base of this country. I think that ought to be rewarded.

I think I am the only U.S. Senator who introduced a zero capital gains tax, which I would like to see for new investments in 1 of the 25 or so critical technologies which are the areas where we will fastest create the most high-value-added jobs that will raise the income of our workers and indeed raise the standard of living of our Nation. And just like Japan or other countries that did not have any capital gains tax, I think it would behoove us to take some of this money from the rugs and the collectibles and the other assets people will get a windfall from and provide a zero capital gains tax in the long run on investments up to $100 million in a new issue of stock, help for 5 years in one of those kinds of companies.

In our bill we do not go to zero. But we do have a 50-percent exclusion on the capital gains tax for that kind of qualified investment up to $100 million, the stock held for 5 years. In doing so, Mr. President, I am confident that we will do what is really necessary, which is provide venture capital with the kind of incentive to move to the kinds of ventures that will truly create jobs and kick the economy. And in doing so, it allows us to provide more money to the middle class to help them send a kid to college, help them be able to pay for child care, help them be able to do some of the fundamentals that we think are so important in terms of spending time with family or raising a family, and indeed puts much more money into the pockets of the people we truly consider to be middle America.

Mr. President, the Finance Committee has also tried to suggest that its child care provision is better than the child care provision that is put forward in the Democrat alternative. And I would like to just assert that again the facts do not bear that out.

The Democrat alternative does more for more people than the Finance Committee proposal. It does more for precisely those families who need the help the most, and those are young families with young children where this will provide them the opportunity to do much better for the future of the country.

The reason is, Mr. President, because I heard the chairman talking about how their tax credit, the tax credit in the Finance Committee proposal, goes to families earning up to $150,000 of income, and, therefore, it reaches more people. But the truth is, when you look underneath the figures, it does not reach more people.

The reason it does not reach more people is that most Americans today who are with young families who need help pay most of their income through the payroll tax. Their money is taken out of their paycheck at work. And it goes to the Social Security system and they are, therefore, mostly not able to take advantage of the tax credit because too many families in America do not have enough income that is taxable to wind up getting the credit, and the payroll tax winds up penalizing them even more.

The vast majority of families in America pay most of their tax in the payroll tax. And what the Finance Committee does not do is provide an offset against the payroll tax, the result of which is that very little of the credit is available to a family earning $30,000 or less under their credit.

Whereas, under the Democrat proposal, the credit would be available because of the offset against the payroll tax, it would go right down to families earning $15,000. And that encompasses many more families who are in need of the child tax credit.

So there is a very simple truth here, that they give the credit all the way up to $150,000; our credit fades out between $70,000 and $85,000. The result of that is we are able to give more credit to the people who are most in need.

So, Mr. President, I believe that a dispassionate analysis, a fair analysis of these two proposals is very clear about who benefits and who does not.

I want to emphasize that many of us on the Democrat side support a capital gains tax reduction. I am one of them. Some do not; some do. But I am convinced that you can target that capital gains reduction when you have a limited amount of resources to deal with, as we do, and we are forced to make the hard choices we are making so that you spread out the benefits in a fairer way. And that is precisely—precisely—what the Democrat alternative does.

I wish in many ways we could have gotten to this point in a different way. We might have, had we not been forced into the strictures of this deal where the deal became almost more important than some of the policies that were contained within it. By definition, the deal being a compromise, it is a bit of this and a bit of that. In the end, regrettably, Mr. President, I think it has come out with a disproportionate, imbalanced allocation or shift of resources in America.

Most Americans, when they are given a chance, if they were to be or could really take note of the differences between these proposals, would obviously applaud the education benefits that the chairman talked about—of course they would—but the Democrats would support those benefits, also. That is not at issue here. What is at issue here is the difference between how you get money to the families that really need it versus how much you ought to provide in incentive for increased savings or investment out of the proposals that are in both measures.

I think on balance, the proposal of the Democratic leader, Senator DASCHLE, is both fairer and steeped in greater economic sense, and in the end I believe most Americans will come to that judgment.

Mr. President, how much time remains for the Democrat side?

The PRESIDING OFFICER. Seventy-one minutes.

Mr. KERRY. I reserve the remainder of my time.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, I have been delegated to manage our time by the distinguished Senator from Delaware, and as such, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator from Washington is recognized for up to 10 minutes.

Mr. GORTON. Mr. President, meet Bill and Vivian Loomis from Lind, WA. The Loomises farm, in eastern Washington, wheat and potatoes. The Loomises, under the present tax law, have been dunned by the Bureau of Internal Revenue to pay an alternative minimum tax on income they have not even received. That is to say, they are supposed to pay, this year, taxes that will not accrue until next year because the income will not come in until next year.

Now, they have had to spend $20,000 of their hard-earned money in fighting the Bureau of Internal Revenue, the IRS, on that subject. We have, in a bipartisan manner, gotten the IRS to lay off of many other farmers who are in the same position.

This bill, this Republican bill, this bill reported almost unanimously by the Senate Finance Committee, takes care of that situation. It rights that wrong. It says to Bill and Vivian Loomis, "You don't have to pay taxes until you've received your income." Simple justice, Mr. President.

But what else does the Republican proposal before the Senate do for people like Bill and Vivian Loomis who have worked hard all their lives as farmers in eastern Washington? Mr. President, it says to them, when they pass away, their farm will not be taken away by the Internal Revenue Service with a punitive and overwhelming death tax. It gives them a bit of a break in their ability to pass that on to their children and grandchildren.

Now, Mr. President, Bill and Vivian Loomis have 7 children and 11 grandchildren. Their children are too old to give them the tax credit that is included in the Republican proposal. But their sons and daughters who are raising kids, who are struggling on limited incomes that they are earning and paying taxes on will get a $500 break for each of those 11 grandchildren of the Loomises' who are under the age of 17 years old. Real people, real benefits.

And when those grandchildren are ready to go to college or university, there will be tax credits to help pay for that tuition.

Mr. President, we are talking here, today, about real people who work hard, who earn an income, and who pay taxes on that income. Our Taxpayer Relief Act is to provide relief for those taxpayers. It is not designed to add to the welfare system. It is designed to provide relief for real taxpayers. It is designed to say that the Loomises, should they decide to sell their farm, will not pay an overwhelming and punitive capital gains tax; that if they have managed to save and invest in some stocks, they can sell them to go into a better investment without an overwhelming and punitive capital gains tax.

Mr. President, the best single line I can give is, 75–75—75 percent of the benefits of this Taxpayers Relief Act go to families with incomes of $75,000 and less per year, who are actually paying taxes today. That is what this is all about.

We really hear a great deal from the other side, a side that really was not at all happy about reducing taxes on hard-working Americans at all. I am delighted they have an alternative that at least provides some tax relief. But until we came along we heard about nothing other than tax hikes, not tax reductions.

My constituents, Mr. President, in the State of Washington, bear the fifth highest tax burden in the United States of America. They will get almost 2 billion dollars' worth of real tax relief, to real taxpayers, out of this bill. The benefits of our bill as against the other that attempts to target everything, that attempts to adjust society again through the Tax Code, our tax relief will go to real people, real people, like Bill and Vivian Loomis, who have worked hard all their lives, who have put something away, who want to help their children and grandchildren, who want to help build their country and who want to pass something of what they have done on to their children.

It is much the superior proposal. It does not depend on gimmicks, like saying that the rental value of the house they own and live in is part of your income—as if you could live on the street and rent your house out. It is based on providing real tax relief to real working people who are overtaxed in the United States today, who have worked hard and deserve to keep what they have earned, like Bill and Vivian Loomis.

The PRESIDING OFFICER (Mr. ENZI). The Senator from Illinois.

Ms. MOSELEY-BRAUN. Mr. President, I yield myself 3 or 4 minutes. I want to make a general statement about the tax bill.

I serve as a member of the Senate Finance Committee and was part of the deliberations. Last night, I commended the chairman of that committee as well as our ranking member for the efforts they made to try to craft a tax bill that addressed the concern that all of us had in achieving fiscal responsibility and in achieving fairness.

In the first instance, the bill as a whole does achieve fiscal responsibility because it is a balanced budget bill. That is a good thing. The deficit under President Carter years ago was $73 billion. Under President Reagan, it ballooned to $221 billion. It reached $290 billion under President Bush. When President Clinton took office, he inherited a $290 billion deficit. Our national debt at the time was $4.4 trillion.

Now, since that time, President Clinton's bill in 1993 to give us a budget agreement that would head us toward budget balance has proved to be successful, and it proved to be the right thing to do. That bill, at the time, was very controversial, but the fact is that it has worked and we are now in our fifth year of deficit reduction. The deficit now is at the lowest level that it has been since President Carter. I think that is something we all can celebrate and applaud. This bill continues in that direction.

The reason why having a balanced budget is important is not just that it is a matter of a sound bite. Quite frankly, some of the economists tell us it is not the most critical thing, that you can function in terms of the budget overall without it being in balance. However, for me, and I am a strong supporter of achieving a balanced budget, to me, the issue is one of fairness, of generational fairness, of making certain that our decisions in our time do not foreclose the decisions that the next generation, these young people sitting here, that they will be able to make for their time, when they move into leadership and have the opportunities to make decisions. So as not to pass on our old bills, so as not to foreclose their opportunities, it is an important thing to achieve a balanced budget. This bill does that.

However, as was pointed out by speaker after speaker, the way the bill is structured, the budget deficit does explode in the outyears, and that means that while it looks on the surface that we will have a balanced budget, at the same time we are setting ourselves up for a huge fall by allowing it to explode beyond the 5- to 7-year window. That is not a good idea. It seems to me if we are going to be really fiscally responsible, we have an obligation to balance the budget and then to keep it balanced.

So this Democratic alternative cures that defect. It cures that defect by achieving fiscal responsibility by seeing to it that we do not balloon the deficit in the outyears.

The other thing about this alternative is it is also fair. There are those of us who believe this is not a time to cut taxes, that we would be better off achieving complete balance before we got into tax cutting. And we could have cut the deficit quicker had we not cut taxes at this time. It is not a matter of being against tax cuts, just a matter of timing, whether or not it makes sense to go and give up your second job, if you will, while you are still trying to pay off your old bills. That is the equivalent, if it were a family making a decision, we are making a decision to give up the second job, although we still have old bills.

There is consensus around the tax cuts that are in this bill. Capital gains—I do not think too many would argue that capital tax cuts are a bad idea. The estate tax cuts—again, my colleague across the aisle a minute ago talked about the importance to family farmers. I come from a State that is largely agricultural, and I know how important having the estate tax reform that is in this bill is to people who own farms. The help for people who have children is another good thing and will help struggling families—and the support for education in this bill.

All of these things are good news, and that is why this alternative, I think, should be supported by both sides of the aisle, because this alternative says we are going to take the principles of fairness and make certain there is balance in terms of the whole American family, in terms of who gets what from the tax cuts. Right now the tax cuts are heavily stacked in favor of the wealthiest Americans. People who need help the most—the working people, the middle class—get less from this tax cut and less from this agreement than do those who are clipping coupons. This is not to set up a class conflict, because, if anything, if you learned anything in these times, it should be that as Americans we are all in this together and it cannot be rich versus poor. If anything, we all have to come together and make certain that we allow our economy to grow and to build and to tap the talents of everybody. But that, I think, begs the question of whether or not we are being fair in giving working families their due with regard to this tax bill. It does not reach that.

Last evening, I spoke about the fact that such a vast majority of the benefits of this tax cut that go to the wealthy as opposed to the middle class or the working poor, that we can change that. Well, the Democrat alternative does change it. The Democrat alternative suggests that we do more for people who are struggling, that we do more for people who spend more of their payroll, more on payroll taxes than on income taxes, that we help those families that are just trying to get by and to make it. We help them a little more. That is what the Democratic tax alternative does.

As a member of the Senate Finance Committee, again, part of the process here is the compromise. We worked together, and I voted along with many of my colleagues for the Senate Finance bill, and I will vote for it on final passage. I urge my colleagues to take a good look on both sides, take a good look at this alternative, and see in your own minds whether or not it does not strike you as being fiscally responsible, which we all want to do, but being more fair. You consider the number of people in this country and the interests and the wide range of income; we do not want to do anything at this time that will exacerbate that income gap that we all know is widening. If anything, what we want to do is try to keep the country on an even keel with regard to policies that we come out with here.

For that reason, again, I support this Democratic alternative. I will support the bill on final passage. I hope this amendment is part of it.

I thank the Chair, and I yield the floor.

Mr. ABRAHAM. Mr. President, on behalf of the majority, I yield myself such time as I may need to speak to the bill and, really, as well, to this amendment. I think the bill that the Finance Committee has brought us today is a very good bill. I look forward to supporting it against some of the amendments that would seek to undercut the basic thrust and to see it to final passage.

Obviously, this bill doesn't reflect what any single Member of the Senate would have drafted had they total control over the legislation and the agenda here. It reflects, as so many speakers have indicated, a strong bipartisan effort—something we have talked a lot about in this Chamber over the years, but do not always deliver—a strong bipartisan effort to find common ground behind a sensible strategy for providing tax relief for the working families of our country who pay taxes, a chance for those families to keep more of what they earn. So, to that end, I am here to speak on behalf of the legislation.

Mr. President, tax cuts are long overdue. In 1992, President Clinton, while running for election, promised a tax cut. Unfortunately, in 1993, that tax cut was replaced by the largest tax hike in American history. Today, we stand 16 years away from the last tax cut for the working families of our country. Four tax increases have transpired since Americans last received tax relief.

Today, Federal taxes are consuming 21 percent of our Nation's gross domestic product, or our country's national income. Mr. President, that is more than at any time in the past 200 years. Let me put that in perspective because I think the argument that we have heard here for so long is that Americans don't need a tax cut. Well, Mr. President, they do. Not during World War II, not during the Vietnam war, not during the Depression or during any time in the last 200 years of our country's history have taxes consumed such a high percentage of the American income. And for that reason, this legislation must pass, must be signed into law, and must provide relief for the American people. Today, in our country, taken together, Federal, State, and local taxes cost the typical American family more—more, Mr. President—than food, clothing, and shelter combined. Food, clothing, and shelter typically cost approximately 28 percent of a families income; taxes take up to 38 percent. To me, that is simply too much.

After several tries and one veto from President Clinton, Congress is working this week to give hard-working American families fair and overdue tax relief. I would like to speak about some of the provisions in this legislation, Mr. President, that I think are especially noteworthy, which will help taxpayers through all stages of their lives. Children will benefit from a $500-per-child tax credit that will increase their family's ability to care for them and plan for their futures. Teens and young adults will be helped by sensible, targeted education tax breaks that will help finance their schooling. Those who have finished their educations will benefit from progrowth tax cuts, including the capital gains tax cut, that will stimulate economic expansion and provide more good jobs at good wages. Americans working to start small businesses also will benefit from the flood of new venture capital that will result from cutting capital gains taxes. Those looking toward retirement will benefit from expanded individual retirement accounts, IRA coverage, including the new full spousal IRA, and from the capital gains tax cut. More than 40 percent of American families own stocks directly or indirectly, Mr. President. American seniors currently constitute 12 percent of the population and realize 30 percent of America's capital gains.

Americans considering their legacy to their children—especially small family business owners and farmers—will benefit from a substantial cut in the effective death tax. All Americans will benefit from a cleaner environment, thanks to this bill. Urban families, in particular, too often must live near contaminated sites because the owners of those properties have abandoned them and no one else can afford to clean them up.

That is why I worked with a number of other Members of this Chamber to include in this bill a provision allowing those who clean up these environmentally contaminated brownfield sites to expense their cleanup costs on an accelerated basis. This will not only encourage business to clean up and put to productive use areas that now contaminate our cities, but it will also create unlimited numbers of potential job opportunities for people who, today, are searching for a chance to get on the economic ladder.

I want to focus on that for another minute, Mr. President, because I believe this part of the legislation, which hasn't received as much attention as some of the other sections, really is very pivotal to the future of this country. We can address environmental problems and we can address the problems that we see in too many economically distressed areas, in terms of trying to generate opportunities, because of those brownfields provisions that have been included in this legislation.

Mr. President, this tax bill that we offer today, this tax relief plan, is fair. As the Senator from Washington indicated just a few moments ago, 75 percent of the tax relief provided in this plan goes to those families who make $75,000 of income or less. Now, obviously, a lot of people can use statistics to make their argument, and we do on the Senate floor. But one thing that is irrefutable, Mr. President, is that if you are making $75,000 or less, you are going to receive 75 percent of the tax cuts in this legislation. Now, obviously, there are ways people can argue to get around it, and I will comment on some of those, perhaps, in a minute here. But unless people want to now call those in the $75,000 income category the richest Americans and the wealthy Americans, then, Mr. President, this tax bill clearly is one aimed at providing fairness to working middle-class families.

Let me talk about what this means to my State of Michigan for just a moment. Under our tax proposal, the family tax relief provisions will provide over $3 billion of tax relief for working families in my State, thanks to the $500-per-child tax credit. That means that literally hundreds of thousands of Michigan children, over the next 5 years, are going to be receiving a $500 tax credit on an annual basis, Mr. President. That means more dollars available for young families to help feed and clothe and advance their children's learning. In addition, families in my State will be receiving $1.3 billion over the next 5 years from this tax relief plan in order to help finance college education.

Mr. President, the average American family should not have to go bankrupt, nor should a college graduate have to be in debt for decades just to be able to have a degree of higher learning. Yet, that is too often the choice confronting American families these days.

Mr. President, our bill, in my State alone, will provide over a billion dollars of support to those working families. In addition, we have incentives for the creation of new jobs and opportunities—approximately $69 million in capital gains tax relief, approximately $124 million in terms of IRA expansions for the families in my State, a substantial increase in order to stimulate the kinds of job opportunities that we want for our citizens.

Michigan is a State with a lot of small businesses, and a lot of family owned farms, Mr. President. Every time I travel back in the State and talk to those in the small business or the farming community, I am told time after time, "You have to do something to make it possible for us to keep the family business and the family farm in the family," because when the family that is running the business or the farm—when the last member of that family passes away, the death taxes are so much, they have to sell the property, or they have to sell the business in order to pay the taxes, and their children will not be able to inherit their rightful claim. This legislation addresses that very effectively, as well.

So for my State, Mr. President, it means a great deal. There are a variety of additional tax incentives for Michigan. When they are all added up, it results in over $3 billion in tax relief over the next 5 years for the folks that I represent, the folks in my State, who are paying the bills, playing by the rules, and sending their tax dollars to Washington. It is a bipartisan piece of legislation.

I was extraordinarily impressed by the fact that the Finance Committee was able to come together and pass this legislation on an 18-to-2 vote. That indicates the extent to which our tax cut plan makes sense.

So for all of those reasons, Mr. President, I am proud to come here today in support of this legislation. I want to just comment on one or two of the points made in opposition during recent speeches that have taken place here. The first is the argument that, somehow, 70 percent of the benefits go to the upper income groups in this country. Well, as the Senator from Washington already indicated, that only works if you impute income to the families of this country for everything from fringe benefits to unrealized capital gains to even the imputed rent on a home that you own. As the Senator from Washington said, that is fine if you are going to live on the street. Then you can take credit for those imputed rental dollars. If you are staying in the house, you can't. To use that kind of calculation to try to make this tax bill seem less fair, to me, Mr. President, is going way beyond the limit. I mean, the fact is, if we are going to start thinking about these sorts of things as income, it will only be a matter of time before somebody stands up in the Senate and wants to tax that income. Pretty soon, we will be asking people to pay taxes on the imputed rent of the house they own. That is a precedent we don't want to start here. The fact is, if you can't spend it, you can't be treated as having earned it.

Mr. President, the bottom line is that that argument does not hold water; nor does the argument that suggests that we should not pass this tax bill because the median income of working families has not changed during the last 20 years. The facts are, Mr. President, that it has not been stagnant. The average income of families in this country have changed dramatically over the last 20 years. Unfortunately, they have gone down; then they went up, and now they have been coming back down again. The interesting correlation between those changes, Mr. President, is what we have done in Washington. In the late 1970's, the average median income went down, when we had high tax policies coming out of Washington. Following the 1981 tax cuts that gave working American families a chance to keep more of what they earned, median incomes went up and stayed up, and they kept going up for about 8 years. And then we started the tax policies again, first in 1990, then 1993 and, yes, those incomes have come down. If anything, that argues for cutting taxes, as we are attempting to do today.

For all of these reasons, Mr. President, I think the bill brought by the Senate Finance Committee deserves our support. I look forward to working with members of that committee as we finish our work here today. I compliment them on both sides of the aisle for a job well done. This is not an easy task. I especially thank Chairman ROTH for his leadership. I think it is a great package, and I look forward to supporting it.

I yield the floor.

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Who yields time?

Mr. CONRAD. I yield myself such time as I might consume.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I rise as a member of the Finance Committee who voted to send this bill to the floor, and to speak about its merits and demerits and about the alternative that is being offered by the Democratic leader.

Mr. President, I voted to send this bill to the floor because I thought that we should have a chance to improve it here on the floor of the U.S. Senate. As I indicated in the committee, I don't believe the distribution of the benefits in the bill that was done in the Finance Committee is fair. I find it very difficult to justify the distribution of the benefits in the bill that has come out of the committee. Hopefully, we will improve it here on the floor of the Senate. This is our first chance to improve it, with the comprehensive alternative being offered by the Democratic leader.

I have just heard several on the other side say that, under this bill, 75 percent of the benefits go to those earning under $75,000. That is just not the case. They have entirely left out payroll taxes in the calculation. Seventy-three percent of the American people pay more in payroll taxes than they pay in income taxes. But they only want to construct the distribution table that deals with income taxes. They don't want to talk about payroll taxes, despite the fact that 73 percent of the American people pay more in payroll taxes than they pay in income taxes. What kind of a comparison is that?

Second, they are only dealing with the first 5 years of the major components of this bill that favor the wealthiest among us. This bill is backend loaded with respect to the benefits from those provisions.

So what they are doing is comparing only a part of the package and they are leaving out the part of the package that has the disproportionate share of the benefits going to the wealthiest among us. Mr. President, this is not a package just for the next 5 years. This is a package that creates permanent law.

If we are going to be honest with the American people about the distribution of the benefits, we can't just look at the first 5 years. Mr. President, I think we have to review a bit of history as to why we are here today.

How is it that we can be talking about tax reductions after we have been through a period of deficits that are out of control?

Mr. President, I believe we are here because Democrats made some very tough choices in 1993. As a result, as you can see from this chart, the unified budget deficit has fallen dramatically from $290 billion in 1992 to $67 billion this year.

I might add that this is a projection of the deficit this year. But that is the best evidence that we have of what the deficit will be this year. So let's remind ourselves how we got here. We got here because Democrats passed an economic plan that has led to a dramatic reduction in our deficit.

This, again, is the unified budget deficit. That counts all income and all outgo.

Let me just go to the next chart to show people a little different way of looking at it.

The line I just showed is the same as this blue line on the chart that I titled "the real budget deficit" that shows that there is really more deficit reduction that is needed for true balance. The point is when you talk about the unified budget deficit, the blue line—you can see it has come down just dramatically. But you see this red line right above it. That represents the true budget deficit because that counts the Social Security surpluses that are being used to mask the real size of the deficit.

One can see that, although this is called a balanced budget plan—and, in fact, on the unified deficit you get to a balance in 2002—if you look at the Social Security surpluses, what you find is that in the year 2002 you have a $109 billion budget deficit. In fact, all of the documents disclose that there is a $109 billion budget deficit in the year 2002.

I say this to try to be objective about what is happening here. There is no question we have made dramatic progress on reducing the unified budget deficit. It is also, I think, undeniable that more needs to be done. That has to be thought of as we evaluate this entire budget package.

Mr. President, because the Democrats did vote for a dramatic economic plan in 1993, we did get the deficit going down on either measure. Whether we are looking at the so-called unified deficit, or whether we are counting Social Security surpluses, on either count the deficits have gone down dramatically. That has kicked off one of the strongest economic recoveries in our history with 12 million new jobs since 1993—a peacetime record. We have seen the unemployment rate go down to the lowest level since 1973—a dramatic improvement in unemployment. The inflation rate is under 3 percent since 1993. You can see dramatic improvements in the inflation rate of this country as a result of the economic plan that was put in place in 1993.

Not only do we see dramatic improvement on new jobs and dramatic improvement on unemployment, the inflation level at its lowest level in 31 years, but we also see real business fixed investment growing at a 9-percent annual rate for the last 4 years. In fact, it is by far the best rate of real business fixed investment in about 20 years.

Mr. President, the fact is that the economic plan passed in 1993 has worked and has worked extraordinarily well. If we look at the 10-year period from 1992 to 2002, the savings from the 1993 deficit reduction plan will total in that 10-year period $2 trillion.

The budget plan we have before us now in that same time period—because it is only effective the last 5 years and it is a much smaller package—will contribute $200 billion to deficit reduction, about one-tenth as much as was provided by the savings from the 1993 deficit reduction plan.

Mr. President, the fact is this economic plan works and has worked extraordinarily well. It is the reason that today we are able to consider tax reductions.

Mr. President, when we consider tax reductions, it seems to me that we ought to apply four tests:

First of all, does the tax reduction fairly distribute the benefits?

Second, does the plan keep the deficit under control for the long run, or do we blow a hole in the deficit after making all of the progress that we have made since 1993?

Third, it seems to me the test should be, do the tax reductions promote educational opportunities?

Fourth, will the tax cuts benefit the economy and promote higher economic growth?

Again, I go back to the 1993 plan. The fact that deficits were really reduced by either measure has meant lower interest rates, has meant stronger investment, has meant greater economic growth, and has meant an incredible resurgence in the U.S. economy. In fact, today the United States is rated the most competitive economy in the world.

Mr. President, when we look at the plans before us with respect to how to cut taxes, we can start to evaluate how they rate on the four tests that I have applied.

The first test: The fairness of the distribution of the benefit. Mr. President, I direct your attention to this chart, the Democratic alternative versus the plan out of committee. For the top 1 percent, the yellow shows the plan out of the Finance Committee, the red shows the Democratic alternative. Under the plan out of the Finance Committee, the top 1 percent get 13 percent of the benefits. Interestingly enough, under that plan, the bottom 60 percent get about 13 percent of the benefits. It does not strike me as a fair distribution of the benefits.

The alternative before us, the Democratic plan, shows a much more fair distribution of the benefits. The Democratic plan has the top 1 percent of the income earners in the country getting 1.4 percent of the benefits. The bottom 60 percent get 46 percent of the benefits.

Again, I would say it is a far more fair distribution of the benefits of the tax plan than under the committee alternative.

This is a little different way of looking at it. This looks at the American economy in terms of the top 20 percent of the income earners in our country and the benefits that they get. This is the plan out of committee, the yellow bar. The red bar is the Democratic alternative. You can see under the plan out of committee that the top 20 percent of the income earners in our country get 65 percent of the benefits. Under the Democratic alternative, they get about 21 percent of the benefits.

In the next quintile, the committee alternative gives them 32 percent of the benefits, the Democratic plan gives them 21 percent.

Again, Mr. President, I think it is clear that the Democratic plan provides a more fair distribution of the benefits when we start cutting taxes.

One of the key reasons for the differences between the distribution of the plan is because the Democratic alternative makes the child care credit effective against payroll taxes. The reason for that, as I indicated in my opening, is 73 percent of the American people pay more in payroll taxes than they pay in income taxes. In fact, payroll taxes have been going up dramatically since 1950. This chart shows from 1950 to 1996. Here is what has happened to individual income taxes in terms of a percentage of tax receipts. Here is what has happened to payroll taxes. Individual income taxes have stayed about flat in terms of their percentage of our tax receipts. Payroll taxes have jumped dramatically.

Mr. President, this chart shows who is paying the tax bill and how the distribution has changed over the years. This shows from 1960 to 1996. Individual income taxes, you can see, 44 percent. Now they are at 45 percent. Payroll taxes were providing 16 percent of the revenue base in the country in 1960. Now they have gone up to 35 percent—35 percent of the tax receipts in the country are coming from payroll taxes; regressive payroll taxes.

Corporate income taxes: Their share has changed dramatically as well. In 1960, they provided 23 percent of our receipts. They are now down to 12 percent. And excise taxes have gone from 17 percent in 1960 down to 8 percent.

Mr. President, this I believe is one of the real flaws in the bill before us. Because the child care credit does not credit against payroll taxes, even though 73 percent of the people in this country pay more in payroll taxes, people at the lower end of the income scale don't get the benefit of the so-called child tax credit. In fact, this chart shows in the lowest 20 percent of income earners in this country, 99.5 percent of them are ineligible for the child tax credit under the committee proposal. Nearly 100 percent of the lowest 20 percent of the income earners in our country aren't eligible.

In the next 20 percent, nearly 90 percent of them are ineligible for the credit.

Mr. President, how is that fair? How is it fair that we have a tax credit for children but 40 percent of the people in America don't get the benefit of it because it is not refundable?

I would remind my Republican colleagues that in the Contract With America they made it refundable against the payroll tax and in the initial draft of this bill they made it refundable against the payroll tax. They were right. They have made a change that is a mistake, in my judgment, in terms of fair distribution of the past tax.

That goes to the question of distribution.

The second question is, Does this plan blow a hole in the deficit in the outyears?

This chart shows the outyear costs of what we call backloading. That is, certain tax types with certain tax plans explode in terms of their cost in the second 5 years of this 10-year plan.

Mr. President, this chart shows what happens to the IRAs that are included in this plan, the alternative minimum tax, and the capital gains tax cuts. In the first 5 years they cost $12 billion. But look at what happens in the second 5 years. The cost mushrooms to $84 billion, seven times as much in the second 5 years.

If I had a chart that showed what happens in the next 10 years, you would see these things explode, even further endangering the fiscal responsibility that we have taken on since 1993 in the effort to dramatically reduce the budget deficit.

Mr. President, I think that is a mistake. If we look at some of the elements of the backloading, we look at the alternative minimum tax, and you can see in the first 5 years there is no cost. Then it takes off like a scalded cat. In fact, in the second 5 years that costs $15 billion. No cost the first 5 years, $15 billion the second 5 years. But it is not just the AMT tax that has that characteristic. We see the same thing with capital gains. The capital gains provision goes from $3 billion in the first 5 years to $24 billion in the second 5 years. It explodes. I think we have to ask ourselves, does that make sense? Does that endanger the deficit reduction that we have worked so hard to achieve?

The IRA proposal is even more dramatic. It costs $9 billion in the first 5 years; it costs $45 billion in the second 5 years.

I think all of us would like to do these things. The question is, what do we lose? What happens if, because we have taken this kind of approach, the deficit reduction is in danger? I say to my colleagues the best tax cut is the tax cut we get from the lower interest rates by having deficit reduction. The very best tool for economic growth is getting the deficit down, which lowers interest rates; which helps spark investment, which helps spark the economic growth that has made such a dramatic difference in this country since the 1993 economic plan was approved.

The other test I apply that I think is a commonsense test is, are we promoting educational opportunity? I say the Senate package certainly has very good measures with respect to encouraging education, but I think the Democratic alternative is better. According to Citizens for Tax Justice, the top family income levels receive the largest education credit per family under the committee bill. Over 43 percent of families would be eligible for only a small part of the credit and an estimated 30 percent of American families under the committee bill have insufficient tax liability to receive any benefit from the HOPE credit. The Democratic alternative addresses that shortcoming.

Finally, it seems to me we should look to the economic incentives of the competing proposals. The Democratic alternative targets tax cuts to small businesses, farmers, and those who take risks in investing in small startup companies.

I believe that is where we should target the benefits. A recent Congressional Budget Office study found that 89 percent of tax returns reporting capital gains in 1993 had gains of $10,000 or less with the average gain being $2,000. By contrast, the 3 percent of returns showing gains of $200,000 or more accounted for 62 percent of the total value of capital gains.

It seems to me this is clearly a case where greater targeting to small business, small farmers makes good sense. We can get more bang for the buck by targeting these dollars than by giving them to those who are at the top of the income ladder, the very wealthiest among us, those who need it the least of all. The Democratic alternative provides nearly twice as deep a capital gains tax cut for owners of small and startup businesses. Most small businesses and farms will enjoy a 14-percent rate under the Democratic alternative rather than the 20-percent rate in the committee bill. That is because 75 percent of small businesses and farmers are proprietorships, partnerships or S corporations that will have much better and stronger benefit under the Democratic alternative.

Mr. President, I conclude by saying there is no question that the chairman of the Finance Committee treated us fairly in the Finance Committee. He was as fair as one could ever ask a chairman to be. I have commended him publicly. I have thanked him privately as well. He conducted himself as a real gentleman. I want to say that again publicly here today.

The question is not whether or not we worked together in the Finance Committee. The question is whether we could do better with an alternative.

I sincerely believe the Democratic alternative offered by Senator DASCHLE earlier today is better. It is more fair in its distribution. It protects the future by making certain we do not blow a hole in the deficit in the out years. It provides more targeted education benefits to all of the American people so that we make certain no one is left behind. And it is better for long-term economic growth because it focuses the dollars on those small businesses and those farms that are really at the heart of the American entrepreneurial revolution.

I end as I began. In 1993, many of us took a stand with respect to a plan to reduce the deficit. Our friends on the other side of the aisle said that the plan would not reduce the deficit, that it would increase unemployment and that it could crater the economy. They were wrong. The facts are clear. That plan dramatically reduced the deficit, reduced unemployment, and we have seen dramatically increased economic growth, dramatically increased business investment. That plan worked.

Now, today, we have another choice to make on an alternative of tax relief. The question is, who will benefit? Are we going to give the lion's share of the benefits to the wealthiest among us, or are we going to seek to spread the benefits more broadly throughout the American society?

I do not think there is any question but that the Democratic alternative is a more fair distribution of the benefits. I hope my colleagues could support it. I thank the Chair and yield the floor.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from New Mexico.

Mr. DOMENICI. I understood the distinguished manager of the bill was going to give the Senator from New Mexico 20 minutes, and I note the presence of Senator BENNETT. He asked me if he could have 5 minutes of my time to address the issue just presented, so I would ask that he be given 5 minutes of my time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENNETT. Mr. President, I thank the Senator from New Mexico for his courtesy, and I thank the Senator from North Dakota for his presentation. I think it is a very thoughtful presentation, and there are many parts of it with which I agree. There are a few, however, with which I disagree, and I appreciate the opportunity to put this disagreement close to it in the RECORD.

The Senator is justified in talking about the difference between things as they are now and things as they were 4 years ago when we were debating the 1993 tax package from the President. I am not sure he is entirely correct in saying that the program voted on this floor in 1993 is responsible for the tremendous growth we have had in the economy. I would remind him and other Senators that during that same 4-year period, we constantly heard how terrible Alan Greenspan and the Federal Reserve were behaving and that if, indeed, Alan Greenspan did not open up and make tremendous changes in monetary policy, the economy could crater, that jobs would be lost, that we would have tremendous deficits, and all of these other things would happen.

At some other time we can debate whether the tremendous growth we have had is the responsibility of the Clinton administration or the Greenspan Fed. The fact is, no one is really quite sure. The fact is, we have a booming, wonderful economy, and we should be grateful for it, however we apply blame or credit, which brings us to the issue that the Senator is addressing.

Will the tax program that we are talking about continue to stimulate that growth and allow it to burgeon, or will it in some way provide brakes on that growth in the name of income redistribution? The Senator says the issue is wealth distribution and how do we distribute the wealth in the fairest possible way. That is the portion with which I would argue.

Wealth distribution is not a static question. You do not have the wealthy at the top and the poor at the bottom. You have constant movement up and down the ladder. I always use the example of Donald Trump, who at one time was in the wealthiest 1 percent, and then he made a few bad mistakes and he was bankrupt. Then he made a few smart moves, and he is back up again.

Read the list of the people who are the richest people in the United States and you find the list is constantly changing. If I may be personal, there was a time not many years ago when I was clearly at the bottom in this country. I had a year not that many years ago where my earnings were zero and my wealth was going down because I was living on savings, and then when they were gone, I was going deeply into debt. Fortunately, one of my business ventures worked out, and now I would be listed up in that rarefied area that the Democrats seem to want to complain about. My point being that you cannot say you have a static group at one area that is going to be benefited and a static group at the other area that is going to be hurt; you have constant movement going back and forth.

The responsibility of the Senate is not to redistribute wealth among these supposed static groups in a way to create fairness. It is to create a program that will stimulate the growth so that there will be more money for everybody. John F. Kennedy said a rising tide lifts all ships. That is not always true in terms of skill problems and educational problems, but I think it is true in terms of economics. We want a tax program that will continue the dramatic growth that we have had in this country, and I respectfully suggest that that which is coming out of the committee is more geared to produce that result.

I thank the Chair.

Mr. DOMENICI. Mr. President, I thank the Senator from Utah for his very pointed remarks.

I think I would just say also that I thought the Senator made a good presentation. Senator CONRAD is always a contributor here. In fact, he voted for this Republican plan that he does not like here today, as I understand it. All Democrats on the committee voted for the bill in committee. I asked Senator GRAMM, and he confirmed that Senator CONRAD voted for the package. So I assume what we have going right now is something like this: A good bill was reported out of the committee. It had bipartisan support. It had Democrat support as well as Republicans. Now the Democrats have decided to bring back onto the American political scene the rich versus the poor issue.

I want to say something about the President because the distinguished Senator attributed the entire growth for the last 4½ years to the deficit package that increased taxes in 1993, and I will not go through what I believe caused it, and I will give the President some credit. I think the two things that economic historians will write are that the Federal Reserve Board for the first time in history has found out how to control interest rates in a very simple way, and they are doing it on a gradual up-and-down basis and they have kept this economy from going into cyclical downturns.

That is No. 1. No. 2, I give the President of the United States credit for one thing. Once his deficit package went in, frankly, the President listened more to probusiness advisers in his Cabinet, probably led by his Secretary of the Treasury Rubin, than all the rest combined. And I think history will reveal that the President did great things by nonaction. In fact, he is not a typical President in that he did not take significant steps to hurt business during a regime of a Democrat President—to put on more regulations, to make it more difficult to beat them up and talk about business. He was the other way. And I think he deserves some credit for what he did not do that one might have expected from a Democratic President.

You combine the two. The Federal Reserve is taking care of inflation and the President leaving the economy alone. This strong economy may still last for a few more years and defy some of the rules, although I doubt whether the ups and downs are finally done away with. I see a great economist in the Chamber. I am referring to the Senator from Texas. Maybe someday when we have the time he could talk about the economic cycle.

But I come here today for two other reasons. First, Mr. President, I really do not believe it is fair to the American people for the other side of the aisle and the White House to continue to talk about this package as if it helps the rich and hurts the poor.

First of all, Mr. President and fellow Senators, the only odd game out is the White House and the Treasury Department, who are furnishing the Democrats with the evaluation of the distribution of this tax cut package. No other institution of significance and broad acceptance is using that broad definition of income to evaluate the distribution of these tax cuts. And that is because the Treasury Department does not use the income that average people make to determine what bracket people are in.

It might shock you to know, Mr. President, and millions of Americans, that what the Democrats are talking about magically turns into $65,000 income family out of a $40,000 actual-income family.

Let me repeat. The Treasury Department's approach says, fellow Americans, taxpayers, what you are earning—and then you look at it and I am paying $6,000 in taxes—they are saying that is not your income.

They take income, add the value of the rent of your house, the value of fringe benefits, the value of all your assets if you were to sell them—unrealized capital gains—plus the value of our pension and life insurance. That is why a family who thinks they earn $40,000 appears on the Treasury's charts as a family earning $65,000.

Your income under the Treasury definition assumes that you are out on the street and you rent your own house. So they add about $8,000 or $10,000 to your income. Believe it or not, if you have any stock in any American corporation, even 10 shares, they have gone through the difficulty of imputing to you, the stockholder, the earnings of the corporation in which you have stock, even if they did not declare a dividend. Won't that be a shock to Americans, if they thought they were earning all that much money every year.

Let me make our case on this side. Actually, we rely upon the Joint Tax Committee. They are bipartisan and professional.

We did not use the White House's very strange way of calculating income called the family economic income approach which counts all of this phantom income I just outlined.

I put a credit card up here just to show you about it. I call it the Family Economic Income credit card. This is what the administration would give to an American taxpayer as the White House's credit card. But like the familiar add campaign for other credit cards, if you want to really buy something, you better have a Visa card because the country's shop keepers don't take the Family Economic Income Card.

Interestingly enough, Senator GRAMM, if you took this Family Economic Income card to a store to buy something, it's no good. If you took it somewhere to pay your college kid's tuition, it's no good.

This card inflates your income between 50 percent and 65 percent. It creates paper income. Or said another way, it counts phantom income as real income. So you can throw it away, just as you ought to throw away the evaluation of this tax package made on these kinds of evaluations.

It is absolutely plain and simple, and I defy anyone anywhere, including editorial boards, those who are commenting on the news—you just go ask, ask the Treasury Department, "Is a $40,000 income earner who, under this package that the Republicans have, if that person, that family is going to get back a certain amount of taxes and you apply that to the taxes they paid before, and if the difference is a savings of $3,000 in income taxes, you ask them are they giving you credit for that? Or do they have some other process to evaluate what you got by way of a tax cut?" I assure you they will not give you credit for the tax cut you got, because they started out by figuring you were in a different income bracket. Isn't that amazing? That is absolutely amazing.

How can somebody come to the floor and say this package is predominantly for the rich when one simple fact disposes of it?

Mr. President, 78.8 percent of the benefit under this bill goes to families earning $75,000 or less. Senator GRAMM, isn't that what you understood when the bill was reported out of committee? Isn't that what the Joint Tax Committee said to you?

Because we put income earning limitations on the $500 child credit we designed the credit to target the middle class. The $500 child credit is a huge portion of this tax cut. And the next component that is significant is for middle-income Americans, is the $1,500 education tax credit. It likewise has income limitations.

If you take those two together pieces of the package it constitutes over 82 percent of the tax cuts, how can it be that the charts used by the other side of the aisle are right?

It is because some of the Democrats are not using the income that Americans earn. They are using an imputed income calculation called family economic income. Imputed means we count it as income if you did not earn it. It is as if your earnings include what you could have earned, rather than what you have earned.

We want to make the point today. We are going to try very hard, against very difficult odds to rebut the media reports that this is a tax cut for the rich. The fact is this: 78 percent of the tax benefit goes to middle-class families earning less than $75,000.

Mr. President, for those who want to look up here, this is the way the Joint Tax Commission of the United States, a bipartisan group, says these tax cuts are spread. Less than $10,000 gets .06 percent tax cut because they are not paying much taxes. Let's go down this chart. For people earning $10,000 to $20,000 the percent of the tax cut goes to 4.8; for people earning between $20,000 and $30,000 their taxes are cut by 15 percent; and for those earning between $30,000 to $40,000 their taxes are cut by 32 percent; those earning $40,000 to $50,000 their taxes are cut by 48 percent.

That means families earning $75,000 of real income or less, 78.7 of this tax cut goes to them.

If you want to report that the tax cut goes to the rich you ought to report that 75 percent of the benefits goes to American wage earners who are earning $75,000 or less.

Having said that I want to move on quickly. There will be a little obfuscation because the White House will say this family income approach is not theirs, it was done in the Reagan White House.

This is a way to figure out how much people are worth. And they did that as a model for tax reform. Does it mean that on income tax and other taxes that you are paying currently, that this is a true model of what your income is? Of course not. Because it assesses to you income you never earned, you probably will not earn, and it says it does not matter, we are "imputing" it to you anyway. That is the way you are distributing this money pursuant to those kinds of tables.

Let me move, for a minute, to a couple of more facts. We are on the threshold of passing the largest tax cut in 16 years. It will help Americans of all ages and all brackets. Again, I commend the chairman and I commend the Democratic Senators who voted for the package. I thought it was an exemplary example of bipartisanship. As I said, apparently some of them if not all of them have decided to produce a new package today, just to prove a point and try to make a point based on White House Treasury analysis rather than those analyses done by the experts that represent us.

Let's put this in perspective. Parents of 43 million children will pay $500 per child less in taxes; 4.8 million parents with kids in college and taxpaying students will have $1,500 more to spend; and 7.2 million recent job entrants will be able to deduct their student loan interest. That is a pretty big percentage of Americans, and a huge portion of Americana, and essentially all of them are, for all intents and purposes, all of them are middle-class Americans if you use $75,000 as the definition of middle class.

Mr. President, the $500 child care credit will help the working poor and the middle class. The value of the personal exemption has been eroded over time, and the cost of raising a family has become more expensive. The credit in this bill will totally eliminate the Federal income tax burden for tens of thousands of families in New Mexico. I am particularly pleased that the Finance Committee decided to design the credit so that the working poor would also see the benefit of the $500 credit. Of the 718,850 families who file tax returns in New Mexico, 175,087 of them claim an earned-income credit. I applaud the Finance Committee's approach. It is a logical sequel to the new welfare reform law with its emphasis on moving from welfare to work.

I want to speak for a minute and I hope every Senator avails himself or herself of this, the $500 credit will save New Mexico families $454 million over 5 years.

A $500 per child credit is significant tax relief. According to the Heritage Foundation, a family with two kids eligible for two $500 credits would have an extra $1,000 a year in the family budget, and this amount would be enough to pay the mortgage for 1.5 months or pay for 15 months of health insurance or buy gas for the family automobile for 8 months.

In New Mexico, about 78 babies are born every day. In fact, I just was looking at a list. I have it here. I ask unanimous consent that their names be printed in the RECORD, just to show that on the day they are born they earn for a parent a $500 child care tax credit reduction. If they are too poor and eligible for an earned income tax credit, they still get $250 of that, under the bill the committee reported out.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Albuquerque Tribune, June 2, 1997]

BIRTHS

Here are the recent births at Albuquerque hospitals. Unless otherwise indicated, the parents live in Albuquerque.

PRESBYTERIAN HOSPITAL

Feb. 5

Velda and James Harrison of Grants, boy, Stephen Jordon.

Tess and Tom Kerstetter of Tijeras, boy, Justin Lawrence.

Tonija and Jim Pitts, girl, Sara Nicole.

Geneva and Rogue Tena, girl, Dannion Lee.

Cindy Weatherford, boy, Xavier Michael Dax.

Feb. 6

Selina and Scott Burt of Rio Rancho, boy, Michael Duncan.

Feb. 7

Mary and Christopher Andres of Bemalillo, boy, Christopher James.

Rhonda and George Buffet II, girl, Rachael Michelle.

Delilah and Bruce Langston, boy, Jeremiah Edward.

Zoyla and George Nuanez, boy, Antonio Andres.

Jessica Small and Gregory Foster, girl, Ryleigh Madison.

Feb. 8

Kathryn and Rick Carnes, girl, Theresa Jordon.

Feb. 9

Joyce and Lorenzo Barela of Belen, boy, Michael Andrew.

Genevieve and Michael Gomez, girl, Savannah Renee.

Karla Vallo and Christopher Sarracino of Acoma, girl, Raquel Elaine.

Feb. 10

Amy and Dan Conley, boy, Gunnar Ty.

Brenda and Mark Edwards, boy, Eligah Jordon.

Roberta and Carlos Gutierrez, girl, Samantha Dawn Elaine.

Paula and David Jackson of Belen, twins, Kaitlyn Joann and Ashley Nichole.

Denise and Donnie Tapia, girl, Savannah Adeline.

Feb. 11

Kalynn and John Kemaghan of Los Lunas, girl, Bryanna Marie.

Lisa and Bill Nesbitt, girl, Kathryn Anne.

Loretta and Thomas Mordstrand, girl, Angela Michelle.

Dolores Sanchez and Antonio Alire, boy, Antonio Jose Jr.

Carolyn and David Torres, boy, Nicholas Antonio.

Feb. 12

Jamela Eudora Antone of Torreon, girl, Emain Fawzi Gadri.

Tracie Asenap and Lorenzo Bemal, boy, Jakob Matthew.

Renee and David Samora, girl, Desiree Alexis.

Amber Woods and Christopher Lucero II, girl, Sierra Rae.

Feb. 13

Annie and Andrew Chavez, boy, Andrew Steven.

Jodi and Andy Darnell of Bernalillo, girl, Rachel Emily.

Monica Garcia and Alfred Baca of Los Lunas, boy, Alfred Gene Jr.

Annette Gurule and Lee Acosta, girl, Desiree Annette.

Brenda and Kevin Judd, boy, Brandon Lee.

Ann Michelle Nelson, boy, Taylor Emory.

Michelle and Juan Tena of Grants, boy, Armando Alberto.

Feb. 14

Angelique and Steven Garcia, girl, Elena Merced.

Monica Monroe and Michael Smith, boy, Clayton Steward.

Yvonne and Antonio Berni of Los Lunas, girl, Jasmine Danielle.

Feb. 15

Evangeline and Ricardo Duran of Los Lunas, boy, Ricardo.

Freda Billie and Ronald Begay of Gallup, girl, Fershaylynn Ervin Percy.

Victory and Michael Brohard, boy, Michael Matthew.

Kristin and Christopher Johnson, boy, Luke Nakaya.

Brigida Leyba and Wallace Jackson, girl, Jazmine Jacklyn.

Kristine Pineda, boy, Adrian Tomas.

Dana and Johan Resediz, girl, Vanessa Annette.

Danielle Stebleton and Dartanian Benson, girl, Dajour Tanae.

LOVELACE MEDICAL CENTER

May 14

Jennifer Duran and Anthony Hernandez of Albuquerque, twin boys, Marlano and Martino.

May 18

Bobbie Jean Leach and James Gonzales of Albuquerque, boy.

May 19

Daniel and Paula Vasquez of Albuquerque, boy.

May 20

Bill and Dianna Matier of Albuquerque, girl.

Roy L. Wade and Elizabeth Shoats of Albuquerque, girl, Jessie Daniel.

Antoinette and Marco Lovato of Albuquerque, girl.

Chad and Nancy Mills of Albuquerque, girl.

May 21

Ronald and Theresa Sanchez of Albuquerque, girl.

Daniel and Julie Sandlin of Albuquerque, boy, Eric Matthew.

May 22

Marvin and Frances Dominguez of Albuquerque, boy.

May 23

Jim and Deanna Fafrak of Albuquerque, girl, Tatiana Marie.

Maurice and Anna Ortiz of Albuquerque, boy.

May 24

Paul and Yvette Baca of Albuquerque, boy.

May 27

Jay Hale and Kyona Lucero of Albuquerque, boy.

Randy and Kelly Irwin of Sandia Park, boy.

May 28

Patric and Erin Carabajal of Albuquerque, girl.

May 29

Martha Jane Cavic and Paul Burdette Tilyou of Albuquerque, girl.

Camille and Larry Vigil of Albuquerque, boy, Kyle Anthony.

May 30

Bibiana Gower and James Kaminski of Albuquerque, boy.

June 1

Eric and Samantha Clark Rajala of Albuquerque, girl.

Louie Apodaca and Cynthia Mendoza of Albuquerque, boy.

June 3

Rick and Kathleen Emmert of Farmington, boy.

Quentin and Mary Doherty of Edgewood, girl.

ST. JOSEPH NORTHEAST HEIGHTS HOSPITAL

April 28

Ernie and Laura Manzanares of Albuquerque, boy.

April 29

Ross and Gloria Tollison of Albuquerque, girl.

April 30

Angle West and Casey Hamblin of Albuquerque, girl.

May 1

Mike and Charla Smith of Albuquerque, boy.

Monique Rawinsky and Getty Litts of Albuquerque, girl.

Scott and Katie Jacobson of Albuquerque, girl.

May 2

Kenneth Schafer and Siobhan Martin-Schafer of Albuquerque, girl.

Craig and Angie Parr of Albuquerque, boy.

May 3

Bryan and Betty Bareia of Albuquerque, boy.

Jeff and Evelyn Coleman of Albuquerque, girl.

May 4

Joseph and Sheri Tafoya of Albuquerque, girl.

May 5

Larry Davidson and Angela Archibeque of Albuquerque, boy.

Mark Bigoni and Catherine Gragg of Albuquerque, boy.

May 7

Jeffrey and Andrea Ehlert of Albuquerque, girl.

Mark and Judith Neuman of Albuquerque, girl.

May 8

Jon Ira and Cheryl Robertson of Albuquerque, girl.

Herman Wilson and Shryl Benally of Albuquerque, boy.

Gilbert and Morayma Sanchez of Albuquerque, boy.

May 9

Loren and Debra Cushman of Albuquerque, girl.

Antoinette Barela and Eric Lopez of Albuquerque, girl.

Bill and Liz Montgomery of Albuquerque, boy.

Nilufar and Anwar Hossain of Albuquerque, girl.

May 10

Arturo and Yeavette Andujo of Albuquerque, boy.

May 11

Maria Elena Vargas and Phillip Lopez of Albuquerque, girl.

May 14

Marnie and Omar Sadek of Albuquerque, boy

Lianne Patterson of Albuquerque, boy.

Karen and Steve Lillard Albuquerque, girl.

May 15

Ryan and Victoria Fellows of Albuquerque, girl.

May 18

Hal Byrd and Mary Dewitt-Byrd of Albuquerque, boy.

May 19

Luisa Lara and Ben Lucero of Albuquerque, girl.

David and Theresa Spinarski of Albuquerque, girl.

May 20

Toby Avalos and Maranda Pugh of Albuquerque, boy.

Wendy and Eugene Garcia of Albuquerque, boy.

Jim and Elaina Freesc of Albuquerque, girl.

Thomas and Tina Rowland of Alburquerque, boy.

May 21

Cabot and Patricia Follis of Albuquerque, boy.

Eddie Salas and Silvia Valencla of Albuquerque, girl.

May 22

Melanie Herrera and Christian Dunn of Albuquerque, girl

Orlando and Marie Encinias of Albuquerque, boy.

May 29

Amanda and Aaron Tucker of Albuquerque, boy.

UNIVERSITY HOSPITAL

Feb. 26

Kathleen and Juan Arellano of Albuquerque, boy, Alonzo Luis.

Feb. 27

Ana and Mario Rivera of Albuquerque, girl.

Feb. 28

John and Mary Matthews of Albuquerque, girl, Anna Kathleen.

March 8

Jason and Maria Cordova of Albuquerque, boy, Vincent Layson.

Cameron and Lois Cole of Albuquerque, girl, Rebecca Elizabeth Marie.

March 9

William and Livia Treat of Albuquerque, girl, Alejandra Maria.

Albert and Laura Carrasco of Albuquerque, boy, Albert Jr.

Cang Phan and Dat Nguyen of Albuquerque, girl Donna Nguyen Tan.

Jeremy and Michelle Lee of Albuquerque, girl, Ashley Nicole.

Vincent and Tracey Everett of Albuquerque, girl, Christina Isabelle.

March 11

Sonia Gutierrez and Anthony Martinez of Albuquerque, girl, Elena.

John and Emily Loucks of Albuquerque, boy, Thomas Edward.

March 16

Tim and Kathleen Newell of Albuquerque, girl, Emily Allison.

Mary Ann Vasquez of Albuquerque, boy, Mark Anthony.

March 18

Doug and Terry Lengenfelder of Albuquerque, girl, Hayley Shannon.

Julie Lopez and Damion Jenkins of Albuquerque, girl, Jenaya Neshae.

March 20

Juanita Carrillo and Charles Orona of Albuquerque, girl, Alicia Maria

March 21

Virginia Garcia of Albuquerque, girl, Stephanie Amanda.

Mr. DOMENICI. This bill provides some very, very good deductions and credits for going to college. So a tax cut, as I view it, is long overdue. In 1948, American families sent about 3 percent of their income to Washington for taxes. Today it is closer to 25 percent. I believe it is much better to leave more money in the hands of our families and our parents and our people.

This bill provides eight separate provisions that help finance college. The most significant is a $1,500 tax credit for 50 percent of the tuition for the first 2 years of a 4-year college; 75 percent of the tuition paid at a community technical school. I believe the committee designed these right and I believe they make good sense.

There is the deductibility of student loan interest. This provision automatically shifts the benefit toward children of low- and middle-income families. The $2,500 deduction of student loans and the interest on them is well designed, and it will produce some powerful incentives as students graduate for them to get on with their lives and get out from under the debt burden as soon as possible. This bill makes an exclusion of $5,525 worth of education assistance.

Mr. President, I have additional remarks that analyze my State but I close by once again repeating: This is the chart of the Joint Committee on Taxation of the United States, that says this is the distribution of our tax cut based on income the American people are making. It has a few imputed things in it but nothing like the White House, and people will be surprised how much they are allegedly earning under the Treasury of the U.S. evaluation of their earnings.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. CONRAD. Mr. President, I yield such time as the Senator from North Dakota will consume.

Mr. DOMENICI. Mr. President, I believe we have a lot more time left. Could we ask how much time is left?

The PRESIDING OFFICER. The Senator has an hour left and the other side has 39 minutes left.

Mr. DOMENICI. I wonder if we could start to equalize it a little bit by going on our side.

Mr. DORGAN. I ask the manager, my understanding of the process was we were going back and forth on the presentations.

Mr. DOMENICI. I was not here. Is that correct?

Mr. CONRAD. That was the agreement.

The PRESIDING OFFICER. There was an agreement to that effect, 4 hours equally divided.

Mr. GRAMM. Mr. President, let them go ahead if they want to. We have over an hour and they have 39 minutes. What we were going to do is try to run ours down. But I always am interested in being informed by our colleagues. Let them go ahead and respond and then, if I could be recognized, I will speak.

The PRESIDING OFFICER. The Senator from North Dakota yields how much time to the Senator from North Dakota?

Mr. CONRAD. So much time as he shall consume.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. I ask if the Senator from North Dakota will yield to me for a question?

Mr. DORGAN. I will be happy to yield to the Senator for a question.

Mr. CONRAD. We have heard from our friends on the other side with respect this question about imputed income in charts that have been used. I would just ask the Senator from North Dakota if he is aware, if you take imputed income out—take it out—it does not change this chart an iota, it does not change it at all; not a whit? It would change the income amounts for each of these categories, it does not change the relationships at all. The reality is, if you compare these two plans, the top 20 percent of the income groups in the United States under the Finance Committee plan gets 65 percent of the benefits. Under the Democratic plan, they get 20 percent of the benefits.

The fourth quintile gets 21 percent of the benefits under the Democratic plan and gets 32 percent of the benefits under the plan out of the Finance Committee. You take imputed income, put it aside, you don't want to use that, although it has always been used here as the measurement for distribution under Republicans and under Democrats. That's the way it has been done. I happen to agree, you ought to leave imputed income out of it. But if you take the cash income, this is the same distribution that you get on these two plans. You have five quintiles, and those five quintiles bear the same relationship. What changes is the income categories attached to each. That is a fact.

The relationship between the quintiles does not change. Under the plan that is being advocated by our friends on the other side, the biggest benefits go to the wealthiest among us. It is undeniable. That is the case. They want to quote Joint Tax. Let's talk about what is wrong with the Joint Tax proposal.

Rather than assess the effect of the tax cuts when fully implemented, Joint Tax tables, cited by our friends on the other side of the aisle, cover only the years up to 2002. I ask my colleague from North Dakota if he is aware, as a result, the Joint Tax Committee's tables ignore 94 percent of the combined $82 billion of capital gains tax changes, estate tax changes and IRA tax cuts contained in the Roth bill. Is the Senator from North Dakota aware?

Mr. DORGAN. Senator CONRAD is exactly correct. And, if I might reclaim my time, let me add to Senator CONRAD's presentation something that is not from us, but something from the New York Times. Let me read an editorial from the New York Times, because I know anyone can bring anything to this floor. You can bring a chart to this floor that says shrimps whistle, pigs fly, and the Moon is made of green cheese. You can bring a chart that shows anything you want. Will Rogers said it best about this debate. He said: "It's not what he knows that bothers me. It is what he says he knows for sure that just ain't so."

Let me read you the New York Times editorial about this discussion we are having:

> Before Congress votes on anything, it should get its facts straight. The Republicans present bogus tables suggesting their tax package is fair. The tables stop at the year 2002, before the cuts that favor the wealthy on capital gains, inheritance and retirement accounts take hold. Also, the GOP treats as burdens the tax payments that the investors will voluntarily make as they sell stocks and bonds to take advantage of a lower capital gains rate. The bizarre implication is that investors are hurt by a rate cut. These tables suggest that the middle class reaps most of the benefits. Independent analysts say that about 50 percent of the cuts will go to the richest 5 percent of the taxpayers.

That is not me saying it, it is a New York Times editorial.

Is the New York Times correct? Yes, they are correct. Why? Here is the reason. The chart that we have just seen illustrated on the floor of the Senate about burdens is a chart that covers only the years up to 2002, and it ignores 94 percent of the costs of capital gains, estate, IRA tax cuts in the Senate bill. When the tax cuts proposed in this bill are fully phased in, there is no question what the distribution of this tax cut is. By far, the preponderance of the tax cuts offered in this bill will go to the richest Americans.

This chart that we have just seen, the burden table that is offered on the floor of the Senate, portrays capital gains tax cuts as increasing the tax burden on upper income taxpayers, and it also excludes the estate tax cuts, which total $35 billion in the Senate bill. That is why you have a table that is simply wrong.

Is it right in the context of what it proposes to tell people in a snapshot of time? Sure, but what it proposes to tell people is something that doesn't include all of the facts. It says, take a look at this little slice, and then we are going to give you the conclusion about this little slice of facts, but it is not real.

Mr. President, we are having a discussion about whether the proposed tax cut can be improved. The answer is, yes, it can; it can be improved. One of the things that traps everyone in this Chamber and I think everyone in Congress is the minute you start talk about cutting taxes, we rush immediately to the corner and begin to talk about taxes, and then we begin immediately to talk about capital gains. Let me describe another approach that makes more sense.

Two-thirds of the American people pay higher payroll taxes than taxes. The tax that has increased in this country in recent years has been the payroll tax. The folks who go to work, work hard, sweat, get dirty, take a shower after work are the folks who earn a wage. They don't sit home clipping coupons. They don't get big dividends. They don't have big stock gains. They work for a wage. And then someone who showers before work and sits on the front porch and never raises a sweat and never gets dirty because they are simply cashing in their dividend checks and watching the stock market go up, and so on, they get capital gains. But we are told that stream of income somehow is preferable to the income from work.

So we have a philosophy in this Chamber that says let us tax work, but let us exempt investments. Why? Why tax work and exempt investment? And if you do that, what is the consequence? The consequence is easy to understand. Who has the investments and, therefore, who gets the tax break if you exempt investment? Who works and who pays the higher payroll taxes because they work? Then who is largely left out of this equation when it comes time to talk about cutting taxes?

The other side says to us, "Well, except we propose a per-child tax credit, and that's going to help all those families with children," except they propose the tax credit not go to nearly 40 percent of the children in this country because the folks don't make enough money to qualify for it. Why? Because they measure it only against the income those folks earn as opposed to measuring it against the payroll tax they pay—and, I might add, a higher payroll tax at that.

Can this be improved? Absolutely. Should it be improved? You are darn right it should be improved. Has Senator DASCHLE proposed something that will dramatically improve this tax relief proposal so when you pass around the largess of tax cuts, you go around that table and you see the income earner sitting at the table, those at the bottom fifth, those at the second fifth, on and on, each of them are going to get a significant part of the tax relief? Is that what Senator DASCHLE has proposed? I think so. If we don't pass this substitute, we will end up with a tax bill that goes around that table and passes out tax cuts in a way that is fundamentally unfair. Oh, there are some at the table who will get almost nothing, some just a few crumbs, some a few tiny little slices, and some at the other end of the table will sit there with a huge platter and three-fourths of the cake. All we are suggesting is there are other ways to measure proposals for tax cuts that provide a fairer distribution.

I find interesting this discussion we have about the economy and where we are and where we are headed. The economy is doing better in this country. Some wouldn't give this administration credit under any set of circumstances. But this economy rests not on the shoulders of the Federal Reserve Board, the last American dinosaur that sits down there in that concrete temple; this economy rests on the confidence of the American people that we and others will do the right thing to keep this economy on track.

Doing the right thing in 1993 meant a Deficit Reduction Act that brought down the Federal budget deficit in a serious way. It was not fun to vote for that because it wasn't politically smart to vote for that, and my party paid a significant price for passing it. I can recall—and I won't mention names—I can recall those who stood up and said, "You pass this and this country will be in a recession." "You pass this and this country will be in a depression." "You pass this and you will throw the economy completely off track."

We passed it. We indicated to the American people we were serious about reducing the deficit. Guess what? The American people took hope and confidence from that, and the result is when you have confidence, you buy cars, houses, you make decisions about the future based on that confidence. When you lack confidence, you defer those purchases and you have an impact on the economy that is negative. When you have confidence, you have an impact that is positive. I am pleased we did what we did in 1993, and the economy is better because of it. Inflation is down, the deficit is down, unemployment is down, economic growth is up.

So, in that context, while we balance the budget, or attempt to balance the budget, with a series of decisions now and attempt to provide some tax relief, the question today is, who will receive the relief? And we get these burden sharks that give us a vision of who gets the relief that is simply wrong.

Again, I refer to the New York Times editorial. You can't give us a description of who gets tax relief by leaving out the bulk of the tax relief that is going to go to the upper income folks.

Let me finish on one additional point. One of my concerns about what we are doing is we will create a tax shelter industry if we go the totusporcus route of capital gains. I believe very much that recreating the tax shelter business in this country is unhealthy for America.

Senator DASCHLE is proposing something that makes sense. Let's measure against payroll taxes paid; let's measure against that an ability to receive tax relief based on the refundable child care tax credit. That makes great sense to me. If we don't make that child care tax credit refundable against payroll taxes paid, which are the taxes that have increased in recent years, then we will not have done working families a great favor with this bill.

So I stand today and hope that colleagues will support the substitute offered by Senator DASCHLE, cosponsored by myself and others. I think it is substantially more fair, and I think it substantially improves the tax relief bill the Senate is now considering.

Mr. President, I know others wish to speak. I appreciate the courtesy of the Senator from Texas. My understanding was we were going back and forth, and I appreciate very much the courtesy of the Senator from Texas.

I yield the floor.

Mr. GRAMM. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Chair recognizes the Senator from Texas for 10 minutes.

Mr. GRAMM. Mr. President, this is not a debate about taxes, this is a debate about class warfare. I do not understand how people can love jobs and yet hate the process that creates those jobs. If America is going to be saved, it is going to be saved at a profit, and I am not going to apologize for trying to provide incentives to create jobs, growth, and opportunity in America.

We can stand here and shout back and forth with our colleagues who are saying, "Well, if you make $30,000 a year but you own your own home, if you rented your home, you would get another $8,000 of income, so you make $38,000. And if you own a life insurance policy, it is building up internally, and so while you think you are making $30,000, but you actually have $8,000 from your home and another $6,000 from your insurance policy, and your retirement is going up, and, really, you are making $45,000 a year—you only think you are making $30,000 a year, but really you are rich."

Let me tell you, I can cut through all that stuff. There is a simple code that if you understand, you will understand everything they are saying: If you pay taxes, then you are rich under the Democrats' plan.

Their basic program is very simple: Never cut taxes, because taxes are only imposed on rich people. Always raise taxes, because taxes are always imposed on rich people. So, as a result, they always want to raise taxes, but never want to cut them.

It is interesting to note that the average tax burden on working Americans today is at the highest level in the history of the United States of America.

We have heard a lot of talk about their great bill in 1993. Might I remind my colleagues that the word then was that this bill only taxes rich people.

Who were those rich people? Everybody who buys gasoline. Who were those rich people? People on Social Security in the President's original bill who made $25,000 a year, if you counted what they would get if they moved out of their own homes and rented it for income.

But, look, this is not a debate that is worthy of America. What we should be debating is, will this tax cut create jobs? Our objective should not be trying to spread the misery or redistribute the wealth. It ought to be to try to create wealth.

We hear our colleagues say, "Can you believe that the tax cut before us does not cut taxes for the lowest 20 percent of all income earners in America?" Did you hear that? "This bill does not cut taxes for the lowest 20 percent of income earners in America. How could that possibly be so?" Well, the reason it is possibly so is because the lowest 20 percent of income earners in America pay no income tax.

This is not a welfare bill. This is a tax-cut bill.

The top 20 percent of income earners in America pay 78.9 percent of all the income taxes in America. The bottom 40 percent, on balance, pay no income taxes at all. Is anybody surprised that the top 20 percent, who pay almost 80 percent of the income taxes, will get a tax cut when you are cutting taxes and that the bottom 20 percent, who do not pay any income taxes, will not? Why is that supposed to be a revelation? Do we have to increase welfare every time we try to help working families?

In the bill that is being proposed, we have yet another massive increase in a welfare program. It has a wonderful name, EITC, the earned-income tax credit. What it has become is an unearned-income tax credit. This is a program which pays people who do not pay taxes but is called a tax cut.

The last time taxpayers got a tax cut was in 1981. In 1981, the average amount we were giving away in EITC, this welfare program the Democrats call a tax cut, was $285. Today, that average beneficiary is getting $1,395. The average American who does not pay income taxes but who is getting an earned-income tax credit to offset taxes—in many cases when they have no tax liability—has had their subsidy increase from $285 a person to $1,395; while working families who do pay taxes have not gotten a dollar of tax cuts. In fact, their after-tax income has actually declined.

Now we are here trying to give a $500 tax credit per child for every working family in America, so that Americans who make $30,000 a year and have two children will be off the income tax rolls. What is the complaint from our Democratic colleagues? Their complaint is that we are not giving money in our tax cut in large enough amounts to people who are not paying taxes.

This is a tax-cut bill. This is not a welfare bill.

We pass a lot of welfare bills around here—too many of them—but this is not one of them. This is a tax-cut bill. We should ignore all this malarkey about the bottom 20 percent not getting any income tax cut, they do not pay any income taxes.

Our colleagues have lamented the payroll tax. They claim that they are really worried about the payroll tax. Well on May 22, 1996, John ASHCROFT, the Senator from Missouri, offered an amendment to allow moderate-income people to deduct their payroll tax from their income in calculating their income tax.

Every person who has spoken in favor of this amendment, who has criticized the underlying bill for not giving tax cuts to people who do not pay income taxes, and who has lamented the payroll tax—every one of them voted against Senator ASHCROFT when he tried to cut taxes for people who are paying big payroll taxes.

Let me also say that all of those who I have heard today speak in favor of this amendment also supported the Clinton health care bill that would have raised the payroll tax by 8.9 percent to pay for socialized medicine. Of course, today they are terribly upset about the payroll tax and they want to give income tax cuts to people who are not paying income tax.

What is their program? Their program is tax cuts for people who do not pay taxes, capital gains tax cuts for people who do not own capital.

Our program is to cut taxes for people who actually pay taxes. I am not going to apologize for the fact that when 20 percent of the people pay 80 percent of the taxes, when you are going to do a tax cut, that 20 percent is going to get a bigger tax cut.

Listening to all this talk, you would think that every year the tax burden is getting heavier and heavier on lower income people. It is not true. The tax system has become more progressive every day since Ronald Reagan became President. In fact, his tax cut made the system more progressive, as does our tax cut.

We really should not even be talking about this because it just smacks of us pitting one group of people against another based on their income. Many of the people in the Senate today grew up in families that were low- or moderate-income families. You are not stuck being poor your whole life because your parents are poor.

Neither of my parents graduated from high school, but they did not resent people who made money, nor did they feel the Government should come along and take it away from somebody else to give it to them.

Now, maybe this sells. Maybe this sells politically to say, "Twenty percent of the income earners get no tax cut." Maybe it sells. But remember, they do not pay any income taxes either.

This is a tax-cut bill.

In 1993, taxes were increased by $250 billion in the Clinton tax-increase bill. We are cutting it by $74 billion in our bill and 75 percent of it is going to families that make $75,000 a year or less. Maybe those families are rich to the Democrats. Maybe a working couple making $75,000 should be taxed into poverty. I do not think so. I want them to be able to keep more of what they earn.

I thank the Chair for its indulgence.

Mr. BINGAMAN addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. BINGAMAN. Mr. President, I yield myself up to 10 minutes.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I want to change the subject just slightly in this debate and talk about a different aspect of why I believe the Democratic alternative being proposed here is preferable to the bill which was reported by the Finance Committee. That is because, as I see it, the Finance Committee bill has in it what have been referred to as fiscal "time bombs," which would explode the size of the revenue loss as we move into the next century.

Our bill, our alternative, the Democratic alternative, tries to eliminate those fiscal time bombs, and in doing so is more fiscally responsible for the long-term future of the country.

Let me talk about that aspect of it slightly. I do so first with this chart that I have here. This chart shows tax cuts—the Senate bill; this is the bill we are debating and getting ready to vote on here either late tonight or tomorrow—shows that the tax cuts in this Senate bill are heavily backloaded.

What that means is that, although the budget agreement calls for $85 billion in tax cuts in the next 5 years, through the year 2002, it calls for $250 billion in tax cuts up through the following 5 years, up to 2007, and if you take the next 10 years and look at what happens in that period so that you have the full 20-year period in mind, it goes to $830 billion in tax cuts and lost revenue to the Treasury. That is what we mean by backloaded.

You say, why are we losing that much revenue? What is there in this tax bill that is costing that much revenue? Here are three of the main reasons why we are losing that revenue.

Of course, this chart only goes through the year 2007, but it shows that the alternative minimum tax, of course, the change there is losing $15 billion, the change in the capital gains is losing $24 billion in this second 5-year period, and the change in the IRA's is losing $45 billion.

I want to talk a moment about the provisions in this bill related to IRA's and how we are going about losing that much money.

We are losing it primarily because of a provision in this bill that is called the IRA Plus—the IRA Plus. People need to understand a little bit about the IRA Plus.

Mr. President, there are two kinds of IRA's that are available to any of us today in America. One is a deductible IRA where you are able to deposit into your individual retirement account money before you pay tax on it. That is deductible money, deductible from your tax return.

The other, of course, is a nondeductible IRA. You can deposit up to $2,000. If you do not use the deductible IRA, you can deposit up to $2,000 in a nondeductible IRA. That is money that you have already paid tax on.

You can have either under current law.

Let me just talk a moment about the deductible IRA. Under current law, all taxpayers with incomes below $50,000—that is joint filers—so a family that earns less than $50,000 or reports income of $50,000 may make a deductible contribution to an IRA. They can put up to $2,000 in an IRA every year without paying tax on that money. That can be saved by them for their retirement into the future. They do not have to take it out, do not have to begin taking it out until they are over 70 years old. That is a very good benefit.

All ratepayers who are not covered by an employer-sponsored plan may make deductible contributions regardless of their income level. So we are saying that if you are not covered by any kind of employer-sponsored plan, you can go ahead and deposit your $2,000, take the tax deduction under current law, and you are not penalized. This covers over 70 percent of all of those who are eligible, so that 70 percent of the people filing tax returns today can take this $2,000 deductible contribution if they so choose.

Under the proposals in this bill on deductible IRA's, all taxpayers then with incomes below $100,000—we are essentially doubling or increasing by twice the income level for joint filers—and any family with an income up to $100,000 can make a deductible contribution to an IRA. All taxpayers who are not covered by an employer-sponsored plan may make deductible contributions regardless of the income level.

The estimate here is that we are now talking, under the proposed bill, of 90 percent of all taxpayers, 90 percent of all families will be eligible to make deductible contributions.

We are going next, Mr. President, to the real clincher in this so-called IRA Plus.

An IRA Plus is a nondeductible IRA. It is not a deductible IRA. It is not the kind of IRA that is available to people who have $100,000 or less in income or who are covered by an employer-sponsored retirement plan. This is aimed primarily at those who earn over $100,000 in income and who have employer-sponsored retirement plans already.

Current law says that you can go ahead and deposit your $2,000 each year. That money compounds, that money gains interest or capital gains of whatever kind until such time as you start drawing the money out, at which time you pay tax on it.

The proposal in here, IRA Plus, says that not only can you have this, you can have it in a particularly attractive way.

First of all, we are going to let you take any IRA you have now and convert it into an IRA Plus if you want to and pay the tax that is due up to January 1, 1999. You have to pay it during the 5 years that it is covered by this budget plan so we can take full credit of those funds in deciding whether we have balanced the budget, but you can pay that, and then once you have set that up, the nondeductible IRA is no longer taxable.

There is no tax owed when you realize a gain. There is no tax owed when you distribute money out of that IRA. There is no tax owed when you spend the money. We are setting up essentially, Mr. President, our own version of a Swiss savings account or a Swiss bank account.

We have all read about people with lots of money who go to Switzerland and set up a bank account so they can avoid taxes that way. They will not have to do that anymore. They can just set up an IRA Plus, put money in there, and then any gain they realize on that for the rest of their life is not taxable.

This is the only place in our tax law, as far as I know—I am not an expert on tax law—but as far as I know there is no place else in our tax law where we set up this kind of a provision, where we say if you put money in one of these accounts we will no longer charge you any tax on that or on the gains from that money for the rest of your life. This is what the IRA Plus is. This is why this bill is so heavily backloaded.

Clearly, this is a fiscal time bomb. There is no other way to look at it. There is no justification, in my view, for us putting this kind of a benefit in for individuals who have over $100,000 in income and who are also covered by another employer-sponsored retirement plan. This is a provision which is not, as I understand it, in the House bill that is being considered on the House side.

I hope very much later in the debate today I can offer an amendment to try to strike this provision from our own bill. If we do strike this provision, we will deal with a great deal of the problem that exists in the Finance Committee bill in the backloading of this provision. It will be much more fiscally responsible to eliminate this provision, and clearly it will be fair to working Americans at all income levels.

I still want all Americans to have the right to deposit the $2,000 after tax into an IRA, just as they can under present law. That is entirely appropriate. But they ought to have to pay tax on the earnings from that as they do today.

Mr. President, I hope this amendment is seriously considered when I do get a chance to offer it later in the evening. I also believe that the fact that we are eliminating this IRA Plus in the alternative that the Democrats are offering today is a major reason why I am planning to support that alternative.

I commend Senator DASCHLE for putting it forward today, and I yield the floor.

Mr. NICKLES. Mr. President, I yield myself 10 minutes.

Mr. President, first, I wish to urge my colleagues to vote no on Senator DASCHLE's substitute. I started to call it the Democratic substitute. I hope that is not the case. I really truly hope that is not the case, because we passed a bipartisan bill, one that had Democrats and Republicans supporting it.

For those people that are saying this bill that was passed is for the wealthy and so on, that is absolutely hogwash. This bill that we passed in the Finance Committee is very family friendly. The bulk of the benefits, over 80 percent of the benefits, are for families with kids and/or education. The child tax credit, for example, starts phasing out with families or individuals that have incomes above $75,000. Personally, I think it should be for all families, but we did not make it that way. I think we should make it for all families. Upper-income people will not get it.

So this idea that we are just benefiting upper-income people is absolutely not true. Upper-income people, the highest-income people, do not get the family tax credit. Everybody else does. I think we should make it apply to everybody, but we didn't. There are income limits on that.

There are income limits on the education tax incentives. They start phasing out with individuals at $40,000 and couples at $80,000. A lot of times we will not be able to tell our constituents that everybody gets this. People with incomes up to $40,000 will get it if they are individuals or couples at $80,000, but above that they might not. We cannot brag about this too much because not all Americans get the education incentive. Not all Americans get the child tax credit. I tell you, a lot more Americans will get these tax benefits under the package that is before the Senate, the bipartisan finance company, than under Senator DASCHLE's alternative.

Senator DASCHLE's alternative is redistribution of wealth. It is not a tax cut for taxpayers. It is using the tax system so we can channel more money to people that do not pay taxes in the first place. It is kind of complicated because he says we want people to get the child care tax credit, and then we also want them to get the earned-income credit in addition to that. Wait, what is he doing? On the child care tax credit, that is only $250. Ours is $500. Now, there is a little difference here. Ours is for $500, his is for $250. Ours apply to children up to age 18 and below age 13 everybody gets $500. In Senator DASCHLE's approach, they get $250. If they put it in an IRA, they get $350. That is the Government telling people what to do. Nobody gets any benefit under Senator DASCHLE's proposal if they are between ages 13 and 18 until the next century—until the year 2000. That does not make a lot of sense. He says he has a child credit, but it is only $250; but if you are 14 years old, you do not get anything under their proposal.

Why? Well, the reason why he did that is to have the credit be refundable. I urge my colleagues when they say tax "credit refundable," really what they mean is we want to have a spending program. This is not a program to cut taxes. It is a program for Uncle Sam to spend money through the tax credit.

President Clinton likes this. There is a big increase in the so-called earned-income credit. I hope we change the name of that section of the Tax Code later on today or tomorrow. But they use that Tax Code as refundable tax credit to write people checks.

My colleagues on the Democrat side said we want to give whatever child tax credit and earned-income credit on top of that so Uncle Sam can continue writing more checks. I ask unanimous consent to have printed in the RECORD at the conclusion of my statement, a chart showing how much the earned-income credit has expanded in the last several years.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. NICKLES. In 1990, the maximum benefit was $953 for a family with 2 or more children. In 1993 it was $1,511. This year, the maximum benefit for two children is $3,680, and 90 percent of that is not a tax credit. It is Uncle Sam writing a check. It is not reducing somebody's tax liability. In most cases these are not Federal income tax liabilities, but Uncle Sam writing a check. Somebody said that is to make up for payroll taxes. They pay Social Security taxes, yes, 7.65 percent, but the tax credit is 40 percent, far and above what they pay in Social Security taxes.

I just mention to my colleagues, this is the welfare program, and our colleagues supporting Senator DASCHLE's amendment want to expand it. They want to give a child care tax credit and expand the earned-income credit, give both, so they can say we are giving money to low-income people. The Tax Code should not be for redistribution of wealth. If we are going to have a tax cut, it should be for taxpayers.

They say this plan that passed the Finance Committee is unfair because it advantages upper income. Absolutely false. Eighty-two percent of this package in the first 5 years falls to families with incomes less than $75,000 or $80,000; 75 percent of the whole package falls to families less than $75,000.

Then a couple of comments, well, it benefits the wealthy. They do well because we have capital gains. Absolutely false. I ask unanimous consent to have printed in the RECORD another chart, showing the highest 10 percent of the taxpayers pay 47 percent of the tax.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. NICKLES. How much of the benefit do they get out of this tax bill? The highest 10 percent pay almost half the tax. How much benefit do they get out of this bill: 13 percent. The highest 1 percent, the wealthiest people in this country, what percentage of the tax do they pay? They pay 18 percent. How much benefit do they get out of this bill? They pay 18 percent. Of the total tax bill of this cup, the highest 1 percent pay 18 percent of the total income tax. How much benefit do they get out of this bill: Two percent. Mr. President, the wealthy are not making away like bandits on this.

This is a family-friendly tax bill. If one believes that we should put the majority of this money in to help families, we have done it in the Finance Committee package. We have done it with the tax credit that says if you have 3 children you get $1,500 that you get to keep, that you get to save, and if you pay $1,500 in income tax, a little over $100 a month, you get to keep it. It is yours. You decide how to spend it. That is in the bill that passed the Finance Committee.

You can go to your constituents, as long as their incomes are less than $75,000 and say, what is your income tax, look at your W-2. If you have two kids, that is $1,000 a year you get to keep. If you have four kids, that is $2,000 of your money that you get to keep. That is in our proposal. It is not in the Democrat proposal. Senator DASCHLE's proposal is $250 for the first couple of years, $350 maybe if you put it into an IRA.

Mr. President, there is no comparison between these two packages. Unfortunately, Senator DASCHLE's proposal is really redistribution of wealth. It is not a tax cut. The Finance Committee proposal that we have is not perfect, but at least it is very family friendly. The $500 tax credit is real. It will apply to all families up to incomes of $75,000, where we start phasing it out, $110,000 for couples on the child tax credit.

I urge my colleagues to reject the DASCHLE amendment, have bipartisan support and overwhelmingly vote for passage of this bill and overwhelmingly reject another income redistribution scheme that is propagated by my colleagues on the other side.

I might mention, as well, Mr. President, most of the people who have spoken out in favor of Senator DASCHLE's amendment, one, voted for the 1993 tax bill which was not a tax cut, it was a tax increase. They really have not been interested in tax cuts. They have been interested in tax increases. If you look at this proposal that they have, it is really trying to figure out how can we take more money from some people and give to somebody else. It is redistribution.

Mr. President, I urge my colleagues to vote no on their proposal and to support the proposal that was reported out of the Finance Committee.

I yield the floor.

EXHIBIT 1

EARNED INCOME CREDIT—TWO OR MORE CHILDREN

[Historical]

Year	Credit percent	Maximum credit	Min. income for max. credit	Max. income for max. credit	Phaseout income
1976	10.00	$400	4,000	$4,000	$8,000
1977	10.00	400	4,000	4,000	8,000
1978	10.00	400	4,000	4,000	8,000
1979	10.00	500	5,000	6,000	10,000
1980	10.00	500	5,000	6,000	10,000
1981	10.00	500	5,000	6,000	10,000
1982	10.00	500	5,000	6,000	10,000
1983	10.00	500	5,000	6,000	10,000
1984	10.00	500	5,000	6,000	10,000
1985	11.00	550	5,000	6,500	11,000
1986	11.00	550	5,000	6,500	11,000
1987	14.00	851	6,080	6,920	15,432
1988	14.00	874	6,240	9,840	18,576

EARNED INCOME CREDIT—TWO OR MORE CHILDREN—Continued

[Historical]

Year	Credit percent	Maximum credit	Min. income for max. credit	Max. income for max. credit	Phaseout income
1989	14.00	910	6,500	10,240	19,340
1990	14.00	953	6,810	10,730	20,264
1991	17.30	1,235	7,140	11,250	21,250
1992	18.40	1,384	7,520	11,840	22,370
1993	19.50	1,511	7,750	12,200	23,049
1994	30.00	2,528	8,425	11,000	25,296
1995	36.00	3,110	8,640	11,290	26,673
1996	40.00	3,564	8,910	11,630	28,553
1997	40.00	3,680	9,200	12,010	29,484
1998	40.00	3,804	9,510	12,420	30,483
1999	40.00	3,932	9,830	12,840	31,510
2000	40,00	4,058	10,140	13,240	32,499
2001	40,00	4,184	10,460	13,660	33,527
2002	40,00	4,320	10,800	14,100	34,613

Source: Joint Committee on Taxation.

Provided by Senator Don Nickles, 06/26/97.

EXHIBIT 2

DISTRIBUTIONAL EFFECTS OF FINANCE TAX BILL

	1997-2002		1997-2002	
	Total	Percent	Cumm	Percent
CHANGE IN TEXES IN MILLIONS				
Income Category:				
Less than $10,000	73	−0	73	−0
$10,000 to $20,000	(6,408)	5	(6,335)	5
$20,000 to 30,000	(13,667)	11	(20,002)	15
$30,000 to 40,000	(22,241)	17	(42,243)	33
$40,000 to 50,000	(20,309)	16	(62,552)	48
$50,000 to 75,000	(39,676)	31	(102,228)	79
$75,000 to 100,000	(20,217)	16	(122,445)	94
$100,000 to 200,000	(5,386)	4	(127,831)	98
$200,000 and over	(1,965)	2	(129,796)	100
Total	(129,800)	100		
Income quintile:				
Lowest	(539)	0	(539)	0
Second	(9,173)	7	(9,712)	7
Third	(29,261)	23	(38,973)	30
Fourth	(46,437)	36	(85,410)	66
highest	(44,390)	34	(129,800)	100
Total	(129,799)	100		
Highest 10%	(16,430)	13		
Highest 5%	(4,087)	3		
Highest 1%	(2,066)	2		
TAX BURDEN IN BILLIONS				
Income Category:				
Less than $10,000	30	0	30	0
$10,000 to $20,000	191	2	221	3
$20,000 to $30,000	442	5	663	8
$30,000 to $40,000	622	8	1,285	16
$40,000 to $50,000	654	8	1,939	24
$50,000 to $75,000	1,578	20	3,517	44
$75,000 to $100,000	1,281	16	4,798	59
$100,000 to $200,000	1,639	20	6,437	80
$200,000 and over	1,638	20	8,075	100
Total	8,077	100		
Income Qunitile:				
Lowest	60	1	60	1
Second	340	4	400	5
Third	874	11	1,274	16
Fourth	1,614	20	2,888	36
Highest	5,190	64	8,078	100
Total	8,077	100		
Highest 10%	3,782	47		
Highest 5%	2,756	34		
Highest 1%	1,436	18		

Mr. LAUTENBERG. Mr. President, I rise as a cosponsor of the Daschle amendment, which would provide significant tax cuts for ordinary, middle-class families, without leading to exploding deficits in the future.

Mr. President, throughout this Nation, millions of middle-class families are struggling simply to live the American dream. They love their children, but they don't see them very much. They work long hours. They're trying to save for their retirement, and their kids' education. But they're having a hard time just paying their bills, and making ends meet.

Mr. President, these are the people who most need tax relief.

And yet, Mr. President, those are not the people who get the bulk of the relief in the underlying bill, as reported by the Finance Committee. The committee's bill provides more benefits to those in the top 1 percent of the population than to the entire lower 60 percent, combined. That's not right. And this amendment would correct the problem.

Mr. President, this amendment provides many of the same types of tax cuts that are included in the Republican plan. And the total amount of tax relief is roughly the same. But the provisions are structured differently, to give most of the benefits to ordinary Americans.

The Democratic alternative provides a $500 tax credit for children. But, unlike the Republican version, it makes the credit available for working families with little or no tax liability.

The Democratic alternative provides significant tax relief to help Americans handle the costs of higher education. And it provides substantially more benefits for those attending lower-cost community colleges than the Republican legislation.

The Democratic alternative would cut the capital gains tax rate. But, unlike the Republican version, it gives most of its benefits to the middle class, not the very wealthy.

The Democratic alternative also reduces estate taxes. But instead of lavishing huge breaks on the heirs to multimillion dollar estates, it focuses benefits on small businesses.

Mr. President, another advantage of the Democratic alternative is that it costs do not explode in the out years. The underlying bill has several provisions the costs of which increase substantially in the future, such as the so-called backloaded IRA and capital gains breaks. This problem is addressed in the Democratic alternative, which is much more fiscally responsible.

So, Mr. President, in many ways the Daschle amendment is a far superior alternative to the underlying bill, and I would urge my colleagues to support it.

Mr. President, while I have the floor, I wanted to take just a few minutes to discuss the first reconciliation bill that the Senate approved yesterday.

Mr. President, as one of the principal negotiators of the bipartisan budget agreement, it pained me to have to vote against the first reconciliation bill. Unfortunately, that bill went far beyond the bipartisan budget agreement, to a point that I felt I could not support it in good conscience.

I am especially concerned, Mr. President, that the first reconciliation bill includes substantial changes in Medicare—changes that have not been adequately considered, and that could be very harmful to the program, and to the millions of Americans whose health will depend upon it in the future.

For example, the bill would eliminate Medicare coverage for individuals aged 65 and 66. Yet it provides no alternative for these people. This could leave millions of older Americans without access to affordable health insurance. And that's not right.

The bill also would encourage higher income beneficiaries to leave the program, by completely eliminating all subsidies of their premiums. That could undermine Medicare's universal support, and lead to a two-tier system in which sicker, less wealthy seniors would be forced to pay more for less. And that's not right.

Finally, the bill would create a substantial economic burden for many frail and sick elderly Americans, by establishing a new copayment for home health benefits. This copayment could cost up to $760 per year—a substantial percentage of many seniors' income. And that copayment would come on top of an already substantial increase in premiums called for under the bill.

Mr. President, that's just not right.

Mr. President, none of these provisions was included in the bipartisan budget agreement. And none have really been seriously debated in the 105th Congress. The public has had little opportunity for input on this, and most Americans probably don't even know what's being considered in the Senate.

Mr. President, let me make one thing clear. There is no question that we will have to make changes to the Medicare program as the baby boomers reach retirement age. However, changes like these are too important to rush through Congress as part of a reconciliation bill that must be considered under very expedited procedures. These are serious issues that deserve serious attention and public input.

Mr. President, I am hopeful that the final version of the first reconciliation bill will not include most of these problematic provisions. The President, and many in the House of Representatives, share many of my concerns about the Medicare changes. And so I continue to hope that these provisions will be eliminated in the final version of the legislation, and that I will be able to support it.

Mr. ABRAHAM. Mr. President, I have spoken previously about the problems associated with the Treasury Department's use of the concept called family economic income in assessing the distributional impact of the Taxpayer Relief Act. Under this controversial approach, the Treasury Department artificially inflates income by adding to it the value of fringe benefits, retirement benefits, unrealized capital gains, and the imputed rent on homes. The effect of this is to make middle-income wage earners appear to be richer than they really are. So if you get a tax cut under the Taxpayer Relief Act, the Treasury Department classifies you as "rich."

Under normal methods of measuring income used by the Joint Committee on Taxation, the CBO, and most private sector forecasters, this tax cut overwhelming by benefits middle-class families. Under this bill, 75 percent of the tax cut goes to people making $75,000 or less. And 82 percent of the tax relief goes directly to families with children. Those are the facts.

Mr. President, I ask unanimous consent that a study by economist Bruce Bartlett, which debunks the Treasury's use of this flawed concept, be printed in the RECORD.

There being no objection, the study was ordered to be printed in the RECORD, as follows:

TREASURY'S DISTRIBUTION TABLES DON'T ADD UP

(By Bruce Bartlett)

One of the most important factors in evaluating tax legislation is the distributional impact of the tax changes. Toward this end, the Treasury Department and Congress's Joint Committee on Taxation (JCT) produce tables[1] showing the effects of tax cuts and tax increases on people with different incomes. The purpose of these tables is to help give legislators a sense of how a given tax bill will actually affect the well-being of their constituents. As a result, distributional tables have enormous political importance and often are critical in determining both the size and shape of tax legislation.

Unfortunately, the process of producing distributional tables is fraught with difficulty. There are serious conceptual problems in determining what is income, what is the appropriate tax unit for analysis, and the incidence of taxation. there are no clear-cut answers to these questions, and thus there is a great deal of arbitrariness in choosing what to include or exclude in putting together a distributional table. However, different assumptions can lead to wide differences in how tax legislation appears to impact on taxpayers. These assumptions are seldom spelled out explicitly either to policymakers or the general public.

In recent days, the Treasury Department has been highly critical of the tax bills being considered by Congress. The Treasury alleges that the benefits of the tax legislation approved by the House Ways and Means Committee and the Senate Finance Committee are skewed too heavily toward the rich and too little toward the poor. As Treasury Secretary Bob Rubin told the House Ways and Means Committee Chairman Bill Archer on June 11: "We think this package disproportionately benefits the most well off in society at the expense of working families." According to the Treasury analysis, 67.9 percent of the Ways and Means bill and 65.5 percent of the Finance Committee bill would go to the richest 20 percent of families.

There are serious problems with the Treasury analysis, however, that cast grave doubt on its validity. Much of this relates to the concept of income as ordinary people understand it, or even to the concept of income everyone uses on their tax returns. For this reason, the Treasury analysis offers a very misleading picture of how pending tax legislation will actually impact on people.

The basic concept of income most people are familiar with is Adjusted Gross Income (AGI), because that is what the Internal Revenue Service uses to determine tax payments. AGI includes wages, salaries, taxable interest, dividends, alimony, realized capital gains, business income, pensions and other familiar forms of income. Treasury starts with AGI but adds to it many forms of income that are not included on tax returns and that most taxpayers would not consider to be income at all. These include the following:

Unreported income. This includes the incomes of people whose incomes are too low to require them to file tax returns as well as income that taxpayers fail to report. These adjustments increase AGI by about 13%.

IRA and Keogh deductions. These are normally deducted from gross income before AGI is calculated. However, Treasury treats them as if they are not deductible. Treasury also counts as income the return to previous IRA and Keogh contributions that remain undistributed.

Social Security and AFDC. For most taxpayers, Social Security benefits are not taxable. However, Treasury treats everyone's benefits as if they are taxable. AFDC (Aid to Families with Dependent Children) is the Federal Government's principal welfare program. It is also treated as if it is taxable income.

Fringe benefits. These include such things as employer-provided health benefits, life insurance and pensions that are presently tax-exempt.

Tax-exempt interest. Most interest on municipal bonds is free of federal income tax, however Treasury treats such income as if it were taxable.

Imputed rent. This is the "income" homeowners allegedly receive in the form of rent they pay to themselves. In other words, all taxpayers living in their own home are treated as if they were renters who rent out their home to someone else.

Unrealized capital gains. Capital gains are only taxed when realized. But Treasury counts unrealized gains as if they were realized annually.

Retained earnings. Owners of corporate stock are assumed to receive 100% of corporate profits, even though much of that profit is never paid out to them in the form of dividends but is retained by the corporation.

The result of all these changes is to increase AGI by about 50%. In other words, in the aggregate, all taxpayers are 50% richer than their tax returns say they are. The effect of this is to make many taxpayers of relatively modest means appear to be rich in Treasury's distribution table. For example, the number of taxpayers with incomes over $100,000 is three times higher under Treasury's definition of income than under the normal definition used on tax returns.

Although FEI generally increases income far beyond what most taxpayers would recognize by including unfamiliar forms of income, Treasury also excludes much income that taxpayers do find familiar. For example, pensions and dividends are not treated as income. Since pension contributions and all corporate profits are already attributed to taxpayers, including pension and dividend payments as well would constitute double-counting.

The effect of Treasury's methodology is to make many people with very low incomes appear to pay a lot of taxes. For example, any retired person living on pensions and dividends pays taxes on such income currently. But under Treasury's distribution table their income completely disappears. However, since their tax liability is unchanged, they appear to be paying an extremely high effective tax rate when they actually are not. Thus FEI not only makes many people with modest incomes appear to be rich, it also makes many people with modest incomes appear to be poor.

Another anomaly is that capital gains on corporate stock are excluded from income because all gains are assumed to result from retained earnings. Since such earnings are already attributed to shareholders, counting capital gains would constitute double-counting. The problem is that when shareholders sell stock it may represent many years of earnings, leading to a large tax liability. The effect, is to make people realizing capital gains appear to be much more heavily taxed than they actually are.

Finally, although Treasury includes imputed rent from homeowners, it does not make the same adjustment for those living in public housing. In fact, all non-cash welfare benefits except food stamps are excluded from FEI. Yet such benefits are economically very significant. According to the Census Bureau, in 1995 non-cash benefits reduced the number of people living in poverty from 36.4 million to 27.2 million. The effect of excluding non-cash benefits from FEI is to make many poor people appear to be utterly destitute.

Although Treasury's unusual definition of income is the main reason why its distribution tables make the Ways & Means Committee and Finance Committee tax bills appear to largely benefit the rich, there are also other reasons. The most important is that Treasury assumes that the tax bill is fully effective in 1998. However, many provisions of the tax legislation do not take effect for many years. This makes the tax cut appear much larger than it actually is.

Thus Treasury's distribution table is based on a tax cut of $71.2 billion in the case of the Ways & Means Committee bill and $60.8 billion in the case of the Finance Committee. Yet according to the JCT, the Finance Committee bill would actually increase federal revenue slightly in 1998. Even in the year 2007, when the tax cut is fully phased-in, it would only lower federal revenues by $40.2 billion. Thus Treasury's distribution table implies a tax cut between 50% and 100% larger than it actually is.

A major reason for this anomaly is capital gains. Under current law, capital gains are only taxed when realized. But Treasury assumes that all capital gains, even those that are unrealized, should be taxed annually. Thus any reduction in the capital gains tax rate automatically reduces federal revenue, regardless of its effect on realizations and actual government receipts.

However, experience shows that capital gains realization are highly sensitive to changes in the capital gains tax rate. Reductions in the tax in 1978 and 1981, as well as the rate increase in 1996, had enormous effects on realizations and, hence, revenues. Even Treasury admits that lowering the capital gains tax rate, as proposed by both congressional tax bills, would temporarily increase federal revenue by increasing capital gains realizations. Yet despite the fact that actual federal revenues rise, Treasury's distribution table still shows owners of capital assets getting a big tax cut. In effect, Treasury assumes that all capital gains—including those induced by the lower tax rate—would have been realized anyway.

The JCT uses this same methodology, which has the effect of making those paying more in capital gains taxes appear to be paying less. Professor Michael Graetz of Yale Law School has been very critical of this methodology. He points out that in 1990 the JCT's distribution table showed President Bush's proposed cut in the capital gains tax giving taxpayers a $15.9 billion tax cut, although its own estimate showed that federal revenues would be lower by at most $4.3 billion. Based on this contradiction, Graetz constructed the chart shown in Figure II. As one can see, those with incomes about $200,000 appear to be getting a tax cut four times larger than their actual reduction in tax liability could possibly be.

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[1] Tables in this article are not reproducible in the Congressional Record.

In short, Treasury's distribution tables bear no relationship to reality. While they may serve some purely academic purpose, they fail to convey to policymakers any sense of how real people are actually affected by proposed tax changes. They make some people appear to be much wealthier than they actually are and others poorer. Any ordinary persons looking at one of these tables will have no real idea of where they themselves stand, and will have a very distorted picture of how the proposed tax changes will affect them.

Professor Graetz believes that the methodology for creating distribution tables is so deeply flawed that they should be abandoned altogether during the legislative process. As he writes, "The information transmitted to policymakers through the current practice of producing distributional tables is simply bad information." Instead, it would be better to stick to known concepts of income, such as AGI, that taxpayers are familiar with and produce illustrative examples of how taxpayers in different circumstances will fare under proposed tax changes. This will at least convey an accurate picture of how such changes will affect specific taxpayers. If distributional tables are produced, it should only be after the fact, showing the true impact of a tax change on actual taxpayers.

Another reason to abandon distributional tables because they have a tendency to dominate the tax legislative process to the exclusion of everything else. Sound principles of tax policy are routinely cast aside, the impact of taxes on the economy gets short shrift, and the tax code is made even more complex just to make the tables look right.

A good example of this is the Earned Income Tax Credit (EITC). The ETIC gives low-income workers a credit against their taxes of up to $3,556. However, if their actual income tax liability is less than this, they get a refund of the difference. Thus if a worker qualifies for $2,000 in EITC but only owes $800 in taxes, she get a check from the Treasury for $1,200.

This year the EITC is expected to cost the federal government $26 billion. Of this amount only $3.6 billion actually offset peoples' tax liability. The rest, $22.4 billion, will be "refunded" to taxpayers who have no tax liability and get a check from the government instead. In other words, although it is a provision of the tax law, the EITC essentially is a welfare spending program.

Although it is in fact a spending program, the EITC is important for tax policy because it allows politicians to say they are cutting taxes for the poor even though they pay no taxes. Indeed, some Democrats are in effect now trying to expand the EITC so that even more people will get government checks from the program. The way they propose to do this is by saying that taxpayers will be allowed to use the proposed child credit before calculating the EITC.

Under the Republican tax bill, all families with children would receive a credit against their income taxes of up to $500 per child. However, the credit would not be refundable. Families owing no taxes due to the EITC or other tax provisions would not be able to use the credit because they have no liability to offset. Under the Democrats' plan, if a family uses the child credit to eliminate their income tax liability before calculating the EITC, they will get a larger EITC check from the government.

Since those with low incomes pay no income taxes to begin with, the only way they can get a tax cut is by making it refundable. That is why the Democrats appear to offer a bigger tax cut to those with low incomes.

Republicans respond that expanding the number of people getting a check from the government is no way to conduct tax policy. They are right. But the bigger problem is the obsession with the distributional effects of tax legislation, to the exclusion of all other considerations.

In conclusion, the debate over the distributional effects of Congress's proposed tax cut is highly misleading. Because the measure of income and which Treasury's distribution tables are based has no relation to the average person's concept of income—or the IRS's—many of the "rich" are in fact people with middle incomes, as are many of those who appear to be "poor" in its analysis. This insofar as they purport to tell taxpayers how the tax bills would actually affect them, they are utterly worthless.

Mr. DODD. Mr. President, I rise today in support of the Daschle alternative tax cut amendment. First, let me commend the Finance Committee on the job it's done. Chairman ROTH and Senator MOYNIHAN should be commended for their efforts to craft a bipartisan bill, something that the other body failed to achieve in their tax-writing committee.

Clearly, the Finance bill is better than the bill offered in the House in several respects. However, I believe we can do better, and we must do better to assist America's working families. And that is what the Daschle substitute is all about. It offers families fair and equitable tax relief.

And let's be honest: even in the midst of the strongest economic recovery of the century, many families at the lower income levels are still struggling. They worry about job security, pensions, meeting the costs of higher education, and finding good quality child care. Appropriate, targeted tax relief for these families can help them meet these challenges.

The House and Senate bills, regrettably, shower most of their tax cut benefits not on working families, but on those who least need relief. They deny relief to taxpayers and small businesses in the middle and at the bottom of the income scale. The Finance Committee bill grants 65 percent of its tax cuts on the wealthiest 20 percent of the population.

Mr. President, the Daschle amendment seeks to right these wrongs by bringing relief to working Americans and small businesses. Unlike the competing proposals, the DASCHLE amendment promotes fairness and puts working families first. In contrast to the Finance Committee bill, our amendment provides 65 percent of tax relief not to the most affluent 20 percent, but to the middle 60 percent. That's about twice as much tax relief for the middle class as the Republican Finance Committee proposal.

Under the Daschle amendment, the affluent would get their fair share of the tax cuts, but no more. The top 1 percent of taxpayers would only receive 1 percent of the tax cut, compared to the Archer and Roth proposals which give 19 percent and 13 percent, respectively, of their tax cut to the top 1 percent of income earners.

But fundamentally this debate isn't about statistics. It's about meeting vital family needs and providing additional resources to meet the many challenges they face. The Daschle amendment strengthens families and puts working families first. It provides payroll tax relief by making the child tax credit refundable against all payroll taxes, not just income taxes. An average family of four earning $35,000 pays $2,700 in income taxes, and another $5,300 in payroll taxes. These are the families who desperately need tax relief, and these are the families who would benefit from the Daschle amendment. This provision alone would extend the child tax credit to 10 million more children and families.

The House Ways and Means and the Senate Finance bills deny credit to many working families. Families making less than $25,000 would receive no credit due to their negligible income tax liability. Further, these bills would cut the child credit for families qualifying for the Earned Income Tax Credit.

There are few issues more critical to American families than education. The Daschle amendment recognizes this and provides $10 billion more in education benefits to working American families. The Daschle amendment provides more for school construction, more for Pell grant recipients, and more for tax credits for families to send their children to college. The Ways and Means and Finance bills provide less—less for school construction, less for Pell grant recipients, and less for tax credits for families to send their children to college. I think we can all agree that unless we tap and nurture the talents and energies of all our people, we won't be able to meet the challenges of the 21st century.

The Daschle amendment also offers fair and equitable relief to middle class investors, small businesses, and family farms. Under the Daschle amendment, all investors would get the same 30 percent capital gains break that the top 1 percent of income earners already have. This proposal cuts the capital gains rate nearly twice as deeply for most small businesses and provides much needed relief.

Under the Ways and Means and Finance bills, however, primarily the wealthiest taxpayers would reap the benefits of an across-the-board capital gains tax cut. For example, a person who makes $45,000 would receive an average capital gains tax cut of $255, while one who makes $200,000 or more would receive an average cut of $11,520. Clearly, these bills are skewed to benefit the wealthiest income earners and disadvantage those who most need tax relief—working families.

Further, the Democratic alternative targets all estate tax cuts to family businesses and family farms, in an effort to relieve the tax burden felt by many. Again, however, the Ways and Means and Finance bills favor the wealthy by providing $35 billion in estate tax cuts to the wealthiest 1.4 percent of estate owners. Clearly, Mr. President, we must do better to bring relief to a much larger percentage of estate owners in America.

Finally, Mr. President, in the midst of providing tax relief that is fair and equitable, it is imperative that we not lose sight of our obligation to enact legislation that is fiscally responsible. The Daschle amendment allows us to maintain the fiscal discipline we have worked so hard to achieve in recent years, dating back to the wise decisions we made in 1993.

The Finance Committee bill is heavily backloaded. The Joint Tax Committee estimates that the cost of that measure will explode in the out years, costing $830 billion by the year 2017. I have grave concerns about facing the prospect of losing some $830 billion in revenue. And that is why I offered an amendment during the budget reconciliation negotiations which demanded that we adhere to our budget agreement in which we agreed to a net tax cut of $85 billion through 2002, and not more than $250 billion through 2007.

Mr. President, we must be committed to preserving the integrity of the balanced budget agreement and adopt a tax package that is fair and responsible. The American people will not be served by a budget that reaches balance briefly in 2002 and then veers back out of balance afterward. The Daschle amendment balances the budget by the year 2002, and does not threaten to push the budget out of balance beyond 2002.

Mr. President, Senator DASCHLE's alternative plan is fair, it puts families first, and it stimulates jobs and growth. And not least, it is not a ticking time bomb that threatens to push the budget out of balance, blowing a hole in the deficit in later years. And that, Mr. President, is why I urge my colleagues to support this fair, equitable, and modest measure.

The PRESIDING OFFICER. Who yields time?

Mr. WELLSTONE. Mr. President, I yield myself 15 minutes. I say to my colleagues I will probably take 10 minutes.

How much time remains?

The PRESIDING OFFICER. Fifteen minutes and thirty seconds.

Mr. WELLSTONE. Mr. President, I will try and take 7½ minutes and leave 7½ minutes for my colleague.

Mr. President, I have more than enough to say but just in response to my good friend from Oklahoma, there was a quote—and maybe this is the same argument he is making—from Speaker GINGRICH, "When you take out billions of dollars in tax cuts for working people and put in billions of dollars for people who pay no taxes, that's increasing welfare spending." We are talking about the child credit.

Mr. President, let me just remind the Speaker and my good friend from Oklahoma, looking at CBO numbers, this is the percentage of working families who would not be eligible for the majority party's child tax credit, whose payroll taxes exceed their income taxes. The bottom fifth, 0 to $21,700, 99.6 percent; second fifth, $21,000 to $41,000, 97 percent.

There are a lot of working families in the State of Minnesota and all across this country who are not going to be eligible for this child tax credit who pay payroll taxes, who work hard, pay taxes, and are, quite frankly, resentful of this argument that is being made. As a Senator who represents those families, I am especially resentful of such an argument.

I only need to know one thing about this tax proposal, this reconciliation bill. In the State of Minnesota, the tax bill excludes 41 percent of the children. Mr. President, 607,463 children of the 1.5 million children in Minnesota would not receive a benefit from the child tax credit. I repeat, 607,000 children of 1.5 million children will not receive the benefit of the child tax credit. Those are working families.

I say to Democrats, every Democrat, every single Democrat, and as many Republicans as possible, ought to be out here advocating and fighting for those families. It is outrageous to make the argument that they do not pay any taxes or they are "just on welfare." Absolutely outrageous.

Mr. President, you have heard the figures presented out here so I do not need to go through that again except to say I am telling you, in the cafes in Minnesota, when people get a close look at this reconciliation bill they are going to be amazed.

They are going to be really teed off because they are going to say, wait a minute, I thought there was going to be tax relief for us, the small business people, and us, working families. They are going to find out that the lion's share of the benefits go to the very top, the folks that are the CEO's, the multinational corporations who are raking in, on the average, $3 million a year.

You know, Mr. President, I sometimes think that my colleagues believe that if you make $100,000 a year, you are middle class. I would be surprised if more than 10 percent of the people in this country make over $100,000 a year. What about these working families?

Well, we have a proposal here that targets these tax benefits to working families, to small businesses, to family farmers. I am telling you, this is one of these moments where the differences between the two parties make a difference. My gosh, I think a lot of people in Minnesota are scratching their heads and saying: Has there been a hostile takeover of the Government process in Washington, DC? We have been hearing about all this money in elections, and we are now starting to believe that the only folks that sit down at the bargaining table and get their way are people who have the economic resources, because we sure are getting the short end of the stick.

And they are right. I hope we will get a huge vote for this alternative.

Mr. President, let me just summarize a couple of amendments. How much time do I have left?

The PRESIDING OFFICER (Mr. KEMPTHORNE). There are 10 minutes, 14 seconds remaining on the amendment.

Mr. WELLSTONE. I have about 3 minutes, I guess. Let me just mention a couple of amendments that fit in with this whole idea of tax fairness.

One amendment that I hope to do, with Democrats and Republicans, is to make sure we take the HOPE scholarship program and make these tax credits refundable. It is the same issue. Think about the community college students; many are older, going back to school and with children. If we want to make sure that we are really providing help to them—they are not going to be able to take advantage of this $1,500 because they are not going to have that liability. If we want higher education to be affordable for many of these working families, we simply have to do that. A higher education is so important to how our children and grandchildren will do that I hope we will be able to pass that amendment.

The second amendment that I want and hope to do with Senator BUMPERS takes the tax cuts and puts it into a Pell grant program. We simply make the Pell grant $7,000 a year, and that is the most efficient, effective way of making sure that higher education is affordable.

The third amendment I want to mention is the amendment I want to do with Senator CAROL MOSELEY-BRAUN, which has to do with tax credits and, again, for school infrastructure. I say, what are we doing with all of these tax benefits mainly going to wealthy people and we are not investing 1 cent into rebuilding rotting schools across America? What kind of distorted priorities are out here?

Finally, I want to mention—in case I don't have a chance later on as we run out of time—that I have an amendment I think is real interesting, which goes like this. If you have a company—and please remember that average wages rose 3 percent in 1996. Salaries and bonuses of American CEOs rose 39 percent to $2.3 million. So what I say to a company is: Look, if you want to pay your CEO over 25 times what the lowest wage worker makes, go ahead and do it, go ahead and do it. Right now, we say you can do it up to a million dollars. But don't do it on the Government's tax tab. You can pay your CEO anything you want to, but when it is above 25 times what the lowest wage worker makes, you don't get any tax breaks for doing that, just as we don't end up getting tax breaks when someone mows our lawn. We don't get to deduct that. What are we doing here, if we are talking about fairness?

Well, Mr. President, the differences make a difference. This is an outrageous argument that working families paying a payroll tax are only receiving welfare payments. This is an outrageous proposition that over 600,000 children are not going to benefit in the State of Minnesota from this tax credit. We are talking about a tax bill out here that provides the lion's share of benefits to those people least in need of the assistance.

Mr. President, there is no reason in the world for Senators to be quiet on this issue. I hope we get a very strong vote for our amendment. I yield the rest of my time to the Senator from—

Mr. ROTH. Mr. President—

Mr. WELLSTONE. Are we going to rotate?

Mr. ROTH. That is correct.

Mr. President, I yield 7 minutes to the distinguished Senator from Montana.

The PRESIDING OFFICER. The Senator from Montana is recognized for 7 minutes.

Mr. BAUCUS. Mr. President, in the last couple of hours, in my judgment, this debate has turned into a rather partisan matter, with Republicans lining up on one side and Democrats lining up on the other. That is fine. I mean, each Senator has his right to say what he or she thinks. That is why we all ran for office and why we are here doing our very best for our constituents.

But I also think that our people at home want us to, as much as possible, work together. Sure, some of us have differences, but, as much as possible, they want us to work together for the best interests of the American people. That, I think, is why the President worked with the Congress to try to fashion, and did fashion, a budget agreement—an agreement which will reduce the budget deficit by the year 2002; an agreement which contains provisions that the President, the chief Democrat in our country, wanted; and provisions which the Republican leadership in the Congress wanted. It is not the best agreement in the world, but we are a democracy and democracies sometimes are messy and uneven. But it was a pretty good agreement, by most Americans' standards.

The House then attempted to put together its portion of the agreement. I might say that the Ways and Means Committee got pretty partisan. Democrats on the Ways and Means Committee fought vociferously with Republicans on Ways and Means. But the Republicans have a majority of the votes, so they won. Democrats lost, and from the Democrats' point of view, the bill that came out of House Ways and Means Committee is a pretty bad bill.

I take my hat off to the chairman of our Finance Committee and our ranking member. The chairman of our committee took a different tack. His view is to work together. The chairman of the Finance Committee, the Senator from Delaware, Senator ROTH—I have never seen anyone as fair with both sides of the aisle, in trying to come together with a solid agreement that made sense, near unanimous sense, to the members of that committee. It is wonderful. I have served with other chairmen of the Finance Committee. I know Senator MOYNIHAN knows of when I speak. Sometimes that did not happen in other Congresses. In other Congresses, sometimes it was all Republicans this and all Democrats that. When the other side has the votes, you can make a statement, but you lose.

In this case, Chairman ROTH worked with the Democratic side of the aisle, and, as a consequence, we came up with a lot better bill—better, I say, than what is produced in the House pursuant to the budget agreement, agreed to by the President and congressional leadership. Why is it better? It is better because he worked with us. It is also better for these reasons: It has a cigarette tax, which I think most Americans want; it gave a big chunk of dollars to child care, to health insurance, which people want in this country; there is a big emphasis on education, which I think most people in this country want.

There are many provisions which are very good. Now, in return for Chairman ROTH working so hard with Senator MOYNIHAN to put an agreement together, Chairman ROTH asked a very reasonable question with respect to six key points, in the final hours of putting this bill together. The six key points, very simply, dealt with a ticket tax, cigarette tax, with unified credit, and there are a couple others. But there are six key points. He asked us, would all the members of the committee agree to support that agreement? He asked for a show of hands. Every hand went up. Every member of the committee raised his hand to support the agreement.

Now, here we are on the floor today, Thursday afternoon, and my party leader has come up with a very good substitute. In many respects, I think it is better than the bill that came out of the committee. But I made an agreement. I pledged my honor to support the six terms that Senator ROTH asked us to support, so that we would come up with a better bipartisan bill. That is not to say I support or am bound to support every provision of the bill. But with respect to those six key points, I feel duty-bound to honor that commitment, and I will do so here today.

Now, if we could find a Democratic substitute which did not contravene any of those six points, I would probably support it. But the substitute before us does contravene those six points. I feel, as a matter of honor, that I cannot support the Democratic substitute.

I must say that the bill before us—the Finance Committee bill—is not that bad. Remember, we are operating under the agreement that the President and congressional leadership agreed to. Given those parameters, this is not that bad a bill. It reduces the budget deficit, it does reduce taxes, it gives a child tax credit, it helps education, and it is good—not perfect, but it is good.

Now, on down the road, we will have opportunities to still improve upon the bill. The President, after all, has the authority to sign or not sign the bill. I very much pledge to work with all Members of Congress, with my constituents at home, and with the President and the conferees, whoever they may be, to keep improving upon this bill.

I must say, Mr. President, that this is a very difficult position to take because I do not like to be taking a position contrary to the leader of my party. But I do believe that it is the right position to take. After all, we are elected to do what's right. In my judgment, what is right is to support the agreement I reached with the chairman of the committee and also work to continue to improve upon this bill as it reaches different stages of this progress. I, therefore, will not vote for the substitute.

Mr. MOYNIHAN. Mr. President, I yield myself 2 minutes to say to the Senator from Montana that his was an immensely honorable and accurate statement. You raised your hand, as did we all, for $24 billion of child health. I have been 21 years on the Finance Committee and there has never been such a moment or such a provision. And that happened in a compromise in which the Republican majority agreed to a large tax increase we could use for the child health care.

Senator ROTH was remarkable throughout, and no words of praise are too great. In our world, your word is all you have. We gave our word. I think we did it responsibly and I think we will be seen to have done such.

Mr. BAUCUS. If the Senator will yield for 30 seconds, the choice we had in the Finance Committee was to either work with the chairman for a better bill or not work with the chairman and make a statement and get a worse bill.

Mr. MOYNIHAN. Precisely.

The PRESIDING OFFICER. Who yields time?

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I wish to compliment my colleague from Montana for his statement. I will yield the Senator from Missouri 5 minutes.

Mr. KENNEDY. Mr. President, I thought we were rotating between those who supported and those who opposed. If I am correct, the Senator just spoke on the Democratic side in support of the Republican position. Are we rotating?

Mr. MOYNIHAN. Mr. President, the Senator from Massachusetts is correct. That is fine.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I yield myself the 7½ minutes that remain.

The PRESIDING OFFICER. The Senator may proceed.

Mr. KENNEDY. Mr. President, I wish my good friend and colleague from Montana had been on our side, and it would have been appropriate, obviously, for the other side to move ahead. But he made his decision and made his presentation, and now I would like to respond.

Mr. President, I will have the opportunity later on this evening to talk about really where we are in terms of the child care program.

The fact of the matter is that $16 billion that was put in the bill was suggested by the administration's proposal which had a $14 billion cut. The Finance Committee added $8 billion. I commend my colleague and friend, Senator HATCH, for making that effort and for making that fight. Without his efforts, that would not have taken place. So we are farther down the road than we were prior to the time of that particular markup.

But the fact of the matter is—and later on this evening I will have a chance to talk about where we really are in terms of the funding that has been allocated for children and the number of children that still remain. I find it interesting that this provision that the members of the Finance Committee took and accepted deals with accelerated depreciation, deals with airline tickets, a small amount of EITC, and the child care. I find it interesting that the Finance Committee was willing to accept the cigarette tax but use it for those non-child-related issues, even though the Republican leadership had opposed our cigarette tax.

I tried, with all respect, to understand this enormous sense of unity and deep moral commitment to this particular proposal when on its face it is difficult to really understand, given the fact that the originators of the tobacco tax were those Senators—Senator HATCH and myself—devoted toward addressing the needs of children in this country, the sons and daughters of working families who can't afford it. We got a part of it. But evidently the members of the Finance Committee swore in blood that depreciation on buildings as well as airline tickets was basically more important than the children. I am always interested in why that should be such a high moral issue and purpose. I have difficulty in understanding it.

But, Mr. President, the issue today with the particular recommendation before the Senate is whether this proposal really meets the test of fairness for all Americans. That should be the test. Will this really be fair to the taxpayers in this country, or are we tipping the scales in a very important and special way to the wealthier individuals and corporations of this country?

Senator DASCHLE has taken an enormous amount of time and painstaking diligence to fashion a proposal that fundamentally meets the agreement that was reached with the President in terms of what would be the tax adjustments. Senator DASCHLE has put forward a proposal that will be much fairer for all Americans.

We sometimes rail in this body about how the particular proposal really is fairer and more just, but I do think in any fair examination the overwhelming evidence shows that the proposal of Senator DASCHLE is fairer to the working families of this country, and decisively so. This should to be the test.

It is interesting, as we come closer and closer to the final conclusion, that the overwhelming majority of Americans understand this. Even prior to this debate on the various surveys—and I just saw this morning on the early morning shows—the American people understand the difference. They have not seen this debate or heard about this debate. They are out there working even while we are in the debate and discussion. But they understand fundamentally who is going to be on their side and who is going to be on the side of the working families. They are correct.

Senator DASCHLE, I believe, deserves great credit for his leadership in offering to the Senate a proposal that is fairer for working families and for many Americans who have in too many instances been left out farther and farther behind in the period of the last 20 years. Sixty or sixty-five percent of Americans are farther behind and are working harder. Their family members are working harder, and they are working longer in terms of total hours of the week, in terms of families and just being able to keep their heads above water. The reason is the increase in the payroll taxes they have been paying, as described by my friend and colleague, Senator WELLSTONE.

So we have an opportunity—one of the few opportunities that we have—for the 65 to 70 percent of the American families who have been working longer, who have really been the ones who have brought this economy back. We have a stronger economy today because working families have been out there working harder, longer, and smarter in terms of the American economy. They have benefited very little in terms of their own standard of living.

We have an opportunity this afternoon and tomorrow to make some difference in that. The real issue is, are we going to make that kind of a commitment to those working families, whether it is on the child credit programs, or whether it is the education programs, or whether it is basically the overall rate programs, or whether we are going to reward the smaller enterprises that are going to be innovative and creative and expand employment by giving them some adjustment in terms of capital gains? Yes; and whether we are going to make sure that those who are going to get some break in terms of estate planning are going to be those who are going to continue to work the farms and be a part of the American primarily heartland of this nation in terms of producing the food and fiber which we eat.

Those are the issues, Mr. President, and the issue is which way will the Senate of the United States go? Are we going to say to those 60 or 70 percent of the Americans, "We care about your kids, we care about education. We fashioned the particular program in terms of the HOPE scholarship, and we are going to arrange the other provisions of the Tax Code so that you have a better opportunity, middle-income families, lower-income families, with a modest expansion of the Pell provisions"? Are we going to do that? Our answer is yes, and the Daschle proposal does so.

Are we going to really look out for the sons and daughters of working families? To Senator DASCHLE's credit, it is more expansive and more targeted in reaching the sons and daughters of working families.

So, if we are talking about fairness, if we are talking about equity, if we are talking about how we are adjusting the various rates, including the children's tax credit and the payroll tax, and adjusting those in ways so that we are saying, "While you may not have been paying a great deal more out of your income tax, you surely are in terms of your payroll tax. We are going to provide some degree of relief."

So that is the issue. We need to understand that. We can all say, "We are for education." However, you have to look at the proposal. Whose proposal really meets the central challenge that working families and middle-income families are facing in sending their kids to school? It is the Daschle proposal. Whose proposal really does the most in terms of the children? It is the Daschle proposal. Who does the most in terms of trying to make sure that we are going to provide important incentives to smaller, modest, middle-income families who are trying to get started with smaller new businesses by providing enhanced job opportunities? It is the Daschle proposal.

So, Mr. President, I am just proud to support this proposal. It doesn't incorporate all of the kinds of factors that perhaps some of us would like to have. However, it is a serious and very important proposal that deserves the overwhelming support of the Members of this body.

Let me just finally point this out: On the overall issue of tax equity, the Democratic alternative is clearly fairer. More of the benefits of the Republican plan go to the top 1 percent of taxpayers than go to the bottom 60 percent of taxpayers—13.1 percent versus 12.7 percent.

In the Democratic alternative, only 1.4 percent of the benefits go to the top 1 percent of taxpayers and the top 20 percent of taxpayers only receive 20 percent of the benefits. The vast majority of the benefits go to taxpayers who have incomes in the middle 60 percent of the income distribution; 71 percent of the benefits. The Democratic alternative is vastly preferable to the regressive Republican bill because it is fairer to lower and middle-income taxpayers.

Mr. President, this Republican proposal is going to give a green light to all those individuals who have been doing extremely well—extremely well in terms of the stock market. We have seen that go right up through the roof. But who has been out there making those stocks go up, making those businesses work? It is hard-working men and women.

If we accept the Republican proposal, we are saying to all of those who have been able to make very substantial amounts of money that they are going to provide additional kinds of opportunities for them to be able to keep that money while we are saying to those who are working and have worked hard that you are going to get the crumbs. That is what the distribution issue is really all about.

I am not the only one making these observations. We have seen the Center on Budget and Policy Priorities estimate that the cost of the Republican proposal will increase by between $500 and $600 million in the 10 years following the current budget period.

I was 1 of 11 Senators who voted against the economic proposal in 1981 because we were going to balloon the deficit. Only 11 of us at that time voted against it. We are going to see the same kind of balloon now in the outyears.

Who is going to be out here at that time to try to make those adjustments and make those changes when Members of the Senate are going to say, "Well, we had better close some of those tax loopholes?" You know what will happen. They will cut back further in education. They will cut further back in children's program. They will cut further back on day care support—on all of the programs that have been continually cut back, or at least attempted to be cut back, in these past 3 years.

The Democratic alternative does not engage in these accounting tricks to balance the budget. The Democratic alternative is honest with the American people, fair to American taxpayers, and it deserves to be adopted.

Republicans make many arguments in favor of their proposal, and many of their concerns are valid. The current system is not perfect. There are many things to improve. We need to give tax relief to families, we need to encourage investment in education, and we need to grant relief from the hardships that are sometimes caused by the estate tax.

On all these general points, Republicans and Democrats agree.

However, the Republican plan uses these arguments as excuses to give enormous tax cuts to the well-heeled and the powerful and it does so as far as the eye can see. It therefore violates the fundamental principles that any tax bill must meet: tax fairness and fiscal responsibility.

The Democratic alternative, on the other hand, is true to both of these principles. It allocates the tax relief fairly among all income brackets. And it guarantees that the amount of the tax relief is responsible, so that we will have a balanced budget not only in the year 2002, but in the years after as well.

Both, the Republican proposal and the Democratic alternative have a child tax credit. On their face, the two proposals appear similar. However, the Republican credit will not benefit lower and many middle income people, while the Democratic proposal will. The Republican proposal will not benefit families who do not earn enough income to claim the full credit. This cut-off applies not only to the extremely poor, but also to families earning up to $30,000 a year.

Under the Democratic alternative, the credit is refundable against both income taxes and payroll taxes. Many more working families will be able to obtain the full benefit of the credit under the Democratic plan. This point is critical for those who earn less than $30,000 a year because their payroll taxes are larger then their income taxes. They deserve tax relief too.

In addition, the Democratic tax credit for children has another significant advantage. It is calculated or stacked prior to the earned income tax credit. Under the Republican plan, the credit is stacked after the earned income tax credit. This means that the working poor who are eligible for the earned income tax credit many not be able to obtain the full benefit of both credits.

If their income tax after taking the earned income tax credit is too small, then they will not benefit from the Republican child credit.

The Democratic alternative will enable these working families to benefit from the child credit too. 47 percent of American children would not be eligible for the child credit under the Republicans proposal. An additional 8 million children would be eligible for only a partial benefit. Clearly, the Republicans have gerrymandered their credit to save money by denying it to as many working families as possible.

Because the Democratic plan allows the credit to be offset against both payroll and income taxes, and allows families the full benefit of both the earned income tax credit and the child tax credit, the Democratic plan will reach 7 million more children than the Republican proposal.

In addition, the Republican child credit is not indexed for inflation. The effect of the credit will drop every year as inflation decreases its value. The Democratic alternative will index the child credit for inflation. We are serious about giving tax relief for families. The Republican proposal is designed to appear generous, but in reality it offers little to lower and middle income persons. Even those middle class and upper income families who receive the credit under the Republican version are better off in the long run under the Democratic version, because their credit is indexed for inflation as well.

The Democratic plan is not welfare. If a family does not work, and does not pay any federal taxes, they will not get the benefit of the credit.

The Democratic alternative gives the credit only to working families. It will help those who need this credit the most, the working poor. The Republican proposal will not help them at all. The Democratic alternative offers an honest tax break. The Republican proposal is a let-them-eat-cake tax break.

The Democratic proposal also does a better job of encouraging investment in education.

The education provisions of the Republican bill are skewed toward higher-income taxpayers. The bill provides only $20 billion for the HOPE scholarship and nothing at all for the tuition deduction. But it provides over $7 billion for other savings provisions that help higher income families.

The bill's allocation of only $20 billion to HOPE scholarship falls far short of the commitment made under the budget agreement to provide $35 billion for tax benefits for higher education. The letter signed by NEWT GINGRICH and TRENT LOTT on the budget agreement specifically states that tax relief of roughly $35 billion will be provided over 5 years for post-secondary education, and that the education tax package should be consistent with the objectives put forward in the HOPE scholarship and tuition tax proposals contained in the Administration's fiscal year 1998 budget to assist middle-class parents.

The administration's proposal had two goals: to help middle class families during the critical years while students are in college, and to encourage lifelong learning.

Students and families across the nation are concerned about escalating tuition, and this bill does not do enough to help them. The Republican bill is flawed in other major respect in this area—it utterly fails to address the need to help workers expand their skills and education.

The Daschle alternative addresses these problems. It provides a broader HOPE scholarship, and a valuable tuition tax credit for lifelong learning. This credit will enable taxpayers to recover 20 percent of their tuition costs up to a maximum of $10,000, for learning after the HOPE credit expires. This provision can give real benefit to teachers, nurses, auto mechanics and all others in jobs that need continual upgrading of skills. The workplace depends more and more on highly trained workers. To sustain a strong economy, we must invest in ongoing education throughout life.

The bill also provides a disproportionate education benefit to high income families. It contains three separate provisions to encourage savings for college, at a total cost of over $7 billion over the next 5 years. Lower income families do not have the luxury to save as much as higher income families do, and will not be able to take advantage of these provisions.

The Democratic alternative provides some additional benefits for students that are also in the bill, and I support these provisions. Specifically, I support the permanent extension of section 127, the provision for employer-provided tuition, including graduate students. I also support the elimination of the $150 million cap for institutions of higher education, and the restoration of the deduction of student loan interest.

I also strongly support funding for crumbling schools. The deterioration of hundreds of schools across the United States is a disgrace. But this bill offers only a token help on this problem. This bill allocates only $360 million over 5 years by making changes in bond rules. The Democratic bill, on the contrary, will result in a real commitment to improving our schools. It also encourages States to allocate that money to school districts with the greatest needs. The Republican bill offers only band-aids to put over leaking roofs. The Democratic bill provides real relief for school districts to repair their crumbling schools.

The Democratic bill provides for these benefits—the crumbling schools, the section 127 aid, the student loan interest—in addition to HOPE and a tuition tax credit.

In contrast, the Republican bill provides the additional benefits by taking away from HOPE and eliminating a tuition tax break. It pits student against student, giving these additional benefits to some students only at the expense of students who could benefit from HOPE and the tuition credit.

Investing in education is investment in the future. We must do more to help all needy students. The tax benefits need to be targeted to those who need them, and not wasted on those who can afford to save and pay for college on their own.

The Democratic proposal also better addresses the problem with the current estate tax, without creating a give-away to the rich.

In the current tax system, the estate tax often creates real hardships for families who have just lost a loved one. When the owner of a family business or farm dies, there can be a large estate tax bill at one of the worst times possible. There may well be many other expenses such as funeral costs and legal bills. The estate tax could force the family to sell the business or farm.

Relief is appropriate in these situations, and the Democratic alternative provides it. There would be special estate tax treatment when 50 percent or more of an estate consists of a family business or farm. In these cases, the first $900,000 of the estate is exempt from estate tax, as long as the children or grandchildren continue to actively operate the business or farm for 10 years.

The Democratic alternative is targeted to cases where families may not be able to easily liquidate their holdings to pay the tax. The Republican bill gives relief to all estates. Even if the estate is that of a rich person who invested in stocks and other investments which are easily liquidated, the Republicans still give tax relief. The problems that deserve to be addressed occur only in approximately 1.4 percent of all estates. Instead of extending justifiable relief to these 1.4 percent of estates, they extend relief to all estates. Clearly the Republicans are using rare cases of hardships for family farms and businesses as a fig leaf to cover a massive estate tax break for the wealthy.

Finally, the 20-cent increase in the tobacco tax contained in this amendment is a critical element in tax fairness—and for achieving priority public health goals as well. I am pleased that it is not only a feature of this amendment but of the bill reported by the Finance Committee with a strong bipartisan vote.

Tobacco is one of our most undertaxed industries. Even with the 20 cents per pack cigarette tax increase, the tobacco industry remains grossly undertaxed—whether the standard is historical tax levels, comparison to other countries, or the costs that smoking inflicts on our society and on non-smoking taxpayers.

In 1965, Federal and State tobacco taxes accounted for 51 percent of the retail price of a pack of cigarettes. By 1996, the figure had fallen to just 31 percent. Even with the 20-cents per pack increase, the share of the cost of a pack of cigarettes going to federal and state taxes will be 39 percent—still far below the 1965 level.

Raising the cigarette tax by 20 cents will being our tobacco taxes more in line with the rest of the industrialized world. Our current 24 cent per pack cigarette tax is one of the lowest among all industrialized nations—and it will still be one of the lowest, even with the 20 cent per pack increase in the bill.

The costs that smoking inflicts on our society and on non-smoking taxpayers are immense. It kills more than 400,000 Americans a year. It costs the nation $50 billion a year in direct health costs, and another $50 billion in lost productivity. The average pack of cigarettes sells for $1.80 today—and it costs the nation $3.90 in smoking-related expenses.

It is time that the tobacco companies paid a fairer share of these costs—and this bill is the time to start. Not only is a higher tax on tobacco products the fair thing to do, it is the most important single step we can take to stop the epidemic of youth smoking—an epidemic that will ultimately claim the lives of 5 million of today's children if we do nothing. One million young people between the ages of 12 and 17 take up this deadly habit every year—3,000 new smokers a day. The average smoker begins smoking at age 13, and becomes a daily smoker before age 15. Raising the tobacco tax by 20 cents a pack will save the lives of 400,000 of these children. The fact is that a twenty cent a pack increase is only a starting place. We should do more—much more.

Eight billion dollars of the funds raised by the tobacco tax increase over the next 5 years are earmarked for children's health insurance. Here, too, we need to do more. Even with the combination of these funds and the $16 billion in the budget agreement, at least four and a half million uninsured children will still be left out and left behind. Without the tobacco tax funds, 6.7 million children will remain uninsured. A tobacco tax increase devoted to children's health is the right policy at the right time.

These facts are bad enough. But the problem is growing worse.

According to a Spring 1996 survey conducted by the University of Michigan Institute for Social Research, the prevalence of teenage smoking in America has been on the increase over the last five years. It rose by nearly one-half among eighth and tenth graders, and by nearly a fifth among high school seniors between 1991 and 1996.

Once children are hooked on cigarette smoking at a young age, it becomes increasingly hard for them to quit. Ninety percent of current adult smokers began to smoke before they reached the age of 18. Ninety-five percent of teenage smokers say they intend to quit in the near future—but only a quarter of them will actually do so within the first eight years of beginning to smoke.

If nothing is done to reverse this trend in adolescent smoking, the Centers for Disease Control and Prevention estimate that five million of today's children will die prematurely from smoking-caused illnesses.

Increasing the federal cigarette tax is one of the most effective ways to reduce teenage smoking. Study after study has shown that the cigarette tax is the most powerful weapon in reducing cigarette use among children, since they have less income to spend on tobacco.

Philip Morris, the nation's largest tobacco company, conceded as much in an internal memorandum as far back as 1981, which noted that "it is clear that price has a pronounced effect on the smoking prevalence of teenagers, and that the goals of reducing teenage smoking and balancing the budget would both be served by increasing the federal excise tax on cigarettes."

Frank Chaloupka, an economist at the University of Illinois at Chicago, found that an increase in the federal cigarette tax by 20 cents will reduce teenage smoking by 7 percent, saving the lives of almost 400,000 children.

Finally, on the overall issue of tax equity, the Democratic Alternative is clearly fairer. More of the benefits of the Republican plan go to the top 1 percent of taxpayers than go to the bottom 60 percent of the taxpayers (13.1 percent vs. 12.7 percent). In the Democratic alternative, only 1.4 percent of the benefits go to the top 1 percent of taxpayers, and the top 20 percent of taxpayers only receive 20 percent of benefits. The vast majority of the benefits go to taxpayers who have income in the middle 60 percent of the income distribution (71.6 percent of the benefits). The Democratic alternative is vastly preferable to the regressive Republican bill, because it is fair to lower and middle income taxpayers.

The Democratic alternative is honest to the American people. The Republican bill states that it will result in a balanced budget by the year 2002. In fact, it might accomplish this.

But in future years, the amount of Republican tax cuts will explode, and the deficit will increase enormously. The Center on Budget and Policy Priorities has estimated that the cost of the Republican proposal will increase by between $500 billion and $600 billion in the 10 years following the current budget period. It will be nearly impossible to balance the budget in those years if this Republican tax giveaway is enacted into law.

The Democratic alternative does not engage in these accounting tricks to balance the budget. The Democratic alternative is honest with American people and fair to American taxpayers, and it deserves to be adopted.

I withhold the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. ROTH. Mr. President, I yield the distinguished Senator from Missouri 7 minutes.

The PRESIDING OFFICER. The Senator from Missouri is recognized for 7 minutes.

Mr. BOND. Mr. President, I thank the distinguished chairman of committee and the manager of the bill.

Having been enlightened by quite a few minutes of debate on the floor, I asked for 2 additional minutes.

First, I want to emphasize that what we are talking about here is a bipartisan bill. My friend from Massachusetts characterized it as a Republican bill.

I particularly appreciated the kind comments by the Senator from Montana. As I listened to his praise of the measure, I was reminded of those immortal words of Mark Twain. When asked about the music of Wagner, he said, "It is not as bad as it sounds." There was some of that in the praise that the Senator from Montana heaped upon this measure. I appreciate his support and his good words.

When I listened to my colleague from Massachusetts, I found out why this music sounds so much better than the alternative because, Members of the Senate, I agree that we are looking for saving and protecting the working men and women of America, the small business owners. As chairman of the Small Business Committee, I have had the opportunity to listen to those people who are struggling to make a living for themselves and provide jobs for others through small business.

I can tell you that after we dealt last year with some of the significant problems in regulatory reform, it was clear that the small businesses of America are overtaxed and overburdened by the Federal Government's desire for more money. They are the ones who are pulling the wagon. They are moving the economy. And they are paying the tariff for this Government.

This measure, the bipartisan agreement reached between leaders of Congress and the President, provided that there would be spending reforms and that there would be tax reductions—tax reductions in the process of getting to a balanced budget. Those tax reductions are absolutely essential if we want to continue the dynamic engine that moves this country forward.

I rise in strong opposition to the Daschle amendment because, No. 1, the Daschle amendment only provides $68.1 billion in net tax cuts—a 20-percent reduction from the bipartisan plan. It goes back on the agreement reached between the leaders of Congress and the President on what we need to do to get this economy moving again.

The Daschle plan provides $14 billion less to American families than the bipartisan plan would in the child tax credit. Families under it would only receive $350 per child instead of $500 per child, and children aged 13 and over would not even be eligible.

The Daschle plan, moreover, is a bad deal for seniors. Seniors get about one-third of the capital gains realized in this country. They would have to pay 10 percent more in capital gains taxes under the Daschle scheme.

But it is a particularly bad deal for small business owners and farmers. It contains less than half the death tax relief contained in the bipartisan plan, and on capital gains taxes, seniors, small business owners, farmers, and self-employed would pay 10 percent more.

As I said, the Daschle plan is a dealbreaker. The DASCHLE plan is outside of the scope of the agreement under which we are working.

Mr. President, in saying that, I want to emphasize that there is one important element which must and will be added to the measure pending before us. One of the top priorities for farmers, ranchers, truckdrivers, and small business men and women across this country is getting fairness in tax treatment of the money paid for health insurance premiums. For too long people who are self-employed have suffered because they have not gotten the same breaks that a large corporation or institution gets in being able to deduct 100 percent of what is paid for health insurance.

Now, I fought long and hard in 1995, and I included an amendment in the Balanced Budget Act, unfortunately, vetoed by President Clinton, which would have increased the health insurance deduction for the self-employed to 50 percent from 25 percent. In 1996, I worked with Senator Kassebaum to include in the Health Insurance Portability and Accountability Act an increase in the self-employed health insurance deduction incrementally to 80 percent. That is not far enough and that is not fast enough. Today, while the self-employed can deduct 40 percent of their health insurance costs, they are still not on a level playing field, and very few of them can wait until 2006 to get sick.

The budget resolution reported out of the Budget Committee includes an amendment I offered that was cosponsored by every member of the Budget Committee present, which calls for a portion of the resources available in this legislation to be set aside for an immediate 100-percent deductibility of health insurance for the self-employed. As I said, it was cosponsored by all members, Democrat and Republican.

Earlier this month, I originated a letter to the Senate Finance Committee urging full deductibility for the self-employed. That letter was signed by 53 Senators. I believe that is a majority.

Now, an immediate deduction of 100 percent would make health insurance more affordable and accessible to some more than 5.1 million self-employed who lack health insurance, almost a quarter of the self-employed work force. In addition, full deductibility of health insurance by the self-employed will also help insure 1.4 million children who live in households headed by self-employed individuals.

Coverage of these self-employed and their children through the self-employed health insurance deduction will enable the private sector to address these health care needs. I am proud to cosponsor the amendment put forward by my colleague and neighbor from Illinois, Senator DURBIN, which would pay for the cost of this deductibility with a 10-cent increase in the tax on cigarettes. This is one way we can pay for this measure. We know that 3,000 children become regular smokers every day and start down that dangerous road at 13. By enacting this amendment, we cannot only pay for health insurance, we can provide a deterrent against children smoking and thus help save lives. In addition, the revenues raised will be used for a directly related purpose, reducing the cost of health care coverage for the self-employed and their families.

Last week, with my colleague and neighbor from Arkansas, Senator BUMPERS, I introduced a measure, the Pregnant Mothers and Infants Health Protection Act, to set up a fund to discourage smoking among pregnant women and among parents with small children because of the tremendous impact of birth defects from smoking and because of the danger of SIDS for those who smoke.

In any event, I believe that this amendment will improve the measure. I urge defeat of the Daschle amendment. The budget resolution calls for full deductibility of health insurance. I look forward to working with my colleagues to include that measure in the final bill as reported out.

I thank the Chair, and I thank the chairman of the committee.

The PRESIDING OFFICER. Who yields time?

Mr. ROTH. Mr. President, I yield 5 minutes to the Senator from New Hampshire.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized for 5 minutes.

Mr. GREGG. I thank the Senator from Delaware. I wish to join with the many Members of this Senate who have congratulated the Senator from Delaware and the Senator from New York for bringing forward this bipartisan initiative, which is really rather extraordinary when you think about it. It is obviously an outgrowth of the fact that the President and the leadership of the Congress have gotten together on how to balance the budget and give a tax cut to working Americans.

This bill is a product of that initial agreement which occurred in May. The fact it came out with almost unanimous support out of the Finance Committee is something that we should take very seriously as a Congress and especially as a people, in recognition of the fact that this is a bipartisan initiative.

Now the leader of the Democratic Party has come forward, even though a large—well, the entire Finance Committee membership of the Democrat Party voted for the underlying bill—the leader of the Democrat Party has come forward with a proposal as an alternative. I think a couple of comments need to be made about the specifics of that because it has some problems in the way it handles children and families with children.

To begin with, it is a phased-in child credit. So, under Senator DASCHLE's proposal, it is not until the year 2000 that families get the $500 credit. In fact, if you have a child who is over the age of 12, you do not get any credit, any credit at all until the year 2002.

Well, the practical effect of that is that there are going to be a lot of kids who outgrow the credit; the kids grow up; they get older. The credit will not be available. The families will not have a credit between now and the year 2000 if their children are under 12. It will be a phased-in credit. And if their children are over 12, they won't get it until 2002. If you have a child who happens to be a 12-year-old today, you are never going to get this credit under the—not the Democrat proposal, because the Democrats are supporting the underlying bill—under the Daschle proposal.

It is pretty outrageous, really, to claim that that bill is more effective in addressing kids than the bipartisan proposal when it does not even cover kids. It does not even cover kids who are over 12 years old until the year 2002.

Equally significant is the practical effect of the way that they recover the credit from working families. Under the Daschle proposal, the effective tax rate of families earning between $70,000 and $80,000 that have a number of kids in the family would be 58 percent not counting the FICA tax. So the actual tax rate under the Daschle bill is 73 percent—73 percent for those folks in that income bracket.

Now, there are a lot of working Americans today who have a fair number of kids who have to have both parents work to support them. And, in fact, unfortunately, one of the facts of America today is that many parents have to work simply to pay taxes. One of the spouses works full-time simply to pay the taxes on the family and the other spouse works to try to take care of the family. One is working to take care of the Government; the other one is working to take care of the family.

If you have a number of kids and you are getting hit with a 73-percent tax rate, even though you may have a fairly high income with a fair number of kids, that tax rate essentially wipes out your income, wipes out not only the income of the spouse working for the Government, but it does a pretty good job on that spouse who is out there trying to earn for the family.

Mr. DOMENICI. Will the Senator yield for a question?

Mr. GREGG. I am delighted to yield.

Mr. DOMENICI. Will you explain for the Senate one more time what that 73 percent is?

Mr. GREGG. If you happen to have a large number of kids, and I think the Senator from New Mexico may have a few children——

Mr. DOMENICI. They are already gone, but, yes, I do.

Mr. GREGG. When we were coming up through the ranks, if you had seven to eight kids, which is a lot of kids, you would need an income probably of $70,000 to $80,000. Both parents would have to be working to maintain those families. In that bracket, you would be paying an effective rate of 58 percent on your income tax. And another FICA tax on top of that works out to be an effective rate of 73 percent on the additional earnings.

Mr. DOMENICI. And that is under the Daschle proposal?

Mr. GREGG. That is under the Daschle plan.

Mr. DOMENICI. Do they raise taxes in those areas?

Mr. GREGG. That is exactly what happens, because the manner in which they recover the tax credit from people after they start to phase down the tax credit is a tax increase of significant proportions, well above the base rate of 28 percent.

The PRESIDING OFFICER. The Senator has used his 5 minutes.

Mr. DOMENICI. I thank the Senator.

Mr. GREGG. I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. ROTH. I yield 5 minutes to the Senator from Pennsylvania.

Mr. SANTORUM. I thank the Senator.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized for 5 minutes.

Mr. SANTORUM. I thank the Chair.

Mr. President, I rise in very strong support of the bill that came out of the Finance Committee, the tax bill that provides tremendous tax relief for all Americans, because what this bill is aimed at doing is creating jobs, creating opportunities, getting an infusion of capital so we can increase our productivity.

Those are the kinds of things I thought we were going to be debating on the floor of the Senate. I thought we were going to talk about how we can create economic growth, how we can create better jobs for people, how the people at the bottom end of the economic strata can rise as a result of the opportunities that are available in the United States. And now what the Senate has evolved into today has been a bunch of charges that this isn't fair, that we should not look at economic opportunities or growth or jobs, a tune that is heard often here—jobs, jobs, jobs. We shouldn't look at job creation; we shouldn't look at economic growth; we should look at what is fair, who is getting the benefit, and we should draw class warfare lines in the sand here.

I just want to, if I can—I hate to even sort of get down, though, to that level, but that has really been the focus of this debate. I want to throw out—I hesitate to do this because we just get numbered to death in the Senate, but let me throw out a couple of numbers that I think are very easy to understand.

The top 20 percent of income earners in this country, the rich, the top 20 percent pay 79 percent of all income taxes. The top 20 percent pay 79 percent of all income taxes.

Now, they pay 79 percent of all taxes. What percentage of the tax cuts in this bill do the "rich" get? Twenty-two percent. In other words, the group that pays three-quarters of the tax get one-fifth of the benefit. And this is being charged as a tax break for the rich. If I were rich, I would say you are ripping me off. I am paying all the taxes and everybody else is getting all the benefit.

But, no, they come here to the floor and they charge this is unfair; these people who are poor need tax cuts. Well, let me just straighten this out a little bit. Thirty-seven percent, the "bottom 37 percent," of income earners in this country pay no taxes net. In other words, with the tax credits and the EITC and the other things that are out there, they pay no Federal income taxes.

Now, I do not know how you give tax cuts to people who do not pay taxes, but that is what the other side wants to do. In fact, if you go deeper into the analysis, you find that not only does the bottom 37 percent pay no Federal income taxes, the bottom 20 percent pays no payroll taxes net. In other words, all that money, the FICA that you have to pay out for Social Security and Medicare, if you are in the bottom 20 percent of income earners in this country, you get more back in earned-income tax credit than you pay out in payroll taxes.

But that isn't good enough. So people are getting—not only do they pay no income taxes, they pay no payroll taxes. In fact, they get more back than they pay. The other side wants to give them even more money. I am not opposed to helping people out, but where is this money coming from? It is coming from people who are paying taxes, people who are in the middle class who have been paying taxes for the last 16 years at very high rates, who deserve a break.

I am really about up to here with people running around saying we are for tax breaks for the middle class, but what they propose is welfare for people who pay no taxes. So let us get it straight. I am going to offer a resolution, a sense of the Senate, that says Federal income tax relief should go to people who pay Federal income taxes.

Now, you would think that that would be a joke, that everybody would vote for that—anybody who pays Federal income tax would be the only ones eligible to get tax relief—but, unfortunately, you are going to find a whole bunch of people who are not going to vote for that.

That is how far we have come. This is "Washingtonspeak." For those of you who have not been in Washington very long, welcome, and this is what it is like. People actually stand around here and talk about giving tax breaks to people who do not pay taxes. While people who do pay taxes, anybody, is rich. Anybody who pays taxes in this country, by definition of what the Democratic plan is, is rich.

If that is where we have come in America, then I think the Founding Fathers will be turning over in their graves because they thought they created the land of opportunity where people were rewarded for working hard, for taking care of their families, for providing for themselves. What we are saying here is you are the bad guys, you are the ones who have to pay more.

The PRESIDING OFFICER. The time of the Senator has expired. Who yields time?

Mr. ROCKEFELLER. Mr. President, I yield myself 5 minutes off the bill.

The PRESIDING OFFICER. The Senator from West Virginia is recognized for 5 minutes.

Mr. ROCKEFELLER. Mr. President, I have talked with Senator MOYNIHAN and with Chairman ROTH about what I am now going to say. That is, I am going to vote for the Daschle alternative. It is a more difficult decision if you have been on the Finance Committee, because of what the others who have spoken of which has been referred to as the oath that we took, to support the bill. I view my oath as being upheld, and I say so for the following reasons.

This is a moral issue with me as well as a political philosophy issue. The piece of paper that we bound ourselves to, I will stick by. I was not satisfied, for example, with the earned income tax credit/child tax credit relationship that came back. I read it to be a certain thing. It did not turn out to be that way. On the other hand, for those eight pieces on that piece of paper—Finance Committee members will know what I am talking about—I did say that I would uphold those on the floor. And I will continue to uphold those. If, for example, a Democrat offers an amendment which would bring the EITC, child care credit, or child tax credit—bring it more in my direction, the way I would like it to be, then I will oppose that even though it is in the best interests of the country, and, I think, the right policy in our country. I will do that because that is what I consider I took my oath of loyalty to. It was not an oath of loyalty in some military sense. It was simply a matter of the way a very complex and difficult, bipartisan committee like the Finance Committee works. If you are bound together and you bind yourself together through the act of raising your hand, et cetera, that has an implication; it expects a response and that response will be forthcoming from me if individual amendments are offered which are related to the deal.

On the other hand, we have Democrats and we have Republicans in this body and I do think that the Democratic alternative being offered by Leader DASCHLE—and I greatly respect him and the work he has done on this, in a very trying period in his personal life—is a better alternative. Because I think it is a better alternative, it becomes—although I think that most people would understand it is probably not going to prevail—I think it becomes very important to say this is a better alternative. If we were doing it, if the Democrats had control of this body, this would be more likely the way we would do it. That is the kind of statement I wish to make in making my vote.

I care very much about what happens to the people of West Virginia. The economy of West Virginia is more fragile, the individual incomes in West Virginia are more fragile, especially as they are particularly young or particularly old, and I have a strong responsibility to that, as I do to my own sense of honor and my own word, within my work in the U.S. Senate and the particular nature of the Finance Committee.

So I gladly say I am going to be supporting the Daschle amendment because it is the better approach to solving our country's problems. Just as I was very glad, back in 1993 when Chairman MOYNIHAN turned to me and said I want you to cut $59 billion out of Medicare in order to ensure its solvency—I did not say slow the rate of increase, I said cut—and I went ahead and did it. And I helped put our economy in a position where we have been able to do things like provide a tax credit to hard working American families, and a number of other things which have been talked about on the floor.

But I want to make the reasons for my vote clear. It is something important and delicate because of my respect not only for my Ranking Member MOYNIHAN and Chairman ROTH, who has been eminently fair and bipartisan in the way he has conducted the Finance Committee, and his fine staff, all of them have been very fair. I want to make it clear I think the Democratic approach is a better one and I will be voting for it for that reason.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. ROTH. Mr. President, I yield 5 minutes to the distinguished Senator from Indiana.

The PRESIDING OFFICER. The Senator from Indiana is recognized for 5 minutes.

Mr. COATS. Mr. President, I thank the Senator for yielding, and I also commend the Senator for some extraordinary work in putting together a real tax cut package for the American people.

There are items in this tax package that we have been attempting to incorporate, to give relief to American taxpayers, for many, many years. The Senator has been a leader and a champion of these. I am pleased to see we have arrived at a point where we can make substantial progress towards achieving these goals. The $500 tax credit for children is something that parents desperately need. It is something that has been far too long in coming. Parents have been put at tremendous disadvantage over the years under our Tax Code, if they are raising children, trying to pay for their expenses. This $500 tax credit is a big step in the right direction, in terms of redressing that.

I have some concerns about the designation, the mandate that designates the credit is only received for children 13 and older if it is put into an education savings account. I will be speaking to that later, when the Senator from Texas introduces his amendment to make that optional. But I do support the other items in this package. It is far superior to the package that is being offered by Senator DASCHLE and some Democrats.

I say "some Democrats," because this is a bipartisan package. There will be a number of Democrats supporting us in this because they know families need tax relief, because they know that capital gains spurs investments, creates jobs, and more important, goes to seniors and to people, small business owners and others who are not rich but who have saved and accumulated over a lifetime, assets that are taxed away by the Government because of appreciation of those assets or, more important, because of inflation. One-third of the capital gains available today under this tax package goes to seniors. So the DASCHLE bill is an antisenior bill. A clear understanding of capital gains will demonstrate that.

The changes in inheritance tax don't go to the rich, they go to the farmer who has been working on his land for his entire lifetime and would like to leave it to his children. They go to the small business owner who maybe started in his basement or garage and built up his business to a certain degree of asset level only for his family to see it taxed away and sold when that taxpayer dies, instead of passing on to his children. It goes to a large percentage of people who have every right to claim those assets. To suggest that we need an income redistribution, above what we already have, I think is a disservice. So I am in strong support of the Senator's position in opposition to Senator DASCHLE's proposal.

The PRESIDING OFFICER. Who yields time?

The Senator from New Mexico.

Mr. DOMENICI. Mr. President, how much time do we have?

The PRESIDING OFFICER. The Senator from New Mexico controls 9 minutes and 30 seconds.

Mr. DOMENICI. I yield 4 minutes to Senator CHAFEE.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized for 4 minutes.

Mr. CHAFEE. Mr. President, I wish to take a few minutes this afternoon to urge support for the tax bill reported out of the Finance Committee last week, and the bill that is before us today. Obviously I am not referring to the substitute, I am talking to the basic bill that came out of the Finance Committee with the support of 18 members in that committee.

That vote, 18 to 2 in the committee, more than anything else is a clear indication of the bipartisan process in which the chairman of the Finance Committee crafted the legislation. Others have talked about the major provisions of this bill, all of which are extremely important. I would just like to touch on some lesser known provisions, if I might, briefly.

The bill before us includes a permanent extension of the orphan drug credit. This provision encourages drug companies to conduct clinical research on rare, what they call orphan diseases, diseases that do not occur very often and thus there is not a large market for the drugs that are produced to care for that particular situation. Drug companies are reluctant to risk the investment or research dollars with such a small patient population, as, for example, exists for cystic fibrosis or hemophilia or Lou Gehrig's disease or Tourette's syndrome. This bill encourages and provides tax credits for those drug companies that spend the research money in these particular areas.

The bill also includes an extension of the work opportunity tax credit, which is an important tool to encourage businesses to hire individuals on public assistance. We passed, last year, the Welfare Reform Act. We want opportunities for those coming off welfare to find a job. The work opportunity tax credit does this. Currently, under the law, it is required that the individual work 400 hours in a job before the tax credit is available to his employer. Under this legislation, the 400 hours is reduced to 120 hours—with a reduced credit, but nonetheless something that will encourage employers to hire these individuals.

Another provision that is included in this particular section says that the work opportunity tax credit extends to disabled individuals, those receiving SSI benefits. This is a separate group from those coming off from welfare.

Another provision in the bill, which I think is very significant, small though it is, is the estate tax incentive for the preservation of open space. America is losing 4 square miles a day to development, 4 square miles. In my State, over 11,000 acres of farmland have been lost to development since 1974. It is a small State. Think of that, 11,000 acres gone to development from farmland. What this does is provide that those individuals who currently, if they keep their open spaces, are subject to stiff estate taxes—thus either they have to go into development to pay the taxes or, when they have to, sell it to developers—this provides a lower estate tax for land, as long as the owner is willing to keep the land undeveloped in perpetuity. In other words, he has to sign a conservation easement, keeping the land open in perpetuity, so there will be some open spaces around our major cities, places where there can be habitat for wildlife and plants and fish. This is a very, very significant piece, this section that is in the bill, that Senator ROTH was good enough to give us leadership on.

Mr. President, I yield to the chairman the remainder of my time.

Mr. ROTH. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 5½ minutes.

Mr. ROTH. I yield the remaining time I have to the distinguished Senator from North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. FAIRCLOTH. Thank you, Mr. President. How much time do I have?

The PRESIDING OFFICER (Mr. HUTCHINSON). The Senator has 5 minutes, 18 seconds.

Mr. FAIRCLOTH. Mr. President, I rise in strong opposition to the tobacco tax in this revenue bill. I am also troubled by this amendment to further increase tobacco tax. Make no mistake, these are flat-tax increases, plain and simple. This is no extension or loophole closure, it is a tax increase. That is what it is.

I didn't think that we were here to raise taxes on American families. I didn't think we were here for that purpose, but, obviously, that is what we have done.

The tobacco tax is the most regressive tax on the books today. We will drive up taxes on the working people more than anything, up to $100 or more per year.

The people who earn $30,000 a year pay 1.2 percent of the income tax in this country, but the people who earn $30,000 a year pay 47.2 percent of the tobacco tax. It is the most regressive tax on the books.

I find it a bit odd that some of the big tobacco tax supporters are the same people preaching the need for greater equality in the tax relief package. You just cannot have it both ways.

Mr. President, I say to my colleagues, is your talk about tax fairness anything more than talk? Is it airy persiflage, or do you mean what you are saying? Would you come to the floor to defeat a tax increase on the common man who smokes?

This bill raises tobacco taxes by 20 cents a pack. The DURBIN amendment would raise taxes by 10 cents a pack. This will hurt the 18,000 tobacco farmers in North Carolina and thousands more throughout the Southeast. It will cost them, literally, their jobs and their livelihood. Sure, it will let politicians tell the news media that we really took a shot at "Big Tobacco." Well, "Big Tobacco" can look after itself, but the people who are growing it, the farmers, who they are really taking a shot at, cannot. The companies will not be bothered by this. The people who are going to be hurt are farmers, families, and communities.

It will hurt the 77,000 working people in North Carolina who grow tobacco and manufacture cigarettes. Just the tobacco sales bring in over $1 billion in cash receipts to the farmers of my State. The entire tobacco sector employs 150,000 people. It is a $7 billion business in North Carolina alone.

These are the fundamental core people of this State—hard-working men, women, and their families. Can you imagine the joy that they expressed when I went home and told them that they were going to be thrown out of business but that we had cut the cost of international air travel? Tobacco pays the mortgages, the grocery bills, and sends the children to college. These people don't do international air travel. Tobacco builds and has built the hospitals, it builds the churches, and it builds entire towns and communities.

So, Mr. President, you be the judge. Is to say the tobacco tax is about politics not correct?

The other side points to this tax and says this is about children's health insurance. They say it is about underage smoking, and they say it is about changing people's behavior.

But it is not about children's health insurance. The settlement that the tobacco industry just signed clearly addresses this issue. There is $18.5 billion over 6 years for children's health insurance in the settlement that is now working its way through the process. The tobacco companies have already signed on the dotted line that they will pay into a fund for children's health insurance. There is already $16 billion in the bill for children's health insurance, and now we are going to vote another $8 billion for children's health insurance when the President only asked for $8 billion in the original bill and said that would be enough. Now we are going to $24 billion, and he only asked for $8 billion. I have never known him to ask for too little.

It is not about underage smoking. The industry just agreed to a sweeping package of changes to prevent underage smoking. The agreement virtually bans all advertising. The industry even agreed to massive fines if underage smoking did not drop drastically over the next 8 years. I don't know how they are going to stop people from smoking, but that we will have to work on when it gets here.

Mr. President, I ask unanimous consent for 2 additional minutes.

The PRESIDING OFFICER. The manager may yield time off the bill. All time on the amendment has expired.

Mr. ROTH. I yield 2 minutes off the bill.

Mr. FAIRCLOTH. Mr. President, if this were it, the bill would include favors for a variety of special interests. The liquor tax would get special breaks, even skydiving would get a special break. No, no one ever caused an accident on the road after a night of smoking, and I never heard anyone being attacked after a cigarette binge.

My point is, this bill isn't about public health, it is about the easy politics of attacking tobacco. The politics may be easy for Senators outside the Southeast, and particularly North Carolina, but this point reaches beyond politics. It reaches to the men and women in North Carolina and throughout the Southeast, hard-working people wondering why the U.S. Congress and their elected representatives are determined to throw them out of business and out of a job.

Everyone in Washington talks about the small farmer. We hear it daily. North Carolina is made up of small farms. The size of an average U.S. farm is over 450 acres, and in North Carolina, it is around 150 acres. We are small farms.

Tobacco pays the bills. An acre of tobacco will yield roughly $1,200 a year in net profit. Nothing else compares, and there really isn't anything else they can grow that begins to fit into the pattern and growth and lifestyle of the area.

Tobacco keeps eastern North Carolina and Southeastern United States farmers on the land, and that is the simple bottom truth line. Tobacco keeps the family on the family farm. Washington politicians are driving families off the farm just to score political points back home.

I want every Senator to understand what this tobacco tax means to real people. These farmers have names. They are good people. They are sending their children to school, and they are being driven out of a job to score political points. I hope that all Senators think about the people and the jobs that they are destroying when they next take a vote on a tobacco tax.

And another question, who is next on the hit list from the tax increase crowd? Tobacco today, tomorrow who knows what product they have decided to tax out of existence. I hope my colleagues will vote against any other tax increase. It is time to stand up for the people who are in the business working for families. Mr. President, I yield the floor.

The PRESIDING OFFICER. All time on the amendment has expired.

Mr. MOYNIHAN. Mr. President, I yield the distinguished Senator from Louisiana such time as he may require from the bill.

Mr. BREAUX. Mr. President, I thank the ranking member. I won't be that long. I rise to commend the Democratic leader on our side, Senator DASCHLE, and others who have put together a major effort in trying to offer a package of democratically oriented tax cuts which, in great sincerity, many, many people feel would be, by far, the better way to proceed—a more balanced, more honest package of tax cuts and how those tax cuts should apply to society.

I think that what he is offering is yeoman's work in terms of fairness and making sure that if there is going to be a tax cut, people who need them the most will benefit the most from those tax cuts.

While I praise my Democratic leader, I rise to say that I will not be able to support that package when it is called to be voted. I say that because we do not live in a perfect world. Neither is the Congress a perfect place. Neither is the Finance Committee a perfect group of individuals who have the wisdom of

Solomon to craft a perfect bill. But what we have crafted in the Senate Finance Committee, because of the work of both Democrats and Republicans working together, I think is a package that merits our support.

It is a better package from many perspectives, but let me concentrate just on the Democratic perspective of why the bill, in fact, is better than when it started.

First of all, there is $24 billion more money which is directed at children for health care, for young children who today do not have health care. That is a major, significant achievement. That was achieved in a bipartisan fashion with major input from Democrats who insisted that whatever money we are able to generate should be used for children who need help and need assistance. That is in this package which is before us today.

There is $8 billion of additional assistance that was achieved because, in a bipartisan fashion, we agreed to raise the cigarette tax on tobacco products and use a portion of those revenues for insuring the most vulnerable among us, the children, for one of the most important things that we can help children with, and that is their health care, both now and in the future. That is the result of a bipartisan working arrangement in the Senate Finance Committee.

In addition, I think that we have taken what was originally a Republican proposal to give everybody a $500-per-child tax credit that you could use for whatever purpose. You could use it to take care of your children, but you could also use it to buy alcohol, you could use it to go to the racetrack, you could use it for whatever purpose. In a bipartisan fashion, we worked to craft an amendment that said you will have these additional tax credits if you use a portion of it to educate your children. I suggest that there is not a better thing that we can do for families with children than to help those parents educate those children for the future so they can be successful members of our society.

We, as Democrats, I think, argued against indexing of capital gains saying we can't afford it. Let's take a capital gains reduction, we hope it will increase jobs and increase expansion in business, but also don't take the next step of indexing it. Because of working it in a bipartisan fashion, that in fact is in the bill.

Again, working in a bipartisan fashion, we made some tough decisions on Medicare and Medicaid, as a result of what we did, to try and bring about competition, to try and say we will make the tough decisions now and no longer will we have to say to people who tell us to fix Medicare, no longer will we say not now, not with us and not with this program. We have taken the tough decisions, and we have accepted them. When people say fix Medicare, this Finance Committee can say that we did what was necessary when we were called upon to make those decisions.

So I think as you look at the total package, it is better than when it started. I, for one, as a person who participated in that process would feel less than totally honest if I was able to get the things that make it better in the package, and then when it came to vote for that package, walk away and say, "No, I am going to vote for something else." That is not, I think, the way things should operate in a democratically elected body which is a divided Government. But while we have a divided Government, we do not have a divided Finance Committee. I think because of that bipartisan spirit and what we were able to do, today we have a better package before us.

Again, I commend our Democratic leader for offering something that I think if we were in control would be the bill that would be before this committee. But that is not the case. But what is the case is a fairly arrived at package that makes this bill much better. I think it deserves our support.

Mr. MOYNIHAN. Well said.

Mr. BREAUX. I yield the floor.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The distinguished Democratic leader.

Mr. DASCHLE. I will use my leader time, whatever time I may consume, to close the debate on the amendment.

I think it has been a good debate. We have had the opportunity to exchange views. I think perhaps there has been some misinformation about what the amendment does and does not do. I have heard that it is antisenior. I have heard that it raises taxes. There are a lot of concerns that perhaps at times like this we ought to spend time rebutting, but let me just get down to the basics.

The basics are that we want to provide as much help to middle-class families as we can. We want to provide as much growth and opportunity for expansion to startup companies, to companies that really need the help as we can.

Our view is that those companies that are in the multi-multibillion-dollar category, multinational companies that have extraordinary assets ought to be viewed differently than those companies that are just beginning, those startup companies that need all the help they can get to be able to survive and compete. We want to help those. We realize that our resources are not unlimited. So if they are not unlimited, we have to target the best we can those companies that indeed need the greatest degree of assistance.

We provide that in capital gains. We provide that in a number of investment incentives that allow those companies the opportunity to do all the things that they can to be competitive, be the next Microsoft or the next IBM.

Third, we feel it is as important as anything we do in this bill to target as many of our resources to education as possible.

And fourth, we want to do it in a fiscally responsible way. We are very concerned about the tax time bomb that could occur in 10 or 15 years, as we watch this explosion with great dismay, having worked so hard now to balance the budget and to bring this budget into balance within the next couple of years.

So, Mr. President, that is what we do, those four things. We provide more targeted assistance to those families who need it the most. I respect immensely the work done in the Senate Finance Committee. I respect the effort made in particular by the chairman and the ranking member in working in a bipartisan way. I respect Members who have made decisions on either side of this amendment for whatever agreements may have been consummated and the interpretation of the agreement as it relates to this amendment. I respect that.

I intend to vote, if we are not successful with this amendment, for the final package. But I do believe we can do better. I believe that when we provide 65 percent of the benefits to the highest 20 percent of incomes in this country, we can do better in distributing benefits across the board more effectively. I believe that our bill, which provides 75 percent of the benefits to the 60 percent in the middle, does a better job of using limited resources where they can do the most good.

Mr. President, that is what this amendment does. That is why I feel so enthusiastic about supporting it. That is why I am hopeful we can get a good vote this afternoon.

I yield the floor and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question occurs on agreeing to the amendment No. 527 offered by the Democratic leader. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Kansas [Mr. ROBERTS] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 38, nays 61, as follows:

[Rollcall Vote No. 134 Leg.]

YEAS—38

Akaka
Biden
Bingaman
Boxer
Bumpers
Cleland

Conrad
Daschle
Dodd
Dorgan
Durbin
Feingold
Feinstein
Ford
Glenn
Harkin
Hollings
Inouye
Johnson
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Murray
Reed
Reid
Robb
Rockefeller
Sarbanes
Torricelli
Wellstone
Wyden

NAYS—61

Abraham
Allard
Ashcroft
Baucus
Bennett
Bond
Breaux
Brownback
Bryan
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Collins
Coverdell
Craig
D'Amato
DeWine
Domenici
Enzi
Faircloth
Frist
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Jeffords
Kempthorne
Kerrey
Kyl
Lott
Lugar
Mack
McCain
McConnell
Moynihan
Murkowski
Nickles
Roth
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NOT VOTING—1

Roberts

The amendment (No. 527) was rejected.

Mr. MOYNIHAN. I move to reconsider the vote.

Mr. CHAFEE. I move to lay it on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 520, AS AMENDED

Mr. ROTH. Mr. President, I ask that the Senate now resume consideration of amendment No. 520, the committee amendment.

The PRESIDING OFFICER. The Senator has that right. The pending amendment now is amendment No. 520.

Mr. ROTH. Mr. President, this amendment includes the $8 billion additional funds for the children's health initiative. As we have discussed earlier, the children's health initiative is a critical piece of the legislation before the Senate. Members on both sides of the aisle, both ends of the political spectrum, and everyone in between are committed to addressing the issue of reaching our Nation's children.

Each morning, more than 10 million children wake to face a day without health insurance. Clearly, this situation has weighed heavily upon us.

Throughout the first quarter of the 105th session of Congress, a number of Members have contributed to various proposals for reaching these children. I thank all my colleagues for their hard work and effort. At this hour, we have now reached a bipartisan agreement on the structure of how to help the States reach more of these uninsured children. Now that we have a structure, we must also ensure that it is adequately funded.

The committee amendment will provide an additional $8 billion for the children's health initiative, will secure that final necessary piece to make this bipartisan agreement work. Some Members may argue that $16 billion is too much money for the children's health initiative. Other Members will argue that $24 billion is not enough. The Finance Committee, which has carefully considered this issue, has agreed on a bipartisan basis that it is just right, and with this committee amendment we will inject $24 billion into reaching the goal of providing health insurance to more children.

Let me remind my colleagues that the States will also be required to provide matching funds. So the total amount will rise even higher. Of the 10 million children without health insurance, about 60 percent are either eligible to be enrolled into the Medicaid Program or they live in families with incomes about 250 percent of the poverty level. For a family of four, that is more than $40,000.

We do not, of course, want to displace the role of the private sector in providing health insurance for children. So this new initiative is really meant to be targeted for those approximately 3.8 million children who live in families who earn too much to qualify for Medicaid but not enough to pay for private insurance. The committee amendment will ensure that there are sufficient funds to meet the goal of reaching these children, and I urge all of my colleagues to support the Finance Committee provisions on this critical issue.

Mr. MOYNIHAN. Mr. President, in brief, sir, in the history of child health care, in the U.S. Congress there has been no measure equivalent in size and range to the measure the distinguished chairman brings before you. We spent much of the 103d Congress on this subject and did not add a penny to child health care. In 2 days, the Finance Committee added $24 billion, which we bring to you in this amendment, which I am sure will be supported on both sides.

Mr. KENNEDY. Will the Senator yield for a question? Will the chairman yield for a question?

The PRESIDING OFFICER. The Senator from Delaware controls the time.

Mr. ROTH. I am happy to yield for a question.

Mr. KENNEDY. Thank you very much. As I understand it, by accepting this proposal, the cigarette tax, which will be used to fund the Hatch proposal on child care, will actually terminate as a funding stream 5 years from now, and the revenues that will be raised by that tax will be used to offset the increased expenditures in the IRA's—just so that we all have an understanding of the final decision made by the Finance Committee.

Mr. ROTH. Mr. President, I say to my distinguished friend and colleague that the cigarette tax is permanent; it is not limited to 5 years.

Mr. KENNEDY. But the funding stream for the Hatch proposal——

Mr. ROTH. The funding stream is a 5-year plan.

Mr. KENNEDY. At the end of the 5 years, the funds that would be provided by the tobacco tax will be terminated for the children's health insurance proposal. So, effectively, we are saying to the States, as I understand it, that they are going to get a funding stream for 5 years. At the end of that, at least in this proposal, there will be no further funding.

Mr. ROTH. I will yield to the distinguished Senator from Utah to comment on that.

Mr. HATCH. Mr. President, I will respond to my colleague from Massachusetts. Because of the unique situation in which we were able to add this spending provision to the tax bill, this is the way it is written.

Mr. ROTH. I point out that the tobacco tax was for all purposes in the bill, not just for the children's health insurance.

Mr. KENNEDY. Well, I thank the Senators. As I understand it, then, the tax will be permanent, but those revenue streams that will fund the children's health insurance—the $8 million—will terminate after 5 years, and those revenues that would be created by the cigarette tax will be used for the offset, either on the IRA's, or the capital gains, or the estate taxes. I think I understand it correctly.

Mr. ROTH. I point out that what we have here is a 5-year plan, as I think was originally the case for the distinguished Senator from Massachusetts. Obviously, the plan can be renewed at the end of the 5 years.

Mr. KENNEDY. I just wanted to clarify the limitations on this funding stream. But I am grateful for the chairman's answer.

Mr. ROTH. I yield to the Senator from Utah.

Mr. HATCH. The original Hatch-Kennedy bill proposed a $20 billion health insurance program for children, plus it contributed $10 billion for deficit reduction. It was a 5-year authorization. Both of the sponsors assumed—and I believe properly so—that this program will work well, that children will benefit from it, and that it will be reauthorized at the end of 5 years. I have no doubt that is the case here as well.

But the provision the Finance Committee adopted continues the tax beyond the 5-year period, and the revenues may be used for other purposes.

To be clear, I assure my colleague from Massachusetts that, should this program work well, we will be revisiting it in 5 years.

And there is an additional point I wish to make for those of my colleagues who believe the additional funding is not needed. It seems fairly clear that the $24 billion, as important a sum as it is, will not cover all of the 10 million children who lack insurance. If we are very, very lucky, or if the

Congressional Budget Office is smiling on us that day, it will cover at most about 8 million children. These figures are obviously subject to the way the States craft their programs, their cost-sharing requirements, and whether the States choose block grants or Medicaid.

For example, if all of the States chose Medicaid, which I do not believe would happen based on conversations I have had with Governors, I estimate that the most children we could cover with the $24 billion is around 5 million.

The other point I feel compelled to raise is that the CBO estimates are coming in very meager. I am not sure why, but they have been consistently scoring the major children's health proposals as helping very few children.

For example, I am told their preliminary estimate for the CHIPS proposal was that it would cover 2 million kids. Their initial estimate on the House-passed block grant was that it would help around 500,000 children, although that was later revised to 860,000.

As a simple gauge, I use the figure of $1,000 per child to measure coverage. This is more than the Federal share of an average Medicaid child, and equal to or slightly less than the average high-quality group health plan. This is also the rough measure that Dr. Bruce Vladeck at HCFA uses.

Based on that rough calculation, $24 billion over 5 years would cover just short of 5 million kids per year. That assumes that the funding were equal each year, and it assumes that there would be absolutely no inflation.

But to those who express concern about the shelf-life of the $8 billion figure we are considering today, the bottom line is that we are going to see how this program works.

I assure my friend and colleague and partner on this effort, a legislator who has been a tireless advocate for children for decades, that if this program works and it is benefiting children, we are going to reauthorize it five years from now.

It is that simple. I give my assurances that I intend to do everything in my power to live up to that promise. And I hope that our colleagues will support that.

This particular amendment has been brought up separately—not as part of the overall bill—because it is a spending amendment on the tax bill.

Because a point of order has been lodged, we need 60 votes in order to retain my provision in the bill.

I believe I am not overstating it—and I would like my colleagues to correct me if I am wrong—when I say that resolution of this issue as part of the total tax spending package was the critical juncture in bringing us together in the Finance Committee. That is a key reason why we have had so much support on both sides of the aisle.

So, it is critical that we pass this as part of the overall plan. I hope our colleagues will take that into consideration.

The tobacco tax is considerably less than that embodied in the Hatch-Kennedy bill, S. 526. But because of the $16 billion already in the spending bill we passed last night—which most would agree was placed there largely in response to the original Hatch-Kennedy filing—and because of the $8 billion we are adding today, we should have an adequate amount to take care of a substantial number of uninsured children in the foreseeable future.

If we approve this proposal and then retain the full $24 billion in the final conference agreement that is signed by the President, it would be a terrific thing for our society.

Adoption of this amendment can only help bring a larger bipartisan vote on the tax bill. And, in the end, I think we could all walk away feeling that we had accomplished the most significant advance in children's health for decades.

I yield at this point.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. CHAFEE. Mr. President, this is a very important measure that the distinguished chairman of the Finance Committee is advancing here this evening. What we are doing is, as he mentioned, our very best to care for the maximum number of low-income children with health care. There is a prescribed or suggested package of benefits that includes eyeglasses and hearing aids for these children from very, very low-income families. So, Mr. President, I urge my colleagues to support this measure.

I want to commend the chairman of the Finance Committee, the distinguished Senator from Utah, and, of course, the ranking member, Senator MOYNIHAN, for everything they have done to advance this proposal.

Mr. KENNEDY. Mr. President, I am certainly going to support the proposal that is recommended by the committee itself. I want to commend my friend and colleague, Senator HATCH, for his perseverance and persistence and tough-mindedness in moving us as far down the road as we are. But I think we are receiving numbers, even as we are here, about those that will be covered and, also, for example, by CBO—the number that they believe will be covered is considerably less than has been estimated by the Finance Committee.

It just seems to me that the great concerns that have been so well-articulated by the chairman of the committee and my friend and colleague from New York, Senator MOYNIHAN, Senator CHAFEE, and Senator HATCH, about the numbers of uninsured, and the fact that they are at the margin in terms of their income, being able to have to provide approximately after-tax income of almost maybe $800 or so, in that range, it is still a very heavy burden. I certainly hope that we can find—with the strong health implications of raising the tobacco tax and the importance of this particular national need, we welcome the fact that now it is an accepted Senate position that we are going to have a 20-cent increase, but that we can get about the business of assuring that all of those children are going to be covered. So I want to thank those Senators, Senator HATCH in particular and our other colleagues, for being willing to accept the concept and framework of the Hatch proposal. I also indicate that I think we have an opportunity to take care of the other remaining uninsured children. I don't know why we would take care of one child and not take care of another when they are all basically the sons and daughters of working families.

So I hope the Senate will accept this proposal. I want to make it very clear that we are preserving our right to make sure we are going to get coverage for the other children as well.

Mr. ROTH. I yield 3 minutes to the Senator from West Virginia.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I thank both my ranking leader and the chairman of the committee. I say to my good friend, Senator KENNEDY from Massachusetts, that having witnessed this process, Senator HATCH fought like a tiger, would not yield in very close quarters, in order to get the additional $8 billion added on for children's health insurance, along with Senator CHAFEE, myself, and others. I think that ought to be very clear.

As Senator CHAFEE said when Senator CHAFEE and this Senator's bill failed, we managed to raise the standards of the bill to pass to such a degree to being very effective. As for not covering all children, that will be a matter of debate because of the uninsured already eligible and how to get to them.

I urge support of the committee amendment.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, this is one of the finest moments the 105th Congress will know. It could not have come about without the courage and the conviction of the Senator from Utah. I would like to affirm everything he has said about the support on both sides of the aisle. It would be nice to have a unanimous vote. Let us hope we do have that, or near thereto.

Mr. CHAFEE. Mr. President, I would like to contribute regarding the work that the Senator from West Virginia did. But for the groundwork he laid in connection with what type of benefits there would be, what kind of assurances there would be for these children, I don't think we would be where we are.

So I want to pay tribute to the Senator from West Virginia.

The PRESIDING OFFICER. Who yields time?

Mr. ROTH. I yield 5 minutes to the Senator from Utah.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, this morning we started the first of a series of hearings in the Judiciary Committee on the tobacco global settlement. I have to say that the funding for this $8 billion, as well as a number of other provisions that will be in the tax bill, happens to come from the 20-cent-per-pack tax on cigarettes.

The reason that Senator KENNEDY and I originally put into our original bill a 43-cent tax on cigarettes is because tobacco is the number one preventable cause of death in this country today.

It is particularly important in this instance because of these 10 million children who are without health insurance, 5 million of them it is estimated will ultimately wind up smoking if we do not find some way to make smoking less attractive for them. It is also a proven fact that every time smoking goes up 10 percent in cost that 7 percent of these kids will never attempt to smoke, which is a very wise thing here. It is a spinoff benefit that we get in adding the cigarette tax.

I might also add that 50 percent of all smokers began before the age of 14, and 90 percent began before the age of 18.

So this particular amendment and this particular aspect of this particular bill has many, many good reasons for its adoption.

I hope our colleagues will support this because I think it is critical, and I think my colleagues on both sides who are really familiar with this will say that it is critical in the overall binding together in a bipartisan way of Democrats and Republicans in the best interest of our country and in support of these major, major two pieces of reconciliation legislation.

If you stop and think about it, this is one of the most just taxes that we have ever passed, and we have limited it to 20 cents rather than 43 cents. The advantage of that is that we will raise enough money to help not only children but help with some other serious problems on the committee.

It was a very difficult discussion because we always have revenue-raising problems, we always have offset problems, and we always have problems of differences on the Finance Committee. But here basically everybody was brought together. Ultimately this side of the equation passed 18 to 2. The spending side passed 20 to zero.

I hope our colleagues will support this amendment because it is critical to the overall passage of this matter.

It is also critical to these children. I don't know of a better thing we can do. We spend an awful lot of time around here doing an awful lot of good for people who can't help themselves, and here is a case where we have children 90 percent of whom live in families with at least one parent who works who can't help themselves but would if they could. This is the way to solve that.

It is a reasonable compromise. It is something that will work. It gets enough money out there in comparison to Hatch-Kennedy that I think it will work. It does it in a thrifty savings way.

I want to personally compliment the chairman and the ranking member of this committee and other members of this committee for their willingness to see through the solution of these problems with this amendment. I hope my colleagues on our side will support this amendment. I hope our colleagues on the Democrat side will support it because in doing so we will be pushing this process greatly forward.

I thank all of those who have participated and who will participate in helping us to do so.

I yield the floor.

Mr. HATCH. Mr. President, why do we need 8 billion on top of the 16 billion already appropriated?

We learned earlier that the House Commerce block grant may be scored as reaching only 860,000 uninsured children. I understand that this is a complicated matter because some funds will be used for direct services and not to purchase insurance. But it just shows you that this whole area is not cheap.

We heard from Bruce Vladeck it costs about $1,000 or so for a good, solid insurance policy. We also know that the Federal share of Medicaid this year averages about $860 per child.

In the first year of the CHILD Program there will be an even 50/50 split between health care and deficit reduction so that $3 billion will be used for program costs. In year five, this program component will grow to $5 billion.

Using these numbers as a guide, it seems reasonable to expect that, depending a great deal how states chose to implement this program that our bill will be able to cover about 3.5 million or so children in the early years of the program and about 5 million children in the fifth year.

There are many variables such as which States chose to participate, what their State matching requirement is, what coinsurance and copayments they require, and so on. We must also take into account inflation which will erode the purchasing power of the yearly allocation.

Another way to look at the problem is to see how many children the $16 billion in the budget agreement could cover. This $16 billion amounts to an average of $3.2 billion per year. If we used all of this money to buy Medicaid coverage at $860 per child, it would cover about 3.7 million children.

This would still leave 1 million children under 125% of poverty with no health insurance.

Twenty-four billion dollars is about $4.8 billion per year spread over 5 years.

Depending on how States implement the program, cost-sharing requirements and so forth, I think that would cover between 5 and 6.5 million, perhaps 7 million children.

The PRESIDING OFFICER (Mrs. HUTCHISON). Who yields time?

Mr. ROTH. Madam President, I don't see anyone requiring further time to debate this issue.

So I yield whatever time I have remaining.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Is all time yielded?

The PRESIDING OFFICER. All time has been yielded.

Mr. DOMENICI. Madam President, I raise the point of order under section 302(f) of the Budget Act that amendment No. 520 results in the Finance Committee exceeding its spending allocations under section 602(a) of the Budget Act.

Mr. ROTH. Madam President, I move to waive all points of order against the committee amendment language for consideration of this provision now, and also for the language, if included at later stages, of the revenue reconciliation process such as in a conference report.

Mr. McCONNELL. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

VOTE ON MOTION TO WAIVE THE BUDGET ACT

The PRESIDING OFFICER. The question occurs on agreeing to the motion to waive the Budget Act. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. NICKLES. I announce that the Senator from Kansas [Mr. ROBERTS], is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 80, nays 19, as follows:

[Rollcall Vote No. 135 Leg.]

YEAS—80

Abraham
Akaka
Allard
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Cleland
Cochran
Collins
Conrad
D'Amato
Daschle
DeWine
Dodd
Domenici
Dorgan
Durbin
Enzi
Feingold
Feinstein
Frist
Glenn
Gorton
Graham
Grassley

Hagel
Harkin
Hatch
Hollings
Hutchison
Inouye
Jeffords
Johnson
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Reed
Reid
Robb
Rockefeller
Roth
Santorum
Sarbanes
Shelby
Smith (OR)
Snowe
Specter
Stevens
Thomas
Torricelli
Warner
Wellstone
Wyden

NAYS—19

Ashcroft
Coats
Coverdell
Craig
Faircloth
Ford
Gramm
Grams
Gregg
Helms
Hutchinson
Inhofe
Kyl
McConnell
Nickles
Sessions
Smith (NH)
Thompson
Thurmond

NOT VOTING—1

Roberts

The PRESIDING OFFICER. On this vote the yeas are 80, the nays are 19. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to. The Budget Act is waived.

Mr. ROTH. Madam President, I move to reconsider the vote.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Madam President, I ask unanimous consent that the next two first-degree amendments in order to S. 949 first be an amendment by Senator DOMENICI regarding budget enforcement, to be followed by an amendment by Senator BYRD regarding the budget.

Mr. KERRY. Reserving the right to object.

The PRESIDING OFFICER. Is there objection?

Mr. KERRY. Reserving the right to object. I will not object.

Mr. DURBIN. Reserving the right to object, if I might ask the chairman before this unanimous consent is considered, I have an amendment pending, which I believe is the regular order, that I would like to have called up.

Mr. ROTH. I would say to the distinguished Senator from Illinois that we want to move ahead on a few amendments that I had mentioned here on a unanimous-consent basis. We will discuss with the Senator later his amendment.

Mr. DURBIN. Do I have the chairman's assurance that this amendment will be protected, there will be time for debate on it this evening?

Mr. ROTH. Yes. There will be time to debate it this evening. That is correct.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 520, AS AMENDED

THE PRESIDING OFFICER. The question now occurs on amendment No. 520, as amended, offered by the Senator from Delaware. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 520), as amended, was agreed to.

Mr. ROTH. Madam President, I move to reconsider the vote.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MORNING BUSINESS

Mr. ROTH. I believe the distinguished Senator from New York would like us to go into morning business.

Mr. MOYNIHAN. Could we have 10 minutes for morning business, that we might discuss a momentous decision or nondecision by the Supreme Court this morning?

Mr. ROTH. I so move, Madam President.

The PRESIDING OFFICER. Without objection, it is so ordered. We are in 10 minutes of morning business.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

RAINES V. BYRD

Mr. BYRD. Madam President, earlier today, in a seven-to-two decision, the United States Supreme Court ruled that Members of Congress do not have the requisite constitutional standing necessary to challenge the Line Item Veto Act.

That decision overturns the April 10 ruling of the U.S. District Court, which held that the Act does, indeed, injure Members sufficiently to confer standing. Moreover, having granted standing, the District Court went on to conclude that the Act was an unconstitutional delegation of Congress' Article I lawmaking power.

As the Senator whose name titles today's decision—Raines v. Byrd—I am obviously disappointed that a majority of the Supreme Court denied standing to Members of Congress. However, I remain mindful of the fact that the most important decision in this matter lies ahead. In the meantime, I am somewhat heartened by the fact that at least one member of the Court was willing to consider the merits of our argument. In what I believe will be a vindicated position, Justice John Paul Stephens wrote that ". . . the same reason that the [Members] have standing provides a sufficient basis for concluding that the statute is unconstitutional."

Madam President, let me take this opportunity to personally thank two groups of individuals who, I know, share my concern with the Court's decision.

First, I wish to thank my Senate colleagues—Senator MOYNIHAN, Senator LEVIN, and former Senator Hatfield—for their support, their wisdom, and their counsel throughout this process. Although this has been a collaborative effort, I, for one, have valued their contributions. And there were two Members of the other body who, likewise, joined us—Mr. SKAGGS and Mr. WAXMAN. Of course, I would be remiss if I did not acknowledge the absolutly stellar legal work provided to us by Lloyd Cutler, Louis Cohen, Alan Morrison, Charles Cooper, and Michael Davidson. Despite the temporary setback, I am convinced that no other group of attorneys could have provided us with better, or more sound, advice.

Finally, be assured that there will come a time when a State or locality, or an individual or group of individuals, will feel the brunt of the misguided legislative gimmick called the line-item veto, and will seek judicial relief. When that time comes, I will stand ready at the helm to support that effort.

Mr. MOYNIHAN. Madam President, it is characteristic of our beloved former President pro tempore to thank others for the efforts that have led to the Court's nondecision today. Might I take the opportunity to thank him. It is his magisterial understanding of the Constitution and his Olympian commitment to it that brought us together, and brought to us the finest legal minds of this time to prepare the briefs that first won hands down in the U.S. District Court for the District of Columbia, and now have been put aside by the Court, but only temporarily. I think it would be not inappropriate to note that one judge and one Justice have spoken to this subject, and in both cases they have spoken to the unconstitutional nature of the act.

I ask the Senate if I might just indulge to read a paragraph from Justice Stevens' dissenting opinion this morning. He says:

> The Line Item Veto Act purports to establish a procedure for the creation of laws that are truncated versions of bills that have been passed by the Congress and presented to the President for signature. If the procedure were valid, it would deny every Senator and every Representative any opportunity to vote for or against the truncated measure that survives the exercise of the President's cancellation authority. Because the opportunity to cast such votes is a right guaranteed by the text of the Constitution, I think it is clear that the persons who are deprived of that right by the Act have standing to challenge its constitutionality. Moreover, because the impairment of that constitutional right has an immediate impact on their official powers, in my judgment they need not wait until after cancellation authority to bring suit. Finally, the same reason that the respondents have standing provides a sufficient basis for concluding that the statute is unconstitutional.

Madam President, I thank you for your indulgence. I think we may have overrun by a moment or two. I most appreciate that.

Again, our appreciation to Senator BYRD. I yield the floor.

Mr. DOMENICI. Has all time expired?

The PRESIDING OFFICER. There are approximately 3 minutes left in morning business.

Mr. TORRICELLI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

PRAISE FOR SENATOR BYRD

Mr. TORRICELLI. Madam President, I, too, would like to join in words of praise for Senator BYRD. Every Member of this institution knows the Senate of the United States has no finer scholar nor better defender of the U.S. Constitution than the Senator from West Virginia. I share his disappointment in the decision of the Court today that standing does not rest with Members of Congress. But, indeed, as Senator MOYNIHAN noted, this is not only not a defeat, it is not even a retreat. The only two judges who were to consider this matter on its merits have reached the inescapable conclusion that by statute the Congress of the United States cannot rearrange basic constitutional powers as contained in the Constitution itself.

There will be another day with other parties who will bring this matter before the Court on its merits. And on that date, this Court will again, as it has on so many occasions, preserve the basic structure of the U.S. Government as contained in the Constitution. On that day, Senator BYRD will have his victory. It is postponed, it is delayed, but it will not be denied.

I once again offer my congratulations to the Senator from West Virginia on what will be his ultimate victory.

I yield the floor.

Mr. BYRD. Madam President, I thank the Honorable Senator for his gracious remarks.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there anyone wishing to speak in morning business? If not, morning business is closed.

REVENUE RECONCILIATION ACT OF 1997

The Senate continued with the consideration of the bill.

AMENDMENT NO. 537

(Purpose: To implement the enforcement provisions of the Bipartisan Budget Agreement, enforce the Balanced Budget Act of 1997, extend the Budget Enforcement Act of 1990 through fiscal year 2002, and make technical and conforming changes to the Congressional Budget and Impoundment Control Act of 1974 and the Balanced and Emergency Deficit Control Act of 1985)

The PRESIDING OFFICER. The Senator from New Mexico is recognized for an amendment.

Mr. DOMENICI. Madam President, I believe it is my turn to offer an amendment. I am going to offer an amendment on behalf of myself and Senator LAUTENBERG of the State of New Jersey.

Before I send the amendment to the desk, let me just talk a little bit about what I am trying to do. In the agreement reached with the White House, on the very last page of it, the White House, members from both sides, and the House, agreed that we would, as part of enforcing this 5-year budget, that we would extend and revise the discretionary caps for 1998 to 2002 at agreed levels shown in tables included in the agreement, and to extend the current law of sequester, which had its early origins in T. Gramm-Rudman-Hollings.

We also agreed within the discretionary caps we would establish what we call firewalls. They have been in existence for some time. We struck a compromise and said for now we would only extend them for 2 years instead of for the entire agreement, meaning we will have to bring those up in about a year, but we will have an opportunity on the next budget resolution, or the one after that, for those who want to extend it beyond that time, and I do.

We also agreed, and I want everybody to understand this one, to return to current law on separate crime caps at levels shown in the agreed tables. That has to do with a matter that is of real importance to Senator BYRD, Senator BIDEN, and the distinguished Senator from Texas, Senator GRAMM. That is an extension of the trust fund for crime prevention, to fight crime, which was established here in the Senate when Senator GRAMM on one day sought to use up the savings attributable to a reduced workforce, as I recall, and then said in that, if we are going to save the money, we ought to spend it for something everybody understands and would be worthwhile.

That trust fund then came into being with the amendment of the Senator from Texas, supported by Senator BYRD and others. Now, that law expires in 2 years, but we agreed in the sessions with the White House and the leadership that we would extend the trust fund within the caps for the 2 remaining years of that law, meaning 1998 and 1999, after which the Congress is free to pass a new law on the trust fund or whatever they would like with reference to the trust fund.

But I think it is clear that without a new law, since that is a trust fund, you couldn't just continue to appropriate, and the trust fund is a fund set aside within the caps and getting the highest priority because it is already there in trust.

We agreed to four or five other things that are less important, and then we agreed to extend the pay-go, pay-as-you-go provisions which had heretofore been adopted and become part of the Senate's working process from the year 1990. Those pay-go provisions essentially said, if you are going to raise entitlement spending, you must offset it with entitlement cuts or tax increases. If you are going to cut taxes, you must offset that with entitlement cuts and vice versa.

We have in this amendment done all of those things. The distinguished Senator from New Jersey, who was part of the agreement and also my ranking member on the Budget Committee, joins me in sending a Domenici-Lautenberg amendment to the desk on this matter, and we ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from New Mexico [Mr. DOMENICI], for himself and Mr. LAUTENBERG, proposes an amendment numbered 537.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. DOMENICI. Mr. President, I want the Senate to know that this amendment is subject to a point of order, and I won't wait around for a point of order. I want the Senate to know that I am fully aware that this amendment is subject to a point of order, because it is obviously not part of deficit reduction. I am fully aware that a point of order could be made. I knew that from the beginning, and we knew that when we discussed extending this and putting in the caps for 5 years, which is the only way to enforce the discretionary savings in this budget. So I won't wait for a point of order. When the time is expired, I myself will move to waive the Budget Act in order to allow this legislation to be considered on this bill.

I say to my fellow Senators, there are many process amendments around. When the Senator from New Mexico said I would not offer this on the first bill, about 12 amendments came tumbling down because they are all waiting for process reform. Some of those amendments I would sympathize with, others I would not, which is not necessarily very relevant. But I must make a point of order on each and every one of those, if the sponsors do not, that they, too, will take 60 votes, unless somebody has some magical way—and maybe Senator GRAMM will try a magical way, maybe he won't—to try to get these amendments in at 50 votes. But I think everybody who wants to do these kinds of process changes ought to get 60 votes or they ought not get it done. That will be applying the law to everybody who wants to change our processes.

I hope everybody knows we could be here for the entire remainder of this bill if everybody who has a process change intends to offer it.

I will use no more time other than to shortly yield to Senator LAUTENBERG with reference to the amendment which he cosponsors. But let me make it very simple, if we do not adopt this amendment, or something like it, there is no way of enforcing the 5-year caps on appropriations. This was a three-legged stool. We get savings on the caps on appropriations, we get savings in entitlements, and we would do that sufficient to allow for a $85 billion tax cut, the third leg. There will be no enforcement of the appropriations total accounts that they can spend, and there will be no firewall between defense if we don't adopt something like this amendment.

I think it is properly drawn, and I hope that we can adopt it later on this evening when the debate is finished.

I yield the floor to Senator LAUTENBERG.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Madam President, I join with Senator DOMENICI in offering the amendment. It implements a provision in the bipartisan budget agreement that relates to the budget process. Without the support that comes from this, I think the work that had been done would be relatively penetrable in so many ways that we would not be able to come up with the final target that we are shooting for, and that is to make certain that we have the deficit down to zero at the end of 2002, and then we have preserved the caps that were placed there to achieve that objective.

The amendment extends several provisions in the Budget Enforcement Act that otherwise will expire and preserves the existing system for enforcing the fiscal policies established by the Congress.

Madam President, current law establishes an overall cap on the amount of spending that Congress can appropriate each year, but discretionary spending—I am referring to the programs appropriated annually by the Congress, including the entire gamut of Federal Departments and Agencies and most of their day-to-day operations. By contrast, discretionary spending does not include entitlement spending, Social Security, Medicare, which flows without the need for annual congressional action.

Under current law, total spending on discretionary programs cannot exceed the prescribed limits. However, these limits expire in fiscal year 1998, and the amendment would extend these limits to 2002 in accordance with the budget agreement. The levels established are the same as those adopted in the agreement and in the budget resolution.

In addition, the amendment extends the so-called pay-as-you-go or pay-go system. Under that system, all tax cuts, all increases in entitlement spending have to be offset by either revenue increases or reductions in other entitlements. The amendment will extend this system through 2002.

There was little disagreement in the bipartisan budget negotiations that the discretionary spending limits and the pay-as-you-go system ought to be extended. These two budget mechanisms are at the very core of the Budget Enforcement Act. The act has been in place since 1990 when it replaced the old Gramm-Rudman-Hollings law, and the system has proven to be successful.

There are many ways to measure success, but I begin by pointing to the bottom line. Since BEA, the Budget Enforcement Act, was put into place, our deficit has been reduced from $270 billion plus down to about $70 billion, a $200 billion reduction. By contrast, the old Gramm-Rudman system had promised dramatic deficit reduction, but when it came to producing results, frankly, it laid an egg.

When Gramm-Rudman came into effect in 1986, the deficit was $221.2 billion. By 1990, when Gramm-Rudman was repeated, the deficit had moved from $220 billion to the same level, $221.2 billion. That, Madam President, is not my idea of progress. Beyond helping to implement the real deficit reduction, the Budget Enforcement Act has avoided many of the political and policy distortions that were originally created by the Gramm-Rudman-Hollings legislation. The old system created an incentive for both Congress and the White House to use unrealistic economic assumptions and other gimmicks in order to game the system.

Since BEA was enacted, while there are still plenty of games in Federal budgeting, the process has dramatically improved. For example, Presidential budgets have used much more realistic economic assumptions, and we have largely been free of the threat of massive across-the-board cuts in defense and domestic appropriated programs that used to be so disruptive.

So, Madam President, I, along with Senator DOMENICI and Congressman KASICH, Congressman SPRATT and the administration, all in the negotiations agreed we should retain the basic framework of the Budget Enforcement Act system. That is what we are proposing in the amendment before us. It is a fairly simple proposition.

In addition, this amendment includes separate spending limits for defense discretionary programs and nondefense discretionary programs in the next 2 fiscal years. This also reflects the bipartisan budget agreement.

Along with many other Democrats, I have long been skeptical of firewalls, but I remind my colleagues that these firewalls apply equally to both sides of the discretionary budget and could protect domestic initiatives from those who would shift funding from domestic discretionary to the military. I will also note that the separate defense and nondefense caps expire after 2 years.

Another provision in this amendment, which also implements the bipartisan budget agreement, would revise the rule governing scoring of asset sales. Under the proposal, asset sales could be counted in budget calculations only if they do not increase the deficit. This should help ensure we don't sell assets only for short-term income if those assets would generate significant revenues in the future. An example might be a Government-owned recreational facility that generates significant user fees.

Madam President, this amendment also includes provisions that establish reserve funds for Amtrak, highways and transits. These provisions will allow us to implement the comparable reserve funds that were included in the budget resolution, and they have been top priorities for me and, given my longstanding commitment to transportation investment, I worked very hard to make sure that we were going to provide the funds necessary to provide the investment in infrastructure so critically needed in our country.

Finally, Madam President, this amendment includes a variety of technical changes that are designed to correct errors and eliminate unnecessary reporting requirements and to revise the outdated provisions. So, I hope my colleagues will support us in this amendment. I express my appreciation, once again, to Senator DOMENICI and the staff, especially Sue Nelson, my Budget Committee staff, for their hard work and cooperation in the development of this legislation. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Several Senators addressed the Chair.

The PRESIDING OFFICER. The distinguished majority leader is recognized.

Mr. LOTT. Madam President, I have a unanimous consent request that I have cleared with the Democratic leader.

PROVIDING FOR ADJOURNMENT OR RECESS OF BOTH HOUSES OF CONGRESS

Mr. LOTT. Madam President, I ask unanimous consent that the Senate now proceed to the consideration of H. Con. Res. 108, the adjournment resolution, which was received from the House. I further ask unanimous consent that the resolution be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 108) was agreed to, as follows:

H. CON. RES. 108

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on the legislative day of Thursday, June 26, 1997, it stand adjourned until 12:30 p.m. on Tuesday, July 8, 1997, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns at the close of business on Thursday, June 26, 1997, Friday, June 27, 1997, Saturday, June 28, 1997, or Sunday, June 29, 1997, pursuant to a motion made by the Majority Leader, or his designee, in accordance with this concurrent resolution, it stand recessed or adjourned until noon on Monday, July 7, 1997, or such time on that day as may be specified by the Majority Leader or his designee in the motion to recess or adjourn, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

Mr. LOTT. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

REVENUE RECONCILIATION ACT OF 1997

The Senate continued with the consideration of the bill.

AMENDMENT NO. 537

Mr. DOMENICI. How much time do I have on the amendment?

The PRESIDING OFFICER. Forty-four minutes.

Mr. DOMENICI. And the opposition has 44 minutes?

The PRESIDING OFFICER. Sixty minutes.

Mr. DOMENICI. So we have used 16. Actually, unless Senator LAUTENBERG has anything further to say, I believe I have stated the case for the DOMENICI-LAUTENBERG amendment No. 537. Does Senator GRAMM want to offer an amendment to the amendment?

Mr. GRAMM. I think Senator BIDEN is going to offer an amendment first, and after his amendment is disposed of, then I will have an amendment, as will several other people.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Madam President, I wonder if the Democratic manager would yield me time off the bill.

Mr. DOMENICI. The Senator has time on his amendment.

Mr. BIDEN. Parliamentary inquiry. Can I get time in my own right?

Mr. DOMENICI. I yield back my time.

The PRESIDING OFFICER. The time is controlled by Senator DOMENICI and Senator ROTH.

Mr. LAUTENBERG. I yield back my time.

The PRESIDING OFFICER. Is all time yielded back?

Mr. DOMENICI. We yielded back our time.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

AMENDMENT NO. 539 TO AMENDMENT NO. 537

Mr. BIDEN. Madam President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Delaware [Mr. BIDEN], for himself and Mr. GRAMM, proposes an amendment numbered 539 to amendment No. 537.

Mr. BIDEN. Madam President, I ask that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 43 of the amendment, strike lines 14 through 21 and insert the following:

"(5) with respect to fiscal year 2001—

"(A) for the discretionary category: $537,677,000,000 in new budget authority and $558,460,000,000 in outlays; and

"(B) for the violent crime reduction category: $4,355,000,000 in new budget authority and $5,936,000,000 in outlays;

"(6) with respect to fiscal year 2002—

"(A) for the discretionary category: $546,619,000,000 in new budget authority and $556,314,000,000 in outlays; and

"(B) for the violent crime reduction category: $4,455,000,000 in new budget authority and $4,485,000,000 in outlays;

as adjusted in strict conformance with subsection (b).".

(2) TRANSFERS INTO THE FUND.—On the first day of the following fiscal years, the following amounts shall be transferred from the general fund to the Violent Crime Reduction Trust Fund—

(A) for fiscal year 2001, $4,355,000,000; and

(B) for fiscal year 2002, $4,455,000,000.

Mr. BUMPERS. Will the Senator from Delaware yield for an inquiry for a moment?

Mr. BIDEN. I would be happy to.

Mr. BUMPERS. Could the managers of this bill tell us how many second-degree amendments there are to this process?

I assume we are on the second-degree amendment process; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. BUMPERS. Could the managers tell us how many second-degree amendments they anticipate on this?

Mr. DOMENICI. I do not know.

Mr. GRAMM. I believe there will be four. Senator BIDEN will offer one for himself. Once that is adopted, I will offer a second-degree amendment. And then we have two other Senators who want to offer second-degree amendments, so they will be seriatim.

Mr. BUMPERS. Then there are five, because I have one also. I am just wondering if we could get some kind of sequence so we know how they are going to be offered so we do not spend the rest of our lives waiting.

Mr. DOMENICI. I say to the Senator, you can be assured there will be four ahead of you, if you would like to be fifth.

Mr. BUMPERS. I thank the Senator for his courtesy.

Mr. GRAMM. Why don't you do yours last?

Mr. DOMENICI. That is what I said.

Mr. BIDEN. Madam President, the second-degree amendment I have at the desk is very simple and straightforward. The Senator from New Mexico is introducing a budget process amendment, and what the amendment of Senator GRAMM and myself does is, quite frankly, it merely extends the crime law trust fund for the extension of this agreement.

I am told by the staffs of the majority and minority that in the budget process agreement that was agreed to with the administration, there is a line on page 90 of the concurrent resolution of the budget fiscal year 1998. On page 90, it says, "Retain current law on separate crime caps at levels shown in the agreement tables."

All we are doing here is extending the crime law trust fund. We are not making judgments on how that will be disbursed within the trust fund. We are just extending the trust fund to the extent of this agreement. And, Madam President, as I offer this amendment, we are maintaining a commitment to one of the few specific ways the reconciliation package can, by virtue of the type of legislation it is, maintain a commitment.

The commitment we made was to fight violent crime. And, ironically, it is working. It is working. And so for us now to extend the violent crime trust fund, let it expire 2 years before this budget agreement expires, means we are going to be back at it again in the year 2000 or before, fighting over something we now know works.

So I realize we can take a long time debating this. But the bottom line is this: We are not suggesting, as the Senator from New Mexico knows, how this trust fund money within the caps will be disbursed; merely that we have the continuation of the trust fund as long as the budget agreement to the year 2002.

Of all the priorities addressed in this budget package, I believe that none is more important than continuing our fight against violent crime and violence against women.

The amendment I am offering, along with Senator GRAMM seeks to maintain this commitment in one of the few specific ways this reconciliation package can—by virtue of the type of legislation this is—maintain this commitment. That is by extending the violent crime control trust fund will continue through the end of this budget resolution, fiscal year 2002.

Senator BYRD, more than anyone, deserves credit for the crime law trust fund. Senator BYRD worked to develop an idea that was simple as it was profound—as he called on us to use the savings from the reductions in the Federal work force of 272,000 employees to fund one of the Nation's most urgent priorities: fighting the scourge of violent crime.

Senator GRAMM was also one of the very first to call on the Senate to "put our money where our mouth was." Too often, this Senate has voted to send significant aid to State and local law enforcement—but, when it came time to write the check, we did not find nearly the dollars we promised.

Working together in 1993, Senator BYRD, myself, Senator GRAMM, and other Senators passed the violent crime control trust fund in the Senate. And, in 1994, it became law in the Biden crime law.

Since then, the dollars from the crime law trust fund have: Helped add more than 60,000 community police officers to our streets; helped shelter more than 80,000 battered women and their children; focussed law enforcement, prosecutors, and victims service providers on providing immediate help to women victimized by someone who pretends to love them; forced tens of thousands of drug offenders into drug testing and treatment programs, instead of continuing to allow them to remain free on probation with no supervision and no accountability; constructed thousands of prison cells for violent criminals; and brought unprecedented resources to defending our Southwest border—putting us on the path to literally double the number of Federal border agents over just a 5-year period.

The results of this effort are already taking hold: According to the FBI's national crime statistics, violent crime is down and down significantly—leaving our nation with its lowest murder rate since 1971; the lowest violent crime total since 1990; and the lowest murder rate for wives, ex-wives, and girlfriends at the hands of their intimates to an 18-year low.

In short, we have proven able to do what few thought possible—by being smart, keeping our focus, and putting our "money where our mouths" are—we have actually cut violent crime.

Today, our challenge is to keep our focus and to stay vigilant against violent crime. Today, the Biden-Byrd-Gramm amendment before the Senate offers one modest step toward meeting that challenge:

By assuring that the commitment to fighting crime and violence against women will continue for the full duration of this budget resolution.

By assuring that the violent crime control trust fund will continue—in its current form which provides additional Federal assistance without adding 1 cent to the deficit—through 2002.

The Biden-Gramm amendment offers a few very simple choices: Stand up for cops—or don't; stand up for the fight against violence against women—or don't; and stand up for increased border enforcement—or don't.

Every Member of this Senate is against violence crime—we way that in speech after speech. Now, I urge all my colleagues to back up with words with the only thing that we can actually do for the cop walking the beat, the battered woman, the victim of crime—provide the dollars that help give them the tools to fight violent criminals, standup to their abuser, and restore at least some small piece of the dignity taken from them at the hands of a violent criminal.

Let us be very clear of the stakes here—frankly, if we do not continue the trust fund, we will not be able to continue such proven, valuable efforts as the violence against women law. Nothing we can do today can guarantee that we, in fact, will continue the Violence Against Women Act when the law expires in the year 2000.

But, mark my words, if the trust fund ends, the efforts to provide shelter, help victims, and get tough on the abusers and barterers will wither on the vine. Passing the amendment I offer today will send a clear, unambiguous message that the trust fund should continue and with it, the historic effort undertaken by the Violence Against Women Act that says by word, deed, and dollar that the Federal Government stands with women and against the misguided notion that "domestic" violence is a man's "right" and "not really a crime."

I urge my colleagues to support the Biden-Gramm amendment.

At the appropriate time—and I am not quite sure yet when is appropriate—I will ask for the yeas and nays on this.

But make no mistake about it, what we are voting on here is whether or not we are going to commit now to the extension of the trust fund, the violent crime trust fund, for the extent of this agreement. That is all this does. That is everything it does, but that is all it does.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER (Mr. BENNETT). The Senator from New Mexico.

AMENDMENT NO. 537, WITHDRAWN

Mr. DOMENICI. Mr. President, I withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

The amendment (No. 537) was withdrawn.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. Under the previous order, the Senator from West Virginia is recognized.

AMENDMENT NO. 540

(Purpose: To eliminate tax deductions for advertising and promotion expenditures relating to alcoholic beverages and to increase funding for programs that educate and prevent the abuse of alcohol among our Nation's youth)

Mr. BYRD. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 540.

Mr. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following:

TITLE —ALCOHOL ADVERTISING RESPONSIBILITY ACT

SEC. 01. SHORT TITLE.

This title may be cited as the "Alcohol Advertising Responsibility Act".

SEC. 02. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) alcohol is used by more Americans than any other drug;

(2) it is estimated that the costs to society from alcoholism and alcohol abuse were approximately $100,000,000,000 in 1990 alone.

(3) in 1995, the alcoholic beverage industry spent $1,040,300,000 on advertising, while the National Institute for Alcohol Abuse and Alcoholism was funded at only $181,445,000;

(4) more than 100,000 deaths each year in the United States result from alcohol-related causes;

(5) 41.3 percent of all traffic facilities in 1995, or 17,274 deaths, were alcohol related;

(6) in addition to severe health consequences, alcohol misuse is involved in approximately 30 percent of all suicides, 50 percent of homicides, 68 percent of manslaughter cases, 52 percent of rapes and other sexual assaults, 48 percent of robberies, 62 percent of assaults, and 49 percent of all other violent crimes;

(7) approximately 30 percent of all accidental deaths are attributable to alcohol abuse;

(8) alcohol advertising may influence children's perceptions toward an inclinations to consume alcoholic beverages;

(9) 26 percent of eighth graders, 40 percent of tenth graders, and 51 percent of twelfth graders report having used alcohol in the past month; and

(10) college presidents nationwide view alcohol abuse as their paramount campus-life problem.

(b) PURPOSES.—The purposes of this title are—

(1) to repeal the existing tax subsidization for expenses incurred to promote the consumption of alcoholic beverages;

(2) to reduce the amount of alcohol advertising to which our Nation's youth are exposed; and

(3) to increase funding for those programs that educate and prevent the abuse of alcohol among our Nation's youth.

SEC. 03. DISALLOWANCE OF DEDUCTION FOR ADVERTISING AND PROMOTION EXPENSES RELATING TO ALCOHOLIC BEVERAGES.

(a) IN GENERAL.—Part IX of subchapter B of chapter 1 (relating to items not deductible) is amended by adding at the end of the following:

SEC. 280I. ADVERTISING AND PROMOTION EXPENDITURES RELATING TO ALCOHOLIC BEVERAGES.

"(a) IN GENERAL.—No deduction otherwise allowable under this chapter shall be allowed for any amount paid or incurred to advertise or promote by any means any alcoholic beverage.

"(b) ALCOHOLIC BEVERAGE.—For purposes of this section, the term 'alcoholic beverage' means any item which is subject to tax under subpart A, C, or D of part I of subchapter A of chapter 51 (relating to taxes on distilled spirits, wines, and beer).".

(b) CONFORMING AMENDMENT.—The table of sections for part IX of subchapter B of chapter 1 is amended by adding at the end the following:

"Sec. 280I. Advertising and promotion expenditures relating to alcoholic beverages.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after December 31 of the year in which this Act is enacted.

SEC. 04. ALCOHOL ABUSE EDUCATION AND PREVENTION AMONG YOUTH.

(a) IN GENERAL.—Subject to subsection (c), there shall be transferred, from funds in the Treasury not otherwise appropriated, to the entities described in subsection (b) amounts to the extent specified under subsection (b).

(b) EDUCATION AND PREVENTION PROGRAMS.—

(1) SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION.—The amounts specified in this subsection shall be:

(A) IN GENERAL.—With respect to the Substance Abuse and Mental Health Services Administration, $120,000.000 for fiscal year 1998, $180,000,000 for fiscal year 1999, $180,000,000 for fiscal year 2000, $210,000,000 for fiscal year 2001, and $210,000,000 for fiscal year 2002, to supplement substance abuse prevention activities authorized under section 501 of the Public Health Service Act (42 U.S.C. 290aa).

(B) USE OF FUNDS.—Amounts provided to the Substance Abuse and Mental Health Services Administration under subparagraph (A) shall be used directly or through grants and cooperative agreements to carry out activities to prevent the use of alcohol among youth, including the development and distribution of public service announcements.

(2) CENTERS FOR DISEASE CONTROL AND PREVENTION.—

(A) IN GENERAL.—With respect to the Centers for Disease Control and Prevention, $120,000.000 for fiscal year 1998, $180,000,000 for fiscal year 1999, $180,000,000 for fiscal year 2000, $210,000,000 for fiscal year 2001, and $210,000,000 for fiscal year 2002, to carry out a comprehensive strategy to prevent alcohol-related disease and disability.

(A) REQUIRED USES.—In carrying out the comprehensive strategy under subparagraph (A), the Centers for Disease Control and Prevention shall—

(i) enhance and expand State-based and national surveillance activities to monitor the scope of alcohol use among the youth of the United States;

(ii) enhance comprehensive school-based health programs that focus on alcohol use prevention strategies;

(iii) develop and distribute commercial advertising to prevent alcohol abuse among youth; and

(iv) enhance and expand Fetal Alcohol Syndrome prevention activities throughout the United States.

(3) NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION.—With respect to the National Highway Traffic Safety Administration, and in addition to any funds authorized from the Highway Trust Fund, $120,000.000 for fiscal year 1998, $180,000,000 for fiscal year 1999, $180,000,000 for fiscal year 2000, $210,000,000 for fiscal year 2001, and $210,000,000 for fiscal year 2002, to carry out programs under sections 402, 403, and 410 of title 23, United States Code, and to develop and implement a paid media campaign targeting high-risk youth populations to improve the balance of media messages related to alcohol impaired driving.

(4) INDIAN HEALTH SERVICE.—With respect to the Indian Health Service, $40,000,000 for fiscal year 1998, $60,000,000 for fiscal year 1999, $60,000,000 for fiscal year 2000, $70,000,000 for fiscal year 2001, and $70,000,000 for fiscal year 2002, to supplement the programs that such Service is authorized to carry out pursuant to titles II and III of the Public Health Service Act (42 U.S.C. 202 et seq., 241 et seq.).

(c) AUTHORITY TO TRANSFER FUNDS.—The Committee on Appropriations of the House of Representatives and the Committee on appropriations of the Senate, acting through appropriations Acts, may transfer the amount specified under subsection (b) in each fiscal year among the entities referred to in such subsection.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, would the Chair indulge me momentarily?

I protect my right to the floor.

The PRESIDING OFFICER. The Senator from West Virginia will be protected in his right to the floor.

Mr. DURBIN addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia has the floor.

Mr. BYRD. I thank the Chair.

Mr. President, last Friday negotiators from the tobacco industry and State attorneys general announced the landmark agreement addressing the impact of tobacco use on our Nation, particularly our young people. Although this important deal will likely face many obstacles and has a long way to go toward implementation, it is an unprecedented first step toward curbing tobacco use and paying for the harm caused by that use.

This process has caused our Nation to focus on an important public health danger and is an important step in working toward a meaningful solution.

While I applaud the action being taken to address the pernicious health effects of tobacco, I am concerned that its evil twin, which also has a staggering impact on our Nation, is to a large measure being ignored.

Mr. President, the cost of alcohol abuse to our country is staggering. According to the National Institute on Alcohol Abuse and Alcoholism of the National Institutes of Health, alcohol is used by more Americans than any other drug. And the results are devastating.

The flood tide of alcohol causes more than 100,000 deaths each year in the United States. Alcohol abuse and alcoholism imposes approximately $100 billion in cost each year on society. Links have been found between alcohol abuse and cirrhosis of the liver, as well as other harmful health conditions. Alcohol is a contributing factor in assaults, murders and other violent crimes, including fatal drinking and driving accidents.

At the bottom of every empty bottle is another family in crisis, another career being destroyed, or another dream washed away.

The amendment I am offering today would eliminate the tax deduction for alcoholic beverage advertising expenditures. In addition, it would increase funding for a number of programs that educate and prevent the abuse of alcohol among our Nation's youth.

What should be of the utmost of our concern in our Nation is the impact of alcohol on our children and our grandchildren.

I am introducing this amendment on behalf of the children who died because they were drinking and driving, and on behalf of the millions of children who are drinking right now without the full appreciation of what they are doing to themselves and what they could potentially do to others.

Alcohol is the drug of choice among teenagers.

Mr. President, more specifically, and looking at this chart compiled by the National Center on Addiction and Substance Abuse, the use of alcohol by our Nation's youth is highlighted among different age groups, including children between the ages of 12 and 17. Among children between the ages of 16 and 17, 69.3 percent have at one point in their lifetimes experimented with alcohol.

Clearly, as made evident by these alarming statistics, alcohol is the leading problem among teenagers—not marijuana, not cocaine.

In the last month, approximately 8 percent of the Nation's eighth graders have been drunk—have been drunk. We are talking about eighth graders, 13 years old—13-year-olds. I never heard of such a thing when I was in my teens, as a young man, or in my middle age. We are talking about eighth graders, 13-year-olds.

Every State has a law prohibiting the sale of alcohol to individuals under the age of 21. How is it then that two out of every three teenagers who drink report that they can buy their own alcoholic beverages?

The youth of this country, who at the delicate age of 15 should be enriching their minds with schoolwork, improving their bodies with exercise, and discovering the wonders of life through God and family values, instead are experimenting and endangering themselves with booze. Junior and senior high school students drink 35 percent of all wine coolers and consume 1.1 billion cans of beer a year. I know, because I pick some of them up off my lawn—I am talking about the beer cans, not the young people.

I will repeat what is common knowledge to us all: Every State has a law prohibiting the sale of alcohol to individuals under the age of 21. Alcohol is a factor in the three leading causes of death for 15- to 24-year-olds—the three leading causes—accidents, homicides, suicide. In approximately 50 percent to 60 percent of youth suicides, alcohol is involved.

Links have been shown between alcohol use and teen pregnancies and sexually transmitted diseases. Eighty percent of the teenagers do not know that a can of beer has the same amount of alcohol as a shot of whiskey or a glass of wine. By the time they are in college, 40 percent have binged on alcohol during the previous 2 weeks.

In 1994, 8.9 percent—almost 95,000—of the clients admitted to alcohol treatment programs that received at least part of their funding from the State were under the age of 21, including over 1,000 under the age of 12. And 31.9 percent of youth under the age of 18 in long-term State-operated juvenile institutions were under the influence of alcohol at the time of their arrest.

While our Nation's education system needs repair, it seems that our society has been successful in teaching these kids something. The problem is that what we have taught them is deadly.

Drinking impairs one's judgment. We all know that. Nobody will dispute that. Alcohol mixed with teenage driving is a lethal, a lethal combination. We read about it all the time in the Washington Post, the Washington Times, and every newspaper in the land. In 1995, there were 1,666 alcohol-related fatalities of children between the ages of 15 and 19. The total number of alcohol-related fatalities that year was 17,274. Mr. President, for many years I have taken the opportunity, when addressing groups of young West Virginians, to warn them about the dangers of alcohol. I supported legislative efforts to discourage people, particularly young people, from drinking any alcohol. For example, 2 years ago I authored an amendment that requires States to pass the zero-tolerance laws that will make it illegal for persons under the age of 21 to drive a motor vehicle if they have a blood alcohol level greater than .02 percent. This legislation not only helps to save lives but it also sends a message to our Nation's youth that drinking and driving is wrong, that it is a violation of the law, and that it will be appropriately punished. Unfortunately and tragically, we all know someone, whether it is a family member or a friend or an acquaintance, whose life has been cut short by a drunk driver. These are senseless losses that are devastating to the families and the friends who are left behind.

As if the aforementioned statistics about youth alcohol use and the results of that use are not frightening enough, young people who consume alcohol are more likely to use other drugs.

On the chart to my left, Senators will note these statistics, compiled by the National Center on Addiction and Substance Abuse at Columbia University, statistics which show that 37.5 percent of young people who have consumed alcohol have used some other illicit drug, versus only 5 percent of young people who have never consumed alcohol; 26.7 percent of those who have consumed alcohol have tried marijuana, versus 1.2 percent of those who have never consumed alcohol; 5 percent of youths who have partaken of alcohol have tried cocaine, while only 0.1 of 1 percent of those who do not drink have used cocaine. So it is not a question that is even debatable that youths who drink alcohol are more likely to use other drugs.

Mr. President, as the aforementioned facts and figures indicate, alcohol exacts a tremendous cost on our society. These costs are not always clear-cut. For example, consider the costs of the lost productivity of a person showing up at work on a Monday morning with a hangover and inadequately performing his or her job, perhaps making a mistake that results in injury. How many of us would like to ride in the automobile that was made on such a Monday morning? How many of us would like to fly on the airplane whose maintenance man or woman, whose mechanic was on a binge the previous day? While there is no way to accurately gauge the enormous costs that alcohol exacts upon our society, there can be no doubt that the pleasures of alcohol consumption exacts a considerable price on our Nation.

The purpose of the amendment that I introduce today is simple. My proposal would simply tell all producers of alcoholic beverages that they can no longer deduct the costs of their advertising expenditures on those products from their Federal income tax liability. While advertising is generally deductible as a legitimate business expense, I believe there exists a moral, legitimate reason to create an exception for producers of alcoholic beverages whose products exact such considerable costs on our society. My proposal would not make illegal any advertising of alcoholic beverages. It does not say that any advertising of alcoholic beverages is unconstitutional. It does not attempt to ban such advertisements, nor would it create any additional Federal bureaucracy to regulate alcohol products. Rather, it would simply end the American taxpayers' subsidization of alcohol advertising by amending the Internal Revenue Code of 1986 to include a disallowance of any deduction for any amount paid or incurred to advertise or promote by any means any alcoholic beverage. This is not a sin tax. It is, rather, an end to the sin subsidy that has left American taxpayers footing the bill for both alcohol advertising and the high health care costs inflicted on society by alcohol consumption. Now there may be those who argue that it is wrong to single out alcohol advertising expenses. I counter that with the question: What other product, with the possible exception of tobacco, costs society $100 billion each year? What other product results in more than 100,000 deaths each year in the United States? The statistics are indeed staggering.

Mr. President, in these complicated times, the innocence of youth, the innocence of youth is dashed away at an early age by the irreverent messages spewing from the television set. Profanity and violence on television programming are interrupted only by the aggressive commercials seeking to influence viewers in the name of profit. Our impressionable youth, pressured by the self-indulgent motives of revenue-hungry corporations are bombarded by countless images glorifying an unrealistic view of reality, often insincerely portraying alcoholic beverages as an ingredient for ideal lifestyles. Our children are besieged with the message that if you drink you will attract beautiful women, if you drink you will be popular, if you drink you will excel at sports. Are these the images of reality or do they leave out something important? Do they leave out some important facts about alcohol consumption? What about the negative and all too prevalent results of alcohol consumption—the hangovers that result in lost productivity, the tragic deaths, the injuries caused by a drunk behind the wheel, the hospital visits for alcohol poisoning, the horrible effects of cirrhosis of the liver and the families torn apart by alcohol abuse.

The industry indicates that their advertisements do not target young people, although this is debatable. A January Wall Street Journal article, detailing a competitive media reporting survey commissioned by the Journal, found that beer advertisements are often aired during programs that are watched by large numbers of adolescents. The findings of this survey are extremely disturbing. In one example, referenced in the article, a beer ad ran during the airing of a popular cartoon show on the MTV station of which 69 percent of the audience was comprised of children under the age of 21.

Mr. President, I ask unanimous consent to have printed in the RECORD the Wall Street Journal article.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal]

ARE BEER ADS ON BEAVIS AND BUTT-HEAD AIMED AT KIDS?

(By Sally Beatty)

When a commercial for Schlitz Malt Liquor appeared last year on MTV during "My So-Called Life," a show about teenage girls, beer maker Stroh called the airing an aberration.

Even as the ad helped launch a Federal Trade Commission probe into alcohol advertising to children, Stroh said it had a long-time policy of aiming ads only at adults of legal drinking age; MTV said the ad ran by mistake because of a last-minute programming switch.

In fact, the commercial was hardly an isolated event. Despite the beer industry's insistence that it doesn't target kids, its commercials regularly wash over underage viewers. A survey by Competitive Media Reporting for the Wall Street Journal showed that during one arbitrarily chosen week—the first week of September—youths under the drinking age made up the majority of the audience for beer commercials on several occasions.

For instance, Molson beer was advertised during a 10 p.m. episode of "Beavis & Butt-Head," the popular MTV cartoon series about two obnoxious teens. Fully 69% of all the episode's viewers that night were under 21—the legal drinking age in all 50 states—according to Nielsen Media Research's widely used ratings data. Molson, which is marketed in the U.S. by Philip Morris's Miller Brewing, also advertised on MTV's racy youth dating show, "Singled Out," just after 7 p.m., when 52% of the audience was under 21. And Stroh advertised Schlitz Malt Liquor during MTV's prime-time music-video show at 8:30 p.m., when 56% of the audience was under 21.

That same week, Adolph Coors ran two ads on the Black Entertainment Television channel after 8 p.m., when 65% of the audience wasn't old enough to drink. Also that week, Anheuser-Busch ran an ad for its Budweiser brand just after 8:30 p.m. on BET during music-video programming, when 70% of the audience was under 21.

These commercials look like clear violations of the chief beer industry trade group's own guidelines for TV ads. "Beer advertising . . . should not be placed in magazines, newspapers, television programs, radio programs or other media where most of the audience is reasonably expected to be below the legal purchase age," states the Beer Institute's published "advertising and marketing guidelines." The industry is pointing to these guidelines in an aggressive lobbying effort against proposed new federal restrictions of beer and liquor advertising.

The number of ads reaching kids is "very troubling," says Jodie Bernstein, director of the FTC's bureau of consumer protection and a top official involved with its ongoing probe into alcohol marketing to kids on television. Her bureau enforces laws banning unfair or deceptive ad practices, including a statute that says it's unfair to aim ads at people who aren't legally able to buy the products. A company that runs afoul of such laws can face fines, orders to pull ads and regular FTC screening of future advertising.

Ms. Bernstein won't comment on the FTC's probe. However, she says that in any investigation, the commission would look first at whether alcohol advertisers are "following their own guidelines." For example, "Is it OK if [the percentage of underage viewers] gets up to 70% once in a while? I don't think it's OK." And she says the commission would "never act on just one episode or one mistake—we would act on the pattern."

Brewers and TV executives insist that it doesn't make sense to evaluate beer ads on a single night's audience. "Any attempt to analyze the beer industry's media-buying practices by examining only selected broadcast media buys during a one-week period is misleading and simplistic," said Miller Brewing in a statement responding to questions about the survey. Miller added that more than 75 percent of the broadcast audience reached by the programming it buys is over 21.

At Stroh, officials argue that there's a difference between putting ads in front of kids and targeting them explicitly. "We understand that when an ad is run it's going to be seen by some people who are under 21 years of age, whether it's a billboard, in a magazine or on TV," says Stroh general counsel George Kuehn. "That does not mean we target the group that is under 21."

Whether the beer industry advertises to kids became a hotly debated question after the liquor industry last year abandoned its longstanding guidelines banning TV ads. That sparked a national uproar over exposing kids to alcohol ads—putting the beer industry in the spotlight.

In Congress, Rep. Joseph P. Kennedy II (D., Mass.) has introduced legislation that would ban most forms of alcohol advertising from 7 a.m. to 10 p.m., require health warnings on print, radio and TV ads and require alcohol ads that run in publication with a 15% or more youth readership to appear only in black-and-white text.

There are already signs that brewers and Madison Avenue are worried about the threat of regulation of beer ads. No. 1 brewer Anheuser-Busch revealed last month that it quietly pulled all its beer advertising from MTV, saying it hoped to "ensure that our intent is not misperceived in today's climate." The Madison Avenue's main trade group, the American Association of Advertising Agencies, recently abandoned its longtime stand against restrictions on ads for products like alcohol and cigarettes. It proposed setting up a new self-regulation committee, warning that the industry otherwise faces a government crackdown on ads for beer and other adult products.

But setting reliable guidelines for such ads remains tricky. TV executives argue that Nielsen ratings aren't reliable measures of kid viewership—even though the ratings are the TV industry's gold standard for gauging the cost of ad time. Says John Popkowski, executive vice president in charge of ad sales at MTV Networks: "If you pick one show on an isolated night you might find one that's an aberration statistically," since cable channels' viewership is sometimes relatively small.

On the E! Channel, for instance, Miller Brewing ran a Foster's ad on Sept. 2, just before 7:30 p.m., during the show "Melrose Place." That night, 41% of the show's audience was under 21, according to Nielsen. But David T. Cassaro, senior vice president in charge of ad sales for E! Entertainment Television, says that from July 1 to Sept. 29 between 7 p.m. and 8 p.m., only about 28% of E! Entertainment's audience was under 21. Overall, Mr. Cassaro adds, only 19% of E! Entertainment's total audience isn't old enough to drink.

"With networks like BET the numbers are so small that they jump all over the place," adds John Goldman, a spokesman for Adolph Coors. "You take as much care as you can but the programming changes often." Mr. Goldman says that in the third quarter, the over-21 audience reached by BET between 7 p.m. and 8 p.m. ranged from 80% to 43%.

Mr. Goldman adds that Coors doesn't buy MTV as a matter of company policy. "We want to avoid any misperception that we're aiming at an underage audience."

Mr. BYRD. Mr. President, looking at another chart to my left, this chart demonstrates competitive media reporting estimates that the alcoholic beverage industry spent more than $1 billion on alcohol advertising in 1995.

In contrast, in 1995, the Federal investment in the National Institute on Alcohol Abuse and Alcoholism was a mere $189.8 million for alcohol research. Does the industry expect us to believe that it would spend this huge amount of money—$1.1 billion—if it were not getting something for that money? Some may argue that this legislation would adversely affect the advertising industry by forcing producers of alcoholic beverages to eliminate their advertising expenditure. Poppycock. I do not believe that this would be the case.

Alcoholic beverage producers spend large amounts of money to advertise their products because it encourages people to consume their product and it, therefore, increases sales. Eliminating the advertising deduction will not eliminate the fundamental business practice. By making these advertisements less profitable, this amendment may reduce the overall amount of alcohol advertising in our society. However, let there be no doubt that the alcohol ads will keep on running. You can bet your bottom dollar on that. They will. The difference, however, will be that the American taxpayer will no longer be subsidizing this activity and that the money will go, instead, to getting the other side of the alcohol story out. That is what we need to start doing. We need to start now getting the other side of the alcohol story out. It is perhaps not the most popular thing politically to attempt to do here, but it needs to be done.

This amendment is all the more necessary because, last year, the Distilled Spirits Council of the United States decided to reject its self-imposed ban on advertising hard liquor on television and radio. I decried this decision by the Distilled Spirits Council because it is a step backward at a time when our Nation is working to curb alcohol abuse. Now hard liquor advertisements will be flowing over the airwaves. This is not the direction in which our Nation should be moving.

According to the Joint Committee on Taxation, the elimination of the tax deduction would result in $2.9 billion in savings over 5 years. My amendment targets the savings from the elimination of the disallowance to programs to prevent alcohol abuse among our Nation's young people and to educate children about alcohol. The Substance Abuse and Mental Health Services Administration would be given increased funds to supplement programs to prevent the use of alcohol among young people and to fund a media campaign designed to counteract the constant bombardment to which our children are subjected daily by alcohol advertisements. It is important to give our children information about the risks associated with the consumption of alcohol. We should not sit idly by and leave unchallenged the messages of alcoholic beverage advertisements that only good things happen to those who drink alcohol.

This amendment will also direct funding to the Centers for Disease Control and Prevention to carry out a comprehensive strategy to prevent alcohol-related disease and disability. The CDC would be given authority to enhance and expand fetal alcohol syndrome prevention activities throughout the Nation. According to the NIAAA, fetal alcohol syndrome is estimated to affect from one to three children out of every 1,000 live births.

To address the distressing problem of alcohol-impaired driving, the National Highway Traffic Safety Administration's alcohol-impaired driving incentive grant program, previously known as section 410, would receive additional funding. Funding is also made available to NTSA to launch a media campaign about the perils of driving under the influence.

The Indian Health Service will receive funding for its alcohol abuse programs to address the issue of alcohol abuse, which has such a devastating effect on the first Americans. I don't refer to them as native Americans. I don't refer to them as native Americans. I am a native American. If I am not a native American, of what country am I a native? I refer to them as the original Americans, or the first Americans.

The harm that alcoholic beverages cause our Nation is not a second-rate hangover, but a serious affliction that kills more than 100,000 people each year. By adopting this amendment, we would be making a positive effort to improve the health of our Nation, particularly of our children, and to send a sober message to those who are capitalizing on profits generated by recklessly advertising alcoholic beverages through far-reaching and seductive means, such as television.

We should act in the best interests of the American people and announce "last call" to those who have been receiving tax breaks for peddling booze, take a step in the right direction and begin to repair some of the damage brought by alcohol in this country. Let us begin by putting a cork in the tax loophole that has left American taxpayers picking up the tab for the alcohol industry.

Now, Mr. President, I am very well aware that a point of order will be made, or can be made. I am well aware of that. But I think the debate has to start at some point. I think that point is now. We hear a great deal about tobacco and we hear a great deal about children, about children's health. I hope those who support those programs and talk much about them would support this effort. We are talking here about children's health. We are talking here about something that kills 100,000 people every year. I am not seeking to ban alcohol. I am not seeking to regulate alcohol. I am simply seeking to end the subsidization by the taxpayers of this country of alcohol.

Think about it. Think about it on your way home tonight as you drive out the George Washington Parkway and see someone in front of you wobbling from one side of the road to the other. Think again. Suppose your wife is up at Tyson's Corner getting ready to drive home with the children and that same fellow who was in front of your car wobbling may kill your wife and your children.

So let's start talking about it. Let's start airing the subject here. Let's stop putting it behind the curtain, putting it under the rug, saying it is taboo. It is not. It is not taboo. Think about our children, our grandchildren. This is the product that kills other people. Tobacco may kill me. Tobacco may kill the individual who smokes it. But alcohol may not kill the person who imbibes; it may kill the innocent—the driver in the other car.

So I hope that Senators will support my amendment. As I say, I am sure that there is a process or a motion available, but I am accustomed to those things. I say let the Senate work its will.

I yield the floor.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. I yield 5 minutes to the distinguished Senator from Kentucky.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. McCONNELL. Mr. President, I thank the chairman of the Finance Committee for yielding me a few moments. I listened very carefully to my good friend and colleague from West Virginia and to his observations about the dangers of drinking and driving, with which I completely concur.

Of course, representing Kentucky, as my friend from West Virginia knows, not only do we have 60,000 tobacco growers, which is, of course, the subject of a number of amendments that may come on this bill; we are also the home of bourbon. If this kind of whiskey is not made in Kentucky, it cannot be called bourbon. Let me suggest that there are no industries—and I checked with the Finance Committee staff—that have been singled out by law and, as a result of being singled out, are not allowed to deduct their expenses for advertising. So this would be a first.

To begin with, as a matter of tax policy, certain kinds of legal industries are not allowed to deduct their advertising, and others are. There is also—while we are thinking of both cigarettes and alcohol—another important distinction. There is no argument that misuse of alcohol is a problem in this country. As a Senator from a tobacco-producing State, I never make the argument that smoking cigarettes is good for you. Obviously, it isn't. But there are many in the medical profession who would say that the consumption of alcohol, if used properly—properly—is actually good for you. I am not a physician, I can't make that argument, but there is a growing argument being made by many in the medical community that a certain amount of alcohol, properly used, is actually good for you health, not bad for your health.

So we have here a legal product, Mr. President, which, arguably, if properly used, might actually be good for you, which the distinguished Senator from West Virginia, I gather, is saying when misused, of course, is clearly a terrible thing and a disaster not only for the person misusing it, but for others who may be affected by that, and that because a product may be misused, the Government should step in and say: Your advertising is not allowed.

Regardless of how you may feel about this——

Mr. BYRD. Will the Senator yield?

Mr. McCONNELL. Yes.

Mr. BYRD. For a correction only. My amendment does not say your advertising will not be allowed. I am not saying that at all. The alcohol industry may continue to advertise. I am just saying, let's stop the subsidization of that advertising, the subsidization by the taxpayers.

Mr. McCONNELL. I thank the Senator. I think I did understand his amendment to disallow a deductibility for advertising, which would make this the only industry of which the Finance Committee is aware where such deductibility would be disallowed.

Aside from my home State and the product, which, if properly used, might actually be good for you, I wonder if my friend from West Virginia doesn't share my concern that once we go in this direction, we might find other activities that some may find offensive being subject to the same kinds of efforts to disallow deductibility for certain kinds of business expenses.

I think, for example, West Virginia and Kentucky used to trade back and forth in terms of coal production. One year West Virginia would be first; the next year Kentucky would be the first. Alas, neither are first anymore. Wyoming is. But there are many Americans who think, as a result of the burning of coal, that the area is polluted and that, as a result of that, people contract lung problems. In fact, there is an initiative by the Clinton administration just announced this week which the Senator from West Virginia and I both have serious reservations about designed to cut down on air pollution—so the argument goes—so there will be less lung disease.

I wonder, if we go down this path of trying to pick out which industries' deductions for certain kinds of business expenses are to be allowed or not allowed based upon our judgment about what is harmful to the public, whether or not somebody might come in and say, "Well, we shouldn't allow production costs associated with the mining of coal to be deductible because, after all, the burning of coal leads to the pollution of the air, which then leads to lung disease, which then leads to death."

I just am concerned that this is a step in the wrong direction. I understand fully the concerns of the Senator from West Virginia, and I share them. I think the use of alcohol leads to a great deal of tragedy.

But I hope we will not single out this legal industry producing a product, which, if properly used, many people in the medical field feel is actually good for you, for this kind of selective treatment on deductibility.

Finally, let me say that I am not an expert on the budget deal. But it is clear that there is a lot of momentum in this body to hold the deal together, and this is clearly not part of the budget deal.

I hope that the proposal will not be approved, in all due respect to my good friend and colleague from West Virginia. I hope this would not become part of the measure before us.

I yield the floor.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, may I say that I fully understand the economic impact of the tobacco industry on the State of the distinguished Senator who has just spoken. West Virginia grows good tobacco crops as well, and the income from those tobacco crops certainly impact upon many families in many counties of West Virginia. We are talking about here, though, a product that results in the maiming and in the killing of people—innocent men, women, and children.

The distinguished Senator from Kentucky mentions the carbon dioxide emissions and other greenhouse gas emissions and possible implications of those emissions on health. People who breathe that air may well, indeed, suffer an adverse impact on their health. But they don't go out and maim. They don't go out and drive an automobile, lose their proper judgment, and end up killing innocent people. They do not go home and abuse their spouses if they smoke cigarettes or if they breathe air blown from them. They don't go home and abuse their children. They don't go home and assault and batter the other members of their family.

I am talking about a product that we all know—it is not just this Senator's opinion. We all know when we read the daily newspapers about the effects of drinking and driving. We all read the newspapers in the spring following the graduation exercises at high schools, and we read, with horror, the stories of a few young people who get into an automobile and wrap that automobile around a telephone pole and they are all killed or maimed—maimed for life.

That is what we are talking about. I am not talking about singling out an industry. I am talking about an industry that creates a product that is hurtful—not just hurtful to the person who uses it, but endangers, as I said already, the lives of others. We all know that.

But I do appreciate the fact that the Senator is from Kentucky, and I respect him for that, and I respect his viewpoint and count him and his fellow Kentuckians as good neighbors.

I yield the floor.

Mr. ROTH. How much time would the Senator from Montana like?

Mr. BURNS. Probably no more than 5 minutes.

Mr. ROTH. I yield 5 minutes to the Senator from Montana.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. I thank my friend from Delaware.

Mr. President, no one on this floor makes his case with such passion as my friend from West Virginia. We have a couple of things in common that we will not go into here. But I also know from where he comes. And when you start talking about this issue of singling out something, then we have to look at probably the real facts.

First, there is the presumption in this amendment that somehow the advertising is evil or bad, or that it wreaks health problems on the American people. There is no question in anybody's mind across this land that the abuse of alcohol is one of our greatest problems—no doubt. Yet, there is no scientific evidence that would even suggest the casual relationship between advertising and abuse.

In order to get to the root of the problem of alcoholism and all of the problems that it brings, study after study after study has been made in the relationship of advertising. In fact, during the 1980's, when the advertising for alcohol products was increasing, actual consumption per capita actually was decreasing. So not only does advertising not impact abuse, it doesn't even impact the overall consumption.

Singling out a product is not, I don't think, what fair tax law is about.

So let's be upfront about it, because I am familiar with the broadcast industry. It has economic impacts on small business. It has economic impacts. And once we start singling out products, do we start talking about red meat, eggs, or sugar? Where do we draw the line? The impact it might have on the national pastime? We could say, "OK, we don't need it in the broadcasting industry. We can all pay for pay-per-view"—the impact on an industry within itself. And the list goes on and on trying to explain to our constituents why different things happen and cost more, because there is a decrease in advertising support in free television. That also brings us our weather, our farm reports, our news, our emergency conditions. All of these things that are supported by free over-the-air broadcasts will be impacted if this amendment is successful.

The industry has taken steps to limit or try to curb the abuse that alcohol has on a person or individual. There is no doubt about it. And in some areas some would say it is even working.

I know that all of us want a tax cut. All of us want a balanced budget. But to single out and start limiting an ad tax or deductibility for legal products is not the right approach. It is not the right approach—not on a legal product.

So I urge my colleagues to oppose this. It is unwarranted. I think it is unwise. And I am not real sure, it might have some constitutional overtones because advertising is still freedom of speech. It cannot be treated differently than any other form.

The Senator from West Virginia makes a point. It is the abuse of the product. The advertising has very little to do with the abuse of the product.

Thank you, and I urge the defeat of this amendment.

I yield the floor.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, the Senator talks about red meat, eggs, and sugar. The Honorable Senator is my friend. Who ever heard of anybody eating red meat, eggs, and sugar, and getting out in the car and having that car plunge into a tree, weave all across the road, and kill and maim other people? Red meat doesn't cause an individual to drive drunk and get in the car and drive all over the highway. Eggs and sugar don't do that in their form as eggs and sugar, in their natural form.

The Senator also, I think, made reference to the Federal Trade Commission in 1985, which found "no reliable basis to conclude that alcohol advertising significantly affects consumption, let alone abuse." Well, let's see what the conclusions are from the effects of the mass media on the use and abuse of alcohol.

The National Institute of Alcohol Abuse and Alcoholism, U.S. Department of Health and Human Services, Research Monograph-28, 1995:

> [The] preponderance of the evidence indicates that alcohol advertising stimulates higher consumption of alcohol by both adults and adolescents . . . It appears to be a contributing factor that increases drinking to a modest degree rather than being a major determinant. (Dr. Charles Adkins, Department of Communications, Michigan State University.)

Now I shall quote Dr. Sally Casswell, Alcohol and Public Health Research Unit, School of Medicine, University of Aukland:

> [T]here is sufficient evidence to say that alcohol advertising is likely to be a contributing factor to overall consumption and

other alcohol-related problems in the long term.

Now quoting Dr. Joel Grube, Prevention Research Center:

> [A]lcohol advertising can influence children, particularly their beliefs about alcohol and, indirectly, their intentions to drink as adults.

Finally, let me quote Dr. Esther Thorson, School of Journalism, University of Missouri:

> If research were designed to take account of what the advertiser is trying to do and if it examined the relationship between the specific structure of the message and the individual or group for whom that message is targeted, investigators probably would find "whopping effects".

Mr. President, I appreciate the views that have been expressed by my friend from Montana and, as I have already indicated, by my friend from Kentucky. I appreciate their views, and I respect their views.

Mr. President, I don't think there should be any doubts in the minds of any Senator or any person who is viewing this Chamber via that electronic eye that the drinking of alcohol affects the judgment of people, and that there are many other costs that are not tangible, that cannot be translated into dollars and cents—the cost of lost productivity, the cost of broken homes, the cost of children abused. And I could go on.

I have made my case, and I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD. I yield back the balance of my time.

The PRESIDING OFFICER. The Senator from Delaware has the remaining time.

Mr. ROTH. Mr. President, I yield back the remainder of my time, and I make the point of order that the pending amendment is not germane to the provisions of the reconciliation measure and I therefore raise a point of order against the amendment under section 305(b)(2) of the Budget Act.

Mr. BYRD. Mr. President, I move to waive the point of order and ask for the yeas and nays on my motion.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. There is an hour equally divided on the motion.

Mr. BYRD. Mr. President, I yield back my time.

Mr. ROTH. Mr. President, I yield back the balance of my time.

VOTE ON MOTION TO WAIVE THE BUDGET ACT

The PRESIDING OFFICER. The question is on agreeing to the motion to waive. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. McCAIN (when his name was called). Present.

Mr. NICKLES. I announce that the Senator from Kansas [Mr. ROBERTS], is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 12, nays 86, as follows:

[Rollcall Vote No. 136 Leg.]

YEAS—12

Bumpers
Byrd
Cleland
DeWine
Glenn
Hatch
Helms
Kennedy
Rockefeller
Sarbanes
Thurmond
Wellstone

NAYS—86

Abraham
Akaka
Allard
Ashcroft
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bryan
Burns
Campbell
Chafee
Coats
Cochran
Collins
Conrad
Coverdell
Craig
D'Amato
Daschle
Dodd
Domenici
Dorgan
Durbin
Enzi
Faircloth
Feingold
Feinstein
Ford
Frist
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hagel
Harkin
Hollings
Hutchinson
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kempthorne
Kerrey
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Reed
Reid
Robb
Roth
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Torricelli
Warner
Wyden

ANSWERED "PRESENT"—1

McCain

NOT VOTING—1

Roberts

The PRESIDING OFFICER. If there are no other Senators wishing to vote, the yeas are 12, the nays are 86. One Senator responded present.

Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained and the amendment falls.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, I move to reconsider the vote.

Mr. NICKLES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

PRIVILEGE OF THE FLOOR

Mr. ROTH. Mr. President, I ask unanimous consent that Barbara Angus and Mel Schwarz of the staff of the Joint Committee on Taxation be granted full floor access during consideration of S. 949.

The PRESIDING OFFICER. Without objection, it is so ordered.

Several Senators addressed the chair.

The PRESIDING OFFICER. The Senator from Delaware has the floor.

Mr. McCAIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Delaware has the floor.

POINT OF ORDER—SECTION 602

Mr. ROTH. Mr. President, I move to withdraw the request for a waiver of the point of order on section 602 of S. 949.

The PRESIDING OFFICER. Is there objection?

Mr. BOND. Mr. President, reserving the right to object, what is the section?

Mr. KERRY. What is it? Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Delaware has the floor. Does he yield?

Mr. BROWNBACK. Will the Senator from Delaware explain the section?

Mr. ROTH. Mr. President, this was a motion to strike section 602, "Incentives conditioned on other DC reform." This part deals with:

> Amendments made by section 701 shall not take effect unless an entity known as the Economic Development Corporation is created by Federal law in 1997 as part of the District of Columbia government.

Senator BROWNBACK made a point of order on this matter and I, in turn, asked for a waiver. We are now asking that the waiver be withdrawn, so that the point of order will lie.

The PRESIDING OFFICER. Is there objection to withdrawing the waiver?

Mr. KERRY addressed the Chair.

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Delaware does not lose the floor.

Is there objection?

Mr. KERRY. Reserving the right to object, Mr. President.

Mr. President, I will not object.

Mr. ROTH. Mr. President, I move to withdraw my waiver of the point of order.

The PRESIDING OFFICER. Is there an objection to moving to withdraw the waiver.

Mr. BROWNBACK. Reserving the right to object, do I understand the chairman to say now that you are removing your waiver to the point of order that I have raised?

Mr. ROTH. Yes.

Mr. BROWNBACK. OK. So the point of order would lie.

Mr. ROTH. Correct.

Mr. BROWNBACK. I thank the Senator. I just needed that clarification.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is the Senator reserving the right to object?

Mr. ROTH. Mr. President, I make a point of order that a quorum is not present.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered. The point of order is withdrawn.

The motion to waive the Budget Act was withdrawn.

Mr. DURBIN addressed the Chair.

Mr. ROTH. Mr. President, please.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. I make a point of order a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. KERRY. I object.

The PRESIDING OFFICER. Objection is heard.

The assistant legislative clerk continued with the call of the roll.

Mr. ROTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROTH. Mr. President, I ask unanimous consent that the following Senators, in the order listed, be able to bring up their amendments, the time for each of the amendments be listed and divided equally between the two sides. The first would be Senator DURBIN for 20 minutes, to be equally divided; Senator NICKLES 10 minutes, to be equally divided; Senator GRAMM 20 minutes to be equally divided; Senator KERRY of Massachusetts 20 minutes equally divided, and——

Mr. FORD. Reserving the right to object, Mr. President. Reserving the right to object.

You have in there Senator DURBIN's amendment for, what, 20 minutes equally divided?

Mr. ROTH. That is correct.

Mr. FORD. Mr. President, I want to object to that one. And you can jerk it out if you want to, because you have rolled over the tobacco industry and my farmers long enough. And I don't intend to sit here without a fight for the additional 11 cents you want to put on after you have already put on 20 cents.

So if you want to change that one, that is fine; otherwise, Mr. President, I will have to object.

Mr. GRAMM. Take it off.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. ROTH. I yield for a comment.

Mr. KERRY. Can I suggest, Mr. President, the following. We are going to have to resolve that issue. We are obviously not going to resolve it immediately if an objection is going to be lodged.

So I recommend that we put in line reserving the time that the Senator has agreed to already cut it down to, in the event we reach some agreement that it will be able to be debated, absent that, that we set it aside temporarily with the understanding we take the order as you have described it.

Again, let me just ask, if I could, Mr. President, how much time remains for each side so we know we are dividing this properly?

The PRESIDING OFFICER. The Senator from Illinois has 43 minutes on his amendment.

Mr. KERRY. I am referring to both sides total on the bill.

The PRESIDING OFFICER. The majority has 1 hour and 35 minutes; the minority has 1 hour and 18 minutes.

Mr. KERRY. Mr. President, I ask then unanimous consent that added to that list, for the minority side, the order be as follows: Senator DODD, Senator LANDRIEU, Senator TORRICELLI, Senator HARKIN, Senator LEVIN, Senator BINGAMAN, Senator WELLSTONE, and Senator KOHL, each of them to have 10 minutes on our side.

Mr. FORD. Mr. President, reserving the right to object. Reserving the right to object.

Mr. ROTH. Mr. President, it is obvious we are not close to unanimous consent as to how to proceed, so I think we will just have to go to regular order and call upon Senator DURBIN to bring up his amendment.

Mr. DURBIN addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Delaware withdraw his request?

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

Mr. DURBIN. Mr. President, what is the pending business before the Senate?

The PRESIDING OFFICER. The pending question is the amendment of the Senator from Illinois.

Mr. DURBIN. I seek the regular order.

The PRESIDING OFFICER. The Senator from Illinois and the Senator from Delaware control the time.

The PRESIDING OFFICER. Who yields time?

Several Senators addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. DURBIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. I seek recognition on this amendment.

I want to make it clear to my colleagues, I am more than willing to accommodate on the remainder of the time. As I understand it, there are about 42 minutes left on this amendment. I do not need all that time. I am more than happy to reduce it equally on both sides and allocate the remaining time on this amendment, any time left before the Senate, among the Members. And I hope that there is no objection to that. But if there is such an objection, I have no other recourse but to proceed on this amendment. And I now have the floor.

I yield for the purpose of a question to the Senator from Oklahoma.

Mr. NICKLES. Will the Senator yield, not for the purpose of a question, but maybe for a suggestion?

Mr. DURBIN. Yes.

Mr. NICKLES. That we go ahead and debate the Senator's amendment until he is satisfied with it, his cosponsors are satisfied with it, and then maybe at that time you can set it aside, and we will go ahead and vote on the other amendments, and you then have had your debate, and we will have a vote on yours somewhere in the pecking order.

Mr. DURBIN. I thank the Senator.

It is the only way I can proceed at this point since there is no unanimous consent that is going to be agreed to.

Mr. KERRY. Mr. President, if the Senator would yield for a moment.

Mr. DURBIN. I yield to the Senator from Massachusetts for a question.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. I believe the Senator from Kentucky will agree to a time. I believe the Senator would agree to a time. And I think, in fairness to all the other Senators, that if we could try to establish some kind of order, I think that everybody will benefit that much more. I think we were very close to having that arranged, if the Senator from Oklahoma would just forbear for a moment.

Mr. ROTH. What is the order, Mr. President?

The PRESIDING OFFICER. The Senator from Illinois has the floor.

Mr. DURBIN. Mr. President, I can proceed on this amendment. And if Members can work out some accommodation, I will do my best to abbreviate this debate and give everyone a chance, because I know many people waited.

Mr. President, this—

Mr. KERRY. Would the Senator yield for a question?

Mr. DURBIN. Yes.

Mr. KERRY. Can we get a sense for what the Senator from Illinois means about abbreviating this? Is there some period of time?

Mr. DURBIN. Yes. The Senator is going to try to do it in the 20 minutes that was in the UC request, allocating an equal amount of time to the Senator from Missouri.

Mr. KERRY. Mr. President, if the Senator will yield just for the purposes of asking something.

Mr. DURBIN. Yes.

Mr. KERRY. Will the Senator from Kentucky agree to a 20-minute time period on the Senator from Illinois' amendment?

Mr. FORD. Mr. President, since it has been laid on me—and I do not mind that at all. I have always heard when you tear the hide off it comes back—you are tougher. And I will agree to the 20 minutes. I do not want to, but I will agree to it.

All I hear for the last week is banging my State and my farmers and my tobacco. And I think I ought to have an opportunity to defend myself and my people. If I am going to be limited to 10 minutes, you know, I am not sure that my colleague and I, with 5 minutes each, can do it adequately. We can do as well as anybody else in 5 minutes.

But I hope they would give some consideration to it.

Mr. President, I will agree to the 20 minutes equally divided, since I have used 5.

Mr. KERRY. I thank the Senator.

Mr. DURBIN. I want to make certain, Mr. President, that I understand. Is this time being taken from the time allocated on my position on the amendment?

The PRESIDING OFFICER. Time is being charged to the Senator from Illinois.

Mr. DURBIN. I hope we can reach agreement quickly then. And I yield for the purpose of a question to the Senator from Delaware. I believe the chairman has a suggestion.

Mr. ROTH. I suggest that we proceed with my proposal, Senator DURBIN having 20 minutes equally divided; Senator NICKLES 10 minutes divided; Senator GRAMM 20 minutes divided; and then Senator KERRY of Massachusetts 20 minutes divided.

Mr. DORGAN. Reserving the right to object, Mr. President.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Reserving the right to object, and I will not object, but I do want at this point to try to understand the circumstances.

When the time has expired on this bill—that will occur I guess in an hour and a half or 2 hours, less than 2 hours—I am wondering what the intentions of the chairman and the ranking member are with respect to further proceedings on the bill.

Will we cast record votes this evening, for example, on the DURBIN amendment? How many additional record votes this evening? How long will we be in session this evening? And when do we intend to begin tomorrow, and with how many amendments?

Mr. ROTH. It is the intent, I say to the Senator from North Dakota, that when the 10 hours expires today, to go out until tomorrow morning, at which time the amendments can be offered and voted upon.

Mr. DORGAN. Further reserving the right to object, is the intent of the chairman to have the additional recorded votes, for example on the DURBIN amendment?

Mr. ROTH. It is unclear at this time. I urge that we proceed, let the debate proceed, and we can work out the other details forthwith.

I move the adoption of my unanimous consent request.

Mr. KENNEDY. Reserving the right to object.

Mr. President, like many others here, I would like to just be able to get a short period of time. To be able to get on the early part of that queue, I would be glad. But I have an amendment with regard to tobacco tax. So I wanted to just make sure that we are going to even be able to discuss this or at least have some idea where we are to have that, too.

Mr. ROTH. Mr. President, in order to get things moving, let us proceed. Regular order. I urge Senator DURBIN to proceed to debate his amendment, and we can try to work out things.

Mr. KERRY. Mr. President, if I could just answer my senior colleague.

The PRESIDING OFFICER. The Senator from Illinois has the floor.

Mr. DURBIN. I am going to proceed. I hope that my colleagues will meet and discuss UC's, and Senator BOND and I would like to explain an important amendment.

Mr. FORD. Are we on 20?

Mr. DURBIN. I do not think we have any agreement at this moment.

Mr. KERRY. Would the Senator yield for one moment? I think we can get this locked in place.

Mr. DURBIN. I yield only for a question.

Mr. KERRY. Mr. President, will the Senator permit the Chair to hopefully rule on the unanimous-consent request that was proposed, during which time we will have whatever Democrat time, whatever time on this side of the aisle that remains, divided equally among everybody who has an amendment so that no Senator's preference goes over another, just divide it equally?

Mr. DURBIN. I say to my colleague from Massachusetts, I would be happy to do that, so long as I do not yield my right to the floor in the process.

Mr. ROTH. Mr. President, I move the adoption of my unanimous consent.

Mr. KENNEDY. Mr. President, how much time would remain at the end? I am glad to divide it all up with my colleague, but how much time remains?

Mr. ROTH. Mr. President, I have been going around in a circle about 10 times now. I think the best thing to do is to let the Senator from Illinois proceed with the debate of his amendment, and we can try to work out further agreements subsequently.

The PRESIDING OFFICER. The Senator from Illinois has the floor.

Mr. DURBIN. Thank you, Mr. President.

AMENDMENT NO. 519

Mr. DURBIN. Mr. President, this amendment was offered last night. It is an amendment which I think most Members are conversant with because it is not a new issue. This is an issue which has been literally before Congress for almost 50 years.

It is an issue of rank discrimination. It is an issue of unfairness. It is an issue of inequality. And it goes to the heart of protecting American families.

The issue at hand is the deductibility of health insurance premiums.

Those Americans fortunate enough to work for corporations, employees and management, enjoy a 100 percent deductibility of all health insurance premiums. I think that is good policy. It encourages health insurance protection. It protects families.

If you happen to be one of the 23 million Americans who are self-employed and you buy health insurance for your family, your tax deductibility is 40 percent. What does that mean? It means, unfortunately, a higher percentage of self-employed people and their families are uninsured. It means that the children, of course, of these self-employed do not have health insurance protection, and it basically means a discrimination in our Tax Code which should have been removed long ago.

There are those who have argued for gradualism. Let us very, very slowly, in a glacial-like pace reach the day when we have equality and parity, 100 percent deduction for all Americans.

I am happy to be joined by my colleague from Missouri, Senator KIT BOND, and also my other colleagues who have said that they think as I do, that it is time for us to end this inequality and to give real parity and fairness so that both the self-employed and those working for other businesses have the same opportunity for 100 percent tax deduction.

I ask unanimous consent Senators BOND, DORGAN DASCHLE, HARKIN, BOXER, MIKULSKI and JOHNSON be added as cosponsors of my amendment No. 519.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. Let me say at this point, too, it is easy to come before this body and to propose new tax benefits. We know the difficult part, the offsets—how do you pay for them?

I have come up with a means of paying for this which I think you can detect has some controversy attached to it, but I think it is reasonable. It would impose an additional 11-cent-per-package tax on cigarettes sold in America and a parallel percentage increase on spit tobacco and snuff.

Now, the bill proposed by the Senate Finance Committee already raised the Federal tax on tobacco and cigarettes, for example, from 24 cents to 44 cents. This bill would add an additional 11 cents. Make no mistake, it is a tax. For those who have told me, as I have spoken to them, "Oh, I never vote to increase the tax," I remind you if you are voting for the Senate Finance Committee bill, you are voting for an increase in this very same tax.

I ask you to consider whether or not it is worth 11 cents on a package of cigarettes to extend this kind of protection to over 20 million Americans. I think it is. I hope you will agree with me.

If we do not make this move this evening, if we do not finally grasp this opportunity, seize this opportunity and increase the deductibility of this health insurance for self-employed, they will languish for 8, 9, or 10 years before ever approximating or reaching parity. That is not fair. It is not fair to the self-employed. It is not fair to the Americans who are disadvantaged by this provision in the Tax Code.

I might also add that many of my colleagues are interested in small business. They believe, as I do that small business is the real engine of economic growth in this country. One of the largest associations of small businesses is the National Federation of Independent Businesses, over 600,000 businesses. When they surveyed their members nationwide, they learned last year that the No. 1 issue—the No. 1 issue—on the minds of their members was the deductibility of health insurance. Business Week magazine recently noted that this was one of the two top obstacles to success for many small businesses. So if you want to encourage small business and the creation of jobs, I urge you to support this amendment.

Let me speak for a moment about this tobacco tax. I know that my colleague and friend from the State of Kentucky feels very passionately about this issue. I might tell him that I do as well. I will tell you what will occur if you increase the cost of tobacco products. Children will be less inclined to buy them. As these products become more expensive, children cannot afford them. It is a fact that has been proven over and again. It was recently shown just a few years ago in Canada when they had a dramatic increase in their tobacco tax. So we know that by increasing this tax by 11 cents, we end up making over 20 million Americans who are self-employed, give them a position of fairness when it comes to tax treatment, and we reduce the likelihood that children will end up using these tobacco products.

Now I know there will be a lot said about tobacco farmers in opposition to my amendment. I want to make this a matter of record. I have said from the beginning I am prepared to work with those Members who want to help transition tobacco farmers into other crops and other livelihoods. I believe that is the wave of the future and it should be part of any comprehensive change in tobacco policy.

I will conclude and then defer to my colleague from Missouri. An estimated 4½ million American children and teenagers smoke cigarettes and another million use smokeless tobacco. Every 30 seconds in America a child smokes for the first time—3,000 a day—and a third of them—1,000—will die with this addiction to nicotine. And teenage smoking has risen by nearly 50 percent since 1991.

So I say to my colleagues, I think this is a balanced approach. It helps those who truly deserve it. It says to the tobacco industry, we will make your product a little more expensive and take it out of the hands of children. This is a reality. If you look at the State taxes around the United States, some of them range as high as $1 a package and they are going up. The States understand this is a source of revenue which is a reasonable source to turn to for legitimate reasons. We should turn to the source of revenue, turn to it this evening.

I yield for purposes of debate, but do not yield the floor, to my colleague from Missouri, Senator BOND.

The PRESIDING OFFICER. The Chair recognizes the Senator from Missouri.

How much time is yielded?

Mr. DURBIN. Five minutes.

Mr. BOND. Mr. President, I thank my distinguished colleague and neighbor from Illinois. I commend him for his perseverance in being able to hold on to the floor. These are very difficult times and this is a very important amendment. I congratulate him on staying with it so we can bring this up and debate it while we have the attention of this body.

I believe my experience in the State of Missouri is probably like the experience that most of us have had in our own States. As we travel around and talk to farmers, to people involved in small business, to truck drivers, day care operators, people who work for themselves, they ask an unanswerable question: Why is it that I can only deduct, now, 40 percent of what I pay in health insurance premiums for myself and my family when my neighbor next door who works for a large corporation, or in the country when my neighbor next door who works for a large corporate farm gets his or her health care paid and the employer deducts 100-percent of what they pay and they do not have to include any of the health insurance on their income tax? Why does the self-employed person only get to deduct 40 percent?

Frankly, there is no answer, Mr. President. There is a gross inequity in this system. It is an inequity that has been pointed out by every farm organization in my State time and time again. It has been pointed out by organizations representing small business.

At the conclusion of my remarks, I will enter in the RECORD a letter from the NFIB of June 26 expressing their strong support for the 100-percent deductibility for the amounts paid for health insurance for self-employed business owners.

This is a matter of equity. This is a matter that is absolutely essential to see that the 5.1 million self-employed individuals in the country today have health insurance and the 1.3 million children who do not have health insurance and who live in a family headed by an entrepreneur, a self-employed business owner.

This, to me, is not only an inequity, but it is a very bad policy outcome. We are talking about the health of children. One of the best things we can do is provide 100 percent deductibility.

Mr. President, the reason I am here joining with my colleague from Illinois, we have pointed out in this tax relief bill, this tax reduction bill that is before the Senate now, with $85 billion in taxes, we have pointed out that this is one of the top priorities of small business and of farmers, of the struggling working middle class of America.

Before the debate began, I circulated a letter signed by 52 of my colleagues, in addition, saying that this was important. Unfortunately, the three top small business priorities were excluded—the self-employed tax deduction for health care, the home office business deduction, and the independent contractor. This measure, unfortunately, is not in either the House or the Senate bill. We feel it is vitally important to put it there. I congratulate my colleague from Illinois in choosing the tobacco tax. Tobacco taxes are being raised in this bill. There is no more important place to put those taxes than this, guaranteeing health for self-employed and their children.

In addition to the figures that my colleague from Illinois stated, about 3,000 children becoming regular smokers every day, last week when Senator BUMPERS and I introduced a measure to encourage pregnant women to stop smoking, I pointed out that while tobacco use among most pregnant women is declining, tobacco usage among teenage pregnant women is on the increase. In my State it is 50 percent above the national average, and not surprisingly our birth-defect rate is 50 percent above the nationwide average. This will have an impact on discouraging teenagers from starting to smoke. It will help encourage pregnant women, particularly pregnant teenagers, to stop smoking.

Mr. President, this is an important matter of equity. It is a matter of health care policy. I urge my colleagues to support what I know will be a required budget waiver so that this could be included.

Before I yield the floor, I ask unanimous consent to have printed in the RECORD the letter of June 26 from the vice president for Federal Government relations of NFIB, Dan Danner, saying, "The self-employed have an extremely difficult time purchasing health insurance. This is why 3 million self-employed business owners have no health insurance, nor do 1.3 million of their children."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL FEDERATION OF
INDEPENDENT BUSINESS,
June 26, 1997.

Hon. CHRISTOPHER BOND,
U.S. Senate, Washington, DC.

DEAR SENATOR BOND: On behalf of the 600,000 members of the National Federation of Independent Business, I am writing to express our strong support for 100% deductibility of the amounts paid for health insurance for self-employed business owners.

The CEOs of large corporations can deduct 100 percent of their health care costs, while the self-employed can only currently deduct 40 percent of their health care costs. This is simply not fair. The Kassebaum/Kennedy health care law was a good first step, but still does not give the self-employed the fairness they deserve in that the law only allows the self-employed to deduct 80 percent of their health care costs by the year 2006.

The self-employed have an extremely difficult time purchasing health insurance. This is why 3 million self-employed business owners currently have no health insurance, nor do 1.3 million of their children. Full deductibility will help make health insurance more affordable for these small business owners. Therefore, the self-employed need full deductibility now.

Sincerely,

DAN DANNER,
Vice President,
Federal Governmental Relations.

Mr. BOND. I yield the floor.

Mr. NICKLES. Mr. President, would the Senator from Delaware give me 4 minutes?

Mr. ROTH. I yield 4 minutes to the Senator from Oklahoma.

Mr. NICKLES. Mr. President, one, I want to ask my colleagues to vote no on the Durbin-Bond amendment and tell them I think I have a pretty good record—I heard the support of NFIB for deductibility for the self-employed. I used to be self-employed, so I support that.

For my colleagues' information, I will be offering an amendment after the Durbin amendment, very soon, that will accelerate and allow self-employed people to deduct a greater percentage for their health insurance at a much faster rate than now is under existing law. It does not go to 100 percent, but likewise we do not increase taxes another 10 cents, which I think a lot of people, not just from tobacco States, are saying "Wait, we are already increasing it 20 cents, almost doubling the tax, should we do another 10 cents?"

I might mention the Finance Committee said we would stop at 20 cents. I do not think the Durbin amendment will become law. I want to let my colleagues know we will offer an amendment that will accelerate deductibility for the self-employed. We will be offering that subsequent to this so they can vote no on the Durbin amendment, vote yes on the amendment that Senator HAGEL and I will be introducing momentarily that will give the self-employed a greater benefit for deducting their insurance.

I yield the floor.

Mr. ROTH. I am pleased to yield 5 minutes to the Senator.

Mr. FORD. My other colleague will need some time, too. I thank the chairman.

You know, Mr. President, this has been an interesting week. We had a negotiation with the attorneys general around the country, and the tobacco industry is stuck for almost $370 billion. The price of cigarettes go up. How much more do you want? And then the Finance Committee puts on 20 cents more, and that raises the price of cigarettes and smokeless tobacco. And now we want to put on 11 cents more. Why? To help the small businessman get a deductible on his health insurance?

At the same time, you are putting 65,000 farm families out of work in my State. You say you are going to help. You may never get the bill to help. I think it is time to stop it. It is time we quit. My farmers have to survive. And we hear all the States have an excise tax. Well, we had a good many here in the past that would vote against any excise tax because they thought it all should go to the States. It is their prerogative. But when you add 20 cents onto the State, and you add another 11 cents onto the State, then you add 75 cents on, if you get the negotiated agreement out there, the income to the community and to the Federal Government are going to go straight down. They are playing with funny money, because the more you increase it, the less income you are going to have. When you increase the tax, the less income you are going to have. So now you say you have all this income coming in—you are playing with funny money.

One other point, Mr. President. You talk about low income—59.5 percent of this tax will come out of those who make less than $30,000 a year—$30,000 a year—and 34 percent of the money the Senator from Illinois and the Senator from Missouri want will come from those that make less than $15,000. Talk about the little man—you are talking away from the man that makes $15,000 and a man with a family that makes less than $30,000. You are going to take 60, 65 percent of that money from that group. What do they benefit? You put them out of business.

I ask unanimous consent to have printed in the RECORD the Tax Foundation's analysis on where the cigarette tax and smokeless tax would come from and how many States would lose what money, and how many individuals of what financial income category would have to pay for this.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BOTTOM LINE ON FINANCE COMMITTEE'S PROPOSED 20¢ CIGARETTE EXCISE HIKE: BOTTOM INCOME EARNERS WOULD PICK UP MOST OF THE TAB

WASHINGTON, D.C., JUNE 20, 1997.—The Senate Finance Committee' proposed 20¢ per pack addition to the current 24¢ federal cigarette excise could play havoc with lower-income Americans' pocketbooks, according to an analysis by the Tax Foundation.

Tax Foundation Economist Patrick Fleenor says that, judging by historic cigarette consumptions patterns, over a third of the $15 billion that the Finance Committee hopes to bring in over five years will be paid by those earning less than $15,000 a year (see Chart 1). Another 25 percent of the total revenues will be paid by Americans earning between $15,000 and $30,000. In all, those earning $30,000 or less would foot about 60 percent of the total bill for the new tax.

CHART 1: NEW COLLECTIONS BY INCOME GROUP BASED ON FINANCE COMMITTEE'S 20¢ CIGARETTE EXCISE HIKE

Adjusted gross income	5-year total (millions)	Share of tax burden (percent)
Under $15,000	$5,098.2	34.0
$15,000 under $30,000	3,819.9	25.5
$30,000 under $45,000	2,315.2	15.4
$45,000 under $60,000	1,318.8	8.8
$60,000 under $75,000	911.6	6.1
$75,000 under $115,000	982.5	6.6
$115,000 under $300,000	474.2	3.2
$300,000 and over	80.0	0.5
Total	15,000.0	100.0

Source: Tax Foundation estimates based on data from IRS, Bureau of the Census, and Center for Disease Control.

Juxtaposed to this, those earning $115,000 or more will account for less than four percent of the additional tax revenues.

"Whether the Finance Committee recognizes it or not, the proposed tax will really make a dent in the budgets of America's lower-income households," Mr. Fleenor stated.

In a state by state comparison, California will bear the single largest burden if the new tax is enacted, paying $1.16 billion to the U.S. Treasury over five years (see Chart 2). The 10 states with the highest projected tax payments will pay 50 percent of the overall tax increase, according to Mr. Fleenor's calculations (see Chart 3).

Chart 2: New collections by State based on Finance Committee's 20¢ cigarette excise hike, 5-year total

[Share of tax burden; in millions of dollars]

Alabama	$278.1
Alaska	35.0
Arizona	200.0
Arkansas	177.7
California	1,155.5
Colorado	199.2
Connecticut	167.5
Delaware	57.7
Florida	852.0
Georgia	452.2
Hawaii	34.9
Idaho	56.3
Illinois	638.8
Indiana	501.8
Iowa	169.4
Kansas	148.0
Kentucky	429.5
Louisiana	293.7
Maine	81.8
Maryland	251.2
Massachusetts	299.7
Michigan	507.3
Minnesota	246.5
Mississippi	183.3

Chart 2: New collections by State based on Finance Committee's 20¢ cigarette excise hike, 5-year total—Continued

Missouri	420.7
Montana	48.8
Nebraska	92.1
Nevada	92.1
New Hampshire	115.6
New Jersey	413.1
New Mexico	70.2
New York	829.5
North Carolina	563.5
North Dakota	33.0
Ohio	801.8
Oklahoma	229.0
Oregon	186.8
Pennsylvania	743.4
Rhode Island	59.1
South Carolina	258.1
South Dakota	45.7
Tennessee	413.7
Texas	880.9
Utah	62.9
Vermont	46.0
Virginia	448.9
Washington	229.7
West Virginia	135.8
Wisconsin	306.5
Wyoming	34.7
District of Columbia	21.5

Source: Tax Foundation estimates based on data from IRS, Bureau of the Census, and Centers for Disease Control.

Chart 3: Top Ten State Contributors to Senate Finance Committee's 20¢ Cigarette Excise Hike

1. California	$1,155.5
2. Texas	880.9
3. Florida	852.0
4. New York	829.5
5. Ohio	801.8
6. Pennsylvania	743.4
7. Illinois	638.8
8. North Carolina	563.5
9. Michigan	507.3
10. Indiana	501.8
Total	7,474.5

Source: Tax Foundation estimates based on data from IRS, Bureau of the Census, and Centers for Disease Control.

"What's ironic about this tax," noted Tax Foundation Executive Director J.D. Foster, "is that, with over half of it earmarked for healthcare costs for poor children, it amounts to a case of the poor paying for new programs for the poor."

NEW TAX FOUNDATION ANALYSES QUESTION ROLE OF EXCISE TAXES IN SOUND FEDERAL AND STATE TAX POLICY

WASHINGTON, D.C., JUNE 20, 1997.—Do excise taxes represent good or bad tax policy? The Tax Foundation recently published the first two in a series of five Background Papers focusing on this and other questions relating to the role excise taxes play in our economy.

In "Excise Taxes and Sound Tax Policy," Dr. John R. McGowan, Associate Professor of Accounting at Saint Louis University's School of Business, provides an overview of how and why the federal excise system evolved.

Excise taxes have always played a large role in the federal government's revenue collections, forming the bulk of total revenues in the early years of the republic.

While excise taxes constitute under five percent of total revenues today, the federal government still imposes excises on a wide variety of goods and services, including gasoline and diesel fuel, tobacco and alcohol products, airline tickets, firearm sales and firearm dealers, heavy trucks and trailers, large tires, coal, vaccines, fishing equipment, and even bows and arrows. Federal excise receipts recently approached $60 billion.

Today, about 70 percent of excise revenues come from the taxes on alcohol, tobacco, and gasoline and diesel fuel, says Dr. McGowan. The accompanying charts shows that federal excises on distilled spirits, beer, and wine, raised about $7.2 billion in 1995, while the tobacco excise raised about $5.9 billion, and gasoline and diesel fuel taxes raised over $22.6 billion.

Dr. McGowan concludes that while excise taxes are relatively easy for governments to impose, they generally do not represent sound tax policy. Excise taxes can introduce significant amounts of inefficiencies into the economic marketplace and create a net reduction of benefits for consumers. Most significantly, excise taxes are widely believed to be regressive and therefore contrary to long-held concepts of fairness in the United States tax system.

In "The Use and Abuse of Excise Taxes," Dr. Dwight R. Lee, of the University of Georgia, examined the inefficiencies of the excise tax. While he acknowledged that inefficiencies are inherent in any taxation, because taxes distort the economic choices that people make, Dr. Lee observed that the most efficient tax system minimizes this type of distortion.

Excise taxes, however, are conspicuously at odds with the goal of reducing tax distortions, says Dr. Lee. They are the most distorting of all taxes per dollar raised. Instead of spreading the tax burden as neutrally as possible over a broad tax base, excise taxes single out a few products for a high and discriminatory tax burden. While obviously unfair to the consumers of the taxed product, imposing or increasing excise taxes to fund tax relief for other taxpayers only exacerbates the problem.

Excise taxes are sometimes proposed to fund specific government spending programs, called "earmarking." Only in a very few situations—where the consumption of a product is complementary to the use of some other good that cannot easily be priced directly—can earmarked excise taxes be efficient. But even here the efficiency of the excise tax depends upon the revenues being unconditionally allocated to the complementary use to reduce the cost of rent seeking. The greater the rent seeking over the allocation of the revenues from a potentially efficient excise tax, the less efficient it is and the lower the efficient rate of taxation (under reasonable assumptions about the relevant elasticity of demand).

Mr. FORD. Mr. President, let's be fair. We had a negotiated agreement. It wasn't good enough. That may be the floor. So here we come with 20 cents more, and then 11 cents more. I have 65,000 farm families that this legislation will put out of business. Oh, we are going to take care of them. Well, you take care of them, then I will talk about taxes. You take care of my farmers and I will talk about taxes after that. I will talk about how much you get from the tobacco industry. I will talk about how much you are going to do for this group or that group. So take care of my farmers, take care of my people. I have stood by and watched these people be run over long enough. Oh, you can come out here with crocodile tears. I can tell you all the sad stories. But small businessmen are small businessmen, and a small farmer is still a small farmer. And 69 percent of my farmers have another job. It becomes a husband, wife, and family occupation. You want to put them out of work.

I understand smoking. I have been smoking for 54 years and I am still here, thank God. I understand smoking. My grandchildren don't smoke, and I understand all of that. But then, a while ago, we didn't put a little deductible, or eliminate the deductible on the distilled spirits industry—beer, wine, and distilled spirits. Here we have tobacco and you pile on and pile on and pile on.

Mr. President, I hope my colleagues will do the best they can to help in this case. It is an additional tax. It is putting my people out of work. It is saying to children on the farm—children on the farm—that you are going to have less income next year. You are going to have less next year. Substitute another crop. That indicates that you don't know what tobacco brings, you don't know what corn brings, or what soybeans brings—$1,844 net profit for an acre of tobacco, and $100 from soybeans. You have to plant acres and acres and acres of soybeans and one acre of tobacco.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. FORD. I suppose it's time. I was sweating anyhow.

Mr. ROTH. Mr. President, I yield 5 minutes to the Senator from Kentucky, [Mr. MCCONNELL].

Mr. MCCONNELL. Mr. President, if I were a Senator from any other State listening to this debate, I guess I would have to conclude that I don't have any tobacco growers. Cigarette smoking is obviously not good for your health. Why should I not vote for the Durbin-Bond amendment?

Reason No. 1: We entered into a budget agreement and this breaks it wide open. There has been a lot of momentum in this Chamber over the last week to stick to the budget agreement. This is a deal breaker. It wasn't negotiated by the President and the leaders of the Republican Congress. It wasn't even voted on by the Senate Finance Committee.

So the stake you have in this, I say to my colleagues, you will be voting to bust the budget deal wide open, in order to raise taxes on low-income Americans. What a great idea. This is supposed to be a package about lowering taxes by $85 billion, or close thereto, over the next 5 years, and a vote for the Durbin-Bond amendment turns it into a tax increase bill—a tax increase bill on the lowest income people in America. In fact, 60 percent of any tobacco tax increase will be borne by Americans making less than $30,000 a year. So you will be transforming this bill, which has been criticized by some downtown as somehow a benefit for the wealthy, into a major tax increase on the most vulnerable, low-income people in our society.

Regardless of how you feel about tobacco, regardless about how you feel about smoking—I don't smoke and don't support it particularly; I think it is not good for you—it is a legal product. That isn't the issue here. Why in the world, in a bill designed to lower taxes, would we want to have a whopping tax increase on the lowest income people in America?

My good friend from Missouri said it is a matter of equity. It sure is. What is equitable about it? We are singling out one industry and one socioeconomic group in America for a major tax increase in a bill designed to lower taxes on working American families. It absolutely distorts everything this tax reduction bill is supposed to be about. Obviously, it has an impact on my State. Senator FORD and I feel passionately about this. Maybe some product in your State will be next. But this transforms this bill into a major tax increase on low-income Americans. I can't think of a worse direction to go in.

Finally, let me say that it is estimated that it will cost our State of Kentucky 2,700 jobs, just like that. Clearly, that is a matter of major concern to us. But the consumers of cigarettes are all over America, not just in Kentucky, not just in North Carolina. They are, by and large, lower income people, who will continue to smoke after that, and you have just socked them with a major tax increase, Mr. President.

I certainly hope my colleagues will not, A, break the budget deal and, B, have a whopping tax increase on low-income Americans.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. ROTH. Mr. President, I yield 5 minutes to the Senator from North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina is recognized for 5 minutes.

Mr. FAIRCLOTH. Mr. President, I don't know of a lot more that can be said on the subject. It has been very adequately and eloquently addressed by the two Senators from Kentucky. But we talk about equity and we talk about fairness, but the truth of it is that is not even in the vernacular of what we are saying here tonight. What we are doing is very simply this—I said it yesterday, I think, or the day before—they said it was a historic session. Yes, it is a historic session. We are destroying an industry that has served this country for 300-plus years, and we are simply wiping it out.

Now, when you go to the 77,000 workers in North Carolina and say to them, your job is gone, your industry is gone, but the good news is that international air travel is cheaper for you—most of them haven't been out of the county. So that is what we are saying here.

I don't doubt that the real interest here is to reduce and enable people to deduct their health insurance. I didn't notice that it was proposed to be paid for by any 10-cents-a-bushel tax on corn. And they go back to Illinois and Missouri and explain to the corn farmers there that we really have done you a great favor. No, it is on tobacco, which has been the whipping boy. Anybody in the Senate or in the Congress in the last year or two that had an ax that needed to be ground, they have come to the tobacco industry to grind it for them. That is very simply what happened. This is a source of money for whatever eleemosynary or good feeling or cause we have. This is a source of money.

As has been said earlier, enough is enough. I hope colleagues in the Senate will recognize that this has gone far enough. It breaks a budget agreement, and it is time to stop it.

I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. ROTH. Mr. President, I yield 5 minutes to the distinguished Senator from North Carolina, Mr. HELMS.

The PRESIDING OFFICER. The Senator from North Carolina, Mr. HELMS, is recognized.

Mr. HELMS. Mr. President, we have taken on the air of a Gilbert and Sullivan comic opera here tonight and all this week. I heard on the radio, I say to my colleague from North Carolina, on the early morning news, several days ago, I heard a Senator say, "Yes, we are going to give umpteen hundred million dollars to children"—he didn't say children, he said "chillin," and, oh, how benevolent he was—"because we are going to raise the cigarette tax," we are going to sock the tobacco companies. Well, he is not going to do any such thing. But that is what he wants the folks back home to think.

Speaker after speaker has pointed out that you are not taxing the tobacco companies; you are taxing the lower income people of this population of the United States. If you don't believe it, look at the record. Yet, they say, we are socking it to the tobacco companies—the evil tobacco companies—and they have all sorts of statistics that they pulled out of their hip pocket, saying how many lives it is going to save. They are not going to save any lives.

The point is, I say to my friend from Kentucky, it is so much hot air. They know it is hot air, but they have nothing else to say. And they want a headline back home that Senator Joe Blow really socked it to the tobacco companies. No, Joe Blow is not socking it to the tobacco companies.

He is socking it to the low-income people of this country who do something that maybe Joe Blow doesn't do—enjoy cigarettes. I don't smoke. Nobody in my family does. But I will tell you one thing. When you get down to it, it's a matter of choice and statistics—and you can play all sorts of games with statistics. But LAUCH FAIRCLOTH has it right and so does the distinguished Senator from Kentucky. Both of them have it right about how many jobs this is going to adversely affect.

This is the game we play. Go ahead and play it if you think you can win. I hope you can. But get you a little monkey and one of these organ grinders and sing this debate that you are making about tobacco, then you can be really funny.

I thank the Senator. I yield such time as I may have.

Ms. MOSELEY-BRAUN. Mr. President, I would like to express my support for the spirit embodied in Senator DURBIN's amendment to S. 949. This amendment seeks to increase the health insurance deduction for self-employed individuals to 100 percent. I agree that this is the right thing to do and that the Senate should consider options for ensuring that small business owners, particularly women, and farmers have access to the same tax deductions that are available to large corporations. I do not, however, agree with the way my Illinois colleague has suggested we pay for this particular increase, and for that reason, I cannot support this amendment.

The bill before us today reflects a long and tedious, bipartisan compromise among the members of the Finance Committee. That compromise, which provides for increased access to education, increased savings incentives, family tax relief, and agricultural and business investment incentives, also reflects some hard choices regarding upon whom the burden to pay for such benefits should fall. A part of the compromise made by the members of the Finance Committee was the decision to forgo increasing tobacco taxes at the present time. This decision was made with due consideration to the ongoing tobacco litigation, which may result in a dramatic increase in current tobacco taxes.

I definitely support the spirit of Senator DURBIN's amendment. A 100 percent deduction for health insurance premiums could reduce the annual net cost of health insurance for a typical family by as much as $500 to $1,000. In addition, such a deduction could provide tax equity for the 10.6 million self-employed Americans who currently can only receive a 40 percent deduction, unlike large corporations, who currently can deduct 100 percent of incurred health insurance premiums. There is no doubt that there is merit to the goals of this amendment.

As much as I would like to support the amendment presented by my colleague today, however, I believe that the compromise made by the Finance Committee should be honored. To do otherwise could place other programs and incentives of vital importance to the average American family and small business at risk. Because I believe that we have an obligation to make good on the promises of this bill, I cannot support this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. NICKLES. Would the Senator yield 1 minute to me?

Mr. ROTH. I yield 1 minute to the Senator from Oklahoma.

Mr. NICKLES. I again remind my colleagues. I urge them to vote "no" on the Durbin amendment. There may be a point of order raised on it. I hope they sustain the point of order. I again remind them that right after this amendment, we will be offering an amendment that will have a significant improvement on deductibility for self-employed persons, one that I believe we cannot only pass but hopefully prevail in conference on as well.

The PRESIDING OFFICER. Who yields time?

Mr. DURBIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Could I ask my friend and colleague from Delaware, are there any more requests for time on their side of the aisle?

Mr. ROTH. No. I will yield back my time.

Mr. DURBIN. Might I have 3 or 4 minutes? Then I will be prepared to yield back the floor as well.

Mr. ROTH. Does the Senator have time remaining?

Mr. DURBIN. Yes. I believe I have some time remaining.

The PRESIDING OFFICER. The Senator from Illinois has 23 minutes left.

Mr. DURBIN. I will not use that, I guarantee you.

Let me say this. I want to respond to some of the points raised in this debate. I have been involved in this debate for over a decade and have heard many of these arguments, and I disagree with them. But I do respect my colleagues both in the House and in the Senate who make these arguments. I believe they are heartfelt and sincere. I believe they are speaking for the people that they represent.

I believe I am speaking for the people that I represent not only in Illinois but across the Nation when I talk about the need to have some fairness when it comes to hospitalization insurance premiums and to stop all of the promises that have gone on for more than a decade that we are going to give these people fairness. "Oh, we love small business. Oh, we love the family farmer. We are going to get around to helping you on health insurance matters in the next year 2 years." Senator NICKLES said maybe 10 years from now we are going to get around to it.

Please. I have been involved in that debate. Senator DORGAN has. Senator CONRAD has. This has gone on for more than a decade.

All of these promises we can deliver on tonight.

Listen to the arguments. Again, I find it incredible.

One of my colleagues from Kentucky stands up and says this busts the budget deal. What? There was a provision in the budget deal that I voted for on this floor that limited the tobacco tax to only a 20-cent increase? I missed that provision. I don't think it was in there. If you will read it closely, that wasn't part of the budget deal.

I might say to my colleagues. This is meddling strange—that you can impose a 20-cent increase in the Finance Committee, and it has no impact on employment in Kentucky or North Carolina, but Durbin wants to put 11 cents on, and all of a sudden we have thousands of people out of work. My goodness. Twenty cents has no impact, and 11 cents more we have tipped the scales, and it is all over for tobacco? Give me a break. Give me a break.

What we are talking about here is an 11-cent increase on an item which is going to cost you $2, $3, or $4 a pack anyway.

You know, they talk about it being a regressive tax. Poor people smoke. Yes, they do. Yes, they do. They are correct in saying that. Eighty-five percent of the people smoking today—poor and rich, it is the same thing—"I wish I could quit. I really wish I could quit." Some of them say, "You know, if the tax gets too high, I might not be able to afford these darned things."

So you are talking about helping poor people. You are going to help them quit smoking, and help them live a little longer. That is a real help.

Again, one of my colleagues said, "Why don't you go around and tax corn? You have corn in Illinois. Why are you taxing tobacco from my State?"

There is a big difference. The corn in Illinois and the corn in Missouri can be used for nutritious purposes. When it comes right down to it, tobacco is neither food nor fiber—neither food nor fiber.

And let me add this. Tobacco is the only crop regulated by the U.S. Department of Agriculture which has a body count, the biggest single preventable cause of death each year. Don't stand up and tell me this is another agricultural product, another farm commodity. This is an item which, used according to manufacturers' directions, will kill you. That is what tobacco is all about. It is not another agricultural product.

So when you talk about imposing a tax on this, we are talking about the health of America and the health of children. Oh, yes, in that low-income group, that regressive tax, that tobacco tax—the low-income group includes a lot of Americans who live on allowances they get from their parents. Those are the low-income Americans, too, kids going and buying tobacco on the corner.

Mr. FAIRCLOTH. Will the Senator yield?

Mr. DURBIN. I am happy to yield.

Mr. FAIRCLOTH. Would you give me an estimate of how many people are sick or die from drinking liquor a year made out of corn?

Mr. DURBIN. I can't answer you that question.

Mr. FAIRCLOTH. If you know a lot about tobacco, then you should know something about corn.

Mr. DURBIN. I know that corn is a nutritious product and can be used and is probably consumed on a regular basis by the Senator who asked me the question. He looks pretty healthy.

I will tell you something else. Tobacco is the No. 1 preventable cause of death in America today. You can't say that about corn, soybeans, wheat or any other commodity. You can't say that about it. You know it as well as I do. You can't make light of the fact that a product, if used as intended, kills people. You can't make light of the fact that when you follow the manufacturers' directions, you die when you use that product.

Mr. FAIRCLOTH. What is the point? I am not trying to—

Mr. DURBIN. Mr. President, let the Senator speak on his own time.

Mr. President, regular order.

The PRESIDING OFFICER. The Senator from Illinois has the floor.

Mr. DURBIN. Let me tell you this in closing.

I have heard a lot of arguments tonight made about the defense of tobacco. I say to my colleagues on both sides, if you are ready to vote for this tax bill, you are already imposing a tax on tobacco of 20 cents. I am saying to you that 11 cents is going to buy a lot of good for America—not only keeping the products out of the hands of kids but finally keeping our promise to small business and family farmers.

I urge you to look beyond some of the arguments that you have heard tonight, that you have heard over and over again, and think about the bottom line when this is done. Thirty-one cents on a package of tobacco is not going to break the tobacco industry. But it is going to save a lot of small businesses which will have a chance to survive.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. ROTH. Mr. President, I make a point of order that a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROTH. Mr. President, has the distinguished Senator from Illinois returned all time?

The PRESIDING OFFICER. No. The Senator from Illinois has 18 more minutes remaining.

Mr. ROTH. Does the Senator want to yield back?

Mr. DURBIN. I am prepared to yield back my time.

Mr. ROTH. I am prepared to yield back the remainder of the time.

The PRESIDING OFFICER. All time is yielded.

Mr. ROTH. Mr. President, the pending amendment is not germane to the provisions of the reconciliation measure. I, therefore, raise a point of order against the amendment under section 305(b)(2) of the Budget Act.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. DURBIN. I move to waive the Budget Act, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. ROTH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

VOTE ON MOTION TO WAIVE THE BUDGET ACT

The PRESIDING OFFICER. The question occurs on agreeing to the motion to waive the Budget Act in relation to the Durbin amendment No. 519. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Kansas [Mr. ROBERTS] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 41, nays 58, as follows:

[Rollcall Vote No. 137 Leg.]

YEAS—41

Abraham
Biden
Bingaman
Bond
Boxer
Bumpers
Collins
Daschle
DeWine
Dodd
Dorgan
Durbin
Feingold
Feinstein
Glenn
Gorton
Gregg
Harkin
Hutchison
Johnson
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lugar
McCain
Mikulski
Murray
Reed
Reid
Santorum
Sarbanes
Shelby
Specter
Torricelli
Wellstone
Wyden

NAYS—58

Akaka
Allard
Ashcroft
Baucus
Bennett
Breaux
Brownback
Bryan
Burns
Byrd
Campbell
Chafee
Cleland
Coats
Cochran
Conrad
Coverdell
Craig
D'Amato
Domenici
Enzi
Faircloth
Ford
Frist
Graham
Gramm
Grams
Grassley
Hagel
Hatch
Helms
Hollings
Hutchinson
Inhofe
Inouye
Jeffords
Kempthorne
Kerrey
Kyl
Lott
Mack
McConnell
Moseley-Braun
Moynihan
Murkowski
Nickles
Robb
Rockefeller
Roth
Sessions
Smith (NH)
Smith (OR)
Snowe
Stevens
Thomas
Thompson
Thurmond
Warner

NOT VOTING—1

Roberts

The PRESIDING OFFICER. On this vote, the yeas are 41, the nays are 58. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The point of order is sustained and the amendment falls.

Mr. ROTH. Mr. President, I move to reconsider the vote.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 518

Mr. BAUCUS. Mr. President, I opposed the Bumpers Amendment that would repeal percentage depletion for hardrock mining companies operating on public and formerly public lands. I believe this amendment is the wrong approach to bringing about mining law reform.

Hardrock mining provides many high-paying jobs and is essential to the economy of Montana. This amendment would raise taxes on the hardrock mining industry which will negatively effect everyone that depends on mining for their economic livelihood.

The intent of this amendment is not about percentage depletion. This amendment is an overt attempt to punish the hardrock mining industry for the lack of success in reforming the 1872 Mining Law. Percentage depletion is being used as a surrogate to bring about reform. If there are problems with the 1872 Mining Law, we should approach those problems directly—not in the form of repealing percentage depletion. Let's not wage economic warfare against an entire industry.

The repeal of percentage depletion is the wrong tool for bringing about mining law reform. The Bumpers amendment could have potentially devastating effects on the hardrock mining industry.

CHILDREN'S HEALTH CARE PROVISION

Mr. MCCAIN. Mr. President, today, I voted for an amendment to the Budget Act which would improve access to health insurance for uninsured children in our country by providing an additional $8 billion to the $16 billion already contained in this bill for children's health care. This $24 billion in new Federal funding will allow us to expand Medicaid coverage for very low-income children and will put affordable health care insurance within the reach of every family.

I am deeply concerned about the approximately 10 million children in our country who are currently lacking health insurance coverage. It is distressing that such a large number of our children lack access to primary and preventative care. I find it even more disconcerting that recent reports indicate that most of these children reside in families with one or more working parents.

Providing access to health care for uninsured children has been a priority for me since coming to the Senate. During the 103d Congress, I offered legislation which attempted to address this problem and provide access to health care for many of our Nation's uninsured children. This issue has remained a high priority for me in the 105th Congress and I am pleased that we were able to pass this amendment today.

This amendment is financed by a 20-cent-a-pack increase in the cigarette tax, which will raise enough revenues to provide the additional $8 billion for children's health insurance coverage. Although I have traditionally opposed new taxes, I believe that this proposal is necessary to help working parents purchase affordable health care coverage for their children.

I wholeheartedly believe that every child deserves a healthy beginning in life. There should not be any children in our country who cannot count on access to quality health care when they need it. I believe that this bipartisan children's health insurance proposal will address this problem in a fiscally responsible manner and allow us to provide coverage to our Nation's most vulnerable population.

Mr. MURKOWSKI. Mr. President, I rise in strong support of the tax cut bull that forms the heart of the second reconciliation bill.

I want to take this opportunity to commend the chairman of the Finance Committee, Senator ROTH and the ranking member, Senator MOYNIHAN, for their efforts in ensuring that the Finance Committee's bill was reported with strong bipartisan support. I hope the spirit of bipartisanship that permeated the committee's work will extend to our debate on the Senate floor.

Mr. President, during this past week, we considered the first budget reconciliation bill which was designed to slow the growth of Federal spending and to stop the hemorrhaging of the Medicare Program. And we successfully achieved both goals while at the same time making a commitment to boost funding by $16 billion to enable more children in America to obtain health insurance.

The tax bill we are considering today builds on that achievement by earmarking $8 billion from increased tobacco taxes for expanded children's health insurance. With this unprecedented $24 billion commitment of funds for children's health insurance, I believe the Senate has made an investment in the health of the children of America that should alleviate the anxieties and fears of millions of parents about paying for the health care of their children.

What is even more remarkable about the reconciliation bills we are considering this week is that at the end of the process, we will have set this Government on course to finally achieve a balanced budget. While I believe the tax cuts contained in this bill provide much needed financial relief for the vast majority of working Americans, I believe our greatest achievement is balancing the budget.

What that means is that when this agreement is fully implemented in 5 years, the Federal Government will no longer have to borrow to keep this Government operating. Most importantly, the balanced budget will give us the opportunity to finally begin paying down our enormous $5-plus trillion national debt.

Mr. President, on Monday, the world's financial markets were reminded of the enormity of the American Government's debt and the impact that debt has on the global marketplace. When Japanese Prime Minister Hashimoto suggested that he was tempted to sell off portions of Japan's American debt portfolio to stabilize the yen/dollar exchange rate, markets plummeted throughout the world. On Wall Street, we saw the Dow Jones average drop 192 points, the second largest point decline in exchange history.

Although markets recovered after Japan's Finance Minister dismissed the idea that Japan would dump it's Treasury securities, the lesson is unmistakable. The security of our economy can never be assured so long as this country continues to run deficits and pile up billions in additional debt. As long as we must turn to world markets to finance Government spending, our economy's health is always in danger of being held hostage to the political whims of foreign governments and speculators.

That is why it is so important that we balance the budget and begin to pay down the debt. And that is why these reconciliations bills are vital to our Nation's economic security.

Mr. President, the tax bill before us provides much-needed relief for the hard-working middle-income families who have not seen their tax burden reduced in 16 years. Despite what some of my colleagues on the other side of the aisle may allege about this tax bill, the lion's share of the income tax cuts—81 percent—will go to families earning between $12,000 and $62,000.

This bipartisan bill will reduce the taxes paid by every low- and middle-income family with a child by $500. For a family with three children under 13, their tax burden will be reduced by $1,500. That's $1,500 that the family will have available to pay off bills, buy clothing for their children or spend as they see fit.

A provision in the bill requires families with children between the ages of 13 and 17 to invest their $500 children's tax credit in an educational savings account. While I think it is important that we do as much as we can to encourage families to save for college, I think it is inappropriate for us to require families to establish these accounts. I will support an amendment that will debate this provision from the bill.

The bill also provides more than $30 million in tax relief for families that are facing enormous college education bills. And it encourages economic growth and savings by reducing the capital gains tax and expanding individual retirement accounts.

I also applaud the changes the committee made to the estate tax, with the goal that family businesses should be kept together rather than split apart in order to pay estate taxes. In fact, Mr. President, it is my hope that we can fundamentally change, if not eliminate, the estate tax with what can only be called confiscatory tax rates. Although we have not been able to achieve that result in this bill, I think that should be one of our goals when we consider fundamental tax reform in the future.

Mr. President, the items I have just noted represent the highlights of the bill. What is again worth mentioning is how we were able to craft this bill. We did it with input and good debate between Republicans and Democrats on the committee. There was no rancor. We were not partisan, we tried to work within the confines of the budget agreement negotiated by our leadership with the White House.

I would hope that that spirit of bipartisanship will continue as we debate this bill since I think we can all agree that the goal of providing tax relief for hard-working Americans and encouraging savings and investment are in the best long-term interests of our Nation.

AMENDMENT NO. 518

Mr. KYL. Mr. President, as he has done numerous times over the past 10 years, Senator BUMPERS again attacked the hardrock mining industry in the United States. This time, he chose to introduce an amendment to the Tax Reconciliation Bill to repeal the percentage depletion allowance. This allowance has been in the tax code for over 60 years and repeal would be an arbitrary tax increase on the industry.

Repeal of the allowance is a tax increase. Mining companies cannot recover higher costs, including higher taxes, by raising prices because mineral prices are set by international commodity market. It should be noted that the mining industry already pays high average federal tax rates—32 percent per a GAO study—because of the corporate alternative minimum tax.

In addition to the damage that would be done by this arbitrary tax increase, I would emphasize that this is not the way to reform the mining law. Although Senator BUMPERS and I may not agree on the specific reforms necessary, we do both agree that a comprehensive, responsible reform is necessary. Along with my other Western colleagues, I would like to see reform that is environmentally sound and allows industry to thrive in a healthy and supportive atmosphere. A one-shot tax increase on the Senate floor is neither comprehensive nor responsible. Any reform of such an economically significant domestic industry should be done through the committee process where all parties have a chance to be heard and the issues can be dealt with in a thoughtful and meaningful manner.

I voted against the Bumpers amendment today and I am pleased that it was defeated.

BROAD BASE REFORM

Mr. SHELBY. Mr. President, the bill before the Senate tonight, promises to provide about $75.8 billion in tax relief over the next 5 years and approximately $238 over 10 years. Mr. President, that is a good step forward. But, Mr. President, I rise tonight to remind and encourage my colleagues that while this bill might be viewed as a good step forward in providing tax relief to the American people. It is just that: a step forward—hopefully, toward greater reform in the future.

I will offer a sense-of-the-Senate resolution for a very simple, but very important purpose: We must not forsake our broader agenda to seek comprehensive reform of our tax system. Tax cuts are not a substitute for broad based reform.

Mr. President, while we live in a society that accepts the notion that some level of taxation is necessary to finance the cost of government, our challenge has always been how much government and at what cost.

In my view, the power to tax is the most ominous and potentially destructive power granted to government by the people and that is because taxes empower governments, not people, With that in mind, our tax policy should do no more harm than is necessary to achieve its stated good. This maxim underscores why we need to change our current system, and specifically eliminate the estate and capital gains taxes.

Our current tax system promotes waste and inefficiency, penalizes savings and investment and rewards dependency. Not only is the current Tax Code inequitable in who and how it taxes, it is responsible for fueling much of the growth of government and Federal spending. Changing how we collect revenue to pay for the cost of government will be a significant step in helping devolve power from Washington back to the people and restoring greater freedom.

We need to address significant tax policy changes that will not only provide taxpayers' relief, but will simplify and equalize tax collection. Taxation is bad enough without administering that tax through an inefficient, inequitable, complex and unresponsive tax system.

Yesterday, the National Commission on Restructuring the IRS came out with their report and recommendations. I have not had an opportunity to review their report completely, but I did note that simplification on the Tax Code was among one of their primary recommendations, including establishing one broad based tax system.

While the Commission was not tasked and did not address specific legislative proposals to reform the tax system, I believe that the underlying principle of seeking a "truly fair and comprehensive" tax system is something we can all agree on And I would take this opportunity to commend my colleagues from Nebraska and Iowa for their leadership on this issue.

While I believe a flat tax is the most equitable replacement that supports the most freedom at the least cost—this resolution is not an endorsement of the flat tax. It only calls for Congress and the President to move forward with consideration of broad based reform.

While this bill attempts to reverse the punitive effects of our tax policy and tax system which currently punishes the basic values of work, savings and individual liberty, it is not sufficient to undo the basic premise that seems to underlie the current system and that is that the Government is entitled to all that you earn. And only through selected, targeted tax credits, deductions, exemptions and the like are the American people allowed to keep portions of the income that they work hard every day to earn.

Our tax policy should support the most freedom at the least cost and embody the least intrusive means of levying and collecting taxes. But most importantly of all, Mr. President, we need a policy that does not punish the basic values of work, savings and individual liberty.

Mr. President, without comprehensive tax reform, we will never truly be able to say that the era of big government is over.

Mr. President, I would encourage my colleagues to join me and the Senator from Idaho in supporting this sense-of-the-Senate resolution.

Mr. LOTT. Mr. President, I do want to propound a unanimous consent request here, that would allow us to carry out the indication that we have put at the table here that this would be the last vote of the night.

Before I do that, I want to say again I really appreciate the bipartisan cooperation that we have had throughout this week. I think it has made the Senate look good and it has taken a lot of work and several of us have had to keep our commitments in a way that was not always easy, but we have stuck by it on both sides of the aisle. I thank the Senators for doing that. I appreciate also your tolerance when I suffered mightily on one of the votes myself today.

The chairman and the ranking member have been a pleasure in working through all of this. I thank them and their staff. It is a little premature. I think we are tired, we are trying to find a way to complete our work, but it is important we also take note of the fact that we have been doing some good work working together. We want to keep that going.

So we have a unanimous consent request that we have worked with Senator DASCHLE on. He has made a lot of very positive recommendations. We think this would be the fairest way under the process that we have now to complete our work.

I want to say, Senator DASCHLE and Senator DOMENICI, Senator BYRD and I have been talking about the fact that we need to take a look at the process and see if we cannot come up with a little better way to do it without the votes in seriatim at the end of this process. Senator BYRD has a resolution he is going to introduce. Senator DASCHLE and I are going to appoint a task force of senior Senators to see if we cannot come up with some ideas we can agree to, to allow this process to be done better in the future.

UNANIMOUS CONSENT AGREEMENT

Mr. LOTT. But, in view of what we have to deal with, I ask unanimous consent, now, that during the remainder of the consideration tonight of S. 949, the following be the only amendments in order, other than agreed-upon amendments to be offered by the managers: The Nickles amendment, the Gramm amendment, and Kerry of Massachusetts amendment. I further ask at the conclusion of the debate on the above listed amendments, it be in order for any Member of the Senate to address the Senate with respect to an amendment that may be offered after all time is expired, but there be no further amendments to be in order this evening.

I further ask that at the conclusion of the remainder of the time on S. 949, the Senate automatically proceed to a period of morning business with Senators permitted to speak for up to 10 minutes each. That way, if all time has expired and you have an amendment that you are going to offer tomorrow, you have that 10 minutes in which you can explain tonight what your intentions are, what is in the amendment; so I ask at the conclusion of the remaining time on S. 949 the Senate automatically proceed to this period of morning business.

Mr. BIDEN. Reserving the right to object.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. Reserving the right to object. Mr. Leader, would you clarify for me please, and I regret to take your time, will there be no amendments offered tomorrow that are not offered tonight?

Mr. LOTT. No. Under this agreement, if a Senator has not had the opportunity to offer his amendment today, he or she would be able to offer their amendment in the morning with time equally divided between those for and against it, 2 minutes each—the usual 1 minute on each side to explain that amendment and a vote.

Mr. DOMENICI. Mr. Leader, they would have 1 minute on a side tomorrow?

Mr. LOTT. Yes. Right.

Mr. DOMENICI. Mr. Leader, we have worked with everybody that had process amendments. They don't have to offer them, and I am not asking especially for them to offer them, but I wonder if we couldn't get an agreement that would set in motion, so everybody would understand, these process amendments? Could I try a request on for you and see if you can agree?

I ask consent that the withdrawn amendment No. 537, that withdrawal be vitiated—that is the one I offered—and that a motion to waive with respect to amendment 537 be made and that it not be amendable, the motion to waive is agreed to the amendment, and if it is, it be treated as original text. Then I ask consent that the following Senators, if they choose, be authorized to offer amendments for budget process: BIDEN, GRAMM—Senator GRAMM of Texas, Senator BUMPERS, Senator GREGG, Senators BROWNBACK, FRIST, and ABRAHAM. And if they offer them they would be taken up in that order tomorrow.

Mr. LOTT. These are the amendments having to do strictly with process questions. I know there is a lot of interest in these process amendments. I am not familiar with the content of all of them.

Several Senators addressed the Chair.

Mr. LOTT. Our understanding is Senator BYRD is going to offer his separately.

Mr. President, I renew my request based on the three-unanimous consent request paragraphs I read, with the addition of the Domenici request.

Mr. REID. Reserving the right to object.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I direct the question to both leaders. I have some trouble understanding why there would be amendments in order in the morning. It would seem to me this process has gone on for several days and there should come a time when you make a decision whether you are going to offer an amendment. The leaders have been very generous, they are going to allow amendments to be offered after the time has expired. But I would think that should end sometime tonight. I don't think we should come in here in the morning, fresh as daisies, with a big pile of new amendments.

Mr. LOTT. The Senator's point is well taken and I certainly agree. Senator DASCHLE and I would hope there would not be a long series of amendments offered tomorrow.

Some Senators will feel very strongly and feel like they should have that opportunity. Under the rules as they now exist we could not cut them off. We have had a good debate. We have had the alternative amendment offered by the Democratic leader. We have had other good amendments and debates that occurred. We hope we could bring it to a conclusion at a reasonable time tomorrow.

I remind my colleagues we had 16 votes yesterday, I believe it was. We started at 9:30 and we finally concluded that at about 5 o'clock yesterday afternoon. Now I believe we can do a better job. We'll start earlier tomorrow and we will stick to the 10-minute vote after the first vote. And we will try to move it right along. But we found the other night that when we said OK, just leave your amendment with the managers of the bill, when we came in in the morning we had 61 amendments. Then the leadership, Senator DASCHLE and his whip team, as we were, were running around trying to find out which amendments really—what they do. You know, will the Senator insist on offering it? Can we get them accepted? It really complicated the process.

We really believe by this process Senators will be able to debate these amendments and other amendments tonight. Then they, based on their thinking tomorrow, they would have the opportunity or perhaps would choose not to offer the amendments tomorrow. But if they do we cannot—we cannot cut off the Senators' right to offer an amendment.

Mr. REID. Reserving the right to object, continuing my reservation, I say to my friend the majority leader, I am going to withdraw my reservation. But I do say this. I want everyone to hear, including the senior Senator from West Virginia. If we don't get a change in the process by next year I am going to object to everything. This is a ridiculous process. I don't think it is good for the system and I hope we change it.

Mr. LOTT. I agree and I appreciate the Senator's comment on that. I have been thinking that for several years. I remember one day here we had, what, 39 votes and set a record, a historical record Senator BYRD told us. It is just not a good process.

We are committed to coming up, by September 8, within the next couple of months, with a way to change the process. In fact, Senator BYRD has some good ideas. But I just want to make sure that we have thought it through and we don't start and change it without thinking about unintended consequences. I don't believe anybody intended 10 years ago, when reconciliation was set up, that it would lead to this type of voting process. We are committed on both sides, the leadership and our senior Members, to coming up with a better process. We are going to do that. We certainly would like the input of the Senator from Nevada, too.

Mr. DASCHLE. Mr. President, reserving the right to object?

Mr. ALLARD. Mr. President, I say to the majority leader, I did not hear my name listed on that list of amendments, it is the Allard-4Abraham-Brownback amendment.

Mr. DOMENICI. We have Senator BROWNBACK. Do you have a separate one from Senator BROWNBACK?

Mr. ALLARD. It's under my name actually, Allard-Brownback; Senator ABRAHAM is a cosponsor.

Mr. LOTT. It's ALLARD-BROWNBACK. OK. We got that.

Mr. DASCHLE. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. For purposes of clarification, let me first say I subscribe to what the majority leader is attempting to do here. We hope that we can accommodate the largest number of Senators with this process. I think there are some questions, however, about what happens tomorrow morning beginning with what time we vote. I think the majority leader has now indicated 9 o'clock.

Mr. LOTT. Yes, 9 o'clock, so we will start earlier and we will start voting—we would have the brief explanation and we would start voting immediately after that. We would then vote one after the other until we completed the process.

Mr. DASCHLE. The second question has to do with the request made by the distinguished Senator from New Mexico. As I understand it, what he is attempting to do is sequence a series of amendments. I guess the question would be, at what point tomorrow does that sequencing begin?

Mr. DOMENICI. I think that's up to the floor manager as he sequences over the evening. He'll go over all the amendments and I assume he'll sequence the way we did and put the whole list together. We are not seeking any special preference in that list.

Mr. DASCHLE. It doesn't preclude any other Senator from offering amendments?

Mr. LOTT. Not at all. It would not preclude other Senators from offering amendments. I want to say to the Senator—

Mr. DASCHLE. The question would be—I'm sorry, if I can just interject? If there was an amendment on one of the amendments offered, would the sequencing preclude an amendment to one of the amendments?

Mr. DOMENICI. I did not make that request.

Mr. DASCHLE. I ask consent that be considered. I don't think that would matter, but I think we need to protect Senators in that regard.

Mr. DOMENICI. If a Senator wants an up-or-down vote on his process I would not object to that request.

Mr. LOTT. I have not had a chance to get into the specifics of each one of these amendments, but I hope we could pursue the possibility of not going through the long list of process amendments. At least half of these are on our side of the aisle. So I hope we could find another time, another day, another way to do these process amendments. I will certainly be working on that later on tonight and in the morning.

Since we have the first 3 votes already lined up that would give us time to do some work on exactly whether or not this is essential. I will work with Senator DASCHLE on that.

Mr. DOMENICI. Mr. President, there are points of order not waived on any of these. The points of order—if people want to make them you have to get 60 votes and everybody knows that.

The PRESIDING OFFICER. Is there objection? The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, this is not an objection. I am not going to object. But just the question, if I could ask it. My understanding is—I mean, there are a number of us—all of us would like to finish. Some of us have been waiting a long time, many, to have amendments and to discuss them and I don't think we want to prolong the matter. My understanding is as opposed to the beginning of the week, we don't actually have to lay the amendment down tonight in order to have that amendment up tomorrow; am I correct? My second question is, wouldn't it be a little bit more expeditious if in fact the amendment could be laid down so we don't have to go through that process at all tomorrow morning with the requirement if they are not laid down tonight they would be out of order?

Mr. LOTT. We have discussed that back and forth. We tried to again, in a bipartisan way, figure the best way to deal with this, the fairest way, and also the way that would hopefully not lead to the largest number of amendments. We really think that we may actually wind up having fewer amendments finally voted on tomorrow by doing it this way. We tried it the other way. Bear with us as we try it this way.

Again I urge, unless you just really feel you have to have a vote on your amendment tomorrow I urge you, and I will be saying it on this side—but but if you feel strongly, you can talk about it tonight and offer your amendment tomorrow.

Mr. DODD. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. I inquire of our leader or our friend from New Mexico, is it necessary the process amendments be considered as part of this budget agreement, or would it not be better to deal with that as a side issue and deal with the amendments that bear directly on the tax bill and then bring up the process amendments on a separate occasion? Is there reason that has to be a part of this, I inquire of the leader or distinguished Senator from New Mexico?

Mr. DOMENICI. I could have offered a process amendment that I think is needed and other Senators think are needed. I could have offered it on the first bill that went through here, the reconciliation bill. I chose to wait for this bill. It is just as in order on this bill and just as subject to a point of order on this bill as on the other bill, but there is no other reconciliation bill coming down the field.

Mr. DODD. I understand. If my colleague will yield, I understand this. Time is running out. If we don't debate it this evening or during morning business, tomorrow we will be limited to a 1-minute explanation of process amendments that have to do with the budget process that I think are rather significant.

I am concerned that something as profound as dealing with the budget process is left to seconds to debate them, and unnecessarily so. I raise the issue of whether we ought to set that for a separate time, rather than deal with this?

Mr. LOTT. Mr. President, if I can respond again, I share a lot of the Senator's feelings. We will work to see if there is some way we can get an agreement on these process amendments to limit the number or to find another time and opportunity for them to be offered.

I remind you that yesterday, one unanimous consent agreement that we worked out took nine amendments off the board in one swoop, and we agreed to something that was passed by voice vote. I am not sure we can do that here. Part of what we need is a little time to work with what we have left.

Mr. DODD. I understand.

Mrs. BOXER. Reserving the right to object, and I shall not object, I have a question for the majority leader. If we were able to work out amendments cleared on both sides, is it necessary for us to personally offer it, or can one of the managers offer it in our name if it has been cleared, because that would speed things along.

Mr. LOTT. The UC specifically says "other than agreed upon amendments to be offered by the managers."

Mrs. BOXER. I want to make sure they will be offered in the name of the Senator who wrote them rather than the manager.

Mr. LOTT. I believe that is the way they do them.

Mrs. BOXER. I have no objection.

Mr. COATS. Reserving the right to object.

Mr. BYRD. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Mr. President, I have a question for the majority leader. He listed three amendments to be debated this evening, I believe those of Senator NICKLES, Senator GRAMM of Texas, and Senator KERRY. Is there a time limitation on the debate of those? The reason I ask is because for those who want to stay afterward and take the 10 minutes to describe an amendment that will be offered tomorrow, it will be good to know that there is some limitation on the time for debate for those three particular amendments.

Mr. LOTT. In answer to the Senator, I say there was no time agreement worked out, partially because the Senators didn't want that time agreement. I am hoping they will be actually relatively short in time. I know Senator NICKLES doesn't need a lot of time. I believe these amendments will go relatively quickly, and there will be time left for other Members to address the Senate on their amendments. And then after that, when all time has expired, Senators can still talk in morning business for up to 10 minutes. We did not get a time agreement in our effort to get the UC worked out, but I think we are talking about a relatively short period time of time.

Mr. BYRD. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. My reservation, Mr. President—

The PRESIDING OFFICER. May we have order in the Senate, please? The Senator from West Virginia.

Mr. BYRD. While I have submitted a reservation, may I offer a parliamentary inquiry? Will a motion to recommit, either a straight motion to recommit or a motion to recommit with instructions, still be in order, even though a Senator has not reserved a spot on this list?

The PRESIDING OFFICER. Under the Budget Act, the only motion to recommit that can be considered is one that occurs within 3 days; it specifies the bill be reported back in 3 days.

Mr. BYRD. And is that motion in order any time prior to the conclusion of action on the bill?

The PRESIDING OFFICER. That is correct.

Mr. BYRD. Mr. President, reserving the right to object—I will not object—I am concerned about these process amendments. I am particularly concerned that there may be a process amendment that would wipe out the Byrd rule. I am also concerned that there might be a process amendment that would wipe out all 60-vote points of order. Either of those would be pretty fatal to this process.

And I hope that while we have both leaders here and a good size attendance, that we will be very aware, very alert to the possibility of either of those, which would mean that the reconciliation process, as we know it—perhaps we don't like it as we know it—but it will be gone. Period. I hope it won't happen. Would the Senator include me as a Senator who might offer a process amendment or a motion?

Mr. DOMENICI. I so request. May I say to Senator BYRD, we very carefully looked at these amendments with the view that you have in mind, and I can tell you that none of the process amendments that are listed in the unanimous-consent request address either the Byrd rule, nor do any of those amendments—what was your other?

Mr. BYRD. Wipe out 60-vote points of order.

Mr. DOMENICI. Nor do they attempt to permit us to vote with less than 60 votes on any of these matters that are subject to a point of order.

Mr. BYRD. Mr. President, I am greatly relieved, and I thank the Senator.

Mr. LOTT. Mr. President, before I put forth the unanimous-consent request one more time, we did add the Byrd resolution or amendment to the process list of amendments, and I renew my unanimous-consent request.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. LOTT. For the information of all Senators, then, there will be no further votes tonight. Following debate on the three amendments, any Senator wishing to discuss an amendment that may be offered tomorrow may do so. The Senate would then begin voting at 9 a.m. on Friday, on or in relation to the three listed amendments and any amendments offered tomorrow. If Senators do intend to offer amendments tomorrow, I urge them to please give a copy to the managers, since there will be no debate time other than the 2-

minute-equally-divided time. It will be very helpful to all Senators to have these amendments available so they can be given to interested Senators.

I yield the floor. We have approximately 1 hour and 5 minutes left of time on the bill.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, the Senate is still not in order.

The PRESIDING OFFICER. May we have order in the Senate so we can continue on the 1 hour and 5 minutes that is rapidly dissolving? If staff will please take their seats and if conversations will please cease, we can continue with the business of the Senate.

The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I thank you for getting order in the Senate.

Mr. KOHL addressed the Chair.

Mr. NICKLES. Mr. President, I will be happy to yield to the Senator from Wisconsin for 2 minutes without losing my right to the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

AMENDMENT NO. 524

Mr. KOHL. Mr. President, tomorrow I will up amendment No. 524 which I believe is at the desk. This amendment creates a tax incentive for companies that provide child care for the dependents of their employees. The amendment is also cosponsored by Senators DASCHLE, DEWINE, BOXER, D'AMATO, MOSELEY-BRAUN, SNOWE, SPECTER, and JOHNSON.

Our amendment creates a tax credit for employers who get involved in increasing the supply of quality child care. The credit is limited to 50 percent of $150,000 per company per year.

The amendment is based on S. 82, the Child Care Infrastructure Act, which has received praise from businesses, parents, and day care workers alike. Working Mother magazine gave the initiative its "Lollipops" award in the January issue, and the Children's Defense Fund has endorsed it. S. 82 is also endorsed by the National Center for the Early Childhood Work Force and the National Child Care Association.

The amendment responds to a great need, a great challenge, and a great opportunity. The need is to provide a safe and stimulating place for our youngest children to spend their time while their parents are at work. The challenge is to make the American workplace more productive by making it more responsive to the needs of the American family. And the opportunity is to take what we are learning about the importance of early childhood education and use it to help our children become the best educated adults of the 21st century.

The credit is offset by authorizing an anti-fraud program that will keep parents who do not have custody of their children from unlawfully claiming child-related tax benefits.

Child care is an investment that is good for children, good for business, good for our States, and good for the Nation. We need to involve every level of government—and private communities and private businesses—in building a child care infrastructure that is the best in the world. Our amendment is a first, essential and deficit neutral step toward that end, and I urge all my colleagues to support it.

Mr. HATCH. Mr. President, I rise to support Senator KOHL's amendment. This amendment would provide tax credits to encourage businesses and other institutions to provide child care for their employees.

This proposal, which is similar to one that I included in my original child care bill several years ago, would provide a tax credit for businesses that build on- or near-site day care centers, jointly participate with other businesses in running child care centers, or contract with child care facilities. This amendment is important in order to meet the rapidly increasing demand for child care. I recognize the importance of finding safe places for our children while their parents are at work, preferably places where they can learn and have wholesome fun. We use the Tax Code to encourage a variety of private endeavors; we should not hesitate to use the tax code to encourage private businesses to become involved in providing child care for dependents of their employees.

This tax credit would be equal to 50 percent of the qualified child care expenditures up to a maximum of $150,000, paid or incurred by the employer during the taxable year to acquire, construct, rehabilitate, expand, or operate a qualified child care facility.

Parents of young children are joining the work force in record numbers, leading to more young children in the need of care as their parents go off to work. There are more single parents today than ever before. In has been reported that up to 62 percent of working mothers have children under 6 years old and 59 percent had children under 3 years of age. This amendment would give incentives for any company, small or large, to provide child care to its employees.

Studies have shown that organizations that provide child care benefits to their employees attract and retain better qualified applicants and experience reductions in employee absenteeism. But, the argument goes that if the employer benefits from providing child care benefits, why should we subsidize the costs with a tax credit. That is not a bad question.

But, I suggest that society has a stake in this as well. Not only will our workforce respond positively given the peace of mind that comes from knowing that your children are safe and thriving, but also, we must be concerned with the health and safety of our children. It is disturbing whenever we read about children left alone or children in inadequate or unsafe facilities. I believe that the small innovation of a tax credit to defray the costs of employer-sponsored child care will do wonders to address this increasing need of American families.

Mr. President, child care is an investment for the future. It is good for business, good for our communities, and good for the Nation. There certainly is a need for quality child care. As a nation, we have made significant increases in the education of our older children, aged 5 to 25. We have increased Headstart. But, we need to do more. And, we need to create more options.

This tax credit proposal made by Senator KOHL is the least intrusive and least expensive way I can think of to stimulate private sector investments in child care. It is now time to set the infrastructure in place for the most important years in the development of our children. There is an increasing struggle to balance work and family. How well we respond will determine the success of our future.

I encourage my colleagues to support this important amendment, and I commend Senator KOHL for his work on it.

Mr. KOHL. I ask unanimous consent that this be the first amendment taken up tomorrow morning for a vote after the three amendments laid down tonight.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Can I ask a question about whether we can at least get an understanding about the sequence? I don't mind whether I am fourth or eighth.

Mr. NICKLES. Mr. President, I think I have the floor.

The PRESIDING OFFICER. The Senator from Oklahoma has the floor.

Mr. NICKLES. Mr. President, I yielded to the Senator from Wisconsin for 2 minutes, and now I wish to reclaim the floor.

The PRESIDING OFFICER. The Senator from Oklahoma has the floor.

AMENDMENT NO. 551

(Purpose: To increase the deduction for self-employed health insurance costs, and for other purposes)

Mr. NICKLES. Mr. President, tonight I offer an amendment on behalf of myself, Senator HAGEL, Senator CLELAND, and Senator DOMENICI which would increase the deductibility of health insurance for self-employed individuals. I will not take long. I mentioned it a couple of times during debate on the Durbin amendment.

The current law allows for self-employed persons to deduct 40 percent in 1997. We actually increased that—if I remember, Senator Dole, Senator ROTH and several of us last year in the last Congress increased that—over several years, and eventually by the year 2004, it would be at 60 percent. We would like to accelerate that. That is what this amendment does. It would improve it from 1997, the year we are in, from 40 percent to 50 percent. In 1999, it improves it from 45 percent to 60 percent, and in the year 2003, it improves it from 50 percent to 80 percent, and so on. We want to improve and accelerate health insurance deductibility for the self-employed.

Mr. President, I used to be self-employed, and it always bothered me that I used to manage a corporation and the corporation could deduct 100 percent of health care premiums, but my company, when I was self-employed—it was a janitor service—could only deduct 40 percent. I would like parity, and, hopefully, eventually we will get there.

In this amendment, we don't get there for several years, but at least we will accelerate it and make a better deal for self-employed persons at a more rapid rate.

On behalf of my colleagues cosponsoring this amendment, I send the amendment to the desk and ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oklahoma [Mr. NICKLES], for himself, Mr. HAGEL, Mr. CLELAND, Mr. DOMENICI, and Mr. THURMOND, proposes an amendment numbered 551.

Mr. NICKLES. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 212, between lines 11 and 12, insert:

SEC. ___ . INCREASE IN DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) IN GENERAL.—The table contained in section 162(l)(1)(B) is amended to read as follows:

"For taxable years beginning in calendar year—	The applicable percentage is—
1997	50
1998	55
1999 through 2001	60
2002	65
2003 through 2005	80
2006	90
2007 or thereafter	100."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1996.

On page 159, line 15, strike "December 31, 1999" and insert "May 31, 1999".

On page 159, line 18, strike "42-month" and insert "35-month".

On page 159, line 19, strike "42 months" and insert "35 months".

On page 160, lines 10 and 11, strike "December 31, 1999" and insert "May 31, 1999".

On page 160, lines 19 and 20, strike "December 31, 1999" and insert "May 31, 1999".

On page 400, between lines 14 and 15, insert:

SEC. ___ . MODIFICATION OF RULES FOR ALLOCATING INTEREST EXPENSE TO TAX-EXEMPT INTEREST.

(a) PRO RATA ALLOCATION RULES APPLICABLE TO CORPORATIONS.—

(1) IN GENERAL.—Paragraph (1) of section 265(b) is amended by striking "In the case of a financial institution" and inserting "In the case of a corporation".

(2) ONLY OBLIGATIONS ACQUIRED AFTER JUNE 8, 1997, TAKEN INTO ACCOUNT.—Subparagraph (A) of section 265(b)(2) is amended by striking "August 7, 1986" and inserting "June 8, 1997 (August 7, 1986, in the case of a financial institution)".

(3) SMALL ISSUER EXCEPTION NOT TO APPLY.—Subparagraph (A) of section 265(b)(3) is amended by striking "Any qualified" and inserting "In the case of a financial institution, any qualified".

(4) EXCEPTION FOR CERTAIN BONDS ACQUIRED ON SALE OF GOODS OR SERVICES.—Subparagraph (B) of section 265(b)(4) is amended by adding at the end the following new sentence: "In the case of a taxpayer other than a financial institution, such term shall not include a nonsalable obligation acquired by such taxpayer in the ordinary course of business as payment for goods or services provided by such taxpayer to any State or local government."

(5) LOOK-THRU RULES FOR PARTNERSHIPS.—Paragraph (6) of section 265(b) is amended by adding at the end the following new subparagraph:

"(C) LOOK-THRU RULES FOR PARTNERSHIPS.—In the case of a corporation which is a partner in a partnership, such corporation shall be treated for purposes of this subsection as holding directly its allocable share of the assets of the partnership."

(6) APPLICATION OF PRO RATA DISALLOWANCE ON AFFILIATED GROUP BASIS.—Subsection (b) of section 265 is amended by adding at the end the following new paragraph:

"(7) APPLICATION OF DISALLOWANCE ON AFFILIATED GROUP BASIS.—

"(A) IN GENERAL.—For purposes of this subsection, all members of an affiliated group filing a consolidated return under section 1501 shall be treated as 1 taxpayer.

"(B) TREATMENT OF INSURANCE COMPANIES.—This subsection shall not apply to an insurance company, and subparagraph (A) shall be applied without regard to any member of an affiliated group which is an insurance company."

(6) DE MINIMIS EXCEPTION FOR NONFINANCIAL INSTITUTIONS.—Subsection (b) of section 265 is amended by adding at the end the following new paragraph:

"(8) DE MINIMIS EXCEPTION FOR NONFINANCIAL INSTITUTIONS.—In the case of a corporation, paragraph (1) shall not apply for any taxable year if the amount described in paragraph (2)(A) with respect to such corporation does not exceed the lesser of—

"(A) 2 percent of the amount described in paragraph (2)(B), or

"(B) $1,000,000.

The preceding sentence shall not apply to a financial institution or to a dealer in tax-exempt obligations."

(7) CLERICAL AMENDMENT.—The subsection heading for section 265(b) is amended by striking "FINANCIAL INSTITUTIONS" and inserting "CORPORATIONS".

(b) APPLICATION OF SECTION 265(a)(2) WITH RESPECT TO CONTROLLED GROUPS.—Paragraph (2) of section 265(a) is amended after "obligations" by inserting "held by the taxpayer (or any corporation which is a member of a controlled group (as defined in section 267(f)(1)) which includes the taxpayer)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

Mr. NICKLES. Mr. President, for the information of all my colleagues, I think under the unanimous-consent request, already agreed to by the leader, it has been agreed upon that we will vote on this amendment, I believe it will be the first amendment we will vote on at 9 o'clock tomorrow morning.

Mr. MOYNIHAN. Mr. President, might the Senator from Illinois have 1 minute to comment at this point?

Mr. NICKLES. Certainly.

Mr. DURBIN. Mr. President, I thank the Senator from New York.

I will be supporting the Senator from Oklahoma. He is improving the process. I will continue to fight for 100 percent. Maybe the day will come when he and I can both agree on a way to do it.

Mr. NICKLES. I hope so.

Mr. HARKIN. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, are we in morning business?

The PRESIDING OFFICER. We are not in morning business yet. We have some time remaining yet on the actual debate of the bill.

Mr. HARKIN. Further parliamentary inquiry.

Under the rules of the Senate, under the rules of which we are debating this bill, if someone is recognized, since there is no time limit, can that Senator yield time to other Senators for purposes other than asking a question?

The PRESIDING OFFICER. It is my understanding that when there is no time limit, that each Senator would have to get his own time on the bill.

Mr. HARKIN. Therefore, a Senator may only yield for a question; is that correct?

The PRESIDING OFFICER. He could yield for a question provided it were a question and not another speech.

Mr. GRAMM. Regular order, Mr. President.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. I have completed my statement.

I ask unanimous consent that Senator THURMOND be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

AMENDMENT NO. 552

(Purpose: To let families decide for themselves how best to use their child tax credit)

Mr. GRAMM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM], for himself, Mr. COATS, Mr. NICKLES, Mr. HUTCHINSON, Mr. GRAMS, Mr. SMITH of New Hampshire, Mr. SESSIONS, and Mr. ABRAHAM, proposes an amendment numbered 552.

Mr. GRAMM. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

SECTION 1. CHILD TAX CREDIT FLEXIBILITY.

On page 12, line 13, strike all through page 13, line 8, and on page 16, line 3, strike all through page 17, line 6.

Mr. GRAMM. Mr. President, I have sent this amendment to the desk on behalf of myself, Senator COATS, Senator NICKLES, Senator HUTCHINSON of Arkansas, Senator GRAMS, Senator SMITH of New Hampshire, Senator SESSIONS of Alabama, and Senator ABRAHAM of Michigan. I am going to try to be very brief. I have a couple of my cosponsors here who have waited to speak on this amendment, and I hope we can accommodate them. We will all try to be brief.

This is a very simple amendment. For the last 4 years we have been talking about a $500-per-child tax credit. Our argument has always been the same: We want to let families decide how to invest their own money in their own children and for their own futures.

The whole purpose of a $500 tax credit was to allow families to invest their own money—which after all they earned—in the education, housing, nutrition, nurturing, and health care of their children.

This is what the whole tax debate is about: It was in the Contract With America and even President Clinton has endorsed it. Nobody ever disputed the fact that the purpose here was a clear-cut tax cut to let families decide how to spend their own money on their own children. Remember, this is not all of their money; only $500 per child.

Out of the Finance Committee has come a provision that says for children 13 to 16, in order to get the tax credit, you have to put it into an education account. And remarkably, it saves money for one, and only one, reason: because some people will not take the tax credit.

Mr. President, if there has ever been an effort to go back on a deal, this is it. I think families ought to be able to invest in an individual retirement account. I think they ought to be able to set aside the money for that purpose. But the idea of making them do it is Government paternalism in its worst form.

So what I am asking that we do is live up to what we said. I am asking that we give the $500 tax credit and that we give it for every age of a child covered, and that we let that child's father and that child's mother decide what is in their best interest.

I think what we are trying to do here is dissuade people from taking their $500 tax credit by playing God with what they are supposed to use that money for. I know the intentions are good. I know they were aimed at trying to bring people together. But a deal is a deal. I have heard everybody here talk about a budget deal and what the President got and what we got and what we agreed to; but we had a deal with the American family. The deal with the American family was a $500 tax credit that the family got to spend.

If we were reneging on a deal with the President, oh, people would be jumping up and down screaming, hollering, "But we promised the President," or if the Democrats were trying to do something that was not in the budget deal, some would say, "Well, the President promised us." This does not have to do with the President. This does not have to do with us—it has to do with the families of America.

We are not living up to the deal. This is a lousy provision, and it should be removed. I am not saying there are not good intentions and I am not saying this is not part of some political deal. I am saying it is an unacceptable provision. It should not be in here. It fails to live up to the deal we made with the American people, and it needs to come out.

Mr. President, I ask unanimous consent to have two letters printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONCERNED WOMEN FOR AMERICA,
June 25, 1997.

DEAR SENATOR: The over 500,000 members of Concerned Women for America (CWA), many of whom reside in your state, urge you to pass an unencumbered $500-per-child tax credit for children.

We strongly oppose the current Senate Finance Committee version of the $500-per-child tax credit because it requires parents of teens 13–17 to put their tax refund into an Individual Retirement Account (IRA). This credit was created to give needed tax relief to American families; it was never intended to become a new way for the government to tell families how they should and should not spend their own money.

Therefore, CWA urges you to support the Gramm Amendment. This amendment will remove the IRA restrictions and allow parents of teens to use the child credit for immediate needs, such as food and healthcare. Only families are capable of deciding the best use of family funds.

Thank you for your attention to this important matter. The over half million members of CWA appreciate your support for the Gramm Amendment.

Sincerely,

BEVERLY LAHAYE,
Chairman and Founder.

CHRISTIAN COALITION,
Washington, DC, June 25, 1997.

TAX BILL KEY VOTES

VOTE FOR THE GRAMM MOTION TO STRIKE WHICH WILL QUALIFY TEENAGERS FOR THE $500 PER CHILD TAX CREDIT

VOTE AGAINST THE DASCHLE AMENDMENT

VOTE FOR FINAL PASSAGE IF THE GRAMM AMENDMENT PASSES

DEAR SENATOR: Sen. Phil Gramm and many others intend to offer a motion to strike that will restore teenagers to the $500 per child tax credit. We strongly urge you to vote for the Gramm motion.

Family tax relief in the form of a $500 per child tax credit has been our highest legislative priority since 1993. We are pleased that the Finance Committee has included the credit in the tax bill. However, we cannot support the bill in its current form. The single biggest disagreement we have with the Finance Committee version of the $550 per child tax credit is the exclusion of teenagers. Under the bill, only children up to age 12 qualify for the credit. The Gramm motion will restore teenagers to coverage of the $500 per child tax credit.

Excluding teenagers would be a deep disappointment for the families of teenagers that struggle to meet the financial pressures they must endure during the costly teenage years. Indeed, caring for children reaches its most expensive point during these years. The high cost of teenagers has been well documented by the Clinton Administration's recent 1996 report, titled "Expenditures on Children by Families" published by the Department of Agriculture. This report compares the cost of food, clothing, health care, housing, child care, education, and transportation by age group.

This report documents that teenagers are by far the most expensive age group. It concludes that it costs between $710 and $1,140 more to raise a child age 15–17, than it does to raise a child age 9–11.

Cutting off teenagers from the child tax credit would be a double blow to the families of eleven million teenagers. These families will already spend dramatically more than previously to raise their children. Under the bill, they would also begin paying an extra $500 in taxes once the child credit is taken away from them. Added together, families with teenagers would face a whopping $1,210 to $1,640 in extra out of pocket costs.

Here is how the Gramm motion would operate vis-a-vis the Finance Committee provision. Instead of a $500 per child tax credit for teenagers, the Finance bill creates a second education IRA for teenagers. It mandates that a tax credit worth $500 be placed into an education IRA. If the money is not put into the IRA, the $500 is forfeited. The Gramm motion strikes the mandatory language, making the IRA optional. In other words, parents who don't choose the IRA would then have an unrestricted $500 per child tax credit. This makes much more sense. Parents are the only ones who should make these decisions. The federal government should not mandate the choice of saving for education over other more pressing needs. There are many financial needs families must meet apart from the worthy goal of saving for education.

We strongly urge you to vote against the Daschle amendment. The amendment diminishes the value of the $500 per child tax credit in several ways. It cuts the amount of $350, phases it in unnecessarily, exempts teenagers for five years, and eliminates the tax credit all together for some middle class families by drastically lowering the income caps.

If the Gramm motion prevails (and no amendments are passed which would weaken the $500 per child tax credit), we certainly urge you to vote for the tax bill on final passage. If the Gramm motion fails, we regrettably will not be able to support the tax bill at this time. We would actively work to add coverage of teenagers in conference, and reserve judgment on the conference report until it is finalized. We certainly hope that in the end, we will be able to support the report. That certainly is our goal.

We will select a vote to be included in our Congressional Scorecard relating to the $500 per child tax credit. At this time, we can not predict which vote will be selected. Thank you for your consideration of our views.

Sincerely,

BRIAN LOPINA,
Director,
Governmental Affairs Office.

Mr. GRAMM. Mr. President, I ask unanimous consent to add Senator THURMOND as a cosponsor to the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. I wonder if my friend from Texas would wish to modify the term "rotten."

Mr. GRAMM. This abrogates the deal with the working men and women of America. Some may see it as rotten and some may not. Some may see it—

Mr. MOYNIHAN. Surely the Senator does not mean it as rotten.

Mr. GRAMM. Some may see it as an acceptable deal and some may see it as a rotten deal. But the point is—I am happy to strike the word if it offends our dear colleague. But I feel strongly about it because the tax cut, after all, is about families. That is what it has been about to begin with.

I have several of my colleagues here. If I could just let them all speak for 2 or 3 minutes, we would all be happy.

I ask unanimous consent that each of them may have 2 minutes each.

Mr. KERREY. Reserving the right to object.

Mr. MOYNIHAN. I know they will be kind and thoughtful and even benevolent remarks.

Mr. KERREY. No. Mr. President, reserving the right to object, I would like the Senator to be a little more specific. He said, "I have a number of colleagues."

Mr. GRAMM. We have one, two, three, four; and they will speak 2 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. GRAMS. Mr. President, I commend Chairman ROTH for the great leadership he has demonstrated in bringing this legislation before us. And I commend Senator GRAMM for this amendment tonight.

My good friend and colleague from Arkansas, Senator TIM HUTCHINSON, and I were freshman Members of the House in 1993 when we came together with Senator COATS of Indiana to develop a budget proposal called Family First that could serve as the taxpayer's alternative to the higher taxes and bigger Government plan offered by President Clinton.

The key component of our legislation was family tax relief through a $500 per child tax credit.

We convinced the House and Senate leadership to make our Families First bill—with the $500 per child tax credit as its centerpiece—the Republican budget alternative in 1994.

For overtaxed American families, 1997 looks to be the year this long-promised, long-overdue middle-class tax relief is finally delivered.

As you know, working families today need tax relief more than ever.

Factor in State and local taxes and the hidden taxes that result from the high cost of Government regulations, and a family today gives up more than 50 percent of its annual income to the Government. So all we are saying is let us let the working people of this Nation keep a little bit more of their own money.

The $500 per child tax credit proposal in the bill before us goes a long way toward delivering tax relief to working families raising children. However, it imposes restrictions that will significantly dilute the purpose of the child tax credit.

The legislation before us tells families that, yes, we will give you a tax credit, but if your children are between the ages of 13 and 16, you are going to have to spend it the way Washington thinks it should be spent. In this case, it would have to be spent on education. By mandating how the tax credit must be spent, we are in effect denying it to teenagers, leaving 11 million children out in the cold.

And if your child is 17 or 18, you do not get it at all.

Mr. President, I applaud the parents that take the $500 per child tax credit and dedicate it to an IRA or their child's college education.

But that is a decision that belongs with parents, not with Washington. It is not our place to tell families how they can spend their money.

The family tax relief provisions in the bill before us can be greatly improved by striking the mandate that the tax credit be dedicated to education. I am pleased to be joining my colleagues in offering this amendment to give that choice back to families. And I urge all my colleagues to support this amendment.

Thank you, Mr. President.

Mr. HUTCHINSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. HUTCHINSON. Mr. President, I also want to commend Senator ROTH. The $500 per child tax credit is truly the heart of this tax relief bill. I especially want to thank Senator GRAMM for taking the lead in solving this problem, which is a very serious problem.

There are 382,000 families in Arkansas who benefit from the $500 per child tax credit, but there are many teenaged children who are excluded because of the provision that is in the Finance Committee's bill. I believe parents should have the right to decide. They are better arbiters, they are better decisionmakers on the use of that money than bureaucrats and even lawmakers in Washington, DC. And no matter how good educational savings for teenagers may be, it is better to let the parents make that decision.

I think I will have a hard time explaining to those parents of that 13-year-old why, when their child was 12 he was eligible or she was eligible for the $500 per child tax credit, but at the age of 13 they are not. Perhaps that 13-year-old will have an emergency. Perhaps that 13-year-old needs braces. Perhaps that 13-year-old needs a math tutor to enable that child to ensure that he or she is ready to go to college when they graduate from high school. The parents will not have the option, will not have the opportunity, will not have the eligibility under the current bill. That is why this amendment is so important that we ensure that the parents have the ultimate decisionmaking authority.

Forty percent of young people who graduate from high school do not go straight on to college. They should not be excluded from the benefits of this tax bill. Parents should decide, not Washington, DC.

I yield the floor.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I compliment my colleague, Senator GRAMM. We tried to do this in the Finance Committee. Unfortunately, we fell a couple votes short. But the basic principle is we want to tell everybody their kids are going to get the $500 tax credit, not to say, well, it only applies to people 13 or younger, that if you are older you have to put it into an educational IRA.

I think educational IRA's are a good idea. I compliment Senator ROTH because he has been the champion of IRA's, but it should be an option. It should not be mandatory. We should allow them to have this choice. I hope a lot of them choose it before age 13. I think it would be a great idea for a parent, if they can do it, if they can afford it, to put the $500 into an IRA for their child and let that accumulate and do that every year so they have a nest egg for their college expenses. It would be a positive thing for them and our country.

But we should not mandate it. Presently, under the bill we mandate it for kids that are 14, 15, 16, 17 years old. I compliment my colleague from Texas and the cosponsors.

I urge my colleagues to vote for this amendment to allow parents to choose whether they get the $500 tax credit to spend as they choose or whether or not to put it into an IRA. They should make that choice. We should not mandate it from Washington, DC.

Mr. SESSIONS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. I want to thank Senator ROTH for his outstanding leadership that he has given on this important issue. But I feel very, very strongly that we need to do more for working families. Working middle-class American families today are struggling to get by.

My youngest son will start college this fall. But I will tell you, I have children; three of them under age 13 and three of them over age 13. It costs more for a 14- or 15- or 16-year-old than it does for a 12- or 10-year-old. Anybody who has raised a family knows that.

The demands on those families are fierce today. They are struggling to get by. This is the heart and soul of a family middle-class tax cut. Many kids will not be going off to college. They will never be going to college. But even if they are, many of those families need the money now. They have a flat tire and they need to replace a tire. They need shoes or to go on a school trip. They need to make their own decision about how to spend their money.

This is important to me. It is important to American families. I salute Senator GRAMM for raising this issue, and I am in support of this amendment.

I yield the floor.

Mr. MOYNIHAN. Mr. President, I yield to the Senator from Louisiana such time as he may require.

The PRESIDING OFFICER. Under the previous order, the Senator from Massachusetts has the floor.

Mr. MOYNIHAN. Would the Senator from Massachusetts, who has been Joblike—he has been No. 2 since 9:30—would he allow 3 minutes to the Senator from Louisiana and 3 minutes to the Senator from Nebraska to respond, and the remainder of the time is his?

Mr. KERRY. Mr. President, could I inquire how much the remainder of the time is?

The PRESIDING OFFICER. There is approximately a half an hour in total time.

Mr. KERRY. I would be very content with that.

Mr. MOYNIHAN. You have been very patient. We thank you, sir.

The PRESIDING OFFICER. That would require unanimous consent.

Mr. MOYNIHAN. I ask unanimous consent that that may occur.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BREAUX addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. BREAUX. My friend from Texas would refer to this provision as the "rotten" provision. I am sure what he meant to say was the "forgotten" provision, because he obviously forgot what we did to this in the Finance Committee when we greatly improved it. If anyone wants to have a $500-per-child tax cut, we presume that it is for the children.

Under the suggestion of the Senator from Texas, we would give the family a $500 tax rate to use for whatever they want. If they want to use it to go to the casino, fine. If they want to use it to buy a six-pack of booze every week, fine. It is about $9.66 a week, so under the provision of the Senator from Texas they could take it, put it in their pocket, and don't use it for children at all—just do whatever you want with it.

Interestingly, the Citizen Council, a respected voice of both parties, says, "In our view, a no-strings child credit is a cruel hoax on the very children who are supposed to benefit from it. We expect that most of the credits would disappear into the family's general budgets, or be used to pay bills"—and I add, not for the children, that the tax credit is supposed to be for.

What we have done is to craft a compromise from zero to 13, the family can use it for anything they would like, no strings attached, but from 13 to 17, when children need to be educated, there is an obligation that the tax credit be used to educate the children. For all of us who want to help children and our families and help parents raise those children, what is better than to give that family help and assistance in educating that child?

Some say the Tax Code should not tell people what to do. The Tax Code is full of examples—a mortgage deduction is only available if you buy a house; a charitable contribution is only available if, in fact, you give to charity. So what I think the Finance Committee was able to do was to erect a compromise, a blending of what that suggestion was coming from this side, blending it with what many of our people said, use it for educating children. If we are going to have a tax credit for children, let's at least ensure that part of the time it is used for one of the basic functions that a family has as an obligation to those children, and that is to educate those children.

So I think that what we have come forward with makes a great deal of sense. It is a legitimate compromise. It adds to the education package which I think everyone is for, and it helps families with small children.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. This proposal began in 1995. I heard the Senator from Texas describe it as a sacred part of the Contract With America.

In 1995, Senator LIEBERMAN and I introduced KIDSAVE as a modification to this $500 per child tax credit, and it set up a savings account for children. It was mandatory. The idea was that Americans are not saving enough money, they are struggling to put aside savings, and that is especially revealed when you look at one of the most important parts of this tax proposal, which is the reduction of tax on estates.

Mr. President, about 1 percent or 2 percent of Americans have estates over $600,000. It is a provision that affects a relatively small number of Americans. I appreciate my colleagues on the other side of the aisle saying that is one of their top concerns, that 1 percent or 2 percent of Americans who have estates over $600,000. KIDSAVE is put together as a consequence of our concern for the 98 percent of Americans that do not. The only way that you will be able, particularly for middle-income people, to acquire that wealth is to save a little bit of money over a long period of time.

So I say we are not breaking any deal. We introduced this bill in 1995. It was endorsed at the time by the Heritage Foundation. The only thing that is going on here, in my judgment, is the Christian Coalition is arguing that this is a violation of something they want. So they are rallying the troops and trying to get it changed. I appreciate the Senator from Texas does not like the proposal, but it was introduced in 1995, and its purpose is to help Americans generate wealth. We know we cannot redistribute wealth. We are trying to enable Americans to create wealth by saving their money.

The $500 child tax credit goes from 0 to 17. That is the law. It ends at age 17. I would have preferred 0 to 4, frankly, for this thing to go into effect. It was a compromise. We agreed to do this as a consequence of the desire to increase the amount of money that Americans have, not only for education but this money, particularly for those that are not going to school, would be better off staying in a savings account until retirement so those individuals can look to their retirement and say in addition to having Social Security there for them they will have a source of wealth.

So in my view, this is an amendment that would deny Americans the opportunity to acquire wealth. I think it is a very important provision in this Tax Code.

I hope my colleagues will vote against the Gramm motion to strike.

Mr. MOYNIHAN. I endorse wholeheartedly the position that the Senators from Louisiana and Nebraska have stated on behalf of the committee bill. I thank them.

I yield the balance of our time to the distinguished Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I thank the distinguished party manager. I will probably not use all the time but I ask unanimous consent that the balance of the time I have be divided between Senator DODD and Senator KENNEDY.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERRY. Mr. President, we just heard a debate about the $500 tax credit. We heard a number of Senators state what a critical component of the effort to restore families this is and how important it was to the early efforts of the contract. The fact is that the committee bill will deny 38 percent of the children in the United States with the lowest incomes access to a tax credit. In Massachusetts, as a matter of fact, 46 percent of all children would be excluded from receiving this important tax credit. That means about 850,000 children, plus, in my State, will not receive a tax credit.

Now, I ask my colleagues what kind of profamily policy takes $81 billion over the next 5 years but completely denies this help to the 9.5 percent of all children in families with the lowest 20 percent of incomes, and denies the tax credit to 86.6 percent of all the families in the second 20 percent of income.

I direct my colleagues' attention to this chart. These are the percentage of children ineligible for the child tax credit, the way it has been structured by the Finance Committee. Fully 99.5 percent of the lowest 20 percent, and 86.6 percent of the children in the second fifth will not get the benefit of this credit.

I propose, therefore, a very simple amendment so that working families could have access to this credit. My amendment that I will send to the desk momentarily lets those families whose net Federal taxes are greater than zero get a full or partial children's tax credit, and the amount accomplishes this in a very simple way. It makes the credit refundable to the full extent of the family's Federal payroll taxes once it has offset all of the family's income tax liability.

This refundability, I want to emphasize, is not my idea. The refundability was a provision of the Republican's Contract With America. It was in the child tax credit bill which was sponsored by the Senator from Texas, who a few moments ago was talking about the virtues of providing a $500 tax credit to children. In fact, Senator COATS, Senator LOTT, Senator GRAMM and others on the Republican side supported the very proposal that I am now offering which would, indeed, allow those children to be able to get that credit.

My colleagues on the other side of the aisle were right when they proposed a refundable credit. And Speaker GINGRICH was right when he called the refundable credit in the Contract With America the "crown jewel" of the contract.

As Marshall Wittman, the Legislative Affairs Director for the Christian Coalition, said, "Allowing families with children to retain a larger share of their hard earned income will be a first step toward freeing America's parents from the national treadmill of working long hours at the expense of time with their children." The Heritage Foundation endorsed the children's tax credit in the contract, which was a refundable tax credit.

Mr. President, I am proposing that we adopt the Contract With America's refundable tax credit which would provide 7 million more children with access to the credit, to the tax credit. The simple question is, why would you want to deny those people who work—we are not talking about people who are solely relying on welfare, or people who get the earned-income tax credit; we are talking about two-parent families with two children who are working and paying taxes, who still will not get credit the way it has been structured under the Republican proposal. These children live in families that pay income or payroll taxes, and payroll taxes are a reflection of work. Work, after all, is what we are trying to put a premium on—both in the welfare reform bill, as well as, I think, in a $500 credit.

My amendment would take the refundability against payroll taxes from the Contract With America and it lowers the income phaseout more slowly and phases in the credit by the age of the child. The reason we phase in the credit and the reason we do the income difference is to keep this revenue neutral. It is revenue neutral. I want to emphasize, this amendment takes the Contract With America payroll provisions but it remains revenue neutral.

It would seem to me, Mr. President, that all of us would want to try to find a way to guarantee that families earning $110,000 are not going to get a $500 tax credit, while a family working and earning $20,000 gets nothing—nothing. That is exactly what happens under this proposal the way it is done.

My credit would begin to phase out at $60,000 and it would finish at $75,000. By doing that, we manage to spread it to those people at the lower end of the income scale, most of whose income goes into the payroll tax but who nevertheless are working and deserve as much of a break as anybody else. My amendment would allow the bottom 80 percent of American families to get a full or partial credit, and the richest 20 percent would not. A very simple tradeoff.

Mr. President, I think it is critical to understand that the tax bill, as it comes out of the Finance Committee, which we are voting on, that the tax bill credit for children as currently written, most of the children who would be denied the credit or have the credit reduced live in families who are working and paying Federal taxes. It is just that their tax burden often amounts to several thousand dollars, even after the effects of the earned-income tax credit are accounted for. The claims that these peoples pay no taxes is simply incorrect.

The Joint Tax Committee data issued this week shows that taxpayers with incomes between $10,000 and $20,000 will owe an estimated $191 billion in Federal taxes. Taxpayers with incomes between $20,000 and $30,000 will owe $442 billion in Federal taxes between 1997 and the year 2002. These figures from the Joint Tax Committee reflect the fact that these taxes are owed after the EITC benefits are subtracted.

Mr. President, the vast majority of the taxes that these families pay—we have to acknowledge, if they are working and they are playing by the rules and they are trying to climb up the economic ladder, why should they be denied access to the $500 credit—the taxes that they pay consist mostly of payroll taxes because that is the way life is for people at that end of the income scale.

I hope my colleagues who say that this is a fair way to adjust more appropriately what has happened in the committee mark —I want to emphasize that a two-parent family, the kind of family that most people in the Christian Coalition or in the Heritage Foundation or others feel have been the most hard hit in America in the recent years, a two-parent family with two children with an income of $20,000, under my proposal, would get the full $1,000 credit, $500 for each child under this proposal, which is the contract proposal. They would not get that under the proposal of the Finance Committee.

Mr. President, I think if we are going to accept the notion that we will provide the children's credit for as many working taxpaying families as possible, it is important to change the base and to guarantee we are reaching those kids.

Everybody knows what has happened to income distribution in America in the last 15 years, how the bottom has not been the part of America that has grown. I might add, here is a chart that shows the percentage of working families whose payroll taxes exceed their income taxes. They are all in the bottom three-fifths of America. You have 99 percent in the bottom fifth, 97 percent in the second fifth, and 90 percent in the next fifth—all work, all have payroll taxes that exceed their income tax, and, therefore, do not get the full benefit of the credit.

Finally, I simply point out to my colleagues that income for young working families has not increased in over 20 years. These are the young families of America earning $18,000 in the lowest quintile on average, and $30,000 in the second quintile on average. Look at what happened to payroll taxes during that period of time. Payroll taxes in 1975 were $374 for that family. But, in 1985, they were $2,171. In 1995, they were $2,523. So the payroll taxes went up, but at the same time in both quintiles and, yet, their income went down and they are not going to get the credit.

So I respectfully hope that my colleagues will join in an effort to rectify what I hope is simply an oversight in distribution and help to guarantee that every family in America that works, that is struggling to raise their children, can actually have the benefit of this $500 credit, and that would, I think, be deemed a benefit to the Senate and to the country if we were to make that happen.

Mr. President, under the previous agreement, I yield the balance of time divided equally to Senator DODD and Senator KENNEDY.

The PRESIDING OFFICER. There are 10 minutes left on the Democratic side.

Mr. DODD. On the bill?

The PRESIDING OFFICER. There are 10 minutes on the proponents' side.

Mr. COATS. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. COATS. Mr. President, I don't understand why we are allocating time here because in the unanimous-consent request—I specifically asked the Chair and asked in the request if the three amendments agreed to under the unanimous-consent request were on any kind of a time limit. The answer was, no, they are not on any kind of a time limit.

I further raised the statement saying that there are a number of Senators under the agreement that would stay beyond the three to offer and discuss their amendments this evening. They would be allowed to speak for up to 10 minutes in support of their amendments. I don't believe we are under a time agreement and that there needs to be allocation of a time agreement. This Senator has not yet spoken on the Gramm amendment, which I would like to do. I don't feel there is any constraint on the amount of time I have to speak.

The PRESIDING OFFICER. Under the consent agreement, there was still time remaining on the bill. The time remaining on the bill could be used by each side presenting their amendments. There was an order to the amendments. We are on the third one, which was the Kerry amendment. Senator KERRY was allotted the time on the proponents' side, which was 20 minutes. There is an opponent side of 20 minutes that would be allocated, which would be the majority party side.

Following the expiration of all time, which would be the remaining 38 minutes, then there will be a period for morning business where any Senator can be recognized for up to 10 minutes to introduce his motion, which would put it in order for tomorrow, but in no particular order for tomorrow.

The Senator from Massachusetts is recognized.

Mr. KERRY. If I could say to my colleague, I had the full amount of time under the unanimous-consent agreement. I chose to truncate my remarks in order to accommodate my colleague within that. I don't mean to upset the order.

Mr. COATS. No. Mr. President, I am perfectly content to let the Senator take whatever time he wants. It is this Senator's understanding that the unanimous-consent agreement supersedes the reconciliation instructions regarding time under the agreement. The Senator from Massachusetts can offer any amount of time he wants to his colleagues. I am more than willing to wait for that.

The PRESIDING OFFICER. We have already ruled that, as far as allocating time to anybody else, there would have to be a unanimous consent agreement by that particular person who is speaking; otherwise, the time is up for grabs.

Mr. COATS. Further parliamentary inquiry. That is not my understanding of what the unanimous consent request was. The reason I am stating this is that I specifically asked the majority leader if my interpretation was correct, and he specifically said yes and included it in the unanimous-consent agreement. The Parliamentarian may not have heard that. I don't believe there is a ruling of that. In any event, I don't want to split hairs. I think everybody will have an opportunity to speak. He doesn't have to limit the Senator from Connecticut to 2 minutes. He can talk for 20, as I understand the unanimous-consent agreement.

Mr. KERRY. Mr. President, if I can simply clarify something. But before I do, I will send my amendment to the desk.

AMENDMENT NO. 554

(Purpose: To allow payroll taxes to be included in the calculation of tax liability for receiving the children's tax credit, and for other purposes)

Mr. KERRY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Massachusetts [Mr. KERRY], for himself, Mr. CONRAD, and Mr. JOHNSON, proposes an amendment numbered 554.

Mr. KERRY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 13, beginning with line 9, strike all through page 17, line 12, and insert the following:

"(2) LIMITATION BASED ON ADJUSTED GROSS INCOME.—The dollar amount in subsection (a) shall be reduced (but not below zero) ratably for each $1,000 (or fraction thereof) by which the taxpayer's modified adjusted gross income exceeds $60,000 but does not exceed $75,000. For purposes of the preceding sentence, the term 'modified adjusted gross income' means adjusted gross income increased by any amount excluded from gross income under section 911, 931, or 933.

"(3) LIMITATION BASED ON AMOUNT OF TAX.—The aggregate credit allowed by subsection (a) (determined after paragraph (2)) shall not exceed the sum of—

"(A) the excess (if any) of—

"(i) the taxpayer's regular tax liability for the taxable year reduced by the credits allowable against such tax under this subpart (other than this section), over

"(ii) the taxpayer's tentative minimum tax for such taxable year (determined without regard to the alternative minimum tax foreign tax credit), plus

"(B) the excess (if any) of—

"(i) the sum of—

"(I) the taxpayer's liability for the taxable year under sections 3101 and 3201,

"(II) the amount of tax paid on behalf of such taxpayer for the taxable year under sections 3111 and 3221, plus

"(III) the taxpayer's liability for such year under sections 1401 and 3211, over

"(ii) the credit allowed for the taxable year under section 32.

"(c) QUALIFYING CHILD.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualifying child' means any individual if—

"(A) the taxpayer is allowed a deduction under section 151 with respect to such individual for the taxable year,

"(B) such individual has not attained the applicable age as of the close of the calendar year in which the taxable year of the taxpayer begins, and

"(C) such individual bears a relationship to the taxpayer described in section 32(c)(3)(B).

"(2) APPLICABLE AGE.—For purposes of paragraph (1), the applicable age is 13 in calendar year 1997, and increased by 1 year for each of the next 4 succeeding calender years.

"(3) EXCEPTION FOR CERTAIN NONCITIZENS.—The term 'qualifying child' shall not include any individual who would not be a dependent if the first sentence of section 152(b)(3) were applied without regard to all that follows 'resident of the United States'.

"(d) TAXABLE YEAR MUST BE FULL TAXABLE YEAR.—Except in the case of a taxable year closed by reason of the death of the taxpayer, no credit shall be allowable under this section in the case of a taxable year covering a period of less than 12 months.

"(e) RECAPTURE OF CREDIT.—

"(1) IN GENERAL.—If—

"(A) during any taxable year any amount is withdrawn from a qualified tuition program or an education individual retirement account maintained for the benefit of a beneficiary and such amount is subject to tax under section 529(f) or 530(c)(3), and

"(B) the amount of the credit allowed under this section for the prior taxable year was contingent on a contribution being made to such a program or account for the benefit of such beneficiary,

the taxpayer's tax imposed by this chapter for the taxable year shall be increased by the lesser of the amount described in subparagraph (A) or the credit described in subparagraph (B).

"(2) NO CREDITS AGAINST TAX, ETC.—Any increase in tax under this subsection shall not be treated as a tax imposed by this chapter for purposes of determining—

"(A) the amount of any credit under this subpart or subpart B or D of this part, and

"(B) the amount of the minimum tax imposed by section 55.

"(f) OTHER DEFINITIONS.—For purposes of this section, the terms 'qualified tuition program' and 'education individual retirement account' have the meanings given such terms by section 529 and 530, respectively.

"(g) PHASEIN OF CREDIT.—In the case of taxable years beginning in 1997, subsection (a)(1) shall be applied by substituting '$250' for '$500'."

Mr. ROTH. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ROTH. Is it proper to offer an amendment under the unanimous-consent agreement?

The PRESIDING OFFICER. The Senator from Massachusetts, under the unanimous consent agreement that we had earlier, is allowed to offer one tonight.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, it may be that the Senator from Indiana missed it, but I asked unanimous consent at the opening of my comments, when I was yielded the full amount of time, that the balance of time that I didn't use be divided equally, and that consent order was entered into. I might add, if the Senator was correct, it was all of our understanding that after the expiration of all the time on the bill, the Senate would go into morning business, during which time Senators would have the opportunity to speak for as long as they wanted. So there is not in effect a time limitation with respect to the after period of the bill.

The PRESIDING OFFICER. A clarification on that. The consent order did call for 10 minutes per person in morning business.

Mr. KERRY. Well, Mr. President, I have been informed that Senator KENNEDY now does not wish to use his time. I ask unanimous consent that the balance now go to Senator DODD, at which point it would revert to the other side.

The PRESIDING OFFICER. The Senator from Indiana and those on this side have up to 20 minutes following the 8½ minutes of the Senator from Connecticut that will be allocated under the unanimous-consent agreement. The Senator from Connecticut is recognized for up to 8½ minutes.

Mr. DODD. Mr. President, rather than confuse this situation even further, I am going to yield for the purposes of offering an amendment to the distinguished Senator from Vermont. It is his amendment, and I am a cosponsor with him. I yield for that purpose. I ask unanimous consent that I may yield for that purpose.

The PRESIDING OFFICER. The Senator doesn't have the right to offer an amendment under this agreement. Only the managers can offer amendments under the agreement, until we get into the period for morning business, at which time—

Mr. DODD. I ask unanimous consent that I be allowed to offer an amendment.

Mr. JEFFORDS. I ask unanimous consent—

Mr. COATS. Mr. President, I hate to be a fly in the ointment here. I have been waiting to speak on one of the three designated amendments in the unanimous consent agreement, the GRAMM amendment. I have not yet had that opportunity. My understanding is that further amendments come after these three. I think if we just get going, we can get this done and get to the other amendments.

The PRESIDING OFFICER. The right to offer amendments is limited to the managers. The right to speak is not.

Who wishes recognition?

Mr. COATS. Mr. President, I would like to take just a few moments and I will be brief.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

AMENDMENT NO. 552

Mr. COATS. Mr. President, the hour is late and the week has been long. We all need our rest. I want to take a few moments to speak in support of the GRAMM amendment, the amendment we discussed just before the discussion of the KERRY amendment.

The reason I want to speak in favor of the GRAMM amendment is that, as someone who has been an original sponsor and long-time proponent of the child tax credit, we were surprised—first of all, we were delighted when, first, the President, and then the Budget Committee endorsed the concept of the $500-per-child tax credit. It is long overdue. It is only a partial step in remedying an inequity that has existed for a long, long time, in terms of giving families the ability to provide for their children.

Way back in the 1940s, Congress decided that raising families and raising children was a good thing. They provided a dependents exemption for that purpose. They did not index it for inflation. And over the years, because it was not indexed for inflation and because it was not raised by an act of Congress, the value of that particular exemption decreased—that is, the dependents exemption. Now, we finally doubled that exemption, and now index it, after the 1986 tax law. But it was still a third to a fourth of what it should have been if it had maintained pace with the cost of raising children. So families were squeezed and fell further and further behind other special interests that were granted benefits in the Tax Code.

We finally focused on the importance of raising children and the importance of families and the importance of providing support for the family. I am pleased that we are here discussing the $500 tax credit. I am pleased that the chairman of the Finance Committee incorporated the $500 tax credit in their mark. But I rise in support of the Gramm amendment because, in doing so, a provision was made whereby the credit would only be available up through the age of 12. At that point, the credit was available, but it was conditioned on the fact that the money be put into an education savings account.

Now, it is ironic that, at the very time when the cost of raising children takes a dramatic jump, we take away the ability of parents to use that credit to pay for expenses related to those children.

As this chart shows, entitled "Annual Child Rearing Costs; Children Ages 0 to 17," there is roughly a $7,850 cost per child for children, ages 0 to 2. It jumps to over $8,000 for children, ages 3 to 5. It goes to nearly $8,200 for children, ages 6 to 8. And it stays about that level through the age of 11. But at the age of 12—at no surprise to any parent in this room, or any parent trying to raise young children—there is a dramatic increase in the cost per child when you hit the ages of 12 to 14, and it continues to 15 to 17. Why is that? It is because no longer are you able to tell your children that the $5 Kmart tennis shoes are good enough to wear to school. All of a sudden, they discover the Michael Jordan tennis shoes, and it is now $140 a pair. All of a sudden, the dentist says it is time that you saw an orthodontist, because if you want your child to have straight teeth, this is the time. The baby teeth are gone, the new teeth have come in, and we all want our kids to have perfect smiles. Some might be for cosmetic reasons, and many might be for a misaligned jaw or an overbite, and so forth. And clothes begin to cost more. Kids start thinking about the opposite sex. So that involves the thought of beginning to date and, suddenly, you are buying movie tickets and, suddenly, they are going out for burgers, et cetera. It is no surprise to any parent that that is the point in time which the cost really escalates, particularly when they get into the 15 to 17 age range. Then they are starting to work after school and they need transportation. Heavens, what an embarrassment it would be to have to ride the school bus. You need a car, et cetera, et cetera. There are a lot of necessary costs at this particular time, also.

At that very time when it costs more, the Finance Committee has said, "We recognize that it costs more, but you can't use the money for anything except the purpose we deem is acceptable."

Now, it is a worthy thing to begin to save money for college, for secondary education, but not all children go to college. In fact, apparently, a large percentage don't go to college. So the education savings account that is begun or is mandated at the age of 13—they must use the child credit for that. I think that serves a purpose that we should not support.

Now, some have suggested that the reason all this was done was to make the budget numbers balance, that it was to save money because those families that would not send their children to college, or didn't have plans to send their children to college, or didn't have the funds to accumulate for college, would not take the $500 tax credit and, therefore, are a savings. I hope that is not the motivation. I don't think it was the motivation, but that may be the unintended result. So we have a situation here where, ultimately, what we come down to is that either the parents are going to decide how to use the funds on the child tax credit in the best interest of their children, or the Senate Finance Committee will decide.

Once again we continue the practice of Government knows best—not father knows best, not mothers know best, not family knows best, but Government knows best. We will tell you how you should spend or save money for your child. We will determine that it can only be used for one purpose. You have to continue a secondary education—a noble goal, a worthy goal, and one that I think we want to hold out as an option. But it should not be a mandate. It should not be limited to that particular goal.

There are a lot of families in this category that have expenses for their children at the ages of 13, 14, 15, and 16 that are more critical than forcing them to put the money into a savings account. Hopefully, they will be in a financial position, if we think they can put the money into a savings account. Again, I say it is a worthy goal. But it ought to be an option to those parents. It shouldn't be a mandate. We should not have a Government entity—whether it is an elected Government entity or a nonelected Government entity—making a decision as to how that money should be used.

It is almost humorous to say we know better about how a mother and father ought to spend money for their child than they do, that we know their family situation better, we know their education situation of their children better, we know their future plans better than the family knows its own plans.

So, as well-intended as this mark in the Finance Committee package might be, I think that the amendment of the Senator from Texas makes perfect sense because it simply says if you want to do that with a $500 tax credit, fine, you can do that. We will allow you to set up an education savings account.

One of the first bills I introduced when I came to Congress a long time ago was an education savings account. I think it is a worthy goal, a worthy idea. But if you deem that there are other purposes more appropriate, then we will allow you to do that also.

To suggest that at the age of 13 suddenly the 13-year old is given the money and the parents are going to say, "I am going to take the money and go down to the casino," like the Concord Coalition suggested—talk about arrogance. Talk about an arrogant conclusion; that is, that parents don't care about their kids, that they are either going to spend the money on beer or they are going to spend the money at the casino almost defies belief.

Who do we trust here? Do we trust the parents? Do we trust the family? I am sure there will be examples. You can pick up the paper and read about some wayward father who took the tax credit and went down to the casino. Sure, that will happen. But that doesn't begin to describe the average American family who cares about their children, who want the best for their children, and are in the best position to make the decision as to how that money ought to be spent.

So I am a strong supporter of the Gramm amendment. I think that we ought to modify this. Whether this is put together to create a deal—it is a lousy deal. I won't call it a rotten deal. It is a lousy deal, and the wrong way to allocate these resources. Let's leave that decision in the hands of the parents and not in the hands of the Government.

Mr. SESSIONS. Mr. President, will the Senator yield for a question?

Let's imagine a single mother who is teaching school with three children ages 17, 15, and 12 hoping to save money for college and just getting by. The transmission breaks on the car, and there is a $400 bill. Who should decide who ought to spend that money? The Members of this body, or that mother?

Mr. COATS. Maybe that mother needs that car to get to work so she can continue to make money so she can send her children to school, but we will be effectively telling her, "You can't fix that transmission." We will tell that mother, "You can't use that money to buy a computer because maybe your child needs special tutoring." And, "You can't buy a software program to give that child better math tutoring so they will be able to go to college. You can't use that money for that. You can't use that money to hire a learning center or some other organization to help your child prepare for the SAT's so that they can get into college. No. You have to do what the Finance Committee says. The Finance Committee says you have to put it in an education savings account."

I just think it is wrong. As I said, it may be well intended and well motivated, but the consequences are such that I don't think we have thought these things through.

That is why the amendment of the Senator from Texas ought to be supported.

I thank my colleague from Alabama for his contributions.

Mr. President, I yield the floor.

The PRESIDING OFFICER. There are approximately 8 minutes left on the debate.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, may I make an inquiry? Is it in order for me to ask unanimous consent to offer my amendment at this time?

The PRESIDING OFFICER. The Senator may ask.

I have been authorized to object.

CHILD CARE

Mr. JEFFORDS. We will discuss the amendment which we will be offering on the floor at the appropriate time.

Mr. President, it is difficult to find high quality child care that is appropriate, affordable, and convenient for children today. How government can help parents achieve that goal is a very difficult and compelling question. I have, with my cosponsors Senators DODD, ROBERTS, KOHL, SNOWE, LANDRIEU, and JOHNSON put together an amendment which we will be offering. On the one hand the amendment will make it easier to find better child care that is more affordable. At the same time the amendment does some engineering by making it possible for more child care facilities and individual providers to improve their services and receive higher tax deductions for those efforts. My amendment also to shifts the amount of money that is available to parents in the child care tax credit and the dependent care assistance program to help them afford a better quality of care they may now be available to them. This combination of assistance for providers and parents will encourage that the child care facilities and individual providers will provide better care for the 12 million children who are in child care.

How we accomplish this is: First of all, to help middle- and low-income families, the amendment increases the level of income which qualifies for the maximum amount of the child care tax credit benefits $10,000 to $20,000. We make the child care tax credit refundable for low-income working families who qualify for the EITC. Then we go to the other end of the scale and phase the tax credit down, but not out, for wealthier people with incomes over $70,000, then we can pay for the increases at the lower end.

I also feel strongly that it is important to assist those businesses that are providing child care for their employees. The amendment creates an incentive which will allow businesses to receive a 50 percent tax credit for up to

$150,000 in expenses to operate, improve, and develop appropriate child care for their employees.

As we all know from recent studies, the healthy development of children can very dramatically enhance, including their potential for future educational and social achievement, depending upon the kind of nurturing and affection they receive early in life, and the developmental and educational activities they are exposed to at birth. In order to make sure that kind of care is available for those children who need to be in child care while their parents work. This amendment provides the necessary incentives so they can find and afford to receive the care that will be safe and provide their children with a better chance for healthy development. That will be required if we expect to have a skilled workforce in the new world of the future.

What we are trying to do here is to balance the need to reduce the deficit and get the budget under control, with the need to improve the quality of child care for all children who must use it. Keeping in mind the funds that are available. We have offsets to pay for this child care amendment, which I think are very appropriate.

I yield to the Senator from Connecticut for a further explanation.

Mr. DODD. Mr. President, first of all, I want to commend my colleague from Vermont. This is an amendment which will be offered by the distinguished Senator from Vermont, along with myself, Senator ROBERTS of Kansas, Senator KOHL of Wisconsin, Senator LANDRIEU, Senator SNOWE, Senator JOHNSON, and others.

Mr. President, this is a modest proposal that is designed to do what all of us agree needs to be done.

We have provided over the last number of years some significant support for child care in this country. For example, there is the Child Care Development Block Grant program which Senator HATCH and I authored back in the mid-1980's. There is also the Head Start program, which has been very, very helpful to so many families in this country in providing a positive learning environment for children. There is also the current child care tax credit. All of these are designed to provide assistance to those families today who are trying to juggle the very difficult task of providing an income for their families and also a safer environment for their children.

Good quality child care can no longer be considered a luxury. There are 13 million children every day in this country who are placed in child care settings. There are an awful lot of single parents out there raising families. There are two-income families that are providing for their children. These families want to be sure that their children are in a safe place.

We have done a great deal to help families with the affordability of child care. We have done a lot to increase the availability of child care.

What Senator JEFFORDS, Senator ROBERTS, Senator KOHL, myself, Senator SNOWE, Senator LANDRIEU, Senator JOHNSON, and others are trying to do is to use the Tax Code to try to do a better job of dealing with quality.

I want to be very clear that there is nothing in this amendment which sets national standards for quality—as our colleagues over the years have had some serious reservations about setting national child care quality standards. This amendment simply defines a quality setting as one that meets standards or certification set by States, local governments or private, non-profit entities—we don't specify any standards—what those standards must be. With this amendment we just try to create incentives so that child care settings will get some encouragement to improve quality.

Let me just enumerate what some of those incentives are.

We expand the tax deductions for businesses who contribute educational equipment and supplies to public child care providers.

We provide tax incentives to families who seek out higher quality care, realizing that such care is more expensive.

Let me step back, if I can, for a minute.

Mr. President, earlier this year, national magazines had cover stories on early childhood development. We now know that in the earliest stages of a child's life—zero to 36 months—it is absolutely critical that they be nurtured and cared for so that they can develop to their fullest potential. We've all heard by now about how the synapses in the brain of a child are formed —1,000 trillion of them just in those earliest years. Now we have scientific evidence of how important it is to read to children, to hold children, and to play with children in order to wire their brains for the skills they'll need later.

Obviously, the best caretakers of children are loving parents. That is the best child care—be cared for by prepared parents. No one can argue against that. But we also know that there are a lot of these parents who can't be there all day with their children.

So what do we do to proximate that caring, prepared parent situation when the parent is unable to be there? What are we trying to do? Do we leave the situation to chance and say to parents, "Good luck. Do what you can. Hopefully you can find the kind of care you would provide if you were there." That is a difficult statement to make to parents since we all understand that not every setting is a safe one or a healthy one, that in fact there are vast differences in the quality of child care.

Rather than applying any rigid standards here, however, we will leave to the States and to communities to decide what works best. And then we provide the tax incentives to businesses to contribute equipment and supplies to help to improve the quality child care. We provide the incentives to those parents who seek out quality child care because it can cost a bit more. In doing all this we will hopefully encourage other child care providers to improve their own quality and to ultimately raise the levels of quality around the country.

With this amendment we also make the child care tax credit refundable because we realize that as we go from welfare to work that we are going to have a lot of these poorer families out there who are going to have difficulty affording quality child care. Refundability is critical—if we only provide tax credits to those who pay taxes, then we miss helping a lot of these poorer families who can truly use the assistance.

It is certainly a lot more expensive to provide child care than it is to provide welfare in most States. So as people move from welfare to work, do we want them leaving kids in the street, where hopefully a neighbor or someone else is around to keep an eye on them, or should they be in a quality environment? I think all of us agree they should be in a quality environment and one that their parents hopefully can afford.

Senator JEFFORDS has provided us with a way to reach this goal by using the Tax Code. It is not a direct appropriation. We realize how difficult it is to get funding for child care programs. Through the largess of our membership here over the last number of years, we have increased the child care block grant to $1 billion. That amount of money, but it does not even approximate the demand. And only 4 percent of that total amount is there for quality—hardly enough, really, when you think of the tremendous increase in demand for child care that is now going to occur across the country as a result of the enactment of welfare reform.

This proposal is designed to provide incentives to businesses to set up quality child care center and to families to seek quality care. We pay for this by making minor adjustments for those receiving the tax credit at the highest income levels by reducing the credit progressively by 1 percent, but never going below a credit of 10 percent of allowable expenses. So by just adjusting the benefit a bit we can provide the resources here to promote quality.

I urge our colleagues' support. This is going to need 60 votes, and that is a hard number to reach, but we ought to be doing everything we can to improve the quality of child care. This ought not to be a partisan debate. We have come up with an offset. We pay for this with minor adjustments to the Tax Code. This is a bipartisan amendment.

With my colleagues from Vermont, Kansas, from Maine, from Louisiana, from Wisconsin and South Dakota, we have come up with a good proposal that we think meets the concerns that some have raised and still provides a way to ensure through the Tax Code that child care is not only available and affordable but also high quality.

And so, at the appropriate time, Mr. President, when the amendment is offered by the distinguished Senator from Vermont, we would urge our colleagues to be supportive.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DODD. I thank my colleague from Vermont.

AMENDMENT NOS. 556, 557, 558, 559, 560, 561, 562, 563, 564, AND 565, EN BLOC, AND 553

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. I ask unanimous consent that the following amendments be considered and agreed to en bloc: first, McCain-Levin: Sense of the Senate regarding stock options with a statement; 2. Enzi: Sense of the Senate regarding estate tax with a statement; 3. Dodd: Forgiveness of student loans; 4. Grams: Exception to UBIT for charitable giving; 5. Dorgan: Disaster relief. 6. Dorgan: IRA withdrawal for disaster relief; 7. Biden: Survivors' benefits/public safety officials; 8. Dodd-D'Amato: Disability benefits for firefighters and officers; 9. Boxer: Section 401(k) and employer stock; and No. 10. Daschle: Non-Amtrak States. I urge their adoption.

In addition, I ask that amendment 553 be called up and agreed to.

Mr. COATS. Mr. President, reserving the right to object—

The PRESIDING OFFICER. Is there objection?

Mr. COATS. Reserving the right to object—

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. I am only inquiring from the standpoint that I am a little lost again on procedure. How much time is left under the bill? Because I would like to respond to the arguments on the amendment of the Senator from Vermont.

The PRESIDING OFFICER. There are 3 minutes remaining on the bill. If the Senator will wait until the 3 minutes have expired, then he can have up to 10 minutes in his own right.

Mr. COATS. Further reserving the right to object, I asked relative to the unanimous consent request of the Senator from Delaware. I just wanted to make sure it didn't include—maybe I misunderstood, but it didn't include a request to go immediately to those amendments.

The PRESIDING OFFICER. These are amendments on which there appears to be agreement on both sides of the aisle.

Mr. COATS. To be accepted en bloc.

Mr. ROTH. I asked they be—

Mr. COATS. I withdraw my reservation.

The PRESIDING OFFICER. If there is no objection, the clerk will report the amendments en bloc.

The legislative clerk read as follows:

The Senator from Delaware [Mr. ROTH] proposes amendment No. 556 for Mr. McCain, amendment No. 557 for Mr. Enzi, amendment No. 558 for Mr. Dodd, amendment No. 559 for Mr. Grams of Minnesota, amendment No. 560 for Mr. Dorgan, amendment No. 561 for Mr. Dorgan, amendment No. 562 for Mr. Biden, amendment No. 563 for Messrs. Dodd and D'Amato, amendment No. 564 for Mrs. Boxer, and amendment No. 565 for Mr. Daschle.

The PRESIDING OFFICER. If there is no objection, the amendments are considered and agreed to en bloc.

The amendments considered and agreed to en bloc are as follows:

AMENDMENT NO. 556

(Purpose: To express the sense of the Senate that the Finance Committee should hold hearings on the tax treatment of stock options)

On page 267, between lines 15 and 16, insert the following:

SEC. . SENSE OF THE SENATE REGARDING TAX TREATMENT OF STOCK OPTIONS.

(a) FINDINGS.—The Senate finds that—

(1) currently businesses can deduct the value of stock options as a business expense on their income tax returns, even though the stock options are not treated as an expense on the books of those same businesses; and

(2) stock options are the only form of compensation that is treated in this way.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Committee on Finance of the Senate should hold hearings on the tax treatment of stock options.

Mr. McCAIN. Mr. President, I am pleased to join my colleague from Michigan, Senator Levin, in offering an amendment regarding the current double standard employed by corporations today in accounting for stock options.

The amendment expresses the sense of the Senate that hearings should be held on S. 576, a bill sponsored by Senator Levin and myself.

S. 576 would close a tax loophole by requiring companies to treat stock options granted as compensation to employees as an expense for bookkeeping purposes, if they want to claim this expense as a deduction for tax purposes. The bill protects average workers by exempting companies from the requirements of the amendment if they provide stock options to substantially all of their employees, with more than half the stock options going to nonmanagement personnel and not more than 20 percent going to a single employee. The bill does not require a particular accounting treatment; that decision is left to the company. It simply requires companies to treat stock options the same way for both accounting and tax purposes.

The Joint Committee on Taxation provided an estimate of the revenue that is being lost because of this tax loophole. If this loophole is not closed, over the next 10 years, from 1998 to 2007, the U.S. Treasury will lose $1.6 billion. That's real money that could be used to reduce our ever-increasing $5.4 trillion national debt.

A great deal of attention has been focused recently on the outrageously high levels of executive compensation paid by some companies. The New York Times printed an article on March 30, 1997, that listed the compensation levels of several top corporate executives in 1996. For example:

IBM's Chairman, Louis V. Gerstner, Jr., received a compensation package worth $20.2 million.

General Electric gave its Chairman, John F. Welch, Jr., a package worth $30 million.

And Michael Eisner, Chairman of Walt Disney Corporation, got $8.7 million in salary and bonuses, plus stock options worth $181 million in today's market—the largest single grant in corporate history, according to the article.

Under current law, corporations can easily hide these multimillion dollar executive compensation plans from their stockholders or other investors. That is because the stock options that make up a large and increasing portion of these packages need not be counted as an expense when calculating company earnings.

Simply put, if a company pays $100 to an employee as salary, that $100 is deducted from the company's total profits. That seems logical. But if a company gives that same employee 100 dollars' worth of stock options as part of their compensation package, the company's total profits are unaffected. And the actual value of those stock options may very well increase several fold over time.

Stock options given as compensation to company employees are simply mentioned in a footnote in the annual report to shareholders—which, by the way, is a much-needed yet inadequate change in the accounting rules required by the Federal Accounting Standards Board starting this year. The result is the shareholders are given an inflated picture of the company's profits, and the top executives can take credit for those artificially inflated profits.

An article in the Wall Street Journal, dated January 14, 1997, stated these new rules could reduce some companies' annual earnings by as much as 11 to 32 percent. Yet, the required footnote could be overlooked by all but the most astute of stockholders.

One might reasonably ask how an arcane accounting rule could have such a large effect on the bottom line of corporations. The answer lies in the growth and value of stock options as a means of executive compensation.

Stock option plans in 1996 accounted for almost 45 percent of total executive compensation at 56 of our Nation's largest corporations, an increase of 5 percent in just 1 year. The portion of compensation made up of actual cash salary declined by 5 percent in just 1 year.

At the same time, the value of stock options increased dramatically as overall market performance soared in the last few years. The New York Times piece cited earlier also estimated the future value of stock options to those top executives, based on the most likely time the options would be exercised. The most impressive gain would be realized by Mr. Eisner, whose $181 million in Disney options received last year would be worth $583.7 million in 2007.

Yet, if any Disney shareholder looked at the annual report, all they will find is a footnote about the value of stock options granted to Mr. Eisner and other top executives. The bottom line—the profit statement—will be overstated by at least $181 million.

Why shouldn't the true value of Mr. Eisner's compensation package be included in calculating Disney's earnings? How can stockholders evaluate the true value of executive compensation if the value is just buried in a footnote somewhere in the annual report?

I recognize that there is a serious opposition to S. 576 in the business community. And I fully understand why. Companies save millions every year by claiming the value of stock options granted to employees as a deductible expense on their taxes. The Wall Street Journal article states that companies saved hundreds of millions of dollars in 1996 taxes because of this loophole:

Microsoft saves $352 million.
Intel saved 196 million.
Disney Corporation saved $44 million.

No other type of compensation can be treated as an expense for tax purposes, without also being treated as an expense on the company books. This double standard is exactly the kind of inequitable corporate benefit that makes the American people irate and must be eliminated. If companies do not want to fully disclose on their books how much they are compensating their executives, then they should not be able to claim a tax benefit for it.

S. 576 would end an inequitable corporate subsidy and restore fairness in the treatment of stock options. It would provide an additional $1.6 billion in deficit reduction by closing this corporate tax loophole.

The amendment Senator LEVIN and I are offering today is intended to urge full and open hearings on this issue. Industry will have an opportunity to express their views and explain their opposition to S. 576. I urge my colleagues to vote for the amendment, and I look forward to the hearings.

At the appropriate place in the bill, insert the following:

SEC. . SENSE OF THE SENATE ON ESTATE TAXES.

(a) The Senate finds that whereas—

(1) The Federal estate tax punishes hard working small business owners and discourages savings and growth; and

(2) The Federal estate tax imposes an unfair economic burden on small businesses and reduces their ability to survive and complete with large corporations; and

(3) A reduction in Federal estate taxes for family-owned farms and enterprises will help to prevent the liquidation of small businesses that strengthen American communities by providing jobs and security;

(b) It is the Sense of the Senate that—

(1) The estate tax relief provided in this bill is an important step that will enable more family-owned farms and small businesses to survive and continue to provide economic security and job creation in American communities; and

(2) Congress should eliminate the Federal estate tax liability for family-owned businesses by the end of 2002 on a deficit-neutral basis.

Mr. ENZI. Mr. President, I rise to offer a sense of the Senate amendment that calls for a repeal of the Federal estate tax on family owned businesses by 2002. I commend Chairman ROTH and the Finance Committee on the progress they have made by increasing the estate tax exemption for individuals and by excluding the first $1 million family owned businesses from Federal death tax liability. I look forward to working with my colleagues toward repealing the death tax on family businesses.

I introduce this resolution because I believe there is still much work to be done. The Federal death tax on family owned business tax punishes those who have worked hard their entire life building up a small business or a family farm only to have their children see it disappear in order to pay the Federal death taxes. The death tax discourages thrift and pierces the very heart of the American economy—small businesses.

Mr. President, small businesses are the backbone of the American economy. The simple fact is that most businesses in this country are small businesses. Out of the nearly 5½ million employers in this country, 99 percent are businesses with fewer than 500 employees. Almost 90 percent of those businesses employ fewer than 20 employees. Since the early 1970's, small businesses have created two out of every three net new jobs in this country. This remarkable job growth continued even during periods of slow national growth and downturns when most large corporations were downsizing and laying off workers. Small businesses employ more than half of the private sector workforce and are responsible for producing roughly half our Nation's gross domestic product. By punishing small businesses, the Federal death tax stifles our economy, discourages ingenuity, and threatens the economic security of many of our families.

The Federal death tax also tears at the bonds that unite parents and children and families and communities. The family business has historically been one of the primary means for children to learn skills and virtues that help throughout their entire lives. Many of the small business in Wyoming are ranches and farms, and I know many of the hard-working men and women in Wyoming who run these family ranches and farms. The whole family pitches in to harvest the crops, feed the livestock, mend the fences, fix the irrigation ditches, plow the roads, herd the sheep and cattle, and plan for next year's yield. Children learn that hard work and responsible planning are necessary ingredients for success in work as in life. They learn respect for the land that is their livelihood. They learn to appreciate the labor of their parents and grandparents and they realize their own labor is an investment in their future and the future of their children.

I myself ran a small family owned shoe store in Gillette, WY. We didn't have a separate division for merchandising and marketing. We didn't have an accounting department to sort out the complicated Tax Code. We all wore many hats. We had to sell the shoes, balance the books, keep track of our inventory, and straighten out the shelves. Let me tell you that we all learned to pitch in to get the job done. We learned to work together and we learned to appreciate the hard work and sacrifices each of us made to keep the store running smoothly. We also learned firsthand the importance of living by the golden rule. If you don't treat your customers well in the retail business they don't forget. This is especially true of folks in small towns where there are always a few people who remember what you did as a kid and who can even tell you stories about your parents and grandparents. The joy is, they also remember you when you treat them well. The family owned business is an important medium through which we pass on our heritage from one generation to the next.

Mr. President, our Tax Code represents our tax policy and we should be ashamed at a code which punishes families and stifles our economy. Every year our Tax Code forces thousands of families to sell their businesses just to pay the repressive Federal death tax. It is time we correct this injustice by providing meaningful relief for America's families and their small businesses. I commend the chairman for his diligent work in crafting a tax bill that takes an important first step toward reforming the death tax. I look forward to working with my colleagues in repealing this burdensome tax in the near future. This sense of the Senate resolution expresses our firm intent to work together toward this end. I ask for your support in this important endeavor.

I thank the chair and yield the floor.

AMENDMENT NO. 558

(Purpose: To amend the Internal Revenue Code of 1986 regarding the treatment of cancellation of student loans)

On page 77, between lines 11 and 12, insert the following:

SEC. . TREATMENT OF CANCELLATIION OF CERTAIN STUDENT LOANS.

(a) Certain Loans by Exempt Organizations.—

(1) In general.—Paragraph (2) of section 108(f) (defining student loan) is amended by striking "or" at the end of subparagraph (b) and by striking subparagraph (D) and inserting the following:

"(D) any educational organization described in section 170(b)(1)(A)(ii) if such loan is made—

"(i) pursuant to an agreement with any entity described in subparagraph (A), (B), or (C) under which the funds from which the loan was made were provided to such educational organization, or

"(ii) pursuant to a program of such educational organization which is designed to encourage its students to serve in occupations with unmet needs or in areas with unmet needs and under which the services provided by the students (or former students) are for or under the direction of a governmental unit or an organization described in section 501(c)(3) and exempt from tax under section 501(a).

The term 'student loan' includes any loan made by an educational organization so described or by an organization exempt from tax under section 501(a) to refinance a loan meeting the requirements of the preceding sentence."

(2) Exception for discharges on account of services performed for certain lenders.—Subsection (f) of section 108 is amended by adding at the end the following new paragraph:

"(3) Exception for discharges on account of services performed for certain lenders.—Paragraph (1) shall not apply to the discharge of a loan made by an organization described in paragraph (2)(D) (or by an organization described in paragraph (2)(E) from funds provided by an organization described in paragraph (2)(D)) if the discharge is on account of services performed by either such organization."

(b) Certain Student Loans the Repayment of Which Is Income Contingent.—Paragraph (1) of section 108(f) is amended by striking "any student loan if" and all that follows and inserting "any student loan if—

"(A) such discharge was pursuant to a provision of such loan under which all or part of the indebtedness of the individual would be discharged if the individual worked for a certain period of time in certain professions for any of a broad class of employers, or

"(B) in the case of a loan made under part D of title IV of the Higher Education Act 1965 which has a repayment schedule establish under section 455(e)(4) of such Act (relating to income contingent repayments), such discharge is after the maximum repayment period under such loan (as prescribed under such part)."

(c) Effective Date.—The amendments made by this section shall apply to discharges of indebtedness after the date of the enactment of this Act.

Mr. DODD. Mr. President, I rise today to offer a modest amendment that will make a major difference to thousands of young men and women who chose careers in community service.

As is well-known, the rewards of a community service job are not the salaries. Few choose teaching in Head Start, working for the Jesuit Volunteer Corps, or a career in nursing with the expectation of riches, big houses or luxurious vacations. In fact, for too many in these fields the salaries are substandard and pension and other benefits are questionable. The rewards come from knowing at the end of the day that they have made a difference in the lives of children and others in their communities.

Many of these careers require postsecondary education, and today, higher education means debt. In 1995–96, total federal student loan debt rose to over $24 billion; $264 million in my home state of connecticut. Nearly 7 million students borrowed to meet the costs of college.

Mr. President, I believe we must do more about this problem of rising student debt. Not only are students deterred from pursuing rewarding, community-related work, but they and their families are also being scared off from pursuing the dream of higher education at all. This undermines our economy and nation as a whole; it is clear we will not be able to meet the challenges of the next century without harnessing and nurturing the talents of all Americans.

For nearly 40 years, this is what federal higher education policy has been about—from the GI bill to Pell grants, the federal government has provided the means for millions of Americans to attend college. Rising costs, and the increasing reliance on loans to finance them, is beginning to undermine our central federal commitment.

There are some good things, but many missed opportunities, In the bill before us today. The modified HOPE Scholarship should be improved and I support amendments to do so. The tax deduction for student loan interest, and some of the family savings provisions will also assist families in meeting the costs of higher education.

But there is a great deal missing. Most notably, the President's proposal to support lifelong learning through a $10,000 tax deduction for tuition. This tax relief is critical to America's families and others pursuing higher education beyond the first two years. Continuing education is vitally important for nurses, teachers, technical workers and others. Yet this package does little for them to assist in these efforts. The Democratic alternative rightly restored this critical benefit.

In addition, few of these tax advantages go to the neediest students and their families, despite the fact that this is the group with the most limited access to higher education. I hope that we can make progress on these fronts during today's consideration of this bill.

Mr. President, this amendment also helps fill in the gaps in this bill. With rising student indebtedness, students literally cannot afford to take jobs as Head Start teachers, nurses or police officers. As a result, we and all our communities lose the talents and energies of these trained and motivated young people.

The DODD amendment supports the work of students who chose a career in community service by ensuring that they are not disadvantaged in the treatment of loan forgiveness associated with their work.

It is not uncommon that public and private non-profit student loan programs provide for the forgiveness of a student's loans should that student chose to go into certain community service fields. For instance, the Federal Perkins Loan programs provides forgiveness for Head Start teachers, teachers in certain urban and rural areas, police officers, nurses, members of the Armed Forces and certain others.

However, the Tax Code currently disadvantages those students who receive loan forgiveness from the private sector. The amount forgiven by nonpublic entities is currently treated as income, which can result in much higher tax liability for the student, undermining the effect of this important benefit.

Specifically, this amendment would expand section 108(f) of the Internal Revenue Code so that an individual's gross income does not include forgiveness of loans made by tax-exempt charitable organizations, such as universities or private foundations, if the proceeds of such loans are used to pay costs of attendance at an educational institution or to refinance outstanding student loans and the student is not employed by the lender organization. As under present law, the Section 108 (f) exclusion would apply only if the forgiveness is contingent on the student's working for a certain period of time in certain professions for any of a broad class of employers, so long as a public service requirement is met.

The exclusion also corrects an oversight in the enactment of the income contingent repayment option under the current student loan program, which provides low-income, high-debt students with the option of stretching out their payments over 25 years. This program allows students to pursue interests in lower paying fields while continuing to meet their obligations to the tax payers to repay their student loans. If the student makes payments for 25 years and still has a remaining balance, the Government forgives their loan. Unfortunately, when we enacted this vital program, we neglected to clarify that this forgiveness should not be taxable. This amendment would make this correction and fulfill the Government's promise to needy students.

This initiative has been scored by the Joint Tax Committee to have a minimal impact on revenue and therefore this amendment does not require offsetting revenues. The administration supports this initiative and it is also included in Chairman ARCHER's house bill.

Mr. President, I believe this is a simple step we can take to assist thousands of young people who chose careers in community service, and I urge my colleagues to support it.

AMENDMENT NO. 559

(Purpose: To exclude from unrelated business taxable income for certain charitable gambling)

"(j) QUALIFIED GAMES OF CHANCE.—

(1) IN GENERAL.—The term "unrelated trade or business" does not include the activity of qualified games of chance.

(2) QUALIFIED GAMES OF CHANCE.—For purposes of this subsection, the term "qualified games of chance means any game of chance, other than provided in subsection (f), conducted by an organization if—

"(A) such organization is licensed pursuant to State law to conduct such game,

"(B) only organizations which are organized as nonprofit corporations or are exempt from tax under section 501(a) may be so licensed to conduct such game within the State, and

"(C) the conduct of such game does not violate State or local law."

On page 211, between lines 5 and 6, insert the following:

SEC. 724. DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT ACCOUNTS MAY BE USED WITHOUT PENALTY TO REPLACE OR REPAIR PROPERTY DAMAGED IN PRESIDENTIALLY DECLARED DISASTER AREAS.

(a) IN GENERAL.—Section 72(t)(2) (relating to exceptions to 10-percent additional tax on early distributions), as amended by sections 203 and 303, is amended by adding at the end the following new subparagraph:

"(G) DISTRIBUTIONS FOR DISASTER-RELATED EXPENSES.—Distributions from an individual retirement plan which are qualified disaster-related distributions."

(b) QUALIFIED DISASTER-RELATED DISTRIBUTIONS.—Section 72(t), as amended by sections 203 and 303, is amended by adding at the end the following new paragraph:

"(9) QUALIFIED DISASTER-RELATED DISTRIBUTIONS.—For purposes of paragraph (2)(E)—

"(A) IN GENERAL.—The term 'qualified disaster-related distribution' means any payment or distribution received by an individual to the extent that the payment or distribution is used by such individual within 60 days of the payment or distribution to pay for the repair or replacement of tangible property which is disaster-damaged property.

"(B) LIMITATIONS.—

"(i) ONLY DISTRIBUTIONS WITHIN 2 YEARS.—The term 'qualified disaster-related distribution' shall only include any payment or distribution which is made during the 2-year period beginning on the date of the determination referred to in subparagraph (D).

"(ii) DOLLAR LIMITATION.—Such term shall not include distributions to the extent the amount of such distributions exceeds $10,000 during the 2-year period described in clause (i).

"(C) DISASTER-DAMAGED PROPERTY.—The term 'disaster-damaged property' means property—

"(i) which was located in a disaster area on the date of the determination referred to in subparagraph (C), and

"(ii) which was destroyed or substantially damaged as a result of the disaster occurring in such area.

"(D) DISASTER AREA.—The term 'disaster area' means an area determined by the President during 1997 to warrant assistance by the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments and distributions after December 31, 1996, with respect to disasters occurring after such date.

SEC. 725. ELIMINATION OF 10 PERCENT FLOOR FOR DISASTER LOSSES.

(a) GENERAL RULE.—Section 165(h)(2)(A) (relating to net casualty loss allowed only to the extent it exceeds 10 percent of adjusted gross income) is amended by striking clauses (i) and (ii) and inserting the following new clauses:

"(i) the amount of the personal casualty gains for the taxable year,

"(ii) the amount of the federally declared disaster losses for the taxable year (or, if lesser, the net casualty loss), plus

"(iii) the portion of the net casualty loss which is not deductible under clause (ii) but only to the extent such portion exceeds 10 percent of the adjusted gross income of the individual.

For purposes of the preceding sentence, the term 'net casualty loss' means the excess of personal casualty losses for the taxable year over personal casualty gains."

(b) FEDERALLY DECLARED DISASTER LOSS DEFINED.—Section 165(h)(3) (relating to treatment of casualty gains and losses) is amended by adding at the end the following new subparagraph:

"(C) FEDERALLY DECLARED DISASTER LOSS.—

"(i) IN GENERAL.—The term 'federally declared disaster loss' means any personal casualty loss attributable to a disaster occurring during 1997 in an area subsequently determined by the President of the United States to warrant assistance by the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

"(ii) DOLLAR LIMITATION.—Such term shall not include personal casualty losses to the extent such losses exceed $10,000 for the taxable year."

(c) CONFORMING AMENDMENT.—The heading for section 165(h)(2) is amended by striking "NET CASUALTY LOSS" and inserting "NET NONDISASTER CASUALTY LOSS".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to losses attributable to disasters occurring after December 31, 1996, including for purposes of determining the portion of such losses allowable in taxable years ending before such date pursuant to an election under section 165(i) of the Internal Revenue Code of 1986.

AMENDMENT NO. 561

(Purpose: To authorize the Secretary of the Treasury to abate the accrual of interest on income tax underpaymnets by taxpayers located in Presidentially declared disaster areas if the Secretary extends the time for filing returns and payment of tax (and waives any penalties relating to the failure to so file or so pay) for such taxpayers)

Ordered to lie on the table and to be printed.

Amendment intended to be proposed by Mr. DORGAN.

Viz:

On page 211, between lines 5 and 6, insert the following:

SEC. 724. ABATEMENT OF INTEREST ON UNDERPAYMENTS BY TAXPAYERS IN PRESIDENTIALLY DECLARED DISASTER AREAS.

(a) IN GENERAL.—Section 6404 (relating to abatements) is amended by adding at the end the following:

"(h) ABATEMENT OF INTEREST ON UNDERPAYMENTS BY TAXPAYERS IN PRESIDENTIALLY DECLARED DISASTER AREAS.—

"(1) IN GENERAL.—If the Secretary extends for any period of time for filing income tax returns under section 6081 and the time for paying income tax with respect to such returns under section 6161 (and waives any penalties relating to the failure to so file or so pay) for any individual located in a Presidentially declared disaster area, the Secretary shall abate for such period the assessment of any interest prescribed under section 6601 on such income tax.

"(2) PRESIDENTIALLY DECLARED DISASTER AREA.—For purposes of paragraph (1), the term 'Presidentially declared disaster area' means, with respect to any individual, any area which the President has determined during 1997 warrants assistance by the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

"(3) INDIVIDUAL.—For purposes of this subsection, the term 'individual' shall not include any estate or trust."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to disasters declared after December 31, 1996.

AMENDMENT NO. 562

At the appropriate place, insert the following:

SEC. SURVIVOR BENEFITS FOR PUBLIC SAFETY OFFICERS KILLED IN THE LINE OF DUTY.

IN GENERAL.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by redesignating section 138 as section 139 and by inserting after section 137 the following new section:

"SEC. 138. SURVIVOR BENEFITS ATTRIBUTABLE TO SERVICE BY A PUBLIC SAFETY OFFICER WHO IS KILLED IN THE LINE OF DUTY.

"(A) IN GENERAL.—Gross income shall not include any amount paid as a survivor annuity on account of the death of a public safety officer (as such term is defined in section 1204 of the Omnibus Crime Control and Safe Streets Act of 1968) killed in the line of duty—

"(1) if such annuity is provided under a governmental plan which meets the requirements of section 401(1) to the spouse (or a former spouse) of the public safety officer or to a child of such officer; and

"(2) to the extent such annuity is attributable to such officer's service as a public safety officer.

"(b) EXCEPTIONS.—

"(1) IN GENERAL.—Subsection (a) shall not apply with respect to the death of any public safety officer if—

"(A) the death was caused by the intentional misconduct of the officer or by such officer's intention to bring about such officer's death;

"(B) the officer was voluntarily intoxicated (as defined in section 1204 of the Omnibus Crime Control and Safe Streets Act of 1968) at the time of death; or

"(C) the officer was performing such officer's duties in grossly negligent manner at the time of death.

"(2) EXCEPTION FOR BENEFITS PAID TO CERTAIN INDIVIDUALS.—Subsection (a) shall not apply to any payment to an individual whose actions were a substantial contributing factor to the death of the officer.

(b) EFFECTIVE DATE.—The amendments made by this subsection shall apply to amounts received in taxable years beginning after December 31, 1996, with respect to individuals dying after such date.

AMENDMENT NO. 563

(Purpose: To clarify the tax treatment of certain disability benefits received by former police officers or firefighters)

On page 267, between lines 15 and 16, insert the following:

SEC. . TREATMENT OF CERTAIN DISABILITY BENEFITS RECEIVED BY FORMER POLICE OFFICERS OR FIREFIGHTERS.

(a) GENERAL RULE.—For purposes of determining whether any amount to which this section applies is excludable from gross income under section 104(a)(1) of the Internal Revenue Code of 1986, the following conditions shall be treated as personal injuries or sickness in the course of employment:

(1) Heart disease.

(2) Hypertension.

(b) AMOUNTS TO WHICH SECTION APPLIES.—This section shall apply to any amount—

(1) which is payable—

(A) to an individual (or to the survivors of an individual) who was a full-time employee of any police department or fire department which is organized and operated by a State, by any political subdivision thereof, or by any agency or instrumentality of a State or political subdivision thereof, and

(B) under a State law (as in existence on July 1, 1992) which irrebuttably presumed that heart disease and hypertension are work-related illnesses but only for employees separating from service before such date; and

(2) which is received in calendar year 1989, 1990, or 1991.

For purposes of the preceding sentence, the term "State" includes the District of Columbia.

(c) WAIVER OF STATUTE OF LIMITATIONS.—If, on the date of the enactment of this Act (or at any time within the 1-year period beginning on such date of enactment) credit or refund of any overpayment of tax resulting from the provisions of this section is barred by any law or rule of law, credit or refund of such overpayment shall, nevertheless, be allowed or made if claim therefore is filed before the date 1 year after such date of enactment.

SEC. . REMOVAL OF DOLLAR LIMITATION ON BENEFIT PAYMENTS FROM A DEFINED BENEFIT PLAN MAINTAINED FOR CERTAIN POLICE AND FIRE EMPLOYEES.

(a) IN GENERAL.—Subparagraph (G) of section 415(b)(2) of the Internal Revenue Code of 1986 is amended by striking "participant—" and all that follows and inserting "participant, subparagraphs (C) and (D) of this paragraph and subparagraph (B) of paragraph (1) shall not apply."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to years beginning after December 31, 1996.

AMENDMENT NO. 564

(Purpose: To provide for diversification in section 401(k) plan investments)

On page 208, between lines 16 and 17, insert the following:

SEC. . DIVERSIFICATION IN SECTION 401(k) PLAN INVESTMENTS.

(a) LIMITATIONS ON INVESTMENT IN EMPLOYER SECURITIES AND EMPLOYER REAL PROPERTY BY CASH OR DEFERRED ARRANGEMENTS.—Section 407(d)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1107(d)(3)) is amended by adding at the end the following:

"(D)(i) the term 'eligible individual account plan' does not include that portion of an individual account plan that consists of elective deferrals (as defined in section 402(g)(3) of the Internal Revenue Code of 1986) pursuant to a qualified cash or deferred arrangement as defined in section 401(k) of the Internal Revenue Code of 1986 (and earnings allocable thereto), if such elective deferrals (or earnings allocable thereto) are required to be invested in qualifying employer securities or qualifying employer real property or both pursuant to the documents and instruments governing the plan or at the direction of a person other than the participant on whose behalf such elective deferrals are made to the plan (or the participant's beneficiary).

"(ii) For purposes of subsection (a), such portion shall be treated as a separate plan.

"(iii) This subparagraph shall not apply to an individual account plan if the fair market value of the assets of all individual account plans maintained by the employer equals not more than 10 percent of the fair market value of the assets of all pension plans maintained by the employer.

"(iv) This subparagraph shall not apply to an individual account plan that is an employee stock ownership plan as defined in section 409(a) or 4975(e)(7) of the Internal Revenue Code.".

(v) This subparagraph shall not apply to an individual account plan if not more than 1 percent of an employees eligible compensation deposited to the plan as an elective deferral (as so defined) is required to be invested in the qualifying employer securities.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to employer securities and employer real property acquired after the beginning of the first plan year beginning after the 90th day after the date of enactment of this Act.

(2) SPECIAL RULE FOR CERTAIN ACQUISITIONS.—Employer securities and employer real property acquired pursuant to a binding written contract to acquire such securities and real property in effect on the date of enactment of this Act and at all times thereafter, shall be treated as acquired immediately before such date.

AMENDMENT NO. 565

(Purpose: To expand non-Amtrak States' use of the Intercity Passenger Rail Funds)

Beginning on page 189, line 24, strike "and" and all that follows through page 190, line 1, and insert the following:

"(III) capital expenditures related to rail operations for Class II or Class III rail carriers in the State,

"(IV) any project that is eligible to receive funding under section 5309, 5310, or 5311 of title 49, United States Code.

"(V) any project that is eligible to receive funding under section 130 of title 23, United States Code, and

"(VI) the payment of interest.

AMENDMENT NO. 553

The PRESIDING OFFICER. And amendment No. 553 as a part of that agreement is agreed to.

The amendment (No. 553) was agreed to, as follows:

AMENDMENT NO. 553

(Purpose: To express the sense of the Senate that the Internal Revenue Code of 1986 needs reform)

At the end of page 11, insert the following:

SEC. . SENSE OF THE SENATE REGARDING REFORM OF THE INTERNAL REVENUE CODE OF 1986.

(a) FINDINGS.—The Senate finds that—

(1) the Internal Revenue Code of 1986 ("tax code") is unnecessarily complex, having grown from 14 pages at its inception to 3,458 pages by 1995;

(2) this complexity resulted in taxpayers spending about 5,300,000,000 hours and $225,000,000,000 trying to comply with the tax code in 1996;

(3) the current congressional budgetary process is weighted too heavily toward tax increases, as evidenced by the fact that since 1954 there have been 27 major bills enacted that increased Federal income taxes and only 9 bills that decreased Federal income taxes, 3 of which were de minimis decreases;

(4) the tax burden on working families has reached an unsustainable level, as evidenced by the fact that in 1948 the average American family with children paid only 4.3 percent of its income to the Federal Government in direct taxes and today the average family pays about 25 percent;

(5) the tax code unfairly penalizes saving and investment by double taxing these activities while only taxing income used for consumption once, and as a result the United States has one of the lowest saving rates, at 4.7 percent, in the industrialized world;

(6) the tax code stifles economic growth by discouraging work and capital formation through excessively high tax rates;

(7) Congress and the President have found it necessary, on 2 separate occasions, to enact laws to protect taxpayers from the abuses of the Internal Revenue Service and a third bill has been introduced in the 105th Congress; and

(8) the complexity of the tax code has increased the number of Internal Revenue Service employees responsible for administering the tax laws to 110,000 and this costs the taxpayers $9,800,000,000 each year.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the Internal Revenue Code of 1986 needs broad-based reform; and

(2) the President should submit to Congress a comprehensive proposal to reform the Internal Revenue Code of 1986.

The PRESIDING OFFICER. Who seeks the floor?

Mr. COATS addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. May I inquire now what the time situation is?

MORNING BUSINESS

The PRESIDING OFFICER. We are now in a period of morning business with Senators being recognized for up to 10 minutes.

Mr. COATS. Mr. President, I would ask to speak as if in morning business.

The PRESIDING OFFICER. The Senator has that right.

QUALITY CHILD CARE

Mr. COATS. Mr. President, in responding to the amendment of the Senator from Vermont, as also addressed by the Senator from Connecticut, let me state that I share the goal of seeking ways to provide quality child care. This is something that I have supported, have worked on with the Senators. Clearly, as we are looking particularly at welfare reform, we are going to have increasing need for child care. We all want that to be quality child care.

The goal that I had when we worked on the ABC bill several years ago was to make sure that the options available to parents for child care were not limited in any particular way. I was concerned about certification requirements. I was concerned about quality standard requirements because, clearly, at that time, and it is still the case today, the choice of the majority of parents relative to child care for their children is not a child care center but taking care of that child in the home, often by a neighbor, by a friend, by a relative, placing their child in a family child care situation, whether it is a church or a home or some other entity.

Several Senators on this floor have talked in the welfare debate about training welfare mothers in projects or allowing them to be child care providers as other people under welfare will be seeking work. All that makes a great deal of sense. My concern with the Jeffords amendment is that it gives preferential treatment to just one choice, and therefore places those other forms of child care at a disadvantage. It doesn't take away options, I concede that, but it does place them at a disadvantage because you are biasing the choice.

Now, it is a worthy goal to attempt to encourage a better quality care. But, of course, every time we get into this debate and discussion, it is always the State that defines what the quality care is, and the concern is that what is quality care to a State agency or a State bureaucracy is not the same standards of quality care that a parent might choose for their child.

In a sense we are getting back to the same argument as we had before, and that is who is in a better position to determine what is best for the child in the interest of the child. Is it the parent who is in a better position to determine what their child needs in terms of child care and what the quality of that care is, or is a Government entity in a better position, or a piece of legislation able to describe what a better quality child care would be?

So in this provision we are giving a preferential treatment to only one kind of child care, and that is child care selected by less than a majority of parents who place their children in child care. The latest figures I have are that 32.9 percent of parents place their children with relatives for child care, and those parents will not qualify, necessarily qualify for a bonus. They may not have the education, meet the educational criteria. They might not meet what the State determines as the quality criteria for their child, but as a parent I can tell you I would much rather place my child with a relative than I would with a child care center.

Mr. DODD. Will my colleague yield for a second?

Mr. COATS. I would be happy to yield.

Mr. DODD. We are very sensitive to these concerns, as my colleague has raised these issue on numerous occasions. I should have stated at the outset that the Senator from Indiana chairs the Subcommittee on Children and Families, on which I have been proud to serve as ranking member. He has been instrumental for so many years in helping children and families. I hold him in high regard on this issue.

If I can read this briefly from the amendment for my colleague from Indiana—the terms credentialing and accreditation are used to refer to formal credentialing and accreditation processes by a private nonprofit or public entity that is State recognized (minimum requirements: age-appropriate health and safety standards, age-appropriate developmental and educational activities as an integral part of the program, outside monitoring of the program/individual accreditation/credentialing instruments based on peer-validated research programs/facilities meet any applicable state and local licensing requirements, and ongoing staff development/training which includes related skills testing). There are several organizations and a few states that currently provide accreditation and/or credentialing for early childhood development programs, child care and child care providers.

That language was drafted with help by religious and non-profit groups. We specifically provide that they may create standards. We have really gotten away from the notion that standards must be set at the Federal level. Centers and providers certified and accreditated by private nonprofits would qualify for the tax credit.

Mr. COATS. But the Senator would agree, would he not, that it does provide a preference that is not available to many providers of child care that might be perfectly acceptable providers of child care for the children of those parents?

Mr. DODD. I do not disagree. There is an incentive. You still get the credit for using a non-accredited provider, but you simply get a larger one if you use one that has been accredited or certified. Our goal here is to try and get standards up for all child care setting, whether a home-based care program, a church-based care program, or a public setting.

I am not arguing that a parent or a grandparent can't provide terrific child care. But, we just want to make sure that at least we are encouraging quality standards, whether State established or private nonprofit standards, to increase the opportunity for that child to get the proper kind of care.

Mr. COATS. I understand the motivation. My concern is that there will be a large number of child care providers who will not meet those standards, will be put in a position that is less preferential than those who do meet the standards, and yet the standards might not necessarily be what the parent determines to be the best care and the best nurturing for that particular child.

For instance, let us say a child care provider does not read, cannot read. Would that person ever be able to qualify for the standards? Probably not, because we are talking about a developing child. Yet, if the Senator had the privilege, as I and many of us did, of attending the national prayer breakfast this year, Dr. Ben Carson, head of neurosurgery at Johns Hopkins University, one of the world's foremost neurosurgeons, was raised by a mother who could not read. After I saw what product came out of that child rearing, I would want my child raised by his mother. Yet, obviously, the Senator's bill would not take away that choice, but clearly that individual would not qualify, with those standards, for the preference given under the Jeffords amendment.

You used the words "nurturing" and "caring." Nurturing and caring, as we learned in our hearing on development of the brain and other hearings on child care, is the most important aspect of early child care. It is not flash cards, it is not introducing kids to computers, it is the one-on-one bonds that are formed. Yet, we are putting those people at a different level. We are saying they really don't qualify for the higher accountability standards because they have not had the training, they have not had the education, they have not met the standards of whatever group sets those standards.

I am simply saying I think the parents ought to set the standards. I think the parents ought to determine what is in the best interests of the child without a bias against someone who they deem is best in favor of someone who happens to meet the standard set by a particular group.

It is a dilemma. I understand what the Senators are trying to do because that is a goal I think we ought to work toward. But I think it does so by sending a message that this level of child care that meets the standards is better for your child than the determination that you might make in terms of having a relative, of having a neighbor, of having someone down the street who doesn't necessarily qualify. That is my concern.

Mr. JEFFORDS. Will the Senator yield?

Mr. COATS. I will be happy to yield to the Senator.

Mr. JEFFORDS. There is nothing the Senator says that we disagree with. But if you take a look at the studies that give you an idea of children who are being placed in situations which do not have that kind of care, the question is whether you should reward them the same as you do others that do have good health care. In this study, 40 percent of the health care provided infants in child care centers was potentially injurious. Fifteen percent of center-based child care for all preschoolers was so bad that the child's health and safety were threatened; 70 percent were mediocre. This is the study.

If you are faced with those, and you understand the dramatic problems that can cause in a child, then you ought to have some way to give the parents of children a means of determining that they can be assured they are not going to have their child damaged. Granted, family situations or whatever else is some of the best care, obviously, and loving and nurturing. A parent is probably better than most child care things you can do. But at least people ought to know that there is someone who is saying your child is not going to be injured in that care. That is all we are trying to do.

Mr. COATS. We can all quote studies. I could also pull out the study that shows that children are at a much higher risk of infection and illness and even accidents in child care centers than they are in the arms of a next-door neighbor.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. DODD. Mr. President, I ask unanimous consent for time just to make one quick point to my colleague here.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. Just a quick point. I want to point out this amendment of ours is phased in over 5 years, so there will be plenty of notice and time here for providers to try to get themselves ready to met quality standards. We do not rush this in; we allow time for providers and families to learn about and to prepare for higher quality care.

My second point is that accredited or certified settings cost a bit more. If parents want to place their children in those situations, given the fact it costs more, our providing a tax incentive with a bit more of a break makes sense. I thank my colleague for allowing me to make those points to my colleague.

Mr. JEFFORDS. If I may follow on that just very briefly, again, studies say——

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. COATS. Mr. President, I ask unanimous consent for 1 additional minute so the Senator can finish his point and I can.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JEFFORDS. I would like to point out that one-quarter of all parents contacted in a nationwide survey said they would like to change their present child care arrangements, but they cannot find or afford better quality care. This is big reason for this amendment. We are trying to help people with limited resources by shifting the money where it will do best, provide access to best child care.

Mr. COATS. Mr. President, just in response, I would say I think it sends a signal. It sends a signal if you have a State stamp of approval or certified group stamp of approval that your child is going to get better quality care there than if you do not have that. Yet, we know parents' preferences are, for a majority of parents, to place their children in situations where they don't have any State or certifying agency stamp of approval, but they are going to be looked at potentially as secondary care when it is not secondary care. It is in many cases superior care. Because they trust a relative, they trust a neighbor, they trust a family home care, even though it doesn't necessarily qualify for the certification standards. That is my concern with the amendment.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. CHAFEE. Mr. President, before he starts, I wonder if I might just make a point. As I understand it, each Senator has 8 minutes, is that correct?

The PRESIDING OFFICER. Ten minutes.

Mr. CHAFEE. The hour is late. I hope everybody will stick by their assigned 10 minutes.

The PRESIDING OFFICER. The Senator from New Jersey.

TAXING SEVERANCE PAY

Mr. TORRICELLI. Mr. President, throughout the course of this day, Members of the Senate have offered amendments which on occasion were of considerable benefit to people of great wealth, to encourage them to make investments for the benefit of our economy. As we have just witnessed, on occasion during the day, Members of the Senate have offered amendments for people of modest incomes, to encourage their savings, help them with the high cost of living and raising children. Indeed, many segments of society will find in this tax legislation various forms of benefits—to help with retirement and health and the rearing of children.

Tomorrow, I will offer an amendment to the bill, not designed for those of high income and not specifically for those of moderate income. More particularly, it is designed for those of no income.

The leading cause of unemployment in America for the last decade remains large-scale corporate downsizing. Even in a healthy economy, because of the introductions of new technologies, requirements of new skills, changes in trading patterns, acquisitions, mergers, people who are competitive, people who get up every day and work hard and are devoted to their communities, their families and their professions, their jobs, through no fault of their own, can find themselves in a situation without employment.

Indeed, in the last decade 20 million Americans have been excused from their employment because of a large-scale corporate downsizing. But, in a considerable and rising tide of corporate responsibility, many of these companies have adopted the modern practice of giving severance pay to their employees. It is a chance, by the corporation, to give to the employee modest amounts of money upon their departure to reorganize their lives, seek new skills, move to a new location, start a business or go into retirement.

Indeed, in a recent experience in my own State of New Jersey, one of the largest corporations in America, AT&T, only a year ago laid off 40,000 employees in a single announcement. A third of those employees decided to start their own businesses. A third went into retirement. Indeed, only a minority ever found employment in the short term under similar circumstances, and they were all offered severance pay.

The problem, and it is the subject of my amendment tomorrow, is that while corporate America is offering this severance pay for people to continue and reorganize their lives in this competitive economic environment, the Government responds by taxing the severance pay up to a third, as if it were income. Imagine the circumstances. You have worked in a company all of your life and because of a merger or acquisition, a skill you may no longer possess, a change in the economy, even in good times you are excused from your employment, given $5,000 or $10,000, which you think goes best to continuing your education or opening a small business. Yet, when it is time to pay your Federal taxes, the Government takes a third of it from you, money that can make the difference in whether or not you can reorganize your life, move to a different place in the country to seek new employment, pay a tuition, or start your business.

The amendment I offer tomorrow is as simple as it is important. The first $3,000 of any severance package offered to any employee in America whose severance package is less than $150,000, if that person does not get reemployment in 6 months, up to 95 percent of their previous compensation, that $3,000 is tax-free. The person should use it for what is best for themselves, their own families and their own future.

I know at a time when our economy is growing, unemployment is low, a time of relative economic prosperity, few people are thinking about those who are without employment. In which State in this country, in what community have we not witnessed, through these extraordinary economic changes that indeed are the signature of our time, the dislocations of the marketplace? The times when many Americans would gain employment at the age of 18 or 22 or 25 or 30 and remain with a corporation most of their lives, those times have passed. The times when you gain skills in high school or college, and sought and obtained and retained employment all of your life with those skills, those times have passed. Even in good economic times, the length of employment with a single employer is shrinking. The consistency of employment with any employer is being reduced.

What I offer is a response, a chance to make this tax bill relevant to those 20 million Americans who may in the next decade find themselves in similar circumstances. There is not a Member of this Senate who faces this amendment tomorrow who does not have a chance to address the people of their own State in a critical way, not just the 40,000 people of AT&T in my native State of New Jersey, but the 2,000 employees of IBM in New York State who are suing at this moment, trying to establish by law that their severance package is not income.

In the State of Alaska, 1,200 people in the fourth quarter of 1996 were laid off; 88,000 people in the State of California; 22,000 people in the State of Illinois; 5,700 people in the State of Minnesota; 2,800 people in the State of Montana; 27,000 in Pennsylvania; 11,000 in West Virginia. In every State, in thousands of communities across this Nation, these dislocations have become a part of American life.

I am very proud that tomorrow this Senate will adopt a tax bill, one that I am proud to vote for, that addresses so many different economic concerns of this country. It has a reduction in capital gains taxes for middle- and high-income people that is needed to encourage investment. I am for it. I am going to vote for it. It has a change in the inheritance tax to allow families to retain family businesses in higher incomes, upper-middle-class families; IRA's to encourage families to save for education for their children's welfare. Each and every one a legitimate response to a real problem.

Mr. President, this is a problem, too. What is it we say to these people who want only to keep the money given them to reorganize their lives but are forced to share it with the Federal Government?

Tomorrow I will offer this amendment and ask for the support of my colleagues. Thank you for the time, Mr. President, and I yield the floor.

Mr. FRIST addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

BALANCED BUDGET ENFORCEMENT AMENDMENT

Mr. FRIST. Mr. President, I rise to discuss an important balanced budget enforcement amendment that I will offer on behalf of myself, Senators CONRAD, ABRAHAM, and SESSIONS, tomorrow morning.

This amendment evolves from a very simple principle, and that is, once we get a balanced budget, that it stays balanced well into the future.

This amendment, based on existing enforcement mechanisms, has two key provisions:

First, it establishes a 60-vote point of order in the Senate against any bill that provides or would cause a deficit in the year 2002 or in any year thereafter.

Second, it requires that the President submit a balanced budget in the year 2002 and every year thereafter. To retain appropriate flexibility, this amendment suspends this point of order in times of war or in times of recession. This exact same exception is provided for in the existing enforcement mechanisms under the current law.

This amendment is also—I should add, because I think this is important as we bring forth amendments tomorrow—consistent with the bipartisan budget agreement.

The text of the bipartisan budget agreement specifically states that "agreed upon budget levels are shown on the tables included in this agreement." Under the long-range summary table in the agreement, the agreement shows a budget surplus of $1 billion in the year 2002 and $34 billion in the year 2007. This means that we are projecting a balanced budget in 5 years and in 10 years. My amendment will strengthen our ability to abide by this agreement and keep spending under control in the future.

In the bipartisan budget agreement, the Congress, the President, Republicans and Democrats, joined together to balance the budget in the year 2002. But I believe that everyone would agree that we don't just want to balance the budget in just that 1 year, 2002, but we want to maintain balance every year thereafter. That includes the years 2003, 2005, 2010, 2020.

We must keep focusing on our long-term budget picture for one very important reason: to prepare for the baby boomers' retirement which is just over a decade away. We know that the budget agreement does not go far enough in addressing this long-term challenge.

In fairness, the authors of the agreement never claimed that it does. But as we approach this new demographic era that all of us know is sitting out there just about a decade away, we must be acutely aware of the situation. In fact, we know that right now, 200,000 Americans will turn 65 this year. But in 15 years, in 14 years, in fact, by the year 2011, 1.5 million Americans will turn 65 just that year and that trend will continue over the next two decades.

Simultaneously, as the elderly population is increasing, the number of younger workers who are working to support that elderly population is decreasing. In fact, today, there are 4.9 workers supporting every single retiree's benefits, that is today, that includes Social Security and Medicare. But in the year 2030, there will only be 2.8 workers supporting the benefits of a single retiree.

This dramatic demographic shift will bring significant economic, political, social and cultural changes that will transform our society. If we continued on our current spending course, entitlements—that is our automatic spending programs—coupled with interest on the debt would consume all revenues in just 15 years, leaving not a single dollar left over for roads, for infrastructure, for medical science, for the national parks, for medical research and for defense of the country. I believe our balanced budget agreement will help ease this demographic pressure, but much more work lies ahead. We must begin sooner, rather than later, to deal with these problems fairly and effectively. This amendment addresses that problem.

It will keep pressure on Congress and the President to confront these inevitable challenges, this inevitable demographic shift. To those not familiar with the Federal budget process, this amendment will create a procedural hurdle, called a point of order, to prevent the Senate from considering bills that will increase the deficit. If a Senator raises this point of order, it will take a three-fifths vote of the Senate, that is 60 votes, to waive the point of order and pass the legislation, rather than the normal 51-vote majority.

After we have all worked so hard and so long to rein in spending, we should not allow the deficit to balloon out of control once again after that year, 2002. It is imperative that we preserve this achievement and restrict Congress' ability to overspend taxpayer dollars. We will offer this amendment tomorrow morning and, at that time, I will urge all of my colleagues to support this important amendment which addresses the inevitable demographic changes. I yield the floor.

Mr. CONRAD. Mr. President, I am pleased to be a cosponsor of Senator FRIST's budget process amendment.

The Frist amendment seeks to establish a more stringent enforcement mechanism for the bipartisan budget agreement. I think it's important for Congress and the President to continue working after enactment of this year's two reconciliation bills to ensure that at least the unified budget is balanced in 2002 and years thereafter. The amendment would also require the President to submit budgets each year which do not cause a unified deficit in fiscal year 2002 or any year thereafter.

Specifically, the Frist amendment would establish a 60-vote point of order against any resolution or bill—including the budget resolution—that provides or would cause a deficit in fiscal year 2002 or any year thereafter. I think such a point of order will help Congress and the President remain vigilant about the deficit, particularly in years after 2002.

Frankly, I would have supported much more ambitious deficit reduction efforts this year. I would like to see the federal budget moving towards true balance—that is without counting the Social Security surpluses. I believe that is the real way to balance the budget. But I also must acknowledge that the President and the bipartisan congressional leadership did not seek to balance the budget without counting Social Security. The bipartisan budget agreement balances only the unified budget. I don't believe we've truly balanced the budget with enactment of this year's reconciliation bills. But perhaps at least we have taken a modest step in the right direction.

One of the reasons I support the Frist amendment is that I am concerned about whether this bipartisan budget deal will accomplish its intended goal—balance of the unified deficit within five years. When I first became aware of the details of the 1997 budget agreement, I viewed it largely as a missed opportunity.

In my view, the budget was not truly balanced. It only claimed balance by using Social Security trust fund surpluses. In fact, in the year 2002 the real deficit will probably still be over $100 billion.

In addition, under this bipartisan budget deal the deficit is larger for the next three years than it is this year. This year's deficit is currently projected to be about $67 billion. The deficits for 1998–2000 will range from $80 billion to $100 billion.

Of most concern to me, budget negotiators failed to correct the upward bias that currently exists in the Consumer Price Index. There is overwhelming evidence that the Consumer Price Index, currently used to adjust tax brackets and various spending programs for inflation, overstates the actual change in the cost-of-living in the United States. The budget deal should have corrected this mistake which will add nearly $1 trillion to our national debt over the next 12 years.

Some of the economic assumptions underlying the budget deal are highly suspect. CBO's last minute revenue adjustment of $45 billion per year may be credible for the years 1997 and 1998. Its credibility for the period 1999–2007 is unclear. In addition, the balanced budget fiscal dividend assumed in the budget agreement is based on the theory that lower interest rates will result from balancing the budget with a credible deficit reduction plan and path. The real debate with regard to the Federal Reserve's interest rate policy right now is whether the Fed will raise, not lower, interest rates in the next few months, particularly since this proposal contains dramatically less savings—only $200 billion—than other proposals offered this year.

Finally, I am concerned that enactment of the tax package before the Senate will blow the progress we have made on reducing the deficit. Over the longer term, I am concerned that since many of the tax cuts are back-end loaded, they will explode in the outyears. The individual alternative minimum tax relief provisions are a perfect example. These provisions don't take effect until 2001. The cost over 1998–2002 is $350 million. The cost over 10 years is $15 billion, a 4000-percent increase. By 2007, the AMT provisions will cost the Treasury $6 billion per year.

Another example involves the Individual Retirement Account provisions in the Senate's tax bill. I know there is strong support for providing incentives for people to save. But the various IRA provisions in the Senate tax bill, particularly the new back loaded IRAs, have serious deficit implications. The IRA proposals lose about $9 billion over 1998 to 2002. Over the second five years the revenue loss is $36 billion. These types of back-end loaded tax cuts may prevent our nation from achieving long-term fiscal balance.

For all these reasons, I support careful monitoring of the federal budget deficit in 2002 and years thereafter. I believe a 60-vote point of order will force Congress and the President to immediately get back on track if our fiscal situation changes dramatically and the unified budget deficit begins to rise in 2002 and years thereafter.

If we can at least maintain unified balance of the budget, then perhaps Congress and the President will have the courage to move toward truly balancing the budget. We can perhaps then achieve the kinds of structural changes in entitlements that will put our nation on a sustainable fiscal course over the long term, as we prepare our nation and our economy for the retirement of the baby boom generation around the year 2012.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Michigan.

Mr. LEVIN. Mr. President, I thank the Chair and I thank my good friend from Rhode Island for his understanding at this late hour.

STOCK OPTIONS

Mr. LEVIN. Mr. President, a few minutes ago, we passed by voice vote amendment No. 556. It was an amendment which Senator McCAIN and I authored, and I want to spend a moment describing what that amendment does.

The amendment provides that it is the sense of the Senate, based on findings that, "(1) currently businesses can deduct the value of stock options as business expense on their income tax returns, even though the stock options are not treated as an expense on the books of those same businesses; and (2) stock options are the only form of compensation that is treated that way. It is the sense of the Senate that the Committee on Finance of the Senate should hold hearings on the tax treatment of stock options."

Mr. President, for the past several years, the Wall Street Journal has published a special pull-out section of the newspaper with an annual analysis of the compensation of top corporate executives. Last year's section had this headline: "The Great Divide: CEO Pay Keeps Soaring—Leaving Everybody Else Further and Further Behind."

Business Week featured this cover story on its 47th annual pay survey: "Executive Pay: It's Out of Control."

Both publications analyze the pay of top executives at approximately 350 major American corporations, and their analysis shows that the pay of chief executive officers continues to outpace inflation, others workers' pay and the pay of CEO's in other countries, as well as company profits. According to Business Week, CEO's total average compensation rose 54 percent last year to over $5.5 million, which came on top of 1995 CEO pay increases averaging 30 percent.

Meanwhile, the average 1996 raise for the average worker, both blue collar and white collar, was about 3 percent. In 1996 the average pay of the top executive was 209 times the pay of a factory worker. Little known corporate tax loopholes are fueling these increases in executive pay with taxpayer dollars. This loophole allows companies to deduct from their taxes multimillion-dollar pay expenses that never show up on the company books as an expense. Every other form of compensation is shown as an expense on company books. There is only one exception, and that is stock options.

There is a link of all this to taxpayer dollars. Suppose a corporate executive exercises stock options to purchase company stocks and makes a profit of $10 million. Right now, the company employing the executive can claim the full $10 million as a compensation expense and deduct it on the company's income tax return.

Someone might say, so what? All companies deduct pay expenses from their taxes. That's true. But there is an important difference here. Every other type of employee pay shows up on the company books as an expense and reduces company earnings. Stock option pay is the only kind of compensation that companies can claim as an expense for tax purposes without ever showing it as an expense on their books. That's because current accounting rules encourage, but do not require, companies to treat stock option pay as a company expense, so companies can continue to game the system.

A single corporate executive exercising stock options can provide a company with a $10 million, $50 million, or even a $100 million expense which the company can deduct when reporting company earnings to Uncle Sam, but omit it when reporting company earnings to stockholders and the public. That is not right. Either stock option pay is a company expense or it isn't. Either this expense lowers a company's earnings or it doesn't. Something is clearly out of whack in a tax law when a company can say one thing at tax time and something else to investors and the public, and it is a double standard which should end.

Senator MCCAIN and I introduced legislation in April to put an end to the double standard. It simply says that a company can claim stock option pay as an expense for tax purposes to the same extent that the company treats that stock option pay as an expense on its books. Companies would no longer be able to claim that stock options cost them large amounts of money when claiming a tax benefit, but then turn around and claim that it cost them nothing when reporting them to stockholders and the public.

Opponents of the legislation claim that it would tax stock options. That is simply not true. Companies will continue to get a tax deduction, not a tax increase, on the options they claim as an expense on their books. For the options that they don't count on their books, they couldn't continue to receive a tax benefit in the form of a deduction. The choice is theirs.

Others argue that this amendment will hurt the average employees who receive stock options from the company's stock option plan. Right now, stock option pay is overwhelmingly executive pay. In 1994, in the most extensive stock option review to date which covered 6,000 publicly traded U.S. companies, Institutional Shareholders Services found that only 1 percent of the companies issued stock options to anyone other than management and 97 percent of the stock options issued went to 15 or fewer individuals per company.

Nevertheless, there are a few companies that issue stock options to all employees and do not disproportionately favor top executives. Our bill would allow those companies that provide broad-based stock option plans to continue to claim existing stock option tax benefits, even if they exclude stock option pay expenses from their books. By making this limited exception, we would ensure that average worker pay would not be affected by closing the stock option loophole. We might even encourage a few more companies to share stock option benefits with average workers.

Still others argue that there is no way to estimate what the cost of stock options plans are and that we're basing a tax deduction on estimates. But there are a number of places in the tax code that use estimates to determine the amount of a deduction.

The bottom line is that the bill that Senate MCCAIN and I introduced is not intended to stop the use of stock options. It is not aimed at capping stock options or limiting them in any way. It would not limit the level of executive pay. That is an issue between the executives and shareholders of the company. Our bill is aimed only at those companies that are trying to have it both ways—claiming stock option pay as an expense at tax time, but not when reporting company earnings to shareholders and the public. It is aimed at ending a stealth tax benefit that is fueling the wage gap, favoring one group of companies over another, and feeding public cynicism about the fairness of the federal tax code.

According to the Joint Committee on Taxation, closing this tax loophole generates $181 million over 5 years and $1.57 billion over 10 years all of which will be dedicated to reducing the deficit.

Mr. President, I ask unanimous consent that a letter from Warren Buffett, Chairman of Berkshire Hathaway, to Senator DODD dated October 18, 1993, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

BERKSHIRE HATHAWAY INC.,
Omaha, NE, October 18, 1993.

Hon. CHRISTOPHER DODD,
Chairman, Securities Subcommittee, Committee on Banking, Housing, and Urban Affairs, Dirksen Senate Office Building, Washington, DC.

DEAR MR. CHAIRMAN: I regret that I will not be able to attend your subcommittee meeting on October 21.

Could I have appeared there, I would have wished to make certain points, which I will distill here. First among these is the fact that I do not object to the intelligent use of stock options. I have often voted for their issuance, both as a director and as a substantial owner of the issuing corporations making use of them.

I do, however, object to the improper stock-option accounting now practiced. I summarized my views on that subject in the 1992 Annual Report of Berkshire Hathaway and I would like to repeat those comments here:

"Managers thinking about accounting issues should never forget one of Abraham Lincoln's favorite riddles: How many legs does a dog have if you call his tail a leg? the answer: Four, because calling a tail a leg does not make it a leg. It behooves manager to remember that Abe's right even if an auditor is willing to certify that the tail is a leg.

"The most egregious case of let's-not-face-up-to-reality behavior by executives and accountants has occurred in the world of stock options. The lack of logic is not accidental: For decades much of the business world has waged war against accounting rulemakers, trying to keep the costs of stock options from being reflected in the profits of the corporations that issue them.

"Typically, executives have argued that options are hard to value and therefore their costs should be ignored. At other times managers have said that assigning a cost to options would injure small start-up businesses. Sometimes they have even solemnly declared that 'out-of-the-money' options (those with an exercise price equal to or above the current market price) have no value when they are issued.

"Oddly, the Council of Institutional Investors has chimed in with a variation on that theme, opining that options should not be viewed as a cost because they 'aren't dollars out of a company's coffers.' I see this line of reasoning as offering exciting possibilities to American corporations for instantly improving their reported profits. For example, they could eliminate the cost of insurance by paying for it with options. So if you're a CEO and subscribe to this 'no cash-no cost' theory of accounting, I'll make you an offer you can't refuse: Give us a call at Berkshire and we will happily sell you insurance in exchange for a bundle of long-term options on your company's stock.

"Shareholders should understand that companies incur costs when they deliver something of value to another party and not just when cash changes hands. Moreover, it is both silly and cynical to say that an important item of cost should not be recognized simply because it can't be quantified with pinpoint precision. Right now, accounting abounds with imprecision. After all, no manager or auditor knows how long a 747 is going to last, which means he also does not know what the yearly depreciation charge for the plane should be. No one knows with any certainty what a bank's annual loan loss charge ought to be. And the estimates of losses that property-casualty companies make are notoriously inaccurate.

"Does this mean that these important items of cost should be ignored simply because they can't be quantified with absolute accuracy? Of course not. Rather, these costs should be estimated by honest and experienced people and then recorded. When you get right down to it, what other item of major but hard-to-precisely-calculate cost—other, that is, than stock options—does the accounting profession say should be ignored in the calculation of earnings?

"Moreover, options are just not that difficult to value. Admittedly, the difficulty is increased by the fact that the options given to executives are restricted in various ways. These restrictions affect value. They do not, however, eliminate it. In fact, since I'm in the mood for offers, I'll make one to any executive who is granted a restricted option, even though it may be out of the money: On the day of issue, Berkshire will pay him or her a substantial sum for the right to any future gain he or she realizes on the option. So if you find a CEO who says his newly-issued options have little or no value, tell him to try us out. In truth, we have far more confidence in our ability to determine an appropriate price to pay for an option than we have in our ability to determine the proper depreciation rate for our corporate jet.

"It seems to me that the realities of stock options can be summarized quite simply: If options aren't a form of compensation, what are they? If compensation isn't an expense, what is it? And, if expenses shouldn't go into the calculation of earnings, where in the world should they go?"

With over six months having passed since those questions were posed, I have had no one heap answers upon me.

Instead, as the debate about option accounting has gone forward, "sweep-the-costs-under-the-rug" proponents have argued fervently for disclosure—for the presentation of all relevant information about options in the footnotes to the financial statements, rather than in the statements themselves. In that manner, they say, investors can be informed about the costs of options without these costs actually hurting net income and earnings per share.

This approach, so the argument proceeds, is especially needed for young companies: They will find new capital too expensive if they must charge against earnings the full compensation costs implicit in the value of the options they issue. In effect, the people making this argument want managers at those companies to tell their employees that the options given them are immensely valuable while they simultaneously tell the owners of the corporation that the options are cost-free. This financial schizophrenia, so it is argued, fosters the national interest, in that it aids entrepreneurs and the start-up companies we need to reinvigorate the economy.

Let me point out the absurdities to which that line of thought leads. For example, it is also in the national interest that American industry spend significant sums on research and development. To encourage business to increase such spending, we might allow these costs, too, to be recorded only in the footnotes so that they do not reduce reported earnings. In other words, once you adopt the idea of pursuing social goals by mandating bizarre accounting, the possibilities are endless.

Indeed, I would argue that the "national-interest" theory is not only misguided, but wrong. True international competitiveness is achieved by reducing costs, not ignoring them. Over time, capital markets will also function more rationally when logical and even-handed accounting standards, rather than the "feel-good" variety, are followed.

Back in 1937, Benjamin Graham, the father of Security Analysis and, in my opinion, the best thinker the investment profession has ever had, wrote a satire on accounting. In it, he described the gimmicks that companies could employ to inflate reported earnings, even though economic reality changed not at all. Among Graham's most hilarious suggestions—because the thought seemed so far fetched—was a proposition that all employees of a company be paid in options. He pointed out that this arrangement would eliminate all labor costs (or, more precisely, eliminate the need to record them) and do wonders for the bottom line.

Today, in the world of stock options, we have life imitating satire. So far, of course, companies have largely substituted option compensation for cash compensation only when paying managers. But there is no reason that this substitution can't spread, as corporate executives catch on to the possibility of inflating earnings without actually improving the economics of their businesses.

One close-to-home example, involving Berkshire Hathaway and its 20,000 employees: I would have no problem inducing each of them to accept an annual grant of out-of-the-money options worth $3,000 at issuance in exchange for a $2,000 reduction in annual cash compensation. Were we to effect such an exchange, our pre-tax earnings would improve by $40 million—but our shareholders would be $20 million poorer. Would someone care to argue that would be in the national interest?

Many years ago, I heard a story—undoubtedly apocryphal—about a state legislator who introduced a bill to change the value of pi from 3.14159 to an even 3.0 so that mathematics could be made less difficult for the children of his constituents. If a well-intentioned Congress tries to pursue social goals by mandating unsound accounting principles, it will be following in the footsteps of that well-intentioned legislator.

Sincerely,

WARREN E. BUFFETT,
Chairman.

Mr. LEVIN. Finally, Mr. President, I just want to make sure that the clerk has the amendment in the same form that I do. I will simply read this amendment, and if there is any problem, the clerk can correct me. It has already been adopted, but I want to double check to make sure, and make a parliamentary inquiry, that the amendment reads as follows:

That it is the sense of the Senate the Committee on Finance of the Senate should hold hearings on the tax treatment of stock options.

The PRESIDING OFFICER. That is subsection (b) of the amendment?

Mr. LEVIN. That is correct.

The Senator is correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. LEVIN. I thank the Chair.

Again, I thank my good friend from Rhode Island for his patience.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

REVENUE RECONCILIATION ACT OF 1997

AMENDMENT NO. 551, AS MODIFIED

Mr. CHAFEE. On behalf of Senator NICKLES, I send a modification of his amendment No. 551 to the desk and ask unanimous consent that it be so modified.

The PRESIDING OFFICER. Without objection, it is so ordered.

The modification is as follows:

On page 212, between lines 11 and 12, insert:

SEC. . INCREASE IN DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) IN GENERAL.—The table contained in section 162(l)(1)(B) is amended to read as folllows:

"For taxable years beginning in calendar year—	The applicable percentage is—
1997	50
1998	50
1999 through 2001	60
2002	60
2003	70
2004	80
2005	85
2006	90
2007	100

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1996.

On page 159, line 15, strike "December 31, 1999" and insert "May 31, 1999".

On page 159, line 18, strike "42-month" and insert "35-month".

On page 159, line 19, strike "42 months" and insert "35 months".

On page 160, lines 10 and 11, strike "December 31, 1999" and insert "May 31, 1999".

On page 160, lines 19 and 20, strike "December 31, 1999" and insert "May 31, 1999".

HEART AND HYPERTENSION BENEFITS

Mr. DODD. Mr. President, I wish to speak briefly about an amendment that I have submitted with my colleague from New York, Senator D'AMATO, to benefit firefighters and law enforcement officers in our respective states of Connecticut and New York.

For the firefighters and police officers of Connecticut, this amendment seeks simply to correct a wrong that, while unintentional, has cost these committed public servants a great deal of money and anguish. It has always been the intention of the state of Connecticut to provide its police officers and firefighters heart and hypertension benefits tax-free by considering them workmen's compensation for tax purposes. Based on that intention, these individuals accepted benefits with the understanding that they were not taxable.

However, the original version of Connecticut's Heart and Hypertension law contained language which made the benefits from the statute taxable under a ruling by the IRS in 1991. As a result of the problem with the state law, and through no fault of their own, these citizens have been charged with millions of dollars in back taxes, interest, and penalties by the IRS.

Connecticut has since amended its law, but that change does not help those police officers and firefighters who received benefits prior to the amendment. This legislation would remove their tax liability for heart and hypertension benefits for the years prior to the IRS ruling (1989, 1990, and 1991). The bill is narrowly drafted to accomplish that limited purpose, and would not affect the tax treatment of benefits awarded after January 1, 1992.

Mr. President, the police officers and firefighters of Connecticut serve our state's citizens with courage and compassion. The least we can do is provide them with this small measure in recognition of their bravery and commitment. I urge my colleagues to support this amendment.

The measure has been scored to cost $11 million for FY98 only.

LOUISIANA CONTESTED ELECTION

Mr. WARNER. Mr. President, on April 17 the Committee on Rules and Administration voted, along party lines, to conduct an investigation into allegations that fraud, irregularities, and other errors affected the outcome of the 1996 election for United States Senator from Louisiana. The vote was taken after a very thorough discussion. Periodically I have reported to the Senate with floor statements; today is my third.

On May 8, I reported that the committee was about to embark on a bipartisan investigation, as a result of efforts by both the majority and minority to agree to a "Investigative Protocol" regarding the joint conduct of the investigation. From the inception, I have believed a joint investigation could better serve the Senate.

On May 23, I provided a second status report to the Senate on the following: on efforts to secure the detail of FBI agents to the Committee, on assurances of cooperation by Louisiana officials, and on my agreement with Senator FORD, the ranking member on the Committee, on the issuance of over 130 subpoenas.

Last evening, Senator FORD announced that the "Rules Committee Democrats will withdraw from the investigation of illegal election activities in the contested Louisiana Senate election". Further, he asserted that the "investigation was over budget, it's exceed the time frame agreed to, and none of Mr. Jenkin's (sic) claims have been substantiated by any credible witness."

Since last Friday, Senator FORD and I had been working to resolve differences and develop a written outline of the work we jointly could agree on to complete our investigation. I had good reason to believe we had made progress, but I learned at approximately 6 p.m. yesterday that the minority had decided to terminate their participation.

A BRIEF HISTORY OF THE INVESTIGATION TO DATE

On April 17, 1997, when the Committee on Rules and Administration authorized me, "in consultation with the ranking member", to conduct an investigation into the 1996 Senate election in Louisiana (exhibit 1), I stated that I believed that a preliminary inquiry could be completed in approximately 45 days. Today is June 26, some 70 days later. This passage of time included: 20 days to first develop the Investigative Protocol required by the minority before we proceeded to finalizing contracts with our respective outside counsel; 53 days to secure from the Department of Justice the detail of FBI agents to the Committee.

As I stated at the April 17 hearing, it was my hope that this investigation could be conducted in a bipartisan manner, with the use of experienced investigative attorneys to direct the investigation, and with the assistance of experienced agents from the Federal Bureau of Investigation.

The majority proposed to retain the law firm of McGuire, Woods, Battle & Boothe as their outside counsel. Senator FORD proposed to retain the law firm of Perkins Coie. Under federal law, such consultants can only be hired pursuant to a joint agreement between the Chairman and Ranking Member of the Committee.

Senator FORD further conditioned the contracting of these firms on first reaching a joint Investigative Protocol. Among other matters this document had to detail the rights of the minority, the direction of the investigation, and the confidentiality of all aspects of the investigation. On April 21, our respective designated outside counsel began a long series of negotiations leading up to this Protocol, which counsel signed on May 1. The Protocol was approved not only by Senator FORD and his counsel, but also by the minority members of the Rules Committee. The contracts retaining the two law firms were signed on May 7. This process in total consumed 20 days, during which no investigation could take place. Copies of my letter to Senator FORD on this issue, the Investigative Protocol, and the letters of retainer are attached (exhibits 2–5).

We also agreed upon retaining the services of the General Accounting Office to assist in review of election documents. Two specialists, one a Certified Public Accountant, were detailed to the Committee on May 30, and are reviewing and assessing many of the thousands of election documents that were subpoenaed to assess the allegations of "phantom votes". That work is on going.

As the Investigative Protocol was being developed, committee staff had begun discussions with the Federal Bureau of Investigation and the Department of Justice to detail experienced FBI agents to the Committee. Initially, Senator FORD indicated that members of the minority had some concern in using FBI investigators. Accordingly, on my own initiative, I wrote the Attorney General on May 9 requesting the detailees (exhibit 6). After additional conversations with Senator FORD, on May 14 he then joined me in formalizing a Committee request for the use of FBI agents (exhibit 7).

Thereafter, more negotiations ensued with the Department and Bureau, including my personal consultation with Director Freeh, to have the request approved by Attorney General Reno. Her final approval, given by her Deputy, occurred on May. But, the Department and Bureau stated that they could only provide two agents rather than the four we requested.

These two agents were not actually detailed to the Committee until June 9. By this time, 53 days had passed since the Committee hearing on April 17.

In addition, the Department still has not formally approved a Memorandum of Understanding between the Bureau, Department, and the majority and minority sides of the committee. Our staffs submitted a draft several weeks ago to the Department of Justice. This document, which is required under normal Committee procedures, has not been formally approved by the Department. A copy of the draft memorandum is attached (exhibit 8).

As regards timing, the central fact is that not until June 9 could the Committee get in place, in Louisiana, the agents to begin the field investigation. Petitioner Jenkins delivered files and tapes in response to a Committee subpoena and the FBI agents promptly began their review. Since this field investigation began in Louisiana only 17 days ago, we have had inadequate time to complete a preliminary investigation for the Committee. Indeed, we have not even begun the investigation into fraudulent registration which was one of the three areas that the Democratic counsel specifically recommended should be investigated. But progress is being made in collecting evidence and assessing Petitioner's allegations.

Speaking for myself, I am of the opinion this joint investigation should continue until the full Committee, not just the minority members, have had the opportunity to evaluate the work done to date. The Committee, I believe, has this obligation to the Senate.

THE INVESTIGATIVE EXPENDITURES

At the time the investigation was authorized by the Committee, I believed that outside counsel could complete this preliminary investigation with an expenditure for outside counsel capped at $100,000 for the majority and an equal amount for the minority. This estimate assumed that the FBI and GAO would provide the Committee a sufficient number of detailees in a timely manner.

At this point the majority outside counsel is working within the limit authorized by contract, and the full expenditure limit of $100,000 for services has not been reached. In addition to lawyers, when the Bureau concluded it could only provide two FBI detailees, the Committee had to hire two retired FBI agents. This was an additional expense, but their costs are being met within the majority's share of the Committee's resources.

A large percentage of our legal expenses to date were incurred to keep this as a joint investigation. For example, these expenses included prolonged negotiations developing the protocol, extensive negotiation and meetings to agree on the issuance of over 100 subpoenas, the acquisition and briefing of FBI agents, and the designation of investigative priorities, and other related matters. To provide for a joint investigation, the majority has tried in an every way to meet minority requests (exhibit 9).

STATUS OF INVESTIGATION

Until the full Committee meets, I will defer any comment on the evidence collected to date from witness interviews involving allegations of fraud.

With regards to the work done by our GAO detailed auditors have been assessing a portion of the Petitioner's categories of "phantom votes". While this work is not complete, the auditors have provided the Committee with interim data indicating that there were very few "phantom votes" in the categories and precincts examined to date.

Now I turn to issues relating to the compliance, or non-compliance of the laws providing safeguards to ensure the integrity of the Louisiana election process. The investigation, thus far, has clearly revealed that the safeguards required under Louisiana law—designed to ensure an election free from fraud—were breached, broken, in many instances during the 1996 election. Crucial election records were never sealed and remained exposed to possible tampering in violation of state law. Other election records were destroyed. Documents were commingled within a single office instead of being forwarded to separate offices on election night as required by law, completely frustrating a safeguard designed to prevent fraudulent alteration of the records. In addition, voting machines were opened after the election, ahead of schedule and outside the presence of witnesses, again clearly in violation of state law. A detailed memorandum prepared by outside counsel is attached as exhibit 10.

In conclusion, this investigation, thus far, has established that in many instances election officials, entrusted with following the law, did not do so. Documents, statements of admission, and testimony taken by the Committee's field investigators establish these facts.

This non-compliance with these legal safeguards, particularly in Orleans Parish, provided the opportunity for persons to commit fraud. It is the responsibility of the Committee to determine from the evidence whether such fraud existed and whether it affected the outcome of the 1996 election.

Given the importance of this matter to the United States Senate, it is my intent to work with Senator FORD to schedule a full Committee meeting as promptly as possible upon the return of the Senate after recess.

I ask unanimous consent that the exhibits to which I referred be printed in the RECORD.

There being no objection, the exhibits were ordered to be printed in the RECORD, as follows:

EXHIBIT 1 AS PASSED BY THE COMMITTEE.

COMMITTEE ON RULES AND ADMINISTRATION COMMITTEE MOTION

Wheras, the United States Constitution, Article I, Section 5 provides that the Senate is "the Judge of the Elections, Returns, and Qualifications of its own Members . . .";

Whereas, the United States Supreme Court has reviewed this Constitutional provision on several occasions and has held: "[The Senate] is the judge of elections, returns and qualifications of its members. . . . It is fully empowered, and may determine such matters without the aid of the House of Representatives or the Executive or Judicial Department." [Reed et al. v. The County Comm'rs of Delaware County, Penn., 277 U.S. 376, 388 (1928)]; and

Whereas, in the course of Senate debate, it has been stated: "The Constitution vested in this body not only the power but the duty to judge, when there is a challenged election result involving the office of U.S. Senator." [Congressional Record Vol. 121, Part 1, p. 440].

Therefore, the Committee on Rules and Administration, having been given jurisdiction over "contested elections" under Rule 25 of the Standing Rules of the Senate, authorized the Chairman, in consultation with the ranking minority member, to direct and conduct an Investigation of such scope as deemed necessary by the Chairman, into illegal or improper activities to determine the existence or absence of a body of fact that would justify the Senate in making the determination that fraud, irregularities or other errors, in the aggregate, affected the outcome of the election for United States Senator in the state of Louisiana in 1996.

This Committee Motion will operate in conjunction with and concurrent to the Standing Rules of the Senate. In addition, the following Rules of Procedure are applicable, as a supplement to the Committee Rules of Procedure:

A. Full Committee subpoenas: The chairman, with the approval of the ranking minority member of the Committee, is authorized to subpoena the attendance of witnesses or the production of memoranda, documents, records, or any other materials at a hearing or deposition, provided that the chairman may subpoena attendance or production without the approval of the ranking minority member where the chairman or a staff officer designated by him has not received notification from the ranking minority member or a staff officer designated by him of disapproval of the subpoena within 72 hours, excluding Saturdays and Sundays, of being notified of the subpoena. If a subpoena is disapproved by the ranking minority member as provided in this section, the subpoena may be authorized by vote of the members of the Committee. When the Committee or chairman authorizes subpoenas, subpoenas may be issued upon the signature of the chairman or any other member of the Committee designated by the chairman.

B. Quorum: One member of the Committee shall constitute a quorum for taking sworn or unsworn testimony.

C. Swearing Witnesses: All witnesses at public or executive hearings who testify to matters of fact shall be sworn. Any Member of the Committee is authorized to administer an oath.

D. Witness Counsel: Counsel retained by any witness and accompanying such witness shall be permitted to be present during the testimony of such witness at any public or executive hearing or deposition, and to advise such witness while he is testifying, of his legal rights. Provided, however, that in the case of any witness who is an officer or employee of the government, or of a corporation or association, the Committee chairman may rule that representation by counsel from the government, corporation, or association, or by counsel representing other witnesses, creates a conflict of interest, and that the witness may only be represented during deposition by Committee staff or consultant or during testimony before the Committee by personal counsel not from the government, corporation, or association, or by personal counsel not representing other witnesses. This rule shall not be construed to excuse a witness from testifying in the event his counsel is ejected for conducting himself in such a manner so as to prevent, impede, disrupt, obstruct, or interfere with the orderly administration of the hearings; nor shall this rule be construed as authorizing counsel to coach the witness or answer for the witness. The failure of any witness to secure counsel shall not excuse such witness from complying with a subpoena or deposition notice.

E. Full Committee depositions: Depositions may be taken prior to or after a hearing as provided in this section.

(1) Notices for the taking of depositions shall be authorized and issued by the chairman, with the approval of the ranking minority member of the Committee, provided that the chairman may initiate depositions without the approval of the ranking minority member where the chairman or a staff officer designated by him has not received notification from the ranking minority member or a staff officer designated by him of disapproval of the deposition within 72 hours, excluding Saturdays and Sundays, of being notified of the deposition notice. If a deposition notice is disapproved by the ranking minority member as provided in this subsection, the deposition notice may be authorized by a vote of the members of the Committee. Committee deposition notices shall specify a time and place for examination, and the name of the Committee members(s) or Committee staff member(s) or consultant(s) who will take the deposition. Unless otherwise specified, the deposition shall be in private. The Committee shall not initiate procedures leading to criminal or civil enforcement proceedings for a witness' failure to appear or produce unless the deposition notice was accompanied by a Committee subpoena.

(2) Witnesses may be accompanied at a deposition by counsel to advise them of their legal rights, subject to the provisions of Section D.

(3) Oaths at depositions may be administered by an individual authorized by local law to administer oaths. Questions shall be propounded orally by Committee members(s) or Committee staff or consultant(s). If a witness objects to a question and refuses to testify, the objection shall be noted for the record and the Committee member(s) or Committee staff or consultant(s) may proceed with the remainder of the deposition.

(4) The Committee shall see that the testimony is transcribed or electronically recorded (which may include audio or audio/video recordings). If it is transcribed, the transcript shall be made available for inspection by the witness or his or her counsel

under Committee supervision. The witness shall sign a copy of the transcript and may request changes to it. If the witness fails to sign a copy, the staff shall note that fact on the transcript. The individual administering the oath shall certify on the transcript that the witness was duly sworn in his presence, the transcriber shall certify that the transcript is a true record of the testimony, and the transcript shall then be filed with the chief clerk of the Committee. The chairman or a staff officer designated by him may stipulate with the witness to changes in the procedure; deviations from this procedure which do not substantially impair the reliability of the record shall not relieve the witness from his or her obligation to testify truthfully.

(5) The Chairman and the ranking minority member, acting jointly, or the Committee may authorize Committee staff or consultants to take testimony orally, by sworn statement, or by deposition. In the case of depositions, both the Chairman and ranking minority member shall have the right to designate Committee staff or consultants to ask questions at the deposition. This section shall only be applicable subsequent to approval by the Senate or authority for the Committee to take depositions by Committee staff or consultants.

F. Interviews and General Inquiry: Committee staff or consultants hired by or detailed to the Committee may conduct interviews of potential witnesses and otherwise obtain information related to this Investigation. The Chairman and the ranking minority member, acting jointly, or the Committee shall determine whether information obtained during this Investigation shall be considered secret or confidential under Rule 29.5 of the Standing Rules of the Senate and not released to any person or entity other than Committee Members, staff or consultants.

G. Federal, State, and Local authorities:

1. Referral: When it is determined by the chairman and ranking minority member, or by a majority of the Committee, that there is reasonable cause to believe that a violation of law may have occurred, the chairman and ranking minority member by letter, or the Committee by resolution, are authorized to report such violation to the proper Federal, State, and/or local authorities. Such letter or report may recite the basis for the determination of reasonable cause. This rule is not authority for release of documents or testimony.

2. Coordination: The Chairman is encouraged to seek the cooperation and coordination of appropriate federal, state, and local authorities, including law enforcement authorities in the conduct of this Investigation.

H. Conflict of Rules: To the extent there is conflict between the Rules of Procedure contained herein and the Rules of Procedure of the Committee, the Rules of Procedure contained herein apply, as it relates to the conduct of this Investigation authorized herein.

U.S. SENATE, COMMITTEE ON RULES AND ADMINISTRATION,
Washington, DC, April 29, 1997.

Hon. WENDELL H. FORD,
Ranking Member, Committee on Rules and Administration, U.S. Senate, Washington, DC.

DEAR WENDELL: As I announced at our Committee meeting on April 17, I would like to retain the law firm of McGuire Woods Battle & Boothe with Mr. Richard Cullen and Mr. George J. Terwilliger, III, serving as lead counsel, to conduct the initial investigation into the alleged fraudulent and improper activities that may have affected the outcome of the 1996 election for United States Senator from Louisiana. It was my intent then, and remains so today, that this investigation be conducted in as fair a manner as possible, with the objective of determining the existence, or absence, of a body of fact that would justify the Senate in making a determination that fraud, irregularities or other errors, in the aggregate, affected the outcome of the election.

Accordingly, McGuire Woods will designate attorneys with long-term affiliations with both political parties, including Mr. William G. Broaddus, a former Attorney General of Virginia under Governor Chuck Robb, Mr. James W. Dyke, Jr., a former Secretary of Education under Governor Doug Wilder, and Mr. Frank B. Atkinson, former counsel to Governor George Allen. It is my hope that this investigation will be conducted in coordination with a like team of counsel selected by the minority.

It is now my understanding that, after many hours of meetings over four days, an "Investigative Protocol" has been agreed to by both sets of outside counsel as well as by Committee counsel, and that you are to be briefed on this protocol today. I am hopeful that you will agree with me that his protocol will permit a full and fair investigation of the allegations and facts, with complete participation by counsel for the minority.

This investigation must begin as soon as possible. It does no service to either party to this contest, nor the Senate, to prolong this matter. I reiterate my statement at the hearing that I will agree to your contracting for counsel. Any counsel you deem appropriate will be agree to by me pursuant to 2 U.S.C. Sec. 72a(i)(3). Further, I will honor any reasonable requests for subpoenas that you might wish to issue.

I look forward to your acceptance of the Investigative Protocol and a joint investigation that will collect the facts upon which our Committee may make an informed decision concerning this matter.

With kind regards, I am

Sincerely,

JOHN WARNER,
Chairman.

EXHIBIT 3

INVESTIGATIVE PROTOCOL

I. Process for Consultation and Review

Counsel will agree to consult on an ongoing, regularly-scheduled basis on the progress of the investigation, including consultation before significant investigative decisions are made; the majority and minority counsel will participate in regular staff meetings with investigators regarding the agenda and results of the investigation.

Consultation will include timely evaluation of the evidence, consideration of new lines—or extension of existing lines—of investigation, review of the schedule for interviewing witnesses and taking depositions, and discussion, where necessary, of other issues or investigative leads which promote a more efficient and cooperative investigative effort.

The majority and minority will work together to achieve agreement on investigative issues and decisions. When agreement cannot be reached after reasonable, good faith efforts, the necessary decision will be made in accordance with the majority view. It is understood, however, that the majority and minority will endeavor in good faith to avoid majority rather than consensus decision-making and that the minority reserves the right to withdraw from further participation under this protocol.

II. The Scope of the Investigation

Committee counsel will prepare and conduct an investigation pursuant to Committee resolution as follows:

Allegations of fraud, in particular vote buying, multiple voting and fraudulent voter registration. These allegations will be investigated as appropriate with attention to areas such as "mismatched signatures" and "phantom voting," taking into account also evidence of failure of safeguards against fraud in the administration of the election.

The initial investigation plan will require that the investigation proceed in the first instance with the collection of all affidavits, notes, memoranda, audiotapes, transcripts and other materials in the possession of the Contestant which were submitted to the Committee on a redated basis but which shall be submitted in their original form to majority and minority counsel on an equal basis, without redaction, deletion or other editing, including the scheduling and conduct of interviews with the investigators hired or used by Contestant and the witnesses whom they interviewed and, as jointly determined pursuant to III (Investigative Plan), other allegations or evidence of error or irregularity.

The Committee investigation into any and all allegations will be guided and conducted as follows as evidence and testimony is collected or received, or evaluated.

The objective of the investigative effort will be competent, credible evidence, which evidence tends to show that but for the fraud, error or irregularity, the outcome of the election would have been different or the result of the election cannot be reliably determined.

The use of standard and generally accepted investigative techniques.

Careful consideration of Senate precedent and other analogous legal principles established by the law of Louisiana and other states reflected in the Senate precedent.

III. Investigative Plan

Counsel will reasonably endeavor to adhere to the 45-day timetable for completing the investigation; the 45-day timetable shall commence after agreement on the terms of the protocol. Counsel will advise the Chairman and Ranking Member if, due to new leads and areas of investigation, additional time is necessary.

An investigative plan will be proposed by majority counsel, subject to consultation with minority counsel, for the purpose of establishing priorities with respect to witness interviews, obtaining documents, issuing subpoenas, and other investigative requirements.

Every effort will be made to agree on an initial investigative plan. As part of the initial investigation, majority and minority counsel agree that interviews may proceed with the parties to the contest and/or their agents, employees and volunteers, and witnesses with whom they had contact in preparing the Petition and response, within 10 days of the commencement of the investigation. In the event of any unresolved differences on other aspects of the conduct of the investigation, the necessary decision will be made in accordance with the majority view.

The majority counsel will promptly provide a draft of recommendations at the conclusion of the investigation. The minority counsel will promptly provide suggested amendments, corrections or deletions. If respective counsel cannot agree on one final report, minority counsel may submit a supplement or separate report.

A written recommendation will be provided to the Chairman and Ranking Member within 5 days after the conclusion of the investigative period.

IV. Investigative Teams

Different areas of investigation will be assigned to teams which include representatives from the majority and minority counsel.

As part of the consultation process, the investigative teams will regularly advise the majority and minority counsel as a whole on the progress of their investigations.

Investigators will identify themselves as committee investigators only. A standard introductory statement to be used by investigators when approaching witnesses for the first time will be developed and agreed upon by majority and minority counsel.

Majority and minority counsel will jointly develop and participate in a briefing of investigators as to the purpose, scope, planning, and conduct of the investigation.

Majority and minority counsel will consult as to what instructions are to be given to investigators before conducting witness interviews. Majority and minority counsel will both participate in the briefing of investigators in advance of a particular witness interview, though either side may decline participation at its option.

V. Investigative Procedures

1. Subpoenas

Counsel shall seek to avoid unreasonable objection on the issuance of subpoenas.

The request of a witness for confidential treatment of his or her identity under Section V(3) is not a reasonable basis for objection to any subpoena requests.

Majority and minority counsel will consult on the drafting and issuance of all subpoenas consistent with the need to protect the identities of confidential sources of information as described below.

2. Depositions

The same considerations of comity and cooperation which apply to the issuance of subpoenas, as described immediately above, will apply to the noticing of depositions.

Majority and minority counsel will consult on the issuances of notices of depositions; in any event, at least one member of the majority and one member of the minority counsel staff will attend and participate in each deposition. In the event that the Senate grants counsel staff deposition authority, such depositions will be conducted on the same terms.

3. Witness Interviews

Investigators may be requested by the majority or minority counsel to conduct interviews, and the assignments will be considered and made on a consultative basis to assure the avoidance of conflicts and undue burden in the use of available resources. At the request of the majority or minority counsel, counsel may assist in the conduct of the interview or be present, or the majority or minority may request to conduct the interviews through counsel, but it is understood that occasions may arise where one side or the other may wish to conduct the interview without the other in attendance. Majority counsel has the responsibility to reasonably resolve any conflicting requests. Agents will be properly instructed as set out below.

Subject to the provisions of Section VI, witnesses may request an interview to be conducted with only the majority or minority counsel present, but in this instance and in any other instance where a witness requests that his or her identity be withheld from either the majority or minority, the counsel from whom the identity may be withheld may request the identity and the opportunity to interview the witness where the credibility of the witness is relevant to the evidentiary weight of the testimony.

No follow-up interviews of previously interviewed witnesses, except by investigators, shall be conducted without consultation between majority and minority counsel about the appropriate timing for such follow-up.

Investigators will be instructed to make all reasonable efforts to provide written reports of all witness interviews to majority and minority counsel within 24 hours of the interview. Any oral communications regarding investigative findings or significant investigative issues shall be promptly reported and transmitted to counsel to both the majority and minority.

VI. Policy Regarding Confidential Sources of Information

Although a witness seeking confidentiality will be encouraged not to place any restrictions on the disclosure of his or her identity, the decision to keep the witness' identity confidential will be left to the witness; however, the witness will be informed that his or her identity will be revealed to the Chairman or Ranking Member of the Committee upon request. There shall be a presumption that no confidentiality shall be extended to a party to the contest or to any agent, employee or volunteer of a party to the contest; exceptions may be granted by agreement of majority and minority counsel for good cause shown or upon agreement of the Chairman and Ranking Member or at the direction of the Committee.

Information obtained from a confidential source will be provided to the other counsel through the prompt exchange of written reports; these reports will describe the source's information, and provide the basis for and an assessment of the reliability of the source and his or her information. Where the substance of the information provided reveals the identity of the source, the content of the written reports will be redacted to protect the confidentiality of the source's identity.

In the event that there are interviews of confidential sources, each counsel will maintain a list of those sources; where disclosure of a confidential source is necessary, the identity of the confidential source will only be disclosed to the Chairman and Ranking Member.

VII. Evidence Integrity

The parties, their agents or other persons with an interest in the investigation shall be advised against any contact or communication with witnesses on the substance, timing or on other material matters relating to the provision of testimony or interviews, or to the collection of evidence. This advice will include a request that the parties in particular commit to cooperation with this investigation and encourage those in their employ, their counsel and supporters to extend this same cooperation. The purpose of this advisory and request for commitment shall be to protect the integrity of the testimony and evidence and the majority and minority shall consider and implement as appropriate other means to assure the fulfillment of this purpose as the investigation proceeds.

VII. Hearings/Quorum

Hearings at which sworn testimony is taken will be conducted with proper notice under Committee rules with a view toward and expectation of both majority and minority member attendance. Such notice will normally be three days. All hearings shall be scheduled in good faith to accommodate reasonable opportunities of majority and minority member attendance.

IX. Document Repository

The originals of all subpoenaed documents or other documents received in connection with the investigation will be kept and maintained under safeguarded conditions on the premises of the Senate Rules Committee as required by the rules of the Senate. Majority and minority counsel will have access to all original documents.

Majority and minority counsel will jointly maintain copies of all subpoenaed documents in a central document repository; a documents custodian will be appointed to maintain and catalog all documents obtained during the course of the investigation; the documents room will be kept under lock and key at all times but will be available to all counsel on an equal basis.

Minority counsel may create and maintain a separate document storage facility for the keeping of duplicate documents.

X. Press Policy

Majority and minority counsel will decline comment to the press, except as agreed in extraordinary circumstances to address errors in public reporting that may compromise the integrity of the investigation or perceptions of its integrity of course. Otherwise, all press inquiries will be referred to the Senate Rules Committee.

The majority and minority counsel and staff will treat the investigative plan, all consultations, the development and recommendations, the identity of interviewees and deponent, and all evidence obtained through the investigation on a confidential basis.

XI. Confidentiality of Investigation

Majority and minority counsel agree that all information gathered in the course of this investigation, as well as any reports drafted by counsel, shall be treated as strictly confidential. Pursuant to this understanding, counsel agree that each consultant law firm will take reasonable measures to ensure that information gathered in the course of, or pertaining to, this investigation is treated confidentially, is not disclosed to individuals within the firm who do not have a direct need to know the information, and is not disseminated outside the firm except to the Members of the Senate Rules and Administration Committee and its staff, unless otherwise directed to do so by the Chairman or Ranking Member. Counsel further agree that the information gathered during this investigation will be used solely in connection with this matter and use for any other purpose is expressly forbidden. In order to ensure strict confidentiality in this matter, each firm will implement reasonable security measures for all documents and other materials related to this investigation and shall inform all individuals working on this matter of the requirements of this section.

RICHARD CULLEN,
McGuire, Woods, Battle & Boothe, L.L.P.
ROBERT F. BAUER,
Perkins Coie.
RICHARD CULLEN.
GEORGE J. TERWILLIGER, III,
Counsel for the Majority, United States Senate Committee on Rules and Administration.

EXHIBIT 4

U.S. SENATE,
Washington, DC, May 16, 1997.

RICHARD CULLEN, Esq.,
McGuire Woods Battle & Boothe, Richmond, VA.
GEORGE J. TERWILLIGER III, Esq.
McGuire Woods Battle & Boothe, Washington, DC.

DEAR RICHARD AND GEORGE: On behalf of the Senate Committee on Rules and Administration, this letter confirms our retention of your services to assist the committee in its Constitutional responsibility, pursuant to a petition filed by United States Senate candidate Louis "Woody" Jenkins, to review questions raised about the 1996 U.S. Senate race in Louisiana. This retainer letter also covers the retention of services of other McGuire Woods partners and associations.

In accordance with Senate procedures, this petition was filed with the Vice President of the United States, in his capacity as President of the Senate, and referred to this committee for consideration as we have jurisdiction over this matter. On April 17, 1997, the Committee authorized an "Investigation of such scope as deemed necessary by the Chairman, into illegal or improper activities to determine the existence or absence of a body of fact that would justify the Senate in making the determination that fraud, irregularities or other errors, in the aggregate, affected the outcome of the election for United States Senator in the State of Louisiana in 1996."

This investigation shall be conducted in conjunction with counsel for the minority, and an identical retainer has been extended to Robert F. Bauer and John Hume of Perkins Cole.

Pursuant to your discussions with Committee counsel, please sign the original enclosed contract and return it for our records.

Sincerely,

JOHN WARNER.
WENDELL H. FORD.

EXHIBIT 5

U.S. SENATE,
Washington, DC, May 16, 1997.

ROBERT F. BAUER, Esq.,
JOHN P. HUME, Esq.,
Perkins Coie, Washington, DC.

DEAR BOB AND JOHN: On behalf of the Senate Committee on Rules and Administration, this letter confirms our retention of your services to assist the committee in its Constitutional responsibility, pursuant to a petition filed by United States Senate candidate Louis "Woody" Jenkins, to review questions raised about the 1996 U.S. Senate race in Louisiana. This retainer letter also covers the retention of services of other Perkins Coie partners and associates.

In accordance with Senate procedures, this petition was filed with the Vice President of the United States, in his capacity as President of the Senate, and referred to this committee for consideration as we have jurisdiction over this matter. On April 17, 1997, the Committee authorized an "Investigation of such scope as deemed necessary by the Chairman, into illegal or improper activities to determine the existence or absence of a body of fact that would justify the Senate in making the determination that fraud, irregularities or other errors, in the aggregate, affected the outcome of the election for United States Senator in the State of Louisiana in 1996."

This investigation shall be conducted in conjunction with counsel for the majority, and an identical retainer has been extended to Richard Cullen and George Terwilliger of McGuire Woods Battle & Boothe.

Pursuant to your discussions with Committee counsel, please sign the original enclosed contract and return it for our records.

Sincerely,

JOHN WARNER.
WENDELL H. FORD.

EXHIBIT 6

U.S. SENATE,
Washington, DC, May 9, 1997.

Hon. JANET RENO,
The Attorney General of the United States, Washington, DC.
Hon. LOUIS J. FREEH,
The Director of the Federal Bureau of Investigation, Washington, DC.

DEAR MADAM ATTORNEY GENERAL AND DIRECTOR FREEH: As you know, the 1996 Senate race in Louisiana is being contested. Under Article I, section 5, of the U.S. Constitution, the Senate has exclusive responsibility to judge the final results of this election.

The Committee on Rules and Administration has initial jurisdiction over this matter for the Senate, and I am privileged to serve as its Chairman. The Committee met three times in open session to discuss the election contest and has authorized me by Committee Motion to conduct an investigation, in consultation with the Ranking Member, Senator Wendell Ford. Senator Ford and I have each retained counsel from outside law firms to assist the Committee, and we executed contracts with these attorneys on May 7.

In my opinion, there is no more serious responsibility of the Senate than to determine the validity or non-validity of an election for United States Senator. The freedom that we enjoy is predicated on the American people having confidence in our election laws and believing that they have been complied with in elections for the Congress.

I make no prejudgment as to the few facts that are before the Senate at this time. But there is a clear duty to conduct such investigation as we deem necessary so that the full Senate can make an informed decision as to the election contest.

Given the importance of this matter to our federal system, I call on the Department of Justice to provide the United States Senate with the assistance of several investigators to work with our designated counsel and other persons engaged by the Committee to conduct this investigation. I believe that the credibility and experience of agents detailed from the Federal Bureau of Investigation will help to establish a like credibility in the outcome of the Senate's investigation.

I request that at your earliest opportunity we meet concerning this matter, hopefully to be joined by Senator Ford, to ascertain your willingness for the Department to assist the United States Senate.

Enclosed is copy of the authorizing Committee Motion, along with a recent floor statement I made concerning the contest and other relevant documents, which should allow your advisors to quickly understand the Committee's responsibilities and the specifics regarding the content.

The Committee point of contact is Bruce Kasold at (202) 224–3448. Thank you for your assistance in this matter.

Sincerely,

JOHN WARNER
Chairman.

EXHIBIT 7

U.S. SENATE,
Washington, DC, May 14, 1997.

Hon. JANET RENO,
The Attorney General, Department of Justice, Washington, DC.
Hon. LOUIS J. FREEH,
Director, Federal Bureau of Investigation, Washington, DC.

DEAR MADAM ATTORNEY GENERAL AND DIRECTOR FREEH: As you are aware, the Committee on Rules and Administration is conducting preliminary investigation into allegations of fraud and other irregularities which reportedly occurred in the 1996 U.S. Senate race in Louisiana. The Committee anticipates that this investigation will last approximately 45 days.

The Committee has hired outside counsel to advise the Committee and direct this investigation. It is their strong recommendation that the Committee augment our resources with professional investigators. In order to expedite and facilitate this investigation, and ensure the level of investigative professionalism required in such a case, the Committee respectfully requests the assistance of detailees from the Federal Bureau of Investigation.

The Committee has identified an immediate need for two detailees, preferably with a familiarity with Louisiana, and the New Orleans area specifically. As the investigation progresses, the Committee anticipates a need for at least two additional detailees. We ask that these detailees be provided to the Committee on a non-reimbursable basis, with the Committee bearing the associated travel expenses for these detailees, pursuant to Senate rules.

The Committee has secured space in the Hale Boggs Federal Building in New Orleans for the duration of this investigation with the exception that attorneys for the Committee will begin occupying that space by early next week. Due to the timeliness of this investigation, we would hope that two detailees could be made available to the Committee at the same time so that the Committee investigation could begin promptly.

It is important to the Committee that this investigation be conducted with the utmost professionalism and respect for the individuals involved, in particular, the elected officials and citizenry of Louisiana. The reputation and integrity of the Bureau make it the most appropriate source for such assistance. We anticipate that a memorandum of understanding regarding the deployment of these detailees will need to be signed between your office(s) and the Committee. We are prepared to execute that document immediately.

We greatly appreciate your assistance in this regard.

Sincerely,

WENDELL H. FORD,
Ranking Member.
JOHN WARNER,
Chairman.

EXHIBIT 8

MEMORANDUM OF UNDERSTANDING BETWEEN THE UNITED STATES SENATE COMMITTEE ON RULES AND ADMINISTRATION AND THE U.S. DEPARTMENT OF JUSTICE

I. This document is a Memorandum of Understanding ("MOU") between the United States Senate Committee on Rules and Administration ("Committee") and the U.S. Department of Justice regarding certain terms and procedures relating to the detail assignment of Special Agents of the Federal

Bureau of Investigation ("FBI") to the Committee for the purpose of assisting the Committee in its investigation ("Special Investigation").

II. *Relation of FBI Special Agents detailed to the Committee to the FBI and other components of the Department of Justice.*

(A) FBI Special Agents to be detailed to the Committee ("Committee Investigators") shall be selected by the FBI after consultation with the Criminal Division of the Department of Justice.

(B) Committee Investigators shall not report to or receive direction from the FBI or any other component of the Department of Justice regarding the investigative activities of the Committee, except as expressly authorized by the Chief Counsel for the Committee. The activities of the Committee Investigators shall be directed by the Chief Counsel and Minority Chief Counsel of the Committee acting directly or through designated lead counsel for the Special Investigation, as provided in Part III of this MOU.

(C) Committee Investigators shall not provide any oral or written account of information obtained as a result of the Agents' assignment to the Committee either to the FBI or to the personnel of any other Executive Branch agency without the express authorization of the Chief Counsel and the Minority Chief Counsel for the Committee. Approved communication of such information to the FBI or other components of the Department of Justice shall be through a designated point of contact, as provided in paragraph (F).

(D) Committee Special Agents shall not exercise any law enforcement authority granted them by law while executing the duties and responsibilities for which they have been detailed to the Committee.

(E) Committee Special Agents shall not be entitled, by virtue of their status as federal law enforcement officers, to have access to information developed through criminal investigation, including grand jury information.

(F) All communications [relating directly or indirectly to investigative matters] between Committee Special Agents and the FBI or any other component of the Department of Justice, shall be through a point of contact established by the Department of Justice. The Department of Justice will notify the Chief Counsel of the Committee of the name of that point of contact.

III. *Duties and Responsibilities of the Chief Counsel and Minority Chief Counsel to the Committee.*

(A) FBI Special Agents detailed to the Committee shall be a joint resource to both the Majority and Minority staffs of the Committee and outside counsel retained by the Committee.

(B) The Committee shall reimburse the FBI for all costs associated with the detail assignment of FBI Special Agents to the Subcommittee, including official travel expenses.

(C) The Chief Counsel and/or the Minority Chief Counsel shall furnish written or oral responses, if requested by the FBI, regarding the performance appraisal of FBI Special Agents detailed to the Committee.

(D) All assignments to the Committee Investigators shall be made by the lead attorney and the minority lead attorney, acting jointly, or by either attorney after consultation with the other. All assignments shall, for administrative purposes, be made either by or through the lead attorney for the Special Investigation, to the supervisory Committee Investigator designated by the FBI. The lead attorney for the Special Investigation shall provide timely notice to the minority lead attorney for the Special Investigation of all assignments to the agents.

(E) Unless directed otherwise by the lead counsel for the Special Investigation, the Committee Investigators may conduct interviews personally or by the telephone.

IV. *Duties and Responsibilities of the Committee Investigators.*

(A) The Committee Investigators shall assist the Committee in all tasks related to the objectives of the Committee in its investigation.

(B) Except as otherwise provided in this MOU, the Committee Investigators will remain subject to the personnel rules, regulations, laws and policies applicable to FBI employees. The Committee Investigators will also adhere to Committee rules and regulations which are applicable to the performance of their assigned duties at the Committee, so long as those rules do not conflict with FBI rules and regulations.

(C) Except in extraordinary circumstances, Committee Investigators shall provide the lead attorney for the Special Investigation, who shall in turn notify the minority lead attorney for the Special Investigation, sufficient advance notice of any pending appointments for interviews, so that either attorney for the Special Investigation can determine whether to assign an attorney to join the interview.

(D) With regard to all investigative activities performed for the Committee, Committee Investigators

(1) shall identify themselves as staff investigators of the Committee, and not as federal law enforcement agents;

(2) shall not possess a firearm nor display FBI credentials or badge during the conduct of any personal interviews or other investigative activity;

(3) shall inquire whether a witness to be interviewed is represented by counsel, and if so, inform the lead attorney for the Special Investigation accordingly, prior to scheduling the interview;

(4) shall take notes during all interviews and keep the originals of the same as a record of the Committee;

(5) shall reduce to writing, in memorandum form, the substance of all witness interviews within five working days, unless circumstances prevent that schedule and the lead attorney for the Special Investigations approves the delay;

(6) shall provide both the lead attorney and the minority lead attorney for Special Investigation a copy of the interview memorandum; and

(7) shall insure that any documents, records, exhibits, or other evidence obtained from the interviewed witness are turned over immediately to both the lead attorney and the minority lead attorney for the Special Investigation pursuant to the procedures relating to the same.

V. Termination

This agreement may be terminated by any of the undersigned upon written notice to the others.

Approved by the Committee on Rules and Administration of the United States Senate.

Chairman John Warner.

Ranking Member Wendell H. Ford.

Howard M. Shapiro, General Counsel, FBI.

Mark M. Richard, Acting Assistant Attorney General, Criminal Division, U.S. Department of Justice.

EXHIBIT 9

U.S. SENATE, COMMITTEE ON RULES
AND ADMINISTRATION,
Washington, DC, May 1, 1997.

Hon. WENDELL H. FORD,
Ranking Member, Committee on Rules and Administration, U.S. Senate, Washington, DC.

DEAR WENDELL: Per our conversation, let me state my intent with regard to the rights of the Committee minority as they apply to the preliminary investigation into the contest of the 1996 Senate election in Louisiana.

First, as I understand to be reflected in the investigative protocol provision regarding the issuance of subpoenas, I agree that the subpoena power delegated to the Chairman, with the approval of the ranking minority member of the Committee, pursuant to Rule A of the Committee's supplemental rules of procedure adopted on April 17, 1997, shall be used reasonably and equitably to compel the attendance of any witness or the production of any documents requested by a majority of the minority members of the Committee.

Second, I agree that when majority and minority counsel cannot agree on investigative issues, decisions, or aspects of the conduct of the investigation, then they shall, at the request of either counsel, bring their disagreement to the immediate attention of the Chairman and ranking minority member. If the Chairman and ranking member cannot agree, then the full Committee will be asked to resolve the issue after an opportunity for discussion and comment.

Third, I agree that at any hearing held for the purpose of taking recorded, sworn, or unsworn testimony, at least three days' notice shall be given and any member or members of the Committee may attend and participate.

I hope this clarifies my position.

Sincerely yours,

JOHN WARNER,
Chairman.

EXHIBIT 10

MCGUIRE WOODS
BATTLE & BOOTHE

MEMORANDUM

To: Senate Rules Committee
From: George J. Terwilliger and Frank Atkinson
Date: June 23, 1997
Re: Jenkins-Landrieu—Voting Procedures and Election Safeguards

BACKGROUND INFORMATION—VOTING PROCEDURES AND ELECTION SAFEGUARDS

Louisiana has been plagued by a history of election fraud, and the state therefore has enacted elaborate voting procedures and safeguards designed to guard the integrity of elections. The state legislature has expressly recognized the state's "longstanding history of election problems, such as multiple voting, votes being recorded for persons who did not vote, votes being recorded for deceased persons, voting by non-residents, vote buying, and voter intimidation." La. R.S. 18:1463.

Secretary of State McKeithen is the "chief election officer of the state." La R.S. 18:421.A. He has publicly sated: "Our [election] law, if strictly followed, is probably the tightest law in the country. The problem was it wasn't followed [in the November 1996 election]."[1]*

Even where modern voting machines are used and post-election tampering with the machines is made generally impracticable by a combination of machine security features and procedural safeguards, the possibility of fraud still exists whenever one person (or several acting in concert) can gain access to precinct registers, poll lists, absentee voter lists, and other documentary materials used on or before election day.

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*Footnotes at end of article.

Voting machines are devices for recording and tallying the number of votes, the accuracy of the tally is vitally important, but it is only one component of an honest election.

The integrity of the election also turns upon the validity of the votes cast, and this central facet of election administration is addressed in detail in Louisiana statutes that prescribe the preparation, use and post-election disposition and custody of various written election records. These written records provide an indispensable check that guards against improper manipulation of voting machines before, on, or after election day.[2]

SUMMARY : KEY PROCEDURAL PROVISIONS AND BREACHES OF SAFEGUARDS

4. Key procedural provisions

State law provides that a precinct register (together with a supplemental list of absentee voters) is to be used at each polling place.

The precinct register contains an alphabetical listing of all registered voters in the precinct. Voters must sign the precinct register when they vote, and an election commissioner also must sign (initial) opposite each voter's signature.

Election commissioners in each precinct are also required to prepare two (duplicate) poll lists.

The poll lists contain the names of actual voters recorded in the order that they vote. Election commissioners record the names of voters on sheets with consecutively numbered spaces.

Voters and election commissioners must execute certain other documents in prescribed circumstances, including Address Confirmation at Polls (ACP) forms, Affidavit of Voters (AV–33) forms, and Challenge of Voter (CV–56) forms.

When the polls close, election commissioners are required to follow specific procedures. With regard to the disposition of the written election records, each of the following must be accomplished by midnight on the day of the election and in the presence of commissioned poll watchers:

Election commissioners are required [a] to place certain specified records in a Registrar of Voters (ROV) envelope, [b] to then place the ROV envelope inside the precinct register and seal the precinct register,[3] [c] to then seal one copy of the poll list and certain other specified records inside the Put in Voting Machine (P–16) envelope, [d] to then place the sealed P–16 envelope and the precinct register inside the voting machine, and, finally, [e] to lock the voting machine and seal the key inside the Return Key Envelope (C–03).

Election commissioners are required to place certain other specified records, including the other copy of the poll list, in the Secretary of State (S–19) envelope and to mail the S–19 envelope to the Secretary of State.

Election commissioners are required to deliver the sealed Return Key Envelope and certain other specified records to the parish clerk of court.

Other provisions specifically govern the counting of absentee votes and the disposition of absentee vote records.

B. Identified breaches of election safeguards

Secretary of State Mckeithen and several staff members were interviewed by Senate Rules Committee outside co-counsel on May 13 and May 30, 1997. They identified and/or confirmed the following breaches of election safeguards:

Election commissioners were required by law to mail one set of election records to the Secretary of State on election night. Commissioners in Orleans Parish and several other parishes were instructed by the parish clerk of court's office to—and did—deliver this set of records to the parish clerk of court instead of the Secretary of State, in violation of the state law.

Instructional materials prepared by the Commissioner of Elections, Jerry Fowler, and his office directed the parish election commissioners to deliver the Secretary of State's set of election records to the parish clerk of court instead of mailing them to the Secretary of State, as required by state law. These instructions were prepared unilaterally by Commissioner Fowler's office in violation of another state law which requires that such instructional materials be prepared jointly by the Commissioner of Elections and the Secretary of State and be approved by the Attorney General before distribution to election commissioners.

Voting machines in Orleans Parish were unsealed and opened before the appointed time and outside the presence of candidate representatives, in violation of state law.

Secretary of State McKeithen also made the general observation—not specific to any particular parish—that election commissioners routinely failed to require voters to prove their identity in accordance with state law.

District Attorney Doug Moreau of East Baton Rouge Parish and his assistant were interviewed by Senate Rules Committee outside co-counsel on May 13 and May 30, 1997. From his office's review of election records obtained from Orleans Parish pursuant to subpoena, he has found the following:

Besides mailing one set of original precinct election records to the Secretary of State on election night (the "S–19 envelope"), parish election commissioners are required by law to seal the other set of original records in an envelope ("the P–16 envelope"), seal the precinct register, and lock the sealed P–16 envelope and sealed precinct register in the precinct voting machine. Moreau subpoenaed the P–16 envelopes and contents from Orleans Parish. After reviewing approximately half of these records, he found that none had ever been sealed in accordance with state law.

According to Moreau and his assistant, Sandra Ribes, the Orleans Parish P–16 envelopes appear to have many missing items and discrepancies, including irregularities in record-keeping for absentee voters. Rather than relying upon Moreau's review, however, we have requested these records so that we can conduct our own audit. Our request is pending, so Moreau still has these records.

In response to Moreau's subpoena, it was disclosed by the Clerk of Court in Baton Rouge that many original election records for East Baton Rouge Parish have been discarded, in apparent violation of state law.

Commissioner of Elections Jerry Fowler and staff members were interviewed by Senate Rules Committee outside co-counsel on May 13 and May 30, 1997. They confirmed the following:

Although Fowler's office prepared videotapes and instructional materials properly directing election commissioners to mail the S–19 envelopes and contents to the Secretary of State's office, they did also prepare certain "customized" videotapes and instructional materials—at the request of several parish clerks of court, including the Orleans clerk's office—directing the election commissioners in those parishes to send the S–19 records to the parish clerk of court instead of the Secretary of State.

Staff working for the Orleans Parish clerk's office did unlock and open voting machines and remove records outside the presence of designated candidate representatives a short time before the appointed hour for the opening of the machines three days after the election.

State employees reporting to Fowler were in control of the warehouse in which the locked voting machines in Orleans Parish were stored prior to the opening of them three days after the election. The clerk of court of Orleans Parish had "legal custody" of the voting machines during this period. It is unclear whether the clerk's staff had actual access to the voting machines during this time. They may have had access to an office within the warehouse, and the portion of the warehouse where the machines were stored was accessible from that office. There was no regular inspection of the storage area nor security check by any of Fowler's employees.

The rear of the AVC voting machines used in Orleans Parish contains a door that can be locked but has no ready means of sealing. This is the area where the election records (P–16 envelopes and precinct registers) were stored. Since the machines were locked but not sealed, a person with a key to the machines could gain access to these election records without it being physically evident that access was gained.

Also relevant to the investigation of breached election safeguards are the admissions by several Orleans Parish election commissioners that they accepted payments from gaming organizations interested in the outcome of questions on the November 1996 ballot. At least one election commissioner has admitted receiving such a payment for electioneering activity performed on election day.

PARTICULAR ISSUES

Separation of election records; delivery to Secretary of State

Legal Requirement: State law requires election commissioners to mail the Secretary of State (S–19) envelope containing one of the poll lists and other records directly to the Secretary of State's office before midnight. La. R.S. 18:572.A(2) and B.

Secretary of State McKeithen explained that this safeguard is designed to prevent tampering with the written election records by separating the poll lists and other important documents immediately upon their leaving the polling places. State law requires that one of the poll lists be mailed to the Secretary of State while the other is to be sealed in an envelope and locked in the voting machine. Mr. McKeithen stated that this is an important safeguard against election fraud, and he noted that it also is a means by which clerks of court can avoid vulnerability to fraud allegations by ensuring they do not have access to all copies of key election records.

Mr. McKeithen stated that, until the recent disclosure that a contrary practice existed in certain parishes, he was unaware of these election law violations. He further stated that, if he had been aware of the existence of this contrary practice, he would have acted decisively to prevent the violations.

Violations: Secretary of State McKeithen, Commission of Elections Fowler, and members of their respective staffs confirmed published reports that election commissioners in at least Orleans, Jefferson, and East Baton Rouge Parishes failed to comply with the legal requirement that they mail the S–19 envelopes and contents to the Secretary of State on election night. Instead, the commissioners delivered the envelopes and contents to their respective parish clerks of court. This placed the second copy of each precinct's poll list and other original records in the custody of the single local election official with access to the remainder of the original records.

Because the Secretary of State does not log in the envelopes upon receipt in his office, we do not know how long the S–19 envelopes and contents remained in the possession of the respective parish clerks of court before they were sent to the Secretary of State.[4]

We do not have authoritative information as to the other parishes in which this violation of state law occurred, when and where such violations have occurred in the past, or the reason or reasons given by the election commissioners-in-charge who took that action. We do know, however, that in the three parishes identified above, and apparently in others, the respective parish clerks of court instructed election commissioners to deliver the S–19 envelopes and contents to them rather than to mail them to the Secretary of State as required by state law.

Commissioner Fowler and his staff confirmed that instructional materials, including both written guidelines and video tapes, were used by the clerks of court to prepare election commissioners in their parishes. In Orleans and apparently other parishes, these materials expressly instructed election commissioners to send the S–19 envelopes and contents to the clerks of the court.

The proper procedure for disposition of the S–19 envelopes should have been clear to the clerks of court and the election commissioners. The Informational Pamphlet prepared jointly by the Secretary of State and the Commissioner of Elections, approved by the Attorney General, and distributed to election commissioners and clerks of court expressly instructs the commissioners to mail these envelopes, with the prescribed contents, to the Secretary of State by midnight on election night. The front of the S–19 envelope itself lists in bold print the items that must be enclosed and specifies that the envelope must be mailed to the Secretary of State.

Importantly, the S–19 envelopes were not sealed by activating adhesive on the envelop flaps or by any other method that would prevent undetectable access. Instead, when ultimately received in the Secretary of State's office, the S–19 envelopes generally were clasped using the metal clasp that is standard on manila-type envelopes.

Although there is no statutory requirement that the S–19 envelopes be "sealed," the requirement that they be "mail[ed]" would seem to imply a more secure closing of the envelopes than that accomplished through use of the metal clasp alone. However, Secretary KcKeithen and his staff advised us that the S–19 envelopes have routinely been received by his office in a clasped but unsealed condition.

Regardless of the propriety of the practice of not sealing the S–19 envelopes, the significant point is that those envelopes were—while unlawfully in the possession of the clerks of court (and any others to whom they granted access)—in a condition that permitted easy and undetectable access to their contents.[5]

The significance of the unsealed condition of the S–19 envelopes and the accessibility of their contents is reflected in a published comment made by Alan Elkins, principal assistant to Commissioner of Elections Jerry Fowler. As described below, Elkins was one of the persons involved in preparing instructional materials that directed election commissioners in some parishes to send the S–19 envelopes to the parish clerks of court in violation of state law. Speaking shortly after the disclosure of these violations last month, Elkins was quoted as saying: "What difference does it make? Those envelopes are sealed anyway. You can't open them without the appearance of them being opened."[6] In our interview, Elkins acknowledged that the S–19 envelopes actually were not sealed; he now expresses the opinion that fastening the envelopes by clasp was sufficient.

2. *Instructions to election commissioners regarding voting procedures and disposition of records.*

Legal Requirement: State law assigns various responsibilities for election administration among the Secretary of State and the Commissioner of Elections. While the Commissioner of Elections has statutory authority over the voting machines, the Secretary of State is the chief election officer of the state. Accordingly, state law requires that written instructions to election commissioners regarding voting procedures be prepared jointly by the Secretary of State and the Commissioner of Elections, and that these instructions be approved by the Attorney General La. R.S. 18:421.C.

Secretary of State McKeithen described this provision to us as an important check and balance that is necessary in light of Louisiana's checkered election history.

Violation: The Commissioner of Elections and members of his staff acknowledged to us that, within the last four or five years, they have prepared written and videotape instructional materials that direct election commissioners to deliver the S–19 envelopes and the election records contained therein to the parish clerk of court, rather than by mail to the Secretary of State, as required under state law. The Commissioner's staff advised us that they produced a standard instructional videotape that directed precinct election commissioners to mail the S–19 envelopes and contents to the Secretary of State, but that, at the request of various parish clerks of court, they also "customized" some of the videotapes to direct that the S–19 envelopes and contents instead be delivered to the clerks of court. Corresponding written instructions also directed the delivery of the S–19 envelopes and contents to the clerks of court in those parishes.

Commissioner Fowler and his staff were unable to tell us with specificity which parishes requested and received instructional tapes and written materials "customized" in this manner. He did indicate a general belief that the preparation of these instructional materials corresponded with the introduction and initial use of the new "AVC" (Sequoia) voting machines in Orleans and several of the other larger parishes. These tapes and written materials primarily were concerned with instructing commissioners in the use of these new and unfamiliar voting machines, but, for reasons Commissioner Fowler did not explain, they also included instructions on the disposition of the S–19 envelopes, which have nothing to do with the voting machines.

Secretary of State McKeithen expressed strong objections to the Commissioner's unilateral preparation of these instructional materials, of which the Secretary of State only became aware last month. McKeithen acknowledged that the Commissioner of Elections is responsible for instructing precinct commissioners in the use of voting machines and therefore could properly prepare those instructions unilaterally, but he stated that the inclusion of instructions regarding disposition of election records was clearly outside of the Commissioner's lawful authority. Secretary McKeithen called attention to the stark conflict between the Informational Pamphlet, which was jointly prepared by McKeithen and Fowler and approved by the Attorney General, and the videotape and accompanying written materials that were unilaterally prepared by Fowler's office in collaboration with local clerks of court. The Informational Pamphlet properly advises precinct commissioners to mail the S–19 envelopes to the Secretary of State; the other materials direct the local commissioners to send the S–19 envelopes to the clerk of court in violation of state law.

3. *Sealing of envelopes containing original records; locking of percent registers and envelopes in voting machines*

Legal Requirement: As noted above, state law requires that, in the presence of poll watchers and before midnight on election day, election commissioners must seal one copy of the poll list and certain other specified records inside the P–16 envelope, which is marked "Put in Voting Machine." La R.S. 18:571(12). The election commissioner then must place the sealed P–16 envelope and the sealed precinct register in the voting machine, lock the machine, and seal the key in the Return of Key envelope. La. R.S. 18:571(11), (12), (13), (14).

Violation: We have been advised by District Attorney Moreau and his staff that they have examined approximately half of the P–16 envelopes from Orleans Parish, and that none of the envelopes are, or appear to ever have been, sealed in accordance with state law. The P–16 envelopes contained one of the two poll lists, and the failure to seal these envelopes as expressly mandated by state law represents another significant breach of the statutory safeguards relating to election records. We do not yet know whether the precinct registers were sealed.

Importantly, election commissioners in Orleans Parish placed the unsealed P–16 envelopes and the precinct registers in AVC voting machines that were themselves unsealed. State law required the commissioners to lock the door to the rear area of the machines where the records were placed, but, unlike other types of voting machines, the entire AVC machine is not sealed. On the AVC voting machines, the computer cartridge alone is sealed, and the rear area containing the precinct register and P–16 envelopes is merely locked. This circumstance aggravates the concern about the failure of Orleans Parish commissioners to seal the P–16 envelopes (and possibly the precinct registers). Since these crucial records were placed unsealed in a portion of the voting machines that was locked but not sealed, anyone with access to a machine key could have gained direct access to the election records without detection.

4. *Unlocking and unsealing of voting machines in the presence of candidates or their representatives*

Legal Requirement: State law provides that the voting machines are to be transferred from the precinct polling place to the custody of the parish clerk of court and are to be opened, in the presence of representatives of the candidates, three days after the election. La. R.S. 18:573.A, 18:573.B.

Violation: Secretary of State McKeithen, Commissioner of Elections Fowler, and members of their respective staffs confirmed to us that some significant number of voting machines in Orleans Parish were unlocked and unsealed outside the presence of candidate representatives and before the announced time for the supervised opening of the machines. Neither had direct knowledge of the particulars, but both indicated that Orleans Parish officials had acknowledged the improper action occurred.

McKeithen cited this improper action as a serious breach that, in tandem with other known violations such as the Clerk's receipt of the S–19 envelopes, rendered the Clerk of Court of Orleans Parish, Mr. Edwin Lombard, vulnerable to allegations of election irregularity.

In contrast, Fowler stated to us his understanding that this unlawful action was inconsequential since, according to the information relayed to him, the machines were opened at most fifteen minutes or so before they should have been. Commissioner Fowler further stated his understanding that Mr. Lombard had not personally authorized the improper action; he identified the Deputy Clerk, Mr. Broussard, as the senior official with the clerk of court's office who was present when the machines were opened. Both McKeithen and Fowler stated that the ceremonial opening of voting machines in the presence of witnesses three days after the election had traditionally been regarded as an important event and election safeguard. However, Fowler nevertheless ventured the opinion that the action of clerk's office personnel in opening the machines early, outside the presence of candidate representatives, and notwithstanding the close and contested nature of this particular election, was an incidental action taken for the innocent purpose of expediting the machine opening process.

While Louisiana law was violated by the opening of some or all Orleans Parish voting machines in the manner described above, the significance of this violation in terms of the opportunity for election fraud will not be clear until further investigation has been completed, with regard to access to the election records locked in the voting machines, the following facts are noteworthy:

The voting machines were in the legal custody of the clerk of court from the time they left the polling place until the unlocking and unsealing of the machines on the third day after the election.

The keys to the voting machines were in the possession of the clerk of court during this same period. They should have been contained in an envelope that remained sealed until the envelope was opened and the keys removed in the presence of witnesses three days after the election. However, because the clerk's employees began opening the machines early and outside the presence of witnesses, it is not known whether, and for how long, the key envelopes remained sealed while in the clerk's custody.

The precinct register, poll lists and other original election records were locked in the voting machines, but the rear area of the machines in which they were locked was not sealed; therefore, undetected access to the election records in the machines was possible for anyone possessing a key to the machines.

Prior to the opening of the machines, they were stored in a warehouse controlled by Commissioner Fowler and designated members of his staff. Clerk of Court Lombard had legal custody of the machines during this time, but the extent, if any, to which he and his staff had actual access to the machines is an issue for investigation. Clerk's office personnel may have had access at will to an office area within the warehouse where the machines were stored, and there was unobstructed access from the office area to the part of the warehouse containing the voting machines.

Taken together, the foregoing tends to confirm that the Clerk of Court of Orleans Parish, and presumably persons on his staff, may well have had the ready ability to gain access to the original election records in the voting machines if they so chose. This ability apparently existed for 2–3 days. In combination with the unlawful failure to seal the envelopes and election registers placed in the machines and the unlawful failure to send the other set of election records directly to the Secretary of State, the result in Orleans Parish appears to have been the very situation—a person or small group of persons enjoying access to all copies of crucial election records—that Louisiana law was designed to prevent.

Payments to election commissioners; related issues

Legal Requirement: State law prescribes the qualifications, powers, duties, compensation required training, and method of selection of the precinct election commissioner-in-charge and the other precinct election commissioners who administer the election at the polling places. See La. R.S. 18:424, 18:425, 18:426, 18:431, 18:431.1, 18:433, 18:434. Election commissioners are expressly prohibited from "electioneer[ing], engag[ing] in political discussions, . . . or prepar[ing] a list of persons at the polling place" (La. R.S. 18:425.C), and they may not "in any manner attempt to influence any voter to vote for or against any candidate or election being held in that polling place" (La. R.S. 18:1462. C). As a practical matter, these officials have virtually no opportunity to assist a candidate or ballot proposition at any other polling place on election day, since they are required to report to the polling place at which they serve no later than 5:30 a.m. on election day and to remain there for the duration of the voting and post-voting procedures; the clerk of court must approve the appointment of any replacement commissioner on election day. La. R.S. 18:433.E(2), 18:434.D, 18:434.E. The lawful compensation of election commissioners is prescribed by statute. La. R.S. 18:424.E. 425.E. State law specifically provides that no person shall "[o]ffer money or anything of present or prospective value . . . to influence a commissioner . . . in the performance of his duties on election day." La. R.S. 18:1461.A(8). Election commissioners must be selected at random from a list of duly trained and certified persons. La. R.S. 18:433.B, 18:434.B.

Possible Violation: News media reports earlier this year disclosed that five election commissioners in Orleans Parish had been paid by gambling interests with issues on the November 5, 1996 ballot. They each received from $30 to $800 from Bally's Casino and Harrah's Jazz Co. for canvassing and distributing ballots. Three of the five were commissioners-in-charge. One of the commissioners-in-charge was paid $120 for canvassing on election day. Harrah's and Bally's both denied any awareness that the recipients of these payments were election commissioners.[7]

Whether these, and any other, election commissioners received illegal payments or otherwise engaged in illegal activity, and the extent of any such activity, is unknown at this time. When viewed in the context of the opportunities for election fraud created by the breaches of election safeguards previously discussed, the prospect that the integrity and impartiality of election commissioners may have been compromised is obviously of significant concern. These published admissions by certain election commissioners in Orleans Parish suggest the need for close examination of the method of selection and conduct of other election commissioners, particularly in Orleans Parish where the above-described electoral irregularities occurred.

6. Designation of absentee voters; related issues

Legal Requirement: State law authorizes voters in certain circumstances to vote absentee by mail or absentee in person. Absentee in person voting is permitted from twelve days to six days prior to an election. Voters wishing to vote absentee in person must go to the parish registrar's office or other designated location during this time period, present proper identification, cast an absentee ballot, and sign the precinct register or other absentee voter list. Voters wishing to vote absentee by mail must submit a signed application letter and return their absentee ballots before election day. The registrar must enter the word "absentee" and the date of the election in the precinct register for each person who votes absentee in person or absentee by mail prior to the sixth day before the election. La. R.S. 18:1311.B After the sixth day, absentee by mail votes received in the registrar's office are recorded on a supplemental absentee voters list.

Possible Violation: Based on information provided to us by District Attorney Moreau and his staff, there reportedly are significant discrepancies in election records which suggest a failure to follow statutorily prescribed absentee voting procedures in at least some precincts in Orleans Parish.

Moreau reviewed some Orleans Parish precinct registers before they were produced in response to the Senate's subpoena, and his review found widespread instances where the registrar's office failed to note "absentee" on the precinct register by the names of persons who, according to records maintained by the Commissioner of Elections, did vote by absentee ballot. In the absence of some such identifying mark on the precinct register, it cannot be determined which signatures on the precinct register were supplied by voters on election day and which names were placed on the register before election day.

If our own review of the Orleans Parish election records reveals that election commissioners there did not receive precinct registers properly marked to identify absentee voters and/or did not receive supplemental lists of absentee voters, then a very important safeguard against multiple voting may have been compromised.

7. Retention of election records

Legal Requirement: All voting records and papers must be preserved for at least six months after a general election. La. R.S. 18:403. Certain registration records in federal elections must be preserved for twenty-two months after the election. La. R.S. 18:158.B. In addition, there are special record retention and handling provisions for certain voting records. For instance, the sealed envelope marked "Put in Voting Machine" (P–16) must be, after it is removed from the voting machine at the formal opening, preserved "inviolate" through the election challenge period. La. R.S. 18:573.D. Similarly, the election result cartridges from voting machines must not be disturbed until the election contest period has lapsed. If no contest is filed, the cartridges may be cleared. La. R.S. 18:1376.B(2).

Possible Violation: It is our understanding that local parish officials may have destroyed election records prior to the lapse of the six-month retention period, in violation of state law. East Baton Rouge Parish Clerk Doug Welborn has acknowledged that his office discarded 286 envelopes containing poll materials prior to the expiration of the six-month retention period. In addition, Allen Parish election records apparently were destroyed due to water damage in a leaky warehouse. We will have a clearer understanding of these and any other document retention/destruction issues after review of the documents and responses received recently from local parish registrars and clerks of court pursuant to the Senate's subpoenas.

8. Identification of voters at polls

Legal Requirement: State law requires that election commissioners identify each voter by requiring him or her to submit a current Louisiana driver's license, current registration certificate, other identification card, or by comparison with the descriptive information on the precinct register. La. R.S. 562.D.

Violation: In response to our query regarding the existence of any other known violations of state election laws in November 1996, Secretary of State McKeithen conveyed to us his general understanding that there were widespread violations of the voter identification requirement in the November 1996 election. Mr. McKeithen related that, in his experience, this provision is not vigorously enforced or complied with in many parishes throughout Louisiana.

FOOTNOTES

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[1] "Officials: Senate Investigators Told of Election Mistakes", Associated Press, May 16, 1997.

[2] We have been supplied with a copy of the "Informational Pamphlet for Commissioners-in-Charge and Commissioners on Election Day," a document prepared jointly by the Louisiana Secretary of State and Commissioner of Elections and approved by the Attorney General of Louisiana as required by state law. The document reflects that it was last revised in May 1996. This "Informational Pamphlet" is a useful reference for information about the requirements of state election law.

[3] There is an apparent discrepancy between the Louisiana election code, which expressly requires that the precinct registers be sealed (see La. R.S. 18:571(11); 18:573.E(1)), and the guidance given election commissioners in the Information Pamphlet, which nowhere instructs election commissioners to seal the precinct register (see pp. 14–16).

[4] The clerks of court in Orleans and Jefferson Parishes each wrote letters to the editor of the Times-Picayune that were published on May 21, 1997. Mr. Gegenheimer of Jefferson Parish assets in his letter that his practice conforms to state law because the envelopes are—and on November 5, 1996, were—mailed to the Secretary of State by the Jefferson Parish Clerk of Court before midnight on election day. Mr. Lombard of Orleans Parish apparently does not make the same assertion in his letter, though the wording is ambiguous. Mr. Lombard's letter does, however, respond to assertions by Jenkins workers that they found no Orleans Parish S-19 envelopes at the Secretary of State's office as late as November 12, 1997. Mr. Lombard states that "the Post Office has assured [him] that delivery of all mail sacks was made to the secretary of state before Nov. 12, contrary to allegations by the Jenkins camp."

[5] As noted in footnote 3, Clerks Lombard and Gegenheimer of Orleans and Jefferson Parishes, respectively, each wrote letters to the editor of the Times-Picayune that were published on May 21, 1997. Gegenheimer's letter asserted that the S–19 envelopes were "sealed" by the election commissioners at the precincts and that any tampering by the clerk of court "would be readily discernible." Since we have been advised by Secretary of State McKeithen that none of the S–19 envelopes arrived in his office sealed (as opposed to clasped), we need to examine the S–19 envelopes from Jefferson Parish to test the accuracy of Mr. Gegenheimer's assertion. It is noteworthy that Mr. Lombard makes no similar assertion in his letter to the editor, though he does make the statement that "the U.S. Postal Service provides mail sacks, and seals as well as pickup service for all secretary of state envelopes." Both members of Secretary McKeithen's staff and District Attorney Moreau's assistant advised us specifically that the Orleans Parish S–19 envelopes were not sealed.

[6] Walsh, Bill, "Guide for Poll Workers Faulty, Parts of Policy Broke State Law," New Orleans Times-Picayune, May 17, 1997.

[7] Varney, James, "Casinos' Paid Poll Officials, Records Show Commissioner Got Money for Work on Election Day," New Orleans Times-Picayune, February 27, 1997.

Mr. FORD. Mr. President, I come to the floor to inform my colleagues that as ranking member on the Committee on Rules and Administration, committee Democrats can no longer participate in a joint investigation of allegations of election fraud in the 1996 Louisiana Senate race as alleged by Louis "Woody" Jenkins.

We reached this decision, because what we have learned to date suggests a possible fraud on the U.S. Senate and illegal tampering with witnesses by agents of Mr. Jenkins. This is nothing short of an embarrassment to the Senate and an affront to the people of Louisiana.

This investigation is over budget, it has exceeded the timeframe agreed to, and none of Mr. Jenkins' claims have been substantiated by any credible witnesses.

We come to this decision after waiting 7 months for Mr. Jenkins to provide the committee with credible evidence of multiple voting and of thousands phantom votes, which he has failed to do.

Not only have agents to the committee been unable to locate credible witnesses, but Government Accounting Office auditors have also been unable to substantiate Mr. Jenkins' claims of phantom votes.

Most disturbing, committee members have learned today that there has been continued interference with witnesses to the investigation in Louisiana by agents of Mr. Jenkins. I can't imagine any Member of the Senate, regardless of the party, who would not find this alarming, unacceptable, and certainly nothing the Senate should be party to.

On behalf of Democratic Rules Committee members, I have referred information to the U.S. Department of Justice and asked for an investigation into the incidents of witness tampering and interference with the U.S. Senate investigation.

The results to date have shown that the fraud on which Mr. Jenkins' allegations rest, were not only solicited by a convicted criminal, but involved payment for testimony and are otherwise not credible. There is no way that we, in good conscience, can or should proceed with this investigation.

Mr. President, the fraud has been committed against the U.S. Senate, not against Mr. Jenkins, and the investigation should be terminated now and stop any waste of taxpayers dollars.

TRIBUTE TO JESSE BROWN

Mr. WELLSTONE. Mr. President, I rise today to pay tribute to a dynamic leader, very capable public servant, tenacious veteran's advocate, and a good friend—Veterans' Affairs Secretary Jesse Brown.

I am saddened by the news that Secretary Brown is leaving after four productive and hard working years at the helm of the U.S. Department of Veterans' Affairs. Under his leadership, the VA and veterans have made tremendous progress.

Jesse Brown fought battle after battle to protect, reform, and fully fund veterans' health care. Jesse Brown won most of those battles.

Jesse Brown fought to strengthen benefits for Vietnam veterans exposed to Agent Orange. He fought for their children suffering from Spina Bifida. Jesse Brown won those battles.

Jesse Brown fought to improve the veterans' benefits claims process. He better than anyone knew the importance of timely, accurate, and fair decisions.

Jesse Brown worked hard for veterans with post-traumatic stress disorder, Persian Gulf war veterans, women veterans, homeless veterans, and many others.

Most importantly, Jesse Brown cares about people. I've seen him on many occasions stop what he's doing to visit one-on-one with a veteran in need or a grieving loved one. In an airport, on the street, in a hospital, at VFW post, Jesse always took the time to listen to people and to try to help them. That is what leadership is all about. That is what being an effective public servant is all about. That is what being a veterans' advocate is all about.

Jesse was never afraid to speak his mind and fight for veterans and their families—no matter the strength of the opposition or political risk to him. He did what he thought was right. He was proud to be their advocate and it should come as no surprise when said that being Secretary had been the high point of his life. Jesse Brown, a former Marine wounded in Vietnam, can feel good about his accomplishments and he can feel proud that his place in history is secure. He will be known forever as the Secretary for Veterans' Affairs. He will be known as one of the best veterans' advocates the country has ever seen.

Here are some of the comments that veterans, their families, and veterans' advocates have shared with me since learning the news that Jesse is leaving the VA.

> Jesse brought to the VA real experience, knowledge, and wisdom to prepare the VA for the 21st Century. We'll miss him."—Bernie Melter, Commissioner, Minnesota Department of Veterans' Affairs.

> Jesse Brown's commitment to veterans will never be questioned and his tenure as Secretary for Veterans Affairs will go down in history as the greatest advocate for veterans we'll ever see.—Duane Krueger, Vietnam veteran and Anoka County Veterans Service Officer.
>
> Secretary Brown's departure is a major loss for all veterans. His advocacy for veterans was without regard to political affiliation and was based upon the fact that as a veteran you had earned your entitlement.—Wayne Sletten, Vietnam era veteran and Lake County Veterans' Service officer.
>
> In my personal opinion Secretary Jesse Brown was the best leader of the VA we've ever had.—Chuck Milbrandt, Director, Minneapolis VA Medical Center.
>
> At a time when my family was struggling to obtain my late husband's benefits for Agent Orange, Jesse took the time to personally review the case and ensure that we received all the benefits to which we were entitled. We owe a great debt of gratitude to Jesse Brown and his commitment to helping people.—Leesa Gilmore, widow of Vietnam Veteran Tim Gillmore.
>
> Secretary Jesse Brown will be sorely missed by all of us at the St. Paul VA Regional Office and Insurance Center. He was a strong and fair leader and served as an excellent role model on how we ought to serve veterans and their dependents. We will miss his guidance, candor, and wit. We wish him the best of luck in future endeavors and know that he will continue to be a strong advocate for all veterans.—Ron Henke, Director, St. Paul VA Regional Office and Insurance Center.

These are some of the many people who have expressed their admiration and respect for Jesse Brown and who want to recognize his many achievements during his tenure in office.

For me, I will dearly miss working side-by-side with Jesse fighting for veterans and their families. Like veterans in Minnesota, he has been my teacher and today here in the U.S. Senate I am proud to honor him and thank him for his incredible service and wonderful friendship.

Mr. President, I ask my colleagues to join me in paying tribute to VA Secretary Brown and properly recognize him for his many years of service and commitment to the Nation and her veterans.

MEDICARE PROVISIONS VIOLATE BIPARTISAN BUDGET AGREEMENT

Mrs. MURRAY. Mr. President, as a Member of the Senate Budget Committee, I have spent the last four months in ongoing negotiations working towards the enactment of a real, balanced budget plan. I was part of the bipartisan negotiations that resulted in the historic balanced budget agreement. Getting to this agreement was not an easy task, but I realized that the need to get to balance was critical. I negotiated in good faith and believed that the final product was an equitable, fiscally sound agreement that did balance the budget without jeopardizing vital programs.

The agreement ensured the continued solvency of Medicare. It guaranteed that Medicare would remain an affordable health insurance program that provided quality health care for millions of senior citizens. The agreement also allowed for an expansion of health insurance for 10 million children that have no health insurance. It called for the largest investment in education in over 30 years and it would provide real tax relief for working families. While I still had some reservations about the agreement, I supported the package because I knew that in any good faith negotiation one can never expect to win on all points. It was not a perfect agreement and as I have said in the past, it is not the one that I would have produced. But, it was a bipartisan, fiscally sound balanced budget agreement.

The agreement called for $204 billion in net deficit reduction. This would be in addition to the over $200 billion in deficit reduction already accomplished as a result of the 1993 deficit reduction package. The agreement built on this successful deficit reduction package which resulted in 4 straight years of declining deficits. In 1993, the annual Federal deficit was close to $300 billion, for 1997 the Congressional Budget Office estimates that the deficit could fall to $70 billion. I was proud to be part of this deficit reduction effort and believed that we could get our fiscal house in order.

Following passage of S. Con. Res. 27, the FY98 Budget Resolution, which incorporated the balanced budget agreement, I was hopeful that a fair, equitable and fiscally sound balanced budget would be in place by the end of the year. I negotiated in good faith; I agreed to adhere to the agreement; and I was of the belief that my colleagues would do the same.

Unfortunately, the reconciliation spending measure adopted by the Senate, violates this bipartisan agreement. But, more importantly, it violates the commitment I made to my constituents when I was elected to the U.S. Senate.

One of the commitments I made to the people of Washington State was to work to expand affordable health care for all Americans. I am proud of the steps we have taken to improve access to health care for more Americans. Unfortunately, included in this reconciliation legislation is a provision that will deny affordable, quality health insurance for those Americans age 65 to 67. Increasing the Medicare eligibility age from 65 to 67 will deny affordable, quality health insurance for millions of Americans. I cannot in all good conscience support legislation that increases the number of uninsured Americans. We should be looking to reduce the numbers of Americans with no health security, not adding to it.

I did not come to this decision without a great deal of thought. I have listened to the debate on both sides of these issues. I cannot help but think about the impact that these provisions will have on senior citizens who have worked hard all of their lives and are now facing escalating health care costs and limited retirement income. I only need to think about my own parents to truly understand what these changes mean to our senior citizens. When my father was diagnosed with M.S. my parents saw their insurance deductibles increase to $2,000 a piece overnight. Their premiums also increased dramatically every year. There was nothing that they could do as there were no other available health insurance plans that would cover my father. They were struggling to simply make their insurance payments and other basic life necessities. My father was desperate to turn 65 because he was not sure how much longer he could afford insurance or how much longer they would cover him. An additional two more years of skyrocketing premiums and deductibles would have financially devastated my parents. My father may have lost his insurance if he had to wait two additional years. He would have lost access to effective therapies for treating MS and slowing the progress of this crippling illness. As it was I know that there were times when my parents feared going to the doctors because of the impact on their deductible and premiums. Is this what we want for our parents?

My parents knew that once they reached 65 they would have some guarantee of affordable, quality health insurance. Prior to this, there simply was no guarantee. They knew that prior to 65 that were one illness away from financial disaster. If we act to increase the eligibility age to 67 there will be those seniors who face an even worse fate and will be at the mercy of insurance companies. They will see their retirement security jeopardized and their access to preventive health care gone. We should be encouraging greater access to preventive health care as it controls long term health care costs. Increasing the age to 67 will only make people sicker and poorer. I cannot support this type of outcome.

There is another troubling provision within the reconciliation package which, I might add was only introduced yesterday and was not part of the balanced budget agreement. With less than 24 hours to consider the implications, the Senate is ready to means test Part B premiums. Medicare premiums could climb to over $2,000 for senior citizens earning more than $50,000. The Social Security Administration would now have to know the exact income of every beneficiary for any given month.

The administrative burdens alone warrant further Congressional review. Additionally, adding to the cost of the administration of Social Security represents a direct attack on the Social

Security Trust Fund. The means testing as proposed in the reconciliation package that the Senate adopted is unworkable.

There are simply too many questions regarding these provisions. We need more time and debate before we act to radically alter Medicare. Medicare remains one of the most successful antipoverty programs ever adopted by Congress. The popularity of this program speaks to the success of the program and the success of efforts to ensure health care security for our senior citizens. Enacting an increase in the eligibility age and means testing Part B premiums will do little to address the long term financial solvency issues. What it will do is undermine our commitment to senior citizens and jeopardize the success of the Medicare program.

We all know that real Medicare reforms are necessary. When the so-called baby boom generation begins to retire there will be a significant increase in Medicare enrollees. I am ready to face the challenge of enacting real comprehensive Medicare reforms. However, I am concerned that these two provisions including in the reconciliation package are being offered as some kind of panacea to real reform and will do little to address long term solvency concerns. Increasing the age for Medicare eligibility and the means testing proposal will do little to control Medicare costs, they will, however, devastate millions of senior citizens. This reconciliation bill is not the appropriate venue for significant Medicare changes. Reforming any program that serves over 33 million Americans requires a more cautious and thorough process.

I came to the debate hoping that at the very least we would remove these two provisions from the legislation. I supported amendment that would have conformed this reconciliation bill to the equitable provisions included in the balanced budget agreement. It now appears that this is unlikely and these two provisions will remain in the bill. I could not support any legislation that would jeopardize affordable, quality health care for millions of senior citizens.

It is truly unfortunate that we were not successful in eliminating these provisions as there are many aspects of this legislation that do adhere to the balanced budget agreement and could have positive fiscal, economic and social ramifications. But, I had to send the message that I could not support any legislation that jeopardizes Medicare.

It is difficult for me to vote no on this entire reconciliation package. This legislation will fix the devastating impact of welfare reform for disabled, low-income, legal immigrants. It provides an additional $16 billion for children's health care initiatives. It allows for an expansion of prevention benefits for Medicare beneficiaries. I am also pleased that the Managers accepted my amendment to clarify that States can waive victims of domestic violence from the punitive welfare reform requirements. I am grateful to the Chairman of the Budget Committee for accepting this important amendment and am disappointed that I cannot support the overall package.

I know that there is a very good chance that these problems could be addressed in Conference as they are not currently included in the reconciliation bill passed in the House. I will make every effort to ensure that these provisions do not survive Conference. I believe that if we can get back to the bipartisan agreement and good faith negotiations, we can still send to the President a balanced budget agreement that he can sign. If we have learned nothing else over the last two years, I sincerely hope that my Colleagues have learned that legislative accomplishments can only happen through honest, bipartisan efforts.

I reluctantly voted no on this reconciliation bill. I want my Colleagues to know that this bill is unacceptable and violates the bipartisan balanced budget agreement. If we can work in Conference to improve the bill and correct the unnecessary Medicare provisions I believe we would have a good balanced budget plan. I urge my Colleagues to put aside their philosophical differences and work to enact the historic balanced budget agreement.

THE COMMUNICATIONS DECENCY ACT

Mr. COATS. Mr. President, the Supreme Court decision against the Communications Decency Act marks a departure from precedent on indecency, and weakens the protection of children by our laws.

The Court, even in this decision, recognizes that Congress has a compelling interest in protecting the physical and psychological well-being of children. In the past, they took that standard to include indecency restrictions on every communications medium of our society—telephones, radio, television, bookstores, video shops.

But with today's decision, the Supreme Court has refused to apply that standard to protect a child on a computer in his or her own home. It argues, instead, that unrestricted access to indecency by adults on the Internet overrides any community interest in the protection of children.

In the Communications Decency Act, we gave a definition of indecency that was upheld by the Courts in case after case. Now the Supreme Court has apparently decided that this definition cannot be applied to the Internet. In other words, though an image displayed on a television screen would be indecent, an image displayed on a computer screen would not. It is difficult to understand how a child would understand the difference. It is the content, not the technology, that should concern us.

The Supreme Court did leave some room for Congress to redraft the CDA along less restrictive lines, but, in the process, creates a privileged place for computer indecency, safe from the laws we apply everywhere else in our society. So, under the Supreme Court's guidelines, it is permissible for an adult to send indecent material directly to a child by e-mail, but not to speak the same indecency over the telephone. What an adult may not send a child through the U.S. mail, he may send a child via e-mail. This is inconsistent and incomprehensible. It is also now the official position of the U.S. Supreme Court.

What this Court is saying is that it recognizes indecency when it hears it on the radio, sees it on television, views it on a magazine rack, or overhears it on the telephone, but it does not recognize it on-line. Computer technology may be confusing to many of us, but it is not that confusing. The confusion lies with a Court that protects children from indecency everywhere but the one place most children want to be.

I expect that Congress will revisit this issue, within the restrictions provided by the Court. But parents must understand that the Internet has been declared an exception to every other American law on the provision of indecency to children. It is a place where the predators against your children's innocence have legal rights, announced by distinguished judges. Whatever its virtues, the Internet is not a safe place, without a parent's constant supervision.

The Supreme Court has actually suggested that the very industry which profits from the provision of this material be the guardians of your children's minds—that it regulate itself. It is nice to have the Supreme Court's extra-constitutional advice on these policy matters—though I don't know why it should be more binding than the will of the Congress. I expect that we will have to live with this advice. But I hope that parents will understand that the Supreme Court has not taken your side, or the side of your children, or the side of decency.

There are consequences of giving children free access to an adult culture with coarsened standards—consequences for their minds and souls and futures. Both the Congress and the President took those consequences seriously. The Supreme Court has not.

This Court, which chose yesterday to undermine religious liberty and influence, has now chosen to defend immediate, unrestricted access of children to indecency. This is part of a disturbing pattern.

The Supreme Court is actively disarming the Congress in the most important conflicts of our time—in defense of religious liberty and the character of children.

THE SUPREME COURT'S DECISION DECLARING UNCONSTITUTIONAL THE COMMUNICATIONS DECENCY ACT

Mr. LEAHY. Mr. President, The Supreme Court has made clear that we do not forfeit our First Amendment rights when we go on-line. This decision is a landmark in the history of the Internet and a firm foundation for its future growth. Altering the protections of the First Amendment for on-line communications would have crippled this new mode of communication.

The Communications Decency Act was misguided and unworkable. It reflected a fundamental misunderstanding of the nature of the Internet, and it would have unwisely offered the world a model of online censorship instead of a model of online freedom.

Vigilant defense of freedom of thought, opinion and speech will be crucially important as the Internet graduates from infancy into adolescence and maturity. Giving full-force to the First Amendment on-line is a victory for the First Amendment, for American technology and for democracy.

The Supreme Court posed the right question: "Could a speaker confidently assume that a serious discussion about birth control practices, homosexuality . . . or the consequences of prison rape would not violate the CDA? This uncertainty undermines the likelihood that the CDA has been carefully tailored to the congressional goal of protecting minors from potentially harmful materials."

Mixing government and politics with free speech issues often produces a corrosive concoction that erodes our constitutional freedoms. Congress should not be spooked by new technology into tampering with our old Constitution. Even well-intended laws for the protection of children deserve close examination to ensure that we are not stepping over constitutional lines. The Supreme Court observed:

> we have repeatedly recognized the governmental interest in protecting children from harmful materials. . . . But that interest does not justify an unnecessarily broad suppression of speech addressed to adults. As we have explained, the Government may not reduc[e] the adult population . . . to . . . only what is fit for children.

As a recent editorial in Vermont's Times Argus succinctly noted: "To obey this law, Internet users would have to avoid discussing matters routinely covered in books, magazines and newspapers. Who would want to drive on that kind of information superhighway?"

I sent child molesters to prison when I was a prosecutor, and I am a parent myself. I want no effort spared in finding and prosecuting those who exploit our children, and I want strong laws and strong enforcement to do that. But the CDA is the wrong answer, and I applaud the Court for its decision.

We can spend much time and energy in Congress trying to out-muscle each other to the most popular position on regulating the content of television programs or Internet offerings, and from all appearances, we probably will. We should take heed of the Supreme Court's decision today, however, and be wary of efforts to jump into regulating the content of any form of speech.

Congress did jump when confronted with the CDA. The Supreme Court takes pains in its decision to note at least three times in its opinion that this law was brought as an amendment on the floor of the Senate and passed as part of the Telecommunications Act, without the benefit of hearings, findings, or considered deliberation. As the Supreme Court noted in its decision, I cautioned against such speedy action at the time. Not surprisingly, the end result was passage of an unconstitutional law.

We should not be substituting the government's judgment for that of parents about what is appropriate for their children to access on-line. The Supreme Court pointed out excellent examples of how the CDA would have operated to do just that, noting:

> Under the CDA, a parent allowing her 17-year-old to use the family computer to obtain information on the Internet that she, in her parental judgment, deems appropriate could face a lengthy prison term . . . Similarly, a parent who sent his 17-year-old college freshman information on birth control via e-mail could be incarcerated even though neither he, his child, or anyone in their home community, found the material indecent or patently offensive, if the college town's community thought otherwise.

I attended the Supreme Court's oral argument in this case and was concerned when several of the Justices asked about the "severability" clause in the CDA: They wanted to know how much of the statute could be stricken as unconstitutional and how much could be left standing. The majority of the Supreme Court resisted the temptation to do the job of Congress and judicially re-write the "indecency" and "patently offensive" provisions of the CDA to be constitutional. The Court said: "This Court 'will not rewrite a . . . law to conform it to constitutional requirements."

It is our job to write constitutional laws that address the needs and concerns of Americans. On this issue, our work is not done. There is no lack of criminal laws on the books to protect children on-line, including laws criminalizing the on-line distribution of child pornography and obscene materials and prohibiting the on-line harassment, luring and solicitation of children for illegal sexual activity. Protecting children, whether in cyberspace or physical space, depends on aggressively enforcing these existing laws and supervising children to ensure they do not venture where the environment is unsafe. This will do more—and more effectively—than passing feel-good, unconstitutional legislation.

But, as I said, our work is not done. The CDA became law because of the genuine concern of many Americans about the inappropriate material unquestionably accessible to computer-savvy children over the Internet. Parents, teachers, librarians, content providers, on-line service providers and policy-makers need to come together to find effective ways to address this concern. I have long believed that we need to put the emphasis where it would be most effective: on parental and user empowerment tools to control the information that children may access on-line. I applaud the efforts already underway to bring concerned groups together to define steps we can take to make the on-line world a comfortable one for families.

Also, we should now remove the unconstitutional CDA provisions from our law books. At the beginning of this Congress, Senators FEINGOLD, JEFFORDS, KERRY and I introduced a bill, S. 213, to repeal the Internet censorship provisions of the CDA. We should move promptly to pass that measure.

One of the continuing challenges we will face in making the best use of our burgeoning information technologies is in adding value to all that they offer. Anyone who uses the Internet knows that there is a lot of junk out there. For example, student searching for background on the Holocaust may easily come across diatribes on the Internet claiming that the Holocaust never happened. In our classrooms, in our homes, in our libraries, we must teach our children to be discerning users of this powerful new tool.

We are blessed in the United States to enjoy the oldest and most effective constitutional protections of free speech anywhere. The struggle facing succeeding generations of Americans in preserving free speech liberties often is difficult, and it means standing firm in the face of sometimes fleeting but usually intense political pressures, and I am proud of the 15 Senators who joined with me to vote against the CDA. This is a vindication of that effort.

We have the technology and the temperament to show the world how the Internet can be used to its fullest. This decision has prevented us from succumbing to short-sighted political pressures by adopting a model of censorship instead.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Wednesday, June 25, 1997, the federal debt stood at $5,339,644,139,769.58. (Five trillion, three hundred thirty-nine billion, six hundred forty-four million, one hundred thirty-nine thousand, seven hundred sixty-nine dollars and fifty-eight cents)

One year ago, June 25, 1996, the federal debt stood at $5,114,149,000,000. (Five trillion, one hundred fourteen billion, one hundred forty-nine million)

Five years ago, June 25, 1992, the federal debt stood at $3,944,282,000,000. (Three trillion, nine hundred forty-four billion, two hundred eighty-two million)

Ten years ago, June 25, 1987, the federal debt stood at $2,292,504,000,000. (Two trillion, two hundred ninety-two billion, five hundred four million)

Fifteen years ago, June 25, 1982, the federal debt stood at $1,070,485,000,000 (One trillion, seventy billion, four hundred eighty-five million) which reflects a debt increase of more than $4 trillion—$4,269,159,139,769.58 (Four trillion, two hundred sixty-nine billion, one hundred fifty-nine million, one hundred thirty-nine thousand, seven hundred sixty-nine dollars and fifty-eight cents) during the past 15 years.

DELAYING THE LOAN TO CROATIA

Mr. BIDEN. Mr. President, I rise today in support of delaying a World Bank loan to Croatia until that country fully meets the obligations it agreed to when it signed the Dayton Accords in November 1995.

Two days ago, the Clinton administration announced that it would attempt to block a $30 million World Bank loan to Croatia until Zagreb extradites Croats indicted on war crimes charges and allows Serbian refugees to return to their homes in Croatian territory.

It appears that we may have difficulty in persuading other countries on the World Bank's board to go along with this postponement, but I believe that the United States should stick to its principles.

Mr. President, the horrifying wars that took place in Bosnia and Croatia from 1991 to 1995 had many and complex causes. One of them was the thinly disguised desire of Serbian President Milosevic and Croatian President Tudjman to carve up Bosnia and Herzegovina. The revolt and temporary secession from Croatia by the Krajina Serbs—who themselves were led by extremely unsavory individuals who also carried out atrocities—interrupted the planned cooperation of the two rapacious strongmen in Belgrade and Zagreb.

There is also no doubt, Mr. President, that the Croatian army—trained by private Americans—played a valuable role in turning the tide in Bosnia and Herzegovina in the summer and fall of 1995 as part of its successful campaign to oust the Krajina Serbs from Croatia.

But, Mr. President, the behavior of President Tudjman since then has been deplorable. He has knowingly coddled indicted war criminals, despite his obligation under Dayton to turn them over to the International Tribunal at The Hague. On numerous other occasions, I have spoken out in this Chamber against the atrocities—murder, rape, and vile "ethnic cleansing"—that were perpetrated against innocent civilians in Bosnia.

Most expert observers believe that Bosnian Serbs were responsible for the majority of these heinous acts. But several Bosnian Croats and some Croats from Croatia apparently were among the sadists, as were a few Muslims. That President Tudjman refuses to hand over the indicted who are living in Croatia is an affront to civilized people everywhere, and a direct slap in the face of the United States, which brokered the Dayton Accords.

Moreover, despite pretty rhetoric and laws on the books, Tudjman has thrown up practical roadblocks to the resettlement of ethnic Serb refugees, preferring instead to govern a Croatia that is now much more ethnically homogeneous. I should add, Mr. President, that ethnic Croats who were displaced by Serbs earlier in this decade should also be allowed to return to their homes. Our goal is a peaceful, multi-ethnic, democratic Croatia.

In Herzegovina, President Tudjman continues to rule through thuggish ethnic Croatian proxies headquartered in Mostar. These lawless types have refused all international attempts to integrate Mostar and have resorted to deadly violence against Muslims.

In addition, despite their Bosnian citizenship, the Croats of Herzegovina were allowed to vote in Croatia's national elections earlier this month, providing much of the support by which Tudjman was re-elected in a campaign distinguished by his nearly one-sided access to the media and violence against opposition candidates.

Mr. President, I firmly believe that Croatia will some day re-enter the Western European community to which it alleges it belongs. But Croatia cannot even think of becoming a member of Western institutions like the European Union or NATO until it lives up to its moral and legal commitments.

Postponing the World Bank loan to Croatia would serve as a useful warning to President Tudjman that he cannot escape the consequences of his authoritarian and duplicitous behavior.

I thank the Chair and yield the floor.

JUDICIAL VACANCIES

Mr. LEAHY. Mr. President, last week I spoke at some length about the crisis being created by our failure to move forward expeditiously to fill long-standing judicial vacancies. This week, we have the opportunity to double our confirmations by taking up and approving the five judicial nominees on the Senate Executive Calendar. As the Senate approaches its fifth extended recess, it have found time to confirm only five Federal judges of the 38 nominees the President has sent to us. That is less than one judge per month.

We continue to fall farther and farther behind the pace established by Senator Dole and Senator HATCH in the last Congress. By this time 2 years ago, Senator HATCH had held six confirmation hearings involving 26 judicial nominees and the Senate had proceeded to confirm 26 Federal judges by the end of June—during one of the busiest periods ever, during the first 100 days of the Republicans' Contract with America.

I have spoken often about the crisis being created by the 100 vacancies that are being perpetuated on the Federal courts around the country, as has the Chief Justice of the United States. At the rate that we are currently going more and more vacancies are continuing to mount over longer and longer times to the detriment of greater numbers of Americans and the national cause of prompt justice.

There are another five highly-qualified judicial nominees on the Senate calendar. They should not be held hostage to the resolution of other disputes. I urge the Republican leadership not to use the judiciary as a political pressure point or to involve the judiciary in disagreement over other matters. I would hope that the Senate would move to confirm these five additional judges this week before we adjourn for the 4th of July.

OCEAN SHIPPING REFORM ACT OF 1997

Mr. LOTT. Mr. President, the Ocean Shipping Reform Act of 1997 is a continuation and extension of work initiated in the last Congress by Representative BUD SHUSTER and former Senator Larry Pressler. Their goal was to build a fair and responsible balance in America's international container shipping maritime policy. The purpose was to better reflect the modern maritime marketplace. Unfortunately, it was not achieved because we ran out of time.

In the 105th Congress, a bipartisan group of Senators from the Commerce Committee introduced a modified version of the Ocean Shipping Reform bill. It addressed many of the concerns with last year's bill identified by affected stakeholders. Our plan to move this shipping reform legislation forward has been inclusive, simple, and direct. Under the leadership of Senator HUTCHISON, and working in a bipartisan way, we have developed a bill that reflects a broad consensus. Most stakeholders in this industry are comfortable with it. This doesn't mean they each got everything they wanted. It does mean that a balance was achieved between what they desired and what the other stakeholders would accept. A real compromise. In this Congress, we have worked hard to achieve a consensus, and we will work even harder to keep it.

This bill is not perfect. But the process has been excellent. The Commerce Committee held a hearing and a markup, and innumerable meetings with all affected parties. And throughout the process Senator MCCAIN's staff has made the various iterations of the legislation publicly available. This transparency was important to reaching the compromise.

Mr. President, I believe that it implements real change that will benefit America's ocean shipping industry. When passed and signed into law, S. 414 will help foster the many benefits of increased competition that this industry sorely needs and wants.

Mr. President, it will also merge the Federal Maritime Commission with the Surface Transportation Board to create the United States Transportation Board (USTB) which will ultimately provide an independent federal transportation regulatory board which thinks and acts on intermodal issues.

Mr. GORTON. Mr. President, I appreciate the Majority Leader's efforts to work with me on this important legislation. I also want to thank him for his efforts to address the concerns of all the interested parties involved in the ocean shipping industry. I identified three areas in the bill we passed in Committee that were of particular concern to me and that I wanted addressed before the bill was taken to the full Senate. The Leader has worked diligently to address my concerns. I too believe this reform is desperately needed. I am pleased that the committee took the extra time after the markup to complete the work on this bill. An agreement was reached that the majority of America's shipping stakeholders can accept: the ports, longshore labor, shippers, and carriers.

Mr. LOTT. The stakeholders wanted more. I wanted more. I know my colleagues wanted more. My friend Mr. GORTON was explicit in his desire for more reform.

Mr. GORTON. I agree with the Leader. This bill is not perfect and it does not accomplish every reform that I want to see for this industry. But I believe it is a significant improvement over the status quo. I do recognize that Mrs. HUTCHISON's approach was to make change incrementally and accept compromises to successfully move this bill forward and bring it to the floor.

Mr. LOTT. I appreciate Senator GORTON's candor and his support for both the process and the bill. And, I appreciated Senator GORTON's willingness to accept compromise in order to reach a consensus which enables this bill to move forward.

Mr. President, I know that during the markup, Senator GORTON expressed strong reservations about the bill. He made it clear that three issues needed to be addressed prior to a vote on the floor. And, a collaborative effort was used to try to accommodate these changes. Mr. President, two of the three issues were incorporated into the bill. The negotiations were tough, but all stakeholders worked together in an open and honest fashion to reach a consensus on this reform legislation.

Mr. GORTON. Let me take a moment to briefly review my concerns. First, I requested that certain discrimination prohibitions concerning service contracts be applied to carriers only when they are working together, not when they are operating as individual companies.

Second, I sought to amend the forest products definition to incorporate certain products, such as laminated beams or panels.

And third, I wanted shippers and carriers to be able to keep confidential the essential terms of their service contracts. Since the markup, there has been a sincere effort by all parties to work with me.

Mr. President, throughout this consensus building process, the Committee was dedicated to working through my concerns, and I believe that the Majority Leader did his best.

Common ground was found on the first two of my concerns. I appreciate the modification of the service contract discrimination provisions so that they apply only to carriers when they work collectively. This modification is particularly important to me and to my shippers in Washington state.

I also appreciate that the definition of forest products was modified as I requested.

Regrettably, we were unable to reach an agreement on the confidentiality for service contracts. We explored the idea of not requiring carriers to publish information regarding volume, but this, unfortunately, was rejected.

Mr. President, I would like to reserve the right to address the confidentiality issue in an amendment when the full Senate considers this bill.

Mr. LOTT. Mr. President, I appreciate Senator GORTON's kind words, and recognize his right to continue to advocate for the confidentiality provision. However, I am convinced that any further reduction in service contract reporting provisions would erode the broad consensus achieved by the Committee for this bill.

Mr. President, we must remember that when the Committee set out to develop this legislation, we agreed to move forward incrementally and work to keep a broad consensus.

And, I want more reform, but I also want a bill.

I look forward to a vigorous debate on the service contract reporting provision if Senator GORTON decides to bring an amendment to the floor. Let me be clear. I will not support such an amendment because I believe that in the end, it would erode support for final passage of this important maritime legislation.

Mr. President, I want all our colleagues to thank Senator GORTON for his fine work on this bill. He has challenged us to improve the bill, and in doing so, he has expanded the reforms it provides. This is good for America. This is good for America's container shipping industry. This is good for the great state of Washington.

Mr. President, I ask our colleagues to support our bill to accomplish meaningful reform in this important maritime industry.

Mr. President, one final comment, I pledge to bring this bill to the floor in this session of the 105th Congress. It is overdue. It is bipartisan. It is supported by all stakeholders of the maritime industry.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT CONCERNING THE NATIONAL EMERGENCY WITH RESPECT TO LIBYA—MESSAGE FROM THE PRESIDENT—PM 48

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs.

To the Congress of the United States:

I hereby report to the Congress on the developments since my last report of January 10, 1997, concerning the national emergency with respect to Libya that was declared in Executive Order 12543 of January 7, 1986. This report is submitted pursuant to section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c); section 204(c) of the International Emergency Economic Powers Act ("IEEPA"), 50 U.S.C. 1703(c); and section 505(c) of the International Security and Development Cooperation Act of 1985, 22 U.S.C. 2349aa-9(c).

1. As previously reported, on January 2, 1997, I renewed for another year the national emergency with respect to Libya pursuant to the IEEPA. This renewal extended the current comprehensive financial and trade embargo against Libya in effect since 1986. Under these sanctions, virtually all trade with Libya is prohibited, and all assets owned or controlled by the Libyan government in the United States or in the possession or control of U.S. persons are blocked.

2. There have been no amendments to the Libyan Sanctions Regulations, 31 C.F.R. Part 550 (the "Regulations"), administered by the Office of Foreign Assets Control (OFAC) of the Department of the Treasury, since my last report on January 10, 1997.

3. During the last 6-month period, OFAC reviewed numerous applications for licenses to authorize transactions under the Regulations. Consistent with OFAC's ongoing scrutiny of banking transactions, the largest category of license approvals (68) concerned requests by non-Libyan persons or entities to unblock transfers interdicted because of what appeared to be Government of Libya interests. Two licenses authorized the provision of legal services to the Government of Libya in connection with actions in U.S. courts in which the Government of Libya was named as defendant. Licenses were also issued authorizing diplomatic and U.S. government transactions and to permit U.S. companies to engage in transactions with respect to intellectual property protection in Libya. A total of 75 licenses were issued during the reporting period.

4. During the current 6-month period, OFAC continued to emphasize to the international banking community in the United States the importance of identifying and blocking payments made by or on behalf of Libya. The office worked closely with the banks to assure the effectiveness in interdiction software systems used to identify such payments. During the reporting period, more than 100 transactions potentially involving Libya were interdicted.

5. Since my last report, OFAC collected 13 civil monetary penalties totaling nearly $90,000 for violations of the U.S. sanctions against Libya. Ten of the violations involved the failure of banks to block funds transferred to Libyan-controlled financial institutions or commercial entities in Libya. Three U.S. corporations paid the OFAC penalties for export violations as part of the global plea agreements with the Department of Justice. Sixty-seven other cases are in active penalty processing.

6. Various enforcement actions carried over from previous reporting periods have continued to be aggressively pursued. Numerous investigations are ongoing and new reports of violations are being scrutinized.

7. The expenses incurred by the Federal Government in the 6-month period from January 7 through July 6, 1997, that are directly attributable to the exercise of the powers and authorities conferred by the declaration of the Libyan national emergency are estimated at approximately $660,000,00. Personnel costs were largely centered in the Department of the Treasury (particularly in the Office of Foreign Assets Control, the Office of the General Counsel, and the U.S. Customs Service), the Department of State, and the Department of Commerce.

8. The policies and the actions of the Government of Libya continue to pose an unusual and extraordinary threat to the national security and foreign policy of the United States. In adopting United Nations Security Council Resolution 883 in November 1993, the Security Council determined that the continued failure of the Government of Libya to demonstrate by concrete actions its renunciation of terrorism, and in particular its continued failure to respond fully and effectively to the requests and decisions of the Security Council in Resolutions 731 and 748, concerning the bombing of the Pan Am 103 and UTA 772 flights, constituted a threat to international peace and security. The United States will continue to coordinate its comprehensive sanctions enforcement efforts with those of other U.N. member states. We remain determined to ensure that the perpetrators of the terrorist acts against Pan Am 103 and UTA 772 are brought to justice. The families of the victims in the murderous Lockerbie bombing and other acts of Libyan terrorism deserve nothing less. I shall continue to exercise the powers at my disposal to apply economic sanctions against Libya fully and effectively, so long as those measures are appropriate, and will continue to report periodically to the Congress on significant developments as required by law.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 26, 1997*.

REPORT CONCERNING THE CORPORATION FOR PUBLIC BROADCASTING—MESSAGE FROM THE PRESIDENT—PM 49

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Commerce, Science, and Transportation.

To the Congress of the United States:

In accordance with the Communications Act of 1934, as amended (47 U.S.C. 396(i)), I transmit herewith the Annual Report of the Corporation for Public Broadcasting for Fiscal Year 1996 and the Inventory of the Federal Funds Distributed to Public Telecommunications Entities by Federal Departments and Agencies: Fiscal Year 1996.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 26, 1997*.

MESSAGES FROM THE HOUSE

At 12:44 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 108. Concurrent resolution providing for an adjournment or recess of the two Houses.

At 6:59 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2014. An act to provide for reconciliation pursuant to subsections (b)(2) and (d) of section 105 of the concurrent resolution on the budget for fiscal year 1998.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 105. Concurrent resolution expressing the sense of the Congress relating to the elections in Albania scheduled for June 29, 1997.

ENROLLED BILL SIGNED

At 7:37 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 1553. An act to amend the President John F. Kennedy Assassination Records Collection Act of 1992 to extend the authorization of the Assassination Records Review Board until September 30, 1998.

ENROLLED BILL SIGNED

The following enrolled bills, previously signed by the Speaker of the House, were signed on June 26, 1997, by the President pro tempore (Mr. THURMOND):

H.R. 1306. An act to amend the Federal Deposit Insurance Act to clarify the applicability of host State laws to any branch in such State of an out-of-State bank.

H.R. 1902. An act to immunize donations made in the form of charitable gift annuities and charitable remainder trusts from the antitrust laws and State laws similar to the antitrust laws.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2336. A communication from the Congressional Review Coordinator of the Marketing and Regulatory Programs, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, a rule entitled "Importation of Beef from Argentina" (RIN0579-AA71) received on June 24, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2337. A communication from the Administrator, U.S. Agency for International Development, transmitting, pursuant to law, a report relative to the appropriated funds as of March 31, 1997; to the Committee on Foreign Relations.

EC-2338. A communication from the Assistant Secretary of Legislative Affairs, U.S. Department of State, transmitting, pursuant to law, a report for the period April 1, 1996 to September 30, 1996; to the Committee on Foreign Relations.

EC-2339. A communication from the Assistant Secretary of Legislative Affairs, U.S. Department of State, transmitting, pursuant to law, a notice of proposed issuance of an export license; to the Committee on Foreign Relations.

EC-2340. A communication from the Assistant Secretary of Legislative Affairs, U.S. Department of State, transmitting, pursuant to law, a proposed license for the export of defense articles; to the Committee on Foreign Relations.

EC-2341. A communication from the Assistant Secretary of Legislative Affairs, U.S. Department of State, transmitting, pursuant to law, a proposed Manufacturing License Agreement with the United Kingdom; to the Committee on Foreign Relations.

EC-2342. A communication from the Director, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report for H.R. 1871; to the Committee on the Budget.

EC-2343. A communication from the Chief of the Regulations Unit, Office of Chief Counsel, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, a report of Revenue Rule 97-28, received on June 25, 1997; to the Committee on Finance.

EC-2344. A communication from the U.S. Trade Representative, Executive Office of the President, transmitting, a draft of proposed legislation entitled "United States-Caribbean Basin Trade Enhancement Act"; to the Committee on Finance.

EC-2345. A communication from the U.S Trade Representative, Executive Office of the President, transmitting, a draft of proposed legislation relative to the Generalized System of Preferences Reauthorization Act; to the Committee on Finance.

EC-2346. A communication from the U.S. Trade Representative, Executive Office of the President, transmitting, a draft of proposed legislation relative to the OECD Shipbuilding Trade Agreement Act; to the Committee on Finance.

EC-2347. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, a report of a rule relative to Announcement 97-61; to the Committee on Finance.

EC-2348. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, a report of a rule relative to Notice 97-35; to the Committee on Finance.

EC-2349. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, a report of a rule relative to Revenue Procedure 97-30, received on June 23, 1997; to the Committee on Finance.

EC-2350. A communication from the Secretary of Labor, transmitting, pursuant to law, a report relative to funds under the Trade Act of 1974; to the Committee on Finance.

EC-2351. A communication from the Director of Regulations Policy, Management Staff, Office of Policy, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, a rule entitled "Thermally Processed Low-Acid Foods" received on June 23, 1997; to the Committee on Labor and Human Resources.

EC-2352. A communication from the Administrator of the U.S. Environmental Protection Agency, transmitting, pursuant to law, a report on the implementation of the Waste Isolation Pilot Plant Land Withdrawal Act; to the Committee on Energy and Natural Resources.

EC-2353. A communication from the Director of the U.S. Office of Personnel Management, transmitting, pursuant to law, the report of a study to evaluate the use of sick leave for family care or bereavement purposes; to the Committee on Governmental Affairs.

EC-2354. A communication from the Secretary of Agriculture, transmitting, pursuant to law, a report relative to two violations of the Antideficiency Act; to the Committee on Appropriations.

EC-2355. A communication from the Secretary of Veterans Affairs, transmitting, a draft of proposed legislation relative to benefits for children of Vietnam Veterans born with spina bifida; to the Committee on Veterans' Affairs.

EC-2356. A communication from the Secretary of Veterans Affairs, transmitting, a draft of proposed legislation relative to the disability pension program; to the Committee on Veterans' Affairs.

EC-2357. A communication from the Office of the Secretary, U.S. Department of the Interior, transmitting, a draft of proposed legislation relative to reduce the fractioned ownership of Indian lands; to the Committee on Indian Affairs.

EC-2358. A communication from the Attorney for National Council of Radiation Protection and Measurements, transmitting, pursuant to law, the report of financial statements for calendar year 1996; to the Committee on the Judiciary.

EC-2359. A communication from the Assistant to the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the rule entitled "Regulation D" received on June 24, 1997; to the Committee on Banking, Housing, and Urban Affairs.

EC-2360. A communication from the Director of the Office of the Secretary of Defense, transmitting, pursuant to law, a rule entitled "DoD Freedom of Information Act Program" received on June 24, 1997; to the Committee on Armed Services.

EC-2361. A communication from the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 12-83 adopted by the Council on May 5, 1997; to the Commitee on Governmental Affairs.

EC-2362. A communication from the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 12-84 adopted by the Council on May 6, 1997; to the Commitee on Governmental Affairs.

EC-2363. A communication from the Inspector General, U.S. General Services Administration, transmitting, pursuant to law, a report under the Inspector General's Act for the period October 1, 1996 to March 31, 1997; to the Committee on Governmental Affairs.

EC-2364. A communication from the Secretary of Defense, transmitting, pursuant to law, a report relative to the National Defense Stockpile Requirements for 1997; to the Committee on Armed Services.

EC-2365. A communication from the Secretary of Defense, transmitting, a notice relative to the retirement of Lieutenant General John E. Miller; to the Committee on Armed Services.

EC-2366. A communication from the Secretary of Defense, transmitting, pursuant to law, a report under the Cooperative Threat Reduction project; to the Committee on Armed Services.

EC-2367. A communication from the Secretary of Defense, transmitting, pursuant to law, a report relative to the National Defense Authorization Act for Fiscal Year 1995; to the Committee on Armed Services.

EC-2368. A communication from the Senior Deputy Assistant Administrator, Bureau for Legislative and Public Affairs, U.S. Agency for International Development, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1996; to the Committee on the Judiciary.

EC-2369. A communication from the Acting Administrator, Farm Service Agency, U.S. Department of Agriculture, transmitting, pursuant to law, a rule relative to the Livestock Indemnity Program (RIN0506-AF15), received on June 26, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2370. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, transmitting, pursuant to law, a rule relative to scallop harvest and crab limits (RIN0648-AF81), received on June 26, 1997; to the Committee on Commerce, Science, and Transportation.

EC-2371. A communication from the Assistant General Counsel for Regulations, U.S. Department of Education, transmitting, pursuant to law, a report relative to funding priority for the Office of Special Education and Rehabilitative Services; to the Committee on Labor and Human Resources.

EC-2372. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report under the Old Americans Act relative to the Aging Annual Report for Fiscal Year 1996; to the Committee on Labor and Human Resources.

EC-2373. A communication from the Assistant Secretary of Legislative Affairs, U.S. Department of State, transmitting, pursuant to law, a proposed license relative to the export of defense equipment under the Arms Export Control Act; to the Committee on Foreign Relations.

EC-2374. A communication from the Assistant Secretary of Legislative Affairs, U.S. Department of State, transmitting, pursuant to law, a proposed manufacturing license relative to Saudi Arabia's armored vehicles under the Arms Export Control Act; to the Committee on Foreign Relations.

EC-2375. A communication from the Assistant Secretary of Legislative Affairs, U.S. Department of State, transmitting, pursuant to law, a proposed license for export defense equipment under the Arms Export Control Act; to the Committee on Foreign Relations.

EC-2376. A communication from the Assistant Secretary of Legislative Affairs, U.S. Department of State, transmitting, pursuant to law, a proposed license for the export of defense articles under the Arms Export Control Act; to the Committee on Foreign Relations.

EC-2377. A communication from the Assistant Secretary of Legislative Affairs, U.S. Department of State, transmitting pursuant to law, a proposed approval for exports to the United Kingdom under the Arms Export Control Act; to the Committee on Foreign Relations.

EC-2378. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report on the youth programs of the Family and Youth Services Bureau for fiscal year 1995; to the Committee on the Judiciary.

EC-2379. A communication from the Secretary of Veterans' Affairs, transmitting, pursuant to law, the report on the valuation of VA's portfolio of loans, notes, and guarantees, and other collateralized debts; to the Committee on Veterans' Affairs.

EC-2380. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report on highway signs for the National Highway System; to the Committee on Environment and Public Works.

EC-2381. A communication from the Director of the Office of Regulatory Management and Information, U.S. Environmental Protection Agency, transmitting, pursuant to law, five rules including a rule entitled Tebuconazole (FRL-5849-2, 5838-7, 5718-7, 5720-4, 5725-7) received on June 24, 1997; to the Committee on Environment and Public Works.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment:

S. 231. A bill to establish the National Cave and Karst Research Institute in the State of New Mexico, and for other purposes (Rept. No. 105-37).

S. 423. A bill to extend the legislative authority for the Board of Regents of Gunston Hall to establish a memorial to honor George Mason (Rept. No. 105-38).

S. 669. A bill to provide for the acquisition of the Plains Railroad Depot at the Jimmy Carter National Historic Site (Rept. No. 105-39).

S. 731. A bill to extend the legislative authority for construction of the National Peace Garden memorial, and for other purposes (Rept. No. 105-40).

By Mr. THOMPSON, from the Committee on Governmental Affairs, without amendment:

H.R. 173. A bill to amend the Federal Property and Administrative Services Act of 1949 to authorize donation of surplus Federal law enforcement canines to their handlers.

H.R. 680. A bill to amend the Federal Property and Administrative Services Act of 1949 to authorize the transfer to States of surplus personal property for donation to nonprofit providers of necessaries to impoverished families and individuals.

S. 307. A bill to amend the Federal Property and Adminstrative Services Act of 1949 to authorize the transfer to States of surplus personal property for donation to nonprofit providers of assistance to impoverished families and individuals, and for other purposes.

By Mr. CHAFEE, from the Committee on Environment and Public Works, without amendment:

S. 833. A bill to designate the Federal building courthouse at Public Square and Superior Avenue in Cleveland, Ohio, as the "Howard M. Metzenbaum United States Courthouse."

By Mr. THOMPSON, from the Committee on Governmental Affairs, without amendment:

S. 861. A bill to amend the Federal Property and Administrative Services Act of 1949 to authorize donation of Federal law enforcement canines that are no longer needed for official purposes to individuals with experience handling canines in the performance of law enforcement duties.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. THURMOND, from the Committee on Armed Services:

IN THE ARMY

The following-named officer for appointment in the U.S. Army, to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. David J. Kelley, 7993

IN THE ARMY

The following-named officer for appointment in the U.S. Army to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Randolph W. House, 7507

(The above nominations were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. MURKOWSKI:

S. 964. A bill to direct a property conveyance in the State of California; to the Committee on Energy and Natural Resources.

S. 965. A bill to amend title II of the Hydrogen Future Act of 1996 to extend an authorization contained therein, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BREAUX:

S. 966. A bill to provide legal standards and procedures for suppliers of raw materials and component parts for medical devices and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. MURKOWSKI (for himself and Mr. STEVENS):

S. 967. A bill to amend the Alaska Native Claims Settlement Act and the Alaska National Interest Lands Conservation Act to benefit Alaska natives and rural residents, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. MACK:

S. 968. A bill to provide for special immigrant status for certain aliens working as journalists in Hong Kong; to the Committee on the Judiciary.

By Mr. D'AMATO (for himself, Mr. CHAFEE, and Mr. TORRICELLI):

S. 969. A bill ordering the preparation of a Government report detailing injustices suffered by Italian Americans during World War II, and a formal acknowledgement of such injustices by the President; to the Committee on the Judiciary.

By Mr. CONRAD (for himself and Mr. BUMPERS):

S. 970. A bill to amend the Immigration and Nationality Act to exempt certain aliens who work for the Department of Veterans Affairs from the requirement that they work only in areas designated as having a shortage of health-care professionals; to the Committee on the Judiciary.

By Mr. LAUTENBERG (for himself and Mr. TORRICELLI):

S. 971. A bill to amend the Federal Water Pollution Control Act to improve the quality of coastal recreation waters, and for other purposes; to the Committee on Environment and Public Works.

By Mr. REED (for himself, Mr. CHAFEE, Mr. COATS, and Mr. INHOFE):

S. 972. A bill to amend the Internal Revenue Code of 1986 to prohibit any deduction for gambling losses; to the Committee on Finance.

By Mr. REED (for himself and Mr. CHAFEE):

S. 973. A bill to designate the United States Post Office building located at 551 Kingstown Road in Wakefield, Rhode Island, as the "David B. Champagne Post Office Building"; to the Committee on Governmental Affairs.

By Mr. REED:

S. 974. A bill to amend the Immigration and Nationality Act to modify the qualifications for a country to be designated as a visa waiver pilot program country; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MURKOWSKI:

S. 964. A bill to direct a property conveyance in the State of California; to the Committee on Energy and Natural Resources.

THE WARD VALLEY LAND TRANSFER ACT

Mr. MURKOWSKI. Mr. President, today I rise to introduce legislation designed to end an impasse that we've endured for far too long—the stalemate over the Ward Valley low-level radioactive waste facility and efforts to implement an important Federal law—the low level radioactive waste policy amendments.

I am doing this today because of documents that have recently come to light under the Freedom of Information Act and due to the continuing differences between the words spoken under oath by a Presidential nominee before my committee and his actions to date.

For more than 10 years, the State of California acting in complete accordance with Federal law and in cooperation with responsible Federal agencies, has been attempting to open a low-level radioactive waste repository at a Mojave Desert site in Ward Valley.

The long, tortured process costing more that $40 million has included a statewide search resulting in the selection of a virtually unpopulated desert valley; two environmental impact statements under the National Environmental Policy Act; two biological opinions under the Endangered Species Act; and judicial review including the California Supreme Court.

From the outset, the State has been dogged by the lawsuits and protests of a small fringe group of activists.

But in the end, California has met every test.

Ward Valley was found to be safe, and the State issued a license containing more than 130 carefully developed safety and environmental stipulations.

Consistent with its own independent evaluations, the Department of the Interior agreed to sell the land to California for the Ward Valley site in January 1993.

But shortly thereafter, the Department of the Interior abruptly reversed itself, demanding a series of discretionary studies and reviews that, 4 years later, still have no end in sight.

Specifically, the Department of the Interior asked the National Academy of Sciences to review seven technical issues related to the site.

In May 1995, the Academy's report was released. The report was highly favorable to the site selection and each of the seven issues. As a consequence, Interior Secretary Babbitt indicated that he intended to transfer the site.

Two more months passed.

On July 27, 1995, the President's nominee to be the Deputy Secretary of the Interior, Mr. John Garamendi, appeared before the Energy and Natural Resources Committee and testified under oath, that the Ward Valley issue "will be satisfactorily culminated shortly * * * and I believe it should be."

With that testimony in mind, I recently reviewed documents made available under the Freedom of Information Act.

With the benefit of those documents and other evidence of the systematic delay fostered by the Department of the Interior to block Ward Valley, I have reached the sad conclusion that Congress must intervene to end this stalemate.

Before I go into the disturbing history of this issue and the content of the documents uncovered by the Freedom of Information Act request, some background is important.

There is a tremendous difference between low level radioactive waste and the spent fuel issue the Senate has been debating over the past 2 weeks.

Spent fuel, of course, is the high level waste from nuclear power reactors.

Low level radioactive waste, on the other hand, is composed of items such as medical gowns, biomedical wastes, filters, resins and similar wastes generated from cancer treatment, biomedical research, and other activities.

Low level radioactive waste is generated during cutting-edge research that may help us find a cure for AIDS.

Low level radioactive waste is generated from the development of new drugs and cancer therapies.

Low level radioactive waste is generated by the high tech and biotech industry in the quest for new products and services that will be at the foundation of our 21st century economy.

While it also includes waste from nuclear power production, Congress wisely placed specific limits on the levels which are a State responsibility.

When the Senate was debating the fate of high-level spent fuel, we clearly had a situation where the State of Nevada opposed a repository. The Governor of Nevada opposed it.

But the low level waste issue is vastly different. Governor Wilson of California supports Ward Valley.

The State of California has been working on plans open a low level waste repository in California for the past decade.

They have done so in complete accordance with Federal law, which assigns responsibility for disposal of a specified portion of low level radioactive waste to the States.

Governor Wilson understands that thousands of jobs in California, particularly among the high-tech and biotech industries, absolutely depend on having dependable access to a safe, secure facility for low level radioactive waste.

Governor Wilson understands that countless lives might be saved through the cancer breakthrough or AIDS cure that the use of radioactive materials might bring.

Governor Wilson also understands that low level radioactive waste is currently being stored at hundreds of urban locations all across California.

It's being stored in basements and in parking lot trailers.

It's being stored in warehouses and temporary shelters.

It's on college campuses, in residential neighborhoods, and in hospitals.

And as long as the waste is in these temporary locations in populated areas, it is subject to accidental radioactive releases from fire, earthquakes, and floods.

Governor Wilson is understandably concerned about the health and safety of Californians. He is frustrated by the delays California has faced in trying to get this facility open.

So am I.

I am frustrated by the fact that the President's nominee to be the Deputy Secretary of the Interior, Mr. John Garamendi, appeared before the Energy and Natural Resources Committee on July 27, 1995 and testified under oath, that the Ward Valley issue should and would be quickly resolved.

After that testimony, seven months passed.

Nothing happened.

On February 15, 1996, Deputy Secretary Garamendi indicated that "new information" related to a different low-level radioactive waste site at Beatty, Nevada, required further testing at the Ward Valley site and the preparation of yet another Supplemental Environmental Impact Statement (SEIS).

Literally one day before his announcement, the Director of the U.S. Geological Survey said that linkages between the Beatty site and Ward Valley were "too tenuous to have much scientific value."

But the Deputy Secretary ignored the Director's scientific advice. In a public news conference, Deputy Secretary Garimendi indicated that the additional testing would take about four months, and that the preparation of a Supplemental Environmental Impact Statement (SEIS) would take about a year.

On August 5, 1996, months after we expected the testing to be complete, an official of the lab Interior selected to perform the testing said, "Interior Department officials have yet to submit a work plan . . . on the testing they want done."

During this same time frame, Interior Department officials were distributing documents to the public containing factually incorrect information taken verbatim from Ward Valley opponents, even though accurate information was readily available from the Department of Energy.

It now appears that Interior made no effort to check the facts with DOE with respect to the veracity of the information it was providing to the public.

Recently, the Governor of California made me aware of documents he obtained through Freedom of Information Act (FOIA) requests. These documents reveal the following:

Despite the understandable lack of radiological expertise resident in the Department of the Interior, the Department has made no effort to communicate with the federal agency with primary expertise and jurisdiction in the matter—the Nuclear Regulatory Commission.

The professional, non-political, radiological experts of the Department of Energy have indicated that: "Interior's concern that the [Ward Valley] facility lacks an environmental monitoring system has no basis in fact;" the Department of the Interior is attempting to subvert the National Academy of Sciences recommendations with respect to the timing of the tests and nature of the tests to be performed; the Department of the Interior has understated the costs and the time required for the conduct of the tests; and the tests the Department of the Interior has outlined will result in additional litigation regardless of their outcome.

Mr. President, these documents are plain on their face.

But they are particularly troubling since they show the vast difference between the words spoken by Mr. Garamendi in his confirmation hearing, and the actions he has taken since his confirmation.

Let's again review the facts:

Deputy Secretary Garamendi testified under oath that the Ward Valley issue would be, and should be, quickly resolved.

He then called for additional testing that did not conform to the recommendations of the National Academy of Sciences, creating a false linkage in the public's mind between the Beatty site and the Ward Valley site, despite the fact that his own USGS Director said that such a linkage could not be justified by the science.

Deputy Secretary Garamendi spread misinformation about the composition of the radioactive waste stream in Department press materials supplied by project opponents, making no effort to check their veracity with the Department of Energy, the Nuclear Regulatory Commission, or any other agency with expertise in such matters.

Deputy Secretary Garamendi persistently failed to get the testing underway, which he later blamed on the threats of a lawsuit that were not, in fact, made until long after the time he said the tests would be complete.

Indeed, the Department of the Interior has designed a process specifically intended to foster further delay.

Mr. President, over the past month or so there has been a new twist that is frankly the straw that breaks the camel's back.

The State of California, in its continuing efforts to achieve a compromise, has agreed to perform additional testing pursuant to the National Academy of Sciences guidelines prior to the federal land transfer.

Let me make this clear: California has always agreed to do the additional testing . . . the issue of dispute is that Interior insisted the testing be done prior to the land transfer, while California and the National Academy of Sciences said the testing would be best accomplished after the land transfer.

So California has now agreed to perform additional testing prior to the land transfer. They have clearly made efforts to compromise.

I received a letter from Deputy Secretary Garamendi, dated February 27, 1997, which exclaimed that the delays at Ward Valley have gone on long enough, and that welcomed the decision by the State of California to undertake additional testing.

When I saw that letter. I thought to myself: Finally, this issue will be resolved.

I was shocked by what happened next:

The BLM produced an administrative determination, allegedly two years old that nobody had ever seen, that will not permit California to undertake the testing that Interior insists must be undertaken prior to the land transfer! They have California in a "Catch-22."

BLM informed the California Department of Health Services that they could not proceed with the testing without a new permit from the BLM and yet another biological consultation with the U.S. Fish and Wildlife Service with respect to the Desert Tortoise.

The BLM based this requirement for a new permit on an "administrative determination," allegedly issued two years ago, which limits surface disturbance associated with pre-construction testing. But further examination revealed several points about this document:

This old administrative determination was unknown to the California Department of Health Services, U.S. Ecology, and even the local BLM District Office until weeks ago.

The local BLM office is unable to provide any evidence that this "administrative determination" was provided to any of the parties whose actions it supposedly limits.

The administrative determination is absurd on its face. The U.S. Fish and Wildlife Service has determined that the 90 acres of surface disturbance associated with the construction and operation of the Ward Valley facility will not jeopardize the desert tortoise or its habitat. Moreover, under current BLM guidelines, ten acre mining operations on other BLM land would not trigger the need for a biological consultation if certain desert tortoise protection measures were incorporated into the plan submitted to BLM. Indeed, five acre mining operations would not even require the applicant to submit a tortoise protection plan for approval. Yet, it is BLM's sudden contention that less than 5 acres of surface disturbance associated with testing will require yet another full biological consultation by the U.S. Fish and Wildlife Service.

Clearly, Mr. President, this latest obstruction, and the reasons cited for it, make no sense in the context of the various other permits and administrative determinations that have been previously granted at the site.

The fact that this administrative decision suddenly surfaced in the midst of state planning to undertake the new tests is highly unusual—perhaps even worthy of investigation by the Inspector General.

Mr. President, earlier this year I asked the General Accounting Office to investigate this matter. That investigation is now underway. At this very moment, GAO auditors are reviewing documents in the District BLM office in California and at Department of Interior headquarters here in Washington.

The GAO report will not be complete until July 15, but let me simply say that their preliminary findings appear to agree with my understanding of the facts.

What we are seeing at the Department of the Interior is a blatant display of bad faith and obstructionism with regard to California's efforts to implement Federal law through development of the Ward Valley site.

I am particularly distressed by this, particularly in light of the words spoken by Mr. Garamendi at his confirmation hearing.

Mr. President, the legislation I am introducing today would convey the BLM land at Ward Valley to California as soon as a check for the fair market value of the land plus $100 is tendered to the Secretary of the Treasury, after the State of California formally tenders a promise to conduct the additional testing as outlined by the National Academy of Sciences.

It's a simple bill. California agrees to do the testing outlined by the National Academy of Sciences, California gets its site, and the taxpayer gets fair market value for the land.

I am willing to consider alternative approaches, but my bottom line is a quick and satisfactory resolution to this issue by qualified experts rather than political activists.

I am willing to entertain negotiated compromises.

I am willing to entertain alternative legislative approaches.

I am not willing to entertain further delay.

In closing, Mr. President, let me share a story that I find particularly rich in irony:

Interior Secretary Babbitt, while the Governor of Arizona, was deeply concerned about the difficulty of the Federal Government to provide for adequate low-level radioactive waste disposal sites. He was asked by the National Governors' Association to chair a task force to look into the problem.

The Babbitt task force recommended that the responsibility for low-level radioactive waste management be given to the States. In 1981, Governor Babbitt wrote that "the siting of a low level nuclear waste facility involves primarily state and local issues that are best resolved at the government level closest to those affected."

There was another Governor at the time who was active in the National Governor's Association and supported this approach: The Governor of Arkansas. His name was Bill Clinton.

Congress listened to these Governors, and passed the Low Level Radioactive Waste Policy Act which gave the States the responsibility for low level radioactive waste management.

California is the first State to license a facility under the Low Level Radioactive Waste Policy Act.

And who are the Federal authorities who are today frustrating California's attempt to follow the law and open its site?

None other than Mr. Babbitt and his Deputy at the Department of the Interior, himself a former California state official.

What an irony that former State officials would declare a State unworthy of trust in carrying out its congressionally assigned duties and responsibilities.

What a difference a few years in Washington can make.

By Mr. MURKOWSKI:

S. 965. A bill to amend title II of the Hydrogen Future Act of 1996 to extend an authorization contained therein, and for other purposes; to the Committee on Energy and Natural Resources.

AUTHORIZATION EXTENSION LEGISLATION

Mr. MURKOWSKI. Mr. President, today I offer a very simple bill with the hope that it can receive expedited consideration in the Senate and be sent over to the House of Representatives for further consideration.

Last year Congress authorized a program to explore the feasibility of integrating hydrogen fuel cells with systems to produce hydrogen from photovoltaic production or solid waste through gasification or steam reforming. This program is outlined in title II of Public Law 104–271, the Hydrogen Future Act of 1996.

The program was originally authorized through 1997 and 1998, with funds to remain available until 1999.

It has since become clear that the program will require a longer period of time to put into place. Accordingly, this bill simply extends the authorization through fiscal year 2001, with funds to remain available until September 30, 2002.

For those who are unfamiliar with the promise of hydrogen energy systems, let me simply add that hydrogen is widely regarded as an important potential energy carrier with the potential to join electricity as a key component of a future sustainable energy system. Unlike coal, oil, or gas, hydrogen cannot be directly mined or produced—it must be extracted from hydrogen-rich materials such as natural gas, biomass, or even water. While there are significant technical and economic barriers that prevent the near-term widespread use of hydrogen as an energy carrier, the eventual promise of hydrogen is compelling. Thus, Congress and the Department of Energy has placed a high priority on hydrogen energy research and development.

I urge that my colleagues support the bill.

By Mr. BREAUX:

S. 966. A bill to provide legal standards and procedures for suppliers of raw materials and component parts for medical devices and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE BIOMATERIALS ACCESS ASSURANCE AND HEALTH SAFETY ACT OF 1997

Mr. BREAUX. Mr. President, today I rise to introduce the Biomaterials Access Assurance and Health Safety act of 1997. While other legislation has been introduced that is intended to protect suppliers of raw materials used in the construction of important medical implants from liability, I believe that my legislation strikes the proper balance between the legitimate concerns of these suppliers and the health insurance and legal rights of patients.

The legislation I am introducing today is similar to biomaterials legislation that has been introduced independently by Senator LIEBERMAN and as a part of S. 5, the Product Liability Fairness Act. It does, however, differ on several important points. First, this bill would not immunize negligent suppliers or supplies who fail to warn of the harmful effects of their products. Second, this bill would be limited to the protection of suppliers of raw materials. Other biomaterials bills, while speaking only of the need to protect suppliers of raw materials, use overly broad language that immunizes a whole host of product manufacturers. Third, unlike the legislation sent to the President last year, this bill would not cover suppliers of materials used in breast implants.

Mr. President, there are two other important differences between this legislation and other biomaterials liability legislation that has been introduced. I believe that this bill can be passed by Congress. I'm not sure that other biomaterials bills can. We know too well that the larger product liability bill will be controversial, and that its passage and enactment are uncertain at best. This biomaterials bill has been introduced as a stand-alone measure and can move independently of the product liability bill.

I also believe that this legislation can be signed into law by President Clinton, and I'm not too sure that other biomaterials liability legislation can. When the President vetoed the product liability bill sent to him by the 104th Congress, H.R. 965, which included biomaterials language similar to that in Senator LIEBERMAN's bill, he noted that he wanted to enact fair and balanced biomaterials liability legislation. However, he felt that the language before him went too far, particularly because it immunized negligent biomaterials suppliers. I believe the President will find the provisions of my bill acceptable.

Mr. President, I think that this bill is the best hope we have of passing fair and meaningful biomaterials legislation, and I urge my colleagues to join me in support of its passage. I ask unanimous consent that the entire text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 966

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This title may be cited as the "Biomaterials Access Assurance Act of 1997."

SEC. 2. FINDINGS.

Congress finds that—

(1) each year millions of citizens of the United States depend on the availability of lifesaving or life enhancing medical devices, many of which are permanently implantable within the human body;

(2) a continued supply of raw materials and component parts is necessary for the invention, development, improvement, and maintenance of the supply of the devices;

(3) most of the medical devices are made with raw materials and component parts that—

(A) are not designed or manufactured specifically for use in medical devices; and

(B) come in contact with internal human tissue;

(4) the raw materials and component parts also are used in a variety of nonmedical products;

(5) because small quantities of the raw materials and component parts are used for medical devices, sales of raw materials and component parts for medical devices constitute an extremely small portion of the overall market for the raw materials and medical devices;

(6) under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), manufacturers of medical devices are required to demonstrate that the medical devices are safe and effective, including demonstrating that the products are properly designed and have adequate warnings or instructions;

(7) notwithstanding the fact that raw materials and component parts suppliers do not design, produce, or test a final medical device, the suppliers have been the subject of actions alleging adequate—

(A) design and testing of medical devices manufactured with materials or parts supplied by the suppliers; or

(B) warnings related to the use of such medical devices;

(8) even though suppliers of raw materials and component parts have very rarely been held liable in such actions, such suppliers have ceased supplying certain raw materials and component parts for use in medical devices because the costs associated with litigation in order to ensure a favorable judgment for the suppliers far exceeds the total potential sales revenues from sales by such suppliers to the medical device industry;

(9) unless alternate sources of supply can be found, the unavailability of raw materials and component parts for medical devices will lead to unavailability of lifesaving and life-enhancing medical devices;

(10) because other suppliers of the raw materials and component parts in foreign nations are refusing to sell raw materials or component parts for use in manufacturing certain medical devices in the United States, the prospects for development of new sources of supply for the full range of threatened raw materials and component parts for medical devices are remote;

(11) it is unlikely that the small market for such raw materials and component parts in the United States could support the large investment needed to develop new suppliers of such raw materials and component parts;

(12) attempts to develop such new suppliers would raise the cost of medical devices;

(13) courts that have considered the duties of the suppliers of the raw materials and component parts have generally found that the suppliers do not have a duty—

(A) to evaluate the safety and efficacy of the use of a raw material or component part in a medical device; and

(B) to warn consumers concerning the safety and effectiveness of a medical device;

(14) attempts to impose the duties referred to in subparagraphs (A) and (B) of paragraph

(13) on suppliers of the raw materials and component parts would cause more harm than good by driving the suppliers to cease supplying manufacturers of medical devices; and

(15) in order to safeguard the availability of a wide variety of lifesaving and life-enhancing medical devices, immediate action is needed—

(A) to clarify the permissible bases of liability for suppliers of raw materials and component parts for medical devices; and

(B) to provide expeditious procedures to dispose of unwarranted suits against the suppliers in such manner as to minimize litigation costs.

SEC. 3. DEFINITIONS.

As use in this Act:

(1) BIOMATERIALS SUPPLIER.—

(A) IN GENERAL.—The term "biomaterials supplier" means an entity that directly or indirectly supplies raw material for use in the manufacture of an implant.

(B) PERSONS INCLUDED.—Such term includes any person who—

(i) has submitted master files to the Secretary for purposes of premarket approval of a medical device; or

(ii) licenses a biomaterials supplier to produce raw materials.

(2) CLAIMANT.—

(A) IN GENERAL.—The term "claimant" means any person who brings a civil action, or on whose behalf a civil action is brought, arising from harm allegedly caused directly or indirectly by an implant, including a person other than the individual into whose body, or in contact with whose blood or tissue, the implant is placed, who claims to have suffered harm as a result of the implant.

(B) ACTION BROUGHT ON BEHALF OF AN ESTATE.—With respect to an action brought on behalf of or through the estate of an individual into whose body, or in contact with whose blood or tissue the implant is placed, such term includes the decedent that is the subject of the action.

(C) ACTION BROUGHT ON BEHALF OF A MINOR OR INCOMPETENT.—With respect to an action brought on behalf of or through a minor or incompetent, such term includes the parent or guardian of the minor or incompetent.

(D) EXCLUSIONS.—Such term does not include—

(i) a provider of professional health care services, in any case in which—

(I) the sale or use of an implant is incidental to the transaction; and

(II) the essence of the transaction is the furnishing of judgment, skill, or services;

(ii) a person acting in the capacity of a manufacturer, seller, or biomaterials supplier; or

(iii) a person alleging harm caused by a breast implant.

(3) HARM.—

(A) IN GENERAL.—The term "harm" means—

(i) any injury to or damage suffered by an individual;

(ii) any illness, disease, or death of that individual resulting from that injury or damage; and

(iii) any loss to that individual or any other individual resulting from that injury or damage;

(B) COMMERCIAL LOSS.—The term includes any commercial loss or loss of or damage to an implant.

(4) IMPLANT.—The term "implant" means—

(A) a medical device that is intended by the manufacturer of the device—

(i) to be placed into a surgically or naturally formed or existing cavity of the body for a period of at least 30 days; or

(ii) to remain in contact with bodily fluids or internal human tissue through a surgically produced opening for a period of less than 30 days; and

(A) suture materials used in implant procedures.

(5) MANUFACTURER.—The term "manufacturer" means any person who, with respect to an implant—

(A) is engaged in the manufacture, preparation, propagation, compounding, or processing (as defined in section 510(a)(1)) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360)(a)(1)) of the implant; and

(B) is required—

(i) to register with the Secretary pursuant to section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360) and the regulations issued under such section; and

(ii) to include the implant on a list of devices filed with the Secretary pursuant to section 510(j) of such Act (21 U.S.C. 360(j) and the regulations issued under such section.

(6) MEDICAL DEVICE.—The term "medical device" means a device, as defined in section 1(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)) and includes any device component of any combination product as that term is used in section 503(g) of such Act (21 U.S.C. 353(g))

(7) RAW MATERIAL.—The term "raw material" means a substance or product that—

(A) has a generic use; and

(B) may be used in an application other than an implant.

(8) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(9) SELLER.—

(A) IN GENERAL.—The term "seller" means a person who, in the course of a business conducted for that purpose, sells, distributes, leases, packages, labels, or otherwise places an implant in the stream of commerce.

(B) EXCLUSIONS.—the term does not include—

(i) a seller or lessor of real property;

(ii) a provider of professional services, in any case in which the sale or use of an implant is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(iii) any person who acts in only a financial capacity with respect to the sale of an implant.

sec. 4. general requirements: applicability; preemption.

(a) GENERAL REQUIREMENTS.—

(1) IN GENERAL.—In any civil action covered by this Act, a biomaterials supplier may raise any defense set forth in section 5.

(A) PROCEDURES.—Notwithstanding any other provision of law, the Federal or State court in which a civil action covered by this Act is pending shall, in connection with a motion for dismissal or judgment based on a defense described in paragraph (1), use the procedures set forth in section 6.

(b) APPLICABILITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), notwithstanding any other provision of law, this Act applies to any civil action brought by a claimant, whether in a Federal or State court, against a manufacturer, seller, or biomaterials supplier, on the basis of any legal theory, for harm allegedly caused by an implant.

(2) EXCLUSION.—A civil action brought by a purchaser of a medical device for use in providing professional services against a manufacturer, seller, or biomaterials supplier for loss or damage to an implant or for commercial loss to the purchaser—

(A) shall not be considered an action that is subject to this Act; and

(B) shall be governed by applicable commercial or contract law.

(c) SCOPE OF PREEMPTION.—

(1) IN GENERAL.—This title supersedes any State law regarding recovery for harm caused by an implant and any rule of procedure applicable to a civil action to recover damages for such harm only to the extent that this Act establishes a rule of law applicable to the recovery of such damages.

(2) APPLICABILITY OF OTHER LAWS.—Any issue that arises under this Act and that is not governed by a rule of law applicable to the recovery of damages described in paragraph (1) shall be governed by applicable Federal or State law.

(d) STATUTORY CONSTRUCTION.—Nothing in this Act may be construed to create a cause of action or Federal court jurisdiction pursuant to section 1331 or 1337 of title 28, United States Code, that otherwise would not exist under applicable Federal or State law.

SEC. 5. LIABILITY OF BIOMATERIALS SUPPLIERS.

(a) IN GENERAL.—

(1) EXCLUSION FROM LIABILITY.—Except as provided in paragraph (2), a biomaterials supplier shall not be liable for harm to a claimant caused by an implant.

(2) LIABILITY.—A biomaterials suppler that—

(A) is a manufacturer may be liable for harm to a claimant described in subsection (b);

(B) is a seller may be liable for harm to a claimant described in subsection (c);

(C) furnishes raw materials that fail to meet applicable contractual requirements or specifications may be liable for a harm to a claimant described in subsection (d).

(D) knows, or through reasonable inquiry could have known:

(i) of the application to which the raw material is to be put;

(ii) of the risks attendant to such use; and

(iii) that the buyer or user of the raw material is ignorant of such risks, but failed to warn such buyer or user of such risks, may be liable for harm to a claimant described in subsection (e); and

(E) furnishes raw materials that are defective may be liable for harm to a claimant as described in subsection (f).

(b) LIABILITY MANUFACTURER.—

(1) IN GENERAL.—A biomaterials supplier may, to the extent required and permitted by any other applicable law, be liable for harm to a claimant caused by an implant if the biomaterials supplier is the manufacturer of the implant.

(2) GROUNDS FOR LIABILITY.—

(A) The biomaterials supplier may be considered the manufacturer of the implant that allegedly caused harm to a claimant only if the biomaterials supplier—

(i) has registered with the Secretary pursuant to section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360) and the regulations issued under such section; and

(ii) included the implant on a list of devices filed with the Secretary pursuant to section 510(f) of such Act (21 U.S.C. 360(f)) and the regulations issued under such section;

(B) is the subject of a declaration issued by the Secretary pursuant to paragraph (3) that states that the supplier, with respect to the implant that allegedly caused harm to the claimant, was required to—

(i) register with the Secretary under section 510 of such Act (21 U.S.C. 360), and the regulations issued under such section, but failed to do so; or

(ii) include the implant on a list of devices filed with the Secretary pursuant to section

510(j) of such Act (21 U.S.C. 360(j)) and the regulations issued under such section, but failed to do so; or

(C) is related by common ownership or control to a person meeting all the requirements described in subparagraph (A) or (B), if the court deciding a motion to dismiss in accordance with section 6(c)(3)(B)(i) finds, on the basis of affidavits submitted in accordance with section 6, that it is necessary to impose liability on the biomaterials supplier as a manufacturer because the related manufacturer meeting the requirements of a subparagraph (A) or (B) lacks sufficient financial resources to satisfy any judgment that the court feels it is likely to enter should the claimant prevail.

(3) ADMINISTRATIVE PROCEDURES.—

(A) IN GENERAL.—The Secretary may issue a declaration described in paragraph (2)(B) on the motion of the Secretary or on petition by any person, after providing—

(i) notice to the affected persons; and

(ii) an opportunity for an informal hearing.

(B) DOCKETING AND FINAL DECISION.—Immediately upon receipt of a petition filed pursuant to this paragraph, the Secretary shall docket the petition. Not later than 180 days after the petition is filed, the Secretary shall issue a final decision on the petition.

(C) APPLICABILITY OF STATUTE OF LIMITATIONS.—Any applicable statute of limitations shall toll during the period during which a claimant has filed a petition with the Secretary under this paragraph.

(c) LIABILITY AS SELLER.—A biomaterials supplier may, to the extent required and permitted by any other applicable law be liable as seller for harm to a claimant caused by an implant if—

(1) the biomaterials supplier—

(A) held little to the implant that allegedly caused harm to the claimant as a result of purchasing the implant after—

(i) the manufacture of the implant and

(ii) the entrance of the implant in the stream of commerce; and

(B) subsequently resold the implant; or

(2) the biomaterials supplier is related by common ownership or control to a person meeting all the requirements described in paragraph (1), if a court deciding a motion to dismiss in accordance with section 6(c)(3)(B)(ii) finds on the basis of affidavits submitted in accordance with section 6 that is necessary to impose liability on the biomaterials supplier as a seller because the related seller meeting the requirements of paragraph (1) lacks sufficient financial resources to satisfy any judgment that the court feels it is likely to enter should the claimant prevail.

(d) LIABILITY FOR VIOLATING CONTRACTUAL REQUIREMENTS OR SPECIFICATIONS.—A biomaterials supplier may, to the extent required and permitted by any other applicable law, be liable for harm to a claimant caused by an implant, if the claimant in an action shows, by a preponderance of the evidence, that—

(1) the raw materials or component parts delivered by the biomaterials supplier either—

(A) did not constitute the product described in the contract between the biomaterials supplier and the person who contracted for delivery of the product; or

(B) failed to meet any specifications that were—

(i) provided to the biomaterials supplier and not expressly repudiated by the biomaterials supplier prior to acceptance of delivery of the raw materials or component parts;

(I) published by the biomaterials supplier;

(II) provided to the manufacturer by the biomaterials supplier; or

(III) contained in a master file that was submitted by the biomaterials supplier to the Secretary and that is currently maintained by the biomaterials supplier for purposes of premarket approval of medical devices; or

(ii) included in the submissions for purposes of premarket approval or review by the Secretary under section 510, 513, 515, or 520 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360, 360c, 360e, or 360j), and received clearance from the Secretary if such specifications were provided by the manufacturer to the biomaterials supplier and were not expressly repudiated by the biomaterials supplier prior to the acceptance by the manufacturer of delivery of the raw materials or component parts; and

(2) such conduct was an actual and proximate cause of the harm to the claimant.

(e) LIABILITY FOR FAILURE TO WARN.—A biomaterials supplier may, to the extent required or permitted by any other applicable law, be liable for harm caused by an implant if the biomaterials supplier—

(1) knew, or through reasonable inquiry could have known;

(A) of the application to which the raw material was to be put;

(B) of the risks attendant to such use;

(C) that the buyer or user of the raw material was ignorant of such risks; and

(2) failed to warn such buyer or user of such risks.

(f) LIABILITY FOR DEFECTIVE MATERIAL.—A biomaterials supplier may, to the extent permitted by any other applicable law, be liable for harm caused by an implant if the harm was in whole or in part caused by a defect in the raw material supplied by the biomaterials supplier.

SEC. 6. PROCEDURES FOR DISMISSAL OF CIVIL ACTIONS AGAINST BIOMATERIALS SUPPLIERS.

(a) MOTION TO DISMISS.—In any action that is subject to this Act, a biomaterials supplier who is a defendant in such action may, at any time during which a motion to dismiss may be filed under an applicable law, move to dismiss the action against it on the grounds that—

(1) the defendant is a biomaterials supplier; and

(2)(A) the defendant should not, for the purposes of—

(i) section 5(b), be considered to be a manufacturer of the implant that is subject to such section; or

(ii) section 5(c), be considered to be a seller of the implant that allegedly caused harm to the claimant;

(iii) section 5(e), be found to have failed to warn the buyer or user of the raw material of its known risks;

(iv) section 5(f), be found to have supplied defective material; or

(B)(i) the claimant has failed to establish pursuant to section 5(d), that the supplier furnished raw materials or component parts in violation of contractual requirements or specifications; or

(ii) the claimant has failed to comply with the procedural requirements of subsection (b).

(b) PROCEEDING ON MOTION TO DISMISS.—The following rules shall apply to any proceeding on a motion to dismiss filed under this section:

(1) AFFIDAVITS RELATING TO LISTING AND DECLARATIONS.—

(A) IN GENERAL.—The defendant in the action may submit an affidavit demonstrating that defendant has not included the implant on a list, if any, filed with Secretary pursuant to section 510(j) of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 360(j)).

(B) RESPONSE TO MOTION TO DISMISS.—In response to the motion to dismiss, the claimant may submit an affidavit demonstrating that—

(i) the Secretary has, with respect to the defendant and the implant that allegedly caused harm to the claimant, issued a declaration pursuant to section 5(b)(2)(B); or

(ii) the defendant who filed the motion to dismiss is a seller of the implant who is liable under section 5(c).

(2) EFFECT OF MOTION TO DISMISS ON DISCOVERY.—

(A) IN GENERAL.—If a defendant files a motion to dismiss under paragraph (1) or (2) of subsection (a), no discovery shall be permitted connection to the action that is subject of the motion, other than discovery necessary to determine a motion to dismiss for lack of jurisdiction, until such time as the court rules on the motion to dismiss in accordance with the affidavits submitted the parties in accordance with section.

(B) DISCOVERY.—If a defendant files a motion to dismiss under subsection (a)(2)(B)(i) on the grounds that the biomaterials supplier did not furnish raw materials or component parts in violation of contractual requirements or specifications, the court may permit discovery, as ordered by the court. The discovery conducted pursuant to this subparagraph shall be limited to issues that are directly relevant to—

(i) the pending motion to dismiss; or

(ii) the jurisdiction of the court.

(3) AFFIDAVITS RELATING STATES OF DEFENDANT.—

(A) IN GENERAL.—Except as provided in clauses (i) and (ii) of subparagraph (B), the court shall consider a defendant to be a biomaterials supplier who is not subject to an action for harm to a claimant caused by an implant, other than an action relating to liability for a violation of contractual requirements or specifications described in subsection (d).

(B) RESPONSES TO MOTION TO DISMISS.—The court shall grant a motion to dismiss any action that asserts liability of the defendant under subsection (b) or (c) of section 5 on the grounds that the defendant is not a manufacturer subject to such section 5(b) or seller subject to section 5(c), unless the claimant submits a valid affidavit that demonstrates that—

(i) with respect to a motion to dismiss contending the defendant is not a manufacturer, the defendant meets the applicable requirements for liability as a manufacturer under section 5(b); or

(ii) with respect to a motion to dismiss contending that the defendant is not a seller, the defendant meets the applicable requirements for liability as a seller under section 5(c).

(4) BASIS OF RULING ON MOTION TO DISMISS.—

(A) IN GENERAL.—The court shall rule on a motion to dismiss filed under subsection (a) solely on the basis of the pleadings of the parties made pursuant to this section and any affidavits submitted by the parties pursuant to this section.

(B) MOTION FOR SUMMARY JUDGEMENT.—Notwithstanding any other provision of law, if the court determines that the pleadings and affidavits made by parties pursuant to this section raise genuine issues as concerning material facts with respect to a motion to dismiss to be a motion for summary judgment made pursuant to subsection (c).

(c) SUMMARY JUDGMENT.—

(1) IN GENERAL.—

(A) BASIS FOR ENTRY OF JUDGMENT.—A biomaterials supplier shall be entitled to entry of judgment without trial if the court finds there is a no genuine issue as concerning any material fact for each applicable element set forth in paragraphs (1) and (2) of section 5(d).

(B) ISSUES OF MATERIAL FACT.—With respect to a finding made under subparagraph (A), the court shall consider a genuine issue of material fact to exist only if the evidence submitted by claimant would be sufficient to allow a reasonable jury to reach a verdict for the claimant if the jury found the evidence to be credible.

(2) DISCOVERY MADE PRIOR TO A RULING ON A MOTION FOR SUMMARY JUDGMENT.—If, under applicable rules, the court permits discovery prior to a ruling on a motion for summary judgment made pursuant to this subsection, such discovery shall be limited solely to establishing whether a genuine issue of material fact exists as to the applicable elements set forth in paragraphs (1) and (92) of section 5(9)(d).

(3) DISCOVERY WITH RESPECT TO A BIOMATERIALS SUPPLIER.—A biomaterials supplier shall be subject to discovery in connection with a motion seeking dismissal or summary judgment on the basis of the inapplicability of section 5(d) or the failure to establish the applicable elements of section 5(d) solely to the extent permitted by the applicable Federal or State rules for discovery against nonparties.

(d) STAY PENDING PETITION FOR DECLARATION.—If a claimant has filed a petition for a declaration pursuant to section 5(b)(3)(A) with respect to a defendant, and the Secretary has not issued a final decision on the petition, the court shall stay all proceedings with respect to that defendant until such time as the Secretary has issued a final decision on the petition.

(a) ATTORNEY FEES.—The court shall require the claimant to compensate the biomaterials supplier for a manufacturer appearing in lieu of a supplier pursuant to subsection (f) for attorney fees and costs, if

(1) the claimant named or joined the biomaterials supplier; and

(2) the court found the claim against the biolmaterials supplier was clearly without merit and frivolous at the time the claim was brought.

By Mr. MURKOWSKI (for himself and Mr. STEVENS):

S. 967. A bill to amend the Alaska Native Claims Settlement Act and the Alaska National Interest Lands Conservation Act to benefit Alaska Natives and rural residents, and for other purposes; to the Committee on Energy and Natural Resources.

TECHNICAL CHANGES TO ANCSA AND ANILCA

Mr. MURKOWSKI. Mr. President, today I rise to introduce legislation on behalf of Alaska Natives and residents of rural Alaska. This legislation makes technical changes to both the Alaska Native Claims Settlement Act [ANCSA] and the Alaska National Interest Lands Conservation Act [ANILCA]. Most of the provisions are similar to those contained in H.R. 2505 passed by the House last year. These changes are the direct result of more than three days of hearings consisting of 14 panels and more than 155 witnesses, the Senate Committee on Energy and Natural Resources held throughout Alaska during the last Congress.

ANCSA CHANGES

Mr. President, ANCSA is 25 years old. This legislation is a living, working document being used to improve the lives of Alaska's Native residents and the future generations of Alaska Natives. We have amended this document numerous times with technical changes in order to make it a more effective piece of legislation.

The changes I am offering to ANCSA today would:

1. Allow Native Regional Corporations the option of retaining mineral estates of native allotments surrounded by ANCSA 12(a) and 12(b) selections.

2. Amend section 22(c) of ANCSA to include the Haida Corporation in the transfer of the administration of certain mining claims.

3. Codify an agreement reached between ANCSA Native corporations regarding revenue sharing on sales of rock, sand and gravel.

4. Direct the Secretary of Interior to determine the value of certain Calista Corporation lands and to complete the exchange authorized by Congress in 1991.

5. Authorize five southeast Alaska Native villages to organize as Native corporations.

There are two provisions that I would like to single out here in my remarks today.

Mr. President, section 5 of this legislation implements a land exchange with the Calista Corporation, an Alaska Native regional corporation organized under the authority of the Alaska Native Claims Settlement Act. This exchange, originally authorized in 1991, by Public Law 102–172, would provide for the United States to acquire approximately 225,000 acres of Calista and village corporation lands and interests in lands within the Yukon Delta National Wildlife Refuge in southwestern Alaska.

The Refuge serves as important habitat and breeding and nesting grounds for a variety of fish and wildlife, including numerous species of migratory birds and waterfowl. As a result, the Calista exchange will enhance the conservation and protection of these vital habitats and thereby further the purpose of ANCSA and the Alaska National Interest Lands Conservation Act.

In addition to conservation benefits, this exchange will also render much needed economic benefits to the Yupik Eskimo people of southwestern Alaska. The Calista region is burdened by some of the harshest economic and social conditions in the Nation. As a result of this exchange, the Calista Corporation will be better able to make the kind of investments that will improve the region's economy and the lives of the Yupik people. In this regard, this provision furthers and carries out the underlying purposes of ANCSA.

This provision is, in part, the result of discussions by the various interested parties. As a result of those discussions, a number of modifications were made to the original package of lands offered for exchange. Chief among these were the addition of another 27,000 acres of surface estate (fee and conservation casements) of village corporation lands, as well as the Calista subsurface estate lying underneath those lands, and the removal of the Tuluksak mineralized parcel from the exchange.

In a last minute agreement to move the bill through the House last year, the total value of the exchange package was reduced by 25% to $30 million. Such a reduction was unwarranted and seriously undermined the utility and benefit of the provision for the public and for Calista and the twelve village corporations involved. This legislation I introduce today restores the value to the Calista exchange portion of this bill.

Mr. President, it is time to move forward with this exchange.

Section 8 of this legislation provides long-overdue authorization to the Southeast Alaska Villages of Haines, Ketchikan, Petersburg, Tenakee, and Wrangell, Alaska that will permit them to establish Native Corporations under ANCSA. The history of these five villages clearly shows that the Alaska Natives who enrolled in them and their heirs have been inadvertently and wrongly denied the financial and cultural benefits of enrollment in a Village, Urban, or Group Corporation.

This section simply amends ANCSA to provide authorization for each of the five Unrecognized Communities to form a Native Corporation pursuant to ANCSA, and directs the Secretary of the Interior, in consultation with the Secretary of Agriculture, to submit to Congress a report regarding lands and other compensation that should be provided to the Corporations formed pursuant to this section. This section specifically requires further Congressional action to provide compensation for these communities.

ANILCA CHANGES

This legislation also addresses changes that need to be made to ANILCA to ensure that the Federal agencies are fairly implementing this legislation consistent with its written provisions and promises. These changes will ensure that its implementation is consistent with the intent of Congress. These are simple changes that among other things:

1. Require all public land managers in Alaska or in a region containing Alaska to take a training course in ANILCA.

2. Authorize continuation of traditional subsistence activities in Glacier

Bay subject to reasonable regulations by NPS.

3. Protect traditional and inholder access in and across ANILCA lands.

4. Protect property owners from having to relinquish ownership interests in cabins and possessions within them on ANILCA lands.

Mr. President, seventeen years ago, Congress enacted the ANILCA. Despite the opposition of many Alaskans, over 100 million acres of land was set aside in a series of vast Parks, Wildlife Refuges, and Wilderness units. Much of the concern about the Act was the impact of these Federal units, and related management restrictions, on traditional activities and lifestyles.

To allay these concerns, ANILCA included a series of unique provisions designed to ensure that traditional activities and lifestyles would continue, that Alaskans would not be subjected to a "permit lifestyle", and that the agencies would be required to recognize the crucial distinction between managing small units surrounded by millions of people in the lower 48 and vast multi-million acre units encompassing a relative handful of individuals and communities in Alaska. The sponsors of ANILCA issued repeated assurances that the establishment of these units would in fact protect traditional activities and lifestyles and not place them in jeopardy.

Early implementation of the Act closely reflected these promises. However, as the years have passed, many of the Federal managers seem to have lost sight of these important representations to the people of Alaska. Agency personnel, trained primarily in lower 48 circumstances, have brought the mentality of restriction and regulation to Alaska. The critical distinctions between management of Parks, Refuges and Wilderness areas in the 49th State and the lower 48 have blurred. The result is the spread of restriction and regulation and the creation of the exact "permit lifestyle" which we were promised would never happen.

I have become increasingly aware of this disturbing trend. In my conversations with Alaskans, I hear many complaints about ever increasing restraints on traditional activities and requirements for more and more paperwork and permits. A whole new "industry" has sprung up to help Alaskans navigate the bureaucratic shoals that have built up during the past few years.

Let me cite a few of the incidents that have come to my attention. The U.S. Fish and Wildlife Service decides it wants to establish a "wilderness management" regime and eliminate motorboat use on a river. It proceeds with the plan until protests cause the Regional Solicitor to advise the Service that its plan violates Section 1110(a) of ANILCA. Owners of cabins built, occupied, and used long before ANILCA are told they must give up their interests in the cabins although Section 1303 expressly enables cabin owners to retain their possessory interests in their cabins. Visitor services contracts are awarded and then revoked because the agencies failed to adhere to the requirements of Section 1307. Small landowners of inholdings seek to secure access to their property and are informed that they must file for a right-of-way as a transportation and utility system and pay the U.S. hundreds of thousands of dollars to prepare a totally unnecessary environmental impact statement. An outfitter spends substantial time and money responding to a request for proposals, submits an apparently winning proposal, and has the agency arbitrarily change its mind and decide to withdraw its request—it does not offer to compensate the outfitter for his efforts.

Mr. President, the legislation I introduce today will ensure that agencies are fairly implementing ANILCA consistent with its written provisions and promises. These technical corrections to ANILCA will ensure that its implementation is consistent with the intent of Congress.

Mr. President, conditions have changed in the 17 years since the passage of ANILCA and we have all had a great deal of experience with the Act's implementation. It is time to make the law clearer and to make the federal manager's job easier.

Mr. President, I ask unanimous consent that a table be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

REVISED CALISTA LANDS PACKAGE

Parcel name	Interest to be conveyed	Acreage	Per acre value	Total exchange value
Dall Lake	Fee—Surface	10,000	$325	$3,250,000
Hamilton	Fee—Surface	7,135	325	2,318,875
Section 14(h)(8) entitlement	Fee—Surface and Subsurface	10,000	704	7,040,000
Hooper Bay	Subsurface	27,034	90	2,433,060
Scammon Bay	Subsurface	87,052	90	7,834,680
Kusilvak	Subsurface	57,284	90	5,155,560
Calista subsurface on TKC surface	Subsurface	17,000	90	1,530,000
Calista subsurface on NIMA surface	Subsurface	10,000	90	900,000
TKC	Conservation easement	17,000	243	4,131,000
NIMA	Surface	10,000	325	3,250,000
Calista subsurface on Hamilton surface	Subsurface	7,135	90	642,150
Calista subsurface on Dall Lake surface	Subsurface	10,000	90	900,000
VALUATION SUMMARY				
NIMA lands	Surface	20,000		$6,500,000
Hamilton lands	Surface	7,135		2,318,875
TKC lands	Surface	17,000		4,131,000
Total village surface		44,135		12,949,875
Calista	Surface and subsurface, all parcels	225,505		26,435,450
Total exchange value				39,385,325

By Mr. MACK:

S. 968. A bill to provide for special immigrant status for certain aliens working as journalists in Hong Kong; to the Committee on the Judiciary.

THE HONG KONG PRESS FREEDOM ACT

Mr. MACK. Mr. President, I rise today to join my colleague, Senator LIEBERMAN, to introduce the Hong Kong Press Freedom Act.

Mr. President, as we consider China and Hong Kong in these final weeks before Hong Kong reversion, it is important for us to reflect on the facts, and what drives our behaviors toward China.

We fought the cold war for freedom and democracy. The war is over, but we know of 1.2 billion people still wearing the yoke of communism—or at least nondemocratic oppression. On July 1, we might be forced to witness that number grow by 6 million as Hong Kong falls under control of the People's Republic of China. If the defining moment of the 1980s was the crumbling of the Berlin Wall and the spread of freedom and democracy, we should not allow this decade to be remembered most by the victory of totalitarianism over human dignity.

One essential element of freedom is press freedom. Until recently, Hong Kong enjoyed one of the freest presses in the world. But already, experts point to instances of self censorship occurring on the island. All indications are that this freedom will continue to deteriorate following Hong Kong's reversion.

Today, I am introducing a bill in the Senate to encourage press freedom in

Hong Kong. A similar measure was introduced in the House by Representative Porter and 27 other Members in February. The measure supports those Hong Kong journalists who chose to remain loyal to the standards of honest and open reporting. Specifically, this bill provides special immigration status to journalists and their families should they be threatened as a result of their reporting. When Senator LIEBERMAN and I visited Hong Kong earlier this year, we heard several stories of self-censorship occurring in the Hong Kong press. Many of the larger papers were losing circulation and the underground and small papers were growing. It is this free thought and competition which we seek to preserve.

Without press freedom, what other freedom can survive? While this is a small and specific measure, its impact can be profound. I urge immediate consideration and passage of this measure.

Mr. LIEBERMAN. Mr. President, I rise today to join my colleague, Senator MACK, in introducing the Hong Kong Press Freedom Act.

In a very few days, Hong Kong will revert to Chinese sovereignty. Already, there is evidence that China will not fully honor its commitment to preserve Hong Kong's democratic institutions and way of life under the rubric, one country, two systems. Beijing has announced it will eliminate Hong Kong's democratically elected legislative council and that it will reimpose several restrictive civil order statutes, including against certain types of political expression. Even more disturbing, there are indications that media self-censorship is replacing freedom of the press.

It is fitting and proper that we introduce this legislation now. Eight years ago, Chinese authorities, most of whom remain in power today, brutally massacred students and others who wanted assurances that their government would become more accountable to the will of the people. They were seeking democratic progress, not revolutionary license. Beijing answered them with tanks, and 8 years later, Tiananmen Square remains a vivid reminder of what autocrats can and will do even in full view of astonished world opinion.

This bill would not have prevented the evil of Tiananmen Square; and it is not intended as a warning to China. It is simply principle put into action. As Americans, we understand how important a free press is to preserving the rule of law and to protecting the rights and dignity of individuals against the power of the state. Our action here will help assure that reporters in hong Kong will not be cowed by the memory of Tiananmen Square. This bill supports those who choose to put themselves at risk by reporting honestly and openly what they see and hear when the Chinese flag replaces the Union Jack. We owe them our gratitude and protection, and this bill will help us provide it.

Specifically, this measure offers special immigration status to journalists and their families if they are threatened with reprisal because of their work. A similar measure was introduced in the House by Representative PORTER and 27 other Members in February. I urge my Senate colleagues to join this effort and to pass the Hong Kong press freedom bill.

By Mr. D'AMATO (for himself, Mr. CHAFEE and Mr. TORRICELLI):

S. 969. A bill ordering the preparation of a Government report detailing injustices suffered by Italian Americans during World War II, and a formal acknowledgement of such injustices by the President; to the Committee on the Judiciary.

THE WARTIME VIOLATION OF ITALIAN AMERICAN CIVIL LIBERTIES ACT

Mr. D'AMATO. Mr. President, thousands of Italian-Americans became innocent victims of wartime fever—a panicked and a paranoid reaction that all people of foreign extraction linked to belligerent countries were spies, sabatours and un-American. Fear of fifth columnists and quisling-type activities led government officials to abridge the civil rights of Americans who came from warring countries. Patriotic propaganda villifying the treachery of sneak attacks, blitzkrieg and totalitarian domination had an effect on the homefront view of Italian, German and Japanese immigrants as well as naturalized citizens, inducing discrimination. Initial mistakes were magnified by protective zeal into wholesale judgements about aliens, which led to the detainment, internment and harassment of these people.

That is why, Mr. President, I rise today to join with my colleagues Senator CHAFEE and TORRICELLI to right a terrible wrong that happened in this country over 50 years ago. In a country that so cherishes its equality among men and women, and boasts its democratic process, the United States has a dark spot in its history. Most Americans are not aware of the tragedy experienced by so many fellow citizens over half a century ago, a tragedy committed by the American government against people of Italian descent.

In early 1942, 600,000 aliens of Italian descent were deemed to be "enemy aliens" and were forced to re-register and carry identification. Our government restricted their travel to their neighborhoods and classified normal household items, such as shortwave radios, cameras, flashlights and weapons as contraband material in their possession.

On February 19, 1942, an Executive Order was issued giving the Secretary of War the authority to exclude American citizens as well as alien enemies, from such areas as the Secretary should designate. Americans now realize that this provision began a dark period of American history, authorizing the internment of immigrants residing in the United States as well as American citizens. While most Americans are aware of the internment of Japanese Americans during World War II, few are aware that Italians and German legal residents of the United States were also restricted.

Italian immigrants, Italian-Americans and their families were viewed as a genuine threat to American security at the beginning of World War II. Fear and ethnic bias led to the relocation of nearly 10,000 members of the Italian community from their homes on the West Coast. Hundreds of people were taken from their homes and brought to guarded army camp in areas as far east as Minnesota.

And all this effort and anxiety for naught- even by war's end, not a single act of sabotage was attributable to Italian-Americans. On the contrary, Italians fought in America's victorious forces in the European and Asian theater and thousands made the ultimate sacrifice for our nation's survival.

As one could imagine, the effects on these families were disastrous. Four men committed suicide. These men (Martini Battistessa, Guiseppe Micheli, Giovanni Sanguenetti and Stefano Terranova) suffered at the hands of government officials. Italian American fisherman were grounded, their livelihood gone.

Several experts have taken a look at the treatment of Italian Americans during the early 1940's. Stephen Fox wrote a book called The Unknown Internment: An Oral History of the Relocation of Italian Americans during World War II. In the preface, Stephen Fox describes the horrific treatment of people whose only crime was being of Italian descent in America during World War II.

Salvatore J. LaGumina, Professor of History and Director of the Center for Italian American Studies at Nassau Community College wrote an article in the Italian American Review called "Enemy Alien: Italian Americans During World War II". In the article he states:

> A ban on Italian language radio programs affected stations in New York City and Boston. Various Italian American newspapers suspended publication at least during the war years and in some instances ceased publication permanently. Customary Italian religious feast celebrations were likewise deferred or significantly diminished . . . In Westbury, Long Island, most Italian American organizations suspended their traditional feast celebrations for the duration of the war except for the Dell'Assunta Society which insisted it be allowed to march on the village streets during its festival, on the grounds that it was a religious not an ethnic celebration.

Robert Masulla, writing for the Italic Way Newsletter, cited that Italian immigrant fishermen were denied their livelihood and some "even had their boats impounded by the U.S. government and utilized for patrol and minesweeping duties".

It was not until October 12, 1942 that Italian immigrants were removed from the enemy alien category. Mr. Fox's historical study indicated that the internment effort was abandoned because the alien relocation would overly tax the U.S. Army's already over-extended logistical network, threaten the defense industry and lower civilian morale.

In 1988, this body finally faced a terrible past that we could no longer ignore—the internment of immigrants from Japan or Japanese-Americans. Now it is time to provide recognition and remorsefulness for the treatment of Italian aliens and Italian Americans who had to endure the horrific actions of our own government—a government that has stood for freedom, not oppression.

That is why I have joined with my colleagues in the House of Representatives, particularly its lead sponsors, Congressmen Engel and Lazio, to introduce this bill, the "Wartime Violation of Italian American Civil Liberties Act". Its provisions are clear and straight-forward:

It recognizes the treatment of Italian Americans during World War II.

It calls on the President to formally acknowledge that the civil liberties of Italian Americans were violated in the United States in the early 1940's.

It encourages federal agencies to support projects which increase the public's awareness of the internment of Italians during the Second World War.

It states that the President and Congress provide direct funding in order to educate the American public through a film documentary, particularly to document the testimony of the survivors of the internment.

It recommends the formation of an advisory committee to assist in the compilation of historical data, to accurately reflect the incidents that transpired.

It calls on the Department of Justice to publish a report on the U.S. Government's role in the internment.

The facts need to be told in order to acknowledge that these events happened, to remember those who lived through the humiliation and to discourage any similar injustices from occurring in the future.

By LAUTENBERG (for himself and Mr. TORRICELLI):

S. 971. A bill to amend the Federal Water Pollution Control Act to improve the quality of coastal recreation waters, and for other purposes; to the Committee on Environment and Public Works.

THE BEACHES ENVIRONMENTAL ASSESSMENT, CLOSURE, AND HEALTH ACT OF 1997

Mr. LAUTENBERG. Mr. President, on behalf of Senator TORRICELLI and myself, I rise to introduce the Beaches Environmental Assessment, Closure and Health (BEACH) Act.

Mr. President, coastal tourism generates billions of dollars every year for local communities nationwide. Moreover, our coastal areas provide immeasurable recreational benefits for millions of Americans who want to build sand castles, cool off in the water, take a walk with that special someone, or just relax. New Jersey's tourism sector is the second largest revenue-producing industry in the state. Without a doubt, the lure of my state's beaches generates most of this revenue—over $7 billion annually.

Mr. President, this heavily used natural resource can actually pose a threat to human health if it is not properly managed. Studies conducted during the past two decades show a definite and alarming relationship between the amount of indicator bacteria in coastal waters and the incidence of illnesses associated with swimming.

Water-borne viruses are the major cause of swimming-associated diseases—gastroenteritis and hepatitis are the most common ones worldwide. And because an individual afflicted with these diseases are contagious, the risk of sewage-borne illness does not end with the bather.

Nationwide, state and local governments reported almost 4,000 beach closings or warnings because of bacteria contamination.

New Jersey has been particularly aggressive in protecting public health at the beach. New Jersey is one of only a few states to have a mandatory beach protection program that includes a bacteria standard, a monitoring program, and mandatory beach closure requirements. The program is designed to address water quality from both a health and an environmental perspective. Beaches are closed when bacteria levels exceed the standard regardless of the pollution source.

Ironically, New Jersey is penalized because it does more to protect public health than most other states. In past years the annual losses from beach closures in New Jersey have ranged from $800 million to $1 billion while beaches remain open in competing states that do not publicize the questionable quality of their water.

I have introduced over this legislation several times over the past several years. The bill, the Beaches, Environmental Assessment, Closure and Health Act, is known by the acronym "BEACH" bill. The bill will address the uneven efforts to protect beach goers by establishing uniform testing and monitoring procedures for pathogens and floatables in marine recreation waters.

This bill requires the EPA to establish procedures to monitor coastal waters to detect short-term increases in pathogenicity and to set minimum standards to protect the public from pathogen contaminated beach waters. And it will assure that the public is notified when beach waters exceed the standards and public health may be at risk.

Going to the beach should be a healthy and rejuvenating experience. A day at the beach shouldn't be followed by a day at the doctor. Whether they go to the beach in the Carolinas or in California, in New Jersey or New York—Americans across the country have a right to know when the water is and is not safe for swimming. Beach goers should be able to wade or swim in the surf without the fear of getting sick.

I am very pleased that EPA has recognized the seriousness of this problem and the need for a federal solution. As a result of BEACH bills that I have introduced, the EPA announced its own Beaches Environmental Assessment, Closure and Health program. Under this program, EPA has begun to survey state and local health and environmental directors on the quality of coastal recreational waters for posting on the Internet next year. By next summer, the website will serve as a clearinghouse to provide the public access to health-related information available from states and other sources on the quality of recreational water. The goal is to expand the beach public's "right to know" on the quality of the nation's beaches. The aim is to encourage those beaches that keep their water quality from the public to make that information as readily available as is done in New Jersey.

However, without mandatory, uniform regulation these EPA programs will be ineffective. While some states use EPA guidelines, others have no programs for regularly monitoring their beach water for swimmer safety. The Natural Resources Defense Council (NRDC) found that only 7 states—New Jersey, Connecticut, Delaware, Illinois, New Hampshire, Ohio and Indiana —comprehensively monitor their beaches, and a mere 6 states consistently close beaches when bacteria water quality standards are violated. Additionally, NRDC found that while a high bacteria level cause beach closures in one state other sates may allow people to swim despite the identical health risks. This discrepancy threatens public health. That is why we need to pass this legislation as soon as possible.

Mr. President, I urge my colleagues to join me in recognizing the importance of protecting public health at our nation's beaches by cosponsoring this legislation.

I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 971

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Beaches Environmental Assessment, Closure, and Health Act of 1997".

SEC. 2. FINDINGS AND PURPOSES.

(a) Findings.—Congress finds that—

(1) the Nation's beaches are a valuable public resource used for recreation by millions of people annually;

(2) the beaches of coastal States are hosts to many out-of-State and international visitors;

(3) tourism in the coastal zone generates billions of dollars annually;

(4) increased population has contributed to the decline in the environmental quality of coastal waters;

(5) pollution in coastal waters is not restricted by State and other political boundaries;

(6) coastal States have different methods of testing the quality of coastal recreation waters, providing varying degrees of protection to the public;

(7) the adoption of consistent criteria by coastal States for monitoring the quality of coastal recreation waters, and the posting of signs at beaches notifying the public during periods when the standards are exceeded, would enhance public health and safety; and

(8) while the adoption of such criteria will enhance public health and safety, exceedances of such criteria should be addressed, where feasible, as part of a watershed approach to effectively identify and eliminate sources of pollution.

(b) Purpose.—The purpose of this Act is to require uniform criteria and procedures for testing, monitoring, and posting of coastal recreation waters at beaches open for use by the public to protect public safety and improve environmental quality.

SEC. 3. ADOPTION OF COASTAL RECREATIONAL WATER QUALITY CRITERIA BY STATES.

(a) General Rule.—A State shall adopt water quality criteria for coastal recreation waters which, at a minimum, are consistent with the criteria published by the Administrator under section 304(a)(1) of the Federal Water Pollution Control Act (33 U.S.C. 1314(a)(1)) not later than 3½ years following the date of the enactment of this Act. Such water quality criteria shall be developed and promulgated in accordance with the requirements of section 303(c) of the Federal Water Pollution Control Act (33 U.S.C. 1313(c)). A State shall incorporate such criteria into all appropriate programs into which such State would incorporate other water quality criteria adopted under such section 303(c) and revise such criteria not later than 3 years following the date of publication of revisions by the Administrator under section 4(b) of this Act.

(b) Failure of States To Adopt.—If a State has not complied with subsection (a) by the last day of the 3½-year period beginning on the date of the enactment of this Act, the water quality criteria issued by the Administrator under section 304(a)(1) of the Federal Water Pollution Control Act shall become applicable as the water quality criteria for coastal recreational waters for the State, and shall be deemed to have been promulgated by the Administrator pursuant to section 303(c)(4).

SEC. 4. REVISIONS TO WATER QUALITY CRITERIA.

(a) Studies.—After consultation with appropriate Federal, State, and local officials, including local health officials, and other interested persons, but not later than the last day of the 3-year period beginning on the date of the enactment of this Act, the Administrator shall conduct, in cooperation with the Under Secretary of Commerce for Oceans and Atmosphere, studies to provide additional information to the current base of knowledge for use in developing—

(1) a more complete list of potential health risks, including effects to the upper respiratory system;

(2) better indicators for directly detecting or predicting in coastal recreational waters the presence of pathogens which are harmful to human health; and

(3) more expeditious methods (including predictive models) for detecting in coastal recreation waters the presence of pathogens which are harmful to human health.

(b) Revised Criteria.—Based on the results of the studies conducted under subsection (a), the Administrator, after consultation with appropriate Federal, State, and local officials, including local health officials, shall issue, within 5 years after the date of the enactment of this Act (and review and revise from time to time thereafter, but in no event less than once every 5 years) revised water quality criteria for pathogens in coastal recreation waters that are harmful to human health, including a revised list of indicators and testing methods.

SEC. 5. COASTAL BEACH WATER QUALITY MONITORING.

Title IV of the Federal Water Pollution Control Act (33 U.S.C. 1341-1345) is amended by adding at the end thereof the following new section:

"SEC. 406. COASTAL BEACH WATER QUALITY MONITORING.

"(a) Monitoring.—Within 18 months after the date of enactment of this section, the Administrator shall publish and revise regulations requiring monitoring of, and specifying available methods to be used by States to monitor, coastal recreation waters at beaches open for use by the public for compliance with applicable water quality criteria for those waters and protection of the public safety. Monitoring requirements established pursuant to this subsection shall, at a minimum—

"(1) specify the frequency of monitoring based on the periods of recreational use of such waters;

"(2) specify the frequency of monitoring based on the extent and degree of use during such periods;

"(3) specify the frequency and location of monitoring based on the proximity of coastal recreation waters to known or identified point and nonpoint sources of pollution and in relation to storm events;

"(4) specify methods for detecting levels of pathogens that are harmful to human health and for identifying short-term increases in pathogens that are harmful to human health in coastal recreation waters, including in relation to storm events; and

"(5) specify the conditions and procedures under which discrete areas of coastal recreation waters may be exempted by the Administrator from the monitoring requirements of this subsection, if the Administrator determines that an exemption will not impair—

"(A) compliance with the applicable water quality criteria for those waters; and

"(B) protection of the public safety.

"(b) Notification Requirements.—Regulations published pursuant to subsection (a) shall require States to provide prompt notification to local governments and the public of exceedance of applicable water quality criteria for State coastal recreation waters or the immediate likelihood of such an exceedance. Notification pursuant to this subsection shall include, at a minimum—

"(1) prompt communication of the occurrence, nature, and extent of such an exceedance, or the immediate likelihood of such an exceedance based on predictive models to a designated official of a local government having jurisdiction over land adjoining the coastal recreation waters for which an exceedance is identified; and

"(2) posting of signs for the period during which the exceedance continues, sufficient to give notice to the public of an exceedance of applicable water quality criteria for such waters and the potential risks associated with water contact activities in such waters.

"(c) Floatable Materials Monitoring Procedures.—The Administrator shall—

"(1) issue guidance on uniform assessment and monitoring procedures for floatable materials in coastal recreation waters; and

"(2) specify the conditions under which the presence of floatable material shall constitute a threat to public health and safety.

"(d) State Implementation.—A State must implement a monitoring program that conforms to the regulations issued pursuant to subsection (a) not later than 3½ years after the date of the enactment of this section and revise such program not later than 2 years following the date of publication of revisions by the Administrator under subsection (f).

"(e) Delegation of Responsibility.—Not later than 18 months after the date of the enactment of this section, the Administrator shall issue guidance for the delegation of State testing, monitoring, and posting programs under this section to local government authorities. In the case that such responsibilities are delegated by a State to a local government authority, or have been delegated to a local government authority before such date of enactment, in a manner that, at a minimum, is consistent with the guidance issued by the Administrator, State resources shall be made available to the delegated authority for the purpose of program implementation.

"(f) Review and Revision of Regulations.—The Administrator shall review and revise regulations published pursuant to this section periodically, but in no event less than once every 5 years.

"(g) Definitions.—In this section, the following definitions apply:

"(1) Coastal recreation waters.—The term 'coastal recreation waters' means Great Lakes and marine coastal waters (including bays) used by the public for swimming, bathing, surfing, or other similar water contact activities.

"(2) Floatable materials.—The term 'floatable materials' means any foreign matter that may float or remain suspended in the water column and includes plastic, aluminum cans, wood, bottles, and paper products.".

SEC. 6. REPORT TO CONGRESS.

Not later than 4 years after the date of the enactment of this Act, and periodically thereafter, the Administrator shall submit to Congress a report including—

(1) recommendations concerning the need for additional water quality criteria and other actions needed to improve the quality of coastal recreation waters; and

(2) an evaluation of State efforts to implement this Act, including the amendments made by this Act.

SEC. 7. GRANTS TO STATES.

(a) GRANTS.—Subject to subsection (c), the Administrator may make grants to States for use in fulfilling requirements established pursuant to section 3 of this Act and section 406 of the Federal Water Pollution Control Act.

(b) COST SHARING.—The total amount of grants to a State under this section for a fiscal year shall not exceed 50 percent of the cost to the State of implementing requirements established pursuant to section 3 of this Act and section 406 of the Federal Water Pollution Control Act.

(c) ELIGIBLE STATE.—After the last day of the 3½-year period beginning on the date of the enactment of this Act, the Administrator may make a grant to a State under this section only if the State demonstrates to the satisfaction of the Administrator that it is implementing its monitoring and posting program under section 406 of the Federal Water Pollution Control Act.

SEC. 8. DEFINITIONS.

In this Act, the following definitions apply:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) COASTAL RECREATION WATERS.—The term "coastal recreation waters" means Great Lakes and marine coastal waters (including bays) used by the public for swimming, bathing, surfing, or other similar body contact purposes.

(3) FLOATABLE MATERIALS.—The term "floatable materials" means any foreign matter that may float or remain suspended in the water column and includes plastic, aluminum cans, wood, bottles, and paper products.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Administrator—

(1) for use in making grants to States under section 7 not more than $4,500,000 for each of the fiscal years 1998 through 2002; and

(2) for carrying out the other provisions of this Act not more than $1,500,000 for each of the fiscal years 1998 through 2002.

By Mr. REED (for himself, Mr. CHAFEE, Mr. COATS, and Mr. INHOFE):

S. 972. A bill to amend the Internal Revenue Code of 1986 to prohibit any deduction for gambling losses; to the Committee on Finance.

REPEAL THE GAMBLING LOSS TAX DEDUCTION

Mr. REED. Mr. President, this week the Senate has considered legislation to fundamentally change Medicare and other programs that are vital to millions of Americans. I realize that we must make difficult choices about these valuable initiatives as we move toward a balanced budget. However, as we seek to invest in our nation's future, we must also confront loopholes and subsidies that waste our limited resources.

The tax code contains many such loopholes, which fail to reflect our nation's true priorities. For example, the United States is subsidizing thousands of professional gamblers by allowing tax deductions for gambling losses to the extent of gambling winnings. The Joint Tax Committee reports that this deduction costs taxpayers $1.43 billion over five years.

The gambling loss tax deduction is an anomaly for individuals who frequent an industry that sells itself as providing entertainment. In general, the tax code does not allow deductions for discretionary spending on entertainment, and I believe that it is more than reasonable to hold gambling expenditures to this same standard. Repealing the gambling loss tax deduction merely increases the cost of one entertainment option, a factor that gamblers can consider in determining how to spend their discretionary income. Furthermore, while most business deductions are for investments—and even losses—that could have created needed job opportunities for our nation's citizens, this is not the case for the losses claimed by professional gamblers on their personal income taxes.

Perhaps more importantly, the gambling loss tax deduction primarily benefits professional gamblers and wealthy individuals who spend large sums on gambling. In 1994 alone, $2.78 billion in gambling losses was deducted on some 427,000 tax returns. Individuals with adjusted gross incomes of at least $75,000 claimed nearly 55% of these gambling losses, and people with adjusted gross incomes of at least $100,000 claimed an astounding 40% of these deductions.

When Congress is cutting essential programs to balance the budget, it is simply unsound policy to subsidize gamblers. I urge my colleagues to join me, Senator Chafee, Senator Coats, and Senator Inhofe in supporting legislation to repeal the gambling loss tax deduction, and in taking a step to ensure that we balance the budget in a way that reflects our nation's priorities and invests in our nation's future.

Mr. President, I ask unanimous consent that a copy of this legislation to repeal the gambling loss tax deduction be included in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 972

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROHIBITION ON ANY DEDUCTION FOR GAMBLING LOSSES.

(A) IN GENERAL.—Section 165(d) of the Internal Revenue Code of 1986 (relating to wagering losses) is amended to read as follows:

"(d) NO DEDUCTION FOR WAGERING LOSSES.—No deduction shall be allowed for losses from wagering transactions."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 21, 1997.

By Mr. REED (for himself and Mr. CHAFEE):

S. 973. A bill to designate the United States Post Office building located at 551 Kingstown Road in Wakefield, Rhode Island, as the "David B. Champagne Post Office Building"; to the Committee on Governmental Affairs.

THE DAVID B. CHAMPAGNE POST OFFICE ACT

Mr. REED. Mr. President, I rise today to pay tribute to Corporal David B. Champagne, USMC, who was posthumously awarded the Medal of Honor for service in Korea. In honor of the sacrifice made by this heroic young man, I am introducing a bill to name the new post office at 551 Kingstown Road in Wakefield, RI the "David B. Champagne Post Office" with my Rhode Island colleague Senator Chafee.

The son of Mr. and Mrs. Bernard L. Champagne, Corporal Champagne served in the National Guard before graduating from South Kingstown High School and enlisting in the Marines in March 1951. He was the only Rhode Island resident to receive this nation's highest award for valor, the Medal of Honor, for service in Korea. The citation accompanying the Medal read:

> For conspicuous gallantry and intrepidity at the risk of his life above and beyond the call of duty while serving as a fire team leader of Company A, First Battalion, Seventh Marines, First Marine Division (Reinforced), in action against enemy aggressor forces in Korea on 28 May 1952. Advancing with his platoon in the initial assault of the company against a strongly fortified and heavily defended hill position, Corporal Champagne skillfully led his fire team through a veritable hail of intense enemy machine-gun, small-arms and grenade fire, overrunning trenches and a series of almost impregnable bunker positions before reaching the crest of the hill and placing his men in defensive positions. Suffering a painful leg wound while assisting in repelling the ensuing hostile counterattack, which was launched under cover of a murderous hail of mortar and artillery fire, he steadfastly refused evacuation and fearlessly continued to control his fire team. When the enemy counterattack increased in intensity, and a hostile grenade landed in the midst of the fire team, Corporal Champagne unhesitating seized the deadly missile and hurled it in the direction of the approaching enemy. As the grenade left his hand, it exploded, blowing off his hand and throwing him out of the trench. Mortally wounded by the enemy mortar fire while in this exposed position, Corporal Champagne, by his valiant leadership, fortitude and gallant spirit of self-sacrifice in the face of almost certain death, undoubtedly saved the lives of several of his fellow Marines. His heroic actions served to inspire all who observed him and reflect the highest credit upon himself and the United States Naval Service. He gallantly gave his life for his country.

In addition to the Medal of Honor, Corporal Champagne received the Korean Medal of Honor, the Rhode Island Cross, the Purple Heart, the National Defense Service Medal, the Korean Service Medal with 3 Battle Stars, the Korean Presidential Unit Citation, and the United Nation's Service Medal.

Corporal Champagne is truly an American hero. In the best spirit of this country, he volunteered to go to a foreign land and fight for people he had never met, so that they would not be subjected to the rule of a totalitarian regime.

In my home state of Rhode Island a Korean War Memorial is under construction at the State Veterans' Cemetery. Carved on that memorial will be the same words that are inscribed on the Korean War Memorial dedicated in Washington, DC: "Freedom Is Not Free." Corporal Champagne understood the meaning of those words. He unhesitatingly paid the ultimate price to preserve the freedom of South Korea and to save the lives of his men.

This legislation would pay proper tribute to this remarkable young man and commemorate his incredible valor for future generations. I ask my colleagues to join Senator Chafee and me in honoring Corporal David B. Champagne by supporting this bill.

Mr. President, I ask unanimous consent that a copy of this legislation to name the new Wakefield post office after Corporal Champagne be included in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 973

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF DAVID B. CHAMPAGNE POST OFFICE BUILDING.

The United States Post Office building located at 551 Kingstown Road in Wakefield, Rhode Island, shall be known and designated as the "David B. Champagne Post Office Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States Post Office building referred to in section 1 shall be deemed to be a reference to the "David B. Champagne Post Office Building".

By Mr. REED:

S. 974. A bill to amend the Immigration and Nationality Act to modify the qualifications for a country to be designated as a visa waiver pilot program country; to the Committee on the Judiciary.

VISA WAIVER PROGRAM LEGISLATION

Mr. REED. Mr. President, for the past 9 years the visa waiver pilot program has been a resounding success. Today, citizens from twenty-five countries are able to travel to the United States without the burden of obtaining a visa from a U.S. embassy before leaving home. Because the program makes travel so much easier, business has boomed, tourism has soared, and family members have been able to be with each other on occasions when it mattered. Cutting the bureaucratic red tape has strengthened our economic and cultural ties with participating countries. In addition, streamlining this administrative process has enabled the State Department to use its resources more efficiently and effectively, saving the American taxpayers thousands of dollars.

Today, I am introducing a bill which will extend the privilege of the visa waiver program to additional countries with strong ties to our Nation. This legislation will slightly modify the criteria that a country must meet in order to participate in the program. Under these modifications, one country which will gain admittance to the visa waiver program is Portugal. Portugal is one of only two members of the European Union which is not included in the visa waiver program. It is time for that inequity to be corrected.

The Portuguese were some of the earliest explorers and settlers of the United States and they have been contributing to our country ever since. Over one million U.S. citizens claim Portuguese descent and there are thriving Portuguese communities from New England to Hawaii. We owe these members of our American community the opportunity to see family members who live in Portugal when they need them, without the worry and hassle of obtaining a visa.

Inclusion in the visa waiver program will promote the economic exchange between Portugal and the United States. Portugal is a valued trading partner and if members of the business community are able to travel to the U.S. without delaying to obtain a business, their contributions to this country will only increase. At a time when the U.S. economy is the wonder of the world and our market is truly global, our country should seek out and facilitate additional economic opportunities.

In 1974, the citizens of Portugal overthrew a dictatorship and established a democracy. Their brave actions began a wave of democratization that spread across the world and is still reverberating today. No other country reflects the principles of the United States better than Portugal. We should do everything possible to lower the barriers and strengthen the exchange between our two countries. Including Portugal in the visa waiver program is an important first step in this process.

Mr. President, I ask unanimous consent that a copy of this legislation be included in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 974

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. QUALIFICATIONS FOR DESIGNATION AS PILOT PROGRAM COUNTRY.

Section 217(c)(2) of the Immigration and Nationality Act (8 U.S.C. 1187(c)(2)) is amended to read as follows:

"(2) QUALIFICATIONS.—Except as provided in subsection (g), a country may not be designated as a pilot program country unless the following requirements are met:

"(A) LOW NONIMMIGRANT VISA REFUSAL RATE.—Either—

"(i) the average number of refusals of nonimmigrant visitor visas for nationals of that country during—

"(I) the two previous full fiscal years was less than 2.0 percent of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during those years; and

"(II) either of such two previous full fiscal years was less than 2.5 percent of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during that year; or

"(ii) such refusal rate for nationals of that country during—

"(I) the previous full fiscal year was less than 3.5 percent; and

"(II) the two previous full fiscal years was at least 50 percent less than such refusal rate during fiscal year 1994.

"(B) MACHINE READABLE PASSPORT PROGRAM.—The government of the country certifies that it has or is in the process of developing a program to issue machine-readable passports to its citizens.

"(C) LAW ENFORCEMENT INTERESTS.—The Attorney General determines that the United States law enforcement interests would not be compromised by the designation of the country.".

ADDITIONAL COSPONSORS

S. 28

At the request of Mr. THURMOND, the name of the Senator from Oregon [Mr. SMITH] was added as a cosponsor of S. 28, a bill to amend title 17, United States Code, with respect to certain exemptions from copyright, and for other purposes.

S. 211

At the request of Mr. WELLSTONE, the name of the Senator from Oklahoma [Mr. INHOFE] was added as a cosponsor of S. 211, a bill to amend title 38, United States Code, to extend the period of time for the manifestation of chronic disabilities due to undiagnosed symptoms in veterans who served in the Persian Gulf War in order for those disabilities to be compensable by the Secretary of Veterans Affairs.

S. 422

At the request of Mr. DOMENICI, the name of the Senator from North Dakota [Mr. DORGAN] was added as a cosponsor of S. 422, a bill to define the circumstances under which DNA samples may be collected, stored, and analyzed, and genetic information may be collected, stored, analyzed, and disclosed, to define the rights of individuals and persons with respect to genetic information, to define the responsibilities of persons with respect to genetic information, to protect individuals and families from genetic discrimination, to establish uniform rules that protect individual genetic privacy, and to establish effective mechanisms to enforce the rights and responsibilities established under this Act.

S. 497

At the request of Mr. COVERDELL, the name of the Senator from Minnesota [Mr. GRAMS] was added as a cosponsor of S. 497, a bill to amend the National Labor Relations Act and the Railway Labor Act to repeal the provisions of the Acts that require employees to pay union dues or fees as a condition of employment.

S. 657

At the request of Mr. DASCHLE, the names of the Senator from Maine [Ms. SNOWE], and the Senator from South Carolina [Mr. HOLLINGS] were added as cosponsors of S. 657, a bill to amend title 10, United States Code, to permit retired members of the Armed Forces who have a service-connected disability to receive military retired pay concurrently with veterans' disability compensation.

S. 728

At the request of Mrs. FEINSTEIN, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 728, a bill to amend title IV of the Public Health Service Act to establish a Cancer Research Trust Fund for the conduct of biomedical research.

S. 830

At the request of Mr. JEFFORDS, the names of the Senator from Connecticut [Mr. DODD], the Senator from Indiana [Mr. COATS], the Senator from Maryland [Ms. MIKULSKI], and the Senator from Tennessee [Mr. FRIST] were added as cosponsors of S. 830, a bill to amend the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act to improve the regulation of food, drugs, devices, and biological products, and for other purposes.

S. 852

At the request of Mr. LOTT, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 852, a bill to establish nationally uniform requirements regarding the titling and registration of salvage, nonrepairable, and rebuilt vehicles.

SENATE JOINT RESOLUTION 24

At the request of Mr. KENNEDY, the name of the Senator from Oregon [Mr. WYDEN] was added as a cosponsor of Senate Joint Resolution 24, a joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for women and men.

AMENDMENT NO. 423

At the request of Mr. INHOFE, the names of the Senator from Alabama [Mr. SESSIONS] and the Senator from Alabama [Mr. SHELBY] were added as cosponsors of amendment No. 423 proposed to S. 936, an original bill to authorize appropriations for fiscal year 1998 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 518

At the request of Mr. BUMPERS, the names of the Senator from Hawaii [Mr. AKAKA], and the Senator from Wisconsin [Mr. FEINGOLD] were added as cosponsors of amendment No. 518 proposed to S. 949, an original bill to provide revenue reconciliation pursuant to section 104(b) of the concurrent resolution on the budget for fiscal year 1998.

AMENDMENT NO. 519

At the request of Mr. DURBIN, the names of the Senator from Missouri [Mr. BOND], the Senator from California [Mrs. BOXER], the Senator from Maryland [Ms. MIKULSKI], and the Senator from South Dakota [Mr. JOHNSON] were added as cosponsors of amendment No. 519 proposed to S. 949, an original bill to provide revenue reconciliation pursuant to section 104(b) of the concurrent resolution on the budget for fiscal year 1998.

AMENDMENT NO. 520

At the request of Ms. LANDRIEU, her name was added as a cosponsor of amendment No. 520 proposed to S. 949, an original bill to provide revenue reconciliation pursuant to section 104(b) of the concurrent resolution on the budget for fiscal year 1998.

AMENDMENTS SUBMITTED

THE TAX FAIRNESS ACT OF 1997

KOHL (AND OTHERS) AMENDMENT NO. 524

(Ordered to lie on the table.)

Mr. KOHL (for himself, Mr. HATCH, and Mr. DASCHLE) submitted an amendment intended to be proposed by them to the bill, S. 949, to provide revenue reconciliation pursuant to section 104(b) of the concurrent resolution on the budget for fiscal year 1998; as follows:

On page 20, between lines 5 and 6, insert:

SEC. 103. ALLOWANCE OF CREDIT FOR EMPLOYER EXPENSES FOR CHILD CARE ASSISTANCE.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by adding at the end the following new section:

“SEC. 45D. EMPLOYER-PROVIDED CHILD CARE CREDIT.

“(a) IN GENERAL.—For purposes of section 38, the employer-provided child care credit determined under this section for the taxable year is an amount equal to 50 percent of the qualified child care expenditures of the taxpayer for such taxable year.

“(b) DOLLAR LIMITATION.—The credit allowable under subsection (a) for any taxable year shall not exceed $150,000.

“(c) DEFINITIONS.—For purposes of this section—

“(1) QUALIFIED CHILD CARE EXPENDITURE.—The term ‘qualified child care expenditure’ means any amount paid or incurred—

“(A) to acquire, construct, rehabilitate, or expand property—

“(i) which is to be used as part of a qualified child care facility of the taxpayer,

“(ii) with respect to which a deduction for depreciation (or amortization in lieu of depreciation) is allowable, and

“(iii) which does not constitute part of the principal residence (within the meaning of section 1034) of the taxpayer or any employee of the taxpayer,

“(B) for the operating costs of a qualified child care facility of the taxpayer, including costs related to the training of employees, to scholarship programs, and to the providing of increased compensation to employees with higher levels of child care training,

“(C) under a contract with a qualified child care facility to provide child care services to employees of the taxpayer,

“(D) under a contract to provide child care resource and referral services to employees of the taxpayer, or

“(E) for the costs of seeking accreditation from a child care credentialing or accreditation entity.

“(2) QUALIFIED CHILD CARE FACILITY.—

“(A) IN GENERAL.—The term ‘qualified child care facility’ means a facility—

“(i) the principal use of which is to provide child care assistance, and

“(ii) which meets the requirements of all applicable laws and regulations of the State or local government in which it is located, including, but not limited to, the licensing of the facility as a child care facility.

Clause (i) shall not apply to a facility which is the principal residence (within the meaning of section 1034) of the operator of the facility.

“(B) SPECIAL RULES WITH RESPECT TO A TAXPAYER.—A facility shall not be treated as a qualified child care facility with respect to a taxpayer unless—

“(i) enrollment in the facility is open to employees of the taxpayer during the taxable year,

“(ii) the facility is not the principal trade or business of the taxpayer unless at least 30 percent of the enrollees of such facility are dependents of employees of the taxpayer, and

“(iii) the use of such facility (or the eligibility to use such facility) does not discriminate in favor of employees of the taxpayer who are highly compensated employees (within the meaning of section 414(q)).

“(d) RECAPTURE OF ACQUISITION AND CONSTRUCTION CREDIT.—

“(1) IN GENERAL.—If, as of the close of any taxable year, there is a recapture event with respect to any qualified child care facility of the taxpayer, then the tax of the taxpayer under this chapter for such taxable year shall be increased by an amount equal to the product of—

“(A) the applicable recapture percentage, and

“(B) the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted if the qualified child care expenditures of the taxpayer described in subsection (c)(1)(A) with respect to such facility had been zero.

“(2) APPLICABLE RECAPTURE PERCENTAGE.—

“(A) IN GENERAL.—For purposes of this subsection, the applicable recapture percentage shall be determined from the following table:

“If the recapture event occurs in:	**The applicable recapture percentage is:**
Years 1–3	100
Year 4	85
Year 5	70
Year 6	55
Year 7	40
Year 8	25
Years 9 and 10	10
Years 11 and thereafter	0.

“(B) YEARS.—For purposes of subparagraph (A), year 1 shall begin on the first day of the taxable year in which the qualified child care facility is placed in service by the taxpayer.

“(3) RECAPTURE EVENT DEFINED.—For purposes of this subsection, the term ‘recapture event’ means—

“(A) CESSATION OF OPERATION.—The cessation of the operation of the facility as a qualified child care facility.

"(B) CHANGE IN OWNERSHIP.—

"(i) IN GENERAL.—Except as provided in clause (ii), the disposition of a taxpayer's interest in a qualified child care facility with respect to which the credit described in subsection (a) was allowable.

"(ii) AGREEMENT TO ASSUME RECAPTURE LIABILITY.—Clause (i) shall not apply if the person acquiring such interest in the facility agrees in writing to assume the recapture liability of the person disposing of such interest in effect immediately before such disposition. In the event of such an assumption, the person acquiring the interest in the facility shall be treated as the taxpayer for purposes of assessing any recapture liability (computed as if there had been no change in ownership).

"(4) SPECIAL RULES.—

"(A) TAX BENEFIT RULE.—The tax for the taxable year shall be increased under paragraph (1) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

"(B) NO CREDITS AGAINST TAX.—Any increase in tax under this subsection shall not be treated as a tax imposed by this chapter for purposes of determining the amount of any credit under subpart A, B, or D of this part.

"(C) NO RECAPTURE BY REASON OF CASUALTY LOSS.—The increase in tax under this subsection shall not apply to a cessation of operation of the facility as a qualified child care facility by reason of a casualty loss to the extent such loss is restored by reconstruction or replacement within a reasonable period established by the Secretary.

"(e) SPECIAL RULES.—For purposes of this section—

"(1) AGGREGATION RULES.—All persons which are treated as a single employer under subsections (a) and (b) of section 52 shall be treated as a single taxpayer.

"(2) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

"(3) ALLOCATION IN THE CASE OF PARTNERSHIPS.—In the case of partnerships, the credit shall be allocated among partners under regulations prescribed by the Secretary.

"(f) NO DOUBLE BENEFIT.—

"(1) REDUCTION IN BASIS.—For purposes of this subtitle—

"(A) IN GENERAL.—If a credit is determined under this section with respect to any property by reason of expenditures described in subsection (c)(1)(A), the basis of such property shall be reduced by the amount of the credit so determined.

"(B) CERTAIN DISPOSITIONS.—If during any taxable year there is a recapture amount determined with respect to any property the basis of which was reduced under subparagraph (A), the basis of such property (immediately before the event resulting in such recapture) shall be increased by an amount equal to such recapture amount. For purposes of the preceding sentence, the term 'recapture amount' means any increase in tax (or adjustment in carrybacks or carryovers) determined under subsection (d).

"(2) OTHER DEDUCTIONS AND CREDITS.—No deduction or credit shall be allowed under any other provision of this chapter with respect to the amount of the credit determined under this section.

"(g) TERMINATION.—This section shall not apply to taxable years beginning after December 31, 1999."

(b) CONFORMING AMENDMENTS.—

(1) Section 38(b) is amended—

(A) by striking out "plus" at the end of paragraph (11),

(B) by striking out the period at the end of paragraph (12), and inserting a comma and "plus", and

(C) by adding at the end the following new paragraph:

"(13) the employer-provided child care credit determined under section 45D."

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

"Sec. 45D. Employer-provided child care credit."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. 104. EXPANSION OF COORDINATED ENFORCEMENT EFFORTS OF INTERNAL REVENUE SERVICE AND HHS OFFICE OF CHILD SUPPORT ENFORCEMENT.

(a) STATE REPORTING OF CUSTODIAL DATA.—Section 454A(e)(4)(D) of the Social Security Act (42 U.S.C. 654(e)(4)(D)) is amended by striking "the birth date of any child" and inserting "the birth date and custodial status of any child".

(b) MATCHING PROGRAM BY IRS OF CUSTODIAL DATA AND TAX STATUS INFORMATION.—

(1) NATIONAL DIRECTORY OF NEW HIRES.—Section 453(i)(3) of the Social Security Act (42 U.S.C. 653(i)(3)) is amended by striking "a claim with respect to employment in a tax return" and inserting "information which is required on a tax return".

(2) FEDERAL CASE REGISTRY OF CHILD SUPPORT ORDERS.—Section 453(h) of the such Act (42 U.S.C. 653(h)) is amended by adding at the end the following:

"(3) ADMINISTRATION OF FEDERAL TAX LAWS.—The Secretary of the Treasury shall have access to the information described in paragraph (2), consisting of the names and social security numbers of the custodial parents linked with the children in the custody of such parents, for the purpose of administering those sections of the Internal Revenue Code of 1986 which grant tax benefits based on support and residence provided dependent children."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1997.

BOND AMENDMENTS NOS. 525–526

(Ordered to lie on the table.)

Mr. BOND submitted two amendments intended to be proposed by him to the bill, S. 949, supra; as follows:

AMENDMENT NO. 525

On page 192, strike lines 13 through 18.

AMENDMENT NO. 526

On page 212, between lines 11 and 12, insert the following:

SEC. . CLARIFICATION OF DEFINITION OF PRINCIPAL PLACE OF BUSINESS.

(a) IN GENERAL.—Section 280A(f) (relating to definitions and special rules) is amended by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively, and by inserting after paragraph (1) the following new paragraph:

"(2) PRINCIPAL PLACE OF BUSINESS.—For purposes of subsection (c), a home office shall in any case qualify as the principal place of business if—

"(A) the office is the location where the taxpayer's essential administrative or management activities are conducted on a regular and systematic (and not incidental) basis by the taxpayer, and

"(B) the office is necessary because the taxpayer has no other location for the performance of the essential administrative or management activities of the business."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1996.

DASCHLE (AND OTHERS) AMENDMENT NO. 527

Mr DASCHLE (for himself, Mr. BINGAMAN, Mr. CONRAD, Ms. MIKULSKI, Ms. BOXER, Mr. DODD, Mr. KERRY, Ms. LANDRIEU, Mr. CLELAND, Mr. DURBIN, Mr. KENNEDY, Mr. FORD, Mr. LAUTENBERG, Mr. HARKIN, and Mr. JOHNSON) proposed an amendment to the bill, S. 949, supra; as follows:

Strike titles I through VII of the bill and insert the following:

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Revenue Reconciliation Act of 1997".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

TITLE I—REFUNDABLE CHILD TAX CREDIT

Sec. 101. Refundable child tax credit.

TITLE II—TAX INCENTIVES FOR EDUCATION AND TRAINING

Subtitle A—Tax Benefits Relating to Education Expenses

Sec. 201. HOPE credit for higher education tuition and related expenses.
Sec. 202. Deduction for interest on education loans.

Subtitle B—Expanded Education Investment Savings Opportunities

PART I—QUALIFIED TUITION PROGRAMS

Sec. 211. Exclusion from gross income of education distributions from qualified tuition programs.
Sec. 212. Eligible educational institutions permitted to maintain qualified tuition programs; other modifications of qualified State tuition programs.

PART II—KIDSAVE ACCOUNTS

Sec. 213. KIDSAVE accounts.

Subtitle C—Other Education Initiatives

Sec. 221. Extension of exclusion for employer-provided educational assistance.
Sec. 222. Repeal of limitation on qualified 501(c)(3) bonds other than hospital bonds.
Sec. 223. Tax credit for public elementary and secondary school construction.
Sec. 224. Contributions of computer technology and equipment for elementary or secondary school purposes.
Sec. 225. Increase in arbitrage rebate exception for governmental bonds used to finance education facilities.

Sec. 226. 2-percent floor on miscellaneous itemized deductions not to apply to certain continuing education expenses of elementary and secondary school teachers.

TITLE III—TAX RELIEF FOR FAMILY SAVINGS AND BUSINESS CAPITAL FORMATION

Subtitle A—Tax Relief for Family Savings

Sec. 301. Capital gains deduction.
Sec. 302. Family dividend exclusion.
Sec. 303. Exemption from tax for gain on sale of principal residence.

Subtitle B—Business Capital Formation

Sec. 311. Rollover of capital gains on certain small business investments.
Sec. 312. Modifications to exclusion of gain on certain small business stock.
Sec. 313. Expansion of small business stock exclusion to family-owned businesses.

TITLE IV—ESTATE TAX RELIEF FOR FAMILY BUSINESSES AND FARMS

Sec. 401. Family-owned business exclusion.
Sec. 402. Portion of estate tax subject to 4-percent interest rate increased to $2,500,000.
Sec. 403. Certain cash rentals of farmland not to cause recapture of special estate tax valuation.

TITLE V—EXTENSIONS

Sec. 501. Research tax credit.
Sec. 502. Contributions of stock to private foundations.
Sec. 503. Work opportunity tax credit.
Sec. 504. Orphan drug tax credit.

TITLE VI—INCENTIVES FOR REVITALIZATION OF THE DISTRICT OF COLUMBIA

Sec. 601. Tax incentives for revitalization of the District of Columbia.
Sec. 602. Incentives conditioned on other DC reform.

TITLE VII—MISCELLANEOUS PROVISIONS

Subtitle A—Distressed Communities and Brownfields

CHAPTER 1—ADDITIONAL EMPOWERMENT ZONES

Sec. 701. Additional empowerment zones.

CHAPTER 2—NEW EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES

Sec. 711. Designation of additional empowerment zones and enterprise communities.
Sec. 712. Volume cap not to apply to enterprise zone facility bonds with respect to new empowerment zones.
Sec. 713. Modifications to enterprise zone facility bond rules for all empowerment zones and enterprise communities.
Sec. 714. Modifications to enterprise zone business definition for all empowerment zones and enterprise communities.

CHAPTER 3—EXPENSING OF ENVIRONMENTAL REMEDIATION COSTS

Sec. 721. Expensing of environmental remediation costs.

Subtitle B—Puerto Rico Economic Activity Credit Improvement

Sec. 731. Modifications of Puerto Rico economic activity credit.
Sec. 732. Comparable treatment for other economic activity credit.

Subtitle C—Revisions Relating to Disasters

Sec. 741. Treatment of livestock sold on account of weather-related conditions.
Sec. 742. Gain or loss from sale of livestock disregarded for purposes of earned income credit.
Sec. 743. Mortgage financing for residences located in disaster areas.

Subtitle D—Provisions Relating to Small Businesses

Sec. 751. Waiver of penalty through June 30, 1998, on small businesses failing to make electronic fund transfers of taxes.
Sec. 752. Minimum tax not to apply to farmers' installment sales.

Subtitle E—Provisions Relating to Pensions and Fringe Benefits

Sec. 761. Treatment of multiemployer plans under section 415.
Sec. 762. Spousal consent required for certain distributions and loans under qualified cash or deferred arrangement.
Sec. 763. Section 401(k) investment protection.

Subtitle F—Other Provisions

Sec. 771. Adjustment of minimum tax exemption amounts for taxpayers other than corporations.
Sec. 772. Treatment of computer software as fsc export property.
Sec. 723. Full deduction for health insurance costs of self-employed individuals.

TITLE I—REFUNDABLE CHILD TAX CREDIT

SEC. 101. REFUNDABLE CHILD TAX CREDIT.

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 (relating to refundable credits) is amended by redesignating section 35 as section 36 and by inserting after section 34 the following new section:

"SEC. 35. CHILD CREDIT.

"(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this subtitle for the taxable year with respect to each qualifying child of the taxpayer an amount equal to the lesser of—

"(1) $350, or

"(2) $500, if such amount is contributed by the taxpayer for such taxable year for the benefit of such child to a KIDSAVE account (as defined in section 530).

"(b) LIMITATIONS.—

"(1) LIMITATION BASED ON ADJUSTED GROSS INCOME.—The dollar amounts in subsection (a) shall be reduced (but not below zero) ratably for each $1,000 (or fraction thereof) by which the taxpayer's modified adjusted gross income exceeds $70,000 but does not exceed $85,000. For purposes of the preceding sentence, the term 'modified adjusted gross income' means adjusted gross income increased by any amount excluded from gross income under section 911, 931, or 933.

"(2) LIMITATION BASED ON AMOUNT OF TAX.—The aggregate credit allowed by subsection (a) (determined after paragraph (1)) shall not exceed the sum of—

"(A) the excess (if any) of—

"(i) the taxpayer's regular tax liability for the taxable year reduced by the credits allowable against such tax under this subpart (other than this section), over

"(ii) the taxpayer's tentative minimum tax for such taxable year (determined without regard to the alternative minimum tax foreign tax credit), plus

"(B) the excess (if any) of—

"(i) the sum of—

"(I) the taxpayer's liability for the taxable year under sections 3101 and 3201,

"(II) the amount of tax paid on behalf of such taxpayer for the taxable year under sections 3111 and 3221, plus

"(III) the taxpayer's liability for such year under sections 1401 and 3211, over

"(ii) the credit allowed for the taxable year under section 32.

"(c) QUALIFYING CHILD.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualifying child' means any individual if—

"(A) the taxpayer is allowed a deduction under section 151 with respect to such individual for the taxable year,

"(B) such individual has not attained the age of 14 (age of 18 in the case of taxable years beginning after 2002) as of the close of the calendar year in which the taxable year of the taxpayer begins, and

"(C) such individual bears a relationship to the taxpayer described in section 32(c)(3)(B).

"(2) EXCEPTION FOR CERTAIN NONCITIZENS.—The term 'qualifying child' shall not include any individual who would not be a dependent if the first sentence of section 152(b)(3) were applied without regard to all that follows 'resident of the United States'.

"(d) TAXABLE YEAR MUST BE FULL TAXABLE YEAR.—Except in the case of a taxable year closed by reason of the death of the taxpayer, no credit shall be allowable under this section in the case of a taxable year covering a period of less than 12 months.

"(e) INFLATION ADJUSTMENTS.—

"(1) IN GENERAL.—In the case of a taxable year beginning after 2000, each dollar amount contained in subsection (a) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 1999' for 'calendar year 1992' in subparagraph (B) thereof.

"(2) ROUNDING.—If an amount contained in subsection (a) as adjusted under paragraph (1) is not a multiple of $50, such amount shall be rounded to the next lower multiple of $50.

"(f) PHASEIN OF CREDIT.—In the case of taxable years beginning in 1997 through 1999—

"(1) subsection (a)(1) shall be applied by substituting '$250' for '$350', and

"(2) subsection (a)(2) shall be applied by substituting '$350' for '$500'."

(b) CONFORMING AMENDMENTS.—The table of sections for subpart C of part IV of subchapter A of chapter 1 is amended by striking the item relating to section 35 and inserting the following new items:

"Sec. 35. Child credit.
"Sec. 36. Overpayments of tax."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

TITLE II—TAX INCENTIVES FOR EDUCATION AND TRAINING

Subtitle A—Tax Benefits Relating to Education Expenses

SEC. 201. HOPE CREDIT FOR HIGHER EDUCATION TUITION AND RELATED EXPENSES.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 25 the following new section:

"SEC. 25A. HIGHER EDUCATION TUITION AND RELATED EXPENSES.

"(a) ALLOWANCE OF CREDIT.—

"(1) IN GENERAL.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year the amount equal to the sum of—

"(A) the complete Hope Scholarship Credit, plus

"(B) the partial Hope Scholarship Credit.

"(2) COMPLETE CREDIT.—

"(A) IN GENERAL.—In the case of any individual to whom this paragraph applies for any taxable year, the complete Hope Scholarship Credit is an amount equal to the sum of—

"(i) 100 percent of so much of the qualified higher education expenses paid by the taxpayer during the taxable year (for education furnished to the individual during any academic period beginning in such taxable year) as does not exceed $1,000, plus

"(ii) 50 percent of such expenses so paid as exceeds $1,000 but does not exceed the applicable limit.

"(B) APPLICABLE LIMIT.—For purposes of subparagraph (A), the applicable limit is—

"(i) $1,100 for taxable years beginning in 1997, 1998, or 1999,

"(ii) $1,200 for taxable years beginning in 2000, or

"(iii) $1,500 for taxable years beginning in 2001 or thereafter.

"(3) PARTIAL HOPE SCHOLARSHIP CREDIT.—

"(A) IN GENERAL.—The partial Hope Scholarship Credit is 20 percent of the qualified higher education expenses paid by the taxpayer during the taxable year for education furnished to an individual during any academic period beginning in such taxable year. Education expenses with respect to an individual for whom a complete Hope Scholarship credit is determined for the taxable year shall not be taken into account under this paragraph.

"(B) DOLLAR LIMITATION.—The amount of qualified higher education expenses taken into account under subparagraph (A) for any taxable year shall not exceed—

"(i) $4,000 for taxable years beginning in 1997, 1998, or 1999,

"(ii) $7,500 for taxable years beginning in 2000, and

"(iii) $10,000 for taxable years beginning in 2001 or thereafter.

"(b) LIMITATIONS.—

"(1) ELECTION REQUIRED.—

"(A) IN GENERAL.—No credit shall be allowed under subsection (a) for a taxable year with respect to the qualified tuition and related expenses of an individual unless the taxpayer elects to have this section apply with respect to such individual for such year.

"(B) COMPLETE CREDIT ALLOWED ONLY FOR 2 TAXABLE YEARS.—An election under this paragraph shall not take effect with respect to an individual for the complete Hope Scholarship Credit under subsection (a)(2) for any taxable year if such election under this paragraph (by the taxpayer or any other individual) is in effect with respect to such individual for any 2 prior taxable years.

"(C) COORDINATION WITH EXCLUSIONS.—An election under this paragraph shall not take effect with respect to an individual for any taxable year if there is in effect for such taxable year an election under section 529(c)(3)(B) or 530(c)(1) (by the taxpayer or any other individual) to exclude from gross income distributions from a qualified tuition program or KIDSAVE account used to pay qualified higher education expenses of the individual.

"(3) CREDIT ALLOWED FOR YEAR ONLY IF INDIVIDUAL IS AT LEAST ½ TIME STUDENT FOR PORTION OF YEAR.—No credit shall be allowed under subsection (a) for a taxable year with respect to the qualified tuition and related expenses of an individual unless such individual is an eligible student for at least one academic period which begins during such year.

"(4) COMPLETE CREDIT ALLOWED ONLY FOR FIRST 2 YEARS OF POSTSECONDARY EDUCATION.—No credit shall be allowed under subsection (a)(2) for a taxable year with respect to the qualified tuition and related expenses of an individual if the individual has completed (before the beginning of such taxable year) the first 2 years of postsecondary education at an eligible educational institution.

"(c) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

"(1) IN GENERAL.—The amount which would (but for this subsection) be taken into account under subsection (a) for the taxable year shall be reduced (but not below zero) by the amount determined under paragraph (2).

"(2) AMOUNT OF REDUCTION.—The amount determined under this paragraph is the amount which bears the same ratio to the amount which would be so taken into account as—

"(A) the excess of—

"(i) the taxpayer's modified adjusted gross income for such taxable year, over

"(ii) $50,000 ($80,000 in the case of a joint return), bears to

"(B) $20,000.

"(3) MODIFIED ADJUSTED GROSS INCOME.—The term 'modified adjusted gross income' means the adjusted gross income of the taxpayer for the taxable year increased by any amount excluded from gross income under section 911, 931, or 933.

"(d) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED TUITION AND RELATED EXPENSES.—

"(A) IN GENERAL.—The term 'qualified tuition and related expenses' means tuition and fees required for the enrollment or attendance of—

"(i) the taxpayer,

"(ii) the taxpayer's spouse, or

"(iii) any dependent of the taxpayer with respect to whom the taxpayer is allowed a deduction under section 151,

at an eligible educational institution and books required for courses of instruction of such individual at such institution.

"(B) EXCEPTION FOR EDUCATION INVOLVING SPORTS, ETC.—Such term does not include expenses with respect to any course or other education involving sports, games, or hobbies, unless such course or other education is part of the individual's degree program.

"(C) EXCEPTION FOR NONACADEMIC FEES.—Such term does not include student activity fees, athletic fees, insurance expenses, or other expenses unrelated to an individual's academic course of instruction.

"(2) ELIGIBLE EDUCATIONAL INSTITUTION.—The term 'eligible educational institution' means an institution—

"(A) which is described in section 481 of the Higher Education Act of 1965 (20 U.S.C. 1088), as in effect on the date of the enactment of this section, and

"(B) which is eligible to participate in a program under title IV of such Act.

"(3) ELIGIBLE STUDENT.—The term 'eligible student' means, with respect to any academic period, a student who—

"(A) meets the requirements of section 484(a)(1) of the Higher Education Act of 1965 (20 U.S.C. 1091(a)(1)), as in effect on the date of the enactment of this section, and

"(B) is carrying at least ½ the normal full-time work load for the course of study the student is pursuing.

"(e) TREATMENT OF EXPENSES PAID BY DEPENDENT.—If a deduction under section 151 with respect to an individual is allowed to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins—

"(1) no credit shall be allowed under subsection (a) to such individual for such individual's taxable year, and

"(2) qualified tuition and related expenses paid by such individual during such individual's taxable year shall be treated for purposes of this section as paid by such other taxpayer.

"(f) TREATMENT OF CERTAIN PREPAYMENTS.—If qualified tuition and related expenses are paid by the taxpayer during a taxable year for an academic period which begins during the first 3 months following such taxable year, such academic period shall be treated for purposes of this section as beginning during such taxable year.

"(g) SPECIAL RULES.—

"(1) IDENTIFICATION REQUIREMENT.—No credit shall be allowed under subsection (a) to a taxpayer with respect to the qualified tuition and related expenses of an individual unless the taxpayer includes the name and taxpayer identification number of such individual on the return of tax for the taxable year.

"(2) ADJUSTMENT FOR CERTAIN SCHOLARSHIPS, ETC.—The amount of qualified tuition and related expenses otherwise taken into account under subsection (a) with respect to an individual for an academic period shall be reduced (before the application of subsections (b) and (c)) by the sum of any amounts paid for the benefit of such individual which are allocable to such period as—

"(A) a qualified scholarship which is excludable from gross income under section 117,

"(B) an educational assistance allowance under chapter 30, 31, 32, 34, or 35 of title 38, United States Code, or under chapter 1606 of title 10, United States Code, and

"(C) a payment (other than a gift, bequest, devise, or inheritance within the meaning of section 102(a)) for such individual's educational expenses, or attributable to such individual's enrollment at an eligible educational institution, which is excludable from gross income under any law of the United States.

"(3) DENIAL OF CREDIT IF STUDENT CONVICTED OF A FELONY DRUG OFFENSE.—No credit shall be allowed under subsection (a) for qualified tuition and related expenses for the enrollment or attendance of a student for any academic period if such student has been convicted of a Federal or State felony offense consisting of the possession or distribution of a controlled substance before the end of the taxable year with or within which such period ends.

"(4) DENIAL OF DOUBLE BENEFIT.—No credit shall be allowed under this section for any expense for which a deduction is allowed under any other provision of this chapter.

"(5) NO CREDIT FOR MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—If the taxpayer is a married individual (within the meaning of section 7703), this section shall apply only if the taxpayer and the taxpayer's spouse file a joint return for the taxable year.

"(6) NONRESIDENT ALIENS.—If the taxpayer is a nonresident alien individual for any portion of the taxable year, this section shall apply only if such individual is treated as a resident alien of the United States for purposes of this chapter by reason of an election under subsection (g) or (h) of section 6013.

"(h) INFLATION ADJUSTMENTS.—

"(1) DOLLAR LIMITATION ON AMOUNT OF CREDIT.—

"(A) IN GENERAL.—In the case of a taxable year beginning after 2001, applicable dollar amounts under each of the subsection (a) (2) and (3) shall be increased by an amount equal to—

"(i) such dollar amount, multiplied by

"(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 2001' for 'calendar year 1992' in subparagraph (B) thereof.

"(B) ROUNDING.—If any amount as adjusted under subparagraph (A) is not a multiple of $50, such amount shall be rounded to the next lowest multiple of $50.

"(2) INCOME LIMITS.—

"(A) IN GENERAL.—In the case of a taxable year beginning after 2000, the $50,000 and $80,000 amounts in subsection (c)(2) shall each be increased by an amount equal to—

"(i) such dollar amount, multiplied by

"(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 2001' for 'calendar year 1992' in subparagraph (B) thereof.

"(B) ROUNDING.—If any amount as adjusted under subparagraph (A) is not a multiple of $5,000, such amount shall be rounded to the next lowest multiple of $5,000.

"(i) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary or appropriate to carry out this section, including regulations providing for a recapture of credit allowed under this section in cases where there is a refund in a subsequent taxable year of any amount which was taken into account in determining the amount of such credit."

(b) EXTENSION OF PROCEDURES APPLICABLE TO MATHEMATICAL OR CLERICAL ERRORS.—Paragraph (2) of section 6213(g) (relating to the definition of mathematical or clerical errors) is amended by striking "and" at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting ", and", and by inserting after subparagraph (H) the following new subparagraph:

"(I) an omission of a correct TIN required under section 25A(g)(1) (relating to higher education tuition and related expenses) to be included on a return."

(c) RETURNS RELATING TO TUITION AND RELATED EXPENSES.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by inserting after section 6050R the following new section:

"SEC. 6050S. RETURNS RELATING TO HIGHER EDUCATION TUITION AND RELATED EXPENSES.

"(a) IN GENERAL.—Any person—

"(1) which is an eligible educational institution which receives payments for qualified tuition and related expenses with respect to any individual for any calendar year, or

"(2) which is engaged in a trade or business and which, in the course of such trade or business, makes payments during any calendar year to any individual which constitute reimbursements or refunds (or similar amounts) of qualified tuition and related expenses of such individual,

shall make the return described in subsection (b) with respect to the individual at such time as the Secretary may by regulations prescribe.

"(b) FORM AND MANNER OF RETURNS.—A return is described in this subsection if such return—

"(1) is in such form as the Secretary may prescribe,

"(2) contains—

"(A) the name, address, and TIN of the individual with respect to whom payments described in subsection (a) were received from (or were paid to),

"(B) the name, address, and TIN of any individual certified by the individual described in subparagraph (A) as the taxpayer who will claim the individual as a dependent for purposes of the deduction allowable under section 151 for any taxable year ending with or within the calendar year, and

"(C) the—

"(i) aggregate amount of payments for qualified tuition and related expenses received with respect to the individual described in subparagraph (A) during the calendar year, and

"(ii) aggregate amount of reimbursements or refunds (or similar amounts) paid to such individual during the calendar year, and

"(D) such other information as the Secretary may prescribe.

"(c) APPLICATION TO GOVERNMENTAL UNITS.—For purposes of this section—

"(1) a governmental unit or any agency or instrumentality thereof shall be treated as a person, and

"(2) any return required under subsection (a) by such governmental entity shall be made by the officer or employee appropriately designated for the purpose of making such return.

"(d) STATEMENTS TO BE FURNISHED TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return under subparagraph (A) or (B) of subsection (b)(2) a written statement showing—

"(1) the name, address, and phone number of the information contact of the person required to make such return, and

"(2) the aggregate amounts described in subparagraph (C) of subsection (b)(2).

The written statement required under the preceding sentence shall be furnished on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made.

"(e) DEFINITIONS.—For purposes of this section, the terms 'eligible educational institution' and 'qualified tuition and related expenses' have the meanings given such terms by section 25A.

"(f) RETURNS WHICH WOULD BE REQUIRED TO BE MADE BY 2 OR MORE PERSONS.—Except to the extent provided in regulations prescribed by the Secretary, in the case of any amount received by any person on behalf of another person, only the person first receiving such amount shall be required to make the return under subsection (a).

"(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section. No penalties shall be imposed under section 6724 with respect to any return or statement required under this section until such time as such regulations are issued."

(2) ASSESSABLE PENALTIES.—

(A) Subparagraph (B) of section 6724(d)(1) (relating to definitions) is amended by redesignating clauses (ix) through (xiv) as clauses (x) through (xv), respectively, and by inserting after clause (viii) the following new clause:

"(ix) section 6050S (relating to returns relating to payments for qualified tuition and related expenses),".

(B) Paragraph (2) of section 6724(d) is amended by striking "or" at the end of the next to last subparagraph, by striking the period at the end of the last subparagraph and inserting ", or", and by adding at the end the following new subparagraph:

"(Z) section 6050S(d) (relating to returns relating to qualified tuition and related expenses)."

(3) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6050R the following new item:

"Sec. 6050S. Returns relating to higher education tuition and related expenses."

(d) COORDINATION WITH SECTION 135.—Subsection (d) of section 135 is amended by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and by inserting after paragraph (1) the following new paragraph:

"(2) COORDINATION WITH HIGHER EDUCATION CREDIT.—The amount of the qualified higher education expenses otherwise taken into account under subsection (a) with respect to the education of an individual shall be reduced (before the application of subsection (b)) by the amount of such expenses which are taken into account in determining the credit allowable to the taxpayer or any other person under section 25A with respect to such expenses.

(e) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 25 the following new item:

"Sec. 25A. Higher education tuition and related expenses."

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to expenses paid after December 31, 1997 (in taxable years ending after such date), for education furnished in academic periods beginning after such date.

SEC. 202. DEDUCTION FOR INTEREST ON EDUCATION LOANS.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 (relating to additional itemized deductions for individuals) is amended by redesignating section 221 as section 222 and by inserting after section 220 the following new section:

"SEC. 221. INTEREST ON EDUCATION LOANS.

"(a) ALLOWANCE OF DEDUCTION.—In the case of an individual, there shall be allowed as a deduction for the taxable year an amount equal to the interest paid by the taxpayer during the taxable year on any qualified education loan.

"(b) MAXIMUM DEDUCTION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the deduction allowed by subsection (a) for the taxable year shall not exceed $2,500.

"(2) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

"(A) IN GENERAL.—The amount which would (but for this paragraph) be allowable as a deduction under this section shall be reduced (but not below zero) by the amount determined under paragraph (2).

"(B) AMOUNT OF REDUCTION.—The amount determined under this paragraph is the amount which bears the same ratio to the amount which would be so taken into account as—

"(i) the excess of—

"(I) the taxpayer's modified adjusted gross income for such taxable year, over

"(II) $40,000 ($80,000 in the case of a joint return), bears to

"(ii) $10,000 ($20,000 in the case of a joint return).

"(C) MODIFIED ADJUSTED GROSS INCOME.—The term 'modified adjusted gross income' means adjusted gross income determined—

"(i) without regard to this section and sections 135, 911, 931, and 933, and

"(ii) after application of sections 86, 219, and 469.

For purposes of sections 86, 135, 219, and 469, adjusted gross income shall be determined without regard to the deduction allowed under this section.

"(c) DEPENDENTS NOT ELIGIBLE FOR DEDUCTION.—No deduction shall be allowed by this section to an individual for the taxable year if a deduction under section 151 with respect to such individual is allowed to another taxpayer for the taxable year beginning in the calendar year in which such individual's taxable year begins.

"(d) LIMIT ON PERIOD DEDUCTION ALLOWED.—A deduction shall be allowed under this section only with respect to interest paid on any qualified education loan during the first 60 months (whether or not consecutive) in which interest payments are required. For purposes of this paragraph, any loan and all refinancing of such loan shall be treated as 1 loan.

"(e) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED EDUCATION LOAN.—The term 'qualified education loan' means any indebtedness incurred to pay qualified higher education expenses—

"(A) which are incurred on behalf of the taxpayer, the taxpayer's spouse, or any dependent of the taxpayer as of the time the indebtedness was incurred,

"(B) which are paid or incurred within a reasonable period of time before or after the indebtedness is incurred, and

"(C) which are attributable to education furnished during a period during which the recipient was an eligible student.

Such term includes indebtedness used to refinance indebtedness which qualifies as a qualified education loan. The term 'qualified education loan' shall not include any indebtedness owed to a person who is related (within the meaning of section 267(b) or 707(b)(1)) to the taxpayer.

"(2) QUALIFIED HIGHER EDUCATION EXPENSES.—The term 'qualified higher education expenses' means the cost of attendance (as defined in section 472 of the Higher Education Act of 1965, 20 U.S.C. 108711, as in effect on the day before the date of the enactment of this Act) at an eligible educational institution, reduced by the sum of—

"(A) the amount excluded from gross income under section 135, 529, or 530 by reason of such expenses, and

"(B) the amount of any scholarship, allowance, or payment described in section 25A(g)(2).

For purposes of the preceding sentence, the term 'eligible educational institution' has the same meaning given such term by section 25A(d)(2), except that such term shall also include an institution conducting an internship or residency program leading to a degree or certificate awarded by an institution of higher education, a hospital, or a health care facility which offers postgraduate training.

"(3) ELIGIBLE STUDENT.—The term 'eligible student' has the meaning given such term by section 25A(d)(3).

"(4) DEPENDENT.—The term 'dependent' has the meaning given such term by section 152.

"(f) SPECIAL RULES.—

"(1) DENIAL OF DOUBLE BENEFIT.—No deduction shall be allowed under this section for any amount for which a deduction is allowable under any other provision of this chapter.

"(2) MARRIED COUPLES MUST FILE JOINT RETURN.—If the taxpayer is married at the close of the taxable year, the deduction shall be allowed under subsection (a) only if the taxpayer and the taxpayer's spouse file a joint return for the taxable year.

"(3) MARITAL STATUS.—Marital status shall be determined in accordance with section 7703.

"(g) INFLATION ADJUSTMENTS.—

"(1) DOLLAR LIMITATION ON AMOUNT OF CREDIT.—

"(A) IN GENERAL.—In the case of a taxable year beginning after 1998, the $2,500 amount in subsection (b)(1) shall be increased by an amount equal to—

"(i) such dollar amount, multiplied by

"(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 1997' for 'calendar year 1992' in subparagraph (B) thereof.

"(B) ROUNDING.—If any amount as adjusted under subparagraph (A) is not a multiple of $50, such amount shall be rounded to the next lowest multiple of $50.

"(2) INCOME LIMITS.—In the case of a taxable year beginning in a calendar year after 2000, the $40,000 and $80,000 amounts in subsection (b)(2) shall each be increased in the same manner as amounts are increased under section 25A(h)(2) for taxable years beginning in such calendar year."

(b) DEDUCTION ALLOWED WHETHER OR NOT TAXPAYER ITEMIZES OTHER DEDUCTIONS.—Subsection (a) of section 62 is amended by inserting after paragraph (17) the following new paragraph:

"(18) INTEREST ON EDUCATION LOANS.—The deduction allowed by section 221."

(c) REPORTING REQUIREMENT.—

(1) IN GENERAL.—Section 6050S(a)(2) (relating to returns relating to higher education tuition and related expenses) is amended to read as follows:

"(2) which is engaged in a trade or business and which, in the course of such trade or business—

"(A) makes payments during any calendar year to any individual which constitutes reimbursements or refunds (or similar amounts) of qualified tuition and related expenses of such individual, or

"(B) except as provided in regulations, receives from any individual interest aggregating $600 or more for any calendar year on 1 or more qualified education loans,".

(2) INFORMATION.—Section 6050S(b)(2) is amended—

(A) by inserting "or interest" after "payments" in subparagraph (A), and

(B) in subparagraph (C), by striking "and" at the end of clause (i), by inserting "and" at the end of clause (ii), and by inserting after clause (ii) the following:

"(iii) aggregate amount of interest received for the calendar year from such individual,".

(3) DEFINITION.—Section 6050S(e) is amended by inserting ", and except as provided in regulations, the term 'qualified education loan' has the meaning given such term by section 221(e)(1)" after "section 25A".

(d) CLERICAL AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 is amended by striking the last item and inserting the following new items:

"Sec. 221. Interest on education loans.
"Sec. 222. Cross reference."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to any qualified education loan (as defined in section 221(e)(1) of the Internal Revenue Code of 1986, as added by this section) incurred on, before, or after the date of the enactment of this Act, but only with respect to—

(1) any loan interest payment due after December 31, 1996, and

(2) the portion of the 60-month period referred to in section 221(d) of the Internal Revenue Code of 1986 (as added by this section) after December 31, 1996.

Subtitle B—Expanded Education Investment Savings Opportunities

PART I—QUALIFIED TUITION PROGRAMS

SEC. 211. EXCLUSION FROM GROSS INCOME OF EDUCATION DISTRIBUTIONS FROM QUALIFIED TUITION PROGRAMS.

(a) IN GENERAL.—Subparagraph (B) of section 529(c)(3) (relating to distributions) is amended to read as follows:

"(B) DISTRIBUTIONS FOR QUALIFIED HIGHER EDUCATION EXPENSES.—If a distributee elects the application of this subparagraph for any taxable year—

"(i) no amount shall be includible in gross income by reason of a distribution which consists of providing a benefit to the distributee which, if paid for by the distributee, would constitute payment of a qualified higher education expense, and

"(ii) the amount which (but for the election) would be includible in gross income by reason of any other distribution shall not be so includible in an amount which bears the same ratio to the amount which would be so includible as the amount of the qualified higher education expenses of the distributee bears to the amount of the distribution."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after December 31, 1997, for education furnished in academic periods beginning after such date.

SEC. 212. ELIGIBLE EDUCATIONAL INSTITUTIONS PERMITTED TO MAINTAIN QUALIFIED TUITION PROGRAMS; OTHER MODIFICATIONS OF QUALIFIED STATE TUITION PROGRAMS.

(a) ELIGIBLE EDUCATIONAL INSTITUTIONS PERMITTED TO MAINTAIN QUALIFIED TUITION PROGRAMS.—Paragraph (1) of section 529(b) (defining qualified State tuition program) is amended by inserting "or by one or more eligible educational institutions" after "maintained by a State or agency or instrumentality thereof".

(b) QUALIFIED HIGHER EDUCATION EXPENSES TO INCLUDE ROOM AND BOARD.—Paragraph (3) of section 529(e) (defining qualified higher education expenses) is amended to read as follows:

"(3) QUALIFIED HIGHER EDUCATION EXPENSES.—

"(A) IN GENERAL.—The term 'qualified higher education expenses' means tuition, fees, books, supplies, and equipment required for the enrollment or attendance of a designated beneficiary at an eligible education institution.

"(B) ROOM AND BOARD INCLUDED FOR STUDENTS WHO ARE AT LEAST HALF-TIME.—In the case of an individual who is an eligible student (as defined in section 25A(d)(3)) for any academic period, such term shall also include reasonable costs for such period (as determined under the qualified tuition program) incurred by the designated beneficiary for room and board while attending such institution. The amount treated as qualified higher education expenses by reason of the preceding sentence shall not exceed the minimum amount (applicable to the student) included for room and board for such period in the cost of attendance (as defined in section

472 of the Higher Education Act of 1965, 20 U.S.C. 1087ll, as in effect on the date of the enactment of this paragraph) for the eligible educational institution for such period."

(c) ADDITIONAL MODIFICATIONS.—

(1) MEMBER OF FAMILY.—Paragraph (2) of section 529(e) (relating to other definitions and special rules) is amended to read as follows:

"(2) MEMBER OF FAMILY.—The term 'member of the family' means—

"(A) an individual who bears a relationship to another individual which is a relationship described in paragraphs (1) through (8) of section 152(a), and

"(B) the spouse of any individual described in subparagraph (A)."

(2) ELIGIBLE EDUCATIONAL INSTITUTION.—Section 529(e) is amended by adding at the end the following:

"(5) ELIGIBLE EDUCATIONAL INSTITUTION.—The term 'eligible educational institution' means an institution—

"(A) which is described in section 481 of the Higher Education Act of 1965 (20 U.S.C. 1088), as in effect on the date of the enactment of this paragraph, and

"(B) which is eligible to participate in a program under title IV of such Act."

(3) NO CONTRIBUTIONS AFTER BENEFICIARY ATTAINS AGE 18; DISTRIBUTIONS REQUIRED IN CERTAIN CASES.—

(A) IN GENERAL.—Subsection (b) of section 529 is amended by adding at the end the following new paragraph:

"(8) RESTRICTIONS RELATING TO AGE OF BENEFICIARY; COMPLETION OF EDUCATION.—

"(A) IN GENERAL.—A program shall be treated as a qualified tuition program only if—

"(i) no contribution is accepted on behalf of a designated beneficiary after the date on which such beneficiary attains age 18, and

"(ii) any balance to the credit of a designated beneficiary (if any) on the account termination date shall be distributed within 30 days after such date to such beneficiary (or in the case of death, the estate of the beneficiary).

"(B) ACCOUNT TERMINATION DATE.—For purposes of subparagraph (A), the term 'account termination date' means whichever of the following dates is the earliest:

"(i) The date on which the designated beneficiary attains age 30.

"(ii) The date on which the designated beneficiary dies."

(B) ROLLOVERS.—Section 529(c)(3) is amended by adding at the end the following:

"(E) ROLLOVERS TO INDIVIDUAL RETIREMENT ACCOUNTS AT AGE 30.—Subparagraph (A) shall not apply to any distribution to the designated beneficiary required under subsection (b)(8) by reason of the beneficiary attaining age 30 to the extent the beneficiary, within 60 days of the distribution, transfers such distribution to an individual retirement account established on the individual's behalf."

(C) CONFORMING AMENDMENTS.—

(i) Section 408(a)(1) is amended by striking "or 403(b)(8)" and inserting "403(b)(8), or 529(c)(3)(E)".

(ii) Subparagraph (A) of section 4973(b)(1) is amended by striking "or 408(b)(3)" and inserting "408(b)(3), or 529(c)(3)(E)".

(4) ESTATE AND GIFT TAX TREATMENT.—

(A) GIFT TAX TREATMENT.—

(i) Paragraph (2) of section 529(c) is amended to read as follows:

"(2) GIFT TAX TREATMENT OF CONTRIBUTIONS.—For purposes of chapters 12 and 13, any contribution to a qualified tuition program on behalf of any designated beneficiary shall—

"(A) be treated as a completed gift to such beneficiary which is not a future interest in property, and

"(B) shall not be treated as a qualified transfer under section 2503(e)."

(ii) Paragraph (5) of section 529(c) is amended to read as follows:

"(5) OTHER GIFT TAX RULES.—For purposes of chapters 12 and 13—

"(A) TREATMENT OF DISTRIBUTIONS.—In no event shall a distribution from a qualified tuition program be treated as a taxable gift.

"(B) TREATMENT OF DESIGNATION OF NEW BENEFICIARY.—The taxes imposed by chapters 12 and 13 shall apply to a transfer by reason of a change in the designated beneficiary under the program (or a rollover to the account of a new beneficiary) only if the new beneficiary is a generation below the generation of the old beneficiary (determined in accordance with section 2651)."

(B) ESTATE TAX TREATMENT.—Paragraph (4) of section 529(c) is amended to read as follows:

"(4) ESTATE TAX TREATMENT.—

"(A) IN GENERAL.—No amount shall be includible in the gross estate of any individual for purposes of chapter 11 by reason of an interest in a qualified tuition program.

"(B) AMOUNTS INCLUDIBLE IN ESTATE OF DESIGNATED BENEFICIARY IN CERTAIN CASES.—Subparagraph (A) shall not apply to amounts distributed on account of the death of a beneficiary."

(5) LIMITATION ON CONTRIBUTIONS TO QUALIFIED TUITION PROGRAMS NOT MAINTAINED BY A STATE.—Subsection (b) of section 529 is amended by adding at the end the following new paragraph:

"(9) LIMITATION ON CONTRIBUTIONS TO QUALIFIED TUITION PROGRAMS NOT MAINTAINED BY A STATE.—In the case of a program not maintained by a State or agency or instrumentality thereof, such program shall not be treated as a qualified tuition program unless it limits the annual contribution to the program on behalf of a designated beneficiary to the sum of $2,000 plus the amount of the credit allowable under section 25A for 1 qualifying child."

(d) ADDITIONAL TAX ON AMOUNTS NOT USED FOR HIGHER EDUCATION EXPENSES.—Section 529 is amended by adding at the end the following new subsection:

"(f) IMPOSITION OF ADDITIONAL TAX.—

"(1) IN GENERAL.—In the case of a qualified tuition program not maintained by a State or any agency or instrumentality thereof, the tax imposed by this chapter for any taxable year on any taxpayer who receives a payment or distribution from such program which is includible in gross income shall be increased by 10 percent of the amount which is so includible.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply if the payment or distribution is—

"(A) made to a beneficiary (or to the estate of the designated beneficiary) on or after the death of the designated beneficiary,

"(B) attributable to the designated beneficiary's being disabled (within the meaning of section 72(m)(7)), or

"(C) made on account of a scholarship, allowance, or payment described in section 25A(g)(2) received by the account holder to the extent the amount of the payment or distribution does not exceed the amount of the scholarship, allowance, or payment.

"(3) EXCESS CONTRIBUTIONS RETURNED BEFORE DUE DATE OF RETURN.—In the case of a qualified tuition program not maintained by a State or any agency or instrumentality thereof, paragraph (1) shall not apply to the distribution to a contributor of any contribution made during a taxable year on behalf of a designated beneficiary to the extent that such contribution exceeds the limitation in section 4973(e) if—

"(A) such distribution is received on or before the day prescribed by law (including extensions of time) for filing such contributor's return for such taxable year, and

"(B) such distribution is accompanied by the amount of net income attributable to such excess contribution.

Any net income described in subparagraph (B) shall be included in the gross income of the contributor for the taxable year in which such excess contribution was made."

(e) COORDINATION WITH EDUCATION SAVINGS BOND.—Section 135(c)(2) (defining qualified higher education expenses) is amended by adding at the end the following:

"(C) CONTRIBUTIONS TO QUALIFIED TUITION PROGRAM.—Such term shall include any contribution to a qualified tuition program (as defined in section 529) on behalf of a designated beneficiary (as defined in such section) who is an individual described in subparagraph (A); but there shall be no increase in the investment in the contract for purposes of applying section 72 by reason of any portion of such contribution which is not includible in gross income by reason of this subparagraph."

(f) TAX ON EXCESS CONTRIBUTIONS.—

(1) IN GENERAL.—Subsection (a) of section 4973 is amended by striking "or" at the end of paragraph (2) and by inserting after paragraph (3) the following new paragraphs:

"(4) a qualified tuition program (as defined in section 529) not maintained by a State or any agency or instrumentality thereof, or

"(5) a KIDSAVE account (as defined in section 530),".

(2) EXCESS CONTRIBUTIONS DEFINED.—Section 4973 is amended by adding at the end the following new subsection:

"(e) EXCESS CONTRIBUTIONS TO PRIVATE QUALIFIED TUITION PROGRAM AND KIDSAVE ACCOUNTS.—For purposes of this section—

"(1) IN GENERAL.—In the case of private education investment accounts maintained for the benefit of any 1 beneficiary, the term 'excess contributions' means the amount by which the amount contributed for the taxable year to such accounts exceeds the sum of $2,000 plus the amount of the credit allowed under section 25A for such beneficiary for such taxable year.

"(2) PRIVATE EDUCATION INVESTMENT ACCOUNT.—For purposes of paragraph (1), the term 'private education investment account' means—

"(A) a qualified tuition program (as defined in section 529) not maintained by a State or any agency or instrumentality thereof, and

"(B) a KIDSAVE account (as defined in section 530).

"(3) SPECIAL RULES.—For purposes of paragraph (1), the following contributions shall not be taken into account:

"(A) Any contribution which is distributed out of the KIDSAVE account in a distribution to which section 530(c)(3)(B) applies.

"(B) Any contribution to a qualified tuition program (as so defined) described in section 530(b)(2)(B) from any such account.

"(C) Any rollover contribution."

(g) CLARIFICATION OF TAXATION OF DISTRIBUTIONS.—Subparagraph (A) of section 529(c)(3) is amended to read as follows:

"(A) IN GENERAL.—Any distribution from a qualified tuition program—

"(i) shall be includible in the gross income of the distributee to the extent allocable to income under the program, and "(ii) shall not be includible in gross income to the extent allocable to the investment in the contract.

For purposes of the preceding sentence, rules similar to the rules of section 72(e)(3) shall apply."

(h) TECHNICAL AMENDMENTS.—

(1) Paragraph (2) of section 26(b) is amended by redesignating subparagraphs (E) through (P) as subparagraphs (F) through (Q), respectively, and by inserting after subparagraph (D) the following new subparagraph:

"(E) section 529(f) (relating to additional tax on certain distributions from qualified tuition programs),".

(2) The text of section 529 is amended by striking "qualified State tuition program" each place it appears and inserting "qualified tuition program".

(3)(A) The section heading of section 529 is amended to read as follows:

"SEC. 529. QUALIFIED TUITION PROGRAMS."

(B) The item relating to section 529 in the table of sections for part VIII of subchapter F of chapter 1 is amended by striking "State".

(4)(A) The heading for part VIII of subchapter F of chapter 1 is amended to read as follows:

"PART VIII—HIGHER EDUCATION SAVINGS ENTITIES".

(B) The table of parts for subchapter F of chapter 1 is amended by striking the item relating to part VIII and inserting:

"Part VIII. Higher education savings entities."

(5)(A) Section 529(d) is amended to read as follows:

"(d) REPORTS.—Each officer or employee having control of the qualified tuition program or their designee shall make such reports regarding such program to the Secretary and to designated beneficiaries with respect to contributions, distributions, and such other matters as the Secretary may require under regulations. The reports required by this subsection shall be filed at such time and in such manner and furnished to such individuals at such time and in such manner as may be required by those regulations."

(B) Paragraph (2) of section 6693(a) (relating to failure to provide reports on individual retirement accounts or annuities) is amended by striking "and" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", and", and by adding at the end the following new subparagraph:

"(C) Section 529(d) (relating to qualified tuition programs)."

(C) The section heading for section 6693 is amended by striking "individual retirement" and inserting "certain tax-favored".

(D) The item relating to section 6693 in the table of sections for part I of subchapter B of chapter 68 is amended by striking "individual retirement" and inserting "certain tax-favored".

(i) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall take effect on January 1, 1998.

(2) EXPENSES TO INCLUDE ROOM AND BOARD, ETC.—The amendments made by subsection (b) and (c)(2) shall apply to distributions after December 31, 1997, with respect to expenses paid after such date (in taxable years ending after such date), for education furnished in academic periods beginning after such date.

(3) COORDINATION WITH EDUCATION SAVINGS BONDS.—The amendment made by subsection (e) shall apply to taxable years beginning after December 31, 1997.

(4) ESTATE AND GIFT TAX CHANGES.—

(A) GIFT TAX CHANGES.—Paragraphs (2) and (5) of section 529(c) of the Internal Revenue Code of 1986, as amended by this section, shall apply to transfers (including designations of new beneficiaries) made after the date of the enactment of this Act.

(B) ESTATE TAX CHANGES.—Paragraph (4) of such section 529(c) shall apply to estates of decedents dying after June 8, 1997.

(5) REPORTING.—The amendments made by subsection (g) shall apply after June 16, 1997.

PART II—KIDSAVE ACCOUNTS

SEC. 213. KIDSAVE ACCOUNTS.

(a) IN GENERAL.—Part VIII of subchapter F of chapter 1 (relating to qualified State tuition programs) is amended by adding at the end the following new section:

"SEC. 530. KIDSAVE ACCOUNTS.

"(a) GENERAL RULE.—A KIDSAVE account shall be exempt from taxation under this subtitle. Notwithstanding the preceding sentence, the KIDSAVE account shall be subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated business income of charitable organizations).

"(b) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) KIDSAVE ACCOUNT.—The term 'KIDSAVE account' means a trust created or organized in the United States exclusively for the purpose of paying the qualified higher education expenses of the account holder, but only if the written governing instrument creating the trust meets the following requirements:

"(A) No contribution will be accepted—

"(i) unless it is in cash,

"(ii) after the date on which the account holder attains age 18, or

"(iii) except in the case of rollover contributions, if such contribution would result in aggregate contributions for the taxable year exceeding the amount of the credit allowable under section 35 for the taxable year for 1 qualifying child.

"(B) The trustee is a bank (as defined in section 408(n)) or another person who demonstrates to the satisfaction of the Secretary that the manner in which that person will administer the trust will be consistent with the requirements of this section.

"(C) No part of the trust assets will be invested in life insurance contracts.

"(D) The assets of the trust shall not be commingled with other property except in a common trust fund or common investment fund.

"(E) Upon the death of the account holder, any balance in the account will be distributed as required under section 529(b)(8) (as if such account were a qualified tuition program).

"(2) QUALIFIED HIGHER EDUCATION EXPENSES.—

"(A) IN GENERAL.—The term 'qualified higher education expenses' has the same meaning given such term by section 529(e)(3).

"(B) QUALIFIED TUITION PROGRAMS.—Such term shall include amounts paid or incurred to purchase tuition credits or certificates, or to make contributions to an account, under a qualified tuition program (as defined in section 529(b)) for the benefit of the account holder.

"(3) ELIGIBLE EDUCATIONAL INSTITUTION.—The term 'eligible educational institution' has the meaning given such term by section 529(e)(5).

"(4) ACCOUNT HOLDER.—The term 'account holder' means the individual for whose benefit the KIDSAVE account is established.

"(c) TAX TREATMENT OF DISTRIBUTIONS.—

"(1) IN GENERAL.—Any amount paid or distributed out of a KIDSAVE account shall be includible in gross income to the extent required by section 529(c)(3) (determined as if the account were a qualified tuition program).

"(2) SPECIAL RULES FOR APPLYING ESTATE AND GIFT TAXES WITH RESPECT TO ACCOUNT.—Rules similar to the rules of paragraphs (2), (4), and (5) of section 529(c) shall apply for purposes of this section.

"(3) ADDITIONAL TAX FOR DISTRIBUTIONS NOT USED FOR EDUCATIONAL EXPENSES.—

"(A) IN GENERAL.—The tax imposed by section 529(f) shall apply to payments and distributions from a KIDSAVE account in the same manner as such tax applies to qualified tuition programs (as defined in section 529).

"(B) EXCESS CONTRIBUTIONS RETURNED BEFORE DUE DATE OF RETURN.—Subparagraph (A) shall not apply to the distribution to a contributor of any contribution paid during a taxable year to a KIDSAVE account to the extent that such contribution exceeds the limitation in section 4973(e) if such distribution (and the net income with respect to such excess contribution) meet requirements comparable to the requirements of section 529(f)(3).

"(4) ROLLOVER CONTRIBUTIONS—Paragraph (1) shall not apply to any amount paid or distributed from a KIDSAVE account to the extent that the amount received is paid into another KIDSAVE retirement account for the benefit of the account holder or a member of the family (within the meaning of section 529(e)(2)) of the account holder not later than the 60th day after the date of such payment or distribution. The preceding sentence shall not apply to any payment or distribution if it applied to any prior payment or distribution during the 12-month period ending on the date of the payment or distribution.

"(5) CHANGE IN ACCOUNT HOLDER.—Any change in the account holder of a KIDSAVE account shall not be treated as a distribution for purposes of paragraph (1) if the new account holder is a member of the family (as so defined) of the old account holder.

"(6) SPECIAL RULES FOR DEATH AND DIVORCE.—Rules similar to the rules of paragraphs (7) and (8) of section 220(f) shall apply.

"(d) TAX TREATMENT OF ACCOUNTS.—Rules similar to the rules of paragraphs (2) and (4) of section 408(e) shall apply to any KIDSAVE account.

"(e) COMMUNITY PROPERTY LAWS.—This section shall be applied without regard to any community property laws.

"(f) CUSTODIAL ACCOUNTS.—For purposes of this section, a custodial account shall be treated as a trust if the assets of such account are held by a bank (as defined in section 408(n)) or another person who demonstrates, to the satisfaction of the Secretary, that the manner in which he will administer the account will be consistent with the requirements of this section, and if the custodial account would, except for the fact that it is not a trust, constitute an account described in subsection (b)(1). For purposes of this title, in the case of a custodial account treated as a trust by reason of the preceding sentence, the custodian of such account shall be treated as the trustee thereof.

"(g) REPORTS.—The trustee of a KIDSAVE account shall make such reports regarding such account to the Secretary and to the account holder with respect to contributions, distributions, and such other matters as the

Secretary may require under regulations. The reports required by this subsection shall be filed at such time and in such manner and furnished to such individuals at such time and in such manner as may be required by those regulations."

(b) Tax on Prohibited Transactions.—

(1) In general.—Paragraph (1) of section 4975(e) (relating to prohibited transactions) is amended by striking "or" at the end of subparagraph (D), by redesignating subparagraph (E) as subparagraph (F), and by inserting after subparagraph (D) the following new subparagraph:

"(E) A KIDSAVE account described in section 530, or".

(2) Special rule.—Subsection (c) of section 4975 is amended by adding at the end of subsection (c) the following new paragraph:

"(5) Special rule for KIDSAVE accounts.—An individual for whose benefit a KIDSAVE account is established and any contributor to such account shall be exempt from the tax imposed by this section with respect to any transaction concerning such account (which would otherwise be taxable under this section) if section 530(d) applies with respect to such transaction."

(c) Failure To Provide Reports on KIDSAVE Accounts.—Paragraph (2) of section 6693(a) (relating to failure to provide reports on individual retirement accounts or annuities) is amended by striking "and" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting ", and", and by adding at the end the following new subparagraph:

"(D) Section 530(g) (relating to KIDSAVE retirement accounts)."

(d) Technical Amendments.—

(1) Subparagraph (F) of section 26(b)(2), as added by the preceding section, is amended by inserting before the comma "and section 530(c)(3) (relating to additional tax on certain distributions from KIDSAVE accounts)".

(2) Subparagraph (C) of section 135(c)(2), as added by the preceding section, is amended by inserting ", or to a KIDSAVE account (as defined in section 530) on behalf of an account holder (as defined in such section)," after "(as defined in such section)".

(3) The table of sections for part VIII of subchapter F of chapter 1 is amended by adding at the end the following new item:

"Sec. 530. KIDSAVE accounts."

(e) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

Subtitle C—Other Education Initiatives

SEC. 221. EXTENSION OF EXCLUSION FOR EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE.

(a) In General.—Section 127 (relating to educational assistance programs) is amended by striking subsection (d) and by redesignating subsection (e) as subsection (d).

(b) Repeal of Limitation on Graduate Education.—The last sentence of section 127(c)(1) is amended by striking ", and such term also does not include any payment for, or the provision of any benefits with respect to, any graduate level course of a kind normally taken by an individual pursuing a program leading to a law, business, medical, or other advanced academic or professional degree".

(c) Effective Dates.—

(1) Extension.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1996.

(2) Graduate education.—The amendment made by subsection (b) shall apply with respect to expenses relating to courses beginning after December 31, 1996.

SEC. 222. REPEAL OF LIMITATION ON QUALIFIED 501(c)(3) BONDS OTHER THAN HOSPITAL BONDS.

Section 145(b) (relating to qualified 501(c)(3) bond) is amended by adding at the end the following new paragraph:

"(5) Termination of limitation.—This subsection shall not apply with respect to bonds issued after the date of the enactment of this paragraph to finance capital expenditures incurred after such date."

SEC. 223. TAX CREDIT FOR PUBLIC ELEMENTARY AND SECONDARY SCHOOL CONSTRUCTION.

(a) In General.—Subpart B of part IV of subchapter A of chapter 1 (relating to general business credits) is amended by adding at the end the following new section:

"SEC. 45B. CREDIT FOR PUBLIC ELEMENTARY AND SECONDARY SCHOOL CONSTRUCTION.

"(a) In General.—For purposes of section 38, the amount of the school construction credit determined under this section for an eligible taxpayer for any taxable year with respect to an eligible school construction project shall be an amount equal to the lesser of—

"(1) the applicable percentage of the qualified school construction costs, or

"(2) the excess (if any) of—

"(A) the taxpayer's allocable school construction amount with respect to such project under subsection (d), over

"(B) any portion of such allocable amount used under this section for preceding taxable years.

"(b) Eligible Taxpayer; Eligible School Construction Project.—For purposes of this section—

"(1) Eligible taxpayer.—The term 'eligible taxpayer' means any person which—

"(A) has entered into a contract with a local educational agency for the performance of construction or related activities in connection with an eligible school construction project, and

"(B) has received an allocable school construction amount with respect to such contract under subsection (d).

"(2) Eligible school construction project.—

"(A) In general.—The term 'eligible school construction project' means any project related to a public elementary school or secondary school that is conducted for 1 or more of the following purposes:

"(i) Construction of school facilities in order to ensure the health and safety of all students, which may include—

"(I) the removal of environmental hazards,

"(II) improvements in air quality, plumbing, lighting, heating and air conditioning, electrical systems, or basic school infrastructure, and

"(III) building improvements that increase school safety.

"(ii) Construction activities needed to meet the requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) or of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

"(iii) Construction activities that increase the energy efficiency of school facilities.

"(iv) Construction that facilitates the use of modern educational technologies.

"(v) Construction of new school facilities that are needed to accommodate growth in school enrollments.

"(vi) Such other construction as the Secretary of Education determines appropriate.

"(B) Special rules.—For purposes of this paragraph—

"(i) the term 'construction' includes reconstruction, renovation, or other substantial rehabilitation, and

"(ii) an eligible school construction project shall not include the costs of acquiring land (or any costs related to such acquisition).

"(c) Qualified School Construction Costs; Applicable Percentage.—For purposes of this section—

"(1) In general.—The term 'qualified school construction costs' means the aggregate amounts paid to an eligible taxpayer during the taxable year under the contract described in subsection (b)(1).

"(2) Applicable percentage.—The term 'applicable percentage' means, in the case of an eligible school construction project related to a local educational agency, the higher of the following percentages:

"(A) If the local educational agency has a percentage or number of children described in clause (i)(I) or (ii)(I) of section 1125(c)(2)(A) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6335(c)(2)(A)), the applicable percentage is 10 percent.

"(B) If the local educational agency has a percentage or number of children described in clause (i)(II) or (ii)(II) of such section, the applicable percentage is 15 percent.

"(C) If the local educational agency has a percentage or number of children described in clause (i)(III) or (ii)(III) of such section, the applicable percentage is 20 percent.

"(D) If the local educational agency has a percentage or number of children described in clause (i)(IV) or (ii)(IV) of such section, the applicable percentage is 25 percent.

"(E) If the local educational agency has a percentage or number of children described in clause (i)(V) or (ii)(V) of such section, the applicable percentage is 30 percent.

"(d) Allocable Amount.—For purposes of this section—

"(1) In general.—Subject to paragraph (3), a local educational agency may allocate to any person a school construction amount with respect to any eligible school construction project.

"(2) Time for making allocation.—An allocation shall be taken into account under paragraph (1) only if the allocation is made at the time the contract described in subsection (b)(1) is entered into (or such later time as the Secretary may by regulation allow).

"(3) Coordination with state program.—A local educational agency may not allocate school construction amounts for any calendar year—

"(A) which in the aggregate exceed the amount of the State school construction ceiling allocated to such agency for such calendar year under subsection (e), and

"(B) which is consistent with any specific allocation required by the State or this section.

"(e) State Ceilings and Allocation.—

"(1) In general.—A State educational agency shall allocate to local educational agencies within the State for any calendar year a portion of the State school construction ceiling for such year. Such allocations shall be consistent with the State application which has been approved under subsection (f) and with any requirement of this section.

"(2) State school construction ceiling.—

"(A) In general.—The State school construction ceiling for any State for any calendar year shall be an amount equal to the State's allocable share of the national school construction amount.

"(B) State's allocable share.—The State's allocable share of the national school construction amount for a fiscal year shall bear the same relation to the national school construction amount for the fiscal year as the amount the State received under section 1124 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333) for the preceding fiscal year bears to the total amount received by all States under such section for such preceding fiscal year.

“(C) NATIONAL SCHOOL CONSTRUCTION AMOUNT.—The national school construction amount is $750,000,000 for each of calendar years 1998, 1999, 2000, 2001, and 2002, reduced by any amount described in paragraph (3).

“(3) SPECIAL ALLOCATIONS FOR INDIAN TRIBES AND TERRITORIES.—

“(A) ALLOCATION TO INDIAN TRIBES.—The national school construction amount under paragraph (2)(C) shall be reduced by 1.5 percent for each calendar year and the Secretary of Interior shall allocate such amount among Indian tribes according to their respective need for assistance under this section.

“(B) ALLOCATION TO TERRITORIES.—The national school construction amount under paragraph (2)(C) shall be reduced by 0.5 percent for each calendar year and the Secretary of Education shall allocate such amount among the territories according to their respective need for assistance under this section.

“(4) REALLOCATION.—If the Secretary of Education determines that a State is not making satisfactory progress in carrying out the State's plan for the use of funds allocated to the State under this section, the Secretary may reallocate all or part of the State school construction ceiling to 1 or more other States that are making satisfactory progress.

“(e) STATE APPLICATION.—

“(1) IN GENERAL.—A State educational agency shall not be eligible to allocate any amount to a local educational agency for any calendar year unless the agency submits to the Secretary of Education (and the Secretary approves) an application containing such information as the Secretary may require, including—

“(A) an estimate of the overall condition of school facilities in the State, including the projected cost of upgrading schools to adequate condition;

“(B) an estimate of the capacity of the schools in the State to house projected student enrollments, including the projected cost of expanding school capacity to meet rising student enrollment;

“(C) the extent to which the schools in the State have the basic infrastructure elements necessary to incorporate modern technology into their classrooms, including the projected cost of upgrading school infrastructure to enable the use of modern technology in classrooms;

“(D) the extent to which the schools in the State offer the physical infrastructure needed to provide a high-quality education to all students; and

“(E) an identification of the State agency that will allocate credit amounts to local educational agencies within the State.

“(2) SPECIFIC ITEMS IN ALLOCATION.—The State shall include in the State's application the process by which the State will allocate the credits to local educational agencies within the State. The State shall consider in its allocation process the extent to which—

“(A) the school district served by the local educational agency has—

“(i) a high number or percentage of the total number of children aged 5 to 17, inclusive, in the State who are counted under section 1124(c) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333(c)); or

“(ii) a high percentage of the total number of low-income residents in the State;

“(B) the local educational agency lacks the fiscal capacity, including the ability to raise funds through the full use of such agency's bonding capacity and otherwise, to undertake the eligible school construction project without assistance;

“(C) the local area makes an unusually high local tax effort, or has a history of failed attempts to pass bond referenda;

“(D) the local area contains a significant percentage of federally owned land that is not subject to local taxation;

“(E) the threat the condition of the physical facility poses to the safety and well-being of students;

“(F) there is a demonstrated need for the construction, reconstruction, renovation, or rehabilitation based on the condition of the facility;

“(G) the extent to which the facility is overcrowded; and

“(H) the extent to which assistance provided will be used to support eligible school construction projects that would not otherwise be possible to undertake.

“(3) IDENTIFICATION OF AREAS.—The State shall include in the State's application the process by which the State will identify the areas of greatest needs (whether those areas are in large urban centers, pockets of rural poverty, fast-growing suburbs, or elsewhere) and how the State intends to meet the needs of those areas.

“(4) ALLOCATIONS ON BASIS OF APPLICATION.—The Secretary of Education shall evaluate applications submitted under this subsection and shall approve any such application which meets the requirements of this section.

“(g) REQUIRED ALLOCATIONS.—Notwithstanding any process for allocation under a State application under subsection (f), in the case of a State which contains 1 or more of the 100 school districts within the United States which contains the largest number of poor children (as determined by the Secretary of Education), the State shall allocate each calendar year to the local educational agency serving such districts that portion of the State school construction ceiling which bears the same ratio to such ceiling as the number of children in such district for the preceding calendar year who are counted for purposes of section 1124(c) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333(c)) bears to the total number of children in such State who are so counted.

“(h) DEFINITIONS.—For purposes of this section—

“(1) ELEMENTARY SCHOOL; LOCAL EDUCATIONAL AGENCY; SECONDARY SCHOOL; STATE EDUCATIONAL AGENCY.—The terms ‘elementary school’, ‘local educational agency’, ‘secondary school’, and ‘State educational agency’ have the meanings given the terms in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

“(2) TERRITORIES.—The term ‘territories’ means the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

“(3) STATE.—The term ‘State’ means each of the several States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.”

(b) INCLUSION IN GENERAL BUSINESS CREDIT.—

(1) IN GENERAL.—Section 38(b) is amended by striking “plus” at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting “, plus”, and by adding at the end the following new paragraph:

“(13) the school construction credit determined under section 45D(a).”

(2) TRANSITION RULE.—Section 39(d) is amended by adding at the end the following new paragraph:

“(8) NO CARRYBACK OF SECTION 45D CREDIT BEFORE ENACTMENT.—No portion of the unused business credit for any taxable year which is attributable to the school construction credit determined under section 45D may be carried back to a taxable year ending before the date of the enactment of section 45D.”

(c) CONFORMING AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

“Sec. 45B. Credit for public elementary and secondary school construction.”

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. 224. CONTRIBUTIONS OF COMPUTER TECHNOLOGY AND EQUIPMENT FOR ELEMENTARY OR SECONDARY SCHOOL PURPOSES.

(a) CONTRIBUTIONS OF COMPUTER TECHNOLOGY AND EQUIPMENT FOR ELEMENTARY OR SECONDARY SCHOOL PURPOSES.—Subsection (e) of section 170 is amended by adding at the end the following new paragraph:

“(6) SPECIAL RULE FOR CONTRIBUTIONS OF COMPUTER TECHNOLOGY AND EQUIPMENT FOR ELEMENTARY OR SECONDARY SCHOOL PURPOSES.—

“(A) LIMIT ON REDUCTION.—In the case of a qualified elementary or secondary educational contribution, the reduction under paragraph (1)(A) shall be no greater than the amount determined under paragraph (3)(B).

“(B) QUALIFIED ELEMENTARY OR SECONDARY EDUCATIONAL CONTRIBUTION.—For purposes of this paragraph, the term ‘qualified elementary or secondary educational contribution’ means a charitable contribution by a corporation of any computer technology or equipment, but only if—

“(i) the contribution is to—

“(I) an educational organization described in subsection (b)(1)(A)(ii), or

“(II) an entity described in section 501(c)(3) and exempt from tax under section 501(a) (other than an entity described in subclause (I)) that is organized primarily for purposes of supporting elementary and secondary education,

“(ii) the contribution is made not later than 2 years after the date the taxpayer acquired the property (or in the case of property constructed by the taxpayer, the date the construction of the property is substantially completed),

“(iii) substantially all of the use of the property by the donee is for use within the United States for educational purposes in any of the grades K–12 that are related to the purpose or function of the organization or entity,

“(iv) the property is not transferred by the donee in exchange for money, other property, or services, except for shipping, installation and transfer costs,

“(v) the property will fit productively into the entity's education plan, and

“(vi) the entity's use and disposition of the property will be in accordance with the provisions of clauses (iii) and (iv).

"(C) CONTRIBUTION TO PRIVATE FOUNDATION.—A contribution by a corporation of any computer technology or equipment to a private foundation (as defined in section 509) shall be treated as a qualified elementary or secondary educational contribution for purposes of this paragraph if—

"(i) the contribution to the private foundation satisfies the requirements of clauses (ii) and (iv) of subparagraph (B), and

"(ii) within 30 days after such contribution, the private foundation—

"(I) contributes the property to an entity described in clause (i) of subparagraph (B) that satisfies the requirements of clauses (iii) through (vi) of subparagraph (B), and

"(II) notifies the donor of such contribution.

"(D) SPECIAL RULE RELATING TO CONSTRUCTION OF PROPERTY.—For the purposes of this paragraph, the rules of paragraph (4)(C) shall apply.

"(E) DEFINITIONS.—For the purposes of this paragraph—

"(i) COMPUTER TECHNOLOGY OR EQUIPMENT.—The term 'computer technology or equipment' means computer software (as defined by section 197(e)(3)(B)), computer or peripheral equipment (as defined by section 168(i)(2)(B)), and fiber optic cable related to computer use.

"(ii) CORPORATION.—The term 'corporation' has the meaning given to such term by paragraph (4)(D)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the calendar year in which this Act is enacted.

SEC. 225. INCREASE IN ARBITRAGE REBATE EXCEPTION FOR GOVERNMENTAL BONDS USED TO FINANCE EDUCATION FACILITIES.

(a) IN GENERAL.—Section 148(f)(4)(D) (relating to exception for governmental units issuing $5,000,000 or less of bonds) is amended by adding at the end the following new clause:

"(vii) INCREASE IN EXCEPTION FOR BONDS FINANCING PUBLIC SCHOOL CAPITAL EXPENDITURES.—Each of the $5,000,000 amounts in the preceding provisions of this subparagraph shall be increased by the lesser of $5,000,000 or so much of the aggregate face amount of the bonds as are attributable to financing the construction (within the meaning of subparagraph (C)(iv)) of public school facilities."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after December 31, 1997.

SEC. 226. 2-PERCENT FLOOR ON MISCELLANEOUS ITEMIZED DEDUCTIONS NOT TO APPLY TO CERTAIN CONTINUING EDUCATION EXPENSES OF ELEMENTARY AND SECONDARY SCHOOL TEACHERS.

(a) IN GENERAL.—Section 67(b) (defining miscellaneous itemized deductions) is amended by striking "and" at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting ", and", and by adding at the end the following:

"(13) any deduction allowable for the qualified professional development expenses of an eligible teacher."

(b) DEFINITIONS.—Section 67 is amended by adding at the end the following new subsection:

"(g) QUALIFIED PROFESSIONAL DEVELOPMENT EXPENSES OF ELIGIBLE TEACHERS.—For purposes of subsection (b)(13)—

"(1) QUALIFIED PROFESSIONAL DEVELOPMENT EXPENSES.—

"(A) IN GENERAL.—The term 'qualified professional development expenses' means expenses—

"(i) for tuition, fees, books, supplies, equipment, and transportation required for the enrollment or attendance of an individual in a qualified course of instruction, and

"(ii) with respect to which a deduction is allowable under section 162 (determined without regard to this section).

"(B) QUALIFIED COURSE OF INSTRUCTION.—The term 'qualified course of instruction' means a course of instruction which—

"(i) is at an institution of higher education (as defined in section 481 of the Higher Education Act of 1965 (20 U.S.C. 1088), as in effect on the date of the enactment of this subsection), and

"(ii) is part of a program of professional development which is approved and certified by the appropriate local educational agency as directly related to the improvement of the individual's capacity to use learning technology in teaching.

"(C) LOCAL EDUCATIONAL AGENCY.—The term 'local educational agency' has the meaning given such term by section 14101 of the Elementary and Secondary Education Act of 1965, as so in effect.

"(2) ELIGIBLE TEACHER.—

"(A) IN GENERAL.—The term 'eligible teacher' means an individual who—

"(i) is a kindergarten through grade 12 teacher in an elementary or secondary school, and

"(ii) has completed at least 2 academic years as a teacher described in subparagraph (A) before the qualified professional development expenses of the individual have been incurred.

"(B) ELEMENTARY OR SECONDARY SCHOOL.—The terms 'elementary school' and 'secondary school' have the meanings given such terms by section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801), as so in effect."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

TITLE III—TAX RELIEF FOR FAMILY SAVINGS AND BUSINESS CAPITAL FORMATION

Subtitle A—Tax Relief for Family Savings

SEC. 301. CAPITAL GAINS DEDUCTION.

(a) IN GENERAL.—Part I of subchapter P of chapter 1 (relating to treatment of capital gains) is amended by redesignating section 1202 as section 1203 and by inserting after section 1201 the following new section:

"SEC. 1202. CAPITAL GAINS DEDUCTION.

"(a) GENERAL RULE.—If for any taxable year a taxpayer other than a corporation has a net capital gain, there shall be allowed as a deduction an amount equal to 30 percent of the taxpayer's qualified 3-year gain for such taxable year.

"(b) QUALIFIED 3-YEAR GAIN.—For purposes of this section, the term 'qualified 3-year gain' means the lesser of—

"(1) net capital gain, or

"(2) the amount of gain from the sale or exchange of capital assets held more than 3 years.

"(c) ESTATES AND TRUSTS.—In the case of an estate or trust, the deduction shall be computed by excluding the portion (if any) of the gains for the taxable year from sales or exchanges of capital assets which, under sections 652 and 662 (relating to inclusions of amounts in gross income of beneficiaries of trusts), is includible by the income beneficiaries as gain derived from the sale or exchange of capital assets.

"(d) COORDINATION WITH TREATMENT OF CAPITAL GAIN UNDER LIMITATION ON INVESTMENT INTEREST.—For purposes of this section, the net capital gain for any taxable year shall be reduced (but not below zero) by the amount which the taxpayer takes into account as investment income under section 163(d)(4)(B)(iii).

"(e) ADJUSTMENTS TO NET CAPITAL GAIN.—For purposes of this section—

"(1) COLLECTIBLES.—

"(A) IN GENERAL.—Net capital gain shall be computed without regard to collectibles gain.

"(B) COLLECTIBLES GAIN.—

"(i) IN GENERAL.—The term 'collectibles gain' means gain from the sale or exchange of a collectible (as defined in section 408(m) without regard to paragraph (3) thereof) which is a capital asset held for more than 1 year but only to the extent such gain is taken into account in computing gross income.

"(ii) PARTNERSHIPS, ETC.—For purposes of clause (i), any gain from the sale of an interest in a partnership, S corporation, or trust which is attributable to unrealized appreciation in the value of collectibles shall be treated as gain from the sale or exchange of a collectible. Rules similar to the rules of section 751 shall apply for purposes of the preceding sentence.

"(2) GAIN FROM SMALL BUSINESS STOCK.—Net capital gain shall be computed without regard to any gain from the sale or exchange of any qualified small business stock (within the meaning of section 1203(c)) held more than 5 years which is taken into account in computing gross income.

"(3) PRE-EFFECTIVE DATE GAIN.—

"(A) IN GENERAL.—In the case of a taxable year which includes May 7, 1997, net capital gain shall be computed without regard to pre-effective date gain.

"(B) PRE-EFFECTIVE DATE GAIN.—The term 'pre-effective date gain' means the amount which would be net capital gain under subsection (a) for a taxable year if such net capital gain were determined by taking into account only gain or loss properly taken into account for the portion of the taxable year before May 7, 1997.

"(C) SPECIAL RULES FOR PASS-THRU ENTITIES.—

"(i) IN GENERAL.—In applying subparagraph (A) with respect to any pass-thru entity, the determination of when gains and losses are properly taken into account shall be made at the entity level.

"(ii) PASS-THRU ENTITY DEFINED.—For purposes of clause (i), the term 'pass-thru entity' means—

"(I) a regulated investment company,

"(II) a real estate investment trust,

"(III) an S corporation,

"(IV) a partnership,

"(V) an estate or trust, and

"(VI) a common trust fund.

"(f) MAXIMUM RATE ON NONDEDUCTIBLE CAPITAL GAIN.—

"(1) IN GENERAL.—If a taxpayer other than a corporation has a nondeductible net capital gain for any taxable year, then the tax imposed by section 1 for the taxable year shall not exceed the sum of—

"(A) a tax computed on the taxable income reduced by the amount of the nondeductible net capital gain, at the same rates and in the same manner as if this subsection had not been enacted, plus

"(B) a tax of 28 percent of the nondeductible net capital gain.

"(2) NONDEDUCTIBLE NET CAPITAL GAIN.—For purposes of paragraph (1), the term 'nondeductible net capital gain' means an amount equal to net capital gain, reduced by the amount of gain to which subsection (a) applies."

(b) Deduction Allowable in Computing Adjusted Gross Income.—Subsection (a) of section 62 is amended by inserting after paragraph (16) the following new paragraph:

"(17) Long-term capital gains.—The deduction allowed by section 1202."

(c) Technical and Conforming Changes.—

(1)(A) Section 1 is amended by striking subsection (h).

(B) Section 641(d)(2)(A) is amended by striking "Except as provided in section 1(h), the" and inserting "The".

(2) Paragraph (1) of section 170(e) is amended by striking "the amount of gain" in the material following subparagraph (B)(ii) and inserting "the amount of gain (70 percent of such gain in the case of property other than a collectible held more than 3 years)".

(3) Subparagraph (B) of section 172(d)(2) is amended to read as follows:

"(B) the deduction under section 1202 shall not be allowed."

(4) The last sentence of section 453A(c)(3) is amended by striking all that follows "long-term capital gain," and inserting "the maximum rate on net capital gain under section 1201 or the deduction, or maximum rate under section 1202 (whichever is appropriate) shall be taken into account."

(5) Paragraph (4) of section 642(c) is amended to read as follows:

"(4) Adjustments.—To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain from the sale or exchange of capital assets held for more than 3 years, proper adjustment shall be made for any deduction allowable to the estate or trust under section 1202 (relating to capital gains deduction). In the case of a trust, the deduction allowed by this subsection shall be subject to section 681 (relating to unrelated business income)."

(6) The last sentence of section 643(a)(3) is amended to read as follows: "The deduction under section 1202 (relating to capital gains deduction) shall not be taken into account."

(7) Subparagraph (C) of section 643(a)(6) is amended by inserting "(i)" before "there shall" and by inserting before the period ", and (ii) the deduction under section 1202 (relating to capital gains deduction) shall not be taken into account".

(8)(A) Paragraph (2) of section 904(b) is amended by striking subparagraph (A), by redesignating subparagraph (B) as subparagraph (A), and by inserting after subparagraph (A) (as so redesignated) the following new subparagraph:

"(B) Other taxpayers.—In the case of a taxpayer other than a corporation, taxable income from sources outside the United States shall include gain from the sale or exchange of capital assets only to the extent of foreign source capital gain net income."

(B) Subparagraph (A) of section 904(b)(2), as so redesignated, is amended—

(i) by striking all that precedes clause (i) and inserting the following:

"(A) Corporations.—In the case of a corporation—", and

(ii) by striking in clause (i) "in lieu of applying subparagraph (A),".

(C) Paragraph (3) of section 904(b) is amended by striking subparagraphs (D) and (E) and inserting the following new subparagraph:

"(D) Rate differential portion.—The rate differential portion of foreign source net capital gain, net capital gain, or the excess of net capital gain from sources within the United States over net capital gain, as the case may be, is the same proportion of such amount as the excess of the highest rate of tax specified in section 11(b) over the alternative rate of tax under section 1201(a) bears to the highest rate of tax specified in section 11(b)."

(D) Clause (v) of section 593(b)(2)(D) is amended—

(i) by striking "if there is a capital gain rate differential (as defined in section 904(b)(3)(D)) for the taxable year,", and

(ii) by striking "section 904(b)(3)(E)" and inserting "section 904(b)(3)(D)".

(9) The last sentence of section 1044(d) is amended by striking "1202" and inserting "1203".

(10) Paragraph (1) of section 1402(i) is amended by inserting ", and the deduction provided by section 1202 shall not apply" before the period at the end thereof.

(d) Clerical Amendment.—The table of sections for part I of subchapter P of chapter 1 is amended by striking the item relating to section 1202 and by inserting after the item relating to section 1201 the following new items:

"Sec. 1202. Capital gains deduction.
"Sec. 1203. 50-percent exclusion for gain from certain small business stock."

(e) Effective Date.—

(1) In general.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years ending after May 6, 1997.

(2) Contributions.—The amendment made by subsection (c)(2) shall apply to contributions after May 6, 1997.

SEC. 302. FAMILY DIVIDEND EXCLUSION.

(a) In General.—Part III of subchapter B of chapter 1 (relating to amounts specifically excluded from gross income) is amended by inserting after section 115 the following new section:

"SEC. 116. PARTIAL EXCLUSION OF DIVIDENDS RECEIVED BY INDIVIDUALS.

"(a) Exclusion From Gross Income.—In the case of taxable years beginning after December 31, 2002, gross income does not include 30 percent of the amount of eligible dividends received during the taxable year by an individual.

"(b) Eligible Dividends.—For purposes of this section—

"(1) In general.—The term 'eligible dividends' means, for any taxable year, the portion of the dividends from domestic corporations not in excess of $250 ($500 in the case of a joint return).

"(2) Certain dividends excluded.—Such term shall not include any dividend from a corporation which, for the taxable year of the corporation in which the distribution is made, or for the next preceding taxable year of the corporation, is a corporation exempt from tax under section 501 (relating to certain charitable, etc., organization) or section 521 (relating to farmers' cooperative associations).

"(c) Special Rules.—For purposes of this section—

"(1) Distributions from regulated investment companies and real estate investment trusts.—Subsection (a) shall apply with respect to distributions by—

"(A) regulated investment companies to the extent provided in section 854(c), and

"(B) real estate investment trusts to the extent provided in section 857(c).

"(2) Distributions by a trust.—For purposes of subsection (a), the amount of eligible dividends properly allocable to a beneficiary under section 652 or 662 shall be deemed to have been received by the beneficiary ratably on the same date that the dividends were received by the estate or trust.

"(3) Certain nonresident aliens ineligible for exclusion.—In the case of a nonresident alien individual, subsection (a) shall apply only—

"(A) in determining the tax imposed for the taxable year pursuant to section 871(b)(1) and only in respect of eligible dividends which are effectively connected with the conduct of a trade or business within the United States, or

"(B) in determining the tax imposed for the taxable year pursuant to section 877(b)."

(b) Clerical and Conforming Amendments.—

(1) The table of sections for part III of subchapter B of chapter 1 is amended by inserting after the item relating to section 115 the following new item:

"Sec. 116. Partial exclusion of dividends received by individuals."

(2) Subsection (c) of section 584 is amended by adding at the end the following new flush sentence:

"The proportionate share of each participant in the amount of dividends received by the common trust fund and to which section 116 applies shall be considered for purposes of such section as having been received by such participant."

(3) Subsection (a) of section 643 is amended by inserting after paragraph (6) the following new paragraph:

"(7) Dividends.—There shall be included the amount of any dividends excluded from gross income pursuant to section 116."

(4) Section 854 is amended by adding at the end the following new subsection:

"(c) Treatment Under Section 116.—

"(1) In general.—For purposes of section 116, in the case of any dividend (other than a dividend described in subsection (a)) received from a regulated investment company which meets the requirements of section 852 for the taxable year in which it paid the dividend—

"(A) the entire amount of such dividend shall be treated as a dividend if the aggregate dividends received by such company during the taxable year equal or exceed 75 percent of its gross income, or

"(B) if subparagraph (A) does not apply, a portion of such dividend shall be treated as a dividend (and a portion of such dividend shall be treated as interest) based on the portion of the company's gross income which consists of aggregate dividends.

"(2) Notice to shareholders.—The amount of any distribution by a regulated investment company which may be taken into account as a dividend for purposes of the exclusion under section 116 shall not exceed the amount so designated by the company in a written notice to its shareholders mailed not later than 45 days after the close of its taxable year.

"(3) Definitions.—For purposes of this subsection—

"(A) the term 'gross income' does not include gain from the sale or other disposition of stock or securities, and

"(B) the term 'aggregate dividends received' includes only dividends received from domestic corporations other than dividends described in section 116(b)(2).

In determining the amount of any dividend for purposes of subparagraph (B), the rules provided in section 116(c)(1) (relating to certain distributions) shall apply."

(5) Subsection (c) of section 857 is amended to read as follows:

"(c) Limitations Applicable to Dividends Received From Real Estate Investment Trusts.—For purposes of section 116 (relating to an exclusion for dividends received by individuals) and section 243 (relating to deductions for dividends received by corporations), a dividend received from a real estate investment trust which meets the requirements of this part shall not be considered as a dividend.

(c) Effective Date.—The amendments made by this section shall apply with respect to amounts received after December 31, 2002, in taxable years ending after such date.

SEC. 303. EXEMPTION FROM TAX FOR GAIN ON SALE OF PRINCIPAL RESIDENCE.

(a) In General.—Section 121 (relating to one-time exclusion of gain from sale of principal residence by individual who has attained age 55) is amended to read as follows:

"SEC. 121. EXCLUSION OF GAIN FROM SALE OF PRINCIPAL RESIDENCE.

"(a) Exclusion.—Gross income shall not include gain from the sale or exchange of property if, during the 5-year period ending on the date of the sale or exchange, such property has been owned and used by the taxpayer as the taxpayer's principal residence for periods aggregating 2 years or more.

"(b) Limitations.—

"(1) In general.—The amount of gain excluded from gross income under subsection (a) with respect to any sale or exchange shall not exceed $250,000.

"(2) $500,000 limitation for certain joint returns.—Paragraph (1) shall be applied by substituting '$500,000' for '$250,000' if—

"(A) a husband and wife make a joint return for the taxable year of the sale or exchange of the property,

"(B) either spouse meets the ownership requirements of subsection (a) with respect to such property,

"(C) both spouses meet the use requirements of subsection (a) with respect to such property, and

"(D) neither spouse is ineligible for the benefits of subsection (a) with respect to such property by reason of paragraph (3).

"(3) Application to only 1 sale or exchange every 2 years.—

"(A) In general.—Subsection (a) shall not apply to any sale or exchange by the taxpayer if, during the 2-year period ending on the date of such sale or exchange, there was any other sale or exchange by the taxpayer to which subsection (a) applied.

"(B) Pre-May 7, 1997, sales not taken into account.—Subparagraph (A) shall be applied without regard to any sale or exchange before May 7, 1997.

"(c) Exclusion for Taxpayers Failing To Meet Certain Requirements.—

"(1) In general.—In the case of a sale or exchange to which this subsection applies, the ownership and use requirements of subsection (a) shall not apply and subsection (b)(3) shall not apply; but the amount of gain excluded from gross income under subsection (a) with respect to such sale or exchange shall not exceed—

"(A) the amount which bears the same ratio to the amount which would be so excluded if such requirements had been met, as

"(B) the shorter of—

"(i) the aggregate periods, during the 5-year period ending on the date of such sale or exchange, such property has been owned and used by the taxpayer as the taxpayer's principal residence, or

"(ii) the period after the date of the most recent prior sale or exchange by the taxpayer to which subsection (a) applied and before the date of such sale or exchange,

bears to 2 years.

"(2) Sales and exchanges to which subsection applies.—This subsection shall apply to any sale or exchange if—

"(A) subsection (a) would not (but for this subsection) apply to such sale or exchange by reason of—

"(i) a failure to meet the ownership and use requirements of subsection (a), or

"(ii) subsection (b)(3), and

"(B) such sale or exchange is by reason of a change in place of employment, health, or, to the extent provided in regulations, unforeseen circumstances.

"(d) Special Rules.—

"(1) Property of deceased spouse.—For purposes of this section, in the case of an unmarried individual whose spouse is deceased on the date of the sale or exchange of property, the period such unmarried individual owned such property shall include the period such deceased spouse owned such property before death.

"(2) Property owned by spouse or former spouse.—For purposes of this section—

"(A) Property transferred to individual from spouse or former spouse.—In the case of an individual holding property transferred to such individual in a transaction described in section 1041(a), the period such individual owns such property shall include the period the transferor owned the property.

"(B) Property used by former spouse pursuant to divorce decree, etc.—Solely for purposes of this section, an individual shall be treated as using property as such individual's principal residence during any period of ownership while such individual's spouse or former spouse is granted use of the property under a divorce or separation instrument (as defined in section 71(b)(2)).

"(3) Tenant-stockholder in cooperative housing corporation.—For purposes of this section, if the taxpayer holds stock as a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), then—

"(A) the holding requirements of subsection (a) shall be applied to the holding of such stock, and

"(B) the use requirements of subsection (a) shall be applied to the house or apartment which the taxpayer was entitled to occupy as such stockholder.

"(4) Involuntary conversions.—

"(A) In general.—For purposes of this section, the destruction, theft, seizure, requisition, or condemnation of property shall be treated as the sale of such property.

"(B) Application of section 1033.—In applying section 1033 (relating to involuntary conversions), the amount realized from the sale or exchange of property shall be treated as being the amount determined without regard to this section, reduced by the amount of gain not included in gross income pursuant to this section.

"(C) Property acquired after involuntary conversion.—If the basis of the property sold or exchanged is determined (in whole or in part) under section 1033(b) (relating to basis of property acquired through involuntary conversion), then the holding and use by the taxpayer of the converted property shall be treated as holding and use by the taxpayer of the property sold or exchanged.

"(5) Recognition of gain attributable to depreciation.—Subsection (a) shall not apply to so much of the gain from the sale of any property as does not exceed the portion of the depreciation adjustments (as defined in section 1250(b)(3)) attributable to periods after May 6, 1997, in respect of such property.

"(6) Determination of use during periods of out-of-residence care.—In the case of a taxpayer who—

"(A) becomes physically or mentally incapable of self-care, and

"(B) owns property and uses such property as the taxpayer's principal residence during the 5-year period described in subsection (a) for periods aggregating at least 1 year,

then the taxpayer shall be treated as using such property as the taxpayer's principal residence during any time during such 5-year period in which the taxpayer owns the property and resides in any facility (including a nursing home) licensed by a State or political subdivision to care for an individual in the taxpayer's condition.

"(7) Determination of marital status.—In the case of any sale or exchange, for purposes of this section—

"(A) the determination of whether an individual is married shall be made as of the date of the sale or exchange, and

"(B) an individual legally separated from his spouse under a decree of divorce or of separate maintenance shall not be considered as married.

"(8) Sales of remainder interests.—For purposes of this section—

"(A) In general.—At the election of the taxpayer, this section shall not fail to apply to the sale or exchange of an interest in a principal residence by reason of such interest being a remainder interest in such residence, but this section shall not apply to any other interest in such residence which is sold or exchanged separately.

"(B) Exception for sales to related parties.—Subparagraph (A) shall not apply to any sale to, or exchange with, any person who bears a relationship to the taxpayer which is described in section 267(b) or 707(b).

"(e) Denial of Exclusion for Expatriates.—This section shall not apply to any sale or exchange by an individual if the treatment provided by section 877(a)(1) applies to such individual.

"(f) Election To Have Section Not Apply.—This section shall not apply to any sale or exchange with respect to which the taxpayer elects not to have this section apply.

"(g) Residences Acquired in Rollovers Under Section 1034.—For purposes of this section, in the case of property the acquisition of which by the taxpayer resulted under section 1034 (as in effect on the day before the date of the enactment of this section) in the nonrecognition of any part of the gain realized on the sale or exchange of another residence, in determining the period for which the taxpayer has owned and used such property as the taxpayer's principal residence, there shall be included the aggregate periods for which such other residence (and each prior residence taken into account under section 1223(7) in determining the holding period of such property) had been so owned and used."

(b) Repeal of Nonrecognition of Gain on Rollover of Principal Residence.—Section 1034 (relating to rollover of gain on sale of principal residence) is hereby repealed.

(c) Exception From Reporting.—Subsection (e) of section 6045 (relating to return required in the case of real estate transactions) is amended by adding at the end the following new paragraph:

"(5) Exception for sales or exchanges of certain principal residences.—

"(A) In general.—Paragraph (1) shall not apply to any sale or exchange of a residence for $250,000 or less if the person referred to in paragraph (2) receives written assurance in a form acceptable to the Secretary from the seller that—

"(i) such residence is the principal residence (within the meaning of section 121) of the seller, "(ii) if the Secretary requires the inclusion on the return under subsection (a) of information as to whether there is federally subsidized mortgage financing assistance with respect to the mortgage on residences, that there is no such assistance with respect to the mortgage on such residence, and

"(iii) the full amount of the gain on such sale or exchange is excludable from gross income under section 121.

If such assurance includes an assurance that the seller is married, the preceding sentence shall be applied by substituting '$500,000' for '$250,000'.

"(B) SELLER.—For purposes of this paragraph, the term 'seller' includes the person relinquishing the residence in an exchange."

(d) CONFORMING AMENDMENTS.—

(1) The following provisions of the Internal Revenue Code of 1986 are each amended by striking "section 1034" and inserting "section 121": sections 25(e)(7), 56(e)(1)(A), 56(e)(3)(B)(i), 143(i)(1)(C)(i)(I), 163(h)(4)(A)(i)(I), 280A(d)(4)(A), 464(f)(3)(B)(i), 1033(h)(4), 1274(c)(3)(B), 6334(a)(13), and 7872(f)(11)(A).

(2) Paragraph (4) of section 32(c) is amended by striking "(as defined in section 1034(h)(3))" and by adding at the end the following new sentence: "For purposes of the preceding sentence, the term 'extended active duty' means any period of active duty pursuant to a call or order to such duty for a period in excess of 90 days or for an indefinite period."

(3) Subparagraph (A) of 143(m)(6) is amended by inserting "(as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1997)" after "1034(e)".

(4) Subsection (e) of section 216 is amended by striking "such exchange qualifies for nonrecognition of gain under section 1034(f)" and inserting "such dwelling unit is used as his principal residence (within the meaning of section 121)".

(5) Section 512(a)(3)(D) is amended by inserting "(as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1997)" after "1034".

(6) Paragraph (7) of section 1016(a) is amended by inserting "(as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1997)" after "1034" and by inserting "(as so in effect)" after "1034(e)".

(7) Paragraph (3) of section 1033(k) is amended to read as follows:

"(3) For exclusion from gross income of gain from involuntary conversion of principal residence, see section 121."

(8) Subsection (e) of section 1038 is amended to read as follows:

"(e) PRINCIPAL RESIDENCES.—If—

"(1) subsection (a) applies to a reacquisition of real property with respect to the sale of which gain was not recognized under section 121 (relating to gain on sale of principal residence); and

"(2) within 1 year after the date of the reacquisition of such property by the seller, such property is resold by him,

then, under regulations prescribed by the Secretary, subsections (b), (c), and (d) of this section shall not apply to the reacquisition of such property and, for purposes of applying section 121, the resale of such property shall be treated as a part of the transaction constituting the original sale of such property."

(9) Paragraph (7) of section 1223 is amended by inserting "(as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1997)" after "1034".

(10)(A) Subsection (d) of section 1250 is amended by striking paragraph (7) and by redesignating paragraphs (9) and (10) as paragraphs (7) and (8), respectively.

(B) Subsection (e) of section 1250 is amended by striking paragraph (3).

(11) Subsection (c) of section 6012 is amended by striking "(relating to one-time exclusion of gain from sale of principal residence by individual who has attained age 55)" and inserting "(relating to gain from sale of principal residence)".

(12) Paragraph (2) of section 6212(c) is amended by striking subparagraph (C) and by redesignating the succeeding subparagraphs accordingly.

(13) Section 6504 is amended by striking paragraph (4) and by redesignating the succeeding paragraphs accordingly.

(14) The item relating to section 121 in the table of sections for part III of subchapter B of chapter 1 is amended to read as follows:

"Sec. 121. Exclusion of gain from sale of principal residence."

(15) The table of sections for part III of subchapter O of chapter 1 of such Code is amended by striking the item relating to section 1034.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to sales and exchanges after May 6, 1997.

(2) SALES BEFORE DATE OF ENACTMENT.—At the election of the taxpayer, the amendments made by this section shall not apply to any sale or exchange before the date of the enactment of this Act.

(3) BINDING CONTRACTS.—At the election of the taxpayer, the amendments made by this section shall not apply to a sale or exchange after the date of the enactment of this Act, if—

(A) such sale or exchange is pursuant to a contract which was binding on such date, or

(B) without regard to such amendments, gain would not be recognized under section 1034 of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of this Act) on such sale or exchange by reason of a new residence acquired on or before such date or with respect to the acquisition of which by the taxpayer a binding contract was in effect on such date.

This paragraph shall not apply to any sale or exchange by an individual if the treatment provided by section 877(a)(1) of the Internal Revenue Code of 1986 applies to such individual.

Subtitle B—Business Capital Formation

SEC. 311. ROLLOVER OF CAPITAL GAINS ON CERTAIN SMALL BUSINESS INVESTMENTS.

(a) IN GENERAL.—Part III of subchapter O of chapter 1 (relating to common nontaxable exchanges) is amended by adding at the end the following new section:

"SEC. 1045. ROLLOVER OF GAIN ON SMALL BUSINESS INVESTMENTS.

"(a) NONRECOGNITION OF GAIN.—In the case of the sale of any eligible small business investment with respect to which the taxpayer elects the application of this section, gain from such sale shall be recognized only to the extent that the amount realized on such sale exceeds—

"(1) the cost of any other eligible small business investment purchased by the taxpayer during the 6-month period beginning on the date of such sale, reduced by

"(2) any portion of such cost previously taken into account under this section.

This section shall not apply to any gain which is treated as ordinary income for purposes of this subtitle.

"(b) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) PURCHASE.—The term 'purchase' has the meaning given such term by section 1043(b)(4).

"(2) ELIGIBLE SMALL BUSINESS INVESTMENT.—Except as otherwise provided in this section, the term 'eligible small business investment' means any stock in a domestic corporation, and any partnership interest in a domestic partnership, which is originally issued after December 31, 1996, if—

"(A) as of the date of issuance, such corporation or partnership is a qualified small business entity,

"(B) such stock or partnership interest is acquired by the taxpayer at its original issue (directly or through an underwriter)—

"(i) in exchange for money or other property (not including stock), or

"(ii) as compensation for services (other than services performed as an underwriter of such stock or partnership interest), and

"(C) the taxpayer has held such stock or interest at least 6 months as of the time of the sale described in subsection (a).

A rule similar to the rule of section 1202(c)(3) shall apply for purposes of this section.

"(3) ACTIVE BUSINESS REQUIREMENT.—Stock in a corporation, and a partnership interest in a partnership, shall not be treated as an eligible small business investment unless, during substantially all of the taxpayer's holding period for such stock or partnership interest, such corporation or partnership meets the active business requirements of subsection (c). A rule similar to the rule of section 1202(c)(2)(B) shall apply for purposes of this section.

"(4) QUALIFIED SMALL BUSINESS ENTITY.—

"(A) IN GENERAL.—The term 'qualified small business entity' means any domestic corporation or partnership if—

"(i) such entity (and any predecessor thereof) had aggregate gross assets (as defined in section 1202(d)(2)) of less than $25,000,000 at all times before the issuance of the interest described in paragraph (2), and

"(ii) the aggregate gross assets (as so defined) of the entity immediately after the issuance (determined by taking into account amounts received in the issuance) are less than $25,000,000.

"(B) AGGREGATION RULES.—Rules similar to the rules of section 1202(d)(3) shall apply for purposes of this paragraph.

"(c) ACTIVE BUSINESS REQUIREMENT.—

"(1) IN GENERAL.—For purposes of subsection (b)(3), the requirements of this subsection are met by a qualified small business entity for any period if—

"(A) the entity is engaged in the active conduct of a trade or business, and

"(B) at least 80 percent (by value) of the assets of such entity are used in the active conduct of a qualified trade or business (within the meaning of section 1202(e)(3)).

Such requirements shall not be treated as met for any period if during such period the entity is described in subparagraph (A), (B), (C), or (D) of section 1202(e)(4).

"(2) SPECIAL RULE FOR CERTAIN ACTIVITIES.—For purposes of paragraph (1), if, in connection with any future trade or business, an entity is engaged in—

"(A) startup activities described in section 195(c)(1)(A),

"(B) activities resulting in the payment or incurring of expenditures which may be treated as research and experimental expenditures under section 174, or

"(C) activities with respect to in-house research expenses described in section 41(b)(4),

such entity shall be treated with respect to such activities as engaged in (and assets used in such activities shall be treated as used in) the active conduct of a trade or business. Any determination under this paragraph shall be made without regard to whether the entity has any gross income from such activities at the time of the determination.

"(3) CERTAIN RULES TO APPLY.—Rules similar to the rules of paragraphs (5), (6), (7), and (8) of section 1202(e) shall apply for purposes of this subsection.

"(d) CERTAIN OTHER RULES TO APPLY.—Rules similar to the rules of subsections (f), (g), (h), and (j) of section 1202 shall apply for purposes of this section, except that a 6-month holding period shall be substituted for a 5-year holding period where applicable.

"(e) BASIS ADJUSTMENTS.—If gain from any sale is not recognized by reason of subsection (a), such gain shall be applied to reduce (in the order acquired) the basis for determining gain or loss of any eligible small business investment which is purchased by the taxpayer during the 6-month period described in subsection (a).

"(f) STATUTE OF LIMITATIONS.—If any gain is realized by the taxpayer on the sale or exchange of any eligible small business investment and there is in effect an election under subsection (a) with respect to such gain, then—

"(1) the statutory period for the assessment of any deficiency with respect to such gain shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may by regulations prescribe) of—

"(A) the taxpayer's cost of purchasing other eligible small business investments which the taxpayer claims results in nonrecognition of any part of such gain,

"(B) the taxpayer's intention not to purchase other eligible small business investments within the 6-month period described in subsection (a), or

"(C) a failure to make such purchase within such 6-month period, and

"(2) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.

"(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section, including regulations to prevent the avoidance of the purposes of this section through splitups, shell corporations, partnerships, or otherwise and regulations to modify the application of section 1202 to the extent necessary to apply such section to a partnership rather than a corporation."

(b) CONFORMING AMENDMENT.—Paragraph (23) of section 1016(a) is amended—

(1) by striking "or 1044" and inserting ", 1044, or 1045", and

(2) by striking "or 1044(d)" and inserting ", 1044(d), or 1045(e)".

(c) CLERICAL AMENDMENT.—The table of sections for part III of subchapter O of chapter 1 is amended by adding at the end the following new item:

"Sec. 1045. Rollover of gain on small business investments."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 1996.

SEC. 312. MODIFICATIONS TO EXCLUSION OF GAIN ON CERTAIN SMALL BUSINESS STOCK.

(a) EXCLUSION AVAILABLE TO CORPORATIONS.—

(1) IN GENERAL.—Subsection (a) of section 1203, as redesignated by section 301(a), is amended by striking "other than a corporation".

(2) TECHNICAL AMENDMENT.—Subsection (c) of section 1203, as so redesignated, is amended by adding at the end the following new paragraph:

"(4) STOCK HELD AMONG MEMBERS OF CONTROLLED GROUP NOT ELIGIBLE.—Stock shall not be treated as qualified small business stock if such stock was at any time held by any member of the parent-subsidiary controlled group (as defined in subsection (d)(3)) which includes the qualified small business."

(b) REPEAL OF MINIMUM TAX PREFERENCE.—

(1) IN GENERAL.—Section 57(a) is amended by striking paragraph (7).

(2) TECHNICAL AMENDMENT.—Section 53(d)(1)(B)(ii)(II) is amended by striking ", (5), and (7)" and inserting "and (5)".

(c) SIZE OF BUSINESSES ELIGIBLE FOR EXCLUSION.—

(1) Section 1203(d)(1), as so redesignated, is amended to read as follows:

"(1) IN GENERAL.—The term 'qualified small business' means any domestic corporation which is a C corporation—

"(A) if—

"(i) the aggregate gross assets of such corporation (or any predecessor thereof) at all times on or after the date of the enactment of the Revenue Reconciliation Act of 1997 and before the issuance did not exceed $100,000,000, and

"(ii) the aggregate gross assets of such corporation immediately after the issuance (determined by taking into account amounts received in the issuance) do not exceed $100,000,000, and

"(B) such corporation agrees to submit such reports to the Secretary and to shareholders as the Secretary may require to carry out the purposes of this section."

(2) Section 1203(d), as so redesignated, is amended by adding at the end the following new paragraph:

"(4) INFLATION ADJUSTMENT.—

"(A) IN GENERAL.—In the case of stock issued in any calendar year after 1998, each dollar amount referred to in subsection (d)(1)(A) shall be increased by an amount equal to—

"(i) such dollar amount, multiplied by

"(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 1997' for 'calendar year 1992' in subparagraph (B) thereof.

"(B) ROUNDING.—If any amount contained in subsection (d)(1)(A)(i) as adjusted under subparagraph (A) is not a multiple of $1,000,000, such amount shall be rounded to the next lower multiple of $1,000,000."

(3) Section 1203(e)(3), as so redesignated, is amended by striking subparagraph (C) and redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively.

(d) PER-ISSUER LIMITATION.—Section 1203(b)(1)(A), as so redesignated, is amended by striking "$10,000,000" and inserting "$20,000,000".

(e) OTHER MODIFICATIONS.—

(1) WORKING CAPITAL LIMITATION.—Section 1203(e)(6), as so redesignated, is amended by striking "2 years" each place it appears and inserting "5 years".

(2) REDEMPTION RULES.—Section 1203(c)(3), as so redesignated, is amended by adding at the end the following new subparagraph:

"(D) WAIVER WHERE BUSINESS PURPOSE.—A purchase of stock by the issuing corporation shall be disregarded for purposes of subparagraph (B) if the issuing corporation establishes that there was a business purpose for such purchase and one of the principal purposes of the purchase was not to avoid the limitation of this section."

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to stock issued after the date of the enactment of this Act.

(2) SPECIAL RULE.—The amendments made by subsection (b), (d), and (e) shall apply to stock issued after August 10, 1993.

SEC. 313. EXPANSION OF SMALL BUSINESS STOCK EXCLUSION TO FAMILY-OWNED BUSINESSES.

(a) IN GENERAL.—Section 1203(a), as redesignated by section 301(a) and amended by section 312, is amended to read as follows:

"(a) 50-PERCENT EXCLUSION.—Gross income shall not include 50 percent of any gain from the sale or exchange of—

"(1) qualified small business stock held for more than 5 years, and

"(2) any qualified family-owned business interest held for more than 5 years."

(b) QUALIFIED FAMILY-OWNED BUSINESS INTEREST.—Section 1203, as so redesignated, is amended by redesignating subsection (k) as subsection (*l*) and by inserting after subsection (j) the following new subsection:

"(k) QUALIFIED FAMILY-OWNED BUSINESS INTEREST.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified family-owned business interest' means any interest—

"(A) which consists of—

"(i) stock in an S corporation,

"(ii) an interest in a partnership or other pass-through entity, or

"(iii) an interest as a sole proprietor in a trade or business,

which, as of the time the interest was acquired, constitutes a qualified family-owned business,

"(B) which was acquired after the date of the enactment of this subsection (and in the case of stock, which was originally issued after such date)—

"(i) in exchange for money or other property (not including such an interest), or

"(ii) as compensation for services provided to the entity.

"(2) ACTIVE BUSINESS REQUIREMENT.—An interest shall not qualify under paragraph (1) unless, during substantially all of the taxpayer's holding period for such interest, the qualified family-owned business meets the active business requirements of subsection (e) (without regard to paragraph (3)(C) thereof).

"(3) QUALIFIED FAMILY-OWNED BUSINESS.—

"(A) IN GENERAL.—The term 'qualified family-owned business' means a trade or business which—

"(i) is described in section 2033A(e) (determined by substituting 'taxpayer' for 'decedent' each place it appears), and

"(ii) except as provided in subparagraph (B), meets the aggregate gross assets tests described in subsection (d)(1).

"(B) SPECIAL RULE FOR FARMS.—In the case of a trade or business of farming (within the meaning of section 2032A)—

"(i) subparagraph (A)(ii) shall not apply, and

"(ii) such trade or business shall not be treated as a qualified family-owned business unless the average gross receipts of the trade or business (or any predecessor) for the 3 taxable years preceding the taxable year in which the interest is acquired did not exceed $2,000,000.

"(4) SPECIAL RULES.—For purposes of this subsection.—

"(A) AGGREGATION.—In applying the $2,000,000 limit under paragraph (3) all persons treated as 1 person under section 52 (a) or (b) shall be treated as 1 person and all trades or businesses of such person shall be treated as 1 trade or business.

"(B) INDEXING.—The $2,000,000 amount under paragraph (3) shall be indexed at the same time and manner as under subsection (d)(4), except that subparagraph (B) thereof shall be applied by substituting '$50,000' for '$1,000,000'."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to interests acquired after the date of enactment of this Act, in taxable years ending after such date.

TITLE IV—ESTATE TAX RELIEF FOR FAMILY BUSINESSES AND FARMS

SEC. 401. FAMILY-OWNED BUSINESS EXCLUSION.

(a) IN GENERAL.—Part III of subchapter A of chapter 11 (relating to gross estate) is amended by inserting after section 2033 the following new section:

"SEC. 2033A. FAMILY-OWNED BUSINESS EXCLUSION.

"(a) IN GENERAL.—In the case of an estate of a decedent to which this section applies, the value of the gross estate shall not include the lesser of—

"(1) the adjusted value of the qualified family-owned business interests of the decedent otherwise includible in the estate, or

"(2) $900,000, reduced by the amount of any exclusion allowed under this section with respect to the estate of a previously deceased spouse of the decedent.

"(b) ESTATES TO WHICH SECTION APPLIES.—

"(1) IN GENERAL.—This section shall apply to an estate if—

"(A) the decedent was (at the date of the decedent's death) a citizen or resident of the United States,

"(B) the sum of—

"(i) the adjusted value of the qualified family-owned business interests described in paragraph (2), plus

"(ii) the amount of the gifts of such interests determined under paragraph (3),

exceeds 50 percent of the adjusted gross estate, and

"(C) during the 8-year period ending on the date of the decedent's death there have been periods aggregating 5 years or more during which—

"(i) such interests were owned by the decedent or a member of the decedent's family, and

"(ii) there was material participation (within the meaning of section 2032A(e)(6)) by the decedent or a member of the decedent's family in the operation of the business to which such interests relate.

"(2) INCLUDIBLE QUALIFIED FAMILY-OWNED BUSINESS INTERESTS.—The qualified family-owned business interests described in this paragraph are the interests which—

"(A) are included in determining the value of the gross estate (without regard to this section), and

"(B) are acquired by any qualified heir from, or passed to any qualified heir from, the decedent (within the meaning of section 2032A(e)(9)).

"(3) INCLUDIBLE GIFTS OF INTERESTS.—The amount of the gifts of qualified family-owned business interests determined under this paragraph is the excess of—

"(A) the sum of—

"(i) the amount of such gifts from the decedent to members of the decedent's family taken into account under subsection 2001(b)(1)(B), plus

"(ii) the amount of such gifts otherwise excluded under section 2503(b), to the extent such interests are continuously held by members of such family (other than the decedent's spouse) between the date of the gift and the date of the decedent's death, over

"(B) the amount of such gifts from the decedent to members of the decedent's family otherwise included in the gross estate.

"(c) ADJUSTED GROSS ESTATE.—For purposes of this section, the term 'adjusted gross estate' means the value of the gross estate (determined without regard to this section)—

"(1) reduced by any amount deductible under paragraph (3) or (4) of section 2053(a), and

"(2) increased by the excess of—

"(A) the sum of—

"(i) the amount of gifts determined under subsection (b)(3), plus

"(ii) the amount (if more than de minimis) of other transfers from the decedent to the decedent's spouse (at the time of the transfer) within 10 years of the date of the decedent's death, plus

"(iii) the amount of other gifts (not included under clause (i) or (ii)) from the decedent within 3 years of such date, other than gifts to members of the decedent's family otherwise excluded under section 2503(b), over

"(B) the sum of the amounts described in clauses (i), (ii), and (iii) of subparagraph (A) which are otherwise includible in the gross estate.

For purposes of the preceding sentence, the Secretary may provide that de minimis gifts to persons other than members of the decedent's family shall not be taken into account.

"(d) ADJUSTED VALUE OF THE QUALIFIED FAMILY-OWNED BUSINESS INTERESTS.—For purposes of this section, the adjusted value of any qualified family-owned business interest is the value of such interest for purposes of this chapter (determined without regard to this section), reduced by the excess of—

"(1) any amount deductible under paragraph (3) or (4) of section 2053(a), over

"(2) the sum of—

"(A) any indebtedness on any qualified residence of the decedent the interest on which is deductible under section 163(h)(3), plus

"(B) any indebtedness to the extent the taxpayer establishes that the proceeds of such indebtedness were used for the payment of educational and medical expenses of the decedent, the decedent's spouse, or the decedent's dependents (within the meaning of section 152), plus

"(C) any indebtedness not described in clause (i) or (ii), to the extent such indebtedness does not exceed $10,000.

"(e) QUALIFIED FAMILY-OWNED BUSINESS INTEREST.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified family-owned business interest' means—

"(A) an interest as a proprietor in a trade or business carried on as a proprietorship, or

"(B) an interest in an entity carrying on a trade or business, if—

"(i) at least—

"(I) 50 percent of such entity is owned (directly or indirectly) by the decedent and members of the decedent's family,

"(II) 70 percent of such entity is so owned by members of 2 families, or

"(III) 90 percent of such entity is so owned by members of 3 families, and

"(ii) for purposes of subclause (II) or (III) of clause (i), at least 30 percent of such entity is so owned by the decedent and members of the decedent's family.

"(2) LIMITATION.—Such term shall not include—

"(A) any interest in a trade or business the principal place of business of which is not located in the United States,

"(B) any interest in an entity, if the stock or debt of such entity or a controlled group (as defined in section 267(f)(1)) of which such entity was a member was readily tradable on an established securities market or secondary market (as defined by the Secretary) at any time within 3 years of the date of the decedent's death,

"(C) any interest in a trade or business not described in section 542(c)(2), if more than 35 percent of the adjusted ordinary gross income of such trade or business for the taxable year which includes the date of the decedent's death would qualify as personal holding company income (as defined in section 543(a)),

"(D) that portion of an interest in a trade or business that is attributable to—

"(i) cash or marketable securities, or both, in excess of the reasonably expected day-to-day working capital needs of such trade or business, and

"(ii) any other assets of the trade or business (other than assets used in the active conduct of a trade or business described in section 542(c)(2)), the income of which is described in section 543(a) or in subparagraph (B), (C), (D), or (E) of section 954(c)(1) (determined by substituting 'trade or business' for 'controlled foreign corporation').

"(3) RULES REGARDING OWNERSHIP.—

"(A) OWNERSHIP OF ENTITIES.—For purposes of paragraph (1)(B)—

"(i) CORPORATIONS.—Ownership of a corporation shall be determined by the holding of stock possessing the appropriate percentage of the total combined voting power of all classes of stock entitled to vote and the appropriate percentage of the total value of shares of all classes of stock.

"(ii) PARTNERSHIPS.—Ownership of a partnership shall be determined by the owning of the appropriate percentage of the capital interest in such partnership.

"(B) OWNERSHIP OF TIERED ENTITIES.—For purposes of this section, if by reason of holding an interest in a trade or business, a decedent, any member of the decedent's family, any qualified heir, or any member of any qualified heir's family is treated as holding an interest in any other trade or business—

"(i) such ownership interest in the other trade or business shall be disregarded in determining if the ownership interest in the first trade or business is a qualified family-owned business interest, and

"(ii) this section shall be applied separately in determining if such interest in any other trade or business is a qualified family-owned business interest.

"(C) INDIVIDUAL OWNERSHIP RULES.—For purposes of this section, an interest owned, directly or indirectly, by or for an entity described in paragraph (1)(B) shall be considered as being owned proportionately by or for the entity's shareholders, partners, or beneficiaries. A person shall be treated as a beneficiary of any trust only if such person has a present interest in such trust.

"(f) TAX TREATMENT OF FAILURE TO MATERIALLY PARTICIPATE IN BUSINESS OR DISPOSITIONS OF INTERESTS.—

"(1) IN GENERAL.—There is imposed an additional estate tax if, within 10 years after the date of the decedent's death and before the date of the qualified heir's death—

"(A) the material participation requirements described in section 2032A(c)(6)(B) are not met with respect to the qualified family-owned business interest which was acquired (or passed) from the decedent,

"(B) the qualified heir disposes of any portion of a qualified family-owned business interest (other than by a disposition to a member of the qualified heir's family or through a qualified conservation contribution under section 170(h)),

"(C) the qualified heir loses United States citizenship (within the meaning of section 877) or with respect to whom an event described in subparagraph (A) or (B) of section 877(e)(1) occurs, and such heir does not comply with the requirements of subsection (g), or

"(D) the principal place of business of a trade or business of the qualified family-owned business interest ceases to be located in the United States.

"(2) ADDITIONAL ESTATE TAX.—

"(A) IN GENERAL.—The amount of the additional estate tax imposed by paragraph (1) shall be equal to—

"(i) the applicable percentage of the adjusted tax difference attributable to the qualified family-owned business interest (as determined under rules similar to the rules of section 2032A(c)(2)(B)), plus

"(ii) interest on the amount determined under clause (i) at the underpayment rate established under section 6621 for the period beginning on the date the estate tax liability was due under this chapter and ending on the date such additional estate tax is due.

"(B) APPLICABLE PERCENTAGE.—For purposes of this paragraph, the applicable percentage shall be determined under the following table:

"If the event described in paragraph (1) occurs in the following year of material participation:	**The applicable percentage is:**
1 through 6	100
7	80
8	60
9	40
10	20.

"(g) SECURITY REQUIREMENTS FOR NONCITIZEN QUALIFIED HEIRS.—

"(1) IN GENERAL.—Except upon the application of subparagraph (F) or (M) of subsection (h)(3), if a qualified heir is not a citizen of the United States, any interest under this section passing to or acquired by such heir (including any interest held by such heir at a time described in subsection (f)(1)(C)) shall be treated as a qualified family-owned business interest only if the interest passes or is acquired (or is held) in a qualified trust.

"(2) QUALIFIED TRUST.—The term 'qualified trust' means a trust—

"(A) which is organized under, and governed by, the laws of the United States or a State, and

"(B) except as otherwise provided in regulations, with respect to which the trust instrument requires that at least 1 trustee of the trust be an individual citizen of the United States or a domestic corporation.

"(h) OTHER DEFINITIONS AND APPLICABLE RULES.—For purposes of this section—

"(1) QUALIFIED HEIR.—The term 'qualified heir'—

"(A) has the meaning given to such term by section 2032A(e)(1), and

"(B) includes any active employee of the trade or business to which the qualified family-owned business interest relates if such employee has been employed by such trade or business for a period of at least 10 years before the date of the decedent's death.

"(2) MEMBER OF THE FAMILY.—The term 'member of the family' has the meaning given to such term by section 2032A(e)(2).

"(3) APPLICABLE RULES.—Rules similar to the following rules shall apply:

"(A) Section 2032A(b)(4) (relating to decedents who are retired or disabled).

"(B) Section 2032A(b)(5) (relating to special rules for surviving spouses).

"(C) Section 2032A(c)(2)(D) (relating to partial dispositions).

"(D) Section 2032A(c)(3) (relating to only 1 additional tax imposed with respect to any 1 portion).

"(E) Section 2032A(c)(4) (relating to due date).

"(F) Section 2032A(c)(5) (relating to liability for tax; furnishing of bond).

"(G) Section 2032A(c)(7) (relating to no tax if use begins within 2 years; active management by eligible qualified heir treated as material participation).

"(H) Section 2032A(e)(10) (relating to community property).

"(I) Section 2032A(e)(14) (relating to treatment of replacement property acquired in section 1031 or 1033 transactions).

"(J) Section 2032A(f) (relating to statute of limitations).

"(K) Section 6166(b)(3) (relating to farmhouses and certain other structures taken into account).

"(L) Subparagraphs (B), (C), and (D) of section 6166(g)(1) (relating to acceleration of payment).

"(M) Section 6324B (relating to special lien for additional estate tax)."

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter A of chapter 11 is amended by inserting after the item relating to section 2033 the following new item:

"Sec. 2033A. Family-owned business exclusion."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after December 31, 1996.

SEC. 402. PORTION OF ESTATE TAX SUBJECT TO 4-PERCENT INTEREST RATE INCREASED TO $2,500,000.

(a) IN GENERAL.—Subparagraph (B) of section 6601(j)(2) (defining 4-percent portion) is amended by striking "$345,800" and inserting "$1,025,800".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to estates of decedents dying after December 31, 1996.

SEC. 403. CERTAIN CASH RENTALS OF FARMLAND NOT TO CAUSE RECAPTURE OF SPECIAL ESTATE TAX VALUATION.

(a) IN GENERAL.—Subsection (c) of section 2032A (relating to tax treatment of dispositions and failures to use for qualified use) is amended by adding at the end the following new paragraph:

"(8) CERTAIN CASH RENTAL NOT TO CAUSE RECAPTURE.—For purposes of this subsection, a qualified heir shall not be treated as failing to use property in a qualified use solely because such heir rents such property on a net cash basis to a member of the decedent's family, but only if, during the period of the lease, such member of the decedent's family uses such property in a qualified use."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to rentals occurring after December 31, 1976.

TITLE V—EXTENSIONS

SEC. 501. RESEARCH TAX CREDIT.

(a) IN GENERAL.—Paragraph (1) of section 41(h) (relating to termination) is amended—

(1) by striking "May 31, 1997" and inserting "December 31, 1998", and

(2) by striking in the last sentence "during the first 11 months of such taxable year." and inserting "during the 30-month period beginning with the first month of such year. The 30 months referred to in the preceding sentence shall be reduced by the number of full months after June 1996 (and before the first month of such first taxable year) during which the taxpayer paid or incurred any amount which is taken into account in determining the credit under this section."

(b) TECHNICAL AMENDMENTS.—

(1) Subparagraph (B) of section 41(c)(4) is amended to read as follows:

"(B) ELECTION.—An election under this paragraph shall apply to the taxable year for which made and all succeeding taxable years unless revoked with the consent of the Secretary."

(2) Paragraph (1) of section 45C(b) is amended by striking "May 31, 1997" and inserting "December 31, 1998".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after May 31, 1997.

SEC. 502. CONTRIBUTIONS OF STOCK TO PRIVATE FOUNDATIONS.

(a) IN GENERAL.—Clause (ii) of section 170(e)(5)(D) (relating to termination) is amended by striking "May 31, 1997" and inserting "December 31, 1998".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to contributions made after May 31, 1997.

SEC. 503. WORK OPPORTUNITY TAX CREDIT.

(a) EXTENSION.—Subparagraph (B) of section 51(c)(4) (relating to termination) is amended by striking "September 30, 1997" and inserting "September 30, 1998".

(b) MODIFICATION OF ELIGIBILITY REQUIREMENT BASED ON PERIOD ON WELFARE.—

(1) IN GENERAL.—Subparagraph (A) of section 51(d)(2) (defining qualified IV–A recipient) is amended by striking all that follows "a IV–A program" and inserting "for any 9 months during the 18-month period ending on the hiring date."

(2) CONFORMING AMENDMENT.—Subparagraph (A) of section 51(d)(3) is amended to read as follows:

"(A) IN GENERAL.—The term 'qualified veteran' means any veteran who is certified by the designated local agency as being a member of a family receiving assistance under a food stamp program under the Food Stamp Act of 1977 for at least a 3-month period ending during the 12-month period ending on the hiring date."

(c) QUALIFIED SSI RECIPIENTS TREATED AS MEMBERS OF TARGETED GROUPS.—

(1) IN GENERAL.—Section 51(d)(1) (relating to members of targeted groups) is amended by striking "or" at the end of subparagraph (F), by striking the period at the end of subparagraph (G) and inserting ", or", and by adding at the end the following new subparagraph:

"(H) a qualified SSI recipient."

(2) QUALIFIED SSI RECIPIENTS.—Section 51(d) is amended by redesignating paragraphs (9), (10), and (11) as paragraphs (10), (11), and (12), respectively, and by inserting after paragraph (8) the following new paragraph:

"(9) QUALIFIED SSI RECIPIENT.—The term 'qualified SSI recipient' means any individual who is certified by the designated local agency as receiving supplemental security income benefits under title XVI of the Social Security Act (including supplemental security income benefits of the type described in section 1616 of such Act or section 212 of Public Law 93–66) for any month ending within the 60-day period ending on the hiring date."

(d) PERCENTAGE OF WAGES ALLOWED AS CREDIT.—

(1) IN GENERAL.—Subsection (a) of section 51 (relating to determination of amount) is

amended by striking "35 percent" and inserting "40 percent".

(2) APPLICATION OF CREDIT FOR INDIVIDUALS PERFORMING FEWER THAN 400 HOURS OF SERVICES.—Paragraph (3) of section 51(i) is amended to read as follows:

"(3) INDIVIDUALS NOT MEETING MINIMUM EMPLOYMENT PERIODS.—

"(A) REDUCTION OF CREDIT FOR INDIVIDUALS PERFORMING FEWER THAN 400 HOURS OF SERVICES.—In the case of an individual who has completed at least 120 hours, but less than 400 hours, of services performed for the employer, subsection (a) shall be applied by substituting '25 percent' for '40 percent'.

"(B) DENIAL OF CREDIT FOR INDIVIDUALS PERFORMING FEWER THAN 120 HOURS OF SERVICES.—No wages shall be taken into account under subsection (a) with respect to any individual unless such individual has completed at least 120 hours of services performed for the employer."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to individuals who begin work for the employer after September 30, 1997.

SEC. 504. ORPHAN DRUG TAX CREDIT.

(a) IN GENERAL.—Section 45C (relating to clinical testing expenses for certain drugs for rare diseases or conditions) is amended by striking subsection (e).

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts paid or incurred after May 31, 1997.

TITLE VI—INCENTIVES FOR REVITALIZATION OF THE DISTRICT OF COLUMBIA

SEC. 601. TAX INCENTIVES FOR REVITALIZATION OF THE DISTRICT OF COLUMBIA.

(a) IN GENERAL.—Chapter 1 is amended by adding at the end the following new subchapter:

"Subchapter W—Incentives for the Revitalization of the District of Columbia

"Sec. 1400. First-time homebuyer credit for District of Columbia.

"Sec. 1400A. Credit for equity investments in and loans to District of Columbia businesses.

"Sec. 1400B. Zero percent capital gains rate.

"SEC. 1400. FIRST-TIME HOMEBUYER CREDIT FOR DISTRICT OF COLUMBIA.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual who is a first-time homebuyer of a principal residence in the District of Columbia during any taxable year, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to so much of the purchase price of the residence as does not exceed $5,000.

"(b) FIRST-TIME HOMEBUYER.—For purposes of this section—

"(1) IN GENERAL.—The term 'first-time homebuyer' has the same meaning as when used in section 72(t)(8)(D)(i), except that 'principal residence in the District of Columbia during the 1-year period' shall be substituted for 'principal residence during the 2-year period' in subclause (I) thereof.

"(2) ONE-TIME ONLY.—If an individual is treated as a first-time homebuyer with respect to any principal residence, such individual may not be treated as a first-time homebuyer with respect to any other principal residence.

"(3) PRINCIPAL RESIDENCE.—The term 'principal residence' has the same meaning as when used in section 121.

"(4) DATE OF ACQUISITION.—The term 'date of acquisition' has the same meaning as when used in section 72(t)(8)(D)(iii).

"(c) CARRYOVER OF CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under subpart A of part IV of subchapter A (other than this section and section 25), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year.

"(d) SPECIAL RULES.—For purposes of this section—

"(1) ALLOCATION OF DOLLAR LIMITATION.—

"(A) MARRIED INDIVIDUALS FILING JOINTLY.—In the case of a husband and wife who file a joint return, the $5,000 limitation under subsection (a) shall apply to the joint return.

"(B) MARRIED INDIVIDUALS FILING SEPARATELY.—In the case of a married individual filing a separate return, subsection (a) shall be applied by substituting '$2,500' for '$5,000'.

"(C) OTHER TAXPAYERS.—If 2 or more individuals who are not married purchase a principal residence, the amount of the credit allowed under subsection (a) shall be allocated among such individuals in such manner as the Secretary may prescribe, except that the total amount of the credits allowed to all such individuals shall not exceed $5,000.

"(2) PURCHASE.—The term 'purchase' means any acquisition, but only if—

"(A) the property is not acquired from a person whose relationship to the person acquiring it would result in the disallowance of losses under section 267 or 707(b) (but, in applying section 267 (b) and (c) for purposes of this section, paragraph (4) of section 267(c) shall be treated as providing that the family of an individual shall include only his spouse, ancestors, and lineal descendants), and

"(B) the basis of the property in the hands of the person acquiring it is not determined—

"(i) in whole or in part by reference to the adjusted basis of such property in the hands of the person from whom acquired, or

"(ii) under section 1014(a) (relating to property acquired from a decedent).

"(3) PURCHASE PRICE.—The term 'purchase price' means the adjusted basis of the principal residence on the date of acquisition.

"(d) REPORTING.—If the Secretary requires information reporting under section 6045 to verify the eligibility of taxpayers for the credit allowable by this section, the exception provided by section 6045(e)(5) shall not apply.

"(e) CREDIT TREATED AS NONREFUNDABLE PERSONAL CREDIT.—For purposes of this title, the credit allowed by this section shall be treated as a credit allowable under subpart A of part IV of subchapter A of this chapter.

"SEC. 1400A. CREDIT FOR EQUITY INVESTMENTS IN AND LOANS TO DISTRICT OF COLUMBIA BUSINESSES.

"(a) GENERAL RULE.—For purposes of section 38, the DC investment credit determined under this section for any taxable year is—

"(1) the qualified lender credit for such year, and

"(2) the qualified equity investment credit for such year.

"(b) QUALIFIED LENDER CREDIT.—For purposes of this section—

"(1) IN GENERAL.—The qualified lender credit for any taxable year is the amount of credit specified for such year by the Economic Development Corporation with respect to qualified District loans made by the taxpayer.

"(2) LIMITATION.—In no event may the qualified lender credit with respect to any loan exceed 25 percent of the cost of the property purchased with the proceeds of the loan.

"(3) QUALIFIED DISTRICT LOAN.—For purposes of paragraph (1), the term 'qualified district loan' means any loan for the purchase (as defined in section 179(d)(2)) of property to which section 168 applies (or would apply but for section 179) (or land which is functionally related and subordinate to such property) and substantially all of the use of which is in the District of Columbia and is in the active conduct of a trade or business in the District of Columbia. A rule similar to the rule of section 1397C(a)(2) shall apply for purposes of the preceding sentence.

"(c) QUALIFIED EQUITY INVESTMENT CREDIT.—

"(1) IN GENERAL.—For purposes of this section, the qualified equity investment credit determined under this section for any taxable year is an amount equal to the percentage specified by the Economic Development Corporation (but not greater than 25 percent) of the aggregate amount paid in cash by the taxpayer during the taxable year for the purchase of District business investments.

"(2) DISTRICT BUSINESS INVESTMENT.—For purposes of this subsection, the term 'District business investment' means—

"(A) any District business stock, and

"(B) any District partnership interest.

"(3) DISTRICT BUSINESS STOCK.—For purposes of this subsection—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'District business stock' means any stock in a domestic corporation if—

"(i) such stock is acquired by the taxpayer at its original issue (directly or through an underwriter) solely in exchange for cash, and

"(ii) as of the time such stock was issued, such corporation was engaged in a trade or business in the District of Columbia (or, in the case of a new corporation, such corporation was being organized for purposes of engaging in such a trade or business).

"(B) REDEMPTIONS.—A rule similar to the rule of section 1202(c)(3) shall apply for purposes of this paragraph.

"(4) QUALIFIED DISTRICT PARTNERSHIP INTEREST.—For purposes of this subsection, the term 'qualified District partnership interest' means any interest in a partnership if—

"(A) such interest is acquired by the taxpayer from the partnership solely in exchange for cash, and

"(B) as of the time such interest was acquired, such partnership was engaging in a trade or business in the District of Columbia (or, in the case of a new partnership, such partnership was being organized for purposes of engaging in such a trade or business).

A rule similar to the rule of paragraph (3)(B) shall apply for purposes of this paragraph.

"(5) RECAPTURE OF CREDIT UPON CERTAIN DISPOSITIONS OF DISTRICT BUSINESS INVESTMENTS.—

"(A) IN GENERAL.—If a taxpayer disposes of any District business investment (or any other property the basis of which is determined in whole or in part by reference to the adjusted basis of such investment) before the end of the 5-year period beginning on the date such investment was acquired by the taxpayer, the taxpayer's tax imposed by this chapter for the taxable year in which such distribution occurs shall be increased by the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted solely from reducing to zero any credit determined under this section with respect to such investment.

"(B) EXCEPTIONS.—Subparagraph (A) shall not apply to any gift, transfer, or transaction described in paragraph (1), (2), or (3) of section 1245(b).

"(C) SPECIAL RULE.—Any increase in tax under subparagraph (A) shall not be treated as a tax imposed by this chapter for purposes of—

"(i) determining the amount of any credit allowable under this chapter, and

"(ii) determining the amount of the tax imposed by section 55.

"(6) BASIS REDUCTION.—For purposes of this title, the basis of any District business investment shall be reduced by the amount of the credit determined under this section with respect to such investment.

"(d) LIMITATION ON AMOUNT OF CREDIT.—

"(1) IN GENERAL.—The amount of the DC investment credit determined under this section with respect to any taxpayer for any taxable year shall not exceed the credit amount allocated to such taxpayer for such taxable year by the Economic Development Corporation.

"(2) OVERALL LIMITATION.—The aggregate credit amount which may be allocated by the Economic Development Corporation under this section shall not exceed $75,000,000.

"(3) CRITERIA FOR ALLOCATING CREDIT AMOUNTS.—The allocation of credit amounts under this section shall be made in accordance with criteria established by the Economic Development Corporation. In establishing such criteria, such Corporation shall take into account—

"(A) the degree to which the business receiving the loan or investment will provide job opportunities for low and moderate income residents of a targeted area, and

"(B) whether such business is within a targeted area.

"(4) TARGETED AREA.—For purposes of paragraph (3), the term 'targeted area' means—

"(A) any census tract located in the District of Columbia which is part of an enterprise community designated under subchapter U before the date of the enactment of this subchapter, and

"(B) any other census tract which is located in the District of Columbia and which has a poverty rate of not less than 35 percent.

"(e) ECONOMIC DEVELOPMENT CORPORATION.—For purposes of this section, the term 'Economic Development Corporation' means an entity which is created by Federal law in 1997 as part of the District of Columbia government.

"(f) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out this section.

"(g) APPLICATION OF SECTION.—This section shall apply to any credit amount allocated for taxable years beginning after December 31, 1997, and before January 1, 2003.

"SEC. 1400B. ZERO PERCENT CAPITAL GAINS RATE.

"(a) EXCLUSION.—Gross income shall not include qualified capital gain from the sale or exchange of any DC asset held for more than 5 years.

"(b) DC ASSET.—For purposes of this section—

"(1) IN GENERAL.—The term 'DC asset' means—

"(A) any DC business stock,

"(B) any DC partnership interest, and

"(C) any DC business property.

"(2) DC BUSINESS STOCK.—

"(A) IN GENERAL.—The term 'DC business stock' means any stock in a domestic corporation which is originally issued after December 31, 1997, if—

"(i) such stock is acquired by the taxpayer, before January 1, 2003, at its original issue (directly or through an underwriter) solely in exchange for cash,

"(ii) as of the time such stock was issued, such corporation was a DC business (or, in the case of a new corporation, such corporation was being organized for purposes of being a DC business), and

"(iii) during substantially all of the taxpayer's holding period for such stock, such corporation qualified as a DC business.

"(B) REDEMPTIONS.—A rule similar to the rule of section 1202(c)(3) shall apply for purposes of this paragraph.

"(3) DC PARTNERSHIP INTEREST.—The term 'DC partnership interest' means any capital or profits interest in a domestic partnership which is originally issued after December 31, 1997, if—

"(A) such interest is acquired by the taxpayer, before January 1, 2003, from the partnership solely in exchange for cash,

"(B) as of the time such interest was acquired, such partnership was a DC business (or, in the case of a new partnership, such partnership was being organized for purposes of being a DC business), and

"(C) during substantially all of the taxpayer's holding period for such interest, such partnership qualified as a DC business.

A rule similar to the rule of paragraph (2)(B) shall apply for purposes of this paragraph.

"(4) DC BUSINESS PROPERTY.—

"(A) IN GENERAL.—The term 'DC business property' means tangible property if—

"(i) such property was acquired by the taxpayer by purchase (as defined in section 179(d)(2)) after December 31, 1997, and before January 1, 2003,

"(ii) the original use of such property in the District of Columbia commences with the taxpayer, and

"(iii) during substantially all of the taxpayer's holding period for such property, substantially all of the use of such property was in a DC business of the taxpayer.

"(B) SPECIAL RULE FOR BUILDINGS WHICH ARE SUBSTANTIALLY IMPROVED.—

"(i) IN GENERAL.—The requirements of clauses (i) and (ii) of subparagraph (A) shall be treated as met with respect to—

"(I) property which is substantially improved by the taxpayer before January 1, 2003, and

"(II) any land on which such property is located.

"(ii) SUBSTANTIAL IMPROVEMENT.—For purposes of clause (i), property shall be treated as substantially improved by the taxpayer only if, during any 24-month period beginning after December 31, 1997, additions to basis with respect to such property in the hands of the taxpayer exceed the greater of—

"(I) an amount equal to the adjusted basis of such property at the beginning of such 24-month period in the hands of the taxpayer, or

"(II) $5,000.

"(6) TREATMENT OF SUBSEQUENT PURCHASERS, ETC.—The term 'DC asset' includes any property which would be a DC asset but for paragraph (2)(A)(i), (3)(A), or (4)(A)(ii) in the hands of the taxpayer if such property was a DC asset in the hands of a prior holder.

"(7) 5-YEAR SAFE HARBOR.—If any property ceases to be a DC asset by reason of paragraph (2)(A)(iii), (3)(C), or (4)(A)(iii) after the 5-year period beginning on the date the taxpayer acquired such property, such property shall continue to be treated as meeting the requirements of such paragraph; except that the amount of gain to which subsection (a) applies on any sale or exchange of such property shall not exceed the amount which would be qualified capital gain had such property been sold on the date of such cessation.

"(c) DC BUSINESS.—For purposes of this section, the term 'DC business' means any entity which is an enterprise zone business (as defined in section 1397B), determined—

"(1) by treating the District of Columbia as an empowerment zone and as if no other area is an empowerment zone or enterprise community, and

"(2) without regard to subsections (b)(6) and (c)(5) of section 1397B.

"(d) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) QUALIFIED CAPITAL GAIN.—Except as otherwise provided in this subsection, the term 'qualified capital gain' means any gain recognized on the sale or exchange of—

"(A) a capital asset, or

"(B) property used in the trade or business (as defined in section 1231(b)).

"(2) GAIN BEFORE 1998 NOT QUALIFIED.—The term 'qualified capital gain' shall not include any gain attributable to periods before January 1, 1998.

"(3) CERTAIN GAIN ON REAL PROPERTY NOT QUALIFIED.—The term 'qualified capital gain' shall not include any gain which would be treated as ordinary income under section 1250 if section 1250 applied to all depreciation rather than the additional depreciation.

"(4) INTANGIBLES AND LAND NOT INTEGRAL PART OF DC BUSINESS.—The term 'qualified capital gain' shall not include any gain which is attributable to real property, or an intangible asset, which is not an integral part of a DC business.

"(5) RELATED PARTY TRANSACTIONS.—The term 'qualified capital gain' shall not include any gain attributable, directly or indirectly, in whole or in part, to a transaction with a related person. For purposes of this paragraph, persons are related to each other if such persons are described in section 267(b) or 707(b)(1).

"(e) CERTAIN OTHER RULES TO APPLY.—Rules similar to the rules of subsections (g), (h), (i)(2), and (j) of section 1202 shall apply for purposes of this section.

"(f) SALES AND EXCHANGES OF INTERESTS IN PARTNERSHIPS AND S CORPORATIONS WHICH ARE DC BUSINESSES.—In the case of the sale or exchange of an interest in a partnership, or of stock in an S corporation, which was a DC business during substantially all of the period the taxpayer held such interest or stock, the amount of qualified capital gain shall be determined without regard to—

"(1) any gain which is attributable to real property, or an intangible asset, which is not an integral part of a DC business, and

"(2) any gain attributable to periods before January 1, 1998."

(b) CREDITS MADE PART OF GENERAL BUSINESS CREDIT.—

(1) Subsection (b) of section 38 is amended by striking "plus" at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting ", plus", and by adding at the end the following new paragraph:

"(13) the DC investment credit determined under section 1400A(a)."

(2) Subsection (d) of section 39 is amended by adding at the end the following new paragraph:

"(8) NO CARRYBACK OF DC CREDITS BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the credit under section 1400A may be carried back to a taxable year ending before the date of the enactment of such section."

(3) Subsection (c) of section 196 is amended by striking "and" at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting ", and", and by adding at the end the following new paragraph:

"(8) the DC investment credit determined under section 1400A(a)."

(c) CLERICAL AMENDMENT.—The table of subchapters for chapter 1 is amended by adding at the end the following new item:

"Subchapter W. Incentives for the Revitalization of the District of Columbia."

(d) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act.

SEC. 602. INCENTIVES CONDITIONED ON OTHER DC REFORM.

The amendments made by section 601 shall not take effect unless an entity known as the Economic Development Corporation is created by Federal law in 1997 as part of the District of Columbia government.

TITLE VII—MISCELLANEOUS PROVISIONS

Subtitle A—Distressed Communities and Brownfields

CHAPTER 1—ADDITIONAL EMPOWERMENT ZONES

SEC. 701. ADDITIONAL EMPOWERMENT ZONES.

(a) IN GENERAL.—Paragraph (2) of section 1391(b) (relating to designations of empowerment zones and enterprise communities) is amended—

(1) by striking "9" and inserting "11",

(2) by striking "6" and inserting "8", and

(3) by striking "750,000" and inserting "1,000,000".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act, except that designations of new empowerment zones made pursuant to such amendments shall be made during the 180-day period beginning on the date of the enactment of this Act.

CHAPTER 2—NEW EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES

SEC. 711. DESIGNATION OF ADDITIONAL EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES.

(a) IN GENERAL.—Section 1391 (relating to designation procedure for empowerment zones and enterprise communities) is amended by adding at the end the following new subsection:

"(g) ADDITIONAL DESIGNATIONS PERMITTED.—

"(1) IN GENERAL.—In addition to the areas designated under subsection (a)—

"(A) ENTERPRISE COMMUNITIES.—The appropriate Secretaries may designate in the aggregate an additional 80 nominated areas as enterprise communities under this section, subject to the availability of eligible nominated areas. Of that number, not more than 50 may be designated in urban areas and not more than 30 may be designated in rural areas.

"(B) EMPOWERMENT ZONES.—The appropriate Secretaries may designate in the aggregate an additional 20 nominated areas as empowerment zones under this section, subject to the availability of eligible nominated areas. Of that number, not more than 15 may be designated in urban areas and not more than 5 may be designated in rural areas.

"(2) PERIOD DESIGNATIONS MAY BE MADE.—A designation may be made under this subsection after the date of the enactment of this subsection and before January 1, 1999.

"(3) MODIFICATIONS TO ELIGIBILITY CRITERIA, ETC.—

"(A) POVERTY RATE REQUIREMENT.—

"(i) IN GENERAL.—A nominated area shall be eligible for designation under this subsection only if the poverty rate for each population census tract within the nominated area is not less than 20 percent and the poverty rate for at least 90 percent of the population census tracts within the nominated area is not less than 25 percent.

"(ii) TREATMENT OF CENSUS TRACTS WITH SMALL POPULATIONS.—A population census tract with a population of less than 2,000 shall be treated as having a poverty rate of not less than 25 percent if—

"(I) more than 75 percent of such tract is zoned for commercial or industrial use, and

"(II) such tract is contiguous to 1 or more other population census tracts which have a poverty rate of not less than 25 percent (determined without regard to this clause).

"(iii) EXCEPTION FOR DEVELOPABLE SITES.—Clause (i) shall not apply to up to 3 noncontiguous parcels in a nominated area which may be developed for commercial or industrial purposes. The aggregate area of noncontiguous parcels to which the preceding sentence applies with respect to any nominated area shall not exceed 1,000 acres (2,000 acres in the case of an empowerment zone).

"(iv) CERTAIN PROVISIONS NOT TO APPLY.—Section 1392(a)(4) (and so much of paragraphs (1) and (2) of section 1392(b) as relate to section 1392(a)(4)) shall not apply to an area nominated for designation under this subsection.

"(v) SPECIAL RULE FOR RURAL EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES.—The Secretary of Agriculture may designate not more than 1 empowerment zone, and not more than 5 enterprise communities, in rural areas without regard to clause (i) if such areas satisfy emigration criteria specified by the Secretary of Agriculture.

"(B) SIZE LIMITATION.—

"(i) IN GENERAL.—The parcels described in subparagraph (A)(iii) shall not be taken into account in determining whether the requirement of subparagraph (A) or (B) of section 1392(a)(3) is met.

"(ii) SPECIAL RULE FOR RURAL AREAS.—If a population census tract (or equivalent division under section 1392(b)(4)) in a rural area exceeds 1,000 square miles or includes a substantial amount of land owned by the Federal, State, or local government, the nominated area may exclude such excess square mileage or governmentally owned land and the exclusion of that area will not be treated as violating the continuous boundary requirement of section 1392(a)(3)(B).

"(C) AGGREGATE POPULATION LIMITATION.—The aggregate population limitation under the last sentence of subsection (b)(2) shall not apply to a designation under paragraph (1)(B).

"(D) PREVIOUSLY DESIGNATED ENTERPRISE COMMUNITIES MAY BE INCLUDED.—Subsection (e)(5) shall not apply to any enterprise community designated under subsection (a) that is also nominated for designation under this subsection.

"(E) INDIAN RESERVATIONS MAY BE NOMINATED.—

"(i) IN GENERAL.—Section 1393(a)(4) shall not apply to an area nominated for designation under this subsection.

"(ii) SPECIAL RULE.—An area in an Indian reservation shall be treated as nominated by a State and a local government if it is nominated by the reservation governing body (as determined by the Secretary of Interior)."

(b) EMPLOYMENT CREDIT NOT TO APPLY TO NEW EMPOWERMENT ZONES.—Section 1396 (relating to empowerment zone employment credit) is amended by adding at the end the following new subsection:

"(e) CREDIT NOT TO APPLY TO EMPOWERMENT ZONES DESIGNATED UNDER SECTION 1391(g).—This section shall be applied without regard to any empowerment zone designated under section 1391(g)."

(c) INCREASED EXPENSING UNDER SECTION 179 NOT TO APPLY IN DEVELOPABLE SITES.—Section 1397A (relating to increase in expensing under section 179) is amended by adding at the end the following new subsection:

"(c) LIMITATION.—For purposes of this section, qualified zone property shall not include any property substantially all of the use of which is in any parcel described in section 1391(g)(3)(A)(iii)."

(d) CONFORMING AMENDMENTS.—

(1) Subsections (e) and (f) of section 1391 are each amended by striking "subsection (a)" and inserting "this section".

(2) Section 1391(c) is amended by striking "this section" and inserting "subsection (a)".

SEC. 712. VOLUME CAP NOT TO APPLY TO ENTERPRISE ZONE FACILITY BONDS WITH RESPECT TO NEW EMPOWERMENT ZONES.

(a) IN GENERAL.—Section 1394 (relating to tax-exempt enterprise zone facility bonds) is amended by adding at the end the following new subsection:

"(f) BONDS FOR EMPOWERMENT ZONES DESIGNATED UNDER SECTION 1391(g).—

"(1) IN GENERAL.—In the case of a new empowerment zone facility bond—

"(A) such bond shall not be treated as a private activity bond for purposes of section 146, and

"(B) subsection (c) of this section shall not apply.

"(2) LIMITATION ON AMOUNT OF BONDS.—

"(A) IN GENERAL.—Paragraph (1) shall apply to a new empowerment zone facility bond only if such bond is designated for purposes of this subsection by the local government which nominated the area to which such bond relates.

"(B) LIMITATION ON BONDS DESIGNATED.—The aggregate face amount of bonds which may be designated under subparagraph (A) with respect to any empowerment zone shall not exceed—

"(i) $60,000,000 if such zone is in a rural area,

"(ii) $130,000,000 if such zone is in an urban area and the zone has a population of less than 100,000, and

"(iii) $230,000,000 if such zone is in an urban area and the zone has a population of at least 100,000.

"(C) SPECIAL RULES.—

"(i) COORDINATION WITH LIMITATION IN SUBSECTION (c).—Bonds to which paragraph (1) applies shall not be taken into account in applying the limitation of subsection (c) to other bonds.

"(ii) CURRENT REFUNDING NOT TAKEN INTO ACCOUNT.—In the case of a refunding (or series of refundings) of a bond designated under this paragraph, the refunding obligation shall be treated as designated under this paragraph (and shall not be taken into account in applying subparagraph (B)) if—

"(I) the amount of the refunding bond does not exceed the outstanding amount of the refunded bond, and

"(II) the refunded bond is redeemed not later than 90 days after the date of issuance of the refunding bond.

"(3) NEW EMPOWERMENT ZONE FACILITY BOND.—For purposes of this subsection, the term 'new empowerment zone facility bond' means any bond which would be described in subsection (a) if only empowerment zones designated under section 1391(g) were taken into account under sections 1397B and 1397C."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to obligations issued after the date of the enactment of this Act.

SEC. 713. MODIFICATIONS TO ENTERPRISE ZONE FACILITY BOND RULES FOR ALL EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES.

(a) MODIFICATIONS RELATING TO ENTERPRISE ZONE BUSINESS.—Paragraph (3) of section 1394(b) (defining enterprise zone business) is amended to read as follows:

"(3) ENTERPRISE ZONE BUSINESS.—

"(A) IN GENERAL.—Except as modified in this paragraph, the term 'enterprise zone business' has the meaning given such term by section 1397B.

"(B) MODIFICATIONS.—In applying section 1397B for purposes of this section—

"(i) BUSINESSES IN ENTERPRISE COMMUNITIES ELIGIBLE.—References in section 1397B to empowerment zones shall be treated as including references to enterprise communities.

"(ii) WAIVER OF REQUIREMENTS DURING STARTUP PERIOD.—A business shall not fail to be treated as an enterprise zone business during the startup period if—

"(I) as of the beginning of the startup period, it is reasonably expected that such business will be an enterprise zone business (as defined in section 1397B as modified by this paragraph) at the end of such period, and

"(II) such business makes bona fide efforts to be such a business.

"(iii) REDUCED REQUIREMENTS AFTER TESTING PERIOD.—A business shall not fail to be treated as an enterprise zone business for any taxable year beginning after the testing period by reason of failing to meet any requirement of subsection (b) or (c) of section 1397B if at least 35 percent of the employees of such business for such year are residents of an empowerment zone or an enterprise community. The preceding sentence shall not apply to any business which is not a qualified business by reason of paragraph (1), (4), or (5) of section 1397B(d).

"(C) DEFINITIONS RELATING TO SUBPARAGRAPH (B).—For purposes of subparagraph (B)—

"(i) STARTUP PERIOD.—The term 'startup period' means, with respect to any property being provided for any business, the period before the first taxable year beginning more than 2 years after the later of—

"(I) the date of issuance of the issue providing such property, or

"(II) the date such property is first placed in service after such issuance (or, if earlier, the date which is 3 years after the date described in subclause (I)).

"(ii) TESTING PERIOD.—The term 'testing period' means the first 3 taxable years beginning after the startup period.

"(D) PORTIONS OF BUSINESS MAY BE ENTERPRISE ZONE BUSINESS.—The term 'enterprise zone business' includes any trades or businesses which would qualify as an enterprise zone business (determined after the modifications of subparagraph (B)) if such trades or businesses were separately incorporated."

(b) MODIFICATIONS RELATING TO QUALIFIED ZONE PROPERTY.—Paragraph (2) of section 1394(b) (defining qualified zone property) is amended to read as follows:

"(2) QUALIFIED ZONE PROPERTY.—The term 'qualified zone property' has the meaning given such term by section 1397C; except that—

"(A) the references to empowerment zones shall be treated as including references to enterprise communities, and

"(B) section 1397C(a)(2) shall be applied by substituting 'an amount equal to 15 percent of the adjusted basis' for 'an amount equal to the adjusted basis'."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

SEC. 714. MODIFICATIONS TO ENTERPRISE ZONE BUSINESS DEFINITION FOR ALL EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES.

(a) IN GENERAL.—Section 1397B (defining enterprise zone business) is amended—

(1) by striking "80 percent" in subsections (b)(2) and (c)(1) and inserting "50 percent",

(2) by striking "substantially all" each place it appears in subsections (b) and (c) and inserting "a substantial portion",

(3) by striking ", and exclusively related to," in subsections (b)(4) and (c)(3),

(4) by adding at the end of subsection (d)(2) the following new flush sentence:

"For purposes of subparagraph (B), the lessor of the property may rely on a lessee's certification that such lessee is an enterprise zone business.",

(5) by striking "substantially all" in subsection (d)(3) and inserting "at least 50 percent", and

(6) by adding at the end the following new subsection:

"(f) TREATMENT OF BUSINESSES STRADDLING CENSUS TRACT LINES.—For purposes of this section, if—

"(1) a business entity or proprietorship uses real property located within an empowerment zone,

"(2) the business entity or proprietorship also uses real property located outside the empowerment zone,

"(3) the amount of real property described in paragraph (1) is substantial compared to the amount of real property described in paragraph (2), and

"(4) the real property described in paragraph (2) is contiguous to part or all of the real property described in paragraph (1),

then all the services performed by employees, all business activities, all tangible property, and all intangible property of the business entity or proprietorship that occur in or is located on the real property described in paragraphs (1) and (2) shall be treated as occurring or situated in an empowerment zone."

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning on or after the date of the enactment of this Act.

(2) SPECIAL RULE FOR ENTERPRISE ZONE FACILITY BONDS.—For purposes of section 1394(b) of the Internal Revenue Code of 1986, the amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

CHAPTER 3—EXPENSING OF ENVIRONMENTAL REMEDIATION COSTS

SEC. 721. EXPENSING OF ENVIRONMENTAL REMEDIATION COSTS.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 is amended by adding at the end the following new section:

"SEC. 198. EXPENSING OF ENVIRONMENTAL REMEDIATION COSTS.

"(a) IN GENERAL.—A taxpayer may elect to treat any qualified environmental remediation expenditure which is paid or incurred by the taxpayer as an expense which is not chargeable to capital account. Any expenditure which is so treated shall be allowed as a deduction for the taxable year in which it is paid or incurred.

"(b) QUALIFIED ENVIRONMENTAL REMEDIATION EXPENDITURE.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified environmental remediation expenditure' means any expenditure—

"(A) which is otherwise chargeable to capital account, and

"(B) which is paid or incurred in connection with the abatement or control of hazardous substances at a qualified contaminated site.

"(2) SPECIAL RULE FOR EXPENDITURES FOR DEPRECIABLE PROPERTY.—Such term shall not include any expenditure for the acquisition of property of a character subject to the allowance for depreciation which is used in connection with the abatement or control of hazardous substances at a qualified contaminated site; except that the portion of the allowance under section 167 for such property which is otherwise allocated to such site shall be treated as a qualified environmental remediation expenditure.

"(c) QUALIFIED CONTAMINATED SITE.—For purposes of this section—

"(1) QUALIFIED CONTAMINATED SITE.—

"(A) IN GENERAL.—The term 'qualified contaminated site' means any area—

"(i) which is held by the taxpayer for use in a trade or business or for the production of income, or which is property described in section 1221(1) in the hands of the taxpayer,

"(ii) which is within a targeted area, and

"(iii) which contains (or potentially contains) any hazardous substance.

"(B) TAXPAYER MUST RECEIVE STATEMENT FROM STATE ENVIRONMENTAL AGENCY.—An area shall be treated as a qualified contaminated site with respect to expenditures paid or incurred during any taxable year only if the taxpayer receives a statement from the appropriate agency of the State in which such area is located that such area meets the requirements of clauses (ii) and (iii) of subparagraph (A).

"(C) APPROPRIATE STATE AGENCY.— For purposes of subparagraph (B), the appropriate agency of a State is the agency designated by the Administrator of the Environmental Protection Agency for purposes of this section. If no agency of a State is designated under the preceding sentence, the appropriate agency for such State shall be the Environmental Protection Agency.

"(2) TARGETED AREA.—

"(A) IN GENERAL.—The term 'targeted area' means—

"(i) any population census tract with a poverty rate of not less than 20 percent,

"(ii) a population census tract with a population of less than 2,000 if—

"(I) more than 75 percent of such tract is zoned for commercial or industrial use, and

"(II) such tract is contiguous to 1 or more other population census tracts which meet the requirement of clause (i) without regard to this clause,

"(iii) any empowerment zone or enterprise community (and any supplemental zone designated on December 21, 1994), and

"(iv) any site announced before February 1, 1997, as being included as a brownfields pilot project of the Environmental Protection Agency.

"(B) NATIONAL PRIORITIES LISTED SITES NOT INCLUDED.—Such term shall not include any site which is on the national priorities list under section 105(a)(8)(B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (as in effect on the date of the enactment of this section).

"(C) CERTAIN RULES TO APPLY.—For purposes of this paragraph, the rules of sections 1392(b)(4) and 1393(a)(9) shall apply.

"(D) TREATMENT OF CERTAIN SITES.—For purposes of this paragraph, a single contaminated site shall be treated as within a targeted area if—

"(i) a substantial portion of the site is located within a targeted area described in subparagraph (A) (determined without regard to this subparagraph), and

"(ii) the remaining portions are contiguous to, but outside, such targeted area.

"(d) HAZARDOUS SUBSTANCE.—For purposes of this section—

"(1) IN GENERAL.—The term 'hazardous substance' means—

"(A) any substance which is a hazardous substance as defined in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and

"(B) any substance which is designated as a hazardous substance under section 102 of such Act.

"(2) EXCEPTION.—Such term shall not include any substance with respect to which a removal or remedial action is not permitted under section 104 of such Act by reason of subsection (a)(3) thereof.

"(e) DEDUCTION RECAPTURED AS ORDINARY INCOME ON SALE, ETC.—Solely for purposes of section 1245, in the case of property to which a qualified environmental remediation expenditure would have been capitalized but for this section—

"(1) the deduction allowed by this section for such expenditure shall be treated as a deduction for depreciation, and

"(2) such property (if not otherwise section 1245 property) shall be treated as section 1245 property solely for purposes of applying section 1245 to such deduction.

"(f) COORDINATION WITH OTHER PROVISIONS.—Sections 280B and 468 shall not apply to amounts which are treated as expenses under this section.

"(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section."

(b) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1 is amended by adding at the end the following new item:

"Sec. 198. Expensing of environmental remediation costs."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures paid or incurred after the date of the enactment of this Act, in taxable years ending after such date.

Subtitle B—Puerto Rico Economic Activity Credit Improvement

SEC. 731. MODIFICATIONS OF PUERTO RICO ECONOMIC ACTIVITY CREDIT.

(a) CORPORATIONS ELIGIBLE TO CLAIM CREDIT.—Section 30A(a)(2) (defining qualified domestic corporation) is amended to read as follows:

"(2) QUALIFIED DOMESTIC CORPORATION.—For purposes of paragraph (1)—

"(A) IN GENERAL.—A domestic corporation shall be treated as a qualified domestic corporation for a taxable year if it is actively conducting within Puerto Rico during the taxable year—

"(i) a line of business with respect to which the domestic corporation is an existing credit claimant under section 936(j)(9), or

"(ii) an eligible line of business not described in clause (i).

"(B) LIMITATION TO LINES OF BUSINESS.—A domestic corporation shall be treated as a qualified domestic corporation under subparagraph (A) only with respect to the lines of business described in subparagraph (A) which it is actively conducting in Puerto Rico during the taxable year.

"(C) EXCEPTION FOR CORPORATIONS ELECTING REDUCED CREDIT.—A domestic corporation shall not be treated as a qualified corporation if such corporation (or any predecessor) had an election in effect under section 936(a)(4)(B)(iii) for any taxable year beginning after December 31, 1996."

(b) APPLICATION ON SEPARATE LINE OF BUSINESS BASIS; ELIGIBLE LINE OF BUSINESS.—Section 30A is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) APPLICATION ON LINE OF BUSINESS BASIS; ELIGIBLE LINES OF BUSINESS.—For purposes of this section—

"(1) APPLICATION TO SEPARATE LINE OF BUSINESS.—

"(A) IN GENERAL.—In determining the amount of the credit under subsection (a), this section shall be applied separately with respect to each substantial line of business of the qualified domestic corporation.

"(B) EXCEPTIONS FOR EXISTING CREDIT CLAIMANT.—This paragraph shall not apply to a substantial line of business with respect to which the qualified domestic corporation is an existing credit claimant under section 936(j)(9).

"(C) ALLOCATION.—The Secretary shall prescribe rules necessary to carry out the purposes of this paragraph, including rules—

"(i) for the allocation of items of income, gain, deduction, and loss for purposes of determining taxable income under subsection (a), and

"(ii) for the allocation of wages, fringe benefit expenses, and depreciation allowances for purposes of applying the limitations under subsection (d).

"(2) ELIGIBLE LINE OF BUSINESS.—The term 'eligible line of business' means a substantial line of business in any of the following trades or businesses:

"(A) Manufacturing.

"(B) Agriculture.

"(C) Forestry.

"(D) Fishing.

"(3) SUBSTANTIAL LINE OF BUSINESS.—For purposes of this subsection, the determination of whether a line of business is a substantial line of business shall be determined by reference to 2-digit codes under the North American Industry Classification System (62 Fed. Reg. 17288 et seq., formerly known as 'SIC codes')."

(c) REPEAL OF BASE PERIOD CAP.—

(1) IN GENERAL.—Section 30A(a)(1) (relating to allowance of credit) is amended by striking the last sentence.

(2) CONFORMING AMENDMENT.—Section 30A(e)(1) is amended by inserting "but not including subsection (j)(3)(A)(ii) thereof" after "thereunder".

(d) APPLICATION OF CREDIT.—Section 30A(h) (relating to applicability of section), as redesignated by subsection (b), is amended to read as follows:

"(h) APPLICATION OF SECTION.—

"(1) IN GENERAL.—This section shall apply to taxable years beginning after December 31, 1995, and before the termination date.

"(2) TERMINATION DATE.—For purposes of paragraph (1)—

"(A) IN GENERAL.—The termination date is the first day of the 4th calendar year following the close of the first period for which a certification is issued by the Secretary under subparagraph (B).

"(B) CERTIFICATION.—

"(i) IN GENERAL.—The Secretary shall issue a certification under this subparagraph for the first 3-consecutive calendar year period beginning after December 31, 1997, for which the Secretary determines that Puerto Rico has met the requirements of clause (ii) for each calendar year within the period.

"(ii) REQUIREMENTS.—The requirements of this clause are met with respect to Puerto Rico for any calendar year if—

"(I) the average monthly rate of unemployment in Puerto Rico does not exceed 150 percent of the average monthly rate of unemployment for the United States for such year,

"(II) the per capita income of Puerto Rico is at least 66 percent of the per capita income of the United States, and

"(III) the poverty level within Puerto Rico does not exceed 30 percent."

(e) CONFORMING AMENDMENTS.—

(1) Section 30A(b) is amended by striking "within a possession" each place it appears and inserting "within Puerto Rico".

(2) Section 30A(d) is amended by striking "possession" each place it appears.

(3) Section 30A(f) is amended to read as follows:

"(f) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED INCOME TAXES.—The qualified income taxes for any taxable year allocable to nonsheltered income shall be determined in the same manner as under section 936(i)(3).

"(2) QUALIFIED WAGES.—The qualified wages for any taxable year shall be determined in the same manner as under section 936(i)(1).

"(3) OTHER TERMS.—Any term used in this section which is also used in section 936 shall have the same meaning given such term by section 936."

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. 732. COMPARABLE TREATMENT FOR OTHER ECONOMIC ACTIVITY CREDIT.

(a) CORPORATIONS ELIGIBLE TO CLAIM CREDIT.—Section 936(j)(2)(A) (relating to economic activity credit) is amended to read as follows:

"(A) ECONOMIC ACTIVITY CREDIT.—

"(i) IN GENERAL.—In the case of a domestic corporation which, during the taxable year, is actively conducting within a possession other than Puerto Rico—

"(I) a line of business with respect to which the domestic corporation is an existing credit claimant under paragraph (9), or

"(II) an eligible line of business not described in subclause (I),

the credit determined under subsection (a)(1)(A) shall be allowed for taxable years beginning after December 31, 1995, and before January 1, 2002.

"(ii) LIMITATION TO LINES OF BUSINESS.—Clause (i) shall only apply with respect to the lines of business described in clause (i) which the domestic corporation is actively conducting in a possession other than Puerto Rico during the taxable year.

"(iii) EXCEPTION FOR CORPORATIONS ELECTING REDUCED CREDIT.—Clause (i) shall not apply to a domestic corporation if such corporation (or any predecessor) had an election in effect under subsection (a)(4)(B)(iii) for any taxable year beginning after December 31, 1996."

(b) APPLICATION ON SEPARATE LINE OF BUSINESS BASIS; ELIGIBLE LINE OF BUSINESS.—

(1) IN GENERAL.—Section 936(j) is amended by adding at the end the following new paragraph:

“(11) APPLICATION ON LINE OF BUSINESS BASIS; ELIGIBLE LINES OF BUSINESS.—For purposes of this section—

“(A) APPLICATION TO SEPARATE LINE OF BUSINESS.—

“(i) IN GENERAL.—In determining the amount of the credit under subsection (a)(1)(A) for a corporation to which paragraph (2)(A) applies, this section shall be applied separately with respect to each substantial line of business of the corporation.

“(ii) EXCEPTIONS FOR EXISTING CREDIT CLAIMANT.—This paragraph shall not apply to a line of business with respect to which the qualified domestic corporation is an existing credit claimant under paragraph (9).

“(iii) ALLOCATION.—The Secretary shall prescribe rules necessary to carry out the purposes of this subparagraph, including rules—

“(I) for the allocation of items of income, gain, deduction, and loss for purposes of determining taxable income under subsection (a)(1)(A), and

“(II) for the allocation of wages, fringe benefit expenses, and depreciation allowances for purposes of applying the limitations under subsection (a)(4)(A).

“(B) ELIGIBLE LINE OF BUSINESS.—For purposes of this subsection, the term ‘eligible line of business’ means a substantial line of business in any of the following trades or businesses:

“(i) Manufacturing.

“(ii) Agriculture.

“(iii) Forestry.

“(iv) Fishing.”

(2) NEW LINES OF BUSINESS.—Section 936(j)(9)(B) is amended to read as follows:

“(B) NEW LINES OF BUSINESS.—A corporation shall not be treated as an existing credit claimant with respect to any substantial new line of business which is added after October 13, 1995, unless such addition is pursuant to an acquisition described in subparagraph (A)(ii).”

(3) SEPARATE LINES OF BUSINESS.—Section 936(j), as amended by paragraph (1), is amended by adding at the end the following new paragraph:

“(12) SUBSTANTIAL LINE OF BUSINESS.—For purposes of this subsection (other than paragraph (9)(B) thereof), the determination of whether a line of business is a substantial line of business shall be determined by reference to 2-digit codes under the North American Industry Classification System (62 Fed. Reg. 17288 et seq., formerly known as ‘SIC codes’).”

(c) REPEAL OF BASE PERIOD CAP FOR ECONOMIC ACTIVITY CREDIT.—

(1) IN GENERAL.—Section 936(j)(3) is amended to read as follows:

“(3) ADDITIONAL RESTRICTED REDUCED CREDIT.—

“(A) IN GENERAL.—In the case of an existing credit claimant to which paragraph (2)(B) applies, the credit determined under subsection (a)(1)(A) shall be allowed for any taxable year beginning after December 31, 1997, and before January 1, 2006, except that the aggregate amount of taxable income taken into account under subsection (a)(1)(A) for such taxable year shall not exceed the adjusted base period income of such claimant.

“(B) COORDINATION WITH SUBSECTION (a)(4)(B).—The amount of income described in subsection (a)(1)(A) which is taken into account in applying subsection (a)(4)(B) shall be such income as reduced under this paragraph.”

(2) CONFORMING AMENDMENT.—Section 936(j)(2)(A), as amended by subsection (a), is amended by striking “2002” and inserting “2006”.

(d) APPLICATION OF CREDIT.—

(1) IN GENERAL.—Section 936(j)(2)(A), as amended by this section, is amended by striking “January 1, 2006” and inserting “the termination date”.

(2) SPECIAL RULES FOR APPLICABLE POSSESSIONS.—Section 936(j)(8)(A) is amended to read as follows:

“(A) IN GENERAL.—In the case of an applicable possession—

“(i) this section (other than the preceding paragraphs of this subsection) shall not apply for taxable years beginning after December 31, 1995, and before January 1, 2006, with respect to any substantial line of business actively conducted in such possession by a domestic corporation which is an existing credit claimant with respect to such line of business, and

“(ii) this section (including this subsection) shall apply—

“(I) with respect to any substantial line of business not described in clause (i) for taxable years beginning after December 31, 1997, and before the termination date, and

“(II) with respect to any substantial line of business described in clause (i) for taxable years beginning after December 31, 2006, and before the termination date.”

(3) TERMINATION DATE.—Section 936(j), as amended by subsection (b), is amended by adding at the end the following new paragraph.

“(13) TERMINATION DATE.—For purposes of this subsection—

“(A) IN GENERAL.—The termination date for any possession other than Puerto Rico is the first day of the 4th calendar year following the close of the first period for which a certification is issued by the Secretary under subparagraph (B).

“(B) CERTIFICATION.—

“(i) IN GENERAL.—The Secretary shall issue a certification for a possession under this subparagraph for the first 3-consecutive calendar year period beginning after December 31, 1997, for which the Secretary determines that the possession has met the requirements of clause (ii) for each calendar year within the period.

“(ii) REQUIREMENTS.—The requirements of this clause are met with respect to a possession for any calendar year if—

“(I) the average monthly rate of unemployment in the possession does not exceed 150 percent of the average monthly rate of unemployment for the United States for such year,

“(II) the per capita income of the possession is at least 66 percent of the per capita income of the United States, and

“(III) the poverty level within the possession does not exceed 30 percent.”

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

(2) NEW LINES OF BUSINESS.—The amendment made by subsection (b)(2) shall apply to taxable years beginning after December 31, 1995.

Subtitle C—Revisions Relating to Disasters

SEC. 741. TREATMENT OF LIVESTOCK SOLD ON ACCOUNT OF WEATHER-RELATED CONDITIONS.

(a) DEFERRAL OF INCOME INCLUSION.—Subsection (e) of section 451 (relating to special rules for proceeds from livestock sold on account of drought) is amended—

(1) by striking “drought conditions, and that these drought conditions” in paragraph (1) and inserting “drought, flood, or other weather-related conditions, and that such conditions”; and

(2) by inserting “, FLOOD, OR OTHER WEATHER-RELATED CONDITIONS” after “DROUGHT” in the subsection heading.

(b) INVOLUNTARY CONVERSIONS.—Subsection (e) of section 1033 (relating to livestock sold on account of drought) is amended—

(1) by inserting “, flood, or other weather-related conditions” before the period at the end thereof; and

(2) by inserting “, FLOOD, OR OTHER WEATHER-RELATED CONDITIONS” after “DROUGHT” in the subsection heading.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales and exchanges after December 31, 1996.

SEC. 742. GAIN OR LOSS FROM SALE OF LIVESTOCK DISREGARDED FOR PURPOSES OF EARNED INCOME CREDIT.

(a) IN GENERAL.—Section 32(i)(2)(D) (relating to disqualified income) is amended by inserting “determined without regard to gain or loss from the sale of livestock described in section 1231(b)(3),” after “taxable year,”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 743. MORTGAGE FINANCING FOR RESIDENCES LOCATED IN DISASTER AREAS.

Subsection (k) of section 143 (relating to mortgage revenue bonds; qualified mortgage bond and qualified veteran's mortgage bond) is amended by adding at the end the following new paragraph:

“(11) SPECIAL RULES FOR RESIDENCES LOCATED IN DISASTER AREAS.—In the case of a residence located in an area determined by the President to warrant assistance from the Federal Government under the Disaster Relief and Emergency Assistance Act (as in effect on the date of the enactment of the Revenue Reconciliation Act of 1997), this section shall be applied with the following modifications to financing provided with respect to such residence within 1 year after the date of the disaster declaration:

“(A) Subsection (d) (relating to 3-year requirement) shall not apply.

“(B) Subsections (e) and (f) (relating to purchase price requirement and income requirement) shall be applied as if such residence were a targeted area residence.

The preceding sentence shall apply only with respect to bonds issued after December 31, 1996, and before January 1, 1999.”

Subtitle D—Provisions Relating to Small Businesses

SEC. 751. WAIVER OF PENALTY THROUGH JUNE 30, 1998, ON SMALL BUSINESSES FAILING TO MAKE ELECTRONIC FUND TRANSFERS OF TAXES.

No penalty shall be imposed under the Internal Revenue Code of 1986 solely by reason of a failure by a person to use the electronic fund transfer system established under section 6302(h) of such Code if—

(1) such person is a member of a class of taxpayers first required to use such system on or after July 1, 1997, and

(2) such failure occurs before July 1, 1998.

SEC. 752. MINIMUM TAX NOT TO APPLY TO FARMERS' INSTALLMENT SALES.

(a) IN GENERAL.—Subsection (a) of section 56 is amended by striking paragraph (6) (relating to treatment of installment sales).

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by this section shall apply to dispositions in taxable years beginning after December 31, 1987.

(2) SPECIAL RULE FOR 1987.—In the case of taxable years beginning in 1987, the last sentence of section 56(a)(6) of the Internal Revenue Code of 1986 (as in effect for such taxable years) shall be applied by inserting “or

in the case of a taxpayer using the cash receipts and disbursements method of accounting, any disposition described in section 453C(e)(1)(B)(ii)" after "section 453C(e)(4)".

Subtitle E—Provisions Relating to Pensions and Fringe Benefits

SEC. 761. TREATMENT OF MULTIEMPLOYER PLANS UNDER SECTION 415.

(a) In General.—Section 415(b)(11) is amended—

(1) by inserting "or a multiemployer plan (as defined in section 414(f))" after "section 414(d))", and

(2) by inserting "AND MULTIEMPLOYER" after "GOVERNMENTAL" in the heading thereof.

(b) Effective Date.—The amendments made by this section shall apply to years beginning after December 31, 1997.

SEC. 762. SPOUSAL CONSENT REQUIRED FOR CERTAIN DISTRIBUTIONS AND LOANS UNDER QUALIFIED CASH OR DEFERRED ARRANGEMENT.

(a) In General.—Section 401(k) is amended by adding at the end the following new paragraph:

"(13) Spousal consent required.—

"(A) In general.—An arrangement shall not be treated as a qualified cash or deferred arrangement unless—

"(i) a distribution under the plan of which such arrangement is a part, or

"(ii) a loan all or part of which is secured by the participant's interest in the plan of which such arrangement is a part,

may not be made without the written consent of the spouse.

"(B) Exceptions.—Subparagraph (A) shall not apply—

"(i) to distributions described in section 402(c)(4)(A) or 411(a)(11), or

"(ii) in any case described in section 417(a)(2) (relating to cases where spouse cannot be located).

"(C) Other rules.—The Secretary shall prescribe rules similar to the rules under section 417 for the form and timing of any consent required by this paragraph."

(b) Effective Date.—

(1) In general.—The amendment made by this section shall apply to plan years beginning after December 31, 1998.

(2) Plan amendments.—A plan shall not be treated as failing to meet the requirements of section 411(d)(6) of the Internal Revenue Code of 1986 or section 204(g) of the Employee Retirement Income Security Act of 1974 merely because it is amended to meet the requirements of section 401(k)(4)(13) of such Code (as added by subsection (a)).

SEC. 763. SECTION 401(k) INVESTMENT PROTECTION.

(a) Limitations on Investment in Employer Securities and Employer Real Property by Cash or Deferred Arrangements.—Paragraph (3) of section 407(d) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1107(d)) is amended by adding at the end the following new subparagraph:

"(D) The term 'eligible individual account plan' does not include that portion of an individual account plan that consists of elective deferrals (as defined in section 402(g)(3) of the Internal Revenue Code of 1986) pursuant to a qualified cash or deferred arrangement as defined in section 401(k) of the Internal Revenue Code of 1986 (and earnings thereon), if such elective deferrals (or earnings thereon) are required to be invested in qualifying employer securities or qualifying employer real property or both pursuant to the documents and instruments governing the plan or at the direction of a person other than the participant (or the participant's beneficiary) on whose behalf such elective deferrals are made to the plan. For the purposes of subsection (a), such portion shall be treated as a separate plan. This subparagraph shall not apply to an individual account plan if the fair market value of the assets of all individual account plans maintained by the employer equals not more than 10 percent of the fair market value of the assets of all pension plans maintained by the employer."

(b) Effective Date.—

(1) In general.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(2) Transition rule for plans holding excess securities or property.—

(A) In general.—In the case of a plan which on the date of the enactment of this Act, has holdings of employer securities and employer real property (as defined in section 407(d) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1107(d)) in excess of the amount specified in such section 407, the amendment made by this section applies to any acquisition of such securities and property on or after such date, but does not apply to the specific holdings which constitute such excess during the period of such excess.

(B) Special rule for certain acquisitions.—Employer securities and employer real property acquired pursuant to a binding written contract to acquire such securities and real property entered into and in effect on the date of the enactment of this Act, shall be treated as acquired immediately before such date.

Subtitle F—Other Provisions

SEC. 771. ADJUSTMENT OF MINIMUM TAX EXEMPTION AMOUNTS FOR TAXPAYERS OTHER THAN CORPORATIONS.

(a) In General.—Subsection (d) of section 55 is amended by adding at the end the following new paragraph:

"(4) Adjustment of exemption amounts for taxpayers other than corporations.—

"(A) Taxable years beginning after December 31, 2000, and before January 1, 2004.—In the case of any calendar year after 2000 and before 2004—

"(i) the dollar amount applicable under paragraph (1)(A) for such a calendar year shall be $600 greater than the dollar amount applicable under paragraph (1)(A) for the prior calendar year, and

"(ii) the dollar amount applicable under paragraph (1)(B) for such a calendar year shall be $400 greater than the dollar amount applicable under paragraph (1)(B) for the prior calendar year.

"(B) Application of taxable years.—The dollar amount applicable under this paragraph to any calendar year shall apply to taxable years beginning in such calendar year."

(b) Conforming Amendments.—

(1) Subparagraph (C) of section 55(d)(1) is amended by striking "$22,500" and inserting "the amount equal to ½ the dollar amount applicable under subparagraph (A) for the taxable year".

(2) The last sentence of section 55(d)(3) is amended by striking "$165,000 or (ii) $22,500" and inserting "the minimum amount of such income (as so determined) for which the exemption amount under paragraph (1)(C) is zero, or (ii) such exemption amount (determined without regard to this paragraph)".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

SEC. 772. TREATMENT OF COMPUTER SOFTWARE AS FSC EXPORT PROPERTY.

(a) In General.—Subparagraph (B) of section 927(a)(2) (relating to property excluded from eligibility as FSC export property) is amended by inserting ", and other than computer software (whether or not patented)" before ", for commercial or home use".

(b) Effective Date.—The amendment made by subsection (a) shall apply to gross receipts attributable to periods after December 31, 1997, in taxable years ending after such date.

SEC. 773. WELFARE-TO-WORK INCENTIVES.

(a) Additional Temporary Incentives for Employing Long-Term Family Assistance Recipients.—Section 51 (relating to amount of work opportunity credit) is amended by inserting after subsection (d) the following new subsection:

"(e) Additional Temporary Incentives for Employing Long-Term Family Assistance Recipients.—

"(1) Treatment as member of targeted group.—A long-term family assistance recipient shall be treated for purposes of this section as a member of a targeted group.

"(2) Modification to percentage and years of credit.—In the case of a long-term family assistance recipient, the amount of the work opportunity credit determined under this section for the taxable year shall be equal to the sum of—

"(A) 50 percent of the qualified first-year wages, and

"(B) 50 percent of the qualified second-year wages.

"(3) Modification to amount of wages taken into account.—In the case of a long-term family assistance recipient—

"(A) $10,000 of wages may be taken into account.—In lieu of applying subsection (b)(3), the amount of the qualified first-year wages, and the amount of qualified second-year wages, which may be taken into account with respect to any individual shall not exceed $10,000 per year.

"(B) Certain amounts treated as wages.—The term 'wages' includes amounts paid or incurred by the employer which are excludable from such recipient's gross income under—

"(i) section 105 (relating to amounts received under accident and health plans),

"(ii) section 106 (relating to contributions by employer to accident and health plans),

"(iii) section 127 (relating to educational assistance programs) or would be so excludable but for section 127(d), but only to the extent paid or incurred to a person not related to the employer, or

"(iv) section 129 (relating to dependent care assistance programs).

The amount treated as wages by clause (i) or (ii) for any period shall be based on the reasonable cost of coverage for the period, but shall not exceed the applicable premium for the period under section 4980B(f)(4).

"(C) Special rules for agricultural and railway labor.—If such recipient is an employee to which subparagraph (A) or (B) of subsection (h)(1) applies—

"(i) such subparagraph (A) shall be applied by substituting '$10,000' for '$6,000' and

"(ii) such subparagraph (B) shall be applied by substituting '$825' for '$500'.

"(D) Termination.—In lieu of applying subsection (c)(4), this subsection shall not apply to amounts paid or incurred with respect to an individual who begins work for the employer after September 30, 2000.

"(4) Long-term family assistance recipient.—For purposes of this subsection, the term 'long-term family assistance recipient' means any individual who is certified by the designated local agency—

"(A) as being a member of a family receiving assistance under a IV-A program (as defined in subsection (d)(2)(B)) for at least the 18-month period ending with the month preceding the month in which the hiring date occurs,

"(B)(i) as being a member of a family receiving such assistance for 18 months beginning after the date of the enactment of this subsection, and

"(ii) as having a hiring date which is not more than 2 years after the end of the earliest such 18-month period, or

"(C)(i) as being a member of a family which ceased to be eligible after the date of the enactment of this subsection for such assistance by reason of any limitation imposed by Federal or State law on the maximum period such assistance is payable to a family, and

"(ii) as having a hiring date which is not more than 2 years after the date of such cessation.

"(5) QUALIFIED SECOND-YEAR WAGES.—For purposes of this subsection, the term 'qualified second-year wages' means, with respect to any individual, the qualified wages attributable to service rendered during the 1-year period beginning on the day after the last day of the 1-year period with respect to such individual determined under subsection (b)(2)."

(b) CERTAIN OLDER FOOD STAMP RECIPIENTS TREATED AS MEMBERS OF TARGETED GROUP.—Paragraph (8) of section 51(d) (defining qualified food stamp recipient) is amended to read as follows:

"(8) QUALIFIED FOOD STAMP RECIPIENT.—

"(A) IN GENERAL.—The term 'qualified food stamp recipient' means any individual who is certified by the designated local agency—

"(i) as having attained age 18 but not age 25 on the hiring date, and

"(ii) as being a member of a family receiving assistance under a food stamp program under the Food Stamp Act of 1977 for the 6-month period ending on the hiring date.

"(B) CERTAIN OLDER RECIPIENTS.—The term 'qualified food stamp recipient' includes any individual who is certified by the designated local agency—

"(i) as having attained age 18 but not age 50 on the hiring date,

"(ii) as being a recipient of benefits under the food stamp program who is affected by section 6(o) of the Food Stamp Act of 1977 but who has not been made ineligible for refusing to work in accordance with section 6(o)(2)(A) of such Act, or failing to comply with the requirements of a work program under subparagraph (B), (C), or (D) of section 6(o)(2)(A) of such Act, and

"(iii) as having a hiring date which is not more than 1 year after the date of such cessation.

"(C) TERMINATION.—In lieu of applying subsection (c)(4), this subsection shall not apply to amounts paid or incurred with respect to an individual who begins work for the employer after September 30, 2000."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to individuals who begin work for the employer after the date of the enactment of this Act.

MCCAIN AMENDMENTS NOS. 528–529

(Ordered to lie on the table.)

Mr. McCAIN submitted two amendments intended to be proposed by him to the bill, S. 949, supra; as follows:

AMENDMENT NO. 528

On page 183, beginning with line 22, strike through line 18 on page 192.

AMENDMENT NO. 529

On page 192, line 18, after the period insert the following: "This subsection shall not take effect until the first fiscal year beginning after the date on which an Act, enacted after the date of enactment of this Act, takes effect that provides for reform of Amtrak.".

D'AMATO (AND DASCHLE) AMENDMENT NO. 530

(Ordered to lie on the table.)

Mr. D'AMATO (for himself and Mr. DASCHLE) submitted an amendment intended to be proposed by him to the bill, S. 949, supra; as follows:

In section 1045, rollover of gain from qualified small business stock to another qualified small business stock, on page 106, line 12, strike "5 years" and in lieu of, insert "6 months"

THOMAS AMENDMENT NO. 531

(Ordered to lie on the table.)

Mr. THOMAS submitted an amendment intended to be proposed by him to the bill, S. 949, supra; as follows:

On page 267, between lines 15 and 16, insert the following:

SEC. . RESTORATION OF DEDUCTION FOR LOBBYING EXPENSES IN CONNECTION WITH STATE LEGISLATION.

(a) IN GENERAL.—Paragraph (2) of section 162(e) (relating to denial of deduction for certain lobbying and political activities) is amended—

(1) by inserting "any State legislature or of" before "any local council" in the material preceeding subparagraph (A), and

(2) in subparagraph (B)(i), by striking "such council" and inserting "such legislature, council,".

(b) CLERICAL AMENDMENT.—The paragraph heading of paragraph (2) of section 162(e) is amended by inserting "STATE OR" before "LOCAL".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act.

SEC. . INCREASED MILEAGE REQUIREMENT FOR MOVING EXPENSES DEDUCTION.

(a) IN GENERAL.—Paragraph (1) of section 217(c) (relating to moving expenses) is amended—

(1) in subparagraph (A), by striking "50 miles" and inserting "55 miles"; and

(2) in subparagraph (B), by striking "50 miles" and inserting "55 miles".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

LANDRIEU AMENDMENT NO. 532

(Ordered to lie on the table.)

Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill, S. 949, supra; as follows:

On page 13, beginning on line 9, strike all through page 17, line 23, and insert the following:

"(2) LIMITATION BASED ON ADJUSTED GROSS INCOME.—

"(A) IN GENERAL.—The $500 amount in subsection (a) shall be reduced (but not below zero) by $25 for each $1,000 (or fraction thereof) by which the taxpayer's modified adjusted gross income exceeds the threshold amount. For purposes of the preceding sentence, the term 'modified adjusted gross income' means adjusted gross income increased by any amount excluded from gross income under section 911, 931, or 933.

"(B) THRESHOLD AMOUNT.—For purposes of subparagraph (A), the term 'threshold amount' means—

"(i) $90,000 in the case of a joint return,

"(ii) $60,000 in the case of an individual who is not married, and

"(iii) $45,000 in the case of a married individual filing a separate return.

For purposes of this subparagraph, marital status shall be determined under section 7703.

"(c) QUALIFYING CHILD.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualifying child' means any individual if—

"(A) the taxpayer is allowed a deduction under section 151 with respect to such individual for the taxable year,

"(B) such individual has not attained the age of 17 (age of 18 in the case of taxable years beginning after 2002) as of the close of the calendar year in which the taxable year of the taxpayer begins, and

"(C) such individual bears a relationship to the taxpayer described in section 32(c)(3)(B).

"(2) EXCEPTION FOR CERTAIN NONCITIZENS.—The term 'qualifying child' shall not include any individual who would not be a dependent if the first sentence of section 152(b)(3) were applied without regard to all that follows 'resident of the United States'.

"(d) TAXABLE YEAR MUST BE FULL TAXABLE YEAR.—Except in the case of a taxable year closed by reason of the death of the taxpayer, no credit shall be allowable under this section in the case of a taxable year covering a period of less than 12 months.

"(e) RECAPTURE OF CREDIT.—

"(1) IN GENERAL.—If—

"(A) during any taxable year any amount is withdrawn from a qualified tuition program or an education individual retirement account maintained for the benefit of a beneficiary and such amount is subject to tax under section 529(f) or 530(c)(3), and

"(B) the amount of the credit allowed under this section for the prior taxable year was contingent on a contribution being made to such a program or account for the benefit of such beneficiary,

The taxpayer's tax imposed by this chapter for the taxable year shall be increased by the lesser of the amount described in subparagraph (A) or the credit described in subparagraph (B).

"(2) NO CREDITS AGAINST TAX, ETC.—Any increase in tax under this subsection shall not be treated as a tax imposed by this chapter for purposes of determining—

"(A) the amount of any credit under this subpart or subpart B or D of this part, and

"(B) the amount of the minimum tax imposed by section 55.

"(f) OTHER DEFINITIONS.—For purposes of this section, the term 'qualified tuition program' and 'education individual retirement account' have the meanings given such terms by section 529 and 530, respectively.

"(g) PHASEIN OF CREDIT.—In the case of taxable years beginning in 1997—

"(1) subsection (a)(1) shall be applied by substituting '$250' for '$500', and

"(2) subsection (c)(1)(B) shall be applied by substituting 'age of 13' for 'age of 17'."

(b) CONFORMING AMENDMENT.—The table of sections for supbart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 23 the following new item:

"Sec. 24. Child tax credit."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

FAIRCLOTH AMENDMENT NO. 533

(Ordered to lie on the table.)

Mr. FAIRCLOTH submitted an amendment intended to be proposed by him to bill, S. 949, supra; as follows:

On page 267, between lines 15 and 16, insert the following:

SEC. . CURRENT REFUNDINGS OF CERTAIN TAX-EXEMPT BONDS.

(a) IN GENERAL.—Subsection (c) of section 10632 of the Revenue Act of 1987 (relating to bonds issued by Indian tribal governments) is amended by adding at the end the following new sentence: "The amendments made by this section shall not apply to any obligation issued after such date if—

"(1) such obligation is issued (or is part of a series of obligations issued) to refund an obligation issued on or before such date,

"(2) the average maturity date of the issue of which the refunding obligation is a part is not later than the average maturity date of the obligations to be refunded by such issue,

"(3) the amount of the refunding obligation does not exceed the outstanding amount of the refunded obligation, and

"(4) the net proceeds of the refunding obligation are used to redeem the refunded obligation not later than 90 days after the date of the issuance of the refunding obligation.

For purposes of paragraph (2), average maturity shall be determined in accordance with section 147(b)(2)(A) of the Internal Revenue Code of 1986."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to refunding obligations issued after the date of the enactment of this Act.

BROWNBACK (AND OTHERS) AMENDMENT NO. 534

(Ordered to lie on the table.)

Mr. BROWNBACK (for himself, Mr. KOHL, and Mr. MCCAIN) submitted an amendment intended to be proposed by them to the bill, S. 949; as follows:

At the end of the pending Amendment, add the following:

TITLE —BUDGET CONTROL

SEC. 01. SHORT TITLE; PURPOSE.

(a) SHORT TITLE.—This title may be cited as the "Bipartisan Budget Enforcement Act of 1997".

(b) PURPOSE.—The purpose of this title is—

(1) to ensure a balanced Federal budget by fiscal year 2002;

(2) to ensure that the Bipartisan Budget Agreement is implemented; and

(3) to create a mechanism to monitor total costs of direct spending programs, and, in the event that actual or projected costs exceed targeted levels, to require the President and Congress to address adjustments in direct spending.

SEC. 02. ESTABLISHMENT OF DIRECT SPENDING TARGETS.

(a) IN GENERAL.—The initial direct spending targets for each of fiscal years 1998 through 2002 shall equal total outlays for all direct spending except net interest as determined by the Director of the Office of Management and Budget (hereinafter referred to in this title as the "Director") under subsection (b).

(b) INITIAL REPORT BY DIRECTOR.—

(1) IN GENERAL.—Not later than 30 days after the date of enactment of this title, the Director shall submit a report to Congress setting forth projected direct spending targets for each of fiscal years 1998 through 2002.

(2) PROJECTIONS AND ASSUMPTIONS.—The Director's projections shall be based on legislation enacted as of 5 days before the report is submitted under paragraph (1). The Director shall use the same economic and technical assumptions used in preparing the concurrent resolution on the budget for fiscal year 1998 (H.Con.Res. 84).

SEC. 03. ANNUAL REVIEW OF DIRECT SPENDING AND RECEIPTS BY PRESIDENT.

As part of each budget submitted under section 1105(a) of title 31, United States Code, the President shall provide an annual review of direct spending and receipts, which shall include—

(1) information on total outlays for programs covered by the direct spending targets, including actual outlays for the prior fiscal year and projected outlays for the current fiscal year and the 5 succeeding fiscal years; and

(2) information on the major categories of Federal receipts, including a comparison between the levels of those receipts and the levels projected as of the date of enactment of this title.

SEC. 04. SPECIAL DIRECT SPENDING MESSAGE BY PRESIDENT.

(a) TRIGGER.—If the information submitted by the President under section 03 indicates—

(1) that actual outlays for direct spending in the prior fiscal year exceeded the applicable direct spending target; or

(2) that outlays for direct spending for the current or budget year are projected to exceed the applicable direct spending targets,

the President shall include in his budget a special direct spending message meeting the requirements of subsection (b).

(b) CONTENTS.—

(1) INCLUSIONS.—The special direct spending message shall include—

(A) an analysis of the variance in direct spending over the direct spending targets; and

(B) the President's recommendations for addressing the direct spending overages, if any, in the prior, current, or budget year.

(2) ADDITIONAL MATTERS.—The President's recommendations may consist of any of the following:

(A) Proposed legislative changes to recoup or eliminate the overage for the prior, current, and budget years in the current year, the budget year, and the 4 outyears.

(B) Proposed legislative changes to recoup or eliminate part of the overage for the prior, current, and budget year in the current year, the budget year, and the 4 outyears, accompanied by a finding by the President that, because of economic conditions or for other specified reasons, only some of the overage should be recouped or eliminated by outlay reductions or revenue increases, or both.

(C) A proposal to make no legislative changes to recoup or eliminate any overage, accompanied by a finding by the President that, because of economic conditions or for other specified reasons, no legislative changes are warranted.

(c) PROPOSED SPECIAL DIRECT SPENDING RESOLUTION.—If the President recommends reductions consistent with subsection (b)(2)(A) or (B), the special direct spending message shall include the text of a special direct spending resolution implementing the President's recommendations through reconciliation directives instructing the appropriate committees of the House of Representatives and Senate to determine and recommend changes in laws within their jurisdictions. If the President recommends no reductions pursuant to (b)(2)(C), the special direct spending message shall include the text of a special resolution concurring in the President's recommendation of no legislative action.

SEC. 05. REQUIRED RESPONSE BY CONGRESS.

(a) IN GENERAL.—It shall not be in order in the House of Representatives or the Senate to consider a concurrent resolution on the budget unless that conference report fully addresses the entirety of any overage contained in the applicable report of the President under section 04 through reconciliation directives.

(b) WAIVER AND SUSPENSION.—This section may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn. This section shall be subject to the provisions of section 258 of the Balanced Budget and Emergency Deficit Control Act of 1985.

(c) APPEALS.—Appeals in the Senate from the decisions of the Chair relating to any provision of this section shall be limited to 1 hour, to be equally divided between, and controlled by, the appellant and the manager of the bill or joint resolution, as the case may be. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

SEC. 06. RELATIONSHIP TO BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT.

Reductions in outlays or increases in receipts resulting from legislation reported pursuant to section 05 shall not be taken into account for purposes of any budget enforcement procedures under the Balanced Budget and Emergency Deficit Control Act of 1985.

SEC. 07. ESTIMATING MARGIN.

For any fiscal year for which the overage is less than one-half of 1 percent of the direct spending target for that year, the procedures set forth in sections 04 and 05 shall not apply.

SEC. 08. EFFECTIVE DATE.

This title shall apply to direct spending targets for fiscal years 1998 through 2002 and shall expire at the end of fiscal year 2002.

SANTORUM (AND OTHERS) AMENDMENT NO. 535

(Ordered to lie on the table.)

Mr. SANTORUM (for himself, Mr. ABRAHAM, Mr. COATS, Mr. COVERDELL, Mr. GRAMM, Mr. NICKLES, Mr. ENZI, Mr. HAGEL, Mr. ALLARD, and Mr. KYL) submitted an amendment intended to be proposed by them to the bill, S. 949, supra; as follows:

On page 267, between lines 15 and 16, insert the following:

SEC. —. SENSE OF THE SENATE.

(a) FINDINGS.—The Senate finds that—

(1) Congress has not provided a genuine tax cut for America's middle-class families since 1981;

(2) President Clinton promised middle-class tax cuts in 1992;

(3) President Clinton raised taxes by $240,000,000,000 in 1993;

(4) President Clinton vetoed middle-class tax cuts in 1995;

(5) the middle-class American worker had to work until May 9 in order to earn enough

money to pay all Federal, State, and local taxes in 1997;

(6) the Joint Economic Committee reports that real total Government taxes per household in 1994 totaled $18,600;

(7) more than 70 percent of the tax cuts in both the House of Representatives and the Senate tax relief bills will go to Americans earning less than $75,000 annually;

(8) the Joint Economic Committee estimates that a family of 4 earning $30,000 will receive 53 percent of the tax relief under the reconciliation bill;

(9) the earned income tax credit was already expanded in President Clinton's 1993 tax bill;

(10) the fiscal year 1998 budget resolution does not make the $500-per-child tax credit refundable; and

(11) those who receive the earned income tax credit do not pay Federal income taxes but receive a substantial cash transfer from the Federal Government in the form of refund checks above and beyond income tax rebates.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that America's middle-class taxpayers shoulder the biggest tax burden and that only those who pay Federal income taxes should benefit from the tax cuts contained in the Revenue Reconciliation Act of 1997.

SANTORUM (AND OTHERS) AMENDMENT NO. 536

(Ordered to lie on the table.)

Mr. SANTORUM (for himself, Mr. ABRAHAM, and Mr. ENZI) submitted an amendment intended to be proposed by them to the bill, S. 949, supra; as follows:

On page 267, between lines 15 and 16, insert the following:

SEC. . SENSE OF THE SENATE.

(a) FINDINGS.—The Senate finds that—

(1) the Department of the Treasury relies upon the Family Economic Income broad-based income concept to estimate family incomes and the impact of Federal income tax relief;

(2) the Family Economic Income is constructed by adding to adjusted gross income unreported and underreported income; nontaxable transfer payments such as social security payments and TANF payments; employer-provided fringe benefits; inside build-up on pensions, IRAs, Keoghs, and life insurance; tax-exempt interest; and imputed rent on owner-occupied housing;

(3) neither individual families nor the Internal Revenue Service (IRS) rely on or use Family Economic Income as a calculation of income;

(4) the Treasury Department, using Family Economic Income, estimates that 65.5 percent of the tax relief under the Revenue Reconciliation Act of 1997 will go to the top 20 percent of taxpayers;

(5) the Treasury Department, using Family Economic Income, estimates that the top 10 percent of taxpayers would get 42.8 percent of the tax relief under the Revenue Reconciliation Act of 1997;

(6) the Joint Committee on Taxation, using conventional income calculations, estimates that 74 percent of the tax relief under the reconciliation bill will actually benefit those families with income under $75,000;

(7) the Joint Committee on Taxation, using conventional income calculations, estimates that 93 percent of the tax relief under the Revenue Reconciliation Act of 1997 will actually benefit those families with income under $100,000; and

(8) the Joint Economic Committee, using conventional income calculations, estimates that a family of 4 earning $30,000 will receive 53 percent of the tax relief under the Revenue Reconciliation Act of 1997.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that Family Economic Income overstates and unfairly skews family incomes, making those with lower incomes appear to be rich.

DOMENICI (AND LAUTENBERG) AMENDMENT NO. 537

Mr. DOMENICI (for himself and Mr. LAUTENBERG) proposed an amendment to the bill. S. 949, supra; as follows:

At the end of the bill, add the following:

TITLE XV—BUDGET ENFORCEMENT

SEC. 1500. TABLE OF CONTENTS.

The table of contents for this title is as follows:

Sec. 1500. Table of contents.

Subtitle A—Amendments to the Congressional Budget and Impoundment Control Act of 1974

Sec. 1511. Amendments to section 201.
Sec. 1512. Amendments to section 202.
Sec. 1513. Amendment to section 300.
Sec. 1514. Amendments to section 301.
Sec. 1515. Amendments to section 302.
Sec. 1516. Amendments to section 303.
Sec. 1517. Amendment to section 305.
Sec. 1518. Amendment to section 308.
Sec. 1519. Amendments to section 311.
Sec. 1520. Amendment to section 312.
Sec. 1521. Adjustments.
Sec. 1522. Amendments to title V.
Sec. 1523. Repeal of title VI.
Sec. 1524. Amendments to section 904.
Sec. 1525. Repeal of sections 905 and 906.
Sec. 1526. Amendments to sections 1022 and 1024.
Sec. 1527. Amendment to section 1026.

Subtitle B—Amendments to the Balanced Budget and Emergency Deficit Control Act of 1985

Sec. 1551. Purpose.
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Subtitle A—Amendments to the Congressional Budget and Impoundment Control Act of 1974

SEC. 1511. AMENDMENTS TO SECTION 201.

Section 201 of the Congressional Budget Act of 1974 is amended by redesignating subsection (g) (relating to revenue estimates) as subsection (f).

SEC. 1512. AMENDMENTS TO SECTION 202.

(a) ASSISTANCE TO BUDGET COMMITTEES.—The first sentence of section 202(a) of the Congressional Budget Act of 1974 is amended by inserting "primary" before "duty".

(b) ELIMINATION OF EXECUTED PROVISION.—Section 202 of the Congressional Budget Act of 1974 is amended by striking subsection (e) and by redesignating subsections (f), (g), and (h) as subsections (e), (f), and (g), respectively.

SEC. 1513. AMENDMENT TO SECTION 300.

The item relating to February 25 in the timetable set forth in section 300 of the Congressional Budget Act of 1974 is amended by striking "February 25" and inserting "Within 6 weeks after President submits budget".

SEC. 1514. AMENDMENTS TO SECTION 301.

(a) TERMS OF BUDGET RESOLUTIONS.—Section 301(a) of the Congressional Budget Act of 1974 is amended by striking ", and planning levels for each of the two ensuing fiscal years," and inserting "and for at least each of the 4 ensuing fiscal years".

(b) CONTENTS OF BUDGET RESOLUTIONS.—Paragraphs (1) and (4) of section 301(a) of the Congressional Budget Act of 1974 are amended by striking ", budget outlays, direct loan obligations, and primary loan guarantee commitments" each place it appears and inserting "and budget outlays".

(c) ADDITIONAL MATTERS.—Section 301(b) of the Congressional Budget Act of 1974 is amended by—

(1) amending paragraph (7) to read as follows—

"(7) set forth pay-as-you-go procedures in the Senate whereby committee allocations, aggregates, and other levels can be revised for legislation if such legislation would not increase the deficit or would not increase the deficit when taken with other legislation enacted after the adoption of the resolution for the first fiscal year or the total period of fiscal years covered by the resolution;";

(2) in paragraph 8, striking the period and inserting "; and"; and

(3) adding the following new paragraph:

"(9) set forth direct loan obligations and primary loan commitment guarantee levels.".

(d) VIEWS AND ESTIMATES.—The first sentence of section 301(d) of the Congressional Budget Act of 1974 is amended by inserting "or at such time as may be requested by the Committee on the Budget," after "Code,".

(e) HEARINGS AND REPORT.—Section 301(e) of the Congressional Budget Act of 1974 is amended—

(1) by striking "In developing" and inserting the following:

"(1) IN GENERAL.—In developing"; and

(2) by striking the sentence beginning with "The report accompanying " and all that follows through the end of the subsection and inserting the following:

"(2) REQUIRED CONTENTS OF REPORT.—The report accompanying such concurrent resolution shall include—

"(A) a comparison of the appropriate levels of total new budget authority, total budget outlays, and total revenues as set forth in such concurrent resolution with those requested in the budget submitted by the President;

"(B) with respect to each major functional category, an estimate of total new budget authority and total outlays with the estimates divided between permanent authority and funds provided in appropriations Acts;

"(C) the economic assumptions which underlie each of the matters set forth in such concurrent resolution and any alternative economic assumptions and objectives that the committee considered;

"(D) projections for the period of 5 fiscal years beginning with such fiscal year, of the estimated levels of total new budget authority, total outlays and total revenues and the surplus or deficit for each fiscal year;

"(E) information, data, and comparisons indicating the manner in which, and the basis on which, the committee determined each of the matters set forth in the concurrent resolutions:

"(F) the estimated levels of tax expenditures (the tax expenditures budget) by major items and functional categories for the President's budget and in the concurrent resolution; and

"(G) allocations described in section 302(a).

"(3) ADDITIONAL CONTENTS OF REPORT.—The report accompanying such concurrent resolution may include—

"(A) a statement of any significant changes in the proposed levels of Federal assistance to State and local governments;

"(B) an allocation of the level of Federal revenues recommended in the concurrent resolution among the major sources of such revenues;

"(C) information, data, and comparisons on the share of total Federal budget outlays and of gross domestic product devoted to investment in the budget submitted by the President and in the concurrent resolution; and

"(D) other matters, relating to the budget and fiscal policy, the committee deems appropriate.".

(f) SOCIAL SECURITY CORRECTIONS.—Section 301(i) of the Congressional Budget Act of 1974 is amended by—

(1) inserting "SOCIAL SECURITY POINT OF ORDER.—" after "(i)"; and

(2) striking "as reported to the Senate" and inserting "(or amendment, motion, or conference report on such a resolution)".

(g) REPEAL OF BUDGET RESOLUTION PROVISION.—Section 22 of House Concurrent Resolution 218 (103d Congress) is repealed.

SEC. 1515. AMENDMENTS TO SECTION 302.

(a) ALLOCATIONS AND SUBALLOCATIONS.—Subsections (a) and (b) of section 302 of the Congressional Budget Act of 1974 are amended to read as follows:

"(a) COMMITTEE SPENDING ALLOCATIONS.—

"(1) HOUSE OF REPRESENTATIVES.—

"(A) ALLOCATION AMONG COMMITTEES.—The joint explanatory statement accompanying a conference report on a budget resolution shall include allocations, consistent with the resolution recommended in the conference report, of the appropriate levels (for each fiscal year covered by that resolution and a total for all such years) of—

"(i) total new budget authority;

"(ii) total entitlement authority; and

"(iii) total outlays;

among each committee of the House of Representatives that has jurisdiction over legislation providing or creating such amounts.

"(B) NO DOUBLE COUNTING.—Any item allocated to one committee of the House of Representatives may not be allocated to another such committee.

"(C) FURTHER DIVISION OF AMOUNTS.—The amounts allocated to each committee for each fiscal year, other than the Committee on Appropriations, shall be further divided between amounts provided or required by law on the date of filing of that conference report and amounts not so provided or required. The amounts allocated to the Committee on Appropriations for each fiscal year shall be further divided between discretionary and mandatory amounts or programs, as appropriate.

"(2) SENATE ALLOCATION AMONG COMMITTEES.—The joint explanatory statement accompanying a conference report on a budget resolution shall include an allocation, consistent with the resolution recommended in the conference report, of the appropriate levels of—

"(A) total new budget authority; and

"(B) total outlays;

among each committee of the Senate that has jurisdiction over legislation providing or creating such amounts.

"(3) AMOUNTS NOT ALLOCATED.—

"(A) IN THE HOUSE.—In the House of Representatives, if a committee receives no allocation of new budget authority, entitlement authority, or outlays, that committee shall be deemed to have received an allocation equal to zero for new budget authority, entitlement authority, or outlays.

"(B) IN THE SENATE.—In the Senate, if a committee receives no allocation of new budget authority, outlays, or social security outlays, that committee shall be deemed to have received an allocation equal to zero for new budget authority, outlays, or social security outlays.

"(4) SCOPE OF ALLOCATIONS IN THE SENATE.—In the Senate, the allocations made pursuant to paragraph (2) shall be made for all committees for the first fiscal year covered by the resolution and for all committees other than the Committee on Appropriations for the period of fiscal years covered by such resolution.

"(b) SUBALLOCATIONS BY APPROPRIATION COMMITTEES.—As soon as practicable after a concurrent resolution on the budget is agreed to, the Committee on Appropriations of each House (after consulting with the Committee on Appropriations of the other House) shall suballocate each amount allocated to it for the budget year under subsection (a)(1)(A) or (a)(2) among its subcommittees. Each Committee on Appropriations shall promptly report to its House suballocations made or revised under this paragraph.".

(b) POINT OF ORDER.—Section 302(c) of the Congressional Budget Act of 1974 is amended to read as follows:

"(c) POINT OF ORDER.—After the Committee on Appropriations has received an allocation pursuant to subsection (a) for a fiscal year, it shall not be in order in the House of Representatives or the Senate to consider any bill, joint resolution, amendment, motion, or conference report providing new budget authority for that fiscal year within the jurisdiction of that committee, until such committee makes the suballocations required by subsection (b).".

(c) ENFORCEMENT OF POINT OF ORDER.—Section 302(f)(2) of the Congressional Budget Act of 1974 is amended to read as follows:

"(2) ENFORCEMENT OF COMMITTEE ALLOCATIONS AND SUBALLOCATIONS.—After a concurrent resolution on the budget is agreed to, it shall not be in order in the Senate to consider any bill, joint resolution, amendment, motion, or conference report that would cause—

"(A) in the case of any committee except the Committee on Appropriations, the appropriate allocation of new budget authority or outlays under subsection (a) to be exceeded; or

"(B) in the case of the Committee on Appropriations, the appropriate suballocation of new budget authority or outlays under subsection (b) to be exceeded.".

(d) SEPARATE ALLOCATIONS.—Section 302(g) is amended to read as follows:

"(g) SEPARATE ALLOCATIONS.—The Committees on Appropriations and the Budget shall make separate allocations under subsections (a) and (b) consistent with the categories in section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985."

SEC. 1516. AMENDMENTS TO SECTION 303.

(a) IN GENERAL.—Section 303 of the Congressional Budget Act of 1974 is amended—

(1) by striking "NEW CREDIT AUTHORITY," in the center heading;

(2) by striking paragraph (4) of subsection (a) and be redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively;

(3) in subsection (b)(1)(A), by inserting "advanced, discretionary" before "new budget authority"; and

(4) by striking subsection (c).

(b) CONFORMING AMENDMENT.—The item relating to section 303 in the table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking "new credit authority,".

SEC. 1517. AMENDMENT TO SECTION 305.

Section 305(a)(1) of the Congressional Budget Act of 1974 is amended by inserting "when the House is not in session" after "holidays" each place it appears.

SEC. 1518. AMENDMENT TO SECTION 308.

(a) ELIMINATION OF REFERENCES TO CREDIT AUTHORITY.—Section 308 of the Congressional Budget Act of 1974 is amended—

(1) by striking the center heading and inserting the following:

"REPORTS ON SPENDING AND REVENUE
LEGISLATION";

(2) in paragraphs (1) and (2) of subsection (a), by striking "or new credit authority," each place it appears and insert "and" before "new spending" each place it appears;

(3) in subsection (b)(1), by striking "or new credit authority," and insert "and" before "new spending"; and

(4) in subsection (c), by inserting "and" after the semicolon at the end of paragraph (3), strike "; and" at the end of paragraph (4) and insert a period; and strike paragraph (5).

(b) CONFORMING AMENDMENT.—The item relating to section 308 in the table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking "or new credit authority" and by inserting "and" after the first comma.

SEC. 1519. AMENDMENTS TO SECTION 311.

Section 311 of the Congressional Budget Act of 1974 is amended to read as follows:

"NEW BUDGET AUTHORITY, NEW SPENDING AUTHORITY, AND REVENUE LEGISLATION MUST BE WITHIN APPROPRIATE LEVELS

"SEC. 311. (a) ENFORCEMENT OF BUDGET AGGREGATES.—

"(1) IN THE HOUSE OF REPRESENTATIVES.—Except as provided by subsection (c), after the Congress has completed action on a concurrent resolution on the budget for a fiscal year, it shall not be in order in the House of Representatives to consider any bill, joint resolution, amendment, motion, or conference report providing new budget authority for such fiscal year, providing new entitlement authority effective during such fiscal year, or reducing revenues for such fiscal year, if—

"(A) the enactment of such bill or resolution as reported;

"(B) the adoption and enactment of such amendment; or

"(C) the enactment of such bill or resolution in the form recommended in such conference report;

would cause the appropriate level of total new budget authority or total budget outlays set forth in the most recently agreed to concurrent resolution on the budget for such fiscal year to be exceeded, or would cause revenues to be less than the appropriate level of total revenues set forth in such concurrent resolution except in the case that a declaration of war by the Congress is in effect.

"(2) IN THE SENATE.—After a concurrent resolution on the budget is agreed to, it shall not be in order in the Senate to consider any bill, resolution, amendment, motion, or conference report that—

"(A) would cause the appropriate level of total new budget authority or total outlays set forth for the first fiscal year in such resolution to be exceeded; or

"(B) would cause revenues to be less than the appropriate level of total revenues set forth for the first fiscal year covered by such resolution or for the period including the first fiscal year plus the following 4 fiscal years in such resolution.

"(3) ENFORCEMENT OF SOCIAL SECURITY LEVELS IN THE SENATE.—After a concurrent resolution on the budget is agreed to, it shall not be in order in the Senate to consider any bill, resolution, amendment, motion, or conference report that would cause a decrease in social security surpluses or an increase in social security deficits derived from the levels of social security revenues and social security outlays set forth for the first fiscal year covered by the resolution and for the period including the first fiscal year plus the following 4 fiscal years in such resolution.

"(b) SOCIAL SECURITY LEVELS.—

"(1) IN GENERAL.—For the purposes of subsection (a)(3), social security surpluses equal the excess of social security revenues over social security outlays in a fiscal year or years with such an excess and social security deficits equal the excess of social security outlays over social security revenues in a fiscal year or years with such an excess.

"(2) TAX TREATMENT.—For the purposes of this section, no provision of any legislation involving a change in chapter 1 of the Internal Revenue Code of 1986 shall be treated as affecting the amount of social security revenues or outlays unless such provision changes the income tax treatment of social security benefits.

"(c) EXCEPTION IN THE HOUSE OF REPRESENTATIVES.—Subsection (a)(1) shall not apply in the House of Representatives to any bill, resolution, or amendment which provides new budget authority or new entitlement authority effective during such fiscal year, or to any conference report on any such bill or resolution, if—

"(1) the enactment of such bill or resolution as reported;

"(2) the adoption and enactment of such amendment; or

"(3) the enactment of such bill or resolution in the form recommended in such conference report;

would not cause the appropriate allocation of new discretionary budget authority or new entitlement authority made pursuant to section 302(a) for such fiscal year, for the committee within whose jurisdiction such bill, resolution, or amendment falls, to be exceeded.".

SEC. 1520. AMENDMENT TO SECTION 312.

(a) IN GENERAL.—Section 312 of the Congressional Budget Act of 1974 is amended to read as follows:

"POINTS OF ORDER

"SEC. 312. (a) DETERMINATIONS.—For purposes of this title and title IV, the levels of new budget authority, budget outlays, spending authority as described in section 401(c)(2), direct spending, new entitlement authority, and revenues for a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the House of Representatives or the Senate, as the case may be.

"(b) DISCRETIONARY SPENDING POINT OF ORDER IN THE SENATE.—

"(1) Except as otherwise provided in this subsection, it shall not be in order in the Senate to consider any concurrent resolution on the budget (or amendment, motion, or conference report on such a resolution) that would exceed any of the discretionary spending limits in section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985.

"(2) This subsection shall not apply if a declaration of war by the Congress is in effect or if a joint resolution pursuant to section 258 of the Balanced Budget and Emergency Deficit Control Act of 1985 has been enacted.

"(c) MAXIMUM DEFICIT AMOUNT POINT OF ORDER IN THE SENATE.—It shall not be in order in the Senate to consider any concurrent resolution on the budget for a fiscal year under section 301, or to consider any amendment to that concurrent resolution, or to consider a conference report on that concurrent resolution—

"(1) if the level of total budget outlays for the first fiscal year that is set forth in that concurrent resolution or conference report exceeds the recommended level of Federal revenues set forth for that year by an amount that is greater than the maximum deficit amount, if any, specified in the Balanced Budget and Emergency Deficit Control Act of 1985 for such fiscal year; or

"(2) if the adoption of such amendment would result in a level of total budget outlays for that fiscal year which exceeds the recommended level of Federal revenues for that fiscal year, by an amount that is greater than the maximum deficit amount, if any, specified in the Balanced Budget and Emergency Deficit Control Act of 1985 for such fiscal year.

"(d) TIMING OF POINTS OF ORDER IN THE SENATE.—A point of order under this Act may not be raised against a bill, resolution, amendment, motion, or conference report while an amendment or motion, the adoption of which would remedy the violation of this Act, is pending before the Senate.

"(e) POINTS OF ORDER IN THE SENATE AGAINST AMENDMENTS BETWEEN THE HOUSES.—Each provision of this Act that establishes a point of order against an amendment also establishes a point of order in the Senate against an amendment between the Houses. If a point of order under this Act is raised in the Senate against an amendment between the Houses, and the point of order is sustained, the effect shall be the same as if the Senate had disagreed to the amendment.

"(f) EFFECT OF A POINT OF ORDER ON A BILL IN THE SENATE.—In the Senate, if the Chair sustains a point of order under this Act against a bill, the Chair shall then send the bill to the committee of appropriate jurisdiction for further consideration.".

(b) CONFORMING AMENDMENTS.—Sections 302(g), 311(c), and 313(e) of the Congressional Budget Act of 1974 are repealed.

SEC. 1521. ADJUSTMENTS.

(a) IN GENERAL.—Title III of the Congressional Budget Act of 1974 is amended by adding at the end the following new sections:

"ADJUSTMENTS

"SEC. 314. (a) ADJUSTMENTS.—When—

"(1)(A) the Committee on Appropriations reports an appropriation measure for fiscal year 1998, 1999, 2000, 2001, or 2002 that specifies an amount for emergencies pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 or for continuing disability reviews pursuant to section 251(b)(2)(C) of that Act;

"(B) any other committee reports emergency legislation described in section 252(e) of that Act;

"(C) the Committee on Appropriations reports an appropriation measure for fiscal year 1998, 1999, 2000, 2001, or 2002 that includes an appropriation with respect to clause (i) or (ii), the adjustment shall be the amount of budget authority in the measure that is the dollar equivalent, in terms of Special Drawing Rights, of—

"(i) an increase in the United States quota as part of the International Monetary Fund Eleventh General Review of Quotas (United States Quota); or

"(ii) an increase in the maximum amount available to the Secretary of the Treasury pursuant to section 17 of the Bretton Woods Agreements Act, as amended from time to time (New Arrangements to Borrow); or

"(D) the Committee on Appropriations reports an appropriation measure for fiscal year 1998, 1999, or 2000 that includes an appropriation for arrearages for international organizations, international peacekeeping, and multilateral development banks during that fiscal year, and the sum of the appropriations for the period of fiscal years 1998 through 2000 does not exceed $1,884,000,000 in budget authority; or

"(2) a conference committee submits a conference report thereon;

the chairman of the Committee on the Budget of the Senate or House of Representatives (whichever is appropriate) shall make the adjustments referred to in subsection (c) to reflect the additional new budget authority for such matter provided in that measure or conference report and the additional outlays flowing from such amounts for such matter.

"(b) APPLICATION OF ADJUSTMENTS.—The adjustments and revisions to allocations, aggregates, and limits made by the Chairman of the Committee on the Budget pursuant to subsection (a) for legislation shall only apply while such legislation is under consideration and shall only permanently take effect upon the enactment of that legislation.

"(c) CONTENT OF ADJUSTMENTS.—The adjustments referred to in subsection (a) shall consist of adjustments, as appropriate, to—

"(1) the discretionary spending limits as set forth in the most recently adopted concurrent resolution on the budget;

"(2) the allocations made pursuant to the most recently adopted concurrent resolution on the budget pursuant to section 302(a); and

"(3) the budgetary aggregates as set forth in the most recently adopted concurrent resolution on the budget.

"(d) REPORTING REVISED SUBALLOCATIONS.—Following the adjustments made under subsection (a), the Committees on Appropriations of the Senate and the House of Representatives shall report appropriately revised suballocations pursuant to section 302(b) to carry out this subsection.

"(e) DEFINITIONS.—As used in subsection (a)(1)(A), when referring to continuing disability reviews, the terms 'continuing disability reviews', 'additional new budget authority', and 'additional outlays' shall have the same meanings as provided in section 251(b)(2)(C)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985.".

(b) TABLE OF CONTENTS.—The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by—

(1) striking the item for section 312 and inserting the following:

"Sec. 312. Points of order."; and

(2) adding after the item relating to section 313 the following new item:

"Sec. 314. Adjustments.".

SEC. 1522. AMENDMENTS TO TITLE V.

(a) Section 502.—Section 502 of the Federal Credit Reform Act of 1990 is amended as follows:

(1) In the second sentence of paragraph (1), insert “and refinancing arrangements that defer payment for more than 90 days, including the sale of a government asset on credit terms” before the period.

(2) In paragraph (5)(A), insert “or modification thereof” before the first comma.

(3) In paragraph (5)(B)(iii), strike “and other recoveries” and insert “, other recoveries, and routine workouts of troubled loans or loans in imminent default when those workouts are to maximize repayments to the Government or to minimize claims on the Government”.

(4) In paragraph (5)(C), strike “, and” at the end of clause (i), strike “the” in clause (ii) and strike the period and insert “, and” at the end of that clause, and at the end add the following new clause:

“(iii) routine workouts of troubled loans or loans in imminent default when those workouts are to maximize the repayments to the Government or to minimize claims on the Government.”.

(5) In paragraph (5), amend subparagraph (D) to read as follows:

“(D) The cost of a modification is the difference in cost that results from the modification of a direct loan or loan guarantee (or direct loan obligation or loan guarantee commitment). This difference in cost is the difference between the currently estimated net present value of the remaining cash flows under the terms of the direct loan or loan guarantee contract assumed in the most recent President's budget submitted to Congress, and the currently estimated net present value of the remaining cash flows under the terms of the contract, as modified. Except for interest rates, the estimates shall be consistent with the economic and technical assumptions underlying the most recent President's budget submitted to Congress.”.

(6) Redesignate paragraph (9) as paragraph (10) and after paragraph (8) add the following new paragraph:

“(9) The term ‘modification’ means any Government action that alters the estimated cost of an outstanding direct loan (or direct loan obligation) or an outstanding loan guarantee (or loan guarantee commitment) from the estimate based on the cash flows contained in the most recent President's budget submitted to Congress. This includes the sale of loan assets, with or without recourse, and the purchase of guaranteed loans. This also includes any action resulting from new legislation, or from the exercise of administrative discretion under existing law, that directly or indirectly alters the estimated cost of outstanding direct loans (or direct loan obligations) or loan guarantees (or loan guarantee commitments) such as a change in collection procedures. The term ‘modification’ does not include the routine administrative work-outs of troubled loans or loans in imminent default. Work-outs are actions undertaken to maximize the repayments to the Government under existing direct loans or to minimize claims under existing loan guarantees. The expected effects of such work-outs shall be included in the original estimate of the cash flows. Insofar as the effects on cash flows are more or less than originally estimated, the differences in cash flows shall be included in a reestimate of the cost. The term ‘modification’ does not include changes in loan or guarantee terms resulting from the exercise by the borrower of an option included in the loan or guarantee contract. The expected effects of such changes in terms shall be included in the original estimate of the cash flow. Insofar as the effects on cash flow are more or less than originally estimated, the differences in cash flow shall be included in a reestimate of the cost; and”.

(b) Section 504.—Section 504 of the Federal Credit Reform Act of 1990 is amended as follows:

(1) Amend subsection (b)(1) to read as follows:

“(1) new budget authority to cover their costs is provided in advance in appropriation Acts;”.

(2) In subsection (b)(2), strike “enacted” and insert “provided in an appropriation Act”.

(3) In subsection (d)(1), strike “directly or indirectly alter the costs of outstanding direct loans and loan guarantees” and insert “modify outstanding direct loans (or direct loan obligations) or loan guarantees (or loan guarantee commitments)”.

(4) In subsection (e), strike “A direct loan obligation or loan guarantee commitment” and insert “An outstanding direct loan (or direct loan obligation) or loan guarantee (or loan guarantee commitment)”, after “unless” insert “new”, and strike “or from other budgetary resources”.

(c) Section 505.—Section 505 of the Federal Credit Reform Act of 1990 is amended as follows:

(1) In subsection (c), by inserting before the period at the end of the second sentence the following: “, except that the rate of interest charged by the Secretary on lending to financing accounts (including amounts treated as lending to financing accounts by the Federal Financing Bank (hereinafter in this subsection referred to as the ‘Bank’) pursuant to section 406(b)) and the rate of interest paid to financing accounts on uninvested balances in financing accounts shall be the same as the rate determined pursuant to section 502(5)(E). For guaranteed loans financed by the Bank and treated as direct loans by a Federal agency pursuant to section 406(b), any fee or interest surcharge (the amount by which the interest rate charged exceeds the rate determined pursuant to section 502(5)(E)) that the Bank charges to a private borrower pursuant to section 6(c) of the Federal Financing Bank Act of 1973 shall be considered a cash flow to the Government for the purposes of determining the cost of the direct loan pursuant to section 502(5). All such amounts shall be credited to the appropriate financing account. The Bank is authorized to require reimbursement from a Federal agency to cover the administrative expenses of the Bank that are attributable to the direct loans financed for that agency. All such payments by an agency shall be considered administrative expenses subject to section 504(g). This section shall apply to transactions related to direct loan obligations or loan guarantee commitments made on or after October 1, 1991.”.

(2) In subsection (c), by striking “supercede” and inserting “supersede”.

(3) By amending subsection (d) to read as follows:

“(d) Authorization for Liquidating Accounts.—(1) Amounts in liquidating accounts shall be available only for payments resulting from direct loan obligations or loan guarantee commitments made prior to October 1, 1991. These payments shall include—

“(A) interest payments and principal repayments to the Treasury or the Federal Financing Bank for amounts borrowed;

“(B) disbursements of loans;

“(C) default and other guarantee claim payments;

“(D) interest supplement payments;

“(E) payments for the costs of foreclosing, managing, and selling collateral that are capitalized or routinely deducted from the proceeds of sales;

“(F) payments to financing accounts when required for modifications;

“(G) administrative expenses, if—

“(i) amounts credited to the liquidating account would have been available for administrative expenses under a provision of law in effect prior to October 1, 1991; and

“(ii) no direct loan obligation or loan guarantee commitment has been made, or any modification of a direct loan or loan guarantee has been made, since September 30, 1991; and

“(H) such other payments as are necessary for the liquidation of such direct loan obligations and loan guarantee commitments.

“(2) Amounts credited to liquidating accounts in any year shall be available only for payments required in that year. Any unobligated balances in liquidating accounts at the end of a fiscal year shall be transferred to miscellaneous receipts as soon as practicable after the end of the fiscal year.

“(3) If funds in liquidating accounts are insufficient to satisfy obligations and commitments of said accounts, there is hereby provided permanent, indefinite authority to make any payments required to be made on such obligations and commitments.”.

SEC. 1523. REPEAL OF TITLE VI.

(a) Repealer.—Title VI of the Congressional Budget Act of 1974 is repealed.

(b) Conforming Amendments.—Title VI of the table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is repealed.

SEC. 1524. AMENDMENTS TO SECTION 904.

(a) Waivers.—Section 904(c) of the Congressional Budget Act of 1974 is amended to read as follows:

“(c) Waivers.—

“(1) Sections 305(b)(2), 305(c)(4), 306, 310(d)(2), 313, 904(c), and 904(d) of this Act may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.

“(2) Sections 301(i), 302(c), 302(f), 310(g), 311(a), 312(b), and 312(c) of this Act and sections 258(a)(4)(C), 258A(b)(3)(C)(I), 258B(f)(1), 258B(h)(1), 258(h)(3), 258C(a)(5), and 258C(b)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985 may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.”.

(b) Appeals.—Section 904(d) of the Congressional Budget Act of 1974 is amended to read as follows:

“(d) Appeals.—

“(1) Appeals in the Senate from the decisions of the Chair relating to any provision of title III or IV or section 1017 shall, except as otherwise provided therein, be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the resolution, concurrent resolution, reconciliation bill, or rescission bill, as the case may be.

“(2) An affirmative vote of three-fifths of the Members, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under sections 305(b)(2), 305(c)(4), 306, 310(d)(2), 313, 904(c), and 904(d) of this Act.

“(3) An affirmative vote of three-fifths of the Members, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under sections 301(i), 302(c), 302(f), 310(g), 311(a), 312(b), and 312(c) of this Act and sections 258(a)(4)(C), 258A(b)(3)(C)(I), 258B(f)(1), 258B(h)(1), 258(h)(3), 258C(a)(5), and 258C(b)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985.''.

(c) EXPIRATION OF SUPERMAJORITY VOTING REQUIREMENTS.—Section 904 of the Congressional Budget Act of 1974 is amended by adding at the end the following:

''(e) EXPIRATION OF CERTAIN SUPERMAJORITY VOTING REQUIREMENTS.—Subsections (c)(2) and (d)(3) shall expire on September 30, 2002.''.

SEC. 1525. REPEAL OF SECTIONS 905 AND 906.

(a) REPEALER.—Sections 905 and 906 of the Congressional Budget and Impoundment Control Act of 1974 are repealed.

(b) CONFORMING AMENDMENTS.—The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking the items relating to sections 905 and 906.

SEC. 1526. AMENDMENTS TO SECTIONS 1022 AND 1024.

(a) SECTION 1022.—Section 1022(b)(1)(F) of Congressional Budget and Impoundment Control Act of 1974 is amended by striking ''section 601'' and inserting ''section 251(c) the Balanced Budget and Emergency Deficit Control Act of 1985''.

(b) SECTION 1024.—Section 1024(a)(1)(B) of Congressional Budget and Impoundment Control Act of 1974 is amended by striking ''section 601(a)(2)'' and inserting ''section 251(c) the Balanced Budget and Emergency Deficit Control Act of 1985''.

SEC. 1527. AMENDMENT TO SECTION 1026.

Section 1026(7)(A)(iv) of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking ''and'' the second place it appears and inserting ''or''.

Subtitle B—Amendments to the Balanced Budget and Emergency Deficit Control Act of 1985

SEC. 1551. PURPOSE.

This subtitle extends discretionary spending limits and pay-as-you-go requirements.

SEC. 1552. GENERAL STATEMENT AND DEFINITIONS.

(a) GENERAL STATEMENT.—Section 250(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking the first two sentences and inserting the following: ''This part provides for the enforcement of a balanced budget by fiscal year 2002 as called for in House Concurrent Resolution 84 (105th Congress, 1st session).''.

(b) DEFINITIONS.—Section 250(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) by striking paragraph (4) and inserting the following:

''(4) The term 'category' means defense, nondefense, and violent crime reduction discretionary appropriations as specified in the joint explanatory statement accompanying a conference report on the Balanced Budget Act of 1997. New accounts or activities shall be categorized only after consultation with the committees on Appropriations and the Budget of the House of Representatives and the Senate and such consultation shall include written communication to such committees that affords such committees the opportunity to comment before official action is taken with respect to new accounts or activities.'';

(2) by striking paragraph (6) and inserting the following:

''(6) The term 'budgetary resources' means new budget authority, unobligated balances, direct spending authority, and obligation limitations.'';

(3) in paragraph (9), by striking ''submission of the fiscal year 1992 budget that are not included with a budget submission'' and inserting ''that budget submission that are not included with that budget submission'';

(4) in paragraph (14), by inserting ''first 4'' before ''fiscal years'' and by striking ''1995'' and inserting ''2006''; and

(5) by striking paragraphs (17) and (20) and by redesignating paragraphs (18), (19), and (21) as paragraphs (17), (18), and (19), respectively.

SEC. 1553. ENFORCING DISCRETIONARY SPENDING LIMITS.

(a) EXTENSION THROUGH FISCAL YEAR 2002.—Section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) in the side heading of subsection (a), by striking ''1991–1998'' and inserting ''1997–2002'';

(2) in subsection (a)(7), by inserting ''(excluding Saturdays, Sundays, and legal holidays)'' after ''days'';

(3) in the first sentence of subsection (b)(1), by striking ''1992, 1993, 1994, 1995, 1996, 1997 or 1998'' and inserting ''1997 or any fiscal year thereafter through 2002'' and by striking ''through 1998'' and inserting ''through 2002'';

(4) in subsection (b)(1), by striking ''the following:'' and all that follows through ''in concepts and definitions'' the first place it appears and inserting ''the following: the adjustments'' and by striking subparagraphs (B) and (C);

(5) in subsection (b)(1), as amended, by striking the last sentence and inserting ''Changes in concepts and definitions may only be made after consultation with the committees on Appropriations and the Budget of the House of Representatives and the Senate and such consultation shall include written communication to such committees that affords such committees the opportunity to comment before official action is taken with respect to such changes.'';

(6) in subsection (b)(2), by striking ''1991, 1992, 1993, 1994, 1995, 1996, 1997, or 1998'' and inserting ''1997 or any fiscal year thereafter through 2002'', by striking ''through 1998'' and inserting ''through 2002'', and by striking subparagraphs (A), (B), (C), (E), and (G), and by redesignating subparagraphs (D), (F), and (H) as subparagraphs (A), (B), and (C), respectively;

(7) in subsection (b)(2)(A), as redesignated, by striking ''(i)'', by striking clause (ii), and by inserting ''fiscal'' before ''years'';

(8) in subsection (b)(2)(B), as redesignated, by striking everything after ''the adjustment in outlays'' and inserting ''for a fiscal year is the amount of the excess but not to exceed 0.5 percent of the adjusted discretionary spending limit on outlays for that fiscal year in fiscal year 1997 or any fiscal year thereafter through 2002;

(9) in subsection (b)(2)(C)(i), as redesignated—

(A) in subclause (III) by striking ''$245,000,000'' and inserting ''$290,000,000'';

(B) in subclause (IV), by striking ''$280,000,000'' and inserting ''$520,000,000'';

(C) in subclause (V), by striking ''$317,500,000'' and inserting ''$520,000,000'';

(D) in subclause (VI), by striking ''$317,500,000'' and inserting ''$520,000,000''; and

(E) in subclause (VII), by striking ''$317,000,000'' and inserting ''$520,000,000''; and

(10) by adding at the end of subsection (b)(2) the following:

''(D) ALLOWANCE FOR IMF.—If an appropriations bill or joint resolution is enacted for fiscal year 1998, 1999, 2000, 2001, or 2002 that includes an appropriation with respect to clause (i) or (ii), the adjustment shall be the amount of budget authority in the measure that is the dollar equivalent, in terms of Special Drawing Rights, of—

''(i) an increase in the United States quota as part of the International Monetary Fund Eleventh General Review of Quotas (United States Quota); or

''(ii) any increase in the maximum amount available to the Secretary of the Treasury pursuant to section 17 of the Bretton Woods Agreements Act, as amended from time to time (New Arrangements to Borrow).

''(E) ALLOWANCE FOR INTERNATIONAL ARREARAGES.—

''(i) ADJUSTMENTS.—If an appropriations bill or joint resolution is enacted for fiscal year 1998, 1999 or 2000 that includes an appropriation for arrearages for international organizations, international peacekeeping, and multilateral development banks for that fiscal year, the adjustment shall be the amount of budget authority in such measure and the outlays flowing in all fiscal years from such budget authority.

''(ii) LIMITATIONS.—The total amount of adjustments made pursuant to this subparagraph shall not exceed $1,884,000,000 in budget authority.

''(F) ALLOWANCES FOR TRANSPORTATION.—

''(i) IN GENERAL.—If during the 105th Congress, revenue increases or direct spending reductions creditable under section 252 are enacted for transportation reserve funds as provided in sections 207, 207A, 208, or 209 of House Concurrent Resolution 84 (105th Congress), OMB shall determine the amount of the budget authority adjustment for the applicable program for each fiscal year through 2002.

''(ii) ADJUSTMENTS.—If for fiscal years 1998 through 2002, discretionary appropriations are enacted for a fiscal year that designates funding for the applicable program, the adjustment is the amount of the discretionary budget authority appropriated for such program in such fiscal year and the outlays in all years flowing from such discretionary budget authority, but not to exceed the amount available for such program pursuant to this subparagraph.

''(iii) LIMITATIONS.—(I) Revenue increases and direct spending reductions credited under this subparagraph shall be so designated in statute and shall not be credited under section 252.

''(II) The amount of the budget authority adjustment determined for a fiscal year under clause (ii) shall not exceed the amount of the revenue increase or direct spending reduction credited for a fiscal year under clause (i) and shall meet the terms and conditions of sections 207, 207A, 208, or 209 of House Concurrent Resolution 84 (105th Congress), as applicable.

(b) SHIFTING OF DISCRETIONARY SPENDING LIMITS INTO GRAMM-RUDMAN.—

(1) IN GENERAL.—Section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at the end the following:

''(c) DISCRETIONARY SPENDING LIMIT.—As used in this part, the term 'discretionary spending limit' means—

''(1) with respect to fiscal year 1997, for the discretionary category, the current adjusted amount of new budget authority and outlays;

''(2) with respect to fiscal year 1998—

''(A) for the defense category: $269,000,000,000 in new budget authority and $266,823,000,000 in outlays;

"(B) for the nondefense category: $252,357,000,000 in new budget authority and $282,853,000,000 in outlays; and

"(C) for the violent crime reduction category: $5,500,000,000 in new budget authority and $3,592,000,000 in outlays;

"(3) with respect to fiscal year 1999—

"(A) for the defense category: $271,500,000,000 in new budget authority and $266,518,000,000 in outlays;

"(B) for the nondefense category: $255,699,000,000 in new budget authority and $287,850,000,000 in outlays; and

"(C) for the violent crime reduction category: $5,800,000,000 in new budget authority and $4,953,000,000 in outlays;

"(4) with respect to fiscal year 2000—

"(A) for the discretionary category: $532,693,000,000 in new budget authority and $558,711,000,000 in outlays; and

"(B) for the violent crime reduction category: $4,500,000,000 in new budget authority and $5,554,000,000 in outlays;

"(5) with respect to fiscal year 2001, for the discretionary category: $542,032,000,000 in new budget authority and $564,396,000,000 in outlays; and

"(6) with respect to fiscal year 2002, for the discretionary category: $551,074,000,000 in new budget authority and $560,799,000,000 in outlays;

as adjusted in strict conformance with subsection (b).".

(2) REPEAL OF DUPLICATIVE PROVISIONS.—Sections 201, 202, and 206 of House Concurrent Resolution 84 (105th Congress) are repealed.

SEC. 1554. VIOLENT CRIME REDUCTION TRUST FUND.

(a) SEQUESTRATION REGARDING VIOLENT CRIME REDUCTION TRUST FUND.—Section 251A of the Balanced Budget and Emergency Deficit Control Act of 1985 is repealed.

(b) CONFORMING AMENDMENT.—Section 310002 of Public Law 103–322 (42 U.S.C. 14212) is repealed.

SEC. 1555. ENFORCING PAY-AS-YOU-GO.

(a) EXTENSION.—Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) by striking subsections (a) and (b) and inserting the following:

"(a) PURPOSE.—The purpose of this section is to assure that any legislation enacted prior to September 30, 2002, affecting direct spending or receipts that increases the deficit will trigger an offsetting sequestration.

"(b) SEQUESTRATION.—

"(1) TIMING.—For fiscal years 1998 through 2002, within 15 calendar days after Congress adjourns to end a session and on the same day as a sequestration (if any) under sections 251 and 253, there shall be a sequestration to offset the amount of any net deficit increase in the budget year caused by all direct spending and receipts legislation (after adjusting for any prior sequestration as provided by paragraph (2)) plus any net deficit increase in the prior fiscal year caused by all direct spending and receipts legislation not reflected in the final OMB sequestration report for that year.

"(2) CALCULATION OF DEFICIT INCREASE.—OMB shall calculate the amount of deficit increase, if any, in the budget year by adding—

"(A) all applicable estimates of direct spending and receipts legislation transmitted under subsection (d) applicable to the budget year, other than any amounts included in such estimates resulting from—

"(i) full funding of, and continuation of, the deposit insurance guarantee commitment in effect under current law; and

"(ii) emergency provisions as designated under subsection (e);

"(B) the estimated amount of savings in direct spending programs applicable to the budget year resulting from the prior year's sequestration under this section or section 253, if any (except for any amounts sequestered as a result of any deficit increase in the fiscal year immediately preceding the prior fiscal year), as published in OMB's final sequestration report for that prior year; and

"(C) all applicable estimates of direct spending and receipts legislation transmitted under subsection (d) for the current year that are not reflected in the final OMB sequestration report for that year, other than any amounts included in such estimates resulting from—

"(i) full funding of, and continuation of, the deposit insurance guarantee commitment in effect under current law; and

"(ii) emergency provisions as designated under subsection (e).";

(2) by amending subsection (d) to read as follows:

"(d) ESTIMATES.—

"(1) CBO ESTIMATES.—As soon as practicable after Congress completes action on any direct spending or receipts legislation, CBO shall provide an estimate to OMB of the legislation.

"(2) OMB ESTIMATES.—Not later than 5 calendar days (excluding Saturdays, Sundays, and legal holidays) after the enactment of any direct spending or receipts legislation, OMB shall transmit a report to the House of Representatives and to the Senate containing—

"(A) the CBO estimate of that legislation;

"(B) an OMB estimate of that legislation using current economic and technical assumptions; and

"(C) an explanation of any difference between the 2 estimates.

"(3) SCOPE OF ESTIMATES.—The estimates shall be prepared in conformance with scorekeeping guidelines and shall include the amount of change in outlays or receipts, as the case may be, for the current year (if applicable), the budget year, and each outyear.

"(4) CONSULTATION.—OMB and CBO, after consultation with each other and the Committees on the Budget of the House of Representatives and the Senate, shall—

"(A) determine scorekeeping guidelines; and

"(B) in conformance with such guidelines, prepare estimates under this subsection."; and

(3) in subsection (e), by striking ", for any fiscal year from 1991 through 1998," and by striking "through 1995".

SEC. 1556. REPORTS AND ORDERS.

Section 254 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) by striking subsection (c) and redesignating subsections (d) through (k) as (c) through (j), respectively;

(2) in subsection (c)(2) (as redesignated), by striking "1998" and inserting "2002";

(3)(A) in subsection (f)(2)(A) (as redesignated), by striking "1998" and inserting "2002"; and

(B) in subsection (f)(3) (as redesignated), by striking "through 1998"; and

(4) by striking subsection (h), as redesignated, and redesignating subsection (i), as redesignated, as subsection (h).

SEC. 1557. EXEMPT PROGRAMS AND ACTIVITIES.

(a) VETERANS PROGRAMS.—Section 255(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended as follows:

(1) In the item relating to Veterans Insurance and Indemnity, strike "Indemnity" and insert "Indemnities".

(2) In the item relating to Veterans' Canteen Service Revolving Fund, strike "Veterans'".

(3) In the item relating to Benefits under chapter 21 of title 38, strike "(36–0137–0–1–702)" and insert "(36–0120–0–1–701)".

(4) In the item relating to Veterans' compensation, strike "Veterans' compensation" and insert "Compensation".

(5) In the item relating to Veterans' pensions, strike "Veterans' pensions" and insert "Pensions".

(6) After the last item, insert the following new items:

"Benefits under chapter 35 of title 38, United States Code, related to educational assistance for survivors and dependents of certain veterans with service-connected disabilities (36–0137–0–1–702);

"Assistance and services under chapter 31 of title 38, United States Code, relating to training and rehabilitation for certain veterans with service-connected disabilities (36–0137–0–1–702);

"Benefits under subchapters I, II, and III of chapter 37 of title 38, United States Code, relating to housing loans for certain veterans and for the spouses and surviving spouses of certain veterans Guaranty and Indemnity Program Account (36–1119–0–1–704);

"Loan Guaranty Program Account (36–1025–0–1–704); and

"Direct Loan Program Account (36–1024–0–1–704).".

(b) CERTAIN PROGRAM BASES.—Section 255(f) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended to read as follows:

"(f) OPTIONAL EXEMPTION OF MILITARY PERSONNEL.—

"(1) The President may, with respect to any military personnel account, exempt from sequestration or provide for a lower uniform percentage reduction than would otherwise apply.

"(2) The President may not use the authority provided by paragraph (1) unless he notifies the Congress of the manner in which such authority will be exercised on or before the date specified in section 254(d) for the budget year.".

(c) OTHER PROGRAMS AND ACTIVITIES.—(1) Section 255(g)(1)(A) of the Balanced Budget Emergency Deficit Control Act of 1985 is amended as follows:

(A) After the first item, insert the following new item:

"Activities financed by voluntary payments to the Government for goods or services to be provided for such payments;".

(B) Strike "Thrift Savings Fund (26–8141–0–7–602);".

(C) In the first item relating to the Bureau of Indian Affairs, insert "Indian land and water claims settlements and" after the comma.

(D) In the second item relating to the Bureau of Indian Affairs, strike "miscellaneous" and ", tribal trust funds" and insert "Miscellaneous" before "trust funds".

(E) Strike "Claims, defense (97–0102–0–1–051);".

(F) In the item relating to Claims, judgments, and relief acts, strike "806" and insert "808".

(G) Strike "Coinage profit fund (20–5811–0–2–803);".

(H) Insert "Compact of Free Association (14–0415–0–1–808);" after the item relating to claims, judgments, and relief acts.

(I) Insert "Conservation Reserve Program (12–2319–0–1–302);" after the item relating to the Compensation of the President.

(J) In the item relating to the Customs Service, strike "852" and insert "806".

(K) In the item relating to the Comptroller of the Currency, insert ", Assessment funds (20–8413–0–8–373)" before the semicolon.

(L) Strike "Director of the Office of Thrift Supervision;".

(M) Strike "Eastern Indian land claims settlement fund (14–2202–0–1–806);".

(N) After the item relating to the Exchange stabilization fund, insert the following new items:

"Farm Credit Administration, Limitation on Administrative Expenses (78–4131–0–3–351);

"Farm Credit System Financial Assistance Corporation, interest payment (20–1850–0–1–908);".

(O) Strike "Federal Deposit Insurance Corporation;".

(P) In the first item relating to the Federal Deposit Insurance Corporation, insert "(51–4064–0–3–373)" before the semicolon.

(Q) In the second item relating to the Federal Deposit Insurance Corporation, insert "(51–4065–0–3–373)" before the semicolon.

(R) In the third item relating to the Federal Deposit Insurance Corporation, insert "(51–4066–0–3–373)" before the semicolon.

(S) In the item relating to the Federal Housing Finance Board, insert "(95–4039–0–3–371)" before the semicolon.

(T) In the item relating to the Federal payment to the railroad retirement account, strike "account" and insert "accounts".

(U) In the item relating to the health professions graduate student loan insurance fund, insert "program account" after "fund" and strike "(Health Education Assistance Loan Program) (75–4305–0–3–553)" and insert "(75–0340–0–1–552)".

(V) In the item relating to Higher education facilities, strike "and insurance".

(W) In the item relating to Internal revenue collections for Puerto Rico, strike "852" and insert "806".

(X) Amend the item relating to the Panama Canal Commission to read as follows:

"Panama Canal Commission, Panama Canal Revolving Fund (95–4061–0–3–403);".

(Y) In the item relating to the Medical facilities guarantee and loan fund, strike "(75–4430–0–3–551)" and insert "(75–9931–0–3–550)".

(Z) In the first item relating to the National Credit Union Administration, insert "operating fund (25–4056–0–3–373)" before the semicolon.

(AA) In the second item relating to the National Credit Union Administration, strike "central" and insert "Central" and insert "(25–4470–0–3–373)" before the semicolon.

(BB) In the third item relating to the National Credit Union Administration, strike "credit" and insert "Credit" and insert "(25–4468–0–3–373)" before the semicolon.

(CC) After the third item relating to the National Credit Union Administration, insert the following new item:

"Office of Thrift Supervision (20–4108–0–3–373);".

(DD) In the item relating to Payments to health care trust funds, strike "572" and insert "571".

(EE) Strike "Compact of Free Association, economic assistance pursuant to Public Law 99–658 (14–0415–0–1–806);".

(FF) In the item relating to Payments to social security trust funds, strike "571" and insert "651".

(GG) Strike "Payments to state and local government fiscal assistance trust fund (20–2111–0–1–851);".

(HH) In the item relating to Payments to the United States territories, strike "852" and insert "806".

(II) Strike "Resolution Funding Corporation;".

(JJ) In the item relating to the Resolution Trust Corporation, insert "Revolving Fund (22–4055–0–3–373)" before the semicolon.

(KK) After the item relating to the Tennessee Valley Authority funds, insert the following new items:

"Thrift Savings Fund;

"United States Enrichment Corporation (95–4054–0–3–271);

"Vaccine Injury Compensation (75–0320–0–1–551);

"Vaccine Injury Compensation Program Trust Fund (20–8175–0–7–551);".

(2) Section 255(g)(1)(B) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended as follows:

(A) Strike "The following budget" and insert "The following Federal retirement and disability".

(B) In the item relating to Black lung benefits, strike "lung benefits" and insert "Lung Disability Trust Fund".

(C) In the item relating to the Court of Federal Claims Court Judges' Retirement Fund, strike "Court of Federal".

(D) In the item relating to Longshoremen's compensation benefits, insert "Special workers compensation expenses," before "Longshoremen's".

(E) In the item relating to Railroad retirement tier II, insert "Industry Pension Fund" after "tier II", and strike "retirement tier II".

(3) Section 255(g)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended as follows:

(A) Strike the following items:

"Agency for International Development, Housing, and other credit guarantee programs (72–4340–0–3–151);

"Agricultural credit insurance fund (12–4140–0–1–351);".

(B) In the item relating to Check forgery, strike "Check" and insert "United States Treasury check".

(C) Strike "Community development grant loan guarantees (86–0162–0–1–451);".

(D) After the item relating to the United States Treasury Check forgery insurance fund, insert the following new item:

"Credit liquidating accounts;".

(E) Strike the following items:

"Credit union share insurance fund (25–4468–0–3–371);

"Economic development revolving fund (13–4406–0–3);

"Export-Import Bank of the United States, Limitation of program activity (83–4027–0–1–155);

"Federal deposit Insurance Corporation (51–8419–0–8–371);

"Federal Housing Administration fund (86–4070–0–3–371);

"Federal ship financing fund (69–4301–0–3–403);

"Federal ship financing fund, fishing vessels (13–4417–0–3–376);

"Government National Mortgage Association, Guarantees of mortgage-backed securities (86–4238–0–3–371);

"Health education loans (75–4307–0–3–553);

"Indian loan guarantee and insurance fund (14–4410–0–3–452);

"Railroad rehabilitation and improvement financing fund (69–4411–0–3–401);

"Rural development insurance fund (12–4155–0–3–452);

"Rural electric and telephone revolving fund (12–4230–8–3–271);

"Rural housing insurance fund (12–4141–0–3–371);

"Small Business Administration, Business loan and investment fund (73–4154–0–3–376);

"Small Business Administration, Lease guarantees revolving fund (73–4157–0–3–376);

"Small Business Administration, Pollution control equipment contract guarantee revolving fund (73–4147–0–3–376);

"Small Business Administration, Surety bond guarantees revolving fund (73–4156–0–3–376);

"Department of Veterans Affairs Loan guaranty revolving fund (36–4025–0–3–704);".

(d) Low-Income Programs.—Section 255(h) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended as follows:

(1) In the item relating to Aid to families with dependent children, strike "0412" and insert "1501".

(2) Amend the item relating to Child nutrition to read as follows:

"State child nutrition programs (with the exception of special milk programs) (12–3539–0–1–605);".

(3) After the item relating to State child nutrition programs, insert the following new item:

"Commodity supplemental food program (12–3512–0–1–605);".

(4) Amend the item relating to the Women, infants, and children program to read as follows:

"Special supplemental nutrition program for women, infants, and children (WIC) (12–3510–0–1–605).".

(e) Identification of Programs.—Section 255(i) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended to read as follows:

"(i) Identification of Programs.—For purposes of subsections (b), (g), and (h), each account is identified by the designated budget account identification code number set forth in the Budget of the United States Government 1998–Appendix, and an activity within an account is designated by the name of the activity and the identification code number of the account.".

(f) Optional Exemption of Military Personnel.—Section 255(h) of the Balanced Budget and Emergency Deficit Control Act of 1985 is repealed.

SEC. 1558. GENERAL AND SPECIAL SEQUESTRATION RULES.

(a) Conforming Amendments.—

(1) Section heading.—The section heading of section 256 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking "exceptions, limitations, and special rules" and inserting "general and special sequestration rules".

(2) Table of contents.—The item relating to section 256 in the table contents set forth in section 250(a) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended to read as follows:

"Sec. 256. General and special sequestration rules.".

(b) Automatic Spending Increases.—Section 256(a) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking paragraph (1) and redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(c) Guaranteed Student Loan Program.—Section 256(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended to read as follows:

"(b) Student Loans.—For all student loans under part B or D of title IV of the Higher Education Act of 1965 made during the period when a sequestration order under section 254 is in effect, origination fees under sections 438(c)(2) and 456(c) of that Act shall be increased by a uniform percentage sufficient to produce the dollar savings in student loan programs (as a result of that sequestration order) required by section 252 or 253, as applicable.”.

(d) Health Centers.—Section 256(e)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking the dash and all that follows thereafter and inserting “2 percent.”.

(e) Treatment of Federal Administrative Expenses.—Section 256(h)(4) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking subparagraphs (D) and (H), by redesignating subparagraphs (E), (F), (G), and (I), as subparagraphs (D), (E), (F), and (G), respectively, and by adding at the end the following new subparagraph:

“(H) Farm Credit Administration.”.

(f) Commodity Credit Corporation.—Section 256(j)(5) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended to read as follows:

“(5) Dairy program.—Notwithstanding other provisions of this subsection, as the sole means of achieving any reduction in outlays under the milk price support program, the Secretary of Agriculture shall provide for a reduction to be made in the price received by producers for all milk produced in the United States and marketed by producers for commercial use. That price reduction (measured in cents per hundred weight of milk marketed) shall occur under section 201(d)(2)(A) of the Agricultural Act of 1949 (7 U.S.C. 1446(d)(2)(A)), shall begin on the day any sequestration order is issued under section 254, and shall not exceed the aggregate amount of the reduction in outlays under the milk price support program that otherwise would have been achieved by reducing payments for the purchase of milk or the products of milk under this subsection during the applicable fiscal year.”.

(g) Effects of Sequestration.—Section 256(k) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended as follows:

(1) in paragraph (1), strike “other than a trust or special fund account” and insert “, except as provided in paragraph (5)” before the period; and

(2) strike paragraph (4), redesignate paragraphs (5) and (6) as paragraphs (4) and (5), respectively, and amend paragraph (5) (as redesignated) to read as follows:

“(5) Budgetary resources sequestered in revolving, trust, and special fund accounts, and offsetting collections sequestered in appropriation accounts shall not be available for obligation during the fiscal year in which the sequestration occurs, but shall be available in subsequent years to the extent otherwise provided in law.”.

SEC. 1559. THE BASELINE.

(a) In General.—Section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) by striking subsection (b)(2)(A) and inserting the following:

“(A)(i) No program with estimated current year outlays greater than $50 million shall be assumed to expire in the budget year or the outyears except as provided in clause (ii).

“(ii) If legislation eliminates direct spending authority for a program for the budget year or any outyear and such legislation provides that the Federal Government has no legal authority or obligation to incur financial obligations for such program, clause (i) shall not apply and CBO and OMB, as appropriate, may score such legislation with the budget authority and outlay effects resulting from terminating such program as provided in such legislation and the baseline may assume the expiration of that program as provided in such legislation.”;

(2) by adding the end of subsection (b)(2) the following new subparagraph:

“(D) If any law expires before the budget year or any outyear, then any program with estimated current year outlays greater than $50 million which operates under that law shall be assumed to continue to operate under that law as in effect immediately before its expiration.”;

(3) in subsection (c)(5), in the second sentence, by striking “national product fixed-weight price index” and inserting “domestic product chain-type price index”; and

(4) by striking subsection (e) and inserting the following:

“(e) Asset Sales.—Amounts realized from the sale of an asset shall not be counted for purposes of sections 251, 252, and 253 against legislation if that sale would result in a financial cost to the Federal Government.”.

(b) Budgetary Treatment of Certain Trust Fund Operations.—Section 710 of the Social Security Act (42 U.S.C. 911) is amended to read as follows:

“BUDGETARY TREATMENT OF TRUST FUND OPERATIONS

“Sec. 710. (a) The receipts and disbursements of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund and the taxes imposed under sections 1401 and 3101 of the Internal Revenue Code of 1986 shall not be included in the totals of the budget of the United States Government as submitted by the President or of the congressional budget and shall be exempt from any general budget limitation imposed by statute on expenditures and net lending (budget outlays) of the United States Government.

“(b) No provision of law enacted after the date of enactment of the Balanced Budget and Emergency Deficit Control Act of 1985 (other than a provision of an appropriation Act that appropriated funds authorized under the Social Security Act as in effect on the date of the enactment of the Balanced Budget and Emergency Deficit control Act of 1985) may provide for payments from the general fund of the Treasury to any Trust Fund specified in paragraph (1) or for payments from any such Trust Fund to the general fund of the Treasury.”.

SEC. 1560. TECHNICAL CORRECTION.

Section 258 of the Balanced Budget and Emergency Deficit Control Act of 1985, entitled “Modification of Presidential Order”, is repealed.

SEC. 1561. JUDICIAL REVIEW.

Section 274 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended as follows:

(1) Strike “252” or “252(b)” each place it appears and insert “254”.

(2) In subsection (d)(1)(A), strike “257(l) to the extent that” and insert “256(a) if”, strike the parenthetical phrase, and at the end insert “or”.

(3) In subsection (d)(1)(B), strike “new budget” and all that follows through “spending authority” and insert “budgetary resources” and strike “or” after the comma.

(4) Strike subsection (d)(1)(C).

(5) Strike subsection (f) and redesignate subsections (g) and (h) as subsections (f) and (g), respectively.

(6) In subsection (g) (as redesignated), strike “base levels of total revenues and total budget outlays, as” and insert “figures”, and “251(a)(2)(B) or (c)(2),” and insert “254”.

SEC. 1562. EFFECTIVE DATE.

(a) Expiration.—Section 275(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) by striking “Part C of this title, section” and inserting “Sections 251, 252, 253, 258B, and”;

(2) by striking “1995” and inserting “2002”; and

(3) by adding at the end the following new sentence: “The remaining sections of part C of this title shall expire September 30, 2006.”.

(b) Expiration.—Section 14002(c)(3) of the Omnibus Budget Reconciliation Act of 1993 is repealed.

SEC. 1563. REDUCTION OF PREEXISTING BALANCES AND EXCLUSION OF EFFECTS OF THIS ACT FROM PAYGO SCORECARD.

Upon the enactment of this Act, the Director of the Office of Management and Budget shall—

(1) reduce any balances of direct spending and receipts legislation for any fiscal year under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 to zero; and

(2) not make any estimates of changes in direct spending outlays and receipts under subsection (d) of such section 252 for any fiscal year resulting from the enactment of this Act or any Act enacted pursuant to section 104 or 105 of House Concurrent Resolution 84 (105th Congress).

ABRAHAM (AND OTHERS) AMENDMENT NO. 538

(Ordered to lie on the table.)

Mr. ABRAHAM (for himself, Mr. Brownback, Mr. Kyl, Mr. Sessions, Mr. Enzi, Mr. Inhofe, and Mr. Grams) submitted an amendment intended to be proposed by them to the bill, S. 949, supra; as follows:

In the pending amendment, insert the following at the appropriate place:

SEC. . ECONOMIC GROWTH PROTECTION.

Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902) is amended by adding at the end the following:

“(f) Economic Growth Protection.—

“(1) Estimate.—OMB shall, for any amount by which revenues for a budget year and any out-years through fiscal year 2002 exceed the revenue target absent growth, estimate the excess and include such estimate as a separate entry in the report prepared pursuant to subsection (d) at the same time as the OMB sequestration preview report is issued.

“(2) Inclusion in scorecard. OMB shall include the amount of any change in revenues determined pursuant to paragraph (1) as a deficit decrease under this part in the estimates and reports required by subsection (b) of section 254 unless such amount is offset by legislation enacted in compliance with paragraph (3).

“(3) Use of adjustment.—An amount not to exceed the amount of deficit decrease determined under paragraph (2) may be offset by legislation decreasing revenues.

“(4) Revenue target absent growth.—For purposes of this subsection, the revenue target absent growth is—

“(A) for fiscal year 1998, $1,601,800,000,000;

“(B) for fiscal year 1999, $1,664,200,000,000;

“(C) for fiscal year 2000, $1,728,100,000,000;

"(D) for fiscal year 2001, $1,805,100,000,000;

"(E) for fiscal year 2002, $1,890,400,000,000."

SEC. . CONGRESSIONAL PAY-AS-YOU-GO

Legislation decreasing revenues in compliance with section 252(f)(3) of the Balanced Budget and Emergency Deficit Control Act of 1985, as added by section , shall be considered to be in order for purposes of section 202 of House Concurrent Resolution 67 (104th Congress).

BIDEN (AND GRAMM) AMENDMENT NO. 539

Mr. BIDEN (for himself and Mr. GRAMM) proposed an amendment to amendment No. 537 proposed by Mr. DOMENICI to the bill, S. 949, supra; as follows;

On page 43 of the amendment, strike lines 14 through 21 and insert the following:

"(5) with respect to fiscal year 2001—

"(A) for the discretionary category: $537,677,000,000 in new budget authority and $558,460,000,000 in outlays; and

"(B) for the violent crime reduction category: $4,355,000,000 in new budget authority and $5,936,000,000 in outlays;

"(6) with respect to fiscal year 2002—

"(A) for the discretionary category: $546,619,000,000 in new budget authority and $556,314,000,000 in outlays; and

"(B) for the violent crime reduction category: $4,455,000,000 in new budget authority and $4,485,000,000 in outlays;

as adjusted in strict conformance with subsection (b).".

(2) TRANSFERS INTO THE FUND.—On the first day of the following fiscal years, the following amounts shall be transferred from the general fund to the Violent Crime Reduction Trust Fund—

(A) for fiscal year 2001, $4,355,000,000; and

(A) for fiscal year 2002, $4,455,000,000.

BYRD AMENDMENT NO. 540

Mr. BYRD proposed an amendment to the bill, S. 949, supra; as follows:

At the end of the bill, add the following:

TITLE —ALCOHOL ADVERTISING RESPONSIBILITY ACT

SEC. 01. SHORT TITLE.

This title may be cited as the "Alcohol Advertising Responsibility Act".

SEC. 02. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) alcohol is used by more Americans than any other drug;

(2) it is estimated that the costs to society from alcoholism and alcohol abuse were approximately $100,000,000,000 in 1990 alone;

(3) in 1995, the alcoholic beverage industry spent $1,040,300,000 on advertising, while the National Institute for Alcohol Abuse and Alcoholism was funded at only $181,445,000;

(4) more than 100,000 deaths each year in the United States result from alcohol-related causes;

(5) 41.3 percent of all traffic fatalities in 1995, or 17,274 deaths, were alcohol related;

(6) in addition to severe health consequences, alcohol misuse is involved in approximately 30 percent of all suicides, 50 percent of homicides, 68 percent of manslaughter cases, 52 percent of rapes and other sexual assaults, 48 percent of robberies, 62 percent of assaults, and 49 percent of all other violent crimes;

(7) approximately 30 percent of all accidental deaths are attributable to alcohol abuse;

(8) alcohol advertising may influence children's perceptions toward and inclinations to consume alcoholic beverages;

(9) 26 percent of eighth graders, 40 percent of tenth graders, and 51 percent of twelfth graders report having used alcohol in the past month; and

(10) college presidents nationwide view alcohol abuse as their paramount campus-life problem.

(b) PURPOSES.—The purposes of this title are—

(1) to repeal the existing tax subsidization for expenses incurred to promote the consumption of alcoholic beverages;

(2) to reduce the amount of alcohol advertising to which our Nation's youth are exposed; and

(3) to increase funding for those programs that educate and prevent the abuse of alcohol among our Nation's youth.

SEC. 03. DISALLOWANCE OF DEDUCTION FOR ADVERTISING AND PROMOTION EXPENSES RELATING TO ALCOHOLIC BEVERAGES.

(a) IN GENERAL.—Part IX of subchapter B of chapter 1 (relating to items not deductible) is amended by adding at the end the following:

"SEC. 280I. ADVERTISING AND PROMOTION EXPENDITURES RELATING TO ALCOHOLIC BEVERAGES.

"(a) IN GENERAL.—No deduction otherwise allowable under this chapter shall be allowed for any amount paid or incurred to advertise or promote by any means any alcoholic beverage.

"(b) ALCOHOLIC BEVERAGE.—For purposes of this section, the term 'alcoholic beverage' means any item which is subject to tax under subpart A, C, or D of part I of subchapter A of chapter 51 (relating to taxes on distilled spirits, wines, and beer).".

(b) CONFORMING AMENDMENT.—The table of sections for part IX of subchapter B of chapter 1 is amended by adding at the end the following:

"Sec. 280I. Advertising and promotion expenditures relating to alcoholic beverages.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after December 31 of the year in which this Act is enacted.

SEC. 04. ALCOHOL ABUSE EDUCATION AND PREVENTION AMONG YOUTH.

(a) IN GENERAL.—Subject to subsection (c), there shall be transferred, from funds in the Treasury not otherwise appropriated, to the entities described in subsection (b) amounts to the extent specified under subsection (b).

(b) EDUCATION AND PREVENTION PROGRAMS.—

(1) SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION.—The amounts specified in this subsection shall be:

(A) IN GENERAL.—With respect to the Substance Abuse and Mental Health Services Administration, $120,000,000 for fiscal year 1998, $180,000,000 for fiscal year 1999, $180,000,000 for fiscal year 2000, $210,000,000 for fiscal year 2001, and $210,000,000 for fiscal year 2002, to supplement substance abuse prevention activities authorized under section 501 of the Public Health Service Act (42 U.S.C. 290aa).

(B) USE OF FUNDS.—Amounts provided to the Substance Abuse and Mental Health Services Administration under subparagraph (A) shall be used directly or through grants and cooperative agreements to carry out activities to prevent the use of alcohol among youth, including the development and distribution of public service announcements.

(2) CENTERS FOR DISEASE CONTROL AND PREVENTION.—

(A) IN GENERAL.—With respect to the Centers for Disease Control and Prevention, $120,000,000 for fiscal year 1998, $180,000,000 for fiscal year 1999, $180,000,000 for fiscal year 2000, $210,000,000 for fiscal year 2001, and $210,000,000 for fiscal year 2002, to carry out a comprehensive strategy to prevent alcohol-related disease and disability.

(B) REQUIRED USES.—In carrying out the comprehensive strategy under subparagraph (A), the Centers for Disease Control and Prevention shall—

(i) enhance and expand State-based and national surveillance activities to monitor the scope of alcohol use among the youth of the United States;

(ii) enhance comprehensive school-based health programs that focus on alcohol use prevention strategies;

(iii) develop and distribute commercial advertising to prevent alcohol abuse among youth; and

(iv) enhance and expand Fetal Alcohol Syndrome prevention activities throughout the United States.

(3) NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION.—With respect to the National Highway Traffic Safety Administration, and in addition to any funds authorized from the Highway Trust Fund, $120,000,000 for fiscal year 1998, $180,000,000 for fiscal year 1999, $180,000,000 for fiscal year 2000, $210,000,000 for fiscal year 2001, and $210,000,000 for fiscal year 2002, to carry out programs under sections 402, 403, and 410 of title 23, United States Code, and to develop and implement a paid media campaign targeting high-risk youth populations to improve the balance of media messages related to alcohol impaired driving.

(4) INDIAN HEALTH SERVICE.—With respect to the Indian Health Service, $40,000,000 for fiscal year 1998, $60,000,000 for fiscal year 1999, $60,000,000 for fiscal year 2000, $70,000,000 for fiscal year 2001, and $70,000,000 for fiscal year 2002, to supplement the programs that such Service is authorized to carry out pursuant to titles II and III of the Public Health Service Act (42 U.S.C. 202 et seq., 241 et seq.).

(c) AUTHORITY TO TRANSFER FUNDS.—The Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate, acting through appropriations Acts, may transfer the amounts specified under subsection (b) in each fiscal year among the entities referred to in such subsection.

BINGAMAN AMENDMENT NO. 541

(Ordered to lie on the table.)

Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill, S. 949, supra; as follows:

Beginning on page 79, line 4, strike all through page 88, line 7.

BIDEN AMENDMENT NO. 542

(Ordered to lie on the table.)

Mr. BIDEN submitted an amendment intended to be proposed by him to the bill, S. 949, supra; as follows:

At the appropriate place, insert the following:

SEC. . SURVIVOR BENEFITS FOR PUBLIC SAFETY OFFICERS KILLED IN THE LINE OF DUTY.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by redesignating section 138 as section 139 and by inserting after section 137 the following new section:

"SEC. 138. SURVIVOR BENEFITS ATTRIBUTABLE TO SERVICE BY A PUBLIC SAFETY OFFICER WHO IS KILLED IN THE LINE OF DUTY.

"(a) IN GENERAL.—Gross income shall not include any amount paid as a survivor annuity on account of the death of a public safety officer (as such term is defined in section 1204 of the Omnibus Crime Control and Safe Streets Act of 1968) killed in the line of duty—

"(1) if such annuity is provided under a governmental plan which meets the requirements of section 401(1) to the spouse (or a former spouse) of the public safety officer or to a child of such officer; and

"(2) to the extent such annuity is attributable to such officer's service as a public safety officer.

"(b) EXCEPTIONS.—

"(1) IN GENERAL.—Subsection (a) shall not apply with respect to the death of any public safety officer if—

"(A) the death was caused by the intentional misconduct of the officer or by such officer's intention to bring about such officer's death;

"(B) the officer was voluntarily intoxicated (as defined in section 1204 of the Omnibus Crime Control and Safe Streets Act of 1968) at the time of death; or

"(C) the officer was performing such officer's duties in a grossly negligent manner at the time of death.

"(2) EXEMPTION FOR BENEFITS PAID TO CERTAIN INDIVIDUALS.—Subsection (a) shall not apply to any payment to an individual whose actions were a substantial contributing factor to the death of the officer.

(b) EFFECTIVE DATE.—The amendments made by this subsection shall apply to amounts received in taxable years beginning after December 31, 1996, with respect to individuals dying after such date.

THOMAS (AND OTHERS) AMENDMENT NO. 543

(Ordered to lie on the table.)

Mr. THOMAS (for himself, Mr. ENZI, and Mr. CONRAD) submitted an amendment intended to be proposed by them to the bill, S. 949, supra; as follows:

On page 267, between lines 15 and 16, insert the following:

SEC. . EXTENSION OF BINDING CONTRACT DATE FOR BIOMASS AND COAL FACILITIES.

(a) IN GENERAL.—Subparagraph (A) of section 29(g)(1) (relating to the extension of certain facilities) is amended by striking "July 1, 1998" and inserting "July 1, 1999".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of enactment of this Act.

On page 400, between lines 14 and 15, insert the following:

SEC. . DETERMINATION OF ORIGINAL ISSUE DISCOUNT WHERE POOLED DEBT OBLIGATIONS SUBJECT TO ACCELERATION.

(a) IN GENERAL.—Subparagraph (C) of section 1272(a)(6) (relating to debt instruments to which the paragraph applies) is amended by striking "or" at the end of clause (i), by striking the period at the end of clause (ii) and inserting ", or", and by inserting after clause (i) the following:

"(iii) any pool of debt instruments the yield on which may be reduced by reason of prepayments (or to the extent provided in regulations, by reason of other events).

To the extent provided in regulations prescribed by the Secretary, in the case of a business engaged in the trade or business of selling tangible personal property at retail, clause (iii) shall not apply to debt instruments incurred in the ordinary course of such trade or business."

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by this subsection shall apply to taxable years beginning after the date of enactment of this Act.

(2) CHANGE OF METHOD OF ACCOUNTING.—In the case of any taxpayer required by this section to change its method of accounting for its first taxable year beginning after the date of enactment of this Act—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as made with the consent of the Secretary; and

(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481 of the Internal Revenue Code of 1986 shall be taken into account ratably over the 4-taxable-year period beginning with such first taxable year.

SPECTER AMENDMENTS NOS. 544–546

(Ordered to lie on the table)

Mr. SPECTER submitted three amendments intended to be proposed by him to the bill, S. 949, supra; as follows:

AMENDMENT NO. 544

At the appropriate place in the bill, insert the following new section:

SEC. . SENSE OF THE SENATE.

(a) FINDINGS.—The Senate finds that—

(1) the Centers for Disease Control and Prevention has identified tobacco use as the leading preventable cause of death in the United States, causing more than 400,000 deaths each year, resulting in more than $50 billion in direct medical costs each year;

(2) funds appropriated to the National Institutes of Health comprise 30 percent of national expenditures on health research and development; and

(3) biomedical research has been shown to be effective in saving lives and reducing health care expenditures.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that if Congress considers legislation implementing the tobacco litigation settlement, such legislation should ensure that funds from the settlement are used for disease prevention research and medical treatment research for diseases linked to tobacco use.

AMENDMENT NO. 545

At the appropriate place in the bill, insert the following new section:

SEC. . SENSE OF THE SENATE.

(a) FINDINGS.—The Senate finds that—

(1) The current Internal Revenue Code, with its myriad deductions, credits and schedules, and over 12,000 pages of rules and regulations, is long overdue for a complete overhaul;

(2) It is an unacceptable waste of our nation's precious resources when Americans spend an estimated 5.4 billion hours every year compiling information and filling out Internal Revenue Code tax forms, and in addition, spend hundreds of billions of dollars every year in tax code compliance. America's resources could be dedicated to far more productive pursuits; and

(3) The primary goals of any tax reform must be fairness, simplicity, unleashing economic growth and removing the inefficiencies of the current tax code;

(b) SENSE OF THE SENATE.—It is the sense of the Senate that Congress should proceed expeditiously to consider fundamental tax reform legislation which would replace the current tax code with a fairer, simpler, progrowth and deficit neutral tax.

AMENDMENT NO. 546

On page 20, between lines 5 and 6, insert the following:

SEC. 105. ADOPTION EXPENSES.

(a) DISTRIBUTIONS FROM CERTAIN PLANS MAY BE USED WITHOUT PENALTY TO PAY ADOPTION EXPENSES.—

(1) IN GENERAL.—Section 72(t)(2) (relating to exceptions to 10-percent additional tax on early distributions from qualified retirement plans) is amended by adding at the end the following:

"(E) DISTRIBUTIONS FROM CERTAIN PLANS FOR ADOPTION EXPENSES.—Distributions to an individual from an individual retirement plan of so much of the qualified adoption expenses (as defined in section 23(d)(1)) of the individual as does not exceed $2,000.".

(2) CONFORMING AMENDMENT.—Section 72(t)(2)(B) is amended by striking "or (D)" and inserting ", (D) or (E)".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to payments and distributions after December 31, 1996.

LEVIN (AND McCAIN) AMENDMENT NO. 547

(Ordered to lie on the table.)

Mr. LEVIN (for himself and Mr. MCCAIN) submitted an amendment intended to be proposed by him to the bill, S. 949, supra; as follows:

On page 267, between lines 15 and 16, insert the following:

SEC. . SENSE OF THE SENATE REGARDING TAX TREATMENT OF STOCK OPTIONS.

(a) FINDINGS.—The Senate finds that—

(1) currently businesses can deduct the value of stock options as a business expense on their income tax returns, even though the stock options are not treated as an expense on the books of those same businesses; and

(2) stock options are the only form of compensation that is treated in this way.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Committee on Finance of the Senate should hold hearings on the tax treatment of stock options.

McCAIN AMENDMENT NO. 548

(Ordered to lie on the table.)

Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill, S. 949, supra; as follows:

Strike section 707 of the bill.

D'AMATO AMENDMENTS NO. 549–550

(Ordered to lie on the table.)

Mr. D'AMATO submitted two amendments intended to be proposed by him to the bill, S. 949, supra; as follows:

AMENDMENT NO. 549

On page 106, beginning with line 10, strike all through page 107, line 18, and insert:

"(2) ELIGIBLE GAIN.—The term 'eligible gain' means any gain from the sale or exchange of qualified small business stock held for more than 6 months.

"(3) PURCHASE.—A taxpayer shall be treated as having purchased any property if, but for paragraph (4), the unadjusted basis of such property in the hands of the taxpayer would be its cost (within the meaning of section 1012).

"(4) BASIS ADJUSTMENTS.—If gain from any sale is not recognized by reason of subsection (a), such gain shall be applied to reduce (in the order acquired) the basis for determining gain or loss of any qualified small business stock which is purchased by the taxpayer during the 60-day period described in subsection (a).

"(c) SPECIAL RULES FOR TREATMENT OF REPLACEMENT STOCK.—

"(1) HOLDING PERIOD FOR ACCRUED GAIN.—For purposes of this chapter, gain from the disposition of any replacement qualified small business stock shall be treated as gain from the sale of exchange of qualified small business stock held more than 6 monhts to the extent that the amount of such gain does not exceed the amount of the reduction in the basis of such stock by reason of subsection (b)(4).

"(2) TACKING OF HOLDING PERIOD FOR PURPOSES OF DEFERRAL.—Solely for purposes of applying this section, if any replacement qualified small business stock is disposed of before the taxpayer has held such stock for more than 6 months, gain from such stock shall be treated eligible gain for purposes of subsection (a).

On page 400, between lines 14 and 15, insert:

SEC. . WITHHOLDING ON GUARANTEED PAYMENTS RECEIVED BY LIMITED PARTNERS OF PROFESSIONAL SERVICE PARTNERSHIPS.

(a) IN GENERAL.—Section 3401 (relating to withholding on wages) is amended by adding at the end the following new subsection:

"(i) SPECIAL RULE FOR GUARANTEED PAYMENTS OF CERTAIN LIMITED PARTNERS.—

"(1) IN GENERAL.—For purposes of this chapter, the term 'wages' shall include any guaranteed payments described in section 707 (a) or (c) to a limited partner of a professional service partnership for services actually rendered to or on behalf of the partnership to the extent that such payments are established to be in the nature of remuneration for such services.

"(2) PROFESSIONAL SERVICE PARTNERSHIP.—For purposes of paragraph (1), the term 'professional service partnership' means a partnership substantially all of the services of which are in the fields of health, law, engineering, architecture, accounting, actuarial science, performing arts, or consulting.

"(3) TREATMENT AS EMPLOYER AND EMPLOYEE.—Solely for purposes of applying this chapter to payments described in paragraph (1)—

"(A) the professional service partnership shall be treated as an employer, and

"(B) the limited partner shall be treated as an employee."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to payments with respect to services performed after December 31, 1997.

AMENDMENT NO. 550

On page 267, between lines 15 and 16, insert the following:

SEC. . REMOVAL OF DOLLAR LIMITATION ON BENEFIT PAYMENTS FROM A DEFINED BENEFIT PLAN MAINTAINED FOR CERTAIN POLICE AND FIRE EMPLOYEES.

(a) IN GENERAL.—Subparagraph (G) of section 415(b)(2) is amended by striking "participant—" and all that follows and inserting "participant, subparagraphs (C) and (D) of this paragraph and subparagraph (B) of paragraph (1) shall not apply."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to years beginning after December 31, 1996.

NICKLES (AND OTHERS) AMENDMENT NO. 551

Mr. NICKLES (for himself, Mr. HAGEL, Mr. CLELAND, Mr. DOMENICI, and Mr. THURMOND) proposed an amendment to the bill, S. 949, supra; as follows:

On page 212, between lines 11 and 12, insert:

SEC. ___. INCREASE IN DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) IN GENERAL.—The table contained in section 162(l)(1)(B) is amended to read as follows:

"For taxable years beginning in calendar year—	The applicable percentage is—
1997	50
1998	55
1999 through 2001	60
2002	65
2003 through 2005	80
2006	90
2007 or thereafter	100."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1996.

On page 159, line 15, strike "December 31, 1999" and insert "May 31, 1999".

On page 159, line 18, strike "42-month" and insert "35-month".

On page 159, line 19, strike "42 months" and insert "35 months".

On page 160, lines 10 and 11, strike "December 31, 1999" and insert "May 31, 1999".

On page 160, lines 19 and 20, strike "December 31, 1999" and insert "May 31, 1999".

On page 400, between lines 14 and 15, insert:

SEC. ___. MODIFICATION OF RULES FOR ALLOCATING INTEREST EXPENSE TO TAX-EXEMPT INTEREST.

(a) PRO RATA ALLOCATION RULES APPLICABLE TO CORPORATIONS.—

(1) IN GENERAL.—Paragraph (1) of section 265(b) is amended by striking "In the case of a financial institution" and inserting "In the case of a corporation".

(2) ONLY OBLIGATIONS ACQUIRED AFTER JUNE 8, 1997, TAKEN INTO ACCOUNT.—Subparagraph (A) of section 265(b)(2) is amended by striking "August 7, 1986" and inserting "June 8, 1997 (August 7, 1986, in the case of a financial institution)".

(3) SMALL ISSUER EXCEPTION NOT TO APPLY.—Subparagraph (A) of section 265(b)(3) is amended by striking "Any qualified" and inserting "In the case of a financial institution, any qualified".

(4) EXCEPTION FOR CERTAIN BONDS ACQUIRED ON SALE OF GOODS OR SERVICES.—Subparagraph (B) of section 265(b)(4) is amended by adding at the end the following new sentence: "In the case of a taxpayer other than a financial institution, such term shall not include a nonsalable obligation acquired by such taxpayer in the ordinary course of business as payment for goods or services provided by such taxpayer to any State or local government."

(5) LOOK-THRU RULES FOR PARTNERSHIPS.—Paragraph (6) of section 265(b) is amended by adding at the end the following new subparagraph:

"(C) LOOK-THRU RULES FOR PARTNERSHIPS.—In the case of a corporation which is a partner in a partnership, such corporation shall be treated for purposes of this subsection as holding directly its allocable share of the assets of the partnership."

(6) APPLICATION OF PRO RATA DISALLOWANCE ON AFFILIATED GROUP BASIS.—Subsection (b) of section 265 is amended by adding at the end the following new paragraph:

"(7) APPLICATION OF DISALLOWANCE ON AFFILIATED GROUP BASIS.—

"(A) IN GENERAL.—For purposes of this subsection, all members of an affiliated group filing a consolidated return under section 1501 shall be treated as 1 taxpayer.

"(B) TREATMENT OF INSURANCE COMPANIES.—This subsection shall not apply to an insurance company, and subparagraph (A) shall be applied without regard to any member of an affiliated group which is an insurance company."

(6) DE MINIMIS EXCEPTION FOR NONFINANCIAL INSTITUTIONS.—Subsection (b) of section 265 is amended by adding at the end the following new paragraph:

"(8) DE MINIMIS EXCEPTION FOR NONFINANCIAL INSTITUTIONS.—In the case of a corporation, paragraph (1) shall not apply for any taxable year if the amount described in paragraph (2)(A) with respect to such corporation does not exceed the lesser of—

"(A) 2 percent of the amount described in paragraph (2)(B), or

"(B) $1,000,000.

The preceding sentence shall not apply to a financial institution or to a dealer in tax-exempt obligations."

(7) CLERICAL AMENDMENT.—The subsection heading for section 265(b) is amended by striking "FINANCIAL INSTITUTIONS" and inserting "CORPORATIONS".

(b) APPLICATION OF SECTION 265(a)(2) WITH RESPECT TO CONTROLLED GROUPS.—Paragraph (2) of section 265(a) is amended after "obligations" by inserting "held by the taxpayer (or any corporation which is a member of a controlled group (as defined in section 267(f)(1)) which includes the taxpayer)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

GRAMM (AND OTHERS) AMENDMENT NO. 552

Mr. GRAMM (for himself, Mr. COATS, Mr. NICKLES, Mr. HUTCHINSON, Mr. GRAMS, Mr. SMITH of New Hampshire, Mr. SESSIONS, Mr. ABRAHAM, and Mr. THURMOND) proposed an amendment to the bill, S. 949, supra; as follows:

At the appropriate place, insert:

SECTION 1. CHILD TAX CREDIT FLEXIBILITY.

On page 12, line 13, strike all through page 13, line 8, and on page 16, line 3, strike all through page 17, line 6.

SHELBY (AND OTHERS) AMENDMENT NO. 553

Mr. ROTH (for Mr. SHELBY, for himself, Mr. CRAIG, Mr. ABRAHAM, Mr. FAIRCLOTH, Mr. SANTORUM, Mr. COVERDELL, Mr. GRAMM, and Mr. SESSIONS) proposed an amendment to the bill, S. 949, supra; as follows:

At the end of page 11, insert the following:

SEC. . SENSE OF THE SENATE REGARDING REFORM OF THE INTERNAL REVENUE CODE OF 1986.

(a) FINDINGS.—The Senate find that—

(1) the Internal Revenue Code of 1986 ("tax code") is unnecessarily complex, having grown from 14 pages at its inception to 3,458 pages by 1995;

(2) this complexity resulted in taxpayers spending about 5,300,000,000 hours and $225,000,000,000 trying to comply with the tax code in 1996;

(3) the current congressional budgetary process is weighted too heavily toward tax increase, as evidenced by the fact that since 1954 there have been 27 major bills enacted that increased Federal income taxes and only 9 bills that decreased Federal income taxes, 3 of which were de minimis decreases;

(4) the tax burden on working families has reach an unsustainable level, as evidenced by the fact that in 1948 the average American family with children paid only 4.3 percent of its income to the Federal Government in direct taxes and today the average family pays about 25 percent;

(5) the tax code unfairly penalizes saving and investment by double taxing these activities while only taxing income used for consumption once, and as a result the United States has one of the lowest savings rates, at 4.7 percent, in the industrialized world;

(6) the tax code stifles economic growth by discouraging work and capital formation through excessively high tax rates;

(7) Congress and the President have found it necessary, on 2 separate occasions, to enact laws to protect taxpayers from the abuses of the Internal Revenue Service and a third bill has been introduced by the 105th Congress; and

(8) the complexity of the tax code has increased the number of Internal Revenue Service employees responsible for administering the tax laws to 110,000 and this costs the taxpayers $9,800,000,000 each year.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the Internal Revenue Code of 1986 needs broad-based reform; and

(2) the President should submit to Congress a comprehensive proposal to reform the Internal Revenue Code of 1986.

KERRY (AND OTHERS) AMENDMENT NO. 554

Mr. KERRY (for himself, Mr. CONRAD, and Mr. JOHNSON) proposed an amendment to the bill, S. 949, supra; as follows:

On page 13, beginning with line 9, strike all through page 17, line 12, and insert the following:

"(2) LIMITATION BASED ON ADJUSTED GROSS INCOME.—The dollar amount in subsection (a) shall be reduced (but not below zero) ratably for each $1,000 (or fraction thereof) by which the taxpayer's modified adjusted gross income exceeds $60,000 but does not exceed $75,000. For purposes of the preceding sentence, the term 'modified adjusted gross income' means adjusted gross income increased by any amount excluded from gross income under section 911, 931, or 933.

"(3) LIMITATION BASED ON AMOUNT OF TAX.—The aggregate credit allowed by subsection (a) (determined after paragraph (2)) shall not exceed the sum of—

"(A) the excess (if any) of—

"(i) the taxpayer's regular tax liability for the taxable year reduced by the credits allowable against such tax under this subpart (other than this section), over

"(ii) the taxpayer's tentative minimum tax for such taxable year (determined without regard to the alternative minimum tax foreign tax credit), plus

"(B) the excess (if any) of—

"(i) the sum of—

"(I) the taxpayer's liability for the taxable year under sections 3101 and 3201,

"(II) the amount of tax paid on behalf of such taxpayer for the taxable year under sections 3111 and 3221, plus

"(III) the taxpayer's liability for such year under sections 1401 and 3211, over

"(ii) the credit allowed for the taxable year under section 32.

"(c) QUALIFYING CHILD.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualifying child' means any individual if—

"(A) the taxpayer is allowed a deduction under section 151 with respect to such individual for the taxable year,

"(B) such individual has not attained the applicable age as of the close of the calendar year in which the taxable year of the taxpayer begins, and

"(C) such individual bears a relationship to the taxpayer described in section 32(c)(3)(B).

"(2) APPLICABLE AGE.—For purposes of paragraph (1), the applicable age is 13 in calendar year 1997, and increased by 1 year for each of the next 4 succeeding calendar years.

"(3) EXCEPTION FOR CERTAIN NONCITIZENS.—The term 'qualifying child' shall not include any individual who would not be a dependent if the first sentence of section 152(b)(3) were applied without regard to all that follows 'resident of the United States.'

(d) TAXABLE YEAR MUST BE FULL TAXABLE YEAR.—Except in the case of a taxable year closed by reason of the death of the taxpayer, no credit shall be allowable under this section in the case of a taxable year covering a period of less than 12 months.

"(e) RECAPTURE OF CREDIT.—

"(1) IN GENERAL.—If—

"(A) during any taxable year any amount is withdrawn from a qualified tuition program or an education individual retirement account maintained for the benefit of a beneficiary and such amount is subject to tax under section 529(f) or 530(c)(3), and

"(B) the amount of the credit allowed under this section for the prior taxable year was contingent on a contribution being made to such a program or account for the benefit of such beneficiary,

the taxpayer's tax imposed by this chapter for the taxable year shall be increased by the lesser of the amount described in subparagraph (A) or the credit described in subparagraph (B).

"(2) NO CREDITS AGAINST TAX, ETC.—Any increase in tax under this subsection shall not be treated as a tax imposed by this chapter for purposes of determining—

"(A) the amount of any credit under this subpart or subpart B or D of this part, and

"(B) the amount of the minimum tax imposed by section 55.

"(f) OTHER DEFINITIONS.—For purposes of this section, the terms 'qualified tuition program' and 'education individual retirement account' have the meanings given such terms by section 529 and 530, respectively.

"(g) PHASEIN OF CREDIT.—In the case of taxable years beginning in 1997, subsection (a)(1) shall be applied by substituting '$250' for '$500'."

JEFFORDS (AND OTHERS) AMENDMENT NO. 555

(Ordered to lie on the table.)

Mr. JEFFORDS (for himself, Mr. DODD, Mr. ROBERTS, Mr. JOHNSON, Mr. KOHL, Ms. SNOWE, and Ms. LANDRIEU) submitted an amendment intended to be proposed by them to the bill, S. 949, supra; as follows:

At the end of the bill insert the following:

TITLE ___ —INCENTIVES FOR QUALITY CHILD CARE

SEC. ___01. EXPANSION OF DEPENDENT CARE TAX CREDIT.

(a) PERCENTAGE OF EMPLOYMENT-RELATED EXPENSES DETERMINED BY STATUS OF CARE GIVER.—Section 21(a)(2) (defining applicable percentage) is amended to read as follows:

"(2) APPLICABLE PERCENTAGE DEFINED.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'applicable percentage' means—

"(i) in the case of employment-related expenses described in subsection (b)(2)(A)(ii) incurred for the care of a qualifying individual described in subsection (b)(1)(A) by an accredited child care center or a credentialed child care professional, the initial percentage reduced (but not below 12.5 percent) ratably for each $2,500 (or fraction thereof) by which the taxpayers's adjusted gross income for the taxable year exceeds $20,000, and

"(ii) in any other case, 30 percent reduced (but not below 10 percent) ratably for each $2,500 (or fraction thereof) by which the taxpayers's adjusted gross income for the taxable year exceeds $20,000 but does not exceed $70,000.

"(B) INITIAL PERCENTAGE FOR EXPENSES INCURRED FOR ACCREDITED OR CREDENTIALED PROVIDERS.—For purposes of subparagraph (A)(i), the initial percentage shall be determined in accordance with the following table:

"In the case of any taxable year beginning in—	The initial percentage is—
1998	31.5
1999	33
2000	34.5
2001	36
2002 and thereafter	37.5."

(b) DEFINITIONS.—Section 21(b)(2) (relating to definitions of qualifying individual and employment-related expenses) is amended by adding at the end the following:

"(E) ACCREDITED CHILD CARE CENTER.—The term 'accredited child care center' means—

"(i) a center that is accredited, by a child care credentialing or accreditation entity recognized by a State, to provide child care to children in the State (except children who a tribal organization elects to serve through a center described in clause (ii));

"(ii) a center that is accredited, by a child care credentialing or accreditation entity recognized by a tribal organization, to provide child care for children served by the tribal organization; or

"(iii) a center that is used as a Head Start center under the Head Start Act (42 U.S.C. 9831 et seq.) and is in compliance with any applicable performance standards established by regulation under such Act for Head Start programs.

"(F) CHILD CARE CREDENTIALING OR ACCREDITATION ENTITY.—The term 'child care credentialing or accreditation entity' means a nonprofit private organization or public agency that—

"(i) is recognized by a State agency or tribal organization; and

"(ii) accredits a center or credentials an individual to provide child care on the basis of—

"(I) an accreditation or credentialing instrument based on peer-validated research;

"(II) compliance with applicable State and local licensing requirements, or standards described in section 658E(c)(2)(E)(ii) of the Child Care and Development Block Grant Act (42 U.S.C. 9858c(c)(2)(E)(ii)), as appropriate, for the center or individual;

"(III) outside monitoring of the center or individual; and

"(IV) criteria that provide assurances of—

"(aa) compliance with age-appropriate health and safety standards at the center or by the individual;

"(bb) use of age-appropriate developmental and educational activities, as an integral part of the child care program carried out at the center or by the individual; and

"(cc) use of ongoing staff development or training activities for the staff of the center or the individual, including related skills-based testing.

"(G) CREDENTIALED CHILD CARE PROFESSIONAL.—The term 'credentialed child care professional' means—

"(i) an individual who is credentialed, by a child care credentialing or accreditation entity recognized by a State, to provide child care to children in the State (except children who a tribal organization elects to serve through an individual described in clause (ii)); or

"(ii) an individual who is credentialed, by a child care credentialing or accreditation entity recognized by a tribal organization, to provide child care for children served by the tribal organization.

"(H) TRIBAL ORGANIZATION.—The term 'tribal organization' has the meaning given the term in section 658P of the Child Care and Development Block Grant Act (42 U.S.C. 9858n)."

(c) CREDIT MADE REFUNDABLE FOR LOW INCOME TAXPAYERS.—

(1) IN GENERAL.—Section 21 (relating to credit for household and dependent care services) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following:

"(f) CREDIT MADE REFUNDABLE FOR LOW INCOME TAXPAYERS.—

"(1) IN GENERAL.—For purposes of this subtitle, in the case of an applicable taxpayer individual, the credit allowable under subsection (a) for any taxable year shall be treated as a credit allowable under subpart C of this part.

"(2) APPLICABLE TAXPAYER.—For purposes of this subsection, the term 'applicable taxpayer' means a taxpayer with respect to whom the credit under section 32 is allowable for the taxable year.

"(3) COORDINATION WITH ADVANCE PAYMENTS AND MINIMUM TAX.—Rules similar to the rules of subsections (g) and (h) of section 32 shall apply with respect to the portion of any credit to which this subsection applies.".

(2) ADVANCE PAYMENT OF CREDIT.—

(A) IN GENERAL.—Chapter 25 (relating to general provisions relating to employment taxes) is amended by inserting after section 3507 the following:

"SEC. 3507A. ADVANCE PAYMENT OF DEPENDENT CARE CREDIT.

"(a) GENERAL RULE.—Except as otherwise provided in this section, every employer making payment of wages with respect to whom a dependent care eligibility certificate is in effect shall, at the time of paying such wages, make an additional payment equal to such employee's dependent care advance amount.

"(b) DEPENDENT CARE ELIGIBILITY CERTIFICATE.—For purposes of this title, a dependent care eligibility certificate is a statement furnished by an employee to the employer which—

"(1) certifies that the employee will be eligible to receive the credit provided by section 21 for the taxable year,

"(2) certifies that the employee reasonably expects to be an applicable taxpayer for the taxable year,

"(3) certifies that the employee does not have a dependent care eligibility certificate in effect for the calendar year with respect to the payment of wages by another employer,

"(4) states whether or not the employee's spouse has a dependent care eligibility certificate in effect,

"(5) states the number of qualifying individuals in the household maintained by the employee,

"(6) states whether a qualifying individual will be cared for by an accredited child care center or a credentialed child care professional, and

"(7) estimates the amount of employment-related expenses for the calendar year.

"(c) DEPENDENT CARE ADVANCE AMOUNT.—

"(1) IN GENERAL.—For purposes of this title, the term 'dependent care advance amount' means, with respect to any payroll period, the amount determined—

"(A) on the basis of the employee's wages from the employer for such period,

"(B) on the basis of the employee's estimated employment-related expenses included in the dependent care eligibility certificate, and

"(C) in accordance with tables provided by the Secretary.

"(2) ADVANCE AMOUNT TABLES.—The tables referred to in paragraph (1)(C) shall be similar in form to the tables prescribed under section 3402 and, to the maximum extent feasible, shall be coordinated with such tables and the tables prescribed under section 3507(c).

"(d) OTHER RULES.—For purposes of this section, rules similar to the rules of subsections (d) and (e) of section 3507 shall apply.

"(e) DEFINITIONS.—For purposes of this section, terms used in this section which are defined in section 21 shall have the respective meanings given such terms by section 21.".

(2) CONFORMING AMENDMENT.—The table of sections for chapter 25 is amended by adding after the item relating to section 3507 the following:

"Sec. 3507A. Advance payment of dependent care credit.".

(d) EFFECTIVE DATES.—

(1) APPLICABLE PERCENTAGE.—The amendments made by subsection (a) and (b) shall apply to taxable years beginning after December 31, 1997.

(2) CREDIT MADE REFUNDABLE.—The amendments made by subsection (c) shall apply to taxable years beginning after December 31, 2001.

SEC. 02. EXPANSION OF DEPENDENT CARE ASSISTANCE PROGRAM.

(a) IN GENERAL.—Section 129(a)(2)(A) (relating to limitation of exclusion) is amended to read as follows:

"(A) DOLLAR LIMITATION.—

"(i) IN GENERAL.—The amount which may be excluded under paragraph (1) for dependent care assistance with respect to dependent care services provided during a taxable year shall not exceed—

"(I) in the case of dependent care services provided by an accredited child care center or a credentialed child care professional for a qualifying individual described in section 21(b)(1)(A), an amount determined in accordance with the following table:

"In the case of taxable years beginning in:	For 1 qualifying individual, the amount is:	For 2 or more qualifying individuals, the amount is:
1998	$5,200	$6,700
1999	$5,400	$6,900
2000	$5,600	$7,100
2001	$5,800	$7,300
2002 and thereafter	$6,000	$7,500,

"(II) in the case of other dependent care services for a qualifying individual described in section 21(b)(1)(A) or payments described in subsection (e)(1)(B), an amount determined in accordance with the following table:

"In the case of taxable years beginning in:	For 1 qualifying individual, the amount is:	For 2 or more qualifying individuals, the amount is:
1998	$4,800	$6,300
1999	$4,600	$6,100
2000	$4,400	$5,900
2001	$4,200	$5,700
2002 and thereafter	$4,000	$5,500,

and

"(III) in the case of other dependent care services for a qualifying individual described in subparagraph (B) or (C) of section 21(b)(1), $5,000.

"(ii) AMOUNTS FOR MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—In the case of a separate return by a married individual, clause (i) shall be applied by using one-half of any amount specified in such clause.

"(iii) PROVIDERS.—For purposes of clause (i)(I), the terms 'accredited child care center' and 'credentialed child care professional' have the meaning given such terms by subparagraphs (E) and (G) of section 21(c)(2), respectively.

(b) PAYMENTS FOR STAY-AT-HOME CARE ALLOWED.—

(1) IN GENERAL.—Section 129(e)(1) (relating to definitions and special rules) is amended to read as follows:

"(1) DEPENDENT CARE ASSISTANCE.—The term 'dependent care assistance' means—

"(A) the payment of, or provision of, those services which if paid for by the employee would be considered employment-related expenses under section 21(b)(2) (relating to expenses for household and dependent care services necessary for gainful employment), and

"(B) any payment to the employee from amounts contributed to the employee's account during the pregnancy of the employee paid within 1 year after such contribution and during the period in which—

"(i) the employee,

"(ii) the employee's spouse, or

"(iii) a parent of the employee or the employee's spouse,

stays at home to care for a qualifying individual described in section 21(b)(1)(A).".

(2) CONFORMING AMENDMENTS.—

(A) Section 129(c) (relating to payments to related individuals) is amended by striking "No amount" and inserting "Except in the case of payments described in subsection (e)(1)(B), no amount.".

(B) Section 129(e)(9) (relating to identifying information required with respect to service provider) is amended by striking "No amount" and inserting "Except in the case of payments described in paragraph (1)(B)(i), no amount.".

(c) Dependent Care Assistance Program for Federal Employees.—Subpart G of part III of title 5, United States Code, is amended by inserting after chapter 87 the following:

"CHAPTER 88—DEPENDENT CARE ASSISTANCE PROGRAM

"§ 8801. Definitions

"(a) For the purpose of this chapter, 'employee' means—

"(1) an employee as defined by section 2105 of this title;

"(2) a Member of Congress as defined by section 2106 of this title;

"(3) a Congressional employee as defined by section 2107 of this title;

"(4) the President;

"(5) a justice or judge of the United States appointed to hold office during good behavior (i) who is in regular active judicial service, or (ii) who is retired from regular active service under section 371(b) or 372(a) of title 28, United States Code, or (iii) who has resigned the judicial office under section 371(a) of title 28 with the continued right during the remainder of his lifetime to receive the salary of the office at the time of his resignation;

"(6) an individual first employed by the government of the District of Columbia before October 1, 1987;

"(7) an individual employed by Gallaudet College;

"(8) an individual employed by a county committee established under section 590h(b) of title 16;

"(9) an individual appointed to a position on the office staff of a former President under section 1(b) of the Act of August 25, 1958 (72 Stat. 838); and

"(10) an individual appointed to a position on the office staff of a former President, or a former Vice President under section 4 of the Presidential Transition Act of 1963, as amended (78 Stat. 153), who immediately before the date of such appointment was an employee as defined under any other paragraph of this subsection;

but does not include—

"(A) an employee of a corporation supervised by the Farm Credit Administration if private interests elect or appoint a member of the board of directors;

"(B) an individual who is not a citizen or national of the United States and whose permanent duty station is outside the United States, unless the individual was an employee for the purpose of this chapter on September 30, 1979, by reason of service in an Executive agency, the United States Postal Service, or the Smithsonian Institution in the area which was then known as the Canal Zone; or

"(C) an employee excluded by regulation of the Office of Personnel Management under section 8716(b) of this title.

"(b) For the purpose of this chapter, 'dependent care assistance program' has the meaning given such term by section 129(d) of the Internal Revenue Code of 1986.

"§ 8802. Dependent care assistance program

"The Office of Personnel Management shall establish and maintain a dependent care assistance program for the benefit of employees.".

(d) Effective Date.—The amendments made by this section apply to taxable years beginning after December 31, 1997.

SEC. 03. ALLOWANCE OF CREDIT FOR EMPLOYER EXPENSES FOR CHILD CARE ASSISTANCE.

(a) In General.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by adding at the end the following new section:

"SEC. 45D. EMPLOYER-PROVIDED CHILD CARE CREDIT.

"(a) Allowance of Credit.—

"(1) In General.—For purposes of section 38, the employer-provided child care credit determined under this section for the taxable year is an amount equal to the applicable percentage of the qualified child care expenditures of the taxpayer for such taxable year.

"(2) Applicable percentage.—For purposes of paragraph (1), the applicable percentage for any taxable year is equal to 50%.

"(b) Dollar Limitation.—The credit allowable under subsection (a) for any taxable year shall not exceed $150,000.

"(c) Definitions.—For purposes of this section—

"(1) Qualified child care expenditure.—The term 'qualified child care expenditure' means any amount paid or incurred—

"(A) to acquire, construct, rehabilitate, or expand property—

"(i) which is to be used as part of a qualified child care facility of the taxpayer,

"(ii) with respect to which a deduction for depreciation (or amortization in lieu of depreciation) is allowable, and

"(iii) which does not constitute part of the principal residence (within the meaning of section 1034) of the taxpayer or any employee of the taxpayer,

"(B) for the operating costs of a qualified child care facility of the taxpayer, including costs related to the training of employees, to scholarship programs, and to the providing of increased compensation to employees with higher levels of child care training,

"(C) under a contract with a qualified child care facility to provide child care services to employees of the taxpayer,

"(D) under a contract to provide child care resource and referral services to employees of the taxpayer, or

"(E) for the costs of seeking accreditation from a child care credentialing or accreditation entity (as defined in section 21(b)(2)(F) with respect to a qualified child care facility.

"(2) Qualified child care facility.—

"(A) In general.—The term 'qualified child care facility' means a facility—

"(i) the principal use of which is to provide child care assistance, and

"(ii) which meets the requirements of all applicable laws and regulations of the State or local government in which it is located, including, but not limited to, the licensing of the facility as a child care facility.

Clause (i) shall not apply to a facility which is the principal residence (within the meaning of section 1034) of the operator of the facility.

"(B) Special rules with respect to a taxpayer.—A facility shall not be treated as a qualified child care facility with respect to a taxpayer unless—

"(i) enrollment in the facility is open to employees of the taxpayer during the taxable year,

"(ii) the facility is not the principal trade or business of the taxpayer unless at least 30 percent of the enrollees of such facility are dependents of employees of the taxpayer, and

"(iii) the use of such facility (or the eligibility to use such facility) does not discriminate in favor of employees of the taxpayer who are highly compensated employees (within the meaning of section 414(q)).

"(d) Recapture of Acquisition and Construction Credit.—

"(1) In general.—If, as of the close of any taxable year, there is a recapture event with respect to any qualified child care facility of the taxpayer, then the tax of the taxpayer under this chapter for such taxable year shall be increased by an amount equal to the product of—

"(A) the applicable recapture percentage, and

"(B) the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted if the qualified child care expenditures of the taxpayer described in subsection (c)(1)(A) with respect to such facility had been zero.

"(2) Applicable recapture percentage.—

"(A) In general.—For purposes of this subsection, the applicable recapture percentage shall be determined from the following table:

"If the recapture event occurs in:	**The applicable recapture percentage is:**
Years 1–3	100
Year 4	85
Year 5	70
Year 6	55
Year 7	40
Year 8	25
Years 9 and 10	10
Years 11 and thereafter	0.

"(B) Years.—For purposes of subparagraph (A), year 1 shall begin on the first day of the taxable year in which the qualified child care facility is placed in service by the taxpayer.

"(3) Recapture event defined.—For purposes of this subsection, the term 'recapture event' means—

"(A) Cessation of operation.—The cessation of the operation of the facility as a qualified child care facility.

"(B) Change in ownership.—

"(i) In general.—Except as provided in clause (ii), the disposition of a taxpayer's interest in a qualified child care facility with respect to which the credit described in subsection (a) was allowable.

"(ii) Agreement to assume recapture liability.—Clause (i) shall not apply if the person acquiring such interest in the facility agrees in writing to assume the recapture liability of the person disposing of such interest in effect immediately before such disposition. In the event of such an assumption, the person acquiring the interest in the facility shall be treated as the taxpayer for purposes of assessing any recapture liability (computed as if there had been no change in ownership).

"(4) Special rules.—

"(A) Tax benefit rule.—The tax for the taxable year shall be increased under paragraph (1) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

"(B) No credits against tax.—Any increase in tax under this subsection shall not be treated as a tax imposed by this chapter for purposes of determining the amount of any credit under subpart A, B, or D of this part.

"(C) No recapture by reason of casualty loss.—The increase in tax under this subsection shall not apply to a cessation of operation of the facility as a qualified child care facility by reason of a casualty loss to the extent such loss is restored by reconstruction or replacement within a reasonable period established by the Secretary.

"(e) SPECIAL RULES.—For purposes of this section—

"(1) AGGREGATION RULES.—All persons which are treated as a single employer under subsections (a) and (b) of section 52 shall be treated as a single taxpayer.

"(2) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

"(3) ALLOCATION IN THE CASE OF PARTNERSHIPS.—In the case of partnerships, the credit shall be allocated among partners under regulations prescribed by the Secretary.

"(f) NO DOUBLE BENEFIT.—

"(1) REDUCTION IN BASIS.—For purposes of this subtitle—

"(A) IN GENERAL.—If a credit is determined under this section with respect to any property by reason of expenditures described in subsection (c)(1)(A), the basis of such property shall be reduced by the amount of the credit so determined.

"(B) CERTAIN DISPOSITIONS.—If during any taxable year there is a recapture amount determined with respect to any property the basis of which was reduced under subparagraph (A), the basis of such property (immediately before the event resulting in such recapture) shall be increased by an amount equal to such recapture amount. For purposes of the preceding sentence, the term 'recapture amount' means any increase in tax (or adjustment in carrybacks or carryovers) determined under subsection (d).

"(2) OTHER DEDUCTIONS AND CREDITS.—No deduction or credit shall be allowed under any other provision of this chapter with respect to the amount of the credit determined under this section.

"(g) TERMINATION.—This section shall not apply to taxable years beginning after December 31, 1999."

(b) CONFORMING AMENDMENTS.—

(1) Section 38(b) is amended—

(A) by striking out "plus" at the end of paragraph (11),

(B) by striking out the period at the end of paragraph (12), and inserting a comma and "plus", and

(C) by adding at the end the following new paragraph:

"(13) the employer-provided child care credit determined under section 45D."

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

"Sec. 45D. Employer-provided child care credit."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. 04. CHARITABLE CONTRIBUTIONS OF SCIENTIFIC EQUIPMENT TO ACCREDITED AND CREDENTIALED CHILD CARE PROVIDERS AND TO ELEMENTARY AND SECONDARY SCHOOLS.

(a) IN GENERAL.—Subparagraph (B) of section 170(e)(4) (relating to special rule for contributions of scientific property used for research) is amended to read as follows:

"(B) QUALIFIED RESEARCH, CHILD CARE, OR EDUCATION CONTRIBUTION.—For purposes of this paragraph, the term 'qualified research, child care, or education contribution' means a charitable contribution by a corporation of tangible personal property (including computer software), but only if—

"(i) the contribution is to—

"(I) an accredited child care center (as defined in section 21(c)(2)(E)) which is an organization described in section 501(c)(3) and exempt from taxation under section 501(a),

"(II) an organization described in section 501(c)(3) and exempt from taxation under section 501(a) which is a professional or educational support entity for accredited child care centers or credentialed child care professionals (as defined in subparagraphs (E) and (G) of section 21(c)(2), respectively),

"(III) an educational organization described in subsection (b)(1)(A)(ii),

"(IV) a governmental unit described in subsection (c)(1), or

"(V) an organization described in section 41(e)(6)(B),

"(ii) the contribution is made not later than 3 years after the date the taxpayer acquired the property (or in the case of property constructed by the taxpayer, the date the construction of the property is substantially completed),

"(iii) the property is scientific equipment or apparatus substantially all of the use of which by the donee is for—

"(I) research or experimentation (within the meaning of section 174), or for research training, in the United States in physical or biological sciences, or

"(II) in the case of an organization described in subclause (I), (II), (III), or (IV) of clause (i), use within the United States for educational purposes related to the purpose or function of the organization,

"(iv) the original use of the property began with the taxpayer (or in the case of property constructed by the taxpayer, with the donee),

"(v) the property is not transferred by the donee in exchange for money, other property, or services, and

"(vi) the taxpayer receives from the donee a written statement representing that its use and disposition of the property will be in accordance with the provisions of clauses (iv) and (v).".

(b) DONATIONS TO CHARITY FOR REFURBISHING.—Section 170(e)(4) is amended by adding at the end the following:

"(D) DONATIONS TO CHARITY FOR REFURBISHING.—For purposes of this paragraph, a charitable contribution by a corporation shall be treated as a qualified research, child care, or education contribution if—

"(i) such contribution is a contribution of property described in subparagraph (B)(iii) to an organization described in section 501(c)(3) and exempt from taxation under section 501(a),

"(ii) such organization repairs and refurbishes the property and donates the property to an organization described in subparagraph (B)(i), and

"(iii) the taxpayer receives from the organization to whom the taxpayer contributed the property a written statement representing that its use of the property (and any use by the organization to which it donates the property) meets the requirements of this paragraph.".

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (4)(A) of section 170(e) is amended by striking "qualified research contribution" each place it appears and inserting "qualified research, child care, or education contribution".

(2) The heading for section 170(e)(4) is amended by inserting ", CHILD CARE, OR EDUCATION" after "RESEARCH".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. 05. 2-PERCENT FLOOR ON MISCELLANEOUS ITEMIZED DEDUCTIONS NOT APPLICABLE TO ACCREDITATION AND CREDENTIALING EXPENSES OF INDIVIDUAL CHILD CARE PROVIDERS.

(a) IN GENERAL.—Section 67(b) (relating to miscellaneous itemized deductions) is amended by striking "and" at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting ", and", and by adding at the end the following:

"(13) the deduction allowable for accreditation and credentialing expenses of child care providers.".

(b) DEFINITION.—Section 67 (relating to 2-percent floor on miscellaneous itemized deductions) is amended by redesignating subsections (e) and (f) as subsections (f) and (g), respectively, and by inserting after subsection (d) the following:

"(e) ACCREDITATION AND CREDENTIALING EXPENSES OF CHILD CARE PROVIDERS.—For purposes of this section—

"(1) IN GENERAL.—The term 'accreditation and credentialing expenses of child care providers' means direct professional costs and educational and training expenses paid or incurred by an eligible individual in order to achieve and remain qualified for service as an employee of an accredited child care center or as a credentialed child care professional (as defined in subparagraphs (E) and (G) of section 21(c)(2), respectively).

"(2) ELIGIBLE INDIVIDUAL.—The term 'eligible individual' means an individual 60 percent of the taxable income of whom for any taxable year is derived from service described in paragraph (1).".

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. 06. EXPANSION OF HOME OFFICE DEDUCTION TO INCLUDE USE OF OFFICE FOR DEPENDENT CARE.

(a) IN GENERAL.—Section 280A(c)(1) (relating to certain business use) is amended by adding at the end the following: "A portion of a dwelling unit and the exclusive use of such portion otherwise described in this paragraph shall not fail to be so described if such portion is also used by the taxpayer during such exclusive use to care for a dependent of the taxpayer.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. 07. EXPANSION OF COORDINATED ENFORCEMENT EFFORTS OF INTERNAL REVENUE SERVICE AND HHS OFFICE OF CHILD SUPPORT ENFORCEMENT.

(a) STATE REPORTING OF CUSTODIAL DATA.—Section 454A(e)(4)(D) of the Social Security Act (42 U.S.C. 654(e)(4)(D)) is amended by striking "the birth date of any child" and inserting "the birth date and custodial status of any child".

(b) MATCHING PROGRAM BY IRS OF CUSTODIAL DATA AND TAX STATUS INFORMATION.—

(1) NATIONAL DIRECTORY OF NEW HIRES.—Section 453(i)(3) of the Social Security Act (42 U.S.C. 653(i)(3)) is amended by striking "a claim with respect to employment in a tax return" and inserting "information which is required on a tax return".

(2) FEDERAL CASE REGISTRY OF CHILD SUPPORT ORDERS.—Section 453(h) of the such Act (42 U.S.C. 653(h)) is amended by adding at the end the following:

"(3) ADMINISTRATION OF FEDERAL TAX LAWS.—The Secretary of the Treasury shall have access to the information described in paragraph (2), consisting of the names and social security numbers of the custodial parents linked with the children in the custody of such parents, for the purpose of administering those sections of the Internal Revenue Code of 1986 which grant tax benefits based on support and residence provided dependent children."

(c) MINIMUM PAST-DUE SUPPORT THRESHOLD FOR USE OF OFFSET PROCEDURE.—

(1) PART D FAMILIES.—Section 464(b)(1) of the Social Security Act (42 U.S.C. 664(b)(1)) is amended by inserting "(not to exceed $150)" after "minimum amount".

(2) OTHER FAMILIES.—Section 464(b)(2)(A) of such Act (42 U.S.C. 664(b)(2)(A)) is amended by striking "$500" both places it appears and inserting "$150".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1997.

Mr. JEFFORDS. Mr. President, tomorrow I will introduce my amendment on child care.

Today, there are more than 12 million children under the age of five—including half of all infants under one year of age—who spend at least part of their day being cared for by someone other than their parents. The past two decades have seen a dramatic rise in the number of women in the paid labor force. More than 60 percent of women with preschool aged children, are employed full- or part-time. For most of these families, child care is a requirement, not an option.

Women now constitute 46 percent of our Nation's labor force. Most women are not working just to achieve a degree of personal growth outside the home, but to meet their family's basic needs. Their employment is not a choice, but an essential part of their family's economic survival.

Similarly, child care that is affordable and convenient is necessary for most women working outside the home. Many of the traditional sources of child care are no longer available—as many of the friends, neighbors, grandparents, and other relatives who used to be available to provide child care are also working. Research has repeatedly demonstrated that for parents who must work, child care services that are dependable and of high quality make it easier to find and keep a job. Good child care helps parents reach and maintain economic self-sufficiency. There is a clear connection between child care and the production of income. Congress acknowledged this when is passed welfare reform last year.

Since 1990, the costs of child care have risen about 6 percent annually. This is almost triple the annual increase in the cost of living. At the same time, there are strong indicators that the quality of child care has significantly decreased during that same period of time. Parents are paying more but getting less.

The costs of child care are almost wholly dependent upon the geographic area, the type of child care, and the age of the child. For example, a family purchasing full-time child care services for a 4-year old in rural New York using a family child care home may pay as little as $60 a week. In contrast, a family with an infant using a child care center in New York City may pay more than $250 a week.

I think that few of us know how much child care costs. The Senate Employee's Child Care Center costs between $150 and $175 a week—$7,800 to $9,100 a year. That puts it in the high-middle range in terms of costs for the Washington, DC area. The younger the child, the higher the costs—and Senate Employee's Child Care Center does not accept children under 18 months old.

For a 3- to 4-year-old, which is the least expensive age group, the national average for center-based child care is $4,600 a year. The average cost for high quality care, such as that provided by the Senate Employee's Child Care Center, is between $8,500 and $9,100 a year.

A family normally spends about 20 percent of its income on housing and 10 percent on food. The costs of child care for a low- or middle-income family can rival the cost of housing and be double the cost of food. Even though most of us recognize the critical part that child care plays in the economic survival of families, we often fail to recognize it as a basic cost which consumes a significant portion of a family's income.

Parents can only purchase child care they can afford. While the supply of child care has increased over the past 10 years, shortages are still the norm for those in rural areas, those with school-aged children, and for lower-income families. Those who do find care that is affordable and convenient are often unsatisfied with the quality of the care their child receives. In fact, one quarter of all parents would change their child care arrangement if they could find and afford something better.

The quality of child care in America is very troubling. A recent nationwide study found that 40 percent of the child care provided to infants in child care centers was potentially injurious. Fifteen-percent of center-based child care providers for all preschoolers are so bad that a child's health and safety are threatened; 70 percent are mediocre—not hurting or helping children; and 15 percent actively promote a child's development. Center-based child care, the object of this study, is the most heavily regulated and frequently monitored type of child care. Children in less regulated settings are predicted to be far worse.

Combining the research on the quality of child care with the breakthroughs on the development of the human brain produces a very disturbing situation. Many children enter child care by 11 weeks of age, are in care for close to 30 hours a week, and often stay in some form of child care until they enter school. During that same period of life, a child's brain is undergoing a series of extraordinary changes.

In the first 3 years of life, the brain either makes the connections it needs for learning or it atrophies, making later efforts at remediation in learning, behavior, and thinking difficult, at best. The experiences and stimulation that a caretaker provide to a child are the foundations upon which all future learning is built. The brain's greatest and most critical growth spurt is between birth and 10 years of age—precisely the time when non-parental child care is most frequently utilized. A Time magazine special report on "How a Child's Brain Develops" (February 3, 1997) said it best, ". . . Good, affordable day care is not a luxury or a fringe benefit for welfare mothers and working parents but essential brain food for the next generation." While bad child care can seriously impair a child's development, high-quality child care significantly increases the chances of good developmental outcomes for children.

Think about it. At the most important time in the development of a child's brain, 12 million children are being cared for by people who are paid less than the person who picks up your garbage each week, and are required to have less training and less skills-based testing than the person who cuts your hair. Child care providers play an important role in a child's development, for they help fine-tune the child's capacity to think and process information, social skills, emotional health, and acquisition of language.

Last year, our goal in child care was to streamline Federal assistance by creating a cohesive structure for Federal assistance and to provide sufficient Government funds to subsidize child care for welfare recipients who were transitioning into work. This year our goal must be to promote the healthy development of children in child care. I am worried that the pressure of the need to accommodate the increasing demand for child care will force many into forgoing quality just to increase the number of child care slots available.

This amendment, then, incorporates modifications to five different sections of the Tax Code. Each of the provisions has been included to solve a specific problem in an effort to improve the quality of child care. Taken as a whole, these provisions represent a comprehensive effort to increase the supply while simultaneously creating a demand for high-quality child care, and making it affordable for low- and middle-income families.

To offset the cost of these changes, my amendment reduces, but does not eliminate, the dependent care tax credit for upper-income taxpayers and the amount that an employee can place in a dependent care assistance plan used to reimburse non-accredited or non-credential child care is gradually decreased. In addition, the amendment expands the coordinated enforcement efforts of the Internal Revenue Service and the HHS Office of Child Support Enforcement, which will significantly reduce the amount of fraud related to illegal tax deduction and credit claims by non-custodial parents.

The first provision in the amendment makes several changes in the Child and Dependent Care Tax Credit [CDCTC]. This tax credit is the largest tax-based subsidy for child care. My amendment raises the income level for the receipt of the highest percentage of employment-related child care costs from $10,000 to $20,000. The percentage is decreased at a rate of 1 percent for each additional $2,500 in adjusted gross income and sets a minimum percentage of 10 percent for incomes of $70,000 and above.

This change represents a more equitable distribution of limited resources based on the percentage of income a family must use to meet child care expenses. For families qualifying for the EITC, my amendment makes the child care tax credit refundable, on a quarterly basis. This will enable many low-income working families to move from part-time to full-time employment, by easing the burden of child care costs and having the money available at regular intervals throughout the year.

Finally, the amendment establishes, over a 5-year period, different rates for the tax credit, dependent on whether the child care is provided in an accredited child care facility or by a credentialed professional. This will reward parents who choose high-quality child care and help defray the additional costs of that care.

I am sensitive to the concerns of colleagues who object to reducing the child care tax credit. But before you judge this reduction too harshly, let's put it into perspective. The tax credit remains at or above the current rate of 20 percent for parents with adjusted gross incomes of $45,000 or less, regardless of the type of child care. The median income of families with children nationally is $37,000. While there are wide differences in between States, there are only four States where the median exceeds $45,000 AGI triggering a reduction in the current rate of 20 percent. Most States are significantly below this trigger.

At the end of the 5-year phase in period, the tax credit remains at or above the current 20 percent rate for families with an AGI of $55,000. No States have median incomes of families with children which exceed the $55,000 AGI level for high quality child care which triggers a reduction below current child care tax rate. Families with incomes at or above $70,000 will still receive a tax credit of 10 percent, increased to 12.5 percent if high quality care is used.

In terms of money, a 1 percent decrease in the child care tax credit equals $24 when care for one child is claimed, and $48 for two or more children. Families making $70,000 or more are the hardest hit by my amendment. Yet their maximum financial cost is $240 a year for one child, or $480 a year for two or more children—about half of one percent of their adjusted gross income.

The second area of changes occurs in the Dependent Care Assistance Plan [DCAP]. The amendment increases the amount that an employee can contribute to a DCAP account, if the funds are used to pay for the care of two or more eligible persons. In addition, the amount of DCAP contributions is increased for high-quality care and decreased for care that is provided by an unaccredited child care facility or a person who has not received a professional credential. These differential rates are phased in over a 5-year period in order for child care providers to achieve accreditation or become credentialed in child care.

Current law prohibits DCAP from being used to pay relatives for care. While I support needed controls on the use of DCAP accounts in most cases, my amendment would make a very limited exception to this prohibition. DCAP payments could be made to pay a parent or grandparent to care for a newborn child. The DCAP account could be joined at anytime during a pregnancy. The funds would be available for up to 12 months from the date of deposit into the employee's DCAP account—because babies have a timetable all their own when it comes time to be born.

The last change my amendment makes in DCAP is through the addition of a requirement that Federal employees have the opportunity to contribute to Dependent Care Assistance Plans. Private employees, as well as many State and local governments, have had DCAP available for their employees since 1981. Consistent with the intent of the Congressional Accountability Act, I want to make this child care subsidy available to Federal workers, including legislative branch employees.

Child care is a growing concern to businesses big and small. Employers are coming to the realization that affordable, convenient high-quality child care is a critical element in hiring and retaining skilled employees. Many companies, such as Johnson & Johnson, IBM, and others have been very innovative in providing child care assistance for their employees. Small businesses in particular are finding it difficult to meet the child care needs of their employees, but recognize the importance of that help.

I am defering to my colleague from Wisconsin, Senator Kohl, who has an excellent amendment providing a tax credit to businesses who provide child care services and support for their employees. My amendment included a similar provision, but because Senator Kohl has been working on this aspect of child care for so long, I dropped my provision and urge my colleagues to vote for his amendment as well as this one.

Current law prohibits businesses from receiving a charitable deduction for donations made to public entities, such as schools and child care services. My amendment will extend eligibility for a business charitable deduction to the donation of educational equipment and supplies donated to public schools, public child care providers and public child care support entities, such as resource and referral services. If child care is to improve and meet the developmental needs of our Nation's children, every available resource must be made available. Computers which are discarded because they are too slow or have insufficient hard drive capacity, can be the first step into the computer-age for a small child or the link to professional training for a child care provider.

A critical part of improving the quality of child care is professional development for child care providers. Since the 1970's there has been a decline in child care teacher salaries. In 1990, teachers in child care centers earned an average of $11,500 a year. Assistant teachers, the largest growing segment of child care professionals, were paid 10 to 20 percent less than child care teachers. The 1990 annual income of regulated family child care providers was $10,944 which translates to about $4 an hour. Nonregulated family child care, generally comprised of providers taking care of a smaller number of children, earned an average of $4,275 a year—substantially less than minimum wage. With these wages, it is easy to understand why more child care providers do not participate in professional training or attend college classes to improve their skills. The costs of applying for and receiving certification as a qualified child care professional are minimal, but understandably out of reach for many child care providers.

My amendment will exempt expenses directly related to child care accreditation or becoming credentialed from the 2 percent floor that is applied to miscellaneous itemized deductions. This will at least permit child care providers to receive a full deduction for the expenses associated with improving the child care services which they provide. This incentive for professional growth and the development of new skills is a small but critical part of my overall effort to support high-quality child care.

The last provision in my amendment creates a very limited exception to the executive use rule governing the tax deduction for home office expenses. The amendment will permit the mixed use of home office space for business and personal purposes to allow a person to care for his or her child. In some ways, the need for this exception comes down to fundamental fairness. How many school days, snow days and other times do children accompany their parents into work? I can always tell when the schools are unexpectedly closed, by the increased number of little people I see in Senate offices and eateries. I have been in Senate offices and other workplaces when a crib or playpen is clearly in evidence. Yet, none of us question whether our offices are exclusively for business use. One of the big incentives for telecommuting and home-based business is to allow parents to have more time with their families, yet existing law would keep a new mother from legitimately claiming a home office deduction if she has her child read a book or play in a corner of the room where she is working.

The need for high-quality child care is compelling. Having affordable, convenient child care is tied directly to a family's ability to produce income. Good child care can be an effective way to support the healthy development of children, particularly in the acquisition of social and language skills. For the millions of children who spend much of their pre-school lives being cared for by someone other than their parents, child care provides the foundation upon which all future education will be built—and determines to a large extent whether that foundation will be strong or weak.

As we all know, quality child care costs money. It costs money to parents who bear the biggest burden for the cost of child care. It costs businesses both through the direct assistance that they provide to employees to help with the costs of child care, and through their ability to hire and retain a skilled work force. It costs Government through existing tax provisions, direct spending, and discretionary spending targeted at child care. But the costs of not making this investment are even higher. Those costs can be measured in the cost of remedial education, the increase of an unskilled labor force, the increase in prison populations, and most importantly, the blunted potential of millions of children.

I urge my colleagues to support my amendment to the budget reconciliation act.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AN AMENDMENT TO BE PROPOSED BY SENATOR JEFFORDS ON THE BUDGET RECONCILIATION ACT OF 1997 TO IMPROVE THE QUALITY OF CHILD CARE

Changes to the Tax Code to encourage improvements in child care services and options for meeting employment-related child care needs—multiple provisions.

Proposed Amendment: To amend the Internal Revenue Code to encourage the demand for and supply of high quality child care by:

(1) Making the following changes in the Dependent Care Tax Credit—

(a) Increasing the percentage of child care expenses to 30 percent for families with incomes at or below $20,000 AGI; decreased at the rate of 1 percent for every $2,500 AGI over $20,000 to a minimum of 10 percent for AGI over $70,000

(b) Phasing in a differential percentage (over 5 years) if the child care is provided in an accredited center or by a credentialed professional; At the end of the phase in period, there is a 25 percent differential in the percentage of the tax credit between high-quality child care and other child care

(c) Making the Dependent Care Tax Credit refundable beginning in 2002, for taxpayers eligible for the EITC, including the differential percentage (see b above) for high quality child care.

(2) Making the following changes in the Dependent Care Assistance Program—

(a) The amount of money that can be placed in a Dependent Care Assistance Program by an employee is increased for accredited or credentialed child care, increased if there is more than one qualified dependent, and decreased if child care is provided in non-accredited child care or with a non-credentialed child care professional—phased in over 5 years

(b) An exception in the calendar year spending requirement and prohibition against its use to pay relatives for providing care is made to make it possible for a parent or grandparent to provide care for a newborn child

(c) Federal employees are provided the opportunity of enrolling in a dependent care assistance plan

(3) Extending the eligibility for businesses to take a qualified charitable deduction for the donation of educational equipment and material to public schools and accredited or credentialed non-profit child care providers and child care support entities.

(4) Exempting the expenses related to achieving and maintaining child care accreditation and credentialing from the 2 percent floor applicable to miscellaneous itemized deductions.

(5) Excepting the mixed use of home office space for business and personal purposes to allow for the care of a dependent from the exclusive use rule governing home office deductions.

Reasons for Change: The increase in the number or employed women with young children, combined with recent reforms in the welfare system, has placed tremendous pressures on states and communities to dramatically expand the amount of available child care. Studies on the relationship between quality child care and job retention, employment absenteeism, and job acquisition clearly identifies that the quality and safety of child care is as important as the existence of child care services. In addition, the recent research on the development of the human brain underscores how child care affects the development of the tomorrow's workers and citizens. The Committee for Economic Development recently issued a report which identified changes in federal tax policies, training of child care workers, incentives for certification, educational resources, and increased business involvement as critical to efforts to improve the quality of child care. The tax code changes included in this amendment address each of these issues.

Summary of each provision:

I. CHANGES TO THE DEPENDENT CARE TAX CREDIT

A. Percent of the current $2,400 work related child care expenses ($4,800 for 2 or more dependents):

Initial percentage reduced by 1 percent for each $2,500 by which the taxpayer's AGI exceeds $20,000 but does not exceed $70,000—rate does not reduce below 12.5 percent for accredited/credentialed child care, 10 percent for non-accredited/non-credentialed child care.

A 25 percent rate differential for accredited or credentialed child care (as defined in the bill) is phased in over 5 years.

For child care provided in non-accredited facilities or by non-credentialed providers, the initial percentage is 30 percent and the phase out percentage is 10 percent, regardless of the year.

Initial and phase out percentage for accredited/credentialied child care:

Taxable year beginning in—	Initial percent	Phaseout percent
1998	31.5	12.5
1999	33.0	12.5
2000	34.5	12.5
2001	36.0	12.5
2002	37.5	12.5

B: Credit made refundable for Low Income Tax Payers:

Applicable taxpayers are those for whom credit under section 32 of the tax code (EITC) is allowable for the taxable year.

Coordinated with advance payments and minimum tax rules, including eligibility certification and advance payment table.

Applies to taxable years beginning December 31, 2001.

II. EXPANSION OF DEPENDENT CARE ASSISTANCE PROGRAM

A. Change in Dollar Limitation:

Applies to child care only—not elder or other dependent care.

Change in rates for child in accredited/credentialed child care:

Taxable years beginning in:	For 1 qualifying child	2 or more qualifying child
1998	$5,200	$6,700
1999	5,400	6,900
2000	5,600	7,100
2001	5,800	7,300
2002 and thereafter	6,000	7,500

Change in rates for child NOT in accredited/credentialed child care:

Taxable years beginning in—	For 1 qualifying child	2 or more qualifying child
1998	$4,800	$6.300
1999	4,600	6.100
2000	4,400	5.900
2001	4,200	5,700
2002 and thereafter	4,000	5,500

B. Changes in eligibility for Dependent Care Assistance Program:

Exception in calendar year spending requirement and prohibition against using Dependent Care Assistance Program to pay relative providing care.

During pregnancy, parent may elect to join the employer's Dependent Care Assistance Program at any time during pregnancy.

If parent signs up during a pregnancy, each deposit into the individual's Dependent Care Assistance Account may be available for use for a 12 month period.

If parent signs up during a pregnancy, the funds may be used to reimburse a parent or spouse to remain at home with the newborn child as an alternative to placing the child in child care in order to return to work.

Federal employees must be provided with the opportunity to enroll in a Dependent Care Assistance Program.

III. CHARITABLE DEDUCTION FOR DONATING EDUCATIONAL EQUIPMENT & MATERIALS

Extending eligibility for qualified charitable deduction for business donation of educational equipment and materials to public schools, accredited or credentialed non-profit child care providers, and public or non-profit child care support entities.

IV. TAX DEDUCTION FOR SPECIFIC EDUCATIONAL EXPENSES FOR INDIVIDUAL CHILD CARE PROVIDERS

Exemption from the 2% floor on applicable to miscellaneous itemized deductions is provided for educational expenses directly related to achieving or maintaining child care accreditation or professional child care credentials for individuals deriving at least 60% of their taxable income through the provision of child care services.

V. CHANGE IN HOME OFFICE DEDUCTION

Limited exception to the exclusive use rule permitting mixed use of space for business and personal purposes in the case of taxpayers who conduct home-based business while caring for dependents.

Revenue Estimate: 4.11 Billion over 10 years.

Revenue Offset: To offset these increases, the dependent care tax credit is reduced (not eliminated) for upper-income taxpayers and the amount that an employee can place in a dependent care assistance plan used to reimburse non-accredited or non-credential child care is decreased. In addition, the amendment expands the coordinated enforcement efforts of the Internal Revenue Service and the HHS Office of Child Support Enforcement, which will significantly reduce the amount of fraud related to illegal tax deduction and credit claims by non-custodial parents.

For the Purpose of this Amendment:

The terms credential and accreditation are used to refer to formal credentialing and accreditation processes by a private non-profit or public entity that is state recognized (minimum requirements: age-appropriate health and safety standards, age-appropriate developmental and educational activities as an integral part of the program, outside monitoring of the program/individual, accreditation/credentialing instruments based on peer-validated research, programs/facilities meet any applicable state and local licensing requirements, and on-going staff development-training which includes related skills testing). There are several organizations and a few states that currently provide accreditation and/or credentialing for early childhood development programs, child care and child care providers.

LEVIN (AND McCAIN) AMENDMENT NO. 556

Mr. ROTH (for Mr. LEVIN for himself and Mr. MCCAIN) proposed an amendment to the bill, S. 949, supra; as follows:

On page 267, between lines 15 and 16, insert the following:

SEC. . SENSE OF THE SENATE REGARDING TAX TREATMENT OF STOCK OPTIONS.

(a) FINDINGS.—The Senate finds that—

(1) currently businesses can deduct the value of stock options as business expense on their income tax returns, even though the stock options are not treated as an expense on the books of these same businesses; and

(2) stock options are the only form of compensation that is treated in this way.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Committee on Finance of the Senate should hold hearings on the tax treatment of stock options.

ENZI (AND OTHERS) AMENDMENT NO. 557

Mr. ROTH (for Mr. ENZI for himself, Mr. HAGEL, Mr. HUTCHINSON, Mr. GRAMS, Mr. ROBERTS, Mr. INHOFE, Mr. THOMAS, Mr. ALLARD, Mr. LUGAR, Mr. SANTORUM, Mr. FRIST, Mr. BURNS, and Mr. SESSIONS) proposed an amendment to the bill, S. 949, supra; as follows:

At the appropriate place in the bill, insert the following:

SEC. . SENSE OF THE SENATE ON ESTATE TAXES.

(a) The Senate finds that whereas—

(1) The Federal estate tax punishes hard working small business owners and discourages savings and growth; and

(2) The Federal estate tax imposes an unfair economic burden on small businesses and reduces their ability to survive and compete with large corporations; and

(3) A reduction in Federal estate taxes for family-owned farms and enterprises will help to prevent the liquidation of small businesses that strengthen American communities by providing jobs and security;

(b) It is the Sense of the Senate that—

(1) The estate tax relief provided in this bill is an important step that will enable more family-owned farms and small businesses to survive and continue to provide economic security and job creation in American communities; and

(2) Congress should eliminate the Federal estate tax liability for family-owned businesses by the end of 2002 on a deficit-neutral basis.

DODD AMENDMENT NO. 558

Mr. ROTH (for Mr. DODD) proposed an amendment to the bill, S. 949, supra; as follows:

On page 77, between lines 11 and 12, insert the following:

SEC. . TREATMENT OF CANCELLATION OF CERTAIN STUDENT LOANS.

(a) CERTAIN LOANS BY EXEMPT ORGANIZATIONS.—

(1) IN GENERAL.—Paragraph (2) of section 108(f) (defining student loan) is amended by striking "or" at the end of subparagraph (B) and by striking subparagraph (D) and inserting the following:

"(D) any educational organization described in section 170(b)(1)(A)(ii) if such loan is made—

"(i) pursuant to an agreement with any entity described in subparagraph (A), (B), or (C) under which the funds from which the loan was made were provided to such educational organization, or

"(ii) pursuant to a program of such educational organization which is designed to encourage its students to serve in occupations with unmet needs or in areas with unmet needs and under which the services provided by the students (or former students) are for or under the direction of a governmental unit or an organization described in section 501(c)(3) and exempt from tax under section 501(a).

The term 'student loan' includes any loan made by an educational organization so described or by an organization exempt from tax under section 501(a) to refinance a loan meeting the requirements of the preceding sentence."

(2) EXCEPTION FOR DISCHARGES ON ACCOUNT OF SERVICES PERFORMED FOR CERTAIN LENDERS.—Subsection (f) of section 108 is amended by adding at the end the following new paragraph:

"(3) EXCEPTION FOR DISCHARGES ON ACCOUNT OF SERVICES PERFORMED FOR CERTAIN LENDERS.—Paragraph (1) shall not apply to the discharge of a loan made by an organization described in paragraph (2)(D) (or by an organization described in paragraph (2)(E) from funds provided by an organization described in paragraph (2)(D)) if the discharge is on account of services performed for either such organization."

(b) CERTAIN STUDENT LOANS THE REPAYMENT OF WHICH IS INCOME CONTINGENT.—Paragraph (1) of section 108(f) is amended by striking "any student loan if" and all that follows and inserting "any student loan if—

"(A) such discharge was pursuant to a provision of such loan under which all or part of the indebtedness of the individual would be discharged if the individual worked for a certain period of time in certain professions for any of a broad class of employers, or

"(B) in the case of a loan made under part D of title IV of the Higher Education Act of 1965 which has a repayment schedule established under section 455(e)(4) of such Act (relating to income contingent repayments), such discharge is after the maximum repayment period under such loan (as prescribed under such part)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to discharges of indebtedness after the date of the enactment of this Act.

GRAMS AMENDMENT NO. 559

Mr. ROTH (for Mr. GRAMS) proposed an amendment to the bill, S. 949, supra; as follows:

"(j) QUALIFIED GAMES OF CHANCE.—

(1) IN GENERAL.—The term 'unrelated trade or business' does not include the activity of qualified games of chance.

(2) QUALIFIED GAMES OF CHANCE.—For purposes of this subsection, the term 'qualified games of chance means any game of chance, other than provided in subsection (f), conducted by an organization if—

"(A) such organization is licensed pursuant to State law to conduct such game,

"(B) only organizations which are organized as nonprofit corporations or are exempt from tax under section 501(a) may be so licensed to conduct such game within the State, and

"(C) the conduct of such game does not violate State or local law."

DORGAN AMENDMENTS NOS. 560–561

Mr. ROTH (for Mr. DORGAN) proposed two amendments to the bill, S. 949, supra; as follows:

AMENDMENT NO. 560

On page 211, between lines 5 and 6, insert the following:

SEC. 724. DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT ACCOUNTS MAY BE USED WITHOUT PENALTY TO REPLACE OR REPAIR PROPERTY DAMAGED IN PRESIDENTIALLY DECLARED DISASTER AREAS.

(a) IN GENERAL.—Section 72(t)(2) (relating to exceptions to 10-percent additional tax on early distributions), as amended by sections 203 and 303, is amended by adding at the end the following new subparagraph:

"(G) DISTRIBUTIONS FOR DISASTER-RELATED EXPENSES.—Distributions from an individual retirement plan which are qualified disaster-related distributions."

(b) QUALIFIED DISASTER-RELATED DISTRIBUTIONS.—Section 72(t), as amended by sections 203 and 303, is amended by adding at the end the following new paragraph:

"(9) QUALIFIED DISASTER-RELATED DISTRIBUTIONS.—For purposes of paragraph (2)(E)—

"(A) IN GENERAL.—The term 'qualified disaster-related distribution' means any payment or distribution received by an individual to the extent that the payment or distribution is used by such individual within 60 days of the payment or distribution to pay for the repair or replacement of tangible property which is disaster-damaged property.

"(B) LIMITATIONS.—

"(i) ONLY DISTRIBUTIONS WITHIN 2 YEARS.—The term 'qualified disaster-related distribution' shall only include any payment or distribution which is made during the 2-year period beginning on the date of the determination referred to in subparagraph (D).

"(ii) DOLLAR LIMITATION.—Such term shall not include distributions to the extent the amount of such distributions exceeds $10,000 during the 2-year period described in clause (i).

"(C) DISASTER-DAMAGED PROPERTY.—The term 'disaster-damaged property' means property—

"(i) which was located in a disaster area on the date of the determination referred to in subparagraph (C), and

"(ii) which was destroyed or substantially damaged as a result of the disaster occurring in such area.

"(D) DISASTER AREA.—The term 'disaster area' means an area determined by the President during 1997 to warrant assistance by the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments and distributions after December 31, 1996, with respect to disasters occurring after such date.

SEC. 725. ELIMINATION OF 10 PERCENT FLOOR FOR DISASTER LOSSES.

(a) GENERAL RULE.—Section 165(h)(2)(A) (relating to net casualty loss allowed only to the extent it exceeds 10 percent of adjusted gross income) is amended by striking clauses (i) and (ii) and inserting the following new clauses:

"(i) the amount of the personal casualty gains for the taxable year,

"(ii) the amount of the federally declared disaster losses for the taxable year (or, if lesser, the net casualty loss), plus

"(iii) the portion of the net casualty loss which is not deductible under clause (ii) but only to the extent such portion exceeds 10 percent of the adjusted gross income of the individual.

For purposes of the preceding sentence, the term 'net casualty loss' means the excess of personal casualty losses for the taxable year over personal casualty gains."

(b) FEDERALLY DECLARED DISASTER LOSS DEFINED.—Section 165(h)(3) (relating to treatment of casualty gains and losses) is amended by adding at the end the following new subparagraph:

"(C) FEDERALLY DECLARED DISASTER LOSS.—

"(i) IN GENERAL.—The term 'federally declared disaster loss' means any personal casualty loss attributable to a disaster occurring during 1997 in an area subsequently determined by the President of the United States to warrant assistance by the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

"(ii) DOLLAR LIMITATION.—Such term shall not include personal casualty losses to the extent such losses exceed $10,000 for the taxable year."

(c) CONFORMING AMENDMENT.—The heading for section 165(h)(2) is amended by striking "NET CASUALTY LOSS" and inserting "NET NONDISASTER CASUALTY LOSS".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to losses attributable to disasters occurring after December 31, 1996, including for purposes of determining the portion of such losses allowable in taxable years ending before such date pursuant to an election under section 165(i) of the Internal Revenue Code of 1986.

AMENDMENT NO. 561

On page 211, between lines 5 and 6, insert the following:

SECTION 724. ABATEMENT OF INTEREST ON UNDERPAYMENTS BY TAXPAYERS IN PRESIDENTIALLY DECLARED DISASTER AREAS.

(a) IN GENERAL.—Section 6404 (relating to abatements) is amended by adding at the end the following:

"(h) ABATEMENT OF INTEREST ON UNDERPAYMENTS BY TAXPAYERS IN PRESIDENTIALLY DECLARED DISASTER AREAS.—

"(1) IN GENERAL.—If the Secretary extends for any period the time for filing income tax returns under section 6081 and the time for paying income tax with respect to such returns under section 6161 (and waives any penalties relating to the failure to so file or so pay) for any individual located in a Presidentially declared disaster area, the Secretary shall abate for such period the assessment of any interest prescribed under section 6601 on such income tax.

"(2) PRESIDENTIALLY DECLARED DISASTER AREA.—For purposes of paragraph (1), the term 'Presidentially declared disaster area' means, with respect to any individual, any area which the President has determined during 1997 warrants assistance for the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance.

"(3) INDIVIDUAL.—For purposes of this subsection, the term 'individual' shall not include any estate or trust."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to disasters declared after December 31, 1996.

BIDEN AMENDMENT NO. 562

Mr. ROTH (for Mr. BIDEN) proposed an amendment to the bill, S. 949, supra; as follows:

At the appropriate place, insert the following:

SEC. . SURVIVOR BENEFITS FOR PUBLIC SAFETY OFFICERS KILLED IN THE LINE OF DUTY.

IN GENERAL.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by redesignating section 138 as section 139 and by inserting after section 137 the following new section:

"SEC. 138. SURVIVOR BENEFITS ATTRIBUTABLE TO SERVICE BY A PUBLIC SAFETY OFFICER WHO IS KILLED IN THE LINE OF DUTY.

"(a) IN GENERAL.—Gross income shall not include any amount paid as a survivor annuity on account of the death of a public safety officer (as such term is defined in section 1204 of the Omnibus Crime Control and Safe Streets Act of 1968) killed in the line of duty—

"(1) if such annuity is provided under a governmental plan which meets the requirements of section 401(1) to the spouse (or a former spouse) of the public safety officer or to a child of such officer; and

"(2) to the extent such annuity is attributable to such officer's service as a public safety officer.

"(b) EXCEPTIONS.—

"(1) IN GENERAL.—Subsection (a) shall not apply with respect to the death of any public safety officer if—

"(A) the death was caused by the international misconduct of the officer or by such officer's intention to bring about such officer's death;

"(B) the officer was voluntarily intoxicated (as defined in section 1204 of the Omnibus Crime Control and Safe Streets Act of 1968) at the time of death; or

"(C) the officer was performing such officer's duties in a grossly negligent manner at the time of death.

"(2) EXCEPTION FOR BENEFITS PAID TO CERTAIN INDIVIDUALS.—Subsection (a) shall not apply to any payment to an individual whose actions were a substantial contributing factor at the death of the officer.

(b) EFFECTIVE DATE.—The amendments made by this subsection shall apply to amounts received in taxable years beginning after December 31, 1996, with respect to individuals dying after such date.

DODD (AND D'AMATO) AMENDMENT NO. 563

Mr. ROTH (for Mr. DODD for himself and Mr. D'AMATO) proposed an amendment to the bill, S. 949, supra; as follows:

On page 267, between lines 15 and 16, insert the following:

SEC. . TREATMENT OF CERTAIN DISABILITY BENEFITS RECEIVED BY FORMER POLICE OFFICERS OR FIREFIGHTERS.

(a) GENERAL RULE.—For purposes of determining whether any amount to which this section applies is excludable from gross income under section 104(a)(1) of the Internal Revenue Code of 1986, the following conditions shall be treated as personal injuries or sickness in the course of employment:

(1) Heart disease.

(2) Hypertension.

(b) AMOUNTS TO WHICH SECTION APPLIES.—his section shall apply to any amount—

(1) which is payable—

(A) to an individual (or to the survivors of an individual) who was a full-time employee of any police department or fire department which is organized and operated by a State, by any political subdivision thereof, or by any agency or instrumentality of a State or political subdivision thereof, and

(B) under a State law (as in existence on July 1, 1992) which irrebuttably presumed that heart disease and hypertension are work-related illnesses but only for employees separating from service before such date; and

(2) which is received in calendar year 1989, 1990, or 1991.

For purposes of the preceding sentence, the term "State" includes the District of Columbia.

(c) WAIVER OF STATUTE OF LIMITATIONS.—If, on the date of the enactment of this Act (or at any time within the 1-year period beginning on such date of enactment) credit or refund of any overpayment of tax resulting from the provisions of this section is barred by any law or rule of law, credit or refund of such overpayment shall, nevertheless, be allowed or made if claim therefore is filed before the date 1 year after such date of enactment.

SECTION . REMOVAL OF DOLLAR LIMITATION ON BENEFIT PAYMENTS FROM A DEFINED BENEFIT PLAN MAINTAINED FOR CERTAIN POLICE AND FIRE EMPLOYEES.

(a) IN GENERAL.—Subparagraph (G) of section 415(b)(2) of the Internal Revenue Code of 1986 is amended by striking "participant—" and all that follows and inserting "participant, subparagraphs (C) and (D) of this paragraph and subparagraph (B) of paragraph (1) shall not apply."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to years beginning after December 31, 1996.

BOXER AMENDMENT NO. 564

Mr. ROTH (for Mrs. BOXER) proposed an amendment to the bill, S. 949, supra; as follows:

On page 208, between lines 16 and 17, insert the following:

SEC. . DIVERSIFICATION IN SECTION 401(k) PLAN INVESTMENTS.

(a) LIMITATIONS ON INVESTMENT IN EMPLOYER SECURITIES AND EMPLOYER REAL PROPERTY BY CASH OR DEFERRED ARRANGEMENTS.—Section 407(d)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1107(d)(3)) is amended by adding at the end the following:

"(D)(i) The term 'eligible individual account plan' does not include that portion of an individual account plan that consists of elective deferrals (as defined in section 402(g)(3) of the Internal Revenue Code of 1986) pursuant to a qualified cash or deferred arrangement as defined in section 401(k) of the Internal Revenue Code of 1986 (and earnings allocable thereto) are required to be invested in qualifying employer securities or qualifying employer real property or both pursuant to the documents and instruments governing the plan or at the direction of a person other than the participant on whose behalf such elective deferrals are made to the plan (or the participant's beneficiary).

"(ii) For purposes of subsection (a), such portion shall be treated as a separate plan.

"(iii) This subparagraph shall not apply to an individual account plan if the fair market value of the assets of all individual account plans maintained by the employer equals not more than 10 percent of the fair market value of the assets of all pension plans maintained by the employer.

"(iv) This subparagraph shall not apply to an individual account plan that is an employee stock ownership plan as defined in section 409(a) or 4975(e)(7) of the Internal Revenue Code.".

(v) This subparagraph shall not apply to an individual account plan if not more than 1 percent of an employees eligible compensation deposited to the plan as an elective deferral (as so defined) is required to be invested in the qualifying employer securities.

(b) EFFECTIVE DATE.—(1) IN GENERAL.—The amendments made by this section shall apply to employer securities and employer real property acquired after the beginning of the first plan year beginning after the 90th day after the date of enactment of this Act.

(2) SPECIAL RULE FOR CERTAIN ACQUISITIONS.—Employer securities and employer real property acquired pursuant to a binding written contract to acquire such securities and real property in effect on the date of enactment of this Act and at all times thereafter, shall be treated as acquired immediately before such date.

DASCHLE AMENDMENT NO. 565

Mr. ROTH (for Mr. DASCHLE) proposed an amendment to the bill, S. 949, supra; as follows:

Beginning on page 189, line 24, strike "and" and all that follows through page 190, line 1, and insert the following:

"(III) capital expenditures related to rail operations for Class II or Class III rail carriers in the State,

"(IV) any project that is eligible to receive funding under section 5309, 5310, or 5311 of title 49, United States Code,

"(V) any project that is eligible to receive funding under section 130 of title 23, United States Code, and

"(VI) the payment of interest.

Mr. DASCHLE. Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the Record, as follows:

DASCHLE AMENDMENT TO S. 949 TO EXPAND USES OF INTERCITY PASSENGER RAIL FUND FOR NON-AMTRAK STATES

LIMITATIONS PROPOSED BY S. 949

The Finance Committee bill creates an Intercity Passenger Rail Fund financed by 0.5 cent per gallon of the federal fuel excise taxes primarily to finance Amtrak. The bill also sets aside 1% of annual program funds per year for each state with no Amtrak service. The six states currently lacking Amtrak service are South Dakota, Wyoming, Oklahoma, Maine, Alaska and Hawaii. However, the bill *limits* the use of those funds by non-Amtrak States to: (1) intercity passenger rail or bus service capital improvements and maintenance, or (2) The purchase of intercity passenger rail services from the National Railroad Passenger Corporation.

PROBLEMS POSED TO NON-AMTRAK STATES

South Dakota and some of the other non-Amtrak states have no passenger rail service and only limited intercity bus service. This type of funding would not significantly benefit these states, nor could they wisely invest funds in such service.

AMENDMENT ALLOWS NON-AMTRAK STATES TO USE FUNDS PRODUCTIVELY

The amendment would expand the use of funding provided to non-Amtrak states under this provision to include the expenditure of such funds for:

1. Rural and public transportation projects that are eligible for funding under Sections 5309 (discretionary transit-urban areas), 5310 (transit capital for the elderly and handicapped), and 5311 (rural transit capital and operations) of Title 49 USC. Rural public transportation (a portion of which is intercity in nature in transporting elderly and disabled from small towns to larger cities for medical care, shopping and other purposes, as well as providing local nutritional needs and mobility) is extremely important and needed in South Dakota in order to deal with the vast aging population in a sparsely populated area. During FY 1996 in the State, rural public transportation operators provided 1,114,672 rides and traveled 2,102,414 miles transporting the elderly and disabled of which over 50% of the rides were for medical, employment and nutritional needs. However, only about two-thirds of the State currently has access to limited Public Transportation, and over half of the existing transit vehicles in the providers' fleets are older than 7 years or have over 1000,000 miles. Therefore this funding would address significant public transit needs.

2. Rail/highway crossing safety projects that are eligible for funding under Section 130 of Title 23, USC. Only 219 out of 2025 of South Dakota's rail/highway crossings are signalized, and there is a tremendous unmet need to improve the safety of rail/highway crossings in the state.

3. Capital expenditures related to rail operations for Class II and Class III railroads within the state. Only railroads that are primarily regional carriers-not large railroads would be eligible for assistance. This is extremely important for states like South Dakota which depends on regional carriers and has made a major investment on its own and currently owns approximately 50% of the rail lines operating in the state in order to provide a core rail transportation system to benefit the state's agricultural economy.

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the public that two joint oversight hearings have been scheduled before the Committee on Energy and Natural Resources and the House Resources Committee.

The hearings will take place Wednesday, July 9, 1997 at 11 a.m. and Thursday, July 10, 1997 at 9:30 a.m. in room SD–366 of the Dirksen Senate Office Building in Washington, D.C.

The purpose of the hearings is to receive testimony on the Final Draft of the Tongass Land Management Plan as the first step in the congressional review process provided by the 1996 amendments to the Regulatory Flexibility Act.

Those who wish to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C. 20510. For further information, please call Judy Brown or Mark Rey at (202) 224–6170.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. ROTH. Mr. President, I ask unanimous consent that the Committee on Commerce, Science and Transportation be authorize to meet on Thursday, June 26, 1997, at 2 p.m. on pending committee business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. ROTH. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, June 26 for purposes of conducting a Subcommittee on Forests and Public Land Management hearing which is scheduled to begin at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. ROTH. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, June 26 for purposes of conducting a Subcommittee on National Parks, Historic Preservation, and Recreation hearing which is scheduled to begin at 2 p.m.

THE PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. ROTH. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee to meet on Thursday, June 26, at 4 p.m. for a business meeting on issues relating to the matter of issuing subpoenas for the special investigation hearings.

THE PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON SMALL BUSINESS

Mr. ROTH. Mr. President, I ask unanimous consent that the Committee on Small Business be authorized to meet during the session of the Senate on Thursday, June 26, 1997, to markup legislation pending in the Committee. The markup will begin at 9:30 a.m. in room 428A of the Russell Senate Office Building.

THE PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CLEAN AIR, WETLANDS, PRIVATE PROPERTY, AND NUCLEAR SAFETY

Mr. ROTH. Mr. President, I ask unanimous consent that the Subcommittee on Clean Air, Wetlands, Private Property, and Nuclear Safety be granted permission to conduct an oversight hearing Thursday, June 26, 1997, 9:30 a.m., Hearing Room (SD–406), on recent administrative changes and judicial decisions relating to Section 404 of the Federal Water Pollution Control Act.

THE PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INTERNATIONAL ECONOMIC POLICY, EXPORT AND TRADE PROMOTION

Mr. ROTH. Mr. President, I ask unanimous consent that the Subcommittee on International Economic Policy, Export and Trade Promotion of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, June 26, 1997, at 9:30 a.m. to hold a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INVESTIGATIONS

Mr. ROTH. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Thursday, June 26, 1997, to hold a hearing on the prevalence of waste fraud and abuse in the health care industry, with particular focus on Medicare.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SECURITIES

Mr. ROTH. Mr. President, I ask unanimous consent that the Subcommittee on Securities of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, June 26, 1997, to conduct an oversight hearing on Social Security investments in the securities markets.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

DAVID G. UNGER, ASSOCIATE CHIEF OF THE USDA FOREST SERVICE

● Ms. SNOWE. Mr. President, I would like to take a few minutes to recognize a distinguished civil servant and new resident of the State of Maine.

My colleagues know the value of having experienced, wise, and seasoned legislators in our midst to work through many of the difficult and complex issues we face on a daily basis. We can all appreciate the tremendous loss, therefore, at the Department of Agriculture when Associate Chief Dave Unger retires from his post at the Forest Service at the end of this month.

Mr. Unger has 40 years of experience working with natural resource issues in the public arena. Most recently he has been second in command at the Forest Service, engaged in the management of the National Forest System, the Forest Service research priorities, State and private forestry programs, international forestry issues, and administrative responsibilities. As one of the most heavily forested States in the country, Maine has benefitted from his leadership through technical assistance to landowners, advanced wood products manufacturing technology from the research program, and recreational opportunities in our own corner of the White Mountain National Forest.

In addition to serving as Associate Chief for the Forest Service, Mr. Unger was Deputy Assistant Secretary for Natural Resources and Environment, Associate Chief for the Soil Conservation Service, executive vice president of the National Association of Conservation Districts, Director of the Pennsylvania State Soil and Water Commission, among other leadership posts in the natural resources and conservation arena.

Recently, Mr. Unger was honored by the President of the United States with a Distinguished Executive Rank Award. In 1991, President Bush awarded him the Presidential Meritorious Executive Rank Award. He is a fellow of the Soil and Water Conservation Society and has been recognized by many other organizations for his contributions over a long and productive career helping farmers, conserving forests and protecting wildlife.

I am also pleased to say that Mr. Unger has chosen one of the most beautiful places in the world to retire with his wife, Carolyn. He will become a permanent resident of Maine where I am sure our communities, farmers, foresters, and others will continue to reap the benefits of his illustrious career. I want to welcome the Ungers Downeast, congratulate Mr. Unger on a full and productive career, and wish them both the best in their retirement in Maine.●

TRIBUTE TO MRS. MERRILL CATT AND THE RICE PADDY KIDS

● Mr. BUMPERS. Mr. President, I rise today to pay tribute to Mrs. Merrill Catt, a speech therapist in the Weiner, AR, public school system and eight of her students who participated in a year-long project entitled "The Rice Paddy Kids". This project was designed to teach economics and provide hands-on learning experience to the students who ranged from third to eighth grade and were receiving speech/language therapy and resource services.

Because the students live in the heart of the rice-producing region of Arkansas, which is the leading rice-producing State in the United States, the project focused on the production and marketing of rice. In the initial phase of the project the students gathered information and knowledge about rice and its economic impact locally and nationally. The second phase of the project consisted of hands-on learning opportunities as the students planned, advertised, and produced products containing rice and marketed their products to the student body and the community. In addition to the applications of economic concepts and basic skills contained in each phase, curriculum activities were incorporated to improve the students' individual language deficiencies. The students concluded the project by planning and implementing a rice banquet for their parents, business supporters, teachers, school administration and community members.

What I've just summarized in several paragraphs takes many long hours of hard work and dedication to plan, organize, and implement. This is the second economic project Mrs. Catt has successfully undertaken to expand the knowledge and capabilities of her speech and language students, and I commend her for her initiative and willingness to go the extra mile for the benefit of her students and school. In addition to teaching these students about rice, she has shown them what can be accomplished when the important principles of responsibility, cooperation, perseverance, and innovation are utilized. I also congratulate the eight "Rice Paddy Kids" for a job well done. Not only are these students the benefactors of the project but they are an integral part of its success. While educating and helping themselves, they also educated and benefited their school and community.

There are many school systems in Arkansas that are larger in terms of student population and funding than the Weiner school system. However, the accomplishments of Mrs. Catt and "The Rice Paddy Kids" are a perfect example of how bigger is not always better. They have demonstrated a principle in which I firmly believe: being from a small town is no excuse not to think big and achieve great things.•

TRIBUTE TO FLIP KLEFFNER

• Mr. CRAIG. Mr. President, today I would like to take a few moments to pay tribute to Flip Kleffner who, after a long and distinguished career as University of Idaho alumni director, will be retiring June 30.

I take a personal interest in his retirement because, as a fellow University of Idaho graduate, I've been the beneficiary of all his work.

Flip has served as alumni director for the past 15 years and has been involved with the University of Idaho most of his life. He is a former student body president and was a standout athlete who excelled at basketball, baseball, and football. In fact, he still holds the school record for the longest punt at 82 yards.

Flip has always made everything he does a very personal effort. In that regard, he's a tremendous example of how one person really can make a difference. He has quietly given countless hours of volunteer service to his community—in everything from youth sports to education—without expecting anything in return.

In addition, his efforts to continually improve the quality of education in Idaho have helped the State keep its best and brightest at home.

Flip has a wonderful sense of humor and is one of the most personable, pleasant people I have ever had the privilege of knowing. He will be greatly missed at the university, but I'm confident he'll remain an active force for good on campus—even in retirement.

He has had a remarkable career and I wish him all the best now as he enters this new chapter in his life.•

TRIBUTE TO DR. DAN DOYLE

• Mr. ROCKEFELLER. Mr. President, improvements in health care provide America with a sense of security. Knowing there are advancements in the medical field every day gives people hope that someday we will find cures for cancer, AIDS, leukemia, and other serious diseases. Although these advancements are notable, we cannot forget the small town doctors who are doing their part to help our fellow citizens stay healthy and fight medical problems.

That is why I take this opportunity to express admiration and appreciation for an outstanding West Virginia physician. Dr. Daniel B. Doyle has recently received the 1997 National Rural Health Association's Practitioner of the Year Award.

For 20 years, Dr. Doyle has served the health care needs of southern, rural West Virginia. Since 1977, he has directed the New River Family Health Center in Scarbro, WV. As its director, Dr. Doyle developed all the clinical systems, recruited staff, and helped guide the center's institutional policy, budget, and strategic planning. As a result of his tremendous efforts, the center now serves a county of over 50,000 people.

Today Dr. Doyle is a full-time family physician for the New River Family Health Center. Along with serving as the Director of Medical Education for the New River Health Association, he is also the director of the Fayette, Raleigh, and Nicholas rural health initiative consortium. As a small part of his endeavors with the New River Health Association, Dr. Doyle also works with the Hidden Valley Health Care Center, a 60-bed nursing home.

One of Dr. Doyle's colleagues, Jacquelynn A. Copenhaver, coordinator of the Rivers and Bridges Rural Health Education Partnerships Consortium, said, "Doyle is involved in his community through his willingness to serve his patients whenever the need arises. He does not hesitate to make home visits, and by making those home visits, he meets the needs of the families of his patients as well as the needs of the patients themselves."

I am extremely proud that one of this country's finest doctors is dedicated to serving the people of West Virginia. Knowing that the health of West Virginians is in such capable hands, I have added confidence that the future health of our State and Nation will get better and better.•

COMMENCEMENT ADDRESS OF PATRICIA FERRONE

• Mr. KERRY. Mr. President, I was given the opportunity recently to read a speech prepared by my Executive Assistant, Patricia Ferrone, on the occasion of her graduation from the University of Maryland University College. I think this speech embodies many of the ideals we often talk about here on the floor of the United States Senate, and I commend all of our colleagues to take a moment and read her very thoughtful and insightful perspectives on education today. I ask it be printed in the RECORD.

The speech follows:

COMMENCEMENT ADDRESS, UNIVERSITY OF MARYLAND CLASS OF 1997

My name is Patricia Ferrone, and two years ago I enrolled in the Open Learning program at the University of Maryland University College. Today, I am thrilled to be a member of the University of Maryland's class of 1997.

Twenty years ago, I adhered to a strict interpretation of Mark Twain's adage that you should never let schooling interfere with your education. After all, how in the world was I to get on with my life if all I did was go to school? How could I find a good job, make a living, and gain experience if all I did was sit in a classroom?

What I didn't realize then was that education is not designed to limit our experience, but to broaden our perspective. I didn't realize that education is a rite of passage from darkness to light, from ignorance to analysis, from having a narrow vision to acquiring a sweeping view of the immense, rich, and colorful world around us, and from living in one moment in space and time to understanding ourselves and our place in history and in the universe.

Twenty years ago, I didn't realize that education is much more than day to day experiences in a limited world. But today, I know that education is the difference between being and becoming; it is discovering that the world I live in is not the only world that exists. Today I know that education is timeless, and I've learned that education is a rite of passage to a true understanding of society, the world, and ultimately of ourselves.

The education we've been lucky enough to receive here at the University of Maryland, has not been about sitting in a classroom and learning to parrot mathematical functions or names and dates, or other people's ideas. It is more fundamental. Here, we have been taught how to think for ourselves and how to look into ourselves and our history and learn the reference points of civilization so that we fully comprehend and appreciate the times in which we live.

Therefore, it is important for all of us to understand that the education we have acquired here is not some kind of job training program. Because if we think it is, if we treat it like it is, then we will have failed, for we will have trapped ourselves in our time, never understanding that civilization is a continuing journey, and that there is a precedence for our failures and our success, and we must learn what they are.

Our society and our personal lives will always contain areas of uncertainty and confusion; we will always be confronted by more questions than answers. Education alone will never be a panacea for curing society's ills or for defeating our own personal challenges. But I am convinced that obtaining an education is a moral imperative for improving the quality of our own individual lives and, ultimately, improving the quality of life around us. Today I am certain that education is the key to the treasures of the universe, and it is also the key that unlocks the riches that lie inside each of us.

Over the past several years, we have all worked hard to earn our degrees. During the process, we were confronted by the anxieties of new possibilities, but our commitment to our goal inspired us to meet the challenge. We all refused to believe that we had limitations. So our graduation today is a personal rite of passage that we should all be proud of and should celebrate. But, my hope for all of us is that the passion that drove our commitment does not end here.

I can stand before you now and say with certainty that Mark Twain and I were wrong. It is through schooling that we learn the broader view of where we have been, and therefore understand where we are, so that we can logically think about where we want to go. I know the education I have received here has been my compass. It has set me on course and given me direction.

I am eternally grateful to all my instructors and to the University of Maryland University College for making this experience one of the richest and most profound learning experiences of my life. Now I understand that education is the catalyst that turns knowledge and experience into wisdom—and gaining wisdom is more than a rite of passage, it is a lifetime process.●

COMMENTS BY SENATOR SNOWE AT WOMEN'S SUFFRAGE STATUE REDEDICATION

● Ms. SNOWE. Mr. President, I would like to share with my colleagues a speech I gave today at the rededication ceremony for the Suffrage Statue. I ask that my speech be printed in the RECORD.

The speech follows:

Thank you, Lynn, for that kind introduction. It is a pleasure and honor to be here on a day that recognizes the importance of the role of women in our nation. Speaker Gingrich, you honor us with your presence and the women of America appreciate your efforts and support in returning this statue to its rightful place. And I would also like to commend Karen Staser and Joan Meecham, co-chairs of the Women's Suffrage Statute Campaign—what a wonderful day this must be to see your hard work come to fruition in such a splendid fashion.

And make no mistake: this effort has meant a great deal of hard work, and the colleagues I join today deserve special recognition for their tireless crusade to ensure that this statue is part of these hallowed halls. The outstanding attendance at this ceremony here in the Rotunda speaks to the symbolic importance of this re-dedication.

As you know, for years this statue was relegated to the crypt beneath our feet. In fact, a fitting title for the story of the women's suffrage statue could be "Tales from the Crypt". While Lady Liberty has stood proudly atop the dome of the United States Capitol, the ladies who fought to make that liberty real for women have languished in its basement.

In 1995 when a number of us sought the relocation of the statue to its originally intended spot—the Rotunda—we thought that it was a little thing to ask. We never could have imagined that this request, which on its merits seemed so straightforward, would become so problematic. The bottom line is, the debate should not have been about the weight of the statue, but the weight of an argument . . . and the worth of a just cause. When Susan B. Anthony said, "What is this little thing we are asking for? It seems so little, yet it is everything" she was talking about a woman's right to vote—but she could have been speaking about the moving of her own statue.

The difficult and circuitous journey these ladies have had from Crypt to Rotunda is in many ways emblematic of women's struggles for justice and equality throughout our history. For too long, women in this country had to endure the myth of what—or where—a "woman's place" should be. According to the out-of-date stereotype, a woman's place used to be only in the parlor, the kitchen, and, I suppose, the crypt. Since then, a lot has changed. Today, a woman's place is in the House, the Senate, and yes, in the Rotunda.

But it was not always this way. It took 73 long years beginning at the Seneca Falls Convention in 1848—spanning two centuries, eighteen Presidencies, and three wars—for women to get the right to vote. That's what it took before women won the right to shape their destinies through full participation in this republic.

Well, it's hard to believe that it has taken them 76 more years—and fourteen more Presidencies—to earn a place of dignity for these three women who fought valiantly for that right . . . three women who changed America—Susan B. Anthony, Elizabeth Cady Stanton, and Lucretia Mott.

But the day has finally arrived and I am extremely pleased to help celebrate their long-overdue "change of address", one that is fitting for the accomplishments they bestowed on a grateful nation. There is no question about the symbolic importance of their new home. The Rotunda is the epicenter, if you will, of our American democracy. The Rotunda is "the symbolic and physical heart of the United States Capitol", according to the Architect of the Capitol.

What that means is simply this: what adorns the Rotunda matters. And having this statue here will matter to the throngs of Americans who come to Washington to be inspired by its symbolism. It will matter to the young girls who tours The Capitol and ask of the significance of these heroines. And it matters that visitors from the furthest flung reaches of the globe leave with no doubt about the importance we place on the participation of women in the greatest democracy that this world has ever seen.

The Rotunda's gilded halls will now not only reverberate with the images of our forefathers, but with our foremothers as well. Granted, the statues and monuments that have inhabited the Rotunda are of great men whose words and actions bequeathed a nation and people who today stand alone at the summit of civilization.

But we also know that women have played their roles in reaching the summit, as did these three women—Susan B. Anthony, Lucretia Mott, and Elizabeth Cady Stanton—in dedicating their lives to getting women into voting booths and out of the shadows of civic life. How could we do no less than to fight to bring their memory out of the shadows of the Crypt? After all, if we are to celebrate all that women have accomplished in America, we must celebrate those who gave life to our dreams. If we are to appreciate all that we have, we must appreciate those who fought for our opportunity to have it. And if we are to exercise our rights with strength and wisdom, we must understand that they came to us not by entitlement but by struggle.

As we bring the likenesses of these women into the light of day, so too do we take a step toward bringing history into the light of truth. Because for too long, women were the forgotten lines in the narrative of humankind. As these great ladies finally receive the recognition they have earned, let their spirit inspire us to honor and study other heroic women in history who also deserve recognition—like Sojourner Truth, who spoke so eloquently for African-American women. Indeed, it is my sincere hope that Sojourner Truth will soon join these ladies in the Rotunda where a woman of her courage and stature belongs.

Truth and her remarkable story also highlights the importance of the effort that has begun to create a National Women's History Museum. When you consider that we have memorialized Archie Bunker's chair and Norm's bar stool in a museum in the Nation's Capital—and I think that's fine—it's not unreasonable to think that there should be a place in Washington to memorialize all that women have contributed to America.

That's why I spearheaded a letter last month to President Clinton, signed by 20 of my Senate colleagues, urging him to establish a Task Force responsible for developing such a museum. This museum will ensure that women's accomplishments are never again relegated to the cellar of the annals of history.

So let us celebrate today and honor these three great American women. They had courage. They had tenacity. They had strength. And they've certainly had patience.

It's been 76 years since our country began to fulfill Susan B. Anthony's vision of "Men, their rights and nothing more; women, their rights and nothing less". It was the first dramatic step toward the realization that a country founded on the vestment of power in the people would not survive if over half those people were silenced. Let the story these women have to tell be silenced no longer. Let everyone who passes through this grandest of buildings forever hear their voices, and be inspired by lives led in pursuit of justice.

MEMORIAL TO KRISTY DANIELLE VAUGHN

● Mr. ALLARD. Mr President, Kristy Danielle Vaughn, daughter of Gary and Kelli Vaughn, of Joes, Co, was a promising young student about to report for duty this month at the United States Military Academy at West Point. She had been nominated for an appointment there by former U.S. Senator Hank Brown and myself when I served in the U.S. House of Representatives.

She was a leader in her high school government, 4-H Club, sports, and school organizations, and received numerous awards in all areas. With all these responsibilities, she also gave much of her time to the duties of her family's farm. This bright young woman was suddenly killed in an auto accident recently as she was on her way to the All State Basketball finals in Greeley, CO.

Kristy very actively contributed her time and talents to her school and her community. She will be greatly missed in Joes, and her opportunities and contributions at West Point will never be realized.●

TRIBUTE TO THE COMMUNITY OF MATTAWA, WA

● Mr. GORTON. Mr. President, last weekend, I had the opportunity to spend time along the banks of the Columbia River in the town of Mattawa, WA. I held a field hearing there to explore various proposals to preserve a stretch of the Columbia River's pristine beauty, and to ensure that one of our State's great natural assets remains protected.

The community of Mattawa opened its doors to me, to my staff, and to all of those who testified at and attended the public hearing, which attracted nearly 1,000 people. I want to thank the people of the community who so generously welcomed us, and worked so diligently to ensure that our hearing was a success. Without their attention to detail and enthusiasm, such civil discourse in so comfortable a setting would not have been possible. We could not have asked for finer hosts.

Our public hearing was held at the Saddle Mountain Intermediate School, in Mattawa. I would especially like to thank Dr. Bill Miller, superintendent of the Wahluke School District for all of his efforts on our behalf. Also, I would like to thank all of those in law enforcement, the school staff, and the volunteers who made our hearing such a success:

Mattawa Mayor Judy Essor; Ms. Luz Juarez-Stump, Saddle Mountain Intermediate School principal; Ms. Karen Hilliker, Saddle Mountain Intermediate School secretary; Mr. Mike Holland, Middle School principal; Mary Jane Holland, Wahluke School District staff; Mr. Steven Buckingham, teacher and advisor for the class of 1998; Ms. Lark Moore, Ms. Polly Weeks and Ms. Marlene Bird, staff for the Wahluke School District; Students from the Wahluke High School class of 1998, who provided us with wonderful refreshments; Andrea Eckenbuerg, chairwoman of the parent volunteers; Mr. Scott Egan, technical director for the school; Mr. Tim Schrag, maintenance supervisor; Chief of Policy Randy Blackburn and Chief Criminal Deputy Bryan Pratt who coordinated security for us.

These individuals made our visit comfortable and enjoyable, and I hope some day soon to be able to return to this beautiful, friendly part of our State.

Thank you all.•

TRIBUTE TO DR. JOHN MATHER

• Mr. SARBANES. Mr. President, it gives me great pleasure to rise today to recognize Dr. John Mather, a senior astrophysicist from Hyattsville, MD, who works at the nearby Goddard Space Flight Center [GSFC] in Greenbelt, MD. Dr. Mather has risen to the top of his field and was recently elected to the National Academy of Sciences for his distinguished and continued groundbreaking achievements in the area of original research.

As a senior Astrophysicist at Goddard, Dr. Mather serves as a Study Scientist for the Next Generation Space Telescope, which will be a successor to the Hubbel Space Telescope. He also serves as chair of the Anomaly Review Board for the HST NICMOS Instrumental as PI for the ARCADE/DIMES mission studies, as PI for a Long Term Astrophysics grant for the study of the anisotropy of the cosmic IR background, as well as other projects that will advance science well into the next century.

Since joining NASA in 1974, Dr. Mather has received a number of commendations and awards for his cutting edge work in the demanding field of astrophysics. Among his accomplishments are the Group Achievement Award from GSFC, the Exception Achievement Award, the John C. Lindsay Memorial Award, the Group Achievement Award, the Rotary National Space Achievement Award, the National Air and Space Museum Trophy, the American Institute of Aeronautics and Astronautics Space Science Award, an Honorary Doctor of Science Degree from Swarthmore College, and the Rumford Prize from the American Academy of Arts and Sciences.

In recent years, Dr. Mather has continued to publish on the topic of the COBE FIRAS Spectrum, the Far Infrared Absolute Spectrophotometer on the Cosmic Background Explorer and other topics, always maintaining his grasp of current scientific discoveries.

A native of New Jersey, Dr. Mather grew up on the Rutgers University Dairy Research Station where his father worked as a geneticist. He went on to graduate from Swarthmore College with highest honors in Physics. He received his doctorate in Physics in 1974 from the University of California at Berkeley. We in Maryland are certainly delighted that he has since decided to become a member of the Hyattsville community and a prominent member of the NASA presence in the state.

Mr. President, Dr. Mather's election to the National Academy of Sciences is a tremendous milestone in this public servant's already magnificent career. As Dr. Mather continues to be a rising star in the astrophysics community it is truly an honor to recognize this fine Marylander for his accomplishments and I wish him continued success in future endeavors.•

BALANCED BUDGET RECONCILIATION ACT OF 1997

• Mr. SPECTER. Mr. President, I wish to explain my vote against waiving the Budget Act on the point of order raised by Senator ROCKEFELLER yesterday concerning the provisions in S. 947 on balance billing in the Medicare Program.

The Balanced Budget Act of 1997 includes a new Medicare Choice Program, allowing Medicare beneficiaries for the first time to choose from a wide range of options for receiving their Medicare coverage, including traditional fee-for-service plans, private fee-for-service plans, provider sponsored organizations, medical savings accounts, health maintenance organizations, and preferred provider organizations.

Within the context of Medicare Choice, there is an issue as to whether current law Medicare balance billing requirements should apply across the board. Under the Medicare Program, balance billing refers to the arrangement in which the Federal Government pays doctors at a given rate for treating a patient and doctors can charge up to a specific percentage above that amount.

This legislation exempts from balance billing requirements the new private fee-for-service plans and medical savings accounts. If the Rockefeller point of order were sustained and the exemptions eliminated, doctors would be less likely to participate in the Medicare Choice Program's fee-for-service or medical savings account options because balance billing would cap their charges. As a result, seniors would have fewer options for medical care under this new program. I would note that under this legislation, no senior citizen would be required to choose any specific option, and each person can analyze all of the options to determine which best suits his or her individual health care needs. Further, balance billing will still remain in effect for the other options under Medicare Choice. Accordingly, in order to maximize choices for Medicare beneficiaries, I supported the motion to waive the Budget Act to overcome the Rockefeller point of order.•

SUPREME COURT STRIKES DOWN THE COMMUNICATION DECENCY ACT

• Mr. FEINGOLD. Mr. President, I rise to applaud today's U.S. Supreme Court decision striking down the Communications Decency Act as an unconstitutional restriction of free speech on the Internet, affirming the 1996 lower court decision.

In striking down the provisions of the CDA, which effectively censors the speech of adults on the Internet, the Court stated "We agree with the District Court's conclusion that the CDA places an unacceptably heavy burden on protected speech." The Court concluded that the CDA "threatens to torch a large segment of the Internet community."

Mr. President, this decision is a victory not only for Internet users, it is a victory for all Americans who hold the first amendment right to free speech among their most cherished rights.

The Senator from Vermont [Senator LEAHY] and I spoke in opposition to the

CDA when it was first brought to the Senate floor in 1995 during consideration of the Telecommunications Act. The high court decision pointed out the many flaws of the CDA that the Senator from Vermont and I raised before the legislation was approved. Among other concerns, we pointed out that indecency restrictions which have been upheld when applied to other media, were unconstitutional when applied to the Internet due to its unique nature. We urged our colleagues to study the problem and the potential solutions more carefully before they rushed headlong to pass what we knew to be unconstitutional legislation. Ultimately, the CDA passed the Senate in June 1995 with only 2 hours of debate and no Congressional hearings. The lack of congressional consideration of the CDA's problems was among the reasons cited by the Court in its finding that the act violated the first amendment. In failing to carefully examine the problem, the Congress merely tied the CDA up in Court for over a year while getting no closer to its goal of protecting children on the Internet.

Both the Supreme Court, and the lower court before it, conducted an exhaustive review of the nature of the Internet and of the technologies that exist to protect children and concluded that the CDA was an unconstitutional restriction on the free speech of adults that was not narrowly tailored to the goal of protecting kids on the Net.

Specifically, Mr. President, the Supreme Court found that:

Other laws restricting speech that have been upheld by the Supreme Court are substantially different from the CDA. Fundamentally, the Court determined that unlike other media that have been subject to some speech restrictions, the Internet receives full first amendment protection. Additionally, the Court pointed out that restrictions previously upheld by the High Court have been time, place and manner restrictions, rather than "content-based blanket restriction on speech." Those differences bring into question the constitutionality of the CDA rather than confirming it.

The characteristics of other media that have some speech restrictions, such as the scarcity of broadcast spectrum and the invasive nature of broadcast media, do not apply to the Internet.

The combination of criminal penalties for violations and the vague nature of the "indecency" prohibition will chill speech on the Internet because speakers will not know which speech is prohibited and which is acceptable.

The breadth of the indecency standard in the CDA is unprecedented.

The CDA attempts to protect children by suppressing constitutionally protected speech of adults. This burden of speech is constitutionally unacceptable because less restrictive means of achieving the Government's goal are available.

Mr. President, the Supreme Court correctly struck down the Communications Decency Act. While this decision precludes enforcement of the act, Congress should act quickly to repeal the CDA. It is time to conduct a thorough and thoughtful review of constitutional methods to protect children on the Internet from those who would seek to harm them.

Mr. President, I urge my colleagues to read today's Supreme Court decision striking down the Communications Decency Act and work toward more effective solutions to protect our kids.●

THE BALANCED BUDGET ACT OF 1997

The text of H.R. 2015, as amended by S. 947, is as follows:

Resolved, That the bill from the House of Representatives (H.R. 2015) entitled "An Act to provide for reconciliation pursuant to section 104(a) of the concurrent resolution on the budget for fiscal year 1998.", do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Balanced Budget Act of 1997".

SEC. 2. TABLE OF TITLES.

The table of titles for this Act is as follows:

Title I. Committee on Agriculture, Nutrition, and Forestry.
Title II. Committee on Banking, Housing, and Urban Affairs.
Title III. Committee on Commerce, Science, and Transportation.
Title IV. Committee on Energy and Natural Resources.
Title V. Committee on Finance.
Title VI. Committee on Governmental Affairs.
Title VII. Committee on Labor and Human Resources.
Title VIII. Committee on Veterans' Affairs.

TITLE I—COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

SEC. 1001. HARDSHIP EXEMPTION.

Section 6(o) of the Food Stamp Act of 1977 (7 U.S.C. 2015(o)) is amended—

(1) in paragraph (2)(D), by striking "or (5)" and inserting "(5), or (6)";

(2) by redesignating paragraph (6) as paragraph (7); and

(3) by inserting after paragraph (5) the following:

"(6) 15-PERCENT HARDSHIP EXEMPTION.—

"(A) DEFINITIONS.—In this paragraph:

"(i) CASELOAD.—The term 'caseload' means the average monthly number of individuals receiving food stamps during the 12-month period ending the preceding June 30.

"(ii) COVERED INDIVIDUAL.—The term 'covered individual' means a food stamp recipient, or an individual denied eligibility for food stamp benefits solely due to paragraph (2), who—

"(I) is not eligible for an exception under paragraph (3);

"(II) does not reside in an area covered by a waiver granted under paragraph (4);

"(III) is not complying with subparagraph (A), (B), or (C) of paragraph (2);

"(IV) is not receiving food stamp benefits during the 3 months of eligibility provided under paragraph (2); and

"(V) is not receiving food stamp benefits under paragraph (5).

"(B) GENERAL RULE.—Subject to subparagraphs (C) through (F), a State agency may provide a hardship exemption from the requirements of paragraph (2) for covered individuals.

"(C) FISCAL YEAR 1998.—Subject to subparagraph (E), for fiscal year 1998, a State agency may provide a number of hardship exemptions such that the average monthly number of the exemptions in effect during the fiscal year does not exceed 15 percent of the number of covered individuals in the State in fiscal year 1998, as estimated by the Secretary, based on the survey conducted to carry out section 16(c) for fiscal year 1996 and such other factors as the Secretary considers appropriate due to the timing and limitations of the survey.

"(D) SUBSEQUENT FISCAL YEARS.—Subject to subparagraphs (E) and (F), for fiscal year 1999 and each subsequent fiscal year, a State agency may provide a number of hardship exemptions such that the average monthly number of the exemptions in effect during the fiscal year does not exceed 15 percent of the number of covered individuals in the State, as estimated by the Secretary under subparagraph (C), adjusted by the Secretary to reflect changes in the State's caseload and the Secretary's estimate of changes in the proportion of food stamp recipients covered by waivers granted under paragraph (4).

"(E) CASELOAD ADJUSTMENTS.—The Secretary shall adjust the number of individuals estimated for a State under subparagraph (C) or (D) during a fiscal year if the number of food stamp recipients in the State varies from the caseload by more than 10 percent, as determined by the Secretary.

"(F) EXEMPTION ADJUSTMENTS.—For fiscal year 1999 and each subsequent fiscal year, the Secretary shall increase or decrease the number of individuals who may be granted a hardship exemption by a State agency to the extent that the average monthly number of hardship exemptions in effect in the State for the preceding fiscal year is greater or less than the average monthly number of hardship exemptions estimated for the State agency for such preceding fiscal year.

"(G) REPORTING REQUIREMENT.—A State agency shall submit such reports to the Secretary as the Secretary determines are necessary to ensure compliance with this paragraph.".

SEC. 1002. ADDITIONAL FUNDING FOR EMPLOYMENT AND TRAINING.

Section 16(h) of the Food Stamp Act of 1977 (7 U.S.C. 2025(h)) is amended by striking paragraphs (1) and (2) and inserting the following:

"(1) IN GENERAL.—

"(A) AMOUNTS.—To carry out employment and training programs, the Secretary shall reserve for allocation to State agencies, to remain available until expended, from funds made available for each fiscal year under section 18(a)(1) the amount of—

"(i) for fiscal year 1996, $75,000,000;
"(ii) for fiscal year 1997, $79,000,000;
"(iii) for fiscal year 1998, $221,000,000;
"(iv) for fiscal year 1999, $224,000,000;
"(v) for fiscal year 2000, $226,000,000;
"(vi) for fiscal year 2001, $228,000,000; and
"(vii) for fiscal year 2002, $170,000,000.

"(B) ALLOCATION.—The Secretary shall allocate the amounts reserved under subparagraph (A) among the State agencies using a reasonable formula (as determined by the Secretary) that reflects the proportion of food stamp recipients who are not eligible for an exception under section 6(o)(3) that reside in each State, as estimated by the Secretary based on the survey conducted to carry out subsection (c) for fiscal year 1996 and such other factors as the Secretary considers appropriate due to the timing and limitations of the survey (as adjusted by the Secretary each fiscal year to reflect changes in each

State's caseload (as defined in section 6(o)(5)(A))).

"(C) REALLOCATION.—If a State agency will not expend all of the funds allocated to the State agency for a fiscal year under subparagraph (B), the Secretary shall reallocate the unexpended funds to other States (during the fiscal year or the subsequent fiscal year) as the Secretary considers appropriate and equitable.

"(D) MINIMUM ALLOCATION.—Notwithstanding subparagraph (B), the Secretary shall ensure that each State agency operating an employment and training program shall receive not less than $50,000 for each fiscal year.

"(E) PLACEMENTS.—Of the amount of funds reserved for a State agency for a fiscal year under subparagraphs (A) through (D), the State agency shall be eligible to receive for the fiscal year not more than an amount equal to the sum of—

"(i) the product obtained by multiplying—

"(I) the average monthly number of food stamp recipients who during the fiscal year—

"(aa) are not eligible for an exception under section 6(o)(3); and

"(bb) are placed in and comply with a program described in subparagraph (B) or (C) of section 6(o)(2), other than a program described in subparagraph (A) or (B) of section 6(o)(1); by

"(II) an amount determined by the Secretary to reflect the reasonable cost of efficiently and economically providing services that meet the requirements of subparagraph (B) or (C) of section 6(o)(2) to food stamp recipients described in subclause (I) for the fiscal year, as periodically adjusted by the Secretary; and

"(ii) the product obtained by multiplying—

"(I) the average monthly number of food stamp recipients in activities not described in clause (i)(I)(bb) who during the fiscal year are placed in and comply with an employment and training program; by

"(II) an amount determined by the Secretary to reflect the reasonable cost of efficiently and economically providing employment and training services to food stamp recipients described in subclause (I) for the fiscal year that is less than the amount determined under clause (i)(II), as periodically adjusted by the Secretary.

"(F) USE OF FUNDS.—Of the amount of funds a State agency receives under subparagraphs (A) through (E) for a fiscal year, not less than 75 percent shall be used by the State agency in the fiscal year to serve food stamp recipients described in subparagraph (E)(i)(I)(aa) who are placed in and comply with a program described in subparagraph (E)(i)(I)(bb).

"(G) MAINTENANCE OF EFFORT.—To receive an amount reserved under subparagraph (A), a State agency shall maintain the expenditures of the State agency for employment and training programs and workfare programs for any fiscal year under paragraph (2), and administrative expenses under section 20(g)(1), at a level that is not less than 75 percent of the level of the expenditures by the State agency to carry out the programs for fiscal year 1996.

"(2) ADDITIONAL PAYMENTS TO STATES.—If a State agency—

"(A) incurs costs to place individuals in employment and training programs, including the costs for case management and casework to facilitate the transition from economic dependency to self-sufficiency through work; and

"(B) does not use the funds provided under paragraph (1)(A) to defray the costs incurred;

the Secretary shall pay the State agency an amount equal to 50 percent of the costs incurred, subject to paragraph (3).".

SEC. 1003. DENIAL OF FOOD STAMPS FOR PRISONERS.

(a) STATE PLANS.—

(1) IN GENERAL.—Section 11(e) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)) is amended by striking paragraph (20) and inserting the following:

"(20) that the State agency shall establish a system and take action on a periodic basis—

"(A) to verify and otherwise ensure that an individual does not receive coupons in more than 1 jurisdiction within the State; and

"(B) to verify and otherwise ensure that an individual who is placed under detention in a Federal, State, or local penal, correctional, or other detention facility for more than 30 days shall not be eligible to participate in the food stamp program as a member of any household, except that—

"(i) the Secretary may determine that extraordinary circumstances make it impracticable for the State agency to obtain information necessary to discontinue inclusion of the individual; and

"(ii) a State agency that obtains information collected under section 1611(e)(1)(I)(i)(I) of the Social Security Act (42 U.S.C. 1382(e)(1)(I)(i)(I)) through an agreement under section 1611(e)(1)(I)(ii)(II) of that Act (42 U.S.C. 1382(e)(1)(I)(ii)(II)), or under another program determined by the Secretary to be comparable to the program carried out under that section, shall be considered in compliance with this subparagraph.".

(2) LIMITS ON DISCLOSURE AND USE OF INFORMATION.—Section 11(e)(8)(E) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(8)(E)) is amended by striking "paragraph (16)" and inserting "paragraph (16) or (20)(B)".

(3) EFFECTIVE DATE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this subsection shall take effect on the date that is 1 year after the date of enactment of this Act.

(B) EXTENSION.—The Secretary of Agriculture may grant a State an extension of time to comply with the amendments made by this subsection, not to exceed beyond the date that is 2 years after the date of enactment of this Act, if the chief executive officer of the State submits a request for the extension to the Secretary—

(i) stating the reasons why the State is not able to comply with the amendments made by this subsection by the date that is 1 year after the date of enactment of this Act;

(ii) providing evidence that the State is making a good faith effort to comply with the amendments made by this subsection as soon as practicable; and

(iii) detailing a plan to bring the State into compliance with the amendments made by this subsection as soon as practicable and not later than the date of the requested extension.

(b) INFORMATION SHARING.—Section 11 of the Food Stamp Act of 1977 (7 U.S.C. 2020) is amended by adding at the end the following:

"(q) DENIAL OF FOOD STAMPS FOR PRISONERS.—The Secretary shall assist States, to the maximum extent practicable, in implementing a system to conduct computer matches or other systems to prevent prisoners described in section 11(e)(20)(B) from receiving food stamp benefits.".

SEC. 1004. NUTRITION EDUCATION.

Section 11(f) of the Food Stamp Act of 1977 (7 U.S.C. 2020(f)) is amended—

(1) by striking "(f) To encourage" and inserting the following:

"(f) NUTRITION EDUCATION.—

"(1) IN GENERAL.—To encourage"; and

(2) by adding at the end the following:

"(2) GRANTS.—

"(A) IN GENERAL.—The Secretary shall make available not more than $600,000 for each of fiscal years 1998 through 2001 to pay the Federal share of grants made to eligible private nonprofit organizations and State agencies to carry out subparagraph (B).

"(B) ELIGIBILITY.—A private nonprofit organization or State agency shall be eligible to receive a grant under subparagraph (A) if the organization or agency agrees—

"(i) to use the funds to direct a collaborative effort to coordinate and integrate nutrition education into health, nutrition, social service, and food distribution programs for food stamp participants and other low-income households; and

"(ii) to design the collaborative effort to reach large numbers of food stamp participants and other low-income households through a network of organizations, including schools, child care centers, farmers' markets, health clinics, and outpatient education services.

"(C) PREFERENCE.—In deciding between 2 or more private nonprofit organizations or State agencies that are eligible to receive a grant under subparagraph (B), the Secretary shall give a preference to an organization or agency that conducted a collaborative effort described in subparagraph (B) and received funding for the collaborative effort from the Secretary before the date of enactment of this paragraph.

"(D) FEDERAL SHARE.—

"(i) IN GENERAL.—Subject to subparagraph (E), the Federal share of a grant under this paragraph shall be 50 percent.

"(ii) NO IN-KIND CONTRIBUTIONS.—The non-Federal share of a grant under this paragraph shall be in cash.

"(iii) PRIVATE FUNDS.—The non-Federal share of a grant under this paragraph may include amounts from private nongovernmental sources.

"(E) LIMIT ON INDIVIDUAL GRANT.—A grant under subparagraph (A) may not exceed $200,000 for a fiscal year.".

TITLE II—COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Subtitle A—Mortgage Assignment and Annual Adjustment Factors

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Sec. 2003. Adjustment of maximum monthly rents for certain dwelling units in new construction and substantial or moderate rehabilitation projects assisted under section 8 rental assistance program.
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Subtitle B—Multifamily Housing Reform

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PART 1—FHA-INSURED MULTIFAMILY HOUSING MORTGAGE AND HOUSING ASSISTANCE RESTRUCTURING

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SUBPART B—FHA MULTIFAMILY PROVISIONS

Sec. 2320. Civil money penalties against general partners, officers, directors, and certain managing agents of multifamily projects.

Sec. 2321. Civil money penalties for noncompliance with section 8 HAP contracts.

Sec. 2322. Extension of double damages remedy.

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SEC. 2002. EXTENSION OF FORECLOSURE AVOIDANCE AND BORROWER ASSISTANCE PROVISIONS FOR FHA SINGLE FAMILY HOUSING MORTGAGE INSURANCE PROGRAM.

Section 407 of The Balanced Budget Downpayment Act, I (12 U.S.C. 1710 note) is amended—

(1) in subsection (c)—

(A) by striking "only"; and

(B) by inserting ", on, or after" after "before"; and

(2) by striking subsection (e).

SEC. 2003. ADJUSTMENT OF MAXIMUM MONTHLY RENTS FOR CERTAIN DWELLING UNITS IN NEW CONSTRUCTION AND SUBSTANTIAL OR MODERATE REHABILITATION PROJECTS ASSISTED UNDER SECTION 8 RENTAL ASSISTANCE PROGRAM.

The third sentence of section 8(c)(2)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)(2)(A)) is amended by inserting before the period at the end the following: ", and during fiscal year 1999 and thereafter".

SEC. 2004. ADJUSTMENT OF MAXIMUM MONTHLY RENTS FOR NONTURNOVER DWELLING UNITS ASSISTED UNDER SECTION 8 RENTAL ASSISTANCE PROGRAM.

The last sentence of section 8(c)(2)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)(2)(A)) is amended by inserting before the period at the end the following: ", and during fiscal year 1999 and thereafter".

Subtitle B—Multifamily Housing Reform

SEC. 2100. SHORT TITLE.

This subtitle may be cited as the "Multifamily Assisted Housing Reform and Affordability Act of 1997".

Part 1—FHA-Insured Multifamily Housing Mortgage and Housing Assistance Restructuring

SEC. 2101. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) there exists throughout the Nation a need for decent, safe, and affordable housing;

(2) as of the date of enactment of this Act, it is estimated that—

(A) the insured multifamily housing portfolio of the Federal Housing Administration consists of 14,000 rental properties, with an aggregate unpaid principal mortgage balance of $38,000,000,000; and

(B) approximately 10,000 of these properties contain housing units that are assisted with project-based rental assistance under section 8 of the United States Housing Act of 1937;

(3) FHA-insured multifamily rental properties are a major Federal investment, providing affordable rental housing to an estimated 2,000,000 low- and very low-income families;

(4) approximately 1,600,000 of these families live in dwelling units that are assisted with project-based rental assistance under section 8 of the United States Housing Act of 1937;

(5) a substantial number of housing units receiving project-based assistance have rents that are higher than the rents of comparable, unassisted rental units in the same housing rental market;

(6) many of the contracts for project-based assistance will expire during the several years following the date of enactment of this Act;

(7) it is estimated that—

(A) if no changes in the terms and conditions of the contracts for project-based assistance are made before fiscal year 2000, the cost of renewing all expiring rental assistance contracts under section 8 of the United States Housing Act of 1937 for both project-based and tenant-based rental assistance will increase from approximately $3,600,000,000 in fiscal year 1997 to over $14,300,000,000 by fiscal year 2000 and some $22,400,000,000 in fiscal year 2006;

(B) of those renewal amounts, the cost of renewing project-based assistance will increase from $1,200,000,000 in fiscal year 1997 to almost $7,400,000,000 by fiscal year 2006; and

(C) without changes in the manner in which project-based rental assistance is provided, renewals of expiring contracts for project-based rental assistance will require an increasingly larger portion of the discretionary budget authority of the Department of Housing and Urban Development in each subsequent fiscal year for the foreseeable future;

(8) absent new budget authority for the renewal of expiring rental contracts for project-based assistance, many of the FHA-insured multifamily housing projects that are assisted with project-based assistance will likely default on their FHA-insured mortgage payments, resulting in substantial claims to the FHA General Insurance Fund and Special Risk Insurance Funds;

(9) more than 15 percent of federally assisted multifamily housing projects are physically or financially distressed, including a number which suffer from mismanagement;

(10) due to Federal budget constraints, the downsizing of the Department of Housing and Urban Development, and diminished administrative capacity, the Department lacks the ability to ensure the continued economic and physical well-being of the stock of federally insured and assisted multifamily housing projects; and

(11) the economic, physical, and management problems facing the stock of federally insured and assisted multifamily housing projects will be best served by reforms that—

(A) reduce the cost of Federal rental assistance, including project-based assistance, to these projects by reducing the debt service and operating costs of these projects while retaining the low-income affordability and availability of this housing;

(B) address physical and economic distress of this housing and the failure of some project managers and owners of projects to comply with management and ownership rules and requirements; and

(C) transfer and share many of the loan and contract administration functions and responsibilities of the Secretary with capable State, local, and other entities.

(b) PURPOSES.—The purposes of this part are—

(1) to preserve low-income rental housing affordability and availability while reducing the long-term costs of project-based assistance;

(2) to reform the design and operation of Federal rental housing assistance programs, administered by the Secretary, to promote greater multifamily housing project operating and cost efficiencies;

(3) to encourage owners of eligible multifamily housing projects to restructure their FHA-insured mortgages and project-based assistance contracts in a manner that is consistent with this part before the year in which the contract expires;

(4) to streamline and improve federally insured and assisted multifamily housing project oversight and administration;

(5) to resolve the problems affecting financially and physically troubled federally insured and assisted multifamily housing projects through cooperation with residents, owners, State and local governments, and other interested entities and individuals; and

(6) to grant additional enforcement tools to use against those who violate agreements and program requirements, in order to ensure that the public interest is safeguarded and that Federal multifamily housing programs serve their intended purposes.

SEC. 2102. DEFINITIONS.

In this part:

(1) COMPARABLE PROPERTIES.—The term "comparable properties" means properties that are—

(A) similar to the eligible multifamily housing project in neighborhood (including risk of crime), location, access, street appeal, age, property size, apartment mix, physical configuration, property and unit amenities, and utilities;

(B) unregulated by contractual encumbrances or local rent-control laws; and

(C) occupied predominantly by renters who receive no rent supplements or rental assistance.

(2) ELIGIBLE MULTIFAMILY HOUSING PROJECT.—The term "eligible multifamily housing project" means a property consisting of more than 4 dwelling units—

(A) with rents which, on an average per unit or per room basis, exceed the fair market rent or the rent of comparable properties in the same market area, as determined by the Secretary;

(B) that is covered in whole or in part by a contract for project-based assistance under—

(i) the new construction and substantial rehabilitation program under section 8(b)(2) of the United States Housing Act of 1937 (as in effect before October 1, 1983);

(ii) the property disposition program under section 8(b) of the United States Housing Act of 1937;

(iii) the moderate rehabilitation program under section 8(e)(2) of the United States Housing Act of 1937;

(iv) the loan management assistance program under section 8 of the United States Housing Act of 1937;

(v) section 23 of the United States Housing Act of 1937 (as in effect before January 1, 1975);

(vi) the rent supplement program under section 101 of the Housing and Urban Development Act of 1965; or

(vii) section 8 of the United States Housing Act of 1937, following conversion from assistance under section 101 of the Housing and Urban Development Act of 1965; and

(C) financed by a mortgage insured or held by the Secretary under the National Housing Act.

(3) EXPIRING CONTRACT.—The term "expiring contract" means a project-based assistance contract attached to an eligible multifamily housing project which, under the terms of the contract, will expire.

(4) EXPIRATION DATE.—The term "expiration date" means the date on which an expiring contract expires.

(5) FAIR MARKET RENT.—The term "fair market rent" means the fair market rental established under section 8(c) of the United States Housing Act of 1937.

(6) LOW-INCOME FAMILIES.—The term "low-income families" has the same meaning as provided under section 3(b)(2) of the United States Housing Act of 1937.

(7) PORTFOLIO RESTRUCTURING AGREEMENT.—The term "Portfolio restructuring agreement" means the agreement entered into between the Secretary and a participating administrative entity, as provided under section 2103.

(8) PARTICIPATING ADMINISTRATIVE ENTITY.—The term "participating administrative entity" means a public agency, including a State housing finance agency or local housing agency, which meets the requirements under section 2103(b).

(9) PROJECT-BASED ASSISTANCE.—The term "project-based assistance" means rental assistance under section 8 of the United States Housing Act of 1937 that is attached to a multifamily housing project.

(10) RENEWAL.—The term "renewal" means the replacement of an expiring Federal rental contract with a new contract under section 8 of the United States Housing Act of 1937, consistent with the requirements of this part.

(11) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

(12) STATE.—The term "State" has the same meaning as in section 104 of the Cranston-Gonzalez National Affordable Housing Act.

(13) TENANT-BASED ASSISTANCE.—The term "tenant-based assistance" has the same meaning as in section 8(f) of the United States Housing Act of 1937.

(14) UNIT OF GENERAL LOCAL GOVERNMENT.—The term "unit of general local government" has the same meaning as in section 104 of the Cranston-Gonzalez National Affordable Housing Act.

(15) VERY LOW-INCOME FAMILY.—The term "very low-income family" has the same meaning as in section 3(b) of the United States Housing Act of 1937.

(16) QUALIFIED MORTGAGEE.—The term "qualified mortgagee" means an entity approved by the Secretary that is capable of servicing, as well as originating, FHA-insured mortgages, and that—

(A) is not suspended or debarred by the Secretary;

(B) is not suspended or on probation imposed by the Mortgagee Review Board;

(C) is not in default under any Government National Mortgage Association obligation; and

(D) meets previous participation requirements.

SEC. 2103. AUTHORITY OF PARTICIPATING ADMINISTRATIVE ENTITIES.

(a) PARTICIPATING ADMINISTRATIVE ENTITIES.—

(1) IN GENERAL.—The Secretary shall enter into portfolio restructuring agreements with participating administrative entities for the implementation of mortgage restructuring and rental assistance sufficiency plans to restructure FHA-insured multifamily housing mortgages, in order to—

(A) reduce the costs of current and expiring contracts for assistance under section 8 of the United States Housing Act of 1937;

(B) address financially and physically troubled projects; and

(C) correct management and ownership deficiencies.

(2) PORTFOLIO RESTRUCTURING AGREEMENTS.—Each portfolio restructuring agreement entered into under this subsection shall—

(A) be a cooperative agreement to establish the obligations and requirements between the Secretary and the participating administrative entity;

(B) identify the eligible multifamily housing projects or groups of projects for which the participating administrative entity is responsible for assisting in developing and implementing approved mortgage restructuring and rental assistance sufficiency plans under section 2104;

(C) require the participating administrative entity to review and certify to the accuracy and completeness of a comprehensive needs assessment submitted by the owner of an eligible multifamily housing project, in accordance with the information and data requirements of section 403 of the Housing and Community Development Act of 1992, including such other data, information, and requirements as the Secretary may require to be included as part of the comprehensive needs assessment;

(D) identify the responsibilities of both the participating administrative entity and the Secretary in implementing a mortgage restructuring and rental assistance sufficiency plan, including any actions proposed to be taken under section 2106 or 2107;

(E) require each mortgage restructuring and rental assistance sufficiency plan to be prepared in accordance with the requirements of section 2104 for each eligible multifamily housing project;

(F) indemnify the participating administrative entity against lawsuits and penalties for actions taken pursuant to the agreement, excluding actions involving gross negligence or willful misconduct; and

(G) include compensation for all reasonable expenses incurred by the participating administrative entity necessary to perform its duties under this part, including such incentives as may be authorized under section 2108.

(b) SELECTION OF PARTICIPATING ADMINISTRATIVE ENTITY.—

(1) SELECTION CRITERIA.—The Secretary shall select a participating administrative entity based on the following criteria—

(A) is located in the State or local jurisdiction in which the eligible multifamily housing project or projects are located;

(B) has demonstrated expertise in the development or management of low-income affordable rental housing;

(C) has a history of stable, financially sound, and responsible administrative performance;

(D) has demonstrated financial strength in terms of asset quality, capital adequacy, and liquidity; and

(E) is otherwise qualified, as determined by the Secretary, to carry out the requirements of this part.

(2) SELECTION OF MORTGAGE RISK-SHARING ENTITIES AND FISCAL YEAR 1997 MULTIFAMILY DEMONSTRATION AUTHORITY.—Any State housing finance agency or local housing agency that is designated as a qualified participating entity under section 542 of the Housing and Community Development Act of 1992 or under section 212 of Public Law 104-204, shall automatically qualify as a participating administrative entity under this section.

(3) ALTERNATIVE ADMINISTRATORS.—With respect to any eligible multifamily housing project that is located in a State or local jurisdiction in which the Secretary determines that a participating administrative entity is not located, is unavailable, or does not qualify, the Secretary shall either—

(A) carry out the requirements of this part with respect to that eligible multifamily housing project; or

(B) contract with other qualified entities that meet the requirements of subsection (b), with the exception of subsection (b)(1)(A), the authority to carry out all or a portion of the requirements of this part with respect to that eligible multifamily housing project.

(4) PREFERENCE FOR PUBLIC HOUSING FINANCE AGENCIES AS PARTICIPATING ADMINISTRATIVE ENTITIES.—In selecting participating administrative entities under this subsection, the Secretary shall give preference to State housing finance agencies and local housing agencies.

(5) STATE AND LOCAL PORTFOLIO REQUIREMENTS.—

(A) IN GENERAL.—If the housing finance agency of a State is selected as the participating administrative entity, that agency shall be responsible for all eligible multifamily housing projects in that State, except that a local housing agency selected as a participating administrative entity shall be responsible for all eligible multifamily housing projects in the jurisdiction of the agency.

(B) RIGHT OF FIRST REFUSAL.—A participating State housing finance agency or local housing agency shall have the right of first refusal to assume responsibility for any properties it has financed.

(C) DELEGATION.—A participating administrative entity may delegate or transfer responsibilities and functions under this part to one or more interested and qualified public entities.

(D) WAIVER.—A State housing finance agency or local housing agency may request a waiver from the Secretary from the requirements of subparagraph (A) for good cause.

SEC. 2104. MORTGAGE RESTRUCTURING AND RENTAL ASSISTANCE SUFFICIENCY PLAN.

(a) IN GENERAL.—

(1) DEVELOPMENT OF PROCEDURES AND REQUIREMENTS.—The Secretary shall develop procedures and requirements for the submission of a mortgage restructuring and rental assistance sufficiency plan for each eligible multifamily housing project with an expiring contract.

(2) TERMS AND CONDITIONS.—Each mortgage restructuring and rental assistance sufficiency plan submitted under this subsection shall be developed at the initiative of an owner of an eligible multifamily housing project, in cooperation with the qualified mortgagee servicing the loan, with a participating administrative entity, under such terms and conditions as the Secretary shall require.

(3) CONSOLIDATION.—Mortgage restructuring and rental assistance sufficiency plans submitted under this subsection may be consolidated as part of an overall strategy for more than one property.

(b) NOTICE REQUIREMENTS.—The Secretary shall establish notice procedures and hearing requirements for tenants and owners concerning the dates for the expiration of project-based assistance contracts for any eligible multifamily housing project.

(c) EXTENSION OF CONTRACT TERM.—Subject to agreement by a project owner, the Secretary may extend the term of any expiring contract or provide a section 8 contract with rent levels set in accordance with subsection (g) for a period sufficient to facilitate the implementation of a mortgage restructuring and rental assistance sufficiency plan, as determined by the Secretary.

(d) TENANT RENT PROTECTION.—If the owner of a project with an expiring Federal rental assistance contract does not agree to extend the contract, not less than 12 months prior to terminating the contract, the project owner shall provide written notice to the Secretary and the tenants and the Secretary shall make tenant-based assistance available to tenants residing in units assisted under the expiring contract at the time of expiration.

(e) MORTGAGE RESTRUCTURING AND RENTAL ASSISTANCE SUFFICIENCY PLAN.—Each mortgage restructuring and rental assistance sufficiency plan shall—

(1) except as otherwise provided, restructure the project-based assistance rents for the eligible multifamily housing project in a manner consistent with subsection (g);

(2) allow for rent adjustments by applying an operating cost adjustment factor established under guidelines established by the Secretary;

(3) require the owner or purchaser of an eligible multifamily housing project with an expiring contract to submit to the participating administrative entity a comprehensive needs assessment, in accordance with the information and data requirements of section 403 of the Housing and Community Development Act of 1992, including such other data, information, and requirements as the Secretary may require to be included as part of the comprehensive needs assessment;

(4) require the owner or purchaser of the project to provide or contract for competent management of the project;

(5) require the owner or purchaser of the project to take such actions as may be necessary to rehabilitate, maintain adequate reserves, and to maintain the project in decent and safe condition, based on housing quality standards established by—

(A) the Secretary; or

(B) local housing codes or codes adopted by public housing agencies that—

(i) meet or exceed housing quality standards established by the Secretary; and

(ii) do not severely restrict housing choice;

(6) require the owner or purchaser of the project to maintain affordability and use restrictions for the remaining term of the existing mortgage and, if applicable, the remaining term of the second mortgage, as the participating administrative entity determines to be appropriate and consistent with the rent levels established under subsection (g), which restrictions shall be consistent with the long-term physical and financial viability character of the project as affordable housing;

(7) meet subsidy layering requirements under guidelines established by the Secretary;

(8) require the owner or purchaser of the project to meet such other requirements as the Secretary determines to be appropriate; and

(9) prohibit the owner from refusing to lease any available dwelling unit to a recipient of tenant-based assistance under section 8 of the United States Housing Act of 1937.

(f) TENANT AND COMMUNITY PARTICIPATION AND CAPACITY BUILDING.—

(1) PROCEDURES.—

(A) IN GENERAL.—The Secretary shall establish procedures to provide an opportunity for tenants of the project and other affected parties, including local government and the community in which the project is located, to participate effectively in the restructuring process established by this part.

(B) CRITERIA.—These procedures shall include—

(i) the rights to timely and adequate written notice of the proposed decisions of the owner or the Secretary or participating administrative entity;

(ii) timely access to all relevant information (except for information determined to be proprietary under standards established by the Secretary);

(iii) an adequate period to analyze this information and provide comments to the Secretary or participating administrative entity (which comments shall be taken into consideration by the participating administrative entity); and

(iv) if requested, a meeting with a representative of the participating administrative entity and other affected parties.

(2) PROCEDURES REQUIRED.—The procedures established under paragraph (1) shall permit tenant, local government, and community participation in at least the following decisions or plans specified in this part:

(A) The Portfolio Restructuring Agreement.

(B) Any proposed expiration of the section 8 contract.

(C) The project's eligibility for restructuring pursuant to section 2106 and the mortgage restructuring and rental assistance sufficiency plan pursuant to section 2104.

(D) Physical inspections.

(E) Capital needs and management assessments, whether before or after restructuring.

(F) Any proposed transfer of the project.

(3) FUNDING.—

(A) IN GENERAL.—The Secretary may provide not more than $10,000,000 annually in funding to tenant groups, nonprofit organizations, and public entities for building the capacity of tenant organizations, for technical assistance in furthering any of the purposes of this part (including transfer of developments to new owners) and for tenant services, from those amounts made available under appropriations Acts for implementing this part.

(B) ALLOCATION.—The Secretary may allocate any funds made available under subparagraph (A) through existing technical assistance programs pursuant to any other Federal law, including the Low-Income Housing Preservation and Resident Homeownership Act of 1990 and the Multifamily Property Disposition Reform Act of 1994.

(C) PROHIBITION.—None of the funds made available under subparagraph (A) may be used directly or indirectly to pay for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence in any manner a Member of Congress, to favor or oppose, by vote or otherwise, any legislation or appropriation by Congress, whether before or after the introduction of any bill or resolution proposing such legislation or appropriation.

(g) RENT LEVELS.—

(1) IN GENERAL.—Except as provided in paragraph (2), each mortgage restructuring and rental assistance sufficiency plan pursuant to the terms, conditions, and requirements of this part shall establish for units assisted with project-based assistance in eligible multifamily housing projects adjusted rent levels that—

(A) are equivalent to rents derived from comparable properties, if—

(i) the participating administrative entity makes the rent determination not later than 120 days after the owner submits a mortgage restructuring and rental assistance sufficiency plan; and

(ii) the market rent determination is based on not less than 2 comparable properties; or

(B) if those rents cannot be determined, are equal to 90 percent of the fair market rents for the relevant market area.

(2) EXCEPTIONS.—

(A) IN GENERAL.—A contract under this section may include rent levels that exceed the rent level described in paragraph (1) at rent levels that do not exceed 120 percent of the local fair market rent if the participating administrative entity—

(i) determines, that the housing needs of the tenants and the community cannot be adequately addressed through implementation of the rent limitation required to be established through a mortgage restructuring and rental assistance sufficiency plan under paragraph (1); and

(ii) follows the procedures under paragraph (3).

(B) EXCEPTION RENTS.—In any fiscal year, a participating administrative entity may approve exception rents on not more than 20 percent of all units in the geographic jurisdiction of the entity with expiring contracts in that fiscal year, except that the Secretary may waive this ceiling upon a finding of special need in the geographic area served by the participating administrative entity.

(3) RENT LEVELS FOR EXCEPTION PROJECTS.—For purposes of this section, a project eligible for an exception rent shall receive a rent calculation on the actual and projected costs of operating the project, at a level that provides income sufficient to support a budget-based rent that consists of—

(A) the debt service of the project;

(B) the operating expenses of the project, as determined by the participating administrative entity, including—

(i) contributions to adequate reserves;

(ii) the costs of maintenance and necessary rehabilitation; and

(iii) other eligible costs permitted under section 8 of the United States Housing Act of 1937;

(C) an adequate allowance for potential operating losses due to vacancies and failure to collect rents, as determined by the participating administrative entity;

(D) an allowance for a reasonable rate of return to the owner or purchaser of the project, as determined by the participating administrative entity, which may be established to provide incentives for owners or purchasers to meet benchmarks of quality for management and housing quality; and

(E) other expenses determined by the participating administrative entity to be necessary for the operation of the project.

(h) EXEMPTIONS FROM RESTRUCTURING.—Subject to section 2106, the Secretary shall renew project-based assistance contracts at existing rents, or at a level that provides income sufficient to support a budget-based rent (including a budget-based rent adjustment if justified by reasonable and expected operating expenses), if—

(1) the project was financed through obligations such that the implementation of a mortgage restructuring and rental assistance sufficiency plan under this section is inconsistent with applicable law or agreements governing such financing;

(2) in the determination of the Secretary or the participating administrative entity, the restructuring would not result in significant section 8 savings to the Secretary; or

(3) the project has an expiring contract under section 8 of the United States Housing Act of 1937 but does not qualify as an eligible multifamily housing project pursuant to section 2102(2) of this part.

SEC. 2105. SECTION 8 RENEWALS AND LONG-TERM AFFORDABILITY COMMITMENT BY OWNER OF PROJECT.

(a) SECTION 8 RENEWALS OF RESTRUCTURED PROJECTS.—Subject to the availability of amounts provided in advance in appropriations Acts, the Secretary shall enter into contracts with participating administrative entities pursuant to which the participating administrative entity shall offer to renew or extend an expiring section 8 contract on an eligible multifamily housing project, and the owner of the project shall accept the offer, provided the initial renewal is in accordance with the terms and conditions specified in the mortgage restructuring and rental assistance sufficiency plan.

(b) REQUIRED COMMITMENT.—After the initial renewal of a section 8 contract pursuant to this section, the owner shall accept each offer made pursuant to subsection (a) to renew the contract, for the remaining term of the existing mortgage and, if applicable, the remaining term of an existing second mortgage, if the offer to renew is on terms and conditions specified in the mortgage restructuring and rental assistance sufficiency plan.

SEC. 2106. PROHIBITION ON RESTRUCTURING.

(a) PROHIBITION ON RESTRUCTURING.—The Secretary shall not consider any mortgage restructuring and rental assistance sufficiency plan or request for contract renewal if the participating administrative entity determines that—

(1) the owner or purchaser of the project has engaged in material adverse financial or managerial actions or omissions with regard to this project (or with regard to other similar projects if the Secretary determines that those actions or omissions constitute a pattern of mismanagement that would warrant suspension or debarment by the Secretary), including—

(A) materially violating any Federal, State, or local law or regulation with regard to this project or any other federally assisted project, after receipt of notice and an opportunity to cure;

(B) materially breaching a contract for assistance under section 8 of the United States Housing Act of 1937, after receipt of notice and an opportunity to cure;

(C) materially violating any applicable regulatory or other agreement with the Secretary or a participating administrative entity, after receipt of notice and an opportunity to cure;

(D) repeatedly and materially violating any Federal, State, or local law or regulation with regard to the project or any other federally assisted project;

(E) repeatedly and materially breaching a contract for assistance under section 8 of the United States Housing Act of 1937;

(F) repeatedly and materially violating any applicable regulatory or other agreement with the Secretary or a participating administrative entity;

(G) repeatedly failing to make mortgage payments at times when project income was sufficient to maintain and operate the property;

(H) materially failing to maintain the property according to housing quality standards after receipt of notice and a reasonable opportunity to cure; or

(I) committing any actions or omissions that would warrant suspension or debarment by the Secretary;

(2) the owner or purchaser of the property materially failed to follow the procedures and requirements of this part, after receipt of notice and an opportunity to cure; or

(3) the poor condition of the project cannot be remedied in a cost effective manner, as determined by the participating administrative entity.

(b) OPPORTUNITY TO DISPUTE FINDINGS.—

(1) IN GENERAL.—During the 30-day period beginning on the date on which the owner or purchaser of an eligible multifamily housing project receives notice of a rejection under subsection (a) or of a mortgage restructuring and rental assistance sufficiency plan under section 2104, the Secretary or participating administrative entity shall provide that owner or purchaser with an opportunity to dispute the basis for the rejection and an opportunity to cure.

(2) AFFIRMATION, MODIFICATION, OR REVERSAL.—

(A) IN GENERAL.—After providing an opportunity to dispute under paragraph (1), the Secretary or the participating administrative entity may affirm, modify, or reverse any rejection under subsection (a) or rejection of a mortgage restructuring and rental assistance sufficiency plan under section 2104.

(B) REASONS FOR DECISION.—The Secretary or the participating administrative entity, as applicable, shall identify the reasons for any final decision under this paragraph.

(C) REVIEW PROCESS.—The Secretary shall establish an administrative review process to appeal any final decision under this paragraph.

(c) FINAL DETERMINATION.—Any final determination under this section shall not be subject to judicial review.

(d) DISPLACED TENANTS.—Subject to the availability of amounts provided in advance in appropriations Acts, for any low-income tenant that is residing in a project or receiving assistance under section 8 of the United States Housing Act of 1937 at the time of rejection under this section, that tenant shall be provided with tenant-based assistance and reasonable moving expenses, as determined by the Secretary.

(e) TRANSFER OF PROPERTY.—For properties disqualified from the consideration of a mortgage restructuring and rental assistance sufficiency plan under this section because of actions by an owner or purchaser in accordance with paragraph (1) or (2) of subsection (a), the Secretary shall establish procedures to facilitate the voluntary sale or transfer of a property as part of a mortgage restructuring and rental assistance sufficiency plan, with a preference for tenant organizations and tenant-endorsed community-based nonprofit and public agency purchasers meeting such reasonable qualifications as may be established by the Secretary, which purchasers shall be eligible to receive project-based assistance under section 8 of the United States Housing Act of 1937.

SEC. 2107. RESTRUCTURING TOOLS.

(a) RESTRUCTURING TOOLS.—In this part, and to the extent these actions are consistent with this section, an approved mortgage restructuring and rental assistance sufficiency plan may include one or more of the following:

(1) FULL OR PARTIAL PAYMENT OF CLAIM.—Making a full payment of claim or partial payment of claim under section 541(b) of the National Housing Act. Any payment under this paragraph shall not require the approval of a mortgagee.

(2) REFINANCING OF DEBT.—Refinancing of all or part of the debt on a project, if the refinancing would result in significant subsidy savings under section 8 of the United States Housing Act of 1937.

(3) MORTGAGE INSURANCE.—Providing FHA multifamily mortgage insurance, reinsurance or other credit enhancement alternatives, including multifamily risk-sharing mortgage programs, as provided under section 542 of the Housing and Community Development Act of 1992. Any limitations on the number of units available for mortgage insurance under section 542 shall not apply to eligible multifamily housing projects. Any credit subsidy costs of providing mortgage insurance shall be paid from the General Insurance Fund and the Special Risk Insurance Fund.

(4) CREDIT ENHANCEMENT.—Any additional State or local mortgage credit enhancements and risk-sharing arrangements may be established with State or local housing finance agencies, the Federal Housing Finance Board, the Federal National Mortgage Association, and the Federal Home Loan Mortgage Corporation, to a modified first mortgage.

(5) COMPENSATION OF THIRD PARTIES.—Entering into agreements, incurring costs, or making payments, as may be reasonably necessary, to compensate the participation of participating administrative entities and other parties in undertaking actions authorized by this part. Upon request, participating administrative entities shall be considered to be contract administrators under section 8 of the United States Housing Act of 1937 for purposes of any contracts entered into as part of an approved mortgage restructuring and rental assistance sufficiency plan. Subject to the availability of amounts provided in advance in appropriations Acts for administrative fees under section 8 of the United States Housing Act of 1937, such fees shall be used to compensate participating administrative entities for compliance monitoring costs incurred under section 2110.

(6) RESIDUAL RECEIPTS.—Applying any acquired residual receipts to maintain the long-term affordability and physical condition of the property or of other eligible multifamily housing projects. The participating administrative entity may expedite the acquisition of residual receipts by entering into agreements with owners of housing covered by an expiring contract to provide an owner with a share of the receipts, not to exceed 10 percent.

(7) REHABILITATION NEEDS.—Assisting in addressing the necessary rehabilitation needs of the project, except that assistance under this paragraph shall not exceed the equivalent of $5,000 per unit for those units covered with project-based assistance. Rehabilitation may be paid from the provision of grants from residual receipts or, as provided in appropriations Acts, from budget authority provided for increases in the budget authority for assistance contracts under section 8 of the United States Housing Act of 1937, the rehabilitation grant program established under section 2201 of this subtitle, or through the debt restructuring transaction. Each owner that receives rehabilitation assistance shall contribute not less than 25 percent of the amount of rehabilitation assistance received.

(8) MORTGAGE RESTRUCTURING.—Restructuring mortgages to provide a structured first mortgage to cover rents at levels that are established in section 2104(g) and a second mortgage equal to the difference between the restructured first mortgage and the mortgage balance of the eligible multifamily housing project at the time of restructuring. The second mortgage shall bear interest at a rate not to exceed the applicable Federal rate for a term not to exceed 50 years. If the first mortgage remains outstanding, payments of interest and principal on the second mortgage shall be made from a portion of the excess project income only after the payment of all reasonable and necessary operating expenses (including deposits in a reserve for replacement), debt service on the first mortgage, and such other expenditures as may be approved by the Secretary. Such portion shall be equal to not less than 75 percent of excess project income. The participating administrative entity may provide up to 25 percent of the excess project income to the project owner if the participating administrative entity determines that the project owner meets benchmarks of quality for management and housing quality. During the period in which the first mortgage remains outstanding, no payments of interest or principal shall be required on the second mortgage. The second mortgage shall be assumable by any subsequent purchaser of any multifamily housing project, pursuant to guidelines established by the Secretary. The participating administrative entity may be authorized to modify the terms or forgive all or part of the second mortgage upon acquisition by a tenant organization or tenant-endorsed community-based nonprofit or public agency, pursuant to guidelines established by the Secretary. The principal and accrued interest due under the second mortgage shall be fully payable upon disposition of the property, unless the mortgage is assumed under the preceding sentence. The owner shall begin repayment of the second mortgage upon full payment of the first mortgage in equal monthly installments in an amount equal to the monthly principal and interest payments formerly paid under the first mortgage. The principal and interest of a second mortgage shall be immediately due and payable upon a finding by the Secretary that an owner has failed to materially comply with this part or any requirements of the United States Housing Act of 1937 as those requirements apply to the applicable project, after receipt of notice of such failure and a reasonable opportunity to cure such failure. The second mortgage may be a direct obligation of the Secretary or a loan financed through a lender, other than the Secretary. If the second mortgage is a direct obligation of the Secretary, the participating administrative entity shall be authorized in the portfolio restructuring agreement to act as the agent of

the Secretary in servicing such mortgage and enforcing the rights of the Secretary thereunder. Any credit subsidy costs of providing a second mortgage shall be paid from the General Insurance Fund and the Special Risk Insurance Fund.

(b) ROLE OF FNMA AND FHLMC.—Section 1335 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4565) is amended—

(1) in paragraph (3), by striking "and" at the end;

(2) paragraph (4), by striking the period at the end and inserting "; and";

(3) by striking "To meet" and inserting the following:

"(a) IN GENERAL.—To meet"; and

(4) by adding at the end the following:

"(5) assist in maintaining the affordability of assisted units in eligible multifamily housing projects with expiring contracts, as defined under the Multifamily Assisted Housing Reform and Affordability Act of 1997.

"(b) AFFORDABLE HOUSING GOALS.—Actions taken under subsection (a)(5) shall constitute part of the contribution of each entity in meeting their affordable housing goals under sections 1332, 1333, and 1334 for any fiscal year, as determined by the Secretary.".

(c) PROHIBITION ON EQUITY SHARING BY THE SECRETARY.—The Secretary is prohibited from participating in any equity agreement or profit-sharing agreement in conjunction with any eligible multifamily housing project.

SEC. 2108. SHARED SAVINGS INCENTIVE.

(a) IN GENERAL.—At the time a participating administrative entity is designated, the Secretary shall negotiate an incentive agreement with the participating administrative entity, which agreement shall provide such entity with a share of any principal and interest payments on the second mortgage. The Secretary shall negotiate with participating administrative entities a savings incentive formula that provides for periodic payments over a period of not less than 5 years, which is allocated as incentives to participating administrative entities.

(b) USE OF SAVINGS.—Notwithstanding any other provision of law, the incentive agreement under subsection (a) shall require any savings provided to a participating administrative entity under that agreement to be used only for providing decent, safe, and affordable housing for very low-income families and persons with a priority for eligible multifamily housing projects.

SEC. 2109. MANAGEMENT STANDARDS.

Each participating administrative entity shall establish and implement management standards, including requirements governing conflicts of interest between owners, managers, contractors with an identity of interest, pursuant to guidelines established by the Secretary and consistent with industry standards.

SEC. 2110. MONITORING OF COMPLIANCE.

(a) COMPLIANCE AGREEMENTS.—Pursuant to regulations issued by the Secretary after public notice and comment, each participating administrative entity, through binding contractual agreements with owners and otherwise, shall ensure long-term compliance with the provisions of this part. Each agreement shall, at a minimum, provide for—

(1) enforcement of the provisions of this part; and

(2) remedies for the breach of those provisions.

(b) PERIODIC MONITORING.—

(1) IN GENERAL.—Not less than annually, each participating administrative entity shall review the status of all multifamily housing projects for which a mortgage restructuring and rental assistance sufficiency plan has been implemented.

(2) INSPECTIONS.—Each review under this subsection shall include onsite inspection to determine compliance with housing codes and other requirements as provided in this part and the portfolio restructuring agreements.

(c) AUDIT BY THE SECRETARY.—The Comptroller General of the United States, the Secretary, and the Inspector General of the Department of Housing and Urban Development may conduct an audit at any time of any multifamily housing project for which a mortgage restructuring and rental assistance sufficiency plan has been implemented.

SEC. 2111. REVIEW.

(a) ANNUAL REVIEW.—In order to ensure compliance with this part, the Secretary shall conduct an annual review and report to Congress on actions taken under this part and the status of eligible multifamily housing projects.

(b) SUBSIDY LAYERING REVIEW.—The participating administrative entity shall certify, pursuant to guidelines issued by the Secretary, that the requirements of section 102(d) of the Department of Housing and Urban Development Reform Act of 1989 are satisfied so that the combination of assistance provided in connection with a property for which a mortgage is to be restructured shall not be any greater than is necessary to provide affordable housing.

SEC. 2112. GAO AUDIT AND REVIEW.

(a) INITIAL AUDIT.—Not later than 18 months after the effective date of interim or final regulations promulgated under this part, the Comptroller General of the United States shall conduct an audit to evaluate a representative sample of all eligible multifamily housing projects and the implementation of all mortgage restructuring and rental assistance sufficiency plans.

(b) REPORT.—

(1) IN GENERAL.—Not later than 18 months after the audit conducted under subsection (a), the Comptroller General of the United States shall submit to Congress a report on the status of all eligible multifamily housing projects and the implementation of all mortgage restructuring and rental assistance sufficiency plans.

(2) CONTENTS.—The report submitted under paragraph (1) shall include—

(A) a description of the initial audit conducted under subsection (a); and

(B) recommendations for any legislative action to increase the financial savings to the Federal Government of the restructuring of eligible multifamily housing projects balanced with the continued availability of the maximum number of affordable low-income housing units.

SEC. 2113. REGULATIONS.

(a) RULEMAKING AND IMPLEMENTATION.—The Secretary shall issue interim regulations necessary to implement this part not later than the expiration of the 6-month period beginning on the date of enactment of this Act. Not later than 1 year after the date of enactment of this subtitle, in accordance with the negotiated rulemaking procedures set forth in subchapter III of chapter 5 of title 5, United States Code, the Secretary shall implement final regulations implementing this part.

(b) REPEAL OF FHA MULTIFAMILY HOUSING DEMONSTRATION AUTHORITY.—

(1) IN GENERAL.—Beginning upon the expiration of the 6-month period beginning on the date of enactment of this Act, the Secretary may not exercise any authority or take any action under section 210 of the Balanced Budget Down Payment Act, II.

(2) UNUSED BUDGET AUTHORITY.—Any unused budget authority under section 210(f) of the Balanced Budget Down Payment Act, II, shall be available for taking actions under the requirements established through regulations issued under subsection (a).

SEC. 2114. TECHNICAL AND CONFORMING AMENDMENTS.

(a) CALCULATION OF LIMIT ON PROJECT-BASED ASSISTANCE.—Section 8(d) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)) is amended by adding at the end the following:

"(5) CALCULATION OF LIMIT.—Any contract entered into under section 2104 of the Multifamily Assisted Housing Reform and Affordability Act of 1997 shall be excluded in computing the limit on project-based assistance under this subsection.".

(b) PARTIAL PAYMENT OF CLAIMS ON MULTIFAMILY HOUSING PROJECTS.—Section 541 of the National Housing Act (12 U.S.C. 1735f–19) is amended—

(1) in subsection (a), in the subsection heading, by striking "AUTHORITY" and inserting "DEFAULTED MORTGAGES";

(2) by redesignating subsection (b) as subsection (c); and

(3) by inserting after subsection (a) the following:

"(b) EXISTING MORTGAGES.—Notwithstanding any other provision of law, the Secretary, in connection with a mortgage restructuring under section 2104 of the Multifamily Assisted Housing Reform and Affordability Act of 1997, may make a one time, nondefault partial payment of the claim under the mortgage insurance contract, which shall include a determination by the Secretary or the participating administrative entity, in accordance with the Multifamily Assisted Housing Reform and Affordability Act of 1997, of the market value of the project and a restructuring of the mortgage, under such terms and conditions as the Secretary may establish.".

(c) REUSE AND RESCISSION OF CERTAIN RECAPTURED BUDGET AUTHORITY.—Section 8(bb) of the United States Housing Act of 1937 (42 U.S.C. 1437f(b)(b)) is amended to read as follows:

"(bb) REUSE AND RESCISSION OF CERTAIN RECAPTURED BUDGET AUTHORITY.—If a project-based assistance contract for an eligible multifamily housing project subject to actions authorized under title I is terminated or amended as part of restructuring under section 107, the Secretary shall recapture the budget authority not required for the terminated or amended contract and, without regard to section 218 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act of 1997, use such amounts as are necessary to provide housing assistance for the same number of families covered by such contract for the remaining term of such contract, under a contract providing for project-based or tenant-based assistance. The amount of budget authority saved as a result of the shift to project-based or tenant-based assistance shall be rescinded.".

SEC. 2115. TERMINATION OF AUTHORITY.

(a) IN GENERAL.—Except as provided in subsection (b), this part is repealed effective October 1, 2001.

(b) EXCEPTION.—The repeal under this section does not apply with respect to projects and programs for which binding commitments have been entered into before October 1, 2001.

Part 2—Miscellaneous Provisions

SEC. 2201. REHABILITATION GRANTS FOR CERTAIN INSURED PROJECTS.

Section 236 of the National Housing Act (12 U.S.C. 1715z–1) is amended by adding at the end the following:

"(s) GRANT AUTHORITY.—

"(1) IN GENERAL.—The Secretary may make grants for the capital costs of rehabilitation to owners of projects that meet the eligibility and other criteria set forth in, and in accordance with, this subsection.

"(2) PROJECT ELIGIBILITY.—A project may be eligible for capital grant assistance under this subsection—

"(A) if—

"(i) the project was insured under section 236 or section 221(d)(3) of the National Housing Act; and

"(ii) the project was assisted by the loan management assistance program under section 8 of

the United States Housing Act of 1937 on the date of enactment of the Multifamily Assisted Housing Reform and Affordability Act of 1997;

"(B) if the project owner agrees to maintain the housing quality standards that were in effect immediately prior to the extinguishment of the mortgage insurance;

"(C) if the Secretary determines that the owner or purchaser of the project has not engaged in material adverse financial or managerial actions or omissions with regard to this project (or with regard to other similar projects if the Secretary determines that those actions or omissions constitute a pattern of mismanagement that would warrant suspension or debarment by the Secretary), including—

"(i) materially violating any Federal, State, or local law or regulation with regard to this project or any other federally assisted project, after receipt of notice and an opportunity to cure;

"(ii) materially breaching a contract for assistance under section 8 of the United States Housing Act of 1937, after receipt of notice and an opportunity to cure;

"(iii) materially violating any applicable regulatory or other agreement with the Secretary or a participating administrative entity, after receipt of notice and an opportunity to cure;

"(iv) repeatedly failing to make mortgage payments at times when project income was sufficient to maintain and operate the property;

"(v) materially failing to maintain the property according to housing quality standards after receipt of notice and a reasonable opportunity to cure; or

"(vi) committing any act or omission that would warrant suspension or debarment by the Secretary; and

"(D) if the project owner demonstrates to the satisfaction of the Secretary—

"(i) using information in a comprehensive needs assessment, that capital grant assistance is needed for rehabilitation of the project; and

"(ii) that project income is not sufficient to support such rehabilitation.

"(3) ELIGIBLE PURPOSES.—The Secretary may make grants to the owners of eligible projects for the purposes of—

"(A) payment into project replacement reserves;

"(B) providing a fair return on equity investment;

"(C) debt service payments on non-Federal rehabilitation loans; and

"(D) payment of nonrecurring maintenance and capital improvements, under such terms and conditions as are determined by the Secretary.

"(4) GRANT AGREEMENT.—

"(A) IN GENERAL.—The Secretary shall provide in any grant agreement under this subsection that the grant shall be terminated if the project fails to meet housing quality standards, as applicable on the date of enactment of the Multifamily Housing Reform and Affordability Act of 1997, or any successor standards for the physical conditions of projects, as are determined by the Secretary.

"(B) AFFORDABILITY AND USE CLAUSES.—The Secretary shall include in a grant agreement under this subsection a requirement for the project owners to maintain such affordability and use restrictions as the Secretary determines to be appropriate.

"(C) OTHER TERMS.—The Secretary may include in a grant agreement under this subsection such other terms and conditions as the Secretary determines to be necessary.

"(5) DELEGATION.—

"(A) IN GENERAL.—In addition to the authorities set forth in subsection (p), the Secretary may delegate to State and local governments the responsibility for the administration of grants under this subsection. Any such government may carry out such delegated responsibilities directly or under contracts.

"(B) ADMINISTRATION COSTS.—In addition to other eligible purposes, amounts of grants under this subsection may be made available for costs of administration under subparagraph (A).

"(6) FUNDING.—

"(A) IN GENERAL.—For purposes of carrying out this subsection, the Secretary may make available amounts that are unobligated amounts for contracts for interest reduction payments—

"(i) that were previously obligated for contracts for interest reduction payments under this section until insurance under this section was extinguished;

"(ii) that become available as a result of the outstanding principal balance of a mortgage having been written down;

"(iii) that are uncommitted balances within the limitation on maximum payments that may have been, before the date of enactment of the Multifamily Assisted Housing Reform and Affordability Act of 1997, permitted in any fiscal year; or

"(iv) that become available from any other source.

"(B) LIQUIDATION AUTHORITY.—The Secretary may liquidate obligations entered into under this subsection under section 1305(10) of title 31, United States Code.

"(C) CAPITAL GRANTS.—In making capital grants under the terms of this subsection, using the amounts that the Secretary has recaptured from contracts for interest reduction payments, the Secretary shall ensure that the rates and amounts of outlays do not at any one time exceed the rates and amounts of outlays that would have been experienced if the insurance had not been extinguished or the principal amount had not been written down, and the interest reduction payments that the Secretary has recaptured had continued in accordance with the terms in effect immediately prior to such extinguishment or write-down.".

SEC. 2202. MINIMUM RENT.

Notwithstanding section 3(a) of the United States Housing Act of 1937, the Secretary of Housing and Urban Development may provide that each family receiving project-based assistance under section 8 shall pay a minimum monthly rent in an amount not to exceed $25 per month.

SEC. 2203. REPEAL OF FEDERAL PREFERENCES.

(a) SECTION 8 EXISTING AND MODERATE REHABILITATION.—Section 8(d)(1)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(1)(A)) is amended to read as follows:

"(A) the selection of tenants shall be the function of the owner, subject to the annual contributions contract between the Secretary and the agency, except that with respect to the certificate and moderate rehabilitation programs only, for the purpose of selecting families to be assisted, the public housing agency may establish, after public notice and an opportunity for public comment, a written system of preferences for selection that are not inconsistent with the comprehensive housing affordability strategy for the jurisdiction in which the project is located, in accordance with title I of the Cranston-Gonzalez National Affordable Housing Act;".

(b) SECTION 8 NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION.—

(1) REPEAL.—Section 545(c) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 1437f note) is amended to read as follows:

"(c) [Reserved.]".

(2) PROHIBITION.—The provisions of section 8(e)(2) of the United States Housing Act of 1937, as in existence on the day before October 1, 1983, that require tenant selection preferences shall not apply with respect to—

(A) housing constructed or substantially rehabilitated pursuant to assistance provided under section 8(b)(2) of the United States Housing Act of 1937, as in existence on the day before October 1, 1983; or

(B) projects financed under section 202 of the Housing Act of 1959, as in existence on the day before the date of enactment of the Cranston-Gonzalez National Affordable Housing Act.

(c) RENT SUPPLEMENTS.—Section 101(k) of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s(k)) is amended to read as follows:

"(k) [Reserved.]".

(d) CONFORMING AMENDMENTS.—

(1) UNITED STATES HOUSING ACT OF 1937.—The United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended—

(A) in section 6(o), by striking "preference rules specified in" and inserting "written selection criteria established pursuant to";

(B) in section 8(d)(2)(A), by striking the last sentence; and

(C) in section 8(d)(2)(H), by striking "Notwithstanding subsection (d)(1)(A)(i), an" and inserting "An".

(2) CRANSTON-GONZALEZ NATIONAL AFFORDABLE HOUSING ACT.—The Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12704 et seq.) is amended—

(A) in section 455(a)(2)(D)(iii), by striking "would qualify for a preference under" and inserting "meet the written selection criteria established pursuant to"; and

(B) in section 522(f)(6)(B), by striking "any preferences for such assistance under section 8(d)(1)(A)(i)" and inserting "the written selection criteria established pursuant to section 8(d)(1)(A)".

(3) LOW-INCOME HOUSING PRESERVATION AND RESIDENT HOMEOWNERSHIP ACT OF 1990.—The second sentence of section 226(b)(6)(B) of the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (12 U.S.C. 4116(b)(6)(B)) is amended by striking "requirement for giving preferences to certain categories of eligible families under" and inserting "written selection criteria established pursuant to".

(4) HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1992.—Section 655 of the Housing and Community Development Act of 1992 (42 U.S.C. 13615) is amended by striking "preferences for occupancy" and all that follows before the period at the end and inserting "selection criteria established by the owner to elderly families according to such written selection criteria, and to near-elderly families according to such written selection criteria, respectively".

(5) REFERENCES IN OTHER LAW.—Any reference in any Federal law other than any provision of any law amended by paragraphs (1) through (5) of this subsection or to the preferences for assistance under section 8(d)(1)(A)(i) of the United States Housing Act of 1937, as that section existed on the day before the effective date of this part, shall be considered to refer to the written selection criteria established pursuant to section 8(d)(1)(A) of the United States Housing Act of 1937, as amended by this subsection.

Part 3—Enforcement Provisions

SEC. 2301. IMPLEMENTATION.

(a) ISSUANCE OF NECESSARY REGULATIONS.—Notwithstanding section 7(o) of the Department of Housing and Urban Development Act or part 10 of title 24, Code of Federal Regulations (as in existence on the date of enactment of this Act), the Secretary shall issue such regulations as the Secretary determines to be necessary to implement this subtitle and the amendments made by this subtitle in accordance with section 552 or 553 of title 5, United States Code, as determined by the Secretary.

(b) USE OF EXISTING REGULATIONS.—In implementing any provision of this subtitle, the Secretary may, in the discretion of the Secretary, provide for the use of existing regulations to the extent appropriate, without rulemaking.

Subpart A—FHA Single Family and Multifamily Housing

SEC. 2311. AUTHORIZATION TO IMMEDIATELY SUSPEND MORTGAGEES.

Section 202(c)(3)(C) of the National Housing Act (12 U.S.C. 1708(c)(3)(C)) is amended by inserting after the first sentence the following: "Notwithstanding paragraph (4)(A), a suspension shall be effective upon issuance by the Board if the Board determines that there exists adequate evidence that immediate action is required to protect the financial interests of the Department or the public.".

SEC. 2312. EXTENSION OF EQUITY SKIMMING TO OTHER SINGLE FAMILY AND MULTIFAMILY HOUSING PROGRAMS.

Section 254 of the National Housing Act (12 U.S.C. 1715z–19) is amended to read as follows:

"SEC. 254. EQUITY SKIMMING PENALTY.

"(a) In General.—Whoever, as an owner, agent, or manager, or who is otherwise in custody, control, or possession of a multifamily project or a 1- to 4-family residence that is security for a mortgage note that is described in subsection (b), willfully uses or authorizes the use of any part of the rents, assets, proceeds, income, or other funds derived from property covered by that mortgage note for any purpose other than to meet reasonable and necessary expenses that include expenses approved by the Secretary if such approval is required, in a period during which the mortgage note is in default or the project is in a nonsurplus cash position, as defined by the regulatory agreement covering the property, or the mortgagor has failed to comply with the provisions of such other form of regulatory control imposed by the Secretary, shall be fined not more than $500,000, imprisoned not more than 5 years, or both.

"(b) Mortgage Notes Described.—For purposes of subsection (a), a mortgage note is described in this subsection if it—

"(1) is insured, acquired, or held by the Secretary pursuant to this Act;

"(2) is made pursuant to section 202 of the Housing Act of 1959 (including property still subject to section 202 program requirements that existed before the date of enactment of the Cranston-Gonzalez National Affordable Housing Act); or

"(3) is insured or held pursuant to section 542 of the Housing and Community Development Act of 1992, but is not reinsured under section 542 of the Housing and Community Development Act of 1992.".

SEC. 2313. CIVIL MONEY PENALTIES AGAINST MORTGAGEES, LENDERS, AND OTHER PARTICIPANTS IN FHA PROGRAMS.

(a) Change to Section Title.—Section 536 of the National Housing Act (12 U.S.C. 1735f–14) is amended by striking the section heading and the section designation and inserting the following:

"SEC. 536. CIVIL MONEY PENALTIES AGAINST MORTGAGEES, LENDERS, AND OTHER PARTICIPANTS IN FHA PROGRAMS.".

(b) Expansion of Persons Eligible for Penalty.—Section 536(a) of the National Housing Act (12 U.S.C. 1735f–14(a)) is amended—

(1) in paragraph (1), by striking the first sentence and inserting the following: "If a mortgagee approved under the Act, a lender holding a contract of insurance under title I, or a principal, officer, or employee of such mortgagee or lender, or other person or entity participating in either an insured mortgage or title I loan transaction under this Act or providing assistance to the borrower in connection with any such loan, including sellers of the real estate involved, borrowers, closing agents, title companies, real estate agents, mortgage brokers, appraisers, loan correspondents and dealers, knowingly and materially violates any applicable provision of subsection (b), the Secretary may impose a civil money penalty on the mortgagee or lender, or such other person or entity, in accordance with this section. The penalty under this paragraph shall be in addition to any other available civil remedy or any available criminal penalty, and may be imposed whether or not the Secretary imposes other administrative sanctions."; and

(2) in paragraph (2)—

(A) in the first sentence, by inserting "or such other person or entity" after "lender"; and

(B) in the second sentence, by striking "provision" and inserting "the provisions".

(c) Additional Violations for Mortgagees, Lenders, and Other Participants in FHA Programs.—Section 536(b) of the National Housing Act (12 U.S.C. 1735f–14(b)) is amended—

(1) by redesignating paragraph (2) as paragraph (3);

(2) by inserting after paragraph (1) the following:

"(2) The Secretary may impose a civil money penalty under subsection (a) for any knowing and material violation by a principal, officer, or employee of a mortgagee or lender, or other participants in either an insured mortgage or title I loan transaction under this Act or provision of assistance to the borrower in connection with any such loan, including sellers of the real estate involved, borrowers, closing agents, title companies, real estate agents, mortgage brokers, appraisers, loan correspondents, and dealers for—

"(A) submission to the Secretary of information that was false, in connection with any mortgage insured under this Act, or any loan that is covered by a contract of insurance under title I of this Act;

"(B) falsely certifying to the Secretary or submitting to the Secretary a false certification by another person or entity; or

"(C) failure by a loan correspondent or dealer to submit to the Secretary information which is required by regulations or directives in connection with any loan that is covered by a contract of insurance under title I."; and

(3) in paragraph (3), as redesignated, by striking "or paragraph (1)(F)" and inserting "or (F), or paragraph (2) (A), (B), or (C)".

(d) Conforming and Technical Amendments.—Section 536 of the National Housing Act (12 U.S.C. 1735f–14) is amended—

(1) in subsection (c)(1)(B), by inserting after "lender" the following: "or such other person or entity";

(2) in subsection (d)(1)—

(A) by inserting "or such other person or entity" after "lender"; and

(B) by striking "part 25" and inserting "parts 24 and 25"; and

(3) in subsection (e), by inserting "or such other person or entity" after "lender" each place that term appears.

Subpart B—FHA Multifamily Provisions

SEC. 2320. CIVIL MONEY PENALTIES AGAINST GENERAL PARTNERS, OFFICERS, DIRECTORS, AND CERTAIN MANAGING AGENTS OF MULTIFAMILY PROJECTS.

(a) Civil Money Penalties Against Multifamily Mortgagors.—Section 537 of the National Housing Act (12 U.S.C. 1735f–15) is amended—

(1) in subsection (b)(1), by striking "on that mortgagor" and inserting the following: "on that mortgagor, on a general partner of a partnership mortgagor, or on any officer or director of a corporate mortgagor";

(2) in subsection (c)—

(A) by striking the subsection heading and inserting the following:

"(c) Other Violations.—"; and

(B) in paragraph (1)—

(i) by striking "Violations.—The Secretary may" and all that follows through the colon and inserting the following:

"(A) Liable Parties.—The Secretary may also impose a civil money penalty under this section on—

"(i) any mortgagor of a property that includes five or more living units and that has a mortgage insured, coinsured, or held pursuant to this Act;

"(ii) any general partner of a partnership mortgagor of such property;

"(iii) any officer or director of a corporate mortgagor;

"(iv) any agent employed to manage the property that has an identity of interest with the mortgagor, with the general partner of a partnership mortgagor, or with any officer or director of a corporate mortgagor of such property; or

"(v) any member of a limited liability company that is the mortgagor of such property or is the general partner of a limited partnership mortgagor or is a partner of a general partnership mortgagor.

"(B) Violations.—A penalty may be imposed under this section upon any liable party under subparagraph (A) that knowingly and materially takes any of the following actions:";

(ii) in subparagraph (B), as designated by clause (i), by redesignating the subparagraph designations (A) through (L) as clauses (i) through (xii), respectively;

(iii) by adding after clause (xii), as redesignated by clause (ii), the following:

"(xiii) Failure to maintain the premises, accommodations, any living unit in the project, and the grounds and equipment appurtenant thereto in good repair and condition in accordance with regulations and requirements of the Secretary, except that nothing in this clause shall have the effect of altering the provisions of an existing regulatory agreement or federally insured mortgage on the property.

"(xiv) Failure, by a mortgagor, a general partner of a partnership mortgagor, or an officer or director of a corporate mortgagor, to provide management for the project that is acceptable to the Secretary pursuant to regulations and requirements of the Secretary."; and

(iv) in the last sentence, by deleting "of such agreement" and inserting "of this subsection";

(3) in subsection (d)—

(A) in paragraph (1)(B), by inserting after "mortgagor" the following: ", general partner of a partnership mortgagor, officer or director of a corporate mortgagor, or identity of interest agent employed to manage the property"; and

(B) by adding at the end the following:

"(5) Payment of Penalty.—No payment of a civil money penalty levied under this section shall be payable out of project income.";

(4) in subsection (e)(1), by deleting "a mortgagor" and inserting "an entity or person";

(5) in subsection (f), by inserting after "mortgagor" each place such term appears the following: ", general partner of a partnership mortgagor, officer or director of a corporate mortgagor, or identity of interest agent employed to manage the property";

(6) by striking the heading of subsection (f) and inserting the following: "Civil Money Penalties Against Multifamily Mortgagors, General Partners of Partnership Mortgagors, Officers and Directors of Corporate Mortgagors, and Certain Managing Agents"; and

(7) by adding at the end the following:

"(k) Identity of Interest Managing Agent.—In this section, the terms 'agent employed to manage the property that has an identity of interest' and 'identity of interest agent' mean an entity—

"(1) that has management responsibility for a project;

"(2) in which the ownership entity, including its general partner or partners (if applicable) and its officers or directors (if applicable), has an ownership interest; and

"(3) over which the ownership entity exerts effective control.".

(b) IMPLEMENTATION.—

(1) PUBLIC COMMENT.—The Secretary shall implement the amendments made by this section by regulation issued after notice and opportunity for public comment. The notice shall seek comments primarily as to the definitions of the terms "ownership interest in" and "effective control", as those terms are used in the definition of the terms "agent employed to manage the property that has an identity of interest" and "identity of interest agent".

(2) TIMING.—A proposed rule implementing the amendments made by this section shall be published not later than 1 year after the date of enactment of this Act.

(c) APPLICABILITY OF AMENDMENTS.—The amendments made by subsection (a) shall apply only with respect to—

(1) violations that occur on or after the effective date of the final regulations implementing the amendments made by this section; and

(2) in the case of a continuing violation (as determined by the Secretary of Housing and Urban Development), any portion of a violation that occurs on or after that date.

SEC. 2321. CIVIL MONEY PENALTIES FOR NONCOMPLIANCE WITH SECTION 8 HAP CONTRACTS.

(a) BASIC AUTHORITY.—Title I of the United States Housing Act of 1937 is amended—

(1) by designating the second section designated as section 27 (as added by section 903(b) of Public Law 104–193 (110 Stat. 2348)) as section 28; and

(2) by adding at the end the following:

"SEC. 29. CIVIL MONEY PENALTIES AGAINST SECTION 8 OWNERS.

"(a) IN GENERAL.—

"(1) EFFECT ON OTHER REMEDIES.—The penalties set forth in this section shall be in addition to any other available civil remedy or any available criminal penalty, and may be imposed regardless of whether the Secretary imposes other administrative sanctions.

"(2) FAILURE OF SECRETARY.—The Secretary may not impose penalties under this section for a violation, if a material cause of the violation is the failure of the Secretary, an agent of the Secretary, or a public housing agency to comply with an existing agreement.

"(b) VIOLATIONS OF HOUSING ASSISTANCE PAYMENT CONTRACTS FOR WHICH PENALTY MAY BE IMPOSED.—

"(1) LIABLE PARTIES.—The Secretary may impose a civil money penalty under this section on—

"(A) any owner of a property receiving project-based assistance under section 8;

"(B) any general partner of a partnership owner of that property; and

"(C) any agent employed to manage the property that has an identity of interest with the owner or the general partner of a partnership owner of the property.

"(2) VIOLATIONS.—A penalty may be imposed under this section for a knowing and material breach of a housing assistance payments contract, including the following—

"(A) failure to provide decent, safe, and sanitary housing pursuant to section 8; or

"(B) knowing or willful submission of false, fictitious, or fraudulent statements or requests for housing assistance payments to the Secretary or to any department or agency of the United States.

"(3) AMOUNT OF PENALTY.—The amount of a penalty imposed for a violation under this subsection, as determined by the Secretary, may not exceed $25,000 per violation.

"(c) AGENCY PROCEDURES.—

"(1) ESTABLISHMENT.—The Secretary shall issue regulations establishing standards and procedures governing the imposition of civil money penalties under subsection (b). These standards and procedures—

"(A) shall provide for the Secretary or other department official to make the determination to impose the penalty;

"(B) shall provide for the imposition of a penalty only after the liable party has received notice and the opportunity for a hearing on the record; and

"(C) may provide for review by the Secretary of any determination or order, or interlocutory ruling, arising from a hearing and judicial review, as provided under subsection (d).

"(2) FINAL ORDERS.—

"(A) IN GENERAL.—If a hearing is not requested before the expiration of the 15-day period beginning on the date on which the notice of opportunity for hearing is received, the imposition of a penalty under subsection (b) shall constitute a final and unappealable determination.

"(B) EFFECT OF REVIEW.—If the Secretary reviews the determination or order, the Secretary may affirm, modify, or reverse that determination or order.

"(C) FAILURE TO REVIEW.—If the Secretary does not review that determination or order before the expiration of the 90-day period beginning on the date on which the determination or order is issued, the determination or order shall be final.

"(3) FACTORS IN DETERMINING AMOUNT OF PENALTY.—In determining the amount of a penalty under subsection (b), the Secretary shall take into consideration—

"(A) the gravity of the offense;

"(B) any history of prior offenses by the violator (including offenses occurring before the enactment of this section);

"(C) the ability of the violator to pay the penalty;

"(D) any injury to tenants;

"(E) any injury to the public;

"(F) any benefits received by the violator as a result of the violation;

"(G) deterrence of future violations; and

"(H) such other factors as the Secretary may establish by regulation.

"(4) PAYMENT OF PENALTY.—No payment of a civil money penalty levied under this section shall be payable out of project income.

"(d) JUDICIAL REVIEW OF AGENCY DETERMINATION.—Judicial review of determinations made under this section shall be carried out in accordance with section 537(e) of the National Housing Act.

"(e) REMEDIES FOR NONCOMPLIANCE.—

"(1) JUDICIAL INTERVENTION.—

"(A) IN GENERAL.—If a person or entity fails to comply with the determination or order of the Secretary imposing a civil money penalty under subsection (b), after the determination or order is no longer subject to review as provided by subsections (c) and (d), the Secretary may request the Attorney General of the United States to bring an action in an appropriate United States district court to obtain a monetary judgment against that person or entity and such other relief as may be available.

"(B) FEES AND EXPENSES.—Any monetary judgment awarded in an action brought under this paragraph may, in the discretion of the court, include the attorney's fees and other expenses incurred by the United States in connection with the action.

"(2) NONREVIEWABILITY OF DETERMINATION OR ORDER.—In an action under this subsection, the validity and appropriateness of the determination or order of the Secretary imposing the penalty shall not be subject to review.

"(f) SETTLEMENT BY SECRETARY.—The Secretary may compromise, modify, or remit any civil money penalty which may be, or has been, imposed under this section.

"(g) DEPOSIT OF PENALTIES.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, if the mortgage covering the property receiving assistance under section 8 is insured or formerly insured by the Secretary, the Secretary shall apply all civil money penalties collected under this section to the appropriate insurance fund or funds established under this Act, as determined by the Secretary.

"(2) EXCEPTION.—Notwithstanding any other provision of law, if the mortgage covering the property receiving assistance under section 8 is neither insured nor formerly insured by the Secretary, the Secretary shall make all civil money penalties collected under this section available for use by the appropriate office within the Department for administrative costs related to enforcement of the requirements of the various programs administered by the Secretary.

"(h) DEFINITIONS.—In this section—

"(1) the term 'agent employed to manage the property that has an identity of interest' means an entity—

"(A) that has management responsibility for a project;

"(B) in which the ownership entity, including its general partner or partners (if applicable), has an ownership interest; and

"(C) over which such ownership entity exerts effective control; and

"(2) the term 'knowing' means having actual knowledge of or acting with deliberate ignorance of or reckless disregard for the prohibitions under this section.".

(b) APPLICABILITY.—The amendments made by subsection (a) shall apply only with respect to—

(1) violations that occur on or after the effective date of final regulations implementing the amendments made by this section; and

(2) in the case of a continuing violation (as determined by the Secretary of Housing and Urban Development), any portion of a violation that occurs on or after such date.

(c) IMPLEMENTATION.—

(1) REGULATIONS.—

(A) IN GENERAL.—The Secretary shall implement the amendments made by this section by regulation issued after notice and opportunity for public comment.

(B) COMMENTS SOUGHT.—The notice under subparagraph (A) shall seek comments as to the definitions of the terms "ownership interest in" and "effective control", as such terms are used in the definition of the term "agent employed to manage such property that has an identity of interest".

(2) TIMING.—A proposed rule implementing the amendments made by this section shall be published not later than 1 year after the date of enactment of this Act.

SEC. 2322. EXTENSION OF DOUBLE DAMAGES REMEDY.

Section 421 of the Housing and Community Development Act of 1987 (12 U.S.C. 1715z–4a) is amended—

(1) in subsection (a)(1)—

(A) in the first sentence, by striking "Act; or (B)" and inserting the following: "Act; (B) a regulatory agreement that applies to a multifamily project whose mortgage is insured or held by the Secretary under section 202 of the Housing Act of 1959 (including property subject to section 202 of such Act as it existed before enactment of the Cranston-Gonzalez National Affordable Housing Act of 1990); (C) a regulatory agreement or such other form of regulatory control as may be imposed by the Secretary that applies to mortgages insured or held by the Secretary under section 542 of the Housing and

Community Development Act of 1992, but not reinsured under section 542 of the Housing and Community Development Act of 1992; or (D)"; and

(B) in the second sentence, by inserting after "agreement" the following: ", or such other form of regulatory control as may be imposed by the Secretary,";

(2) in subsection (a)(2), by inserting after "Act," the following: "under section 202 of the Housing Act of 1959 (including section 202 of such Act as it existed before enactment of the Cranston-Gonzalez National Affordable Housing Act of 1990) and under section 542 of the Housing and Community Development Act of 1992,";

(3) in subsection (b), by inserting after "agreement" the following: ", or such other form of regulatory control as may be imposed by the Secretary,";

(4) in subsection (c)—

(A) in the first sentence, by inserting after "agreement" the following: ", or such other form of regulatory control as may be imposed by the Secretary,"; and

(B) in the second sentence, by inserting before the period the following: "or under the Housing Act of 1959, as appropriate"; and

(5) in subsection (d), by inserting after "agreement" the following: ", or such other form of regulatory control as may be imposed by the Secretary,".

SEC. 2323. OBSTRUCTION OF FEDERAL AUDITS.

Section 1516(a) of title 18, United States Code, is amended by inserting after "under a contract or subcontract," the following: "or relating to any property that is security for a mortgage note that is insured, guaranteed, acquired, or held by the Secretary of Housing and Urban Development pursuant to any Act administered by the Secretary,".

TITLE III—COMMITTEE ON COMMERCE SCIENCE AND TRANSPORTATION

Subtitle A—Spectrum Auctions and License Fees

SEC. 3001. SPECTRUM AUCTIONS.

(a) EXTENSION AND EXPANSION OF AUCTION AUTHORITY.—

(1) IN GENERAL.—Section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) is amended—

(A) by striking paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) GENERAL AUTHORITY.—If mutually exclusive applications are accepted for any initial license or construction permit that will involve an exclusive use of the electromagnetic spectrum, then, except as provided in paragraph (2), the Commission shall grant the license or permit to a qualified applicant through a system of competitive bidding that meets the requirements of this subsection. The Commission, subject to paragraphs (2) and (7) of this subsection, also may use auctions as a means to assign spectrum when it determines that such an auction is consistent with the public interest, convenience, and necessity, and the purposes of this Act.

"(2) EXCEPTIONS.—The competitive bidding authority granted by this subsection shall not apply to a license or construction permit the Commission issues—

"(A) for public safety services, including private internal radio services used by State and local governments and non-government entities, including emergency auto service by nonprofit organizations, that—

"(i) are used to protect the safety of life, health, or property; and

"(ii) are not made commercially available to the public;

"(B) for public telecommunications services, as defined in section 397(14) of this Act, when the license application is for channels reserved for noncommercial use;

"(C) for spectrum and associated orbits used in the provision of any communications within a global satellite system;

"(D) for initial licenses or construction permits for new digital television service given to existing terrestrial broadcast licensees to replace their current television licenses;

"(E) for terrestrial radio and television broadcasting when the Commission determines that an alternative method of resolving mutually exclusive applications serves the public interest substantially better than competitive bidding; or

"(F) for spectrum allocated for unlicensed use pursuant to part 15 of the Commission's regulations (47 C.F.R. part 15), if the competitive bidding for licenses would interfere with operation of end-user products permitted under such regulations.";

(B) by striking "1998" in paragraph (11) and inserting "2007"; and

(C) by inserting after paragraph (13) the following:

"(14) OUT-OF-BAND EFFECTS.—The Commission and the National Telecommunications and Information Administration shall seek to create incentives to minimize the effects of out-of-band emissions to promote more efficient use of the electromagnetic spectrum. The Commission and the National Telecommunications and Information Administration also shall encourage licensees to minimize the effects of interference.".

(2) CONFORMING AMENDMENT.—Subsection (i) of section 309 of the Communications Act of 1934 is repealed.

(b) AUCTION OF 45 MEGAHERTZ LOCATED AT 1,710–1,755 MEGAHERTZ.—

(1) IN GENERAL.—The Commission shall assign by competitive bidding 45 megahertz located at 1,710–1,755 megahertz no later than December 31, 2001, for commercial use.

(2) FEDERAL GOVERNMENT USERS.—Any Federal Government station that, on the date of enactment of this Act, is assigned to use electromagnetic spectrum located in the 1,710–1,755 megahertz band shall retain that use until December 31, 2003, unless exempted from relocation.

(c) COMMISSION TO MAKE ADDITIONAL SPECTRUM AVAILABLE BY AUCTION.—

(1) IN GENERAL.—The Federal Communications Commission shall complete all actions necessary to permit the assignment, by September 30, 2002, by competitive bidding pursuant to section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)), of licenses for the use of bands of frequencies currently allocated by the Commission that—

(A) in the aggregate span not less than 55 megahertz;

(B) are located below 3 gigahertz; and

(C) as of the date of enactment of this Act, have not been—

(i) designated by Commission regulation for assignment pursuant to section 309(j);

(ii) identified by the Secretary of Commerce pursuant to section 113 of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923); or

(iii) allocated for Federal Government use pursuant to section 305 of the Communications Act of 1934 (47 U.S.C. 305).

(2) CRITERIA FOR REASSIGNMENT.—In making available bands of frequencies for competitive bidding pursuant to paragraph (1), the Commission shall—

(A) seek to promote the most efficient use of the electromagnetic spectrum;

(B) consider the cost to incumbent licensees of relocating existing uses to other bands of frequencies or other means of communication;

(C) consider the needs of public safety radio services;

(D) comply with the requirements of international agreements concerning spectrum allocations; and

(E) coordinate with the Secretary of Commerce when there is any impact on Federal Government spectrum use.

(3) NOTIFICATION TO THE SECRETARY OF COMMERCE.—The Commission shall attempt to accommodate incumbent licensees displaced under this section by relocating them to other frequencies available to the Commission. The Commission shall notify the Secretary of Commerce whenever the Commission is not able to provide for the effective relocation of an incumbent licensee to a band of frequencies available to the Commission for assignment. The notification shall include—

(A) specific information on the incumbent licensee;

(B) the bands the Commission considered for relocation of the licensee; and

(C) the reasons the incumbent cannot be accommodated in these bands.

(4) REPORT TO THE SECRETARY OF COMMERCE.—

(A) TECHNICAL REPORT.—The Commission, in consultation with the National Telecommunications and Information Administration, shall submit a detailed technical report to the Secretary of Commerce setting forth—

(i) the reasons the incumbent licensees described in paragraph (3) could not be accommodated in existing non-government spectrum; and

(ii) the Commission's recommendations for relocating those incumbents.

(B) NTIA USE OF REPORT.—The National Telecommunications and Information Administration shall review this report when assessing whether a commercial licensee can be accommodated by being reassigned to a frequency allocated for Government use.

(d) IDENTIFICATION AND REALLOCATION OF FREQUENCIES.—

(1) IN GENERAL.—Section 113 of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 901 et seq.) is amended by adding at the end thereof the following:

"(f) ADDITIONAL REALLOCATION REPORT.—If the Secretary receives a report from the Commission pursuant to section 3001(c)(6) of the Balanced Budget Act of 1997, the Secretary shall submit to the President, the Congress, and the Commission a report with the Secretary's recommendations.

"(g) REIMBURSEMENT OF FEDERAL SPECTRUM USERS FOR RELOCATION COSTS.—

"(1) IN GENERAL.—

"(A) ACCEPTANCE OF COMPENSATION AUTHORIZED.—In order to expedite the efficient use of the electromagnetic spectrum, and notwithstanding section 3302(b) of title 31, United States Code, any Federal entity that operates a Federal Government station that has been identified by NTIA for relocation may accept payment, including in-kind compensation and shall be reimbursed if required to relocate by the service applicant, provider, licensee, or representative entering the band as a result of a license assignment by the Commission or otherwise authorized by Commission rules.

"(B) DUTY TO COMPENSATE OUSTED FEDERAL ENTITY.—Any such service applicant, provider, licensee, or representative shall compensate the Federal entity in advance for relocating through monetary or in-kind payment for the cost of relocating the Federal entity's operations from one or more electromagnetic spectrum frequencies to any other frequency or frequencies, or to any other telecommunications transmission media.

"(C) COMPENSABLE COSTS.—Compensation shall include, but not be limited to, the costs of any modification, replacement, or reissuance of equipment, facilities, operating manuals, regulations, or other relocation expenses incurred by that entity.

"(D) DISPOSITION OF PAYMENTS.—Payments, other than in-kind compensation, pursuant to this section shall be deposited by electronic funds transfer in a separate agency account or accounts which shall be used to pay directly the costs of relocation, to repay or make advances to appropriations or funds which do or will initially bear all or part of such costs, or to refund excess sums when necessary, and shall remain available until expended.

"(E) APPLICATION TO CERTAIN OTHER RELOCATIONS.—The provisions of this paragraph also apply to any Federal entity that operates a Federal Government station assigned to use electromagnetic spectrum identified for reallocation under subsection (a), if before the date of enactment of the Balanced Budget Act of 1997 the Commission has not identified that spectrum for service or assigned licenses or otherwise authorized service for that spectrum.

"(2) PETITIONS FOR RELOCATION.—Any person seeking to relocate a Federal Government station that has been assigned a frequency within a band allocated for mixed Federal and non-Federal use under this Act shall submit a petition for relocation to NTIA. The NTIA shall limit or terminate the Federal Government station's operating license within 6 months after receiving the petition if the following requirements are met:

"(A) The proposed relocation is consistent with obligations undertaken by the United States in international agreements and with United States national security and public safety interests.

"(B) The person seeking relocation of the Federal Government station has guaranteed to defray entirely, through payment in advance, advance in-kind payment of costs, or a combination of payment in advance and advance in-kind payment, all relocation costs incurred by the Federal entity, including, but not limited to, all engineering, equipment, site acquisition and construction, and regulatory fee costs.

"(C) The person seeking relocation completes all activities necessary for implementing the relocation, including construction of replacement facilities (if necessary and appropriate) and identifying and obtaining on the Federal entity's behalf new frequencies for use by the relocated Federal Government station (if the station is not relocating to spectrum reserved exclusively for Federal use).

"(D) Any necessary replacement facilities, equipment modifications, or other changes have been implemented and tested by the Federal entity to ensure that the Federal Government station is able to accomplish successfully its purposes including maintaining communication system performance.

"(E) The Secretary has determined that the proposed use of any spectrum frequency band to which a Federal entity relocates its operations is suitable for the technical characteristics of the band and consistent with other uses of the band. In exercising authority under this subparagraph, the Secretary shall consult with the Secretary of Defense, the Secretary of State, and other appropriate Federal officials.

"(3) RIGHT TO RECLAIM.—If within one year after the relocation of a Federal Government station, the Federal entity affected demonstrates to the Secretary and the Commission that the new facilities or spectrum are not comparable to the facilities or spectrum from which the Federal Government station was relocated, the person who sought the relocation shall take reasonable steps to remedy any defects or pay the Federal entity for the costs of returning the Federal Government station to the electromagnetic spectrum from which the station was relocated.

"(h) FEDERAL ACTION TO EXPEDITE SPECTRUM TRANSFER.—Any Federal Government station which operates on electromagnetic spectrum that has been identified for reallocation under this Act for mixed Federal and non-Federal use in any reallocation report under subsection (a), to the maximum extent practicable through the use of subsection (g) and any other applicable law, shall take prompt action to make electromagnetic spectrum available for use in a manner that maximizes efficient use of the electromagnetic spectrum.

"(i) FEDERAL SPECTRUM ASSIGNMENT RESPONSIBILITY.—This section does not modify NTIA's authority under section 103(b)(2)(A) of this Act.

"(j) DEFINITIONS.—As used in this section—

"(1) the term 'Federal entity' means any department, agency, or instrumentality of the Federal Government that utilizes a Government station license obtained under section 305 of the 1934 Act (47 U.S.C. 305);

"(2) the term 'digital television services' means television services provided using digital technology to enhance audio quality and video resolution, as further defined in the Memorandum Opinion, Report, and Order of the Commission entitled 'Advanced Television Systems and Their Impact Upon the Existing Television Service', MM Docket No. 87–268 and any subsequent FCC proceedings dealing with digital television; and

"(3) the term 'analog television licenses' means licenses issued pursuant to 47 CFR 73.682 et seq.".

(2) Section 114(a) of that Act (47 U.S.C. 924(a)) is amended by striking "(a) or (d)(1)" and inserting "(a), (d)(1), or (f)".

(e) IDENTIFICATION AND REALLOCATION OF AUCTIONABLE FREQUENCIES.—

(1) SECOND REPORT REQUIRED.—Section 113(a) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923(a)) is amended by inserting "and within 6 months after the date of enactment of the Balanced Budget Act of 1997" after "Act of 1993".

(2) IN GENERAL.—Section 113(b) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923(b)) is amended—

(A) by striking the caption of paragraph (1) and inserting "INITIAL REALLOCATION REPORT.—";

(B) by inserting "in the initial report required by subsection (a)" after "recommend for reallocation" in paragraph (1);

(C) by inserting "or (3)" after "paragraph (1)" each place it appears in paragraph (2); and

(D) by adding at the end thereof the following:

"(3) SECOND REALLOCATION REPORT.—The Secretary shall make available for reallocation a total of 20 megahertz in the second report required by subsection (a), for use other than by Federal Government stations under section 305 of the 1934 Act (47 U.S.C. 305), that is located below 3 gigahertz and that meets the criteria specified in paragraphs (1) through (5) of subsection (a).".

(3) ALLOCATION AND ASSIGNMENT.—Section 115 of that Act (47 U.S.C. 925) is amended—

(A) by striking "the report required by section 113(a)" in subsection (b) and inserting "the initial reallocation report required by section 113(a)"; and

(B) by adding at the end thereof the following:

"(c) ALLOCATION AND ASSIGNMENT OF FREQUENCIES IDENTIFIED IN THE SECOND ALLOCATION REPORT.—

"(1) PLAN.—Within 12 months after it receives a report from the Secretary under section 113(f) of this Act, the Commission shall—

"(A) submit a plan, prepared in coordination with the Secretary of Commerce, to the President and to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Commerce, for the allocation and assignment under the 1934 Act of frequencies identified in the report; and

"(B) implement the plan.

"(2) CONTENTS.—The plan prepared by the Commission under paragraph (1) shall consist of a schedule of reallocation and assignment of those frequencies in accordance with section 309(j) of the 1934 Act in time for the assignment of those licenses or permits by September 30, 2002.".

SEC. 3002. DIGITAL TELEVISION SERVICES.

Section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) is amended by adding at the end thereof the following:

"(15) AUCTION OF RECAPTURED BROADCAST TELEVISION SPECTRUM AND POTENTIAL DIGITAL TELEVISION LICENSE FEES.—

"(A) LIMITATIONS ON TERMS OF TERRESTRIAL TELEVISION BROADCAST LICENSES.—

"(i) A television license that authorizes analog television services may not be renewed to authorize such services for a period that extends beyond December 31, 2006. The Commission shall extend or waive this date for any station in any television market unless 95 percent of the television households have access to digital local television signals, either by direct off-air reception or by other means.

"(ii) A commercial digital television license that is issued shall expire on September 30, 2003. A commercial digital television license shall be re-issued only subject to fulfillment of the licensee's obligations under subparagraph (C).

"(iii) No later than December 31, 2001, and every 2 years thereafter, the Commission shall report to Congress on the status of digital television conversion in each television market. In preparing this report, the Commission shall consult with other departments and agencies of the Federal Government. The report shall contain the following information:

"(I) Actual consumer purchases of analog and digital television receivers, including the price, availability, and use of conversion equipment to allow analog sets to receive a digital signal.

"(II) The percentage of television households in each market that has access to digital local television signals as defined in paragraph (a)(1), whether such access is attained by direct off-air reception or by some other means.

"(III) The cost to consumers of purchasing digital television receivers (or conversion equipment to prevent obsolescence of existing analog equipment) and other related changes in the marketplace, such as increases in the cost of cable converter boxes.

"(B) SPECTRUM REVERSION AND RESALE.—

"(i) The Commission shall—

"(I) ensure that, as analog television licenses expire pursuant to subparagraph (A)(i), each broadcaster shall return electromagnetic spectrum according to the Commission's direction; and

"(II) reclaim and organize the electromagnetic spectrum in a manner to maximize the deployment of new and existing services.

"(ii) Licensees for new services occupying electromagnetic spectrum previously used for the broadcast of analog television shall be selected by competitive bidding. The Commission shall start the competitive bidding process by July 1, 2001, with payment pursuant to the competitive bidding rules established by the Commission. The Commission shall report the total revenues from the competitive bidding by January 1, 2002.

"(C) DEFINITIONS.—As used in this paragraph—

"(i) the term 'digital television services' means television services provided using digital technology to enhance audio quality and video resolution, as further defined in the Memorandum Opinion, Report, and Order of the Commission entitled 'Advanced Television Systems and Their Impact Upon the Existing Television Service', *MM Docket No. 87-268 and any subsequent Commission proceedings dealing with digital television; and*

"(ii) the term 'analog television licenses' means licenses issued pursuant to 47 CFR 73.682 et seq.".

SEC. 3003. ALLOCATION AND ASSIGNMENT OF NEW PUBLIC SAFETY AND COMMERCIAL LICENSES.

(a) In General.—The Federal Communications Commission, not later than January 1, 1998, shall allocate from electromagnetic spectrum between 746 megahertz and 806 megahertz—

(1) 24 megahertz of that spectrum for public safety services according to terms and conditions established by the Commission, in consultation with the Secretary of Commerce and the Attorney General; and

(2) 36 megahertz of that spectrum for commercial purposes to be assigned by competitive bidding.

(b) Assignment.—The Commission shall—

(1) commence assignment of the licenses for public safety created pursuant to subsection (a) no later than September 30, 1998; and

(2) commence competitive bidding for the commercial licenses created pursuant to subsection (a) no later than March 31, 1998.

(c) Licensing of Unused Frequencies for Public Safety Radio Services.—

(1) Use of unused channels for public safety.—It shall be the policy of the Federal Communications Commission, notwithstanding any other provision of this Act or any other law, to waive whatever licensee eligibility and other requirements (including bidding requirements) are applicable in order to permit the use of unassigned frequencies for public safety purposes by a State or local government agency upon a showing that—

(A) no other existing satisfactory public safety channel is immediately available to satisfy the requested use;

(B) the proposed use is technically feasible without causing harmful interference to existing stations in the frequency band entitled to protection from such interference under the rules of the Commission; and

(C) use of the channel for public safety purposes is consistent with other existing public safety channel allocations in the geographic area of proposed use.

(2) Applicability.—Paragraph (1) shall apply to any application—

(A) is pending before the Commission on the date of enactment of this Act;

(B) was not finally determined under section 402 or 405 of the Communications Act of 1934 (47 U.S.C. 402 or 405) on May 15, 1997; or

(C) is filed after May 15, 1997.

(d) Protection of Broadcast TV Licensees During Digital Transition.—Public safety and commercial licenses granted pursuant to this subsection—

(1) shall enjoy flexibility in use, subject to—

(A) interference limits set by the Commission at the boundaries of the electromagnetic spectrum block and service area; and

(B) any additional technical restrictions imposed by the Commission to protect full-service analog and digital television licenses during a transition to digital television;

(2) may aggregate multiple licenses to create larger spectrum blocks and service areas;

(3) may disaggregate or partition licenses to create smaller spectrum blocks or service areas; and

(4) may transfer a license to any other person qualified to be a licensee.

(e) Protection of Public Safety Licensees during Digital Transition.—The Commission shall establish rules insuring that public safety licensees using spectrum reallocated pursuant to subsection (a)(1) shall not be subject to harmful interference from television broadcast licensees.

(f) Digital Television Allotment.—In assigning temporary transitional digital licenses, the Commission shall—

(1) minimize the number of allotments between 746 and 806 megahertz and maximize the amount of spectrum available for public safety and new services;

(2) minimize the number of allotments between 698 and 746 megahertz in order to facilitate the recovery of spectrum at the end of the transition;

(3) consider minimizing the number of allotments between 54 and 72 megahertz to facilitate the recovery of spectrum at the end of the transition; and

(4) develop an allotment plan designed to recover 78 megahertz of spectrum to be assigned by competitive bidding, in addition to the 60 megahertz identified in paragraph (a) of this subsection.

(g) Incumbent Broadcast Licensees.—Any person who holds an analog television license or a digital television license between 746 and 806 megahertz—

(1) may not operate at that frequency after the date on which the digital television services transition period terminates, as determined by the Commission; and

(2) shall surrender immediately the license or permit to construct pursuant to Commission rules.

(h) Definitions.—For purposes of this section:

(1) Commission.—The term "Commission" means the Federal Communications Commission.

(2) Digital television (DTV) service.—The term "digital television (DTV) service" means terrestrial broadcast services provided using digital technology to enhance audio quality and video resolution, as further defined in the Memorandum Opinion, Report, and Order of the Commission entitled "Advanced Television Systems and Their Impact Upon the Existing Television Service", MM Docket No. 87-268, or subsequent findings of the Commission.

(3) Digital television license.—The term "digital television license" means a full-service license issued pursuant to rules adopted for digital television service.

(4) Analog television license.—The term "analog television license" means a full-service license issued pursuant to 47 CFR 73.682 et seq.

(5) Public safety services.—The term "public safety services" means services whose sole or principal purpose is to protect the safety of life, health, or property.

(6) Service area.—The term "service area" means the geographic area over which a licensee may provide service and is protected from interference.

(7) Spectrum block.—The term "spectrum block". means the range of frequencies over which the apparatus licensed by the Commission is authorized to transmit signals.

SEC. 3004. FLEXIBLE USE OF ELECTROMAGNETIC SPECTRUM.

Section 303 of the Communications Act of 1934 (47 U.S.C. 303) is amended by adding at the end thereof the following:

"(y) Shall allocate electromagnetic spectrum so as to provide flexibility of use, except—

"(1) as required by international agreements relating to global satellite systems or other telecommunication services to which the United States is a party;

"(2) as required by public safety allocations;

"(3) to the extent that the Commission finds, after notice and an opportunity for public comment, that such an allocation would not be in the public interest;

"(4) to the extent that flexible use would retard investment in communications services and systems, or technology development thereby lessening the value of the electromagnetic spectrum; or

"(5) to the extent that flexible use would result in harmful interference among users.".

SEC. 3005. RESERVE PRICE.

In any auction conducted or supervised by the Federal Communications Commission (hereinafter the Commission) for any license, permit or right which has value, a reasonable reserve price shall be set by the Commission for each unit in the auction unless the Commission determines it not to be in the public interest. The reserve price shall establish a minimum bid for the unit to be auctioned. If no bid is received above the reserve price for a unit, the unit shall be retained. The Commission shall re-assess the reserve price for that unit and place the unit in the next scheduled or next appropriate auction.

SUBTITLE B—MERCHANT MARINE PROVISIONS

SEC. 3501. EXTENSION OF VESSEL TONNAGE DUTIES.

(a) Extension of Duties.—Section 36 of the Act of August 5, 1909 (36 Stat. 111; 46 U.S.C. App. 121), is amended by inserting "1999, 2000, 2001, and 2002," after "1998," each place it appears.

(b) Conforming Amendment.—The Act of March 8, 1910 (36 Stat. 234; 46 U.S.C. 132), is amended by striking "and 1998," and inserting "1998, 1999, 2000, 2001, and 2002,".

TITLE IV—COMMITTEE ON ENERGY AND NATURAL RESOURCES

SEC. 4001. LEASE OF EXCESS STRATEGIC PETROLEUM RESERVE CAPACITY.

Part B of title I of the Energy Policy and Conservation Act (42 U.S.C. 6231 et seq.) is amended by adding at the end the following new section:

"Use of Underutilized Facilities

"Sec. 168. Notwithstanding section 649(b) of the Department of Energy Organization Act (42 U.S.C. 7259(b)), the Secretary is authorized to store in underutilized Strategic Petroleum Reserve facilities, by lease or otherwise, petroleum product owned by a foreign government or its representative: Provided, That funds resulting from the leasing or other use of a Reserve facility on or after October 1, 2007, shall be available to the Secretary, without further appropriation, for the purchase of petroleum products for the Reserve: Provided further, That petroleum product stored under this section is not part of the Strategic Petroleum Reserve, is not subject to part C of this title, and notwithstanding any provision of this Act, may be exported from the United States.".

TITLE V—COMMITTEE ON FINANCE

SEC. 5000. AMENDMENTS TO SOCIAL SECURITY ACT AND REFERENCES TO OBRA; TABLE OF CONTENTS OF TITLE.

(a) Amendments to Social Security Act.—Except as otherwise specifically provided, whenever in this title an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

(b) References to OBRA.—In this title, the terms "OBRA–1986", "OBRA–1987", "OBRA–1989", "OBRA–1990", and "OBRA–1993" refer to the Omnibus Budget Reconciliation Act of 1986 (Public Law 99-509), the Omnibus Budget Reconciliation Act of 1987 (Public Law 100-203), the Omnibus Budget Reconciliation Act of 1989 (Public Law 101-239), the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508), and the Omnibus Budget Reconciliation Act of 1993 (Public Law 103-66), respectively.

(c) Table of Contents.—The table of contents of this title is as follows:

TITLE V—COMMITTEE ON FINANCE

Sec. 5000. Amendments to Social Security Act and references to OBRA; table of contents of title.
Sec. 5000A. Extension of moratorium.

DIVISION 1—MEDICARE

Subtitle A—Medicare Choice Program

CHAPTER 1—MEDICARE CHOICE PROGRAM

SUBCHAPTER A—MEDICARE CHOICE PROGRAM

Sec. 5001. Establishment of Medicare Choice program.

"PART C—MEDICARE CHOICE PROGRAM

"Sec. 1851. Eligibility, election, and enrollment.
"Sec. 1852. Benefits and beneficiary protections.
"Sec. 1853. Payments to Medicare Choice organizations.
"Sec. 1854. Premiums.
"Sec. 1855. Organizational and financial requirements for Medicare Choice organizations; provider-sponsored organizations.
"Sec. 1856. Establishment of standards.
"Sec. 1857. Contracts with Medicare Choice organizations.
"Sec. 1859. Definitions; miscellaneous provisions.
Sec. 5002. Transitional rules for current medicare HMO program.
Sec. 5003. Conforming changes in Medigap program.

SUBCHAPTER B—SPECIAL RULES FOR MEDICARE CHOICE MEDICAL SAVINGS ACCOUNTS

Sec. 5006. Medicare Choice MSA.

CHAPTER 2—INTEGRATED LONG-TERM CARE PROGRAMS

SUBCHAPTER A—PROGRAMS OF ALL-INCLUSIVE CARE FOR THE ELDERLY (PACE)

Sec. 5011. Coverage of PACE under the medicare program.
Sec. 5012. Effective date; transition.
Sec. 5013. Study and reports.

SUBCHAPTER B—SOCIAL HEALTH MAINTENANCE ORGANIZATIONS

Sec. 5015. Social health maintenance organizations (SHMOs).

SUBCHAPTER C—OTHER PROGRAMS

Sec. 5018. Extension of certain medicare community nursing organization demonstration projects.

CHAPTER 3—COMMISSIONS

Sec. 5021. National Bipartisan Commission on the Future of Medicare.
Sec. 5022. Medicare Payment Advisory Commission.

CHAPTER 4—MEDIGAP PROTECTIONS

Sec. 5031. Medigap protections.
Sec. 5032. Addition of high deductible Medigap policy.

CHAPTER 5—DEMONSTRATIONS

SUBCHAPTER A—MEDICARE CHOICE COMPETITIVE PRICING DEMONSTRATION PROJECT

PART I—IN GENERAL

Sec. 5041. Medicare Choice competitive pricing demonstration project.
Sec. 5042. Determination of annual Medicare Choice capitation rates.
Sec. 5043. Benefits and beneficiary premiums.

PART II—INFORMATION AND QUALITY STANDARDS

SUBPART A—INFORMATION

Sec. 5044. Information requirements.

SUBPART B—QUALITY IN DEMONSTRATION PLANS

Sec. 5044A. Definitions.
Sec. 5044B. Quality Advisory Institute.
Sec. 5044C. Duties of Director.
Sec. 5044D. Compliance.
Sec. 5044E. Payments for value.
Sec. 5044F. Certification requirement.
Sec. 5044G. Licensing of certification entities.
Sec. 5044H. Certification criteria.
Sec. 5044I. Grievance and appeals.

SUBCHAPTER B—OTHER PROJECTS

Sec. 5045. Medicare enrollment demonstration project.
Sec. 5046. Medicare coordinated care demonstration project.
Sec. 5047. Establishment of medicare reimbursement demonstration projects.

CHAPTER 6—TAX TREATMENT OF HOSPITALS PARTICIPATING IN PROVIDER-SPONSORED ORGANIZATIONS

Sec. 5049. Tax treatment of hospitals which participate in provider-sponsored organizations.

Subtitle B—Prevention Initiatives

Sec. 5101. Annual screening mammography for women over age 39.
Sec. 5102. Coverage of colorectal screening.
Sec. 5103. Diabetes screening tests.
Sec. 5104. Coverage of bone mass measurements.
Sec. 5105. Study on medical nutrition therapy services.

Subtitle C—Rural Initiatives

Sec. 5151. Sole community hospitals.
Sec. 5152. Medicare-dependent, small rural hospital payment extension.
Sec. 5153. Medicare rural hospital flexibility program.
Sec. 5154. Prohibiting denial of request by rural referral centers for reclassification on basis of comparability of wages.
Sec. 5155. Rural health clinic services.
Sec. 5156. Medicare reimbursement for telehealth services.
Sec. 5157. Telemedicine, informatics, and education demonstration project.

Subtitle D—Anti-Fraud and Abuse Provisions and Improvements in Protecting Program Integrity

CHAPTER 1—REVISIONS TO SANCTIONS FOR FRAUD AND ABUSE

Sec. 5201. Authority to refuse to enter into medicare agreements with individuals or entities convicted of felonies.
Sec. 5202. Exclusion of entity controlled by family member of a sanctioned individual.
Sec. 5203. Imposition of civil money penalties.

CHAPTER 2—IMPROVEMENTS IN PROTECTING PROGRAM INTEGRITY

Sec. 5211. Disclosure of information, surety bonds, and accreditation.
Sec. 5212. Provision of certain identification numbers.
Sec. 5213. Application of certain provisions of the bankruptcy code.
Sec. 5214. Replacement of reasonable charge methodology by fee schedules.
Sec. 5215. Application of inherent reasonableness to all part B services other than physicians' services.
Sec. 5216. Requirement to furnish diagnostic information.
Sec. 5217. Report by GAO on operation of fraud and abuse control program.
Sec. 5218. Competitive bidding.
Sec. 5219. Improving information to medicare beneficiaries.
Sec. 5220. Prohibiting unnecessary and wasteful medicare payments for certain items.
Sec. 5221. Reducing excessive billings and utilization for certain items.
Sec. 5222. Improving information to medicare beneficiaries.
Sec. 5223. Prohibiting unnecessary and wasteful medicare payments for certain items.
Sec. 5224. Reducing excessive billings and utilization for certain items.
Sec. 5225. Improved carrier authority to reduce excessive medicare payments.
Sec. 5226. Itemization of surgical dressing bills submitted by home health agencies.

CHAPTER 3—CLARIFICATIONS AND TECHNICAL CHANGES

Sec. 5231. Other fraud and abuse related provisions.

Subtitle E—Prospective Payment Systems

CHAPTER 1—PROVISIONS RELATING TO PART A

Sec. 5301. Prospective payment for inpatient rehabilitation hospital services.
Sec. 5302. Study and report on payments for long-term care hospitals.

CHAPTER 2—PROVISIONS RELATING TO PART B

SUBCHAPTER A—PAYMENT FOR HOSPITAL OUTPATIENT DEPARTMENT SERVICES

Sec. 5311. Elimination of formula-driven overpayments (FDO) for certain outpatient hospital services.
Sec. 5312. Extension of reductions in payments for costs of hospital outpatient services.
Sec. 5313. Prospective payment system for hospital outpatient department services.

SUBCHAPTER B—AMBULANCE SERVICES

Sec. 5321. Payments for ambulance services.

CHAPTER 3—PROVISIONS RELATING TO PARTS A AND B

SUBCHAPTER A—PAYMENTS TO SKILLED NURSING FACILITIES

Sec. 5331. Extension of cost limits.
Sec. 5332. Prospective payment for skilled nursing facility services.

SUBCHAPTER B—HOME HEALTH SERVICES AND BENEFITS

PART I—PAYMENTS FOR HOME HEALTH SERVICES

Sec. 5341. Recapturing savings resulting from temporary freeze on payment increases for home health services.
Sec. 5342. Interim payments for home health services.
Sec. 5343. Prospective payment for home health services.
Sec. 5344. Payment based on location where home health service is furnished.

PART II—HOME HEALTH BENEFITS

Sec. 5361. Modification of part A home health benefit for individuals enrolled under part B.
Sec. 5362. Imposition of $5 copayment for part B home health services.
Sec. 5363. Clarification of part-time or intermittent nursing care.
Sec. 5364. Study on definition of homebound.
Sec. 5365. Normative standards for home health claims denials.
Sec. 5366. Inclusion of cost of service in explanation of medicare benefits.

Subtitle F—Provisions Relating to Part A

CHAPTER 1—PAYMENT OF PPS HOSPITALS

Sec. 5401. PPS hospital payment update.
Sec. 5402. Capital payments for PPS hospitals.

CHAPTER 2—PAYMENT OF PPS EXEMPT HOSPITALS

Sec. 5421. Payment update.
Sec. 5422. Reductions to capital payments for certain PPS-exempt hospitals and units.
Sec. 5423. Cap on TEFRA limits.
Sec. 5424. Change in bonus and relief payments.
Sec. 5425. Target amounts for rehabilitation hospitals, long-term care hospitals, and psychiatric hospitals.

Sec. 5426. Treatment of certain long-term care hospitals located within other hospitals.
Sec. 5426A. Rebasing.
Sec. 5427. Elimination of exemptions; report on exceptions and adjustments.
Sec. 5428. Technical correction relating to subsection (d) hospitals.
Sec. 5429. Certain cancer hospitals.

CHAPTER 3—GRADUATE MEDICAL EDUCATION PAYMENTS

SUBCHAPTER A—DIRECT MEDICAL EDUCATION

Sec. 5441. Limitation on number of residents and rolling average FTE count.
Sec. 5442. Permitting payment to nonhospital providers.
Sec. 5443. Medicare special reimbursement rule for primary care combined residency programs.

SUBCHAPTER B—INDIRECT MEDICAL EDUCATION

Sec. 5446. Indirect graduate medical education payments.

SUBCHAPTER C—GRADUATE MEDICAL EDUCATION PAYMENTS FOR MANAGED CARE ENROLLEES

Sec. 5451. Direct and indirect medical education payments to hospitals for managed care enrollees.
Sec. 5452. Demonstration project on use of consortia.

CHAPTER 4—OTHER HOSPITAL PAYMENTS

Sec. 5461. Disproportionate share payments to hospitals for managed care and Medicare Choice enrollees.
Sec. 5462. Reform of disproportionate share payments to hospitals serving vulnerable populations.
Sec. 5463. Medicare capital asset sales price equal to book value.
Sec. 5464. Elimination of IME and DSH payments attributable to outlier payments.
Sec. 5465. Treatment of transfer cases.
Sec. 5466. Reductions in payments for enrollee bad debt.
Sec. 5467. Floor on area wage index.
Sec. 5468. Increase base payment rate to Puerto Rico hospitals.
Sec. 5469. Permanent extension of hemophilia pass-through.
Sec. 5470. Coverage of services in religious nonmedical health care institutions under the medicare and medicaid programs.

CHAPTER 5—PAYMENTS FOR HOSPICE SERVICES

Sec. 5481. Payment for home hospice care based on location where care is furnished.
Sec. 5482. Hospice care benefits periods.
Sec. 5483. Other items and services included in hospice care.
Sec. 5484. Contracting with independent physicians or physician groups for hospice care services permitted.
Sec. 5485. Waiver of certain staffing requirements for hospice care programs in non-urbanized areas.
Sec. 5486. Limitation on liability of beneficiaries for certain hospice coverage denials.
Sec. 5487. Extending the period for physician certification of an individual's terminal illness.
Sec. 5488. Effective date.

Subtitle G—Provisions Relating to Part B Only

CHAPTER 1—PAYMENTS FOR PHYSICIANS AND OTHER HEALTH CARE PROVIDERS

Sec. 5501. Establishment of single conversion factor for 1998.
Sec. 5502. Establishing update to conversion factor to match spending under sustainable growth rate.
Sec. 5503. Replacement of volume performance standard with sustainable growth rate.
Sec. 5504. Payment rules for anesthesia services.
Sec. 5505. Implementation of resource-based methodologies.
Sec. 5506. Increased medicare reimbursement for nurse practitioners and clinical nurse specialists.
Sec. 5507. Increased medicare reimbursement for physician assistants.

CHAPTER 2—OTHER PAYMENT PROVISIONS

Sec. 5521. Reduction in updates to payment amounts for clinical diagnostic laboratory tests; study on laboratory services.
Sec. 5522. Improvements in administration of laboratory services benefit.
Sec. 5523. Payments for durable medical equipment.
Sec. 5524. Oxygen and oxygen equipment.
Sec. 5525. Updates for ambulatory surgical services.
Sec. 5526. Reimbursement for drugs and biologicals.

CHAPTER 3—PART B PREMIUM AND RELATED PROVISIONS

Sec. 5541. Part B premium.
Sec. 5542. Income-related reduction in medicare subsidy.
Sec. 5543. Demonstration project on income-related part B deductible.
Sec. 5544. Low-income medicare beneficiary block grant program.

Subtitle H—Provisions Relating to Parts A and B

CHAPTER 1—SECONDARY PAYOR PROVISIONS

Sec. 5601. Extension and expansion of existing requirements.
Sec. 5602. Improvements in recovery of payments.

CHAPTER 2—OTHER PROVISIONS

Sec. 5611. Conforming age for eligibility under medicare to retirement age for social security benefits.
Sec. 5612. Increased certification period for certain organ procurement organizations.
Sec. 5613. Facilitating the use of private contracts under the medicare program.

Subtitle I—Miscellaneous Provisions

Sec. 5651. Inclusion of Stanly County, N.C. in a large urban area under medicare program.
Sec. 5652. Medicare anti-duplication provision.

DIVISION 2—MEDICAID AND CHILDREN'S HEALTH INSURANCE INITIATIVES

Subtitle I—Medicaid

CHAPTER 1—MEDICAID SAVINGS

SUBCHAPTER A—MANAGED CARE REFORMS

Sec. 5701. State option for mandatory managed care.

"PART B—PROVISIONS RELATING TO MANAGED CARE

"Sec. 1941. Beneficiary choice; enrollment.
"Sec. 1942. Beneficiary access to services generally.
"Sec. 1943. Requirements for access to emergency care.
"Sec. 1944. Other beneficiary protections.
"Sec. 1945. Assuring quality care.
"Sec. 1946. Protections for providers.
"Sec. 1947. Assuring adequacy of payments to medicaid managed care organizations and entities.
"Sec. 1948. Fraud and abuse.
"Sec. 1949. Sanctions for noncompliance by managed care entities.
"Sec. 1950. Definitions; miscellaneous provisions.".

Sec. 5702. Primary care case management services as State option without need for waiver.
Sec. 5703. Additional reforms to expand and simplify managed care.

SUBCHAPTER B—MANAGEMENT FLEXIBILITY REFORMS

Sec. 5711. Elimination of Boren amendment requirements for provider payment rates.
Sec. 5712. Medicaid payment rates for qualified medicare beneficiaries.

SUBCHAPTER C—REDUCTION OF DISPROPORTIONATE SHARE HOSPITAL (DSH) PAYMENTS

Sec. 5721. Disproportionate share hospital (DSH) payments.

CHAPTER 2—EXPANSION OF MEDICAID ELIGIBILITY

Sec. 5731. State option to permit workers with disabilities to buy into medicaid.
Sec. 5732. 12-month continuous eligibility for children.

CHAPTER 3—PROGRAMS OF ALL-INCLUSIVE CARE FOR THE ELDERLY (PACE)

Sec. 5741. Establishment of PACE program as medicaid State option.
Sec. 5742. Effective date; transition.
Sec. 5743. Study and reports.

CHAPTER 4—MEDICAID MANAGEMENT AND PROGRAM REFORMS

Sec. 5751. Elimination of requirement to pay for private insurance.
Sec. 5752. Elimination of obstetrical and pediatric payment rate requirements.
Sec. 5753. Physician qualification requirements.
Sec. 5754. Expanded cost-sharing requirements.
Sec. 5755. Penalty for fraudulent eligibility.
Sec. 5756. Elimination of waste, fraud, and abuse.
Sec. 5757. Study on EPSDT benefits.
Sec. 5758. Study and guidelines regarding managed care organizations and individuals with special health care needs.

CHAPTER 5—MISCELLANEOUS

Sec. 5761. Increased FMAPs.
Sec. 5762. Increase in payment caps for territories.
Sec. 5763. Community-based mental health services.
Sec. 5764. Optional medicaid coverage of certain CDC-screened breast cancer patients.
Sec. 5765. Treatment of State taxes imposed on certain hospitals that provide free care.
Sec. 5766. Treatment of veterans pensions under medicaid.
Sec. 5767. Removal of name from nurse aide registry.
Sec. 5768. Waiver of certain provider tax provisions.
Sec. 5769. Continuation of State-wide section 1115 medicaid waivers.
Sec. 5770. Effective date.

Subtitle J—Children's Health Insurance Initiatives

Sec. 5801. Establishment of children's health insurance initiatives.

"TITLE XXI—CHILD HEALTH INSURANCE INITIATIVES

"Sec. 2101. Purpose.
"Sec. 2102. Definitions.
"Sec. 2103. Appropriation.
"Sec. 2104. Program outline.
"Sec. 2105. Distribution of funds.
"Sec. 2106. Use of funds.
"Sec. 2107. State option for the purchase or provision of children's health insurance.
"Sec. 2108. Program integrity.
"Sec. 2109. Annual reports.".

DIVISION 3—INCOME SECURITY AND OTHER PROVISIONS

Subtitle K—Income Security, Welfare-to-Work Grant Program, and Other Provisions

CHAPTER 1—INCOME SECURITY

Sec. 5811. *SSI eligibility for aliens receiving SSI on August 22, 1996.*
Sec. 5812. *Extension of eligibility period for refugees and certain other qualified aliens from 5 to 7 years for SSI and medicaid.*
Sec. 5813. *Exceptions for certain Indians from limitation on eligibility for supplemental security income and medicaid benefits.*
Sec. 5814. *SSI eligibility for disabled legal aliens in the United States on August 22, 1996.*
Sec. 5815. *Exemption from restriction on supplemental security income program participation by certain recipients eligible on the basis of very old applications.*
Sec. 5816. *Reinstatement of eligibility for benefits.*
Sec. 5817. *Exemption for children who are legal aliens from 5-year ban on medicaid eligibility.*
Sec. 5818. *Treatment of certain Amerasian immigrants as refugees.*
Sec. 5819. *SSI eligibility for severely disabled aliens.*
Sec. 5820. *Effective date.*

CHAPTER 2—WELFARE-TO-WORK GRANT PROGRAM

Sec. 5821. *Welfare-to-work grants.*
Sec. 5822. *Clarification of a State's ability to sanction an individual receiving assistance under TANF for noncompliance.*

CHAPTER 3—UNEMPLOYMENT COMPENSATION

Sec. 5831. *Increase in Federal unemployment account ceiling.*
Sec. 5832. *Special distribution to States from unemployment trust fund.*
Sec. 5833. *Treatment of certain services performed by inmates.*

DIVISION 4—EARNED INCOME CREDIT AND OTHER PROVISIONS

Subtitle L—Earned Income Credit and Other Provisions

CHAPTER 1—EARNED INCOME CREDIT

Sec. 5851. *Restrictions on availability of earned income credit for taxpayers who improperly claimed credit in prior year.*

CHAPTER 2—INCREASE IN PUBLIC DEBT LIMIT

Sec. 5861. *Increase in public debt limit.*

CHAPTER 3—MISCELLANEOUS

Sec. 5871. *Sense of the Senate regarding the correction of cost-of-living adjustments.*

Subtitle M—Welfare Reform Technical Corrections

Sec. 5900. *Short title of subtitle.*

CHAPTER 1—BLOCK GRANTS FOR TEMPORARY ASSISTANCE TO NEEDY FAMILIES

Sec. 5901. *Amendment of the Social Security Act.*
Sec. 5902. *Eligible States; State plan.*
Sec. 5903. *Grants to States.*
Sec. 5904. *Use of grants.*
Sec. 5905. *Mandatory work requirements.*
Sec. 5906. *Prohibitions; requirements.*
Sec. 5907. *Penalties.*
Sec. 5908. *Data collection and reporting.*
Sec. 5909. *Direct funding and administration by Indian tribes.*
Sec. 5910. *Research, evaluations, and national studies.*
Sec. 5911. *Report on data processing.*
Sec. 5912. *Study on alternative outcomes measures.*
Sec. 5913. *Limitation on payments to the territories.*
Sec. 5914. *Conforming amendments to the Social Security Act.*
Sec. 5915. *Other conforming amendments.*
Sec. 5916. *Modifications to the job opportunities for certain low-income individuals program.*
Sec. 5917. *Denial of assistance and benefits for drug-related convictions.*
Sec. 5918. *Transition rule.*
Sec. 5919. *Protecting victims of family violence.*
Sec. 5920. *Effective dates.*

CHAPTER 2—SUPPLEMENTAL SECURITY INCOME

Sec. 5921. *Conforming and technical amendments relating to eligibility restrictions.*
Sec. 5922. *Conforming and technical amendments relating to benefits for disabled children.*
Sec. 5923. *Additional technical amendments to title XVI.*
Sec. 5924. *Additional technical amendments relating to title XVI.*
Sec. 5925. *Effective dates.*

CHAPTER 3—CHILD SUPPORT

Sec. 5935. *State obligation to provide child support enforcement services.*
Sec. 5936. *Distribution of collected support.*
Sec. 5937. *Civil penalties relating to State directory of new hires.*
Sec. 5938. *Federal Parent Locator Service.*
Sec. 5939. *Access to registry data for research purposes.*
Sec. 5940. *Collection and use of social security numbers for use in child support enforcement.*
Sec. 5941. *Adoption of uniform State laws.*
Sec. 5942. *State laws providing expedited procedures.*
Sec. 5943. *Voluntary paternity acknowledgement.*
Sec. 5944. *Calculation of paternity establishment percentage.*
Sec. 5945. *Means available for provision of technical assistance and operation of Federal Parent Locator Service.*
Sec. 5946. *Authority to collect support from Federal employees.*
Sec. 5947. *Definition of support order.*
Sec. 5948. *State law authorizing suspension of licenses.*
Sec. 5949. *International support enforcement.*
Sec. 5950. *Child support enforcement for Indian tribes.*
Sec. 5951. *Continuation of rules for distribution of support in the case of a title IV–E child.*
Sec. 5952. *Good cause in foster care and food stamp cases.*
Sec. 5953. *Date of collection of support.*
Sec. 5954. *Administrative enforcement in interstate cases.*
Sec. 5955. *Work orders for arrearages.*
Sec. 5956. *Additional technical State plan amendments.*
Sec. 5957. *Federal case registry of child support orders.*
Sec. 5958. *Full faith and credit for child support orders.*
Sec. 5959. *Development costs of automated systems.*
Sec. 5960. *Additional technical amendments.*
Sec. 5961. *Effective date.*

CHAPTER 4—RESTRICTING WELFARE AND PUBLIC BENEFITS FOR ALIENS

SUBCHAPTER A—ELIGIBILITY FOR FEDERAL BENEFITS

Sec. 5965. *Alien eligibility for Federal benefits: Limited application to medicare and benefits under the Railroad Retirement Act.*
Sec. 5966. *Exceptions to benefit limitations: Corrections to reference concerning aliens whose deportation is withheld.*
Sec. 5967. *Veterans exception: Application of minimum active duty service requirement; extension to unremarried surviving spouse; expanded definition of veteran.*
Sec. 5968. *Correction of reference concerning Cuban and Haitian entrants.*
Sec. 5969. *Notification concerning aliens not lawfully present: Correction of terminology.*
Sec. 5970. *Freely associated States: Contracts and licenses.*
Sec. 5971. *Congressional statement regarding benefits for Hmong and other Highland Lao veterans.*

SUBCHAPTER B—GENERAL PROVISIONS

Sec. 5972. *Determination of treatment of battered aliens as qualified aliens; inclusion of alien child of battered parent as qualified alien.*
Sec. 5973. *Verification of eligibility for benefits.*
Sec. 5974. *Qualifying quarters: Disclosure of quarters of coverage information; correction to assure that crediting applies to all quarters earned by parents before child is 18.*
Sec. 5975. *Statutory construction: Benefit eligibility limitations applicable only with respect to aliens present in the United States.*

SUBCHAPTER C—MISCELLANEOUS CLERICAL AND TECHNICAL AMENDMENTS; EFFECTIVE DATE

Sec. 5976. *Correcting miscellaneous clerical and technical errors.*
Sec. 5977. *Effective date.*

CHAPTER 5—CHILD PROTECTION

Sec. 5981. *Conforming and technical amendments relating to child protection.*
Sec. 5982. *Additional technical amendments relating to child protection.*
Sec. 5983. *Effective date.*

CHAPTER 6—CHILD CARE

Sec. 5985. *Conforming and technical amendments relating to child care.*
Sec. 5986. *Additional conforming and technical amendments.*
Sec. 5987. *Effective dates.*

CHAPTER 7—ERISA AMENDMENTS RELATING TO MEDICAL CHILD SUPPORT ORDERS

Sec. 5991. *Amendments relating to section 303 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.*
Sec. 5992. *Amendment relating to section 381 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.*
Sec. 5993. *Amendments relating to section 382 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.*

SEC. 5000A. EXTENSION OF MORATORIUM.

Section 6408(a)(3) of the Omnibus Budget Reconciliation Act of 1989, as amended by section 13642 of the Omnibus Budget Reconciliation Act of 1993 is amended by striking "December 31, 1995" and inserting "December 31, 2002".

DIVISION 1—MEDICARE

Subtitle A—Medicare Choice Program

CHAPTER 1—MEDICARE CHOICE PROGRAM

Subchapter A—Medicare Choice Program

SEC. 5001. ESTABLISHMENT OF MEDICARE CHOICE PROGRAM.

Title XVIII is amended by redesignating part C as part D and by inserting after part B the following new part:

"PART C—MEDICARE CHOICE PROGRAM

"ELIGIBILITY, ELECTION, AND ENROLLMENT

"SEC. 1851. (a) CHOICE OF MEDICARE BENEFITS THROUGH MEDICARE CHOICE PLANS.—

"(1) IN GENERAL.—Subject to the provisions of this section, each Medicare Choice eligible individual (as defined in paragraph (3)) is entitled to elect to receive benefits under this title—

"(A) through the traditional medicare fee-for-service program under parts A and B, or

"(B) through enrollment in a Medicare Choice plan under this part.

"(2) TYPES OF MEDICARE CHOICE PLANS THAT MAY BE AVAILABLE.—A Medicare Choice plan may be any of the following types of plans of health insurance:

"(A) FEE-FOR-SERVICE PLANS.—A plan that reimburses hospitals, physicians, and other providers on the basis of a privately determined fee schedule or other basis.

"(B) PLANS OFFERED BY PREFERRED PROVIDER ORGANIZATIONS.—A Medicare Choice plan offered by a preferred provider organization.

"(C) POINT OF SERVICE PLANS.—A point of service plan.

"(D) PLANS OFFERED BY PROVIDER-SPONSORED ORGANIZATION.—A Medicare Choice plan offered by a provider-sponsored organization, as defined in section 1855(e).

"(E) PLANS OFFERED BY HEALTH MAINTENANCE ORGANIZATIONS.—A Medicare Choice plan offered by a health maintenance organization.

"(F) COMBINATION OF MSA PLAN AND CONTRIBUTIONS TO MEDICARE CHOICE MSA.—An MSA plan, as defined in section 1859(b)(3), and a contribution into a Medicare Choice medical savings account (MSA).

"(G) OTHER HEALTH CARE PLANS.—Any other private plan for the delivery of health care items and services that is not described in a preceding subparagraph.

"(3) MEDICARE CHOICE ELIGIBLE INDIVIDUAL.—

"(A) IN GENERAL.—In this title, subject to subparagraph (B), the term 'Medicare Choice eligible individual' means an individual who is entitled to benefits under part A and enrolled under part B.

"(B) SPECIAL RULE FOR END-STAGE RENAL DISEASE.—Such term shall not include an individual medically determined to have end-stage renal disease, except that an individual who develops end-stage renal disease while enrolled in a Medicare Choice plan may continue to be enrolled in that plan.

"(b) SPECIAL RULES.—

"(1) RESIDENCE REQUIREMENT.—

"(A) IN GENERAL.—Except as the Secretary may otherwise provide, an individual is eligible to elect a Medicare Choice plan offered by a Medicare Choice organization only if the plan serves the geographic area in which the individual resides.

"(B) CONTINUATION OF ENROLLMENT PERMITTED.—Pursuant to rules specified by the Secretary, the Secretary shall provide that an individual may continue enrollment in a plan, notwithstanding that the individual no longer resides in the service area of the plan, so long as the plan provides benefits for enrollees located in the area in which the individual resides.

"(2) SPECIAL RULE FOR CERTAIN INDIVIDUALS COVERED UNDER FEHBP OR ELIGIBLE FOR VETERANS OR MILITARY HEALTH BENEFITS, VETERANS.—

"(A) FEHBP.—An individual who is enrolled in a health benefit plan under chapter 89 of title 5, United States Code, is not eligible to enroll in an MSA plan until such time as the Director of the Office of Management and Budget certifies to the Secretary that the Office of Personnel Management has adopted policies which will ensure that the enrollment of such individuals in such plans will not result in increased expenditures for the Federal Government for health benefit plans under such chapter.

"(B) VA AND DOD.—The Secretary may apply rules similar to the rules described in subparagraph (A) in the case of individuals who are eligible for health care benefits under chapter 55 of title 10, United States Code, or under chapter 17 of title 38 of such Code.

"(3) LIMITATION ON ELIGIBILITY OF QUALIFIED MEDICARE BENEFICIARIES AND OTHER MEDICAID BENEFICIARIES TO ENROLL IN AN MSA PLAN.—An individual who is a qualified medicare beneficiary (as defined in section 1905(p)(1)), a qualified disabled and working individual (described in section 1905(s)), an individual described in section 1902(a)(10)(E)(iii), or otherwise entitled to medicare cost-sharing under a State plan under title XIX is not eligible to enroll in an MSA plan.

"(4) COVERAGE UNDER MSA PLANS ON A DEMONSTRATION BASIS.—

"(A) IN GENERAL.—An individual is not eligible to enroll in an MSA plan under this part—

"(i) on or after January 1, 2003, unless the enrollment is the continuation of such an enrollment in effect as of such date; or

"(ii) as of any date if the number of such individuals so enrolled as of such date has reached 100,000.

Under rules established by the Secretary, an individual is not eligible to enroll (or continue enrollment) in an MSA plan for a year unless the individual provides assurances satisfactory to the Secretary that the individual will reside in the United States for at least 183 days during the year.

"(B) EVALUATION.—The Secretary shall regularly evaluate the impact of permitting enrollment in MSA plans under this part on selection (including adverse selection), use of preventive care, access to care, and the financial status of the Trust Funds under this title.

"(C) REPORTS.—The Secretary shall submit to Congress periodic reports on the numbers of individuals enrolled in such plans and on the evaluation being conducted under subparagraph (B). The Secretary shall submit such a report, by not later than March 1, 2002, on whether the time limitation under subparagraph (A)(i) should be extended or removed and whether to change the numerical limitation under subparagraph (A)(ii).

"(c) PROCESS FOR EXERCISING CHOICE.—

"(1) IN GENERAL.—The Secretary shall establish a process through which elections described in subsection (a) are made and changed, including the form and manner in which such elections are made and changed. Such elections shall be made or changed as provided in subsection (e) and shall become effective as provided in subsection (f).

"(2) COORDINATION THROUGH MEDICARE CHOICE ORGANIZATIONS.—

"(A) ENROLLMENT.—Such process shall permit an individual who wishes to elect a Medicare Choice plan offered by a Medicare Choice organization to make such election through the filing of an appropriate election form with the organization.

"(B) DISENROLLMENT.—Such process shall permit an individual, who has elected a Medicare Choice plan offered by a Medicare Choice organization and who wishes to terminate such election, to terminate such election through the filing of an appropriate election form with the organization.

"(3) DEFAULT.—

"(A) INITIAL ELECTION.—

"(i) IN GENERAL.—Subject to clause (ii), an individual who fails to make an election during an initial election period under subsection (e)(1) is deemed to have chosen the traditional medicare fee-for-service program option.

"(ii) SEAMLESS CONTINUATION OF COVERAGE.—The Secretary may establish procedures under which an individual who is enrolled in a health plan (other than Medicare Choice plan) offered by a Medicare Choice organization at the time of the initial election period and who fails to elect to receive coverage other than through the organization is deemed to have elected the Medicare Choice plan offered by the organization (or, if the organization offers more than one such plan, such plan or plans as the Secretary identifies under such procedures).

"(B) CONTINUING PERIODS.—An individual who has made (or is deemed to have made) an election under this section is considered to have continued to make such election until such time as—

"(i) the individual changes the election under this section, or

"(ii) the Medicare Choice plan with respect to which such election is in effect is discontinued.

"(d) PROVIDING INFORMATION TO PROMOTE INFORMED CHOICE.—

"(1) IN GENERAL.—The Secretary shall provide for activities under this subsection to broadly disseminate information to medicare beneficiaries (and prospective medicare beneficiaries) on the coverage options provided under this section in order to promote an active, informed selection among such options.

"(2) PROVISION OF NOTICE.—

"(A) OPEN SEASON NOTIFICATION.—At least 15 days before the beginning of each annual, coordinated election period (as defined in subsection (e)(3)(B)), the Secretary shall mail to each Medicare Choice eligible individual residing in an area the following:

"(i) GENERAL INFORMATION.—The general information described in paragraph (3).

"(ii) LIST OF PLANS AND COMPARISON OF PLAN OPTIONS.—A list identifying the Medicare Choice plans that are (or will be) available to residents of the area and information described in paragraph (4) concerning such plans. Such information shall be presented in a comparative, chart-like form.

"(iii) ADDITIONAL INFORMATION.—Any other information that the Secretary determines will assist the individual in making the election under this section.

The mailing of such information shall be coordinated with the mailing of any annual notice under section 1804.

"(B) NOTIFICATION TO NEWLY MEDICARE CHOICE ELIGIBLE INDIVIDUALS.—To the extent practicable, the Secretary shall, not later than 30 days before the beginning of the initial Medicare Choice enrollment period for an individual described in subsection (e)(1)(A), mail to the individual the information described in subparagraph (A).

"(C) FORM.—The information disseminated under this paragraph shall be written and formatted using language that is easily understandable by medicare beneficiaries.

"(D) PERIODIC UPDATING.—The information described in subparagraph (A) shall be updated on at least an annual basis to reflect changes in the availability of Medicare Choice plans and the benefits and net monthly premiums for such plans.

"(3) GENERAL INFORMATION.—General information under this paragraph, with respect to coverage under this part during a year, shall include the following:

"(A) BENEFITS UNDER TRADITIONAL MEDICARE FEE-FOR-SERVICE PROGRAM OPTION.—A general description of the benefits covered under the traditional medicare fee-for-service program under parts A and B, including—

"(i) covered items and services,

"(ii) beneficiary cost sharing, such as deductibles, coinsurance, and copayment amounts, and

"(iii) any beneficiary liability for balance billing.

"(B) PART B PREMIUM.—The part B premium rates that will be charged for part B coverage.

"(C) ELECTION PROCEDURES.—Information and instructions on how to exercise election options under this section.

"(D) RIGHTS.—A general description of procedural rights (including grievance and appeals procedures) of beneficiaries under the traditional medicare fee-for-service program and the Medicare Choice program and the right to be protected against discrimination based on health status-related factors under section 1852(b).

"(E) INFORMATION ON MEDIGAP AND MEDICARE SELECT.—A general description of the benefits, enrollment rights, and other requirements applicable to medicare supplemental policies under section 1882 and provisions relating to medicare select policies described in section 1882(t).

"(F) POTENTIAL FOR CONTRACT TERMINATION.—The fact that a Medicare Choice organization may terminate or refuse to renew its contract under this part and the effect the termination or nonrenewal of its contract may have on individuals enrolled with the Medicare Choice plan under this part.

"(4) INFORMATION COMPARING PLAN OPTIONS.—Information under this paragraph, with respect to a Medicare Choice plan for a year, shall include the following:

"(A) BENEFITS.—The benefits covered under the plan, including—

"(i) covered items and services beyond those provided under the traditional medicare fee-for-service program,

"(ii) any beneficiary cost sharing,

"(iii) any maximum limitations on out-of-pocket expenses, and

"(iv) in the case of an MSA plan, differences in cost sharing and balance billing under such a plan compared to under other Medicare Choice plans.

"(B) PREMIUMS.—The net monthly premium, if any, for the plan.

"(C) SERVICE AREA.—The service area of the plan.

"(D) QUALITY AND PERFORMANCE.—To the extent available, plan quality and performance indicators for the benefits under the plan (and how they compare to such indicators under the traditional medicare fee-for-service program under parts A and B in the area involved), including—

"(i) disenrollment rates for medicare enrollees electing to receive benefits through the plan for the previous 2 years (excluding disenrollment due to death or moving outside the plan's service area),

"(ii) information on medicare enrollee satisfaction,

"(iii) information on health outcomes,

"(iv) the extent to which a medicare enrollee may select the health care provider of their choice, including health care providers within the plan's network and out-of-network health care providers (if the plan covers out-of-network items and services), and

"(v) an indication of medicare enrollee exposure to balance billing and the restrictions on coverage of items and services provided to such enrollee by an out-of-network health care provider.

"(E) SUPPLEMENTAL BENEFITS OPTIONS.—Whether the organization offering the plan offers optional supplemental benefits and the terms and conditions (including premiums) for such coverage.

"(F) PHYSICIAN COMPENSATION.—An overall summary description as to the method of compensation of participating physicians.

"(5) MAINTAINING A TOLL-FREE NUMBER AND INTERNET SITE.—The Secretary shall maintain a toll-free number for inquiries regarding Medicare Choice options and the operation of this part in all areas in which Medicare Choice plans are offered and an Internet site through which individuals may electronically obtain information on such options and Medicare Choice plans.

"(6) USE OF NON-FEDERAL ENTITIES.—The Secretary may enter into contracts with non-Federal entities to carry out activities under this subsection.

"(7) PROVISION OF INFORMATION.—A Medicare Choice organization shall provide the Secretary with such information on the organization and each Medicare Choice plan it offers as may be required for the preparation of the information referred to in paragraph (2)(A).

"(8) COORDINATION WITH STATES.—The Secretary shall coordinate with States to the maximum extent feasible in developing and distributing information provided to beneficiaries.

"(e) COVERAGE ELECTION PERIODS.—

"(1) INITIAL CHOICE UPON ELIGIBILITY TO MAKE ELECTION IF MEDICARE CHOICE PLANS AVAILABLE TO INDIVIDUAL.—If, at the time an individual first becomes entitled to benefits under part A and enrolled under part B, there is one or more Medicare Choice plans offered in the area in which the individual resides, the individual shall make the election under this section during a period specified by the Secretary such that if the individual elects a Medicare Choice plan during the period, coverage under the plan becomes effective as of the first date on which the individual may receive such coverage.

"(2) OPEN ENROLLMENT AND DISENROLLMENT OPPORTUNITIES.—Subject to paragraph (5), a Medicare Choice eligible individual may change the election under subsection (a)(1) at any time, except that such individual may only enroll in a Medicare Choice plan which has an open enrollment period in effect at that time.

"(3) ANNUAL, COORDINATED ELECTION PERIOD.—

"(A) IN GENERAL.—Subject to paragraph (5), a Medicare Choice eligible individual may change an election under subsection (a)(1) during an annual, coordinated election period.

"(B) ANNUAL, COORDINATED ELECTION PERIOD.—For purposes of this section, the term 'annual, coordinated election period' means, with respect to a calendar year (beginning with 1998), the month of November before such year.

"(C) MEDICARE CHOICE HEALTH INFORMATION FAIRS.—In the month of November of each year (beginning with 1997), the Secretary shall provide for a nationally coordinated educational and publicity campaign to inform Medicare Choice eligible individuals about Medicare Choice plans and the election process provided under this section.

"(4) SPECIAL ELECTION PERIODS.—A Medicare Choice individual may make a new election under this section if—

"(A) the organization's or plan's certification under this part has been terminated or the organization has terminated or otherwise discontinued providing the plan;

"(B) the individual is no longer eligible to elect the plan because of a change in the individual's place of residence or other change in circumstances (specified by the Secretary, but not including termination of the individual's enrollment on the basis described in clause (i) or (ii) subsection (g)(3)(B));

"(C) the individual demonstrates (in accordance with guidelines established by the Secretary) that—

"(i) the organization offering the plan substantially violated a material provision of the organization's contract under this part in relation to the individual (including the failure to provide an enrollee on a timely basis medically necessary care for which benefits are available under the plan or the failure to provide such covered care in accordance with applicable quality standards); or

"(ii) the organization (or an agent or other entity acting on the organization's behalf) materially misrepresented the plan's provisions in marketing the plan to the individual; or

"(D) the individual meets such other exceptional conditions as the Secretary may provide.

"(5) SPECIAL RULES FOR MSA PLANS.—Notwithstanding the preceding provisions of this subsection, an individual—

"(A) may elect an MSA plan only during—

"(i) an initial open enrollment period described in paragraph (1), or

"(ii) an annual, coordinated election period described in paragraph (3)(B), and

"(B) may not discontinue an election of an MSA plan except during the periods described in subparagraph (A) and under paragraph (4).

"(6) OPEN ENROLLMENT PERIODS.—A Medicare Choice organization—

"(A) shall accept elections or changes to elections described in paragraphs (1), (3), and (4) during the periods prescribed in such paragraphs, and

"(B) may accept other changes to elections at such other times as the organization provides.

"(f) EFFECTIVENESS OF ELECTIONS AND CHANGES OF ELECTIONS.—

"(1) DURING INITIAL COVERAGE ELECTION PERIOD.—An election of coverage made during the initial coverage election period under subsection (e)(1)(A) shall take effect upon the date the individual becomes entitled to benefits under part A and enrolled under part B, except as the Secretary may provide (consistent with section 1838) in order to prevent retroactive coverage.

"(2) DURING CONTINUOUS OPEN ENROLLMENT PERIODS.—An election or change of coverage made under subsection (e)(2) shall take effect with the first day of the first calendar month following the date on which the election is made.

"(3) ANNUAL, COORDINATED ELECTION PERIOD.—An election or change of coverage made during an annual, coordinated election period (as defined in subsection (e)(3)(B)) in a year shall take effect as of the first day of the following year unless the individual elects to have it take effect on December 1 of the election year.

"(4) OTHER PERIODS.—An election or change of coverage made during any other period under subsection (e)(4) shall take effect in such manner as the Secretary provides in a manner consistent (to the extent practicable) with protecting continuity of health benefit coverage.

"(g) GUARANTEED ISSUE AND RENEWAL.—

"(1) IN GENERAL.—Except as provided in this subsection, a Medicare Choice organization shall provide that at any time during which elections are accepted under this section with respect to a Medicare Choice plan offered by the organization, the organization will accept without restrictions individuals who are eligible to make such election.

"(2) PRIORITY.—If the Secretary determines that a Medicare Choice organization, in relation to a Medicare Choice plan it offers, has a capacity limit and the number of Medicare Choice eligible individuals who elect the plan under this section exceeds the capacity limit, the organization may limit the election of individuals of the plan under this section but only if priority in election is provided—

"(A) first to such individuals as have elected the plan at the time of the determination, and

"(B) then to other such individuals in such a manner that does not discriminate, on a basis described in section 1852(b), among the individuals (who seek to elect the plan).

The preceding sentence shall not apply if it would result in the enrollment of enrollees substantially nonrepresentative, as determined in accordance with regulations of the Secretary, of the medicare population in the service area of the plan.

"(3) LIMITATION ON TERMINATION OF ELECTION.—

"(A) IN GENERAL.—Subject to subparagraph (B), a Medicare Choice organization may not for any reason terminate the election of any individual under this section for a Medicare Choice plan it offers.

"(B) BASIS FOR TERMINATION OF ELECTION.—A Medicare Choice organization may terminate an individual's election under this section with respect to a Medicare Choice plan it offers if—

"(i) any net monthly premiums required with respect to such plan are not paid on a timely basis (consistent with standards under section 1856 that provide for a grace period for late payment of net monthly premiums),

"(ii) the individual has engaged in disruptive behavior (as specified in such standards), or

"(iii) the plan is terminated with respect to all individuals under this part in the area in which the individual resides.

"(C) CONSEQUENCE OF TERMINATION.—

"(i) TERMINATIONS FOR CAUSE.—Any individual whose election is terminated under clause (i) or (ii) of subparagraph (B) is deemed to have elected the traditional medicare fee-for-service program option described in subsection (a)(1)(A).

"(ii) TERMINATION BASED ON PLAN TERMINATION OR SERVICE AREA REDUCTION.—Any individual whose election is terminated under subparagraph (B)(iii) shall have a special election period under subsection (e)(4)(A) in which to change coverage to coverage under another Medicare Choice plan. Such an individual who fails to make an election during such period is deemed to have chosen to change coverage to the traditional medicare fee-for-service program option described in subsection (a)(1)(A).

"(D) ORGANIZATION OBLIGATION WITH RESPECT TO ELECTION FORMS.—Pursuant to a contract under section 1857, each Medicare Choice organization receiving an election form under subsection (c)(3) shall transmit to the Secretary (at such time and in such manner as the Secretary may specify) a copy of such form or such other information respecting the election as the Secretary may specify.

"(h) APPROVAL OF MARKETING MATERIAL AND APPLICATION FORMS.—

"(1) SUBMISSION.—No marketing material or application form may be distributed by a Medicare Choice organization to (or for the use of) Medicare Choice eligible individuals unless—

"(A) at least 45 days before the date of distribution the organization has submitted the material or form to the Secretary for review, and

"(B) the Secretary has not disapproved the distribution of such material or form.

"(2) REVIEW.—The standards established under section 1856 shall include guidelines for the review of any material or form submitted and under such guidelines the Secretary shall disapprove (or later require the correction of) such material or form if the material or form is materially inaccurate or misleading or otherwise makes a material misrepresentation.

"(3) DEEMED APPROVAL (1-STOP SHOPPING).—In the case of material or form that is submitted under paragraph (1)(A) to the Secretary or a regional office of the Department of Health and Human Services and the Secretary or the office has not disapproved the distribution of marketing material or form under paragraph (1)(B) with respect to a Medicare Choice plan in an area, the Secretary is deemed not to have disapproved such distribution in all other areas covered by the plan and organization except to the extent that such material or form is specific only to an area involved.

"(4) PROHIBITION OF CERTAIN MARKETING PRACTICES.—Each Medicare Choice organization shall conform to fair marketing standards, in relation to Medicare Choice plans offered under this part, included in the standards established under section 1856.

"(i) EFFECT OF ELECTION OF MEDICARE CHOICE PLAN OPTION.—Subject to sections 1852(a)(5) and 1857(f)(2)—

"(1) payments under a contract with a Medicare Choice organization under section 1853(a) with respect to an individual electing a Medicare Choice plan offered by the organization shall be instead of the amounts which (in the absence of the contract) would otherwise be payable under parts A and B for items and services furnished to the individual, and

"(2) subject to subsections (e) and (g) of section 1853, only the Medicare Choice organization shall be entitled to receive payments from the Secretary under this title for services furnished to the individual.

"BENEFITS AND BENEFICIARY PROTECTIONS

"SEC. 1852. (a) BASIC BENEFITS.—

"(1) IN GENERAL.—Except as provided in section 1859(b)(3) for MSA plans, each Medicare Choice plan shall provide to members enrolled under this part, through providers and other persons that meet the applicable requirements of this title and part A of title XI—

"(A) those items and services for which benefits are available under parts A and B to individuals residing in the area served by the plan, and

"(B) additional benefits required under section 1854(f)(1)(A).

"(2) SUPPLEMENTAL BENEFITS.—

"(A) BENEFITS INCLUDED SUBJECT TO SECRETARY'S APPROVAL.—Each Medicare Choice organization may provide to individuals enrolled under this part (without affording those individuals an option to decline the coverage) supplemental health care benefits that the Secretary may approve. The Secretary shall approve any such supplemental benefits unless the Secretary determines that including such supplemental benefits would substantially discourage enrollment by Medicare Choice eligible individuals with the organization.

"(B) AT ENROLLEES' OPTION.—A Medicare Choice organization may provide to individuals enrolled under this part (other than under an MSA plan) supplemental health care benefits that the individuals may elect, at their option, to have covered.

"(3) ORGANIZATION AS SECONDARY PAYER.—Notwithstanding any other provision of law, a Medicare Choice organization may (in the case of the provision of items and services to an individual under a Medicare Choice plan under circumstances in which payment under this title is made secondary pursuant to section 1862(b)(2)) charge or authorize the provider of such services to charge, in accordance with the charges allowed under a law, plan, or policy described in such section—

"(A) the insurance carrier, employer, or other entity which under such law, plan, or policy is to pay for the provision of such services, or

"(B) such individual to the extent that the individual has been paid under such law, plan, or policy for such services.

"(4) NATIONAL COVERAGE DETERMINATIONS.—If there is a national coverage determination made in the period beginning on the date of an announcement under section 1853(b) and ending on the date of the next announcement under such section and the Secretary projects that the determination will result in a significant change in the costs to a Medicare Choice organization of providing the benefits that are the subject of such national coverage determination and that such change in costs was not incorporated in the determination of the annual Medicare Choice capitation rate under section 1853 included in the announcement made at the beginning of such period, then, unless otherwise required by law—

"(A) such determination shall not apply to contracts under this part until the first contract year that begins after the end of such period, and

"(B) if such coverage determination provides for coverage of additional benefits or coverage under additional circumstances, section 1851(i) shall not apply to payment for such additional benefits or benefits provided under such additional circumstances until the first contract year that begins after the end of such period.

"(5) SATISFACTION OF REQUIREMENT.—

"(A) IN GENERAL.—A MedicarePlus plan offered by a MedicarePlus organization satisfies paragraph (1)(A), with respect to benefits for items and services furnished other than through a provider that has a contract with the organization offering the plan, if the plan provides (in addition to any cost sharing provided for under the plan) for at least the total dollar amount of payment for such items and services as would otherwise be authorized under parts A and B (including any balance billing permitted under such parts).

"(B) EXCEPTION FOR MSA PLANS AND UNRESTRICTED FEE-FOR-SERVICE PLANS.—Subparagraph (A) shall not apply to an MSA plan or an unrestricted fee-for-service plan.

"(b) ANTIDISCRIMINATION.—

"(1) BENEFICIARIES.—

"(A) IN GENERAL.—A Medicare Choice organization may not deny, limit, or condition the coverage or provision of benefits under this part, for individuals permitted to be enrolled with the organization under this part, based on any health status-related factor described in section 2702(a)(1) of the Public Health Service Act.

"(B) CONSTRUCTION.—Subparagraph (A) shall not be construed as requiring a Medicare Choice organization to enroll individuals who are determined to have end-stage renal disease, except as provided under section 1851(a)(3)(B).

"(2) PROVIDERS.—A Medicare Choice organization shall not discriminate with respect to participation, reimbursement, or indemnification as to any provider who is acting within the scope of the provider's license or certification under applicable State law, solely on the basis of such license or certification. This paragraph shall not be construed to prohibit a plan from including providers only to the extent necessary to meet the needs of the plan's enrollees or from establishing any measure designed to maintain quality and control costs consistent with the responsibilities of the plan.

"(c) DISCLOSURE REQUIREMENTS.—

"(1) DETAILED DESCRIPTION OF PLAN PROVISIONS.—A Medicare Choice organization shall disclose, in clear, accurate, and standardized form to each enrollee with a Medicare Choice plan offered by the organization under this part at the time of enrollment and at least annually thereafter, the following information regarding such plan:

"(A) SERVICE AREA.—The plan's service area.

"(B) BENEFITS.—Benefits offered under the plan, including information described in section 1851(d)(3)(A) and exclusions from coverage and, if it is an MSA plan, a comparison of benefits under such a plan with benefits under other Medicare Choice plans.

"(C) ACCESS.—The number, mix, and distribution of plan providers.

"(D) OUT-OF-AREA COVERAGE.—Out-of-area coverage provided by the plan.

"(E) EMERGENCY COVERAGE.—Coverage of emergency services and urgently needed care, including—

"(i) the appropriate use of emergency services, including use of the 911 telephone system or its local equivalent in emergency situations and an explanation of what constitutes an emergency situation;

"(ii) the process and procedures of the plan for obtaining emergency services; and

"(iii) the locations of (I) emergency departments, and (II) other settings, in which plan

physicians and hospitals provide emergency services and post-stabilization care.

"(F) SUPPLEMENTAL BENEFITS.—Supplemental benefits available from the organization offering the plan, including—

"(i) whether the supplemental benefits are optional,

"(ii) the supplemental benefits covered, and

"(iii) the premium price for the supplemental benefits.

"(G) PRIOR AUTHORIZATION RULES.—Rules regarding prior authorization or other review requirements that could result in nonpayment.

"(H) PLAN GRIEVANCE AND APPEALS PROCEDURES.—All plan appeal or grievance rights and procedures.

"(I) QUALITY ASSURANCE PROGRAM.—A description of the organization's quality assurance program under subsection (e).

"(J) OUT-OF-NETWORK COVERAGE.—The out-of-network coverage (if any) provided by the plan.

"(2) DISCLOSURE UPON REQUEST.—Upon request of a Medicare Choice eligible individual, a Medicare Choice organization must provide the following information to such individual:

"(A) The information described in paragraphs (3) and (4) of section 1851(d).

"(B) Information on utilization review procedures.

"(d) ACCESS TO SERVICES.—

"(1) IN GENERAL.—A Medicare Choice organization offering a Medicare Choice plan, other than an unrestricted fee-for-service plan, may select the providers from whom the benefits under the plan are provided so long as—

"(A) the organization makes such benefits available and accessible to each individual electing the plan within the plan service area with reasonable promptness and in a manner which assures continuity in the provision of benefits;

"(B) when medically necessary the organization makes such benefits available and accessible 24 hours a day and 7 days a week;

"(C) the plan provides for reimbursement with respect to services which are covered under subparagraphs (A) and (B) and which are provided to such an individual other than through the organization, if—

"(i) the services were medically necessary and immediately required because of an unforeseen illness, injury, or condition, and it was not reasonable given the circumstances to obtain the services through the organization, or

"(ii) the services were renal dialysis services and were provided other than through the organization because the individual was temporarily out of the plan's service area;

"(D) the organization provides access to appropriate providers, including credentialed specialists, for medically necessary treatment and services;

"(E) coverage is provided for emergency services (as defined in paragraph (3)) without regard to prior authorization or the emergency care provider's contractual relationship with the organization; and

"(F) except as provided by the Secretary on a case-by-case basis, the organization provides primary care services within 30 minutes or 30 miles from an enrollee's place of residence if the enrollee resides in a rural area.

"(2) GUIDELINES RESPECTING COORDINATION OF POST-STABILIZATION CARE.—

"(A) IN GENERAL.—A Medicare Choice plan shall comply with such guidelines as the Secretary shall prescribe relating to promoting efficient and timely coordination of appropriate maintenance and post-stabilization care of an enrollee after the enrollee has been determined to be stable under section 1867.

"(B) CONTENT OF GUIDELINES.—The guidelines prescribed under subparagraph (A) shall provide that—

"(i) a provider of emergency services shall make a documented good faith effort to contact the plan in a timely fashion from the point at which the individual is stabilized to request approval for medically necessary post-stabilization care,

"(ii) the plan shall respond in a timely fashion to the initial contact with the plan with a decision as to whether the services for which approval is requested will be authorized, and

"(iii) if a denial of a request is communicated, the plan shall, upon request from the treating physician, arrange for a physician who is authorized by the plan to review the denial to communicate directly with the treating physician in a timely fashion.

"(3) DEFINITION OF EMERGENCY SERVICES.—In this subsection—

"(A) IN GENERAL.—The term 'emergency services' means, with respect to an individual enrolled with an organization, covered inpatient and outpatient services that—

"(i) are furnished by a provider that is qualified to furnish such services under this title, and

"(ii) are needed to evaluate or stabilize an emergency medical condition (as defined in subparagraph (B)).

"(B) EMERGENCY MEDICAL CONDITION BASED ON PRUDENT LAYPERSON.—The term 'emergency medical condition' means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in—

"(i) placing the health of the individual (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy,

"(ii) serious impairment to bodily functions, or

"(iii) serious dysfunction of any bodily organ or part.

"(e) QUALITY ASSURANCE PROGRAM.—

"(1) IN GENERAL.—Each Medicare Choice organization must have arrangements, consistent with any regulation, for an ongoing quality assurance program for health care services it provides to individuals enrolled with Medicare Choice plans of the organization.

"(2) ELEMENTS OF PROGRAM.—The quality assurance program shall—

"(A) stress health outcomes and provide for the collection, analysis, and reporting of data (in accordance with a quality measurement system that the Secretary recognizes) that will permit measurement of outcomes and other indices of the quality of Medicare Choice plans and organizations;

"(B) provide for the establishment of written protocols for utilization review, based on current standards of medical practice;

"(C) provide review by physicians and other health care professionals of the process followed in the provision of such health care services;

"(D) monitor and evaluate high volume and high risk services and the care of acute and chronic conditions;

"(E) evaluate the continuity and coordination of care that enrollees receive;

"(F) have mechanisms to detect both underutilization and overutilization of services;

"(G) after identifying areas for improvement, establish or alter practice parameters;

"(H) take action to improve quality and assesses the effectiveness of such action through systematic followup;

"(I) make available information on quality and outcomes measures to facilitate beneficiary comparison and choice of health coverage options (in such form and on such quality and outcomes measures as the Secretary determines to be appropriate);

"(J) be evaluated on an ongoing basis as to its effectiveness;

"(K) include measures of consumer satisfaction; and

"(L) provide the Secretary with such access to information collected as may be appropriate to monitor and ensure the quality of care provided under this part.

"(3) EXTERNAL REVIEW.—Each Medicare Choice organization shall, for each Medicare Choice plan it operates, have an agreement with an independent quality review and improvement organization approved by the Secretary to perform functions of the type described in sections 1154(a)(4)(B) and 1154(a)(14) with respect to services furnished by Medicare Choice plans for which payment is made under this title.

"(4) EXCEPTION FOR MEDICARE CHOICE UNRESTRICTED FEE-FOR-SERVICE PLANS.—Paragraphs (1) through (3) of this subsection and subsection (h)(2) (relating to maintaining medical records) shall not apply in the case of a Medicare Choice organization in relation to a Medicare Choice unrestricted fee-for-service plan.

"(5) TREATMENT OF ACCREDITATION.—The Secretary shall provide that a Medicare Choice organization is deemed to meet requirements of paragraphs (1) and (2) of this subsection and subsection (h) (relating to confidentiality and accuracy of enrollee records) if the organization is accredited (and periodically reaccredited) by a private organization under a process that the Secretary has determined assures that the organization, as a condition of accreditation, applies and enforces standards with respect to the requirements involved that are no less stringent than the standards established under section 1856 to carry out the respective requirements.

"(6) ANNUAL REPORT ON NON-HEALTH EXPENDITURES.—Each Medicare Choice organization shall, at the request of the enrollee, annually provide to enrollees a statement disclosing the proportion of the premiums and other revenues received by the organization that are expended for non-health care items and services.

"(f) COVERAGE DETERMINATIONS.—

"(1) DECISIONS ON NONEMERGENCY CARE.—A Medicare Choice organization shall make determinations regarding authorization requests for nonemergency care on a timely basis, depending on the urgency of the situation.

"(2) RECONSIDERATIONS.—

"(A) IN GENERAL.—Subject to subsection (g)(4), a reconsideration of a determination of an organization denying coverage shall be made within 30 days of the date of receipt of medical information, but not later than 60 days after the date of the determination.

"(B) PHYSICIAN DECISION ON CERTAIN RECONSIDERATIONS.—A reconsideration relating to a determination to deny coverage based on a lack of medical necessity shall be made only by a physician other than a physician involved in the initial determination.

"(g) GRIEVANCES AND APPEALS.—

"(1) GRIEVANCE MECHANISM.—Each Medicare Choice organization must provide meaningful procedures for hearing and resolving grievances between the organization (including any entity or individual through which the organization provides health care services) and enrollees with Medicare Choice plans of the organization under this part.

"(2) APPEALS.—An enrollee with a Medicare Choice plan of a Medicare Choice organization under this part who is dissatisfied by reason of the enrollee's failure to receive any health service to which the enrollee believes the enrollee is entitled and at no greater charge than the enrollee believes the enrollee is required to pay is entitled, if the amount in controversy is $100 or more, to a hearing before the Secretary to the same extent as is provided in section 205(b), and in any such hearing the Secretary shall make the organization a party. If the amount in controversy is $1,000 or more, the individual or organization shall, upon notifying the other party, be entitled to judicial review of the Secretary's final decision as provided in section 205(g), and both the individual and the organization shall be entitled to be parties to that judicial review. In applying subsections (b) and (g) of section 205 as provided in this paragraph, and in applying section 205(l) thereto, any reference therein to the Commissioner of Social Security or the Social Security Administration shall be considered a reference to the Secretary or the Department of Health and Human Services, respectively.

"(3) INDEPENDENT REVIEW OF CERTAIN COVERAGE DENIALS.—The Secretary shall contract with an independent, outside entity to review and resolve reconsiderations that affirm denial of coverage.

"(4) EXPEDITED DETERMINATIONS AND RECONSIDERATIONS.—

"(A) RECEIPT OF REQUESTS.—An enrollee in a Medicare Choice plan may request, either in writing or orally, an expedited determination or reconsideration by the Medicare Choice organization regarding a matter described in paragraph (2). The organization shall also permit the acceptance of such requests by physicians.

"(B) ORGANIZATION PROCEDURES.—

"(i) IN GENERAL.—The Medicare Choice organization shall maintain procedures for expediting organization determinations and reconsiderations when, upon request of an enrollee, the organization determines that the application of normal time frames for making a determination (or a reconsideration involving a determination) could seriously jeopardize the life or health of the enrollee or the enrollee's ability to regain maximum function.

"(ii) TIMELY RESPONSE.—In an urgent case described in clause (i), the organization shall notify the enrollee (and the physician involved, as appropriate) of the determination (or determination on the reconsideration) as expeditiously as the enrollee's health condition requires, but not later than 72 hours (or 24 hours in the case of a reconsideration) of the time of receipt of the request for the determination or reconsideration (or receipt of the information necessary to make the determination or reconsideration), or such longer period as the Secretary may permit in specified cases.

"(h) CONFIDENTIALITY AND ACCURACY OF ENROLLEE RECORDS.—Each Medicare Choice organization shall establish procedures—

"(1) to safeguard the privacy of individually identifiable enrollee information,

"(2) to maintain accurate and timely medical records and other health information for enrollees, and

"(3) to assure timely access of enrollees to their medical information.

"(i) INFORMATION ON ADVANCE DIRECTIVES.—Each Medicare Choice organization shall meet the requirement of section 1866(f) (relating to maintaining written policies and procedures respecting advance directives).

"(j) RULES REGARDING PHYSICIAN PARTICIPATION.—

"(1) PROCEDURES.—Each Medicare Choice organization shall establish reasonable procedures relating to the participation (under an agreement between a physician and the organization) of physicians under Medicare Choice plans offered by the organization under this part. Such procedures shall include—

"(A) providing notice of the rules regarding participation,

"(B) providing written notice of participation decisions that are adverse to physicians, and

"(C) providing a process within the organization for appealing such adverse decisions, including the presentation of information and views of the physician regarding such decision.

"(2) CONSULTATION IN MEDICAL POLICIES.—A Medicare Choice organization shall consult with physicians who have entered into participation agreements with the organization regarding the organization's medical policy, quality, and medical management procedures.

"(3) LIMITATIONS ON PHYSICIAN INCENTIVE PLANS.—

"(A) IN GENERAL.—No Medicare Choice organization may operate any physician incentive plan (as defined in subparagraph (B)) unless the following requirements are met:

"(i) No specific payment is made directly or indirectly under the plan to a physician or physician group as an inducement to reduce or limit medically necessary services provided with respect to a specific individual enrolled with the organization.

"(ii) If the plan places a physician or physician group at substantial financial risk (as determined by the Secretary) for services not provided by the physician or physician group, the organization—

"(I) provides stop-loss protection for the physician or group that is adequate and appropriate, based on standards developed by the Secretary that take into account the number of physicians placed at such substantial financial risk in the group or under the plan and the number of individuals enrolled with the organization who receive services from the physician or group, and

"(II) conducts periodic surveys of both individuals enrolled and individuals previously enrolled with the organization to determine the degree of access of such individuals to services provided by the organization and satisfaction with the quality of such services.

"(iii) The organization provides the Secretary with descriptive information regarding the plan, sufficient to permit the Secretary to determine whether the plan is in compliance with the requirements of this subparagraph.

"(B) PHYSICIAN INCENTIVE PLAN DEFINED.—In this paragraph, the term 'physician incentive plan' means any compensation arrangement between a Medicare Choice organization and a physician or physician group that may directly or indirectly have the effect of reducing or limiting services provided with respect to individuals enrolled with the organization under this part.

"(4) LIMITATION ON PROVIDER INDEMNIFICATION.—A Medicare Choice organization may not provide (directly or indirectly) for a provider (or group of providers) to indemnify the organization against any liability resulting from a civil action brought for any damage caused to an enrollee with a Medicare Choice plan of the organization under this part by the organization's denial of medically necessary care.

"(k) TREATMENT OF SERVICES FURNISHED BY CERTAIN PROVIDERS.—

"(1) IN GENERAL.—A physician or other entity (other than a provider of services) that does not have a contract establishing payment amounts for services furnished to an individual enrolled under this part with a MedicarePlus organization shall accept as payment in full for covered services under this title that are furnished to such an individual the amounts that the physician or other entity could collect if the individual were not so enrolled. Any penalty or other provision of law that applies to such a payment with respect to an individual entitled to benefits under this title (but not enrolled with a MedicarePlus organization under this part) also applies with respect to an individual so enrolled.

"(2) EXCEPTION FOR MSA PLANS AND UNRESTRICTED FEE-FOR-SERVICE PLANS.—Paragraph (1) shall not apply to an MSA plan or an unrestricted fee-for-service plan.

"PAYMENTS TO MEDICARE CHOICE ORGANIZATIONS

"SEC. 1853. (a) PAYMENTS TO ORGANIZATIONS.—

"(1) MONTHLY PAYMENTS.—

"(A) IN GENERAL.—Under a contract under section 1857 and subject to subsections (e) and (f), the Secretary shall make monthly payments under this section in advance to each Medicare Choice organization, with respect to coverage of an individual under this part in a Medicare Choice payment area for a month, in an amount equal to 1/12 of the annual Medicare Choice capitation rate (as calculated under subsection (c)) with respect to that individual for that area, adjusted for such risk factors as age, disability status, gender, institutional status, and such other factors as the Secretary determines to be appropriate, so as to ensure actuarial equivalence. The Secretary may add to, modify, or substitute for such factors, if such changes will improve the determination of actuarial equivalence.

"(B) SPECIAL RULE FOR END-STAGE RENAL DISEASE.—The Secretary shall establish separate rates of payment to a Medicare Choice organization with respect to classes of individuals determined to have end-stage renal disease and enrolled in a Medicare Choice plan of the organization. Such rates of payment shall be actuarially equivalent to rates paid to other enrollees in the Medicare Choice payment area (or such other area as specified by the Secretary). In accordance with regulations, the Secretary shall provide for the application of the seventh sentence of section 1881(b)(7) to payments under this section covering the provision of renal dialysis treatment in the same manner as such sentence applies to composite rate payments described in such sentence.

"(2) ADJUSTMENT TO REFLECT NUMBER OF ENROLLEES.—

"(A) IN GENERAL.—The amount of payment under this subsection may be retroactively adjusted to take into account any difference between the actual number of individuals enrolled with an organization under this part and the number of such individuals estimated to be so enrolled in determining the amount of the advance payment.

"(B) SPECIAL RULE FOR CERTAIN ENROLLEES.—

"(i) IN GENERAL.—Subject to clause (ii), the Secretary may make retroactive adjustments under subparagraph (A) to take into account individuals enrolled during the period beginning on the date on which the individual enrolls with a Medicare Choice organization under a plan operated, sponsored, or contributed to by the individual's employer or former employer (or the employer or former employer of the individual's spouse) and ending on the date on which the individual is enrolled in the organization under this part, except that for purposes of making such retroactive adjustments under this subparagraph, such period may not exceed 90 days.

"(ii) EXCEPTION.—No adjustment may be made under clause (i) with respect to any individual who does not certify that the organization provided the individual with the disclosure statement described in section 1852(c) at the time the individual enrolled with the organization.

"(3) ESTABLISHMENT OF RISK ADJUSTMENT FACTORS.—

"(A) IN GENERAL.—The Secretary shall develop and implement a method of risk adjustment of payment rates under this section that accounts for variations in per capita costs based on health status. Such method shall not be implemented before the Secretary receives an evaluation by an outside, independent actuary of the actuarial soundness of such method.

"(B) DATA COLLECTION.—In order to carry out this paragraph, the Secretary shall require Medicare Choice organizations (and eligible organizations with risk-sharing contracts under section 1876) to submit, for periods beginning on or after January 1, 1998, data regarding inpatient hospital services and other services and other information the Secretary deems necessary.

"(4) INTERIM RISK ADJUSTMENT.—

"(A) IN GENERAL.—In the case of an applicable enrollee in a Medicare Choice plan, the payment to the Medicare Choice organization under this section shall be reduced by an amount equal to the applicable percentage of the amount of such payment (determined without regard to this paragraph).

"(B) APPLICABLE ENROLLEE.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'applicable enrollee' means, with respect to any month, a medicare eligible individual who—

"(I) is enrolled in a Medicare Choice plan, and

"(II) has not been enrolled in Medicare Choice plans and plans operated by eligible organizations with risk-sharing contracts under section 1876 for an aggregate number of months greater than 60 (including the month for which the determination is being made).

"(ii) EXCEPTION FOR BENEFICIARIES MAINTAINING ENROLLMENT IN CERTAIN PLANS.—The term 'applicable enrollee' shall not include any individual enrolled in a Medicare Choice plan offered by a Medicare Choice organization if such individual was enrolled in a health plan (other than a Medicare Choice plan) offered by such organization at the time of the individual's initial election period under section 1851(e)(1) and has been continuously enrolled in such Medicare Choice plan (or another Medicare Choice plan offered by such organization) since such election period.

"(C) APPLICABLE PERCENTAGE.—For purposes of this paragraph, the applicable percentage shall be determined in accordance with the following table:

"Months enrolled in HMOs:	Applicable percentage:
1–12	5
13–24	4
25–36	3
37–48	2
49–60	1.

"(D) EXCEPTION FOR NEW PLANS.—This paragraph shall not apply to applicable enrollees in a Medicare Choice plan for any month if—

"(i) such month occurs during the first 12 months during which the plan enrolls Medicare Choice eligible individuals in the Medicare Choice payment area, and

"(ii) the annual Medicare Choice capitation rate for such area for the calendar year preceding the calendar year in which such 12-month period begins is less than the annual national Medicare Choice capitation rate (as determined under subsection (c)(4)) for such preceding calendar year.

In the case of 1998, clause (ii) shall be applied by using the adjusted average per capita cost under section 1876 for 1997 rather than such capitation rate.

"(E) TERMINATION.—This paragraph shall not apply to any month beginning on or after the first day of the first month to which the method for risk adjustment described in paragraph (3) applies.

"(b) ANNUAL ANNOUNCEMENT OF PAYMENT RATES.—

"(1) ANNUAL ANNOUNCEMENT.—The Secretary shall annually determine, and shall announce (in a manner intended to provide notice to interested parties) not later than August 1 before the calendar year concerned—

"(A) the annual Medicare Choice capitation rate for each Medicare Choice payment area for the year, and

"(B) the risk and other factors to be used in adjusting such rates under subsection (a)(1)(A) for payments for months in that year.

"(2) ADVANCE NOTICE OF METHODOLOGICAL CHANGES.—At least 45 days before making the announcement under paragraph (1) for a year, the Secretary shall provide for notice to Medicare Choice organizations of proposed changes to be made in the methodology from the methodology and assumptions used in the previous announcement and shall provide such organizations an opportunity to comment on such proposed changes.

"(3) EXPLANATION OF ASSUMPTIONS.—In each announcement made under paragraph (1), the Secretary shall include an explanation of the assumptions and changes in methodology used in the announcement in sufficient detail so that Medicare Choice organizations can compute monthly adjusted Medicare Choice capitation rates for individuals in each Medicare Choice payment area which is in whole or in part within the service area of such an organization.

"(c) CALCULATION OF ANNUAL MEDICARE CHOICE CAPITATION RATES.—

"(1) IN GENERAL.—For purposes of this part, each annual Medicare Choice capitation rate, for a Medicare Choice payment area for a contract year consisting of a calendar year, is equal to the largest of the amounts specified in the following subparagraph (A), (B), or (C):

"(A) BLENDED CAPITATION RATE.—The sum of—

"(i) the area-specific percentage for the year (as specified under paragraph (2) for the year) of the annual area-specific Medicare Choice capitation rate for the year for the Medicare Choice payment area, as determined under paragraph (3), and

"(ii) the national percentage (as specified under paragraph (2) for the year) of the annual national Medicare Choice capitation rate for the year, as determined under paragraph (4),

multiplied by the payment adjustment factors described in subparagraphs (A) and (B) of paragraph (5).

"(B) MINIMUM AMOUNT.—Subject to paragraph (8)—

"(i) For 1998, $4,200 (but not to exceed, in the case of an area outside the 50 States and the District of Columbia, 150 percent of the annual per capita rate of payment for 1997 determined under section 1876(a)(1)(C) for the area).

"(ii) For each subsequent year, 101 percent of the amount in effect under this subparagraph for the previous year.

"(C) MINIMUM PERCENTAGE INCREASE.—Subject to paragraph (8)—

"(i) For 1998, 101 percent of the annual per capita rate of payment for 1997 determined under section 1876(a)(1)(C) for the Medicare Choice payment area.

"(ii) For each subsequent year, 101 percent of the annual Medicare Choice capitation rate under this paragraph for the area for the previous year.

"(2) AREA-SPECIFIC AND NATIONAL PERCENTAGES.—For purposes of paragraph (1)(A)—

"(A) for 1998, the 'area-specific percentage' is 90 percent and the 'national percentage' is 10 percent,

"(B) for 1999, the 'area-specific percentage' is 80 percent and the 'national percentage' is 20 percent,

"(C) for 2000, the 'area-specific percentage' is 70 percent and the 'national percentage' is 30 percent,

"(D) for 2001, the 'area-specific percentage' is 60 percent and the 'national percentage' is 40 percent, and

"(E) for a year after 2001, the 'area-specific percentage' is 50 percent and the 'national percentage' is 50 percent.

"(3) ANNUAL AREA-SPECIFIC MEDICARE CHOICE CAPITATION RATE.—

"(A) IN GENERAL.—For purposes of paragraph (1)(A), the annual area-specific Medicare Choice capitation rate for a Medicare Choice payment area—

"(i) for 1998 is the modified annual per capita rate of payment for 1997 determined under section 1876(a)(1)(C) for the area, increased by the national average per capita growth percentage for 1998 (as defined in paragraph (6)); or

"(ii) for a subsequent year is the annual area-specific Medicare Choice capitation rate for the previous year determined under this paragraph for the area, increased by the national average per capita growth percentage for such subsequent year.

"(B) MODIFIED ANNUAL PER CAPITA RATE OF PAYMENT.—For purposes of subparagraph (A), the modified annual per capita rate of payment for a Medicare Choice payment area for 1997 shall be equal to the annual per capita rate of payment for such area for such year which would have been determined under section 1876(a)(1)(C) if 25 percent of any payments attributable to sections 1886(d)(5)(B), 1886(h), and 1886(d)(5)(F) (relating to IME, GME, and DSH payments) were not taken into account.

"(C) SPECIAL RULES FOR 1999, 2000, AND 2001.—In applying subparagraph (A)(ii) for 1999, 2000, and 2001, the annual area-specific Medicare Choice capitation rate for the preceding calendar year shall be the amount which would have been determined if subparagraph (B) had been applied by substituting the following percentages for '25 percent':

"(i) In 1999, 50 percent.

"(ii) In 2000, 75 percent.

"(iii) In 2001, 100 percent.

"(4) ANNUAL NATIONAL MEDICARE CHOICE CAPITATION RATE.—For purposes of paragraph (1)(A), the annual national Medicare Choice capitation rate for a Medicare Choice payment area for a year is equal to—

"(A) the sum (for all Medicare Choice payment areas) of the product of—

"(i) the annual area-specific Medicare Choice capitation rate for that year for the area under paragraph (3), and

"(ii) the average number of medicare beneficiaries residing in that area in the year; divided by

"(B) the sum of the amounts described in subparagraph (A)(ii) for all Medicare Choice payment areas for that year.

"(5) PAYMENT ADJUSTMENT BUDGET NEUTRALITY FACTORS.—For purposes of paragraph (1)(A)—

"(A) BLENDED RATE PAYMENT ADJUSTMENT FACTOR.—For each year, the Secretary shall compute a blended rate payment adjustment factor such that, not taking into account subparagraphs (B) and (C) of paragraph (1) and the application of the payment adjustment factor described in subparagraph (B) but taking into account paragraph (7), the aggregate of the payments that would be made under this part is equal to the aggregate payments that would have been made under this part (not taking into account such subparagraphs and such other adjustment factor) if the area-specific percentage under paragraph (1) for the year had been 100 percent and the national percentage had been 0 percent.

"(B) FLOOR-AND-MINIMUM-UPDATE PAYMENT ADJUSTMENT FACTOR.—For each year, the Secretary shall compute a floor-and-minimum-update payment adjustment factor so that, taking into account the application of the blended rate payment adjustment factor under subparagraph (A) and subparagraphs (B) and (C) of paragraph (1) and the application of the adjustment factor under this subparagraph, the aggregate of the payments under this part shall not exceed the aggregate payments that would have been made under this part if subparagraphs (B) and (C) of paragraph (1) did not apply and if the floor-and-minimum-update payment adjustment factor under this subparagraph was 1.

"(6) NATIONAL AVERAGE PER CAPITA GROWTH PERCENTAGE DEFINED.—In this part, the 'national average per capita growth percentage' for *any year (beginning with 1998) is equal to the sum of—*

“(A) the percentage increase in the gross domestic product per capita for the 12-month period ending on June 30 of the preceding year, plus

“(B) 0.5 percentage points.

“(7) TREATMENT OF AREAS WITH HIGHLY VARIABLE PAYMENT RATES.—In the case of a Medicare Choice payment area for which the annual per capita rate of payment determined under section 1876(a)(1)(C) for 1997 varies by more than 20 percent from such rate for 1996, for purposes of this subsection the Secretary may substitute for such rate for 1997 a rate that is more representative of the costs of the enrollees in the area.

“(8) ADJUSTMENTS TO MINIMUM AMOUNTS AND MINIMUM PERCENTAGE INCREASES.—After computing all amounts under this subsection (without regard to this paragraph) for any year, the Secretary shall—

“(A) redetermine the amount under paragraph (1)(C) for such year by substituting ‘100 percent’ for ‘101 percent’ each place it appears, and

“(B) increase the minimum amount under paragraph (1)(B) to an amount equal to the lesser of—

“(i) the amount the Secretary estimates will result in increased payments under such paragraph equal to the decrease in payments by reason of the redetermination under subparagraph (A), or

“(ii) an amount equal to 85 percent of the annual national Medicare Choice capitation rate determined under paragraph (4).

“(9) STUDY OF LOCAL PRICE INDICATORS.—The Secretary and the Medicare Payment Advisory Commission shall each conduct a study with respect to appropriate measures for adjusting the annual Medicare Choice capitation rates determined under this section to reflect local price indicators, including the medicare hospital wage index and the case-mix of a geographic region. The Secretary and the Advisory Commission shall report the results of such study to the appropriate committees of Congress, including recommendations (if any) for legislation.

“(d) MEDICARE CHOICE PAYMENT AREA DEFINED.—

“(1) IN GENERAL.—In this part, except as provided in paragraph (3), the term ‘Medicare Choice payment area’ means a county, or equivalent area specified by the Secretary.

“(2) RULE FOR ESRD BENEFICIARIES.—In the case of individuals who are determined to have end stage renal disease, the Medicare Choice payment area shall be a State or such other payment area as the Secretary specifies.

“(3) GEOGRAPHIC ADJUSTMENT.—

“(A) IN GENERAL.—Upon written request of the chief executive officer of a State for a contract year (beginning after 1998) made at least 7 months before the beginning of the year, the Secretary shall make a geographic adjustment to a Medicare Choice payment area in the State otherwise determined under paragraph (1)—

“(i) to a single statewide Medicare Choice payment area,

“(ii) to the metropolitan based system described in subparagraph (C), or

“(iii) to consolidating into a single Medicare Choice payment area noncontiguous counties (or equivalent areas described in paragraph (1)) within a State.

Such adjustment shall be effective for payments for months beginning with January of the year following the year in which the request is received.

“(B) BUDGET NEUTRALITY ADJUSTMENT.—In the case of a State requesting an adjustment under this paragraph, the Secretary shall adjust the payment rates otherwise established under this section for Medicare Choice payment areas in the State in a manner so that the aggregate of the payments under this section in the State shall not exceed the aggregate payments that would have been made under this section for Medicare Choice payment areas in the State in the absence of the adjustment under this paragraph.

“(C) METROPOLITAN BASED SYSTEM.—The metropolitan based system described in this subparagraph is one in which—

“(i) all the portions of each metropolitan statistical area in the State or in the case of a consolidated metropolitan statistical area, all of the portions of each primary metropolitan statistical area within the consolidated area within the State, are treated as a single Medicare Choice payment area, and

“(ii) all areas in the State that do not fall within a metropolitan statistical area are treated as a single Medicare Choice payment area.

“(D) AREAS.—In subparagraph (C), the terms ‘metropolitan statistical area’, ‘consolidated metropolitan statistical area’, and ‘primary metropolitan statistical area’ mean any area designated as such by the Secretary of Commerce.

“(e) SPECIAL RULES FOR INDIVIDUALS ELECTING MSA PLANS.—

“(1) IN GENERAL.—If the amount of the monthly premium for an MSA plan for a Medicare Choice payment area for a year is less than $^{1}/_{12}$ of the annual Medicare Choice capitation rate applied under this section for the area and year involved, the Secretary shall deposit an amount equal to 100 percent of such difference in a Medicare Choice MSA established (and, if applicable, designated) by the individual under paragraph (2).

“(2) ESTABLISHMENT AND DESIGNATION OF MEDICARE CHOICE MEDICAL SAVINGS ACCOUNT AS REQUIREMENT FOR PAYMENT OF CONTRIBUTION.—In the case of an individual who has elected coverage under an MSA plan, no payment shall be made under paragraph (1) on behalf of an individual for a month unless the individual—

“(A) has established before the beginning of the month (or by such other deadline as the Secretary may specify) a Medicare Choice MSA (as defined in section 138(b)(2) of the Internal Revenue Code of 1986), and

“(B) if the individual has established more than one such Medicare Choice MSA, has designated one of such accounts as the individual's Medicare Choice MSA for purposes of this part. Under rules under this section, such an individual may change the designation of such account under subparagraph (B) for purposes of this part.

“(3) LUMP-SUM DEPOSIT OF MEDICAL SAVINGS ACCOUNT CONTRIBUTION.—In the case of an individual electing an MSA plan effective beginning with a month in a year, the amount of the contribution to the Medicare Choice MSA on behalf of the individual for that month and all successive months in the year shall be deposited during that first month. In the case of a termination of such an election as of a month before the end of a year, the Secretary shall provide for a procedure for the recovery of deposits attributable to the remaining months in the year.

“(4) SPECIAL RULE FOR APPLICABLE ENROLLEE.—In the case of an enrollee in a MSA plan for any month who is an applicable enrollee for such month under section 1853(a)(4)(B), the amount of the deposit under paragraph (1) for such month shall be reduced by the applicable percentage (as defined in section 1853(a)(4)(C)) of the amount of such deposit (determined without regard to this paragraph).

“(f) PAYMENTS FROM TRUST FUND.—The payment to a Medicare Choice organization under this section for individuals enrolled under this part with the organization and payments to a Medicare Choice MSA under subsection (e)(1)(B) shall be made from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund in such proportion as the Secretary determines reflects the relative weight that benefits under part A and under part B represents of the actuarial value of the total benefits under this title. Monthly payments otherwise payable under this section for October 2001 shall be paid on the last business day of September 2001. Monthly payments otherwise payable under this section for October 2006 shall be paid on the first business day of October 2006.

“(g) SPECIAL RULE FOR CERTAIN INPATIENT HOSPITAL STAYS.—In the case of an individual who is receiving inpatient hospital services from a subsection (d) hospital (as defined in section 1886(d)(1)(B)) as of the effective date of the individual's—

“(1) election under this part of a Medicare Choice plan offered by a Medicare Choice organization—

“(A) payment for such services until the date of the individual's discharge shall be made under this title through the Medicare Choice plan or the traditional medicare fee-for-service program option described in section 1851(a)(1)(A) (as the case may be) elected before the election with such organization,

“(B) the elected organization shall not be financially responsible for payment for such services until the date after the date of the individual's discharge, and

“(C) the organization shall nonetheless be paid the full amount otherwise payable to the organization under this part; or

“(2) termination of election with respect to a Medicare Choice organization under this part—

“(A) the organization shall be financially responsible for payment for such services after such date and until the date of the individual's discharge,

“(B) payment for such services during the stay shall not be made under section 1886(d) or by any succeeding Medicare Choice organization, and

“(C) the terminated organization shall not receive any payment with respect to the individual under this part during the period the individual is not enrolled.

“PREMIUMS

“SEC. 1854. (a) SUBMISSION AND CHARGING OF PREMIUMS.—

“(1) IN GENERAL.—Subject to paragraph (3), each Medicare Choice organization shall file with the Secretary each year, in a form and manner and at a time specified by the Secretary—

“(A) the amount of the monthly premium for coverage for services under section 1852(a) under each Medicare Choice plan it offers under this part in each Medicare Choice payment area (as defined in section 1853(d)) in which the plan is being offered; and

“(B) the enrollment capacity in relation to the plan in each such area.

“(2) TERMINOLOGY.—In this part—

“(A) the term ‘monthly premium’ means, with respect to a Medicare Choice plan offered by a Medicare Choice organization, the monthly premium filed under paragraph (1), not taking into account the amount of any payment made toward the premium under section 1853; and

“(B) the term ‘net monthly premium’ means, with respect to such a plan and an individual enrolled with the plan, the premium (as defined in subparagraph (A)) for the plan reduced by the amount of payment made toward such premium under section 1853.

“(b) MONTHLY PREMIUM CHARGED.—The monthly amount of the premium charged by a Medicare Choice organization for a Medicare Choice plan offered in a Medicare Choice payment area to an individual under this part shall

be equal to the net monthly premium plus any monthly premium charged in accordance with subsection (e)(2) for supplemental benefits.

“(c) UNIFORM PREMIUM.—The monthly premium and monthly amount charged under subsection (b) of a Medicare Choice organization under this part may not vary among individuals who reside in the same Medicare Choice payment area.

“(d) TERMS AND CONDITIONS OF IMPOSING PREMIUMS.—Each Medicare Choice organization shall permit the payment of net monthly premiums on a monthly basis and may terminate election of individuals for a Medicare Choice plan for failure to make premium payments only in accordance with section 1851(g)(3)(B)(i). A Medicare Choice organization is not authorized to provide for cash or other monetary rebates as an inducement for enrollment or otherwise.

“(e) LIMITATION ON ENROLLEE COST-SHARING.—

“(1) FOR BASIC AND ADDITIONAL BENEFITS.—Except as provided in paragraph (2), in no event may—

“(A) the net monthly premium (multiplied by 12) and the actuarial value of the deductibles, coinsurance, and copayments applicable on average to individuals enrolled under this part with a Medicare Choice plan of an organization with respect to required benefits described in section 1852(a)(1) and additional benefits (if any) required under subsection (f)(1) for a year, exceed

“(B) the actuarial value of the deductibles, coinsurance, and copayments that would be applicable on average to individuals entitled to benefits under part A and enrolled under part B if they were not members of a Medicare Choice organization for the year.

“(2) FOR SUPPLEMENTAL BENEFITS.—If the Medicare Choice organization provides to its members enrolled under this part supplemental benefits described in section 1852(a)(3), the sum of the monthly premium rate (multiplied by 12) charged for such supplemental benefits and the actuarial value of its deductibles, coinsurance, and copayments charged with respect to such benefits may not exceed the adjusted community rate for such benefits (as defined in subsection (f)(4)).

“(3) EXCEPTION FOR MSA PLANS AND UNRESTRICTED FEE-FOR-SERVICE PLANS.—Paragraphs (1) and (2) do not apply to an MSA plan or an unrestricted fee-for-service plan.

“(4) DETERMINATION ON OTHER BASIS.—If the Secretary determines that adequate data are not available to determine the actuarial value under paragraph (1)(A) or (2), the Secretary may determine such amount with respect to all individuals in the Medicare Choice payment area, the State, or in the United States, eligible to enroll in the Medicare Choice plan involved under this part or on the basis of other appropriate data.

“(f) REQUIREMENT FOR ADDITIONAL BENEFITS.—

“(1) REQUIREMENT.—

“(A) IN GENERAL.—Each Medicare Choice organization (in relation to a Medicare Choice plan it offers) shall provide that if there is an excess amount (as defined in subparagraph (B)) for the plan for a contract year, subject to the succeeding provisions of this subsection, the organization shall provide to individuals such additional benefits (as the organization may specify) in a value which is at least equal to the adjusted excess amount (as defined in subparagraph (C)).

“(B) EXCESS AMOUNT.—For purposes of this paragraph, the ‘excess amount’, for an organization for a plan, is the amount (if any) by which—

“(i) the average of the capitation payments made to the organization under section 1853 for the plan at the beginning of contract year, exceeds

“(ii) the actuarial value of the required benefits described in section 1852(a)(1) under the plan for individuals under this part, as determined based upon an adjusted community rate described in paragraph (4) (as reduced for the actuarial value of the coinsurance and deductibles under parts A and B).

“(C) ADJUSTED EXCESS AMOUNT.—For purposes of this paragraph, the ‘adjusted excess amount’, for an organization for a plan, is the excess amount reduced to reflect any amount withheld and reserved for the organization for the year under paragraph (3).

“(D) NO APPLICATION TO MSA PLANS.—Subparagraph (A) shall not apply to an MSA plan.

“(E) UNIFORM APPLICATION.—This paragraph shall be applied uniformly for all enrollees for a plan in a Medicare Choice payment area.

“(F) CONSTRUCTION.—Nothing in this subsection shall be construed as preventing a Medicare Choice organization from providing health care benefits that are in addition to the benefits otherwise required to be provided under this paragraph and from imposing a premium for such additional benefits.

“(2) STABILIZATION FUND.—A Medicare Choice organization may provide that a part of the value of an excess amount described in paragraph (1) be withheld and reserved in the Federal Hospital Insurance Trust Fund and in the Federal Supplementary Medical Insurance Trust Fund (in such proportions as the Secretary determines to be appropriate) by the Secretary for subsequent annual contract periods, to the extent required to stabilize and prevent undue fluctuations in the additional benefits offered in those subsequent periods by the organization in accordance with such paragraph. Any of such value of the amount reserved which is not provided as additional benefits described in paragraph (1)(A) to individuals electing the Medicare Choice plan of the organization in accordance with such paragraph prior to the end of such periods, shall revert for the use of such trust funds.

“(3) DETERMINATION BASED ON INSUFFICIENT DATA.—For purposes of this subsection, if the Secretary finds that there is insufficient enrollment experience to determine an average of the capitation payments to be made under this part at the beginning of a contract period, the Secretary may determine such an average based on the enrollment experience of other contracts entered into under this part.

“(4) ADJUSTED COMMUNITY RATE.—

“(A) IN GENERAL.—For purposes of this subsection, subject to subparagraph (B), the term ‘adjusted community rate’ for a service or services means, at the election of a Medicare Choice organization, either—

“(i) the rate of payment for that service or services which the Secretary annually determines would apply to an individual electing a Medicare Choice plan under this part if the rate of payment were determined under a ‘community rating system’ (as defined in section 1302(8) of the Public Health Service Act, other than subparagraph (C)), or

“(ii) such portion of the weighted aggregate premium, which the Secretary annually estimates would apply to such an individual, as the Secretary annually estimates is attributable to that service or services,

but adjusted for differences between the utilization characteristics of the individuals electing coverage under this part and the utilization characteristics of the other enrollees with the plan (or, if the Secretary finds that adequate data are not available to adjust for those differences, the differences between the utilization characteristics of individuals selecting other Medicare Choice coverage, or Medicare Choice eligible individuals in the area, in the State, or in the United States, eligible to elect Medicare Choice coverage under this part and the utilization characteristics of the rest of the population in the area, in the State, or in the United States, respectively).

“(B) SPECIAL RULE FOR PROVIDER-SPONSORED ORGANIZATIONS.—In the case of a Medicare Choice organization that is a provider-sponsored organization, the adjusted community rate under subparagraph (A) for a Medicare Choice plan of the organization may be computed (in a manner specified by the Secretary) using data in the general commercial marketplace or (during a transition period) based on the costs incurred by the organization in providing such a plan.

“(g) PERIODIC AUDITING.—The Secretary shall provide for the annual auditing of the financial records (including data relating to medicare utilization, costs, and computation of the adjusted community rate) of at least one-third of the Medicare Choice organizations offering Medicare Choice plans under this part. The Comptroller General shall monitor auditing activities conducted under this subsection.

“(h) PROHIBITION OF STATE IMPOSITION OF PREMIUM TAXES.—No State may impose a premium tax or similar tax with respect to payments on Medicare Choice plans or the offering of such plans.

“ORGANIZATIONAL AND FINANCIAL REQUIREMENTS FOR MEDICARE CHOICE ORGANIZATIONS; PROVIDER-SPONSORED ORGANIZATIONS

“SEC. 1855. (a) ORGANIZED AND LICENSED UNDER STATE LAW.—

“(1) IN GENERAL.—Subject to paragraphs (2) and (3), a Medicare Choice organization shall be organized and licensed under State law as a risk-bearing entity eligible to offer health insurance or health benefits coverage in each State in which it offers a Medicare Choice plan.

“(2) SPECIAL EXCEPTION BEFORE 2001 FOR PROVIDER-SPONSORED ORGANIZATIONS.—

“(A) IN GENERAL.—In the case of a provider-sponsored organization that seeks to offer a Medicare Choice plan in a State, the Secretary shall waive the requirement of paragraph (1) that the organization be licensed in that State for any year before 2001 if—

“(i) the organization files an application for such waiver with the Secretary, and

“(ii) the contract with the organization under section 1857 requires the organization to meet all requirements of State law which relate to the licensing of the organization (other than solvency requirements or a prohibition on licensure for such organization).

“(B) TREATMENT OF WAIVER.—

“(i) IN GENERAL.—In the case of a waiver granted under this paragraph for a provider-sponsored organization—

“(I) the waiver shall be effective for the years specified in the waiver, except it may be renewed based on a subsequent application, and

“(II) subject to subparagraph (A)(ii), any provisions of State law which would otherwise prohibit the organization from providing coverage pursuant to a contract under this part shall be superseded.

“(ii) TERMINATION.—A waiver granted under this paragraph shall in no event extend beyond the earlier of—

“(I) December 31, 2000; or

“(II) the date on which the Secretary determines that the State has in effect solvency standards identical to the standards established under section 1856(a).

“(C) PROMPT ACTION ON APPLICATION.—The Secretary shall grant or deny such a waiver application within 60 days after the date the Secretary determines that a substantially complete application has been filed.

“(D) ENFORCEMENT OF STATE STANDARDS.—

“(i) IN GENERAL.—The Secretary shall enter into agreements with States subject to a waiver under this paragraph to ensure the adequate

enforcement of standards incorporated into the contract under subparagraph (A)(ii). Such agreements shall provide methods by which States may notify the Secretary of any failure by an organization to comply with such standards.

"(ii) ENFORCEMENT.—If the Secretary determines that an organization is not in compliance with the standards described in clause (i), the Secretary shall take appropriate actions under subsections (g) and (h) with respect to civil penalties and termination of the contract. The Secretary shall allow an organization 60 days to comply with the standards after notification of failure.

"(E) REPORT.—The Secretary shall, not later than December 31, 1998, report to Congress on the waiver procedure in effect under this paragraph. Such report shall include an analysis of State efforts to adopt regulatory standards that take into account health plan sponsors that provide services directly to enrollees through affiliated providers.

"(3) EXCEPTION IF REQUIRED TO OFFER MORE THAN MEDICARE CHOICE PLANS.—Paragraph (1) shall not apply to a Medicare Choice organization in a State if the State requires the organization, as a condition of licensure, to offer any product or plan other than a Medicare Choice plan.

"(4) LICENSURE DOES NOT SUBSTITUTE FOR OR CONSTITUTE CERTIFICATION.—The fact that an organization is licensed in accordance with paragraph (1) does not deem the organization to meet other requirements imposed under this part.

"(b) PREPAID PAYMENT.—A Medicare Choice organization shall be compensated (except for premiums, deductibles, coinsurance, and copayments) for the provision of health care services to enrolled members under the contract under this part by a payment which is paid on a periodic basis without regard to the date the health care services are provided and which is fixed without regard to the frequency, extent, or kind of health care service actually provided to a member.

"(c) ASSUMPTION OF FULL FINANCIAL RISK.—The Medicare Choice organization shall assume full financial risk on a prospective basis for the provision of the health care services (except, at the election of the organization, hospice care) for which benefits are required to be provided under section 1852(a)(1), except that the organization—

"(1) may obtain insurance or make other arrangements for the cost of providing to any enrolled member such services the aggregate value of which for any year exceeds the applicable amount determined under the last sentence of this subsection for the year,

"(2) may obtain insurance or make other arrangements for the cost of such services provided to its enrolled members other than through the organization because medical necessity required their provision before they could be secured through the organization,

"(3) may obtain insurance or make other arrangements for not more than 90 percent of the amount by which its costs for any of its fiscal years exceed 115 percent of its income for such fiscal year, and

"(4) may make arrangements with physicians or other health professionals, health care institutions, or any combination of such individuals or institutions to assume all or part of the financial risk on a prospective basis for the provision of basic health services by the physicians or other health professionals or through the institutions.

For purposes of paragraph (1), the applicable amount for 1998 is the amount established by the Secretary, and for 1999 and any succeeding year is the amount in effect for the previous year increased by the percentage change in the Consumer Price Index for all urban consumers (U.S. city average) for the 12-month period ending with June of the previous year.

"(d) CERTIFICATION OF PROVISION AGAINST RISK OF INSOLVENCY FOR PSOS.—

"(1) IN GENERAL.—Each Medicare Choice organization that is a provider-sponsored organization with a waiver in effect under subsection (a)(2) shall meet the standards established under section 1856(a) with respect to the financial solvency and capital adequacy of the organization.

"(2) CERTIFICATION PROCESS FOR SOLVENCY STANDARDS FOR PSOS.—The Secretary shall establish a process for the receipt and approval of applications of a provider-sponsored organization for certification (and periodic recertification) of the organization as meeting such solvency standards. Under such process, the Secretary shall act upon such an application not later than 60 days after the date the application has been received.

"(e) PROVIDER-SPONSORED ORGANIZATION DEFINED.—

"(1) IN GENERAL.—In this part, the term 'provider-sponsored organization' means a public or private entity—

"(A) that is established or organized and operated by a local health care provider, or local group of affiliated health care providers,

"(B) that provides a substantial proportion (as defined by the Secretary in accordance with paragraph (2)) of the health care items and services under the contract under this part directly through the provider or affiliated group of providers, and

"(C) with respect to which those affiliated providers that share, directly or indirectly, substantial financial risk with respect to the provision of such items and services have at least a majority financial interest in the entity.

"(2) SUBSTANTIAL PROPORTION.—In defining what is a 'substantial proportion' for purposes of paragraph (1)(B), the Secretary—

"(A) shall take into account the need for such an organization to assume responsibility for providing—

"(i) significantly more than the majority of the items and services under the contract under this section through its own affiliated providers; and

"(ii) most of the remainder of the items and services under the contract through providers with which the organization has an agreement to provide such items and services,

in order to assure financial stability and to address the practical considerations involved in integrating the delivery of a wide range of service providers;

"(B) shall take into account the need for such an organization to provide a limited proportion of the items and services under the contract through providers that are neither affiliated with nor have an agreement with the organization; and

"(C) may allow for variation in the definition of substantial proportion among such organizations based on relevant differences among the organizations, such as their location in an urban or rural area.

"(3) AFFILIATION.—For purposes of this subsection, a provider is 'affiliated' with another provider if, through contract, ownership, or otherwise—

"(A) one provider, directly or indirectly, controls, is controlled by, or is under common control with the other,

"(B) both providers are part of a controlled group of corporations under section 1563 of the Internal Revenue Code of 1986,

"(C) each provider is a participant in a lawful combination under which each provider shares substantial financial risk in connection with the organization's operations, or

"(D) both providers are part of an affiliated service group under section 414 of such Code.

"(4) CONTROL.—For purposes of paragraph (3), control is presumed to exist if one party, directly or indirectly, owns, controls, or holds the power to vote, or proxies for, not less than 51 percent of the voting rights or governance rights of another.

"(5) HEALTH CARE PROVIDER DEFINED.—In this subsection, the term 'health care provider' means—

"(A) any individual who is engaged in the delivery of health care services in a State and who is required by State law or regulation to be licensed or certified by the State to engage in the delivery of such services in the State, and

"(B) any entity that is engaged in the delivery of health care services in a State and that, if it is required by State law or regulation to be licensed or certified by the State to engage in the delivery of such services in the State, is so licensed.

"(6) REGULATIONS.—The Secretary shall issue regulations to carry out this subsection.

"ESTABLISHMENT OF STANDARDS

"SEC. 1856. (a) ESTABLISHMENT OF SOLVENCY STANDARDS FOR PROVIDER-SPONSORED ORGANIZATIONS.—

"(1) ESTABLISHMENT.—

"(A) IN GENERAL.—The Secretary shall establish, on an expedited basis and using a negotiated rulemaking process under subchapter III of chapter 5 of title 5, United States Code, standards described in section 1855(d)(1) (relating to the financial solvency and capital adequacy of the organization) that entities must meet to qualify as provider-sponsored organizations under this part.

"(B) FACTORS TO CONSIDER FOR SOLVENCY STANDARDS.—In establishing solvency standards under subparagraph (A) for provider-sponsored organizations, the Secretary shall consult with interested parties and shall take into account—

"(i) the delivery system assets of such an organization and ability of such an organization to provide services directly to enrollees through affiliated providers,

"(ii) alternative means of protecting against insolvency, including reinsurance, unrestricted surplus, letters of credit, guarantees, organizational insurance coverage, partnerships with other licensed entities, and valuation attributable to the ability of such an organization to meet its service obligations through direct delivery of care, and

"(iii) any standards developed by the National Association of Insurance Commissioners specifically for risk-based health care delivery organizations.

"(C) ENROLLEE PROTECTION AGAINST INSOLVENCY.—Such standards shall include provisions to prevent enrollees from being held liable to any person or entity for the Medicare Choice organization's debts in the event of the organization's insolvency.

"(2) PUBLICATION OF NOTICE.—In carrying out the rulemaking process under this subsection, the Secretary, after consultation with the National Association of Insurance Commissioners, the American Academy of Actuaries, organizations representative of medicare beneficiaries, and other interested parties, shall publish the notice provided for under section 564(a) of title 5, United States Code, by not later than 45 days after the date of the enactment of this section.

"(3) TARGET DATE FOR PUBLICATION OF RULE.—As part of the notice under paragraph (2), and for purposes of this subsection, the 'target date for publication' (referred to in section 564(a)(5) of such title) shall be April 1, 1998.

"(4) ABBREVIATED PERIOD FOR SUBMISSION OF COMMENTS.—In applying section 564(c) of such title under this subsection, '15 days' shall be substituted for '30 days'.

"(5) APPOINTMENT OF NEGOTIATED RULEMAKING COMMITTEE AND FACILITATOR.—The Secretary shall provide for—

"(A) the appointment of a negotiated rulemaking committee under section 565(a) of such title by not later than 30 days after the end of the comment period provided for under section 564(c) of such title (as shortened under paragraph (4)), and

"(B) the nomination of a facilitator under section 566(c) of such title by not later than 10 days after the date of appointment of the committee.

"(6) PRELIMINARY COMMITTEE REPORT.—The negotiated rulemaking committee appointed under paragraph (5) shall report to the Secretary, by not later than January 1, 1998, regarding the committee's progress on achieving a consensus with regard to the rulemaking proceeding and whether such consensus is likely to occur before 1 month before the target date for publication of the rule. If the committee reports that the committee has failed to make significant progress towards such consensus or is unlikely to reach such consensus by the target date, the Secretary may terminate such process and provide for the publication of a rule under this subsection through such other methods as the Secretary may provide.

"(7) FINAL COMMITTEE REPORT.—If the committee is not terminated under paragraph (6), the rulemaking committee shall submit a report containing a proposed rule by not later than 1 month before the target date of publication.

"(8) INTERIM, FINAL EFFECT.—The Secretary shall publish a rule under this subsection in the Federal Register by not later than the target date of publication. Such rule shall be effective and final immediately on an interim basis, but is subject to change and revision after public notice and opportunity for a period (of not less than 60 days) for public comment. In connection with such rule, the Secretary shall specify the process for the timely review and approval of applications of entities to be certified as provider-sponsored organizations pursuant to such rules and consistent with this subsection.

"(9) PUBLICATION OF RULE AFTER PUBLIC COMMENT.—The Secretary shall provide for consideration of such comments and republication of such rule by not later than 1 year after the target date of publication.

"(b) ESTABLISHMENT OF OTHER STANDARDS.—

"(1) IN GENERAL.—The Secretary shall establish by regulation other standards (not described in subsection (a)) for Medicare Choice organizations and plans consistent with, and to carry out, this part.

"(2) USE OF CURRENT STANDARDS.—Consistent with the requirements of this part, standards established under this subsection shall be based on standards established under section 1876 to carry out analogous provisions of such section.

"(3) USE OF INTERIM STANDARDS.—For the period in which this part is in effect and standards are being developed and established under the preceding provisions of this subsection, the Secretary shall provide by not later than June 1, 1998, for the application of such interim standards (without regard to any requirements for notice and public comment) as may be appropriate to provide for the expedited implementation of this part. Such interim standards shall not apply after the date standards are established under the preceding provisions of this subsection.

"(4) APPLICATION OF NEW STANDARDS TO ENTITIES WITH A CONTRACT.—In the case of a Medicare Choice organization with a contract in effect under this part at the time standards applicable to the organization under this section are changed, the organization may elect not to have such changes apply to the organization until the end of the current contract year (or, if there is less than 6 months remaining in the contract year, until 1 year after the end of the current contract year).

"(5) RELATION TO STATE LAWS.—The standards established under this subsection shall supersede any State law or regulation with respect to Medicare Choice plans which are offered by Medicare Choice organizations under this part to the extent such law or regulation is inconsistent with such standards.

"CONTRACTS WITH MEDICARE CHOICE ORGANIZATIONS

"SEC. 1857. (a) IN GENERAL.—The Secretary shall not permit the election under section 1851 of a Medicare Choice plan offered by a Medicare Choice organization under this part, and no payment shall be made under section 1853 to an organization, unless the Secretary has entered into a contract under this section with the organization with respect to the offering of such plan. Such a contract with an organization may cover more than 1 Medicare Choice plan. Such contract shall provide that the organization agrees to comply with the applicable requirements and standards of this part and the terms and conditions of payment as provided for in this part.

"(b) MINIMUM ENROLLMENT REQUIREMENTS.—

"(1) IN GENERAL.—Subject to paragraph (2), the Secretary may not enter into a contract under this section with a Medicare Choice organization unless the organization has at least 1,500 individuals who are receiving health benefits through the organization (500 such individuals if the organization primarily serves individuals residing outside of urbanized areas).

"(2) ALLOWING TRANSITION.—The Secretary may waive the requirement of paragraph (1) during the first 2 contract years with respect to an organization.

"(3) SPECIAL RULE FOR PSO.—In the case of a Medicare Choice organization which is a provider-sponsored organization, paragraph (1) shall be applied by taking into account individuals for whom the organization has assumed substantial financial risk.

"(c) CONTRACT PERIOD AND EFFECTIVENESS.—

"(1) PERIOD.—Each contract under this section shall be for a term of at least 1 year, as determined by the Secretary, and may be made automatically renewable from term to term in the absence of notice by either party of intention to terminate at the end of the current term.

"(2) TERMINATION AUTHORITY.—In accordance with procedures established under subsection (h), the Secretary may at any time terminate any such contract, or may impose the intermediate sanctions described in an applicable paragraph of subsection (g)(3) on the Medicare Choice organization, if the Secretary determines that the organization—

"(A) has failed substantially to carry out the contract;

"(B) is carrying out the contract in a manner inconsistent with the efficient and effective administration of this part; or

"(C) no longer substantially meets the applicable conditions of this part.

"(3) EFFECTIVE DATE OF CONTRACTS.—The effective date of any contract executed pursuant to this section shall be specified in the contract, except that in no case shall a contract under this section which provides for coverage under an MSA plan be effective before January 1999 with respect to such coverage.

"(4) PREVIOUS TERMINATIONS.—The Secretary may not enter into a contract with a Medicare Choice organization if a previous contract with that organization under this section was terminated at the request of the organization within the preceding 5-year period, except in circumstances which warrant special consideration, as determined by the Secretary.

"(5) NO CONTRACTING AUTHORITY.—The authority vested in the Secretary by this part may be performed without regard to such provisions of law or regulations relating to the making, performance, amendment, or modification of contracts of the United States as the Secretary may determine to be inconsistent with the furtherance of the purpose of this title.

"(d) PROTECTIONS AGAINST FRAUD AND BENEFICIARY PROTECTIONS.—

"(1) INSPECTION AND AUDIT.—Each contract under this section shall provide that the Secretary, or any person or organization designated by the Secretary—

"(A) shall have the right to inspect or otherwise evaluate (i) the quality, appropriateness, and timeliness of services performed under the contract and (ii) the facilities of the organization when there is reasonable evidence of some need for such inspection, and

"(B) shall have the right to audit and inspect any books and records of the Medicare Choice organization that pertain (i) to the ability of the organization to bear the risk of potential financial losses, or (ii) to services performed or determinations of amounts payable under the contract.

"(2) ENROLLEE NOTICE AT TIME OF TERMINATION.—Each contract under this section shall require the organization to provide (and pay for) written notice in advance of the contract's termination, as well as a description of alternatives for obtaining benefits under this title, to each individual enrolled with the organization under this part.

"(3) DISCLOSURE.—

"(A) IN GENERAL.—Each Medicare Choice organization shall, in accordance with regulations of the Secretary, report to the Secretary financial information which shall include the following:

"(i) Such information as the Secretary may require demonstrating that the organization has a fiscally sound operation.

"(ii) A copy of the report, if any, filed with the Health Care Financing Administration containing the information required to be reported under section 1124 by disclosing entities.

"(iii) A description of transactions, as specified by the Secretary, between the organization and a party in interest. Such transactions shall include—

"(I) any sale or exchange, or leasing of any property between the organization and a party in interest;

"(II) any furnishing for consideration of goods, services (including management services), or facilities between the organization and a party in interest, but not including salaries paid to employees for services provided in the normal course of their employment and health services provided to members by hospitals and other providers and by staff, medical group (or groups), individual practice association (or associations), or any combination thereof; and

"(III) any lending of money or other extension of credit between an organization and a party in interest.

The Secretary may require that information reported respecting an organization which controls, is controlled by, or is under common control with, another entity be in the form of a consolidated financial statement for the organization and such entity.

"(B) PARTY IN INTEREST DEFINED.—For the purposes of this paragraph, the term 'party in interest' means—

"(i) any director, officer, partner, or employee responsible for management or administration of a Medicare Choice organization, any person who is directly or indirectly the beneficial owner of more than 5 percent of the equity of the organization, any person who is the beneficial owner of a mortgage, deed of trust, note, or other interest secured by, and valuing more than 5 percent of the organization, and, in the case of a Medicare Choice organization organized as a nonprofit corporation, an incorporator or member of

such corporation under applicable State corporation law;

"(ii) any entity in which a person described in clause (i)—

"(I) is an officer or director;

"(II) is a partner (if such entity is organized as a partnership);

"(III) has directly or indirectly a beneficial interest of more than 5 percent of the equity; or

"(IV) has a mortgage, deed of trust, note, or other interest valuing more than 5 percent of the assets of such entity;

"(iii) any person directly or indirectly controlling, controlled by, or under common control with an organization; and

"(iv) any spouse, child, or parent of an individual described in clause (i).

"(C) ACCESS TO INFORMATION.—Each Medicare Choice organization shall make the information reported pursuant to subparagraph (A) available to its enrollees upon reasonable request.

"(4) LOAN INFORMATION.—The contract shall require the organization to notify the Secretary of loans and other special financial arrangements which are made between the organization and subcontractors, affiliates, and related parties.

"(e) ADDITIONAL CONTRACT TERMS.—

"(1) IN GENERAL.—The contract shall contain such other terms and conditions not inconsistent with this part (including requiring the organization to provide the Secretary with such information) as the Secretary may find necessary and appropriate.

"(2) COST-SHARING IN ENROLLMENT-RELATED COSTS.—The contract with a Medicare Choice organization shall require the payment to the Secretary for the organization's pro rata share (as determined by the Secretary) of the estimated costs to be incurred by the Secretary in carrying out section 1851 (relating to enrollment and dissemination of information). Such payments are appropriated to defray the costs described in the preceding sentence, to remain available until expended.

"(3) NOTICE TO ENROLLEES IN CASE OF DECERTIFICATION.—If a contract with a Medicare Choice organization is terminated under this section, the organization shall notify each enrollee with the organization under this part of such termination.

"(f) PROMPT PAYMENT BY MEDICARE CHOICE ORGANIZATION.—

"(1) REQUIREMENT.—A contract under this part shall require a Medicare Choice organization to provide prompt payment (consistent with the provisions of sections 1816(c)(2) and 1842(c)(2)) of claims submitted for services and supplies furnished to individuals pursuant to the contract, if the services or supplies are not furnished under a contract between the organization and the provider or supplier.

"(2) SECRETARY'S OPTION TO BYPASS NONCOMPLYING ORGANIZATION.—In the case of a Medicare Choice eligible organization which the Secretary determines, after notice and opportunity for a hearing, has failed to make payments of amounts in compliance with paragraph (1), the Secretary may provide for direct payment of the amounts owed to providers and suppliers for covered services and supplies furnished to individuals enrolled under this part under the contract. If the Secretary provides for the direct payments, the Secretary shall provide for an appropriate reduction in the amount of payments otherwise made to the organization under this part to reflect the amount of the Secretary's payments (and the Secretary's costs in making the payments).

"(g) INTERMEDIATE SANCTIONS.—

"(1) IN GENERAL.—If the Secretary determines that a Medicare Choice organization with a contract under this section—

"(A) fails substantially to provide medically necessary items and services that are required (under law or under the contract) to be provided to an individual covered under the contract, if the failure has adversely affected (or has substantial likelihood of adversely affecting) the individual;

"(B) imposes net monthly premiums on individuals enrolled under this part in excess of the net monthly premiums permitted;

"(C) acts to expel or to refuse to re-enroll an individual in violation of the provisions of this part;

"(D) engages in any practice that would reasonably be expected to have the effect of denying or discouraging enrollment (except as permitted by this part) by eligible individuals with the organization whose medical condition or history indicates a need for substantial future medical services;

"(E) misrepresents or falsifies information that is furnished—

"(i) to the Secretary under this part, or

"(ii) to an individual or to any other entity under this part;

"(F) fails to comply with the requirements of section 1852(j)(3); or

"(G) employs or contracts with any individual or entity that is excluded from participation under this title under section 1128 or 1128A for the provision of health care, utilization review, medical social work, or administrative services or employs or contracts with any entity for the provision (directly or indirectly) through such an excluded individual or entity of such services;

the Secretary may provide, in addition to any other remedies authorized by law, for any of the remedies described in paragraph (2).

"(2) REMEDIES.—The remedies described in this paragraph are—

"(A) civil money penalties of not more than $25,000 for each determination under paragraph (1) or, with respect to a determination under subparagraph (D) or (E)(i) of such paragraph, of not more than $100,000 for each such determination, plus, with respect to a determination under paragraph (1)(B), double the excess amount charged in violation of such paragraph (and the excess amount charged shall be deducted from the penalty and returned to the individual concerned), and plus, with respect to a determination under paragraph (1)(D), $15,000 for each individual not enrolled as a result of the practice involved,

"(B) suspension of enrollment of individuals under this part after the date the Secretary notifies the organization of a determination under paragraph (1) and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur, or

"(C) suspension of payment to the organization under this part for individuals enrolled after the date the Secretary notifies the organization of a determination under paragraph (1) and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur.

"(3) OTHER INTERMEDIATE SANCTIONS.—In the case of a Medicare Choice organization for which the Secretary makes a determination under subsection (c)(2) the basis of which is not described in paragraph (1), the Secretary may apply the following intermediate sanctions:

"(A) Civil money penalties of not more than $25,000 for each determination under subsection (c)(2) if the deficiency that is the basis of the determination has directly adversely affected (or has the substantial likelihood of adversely affecting) an individual covered under the organization's contract.

"(B) Civil money penalties of not more than $10,000 for each week beginning after the initiation of procedures by the Secretary under subsection (g) during which the deficiency that is the basis of a determination under subsection (c)(2) exists.

"(C) Suspension of enrollment of individuals under this part after the date the Secretary notifies the organization of a determination under subsection (c)(2) and until the Secretary is satisfied that the deficiency that is the basis for the determination has been corrected and is not likely to recur.

"(4) CIVIL MONEY PENALTIES.—The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under subsection (f) or under paragraph (2) or (3) of this subsection in the same manner as they apply to a civil money penalty or proceeding under section 1128A(a).

"(h) PROCEDURES FOR TERMINATION.—

"(1) IN GENERAL.—The Secretary may terminate a contract with a Medicare Choice organization under this section in accordance with formal investigation and compliance procedures established by the Secretary under which—

"(A) the Secretary provides the organization with the reasonable opportunity to develop and implement a corrective action plan to correct the deficiencies that were the basis of the Secretary's determination under subsection (c)(2);

"(B) the Secretary shall impose more severe sanctions on an organization that has a history of deficiencies or that has not taken steps to correct deficiencies the Secretary has brought to the organization's attention;

"(C) there are no unreasonable or unnecessary delays between the finding of a deficiency and the imposition of sanctions; and

"(D) the Secretary provides the organization with reasonable notice and opportunity for hearing (including the right to appeal an initial decision) before terminating the contract.

"(2) EXCEPTION FOR IMMINENT AND SERIOUS RISK TO HEALTH.—Paragraph (1) shall not apply if the Secretary determines that a delay in termination, resulting from compliance with the procedures specified in such paragraph prior to termination, would pose an imminent and serious risk to the health of individuals enrolled under this part with the organization.

"DEFINITIONS; MISCELLANEOUS PROVISIONS

"SEC. 1859. (a) DEFINITIONS RELATING TO MEDICARE CHOICE ORGANIZATIONS.—In this part—

"(1) MEDICARE CHOICE ORGANIZATION.—The term 'Medicare Choice organization' means a public or private entity that is certified under section 1856 as meeting the requirements and standards of this part for such an organization.

"(2) PROVIDER-SPONSORED ORGANIZATION.—The term 'provider-sponsored organization' is defined in section 1855(e)(1).

"(b) DEFINITIONS RELATING TO MEDICARE CHOICE PLANS.—

"(1) MEDICARE CHOICE PLAN.—The term 'Medicare Choice plan' means health benefits coverage offered under a policy, contract, or plan by a Medicare Choice organization pursuant to and in accordance with a contract under section 1857.

"(2) MEDICARE CHOICE UNRESTRICTED FEE-FOR-SERVICE PLAN.—The term 'Medicare Choice unrestricted fee-for-service plan' means a Medicare Choice plan that provides for coverage of benefits without restrictions relating to utilization and without regard to whether the provider has a contract or other arrangement with the organization offering the plan for the provision of such benefits.

"(3) MSA PLAN.—

"(A) IN GENERAL.—The term 'MSA plan' means a Medicare Choice plan that—

"(i) provides reimbursement for at least the items and services described in section 1852(a)(1) in a year but only after the enrollee incurs countable expenses (as specified under the plan)

equal to the amount of an annual deductible (described in subparagraph (B));

"(ii) counts as such expenses (for purposes of such deductible) at least all amounts that would have been payable under parts A and B, and that would have been payable by the enrollee as deductibles, coinsurance, or copayments, if the enrollee had elected to receive benefits through the provisions of such parts;

"(iii) subject to clause (iv), provides, after such deductible is met for a year and for all subsequent expenses for items and services referred to in clause (i) in the year, for a level of reimbursement that is not less than—

"(I) 100 percent of such expenses, or

"(II) 100 percent of the amounts that would have been paid (without regard to any deductibles or coinsurance) under parts A and B with respect to such expenses,

whichever is less; and

"(iv) provides that the annual out-of-pocket expenses required to be paid under the plan (other than for premiums) for covered benefits does not exceed the amount in effect under section 220(c)(2)(A)(iii)(I) of the Internal Revenue Code of 1986 for the year.

"(B) DEDUCTIBLE.—The amount of annual deductible under an MSA plan shall not be less than or more than the amounts in excess under section 220(c)(2)(A)(i) of the Internal Revenue Code of 1986 for the year.

"(c) OTHER REFERENCES TO OTHER TERMS.—

"(1) MEDICARE CHOICE ELIGIBLE INDIVIDUAL.—The term 'Medicare Choice eligible individual' is defined in section 1851(a)(3).

"(2) MEDICARE CHOICE PAYMENT AREA.—The term 'Medicare Choice payment area' is defined in section 1853(d).

"(3) NATIONAL AVERAGE PER CAPITA GROWTH PERCENTAGE.—The 'national average per capita growth percentage' is defined in section 1853(c)(6).

"(4) MONTHLY PREMIUM; NET MONTHLY PREMIUM.—The terms 'monthly premium' and 'net monthly premium' are defined in section 1854(a)(2).

"(d) COORDINATED ACUTE AND LONG-TERM CARE BENEFITS UNDER A MEDICARE CHOICE PLAN.—Nothing in this part shall be construed as preventing a State from coordinating benefits under a medicaid plan under title XIX with those provided under a Medicare Choice plan in a manner that assures continuity of a full-range of acute care and long-term care services to poor elderly or disabled individuals eligible for benefits under this title and under such plan.

"(e) RESTRICTION ON ENROLLMENT FOR CERTAIN MEDICARE CHOICE PLANS.—

"(1) IN GENERAL.—In the case of a Medicare Choice religious fraternal benefit society plan described in paragraph (2), notwithstanding any other provision of this part to the contrary and in accordance with regulations of the Secretary, the society offering the plan may restrict the enrollment of individuals under this part to individuals who are members of the church, convention, or group described in paragraph (3)(B) with which the society is affiliated.

"(2) MEDICARE CHOICE RELIGIOUS FRATERNAL BENEFIT SOCIETY PLAN DESCRIBED.—For purposes of this subsection, a Medicare Choice religious fraternal benefit society plan described in this paragraph is a Medicare Choice plan described in section 1851(a)(2)(A) that—

"(A) is offered by a religious fraternal benefit society described in paragraph (3) only to members of the church, convention, or group described in paragraph (3)(B); and

"(B) permits all such members to enroll under the plan without regard to health status-related factors.

Nothing in this subsection shall be construed as waiving any plan requirements relating to financial solvency. In developing solvency standards under section 1856, the Secretary shall take into account open contract and assessment features characteristic of fraternal insurance certificates.

"(3) RELIGIOUS FRATERNAL BENEFIT SOCIETY DEFINED.—For purposes of paragraph (2)(A), a 'religious fraternal benefit society' described in this section is an organization that—

"(A) is exempt from Federal income taxation under section 501(c)(8) of the Internal Revenue Code of 1986;

"(B) is affiliated with, carries out the tenets of, and shares a religious bond with, a church or convention or association of churches or an affiliated group of churches;

"(C) offers, in addition to a Medicare Choice religious fraternal benefit society plan, at least the same level of health coverage to individuals not entitled to benefits under this title who are members of such church, convention, or group; and

"(D) does not impose any limitation on membership in the society based on any health status-related factor.

"(4) PAYMENT ADJUSTMENT.—Under regulations of the Secretary, in the case of individuals enrolled under this part under a Medicare Choice religious fraternal benefit society plan described in paragraph (2), the Secretary shall provide for such adjustment to the payment amounts otherwise established under section 1854 as may be appropriate to assure an appropriate payment level, taking into account the actuarial characteristics and experience of such individuals.".

SEC. 5002. TRANSITIONAL RULES FOR CURRENT MEDICARE HMO PROGRAM.

(a) AUTHORIZING TRANSITIONAL WAIVER OF 50:50 RULE.—Section 1876(f) (42 U.S.C. 1395mm(f)) is amended—

(1) in paragraph (1)—

(A) by striking "Each" and inserting "For contract periods beginning before January 1, 1999, each"; and

(B) by striking "or under a State plan approved under title XIX";

(2) in paragraph (2), by striking "The Secretary" and inserting "Subject to paragraph (4), the Secretary", and

(3) by adding at the end the following:

"(4) The Secretary may waive the requirement imposed by paragraph (1) if the Secretary determines that the plan meets all other beneficiary protections and quality standards under this section.".

(b) TRANSITION.—Section 1876 (42 U.S.C. 1395mm) is amended by adding at the end the following new subsection:

"(k)(1) Except as provided in paragraph (2) or (3), the Secretary shall not enter into, renew, or continue any risk-sharing contract under this section with an eligible organization for any contract year beginning on or after—

"(A) the date standards for Medicare Choice organizations and plans are first established under section 1856 with respect to Medicare Choice organizations that are insurers or health maintenance organizations, or

"(B) in the case of such an organization with such a contract in effect as of the date such standards were first established, 1 year after such date.

"(2) The Secretary shall not enter into, renew, or continue any risk-sharing contract under this section with an eligible organization for any contract year beginning on or after January 1, 2000.

"(3) An individual who is enrolled in part B only and is enrolled in an eligible organization with a risk-sharing contract under this section on December 31, 1998, may continue enrollment in such organization in accordance with regulations issued by not later than July 1, 1998.

"(4) Notwithstanding subsection (a), the Secretary shall provide that payment amounts under risk-sharing contracts under this section for months in a year (beginning with January 1998) shall be computed—

"(A) with respect to individuals entitled to benefits under both parts A and B, by substituting payment rates under section 1853(a) for the payment rates otherwise established under section 1876(a), and

"(B) with respect to individuals only entitled to benefits under part B, by substituting an appropriate proportion of such rates (reflecting the relative proportion of payments under this title attributable to such part) for the payment rates otherwise established under subsection (a).

For purposes of carrying out this paragraph for payments for months in 1998, the Secretary shall compute, announce, and apply the payment rates under section 1853(a) (notwithstanding any deadlines specified in such section) in as timely a manner as possible and may (to the extent necessary) provide for retroactive adjustment in payments made under this section not in accordance with such rates.".

(c) ENROLLMENT TRANSITION RULE.—An individual who is enrolled on December 31, 1998, with an eligible organization under section 1876 of the Social Security Act (42 U.S.C. 1395mm) shall be considered to be enrolled with that organization on January 1, 1999, under part C of title XVIII of such Act if that organization has a contract under that part for providing services on January 1, 1999 (unless the individual has disenrolled effective on that date).

(d) ADVANCE DIRECTIVES.—Section 1866(f) (42 U.S.C. 1395cc(f)) is amended—

(1) in paragraph (1)—

(A) by inserting "1855(i)," after "1833(s),", and

(B) by inserting ", Medicare Choice organization," after "provider of services"; and

(2) in paragraph (2)(E), by inserting "or a Medicare Choice organization" after "section 1833(a)(1)(A)".

(e) EXTENSION OF PROVIDER REQUIREMENT.—Section 1866(a)(1)(O) (42 U.S.C. 1395cc(a)(1)(O)) is amended—

(1) by striking "in the case of hospitals and skilled nursing facilities,";

(2) by striking "inpatient hospital and extended care";

(3) by inserting "with a Medicare Choice organization under part C or" after "any individual enrolled"; and

(4) by striking "(in the case of hospitals) or limits (in the case of skilled nursing facilities)".

(f) ADDITIONAL CONFORMING CHANGES.—

(1) CONFORMING REFERENCES TO PREVIOUS PART C.—Any reference in law (in effect before the date of the enactment of this Act) to part C of title XVIII of the Social Security Act is deemed a reference to part D of such title (as in effect after such date).

(2) SECRETARIAL SUBMISSION OF LEGISLATIVE PROPOSAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to the appropriate committees of Congress a legislative proposal providing for such technical and conforming amendments in the law as are required by the provisions of this chapter.

(g) IMMEDIATE EFFECTIVE DATE FOR CERTAIN REQUIREMENTS FOR DEMONSTRATIONS.—Section 1857(e)(2) of the Social Security Act (requiring contribution to certain costs related to the enrollment process comparative materials) applies to demonstrations with respect to which enrollment is effected or coordinated under section 1851 of such Act.

(h) USE OF INTERIM, FINAL REGULATIONS.—In order to carry out the amendments made by this chapter in a timely manner, the Secretary of Health and Human Services may promulgate regulations that take effect on an interim basis, after notice and pending opportunity for public comment.

(i) TRANSITION RULE FOR PSO ENROLLMENT.—In applying subsection (g)(1) of section 1876 of the Social Security Act (42 U.S.C. 1395mm) to a risk-sharing contract entered into with an eligible organization that is a provider-sponsored organization (as defined in section 1855(e)(1) of such Act, as inserted by section 5001) for a contract year beginning on or after January 1, 1998, there shall be substituted for the minimum number of enrollees provided under such section the minimum number of enrollees permitted under section 1857(b)(1) of such Act (as so inserted).

SEC. 5003. CONFORMING CHANGES IN MEDIGAP PROGRAM.

(a) CONFORMING AMENDMENTS TO MEDICARE CHOICE CHANGES.—

(1) IN GENERAL.—Section 1882(d)(3)(A)(i) (42 U.S.C. 1395ss(d)(3)(A)(i)) is amended—

(A) in the matter before subclause (I), by inserting "(including an individual electing a Medicare Choice plan under section 1851)" after "of this title"; and

(B) in subclause (II)—

(i) by inserting "in the case of an individual not electing a Medicare Choice plan" after "(II)", and

(ii) by inserting before the comma at the end the following: "or in the case of an individual electing a Medicare Choice plan, a medicare supplemental policy with knowledge that the policy duplicates health benefits to which the individual is otherwise entitled under the Medicare Choice plan or under another medicare supplemental policy".

(2) CONFORMING AMENDMENTS.—Section 1882(d)(3)(B)(i)(I) (42 U.S.C. 1395ss(d)(3)(B)(i)(I)) is amended by inserting "(including any Medicare Choice plan)" after "health insurance policies".

(3) MEDICARE CHOICE PLANS NOT TREATED AS MEDICARE SUPPLEMENTARY POLICIES.—Section 1882(g)(1) (42 U.S.C. 1395ss(g)(1)) is amended by inserting "or a Medicare Choice plan or" after "does not include".

(b) ADDITIONAL RULES RELATING TO INDIVIDUALS ENROLLED IN MSA PLANS.—Section 1882 (42 U.S.C. 1395ss) is further amended by adding at the end the following new subsection:

"(u)(1) It is unlawful for a person to sell or issue a policy described in paragraph (2) to an individual with knowledge that the individual has in effect under section 1851 an election of an MSA plan.

"(2) A policy described in this subparagraph is a health insurance policy that provides for coverage of expenses that are otherwise required to be counted toward meeting the annual deductible amount provided under the MSA plan.".

Subchapter B—Special Rules for Medicare Choice Medical Savings Accounts

SEC. 5006. MEDICARE CHOICE MSA.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to amounts specifically excluded from gross income) is amended by redesignating section 138 as section 139 and by inserting after section 137 the following new section:

"SEC. 138. MEDICARE CHOICE MSA.

"(a) EXCLUSION.—Gross income shall not include any payment to the Medicare Choice MSA of an individual by the Secretary of Health and Human Services under part C of title XVIII of the Social Security Act.

"(b) MEDICARE CHOICE MSA.—For purposes of this section, the term 'Medicare Choice MSA' means a medical savings account (as defined in section 220(d))—

"(1) which is designated as a Medicare Choice MSA,

"(2) with respect to which no contribution may be made other than—

"(A) a contribution made by the Secretary of Health and Human Services pursuant to part C of title XVIII of the Social Security Act, or

"(B) a trustee-to-trustee transfer described in subsection (c)(4),

"(3) the governing instrument of which provides that trustee-to-trustee transfers described in subsection (c)(4) may be made to and from such account, and

"(4) which is established in connection with an MSA plan described in section 1859(b)(3) of the Social Security Act.

"(c) SPECIAL RULES FOR DISTRIBUTIONS.—

"(1) DISTRIBUTIONS FOR QUALIFIED MEDICAL EXPENSES.—In applying section 220 to a Medicare Choice MSA—

"(A) qualified medical expenses shall not include amounts paid for medical care for any individual other than the account holder, and

"(B) section 220(d)(2)(C) shall not apply.

"(2) PENALTY FOR DISTRIBUTIONS FROM MEDICARE CHOICE MSA NOT USED FOR QUALIFIED MEDICAL EXPENSES IF MINIMUM BALANCE NOT MAINTAINED.—

"(A) IN GENERAL.—The tax imposed by this chapter for any taxable year in which there is a payment or distribution from a Medicare Choice MSA which is not used exclusively to pay the qualified medical expenses of the account holder shall be increased by 50 percent of the excess (if any) of—

"(i) the amount of such payment or distribution, over

"(ii) the excess (if any) of—

"(I) the fair market value of the assets in such MSA as of the close of the calendar year preceding the calendar year in which the taxable year begins, over

"(II) an amount equal to 60 percent of the deductible under the Medicare Choice MSA plan covering the account holder as of January 1 of the calendar year in which the taxable year begins.

Section 220(f)(2) shall not apply to any payment or distribution from a Medicare Choice MSA.

"(B) EXCEPTIONS.—Subparagraph (A) shall not apply if the payment or distribution is made on or after the date the account holder—

"(i) becomes disabled within the meaning of section 72(m)(7), or

"(ii) dies.

"(C) SPECIAL RULES.—For purposes of subparagraph (A)—

"(i) all Medicare Choice MSAs of the account holder shall be treated as 1 account,

"(ii) all payments and distributions not used exclusively to pay the qualified medical expenses of the account holder during any taxable year shall be treated as 1 distribution, and

"(iii) any distribution of property shall be taken into account at its fair market value on the date of the distribution.

"(3) WITHDRAWAL OF ERRONEOUS CONTRIBUTIONS.—Section 220(f)(2) and paragraph (2) of this subsection shall not apply to any payment or distribution from a Medicare Choice MSA to the Secretary of Health and Human Services of an erroneous contribution to such MSA and of the net income attributable to such contribution.

"(4) TRUSTEE-TO-TRUSTEE TRANSFERS.—Section 220(f)(2) and paragraph (2) of this subsection shall not apply to any trustee-to-trustee transfer from a Medicare Choice MSA of an account holder to another Medicare Choice MSA of such account holder.

"(d) SPECIAL RULES FOR TREATMENT OF ACCOUNT AFTER DEATH OF ACCOUNT HOLDER.—In applying section 220(f)(8)(A) to an account which was a Medicare Choice MSA of a decedent, the rules of section 220(f) shall apply in lieu of the rules of subsection (c) of this section with respect to the spouse as the account holder of such Medicare Choice MSA.

"(e) REPORTS.—In the case of a Medicare Choice MSA, the report under section 220(h)—

"(1) shall include the fair market value of the assets in such Medicare Choice MSA as of the close of each calendar year, and

"(2) shall be furnished to the account holder—

"(A) not later than January 31 of the calendar year following the calendar year to which such reports relate, and

"(B) in such manner as the Secretary prescribes in such regulations.

"(f) COORDINATION WITH LIMITATION ON NUMBER OF TAXPAYERS HAVING MEDICAL SAVINGS ACCOUNTS.—Subsection (i) of section 220 shall not apply to an individual with respect to a Medicare Choice MSA, and Medicare Choice MSA's shall not be taken into account in determining whether the numerical limitations under section 220(j) are exceeded.".

(b) TECHNICAL AMENDMENTS.—

(1) The last sentence of section 4973(d) of such Code is amended by inserting "or section 138(c)(3)" after "section 220(f)(3)".

(2) Subsection (b) of section 220 of such Code is amended by adding at the end the following new paragraph:

"(7) MEDICARE ELIGIBLE INDIVIDUALS.—The limitation under this subsection for any month with respect to an individual shall be zero for the first month such individual is entitled to benefits under title XVIII of the Social Security Act and for each month thereafter.".

(3) The table of sections for part III of subchapter B of chapter 1 of such Code is amended by striking the last item and inserting the following:

"Sec. 138. Medicare Choice MSA.

"Sec. 139. Cross references to other Acts.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

CHAPTER 2—INTEGRATED LONG-TERM CARE PROGRAMS

Subchapter A—Programs of All-Inclusive Care for the Elderly (PACE)

SEC. 5011. COVERAGE OF PACE UNDER THE MEDICARE PROGRAM.

Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) is amended by adding at the end the following new section:

"PAYMENTS TO, AND COVERAGE OF BENEFITS UNDER, PROGRAMS OF ALL-INCLUSIVE CARE FOR THE ELDERLY (PACE)

"SEC. 1894. (a) RECEIPT OF BENEFITS THROUGH ENROLLMENT IN PACE PROGRAM; DEFINITIONS FOR PACE PROGRAM RELATED TERMS.—

"(1) BENEFITS THROUGH ENROLLMENT IN A PACE PROGRAM.—In accordance with this section, in the case of an individual who is entitled to benefits under part A or enrolled under part B and who is a PACE program eligible individual (as defined in paragraph (5)) with respect to a PACE program offered by a PACE provider under a PACE program agreement—

"(A) the individual may enroll in the program under this section; and

"(B) so long as the individual is so enrolled and in accordance with regulations—

"(i) the individual shall receive benefits under this title solely through such program; and

"(ii) the PACE provider is entitled to payment under and in accordance with this section and such agreement for provision of such benefits.

"(2) PACE PROGRAM DEFINED.—For purposes of this section and section 1932, the term 'PACE program' means a program of all-inclusive care for the elderly that meets the following requirements:

"(A) OPERATION.—The entity operating the program is a PACE provider (as defined in paragraph (3)).

"(B) COMPREHENSIVE BENEFITS.—The program provides comprehensive health care services to PACE program eligible individuals in accordance with the PACE program agreement and regulations under this section.

"(C) TRANSITION.—In the case of an individual who is enrolled under the program under this section and whose enrollment ceases for any reason (including that the individual no longer qualifies as a PACE program eligible individual, the termination of a PACE program agreement, or otherwise), the program provides assistance to the individual in obtaining necessary transitional care through appropriate referrals and making the individual's medical records available to new providers.

"(3) PACE PROVIDER DEFINED.—

"(A) IN GENERAL.—For purposes of this section, the term 'PACE provider' means an entity that—

"(i) subject to subparagraph (B), is (or is a distinct part of) a public entity or a private, nonprofit entity organized for charitable purposes under section 501(c)(3) of the Internal Revenue Code of 1986; and

"(ii) has entered into a PACE program agreement with respect to its operation of a PACE program.

"(B) TREATMENT OF PRIVATE, FOR-PROFIT PROVIDERS.—Clause (i) of subparagraph (A) shall not apply—

"(i) to entities subject to a demonstration project waiver under subsection (h); and

"(ii) after the date the report under section 5013(b) of the Balanced Budget Act of 1997 is submitted, unless the Secretary determines that any of the findings described in subparagraph (A), (B), (C), or (D) of paragraph (2) of such section are true.

"(4) PACE PROGRAM AGREEMENT DEFINED.—For purposes of this section, the term 'PACE program agreement' means, with respect to a PACE provider, an agreement, consistent with this section, section 1932 (if applicable), and regulations promulgated to carry out such sections, between the PACE provider and the Secretary, or an agreement between the PACE provider and a State administering agency for the operation of a PACE program by the provider under such sections.

"(5) PACE PROGRAM ELIGIBLE INDIVIDUAL DEFINED.—For purposes of this section, the term 'PACE program eligible individual' means, with respect to a PACE program, an individual who—

"(A) is 55 years of age or older;

"(B) subject to subsection (c)(4), is determined under subsection (c) to require the level of care required under the State medicaid plan for coverage of nursing facility services;

"(C) resides in the service area of the PACE program; and

"(D) meets such other eligibility conditions as may be imposed under the PACE program agreement for the program under subsection (e)(2)(A)(ii).

"(6) PACE PROTOCOL.—For purposes of this section, the term 'PACE protocol' means the Protocol for the Program of All-inclusive Care for the Elderly (PACE), as published by On Lok, Inc., as of April 14, 1995, or any successor protocol that may be agreed upon between the Secretary and On Lok, Inc.

"(7) PACE DEMONSTRATION WAIVER PROGRAM DEFINED.—For purposes of this section, the term 'PACE demonstration waiver program' means a demonstration program under either of the following sections (as in effect before the date of their repeal):

"(A) Section 603(c) of the Social Security Amendments of 1983 (Public Law 98–21), as extended by section 9220 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99–272).

"(B) Section 9412(b) of the Omnibus Budget Reconciliation Act of 1986 (Public Law 99–509).

"(8) STATE ADMINISTERING AGENCY DEFINED.—For purposes of this section, the term 'State administering agency' means, with respect to the operation of a PACE program in a State, the agency of that State (which may be the single agency responsible for administration of the State plan under title XIX in the State) responsible for administering PACE program agreements under this section and section 1932 in the State.

"(9) TRIAL PERIOD DEFINED.—

"(A) IN GENERAL.—For purposes of this section, the term 'trial period' means, with respect to a PACE program operated by a PACE provider under a PACE program agreement, the first 3 contract years under such agreement with respect to such program.

"(B) TREATMENT OF ENTITIES PREVIOUSLY OPERATING PACE DEMONSTRATION WAIVER PROGRAMS.—Each contract year (including a year occurring before the effective date of this section) during which an entity has operated a PACE demonstration waiver program shall be counted under subparagraph (A) as a contract year during which the entity operated a PACE program as a PACE provider under a PACE program agreement.

"(10) REGULATIONS.—For purposes of this section, the term 'regulations' refers to interim final or final regulations promulgated under subsection (f) to carry out this section and section 1932.

"(b) SCOPE OF BENEFITS; BENEFICIARY SAFEGUARDS.—

"(1) IN GENERAL.—Under a PACE program agreement, a PACE provider shall—

"(A) provide to PACE program eligible individuals, regardless of source of payment and directly or under contracts with other entities, at a minimum—

"(i) all items and services covered under this title (for individuals enrolled under this section) and all items and services covered under title XIX, but without any limitation or condition as to amount, duration, or scope and without application of deductibles, copayments, coinsurance, or other cost-sharing that would otherwise apply under this title or such title, respectively; and

"(ii) all additional items and services specified in regulations, based upon those required under the PACE protocol;

"(B) provide such enrollees access to necessary covered items and services 24 hours per day, every day of the year;

"(C) provide services to such enrollees through a comprehensive, multidisciplinary health and social services delivery system which integrates acute and long-term care services pursuant to regulations; and

"(D) specify the covered items and services that will not be provided directly by the entity, and to arrange for delivery of those items and services through contracts meeting the requirements of regulations.

"(2) QUALITY ASSURANCE; PATIENT SAFEGUARDS.—The PACE program agreement shall require the PACE provider to have in effect at a minimum—

"(A) a written plan of quality assurance and improvement, and procedures implementing such plan, in accordance with regulations; and

"(B) written safeguards of the rights of enrolled participants (including a patient bill of rights and procedures for grievances and appeals) in accordance with regulations and with other requirements of this title and Federal and State law that are designed for the protection of patients.

"(c) ELIGIBILITY DETERMINATIONS.—

"(1) IN GENERAL.—The determination of whether an individual is a PACE program eligible individual—

"(A) shall be made under and in accordance with the PACE program agreement; and

"(B) who is entitled to medical assistance under title XIX, shall be made (or who is not so entitled, may be made) by the State administering agency.

"(2) CONDITION.—An individual is not a PACE program eligible individual (with respect to payment under this section) unless the individual's health status has been determined by the Secretary or the State administering agency, in accordance with regulations, to be comparable to the health status of individuals who have participated in the PACE demonstration waiver programs. Such determination shall be based upon information on health status and related indicators (such as medical diagnoses and measures of activities of daily living, instrumental activities of daily living, and cognitive impairment) that are part of a uniform minimum data set collected by PACE providers on potential eligible individuals.

"(3) ANNUAL ELIGIBILITY RECERTIFICATIONS.—

"(A) IN GENERAL.—Subject to subparagraph (B), the determination described in subsection (a)(5)(B) for an individual shall be reevaluated at least annually.

"(B) EXCEPTION.—The requirement of annual reevaluation under subparagraph (A) may be waived during a period in accordance with regulations in those cases where the State administering agency determines that there is no reasonable expectation of improvement or significant change in an individual's condition during the period because of the advanced age, severity of the advanced age, severity of chronic condition, or degree of impairment of functional capacity of the individual involved.

"(4) CONTINUATION OF ELIGIBILITY.—An individual who is a PACE program eligible individual may be deemed to continue to be such an individual notwithstanding a determination that the individual no longer meets the requirement of subsection (a)(5)(B) if, in accordance with regulations, in the absence of continued coverage under a PACE program the individual reasonably would be expected to meet such requirement within the succeeding 6-month period.

"(5) ENROLLMENT; DISENROLLMENT.—The enrollment and disenrollment of PACE program eligible individuals in a PACE program shall be pursuant to regulations and the PACE program agreement and shall permit enrollees to voluntarily disenroll without cause at any time. Such regulations and agreement shall provide that the PACE program may not disenroll a PACE program eligible individual on the ground that the individual has engaged in noncompliant behavior if such behavior is related to a mental or physical condition of the individual. For purposes of the preceding sentence, the term 'noncompliant behavior' includes repeated noncompliance with medical advice and repeated failure to appear for appointments.

"(d) PAYMENTS TO PACE PROVIDERS ON A CAPITATED BASIS.—

"(1) IN GENERAL.—In the case of a PACE provider with a PACE program agreement under this section, except as provided in this subsection or by regulations, the Secretary shall make prospective monthly payments of a capitation amount for each PACE program eligible individual enrolled under the agreement under this section in the same manner and from the same sources as payments are made to an eligible organization under a risk-sharing contract under section 1876. Such payments shall be subject to adjustment in the manner described in section 1876(a)(1)(E).

"(2) CAPITATION AMOUNT.—The capitation amount to be applied under this subsection for a provider for a contract year shall be an amount specified in the PACE program agreement for the year. Such amount shall be based upon payment rates established under section 1876 for risk-sharing contracts and shall be adjusted to take into account the comparative

frailty of PACE enrollees and such other factors as the Secretary determines to be appropriate. Such amount under such an agreement shall be computed in a manner so that the total payment level for all PACE program eligible individuals enrolled under a program is less than the projected payment under this title for a comparable population not enrolled under a PACE program.

"(e) PACE PROGRAM AGREEMENT.—

"(1) REQUIREMENT.—

"(A) IN GENERAL.—The Secretary, in close cooperation with the State administering agency, shall establish procedures for entering into, extending, and terminating PACE program agreements for the operation of PACE programs by entities that meet the requirements for a PACE provider under this section, section 1932, and regulations.

"(B) NUMERICAL LIMITATION.—

"(i) IN GENERAL.—The Secretary shall not permit the number of PACE providers with which agreements are in effect under this section or under section 9412(b) of the Omnibus Budget Reconciliation Act of 1986 to exceed—

"(I) 40 as of the date of the enactment of this section; or

"(II) as of each succeeding anniversary of such date, the numerical limitation under this subparagraph for the preceding year plus 20.

Subclause (II) shall apply without regard to the actual number of agreements in effect as of a previous anniversary date.

"(ii) TREATMENT OF CERTAIN PRIVATE, FOR-PROFIT PROVIDERS.—The numerical limitation in clause (i) shall not apply to a PACE provider that—

"(I) is operating under a demonstration project waiver under subsection (h); or

"(II) was operating under such a waiver and subsequently qualifies for PACE provider status pursuant to subsection (a)(3)(B)(ii).

"(2) SERVICE AREA AND ELIGIBILITY.—

"(A) IN GENERAL.—A PACE program agreement for a PACE program—

"(i) shall designate the service area of the program;

"(ii) may provide additional requirements for individuals to qualify as PACE program eligible individuals with respect to the program;

"(iii) shall be effective for a contract year, but may be extended for additional contract years in the absence of a notice by a party to terminate and is subject to termination by the Secretary and the State administering agency at any time for cause (as provided under the agreement);

"(iv) shall require a PACE provider to meet all applicable State and local laws and requirements; and

"(v) shall have such additional terms and conditions as the parties may agree to, provided that such terms and conditions are consistent with this section and regulations.

"(B) SERVICE AREA OVERLAP.—In designating a service area under a PACE program agreement under subparagraph (A)(i), the Secretary (in consultation with the State administering agency) may exclude from designation an area that is already covered under another PACE program agreement, in order to avoid unnecessary duplication of services and avoid impairing the financial and service viability of an existing program.

"(3) DATA COLLECTION; DEVELOPMENT OF OUTCOME MEASURES.—

"(A) DATA COLLECTION.—

"(i) IN GENERAL.—Under a PACE program agreement, the PACE provider shall—

"(I) collect data;

"(II) maintain, and afford the Secretary and the State administering agency access to, the records relating to the program, including pertinent financial, medical, and personnel records; and

"(III) make to the Secretary and the State administering agency reports that the Secretary finds (in consultation with State administering agencies) necessary to monitor the operation, cost, and effectiveness of the PACE program under this Act.

"(ii) REQUIREMENTS DURING TRIAL PERIOD.—During the first 3 years of operation of a PACE program (either under this section or under a PACE demonstration waiver program), the PACE provider shall provide such additional data as the Secretary specifies in regulations in order to perform the oversight required under paragraph (4)(A).

"(B) DEVELOPMENT OF OUTCOME MEASURES.—Under a PACE program agreement, the PACE provider, the Secretary, and the State administering agency shall jointly cooperate in the development and implementation of health status and quality of life outcome measures with respect to PACE program eligible individuals.

"(4) OVERSIGHT.—

"(A) ANNUAL, CLOSE OVERSIGHT DURING TRIAL PERIOD.—During the trial period (as defined in subsection (a)(9)) with respect to a PACE program operated by a PACE provider, the Secretary (in cooperation with the State administering agency) shall conduct a comprehensive annual review of the operation of the PACE program by the provider in order to assure compliance with the requirements of this section and regulations. Such a review shall include—

"(i) an on-site visit to the program site;

"(ii) comprehensive assessment of a provider's fiscal soundness;

"(iii) comprehensive assessment of the provider's capacity to provide all PACE services to all enrolled participants;

"(iv) detailed analysis of the entity's substantial compliance with all significant requirements of this section and regulations; and

"(v) any other elements the Secretary or State agency considers necessary or appropriate.

"(B) CONTINUING OVERSIGHT.—After the trial period, the Secretary (in cooperation with the State administering agency) shall continue to conduct such review of the operation of PACE providers and PACE programs as may be appropriate, taking into account the performance level of a provider and compliance of a provider with all significant requirements of this section and regulations.

"(C) DISCLOSURE.—The results of reviews under this paragraph shall be reported promptly to the PACE provider, along with any recommendations for changes to the provider's program, and shall be made available to the public upon request.

"(5) TERMINATION OF PACE PROVIDER AGREEMENTS.—

"(A) IN GENERAL.—Under regulations—

"(i) the Secretary or a State administering agency may terminate a PACE program agreement for cause; and

"(ii) a PACE provider may terminate an agreement after appropriate notice to the Secretary, the State agency, and enrollees.

"(B) CAUSES FOR TERMINATION.—In accordance with regulations establishing procedures for termination of PACE program agreements, the Secretary or a State administering agency may terminate a PACE program agreement with a PACE provider for, among other reasons, the fact that—

"(i) the Secretary or State administering agency determines that—

"(I) there are significant deficiencies in the quality of care provided to enrolled participants; or

"(II) the provider has failed to comply substantially with conditions for a program or provider under this section or section 1932; and

"(ii) the entity has failed to develop and successfully initiate, within 30 days of the receipt of written notice of such a determination, a plan to correct the deficiencies, or has failed to continue implementation of such a plan.

"(C) TERMINATION AND TRANSITION PROCEDURES.—An entity whose PACE provider agreement is terminated under this paragraph shall implement the transition procedures required under subsection (a)(2)(C).

"(6) SECRETARY'S OVERSIGHT; ENFORCEMENT AUTHORITY.—

"(A) IN GENERAL.—Under regulations, if the Secretary determines (after consultation with the State administering agency) that a PACE provider is failing substantially to comply with the requirements of this section and regulations, the Secretary (and the State administering agency) may take any or all of the following actions:

"(i) Condition the continuation of the PACE program agreement upon timely execution of a corrective action plan.

"(ii) Withhold some or all further payments under the PACE program agreement under this section or section 1932 with respect to PACE program services furnished by such provider until the deficiencies have been corrected.

"(iii) Terminate such agreement.

"(B) APPLICATION OF INTERMEDIATE SANCTIONS.—Under regulations, the Secretary may provide for the application against a PACE provider of remedies described in section 1876(i)(6)(B) or 1903(m)(5)(B) in the case of violations by the provider of the type described in section 1876(i)(6)(A) or 1903(m)(5)(A), respectively (in relation to agreements, enrollees, and requirements under this section or section 1932, respectively).

"(7) PROCEDURES FOR TERMINATION OR IMPOSITION OF SANCTIONS.—Under regulations, the provisions of section 1876(i)(9) shall apply to termination and sanctions respecting a PACE program agreement and PACE provider under this subsection in the same manner as they apply to a termination and sanctions with respect to a contract and an eligible organization under section 1876.

"(8) TIMELY CONSIDERATION OF APPLICATIONS FOR PACE PROGRAM PROVIDER STATUS.—In considering an application for PACE provider program status, the application shall be deemed approved unless the Secretary, within 90 days after the date of the submission of the application to the Secretary, either denies such request in writing or informs the applicant in writing with respect to any additional information that is needed in order to make a final determination with respect to the application. After the date the Secretary receives such additional information, the application shall be deemed approved unless the Secretary, within 90 days of such date, denies such request.

"(f) REGULATIONS.—

"(1) IN GENERAL.—The Secretary shall issue interim final or final regulations to carry out this section and section 1932.

"(2) USE OF PACE PROTOCOL.—

"(A) IN GENERAL.—In issuing such regulations, the Secretary shall, to the extent consistent with the provisions of this section, incorporate the requirements applied to PACE demonstration waiver programs under the PACE protocol.

"(B) FLEXIBILITY.—In order to provide for reasonable flexibility in adapting the PACE service delivery model to the needs of particular organizations (such as those in rural areas or those that may determine it appropriate to use nonstaff physicians according to State licensing law requirements) under this section and section 1932, the Secretary (in close consultation with State administering agencies) may modify or waive provisions of the PACE protocol so long as any such modification or waiver is not inconsistent with and would not impair the essential elements, objectives, and requirements of this section, but may not modify or waive any of the following provisions:

"(i) The focus on frail elderly qualifying individuals who require the level of care provided in a nursing facility.

"(ii) The delivery of comprehensive, integrated acute and long-term care services.

"(iii) The interdisciplinary team approach to care management and service delivery.

"(iv) Capitated, integrated financing that allows the provider to pool payments received from public and private programs and individuals.

"(v) The assumption by the provider of full financial risk.

"(3) APPLICATION OF CERTAIN ADDITIONAL BENEFICIARY AND PROGRAM PROTECTIONS.—

"(A) IN GENERAL.—In issuing such regulations and subject to subparagraph (B), the Secretary may apply with respect to PACE programs, providers, and agreements such requirements of sections 1876 and 1903(m) relating to protection of beneficiaries and program integrity as would apply to eligible organizations under risk-sharing contracts under section 1876 and to health maintenance organizations under prepaid capitation agreements under section 1903(m).

"(B) CONSIDERATIONS.—In issuing such regulations, the Secretary shall—

"(i) take into account the differences between populations served and benefits provided under this section and under sections 1876 and 1903(m);

"(ii) not include any requirement that conflicts with carrying out PACE programs under this section; and

"(iii) not include any requirement restricting the proportion of enrollees who are eligible for benefits under this title or title XIX.

"(g) WAIVERS OF REQUIREMENTS.—With respect to carrying out a PACE program under this section, the following requirements of this title (and regulations relating to such requirements) are waived and shall not apply:

"(1) Section 1812, insofar as it limits coverage of institutional services.

"(2) Sections 1813, 1814, 1833, and 1886, insofar as such sections relate to rules for payment for benefits.

"(3) Sections 1814(a)(2)(B), 1814(a)(2)(C), and 1835(a)(2)(A), insofar as they limit coverage of extended care services or home health services.

"(4) Section 1861(i), insofar as it imposes a 3-day prior hospitalization requirement for coverage of extended care services.

"(5) Paragraphs (1) and (9) of section 1862(a), insofar as they may prevent payment for PACE program services to individuals enrolled under PACE programs.

"(h) DEMONSTRATION PROJECT FOR FOR-PROFIT ENTITIES.—

"(1) IN GENERAL.—In order to demonstrate the operation of a PACE program by a private, for-profit entity, the Secretary (in close consultation with State administering agencies) shall grant waivers from the requirement under subsection (a)(3) that a PACE provider may not be a for-profit, private entity.

"(2) SIMILAR TERMS AND CONDITIONS.—

"(A) IN GENERAL.—Except as provided under subparagraph (B), and paragraph (1), the terms and conditions for operation of a PACE program by a provider under this subsection shall be the same as those for PACE providers that are nonprofit, private organizations.

"(B) NUMERICAL LIMITATION.—The number of programs for which waivers are granted under this subsection shall not exceed 10. Programs with waivers granted under this subsection shall not be counted against the numerical limitation specified in subsection (e)(1)(B).

"(i) MISCELLANEOUS PROVISIONS.—Nothing in this section or section 1932 shall be construed as preventing a PACE provider from entering into contracts with other governmental or nongovernmental payers for the care of PACE program eligible individuals who are not eligible for benefits under part A, or enrolled under part B, or eligible for medical assistance under title XIX.".

SEC. 5012. EFFECTIVE DATE; TRANSITION.

(a) TIMELY ISSUANCE OF REGULATIONS; EFFECTIVE DATE.—The Secretary of Health and Human Services shall promulgate regulations to carry out this subtitle in a timely manner. Such regulations shall be designed so that entities may establish and operate PACE programs under sections 1894 and 1932 of the Social Security Act (as added by sections 5011 and 5751 of this Act) for periods beginning not later than 1 year after the date of the enactment of this Act.

(b) EXPANSION AND TRANSITION FOR PACE DEMONSTRATION PROJECT WAIVERS.—

(1) EXPANSION IN CURRENT NUMBER OF DEMONSTRATION PROJECTS.—Section 9412(b) of the Omnibus Budget Reconciliation Act of 1986, as amended by section 4118(g) of the Omnibus Budget Reconciliation Act of 1987, is amended—

(A) in paragraph (1), by inserting before the period at the end the following: ", except that the Secretary shall grant waivers of such requirements up to the applicable numerical limitation specified in section 1894(e)(1)(B) of the Social Security Act"; and

(B) in paragraph (2)—

(i) in subparagraph (A), by striking ", including permitting the organization to assume progressively (over the initial 3-year period of the waiver) the full financial risk"; and

(ii) in subparagraph (C), by adding at the end the following: "In granting further extensions, an organization shall not be required to provide for reporting of information which is only required because of the demonstration nature of the project.".

(2) ELIMINATION OF REPLICATION REQUIREMENT.—Subparagraph (B) of paragraph (2) of such section shall not apply to waivers granted under such section after the date of the enactment of this Act.

(3) TIMELY CONSIDERATION OF APPLICATIONS.—In considering an application for waivers under such section before the effective date of repeals made under subsection (d), subject to the numerical limitation under the amendment made by paragraph (1), the application shall be deemed approved unless the Secretary of Health and Human Services, within 90 days after the date of its submission to the Secretary, either denies such request in writing or informs the applicant in writing with respect to any additional information which is needed in order to make a final determination with respect to the application. After the date the Secretary receives such additional information, the application shall be deemed approved unless the Secretary, within 90 days of such date, denies such request.

(c) PRIORITY AND SPECIAL CONSIDERATION IN APPLICATION.—During the 3-year period beginning on the date of enactment of this Act:

(1) PROVIDER STATUS.—The Secretary of Health and Human Services shall give priority, in processing applications of entities to qualify as PACE programs under section 1894 or 1932 of the Social Security Act—

(A) first, to entities that are operating a PACE demonstration waiver program (as defined in section 1894(a)(7) of such Act); and

(B) then entities that have applied to operate such a program as of May 1, 1997.

(2) NEW WAIVERS.—The Secretary shall give priority, in the awarding of additional waivers under section 9412(b) of the Omnibus Budget Reconciliation Act of 1986—

(A) to any entities that have applied for such waivers under such section as of May 1, 1997; and

(B) to any entity that, as of May 1, 1997, has formally contracted with a State to provide services for which payment is made on a capitated basis with an understanding that the entity was seeking to become a PACE provider.

(3) SPECIAL CONSIDERATION.—The Secretary shall give special consideration, in the processing of applications described in paragraph (1) and the awarding of waivers described in paragraph (2), to an entity which as of May 1, 1997 through formal activities (such as entering into contracts for feasibility studies) has indicated a specific intent to become a PACE provider.

(d) REPEAL OF CURRENT PACE DEMONSTRATION PROJECT WAIVER AUTHORITY.—

(1) IN GENERAL.—Subject to paragraph (2), the following provisions of law are repealed:

(A) Section 603(c) of the Social Security Amendments of 1983 (Public Law 98–21).

(B) Section 9220 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99–272).

(C) Section 9412(b) of the Omnibus Budget Reconciliation Act of 1986 (Public Law 99–509).

(2) DELAY IN APPLICATION.—

(A) IN GENERAL.—Subject to subparagraph (B), the repeals made by paragraph (1) shall not apply to waivers granted before the initial effective date of regulations described in subsection (a).

(B) APPLICATION TO APPROVED WAIVERS.—Such repeals shall apply to waivers granted before such date only after allowing such organizations a transition period (of up to 24 months) in order to permit sufficient time for an orderly transition from demonstration project authority to general authority provided under the amendments made by this subtitle.

SEC. 5013. STUDY AND REPORTS.

(a) STUDY.—

(1) IN GENERAL.—The Secretary of Health and Human Services (in close consultation with State administering agencies, as defined in section 1894(a)(8) of the Social Security Act) shall conduct a study of the quality and cost of providing PACE program services under the medicare and medicaid programs under the amendments made by this subtitle.

(2) STUDY OF PRIVATE, FOR-PROFIT PROVIDERS.—Such study shall specifically compare the costs, quality, and access to services by entities that are private, for-profit entities operating under demonstration projects waivers granted under section 1894(h) of the Social Security Act with the costs, quality, and access to services of other PACE providers.

(b) REPORT.—

(1) IN GENERAL.—Not later than 4 years after the date of enactment of this Act, the Secretary shall provide for a report to Congress on the impact of such amendments on quality and cost of services. The Secretary shall include in such report such recommendations for changes in the operation of such amendments as the Secretary deems appropriate.

(2) TREATMENT OF PRIVATE, FOR-PROFIT PROVIDERS.—The report shall include specific findings on whether any of the following findings is true:

(A) The number of covered lives enrolled with entities operating under demonstration project waivers under section 1894(h) of the Social Security Act is fewer than 800 (or such lesser number as the Secretary may find statistically sufficient to make determinations respecting findings described in the succeeding subparagraphs).

(B) The population enrolled with such entities is less frail than the population enrolled with other PACE providers.

(C) Access to or quality of care for individuals enrolled with such entities is lower than such access or quality for individuals enrolled with other PACE providers.

(D) The application of such section has resulted in an increase in expenditures under the medicare or medicaid programs above the expenditures that would have been made if such section did not apply.

(c) INFORMATION INCLUDED IN ANNUAL RECOMMENDATIONS.—The Physician Payment Review Commission shall include in its annual recommendations under section 1845(b) of the Social Security Act (42 U.S.C. 1395w–1), and the Prospective Payment Review Commission shall include in its annual recommendations reported under section 1886(e)(3)(A) of such Act (42 U.S.C. 1395ww(e)(3)(A)), recommendations on the methodology and level of payments made to PACE providers under section 1894(d) of such Act and on the treatment of private, for-profit entities as PACE providers. References in the preceding sentence to the Physician Payment Review Commission and the Prospective Payment Review Commission shall be deemed to be references to the Medicare Payment Advisory Commission (MedPAC) established under section 5022(a) after the termination of the Physician Payment Review Commission and the Prospective Payment Review Commission provided for in section 5022(c)(2).

Subchapter B—Social Health Maintenance Organizations

SEC. 5015. SOCIAL HEALTH MAINTENANCE ORGANIZATIONS (SHMOS).

(a) EXTENSION OF DEMONSTRATION PROJECT AUTHORITIES.—Section 4018(b) of the Omnibus Budget Reconciliation Act of 1987 is amended—

(1) in paragraph (1), by striking "1997" and inserting "2000", and

(2) in paragraph (4), by striking "1998" and inserting "2001".

(b) EXPANSION OF CAP.—Section 13567(c) of the Omnibus Budget Reconciliation Act of 1993 is amended by striking "12,000" and inserting "36,000".

(c) REPORT ON INTEGRATION AND TRANSITION.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall submit to Congress, by not later than January 1, 1999, a plan for the integration of health plans offered by social health maintenance organizations (including SHMO I and SHMO II sites developed under section 2355 of the Deficit Reduction Act of 1984 and under the amendment made by section 4207(b)(3)(B)(i) of OBRA–1990, respectively) and similar plans as an option under the Medicare Choice program under part C of title XVIII of the Social Security Act.

(2) PROVISION FOR TRANSITION.—Such plan shall include a transition for social health maintenance organizations operating under demonstration project authority under such section.

(3) PAYMENT POLICY.—The report shall also include recommendations on appropriate payment levels for plans offered by such organizations, including an analysis of the application of risk adjustment factors appropriate to the population served by such organizations.

Subchapter C—Other Programs

SEC. 5018. EXTENSION OF CERTAIN MEDICARE COMMUNITY NURSING ORGANIZATION DEMONSTRATION PROJECTS.

Notwithstanding any other provision of law, demonstration projects conducted under section 4079 of the Omnibus Budget Reconciliation Act of 1987 may be conducted for an additional period of 2 years, and the deadline for any report required relating to the results of such projects shall be not later than 6 months before the end of such additional period.

CHAPTER 3—COMMISSIONS

SEC. 5021. NATIONAL BIPARTISAN COMMISSION ON THE FUTURE OF MEDICARE.

(a) ESTABLISHMENT.—There is established a commission to be known as the National Bipartisan Commission on the Future of Medicare (in this section referred to as the "Commission").

(b) FINDINGS.—Congress finds that—

(1) the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) provides essential health care coverage to this Nation's senior citizens and to individuals with disabilities;

(2) the Federal Hospital Insurance Trust Fund established under that Act has been spending more than it receives since 1995, and will be bankrupt in the year 2001;

(3) the Federal Hospital Insurance Trust Fund faces even greater solvency problems in the long run with the aging of the baby boom generation and the continuing decline in the number of workers paying into the medicare program for each medicare beneficiary;

(4) the trustees of the trust funds of the medicare program have reported that growth in spending within the Federal Supplementary Medical Insurance Trust Fund established under that Act is unsustainable; and

(5) expeditious action is needed in order to restore the financial integrity of the medicare program and to maintain this Nation's commitment to senior citizens and to individuals with disabilities.

(c) DUTIES OF THE COMMISSION.—The Commission shall—

(1) review and analyze the long-term financial condition of the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.);

(2) identify problems that threaten the financial integrity of the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund established under that title (42 U.S.C. 1395i, 1395t), including the extent to which current medicare update indexes do not accurately reflect inflation;

(3) analyze potential solutions to the problems identified under paragraph (2) that will ensure both the financial integrity of the medicare program and the provision of appropriate benefits under such program;

(4) make recommendations to restore the solvency of the Federal Hospital Insurance Trust Fund and the financial integrity of the Federal Supplementary Medical Insurance Trust Fund through the year 2030, when the last of the baby boomers reaches age 65;

(5) make recommendations for establishing the appropriate financial structure of the medicare program as a whole;

(6) make recommendations for establishing the appropriate balance of benefits covered and beneficiary contributions to the medicare program;

(7) make recommendations for the time periods during which the recommendations described in paragraphs (4), (5), and (6) should be implemented;

(8) make recommendations regarding the financing of graduate medical education (GME), including consideration of alternative broad-based sources of funding for such education and funding for institutions not currently eligible for such GME support under the medicare program that conduct approved graduate medical residency programs, such as children's hospitals;

(9) make recommendations on the feasibility of allowing individuals between the age of 62 and the medicare eligibility age to buy into the medicare program;

(10) make recommendations on the impact of chronic disease and disability trends on future costs and quality of services under the current benefit, financing, and delivery system structure of the medicare program; and

(11) review and analyze such other matters as the Commission deems appropriate.

(d) MEMBERSHIP.—

(1) NUMBER AND APPOINTMENT.—The Commission shall be composed of 15 members, of whom—

(A) three shall be appointed by the President;

(B) six shall be appointed by the Majority Leader of the Senate, in consultation with the Minority Leader of the Senate, of whom not more than 4 shall be of the same political party; and

(C) six shall be appointed by the Speaker of the House of Representatives, in consultation with the Minority Leader of the House of Representatives, of whom not more than 4 shall be of the same political party.

(2) COMPTROLLER GENERAL.—The Comptroller General of the United States shall advise the Commission on the methodology to be used in identifying problems and analyzing potential solutions in accordance with the duties of the Commission described in subsection (c).

(3) TERMS OF APPOINTMENT.—The members shall serve on the Commission for the life of the Commission.

(4) MEETINGS.—The Commission shall locate its headquarters in the District of Columbia, and shall meet at the call of the Chairperson.

(5) QUORUM.—Ten members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(6) CHAIRPERSON.—The Speaker of the House of Representatives, in consultation with the Majority Leader of the Senate, shall designate 1 of the members appointed under paragraph (1) as Chairperson of the Commission.

(7) VACANCIES.—A vacancy on the Commission shall be filled in the same manner in which the original appointment was made not later than 30 days after the Commission is given notice of the vacancy.

(8) COMPENSATION.—Members of the Commission shall receive no additional pay, allowances, or benefits by reason of their service on the Commission.

(9) EXPENSES.—Each member of the Commission shall receive travel expenses and per diem in lieu of subsistence in accordance with sections 5702 and 5703 of title 5, United States Code.

(e) STAFF AND SUPPORT SERVICES.—

(1) EXECUTIVE DIRECTOR.—

(A) APPOINTMENT.—The Chairperson shall appoint an executive director of the Commission.

(B) COMPENSATION.—The executive director shall be paid the rate of basic pay for level V of the Executive Schedule.

(2) STAFF.—With the approval of the Commission, the executive director may appoint such personnel as the executive director considers appropriate.

(3) APPLICABILITY OF CIVIL SERVICE LAWS.—The staff of the Commission shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title (relating to classification and General Schedule pay rates).

(4) EXPERTS AND CONSULTANTS.—With the approval of the Commission, the executive director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(5) STAFF OF FEDERAL AGENCIES.—Upon the request of the Commission, the head of any Federal agency may detail any of the personnel of such agency to the Commission to assist in carrying out the duties of the Commission.

(6) OTHER RESOURCES.—The Commission shall have reasonable access to materials, resources, statistical data, and other information from the Library of Congress and agencies and elected representatives of the executive and legislative branches of the Federal Government. The Chairperson of the Commission shall make requests for such access in writing when necessary.

(7) PHYSICAL FACILITIES.—The Administrator of the General Services Administration shall locate suitable office space for the operation of the Commission. The facilities shall serve as the headquarters of the Commission and shall include all necessary equipment and incidentals required for the proper functioning of the Commission.

(f) POWERS OF COMMISSION.—

(1) HEARINGS.—The Commission may conduct public hearings or forums at the discretion of the Commission, at any time and place the Commission is able to secure facilities and witnesses, for the purpose of carrying out the duties of the Commission.

(2) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(3) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

(g) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Commission shall submit a report to the President and Congress which shall contain a detailed statement of the recommendations, findings, and conclusions of the Commission.

(h) TERMINATION.—The Commission shall terminate on the date which is 30 days after the date the Commission submits its report to the President and to Congress under subsection (g).

(i) FUNDING.—There is authorized to be appropriated to the Commission such sums as are necessary to carry out the purposes of this section. Sums appropriated under this subsection shall be paid equally from the Federal Hospital Insurance Trust Fund and from the Federal Supplementary Medical Insurance Trust Fund under title XVIII of the Social Security Act (42 U.S.C. 1395i, 1395t).

SEC. 5022. MEDICARE PAYMENT ADVISORY COMMISSION.

(a) IN GENERAL.—Title XVIII is amended by inserting after section 1804 the following new section:

"MEDICARE PAYMENT ADVISORY COMMISSION

"SEC. 1805. (a) ESTABLISHMENT.—There is hereby established the Medicare Payment Advisory Commission (in this section referred to as the 'Commission').

"(b) DUTIES.—

"(1) REVIEW OF PAYMENT POLICIES AND ANNUAL REPORTS.—The Commission shall—

"(A) review payment policies under this title, including the topics described in paragraph (2);

"(B) make recommendations to Congress concerning such payment policies;

"(C) by not later than March 1 of each year (beginning with 1998), submit a report to Congress containing the results of such reviews and its recommendations concerning such policies; and

"(D) by not later than June 1 of each year (beginning with 1998), submit a report to Congress containing an examination of issues affecting the medicare program, including the implications of changes in health care delivery in the United States and in the market for health care services on the medicare program.

"(2) SPECIFIC TOPICS TO BE REVIEWED.—

"(A) MEDICARE CHOICE PROGRAM.—Specifically, the Commission shall review, with respect to the Medicare Choice program under part C, the following:

"(i) The methodology for making payment to plans under such program, including the making of differential payments and the distribution of differential updates among different payment areas.

"(ii) The mechanisms used to adjust payments for risk and the need to adjust such mechanisms to take into account health status of beneficiaries.

"(iii) The implications of risk selection both among Medicare Choice organizations and between the Medicare Choice option and the traditional medicare fee-for-service option.

"(iv) The development and implementation of mechanisms to assure the quality of care for those enrolled with Medicare Choice organizations.

"(v) The impact of the Medicare Choice program on access to care for medicare beneficiaries.

"(vi) Other major issues in implementation and further development of the Medicare Choice program.

"(B) TRADITIONAL MEDICARE FEE-FOR-SERVICE SYSTEM.—Specifically, the Commission shall review payment policies under parts A and B, including—

"(i) the factors affecting expenditures for services in different sectors, including the process for updating hospital, skilled nursing facility, physician, and other fees,

"(ii) payment methodologies, and

"(iii) their relationship to access and quality of care for medicare beneficiaries.

"(C) INTERACTION OF MEDICARE PAYMENT POLICIES WITH HEALTH CARE DELIVERY GENERALLY.—Specifically, the Commission shall review the effect of payment policies under this title on the delivery of health care services other than under this title and assess the implications of changes in health care delivery in the United States and in the general market for health care services on the medicare program.

"(3) COMMENTS ON CERTAIN SECRETARIAL REPORTS.—If the Secretary submits to Congress (or a committee of Congress) a report that is required by law and that relates to payment policies under this title, the Secretary shall transmit a copy of the report to the Commission. The Commission shall review the report and, not later than 6 months after the date of submittal of the Secretary's report to Congress, shall submit to the appropriate committees of Congress written comments on such report. Such comments may include such recommendations as the Commission deems appropriate.

"(4) AGENDA AND ADDITIONAL REVIEWS.—The Commission shall consult periodically with the chairmen and ranking minority members of the appropriate committees of Congress regarding the Commission's agenda and progress towards achieving the agenda. The Commission may conduct additional reviews, and submit additional reports to the appropriate committees of Congress, from time to time on such topics relating to the program under this title as may be requested by such chairmen and members and as the Commission deems appropriate.

"(5) AVAILABILITY OF REPORTS.—The Commission shall transmit to the Secretary a copy of each report submitted under this subsection and shall make such reports available to the public.

"(6) APPROPRIATE COMMITTEES OF CONGRESS.—For purposes of this section, the term 'appropriate committees of Congress' means the Committees on Ways and Means and Commerce of the House of Representatives and the Committee on Finance of the Senate.

"(c) MEMBERSHIP.—

"(1) NUMBER AND APPOINTMENT.—The Commission shall be composed of 15 members appointed by the Comptroller General.

"(2) QUALIFICATIONS.—

"(A) IN GENERAL.—The membership of the Commission shall include individuals with national recognition for their expertise in health finance and economics, actuarial science, health facility management, health plans and integrated delivery systems, reimbursement of health facilities, allopathic and osteopathic physicians, and other providers of health services, and other related fields, who provide a mix of different professionals, broad geographic representation, and a balance between urban and rural representatives.

"(B) INCLUSION.—The membership of the Commission shall include (but not be limited to) physicians and other health professionals, employers, third-party payers, individuals skilled in the conduct and interpretation of biomedical, health services, and health economics research and expertise in outcomes and effectiveness research and technology assessment. Such membership shall also include representatives of consumers and the elderly.

"(C) MAJORITY NONPROVIDERS.—Individuals who are directly involved in the provision, or management of the delivery, of items and services covered under this title shall not constitute a majority of the membership of the Commission.

"(D) ETHICAL DISCLOSURE.—The Comptroller General shall establish a system for public disclosure by members of the Commission of financial and other potential conflicts of interest relating to such members.

"(3) TERMS.—

"(A) IN GENERAL.—The terms of members of the Commission shall be for 3 years except that the Comptroller General shall designate staggered terms for the members first appointed.

"(B) VACANCIES.—Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has taken office. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

"(4) COMPENSATION.—While serving on the business of the Commission (including traveltime), a member of the Commission shall be entitled to compensation at the per diem equivalent of the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code; and while so serving away from home and the member's regular place of business, a member may be allowed travel expenses, as authorized by the Chairman of the Commission. Physicians serving as personnel of the Commission may be provided a physician comparability allowance by the Commission in the same manner as Government physicians may be provided such an allowance by an agency under section 5948 of title 5, United States Code, and for such purpose subsection (i) of such section shall apply to the Commission in the same manner as it applies to the Tennessee Valley Authority. For purposes of pay (other than pay of members of the Commission) and employment benefits, rights, and privileges, all personnel of the Commission shall be treated as if they were employees of the United States Senate.

"(5) CHAIRMAN; VICE CHAIRMAN.—The Comptroller General shall designate a member of the Commission, at the time of appointment of the member, as Chairman and a member as Vice Chairman for that term of appointment.

"(6) MEETINGS.—The Commission shall meet at the call of the Chairman.

"(d) DIRECTOR AND STAFF; EXPERTS AND CONSULTANTS.—Subject to such review as the Comptroller General deems necessary to assure the efficient administration of the Commission, the Commission may—

"(1) employ and fix the compensation of an Executive Director (subject to the approval of the Comptroller General) and such other personnel as may be necessary to carry out its duties (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service);

"(2) seek such assistance and support as may be required in the performance of its duties from appropriate Federal departments and agencies;

"(3) enter into contracts or make other arrangements, as may be necessary for the conduct of the work of the Commission (without regard to section 3709 of the Revised Statutes (41 U.S.C. 5));

"(4) make advance, progress, and other payments which relate to the work of the Commission;

"(5) provide transportation and subsistence for persons serving without compensation; and

"(6) prescribe such rules and regulations as it deems necessary with respect to the internal organization and operation of the Commission.

"(e) POWERS.—

"(1) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this section. Upon request of the Chairman, the head of that department or agency shall furnish that information to the Commission on an agreed upon schedule.

"(2) DATA COLLECTION.—In order to carry out its functions, the Commission shall—

"(A) utilize existing information, both published and unpublished, where possible, collected and assessed either by its own staff or under other arrangements made in accordance with this section,

"(B) carry out, or award grants or contracts for, original research and experimentation, where existing information is inadequate, and

"(C) adopt procedures allowing any interested party to submit information for the Commission's use in making reports and recommendations.

"(3) ACCESS OF GAO TO INFORMATION.—The Comptroller General shall have unrestricted access to all deliberations, records, and nonproprietary data of the Commission, immediately upon request.

"(4) PERIODIC AUDIT.—The Commission shall be subject to periodic audit by the Comptroller General.

"(f) AUTHORIZATION OF APPROPRIATIONS.—

"(1) REQUEST FOR APPROPRIATIONS.—The Commission shall submit requests for appropriations in the same manner as the Comptroller General submits requests for appropriations, but amounts appropriated for the Commission shall be separate from amounts appropriated for the Comptroller General.

"(2) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section. Sixty percent of such appropriation shall be payable from the Federal Hospital Insurance Trust Fund, and 40 percent of such appropriation shall be payable from the Federal Supplementary Medical Insurance Trust Fund.".

(b) ABOLITION OF PROPAC AND PPRC.—

(1) PROPAC.—

(A) IN GENERAL.—Section 1886(e) (42 U.S.C. 1395ww(e)) is amended—

(i) by striking paragraphs (2) and (6); and

(ii) in paragraph (3), by striking "(A) The Commission" and all that follows through "(B)".

(B) CONFORMING AMENDMENT.—Section 1862 (42 U.S.C. 1395y) is amended by striking "Prospective Payment Assessment Commission" each place it appears in subsection (a)(1)(D) and subsection (i) and inserting "Medicare Payment Advisory Commission".

(2) PPRC.—

(A) IN GENERAL.—Title XVIII is amended by striking section 1845 (42 U.S.C. 1395w–1).

(B) ELIMINATION OF CERTAIN REPORTS.—Section 1848 (42 U.S.C. 1395w–4) is amended—

(i) by striking subparagraph (F) of subsection (d)(2),

(ii) by striking subparagraph (B) of subsection (f)(1), and

(iii) in subsection (f)(3), by striking "Physician Payment Review Commission,".

(C) CONFORMING AMENDMENTS.—Section 1848 (42 U.S.C. 1395w–4) is amended by striking "Physician Payment Review Commission" and inserting "Medicare Payment Advisory Commission" each place it appears in subsections (c)(2)(B)(iii), (g)(6)(C), and (g)(7)(C).

(c) EFFECTIVE DATE; TRANSITION.—

(1) IN GENERAL.—The Comptroller General shall first provide for appointment of members to the Medicare Payment Advisory Commission (in this subsection referred to as "MedPAC") by not later than September 30, 1997.

(2) TRANSITION.—As quickly as possible after the date a majority of members of MedPAC are first appointed, the Comptroller General, in consultation with the Prospective Payment Assessment Commission (in this subsection referred to as "ProPAC") and the Physician Payment Review Commission (in this subsection referred to as "PPRC"), shall provide for the termination of the ProPAC and the PPRC. As of the date of termination of the respective Commissions, the amendments made by paragraphs (1) and (2), respectively, of subsection (b) become effective. The Comptroller General, to the extent feasible, shall provide for the transfer to the MedPAC of assets and staff of the ProPAC and the PPRC, without any loss of benefits or seniority by virtue of such transfers. Fund balances available to the ProPAC or the PPRC for any period shall be available to the MedPAC for such period for like purposes.

(3) CONTINUING RESPONSIBILITY FOR REPORTS.—The MedPAC shall be responsible for the preparation and submission of reports required by law to be submitted (and which have not been submitted by the date of establishment of the MedPAC) by the ProPAC and the PPRC, and, for this purpose, any reference in law to either such Commission is deemed, after the appointment of the MedPAC, to refer to the MedPAC.

CHAPTER 4—MEDIGAP PROTECTIONS

SEC. 5031. MEDIGAP PROTECTIONS.

(a) GUARANTEEING ISSUE WITHOUT PREEXISTING CONDITIONS FOR CONTINUOUSLY COVERED INDIVIDUALS.—Section 1882(s) (42 U.S.C. 1395ss(s)) is amended—

(1) in paragraph (3), by striking "paragraphs (1) and (2)" and inserting "this subsection",

(2) by redesignating paragraph (3) as paragraph (4), and

(3) by inserting after paragraph (2) the following new paragraph:

"(3)(A) The issuer of a medicare supplemental policy—

"(i) may not deny or condition the issuance or effectiveness of a medicare supplemental policy described in subparagraph (C) that is offered and is available for issuance to new enrollees by such issuer;

"(ii) may not discriminate in the pricing of such policy, because of health status, claims experience, receipt of health care, or medical condition; and

"(iii) may not impose an exclusion of benefits based on a pre-existing condition under such policy,

in the case of an individual described in subparagraph (B) who seeks to enroll under the policy not later than 63 days after the date of the termination of enrollment described in such subparagraph and who submits evidence of the date of termination or disenrollment along with the application for such medicare supplemental policy.

"(B) An individual described in this subparagraph is an individual described in any of the following clauses:

"(i) The individual is enrolled under an employee welfare benefit plan that provides health benefits that supplement the benefits under this title and the plan terminates or ceases to provide all such supplemental health benefits to the individual.

"(ii) The individual is enrolled with a Medicare Choice organization under a Medicare Choice plan under part C, and there are circumstances permitting discontinuance of the individual's election of the plan under section 1851(e)(4).

"(iii) The individual is enrolled with an eligible organization under a contract under section 1876, a similar organization operating under demonstration project authority, with an organization under an agreement under section 1833(a)(1)(A), or with an organization under a policy described in subsection (t), and such enrollment ceases under the same circumstances that would permit discontinuance of an individual's election of coverage under section 1851(c)(4) and, in the case of a policy described in subsection (t), there is no provision under applicable State law for the continuation of coverage under such policy.

"(iv) The individual is enrolled under a medicare supplemental policy under this section and such enrollment ceases because—

"(I) of the bankruptcy or insolvency of the issuer or because of other involuntary termination of coverage or enrollment under such policy and there is no provision under applicable State law for the continuation of such coverage;

"(II) the issuer of the policy substantially violated a material provision of the policy; or

"(III) the issuer (or an agent or other entity acting on the issuer's behalf) materially misrepresented the policy's provisions in marketing the policy to the individual.

"(v) The individual—

"(I) was enrolled under a medicare supplemental policy under this section,

"(II) subsequently terminates such enrollment and enrolls, for the first time, with any Medicare Choice organization under a Medicare Choice plan under part C, any eligible organization under a contract under section 1876, any similar organization operating under demonstration project authority, any organization under an agreement under section 1833(a)(1)(A), or any policy described in subsection (t), and

"(III) the subsequent enrollment under subclause (II) is terminated by the enrollee during the first 12 months of such enrollment.

"(vi) The individual, upon first becoming eligible for medicare at age 65, enrolls in a Medicare Choice plan and within 12 months of such enrollment, disenrolls from such plan.

"(C)(i) Subject to clauses (ii), a medicare supplemental policy described in this subparagraph is a policy the benefits under which are comparable or lessor in relation to the benefits under the plan, policy, or contract described in the applicable clause of subparagraph (B).

"(ii) Only for purposes of an individual described in subparagraph (B)(vi), a medicare supplemental policy described in this subparagraph shall include any medicare supplemental policy.

"(D) At the time of an event described in subparagraph (B) because of which an individual ceases enrollment or loses coverage or benefits under a contract or agreement, policy, or plan, the organization that offers the contract or agreement, the insurer offering the policy, or the administrator of the plan, respectively, shall notify the individual of the rights of the individual, and obligations of issuers of medicare supplemental policies, under subparagraph (A).".

(b) LIMITATION ON IMPOSITION OF PREEXISTING CONDITION EXCLUSION DURING INITIAL OPEN ENROLLMENT PERIOD.—Section 1882(s)(2) (42 U.S.C. 1395ss(s)(2)) is amended—

(1) in subparagraph (B), by striking "subparagraph (C)" and inserting "subparagraphs (C) and (D)", and

(2) by adding at the end the following new subparagraph:

"(D) In the case of a policy issued during the 6-month period described in subparagraph (A) to an individual who is 65 years of age or older as of the date of issuance and who as of the date of the application for enrollment has a continuous period of creditable coverage (as defined in section 2701(c) of the Public Health Service Act) of—

"(i) at least 6 months, the policy may not exclude benefits based on a pre-existing condition; or

"(ii) less than 6 months, if the policy excludes benefits based on a preexisting condition, the policy shall reduce the period of any preexisting condition exclusion by the aggregate of the periods of creditable coverage (if any, as so defined) applicable to the individual as of the enrollment date.

The Secretary shall specify the manner of the reduction under clause (ii), based upon the rules used by the Secretary in carrying out section 2701(a)(3) of such Act.".

(c) EXTENDING 6-MONTH INITIAL ENROLLMENT PERIOD TO NON-ELDERLY MEDICARE BENEFICIARIES.—Section 1882(s)(2)(A)(ii) of (42 U.S.C. 1395ss(s)(2)(A)) is amended by striking "is submitted" and all that follows and inserting the following: "is submitted—

"(I) before the end of the 6-month period beginning with the first month as of the first day on which the individual is 65 years of age or older and is enrolled for benefits under part B; and

"(II) at the time the individual first becomes eligible for benefits under part A pursuant to section 226(b) and is enrolled for benefits under part B, before the end of the 6-month period beginning with the first month as of the first day on which the individual is so eligible and so enrolled.".

(d) EFFECTIVE DATES.—

(1) GUARANTEED ISSUE.—The amendment made by subsection (a) shall take effect on July 1, 1998.

(2) LIMIT ON PREEXISTING CONDITION EXCLUSIONS.—The amendment made by subsection (b) shall apply to policies issued on or after July 1, 1998.

(3) NONELDERLY MEDICARE BENEFICIARIES.—

(A) IN GENERAL.—The amendment made by subsection (c) shall apply to policies issued on and after July 1, 1998.

(B) TRANSITION RULE.—In the case of an individual who first became eligible for benefits under part A of title XVIII of the Social Security Act pursuant to section 226(b) of such Act and enrolled for benefits under part B of such title before July 1, 1998, the 6-month period described in section 1882(s)(2)(A) of such Act shall begin on July 1, 1998. Before July 1, 1998, the Secretary of Health and Human Services shall notify any individual described in the previous sentence of their rights in connection with medicare supplemental policies under section 1882 of such Act, by reason of the amendment made by subsection (c).

(e) TRANSITION PROVISIONS.—

(1) IN GENERAL.—If the Secretary of Health and Human Services identifies a State as requiring a change to its statutes or regulations to conform its regulatory program to the changes made by this section, the State regulatory program shall not be considered to be out of compliance with the requirements of section 1882 of the Social Security Act due solely to failure to make such change until the date specified in paragraph (4).

(2) NAIC STANDARDS.—If, within 9 months after the date of the enactment of this Act, the National Association of Insurance Commissioners (in this subsection referred to as the "NAIC") modifies its NAIC Model regulation relating to section 1882 of the Social Security Act (referred to in such section as the 1991 NAIC Model Regulation, as modified pursuant to section 171(m)(2) of the Social Security Act Amendments of 1994 (Public Law 103–432) and as modified pursuant to section 1882(d)(3)(A)(vi)(IV) of the Social Security Act, as added by section 271(a) of the Health Insurance Portability and Accountability Act of 1996 (Public Law 104–191) to conform to the amendments made by this section, such revised regulation incorporating the modifications shall be considered to be the applicable NAIC model regulation (including the revised NAIC model regulation and the 1991 NAIC Model Regulation) for the purposes of such section.

(3) SECRETARY STANDARDS.—If the NAIC does not make the modifications described in paragraph (2) within the period specified in such paragraph, the Secretary of Health and Human Services shall make the modifications described in such paragraph and such revised regulation incorporating the modifications shall be considered to be the appropriate Regulation for the purposes of such section.

(4) DATE SPECIFIED.—

(A) IN GENERAL.—Subject to subparagraph (B), the date specified in this paragraph for a State is the earlier of—

(i) the date the State changes its statutes or regulations to conform its regulatory program to the changes made by this section, or

(ii) 1 year after the date the NAIC or the Secretary first makes the modifications under paragraph (2) or (3), respectively.

(B) ADDITIONAL LEGISLATIVE ACTION REQUIRED.—In the case of a State which the Secretary identifies as—

(i) requiring State legislation (other than legislation appropriating funds) to conform its regulatory program to the changes made in this section, but

(ii) having a legislature which is not scheduled to meet in 1999 in a legislative session in which such legislation may be considered,

the date specified in this paragraph is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after July 1, 1999. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 5032. ADDITION OF HIGH DEDUCTIBLE MEDIGAP POLICY.

(a) IN GENERAL.—Section 1882(p) (42 U.S.C. 1395ss(p)) is amended by adding at the end the following:

"(11)(A) On and after the date specified in subparagraph (C)—

"(i) each State with an approved regulatory program, and

"(ii) in the case of a State without an approved regulatory program, the Secretary,

shall, in addition to the 10 policies allowed under paragraph (2)(C), allow at least 1 other policy described in subparagraph (B).

"(B)(i) A policy is described in this subparagraph if it consists of—

"(I) one of the 10 benefit packages described in paragraph (2)(C), and

"(II) a high deductible feature.

"(ii) For purposes of clause (i), a high deductible feature is one which requires the beneficiary of the policy to pay annual out-of-pocket expenses (other than premiums) of $1,500 before the policy begins payment of benefits.

"(C)(i) Subject to clause (ii), the date described in this subparagraph is one year after the date of the enactment of this paragraph.

"(ii) In the case of a State which the Secretary identifies as—

"(I) requiring State legislation (other than legislation appropriating funds) in order to meet the requirements of this paragraph, but

"(II) having a legislature which is not scheduled to meet in 1997 in a legislative session in which such legislation may be considered,

the date specified in this subparagraph is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after January 1, 1998. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.".

(b) CONFORMING AMENDMENT.—Section 1882(p)(2)(C) (42 U.S.C. 1395ss(p)(2)(C)) is amended by inserting "or (11)" after "paragraph (4)(B)".

CHAPTER 5—DEMONSTRATIONS

Subchapter A—Medicare Choice Competitive Pricing Demonstration Project

PART I—IN GENERAL

SEC. 5041. MEDICARE CHOICE COMPETITIVE PRICING DEMONSTRATION PROJECT.

(a) ESTABLISHMENT.—The Secretary of Health and Human Services (in this subchapter referred to as the "Secretary") shall, beginning January 1, 1999, conduct demonstration projects in applicable areas (in this section referred to as the "project") for the purpose of—

(1) applying a pricing methodology for payments to Medicare Choice organizations under part C of title XVIII of the Social Security Act (as amended by section 5001 of this Act) that uses the competitive market approach described in section 5042;

(2) applying a benefit structure and beneficiary premium structure described in section 5043;

(3) applying the information and quality programs under part II; and

(4) evaluating the effects of the methodology and structures described in the preceding paragraphs on medicare fee-for-service spending under parts A and B of the Social Security Act in the project area.

(b) APPLICABLE AREA DEFINED.—

(1) IN GENERAL.—In subsection (a), the term "applicable area" means, as determined by the Secretary—

(A) 10 urban areas with respect to which less than 25 percent of medicare beneficiaries are enrolled with an eligible organization under section 1876 of the Social Security Act (42 U.S.C. 1395mm); and

(B) 3 rural areas not described in paragraph (1).

(2) TREATMENT AS MEDICARE CHOICE PAYMENT AREA.—For purposes of this subchapter and part C of title XVIII of the Social Security Act, any applicable area shall be treated as a Medicare Choice payment area (hereinafter referred to as the "applicable Medicare Choice payment area").

(c) TECHNICAL ADVISORY GROUP.—Upon the selection of an area for inclusion in the project, the Secretary shall appoint a technical advisory group, composed of representatives of Medicare Choice organizations, medicare beneficiaries, employers, and other persons in the area affected by the project who have technical expertise relative to the design and implementation of the project to advise the Secretary concerning how the project will be implemented in the area.

(d) EVALUATION.—

(1) IN GENERAL.—Not later than December 31, 2001, the Secretary shall submit to the President a report regarding the demonstration projects conducted under this section.

(2) CONTENTS OF REPORT.—The report described in paragraph (1) shall include the following:

(A) A description of the demonstration projects conducted under this section.

(B) An evaluation of the effectiveness of the demonstration projects conducted under this section and any legislative recommendations determined appropriate by the Secretary.

(C) Any other information regarding the demonstration projects conducted under this section that the Secretary determines to be appropriate.

(D) An evaluation as to whether the method of payment under section 5042 which was used *in the demonstration projects for payment to Medicare Choice plans should be extended to the entire medicare population and if such evaluation determines that such method should not be extended, legislative recommendations to modify such method so that it may be applied to the entire medicare population.*

(3) SUBMISSION TO CONGRESS.—The President shall submit the report under paragraph (2) to the Congress and if the President determines appropriate, any legislative recommendations for extending the project to the entire medicare population.

(e) WAIVER AUTHORITY.—The Secretary shall waive compliance with the requirements of titles XI, XVIII, and XIX of the Social Security Act (42 U.S.C. 1301 et seq., 1395 et seq., 1396 et seq.) to such extent and for such period as the Secretary determines is necessary to conduct demonstration projects.

SEC. 5042. DETERMINATION OF ANNUAL MEDICARE CHOICE CAPITATION RATES.

(a) IN GENERAL.—In the case of an applicable Medicare Choice payment area within which a project is being conducted under section 5041, the annual Medicare Choice capitation rate under part C of title XVIII of the Social Security Act for Medicare Choice plans within such area shall be the standardized payment amount determined under this section rather than the amount determined under section 1853 of such Act.

(b) DETERMINATION OF STANDARDIZED PAYMENT AMOUNT.—

(1) SUBMISSION AND CHARGING OF PREMIUMS.—

(A) IN GENERAL.—Not later than June 1 of each calendar year, each Medicare Choice organization offering one or more Medicare Choice plans in an applicable Medicare Choice payment area shall file with the Secretary, in a form and manner and at a time specified by the Secretary, a bid which contains the amount of the monthly premium for coverage under each such Medicare Choice plan.

(B) UNIFORM PREMIUM.—The premiums charged by a Medicare Choice plan sponsor under this part may not vary among individuals who reside in the same applicable Medicare Choice payment area.

(C) TERMS AND CONDITIONS OF IMPOSING PREMIUMS.—Each Medicare Choice organization shall permit the payment of premiums on a monthly basis.

(2) ANNOUNCEMENT OF STANDARDIZED PAYMENT AMOUNT.—

(A) AUTHORITY TO NEGOTIATE.—After bids are submitted under paragraph (1), the Secretary may negotiate with Medicare Choice organizations in order to modify such bids if the Secretary determined that the bids do not provide enough revenues to ensure the plan's actuarial soundness, are too high relative to the applicable Medicare Choice payment area, foster adverse selection, or otherwise require renegotiation under this paragraph.

(B) IN GENERAL.—Not later than July 31 of each calendar year (beginning with 1998), the Secretary shall determine, and announce in a manner intended to provide notice to interested parties, a standardized payment amount determined in accordance with this paragraph for the following calendar year for each applicable Medicare Choice payment area.

(3) CALCULATION OF PAYMENT AMOUNTS.—

(A) IN GENERAL.—The standardized payment amount for a calendar year after 1998 for any applicable Medicare Choice payment area shall be equal to the maximum premium determined for such area under subparagraph (B).

(B) MAXIMUM PREMIUM.—The maximum premium for any applicable Medicare Choice payment area shall be equal to the amount determined under subparagraph (C) for the payment area, but in no case shall such amount be greater than the sum of—

(i) the average per capita amount, as determined by the Secretary as appropriate for the population eligible to enroll in Medicare Choice plans in such payment area, for such calendar year that the Secretary would have expended for an individual in such payment area enrolled under the medicare fee-for-service program under parts A and B, plus

(ii) the amount equal to the actuarial value of deductibles, coinsurance, and copayments charged an individual for services provided under the medicare fee-for-service program (as determined by the Secretary).

(C) DETERMINATION OF AMOUNT.—

(i) IN GENERAL.—The Secretary shall determine for each applicable Medicare Choice payment area for each calendar year an amount equal to the average of the bids (weighted based on capacity) submitted to the Secretary under paragraph (1)(A) for that payment area.

(ii) DISREGARD CERTAIN PLANS.—In determining the amount under clause (i), the Secretary may disregard any plan that the Secretary determines would unreasonably distort the amount determined under such subparagraph.

(4) ADJUSTMENTS FOR PAYMENTS TO PLAN SPONSORS.—

(A) IN GENERAL.—For purposes of determining the amount of payment under part C of title XVIII of the Social Security Act to a Medicare Choice organization with respect to any Medicare Choice eligible individual enrolled in a Medicare Choice plan of the sponsor, the standardized payment amount for the applicable Medicare Choice payment area and the premium charged by the plan sponsor shall be adjusted with respect to such individual for such risk factors as age, disability status, gender, institutional status, health status, and such other factors as the Secretary determines to be appropriate, so as to ensure actuarial equivalence. The Secretary may add to, modify, or substitute for such classes, if such changes will improve the determination of actuarial equivalence.

(B) RECOMMENDATIONS.—

(i) IN GENERAL.—In addition to any other duties required by law, the Physician Payment Review Commission and the Prospective Payment Assessment Commission (or their successors) shall each develop recommendations on—

(I) the risk factors that the Secretary should use in adjusting the standardized payment amount and premium under subparagraph (A), and

(II) the methodology that the Secretary should use in determining the risk factors to be used in adjusting the standardized payment amount and premium under subparagraph (A).

(ii) TIME.—The recommendations described in clause (i) shall be developed not later than January 1, 1999.

(iii) ANNUAL REPORT.—The Physician Payment Review Commission and the Prospective Payment Assessment Commission (or their successors) shall include the recommendations described in clause (i) in their respective annual reports to Congress.

(c) PAYMENTS TO PLAN SPONSORS.—

(1) MONTHLY PAYMENTS.—

(A) IN GENERAL.—Subject to paragraph (4), for each individual enrolled with a plan under this subchapter, the Secretary shall make monthly payments in advance to the Medicare Choice organization of the Medicare Choice plan with which the individual is enrolled in an amount equal to $^1/_{12}$ of the amount determined under paragraph (2).

(B) RETROACTIVE ADJUSTMENTS.—The amount of payment under this paragraph may be retroactively adjusted to take into account any difference between the actual number of individuals enrolled in the plan under this section and the number of such individuals estimated to be so enrolled in determining the amount of the advance payment.

(2) AMOUNT OF PAYMENT TO MEDICARE CHOICE PLANS.—The amount determined under this paragraph with respect to any individual shall be equal to the sum of—

(A) the lesser of—

(i) the standardized payment amount for the applicable Medicare Choice payment area, as adjusted for such individual under subsection (a)(4), or

(ii) the premium charged by the plan for such individual, as adjusted for such individual under section (a)(4), minus

(B) the amount such individual paid to the plan pursuant to section 5043 (relating to 10 percent of the premium).

(3) PAYMENTS FROM TRUST FUNDS.—The payment to a Medicare Choice organization or to a Medicare Choice account under this section for a medicare-eligible individual shall be made from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund in such proportion as the Secretary determines reflects the relative weight that benefits under parts A and B are representative of the actuarial value of the total benefits under this part.

(4) LIMITATION ON AMOUNTS AN OUT-OF-PLAN PHYSICIAN OR OTHER ENTITY MAY COLLECT.—A physician or other entity (other than a provider of services) that does not have a contract establishing payment amounts for services furnished to an individual enrolled under this subchapter with a Medicare Choice organization shall accept as payment in full for services that are furnished to such an individual the amounts that the physician or other entity could collect if the individual were not so enrolled. Any penalty or other provision of law that applies to such a payment with respect to an individual entitled to benefits under this title (but not enrolled with a Medicare Choice organization under this part) also applies with respect to an individual so enrolled.

(d) OFFICE OF COMPETITION.—

(1) ESTABLISHMENT.—There is established within the Department of Health and Human Services an office to be known as the 'Office of Competition'.

(2) DIRECTOR.—The Secretary shall appoint the Director of the Office of Competition.

(3) DUTIES.—

(A) IN GENERAL.—The Director shall administer this subchapter and so much of part C of title XVIII of the Social Security Act as relates to this subchapter.

(B) TRANSFER AUTHORITY.—The Secretary shall transfer such personnel, administrative support systems, assets, records, funds, and other resources in the Health Care Financing Administration to the Office of Competition as are used in the administration of section 1876 and as may be required to implement the provisions of this part promptly and efficiently.

(4) USE OF NON-FEDERAL ENTITIES.—The Secretary shall, to the maximum extent feasible, enter into contracts with appropriate non-Federal entities to carry out activities under this subchapter.

SEC. 5043. BENEFITS AND BENEFICIARY PREMIUMS.

(a) BENEFITS PROVIDED TO INDIVIDUALS.—

(1) BASIC BENEFIT PLAN.—Each Medicare Choice plan in an applicable Medicare Choice payment area shall provide to members enrolled under this subchapter, through providers and other persons that meet the applicable requirements of title XVIII of the Social Security Act and part A of title XI of such Act—

(A) those items and services covered under parts A and B of title XVIII of such Act which are available to individuals residing in such area, subject to nominal copayments as determined by the Secretary,

(B) prescription drugs, subject to such limits as established by the Secretary, and

(C) additional health services as the Secretary may approve.

(2) SUPPLEMENTAL BENEFITS.—

(A) IN GENERAL.—Each Medicare Choice plan may offer any of the optional supplemental benefit plans described in subparagraph (B) to an individual enrolled in the basic benefit plan offered by such organization under this subchapter for an additional premium amount. If the supplemental benefits are offered only to individuals enrolled in the sponsor's plan under this subchapter, the additional premium amount shall be the same for all enrolled individuals in the applicable Medicare Choice payment area. Such benefits may be marketed and sold by the Medicare Choice organization outside of the enrollment process described in part C of title XVIII of the Social Security Act.

(B) OPTIONAL SUPPLEMENTAL BENEFIT PLANS DESCRIBED.—The Secretary shall provide for 2 optional supplemental benefit plans. Such plans shall include such standardized items and services that the Secretary determines must be provided to enrollees of such plans described in order to offer the plans to Medicare Choice eligible individuals.

(C) LIMITATION.—A Medicare Choice organization may not offer an optional benefit plan to a Medicare Choice eligible individual unless such individual is enrolled in a basic benefit plan offered by such organization.

(D) LIMITATION ON PREMIUM.—If a Medicare Choice organization provides to individuals enrolled in a Medicare Choice plan supplemental benefits described in subparagraph (A), the sum of—

(i) the annual premiums for such benefits, plus

(ii) the actuarial value of any deductibles, coinsurance, and copayments charged with respect to such benefits for the year,

shall not exceed the amount that would have been charged for a plan in the applicable Medicare Choice payment area which is not a Medicare Choice plan (adjusted in such manner as the Secretary may prescribe to reflect that only medicare beneficiaries are enrolled in such plan). The Secretary shall negotiate the limitation under this subparagraph with each plan to which this paragraph applies.

(3) OTHER RULES.—Rules similar to rules of paragraphs (3) and (4) of section 1852 of the Social Security Act (relating to national coverage determinations and secondary payor provisions) shall apply for purposes of this subchapter.

(b) PREMIUM REQUIREMENTS FOR BENEFICIARIES.—

(1) PREMIUM DIFFERENTIALS.—If a Medicare Choice eligible individual enrolls in a Medicare Choice plan under this subchapter, the individual shall be required to pay—

(A) 10 percent of the plan's premium;

(B) if the premium of the plan is higher than the standardized payment amount (as determined under section 5042), 100 percent of such difference; and

(C) an amount equal to cost-sharing under the medicare fee-for-service program, except that such amount shall not exceed the actuarial value of the deductibles and coinsurance under such program less the actual value of nominal copayments for benefits under such plan for basic benefits described in subsection (a)(1).

(2) PART B PREMIUM.—An individual enrolled in a Medicare Choice plan under this subchapter shall not be required to pay the premium amount (determined under section 1839 of the Social Security Act) under part B of title XVIII of such Act for so long as such individual is so enrolled.

PART II—INFORMATION AND QUALITY STANDARDS

Subpart A—Information

SEC. 5044. INFORMATION REQUIREMENTS.

(a) IN GENERAL.—The Secretary shall provide that in the case of a demonstration plan conducted under part I, the information and comparative reports described in this section shall be used in lieu of that provided under part C of title XVIII of the Social Security Act.

(b) SECRETARY'S MATERIALS; CONTENTS.—The notice and informational materials mailed by the Secretary under this part shall be written and formatted in the most easily understandable manner possible, and shall include, at a minimum, the following:

(1) GENERAL INFORMATION.—General information with respect to coverage under this part during the next calendar year, including—

(A) the part B premium rates that will be charged for part B coverage, and a statement of the fact that enrollees in demonstration plans are not required to pay such premium,

(B) the deductible, copayment, and coinsurance amounts for coverage under the traditional medicare program,

(C) a description of the coverage under the traditional medicare program and any changes in coverage under the program from the prior year,

(D) a description of the individual's medicare payment area, and the standardized medicare payment amount available with respect to such individual,

(E) information and instructions on how to enroll in a demonstration plan,

(F) the right of each demonstration plan sponsor by law to terminate or refuse to renew its contract and the effect the termination or nonrenewal of its contract may have on individuals enrolled with the demonstration plan under this part,

(G) appeal rights of enrollees, including the right to address grievances to the Secretary or the applicable external review entity, and

(H) the benefits offered by plans in basic benefit plans under section 1895H(a), and how those benefits differ from the benefits offered under parts A and B.

(2) COMPARATIVE REPORT.—A copy of the most recent comparative report (as established by the Secretary under subsection (c)) for the demonstration plans in the individual's medicare payment area.

(c) COMPARATIVE REPORT.—

(1) IN GENERAL.—The Secretary shall develop an understandable standardized comparative report on the demonstration plans offered by demonstration plan sponsors, that will assist demonstration eligible individuals in their decisionmaking regarding medical care and treatment by allowing such individuals to compare the demonstration plans that such individuals are eligible to enroll with. In developing such report the Secretary shall consult with outside organizations, including groups representing the elderly, demonstration plan sponsors, providers of services, and physicians and other health care professionals, in order to assist the Secretary in developing the report.

(2) REPORT.—The report described in paragraph (1) shall include a comparison for each demonstration plan of—

(A) the plan's medicare service area;

(B) coverage by the plan of emergency services and urgently needed care;

(C) the amount of any deductibles, coinsurance, or any monetary limits on benefits;

(D) the number of individuals who disenrolled from the plan within 3 months of enrollment during the previous fiscal year (excluding individuals whose disenrollment was due to death or moving outside of the plan's service area) stated as percentages of the total number of individuals in the plan;

(E) process, outcome, and enrollee satisfaction measures, as recommended by the Quality Advisory Institute as established under section 5044B;

(F) information on access and quality of services obtained from the analysis described in section 5044B;

(G) the procedures used by the plan to control utilization of services and expenditures, including any financial incentives;

(H) the number of applications during the previous fiscal year requesting that the plan cover or pay for certain medical services that were denied by the plan (and the number of such denials that were subsequently reversed by the plan), stated as a percentage of the total number of applications during such period requesting that the plan cover such services;

(I) the number of times during the previous fiscal year (after an appeal was filed with the Secretary) that the Secretary upheld or reversed a denial of a request that the plan cover certain medical services;

(J) the restrictions (if any) on payment for services provided outside the plan's health care provider network;

(K) the process by which services may be obtained through the plan's health care provider network;

(L) coverage for out-of-area services;

(M) any exclusions in the types of health care providers participating in the plan's health care provider network;

(N) whether the plan is, or has within the past two years been, out-of-compliance with any requirements of this part (as determined by the Secretary);

(O) the plan's premium price for the basic benefit plan submitted under part C of title XVIII of the Social Security Act, an indication of the difference between such premium price and the standardized medicare payment amount, and the portion of the premium an individual must pay out of pocket;

(P) whether the plan offers any of the optional supplemental benefit plans, and if so, the plan's premium price for such benefits; and

(Q) any additional information that the Secretary determines would be helpful for demonstration eligible individuals to compare the demonstration plans that such individuals are eligible to enroll with.

(3) ADDITIONAL INFORMATION.—The comparative report shall also include—

(A) a comparison of each demonstration plan to the fee-for-service program under parts A and B of title XVIII of the Social Security Act;

(B) an explanation of medicare supplemental policies under section 1882 of such Act and how to obtain specific information regarding such policies; and

(C) a phone number for each demonstration plan that will enable demonstration eligible individuals to call to receive a printed listing of all health care providers participating in the plan's health care provider network.

(4) UPDATE.—The Secretary shall, not less than annually, update each comparative report.

(5) DEFINITIONS.—In this subsection—

(A) HEALTH CARE PROVIDER.—The term "health care provider" means anyone licensed under State law to provide health care services under part A or B.

(B) NETWORK.—The term "network" means, with respect to a demonstration plan sponsor, the health care providers who have entered into a contract or agreement with the plan sponsor under which such providers are obligated to provide items, treatment, and services under this section to individuals enrolled with the plan sponsor under this part.

(C) OUT-OF-NETWORK.—The term "out-of-network" means services provided by health care providers who have not entered into a contract

agreement with the demonstration plan sponsor under which such providers are obligated to provide items, treatment, and services under this section to individuals enrolled with the plan sponsor under this part.

(6) COST SHARING.—Each demonstration plan sponsor shall pay to the Secretary its pro rata share of the estimated costs incurred by the Secretary in carrying out the requirements of this section and section 4360 of the Omnibus Reconciliation Act of 1990. There are hereby appropriated to the Secretary the amount of the payments under this paragraph for purposes of defraying the cost described in the preceding sentence. Such amounts shall remain available until expended.

Subpart B—Quality in Demonstration Plans

SEC. 5044A. DEFINITIONS.

In this subpart:

(1) COMPARATIVE REPORT.—The term "comparative report" means the comparative report developed under section 5044.

(2) DIRECTOR.—The term "Director" means the Director of the Office of Competition within the Department of Health and Human Services as established under part I.

(3) MEDICARE PROGRAM.—The term "medicare program" means the program of health care benefits provided under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

(4) DEMONSTRATION PLAN.—The term "demonstration plan" means a plan established under part I.

(5) DEMONSTRATION PLAN SPONSOR.—The term "demonstration plan sponsor" means a sponsor of a demonstration plan.

SEC. 5044B. QUALITY ADVISORY INSTITUTE.

(a) ESTABLISHMENT.—There is established an Institute to be known as the "Quality Advisory Institute" (in this subpart referred to as the "Institute") to make recommendations to the Director concerning licensing and certification criteria and comparative measurement methods under this subpart.

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Institute shall be composed of 5 members to be appointed by the Director from among individuals who have demonstrable expertise in—

(A) health care quality measurement;

(B) health plan certification criteria setting;

(C) the analysis of information that is useful to consumers in making choices regarding health coverage options, health plans, health care providers, and decisions regarding health treatments; and

(D) the analysis of health plan operations.

(2) TERMS AND VACANCIES.—The members of the Institute shall be appointed for 5-year terms with the terms of the initial members staggered as determined appropriate by the Director. Vacancies shall be filled in a manner provided for by the Director.

(c) DUTIES.—The Institute shall—

(1) not later than 1 year after the date on which all members of the Institute are appointed under subsection (b)(2), provide advice to the Director concerning the initial set of criteria for the certification of demonstration plans;

(2) analyze the use of the criteria for the certification of demonstration plans implemented by the Director under this subpart and recommend modifications in such criteria as needed;

(3) analyze the use of the comparative measurements implemented by the Director in developing comparative reports and recommend modifications in such measurements as needed;

(4) perform, or enter into contracts with other entities for the performance of, an analysis of access to services and clinical outcomes based on patient encounter data;

(5) enter into contracts with other entities for the development of such criteria and measurements and to otherwise carry out its duties under this section; and

(6) carry out any other activities determined appropriate by the Institute to carry out its duties under this section.

The analysis described in paragraph (4) should focus on conditions and procedures of significance to beneficiaries under the medicare program, as determined by the Institute, and should be designed, and the results summarized, in a manner that facilitates comparisons across health plans.

SEC. 5044C. DUTIES OF DIRECTOR.

(a) IN GENERAL.—The Director shall—

(1) adopt, adapt, or develop criteria in accordance with sections 5044F through 5044I to be used in the licensing of certifying entities and in the certification of demonstration plans, including any minimum criteria needed for the operation of demonstration plans during the transition period described in section 5044F(c);

(2) issue licenses to certifying entities that meet the criteria developed under paragraph (1) for the purpose of enabling such entities to certify demonstration plans in accordance with this subpart;

(3) develop comparative health care measures in addition to those implemented by the Director in developing comparative reports in order to guide consumer choice under the medicare program and to improve the delivery of quality health care under such program;

(4) develop procedures, consistent with section 5044A, for the dissemination of certification and comparative quality information provided to the Director;

(5) contract with an independent entity for the conduct of audits concerning certification and quality measurement and require that as part of the certification process performed by licensed certification entities that there include an onsite evaluation, using performance-based standards, of the providers of items and services under a demonstration plan;

(6) at least quarterly, meet jointly with the Agency for Health Care Policy and Research to review innovative health outcomes measures, new measurement processes, and other matters determined appropriate by the Director;

(7) at least annually, meet with the Institute concerning certification criteria;

(8) not later than January 1, 1999, and each January 1 thereafter, prepare and submit to demonstration plan sponsors and to Congress, a report concerning the activities of the Director for the previous year;

(9) advise the President and Congress concerning health insurance and health care provided under demonstration plans and make recommendations concerning measures that may be implemented to protect the health of all enrollees in demonstration plans; and

(10) carry out other activities determined appropriate by the Director.

(b) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to limit the authority of the Director or the Secretary of Health and Human Services with respect to requirements other than those applied under this subpart with respect to demonstration plans.

SEC. 5044D. COMPLIANCE.

(a) IN GENERAL.—Not later than January 1, 1999, the Director shall ensure that a demonstration plan may not be offered unless it has been certified in accordance with this subpart.

(b) CONTRACTS OR REIMBURSEMENTS.—In carrying out subsection (a), the Director—

(1) may not enter into a contract with a demonstration plan sponsor for the provision of a demonstration plan unless the demonstration plan is certified in accordance with this subpart;

(2) may not reimburse a demonstration plan sponsor for items and services provided under a demonstration plan unless the demonstration plan is certified in accordance with this subpart; and

(3) shall, after providing notice to the demonstration plan sponsor operating a demonstration plan and an opportunity for such demonstration plan to be certified, and in accordance with any applicable grievance and appeals procedures under section 5044I, terminate any contract with a demonstration plan sponsor for the operation of a demonstration plan if such demonstration plan is not certified in accordance with this subpart.

SEC. 5044E. PAYMENTS FOR VALUE.

(a) ESTABLISHMENT OF PROGRAM.—The Director shall establish a program under which payments are made to various demonstration plans to reward such plans for meeting or exceeding quality targets.

(b) PERFORMANCE MEASURES.—In carrying out the program under subsection (a), the Director shall establish broad categories of quality targets and performance measures. Such targets and measures shall be designed to permit the Director to determine whether a demonstration plan is being operated in a manner consistent with this subpart.

(c) USE OF FUNDS.—

(1) IN GENERAL.—The Secretary shall withhold 0.50 percent from any payment that a demonstration plan sponsor receives with respect to an individual enrolled with such plan under part I.

(2) PAYMENTS.—The Director shall use amounts collected under paragraph (1) to make annual payments to those demonstration plans that have been determined by the Director to meet or exceed the quality targets and performance measures established under subsection (b). Any amounts collected under such paragraph for a fiscal year and remaining available after payments are made under subsection (d), shall be used for deficit reduction.

(d) AMOUNT OF PAYMENT.—

(1) FORMULA.—The amount of any payment made to a demonstration plan under this section shall be determined in accordance with a formula to be developed by the Director. The formula shall ensure that a payment made to a demonstration plan under this section be in an amount equal to—

(A) with respect to a demonstration plan that is determined to be in the first quintile, 1 percent of the amount allocated to the plan under this subpart;

(B) with respect to a demonstration plan that is determined to be in the second quintile, 0.75 percent of the amount allocated to the plan under this subpart;

(C) with respect to a demonstration plan that is determined to be in the third quintile, 0.50 percent of the amount allocated by the plan under this subpart; and

(D) with respect to a demonstration plan that is determined to be in the fourth quintile, 0.25 percent of the amount allocated by the plan under this subpart.

(2) NO PAYMENT.—A demonstration plan that is determined by the Director to be in the fifth quintile shall not be eligible to receive a payment under this section.

(3) DETERMINATION OF QUINTILES.—Not later than April 30 of each calendar year, the Director shall rank each demonstration plan based on the performance of the plan during the preceding year as determined using the quality targets and performance measures established under subsection (b). Such rankings shall be divided into quintiles with the first quintile containing the highest ranking plans and the fifth quintile containing the lowest ranking plans. Each such quintile shall contain plans that in the aggregate cover an equal number of beneficiaries as compared to another quintile.

SEC. 5044F. CERTIFICATION REQUIREMENT.

(a) IN GENERAL.—To be eligible to enter into a contract with the Director to enroll individuals in a demonstration plan, a demonstration plan sponsor shall participate in the certification process and have the demonstration plans offered by such plan sponsor certified in accordance with this subpart.

(b) EFFECT OF MERGERS OR PURCHASE.—

(1) CERTIFIED PLANS.—Where 2 or more demonstration plan sponsors offering certified demonstration plans are merged or where 1 such plan sponsor is purchased by another plan sponsor, the resulting plan sponsor may continue to operate and enroll individuals for coverage under the demonstration plan as if the demonstration plan involved were certified. The certification of any resulting demonstration plan shall be reviewed by the applicable certifying entity to ensure the continued compliance of the contract with the certification criteria.

(2) NONCERTIFIED PLANS.—The certification of a demonstration plan shall be terminated upon the merger of the demonstration plan sponsor involved or the purchase of the plan sponsor by another entity that does not offer any certified demonstration plans. Any demonstration plans offered through the resulting plan sponsor may reapply for certification after the completion of the merger or purchase.

(c) TRANSITION FOR NEW PLANS.—

(1) IN GENERAL.—A demonstration plan that has not provided health insurance coverage to individuals prior to the effective date of this Act shall be permitted to contract with the Director and operate and enroll individuals under a demonstration plan without being certified for the 2-year period beginning on the date on which such demonstration plan sponsor enrolls the first individual in the demonstration plan. Such demonstration plan must be certified in order to continue to provide coverage under the contract after such period.

(2) LIMITATION.—A new demonstration plan described in paragraph (1) shall, during the period referred to in paragraph (1) prior to certification, comply with the minimum criteria developed by the Director under section 5044F(a)(1).

SEC. 5044G. LICENSING OF CERTIFICATION ENTITIES.

(a) IN GENERAL.—The Director shall develop procedures for the licensing of entities to certify demonstration plans under this subpart.

(b) REQUIREMENTS.—The procedures developed under subsection (a) shall ensure that—

(1) to be licensed under this section a certification entity shall apply the requirements of this subpart to demonstration plans seeking certification;

(2) a certification entity has procedures in place to suspend or revoke the certification of a demonstration plan that is failing to comply with the certification requirements, and

(3) the Director will give priority to licensing entities that are accrediting health plans that contract with the Director on the date of enactment of this Act.

SEC. 5044H. CERTIFICATION CRITERIA.

(a) ESTABLISHMENT.—The Director shall establish minimum criteria under this section to be used by licensed certifying entities in the certification of demonstration plans under this subpart.

(b) REQUIREMENTS.—Criteria established by the Director under subsection (a) shall require that, in order to be certified, a demonstration plan shall comply at a minimum with the following:

(1) QUALITY IMPROVEMENT PLAN.—The demonstration plan shall implement a total quality improvement plan that is designed to improve the clinical and administrative processes of the demonstration plan on an ongoing basis and demonstrate that improvements in the quality of items and services provided under the demonstration plan have occurred as a result of such improvement plan.

(2) PROVIDER CREDENTIALS.—The demonstration plan shall compile and annually provide to the licensed certifying entity documentation concerning the credentials of the hospitals, physicians, and other health care professionals reimbursed under the demonstration plan.

(3) COMPARATIVE INFORMATION.—The demonstration plan shall compile and provide, as requested by the Secretary of Health and Human Services, to the such Secretary the information necessary to develop a comparative report.

(4) ENCOUNTER DATA.—The demonstration plan shall maintain patient encounter data in accordance with standards established by the Institute, and shall provide these data, as requested by the Institute, to the Institute in support of conducting the analysis described in section 5044B(c)(4).

(5) OTHER REQUIREMENTS.—The demonstration plan shall comply with other requirements authorized under this subpart and implemented by the Director.

SEC. 5044I. GRIEVANCE AND APPEALS.

The Director shall develop grievance and appeals procedures under which a demonstration plan that is denied certification under this subpart may appeal such denial to the Director.

Subchapter B—Other Projects

SEC. 5045. MEDICARE ENROLLMENT DEMONSTRATION PROJECT.

(a) DEMONSTRATION PROJECT.—

(1) ESTABLISHMENT.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall implement a demonstration project (in this section referred to as the "project") for the purpose of evaluating the use of a third-party contractor to conduct the Medicare Choice plan enrollment and disenrollment functions, as described in part C of the Social Security Act (as added by section 5001 of this Act), in an area.

(2) CONSULTATION.—Before implementing the project under this section, the Secretary shall consult with affected parties on—

(A) the design of the project;

(B) the selection criteria for the third-party contractor; and

(C) the establishment of performance standards, as described in paragraph (3).

(3) PERFORMANCE STANDARDS.—

(A) IN GENERAL.—The Secretary shall establish performance standards for the accuracy and timeliness of the Medicare Choice plan enrollment and disenrollment functions performed by the third-party contractor.

(B) NONCOMPLIANCE.—If the Secretary determines that a third-party contractor is out of compliance with the performance standards established under subparagraph (A), such enrollment and disenrollment functions shall be performed by the Medicare Choice plan until the Secretary appoints a new third-party contractor.

(C) DISPUTE.—In the event that there is a dispute between the Secretary and a Medicare Choice plan regarding whether or not the third-party contractor is in compliance with the performance standards, such enrollment and disenrollment functions shall be performed by the Medicare Choice plan.

(b) REPORT TO CONGRESS.—The Secretary shall periodically report to Congress on the progress of the project conducted pursuant to this section.

(c) WAIVER AUTHORITY.—The Secretary shall waive compliance with the requirements of part C of the Social Security Act (as amended by section 5001 of this Act) to such extent and for such period as the Secretary determines is necessary to conduct the project.

(d) DURATION.—A demonstration project under this section shall be conducted for a 3-year period.

(e) SEPARATE FROM OTHER DEMONSTRATION PROJECTS.—A project implemented by the Secretary under this section shall not be conducted in conjunction with any other demonstration project.

SEC. 5046. MEDICARE COORDINATED CARE DEMONSTRATION PROJECT.

(a) DEMONSTRATION PROJECTS.—

(1) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall conduct demonstration projects for the purpose of evaluating methods, such as case management and other models of coordinated care, that—

(A) improve the quality of items and services provided to target individuals; and

(B) reduce expenditures under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) for items and services provided to target individuals.

(2) TARGET INDIVIDUAL DEFINED.—In this section, the term "target individual" means an individual that has a chronic illness, as defined and identified by the Secretary, and is enrolled under the fee-for-service program under parts A and B of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.; 1395j et seq.).

(b) PROGRAM DESIGN.—

(1) INITIAL DESIGN.—The Secretary shall evaluate best practices in the private sector of methods of coordinated care for a period of 1 year and design the demonstration project based on such evaluation.

(2) NUMBER AND PROJECT AREAS.—Not later than 2 years after the date of enactment of this Act, the Secretary shall implement at least 9 demonstration projects, including—

(A) 6 projects in urban areas; and

(B) 3 projects in rural areas.

(3) EXPANSION OF PROJECTS; IMPLEMENTATION OF DEMONSTRATION PROJECT RESULTS.—

(A) EXPANSION OF PROJECTS.—If the initial report under subsection (c) contains an evaluation that demonstration projects—

(i) reduce expenditures under the medicare program; or

(ii) do not increase expenditures under the medicare program and increase the quality of health care services provided to target individuals and satisfaction of beneficiaries and health care providers;

the Secretary shall continue the existing demonstration projects and may expand the number of demonstration projects.

(B) IMPLEMENTATION OF DEMONSTRATION PROJECT RESULTS.—If a report under subsection (c) contains an evaluation as described in subparagraph (A), the Secretary may issue regulations to implement, on a permanent basis, the components of the demonstration project that are beneficial to the medicare program.

(c) REPORT TO CONGRESS.—

(1) IN GENERAL.—Not later than 2 years after the Secretary implements the initial demonstration projects under this section, and biannually thereafter, the Secretary shall submit to Congress a report regarding the demonstration projects conducted under this section.

(2) CONTENTS OF REPORT.—The report in paragraph (1) shall include the following:

(A) A description of the demonstration projects conducted under this section.

(B) An evaluation of—

(i) the cost-effectiveness of the demonstration projects;

(ii) the quality of the health care services provided to target individuals under the demonstration projects; and

(iii) beneficiary and health care provider satisfaction under the demonstration project.

(C) Any other information regarding the demonstration projects conducted under this section that the Secretary determines to be appropriate.

(d) WAIVER AUTHORITY.—The Secretary shall waive compliance with the requirements of titles

XI, XVIII, and XIX of the Social Security Act (42 U.S.C. 1301 et seq., 1395 et seq., 1396 et seq.) to such extent and for such period as the Secretary determines is necessary to conduct demonstration projects.

(e) FUNDING.—

(1) DEMONSTRATION PROJECTS.—

(A) IN GENERAL.—The Secretary shall provide for the transfer from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Insurance Trust Fund under title XVIII of the Social Security Act (42 U.S.C. 1395i, 1395t), in such proportions as the Secretary determines to be appropriate, of such funds as are necessary for the costs of carrying out the demonstration projects under this section.

(B) LIMITATION.—In conducting the demonstration project under this section, the Secretary shall ensure that the aggregate payments made by the Secretary do not exceed the amount which the Secretary would have paid if the demonstration projects under this section were not implemented.

(2) EVALUATION AND REPORT.—There are authorized to be appropriated such sums as are necessary for the purpose of developing and submitting the report to Congress under subsection (c).

SEC. 5047. ESTABLISHMENT OF MEDICARE REIMBURSEMENT DEMONSTRATION PROJECTS.

Title XVIII (42 U.S.C. 1395 et seq.) (as amended by section 5343) is amended by adding at the end the following:

"MEDICARE SUBVENTION DEMONSTRATION PROJECT FOR VETERANS

"SEC. 1896. (a) DEFINITIONS.—In this section:

"(1) ADMINISTERING SECRETARIES.—The term 'administering Secretaries' means the Secretary and the Secretary of Veterans Affairs acting jointly.

"(2) DEMONSTRATION PROJECT; PROJECT.—The terms 'demonstration project' and 'project' mean the demonstration project carried out under this section.

"(3) MILITARY RETIREE.—The term 'military retiree' means a member or former member of the Armed Forces who is entitled to retired pay.

"(4) TARGETED MEDICARE-ELIGIBLE VETERAN.—The term 'targeted medicare-eligible veteran' means an individual who—

"(A) is a veteran (as defined in section 101(2) of title 38, United States Code) and is described in section 1710(a)(3) of title 38, United States Code; and

"(B) is entitled to benefits under part A of this title and is enrolled under part B of this title.

"(5) TRUST FUNDS.—The term 'trust funds' means the Federal Hospital Insurance Trust Fund established in section 1817 and the Federal Supplementary Medical Insurance Trust Fund established in section 1841.

"(b) DEMONSTRATION PROJECT.—

"(1) IN GENERAL.—

"(A) ESTABLISHMENT.—The administering Secretaries are authorized to establish a demonstration project (under an agreement entered into by the administering Secretaries) under which the Secretary shall reimburse the Secretary of Veterans Affairs, from the trust funds, for medicare health care services furnished to certain targeted medicare-eligible veterans.

"(B) AGREEMENT.—The agreement entered into under subparagraph (A) shall include at a minimum—

"(i) a description of the benefits to be provided to the participants of the demonstration project established under this section;

"(ii) a description of the eligibility rules for participation in the demonstration project, including any criteria established under subsection (c) and any cost sharing under subsection (d);

"(iii) a description of how the demonstration project will satisfy the requirements under this title;

"(iv) a description of the sites selected under paragraph (2);

"(v) a description of how reimbursement and maintenance of effort requirements under subsection (l) will be implemented in the demonstration project; and

"(vi) a statement that the Secretary shall have access to all data of the Department of Veterans Affairs that the Secretary determines is necessary to conduct independent estimates and audits of the maintenance of effort requirement, the annual reconciliation, and related matters required under the demonstration project.

"(2) NUMBER OF SITES.—The administering Secretaries shall establish a plan for the selection of up to 12 medical centers under the jurisdiction of the Secretary of Veterans Affairs and located in geographically dispersed locations to participate in the project.

"(3) GENERAL CRITERIA.—The selection plan shall favor selection of those medical centers that are suited to serve targeted medicare-eligible individuals because—

"(A) there is a high potential demand by targeted medicare-eligible veterans for their services;

"(B) they have sufficient capability in billing and accounting to participate;

"(C) they have favorable indicators of quality of care, including patient satisfaction;

"(D) they deliver a range of services required by targeted medicare-eligible veterans; and

"(E) they meet other relevant factors identified in the plan.

"(4) MEDICAL CENTER NEAR CLOSED BASE.—The administering Secretaries shall endeavor to include at least 1 medical center that is in the same catchment area as a military medical facility which was closed pursuant to either of the following laws:

"(A) The Defense Base Closure and Realignment Act of 1990.

"(B) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act.

"(5) RESTRICTION.—No new facilities will be built or expanded with funds from the demonstration project.

"(6) DURATION.—The administering Secretaries shall conduct the demonstration project during the 3-year period beginning on January 1, 1998.

"(c) VOLUNTARY PARTICIPATION.—Participation of targeted medicare-eligible veterans in the demonstration project shall be voluntary, subject to the capacity of participating medical centers and the funding limitations specified in subsection (l), and shall be subject to such terms and conditions as the administering Secretaries may establish. In the case of a demonstration project at a medical center described in subsection (b)(3), targeted medicare-eligible veterans who are military retirees shall be given preference in participating in the project.

"(d) COST SHARING.—The Secretary of Veterans Affairs may establish cost-sharing requirements for veterans participating in the demonstration project. If such cost sharing requirements are established, those requirements shall be the same as the requirements that apply to targeted medicare-eligible patients at nongovernmental facilities.

"(e) CREDITING OF PAYMENTS.—A payment received by the Secretary of Veterans Affairs under the demonstration project shall be credited to the applicable Department of Veterans Affairs medical appropriation and (within that appropriation) to funds that have been allotted to the medical center that furnished the services for which the payment is made. Any such payment received during a fiscal year for services provided during a prior fiscal year may be obligated by the Secretary of Veterans Affairs during the fiscal year during which the payment is received.

"(f) AUTHORITY TO WAIVE CERTAIN MEDICARE REQUIREMENTS.—The Secretary may, to the extent necessary to carry out the demonstration project, waive any requirement under this title. If the Secretary waives any such requirement, the Secretary shall include a description of such waiver in the agreement described in subsection (b)(1)(B).

"(g) INSPECTOR GENERAL.—Nothing in the agreement entered into under subsection (b) shall limit the Inspector General of the Department of Health and Human Services from investigating any matters regarding the expenditure of funds under this title for the demonstration project, including compliance with the provisions of this title and all other relevant laws.

"(h) REPORT.—At least 30 days prior to the commencement of the demonstration project, the administering Secretaries shall submit a copy of the agreement entered into under subsection (b) to the committees of jurisdiction in Congress.

"(i) MANAGED HEALTH CARE PLANS.—(1) In carrying out the demonstration project, the Secretary of Veterans Affairs may establish and operate managed health care plans.

"(2) Any such plan shall be operated by or through a Department of Veterans Affairs medical center or group of medical centers and may include the provision of health care services through other facilities under the jurisdiction of the Secretary of Veterans Affairs as well as public and private entities under arrangements made between the Department and the other public or private entity concerned. Any such managed health care plan shall be established and operated in conformance with standards prescribed by the administering Secretaries.

"(3) The administering Secretaries shall prescribe the minimum health care benefits to be provided under such a plan to veterans enrolled in the plan. Those benefits shall include at least all health care services covered under the medicare program under this title.

"(4) The establishment of a managed health care plan under this section shall be counted as the selection of a medical center for purposes of applying the numerical limitation under subsection (b)(1).

"(j) MEDICAL CENTER REQUIREMENTS.—The Secretary of Veterans Affairs may establish a managed health care plan using 1 or more medical centers and other facilities only after the Secretary of Veterans Affairs submits to Congress a report setting forth a plan for the use of such centers and facilities. The plan may not be implemented until the Secretary of Veterans Affairs has received from the Inspector General of the Department of Veterans Affairs, and has forwarded to Congress, certification of each of the following:

"(1) The cost accounting system of the Veterans Health Administration (known as the Decision Support System) is operational and is providing reliable cost information on care delivered on an inpatient and outpatient basis at such centers and facilities.

"(2) The centers and facilities have operated in conformity with the eligibility reform amendments made by title I of the Veterans Health Care Act of 1996 for not less than 3 months.

*"(3) The centers and facilities have developed a credible plan (on the basis of market surveys, data from the Decision Support System, actuarial analysis, and other appropriate methods and taking into account the level of payment under subsection (l) and the costs of providing covered services at the centers and facilities) to minimize, to the extent feasible, the risk that appropriated funds allocated to the centers and facilities will be required to meet the centers' and

facilities' obligation to targeted medicare-eligible veterans under the demonstration project.

"(4) The centers and facilities collectively have available capacity to provide the contracted benefits package to a sufficient number of targeted medicare-eligible veterans.

"(5) The entity administering the health plan has sufficient systems and safeguards in place to minimize any risk that instituting the managed care model will result in reducing the quality of care delivered to enrollees in the demonstration project or to other veterans receiving care under paragraphs subsection (1) or (2) of section 1710(a) of title 38, United States Code.

"(k) RESERVES.—The Secretary of Veterans Affairs shall maintain such reserves as may be necessary to ensure against the risk that appropriated funds, allocated to medical centers and facilities participating in the demonstration project through a managed health care plan under this section, will be required to meet the obligations of those medical centers and facilities to targeted medicare-eligible veterans.

"(l) PAYMENTS BASED ON REGULAR MEDICARE PAYMENT RATES.—

"(1) PAYMENTS.—

"(A) IN GENERAL.—Subject to the succeeding provisions of this subsection, the Secretary shall reimburse the Secretary of Veterans Affairs for services provided under the demonstration project at the following rates:

"(i) NONCAPITATION.—Except as provided in clause (ii) and subject to subparagraphs (B)(i) and (D), at a rate equal to 95 percent of the amounts that otherwise would be payable under this title on a noncapitated basis for such services if the medical center were not a Federal medical center, were participating in the program, and imposed charges for such services.

"(ii) CAPITATION.—Subject to subparagraphs (B)(ii) and (D), in the case of services provided to an enrollee under a managed health care plan established under subsection (i), at a rate equal to 95 percent of the amount paid to a Medicare Choice organization under part C with respect to such an enrollee.

In cases in which a payment amount may not otherwise be readily computed, the Secretaries shall establish rules for computing equivalent or comparable payment amounts.

"(B) EXCLUSION OF CERTAIN AMOUNTS.—

"(i) NONCAPITATION.—In computing the amount of payment under subparagraph (A)(i), the following shall be excluded:

(i) DISPROPORTIONATE SHARE HOSPITAL ADJUSTMENT.—Any amount attributable to an adjustment under subsection (d)(5)(F) of section 1886 of the Social Security Act (42 U.S.C. 1395ww).

(ii) DIRECT GRADUATE MEDICAL EDUCATION PAYMENTS.—Any amount attributable to a payment under subsection (h) of such section.

(iii) PERCENTAGE OF INDIRECT MEDICAL EDUCATION ADJUSTMENT.—40 percent of any amount attributable to the adjustment under subsection (d)(5)(B) of such section.

(iv) PERCENTAGE OF CAPITAL PAYMENTS.—67 percent of any amounts attributable to payments for capital-related costs under subsection (g) of such section.

"(ii) CAPITATION.—In the case of years before 2001, in computing the amount of payment under subparagraph (A)(ii), the payment rate shall be computed as though the amounts excluded under clause (i) had been excluded in the determination of the amount paid to a Medicare Choice organization under part C with respect to an enrollee.

"(C) PERIODIC PAYMENTS FROM MEDICARE TRUST FUNDS.—Payments under this subsection shall be made—

"(i) on a periodic basis consistent with the periodicity of payments under this title; and

"(ii) in appropriate part, as determined by the Secretary, from the trust funds.

"(D) ANNUAL LIMIT ON MEDICARE PAYMENTS.—The amount paid to the Department of Veterans Affairs under this subsection for any year for the demonstration project may not exceed $50,000,000.

"(2) REDUCTION IN PAYMENT FOR VA FAILURE TO MAINTAIN EFFORT.—

"(A) IN GENERAL.—In order to avoid shifting onto the medicare program under this title costs previously assumed by the Department of Veterans Affairs for the provision of medicare-covered services to targeted medicare-eligible veterans, the payment amount under this subsection for the project for a fiscal year shall be reduced by the amount (if any) by which—

"(i) the amount of the VA effort level for targeted veterans (as defined in subparagraph (B)) for the fiscal year ending in such year, is less than

"(ii) the amount of the VA effort level for targeted veterans for fiscal year 1997.

"(B) VA EFFORT LEVEL FOR TARGETED VETERANS DEFINED.—For purposes of subparagraph (A), the term 'VA effort level for targeted veterans' means, for a fiscal year, the amount, as estimated by the administering Secretaries, that would have been expended under the medicare program under this title for VA-provided medicare-covered services for targeted veterans (as defined in subparagraph (C)) for that fiscal year if benefits were available under the medicare program for those services. Such amount does not include expenditures attributable to services for which reimbursement is made under the demonstration project.

"(C) VA-PROVIDED MEDICARE-COVERED SERVICES FOR TARGETED VETERANS.—For purposes of subparagraph (B), the term 'VA-provided medicare-covered services for targeted veterans' means, for a fiscal year, items and services—

"(i) that are provided during the fiscal year by the Department of Veterans Affairs to targeted medicare-eligible veterans;

"(ii) that constitute hospital care and medical services under chapter 17 of title 38, United States Code; and

"(iii) for which benefits would be available under the medicare program under this title if they were provided other than by a Federal provider of services that does not charge for those services.

"(3) ASSURING NO INCREASE IN COST TO MEDICARE PROGRAM.—

"(A) MONITORING EFFECT OF DEMONSTRATION PROGRAM ON COSTS TO MEDICARE PROGRAM.—

"(i) IN GENERAL.—The Secretaries, in consultation with the Comptroller General, shall closely monitor the expenditures made under the medicare program for targeted medicare-eligible veterans during the period of the demonstration project compared to the expenditures that would have been made for such veterans during that period if the demonstration project had not been conducted.

"(ii) ANNUAL REPORT BY THE COMPTROLLER GENERAL.—Not later than December 31 of each year during which the demonstration project is conducted, the Comptroller General shall submit to the Secretaries and the appropriate committees of Congress a report on the extent, if any, to which the costs of the Secretary under the medicare program under this title increased during the preceding fiscal year as a result of the demonstration project.

"(B) REQUIRED RESPONSE IN CASE OF INCREASE IN COSTS.—

"(i) IN GENERAL.—If the administering Secretaries find, based on subparagraph (A), that the expenditures under the medicare program under this title increased (or are expected to increase) during a fiscal year because of the demonstration project, the administering Secretaries shall take such steps as may be needed—

"(I) to recoup for the medicare program the amount of such increase in expenditures; and

"(II) to prevent any such increase in the future.

"(ii) STEPS.—Such steps—

"(I) under clause (i)(I) shall include payment of the amount of such increased expenditures by the Secretary of Veterans Affairs from the current medical care appropriation of the Department of Veterans Affairs to the trust funds; and

"(II) under clause (i)(II) shall include suspending or terminating the demonstration project (in whole or in part) or lowering the amount of payment under paragraph (1)(A).

"(m) EVALUATION AND REPORTS.—

"(1) INDEPENDENT EVALUATION.—The administering Secretaries shall arrange for an independent entity with expertise in the evaluation of health services to conduct an evaluation of the demonstration project. The entity shall submit annual reports on the demonstration project to the administering Secretaries and to the committees of jurisdiction in the Congress. The first report shall be submitted not later than 12 months after the date on which the demonstration project begins operation, and the final report not later than 3½ years after that date. The evaluation and reports shall include an assessment, based on the agreement entered into under subsection (b), of the following:

"(A) The cost to the Department of Veterans Affairs of providing care to veterans under the project.

"(B) Compliance of participating medical centers with applicable measures of quality of care, compared to such compliance for other medicare-participating medical centers.

"(C) A comparison of the costs of medical centers' participation in the program with the reimbursements provided for services of such medical centers.

"(D) Any savings or costs to the medicare program under this title from the project.

"(E) Any change in access to care or quality of care for targeted medicare-eligible veterans participating in the project.

"(F) Any effect of the project on the access to care and quality of care for targeted medicare-eligible veterans not participating in the project and other veterans not participating in the project.

"(G) The provision of services under managed health care plans under subsection (l), including the circumstances (if any) under which the Secretary of Veterans Affairs uses reserves described in subsection (k) and the Secretary of Veterans Affairs' response to such circumstances (including the termination of managed health care plans requiring the use of such reserves).

"(H) Any effect that the demonstration project has on the enrollment in Medicare Choice organizations under part C of this title in the established site areas.

"(2) REPORT ON EXTENSION AND EXPANSION OF DEMONSTRATION PROJECT.—Not later than six months after the date of the submission of the penultimate report under paragraph (1), the administering Secretaries shall submit to Congress a report containing their recommendation as to—

"(A) whether to extend the demonstration project or make the project permanent;

"(B) whether to expand the project to cover additional sites and areas and to increase the maximum amount of reimbursement (or the maximum amount of reimbursement permitted for managed health care plans under this section) under the project in any year; and

"(C) whether the terms and conditions of the project should be continued (or modified) if the project is extended or expanded.

"MEDICARE SUBVENTION DEMONSTRATION PROJECT FOR MILITARY RETIREES

"SEC. 1897. (a) DEFINITIONS.—In this section:

"(1) ADMINISTERING SECRETARIES.—The term 'administering Secretaries' means the Secretary and the Secretary of Defense acting jointly.

"(2) DEMONSTRATION PROJECT; PROJECT.—The terms 'demonstration project' and 'project' mean the demonstration project carried out under this section.

"(3) DESIGNATED PROVIDER.—The term 'designated provider' has the meaning given that term in section 721(5) of the National Defense Authorization Act For Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2593; 10 U.S.C. 1073 note).

"(4) MEDICARE-ELIGIBLE MILITARY RETIREE OR DEPENDENT.—The term 'medicare-eligible military retiree or dependent' means an individual described in section 1074(b) or 1076(b) of title 10, United States Code, who—

"(A) would be eligible for health benefits under section 1086 of such title by reason of subsection (c)(1) of such section 1086 but for the operation of subsection (d) of such section 1086;

"(B)(i) is entitled to benefits under part A of this title; and

"(ii) if the individual was entitled to such benefits before July 1, 1996, received health care items or services from a health care facility of the uniformed services before that date, but after becoming entitled to benefits under part A of this title;

"(C) is enrolled for benefits under part B of this title; and

"(D) has attained age 65.

"(5) MEDICARE HEALTH CARE SERVICES.—The term 'medicare health care services' means items or services covered under part A or B of this title.

"(6) MILITARY TREATMENT FACILITY.—The term 'military treatment facility' means a facility referred to in section 1074(a) of title 10, United States Code.

"(7) TRICARE.—The term 'TRICARE' has the same meaning as the term 'TRICARE program' under section 711 of the National Defense Authorization Act for Fiscal Year 1996 (10 U.S.C. 1073 note).

"(5) TRUST FUNDS.—The term 'trust funds' means the Federal Hospital Insurance Trust Fund established in section 1817 and the Federal Supplementary Medical Insurance Trust Fund established in section 1841.

"(b) DEMONSTRATION PROJECT.—

"(1) IN GENERAL.—

"(A) ESTABLISHMENT.—The administering Secretaries are authorized to establish a demonstration project (under an agreement entered into by the administering Secretaries) under which the Secretary shall reimburse the Secretary of Defense, from the trust funds, for medicare health care services furnished to certain medicare-eligible military retirees or dependents.

"(B) AGREEMENT.—The agreement entered into under subparagraph (A) shall include at a minimum—

"(i) a description of the benefits to be provided to the participants of the demonstration project established under this section;

"(ii) a description of the eligibility rules for participation in the demonstration project, including any cost sharing requirements established under subsection (h);

"(iii) a description of how the demonstration project will satisfy the requirements under this title;

"(iv) a description of the sites selected under paragraph (2);

"(v) a description of how reimbursement and maintenance of effort requirements under subsection (j) will be implemented in the demonstration project; and

"(vi) a statement that the Secretary shall have access to all data of the Department of Defense that the Secretary determines is necessary to conduct independent estimates and audits of the maintenance of effort requirement, the annual reconciliation, and related matters required under the demonstration project.

"(2) IN GENERAL.—The project established under this section shall be conducted in no more than 6 sites, designated jointly by the administering Secretaries after review of all TRICARE regions.

"(3) RESTRICTION.—No new military treatment facilities will be built or expanded with funds from the demonstration project.

"(4) DURATION.—The administering Secretaries shall conduct the demonstration project during the 3-year period beginning on January 1, 1998.

"(c) CREDITING OF PAYMENTS.—A payment received by the Secretary of Defense under the demonstration project shall be credited to the applicable Department of Defense medical appropriation and (within that appropriation). Any such payment received during a fiscal year for services provided during a prior fiscal year may be obligated by the Secretary of Defense during the fiscal year during which the payment is received.

"(d) AUTHORITY TO WAIVE CERTAIN MEDICARE REQUIREMENTS.—The Secretary may, to the extent necessary to carry out the demonstration project, waive any requirement under this title. If the Secretary waives any such requirement, the Secretary shall include a description of such waiver in the agreement described in subsection (b).

"(e) INSPECTOR GENERAL.—Nothing in the agreement entered into under subsection (b) shall limit the Inspector General of the Department of Health and Human Services from investigating any matters regarding the expenditure of funds under this title for the demonstration project, including compliance with the provisions of this title and all other relevant laws.

"(f) REPORT.—At least 30 days prior to the commencement of the demonstration project, the administering Secretaries shall submit a copy of the agreement entered into under subsection (b) to the committees of jurisdiction in Congress.

"(g) VOLUNTARY PARTICIPATION.—Participation of medicare-eligible military retirees or dependents in the demonstration project shall be voluntary, subject to the capacity of participating military treatment facilities and designated providers and the funding limitations specified in subsection (j), and shall be subject to such terms and conditions as the administering Secretaries may establish.

"(h) COST-SHARING BY DEMONSTRATION ENROLLEES.—The Secretary of Defense may establish cost-sharing requirements for medicare-eligible military retirees and dependents who enroll in the demonstration project consistent with part C of this title.

"(i) TRICARE HEALTH CARE PLANS.—

"(1) TRICARE PROGRAM ENROLLMENT FEE WAIVER.—The Secretary of Defense shall waive the enrollment fee applicable to any medicare-eligible military retiree or dependent enrolled in the managed care option of the TRICARE program for any period for which reimbursement is made under this section with respect to such retiree or dependent.

"(2) MODIFICATION OF TRICARE CONTRACTS.—In carrying out the demonstration project, the Secretary of Defense is authorized to amend existing TRICARE contracts in order to provide the medicare health care services to the medicare-eligible military retirees and dependents enrolled in the demonstration project.

"(3) HEALTH CARE BENEFITS.—The administering Secretaries shall prescribe the minimum health care benefits to be provided under such a plan to medicare-eligible military retirees or dependents enrolled in the plan. Those benefits shall include at least all medicare health care services covered under this title.

"(j) PAYMENTS BASED ON REGULAR MEDICARE PAYMENT RATES.—

"(1) PAYMENTS.—

"(A) IN GENERAL.—Subject to the succeeding provisions of this subsection, the Secretary shall reimburse the Secretary of Defense for services provided under the demonstration project at the following rates:

"(i) NONCAPITATION.—Except as provided in clause (ii) and subject to subparagraphs (B)(i) and (D), at a rate equal to 95 percent of the amounts that otherwise would be payable under this title on a noncapitated basis for such services if the military treatment facility or designated provider were not a Federal medical center, were participating in the program, and imposed charges for such services.

"(ii) CAPITATION.—Subject to subparagraphs (B)(ii) and (D), in the case of services provided to an enrollee under a managed health care plan established under subsection (i), at a rate equal to 95 percent of the amount paid to a Medicare Choice organization under part C with respect to such an enrollee.

In cases in which a payment amount may not otherwise be readily computed, the Secretaries shall establish rules for computing equivalent or comparable payment amounts.

"(B) EXCLUSION OF CERTAIN AMOUNTS.—

"(i) NONCAPITATION.—In computing the amount of payment under subparagraph (A)(i), the following shall be excluded:

"(I) SPECIAL PAYMENTS.—Any amount attributable to an adjustment under subparagraphs (B) and (F) of section 1886(d)(5) and subsection (h) of such section.

"(II) PERCENTAGE OF CAPITAL PAYMENTS.—An amount determined by the administering Secretaries for amounts attributable to payments for capital-related costs under subsection (g) of such section.

"(ii) CAPITATION.—In the case of years before 2001, in computing the amount of payment under subparagraph (A)(ii), the payment rate shall be computed as though the amounts excluded under clause (i) had been excluded in the determination of the amount paid to a Medicare Choice organization under part C with respect to an enrollee.

"(C) PERIODIC PAYMENTS FROM MEDICARE TRUST FUNDS.—Payments under this subsection shall be made—

"(i) on a periodic basis consistent with the periodicity of payments under this title; and

"(ii) in appropriate part, as determined by the Secretary, from the trust funds.

"(D) CAP ON AMOUNT.—The aggregate amount to be reimbursed under this paragraph pursuant to the agreement entered into between the administering Secretaries under subsection (b) shall not exceed a total of—

"(i) $55,000,000 for calendar year 1998;

"(ii) $65,000,000 for calendar year 1999; and

"(iii) $75,000,000 for calendar year 2000.

"(2) ASSURING NO INCREASE IN COST TO MEDICARE PROGRAM.—

"(A) MONITORING EFFECT OF DEMONSTRATION PROGRAM ON COSTS TO MEDICARE PROGRAM.—

"(i) IN GENERAL.—The Secretaries, in consultation with the Comptroller General, shall closely monitor the expenditures made under the medicare program for medicare-eligible military retirees or dependents during the period of the demonstration project compared to the expenditures that would have been made for such medicare-eligible military retirees or dependents during that period if the demonstration project had not been conducted. The agreement entered into by the administering Secretaries under subsection (b) shall require any participating military treatment facility to maintain the level of effort for space available care to medicare-eligible military retirees or dependents.

"(ii) ANNUAL REPORT BY THE COMPTROLLER GENERAL.—Not later than December 31 of each year during which the demonstration project is conducted, the Comptroller General shall submit to the Secretaries and the appropriate committees of Congress a report on the extent, if any, *to which the costs of the Secretary under the medicare program under this title increased during the preceding fiscal year as a result of the demonstration project.*

"(B) REQUIRED RESPONSE IN CASE OF INCREASE IN COSTS.—

"(i) IN GENERAL.—If the administering Secretaries find, based on subparagraph (A), that the expenditures under the medicare program under this title increased (or are expected to increase) during a fiscal year because of the demonstration project, the administering Secretaries shall take such steps as may be needed—

"(I) to recoup for the medicare program the amount of such increase in expenditures; and

"(II) to prevent any such increase in the future.

"(ii) STEPS.—Such steps—

"(I) under clause (i)(I) shall include payment of the amount of such increased expenditures by the Secretary of Defense from the current medical care appropriation of the Department of Defense to the trust funds; and

"(II) under clause (i)(II) shall include suspending or terminating the demonstration project (in whole or in part) or lowering the amount of payment under paragraph (1)(A).

"(k) EVALUATION AND REPORTS.—

"(1) INDEPENDENT EVALUATION.—The administering Secretaries shall arrange for an independent entity with expertise in the evaluation of health services to conduct an evaluation of the demonstration project. The entity shall submit annual reports on the demonstration project to the administering Secretaries and to the committees of jurisdiction in the Congress. The first report shall be submitted not later than 12 months after the date on which the demonstration project begins operation, and the final report not later than 3½ years after that date. The evaluation and reports shall include an assessment, based on the agreement entered into under subsection (b), of the following:

"(A) The number of medicare-eligible military retirees and dependents opting to participate in the demonstration project instead of receiving health benefits through another health insurance plan (including benefits under this title).

"(B) Compliance by the Department of Defense with the requirements under this title.

"(C) The cost to the Department of Defense of providing care to medicare-eligible military retirees and dependents under the demonstration project.

"(D) Compliance by the Department of Defense with the standards of quality required of entities that furnish medicare health care services.

"(E) An analysis of whether, and in what manner, easier access to the uniformed services treatment system affects the number of medicare-eligible military retirees and dependents receiving medicare health care services.

"(F) Any savings or costs to the medicare program under this title resulting from the demonstration project.

"(G) An assessment of the access to care and quality of care for medicare-eligible military retirees and dependents under the demonstration project.

"(H) Any impact of the demonstration project on the access to care for medicare-eligible military retirees and dependents who did not enroll in the demonstration project and for other individuals entitled to benefits under this title.

"(I) Any impact of the demonstration project on private health care providers.

"(J) Any impact of the demonstration project on access to care for active duty military personnel and their dependents.

"(K) A list of the health insurance plans and programs that were the primary payers for medicare-eligible military retirees and dependents during the year prior to their participation in the demonstration project and the distribution of their previous enrollment in such plans and programs.

"(L) An identification of cost-shifting (if any) between the medicare program under this title and the Defense health program as a result of the demonstration project and a description of the nature of any such cost-shifting.

"(M) An analysis of how the demonstration project affects the overall accessibility of the uniformed services treatment system and the amount of space available for point-of-service care, and a description of the unintended effects (if any) upon the normal treatment priority system.

"(N) A description of the difficulties (if any) experienced by the Department of Defense in managing the demonstration project.

"(O) A description of the effects of the demonstration project on military treatment facility readiness and training and the probable effects of the project on overall Department of Defense medical readiness and training.

"(P) A description of the effects that the demonstration project, if permanent, would be expected to have on the overall budget of the Defense health program, the budgets of individual military treatment facilities and designated providers, and on the budget of the medicare program under this title.

"(Q) An analysis of whether the demonstration project affects the cost to the Department of Defense of prescription drugs or the accessibility, availability, and cost of such drugs to demonstration program beneficiaries.

"(R) Any additional elements specified in the agreement entered into under subsection (b).

"(2) REPORT ON EXTENSION AND EXPANSION OF DEMONSTRATION PROJECT.—Not later than six months after the date of the submission of the penultimate report under paragraph (1), the administering Secretaries shall submit to Congress a report containing their recommendation as to—

"(A) whether to extend the demonstration project or make the project permanent;

"(B) whether to expand the project to cover additional sites and areas and to increase the maximum amount of reimbursement (or the maximum amount of reimbursement permitted for managed health care plans under this section) under the project in any year; and

"(C) whether the terms and conditions of the project should be continued (or modified) if the project is extended or expanded.".

CHAPTER 6—TAX TREATMENT OF HOSPITALS PARTICIPATING IN PROVIDER-SPONSORED ORGANIZATIONS

SEC. 5049. TAX TREATMENT OF HOSPITALS WHICH PARTICIPATE IN PROVIDER-SPONSORED ORGANIZATIONS.

(a) IN GENERAL.—Section 501 of the Internal Revenue Code of 1986 (relating to exemption from tax on corporations, certain trusts, etc.) is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

"(o) TREATMENT OF HOSPITALS PARTICIPATING IN PROVIDER-SPONSORED ORGANIZATIONS.—An organization shall not fail to be treated as organized and operated exclusively for a charitable purpose for purposes of subsection (c)(3) solely because a hospital which is owned and operated by such organization participates in a provider-sponsored organization (as defined in section 1853(e) of the Social Security Act), whether or not the provider-sponsored organization is exempt from tax. For purposes of subsection (c)(3), any person with a material financial interest in such a provider-sponsored organization shall be treated as a private shareholder or individual with respect to the hospital.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of enactment of this Act.

Subtitle B—Prevention Initiatives

SEC. 5101. ANNUAL SCREENING MAMMOGRAPHY FOR WOMEN OVER AGE 39.

(a) IN GENERAL.—Section 1834(c)(2)(A) (42 U.S.C. 1395m(c)(2)(A)) is amended by striking clauses (iii), (iv), and (v) and inserting the following:

"(iii) in the case of a woman over 39 years of age, payment may not be made under this part for screening mammography performed within 11 months following the month in which a previous screening mammography was performed.".

(b) WAIVER OF COINSURANCE.—

(1) IN GENERAL.—Section 1834(c)(1)(C) (42 U.S.C. 1395m(c)(1)(C)) is amended by striking "80 percent of".

(2) WAIVER OF COINSURANCE IN OUTPATIENT HOSPITAL SETTINGS.—The third sentence of section 1866(a)(2)(A) (42 U.S.C. 1395cc(a)(2)(A)) is amended by inserting after "1861(s)(10)(A)" the following: ", with respect to screening mammography (as defined in section 1861(jj)),".

(c) EFFECTIVE DATE.—The amendments made by subsection (a) apply to items and services furnished on or after January 1, 1998.

SEC. 5102. COVERAGE OF COLORECTAL SCREENING.

(a) IN GENERAL.—Section 1861 (42 U.S.C. 1395x) is amended—

(1) in subsection (s)(2)—

(A) by striking "and" at the end of subparagraphs (N) and (O); and

(B) by inserting after subparagraph (O) the following:

"(P) colorectal cancer screening tests (as defined in subsection (oo)); and"; and

(2) by adding at the end the following:

"Colorectal Cancer Screening Test

"(oo)(1)(A) The term 'colorectal cancer screening test' means a procedure furnished to an individual that the Secretary prescribes in regulations as appropriate for the purpose of early detection of colorectal cancer, taking into account availability, effectiveness, costs, changes in technology and standards of medical practice, and such other factors as the Secretary considers appropriate.

"(B) The Secretary shall consult with appropriate organizations in prescribing regulations under subparagraph (A).".

(b) FREQUENCY AND PAYMENT LIMITS.—Section 1834 (42 U.S.C. 1395m) is amended by inserting after subsection (c) the following new subsection:

"(d) FREQUENCY AND PAYMENT LIMITS FOR COLORECTAL CANCER SCREENING TESTS.—

"(1) IN GENERAL.—The Secretary shall prescribe regulations that—

"(A) establish frequency limits for colorectal cancer screening tests that take into account the risk status of an individual and that are consistent with frequency limits for similar or related services; and

"(B) establish payment limits (including limits on charges of nonparticipating physicians) for colorectal cancer screening tests that are consistent with payment limits for similar or related services.

"(2) REVISIONS.—The Secretary shall periodically review and, to the extent the Secretary considers appropriate, revise the frequency and payment limits established under paragraph (1).

"(3) FACTORS TO DETERMINE INDIVIDUALS AT RISK.—In establishing criteria for determining whether an individual is at risk for purposes of this subsection, the Secretary shall take into consideration family history, prior experience of cancer, a history of chronic digestive disease condition, and the presence of any appropriate recognized gene markers for colorectal cancer.

"(4) CONSULTATION.—In establishing and revising frequency and payment limits under this subsection, the Secretary shall consult with appropriate organizations.".

(c) CONFORMING AMENDMENTS.—(1) Paragraphs (1)(D) and (2)(D) of section 1833(a) (42 U.S.C. 1395l(a)) are each amended by inserting "or section 1834(d)" after "subsection (h)(1)".

(2) Section 1833(h)(1)(A) (42 U.S.C. 1395l(h)(1)(A)) is amended by striking "The Secretary" and inserting "Subject to section 1834(d), the Secretary".

(3) Section 1862(a) (42 U.S.C. 1395y(a)) is amended—

(A) in paragraph (1)—

(i) in subparagraph (E), by striking "and" at the end,

(ii) in subparagraph (F), by striking the semicolon at the end and inserting ", and", and

(iii) by adding at the end the following new subparagraph:

"(G) in the case of colorectal cancer screening tests, which are performed more frequently than is covered under section 1834(d);"; and

(B) in paragraph (7), by striking "paragraph (1)(B) or under paragraph (1)(F)" and inserting "subparagraph (B), (F), or (G) of paragraph (1)".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to items and services furnished on or after January 1, 1998.

(2) REGULATIONS.—The Secretary of Health and Human Services shall issue final regulations described in sections 1861(oo) and 1834(d) of the Social Security Act (as added by this section) within 3 months after the date of enactment of this Act.

SEC. 5103. DIABETES SCREENING TESTS.

(a) DIABETES OUTPATIENT SELF-MANAGEMENT TRAINING SERVICES.—

(1) IN GENERAL.—Section 1861(s) (42 U.S.C. 1395x(s)), as amended by section 5102, is amended—

(A) in subsection (s)(2)—

(i) by striking "and" at the end of subparagraph (P);

(ii) by inserting "and" at the end of subparagraph (Q); and

(iii) by adding at the end the following:

"(R) diabetes outpatient self-management training services (as defined in subsection (pp));", and

(B) by adding at the end the following:

"Diabetes Outpatient Self-Management Training Services

"(pp)(1) The term 'diabetes outpatient self-management training services' means educational and training services furnished to an individual with diabetes by a certified provider (as described in paragraph (2)(A)) in an outpatient setting by an individual or entity that meets the quality standards described in paragraph (2)(B), but only if the physician who is managing the individual's diabetic condition certifies that the services are needed under a comprehensive plan of care related to the individual's diabetic condition to provide the individual with necessary skills and knowledge (including skills related to the self-administration of injectable drugs) to participate in the management of the individual's condition.

"(2) In paragraph (1)—

"(A) a 'certified provider' is a physician, or other individual or entity designated by the Secretary, that, in addition to providing diabetes outpatient self-management training services, provides other items or services for which payment may be made under this title; and

"(B) a physician, or other such individual or entity, meets the quality standards described in this subparagraph if the physician, or individual or entity, meets quality standards established by the Secretary, except that the physician, or other individual or entity, shall be deemed to have met such standards if the physician or other individual or entity—

"(i) meets applicable standards originally established by the National Diabetes Advisory Board and subsequently revised by organizations who participated in the establishment of standards by such Board, or

"(ii) is recognized by an organization that represents individuals (including individuals under this title) with diabetes as meeting standards for furnishing the services.".

(2) CONSULTATION WITH ORGANIZATIONS IN ESTABLISHING PAYMENT AMOUNTS FOR SERVICES PROVIDED BY PHYSICIANS.—In establishing payment amounts under section 1848 of the Social Security Act for physicians' services consisting of diabetes outpatient self-management training services, the Secretary of Health and Human Services shall consult with appropriate organizations, including such organizations representing individuals or medicare beneficiaries with diabetes, in determining the relative value for such services under section 1848(c)(2) of such Act.

(b) BLOOD-TESTING STRIPS FOR INDIVIDUALS WITH DIABETES.—

(1) INCLUDING STRIPS AND MONITORS AS DURABLE MEDICAL EQUIPMENT.—The first sentence of section 1861(n) (42 U.S.C. 1395x(n)) is amended by inserting before the semicolon the following: ", and includes blood-testing strips and blood glucose monitors for individuals with diabetes without regard to whether the individual has Type I or Type II diabetes or to the individual's use of insulin (as determined under standards established by the Secretary in consultation with the appropriate organizations)".

(2) 10 PERCENT REDUCTION IN PAYMENTS FOR TESTING STRIPS.—Section 1834(a)(2)(B)(iv) (42 U.S.C. 1395m(a)(2)(B)(iv)) is amended by adding before the period the following: "(reduced by 10 percent, in the case of a blood glucose testing strip furnished after 1997 for an individual with diabetes)".

(c) ESTABLISHMENT OF OUTCOME MEASURES FOR BENEFICIARIES WITH DIABETES.—

(1) IN GENERAL.—The Secretary of Health and Human Services, in consultation with appropriate organizations, shall establish outcome measures, including glysolated hemoglobin (past 90-day average blood sugar levels), for purposes of evaluating the improvement of the health status of medicare beneficiaries with diabetes mellitus.

(2) RECOMMENDATIONS FOR MODIFICATIONS TO SCREENING BENEFITS.—Taking into account information on the health status of medicare beneficiaries with diabetes mellitus as measured under the outcome measures established under subparagraph (A), the Secretary shall from time to time submit recommendations to Congress regarding modifications to the coverage of services for such beneficiaries under the medicare program.

(d) EFFECTIVE DATE.—The amendments made by this section apply to items and services furnished on or after January 1, 1998.

SEC. 5104. COVERAGE OF BONE MASS MEASUREMENTS.

(a) IN GENERAL.—Section 1861 (42 U.S.C. 1395x) is amended—

(1) in subsection (s)—

(A) in paragraph (12)(C), by striking "and" at the end;

(B) by striking the period at the end of paragraph (14) and inserting "; and";

(C) by redesignating paragraphs (15) and (16) as paragraphs (16) and (17), respectively; and

(D) by inserting after paragraph (14) the following:

"(15) bone mass measurement (as defined in subsection (oo))."; and

(2) by inserting after subsection (pp), as added by section 5103, the following:

"Bone Mass Measurement

"(gg)(1) The term 'bone mass measurement' means a radiologic or radioscopic procedure or other Food and Drug Administration approved technology performed on a qualified individual (as defined in paragraph (2)) for the purpose of identifying bone mass, detecting bone loss, or determining bone quality, and includes a physician's interpretation of the results of the procedure.

"(2) For purposes of paragraph (1), the term 'qualified individual' means an individual who is (in accordance with regulations prescribed by the Secretary)—

"(A) an estrogen-deficient woman at clinical risk for osteoporosis and who is considering treatment;

"(B) an individual with vertebral abnormalities;

"(C) an individual receiving long-term glucocorticoid steroid therapy;

"(D) an individual with primary hyperparathyroidism; or

"(E) an individual being monitored to assess the response to or efficacy of an approved osteoporosis drug therapy.".

(b) CONFORMING AMENDMENTS.—Sections 1864(a), 1865(a), 1902(a)(9)(C), and 1915(a)(1)(B)(ii)(I) (42 U.S.C. 1395aa(a), 1395bb(a), 1396a(a)(9)(C), and 1396n(a)(1)(B)(ii)(I)) are amended by striking "paragraphs (15) and (16)" each place such term appears and inserting "paragraphs (16) and (17)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to bone mass measurements performed on or after January 1, 1998.

SEC. 5105. STUDY ON MEDICAL NUTRITION THERAPY SERVICES.

(a) STUDY.—The Secretary of Health and Human Services shall request the National Academy of Sciences, in conjunction with the United States Preventive Services Task Force, to analyze the expansion or modification of the preventive benefits provided to medicare beneficiaries under title XVIII of the Social Security Act to include medical nutrition therapy services by a registered dietitian.

(b) REPORT.—

(1) INITIAL REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall submit a report on the findings of the analysis conducted under subsection (a) to the Committee on Ways and Means and the Committee on Commerce of the House of Representatives and the Committee on Finance of the Senate.

(2) CONTENTS.—Such report shall include specific findings with respect to the expansion or modification of coverage of medical nutrition therapy services by a registered dietitian for medicare beneficiaries regarding—

(A) cost to the medicare system;

(B) savings to the medicare system;

(C) clinical outcomes; and

(D) short and long term benefits to the medicare system.

(3) FUNDING.—From funds appropriated to the Department of Health and Human Services for fiscal years 1998 and 1999, the Secretary shall provide for such funding as may be necessary for the conduct of the analysis by the National Academy of Sciences under this section.

Subtitle C—Rural Initiatives

SEC. 5151. SOLE COMMUNITY HOSPITALS.

Section 1886(b)(3)(C) (42 U.S.C. 1395ww(b)(3)(C)) is amended—

(1) in clause (i), by redesignating subclauses (I) and (II) as items (aa) and (bb), respectively;

(2) by redesignating clauses (i), (ii), (iii), and (iv) as subclauses (I), (II), (III), and (IV), respectively;

(3) by striking "(C) In" and inserting "(C)(i) Subject to clause (ii), in"; and

(4) by striking the last sentence and inserting the following:

"(ii)(I) There shall be substituted for the base cost reporting period described in clause (i)(I) a

hospital's cost reporting period (if any) beginning during fiscal year 1987 if such substitution results in an increase in the target amount for the hospital.

"(II) Beginning with discharges occurring in fiscal year 1998, there shall be substituted for the base cost reporting period described in clause (i)(I) either—

"(aa) the allowable operating costs of inpatient hospital services (as defined in subsection (a)(4)) recognized under this title for the hospital's cost reporting period (if any) beginning during fiscal year 1994 increased (in a compounded manner) by the applicable percentage increases applied to the hospital under this paragraph for discharges occurring in fiscal years 1995, 1996, 1997, and 1998, or

"(bb) the allowable operating costs of inpatient hospital services (as defined in subsection (a)(4)) recognized under this title for the hospital's cost reporting period (if any) beginning during fiscal year 1995 increased (in a compounded manner) by the applicable percentage increase applied to the hospital under this paragraph for discharges occurring in fiscal years 1995, 1996, 1997, and 1998,

if such substitution results in an increase in the target amount for the hospital.".

SEC. 5152. MEDICARE-DEPENDENT, SMALL RURAL HOSPITAL PAYMENT EXTENSION.

(a) SPECIAL TREATMENT EXTENDED.—

(1) PAYMENT METHODOLOGY.—Section 1886(d)(5)(G) (42 U.S.C. 1395ww(d)(5)(G)) is amended—

(A) in clause (i), by striking "October 1, 1994," and inserting "October 1, 1994, or beginning on or after October 1, 1997, and before October 1, 2001,"; and

(B) in clause (ii)(II), by striking "October 1, 1994," and inserting "October 1, 1994, or beginning on or after October 1, 1997, and before October 1, 2001,".

(2) EXTENSION OF TARGET AMOUNT.—Section 1886(b)(3)(D) (42 U.S.C. 1395ww(b)(3)(D)) is amended—

(A) in the matter preceding clause (i), by striking "September 30, 1994," and inserting "September 30, 1994, and for cost reporting periods beginning on or after October 1, 1997, and before October 1, 2001,";

(B) in clause (ii), by striking "and" at the end;

(C) in clause (iii), by striking the period at the end and inserting ", and"; and

(D) by adding after clause (iii) the following new clause:

"(iv) with respect to discharges occurring during fiscal year 1998 through fiscal year 2000, the target amount for the preceding year increased by the applicable percentage increase under subparagraph (B)(iv).".

(3) PERMITTING HOSPITALS TO DECLINE RECLASSIFICATION.—Section 13501(e)(2) of OBRA–93 (42 U.S.C. 1395ww note) is amended by striking "or fiscal year 1994" and inserting ", fiscal year 1994, fiscal year 1998, fiscal year 1999, or fiscal year 2000".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to discharges occurring on or after October 1, 1997.

SEC. 5153. MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM.

(a) MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM.—Section 1820 (42 U.S.C. 1395i–4) is amended to read as follows:

"MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM

"SEC. 1820. (a) ESTABLISHMENT.—Any State that submits an application in accordance with subsection (b) may establish a medicare rural hospital flexibility program described in subsection (c).

"(b) APPLICATION.—A State may establish a medicare rural hospital flexibility program described in subsection (c) if the State submits to the Secretary at such time and in such form as the Secretary may require an application containing—

"(1) assurances that the State—

"(A) has developed, or is in the process of developing, a State rural health care plan that—

"(i) provides for the creation of 1 or more rural health networks (as defined in subsection (d)) in the State;

"(ii) promotes regionalization of rural health services in the State; and

"(iii) improves access to hospital and other health services for rural residents of the State; and

"(B) has developed the rural health care plan described in subparagraph (A) in consultation with the hospital association of the State, rural hospitals located in the State, and the State Office of Rural Health (or, in the case of a State in the process of developing such plan, that assures the Secretary that the State will consult with its State hospital association, rural hospitals located in the State, and the State Office of Rural Health in developing such plan);

"(2) assurances that the State has designated (consistent with the rural health care plan described in paragraph (1)(A)), or is in the process of so designating, rural nonprofit or public hospitals or facilities located in the State as critical access hospitals; and

"(3) such other information and assurances as the Secretary may require.

"(c) MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM DESCRIBED.—

"(1) IN GENERAL.—A State that has submitted an application in accordance with subsection (b), may establish a medicare rural hospital flexibility program that provides that—

"(A) the State shall develop at least 1 rural health network (as defined in subsection (d)) in the State; and

"(B) at least 1 facility in the State shall be designated as a critical access hospital in accordance with paragraph (2).

"(2) STATE DESIGNATION OF FACILITIES.—

"(A) IN GENERAL.—A State may designate 1 or more facilities as a critical access hospital in accordance with subparagraph (B).

"(B) CRITERIA FOR DESIGNATION AS CRITICAL ACCESS HOSPITAL.—A State may designate a facility as a critical access hospital if the facility—

"(i) is a nonprofit or public hospital and is located in a county (or equivalent unit of local government) in a rural area (as defined in section 1886(d)(2)(D)) that—

"(I) is located more than a 35-mile drive from a hospital, or another facility described in this subsection; or

"(II) is certified by the State as being a necessary provider of health care services to residents in the area;

"(ii) makes available 24-hour emergency care services that a State determines are necessary for ensuring access to emergency care services in each area served by a critical access hospital;

"(iii) provides not more than 15 acute care inpatient beds (meeting such standards as the Secretary may establish) for providing inpatient care for a period not to exceed 96 hours (unless a longer period is required because transfer to a hospital is precluded because of inclement weather or other emergency conditions), except that a peer review organization or equivalent entity may, on request, waive the 96-hour restriction on a case-by-case basis;

"(iv) meets such staffing requirements as would apply under section 1861(e) to a hospital located in a rural area, except that—

"(I) the facility need not meet hospital standards relating to the number of hours during a day, or days during a week, in which the facility must be open and fully staffed, except insofar as the facility is required to make available emergency care services as determined under clause (ii) and must have nursing services available on a 24-hour basis, but need not otherwise staff the facility except when an inpatient is present;

"(II) the facility may provide any services otherwise required to be provided by a full-time, on site dietitian, pharmacist, laboratory technician, medical technologist, and radiological technologist on a part-time, off site basis under arrangements as defined in section 1861(w)(1); and

"(III) the inpatient care described in clause (iii) may be provided by a physician's assistant, nurse practitioner, or clinical nurse specialist subject to the oversight of a physician who need not be present in the facility; and

"(v) meets the requirements of section 1861(aa)(2)(I).

"(d) DEFINITION OF RURAL HEALTH NETWORK.—

"(1) IN GENERAL.—In this section, the term 'rural health network' means, with respect to a State, an organization consisting of—

"(A) at least 1 facility that the State has designated or plans to designate as a critical access hospital; and

"(B) at least 1 hospital that furnishes acute care services.

"(2) AGREEMENTS.—

"(A) IN GENERAL.—Each critical access hospital that is a member of a rural health network shall have an agreement with respect to each item described in subparagraph (B) with at least 1 hospital that is a member of the network.

"(B) ITEMS DESCRIBED.—The items described in this subparagraph are the following:

"(i) Patient referral and transfer.

"(ii) The development and use of communications systems including (where feasible)—

"(I) telemetry systems; and

"(II) systems for electronic sharing of patient data.

"(iii) The provision of emergency and nonemergency transportation among the facility and the hospital.

"(C) CREDENTIALING AND QUALITY ASSURANCE.—Each critical access hospital that is a member of a rural health network shall have an agreement with respect to credentialing and quality assurance with at least—

"(i) 1 hospital that is a member of the network;

"(ii) 1 peer review organization or equivalent entity; or

"(iii) 1 other appropriate and qualified entity identified in the State rural health care plan.

"(e) CERTIFICATION BY THE SECRETARY.—The Secretary shall certify a facility as a critical access hospital if the facility—

"(1) is located in a State that has established a medicare rural hospital flexibility program in accordance with subsection (c);

"(2) is designated as a critical access hospital by the State in which it is located; and

"(3) meets such other criteria as the Secretary may require.

"(f) PERMITTING MAINTENANCE OF SWING BEDS.—Nothing in this section shall be construed to prohibit a critical access hospital from entering into an agreement with the Secretary under section 1883 under which the facility's inpatient hospital facilities are used for the furnishing of extended care services.

"(g) GRANTS.—

"(1) MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM.—The Secretary may award grants to States that have submitted applications in accordance with subsection (b) for—

"(A) engaging in activities relating to planning and implementing a rural health care plan;

"(B) engaging in activities relating to planning and implementing rural health networks; and

''(C) designating facilities as critical access hospitals.

''(2) RURAL EMERGENCY MEDICAL SERVICES.—

''(A) IN GENERAL.—The Secretary may award grants to States that have submitted applications in accordance with subparagraph (B) for the establishment or expansion of a program for the provision of rural emergency medical services.

''(B) APPLICATION.—An application is in accordance with this subparagraph if the State submits to the Secretary at such time and in such form as the Secretary may require an application containing the assurances described in subparagraphs (A)(ii), (A)(iii), and (B) of subsection (b)(1) and paragraph (3) of that subsection.

''(h) GRANDFATHERING OF CERTAIN FACILITIES.—

''(1) IN GENERAL.—Any medical assistance facility operating in Montana and any rural primary care hospital designated by the Secretary under this section prior to the date of the enactment of the Balanced Budget Act of 1997 shall be deemed to have been certified by the Secretary under subsection (e) as a critical access hospital if such facility or hospital is otherwise eligible to be designated by the State as a critical access hospital under subsection (c).

''(2) CONTINUATION OF MEDICAL ASSISTANCE FACILITY AND RURAL PRIMARY CARE HOSPITAL TERMS.—Notwithstanding any other provision of this title, with respect to any medical assistance facility or rural primary care hospital described in paragraph (1), any reference in this title to a 'critical access hospital' shall be deemed to be a reference to a 'medical assistance facility' or 'rural primary care hospital'.

''(i) WAIVER OF CONFLICTING PART A PROVISIONS.—The Secretary is authorized to waive such provisions of this part and part D as are necessary to conduct the program established under this section.

''(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Federal Hospital Insurance Trust Fund for making grants to all States under subsection (g), $25,000,000 in each of the fiscal years 1998 through 2002.''.

(b) REPORT ON ALTERNATIVE TO 96-HOUR RULE.—Not later than January 1, 1998, the Administrator of the Health Care Financing Administration shall submit to Congress a report on the feasibility of, and administrative requirements necessary to establish an alternative for certain medical diagnoses (as determined by the Administrator) to the 96-hour limitation for inpatient care in critical access hospitals required by section 1820(c)(2)(B)(iii) of the Social Security Act (42 U.S.C. 1395i–4), as added by subsection (a) of this section.

(c) CONFORMING AMENDMENTS RELATING TO RURAL PRIMARY CARE HOSPITALS AND CRITICAL ACCESS HOSPITALS.—

(1) IN GENERAL.—Title XI of the Social Security Act (42 U.S.C. 1301 et seq.) and title XVIII of that Act (42 U.S.C. 1395 et seq.) are each amended by striking ''rural primary care'' each place it appears and inserting ''critical access''.

(2) DEFINITIONS.—Section 1861(mm) of the Social Security Act (42 U.S.C. 1395x(mm)) is amended to read as follows:

''CRITICAL ACCESS HOSPITAL; CRITICAL ACCESS HOSPITAL SERVICES

''(mm)(1) The term 'critical access hospital' means a facility certified by the Secretary as a critical access hospital under section 1820(e).

''(2) The term 'inpatient critical access hospital services' means items and services, furnished to an inpatient of a critical access hospital by such facility, that would be inpatient hospital services if furnished to an inpatient of a hospital by a hospital.

''(3) The term 'outpatient critical access hospital services' means medical and other health services furnished by a critical access hospital on an outpatient basis.''.

(3) PART A PAYMENT.—Section 1814 of the Social Security Act (42 U.S.C. 1395f) is amended—

(A) in subsection (a)(8), by striking ''72'' and inserting ''96''; and

(B) by amending subsection (l) to read as follows:

''Payment for Inpatient Critical Access Hospital Services

''(l) The amount of payment under this part for inpatient critical access hospital services is the reasonable costs of the critical access hospital in providing such services.''.

(4) PAYMENT CONTINUED TO DESIGNATED EACHS.—Section 1886(d)(5)(D) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(D)) is amended—

(A) in clause (iii)(III), by inserting ''as in effect on September 30, 1997'' before the period at the end; and

(B) in clause (v)—

(i) by inserting ''as in effect on September 30, 1997'' after ''1820(i)(1)''; and

(ii) by striking ''1820(g)'' and inserting ''1820(d)''.

(5) PART B PAYMENT.—Section 1834(g) of the Social Security Act (42 U.S.C. 1395m(g)) is amended to read as follows:

''(g) PAYMENT FOR OUTPATIENT CRITICAL ACCESS HOSPITAL SERVICES.—The amount of payment under this part for outpatient critical access hospital services is the reasonable costs of the critical access hospital in providing such services.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after October 1, 1997.

SEC. 5154. PROHIBITING DENIAL OF REQUEST BY RURAL REFERRAL CENTERS FOR RECLASSIFICATION ON BASIS OF COMPARABILITY OF WAGES.

(a) IN GENERAL.—Section 1886(d)(10)(D) (42 U.S.C. 1395ww(d)(10)(D)) is amended—

(1) by redesignating clause (iii) as clause (iv); and

(2) by inserting after clause (ii) the following new clause:

''(iii) Under the guidelines published by the Secretary under clause (i), in the case of a hospital which has ever been classified by the Secretary as a rural referral center under paragraph (5)(C), the Board may not reject the application of the hospital under this paragraph on the basis of any comparison between the average hourly wage of the hospital and the average hourly wage of hospitals in the area in which it is located.''.

(b) CONTINUING TREATMENT OF PREVIOUSLY DESIGNATED CENTERS.—

(1) IN GENERAL.—Any hospital classified as a rural referral center by the Secretary of Health and Human Services under section 1886(d)(5)(C) of the Social Security Act for fiscal year 1991 shall be classified as such a rural referral center for fiscal year 1998 and each subsequent fiscal year.

(2) BUDGET NEUTRALITY.—The provisions of section 1886(d)(8)(D) of the Social Security Act shall apply to reclassifications made pursuant to paragraph (1) in the same manner as such provisions apply to a reclassification under section 1886(d)(10) of such Act.

SEC. 5155. RURAL HEALTH CLINIC SERVICES.

(a) PER-VISIT PAYMENT LIMITS FOR PROVIDER-BASED CLINICS.—

(1) EXTENSION OF LIMIT.—

(A) IN GENERAL.—The matter in section 1833(f) (42 U.S.C. 1395l(f)) preceding paragraph (1) is amended by striking ''independent rural health clinics'' and inserting ''rural health clinics (other than such clinics in rural hospitals with less than 50 beds)''.

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) applies to services furnished after 1997.

(2) TECHNICAL CLARIFICATION.—Section 1833(f)(1) (42 U.S.C. 1395l(f)(1)) is amended by inserting ''per visit'' after ''$46''.

(b) ASSURANCE OF QUALITY SERVICES.—

(1) IN GENERAL.—Subparagraph (I) of the first sentence of section 1861(aa)(2) (42 U.S.C. 1395x(aa)(2)) is amended to read as follows:

''(I) has a quality assessment and performance improvement program, and appropriate procedures for review of utilization of clinic services, as the Secretary may specify,''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on January 1, 1998.

(c) WAIVER OF CERTAIN STAFFING REQUIREMENTS LIMITED TO CLINICS IN PROGRAM.—

(1) IN GENERAL.—Section 1861(aa)(7)(B)) (42 U.S.C. 1395x(aa)(7)(B)) is amended by inserting before the period '', or if the facility has not yet been determined to meet the requirements (including subparagraph (J) of the first sentence of paragraph (2)) of a rural health clinic.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) applies to waiver requests made after 1997.

(d) REFINEMENT OF SHORTAGE AREA REQUIREMENTS.—

(1) DESIGNATION REVIEWED TRIENNIALLY.—Section 1861(aa)(2) (42 U.S.C. 1395x(aa)(2)) is amended in the second sentence, in the matter in clause (i) preceding subclause (I)—

(A) by striking ''and that is designated'' and inserting ''and that, within the previous 3-year period, has been designated''; and

(B) by striking ''or that is designated'' and inserting ''or designated''.

(2) AREA MUST HAVE SHORTAGE OF HEALTH CARE PRACTITIONERS.—Section 1861(aa)(2) (42 U.S.C. 1395x(aa)(2)), as amended by paragraph (1), is further amended in the second sentence, in the matter in clause (i) preceding subclause (I)—

(A) by striking the comma after ''personal health services''; and

(B) by inserting ''and in which there are insufficient numbers of needed health care practitioners (as determined by the Secretary),'' after ''Bureau of the Census)''.

(3) PREVIOUSLY QUALIFYING CLINICS GRANDFATHERED ONLY TO PREVENT SHORTAGE.—

(A) IN GENERAL.—Section 1861(aa)(2) (42 U.S.C. 1395x(aa)(2)) is amended in the third sentence by inserting before the period ''if it is determined, in accordance with criteria established by the Secretary in regulations, to be essential to the delivery of primary care services that would otherwise be unavailable in the geographic area served by the clinic''.

(B) PAYMENT FOR CERTAIN PHYSICIAN ASSISTANT SERVICES.—

(i) IN GENERAL.—With respect to any regulations issued to implement section 1861(aa)(2) (42 U.S.C. 1395x(aa)(2)) (as amended by subparagraph (A)), the Secretary of Health and Human Services shall include in such regulations provisions providing for the direct payment to the physician assistant for any physician assistant services as described in clause (ii).

(ii) SERVICES DESCRIBED.—Services described in this clause are physician assistant services provided at a rural health clinic that is principally owned, as determined by the Secretary, by a physician assistant—

(I) as of the date of enactment of this Act; and

(II) continuously from such date through the date on which such services are provided.

(iii) SUNSET.—The provisions of this subparagraph shall not apply after January 1, 2003.

(4) EFFECTIVE DATES; IMPLEMENTING REGULATIONS.—

(A) IN GENERAL.—Except as otherwise provided, the amendments made by the preceding paragraphs take effect on January 1 of the first calendar year beginning at least 1 month after enactment of this Act.

(B) CURRENT RURAL HEALTH CLINICS.—The amendments made by the preceding paragraphs take effect, with respect to entities that are rural health clinics under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) on the date of enactment of this Act, on January 1 of the second calendar year following the calendar year specified in subparagraph (A).

(C) GRANDFATHERED CLINICS.—

(i) IN GENERAL.—The amendment made by paragraph (3) shall take effect on the effective date of regulations issued by the Secretary under clause (ii).

(ii) REGULATIONS.—The Secretary shall issue final regulations implementing paragraph (3) that shall take effect no later than January 1 of the third calendar year beginning at least 1 month after the date of enactment of this Act.

SEC. 5156. MEDICARE REIMBURSEMENT FOR TELEHEALTH SERVICES.

(a) IN GENERAL.—Not later than July 1, 1998, the Secretary of Health and Human Services (in this section referred to as the "Secretary") shall make payments from the Federal Supplementary Medical Insurance Trust Fund under part B of title XVIII of the Social Security Act (42 U.S.C. 1395j et seq.) in accordance with the methodology described in subsection (b) for professional consultation via telecommunications systems with a health care provider furnishing a service for which payment may be made under such part to a beneficiary under the medicare program residing in a county in a rural area (as defined in section 1886(d)(2)(D) of such Act (42 U.S.C. 1395ww(d)(2)(D))) that is designated as a health professional shortage area under section 332(a)(1)(A) of the Public Health Service Act (42 U.S.C. 254e(a)(1)(A)) or a rural county that is not adjacent to a Metropolitan Statistical Area, notwithstanding that the individual health care provider providing the professional consultation is not at the same location as the health care provider furnishing the service to that beneficiary.

(b) METHODOLOGY FOR DETERMINING AMOUNT OF PAYMENTS.—Taking into account the findings of the report required under section 192 of the Health Insurance Portability and Accountability Act of 1996 (Public Law 104–191; 110 Stat. 1988), the findings of the report required under paragraph (c), and any other findings related to the clinical efficacy and cost-effectiveness of telehealth applications, the Secretary shall establish a methodology for determining the amount of payments made under subsection (a) within the following parameters:

(1) The payment shall include a bundled payment to be shared between the referring health care provider and the consulting health care provider. The amount of such bundled payment shall not be greater than the current fee schedule of the consulting health care provider for the health care services provided.

(2) The payment shall not include any reimbursement for any line charges or any facility fees.

(c) SUPPLEMENTAL REPORT.—Not later than January 1, 1998, the Secretary shall submit a report to Congress which shall contain a detailed analysis of—

(1) how telemedicine and telehealth systems are expanding access to health care services;

(2) the clinical efficacy and cost-effectiveness of telemedicine and telehealth applications;

(3) the quality of telemedicine and telehealth services delivered; and

(4) the reasonable cost of telecommunications charges incurred in practicing telemedicine and telehealth in rural, frontier, and underserved areas.

(d) EXPANSION OF TELEHEALTH SERVICES FOR CERTAIN MEDICARE BENEFICIARIES.—

(1) IN GENERAL.—Not later than January 1, 1999, the Secretary shall submit a report to Congress that examines the possibility of making payments from the Federal Supplementary Medical Insurance Trust Fund under part B of title XVIII of the Social Security Act (42 U.S.C. 1395j et seq.) for professional consultation via telecommunications systems with a health care provider furnishing a service for which payment may be made under such part to a beneficiary described in paragraph (2), notwithstanding that the individual health care provider providing the professional consultation is not at the same location as the health care provider furnishing the service to that beneficiary.

(2) BENEFICIARY DESCRIBED.—A beneficiary described in this paragraph is a beneficiary under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) who does not reside in a rural area (as so defined) that is designated as a health professional shortage area under section 332(a)(1)(A) of the Public Health Service Act (42 U.S.C. 254e(a)(1)(A)), who is homebound or nursing homebound, and for whom being transferred for health care services imposes a serious hardship.

(3) REPORT.—The report described in paragraph (1) shall contain a detailed statement of the potential costs to the medicare program of making the payments described in that paragraph using various reimbursement schemes.

SEC. 5157. TELEMEDICINE, INFORMATICS, AND EDUCATION DEMONSTRATION PROJECT.

(a) PURPOSE AND AUTHORIZATION.—

(1) IN GENERAL.—Not later than 9 months after the date of enactment of this section, the Secretary of Health and Human Services (in this section referred to as the "Secretary") shall conduct a demonstration project described in paragraph (2).

(2) DESCRIPTION OF PROJECT.—The demonstration project described in this paragraph is a single demonstration project to study the use of eligible health care provider telemedicine networks to implement high-capacity computing and advanced networks to improve primary care (and prevent health care complications), improve access to specialty care, and provide educational and training support to rural practitioners.

(3) WAIVER AUTHORITY.—The Secretary shall waive compliance with the requirements of titles XI, XVIII, and XIX of the Social Security Act (42 U.S.C. 1301 et seq., 1395 et seq., 1396 et seq.) to such extent and for such period as the Secretary determines is necessary to conduct the demonstration project.

(4) DURATION OF PROJECT.—The project shall be conducted for a 5-year period.

(b) OBJECTIVES OF PROJECT.—The objectives of the demonstration project conducted under this section shall include the following:

(1) The improvement of patient access to primary and specialty care and the reduction of inappropriate hospital visits in order to improve patient quality-of-life and reduce overall health care costs.

(2) The development of a curriculum to train and development of standards for required credentials and licensure of health professionals (particularly primary care health professionals) in the use of medical informatics and telecommunications.

(3) The demonstration of the application of advanced technologies such as video-conferencing from a patient's home and remote monitoring of a patient's medical condition.

(4) The development of standards in the application of telemedicine and medical informatics.

(5) The development of a model for cost-effective delivery of primary and related care in both a managed care environment and in a fee-for-service environment.

(c) ELIGIBLE HEALTH CARE PROVIDER TELEMEDICINE NETWORK DEFINED.—In this section, the term "eligible health care provider telemedicine network" means a consortium that—

(1) includes—

(A) at least 1 tertiary care hospital with an existing telemedicine network with an existing relationship with a medical school; and

(B) not more than 6 facilities, including at least 3 rural referral centers, in rural areas; and

(2) meets the following requirements:

(A) The consortium is located in a region that is predominantly rural.

(B) The consortium submits to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a description of the use the consortium would make of any amounts received under the demonstration project and the source and amount of non-Federal funds used in the project.

(C) The consortium guarantees that it will be responsible for payment for all costs of the project that are not paid under this section and that the maximum amount of payment that may be made to the consortium under this section shall not exceed the amount specified in subsection (d)(3).

(d) COVERAGE AS MEDICARE PART B SERVICES.—

(1) IN GENERAL.—Subject to the succeeding provisions of this section, services for medicare beneficiaries furnished under the demonstration project shall be considered to be services covered under part B of title XVIII of the Social Security Act (42 U.S.C. 1395j).

(2) PAYMENTS.—

(A) IN GENERAL.—Subject to paragraph (3), payment for services provided under this section shall be made at a rate of 50 percent of the costs that are reasonable and related to the provision of such services. In computing such costs, the Secretary shall include costs described in subparagraph (B), but may not include costs described in subparagraph (C).

(B) COSTS THAT MAY BE INCLUDED.—The costs described in this subparagraph are the permissible costs (as recognized by the Secretary) for the following:

(i) The acquisition of telemedicine equipment for use in patients' homes (but only in the case of patients located in medically underserved areas).

(ii) Curriculum development and training of health professionals in medical informatics and telemedicine.

(iii) Payment of telecommunications costs including salaries, maintenance of equipment, and costs of telecommunications between patients' homes and the eligible network and between the network and other entities under the arrangements described in subsection (c).

(iv) Payments to practitioners and providers under the medicare programs.

(C) OTHER COSTS.—The costs described in this subparagraph include the following:

(i) The purchase or installation of transmission equipment (other than such equipment used by health professionals to deliver medical informatics services under the project).

(ii) The establishment or operation of a telecommunications common carrier network.

(iii) Construction that is limited to minor renovations related to the installation of equipment.

(3) LIMITATION AND FUNDS.—The Secretary shall make the payments under the demonstration project conducted under this section from the Federal Supplementary Medical Insurance Trust Fund, established under section 1841 of the Social Security Act (42 U.S.C. 1395t), except that the total amount of the payments that may be made by the Secretary under this section shall not exceed $27,000,000.

Subtitle D—Anti-Fraud and Abuse Provisions and Improvements in Protecting Program Integrity

CHAPTER 1—REVISIONS TO SANCTIONS FOR FRAUD AND ABUSE

SEC. 5201. AUTHORITY TO REFUSE TO ENTER INTO MEDICARE AGREEMENTS WITH INDIVIDUALS OR ENTITIES CONVICTED OF FELONIES.

(a) MEDICARE PART A.—Section 1866(b)(2) (42 U.S.C. 1395cc(b)(2)) is amended—

(1) in subparagraph (B), by striking "or" at the end;

(2) in subparagraph (C), by striking the period at the end and inserting ", or"; and

(3) by adding at the end the following:

"(D) has ascertained that the provider has been convicted of a felony under Federal or State law for an offense that the Secretary determines is inconsistent with the best interests of program beneficiaries.".

(b) MEDICARE PART B.—Section 1842 (42 U.S.C. 1395u) is amended by adding at the end the following:

"(s) The Secretary may refuse to enter into an agreement with a physician or supplier under subsection (h), or may terminate or refuse to renew such agreement, in the event that such physician or supplier has been convicted of a felony under Federal or State law for an offense which the Secretary determines is inconsistent with the best interests of program beneficiaries.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and apply to the entry and renewal of contracts on or after such date.

SEC. 5202. EXCLUSION OF ENTITY CONTROLLED BY FAMILY MEMBER OF A SANCTIONED INDIVIDUAL.

(a) IN GENERAL.—Section 1128 (42 U.S.C. 1320a–7) is amended—

(1) in subsection (b)(8)(A)—

(A) in clause (i), by striking "or" at the end;

(B) in clause (ii), by striking the dash at the end and inserting "; or"; and

(C) by inserting after clause (ii) the following:

"(iii) who was described in clause (i) but is no longer so described because of a transfer of ownership or control interest, in anticipation of (or following) a conviction, assessment, or exclusion described in subparagraph (B) against the person, to an immediate family member (as defined in subsection (j)(1)) or a member of the household of the person (as defined in subsection (j)(2)) who continues to maintain an interest described in such clause—"; and

(2) by adding at the end the following:

"(j) DEFINITION OF IMMEDIATE FAMILY MEMBER AND MEMBER OF HOUSEHOLD.—For purposes of subsection (b)(8)(A)(iii):

"(1) The term 'immediate family member' means, with respect to a person—

"(A) the husband or wife of the person;

"(B) the natural or adoptive parent, child, or sibling of the person;

"(C) the stepparent, stepchild, stepbrother, or stepsister of the person;

"(D) the father-, mother-, daughter-, son-, brother-, or sister-in-law of the person;

"(E) the grandparent or grandchild of the person; and

"(F) the spouse of a grandparent or grandchild of the person.

"(2) The term 'member of the household' means, with respect to any person, any individual sharing a common abode as part of a single family unit with the person, including domestic employees and others who live together as a family unit, but not including a roomer or boarder.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date that is 45 days after the date of the enactment of this Act.

SEC. 5203. IMPOSITION OF CIVIL MONEY PENALTIES.

(a) CIVIL MONEY PENALTIES FOR PERSONS THAT CONTRACT WITH EXCLUDED INDIVIDUALS.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)) is amended—

(1) in paragraph (4), by striking "or" at the end;

(2) in paragraph (5), by adding "or" at the end; and

(3) by inserting after paragraph (5) the following:

"(6) arranges or contracts (by employment or otherwise) with an individual or entity that the person knows or should know is excluded from participation in a Federal health care program (as defined in section 1128B(f)), for the provision of items or services for which payment may be made under such a program;".

(b) CIVIL MONEY PENALTIES FOR SERVICES ORDERED OR PRESCRIBED BY AN EXCLUDED INDIVIDUAL OR ENTITY.—Section 1128A(a)(1) (42 U.S.C. 1320a–7a(a)(1)) is amended—

(1) in subparagraph (D)—

(A) by inserting ", ordered, or prescribed by such person" after "other item or service furnished";

(B) by inserting "(pursuant to this title or title XVIII)" after "period in which the person was excluded";

(C) by striking "pursuant to a determination by the Secretary" and all that follows through "the provisions of section 1842(j)(2)"; and

(D) by striking "or" at the end;

(2) by redesignating subparagraph (E) as subparagraph (F); and

(3) by inserting after subparagraph (D) the following:

"(E) is for a medical or other item or service ordered or prescribed by a person excluded pursuant to this title or title XVIII from the program under which the claim was made, and the person furnishing such item or service knows or should know of such exclusion, or".

(c) CIVIL MONEY PENALTIES FOR KICKBACKS.—

(1) PERMITTING SECRETARY TO IMPOSE CIVIL MONEY PENALTY.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)), as amended by subsection (a), is amended—

(A) in paragraph (5), by striking "or" at the end;

(B) in paragraph (6), by adding "or" at the end; and

(C) by adding after paragraph (6) the following:

"(7) commits an act described in paragraph (1) or (2) of section 1128B(b);".

(2) DESCRIPTION OF CIVIL MONEY PENALTY APPLICABLE.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)), as amended by paragraph (1), is amended in the matter following paragraph (7)—

(A) by striking "occurs)." and inserting "occurs; or in cases under paragraph (7), $50,000 for each such act)."; and

(B) by inserting after "of such claim" the following: "(or, in cases under paragraph (7), damages of not more than 3 times the total amount of remuneration offered, paid, solicited, or received, without regard to whether a portion of such remuneration was offered, paid, solicited, or received for a lawful purpose)".

(d) EFFECTIVE DATES.—

(1) CONTRACTS WITH EXCLUDED PERSONS.—The amendments made by subsection (a) shall apply to arrangements and contracts entered into after the date of the enactment of this Act.

(2) SERVICES ORDERED OR PRESCRIBED.—The amendments made by subsection (b) shall apply to items and services furnished, ordered, or prescribed after the date of the enactment of this Act.

(3) KICKBACKS.—The amendments made by subsection (c) shall apply to acts taken after the date of the enactment of this Act.

CHAPTER 2—IMPROVEMENTS IN PROTECTING PROGRAM INTEGRITY

SEC. 5211. DISCLOSURE OF INFORMATION, SURETY BONDS, AND ACCREDITATION.

(a) DISCLOSURE OF INFORMATION, SURETY BOND, AND ACCREDITATION REQUIREMENT FOR SUPPLIERS OF DURABLE MEDICAL EQUIPMENT.—Section 1834(a) (42 U.S.C. 1395m(a)) is amended by inserting after paragraph (15) the following:

"(16) DISCLOSURE OF INFORMATION, SURETY BOND, AND ACCREDITATION.—The Secretary shall not provide for the issuance (or renewal) of a provider number for a supplier of durable medical equipment, for purposes of payment under this part for durable medical equipment furnished by the supplier, unless the supplier provides the Secretary on a continuing basis—

"(A) with—

"(i) full and complete information as to the identity of each person with an ownership or control interest (as defined in section 1124(a)(3)) in the supplier or in any subcontractor (as defined by the Secretary in regulations) in which the supplier directly or indirectly has a 5 percent or more ownership interest; and

"(ii) to the extent determined to be feasible under regulations of the Secretary, the name of any disclosing entity (as defined in section 1124(a)(2)) with respect to which a person with such an ownership or control interest in the supplier is a person with such an ownership or control interest in the disclosing entity;

"(B) with a surety bond in a form specified by the Secretary and in an amount that is not less than $50,000; and

"(C) at the discretion of the Secretary, with evidence of compliance with the applicable conditions or requirements of this title through an accreditation survey conducted by a national accreditation body under section 1865(b).

The Secretary may waive the requirement of a bond under subparagraph (B) in the case of a supplier that provides a comparable surety bond under State law.".

(b) SURETY BOND REQUIREMENT FOR HOME HEALTH AGENCIES.—

(1) IN GENERAL.—Section 1861(o) (42 U.S.C. 1395x(o)) is amended—

(A) in paragraph (7), by inserting "and including providing the Secretary on a continuing basis with a surety bond in a form specified by the Secretary and in an amount that is not less than $50,000" after "financial security of the program"; and

(B) by adding at the end the following: "The Secretary may waive the requirement of a surety bond under paragraph (7) in the case of an agency or organization that provides a comparable surety bond under State law.".

(2) CONFORMING AMENDMENTS.—Section 1861(v)(1)(H) (42 U.S.C. 1395x(v)(1)(H)) is amended—

(A) in clause (i), by striking "the financial security requirement" and inserting "the financial security and surety bond requirements"; and

(B) in clause (ii), by striking "the financial security requirement described in subsection (o)(7) applies" and inserting "the financial security and surety bond requirements described in subsection (o)(7) apply".

(3) REFERENCE TO CURRENT DISCLOSURE REQUIREMENT.—For additional provisions requiring home health agencies to disclose information on ownership and control interests, see section 1124 of the Social Security Act (42 U.S.C. 1320a–3).

(c) AUTHORIZING APPLICATION OF DISCLOSURE AND SURETY BOND REQUIREMENTS TO AMBULANCE SERVICES AND CERTAIN CLINICS.—Section 1834(a)(16) (42 U.S.C. 1395m(a)(16)), as added by subsection (a), is amended by adding at the end the following flush sentence:

The Secretary, in the Secretary's discretion, may impose the requirements of the previous sentence with respect to some or all classes of suppliers of ambulance services described in section 1861(s)(7) and clinics that furnish medical and other health services (other than physicians' services) under this part.".

(d) APPLICATION TO COMPREHENSIVE OUTPATIENT REHABILITATION FACILITIES (CORFS).—Section 1861(cc)(2) (42 U.S.C. 1395x(cc)(2)) is amended—

(1) in subparagraph (I), by inserting before the period at the end the following: "and providing the Secretary on a continuing basis with a surety bond in a form specified by the Secretary and in an amount that is not less than $50,000"; and

(2) by adding at the end the following flush sentence:

"The Secretary may waive the requirement of a bond under subparagraph (I) in the case of a facility that provides a comparable surety bond under State law.".

(e) APPLICATION TO REHABILITATION AGENCIES.—Section 1861(p) (42 U.S.C. 1395x(p)) is amended—

(1) in paragraph (4)(A)(v), by inserting after "as the Secretary may find necessary," the following: "and provides the Secretary, to the extent required by the Secretary, on a continuing basis with a surety bond in a form specified by the Secretary and in an amount that is not less than $50,000,", and

(2) by adding at the end the following: "The Secretary may waive the requirement of a bond under paragraph (4)(A)(v) in the case of a clinic or agency that provides a comparable surety bond under State law.".

(f) EFFECTIVE DATES.—

(1) SUPPLIERS OF DURABLE MEDICAL EQUIPMENT.—The amendment made by subsection (a) shall apply to suppliers of durable medical equipment with respect to such equipment furnished on or after January 1, 1998.

(2) HOME HEALTH AGENCIES.—The amendments made by subsection (b) shall apply to home health agencies with respect to services furnished on or after January 1, 1998. The Secretary of Health and Human Services shall modify participation agreements under section 1866(a)(1) of the Social Security Act (42 U.S.C. 1395cc(a)(1)) with respect to home health agencies to provide for implementation of such amendments on a timely basis.

(3) OTHER AMENDMENTS.—The amendments made by subsections (c) through (e) shall take effect on the date of the enactment of this Act and may be applied with respect to items and services furnished on or after the date specified in paragraph (1).

SEC. 5212. PROVISION OF CERTAIN IDENTIFICATION NUMBERS.

(a) REQUIREMENTS TO DISCLOSE EMPLOYER IDENTIFICATION NUMBERS (EINS, AND SOCIAL SECURITY ACCOUNT NUMBERS (SSNS).—Section 1124(a)(1) (42 U.S.C. 1320a–3(a)(1)) is amended by inserting before the period at the end the following: "and supply the Secretary with the both the employer identification number (assigned pursuant to section 6109 of the Internal Revenue Code of 1986) and social security account number (assigned under section 205(c)(2)(B)) of the disclosing entity, each person with an ownership or control interest (as defined in subsection (a)(3)), and any subcontractor in which the entity directly or indirectly has a 5 percent or more ownership interest".

(b) OTHER MEDICARE PROVIDERS.—Section 1124A (42 U.S.C. 1320a–3a) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "and" at the end;

(B) in paragraph (2), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(3) including the employer identification number (assigned pursuant to section 6109 of the Internal Revenue Code of 1986) and social security account number (assigned under section 205(c)(2)(B)) of the disclosing part B provider and any person, managing employee, or other entity identified or described under paragraph (1) or (2)."; and

(2) in subsection (c)(1), by inserting "(or, for purposes of subsection (a)(3), any entity receiving payment)" after "on an assignment-related basis".

(c) VERIFICATION BY SOCIAL SECURITY ADMINISTRATION (SSA).—Section 1124A (42 U.S.C. 1320a–3a), as amended by subsection (b), is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following:

"(c) VERIFICATION.—

"(1) TRANSMITTAL BY HHS.—The Secretary shall transmit—

"(A) to the Commissioner of Social Security information concerning each social security account number (assigned under section 205(c)(2)(B)), and

"(B) to the Secretary of the Treasury information concerning each employer identification number (assigned pursuant to section 6109 of the Internal Revenue Code of 1986),

supplied to the Secretary pursuant to subsection (a)(3) or section 1124(c) to the extent necessary for verification of such information in accordance with paragraph (2).

"(2) VERIFICATION.—The Commissioner of Social Security and the Secretary of the Treasury shall verify the accuracy of, or correct, the information supplied by the Secretary to such official pursuant to paragraph (1), and shall report such verifications or corrections to the Secretary.

"(3) FEES FOR VERIFICATION.—The Secretary shall reimburse the Commissioner and Secretary of the Treasury, at a rate negotiated between the Secretary and such official, for the costs incurred by such official in performing the verification and correction services described in this subsection.".

(d) REPORT.—The Secretary of Health and Human Services shall submit to Congress a report on steps the Secretary has taken to assure the confidentiality of social security account numbers that will be provided to the Secretary under the amendments made by this section.

(e) EFFECTIVE DATES.—

(1) DISCLOSURE REQUIREMENTS.—The amendment made by subsection (a) shall apply to the application of conditions of participation, and entering into and renewal of contracts and agreements, occurring more than 90 days after the date of submission of the report under subsection (d).

(2) OTHER PROVIDERS.—The amendments made by subsection (b) shall apply to payment for items and services furnished more than 90 days after the date of submission of such report.

SEC. 5213. APPLICATION OF CERTAIN PROVISIONS OF THE BANKRUPTCY CODE.

(a) RESTRICTED APPLICABILITY OF BANKRUPTCY STAY, DISCHARGE, AND PREFERENTIAL TRANSFER PROVISIONS TO MEDICARE AND MEDICAID DEBTS.—Part A of title XI (42 U.S.C. 1301 et seq.) is amended by inserting after section 1143 the following:

"APPLICATION OF CERTAIN PROVISIONS OF THE BANKRUPTCY CODE

"SEC. 1144. (a) MEDICARE AND MEDICAID-RELATED ACTIONS NOT STAYED BY BANKRUPTCY PROCEEDINGS.—The commencement or continuation of any action against a debtor under this title or title XVIII or XIX (other than an action with respect to health care services for the debtor under title XVIII), including any action or proceeding to exclude or suspend the debtor from program participation, assess civil money penalties, recoup or set off overpayments, or deny or suspend payment of claims shall not be subject to the provisions of section 362(a) of title 11, United States Code.

"(b) CERTAIN MEDICARE- AND MEDICAID-RELATED DEBT NOT DISCHARGEABLE IN BANKRUPTCY.—A debt owed to the United States or to a State for an overpayment under title XVIII or XIX (other than an overpayment for health care services for the debtor under title XVIII) resulting from the fraudulent actions of the debtor, or for a penalty, fine, or assessment under this title or title XVIII or XIX, shall not be dischargeable under any provision of title 11, United States Code.

"(c) REPAYMENT OF CERTAIN DEBTS CONSIDERED FINAL.—Payments made to repay a debt to the United States or to a State with respect to items or services provided, or claims for payment made, under title XVIII or XIX (including repayment of an overpayment (other than an overpayment for health care services for the debtor under title XVIII) resulting from the fraudulent actions of the debtor), or to pay a penalty, fine, or assessment under this title or title XVIII or XIX, shall be considered final and not preferential transfers under section 547 of title 11, United States Code.".

(b) MEDICARE RULES APPLICABLE TO BANKRUPTCY PROCEEDINGS.—Title XVIII (42 U.S.C. 1395 et seq.) is amended by adding at the end the following:

"APPLICATION OF PROVISIONS OF THE BANKRUPTCY CODE

"SEC. 1894. (a) USE OF MEDICARE STANDARDS AND PROCEDURES.—Notwithstanding any provision of title 11, United States Code, or any other provision of law, in the case of claims by a debtor in bankruptcy for payment under this title, the determination of whether the claim is allowable and of the amount payable, shall be made in accordance with the provisions of this title and title XI and implementing regulations.

"(b) NOTICE TO CREDITOR OF BANKRUPTCY PETITIONER.—In the case of a debt owed to the United States with respect to items or services provided, or claims for payment made, under this title (including a debt arising from an overpayment or a penalty, fine, or assessment under title XI or this title), the notices to the creditor of bankruptcy petitions, proceedings, and relief required under title 11, United States Code (including under section 342 of that title and section 2002(j) of the Federal Rules of Bankruptcy Procedure), shall be given to the Secretary. Provision of such notice to a fiscal agent of the Secretary shall not be considered to satisfy this requirement.

"(c) TURNOVER OF PROPERTY TO THE BANKRUPTCY ESTATE.—For purposes of section 542(b) of title 11, United States Code, a claim for payment under this title shall not be considered to be a matured debt payable to the estate of a debtor until such claim has been allowed by the Secretary in accordance with procedures under this title.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to bankruptcy petitions filed after the date of the enactment of this Act.

SEC. 5214. REPLACEMENT OF REASONABLE CHARGE METHODOLOGY BY FEE SCHEDULES.

(a) IN GENERAL.—Section 1833(a)(1) (42 U.S.C. 1395l(a)(1)) is amended in the matter preceding subparagraph (A) by striking "the reasonable charges for the services" and inserting "the lesser of the actual charges for the services and the amounts determined by the applicable fee schedules developed by the Secretary for the particular services".

(b) CONFORMING AMENDMENTS.—

(1) Section 1833(a)(1) (42 U.S.C. 1395l(a)(1)) is amended—

(A) in subparagraph (A), by striking "reasonable charges for" and inserting "payment bases otherwise applicable to";

(B) in subparagraph (B), by striking "reasonable charges" and inserting "fee schedule amounts"; and

(C) by inserting after subparagraph (F) the following: "(G) with respect to services described in clause (i) or (ii) of section 1861(s)(2)(K) (relating to physician assistants and nurse practitioners), the amounts paid shall be 80 percent of the lesser of the actual charge for the services and the applicable amount determined under subclause (I) or (II) of section 1842(b)(12)(A)(ii),".

(2) Section 1833(a)(2) (42 U.S.C. 1395l(a)(2)) is amended—

(A) in subparagraph (B), in the matter preceding clause (i), by striking "(C), (D)," and inserting "(D)"; and

(B) by striking subparagraph (C).

(3) Section 1833(l) (42 U.S.C. 1395l(l)) is amended—

(A) in paragraph (3)—

(i) by striking subparagraph (B); and

(ii) by striking "(3)(A)" and inserting "(3)"; and

(B) by striking paragraph (6).

(4) Section 1834(a)(10)(B) (42 U.S.C. 1395m(a)(10)(B)) is amended by striking "paragraphs (8) and (9)" and all that follows through "section 1848(i)(3)." and inserting "section 1842(b)(8) to covered items and suppliers of such items and payments under this subsection as such provisions would otherwise apply to physicians' services and physicians.".

(5) Section 1834(g)(1)(A)(ii) (42 U.S.C. 1395m(g)(1)(A)(ii)) is amended in the heading by striking "REASONABLE CHARGES FOR PROFESSIONAL" and inserting "PROFESSIONAL".

(6) Section 1842(a) (42 U.S.C. 1395u(a)) is amended—

(A) in the matter preceding paragraph (1), by striking "reasonable charge" and inserting "fee schedule"; and

(B) in paragraph (1)(A), by striking "reasonable charge" and inserting "other".

(7) Section 1842(b)(3) (42 U.S.C. 1395u(b)(3)) is amended—

(A) in subparagraph (B)—

(i) in the matter preceding clause (i), by striking "where payment" and all that follows through "made—" and inserting "where payment under this part for a service is on a basis other than a cost basis, such payment will (except as otherwise provided in section 1870(f)) be made—"; and

(ii) by striking clause (ii)(I) and inserting the following: "(I) the amount determined by the applicable payment basis under this part is the full charge for the service,"; and

(B) by striking the second, third, fourth, fifth, sixth, eighth, and ninth sentences.

(8) Section 1842(b)(4) (42 U.S.C. 1395u(b)(4)) is amended to read as follows:

"(4) In the case of an enteral or parenteral pump that is furnished on a rental basis during a period of medical need—

"(A) monthly rental payments shall not be made under this part for more than 15 months during that period, and

"(B) after monthly rental payments have been made for 15 months during that period, payment under this part shall be made for maintenance and servicing of the pump in amounts that the Secretary determines to be reasonable and necessary to ensure the proper operation of the pump.".

(9) Section 6112(b) (42 U.S.C. 1395m note; Public Law 101–239) of OBRA—1989 is repealed.

(10) Section 1842(b)(7) (42 U.S.C. 1395u(b)(7)) is amended—

(A) in subparagraph (D)(i), in the matter preceding subclause (I), by striking ", to the extent that such payment is otherwise allowed under this paragraph,";

(B) in subparagraph (D)(ii), by striking "subparagraph" and inserting "paragraph";

(C) by striking "(7)(A) In the case of" and all that follows through subparagraph (C);

(D) by striking "(D)(i)" and inserting "(7)(A)";

(E) by redesignating clauses (ii) and (iii) as subparagraphs (B) and (C), respectively; and

(F) by redesignating subclauses (I), (II), and (III) of subparagraph (A) (as redesignated by subparagraph (D) of this paragraph) as clauses (i), (ii), and (iii), respectively.

(11) Section 1842(b)(9) (42 U.S.C. 1395u(b)(9)) is repealed.

(12) Section 1842(b)(10) (42 U.S.C. 1395u(b)(10)) is repealed.

(13) Section 1842(b)(11) (42 U.S.C. 1395u(b)(11)) is amended—

(A) by striking subparagraphs (B) through (D);

(B) by striking "(11)(A)" and inserting "(11)"; and

(C) by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively.

(14) Section 1842(b)(12)(A)(ii) (42 U.S.C. 1395u(b)(12)(A)(ii)) is amended—

(A) in the matter preceding subclause (I), by striking "prevailing charges determined under paragraph (3)" and inserting "the amounts determined under section 1833(a)(1)(G)"; and

(B) in subclause (II), by striking "prevailing charge rate" and all that follows up to the period and inserting "fee schedule amount specified in section 1848 for such services performed by physicians".

(15) Paragraphs (14) through (17) of section 1842(b) (42 U.S.C. 1395u(b)) are repealed.

(16) Section 1842(b) (42 U.S.C. 1395u(b)) is amended—

(A) in paragraph (18)(A), by striking "reasonable charge or"; and

(B) by redesignating paragraph (18) as paragraph (14).

(17) Section 1842(j)(1) (42 U.S.C. 1395u(j)) is amended to read as follows:

"(j)(1) See subsections (k), (l), (m), (n), and (p) as to the cases in which sanctions may be applied under paragraph (2).".

(18) Section 1842(j)(4) (42 U.S.C. 1395u(j)(4)) is amended by striking "under paragraph (1)".

(19) Section 1842(n)(1)(A) (42 U.S.C. 1395u(n)(1)(A)) is amended by striking "reasonable charge (or other applicable limit)" and inserting "other applicable limit".

(20) Section 1842(q) (42 U.S.C. 1395u(q)) is amended—

(A) by striking paragraph (1)(B); and

(B) by striking "(q)(1)(A)" and inserting "(q)(1)".

(21) Section 1845(b)(1) (42 U.S.C. 1395w–1(b)(1)) is amended by striking "adjustments to the reasonable charge levels for physicians' services recognized under section 1842(b) and".

(22) Section 1848(i)(3) (42 U.S.C. 1395w–4(i)(3)) is repealed.

(23) Section 1866(a)(2)(A)(ii) (42 U.S.C. 1395cc(a)(2)(A)(ii)) is amended by striking "reasonable charges" and all that follows through "provider)" and inserting "amount customarily charged for the items and services by the provider".

(24) Section 1881(b)(3)(A) (42 U.S.C. 1395rr(b)(3)(A)) is amended by striking "a reasonable charge" and all that follows through "section 1848)" and inserting "the basis described in section 1848".

(25) Section 9340 of OBRA—1986 (42 U.S.C. 1395u note; Public Law 99-509) is repealed.

(c) EFFECTIVE DATES.—The amendments made by this section to the extent such amendments substitute fee schedules for reasonable charges, shall apply to particular services as of the date specified by the Secretary of Health and Human Services.

(d) INITIAL BUDGET NEUTRALITY.—The Secretary, in developing a fee schedule for particular services (under the amendments made by this section), shall set amounts for the first year period to which the fee schedule applies at a level so that the total payments under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) for those services for that year period shall be approximately equal to the estimated total payments if those amendments had not been made.

SEC. 5215. APPLICATION OF INHERENT REASONABLENESS TO ALL PART B SERVICES OTHER THAN PHYSICIANS' SERVICES.

(a) IN GENERAL.—Section 1842(b)(8) (42 U.S.C. 1395u(b)(8)) is amended to read as follows:

"(8) The Secretary shall describe by regulation the factors to be used in determining the cases (of particular items or services) in which the application of this part (other than to physicians' services paid under section 1848) results in the determination of an amount that, because of its being grossly excessive or grossly deficient, is not inherently reasonable, and provide in those cases for the factors to be considered in establishing an amount that is realistic and equitable.".

(b) CONFORMING AMENDMENT.—Section 1834(a)(10) (42 U.S.C. 1395m(a)(10)(B)) is amended—

(1) by striking subparagraph (B); and

(2) by redesignating subparagraph (C) as subparagraph (B).

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 5216. REQUIREMENT TO FURNISH DIAGNOSTIC INFORMATION.

(a) INCLUSION OF NON-PHYSICIAN PRACTITIONERS IN REQUIREMENT TO PROVIDE DIAGNOSTIC CODES FOR PHYSICIAN SERVICES.—Paragraphs (1) and (2) of section 1842(p) (42 U.S.C. 1395u(p)) are each amended by inserting "or practitioner specified in subsection (b)(18)(C)" after "by a physician".

(b) REQUIREMENT TO PROVIDE DIAGNOSTIC INFORMATION WHEN ORDERING CERTAIN ITEMS OR SERVICES FURNISHED BY ANOTHER ENTITY.—Section 1842(p) (42 U.S.C. 1395u(p)), is amended by adding at the end the following:

"(4) In the case of an item or service defined in paragraph (3), (6), (8), or (9) of subsection 1861(s) ordered by a physician or a practitioner specified in subsection (b)(18)(C), but furnished by another entity, if the Secretary (or fiscal agent of the Secretary) requires the entity furnishing the item or service to provide diagnostic or other medical information for payment to be made to the entity, the physician or practitioner shall provide that information to the entity at the time that the item or service is ordered by the physician or practitioner.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after January 1, 1998.

SEC. 5217. REPORT BY GAO ON OPERATION OF FRAUD AND ABUSE CONTROL PROGRAM.

Section 1817(k)(6) (42 U.S.C. 1395i(k)(6)) is amended by inserting "June 1, 1998, and" after "Not later than".

SEC. 5218. COMPETITIVE BIDDING.

(a) GENERAL RULE.—Part B of title XVIII (42 U.S.C. 1395j et seq.) is amended by inserting after section 1846 the following:

"SEC. 1847. COMPETITIVE ACQUISITION OF ITEMS AND SERVICES.

"(a) ESTABLISHMENT OF BIDDING AREAS.—

"(1) IN GENERAL.—The Secretary shall establish competitive acquisition areas for contract award purposes for the furnishing under this

part after 1997 of the items and services described in subsection (c). The Secretary may establish different competitive acquisition areas under this subsection for different classes of items and services.

"(2) CRITERIA FOR ESTABLISHMENT.—The competitive acquisition areas established under paragraph (1) shall be chosen based on the availability and accessibility of entities able to furnish items and services, and the probable savings to be realized by the use of competitive bidding in the furnishing of items and services in the area.

"(b) AWARDING OF CONTRACTS IN AREAS.—

"(1) IN GENERAL.—The Secretary shall conduct a competition among individuals and entities supplying items and services described in subsection (c) for each competitive acquisition area established under subsection (a) for each class of items and services.

"(2) CONDITIONS FOR AWARDING CONTRACT.—The Secretary may not award a contract to any entity under the competition conducted pursuant to paragraph (1) to furnish an item or service unless the Secretary finds that the entity meets quality standards specified by the Secretary, and subject to paragraph (3), that the total amounts to be paid under the contract are expected to be less than the total amounts that would otherwise be paid.

"(3) LIMIT ON AMOUNT OF PAYMENT.—The Secretary may not under a contract awarded under this section provide for payment for an item or service in an amount in excess of the applicable fee schedule under this part for similar or related items or services. The preceding sentence shall not apply if the Secretary determines that an amount in excess of such amount is warranted by reason of technological innovation, quality improvement, or similar reasons, except that the total amount paid under the contract shall not exceed the limit under paragraph (2).

"(4) CONTENTS OF CONTRACT.—A contract entered into with an entity under the competition conducted pursuant to paragraph (1) is subject to terms and conditions that the Secretary may specify.

"(5) LIMIT ON NUMBER OF CONTRACTORS.—The Secretary may limit the number of contractors in a competitive acquisition area to the number needed to meet projected demand for items and services covered under the contracts.

"(c) SERVICES DESCRIBED.—The items and services to which this section applies are all items and services covered under this part (except for physician services as defined by 1861(r)) that the Secretary may specify.".

(b) ITEMS AND SERVICES TO BE FURNISHED ONLY THROUGH COMPETITIVE ACQUISITION.—Section 1862(a) (42 U.S.C. 1395y(a)) is amended—

(1) by striking "or" at the end of paragraph (14),

(2) by striking the period at the end of paragraph (15) and inserting "; or", and

(3) by inserting after paragraph (15) the following:

"(16) where the expenses are for an item or service furnished in a competitive acquisition area (as established by the Secretary under section 1847(a)) by an entity other than an entity with which the Secretary has entered into a contract under section 1847(b) for the furnishing of such an item or service in that area, unless the Secretary finds that the expenses were incurred in a case of urgent need, or in other circumstances specified by the Secretary.".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) apply to items and services furnished after December 31, 1997.

SEC. 5219. IMPROVING INFORMATION TO MEDICARE BENEFICIARIES.

(a) CLARIFICATION OF REQUIREMENT TO PROVIDE EXPLANATION OF MEDICARE BENEFITS.—Section 1804 of the Social Security Act (42 U.S.C. 1395b–2) is amended by adding at the end the following new subsection:

"(c)(1) The Secretary shall provide a statement which explains the benefits provided under this title with respect to each item or service for which payment may be made under this title which is furnished to an individual, without regard to whether or not a deductible or coinsurance may be imposed against the individual with respect to such item or service.

"(2) Each explanation of benefits provided under paragraph (1) shall include—

"(A) a statement which indicates that because errors do occur and because medicare fraud, waste and abuse is a significant problem, beneficiaries should carefully check the statement for accuracy and report any errors or questionable charges by calling the toll-free phone number described in subparagraph (C);

"(B) a statement of the beneficiary's right to request an itemized bill (as provided in section 1128A(n)); and

"(C) a toll-free telephone number for reporting errors, questionable charges or other acts that would constitute medicare fraud, waste, or abuse, which may be the same number as described in subsection (b).".

(b) REQUEST FOR ITEMIZED BILL FOR MEDICARE ITEMS AND SERVICES.—

(1) IN GENERAL.—Section 1128A of the Social Security Act (42 U.S.C. 1320a–7a) is amended by adding at the end the following new subsection:

"(m) WRITTEN REQUEST FOR ITEMIZED BILL.—

"(1) IN GENERAL.—A beneficiary may submit a written request for an itemized bill for medical or other items or services provided to such beneficiary by any person (including an organization, agency, or other entity) that receives payment under title XVIII for providing such items or services to such beneficiary.

"(2) 30-DAY PERIOD TO RECEIVE BILL.—

"(A) IN GENERAL.—Not later than 30 days after the date on which a request under paragraph (1) has been received, a person described in such paragraph shall furnish an itemized bill describing each medical or other item or service provided to the beneficiary requesting the itemized bill.

"(B) PENALTY.—Whoever knowingly fails to furnish an itemized bill in accordance with subparagraph (A) shall be subject to a civil fine of not more than $100 for each such failure.

"(3) REVIEW OF ITEMIZED BILL.—

"(A) IN GENERAL.—Not later than 90 days after the receipt of an itemized bill furnished under paragraph (1), a beneficiary may submit a written request for a review of the itemized bill to the appropriate fiscal intermediary or carrier with a contract under section 1816 or 1842.

"(B) SPECIFIC ALLEGATIONS.—A request for a review of the itemized bill shall identify—

"(i) specific medical or other items or services that the beneficiary believes were not provided as claimed, or

"(ii) any other billing irregularity (including duplicate billing).

"(4) FINDINGS OF FISCAL INTERMEDIARY OR CARRIER.—Each fiscal intermediary or carrier with a contract under section 1816 or 1842 shall, with respect to each written request submitted to the fiscal intermediary or carrier under paragraph (3), determine whether the itemized bill identifies specific medical or other items or services that were not provided as claimed or any other billing irregularity (including duplicate billing) that has resulted in unnecessary payments under the title XVIII.

"(5) RECOVERY OF AMOUNTS.—The Secretary shall require fiscal intermediaries and carriers to take all appropriate measures to recover amounts unnecessarily paid under title XVIII with respect to a bill described in paragraph (4).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to medical or other items or services provided on or after January 1, 1998.

SEC. 5220. PROHIBITING UNNECESSARY AND WASTEFUL MEDICARE PAYMENTS FOR CERTAIN ITEMS.

Section 1861(v) of the Social Security Act is amended by adding at the end the following new paragraph:

"(8) ITEMS UNRELATED TO PATIENT CARE.—Reasonable costs do not include costs for the following—

"(i) entertainment;

"(ii) gifts or donations;

"(iii) costs for fines and penalties resulting from violations of Federal, State, or local laws; and

"(iv) education expenses for spouses or other dependents of providers of services, their employees or contractors.".

SEC. 5221. REDUCING EXCESSIVE BILLINGS AND UTILIZATION FOR CERTAIN ITEMS.

Section 1834(a)(15) of the Social Security Act (42 U.S.C. 1395m(a)(15)) is amended by striking "Secretary may" both places it appears and inserting "Secretary shall".

SEC. 5222. IMPROVING INFORMATION TO MEDICARE BENEFICIARIES.

(a) CLARIFICATION OF REQUIREMENT TO PROVIDE EXPLANATION OF MEDICARE BENEFITS.—Section 1804 of the Social Security Act (42 U.S.C. 1395b–2) is amended by adding at the end the following new subsection:

"(c)(1) The Secretary shall provide a statement which explains the benefits provided under this title with respect to each item or service for which payment may be made under this title which is furnished to an individual, without regard to whether or not a deductible or coinsurance may be imposed against the individual with respect to such item or service.

"(2) Each explanation of benefits provided under paragraph (1) shall include—

"(A) a statement which indicates that because errors do occur and because medicare fraud, waste and abuse is a significant problem, beneficiaries should carefully check the statement for accuracy and report any errors or questionable charges by calling the toll-free phone number described in subparagraph (C);

"(B) a statement of the beneficiary's right to request an itemized bill (as provided in section 1128A(n)); and

"(C) a toll-free telephone number for reporting errors, questionable charges or other acts that would constitute medicare fraud, waste, or abuse, which may be the same number as described in subsection (b).".

(b) REQUEST FOR ITEMIZED BILL FOR MEDICARE ITEMS AND SERVICES.—

(1) IN GENERAL.—Section 1128A of the Social Security Act (42 U.S.C. 1320a–7a) is amended by adding at the end the following new subsection:

"(m) WRITTEN REQUEST FOR ITEMIZED BILL.—

"(1) IN GENERAL.—A beneficiary may submit a written request for an itemized bill for medical or other items or services provided to such beneficiary by any person (including an organization, agency, or other entity) that receives payment under title XVIII for providing such items or services to such beneficiary.

"(2) 30-DAY PERIOD TO RECEIVE BILL.—

"(A) IN GENERAL.—Not later than 30 days after the date on which a request under paragraph (1) has been received, a person described in such paragraph shall furnish an itemized bill describing each medical or other item or service provided to the beneficiary requesting the itemized bill.

"(B) PENALTY.—Whoever knowingly fails to furnish an itemized bill in accordance with subparagraph (A) shall be subject to a civil fine of not more than $100 for each such failure.

"(3) REVIEW OF ITEMIZED BILL.—

"(A) IN GENERAL.—Not later than 90 days after the receipt of an itemized bill furnished under paragraph (1), a beneficiary may submit a written request for a review of the itemized bill to the appropriate fiscal intermediary or carrier with a contract under section 1816 or 1842.

"(B) SPECIFIC ALLEGATIONS.—A request for a review of the itemized bill shall identify—

"(i) specific medical or other items or services that the beneficiary believes were not provided as claimed, or

"(ii) any other billing irregularity (including duplicate billing).

"(4) FINDINGS OF FISCAL INTERMEDIARY OR CARRIER.—Each fiscal intermediary or carrier with a contract under section 1816 or 1842 shall, with respect to each written request submitted to the fiscal intermediary or carrier under paragraph (3), determine whether the itemized bill identifies specific medical or other items or services that were not provided as claimed or any other billing irregularity (including duplicate billing) that has resulted in unnecessary payments under the title XVIII.

"(5) RECOVERY OF AMOUNTS.—The Secretary shall require fiscal intermediaries and carriers to take all appropriate measures to recover amounts unnecessarily paid under title XVIII with respect to a bill described in paragraph (4).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to medical or other items or services provided on or after January 1, 1998.

SEC. 5223. PROHIBITING UNNECESSARY AND WASTEFUL MEDICARE PAYMENTS FOR CERTAIN ITEMS.

Notwithstanding any other provision of law, including any regulation or payment policy, the following categories of charges shall not be reimbursable under title XVIII of the Social Security Act:

(1) Entertainment costs, including the costs of tickets to sporting and other entertainment events.

(2) Gifts or donations.

(3) Personal use of motor vehicles.

(4) Costs for fines and penalties resulting from violations of Federal, State, or local laws.

(5) Tuition or other education fees for spouses or dependents of providers of services, their employees, or contractors.

SEC. 5224. REDUCING EXCESSIVE BILLINGS AND UTILIZATION FOR CERTAIN ITEMS.

Section 1834(a)(15) of the Social Security Act (42 U.S.C. 1395m(a)(15)) is amended by striking "Secretary may" both places it appears and inserting "Secretary shall".

SEC. 5225. IMPROVED CARRIER AUTHORITY TO REDUCE EXCESSIVE MEDICARE PAYMENTS.

Section 1834(i) of the Social Security Act (42 U.S.C. 1395m(i)) is amended by adding at the end the following new paragraph:

"(3) GROSSLEY EXCESSIVE PAYMENT AMOUNTS.—Notwithstanding paragraph (1), the Secretary may apply the provisions of section 1842(b)(8) to payments under this subsection.".

SEC. 5226. ITEMIZATION OF SURGICAL DRESSING BILLS SUBMITTED BY HOME HEALTH AGENCIES.

Section 1834(i)(2) (42 U.S.C. 1395m(i)(2)) is amended to read as follows:

"(2) EXCEPTION.—Paragraph (1) shall not apply to surgical dressings that are furnished as an incident to a physician's professional service.".

CHAPTER 3—CLARIFICATIONS AND TECHNICAL CHANGES

SEC. 5231. OTHER FRAUD AND ABUSE RELATED PROVISIONS.

(a) REFERENCE CORRECTION.—(1) Section 1128D(b)(2)(D) (42 U.S.C. 1320a–7d(b)(2)(D)), as added by section 205 of the Health Insurance Portability and Accountability Act of 1996, is amended by striking "1128B(b)" and inserting "1128A(b)".

(2) Section 1128E(g)(3)(C) (42 U.S.C. 1320a–7e(g)(3)(C)) is amended by striking "Veterans' Administration" and inserting "Department of Veterans Affairs".

(b) LANGUAGE IN DEFINITION OF CONVICTION.—Section 1128E(g)(5) (42 U.S.C. 1320a–7e(g)(5)), as inserted by section 221(a) of the Health Insurance Portability and Accountability Act of 1996, is amended by striking "paragraph (4)" and inserting "paragraphs (1) through (4)".

(c) IMPLEMENTATION OF EXCLUSIONS.—Section 1128 (42 U.S.C. 1320a–7) is amended—

(1) in subsection (a), by striking "any program under title XVIII and shall direct that the following individuals and entities be excluded from participation in any State health care program (as defined in subsection (h))" and inserting "any Federal health care program (as defined in section 1128B(f))"; and

(2) in subsection (b), by striking "any program under title XVIII and may direct that the following individuals and entities be excluded from participation in any State health care program" and inserting "any Federal health care program (as defined in section 1128B(f))".

(d) SANCTIONS FOR FAILURE TO REPORT.—Section 1128E(b) (42 U.S.C. 1320a–7e(b)), as inserted by section 221(a) of the Health Insurance Portability and Accountability Act of 1996, is amended by adding at the end the following:

"(6) SANCTIONS FOR FAILURE TO REPORT.—

"(A) HEALTH PLANS.—Any health plan that fails to report information on an adverse action required to be reported under this subsection shall be subject to a civil money penalty of not more than $25,000 for each such adverse action not reported. Such penalty shall be imposed and collected in the same manner as civil money penalties under subsection (a) of section 1128A are imposed and collected under that section.

"(B) GOVERNMENTAL AGENCIES.—The Secretary shall provide for a publication of a public report that identifies those Government agencies that have failed to report information on adverse actions as required to be reported under this subsection.".

(e) CLARIFICATION OF TREATMENT OF CERTAIN WAIVERS AND PAYMENTS OF PREMIUMS.—

(1) Section 1128A(i)(6) (42 U.S.C. 1320a–7a(i)(6)) is amended—

(A) in subparagraph (A)(iii)—

(i) in subclause (I), by adding "or" at the end;

(ii) in subclause (II), by striking "or" at the end; and

(iii) by striking subclause (III);

(B) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D); and

(C) by inserting after subparagraph (A) the following:

"(B) any permissible waiver as specified in section 1128B(b)(3) or in regulations issued by the Secretary;".

(2) Section 1128A(i)(6) (42 U.S.C. 1320a–7a(i)(6)), is amended—

(A) in subparagraph (C), as redesignated by paragraph (1), by striking "or" at the end;

(B) in subparagraph (D), as so redesignated, by striking the period at the end and inserting "; or"; and

(C) by adding at the end the following:

"(D) the waiver of deductible and coinsurance amounts pursuant to medicare supplemental policies under section 1882(t).".

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall be effective as if included in the enactment of the Health Insurance Portability and Accountability Act of 1996.

(2) FEDERAL HEALTH PROGRAM.—The amendments made by subsection (c) shall take effect on the date of the enactment of this Act.

(3) SANCTION FOR FAILURE TO REPORT.—The amendment made by subsection (d) shall apply to failures occurring on or after the date of the enactment of this Act.

(4) CLARIFICATION.—The amendments made by subsection (e)(2) shall take effect on the date of the enactment of this Act.

Subtitle E—Prospective Payment Systems

CHAPTER 1—PROVISIONS RELATING TO PART A

SEC. 5301. PROSPECTIVE PAYMENT FOR INPATIENT REHABILITATION HOSPITAL SERVICES.

(a) IN GENERAL.—Section 1886 (42 U.S.C. 1395ww) is amended by adding at the end the following new subsection:

"(j) PROSPECTIVE PAYMENT FOR INPATIENT REHABILITATION SERVICES.—

"(1) PAYMENT DURING TRANSITION PERIOD.—

"(A) IN GENERAL.—Notwithstanding section 1814(b), but subject to the provisions of section 1813, the amount of the payment with respect to the operating and capital costs of inpatient hospital services of a rehabilitation hospital or a rehabilitation unit (in this subsection referred to as a 'rehabilitation facility'), in a cost reporting period beginning on or after October 1, 2000, and before October 1, 2003, is equal to the sum of—

"(i) the TEFRA percentage (as defined in subparagraph (C)) of the amount that would have been paid under part A of this title with respect to such costs if this subsection did not apply, and

"(ii) the prospective payment percentage (as defined in subparagraph (C)) of the product of (I) the per unit payment rate established under this subsection for the fiscal year in which the payment unit of service occurs, and (II) the number of such payment units occurring in the cost reporting period.

"(B) FULLY IMPLEMENTED SYSTEM.—Notwithstanding section 1814(b), but subject to the provisions of section 1813, the amount of the payment with respect to the operating and capital costs of inpatient hospital services of a rehabilitation facility for a payment unit in a cost reporting period beginning on or after October 1, 2003, is equal to the per unit payment rate established under this subsection for the fiscal year in which the payment unit of service occurs.

"(C) TEFRA AND PROSPECTIVE PAYMENT PERCENTAGES SPECIFIED.—For purposes of subparagraph (A), for a cost reporting period beginning—

"(i) on or after October 1, 2000, and before October 1, 2001, the 'TEFRA percentage' is 75 percent and the 'prospective payment percentage' is 25 percent;

"(ii) on or after October 1, 2001, and before October 1, 2002, the 'TEFRA percentage' is 50 percent and the 'prospective payment percentage' is 50 percent; and

"(iii) on or after October 1, 2002, and before October 1, 2003, the 'TEFRA percentage' is 25 percent and the 'prospective payment percentage' is 75 percent.

"(D) PAYMENT UNIT.—For purposes of this subsection, the term 'payment unit' means a discharge, day of inpatient hospital services, or other unit of payment defined by the Secretary.

"(2) PATIENT CASE MIX GROUPS.—

"(A) ESTABLISHMENT.—The Secretary shall establish—

"(i) classes of patients of rehabilitation facilities (each in this subsection referred to as a 'case mix group'), based on such factors as the Secretary deems appropriate, which may include impairment, age, related prior hospitalization, comorbidities, and functional capability of the patient; and

''(ii) a method of classifying specific patients in rehabilitation facilities within these groups.

''(B) WEIGHTING FACTORS.—For each case mix group the Secretary shall assign an appropriate weighting which reflects the relative facility resources used with respect to patients classified within that group compared to patients classified within other groups.

''(C) ADJUSTMENTS FOR CASE MIX.—

''(i) IN GENERAL.—The Secretary shall from time to time adjust the classifications and weighting factors established under this paragraph as appropriate to reflect changes in treatment patterns, technology, case mix, number of payment units for which payment is made under this title, and other factors which may affect the relative use of resources. Such adjustments shall be made in a manner so that changes in aggregate payments under the classification system are a result of real changes and are not a result of changes in coding that are unrelated to real changes in case mix.

''(ii) ADJUSTMENT.—Insofar as the Secretary determines that such adjustments for a previous fiscal year (or estimates that such adjustments for a future fiscal year) did (or are likely to) result in a change in aggregate payments under the classification system during the fiscal year that are a result of changes in the coding or classification of patients that do not reflect real changes in case mix, the Secretary shall adjust the per payment unit payment rate for subsequent years so as to discount the effect of such coding or classification changes.

''(D) DATA COLLECTION.—The Secretary is authorized to require rehabilitation facilities that provide inpatient hospital services to submit such data as the Secretary deems necessary to establish and administer the prospective payment system under this subsection.

''(3) PAYMENT RATE.—

''(A) IN GENERAL.—The Secretary shall determine a prospective payment rate for each payment unit for which such rehabilitation facility is entitled to receive payment under this title. Subject to subparagraph (B), such rate for payment units occurring during a fiscal year shall be based on the average payment per payment unit under this title for inpatient operating and capital costs of rehabilitation facilities using the most recent data available (as estimated by the Secretary as of the date of establishment of the system) adjusted—

''(i) by updating such per-payment-unit amount to the fiscal year involved by the weighted average of the applicable percentage increases provided under subsection (b)(3)(B)(ii) (for cost reporting periods beginning during the fiscal year) covering the period from the midpoint of the period for such data through the midpoint of fiscal year 2000 and by an increase factor (described in subparagraph (C)) specified by the Secretary for subsequent fiscal years up to the fiscal year involved;

''(ii) by reducing such rates by a factor equal to the proportion of payments under this subsection (as estimated by the Secretary) based on prospective payment amounts which are additional payments described in paragraph (4) (relating to outlier and related payments) or paragraph (7);

''(iii) for variations among rehabilitation facilities by area under paragraph (6);

''(iv) by the weighting factors established under paragraph (2)(B); and

''(v) by such other factors as the Secretary determines are necessary to properly reflect variations in necessary costs of treatment among rehabilitation facilities.

''(B) BUDGET NEUTRAL RATES.—The Secretary shall establish the prospective payment amounts under this subsection for payment units during fiscal years 2001 through 2004 at levels such that, in the Secretary's estimation, the amount of total payments under this subsection for such fiscal years (including any payment adjustments pursuant to paragraph (7)) shall be equal to 99 percent of the amount of payments that would have been made under this title during the fiscal years for operating and capital costs of rehabilitation facilities had this subsection not been enacted. In establishing such payment amounts, the Secretary shall consider the effects of the prospective payment system established under this subsection on the total number of payment units from rehabilitation facilities and other factors described in subparagraph (A).

''(C) INCREASE FACTOR.—For purposes of this subsection for payment units in each fiscal year (beginning with fiscal year 2001), the Secretary shall establish an increase factor. Such factor shall be based on an appropriate percentage increase in a market basket of goods and services comprising services for which payment is made under this subsection, which may be the market basket percentage increase described in subsection (b)(3)(B)(iii).

''(4) OUTLIER AND SPECIAL PAYMENTS.—

''(A) OUTLIERS.—

''(i) IN GENERAL.—The Secretary may provide for an additional payment to a rehabilitation facility for patients in a case mix group, based upon the patient being classified as an outlier based on an unusual length of stay, costs, or other factors specified by the Secretary.

''(ii) PAYMENT BASED ON MARGINAL COST OF CARE.—The amount of such additional payment under clause (i) shall be determined by the Secretary and shall approximate the marginal cost of care beyond the cutoff point applicable under clause (i).

''(iii) TOTAL PAYMENTS.—The total amount of the additional payments made under this subparagraph for payment units in a fiscal year may not exceed 5 percent of the total payments projected or estimated to be made based on prospective payment rates for payment units in that year.

''(B) ADJUSTMENT.—The Secretary may provide for such adjustments to the payment amounts under this subsection as the Secretary deems appropriate to take into account the unique circumstances of rehabilitation facilities located in Alaska and Hawaii.

''(5) PUBLICATION.—The Secretary shall provide for publication in the Federal Register, on or before September 1 before each fiscal year (beginning with fiscal year 2001, of the classification and weighting factors for case mix groups under paragraph (2) for such fiscal year and a description of the methodology and data used in computing the prospective payment rates under this subsection for that fiscal year.

''(6) AREA WAGE ADJUSTMENT.—The Secretary shall adjust the proportion (as estimated by the Secretary from time to time) of rehabilitation facilities' costs which are attributable to wages and wage-related costs, of the prospective payment rates computed under paragraph (3) for area differences in wage levels by a factor (established by the Secretary) reflecting the relative hospital wage level in the geographic area of the rehabilitation facility compared to the national average wage level for such facilities. Not later than October 1, 2001 (and at least every 36 months thereafter), the Secretary shall update the factor under the preceding sentence on the basis of a survey conducted by the Secretary (and updated as appropriate) of the wages and wage-related costs incurred in furnishing rehabilitation services. Any adjustments or updates made under this paragraph for a fiscal year shall be made in a manner that assures that the aggregated payments under this subsection in the fiscal year are not greater or less than those that would have been made in the year without such adjustment.

''(7) ADDITIONAL ADJUSTMENTS.—The Secretary may provide by regulation for—

''(A) an additional payment to take into account indirect costs of medical education and the special circumstances of hospitals that serve a significantly disproportionate number of low-income patients in a manner similar to that provided under subparagraphs (B) and (F), respectively, of subsection (d)(5); and

''(B) such other exceptions and adjustments to payment amounts under this subsection in a manner similar to that provided under subsection (d)(5)(I) in relation to payments under subsection (d).

''(8) LIMITATION ON REVIEW.—There shall be no administrative or judicial review under section 1869, 1878, or otherwise of the establishment of—

''(A) case mix groups, of the methodology for the classification of patients within such groups, and of the appropriate weighting factors thereof under paragraph (2),

''(B) the prospective payment rates under paragraph (3),

''(C) outlier and special payments under paragraph (4),

''(D) area wage adjustments under paragraph (6), and

''(E) additional adjustments under paragraph (7).''.

(b) CONFORMING AMENDMENTS.—Section 1886(b) (42 U.S.C. 1395ww(b)) is amended—

(1) in paragraph (1), by inserting ''and other than a rehabilitation facility described in subsection (j)(1)'' after ''subsection (d)(1)(B)'', and

(2) in paragraph (3)(B)(i), by inserting ''and subsection (j)'' after ''For purposes of subsection (d)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to cost reporting periods beginning on or after October 1, 2000, except that the Secretary of Health and Human Services may require the submission of data under section 1886(j)(2)(D) of the Social Security Act (as added by subsection (a)) on and after the date of the enactment of this section.

SEC. 5302. STUDY AND REPORT ON PAYMENTS FOR LONG-TERM CARE HOSPITALS.

(a) STUDY.—The Secretary of Health and Human Services shall—

(1) collect data to develop, establish, administer and evaluate a case-mix adjusted prospective payment system for hospitals described in section 1886(d)(1)(B)(iv) (42 U.S.C. 1395ww(d)(1)(B)(iv)); and

(2) develop a legislative proposal for establishing and administering such a payment system that includes an adequate patient classification system that reflects the differences in patient resource use and costs among such hospitals.

(b) REPORT.—Not later than October 1, 1999, the Secretary of Health and Human Services shall submit the proposal described in subsection (a)(2) to the appropriate committees of Congress.

CHAPTER 2—PROVISIONS RELATING TO PART B

Subchapter A—Payment for Hospital Outpatient Department Services

SEC. 5311. ELIMINATION OF FORMULA-DRIVEN OVERPAYMENTS (FDO) FOR CERTAIN OUTPATIENT HOSPITAL SERVICES.

(a) ELIMINATION OF FDO FOR AMBULATORY SURGICAL CENTER PROCEDURES.—Section 1833(i)(3)(B)(i)(II) (42 U.S.C. 1395l(i)(3)(B)(i)(II)) is amended—

(1) by striking ''of 80 percent''; and

(2) by striking the period at the end and inserting the following: '', less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A).''.

(b) ELIMINATION OF FDO FOR RADIOLOGY SERVICES AND DIAGNOSTIC PROCEDURES.—Section 1833(n)(1)(B)(i) (42 U.S.C. 1395l(n)(1)(B)(i)) is amended—

(1) by striking ''of 80 percent'', and

(2) by inserting before the period at the end the following: ", less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished during portions of cost reporting periods occurring on or after October 1, 1997.

SEC. 5312. EXTENSION OF REDUCTIONS IN PAYMENTS FOR COSTS OF HOSPITAL OUTPATIENT SERVICES.

(a) REDUCTION IN PAYMENTS FOR CAPITAL-RELATED COSTS.—Section 1861(v)(1)(S)(ii)(I) (42 U.S.C. 1395x(v)(1)(S)(ii)(I)) is amended by striking "through 1998" and inserting "through 1999 and during fiscal year 2000 before January 1, 2000".

(b) REDUCTION IN PAYMENTS FOR OTHER COSTS.—Section 1861(v)(1)(S)(ii)(II) (42 U.S.C. 1395x(v)(1)(S)(ii)(II)) is amended by striking "through 1998" and inserting "through 1999 and during fiscal year 2000 before January 1, 2000".

SEC. 5313. PROSPECTIVE PAYMENT SYSTEM FOR HOSPITAL OUTPATIENT DEPARTMENT SERVICES.

(a) IN GENERAL.—Section 1833 (42 U.S.C. 1395l) is amended by adding at the end the following:

"(t) PROSPECTIVE PAYMENT SYSTEM FOR HOSPITAL OUTPATIENT DEPARTMENT SERVICES.—

"(1) IN GENERAL.—With respect to hospital outpatient services designated by the Secretary (in this section referred to as 'covered OPD services') and furnished during a year beginning with 1999, the amount of payment under this part shall be determined under a prospective payment system established by the Secretary in accordance with this subsection.

"(2) SYSTEM REQUIREMENTS.—Under the payment system—

"(A) the Secretary shall develop a classification system for covered OPD services;

"(B) the Secretary may establish groups of covered OPD services, within the classification system described in subparagraph (A), so that services classified within each group are comparable clinically and with respect to the use of resources;

"(C) the Secretary shall, using data on claims from 1997 and using data from the most recent available cost reports, establish relative payment weights for covered OPD services (and any groups of such services described in subparagraph (B)) based on median hospital costs and shall determine projections of the frequency of utilization of each such service (or group of services) in 1999;

"(D) the Secretary shall determine a wage adjustment factor to adjust the portion of payment and coinsurance attributable to labor-related costs for relative differences in labor and labor-related costs across geographic regions in a budget neutral manner;

"(E) the Secretary shall establish other adjustments as determined to be necessary to ensure equitable payments, such as outlier adjustments or adjustments for certain classes of hospitals; and

"(F) the Secretary shall develop a method for controlling unnecessary increases in the volume of covered OPD services.

"(3) CALCULATION OF BASE AMOUNTS.—

"(A) AGGREGATE AMOUNTS THAT WOULD BE PAYABLE IF DEDUCTIBLES WERE DISREGARDED.—The Secretary shall estimate the total amounts that would be payable from the Trust Fund under this part for covered OPD services in 1999, determined without regard to this subsection, as though the deductible under section 1833(b) did not apply, and as though the coinsurance described in section 1866(a)(2)(A)(ii) (as in effect before the date of the enactment of this subsection) continued to apply.

"(B) UNADJUSTED COPAYMENT AMOUNT.—

"(i) IN GENERAL.—For purposes of this subsection, subject to clause (ii), the 'unadjusted copayment amount' applicable to a covered OPD service (or group of such services) is 20 percent of the national median of the charges for the service (or services within the group) furnished during 1997, updated to 1999 using the Secretary's estimate of charge growth during the period.

"(ii) ADJUSTMENTS WHEN FULLY PHASED IN.—If the pre-deductible payment percentage for a covered OPD service (or group of such services) furnished in a year would be equal to or exceed 80 percent, then the unadjusted copayment amount shall be 25 percent of amount determined under subparagraph (D)(i).

"(iii) RULES FOR NEW SERVICES.—The Secretary shall establish rules for establishment of an unadjusted copayment amount for a covered OPD service not furnished during 1997, based upon its classification within a group of such services.

"(C) CALCULATION OF CONVERSION FACTORS.—

"(i) FOR 1999.—

"(I) IN GENERAL.—The Secretary shall establish a 1999 conversion factor for determining the medicare pre-deductible OPD fee payment amounts for each covered OPD service (or group of such services) furnished in 1999. Such conversion factor shall be established—

"(aa) on the basis of the weights and frequencies described in paragraph (2)(C), and

"(bb) in such manner that the sum of the products determined under subclause (II) for each service or group equals the total project amount described in subparagraph (A).

"(II) PRODUCT.—The Secretary shall determine for each service or group the product of the medicare pre-deductible OPD fee payment amount (taking into account appropriate adjustments described in paragraphs (2)(D) and (2)(E)) and the frequencies for such service or group.

"(ii) SUBSEQUENT YEARS.—Subject to paragraph (8)(B), the Secretary shall establish a conversion factor for covered OPD services furnished in subsequent years in an amount equal to the conversion factor established under this subparagraph and applicable to such services furnished in the previous year increased by the OPD payment increase factor specified under clause (iii) for the year involved.

"(iii) OPD PAYMENT INCREASE FACTOR.—For purposes of this subparagraph, the 'OPD payment increase factor' for services furnished in a year is equal to the sum of—

"(I) the market basket percentage increase applicable under section 1886(b)(3)(B)(iii) to hospital discharges occurring during the fiscal year ending in such year, plus

"(II) in the case of a covered OPD service (or group of such services) furnished in a year in which the pre-deductible payment percentage would not exceed 80 percent, 3.5 percentage points.

In applying the previous sentence for years beginning with 2000, the Secretary may substitute for the market basket percentage increase under subclause (I) an annual percentage increase that is computed and applied with respect to covered OPD services furnished in a year in the same manner as the market basket percentage increase is determined and applied to inpatient hospital services for discharges occurring in a fiscal year.

"(D) PRE-DEDUCTIBLE PAYMENT PERCENTAGE.—The pre-deductible payment percentage for a covered OPD service (or group of such services) furnished in a year is equal to the ratio of—

"(i) the conversion factor established under subparagraph (C) for the year, multiplied by the weighting factor established under paragraph (2)(C) for the service (or group), to

"(ii) the sum of the amount determined under clause (i) and the unadjusted copayment amount determined under subparagraph (B) for such service or group.

"(E) CALCULATION OF MEDICARE OPD FEE SCHEDULE AMOUNTS.—The Secretary shall compute a medicare OPD fee schedule amount for each covered OPD service (or group of such services) furnished in a year, in an amount equal to the product of—

"(i) the conversion factor computed under subparagraph (C) for the year, and

"(ii) the relative payment weight (determined under paragraph (2)(C)) for the service or group.

"(4) MEDICARE PAYMENT AMOUNT.—The amount of payment made from the Trust Fund under this part for a covered OPD service (and such services classified within a group) furnished in a year is determined as follows:

"(A) FEE SCHEDULE AND COPAYMENT AMOUNT.—Add (i) the medicare OPD fee schedule amount (computed under paragraph (3)(E)) for the service or group and year, and (ii) the unadjusted copayment amount (determined under paragraph (3)(B)) for the service or group.

"(B) SUBTRACT APPLICABLE DEDUCTIBLE.—Reduce the sum under subparagraph (A) by the amount of the deductible under section 1833(b), to the extent applicable.

"(C) APPLY PAYMENT PROPORTION TO REMAINDER.—Multiply the amount determined under subparagraph (B) by the pre-deductible payment percentage (as determined under paragraph (3)(D)) for the service or group and year involved.

"(D) LABOR-RELATED ADJUSTMENT.—The amount of payment is the product determined under subparagraph (C) with the labor-related portion of such product adjusted for relative differences in the cost of labor and other factors determined by the Secretary, as computed under paragraph (2)(D).

"(5) COPAYMENT AMOUNT.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the copayment amount under this subsection is determined as follows:

"(i) UNADJUSTED COPAYMENT.—Compute the amount by which the amount described in paragraph (4)(B) exceeds the amount of payment determined under paragraph (4)(C).

"(ii) LABOR ADJUSTMENT.—The copayment amount is the difference determined under clause (i) with the labor-related portion of such difference adjusted for relative differences in the cost of labor and other factors determined by the Secretary, as computed under paragraphs (2)(D). The adjustment under this clause shall be made in a manner that does not result in any change in the aggregate copayments made in any year if the adjustment had not been made.

"(B) ELECTION TO OFFER REDUCED COPAYMENT AMOUNT.—The Secretary shall establish a procedure under which a hospital, before the beginning of a year (beginning with 1999), may elect to reduce the copayment amount otherwise established under subparagraph (A) for some or all covered OPD services to an amount that is not less than 25 percent of the medicare OPD fee schedule amount (computed under paragraph (3)(E)) for the service involved, adjusted for relative differences in the cost of labor and other factors determined by the Secretary, as computed under subparagraphs (D) and (E) of paragraph (2). Under such procedures, such reduced copayment amount may not be further reduced or increased during the year involved and the hospital may disseminate information on the reduction of copayment amount effected under this subparagraph.

"(C) NO IMPACT ON DEDUCTIBLES.—Nothing in this paragraph shall be construed as affecting a hospital's authority to waive the charging of a deductible under section 1833(b).

"(6) PERIODIC REVIEW AND ADJUSTMENTS COMPONENTS OF PROSPECTIVE PAYMENT SYSTEM.—

"(A) PERIODIC REVIEW.—The Secretary may periodically review and revise the groups, the relative payment weights, and the wage and other adjustments described in paragraph (2) to take into account changes in medical practice, changes in technology, the addition of new services, new cost data, and other relevant information and factors.

"(B) BUDGET NEUTRALITY ADJUSTMENT.—If the Secretary makes adjustments under subparagraph (A), then the adjustments for a year may not cause the estimated amount of expenditures under this part for the year to increase or decrease from the estimated amount of expenditures under this part that would have been made if the adjustments had not been made.

"(C) UPDATE FACTOR.—If the Secretary determines under methodologies described in subparagraph (2)(F) that the volume of services paid for under this subsection increased beyond amounts established through those methodologies, the Secretary may appropriately adjust the update to the conversion factor otherwise applicable in a subsequent year.

"(7) SPECIAL RULE FOR AMBULANCE SERVICES.—The Secretary shall pay for hospital outpatient services that are ambulance services on the basis described in the matter in subsection (a)(1) preceding subparagraph (A).

"(8) SPECIAL RULES FOR CERTAIN HOSPITALS.—In the case of hospitals described in section 1886(d)(1)(B)(v)—

"(A) the system under this subsection shall not apply to covered OPD services furnished before January 1, 2000; and

"(B) the Secretary may establish a separate conversion factor for such services in a manner that specifically takes into account the unique costs incurred by such hospitals by virtue of their patient population and service intensity.

"(9) LIMITATION ON REVIEW.—There shall be no administrative or judicial review under section 1869, 1878, or otherwise of—

"(A) the development of the classification system under paragraph (2), including the establishment of groups and relative payment weights for covered OPD services, of wage adjustment factors, other adjustments, and methods described in paragraph (2)(F);

"(B) the calculation of base amounts under paragraph (3);

"(C) periodic adjustments made under paragraph (6); and

"(D) the establishment of a separate conversion factor under paragraph (8)(B).".

(b) COINSURANCE.—Section 1866(a)(2)(A)(ii) (42 U.S.C. 1395cc(a)(2)(A)(ii)) is amended by adding at the end the following: "In the case of items and services for which payment is made under part B under the prospective payment system established under section 1833(t), clause (ii) of the first sentence shall be applied by substituting for 20 percent of the reasonable charge, the applicable copayment amount established under section 1833(t)(5).".

(c) TREATMENT OF REDUCTION IN COPAYMENT AMOUNT.—Section 1128A(i)(6) (42 U.S.C. 1320a–7a(i)(6)) is amended—

(1) by striking "or" at the end of subparagraph (B),

(2) by striking the period at the end of subparagraph (C) and inserting "; or", and

(3) by adding at the end the following new subparagraph:

"(D) a reduction in the copayment amount for covered OPD services under section 1833(t)(5)(B).".

(d) CONFORMING AMENDMENTS.—

(1) APPROVED ASC PROCEDURES PERFORMED IN HOSPITAL OUTPATIENT DEPARTMENTS.—

(A)(i) Section 1833(i)(3)(A) (42 U.S.C. 1395l(i)(3)(A)) is amended—

(I) by inserting "before January 1, 1999" after "furnished", and

(II) by striking "in a cost reporting period".

(ii) The amendment made by clause (i) shall apply to services furnished on or after January 1, 1999.

(B) Section 1833(a)(4) (42 U.S.C. 1395l(a)(4)) is amended by inserting "or subsection (t)" before the semicolon.

(2) RADIOLOGY AND OTHER DIAGNOSTIC PROCEDURES.—

(A) Section 1833(n)(1)(A) (42 U.S.C. 1395l(n)(1)(A)) is amended by inserting "and before January 1, 1999" after "October 1, 1988," and after "October 1, 1989,".

(B) Section 1833(a)(2)(E) (42 U.S.C. 1395l(a)(2)(E)) is amended by inserting "or , for services or procedures performed on or after January 1, 1999, subsection (t)" before the semicolon.

(3) OTHER HOSPITAL OUTPATIENT SERVICES.—Section 1833(a)(2)(B) (42 U.S.C. 1395l(a)(2)(B)) is amended—

(A) in clause (i), by inserting "furnished before January 1, 1999," after "(i)",

(B) in clause (ii), by inserting "before January 1, 1999," after "furnished",

(C) by redesignating clause (iii) as clause (iv), and

(D) by inserting after clause (ii), the following new clause:

"(iii) if such services are furnished on or after January 1, 1999, the amount determined under subsection (t), or".

Subchapter B—Ambulance Services

SEC. 5321. PAYMENTS FOR AMBULANCE SERVICES.

(a) INTERIM REDUCTIONS.—

(1) PAYMENTS DETERMINED ON REASONABLE COST BASIS.—Section 1861(v)(1) (42 U.S.C. 1395x(v)(1)) is amended by adding at the end the following new subparagraph:

"(V) In determining the reasonable cost of ambulance services (as described in subsection (s)(7)) provided during a fiscal year (beginning with fiscal year 1998 and ending with fiscal year 2002), the Secretary shall not recognize any costs in excess of costs recognized as reasonable for ambulance services provided during the previous fiscal year (after application of this subparagraph), increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) as estimated by the Secretary for the 12-month period ending with the midpoint of the fiscal year involved reduced in the case of fiscal year 1998 by 1.0 percentage point.".

(2) PAYMENTS DETERMINED ON REASONABLE CHARGE BASIS.—Section 1842(b) (42 U.S.C. 1395u(b)) is amended by adding at the end the following new paragraph:

"(19) For purposes of section 1833(a)(1), the reasonable charge for ambulance services (as described in section 1861(s)(7)) provided during a fiscal year (beginning with fiscal year 1998 and ending with fiscal year 2002) may not exceed the reasonable charge for such services provided during the previous fiscal year (after application of this paragraph), increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) as estimated by the Secretary for the 12-month period ending with the midpoint of the year involved reduced in the case of fiscal year 1998 by 1.0 percentage point.".

(b) ESTABLISHMENT OF PROSPECTIVE FEE SCHEDULE.—

(1) PAYMENT IN ACCORDANCE WITH FEE SCHEDULE.—Section 1833(a)(1) (42 U.S.C. 1395l(a)(1)) is amended—

(A) by striking "and (P)" and inserting "(P)"; and

(B) by striking the semicolon at the end and inserting the following: ", and (Q) with respect to ambulance service, the amounts paid shall be 80 percent of the lesser of the actual charge for the services or the amount determined by a fee schedule established by the Secretary under section 1834(k);".

(2) ESTABLISHMENT OF SCHEDULE.—Section 1834 (42 U.S.C. 1395m) is amended by adding at the end the following new subsection:

"(k) ESTABLISHMENT OF FEE SCHEDULE FOR AMBULANCE SERVICES.—

"(1) IN GENERAL.—The Secretary shall establish a fee schedule for payment for ambulance services under this part through a negotiated rulemaking process described in title 5, United States Code, and in accordance with the requirements of this subsection.

"(2) CONSIDERATIONS.—In establishing such fee schedule, the Secretary shall—

"(A) establish mechanisms to control increases in expenditures for ambulance services under this part;

"(B) establish definitions for ambulance services which link payments to the type of services provided;

"(C) consider appropriate regional and operational differences;

"(D) consider adjustments to payment rates to account for inflation and other relevant factors; and

"(E) phase in the application of the payment rates under the fee schedule in an efficient and fair manner.

"(3) SAVINGS.—In establishing such fee schedule, the Secretary shall—

"(A) ensure that the aggregate amount of payments made for ambulance services under this part during 1999 does not exceed the aggregate amount of payments which would have been made for such services under this part during such year if the amendments made by section 5321 of the Balanced Budget Act of 1997 had not been made; and

"(B) set the payment amounts provided under the fee schedule for services furnished in 2000 and each subsequent year at amounts equal to the payment amounts under the fee schedule for service furnished during the previous year, increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of the previous year reduced (but not below zero) by 1.0 percentage points.

"(4) CONSULTATION.—In establishing the fee schedule for ambulance services under this subsection, the Secretary shall consult with various national organizations representing individuals and entities who furnish and regulate ambulance services and share with such organizations relevant data in establishing such schedule.

"(5) LIMITATION ON REVIEW.—There shall be no administrative or judicial review under section 1869 or otherwise of the amounts established under the fee schedule for ambulance services under this subsection, including matters described in paragraph (2).

"(6) RESTRAINT ON BILLING.—The provisions of subparagraphs (A) and (B) of section 1842(b)(18) shall apply to ambulance services for which payment is made under this subsection in the same manner as they apply to services provided by a practitioner described in section 1842(b)(18)(C).".

(3) EFFECTIVE DATE.—The amendments made by this section apply to ambulance services furnished on or after January 1, 1999.

(c) AUTHORIZING PAYMENT FOR PARAMEDIC INTERCEPT SERVICE PROVIDERS IN RURAL COMMUNITIES.—In promulgating regulations to carry out section 1861(s)(7) of the Social Security Act (42 U.S.C. 1395x(s)(7)) with respect to the coverage of ambulance service, the Secretary of Health and Human Services may include coverage of advanced life support services (in this subsection referred to as "ALS intercept services") provided by a paramedic intercept service provider in a rural area if the following conditions are met:

(1) The ALS intercept services are provided under a contract with one or more volunteer ambulance services and are medically necessary based on the health condition of the individual being transported.

(2) The volunteer ambulance service involved—

(A) is certified as qualified to provide ambulance service for purposes of such section,

(B) provides only basic life support services at the time of the intercept, and

(C) is prohibited by State law from billing for any services.

(3) The entity supplying the ALS intercept services—

(A) is certified as qualified to provide such services under the medicare program under title XVIII of the Social Security Act, and

(B) bills all recipients who receive ALS intercept services from the entity, regardless of whether or not such recipients are medicare beneficiaries.

CHAPTER 3—PROVISIONS RELATING TO PARTS A AND B

Subchapter A—Payments to Skilled Nursing Facilities

SEC. 5331. EXTENSION OF COST LIMITS.

The last sentence of section 1888(a) (42 U.S.C. 1395yy(a)) is amended by striking "subsection" the last place it appears and all that follows and inserting "subsection, except that the limits effective for cost reporting periods beginning on or after October 1, 1997, shall be based on the limits effective for cost reporting periods beginning on or after October 1, 1996.".

SEC. 5332. PROSPECTIVE PAYMENT FOR SKILLED NURSING FACILITY SERVICES.

(a) IN GENERAL.—Section 1888 (42 U.S.C. 1395yy) is amended by adding at the end the following new subsection:

"(e) PROSPECTIVE PAYMENT.—

"(1) PAYMENT PROVISION.—Notwithstanding any other provision of this title, subject to paragraph (7), the amount of the payment for all costs (as defined in paragraph (2)(B)) of covered skilled nursing facility services (as defined in paragraph (2)(A)) for each day of such services furnished—

"(A) in a cost reporting period during the transition period (as defined in paragraph (2)(E)), is equal to the sum of—

"(i) the non-Federal percentage of the facility-specific per diem rate (computed under paragraph (3)), and

"(ii) the Federal percentage of the adjusted Federal per diem rate (determined under paragraph (4)) applicable to the facility; and

"(B) after the transition period is equal to the adjusted Federal per diem rate applicable to the facility.

"(2) DEFINITIONS.—For purposes of this subsection:

"(A) COVERED SKILLED NURSING FACILITY SERVICES.—

"(i) IN GENERAL.—The term 'covered skilled nursing facility services'—

"(I) means post-hospital extended care services as defined in section 1861(i) for which benefits are provided under part A; and

"(II) includes all items and services (other than services described in clause (ii)) for which payment may be made under part B and which are furnished to an individual who is a resident of a skilled nursing facility during the period in which the individual is provided covered post-hospital extended care services.

"(ii) SERVICES EXCLUDED.—Services described in this clause are physicians' services, services described by clauses (i) through (iii) of section 1861(s)(2)(K), certified nurse-midwife services, qualified psychologist services, services of a certified registered nurse anesthetist, items and services described in subparagraphs in (F) and (O) of section 1861(s)(2), and, only with respect to services furnished during 1998, the transportation costs of electrocardiogram equipment for electrocardiogram tests services (HCPCS Code R0076). Services described in this clause do not include any physical, occupational, or speech-language therapy services regardless of whether or not the services are furnished by, or under the supervision of, a physician or other health care professional.

"(B) ALL COSTS.—The term 'all costs' means routine service costs, ancillary costs, and capital-related costs of covered skilled nursing facility services, but does not include costs associated with approved educational activities.

"(C) NON-FEDERAL PERCENTAGE; FEDERAL PERCENTAGE.—For—

"(i) the first cost reporting period (as defined in subparagraph (D)) of a facility, the 'non-Federal percentage' is 75 percent and the 'Federal percentage' is 25 percent;

"(ii) the next cost reporting period of such facility, the 'non-Federal percentage' is 50 percent and the 'Federal percentage' is 50 percent; and

"(iii) the subsequent cost reporting period of such facility, the 'non-Federal percentage' is 25 percent and the 'Federal percentage' is 75 percent.

"(D) FIRST COST REPORTING PERIOD.—The term 'first cost reporting period' means, with respect to a skilled nursing facility, the first cost reporting period of the facility beginning on or after July 1, 1998.

"(E) TRANSITION PERIOD.—

"(i) IN GENERAL.—The term 'transition period' means, with respect to a skilled nursing facility, the 3 cost reporting periods of the facility beginning with the first cost reporting period.

"(ii) TREATMENT OF NEW SKILLED NURSING FACILITIES.—In the case of a skilled nursing facility that does not have a settled cost report for a cost reporting period before July 1, 1998, payment for such services shall be made under this subsection as if all services were furnished after the transition period.

"(3) DETERMINATION OF FACILITY SPECIFIC PER DIEM RATES.—The Secretary shall determine a facility-specific per diem rate for each skilled nursing facility for a cost reporting period as follows:

"(A) DETERMINING BASE PAYMENTS.—The Secretary shall determine, on a per diem basis, the total of—

"(i) the allowable costs of extended care services for the facility for cost reporting periods beginning in 1995 with appropriate adjustments (as determined by the Secretary) to non-settled cost reports, and

"(ii) an estimate of the amounts that would be payable under part B (disregarding any applicable deductibles, coinsurance and copayments) for covered skilled nursing facility services described in paragraph (2)(A)(i)(II) furnished during such period to an individual who is a resident of the facility, regardless of whether or not the payment was made to the facility or to another entity.

"(B) UPDATE TO COST REPORTING PERIODS THROUGH 1998.—The Secretary shall update the amount determined under subparagraph (A), for each cost reporting period after the cost reporting period described in subparagraph (A)(i) and up to the first cost reporting period by a factor equal to the skilled nursing facility market basket percentage increase.

"(C) UPDATING TO APPLICABLE COST REPORTING PERIOD.—The Secretary shall further update such amount for each cost reporting period beginning with the first cost reporting period and up to and including the cost reporting period involved by a factor equal to the skilled nursing facility market basket percentage increase.

"(D) CERTAIN DEMONSTRATION PROJECTS.—In the case of a facility participating in the Nursing Home Case-Mix and Quality Demonstration (RUGS–III), the Secretary shall determine the facility specific per diem rate for any year after 1997 by computing the base period payments by using the RUGS–III rate received by the facility for 1997, increased by a factor equal to the skilled nursing facility market basket percentage increase.

"(4) FEDERAL PER DIEM RATE.—

"(A) DETERMINATION OF HISTORICAL PER DIEM FOR FACILITIES.—For each skilled nursing facility that received payments for post-hospital extended care services during a cost reporting period beginning in fiscal year 1995 and that was subject to (and not exempted from) the per diem limits referred to in paragraph (1) or (2) of subsection (a) (and facilities described in subsection (d)), the Secretary shall estimate, on a per diem basis for such cost reporting period, the total of—

"(i) subject to subparagraph (I), the allowable costs of extended care services for the facility for cost reporting periods beginning in 1995 with appropriate adjustments (as determined by the Secretary) to non-settled cost reports, and

"(ii) an estimate of the amounts that would be payable under part B (disregarding any applicable deductibles, coinsurance and copayments) for covered skilled nursing facility services described in paragraph (2)(A)(i)(II) furnished during such period to an individual who is a resident of the facility, regardless of whether or not the payment was made to the facility or to another entity.

"(B) UPDATE TO COST REPORTING PERIODS THROUGH 1998.—The Secretary shall update the amount determined under subparagraph (A), for each cost reporting period after the cost reporting period described in subparagraph (A)(i) and up to the first cost reporting period by a factor equal to the skilled nursing facility market basket percentage increase reduced (on an annualized basis) by 1 percentage point.

"(C) COMPUTATION OF STANDARDIZED PER DIEM RATE.—The Secretary shall standardize the amount updated under subparagraph (B) for each facility by—

"(i) adjusting for variations among facility by area in the average facility wage level per diem, and

"(ii) adjusting for variations in case mix per diem among facilities.

"(D) COMPUTATION OF WEIGHTED AVERAGE PER DIEM RATE.—The Secretary shall compute a weighted average per diem rate by computing an average of the standardized amounts computed under subparagraph (C), weighted for each facility by the number of days of extended care services furnished during the cost reporting period referred to in subparagraph (A). The Secretary may compute and apply such average separately for facilities located in urban and rural areas (as defined in section 1886(d)(2)(D)).

"(E) UPDATING.—

"(i) FISCAL YEAR 1999.—For fiscal year 1999, the Secretary shall compute for each skilled nursing facility an unadjusted Federal per diem rate equal to the weighted average per diem rate computed under subparagraph (D) and applicable to the facility increased by skilled nursing facility market basket percentage change for the fiscal year involved.

"(ii) SUBSEQUENT FISCAL YEARS.—For each subsequent fiscal year the Secretary shall compute for each skilled nursing facility an unadjusted Federal per diem rate equal to the Federal per diem rate computed under this subparagraph for the previous fiscal year and applicable to the facility increased by the skilled nursing facility market basket percentage change for the fiscal year involved.

"(F) ADJUSTMENT FOR CASE MIX CREEP.—Insofar as the Secretary determines that such adjustments under subparagraph (G)(i) for a previous fiscal year (or estimates that such adjustments for a future fiscal year) did (or are likely to) result in a change in aggregate payments under this subsection during the fiscal year that are a result of changes in the coding or classification of residents that do not reflect real changes in case mix, the Secretary may adjust unadjusted Federal per diem rates for subsequent years so as to discount the effect of such coding or classification changes.

"(G) APPLICATION TO SPECIFIC FACILITIES.—The Secretary shall compute for each skilled nursing facility for each fiscal year (beginning with fiscal year 1998) an adjusted Federal per diem rate equal to the unadjusted Federal per diem rate determined under subparagraph (E), as adjusted under subparagraph (F), and as further adjusted as follows:

"(i) ADJUSTMENT FOR CASE MIX.—The Secretary shall provide for an appropriate adjustment to account for case mix. Such adjustment shall be based on a resident classification system, established by the Secretary, that accounts for the relative resource utilization of different patient types. The case mix adjustment shall be based on resident assessment data and other data that the Secretary considers appropriate.

"(ii) ADJUSTMENT FOR GEOGRAPHIC VARIATIONS IN LABOR COSTS.—The Secretary shall adjust the portion of such per diem rate attributable to wages and wage-related costs for the area in which the facility is located compared to the national average of such costs using an appropriate wage index as determined by the Secretary. Such adjustment shall be done in a manner that does not result in aggregate payments under this subsection that are greater or less than those that would otherwise be made if such adjustment had not been made.

"(H) PUBLICATION OF INFORMATION ON PER DIEM RATES.—The Secretary shall provide for publication in the Federal Register, before the July 1 preceding each fiscal year (beginning with fiscal year 1999), of—

"(i) the unadjusted Federal per diem rates to be applied to days of covered skilled nursing facility services furnished during the fiscal year,

"(ii) the case mix classification system to be applied under subparagraph (G)(i) with respect to such services during the fiscal year, and

"(iii) the factors to be applied in making the area wage adjustment under subparagraph (G)(ii) with respect to such services.

"(I) EXCLUSION OF EXCEPTION PAYMENTS FROM DETERMINATION OF HISTORICAL PER DIEM.—In determining allowable costs under subparagraph (A)(i), the Secretary shall not take into account any payments described in subsection (c).

"(5) SKILLED NURSING FACILITY MARKET BASKET INDEX AND PERCENTAGE.—For purposes of this subsection:

"(A) SKILLED NURSING FACILITY MARKET BASKET INDEX.—The Secretary shall establish a skilled nursing facility market basket index that reflects changes over time in the prices of an appropriate mix of goods and services included in covered skilled nursing facility services.

"(B) SKILLED NURSING FACILITY MARKET BASKET PERCENTAGE.—The term 'skilled nursing facility market basket percentage' means, for a fiscal year or other annual period and as calculated by the Secretary, the percentage change in the skilled nursing facility market basket index (established under subparagraph (A)) from the midpoint of the prior fiscal year (or period) to the midpoint of the fiscal year (or other period) involved.

"(6) SUBMISSION OF RESIDENT ASSESSMENT DATA.—A skilled nursing facility shall provide the Secretary, in a manner and within the timeframes prescribed by the Secretary, the resident assessment data necessary to develop and implement the rates under this subsection. For purposes of meeting such requirement, a skilled nursing facility may submit the resident assessment data required under section 1819(b)(3), using the standard instrument designated by the State under section 1819(e)(5).

"(7) TRANSITION FOR MEDICARE SWING BED HOSPITALS.—

"(A) IN GENERAL.—The Secretary shall determine an appropriate manner in which to apply this subsection to the facilities described in subparagraph (B), taking into account the purposes of this subsection, and shall provide that at the end of the transition period (as defined in paragraph (2)(E)) such facilities shall be paid only under this subsection. Payment shall not be made under this subsection to such facilities for cost reporting periods beginning before such date (not earlier than July 1, 1999) as the Secretary specifies.

"(B) FACILITIES DESCRIBED.—The facilities described in this subparagraph are facilities that have in effect an agreement described in section 1883, for which payment is made for the furnishing of extended care services on a reasonable cost basis under section 1814(l) (as in effect on and after such date).

"(8) LIMITATION ON REVIEW.—There shall be no administrative or judicial review under section 1869, 1878, or otherwise of—

"(A) the establishment of Federal per diem rates under paragraph (4), including the computation of the standardized per diem rates under paragraph (4)(C), adjustments and corrections for case mix under paragraphs (4)(F) and (4)(G)(i), and adjustments for variations in labor-related costs under paragraph (4)(G)(ii); and

"(B) the establishment of transitional amounts under paragraph (7).".

(b) CONSOLIDATED BILLING.—

(1) FOR SNF SERVICES.—Section 1862(a) (42 U.S.C. 1395y(a)) is amended—

(A) by striking "or" at the end of paragraph (15),

(B) by striking the period at the end of paragraph (16) and inserting "; or", and

(C) by inserting after paragraph (16) the following new paragraph:

"(17) which are covered skilled nursing facility services described in section 1888(e)(2)(A)(i)(II) and which are furnished to an individual who is a resident of a skilled nursing facility by an entity other than the skilled nursing facility, unless the services are furnished under arrangements (as defined in section 1861(w)(1)) with the entity made by the skilled nursing facility, or such services are furnished by a physician described in section 1861(r)(1).".

(2) REQUIRING PAYMENT FOR ALL PART B ITEMS AND SERVICES TO BE MADE TO FACILITY.—The first sentence of section 1842(b)(6) (42 U.S.C. 1395u(b)(6)) is amended—

(A) by striking "and (D)" and inserting "(D)"; and

(B) by striking the period at the end and inserting the following: ", and (E) in the case of an item or service (other than services described in section 1888(e)(2)(A)(ii)) furnished to an individual who (at the time the item or service is furnished) is a resident of a skilled nursing facility, payment shall be made to the facility (without regard to whether or not the item or service was furnished by the facility, by others under arrangement with them made by the facility, under any other contracting or consulting arrangement, or otherwise).".

(3) PAYMENT RULES.—Section 1888(e) (42 U.S.C. 1395yy(e)), as added by subsection (a), is amended by adding at the end the following:

"(9) PAYMENT FOR CERTAIN SERVICES.—

"(A) IN GENERAL.—In the case of an item or service furnished by a skilled nursing facility (or by others under arrangement with them made by a skilled nursing facility or under any other contracting or consulting arrangement or otherwise) for which payment would otherwise (but for this paragraph) be made under part B in an amount determined in accordance with section 1833(a)(2)(B), the amount of the payment under such part shall be based on the part B methodology applicable to the item or service, except that for items and services that would be included in a facility's cost report if not for this section, the facility may continue to use a cost report for reimbursement purposes until the prospective payment system established under this section is implemented.

"(B) THERAPY AND PATHOLOGY SERVICES.—Payment for physical therapy, occupational therapy, respiratory therapy, and speech language pathology services shall reflect new salary equivalency guidelines calculated pursuant to section 1861(v)(5) when finalized through the regulatory process.

"(10) REQUIRED CODING.—No payment may be made under part B for items and services (other than services described in paragraph (2)(A)(ii)) furnished to an individual who is a resident of a skilled nursing facility unless the claim for such payment includes a code (or codes) under a uniform coding system specified by the Secretary that identifies the items or services delivered.".

(4) CONFORMING AMENDMENTS.—

(A) Section 1819(b)(3)(C)(i) (42 U.S.C. 1395i–3(b)(3)(C)(i)) is amended by striking "Such" and inserting "Subject to the timeframes prescribed by the Secretary under section 1888(t)(6), such".

(B) Section 1832(a)(1) (42 U.S.C. 1395k(a)(1)) is amended by striking "(2);" and inserting "(2) and section 1842(b)(6)(E);".

(C) Section 1833(a)(2)(B) (42 U.S.C. 1395l(a)(2)(B)) is amended by inserting "or section 1888(e)(9)" after "section 1886".

(D) Section 1861(h) (42 U.S.C 1395x(h)) is amended—

(i) in the opening paragraph, by striking "paragraphs (3) and (6)" and inserting "paragraphs (3), (6), and (7)", and

(ii) in paragraph (7), after "skilled nursing facilities", by inserting ", or by others under arrangements with them made by the facility".

(E) Section 1866(a)(1)(H) (42 U.S.C. 1395cc(a)(1)(H)) is amended—

(i) by redesignating clauses (i) and (ii) as subclauses (I) and (II) respectively,

(ii) by inserting "(i)" after "(H)", and

(iii) by adding after clause (i), as so redesignated, the following new clause:

"(ii) in the case of skilled nursing facilities which provide covered skilled nursing facility services—

"(I) that are furnished to an individual who is a resident of the skilled nursing facility, and

"(II) for which the individual is entitled to have payment made under this title,

to have items and services (other than services described in section 1888(e)(2)(A)(ii)) furnished by the skilled nursing facility or otherwise under arrangements (as defined in section 1861(w)(1)) made by the skilled nursing facility,".

(c) MEDICAL REVIEW PROCESS.—In order to ensure that medicare beneficiaries are furnished appropriate services in skilled nursing facilities, the Secretary of Health and Human Services shall establish and implement a thorough medical review process to examine the effects of the amendments made by this section on the quality of covered skilled nursing facility services furnished to medicare beneficiaries. In developing such a medical review process, the Secretary shall place a particular emphasis on the quality of non-routine covered services and physicians' services for which payment is made under title XVIII of the Social Security Act for which payment is made under section 1848 of such Act.

(d) EFFECTIVE DATE.—The amendments made by this section are effective for cost reporting periods beginning on or after July 1, 1998; except that the amendments made by subsection (b) shall apply to items and services furnished on or after July 1, 1998.

Subchapter B—Home Health Services and Benefits

PART I—PAYMENTS FOR HOME HEALTH SERVICES

SEC. 5341. RECAPTURING SAVINGS RESULTING FROM TEMPORARY FREEZE ON PAYMENT INCREASES FOR HOME HEALTH SERVICES.

(a) BASING UPDATES TO PER VISIT COST LIMITS ON LIMITS FOR FISCAL YEAR 1993.—Section 1861(v)(1)(L) (42 U.S.C. 1395x(v)(1)(L)) is amended by adding at the end the following:

"(iv) In establishing limits under this subparagraph for cost reporting periods beginning after September 30, 1997, the Secretary shall not take into account any changes in the home health market basket, as determined by the Secretary, with respect to cost reporting periods which began on or after July 1, 1994, and before July 1, 1996.".

(b) NO EXCEPTIONS PERMITTED BASED ON AMENDMENT.—The Secretary of Health and Human Services shall not consider the amendment made by subsection (a) in making any exemptions and exceptions pursuant to section 1861(v)(1)(L)(ii) of the Social Security Act (42 U.S.C. 1395x(v)(1)(L)(ii)).

SEC. 5342. INTERIM PAYMENTS FOR HOME HEALTH SERVICES.

(a) REDUCTIONS IN COST LIMITS.—Section 1861(v)(1)(L)(i) (42 U.S.C. 1395x(v)(1)(L)(i)) is amended—

(1) by moving the indentation of subclauses (I) through (III) 2-ems to the left;

(2) in subclause (I), by inserting "of the mean of the labor-related and nonlabor per visit costs for freestanding home health agencies" before the comma at the end;

(3) in subclause (II), by striking ", or" and inserting "of such mean,";

(4) in subclause (III)—

(A) by inserting "and before October 1, 1997," after "July 1, 1987", and

(B) by striking the period at the end and inserting "of such mean, or"; and

(5) by striking the matter following subclause (III) and inserting the following:

"(IV) October 1, 1997, 105 percent of the median of the labor-related and nonlabor per visit costs for freestanding home health agencies.".

(b) DELAY IN UPDATES.—Section 1861(v)(1)(L)(iii) (42 U.S.C. 1395x(v)(1)(L)(iii)) is amended by inserting ", or on or after July 1, 1997, and before October 1, 1997" after "July 1, 1996".

(c) ADDITIONS TO COST LIMITS.—Section 1861(v)(1)(L) (42 U.S.C. 1395x(v)(1)(L)), as amended by section 5341(a), is amended by adding at the end the following:

"(v) For services furnished by home health agencies for cost reporting periods beginning on or after October 1, 1997, the Secretary shall provide for an interim system of limits. Payment shall be the lower of—

"(I) costs determined under the preceding provisions of this subparagraph, or

"(II) an agency-specific per beneficiary annual limitation calculated from the agency's 12-month cost reporting period ending on or after January 1, 1994, and on or before December 31, 1994, based on reasonable costs (including nonroutine medical supplies), updated by the home health market basket index.

The per beneficiary limitation in subclause (II) shall be multiplied by the agency's unduplicated census count of patients (entitled to benefits under this title) for the cost reporting period subject to the limitation to determine the aggregate agency-specific per beneficiary limitation.

"(vi) For services furnished by home health agencies for cost reporting periods beginning on or after October 1, 1997, the following rules apply:

"(I) For new providers and those providers without a 12-month cost reporting period ending in calendar year 1994, the per beneficiary limitation shall be equal to the median of these limits (or the Secretary's best estimates thereof) applied to other home health agencies as determined by the Secretary. A home health agency that has altered its corporate structure or name shall not be considered a new provider for this purpose.

"(II) For beneficiaries who use services furnished by more than one home health agency, the per beneficiary limitations shall be prorated among the agencies.".

(d) DEVELOPMENT OF CASE MIX SYSTEM.—The Secretary of Health and Human Services shall expand research on a prospective payment system for home health agencies under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) that ties prospective payments to a unit of service, including an intensive effort to develop a reliable case mix adjuster that explains a significant amount of the variances in costs.

(e) SUBMISSION OF DATA FOR CASE MIX SYSTEM.—Effective for cost reporting periods beginning on or after October 1, 1997, the Secretary of Health and Human Services may require all home health agencies to submit additional information that the Secretary considers necessary for the development of a reliable case mix system.

SEC. 5343. PROSPECTIVE PAYMENT FOR HOME HEALTH SERVICES.

(a) IN GENERAL.—Title XVIII (42 U.S.C. 1395 et seq.), as amended by section 5011, is amended by adding at the end the following new section:

"PROSPECTIVE PAYMENT FOR HOME HEALTH SERVICES

"SEC. 1895. (a) IN GENERAL.—Notwithstanding section 1861(v), the Secretary shall provide, for cost reporting periods beginning on or after October 1, 1999, for payments for home health services in accordance with a prospective payment system established by the Secretary under this section.

"(b) SYSTEM OF PROSPECTIVE PAYMENT FOR HOME HEALTH SERVICES.—

"(1) IN GENERAL.—The Secretary shall establish under this subsection a prospective payment system for payment for all costs of home health services. Under the system under this subsection all services covered and paid on a reasonable cost basis under the medicare home health benefit as of the date of the enactment of the this section, including medical supplies, shall be paid for on the basis of a prospective payment amount determined under this subsection and applicable to the services involved. In implementing the system, the Secretary may provide for a transition (of not longer than 4 years) during which a portion of such payment is based on agency-specific costs, but only if such transition does not result in aggregate payments under this title that exceed the aggregate payments that would be made if such a transition did not occur.

"(2) UNIT OF PAYMENT.—In defining a prospective payment amount under the system under this subsection, the Secretary shall consider an appropriate unit of service and the number, type, and duration of visits provided within that unit, potential changes in the mix of services provided within that unit and their cost, and a general system design that provides for continued access to quality services.

"(3) PAYMENT BASIS.—

"(A) INITIAL BASIS.—

"(i) IN GENERAL.—Under such system the Secretary shall provide for computation of a standard prospective payment amount (or amounts). Such amount (or amounts) shall initially be based on the most current audited cost report data available to the Secretary and shall be computed in a manner so that the total amounts payable under the system for fiscal year 2000 shall be equal to the total amount that would have been made if the system had not been in effect but if the reduction in limits described in clause (ii) had been in effect. Such amount shall be standardized in a manner that eliminates the effect of variations in relative case mix and wage levels among different home health agencies in a budget neutral manner consistent with the case mix and wage level adjustments provided under paragraph (4)(A). Under the system, the Secretary may recognize regional differences or differences based upon whether or not the services or agency are in an urbanized area.

"(ii) REDUCTION.—The reduction described in this clause is a reduction by 15 percent in the cost limits and per beneficiary limits described in section 1861(v)(1)(L), as those limits are in effect on September 30, 1999.

"(B) ANNUAL UPDATE.—

"(i) IN GENERAL.—The standard prospective payment amount (or amounts) shall be adjusted for each fiscal year (beginning with fiscal year 2001) in a prospective manner specified by the Secretary by the home health market basket percentage increase applicable to the fiscal year involved.

"(ii) HOME HEALTH MARKET BASKET PERCENTAGE INCREASE.—For purposes of this subsection, the term 'home health market basket percentage increase' means, with respect to a fiscal year, a percentage (estimated by the Secretary before the beginning of the fiscal year) determined and applied with respect to the mix of goods and services included in home health services in the same manner as the market basket percentage increase under section 1886(b)(3)(B)(iii) is determined and applied to the mix of goods and services comprising inpatient hospital services for the fiscal year.

"(C) ADJUSTMENT FOR OUTLIERS.—The Secretary shall reduce the standard prospective payment amount (or amounts) under this paragraph applicable to home health services furnished during a period by such proportion as will result in an aggregate reduction in payments for the period equal to the aggregate increase in payments resulting from the application of paragraph (5) (relating to outliers).

"(4) PAYMENT COMPUTATION.—

"(A) IN GENERAL.—The payment amount for a unit of home health services shall be the applicable standard prospective payment amount adjusted as follows:

"(i) CASE MIX ADJUSTMENT.—The amount shall be adjusted by an appropriate case mix adjustment factor (established under subparagraph (B)).

"(ii) AREA WAGE ADJUSTMENT.—The portion of such amount that the Secretary estimates to be attributable to wages and wage-related costs shall be adjusted for geographic differences in such costs by an area wage adjustment factor (established under subparagraph (C)) for the area in which the services are furnished or such other area as the Secretary may specify.

"(B) ESTABLISHMENT OF CASE MIX ADJUSTMENT FACTORS.—The Secretary shall establish appropriate case mix adjustment factors for home health services in a manner that explains a significant amount of the variation in cost among different units of services.

"(C) ESTABLISHMENT OF AREA WAGE ADJUSTMENT FACTORS.—The Secretary shall establish area wage adjustment factors that reflect the relative level of wages and wage-related costs applicable to the furnishing of home health services in a geographic area compared to the

national average applicable level. Such factors may be the factors used by the Secretary for purposes of section 1886(d)(3)(E).

"(5) Outliers.—The Secretary may provide for an addition or adjustment to the payment amount otherwise made in the case of outliers because of unusual variations in the type or amount of medically necessary care. The total amount of the additional payments or payment adjustments made under this paragraph with respect to a fiscal year may not exceed 5 percent of the total payments projected or estimated to be made based on the prospective payment system under this subsection in that year.

"(6) Proration of prospective payment amounts.—If a beneficiary elects to transfer to, or receive services from, another home health agency within the period covered by the prospective payment amount, the payment shall be prorated between the home health agencies involved.

"(c) Requirements for Payment Information.—With respect to home health services furnished on or after October 1, 1998, no claim for such a service may be paid under this title unless—

"(1) the claim has the unique identifier for the physician who prescribed the services or made the certification described in section 1814(a)(2) or 1835(a)(2)(A); and

"(2) in the case of a service visit described in paragraph (1), (2), (3), or (4) of section 1861(m), the claim has information (coded in an appropriate manner) on the length of time of the service visit, as measured in 15 minute increments.

"(d) Limitation on Review.—There shall be no administrative or judicial review under section 1869, 1878, or otherwise of—

"(1) the establishment of a transition period under subsection (b)(1);

"(2) the definition and application of payment units under subsection (b)(2);

"(3) the computation of initial standard prospective payment amounts under subsection (b)(3)(A) (including the reduction described in clause (ii) of such subsection);

"(4) the adjustment for outliers under subsection (b)(3)(C);

"(5) case mix and area wage adjustments under subsection (b)(4);

"(6) any adjustments for outliers under subsection (b)(5); and

"(7) the amounts or types of exceptions or adjustments under subsection (b)(7).".

(b) Elimination of Periodic Interim Payments for Home Health Agencies.—Section 1815(e)(2) (42 U.S.C. 1395g(e)(2)) is amended—

(1) by inserting "and" at the end of subparagraph (C),

(2) by striking subparagraph (D), and

(3) by redesignating subparagraph (E) as subparagraph (D).

(c) Conforming Amendments.—

(1) Payments under part A.—Section 1814(b) (42 U.S.C. 1395f(b)) is amended in the matter preceding paragraph (1) by striking "and 1886" and inserting "1886, and 1895".

(2) Treatment of items and services paid under part B.—

(A) Payments under part B.—Section 1833(a)(2) (42 U.S.C. 1395l(a)(2)) is amended—

(i) by amending subparagraph (A) to read as follows:

"(A) with respect to home health services (other than a covered osteoporosis drug) (as defined in section 1861(kk)), the amount determined under the prospective payment system under section 1895;";

(ii) by striking "and" at the end of subparagraph (E);

(iii) by adding "and" at the end of subparagraph (F); and

(iv) by adding at the end the following new subparagraph:

"(G) with respect to items and services described in section 1861(s)(10)(A), the lesser of—

"(i) the reasonable cost of such services, as determined under section 1861(v), or

"(ii) the customary charges with respect to such services,

or, if such services are furnished by a public provider of services, or by another provider which demonstrates to the satisfaction of the Secretary that a significant portion of its patients are low-income (and requests that payment be made under this provision), free of charge or at nominal charges to the public, the amount determined in accordance with section 1814(b)(2);".

(B) Requiring payment for all items and services to be made to agency.—

(i) In general.—The first sentence of section 1842(b)(6) (42 U.S.C. 1395u(b)(6)) (as amended by section 5332(b)(2)) is amended—

(I) by striking "and (E)" and inserting "(E)"; and

(II) by striking the period at the end and inserting the following: ", and (F) in the case of home health services furnished to an individual who (at the time the item or service is furnished) is under a plan of care of a home health agency, payment shall be made to the agency (without regard to whether or not the item or service was furnished by the agency, by others under arrangement with them made by the agency, or when any other contracting or consulting arrangement, or otherwise).".

(ii) Conforming amendment.—Section 1832(a)(1) (42 U.S.C. 1395k(a)(1)) (as amended by section 5332(b)(4)(B)) is amended by striking "section 1842(b)(6)(E);" and inserting "subparagraphs (E) and (F) of section 1842(b)(6);".

(C) Exclusions from coverage.—Section 1862(a) (42 U.S.C. 1395y(a)), as amended by section 5332(b)(1), is amended—

(i) by striking "or" at the end of paragraph (16);

(ii) by striking the period at the end of paragraph (17) and inserting "or"; and

(iii) by inserting after paragraph (17) the following:

"(18) where such expenses are for home health services furnished to an individual who is under a plan of care of the home health agency if the claim for payment for such services is not submitted by the agency.".

(d) Effective Date.—Except as otherwise provided, the amendments made by this section shall apply to cost reporting periods beginning on or after October 1, 1999.

(e) Contingency.—If the Secretary of Health and Human Services for any reason does not establish and implement the prospective payment system for home health services described in section 1895(b) of the Social Security Act (as added by subsection (a)) for cost reporting periods described in subsection (d), for such cost reporting periods the Secretary shall provide for a reduction by 15 percent in the cost limits and per beneficiary limits described in section 1861(v)(1)(L) of such Act, as those limits would otherwise be in effect on September 30, 1999.

SEC. 5344. PAYMENT BASED ON LOCATION WHERE HOME HEALTH SERVICE IS FURNISHED.

(a) Conditions of Participation.—Section 1891 (42 U.S.C. 1395bbb) is amended by adding at the end the following:

"(g) Payment on Basis of Location of Service.—A home health agency shall submit claims for payment for home health services under this title only on the basis of the geographic location at which the service is furnished, as determined by the Secretary.".

(b) Wage Adjustment.—Section 1861(v)(1)(L)(iii) (42 U.S.C. 1395x(v)(1)(L)(iii)) is amended by striking "agency is located" and inserting "service is furnished".

(c) Effective Date.—The amendments made by this section apply to cost reporting periods beginning on or after October 1, 1997.

PART II—HOME HEALTH BENEFITS

SEC. 5361. MODIFICATION OF PART A HOME HEALTH BENEFIT FOR INDIVIDUALS ENROLLED UNDER PART B.

(a) In General.—Section 1812 (42 U.S.C. 1395d) is amended—

(1) in subsection (a)(3), by striking "home health services" and inserting "for individuals not enrolled in part B, home health services, and for individuals so enrolled, part A home health services (as defined in subsection (g))";

(2) by redesignating subsection (g) as subsection (h); and

(3) by inserting after subsection (f) the following new subsection:

"(g)(1) For purposes of this section, the term 'part A home health services' means—

"(A) for services furnished during each year beginning with 1998 and ending with 2003, home health services subject to the transition reduction applied under paragraph (2)(C) for services furnished during the year, and

"(B) for services furnished on or after January 1, 2004, post-institutional home health services for up to 100 visits during a home health spell of illness.

"(2) For purposes of paragraph (1)(A), the Secretary shall specify, before the beginning of each year beginning with 1998 and ending with 2003, a transition reduction in the home health services benefit under this part as follows:

"(A) The Secretary first shall estimate the amount of payments that would have been made under this part for home health services furnished during the year if—

"(i) part A home health services were all home health services, and

"(ii) part A home health services were limited to services described in paragraph (1)(B).

"(B)(i) The Secretary next shall compute a transfer reduction amount equal to the appropriate proportion (specified under clause (ii)) of the amount by which the amount estimated under subparagraph (A)(i) for the year exceeds the amount estimated under subparagraph (A)(ii) for the year.

"(ii) For purposes of clause (i), the 'appropriate proportion' is equal to—

"(I) 1/7 for 1998,

"(II) 2/7 for 1999,

"(III) 3/7 for 2000,

"(IV) 4/7 for 2001,

"(V) 5/7 for 2002, and

"(VI) 6/7 for 2003.

"(C) The Secretary shall establish a transition reduction by specifying such a visit limit (during a home health spell of illness) or such a post-institutional limitation on home health services furnished under this part during the year as the Secretary estimates will result in a reduction in the amount of payments that would otherwise be made under this part for home health services furnished during the year equal to the transfer amount computed under subparagraph (B)(i) for the year.

"(3) Payment under this part for home health services furnished an individual enrolled under part B—

"(A) during a year beginning with 1998 and ending with 2003, may not be made for services that are not within the visit limit or other limitation specified by the Secretary under the transition reduction under paragraph (3)(C) for services furnished during the year; or

"(B) on or after January 1, 2004, may not be made for home health services that are not post-institutional home health services or for post-institutional furnished to the individual after such services have been furnished to the individual for a total of 100 visits during a home health spell of illness.".

(b) Post-Institutional Home Health Services Defined.—Section 1861 (42 U.S.C. 1395x), as amended by sections 5102(a) and 5103(a), is amended by adding at the end the following:

"Post-Institutional Home Health Services; Home Health Spell of Illness

"(qq)(1) The term 'post-institutional home health services' means home health services furnished to an individual—

"(A) after discharge from a hospital or rural primary care hospital in which the individual was an inpatient for not less than 3 consecutive days before such discharge if such home health services were initiated within 14 days after the date of such discharge; or

"(B) after discharge from a skilled nursing facility in which the individual was provided post-hospital extended care services if such home health services were initiated within 14 days after the date of such discharge.

"(2) The term 'home health spell of illness' with respect to any individual means a period of consecutive days—

"(A) beginning with the first day (not included in a previous home health spell of illness) (i) on which such individual is furnished post-institutional home health services, and (ii) which occurs in a month for which the individual is entitled to benefits under part A, and

"(B) ending with the close of the first period of 60 consecutive days thereafter on each of which the individual is neither an inpatient of a hospital or rural primary care hospital nor an inpatient of a facility described in section 1819(a)(1) or subsection (y)(1) nor provided home health services.".

(c) Maintaining Appeal Rights for Home Health Services.—Section 1869(b)(2)(B) (42 U.S.C. 1395ff(b)(2)(B)) is amended by inserting "(or $100 in the case of home health services)" after "$500".

(d) Maintaining Seamless Administration Through Fiscal Intermediaries.—Section 1842(b)(2) (42 U.S.C. 1395u(b)(2)) is amended by adding at the end the following:

"(E) With respect to the payment of claims for home health services under this part that, but for the amendments made by section 5361, would be payable under part A instead of under this part, the Secretary shall continue administration of such claims through fiscal intermediaries under section 1816.".

(e) Effective Date.—The amendments made by this section apply to services furnished on or after January 1, 1998. For the purpose of applying such amendments, any home health spell of illness that began, but did not end, before such date shall be considered to have begun as of such date.

SEC. 5362. IMPOSITION OF $5 COPAYMENT FOR PART B HOME HEALTH SERVICES.

(a) In General.—Section 1833(a)(2)(A) (42 U.S.C. 1395l(a)(2)(A)) (as amended by section 5343(c)(2)) is amended by striking "1895" and inserting "1895, less a copayment amount equal to $5 per visit, not to exceed a total annual copayment amount equal to the inpatient hospital deductible determined under section 1813 for the calendar year in which such service is furnished".

(b) Provider Charges.—Section 1866(a)(2)(A)(i) (42 U.S.C. 1395cc(a)(2)(A)(i)) is amended—

(1) by striking "deduction or coinsurance" and inserting "deduction, coinsurance, or copayment"; and

(2) by striking "section 1833(b)" and inserting "subsection (a)(2)(A) or (b) of section 1833".

(c) Effective Date.—The amendments made by this section shall apply to services furnished on or after October 1, 1997.

SEC. 5363. CLARIFICATION OF PART-TIME OR INTERMITTENT NURSING CARE.

(a) In General.—Section 1861(m) (42 U.S.C. 1395x(m)) is amended by adding at the end the following: "For purposes of paragraphs (1) and (4), the term 'part-time or intermittent services' means skilled nursing and home health aide services furnished any number of days per week as long as they are furnished (combined) less than 8 hours each day and 28 or fewer hours each week (or, subject to review on a case-by-case basis as to the need for care, less than 8 hours each day and 35 or fewer hours per week). For purposes of sections 1814(a)(2)(C) and 1835(a)(2)(A), 'intermittent' means skilled nursing care that is either provided or needed on fewer than 7 days each week, or less than 8 hours of each day for periods of 21 days or less (with extensions in exceptional circumstances when the need for additional care is finite and predictable).".

(b) Effective Date.—The amendment made by subsection (a) applies to services furnished on or after October 1, 1997.

SEC. 5364. STUDY ON DEFINITION OF HOMEBOUND.

(a) Study.—The Secretary of Health and Human Services shall conduct a study of the criteria that should be applied, and the method of applying such criteria, in the determination of whether an individual is homebound for purposes of qualifying for receipt of benefits for home health services under the medicare program. Such criteria shall include the extent and circumstances under which a person may be absent from the home but nonetheless qualify.

(b) Report.—Not later than October 1, 1998, the Secretary shall submit a report to the Congress on the study conducted under subsection (a). The report shall include specific recommendations on such criteria and methods.

SEC. 5365. NORMATIVE STANDARDS FOR HOME HEALTH CLAIMS DENIALS.

(a) In General.—Section 1862(a)(1) (42 U.S.C. 1395y(a)(1)), as amended by section 5102(c), is amended—

(1) by striking "and" at the end of subparagraph (F),

(2) by striking the semicolon at the end of subparagraph (G) and inserting ", and", and

(3) by inserting after subparagraph (G) the following new subparagraph:

"(H) the frequency and duration of home health services which are in excess of normative guidelines that the Secretary shall establish by regulation;".

(b) Notification.—The Secretary of Health and Human Services may establish a process for notifying a physician in cases in which the number of home health service visits furnished under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) pursuant to a prescription or certification of the physician significantly exceeds such threshold (or thresholds) as the Secretary specifies. The Secretary may adjust such threshold to reflect demonstrated differences in the need for home health services among different beneficiaries.

(c) Effective Date.—The amendments made by this section apply to services furnished on or after October 1, 1997.

SEC. 5366. INCLUSION OF COST OF SERVICE IN EXPLANATION OF MEDICARE BENEFITS.

(a) In General.—Section 1842(h)(7) of the Social Security Act (42 U.S.C. 1395u(h)(7)) is amended—

(1) in subparagraph (C), by striking "and" at the end;

(2) in subparagraph (D), by striking the period at the end and inserting ", and"; and

(3) by adding at the end the following:

"(E) in the case of home health services furnished to an individual enrolled under this part, the total amount that the home health agency or other provider of such services billed for such services.".

(b) Effective Date.—The amendments made by subsection (a) apply to explanation of benefits provided on and after October 1, 1997.

Subtitle F—Provisions Relating to Part A

CHAPTER 1—PAYMENT OF PPS HOSPITALS

SEC. 5401. PPS HOSPITAL PAYMENT UPDATE.

(a) In General.—Section 1886(b)(3)(B)(i) (42 U.S.C. 1395ww(b)(3)(B)(i)) is amended—

(1) in subclause (XII)—

(A) by inserting "and the period beginning on October 1, 1997, and ending on December 31, 1997," after "fiscal year 1997,"; and

(B) by striking "and" at the end; and

(2) by striking subclause (XIII) and inserting the following:

"(XIII) for calendar year 1998 for hospitals in all areas, the market basket percentage increase minus 2.5 percentage points,

"(XIV) for calendar year 1999 for hospitals in all areas, the market basket percentage increase minus 1.3 percentage points,

"(XV) for calendar years 2000 through 2002 for hospitals in all areas, the market basket percentage increase minus 1.0 percentage points, and

"(XVI) for calendar year 2003 and each subsequent calendar year for hospitals in all areas, the market basket percentage increase.".

(b) Rule of Construction.—Section 1886 (42 U.S.C. 1395ww) is amended by adding at the end the following new subsection:

"(j) PPS Calendar Year Payments.—Notwithstanding any other provision of this title, any updates or payment amounts determined under this section shall on and after December 31, 1998, take effect and be applied on a calendar year basis. With respect to any cost reporting periods that relate to any such updates or payment amounts, the Secretary shall revise such cost reporting periods to ensure that on and after December 31, 1998, such cost reporting periods relate to updates and payment amounts made under this section on a calendar year basis in the same manner as such cost reporting periods applied to updates and payment amounts under this section on the day before the date of enactment of this subsection.".

SEC. 5402. CAPITAL PAYMENTS FOR PPS HOSPITALS.

(a) Maintaining Savings From Temporary Reduction in PPS Capital Rates.—Section 1886(g)(1)(A) (42 U.S.C. 1395ww(g)(1)(A)) is amended by adding at the end the following: "In addition to the reduction described in the preceding sentence, for discharges occurring on or after October 1, 1997, the Secretary shall apply the budget neutrality adjustment factor used to determine the Federal capital payment rate in effect on September 30, 1995 (as described in section 412.352 of title 42 of the Code of Federal Regulations), to (i) the unadjusted standard Federal capital payment rate (as described in section 412.308(c) of that title, as in effect on September 30, 1997), and (ii) the unadjusted hospital-specific rate (as described in section 412.328(e)(1) of that title, as in effect on September 30, 1997).".

(b) System Exception Payments for Transitional Capital.—

(1) In general.—Section 1886(g)(1) (42 U.S.C. 1395ww(g)(1)) is amended—

(A) by redesignating subparagraph (C) as subparagraph (F), and

(B) by inserting after subparagraph (B) the following:

"(C) The exceptions under the system provided by the Secretary under subparagraph (B)(iii) shall include the provision of exception payments under the special exceptions process provided under section 412.348(g) of title 42, Code of Federal Regulations (as in effect on September 1, 1995), except that the Secretary shall revise such process, effective for discharges occurring after September 30, 1997, as follows:

"(i) Eligible hospital requirements, as described in section 412.348(g)(1) of title 42, Code of Federal Regulations, shall apply except that

subparagraph (ii) shall be revised to require that hospitals located in an urban area with at least 300 beds shall be eligible under such process and that such a hospital shall be eligible without regard to its disproportionate patient percentage under subsection (d)(5)(F) or whether it qualifies for additional payment amounts under such subsection.

"(ii) Project size requirements, as described in section 412.348(g)(5) of title 42, Code of Federal Regulations, shall apply except that subparagraph (ii) shall be revised to require that the project costs of a hospital are at least 150 percent of its operating cost during the first 12 month cost reporting period beginning on or after October 1, 1991.

"(iii) The minimum payment level for qualifying hospitals shall be 85 percent.

"(iv) A hospital shall be considered to meet the requirement that it complete the project involved no later than the end of the last cost reporting period of the hospital beginning before October 1, 2001, if—

"(I) the hospital has obtained a certificate of need for the project approved by the State or a local planning authority by September 1, 1995; and

"(II) by September 1, 1995, the hospital has expended on the project at least $750,000 or 10 percent of the estimated cost of the project.

"(v) Offsetting amounts, as described in section 412.348(g)(8)(ii) of title 42, Code of Federal Regulations, shall apply except that subparagraph (B) of such section shall be revised to require that the additional payment that would otherwise be payable for the cost reporting period shall be reduced by the amount (if any) by which the hospital's current year medicare capital payments (excluding, if applicable, 75 percent of the hospital's capital-related disproportionate share payments) exceeds its medicare capital costs for such year.

"(D)(i) The Secretary shall reduce the Federal capital and hospital rates up to $50,000,000 for a calendar year to ensure that the application of subparagraph (C) does not result in an increase in the total amount that would have been paid under this subsection in the fiscal year if such subparagraph did not apply.

"(ii) Payments made pursuant to the application of subparagraph (C) shall not be considered for purposes of calculating total estimated payments under section 412.348(h), title 42, Code of Federal Regulations.

"(E) The Secretary shall provide for publication in the Federal Register each year (beginning with 1999) of a description of the distributional impact of the application of subparagraph (C) on hospitals which receive, and do not receive, an exception payment under such subparagraph.".

(2) Conforming amendment.—Section 1886(g)(1)(B)(iii) (42 U.S.C. 1395ww(g)(1)(B)(iii)) is amended by striking "may provide" and inserting "shall provide (in accordance with subparagraph (C))".

CHAPTER 2—PAYMENT OF PPS EXEMPT HOSPITALS

SEC. 5421. PAYMENT UPDATE.

(a) In General.—Section 1886(b)(3)(B)(ii) (42 U.S.C. 1395ww(b)(3)(B)(ii)) is amended—

(1) by striking "and" at the end of subclause (V);

(2) by redesignating subclause (VI) as subclause (VIII); and

(3) by inserting after subclause (V), the following subclauses:

"(VI) for fiscal years 1998 through 2001, is 0 percent;

"(VII) for fiscal year 2002, is the market basket percentage increase minus 3.0 percentage points, and".

(b) No Effect of Payment Reduction on Exceptions and Adjustments.—Section 1886(b)(4)(A)(ii) (42 U.S.C. 1395ww(b)(4)(A)(ii)) is amended by adding at the end the following new sentence: "In making such reductions, the Secretary shall treat the applicable update factor described in paragraph (3)(B)(vi) for a fiscal year as being equal to the market basket percentage for that year.".

SEC. 5422. REDUCTIONS TO CAPITAL PAYMENTS FOR CERTAIN PPS-EXEMPT HOSPITALS AND UNITS.

Section 1886(g) (42 U.S.C. 1395ww(g)) is amended by adding at the end the following new paragraph:

"(4) In determining the amount of the payments that are attributable to portions of cost reporting periods occurring during fiscal years 1998 through 2002 and that may be made under this title with respect to capital-related costs of inpatient hospital services of a hospital which is described in clause (i), (ii), or (iv) of subsection (d)(1)(B) or a unit described in the matter after clause (v) of such subsection, the Secretary shall reduce the amounts of such payments otherwise determined under this title by 15 percent.".

SEC. 5423. CAP ON TEFRA LIMITS.

Section 1886(b)(3) (42 U.S.C. 1395ww(b)(3)) is amended—

(1) in subparagraph (A) by striking "subparagraphs (C), (D), and (E)" and inserting "subparagraph (C) and succeeding subparagraphs", and

(2) by adding at the end the following:

"(F)(i) Except as provided in clause (ii), in the case of a hospital or unit that is within a class of hospital described in clause (iii), for cost reporting periods beginning on or after October 1, 1997, and before October 1, 2002, such target amount may not be greater than the 75th percentile of the target amounts for such hospitals within such class for cost reporting periods beginning during that fiscal year (determined without regard to clause (ii)).

"(ii) In the case of a hospital or unit—

"(I) that is within a class of hospital described in clause (iii); and

"(II) whose operating costs of inpatient hospital services recognized under this title for the most recent cost reporting period for which information is available are less than the target amount for the hospital or unit under clause (i) (determined without regard to this clause) for its cost reporting period beginning on or after October 1, 1997, and before October 1, 1998,
clause (i) shall be applied for cost reporting periods beginning on or after October 1, 1997, and before October 1, 2002, by substituting for the dollar limit on the target amounts established under such clause for such period a dollar limit that is equal to the greater of 90 percent of such dollar limit or the operating costs of the hospital or unit determined under subclause (II).

"(iii) For purposes of this subparagraph, each of the following shall be treated as a separate class of hospital:

"(I) Hospitals described in clause (i) of subsection (d)(1)(B) and psychiatric units described in the matter following clause (v) of such subsection.

"(II) Hospitals described in clause (ii) of such subsection and rehabilitation units described in the matter following clause (v) of such subsection.

"(III) Hospitals described in clause (iv) of such subsection.".

SEC. 5424. CHANGE IN BONUS AND RELIEF PAYMENTS.

(a) Change in Bonus Payment.—Section 1886(b)(1)(A) (42 U.S.C. 1395ww(b)(1)(A)) is amended by striking all that follows "plus—" and inserting the following:

"(i) in the case of a hospital with a target amount that is less than 135 percent of the median of the target amounts for hospitals in the same class of hospital, the lesser of 40 percent of the amount by which the target amount exceeds the amount of the operating costs or 4 percent of the target amount;

"(ii) in the case of a hospital with a target amount that equals or exceeds 135 of such median but is less than 150 percent of such median, the lesser of 30 percent of the amount by which the target amount exceeds the amount of the operating costs or 3 percent of the target amount; and

"(iii) in the case of a hospital with a target amount that equals or exceeds 150 of such median, the lesser of 20 percent of the amount by which the target amount exceeds the amount of the operating costs or 2 percent of the target amount; or".

(b) Change in Relief Payments.—Section 1886(b)(1) (42 U.S.C. 1395ww(b)(1)) is amended—

(1) in subparagraph (B)—

(A) by striking "greater than the target amount" and inserting "greater than 110 percent of the target amount",

(B) by striking "exceed the target amount" and inserting "exceed 110 percent of the target amount",

(C) by striking "10 percent" and inserting "20 percent", and

(D) by redesignating such subparagraph as subparagraph (C); and

(2) by inserting after subparagraph (A) the following new subparagraph:

"(B) are greater than the target amount but do not exceed 110 percent of the target amount, the amount of the payment with respect to those operating costs payable under part A on a per discharge basis shall equal the target amount; or".

SEC. 5425. TARGET AMOUNTS FOR REHABILITATION HOSPITALS, LONG-TERM CARE HOSPITALS, AND PSYCHIATRIC HOSPITALS.

Section 1886(b)(3) (42 U.S.C. 1395ww(b)(3)) is amended—

(1) in subparagraph (A), in the matter preceding clause (i), by striking "and (E)" and inserting "(E), (F), and (G)"; and

(2) by adding at the end the following new subparagraphs:

"(F) In the case of a rehabilitation hospital (or unit thereof) (as described in clause (ii) of subsection (d)(1)(B)), for cost reporting periods beginning on or after October 1, 1997—

"(i) in the case of a hospital which first receives payments under this section before October 1, 1997, the target amount determined under subparagraph (A) for such hospital or unit for a cost reporting period beginning during a fiscal year shall not be less than 50 percent of the national mean of the target amounts determined under such subparagraph for all such hospitals for cost reporting periods beginning during such fiscal year (determined without regard to this subparagraph); and

"(ii) in the case of a hospital which first receives payments under this section on or after October 1, 1997, such target amount may not be greater than 110 percent of the national mean of the target amounts for such hospitals (and units thereof) for cost reporting periods beginning during fiscal year 1991.

"(G) In the case of a hospital which has an average inpatient length of stay of greater than 25 days (as described in clause (iv) of subsection (d)(1)(B)), for cost reporting periods beginning on or after October 1, 1997—

"(i) in the case of a hospital which first receives payments under this section as a hospital that is not a subsection (d) hospital or a subsection (d) Puerto Rico hospital before October 1, 1997, the target amount determined under subparagraph (A) for such hospital for a cost reporting period beginning during a fiscal year shall not be less than 50 percent of the national mean of the target amounts determined under such subparagraph for all such hospitals for *cost reporting periods beginning during such fiscal year (determined without regard to this subparagraph); and*

"(ii) in the case of any other hospital which first receives payment under this section on or after October 1, 1997, such target amount may not be greater than 110 percent of such national mean of the target amounts for such hospitals for cost reporting periods beginning during fiscal year 1991.

"(H) In the case of a psychiatric hospital (as defined in section 1861(f)), for cost reporting periods beginning on or after October 1, 1997—

"(i) in the case of a hospital which first receives payments under this section before October 1, 1997, the target amount determined under subparagraph (A) for such hospital for a cost reporting period beginning during a fiscal year shall not be less than 50 percent of the national mean of the target amounts determined under such subparagraph for all such hospitals for cost reporting periods beginning during such fiscal year (determined without regard to this subparagraph); and

"(ii) in the case of any other hospital which first receives payment under this section on or after October 1, 1997, such target amount may not be greater than 110 percent of such national mean of the target amounts for such hospitals for cost reporting periods beginning during fiscal year 1991.".

SEC. 5426. TREATMENT OF CERTAIN LONG-TERM CARE HOSPITALS LOCATED WITHIN OTHER HOSPITALS.

(a) IN GENERAL.—Section 1886(d)(1)(B) (42 U.S.C. 1395ww(d)(1)(B)) is amended by adding at the end the following new sentence: "A hospital that was classified by the Secretary on or before September 30, 1995, as a hospital described in clause (iv) shall continue to be so classified notwithstanding that it is located in the same building as, or on the same campus as, another hospital.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to discharges occurring on or after October 1, 1995.

SEC. 5426A. REBASING.

Section 1886(b)(3) (42 U.S.C. 1395ww(b)(3)), as amended by section 5423, is amended by adding at the end the following:

"(G)(i) In the case of a hospital (or unit described in the matter following clause (v) of subsection (d)(1)(B)) that received payment under this subsection for inpatient hospital services furnished before January 1, 1990, that is within a class of hospital described in clause (iii), and that elects (in a form and manner determined by the Secretary) this subparagraph to apply to the hospital, the target amount for the hospital's 12-month cost reporting period beginning during fiscal year 1998 is equal to the average described in clause (ii).

"(ii) The average described in this clause for a hospital or unit shall be determined by the Secretary as follows:

"(I) The Secretary shall determine the allowable operating costs for inpatient hospital services for the hospital or unit for each of the 5 cost reporting periods for which the Secretary has the most recent settled cost reports as of the date of the enactment of this subparagraph.

"(II) The Secretary shall increase the amount determined under subclause (I) for each cost reporting period by the applicable percentage increase under subparagraph (B)(ii) for each subsequent cost reporting period up to the cost reporting period described in clause (i).

"(III) The Secretary shall identify among such 5 cost reporting periods the cost reporting periods for which the amount determined under subclause (II) is the highest, and the lowest.

"(IV) The Secretary shall compute the averages of the amounts determined under subclause (II) for the 3 cost reporting periods not identified under subclause (III).

"(iii) For purposes of this subparagraph, each of the following shall be treated as a separate class of hospital:

"(I) Hospitals described in clause (i) of subsection (d)(1)(B) and psychiatric units described in the matter following clause (v) of such subsection.

"(II) Hospitals described in clause (ii) of such subsection and rehabilitation units described in the matter following clause (v) of such subsection.

"(III) Hospitals described in clause (iii) of such subsection.

"(IV) Hospitals described in clause (iv) of such subsection.

"(V) Hospitals described in clause (v) of such subsection.".

SEC. 5427. ELIMINATION OF EXEMPTIONS; REPORT ON EXCEPTIONS AND ADJUSTMENTS.

(a) ELIMINATION OF EXEMPTIONS.—

(1) IN GENERAL.—Section 1886(b)(4)(A)(i) (42 U.S.C. 1395ww(b)(4)(A)(i)) is amended by striking "exemption from, or an exception and adjustment to," and inserting "an exception and adjustment to" each place it appears.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to hospitals that first qualify as a hospital described in clause (i), (ii), or (iv) of section 1886(d)(1)(B) (42 U.S.C. 1395ww(d)(1)(B)) on or after October 1, 1997.

(b) REPORT.—The Secretary of Health and Human Services shall publish annually in the Federal Register a report describing the total amount of payments made to hospitals by reason of section 1886(b)(4) of the Social Security Act (42 U.S.C. 1395ww(b)(4)), as amended by subsection (a), for cost reporting periods ending during the previous fiscal year.

SEC. 5428. TECHNICAL CORRECTION RELATING TO SUBSECTION (d) HOSPITALS.

(a) IN GENERAL.—Section 1886(d)(1) (42 U.S.C. 1395ww(d)(1)) is amended—

(1) in subparagraph (B)(v)—

(A) by inserting "(I)" after "(v)"; and

(B) by striking the semicolon at the end and inserting ", or"; and

(C) by adding at the end the following:

"(II) a hospital that—

"(aa) was recognized as a comprehensive cancer center or clinical cancer research center by the National Cancer Institute of the National Institutes of Health as of April 20, 1983, or is able to demonstrate, for any six-month period, that at least 50 percent of its total discharges have a principal diagnosis that reflects a finding of neoplastic disease, as defined in subparagraph (E);

"(bb) applied on or before December 31, 1990, for classification as a hospital involved extensively in treatment for or research on cancer under this clause (as in effect on the day before the date of the enactment of this subclause), but was not approved for such classification; and

"(cc) is located in a State which, as of December 19, 1989, was not operating a demonstration project under section 1814(b);"; and

(2) by adding at the end the following:

"(E) For purposes of subparagraph (B)(v)(II)(aa), the term 'principal diagnosis that reflects a finding of neoplastic disease' means the condition established after study to be chiefly responsible for occasioning the admission of a patient to a hospital, except that only discharges with ICD–9–CM principal diagnosis codes of 140 through 239, V58.0, V58.1, V66.1, V66.2, or 990 will be considered to reflect such a principal diagnosis.".

(b) PAYMENTS.—Any classification by reason of section 1886(d)(1)(B)(v)(II) of the Social Security Act (42 U.S.C. 1395ww(d)(1)(B)(v)(II)) (as added by subsection (a)) shall apply to all cost reporting periods beginning on or after January 1, 1991. Any payments owed to a hospital as a result of such section (as so amended) shall be made expeditiously, but in no event later than 1 year after the date of enactment of this Act.

SEC. 5429. CERTAIN CANCER HOSPITALS.

(a) IN GENERAL.—Section 1886(d)(1) (42 U.S.C. 1395ww(d)(1)), as amended by section 5428, is amended—

(1) in subparagraph (B)(v), by striking the semicolon at the end of subclause (II)(cc) and inserting the following: ", or", and by adding at the end the following:

"(III) a hospital—

"(aa) that was classified under subsection (iv) beginning on or before December 31, 1990, and through December 31, 1995; and

"(bb) throughout the period described in item (aa) and currently has greater than 49 percent of its total patient discharges with a principal diagnosis that reflects a finding of neoplastic disease;"; and

(2) by adding at the end the following:

"(F) In the case of a hospital that is classified under subparagraph (B)(v)(III), no rebasing is permitted by such hospital and such hospital shall use the base period in effect at the time of such hospital's December 31, 1995, cost report.".

CHAPTER 3—GRADUATE MEDICAL EDUCATION PAYMENTS

Subchapter A—Direct Medical Education

SEC. 5441. LIMITATION ON NUMBER OF RESIDENTS AND ROLLING AVERAGE FTE COUNT.

Section 1886(h)(4) (42 U.S.C. 1395ww(h)(4)) is amended by adding after subparagraph (E) the following:

"(F) LIMITATION ON NUMBER OF RESIDENTS IN ALLOPATHIC AND OSTEOPATHIC MEDICINE.—Except as provided in subparagraph (H), such rules shall provide that for purposes of a cost reporting period beginning on or after October 1, 1997, the total number of full-time equivalent residents before application of weighting factors (as determined under this paragraph) with respect to a hospital's approved medical residency training program in the fields of allopathic medicine and osteopathic medicine may not exceed the number of full-time equivalent residents with respect to such programs for the hospital's most recent cost reporting period ending on or before December 31, 1996.

"(G) COUNTING INTERNS AND RESIDENTS FOR 1998 AND SUBSEQUENT YEARS.—

"(i) IN GENERAL.—For cost reporting periods beginning on or after October 1, 1997, subject to the limit described in subparagraph (F) and except as provided in subparagraph (H), the total number of full-time equivalent residents for determining a hospital's graduate medical education payment shall equal the average of the full-time equivalent resident counts for the cost reporting period and the preceding two cost reporting periods.

"(ii) ADJUSTMENT FOR SHORT PERIODS.—If any cost reporting period beginning on or after October 1, 1997, is not equal to twelve months, the Secretary shall make appropriate modifications to ensure that the average full-time equivalent resident counts pursuant to clause (ii) are based on the equivalent of full twelve-month cost reporting periods.

"(iii) TRANSITION RULE FOR 1998.—In the case of a hospital's first cost reporting period beginning on or after October 1, 1997, clause (i) shall be applied by using the average for such period and the preceding cost reporting period.

"(H) SPECIAL RULES FOR NEW FACILITIES.—

"(i) IN GENERAL.—If a hospital is an applicable facility under clause (iii) for any year with respect to any approved medical residency training program described in subsection (h)—

"(I) subject to the applicable annual limit under clause (ii), the Secretary may provide an additional amount of full-time equivalent residents which may be taken into account with respect to such program under subparagraph (F)

for cost reporting periods beginning during such year, and

"(II) the averaging rules under subparagraph (G) shall not apply for such year.

"(ii) APPLICABLE ANNUAL LIMIT.—The total of additional full-time equivalent residents which the Secretary may authorize under clause (i) for all applicable facilities for any year shall not exceed the amount which would result in the number of full-time equivalent residents with respect to approved medical residency training programs in the fields of allopathic and osteopathic medicine for all hospitals exceeding such number for the preceding year. In allocating such additional residents, the Secretary shall give special consideration to facilities that meet the needs of underserved rural areas.

"(iii) APPLICABLE FACILITY.—For purposes of this subparagraph, a hospital shall be treated as an applicable facility with respect to an approved medical residency training program only during the first 5 years during which such program is in existence. A hospital shall not be treated as such a facility if the 5-year period described in the preceding sentence ended on or before December 31, 1996.

"(iv) COORDINATION WITH LIMIT.—For purposes of applying subparagraph (F), the number of full-time equivalent residents of an applicable facility with respect to any approved medical residency training program in the fields of allopathic and osteopathic medicine for the facility's most recent cost reporting period ending on or before December 31, 1996, shall be increased by the number of such residents allocated to such facility under clause (i).".

SEC. 5442. PERMITTING PAYMENT TO NONHOSPITAL PROVIDERS.

(a) IN GENERAL.—Section 1886 (42 U.S.C. 1395ww) is amended by adding at the end the following:

"(j) PAYMENT TO NONHOSPITAL PROVIDERS.—

"(1) IN GENERAL.—For cost reporting periods beginning on or after October 1, 1997, the Secretary may establish rules for payment to qualified nonhospital providers for their direct costs of medical education, if those costs are incurred in the operation of an approved medical residency training program described in subsection (h). Such rules shall specify the amounts, form, and manner in which payments will be made and the portion of such payments that will be made from each of the trust funds under this title.

"(2) QUALIFIED NONHOSPITAL PROVIDERS.—For purposes of this subsection, the term 'qualified nonhospital providers' means—

"(A) a federally qualified health center, as defined in section 1861(aa)(4);

"(B) a rural health clinic, as defined in section 1861(aa)(2); and

"(C) such other providers (other than hospitals) as the Secretary determines to be appropriate.".

(b) PROHIBITION ON DOUBLE PAYMENTS.—Section 1886(h)(3)(B) (42 U.S.C. 1395ww(h)(3)(B)) is amended by adding at the end the following: "The Secretary shall reduce the aggregate approved amount to the extent payment is made under subsection (j) for residents included in the hospital's count of full-time equivalent residents.".

SEC. 5443. MEDICARE SPECIAL REIMBURSEMENT RULE FOR PRIMARY CARE COMBINED RESIDENCY PROGRAMS.

(a) IN GENERAL.—Section 1886(h)(5)(G) of the Social Security Act (42 U.S.C. 1395ww(h)(5)(G)) is amended—

(1) in clause (i), by striking "and (iii)" and inserting ", (iii), and (iv)"; and

(2) by adding at the end the following:

"(iv) SPECIAL RULE FOR PRIMARY CARE COMBINED RESIDENCY PROGRAMS.—(I) In the case of a resident enrolled in a combined medical residency training program in which all of the individual programs (that are combined) are for training a primary care resident (as defined in subparagraph (H)), the period of board eligibility shall be the minimum number of years of formal training required to satisfy the requirements for initial board eligibility in the longest of the individual programs plus one additional year.

"(II) A resident enrolled in a combined medical residency training program that includes an obstetrics and gynecology program qualifies for the period of board eligibility under subclause (I) if the other programs such resident combines with such obstetrics and gynecology program are for training a primary care resident.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply to combined medical residency training programs in effect on or after January 1, 1998.

Subchapter B—Indirect Medical Education

SEC. 5446. INDIRECT GRADUATE MEDICAL EDUCATION PAYMENTS.

(a) MULTIYEAR TRANSITION REGARDING PERCENTAGES.—

(1) IN GENERAL.—Section 1886(d)(5)(B)(ii) (42 U.S.C. 1395ww(d)(5)(B)(ii)) is amended to read as follows:

"(ii) For purposes of clause (i)(II), the indirect teaching adjustment factor is equal to c (((1+r) to the nth power) − 1), where 'r' is the ratio of the hospital's full-time equivalent interns and residents to beds and 'n' equals .405. For discharges occurring—

"(I) on or after May 1, 1986, and before October 1, 1997, 'c' is equal to 1.89;

"(II) during fiscal year 1998, 'c' is equal to 1.72;

"(III) during fiscal year 1999, 'c' is equal to 1.6;

"(IV) during fiscal year 2000, 'c' is equal to 1.47; and

"(V) on or after October 1, 2000, 'c' is equal to 1.35.".

(2) NO RESTANDARDIZATION OF PAYMENT AMOUNTS REQUIRED.—Section 1886(d)(2)(C)(i) (42 U.S.C. 1395ww(d)(2)(C)(i)) is amended by adding at the end the following: "except that the Secretary shall not take into account any reduction in the amount of additional payments under paragraph (5)(B)(ii) resulting from the amendment made by section 5446(a)(1) of the Balanced Budget Act of 1997,".

(b) LIMITATION.—

(1) IN GENERAL.—Section 1886(d)(5)(B) (42 U.S.C. 1395ww(d)(5)(B)) is amended by adding after clause (iv) the following:

"(v) In determining the adjustment with respect to a hospital for discharges occurring on or after October 1, 1997, the total number of full-time equivalent interns and residents in either a hospital or nonhospital setting may not exceed the number of such full-time equivalent interns and residents in the hospital with respect to the hospital's most recent cost reporting period ending on or before December 31, 1996.

"(vi) For purposes of clause (ii)—

"(I) 'r' may not exceed the ratio of the number of interns and residents as determined under clause (v) with respect to the hospital for its most recent cost reporting period ending on or before December 31, 1996, to the hospital's available beds (as defined by the Secretary) during that cost reporting period, and

"(II) for the hospital's cost reporting periods beginning on or after October 1, 1997, subject to the limits described in clauses (iv) and (v), the total number of full-time equivalent residents for payment purposes shall equal the average of the actual full-time equivalent resident count for the cost reporting period and the preceding two cost reporting periods.

In the case of the first cost reporting period beginning on or after October 1, 1997, subclause (II) shall be applied by using the average for such period and the preceding cost reporting period.

"(vii)(I) If a hospital is an applicable facility under subclause (III) for any year with respect to any approved medical residency training program described in subsection (h)—

"(aa) subject to the applicable annual limit under subclause (II), the Secretary may provide an additional amount of full-time equivalent interns and residents which may be taken into account with respect to such program under clauses (v) and (vi) for cost reporting periods beginning during such year, and

"(bb) the averaging rules under clause (vi)(II) shall not apply for such year.

"(II) The total of additional full-time equivalent interns and residents which the Secretary may authorize under subclause (I) for all applicable facilities for any year shall not exceed the amount which would result in the number of full-time equivalent interns or residents for all hospitals exceeding such number for the preceding year. In allocating such additional residents, the Secretary shall give special consideration to facilities that meet the needs of underserved rural areas.

"(III) For purposes of this clause, a hospital shall be treated as an applicable facility with respect to an approved medical residency training program only during the first 5 years during which such program is in existence. A hospital shall not be treated as such a facility if the 5-year period described in the preceding sentence ended on or before December 31, 1996.

"(IV) For purposes of applying clause (v), the number of full-time equivalent residents of an applicable facility with respect to any approved medical residency training program for the facility's most recent cost reporting period ending on or before December 31, 1996, shall be increased by the number of such residents allocated to such facility under subclause (I).

"(viii) If any cost reporting period beginning on or after October 1, 1997, is not equal to twelve months, the Secretary shall make appropriate modifications to ensure that the average full-time equivalent residency count pursuant to subclause (II) of clause (vi) is based on the equivalent of full twelve-month cost reporting periods.".

(2) PAYMENT FOR INTERNS AND RESIDENTS PROVIDING OFF-SITE SERVICES.—Section 1886(d)(5)(B)(iv) (42 U.S.C. 1395ww(d)(5)(B)(iv)) is amended to read as follows:

"(iv) Effective for discharges occurring on or after October 1, 1997, all the time spent by an intern or resident in patient care activities under an approved medical residency training program at an entity in a nonhospital setting shall be counted towards the determination of full-time equivalency if the hospital incurs all, or substantially all, of the costs for the training program in that setting.".

Subchapter C—Graduate Medical Education Payments for Managed Care Enrollees

SEC. 5451. DIRECT AND INDIRECT MEDICAL EDUCATION PAYMENTS TO HOSPITALS FOR MANAGED CARE ENROLLEES.

(a) PAYMENTS TO HOSPITALS FOR DIRECT COSTS OF GRADUATE MEDICAL EDUCATION.—Section 1886(h)(3) (42 U.S.C. 1395ww(h)(3)) is amended by adding after subparagraph (C) the following:

"(D) PAYMENT FOR MEDICARE CHOICE ENROLLEES.—

"(i) IN GENERAL.—For portions of cost reporting periods occurring on or after January 1, 1998, the Secretary shall provide for an additional payment amount under this subsection for services furnished to individuals who are enrolled under a risk-sharing contract with an eligible organization under section 1876 and who are entitled to part A or with a Medicare Choice

organization under part C. The amount of such a payment shall equal the applicable percentage of the product of—

"(I) the aggregate approved amount (as defined in subparagraph (B)) for that period; and

"(II) the fraction of the total number of inpatient-bed days (as established by the Secretary) during the period which are attributable to such enrolled individuals.

"(ii) APPLICABLE PERCENTAGE.—For purposes of clause (i), the applicable percentage is—

"(I) 25 percent in 1998,

"(II) 50 percent in 1999,

"(III) 75 percent in 2000, and

"(IV) 100 percent in 2001 and subsequent years.

"(iii) SPECIAL RULE FOR HOSPITALS UNDER REIMBURSEMENT SYSTEM.—The Secretary shall establish rules for the application of this subparagraph to a hospital reimbursed under a reimbursement system authorized under section 1814(b)(3) in the same manner as it would apply to the hospital if it were not reimbursed under such section.".

(b) PAYMENT TO HOSPITALS OF INDIRECT MEDICAL EDUCATION COSTS.—Section 1886(d) (42 U.S.C. 1395ww(d)) is amended by adding at the end the following:

"(11) ADDITIONAL PAYMENTS FOR MANAGED CARE SAVINGS.—

"(A) IN GENERAL.—For portions of cost reporting periods occurring on or after January 1, 1998, the Secretary shall provide for an additional payment amount for each applicable discharge of any subsection (d) hospital (or any hospital reimbursed under a reimbursement system authorized under section 1814(b)(3)) that has an approved medical residency training program.

"(B) APPLICABLE DISCHARGE.—For purposes of this paragraph, the term 'applicable discharge' means the discharge of any individual who is enrolled under a risk-sharing contract with an eligible organization under section 1876 and who is entitled to benefits under part A or any individual who is enrolled with a Medicare Choice organization under part C.

"(C) DETERMINATION OF AMOUNT.—The amount of the payment under this paragraph with respect to any applicable discharge shall be equal to the applicable percentage (as defined in subsection (h)(3)(D)(ii)) of the estimated average per discharge amount that would otherwise have been paid under paragraph (1)(A) if the individuals had not been enrolled as described in subparagraph (B).".

SEC. 5452. DEMONSTRATION PROJECT ON USE OF CONSORTIA.

(a) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall establish a demonstration project under which, instead of making payments to teaching hospitals pursuant to section 1886(h) of the Social Security Act, the Secretary shall make payments under this section to each consortium that meets the requirements of subsection (b).

(b) QUALIFYING CONSORTIA.—For purposes of subsection (a), a consortium meets the requirements of this subsection if the consortium is in compliance with the following:

(1) The consortium consists of an approved medical residency training program in a teaching hospital and one or more of the following entities:

(A) A school of allopathic medicine or osteopathic medicine.

(B) Another teaching hospital, which may be a children's hospital.

(C) Another approved medical residency training program.

(D) A federally qualified health center.

(E) A medical group practice.

(F) A managed care entity.

(G) An entity furnishing outpatient services.

(I) Such other entity as the Secretary determines to be appropriate.

(2) The members of the consortium have agreed to participate in the programs of graduate medical education that are operated by the entities in the consortium.

(3) With respect to the receipt by the consortium of payments made pursuant to this section, the members of the consortium have agreed on a method for allocating the payments among the members.

(4) The consortium meets such additional requirements as the Secretary may establish.

(c) AMOUNT AND SOURCE OF PAYMENT.—The total of payments to a qualifying consortium for a fiscal year pursuant to subsection (a) shall not exceed the amount that would have been paid under section 1886(h) of the Social Security Act for the teaching hospital (or hospitals) in the consortium. Such payments shall be made in such proportion from each of the trust funds established under title XVIII of such Act as the Secretary specifies.

CHAPTER 4—OTHER HOSPITAL PAYMENTS

SEC. 5461. DISPROPORTIONATE SHARE PAYMENTS TO HOSPITALS FOR MANAGED CARE AND MEDICARE CHOICE ENROLLEES.

Section 1886(d) (42 U.S.C. 1395ww(d)) (as amended by section 5451) is amended by adding at the end the following:

"(12) ADDITIONAL PAYMENTS FOR MANAGED CARE AND MEDICARE CHOICE SAVINGS.—

"(A) IN GENERAL.—For portions of cost reporting periods occurring on or after January 1, 1998, the Secretary shall provide for an additional payment amount for each applicable discharge of—

(i) any subsection (d) hospital that is a disproportionate share hospital (as described in paragraph (5)(F)(i)); or

(ii) any hospital reimbursed under a reimbursement system authorized under section 1814(b)(3)) if such hospital would qualify as a disproportionate share hospital were it not so reimbursed.

"(B) APPLICABLE DISCHARGE.—For purposes of this paragraph, the term 'applicable discharge' means the discharge of any individual who is enrolled under a risk-sharing contract with an eligible organization under section 1876 and who is entitled to benefits under part A or any individual who is enrolled with a Medicare Choice organization under part C.

"(C) DETERMINATION OF AMOUNT.—The amount of the payment under this paragraph with respect to any applicable discharge shall be equal to the applicable percentage (as defined in subsection (h)(3)(D)(ii)) of the estimated average per discharge amount that would otherwise have been paid under paragraph (1)(A) if the individuals had not been enrolled as described in subparagraph (B).".

SEC. 5462. REFORM OF DISPROPORTIONATE SHARE PAYMENTS TO HOSPITALS SERVING VULNERABLE POPULATIONS.

(a) IN GENERAL.—Section 1886(d)(5)(F) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(F)) is amended—

(1) in clause (i), by inserting "and before December 31, 1998," after "May, 1, 1986,";

(2) in clause (ii), by striking "The amount" and inserting "Subject to clauses (ix) and (x), the amount"; and

(3) by adding at the end the following:

"(ix) In the case of discharges occurring on or after October 1, 1997, and before December 31, 1998, the additional payment amount otherwise determined under clause (ii) shall be reduced by 4 percent.

"(x)(I) In the case of discharges occurring during calendar years 1999 and succeeding calendar years, the additional payment amount shall be determined in accordance with the formula established under subclause (II).

"(II) Not later than January 1, 1999, the Secretary shall establish a formula for determining additional payment amounts under this subparagraph. In determining such formula the Secretary shall—

"(aa) establish a single threshold for costs incurred by hospitals in serving low-income patients,

"(bb) consider the costs described in subclause (III), and

"(cc) ensure that such formula complies with the requirement described in subclause (IV).

"(III) The costs described in this subclause are as follows:

"(aa) The costs incurred by the hospital during a period (as determined by the Secretary) of furnishing inpatient and outpatient hospital services to individuals who are entitled to benefits under part A of this title and are entitled to supplemental security income benefits under title XVI (excluding any supplementation of those benefits by a State under section 1616).

"(bb) The costs incurred by the hospital during a period (as so determined) of furnishing inpatient and outpatient hospital services to individuals who are eligible for medical assistance under the State plan under title XIX and are not entitled to benefits under part A of this title (including individuals enrolled in a health maintenance organization (as defined in section 1903(m)(1)(A)) or any other managed care plan under such title, individuals who are eligible for medical assistance under such title pursuant to a waiver approved by the Secretary under section 1115, and individuals who are eligible for medical assistance under the State plan under title XIX (regardless of whether the State has provided reimbursement for any such assistance provided under such title)).

"(cc) The costs incurred by the hospital during a period (as so determined) of furnishing inpatient and outpatient hospital services to individuals who are not described in item (aa) or (bb) and who do not have health insurance coverage (or any other source of third party payment for such services) and for which the hospital did not receive compensation.

"(IV)(aa) The requirement described in this subclause is that for each calendar year for which the formula established under this clause applies, the additional payment amount determined for such calendar year under such formula shall not exceed an amount equal to the additional payment amount that, in the absence of such formula, would have been determined under this subparagraph, reduced by the applicable percentage for such calendar year.

"(bb) For purposes of subclause (aa), the applicable percentage for—

"(AA) calendar year 1999 is 8 percent;

"(BB) calendar year 2000 is 12 percent;

"(CC) calendar year 2001 is 16 percent;

"(DD) calendar year 2002 is 20 percent;

"(EE) calendar year 2003 and subsequent calendar years, is 0 percent".

(b) DATA COLLECTION.—

(1) IN GENERAL.—In developing the formula under section 1886(g)(5)(F)(x) of the Social Security Act (42 U.S.C. 1395ww(g)(5)(F)(x)), as added by subsection (a), and in implementing the provisions of and amendments made by this section, the Secretary of Health and Human Services may require any subsection (d) hospital (as defined in section 1886(d)(1)(B) of the Social Security Act (42 U.S.C. 1395ww(d)(1)(B))) receiving additional payments by reason of section 1886(d)(5)(F) of that Act (42 U.S.C. 1395ww(d)(5)(F)) (as amended by subsection (a) of this section) to submit to the Secretary any information that the Secretary determines is necessary to implement the provisions of and amendments made by this section.

(2) Failure to comply.—Any subsection (d) hospital (as so defined) that fails to submit to the Secretary of Health and Human Services any information requested under paragraph (1), shall be deemed ineligible for an additional payment amount under section 1886(d)(5)(F) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(F)) (as amended by subsection (a) of this section).

(c) Effective Date.—The amendments made by subsection (a) shall apply to discharges occurring on and after October 1, 1997.

SEC. 5463. MEDICARE CAPITAL ASSET SALES PRICE EQUAL TO BOOK VALUE.

(a) In General.—Section 1861(v)(1)(O) (42 U.S.C. 1395x(v)(1)(O)) is amended—

(1) in clause (i)—

(A) by striking "and (if applicable) a return on equity capital";

(B) by striking "hospital or skilled nursing facility" and inserting "provider of services";

(C) by striking "clause (iv)" and inserting "clause (iii)"; and

(D) by striking "the lesser of the allowable acquisition cost" and all that follows and inserting "the historical cost of the asset, as recognized under this title, less depreciation allowed, to the owner of record as of the date of enactment of the Balanced Budget Act of 1997 (or, in the case of an asset not in existence as of that date, the first owner of record of the asset after that date).";

(2) by striking clause (ii); and

(3) by redesignating clauses (iii) and (iv) as clauses (ii) and (iii), respectively.

(b) Effective Date.—The amendments made by subsection (a) apply to changes of ownership that occur after the third month beginning after the date of enactment of this section.

SEC. 5464. ELIMINATION OF IME AND DSH PAYMENTS ATTRIBUTABLE TO OUTLIER PAYMENTS.

(a) Indirect Medical Education.—Section 1886(d)(5)(B)(i)(I) (42 U.S.C. 1395ww(d)(5)(B)(i)(I)) is amended by inserting ", for cases qualifying for additional payment under subparagraph (A)(i)," before "the amount paid to the hospital under subparagraph (A)".

(b) Disproportionate Share Adjustments.—Section 1886(d)(5)(F)(ii)(I) (42 U.S.C. 1395ww(d)(5)(F)(ii)(I)) is amended by inserting ", for cases qualifying for additional payment under subparagraph (A)(i)," before "the amount paid to the hospital under subparagraph (A)".

(c) Cost Outlier Payments.—Section 1886(d)(5)(A)(ii) (42 U.S.C. 1395ww(d)(5)(A)(ii)) is amended by striking "exceed the applicable DRG prospective payment rate" and inserting "exceed the sum of the applicable DRG prospective payment rate plus any amounts payable under subparagraphs (B) and (F) of subsection (d)(5)".

(d) Effective Date.—The amendments made by this section apply to discharges occurring after September 30, 1997.

SEC. 5465. TREATMENT OF TRANSFER CASES.

(a) Transfers to PPS Exempt Hospitals and Skilled Nursing Facilities.—Section 1886(d)(5)(I) (42 U.S.C. 1395ww(d)(5)(I)) is amended by adding at the end the following new clause:

"(iii) In carrying out this subparagraph, the Secretary shall treat the term 'transfer case' as including the case of an individual who, immediately upon discharge from, and pursuant to the discharge planning process (as defined in section 1861(ee)) of, a subsection (d) hospital—

"(I) is admitted as an inpatient to a hospital or hospital unit that is not a subsection (d) hospital for the receipt of inpatient hospital services; or

"(II) is admitted to a skilled nursing facility or facility described in section 1861(y)(1) for the receipt of extended care services.".

(b) Effective Date.—The amendment made by subsection (a) shall apply with respect to discharges occurring on or after October 1, 1997.

SEC. 5466. REDUCTIONS IN PAYMENTS FOR ENROLLEE BAD DEBT.

Section 1861(v)(1) (42 U.S.C. 1395x(v)(1)) is amended by adding at the end the following new subparagraph:

"(T) In determining such reasonable costs for hospitals, the amount of bad debts otherwise treated as allowable costs which are attributable to the deductibles and coinsurance amounts under this title shall be reduced—

"(i) for cost reporting periods beginning on or after October 1, 1997 and on or before December 31, 1998, by 25 percent of such amount otherwise allowable,

"(ii) for cost reporting periods beginning during calendar year 1999, by 40 percent of such amount otherwise allowable, and

"(iii) for cost reporting periods beginning during a subsequent calendar year, by 50 percent of such amount otherwise allowable.".

SEC. 5467. FLOOR ON AREA WAGE INDEX.

(a) In General.—For purposes of section 1886(d)(3)(E) of the Social Security Act (42 U.S.C. 1395ww(d)(3)(E)) for discharges occurring on or after October 1, 1997, the area wage index applicable under such section to any hospital which is not located in a rural area (as defined in section 1886(d)(2)(D) of such Act (42 U.S.C. 1395ww(d)(2)(D)) may not be less than the average of the area wage indices applicable under such section to hospitals located in rural areas in the State in which the hospital is located.

(b) Implementation.—The Secretary of Health and Human Services shall adjust the area wage indices referred to in subsection (a) for hospitals not described in such subsection in a manner which assures that the aggregate payments made under section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)) in a fiscal year for the operating costs of inpatient hospital services are not greater or less than those which would have been made in the year if this section did not apply.

(c) Exclusion of Certain Wages.—In the case of a hospital that is owned by a municipality and that was reclassified as an urban hospital under section 1886(d)(10) of the Social Security Act for fiscal year 1996, in calculating the hospital's average hourly wage for purposes of geographic reclassification under such section for fiscal year 1998, the Secretary of Health and Human Services shall exclude the general service wages and hours of personnel associated with a skilled nursing facility that is owned by the hospital of the same municipality and that is physically separated from the hospital to the extent that such wages and hours of such personnel are not shared with the hospital and are separately documented. A hospital that applied for and was denied reclassification as an urban hospital for fiscal year 1998, but that would have received reclassification had the exclusion required by this section been applied to it, shall be reclassified as an urban hospital for fiscal year 1998.

SEC. 5468. INCREASE BASE PAYMENT RATE TO PUERTO RICO HOSPITALS.

Section 1886(d)(9)(A) (42 U.S.C. 1395ww(d)(9)(A)) is amended—

(1) in the matter preceding clause (i), by striking "in a fiscal year beginning on or after October 1, 1987,",

(2) in clause (i), by striking "75 percent" and inserting "for discharges beginning on or after October 1, 1997, 50 percent (and for discharges between October 1, 1987, and September 30, 1997, 75 percent)", and

(3) in clause (ii), by striking "25 percent" and inserting "for discharges beginning in a fiscal year beginning on or after October 1, 1997, 50 percent (and for discharges between October 1, 1987 and September 30, 1997, 25 percent)".

SEC. 5469. PERMANENT EXTENSION OF HEMOPHILIA PASS-THROUGH.

Effective October 1, 1997, section 6011(d) of OBRA–1989 (as amended by section 13505 of OBRA–1993) is amended by striking "and shall expire September 30, 1994".

SEC. 5470. COVERAGE OF SERVICES IN RELIGIOUS NONMEDICAL HEALTH CARE INSTITUTIONS UNDER THE MEDICARE AND MEDICAID PROGRAMS.

(a) Medicare Coverage.—

(1) In general.—Section 1861 of the Social Security Act (42 U.S.C. 1395x) (as amended by section 5361) is amended—

(1) in the sixth sentence of subsection (e)—

(A) by striking "includes" and all that follows up to "but only" and inserting "includes a religious nonmedical health care institution (as defined in subsection (rr)(1)),", and

(B) by inserting "consistent with section 1821" before the period;

(2) in subsection (y)—

(A) by amending the heading to read as follows:

"Extended Care in Religious Nonmedical Health Care Institutions",

(B) in paragraph (1), by striking "includes" and all that follows up to "but only" and inserting "includes a religious nonmedical health care institution (as defined in subsection (rr)(1)),", and

(C) by inserting "consistent with section 1821" before the period; and

(3) by adding at the end the following:

"Religious Nonmedical Health Care Institution

"(rr)(1) The term 'religious nonmedical health care institution' means an institution that—

"(A) is described in subsection (c)(3) of section 501 of the Internal Revenue Code of 1986 and is exempt from taxes under subsection (a) of such section;

"(B) is lawfully operated under all applicable Federal, State, and local laws and regulations;

"(C) provides only nonmedical nursing items and services exclusively to patients who choose to rely solely upon a religious method of healing and for whom the acceptance of medical health services would be inconsistent with their religious beliefs;

"(D) provides such nonmedical items and services exclusively through nonmedical nursing personnel who are experienced in caring for the physical needs of such patients;

"(E) provides such nonmedical items and services to inpatients on a 24-hour basis;

"(F) on the basis of its religious beliefs, does not provide through its personnel or otherwise medical items and services (including any medical screening, examination, diagnosis, prognosis, treatment, or the administration of drugs) for its patients;

"(G) is not a part of, or owned by, or under common ownership with, or affiliated through ownership with, a health care facility that provides medical services;

"(H) has in effect a utilization review plan which—

"(i) provides for the review of admissions to the institution, of the duration of stays therein, of cases of continuous extended duration, and of the items and services furnished by the institution,

"(ii) requires that such reviews be made by an appropriate committee of the institution that includes the individuals responsible for overall administration and for supervision of nursing personnel at the institution,

"(iii) provides that records be maintained of the meetings, decisions, and actions of such committee, and

"(iv) meets such other requirements as the Secretary finds necessary to establish an effective utilization review plan;

"(I) provides the Secretary with such information as the Secretary may require to implement *section 1821, to monitor quality of care, and to provide for coverage determinations; and*

"(J) meets such other requirements as the Secretary finds necessary in the interest of the health and safety of individuals who are furnished services in the institution.

"(2) If the Secretary finds that the accreditation of an institution by a State, regional, or national agency or association provides reasonable assurances that any or all of the requirements of paragraph (1) are met or exceeded, the Secretary shall, to the extent the Secretary deems it appropriate, treat such institution as meeting the condition or conditions with respect to which the Secretary made such finding.

"(3)(A)(i) In administering this subsection and section 1821, the Secretary shall not require any patient of a religious nonmedical health care institution to undergo any medical screening, examination, diagnosis, prognosis, or treatment or to accept any other medical health care service, if such patient (or legal representative of the patient) objects thereto on religious grounds.

"(ii) Clause (i) shall not be construed as preventing the Secretary from requiring under section 1821(a)(2) the provision of sufficient information regarding an individual's condition as a condition for receipt of benefits under part A for services provided in such an institution.

"(B)(i) In administering this subsection and section 1821, the Secretary shall not subject a religious nonmedical health care institution to any medical supervision, regulation, or control, insofar as such supervision, regulation, or control would be contrary to the religious beliefs observed by the institution.

"(ii) Clause (i) shall not be construed as preventing the Secretary from reviewing items and services billed by the institution to the extent the Secretary determines such review to be necessary to determine whether such items and services were not covered under part A, are excessive, or are fraudulent.".

(2) CONDITIONS OF COVERAGE.—Part A of title XVIII of the Social Security Act is amended by adding at the end the following new section:

"CONDITIONS FOR COVERAGE OF RELIGIOUS NONMEDICAL HEALTH CARE INSTITUTIONAL SERVICES

"SEC. 1821. (a) IN GENERAL.—Subject to subsections (c) and (d), payment under this part may be made for inpatient hospital services or post-hospital extended care services furnished an individual in a religious nonmedical health care institution only if—

"(1) the individual has an election in effect for such benefits under subsection (b); and

"(2) the individual has a condition such that the individual would qualify for benefits under this part for inpatient hospital services or extended care services, respectively, if the individual were an inpatient or resident in a hospital or skilled nursing facility that was not such an institution.

"(b) ELECTION.—

"(1) IN GENERAL.—An individual may make an election under this subsection in a form and manner specified by the Secretary consistent with this subsection. Unless otherwise provided, such an election shall take effect immediately upon its execution. Such an election, once made, shall continue in effect until revoked.

"(2) FORM.—The election form under this subsection shall include the following:

"(A) A statement, signed by the individual (or such individual's legal representative), that—

"(i) the individual is conscientiously opposed to acceptance of nonexcepted medical treatment; and

"(ii) the individual's acceptance of nonexcepted medical treatment would be inconsistent with the individual's sincere religious beliefs.

"(B) A statement that the receipt of non-excepted medical services shall constitute a revocation of the election and may limit further receipt of services described in subsection (a).

"(3) REVOCATION.—An election under this subsection by an individual may be revoked in a form and manner specified by the Secretary and shall be deemed to be revoked if the individual receives medicare reimbursable non-excepted medical treatment, regardless of whether or not benefits for such treatment are provided under this title.

"(4) LIMITATION ON SUBSEQUENT ELECTIONS.—Once an individual's election under this subsection has been made and revoked twice—

"(A) the next election may not become effective until the date that is 1 year after the date of most recent previous revocation, and

"(B) any succeeding election may not become effective until the date that is 5 years after the date of the most recent previous revocation.

"(5) EXCEPTED MEDICAL TREATMENT.—For purposes of this subsection:

"(A) EXCEPTED MEDICAL TREATMENT.—The term 'excepted medical treatment' means medical care or treatment (including medical and other health services)—

"(i) for the setting of fractured bones,

"(ii) received involuntarily, or

"(iii) required under Federal or State law or law of a political subdivision of a State.

"(B) NON-EXCEPTED MEDICAL TREATMENT.—The term 'nonexcepted medical treatment' means medical care or treatment (including medical and other health services) other than excepted medical treatment.

"(c) MONITORING AND SAFEGUARD AGAINST EXCESSIVE EXPENDITURES.—

"(1) ESTIMATE OF EXPENDITURES.—Before the beginning of each fiscal year (beginning with fiscal year 2000), the Secretary shall estimate the level of expenditures under this part for services described in subsection (a)for that fiscal year.

"(2) ADJUSTMENT IN PAYMENTS.—

"(A) PROPORTIONAL ADJUSTMENT.—If the Secretary determines that the level estimated under paragraph (1) for a fiscal year will exceed the trigger level (as defined in subparagraph (C)) for that fiscal year, the Secretary shall, subject to subparagraph (B), provide for such a proportional reduction in payment amounts under this part for services described in subsection (a) for the fiscal year involved as will assure that such level (taking into account any adjustment under subparagraph (B)) does not exceed the trigger level for that fiscal year.

"(B) ALTERNATIVE ADJUSTMENTS.—The Secretary may, instead of making some or all of the reduction described in subparagraph (A), impose such other conditions or limitations with respect to the coverage of covered services (including limitations on new elections of coverage and new facilities) as may be appropriate to reduce the level of expenditures described in paragraph (1) to the trigger level.

"(C) TRIGGER LEVEL.—For purposes of this subsection, subject to adjustment under paragraph (3)(B), the 'trigger level' for—

"(i) fiscal year 1998, is $20,000,000, or

"(ii) a succeeding fiscal year is the amount specified under this subparagraph for the previous fiscal year increased by the percentage increase in the consumer price index for all urban consumers (all items; United States city average) for the 12-month period ending with July preceding the beginning of the fiscal year.

"(D) PROHIBITION OF ADMINISTRATIVE AND JUDICIAL REVIEW.—There shall be no administrative or judicial review under section 1869, 1878, or otherwise of the estimation of expenditures under subparagraph (A) or the application of reduction amounts under subparagraph (B).

"(E) EFFECT ON BILLING.—Notwithstanding any other provision of this title, in the case of a reduction in payment provided under this subsection for services of a religious nonmedical health care institution provided to an individual, the amount that the institution is otherwise permitted to charge the individual for such services is increased by the amount of such reduction.

"(3) MONITORING EXPENDITURE LEVEL.—

"(A) IN GENERAL.—The Secretary shall monitor the expenditure level described in paragraph (2)(A) for each fiscal year (beginning with fiscal year 1999).

"(B) ADJUSTMENT IN TRIGGER LEVEL.—If the Secretary determines that such level for a fiscal year exceeded, or was less than, the trigger level for that fiscal year, then the trigger level for the succeeding fiscal year shall be reduced, or increased, respectively, by the amount of such excess or deficit.

"(d) SUNSET.—If the Secretary determines that the level of expenditures described in subsection (c)(1) for 3 consecutive fiscal years (with the first such year being not earlier than fiscal year 2002) exceeds the trigger level for such expenditures for such years (as determined under subsection (c)(2)), benefits shall be paid under this part for services described in subsection (a) and furnished on or after the first January 1 that occurs after such 3 consecutive years only with respect to an individual who has an election in effect under subsection (b) as of such January 1 and only during the duration of such election.

"(e) ANNUAL REPORT.—At the beginning of each fiscal year (beginning with fiscal year 1999), the Secretary shall submit to the Committees on Ways and Means of the House of Representatives and the Committee on Finance of the Senate an annual report on coverage and expenditures for services described in subsection (a) under this part and under State plans under title XIX. Such report shall include—

"(1) level of expenditures described in subsection (c)(1) for the previous fiscal year and estimated for the fiscal year involved;

"(2) trends in such level; and

"(3) facts and circumstances of any significant change in such level from the level in previous fiscal years.".

(b) MEDICAID.—

(1) The third sentence of section 1902(a) of such Act (42 U.S.C. 1396a(a)) is amended by striking all that follows "shall not apply" and inserting "to a religious nonmedical health care institution (as defined in section 1861(rr)(1)).".

(2) Section 1908(e)(1) of such Act (42 U.S.C. 1396g–1(e)(1)) is amended by striking all that follows "does not include" and inserting "a religious nonmedical health care institution (as defined in section 1861(rr)(1)).".

(c) CONFORMING AMENDMENTS.—

(1) Section 1122(h) of such Act (42 U.S.C. 1320a–1(h)) is amended by striking all that follows "shall not apply to" and inserting "a religious nonmedical health care institution (as defined in section 1861(rr)(1)).".

(2) Section 1162 of such Act (42 U.S.C. 1320c–11) is amended—

(A) by amending the heading to read as follows:

"EXEMPTIONS FOR RELIGIOUS NONMEDICAL HEALTH CARE INSTITUTIONS"; and

(B) by striking all that follows "shall not apply with respect to a" and inserting "religious nonmedical health care institution (as defined in section 1861(rr)(1)).".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to items and services furnished on or after such date. By not later than July 1, 1998, the Secretary of Health and Human Services shall first issue regulations to carry out such amendments. Such regulations may be issued so they are effective on an interim basis pending notice and opportunity for public comment. For periods before the effective date of such regulations, such

regulations shall recognize elections entered into in good faith in order to comply with the requirements of section 1821(b) of the Social Security Act.

CHAPTER 5—PAYMENTS FOR HOSPICE SERVICES

SEC. 5481. PAYMENT FOR HOME HOSPICE CARE BASED ON LOCATION WHERE CARE IS FURNISHED.

(a) IN GENERAL.—Section 1814(i)(2) (42 U.S.C. 1395f(i)(2)) is amended by adding at the end the following:

"(D) A hospice program shall submit claims for payment for hospice care furnished in an individual's home under this title only on the basis of the geographic location at which the service is furnished, as determined by the Secretary.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to cost reporting periods beginning on or after October 1, 1997.

SEC. 5482. HOSPICE CARE BENEFITS PERIODS.

(a) RESTRUCTURING OF BENEFIT PERIOD.—Section 1812 (42 U.S.C. 1395d) is amended in subsections (a)(4) and (d)(1), by striking ", a subsequent period of 30 days, and a subsequent extension period" and inserting "and an unlimited number of subsequent periods of 60 days each".

(b) CONFORMING AMENDMENTS.—(1) Section 1812 (42 U.S.C. 1395d) is amended in subsection (d)(2)(B) by striking "90- or 30-day period or a subsequent extension period" and inserting "90-day period or a subsequent 60-day period".

(2) Section 1814(a)(7)(A) (42 U.S.C. 1395f(a)(7)(A)) is amended—

(A) in clause (i), by inserting "and" at the end;

(B) in clause (ii)—

(i) by striking "30-day" and inserting "60-day"; and

(ii) by striking ", and" at the end and inserting a period; and

(C) by striking clause (iii).

SEC. 5483. OTHER ITEMS AND SERVICES INCLUDED IN HOSPICE CARE.

Section 1861(dd)(1) (42 U.S.C. 1395x(dd)(1)) is amended—

(1) in subparagraph (G), by striking "and" at the end;

(2) in subparagraph (H), by striking the period at the end and inserting ", and"; and

(3) by inserting after subparagraph (H) the following:

"(I) any other item or service which is specified in the plan and for which payment may otherwise be made under this title.".

SEC. 5484. CONTRACTING WITH INDEPENDENT PHYSICIANS OR PHYSICIAN GROUPS FOR HOSPICE CARE SERVICES PERMITTED.

Section 1861(dd)(2) (42 U.S.C. 1395x(dd)(2)) is amended—

(1) in subparagraph (A)(ii)(I), by striking "(F),"; and

(2) in subparagraph (B)(i), by inserting "or, in the case of a physician described in subclause (I), under contract with" after "employed by".

SEC. 5485. WAIVER OF CERTAIN STAFFING REQUIREMENTS FOR HOSPICE CARE PROGRAMS IN NON-URBANIZED AREAS.

Section 1861(dd)(5) (42 U.S.C. 1395x(dd)(5)) is amended—

(1) in subparagraph (B), by inserting "or (C)" after "subparagraph (A)" each place it appears; and

(2) by adding at the end the following:

"(C) The Secretary may waive the requirements of paragraph clauses (i) and (ii) of paragraph (2)(A) for an agency or organization with respect to the services described in paragraph (1)(B) and, with respect to dietary counseling, paragraph (1)(H), if such agency or organization—

"(i) is located in an area which is not an urbanized area (as defined by the Bureau of the Census), and

"(ii) demonstrates to the satisfaction of the Secretary that the agency or organization has been unable, despite diligent efforts, to recruit appropriate personnel.".

SEC. 5486. LIMITATION ON LIABILITY OF BENEFICIARIES FOR CERTAIN HOSPICE COVERAGE DENIALS.

Section 1879 (42 U.S.C. 1395pp) is amended—

(1) in subsection (a), in the matter following paragraph (2), by inserting "and except as provided in subsection (i)," after "to the extent permitted by this title,";

(2) in subsection (g)—

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and indenting such subparagraphs appropriately;

(B) by striking "is," and inserting "is—";

(C) by making the remaining text of subsection (g) (as amended) that follows "is—" a new paragraph (1) and indenting that paragraph appropriately;

(D) by striking the period at the end and inserting "; and"; and

(E) by adding at the end the following:

"(2) with respect to the provision of hospice care to an individual, a determination that the individual is not terminally ill."; and

(3) by adding at the end the following:

"(i) In any case involving a coverage denial with respect to hospice care described in subsection (g)(2), only the individual that received such care shall, notwithstanding such determination, be indemnified for any payments that the individual made to a provider or other person for such care that would, but for such denial, otherwise be paid to the individual under part A or B of this title.".

SEC. 5487. EXTENDING THE PERIOD FOR PHYSICIAN CERTIFICATION OF AN INDIVIDUAL'S TERMINAL ILLNESS.

Section 1814(a)(7)(A)(i) (42 U.S.C. 1395f(a)(7)(A)(i)) is amended, in the matter following subclause (II), by striking ", not later than 2 days after hospice care is initiated (or, if each certify verbally not later than 2 days after hospice care is initiated, not later than 8 days after such care is initiated)" and inserting "at the beginning of the period".

SEC. 5488. EFFECTIVE DATE.

Except as otherwise provided in this chapter, the amendments made by this chapter apply to benefits provided on or after the date of the enactment of this chapter, regardless of whether or not an individual has made an election under section 1812(d) of the Social Security Act (42 U.S.C. 1395d(d)) before such date.

Subtitle G—Provisions Relating to Part B Only

CHAPTER 1—PAYMENTS FOR PHYSICIANS AND OTHER HEALTH CARE PROVIDERS

SEC. 5501. ESTABLISHMENT OF SINGLE CONVERSION FACTOR FOR 1998.

(a) IN GENERAL.—Section 1848(d)(1) (42 U.S.C. 1395w–4(d)(1)) is amended to read as follows:

"(1) ESTABLISHMENT.—

"(A) IN GENERAL.—The conversion factor for each year shall be the conversion factor established under this subsection for the previous year, adjusted by the update established under paragraph (3) for the year involved.

"(B) SPECIAL RULE FOR 1998.—The single conversion factor for 1998 shall be the conversion factor for primary care services for 1997, increased by the Secretary's estimate of the weighted average of the 3 separate updates that would otherwise occur but for the enactment of chapter 1 of subtitle G of title V of the Balanced Budget Act of 1997.

"(C) PUBLICATION.—The Secretary shall, during the last 15 days of October of each year, publish the conversion factor which will apply to physicians' services for the following year and the update determined under paragraph (3) for such year.".

(b) CONFORMING AMENDMENT.—Section 1848(i)(1)(C) (42 U.S.C. 1395w–4(i)(1)(C)) is amended by striking "conversion factors" and inserting "the conversion factor".

SEC. 5502. ESTABLISHING UPDATE TO CONVERSION FACTOR TO MATCH SPENDING UNDER SUSTAINABLE GROWTH RATE.

(a) UPDATE.—

(1) IN GENERAL.—Section 1848(d)(3) (42 U.S.C. 1395w–4(d)(3)) is amended to read as follows:

"(3) UPDATE.—

"(A) IN GENERAL.—Unless otherwise provided by law, subject to subparagraph (D) and the budget-neutrality factor determined by the Secretary under subsection (c)(2)(B)(ii), the update to the single conversion factor established in paragraph (1)(B) for a year beginning with 1999 is equal to the product of—

"(i) 1 plus the Secretary's estimate of the percentage increase in the MEI (as defined in section 1842(i)(3)) for the year (divided by 100), and

"(ii) 1 plus the Secretary's estimate of the update adjustment factor for the year (divided by 100),

minus 1 and multiplied by 100.

"(B) UPDATE ADJUSTMENT FACTOR.—For purposes of subparagraph (A)(ii), the 'update adjustment factor' for a year is equal to the quotient (as estimated by the Secretary) of—

"(i) the difference between (I) the sum of the allowed expenditures for physicians' services (as determined under subparagraph (C)) for the period beginning July 1, 1997, and ending on June 30 of the year involved, and (II) the amount of actual expenditures for physicians' services furnished during the period beginning July 1, 1997, and ending on June 30 of the preceding year; divided by

"(ii) the actual expenditures for physicians' services for the 12-month period ending on June 30 of the preceding year, increased by the sustainable growth rate under subsection (f) for the fiscal year which begins during such 12-month period.

"(C) DETERMINATION OF ALLOWED EXPENDITURES.—For purposes of this paragraph, the allowed expenditures for physicians' services for the 12-month period ending with June 30 of—

"(i) 1997 is equal to the actual expenditures for physicians' services furnished during such 12-month period, as estimated by the Secretary; or

"(ii) a subsequent year is equal to the allowed expenditures for physicians' services for the previous year, increased by the sustainable growth rate under subsection (f) for the fiscal year which begins during such 12-month period.

"(D) RESTRICTION ON VARIATION FROM MEDICARE ECONOMIC INDEX.—Notwithstanding the amount of the update adjustment factor determined under subparagraph (B) for a year, the update in the conversion factor under this paragraph for the year may not be—

"(i) greater than 100 times the following amount: (1.03 + (MEI percentage/100)) −1; or

"(ii) less than 100 times the following amount: (0.93 + (MEI percentage/100)) −1,

where 'MEI percentage' means the Secretary's estimate of the percentage increase in the MEI (as defined in section 1842(i)(3)) for the year involved.".

(b) ELIMINATION OF REPORT.—Section 1848(d) (42 U.S.C. 1395w–4(d)) is amended by striking paragraph (2).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to the update for years beginning with 1999.

SEC. 5503. REPLACEMENT OF VOLUME PERFORMANCE STANDARD WITH SUSTAINABLE GROWTH RATE.

(a) IN GENERAL.—Section 1848(f) (42 U.S.C. 1395w–4(f)) is amended by striking paragraphs (2) through (5) and inserting the following:

"(2) SPECIFICATION OF GROWTH RATE.—The sustainable growth rate for all physicians' services for a fiscal year (beginning with fiscal year 1998) shall be equal to the product of—

"(A) 1 plus the Secretary's estimate of the weighted average percentage increase (divided by 100) in the fees for all physicians' services in the fiscal year involved,

"(B) 1 plus the Secretary's estimate of the percentage change (divided by 100) in the average number of individuals enrolled under this part (other than Medicare Choice plan enrollees) from the previous fiscal year to the fiscal year involved,

"(C) 1 plus the Secretary's estimate of the projected percentage growth in real gross domestic product per capita (divided by 100) from the previous fiscal year to the fiscal year involved, and

"(D) 1 plus the Secretary's estimate of the percentage change (divided by 100) in expenditures for all physicians' services in the fiscal year (compared with the previous fiscal year) which will result from changes in law and regulations, determined without taking into account estimated changes in expenditures due to changes in the volume and intensity of physicians' services resulting from changes in the update to the conversion factor under subsection (d)(3),

minus 1 and multiplied by 100.

"(3) DEFINITIONS.—In this subsection:

"(A) SERVICES INCLUDED IN PHYSICIANS' SERVICES.—The term 'physicians' services' includes other items and services (such as clinical diagnostic laboratory tests and radiology services), specified by the Secretary, that are commonly performed or furnished by a physician or in a physician's office, but does not include services furnished to a Medicare Choice plan enrollee.

"(B) MEDICARE CHOICE PLAN ENROLLEE.—The term 'Medicare Choice plan enrollee' means, with respect to a fiscal year, an individual enrolled under this part who has elected to receive benefits under this title for the fiscal year through a Medicare Choice plan offered under part C, and also includes an individual who is receiving benefits under this part through enrollment with an eligible organization with a risk-sharing contract under section 1876.".

(b) CONFORMING AMENDMENTS.—So much of section 1848(f) (42 U.S.C. 1395w–4(f)) as precedes paragraph (2) is amended to read as follows:

"(f) SUSTAINABLE GROWTH RATE.—

"(1) PUBLICATION.—The Secretary shall cause to have published in the Federal Register the sustainable growth rate for each fiscal year beginning with fiscal year 1998. Such publication shall occur in the last 15 days of October of the year in which the fiscal year begins, except that such rate for fiscal year 1998 shall be published not later than January 1, 1998.".

SEC. 5504. PAYMENT RULES FOR ANESTHESIA SERVICES.

(a) IN GENERAL.—Section 1848(d)(1) (42 U.S.C. 1395w–4(d)(1)), as amended by section 5501, is amended—

(A) in subparagraph (B), striking "The single" and inserting "Except as provided in subparagraph (C), the single";

(B) by redesignating subparagraph (C) as subparagraph (D); and

(C) by inserting after subparagraph (B) the following new subparagraph:

"(C) SPECIAL RULES FOR ANESTHESIA SERVICES.—The separate conversion factor for anesthesia services for a year shall be equal to 46 percent of the single conversion factor established for other physicians' services, except as adjusted for changes in work, practice expense, or malpractice relative value units.".

(b) CLASSIFICATION OF ANESTHESIA SERVICES.—The first sentence of section 1848(j)(1) (42 U.S.C. 1395w–4(j)(1)) is amended—

(1) by striking "and including anesthesia services"; and

(2) by inserting before the period the following: "(including anesthesia services)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 1998.

SEC. 5505. IMPLEMENTATION OF RESOURCE-BASED METHODOLOGIES.

(a) ADJUSTMENTS TO RELATIVE VALUE UNITS FOR 1998.—Section 1848(c)(2) (42 U.S.C. 1395w–4(c)(2)) is amended by adding at the end the following new subparagraph:

"(G) ADJUSTMENTS IN RELATIVE VALUE UNITS FOR 1998.—

"(i) IN GENERAL.—The Secretary shall—

"(I) reduce the practice expense relative value units applied to any services described in clause (ii) furnished in 1998 to a number equal to 110 percent of the number of work relative value units, and

"(II) increase the practice expense relative value units for office visit procedure codes during 1998 by a uniform percentage which the Secretary estimates will result in an aggregate increase in payments for such services equal to the aggregate decrease in payments by reason of subclause (I).

"(ii) SERVICES COVERED.—For purposes of clause (i), the services described in this clause are physicians' services that are not described in clause (iii) and for which—

"(I) there are work relative value units, and

"(II) the number of practice expense relative value units (determined for 1998) exceeds 110 percent of the number of work relative value units (determined for such year).

"(iii) EXCLUDED SERVICES.—For purposes of clause (ii), the services described in this clause are services which the Secretary determines at least 75 percent of which are provided under this title in an office setting.".

(b) DELAY OF IMPLEMENTATION TO 1999; PHASEIN OF IMPLEMENTATION.—Section 1848(c)(2) (42 U.S.C. 1395w–4(c)(2)), as amended by subsection (a), is amended—

(1) in subparagraph (C)(ii)—

(A) by striking "1998" each place it appears and inserting "1999", and

(B) by inserting ", to the extent provided under subparagraph (H)," after "based" in the matter following subclause (II), and

(2) by adding at the end the following new subparagraph:

"(H) 3-YEAR ADDITIONAL PHASEIN OF RESOURCE-BASED PRACTICE EXPENSE UNITS.—Notwithstanding subparagraph (C)(ii), the Secretary shall implement the resource-based practice expense unit methodology described in such subparagraph ratably over the 3-year period beginning with 1999 such that such methodology is fully implemented for 2001 and succeeding years.".

(c) REVIEW BY COMPTROLLER GENERAL.—The Comptroller General of the United States shall review and evaluate the proposed rule on resource-based methodology for practice expenses issued by the Health Care Financing Administration. The Comptroller General shall, within 6 months of the date of the enactment of this Act, report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate the results of its evaluation, including an analysis of—

(1) the adequacy of the data used in preparing the rule,

(2) categories of allowable costs,

(3) methods for allocating direct and indirect expenses,

(4) the potential impact of the rule on beneficiary access to services, and

(5) any other matters related to the appropriateness of resource-based methodology for practice expenses.

The Comptroller General shall consult with representatives of physicians' organizations with respect to matters of both data and methodology.

(d) CONSULTATION.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall assemble a group of physicians with expertise in both surgical and nonsurgical areas (including primary care physicians and academics), accounting experts, and the chair of the Prospective Payment Review Commission (or its successor) to solicit their individual views on whether sufficient data exist to allow the Health Care Financing Administration to proceed with implementation of the rule described in subsection (c). After hearing the views of individual members of the group, the Secretary shall determine whether sufficient data exists to proceed with practice expense relative value determination and shall report on such views of the individual members to the committees described in subsection (c), including any recommendations for modifying such rule.

(2) ACTION.—If the Secretary determines under paragraph (1) that insufficient data exists or that the rule described in subsection (c) needs to be revised, the Secretary shall provide for additional data collection and such other actions to correct any deficiencies.

(e) APPLICATION OF RESOURCE-BASED METHODOLOGY TO MALPRACTICE RELATIVE VALUE UNITS.—Section 1848(c)(2)(C)(iii) (42 U.S.C. 1395w–4(c)(2)(C)(iii)) is amended—

(1) by inserting "for years before 1999" before "equal", and

(2) by striking the period at the end and inserting a comma and by adding at the end the following flush matter:

"and for years beginning with 1999 based on the malpractice expense resources involved in furnishing the service".

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to years beginning on and after January 1, 1998.

(2) MALPRACTICE.—The amendments made by subsection (e) shall apply to years beginning on and after January 1, 1999.

SEC. 5506. INCREASED MEDICARE REIMBURSEMENT FOR NURSE PRACTITIONERS AND CLINICAL NURSE SPECIALISTS.

(a) REMOVAL OF RESTRICTIONS ON SETTINGS.—

(1) IN GENERAL.—Clause (ii) of section 1861(s)(2)(K) (42 U.S.C. 1395x(s)(2)(K)) is amended to read as follows:

"(ii) services which would be physicians' services if furnished by a physician (as defined in subsection (r)(1)) and which are performed by a nurse practitioner or clinical nurse specialist (as defined in subsection (aa)(5)) working in collaboration (as defined in subsection (aa)(6)) with a physician (as defined in subsection (r)(1)) which the nurse practitioner or clinical nurse specialist is legally authorized to perform by the State in which the services are performed, and such services and supplies furnished as an incident to such services as would be covered under subparagraph (A) if furnished incident to a physician's professional service, but only if no facility or other provider charges or is paid any amounts with respect to the furnishing of such services;".

(2) CONFORMING AMENDMENTS.—(A) Section 1861(s)(2)(K) of such Act (42 U.S.C. 1395x(s)(2)(K)) is further amended—

(i) in clause (i), by inserting "and such services and supplies furnished as incident to such services as would be covered under subparagraph (A) if furnished incident to a physician's professional service; and" after "are performed,"; and

(ii) by striking clauses (iii) and (iv).

(B) Section 1861(b)(4) (42 U.S.C. 1395x(b)(4)) is amended by striking "clauses (i) or (iii) of subsection (s)(2)(K)" and inserting "subsection (s)(2)(K)".

(C) Section 1862(a)(14) (42 U.S.C. 1395y(a)(14)) is amended by striking "section 1861(s)(2)(K)(i) or 1861(s)(2)(K)(iii)" and inserting "section 1861(s)(2)(K)".

(D) Section 1866(a)(1)(H) (42 U.S.C. 1395cc(a)(1)(H)) is amended by striking "section 1861(s)(2)(K)(i) or 1861(s)(2)(K)(iii)" and inserting "section 1861(s)(2)(K)".

(E) Section 1888(e)(2)(A)(ii) (42 U.S.C. 1395yy(e)(2)(A)(ii)), as added by section 5301(a), is amended by striking "through (iii)" and inserting "and (ii)".

(b) INCREASED PAYMENT.—

(1) FEE SCHEDULE AMOUNT.—Clause (O) of section 1833(a)(1) (42 U.S.C. 1395l(a)(1)) is amended to read as follows: "(O) with respect to services described in section 1861(s)(2)(K)(ii) (relating to nurse practitioner or clinical nurse specialist services), the amounts paid shall be equal to 80 percent of (i) the lesser of the actual charge or 85 percent of the fee schedule amount provided under section 1848, or (ii) in the case of services as an assistant at surgery, the lesser of the actual charge or 85 percent of the amount that would otherwise be recognized if performed by a physician who is serving as an assistant at surgery; and".

(2) CONFORMING AMENDMENTS.—(A) Section 1833(r) (42 U.S.C. 1395l(r)) is amended—

(i) in paragraph (1), by striking "section 1861(s)(2)(K)(iii) (relating to nurse practitioner or clinical nurse specialist services provided in a rural area)" and inserting "section 1861(s)(2)(K)(ii) (relating to nurse practitioner or clinical nurse specialist services)";

(ii) by striking paragraph (2);

(iii) in paragraph (3), by striking "section 1861(s)(2)(K)(iii)" and inserting "section 1861(s)(2)(K)(ii)"; and

(iv) by redesignating paragraph (3) as paragraph (2).

(B) Section 1842(b)(12)(A) (42 U.S.C. 1395u(b)(12)(A)) is amended, in the matter preceding clause (i), by striking "clauses (i), (ii), or (iv) of section 1861(s)(2)(K) (relating to a physician assistants and nurse practitioners)" and inserting "section 1861(s)(2)(K)(i) (relating to physician assistants)".

(c) DIRECT PAYMENT FOR NURSE PRACTITIONERS AND CLINICAL NURSE SPECIALISTS.—

(1) IN GENERAL.—Section 1832(a)(2)(B)(iv) (42 U.S.C. 1395k(a)(2)(B)(iv)) is amended by striking "provided in a rural area (as defined in section 1886(d)(2)(D))" and inserting "but only if no facility or other provider charges or is paid any amounts with respect to the furnishing of such services".

(2) CONFORMING AMENDMENT.—Section 1842(b)(6)(C) (42 U.S.C. 1395u(b)(6)(C)) is amended—

(A) by striking "clauses (i), (ii), or (iv)" and inserting "clause (i)"; and

(B) by striking "or nurse practitioner".

(d) DEFINITION OF CLINICAL NURSE SPECIALIST CLARIFIED.—Section 1861(aa)(5) (42 U.S.C. 1395x(aa)(5)) is amended—

(1) by inserting "(A)" after "(5)";

(2) by striking "The term 'physician assistant'" and all that follows through "who performs" and inserting "The term 'physician assistant' and the term 'nurse practitioner' mean, for purposes of this title, a physician assistant or nurse practitioner who performs"; and

(3) by adding at the end the following new subparagraph:

"(B) The term 'clinical nurse specialist' means, for purposes of this title, an individual who—

"(i) is a registered nurse and is licensed to practice nursing in the State in which the clinical nurse specialist services are performed; and

"(ii) holds a master's degree in a defined clinical area of nursing from an accredited educational institution.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to services furnished and supplies provided on and after January 1, 1998.

SEC. 5507. INCREASED MEDICARE REIMBURSEMENT FOR PHYSICIAN ASSISTANTS.

(a) REMOVAL OF RESTRICTION ON SETTINGS.—Section 1861(s)(2)(K)(i) (42 U.S.C. 1395x(s)(2)(K)(i)), as amended by the section 5506, is amended—

(1) by striking "(I) in a hospital" and all that follows through "shortage area,", and

(2) by adding at the end the following: "but only if no facility or other provider charges or is paid any amounts with respect to the furnishing of such services,".

(b) INCREASED PAYMENT.—Paragraph (12) of section 1842(b) (42 U.S.C. 1395u(b)), as amended by section 5506(b)(2)(B), is amended to read as follows:

"(12) With respect to services described in section 1861(s)(2)(K)(i)—

"(A) payment under this part may only be made on an assignment-related basis; and

"(B) the amounts paid under this part shall be equal to 80 percent of (i) the lesser of the actual charge or 85 percent of the fee schedule amount provided under section 1848 for the same service provided by a physician who is not a specialist; or (ii) in the case of services as an assistant at surgery, the lesser of the actual charge or 85 percent of the amount that would otherwise be recognized if performed by a physician who is serving as an assistant at surgery.".

(c) REMOVAL OF RESTRICTION ON EMPLOYMENT RELATIONSHIP.—Section 1842(b)(6) (42 U.S.C. 1395u(b)(6)) is amended by adding at the end the following new sentence: "For purposes of clause (C) of the first sentence of this paragraph, an employment relationship may include any independent contractor arrangement, and employer status shall be determined in accordance with the law of the State in which the services described in such clause are performed.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to services furnished and supplies provided on and after January 1, 1998.

CHAPTER 2—OTHER PAYMENT PROVISIONS

SEC. 5521. REDUCTION IN UPDATES TO PAYMENT AMOUNTS FOR CLINICAL DIAGNOSTIC LABORATORY TESTS; STUDY ON LABORATORY SERVICES.

(a) CHANGE IN UPDATE.—Section 1833(h)(2)(A)(ii) (42 U.S.C. 1395l(h)(2)(A)(ii)) is amended by striking "and" at the end of subclause (III), by striking the period at the end of subclause (IV) and inserting ", and", and by adding at the end the following:

"(V) the annual adjustment in the fee schedules determined under clause (i) for each of the years 1998 through 2002 shall be reduced (but not below zero) by 2.0 percentage points.".

(b) LOWERING CAP ON PAYMENT AMOUNTS.—Section 1833(h)(4)(B) (42 U.S.C. 1395l(h)(4)(B)) is amended—

(1) in clause (vi), by striking "and" at the end;

(2) in clause (vii)—

(A) by inserting "and before January 1, 1998," after "1995,", and

(B) by striking the period at the end and inserting ", and"; and

(3) by adding at the end the following new clause:

"(viii) after December 31, 1997, is equal to 74 percent of such median.".

(c) STUDY AND REPORT ON CLINICAL LABORATORY SERVICES.—

(1) IN GENERAL.—The Secretary shall request the Institute of Medicine of the National Academy of Sciences to conduct a study of payments under part B of title XVIII of the Social Security Act for clinical laboratory services. The study shall include a review of the adequacy of the current methodology and recommendations regarding alternative payment systems. The study shall also analyze and discuss the relationship between such payment systems and access to high quality laboratory services for medicare beneficiaries, including availability and access to new testing methodologies.

(2) REPORT TO CONGRESS.—The Secretary shall, not later than 2 years after the date of enactment of this section, report to the appropriate committees of Congress the results of the study described in paragraph (1), including any recommendations for legislation.

SEC. 5522. IMPROVEMENTS IN ADMINISTRATION OF LABORATORY SERVICES BENEFIT.

(a) SELECTION OF REGIONAL CARRIERS.—

(1) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall—

(A) divide the United States into no more than 5 regions, and

(B) designate a single carrier for each such region,

for the purpose of payment of claims under part B of title XVIII of the Social Security Act with respect to clinical diagnostic laboratory services furnished on or after such date (not later than January 1, 1999) as the Secretary specifies.

(2) DESIGNATION.—In designating such carriers, the Secretary shall consider, among other criteria—

(A) a carrier's timeliness, quality, and experience in claims processing, and

(B) a carrier's capacity to conduct electronic data interchange with laboratories and data matches with other carriers.

(3) SINGLE DATA RESOURCE.—The Secretary shall select one of the designated carriers to serve as a central statistical resource for all claims information relating to such clinical diagnostic laboratory services handled by all the designated carriers under such part.

(4) ALLOCATION OF CLAIMS.—The allocation of claims for clinical diagnostic laboratory services to particular designated carriers shall be based on whether a carrier serves the geographic area where the laboratory specimen was collected or other method specified by the Secretary.

(5) TEMPORARY EXCEPTION.—Paragraph (1) shall not apply with respect to clinical diagnostic laboratory services furnished by independent physician offices until such time as the Secretary determines that such offices would not be unduly burdened by the application of billing responsibilities with respect to more than one carrier.

(b) ADOPTION OF UNIFORM POLICIES FOR CLINICAL LABORATORY BENEFITS.—

(1) IN GENERAL.—Not later than July 1, 1998, the Secretary shall first adopt, consistent with paragraph (2), uniform coverage, administration, and payment policies for clinical diagnostic laboratory tests under part B of title XVIII of the Social Security Act, using a negotiated rulemaking process under subchapter III of chapter 5 of title 5, United States Code.

(2) CONSIDERATIONS IN DESIGN OF UNIFORM POLICIES.—The policies under paragraph (1) shall be designed to promote program integrity and uniformity and simplify administrative requirements with respect to clinical diagnostic laboratory tests payable under such part in connection with the following:

(A) Beneficiary information required to be submitted with each claim or order for laboratory services.

(B) Physicians' obligations regarding documentation requirements and recordkeeping.

(C) Procedures for filing claims and for providing remittances by electronic media.

(D) The documentation of medical necessity.

(E) Limitation on frequency of coverage for the same tests performed on the same individual.

(3) CHANGES IN LABORATORY POLICIES PENDING ADOPTION OF UNIFORM POLICY.—During the period that begins on the date of the enactment of this Act and ends on the date the Secretary first implements uniform policies pursuant to regulations promulgated under this subsection, a carrier under such part may implement changes relating to requirements for the submission of a claim for clinical diagnostic laboratory tests.

(4) USE OF INTERIM POLICIES.—After the date the Secretary first implements such uniform policies, the Secretary shall permit any carrier to develop and implement interim policies of the type described in paragraph (1), in accordance with guidelines established by the Secretary, in cases in which a uniform national policy has not been established under this subsection and there is a demonstrated need for a policy to respond to aberrant utilization or provision of unnecessary services. Except as the Secretary specifically permits, no policy shall be implemented under this paragraph for a period of longer than 2 years.

(5) INTERIM NATIONAL GUIDELINES.—After the date the Secretary first designates regional carriers under subsection (a), the Secretary shall establish a process under which designated carriers can collectively develop and implement interim national guidelines of the type described in paragraph (1). No such policy shall be implemented under this paragraph for a period of longer than 2 years.

(6) BIENNIAL REVIEW PROCESS.—Not less often than once every 2 years, the Secretary shall solicit and review comments regarding changes in the uniform policies established under this subsection. As part of such biennial review process, the Secretary shall specifically review and consider whether to incorporate or supersede interim, regional, or national policies developed under paragraph (4) or (5). Based upon such review, the Secretary may provide for appropriate changes in the uniform policies previously adopted under this subsection.

(7) REQUIREMENT AND NOTICE.—The Secretary shall ensure that any guidelines adopted under paragraph (3), (4), or (5) shall apply to all laboratory claims payable under part B of title XVIII of the Social Security Act, and shall provide for advance notice to interested parties and a 45-day period in which such parties may submit comments on the proposed change.

(c) INCLUSION OF LABORATORY REPRESENTATIVE ON CARRIER ADVISORY COMMITTEES.—The Secretary shall direct that any advisory committee established by such a carrier, to advise with respect to coverage, administration or payment policies under part B of title XVIII of the Social Security Act, shall include an individual to represent the interest and views of independent clinical laboratories and such other laboratories as the Secretary deems appropriate. Such individual shall be selected by such committee from among nominations submitted by national and local organizations that represent independent clinical laboratories.

SEC. 5523. PAYMENTS FOR DURABLE MEDICAL EQUIPMENT.

(a) REDUCTION IN PAYMENT AMOUNTS FOR ITEMS OF DURABLE MEDICAL EQUIPMENT.—

(1) FREEZE IN UPDATE FOR COVERED ITEMS.—Section 1834(a)(14) (42 U.S.C. 1395m(a)(14)) is amended to read as follows:

"(14) COVERED ITEM UPDATE.—In this subsection—

"(A) IN GENERAL.—The term 'covered item update' means, with respect to any year, the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of the previous year.

"(B) REDUCTION FOR CERTAIN YEARS.—In the case of each of the years 1998 through 2002, the covered item update under subparagraph (A) shall be reduced (but not below zero) by 2.0 percentage points.".

(2) UPDATE FOR ORTHOTICS AND PROSTHETICS.—Section 1834(h)(4)(A) (42 U.S.C. 1395m(h)(4)(A)) is amended to read as follows:

"(A) the term 'applicable percentage increase' means, with respect to any year, the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of the previous year, except that in each of the years 1998 through 2000, such increase shall be reduced (but not below zero) by 2.0 percentage points;".

(3) EFFECTIVE DATE.—The amendments made by this subsection applies to items furnished on and after January 1, 1998.

(b) REDUCTION IN INCREASE FOR PARENTERAL AND ENTERAL NUTRIENTS, SUPPLIES, AND EQUIPMENT.—The reasonable charge under part B of title XVIII of the Social Security Act for parenteral and enteral nutrients, supplies, and equipment furnished during each of the years 1998 through 2002, shall not exceed the reasonable charge for such items furnished during the previous year (after application of this subsection), increased by the percentage increase in the consumer price index for all urban consumers (United States city average) for the 12-month period ending with June of the previous year reduced (but not below zero) by 2.0 percentage points.

SEC. 5524. OXYGEN AND OXYGEN EQUIPMENT.

(a) IN GENERAL.—Section 1834(a)(9)(B) (42 U.S.C. 1395m(a)(9)(B)) is amended—

(1) by striking "and" at the end of clause (iii);

(2) in clause (iv)—

(A) by striking "a subsequent year" and inserting "1995, 1996, and 1997", and

(B) by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new clauses:

"(v) in 1998, 75 percent of the amount determined under this subparagraph for 1997;

"(vi) in 1999, 62.5 percent of the amount determined under this subparagraph for 1997; and

"(vii) for each subsequent year, the amount determined under this subparagraph for the preceding year increased by the covered item update for such subsequent year.".

(b) UPGRADED DURABLE MEDICAL EQUIPMENT.—Section 1834(a) (42 U.S.C. 1395m(a)) is amended by inserting after paragraph (15) the following new paragraph:

"(16) CERTAIN UPGRADED ITEMS.—

"(A) INDIVIDUAL'S RIGHT TO CHOOSE UPGRADED ITEM.—Notwithstanding any other provision of law, effective on the date on which the Secretary issues regulations under subparagraph (C), an individual may purchase or rent from a supplier an item of upgraded durable medical equipment for which payment would be made under this subsection if the item were a standard item.

"(B) PAYMENTS TO SUPPLIER.—In the case of the purchase or rental of an upgraded item under subparagraph (A)—

"(i) the supplier shall receive payment under this subsection with respect to such item as if such item were a standard item; and

"(ii) the individual purchasing or renting the item shall pay the supplier an amount equal to the difference between the supplier's charge and the amount under clause (i).

In no event may the supplier's charge for an upgraded item exceed the applicable fee schedule amount (if any) for such item.

"(C) CONSUMER PROTECTION SAFEGUARDS.—The Secretary shall issue regulations providing for consumer protection standards with respect to the furnishing of upgraded equipment under subparagraph (A). Such regulations shall provide for—

"(i) determination of fair market prices with respect to an upgraded item;

"(ii) full disclosure of the availability and price of standard items and proof of receipt of such disclosure information by the beneficiary before the furnishing of the upgraded item;

"(iii) conditions of participation for suppliers in the simplified billing arrangement;

"(iv) sanctions of suppliers who are determined to engage in coercive or abusive practices, including exclusion; and

"(v) such other safeguards as the Secretary determines are necessary.".

(c) ESTABLISHMENT OF CLASSES FOR PAYMENT.—Section 1848(a)(9) (42 U.S.C. 1395m(a)(9)) is amended by adding at the end the following:

"(D) AUTHORITY TO CREATE CLASSES.—

"(i) IN GENERAL.—Subject to clause (ii), the Secretary may establish separate classes for any item of oxygen and oxygen equipment and separate national limited monthly payment rates for each of such classes.

"(ii) BUDGET NEUTRALITY.—The Secretary may take actions under clause (i) only to the extent such actions do not result in expenditures for any year to be more or less than the expenditures which would have been made if such actions had not been taken.".

(d) STANDARDS AND ACCREDITATION.—The Secretary shall as soon as practicable establish service standards and accreditation requirements for persons seeking payment under part B of title XVIII of the Social Security Act for the providing of oxygen and oxygen equipment to beneficiaries within their homes.

(e) ACCESS TO HOME OXYGEN EQUIPMENT.—

(1) STUDY.—The Comptroller General of the United States shall study issues relating to access to home oxygen equipment and shall, within 6 months after the date of the enactment of this Act, report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate the results of the study, including recommendations (if any) for legislation.

(2) PEER REVIEW EVALUATION.—The Secretary of Health and Human Services shall arrange for peer review organizations established under section 1154 of the Social Security Act to evaluate access to, and quality of, home oxygen equipment.

(f) DEMONSTRATION PROJECT.—Not later than 6 months after the date of enactment of this Act, the Secretary shall, in consultation with appropriate organizations, initiate a demonstration project in which the Secretary utilizes a competitive bidding process for the furnishing of home oxygen equipment to medicare beneficiaries under title XVIII of the Social Security Act.

(g) EFFECTIVE DATE.—

(1) OXYGEN.—The amendments made by subsection (a) shall apply to items furnished on and after January 1, 1998.

(2) OTHER PROVISIONS.—The amendments made by this section other than subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 5525. UPDATES FOR AMBULATORY SURGICAL SERVICES.

Section 1833(i)(2)(C) (42 U.S.C. 1395l(i)(2)(C)) is amended by inserting at the end the following: "In each of the fiscal years 1998 through 2002, the increase under this subparagraph shall be reduced (but not below zero) by 2.0 percentage points.".

SEC. 5526. REIMBURSEMENT FOR DRUGS AND BIOLOGICALS.

(a) IN GENERAL.—Section 1842 (42 U.S.C. 1395u) is amended by inserting after subsection (n) the following new subsection:

"(o)(1) If a physician's, supplier's, or any other person's bill or request for payment for services includes a charge for a drug or biological for which payment may be made under this part and the drug or biological is not paid on a cost or prospective payment basis as otherwise provided in this part, the amount payable for the drug or biological is equal to 95 percent of the average wholesale price, as specified by the Secretary.

"(2)(A) In the case of a drug or biological for which payment was under this part on May 1, 1997, the amount determined under paragraph (1) for any drug or biological shall not exceed—

"(i) in the case of 1998, the amount of the payment under this part on May 1, 1997, and

"(ii) in the case of 1999 and each succeeding year, the amount determined under this subparagraph for the previous year, increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of the previous year.

"(B) In the case of a drug or biological not described in subparagraph (A), the amount determined under paragraph (1) for any year following the first year for which payment is made under this part for such drug or biological shall not exceed the amount payable under this part (after application of this subparagraph) for the previous year, increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of the previous year.

"(3) If payment for a drug or biological is made to a licensed pharmacy approved to dispense drugs or biologicals under this part, the Secretary shall pay a dispensing fee (less the applicable deductible and insurance amounts) to the pharmacy, as the Secretary determines appropriate.

"(4) The Secretary shall conduct such studies or surveys as are necessary to determine the average wholesale price (and such other price as the Secretary determines appropriate) of any drug or biological for purposes of paragraph (1). The Secretary shall, not later than 6 months after the date of the enactment of this subsection, report to the appropriate committees of Congress the results of the studies and surveys conducted under this paragraph.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply to drugs and biologicals furnished on or after January 1, 1998.

CHAPTER 3—PART B PREMIUM AND RELATED PROVISIONS

SEC. 5541. PART B PREMIUM.

(a) IN GENERAL.—Section 1839(a)(3) (42 U.S.C. 1395r(a)(3)) is amended by striking the first 3 sentences and inserting the following: "The Secretary, during September of each year, shall determine and promulgate a monthly premium rate for the succeeding calendar year that is equal to 50 percent of the monthly actuarial rate for enrollees age 65 and over, determined according to paragraph (1), for that succeeding calendar year.".

(b) CONFORMING AND TECHNICAL AMENDMENTS.—

(1) SECTION 1839.—Section 1839 (42 U.S.C. 1395r) is amended—

(A) in subsection (a)(2), by striking "(b) and (e)" and inserting "(b), (c), and (f)",

(B) in the last sentence of subsection (a)(3)—

(i) by inserting "rate" after "premium", and

(ii) by striking "and the derivation of the dollar amounts specified in this paragraph",

(C) by striking subsection (e), and

(D) by redesignating subsection (g) as subsection (e) and inserting that subsection after subsection (d).

(2) SECTION 1844.—Subparagraphs (A)(i) and (B)(i) of section 1844(a)(1) (42 U.S.C. 1395w(a)(1)) are each amended by striking "or 1839(e), as the case may be".

SEC. 5542. INCOME-RELATED REDUCTION IN MEDICARE SUBSIDY.

(a) IN GENERAL.—Section 1839 (42 U.S.C. 1395r) is amended by adding at the end the following:

"(h)(1) Notwithstanding the previous subsections of this section, in the case of an individual whose modified adjusted gross income for a taxable year ending with or within a calendar year (as initially determined by the Secretary in accordance with paragraph (3)) exceeds the threshold amount described in paragraph (5)(B), the Secretary shall increase the amount of the monthly premium for months in the calendar year by an amount equal to the difference between—

"(A) 200 percent of the monthly actuarial rate for enrollees age 65 and over as determined under subsection (a)(1) for that calendar year; and

"(B) the total of the monthly premiums paid by the individual under this section (determined without regard to subsection (b)) during such calendar year.

"(2) In the case of an individual described in paragraph (1) whose modified adjusted gross income exceeds the threshold amount by less than $50,000, the amount of the increase in the monthly premium applicable under paragraph (1) shall be an amount which bears the same ratio to the amount of the increase described in paragraph (1) (determined without regard to this paragraph) as such excess bears to $50,000.

"(3) The Secretary shall make an initial determination of the amount of an individual's modified adjusted gross income for a taxable year ending with or within a calendar year for purposes of this subsection as follows:

"(A) Not later than September 1 of the year preceding the year, the Secretary shall provide notice to each individual whom the Secretary finds (on the basis of the individual's actual modified adjusted gross income for the most recent taxable year for which such information is available or other information provided to the Secretary by the Secretary of the Treasury) will be subject to an increase under this subsection that the individual will be subject to such an increase, and shall include in such notice the Secretary's estimate of the individual's modified adjusted gross income for the year.

"(B) If, during the 30-day period beginning on the date notice is provided to an individual under subparagraph (A), the individual provides the Secretary with information on the individual's anticipated modified adjusted gross income for the year, the amount initially determined by the Secretary under this paragraph with respect to the individual shall be based on the information provided by the individual.

"(C) If an individual does not provide the Secretary with information under subparagraph (B), the amount initially determined by the Secretary under this paragraph with respect to the individual shall be the amount included in the notice provided to the individual under subparagraph (A).

"(4)(A) If the Secretary determines (on the basis of final information provided by the Secretary of the Treasury) that the amount of an individual's actual modified adjusted gross income for a taxable year ending with or within a calendar year is less than or greater than the amount initially determined by the Secretary under paragraph (3), the Secretary shall increase or decrease the amount of the individual's monthly premium under this section (as the case may be) for months during the following calendar year by an amount equal to $^{1}/_{12}$ *of the difference between—*

"(i) the total amount of all monthly premiums paid by the individual under this section during the previous calendar year; and

"(ii) the total amount of all such premiums which would have been paid by the individual during the previous calendar year if the amount of the individual's modified adjusted gross income initially determined under paragraph (3) were equal to the actual amount of the individual's modified adjusted gross income determined under this paragraph.

"(B)(i) In the case of an individual for whom the amount initially determined by the Secretary under paragraph (3) is based on information provided by the individual under subparagraph (B) of such paragraph, if the Secretary determines under subparagraph (A) that the amount of the individual's actual modified adjusted gross income for a taxable year is greater than the amount initially determined under paragraph (3), the Secretary shall increase the amount otherwise determined for the year under subparagraph (A) by interest in an amount equal to the sum of the amounts determined under clause (ii) for each of the months described in clause (ii).

"(ii) Interest shall be computed for any month in an amount determined by applying the underpayment rate established under section 6621 of the Internal Revenue Code of 1986 (compounded daily) to any portion of the difference between the amount initially determined under paragraph (3) and the amount determined under subparagraph (A) for the period beginning on the first day of the month beginning after the individual provided information to the Secretary under subparagraph (B) of paragraph (3) and ending 30 days before the first month for which the individual's monthly premium is increased under this paragraph.

"(iii) Interest shall not be imposed under this subparagraph if the amount of the individual's modified adjusted gross income provided by the individual under subparagraph (B) of paragraph (3) was not less than the individual's modified adjusted gross income determined on the basis of information shown on the return of tax imposed by chapter 1 of the Internal Revenue Code of 1986 for the taxable year involved.

"(C) In the case of an individual who is not enrolled under this part for any calendar year for which the individual's monthly premium under this section for months during the year would be increased pursuant to subparagraph (A) if the individual were enrolled under this part for the year, the Secretary may take such steps as the Secretary considers appropriate to recover from the individual the total amount by which the individual's monthly premium for months during the year would have been increased under subparagraph (A) if the individual were enrolled under this part for the year.

"(D) In the case of a deceased individual for whom the amount of the monthly premium under this section for months in a year would have been decreased pursuant to subparagraph (A) if the individual were not deceased, the Secretary shall make a payment to the individual's surviving spouse (or, in the case of an individual who does not have a surviving spouse, to the individual's estate) in an amount equal to the difference between—

"(i) the total amount by which the individual's premium would have been decreased for all months during the year pursuant to subparagraph (A); and

"(ii) the amount (if any) by which the individual's premium was decreased for months during the year pursuant to subparagraph (A).

"(5) In this subsection, the following definitions apply:

"(A) The term 'modified adjusted gross income' means adjusted gross income (as defined in section 62 of the Internal Revenue Code of 1986)—

"(i) determined without regard to sections 135, 911, 931, and 933 of such Code, and

"(ii) increased by the amount of interest received or accrued by the taxpayer during the

taxable year which is exempt from tax under such Code.

"(B) The term 'threshold amount' means—

"(i) except as otherwise provided in this paragraph, $50,000,

"(ii) $75,000, in the case of a joint return (as defined in section 7701(a)(38) of such Code), and

"(iii) zero in the case of a taxpayer who—

"(I) is married at the close of the taxable year but does not file a joint return (as so defined) for such year, and

"(II) does not live apart from his spouse at all times during the taxable year.

"(6)(A) The Secretary shall transfer amounts received pursuant to this subsection to the Federal Hospital Insurance Trust Fund.

"(B) In applying section 1844(a), amounts attributable to clause (i) shall not be counted in determining the dollar amount of the premium per enrollee under paragraph (1)(A) or (1)(B).".

(b) CONFORMING AMENDMENTS.—(1) Section 1839 (42 U.S.C. 1395r) is amended—

(A) in subsection (a)(2), by inserting "or section subsection (h)" after "subsections (b) and (e)";

(B) in subsection (a)(3) of section 1839(a), by inserting "or subsection (h)" after "subsection (e)";

(C) in subsection (b), inserting "(and as increased under subsection (h))" after "subsection (a) or (e)"; and

(D) in subsection (f), by striking "if an individual" and inserting the following: "if an individual (other than an individual subject to an increase in the monthly premium under this section pursuant to subsection (h))".

(2) Section 1840(c) (42 U.S.C. 1395r(c)) is amended by inserting "or an individual determines that the estimate of modified adjusted gross income used in determining whether the individual is subject to an increase in the monthly premium under section 1839 pursuant to subsection (h) of such section (or in determining the amount of such increase) is too low and results in a portion of the premium not being deducted," before "he may".

(c) REPORTING REQUIREMENTS FOR SECRETARY OF THE TREASURY.—

(1) IN GENERAL.—Subsection (l) of section 6103 of the Internal Revenue Code of 1986 (relating to confidentiality and disclosure of returns and return information) is amended by adding at the end the following new paragraph:

"(16) DISCLOSURE OF RETURN INFORMATION TO CARRY OUT INCOME-RELATED REDUCTION IN MEDICARE PART B PREMIUM.—

"(A) IN GENERAL.—The Secretary may, upon written request from the Secretary of Health and Human Services, disclose to officers and employees of the Health Care Financing Administration return information with respect to a taxpayer who is required to pay a monthly premium under section 1839 of the Social Security Act. Such return information shall be limited to—

"(i) taxpayer identity information with respect to such taxpayer,

"(ii) the filing status of such taxpayer,

"(iii) the adjusted gross income of such taxpayer,

"(iv) the amounts excluded from such taxpayer's gross income under sections 135 and 911,

"(v) the interest received or accrued during the taxable year which is exempt from the tax imposed by chapter 1 to the extent such information is available, and

"(vi) the amounts excluded from such taxpayer's gross income by sections 931 and 933 to the extent such information is available.

"(B) RESTRICTION ON USE OF DISCLOSED INFORMATION.—Return information disclosed under subparagraph (A) may be used by officers and employees of the Health Care Financing Administration only for the purposes of, and to the extent necessary in, establishing the appropriate monthly premium under section 1839 of the Social Security Act.".

(2) CONFORMING AMENDMENT.—Paragraphs (3)(A) and (4) of section 6103(p) of such Code are each amended by striking "or (15)" each place it appears and inserting "(15), or (16)".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsections (a) and (b) shall apply to the monthly premium under section 1839 of the Social Security Act for months beginning with January 1998.

(2) INFORMATION FOR PRIOR YEARS.—The Secretary of Health and Human Services may request information under section 6013(l)(16) of the Social Security Act (as added by subsection (c)) for taxable years beginning after December 31, 1994.

SEC. 5543. DEMONSTRATION PROJECT ON INCOME-RELATED PART B DEDUCTIBLE.

(a) ESTABLISHMENT OF PROJECT.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Health and Human Services (in this section referred to as the "Secretary") shall conduct a demonstration project (in this section referred to as the "project") in which individuals otherwise responsible for an income-related premium by reason of section 1839(h) of the Social Security Act (42 U.S.C. 1395r(h)) (as added by section 5542 of this Act) would instead be responsible for an income-related deductible using the same income limits and administrative procedures provided for in such section 1839(h).

(2) SITES.—The Secretary shall conduct the project in a representative number of sites and shall include a sufficient number of individuals in the project to ensure that the project produces statistically satisfactory findings.

(3) PARTICIPATION.—

(A) IN GENERAL.—Participation in the project shall be on a voluntary basis.

(B) MEDIGAP.—No individual shall be eligible to participate in the project if such individual is covered under a medicare supplemental policy under section 1882 of the Social Security Act (42 U.S.C. 1395ss).

(4) CONSULTATION.—In conducting the project, the Secretary shall consult with appropriate organizations and experts.

(5) DURATION.—The project shall be conducted for a period not to exceed 5 years.

(b) WAIVER AUTHORITY.—The Secretary shall waive compliance with the requirements of titles XI, XVIII, and XIX of the Social Security Act (42 U.S.C. 1301 et seq., 1395 et seq., 1396 et seq.) to such extent and for such period as the Secretary determines is necessary to conduct the project.

(c) REPORTS TO CONGRESS.—

(1) IN GENERAL.—Not later than 2 and 5 years after the date of enactment of this Act, and biannually thereafter, the Secretary shall submit to Congress a report regarding the project.

(2) CONTENTS OF REPORT.—The reports in paragraph (1) shall include the following:

(A) A description of the demonstration projects conducted under this section.

(B) A description of the utilization and health care status of individuals participating in the project.

(C) Any other information regarding the project that the Secretary determines to be appropriate.

SEC. 5544. LOW-INCOME MEDICARE BENEFICIARY BLOCK GRANT PROGRAM.

(a) IN GENERAL.—Title XVIII (42 U.S.C. 1395 et seq.), as amended by section 5047, is amended by adding at the end the following:

"LOW-INCOME MEDICARE BENEFICIARY BLOCK GRANT PROGRAM

"SEC. 1898. (a) ESTABLISHMENT.—The Secretary shall establish a program to award block grants to States for the payment of medicare cost sharing described in section 1905(p)(3)(A)(ii) on behalf of eligible low-income medicare beneficiaries.

"(b) APPLICATION.—To be eligible to receive a block grant under this section, a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

"(c) PAYMENTS.—

"(1) AMOUNT OF GRANT.—From amounts appropriated under subsection (d) for a fiscal year, the Secretary shall award a grant to each State with an application approved under subsection (b), in an amount that bears the same ratio to such amounts as the total number of eligible low-income medicare beneficiaries in the State bears to the total number of eligible low-income medicare beneficiaries in all States.

"(2) 100 PERCENT FMAP.—Notwithstanding section 1905(b), the Federal medical assistance percentage for any State that receives a grant under this section shall be 100 percent.

"(d) APPROPRIATIONS.—

"(1) IN GENERAL.—The Secretary is authorized to transfer from the Federal Supplementary Medical Insurance Trust Fund under section 1841 for the purpose of carrying out this section, an amount equal to $200,000,000 in fiscal year 1998, $250,000,000 in fiscal year 1999, $300,000,000 in fiscal year 2000, $350,000,000 in fiscal year 2001, and $400,000,000 in fiscal year 2002, to remain available without fiscal year limitation.

"(2) STATE ENTITLEMENT.—This section constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide for the payment to States of amounts provided in accordance with the provisions of this section.

"(e) DEFINITIONS.—In this section:

"(1) ELIGIBLE LOW-INCOME MEDICARE BENEFICIARY.—The term 'eligible low-income medicare beneficiary' means an individual who is described in section 1902(a)(10)(E)(iii) but whose family income is greater than or equal to 120 percent of the poverty line and does not exceed 150 percent of the poverty line for a family of the size involved.

"(2) STATE.—The term 'State' means each of the 50 States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands.".

Subtitle H—Provisions Relating to Parts A and B

CHAPTER 1—SECONDARY PAYOR PROVISIONS

SEC. 5601. EXTENSION AND EXPANSION OF EXISTING REQUIREMENTS.

(a) DATA MATCH.—

(1) ELIMINATION OF MEDICARE SUNSET.—Section 1862(b)(5)(C) (42 U.S.C. 1395y(b)(5)(C)) is amended by striking clause (iii).

(2) ELIMINATION OF INTERNAL REVENUE CODE SUNSET.—Section 6103(l)(12) of the Internal Revenue Code of 1986 is amended by striking subparagraph (F).

(b) APPLICATION TO DISABLED INDIVIDUALS IN LARGE GROUP HEALTH PLANS.—

(1) IN GENERAL.—Section 1862(b)(1)(B) (42 U.S.C. 1395y(b)(1)(B)) is amended—

(A) in clause (i), by striking "clause (iv)" and inserting "clause (iii)";

(B) by striking clause (iii); and

(C) by redesignating clause (iv) as clause (iii).

(2) CONFORMING AMENDMENTS.—Paragraphs (1) through (3) of section 1837(i) (42 U.S.C. 1395p(i)) and the second sentence of section 1839(b) (42 U.S.C. 1395r(b)) are each amended by striking "1862(b)(1)(B)(iv)" each place it appears and inserting "1862(b)(1)(B)(iii)".

(c) INDIVIDUALS WITH END STAGE RENAL DISEASE.—Section 1862(b)(1)(C) (42 U.S.C. 1395y(b)(1)(C)) is amended—

(1) in the last sentence by striking "October 1, 1998" and inserting "the date of enactment of the Balanced Budget Act of 1997"; and

(2) by adding at the end the following: "Effective for items and services furnished on or after the date of enactment of the Balanced Budget Act of 1997, (with respect to periods beginning on or after the date that is 18 months prior to such date), clauses (i) and (ii) shall be applied by substituting '30-month' for '12-month' each place it appears.".

SEC. 5602. IMPROVEMENTS IN RECOVERY OF PAYMENTS.

(a) PERMITTING RECOVERY AGAINST THIRD PARTY ADMINISTRATORS OF PRIMARY PLANS.—Section 1862(b)(2)(B)(ii) (42 U.S.C. 1395y(b)(2)(B)(ii)) is amended—

(1) by striking "under this subsection to pay" and inserting "(directly, as a third-party administrator, or otherwise) to make payment"; and

(2) by adding at the end the following: "The United States may not recover from a third-party administrator under this clause in cases where the third-party administrator would not be able to recover the amount at issue from the employer or group health plan for whom it provides administrative services due to the insolvency or bankruptcy of the employer or plan.".

(b) EXTENSION OF CLAIMS FILING PERIOD.—Section 1862(b)(2)(B) (42 U.S.C. 1395y(b)(2)(B)) is amended by adding at the end the following:

"(v) CLAIMS-FILING PERIOD.—Notwithstanding any other time limits that may exist for filing a claim under an employer group health plan, the United States may seek to recover conditional payments in accordance with this subparagraph where the request for payment is submitted to the entity required or responsible under this subsection to pay with respect to the item or service (or any portion thereof) under a primary plan within the 3-year period beginning on the date on which the item or service was furnished.".

(c) EFFECTIVE DATE.—The amendments made by this section apply to items and services furnished on or after the date of enactment of this Act.

CHAPTER 2—OTHER PROVISIONS

SEC. 5611. CONFORMING AGE FOR ELIGIBILITY UNDER MEDICARE TO RETIREMENT AGE FOR SOCIAL SECURITY BENEFITS.

(a) ENTITLEMENT TO HOSPITAL INSURANCE BENEFITS.—Section 226 (42 U.S.C. 426) is amended by striking "age 65" each place such term appears and inserting "retirement age".

(b) HOSPITAL INSURANCE BENEFITS FOR THE AGED.—Section 1811 (42 U.S.C. 1395c) is amended by striking "age 65" each place such term appears and inserting "retirement age (as such term is defined in section 216(l)(1))".

(c) HOSPITAL INSURANCE BENEFITS FOR UNINSURED ELDERLY INDIVIDUALS NOT OTHERWISE ELIGIBLE.—Section 1818 (42 U.S.C. 1395i–2) is amended—

(1) in subsection (a)(1), by striking "age of 65" and inserting "retirement age (as such term is defined in section 216(l)(1))";

(2) in subsection (d)(1), by striking "age 65" and inserting "retirement age (as such term is defined in section 216(l)(1))"; and

(3) in subsection (d)(3), by striking "65" and inserting "retirement age (as such term is defined in section 216(l)(1))".

(d) HOSPITAL INSURANCE BENEFITS FOR DISABLED INDIVIDUALS WHO HAVE EXHAUSTED OTHER ENTITLEMENT.—Section 1818A(a)(1) (42 U.S.C. 1395i–2a(a)(1)) is amended by striking "the age of 65" and inserting "retirement age (as such term is defined in section 216(l)(1))".

(e) ELIGIBILITY FOR PART B BENEFITS.—

(1) IN GENERAL.—Section 1836 (42 U.S.C. 1395o) is amended by striking "age 65" each place such term appears and inserting "retirement age (as such term is defined in section 216(l)(1))".

(2) ENROLLMENT PERIODS.—Section 1837 (42 U.S.C. 1395p) is amended by striking "age 65" and "the age of 65" each place such terms appear and inserting "retirement age (as such term is defined in section 216(l)(1))".

(3) COVERAGE PERIOD.—Section 1838(c) (42 U.S.C. 1395q(c)) is amended by striking "the age of 65" and inserting "retirement age (as such term is defined in section 216(l)(1))".

(4) AMOUNTS OF PREMIUMS.—Section 1839 (42 U.S.C. 1395r) is amended by striking "age 65" and "the age of 65" each place such terms appear and inserting "retirement age (as such term is defined in section 216(l)(1))".

(f) APPROPRIATIONS TO COVER GOVERNMENT CONTRIBUTIONS AND CONTINGENCY RESERVE.—Section 1844(a)(1) (42 U.S.C. 1395w) is amended by striking "age 65" each place such term appears and inserting "retirement age".

(g) MEDICARE SECONDARY PAYER.—Section 1862(b) (42 U.S.C. 1395y(b)) is amended by striking "age 65" each place such term appears and inserting "retirement age (as such term is defined in section 216(l)(1))".

(h) MEDICARE SUPPLEMENTAL POLICIES.—Section 1882(s)(2)(A) (42 U.S.C. 1395ss(s)(2)(A)) is amended by striking "65 years of age" and inserting "retirement age (as such term is defined in section 216(l)(1))".

SEC. 5612. INCREASED CERTIFICATION PERIOD FOR CERTAIN ORGAN PROCUREMENT ORGANIZATIONS.

Section 1138(b)(1)(A)(ii) (42 U.S.C. 1320b–8(b)(1)(A)(ii)) is amended by striking "two years" and inserting "2 years (3 years if the Secretary determines appropriate for an organization on the basis of its past practices)".

SEC. 5613. FACILITATING THE USE OF PRIVATE CONTRACTS UNDER THE MEDICARE PROGRAM.

(a) IN GENERAL.—Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) is amended by inserting after section 1804 of such Act (42 U.S.C. 1395b–2) the following:

"CLARIFICATION OF PRIVATE CONTRACTS FOR HEALTH SERVICES

"SEC. 1805. (a) IN GENERAL.—Nothing in this title shall prohibit a physician or another health care professional who does not provide items or services under the program under this title from entering into a private contract with a medicare beneficiary for health services for which no claim for payment is to be submitted under this title.

"(b) LIMITATION ON ACTUAL CHARGE NOT APPLICABLE.—Section 1848(g) shall not apply with respect to a health service provided to a medicare beneficiary under a contract described in subsection (a).

"(c) DEFINITION OF MEDICARE BENEFICIARY.—In this section, the term 'medicare beneficiary' means an individual who is entitled to benefits under part A or enrolled under part B.

"(d) REPORT.—Not later than October 1, 2001, the Administrator of the Health Care Financing Administration shall submit a report to Congress on the effect on the program under this title of private contracts entered into under this section. Such report shall include—

"(1) analyses regarding—

"(A) the fiscal impact of such contracts on total Federal expenditures under this title and on out-of-pocket expenditures by medicare beneficiaries for health services under this title; and

"(B) the quality of the health services provided under such contracts; and

"(2) recommendations as to whether medicare beneficiaries should continue to be able to enter private contracts under this section and if so, what legislative changes, if any should be made to improve such contracts.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to contracts entered into on and after October 1, 1997.

Subtitle I—Miscellaneous Provisions

SEC. 5651. INCLUSION OF STANLY COUNTY, N.C. IN A LARGE URBAN AREA UNDER MEDICARE PROGRAM.

(a) IN GENERAL.—For purposes of section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)), the large urban area of Charlotte-Gastonia-Rock Hill-North Carolina-South Carolina may be deemed to include Stanly County, North Carolina.

(b) EFFECTIVE DATE.—This section shall apply with respect to discharges occurring on or after October 1, 1997.

SEC. 5652. MEDICARE ANTI-DUPLICATION PROVISION.

(a) In section 1395ss(d)(3)(A)(v) of title 42, United States Code, insert "(a)" before "For", and after the first sentence insert:

"(b) For purposes of this subparagraph, a health insurance policy (which may be a contract with a health maintenance organization) is not considered to 'duplicate' health benefits under this title or title XIX or under another health insurance policy if it—

"(1) provides comprehensive health care benefits that replace the benefits provided by another health insurance policy,

"(2) is being provided to an individual entitled to benefits under part A or enrolled under part B on the basis of section 226(b), and

"(3) coordinates against items and services available or paid for under this title or title XIX, provided that payments under this title or title XIX shall not be treated as payments under such policy in determining annual or lifetime benefit limits.".

(b) In section 1395ss(d)(3)(A)(v) of title 42, United States Code, insert "(c)" before "For purposes of this clause".

DIVISION 2—MEDICAID AND CHILDREN'S HEALTH INSURANCE INITIATIVES

Subtitle I—Medicaid

CHAPTER 1—MEDICAID SAVINGS

Subchapter A—Managed Care Reforms

SEC. 5701. STATE OPTION FOR MANDATORY MANAGED CARE.

(a) IN GENERAL.—Title XIX is amended—

(1) by inserting after the title heading the following:

"PART A—GENERAL PROVISIONS"; and

(2) by adding at the end the following new part:

"PART B—PROVISIONS RELATING TO MANAGED CARE

"SEC. 1941. BENEFICIARY CHOICE; ENROLLMENT.

"(a) STATE OPTIONS FOR ENROLLMENT OF BENEFICIARIES IN MANAGED CARE ARRANGEMENTS.—

"(1) IN GENERAL.—Subject to the succeeding provisions of this part and notwithstanding paragraphs (1), (10)(B), and (23)(A) of section 1902(a), a State may require an individual who is eligible for medical assistance under the State plan under this title and who is not a special needs individual (as defined in subsection (e)) to enroll with a managed care entity (as defined in section 1950(a)(1)) as a condition of receiving such assistance (and, with respect to assistance furnished by or under arrangements with such entity, to receive such assistance through the entity), if the following provisions are met:

"(A) ENTITY MEETS REQUIREMENTS.—The entity meets the applicable requirements of this part.

"(B) CONTRACT WITH STATE.—The entity enters into a contract with the State to provide services for the benefit of individuals eligible for benefits under this title under which prepaid payments to such entity are made on an actuarially sound basis. Such contract shall specify benefits the provision (or arrangement) for which the entity is responsible.

"(C) CHOICE OF COVERAGE.—

"(i) IN GENERAL.—The State permits an individual to choose a managed care entity from managed care organizations and primary care case managers who meet the requirements of this part but not less than from—

"(I) 2 medicaid managed care organizations,

"(II) a medicaid managed care organization and a primary care case manager, or

"(III) a primary care case manager as long as an individual may choose between 2 primary care case managers.

"(ii) STATE OPTION.—At the option of the State, a State shall be considered to meet the requirements of clause (i) in the case of an individual residing in a rural area, if the State—

"(I) requires the individual to enroll with a medicaid managed care organization or a primary care case manager if such organization or entity permits the individual to receive such assistance through not less than 2 physicians or case managers (to the extent that at least 2 physicians or case managers are available to provide such assistance in the area), and

"(II) permits the individual to obtain such assistance from any other provider in appropriate circumstances (as established by the State under regulations of the Secretary).

"(iii) RELIGIOUS CHOICE.—The State, in permitting an individual to choose a managed care entity under clause (i) shall permit the individual to have access to appropriate religiously-affiliated long-term care facilities that are not pervasively sectarian and that provide comparable non-sectarian medical care. With respect to such access, the State shall permit an individual to select a facility that is not a part of the network of the managed care entity if such network does not provide access to appropriate faith-based facilities. Such facility that provides care under this clause shall accept the terms and conditions offered by the managed care entity to other providers in the network. No facility may be compelled to admit an individual if the medical director of that facility believes that the facility cannot provide the specific nursing care and services an enrollee requires.

"(D) CHANGES IN ENROLLMENT.—The State—

"(i) provides the individual with the opportunity to change enrollment among managed care entities once annually and notifies the individual of such opportunity not later than 60 days prior to the first date on which the individual may change enrollment, and

"(ii) permits individuals to terminate their enrollment as provided under paragraph (2).

"(E) ENROLLMENT PRIORITIES.—The State establishes a method for establishing enrollment priorities in the case of a managed care entity that does not have sufficient capacity to enroll all such individuals seeking enrollment under which individuals already enrolled with the entity are given priority in continuing enrollment with the entity.

"(F) DEFAULT ENROLLMENT PROCESS.—The State establishes a default enrollment process which meets the requirements described in paragraph (3) and under which any such individual who does not enroll with a managed care entity during the enrollment period specified by the State shall be enrolled by the State with such an entity in accordance with such process.

"(G) SANCTIONS.—The State establishes the sanctions provided for in section 1949.

"(H) INDIAN ENROLLMENT.—No individual who is an Indian (as defined in section 4 of the Indian Health Care Improvement Act of 1976) is required to enroll in any entity that is not one of the following (and only if such entity is participating under the plan):

"(i) The Indian Health Service.

"(ii) An Indian health program operated by an Indian tribe or tribal organization pursuant to a contract, grant, cooperative agreement, or compact with the Indian Health Service pursuant to the Indian Self-Determination Act (25 U.S.C. 450 et seq.).

"(iii) An urban Indian health program operated by an urban Indian organization pursuant to a grant or contract with the Indian Health Service pursuant to title V of the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.).

"(2) TERMINATION OF ENROLLMENT.—

"(A) IN GENERAL.—The State, enrollment broker, and managed care entity (if any) shall permit an individual eligible for medical assistance under the State plan under this title who is enrolled with the entity to terminate such enrollment for cause at any time, and without cause during the 90-day period beginning on the date the individual receives notice of enrollment and at least every 12 months thereafter, and shall notify each such individual of the opportunity to terminate enrollment under these conditions.

"(B) FRAUDULENT INDUCEMENT OR COERCION AS GROUNDS FOR CAUSE.—For purposes of subparagraph (A), an individual terminating enrollment with a managed care entity on the grounds that the enrollment was based on fraudulent inducement or was obtained through coercion or pursuant to the imposition against the managed care entity of the sanction described in section 1949(b)(3) shall be considered to terminate such enrollment for cause.

"(C) NOTICE OF TERMINATION.—

"(i) NOTICE TO STATE.—

"(I) BY INDIVIDUALS.—Each individual terminating enrollment with a managed care entity under subparagraph (A) shall do so by providing notice of the termination to an office of the State agency administering the State plan under this title, the State or local welfare agency, or an office of a managed care entity.

"(II) BY ORGANIZATIONS.—Any managed care entity which receives notice of an individual's termination of enrollment with such entity through receipt of such notice at an office of a managed care entity shall provide timely notice of the termination to the State agency administering the State plan under this title.

"(ii) NOTICE TO PLAN.—The State agency administering the State plan under this title or the State or local welfare agency which receives notice of an individual's termination of enrollment with a managed care entity under clause (i) shall provide timely notice of the termination to such entity.

"(3) DEFAULT ENROLLMENT PROCESS REQUIREMENTS.—The requirements of a default enrollment process established by a State under paragraph (1)(F) are as follows:

"(A) The process shall provide that the State may not enroll individuals with a managed care entity which is not in compliance with the applicable requirements of this part.

"(B) The process shall provide (consistent with subparagraph (A)) for enrollment of such an individual with a medicaid managed care organization—

"(i) that maintains existing provider-individual relationships or that has entered into contracts with providers (such as Federally qualified health centers, rural health clinics, hospitals that qualify for disproportionate share hospital payments under section 1886(d)(5)(F), and hospitals described in section 1886(d)(1)(B)(iii)) that have traditionally served beneficiaries under this title, and

"(ii) if there is no provider described in clause (i), in a manner that provides for an equitable distribution of individuals among all qualified managed care entities available to enroll individuals through such default enrollment process, consistent with the enrollment capacities of such entities.

"(C) The process shall permit and assist an individual enrolled with an entity under such process to change such enrollment to another managed care entity during a period (of at least 90 days) after the effective date of the enrollment.

"(D) The process may provide for consideration of factors such as quality, geographic proximity, continuity of providers, and capacity of the plan when conducting such process.

"(b) REENROLLMENT OF INDIVIDUALS WHO REGAIN ELIGIBILITY.—

"(1) IN GENERAL.—If an individual eligible for medical assistance under a State plan under this title and enrolled with a managed care entity with a contract under subsection (a)(1)(B) ceases to be eligible for such assistance for a period of not greater than 2 months, the State may provide for the automatic reenrollment of the individual with the entity as of the first day of the month in which the individual is again eligible for such assistance, and may consider factors such as quality, geographic proximity, continuity of providers, and capacity of the plan when conducting such reenrollment.

"(2) CONDITIONS.—Paragraph (1) shall only apply if—

"(A) the month for which the individual is to be reenrolled occurs during the enrollment period covered by the individual's original enrollment with the managed care entity,

"(B) the managed care entity continues to have a contract with the State agency under subsection (a)(1)(B) as of the first day of such month, and

"(C) the managed care entity complies with the applicable requirements of this part.

"(3) NOTICE OF REENROLLMENT.—The State shall provide timely notice to a managed care entity of any reenrollment of an individual under this subsection.

"(c) STATE OPTION OF MINIMUM ENROLLMENT PERIOD.—

"(1) IN GENERAL.—In the case of an individual who is enrolled with a managed care entity under this part and who would (but for this subsection) lose eligibility for benefits under this title before the end of the minimum enrollment period (defined in paragraph (2)), the State plan under this title may provide, notwithstanding any other provision of this title, that the individual shall be deemed to continue to be eligible for such benefits until the end of such minimum period, but, except for benefits furnished under section 1902(a)(23)(B), only with respect to such benefits provided to the individual as an enrollee of such entity.

"(2) MINIMUM ENROLLMENT PERIOD DEFINED.—For purposes of paragraph (1), the term 'minimum enrollment period' means, with respect to an individual's enrollment with an entity under a State plan, a period, established by the State, of not more than 6 months beginning on the date the individual's enrollment with the entity becomes effective, except that a State may extend such period for up to a total of 12 months in the case of an individual's enrollment with a managed care entity (as defined in section 1950(a)(1)) so long as such extension is done uniformly for all individuals enrolled with all such entities.

"(d) OTHER ENROLLMENT-RELATED PROVISIONS.—

"(1) NONDISCRIMINATION.—A managed care entity may not discriminate on the basis of health status or anticipated need for services in the enrollment, reenrollment, or disenrollment of individuals eligible to receive medical assistance under a State plan under this title or by discouraging enrollment (except as permitted by this section) by eligible individuals.

"(2) PROVISION OF INFORMATION.—

"(A) IN GENERAL.—Each State, enrollment broker, or managed care organization shall provide all enrollment notices and informational and instructional materials in a manner and

form which may be easily understood by enrollees of the entity who are eligible for medical assistance under the State plan under this title, including enrollees and potential enrollees who are blind, deaf, disabled, or cannot read or understand the English language.

''(B) INFORMATION TO HEALTH CARE PROVIDERS, ENROLLEES, AND POTENTIAL ENROLLEES.—Each medicaid managed care organization shall—

''(i) upon request, make the information described in section 1945(c)(1) available to enrollees and potential enrollees in the organization's service area, and

''(ii) provide to enrollees and potential enrollees information regarding all items and services that are available to enrollees under the contract between the State and the organization that are covered either directly or through a method of referral and prior authorization.

''(3) PROVISION OF COMPARATIVE INFORMATION.—

''(A) BY STATE.—A State that requires individuals to enroll with managed care entities under this part shall annually provide to all enrollees and potential enrollees a list identifying the managed care entities that are (or will be) available and information described in subparagraph (C) concerning such entities. Such information shall be presented in a comparative, chart-like form.

''(B) BY ENTITY.—Upon the enrollment, or renewal of enrollment, of an individual with a managed care entity under this part, the entity shall provide such individual with the information described in subparagraph (C) concerning such entity and other entities available in the area, presented in a comparative, chart-like form.

''(C) REQUIRED INFORMATION.—Information under this subparagraph, with respect to a managed care entity for a year, shall include the following:

''(i) BENEFITS.—The benefits covered by the entity, including—

''(I) covered items and services beyond those provided under a traditional fee-for-service program;

''(II) any beneficiary cost sharing; and

''(III) any maximum limitations on out-of-pocket expenses.

''(ii) PREMIUMS.—The net monthly premium, if any, under the entity.

''(iii) SERVICE AREA.—The service area of the entity.

''(iv) QUALITY AND PERFORMANCE.—To the extent available, quality and performance indicators for the benefits under the entity (and how they compare to such indicators under the traditional fee-for-service programs in the area involved), including—

''(I) disenrollment rates for enrollees electing to receive benefits through the entity for the previous 2 years (excluding disenrollment due to death or moving outside the service area of the entity);

''(II) information on enrollee satisfaction;

''(III) information on health process and outcomes;

''(IV) grievance procedures;

''(V) the extent to which an enrollee may select the health care provider of their choice, including health care providers within the network of the entity and out-of-network health care providers (if the entity covers out-of-network items and services); and

''(VI) an indication of enrollee exposure to balance billing and the restrictions on coverage of items and services provided to such enrollee by an out-of-network health care provider.

''(v) SUPPLEMENTAL BENEFITS OPTIONS.—Whether the entity offers optional supplemental benefits and the terms and conditions (including premiums) for such coverage.

''(vi) PHYSICIAN COMPENSATION.—An overall summary description as to the method of compensation of participating physicians.

''(e) SPECIAL NEEDS INDIVIDUALS DESCRIBED.—In this part, the term 'special needs individual' means any of the following individuals:

''(1) SPECIAL NEEDS CHILD.—An individual who is under 19 years of age who—

''(A) is eligible for supplemental security income under title XVI;

''(B) is described under section 501(a)(1)(D);

''(C) is a child described in section 1902(e)(3); or

''(D) is not described in any preceding subparagraph but is in foster care or otherwise in an out-of-home placement.

''(2) MEDICARE BENEFICIARIES.—A qualified medicare beneficiary (as defined in section 1905(p)(1)) or an individual otherwise eligible for benefits under title XVIII.

''(f) RULE OF CONSTRUCTION.—Nothing in this part shall be construed as allowing a managed care entity that has entered into a contract with the State under this part to restrict the choice of an individual in receiving services described in section 1905(a)(4)(C).

"SEC. 1942. BENEFICIARY ACCESS TO SERVICES GENERALLY.

''(a) ACCESS TO SERVICES.—

''(1) IN GENERAL.—Each managed care entity shall provide or arrange for the provision of all medically necessary medical assistance under this title which is specified in the contract entered into between such entity and the State under section 1941(a)(1)(B) for enrollees who are eligible for medical assistance under the State plan under this title.

''(2) PRIMARY-CARE-PROVIDER-TO-ENROLLEE RATIO AND MAXIMUM TRAVEL TIME.—Each such entity shall assure adequate access to primary care services by meeting standards, established by the Secretary, relating to the maximum ratio of enrollees under this title to full-time-equivalent primary care providers available to serve such enrollees and to maximum travel time for such enrollees to access such providers. The Secretary may permit such a maximum ratio to vary depending on the area and population served. Such standards shall be based on standards commonly applied in the commercial market, commonly used in accreditation of managed care organizations, and standards used in the approval of waiver applications under section 1115, and shall be consistent with the requirements of section 1876(c)(4)(A) and part C of title XVIII.

''(b) REFERRAL TO SPECIALTY CARE FOR ENROLLEES REQUIRING TREATMENT BY SPECIALISTS.—

''(1) IN GENERAL.—In the case of an enrollee under a managed care entity and who has a condition or disease of sufficient seriousness and complexity to require treatment by a specialist, the entity shall make or provide for a referral to a specialist who is available and accessible to provide the treatment for such condition or disease.

''(2) SPECIALIST DEFINED.—For purposes of this subsection, the term 'specialist' means, with respect to a condition, a health care practitioner, facility, or center (such as a center of excellence) that has adequate expertise through appropriate training and experience (including, in the case of a child, an appropriate pediatric specialist) to provide high quality care in treating the condition.

''(3) CARE UNDER REFERRAL.—Care provided pursuant to such referral under paragraph (1) shall be—

''(A) pursuant to a treatment plan (if any) developed by the specialist and approved by the entity, in consultation with the designated primary care provider or specialist and the enrollee (or the enrollee's designee), and

''(B) in accordance with applicable quality assurance and utilization review standards of the entity.

Nothing in this subsection shall be construed as preventing such a treatment plan for an enrollee from requiring a specialist to provide the primary care provider with regular updates on the specialty care provided, as well as all necessary medical information.

''(4) REFERRALS TO PARTICIPATING PROVIDERS.—An entity is not required under paragraph (1) to provide for a referral to a specialist that—

''(A) is not a participating provider, unless the entity does not have an appropriate specialist that is available and accessible to treat the enrollee's condition, and

''(B) is a participating provider with respect to such treatment.

''(5) TREATMENT OF NONPARTICIPATING PROVIDERS.—If an entity refers an enrollee to a nonparticipating specialist, services provided pursuant to the approved treatment plan shall be provided at no additional cost to the enrollee beyond what the enrollee would otherwise pay for services received by such a specialist that is a participating provider.

''(c) TIMELY DELIVERY OF SERVICES.—Each managed care entity shall respond to requests from enrollees for the delivery of medical assistance in a manner which—

''(1) makes such assistance—

''(A) available and accessible to each such individual, within the area served by the entity, with reasonable promptness and in a manner which assures continuity; and

''(B) when medically necessary, available and accessible 24 hours a day and 7 days a week, and

''(2) with respect to assistance provided to such an individual other than through the entity, or without prior authorization, in the case of a primary care case manager, provides for reimbursement to the individual (if applicable under the contract between the State and the entity) if—

''(A) the services were medically necessary and immediately required because of an unforeseen illness, injury, or condition and meet the requirements for access to emergency care under section 1943; and

''(B) it was not reasonable given the circumstances to obtain the services through the entity, or, in the case of a primary care case manager, with prior authorization.

''(d) INTERNAL GRIEVANCE PROCEDURE.—Each medicaid managed care organization shall establish an internal grievance procedure under which an enrollee who is eligible for medical assistance under the State plan under this title, or a provider on behalf of such an enrollee, may challenge the denial of coverage of or payment for such assistance.

''(e) INFORMATION ON BENEFIT CARVE OUTS.—Each managed care entity shall inform each enrollee, in a written and prominent manner, of any benefits to which the enrollee may be entitled to medical assistance under this title but which are not made available to the enrollee through the entity. Such information shall include information on where and how such enrollees may access benefits not made available to the enrollee through the entity.

''(f) DEMONSTRATION OF ADEQUATE CAPACITY AND SERVICES.—Each medicaid managed care organization shall provide the State and the Secretary with adequate assurances (as determined by the Secretary) that the organization, with respect to a service area—

''(1) has the capacity to serve the expected enrollment in such service area,

''(2) offers an appropriate range of services for the population expected to be enrolled in such service area, including transportation services

and translation services consisting of the principal languages spoken in the service area,

"(3) maintains a sufficient number, mix, and geographic distribution of providers of services included in the contract with the State to ensure that services are available to individuals receiving medical assistance and enrolled in the organization to the same extent that such services are available to individuals enrolled in the organization who are not recipients of medical assistance under the State plan under this title,

"(4) maintains extended hours of operation with respect to primary care services that are beyond those maintained during a normal business day,

"(5) provides preventive and primary care services in locations that are readily accessible to members of the community,

"(6) provides information concerning educational, social, health, and nutritional services offered by other programs for which enrollees may be eligible, and

"(7) complies with such other requirements relating to access to care as the Secretary or the State may impose.

"(g) Compliance With Certain Maternity and Mental Health Requirements.—Each medicaid managed care organization shall comply with the requirements of subpart 2 of part A of title XXVII of the Public Health Service Act insofar as such requirements apply with respect to a health insurance issuer that offers group health insurance coverage.

"(h) Treatment of Children With Special Health Care Needs.—

"(1) In general.—In the case of an enrollee of a managed care entity who is a child described in section 1941(e)(1)—

"(A) if any medical assistance specified in the contract with the State is identified in a treatment plan prepared for the enrollee, the managed care entity shall provide (or arrange to be provided) such assistance in accordance with the treatment plan either—

"(i) by referring the enrollee to a pediatric health care provider who is trained and experienced in the provision of such assistance and who has a contract with the managed care entity to provide such assistance; or

"(ii) if appropriate services are not available through the managed care entity, permitting such enrollee to seek appropriate specialty services from pediatric health care providers outside of or apart from the managed care entity, and

"(B) the managed care entity shall require each health care provider with whom the managed care entity has entered into an agreement to provide medical assistance to enrollees to furnish the medical assistance specified in such enrollee's treatment plan to the extent the health care provider is able to carry out such treatment plan.

"(2) Prior authorization.—An enrollee referred for treatment under paragraph (1)(A)(i), or permitted to seek treatment outside of or apart from the managed care entity under paragraph (1)(A)(ii) shall be deemed to have obtained any prior authorization required by the entity.

"SEC. 1943. REQUIREMENTS FOR ACCESS TO EMERGENCY CARE.

"(a) In General.—A managed care entity shall—

"(1) provide coverage for emergency services (as defined in subsection (c)) without regard to prior authorization or the emergency care provider's contractual relationship with the organization; and

"(2) comply with such guidelines as the Secretary shall prescribe relating to promoting efficient and timely coordination of appropriate maintenance and post-stabilization care of an enrollee after the enrollee has been determined to be stable in accordance with section 1867.

"(b) Content of guidelines.—The guidelines prescribed under subsection (a) shall provide that—

"(1) a provider of emergency services shall make a documented good faith effort to contact the managed care entity in a timely fashion from the point at which the individual is stabilized to request approval for medically necessary post-stabilization care,

"(2) the entity shall respond in a timely fashion to the initial contact with the entity with a decision as to whether the services for which approval is requested will be authorized, and

"(3) if a denial of a request is communicated, the entity shall, upon request from the treating physician, arrange for a physician who is authorized by the entity to review the denial to communicate directly with the treating physician in a timely fashion.

"(c) Definition of emergency services.—In this section—

"(1) In general.—The term 'emergency services' means, with respect to an individual enrolled with a managed care entity, covered inpatient and outpatient services that—

"(A) are furnished by a provider that is qualified to furnish such services under this title, and

"(B) are needed to evaluate or stabilize an emergency medical condition (as defined in subparagraph (B)).

"(2) Emergency medical condition based on prudent layperson.—The term 'emergency medical condition' means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in—

"(A) placing the health of the individual (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy,

"(B) serious impairment to bodily functions, or

"(C) serious dysfunction of any bodily organ or part.

"SEC. 1944. OTHER BENEFICIARY PROTECTIONS.

"(a) Protecting Enrollees Against the Insolvency of Managed Care Entities and Against the Failure of the State to Pay Such Entities.—Each managed care entity shall provide that an individual eligible for medical assistance under the State plan under this title who is enrolled with the entity may not be held liable—

"(1) for the debts of the managed care entity, in the event of the entity's insolvency,

"(2) for services provided to the individual—

"(A) in the event of the entity failing to receive payment from the State for such services; or

"(B) in the event of a health care provider with a contractual or other arrangement with the entity failing to receive payment from the State or the managed care entity for such services, or

"(3) for the debts of any health care provider with a contractual or other arrangement with the entity to provide services to the individual, in the event of the insolvency of the health care provider.

"(b) Protection of Beneficiaries Against Balance Billing Through Subcontractors.—

"(1) In general.—Any contract between a managed care entity that has an agreement with a State under this title and another entity under which the other entity (or any other entity pursuant to the contract) provides directly or indirectly for the provision of services to beneficiaries under the agreement with the State shall include such provisions as the Secretary may require in order to assure that the other entity complies with balance billing limitations and other requirements of this title (such as limitation on withholding of services) as they would apply to the managed care entity if such entity provided such services directly and not through a contract with another entity.

"(2) Application of sanctions for violations.—The provisions of section 1128A(b)(2)(B) and 1128B(d)(1) shall apply with respect to entities contracting directly or indirectly with a managed care entity (with a contract with a State under this title) for the provision of services to beneficiaries under such a contract in the same manner as such provisions would apply to the managed care entity if it provided such services directly and not through a contract with another entity.

"SEC. 1945. ASSURING QUALITY CARE.

"(a) External Independent Review of Managed Care Entity Activities.—

"(1) Review of medicaid managed care organization contract.—

"(A) In general.—Except as provided in paragraph (2), each medicaid managed care organization shall be subject to an annual external independent review of the quality outcomes and timeliness of, and access to, the items and services specified in such organization's contract with the State under section 1941(a)(1)(B). Such review shall specifically evaluate the extent to which the medicaid managed care organization provides such services in a timely manner.

"(B) Contents of review.—An external independent review conducted under this subsection shall include—

"(i) a review of the entity's medical care, through sampling of medical records or other appropriate methods, for indications of quality of care and inappropriate utilization (including overutilization) and treatment,

"(ii) a review of enrollee inpatient and ambulatory data, through sampling of medical records or other appropriate methods, to determine trends in quality and appropriateness of care,

"(iii) notification of the entity and the State when the review under this paragraph indicates inappropriate care, treatment, or utilization of services (including overutilization), and

"(iv) other activities as prescribed by the Secretary or the State.

"(C) Use of protocols.—An external independent review conducted under this subsection on and after January 1, 1999, shall use protocols that have been developed, tested, and validated by the Secretary and that are at least as rigorous as those used by the National Committee on Quality Assurance as of the date of the enactment of this section.

"(D) Availability of results.—The results of each external independent review conducted under this paragraph shall be available to participating health care providers, enrollees, and potential enrollees of the medicaid managed care organization, except that the results may not be made available in a manner that discloses the identity of any individual patient.

"(2) Deemed compliance.—

"(A) Medicare organizations.—The requirements of paragraph (1) shall not apply with respect to a medicaid managed care organization if the organization is an eligible organization with a contract in effect under section 1876 or under part C of title XVIII.

"(B) Private accreditation.—

"(i) In general.—The requirements of paragraph (1) shall not apply with respect to a medicaid managed care organization if—

"(I) the organization is accredited by an organization meeting the requirements described in subparagraph (C)), and

"(II) the standards and process under which the organization is accredited meet such requirements as are established under clause (ii), without regard to whether or not the time requirement of such clause is satisfied.

"(ii) STANDARDS AND PROCESS.—Not later than 180 days after the date of the enactment of this section, the Secretary shall specify requirements for the standards and process under which a medicaid managed care organization is accredited by an organization meeting the requirements of subparagraph (B).

"(C) ACCREDITING ORGANIZATION.—An accrediting organization meets the requirements of this subparagraph if the organization—

"(i) is a private, nonprofit organization,

"(ii) exists for the primary purpose of accrediting managed care organizations or health care providers, and

"(iii) is independent of health care providers or associations of health care providers.

"(3) REVIEW OF PRIMARY CARE CASE MANAGER CONTRACT.—Each primary care case manager shall be subject to an annual external independent review of the quality and timeliness of, and access to, the items and services specified in the contract entered into between the State and the primary care case manager under section 1941(a)(1)(B).

"(4) USE OF VALIDATION SURVEYS.—The Secretary shall conduct surveys each year to validate external reviews of the number of managed care entities in the year. In conducting such surveys the Secretary shall use the same protocols as were used in preparing the external reviews. If an external review finds that an individual managed care entity meets applicable requirements, but the Secretary determines that the entity does not meet such requirements, the Secretary's determination as to the entity's noncompliance with such requirements is binding and supersedes that of the previous survey.

"(b) FEDERAL MONITORING RESPONSIBILITIES.—The Secretary shall review the external independent reviews conducted pursuant to subsection (a) and shall monitor the effectiveness of the State's monitoring of managed care entities and any followup activities required under this part. If the Secretary determines that a State's monitoring and followup activities are not adequate to ensure that the requirements of such section are met, the Secretary shall undertake appropriate followup activities to ensure that the State improves its monitoring and followup activities.

"(c) PROVIDING INFORMATION ON SERVICES.—

"(1) REQUIREMENTS FOR MEDICAID MANAGED CARE ORGANIZATIONS.—Each medicaid managed care organization shall provide to the State complete and timely information concerning the following:

"(A) The services that the organization provides to (or arranges to be provided to) individuals eligible for medical assistance under the State plan under this title.

"(B) The identity, locations, qualifications, and availability of participating health care providers.

"(C) The rights and responsibilities of enrollees.

"(D) The services provided by the organization which are subject to prior authorization by the organization as a condition of coverage (in accordance with subsection (d)).

"(E) The procedures available to an enrollee and a health care provider to appeal the failure of the organization to cover a service.

"(F) The performance of the organization in serving individuals eligible for medical assistance under the State plan under this title.

Such information shall be provided in a form consistent with the reporting of similar information by eligible organizations under section 1876 or under part C of title XVIII.

"(2) REQUIREMENTS FOR PRIMARY CARE CASE MANAGERS.—Each primary care case manager shall—

"(A) provide to the State (at least at such frequency as the Secretary may require), complete and timely information concerning the services that the primary care case manager provides to (or arranges to be provided to) individuals eligible for medical assistance under the State plan under this title,

"(B) make available to enrollees and potential enrollees information concerning services available to the enrollee for which prior authorization by the primary care case manager is required,

"(C) provide enrollees and potential enrollees information regarding all items and services that are available to enrollees under the contract between the State and the primary care case manager that are covered either directly or through a method of referral and prior authorization, and

"(D) provide assurances that such entities and their professional personnel are licensed as required by State law and qualified to provide case management services, through methods such as ongoing monitoring of compliance with applicable requirements and providing information and technical assistance.

"(3) REQUIREMENTS FOR BOTH MEDICAID MANAGED CARE ORGANIZATIONS AND PRIMARY CARE CASE MANAGERS.—Each managed care entity shall provide the State with aggregate encounter data for all items and services, including early and periodic screening, diagnostic, and treatment services under section 1905(r) furnished to individuals under 21 years of age. Any such data provided may be audited by the State.

"(d) CONDITIONS FOR PRIOR AUTHORIZATION.—Subject to section 1943, a managed care entity may require the approval of medical assistance for nonemergency services before the assistance is furnished to an enrollee only if the system providing for such approval provides that such decisions are made in a timely manner, depending upon the urgency of the situation.

"(e) PATIENT ENCOUNTER DATA.—Each medicaid managed care organization shall maintain sufficient patient encounter data to identify the health care provider who delivers services to patients and to otherwise enable the State plan to meet the requirements of section 1902(a)(27) and shall submit such data to the State or the Secretary upon request. The medicaid managed care organization shall incorporate such information in the maintenance of patient encounter data with respect to such health care provider.

"(f) INCENTIVES FOR HIGH QUALITY MANAGED CARE ENTITIES.—The Secretary and the State may establish a program to reward, through public recognition, incentive payments, or enrollment of additional individuals (or combinations of such rewards), managed care entities that provide the highest quality care to individuals eligible for medical assistance under the State plan under this title who are enrolled with such entities. For purposes of section 1903(a)(7), proper expenses incurred by a State in carrying out such a program shall be considered to be expenses necessary for the proper and efficient administration of the State plan under this title.

"(g) QUALITY ASSURANCE STANDARDS.—Any contract between a State and a managed care entity shall provide—

"(1) that the State agency will develop and implement a State specific quality assessment and improvement strategy, consistent with standards that the Secretary, in consultation with the States, shall establish and monitor (but that shall not preempt any State standards that are more stringent than the standards established under this paragraph), and that includes—

"(A) standards for access to care so that covered services are available within reasonable timeframes and in a manner that ensures continuity of care and adequate primary care and specialized services capacity; and

"(B) procedures for monitoring and evaluating the quality and appropriateness of care and services to beneficiaries that reflect the full spectrum of populations enrolled in the plan and that include—

"(i) requirements for provision of quality assurance data to the State using the data and information set that the Secretary, in consultation with the States, shall specify with respect to entities contracting under section 1876 or under part C of title XVIII or alternative data requirements approved by the Secretary;

"(ii) if necessary, an annual examination of the scope and content of the quality improvement strategy; and

"(iii) other aspects of care and service directly related to the improvement of quality of care (including grievance procedures and marketing and information standards),

"(2) that entities entering into such agreements under which payment is made on a prepaid capitated or other risk basis shall be required—

"(A) to submit to the State agency information that demonstrates significant improvement in the care delivered to members;

"(B) to maintain an internal quality assurance program consistent with paragraph (1), and meeting standards that the Secretary, in consultation with the States, shall establish in regulations; and

"(C) to provide effective procedures for hearing and resolving grievances between the entity and members enrolled with the entity under this section, and

"(3) that provision is made, consistent with State law or with regulations under State law, with respect to the solvency of those entities, financial reporting by those entities, and avoidance of waste, fraud, and abuse.

"(h) ANNUAL REPORT ON NON-HEALTH EXPENDITURES.—Each medicaid managed care organization shall annually provide to enrollees a statement disclosing the proportion of the premiums and other revenues received by the organization that are expended for non-health care items and services.

"SEC. 1946. PROTECTIONS FOR PROVIDERS.

"(a) TIMELINESS OF PAYMENT.—A medicaid managed care organization shall make payment to health care providers for items and services which are subject to the contract under section 1941(a)(1)(B) and which are furnished to individuals eligible for medical assistance under the State plan under this title who are enrolled with the entity on a timely basis consistent with section 1943 and under the claims payment procedures described in section 1902(a)(37)(A), unless the health care provider and the managed care entity agree to an alternate payment schedule.

"(b) PHYSICIAN INCENTIVE PLANS.—Each medicaid managed care organization shall require that any physician incentive plan covering physicians who are participating in the medicaid managed care organization shall meet the requirements of section 1876(i)(8) and comparable requirements under part C of title XVIII.

"(c) WRITTEN PROVIDER PARTICIPATION AGREEMENTS FOR CERTAIN PROVIDERS.—

"(1) IN GENERAL.—Each medicaid managed care organization that enters into a written provider participation agreement with a provider described in paragraph (2) shall—

"(A) include terms and conditions that are no more restrictive than the terms and conditions that the medicaid managed care organization includes in its agreements with other participating providers with respect to—

"(i) the scope of covered services for which payment is made to the provider;

"(ii) the assignment of enrollees by the organization to the provider;

"(iii) the limitation on financial risk or availability of financial incentives to the provider;

"(iv) accessibility of care;

"(v) professional credentialing and recredentialing;

"(vi) licensure;

"(vii) quality and utilization management;

"(viii) confidentiality of patient records;

"(ix) grievance procedures; and

"(x) indemnification arrangements between the organizations and providers; and

"(B) provide for payment to the provider on a basis that is comparable to the basis on which other providers are paid.

"(2) PROVIDERS DESCRIBED.—The providers described in this paragraph are the following:

"(A) Rural health clinics, as defined in section 1905(l)(1).

"(B) Federally-qualified health centers, as defined in section 1905(l)(2)(B).

"(C) Clinics which are eligible to receive payment for services provided under title X of the Public Health Service Act.

"(d) PAYMENTS TO RURAL HEALTH CLINICS AND FEDERALLY-QUALIFIED HEALTH CENTERS.—Each medicaid managed care organization that has a contract under this title with respect to the provision of services of a rural health clinic or a Federally-qualified health center shall provide, at the election of such clinic or center, that the organization shall provide payments to such a clinic or center for services described in 1905(a)(2)(C) at the rates of payment specified in section 1902(a)(13)(E).

"(e) ANTIDISCRIMINATION.—A managed care entity shall not discriminate with respect to participation, reimbursement, or indemnification as to any provider who is acting within the scope of the provider's license or certification under applicable State law, solely on the basis of such license or certification. This subsection shall not be construed to prohibit a managed care entity from including providers only to the extent necessary to meet the needs of the entity's enrollees or from establishing any measure designed to maintain quality and control costs consistent with the responsibilities of the entity.

"SEC. 1947. ASSURING ADEQUACY OF PAYMENTS TO MEDICAID MANAGED CARE ORGANIZATIONS AND ENTITIES.

A State shall find, determine, and make assurances satisfactory to the Secretary that the rates it pays a managed care entity for individuals eligible under the State plan have been determined by an independent actuary that meets the standards for qualification and practice established by the Actuarial Standards Board, to be sufficient and not excessive with respect to the estimated costs of the services provided.

"SEC. 1948. FRAUD AND ABUSE.

"(a) PROVISIONS APPLICABLE TO MANAGED CARE ENTITIES.—

"(1) PROHIBITING AFFILIATIONS WITH INDIVIDUALS DEBARRED BY FEDERAL AGENCIES.—

"(A) IN GENERAL.—A managed care entity may not knowingly—

"(i) have a person described in subparagraph (C) as a director, officer, partner, or person with beneficial ownership of more than 5 percent of the entity's equity, or

"(ii) have an employment, consulting, or other agreement with a person described in such subparagraph for the provision of items and services that are significant and material to the entity's obligations under its contract with the State.

"(B) EFFECT OF NONCOMPLIANCE.—If a State finds that a managed care entity is not in compliance with clause (i) or (ii) of subparagraph (A), the State—

"(i) shall notify the Secretary of such noncompliance,

"(ii) may continue an existing agreement with the entity unless the Secretary (in consultation with the Inspector General of the Department of Health and Human Services) directs otherwise, and

"(iii) may not renew or otherwise extend the duration of an existing agreement with the entity unless the Secretary (in consultation with the Inspector General of the Department of Health and Human Services) provides to the State and to the Congress a written statement describing compelling reasons that exist for renewing or extending the agreement.

"(C) PERSONS DESCRIBED.—A person is described in this subparagraph if such person—

"(i) is debarred, suspended, or otherwise excluded from participating in procurement activities under any Federal procurement or nonprocurement program or activity, as provided for in the Federal Acquisition Streamlining Act of 1994 (Public Law 103-355; 108 Stat. 3243), or

"(ii) is an affiliate (as defined in such Act) of a person described in clause (i).

"(2) RESTRICTIONS ON MARKETING.—

"(A) DISTRIBUTION OF MATERIALS.—

"(i) IN GENERAL.—A managed care entity may not distribute directly or through any agent or independent contractor marketing materials within any State—

"(I) without the prior approval of the State, and

"(II) that contain false or materially misleading information.

"(ii) CONSULTATION IN REVIEW OF MARKET MATERIALS.—In the process of reviewing and approving such materials, the State shall provide for consultation with a medical care advisory committee.

"(iii) PROHIBITION.—The State may not enter into or renew a contract with a managed care entity for the provision of services to individuals enrolled under the State plan under this title if the State determines that the entity distributed directly or through any agent or independent contractor marketing materials in violation of clause (i).

"(B) SERVICE MARKET.—A managed care entity shall distribute marketing materials to the entire service area of such entity.

"(C) PROHIBITION OF TIE-INS.—A managed care entity, or any agency of such entity, may not seek to influence an individual's enrollment with the entity in conjunction with the sale of any other insurance.

"(D) PROHIBITING MARKETING FRAUD.—Each managed care entity shall comply with such procedures and conditions as the Secretary prescribes in order to ensure that, before an individual is enrolled with the entity, the individual is provided accurate oral and written and sufficient information to make an informed decision whether or not to enroll.

"(E) PROHIBITION OF COLD CALL MARKETING.—Each managed care entity shall not, directly or indirectly, conduct door-to-door, telephonic, or other 'cold call' marketing of enrollment under this title.

"(b) PROVISIONS APPLICABLE ONLY TO MEDICAID MANAGED CARE ORGANIZATIONS.—

"(1) STATE CONFLICT-OF-INTEREST SAFEGUARDS IN MEDICAID RISK CONTRACTING.—A medicaid managed care organization may not enter into a contract with any State under section 1941(a)(1)(B) unless the State has in effect conflict-of-interest safeguards with respect to officers and employees of the State with responsibilities relating to contracts with such organizations or to the default enrollment process described in section 1941(a)(1)(F) that are at least as effective as the Federal safeguards provided under section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423), against conflicts of interest that apply with respect to Federal procurement officials with comparable responsibilities with respect to such contracts.

"(2) REQUIRING DISCLOSURE OF FINANCIAL INFORMATION.--In addition to any requirements applicable under paragraph (27) or (35) of section 1902(a), a medicaid managed care organization shall—

"(A) report to the State such financial information as the State may require to demonstrate that—

"(i) the organization has the ability to bear the risk of potential financial losses and otherwise has a fiscally sound operation;

"(ii) the organization uses the funds paid to it by the State for activities consistent with the requirements of this title and the contract between the State and organization; and

"(iii) the organization does not place an individual physician, physician group, or other health care provider at substantial risk for services not provided by such physician, group, or health care provider, by providing adequate protection to limit the liability of such physician, group, or health care provider, through measures such as stop loss insurance or appropriate risk corridors,

"(B) agree that the Secretary and the State (or any person or organization designated by either) shall have the right to audit and inspect any books and records of the organization (and of any subcontractor) relating to the information reported pursuant to subparagraph (A) and any information required to be furnished under section paragraphs (27) or (35) of section 1902(a),

"(C) make available to the Secretary and the State a description of each transaction described in subparagraphs (A) through (C) of section 1318(a)(3) of the Public Health Service Act between the organization and a party in interest (as defined in section 1318(b) of such Act),

"(D) agree to make available to its enrollees upon reasonable request—

"(i) the information reported pursuant to subparagraph (A); and

"(ii) the information required to be disclosed under sections 1124 and 1126,

"(E) comply with subsections (a) and (c) of section 1318 of the Public Health Service Act (relating to disclosure of certain financial information) and with the requirement of section 1301(c)(8) of such Act (relating to liability arrangements to protect members), and

"(F) notify the State of loans and other special financial arrangements which are made between the organization and subcontractors, affiliates, and related parties.

Each State is required to conduct audits on the books and records of at least 1 percent of the number of medicaid managed care organizations operating in the State.

"(3) ADEQUATE PROVISION AGAINST RISK OF INSOLVENCY.—

"(A) ESTABLISHMENT OF STANDARDS.—The Secretary shall establish standards, including appropriate equity standards, under which each medicaid managed care organization shall make adequate provision against the risk of insolvency.

"(B) CONSIDERATION OF OTHER STANDARDS.—In establishing the standards described in subparagraph (A), the Secretary shall consider solvency standards applicable to eligible organizations with a risk-sharing contract under section 1876 or under part C of title XVIII.

"(C) MODEL CONTRACT ON SOLVENCY.—At the earliest practicable time after the date of the enactment of this section, the Secretary shall issue guidelines concerning solvency standards for risk contracting entities and subcontractors of such risk contracting entities. Such guidelines shall take into account characteristics that may differ among risk contracting entities, including whether such an entity is at risk for inpatient hospital services.

"(4) REQUIRING REPORT ON NET EARNINGS AND ADDITIONAL BENEFITS.—Each medicaid managed care organization shall submit a report to the State not later than 12 months after the close of a contract year containing the most recent audited financial statement of the organization's net earnings and consistent with generally accepted accounting principles.

"(c) DISCLOSURE OF OWNERSHIP AND RELATED INFORMATION.—Each medicaid managed care organization shall provide for disclosure of information in accordance with section 1124.

"(d) DISCLOSURE OF TRANSACTION INFORMATION.—

"(1) IN GENERAL.—Each medicaid managed care organization which is not a qualified health maintenance organization (as defined in section 1310(d) of the Public Health Service Act) shall report to the State and, upon request, to the Secretary, the Inspector General of the Department of Health and Human Services, and the Comptroller General, a description of transactions between the organization and a party in interest (as defined in section 1318(b) of such Act), including the following transactions:

"(A) Any sale or exchange, or leasing of any property between the organization and such a party.

"(B) Any furnishing for consideration of goods, services (including management services), or facilities between the organization and such a party, but not including salaries paid to employees for services provided in the normal course of their employment.

"(C) Any lending of money or other extension of credit between the organization and such a party.

The State or Secretary may require that information reported respecting an organization which controls, or is controlled by, or is under common control with, another entity be in the form of a consolidated financial statement for the organization and such entity.

"(2) DISCLOSURE TO ENROLLEES.—Each such organization shall make the information reported pursuant to paragraph (1) available to its enrollees upon reasonable request.

"(e) CONTRACT OVERSIGHT.—

"(1) IN GENERAL.—The Secretary must provide prior review and approval for contracts under this part with a medicaid managed care organization providing for expenditures under this title in excess of $1,000,000.

"(2) INSPECTOR GENERAL REVIEW.—As part of such approval process, the Inspector General in the Department of Health and Human Services, effective October 1, 1997, shall make a determination (to the extent practicable) as to whether persons with an ownership interest (as defined in section 1124(a)(3)) or an officer, director, agent, or managing employee (as defined in section 1126(b)) of the organization are or have been described in subsection (a)(1)(C) based on a ground relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct or obstruction of an investigation.

"(f) LIMITATION ON AVAILABILITY OF FFP FOR USE OF ENROLLMENT BROKERS.—Amounts expended by a State for the use of an enrollment broker in marketing managed care entities to eligible individuals under this title shall be considered, for purposes of section 1903(a)(7), to be necessary for the proper and efficient administration of the State plan but only if the following conditions are met with respect to the broker:

"(1) The broker is independent of any such entity and of any health care providers (whether or not any such provider participates in the State plan under this title) that provide coverage of services in the same State in which the broker is conducting enrollment activities.

"(2) No person who is an owner, employee, consultant, or has a contract with the broker either has any direct or indirect financial interest with such an entity or health care provider or has been excluded from participation in the program under this title or title XVIII or debarred by any Federal agency, or subject to a civil money penalty under this Act.

"(g) USE OF UNIQUE PHYSICIAN IDENTIFIER FOR PARTICIPATING PHYSICIANS.—Each medicaid managed care organization shall require each physician providing services to enrollees eligible for medical assistance under the State plan under this title to have a unique identifier in accordance with the system established under section 1173(b).

"(h) SECRETARIAL RECOVERY OF FFP FOR CAPITATION PAYMENTS FOR INSOLVENT MANAGED CARE ENTITIES.—The Secretary shall provide for the recovery and offset against any amount owed a State under section 1903(a)(1) in an amount equal to the amounts paid to the State for medical assistance provided under such section, for expenditures for capitation payments to a managed care entity that becomes insolvent or for services contracted for with, but not provided by, such organization.

"SEC. 1949. SANCTIONS FOR NONCOMPLIANCE BY MANAGED CARE ENTITIES.

"(a) USE OF INTERMEDIATE SANCTIONS BY THE STATE TO ENFORCE REQUIREMENTS.—

"(1) IN GENERAL.—Each State shall establish intermediate sanctions, which may include any of the types described in subsection (b) other than the termination of a contract with a managed care entity, which the State may impose against a managed care entity with a contract under section 1941(a)(1)(B) if the entity—

"(A) fails substantially to provide medically necessary items and services that are required (under law or under such entity's contract with the State) to be provided to an enrollee covered under the contract,

"(B) imposes premiums or charges on enrollees in excess of the premiums or charges permitted under this title,

"(C) acts to discriminate among enrollees on the basis of their health status or requirements for health care services, including expulsion or refusal to reenroll an individual, except as permitted by this part, or engaging in any practice that would reasonably be expected to have the effect of denying or discouraging enrollment with the entity by eligible individuals whose medical condition or history indicates a need for substantial future medical services,

"(D) misrepresents or falsifies information that is furnished—

"(i) to the Secretary or the State under this part; or

"(ii) to an enrollee, potential enrollee, or a health care provider under such sections, or

"(E) fails to comply with the requirements of section 1876(i)(8) (or comparable requirements under part C of title XVIII) or this part.

"(2) RULE OF CONSTRUCTION.—For purposes of paragraph (1)(A), the term 'medically necessary' shall not be construed as requiring an abortion be performed for any individual, except if necessary to save the life of the mother or if a pregnancy is the result of an act of rape or incest.

"(b) INTERMEDIATE SANCTIONS.—The sanctions described in this subsection are as follows:

"(1) Civil money penalties as follows:

"(A) Except as provided in subparagraph (B), (C), or (D), not more than $25,000 for each determination under subsection (a).

"(B) With respect to a determination under paragraph (3) or (4)(A) of subsection (a), not more than $100,000 for each such determination.

"(C) With respect to a determination under subsection (a)(2), double the excess amount charged in violation of such subsection (and the excess amount charged shall be deducted from the penalty and returned to the individual concerned).

"(D) Subject to subparagraph (B), with respect to a determination under subsection (a)(3), $15,000 for each individual not enrolled as a result of a practice described in such subsection.

"(2) The appointment of temporary management—

"(A) to oversee the operation of the medicaid-only managed care entity upon a finding by the State that there is continued egregious behavior by the plan, or

"(B) to assure the health of the entity's enrollees, if there is a need for temporary management while—

"(i) there is an orderly termination or reorganization of the managed care entity; or

"(ii) improvements are made to remedy the violations found under subsection (a),

except that temporary management under this paragraph may not be terminated until the State has determined that the managed care entity has the capability to ensure that the violations shall not recur.

"(3) Permitting individuals enrolled with the managed care entity to terminate enrollment without cause, and notifying such individuals of such right to terminate enrollment.

"(4) Suspension or default of all enrollment of individuals under this title after the date the Secretary or the State notifies the entity of a determination of a violation of any requirement of this part.

"(5) Suspension of payment to the entity under this title for individuals enrolled after the date the Secretary or State notifies the entity of such a determination and until the Secretary or State is satisfied that the basis for such determination has been corrected and is not likely to recur.

"(c) TREATMENT OF CHRONIC SUBSTANDARD ENTITIES.—In the case of a managed care entity which has repeatedly failed to meet the requirements of sections 1942 through 1946, the State shall (regardless of what other sanctions are provided) impose the sanctions described in paragraphs (2) and (3) of subsection (b).

"(d) AUTHORITY TO TERMINATE CONTRACT.—In the case of a managed care entity which has failed to meet the requirements of this part, the State shall have the authority to terminate its contract with such entity under section 1941(a)(1)(B) and to enroll such entity's enrollees with other managed care entities (or to permit such enrollees to receive medical assistance under the State plan under this title other than through a managed care entity).

"(e) AVAILABILITY OF SANCTIONS TO THE SECRETARY.—

"(1) INTERMEDIATE SANCTIONS.—In addition to the sanctions described in paragraph (2) and any other sanctions available under law, the Secretary may provide for any of the sanctions described in subsection (b) if the Secretary determines that a managed care entity with a contract under section 1941(a)(1)(B) fails to meet any of the requirements of this part.

"(2) DENIAL OF PAYMENTS TO THE STATE.—The Secretary may deny payments to the State for medical assistance furnished under the contract under section 1941(a)(1)(B) for individuals enrolled after the date the Secretary notifies a managed care entity of a determination under subsection (a) and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur.

"(f) DUE PROCESS FOR MANAGED CARE ENTITIES.—

"(1) AVAILABILITY OF HEARING PRIOR TO TERMINATION OF CONTRACT.—A State may not terminate a contract with a managed care entity under section 1941(a)(1)(B) unless the entity is provided with a hearing prior to the termination.

"(2) NOTICE TO ENROLLEES OF TERMINATION HEARING.—A State shall notify all individuals enrolled with a managed care entity which is the subject of a hearing to terminate the entity's contract with the State of the hearing and that the enrollees may immediately disenroll with the entity without cause.

"(3) OTHER PROTECTIONS FOR MANAGED CARE ENTITIES AGAINST SANCTIONS IMPOSED BY

STATE.—Before imposing any sanction against a managed care entity other than termination of the entity's contract, the State shall provide the entity with notice and such other due process protections as the State may provide, except that a State may not provide a managed care entity with a pre-termination hearing before imposing the sanction described in subsection (b)(2).

"(4) IMPOSITION OF CIVIL MONETARY PENALTIES BY SECRETARY.—The provisions of section 1128A (other than subsections (a) and (b)) shall apply with respect to a civil money penalty imposed by the Secretary under subsection (b)(1) in the same manner as such provisions apply to a penalty or proceeding under section 1128A.

"SEC. 1950. DEFINITIONS; MISCELLANEOUS PROVISIONS.

"(a) DEFINITIONS.—For purposes of this title:

"(1) MANAGED CARE ENTITY.—The term 'managed care entity' means—

"(A) a medicaid managed care organization; or

"(B) a primary care case manager.

"(2) MEDICAID MANAGED CARE ORGANIZATION.—The term 'medicaid managed care organization' means a health maintenance organization, an eligible organization with a contract under section 1876 or under part C of title XVIII, a provider sponsored network, or any other organization which is organized under the laws of a State, has made adequate provision (as determined under standards established for purposes of eligible organizations under section 1876 or under part C of title XVIII, and through its capitalization or otherwise) against the risk of insolvency, and provides or arranges for the provision of one or more items and services to individuals eligible for medical assistance under the State plan under this title in accordance with a contract with the State under section 1941(a)(1)(B).

"(3) PRIMARY CARE CASE MANAGER.—

"(A) IN GENERAL.—The term 'primary care case manager' has the meaning given such term in section 1905(t)(2).".

(b) STUDIES AND REPORTS.—

(1) REPORT ON PUBLIC HEALTH SERVICES.—

(A) IN GENERAL.—Not later than January 1, 1998, the Secretary of Health and Human Services (in this subsection referred to as the "Secretary") shall report to the Committee on Finance of the Senate and the Committee on Commerce of the House of Representatives on the effect of managed care entities (as defined in section 1950(a)(1) of the Social Security Act) on the delivery of and payment for the services traditionally provided through providers described in section 1941(a)(2)(B)(i) of such Act.

(B) CONTENTS OF REPORT.—The report referred to in subparagraph (A) shall include—

(i) information on the extent to which enrollees with eligible managed care entities seek services at local health departments, public hospitals, and other facilities that provide care without regard to a patient's ability to pay;

(ii) information on the extent to which the facilities described in clause (i) provide services to enrollees with eligible managed care entities without receiving payment;

(iii) information on the effectiveness of systems implemented by facilities described in clause (i) for educating such enrollees on services that are available through eligible managed care entities with which such enrollees are enrolled;

(iv) to the extent possible, identification of the types of services most frequently sought by such enrollees at such facilities; and

(v) recommendations about how to ensure the timely delivery of the services traditionally provided through providers described in section 1941(a)(2)(B)(i) of the Social Security Act to enrollees of managed care entities and how to ensure that local health departments, public hospitals, and other facilities are adequately compensated for the provision of such services to such enrollees.

(2) REPORT ON PAYMENTS TO HOSPITALS.—

(A) IN GENERAL.—Not later than October 1 of each year, beginning with October 1, 1998, the Secretary and the Comptroller General shall analyze and submit a report to the Committee on Finance of the Senate and the Committee on Commerce of the House of Representatives on rates paid for hospital services under managed care entities under contracts under section 1941(a)(1)(B) of the Social Security Act.

(B) CONTENTS OF REPORT.—The information in the report described in subparagraph (A) shall—

(i) be organized by State, type of hospital, type of service; and

(ii) include a comparison of rates paid for hospital services under managed care entities with rates paid for hospital services furnished to individuals who are entitled to benefits under a State plan under title XIX of the Social Security Act and are not enrolled with such entities.

(3) REPORTS BY STATES.—Each State shall transmit to the Secretary, at such time and in such manner as the Secretary determines appropriate, the information on hospital rates submitted to such State under section 1947(b)(2) of the Social Security Act.

(4) INDEPENDENT STUDY AND REPORT ON QUALITY ASSURANCE AND ACCREDITATION STANDARDS.—The Institute of Medicine of the National Academy of Sciences shall conduct a study and analysis of the quality assurance programs and accreditation standards applicable to managed care entities operating in the private sector or to such entities that operate under contracts under the medicare program under title XVIII of the Social Security Act to determine if such programs and standards include consideration of the accessibility and quality of the health care items and services delivered under such contracts to low-income individuals.

(c) CONFORMING AMENDMENTS.—

(1) REPEAL OF CURRENT REQUIREMENTS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), section 1903(m) (42 U.S.C. 1396b(m)) is repealed on the date of the enactment of this Act.

(B) EXISTING CONTRACTS.—In the case of any contract under section 1903(m) of such Act which is in effect on the day before the date of the enactment of this Act, the provisions of such section shall apply to such contract until the earlier of—

(i) the day after the date of the expiration of the contract; or

(ii) the date which is 1 year after the date of the enactment of this Act.

(2) FEDERAL FINANCIAL PARTICIPATION.—

(A) CLARIFICATION OF APPLICATION OF FFP DENIAL RULES TO PAYMENTS MADE PURSUANT TO MANAGED CARE ENTITIES.—Section 1903(i) (42 U.S.C. 1396b(i)) is amended by adding at the end the following new sentence: "Paragraphs (1)(A), (1)(B), (2), (5), and (12) shall apply with respect to items or services furnished and amounts expended by or through a managed care entity (as defined in section 1950(a)(1)) in the same manner as such paragraphs apply to items or services furnished and amounts expended directly by the State.".

(B) FFP FOR EXTERNAL QUALITY REVIEW ORGANIZATIONS.—Section 1903(a)(3)(C) (42 U.S.C. 1396b(a)(3)(C)) is amended—

(i) by inserting "(i)" after "(C)", and

(ii) by adding at the end the following new clause:

"(ii) 75 percent of the sums expended with respect to costs incurred during such quarter (as found necessary by the Secretary for the proper and efficient administration of the State plan) as are attributable to the performance of independent external reviews of managed care entities (as defined in section 1950(a)(1)) by external quality review organizations, but only if such organizations conduct such reviews under protocols approved by the Secretary and only in the case of such organizations that meet standards established by the Secretary relating to the independence of such organizations from agencies responsible for the administration of this title or eligible managed care entities; and".

(3) EXCLUSION OF CERTAIN INDIVIDUALS AND ENTITIES FROM PARTICIPATION IN PROGRAM.—Section 1128(b)(6)(C) (42 U.S.C. 1320a–7(b)(6)(C)) is amended—

(A) in clause (i), by striking "a health maintenance organization (as defined in section 1903(m))" and inserting "a managed care entity, as defined in section 1950(a)(1),"; and

(B) in clause (ii), by inserting "section 1115 or" after "approved under".

(4) STATE PLAN REQUIREMENTS.—Section 1902 (42 U.S.C. 1396a) is amended—

(A) in subsection (a)(30)(C), by striking "section 1903(m)" and inserting "section 1941(a)(1)(B)"; and

(B) in subsection (a)(57), by striking "health maintenance organization (as defined in section 1903(m)(1)(A))" and inserting "managed care entity, as defined in section 1950(a)(1)";

(C) in subsection (e)(2)(A), by striking "or with an entity described in paragraph (2)(B)(iii), (2)(E), (2)(G), or (6) of section 1903(m) under a contract described in section 1903(m)(2)(A)" and inserting "or with a managed care entity, as defined in section 1950(a)(1);

(D) in subsection (p)(2)—

(i) by striking "a health maintenance organization (as defined in section 1903(m))" and inserting "a managed care entity, as defined in section 1950(a)(1),";

(ii) by striking "an organization" and inserting "an entity"; and

(iii) by striking "any organization" and inserting "any entity"; and

(E) in subsection (w)(1), by striking "sections 1903(m)(1)(A) and" and inserting "section".

(5) PAYMENT TO STATES.—Section 1903(w)(7)(A)(viii) (42 U.S.C. 1396b(w)(7)(A)(viii)) is amended to read as follows:

"(viii) Services of a managed care entity with a contract under section 1941(a)(1)(B).".

(6) USE OF ENROLLMENT FEES AND OTHER CHARGES.—Section 1916 (42 U.S.C. 1396o) is amended in subsections (a)(2)(D) and (b)(2)(D) by striking "a health maintenance organization (as defined in section 1903(m))" and inserting "a managed care entity, as defined in section 1950(a)(1)," each place it appears.

(7) EXTENSION OF ELIGIBILITY FOR MEDICAL ASSISTANCE.—Section 1925(b)(4)(D)(iv) (42 U.S.C. 1396r–6(b)(4)(D)(iv)) is amended to read as follows:

"(iv) ENROLLMENT WITH MANAGED CARE ENTITY.—Enrollment of the caretaker relative and dependent children with a managed care entity, as defined in section 1950(a)(1), less than 50 percent of the membership (enrolled on a prepaid basis) of which consists of individuals who are eligible to receive benefits under this title (other than because of the option offered under this clause). The option of enrollment under this clause is in addition to, and not in lieu of, any enrollment option that the State might offer under subparagraph (A)(i) with respect to receiving services through a managed care entity in accordance with part B.".

(8) PAYMENT FOR COVERED OUTPATIENT DRUGS.—Section 1927(j)(1) (42 U.S.C. 1396r–8(j)(1)) is amended by striking "***Health Maintenance Organizations, including those organizations that contract under section 1903(m)," *and inserting "health maintenance organizations and medicaid managed care organizations, as defined in section 1950(a)(2),".*

(9) APPLICATION OF SANCTIONS FOR BALANCED BILLING THROUGH SUBCONTRACTORS.—(A) Section 1128A(b)(2)(B) (42 U.S.C. 1320a–7a(b)) is amended by inserting ", including section 1944(b)" after "title XIX".

(B) Section 1128B(d)(1) (42 U.S.C. 1320a–7b(d)(1)) is amended by inserting "or, in the case of an individual enrolled with a managed care entity under part B of title XIX, the applicable rates established by the entity under the agreement with the State agency under such part" after "established by the State".

(10) REPEAL OF CERTAIN RESTRICTIONS ON OBSTETRICAL AND PEDIATRIC PROVIDERS.—Section 1903(i) (42 U.S.C. 1396b(i)) is amended by striking paragraph (12).

(11) DEMONSTRATION PROJECTS TO STUDY EFFECT OF ALLOWING STATES TO EXTEND MEDICAID COVERAGE FOR CERTAIN FAMILIES.—Section 4745(a)(5)(A) of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 1396a note) is amended by striking "(except section 1903(m)" and inserting "(except part B)".

(12) CONFORMING AMENDMENT FOR DISCLOSURE REQUIREMENTS FOR MANAGED CARE ENTITIES.—Section 1124(a)(2)(A) (42 U.S.C. 1320a–3(a)(2)(A)) is amended by inserting "managed care entity under title XIX," after "renal dialysis facility,".

(13) ELIMINATION OF REGULATORY PAYMENT CAP.—The Secretary of Health and Human Services may not, under the authority of section 1902(a)(30)(A) of the Social Security Act or any other provision of title XIX of such Act, impose a limit by regulation on the amount of the capitation payments that a State may make to qualified entities under such title, and section 447.361 of title 42, Code of Federal Regulations (relating to upper limits of payment: risk contracts), is hereby nullified.

(14) CONTINUATION OF ELIGIBILITY.—Section 1902(e)(2) (42 U.S.C. 1396a(e)(2)) is amended to read as follows:

"(2) For provision providing for extended liability in the case of certain beneficiaries enrolled with managed care entities, see section 1941(c).".

(15) CONFORMING AMENDMENTS TO FREEDOM-OF-CHOICE PROVISIONS.—Section 1902(a)(23) (42 U.S.C. 1396a(a)(23)) is amended—

(A) in the matter preceding subparagraph (A), by striking "subsection (g) and in section 1915" and inserting "subsection (g), section 1915, and section 1941,"; and

(B) in subparagraph (B), by striking "a health maintenance organization, or a" and inserting "or with a managed care entity, as defined in section 1950(a)(1), or".

(d) EFFECTIVE DATE; STATUS OF WAIVERS.—

(1) EFFECTIVE DATE.—Except as provided in paragraph (2), the amendments made by this section shall apply to medical assistance furnished—

(A) during quarters beginning on or after October 1, 1997; or

(B) in the case of assistance furnished under a contract described in subsection (c)(1)(B), during quarters beginning after the earlier of—

(i) the date of the expiration of the contract; or

(ii) the expiration of the 1-year period which begins on the date of the enactment of this Act.

(2) APPLICATION TO WAIVERS.—If any waiver granted to a State under section 1115 or 1915 of the Social Security Act (42 U.S.C. 1315, 1396n), or otherwise, which relates to the provision of medical assistance under a State plan under title XIX of the such Act (42 U.S.C. 1396 et seq.), is in effect or approved by the Secretary of Health and Human Services as of the applicable effective date described in paragraph (1), the amendments made by this section shall not apply with respect to the State before the expiration (determined without regard to any extensions) of the waiver to the extent such amendments are inconsistent with the terms of the waiver.

SEC. 5702. PRIMARY CARE CASE MANAGEMENT SERVICES AS STATE OPTION WITHOUT NEED FOR WAIVER.

(a) OPTIONAL COVERAGE AS PART OF MEDICAL ASSISTANCE.—

(1) IN GENERAL.—Section 1905(a) (42 U.S.C. 1396d(a)) is amended—

(A) by striking "and" at the end of paragraph (24);

(B) by redesignating paragraph (25) as paragraph (26); and

(C) by inserting after paragraph (24) the following new paragraph:

"(25) primary care case management services (as defined in subsection (t)); and".

(2) CONFORMING AMENDMENTS.—

(A) Section 1902(a)(10)(C)(iv) (42 U.S.C. 1396a(a)(10)(C)(iv)) is amended by striking "through (24)" and inserting "through (25)".

(B) Section 1902(j) (42 U.S.C. 1396a(j)) is amended by striking "through (25)" and inserting "through (26)".

(b) PRIMARY CARE CASE MANAGEMENT SERVICES DEFINED.—Section 1905 (42 U.S.C. 1396d)) is amended by adding at the end the following new subsection:

"(t)(1) The term 'primary care case management services' means case-management related services (including coordination and monitoring of health care services) provided by a primary care case manager under a primary care case management contract.

"(2)(A) The term 'primary care case manager' means, with respect to a primary care case management contract, a provider described in subparagraph (B).

"(B) A provider described in this subparagraph is—

"(i) a physician, a physician group practice, or an entity employing or having other arrangements with physicians who provide case management services; or

"(ii) at State option—

"(I) a nurse practitioner (as described in section 1905(a)(21));

"(II) a certified nurse-midwife (as defined in section 1861(gg)(2)); or

"(III) a physician assistant (as defined in section 1861(aa)(5)).

"(3) The term 'primary care case management contract' means a contract with a State agency under which a primary care case manager undertakes to locate, coordinate, and monitor covered primary care, covered primary care (and such other covered services as may be specified under the contract) to all individuals enrolled with the primary care case manager, and that provides for—

"(A) reasonable and adequate hours of operation, including 24-hour availability of information, referral, and treatment with respect to medical emergencies;

"(B) restriction of enrollment to individuals residing sufficiently near a service delivery site of the entity to be able to reach that site within a reasonable time using available and affordable modes of transportation;

"(C) employment of, or contracts or other arrangements with, sufficient numbers of physicians and other appropriate health care professionals to ensure that services under the contract can be furnished to enrollees promptly and without compromise to quality of care;

"(D) a prohibition on discrimination on the basis of health status or requirements for health services in the enrollment or disenrollment of individuals eligible for medical assistance under this title; and

"(E) a right for an enrollee to terminate enrollment without cause during the first month of each enrollment period, which period shall not exceed 6 months in duration, and to terminate enrollment at any time for cause.

"(4) For purposes of this subsection, the term 'primary care' includes all health care services customarily provided in accordance with State licensure and certification laws and regulations, and all laboratory services customarily provided by or through, a general practitioner, family medicine physician, internal medicine physician, obstetrician/gynecologist, or pediatrician.".

(c) CONFORMING AMENDMENT.—Section 1915(b)(1) (42 U.S.C. 1396n(b)(1)) is repealed.

(d) EFFECTIVE DATE.—The amendments made by this section apply to primary care case management services furnished on or after October 1, 1997.

SEC. 5703. ADDITIONAL REFORMS TO EXPAND AND SIMPLIFY MANAGED CARE.

(a) ELIMINATION OF 75:25 RESTRICTION ON RISK CONTRACTS.—

(1) 75 PERCENT LIMIT ON MEDICARE AND MEDICAID ENROLLMENT.—

(A) IN GENERAL.—Section 1903(m)(2)(A) (42 U.S.C. 1396b(m)(2)(A)) is amended by striking clause (ii).

(B) CONFORMING AMENDMENTS.—

(i) Section 1903(m)(2) (42 U.S.C. 1396b(m)(2)) is amended—

(I) by striking subparagraphs (C), (D), and (E); and

(II) in subparagraph (G), by striking "clauses (i) and (ii)" and inserting "clause (i)".

(ii) Section 1902(e)(2)(A) (42 U.S.C. 1396a(e)(2)(A)) is amended by striking "(2)(E),".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply on and after June 20, 1997.

(b) ELIMINATION OF PROHIBITION ON COPAYMENTS FOR SERVICES FURNISHED BY HEALTH MAINTENANCE ORGANIZATIONS.—Section 1916 (42 U.S.C. 1396o) is amended—

(1) in subsection (a)(2)(D), by striking "or services furnished" and all that follows through "enrolled,"; and

(2) in subsection (b)(2)(D), by striking "or (at the option" and all that follows through "enrolled,".

Subchapter B—Management Flexibility Reforms

SEC. 5711. ELIMINATION OF BOREN AMENDMENT REQUIREMENTS FOR PROVIDER PAYMENT RATES.

(a) PLAN AMENDMENTS.—Section 1902(a)(13) is amended—

(1) by striking all that precedes subparagraph (D) and inserting the following:

"(13) provide—

"(A) for a public process for determination of rates of payment under the plan for hospital services (and which, in the case of hospitals, take into account the situation of hospitals which serve a disproportionate number of low income patients with special needs), nursing facility services, services provided in intermediate care facilities for the mentally retarded, and home and community-based services, under which—

"(i) proposed rates, the methodologies underlying the establishment of such rates, and a description of how such methodologies will affect access to services, quality of services, and safety of beneficiaries are published, and providers, beneficiaries and their representatives, and other concerned State residents are given a reasonable opportunity for review and comment on such proposed rates, methodologies, and description; and

"(ii) final rates, the methodologies underlying the establishment of such rates, and justifications for such rates (that may take into account

public comments received by the State (if any) are published in 1 or more daily newspapers of general circulation in the State or in any publication used by the State to publish State statutes or rules); and";

(2) by redesignating subparagraphs (D) and (E) as subparagraphs (B) and (C), respectively;

(3) in subparagraph (B), as so redesignated, by adding "and" at the end; and

(4) by striking subparagraph (F).

(b) STUDY AND REPORT.—

(1) STUDY.—The Secretary of Health and Human Services shall study the effect on access to services, the quality of services, and the safety of services provided to beneficiaries of the rate-setting methods used by States pursuant to section 1902(a)(13) of the Social Security Act (42 U.S.C. 1396a(a)(13), as amended by subsection (a).

(2) REPORT.—Not later than 4 years after the date of enactment of this Act, the Secretary of Health and Human Services shall submit a report to the appropriate committees of Congress on the conclusions of the study conducted under paragraph (1), together with any recommendations for legislation as a result of such conclusions.

(c) CONFORMING AMENDMENTS.—

(1) Section 1903(m)(2)(A)(ix) (42 U.S.C. 1396b(m)(2)(A)(ix)) is amended by striking "1902(a)(13)(E)" each place it appears and inserting "1902(a)(13)(C)".

(2) Section 1905(o)(3) (42 U.S.C. 1396d(o)(3)) is amended by striking "amount described in section 1902(a)(13)(D)" and inserting "amount determined in section 1902(a)(13)(B)".

(3) Section 1913(b)(3) (42 U.S.C. 1396l(b)(3)) is amended by striking "1902(a)(13)(A)" and inserting "1902(a)(13)".

(4) Section 1923 (42 U.S.C. 1396r–4) is amended in subsections (a)(1) and (e)(1), by striking "1902(a)(13)(A)" each place it appears and inserting "1902(a)(13)".

SEC. 5712. MEDICAID PAYMENT RATES FOR QUALIFIED MEDICARE BENEFICIARIES.

(a) IN GENERAL.—Section 1902(n) (42 U.S.C. 1396a(n)) is amended—

(1) by inserting "(1)" after "(n)", and

(2) by adding at the end the following:

"(2) In carrying out paragraph (1), a State is not required to provide any payment for any expenses incurred relating to payment for a coinsurance or copayment for medicare cost-sharing if the amount of the payment under title XVIII for the service exceeds the payment amount that otherwise would be made under the State plan under this title for such service.

"(3) In the case in which a State's payment for medicare cost-sharing for a qualified medicare beneficiary with respect to an item or service is reduced or eliminated through the application of paragraph (1) or (2) of this subsection—

"(A) for purposes of applying any limitation under title XVIII on the amount that the beneficiary may be billed or charged for the service, the amount of payment made under title XVIII plus the amount of payment (if any) under the State plan shall be considered to be payment in full for the service,

"(B) the beneficiary shall not have any legal liability to make payment to a provider or managed care entity (as defined in section 1950(a)(1)) for the service, and

"(C) any lawful sanction that may be imposed upon a provider or managed care entity (as defined in section 1950(a)(1)) for excess charges under this title or title XVIII shall apply to the imposition of any charge on the individual in such case.

This paragraph shall not be construed as preventing payment of any medicare cost-sharing by a medicare supplemental policy or an employer retiree health plan on behalf of an individual.".

(b) LIMITATION IN MEDICARE PROVIDER AGREEMENTS.—Section 1866(a)(1)(A) (42 U.S.C. 1395cc(a)(1)(A)) is amended—

(1) by inserting "(i)" after "(A)", and

(2) by inserting before the comma at the end the following: ", and (ii) not to impose any charge that may not be charged under section 1902(n)(3)".

(c) LIMITATION ON NONPARTICIPATING PROVIDERS.—Section 1848(g)(3)(A) (42 U.S.C. 1395w–4(g)(3)(A)) is amended by inserting before the period at the end the following: "and the provisions of section 1902(n)(3)(A) apply to further limit permissible charges under this section".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to payment for items and services furnished on or after the later of—

(1) October 1, 1997; or

(2) the termination date of a provider agreement under the medicare program under title XVIII or under a State plan under title XIX that is in effect on the date of the enactment of this Act.

Subchapter C—Reduction of Disproportionate Share Hospital (DSH) Payments

SEC. 5721. DISPROPORTIONATE SHARE HOSPITAL (DSH) PAYMENTS.

(a) REDUCTION OF PAYMENTS.—Section 1923(f) (42 U.S.C. 1396r–4(f)) is amended to read as follows:

"(f) LIMITATION ON FEDERAL FINANCIAL PARTICIPATION.—

"(1) IN GENERAL.—Beginning with fiscal year 1998, payment under section 1903(a) shall not be made to a State with respect to any payment adjustment made under this section for hospitals in a State for quarters in a fiscal year in excess of the disproportionate share hospital (in this subsection referred to as 'DSH') allotment for the State for the fiscal year, as specified in paragraphs (2), (3), (4), and (5).

"(2) DETERMINATION OF STATE DSH ALLOTMENTS FOR FISCAL YEAR 1998.—

"(A) IN GENERAL.—Except as provided in subparagraph (B) and paragraph (4), the DSH allotment for a State for fiscal year 1998 is equal to the State 1995 DSH spending amount.

"(B) HIGH DSH STATES.—In the case of any State that is a high DSH State, the DSH allotment for that State for fiscal year 1998 is equal to the sum of—

"(i) the Federal share of payment adjustments made to hospitals in the State under subsection (c) that are attributable to the 1995 DSH allotment for inpatient hospital services provided (based on reporting data specified by the State on HCFA Form 64 as inpatient DSH, and as approved by the Secretary); and

"(ii) 70 percent of the Federal share of payment adjustments made to hospitals in the State under subsection (c) that are attributable to the 1995 DSH allotment for payments to institutions for mental diseases and other mental health facilities (based on reporting data specified by the State on HCFA Form 64 as mental health DSH, and as approved by the Secretary).

"(3) DETERMINATION OF STATE DSH ALLOTMENTS FOR FISCAL YEARS 1999 THROUGH 2002.—

"(A) NON HIGH DSH STATES.—

"(i) IN GENERAL.—Except as provided in subparagraph (B) and paragraph (4), the DSH allotment for a State for each of fiscal years 1999 through 2002 is equal to the applicable percentage of the State 1995 DSH spending amount.

"(ii) APPLICABLE PERCENTAGE.—For purposes of clause (i), the applicable percentage with respect to a State described in that clause is—

"(I) for fiscal year 1999, 98 percent;

"(II) for fiscal year 2000, 95 percent;

"(III) for fiscal year 2001, 90 percent; and

"(IV) for fiscal year 2002, 85 percent.

"(B) HIGH DSH STATES.—

"(i) IN GENERAL.—In the case of any State that is a high DSH State, the DSH allotment for that State for each of fiscal years 1999 through 2002 is equal to the applicable reduction percentage of the high DSH State modified 1995 spending amount for that fiscal year.

"(ii) HIGH DSH STATE MODIFIED 1995 SPENDING AMOUNT.—

"(I) IN GENERAL.—For purposes of clause (i), the high DSH State modified 1995 spending amount means, with respect to a State and a fiscal year, the sum of—

"(aa) the Federal share of payment adjustments made to hospitals in the State under subsection (c) that are attributable to the 1995 DSH allotment for inpatient hospital services provided (based on reporting data specified by the State on HCFA Form 64 as inpatient DSH, and as approved by the Secretary); and

"(bb) the applicable mental health percentage for such fiscal year of the Federal share of payment adjustments made to hospitals in the State under subsection (c) that are attributable to the 1995 DSH allotment for payments to institutions for mental diseases and other mental health facilities (based on reporting data specified by the State on HCFA Form 64 as mental health DSH, and as approved by the Secretary).

"(II) APPLICABLE MENTAL HEALTH PERCENTAGE.—For purposes of subclause (I)(bb), the applicable mental health percentage for such fiscal year is—

"(aa) for fiscal year 1999, 50 percent;

"(bb) for fiscal year 2000, 20 percent; and

"(cc) for fiscal years 2001 and 2002, 0 percent.

"(iii) APPLICABLE REDUCTION PERCENTAGE.—For purposes of clause (i), the applicable reduction percentage described in that clause is—

"(I) for fiscal year 1999, 92 percent;

"(II) for fiscal year 2000, 85 percent; and

"(III) for fiscal years 2001 and 2002, 80 percent.

"(4) EXCEPTIONS.—

"(A) CERTAIN STATES WITHOUT 1995 MENTAL HEALTH DSH SPENDING.—In the case of any State with a State 1995 DSH spending amount that exceeds 12 percent of the Federal medical assistance percentage of expenditures made under the State plan under this title for medical assistance during fiscal year 1995 and that, during such fiscal year, did not make any payment adjustments to hospitals in the State under subsection (c) that are attributable to the 1995 DSH allotment for payments to institutions for mental diseases and other mental health facilities (based on reporting data specified by the State on HCFA Form 64 as mental health DSH, and as approved by the Secretary), the DSH allotment for that State for each of fiscal years 1998 through 2002 is equal to the average of the State 1995 DSH spending amount and the State 1996 DSH spending amount.

"(B) STATES WITH LOW STATE 1995 DSH SPENDING AMOUNTS.—In the case of any State with a State 1995 DSH spending amount that is less than 3 percent of the Federal medical assistance percentage of expenditures made under the State plan under this title for medical assistance during fiscal year 1995, the DSH allotment for that State for each of fiscal years 1998 through 2002 is equal to the State 1995 DSH spending amount.

"(C) STATES WITH STATE 1995 DSH SPENDING AMOUNTS ABOVE 3 PERCENT.—In the case of any State with a State 1995 DSH spending amount that is more than 3 percent of the Federal medical assistance percentage of expenditures made under the State plan under this title for medical assistance during fiscal year 1995, the DSH allotment for that State for each of fiscal years 1999 through 2002 is equal to the greater of—

"(i) the amount otherwise determined for such State under paragraph (3); or

"(ii) 50 percent of the State 1995 DSH spending amount.

"(5) DETERMINATION OF STATE DSH ALLOTMENTS FOR FISCAL YEAR 2003 AND THEREAFTER.—

The DSH allotment for any State for fiscal year 2003 and each fiscal year thereafter is equal to the DSH allotment for the State for the preceding fiscal year, increased by the estimated percentage change in the consumer price index for medical services (as determined by the Bureau of Labor Statistics).

"(6) DEFINITIONS.—

"(A) HIGH DSH STATE.—The term 'high DSH State' means a State that, with respect to fiscal year 1997, had a State base allotment under this section that exceeded 12 percent of the Federal medical assistance percentage of expenditures made under the State plan under this title for medical assistance during such fiscal year, as determined using the preliminary State DSH allotment for the State for fiscal year 1997, as published in the Federal Register on January 31, 1997.

"(B) STATE.—In this subsection, the term 'State' means the 50 States and the District of Columbia.".

"(C) STATE 1995 DSH SPENDING AMOUNT.—The term 'State 1995 DSH spending amount' means, with respect to a State, the Federal medical assistance percentage of payment adjustments made under subsection (c) under the State plan that are attributable to the fiscal year 1995 DSH allotment, as reported by the State not later than January 1, 1997, on HCFA Form 64, and as approved by the Secretary.

"(D) STATE 1996 DSH SPENDING AMOUNT.—The term 'State 1996 DSH spending amount' means, with respect to a State, the Federal share of payment adjustments made under subsection (c) under the State plan during fiscal year 1996 as reported by the State not later than December 31, 1997, on HCFA Form 64, and as approved by the Secretary.".

(b) LIMITATION ON PAYMENTS TO INSTITUTIONS FOR MENTAL DISEASES.—Section 1923 of the Social Security Act (42 U.S.C. 1396r–4) is amended by adding at the end the following:

"(h) LIMITATION ON CERTAIN STATE DSH EXPENDITURES.—

"(1) IN GENERAL.—Notwithstanding any other provision of this section, payment under section 1903(a) shall not be made to a State with respect to any payment adjustments made under this section for quarters in a fiscal year to institutions for mental diseases or other mental health facilities, in excess of—

"(A) the total State DSH expenditures that are attributable to fiscal year 1995 for payments to institutions for mental diseases and other mental health facilities (based on reporting data specified by the State on HCFA Form 64 as mental health DSH, and as approved by the Secretary); or

"(B) the amount of such payment adjustment which is equal to the applicable percentage of the Federal share of payment adjustments made to hospitals in the State under subsection (c) that are attributable to the 1995 DSH allotment for payments to institutions for mental diseases and other mental health facilities (based on reporting data specified by the State on HCFA Form 64 as mental health DSH, and as approved by the Secretary).

"(2) APPLICABLE PERCENTAGE.—

"(A) IN GENERAL.—For purposes of paragraph (1), the applicable percentage with respect to a fiscal year is the lesser of the percentage determined under subparagraph (B) or—

"(i) for fiscal year 2001, 50 percent;

"(ii) for fiscal year 2002, 40 percent; and

"(iii) for fiscal year 2003 and thereafter, 33 percent.

"(B) 1995 PERCENTAGE.—The percentage determined under this subparagraph is the ratio (determined as a percentage) of the Federal share of payment adjustments made to hospitals in the State under subsection (c) that are attributable to the 1995 DSH allotment for payments to institutions for mental diseases and other mental health facilities, to the State 1995 DSH spending amount, as defined under subsection (f)(6)(C).".

(c) TARGETING PAYMENTS.—Section 1923(a)(2) (42 U.S.C. 1396r–4(a)(2)) is amended by adding at the end the following:

"(D) A State plan under this title shall not be considered to meet the requirements of section 1902(a)(13)(A) (insofar as it requires payments to hospitals to take into account the situation of hospitals that serve a disproportionate number of low-income patients with special needs), as of October 1, 1998, unless the State has provided assurances to the Secretary that the State has developed a methodology for prioritizing payments to disproportionate share hospitals, including children's hospitals, on the basis of the proportion of low-income and medicaid patients served by such hospitals. In making such assurances, the State plan shall provide a definition of high-volume disproportionate share hospitals and a detailed description of the specific methodology to be used to provide disproportionate share payments to such hospitals. The State shall provide an annual report to the Secretary describing the disproportionate share payments to such high-volume disproportionate share hospitals.".

(d) EFFECTIVE DATE.—The amendments made by this section apply on and after October 1, 1997.

CHAPTER 2—EXPANSION OF MEDICAID ELIGIBILITY

SEC. 5731. STATE OPTION TO PERMIT WORKERS WITH DISABILITIES TO BUY INTO MEDICAID.

Section 1902(a)(10)(A)(ii) (42 U.S.C. 1396a(a)(10)(A)(ii)) is amended—

(1) in subclause (XI), by striking "or" at the end;

(2) in subclause (XII), by adding "or" at the end; and

(3) by adding at the end the following:

"(XIII) who are in families whose income is less than 250 percent of the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved, and who but for earnings in excess of the limit established under section 1619(b), would be considered to be receiving supplemental security income (subject, notwithstanding section 1916, to payment of premiums or other charges (set on a sliding scale based on income) that the State may determine);".

SEC. 5732. 12-MONTH CONTINUOUS ELIGIBILITY FOR CHILDREN.

(a) IN GENERAL.—Section 1902(e) (42 U.S.C. 1396a(e)) is amended by adding at the end the following:

"(12) At the option of the State, the State plan may provide that an individual who is under an age specified by the State (not to exceed 19 years of age) and who is determined to be eligible for benefits under a State plan approved under this title under subsection (a)(10)(A) shall remain eligible for those benefits until the earlier of—

"(A) the end of the 12-month period following the determination; or

"(B) the date that the individual exceeds that age.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to medical assistance for items and services furnished on or after October 1, 1997.

CHAPTER 3—PROGRAMS OF ALL-INCLUSIVE CARE FOR THE ELDERLY (PACE)

SEC. 5741. ESTABLISHMENT OF PACE PROGRAM AS MEDICAID STATE OPTION.

(a) IN GENERAL.—Title XIX is amended—

(1) in section 1905(a) (42 U.S.C. 1396d(a)), as amended by section 5702(a)(1)—

(A) by striking "and" at the end of paragraph (25);

(B) by redesignating paragraph (26) as paragraph (27); and

(C) by inserting after paragraph (25) the following new paragraph:

"(26) services furnished under a PACE program under section 1932 to PACE program eligible individuals enrolled under the program under such section; and";

(2) by redesignating section 1932 as section 1933; and

(3) by inserting after section 1931 the following new section:

"PROGRAM OF ALL-INCLUSIVE CARE FOR THE ELDERLY (PACE)

"SEC. 1932. (a) STATE OPTION.—

"(1) IN GENERAL.—A State may elect to provide medical assistance under this section with respect to PACE program services to PACE program eligible individuals who are eligible for medical assistance under the State plan and who are enrolled in a PACE program under a PACE program agreement. Such individuals need not be eligible for benefits under part A, or enrolled under part B, of title XVIII to be eligible to enroll under this section. In the case of an individual enrolled with a PACE program pursuant to such an election—

"(A) the individual shall receive benefits under the plan solely through such program, and

"(B) the PACE provider shall receive payment in accordance with the PACE program agreement for provision of such benefits.

"(2) PACE PROGRAM DEFINED.—For purposes of this section and section 1894, the term 'PACE program' means a program of all-inclusive care for the elderly that meets the following requirements:

"(A) OPERATION.—The entity operating the program is a PACE provider (as defined in paragraph (3)).

"(B) COMPREHENSIVE BENEFITS.—The program provides comprehensive health care services to PACE program eligible individuals in accordance with the PACE program agreement and regulations under this section.

"(C) TRANSITION.—In the case of an individual who is enrolled under the program under this section and whose enrollment ceases for any reason (including that the individual no longer qualifies as a PACE program eligible individual, the termination of a PACE program agreement, or otherwise), the program provides assistance to the individual in obtaining necessary transitional care through appropriate referrals and making the individual's medical records available to new providers.

"(3) PACE PROVIDER DEFINED.—

"(A) IN GENERAL.—For purposes of this section, the term 'PACE provider' means an entity that—

"(i) subject to subparagraph (B), is (or is a distinct part of) a public entity or a private, nonprofit entity organized for charitable purposes under section 501(c)(3) of the Internal Revenue Code of 1986, and

"(ii) has entered into a PACE program agreement with respect to its operation of a PACE program.

"(B) TREATMENT OF PRIVATE, FOR-PROFIT PROVIDERS.—Clause (i) of subparagraph (A) shall not apply—

"(i) to entities subject to a demonstration project waiver under subsection (h); and

"(ii) after the date the report under section 5743(b) of the Balanced Budget Act of 1997 is submitted, unless the Secretary determines that any of the findings described in subparagraph (A), (B), (C), or (D) of paragraph (2) of such section are true.

"(4) PACE PROGRAM AGREEMENT DEFINED.—For purposes of this section, the term 'PACE

program agreement' means, with respect to a PACE provider, an agreement, consistent with this section, section 1894 (if applicable), and regulations promulgated to carry out such sections, among the PACE provider, the Secretary, and a State administering agency for the operation of a PACE program by the provider under such sections.

“(5) PACE PROGRAM ELIGIBLE INDIVIDUAL DEFINED.—For purposes of this section, the term 'PACE program eligible individual' means, with respect to a PACE program, an individual who—

“(A) is 55 years of age or older;

“(B) subject to subsection (c)(4), is determined under subsection (c) to require the level of care required under the State medicaid plan for coverage of nursing facility services;

“(C) resides in the service area of the PACE program; and

“(D) meets such other eligibility conditions as may be imposed under the PACE program agreement for the program under subsection (e)(2)(A)(ii).

“(6) PACE PROTOCOL.—For purposes of this section, the term 'PACE protocol' means the Protocol for the Program of All-inclusive Care for the Elderly (PACE), as published by On Lok, Inc., as of April 14, 1995, or any successor protocol that may be agreed upon between the Secretary and On Lok, Inc.

“(7) PACE DEMONSTRATION WAIVER PROGRAM DEFINED.—For purposes of this section, the term 'PACE demonstration waiver program' means a demonstration program under either of the following sections (as in effect before the date of their repeal):

“(A) Section 603(c) of the Social Security Amendments of 1983 (Public Law 98–21), as extended by section 9220 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99–272).

“(B) Section 9412(b) of the Omnibus Budget Reconciliation Act of 1986 (Public Law 99–509).

“(8) STATE ADMINISTERING AGENCY DEFINED.—For purposes of this section, the term 'State administering agency' means, with respect to the operation of a PACE program in a State, the agency of that State (which may be the single agency responsible for administration of the State plan under this title in the State) responsible for administering PACE program agreements under this section and section 1894 in the State.

“(9) TRIAL PERIOD DEFINED.—

“(A) IN GENERAL.—For purposes of this section, the term 'trial period' means, with respect to a PACE program operated by a PACE provider under a PACE program agreement, the first 3 contract years under such agreement with respect to such program.

“(B) TREATMENT OF ENTITIES PREVIOUSLY OPERATING PACE DEMONSTRATION WAIVER PROGRAMS.—Each contract year (including a year occurring before the effective date of this section) during which an entity has operated a PACE demonstration waiver program shall be counted under subparagraph (A) as a contract year during which the entity operated a PACE program as a PACE provider under a PACE program agreement.

“(10) REGULATIONS.—For purposes of this section, the term 'regulations' refers to interim final or final regulations promulgated under subsection (f) to carry out this section and section 1894.

“(b) SCOPE OF BENEFITS; BENEFICIARY SAFEGUARDS.—

“(1) IN GENERAL.—Under a PACE program agreement, a PACE provider shall—

“(A) provide to PACE program eligible individuals, regardless of source of payment and directly or under contracts with other entities, at a minimum—

“(i) all items and services covered under title XVIII (for individuals enrolled under section 1894) and all items and services covered under this title, but without any limitation or condition as to amount, duration, or scope and without application of deductibles, copayments, coinsurance, or other cost-sharing that would otherwise apply under such title or this title, respectively; and

“(ii) all additional items and services specified in regulations, based upon those required under the PACE protocol;

“(B) provide such enrollees access to necessary covered items and services 24 hours per day, every day of the year;

“(C) provide services to such enrollees through a comprehensive, multidisciplinary health and social services delivery system which integrates acute and long-term care services pursuant to regulations; and

“(D) specify the covered items and services that will not be provided directly by the entity, and to arrange for delivery of those items and services through contracts meeting the requirements of regulations.

“(2) QUALITY ASSURANCE; PATIENT SAFEGUARDS.—The PACE program agreement shall require the PACE provider to have in effect at a minimum—

“(A) a written plan of quality assurance and improvement, and procedures implementing such plan, in accordance with regulations, and

“(B) written safeguards of the rights of enrolled participants (including a patient bill of rights and procedures for grievances and appeals) in accordance with regulations and with other requirements of this title and Federal and State law designed for the protection of patients.

“(c) ELIGIBILITY DETERMINATIONS.—

“(1) IN GENERAL.—The determination of—

“(A) whether an individual is a PACE program eligible individual shall be made under and in accordance with the PACE program agreement, and

“(B) who is entitled to medical assistance under this title shall be made (or who is not so entitled, may be made) by the State administering agency.

“(2) CONDITION.—An individual is not a PACE program eligible individual (with respect to payment under this section) unless the individual's health status has been determined by the Secretary or the State administering agency, in accordance with regulations, to be comparable to the health status of individuals who have participated in the PACE demonstration waiver programs. Such determination shall be based upon information on health status and related indicators (such as medical diagnoses and measures of activities of daily living, instrumental activities of daily living, and cognitive impairment) that are part of a uniform minimum data set collected by PACE providers on potential eligible individuals.

“(3) ANNUAL ELIGIBILITY RECERTIFICATIONS.—

“(A) IN GENERAL.—Subject to subparagraph (B), the determination described in subsection (a)(5)(B) for an individual shall be reevaluated at least annually.

“(B) EXCEPTION.—The requirement of annual reevaluation under subparagraph (A) may be waived during a period in accordance with regulations in those cases in which the State administering agency determines that there is no reasonable expectation of improvement or significant change in an individual's condition during the period because of the advanced age, severity of the advanced age, severity of chronic condition, or degree of impairment of functional capacity of the individual involved.

“(4) CONTINUATION OF ELIGIBILITY.—An individual who is a PACE program eligible individual may be deemed to continue to be such an individual notwithstanding a determination that the individual no longer meets the requirement of subsection (a)(5)(B) if, in accordance with regulations, in the absence of continued coverage under a PACE program the individual reasonably would be expected to meet such requirement within the succeeding 6-month period.

“(5) ENROLLMENT; DISENROLLMENT.—The enrollment and disenrollment of PACE program eligible individuals in a PACE program shall be pursuant to regulations and the PACE program agreement and shall permit enrollees to voluntarily disenroll without cause at any time. Such regulations and agreement shall provide that the PACE program may not disenroll a PACE program eligible individual on the ground that the individual has engaged in noncompliant behavior if such behavior is related to a mental or physical condition of the individual. For purposes of the preceding sentence, the term 'noncompliant behavior' includes repeated noncompliance with medical advice and repeated failure to appear for appointments.

“(d) PAYMENTS TO PACE PROVIDERS ON A CAPITATED BASIS.—

“(1) IN GENERAL.—In the case of a PACE provider with a PACE program agreement under this section, except as provided in this subsection or by regulations, the State shall make prospective monthly payments of a capitation amount for each PACE program eligible individual enrolled under the agreement under this section.

“(2) CAPITATION AMOUNT.—The capitation amount to be applied under this subsection for a provider for a contract year shall be an amount specified in the PACE program agreement for the year. Such amount shall be an amount, specified under the PACE agreement, which is less than the amount that would otherwise have been made under the State plan if the individuals were not so enrolled and shall be adjusted to take into account the comparative frailty of PACE enrollees and such other factors as the Secretary determines to be appropriate. The payment under this section shall be in addition to any payment made under section 1894 for individuals who are enrolled in a PACE program under such section.

“(e) PACE PROGRAM AGREEMENT.—

“(1) REQUIREMENT.—

“(A) IN GENERAL.—The Secretary, in close cooperation with the State administering agency, shall establish procedures for entering into, extending, and terminating PACE program agreements for the operation of PACE programs by entities that meet the requirements for a PACE provider under this section, section 1894, and regulations.

“(B) NUMERICAL LIMITATION.—

“(i) IN GENERAL.—The Secretary shall not permit the number of PACE providers with which agreements are in effect under this section or under section 9412(b) of the Omnibus Budget Reconciliation Act of 1986 to exceed—

“(I) 40 as of the date of the enactment of this section, or

“(II) as of each succeeding anniversary of such date, the numerical limitation under this subparagraph for the preceding year plus 20.

Subclause (II) shall apply without regard to the actual number of agreements in effect as of a previous anniversary date.

“(ii) TREATMENT OF CERTAIN PRIVATE, FOR-PROFIT PROVIDERS.—The numerical limitation in clause (i) shall not apply to a PACE provider that—

“(I) is operating under a demonstration project waiver under subsection (h), or

“(II) was operating under such a waiver and subsequently qualifies for PACE provider status pursuant to subsection (a)(3)(B)(ii).

“(2) SERVICE AREA AND ELIGIBILITY.—

"(A) IN GENERAL.—A PACE program agreement for a PACE program—

"(i) shall designate the service area of the program;

"(ii) may provide additional requirements for individuals to qualify as PACE program eligible individuals with respect to the program;

"(iii) shall be effective for a contract year, but may be extended for additional contract years in the absence of a notice by a party to terminate, and is subject to termination by the Secretary and the State administering agency at any time for cause (as provided under the agreement);

"(iv) shall require a PACE provider to meet all applicable State and local laws and requirements; and

"(v) shall have such additional terms and conditions as the parties may agree to, provided that such terms and conditions are consistent with this section and regulations.

"(B) SERVICE AREA OVERLAP.—In designating a service area under a PACE program agreement under subparagraph (A)(i), the Secretary (in consultation with the State administering agency) may exclude from designation an area that is already covered under another PACE program agreement, in order to avoid unnecessary duplication of services and avoid impairing the financial and service viability of an existing program.

"(3) DATA COLLECTION; DEVELOPMENT OF OUTCOME MEASURES.—

"(A) DATA COLLECTION.—

"(i) IN GENERAL.—Under a PACE program agreement, the PACE provider shall—

"(I) collect data;

"(II) maintain, and afford the Secretary and the State administering agency access to, the records relating to the program, including pertinent financial, medical, and personnel records; and

"(III) submit to the Secretary and the State administering agency such reports as the Secretary finds (in consultation with State administering agencies) necessary to monitor the operation, cost, and effectiveness of the PACE program.

"(ii) REQUIREMENTS DURING TRIAL PERIOD.—During the first 3 years of operation of a PACE program (either under this section or under a PACE demonstration waiver program), the PACE provider shall provide such additional data as the Secretary specifies in regulations in order to perform the oversight required under paragraph (4)(A).

"(B) DEVELOPMENT OF OUTCOME MEASURES.—Under a PACE program agreement, the PACE provider, the Secretary, and the State administering agency shall jointly cooperate in the development and implementation of health status and quality of life outcome measures with respect to PACE program eligible individuals.

"(4) OVERSIGHT.—

"(A) ANNUAL, CLOSE OVERSIGHT DURING TRIAL PERIOD.—During the trial period (as defined in subsection (a)(9)) with respect to a PACE program operated by a PACE provider, the Secretary (in cooperation with the State administering agency) shall conduct a comprehensive annual review of the operation of the PACE program by the provider in order to assure compliance with the requirements of this section and regulations. Such a review shall include—

"(i) an onsite visit to the program site;

"(ii) comprehensive assessment of a provider's fiscal soundness;

"(iii) comprehensive assessment of the provider's capacity to provide all PACE services to all enrolled participants;

"(iv) detailed analysis of the entity's substantial compliance with all significant requirements of this section and regulations; and

"(v) any other elements the Secretary or the State administering agency considers necessary or appropriate.

"(B) CONTINUING OVERSIGHT.—After the trial period, the Secretary (in cooperation with the State administering agency) shall continue to conduct such review of the operation of PACE providers and PACE programs as may be appropriate, taking into account the performance level of a provider and compliance of a provider with all significant requirements of this section and regulations.

"(C) DISCLOSURE.—The results of reviews under this paragraph shall be reported promptly to the PACE provider, along with any recommendations for changes to the provider's program, and shall be made available to the public upon request.

"(5) TERMINATION OF PACE PROVIDER AGREEMENTS.—

"(A) IN GENERAL.—Under regulations—

"(i) the Secretary or a State administering agency may terminate a PACE program agreement for cause, and

"(ii) a PACE provider may terminate such an agreement after appropriate notice to the Secretary, the State administering agency, and enrollees.

"(B) CAUSES FOR TERMINATION.—In accordance with regulations establishing procedures for termination of PACE program agreements, the Secretary or a State administering agency may terminate a PACE program agreement with a PACE provider for, among other reasons, the fact that—

"(i) the Secretary or State administering agency determines that—

"(I) there are significant deficiencies in the quality of care provided to enrolled participants; or

"(II) the provider has failed to comply substantially with conditions for a program or provider under this section or section 1894; and

"(ii) the entity has failed to develop and successfully initiate, within 30 days of the date of the receipt of written notice of such a determination, a plan to correct the deficiencies, or has failed to continue implementation of such a plan.

"(C) TERMINATION AND TRANSITION PROCEDURES.—An entity whose PACE provider agreement is terminated under this paragraph shall implement the transition procedures required under subsection (a)(2)(C).

"(6) SECRETARY'S OVERSIGHT; ENFORCEMENT AUTHORITY.—

"(A) IN GENERAL.—Under regulations, if the Secretary determines (after consultation with the State administering agency) that a PACE provider is failing substantially to comply with the requirements of this section and regulations, the Secretary (and the State administering agency) may take any or all of the following actions:

"(i) Condition the continuation of the PACE program agreement upon timely execution of a corrective action plan.

"(ii) Withhold some or all further payments under the PACE program agreement under this section or section 1894 with respect to PACE program services furnished by such provider until the deficiencies have been corrected.

"(iii) Terminate such agreement.

"(B) APPLICATION OF INTERMEDIATE SANCTIONS.—Under regulations, the Secretary may provide for the application against a PACE provider of remedies described in section 1857(f)(2) (or, for periods before January 1, 1999, section 1876(i)(6)(B)) or 1903(m)(5)(B) in the case of violations by the provider of the type described in section 1857(f)(1) (or 1876(i)(6)(A) for such periods) or 1903(m)(5)(A), respectively (in relation to agreements, enrollees, and requirements under section 1894 or this section, respectively).

"(7) PROCEDURES FOR TERMINATION OR IMPOSITION OF SANCTIONS.—Under regulations, the provisions of section 1857(g) (or for periods before January 1, 1999, section 1876(i)(9)) shall apply to termination and sanctions respecting a PACE program agreement and PACE provider under this subsection in the same manner as they apply to a termination and sanctions with respect to a contract and a Medicare Choice organization under part C of title XVIII (or for such periods an eligible organization under section 1876).

"(8) TIMELY CONSIDERATION OF APPLICATIONS FOR PACE PROGRAM PROVIDER STATUS.—In considering an application for PACE provider program status, the application shall be deemed approved unless the Secretary, within 90 days after the date of the submission of the application to the Secretary, either denies such request in writing or informs the applicant in writing with respect to any additional information that is needed in order to make a final determination with respect to the application. After the date the Secretary receives such additional information, the application shall be deemed approved unless the Secretary, within 90 days of such date, denies such request.

"(f) REGULATIONS.—

"(1) IN GENERAL.—The Secretary shall issue interim final or final regulations to carry out this section and section 1894.

"(2) USE OF PACE PROTOCOL.—

"(A) IN GENERAL.—In issuing such regulations, the Secretary shall, to the extent consistent with the provisions of this section, incorporate the requirements applied to PACE demonstration waiver programs under the PACE protocol.

"(B) FLEXIBILITY.—In order to provide for reasonable flexibility in adapting the PACE service delivery model to the needs of particular organizations (such as those in rural areas or those that may determine it appropriate to use nonstaff physicians according to State licensing law requirements) under this section and section 1894, the Secretary (in close consultation with State administering agencies) may modify or waive provisions of the PACE protocol so long as any such modification or waiver is not inconsistent with and would not impair the essential elements, objectives, and requirements of this section, but may not modify or waive any of the following provisions:

"(i) The focus on frail elderly qualifying individuals who require the level of care provided in a nursing facility.

"(ii) The delivery of comprehensive, integrated acute and long-term care services.

"(iii) The interdisciplinary team approach to care management and service delivery.

"(iv) Capitated, integrated financing that allows the provider to pool payments received from public and private programs and individuals.

"(v) The assumption by the provider of full financial risk.

"(3) APPLICATION OF CERTAIN ADDITIONAL BENEFICIARY AND PROGRAM PROTECTIONS.—

"(A) IN GENERAL.—In issuing such regulations and subject to subparagraph (B), the Secretary may apply with respect to PACE programs, providers, and agreements such requirements of part C of title XVIII (or, for periods before January 1, 1999, section 1876) and section 1903(m) relating to protection of beneficiaries and program integrity as would apply to Medicare Choice organizations under such part C (or for such periods eligible organizations under risk-sharing contracts under section 1876) and to health maintenance organizations under prepaid capitation agreements under section 1903(m).

"(B) CONSIDERATIONS.—In issuing such regulations, the Secretary shall—

"(i) take into account the differences between populations served and benefits provided under this section and under part C of title XVIII (or,

for periods before January 1, 1999, section 1876) and section 1903(m);

"(ii) not include any requirement that conflicts with carrying out PACE programs under this section; and

"(iii) not include any requirement restricting the proportion of enrollees who are eligible for benefits under this title or title XVIII.

"(g) WAIVERS OF REQUIREMENTS.—With respect to carrying out a PACE program under this section, the following requirements of this title (and regulations relating to such requirements) shall not apply:

"(1) Section 1902(a)(1), relating to any requirement that PACE programs or PACE program services be provided in all areas of a State.

"(2) Section 1902(a)(10), insofar as such section relates to comparability of services among different population groups.

"(3) Sections 1902(a)(23) and 1915(b)(4), relating to freedom of choice of providers under a PACE program.

"(4) Section 1903(m)(2)(A), insofar as it restricts a PACE provider from receiving prepaid capitation payments.

"(h) DEMONSTRATION PROJECT FOR FOR-PROFIT ENTITIES.—

"(1) IN GENERAL.—In order to demonstrate the operation of a PACE program by a private, for-profit entity, the Secretary (in close consultation with State administering agencies) shall grant waivers from the requirement under subsection (a)(3) that a PACE provider may not be a for-profit, private entity.

"(2) SIMILAR TERMS AND CONDITIONS.—

"(A) IN GENERAL.—Except as provided under subparagraph (B), and paragraph (1), the terms and conditions for operation of a PACE program by a provider under this subsection shall be the same as those for PACE providers that are nonprofit, private organizations.

"(B) NUMERICAL LIMITATION.—The number of programs for which waivers are granted under this subsection shall not exceed 10. Programs with waivers granted under this subsection shall not be counted against the numerical limitation specified in subsection (e)(1)(B).

"(i) POST-ELIGIBILITY TREATMENT OF INCOME.—A State may provide for post-eligibility treatment of income for individuals enrolled in PACE programs under this section in the same manner as a State treats post-eligibility income for individuals receiving services under a waiver under section 1915(c).

"(j) MISCELLANEOUS PROVISIONS.—Nothing in this section or 1894 shall be construed as preventing a PACE provider from entering into contracts with other governmental or nongovernmental payers for the care of PACE program eligible individuals who are not eligible for benefits under part A, or enrolled under part B, of title XVIII or eligible for medical assistance under this title.".

(b) CONFORMING AMENDMENTS.—

(1) Section 1902(j) (42 U.S.C. 1396a(j)), as amended by section 5702(a)(2)(B), is amended by striking "(26)" and inserting "(27)".

(2) Section 1924(a)(5) (42 U.S.C. 1396r–5(a)(5)) is amended—

(A) in the heading, by striking "FROM ORGANIZATIONS RECEIVING CERTAIN WAIVERS" and inserting "UNDER PACE PROGRAMS"; and

(B) by striking "from any organization" and all that follows and inserting "under a PACE demonstration waiver program (as defined in section 1932(a)(7)) or under a PACE program under section 1932 or 1894.".

(3) Section 1903(f)(4)(C) (42 U.S.C. 1396b(f)(4)(C)) is amended by inserting "or who is a PACE program eligible individual enrolled in a PACE program under section 1932," after "section 1902(a)(10)(A),".

SEC. 5742. EFFECTIVE DATE; TRANSITION.

(a) TIMELY ISSUANCE OF REGULATIONS; EFFECTIVE DATE.—The Secretary of Health and Human Services shall promulgate regulations to carry out this chapter in a timely manner. Such regulations shall be designed so that entities may establish and operate PACE programs under sections 1894 and 1932 of the Social Security Act (as added by sections 5011 and 5741 of this Act) for periods beginning not later than 1 year after the date of the enactment of this Act.

(b) EXPANSION AND TRANSITION FOR PACE DEMONSTRATION PROJECT WAIVERS.—

(1) EXPANSION IN CURRENT NUMBER AND EXTENSION OF DEMONSTRATION PROJECTS.—Section 9412(b) of the Omnibus Budget Reconciliation Act of 1986, as amended by section 4118(g) of the Omnibus Budget Reconciliation Act of 1987, is amended—

(A) in paragraph (1), by inserting before the period at the end the following: ", except that the Secretary shall grant waivers of such requirements to up to the applicable numerical limitation specified in section 1933(e)(1)(B) of the Social Security Act"; and

(B) in paragraph (2)—

(i) in subparagraph (A), by striking ", including permitting the organization to assume progressively (over the initial 3-year period of the waiver) the full financial risk"; and

(ii) in subparagraph (C), by adding at the end the following: "In granting further extensions, an organization shall not be required to provide for reporting of information which is only required because of the demonstration nature of the project.".

(2) ELIMINATION OF REPLICATION REQUIREMENT.—Section 9412(b)(2)(B) of such Act, as so amended, shall not apply to waivers granted under such section after the date of the enactment of this Act.

(3) TIMELY CONSIDERATION OF APPLICATIONS.—In considering an application for waivers under such section before the effective date of the repeals under subsection (d), subject to the numerical limitation under the amendment made by paragraph (1), the application shall be deemed approved unless the Secretary of Health and Human Services, within 90 days after the date of its submission to the Secretary, either denies such request in writing or informs the applicant in writing with respect to any additional information which is needed in order to make a final determination with respect to the application. After the date the Secretary receives such additional information, the application shall be deemed approved unless the Secretary, within 90 days of such date, denies such request.

(c) PRIORITY AND SPECIAL CONSIDERATION IN APPLICATION.—During the 3-year period beginning on the date of the enactment of this Act:

(1) PROVIDER STATUS.—The Secretary of Health and Human Services shall give priority in processing applications of entities to qualify as PACE programs under section 1894 or 1932 of the Social Security Act—

(A) first, to entities that are operating a PACE demonstration waiver program (as defined in section 1932(a)(7) of such Act), and

(B) then to entities that have applied to operate such a program as of May 1, 1997.

(2) NEW WAIVERS.—The Secretary shall give priority, in the awarding of additional waivers under section 9412(b) of the Omnibus Budget Reconciliation Act of 1986—

(A) to any entities that have applied for such waivers under such section as of May 1, 1997; and

(B) to any entity that, as of May 1, 1997, has formally contracted with a State to provide services for which payment is made on a capitated basis with an understanding that the entity was seeking to become a PACE provider.

(3) SPECIAL CONSIDERATION.—The Secretary shall give special consideration, in the processing of applications described in paragraph (1) and the awarding of waivers described in paragraph (2), to an entity which as of May 1, 1997, through formal activities (such as entering into contracts for feasibility studies) has indicated a specific intent to become a PACE provider.

(d) REPEAL OF CURRENT PACE DEMONSTRATION PROJECT WAIVER AUTHORITY.—

(1) IN GENERAL.—Subject to paragraph (2), the following provisions of law are repealed:

(A) Section 603(c) of the Social Security Amendments of 1983 (Public Law 98–21).

(B) Section 9220 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99–272).

(C) Section 9412(b) of the Omnibus Budget Reconciliation Act of 1986 (Public Law 99–509).

(2) DELAY IN APPLICATION.—

(A) IN GENERAL.—Subject to subparagraph (B), the repeals made by paragraph (1) shall not apply to waivers granted before the initial effective date of regulations described in subsection (a).

(B) APPLICATION TO APPROVED WAIVERS.—Such repeals shall apply to waivers granted before such date only after allowing such organizations a transition period (of up to 24 months) in order to permit sufficient time for an orderly transition from demonstration project authority to general authority provided under the amendments made by this chapter.

SEC. 5743. STUDY AND REPORTS.

(a) STUDY.—

(1) IN GENERAL.—The Secretary of Health and Human Services (in close consultation with State administering agencies, as defined in section 1932(a)(8) of the Social Security Act) shall conduct a study of the quality and cost of providing PACE program services under the medicare and medicaid programs under the amendments made by this chapter.

(2) STUDY OF PRIVATE, FOR-PROFIT PROVIDERS.—Such study shall specifically compare the costs, quality, and access to services by entities that are private, for-profit entities operating under demonstration projects waivers granted under section 1932(h) of the Social Security Act with the costs, quality, and access to services of other PACE providers.

(b) REPORT.—

(1) IN GENERAL.—Not later than 4 years after the date of the enactment of this Act, the Secretary shall provide for a report to Congress on the impact of such amendments on quality and cost of services. The Secretary shall include in such report such recommendations for changes in the operation of such amendments as the Secretary deems appropriate.

(2) TREATMENT OF PRIVATE, FOR-PROFIT PROVIDERS.—The report shall include specific findings on whether any of the following findings is true:

(A) The number of covered lives enrolled with entities operating under demonstration project waivers under section 1932(h) of the Social Security Act is fewer than 800 (or such lesser number as the Secretary may find statistically sufficient to make determinations respecting findings described in the succeeding subparagraphs).

(B) The population enrolled with such entities is less frail than the population enrolled with other PACE providers.

(C) Access to or quality of care for individuals enrolled with such entities is lower than such access or quality for individuals enrolled with other PACE providers.

(D) The application of such section has resulted in an increase in expenditures under the medicare or medicaid programs above the expenditures that would have been made if such section did not apply.

(c) INFORMATION INCLUDED IN ANNUAL RECOMMENDATIONS.—The Physician Payment Review Commission shall include in its annual recommendations under section 1845(b) of the Social Security Act (42 U.S.C. 1395w–1), and the

Prospective Payment Review Commission shall include in its annual recommendations reported under section 1886(e)(3)(A) of such Act (42 U.S.C. 1395ww(e)(3)(A)), recommendations on the methodology and level of payments made to PACE providers under section 1894(d) of such Act and on the treatment of private, for-profit entities as PACE providers. References in the preceding sentence to the Physician Payment Review Commission and the Prospective Payment Review Commission shall be deemed to be references to the Medicare Payment Advisory Commission (MedPAC) established under section 5022(a) after the termination of the Physician Payment Review Commission and the Prospective Payment Review Commission provided for in section 5022(c)(2).

CHAPTER 4—MEDICAID MANAGEMENT AND PROGRAM REFORMS

SEC. 5751. ELIMINATION OF REQUIREMENT TO PAY FOR PRIVATE INSURANCE.

(a) REPEAL OF STATE PLAN PROVISION.—Section 1902(a)(25) (42 U.S.C. 1396a(a)(25)) is amended—

(1) by striking subparagraph (G); and

(2) by redesignating subparagraphs (H) and (I) as subparagraphs (G) and (H), respectively.

(b) REPEAL OF ENROLLMENT REQUIREMENTS.—Section 1906 (42 U.S.C. 1396e) is repealed.

(c) REINSTATEMENT OF STATE OPTION.—Section 1905(a) (42 U.S.C. 1396a(a)) is amended, in the matter preceding clause (i), by inserting "(including, at State option, through purchase or payment of enrollee costs of health insurance)" after "The term 'medical assistance' means payment".

SEC. 5752. ELIMINATION OF OBSTETRICAL AND PEDIATRIC PAYMENT RATE REQUIREMENTS.

(a) IN GENERAL.—Section 1926 (42 U.S.C. 1396r–7) is repealed.

(b) EFFECTIVE DATE.—The repeal made by subsection (a) shall apply to services furnished on or after October 1, 1997.

SEC. 5753. PHYSICIAN QUALIFICATION REQUIREMENTS.

(a) IN GENERAL.—Section 1903(i) (42 U.S.C. 1396b(i)) is amended by striking paragraph (12).

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished on or after the date of the enactment of this Act.

SEC. 5754. EXPANDED COST-SHARING REQUIREMENTS.

Section 1916 (42 U.S.C. 1396o) is amended by adding at the end the following:

"(g)(1) Notwithstanding any other provision of this title, the State plan may impose cost-sharing with respect to any medical assistance provided to an individual who is not described in section 1902(a)(10)(A)(i) in accordance with the provisions of this subsection, except that no cost-sharing may be imposed with respect to medical assistance provided to an individual who has not attained age 18 if such individual's family income does not exceed 150 percent of the poverty line applicable to a family of the size involved, and if, as of the date of enactment of the Balanced Budget Act of 1997, cost-sharing could not be imposed with respect to medical assistance provided to such individual.

"(2) Any cost-sharing imposed under this subsection shall be pursuant to a public schedule and shall reflect such economic factors, employment status, and family size with respect to each such individual as the State determines appropriate.

"(3) In the case of any family whose income is less than 150 percent of the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved, the total annual amount of cost-sharing that may be imposed for such family shall not exceed 3 percent of the family's average gross monthly earnings (less the average monthly costs for such child care as is necessary for the employment of the caretaker relative) for such period.

"(4) In the case of any family whose income exceeds 150 percent, but does not exceed 200 percent of, such poverty line, paragraph (3) shall be applied by substituting '5 percent' for '3 percent'.

"(5) Nothing in this subsection shall be construed as preventing a State from imposing cost-sharing with respect to individuals eligible for medical assistance under the State plan, or with respect to items or services provided as medical assistance under such plan, if the provisions of this title otherwise allow the State to do so or if the State has received a waiver that authorizes such cost-sharing.

"(6) Any cost-sharing imposed under this subsection may not be included in determining the amount of the State percentage required for reimbursement of expenditures under a State plan under this title.

"(7) In this subsection, the term 'cost-sharing' includes copayments, deductibles, coinsurance, enrollment fees, premiums, and other charges for the provision of health care services.".

SEC. 5755. PENALTY FOR FRAUDULENT ELIGIBILITY.

Section 1128B(a) (42 U.S.C. 1320a–7b(a)), as amended by section 217 of the Health Insurance Portability and Accountability Act of 1996, is amended—

(1) by amending paragraph (6) to read as follows:

"(6) for a fee knowingly and willfully counsels or assists an individual to dispose of assets (including by any transfer in trust) in order for the individual to become eligible for medical assistance under a State plan under title XIX, if disposing of the assets results in the imposition of a period of ineligibility for such assistance under section 1917(c),"; and

(2) in clause (ii) of the matter following such paragraph, by striking "failure, or conversion by any other person" and inserting "failure, conversion, or provision of counsel or assistance by any other person".

SEC. 5756. ELIMINATION OF WASTE, FRAUD, AND ABUSE.

(a) BAN ON SPENDING FOR NONHEALTH RELATED ITEMS.—Section 1903(i) (42 U.S.C. 1396b(i)) is amended—

(1) in paragraphs (2) and (15), by striking the period at the end and inserting "; or";

(2) in paragraphs (10)(B), (11), and (13), by adding "or" at the end; and

(3) by inserting after paragraph (15), the following:

"(16) with respect to any amount expended for roads, bridges, stadiums, or any other item or service not covered under a State plan under this title.".

(b) DISCLOSURE OF INFORMATION AND SURETY BOND REQUIREMENT FOR SUPPLIERS OF DURABLE MEDICAL EQUIPMENT.—

(1) REQUIREMENT.—Section 1902(a) (42 U.S.C. 1396a(a)), is amended—

(A) by striking "and" at the end of paragraph (62);

(B) by striking the period at the end of paragraph (63) and inserting "; and"; and

(C) by inserting after paragraph (63) the following:

"(64) provide that the State shall not issue or renew a provider number for a supplier of medical assistance consisting of durable medical equipment, as defined in section 1861(n), for purposes of payment under this part for such assistance that is furnished by the supplier, unless the supplier provides the State agency on a continuing basis with—

"(A)(i) full and complete information as to the identity of each person with an ownership or control interest (as defined in section 1124(a)(3)) in the supplier or in any subcontractor (as defined by the Secretary in regulations) in which the supplier directly or indirectly has a 5 percent or more ownership interest; and

(ii) to the extent determined to be feasible under regulations of the Secretary, the name of any disclosing entity (as defined in section 1124(a)(2)) with respect to which a person with such an ownership or control interest in the supplier is a person with such an ownership or control interest in the disclosing entity; and

"(B) a surety bond in a form specified by the State and in an amount that is not less than $50,000.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to suppliers of medical assistance consisting of durable medical equipment furnished on or after January 1, 1998.

(c) SURETY BOND REQUIREMENT FOR HOME HEALTH AGENCIES.—

(1) IN GENERAL.—Section 1905(a)(7) (42 U.S.C. 1396d(a)(7) is amended by inserting ", provided that the agency or organization providing such services provides the State agency on a continuing basis with a surety bond in a form specified by the State and in an amount that is not less than $50,000" after "services".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to home health agencies with respect to services furnished on or after January 1, 1998.

(d) CONFLICT OF INTEREST SAFEGUARDS.—Section 1902(a)(4) (42 U.S.C. 1396a(a)(4)) is amended to read as follows:

"(4) provide—

"(A) such methods of administration (including methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Secretary shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods, and including provision for utilization of professional medical personnel in the administration and, where administered locally, supervision of administration of the plan) as are found by the Secretary to be necessary for the proper and efficient operation of the plan;

"(B) for the training and effective use of paid subprofessional staff, with particular emphasis on the full-time or part-time employment of recipients and other persons of low income, as community service aides, in the administration of the plan and for the use of nonpaid or partially paid volunteers in a social service volunteer program in providing services to applicants and recipients and in assisting any advisory committees established by the State agency; and

"(C) that each State or local officer or employee, or independent contractor—

"(i) who is responsible for the expenditure of substantial amounts of funds under the State plan, or who is responsible for administering the State plan under this title, each individual who formerly was such an officer, employee, or independent contractor, and each partner of such an officer, employee, or independent contractor shall be prohibited from committing any act, in relation to any activity under the plan, the commission of which, in connection with any activity concerning the United States Government, by an officer or employee of the United States Government, an individual who was such an officer or employee, or a partner of such an officer or employee is prohibited by section 207 or 208 of title 18, United States Code; and

"(ii) who is responsible for selecting, awarding, or otherwise obtaining items and services under the State plan shall be subject to safeguards against conflicts of interest that are at least as stringent as the safeguards that apply *under section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423) to persons described in subsection (a)(2) of such section of that Act;".*

(e) AUTHORITY TO REFUSE TO ENTER INTO MEDICAID AGREEMENTS WITH INDIVIDUALS OR ENTITIES CONVICTED OF FELONIES.—Section 1902(a)(23) (42 U.S.C. 1396a(a)(23)) is amended to read as follows:

"(23) provide that—

"(A) any individual eligible for medical assistance (including drugs) may obtain such assistance from any institution, agency, community pharmacy, or person, qualified to perform the service or services required (including an organization which provides such services, or arranges for their availability, on a prepayment basis), who undertakes to provide him such services; and

"(B) an enrollment of an individual eligible for medical assistance in a primary care case-management system (described in section 1915(b)(1)), a health maintenance organization, or a similar entity shall not restrict the choice of the qualified person from whom the individual may receive services under section 1905(a)(4)(C), except as provided in subsection (g) and in section 1915, except in the case of Puerto Rico, the Virgin Islands, and Guam, and except that nothing in this paragraph shall be construed as requiring a State to provide medical assistance for items or services furnished by a person or entity convicted of a felony under Federal or State law for an offense which the State agency determines is inconsistent with the best interest of beneficiaries under the State plan;".

(f) MONITORING PAYMENTS FOR DUAL ELIGIBLES.—The Administrator of the Health Care Financing Administration shall—

(1) develop mechanisms to better monitor and prevent inappropriate payments under the medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) in the case of individuals who are dually eligible for benefits under such program and under the medicare program under title XVIII of such Act (42 U.S.C. 1395 et seq.);

(2) study the use of case management or care coordination in order to improve the appropriateness of care, quality of care, and cost effectiveness of care for individuals who are dually eligible for benefits under such programs; and

(3) work with the States to ensure better care coordination for dual eligibles and make recommendations to Congress as to any statutory changes that would not compromise beneficiary protections and that would improve or facilitate such care.

(g) BENEFICIARY AND PROGRAM PROTECTION AGAINST WASTE, FRAUD, AND ABUSE.—Section 1902(a) (42 U.S.C. 1396a(a)), as amended by subsection (b)(1), is amended—

(1) by striking "and" at the end of paragraph (63);

(2) by striking the period at the end of paragraph (64) and inserting "; and"; and

(3) by inserting after paragraph (64) the following:

"(65) provide programs—

"(A) to ensure program integrity, protect and advocate on behalf of individuals, and to report to the State data concerning beneficiary concerns and complaints and instances of beneficiary abuse or program waste or fraud by managed care plans operating in the State under contact with the State agency;

"(B) to provide assistance to beneficiaries, with particular emphasis on the families of special needs children and persons with disabilities to—

"(i) explain the differences between managed care and fee-for-service plans;

"(ii) clarify the coverage for such beneficiaries under any managed care plan offered under the State plan under this title;

"(iii) explain the implications of the choices between competing plans;

"(iv) assist such beneficiaries in understanding their rights under any managed care plan offered under the State plan, including their right to—

"(I) access and benefits;

"(II) nondiscrimination;

"(III) grievance and appeal mechanisms; and

"(IV) change plans, as designated in the State plan; and

"(v) exercise the rights described in clause (iv); and

"(C) to collect and report to the State data on the number of complaints or instances identified under subparagraph (A) and to report to the State annually on any systematic problems in the implementation of managed care entities contracting with the State under the State plan under this title.".

SEC. 5757. STUDY ON EPSDT BENEFITS.

(a) STUDY.—The Secretary of Health and Human Services, in consultation with Governors, directors of State medicaid and State maternal and child programs, the Institute of Medicine, the American Academy of Pediatrics, and representatives of beneficiaries under the medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) shall conduct a study of the early and periodic screening, diagnostic, and treatment services provided under State plans under title XIX of the Social Security Act in accordance with section 1905(r) of such Act (42 U.S.C. 1396d(r)).

(b) REPORT.—Not later than 12 months after the date of enactment of this Act, the Secretary of Health and Human Services shall submit a report to Congress on the results of the conducted study under subsection (a).

SEC. 5758. STUDY AND GUIDELINES REGARDING MANAGED CARE ORGANIZATIONS AND INDIVIDUALS WITH SPECIAL HEALTH CARE NEEDS.

(a) STUDY AND RECOMMENDATIONS.—The Secretary of Health and Human Services (in this section referred to as the "Secretary"), in consultation with States, managed care organizations, the National Academy of State Health Policy, representatives of beneficiaries with special health care needs, experts in specialized health care, and others, shall conduct a study and develop the guidelines described in subsection (b). Not later than 2 years after the date of enactment of this Act, the Secretary shall report such guidelines to Congress and make recommendations for implementing legislation.

(b) GUIDELINES DESCRIBED.—The guidelines to be developed by the Secretary shall relate to issues such as risk adjustment, solvency, medical necessity definitions, case management, quality controls, adequacy of provider networks, access to specialists (including pediatric specialists and the use of specialists as primary care providers), marketing, compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), speedy grievance and appeals procedures, data collection, and such other matters as the Secretary may determine, as these issues affect care provided to individuals with special health care needs and chronic conditions in capitated managed care or primary care case management plans. The Secretary shall distinguish which guidelines should apply to primary care case management arrangements, to capitated risk sharing arrangements, or to both. Such guidelines should be designed to be used in reviewing State proposals under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) (by waiver request or State plan amendment) to implement mandatory capitated managed care or primary care case management arrangements that enroll beneficiaries with chronic conditions or special health care needs.

CHAPTER 5—MISCELLANEOUS

SEC. 5761. INCREASED FMAPS.

Section 1905(b) (42 U.S.C. 1396d(b)(1)) is amended—

(1) by striking "and (2)" and inserting "(2)"; and

(2) by striking the period and inserting ", and (3) during the period beginning on October 1, 1997, and ending on September 30, 2000, the Federal medical assistance percentage for the District of Columbia shall be 60 per centum, and the Federal medical assistance percentage for Alaska shall be 59.8 per centum (but only, in the case of such States, with respect to expenditures under a State plan under this title).".

SEC. 5762. INCREASE IN PAYMENT CAPS FOR TERRITORIES.

Section 1108 (42 U.S.C. 1308) is amended—

(1) in subsection (f), by striking "The" and inserting "Subject to subsection (g), the"; and

(2) by adding at the end the following:

"(g) MEDICAID PAYMENTS TO TERRITORIES FOR FISCAL YEAR 1998 AND THEREAFTER.—

"(1) FISCAL YEAR 1998.—With respect to fiscal year 1998, the amounts otherwise determined for Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa under subsection (f) for such fiscal year shall be increased in the following manner:

"(A) For Puerto Rico, $30,000,000.

"(B) For the Virgin Islands, $750,000.

"(C) For Guam, $750,000.

"(D) For the Northern Mariana Islands, $500,000.

"(E) For American Samoa, $500,000.

"(2) FISCAL YEAR 1999 AND THEREAFTER.—Notwithstanding subsection (f), with respect to fiscal year 1999 and any fiscal year thereafter, the total amount certified by the Secretary under title XIX for payment to—

"(A) Puerto Rico shall not exceed the sum of the amount provided in this subsection for the preceding fiscal year increased by the percentage increase in the medical care component of the consumer price index for all urban consumers (as published by the Bureau of Labor Statistics) for the twelve-month period ending in March preceding the beginning of the fiscal year, rounded to the nearest $100,000;

"(B) the Virgin Islands shall not exceed the sum of the amount provided in this subsection for the preceding fiscal year increased by the percentage increase referred to in subparagraph (A), rounded to the nearest $10,000;

"(C) Guam shall not exceed the sum of the amount provided in this subsection for the preceding fiscal year increased by the percentage increase referred to in subparagraph (A), rounded to the nearest $10,000;

"(D) Northern Mariana Islands shall not exceed the sum of the amount provided in this subsection for the preceding fiscal year increased by the percentage increase referred to in subparagraph (A), rounded to the nearest $10,000; and

"(E) American Samoa shall not exceed the sum of the amount provided in this subsection for the preceding fiscal year increased by the percentage increase referred to in subparagraph (A), rounded to the nearest $10,000.".

SEC. 5763. COMMUNITY-BASED MENTAL HEALTH SERVICES.

(a) IN GENERAL.—Section 1905(a) (42 U.S.C. 1396d(a)), as amended by section 5741(a)(1), is amended—

(1) by striking "and" at the end of paragraph (26);

(2) by redesignating paragraph (27) as paragraph (28); and

(3) by inserting after paragraph (26) the following new paragraph:

"(27) outpatient and intensive community-based mental health services, including psychiatric rehabilitation, day treatment, intensive

in-home services for children, assertive community treatment, therapeutic out-of-home placements (excluding room and board), clinic services, partial hospitalization, and targeted case management; and".

(b) Conforming Amendments.—

(1) Section 1902(a)(10)(C)(iv) (42 U.S.C. 1396a(a)(10)(C)(iv)), as amended by section 5702(a)(2)(A), is amended by inserting "or (27)" after "(25)".

(2) Section 1902(j) (42 U.S.C. 1396a(j)), as amended by section 5741(b)(1), is amended by striking "(27)" and inserting "(28)".

SEC. 5764. OPTIONAL MEDICAID COVERAGE OF CERTAIN CDC-SCREENED BREAST CANCER PATIENTS.

(a) Coverage as Optional Categorically Needy Group.—Section 1902(a)(10)(A)(ii) (42 U.S.C. 1396a(a)(10)(A)(ii)) is amended—

(1) in subclause (XI), by striking "or" at the end;

(2) in subclause (XII), by adding "or" at the end; and

(3) by adding at the end the following:

"(XIII) who are described in subsection (aa)(1)(relating to certain CDC-screened breast cancer patients);".

(b) Group and Benefit Described.—Section 1902 (42 U.S.C. 1396a) is amended by adding at the end the following:

"(aa)(1) Individuals described in this paragraph are individuals not described in subsection (a)(10)(A)(i) who—

"(A) have not attained age 65;

"(B) have been diagnosed with breast cancer through participation in the program to screen women for breast and cervical cancer conducted by the Director of the Centers for Disease Control and Prevention under title 15 of the Public Health Service Act (42 U.S.C. 300k et seq.);

"(C) satisfy the income and resource eligibility criteria established by such Director for participation in such program; and

"(D) are not otherwise eligible for medical assistance under the State plan under this title.

"(2) For purposes of subsection (a)(10), the term "breast cancer-related services" means each of the following services relating to treatment of breast cancer:

"(A) Prescribed drugs.

"(B) Physicians' services and services described in section 1905(a)(2).

"(C) Laboratory and X-ray services (including services to confirm the presence of breast cancer).

"(D) Rural health clinic services and Federally-qualified health center services.

"(E) Case management services (as defined in section 1915(g)(2)).

"(F) Services (other than room and board) designed to encourage completion of regimens of prescribed drugs by outpatients, including services to observe directly the intake of prescribed drugs.".

(c) Limitation on Benefits.—Section 1902(a)(10) (42 U.S.C. 1396a(a)(10)) is amended in the matter following subparagraph (F)—

(1) by striking ", and (XIII)"; and

(2) by inserting before the semicolon at the end the following: ", and (XIV) the medical assistance made available to an individual described in subsection (aa)(1) who is eligible for medical assistance only because of subparagraph (A)(ii)(XIII) shall be limited to medical assistance for breast cancer-related services (described in subsection (aa)(2))".

(d) Conforming Amendments.—

(1) Section 1905(a) (42 U.S.C. 1396d(a)) is amended—

(A) in clause (x), by striking "or" at the end;

(B) in clause (xi), by adding "or" at the end;

(C) by inserting after clause (xi) the following:

"(xii) individuals described in section 1902(aa)(1),"; and

(D) by striking paragraph (19) and inserting the following:

"(19) case management services (as defined in section 1915(g)(2)), TB-related services described in section 1902(z)(2)(F), and breast cancer-related services described in section 1902)(2)(F);".

(2) Section 1915(g)(1) (42 U.S.C. 1396n(g)(1)) is amended by inserting "or section 1902(aa)(1)" after "section 1902(z)(1)(A)".

(e) Effective Date.—The amendments made by this section apply to medical assistance furnished on or after October 1, 1997, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

SEC. 5765. TREATMENT OF STATE TAXES IMPOSED ON CERTAIN HOSPITALS THAT PROVIDE FREE CARE.

(a) Exception From Tax Does Not Disqualify as Broad-Based Tax.—Section 1903(w)(3) (42 U.S.C. 1396b(w)(3)) is amended—

(1) in subparagraph (B), by striking "and (E)" and inserting "(E), and (F)"; and

(2) by adding at the end the following:

"(F) In no case shall a tax not qualify as a broad-based health care related tax under this paragraph because it does not apply to a hospital that is described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code and that does not accept payment under the State plan under this title or under title XVIII.".

(b) Reduction in Federal Financial Participation in Case of Imposition of Tax.—Section 1903(b) (42 U.S.C. 1396b(b)) is amended by adding at the end the following:

"(4) Notwithstanding the preceding provisions of this section, the amount determined under subsection (a)(1) for any State shall be decreased in a quarter by the amount of any health care related taxes (described in section 1902(w)(3)(A)) that are imposed on a hospital described in subsection (w)(3)(F) in that quarter.".

(c) Effective Date.—The amendments made by subsection (a) shall apply to taxes imposed before, on, or after the date of the enactment of this Act and the amendment made by subsection (b) shall apply to taxes imposed on or after such date.

SEC. 5766. TREATMENT OF VETERANS PENSIONS UNDER MEDICAID.

(a) Post-Eligibility.—Section 1902(r)(1) of the Social Security Act (42 U.S.C. 1396a(r)(1)) is amended to read as follows:

"(r)(1) For purposes of sections 1902(a)(17) and 1924(d)(1)(D) and for purposes of a waiver under section 1915, with respect to the post-eligibility treatment of income of individuals who are institutionalized or receiving home or community-based services under such a waiver—

"(A) there shall be disregarded reparation payments made by the Federal Republic of Germany;

"(B) there shall be taken into account amounts for incurred expenses for medical or remedial care that are not subject to payment by a third party, including—

"(i) medicare and other health insurance premiums, deductibles, or coinsurance, and

"(ii) necessary medical or remedial care recognized under State law but not covered under the State plan under this title, subject to reasonable limits the State may establish on the amount of these expenses; and

"(C) in the case of a resident in a State veterans home, there shall be taken into account, as income, any and all payments received under a Department of Veterans Affairs pension or compensation program, including payments attributable to the recipient's medical expenses or to the recipient's need for aid and attendance, but excluding that part of any augmented benefit attributable to a dependent. For purposes of subparagraph (C), any Department of Veterans Affairs pension benefit that has been limited to $90 per month pursuant to section 5503(f) of title 38, United States Code, may be applied to meet the monthly personal needs allowance provided by the State plan under this title, but shall not otherwise be used to reduce the amount paid to a facility under the State plan.".

(b) Effective Date.—The amendment made by subsection (a) shall be effective with respect to periods beginning on and after July 1, 1994.

SEC. 5767. REMOVAL OF NAME FROM NURSE AIDE REGISTRY.

(a) Medicare.—Section 1819(g)(1)(C) of the Social Security Act (42 U.S.C. 1395i-3(g)(1)(C)) is amended—

(1) in the first sentence by striking "The State" and inserting "(i) The State"; and

(2) by adding at the end the following:

"(ii)(I) In the case of a finding of neglect, the State shall establish a procedure to permit a nurse aide to petition the State to have his or her name removed from the registry upon a determination by the State that—

"(aa) the employment and personal history of the nurse aide does not reflect a pattern of abusive behavior or neglect; and

"(bb) the neglect involved in the original finding was a singular occurrence.

"(II) In no case shall a determination on a petition submitted under clause (I) be made prior to the expiration of the 1-year period beginning on the date on which the name of the petitioner was added to the registry under this subparagraph.".

(b) Medicaid.—Section 1919(g)(1)(C) of the Social Security Act (42 U.S.C. 1396r(g)(1)(C)) is amended—

(1) in the first sentence by striking "The State" and inserting "(i) The State"; and

(2) by adding at the end the following:

"(ii)(I) In the case of a finding of neglect, the State shall establish a procedure to permit a nurse aide to petition the State to have his or her name removed from the registry upon a determination by the State that—

"(aa) the employment and personal history of the nurse aide does not reflect a pattern of abusive behavior or neglect; and

"(bb) the neglect involved in the original finding was a singular occurrence.

"(II) In no case shall a determination on a petition submitted under clause (I) be made prior to the expiration of the 1-year period beginning on the date on which the name of the petitioner was added to the registry under this subparagraph.".

(c) Retroactive Review.—The procedures developed by a State under the amendments made by subsection (a) and (b) shall permit an individual to petition for a review of any finding made by a State under section 1819(g)(1)(C) or 1919(g)(1)(C) of the Social Security Act (42 U.S.C. 1395i-3(g)(1)(C) or 1396r(g)(1)(C)) after January 1, 1995.

(d) Study and Report.—

(1) Study.—The Secretary of Health and Human Services shall conduct a study of—

(A) the use of nurse aide registries by States, including the number of nurse aides placed on the registries on a yearly basis and the circumstances that warranted their placement on the registries;

(B) the extent to which institutional environmental factors (such as a lack of adequate training or short staffing) contribute to cases of abuse and neglect at nursing facilities; and

(C) whether alternatives (such as a probational period accompanied by additional training or mentoring or sanctions on facilities that create an environment that encourages abuse or neglect) to the sanctions that are currently applied under the Social Security Act for abuse

and neglect at nursing facilities might be more effective in minimizing future cases of abuse and neglect.

(2) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary of Health and Human Services shall prepare and submit to the appropriate committees of Congress, a report concerning the results of the study conducted under paragraph (1) and the recommendation of the Secretary for legislation based on such study.

SEC. 5768. WAIVER OF CERTAIN PROVIDER TAX PROVISIONS.

Notwithstanding any other provision of law, taxes, fees, or assessments, as defined in section 1903(w)(3)(A) of the Social Security Act (42 U.S.C. 1396b(w)(3)(A)), that were collected by the State of New York from a health care provider before June 1, 1997, and for which a waiver of the provisions of subparagraph (B) or (C) of section 1903(w)(3) of such Act has been applied for, or that would, but for this paragraph require that such a waiver be applied for, in accordance with subparagraph (E) of such section, and, (if so applied for) upon which action by the Secretary of Health and Human Services (including any judicial review of any such proceeding) has not been completed as of the date of enactment of this Act, are deemed to be permissible health care related taxes and in compliance with the requirements of subparagraphs (B) and (C) of sections 1903(w)(3) of such Act.

SEC. 5769. CONTINUATION OF STATE-WIDE SECTION 1115 MEDICAID WAIVERS.

(a) IN GENERAL.—Section 1115 of the Social Security Act (42 U.S.C. 1315) is amended by adding at the end the following:

"(d)(1) The provisions of this subsection shall apply to the extension of statewide comprehensive research and demonstration projects (in this subsection referred to as 'waiver project') for which waivers of compliance with the requirements of title XIX are granted under subsection (a). With respect to a waiver project that, but for the enactment of this subsection, would expire, the State at its option may not later than 1 year before the waiver under subsection (a) would expire (acting through the chief executive officer of the State who is operating the project), submit to the Secretary a written request for an extension of such waiver project for up to 2 years.

"(2) The requirements of this paragraph are that the waiver project—

"(A) has been successfully operated for 5 or more years; and

"(B) has been shown, through independent evaluations sponsored by the Health Care Financing Administration, to successfully contain costs and provide access to health care.

"(3)(A) In the case of waiver projects described in paragraph (1)(A), if the Secretary fails to respond to the request within 6 months after the date on which the request was submitted, the request is deemed to have been granted.

"(B) If the request is granted or deemed to have been granted, the deadline for submittal of a final report shall be 1 year after the date on which the waiver project would have expired but for the enactment of this subsection.

"(C) The Secretary shall release an evaluation of each such project not later than 1 year after the date of receipt of the final report.

"(D) Phase-down provisions which were applicable to waiver projects before an extension was provided under this subsection shall not apply.

"(4) The extension of a waiver project under this subsection shall be on the same terms and conditions (including applicable terms and conditions related to quality and access of services, budget neutrality as adjusted for inflation, data and reporting requirements and special population protections), except for any phase down provisions, and subject to the same set of waivers that applied to the project or were granted before the extension of the project under this subsection. The permanent continuation of a waiver project shall be on the same terms and conditions, including financing, and subject to the same set of waivers. No test of budget neutrality shall be applied in the case of projects described in paragraph (2) after that date on which the permanent extension was granted.

"(5) In the case of a waiver project described in paragraph (2), the Secretary, acting through the Health Care Financing Administration shall, deem any State's request to expand medicaid coverage in whole or in part to individuals who have an income at or below the Federal poverty level as budget neutral if independent evaluations sponsored by the Health Care Financing Administration have shown that the State's medicaid managed care program under such original waiver is more cost effective and efficient than the traditional fee-for-service medicaid program that, in the absence of any managed care waivers under this section, would have been provided in the State.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on the date of enactment of this Act.

SEC. 5770. EFFECTIVE DATE.

(a) IN GENERAL.—Except as otherwise specifically provided, the provisions of and amendments made by this subtitle shall apply with respect to State programs under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) on and after October 1, 1997.

(b) EXTENSION FOR STATE LAW AMENDMENT.—In the case of a State plan under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by this subtitle, the State plan shall not be regarded as failing to comply with the requirements of this subtitle solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of the session is considered to be a separate regular session of the State legislature.

Subtitle J—Children's Health Insurance Initiatives

SEC. 5801. ESTABLISHMENT OF CHILDREN'S HEALTH INSURANCE INITIATIVES.

(a) IN GENERAL.—The Social Security Act is amended by adding at the end the following:

"TITLE XXI—CHILD HEALTH INSURANCE INITIATIVES

"SEC. 2101. PURPOSE.

"The purpose of this title is to provide funds to States to enable such States to expand the provision of health insurance coverage for low-income children. Funds provided under this title shall be used to achieve this purpose through outreach activities described in section 2106(a) and, at the option of the State through—

"(1) a grant program conducted in accordance with section 2107 and the other requirements of this title; or

"(2) expansion of coverage of such children under the State medicaid program who are not required to be provided medical assistance under section 1902(l) (taking into account the process of individuals aging into eligibility under subsection (l)(1)(D)).

"SEC. 2102. DEFINITIONS.

"In this title:

"(1) BASE-YEAR COVERED LOW-INCOME CHILD POPULATION.—The term 'base-year covered low-income child population' means the total number of low-income children with respect to whom, as of fiscal year 1996, an eligible State provides or pays the cost of health benefits either through a State funded program or through expanded eligibility under the State plan under title XIX (including under a waiver of such plan), as determined by the Secretary. Such term does not include any low-income child described in paragraph (3)(A) that a State must cover in order to be considered an eligible State under this title.

"(2) CHILD.—The term 'child' means an individual under 19 years of age.

"(3) ELIGIBLE STATE.—The term 'eligible State' means, with respect to a fiscal year, a State that—

"(A) provides, under section 1902(l)(1)(D) or under a waiver, for eligibility for medical assistance under a State plan under title XIX of individuals under 17 years of age in fiscal year 1998, and under 19 years of age in fiscal year 2000, regardless of date of birth;

"(B) has submitted to the Secretary under section 2104 a program outline that—

"(i) sets forth how the State intends to use the funds provided under this title to provide health insurance coverage for low-income children consistent with the provisions of this title; and

"(ii) is approved under section 2104; and

"(iii) otherwise satisfies the requirements of this title; and

"(C) satisfies the maintenance of effort requirement described in section 2105(c)(5).

"(4) FEDERAL MEDICAL ASSISTANCE PERCENTAGE.—The term 'Federal medical assistance percentage' means, with respect to a State, the meaning given that term under section 1905(b). Any cost-sharing imposed under this title may not be included in determining Federal medical assistance percentage for reimbursement of expenditures under a State program funded under this title.

"(5) FEHBP-EQUIVALENT CHILDREN'S HEALTH INSURANCE COVERAGE.—The term 'FEHBP-equivalent children's health insurance coverage' means, with respect to a State, any plan or arrangement that provides, or pays the cost of, health benefits that the Secretary has certified are equivalent to or better than the services covered for a child, including hearing and vision services, under the standard Blue Cross/Blue Shield preferred provider option service benefit plan offered under chapter 89 of title 5, United States Code.

"(6) INDIANS.—The term 'Indians' has the meaning given that term in section 4(c) of the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.).

"(7) LOW-INCOME CHILD.—The term 'low-income child' means a child in a family whose income is below 200 percent of the poverty line for a family of the size involved.

"(8) POVERTY LINE.—The term 'poverty line' has the meaning given that term in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by such section.

"(9) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services.

"(10) STATE.—The term 'State' means each of the 50 States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands.

"(11) STATE CHILDREN'S HEALTH EXPENDITURES.—The term 'State children's health expenditures' means the State share of expenditures by the State for providing children with health care items and services under—

"(A) the State plan for medical assistance under title XIX;

"(B) the maternal and child health services block grant program under title V;

"(C) the preventive health services block grant program under part A of title XIX of the Public Health Services Act (42 U.S.C. 300w et seq.);

"(D) State-funded programs that are designed to provide health care items and services to children;

"(E) school-based health services programs;

"(F) State programs that provide uncompensated or indigent health care;

"(G) county-indigent care programs for which the State requires a matching share by a county government or for which there are intergovernmental transfers from a county to State government; and

"(H) any other program under which the Secretary determines the State incurs uncompensated expenditures for providing children with health care items and services.

"(12) STATE MEDICAID PROGRAM.—The term 'State medicaid program' means the program of medical assistance provided under title XIX.

"SEC. 2103. APPROPRIATION.

"(a) APPROPRIATION.—

"(1) IN GENERAL.—Subject to subsection (b), out of any money in the Treasury of the United States not otherwise appropriated, there is appropriated for the purpose of carrying out this title—

"(A) for fiscal year 1998, $2,500,000,000;

"(B) for each of fiscal years 1999 and 2000, $3,200,000,000;

"(C) for fiscal year 2001, $3,600,000,000;

"(D) for fiscal year 2002, $3,500,000,000;

"(E) for each of fiscal years 2003 through 2007, $4,580,000,000.

"(2) AVAILABILITY.—Funds appropriated under this section shall remain available without fiscal year limitation, as provided under section 2105(b)(4).

"(b) REDUCTION FOR INCREASED MEDICAID EXPENDITURES.—With respect to each of the fiscal years described in subsection (a)(1), the amount appropriated under subsection (a)(1) for each such fiscal year shall be reduced by an amount equal to the amount of the total Federal outlays under the medicaid program under title XIX resulting from—

"(1) the amendment made by section 5732 of the Balanced Budget Act of 1997 (regarding the State option to provide 12-month continuous eligibility for children);

"(2) increased enrollment under State plans approved under such program as a result of outreach activities under section 2106(a); and

"(3) the requirement under section 2102(3)A) to provide eligibility for medical assistance under the State plan under title XIX for all children under 19 years of age who have families with income that is at or below the poverty line.

"(c) STATE ENTITLEMENT.—This title constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide for the payment to States of amounts provided in accordance with the provisions of this title.

"(d) EFFECTIVE DATE.—No State is eligible for payments under section 2105 for any calendar quarter beginning before October 1, 1997.

"SEC. 2104. PROGRAM OUTLINE.

"(a) GENERAL DESCRIPTION.—A State shall submit to the Secretary for approval a program outline, consistent with the requirements of this title, that—

"(1) identifies, on or after the date of enactment of the Balanced Budget Act of 1997, which of the 2 options described in section 2101 the State intends to use to provide low-income children in the State with health insurance coverage;

"(2) describes the manner in which such coverage shall be provided; and

"(3) provides such other information as the Secretary may require.

"(b) OTHER REQUIREMENTS.—The program outline submitted under this section shall include the following:

"(1) ELIGIBILITY STANDARDS AND METHODOLOGIES.—A summary of the standards and methodologies used to determine the eligibility of low-income children for health insurance coverage under a State program funded under this title.

"(2) ELIGIBILITY SCREENING; COORDINATION WITH OTHER HEALTH COVERAGE.—A description of the procedures to be used to ensure—

"(A) through both intake and followup screening, that only low-income children are furnished health insurance coverage through funds provided under this title; and

"(B) that any health insurance coverage provided for children through funds under this title does not reduce the number of children who are provided such coverage through any other publicly or privately funded health plan.

"(3) INDIANS.—A description of how the State will ensure that Indians are served through a State program funded under this title.

"(c) DEADLINE FOR SUBMISSION.—A State program outline shall be submitted to the Secretary by not later than March 31 of any fiscal year (October 1, 1997, in the case of fiscal year 1998).

"SEC. 2105. DISTRIBUTION OF FUNDS.

"(a) ESTABLISHMENT OF FUNDING POOLS.—

"(1) IN GENERAL.—From the amount appropriated under section 2103(a)(1) for each fiscal year, determined after the reduction required under section 2103(b), the Secretary shall, for purposes of fiscal year 1998, reserve 85 percent of such amount for distribution to eligible States through the basic allotment pool under subsection (b) and 15 percent of such amount for distribution through the new coverage incentive pool under subsection (c)(2)(B)(ii).

"(2) ANNUAL ADJUSTMENT OF RESERVE PERCENTAGES.—The Secretary shall annually adjust the amount of the percentages described in paragraph (1) in order to provide sufficient basic allotments and sufficient new coverage incentives to achieve the purpose of this title.

"(b) DISTRIBUTION OF FUNDS UNDER THE BASIC ALLOTMENT POOL.—

"(1) STATES.—

"(A) IN GENERAL.—From the total amount reserved under subsection (a) for a fiscal year for distribution through the basic allotment pool, the Secretary shall first set aside 0.25 percent for distribution under paragraph (2) and shall allot from the amount remaining to each eligible State not described in such paragraph the State's allotment percentage for such fiscal year.

"(B) STATE'S ALLOTMENT PERCENTAGE.—

"(i) IN GENERAL.—For purposes of subparagraph (A), the allotment percentage for a fiscal year for each State is the percentage equal to the ratio of the number of low-income children in the base period in the State to the total number of low-income children in the base period in all States not described in paragraph (2).

"(ii) NUMBER OF LOW-INCOME CHILDREN IN THE BASE PERIOD.—In clause (i), the number of low-income children in the base period for a fiscal year in a State is equal to the average of the number of low-income children in the State for the period beginning on October 1, 1992, and ending on September 30, 1995, as reported in the March 1994, March 1995, and March 1996 supplements to the Current Population Survey of the Bureau of the Census.

"(2) OTHER STATES.—

"(A) IN GENERAL.—From the amount set aside under paragraph (1)(A) for each fiscal year, the Secretary shall make allotments for such fiscal year in accordance with the percentages specified in subparagraph (B) to Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands, if such States are eligible States for such fiscal year.

"(B) PERCENTAGES SPECIFIED.—The percentages specified in this subparagraph are in the case of—

"(i) Puerto Rico, 91.6 percent;

"(ii) Guam, 3.5 percent;

"(iii) the Virgin Islands, 2.6 percent;

"(iv) American Samoa, 1.2 percent; and

"(v) the Northern Mariana Islands, 1.1 percent.

"(3) THREE-YEAR AVAILABILITY OF AMOUNTS ALLOTTED.—Amounts allotted to a State pursuant to this subsection for a fiscal year shall remain available for expenditure by the State through the end of the second succeeding fiscal year.

"(4) PROCEDURE FOR DISTRIBUTION OF UNUSED FUNDS.—The Secretary shall determine an appropriate procedure for distribution of funds to eligible States that remain unused under this subsection after the expiration of the availability of funds required under paragraph (3). Such procedure shall be developed and administered in a manner that is consistent with the purpose of this title.

"(c) PAYMENTS.—

"(1) IN GENERAL.—The Secretary shall—

"(A) before October 1 of any fiscal year, pay an eligible State an amount equal to 1 percent of the amount allotted to the State under subsection (b) for conducting the outreach activities required under section 2106(a); and

"(B) make quarterly fiscal year payments to an eligible State from the amount remaining of such allotment for such fiscal year in an amount equal to the Federal medical assistance percentage for the State (as defined under section 2102(4) and determined without regard to the amount of Federal funds received by the State under title XIX before the date of enactment of this title) of the Federal and State incurred cost of providing health insurance coverage for a low-income child in the State plus the applicable bonus amount.

"(2) APPLICABLE BONUS.—

"(A) IN GENERAL.—For purposes of paragraph (1), the applicable bonus amount is—

"(i) 5 percent of the Federal and State incurred cost, with respect to a period, of providing health insurance coverage for children covered at State option among the base-year covered low-income child population (measured in full year equivalency) (including such children covered by the State through expanded eligibility under the medicaid program under title XIX before the date of enactment of this title, but excluding any low-income child described in section 2102(3)(A) that a State must cover in order to be considered an eligible State under this title); and

"(ii) 10 percent of the Federal and State incurred cost, with respect to a period, of providing health insurance coverage for children covered at State option among the number (as so measured) of low-income children that are in excess of such population.

"(B) SOURCE OF BONUSES.—

"(i) BASE-YEAR COVERED LOW-INCOME CHILD POPULATION.—A bonus described in subparagraph (A)(i) shall be paid out of an eligible State's allotment for a fiscal year.

"(ii) FOR OTHER LOW-INCOME CHILD POPULATIONS.—A bonus described in subparagraph (A)(ii) shall be paid out of the new coverage incentive pool reserved under subsection (a)(1).

"(3) DEFINITION OF COST OF PROVIDING HEALTH INSURANCE COVERAGE.—For purposes of this subsection the cost of providing health insurance coverage for a low-income child in the State means—

"(A) in the case of an eligible State that opts to use funds provided under this title through the medicaid program, the cost of providing such child with medical assistance under the State plan under title XIX; and

"(B) in the case of an eligible State that opts to use funds provided under this title under section 2107, the cost of providing such child with health insurance coverage under such section.

"(4) LIMITATION ON TOTAL PAYMENTS.—With respect to a fiscal year, the total amount paid to an eligible State under this title (including any bonus payments) shall not exceed 85 percent of the total cost of a State program conducted under this title for such fiscal year.

"(5) MAINTENANCE OF EFFORT.—

"(A) DEEMED COMPLIANCE.—A State shall be deemed to be in compliance with this provision if—

"(i) it does not adopt income and resource standards and methodologies that are more restrictive than those applied as of June 1, 1997, for purposes of determining a child's eligibility for medical assistance under the State plan under title XIX; and

"(ii) in the case of fiscal year 1998 and each fiscal year thereafter, the State children's health expenditures defined in section 2102(11) are not less than the amount of such expenditures for fiscal year 1996.

"(B) FAILURE TO MAINTAIN MEDICAID STANDARDS AND METHODOLOGIES.—A State that fails to meet the conditions described in subparagraph (A) shall not receive—

"(i) funds under this title for any child that would be determined eligible for medical assistance under the State plan under title XIX using the income and resource standards and methodologies applied under such plan as of June 1, 1997; and

"(ii) any bonus amounts described in paragraph (2)(A)(ii).

"(C) FAILURE TO MAINTAIN SPENDING ON CHILD HEALTH PROGRAMS.—A State that fails to meet the condition described in subparagraph (A)(ii) shall not receive funding under this title.

"(6) ADVANCE PAYMENT; RETROSPECTIVE ADJUSTMENT.—The Secretary may make payments under this subsection for each quarter on the basis of advance estimates of expenditures submitted by the State and such other investigation as the Secretary may find necessary, and shall reduce or increase the payments as necessary to adjust for any overpayment or underpayment for prior quarters.

"SEC. 2106. USE OF FUNDS.

"(a) SET-ASIDE FOR OUTREACH ACTIVITIES.—

"(1) IN GENERAL.—From the amount allotted to a State under section 2105(b) for a fiscal year, each State shall conduct outreach activities described in paragraph (2).

"(2) OUTREACH ACTIVITIES DESCRIBED.—The outreach activities described in this paragraph include activities to—

"(A) identify and enroll children who are eligible for medical assistance under the State plan under title XIX; and

"(B) conduct public awareness campaigns to encourage employers to provide health insurance coverage for children.

"(b) STATE OPTIONS FOR REMAINDER.—A State may use the amount remaining of the allotment to a State under section 2105(b) for a fiscal year, determined after the payment required under section 2105(c)(1)(A), in accordance with section 2107 or the State medicaid program (but not both). Nothing in the preceding sentence shall be construed as limiting a State's eligibility for receiving the 5 percent bonus described in section 2105(c)(2)(A)(i) for children covered by the State through expanded eligibility under the medicaid program under title XIX before the date of enactment of this title.

"(c) PROHIBITION ON USE OF FUNDS.—No funds provided under this title may be used to provide health insurance coverage for—

"(1) families of State public employees; or

"(2) children who are committed to a penal institution.

"(d) USE LIMITED TO STATE PROGRAM EXPENDITURES.—Funds provided to an eligible State under this title shall only be used to carry out the purpose of this title (as described in section 2101), and any health insurance coverage provided with such funds may include coverage of abortion only if necessary to save the life of the mother or if the pregnancy is the result of an act of rape or incest.

"(e) ADMINISTRATIVE EXPENDITURES.—

"(1) IN GENERAL.—Not more than the applicable percentage of the amount allotted to a State under section 2105(b) for a fiscal year, determined after the payment required under section 2105(c)(1)(A), shall be used for administrative expenditures for the program funded under this title.

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage with respect to a fiscal year is—

"(A) for the first 2 years of a State program funded under this title, 10 percent;

"(B) for the third year of a State program funded under this title, 7.5 percent; and

"(C) for the fourth year of a State program funded under this title and each year thereafter, 5 percent.

"(f) NONAPPLICATION OF FIVE-YEAR LIMITED ELIGIBILITY FOR MEANS-TESTED PUBLIC BENEFITS.—The provisions of section 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613) shall not apply with respect to a State program funded under this title.

"(g) AUDITS.—The provisions of section 506(b) shall apply to funds expended under this title to the same extent as they apply to title V.

"(h) REQUIREMENT TO FOLLOW STATE PROGRAM OUTLINE.—The State shall conduct the program in accordance with the program outline approved by the Secretary under section 2104.

"SEC. 2107. STATE OPTION FOR THE PURCHASE OR PROVISION OF CHILDREN'S HEALTH INSURANCE.

"(a) STATE OPTION.—

"(1) IN GENERAL.—An eligible State that opts to use funds provided under this title under this section shall use such funds to provide FEHBP-equivalent children's health insurance coverage for low-income children who reside in the State.

"(2) PRIORITY FOR LOW-INCOME CHILDREN.—A State that uses funds provided under this title under this section shall not cover low-income children with higher family income without covering such children with a lower family income.

"(3) DETERMINATION OF ELIGIBILITY AND FORM OF ASSISTANCE.—An eligible State may establish any additional eligibility criteria for the provision of health insurance coverage for a low-income child through funds provided under this title, so long as such criteria and assistance are consistent with the purpose and provisions of this title.

"(4) AFFORDABILITY.—An eligible State may impose any family premium obligations or cost-sharing requirements otherwise permitted under this title on low-income children with family incomes that exceed 150 percent of the poverty line. In the case of a low-income child whose family income is at or below 150 percent of the poverty line, limits on beneficiary costs generally applicable under title XIX apply to coverage provided such children under this section.

"(b) NONENTITLEMENT.—Nothing in this section shall be construed as providing an entitlement for an individual or person to any health insurance coverage, assistance, or service provided through a State program funded under this title. If, with respect to a fiscal year, an eligible State determines that the funds provided under this title are not sufficient to provide health insurance coverage for all the low-income children that the State proposes to cover in the State program outline submitted under section 2104 for such fiscal year, the State may adjust the applicable eligibility criteria for such children appropriately or adjust the State program in another manner specified by the Secretary, so long as any such adjustments are consistent with the purpose of this title.

"SEC. 2108. PROGRAM INTEGRITY.

"The following provisions of the Social Security Act shall apply to eligible States under this title in the same manner as such provisions apply to a State under title XIX:

"(1) Section 1116 (relating to administrative and judicial review).

"(2) Section 1124 (relating to disclosure of ownership and related information).

"(3) Section 1126 (relating to disclosure of information about certain convicted individuals).

"(4) Section 1128 (relating to exclusion from individuals and entities from participation in State health care plans).

"(5) Section 1128A (relating to civil monetary penalties).

"(6) Section 1128B (relating to criminal penalties).

"(7) Section 1132 (relating to periods within which claims must be filed).

"(8) Section 1902(a)(4)(C) (relating to conflict of interest standards).

"(9) Section 1903(i) (relating to limitations on payment).

"(10) Section 1903(m)(5) (as in effect on the day before the date of enactment of the Balanced Budget Act of 1997).

"(11) Section 1903(w) (relating to limitations on provider taxes and donations).

"(12) Section 1905(a)(B) (relating to the exclusion of care or services for any individual who has not attained 65 years of age and who is a patient in an institution for mental diseases from the definition of medical assistance).

"(13) Section 1921 (relating to state licensure authorities).

"(14) Sections 1902(a)(25), 1912(a)(1)(A), and 1903(o) (insofar as such sections relate to third party liability).

"(15) Sections 1948 and 1949 (as added by section 5701(a)(2) of the Balanced Budget Act of 1997).

"SEC. 2109. ANNUAL REPORTS.

"(a) ANNUAL STATE ASSESSMENT OF PROGRESS.—An eligible State shall—

"(1) assess the operation of the State program funded under this title in each fiscal year, including the progress made in providing health insurance coverage for low-income children; and

"(2) report to the Secretary, by January 1 following the end of the fiscal year, on the result of the assessment.

"(b) REPORT OF THE SECRETARY.—The Secretary shall submit to the appropriate committees of Congress an annual report and evaluation of the State programs funded under this title based on the State assessments and reports submitted under subsection (a). Such report shall include any conclusions and recommendations that the Secretary considers appropriate.".

(b) CONFORMING AMENDMENT.—Section 1128(h) (42 U.S.C. 1320a–7(h)) is amended by—

(1) in paragraph (2), by striking "or" at the end;

(2) in paragraph (3), by striking the period and inserting ", or"; and

(3) by adding at the end the following:

"(4) a program funded under title XXI.".

(c) EFFECTIVE DATE.—The amendments made by this section apply on and after October 1, 1997.

DIVISION 3—INCOME SECURITY AND OTHER PROVISIONS

Subtitle K—Income Security, Welfare-to-Work Grant Program, and Other Provisions

CHAPTER 1—INCOME SECURITY

SEC. 5811. SSI ELIGIBILITY FOR ALIENS RECEIVING SSI ON AUGUST 22, 1996.

(a) IN GENERAL.—Section 402(a)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)) is

amended by adding after subparagraph (D) the following new subparagraph:

"(E) ALIENS RECEIVING SSI ON AUGUST 22, 1996.—With respect to eligibility for benefits for the program defined in paragraph (3)(A) (relating to the supplemental security income program), paragraph (1) shall not apply to an alien who is lawfully residing in any State and who was receiving such benefits on August 22, 1996.".

(b) STATUS OF CUBAN AND HAITIAN ENTRANTS.—For purposes of section 402(a)(2)(E) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)(E)), an alien who is a Cuban and Haitian entrant, as defined in section 501(e) of the Refugee Education Assistance Act of 1980, shall be considered a qualified alien.

(c) CONFORMING AMENDMENTS.—Section 402(a)(2)(D) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(D)) is amended—

(1) by striking clause (i);

(2) in the subparagraph heading by striking "BENEFITS" and inserting "FOOD STAMPS";

(3) by striking "(ii) FOOD STAMPS"; and

(4) by redesignating subclauses (I), (II), and (III) as clauses (i), (ii), and (iii).

SEC. 5812. EXTENSION OF ELIGIBILITY PERIOD FOR REFUGEES AND CERTAIN OTHER QUALIFIED ALIENS FROM 5 TO 7 YEARS FOR SSI AND MEDICAID.

(a) SSI.—Section 402(a)(2)(A) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)(A)) is amended to read as follows:

"(A) TIME-LIMITED EXCEPTION FOR REFUGEES AND ASYLEES.—

"(i) SSI.—With respect to the specified Federal program described in paragraph (3)(A) paragraph 1 shall not apply to an alien until 7 years after the date—

"(I) an alien is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act;

"(II) an alien is granted asylum under section 208 of such Act; or

"(III) an alien's deportation is withheld under section 243(h) of such Act.

"(ii) FOOD STAMPS.—With respect to the specified Federal program described in paragraph (3)(B), paragraph 1 shall not apply to an alien until 5 years after the date—

"(I) an alien is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act;

"(II) an alien is granted asylum under section 208 of such Act; or

"(III) an alien's deportation is withheld under section 243(h) of such Act.".

(b) MEDICAID.—Section 402(b)(2)(A) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(b)(2)(A)) is amended to read as follows:

"(A) TIME-LIMITED EXCEPTION FOR REFUGEES AND ASYLEES.—

"(i) MEDICAID.—With respect to the designated Federal program described in paragraph (3)(C), paragraph 1 shall not apply to an alien until 7 years after the date—

"(I) an alien is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act;

"(II) an alien is granted asylum under section 208 of such Act; or

"(III) an alien's deportation is withheld under section 243(h) of such Act.

"(ii) OTHER DESIGNATED FEDERAL PROGRAMS.—With respect to the designated Federal programs under paragraph (3) (other than subparagraph (C)), paragraph 1 shall not apply to an alien until 5 years after the date—

"(I) an alien is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act;

"(II) an alien is granted asylum under section 208 of such Act; or

"(III) an alien's deportation is withheld under section 243(h) of such Act.".

(c) STATUS OF CUBAN AND HAITIAN ENTRANTS.—For purposes of sections 402(a)(2)(A) and 402(b)(2)(A) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)(A), (b)(2)(A)), an alien who is a Cuban and Haitian entrant, as defined in section 501(e) of the Refugee Education Assistance Act of 1980, shall be considered a refugee.

SEC. 5813. EXCEPTIONS FOR CERTAIN INDIANS FROM LIMITATION ON ELIGIBILITY FOR SUPPLEMENTAL SECURITY INCOME AND MEDICAID BENEFITS.

(a) EXCEPTION FROM LIMITATION ON SSI ELIGIBILITY.—Section 402(a)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)) is amended—

(1) by redesignating subparagraph (D) and subparagraph (E); and

(2) by inserting after subparagraph (C) the following:

"(D) SSI EXCEPTION FOR CERTAIN INDIANS.—With respect to eligibility for benefits for the program defined in paragraph (3)(A) (relating to the supplemental security income program), paragraph (1) shall not apply to any individual—

"(i) who is an American Indian born in Canada to whom the provisions of section 289 of the Immigration and Nationality Act (8 U.S.C. 1358) apply; or

"(ii) who is a member of an Indian tribe (as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).".

(b) EXCEPTION FROM LIMITATION ON MEDICAID ELIGIBILITY.—Section 402(b)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(b)(2)) is amended—

(1) by redesignating subparagraph (D) and subparagraph (E); and

(2) by inserting after subparagraph (C) the following:

"(D) MEDICAID EXCEPTION FOR CERTAIN INDIANS.—With respect to eligibility for benefits for the program defined in paragraph (3)(A) (relating to the medicaid program), paragraph (1) shall not apply to any individual described in subsection (a)(2)(D).".

(c) SSI AND MEDICAID EXCEPTIONS FROM LIMITATION ON ELIGIBILITY OF NEW ENTRANTS.—Section 403(b) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613(b)) is amended by adding at the end the following:

"(3) SSI AND MEDICAID EXCEPTION FOR CERTAIN INDIANS.—An individual described in section 402(a)(2)(D), but only with respect to the programs specified in subsections (a)(3)(A) and (b)(3)(C) of section 402.".

(d) EFFECTIVE DATE.—

(1) SECTION 402.—The amendments made by subsections (a) and (b) shall take effect as though they had been included in the enactment of section 402 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

(2) SECTION 403.—The amendment made by subsection (c) shall take effect as though they had been included in the enactment of section 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

SEC. 5814. SSI ELIGIBILITY FOR DISABLED LEGAL ALIENS IN THE UNITED STATES ON AUGUST 22, 1996.

Section 402(a)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)) (as amended by section 5813) is amended by adding at the end the following:

"(G) DISABLED ALIENS LAWFULLY RESIDING IN THE UNITED STATES ON AUGUST 22, 1996.—With respect to eligibility for benefits for the program defined in paragraph (3)(A) (relating to the supplemental security income program), paragraph (1) shall not apply to an alien who—

"(i) is lawfully residing in any State on August 22, 1996; and

"(ii) is disabled, as defined in section 1614(a)(3) of the Social Security Act (42 U.S.C. 1382c(a)(3)).".

SEC. 5815. EXEMPTION FROM RESTRICTION ON SUPPLEMENTAL SECURITY INCOME PROGRAM PARTICIPATION BY CERTAIN RECIPIENTS ELIGIBLE ON THE BASIS OF VERY OLD APPLICATIONS.

Section 402(a)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)) (as amended by section 5814) is amended by adding at the end the following:

"(H) SSI EXCEPTION FOR CERTAIN RECIPIENTS ON THE BASIS OF VERY OLD APPLICATIONS.—With respect to eligibility for benefits for the program defined in paragraph (3)(A) (relating to the supplemental security income program), paragraph (1) shall not apply to any individual—

"(i) who is receiving benefits under such program for months after July 1996 on the basis of an application filed before January 1, 1979; and

"(ii) with respect to whom the Commissioner of Social Security lacks clear and convincing evidence that such individual is an alien ineligible for such benefits as a result of the application of this section.".

SEC. 5816. REINSTATEMENT OF ELIGIBILITY FOR BENEFITS.

(a) FOOD STAMPS.—The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 is amended by adding after section 435 the following new section:

"SEC. 436. DERIVATIVE ELIGIBILITY FOR BENEFITS.

Notwithstanding any other provision of law, an alien who under the provisions of this title is ineligible for benefits under the food stamp program (as defined in section 402(a)(3)(A)) shall not be eligible for such benefits because the alien receives benefits under the supplemental security income program (as defined in section 402(a)(3)(B)).".

(b) MEDICAID.—Section 402(b)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(b)(2)) is amended by adding at the end the following:

"(E) MEDICAID EXCEPTION FOR ALIENS RECEIVING SSI.—An alien who is receiving benefits under the program defined in subsection (a)(3)(A) (relating to the supplemental security income program) shall be eligible for medical assistance under a State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) under the same terms and conditions that apply to other recipients of benefits under the program defined in such subsection.".

(c) CLERICAL AMENDMENT.—Section 2 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 is amended by adding after the item related to section 435 the following:

"Sec. 436. Derivative eligibility for benefits.".

SEC. 5817. EXEMPTION FOR CHILDREN WHO ARE LEGAL ALIENS FROM 5-YEAR BAN ON MEDICAID ELIGIBILITY.

Section 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613)) is amended by adding at the end the following:

"(e) MEDICAID ELIGIBILITY EXEMPTION FOR CHILDREN.—The limitation under subsection (a) shall not apply to any alien who has not attained age 19 and is lawfully residing in any State, but only with respect to such alien's eligibility for medical assistance under a State plan

under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).''.

SEC. 5818. TREATMENT OF CERTAIN AMERASIAN IMMIGRANTS AS REFUGEES.

(a) AMENDMENTS TO EXCEPTIONS FOR REFUGEES/ASYLEES.—

(1) FOR PURPOSES OF SSI AND FOOD STAMPS.—Section 402(a)(2)(A) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)(A)) is amended—

(A) by striking ''; or'' at the end of clause (ii);

(B) by striking the period at the end of clause (iii) and inserting ''; or''; and

(C) by adding at the end the following:

''(iv) an alien who is admitted to the United States as an Amerasian immigrant pursuant to section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (as contained in section 101(e) of Public Law 100–202 and amended by the 9th proviso under MIGRATION AND REFUGEE ASSISTANCE in title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989, Public Law 100–461, as amended).''.

(2) FOR PURPOSES OF TANF, SSBG, AND MEDICAID.—Section 402(b)(2)(A) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)(A)) is amended—

(A) by striking ''; or'' at the end of clause (ii);

(B) by striking the period at the end of clause (iii) and inserting ''; or''; and

(C) by adding at the end the following:

''(iv) an alien described in subsection (a)(2)(A)(iv) until 5 years after the date of such alien's entry into the United States.''.

(3) FOR PURPOSES OF EXCEPTION FROM 5-YEAR LIMITED ELIGIBILITY OF QUALIFIED ALIENS.—Section 403(b)(1) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613(b)(1)) is amended by adding at the end the following:

''(D) An alien described in section 402(a)(2)(A)(iv).''.

(4) FOR PURPOSES OF CERTAIN STATE PROGRAMS.—Section 412(b)(1) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1622(b)(1)) is amended by adding at the end the following new subparagraph:

''(D) An alien described in section 402(a)(2)(A)(iv).''.

(b) FUNDING.—

(1) LEVY OF FEE.—The Attorney General through the Immigration and Naturalization Service shall levy a $100 processing fee upon each alien that the Service determines—

(A) is unlawfully residing in the United States;

(B) has been arrested by a Federal law enforcement officer for the commission of a felony; and

(C) merits deportation after having been determined by a court of law to have committed a felony while residing illegally in the United States.

(2) COLLECTION AND USE.—In addition to any other penalty provided by law, a court shall impose the fee described in paragraph (1) upon an alien described in such paragraph upon the entry of a judgment of deportation by such court. Funds collected pursuant to this subsection shall be credited by the Secretary of the Treasury as offsetting increased Federal outlays resulting from the amendments made by section 5817A of the Balanced Budget Act of 1997.

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to the period beginning on or after October 1, 1997.

SEC. 5819. SSI ELIGIBILITY FOR SEVERELY DISABLED ALIENS.

Section 402(a)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)), as amended by section 5815, is amended by adding at the end the following:

''(I) SSI EXCEPTION FOR SEVERELY DISABLED ALIENS.—With respect to eligibility for benefits for the program defined in paragraph (3)(A) (relating to the supplemental security income program), paragraph (1), and the September 30, 1997 application deadline under subparagraph (G), shall not apply to any alien who is lawfully present in the United States and who has been denied approval of an application for naturalization by the Attorney General solely on the ground that the alien is so severely disabled that the alien is otherwise unable to satisfy the requirements for naturalization.''.

SEC. 5820. EFFECTIVE DATE.

The amendments made by this chapter shall take effect as if they were included in the enactment of title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2260).

CHAPTER 2—WELFARE-TO-WORK GRANT PROGRAM

SEC. 5821. WELFARE-TO-WORK GRANTS.

(a) GRANTS TO STATES.—

(1) IN GENERAL.—Section 403(a) (42 U.S.C. 603(a)) is amended by adding at the end the following:

''(5) WELFARE-TO-WORK GRANTS.—

''(A) NONCOMPETITIVE GRANTS.—

''(i) ENTITLEMENT.—A State shall be entitled to receive from the Secretary a grant for each fiscal year specified in subparagraph (H) of this paragraph for which the State is a welfare-to-work State, in an amount that does not exceed the greater of—

''(I) the allotment of the State under clause (iii) of this subparagraph for the fiscal year; or

''(II) 0.5 percent of the amount specified in subparagraph (H) for each fiscal year minus the total of the amounts reserved pursuant to subparagraphs (E), (F), and (G) for the fiscal year.

The Secretary shall make pro rata reductions in the amounts otherwise payable to States under this paragraph as necessary so that grants under this paragraph do not exceed the available amount, as defined in clause (iv).

''(ii) WELFARE-TO-WORK STATE.—A State shall be considered a welfare-to-work State for a fiscal year for purposes of this subparagraph if the Secretary determines that the State meets the following requirements:

''(I) The State has submitted to the Secretary (in the form of an addendum to the State plan submitted under section 402) a plan which—

''(aa) describes how, consistent with this subparagraph, the State will use any funds provided under this subparagraph during the fiscal year;

''(bb) specifies the formula to be used pursuant to clause (vi) to distribute funds in the State, and describes the process by which the formula was developed;

''(cc) contains evidence that the plan was developed in consultation and coordination with sub-State areas; and

''(dd) is approved by the agency administering the State program funded under this part.

''(II) The State certifies to the Secretary that the State intends to expend during the fiscal year (excluding expenditures described in section 409(a)(7)(B)(iv)) for activities described in clauses (i) and (ii) of subparagraph (C) of this paragraph an amount equal to not less than 33 percent of the Federal funds provided under this paragraph.

''(III) The State has agreed to negotiate in good faith with the Secretary with respect to the substance of any evaluation under section 413(j), and to cooperate with the conduct of any such evaluation.

''(IV) The State is an eligible State for the fiscal year.

''(V) Qualified State expenditures (within the meaning of section 409(a)(7)) are the applicable percentage for the immediately preceding fiscal year, as defined by section 409(a)(7)(B)(ii).

''(iii) ALLOTMENTS TO WELFARE-TO-WORK STATES.—The allotment of a welfare-to-work State for a fiscal year shall be the available amount for the fiscal year multiplied by the State percentage for the fiscal year.

''(iv) AVAILABLE AMOUNT.—As used in this subparagraph, the term 'available amount' means, for a fiscal year, the sum of—

''(I) 75 percent of the sum of—

''(aa) the amount specified in subparagraph (H) for the fiscal year, minus the total of the amounts reserved pursuant to subparagraphs (E), (F), and (G) for the fiscal year; and

''(bb) any amount reserved pursuant to subparagraph (F) for the immediately preceding fiscal year that has not been obligated; and

''(II) any available amount for the immediately preceding fiscal year that has not been obligated by a State or sub-State entity.

''(v) STATE PERCENTAGE.—As used in clause (iii), the term 'State percentage' means, with respect to a fiscal year, ⅓ of the sum of—

''(I) the percentage represented by the number of individuals in the State whose income is less than the poverty line divided by the number of such individuals in the United States;

''(II) the percentage represented by the number of unemployed individuals in the State divided by the number of such individuals in the United States; and

''(III) the percentage represented by the number of individuals who are adult recipients of assistance under the State program funded under this part divided by the number of individuals in the United States who are adult recipients of assistance under any State program funded under this part.

''(vi) DISTRIBUTION OF FUNDS WITHIN STATES.—

''(I) IN GENERAL.—A State to which a grant is made under this subparagraph shall distribute not less than 85 percent of the grant funds among the political subdivisions in the State in which the percentage represented by the number of individuals in the State whose income is less than the poverty line divided by the number of such individuals in the State, and the percentage represented by the number of unemployed individuals in the State divided by the number of such individuals in the State are both above the average such percentages for the State, in accordance with a formula which—

''(aa) determines the amount to be distributed for the benefit of a political subdivision in proportion to the number (if any) of individuals residing in the political subdivision with an income that is less than the poverty line, relative to such number of individuals for the other political subdivisions in the State, and accords a weight of not less than 50 percent to this factor;

''(bb) may determine the amount to be distributed for the benefit of a political subdivision in proportion to the number of adults residing in the political subdivision who are recipients of assistance under the State program funded under this part (whether in effect before or after the amendments made by section 103(a) of the Personal Responsibility and Work Opportunity Reconciliation Act first applied to the State) for at least 30 months (whether or not consecutive) relative to the number of such adults residing in the other political subdivisions in the State; and

''(cc) may determine the amount to be distributed for the benefit of a political subdivision in proportion to the number of unemployed individuals residing in the political subdivision relative to the number of such individuals residing in the other political subdivisions in the State.

''(II) SPECIAL RULE.—Notwithstanding subclause (I), if the formula used pursuant to subclause (I) would result in the distribution of less than $100,000 during a fiscal year for the benefit

of a political subdivision, then in lieu of distributing such sum in accordance with the formula, such sum shall be available for distribution under subclause (III) during the fiscal year.

"(III) PROJECTS TO HELP LONG-TERM RECIPIENTS OF ASSISTANCE INTO THE WORK FORCE.—The Governor of a State to which a grant is made under this subparagraph may distribute not more than 15 percent of the grant funds (plus any amount required to be distributed under this subclause by reason of subclause (II)) to projects that appear likely to help long-term recipients of assistance under the State program funded under this part (whether in effect before or after the amendments made by section 103(a) of the Personal Responsibility and Work Opportunity Reconciliation Act first applied to the State) enter the work force.

"(vii) ADMINISTRATION.—

"(I) IN GENERAL.—A grant made under this subparagraph to a State shall be administered by the State agency that is administering, or supervising the administration of, the State program funded under this part.

"(B) COMPETITIVE GRANTS.—

"(i) IN GENERAL.—The Secretary shall award grants in accordance with this subparagraph, in fiscal years 1998 and 2000, for projects proposed by eligible applicants, based on the following:

"(I) The effectiveness of the proposal in—

"(aa) expanding the base of knowledge about programs aimed at moving recipients of assistance under State programs funded under this part who are least job ready into the work force.

"(bb) moving recipients of assistance under State programs funded under this part who are least job ready into the work force; and

"(cc) moving recipients of assistance under State programs funded under this part who are least job ready into the work force, even in labor markets that have a shortage of low-skill jobs.

"(II) At the discretion of the Secretary, any of the following:

"(aa) The history of success of the applicant in moving individuals with multiple barriers into work.

"(bb) Evidence of the applicant's ability to leverage private, State, and local resources.

"(cc) Use by the applicant of State and local resources beyond those required by subparagraph (A).

"(dd) Plans of the applicant to coordinate with other organizations at the local and State level.

"(ee) Use by the applicant of current or former recipients of assistance under a State program funded under this part as mentors, case managers, or service providers.

"(III) Evidence that the proposal has the approval of the State agency administering the program under this part.

"(ii) ELIGIBLE APPLICANTS.—As used in clause (i), the term 'eligible applicant' means a political subdivision of a State or a community action agency, community development corporation or other non-profit organizations with demonstrated effectiveness in moving welfare recipients into the workforce that submits a proposal that is approved by the agency administering the State program funded under this part.

"(iii) DETERMINATION OF GRANT AMOUNT.—In determining the amount of a grant to be made under this subparagraph for a project proposed by an applicant, the Secretary shall provide the applicant with an amount sufficient to ensure that the project has a reasonable opportunity to be successful, taking into account the number of long-term recipients of assistance under a State program funded under this part, the level of unemployment, the job opportunities and job growth, the poverty rate, and such other factors as the Secretary deems appropriate, in the area to be served by the project.

"(iv) TARGETING OF FUNDS TO RURAL AREAS.—

"(I) IN GENERAL.—The Secretary shall use not less than 30 percent of the funds available for grants under this subparagraph for a fiscal year to award grants for expenditures in rural areas.

"(II) RURAL AREA DEFINED.—As used in subclause (I), the term 'rural area' means a city, town, or unincorporated area that has a population of 50,000 or fewer inhabitants and that is not an urbanized area immediately adjacent to a city, town, or unincorporated area that has a population of more than 50,000 inhabitants.

"(v) FUNDING.—For grants under this subparagraph for each fiscal year specified in subparagraph (H), there shall be available to the Secretary an amount equal to the sum of—

"(I) 25 percent of the sum of—

"(aa) the amount specified in subparagraph (H) for the fiscal year, minus the total of the amounts reserved pursuant to subparagraphs (E), (F), and (G) for the fiscal year; and

"(bb) any amount reserved pursuant to subparagraph (F) for the immediately preceding fiscal year that has not been obligated; and

"(II) any amount available for grants under this subparagraph for the immediately preceding fiscal year that has not been obligated.

"(C) LIMITATIONS ON USE OF FUNDS.—

"(i) ALLOWABLE ACTIVITIES.—An entity to which funds are provided under this paragraph may use the funds to move into the work force recipients of assistance under the program funded under this part of the State in which the entity is located and the noncustodial parent of any minor who is such a recipient, by means of any of the following:

"(I) Job creation through public or private sector employment wage subsidies.

"(II) On-the-job training.

"(III) Contracts with public or private providers of readiness, placement, and post-employment services.

"(IV) Job vouchers for placement, readiness, and post-employment services.

"(V) Job support services (excluding child care services) if such services are not otherwise available.

"(VI) Technical assistance and related services that lead to self-employment through the microloan demonstration program under section 7(m) of the Small Business Act (15 U.S.C. 636(m)).

Contracts or vouchers for job placement services supported by these funds must require that at least ½ of the payment occur after a eligible individual placed into the workforce has been in the workforce for 6 months.

"(ii) REQUIRED BENEFICIARIES.—An entity that operates a project with funds provided under this paragraph shall expend at least 90 percent of all funds provided to the project for the benefit of recipients of assistance under the program funded under this part of the State in which the entity is located who meet the requirements of either of the following subclauses:

"(I) At least 2 of the following apply to the recipient:

"(aa) The individual has not completed secondary school or obtained a certificate of general equivalency, and has low skills in reading and mathematics.

"(bb) The individual requires substance abuse treatment for employment.

"(cc) The individual has a poor work history. The Secretary shall prescribe such regulations as may be necessary to interpret this subclause.

"(II) The individual—

"(aa) has received assistance under the State program funded under this part (whether in effect before or after the amendments made by section 103 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 first apply to the State) for at least 30 months (whether or not consecutive); or

"(bb) within 12 months, will become ineligible for assistance under the State program funded under this part by reason of a durational limit on such assistance, without regard to any exemption provided pursuant to section 408(a)(7)(C) that may apply to the individual.

"(iii) LIMITATION ON APPLICABILITY OF SECTION 404.—The rules of section 404, other than subsections (b), (f), and (h) of section 404, shall not apply to a grant made under this paragraph.

"(iv) COOPERATION WITH TANF AGENCY.—On a determination by the Secretary an entity that operates a project with funds provided under this paragraph and the agency administering the State program funded under this part are not adhering to the agreement to implement any plan or project for which the funds are provided, the recipient of the funds shall remit the funds to the Secretary.

"(v) PROHIBITION AGAINST USE OF GRANT FUNDS FOR ANY OTHER FUND MATCHING REQUIREMENT.—An entity to which funds are provided under this paragraph shall not use any part of the funds to fulfill any obligation of any State, or political subdivision to contribute funds under other Federal law.

"(vi) DEADLINE FOR EXPENDITURE.—An entity to which funds are provided under this paragraph shall remit to the Secretary any part of the funds that are not expended within 3 years after the date the funds are so provided.

"(D) INDIVIDUALS WITH INCOME LESS THAN THE POVERTY LINE.—For purposes of this paragraph, the number of individuals with an income that is less than the poverty line shall be determined based on the methodology used by the Bureau of the Census to produce and publish intercensal poverty data for 1993 for States and counties.

"(E) SET-ASIDE FOR HIGH PERFORMANCE BONUS.—$100,000,000 of the amount specified in subparagraph (H) for fiscal year 1999 shall be reserved for use by the Secretary to make bonus grants (in the same manner as such grants are determined under paragraph (4)) for fiscal year 2003 to those States that receive funds under this paragraph and that are most successful in increasing the earnings of individuals described in subparagraph (C)(ii)(II).

"(F) SET-ASIDE FOR INDIAN TRIBES.—1 percent of the amount specified in subparagraph (H) for each fiscal year shall be reserved for grants to Indian tribes under section 412(a)(3).

"(G) SET-ASIDE FOR EVALUATIONS.—0.5 percent of the amount specified in subparagraph (H) for each fiscal year shall be reserved for use by the Secretary to carry out section 413(j).

"(H) FUNDING.—The amount specified in this subparagraph is—

"(i) $750,000,000 for fiscal year 1998;

"(ii) $1,250,000,000 for fiscal year 1999; and

"(iii) $1,000,000,000 for fiscal year 2000.

"(I) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to this paragraph shall remain available through fiscal year 2002.

"(J) BUDGET SCORING.—Notwithstanding section 457(b)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985, the baseline shall assume that no grant shall be awarded under this paragraph or under section 412(a)(3) after fiscal year 2000.

"(K) NONDISPLACEMENT IN WORK ACTIVITIES.—

"(i) PROHIBITIONS.—

"(I) GENERAL PROHIBITION.—A participant in a work activity pursuant to this paragraph shall not displace (including a partial displacement, such as a reduction in the hours of nonovertime work, wages, or employment benefits) any individual who, as of the date of the participation, is an employee.

"(II) PROHIBITION ON IMPAIRMENT OF CONTRACTS.—A work activity pursuant to this paragraph shall not impair an existing contract for services or collective bargaining agreement, and a work activity that would be inconsistent with

the terms of a collective bargaining agreement shall not be undertaken without the written concurrence of the labor organization and employer concerned.

"(III) OTHER PROHIBITIONS.—A participant in a work activity shall not be employed in a job—

"(aa) when any other individual is on layoff from the same or any substantially equivalent job;

"(bb) when the employer has terminated the employment of any regular employee or otherwise reduced the workforce of the employer with the intention of filling the vacancy so created with the participant; or

"(cc) which is created in a promotional line that will infringe in any way upon the promotional opportunities of employed individuals.

"(ii) HEALTH AND SAFETY.—Health and safety standards established under Federal and State law otherwise applicable to working conditions of employees shall be equally applicable to working conditions of participants engaged in a work activity pursuant to this paragraph. To the extent that a State workers' compensation law applies, workers' compensation shall be provided to participants on the same basis as the compensation is provided to other individuals in the State in similar employment.

"(iii) GRIEVANCE PROCEDURE.—

"(I) IN GENERAL.—Each State to which a grant is made under this paragraph shall establish and maintain a procedure for grievances or complaints alleging violations of clauses (i) or (ii) from participants and other interested or affected parties. The procedure shall include an opportunity for a hearing and be completed within 60 days after the grievance or complaint is filed.

"(II) INVESTIGATION.—

"(aa) IN GENERAL.—The Secretary of Labor shall investigate an allegation of a violation of clause (i) or (ii) if a decision relating to the violation is not reached within 60 days after the date of the filing of the grievance or complaint, and either party appeals to the Secretary of Labor, or a decision relating to the violation is reached within the 60-day period, and the party to which the decision is adverse appeals the decision to the Secretary of Labor.

"(bb) ADDITIONAL REQUIREMENT.—The Secretary of Labor shall make a final determination relating to an appeal made under item (aa) not later than 120 days after receiving the appeal.

"(III) REMEDIES.—Remedies for violation of clause (i) or (ii) shall be limited to—

"(aa) suspension or termination of payments under this paragraph;

"(bb) prohibition of placement of a participant with an employer that has violated clause (i) or (ii);

"(cc) where applicable, reinstatement of an employee, payment of lost wages and benefits, and reestablishment of other relevant terms, conditions and privileges of employment; and

"(dd) where appropriate, other equitable relief.".

(2) CONFORMING AMENDMENT.—Section 409(a)(7)(B)(iv) of such Act (42 U.S.C. 609(a)(7)(B)(iv)) is amended to read as follows:

"(iv) EXPENDITURES BY THE STATE.—The term 'expenditures by the State' does not include—

"(I) any expenditure from amounts made available by the Federal Government;

"(II) any State funds expended for the medicaid program under title XIX;

"(III) any State funds which are used to match Federal funds provided under section 403(a)(5); or

"(IV) any State funds which are expended as a condition of receiving Federal funds other than under this part.

Notwithstanding subclause (IV) of the preceding sentence, such term includes expenditures by a State for child care in a fiscal year to the extent that the total amount of the expenditures does not exceed the amount of State expenditures in fiscal year 1994 or 1995 (whichever is the greater) that equal the non-Federal share for the programs described in section 418(a)(1)(A).".

(b) GRANTS TO OUTLYING AREAS.—Section 1108(a)(1) of such Act (42 U.S.C. 1308(a)(1)) is amended by inserting "(except section 403(a)(5))" after "title IV".

(c) GRANTS TO INDIAN TRIBES.—Section 412(a) of such Act (42 U.S.C. 612(a)) is amended by adding at the end the following:

"(3) WELFARE-TO-WORK GRANTS.—

"(A) IN GENERAL.—The Secretary shall award a grant in accordance with this paragraph to an Indian tribe for each fiscal year specified in section 403(a)(5)(H) for which the Indian tribe is a welfare-to-work tribe, in such amount as the Secretary deems appropriate, subject to subparagraph (B) of this paragraph.

"(B) WELFARE-TO-WORK TRIBE.—An Indian tribe shall be considered a welfare-to-work tribe for a fiscal year for purposes of this paragraph if the Indian tribe meets the following requirements:

"(i) The Indian tribe has submitted to the Secretary (in the form of an addendum to the tribal family assistance plan, if any, of the Indian tribe) a plan which describes how, consistent with section 403(a)(5), the Indian tribe will use any funds provided under this paragraph during the fiscal year.

"(ii) The Indian tribe has provided the Secretary with an estimate of the amount that the Indian tribe intends to expend during the fiscal year (excluding tribal expenditures described in section 409(a)(7)(B)(iv)) for activities described in section 403(a)(5)(C)(i).

"(iii) The Indian tribe has agreed to negotiate in good faith with the Secretary of Health and Human Services with respect to the substance of any evaluation under section 413(j), and to cooperate with the conduct of any such evaluation.

"(C) LIMITATIONS ON USE OF FUNDS.—Section 403(a)(5)(C) shall apply to funds provided to Indian tribes under this paragraph in the same manner in which such section applies to funds provided under section 403(a)(5).".

(d) FUNDS RECEIVED FROM GRANTS TO BE DISREGARDED IN APPLYING DURATIONAL LIMIT ON ASSISTANCE.—Section 408(a)(7) of such Act (42 U.S.C. 608(a)(7)) is amended by adding at the end the following:

"(G) INAPPLICABILITY TO WELFARE-TO-WORK GRANTS AND ASSISTANCE.—For purposes of subparagraph (A) of this paragraph, a grant made under section 403(a)(5) shall not be considered a grant made under section 403, and assistance from funds provided under section 403(a)(5) shall not be considered assistance.".

(e) EVALUATIONS.—Section 413 of such Act (42 U.S.C. 613) is amended by adding at the end the following:

"(j) EVALUATION OF WELFARE-TO-WORK PROGRAMS.—

"(1) EVALUATION.—The Secretary—

"(A) shall, in consultation with the Secretary of Labor, develop a plan to evaluate how grants made under sections 403(a)(5) and 412(a)(3) have been used;

"(B) may evaluate the use of such grants by such grantees as the Secretary deems appropriate, in accordance with an agreement entered into with the grantees after good-faith negotiations; and

"(C) shall include the following outcome measures in the plan developed under subparagraph (A):

"(i) Placements in the labor force and placements in the labor force that last for at least 6 months.

"(ii) Placements in the private and public sectors.

"(iii) Earnings of individuals who obtain employment.

"(iv) Average expenditures per placement.

"(2) REPORTS TO THE CONGRESS.—

"(A) IN GENERAL.—Subject to subparagraphs (B) and (C), the Secretary, in consultation with the Secretary of Labor and the Secretary of Housing and Urban Development, shall submit to the Congress reports on the projects funded under sections 403(a)(5) and 412(a)(3) and on the evaluations of the projects.

"(B) INTERIM REPORT.—Not later than January 1, 1999, the Secretary shall submit an interim report on the matter described in subparagraph (A).

"(C) FINAL REPORT.—Not later than January 1, 2001 (or at a later date, if the Secretary informs the committees of the Congress with jurisdiction over the subject matter of the report) the Secretary shall submit a final report on the matter described in subparagraph (A).".

SEC. 5822. CLARIFICATION OF A STATE'S ABILITY TO SANCTION AN INDIVIDUAL RECEIVING ASSISTANCE UNDER TANF FOR NONCOMPLIANCE.

(a) IN GENERAL.—Section 408 (42 U.S.C. 608) is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b), the following:

"(c) NONAPPLICATION OF ANY MINIMUM WAGE REQUIREMENTS WITH RESPECT TO INDIVIDUAL SANCTIONS.—Notwithstanding any other provision of law, any requirement imposed by law, regulation, or otherwise that requires that an individual in a family that receives assistance under the State program funded under this part receive the applicable minimum wage under section 6 of the Fair Labor Standards Act (29 U.S.C. 206), shall not prohibit a State from imposing against a family that includes such an individual any penalty that may be imposed under the State program funded under this part for failure to comply with a requirement under such program.".

(b) RETROACTIVITY.—The amendment made by subsection (a) shall take effect as if included in the enactment of section 103(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2112).

CHAPTER 3—UNEMPLOYMENT COMPENSATION

SEC. 5831. INCREASE IN FEDERAL UNEMPLOYMENT ACCOUNT CEILING.

(a) IN GENERAL.—Section 902(a)(2) (42 U.S.C. 1102(a)(2)) is amended by striking "0.25 percent" and inserting "0.5 percent".

(b) EFFECTIVE DATE.—This section and the amendment made by this section—

(1) shall take effect on October 1, 2001, and

(2) shall apply to fiscal years beginning on or after that date.

SEC. 5832. SPECIAL DISTRIBUTION TO STATES FROM UNEMPLOYMENT TRUST FUND.

(a) IN GENERAL.—Section 903(a) (42 U.S.C. 1103(a)) is amended by adding at the end the following new paragraph:

"(3)(A) Notwithstanding any other provision of this section, for purposes of carrying out this subsection with respect to any excess amount (referred to in paragraph (1)) remaining in the employment security administration account as of the close of fiscal year 1999, 2000, or 2001, such amount shall—

"(i) to the extent of any amounts not in excess of $100,000,000, be subject to subparagraph (B), and

"(ii) to the extent of any amounts in excess of $100,000,000, be subject to subparagraph (C).

"(B) Paragraphs (1) and (2) shall apply with respect to any amounts described in subparagraph (A)(i), except that—

"(i) in carrying out the provisions of paragraph (2)(B) with respect to such amounts (to determine the portion of such amounts which is to be allocated to a State for a succeeding fiscal year), the ratio to be applied under such provisions shall be the same as the ratio that—

"(I) the amount of funds to be allocated to such State for such fiscal year pursuant to title III, bears to

"(II) the total amount of funds to be allocated to all States for such fiscal year pursuant to title III,

as determined by the Secretary of Labor, and

"(ii) the amounts allocated to a State pursuant to this subparagraph shall be available to such State, subject to the last sentence of subsection (c)(2).

Nothing in this paragraph shall preclude the application of subsection (b) with respect to any allocation determined under this subparagraph.

"(C) Any amounts described in clause (ii) of subparagraph (A) (remaining in the employment security administration account as of the close of any fiscal year specified in such subparagraph) shall, as of the beginning of the succeeding fiscal year, accrue to the Federal unemployment account, without regard to the limit provided in section 902(a).".

(b) Conforming Amendment.—Paragraph (2) of section 903(c) of the Social Security Act is amended by adding at the end, as a flush left sentence, the following:

"Any amount allocated to a State under this section for fiscal year 2000, 2001, or 2002 may be used by such State only to pay expenses incurred by it for the administration of its unemployment compensation law, and may be so used by it without regard to any of the conditions prescribed in any of the preceding provisions of this paragraph.".

SEC. 5833. TREATMENT OF CERTAIN SERVICES PERFORMED BY INMATES.

(a) In General.—Subsection (c) of section 3306 of the Internal Revenue Code of 1986 (defining employment) is amended—

(1) by striking "or" at the end of paragraph (19),

(2) by striking the period at the end of paragraph (20) and inserting "; or", and

(3) by adding at the end the following new paragraph:

"(21) service performed by a person committed to a penal institution.".

(b) Effective Date.—The amendments made by this section shall apply with respect to service performed after March 26, 1996.

DIVISION 4—EARNED INCOME CREDIT AND OTHER PROVISIONS

Subtitle L—Earned Income Credit and Other Provisions

CHAPTER 1—EARNED INCOME CREDIT

SEC. 5851. RESTRICTIONS ON AVAILABILITY OF EARNED INCOME CREDIT FOR TAXPAYERS WHO IMPROPERLY CLAIMED CREDIT IN PRIOR YEAR.

(a) In General.—Section 32 of the Internal Revenue Code of 1986 (relating to earned income credit) is amended by redesignating subsections (k) and (l) as subsections (l) and (m), respectively, and by inserting after subsection (j) the following new subsection:

"(k) Restrictions on Taxpayers Who Improperly Claimed Credit in Prior Year.—

"(1) Taxpayers making prior fraudulent or reckless claims.—

"(A) In general.—No credit shall be allowed under this section for any taxable year in the disallowance period.

"(B) Disallowance period.—For purposes of paragraph (1), the disallowance period is—

"(i) the period of 10 taxable years after the most recent taxable year for which there was a final determination that the taxpayer's claim of credit under this section was due to fraud, and

"(ii) the period of 2 taxable years after the most recent taxable year for which there was a final determination that the taxpayer's claim of credit under this section was due to reckless or intentional disregard of rules and regulations (but not due to fraud).

"(2) Taxpayers making improper prior claims.—In the case of a taxpayer who is denied credit under this section for any taxable year as a result of the deficiency procedures under subchapter B of chapter 63, no credit shall be allowed under this section for any subsequent taxable year unless the taxpayer provides such information as the Secretary may require to demonstrate eligibility for such credit.".

(b) Due Diligence Requirement on Income Tax Return Preparers.—Section 6695 of the Internal Revenue Code of 1986 (relating to other assessable penalties with respect to the preparation of income tax returns for other persons) is amended by adding at the end the following new subsection:

"(g) Failure To Be Diligent in Determining Eligibility for Earned Income Credit.—Any person who is an income tax preparer with respect to any return or claim for refund who fails to comply with due diligence requirements imposed by the Secretary by regulations with respect to determining eligibility for, or the amount of, the credit allowable by section 32 shall pay a penalty of $100 for each such failure.".

(c) Extension Procedures Applicable to Mathematical or Clerical Errors.—Paragraph (2) of section 6213(g) (relating to the definition of mathematical or clerical errors) is amended by striking "and" at the end of subparagraph (H), by striking the period at the end of subparagraph (I) and inserting ", and", and by inserting after subparagraph (I) the following new subparagraph:

"(J) an omission of information required by section 32(k)(2) (relating to taxpayers making improper prior claims of earned income credit).".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

CHAPTER 2—INCREASE IN PUBLIC DEBT LIMIT

SEC. 5861. INCREASE IN PUBLIC DEBT LIMIT.

Subsection (b) of section 3101 of title 31, United States Code, is amended by striking the dollar amount contained therein and inserting "$5,950,000,000,000".

CHAPTER 3—MISCELLANEOUS

SEC. 5871. SENSE OF THE SENATE REGARDING THE CORRECTION OF COST-OF-LIVING ADJUSTMENTS.

(a) Findings.—The Senate makes the following findings:

(1) The final report of the Senate Finance Committee's Advisory Commission to Study the Consumer Price Index, chaired by Professor Michael Boskin, has concluded that the Consumer Price Index overstates the cost of living in the United States by 1.1 percentage points.

(2) Dr. Alan Greenspan, Chairman of the Board of Governors of the Federal Reserve System, has testified before the Senate Finance Committee that "the best available evidence suggests that there is virtually no chance that the CPI as currently published understates" the cost of living and that there is "a very high probability that the upward bias ranges between ½ percentage point per year and 1½ percentage points per year".

(3) The overstatement of the cost of living by the Consumer Price Index has been recognized by economists since at least 1961, when a report noting the existence of the overstatement was issued by a National Bureau of Economic Research Committee, chaired by Professor George J. Stigler.

(4) Congress and the President, through the indexing of Federal tax brackets, Social Security benefits, and other Federal program benefits, have undertaken to protect taxpayers and beneficiaries of such programs from the erosion of purchasing power due to inflation.

(5) Congress and the President intended the indexing of Federal tax brackets, Social Security benefits, and other Federal program benefits to accurately reflect changes in the cost of living.

(6) The overstatement of the cost of living increases the deficit and undermines the equitable administration of Federal benefits and tax policies.

(b) Sense of the Senate.—It is the sense of the Senate that all cost-of-living adjustments required by statute should accurately reflect the best available estimate of changes in the cost of living.

Subtitle M—Welfare Reform Technical Corrections

SEC. 5900. SHORT TITLE OF SUBTITLE.

This subtitle may be cited as the "Welfare Reform Technical Corrections Act of 1997".

CHAPTER 1—BLOCK GRANTS FOR TEMPORARY ASSISTANCE TO NEEDY FAMILIES

SEC. 5901. AMENDMENT OF THE SOCIAL SECURITY ACT.

Except as otherwise expressly provided, wherever in this chapter an amendment or repeal is expressed in terms of an amendment to, or repeal of a section or other provision, the reference shall be considered to be made to a section or other provision of the Social Security Act, and if the section or other provision is of part A of title IV of such Act, the reference shall be considered to be made to the section or other provision as amended by section 103, and as in effect pursuant to section 116, of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

SEC. 5902. ELIGIBLE STATES; STATE PLAN.

(a) Later Deadline for Submission of State Plans.—Section 402(a) (42 U.S.C. 602(a)) is amended by striking "2-year period immediately preceding" and inserting "27-month period ending with the close of the 1st quarter of".

(b) Clarification of Scope of Work Provisions.—Section 402(a)(1)(A)(ii) (42 U.S.C. 602(a)(1)(A)(ii)) is amended by inserting ", consistent with section 407(e)(2)" before the period.

(c) Correction of Cross-Reference.—Section 402(a)(1)(A)(v) (42 U.S.C. 602(a)(1)(A)(v)) is amended by striking "403(a)(2)(B)" and inserting "403(a)(2)(C)(iii)".

(d) Notification of Plan Amendments.—Section 402 (42 U.S.C. 602) is amended—

(1) by redesignating subsection (b) as subsection (c) and inserting after subsection (a) the following:

"(b) Plan Amendments.—Within 30 days after a State amends a plan submitted pursuant to subsection (a), the State shall notify the Secretary of the amendment."; and

(2) in subsection (c) (as so redesignated), by inserting "or plan amendment" after "plan".

SEC. 5903. GRANTS TO STATES.

(a) Bonus for Decrease in Illegitimacy Modified To Take Account of Certain Territories.—

(1) In general.—Section 403(a)(2)(B) (42 U.S.C. 603(a)(2)(B)) is amended to read as follows:

"(B) Amount of grant.—

"(i) In general.—If, for a bonus year, none of the eligible States is Guam, the Virgin Islands, or American Samoa, then the amount of the grant shall be—

"(I) $20,000,000 if there are 5 eligible States; or

"(II) $25,000,000 if there are fewer than 5 eligible States.

"(ii) Amount if certain territories are eligible.—If, for a bonus year, Guam, the Virgin

Islands, or American Samoa is an eligible State, then the amount of the grant shall be—

"(I) in the case of such a territory, 25 percent of the mandatory ceiling amount (as defined in section 1108(c)(4)) with respect to the territory; and

"(II) in the case of a State that is not such a territory—

"(aa) if there are 5 eligible States other than such territories, $20,000,000, minus 1/5 of the total amount of the grants payable under this paragraph to such territories for the bonus year; or

"(bb) if there are fewer than 5 such eligible States, $25,000,000, or such lesser amount as may be necessary to ensure that the total amount of grants payable under this paragraph for the bonus year does not exceed $100,000,000.".

(2) CERTAIN TERRITORIES TO BE IGNORED IN RANKING OTHER STATES.—Section 403(a)(2)(C)(i)(I)(aa) (42 U.S.C. 603(a)(2)(C)(i)(I)(aa)) is amended by adding at the end the following: "In the case of a State that is not a territory specified in subparagraph (B), the comparative magnitude of the decrease for the State shall be determined without regard to the magnitude of the corresponding decrease for any such territory.".

(b) COMPUTATION OF BONUS BASED ON RATIOS OF OUT-OF-WEDLOCK BIRTHS TO ALL BIRTHS INSTEAD OF NUMBERS OF OUT-OF-WEDLOCK BIRTHS.—Section 403(a)(2) (42 U.S.C. 603(a)(2)) is amended—

(1) in the paragraph heading, by inserting "RATIO" before the period;

(2) in subparagraph (A), by striking all that follows "bonus year" and inserting a period; and

(3) in subparagraph (C)—

(A) in clause (i)—

(i) in subclause (I)(aa)—

(I) by striking "number of out-of-wedlock births that occurred in the State during" and inserting "illegitimacy ratio of the State for"; and

(II) by striking "number of such births that occurred during" and inserting "illegitimacy ratio of the State for"; and

(ii) in subclause (II)(aa)—

(I) by striking "number of out-of-wedlock births that occurred in" each place such term appears and inserting "illegitimacy ratio of"; and

(II) by striking "calculate the number of out-of-wedlock births" and inserting "calculate the illegitimacy ratio"; and

(B) by adding at the end the following:

"(iii) ILLEGITIMACY RATIO.—The term 'illegitimacy ratio' means, with respect to a State and a period—

"(I) the number of out-of-wedlock births to mothers residing in the State that occurred during the period; divided by

"(II) the number of births to mothers residing in the State that occurred during the period.".

(c) USE OF CALENDAR YEAR DATA INSTEAD OF FISCAL YEAR DATA IN CALCULATING BONUS FOR DECREASE IN ILLEGITIMACY RATIO.—Section 403(a)(2)(C) (42 U.S.C. 603(a)(2)(C)) is amended—

(1) in clause (i)—

(A) in subclause (I)(bb)—

(i) by striking "the fiscal year" and inserting "the calendar year for which the most recent data are available"; and

(ii) by striking "fiscal year 1995" and inserting "calendar year 1995";

(B) in subclause (II), by striking "fiscal" each place such term appears and inserting "calendar"; and

(2) in clause (ii), by striking "fiscal years" and inserting "calendar years".

(d) CORRECTION OF HEADING.—Section 403(a)(3)(C)(ii) (42 U.S.C. 603(a)(3)(C)(ii)) is amended in the heading by striking "1997" and inserting "1998".

(e) CLARIFICATION OF CONTINGENCY FUND PROVISION.—Section 403(b) (42 U.S.C. 603(b)) is amended—

(1) in paragraph (6), by striking "(5)" and inserting "(4)";

(2) by striking paragraph (4) and redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively; and

(3) by inserting after paragraph (5) the following:

"(6) ANNUAL RECONCILIATION.—

"(A) IN GENERAL.—Notwithstanding paragraph (3), if the Secretary makes a payment to a State under this subsection in a fiscal year, then the State shall remit to the Secretary, within 1 year after the end of the first subsequent period of 3 consecutive months for which the State is not a needy State, an amount equal to the amount (if any) by which—

"(i) the total amount paid to the State under paragraph (3) of this subsection in the fiscal year; exceeds

"(ii) the product of—

"(I) the Federal medical assistance percentage for the State (as defined in section 1905(b), as such section was in effect on September 30, 1995);

"(II) the State's reimbursable expenditures for the fiscal year; and

"(III) 1/12 times the number of months during the fiscal year for which the Secretary made a payment to the State under such paragraph (3).

"(B) DEFINITIONS.—As used in subparagraph (A):

"(i) REIMBURSABLE EXPENDITURES.—The term 'reimbursable expenditures' means, with respect to a State and a fiscal year, the amount (if any) by which—

"(I) countable State expenditures for the fiscal year; exceeds

"(II) historic State expenditures (as defined in section 409(a)(7)(B)(iii)), excluding any amount expended by the State for child care under subsection (g) or (i) of section 402 (as in effect during fiscal year 1994) for fiscal year 1994.

"(ii) COUNTABLE STATE EXPENDITURES.—The term 'countable expenditures' means, with respect to a State and a fiscal year—

"(I) the qualified State expenditures (as defined in section 409(a)(7)(B)(i) (other than the expenditures described in subclause (I)(bb) of such section)) under the State program funded under this part for the fiscal year; plus

"(II) any amount paid to the State under paragraph (3) during the fiscal year that is expended by the State under the State program funded under this part.".

(f) ADMINISTRATION OF CONTINGENCY FUND TRANSFERRED TO THE SECRETARY OF HHS.—Section 403(b)(7) (42 U.S.C. 603(b)(7)) is amended to read as follows:

"(7) STATE DEFINED.—As used in this subsection, the term 'State' means each of the 50 States and the District of Columbia.".

SEC. 5904. USE OF GRANTS.

Section 404(a)(2) (42 U.S.C. 604(a)(2)) is amended by inserting ", or (at the option of the State) August 21, 1996" before the period.

SEC. 5905. MANDATORY WORK REQUIREMENTS.

(a) FAMILY WITH A DISABLED PARENT NOT TREATED AS A 2-PARENT FAMILY.—Section 407(b)(2) (42 U.S.C. 607(b)(2)) is amended by adding at the end the following:

"(C) FAMILY WITH A DISABLED PARENT NOT TREATED AS A 2-PARENT FAMILY.—A family that includes a disabled parent shall not be considered a 2-parent family for purposes of subsections (a) and (b) of this section.".

(b) CORRECTION OF HEADING.—Section 407(b)(3) (42 U.S.C. 607(b)(3)) is amended in the heading by inserting "AND NOT RESULTING FROM CHANGES IN STATE ELIGIBILITY CRITERIA" before the period.

(c) STATE OPTION TO INCLUDE INDIVIDUALS RECEIVING ASSISTANCE UNDER A TRIBAL WORK PROGRAM IN PARTICIPATION RATE CALCULATION.—Section 407(b)(4) (42 U.S.C. 607(b)(4)) is amended—

(1) in the heading, by inserting "OR TRIBAL WORK PROGRAM" before the period; and

(2) by inserting "or under a tribal work program to which funds are provided under this part" before the period.

(d) SHARING OF 35-HOUR WORK REQUIREMENT BETWEEN PARENTS IN 2-PARENT FAMILIES.—Section 407(c)(1)(B) (42 U.S.C. 607(c)(1)(B)) is amended—

(1) in clause (i)—

(A) by striking "is" and inserting "and the other parent in the family are"; and

(B) by inserting "a total of" before "at least"; and

(2) in clause (ii)—

(A) by striking "individual's spouse is" and inserting "individual and the other parent in the family are";

(B) by inserting "for a total of at least 55 hours per week" before "during the month"; and

(C) by striking "20" and inserting "50".

(e) CLARIFICATION OF EFFORT REQUIRED IN WORK ACTIVITIES.—Section 407(c)(1)(B) (42 U.S.C. 607(c)(1)(B)) is amended by striking "making progress" each place such term appears and inserting "participating".

(f) ADDITIONAL CONDITION UNDER WHICH 12 WEEKS OF JOB SEARCH MAY COUNT AS WORK.—Section 407(c)(2)(A)(i) (42 U.S.C. 607(c)(2)(A)(i)) is amended by inserting "or the State is a needy State (within the meaning of section 403(b)(6))" after "United States".

(g) CARETAKER RELATIVE OF CHILD UNDER AGE 6 DEEMED TO BE MEETING WORK REQUIREMENTS IF ENGAGED IN WORK FOR 20 HOURS PER WEEK.—Section 407(c)(2)(B) (42 U.S.C. 607(c)(2)(B)) is amended—

(1) in the heading, by inserting "OR RELATIVE" after "PARENT" each place such term appears; and

(2) by striking "in a 1-parent family who is the parent" and inserting "who is the only parent or caretaker relative in the family".

(h) EXTENSION TO MARRIED TEENS OF RULE THAT RECEIPT OF SUFFICIENT EDUCATION IS ENOUGH TO MEET WORK PARTICIPATION REQUIREMENTS.—Section 407(c)(2)(C) (42 U.S.C. 607(c)(2)(C)) is amended—

(1) in the heading, by striking "TEEN HEAD OF HOUSEHOLD" and inserting "SINGLE TEEN HEAD OF HOUSEHOLD OR MARRIED TEEN"; and

(2) by striking "a single" and inserting "married or a".

(i) CLARIFICATION OF NUMBER OF HOURS OF PARTICIPATION IN EDUCATION DIRECTLY RELATED TO EMPLOYMENT THAT ARE REQUIRED IN ORDER FOR SINGLE TEEN HEAD OF HOUSEHOLD OR MARRIED TEEN TO BE DEEMED TO BE ENGAGED IN WORK.—Section 407(c)(2)(C)(ii) (42 U.S.C. 607(c)(2)(C)(ii)) is amended by striking "at least" and all that follows through "subsection" and inserting "an average of at least 20 hours per week during the month".

(j) CLARIFICATION OF REFUSAL TO WORK FOR PURPOSES OF WORK PENALTIES FOR INDIVIDUALS.—Section 407(e)(2) (42 U.S.C. 607(e)(2)) is amended by striking "work" and inserting "engage in work required in accordance with this section".

(k) CLARIFICATION OF REMOVAL OF TEEN PARENTS WITH RESPECT TO VOCATIONAL EDUCATION.—Section 407(c)(2) (42 U.S.C. 607(c)(2)) is amended—

(1) in subparagraph (C), by striking ", subject to subparagraph (D) of this paragraph,"; and

(2) by striking subparagraph (D) and inserting the following:

"(D) NUMBER OF PERSONS THAT MAY BE TREATED AS ENGAGED IN WORK BY VIRTUE OF PARTICIPATION IN VOCATIONAL EDUCATION ACTIVITIES.—For purposes of determining monthly

participation rates under paragraphs (1)(B)(i) and (2)(B) of subsection (b), not more than 20 percent of individuals in all families and in 2-parent families (other than individuals in such families who are described in subparagraph (C)) may be determined to be engaged in work in the State for a month by reason of participation in vocational educational training.''.

SEC. 5906. PROHIBITIONS; REQUIREMENTS.

(a) ELIMINATION OF REDUNDANT LANGUAGE; CLARIFICATION OF HOME RESIDENCE REQUIREMENT.—Section 408(a)(1) (42 U.S.C. 608(a)(1)) is amended to read as follows:

''(1) NO ASSISTANCE FOR FAMILIES WITHOUT A MINOR CHILD.—A State to which a grant is made under section 403 shall not use any part of the grant to provide assistance to a family, unless the family includes a minor child who resides with the family (consistent with paragraph (10)) or a pregnant individual.''.

(b) CLARIFICATION OF TERMINOLOGY.—Section 408(a)(3) (42 U.S.C. 608(a)(3)) is amended—

(1) by striking ''leaves'' the 1st, 3rd, and 4th places such term appears and inserting ''ceases to receive assistance under''; and

(2) by striking ''the date the family leaves the program'' the 2nd place such term appears and inserting ''such date''.

(c) ELIMINATION OF SPACE.—Section 408(a)(5)(A)(ii) (42 U.S.C. 608(a)(5)(A)(ii)) is amended by striking ''DESCRIBED.— For'' and inserting ''DESCRIBED.—For''.

(d) CORRECTIONS TO 5-YEAR LIMIT ON ASSISTANCE.—

(1) CLARIFICATION OF LIMITATION ON HARDSHIP EXEMPTION.—Section 408(a)(7)(C)(ii) (42 U.S.C. 608(a)(7)(C)(ii)) is amended—

(A) by striking ''The number'' and inserting ''The average monthly number''; and

(B) by inserting ''during the fiscal year or the immediately preceding fiscal year (but not both), as the State may elect'' before the period.

(2) RESIDENCE EXCEPTION MADE MORE UNIFORM AND EASIER TO ADMINISTER.—Section 408(a)(7)(D) (42 U.S.C. 608(a)(7)(D)) is amended to read as follows:

''(D) DISREGARD OF MONTHS OF ASSISTANCE RECEIVED BY ADULT WHILE LIVING IN INDIAN COUNTRY OR AN ALASKAN NATIVE VILLAGE WITH 50 PERCENT UNEMPLOYMENT.—

''(i) IN GENERAL.—In determining the number of months for which an adult has received assistance under a State or tribal program funded under this part, the State or tribe shall disregard any month during which the adult lived in Indian country or an Alaskan Native village if the most reliable data available with respect to the month (or a period including the month) indicate that at least 50 percent of the adults living in Indian country or in the village were not employed.

''(ii) INDIAN COUNTRY DEFINED.—As used in clause (i), the term 'Indian country' has the meaning given such term in section 1151 of title 18, United States Code.''.

(e) REINSTATEMENT OF DEEMING AND OTHER RULES APPLICABLE TO ALIENS WHO ENTERED THE UNITED STATES UNDER AFFIDAVITS OF SUPPORT FORMERLY USED.—Section 408 (42 U.S.C. 608) is amended by striking subsection (d) and inserting the following:

''(d) SPECIAL RULES RELATING TO TREATMENT OF CERTAIN ALIENS.—For special rules relating to the treatment of certain aliens, see title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

''(e) SPECIAL RULES RELATING TO THE TREATMENT OF NON-213A ALIENS.—The following rules shall apply if a State elects to take the income or resources of any sponsor of a non-213A alien into account in determining whether the alien is eligible for assistance under the State program funded under this part, or in determining the amount or types of such assistance to be provided to the alien:

''(1) DEEMING OF SPONSOR'S INCOME AND RESOURCES.—For a period of 3 years after a non-213A alien enters the United States:

''(A) INCOME DEEMING RULE.—The income of any sponsor of the alien and of any spouse of the sponsor is deemed to be income of the alien, to the extent that the total amount of the income exceeds the sum of—

''(i) the lesser of—

''(I) 20 percent of the total of any amounts received by the sponsor or any such spouse in the month as wages or salary or as net earnings from self-employment, plus the full amount of any costs incurred by the sponsor and any such spouse in producing self-employment income in such month; or

''(II) $175;

''(ii) the cash needs standard established by the State for purposes of determining eligibility for assistance under the State program funded under this part for a family of the same size and composition as the sponsor and any other individuals living in the same household as the sponsor who are claimed by the sponsor as dependents for purposes of determining the sponsor's Federal personal income tax liability but whose needs are not taken into account in determining whether the sponsor's family has met the cash needs standard;

''(iii) any amounts paid by the sponsor or any such spouse to individuals not living in the household who are claimed by the sponsor as dependents for purposes of determining the sponsor's Federal personal income tax liability; and

''(iv) any payments of alimony or child support with respect to individuals not living in the household.

''(B) RESOURCE DEEMING RULE.—The resources of a sponsor of the alien and of any spouse of the sponsor are deemed to be resources of the alien to the extent that the aggregate value of the resources exceeds $1,500.

''(C) SPONSORS OF MULTIPLE NON-213A ALIENS.—If a person is a sponsor of 2 or more non-213A aliens who are living in the same home, the income and resources of the sponsor and any spouse of the sponsor that would be deemed income and resources of any such alien under subparagraph (A) shall be divided into a number of equal shares equal to the number of such aliens, and the State shall deem the income and resources of each such alien to include 1 such share.

''(2) INELIGIBILITY OF NON-213A ALIENS SPONSORED BY AGENCIES; EXCEPTION.—A non-213A alien whose sponsor is or was a public or private agency shall be ineligible for assistance under a State program funded under this part, during a period of 3 years after the alien enters the United States, unless the State agency administering the program determines that the sponsor either no longer exists or has become unable to meet the alien's needs.

''(3) INFORMATION PROVISIONS.—

''(A) DUTIES OF NON-213A ALIENS.—A non-213A alien, as a condition of eligibility for assistance under a State program funded under this part during the period of 3 years after the alien enters the United States, shall be required to provide to the State agency administering the program—

''(i) such information and documentation with respect to the alien's sponsor as may be necessary in order for the State agency to make any determination required under this subsection, and to obtain any cooperation from the sponsor necessary for any such determination; and

''(ii) such information and documentation as the State agency may request and which the alien or the alien's sponsor provided in support of the alien's immigration application.

''(B) DUTIES OF FEDERAL AGENCIES.—The Secretary shall enter into agreements with the Secretary of State and the Attorney General under which any information available to them and required in order to make any determination under this subsection will be provided by them to the Secretary (who may, in turn, make the information available, upon request, to a concerned State agency).

''(4) NON-213A ALIEN DEFINED.—An alien is a non-213A alien for purposes of this subsection if the affidavit of support or similar agreement with respect to the alien that was executed by the sponsor of the alien's entry into the United States was executed other than pursuant to section 213A of the Immigration and Nationality Act.

''(5) INAPPLICABILITY TO ALIEN MINOR SPONSORED BY A PARENT.—This subsection shall not apply to an alien who is a minor child if the sponsor of the alien or any spouse of the sponsor is a parent of the alien.

''(6) INAPPLICABILITY TO CERTAIN CATEGORIES OF ALIENS.—This subsection shall not apply to an alien who is—

''(A) admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act;

''(B) paroled into the United States under section 212(d)(5) of such Act for a period of at least 1 year; or

''(C) granted political asylum by the Attorney General under section 208 of such Act.''.

SEC. 5907. PENALTIES.

(a) STATES GIVEN MORE TIME TO FILE QUARTERLY REPORTS.—Section 409(a)(2)(A) (42 U.S.C. 609(a)(2)(A)) is amended by striking ''1 month'' and inserting ''45 days''.

(b) TREATMENT OF SUPPORT PAYMENTS PASSED THROUGH TO FAMILIES AS QUALIFIED STATE EXPENDITURES.—Section 409(a)(7)(B)(i)(I)(aa) (42 U.S.C. 609(a)(7)(B)(i)(I)(aa)) is amended by inserting '', including any amount collected by the State as support pursuant to a plan approved under part D, on behalf of a family receiving assistance under the State program funded under this part, that is distributed to the family under section 457(a)(1)(B) and disregarded in determining the eligibility of the family for, and the amount of, such assistance'' before the period.

(c) DISREGARD OF EXPENDITURES MADE TO REPLACE PENALTY GRANT REDUCTIONS.—Section 409(a)(7)(B)(i) (42 U.S.C. 609(a)(7)(B)(i)) is amended by redesignating subclause (III) as subclause (IV) and by inserting after subclause (II) the following:

''(III) EXCLUSION OF AMOUNTS EXPENDED TO REPLACE PENALTY GRANT REDUCTIONS.—Such term does not include any amount expended in order to comply with paragraph (12).''.

(d) TREATMENT OF FAMILIES OF CERTAIN ALIENS AS ELIGIBLE FAMILIES.—Section 409(a)(7)(B)(i)(IV) (42 U.S.C. 609(a)(7)(B)(i)(IV)), as so redesignated by subsection (c) of this section, is amended—

(1) by striking ''and families'' and inserting ''families''; and

(2) by striking ''Act or section 402'' and inserting ''Act, and families of aliens lawfully present in the United States that would be eligible for such assistance but for the application of title IV''.

(e) ELIMINATION OF MEANINGLESS LANGUAGE.—Section 409(a)(7)(B)(ii) (42 U.S.C. 609(a)(7)(B)(ii)) is amended by striking ''reduced (if appropriate) in accordance with subparagraph (C)(ii)''.

(f) CLARIFICATION OF SOURCE OF DATA TO BE USED IN DETERMINING HISTORIC STATE EXPENDITURES.—Section 409(a)(7)(B) (42 U.S.C. 609(a)(7)(B)) is amended by adding at the end the following:

''(v) SOURCE OF DATA.—In determining expenditures by a State for fiscal years 1994 and 1995, the Secretary shall use information which was reported by the State on ACF Form 231 or *(in the case of expenditures under part F) ACF Form 331, available as of the dates specified in clauses (ii) and (iii) of section 403(a)(1)(D).".*

(g) CONFORMING TITLE IV–A PENALTIES TO TITLE IV–D PERFORMANCE-BASED STANDARDS.—Section 409(a)(8) (42 U.S.C. 609(a)(8)) is amended to read as follows:

"(8) NONCOMPLIANCE OF STATE CHILD SUPPORT ENFORCEMENT PROGRAM WITH REQUIREMENTS OF PART D.—

"(A) IN GENERAL.—If the Secretary finds, with respect to a State's program under part D, in a fiscal year beginning on or after October 1, 1997—

"(i)(I) on the basis of data submitted by a State pursuant to section 454(15)(B), or on the basis of the results of a review conducted under section 452(a)(4), that the State program failed to achieve the paternity establishment percentages (as defined in section 452(g)(2)), or to meet other performance measures that may be established by the Secretary;

"(II) on the basis of the results of an audit or audits conducted under section 452(a)(4)(C)(i) that the State data submitted pursuant to section 454(15)(B) is incomplete or unreliable; or

"(III) on the basis of the results of an audit or audits conducted under section 452(a)(4)(C) that a State failed to substantially comply with 1 or more of the requirements of part D; and

"(ii) that, with respect to the succeeding fiscal year—

"(I) the State failed to take sufficient corrective action to achieve the appropriate performance levels or compliance as described in subparagraph (A)(i); or

"(II) the data submitted by the State pursuant to section 454(15)(B) is incomplete or unreliable; the amounts otherwise payable to the State under this part for quarters following the end of such succeeding fiscal year, prior to quarters following the end of the first quarter throughout which the State program has achieved the paternity establishment percentages or other performance measures as described in subparagraph (A)(i)(I), or is in substantial compliance with 1 or more of the requirements of part D as described in subparagraph (A)(i)(III), as appropriate, shall be reduced by the percentage specified in subparagraph (B).

"(B) AMOUNT OF REDUCTIONS.—The reductions required under subparagraph (A) shall be—

"(i) not less than 1 nor more than 2 percent;

"(ii) not less than 2 nor more than 3 percent, if the finding is the 2nd consecutive finding made pursuant to subparagraph (A); or

"(iii) not less than 3 nor more than 5 percent, if the finding is the 3rd or a subsequent consecutive such finding.

"(C) DISREGARD OF NONCOMPLIANCE WHICH IS OF A TECHNICAL NATURE.—For purposes of this section and section 452(a)(4), a State determined as a result of an audit—

"(i) to have failed to have substantially complied with 1 or more of the requirements of part D shall be determined to have achieved substantial compliance only if the Secretary determines that the extent of the noncompliance is of a technical nature which does not adversely affect the performance of the State's program under part D; or

"(ii) to have submitted incomplete or unreliable data pursuant to section 454(15)(B) shall be determined to have submitted adequate data only if the Secretary determines that the extent of the incompleteness or unreliability of the data is of a technical nature which does not adversely affect the determination of the level of the State's paternity establishment percentages (as defined under section 452(g)(2)) or other performance measures that may be established by the Secretary.".

(h) CORRECTION OF REFERENCE TO 5-YEAR LIMIT ON ASSISTANCE.—Section 409(a)(9) (42 U.S.C. 609(a)(9)) is amended by striking "408(a)(1)(B)" and inserting "408(a)(7)".

(i) CORRECTION OF ERRORS IN PENALTY FOR FAILURE TO MEET MAINTENANCE OF EFFORT REQUIREMENT APPLICABLE TO THE CONTINGENCY FUND.—Section 409(a)(10) (42 U.S.C. 609(a)(10)) is amended—

(1) by striking "the expenditures under the State program funded under this part for the fiscal year (excluding any amounts made available by the Federal Government)" and inserting "the qualified State expenditures (as defined in paragraph (7)(B)(i) (other than the expenditures described in subclause (I)(bb) of that paragraph)) under the State program funded under this part for the fiscal year";

(2) by inserting "excluding any amount expended by the State for child care under subsection (g) or (i) of section 402 (as in effect during fiscal year 1994) for fiscal year 1994," after "(as defined in paragraph (7)(B)(iii) of this subsection),"; and

(3) by inserting "that the State has not remitted under section 403(b)(6)" before the period.

(j) PENALTY FOR STATE FAILURE TO EXPEND ADDITIONAL STATE FUNDS TO REPLACE GRANT REDUCTIONS.—Section 409(a)(12) (42 U.S.C. 609(a)(12)) is amended—

(1) in the heading—

(A) by striking "FAILURE" and inserting "REQUIREMENT"; and

(B) by striking "REDUCTIONS" and inserting "REDUCTIONS; PENALTY FOR FAILURE TO DO SO"; and

(2) by inserting ", and if the State fails to do so, the Secretary may reduce the grant payable to the State under section 403(a)(1) for the fiscal year that follows such succeeding fiscal year by an amount equal to not more than 2 percent of the State family assistance grant" before the period.

(k) ELIMINATION OF CERTAIN REASONABLE CAUSE EXCEPTIONS.—Section 409(b)(2) (42 U.S.C. 609(b)(2)) is amended by striking "(7) or (8)" and inserting "(6), (7), (8), (10), or (12)".

(l) CLARIFICATION OF WHAT IT MEANS TO CORRECT A VIOLATION.—Section 409(c) (42 U.S.C. 609(c)) is amended—

(1) in each of subparagraphs (A) and (B) of paragraph (1), by inserting "or discontinue, as appropriate," after "correct";

(2) in paragraph (2)—

(A) in the heading, by inserting "OR DISCONTINUING" after "CORRECTING"; and

(B) by inserting "or discontinues, as appropriate" after "corrects"; and

(3) in paragraph (3)—

(A) in the heading, by inserting "OR DISCONTINUE" after "CORRECT"; and

(B) by inserting "or discontinue, as appropriate," before "the violation".

(m) CERTAIN PENALTIES NOT AVOIDABLE THROUGH CORRECTIVE COMPLIANCE PLANS.—Section 409(c)(4) (42 U.S.C. 609(c)(4)) is amended to read as follows:

"(4) INAPPLICABILITY TO CERTAIN PENALTIES.—This subsection shall not apply to the imposition of a penalty against a State under paragraph (6), (7), (8), (10), or (12) of subsection (a).".

(n) FAILURE TO SATISFY MINIMUM PARTICIPATION RATES.—Section 409(a)(3) (42 U.S.C. 609(a)(3)) is amended—

(1) in subparagraph (A), by striking "not more than"; and

(2) in subparagraph (C), by inserting before the period the following: "or if the noncompliance is due to extraordinary circumstances such as a natural disaster or regional recession. The Secretary shall provide a written report to Congress to justify any waiver or penalty reduction due to such extraordinary circumstances".

SEC. 5908. DATA COLLECTION AND REPORTING.

Section 411(a) (42 U.S.C. 611(a)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A)—

(i) by striking clause (ii) and inserting the following:

"(ii) Whether a child receiving such assistance or an adult in the family is receiving—

"(I) Federal disability insurance benefits;

"(II) benefits based on Federal disability status;

"(III) aid under a State plan approved under title XIV (as in effect without regard to the amendment made by section 301 of the Social Security Amendments of 1972));

"(IV) aid or assistance under a State plan approved under title XVI (as in effect without regard to such amendment) by reason of being permanently and totally disabled; or

"(V) supplemental security income benefits under title XVI (as in effect pursuant to such amendment) by reason of disability.";

(ii) in clause (iv), by striking "youngest child in" and inserting "head of";

(iii) in each of clauses (vii) and (viii), by striking "status" and inserting "level"; and

(iv) by adding at the end the following:

"(xvii) With respect to each individual in the family who has not attained 20 years of age, whether the individual is a parent of a child in the family."; and

(B) in subparagraph (B)—

(i) in the heading, by striking "ESTIMATES" and inserting "SAMPLES"; and

(ii) in clause (i), by striking "an estimate which is obtained" and inserting "disaggregated case record information on a sample of families selected"; and

(2) by redesignating paragraph (6) as paragraph (7) and inserting after paragraph (5) the following:

"(6) REPORT ON FAMILIES RECEIVING ASSISTANCE.—The report required by paragraph (1) for a fiscal quarter shall include for each month in the quarter the number of families and individuals receiving assistance under the State program funded under this part (including the number of 2-parent and 1-parent families), and the total dollar value of such assistance received by all families.".

SEC. 5909. DIRECT FUNDING AND ADMINISTRATION BY INDIAN TRIBES.

(a) PRORATING OF TRIBAL FAMILY ASSISTANCE GRANTS.—Section 412(a)(1)(A) (42 U.S.C. 612(a)(1)(A)) is amended by inserting "which shall be reduced for a fiscal year, on a pro rata basis for each quarter, in the case of a tribal family assistance plan approved during a fiscal year for which the plan is to be in effect," before "and shall".

(b) TRIBAL OPTION TO OPERATE WORK ACTIVITIES PROGRAM.—Section 412(a)(2)(A) (42 U.S.C. 612(a)(2)(A)) is amended by striking "The Secretary" and all that follows through "2002" and inserting "For each of fiscal years 1997, 1998, 1999, 2000, 2001, and 2002, the Secretary shall pay to each eligible Indian tribe that proposes to operate a program described in subparagraph (C)".

(c) DISCRETION OF TRIBES TO SELECT POPULATION TO BE SERVED BY TRIBAL WORK ACTIVITIES PROGRAM.—Section 412(a)(2)(C) (42 U.S.C. 612(a)(2)(C)) is amended by striking "members of the Indian tribe" and inserting "such population and such service area or areas as the tribe specifies".

(d) REDUCTION OF APPROPRIATION FOR TRIBAL WORK ACTIVITIES PROGRAMS.—Section 412(a)(2)(D) (42 U.S.C. 612(a)(2)(D)) is amended by striking "$7,638,474" and inserting "$7,633,287".

(e) AVAILABILITY OF CORRECTIVE COMPLIANCE PLANS TO INDIAN TRIBES.—Section 412(f)(1) (42 U.S.C. 612(f)(1)) is amended by striking "and (b)" and inserting "(b), and (c)".

(f) ELIGIBILITY OF TRIBES FOR FEDERAL LOANS FOR WELFARE PROGRAMS.—Section 412 (42

U.S.C. 612) is amended by redesignating subsections (f), (g), and (h) as subsections (g), (h), and (i), respectively, and by inserting after subsection (e) the following:

"(f) Eligibility for Federal Loans.—Section 406 shall apply to an Indian tribe with an approved tribal assistance plan in the same manner as such section applies to a State, except that section 406(c) shall be applied by substituting 'section 412(a)' for 'section 403(a)'.".

SEC. 5910. RESEARCH, EVALUATIONS, AND NATIONAL STUDIES.

(a) Research.—

(1) Methods.—Section 413(a) (42 U.S.C. 613(a)) is amended by inserting ", directly or through grants, contracts, or interagency agreements," before "shall conduct".

(2) Correction of cross reference.—Section 413(a) (42 U.S.C. 613(a)) is amended by striking "409" and inserting "407".

(b) Correction of Erroneously Indented Paragraph.—Section 413(e)(1) (42 U.S.C. 613(e)(1)) is amended to read as follows:

"(1) In general.—The Secretary shall annually rank States to which grants are made under section 403 based on the following ranking factors:

"(A) Absolute out-of-wedlock ratios.—The ratio represented by—

"(i) the total number of out-of-wedlock births in families receiving assistance under the State program under this part in the State for the most recent year for which information is available; over

"(ii) the total number of births in families receiving assistance under the State program under this part in the State for the year.

"(B) Net changes in the out-of-wedlock ratio.—The difference between the ratio described in subparagraph (A) with respect to a State for the most recent year for which such information is available and the ratio with respect to the State for the immediately preceding year.".

(c) Funding of Prior Authorized Demonstrations.—Section 413(h)(1)(D) (42 U.S.C. 613(h)(1)(D)) is amended by striking "September 30, 1995" and inserting "August 22, 1996".

(d) Child Poverty Reports.—

(1) Delayed due date for initial report.—Section 413(i)(1) (42 U.S.C. 613(i)(1)) is amended by striking "90 days after the date of the enactment of this part" and inserting "November 30, 1997".

(2) Modification of factors to be used in establishing methodology for use in determining child poverty rates.—Section 413(i)(5) (42 U.S.C. 613(i)(5)) is amended by striking "the county-by-county" and inserting ", to the extent available, county-by-county".

SEC. 5911. REPORT ON DATA PROCESSING.

Section 106(a)(1) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2164) is amended by striking "(whether in effect before or after October 1, 1995)".

SEC. 5912. STUDY ON ALTERNATIVE OUTCOMES MEASURES.

Section 107(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2164) is amended by striking "409(a)(7)(C)" and inserting "408(a)(7)(C)".

SEC. 5913. LIMITATION ON PAYMENTS TO THE TERRITORIES.

(a) Certain Payments To Be Disregarded in Determining Limitation.—Section 1108(a) (42 U.S.C. 1308) is amended to read as follows:

"(a) Limitation on Total Payments to Each Territory.—

"(1) In general.—Notwithstanding any other provision of this Act (except for paragraph (2) of this subsection), the total amount certified by the Secretary of Health and Human Services under titles I, X, XIV, and XVI, under parts A and E of title IV, and under subsection (b) of this section, for payment to any territory for a fiscal year shall not exceed the ceiling amount for the territory for the fiscal year.

"(2) Certain payments disregarded.—Paragraph (1) of this subsection shall be applied without regard to any payment made under section 403(a)(2), 403(a)(4), 406, or 413(f).".

(b) Certain Child Care and Social Services Expenditures by Territories Treated as IV–A Expenditures for Purposes of Matching Grant.—Section 1108(b)(1)(A) (42 U.S.C. 1308(b)(1)(A)) is amended by inserting ", including any amount paid to the State under part A of title IV that is transferred in accordance with section 404(d) and expended under the program to which transferred" before the semicolon.

(c) Elimination of Duplicative Maintenance of Effort Requirement.—Section 1108 (42 U.S.C. 1308) is amended by striking subsection (e).

SEC. 5914. CONFORMING AMENDMENTS TO THE SOCIAL SECURITY ACT.

(a) Amendments to Part D of Title IV.—

(1) Corrections to determination of paternity establishment percentages.—Section 452 (42 U.S.C. 652) is amended—

(A) in subsection (d)(3)(A), by striking all that follows "for purposes of" and inserting "section 409(a)(8). to achieve the paternity establishment percentages (as defined under section 452(g)(2)) and other performance measures that may be established by the Secretary, and to submit data under section 454(15)(B) that is complete and reliable, and to substantially comply with the requirements of this part; and"; and

(B) in subsection (g)(1), by striking "section 403(h)" and inserting "section 409(a)(8)".

(2) Elimination of obsolete language.—Section 108(c)(8)(C) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2165) is amended by inserting "and all that follows through 'the best interests of such child to do so'" before "and inserting".

(3) Insertion of language inadvertently omitted.—Section 108(c)(13) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2166) is amended by inserting "and inserting 'pursuant to section 408(a)(3)'" before the period.

(4) Elimination of obsolete cross reference.—Section 464(a)(1) (42 U.S.C. 664(a)(1)) is amended by striking "section 402(a)(26)" and inserting "section 408(a)(3)".

(b) Amendments to Part E of Title IV.—Each of the following is amended by striking "June 1, 1995" each place such term appears and inserting "July 16, 1996":

(1) Section 472(a) (42 U.S.C. 672(a)).

(2) Section 472(h) (42 U.S.C. 672(h)).

(3) Section 473(a)(2) (42 U.S.C. 673(a)(2)).

(4) Section 473(b) (42 U.S.C. 673(b)).

SEC. 5915. OTHER CONFORMING AMENDMENTS.

(a) Elimination of Amendments Included Inadvertently.—Section 110(l) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2173) is amended—

(1) by striking paragraphs (1), (4), (5), and (7);

(2) by redesignating paragraphs (2), (3), (6), and (8) as paragraphs (1), (2), (3), and (4), respectively; and

(3) by adding "and" at the end of paragraph (3), as so redesignated.

(b) Correction of Citation.—Section 109(f) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2177) is amended by striking "93–186" and inserting "93–86".

(c) Correction of Internal Cross Reference.—Section 103(a)(1) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2112) is amended by striking "603(b)(2)" and inserting "603(b)".

(d) Correction of References.—Section 416 (42 U.S.C. 616) is amended by striking "amendment made by section 2103 of the Personal Responsibility and Work Opportunity" and inserting "amendments made by section 103 of the Personal Responsibility and Work Opportunity Reconciliation".

SEC. 5916. MODIFICATIONS TO THE JOB OPPORTUNITIES FOR CERTAIN LOW-INCOME INDIVIDUALS PROGRAM.

Section 112(5) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2177) is amended in each of subparagraphs (A) and (B) by inserting "under" after "funded".

SEC. 5917. DENIAL OF ASSISTANCE AND BENEFITS FOR DRUG-RELATED CONVICTIONS.

(a) Extension of Certain Requirements Coordinated With Delayed Effective Date for Successor Provisions.—Section 115(d)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2181) is amended by striking "convictions" and inserting "a conviction if the conviction is for conduct".

(b) Immediate Effectiveness of Provisions Relating to Research, Evaluations, and National Studies.—Section 116(a) of such Act (Public Law 104–193; 110 Stat. 2181) is amended by adding at the end the following:

"(6) Research, evaluations, and national studies.—Section 413 of the Social Security Act, as added by the amendment made by section 103(a) of this Act, shall take effect on the date of the enactment of this Act.".

SEC. 5918. TRANSITION RULE.

Section 116 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2181) is amended—

(1) in subsection (a)(2), by inserting "(but subject to subsection (b)(1)(A)(ii))" after "this section"; and

(2) in subsection (b)(1)(A)(ii), by striking "June 30, 1997" and inserting "the later of June 30, 1997, or the day before the date described in subsection (a)(2)(B) of this section".

SEC. 5919. PROTECTING VICTIMS OF FAMILY VIOLENCE.

(a) Findings.—Congress finds that—

(1) the intent of Congress in amending part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) in section 103(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat 2112) was to allow States to take into account the effects of the epidemic of domestic violence in establishing their welfare programs, by giving States the flexibility to grant individual, temporary waivers for good cause to victims of domestic violence who meet the criteria set forth in section 402(a)(7)(B) of the Social Security Act (42 U.S.C. 602(a)(7)(B));

(2) the allowance of waivers under such sections was not intended to be limited by other, separate, and independent provisions of part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.);

(3) under section 402(a)(7)(A)(iii) of such Act (42 U.S.C. 602(a)(7)(A)(iii)), requirements under the temporary assistance for needy families program under part A of title IV of such Act may, for good cause, be waived for so long as necessary; and

(4) good cause waivers granted pursuant to section 402(a)(7)(A)(iii) of such Act (42 U.S.C. 602(a)(7)(A)(iii)) are intended to be temporary and directed only at particular program requirements when needed on an individual case-by-

case basis, and are intended to facilitate the ability of victims of domestic violence to move forward and meet program requirements when safe and feasible without interference by domestic violence.

(b) Clarification of Waiver Provisions.—

(1) In general.—Section 402(a)(7) (42 U.S.C. 602(a)(7)) is amended by adding at the end the following:

"(C) No numerical limits.—In implementing this paragraph, a State shall not be subject to any numerical limitation in the granting of good cause waivers under subparagraph (A)(iii).

"(D) Waivered individuals not included for purposes of certain other provisions of this part.—Any individual to whom a good cause waiver of compliance with this Act has been granted in accordance with subparagraph (A)(iii) shall not be included for purposes of determining a State's compliance with the participation rate requirements set forth in section 407, for purposes of applying the limitation described in section 408(a)(7)(C)(ii), or for purposes of determining whether to impose a penalty under paragraph (3), (5), or (9) of section 409(a).".

(2) Effective date.—The amendment made by paragraph (1) takes effect as if it had been included in the enactment of section 103(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2112).

(c) Federal Parent Locator Service.—

(1) In general.—Section 453 (42 U.S.C. 653), as amended by section 5938, is further amended—

(A) in subsection (b)(2)—

(i) in the matter preceding subparagraph (A), by inserting "or that the health, safety, or liberty or a parent or child would by unreasonably put at risk by the disclosure of such information," before "provided that";

(ii) in subparagraph (A), by inserting ", that the health, safety, or liberty or a parent or child would by unreasonably put at risk by the disclosure of such information," before "and that information"; and

(iii) in subparagraph (B)(i), by striking "be harmful to the parent or the child" and inserting "place the health, safety, or liberty of a parent or child unreasonably at risk"; and

(B) in subsection (c)(2), by inserting ", or to serve as the initiating court in an action to seek and order," before "against a noncustodial".

(2) State plan.—Section 454(26) (42 U.S.C. 654), as amended by section 5956, is further amended—

(A) in subparagraph (C), by striking "result in physical or emotional harm to the party or the child" and inserting "place the health, safety, or liberty of a parent or child unreasonably at risk";

(B) in subparagraph (D), by striking "of domestic violence or child abuse against a party or the child and that the disclosure of such information could be harmful to the party or the child" and inserting "that the health, safety, or liberty of a parent or child would be unreasonably put at risk by the disclosure of such information"; and

(C) in subparagraph (E), by striking "of domestic violence" and all that follows through the semicolon and inserting "that the health, safety, or liberty of a parent or child would be unreasonably put at risk by the disclosure of such information pursuant to section 453(b)(2), the court shall determine whether disclosure to any other person or persons of information received from the Secretary could place the health, safety, or liberty or a parent or child unreasonably at risk (if the court determines that disclosure to any other person could be harmful, the court and its agents shall not make any such disclosure);".

(3) Effective date.—The amendments made by this subsection shall take effect 1 day after the effective date described in section 5961(a).

SEC. 5920. EFFECTIVE DATES.

(a) Amendments to Part A of Title IV of the Social Security Act.—The amendments made by this chapter to a provision of part A of title IV of the Social Security Act shall take effect as if the amendments had been included in section 103(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 at the time such section became law.

(b) Amendments to Parts D and E of Title IV of the Social Security Act.—The amendments made by section 5914 of this Act shall take effect as if the amendments had been included in section 108 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 at the time such section 108 became law.

(c) Amendments to Other Amendatory Provisions.—The amendments made by section 5915(a) of this Act shall take effect as if the amendments had been included in section 110 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 at the time such section 110 became law.

(d) Amendments to Freestanding Provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.—The amendments made by this chapter to a provision of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 that, as of July 1, 1997, will not have become part of another statute shall take effect as if the amendments had been included in the provision at the time the provision became law.

CHAPTER 2—SUPPLEMENTAL SECURITY INCOME

SEC. 5921. CONFORMING AND TECHNICAL AMENDMENTS RELATING TO ELIGIBILITY RESTRICTIONS.

(a) Denial of SSI Benefits for Fugitive Felons and Probation and Parole Violators.—Section 1611(e)(6) (42 U.S.C. 1382(e)(6)) is amended by inserting "and section 1106(c) of this Act" after "of 1986".

(b) Treatment of Prisoners.—Section 1611(e)(1)(I)(i)(II) (42 U.S.C. 1382(e)(1)(I)(i)(II)) is amended by striking "inmate of the institution" and all that follows through "this subparagraph" and inserting "individual who receives in the month preceding the first month throughout which such individual is an inmate of the jail, prison, penal institution, or correctional facility that furnishes information respecting such individual pursuant to subclause (I), or is confined in the institution (that so furnishes such information) as described in section 202(x)(1)(A)(ii), a benefit under this title for such preceding month, and who is determined by the Commissioner to be ineligible for benefits under this title by reason of confinement based on the information provided by such institution".

(c) Correction of Reference.—Section 1611(e)(1)(I)(i)(I) (42 U.S.C. 1382(e)(1)(I)(i)(I)) is amended by striking "paragraph (1)" and inserting "this paragraph".

SEC. 5922. CONFORMING AND TECHNICAL AMENDMENTS RELATING TO BENEFITS FOR DISABLED CHILDREN.

(a) Eligibility Redeterminations for Current Recipients.—Section 211(d)(2)(A) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (42 U.S.C. 1382c note) is amended by striking "1 year" and inserting "18 months".

(b) Eligibility Redeterminations and Continuing Disability Reviews.—

(1) Disability eligibility redeterminations required for SSI recipients who attain 18 years of age.—Section 1614(a)(3)(H)(iii) (42 U.S.C. 1382c(a)(3)(H)(iii)) is amended by striking subclauses (I) and (II) and all that follows and inserting the following:

"(I) by applying the criteria used in determining initial eligibility for individuals who are age 18 or older; and

"(II) either during the 1-year period beginning on the individual's 18th birthday or, in lieu of a continuing disability review, whenever the Commissioner determines that an individual's case is subject to a redetermination under this clause.

With respect to any redetermination under this clause, paragraph (4) shall not apply.".

(2) Continuing disability review required for low birth weight babies.—Section 1614(a)(3)(H)(iv) (42 U.S.C. 1382c(a)(3)(H)(iv)) is amended—

(A) in subclause (I), by striking "Not" and inserting "Except as provided in subclause (VI), not"; and

(B) by adding at the end the following:

"(VI) Subclause (I) shall not apply in the case of an individual described in that subclause who, at the time of the individual's initial disability determination, the Commissioner determines has an impairment that is not expected to improve within 12 months after the birth of that individual, and who the Commissioner schedules for a continuing disability review at a date that is after the individual attains 1 year of age.".

(c) Additional Accountability Requirements.—Section 1631(a)(2)(F) (42 U.S.C. 1383(a)(2)(F)) is amended—

(1) in clause (ii)(III)(bb), by striking "the total amount" and all that follows through "1613(c)" and inserting "in any case in which the individual knowingly misapplies benefits from such an account, the Commissioner shall reduce future benefits payable to such individual (or to such individual and his spouse) by an amount equal to the total amount of such benefits so misapplied"; and

(2) by striking clause (iii) and inserting the following:

"(iii) The representative payee may deposit into the account established under clause (i) any other funds representing past due benefits under this title to the eligible individual, provided that the amount of such past due benefits is equal to or exceeds the maximum monthly benefit payable under this title to an eligible individual (including State supplementary payments made by the Commissioner pursuant to an agreement under section 1616 or section 212(b) of Public Law 93–66).".

(d) Reduction in Cash Benefits Payable to Institutionalized Individuals Whose Medical Costs Are Covered by Private Insurance.—Section 1611(e) (42 U.S.C. 1382(e)) is amended—

(1) in paragraph (1)(B)—

(A) in the matter preceding clause (i), by striking "hospital, extended care facility, nursing home, or intermediate care facility" and inserting "medical treatment facility";

(B) in clause (ii)—

(i) in the matter preceding subclause (I), by striking "hospital, home or"; and

(ii) in subclause (I), by striking "hospital, home, or";

(C) in clause (iii), by striking "hospital, home, or"; and

(D) in the matter following clause (iii), by striking "hospital, extended care facility, nursing home, or intermediate care facility which is a 'medical institution or nursing facility' within the meaning of section 1917(c)" and inserting "medical treatment facility that provides services described in section 1917(c)(1)(C)";

(2) in paragraph (1)(E)—

(A) in clause (i)(II), by striking "hospital, extended care facility, nursing home, or intermediate care facility" and inserting "medical treatment facility"; and

(B) in clause (iii), by striking "hospital, extended care facility, nursing home, or intermediate care facility" and inserting "medical treatment facility";

(3) in paragraph (1)(G), in the matter preceding clause (i)—

(A) by striking "or which is a hospital, extended care facility, nursing home, or intermediate care" and inserting "or is in a medical treatment"; and

(B) by inserting "or, in the case of an individual who is a child under the age of 18, under any health insurance policy issued by a private provider of such insurance" after "title XIX"; and

(4) in paragraph (3)—

(A) by striking "same hospital, home, or facility" and inserting "same medical treatment facility"; and

(B) by striking "same such hospital, home, or facility" and inserting "same such facility".

(e) CORRECTION OF U.S.C. CITATION.—Section 211(c) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2189) is amended by striking "1382(a)(4)" and inserting "1382c(a)(4)".

SEC. 5923. ADDITIONAL TECHNICAL AMENDMENTS TO TITLE XVI.

Section 1615(d) (42 U.S.C. 1382d(d)) is amended—

(1) in the first sentence, by inserting a comma after "subsection (a)(1)"; and

(2) in the last sentence, by striking "him" and inserting "the Commissioner".

SEC. 5924. ADDITIONAL TECHNICAL AMENDMENTS RELATING TO TITLE XVI.

Section 1110(a)(3) (42 U.S.C. 1310(a)(3)) is amended—

(1) by inserting "(or the Commissioner, with respect to any jointly financed cooperative agreement or grant concerning title XVI)" after "Secretary" the first place it appears; and

(2) by inserting "(or the Commissioner, as applicable)" after "Secretary" the second place it appears.

SEC. 5925. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this part shall take effect as if included in the enactment of title II of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2185).

(b) EXCEPTION.—The amendments made by section 5925 shall take effect as if included in the enactment of the Social Security Independence and Program Improvements Act of 1994 (Public Law 103–296; 108 Stat. 1464).

CHAPTER 3—CHILD SUPPORT

SEC. 5935. STATE OBLIGATION TO PROVIDE CHILD SUPPORT ENFORCEMENT SERVICES.

(a) INDIVIDUALS SUBJECT TO FEE FOR CHILD SUPPORT ENFORCEMENT SERVICES.—Section 454(6)(B) (42 U.S.C. 654(6)(B)) is amended by striking "individuals not receiving assistance under any State program funded under part A, which" and inserting "an individual, other than an individual receiving assistance under a State program funded under part A or E, or under a State plan approved under title XIX, or who is required by the State to cooperate with the State agency administering the program under this part pursuant to subsection (l) or (m) of section 6 of the Food Stamp Act of 1977, and".

(b) CORRECTION OF REFERENCE.—Section 464(a)(2)(A) (42 U.S.C. 654(a)(2)(A)) is amended in the first sentence by striking "section 454(6)" and inserting "section 454(4)(A)(ii)".

SEC. 5936. DISTRIBUTION OF COLLECTED SUPPORT.

(a) CONTINUATION OF ASSIGNMENTS.—Section 457(b) (42 U.S.C. 657(b)) is amended—

(1) by striking "which were assigned" and inserting "assigned"; and

(2) by striking "and which were in effect" and all that follows and inserting "and in effect on September 30, 1997 (or such earlier date, on or after August 22, 1996, as the State may choose), shall remain assigned after such date.".

(b) STATE OPTION FOR APPLICABILITY.—

(1) IN GENERAL.—Section 457(a) (42 U.S.C. 657(a)) is amended by adding at the end the following:

"(6) STATE OPTION FOR APPLICABILITY.—Notwithstanding any other provision of this subsection, a State may elect to apply the rules described in clauses (i)(II), (ii)(II), and (v) of paragraph (2)(B) to support arrearages collected on and after October 1, 1998, and, if the State makes such an election, shall apply the provisions of this section, as in effect and applied on the day before the date of enactment of section 302 of the Personal Responsibility and Work Opportunity Act of 1996 (Public Law 104–193, 110 Stat. 2200), other than subsection (b)(1) (as so in effect), to amounts collected before October 1, 1998.".

(2) CONFORMING AMENDMENTS.—Section 408(a)(3)(A) (42 U.S.C. 608(a)(3)(A)) is amended—

(A) in clause (i), by inserting "(I)" after "(i)";

(B) in clause (ii)—

(i) by striking "(ii)" and inserting "(II)"; and

(ii) by striking the period and inserting "; or"; and

(C) by adding at the end, the following:

"(ii) if the State elects to distribute collections under section 457(a)(6), the date the family ceases to receive assistance under the program, if the assignment is executed on or after October 1, 1998.".

(c) DISTRIBUTION OF COLLECTIONS WITH RESPECT TO FAMILIES RECEIVING ASSISTANCE.—Section 457(a)(1) (42 U.S.C. 657(a)(1)) is amended by adding at the end the following flush language: "In no event shall the total of the amounts paid to the Federal Government and retained by the State exceed the total of the amounts that have been paid to the family as assistance by the State.".

(d) FAMILIES UNDER CERTAIN AGREEMENTS.—Section 457(a)(4) (42 U.S.C. 657(a)(4)) is amended to read as follows:

"(4) FAMILIES UNDER CERTAIN AGREEMENTS.—In the case of an amount collected for a family in accordance with a cooperative agreement under section 454(33), distribute the amount so collected pursuant to the terms of the agreement.".

(e) STUDY AND REPORT.—Section 457(a)(5) (42 U.S.C. 657(a)(5)) is amended by striking "1998" and inserting "1999".

(f) CORRECTIONS OF REFERENCES.—Section 457(a)(2)(B) (42 U.S.C. 657(a)(2)(B)) is amended—

(1) in clauses (i)(I) and (ii)(I)—

(A) by striking "(other than subsection (b)(1))" each place it appears; and

(B) by inserting "(other than subsection (b)(1) (as so in effect))" after "1996" each place it appears; and

(2) in clause (ii)(II), by striking "paragraph (4)" and inserting "paragraph (5)".

(g) CORRECTION OF TERRITORIAL MATCH.—Section 457(c)(3)(A) (42 U.S.C. 657(c)(3)(A)) is amended by striking "the Federal medical assistance percentage (as defined in section 1118)" and inserting "75 percent".

(h) DEFINITIONS.—

(1) FEDERAL SHARE.—Section 457(c)(2) (42 U.S.C. 657(c)(2)) is amended by striking "collected" the second place it appears and inserting "distributed".

(2) FEDERAL MEDICAL ASSISTANCE PERCENTAGE.—Section 457(c)(3)(B) (42 U.S.C. 657(c)(3)(B)) is amended by striking "as in effect on September 30, 1996" and inserting "as such section was in effect on September 30, 1995".

(i) CONFORMING AMENDMENTS.—

(1) Section 464(a)(2)(A) (42 U.S.C. 664(a)(2)(A)) is amended, in the penultimate sentence, by inserting "in accordance with section 457" after "owed".

(2) Section 466(a)(3)(B) (42 U.S.C. 666(a)(3)(B)) is amended by striking "457(b)(4) or (d)(3)" and inserting "457".

SEC. 5937. CIVIL PENALTIES RELATING TO STATE DIRECTORY OF NEW HIRES.

Section 453A (42 U.S.C. 653a) is amended—

(1) in subsection (d)—

(A) in the matter preceding paragraph (1), by striking "shall be less than" and inserting "shall not exceed"; and

(B) in paragraph (1), by striking "$25" and inserting "$25 per failure to meet the requirements of this section with respect to a newly hired employee"; and

(2) in subsection (g)(2)(B), by striking "extracts" and all that follows through "Labor" and inserting "information".

SEC. 5938. FEDERAL PARENT LOCATOR SERVICE.

(a) IN GENERAL.—Section 453 (42 U.S.C. 653) is amended—

(1) in subsection (a)—

(A) by inserting "(1)" after "(a)"; and

(B) by striking "to obtain" and all that follows through the period and inserting "for the purposes specified in paragraphs (2) and (3).

"(2) For the purpose of establishing parentage, establishing, setting the amount of, modifying, or enforcing child support obligations, the Federal Parent Locator Service shall obtain and transmit to any authorized person specified in subsection (c)—

"(A) information on, or facilitating the discovery of, the location of any individual—

"(i) who is under an obligation to pay child support;

"(ii) against whom such an obligation is sought; or

"(iii) to whom such an obligation is owed,

including the individual's social security number (or numbers), most recent address, and the name, address, and employer identification number of the individual's employer;

"(B) information on the individual's wages (or other income) from, and benefits of, employment (including rights to or enrollment in group health care coverage); and

"(C) information on the type, status, location, and amount of any assets of, or debts owed by or to, any such individual.

"(3) For the purpose of enforcing any Federal or State law with respect to the unlawful taking or restraint of a child, or making or enforcing a child custody or visitation determination, as defined in section 463(d)(1), the Federal Parent Locator Service shall be used to obtain and transmit the information specified in section 463(c) to the authorized persons specified in section 463(d)(2).";

(2) by striking subsection (b) and inserting the following:

"(b)(1) Upon request, filed in accordance with subsection (d), of any authorized person, as defined in subsection (c) for the information described in subsection (a)(2), or of any authorized person, as defined in section 463(d)(2) for the information described in section 463(c), the Secretary shall, notwithstanding any other provision of law, provide through the Federal Parent Locator Service such information to such person, if such information—

"(A) is contained in any files or records maintained by the Secretary or by the Department of Health and Human Services; or

"(B) is not contained in such files or records, but can be obtained by the Secretary, under the authority conferred by subsection (e), from any other department, agency, or instrumentality of the United States or of any State,

and is not prohibited from disclosure under paragraph (2).

"(2) No information shall be disclosed to any person if the disclosure of such information would contravene the national policy or security interests of the United States or the confidentiality of census data. The Secretary shall give priority to requests made by any authorized person described in subsection (c)(1). No information shall be disclosed to any person if the State has notified the Secretary that the State has reasonable evidence of domestic violence or child abuse and the disclosure of such information could be harmful to the custodial parent or the child of such parent, provided that—

"(A) in response to a request from an authorized person (as defined in subsection (c) and section 463(d)(2)), the Secretary shall advise the authorized person that the Secretary has been notified that there is reasonable evidence of domestic violence or child abuse and that information can only be disclosed to a court or an agent of a court pursuant to subparagraph (B); and

"(B) information may be disclosed to a court or an agent of a court described in subsection (c)(2) or section 463(d)(2)(B), if—

"(i) upon receipt of information from the Secretary, the court determines whether disclosure to any other person of that information could be harmful to the parent or the child; and

"(ii) if the court determines that disclosure of such information to any other person could be harmful, the court and its agents shall not make any such disclosure.

"(3) Information received or transmitted pursuant to this section shall be subject to the safeguard provisions contained in section 454(26)."; and

(3) in subsection (c)—

(A) in paragraph (1), by striking "or to seek to enforce orders providing child custody or visitation rights"; and

(B) in paragraph (2)—

(i) by inserting "or to serve as the initiating court in an action to seek an order" after "issue an order"; and

(ii) by striking "or to issue an order against a resident parent for child custody or visitation rights".

(b) USE OF THE FEDERAL PARENT LOCATOR SERVICE.—Section 463 (42 U.S.C. 663) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1)—

(i) by striking "any State which is able and willing to do so," and inserting "every State"; and

(ii) by striking "such State" and inserting "each State"; and

(B) in paragraph (2), by inserting "or visitation" after "custody";

(2) in subsection (b)(2), by inserting "or visitation" after "custody";

(3) in subsection (d)—

(A) in paragraph (1), by inserting "or visitation" after "custody"; and

(B) in subparagraphs (A) and (B) of paragraph (2), by inserting "or visitation" after "custody" each place it appears;

(4) in subsection (f)(2), by inserting "or visitation" after "custody"; and

(5) by striking "noncustodial" each place it appears.

SEC. 5939. ACCESS TO REGISTRY DATA FOR RESEARCH PURPOSES.

(a) IN GENERAL.—Section 453(j)(5) (42 U.S.C. 653(j)(5)) is amended by inserting "data in each component of the Federal Parent Locator Service maintained under this section and to" before "information".

(b) CONFORMING AMENDMENTS.—Section 453 (42 U.S.C. 653) is amended—

(1) in subsection (j)(3)(B), by striking "registries" and inserting "components"; and

(2) in subsection (k)(2), by striking "subsection (j)(3)" and inserting "section 453A(g)(2)".

SEC. 5940. COLLECTION AND USE OF SOCIAL SECURITY NUMBERS FOR USE IN CHILD SUPPORT ENFORCEMENT.

Section 466(a)(13) (42 U.S.C. 666(a)(13)) is amended—

(1) in subparagraph (A)—

(A) by striking "commercial"; and

(B) by inserting "recreational license," after "occupational license,"; and

(2) in the matter following subparagraph (C), by inserting "to be used on the face of the document while the social security number is kept on file at the agency" after "other than the social security number".

SEC. 5941. ADOPTION OF UNIFORM STATE LAWS.

Section 466(f) (42 U.S.C. 666(f)) is amended by striking "together" and all that follows and inserting "and as in effect on August 22, 1996, including any amendments officially adopted as of such date by the National Conference of Commissioners on Uniform State Laws.".

SEC. 5942. STATE LAWS PROVIDING EXPEDITED PROCEDURES.

Section 466(c) (42 U.S.C. 666(c)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (E), by inserting ", part E," after "part A"; and

(B) in subparagraph (G), by inserting "any current support obligation and" after "to satisfy"; and

(2) in paragraph (2)(A)—

(A) in clause (i), by striking "the tribunal and"; and

(B) in clause (ii)—

(i) by striking "tribunal may" and inserting "court or administrative agency of competent jurisdiction shall"; and

(ii) by striking "filed with the tribunal" and inserting "filed with the State case registry".

SEC. 5943. VOLUNTARY PATERNITY ACKNOWLEDGEMENT.

Section 466(a)(5)(C)(i) (42 U.S.C. 666(a)(5)(C)(i)) is amended by inserting ", or through the use of video or audio equipment," after "orally".

SEC. 5944. CALCULATION OF PATERNITY ESTABLISHMENT PERCENTAGE.

Section 452(g)(2) (42 U.S.C. 652(g)(2)) is amended, in the matter following subparagraph (C), by striking "subparagraph (A)" and inserting "subparagraphs (A) and (B)".

SEC. 5945. MEANS AVAILABLE FOR PROVISION OF TECHNICAL ASSISTANCE AND OPERATION OF FEDERAL PARENT LOCATOR SERVICE.

(a) TECHNICAL ASSISTANCE.—Section 452(j) (42 U.S.C. 652(j)), is amended, in the matter preceding paragraph (1), by striking "to cover costs incurred by the Secretary" and inserting "which shall be available for use by the Secretary, either directly or through grants, contracts, or interagency agreements,".

(b) OPERATION OF FEDERAL PARENT LOCATOR SERVICE.—

(1) MEANS AVAILABLE.—Section 453(o) (42 U.S.C. 653(o)) is amended—

(A) in the heading, by striking "RECOVERY OF COSTS" and inserting "USE OF SET-ASIDE FUNDS"; and

(B) by striking "to cover costs incurred by the Secretary" and inserting "which shall be available for use by the Secretary, either directly or through grants, contracts, or interagency agreements,".

(2) AVAILABILITY OF FUNDS.—Section 453(o) (42 U.S.C. 653(o)) is amended by adding at the end the following: "Amounts appropriated under this subsection for each of fiscal years 1997 through 2001 shall remain available until expended.".

SEC. 5946. AUTHORITY TO COLLECT SUPPORT FROM FEDERAL EMPLOYEES.

(a) RESPONSE TO NOTICE OR PROCESS.—Section 459(c)(2)(C) (42 U.S.C. 659(c)(2)(C)) is amended by striking "respond to the order, process, or interrogatory" and inserting "withhold available sums in response to the order or process, or answer the interrogatory".

(b) MONEYS SUBJECT TO PROCESS.—Section 459(h)(1) (42 U.S.C. 659(h)(1)) is amended—

(1) in the matter preceding subparagraph (A) and in subparagraph (A)(i), by striking "paid or" each place it appears;

(2) in subparagraph (A)—

(A) in clause (ii)(V), by striking "and" at the end;

(B) in clause (iii)—

(i) by inserting "or payable" after "paid"; and

(ii) by striking "but" and inserting "; and"; and

(C) by inserting after clause (iii), the following:

"(iv) benefits paid or payable under the Railroad Retirement System, but"; and

(3) in subparagraph (B)—

(A) in clause (i), by striking "or" at the end;

(B) in clause (ii), by striking the period and inserting "; or"; and

(C) by adding at the end the following:

"(iii) of periodic benefits under title 38, United States Code, except as provided in subparagraph (A)(ii)(V).".

(c) CONFORMING AMENDMENT.—Section 454(19)(B)(ii) (42 U.S.C. 654(19)(B)(ii)) is amended by striking "section 462(e)" and inserting "section 459(i)(5)".

SEC. 5947. DEFINITION OF SUPPORT ORDER.

Section 453(p) (42 U.S.C. 653(p)), is amended by striking "a child and" and inserting "of".

SEC. 5948. STATE LAW AUTHORIZING SUSPENSION OF LICENSES.

Section 466(a)(16) (42 U.S.C. 666(a)(16)) is amended by inserting "and sporting" after "recreational".

SEC. 5949. INTERNATIONAL SUPPORT ENFORCEMENT.

Section 454(32)(A) (42 U.S.C. 654(32)(A)) is amended by striking "section 459A(d)(2)" and inserting "section 459A(d)".

SEC. 5950. CHILD SUPPORT ENFORCEMENT FOR INDIAN TRIBES.

(a) COOPERATIVE AGREEMENTS BY INDIAN TRIBES AND STATES FOR CHILD SUPPORT ENFORCEMENT.—Section 454(33) (42 U.S.C. 654(33)) is amended—

(1) by striking "and enforce support orders, and" and inserting "or enforce support orders, or";

(2) by striking "guidelines established by such tribe or organization" and inserting "guidelines established or adopted by such tribe or organization";

(3) by striking "funding collected" and inserting "collections"; and

(4) by striking "such funding" and inserting "such collections".

(b) CORRECTION OF SUBSECTION DESIGNATION.—Section 455 (42 U.S.C. 655), is amended by redesignating subsection (b), as added by section 375(b) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193, 110 Stat. 2256), as subsection (f).

(c) DIRECT GRANTS TO TRIBES.—Section 455(f) (42 U.S.C. 655(f)), as redesignated by subsection (b), is amended to read as follows:

"(f) The Secretary may make direct payments under this part to an Indian tribe or tribal organization that demonstrates to the satisfaction of the Secretary that it has the capacity to operate a child support enforcement program meeting the objectives of this part, including establishment of paternity, establishment, modification, and enforcement of support orders, and location of absent parents. The Secretary shall promulgate regulations establishing the requirements which must be met by an Indian tribe or tribal organization to be eligible for a grant under this subsection.".

SEC. 5951. CONTINUATION OF RULES FOR DISTRIBUTION OF SUPPORT IN THE CASE OF A TITLE IV–E CHILD.

Section 457 (42 U.S.C. 657) is amended—

(1) in subsection (a), in the matter preceding paragraph (1), by striking "subsection (e)" and inserting "subsections (e) and (f)"; and

(2) by adding at the end, the following:

"(f) Notwithstanding the preceding provisions of this section, amounts collected by a State as child support for months in any period on behalf of a child for whom a public agency is making foster care maintenance payments under part E—

"(1) shall be retained by the State to the extent necessary to reimburse it for the foster care maintenance payments made with respect to the child during such period (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing);

"(2) shall be paid to the public agency responsible for supervising the placement of the child to the extent that the amounts collected exceed the foster care maintenance payments made with respect to the child during such period but not the amounts required by a court or administrative order to be paid as support on behalf of the child during such period; and the responsible agency may use the payments in the manner it determines will serve the best interests of the child, including setting such payments aside for the child's future needs or making all or a part thereof available to the person responsible for meeting the child's day-to-day needs; and

"(3) shall be retained by the State, if any portion of the amounts collected remains after making the payments required under paragraphs (1) and (2), to the extent that such portion is necessary to reimburse the State (with appropriate reimbursement to the Federal Government to the extent of its participation in the financing) for any past foster care maintenance payments (or payments of assistance under the State program funded under part A) which were made with respect to the child (and with respect to which past collections have not previously been retained);

and any balance shall be paid to the State agency responsible for supervising the placement of the child, for use by such agency in accordance with paragraph (2).".

SEC. 5952. GOOD CAUSE IN FOSTER CARE AND FOOD STAMP CASES.

(a) STATE PLAN.—Section 454(4)(A)(i) (42 U.S.C. 654(4)(A)(i)) is amended—

(1) by striking "or" before "(III)"; and

(2) by inserting "or (IV) cooperation is required pursuant to section 6(l)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2015(l)(1))," after "title XIX,".

(b) CONFORMING AMENDMENTS.—Section 454(29) (42 U.S.C. 654(29)) is amended—

(1) in subparagraph (A)—

(A) in the matter preceding clause (i), by striking "part A of this title or the State program under title XIX" and inserting "part A, the State program under part E, the State program under title XIX, or the food stamp program, as defined under section 3(h) of the Food Stamp Act of 1977 (7 U.S.C. 2012(h)),"; and

(B) by striking clauses (i) and (ii) and all that follows through the semicolon and inserting the following:

"(i) in the case of the State program funded under part A, the State program under part E, or the State program under title XIX shall, at the option of the State, be defined, taking into account the best interests of the child, and applied in each case, by the State agency administering such program; and

"(ii) in the case of the food stamp program, as defined under section 3(h) of the Food Stamp Act of 1977 (7 U.S.C. 2012(h)), shall be defined and applied in each case under that program in accordance with section 6(l)(2) of the Food Stamp Act of 1977 (7 U.S.C. 2015(l)(2));";

(2) in subparagraph (D), by striking "or the State program under title XIX" and inserting "the State program under part E, the State program under title XIX, or the food stamp program, as defined under section 3(h) of the Food Stamp Act of 1977 (7 U.S.C. 2012(h))"; and

(3) in subparagraph (E), by striking "individual," and all that follows through "XIX," and inserting "individual and the State agency administering the State program funded under part A, the State agency administering the State program under part E, the State agency administering the State program under title XIX, or the State agency administering the food stamp program, as defined under section 3(h) of the Food Stamp Act of 1977 (7 U.S.C. 2012(h)),".

SEC. 5953. DATE OF COLLECTION OF SUPPORT.

Section 454B(c)(1) (42 U.S.C. 654B(c)(1)) is amended by adding at the end the following: "The date of collection for amounts collected and distributed under this part is the date of receipt by the State disbursement unit, except that if current support is withheld by an employer in the month when due and is received by the State disbursement unit in a month other than the month when due, the date of withholding may be deemed to be the date of collection.".

SEC. 5954. ADMINISTRATIVE ENFORCEMENT IN INTERSTATE CASES.

(a) PROCEDURES.—Section 466(a)(14) (42 U.S.C. 666(a)(14)) is amended to read as follows:

"(14) HIGH-VOLUME, AUTOMATED ADMINISTRATIVE ENFORCEMENT IN INTERSTATE CASES.—

"(A) IN GENERAL.—Procedures under which—

"(i) the State shall use high-volume automated administrative enforcement, to the same extent as used for intrastate cases, in response to a request made by another State to enforce support orders, and shall promptly report the results of such enforcement procedure to the requesting State;

"(ii) the State may, by electronic or other means, transmit to another State a request for assistance in enforcing support orders through high-volume, automated administrative enforcement, which request—

"(I) shall include such information as will enable the State to which the request is transmitted to compare the information about the cases to the information in the data bases of the State; and

"(II) shall constitute a certification by the requesting State—

"(aa) of the amount of support under an order the payment of which is in arrears; and

"(bb) that the requesting State has complied with all procedural due process requirements applicable to each case;

"(iii) if the State provides assistance to another State pursuant to this paragraph with respect to a case, neither State shall consider the case to be transferred to the caseload of such other State; and

"(iv) the State shall maintain records of—

"(I) the number of such requests for assistance received by the State;

"(II) the number of cases for which the State collected support in response to such a request; and

"(III) the amount of such collected support.

"(B) HIGH-VOLUME AUTOMATED ADMINISTRATIVE ENFORCEMENT.—In this part, the term 'high-volume automated administrative enforcement' means the use of automatic data processing to search various State data bases, including license records, employment service data, and State new hire registries, to determine whether information is available regarding a parent who owes a child support obligation.".

(b) INCENTIVE PAYMENTS.—Section 458(d) (42 U.S.C. 658(d)) is amended by inserting ", including amounts collected under section 466(a)(14)," after "another State".

SEC. 5955. WORK ORDERS FOR ARREARAGES.

Section 466(a)(15) (42 U.S.C. 666(a)(15)) is amended to read as follows:

"(15) PROCEDURES TO ENSURE THAT PERSONS OWING OVERDUE SUPPORT WORK OR HAVE A PLAN FOR PAYMENT OF SUCH SUPPORT.—Procedures under which the State has the authority, in any case in which an individual owes overdue support with respect to a child receiving assistance under a State program funded under part A, to issue an order or to request that a court or an administrative process established pursuant to State law issue an order that requires the individual to—

"(A) pay such support in accordance with a plan approved by the court, or, at the option of the State, a plan approved by the State agency administering the State program under this part; or

"(B) if the individual is subject to such a plan and is not incapacitated, participate in such work activities (as defined in section 407(d)) as the court, or, at the option of the State, the State agency administering the State program under this part, deems appropriate.".

SEC. 5956. ADDITIONAL TECHNICAL STATE PLAN AMENDMENTS.

Section 454 (42 U.S.C. 654) is amended—

(1) in paragraph (8)—

(A) in the matter preceding subparagraph (A)—

(i) by striking "noncustodial"; and

(ii) by inserting "; for the purpose of establishing parentage, establishing, setting the amount of, modifying, or enforcing child support obligations, or making or enforcing a child custody or visitation determination, as defined in section 463(d)(1)" after "provide that";

(B) in subparagraph (A), by striking the comma and inserting a semicolon;

(C) in subparagraph (B), by striking the semicolon and inserting a comma; and

(D) by inserting after subparagraph (B), the following flush language:

"and shall, subject to the privacy safeguards required under paragraph (26), disclose only the information described in sections 453 and 463 to the authorized persons specified in such sections for the purposes specified in such sections;";

(2) in paragraph (17)—

(A) by striking "in the case of a State which has" and inserting "provide that the State will have"; and

(B) by inserting "and" after "section 453,"; and

(3) in paragraph (26)—

(A) in the matter preceding subparagraph (A), by striking "will";

(B) in subparagraph (A)—

(i) by inserting ", modify," after "establish", the second place it appears; and

(ii) by inserting ", or to make or enforce a child custody determination" after "support";

(C) in subparagraph (B)—

(i) by inserting "or the child" after "1 party";

(ii) by inserting "or the child" after "former party"; and

(iii) by striking "and" at the end;

(D) in subparagraph (C)—

(i) by inserting "or the child" after "1 party";

(ii) by striking "another party" and inserting "another person";

(iii) by inserting "to that person" after "release of the information"; and

(iv) by striking "former party" and inserting "party or the child"; and

(E) by adding at the end the following:

"(D) in cases in which the prohibitions under subparagraphs (B) and (C) apply, the requirement to notify the Secretary, for purposes of section 453(b)(2), that the State has reasonable evidence of domestic violence or child abuse against a party or the child and that the disclosure of such information could be harmful to the party or the child; and

"(E) procedures providing that when the Secretary discloses information about a parent or child to a State court or an agent of a State court described in section 453(c)(2) or 463(d)(2)(B), and advises that court or agent that the Secretary has been notified that there is reasonable evidence of domestic violence or child abuse pursuant to section 453(b)(2), the court shall determine whether disclosure to any other person of information received from the Secretary could be harmful to the parent or child and, if the court determines that disclosure to any other person could be harmful, the court and its agents shall not make any such disclosure;''.

SEC. 5957. FEDERAL CASE REGISTRY OF CHILD SUPPORT ORDERS.

Section 453(h) (42 U.S.C. 653(h)) is amended—

(1) in paragraph (1), by inserting ''and order'' after ''with respect to each case''; and

(2) in paragraph (2)—

(A) in the heading, by inserting ''AND ORDER'' after ''CASE'';

(B) by inserting ''or an order'' after ''with respect to a case'' and

(C) by inserting ''or order'' after ''and the State or States which have the case''.

SEC. 5958. FULL FAITH AND CREDIT FOR CHILD SUPPORT ORDERS.

Section 1738B(f) of title 28, United States Code, is amended—

(1) in paragraph (4), by striking ''a court may'' and all that follows and inserting ''a court having jurisdiction over the parties shall issue a child support order, which must be recognized.''; and

(2) in paragraph (5), by inserting ''under subsection (d)'' after ''jurisdiction''.

SEC. 5959. DEVELOPMENT COSTS OF AUTOMATED SYSTEMS.

(a) DEFINITION OF STATE.—Section 455(a)(3)(B) (42 U.S.C. 655(a)(3)(B)) is amended—

(1) in clause (i)—

(A) by inserting ''or system described in clause (iii)'' after ''each State''; and

(B) by inserting ''or system'' after ''the State''; and

(2) by adding at the end the following:

''(iii) For purposes of clause (i), a system described in this clause is a system that has been approved by the Secretary to receive enhanced funding pursuant to the Family Support Act of 1988 (Public Law 100–485; 102 Stat. 2343) for the purpose of developing a system that meets the requirements of sections 454(16) (as in effect on and after September 30, 1995) and 454A, including systems that have received funding for such purpose pursuant to a waiver under section 1115(a).''.

(b) TEMPORARY LIMITATION ON PAYMENTS.—Section 344(b)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (42 U.S.C. 655 note) is amended—

(1) in subparagraph (B)—

(A) by inserting ''or a system described in subparagraph (C)'' after ''to a State''; and

(B) by inserting ''or system'' after ''for the State''; and

(2) in subparagraph (C), by striking ''Act,'' and all that follows and inserting ''Act, and among systems that have been approved by the Secretary to receive enhanced funding pursuant to the Family Support Act of 1988 (Public Law 100–485; 102 Stat. 2343) for the purpose of developing a system that meets the requirements of sections 454(16) (as in effect on and after September 30, 1995) and 454A, including systems that have received funding for such purpose pursuant to a waiver under section 1115(a), which shall take into account—

''(i) the relative size of such State and system caseloads under part D of title IV of the Social Security Act; and

''(ii) the level of automation needed to meet the automated data processing requirements of such part.''.

SEC. 5960. ADDITIONAL TECHNICAL AMENDMENTS.

(a) ELIMINATION OF SURPLUSAGE.—Section 466(c)(1)(F) (42 U.S.C. 666(c)(1)(F)) is amended by striking ''of section 466''.

(b) CORRECTION OF AMBIGUOUS AMENDMENT.—Section 344(a)(1)(F) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2234) is amended by inserting ''the first place such term appears'' before ''and all that follows''.

(c) CORRECTION OF ERRONEOUSLY DRAFTED PROVISION.—Section 215 of the Department of Health and Human Services' Appropriations Act, 1997, (as contained in section 101(e) of the Omnibus Consolidated Appropriations Act, 1997) is amended to read as follows:

''SEC. 215. Sections 452(j) and 453(o) of the Social Security Act (42 U.S.C. 652(j) and 653(o)), as amended by section 345 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2237) are each amended by striking 'section 457(a)' and inserting 'a plan approved under this part'. Amounts available under such sections 452(j) and 453(o) shall be calculated as though the amendments made by this section were effective October 1, 1995.''.

(d) ELIMINATION OF SURPLUSAGE.—Section 456(a)(2)(B) (42 U.S.C. 656(a)(2)(B)) is amended by striking '', and'' and inserting a period.

(e) CORRECTION OF DATE.—Section 466(a)(1)(B) (42 U.S.C. 666(a)(1)(B)) is amended by striking ''October 1, 1996'' and inserting ''January 1, 1994''.

SEC. 5961. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this chapter shall take effect as if included in the enactment of title III of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2105).

(b) EXCEPTION.—The amendments made by section 5936(b)(2) shall take effect as if the amendments had been included in the enactment of section 103(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2112).

CHAPTER 4—RESTRICTING WELFARE AND PUBLIC BENEFITS FOR ALIENS

Subchapter A—Eligibility for Federal Benefits

SEC. 5965. ALIEN ELIGIBILITY FOR FEDERAL BENEFITS: LIMITED APPLICATION TO MEDICARE AND BENEFITS UNDER THE RAILROAD RETIREMENT ACT.

(a) LIMITED APPLICATION TO MEDICARE.—Section 401(b) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1611(b)) is amended by adding at the end the following:

''(3) Subsection (a) shall not apply to any benefit payable under title XVIII of the Social Security Act (relating to the medicare program) to an alien who is lawfully present in the United States as determined by the Attorney General and, with respect to benefits payable under part A of such title, who was authorized to be employed with respect to any wages attributable to employment which are counted for purposes of eligibility for such benefits.''.

(b) LIMITED APPLICATION TO BENEFITS UNDER THE RAILROAD RETIREMENT ACT.—Section 401(b) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1611(b)) (as amended by subsection (a)) is amended by inserting at the end the following:

''(4) Subsection (a) shall not apply to any benefit payable under the Railroad Retirement Act of 1974 or the Railroad Unemployment Insurance Act to an alien who is lawfully present in the United States as determined by the Attorney General or to an alien residing outside the United States.''.

SEC. 5966. EXCEPTIONS TO BENEFIT LIMITATIONS: CORRECTIONS TO REFERENCE CONCERNING ALIENS WHOSE DEPORTATION IS WITHHELD.

Sections 402(a)(2)(A)(i)(III), 402(a)(2)(A)(ii)(III), 402(b)(2)(A)(iii), 403(b)(1)(C), 412(b)(1)(C), and 431(b)(5) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)(A)(iii), 1612(b)(2)(A)(iii), 1613(b)(1)(C), 1622(b)(1)(C), and 1641(b)(5)) are each amended by striking ''section 243(h) of such Act'' each place it appears and inserting ''section 243(h) of such Act (as in effect immediately before the effective date of section 307 of division C of Public Law 104–208) or section 241(b)(3) of such Act (as amended by section 305(a) of division C of Public Law 104–208)''.

SEC. 5967. VETERANS EXCEPTION: APPLICATION OF MINIMUM ACTIVE DUTY SERVICE REQUIREMENT; EXTENSION TO UNREMARRIED SURVIVING SPOUSE; EXPANDED DEFINITION OF VETERAN.

(a) APPLICATION OF MINIMUM ACTIVE DUTY SERVICE REQUIREMENT.—Sections 402(a)(2)(C)(i), 402(b)(2)(C)(i), 403(b)(2)(A), and 412(b)(3)(A) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)(C)(i), 1612(b)(2)(C)(i), 1613(b)(2)(A), and 1622(b)(3)(A)) are each amended by inserting ''and who fulfills the minimum active-duty service requirements of section 5303A(d) of title 38, United States Code'' after ''alienage''.

(b) EXCEPTION APPLICABLE TO UNREMARRIED SURVIVING SPOUSE.—Section 402(a)(2)(C)(iii), 402(b)(2)(C)(iii), 403(b)(2)(C), and 412(b)(3)(C) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)(C)(iii), 1612(b)(2)(C)(iii), 1613(b)(2)(C), and 1622(b)(3)(C)) are each amended by inserting before the period ''or the unremarried surviving spouse of an individual described in clause (i) or (ii) who is deceased if the marriage fulfills the requirements of section 1304 of title 38, United States Code''.

(c) EXPANDED DEFINITION OF VETERAN.—Sections 402(a)(2)(C)(i), 402(b)(2)(C)(i), 403(b)(2)(A), and 412(b)(3)(A) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)(C)(i), 1612(b)(2)(C)(i), 1613(b)(2)(A), and 1622(b)(3)(A)) are each amended by inserting '', 1101, or 1301, or as described in section 107'' after ''section 101''.

SEC. 5968. CORRECTION OF REFERENCE CONCERNING CUBAN AND HAITIAN ENTRANTS.

Section 403(d) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613(d)) is amended—

(1) by striking ''section 501 of the Refugee'' and insert ''section 501(a) of the Refugee''; and

(2) by striking ''section 501(e)(2)'' and inserting ''section 501(e)''.

SEC. 5969. NOTIFICATION CONCERNING ALIENS NOT LAWFULLY PRESENT: CORRECTION OF TERMINOLOGY.

Section 1631(e)(9) of the Social Security Act (42 U.S.C. 1383(e)(9)) and section 27 of the United States Housing Act of 1937, as added by section 404 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, are each amended by striking ''unlawfully in the United States'' each place it appears and inserting ''not lawfully present in the United States''.

SEC. 5970. FREELY ASSOCIATED STATES: CONTRACTS AND LICENSES.

Sections 401(c)(2)(A) and 411(c)(2)(A) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1611(c)(2)(A) and 1621(c)(2)(A)) are each amended by inserting before the semicolon at the end '', or to a citizen of a freely associated state, if section 141 of *the applicable compact of free association approved in Public Law 99–239 or 99–658 (or a successor provision) is in effect".*

SEC. 5971. CONGRESSIONAL STATEMENT REGARDING BENEFITS FOR HMONG AND OTHER HIGHLAND LAO VETERANS.

(a) FINDINGS.—The Congress makes the following findings:

(1) Hmong and other Highland Lao tribal peoples were recruited, armed, trained, and funded for military operations by the United States Department of Defense, Central Intelligence Agency, Department of State, and Agency for International Development to further United States national security interests during the Vietnam conflict.

(2) Hmong and other Highland Lao tribal forces sacrificed their own lives and saved the lives of American military personnel by rescuing downed American pilots and aircrews and by engaging and successfully fighting North Vietnamese troops.

(3) Thousands of Hmong and other Highland Lao veterans who fought in special guerilla units on behalf of the United States during the Vietnam conflict, along with their families, have been lawfully admitted to the United States in recent years.

(4) The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193), the new national welfare reform law, restricts certain welfare benefits for noncitizens of the United States and the exceptions for noncitizen veterans of the Armed Forces of the United States do not extend to Hmong veterans of the Vietnam conflict era, making Hmong veterans and their families receiving certain welfare benefits subject to restrictions despite their military service on behalf of the United States.

(b) CONGRESSIONAL STATEMENT.—It is the sense of the Congress that Hmong and other Highland Lao veterans who fought on behalf of the Armed Forces of the United States during the Vietnam conflict and have lawfully been admitted to the United States for permanent residence should be considered veterans for purposes of continuing certain welfare benefits consistent with the exceptions provided other noncitizen veterans under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

Subchapter B—General Provisions

SEC. 5972. DETERMINATION OF TREATMENT OF BATTERED ALIENS AS QUALIFIED ALIENS; INCLUSION OF ALIEN CHILD OF BATTERED PARENT AS QUALIFIED ALIEN.

(a) DETERMINATION OF STATUS BY AGENCY PROVIDING BENEFITS.—Section 431 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1641) is amended in subsections (c)(1)(A) and (c)(2)(A) by striking "Attorney General, which opinion is not subject to review by any court)" each place it appears and inserting "agency providing such benefits)".

(b) GUIDANCE ISSUED BY ATTORNEY GENERAL.—Section 431(c) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1641(c)) is amended by adding at the end the following new undesignated paragraph:

"After consultation with the Secretaries of Health and Human Services, Agriculture, and Housing and Urban Development, the Commissioner of Social Security, and with the heads of such Federal agencies administering benefits as the Attorney General considers appropriate, the Attorney General shall issue guidance (in the Attorney General's sole and unreviewable discretion) for purposes of this subsection and section 421(f), concerning the meaning of the terms 'battery' and 'extreme cruelty', and the standards and methods to be used for determining whether a substantial connection exists between battery or cruelty suffered and an individual's need for benefits under a specific Federal, State, or local program.".

(c) INCLUSION OF ALIEN CHILD OF BATTERED PARENT AS QUALIFIED ALIEN.—Section 431(c) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1641(c)) is amended—

(1) at the end of paragraph (1)(B)(iv) by striking "or";

(2) at the end of paragraph (2)(B) by striking the period and inserting "; or"; and

(3) by inserting after paragraph (2)(B) and before the last sentence of such subsection the following new paragraph:

"(3) an alien child who—

"(A) resides in the same household as a parent who has been battered or subjected to extreme cruelty in the United States by that parent's spouse or by a member of the spouse's family residing in the same household as the parent and the spouse consented or acquiesced to such battery or cruelty, but only if (in the opinion of the agency providing such benefits) there is a substantial connection between such battery or cruelty and the need for the benefits to be provided; and

"(B) who meets the requirement of subparagraph (B) of paragraph (1).".

(d) INCLUSION OF ALIEN CHILD OF BATTERED PARENT UNDER SPECIAL RULE FOR ATTRIBUTION OF INCOME.—Section 421(f)(1)(A) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1631(f)(1)(A)) is amended—

(1) at the end of clause (i) by striking "or"; and

(2) by striking "and the battery or cruelty described in clause (i) or (ii)" and inserting "or (iii) the alien is a child whose parent (who resides in the same household as the alien child) has been battered or subjected to extreme cruelty in the United States by that parent's spouse, or by a member of the spouse's family residing in the same household as the parent and the spouse consented to, or acquiesced in, such battery or cruelty, and the battery or cruelty described in clause (i), (ii), or (iii)".

SEC. 5973. VERIFICATION OF ELIGIBILITY FOR BENEFITS.

(a) REGULATIONS AND GUIDANCE.—Section 432(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1642(a)) is amended—

(1) by inserting at the end of paragraph (1) the following: "Not later than 90 days after the date of the enactment of the Welfare Reform Technical Corrections Act of 1997, the Attorney General of the United States, after consultation with the Secretary of Health and Human Services, shall issue interim verification guidance."; and

(2) by adding after paragraph (2) the following new paragraph:

"(3) Not later than 90 days after the date of the enactment of the Welfare Reform Technical Corrections Act of 1997, the Attorney General shall promulgate regulations which set forth the procedures by which a State or local government can verify whether an alien applying for a State or local public benefit is a qualified alien, a nonimmigrant under the Immigration and Nationality Act, or an alien paroled into the United States under section 212(d)(5) of the Immigration and Nationality Act for less than 1 year, for purposes of determining whether the alien is ineligible for benefits under section 411 of this Act.".

(b) DISCLOSURE OF INFORMATION FOR VERIFICATION.—Section 384(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208) is amended by adding after paragraph (4) the following new paragraph:

"(5) The Attorney General is authorized to disclose information, to Federal, State, and local public and private agencies providing benefits, to be used solely in making determinations of eligibility for benefits pursuant to section 431(c) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.".

SEC. 5974. QUALIFYING QUARTERS: DISCLOSURE OF QUARTERS OF COVERAGE INFORMATION; CORRECTION TO ASSURE THAT CREDITING APPLIES TO ALL QUARTERS EARNED BY PARENTS BEFORE CHILD IS 18.

(a) DISCLOSURE OF QUARTERS OF COVERAGE INFORMATION.—Section 435 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1645) is amended by adding at the end the following: "Notwithstanding section 6103 of the Internal Revenue Code of 1986, the Commissioner of Social Security is authorized to disclose quarters of coverage information concerning an alien and an alien's spouse or parents to a government agency for the purposes of this title.".

(b) CORRECTION TO ASSURE THAT CREDITING APPLIES TO ALL QUARTERS EARNED BY PARENTS BEFORE CHILD IS 18.—Section 435(1) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1645(1)) is amended by striking "while the alien was under age 18," and inserting "before the date on which the alien attains age 18,".

SEC. 5975. STATUTORY CONSTRUCTION: BENEFIT ELIGIBILITY LIMITATIONS APPLICABLE ONLY WITH RESPECT TO ALIENS PRESENT IN THE UNITED STATES.

Section 433 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1643) is amended—

(1) by redesignated subsections (b) and (c) as subsections (c) and (d); and

(2) by adding after subsection (a) the following new subsection:

"(b) BENEFIT ELIGIBILITY LIMITATIONS APPLICABLE ONLY WITH RESPECT TO ALIENS PRESENT IN THE UNITED STATES.—Notwithstanding any other provision of this title, the limitations on eligibility for benefits under this title shall not apply to eligibility for benefits of aliens who are not residing, or present, in the United States with respect to—

"(1) wages, pensions, annuities, and other earned payments to which an alien is entitled resulting from employment by, or on behalf of, a Federal, State, or local government agency which was not prohibited during the period of such employment or service under section 274A or other applicable provision of the Immigration and Nationality Act; or

"(2) benefits under laws administered by the Secretary of Veterans Affairs.".

Subchapter C—Miscellaneous Clerical and Technical Amendments; Effective Date

SEC. 5976. CORRECTING MISCELLANEOUS CLERICAL AND TECHNICAL ERRORS.

(a) INFORMATION REPORTING UNDER TITLE IV OF THE SOCIAL SECURITY ACT.—Effective July 1, 1997, section 408 of the Social Security Act (42 U.S.C. 608), as amended by section 5903, and as in effect pursuant to section 116 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, and as amended by section 5906(e) of this Act, is amended by adding at the end the following new subsection:

"(f) STATE REQUIRED TO PROVIDE CERTAIN INFORMATION.—Each State to which a grant is made under section 403 shall, at least 4 times annually and upon request of the Immigration and Naturalization Service, furnish the Immigration and Naturalization Service with the name and address of, and other identifying information on, any individual who the State

knows is not lawfully present in the United States.''.

(b) MISCELLANEOUS CLERICAL AND TECHNICAL CORRECTIONS.—

(1) Section 411(c)(3) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1621(c)(3)) is amended by striking ''4001(c)'' and inserting ''401(c)''.

(2) Section 422(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1632(a)) is amended by striking ''benefits (as defined in section 412(c)),'' and inserting ''benefits,''.

(3) Section 412(b)(1)(C) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1622(b)(1)(C)) is amended by striking ''with-holding'' and inserting ''withholding''.

(4) The subtitle heading for subtitle D of title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 is amended to read as follows:

"Subtitle D—General Provisions".

(5) The subtitle heading for subtitle F of title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 is amended to read as follows:

"Subtitle F—Earned Income Credit Denied to Unauthorized Employees".

(6) Section 431(c)(2)(B) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1641(c)(2)(B)) is amended by striking ''clause (ii) of subparagraph (A)'' and inserting ''subparagraph (B) of paragraph (1)''.

(7) Section 431(c)(1)(B) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1641(c)(1)(B)) is amended—

(A) in clause (iii) by striking '', or'' and inserting ''(as in effect prior to April 1, 1997),''; and

(B) by adding after clause (iv) the following new clause:

''(v) cancellation of removal pursuant to section 240A(b)(2) of such Act;''.

SEC. 5977. EFFECTIVE DATE.

Except as otherwise provided, the amendments made by this chapter shall be effective as if included in the enactment of title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

CHAPTER 5—CHILD PROTECTION

SEC. 5981. CONFORMING AND TECHNICAL AMENDMENTS RELATING TO CHILD PROTECTION.

(a) METHODS PERMITTED FOR CONDUCT OF STUDY OF CHILD WELFARE.—Section 429A(a) (42 U.S.C. 628b(a)) is amended by inserting ''(directly, or by grant, contract, or interagency agreement)'' after ''conduct''.

(b) REDESIGNATION OF PARAGRAPH.—Section 471(a) (42 U.S.C. 671(a)) is amended—

(1) by striking ''and'' at the end of paragraph (17);

(2) by striking the period at the end of paragraph (18) (as added by section 1808(a) of the Small Business Job Protection Act of 1996 (Public Law 104–188; 110 Stat. 1903)) and inserting ''; and''; and

(3) by redesignating paragraph (18) (as added by section 505(3) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2278)) as paragraph (19).

SEC. 5982. ADDITIONAL TECHNICAL AMENDMENTS RELATING TO CHILD PROTECTION.

(a) PART B AMENDMENTS.—

(1) IN GENERAL.—Part B of title IV (42 U.S.C. 620–635) is amended—

(A) in section 422(b)—

(i) by striking the period at the end of the paragraph (9) (as added by section 554(3) of the Improving America's Schools Act of 1994 (Public Law 103–382; 108 Stat. 4057)) and inserting a semicolon;

(ii) by redesignating paragraph (10) as paragraph (11); and

(iii) by redesignating paragraph (9), as added by section 202(a)(3) of the Social Security Act Amendments of 1994 (Public Law 103–432, 108 Stat. 4453), as paragraph (10);

(B) in sections 424(b) and 425(a), by striking ''422(b)(9)'' each place it appears and inserting ''422(b)(10)''; and

(C) by transferring section 429A (as added by section 503 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2277)) to the end of subpart 1.

(2) CLARIFICATION OF CONFLICTING AMENDMENTS.—Section 204(a)(2) of the Social Security Act Amendments of 1994 (Public Law 103–432; 108 Stat. 4456) is amended by inserting ''(as added by such section 202(a))'' before ''and inserting''.

(b) PART E AMENDMENTS.—Section 472(d) (42 U.S.C. 672(d)) is amended by striking ''422(b)(9)'' and inserting ''422(b)(10)''.

SEC. 5983. EFFECTIVE DATE.

The amendments made by this chapter shall take effect as if included in the enactment of title V of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2277).

CHAPTER 6—CHILD CARE

SEC. 5985. CONFORMING AND TECHNICAL AMENDMENTS RELATING TO CHILD CARE.

(a) FUNDING.—Section 418(a) (42 U.S.C. 618(a)) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by inserting ''the greater of'' after ''equal to'';

(B) in subparagraph (A)—

(i) by striking ''the sum of'';

(ii) by striking ''amounts expended'' and inserting ''expenditures''; and

(iii) by striking ''section—'' and all that follows and inserting ''subsections (g) and (i) of section 402 (as in effect before October 1, 1995); or'';

(C) in subparagraph (B)—

(i) by striking ''sections'' and inserting ''subsections''; and

(ii) by striking the semicolon at the end and inserting a period; and

(D) in the matter following subparagraph (B), by striking ''whichever is greater.''; and

(2) in paragraph (2)—

(A) by striking subparagraph (B) and inserting the following:

''(B) ALLOTMENTS TO STATES.—The total amount available for payments to States under this paragraph, as determined under subparagraph (A), shall be allotted among the States based on the formula used for determining the amount of Federal payments to each State under section 403(n) (as in effect before October 1, 1995).'';

(B) by striking subparagraph (C) and inserting the following:

''(C) FEDERAL MATCHING OF STATE EXPENDITURES EXCEEDING HISTORICAL EXPENDITURES.—The Secretary shall pay to each eligible State for a fiscal year an amount equal to the lesser of the State's allotment under subparagraph (B) or the Federal medical assistance percentage for the State for the fiscal year (as defined in section 1905(b), as such section was in effect on September 30, 1995) of so much of the State's expenditures for child care in that fiscal year as exceed the total amount of expenditures by the State (including expenditures from amounts made available from Federal funds) in fiscal year 1994 or 1995 (whichever is greater) for the programs described in paragraph (1)(A).''; and

(C) in subparagraph (D)(i)—

(i) by striking ''amounts under any grant awarded'' and inserting ''any amounts allotted''; and

(ii) by striking ''the grant is made'' and inserting ''such amounts are allotted''.

(b) DATA USED TO DETERMINE HISTORIC STATE EXPENDITURES.—Section 418(a) (42 U.S.C. 618(a)), is amended by adding at the end the following:

''(5) DATA USED TO DETERMINE STATE AND FEDERAL SHARES OF EXPENDITURES.—In making the determinations concerning expenditures required under paragraphs (1) and (2)(C), the Secretary shall use information that was reported by the State on ACF Form 231 and available as of the applicable dates specified in clauses (i)(I), (ii), and (iii)(III) of section 403(a)(1)(D).''.

(c) DEFINITION OF STATE.—Section 418(d) (42 U.S.C. 618(d)) is amended by striking ''or'' and inserting ''and''.

SEC. 5986. ADDITIONAL CONFORMING AND TECHNICAL AMENDMENTS.

The Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.) is amended—

(1) in section 658E(c)(2)(E)(ii), by striking ''tribal organization'' and inserting ''tribal organizations'';

(2) in section 658K(a)—

(A) in paragraph (1)—

(i) in subparagraph (B)—

(I) by striking clause (iv) and inserting the following:

''(iv) whether the head of the family unit is a single parent;'';

(II) in clause (v)—

(aa) in the matter preceding subclause (I), by striking ''including the amount obtained from (and separately identified)—'' and inserting ''including—''; and

(bb) by striking subclause (II) and inserting the following:

''(II) cash or other assistance under—

''(aa) the temporary assistance for needy families program under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.); and

''(bb) a State program for which State spending is counted toward the maintenance of effort requirement under section 409(a)(7) of the Social Security Act (42 U.S.C. 609(a)(7));''; and

(III) in clause (x), by striking ''week'' and inserting ''month''; and

(ii) by striking subparagraph (D) and inserting the following:

''(D) USE OF SAMPLES.—

''(i) AUTHORITY.—A State may comply with the requirement to collect the information described in subparagraph (B) through the use of disaggregated case record information on a sample of families selected through the use of scientifically acceptable sampling methods approved by the Secretary.

''(ii) SAMPLING AND OTHER METHODS.—The Secretary shall provide the States with such case sampling plans and data collection procedures as the Secretary deems necessary to produce statistically valid samples of the information described in subparagraph (B). The Secretary may develop and implement procedures for verifying the quality of data submitted by the States.''; and

(B) in paragraph (2)—

(i) in the heading, by striking ''BIANNUAL'' and inserting ''ANNUAL''; and

(ii) by striking ''6'' and inserting ''12'';

(3) in section 658L, by striking ''1997'' and inserting ''1998'';

(4) in section 658O(c)(6)(C), by striking ''(A)'' and inserting ''(B)''; and

(5) in section 658P(13), by striking ''or'' and inserting ''and''.

SEC. 5987. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), this chapter and the amendments made by this chapter shall take effect as if included in the enactment of title VI of the Personal Responsibility and Work Opportunity

Reconciliation Act of 1996 (Public Law 104-193; 110 Stat. 2278).

(b) Exceptions.—The amendment made by section 5985(a)(2)(B) and the repeal made by section 5987(d) shall each take effect on October 1, 1997.

CHAPTER 7—ERISA AMENDMENTS RELATING TO MEDICAL CHILD SUPPORT ORDERS

SEC. 5991. AMENDMENTS RELATING TO SECTION 303 OF THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996.

(a) Privacy Safeguards for Medical Child Support Orders.—Section 609(a)(3)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1169(a)(3)(A)) is amended by adding at the end the following: "except that, to the extent provided in the order, the name and mailing address of an official of a State or a political subdivision thereof may be substituted for the mailing address of any such alternate recipient,".

(b) Payment to State Official Treated as Satisfaction of Plan's Obligation.—Section 609(a) of such Act (29 U.S.C. 1169(a)) is amended by adding at the end the following new paragraph:

"(9) Payment to State Official Treated as Satisfaction of Plan's Obligation to Make Payment to Alternate Recipient.—Payment of benefits by a group health plan to an official of a State or a political subdivision thereof who is named in a qualified medical child support order in lieu of the alternate recipient, pursuant to paragraph (3)(A), shall be treated, for purposes of this title, as payment of benefits to the alternate recipient.".

(c) Effective Date.—The amendments made by this section shall be apply with respect to medical child support orders issued on or after the date of the enactment of this Act.

SEC. 5992. AMENDMENT RELATING TO SECTION 381 OF THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996.

(a) Clarification of Effect of Administrative Notices.—Section 609(a)(2)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1169(a)(2)(B)) is amended by adding at the end the following new sentence: "For purposes of this subparagraph, an administrative notice which is issued pursuant to an administrative process referred to in subclause (II) of the preceding sentence and which has the effect of an order described in clause (i) or (ii) of the preceding sentence shall be treated as such an order.".

(b) Effective Date.—The amendment made by this section shall be effective as if included in the enactment of section 381 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193; 110 Stat. 2257).

SEC. 5993. AMENDMENTS RELATING TO SECTION 382 OF THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996.

(a) Elimination of Requirement That Orders Specify Affected Plans.—Section 609(a)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1169(a)(3)) is amended—

(1) in subparagraph (C), by striking ", and" and inserting a period; and

(2) by striking subparagraph (D).

(b) Effective Date.—The amendments made by this section shall apply with respect to medical child support orders issued on or after the date of the enactment of this Act.

TITLE VI—COMMITTEE ON GOVERNMENTAL AFFAIRS

Subtitle A—Civil Service and Postal Provisions

SEC. 6001. INCREASED CONTRIBUTIONS TO FEDERAL CIVILIAN RETIREMENT SYSTEMS.

(a) Civil Service Retirement System.—

(1) Agency contributions.—Notwithstanding section 8334(a)(1) of title 5, United States Code—

(A) during the period beginning on October 1, 1997, through September 30, 2001, each employing agency (other than the United States Postal Service, the Metropolitan Washington Airports Authority, or the government of the District of Columbia) shall contribute—

(i) 8.51 percent of the basic pay of an employee;

(ii) 9.01 percent of the basic pay of a congressional employee, a law enforcement officer, a member of the Capitol police, or a firefighter; and

(iii) 9.51 percent of the basic pay of a Member of Congress, a Claims Court judge, a United States magistrate, a judge of the United States Court of Appeals for the Armed Forces, or a bankruptcy judge; and

(B) during the period beginning on October 1, 2001, through September 30, 2002, each employing agency (other than the United States Postal Service, the Metropolitan Washington Airports Authority, or the government of the District of Columbia) shall contribute—

(i) 8.6 percent of the basic pay of an employee;

(ii) 9.1 percent of the basic pay of a congressional employee, a law enforcement officer, a member of the Capitol police, or a firefighter; and

(iii) 9.6 percent of the basic pay of a Member of Congress, a Claims Court judge, a United States magistrate, a judge of the United States Court of Appeals for the Armed Forces, or a bankruptcy judge;

in lieu of the agency contributions otherwise required under section 8334(a)(1) of title 5, United States Code.

(2) No reduction in agency contributions by the Postal Service.—Agency contributions by the United States Postal Service under section 8348(h) of title 5, United States Code—

(A) shall not be reduced as a result of the amendments made under paragraph (3) of this subsection; and

(B) shall be computed as though such amendments had not been enacted.

(3) Individual deductions, withholdings, and deposits.—The table under section 8334(c) of title 5, United States Code, is amended—

(A) in the matter relating to an employee by striking:

"7	After December 31, 1969.";

and inserting the following:

"7	January 1, 1970, to December 31, 1998.
7.25	January 1, 1999, to December 31, 1999.
7.4	January 1, 2000, to December 31, 2000.
7.5	January 1, 2001, to December 31, 2002.
7	After December 31, 2002.";

(B) in the matter relating to a Member or employee for congressional employee service by striking:

"7½	After December 31, 1969.";

and inserting the following:

"7.5	January 1, 1970, to December 31, 1998.
7.75	January 1, 1999, to December 31, 1999.
7.9	January 1, 2000, to December 31, 2000.
8	January 1, 2001, to December 31, 2002.
7.5	After December 31, 2002.";

(C) in the matter relating to a Member for Member service by striking:

"8	After December 31, 1969.";

and inserting the following:

"8	January 1, 1970, to December 31, 1998.
8.25	January 1, 1999, to December 31, 1999.
8.4	January 1, 2000, to December 31, 2000.
8.5	January 1, 2001, to December 31, 2002.
8	After December 31, 2002.";

(D) in the matter relating to a law enforcement officer for law enforcement service and firefighter for firefighter service by striking:

"7½	After December 31, 1974.";

and inserting the following:

"7.5	January 1, 1975, to December 31, 1998.
7.75	January 1, 1999, to December 31, 1999.
7.9	January 1, 2000, to December 31, 2000.
8	January 1, 2001, to December 31, 2002.
7.5	After December 31, 2002.";

(E) in the matter relating to a bankruptcy judge by striking:

"8	After December 31, 1983.";

and inserting the following:

"8	January 1, 1984, to December 31, 1998.
8.25	January 1, 1999, to December 31, 1999.
8.4	January 1, 2000, to December 31, 2000.
8.5	January 1, 2001, to December 31, 2002.
8	After December 31, 2002.";

(F) in the matter relating to a judge of the United States Court of Appeals for the Armed Forces for service as a judge of that court by striking:

"8	On and after the date of enactment of the Department of Defense Authorization Act, 1984.";

and inserting the following:

"8	The date of enactment of the Department of Defense Authorization Act, 1984, to December 31, 1998.
8.25	January 1, 1999, to December 31, 1999.
8.4	January 1, 2000, to December 31, 2000.
8.5	January 1, 2001, to December 31, 2002.
8	After December 31, 2002.";

(G) in the matter relating to a United States magistrate by striking:

"8	After September 30, 1987.";

and inserting the following:

"8	October 1, 1987, to December 31, 1998.
8.25	January 1, 1999, to December 31, 1999.
8.4	January 1, 2000, to December 31, 2000.
8.5	January 1, 2001, to December 31, 2002.
8	After December 31, 2002.";

(H) in the matter relating to a Claims Court judge by striking:

"8	After September 30, 1988.";

and insert the following:

"8	October 1, 1988, to December 31, 1998.
8.25	January 1, 1999, to December 31, 1999.
8.4	January 1, 2000, to December 31, 2000.
8.5	January 1, 2001, to December 31, 2002.
8	After December 31, 2002.";

and

(I) by inserting after the matter relating to a Claims Court judge the following:

"Member of the Capitol Police.	2.5	August 1, 1920, to June 30, 1926.
	3.5	July 1, 1926, to June 30, 1942.
	5	July 1, 1942, to June 30, 1948.
	6	July 1, 1948, to October 31, 1956.
	6.5	November 1, 1956, to December 31, 1969.
	7.5	January 1, 1970, to December 31, 1998.
	7.75	January 1, 1999, to December 31, 1999.
	7.9	January 1, 2000, to December 31, 2000.
	8	January 1, 2001, to December 31, 2002.
	7.5	After December 31, 2002.".

(4) OTHER SERVICE.—

(A) MILITARY SERVICE.—Section 8334(j) of title 5, United States Code, is amended—

(i) in paragraph (1)(A) by inserting "and subject to paragraph (5)," after "Except as provided in subparagraph (B),"; and

(ii) by adding at the end the following new paragraph:

"(5) Effective with respect to any period of military service after December 31, 1998, the percentage of basic pay under section 204 of title 37 payable under paragraph (1) shall be equal to the same percentage as would be applicable under subsection (c) of this section for that same period for service as an employee, subject to paragraph (1)(B).".

(B) VOLUNTEER SERVICE.—Section 8334(l) of title 5, United States Code, is amended—

(i) in paragraph (1) by adding at the end the following: "This paragraph shall be subject to paragraph (4)."; and

(ii) by adding at the end the following new paragraph:

"(4) Effective with respect to any period of service after December 31, 1998, the percentage of the readjustment allowance or stipend (as the case may be) payable under paragraph (1) shall be equal to the same percentage as would be applicable under subsection (c) of this section for the same period for service as an employee.".

(b) FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—

(1) INDIVIDUAL DEDUCTIONS AND WITHHOLDINGS.—

(A) IN GENERAL.—Section 8422(a) of title 5, United States Code, is amended by striking paragraph (2) and inserting the following:

"(2) The percentage to be deducted and withheld from basic pay for any pay period shall be equal to—

"(A) the applicable percentage under paragraph (3), minus

"(B) the percentage then in effect under section 3101(a) of the Internal Revenue Code of 1986 (relating to rate of tax for old-age, survivors, and disability insurance).

"(3) The applicable percentage under this paragraph for civilian service shall be as follows:

"Employee	7	Before January 1, 1999.
	7.25	January 1, 1999, to December 31, 1999.
	7.4	January 1, 2000, to December 31, 2000.
	7.5	January 1, 2001, to December 31, 2002.
	7	After December 31, 2002.
Congressional employee.	7.5	Before January 1, 1999.
	7.75	January 1, 1999, to December 31, 1999.
	7.9	January 1, 2000, to December 31, 2000.
	8	January 1, 2001, to December 31, 2002.
	7.5	After December 31, 2002.
Member	7.5	Before January 1, 1999.
	7.75	January 1, 1999, to December 31, 1999.
	7.9	January 1, 2000, to December 31, 2000.
	8	January 1, 2001, to December 31, 2002.
	7.5	After December 31, 2002.
Law enforcement officer, firefighter, member of the Capitol Police, or air traffic controller.	7.5	Before January 1, 1999.
	7.75	January 1, 1999, to December 31, 1999.
	7.9	January 1, 2000, to December 31, 2000.
	8	January 1, 2001, to December 31, 2002.
	7.5	After December 31, 2002.".

(B) MILITARY SERVICE.—Section 8422(e) of title 5, United States Code, is amended—

(i) in paragraph (1)(A) by inserting "and subject to paragraph (6)," after "Except as provided in subparagraph (B),"; and

(ii) by adding at the end the following:

"(6) The percentage of basic pay under section 204 of title 37 payable under paragraph (1), with respect to any period of military service performed during—

"(A) January 1, 1999, through December 31, 1999, shall be 3.25 percent;

"(B) January 1, 2000, through December 31, 2000, shall be 3.4 percent; and

"(C) January 1, 2001, through December 31, 2002, shall be 3.5 percent.".

(C) VOLUNTEER SERVICE.—Section 8422(f) of title 5, United States Code, is amended—

(i) in paragraph (1) by adding at the end the following: "This paragraph shall be subject to paragraph (4)."; and

(ii) by adding at the end the following:

"(4) The percentage of the readjustment allowance or stipend (as the case may be) payable under paragraph (1), with respect to any period of volunteer service performed during—

"(A) January 1, 1999, through December 31, 1999, shall be 3.25 percent;

"(B) January 1, 2000, through December 31, 2000, shall be 3.4 percent; and

"(C) January 1, 2001, through December 31, 2002, shall be 3.5 percent.".

(2) NO REDUCTION IN AGENCY CONTRIBUTIONS.—Agency contributions under section 8423 (a) and (b) of title 5, United States Code, shall not be reduced as a result of the amendments made under paragraph (1) of this subsection.

(c) CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM.—

(1) AGENCY CONTRIBUTIONS.—Notwithstanding section 211(a)(2) of the Central Intelligence Agency Retirement Act (50 U.S.C. 2021(a)(2))—

(A) during the period beginning on October 1, 1997, through September 30, 2001, the Central Intelligence Agency shall contribute 8.51 percent of the basic pay of an employee participating in the Central Intelligence Agency Retirement and Disability System; and

(B) during the period beginning on October 1, 2001, through September 30, 2002, the Central Intelligence Agency shall contribute 8.6 percent of the basic pay of an employee participating in the Central Intelligence Agency Retirement and Disability System.

(2) INDIVIDUAL DEDUCTIONS, WITHHOLDINGS, AND DEPOSITS.—Notwithstanding section 211(a)(1) of the Central Intelligence Agency Retirement Act (50 U.S.C. 2021(a)(1)) beginning on January 1, 1999, through December 31, 2002, the amount withheld and deducted from the basic pay of an employee participating in Central Intelligence Agency Retirement and Disability System shall be as follows:

"7.25	January 1, 1999, to December 31, 1999.
7.4	January 1, 2000, to December 31, 2000.
7.5	January 1, 2001, to December 31, 2002.
7	After December 31, 2002.".

(3) MILITARY SERVICE.—Section 252(h)(1) of the Central Intelligence Agency Retirement Act (50 U.S.C. 2082(h)(1)), is amended to read as follows:

"(h)(1)(A) Each participant who has performed military service before the date of separation on which entitlement to an annuity under this title is based may pay to the Agency an amount equal to 7 percent of the amount of basic pay paid under section 204 of title 37, United States Code, to the participant for each period of military service after December 1956; except, the amount to be paid for military service performed beginning on January 1, 1999, through December 31, 2002, shall be as follows:

"7.25 percent of basic pay.	January 1, 1999, to December 31, 1999.
7.4 percent of basic pay.	January 1, 2000, to December 31, 2000.
7.5 percent of basic pay.	January 1, 2001, to December 31, 2002.
7 percent of basic pay.	After December 31, 2002.

"(B) The amount of such payments shall be based on such evidence of basic pay for military service as the participant may provide or, if the Director determines sufficient evidence has not been provided to adequately determine basic pay for military service, such payment shall be based upon estimates of such basic pay provided to the Director under paragraph (4).".

(d) FOREIGN SERVICE RETIREMENT AND DISABILITY SYSTEM.—

(1) AGENCY CONTRIBUTIONS.—Notwithstanding section 805(a) (1) and (2) of the Foreign Service Act of 1980 (22 U.S.C. 4045(a) (1) and (2))—

(A) during the period beginning on October 1, 1997, through September 30, 2001, each agency employing a participant in the Foreign Service Retirement and Disability System shall contribute to the Foreign Service Retirement and Disability Fund—

(i) 8.51 percent of the basic pay of each participant covered under section 805(a)(1) of such Act participating in the Foreign Service Retirement and Disability System; and

(ii) 9.01 percent of the basic pay of each participant covered under section 805(a)(2) of such Act participating in the Foreign Service Retirement and Disability System; and

(B) during the period beginning on October 1, 2001, through September 30, 2002, each agency employing a participant in the Foreign Service Retirement and Disability System shall contribute to the Foreign Service Retirement and Disability Fund—

(i) 8.6 percent of the basic pay of each participant covered under section 805(a)(1) of such Act participating in the Foreign Service Retirement and Disability System; and

(ii) 9.1 percent of the basic pay of each participant covered under section 805(a)(2) of such Act participating in the Foreign Service Retirement and Disability System.

(2) INDIVIDUAL DEDUCTIONS, WITHHOLDINGS, AND DEPOSITS.—

(A) IN GENERAL.—Notwithstanding section 805(a)(1) of the Foreign Service Act of 1980 (22 U.S.C. 4045(a)(1)), beginning on January 1, 1999, through December 31, 2002, the amount withheld and deducted from the basic pay of a participant in the Foreign Service Retirement and Disability System shall be as follows:

"7.25	January 1, 1999, to December 31, 1999.
7.4	January 1, 2000, to December 31, 2000.
7.5	January 1, 2001, to December 31, 2002.
7	After December 31, 2002.".

(B) FOREIGN SERVICE CRIMINAL INVESTIGATORS/INSPECTORS OF THE OFFICE OF THE INSPECTOR GENERAL, AGENCY FOR INTERNATIONAL DEVELOPMENT.—Notwithstanding section 805(a)(2) of the Foreign Service Act of 1980 (22 U.S.C. 4045(a)(2)), beginning on January 1, 1999, through December 31, 2002, the amount withheld and deducted from the basic pay of an eligible Foreign Service criminal investigator/inspector of the Office of the Inspector General, Agency for International Development participating in the Foreign Service Retirement and Disability System shall be as follows:

"7.75	January 1, 1999, to December 31, 1999.
7.9	January 1, 2000, to December 31, 2000.
8	January 1, 2001, to December 31, 2002.
7.5	After December 31, 2002.".

(C) MILITARY SERVICE.—Section 805(e) of the Foreign Service Act of 1980 (22 U.S.C. 4045(e)) is amended—

(i) in subsection (e)(1) by striking "Each" and inserting "Subject to paragraph (5), each"; and

(ii) by adding after paragraph (4) the following new paragraph:

"(5) Effective with respect to any period of military service after December 31, 1998, the percentage of basic pay under section 204 of title 37, United States Code, payable under paragraph (1) shall be equal to the same percentage as would be applicable under section 8334(c) of title 5, United States Code, for that same period for service as an employee.".

(e) FOREIGN SERVICE PENSION SYSTEM.—

(1) INDIVIDUAL DEDUCTIONS AND WITHHOLDINGS FROM PAY.—

(A) IN GENERAL.—Section 856(a) of the Foreign Service Act of 1980 (22 U.S.C. 4071e(a)) is amended to read as follows:

"(a)(1) The employing agency shall deduct and withhold from the basic pay of each participant the applicable percentage of basic pay specified in paragraph (2) of this subsection minus the percentage then in effect under section 3101(a) of the Internal Revenue Code of 1986 (26 U.S.C. 3101(a)) (relating to the rate of tax for old age, survivors, and disability insurance).

"(2) The applicable percentage under this subsection shall be as follows:

"7.5	Before January 1, 1999.
7.75	January 1, 1999, to December 31, 1999.
7.9	January 1, 2000, to December 31, 2000.
8	January 1, 2001, to December 31, 2002.
7.5	After December 31, 2002.".

(B) VOLUNTEER SERVICE.—Subsection 854(c) of the Foreign Service Act of 1980 (22 U.S.C. 4071c(c)) is amended to read as follows:

"(c)(1) Credit shall be given under this System to a participant for a period of prior satisfactory service as—

"(A) a volunteer or volunteer leader under the Peace Corps Act (22 U.S.C. 2501 et seq.),

"(B) a volunteer under part A of title VIII of the Economic Opportunity Act of 1964, or

"(C) a full-time volunteer for a period of service of at least 1 year's duration under part A, B, or C of title I of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951 et seq.),

if the participant makes a payment to the Fund equal to 3 percent of pay received for the volunteer service; except, the amount to be paid for volunteer service beginning on January 1, 1999, through December 31, 2002, shall be as follows:

"3.25	January 1, 1999, to December 31, 1999.
3.4	January 1, 2000, to December 31, 2000.
3.5	January 1, 2001, to December 31, 2002.

"(2) The amount of such payments shall be determined in accordance with regulations of the Secretary of State consistent with regulations for making corresponding determinations under chapter 83, title 5, United States Code, together with interest determined under regulations issued by the Secretary of State.".

(2) NO REDUCTION IN AGENCY CONTRIBUTIONS.—Agency contributions under section 857 of the Foreign Service Act of 1980 (22 U.S.C. 4071f) shall not be reduced as a result of the amendments made under paragraph (1) of this subsection.

(f) EFFECTIVE DATE.—Except as otherwise provided, the amendments made by this section shall take effect on the first day of the first applicable pay period beginning on or after January 1, 1999.

SEC. 6002. GOVERNMENT CONTRIBUTIONS UNDER THE FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM.

(a) IN GENERAL.—Section 8906 of title 5, United States Code, is amended by striking subsection (a) and all that follows through the end of paragraph (1) of subsection (b) and inserting the following:

"(a)(1) Not later than October 1 of each year, the Office of Personnel Management shall determine the weighted average of the subscription charges that will be in effect during the following contract year with respect to—

"(A) enrollments under this chapter for self alone; and

"(B) enrollments under this chapter for self and family.

"(2) In determining each weighted average under paragraph (1), the weight to be given to a particular subscription charge shall, with respect to each plan (and option) to which it is to apply, be commensurate with the number of enrollees enrolled in such plan (and option) as of March 31 of the year in which the determination is being made.

"(3) For purposes of paragraph (2), the term 'enrollee' means any individual who, during the contract year for which the weighted average is to be used under this section, will be eligible for a Government contribution for health benefits.

"(b)(1) Except as provided in paragraphs (2) and (3), the biweekly Government contribution for health benefits for an employee or annuitant enrolled in a health benefits plan under this chapter is adjusted to an amount equal to 72 percent of the weighted average under subsection (a)(1) (A) or (B), as applicable. For an employee, the adjustment begins on the first day of the employee's first pay period of each year. For an annuitant, the adjustment begins on the first day of the first period of each year for which an annuity payment is made.".

(b) EFFECTIVE DATE.—This section shall take effect on the first day of the contract year that begins in 1999. Nothing in this subsection shall prevent the Office of Personnel Management from taking any action, before such first day, which it considers necessary in order to ensure the timely implementation of this section.

SEC. 6003. REPEAL OF AUTHORIZATION OF TRANSITIONAL APPROPRIATIONS FOR THE UNITED STATES POSTAL SERVICE.

(a) REPEAL.—

(1) IN GENERAL.—Section 2004 of title 39, United States Code, is repealed.

(2) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) The table of sections for chapter 20 of such title is amended by repealing the item relating to section 2004.

(B) Section 2003(e)(2) of such title is amended by striking "sections 2401 and 2004" each place it appears and inserting "section 2401".

(b) CLARIFICATION THAT LIABILITIES FORMERLY PAID PURSUANT TO SECTION 2004 REMAIN LIABILITIES PAYABLE BY THE POSTAL SERVICE.—Section 2003 of title 39, United States Code, is amended by adding at the end the following:

"(h) Liabilities of the former Post Office Department to the Employees' Compensation Fund (appropriations for which were authorized by former section 2004, as in effect before the effective date of this subsection) shall be liabilities of the Postal Service payable out of the Fund.".

(c) EFFECTIVE DATE.—This section and the amendments made by this section shall be effective as of October 1, 1997.

SEC. 6004. MEDICARE MEANS TESTING STANDARD APPLICABLE TO SENATORS' HEALTH COVERAGE UNDER THE FEHBP.

(a) PURPOSE.—The purpose of this section is to apply the medicare means testing requirements for part B premiums to individuals with adjusted gross incomes in excess of $100,000 as enacted under section 5542 of this Act, to United States Senators with respect to their employee contributions and Government contributions under the Federal Employees Health Benefits Program.

(b) IN GENERAL.—Section 8906 of title 5, United States Code, is amended by adding at the end the following:

"(j) Notwithstanding any other provision of this section, each employee who is a Senator and is paid at an annual rate of pay exceeding $100,000 shall pay the employee contribution and the full amount of the Government contribution which applies under this section. The Secretary of the Senate shall deduct and withhold the contributions required under this section and deposit such contributions in the Employees Health Benefits Fund.".

(c) EFFECTIVE DATE.—This section shall take effect on the first day of the first pay period beginning on or after the date of enactment of this Act.

Subtitle B—GSA Property Sales

SEC. 6011. SALE OF GOVERNORS ISLAND, NEW YORK.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Administrator of General Services shall, no earlier than fiscal year 2002, dispose of by sale at fair market value all rights, title, and interests of the United States in and to the land of, and improvements to, Governors Island, New York.

(b) RIGHT OF FIRST OFFER.—Before a sale is made under subsection (a) to any other parties, the State of New York and the city of New York shall be given the right of first offer to purchase all or part of Governors Island at fair market value as determined by the Administrator of General Services. Not later than 90 days after notification by the Administrator of General Services, such right may be exercised by either the State of New York or the city of New York or by both parties acting jointly.

(c) PROCEEDS.—Proceeds from the disposal of Governors Island under subsection (a) shall be deposited in the general fund of the Treasury and credited as miscellaneous receipts.

SEC. 6012. SALE OF AIR RIGHTS.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Administrator of General Services shall sell, at fair market value and in a manner to be determined by the Administrator, the air rights adjacent to Washington Union Station described in subsection (b), including air rights conveyed to the Administrator under subsection (d). The Administrator shall complete the sale by such date as is necessary to ensure that the proceeds from the sale will be deposited in accordance with subsection (c).

(b) DESCRIPTION.—The air rights referred to in subsection (a) total approximately 16.5 acres

and are depicted on the plat map of the District of Columbia as follows:

(1) Part of lot 172, square 720.

(2) Part of lots 172 and 823, square 720.

(3) Part of lot 811, square 717.

(c) PROCEEDS.—Before September 30, 2002, proceeds from the sale of air rights under subsection (a) shall be deposited in the general fund of the Treasury and credited as miscellaneous receipts.

(d) CONVEYANCE OF AMTRAK AIR RIGHTS.—

(1) GENERAL RULE.—As a condition of future Federal financial assistance, Amtrak shall convey to the Administrator of General Services on or before December 31, 1997, at no charge, all of the air rights of Amtrak described in subsection (b).

(2) FAILURE TO COMPLY.—If Amtrak does not meet the condition established by paragraph (1), Amtrak shall be prohibited from obligating Federal funds after March 1, 1998.

TITLE VII—COMMITTEE ON LABOR AND HUMAN RESOURCES

SEC. 7001. MANAGEMENT AND RECOVERY OF RESERVES.

(a) AMENDMENT.—Section 422 of the Higher Education Act of 1965 (20 U.S.C. 1072) is amended by adding after subsection (g) the following new subsection:

"(h) RECALL OF RESERVES; LIMITATIONS ON USE OF RESERVE FUNDS AND ASSETS.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall, except as otherwise provided in this subsection, recall $1,028,000,000 from the reserve funds held by guaranty agencies under this part (which for purposes of this subsection shall include any reserve funds held by, or under the control of, any other entity) on September 1, 2002.

"(2) DEPOSIT.—Funds recalled by the Secretary under this subsection shall be deposited in the Treasury.

"(3) EQUITABLE SHARE.—The Secretary shall require each guaranty agency to return reserve funds under paragraph (1) based on such agency's equitable share of excess reserve funds held by guaranty agencies as of September 30, 1996. For purposes of this paragraph, a guaranty agency's equitable share of excess reserve funds shall be determined as follows:

"(A) The Secretary shall compute each agency's reserve ratio by dividing (i) the amount held in such agency's reserve (including funds held by, or under the control of, any other entity) as of September 30, 1996, by (ii) the original principal amount of all loans for which such agency has an outstanding insurance obligation.

"(B) If the reserve ratio of any agency as computed under subparagraph (A) exceeds 1.12 percent, the agency's equitable share shall include so much of the amounts held in such agency's reserve fund as exceed a reserve ratio of 1.12 percent.

"(C) If any additional amount is required to be recalled under paragraph (1) (after deducting the total of the equitable shares calculated under subparagraph (B)), the agencies' equitable shares shall include additional amounts—

"(i) determined by imposing on each such agency an equal percentage reduction in the amount of each agency's reserve fund remaining after deduction of the amount recalled under subparagraph (B); and

"(ii) the total of which equals the additional amount that is required to be recalled under paragraph (1) (after deducting the total of the equitable shares calculated under subparagraph (B)).

"(4) RESTRICTED ACCOUNTS.—Within 90 days after the beginning of each of fiscal years 1998 through 2002, each guaranty agency shall transfer a portion of each agency's equitable share determined under paragraph (3) to a restricted account established by the guaranty agency that is of a type selected by the guaranty agency with the approval of the Secretary. Funds transferred to such restricted accounts shall be invested in obligations issued or guaranteed by the United States or in other similarly low-risk securities. A guaranty agency shall not use the funds in such a restricted account for any purpose without the express written permission of the Secretary, except that a guaranty agency may use the earnings from such restricted account for activities to reduce student loan defaults under this part. The portion required to be transferred shall be determined as follows:

"(A) In fiscal year 1998—

"(i) all agencies combined shall transfer to a restricted account an amount equal to one-fifth of the total amount recalled under paragraph (1);

"(ii) each agency with a reserve ratio (as computed under paragraph (3)(A)) that exceeds 2 percent shall transfer to a restricted account so much of the amounts held in such agency's reserve fund as exceed a reserve ratio of 2 percent; and

"(iii) each agency shall transfer any additional amount required under clause (i) (after deducting the amount transferred under clause (ii)) by transferring an amount that represents an equal percentage of each agency's equitable share to a restricted account.

"(B) In fiscal years 1999 through 2002, each agency shall transfer an amount equal to one-fourth of the total amount remaining of the agency's equitable share (after deduction of the amount transferred under subparagraph (A)).

"(5) SHORTAGE.—If, on September 1, 2002, the total amount in the restricted accounts described in paragraph (4) is less than the amount the Secretary is required to recall under paragraph (1), the Secretary may require the return of the amount of the shortage from other reserve funds held by guaranty agencies under procedures established by the Secretary.

"(6) PROHIBITION.—The Secretary shall not have any authority to direct a guaranty agency to return reserve funds under subsection (g)(1)(A) during the period from the date of enactment of this subsection through September 30, 2002, and any reserve funds otherwise returned under subsection (g)(1) during such period shall be treated as amounts recalled under this subsection and shall not be available under subsection (g)(4).

"(7) DEFINITION.—For purposes of this subsection the term 'reserve funds' when used with respect to a guaranty agency—

"(A) includes any reserve funds held by, or under the control of, any other entity; and

"(B) does not include buildings, equipment, or other nonliquid assets.".

(b) CONFORMING AMENDMENT.—Section 428(c)(9)(A) of the Higher Education Act of 1965 (20 U.S.C. 1078(c)(9)(A)) is amended—

(1) in the first sentence, by striking "for the fiscal year of the agency that begins in 1993"; and

(2) by striking the third sentence.

SEC. 7002. REPEAL OF DIRECT LOAN ORIGINATION FEES TO INSTITUTIONS OF HIGHER EDUCATION.

Section 452 of the Higher Education Act of 1965 (20 U.S.C. 1087b) is amended—

(1) by striking subsection (b); and

(2) by redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

SEC. 7003. FUNDS FOR ADMINISTRATIVE EXPENSES.

Subsection (a) of section 458 of the Higher Education Act of 1965 (20 U.S.C. 1087h(a)) is amended to read as follows:

"(a) ADMINISTRATIVE EXPENSES.—

"(1) IN GENERAL.—Each fiscal year, there shall be available to the Secretary from funds not otherwise appropriated, funds to be obligated for—

"(A) administrative costs under this part, including the costs of the direct student loan programs under this part, and

"(B) administrative cost allowances payable to guaranty agencies under part B and calculated in accordance with paragraph (2),

not to exceed (from such funds not otherwise appropriated) $532,000,000 in fiscal year 1998, $610,000,000 in fiscal year 1999, $705,000,000 in fiscal year 2000, $750,000,000 in fiscal year 2001, and $750,000,000 in fiscal year 2002. Administrative cost allowances under subparagraph (B) of this paragraph shall be paid quarterly and used in accordance with section 428(f). The Secretary may carry over funds available under this section to a subsequent fiscal year.

"(2) CALCULATION BASIS.—Administrative cost allowances payable to guaranty agencies under paragraph (1)(B) shall be calculated on the basis of 0.85 percent of the total principal amount of loans upon which insurance is issued on or after the date of enactment of the Balanced Budget Act of 1997, except that such allowances shall not exceed—

"(A) $170,000,000 for each of the fiscal years 1998 and 1999; or

"(B) $150,000,000 for each of the fiscal years 2000, 2001, and 2002.".

SEC. 7004. EXTENSION OF STUDENT AID PROGRAMS.

Title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) is amended—

(1) in section 424(a), by striking "1998." and "2002." and inserting "2002." and "2006.", respectively;

(2) in section 428(a)(5), by striking "1998," and "2002." and inserting "2002," and "2006.", respectively; and

(3) in section 428C(e), by striking "1998." and inserting "2002.".

TITLE VIII—COMMITTEE ON VETERANS' AFFAIRS

SEC. 8001. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "Veterans Reconciliation Act of 1997".

(b) TABLE OF CONTENTS.—The table of contents for this title is as follows:

TITLE VIII—COMMITTEE ON VETERANS' AFFAIRS

Sec. 8001. Short title; table of contents.

Subtitle A—Extension of Temporary Authorities

Sec. 8011. Enhanced loan asset sale authority.
Sec. 8012. Home loan fees.
Sec. 8013. Procedures applicable to liquidation sales on defaulted home loans guaranteed by the Department of Veterans Affairs.
Sec. 8014. Income verification authority.
Sec. 8015. Limitation on pension for certain recipients of medicaid-covered nursing home care.

Subtitle B—Copayments and Medical Care Cost Recovery

Sec. 8021. Authority to require that certain veterans make copayments in exchange for receiving health care benefits.
Sec. 8022. Medical care cost recovery authority.
Sec. 8023. Department of Veterans Affairs medical-care receipts.

Subtitle C—Other Matters

Sec. 8031. Rounding down of cost-of-living adjustments in compensation and DIC rates in fiscal years 1998 through 2002.
Sec. 8032. Increase in amount of home loan fees for the purchase of repossessed homes from the Department of Veterans Affairs.
Sec. 8033. Withholding of payments and benefits.

Subtitle A—Extension of Temporary Authorities

SEC. 8011. ENHANCED LOAN ASSET SALE AUTHORITY.

Section 3720(h)(2) of title 38, United States Code, is amended by striking out "December 31, 1997" and inserting in lieu thereof "December 31, 2002".

SEC. 8012. HOME LOAN FEES.

Section 3729(a) of title 38, United States Code, is amended—

(1) in paragraph (4), by striking out "October 1, 1998" and inserting in lieu thereof "October 1, 2002"; and

(2) in paragraph (5)(C), by striking out "October 1, 1998" and inserting in lieu thereof "October 1, 2002".

SEC. 8013. PROCEDURES APPLICABLE TO LIQUIDATION SALES ON DEFAULTED HOME LOANS GUARANTEED BY THE DEPARTMENT OF VETERANS AFFAIRS.

Section 3732(c)(11) of title 38, United States Code, is amended by striking out "October 1, 1998" and inserting in lieu thereof "October 1, 2002".

SEC. 8014. INCOME VERIFICATION AUTHORITY.

Section 5317(g) of title 38, United States Code, is amended by striking out "September 30, 1998" and inserting in lieu thereof "September 30, 2002".

SEC. 8015. LIMITATION ON PENSION FOR CERTAIN RECIPIENTS OF MEDICAID-COVERED NURSING HOME CARE.

Section 5503(f)(7) of title 38, United States Code, is amended by striking out "September 30, 1998" and inserting in lieu thereof "September 30, 2002".

Subtitle B—Copayments and Medical Care Cost Recovery

SEC. 8021. AUTHORITY TO REQUIRE THAT CERTAIN VETERANS MAKE COPAYMENTS IN EXCHANGE FOR RECEIVING HEALTH CARE BENEFITS.

(a) Hospital and Medical Care.—Section 8013(e) of the Omnibus Budget Reconciliation Act of 1990 (38 U.S.C. 1710 note) is amended by striking out "September 30, 1998" and inserting in lieu thereof "September 30, 2002".

(b) Outpatient Medications.—Section 1722A(c) of title 38, United States Code, is amended by striking out "September 30, 1998" and inserting in lieu thereof "September 30, 2002".

SEC. 8022. MEDICAL CARE COST RECOVERY AUTHORITY.

Section 1729(a)(2)(E) of title 38, United States Code, is amended by striking out "October 1, 1998" and inserting in lieu thereof "October 1, 2002".

SEC. 8023. DEPARTMENT OF VETERANS AFFAIRS MEDICAL-CARE RECEIPTS.

(a) Allocation of Receipts.—(1) Chapter 17 of title 38, United States Code, is amended by inserting after section 1729 the following new section:

"§ 1729A. Department of Veterans Affairs Medical Care Collections Fund

"(a) There is in the Treasury a fund to be known as the Department of Veterans Affairs Medical Care Collections Fund.

"(b) Amounts recovered or collected after June 30, 1997, under any of the following provisions of law shall be deposited in the fund:

"(1) Section 1710(f) of this title.

"(2) Section 1710(g) of this title.

"(3) Section 1711 of this title.

"(4) Section 1722A of this title.

"(5) Section 1729 of this title.

"(6) Public Law 87–693, popularly known as the 'Federal Medical Care Recovery Act' (42 U.S.C. 2651 et seq.), to the extent that a recovery or collection under that law is based on medical care and services furnished under this chapter.

"(c)(1) Subject to the provisions of appropriations Acts, amounts in the fund shall be available to the Secretary for the following purposes:

"(A) Furnishing medical care and services under this chapter, to be available during any fiscal year for the same purposes and subject to the same limitations as apply to amounts appropriated for that fiscal year for medical care.

"(B) Expenses of the Department for the identification, billing, auditing, and collection of amounts owed the United States by reason of medical care and services furnished under this chapter.

"(2) Amounts available under paragraph (1) shall be available only for the purposes set forth in that paragraph.

"(d) The Secretary shall ensure that the amount made available to a Veterans Integrated Service Network in a fiscal year from amounts in the fund is an amount equal to the amount recovered or collected by the Veterans Integrated Service Network under a provision of law referred to in subsection (b) during the fiscal year.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1729 the following new item:

"1729A. Department of Veterans Affairs Medical Care Collections Fund.".

(b) Conforming Amendments.—Chapter 17 of such title is amended as follows:

(1) Section 1710(f) is amended by striking out paragraph (4) and redesignating paragraph (5) as paragraph (4).

(2) Section 1710(g) is amended by striking out paragraph (4).

(3) Section 1722A(b) is amended by striking out "Department of Veterans Affairs Medical-Care Cost Recovery Fund" and inserting in lieu thereof "Department of Veterans Affairs Medical Care Collections Fund".

(4) Section 1729 is amended by striking out subsection (g).

(c) Disposition of Funds in Medical-Care Cost Recovery Fund.—The amount of the unobligated balance remaining in the Department of Veterans Affairs Medical-Care Cost Recovery Fund (established pursuant to section 1729(g)(1) of title 38, United States Code) at the close of June 30, 1997, shall be deposited, not later than December 31, 1997, in the Department of Veterans Affairs Medical Care Collections Fund established by section 1729A(a) of title 38, United States Code, as added by subsection (a).

Subtitle C—Other Matters

SEC. 8031. ROUNDING DOWN OF COST-OF-LIVING ADJUSTMENTS IN COMPENSATION AND DIC RATES IN FISCAL YEARS 1998 THROUGH 2002.

(a) Compensation COLAs.—(1) Chapter 11 of title 38, United States Code, is amended by inserting after section 1102 the following new section:

"§ 1103. Cost-of-living adjustments

"(a) In the computation of cost-of-living adjustments for fiscal years 1998 through 2002 in the rates of, and dollar limitations applicable to, compensation payable under this chapter, such adjustments shall be made by a uniform percentage that is no more than the percentage equal to the social security increase for that fiscal year, with all increased monthly rates and limitations (other than increased rates or limitations equal to a whole dollar amount) rounded down to the next lower whole dollar amount.

"(b) For purposes of this section, the term 'social security increase' means the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased for any fiscal year as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1102 the following new item:

"1103. Cost-of-living adjustments.".

(b) DIC COLAs.—(1) Chapter 13 of title 38, United States Code, is amended by inserting after section 1302 the following new section:

"§ 1303. Cost-of-living adjustments

"(a) In the computation of cost-of-living adjustments for fiscal years 1998 through 2002 in the rates of dependency and indemnity compensation payable under this chapter, such adjustments (except as provided in subsection (b)) shall be made by a uniform percentage that is no more than the percentage equal to the social security increase for that fiscal year, with all increased monthly rates (other than increased rates equal to a whole dollar amount) rounded down to the next lower whole dollar amount.

"(b)(1) Cost-of-living adjustments for each of fiscal years 1998 through 2002 in old-law DIC rates shall be in a whole dollar amount that is no greater than the amount by which the new-law DIC rate is increased for that fiscal year as determined under subsection (a).

"(2) For purposes of paragraph (1):

"(A) The term 'old-law DIC rates' means the dollar amounts in effect under section 1311(a)(3) of this title.

"(B) The term 'new-law DIC rate' means the dollar amount in effect under section 1311(a)(1) of this title.

"(c) For purposes of this section, the term 'social security increase' means the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased for any fiscal year as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1302 the following new item:

"1303. Cost-of-living adjustments.".

SEC. 8032. INCREASE IN AMOUNT OF HOME LOAN FEES FOR THE PURCHASE OF REPOSSESSED HOMES FROM THE DEPARTMENT OF VETERANS AFFAIRS.

Section 3729(a) of title 38, United States Code, is amended—

(1) in paragraph (2)—

(A) in subparagraph (A), by striking out "or 3733(a)";

(B) in subparagraph (D), by striking out "and" at the end;

(C) in subparagraph (E), by striking out the period at the end and inserting in lieu thereof "; and"; and

(D) by adding at the end the following:

"(F) in the case of a loan made under section 3733(a) of this title, the amount of such fee shall be 2.25 percent of the total loan amount."; and

(2) in paragraph (4), as amended by section 8012(1) of this Act, by striking out "or (E)" and inserting in lieu thereof "(E), or (F)".

SEC. 8033. WITHHOLDING OF PAYMENTS AND BENEFITS.

(a) Notice Required in Lieu of Consent or Court Order.—Section 3726 of title 38, United States Code, is amended—

(1) by inserting "(a)" before "No officer"; and

(2) by striking out "unless" and all that follows and inserting in lieu thereof the following: "unless the Secretary provides such veteran or surviving spouse with notice by certified mail with return receipt requested of the authority of the Secretary to waive the payment of indebtedness under section 5302(b) of this title.

"(b) If the Secretary does not waive the entire amount of the liability, the Secretary shall then determine whether the veteran or surviving spouse should be released from liability under section 3713(b) of this title.

"(c) If the Secretary determines that the veteran or surviving spouse should not be released from liability, the Secretary shall notify the veteran or surviving spouse of that determination and provide a notice of the procedure for appealing that determination, unless the Secretary has previously made such determination and notified the veteran or surviving spouse of the procedure for appealing the determination.".

(b) CONFORMING AMENDMENT.—Section 5302(b) of such title is amended by inserting "with return receipt requested" after "certified mail".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to any indebtedness to the United States arising pursuant to chapter 37 of title 38, United States Code, before, on, or after the date of enactment of this Act.

Mr. CHAFEE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT NO. 105–9

Mr. CHAFEE. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the following treaty transmitted to the Senate on June 26, 1997, by the President of the United States.

Tax Convention with South Africa (Treaty Document No. 105–9).

I further ask unanimous consent that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message of the President is as follows:

To the Senate of the United States:

I transmit herewith for Senate advice and consent to ratification the Convention Between the United States of America and the Republic of South Africa for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and Capital Gains, signed at Cape Town February 17, 1997. Also transmitted is the report of the Department of State concerning the Convention.

This Convention, which generally follows the U.S. model tax treaty, provides maximum rates of tax to be applied to various types of income and protection from double taxation of income. The Convention also provides for the exchange of information to prevent fiscal evasion and sets forth standard rules to limit the benefits of the Convention so that they are available only to residents that are not engaged in treaty shopping.

I recommend that the Senate give early and favorable consideration to this Convention and give its advice and consent to ratification.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 26, 1997.*

ORDER TO PRINT SENATE AMENDMENT TO H.R. 2015

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Senate amendment to H.R. 2015 be printed as passed.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR FRIDAY, JUNE 27, 1997

Mr. CHAFEE. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 9 a.m. on Friday, June 27. I further ask unanimous consent that on Friday, immediately following the prayer, the routine requests through the morning hour be granted, and the Senate immediately resume consideration of S. 949, the Tax Fairness Relief Act, and under the previous order the Senate will begin a series of votes on or in relation to the pending amendments. I further ask unanimous consent that there be 2 minutes of debate equally divided in the usual form prior to each vote, and, lastly, with regard to any amendment offered, following the reporting of the amendment the reading of the amendment be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. CHAFEE. Mr. President, for the information of all Senators, tomorrow at 9 a.m. the Senate will resume consideration of S. 949, the Tax Relief Act of 1997 and begin another lengthy series of rollcall votes. Following the disposition of the pending amendments, additional amendments may be offered. However, it is hoped that Members will refrain from offering amendments so that the Senate may complete action on this bill at a reasonable time on Friday.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL 9 A.M. TOMORROW

Mr. CHAFEE. Mr. President, if there be no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 11:22 p.m., adjourned until Friday, June 27, 1997, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate June 26, 1997:

THE JUDICIARY

JEROME B. FRIEDMAN, OF VIRGINIA, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF VIRGINIA VICE ROBERT G. DOUMAR, RETIRED.

RONNIE L. WHITE, OF MISSOURI, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF MISSOURI VICE GEORGE F. GUNN, JR., RETIRED.

DEPARTMENT OF THE INTERIOR

ROBERT G. STANTON, OF VIRGINIA, TO BE DIRECTOR OF THE NATIONAL PARK SERVICE. (NEW POSITION)

DEPARTMENT OF COMMERCE

W. SCOTT GOULD, OF THE DISTRICT OF COLUMBIA, TO BE CHIEF FINANCIAL OFFICER, DEPARTMENT OF COMMERCE, VICE THOMAS R. BLOOM.

W. SCOTT GOULD, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT SECRETARY OF COMMERCE, VICE THOMAS R. BLOOM.

DEPARTMENT OF AGRICULTURE

CATHERINE E. WOTEKI, OF THE DISTRICT OF COLUMBIA, TO BE UNDER SECRETARY OF AGRICULTURE FOR FOOD SAFETY. (NEW POSITION)

U.S. ENRICHMENT CORPORATION

KNEELAND C. YOUNGBLOOD, OF TEXAS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE U.S. ENRICHMENT CORPORATION FOR A TERM EXPIRING FEBRUARY 24, 2002. (REAPPOINTMENT)

DEPARTMENT OF STATE

WENDY RUTH SHERMAN, OF MARYLAND, TO BE COUNSELOR OF THE DEPARTMENT OF STATE, AND TO HAVE THE RANK OF AMBASSADOR DURING HER TENURE OF SERVICE.

GORDON D. GIFFIN, OF GEORGIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO CANADA.

MAURA HARTY, OF FLORIDA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF PARAGUAY.

CURTIS WARREN KAMMAN, OF THE DISTRICT OF COLUMBIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF COLOMBIA.

JAMES F. MACK, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE CO-OPERATIVE REPUBLIC OF GUYANA

ANNE MARIE SIGMUND, OF THE DISTRICT OF COLUMBIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE KYRGYZ REPUBLIC.

KEITH C. SMITH, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF LITHUANIA.

DANIEL V. SPECKHARD, OF WISCONSIN, A CAREER MEMBER OF THE SENIOR EXECUTIVE SERVICE, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF BELARUS.

DEPARTMENT OF TRANSPORTATION

GEORGE DONOHUE, OF MARYLAND, TO BE DEPUTY ADMINISTRATOR OF THE FEDERAL AVIATION ADMINISTRATION, VICE LINDA HALL DASCHLE.

DEPARTMENT OF THE TREASURY

GARY GENSLER, OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF THE TREASURY, VICE DARCY E. BRADBURY.

NANCY KILLEFER, OF FLORIDA, TO BE AN ASSISTANT SECRETARY OF THE TREASURY, VICE GEORGE MUNOZ.

NANCY KILLEFER, OF FLORIDA, TO BE CHIEF FINANCIAL OFFICER, DEPARTMENT OF THE TREASURY, VICE GEORGE MUNOZ.

U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

GEOREGE MUNOZ, OF ILLINOIS, TO BE PRESIDENT OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION, VICE RUTH R. HARKIN, RESIGNED.

EXTENSIONS OF REMARKS

H.R. 1902, THE CHARITABLE DONATION ANTITRUST IMMUNITY ACT OF 1977

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1997

Mr. OXLEY. Mr. Speaker, I am pleased to support H.R. 1902, the Charitable Donation Antitrust Immunity Act of 1997.

This bill continues Congress' efforts, begun in the 104th Congress, to protect charities from abusive litigation. My colleagues may recall that this legislation was sparked by concerns raised by a nationwide class-action lawsuit filed in Federal court in Texas in 1994. That litigation charged that charitable gift annuities and other similar products that are widely used by charities, universities, and other organizations to raise donated funds, were issued in violation of the securities and antitrust laws. That lawsuit caused great concern among the charities and other organizations that were the suit's target, which saw potential liabilities in the billions of dollars as a result of this litigation and the likely copycat suits that would follow.

In 1995, the Commerce Committee moved a bipartisan bill through the Congress to protect these organizations against the securities allegations raised in that lawsuit. That legislation, H.R. 2519, which was supported by the Securities and Exchange Commission, codified and clarified existing administrative exemptions that applied to charitable gift annuities and similar products, which were never intended to fall within the scope of the Federal securities laws as charged by the plaintiffs in the Texas lawsuit. That bill passed unanimously in the Commerce Committee and received a resounding vote of 421 to 0 in this body, whereupon it was passed by the Senate on a voice vote and, shortly thereafter, signed into law by the President.

Concurrent with our efforts in the Commerce Committee, the Judiciary Committee passed companion legislation to address the antitrust aspects of the Texas litigation.

Unfortunately, despite our success in the last Congress, the threat that this litigation presents to charitable and other organizations that use charitable gift annuities and similar products to raise funds has not gone away. The U.S. Court of Appeals for the Fifth Circuit recently held that the 1995 antitrust legislation was not broad enough to prevent the plaintiffs from continuing their litigation in this area. Thus, Chairman HYDE and his colleagues on the Judiciary Committee have introduced legislation that will clarify Congress' intention and, we hope, end the litigation threat to charitable organizations across the country.

I am pleased to continue to support efforts to preserve the ability of America's charities, universities, and other organizations to use charitable gift annuities and similar products to raise needed funds, and urge the President to sign H.R. 1902 so that the needless threat to these organizations can be laid to rest once and for all.

HONORING THE WEST SPRINGFIELD LADY SPARTANS

HON. THOMAS M. DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1997

Mr. DAVIS of Virginia. Mr. Speaker, I rise today to honor a group of young women who have achieved great feats, not only on the basketball court, but also in the community. I am speaking of the Virginia State High School Basketball Champions, the West Springfield Lady Spartans.

Their success on the basketball court speaks for itself. In addition to winning the State title they were ranked No. 1 in the Washington metropolitan area by the Washington Post and No. 9 in the Nation by the USA Today for the past season. However, it is their endeavors off the court that have made them true champions.

Not only did these ladies manage to maintain a 3.5 GPA as a team, they found time between studying and practicing to become active in community service. Each Saturday after practice the team would participate in the Special Olympic program, where they would teach mentally and physically challenged students the game of basketball. In March they organized a free basketball clinic for young girls between the ages of 5 and 16 that attracted over 100 participants. During the Christmas season the team embodied the spirit of the season by assisting in a charity program which provided toys and clothes to needy children.

I am proud to recognize the Lady Spartans not only for their excellence in basketball, but for graciously donating their talents and energies to benefit others in the Springfield community. The example they have set in the classroom, on the court, and in the community is one that should be emulated by those who follow them.

Mr. Speaker, I know my colleagues will join me today in honoring these fine young student-athletes.

TRIBUTE TO T. NATHAN DOAN

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1997

Mr. BARCIA. Mr. Speaker, all of us have special memories of Christmas time with our families and friends. The excitement of Christmas Eve, the delight of unopened presents on Christmas morning, but most of all, we remember the mystery and magic of Santa Claus. I have had the privilege and honor of knowing the true Santa Claus in T. Nathan Doan, who was a constituent, a friend, and an inspiration to us all.

Nathan Doan, or Nate as he was known to tens of thousands, passed away on May 19, 1997. He will be missed by his family and his friends, but also by the thousands of people whose lives he has so selflessly touched over the span of his lifetime. Each year on Christmas Eve, Nate's car became Santa's magical sleigh soaring Nate and Mrs. Clause, his wife Mary Ida, to the homes of Bay City's children to share the Christmas spirit. One of Santa's many elves would phone ahead to ensure that the children at the next house were ready for the visit from Santa and Mrs. Claus.

Nate started his Santa career back in 1940. He was to be a replacement Santa. Little did he realize then that this was the beginning of a career that would touch the lives of many generations of not only the citizens of Michigan, but citizens across the Nation and the world.

In 1953, Nate attended the Charles W. Howard Santa School in New York. He revisited each year until 1966 when Charles Howard passed on. Nate stepped in to lead the school keeping the legacy alive by training more than 800 Santas. In 1967, 1968, and again in 1980, Nate and his wife, Mary Ida, traveled to Australia to share the magic of Christmas.

Nate was very proud of Bay City and the Bay City School District that employed him for many years. As Santa, he would delight the school children and always knew all the teachers by name. However, Nate was proudest of his role as husband to Mary Ida and father to T. Nathan II and Jeffrey. Their loving support for Nate's legacy as Santa to the worlds' children enabled him to touch us all.

Nate was a deeply religious man and was very active in his church. His divine inspiration manifested itself, not just in his giving, but in his sense of humor. Spending just a little time with Nate meant sore cheeks from laughter and another loving memory of a man with a heart that could always make room for one more person. Nate's caring personality was infectious and always left one with a positive feeling.

Mr. Speaker, the world is a better place because of our Santa, Nate Doan. May his wife and lifetime partner, Mary Ida, and his children, Nate and Jeff, know that our thoughts and prayers are with them. May they also know that Nate will continue to live in the memories of all of us that he so lovingly touched.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

FARMLAND PRESERVATION

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1997

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, June 18, 1997 into the CONGRESSIONAL RECORD.

FARMLAND PRESERVATION

Farmland is one of this nation's most precious resources. But farmland is fragile: it takes nature 100 to 1,000 years to replace one inch of topsoil. Fifteen tons of topsoil wash down the Mississippi River every second. The United States has made an impressive effort to reduce loss of farmland by erosion, but prime farmland is also being converted to shopping centers and suburbs at a rapid rate. As communities grow and expand, new housing, industry, and roads must be built to support that growth. This growth has many positive aspects to it, with the creation of new wealth and jobs, but concern is growing that unchecked development may be reducing the limited resource of good farmland. There is a general consensus that domestic food production capacity is not currently threatened by the conversion of farmland to other uses, but less certainty about the ability of the United States to meet future export demand.

THE PROBLEM

By some estimates, Indiana is losing more than 70,000 acres of prime farmland each year. Some groups calculate that, over the last decade, the United States has lost more than 10 million acres of farmland—an area almost half the size of Indiana. This is troubling for several reasons.

First, the loss of prime farmland eliminates a productive resource from future use. Almost 20% of the U.S. economy is linked to farm production. A reduction in agricultural productivity could hurt the overall economy.

Second, new development that increases land prices makes it difficult for younger farmers to purchase land. Because the rural population is aging, young farmers will be critical to the future strength of agriculture.

Third, less land could mean higher food prices. In the next fifty years, world food demand is projected to triple. Unless we can increase food production, growing demand will force prices up, hitting moderate income families hardest.

Fourth, the loss of agricultural land decreases the quality of life in small towns and rural areas. Hoosiers value our beautiful countryside and the open spaces that characterize Indiana's landscape. With unplanned development, we risk losing some of our treasured land resources.

Fifth, the loss of prime farmland near growing communities may force farmers to use less productive land. Such farming often requires more chemicals and causes more erosion, thus decreasing water safety and quality.

Sixth, U.S. food production is important to international security. With just 4% of the world's population, the U.S. produces 20% of the world's field crops on 14% of the arable farmland. Yet China, for example, has 25% of the population and just 7% of the arable farmland. U.S. exports will be critical for the future security of many growing countries. Unchecked loss of U.S. farmland could make famine, refugee flows, and political instability more common abroad.

POSSIBLE SOLUTIONS

We must gather more information on the problem and possible solutions. We really do not know how serious the problem is, or the most effective ways to address it. Different agencies give different estimates on how much farmland has been converted to nonfarm use, and whether farmland conversion is a national or a local and regional problem. The President, governors, and other leading officials should make clear policy statements on the importance of agricultural land.

Easements

One popular approach to preservation is a voluntary land use "easement". Farmers who want to preserve their land for farming can sell easements to community groups, governments, or conservation organizations to protect the future use of the land. Present and future property owners retain all rights to use the land as they see fit, within the guidelines of the easement. The voluntary easement compensates the farmer for the loss of future commercial or residential development rights.

Federal programs

To encourage the use of easements, Congress created the Farmland Protection Program in the 1996 farm bill. This program provides easement matching funds to states and local communities that have farmland preservation programs. Incentives should also be given to encourage development on land that is less-suited for agriculture. Government at all levels must be sensitive to the adverse effect of its own activities on agricultural land.

State efforts

The State of Indiana has also studied farmland protection, and Governor Frank O'Bannon has announced the creation of a task force to make recommendations on local farmland preservation efforts. This task force will include agricultural, conservation, and business groups, and state and local officials. If the state sets up a formal program, local efforts could get federal matching funds.

Taxes

Current estate tax laws often make it difficult to keep farmland in the family, and to continue its agricultural use. Heirs faced with large tax bills are more likely to sell farmland for development. I support measures in the state legislature and Congress to increase estate tax relief and other incentives to keep land in the family or preserve it for agricultural use.

Land reuse

Another way to encourage farmland preservation is to recycle "brownfields", or old industrial sites, rather than taking farmland out of production. Companies are often reluctant to clean up old factories in cities because of environmental regulations and a deteriorating quality of life in urban areas. The clean-up and redevelopment of these sites is in farmers' interests.

CONCLUSION

We must be careful not to raise concerns about federal intervention in land use. Land use and zoning regulations are and should remain the responsibility of local governments. We do have to increase awareness of the risks of farmland conversion, encourage state and local leaders to be aware of those risks, and provide effective options for communities to preserve farmland. Nothing is more important than preserving our nation's natural resource base.

SMALL BUSINESS OWNERS TESTIFY ON PRO-SMALL BUSINESS PROVISIONS OF THE TAXPAYER RELIEF ACT

HON. JOHN A. BOEHNER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1997

Mr. BOEHNER. Mr. Speaker, the House Republican conference organized a public forum to hear from small business owners on the importance of passing the Taxpayer Relief Act. The forum focused on three of the pro-small business provisions in the Taxpayer Relief Act—the home office deduction, capital gains rate reductions, and relief from death taxes.

The compelling testimony from these small business owners from across America are included to demonstrate to my colleagues the debate on the taxpayer Relief Act is not about class warfare, rather it is about helping all Americans and small businesses prosper and succeed to achieve their dreams.

SUSAN THOMAS.

My name is Susan Thomas, President of Best of Service and Sales International, Inc.—a home-based business in Annandale, Virginia. I am pleased to appear today on behalf of the National Association for the Self-Employed (NASE), the national association representing more than 325,000 small business persons and self-employed individuals. The NASE would like to thank the House Republican Conference for organizing this hearing to highlight some very important issues for millions of small business people—particularly the home office deduction. We would like to commend Rep. Jim Talent for sponsoring H.R. 1145—The Home-Based Business Fairness Act, those representatives who joined as co-sponsors, Rep. Mike Pappas for introducing his home office deduction bill, and the members of the Ways & Means Committee who included the home office deduction in their recent tax bill.

My company—Best of Service and Sales International, Inc.—employs 3 individuals to market computer equipment, peripherals, software, and computer supplies to the federal government. In addition, I have started a new venture called Best Travel Services which markets vacations, and educational and group study tours.

I initially started a home-based business several years ago because I was frustrated with working for the large company/corporate culture. I originally setup my business in my home upon leaving Wang Corporation because I had very little working capital at the time. Ironically, it was my intention when I started my business to ultimately move the business out of my home and into commercial office space at a later date. Today, I would not trade my home-based business for any commercial office location anywhere. I love my home office because of the conveniences it affords me. Unfortunately, for businesses like mine, the home office deduction has been under attack.

While I operate a home-based business, I don't take the home office tax deduction on my tax return. Why? Not because the IRS requires businesses that take the deduction to see their clients in their home office or that they should generate their revenue there. I actually meet these unfair and discriminatory tests—tests that no other businesses are required to fulfill. No, the reason I don't take the deduction is the warning that I and millions of others like me got from our accountants. Taking the deduction, my accountant told me, is like waving a red flag at the IRS. . . . a flag saying, "AUDIT ME!"

This is ridiculous. Congress passes a law to help home-based businesses. The IRS then tries to impose the narrowest interpretation as possible on the law. They lost two court cases, but took the case all the way to the Supreme Court in the Soliman case. After finally convincing the Supreme Court to narrow the deduction, the IRS then audits those who still qualify for it so aggressively that millions of people legitimately entitled to the deduction are afraid to take it.

Look at the numbers. IRS statistics of income show that 1.5 million people claimed the home office deduction in 1994. Yet the number of full-time home-based businesses is variously estimated at between 7 and 14 million. why don't 80 to 90% of home-based businesses take the deduction. Don't they qualify? I believe a great many of them are just like me. They do qualify, but are forced to choose between the time and stress of an audit or the modest tax savings of the deduction. I choose to forego the deduction.

The current home office deduction limitations are unfair and unwise for other reasons too. All over the country, larger businesses are laying off employees. If we want to help these people get on their feet, we should make it a little easier for them to start a business. The same goes for people who are forced off the welfare rolls under the 1996 welfare reform law. They should be given the opportunity to start up businesses, as self-employed people, with a minimum of up-front costs. Not to mention the need and desire of individuals to be closer to their families in today's day and age. Home-based businesses are an obvious way to help facilitate all of this.

Give us the certainty of an expanded, modernized home office deduction and we will use it. Don't allow the IRS to administratively defeat Congress' original purpose with the deduction. Improve the fairness and clarity of the home office deduction. Not only will more home-based businesses have a better chance to succeed, but more potential home-based businesses will decide to try. And that's better for America.

I would like to thank the House Republican Conference for the opportunity to appear today, and I would also urge the House Conferees to ensure the inclusion of the pro-business, pro-family home office deduction in the budget. Thank you very much.

GIOVANNI CORATOLA,
Franconia, VA, June 25, 1997.

Good morning Mr. Chairman. My name is Giovanni Coratola and I own Port of Italy in Franconia, VA. Thank you for giving me this opportunity to testify today.

My restaurant does not belong to the people in this room. My restaurant does not belong to the federal government. My restaurant belongs to my family and in a sense it belongs to my extended family of employees that have dedicated their lives to making it work. The ownership of my restaurant comes at a high price. I routinely work seven day weeks with 12 to 14 hour weeks not uncommon. I have taken less time off in the 25 years I have been in business than the average worker takes off in one year. The majority of the profits that have been generated from my restaurant have been returned to the business or spent on keeping abreast with changing public demands. Ownership of my restaurant is the result of a high personal commitment from myself, my wife, my family and my employees. Yet upon death, it would be taxed to the point of being taken from those it was meant to be given.

My restaurant does not belong to the people in this room. When I was asked to come here today I inquired what the main objective was to providing relief from this onerous tax. I was told it was being attacked as given tax cuts to the rich. Well, there are two things wrong with this (1) I am not, within any stretch of the imagination, wealthy (2) How can you feel that letting my family keep what we have spent our lives working for is giving us anything that we do not already own and deserve. In all fairness to me and other restaurateurs that have spent their lives building something of value for their families and employees it is time the federal government wean itself from taking in death, what it could not justify in taking while I was alive.

On behalf of myself, my family, and my restaurant family of employees I thank you for allowing me to address you here today. And I suggest that if the federal government wants the right to take the restaurant when I die, I encourage it to take these keys and help me operate it while I'm alive.

JIM ELMER.

Good morning. My name is Jim Elmer, and I am the owner of Jim J. Elmer Construction Co. in Spokane, Washington. I am pleased to have the opportunity to speak with you today in support of the Tax Relief Act of 1997, in particular the proposed capital gains tax reduction.

Our firm constructs buildings for private owners. Most of our work is negotiated. We currently have two (2) projects which have been on hold for the past several years pending a reduction in the capital gains taxes. The projects do not make economic sense for the owners to sell other assets in order to finance their new projects and pay 28% capital gains taxes, with the modest reductions which you proposed, the projects become economically viable for our owners.

The release of these new dollars into our economy will allow us to hire more people in the community and purchase additional building materials for the projects, helping our area's economy to grow.

An addition to the increased economic activity, the capital gains reduction will also benefit our employers directly. Besides providing more employment our employees will be able to help pay for their children's college education, or purchase a new home without being penalized severely by the capital gains taxes.

The capital gains reduction will be a great stimulus to increase economic activity in our area and for our company directly. We support the Ways and Means Bill, and would strongly support further reductions in the future.

Thank you for allowing me to speak. If you should have any questions, I will be happy to answer them. Thank you.

Mr. BOBBY TODD,
Washington, DC, June 25, 1997.

Mr. Chairman, members of the House Republican Conference, thank you for taking the time this morning and listening to America's small business owners. I am Bobby Todd and I own and operate a small print shop, Eagle Printing, here in Washington, DC. I am also a member of National Small Business United, the nation's oldest small business advocacy organization.

I am pleased to be here at such a historic moment for our country. Today, the House of Representatives will vote and pass a budget plan that will balance our nation's budget and make the federal government do something that I have had to do my whole professional and personal life: live within our means. And tomorrow we will see our first tax cut for the middle-class working men and women of our country since the Reagan Administration—and it is long overdue.

It is often said that small business is the engine that drives the American economy and I couldn't agree more. As a middle-class small business owner I want to tell you how welcomed the Tax Payers' Relief Act of 1997 is to me and my family.

At the heart of the tax package for small business owners are the provisions that target small business' bottom line and allow us to compete in this "global economy": independent contractor status, extension of EFTPS, the all-important home office deduction and long-overdue death tax relief. Without these and other reforms included in this tax package, my business is at a competitive disadvantage to larger companies, as are hundreds of thousands of other small businesses.

Including the home office deduction is an important piece of this tax bill. By redefining what a home office is, it will allow small entrepreneurs to work at home, stay close to their families and help raise their children. Let me point out to you that under the current law, I could use a room in my neighbor's house to conduct my business and deduct it, but if I did the same exact work in a room in my house I could not. That just doesn't make any sense and is absolutely counterproductive to the small business movement.

As the American economy continues its shift towards smaller and sometimes home-based businesses, making the tax rules easier and clearer for us is essential. Congress couldn't send a clearer message of its support for the small business community than by passing this tax bill.

And, I hope that this is just a first step in the process. I would like nothing more than to change the entire tax system so it truly encourages investment, savings and the entrepreneurial spirit that has made this country so great. But, I will leave those thoughts for another day. Thank you very much for allowing me this time to speak with you.

PAUL JOST,
Alexandria, VA.

Good morning. I'm Paul Jost. I'm the president of Chandler Development Corporation. We are a small business based in Alexandria, Virginia, which buys and manages apartment buildings.

We are members of the NFIB and the National Apartment Association. Our business currently has 35 employees.

I started the business in 1988 raising capital from friends and family. We have just over 100 investors, most of whom are small investors. In addition to the 35 direct jobs we have created, we also employ a number of independent contractors who do such things as maintain the lawns, service the pools, and paint and clean the apartments between residents. In all, we probably provide employment for over 100 people.

The high capital gains tax rate limits my ability to raise capital to finance new acquisitions which would provide more jobs and more housing for families. A high capital gains tax also distorts our ability to make decisions of whether to sell or hold properties. That decision should be based on profitability, not the tax implications.

I believe that a reduction in the capital gains rate would generate more taxes. For example, we own a property in Texas which we would probably sell if the rate were lowered. And that sale would generate substantial tax revenues.

We would use the after-tax profits to purchase several other properties, in Texas and in Virginia. At the current capital gains rate, however, our investors prefer not to sell because too much of the profit would be taken by the federal government.

The net result is that a profitable sale will probably not occur, which hurts us and actually leads to a loss of tax revenue for the federal government. Everybody loses because of bad tax policy.

Last year, we were able to sell a property and buy another using a 1031 like-kind exchange which enabled us to roll our gain into the new property and defer taxes on the gain. That mechanism, however, is very complicated and is only available to those who can afford high priced lawyers and accountants. There are also numerous risks and restrictions involved in such exchanges which make us unlikely to use them in the future. that transaction also did not produce any tax revenue for the federal government.

Everyone (except our lawyers and accountants) would have been better off had the rate been lower. We would not have had to jump through these hoops and the government would have collected some taxes.

I also believe that the death tax exemption should be increased. While I currently do not have children, I would like to think that I could some day pass on my business to my children. Many of my investors are also concerned with the death tax. This has led some of them to make their investments through trusts in their children's names. This leads to additional paperwork and more profit for our lawyers and accountants. We would all be better off if the exemption were raised and the rules were simplified.

Thank you very much for giving me the change to share my views with you. I know you are busy and I appreciate the time you have given me.

PERSONAL EXPLANATION

SPEECH OF

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1997

Mr. CRANE. Mr. Speaker, on rollcall No. 236, on final passage of H.R. 1119, had I been present, I would have voted "aye."

IMPROVING HUMAN RIGHTS IN CHINA

HON. DONALD A. MANZULLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1997

Mr. MANZULLO. Mr. Speaker, I am pleased to join my colleagues in becoming an original cosponsor of the China Human Rights and Democracy Act of 1997. I especially wish to applaud the actions of my colleagues, Representatives JOHN PORTER, DAVID DREIER, JIM KOLBE, and MATT SALMON, in writing and pushing this legislation. In my opinion, Mr. Speaker, this bill is the right, targeted approach to take in opposing the policies of the People's Republic of China that all Americans find repugnant. As evidenced by the vote last Tuesday, the most-favored-nation [MFN] or normal trade status debate is the wrong place to express our disagreements with the Chinese Government.

This legislation would allow Radio Free Asia to broadcast 24 hours a day to give the Chinese people the truth about their government and current events. In addition, the bill would help various foundations to promote democracy, civil society, and the rule of law in China and would encourage more international exchanges between our two peoples. It would also promote a voluntary code of conduct for United States businesses. The vast majority of United States companies operating in China already provide exemplary models to China of how to conduct business and treat people equally and fairly. This code would help give these U.S. firms concrete goals to measure their success.

The bulk of the legislation focuses on promoting human rights in China. It requires an annual report on human rights conditions in China. The bill also proposes to create a prisoner information registry so that people in the United States could plead for specific political prisoners in China. It would also deny visas to Chinese Government officials who have been involved in human rights abuses or in the proliferation of weapons of mass destruction. The bill would also publish and disseminate a list of Chinese companies that are affiliated with the People's Liberation Army so the American people would know if a particular product they wish to buy is made by a Chinese firm affiliated with the Chinese military.

However, I have one minor but important reservation about the legislation, which I hope can be worked out before it reaches the House floor for a vote. The legislation requires a one-to-one ratio between State Department Foreign Service officers with an expertise in human rights and Commerce Department U.S. Foreign & Commercial Service [US&FCS] officers, who are experts at promoting U.S. exports.

The China Human Rights and Democracy Act mandates that the State Department appoint at least six human rights officers. The problem is that there are 13 US&FCS officers in China, with 9 in Beijing alone. The problem is further compounded by the fact that the Commerce Department currently only has seven of these nine positions in Beijing filled. Plus, one of these officials is really an export control officer who is charged primarily with ensuring that Chinese importers comply with United States export control laws. If the State Department is unable to fund more than the minimum number of six human rights officers, then the unintended consequence of this legislation will force the Commerce Department to withdraw as many as seven US&FCS officers from China to comply with this one-to-one ratio. Thus, the real-life practical effect of the legislation could translate into having only five full-time US&FCS officers for the entire country of China. Compare that with Tokyo, Japan, 12 US&FCS officers, or Seoul, South Korea, 7 US&FCS officers, and I hope you see the need, Mr. Speaker, for more than 5 US&FCS officers for all of China.

Our foreign competitors already have dozens more export promotion officials in China than us. This legislation could place United States exporters at a competitive disadvantage I believe the better way is to have the legislation stress the importance of stationing human rights officers in China but leave the number of these officers up to the discretion of the State Department and not require a one-to-one ratio to US&FCS officers.

Mr. Speaker, with this minor reservation, I am pleased to join on as an original cosponsor to the China Human Rights and Democracy Act of 1997, and I hope to work out this problem through the committee process.

THE TOWN OF MICHIGAMME, MI, CELEBRATES ITS 125TH BIRTHDAY

HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1997

Mr. STUPAK. Mr. Speaker, I bring to the attention of the U.S. House of Representatives and the American public the 125th birthday of a proud historic town in the First Congressional District of Michigan, the town of Michigamme. This town, with a population of just over 300 residents, may be considered small by conventional standards, but it holds a big place in the history of the central Upper Peninsula of Michigan and in the hearts of the people who have known it.

Michigamme was founded in 1872 by Jacob Houghton, the brother of the famous Dr. Douglas Houghton, after he discovered iron ore deposits there. Mr. Houghton became the owner and operator of both the iron ore mine and the sawmill of Michigamme. Iron ore mining and timber industry jobs brought hundreds to Michigamme, but the economic panic of 1873 and a forest fire soon reduced the number of available jobs. Michigamme exhibited its resilience as a community by reopening the sawmill and resuming mining. The town bounced back and the population swelled to 1,800 by 1882, a record that has stood intact since that time. In 1881, F.W. Read bought the Michigamme sawmill, and the mines of the area were purchased by the Cleveland Cliffs Iron Co., and the Ford Motor Co. near the turn of the century. Through the early 20th century, Michigamme's rich veins of iron ore and statuesque first-growth timber provided the town with solid industrial economic base.

Michigamme's industrial base was not the only reason that people settled there. Michigamme's location on the shores of beautiful Lake Michigamme have also contributed to its growth and history. The residents of Michigamme have added to the beauty of the town by encouraging a community for the arts and crafts, with several operating gift shops and an annual Christmas Market, widely attended by the surrounding communities. Michigamme has been called the Renaissance Village, because of the artistic community it fosters. The residents of Michigamme know that this is a special place that they can call home.

Mr. Speaker, the residents of Michigamme exemplify the small-town character and spirit which we hear our colleagues speak about with nostalgia in today's fast-paced and impersonal culture. The people of Michigamme, MI, are proud of where they came from and of who they are. They are the type of people who honor their history and look forward to creating a future for their town. They are the type of people who know their neighbor and who call him or her a friend. I would like to extend my congratulations to the people of Michigamme on the 125th birthday of their town, and I am here today to ask my colleagues to join me in wishing them the best for many years to come.

IN HONOR OF THOMAS WILKINS

HON. THOMAS M. DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1997

Mr. DAVIS of Virginia. Mr. Speaker, it gives me great pleasure to rise today to pay tribute to Thomas Wilkins who is one of this year's winners of the Best of Reston Awards. These awards are made annually by the Reston Chamber of Commerce and Reston Interfaith. The Best of Reston Community Service Award was created to recognize individuals who have made outstanding contributions to community service, and/or who have improved the lives of people in need in Reston, VA.

Thomas Wilkins is honored with this distinction for being a "man of all seasons." He has served as an active member of the NAACP, and as president of the Reston Association, elected by his peers on the board of directors, who are in turn, elected by Reston citizens. Tom is active in Meals-On-Wheels, and offers his services as a tutor in public schools. He has served on the Stonegate Village Advisory Board, helped children to attend college and served as a founding board member for the Medical Care for Children Partnership. Tom also served as a devoted member of my staff when I was chairman of Fairfax County Board of Supervisors, and has continued to advise me and other political leaders of both parties in northern Virginia.

Mr. Speaker, I know my colleagues join me in honoring the Best of Reston Award winner Thomas Wilkins for his hard work in making Reston, VA, an outstanding place to live and work. His daily heroics deserve recognition and gratitude from a grateful community

SENATE—*Friday, June 27, 1997*

The Senate met at 9 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, Sovereign of this Nation, Lord of our lives and Author of the liberties we enjoy as citizens, may this Fourth of July week of recess be a time of renewal of our commitment to you as leaders of our Nation. May Independence Day really be a dependence day for us and our fellow Americans as we express our total dependence on You. We want our observance to be more than picnics, firecrackers, and parades. As we celebrate the birth of our Nation, we want to reaffirm the vision for America you planted in our Founding Fathers and Mothers, as well as the unique role You have given this Nation as a demonstration of democracy.

When we say the words, "One Nation under God" in the Pledge of Allegiance, may it be a fresh dedication to work for righteousness and justice in every aspect of society. We confess what contradicts our declaration of dependence on You. We reflect on our secularized society that gives little thought to You. Our motto is "In God We Trust" and yet, our trust often is placed in materialism and scientific humanism. We repent and ask Your forgiveness.

Dear God, You have answered the prayers of Your people in the crises of our history. Today, we pray for a spiritual awakening to spread across the land. We know that only what has happened to us can happen through us. So begin the awakening here in the Senate, in each Senator and in all of us who work with them. In the name of our Lord and Saviour. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader, the distinguished Senator from Delaware, is recognized.

SCHEDULE

Mr. ROTH. Mr. President, for the information of all Senators, this morning the Senate will resume consideration of S. 949, the Tax Relief Act of 1997, and begin another lengthy series of rollcall votes. As previously ordered, the series of stacked rollcall votes will begin on or in relation to the Nickles amendment, followed by the Gramm amendment and the Kerry amendment. Following the disposition of the aforementioned stacked votes, the Senate will proceed to a vote on a number of process amendments under the control of Senator DOMENICI. After those amendments have been disposed of, Senators will have the right to offer an amendment to the bill, with 2 minutes of debate equally divided on the proposed amendment.

However, it is hoped, and I would like to emphasize, that Members will refrain from offering amendments so that the Senate may complete action on this bill at a reasonable time.

The PRESIDING OFFICER (Mr. THOMAS). The Senator from New York.

Mr. MOYNIHAN. Can I simply endorse my revered chairman's judgment? We have had a good debate. We have a good bill, a bipartisan bill. The prospects of any serious change are not large. The prospect of any serious attention to new proposals are not great—not today. The Senate is a continuing body and we will continue to discuss matters, but today is the time for closing out this legislation so we can go to conference and send a bill to the President.

Mr. ROTH. What is the order of business?

Mr. KENNEDY. Will the Senator yield for a question?

Mr. ROTH. I yield.

Mr. KENNEDY. After the process amendment, there may be an amendment offered on the Republican side. We are prepared to move ahead to get on the list; would that be agreeable? Can I ask consent, after the sequencing, there may be an amendment on the Republican side and we could have consideration?

Mr. ROTH. I say to the distinguished Senator from Massachusetts, we have you on the list for three separate amendments.

Mr. KENNEDY. Just one amendment.

Mr. MOYNIHAN. That is the spirit.

Mr. ROTH. I say to the distinguished Senator and to my colleague, Senator MOYNIHAN, that we have a list of both Republican and Democrat amendments. They are set in a particular order. We do intend to go from one side to the other side.

Mr. MOYNIHAN. May I just ask in terms of who appears and asks for recognition, the first three pending amendments are, in fact, stacked?

Mr. ROTH. That is correct.

Mr. MOYNIHAN. The rest are just amendments that may be offered.

The PRESIDING OFFICER. Without objection, the amendment of the Senator from Massachusetts will follow the process.

Mr. MCCAIN. Reserving the right to object, I ask a question of the Senator from Delaware. Will there be a unanimous-consent agreement propounded of some list of priority of these amendments so that the Senators will know when their amendment will be considered?

Mr. ROTH. I say to my distinguished friend from Arizona we could set such a list. I thought at the beginning we would move informally, but as time proceeds we will try to set a list.

Mr. MCCAIN. Further reserving the right to object, we all know, as the day wears on, there will be increasing pressures because of the departure as articulated by my friend from Nevada last night, so it is of some interest as to which priority, after the initial amendments that were agreed to last night, will be considered.

I ask both the Democrat leader and the managers, both managers of the bill, if we could have some predictability associated with that.

I remove my objection.

Mr. COVERDELL. Mr. President, reserving the right to object, these amendments have been around for some time, and I would think there would have already been a sequence of priorities. This proposal ought not to be muscling around here.

Mr. ROTH. I say to the distinguished Senator we do have a sequence of amendments and we intend to go down the sequence of amendments from Democrat to Republican.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

REVENUE RECONCILIATION ACT OF 1997

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of Senate bill 949, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 949) to provide revenue reconciliation pursuant to section 104(b) of the concurrent resolution on the budget for fiscal year 1998.

The Senate resumed consideration of the bill.

Pending:

Dorgan amendment No. 515, to authorize the Secretary of the Treasury to abate the accrual of interest on income tax underpayments by taxpayers located in Presidentially declared disaster areas if the Secretary extends the time for filing returns and payment of tax (and waives any penalties relating to the failure to so file or so pay) for such taxpayers.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Dorgan Amendment No. 516, to provide tax relief for taxpayers located in Presidentially declared disaster areas.

Jeffords amendment No. 522, to provide for a trust fund for District of Columbia school renovations.

Domenici-Lautenberg amendment No. 537, to implement the enforcement provisions of the Bipartisan Budget Agreement, enforce the Balanced Budget Act of 1997, extend the Budget Enforcement Act of 1990 through fiscal year 2002, and make technical and conforming changes to the Congressional Budget and Impoundment Control Act of 1974 and the Balanced Budget and Emergency Deficit Control Act of 1985.

Biden amendment No. 539 (to amendment No. 537), to provide for the transfer of funds from the general fund to the Violent Crime Reduction Trust Fund.

Nickles modified amendment No. 551, to provide for an increase in deduction for health insurance costs of self-employed individuals, and to modify rules for allocating interest expense to tax-exempt interest.

Gramm amendment No. 552, to allow families to decide for themselves how best to use their child tax credit.

Kerry amendment No. 554, to allow payroll taxes to be included in the calculation of tax liability for receiving the children's tax credit.

AMENDMENT NO. 551, AS MODIFIED

The PRESIDING OFFICER. The pending business is the Nickles amendment No. 551, with 2 minutes equally divided for debate.

Mr. NICKLES. Mr. President, on behalf of myself, Senator HAGEL, Senator ABRAHAM, Senator DOMENICI, and others, the amendment that we proposed last night we have modified. We did receive some requests from Senators to delete the provision that dealt with corporate deductibility of tax exempts. That was not a major portion of the amendment. We did delete that.

I might mention I think it is a good provision. It is a provision that is in the House bill, so it will be in conference.

Mr. President, this amendment accelerates self-employed deductibility for insurance. It allows self-employed individuals to be able to deduct a greater proportion of their health insurance needs. It increases it. For example, in 1997, current law is 40 percent; it increases it to 50 percent. In 1999 it increases it to 60 percent. And so on.

Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. KERREY. I am not in opposition, but with the 2-percent provision stricken, I ask unanimous consent to be added as a cosponsor to this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. I also ask unanimous consent that Senator THURMOND be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Kansas [Mr. ROBERTS] is necessarily absent.

Mr. FORD. I announce that the Senator from Illinois [Ms. MOSELEY-BRAUN] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 138 Leg.]

YEAS—98

Abraham
Akaka
Allard
Ashcroft
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Cleland
Coats
Cochran
Collins
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Domenici
Dorgan
Durbin
Enzi
Faircloth
Feingold
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hagel
Harkin
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moynihan
Murkowski
Murray
Nickles
Reed
Reid
Robb
Rockefeller
Roth
Santorum
Sarbanes
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Torricelli
Warner
Wellstone
Wyden

NOT VOTING—2

Moseley-Braun
Roberts

The amendment (No. 551), as modified, was agreed to.

Mr. ROTH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, I ask unanimous consent that the remaining votes in sequence be limited to 10 minutes in length.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Mr. President, reserving the right to object, is this going to be a real 10 minutes?

Mr. LOTT. Mr. President, I can respond to that question. I was just fixing to say that the 10 minutes be strictly enforced. Please don't leave the Chamber. We just had a couple of Senators that didn't make that vote because it had been beyond the normal time. When the 10 minutes is up we are going to turn it in.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROTH. Mr. President, I have a further unanimous consent.

Mr. President, I am asking unanimous consent that following the previously ordered stacked vote that the remainder of the sequence be in an alternating fashion with the two managers determining the order.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. ROTH. Mr. President, I ask unanimous consent that following the disposition of the Kerry amendment No. 554 that Senator DOMENICI be recognized to offer an amendment No. 537, to be followed by the amendments in the following order: Biden-Gramm, Gramm, Bumpers, Craig, Brownback, Frist, Abraham, and Byrd.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 552

Mr. ROTH. Mr. President, what is the order of business before us?

The PRESIDING OFFICER. The pending amendment is the Gramm of Texas amendment No. 552.

Mr. ROTH. I yield the floor.

The PRESIDING OFFICER. The debate is limited to 2 minutes equally divided.

The Senator from Texas.

Mr. GRAMM. Mr. President, from the very beginning of this tax debate we have talked about a $500 tax credit per child. And the logic has been to let working families decide how to spend their money on their children. Then suddenly out of the Finance Committee on a very close vote has come a provision that says we are going to give you a $500 tax credit but you get it only if you use it the way we determine you should use it, which is to have an educational IRA. I think educational IRAs are wonderful, if you can afford them. But the whole purpose of the $500 tax credit was to let working families decide.

I know the Senate is full of brilliant people, and we think we can decide things for families better than they can. But that violates the agreement we had with the American people on this bill. We hear every time an issue is debated that this violates the commitment to the Congress, or it violates the commitment to the President. This provision violates the commitment to the American people, and all of us talk about a $500 tax credit. We talk about parents choosing. Let's let them choose.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. There is 1 minute to the opposition.

Mr. ROTH. Mr. President, I strongly oppose this amendment.

We had two goals in this legislation: To provide tax relief to the family, to provide assistance for higher education to the families, and this carefully crafted compromise does exactly that.

I yield what time is remaining to the Senator from Louisiana.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. BREAUX. The problem of bringing up the amendment is there is no requirement that the tax credit be used for the child. This is a per-child tax credit. We think there should be at least some encouragement that it be used for the child.

Mr. KERREY. Mr. President, this provision would change American families with children, and it will generate more wealth. It is good for American families. We have been talking about it. In addition to the child tax credit, there are a number of us—Republicans and Democrats—talking about ways to make this tax credit a vehicle for generating wealth for the last few years. It is a good provision.

I hope my colleagues will vote against the motion to strike.

The PRESIDING OFFICER. The time has expired.

Mr. ROTH. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Texas. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 46, nays 54, as follows:

[Rollcall Vote No. 139 Leg.]

YEAS—46

Abraham
Akaka
Allard
Ashcroft
Bond
Brownback
Burns
Campbell
Coats
Collins
Conrad
Coverdell
D'Amato
DeWine
Domenici
Dorgan
Enzi
Faircloth
Frist
Gramm
Grams
Hagel
Helms
Hutchinson
Hutchison
Inhofe
Johnson
Kempthorne
Kyl
Lugar
McCain
McConnell
Murkowski
Nickles
Roberts
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Thomas
Thompson
Thurmond
Warner
Wellstone

NAYS—54

Baucus
Bennett
Biden
Bingaman
Boxer
Breaux
Bryan
Bumpers
Byrd
Chafee
Cleland
Cochran
Craig
Daschle
Dodd
Durbin
Feingold
Feinstein
Ford
Glenn
Gorton
Graham
Grassley
Gregg
Harkin
Hatch
Hollings
Inouye
Jeffords
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lott
Mack
Mikulski
Moseley-Braun
Moynihan
Murray
Reed
Reid
Robb
Rockefeller
Roth
Sarbanes
Specter
Stevens
Torricelli
Wyden

The amendment (No. 552) was rejected.

Mr. ROTH. Mr. President, I move to reconsider the vote.

Mr. SANTORUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. May we have order, please.

Mr. ROTH. Mr. President, what is the pending order?

Mr. MOYNIHAN. Mr. President, we must have order.

The PRESIDING OFFICER. We will not proceed until there is order in the Chamber.

AMENDMENT NO. 554

The PRESIDING OFFICER. The pending question is on the Kerry of Massachusetts amendment No. 554.

Mr. ROTH. Mr. President, I yield the floor.

Mr. KERRY. Mr. President, may we have order.

The PRESIDING OFFICER. Two minutes equally divided. The Senator from Massachusetts.

Mr. KERRY. May we have order, Mr. President.

The PRESIDING OFFICER. May we have order, please.

Mr. KERRY. Mr. President, we just heard the Senator from Texas talk about getting a child tax credit for children. Under the child tax credit as it is written in the Finance Committee bill, 99 percent of the children eligible in the lowest 20 percent of income will not get it; 86 percent of the children in the next quintile will not get it. This is because, as we all know, most people in America pay their taxes by the payroll tax.

What I do in my amendment is take the Contract With America provision that was supported by Senator GRAMM, Senator LOTT, and Senator COATS and apply a refundable tax credit so that we expand by 7 million the number of children who will be given a tax credit. If we really want the working people of America to get this credit, it is appropriate that a working family that is earning $22,000 with two parents and two children be able to get the credit. Under the current legislation, they would not get the credit.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. KERRY. Only by the Contract With America provision can we expand the number of children.

The PRESIDING OFFICER. One minute in opposition. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I urge any colleagues to vote no on the Kerry amendment. This is really an amendment to make the credit refundable. Another way of saying that, this is a way for the Federal Government to spend more money. Costed out, the outlays will increase in this bill under this amendment by $22 billion over 5 years, by $47 billion over 10 years.

I might mention, refundable credits are one of the most fraudulent in government. The EITC program has exploded. It has an error rate of over 25 percent. This is an amendment to redistribute wealth, and it denies tax credits for families that have incomes above $60,000. I urge my colleagues to vote no on this amendment.

Mr. DOMENICI. Mr. President, I rise to make a point of order against the amendment. It would increase outlays by $22 billion over 5 years, $47 billion over 10 years and it thus violates section 302(b) of the Budget Act.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, this is revenue neutral, and I move to waive the Budget Act to accept a revenue neutral amendment.

The PRESIDING OFFICER. Does the Senator ask for the yeas and nays?

Mr. ROTH. Yeas and nays.

Mr. KERRY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The PRESIDING OFFICER. The yeas and nays were ordered.

There are 2 minutes equally divided on this vote.

The Senator from Massachusetts.

Mr. KERRY. Mr. President, let me just say to my colleagues this does not cost one penny additional because we change the phase-in. It is $100,000 plus that you extended to the people in the Finance Committee. I put the phaseout at $65,000 to $70,000, and we phase in the children by age. So there is no impact on the budget. It is revenue neutral.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. May we have order, please.

Mr. KERRY. And it extends it to 7 million additional children. You cannot say you are covering working children in America if a working family is not able to take advantage of the credits.

The PRESIDING OFFICER. The time has expired.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. If we can all have order, please.

The Senator from Oklahoma has 1 minute.

Mr. NICKLES. Mr. President, I am advised by the Senator from New Mexico that the low-income family with two children under the EITC Program, if they have incomes of about $14,000, receive a refundable tax credit of $3,680, a lot more than their total tax liability. The Senator from Massachusetts wants to add to that and increase outlays by $22 billion.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, there is a budget point of order, neutrality or no neutrality. The expenditures in this amendment exceed the expenditures that are allocated under the budget resolution, and the Budget Act says you cannot spend more than is allocated to the committee, regardless of whether it is neutral or not.

Mr. BYRD. Mr. President, may we have order in the Chamber.

VOTE ON MOTION TO WAIVE THE BUDGET ACT

The PRESIDING OFFICER. The Senate will be in order. The question is on agreeing to the motion to waive the point of order. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Illinois [Mr. DURBIN] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 39, nays 60, as follows:

[Rollcall Vote No. 140 Leg.]

YEAS—39

Akaka
Biden
Bingaman
Boxer
Breaux
Bumpers
Cleland
Coats
Collins
Conrad
Daschle
Dodd
Dorgan
Feingold
Feinstein
Ford
Glenn
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Mikulski
Murray
Reed
Reid
Robb
Sarbanes
Specter
Torricelli
Wellstone
Wyden

NAYS—60

Abraham
Allard
Ashcroft
Baucus
Bennett
Bond
Brownback
Bryan
Burns
Byrd
Campbell
Chafee
Cochran
Coverdell
Craig
D'Amato
DeWine
Domenici
Enzi
Faircloth
Frist
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Kempthorne
Kerrey
Kyl
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Moseley-Braun
Moynihan
Murkowski
Nickles
Roberts
Rockefeller
Roth
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Stevens
Thomas
Thompson
Thurmond
Warner

NOT VOTING—1

Durbin

The PRESIDING OFFICER. On this vote the nays are 60, the ayes are 39. Three-fifths of the Senators duly chosen and sworn not voting in the affirmative, the motion is rejected. The point of order is sustained and the amendment falls.

Mr. ROTH. Mr. President, I move to reconsider the vote.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 537

The PRESIDING OFFICER. The question now is on the Domenici amendment No. 537, to which the pending business is the second-degree amendment, No. 539.

The Senator from New Mexico.

AMENDMENT NO. 539 TO AMENDMENT NO. 537

Mr. DOMENICI. I do not see Senator BIDEN on the floor but I do see Senator GRAMM. Do you object if I modify my amendment to include your Biden-Gramm amendment, so when we vote on mine we would be taking yours with us?

Mr. GRAMM. Why don't we put it on my amendment?

Mr. DOMENICI. I will object. Do you object?

Mr. GRAMM. No, being a sweet, wonderful person, I will not object.

Mr. DOMENICI. Being that everyone in the Chamber would want it to happen, he agrees.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

The amendment (No. 539) was agreed to.

AMENDMENT NO. 537, AS AMENDED

The PRESIDING OFFICER. There will be 2 minutes equally divided.

Mr. DOMENICI. Mr. President, I am the proponent of the waiver at this point, so I get 1 minute for the waiver.

All we have done here is taken current law, with reference to points of order and the processes that we have to enforce budgets, the pay-go, and what we put in is the 5-year caps which we did on the last 5-year budget. We only did 2 years on the defense wall instead of 5. That exists today.

Mr. MOYNIHAN. Mr. President, we must have order.

The PRESIDING OFFICER (Ms. COLLINS). The Senate will be in order.

Mr. DOMENICI. So, in order to enforce the agreement that we are claiming is a balanced budget, we must adopt this amendment or it is unenforceable, in terms of the appropriated accounts.

Mr. MOYNIHAN. Madam President, might I just take a moment to observe that, with no uproar, we are about to do something rather important. In this vote on budget procedures we are going to legislate a change in the inflation index used to update official calculations of baseline spending.

Under section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985 (Gramm-Rudman-Hollings), required inflation adjustments are made using a "fixed-weight index" produced by the Commerce Department's Bureau of Economic Analysis. Section 1559(a)(3), of the changes in budget enforcement procedures now before us, require that in the future the adjustments should be based on the "domestic product chain-type price index"—also produced by the Bureau of Economic Analysis. Given the improvements in index number theory, this is a perfectly appropriate change.

Might I also just remind my colleagues that the Department of Labor's Bureau of Labor Statistics compiles two other indexes used by the Government—CPI-U which is used to adjust provisions of the Tax Code and CPI-W which is used to adjust benefits such as Social Security.

For the record I note that none of these indexes give the same estimate of inflation.

Here are the numbers for 1996:

[In percent]

CPI-U	3.0
CPI-W	2.9
Fixed Weight Price Index	2.3
Chain Weight Price Index	2.1

Today's vote on budget procedures should be recalled when we return—as we must—to the issue of producing an accurate cost of living index for the purpose of automatic indexation of Government programs. No one is referring to today's legislative actions as "politicizing" the calculation of budget updates. We are just getting the numbers right.

And no one should refer to legislating a correction in automatic indexation formulas as a "political" fix.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Madam President, I ask unanimous consent that Senators HATCH and GREGG be added as cosponsors to the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Madam President, I would like the 1 minute on the Biden-Gramm second-degree amendment.

The PRESIDING OFFICER. The 1 minute has expired.

Mr. GRAMM. But we have a second-degree amendment that was added to the Domenici amendment by unanimous consent. We would like it.

The PRESIDING OFFICER. The amendment has been accepted. All time has expired.

Mr. DOMENICI. I ask consent that he gets 1 minute. It is fair.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Texas.

The Senate will be in order.

Mr. GRAMM. Let me take 30 seconds and allow Senator BIDEN to have the other 30 seconds. Our colleagues will remember that we set up a violent crime trust fund to guarantee adequate funding for law enforcement, and for our antidrug effort. That provision was set to expire and all we are doing in this amendment is simply extending that trust fund. This is a mightily important matter. I am confident no one is going to oppose it. I simply wanted to make note of what we are doing. I yield the remainder of the time.

Mr. BIDEN. Madam President, there is nothing to add. This is simply extending the extent, the life of this agreement—the existence of the trust fund.

VOTE ON AMENDMENT NO. 537, AS AMENDED

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the amendment. The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced, yeas 98, nays 2, as follows:

[Rollcall Vote No. 141 Leg.]

YEAS—98

Abraham
Akaka
Allard
Ashcroft
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bryan
Burns
Byrd
Campbell
Chafee
Cleland
Coats
Cochran
Collins
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Domenici
Dorgan
Durbin
Enzi
Faircloth
Feingold
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hagel
Harkin
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Reed
Reid
Robb
Roberts
Rockefeller
Roth
Santorum
Sarbanes
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Torricelli
Warner
Wyden

NAYS—2

Bumpers
Wellstone

The amendment (No. 537), as amended, was agreed to.

Mr. MOYNIHAN. Madam President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Madam President, what actually happened on that vote, the Parliamentarian misunderstood and he had us vote up or down on this amendment, and I had asked that it be a waiver of the Budget Act. In light of the fact we have—how many votes?

The PRESIDING OFFICER. Ninety-eight yeas.

Mr. DOMENICI. I would like to clear the amendment and make sure we have waived the Budget Act for this amendment so it is no longer possible to raise a point of order against it.

So I move to waive the Budget Act for consideration of this amendment to this bill and any conference report that returns with it in.

VOTE ON MOTION TO WAIVE THE BUDGET ACT

The PRESIDING OFFICER. The question is on agreeing to the motion to waive the Budget Act with respect to amendment No. 539, as amended.

The motion was agreed to.

Mr. MOYNIHAN. Madam President, I move to reconsider the vote by which the motion was agreed to.

Mr. ROTH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROTH. The next amendment is Senator GRAMM's.

The PRESIDING OFFICER. The Senator from Texas is recognized.

AMENDMENT NO. 566

(Purpose: To guarantee a balanced Federal budget and expand tax relief options)

Mr. GRAMM. Madam President, let me remind everybody that in the budget that we are enforcing here, we had $7 billion of net deficit reduction as compared to current policy. Ninety-seven percent of deficit reduction was simply assumed. That deficit reduction and policy changes has now fallen to $1 billion because we are short on spectrum.

Everything we are doing in balancing the budget is based on assumptions. The only enforcement mechanism we now have is on discretionary spending, and the first act in considering this budget was waiving that discretionary spending cap in the last budget.

My amendment sets out the deficit reduction targets that we have committed to and enforces them with an across-the-board cut if we refuse to meet them. Also, my provision says that in paying for a tax cut, you can pay for it by cutting entitlements, by raising other taxes or by lowering the discretionary spending caps. So it gives us the option in the future, if we ever do another tax cut, to not have to cut Medicare in order to pay for tax cuts, so that if we want to reduce discretionary spending and put a spending cap in place, we can do it.

This budget has a lot of assumptions in it. We need as strong as possible an enforcement. If you want strong enforcement, vote for this amendment.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Madam President, I oppose the Gramm amendment. The amendment would radically change current budget rules by allowing temporary, unspecified cuts in discretionary programs to pay for permanent tax cuts. That would violate the bipartisan budget agreement and could explode the deficit in the future.

This amendment also brings back the discredited Gramm-Rudman system of automatic across-the-board cuts, the system that led to a proliferation of gimmicks and rosy scenarios, and we didn't significantly reduce the deficit until we got rid of it.

Madam President, fool me once, shame on you; fool me twice, shame on us. I yield the remainder of my time to my colleague from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Madam President, Gramm-Rudman-Hollings didn't work before, and it won't work the next time. The Senator from Texas would like to put back into effect Gramm-Rudman-Hollings automatic sequesters if you miss your targets. As a Senator, I personally don't believe you ought to offset appropriated accounts, to cut them to put in permanent tax cuts. I think that deserves far more consideration than 30 seconds on the floor of the Senate.

Mr. LAUTENBERG. Madam President, I raise a point of order that the pending amendment is extraneous and violates section 313(b)(1)(A) of the Congressional Budget Act.

The PRESIDING OFFICER. If the Senator will withhold, the clerk will first report the amendment.

The bill clerk read as follows:

The Senator from Texas [Mr. GRAMM] proposes an amendment numbered 566.

Mr. GRAMM. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, add the following:

SEC. . GUARANTEED BALANCED BUDGET.

(a) MAXIMUM DEFICIT AMOUNT.—Section 253 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) in subsection (b), in the last sentence by striking the period and inserting "and $10,000,000,000 for fiscal years 1998 and thereafter."; and

(2) by striking subsections (g) and (h) and inserting the following:

"(g) MAXIMUM DEFICIT AMOUNT.—In this section—

"(1) Notwithstanding any provision of this or the term 'deficit' shall have the same meaning as the term 'deficit' in section 3(6) of the Congressional Budget and Impoundment Control Act of 1974 as on the day before the date of enactment of the Budget Enforcement Act of 1990; and

"(2) the term 'maximum deficit amount' means—

"(A) with respect to fiscal year 1998, $90,500,000,000;

"(B) with respect to fiscal year 1999, $89,500,000,000;

"(C) with respect to fiscal year 2000, $82,900,000,000;

"(D) with respect to fiscal year 2001, $53,100,000,000;

"(E) with respect to fiscal year 2002 and fiscal years thereafter, zero."

(b) LOOK-BACK SEQUESTER.—Section 253 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at the end thereof the following new subsection:

"(h) LOOK-BACK SEQUESTER.—

"(1) IN GENERAL.—On July 1 of each fiscal year, the Director of OMB shall determine if laws effective during the current fiscal year will cause the deficit to exceed the maximum deficit amount for such fiscal year. If the limit is exceeded, there shall be a preliminary sequester of July 1 to eliminate the excess.

"(2) PERMANENT SEQUESTER.—Budget authority sequestered on July 1 pursuant to paragraph (1) shall be permanently canceled on July 15.

"(3) NO MARGIN.—The margin for determining a sequester under this subsection shall be zero.

"(4) SQUESTRATION PROCEDURES.—The provision of subsections (c), (d), and (e) of this section shall apply to a sequester under this subsection."

(c) OFFSETTING TAX CUTS WITH CUTS IN DISCRETIONARY SPENDING.—Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at the end the following:

"(f) OFFSETS WITH DISCRETIONARY SPENDING.—For purposes of subsection (b), revenue reductions increasing the deficit may be offset by reductions in discretionary appropriated amounts reducing the deficit.".

(d) ADJUSTMENT OF DISCRETIONARY SPENDING LEVELS FOR TAX CUTS.—Section 251(b)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at the end the following:

"(I) TAX RELIEF ADJUSTMENTS.—If, for any fiscal year or years, appropriations for discretionary appropriations are reduced that Congress and the President designate in statute as offsets for tax relief, the adjustments shall be the total amount of such reductions in appropriations in discretionary accounts and the outlays flowing in all years from such reduction."

(e) Notwithstanding, any provision of this or any other Act, section 253 of the Balanced Budget and Emergency Deficit Control Act is extended through fiscal year 2002.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Madam President, under section 904 of the Budget Act, I move to waive the point of order against the pending amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

VOTE ON MOTION TO WAIVE THE BUDGET ACT

The PRESIDING OFFICER. The question is on agreeing to the motion to waive the Budget Act with respect to amendment No. 566. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 37, nays 63, as follows:

[Rollcall Vote No. 142 Leg.]

YEAS—37

Abraham
Allard
Ashcroft
Bond
Brownback
Coats
Collins
Coverdell
Craig
Enzi
Faircloth
Frist
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Kempthorne
Kyl
Lott
Mack
McCain
McConnell
Nickles
Santorum
Sessions
Shelby
Smith (NH)
Thomas
Thompson
Thurmond

NAYS—63

Akaka
Baucus
Bennett
Biden
Bingaman
Boxer
Breaux
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Cleland
Cochran
Conrad
D'Amato
Daschle
DeWine
Dodd
Domenici
Dorgan
Durbin
Feingold
Feinstein
Ford
Glenn
Gorton
Graham
Harkin
Inouye
Jeffords
Johnson
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lugar
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Reed
Reid
Robb
Roberts
Rockefeller
Roth
Sarbanes
Smith (OR)
Snowe
Specter
Stevens
Torricelli
Warner
Wellstone
Wyden

The PRESIDING OFFICER. On this vote the yeas are 37, the nays are 63. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained, and the amendment falls.

Mr. ROTH. I move to reconsider the vote.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from Arkansas is recognized to offer an amendment on which there will be 2 minutes of debate equally divided.

The Senator from Arkansas.

AMENDMENT NO. 568

(Purpose: To prohibit the scoring, for budget purposes, of revenues associated with the sale of certain federal lands)

Mr. BUMPERS. Madam President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS] proposes an amendment numbered 568.

Mr. BUMPERS. Madam President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place add the following:

"(f) BUDGETARY TREATMENT OF SALES OF CERTAIN FEDERAL LANDS.—The amounts realized from the sale or lease of lands or interests in lands which are part of the National Park System, the Forest Service System or the U.S. Fish and Wildlife refuge system shall not be scored with respect to the level of budget authority, outlays, or revenues."

Mr. BUMPERS. Madam President, this amendment will prohibit the scoring of the sale of any lands from a national park or a national wildlife refuge or Forest Service lands.

To my colleagues, I want to say, I have witnessed over the past 10 years an irresistible urge on the part of some of my colleagues to dispose of some of the national treasures of this country, even suggesting a commission to determine which lands, which national parks, we can do without and sell.

This amendment is designed to do two things. No. 1, it is designed to discourage that by making it impossible to score the proceeds from a sale of national parks, Forest Service lands, or wildlife refuges in a reconciliation bill; and, No. 2, I want to say that I think it is a terrible practice. When I was Governor, I never allowed a one-time asset to be used in the budget.

Finally, to those who would say, well, this will keep us from leasing ANWR, that is simply not true. You can lease ANWR. You can lease anything, wildlife refuge or otherwise, but you cannot use it as an asset in the reconciliation bill.

I yield back such time as I may have.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. Madam President, fellow Senators, the bipartisan budget agreement and the Domenici-Lautenberg amendment revised the asset sale scoring rule. The new rule prohibits scoring asset sales that would lead to a financial loss to the Government.

Much work has gone into this. Democrats and Republicans have worked on it. Senator BUMPERS wants to make a special exception for public lands.

Let me suggest the awesome situation that he has talked about never has happened in the U.S. Senate. We have never tried to sell national parks. We have never had any commission to sell national parks. Somebody in the House had a wild idea, and, frankly, that is never going to happen here.

As a matter of fact, this amendment, what we have already adopted, says that if there is any financial loss to the Government, you cannot count an asset sale.

I make a point of order against the Bumpers amendment. It violates section 313 of the Budget Act.

Mr. BUMPERS. Madam President, I move to waive the Budget Act for Senate consideration of my amendment.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

VOTE ON MOTION TO WAIVE THE BUDGET ACT

The PRESIDING OFFICER. The question occurs on agreeing to the motion to waive the Budget Act. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 48, nays 52, as follows:

[Rollcall Vote No. 143 Leg.]

YEAS—48

Akaka
Biden
Bingaman
Boxer
Bryan
Bumpers
Byrd
Chafee
Cleland
Collins
Conrad
Daschle
Dodd
Dorgan
Durbin
Feingold
Ford
Glenn
Graham
Gregg
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Reed
Reid
Robb
Rockefeller
Sarbanes
Snowe
Specter
Torricelli
Wellstone
Wyden

NAYS—52

Abraham
Allard
Ashcroft
Baucus
Bennett
Bond
Breaux
Brownback
Burns
Campbell
Coats
Cochran
Coverdell
Craig
D'Amato
DeWine
Domenici
Enzi
Faircloth
Feinstein
Frist
Gorton
Gramm
Grams
Grassley
Hagel
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Roberts
Roth
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Stevens
Thomas
Thompson
Thurmond
Warner

The PRESIDING OFFICER. On this question, the yeas are 47, the nays are 52. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected, the point of order is sustained, and the amendment falls.

Mr. ROTH. I move to reconsider the vote.

Mr. MOYNIHAN. I move to lay it on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 569

(Purpose: To modify the pay-as-you-go requirement of the budget process to prohibit the use of tax increases to pay for mandatory spending increases)

The PRESIDING OFFICER. Under the previous order, the Senator from Idaho is recognized to offer an amendment on which there will be 2 minutes of debate equally divided.

Mr. CRAIG. Madam President, I send an amendment to the desk.

The PRESIDING OFFICER (Mr. ENZI). The clerk will report.

The legislative clerk read as follows:

The Senator from Idaho [Mr. CRAIG] proposes an amendment numbered 569.

Mr. CRAIG. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert the following:

SEC. . RESTRICTION ON THE USE OF TAX INCREASES.

(a) IN GENERAL.—In the Senate, for purposes of section 202 of House Concurrent Resolution 67 (104th Congress), it shall not be in order to consider any bill, joint resolution, amendment, motion, or conference report that provides an increase in direct spending offset by an increase in receipts.

(b) WAIVER.—This section may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.

(c) APPEALS.—Appeals in the Senate from the decisions of the Chair relating to any provision of this section shall be limited to 1 hour, to be equally divided between, and controlled by, the appellant and the manager of the concurrent resolution, bill, or joint resolution, as the case may be. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

(d) DETERMINATION OF BUDGET LEVELS.—For purposes of this section, the levels of direct spending and receipts for a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the Senate.

Mr. CRAIG. Mr. President, my amendment would change the current pay-go procedures by establishing a 60-vote point of order against using tax increases to pay for new mandatory spending increases. My amendment is the first step toward reining in the uncontrolled costs of mandatory spending programs that I believe threaten our fiscal future. This budget should have gone further in entitlement reform and it should not have added more entitlement spending, but there is one reform that should be made definitely, and that is to cause no further harm.

My amendment will not affect a single current beneficiary of a single existing entitlement program. My amendment will not affect a single person who will qualify to become a beneficiary under the current requirements of any existing entitlement program. My amendment will not prevent the creation of a new entitlement program if there is a true need for the program. It simply will require that such a need be truly demonstrated.

My amendment will not prevent a tax increase that is used for deficit reduction.

What my amendment will do is put an end to the fiction that tax increases are capable of offsetting the cost of additional mandatory spending.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. LAUTENBERG. Mr. President, I rise to oppose the Craig amendment. The amendment would change the pay-go system and mean that we could not provide for health insurance to children by closing unnecessary tax loopholes. You heard it from the Senator directly.

This is outrageous. It would undermine our efforts to ensure that all of the 10 million children who lack health coverage in this country can have it. There are already budget rules that limit the use of savings that come from tax loopholes. This amendment would go much farther and make it tougher to invest in children's health programs. If you vote for the Craig amendment, you are voting to protect tax loopholes. If you vote against it, you are voting to help children obtain health insurance in the future.

The PRESIDING OFFICER. All time is expired.

Mr. LAUTENBERG. Mr. President, I raise a point of order that the pending amendment is extraneous and violates section 313(b)(1)(A) of the Congressional Budget Act.

Mr. CRAIG. Mr. President, under section 904 of the Budget Act, I move to waive the point of order against the pending amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a such second.

The yeas and nays were ordinary had.

VOTE ON MOTION TO WAIVE THE BUDGET ACT

The PRESIDING OFFICER. The question occurs on agreeing to the motion to waive the Budget Act. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 42, nays 58, as follows:

[Rollcall Vote No. 144 Leg.]

YEAS—42

Abraham
Allard
Ashcroft
Bennett
Brownback
Campbell
Coats
Coverdell
Craig
D'Amato
Enzi
Faircloth
Frist
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Kempthorne
Kyl
Lott
Mack
McCain
McConnell
Murkowski
Nickles
Roberts
Roth
Santorum
Sessions
Shelby
Smith (NH)
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—58

Akaka
Baucus
Biden
Bingaman
Bond
Boxer
Breaux
Bryan
Bumpers
Burns
Byrd
Chafee
Cleland
Cochran
Collins
Conrad
Daschle
DeWine
Dodd
Domenici
Dorgan
Durbin
Feingold
Feinstein
Ford
Glenn
Gorton
Graham
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lugar
Mikulski
Moseley-Braun
Moynihan
Murray
Reed
Reid
Robb
Rockefeller
Sarbanes
Smith (OR)
Snowe
Specter
Torricelli
Wellstone
Wyden

The PRESIDING OFFICER. On this vote, the yeas are 42, the nays are 58. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The point of order is sustained, and the amendment fails.

Mr. ROTH. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 570

(Purpose: To establish procedures to ensure a balanced Federal budget by fiscal year 2002)

The PRESIDING OFFICER. Under the previous order, the Senator from Kansas is recognized to offer an amendment on which there are 2 minutes of debate equally divided.

Mr. BROWNBACK. Mr. President, I have an amendment at the desk in the second-degree.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. BROWNBACK], for himself, Mr. KOHL, and Mr. MCCAIN, proposes an amendment numbered 570.

Mr. BROWNBACK. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following:

TITLE —BUDGET CONTROL

SEC. 01. SHORT TITLE; PURPOSE.

(a) SHORT TITLE.—This title may be cited as the "Bipartisan Budget Enforcement Act of 1997".

(b) PURPOSE.—The purpose of this title is—

(1) to ensure a balanced Federal budget by fiscal year 2002;

(2) to ensure that the Bipartisan Budget Agreement is implemented; and

(3) to create a mechanism to monitor total costs of direct spending programs, and, in the event that actual or projected costs exceed targeted levels, to require the President and Congress to address adjustments in direct spending.

SEC.—02. ESTABLISHMENT OF DIRECT SPENDING TARGETS.

(a) IN GENERAL.—The initial direct spending targets for each of fiscal years 1998 through 2002 shall equal total outlays for all direct spending except net interest as determined by the Director of the Office of Management and Budget (hereinafter referred to in this title as the "Director") under subsection (b).

(b) INITIAL REPORT BY DIRECTOR.—

(1) IN GENERAL.—Not later than 30 days after the date of enactment of this title, the Director shall submit a report to Congress setting forth projected direct spending targets for each of fiscal years 1998 through 2002.

(2) PROJECTIONS AND ASSUMPTIONS.—The Director's projections shall be based on legislation enacted as of 5 days before the report is submitted under paragraph (1). The Director shall use the same economic and technical assumption used in preparing the concurrent resolution on the budget for fiscal year 1998 (H.Con.Res. 84).

SEC.—03. ANNUAL REVIEW OF DIRECT SPENDING AND RECEIPTS BY PRESIDENT.

As part of each budget submitted under section 1105(a) of title 31, United States Code, the President shall provide an annual review of direct spending and receipts, which shall include—

(1) information on total outlays for programs covered by the direct spending targets, including actual outlays for the prior fiscal year and projected outlays for the current fiscal year and the 5 succeeding fiscal years; and

(2) information on the major categories of Federal receipts, including a comparison between the levels of those receipts and the levels projected as of the date of enactment of this title.

SEC.—04. SPECIAL DIRECT SPENDING MESSAGE BY PRESIDENT.

(a) TRIGGER.—If the information submitted by the President under section——03 indicates—

(1) that actual outlays for direct spending in the prior fiscal year exceeded the applicable direct spending target; or

(2) that outlays for direct spending for the current or budget year are projected to exceed the applicable direct spending targets,

the President shall include in his budget a special direct spending message meeting the requirements of subsection (b).

(b) CONTENTS.—

(1) INCLUSIONS.—The special direct spending message shall include—

(A) an analysis of the variance in direct spending over the direct spending targets; and

(B) the President's recommendations for addressing the direct spending overages, if any, in the prior, current, or budget year.

(2) ADDITIONAL MATTERS.—The President's recommendations may consist of any of the following:

(A) Proposed legislative changes to recoup or eliminate the overage for the prior, current, and budget years in the current year, the budget year, and the 4 outyears.

(B) Proposed legislative changes to recoup or eliminate part of the overage for the prior, current, and budget year in the current year, the budget year, and the 4 outyears, accompanied by a finding by the President that, because of economic conditions or for other specified reasons, only some of the overage should be recouped or eliminated by outlay reductions or revenue increases, or both.

(C) A proposal to make no legislative changes to recoup or eliminate any overage, accompanied by a finding by the President that, because of economic conditions or for other specified reasons, no legislative changes are warranted.

(c) PROPOSED SPECIAL DIRECT SPENDING RESOLUTION.—If the President recommends reductions consistent with subsection (b)(2)(A) or (B), the special direct spending message shall include the text of a special direct spending resolution implementing the President's recommendations through reconciliation directives instructing the appropriate committees of the House of Representatives and Senate to determine and recommend changes in laws within their jurisdictions. If the President recommends no reductions pursuant to (b)(2)(C), the special direct spending message shall include the text of a special resolution concurring in the President's recommendation of no legislative action.

SEC. . REQUIRED RESPONSE BY CONGRESS.

(a) IN GENERAL.—It shall not be in order in the House of Representatives or the Senate to consider a concurrent resolution on the budget unless that concurrent resolution fully addresses the entirety of any overage contained in the applicable report of the President under section 04 through reconciliation directives.

(b) WAIVER AND SUSPENSION.—This section may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn. This section shall be subject to the provisions of section 258 of the Balanced Budget and Emergency Deficit Control Act of 1985.

(c) APPEALS.—Appeals in the Senate from the decisions of the Chair relating to any provision of this section shall be limited to 1 hour, to be equally divided between, and controlled by, the appellant and the manager of the bill or joint resolution, as the case may be. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

SEC. 06. RELATIONSHIP TO BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT.

Reductions in outlays or increases in receipts resulting from legislation reported pursuant to section 05 shall not be taken into account for purposes of any budget enforcement procedures under the Balanced Budget and Emergency Deficit Control Act of 1985.

SEC. 07. ESTIMATING MARGIN.

For any fiscal year for which the overage is less than one-half of 1 percent of the direct spending target for that year, the procedures set forth in sections 04 and 05 shall not apply.

SEC. 08. EFFECTIVE DATE.

This title shall apply to direct spending targets for fiscal years 1998 through 2002 and shall expire at the end of fiscal year 2002.

Mr. BROWNBACK. Mr. President, Senator KOHL and I have offered this amendment. It is a very, very simple amendment. It just says if we are going to break the spending caps on this bill, on this budget agreement that we've told the American people is going to balance the budget, if we're going to break the spending limits on it, we have to vote on it. And we have to vote and pass that by a 60-vote margin. That's it.

The President has to say how he is going to get us to a balanced budget. If we're going to break that cap, he has to say how he is going to get us to a balanced budget; if we're going to break that spending cap, he has to say where we're going to make the spending cuts, and we have to vote if we are going to break it.

I think this is the least we can do for the American people. It says, "Folks, we meant it when we said we were going to balance the budget. We meant it when we said we're going to balance it by the year 2002." And if we are going to break it, we've got to break it by a 60-vote margin.

I yield the remainder of my time to Senator KOHL.

Mr. KOHL. Thank you.

Mr. President, I also am a supporter of this amendment. What it simply says is that we are going to do what we set out to do, which is to balance the budget, and, if we go over it in any year, then we are going to have to decide how we are going to reduce that spending to be sure we stay on target to get the budget balanced over the next several years. That is all this does. It is not a sequester. Nobody should fear that. But it is simply an enforcement mechanism which is necessary.

Mr. LAUTENBERG. Mr. President, this amendment is a fast-track ticket to deep cuts in Medicare and Medicaid. It would essentially create a cap for these and other essential mandatory programs like the Medicare and Medicaid.

Mr. President, we ought not punish the people who are on Medicaid or Medicare just because these programs grow faster than a particular rate. Sometimes growth in these programs could be good.

For example, the first reconciliation bill includes money to recruit 3 million uninsured Medicaid-eligible children to sign up for the program. If this happens, obviously Medicaid spending is going to increase. But the question is, What do we want to do? Do we want to take care of those kids or don't we? This would not be a good reason to cut the program. This is a dangerous gimmick. We can balance the budget without it. Furthermore, we ought not accept an amendment that could force quick, drastic cuts in Medicare and Medicaid.

I urge my colleagues to oppose this amendment to protect Medicare and Medicaid.

Mr. President, I raise a point of order that the pending amendment is extraneous and violates section 313(b)(1)(A) of the Congressional Budget Act.

Mr. BROWNBACK. Mr. President, I make a motion to waive the Budget Act with respect to my amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second question?

There is a sufficient second.

The yeas and nays were ordered.

VOTE ON MOTION TO WAIVE THE BUDGET ACT

The PRESIDING OFFICER. The question occurs on the motion to waive the Budget Act. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The yeas and nays resulted— yeas 57, nays 43, as follows:

[Rollcall Vote No. 145 Leg.]

YEAS—57

Abraham
Allard
Ashcroft
Bennett
Bond
Brownback
Burns
Campbell
Chafee
Coats
Cochran
Collins
Coverdell
Craig
D'Amato
DeWine
Domenici
Enzi
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Jeffords
Kempthorne
Kohl
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Robb
Roberts
Roth
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—43

Akaka
Baucus
Biden
Bingaman
Boxer
Breaux
Bryan
Bumpers
Byrd
Cleland
Conrad
Daschle
Dodd
Dorgan
Durbin
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Hollings
Inouye
Johnson
Kennedy
Kerrey
Kerry
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Reed
Reid
Rockefeller
Sarbanes
Torricelli
Wellstone
Wyden

The PRESIDING OFFICER. On this vote, the yeas are 57, the nays are 43. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to. The point of order is sustained and the amendment falls.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote.

Mr. LOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 571

(Purpose: To establish an enforcement mechanism in the Senate to ensure a balanced budget beginning with fiscal year 2002 and to require the President to submit balanced budgets)

The PRESIDING OFFICER. Under the previous order, the Senator from Tennessee is recognized to offer an amendment on which there is 2 minutes of debate equally divided.

May we have order in the Senate so we may proceed with the business of the day.

The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Tennessee [Mr. FRIST], for himself, Mr. CONRAD, Mr. ABRAHAM, and Mr. SESSIONS, proposes an amendment numbered 571.

Mr. FRIST. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the , add the following:

SEC. . ENFORCEMENT OF BALANCED BUDGET.

(a) IN THE SENATE.—Title III of the Congressional Budget Act of 1974 is amended by adding at the end the following:

"ENFORCEMENT OF BALANCED BUDGET IN THE SENATE

"SEC. 315. (a) POINT OF ORDER.—It shall not be in order in the Senate to consider any resolution or bill (or amendment, motion, or conference report on such resolution or bill) that provides or would cause a deficit (as determined for purposes of the Bipartisan Budget Agreement of May 16, 1997) for fiscal year 2002 or any fiscal year thereafter.

"(b) WAIVER AND SUSPENSION.—This section may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn. This section shall be subject to the provisions of section 258 of the Balanced Budget and Emergency Deficit Control Act of 1985.

"(c) APPEALS.—Appeals in the Senate from the decisions of the Chair relating to any provision of this section shall be limited to 1 hour, to be equally divided between, and controlled by, the appellant and the manager of the bill or joint resolution, as the case may be. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

"(d) DETERMINATION OF BUDGET LEVELS.—For purposes of this section, the levels of new budget authority, outlays, and revenues for a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the Senate.".

(b) PRESIDENT'S BUDGET.—Section 1105(f) of title 31, United States Code, is amended by adding at the end the following: "The budget shall also be prepared in a manner that does not cause a deficit for fiscal year 2002 or any fiscal year thereafter.".

Mr. FRIST. Mr. President, this amendment, submitted on behalf of Senators CONRAD, SESSIONS, ABRAHAM, and myself evolves from a simple principle, that is, once we balance the budget, which we will do by 2002, let us keep it in balance thereafter. The amendment has two key provisions. No. 1, establishes a 60-vote point of order against any bill or resolution that will increase the deficit in the year 2002 or any year thereafter, and, No. 2, requires the President to submit a balanced budget every year in 2002 and thereafter.

The amendment does provide exceptions in the event of war or recession. The amendment is consistent with the bipartisan balanced budget agreement.

I reserve the remainder of my time.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. I am strongly opposed to this amendment. It creates a 60-vote point of order against any budget resolution that shows a unified deficit after the year 2002. We are all committed to protecting against the rising deficit. This amendment, however, means that next year even a modest change in CBO's long-term economic forecast could trigger the need for deep and hurtful cuts. It would be outrageous to cut Medicare or Social Security just because CBO changes its guess about what the economy will look like in 5 years. CBO cannot even predict what the deficit is going to look like in the next 5 months, never mind 5 years. Their recent record is absolutely abysmal. This amendment also requires that Social Security surpluses be used in calculating the deficit and could make it impossible to use those surpluses in the future to pay for Social Security benefits of retiring baby boomers.

The PRESIDING OFFICER. The Senator's time has expired

Mr. LAUTENBERG. I urge my colleagues to oppose this dangerous and radical amendment and I raise a point of order——

The PRESIDING OFFICER. The point of order cannot be raised until the Senator's time has been used up.

The Senator from Tennessee.

Mr. FRIST. Mr. President, I yield to Senator DOMENICI.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I think this is a very good idea. As a matter of fact, if you look carefully at the agreement we entered into with the White House, it clearly says we are not supposed to do anything that takes the budget out of balance in the year 2002 and beyond. I think perhaps the Senator is just helping us try to enforce that agreement.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. LAUTENBERG. I now, Mr. President, raise the point of order that the amendment violates section 313(b)(1)(A) of the Congressional Budget Act.

Mr. FRIST. I move to waive the Budget Act with respect to my amendment. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

VOTE ON MOTION TO WAIVE THE BUDGET ACT

The PRESIDING OFFICER. The question is on agreeing to the motion to waive the Budget Act. The yeas and nays have been ordered. The clerk will call the roll.

The yeas and nays resulted—yeas 59, nays 41, as follows:

[Rollcall Vote No. 146 Leg.]

YEAS—59

Abraham
Allard
Ashcroft
Bennett
Bond
Brownback
Burns
Campbell
Chafee
Coats
Cochran
Collins
Conrad
Coverdell
Craig
D'Amato
DeWine
Domenici
Enzi
Faircloth
Feingold
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Jeffords
Kempthorne
Kohl
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Robb
Roberts
Roth
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—41

Akaka
Baucus
Biden
Bingaman
Boxer
Breaux
Bryan
Bumpers
Byrd
Cleland
Daschle
Dodd
Dorgan
Durbin
Feinstein
Ford
Glenn
Graham
Harkin
Hollings
Inouye
Johnson
Kennedy
Kerrey
Kerry
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Reed
Reid
Rockefeller
Sarbanes
Torricelli
Wellstone
Wyden

The PRESIDING OFFICER. On this vote the yeas are 59, the nays are 41. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained, and the amendment falls.

Mr. LAUTENBERG. Mr. President, I move to reconsider the vote.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 538

(Purpose: To ensure that future revenue windfalls to the federal Treasury are reserved for tax or deficit reduction—not additional spending)

The PRESIDING OFFICER. Under the previous order, the Senator from Michigan is recognized to offer an amendment on which there is 2 minutes of debate, equally divided. We need to have order in the Senate. The Senate will please come to order.

Mr. ABRAHAM. Mr. President, I call up my amendment No. 538.

The OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Mr. ABRAHAM], for himself, Mr. BROWNBACK, Mr. KYL, Mr. SESSIONS, Mr. ENZI, Mr. INHOFE, and Mr. GRAMS, proposes an amendment numbered 538.

Mr. ABRAHAM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

SEC. . ECONOMIC GROWTH PROTECTION.

Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902) is amended by adding at the end the following:

"(f) ECONOMIC GROWTH PROTECTION.—

"(1) ESTIMATE.—OMB shall, for any amount by which revenues for a budget year and any out-years through fiscal year 2002 exceed the revenue target absent growth, estimate the excess and include such estimate as a separate entry in the report prepared pursuant to subsection (d) at the same time as the OMB sequestration preview report is issued.

"(2) INCLUSION IN SCORECARD.—OMB shall include the amount of any change in revenues determined pursuant to paragraph (1) as a deficit decrease under this part in the estimates and reports required by subsection (b) of section 254 unless such amount is offset by legislation enacted in compliance with paragraph (3).

"(3) USE OF ADJUSTMENT.—An amount not to exceed the amount of deficit decrease determined under paragraph (2) may be offset by legislation decreasing revenues.

"(4) REVENUE TARGET ABSENT GROWTH.—For purposes of this subsection, the revenue target absent growth is—

"(A) for fiscal year 1998, $1,601,800,000,000;

"(B) for fiscal year 1999, $1,664,200,000,000;

"(C) for fiscal year 2000, $1,728,100,000,000;

"(D) for fiscal year 2001, $1,805,100,000,000; and

"(E) for fiscal year 2002, $1,890,400,000,000."

SEC. . CONGRESSIONAL PAY-AS-YOU-GO

Legislation decreasing revenues in compliance with section 252(f)(3) of the Balanced Budget and Emergency Deficit Control Act of 1985, as added by section , shall be considered to be in order for purposes of section 202 of House Concurrent Resolution 67 (104th Congress).

Mr. ABRAHAM. This amendment is offered on behalf of myself, Senator BROWNBACK, Senator ENZI, Senator INHOFE. Senator GRAMS, and Senator SESSIONS.

At this time our Nation's tax rate is the highest percentage of the national income it has ever been in history. As we all know in this Chamber, our national debt is too high. Recently it was discovered by the Congressional Budget Office that they had underestimated the revenues coming into our system by some $225 billion, and we promptly spent a very substantial amount of those dollars on new Federal programs.

This amendment is very simple. It says if the revenues which are received by the Treasury in the next 5 years exceed those that are projected, we ought to have a lockbox and those dollars ought to either be spent on tax cuts or on reducing the deficit, and not new Federal spending.

Mr. President, a coalition of taxpayer groups including the National Taxpayer's Union, the National Tax Limitation Committee, Empower America, Americans for Hope, Growth and Opportunity, and others have endorsed my bill to require that any tax revenue windfall be used for tax cuts or deficit reduction, not new government spending. I ask unanimous consent that a statement by Al Cors, Jr., of the National Taxpayer's Union be entered in the RECORD immediately following my remarks:

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL TAXPAYERS UNION,
Alexandria, VA, June 27, 1997.

Any amendment that would dedicate "windfall" revenue to new spending, rather than to additional tax relief and/or deficit reduction, will be scored heavily as an antitaxpayer amendment on our annual NTU Rating of Congress.

AL CORS, Jr.,
Director, Government Relations,
National Taxpayers Union.

THE NATIONAL
TAX-LIMITATION COMMITTEE,
Washington, DC, June 25, 1997.

PRO-TAXPAYER GROUPS URGE CONGRESS TO ACT NOW ON FUTURE TAX CUTS

WASHINGTON, DC.—The National Tax-Limitation Committee joined by Empower America, National Taxpayers Union, Americans for Hope, Growth, and Opportunity, Citizens for a Sound Economy, and Citizens for Budget Reform sent a letter to Congress urging action in the budget legislation to reserve future revenue windfalls for tax cuts for all Americans. The text of the letter follows:

You have a great opportunity to act right now to secure the first down-payment on further tax relief for the American people. You can do this simply by enacting a firm rule during budget reconciliation that sets aside, or "sequesters", any revenues above the FY 1998 budget resolution projections for further tax relief for all Americans. While some of these "windfall" revenues might possibly be applied to faster deficit reduction, it is vitally important that the bulk of them go directly to taxpayers, and never get within the grasp of the big-government spending machine.

There are a lot of good ideas floating around on how to do this, but the key is to look out for the interests of the taxpayer first, last, and always. We have plenty of time to think about the best ways to provide for future debt repayment, additional tax cuts, and major tax reform in the next millenium. But our immediate and urgent goal must be to unambiguously lock in any "bonus" revenues to help the hard-pressed taxpayer.

We are concerned that some proposals being considered merely put the taxpayer a distant third, delay their effects for many years, and create a built-in bias towards higher taxes, not lower (such as requiring revenue growth to outstrip spending growth on a year-to-year basis). The last thing the Federal government needs is yet another incentive to raise taxes. Furthermore attempting to build up special trust funds within the government rather than provide tax relief merely gives those "trust" accounts protected status in the fiscal policy debate—not sound fiscal policy, and certainly not pro-taxpayer.

The pending tax bill represents an honorable and diligent effort to give taxpayers a first installment of tax relief, and start moving right now to ratchet down the percent of family income consumed by taxes. We know that this budget process has been a difficult one, and we want to work with you as it continues to unfold, particularly in what promises to be a very tough "end-game" negotiation. We want the best possible deal for the American taxpayer, and we want to ensure that this is a true "taxpayer relief act". Seizing this unique opportunity to point the way to future tax relief is one of the best possible ways to do that.

Jack Kemp, Empower America; Lewis K. Uhler, National Tax Limitation Committee; David Keating, National Taxpayers Union; Steve Forbes, Americans for Hope, Growth, and Opportunity; Matt Kibbe, Citizens for a Sound Economy; Harrison Fox, Citizens for Budget Reform.

Mr. ABRAHAM. I yield to the Senator from Minnesota to comment further on this legislation.

Mr. GRAMS. Mr. President, I rise to strongly support the amendment offered by Senator ABRAHAM. After all, if the revenues do increase, it is going to come because of the hard work of the American people. While spending levels on Federal programs have already been set, it only makes sense, if the revenues increase, they should go either to tax relief to those hard-working American families or to deficit reduction. They should not go to enlarge the size of Government. The era of big Government is far from over. This amendment would help protect future taxpayers.

Mr. ABRAHAM. Mr. President, I ask unanimous consent that my op-ed article in today's Journal of Commerce on the economic growth dividend protection amendment be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Journal of Commerce, June 27, 1997]

AMERICA NEEDS A TAX CUT

(By Spencer Abraham)

It is always easier to spend other people's money than to give it back, and that's the lesson of the budget agreement between Congress and the Clinton administration. It is also the major obstacle confronting those of us who advocate reducing the record tax burden shouldered by American taxpayers.

After four months of negotiations, and literally just hours before a self-imposed deadline, the Congressional Budget Office provided budget negotiators with a gift of sorts. It found that the federal deficit in 1997 would be much less than previously reported. Instead of $112 billion, the deficit would be closer to $67 billion. Moreover, the CBO suggested that this $45 billion windfall would extend over the next five years, reducing the total deficit by $245 billion.

This "windfall" is a mixed blessing. The economy's continued strong performance means more jobs and opportunities for Americans—as well as additional revenues to the government. But it brought renewed administration demands for even higher levels of spending in 1998 and beyond. Apparently, all sorts of spending issues that had previously been closed were reopened following the CBO's surprise announcement.

One issue that remained closed, however, was that of tax cuts. While spending for numerous programs was increased following the CBO's announcement, the net tax cut remained fixed at $85 billion. The result was a budget plan that would increase federal spending by 17 percent over the next five years, yet reduce tax collections by less than 1 percent of the total tax burden over that time.

Along with a number of my colleagues, I have proposed legislation to improve this deal. It would reserve any unexpected increase in tax revenues for tax cuts and/or deficit reduction. To the extent tax revenues under this budget agreement exceed projections by the Joint Committee on Taxation, those revenues should go to the people, not additional government spending.

This is not an idle suggestion. For years, tax cut advocates like me have argued that federal revenue estimates ignore the dynamic effects that pro-growth tax reforms have on the economy and the budget. Incentives for economic growth and job creation—such as reduced capital gains taxes and increased allowable IRAs—will bring higher economic growth over the next five years and increase, not decrease, revenues to the federal treasury.

History is on our side in this debate. For example, between 1978 and 1985, while the top marginal rate on capital gains was cut almost in half—from 35% to 20%—total annual federal receipts from the tax almost tripled. They rose from $9.1 billion to $26.5 billion annually. Conversely, when Congress raised the capital gains rate in 1986, revenues from that tax actually fell.

Economists across the board predict that cutting the capital gains rate will bring a revenue windfall for the Treasury. Economic expert Larry Kudlow predicts that another broad capital gains tax cut could produce a $90 billion tax dividend next year, assuming only 15% of investors realize their stock market gains from three years ago. These windfalls should be given back to the taxpayers.

As John F. Kennedy noted, "It is a paradoxical truth that tax rates are too high today and tax revenues are too low, and the soundest way to raise the revenues in the long run is to cut taxes now."

Why do Americans need a tax cut? The President's own economists report that the tax burden on Americans is the highest ever—31.7%. According to the National Taxpayer Union, the average American family now pays almost 40% of its income in state, local and federal taxes. And while we address the tax burden in a small, incremental way with this budget resolution. I believe we need to tilt the playing field away from more spending and toward more tax reduction.

How does this proposal work? First, it locks the expected revenue estimates into law. Then it requires the Office of Management and Budget to compare its new revenue estimates each year to those included in the agreement. If the budget agreement estimates are accurate, nothing happens. But if the progrowth tax cuts we adopt later this year result in higher than expected revenues, those revenues are reserved for tax cut legislation—legislation which is exempt from all the budget points of order and other obstacles that currently stand between American families and tax cuts. If Congress chooses not to reduce revenues, then the windfall is reserved for deficit reduction.

The Senate gave this proposal its preliminary approval on May 23 by voting for my Sense of the Senate amendment to the budget. We should now put into effect the rules that will help make tax cuts a reality.

The budget agreement takes a small, $85 billion step down the long road toward reducing the tax burden on American families. This cut should be just the beginning.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, this amendment says that if revenues exceed current projections, all the savings can only be plowed into more tax breaks; if you have a surplus, back into the tax breaks, not defense, not education, only more tax breaks. Even if the deficit were actually going up due to increased spending, we would still be able to use all unexpected revenues only for more tax breaks.

That is fiscally irresponsible. It removes power and flexibility from the congressional majority and it is terrible policy. I urge my colleagues to oppose the amendment.

Mr. President, I raise a point of order that the pending amendment is extraneous and violates section 313(b)(1)(A) of the Congressional Budget Act.

Mr. ABRAHAM. Mr. President, I move to waive the Budget Act with respect to this amendment.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

VOTE ON MOTION TO WAIVE THE BUDGET ACT

The PRESIDING OFFICER. The question occurs on agreeing to the motion to waive.

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

The yeas and nays resulted, yeas 53, nays 47, as follows:

[Rollcall Vote No. 147 Leg.]

YEAS—53

Abraham
Allard
Ashcroft
Bennett
Bond
Brownback
Burns
Campbell
Coats
Cochran
Collins
Coverdell
Craig
D'Amato
DeWine
Domenici
Enzi
Faircloth
Frist
Gramm
Grams

Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Jeffords
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Roberts
Roth
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—47

Akaka
Baucus
Biden
Bingaman
Boxer
Breaux
Bryan
Bumpers
Byrd
Chafee
Cleland
Conrad
Daschle
Dodd
Dorgan
Durbin
Feingold
Feinstein
Ford
Glenn
Gorton
Graham
Harkin
Hollings
Inouye
Johnson
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Reed
Reid
Robb
Rockefeller
Sarbanes
Torricelli
Wellstone
Wyden

The PRESIDING OFFICER. On this vote, the yeas are 53, the nays are 47. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained, and the amendment falls.

Mr. ROTH. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 572

(Purpose: To extend the number of hours for debate on a reconciliation bill and make other improvements)

The PRESIDING OFFICER. Under the previous order, the Senator from West Virginia is recognized to offer an amendment on which there is 2 minutes of debate equally divided.

The Senator from West Virginia.

Mr. BYRD. I thank the Chair. I send to the desk an amendment, and I ask that the amendment be read. I hope that Senators will pay close attention.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 572.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . DEBATE ON A RECONCILIATION BILL.

Section 310(e)(2) of the Congressional Budget Act of 1974 is amended to read as follows:

"(2) For purposes of consideration of any reconciliation bill reported under subsection (b)—

"(A) debate, and all amendments thereto and debatable motions and appeals in connection therewith, shall be limited to not more than 30 hours;

"(B) time on the bill may only be yielded back by consent and a motion to further limit debate shall be debatable with debate limited to ½ hour equally divided;

"(C) time on amendments shall be limited to 30 minutes to be equally divided in the usual form and on any second degree amendment or motion to 20 minutes to be equally divided in the usual form, except that after the 15th hour of consideration of a bill, time on all amendments or motions shall be limited to 20 minutes;

"(D) no first degree amendment may be proposed after the 15th hour of consideration of a bill unless it has been submitted to the Journal Clerk prior to the expiration of the 15th hour;

"(E) no second degree amendment may be proposed after the 20th hour of consideration of a bill unless it has been submitted to the Journal Clerk prior to the expiration of the 20th hour; and

"(F) After no more than thirty hours of consideration of the measure, the Senate shall proceed, without any further debate on any question, to vote on the final disposition thereof to the exclusion of all amendments not then actually pending before the Senate at that time and to the exclusion of all motions, except a motion to table, or to reconsider and one quorum call on demand to establish the presence of a quorum (and motions required to establish a quorum) immediately before the final vote begins.".

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, the distinguished Senator from New York, Mr. MOYNIHAN, wrote a book titled "Pandemonium." Milton, in "Paradise Lost," designated the Palace of Satan as pandemonium. Mr. President, what we have seen going on here is pandemonium, and in light of what I have just said, Senators can draw their own conclusion as to what I mean by that word.

This is a very important amendment to the reconciliation process. It extends the overall time from 20 hours to 30 hours. It reduces the time on any amendment in the first degree to 30 minutes. It reduces the time on any second-degree amendment to 20 minutes. May I proceed for an additional 2 minutes?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. After the first 15 hours have expired, time on amendments in the first degree and in the second degree will be limited to 20 minutes each. The amendment provides for 30 minutes equally divided for debate on a motion to reduce the time, which can be done now without any debate. It requires unanimous consent for managers of a reconciliation measure to yield back any time. At the present time, they may yield time back without unanimous consent.

Now comes probably the most important provision in the proposal. If Senators will turn to page 19 in their rule books. I will read the language from the cloture rule:

After no more than thirty hours of consideration of the measure, motion, or other matter on which cloture has been invoked, the Senate shall proceed, without any further debate on any question, to vote on the final disposition thereof to the exclusion of all amendments not then actually pending before the Senate at that time and to the exclusion of all motions, except a motion to table. . .

Mr. DOMENICI. May we have order, Mr. President?

Mr. BYRD. Mr. President, I ask unanimous consent that I may again read what I have just read, without the time's being charged.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. I repeat:

After no more than thirty hours of consideration—

I am reading from the present cloture rule—

After no more than thirty hours of consideration of the measure, motion, or other matter on which cloture has been invoked, the Senate shall proceed, without any further debate on any question, to vote on the final disposition thereof—

Meaning the final disposition of the reconciliation bill—

to the exclusion of all amendments not then actually pending before the Senate at that time and to the exclusion of all motions, except a motion to table, or to reconsider and one quorum call on demand to establish the presence of a quorum (and motions required to establish a quorum) immediately before the final vote begins.

Therefore, Mr. President, we do away with this situation in which pandemonium reigns supreme and where scores of amendments remain to be acted upon after the expiration of the time on the reconciliation bill and people want to call those up—and they have a right to call them up and get a vote thereon.

This amendment encourages Senators, if they want time to debate their amendments, to call them up at the beginning of the debate, call them up early, when they will have time to explain their amendments. But when we reach that final 30th hour, under this amendment language, which is already tried and true—it is in the cloture rule—we close all debate, all voting on amendments to the reconciliation bill with the exception of any amendment in the first degree and any amendment in the second degree which may be then pending. That is it. No more of this vote-o-rama.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, we have been discussing this proposal with the distinguished Senator from West Virginia, "we" being Senator LOTT and others. And I assume Senator LOTT will speak in a moment to it however long he would like.

But I say to the Senate, and as long as Senator BYRD understands that we take this to conference with the idea that we will have to make sure—and I think he would agree—that it deserves some careful consideration.

I had one thought that came to my mind, I say to Senator BYRD, as you proposed it. I was talking to Senator

GRAMM about it. I guess I am concerned that there might be a controversial amendment that is well-known that by design could be precluded from ever getting offered. And I think we ought to make sure that cannot happen. I do not know how to do that. I do not propose that this is not a valid and good approach. But I do think that is an interesting issue. I was just speaking with Senator GRAMM a moment ago.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DOMENICI. I ask unanimous consent for one additional minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. I think there would have to be a lot of getting together of both sides of the aisle to preclude that amendment from coming up, but it might happen. So from my standpoint, I say to Senators, I think this is a dramatic improvement, provided that the Senator understands that we have to look at it carefully if it is accepted here today.

Mr. BYRD. I do understand. I hope that the Members who go to conference with the House will try to make it clear to the House that we Senators expect to decide on the amendments and the rules of the Senate.

Mr. MOYNIHAN. Yes, sir.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. LOTT. Mr. President, I yield myself leader time so I may speak briefly on this. It will be briefly.

I have been talking to Senator DASCHLE about this and working with Senator BYRD. I think we had a good start last night on how to address this problem, and it has been improved today. I think we are close to having something that would really make this process fairer and better.

I suggest that we accept this on a voice vote, and we go to conference with it and continue to make sure we have thought through every possible exigency of this change. I think it is real progress. And I suggest we accept it and take it to conference.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The minority leader.

Mr. DASCHLE. Mr. President, I will be very brief with my leader time.

I congratulate the Senator from West Virginia. No one knows the process and the rules better than he does. And he has worked with all of us in an effort to try to accommodate the concerns that we have raised over the last couple of days. He has done that. This may not be the final product, but it puts us in a position to achieve a final product.

I hope that we can take the advice and recommendation of the majority leader, pass it on a voice vote, and allow this process to continue.

Mr. McCAIN. I object.

The PRESIDING OFFICER. There is an objection.

Mr. McCAIN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 92, nays 8, as follows:

[Rollcall Vote No. 148 Leg.]

YEAS—92

Abraham
Akaka
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Cleland
Coats
Cochran
Collins
Conrad
Coverdell
D'Amato
Daschle
DeWine
Dodd
Domenici
Dorgan
Durbin
Enzi
Faircloth
Feingold
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Grams
Grassley
Gregg
Hagel
Harkin
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Reed
Reid
Robb
Roberts
Rockefeller
Roth
Sarbanes
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Torricelli
Warner
Wyden

NAYS—8

Allard
Ashcroft
Brownback
Craig
Gramm
McCain
Santorum
Wellstone

The amendment (No. 572) was agreed to.

Mr. ROTH. I move to reconsider the vote.

Mr. MOYNIHAN. I move to lay it on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 522, AS MODIFIED

(Purpose: To provide for a trust fund for District of Columbia school renovations)

Mr. ROTH. Mr. President, I ask that the Senate resume consideration of Jeffords amendment No. 522. On behalf of the Senator from Vermont, I send a modification to the desk which we are prepared to accept.

The PRESIDING OFFICER. The regular order is the recognition of the Senator from Massachusetts. Is there objection?

Mr. NICKLES. That is not correct.

Parliamentary inquiry. I think the Senator sent an amendment from the Senator from Vermont. It has not been disposed of.

Mr. ROTH. The amendment deals with the subject of D.C. schools.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment (No. 522), as modified, is as follows:

On page 164, in the matter between lines 16 and 17, insert after the item relating to section 1400B the following:

"Sec. 1400C. Trust Fund for DC schools."

On page 173, line 10, strike "$75,000,000" and insert "$60,000,000".

On page 174, strike lines 21 through 23, and insert:

"(a) EXCLUSION.—

"(1) IN GENERAL.—Gross income shall not include qualified capital gain from the sale or exchange of any DC asset held for more than 5 years.

"(2) SPECIAL 10 PERCENT RATE FOR DC ASSETS ACQUIRED IN 1998.—

"(A) IN GENERAL.—In the case of any DC asset acquired during calendar year 1998—

"(i) paragraph (1) shall not apply to any qualified capital gain from the sale or exchange of such asset, and

"(ii) the qualified capital gain described in clause (i) shall be treated as adjusted net capital gain described in section 1(h)(1)(D) for the taxable year of the sale or exchange (and the amount under section 1(h)(1)(D)(i) for such taxable year shall be increased by the amount of such gain).

"(B) SPECIAL RULE.—For purposes of subparagraph (A), any DC asset the basis of which is determined in whole or in part by reference to the basis of an asset to which subparagraph (A) applies shall be treated as a DC asset acquired during calendar year 1998.

On page 181, between lines 5 and 6, insert the following:

"SEC. 1400C. TRUST FOR DC SCHOOLS.

"(a) CREATION OF FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Trust Fund for DC Schools', consisting of such amounts as may be appropriated or credited to the Fund as provided in this section.

"(b) TRANSFER TO TRUST FUND OF AMOUNTS EQUIVALENT TO CERTAIN TAXES.—

"(1) IN GENERAL.—There are hereby appropriated to the Trust Fund for DC Schools amounts equivalent to the applicable percentage of revenues received in the Treasury from income taxes imposed by this chapter for any taxable year beginning after December 31, 1997, and before January 1, 2008, on individual taxpayers who are residents of the District of Columbia as of the last day of such taxable year.

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the term 'applicable percentage' means the percentage which the Secretary determines necessary to result in $5,000,000 being appropriated to the Trust Fund under paragraph (1) for each of the calendar years 1998 through 2007.

"(3) TRANSFER OF AMOUNTS.—The amounts appropriated by paragraph (1) shall be transferred at least monthly from the general fund of the Treasury to the Trust Fund for DC Schools on the basis of estimates made by the Secretary of the amounts referred to in such paragraph. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

"(c) EXPENDITURES FROM FUND.—

"(1) IN GENERAL.—Amounts in the Trust Fund for DC Schools are hereby appropriated, and shall be available without fiscal year limitation, for payment by the Secretary of debt service on qualified DC school bonds.

"(2) QUALIFIED DC SCHOOL BONDS.—The term 'qualified DC school bonds' means bonds which—

"(A) are issued after March 31, 1998, by the District of Columbia to finance the construction, rehabilitation, and repair of schools under the jurisdiction of the government of the District of Columbia, and

"(B) are certified by the District of Columbia Control Board as meeting the requirements of subparagraph (A) after giving 60 days notice of any proposed certification to the Subcommittees on the District of Columbia of the Committees on Appropriations of the House of Representatives and the Senate.

"(d) REPORT.—It shall be the duty of the Secretary to hold the Trust Fund for DC Schools and to report to the Congress each year on the financial condition and the results of the operations of such Fund during the preceding fiscal year and on its expected condition and operations during the next fiscal year. Such report shall be printed as a House document of the session of the Congress to which the report is made.

"(e) INVESTMENT.—

"(1) IN GENERAL.—It shall be the duty of the Secretary to invest such portion of the Trust Fund for DC Schools as is not, in the Secretary's judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired—

"(A) on original issue at the issue price, or

"(B) by purchase of outstanding obligations at the market price.

"(2) SALE OF OBLIGATIONS.—Any obligation acquired by the Trust Fund for DC Schools may be sold by the Secretary at the market price.

"(3) INTEREST ON CERTAIN PROCEEDS.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Trust Fund for DC Schools shall be credited to and form a part of the Trust Fund for DC Schools."

The PRESIDING OFFICER. The question is on agreeing to the amendment numbered 522.

The amendment (No. 522), as modified, was agreed to.

Mr. ROTH. I move to reconsider the vote.

Mr. MOYNIHAN. I move to lay it on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 573

(Purpose: To increase the excise tax on cigarettes by 43 cents per pack and increase the tax on other tobacco products by a proportionate amount, and direct $12,000,000,000 of the resulting revenues be applied to the children's health initiative)

The PRESIDING OFFICER. Under the previous order, the Senator from Massachusetts is recognized to offer an amendment on which there are 2 minutes of debate equally divided.

Mr. KENNEDY. Mr. President, I call up my amendment, which is cosponsored by Senator DASCHLE.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY], for himself and Mr. DASCHLE, proposes an amendment numbered 573.

Mr. KENNEDY. I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 337, beginning with line 14, strike all through page 339, line 15, and insert the following:

(a) CIGARETTES.—Section 5701(b) of the Internal Revenue Code of 1986 is amended—

(1) in paragraph (1), by striking "$12 per thousand ($10 per thousand on cigarettes removed during 1991 or 1992)" and inserting "$33.50 per thousand", and

(2) in paragraph (2), by striking "$25.20 per thousand ($21 per thousand on cigarettes removed during 1991 or 1992)" and inserting "$70.35 per thousand".

(b) CIGARS.—Section 5701(a) of the Internal Revenue Code of 1986 is amended—

(1) in paragraph (1), by striking "$1.125 cents per thousand (93.75 cents per thousand on cigars removed during 1991 or 1992)" and inserting "$3.141 cents per thousand", and

(2) by striking "equal to" and all that follows in paragraph (2) and inserting "equal to 35.59 percent of the price for which sold but not more than $83.75 per thousand."

(c) CIGARETTE PAPERS.—Section 5701(c) of the Internal Revenue Code of 1986 is amended by striking "0.75 cent (0.625 cent on cigarette papers removed during 1991 or 1992)" and inserting "2.09 cents".

(d) CIGARETTE TUBES.—Section 5701(d) of the Internal Revenue Code of 1986 is amended by striking "1.5 cents (1.25 cents on cigarette tubes removed during 1991 or 1992)" and inserting "4.18 cents".

(e) SMOKELESS TOBACCO.—Section 5701(e) of the Internal Revenue Code of 1986 is amended—

(1) in paragraph (1), by striking "36 cents (30 cents on snuff removed during 1991 or 1992)" and inserting "$1.00", and

(2) by striking "12 cents (10 cents on chewing tobacco removed during 1991 or 1992)" in paragraph (2) and inserting "33.5 cents".

(f) PIPE TOBACCO.—Section 5701(f) of the Internal Revenue Code of 1986 is amended by striking "67.5 cents (56.25 cents on pipe tobacco removed during 1991 or 1992)" and inserting "$1.88".

(g) IMPOSITION OF EXCISE TAX ON MANUFACTURE OR IMPORTATION OF ROLL-YOUR-OWN TOBACCO.—

(1) IN GENERAL.—Section 5701 (relating to rate of tax) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) ROLL-YOUR-OWN TOBACCO.—On roll-your-own tobacco, manufactured in or imported into the United States, there shall be imposed a tax of $1.74 cents per pound (and a proportionate tax at the like rate on all fractional parts of a pound)."

On page 349, between lines 2 and 3, insert the following:

(k) APPROPRIATION OF PORTION OF RESULTING REVENUES FROM INCREASE IN TAXES ON TOBACCO PRODUCTS TO CHILDREN'S HEALTH INSURANCE INITIATIVES.—In addition to any amounts otherwise appropriated for the purpose of carrying out title XXI of the Social Security Act (relating to children's health insurance initiatives), there is appropriated from the increase in revenues resulting from the amendments made by this section $2,400,000,000 for each of the fiscal years 1998 through 2002.

Mr. KENNEDY. Mr. President, this amendment adds $12 billion to the child health insurance program. It is financed by an additional 23-cents-a-pack increase in the tobacco tax. This amount is necessary to ensure that all children not eligible for Medicare, but not able to afford private insurance, will have access the health coverage.

CBO says that the current bill, a proposal that is before the Senate, will not do the job. The administration strongly supports the amendment. So do 72 percent of the American people.

I will just take 15 seconds to read a letter from the American Academy of Pediatrics:

> 53,000 primary care pediatricians, pediatric medical subspecialists, pediatric surgeons and specialists dedicated to the health, safety, and well-being of infants, children, adolescents and young adults strongly support your amendment to increase the tax by 23 cents for use in financing the children's health care legislation.

I hope that with this amendment we will be able to complete the job for working families in this country that are unable to afford insurance today.

Mr. NICKLES. Mr. President, I urge my colleagues to vote no on Senator KENNEDY's amendment. I am bothered by the amendment to some extent. I heard the Senator say the administration supports the amendment. The administration agreed to $16 billion for the so-called KIDCARE Program. That was the agreement. And then to see a letter by the administration that says now they support this amendment, that is ridiculous.

The Finance Committee increased from $16 billion to $24 billion, more than I think is necessary for the program. The Finance Committee said, "That is all we will do." Now we see the administration say they support this. When is a deal a deal? We can't trust this administration any more than a day. That is beyond belief.

So now we have a program. Senator KENNEDY introduced it as a $20 billion program. We are now financing it at $24 billion, 120 percent of what he originally asked for. He should say, "Hey, we won," and now he comes back and says he wants another $12 billion, to make it $36 billion. The administration agreed to $16 billion. Now they are trying to make it $36 billion. Taxpayers cannot afford it.

Finally, the net tax cut, if this amendment is passed, will be 60, not 85. It will be 60.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Did you say the administration favors this?

The PRESIDING OFFICER. All time has expired.

Mr. DOMENICI. I ask for 30 seconds, and the Senator can have 30 seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Let me say to the White House, if there are too many more like this where you support amendments that you did not agree to, and you actually agreed we did not have to do, then I am sending you a signal right now I am going to conference and I don't know if Senator

DOMENICI is going to be bound by that agreement.

I make a point of order that this violates the Budget Act.

Mr. KENNEDY. Mr. President, the Republican leadership has been willing to accept a tobacco tax which the Republican leadership said was going to violate the budget agreement which the President previously supported. Now the President and the Republican leadership have accepted a 20 cent tobacco tax. The only trouble with the Senator from Oklahoma's mathematics is he does not include the $14 billion that they were instructed to reduce Medicaid.

So, this is necessary, according to the Republican's own CBO. This is necessary to cover insurance. Let's turn our backs on big tobacco and put our faith in little children.

Mr. President, this amendment reduces the deficit, and I move to waive the Budget Act.

Mr. KENNEDY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

VOTE ON MOTION TO WAIVE THE BUDGET ACT

The PRESIDING OFFICER. The question is on the motion to waive the Budget Act. The yeas and nays have been ordered.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

The yeas and nays resulted—yeas 30, nays 70, as follows:

[Rollcall Vote No. 149 Leg.]

YEAS—30

Akaka
Biden
Bingaman
Boxer
Bumpers
Cleland
Daschle
Dodd
Dorgan
Durbin
Feingold
Feinstein
Glenn
Harkin
Johnson
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Murray
Reed
Reid
Sarbanes
Torricelli
Wellstone
Wyden

NAYS—70

Abraham
Allard
Ashcroft
Baucus
Bennett
Bond
Breaux
Brownback
Bryan
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Collins
Conrad
Coverdell
Craig
D'Amato
DeWine
Domenici
Enzi
Faircloth
Ford
Frist
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Inouye
Jeffords
Kempthorne
Kerrey
Kyl
Landrieu
Lott
Lugar
Mack
McCain
McConnell
Moseley-Braun
Moynihan
Murkowski
Nickles
Robb
Roberts
Rockefeller
Roth
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

The PRESIDING OFFICER. On this vote, the yeas are 30, the nays are 70. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained, and the amendment falls.

Mr. ROTH. Mr. President, I move to reconsider the vote.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The amendment violates section 302(f) of the Budget Act by causing the Finance Committee to exceed its outlay allocation. The point of order is sustained.

Mr. COVERDELL addressed the Chair.

Mr. ROTH. Senator COVERDELL is next in the line of amendments.

The PRESIDING OFFICER. Under the previous order, the Senator from Georgia is recognized to offer an amendment on which there are 2 minutes of debate equally divided.

AMENDMENT NO. 574

(Purpose: To allow tax-free expenditures from an education individual retirement account for elementary and secondary school expenses and to adjust the modifications to the minimum tax)

Mr. COVERDELL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Georgia [Mr. COVERDELL], for himself, Mr. ABRAHAM, Mr. COATS, Mr. CRAIG, Mr. SANTORUM, and Mr. ASHCROFT, proposes an amendment numbered 574.

Mr. COVERDELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 19, between lines 14 and 15, insert:

"(D) ADJUSTMENT.—The Secretary shall reduce the dollar amounts otherwise in effect under this paragraph for any calendar year to the extent necessary to increase Federal revenues by the amount the Secretary estimates Federal revenues will be reduced by reason of allowing distributions from education individual retirement accounts under section 530 to be used for qualified elementary and secondary education expenses described in section 530(b)(2)(A)(ii)."

On page 64, beginning with line 8, strike all through page 67, line 15, and insert:

"(1) EDUCATION INDIVIDUAL RETIREMENT ACCOUNT.—The term 'education individual retirement account' means a trust created or organized in the United States exclusively for the purpose of paying the qualified education expenses of the account holder, but only if the written governing instrument creating the trust meets the following requirements:

"(A) No contribution will be accepted—

"(i) unless it is in cash,

"(ii) after the date on which the account holder attains age 18, or

"(iii) except in the case of rollover contributions, if such contribution would result in aggregate contributions for the taxable year exceeding the sum of—

"(I) $2,000, plus

"(II) the amount of the credit allowable under section 25A for the taxable year for 1 qualifying child.

"(B) The trustee is a bank (as defined in section 408(n)) or another person who demonstrates to the satisfaction of the Secretary that the manner in which that person will administer the trust will be consistent with the requirements of this section.

"(C) No part of the trust assets will be invested in life insurance contracts.

"(D) The assets of the trust shall not be commingled with other property except in a common trust fund or common investment fund.

"(E) Upon the death of the account holder, any balance in the account will be distributed as required under section 529(b)(8) (as if such account were a qualified tuition program).

"(F) The account becomes an IRA Plus as of the date the account holder attains age 30 (and meets all requirements for an IRA Plus on and after such date), unless the account holder elects to have sections 529(b)(8) apply as of such date (as if such account were a qualified tuition program).

"(2) QUALIFIED EDUCATION EXPENSES.—

"(A) IN GENERAL.—The term 'qualified education expenses' means—

"(i) qualified higher education expenses (as defined in section 529(e)(3), and

"(ii) in the case of taxable years beginning after December 31, 2000, qualified elementary and secondary education expenses (as defined in paragraph (5)).

"(B) QUALIFIED TUITION PROGRAMS.—Such term shall include amounts paid or incurred to purchase tuition credits or certificates, or to make contributions to an account, under a qualified tuition program (as defined in section 529(b)) for the benefit of the account holder.

"(3) ELIGIBLE EDUCATIONAL INSTITUTION.—The term 'eligible education institution' has the meaning given such term by section 529(e)(5).

"(4) ACCOUNT HOLDER.—The term 'account holder' means the individual for whose benefit the education individual retirement account is established.

"(5) QUALIFIED ELEMENTARY AND SECONDARY EDUCATION EXPENSES.—

"(A) IN GENERAL.—The term 'qualified elementary and secondary education expenses' means tuition, fees, tutoring, special needs services, books, supplies, equipment, transportation, and supplementary expenses required for the enrollment or attendance at a public, private, or sectarian school of any dependent of the taxpayer with respect to whom the taxpayer is allowed a deduction under section 151.

"(B) SPECIAL RULE FOR HOMESCHOOLING.—Such term shall include expenses described in subparagraph (A) required for education provided for homeschooling if the requirements of any applicable State or local law are met with respect to such education.

"(C) SCHOOL.—The term 'school' means any school which provides elementary education or secondary education (through grade 12), as determined under State law.

"(c) TAX TREATMENT OF DISTRIBUTIONS.—

"(1) IN GENERAL.—Any amount paid or distributed shall be includable in gross income to the extent required by section 529(c)(3) (determined as if such account were a qualified tuition program and as if qualified higher education expenses include qualified education expenses).

"(2) SPECIAL RULES FOR APPLYING ESTATE AND GIFT TAXES WITH RESPECT TO ACCOUNT.—

Rules similar to the rules of paragraphs (2), (4), and (5) of section 529(c) shall apply for purposes of this section.

"(3) ADDITIONAL TAX FOR DISTRIBUTIONS NOT USED FOR EDUCATIONAL EXPENSES.—

"(A) IN GENERAL.—The tax imposed by section 529(f) shall apply to payments and distributions from an education individual retirement account in the same manner as such tax applies to qualified tuition programs (as defined in section 529), except that section 529(f) shall be applied by reference to qualified education expenses.

Mr. COVERDELL. Mr. President, I wonder if we could bring the Senate to order.

The PRESIDING OFFICER. The Senate will please come to order.

The Senator from Georgia.

Mr. COVERDELL. Mr. President, the bill currently provides an education IRA for college expenses only. But, of course, not every child goes to college. Every child does, however, attend elementary and secondary school.

This amendment expands the education IRA to allow parents to use it for any education expenses, including tuition from kindergarten through high school. I am pleased to be joined on this amendment by Senators ABRAHAM, COATS, CRAIG, SANTORUM, and ASHCROFT.

Mr. President, it is important to help parents cope with the cost of college, but that is not where the crisis is. The crisis in our schools is in elementary and secondary schools that are riddled with drugs and violence. Let's do something to help those parents, too.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time on the opposite side?

Mr. COVERDELL. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is all time yielded back?

Mr. DASCHLE. Mr. President, this is tantamount to providing vouchers for private education. That is in essence what this amendment does. For that reason, we oppose it.

Mr. COVERDELL. Mr. President, how much of my time remains?

The PRESIDING OFFICER. The Senator has 13 seconds.

Mr. COVERDELL. Mr. President, this is their own money. This involves no tax money. This belongs to the taxpayer. They ought to be able to use it wherever they decide.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER (Mr. COATS). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 59, nays 41, as follows:

[Rollcall Vote No. 150 Leg.]

YEAS—59

Abraham
Allard
Ashcroft
Bennett
Biden
Bond
Breaux
Brownback
Burns
Campbell
Coats
Cochran
Coverdell
Craig
D'Amato
DeWine
Domenici
Enzi
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hagel
Harkin
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Kempthorne
Kohl
Kyl
Landrieu
Leahy
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Roberts
Roth
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Specter
Stevens
Thomas
Thompson
Thurmond
Torricelli
Warner

NAYS—41

Akaka
Baucus
Bingaman
Boxer
Bryan
Bumpers
Byrd
Chafee
Cleland
Collins
Conrad
Daschle
Dodd
Dorgan
Durbin
Feingold
Feinstein
Ford
Glenn
Graham
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kerrey
Kerry
Lautenberg
Levin
Mikulski
Moseley-Braun
Moynihan
Murray
Reed
Reid
Robb
Rockefeller
Sarbanes
Snowe
Wellstone
Wyden

The amendment (No. 574) was agreed to.

CHANGE OF VOTE

Mr. BOND. Mr. President, on rollcall No. 150, on which I voted "no," it was my intention to vote "aye." Since it will in no way change the outcome of the vote, I ask unanimous consent that I be recorded as an "aye."

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROTH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BINGAMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

AMENDMENT NO. 541

Mr. BINGAMAN. Mr. President, I call up amendment No. 541 which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN], for himself, and Mr. CONRAD, proposes an amendment numbered legislative 541.

(The amendment is printed in the RECORD of Thursday, June 26, 1997.)

Mr. BINGAMAN. Mr. President, this amendment is being offered on behalf of myself and Senator CONRAD.

Mr. President, we all understand what regular IRA's are about and how those work where a person can put up to $2,000 into an IRA. It accumulates earnings over a career, and then when you retire you go ahead and pay tax on it.

What we have in this bill is something different than a regular IRA. We have an IRA Plus. The IRA Plus differs in a very important way. What this chart shows is it essentially says if you agree to pay the tax that is due on your existing IRA up through the end of next year, the 1st of January 1998, it will give you the time that this budget agreement covers to pay all of that tax in. And then the earnings from that money in that IRA Plus account are never going to be taxed the rest of your life.

That is what the provision is. It is a back-loaded IRA which means it is specifically for people who are not eligible for the other types of IRA's. So if you have over $100,000 and you already have a retirement account, then you can have an IRA Plus. The earnings from the funds in that IRA Plus will never be taxed.

I urge the Senate to adopt our amendment.

Mr. ROTH. Mr. President, we need to do something about our savings rates. Americans are saving less now than they did than at almost any time since World War II. The universal IRA Plus is our best bet to bolster our fledgling savings rate. In fact, expanding IRA's is the only prosaving provision in the budget. The universal IRA Plus account compliments the tax deductible IRA because it offers a long-term predictable savings program for millions of families with fluctuating incomes, and who do not have employer retirement plans.

Senator BINGAMAN's chart is misleading because the taxpayer must be at least 59½ years old before withdrawals are tax free. It is particularly important for the self-employed like farmers and young families who hopefully will be successful and grow out of the tax-deductible IRA into the IRA Plus. With all these advantages, the backloaded IRA must be included in the budget bill. Fifty-one Senators have cosponsored my super-IRA legislation and agree with me.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. ROTH. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 33, nays 67, as follows:

[Rollcall Vote No. 151 Leg.]

YEAS—33

Akaka
Bingaman
Boxer
Bumpers
Byrd
Cleland
Collins
Conrad
Daschle
Dodd
Dorgan
Durbin
Feingold
Feinstein
Ford
Glenn
Harkin
Hollings
Inouye
Jeffords
Johnson

Kennedy
Kerry
Lautenberg
Leahy
Levin
Murray
Reed
Reid
Robb
Sarbanes
Snowe
Wellstone

NAYS—67

Abraham
Allard
Ashcroft
Baucus
Bennett
Biden
Bond
Breaux
Brownback
Bryan
Burns
Campbell
Chafee
Coats
Cochran
Coverdell
Craig
D'Amato
DeWine
Domenici
Enzi
Faircloth
Frist
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Kempthorne
Kerrey
Kohl
Kyl
Landrieu
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Nickles
Roberts
Rockefeller
Roth
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Specter
Stevens
Thomas
Thompson
Thurmond
Torricelli
Warner
Wyden

The amendment (No. 541) was rejected.

Mr. ROTH. Mr. President, I move to reconsider the vote.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. If we could get attention of Senators and if conversations could be taken to the cloakroom.

The Senator from North Dakota.

AMENDMENTS NOS. 515 AND 516 WITHDRAWN

Mr. DORGAN. I ask unanimous consent to withdraw amendments Nos. 515 and 516 at the desk.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendments (Nos. 515 and 516) were withdrawn.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, I think the next one is Mr. Kohl.

The PRESIDING OFFICER. The Senator from Wisconsin will suspend until we can get the attention of the Chamber.

Mr. ROTH. It is my understanding the next one on the list is an amendment by Senator Kohl.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

AMENDMENT NO. 575

(Purpose: To provide a credit against tax for employers who provide child care assistance for dependents of their employees)

Mr. KOHL. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER (Mr. Coats). The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wisconsin [Mr. Kohl], for himself, Mr. Hatch, Mr. Daschle, Mr. D'Amato, Ms. Moseley-Braun, Mr. Abraham, Mr. Specter, Ms. Snowe, Mrs. Boxer, Mr. DeWine, Mrs. Murray, and Mr. Johnson, proposes an amendment numbered 575.

Mr. KOHL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's Record under "Amendments Submitted.")

Mr. KOHL. This amendment provides a tax incentive for companies that provide quality child care for the children of their employees. The amendment is cosponsored by Senators Hatch, Daschle, DeWine, Boxer, D'Amato, Specter, Snowe, Johnson, Abraham, Moseley-Braun, and Murray. This amendment creates a tax credit limited to 50 percent of $150,000 per company per year for 3 years for those companies that invest in quality child care on or near site. The credit is offset by authorizing the antifraud program that will keep parents who do not have custody of their children from unlawfully claiming child-related tax benefits.

We know child care is an investment that is good for children, good for business, good for States and good for our Nation. We need to involve every level of government and private communities and private businesses in building a quality child care system for our youngest that is the best in the world. This amendment is the first essential and deficit-neutral step toward that end.

I urge my colleagues to support it.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, while I am sympathetic to my colleague's effort to provide quality child care, I regret I must oppose his amendment. This bill already contains meaningful child care tax relief for families. This proposal would give that tax relief to employers.

For this reason I must oppose this amendment. I point out the amendment is not germane and, with all time yielded back, I make a point of order of germaneness. I therefore raise a point of order against the amendment under section 305(b)(2) of the Budget Act.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KOHL. I move to waive the Budget Act for my amendment.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

VOTE ON MOTION TO WAIVE THE BUDGET ACT

The PRESIDING OFFICER. The question is on agreeing to the motion. The yeas and nays are ordered. The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted, yeas 72, nays 28, as follows:

[Rollcall Vote No. 152 Leg.]

YEAS—72

Abraham
Akaka
Allard
Ashcroft
Baucus
Biden
Bingaman
Boxer
Brownback
Bryan
Bumpers
Campbell
Cleland
Coats
Collins
Conrad
Coverdell
D'Amato
Daschle
DeWine
Dodd
Domenici
Dorgan
Durbin
Feingold
Feinstein
Ford
Frist
Glenn
Graham
Grams
Grassley
Gregg
Harkin
Hatch
Hollings
Hutchison
Inouye
Jeffords
Johnson
Kempthorne
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lugar
McCain
McConnell
Mikulski
Murray
Reed
Reid
Robb
Roberts
Rockefeller
Santorum
Sarbanes
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thompson
Thurmond
Torricelli
Warner
Wellstone
Wyden

NAYS—28

Bennett
Bond
Breaux
Burns
Byrd
Chafee
Cochran
Craig
Enzi
Faircloth
Gorton
Gramm
Hagel
Helms
Hutchinson
Inhofe
Kerrey
Kyl
Lott
Mack
Moseley-Braun
Moynihan
Murkowski
Nickles
Roth
Sessions
Shelby
Thomas

The PRESIDING OFFICER. On this vote the yeas are 72, the nays are 28. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

The question is now on agreeing to the underlying amendment.

The amendment (No. 575) was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, Senator Jeffords is next on the list to offer an amendment.

The PRESIDING OFFICER (Mr. Hagel). The Senator from Vermont.

AMENDMENT NO. 555

(Purpose: To encourage improvements in child care services and options for meeting employment-related child care needs)

Mr. JEFFORDS. Mr. President, I have a child care amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Vermont [Mr. Jeffords], for himself, Mr. Dodd, Mr. Roberts, Mr. Johnson, Mr. Kohl, Ms. Snowe, Ms. Landrieu, Mr. Chafee, Mr. D'Amato, Ms. Collins, Mr. Smith of Oregon, Mr. Campbell, Mr. Kennedy, Mr. Enzi, Mr. Allard, Mr. Stevens, Mr. Grassley, Ms. Mikulski, Mr. Kerry, and Mr. Graham, proposes an amendment numbered 555.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in the June 26, 1997, edition of the RECORD.)

Mr. JEFFORDS. Mr. President, this is a natural follow-on to the previous amendment. We are all aware of the need for good child care. There are more than 12 million children who are in child care. At least 15 percent are in care that is so bad that their health and safety are threatened; 40 percent of the infants in child care are in very risky situations.

For the many parents who would change their child care if they could find and afford better, this amendment provides tax relief through the child care tax credits, and it helps business meet the child care needs of their employees through the business tax credits and deductions.

We expand choices for parents, because if you can't afford the child care you find, you don't have much choice. Representatives of the religious and for-profit child care providers worked with us on the language related to accreditation and credentialing.

I ask unanimous consent that the following Members be added as cosponsors: Senators DODD, ROBERTS, KOHL, LANDRIEU, SNOWE, JOHNSON, CHAFEE, D'AMATO, COLLINS, GORDON SMITH, CAMPBELL, KENNEDY, ENZI, ALLARD, STEVENS, GRASSLEY, MIKULSKI, KERRY, and GRAHAM.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JEFFORDS. I reserve the remainder of my time, if I have any left.

The PRESIDING OFFICER. The Senator's time has expired. There is 1 minute in opposition. The Senator from Indiana.

Mr. COATS. Mr. President, we all want to improve quality care for child care. We spend nearly $1 billion now doing that. As chairman of the Children and Family Subcommittee I am committed to that. I commend Senator JEFFORDS, Senator DODD, and others for work in that area.

The reason I oppose this particular amendment is, first of all, because it is an amorphous amendment. It brings a number of things together. There is one in here we tried to work out. I think we ought to oppose it, take it back to committee, bring it through, and bring a true quality child care amendment forward.

This forces grandparents, neighbors, and family day-care providers who already comply with State child care laws to meet now an additional standard, certified by a State-recognized agency or entity to submit to additional monitoring in order to have the care that they provide qualify for this additional tax credit.

We should not provide a preference tax credit for those who provide care outside the State certification. There are mothers and neighbors and relatives who do that who provide what they think is quality care and, more important, what the mothers and parents of children think is quality care.

I yield whatever time I have left to the Senator from Oklahoma.

The PRESIDING OFFICER. All time has expired.

Mr. ROTH. Mr. President, the pending amendment is not germane to the provisions of the reconciliation measure. I, therefore, raise a point of order against the amendment under section 305(b)(2) of the Budget Act.

Mr. JEFFORDS. Mr. President, I understand this is a germaneness objection. I move to waive the Budget Act and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

VOTE ON MOTION TO WAIVE THE BUDGET ACT

The PRESIDING OFFICER. The question is on agreeing to the motion to waive the Budget Act. The yeas and nays have been ordered. The clerk will call the roll.

Mr. FORD. I announce that the Senator from South Carolina [Mr. HOLLINGS] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 57, nays 42, as follows:

[Rollcall Vote No. 153 Leg.]

YEAS—57

Akaka
Allard
Baucus
Biden
Bingaman
Boxer
Breaux
Bryan
Bumpers
Campbell
Chafee
Cleland
Conrad
Coverdell
D'Amato
Daschle
Dodd
Dorgan
Durbin
Enzi
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Hutchison
Inouye
Jeffords
Johnson
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Mack
Mikulski
Moseley-Braun
Murray
Reed
Reid
Robb
Roberts
Rockefeller
Sarbanes
Smith (OR)
Snowe
Specter
Stevens
Torricelli
Warner
Wellstone
Wyden

NAYS—42

Abraham
Ashcroft
Bennett
Bond
Brownback
Burns
Byrd
Coats
Cochran
Collins
Craig
DeWine
Domenici
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Inhofe
Kempthorne
Kyl
Lott
Lugar
McCain
McConnell
Moynihan
Murkowski
Nickles
Roth
Santorum
Sessions
Shelby
Smith (NH)
Thomas
Thompson
Thurmond

NOT VOTING—1

Hollings

The PRESIDING OFFICER. On this vote the yeas are 57, the nays are 42. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained, and the amendment falls.

Mr. ROTH. I move to reconsider the vote.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. TORRICELLI addressed the Chair.

The PRESIDING OFFICER (Mr. ENZI). The Chair recognizes the Senator from New Jersey.

AMENDMENT NO. 578

(Purpose: To exclude certain severance payment amounts from income and to modify the time periods for carryback and carryforward of unused credits)

Mr. TORRICELLI. Mr. President, I have an amendment, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. TORRICELLI], for himself and Ms. LANDRIEU, proposes an amendment numbered 578.

Mr. TORRICELLI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 267, between lines 15 and 16, insert the following:

SEC. . EXCLUSION FROM INCOME OF SEVERANCE PAYMENT AMOUNTS; TIME PERIODS FOR CARRYBACK AND CARRYFORWARD OF UNUSED CREDITS.

(a) EXCLUSION FROM INCOME OF SEVERANCE PAYMENT AMOUNTS.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by redesignating section 138 as section 139 and by inserting after section 137 the following new section:

"SEC. 138. SEVERANCE PAYMENTS.

"(a) IN GENERAL.—In the case of an individual, gross income shall not include any qualified severance payment.

"(b) LIMITATION.—The amount to which the exclusion under subsection (a) applies shall not exceed $2,000 with respect to any separation from employment.

"(c) QUALIFIED SEVERANCE PAYMENT.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified severance payment' means any payment received by an individual if—

"(A) such payment was paid by such individual's employer on account of such individual's separation from employment,

"(B) such separation was in connection with a reduction in the work force of the employer, and

"(C) such individual does not attain employment within 6 months of the date of such separation in which the amount of compensation is equal to or greater than 95 percent of the amount of compensation for the employment that is related to such payment.

"(2) LIMITATION.—Such term shall not include any payment received by an individual if the aggregate payments received with respect to the separation from employment exceed $125,000."

(b) Time Periods for Carryback and Carryforward of Unused Credits.—Section 39(a) (relating to unused credits) is amended—

(1) in paragraph (1), by striking "3" each place it appears and inserting "1" and by striking "15" each place it appears and inserting "20"; and

(2) in paragraph (2), by striking "18" each place it appears and inserting "22" and by striking "17" each place it appears and inserting "21".

(c) Clerical Amendment.—The table of sections for part III of subchapter B of chapter 1 is amended by striking the time relating to section 138 and inserting the following new items:

"Sec. 138. Severance payments.
"Sec. 139. Cross references to other Acts."

(d) Effective Dates.—

(1) In general.—The amendments made by subsections (a) and (c) shall apply to taxable years beginning after December 31, 1997, and before July 1, 2002.

(2) Subsection (b).—The amendments made by subsection (b) shall apply to the carryback and carryforward of credits arising in taxable years beginning after December 31, 1997.

Mr. TORRICELLI. Mr. President, as the Senate has considered tax relief for people of means to encourage them to invest in a growing economy and people of more modest means to help with their education, I offer an amendment to deal with a different group of Americans, people not of high or medium income, but people of no income.

Even in good economic times, through no fault of their own, through mergers, acquisitions, downsizing, or foreign competition, companies need to sometimes reduce their work force. And corporate America is responding responsibly by offering severance pay.

My amendment simply takes the first $3,000 of severance pay offered to any American who loses their job through downsizing and makes that $3,000 tax free. It is offset. It is responsible. It is an appropriate Government response to a corporate policy which is the right way to help Americans to adjust to start their own businesses or retirement.

I urge the adoption of the amendment.

The PRESIDING OFFICER. The Senator's time has expired.

There is 1 minute in opposition.

Who seeks recognition?

Mr. MOYNIHAN. Mr. President, I do not believe there is any opposition. It is an excellent proposal.

Mr. ROTH. We are ready and willing to accept it by voice vote.

Mr. TORRICELLI. Mr. President, I thank the Chairman.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 578) was agreed to.

Mr. MOYNIHAN. I move to reconsider the vote.

Mr. ROTH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

AMENDMENT NO. 579

(Purpose: To improve health care quality and reduce health care costs by establishing a National Fund for Health Research that would significantly expand the Nation's investment in medical research)

Mr. HARKIN. I send my amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. Harkin], for himself, Mr. D'Amato, Mr. Mack, and Mr. Specter, proposes an amendment numbered 579.

Mr. HARKIN. I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1027, between lines 7 and 8, insert the following:

Subtitle N—National Fund for Health Research

SEC. 5995. SHORT TITLE.

This subtitle may be cited as the "National Fund for Health Research Act".

SEC. 5996. FINDINGS.

Congress makes the following findings:

(1) Nearly 4 of 5 peer reviewed research projects deemed worthy of funding by the National Institutes of Health are not funded.

(2) Less than 3 percent of the nearly one trillion dollars our Nation spends on health care is devoted to health research, while the defense industry spends 15 percent of its budget on research and development.

(3) Public opinion surveys have shown that Americans want more Federal resources put into health research and are willing to pay for it.

(4) Ample evidence exists to demonstrate that health research has improved the quality of health care in the United States. Advances such as the development of vaccines, the cure of many childhood cancers, drugs that effectively treat a host of diseases and disorders, a process to protect our Nation's blood supply from the HIV virus, progress against cardiovascular disease including heart attack and stroke, and new strategies for the early detection and treatment of diseases such as colon, breast, and prostate cancer clearly demonstrates the benefits of health research.

(5) Health research which holds the promise of prevention of intentional and unintentional injury and cure and prevention of disease and disability, is critical to holding down health care costs in the long term.

(6) Expanded medical research is also critical to holding down the long-term costs of the medicare program under title XVIII of the Social Security Act. For example, recent research has demonstrated that delaying the onset of debilitating and costly conditions like Alzheimer's disease could reduce general health care and medicare costs by billions of dollars annually.

(7) The state of our Nation's research facilities at the National Institutes of Health and at universities is deteriorating significantly. Renovation and repair of these facilities are badly needed to maintain and improve the quality of research.

(8) Because discretionary spending is likely to decline in real terms over the next 5 years, the Nation's investment in health research through the National Institutes of Health is likely to decline in real terms unless corrective legislative action is taken.

(9) A health research fund is needed to maintain our Nation's commitment to health research and to increase the percentage of approved projects which receive funding at the National Institutes of Health.

SEC. 5997. ESTABLISHMENT OF FUND.

(a) Establishment.—There is established in the Treasury of the United States a fund, to be known as the "National Fund for Health Research" (hereafter in this section referred to as the "Fund"), consisting of such amounts as are transferred to the Fund under subsection (b), any sums specifically designated for such purpose by future acts of Congress, and any interest earned on investment of amounts in the Fund.

(b) Transfers to Fund.—

(1) In general.—The Secretary of the Treasury shall transfer to the Fund amounts equivalent to one half the amounts for each of the fiscal years 1998 through 2002 derived for each such fiscal year under Section 311 through Section 314 of this act that exceeds the amount of Federal revenues estimated by the Joint Tax Committee as of the date of enactment of this act, to be gained from enactment of Section 311 through Section 314 for each such fiscal year.

(B) Determination by Secretary.—Not later than 6 months after the end of each of the fiscal years described in subparagraph (A), the Secretary of the Treasury shall—

(i) make a determination as to the amount to be transferred to the Fund for the fiscal year involved under this subsection; and

(ii) subject to subsection (d), transfer such amount to the Fund.

(C) Fund Administered by Health and Human Services.—The Secretary of Health and Human Services shall administer funds transferred into the Fund.

(D) Cap on Transfer.—Amounts transferred to the Fund under this subsection for any year in the 5-fiscal year period beginning on October 1, 1997, shall not in combination with the appropriated sum exceed an amount equal to the amount appropriated for the National Institutes of Health for fiscal year 1997 multiplied by 2.

(c) Obligations From Fund.—

(1) In general.—Subject to the provisions of paragraph (4), with respect to the amounts made available in the Fund in a fiscal year, the Secretary of Health and Human Services shall distribute—

(A) 2 percent of such amounts during any fiscal year to the Office of the Director of the National Institutes of Health to be allocated for the following activities:

(i) for carrying out the responsibilities of the Office of the Director, including the Office of Research on Women's Health and the Office of Research on Minority Health, the Office of Alternative Medicine, the Office of Rare Disease Research, the Office of Behavioral and Social Sciences Research (for use for efforts to reduce tobacco use), the Office of Dietary Supplements, and the Office for Disease Prevention; and

(ii) for construction and acquisition of equipment for or facilities of or used by the National Institutes of Health;

(B) 2 percent of such amounts for transfer to the National Center for Research Resources to carry out section 1502 of the National Institutes of Health Revitalization Act of 1993 concerning Biomedical and Behavioral Research Facilities;

(C) 1 percent of such amounts during any fiscal year for carrying out section 301 and part D of title IV of the Public Health Service Act with respect to health information communications; and

(D) the remainder of such amounts during any fiscal year to member institutes and centers, including the Office of AIDS Research, of the National Institutes of Health in the same proportion to the total amount received under this section, as the amount of annual appropriations under appropriations Acts for each member institute and Centers for the fiscal year bears to the total amount of appropriations under appropriations Acts for all member institutes and Centers of the National Institutes of Health for the fiscal year.

(2) PLANS OF ALLOCATION.—The amounts transferred under paragraph (1)(D) shall be allocated by the Director of the National Institutes of Health or the various directors of the institutes and centers, as the case may be, pursuant to allocation plans developed by the various advisory councils to such directors, after consultation with such directors.

(3) GRANTS AND CONTRACTS FULLY FUNDED IN FIRST YEAR.—With respect to any grant or contract funded by amounts distributed under paragraph (1), the full amount of the total obligation of such grant or contract shall be funded in the first year of such grant or contract, and shall remain available until expended.

(4) TRIGGER AND RELEASE OF MONIES.

(A) TRIGGER AND RELEASE.—No expenditure shall be made under paragraph (1) during any fiscal year in which the annual amount appropriated for the National Institutes of Health is less than the amount so appropriated for the prior fiscal year.

(d) REQUIRED APPROPRIATION.—No transfer may be made for a fiscal year under subsection (b) unless an appropriations Act providing for such a transfer has been enacted with respect to such fiscal year.

Mr. HARKIN. Mr. President, in this morning's paper, researchers were able to identify a gene that plays a role in Parkinson's disease. We need more funds for biomedical research.

What this amendment says, on behalf of Senators D'AMATO, SPECTER, MACK, and myself, is that we take the excess savings that will come in because of the capital gains tax cut. Half of that will go for deficit reduction; the other half will go to NIH for biomedical research.

I yield the remainder of my time first to Senator D'AMATO and then Senator SPECTER.

Mr. D'AMATO. Mr. President, a number of recent studies have demonstrated that investments in medical research can lower health care costs through the development of more cost-effective treatments. Greater funding for research will also increase our ability to combat diseases which are very costly to our Nation's health care system. We voted on May 21, 1997, 98 to 0, to double the amount of funding for NIH so we can advance our biomedical research capabilities. This impressive show of support from this body will help reduce health care costs and increase the quality of health for all of our citizens.

Voting to increase funding was easy. Now comes the hard part. Where do we get the money? We must not take money from other vital programs such as food stamps or senior citizen benefits. Can we afford to give more money for breast cancer research and take away money from programs for children? There would be no end to the debate on which is more worthy of our priorities.

There is a better way to get funds for biomedical research without cutting from other programs. I suggest that each year the Secretary of the Treasury determine whether the actual revenue impact of the capital gains provisions of this bill are more positive—more revenues gained or less lost—than levels called for in revenue scoring of this provision. If the impact is more positive, half of the revenues will be put toward deficit reduction. We could then take the other half and deposit it into a National Fund for Health Research. This fund will expand support for medical research through the National Institutes of Health [NIH].

I believe that if we acquire the money for the fund in this way we can avoid hurting other programs. Using money when there is a more positive revenue will keep us within the bounds of the balanced budget agreement. I don't believe there is a better place to put this excess money than in the research fund.

Mr. President, every one of us, the entire Senate called for an increase in funding for biomedical research. Again, I suggest that there is no better place to put the more positive revenue than in this fund. I believe that the establishment of this trust fund should be made in the same cooperative spirit that brought the entire Senate to agree to increase funding on May 21. We can then go home feeling proud that we did all we could to further advance our country's medical capabilities and in time reduce the costs of our entire health care system.

Mr. President, we voted 98 to 0 to do this. This is a matter which we can prove that we meant it. Any additional moneys will go to deficit reduction and to NIH.

Mr. SPECTER. Mr. President, the Senate voted 98 to 0 in a sense of the Senate, but turned down $1.1 billion of real money, 67 to 37.

This is a chance for those 63 Senators to redeem themselves, to redeem their promise for NIH funding.

The PRESIDING OFFICER. There is 1 minute in opposition.

Mr. ROTH. I yield to the Senator from Pennsylvania.

Mr. SANTORUM. If this amendment is adopted, there is no money for tax cuts, if that money was available from extra funds.

I do not think that is a good idea. I think it hamstrings Congress. If there is extra money, we should give it back to the people who paid it here. We should not be putting it into more Government spending.

No. 1, my understanding is that this violates the Budget Act and is subject to a point of order.

Mr. NICKLES. I make the point of order that the amendment is not relevant under the Budget Act, subject to germaneness.

Mr. HARKIN. I move to waive the point of order and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

VOTE ON MOTION TO WAIVE THE BUDGET ACT

The PRESIDING OFFICER. The question is on agreeing to the motion to waive the Budget Act. The yeas and nays have been ordered.

The clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from South Carolina, [Mr. HOLLINGS] is necessarily absent.

The yeas and nays resulted—yeas 51, nays 48, as follows:

[Rollcall Vote No. 154 Leg.]

YEAS—51

Akaka
Biden
Boxer
Bryan
Bumpers
Burns
Cleland
Collins
Conrad
D'Amato
Daschle
DeWine
Dodd
Dorgan
Durbin
Feinstein
Frist
Glenn
Graham
Grassley
Harkin
Hutchison
Inouye
Jeffords
Johnson
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mack
McCain
Mikulski
Moseley-Braun
Moynihan
Murray
Reed
Reid
Robb
Rockefeller
Sarbanes
Snowe
Specter
Stevens
Thompson
Torricelli
Wellstone
Wyden

NAYS—48

Abraham
Allard
Ashcroft
Baucus
Bennett
Bingaman
Bond
Breaux
Brownback
Byrd
Campbell
Chafee
Coats
Cochran
Coverdell
Craig
Domenici
Enzi
Faircloth
Feingold
Ford
Gorton
Gramm
Grams
Gregg
Hagel
Hatch
Helms
Hutchinson
Inhofe
Kempthorne
Kyl
Landrieu
Lott
Lugar
McConnell
Murkowski
Nickles
Roberts
Roth
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Thomas
Thurmond
Warner

NOT VOTING—1

Hollings

The PRESIDING OFFICER. On this vote, the yeas are 51, the nays are 48. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained, and the amendment falls.

Mr. ROTH. Mr. President, I move to reconsider the vote.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROTH. Mr. President, Senator MOSELEY-BRAUN is the next Senator on the list to offer an amendment.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

AMENDMENT NO. 581

(Purpose: To provide for a tax credit for public elementary and secondary school construction, and for other purposes)

Ms. MOSELEY-BRAUN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Illinois [Ms. MOSELEY-BRAUN], for herself, Mr. KENNEDY, and Mr. WELLSTONE, proposes an amendment numbered 581.

Ms. MOSELEY-BRAUN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Ms. MOSELEY-BRAUN. Mr. President, this amendment says that if our economy does better than we today expect that it will, we will devote some of that increased revenue to help rebuild our Nation's crumbling schools.

The General Accounting Office makes it very clear that we have at least 112 billion dollars' worth of unmet needs with school facilities around the country. State and local governments cannot go to the property tax to meet that 112 billion dollars' worth of need. So, I say to my colleagues, in the interest of the 14 million American children who, every day, go to schools that are unfit for human habitation and which are not suitable environments for learning, I ask support for this amendment. The funds from the tax credit would only be made available if actual revenue in the Federal Treasury exceeded CBO's annual revenue projections, and up to $1 billion above and beyond CBO revenue estimates will be deposited into a school infrastructure trust fund. It would be distributed to the States in allocable tax credits. This is a problem that will not go away. It will only get worse if we don't address it now. Thank you.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, I urge my colleagues to vote no on this amendment. I understand there will be a voice vote. Mr. President, this proposal is, in essence, converting an education infrastructure grant program into a tax credit. In my opinion, that is not a good idea. The administration, while they originally proposed having the $5 billion for schools, during the negotiation they dropped that. That wasn't part of the agreed-upon package. I might also mention that the Department of Education said, "The Department recommends that Congress rescind the 1995 appropriations for this program and provide no funding for 1996." That was the infrastructure program.

So, Mr. President, I urge colleagues to vote no on this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 581) was rejected.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROTH. Mr. President, I next yield to Senator MCCAIN to offer an amendment.

AMENDMENT NO. 548

(Purpose: To strike the provision relating to the extension and modification of subsidies for alcohol fuels)

Mr. MCCAIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN] proposes an amendment numbered 548.

Mr. MCCAIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike section 707 of the bill.

Mr. MCCAIN. Mr. President, I offer an amendment today to strike the language in the bill that provides an additional $3.8 billion in subsidies for the ethanol industry.

The amendment is very simple. It strikes in its entirety Section 707 of the bill, which would extend for an additional 7 years the tax credits for ethanol and methanol producers. The value of these ethanol subsidies is estimated by the Congressional Budget Office at $3.8 billion in lost revenues.

Mr. President, enough is enough. The American taxpayers have subsidized the ethanol industry, with guaranteed loans and tax credits, for more than 20 years. Since 1980, government subsidies for ethanol have totaled more than $10 billion. Section 707 of the bill, if not stricken, would give another $3.8 billion in tax breaks to ethanol producers.

Current law provides tax credits for ethanol producers which are estimated to cost the Treasury $770 million a year in lost revenue, and the Congressional Research Service estimates that loss may increase to $1 billion by the year 2000. These huge tax credits effectively increase the tax burden on other businesses and individual taxpayers.

The current tax subsidies for ethanol are scheduled to expire in the year 2000. This amendment does not change current law; it allows the existing generous subsidies to continue through the year 2000. The amendment merely ensures that the subsidies do expire and are not extended for another 7 years.

Mr. President, let me just take a moment and try to explain why we have such generous ethanol subsidies in law today. The rationale for ethanol subsidies has changed over the years, but unfortunately, ethanol has never lived up to the claims of any of its diverse proponents.

In the late 1970's, during the energy crisis, ethanol was supposed to help the U.S. lessen its reliance on oil. But ethanol use never took off, even when gasoline prices were highest and lines were longest.

Then, in the early 1980's, ethanol subsidies were used to prop up America's struggling corn farmers. Unfortunately, the usual trickle down effect of agricultural subsidies is clearly evident. Beef and dairy farmers, for example, have to pay a higher price for feed corn, which is then passed on in the form of higher prices for meat and milk. The average consumer ends up paying the cost of ethanol subsidies in the grocery store.

By the late 1980's, ethanol became the environmentally correct alternative fuel. Unfortunately, the Department of Energy has provided statistics showing that it takes more energy to produce a gallon of ethanol than the amount of energy that gallon of ethanol contains. In addition, the Congressional Research Service, the Congressional Budget Office, and the Department of Energy all acknowledge that the environmental benefits of ethanol use, at least in terms of smog reduction, are yet unproven.

In addition, ethanol is an inefficient, expensive fuel. Just look at the 3- to 5-cent-per-gallon increase in gasoline prices during the winter months in the Washington, D.C. area when ethanol is required to be added to the fuel.

Finally, let me quote Stephen Moore, of the CATO Institute, who puts it very succinctly in a recent paper:

> * * * [V]irtually every independent assessment—by the U.S. Department of Agriculture, the General Accounting Office, the Congressional Budget Office, NBC News and several academic journals—has concluded that ethanol subsidies have been a costly boondoggle with almost no public benefit.

So why do we continue to subsidize the ethanol industry? I think James Bovard of the CATO Institute put it best in a 1995 policy paper:

> * * * [O]ne would be hard-pressed to find another industry as artificially sustained as the ethanol industry. The economics of ethanol are such that, for the industry to survive at all, massive trade protection, tax loopholes, contrived mandates for use, and production subsidies are vitally necessary. Only by spooking the public with bogey-men such as foreign oil sheiks, toxic air pollution, and the threatened disappearance of the American farmer can attention be deflected from the real costs of the ethanol house of cards that consumes over a billion dollars annually.

Mr. President, the House Ways and Means Committee took a bold step and included in its revenue reconciliation bill a phase-out of ethanol subsidies. In the report accompanying the bill, the Committee stated:

> [Ethanol tax subsidies] were assumed to be temporary measures that would allow these fuels to become economical without permanent Federal subsidies. Nearly 20 years have passed since that enactment, and neither the projected prices of oil nor the ability of ethanol to be a viable fuel without Federal subsidies has been realized. The Committee determined, therefore, that enactment of an orderly termination of this Federal subsidy program is appropriate at this time.

And what does the Senate Finance Committee say to support its decision to extend the ethanol subsidies beyond their current expiration date? Listen to this:

> The Committee believes that continued assurance of tax benefits for ethanol are [sic] an important signal to encourage the use of alternative fuels.

I commend Chairman BILL ARCHER for his decision to try to phase out ethanol subsidies. The provision in the House bill would have saved almost $250 million in the next three years. Unfortunately, I understand the provision will be removed from the House bill because of opposition in the ethanol industry. I am very disappointed that the House is taking this step back from ending ethanol subsidies.

Mr. President, we should end these subsidies. We cannot afford to subsidize the ethanol industry at a time when we are struggling with the dilemma of balancing the budget while maintaining our commitments to our senior citizens, taking care of our poor and disadvantaged citizens, and ensuring a healthy and secure future for our children.

Current law terminates ethanol subsidies after the year 2000. This amendment would avoid the $3.8 billion cost of extending the ethanol subsidies. I urge my colleagues to oppose changing current law and adopt my amendment to strike Section 707 from the bill.

The PRESIDING OFFICER. Who seeks recognition?

Mr. KERREY. Mr. President, I will take 30 seconds and then yield to the Senator from Iowa. This provision has worked and is creating jobs—

Mr. MOYNIHAN. Mr. President, we must have order.

Mr. KERREY. This provision has worked. I urge my colleagues to vote against the motion to strike. It has created jobs and has been good for the environment and promoted alternative fuel in the agriculture community, and we have long-term contracts that individuals have taken out to build the plants. I hope my colleagues vote against this provision.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, look at how wrong the argument of the Senator from Arizona is, that when a consumer doesn't pay a gasoline tax, it turns out to be a subsidy to an industry. How wrong that argument can be. This is not a subsidy to any industry. If this amendment passes, after the year 2000 the consumers of America are going to pay more gas tax on that portion of their gasoline that is ethanol. This is good for the environment and good for agriculture. It is good for jobs in the cities—195,000 jobs. It is good for energy independence and everything. It is good, good, good.

Mr. JOHNSON. Mr. President, I rise in opposition to Senator MCCAIN's amendment to the Revenue Reconciliation Act that would eliminate the tax exemption for ethanol in the year 2000.

Mr. President, I am proud to stand in opposition of this amendment. Over the past 3 years, we have been deluged with a deliberate misinformation campaign regarding the impact of the domestic ethanol industry. The partial excise tax exemption gasoline marketers receive for blending their fuel with ethanol has been disparagingly labeled corporate welfare. This label patently ignores the important public benefits that result from the production and use of fuel ethanol. I thought I would share some of the relevant facts.

Ethanol production stimulates the economy in rural America. As a result of progressive policymakers, ethanol is now produced in 53 plants in 19 States. The production of fuel ethanol results in more than 55,000 high-wage jobs, generates greater than $2.1 billion in household income, and adds more than $7.2 billion to the economy every year. Farmers will receive an additional $2.2 billion each year because of ethanol production. Moreover, nearly all new expansion in the ethanol industry has been completed by farmer-owned cooperatives. The Department of Agriculture estimates that a 100 million gallon ethanol plant will add 2,250 jobs to a community—enhancing rural development and expansion. In short, the ethanol industry is an economic engine driving investment and opportunities across rural America.

Ethanol promotes competition and reduces consumer gasoline costs. Ethanol extends gasoline supplies, provides a valuable source of octane for independent gasoline marketers, assures competition in the oxygenate market for refiners trying to meet Clean Air Act standards, and reduces consumer costs of gasoline. As noted by the Society of Independent Gasoline Marketers of America:

> The federal benefits afforded ethanol-blended fuels have been an important, procompetitive influence on the nation's gasoline markets. By enhancing the ability of independent marketers to price-compete with their integrated oil company competitors, this program has increased independent marketers' economic viability and reduced consumers' costs of gasoline.

Recognizing the competitive benefits of fuel ethanol in the market, Citizen Action, the Nation's largest consumer organization and strong supporter of the ethanol tax incentive, recently stated:

> The use of ethanol, a domestically produced, cleaner-burning renewable fuel helps American consumers use less polluting oil and reduces dependence on costly oil imports, which are in part subsidized by huge foreign tax credits.

Ethanol improves the U.S. trade balance. Ethanol competes with MTBE, a methanol-derived oxygenate, as an octane—oxygenate—additive. Imports of MTBE have risen from just 30 million gallons in 1992 to more than 700 million gallons last year, or about 25 percent of domestic consumption. By displacing the demand for MTBE that would be necessary without ethanol, the U.S. trade imbalance is reduced by approximately $1.3 billion annually. But the trade implications of ethanol do not end there. The majority of the coproducts of ethanol production—corn gluten feed and corn gluten meal—are exported, further reducing the trade deficit by earning over $800 million annually. The net effect is a benefit to the U.S. trade imbalance of over $2 billion each year.

Ethanol helps reduce air pollution. Ethanol adds oxygen to gasoline which reduces exhaust emissions of ozone-forming VOC's and carbon monoxide. It is widely used in reformulated gasolines currently being sold in ozone nonattainment areas across the country. Because ethanol adds octane to gasoline, it also reduces the use of other highly toxic petroleum-derived octanes, such as benzene, toluene and xylene.

Ethanol enhances our national security. This Nation spends billions of dollars to protect our oil interests around the world. It is considerably less costly to defend the corn fields of the Dakotas than it is to defend foreign oil fields.

Ethanol is good for agriculture. It is good for rural America. It is good for the environment. It reduces our dependance on foreign oil. The bottom line is that the Federal tax structure for ethanol deserves our continued support. I strongly oppose this amendment.

Mr. President, I ask unanimous consent that my remarks be inserted in the appropriate place in the CONGRESSIONAL RECORD.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. McCAIN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays are ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from South Carolina [Mr. HOLLINGS] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 30, nays 69, as follows:

[Rollcall Vote No. 155 Leg.]

YEAS—30

Byrd
Coats
Collins
Coverdell
Feingold
Frist
Gorton
Gregg
Hutchison
Inhofe
Kennedy
Kyl
Lautenberg
Leahy
Lieberman
McCain
Murray
Nickles
Robb
Rockefeller
Santorum
Sessions
Shelby
Smith (NH)
Snowe
Specter
Stevens
Thompson
Warner
Wyden

NAYS—69

Abraham
Akaka
Allard
Ashcroft
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bryan
Bumpers
Burns
Campbell
Chafee
Cleland
Cochran
Conrad
Craig
D'Amato
Daschle
DeWine
Dodd
Domenici
Dorgan
Durbin
Enzi
Faircloth
Feinstein
Ford
Glenn
Graham
Gramm
Grams
Grassley
Hagel
Harkin
Hatch
Helms
Hutchinson
Inouye
Jeffords
Johnson
Kempthorne
Kerrey
Kerry
Kohl
Landrieu
Levin
Lott
Lugar
Mack
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Reed
Reid
Roberts
Roth
Sarbanes
Smith (OR)
Thomas
Thurmond
Torricelli
Wellstone

NOT VOTING—1

Hollings

So the amendment (No. 548) was rejected.

Mr. ROTH. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROTH. Senator LANDRIEU is next on the list of offering amendments.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

AMENDMENT NO. 532

(Purpose: To allow taxpayers with income tax liability to take the child tax credit before the earned income tax credit, and for other purposes)

Ms. LANDRIEU. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Louisiana [Ms. LANDRIEU] proposes an amendment numbered 532.

Ms. LANDRIEU. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 13, beginning on line 9, strike all through page 17, line 23, and insert the following:

"(2) LIMITATION BASED ON ADJUSTED GROSS INCOME.—

"(A) IN GENERAL.—The $500 amount in subsection (a) shall be reduced (but not below zero) by $25 for each $1,000 (or fraction thereof) by which the taxpayer's modified adjusted gross income exceeds the threshold amount. For purposes of the preceding sentence, the term 'modified adjusted gross income' means adjusted gross income increased by any amount excluded from gross income under section 911, 931, or 933.

"(B) THRESHOLD AMOUNT.—For purposes of subparagraph (A), the term 'threshold amount' means—

"(i) $90,000 in the case of a joint return,

"(ii) $60,000 in the case of an individual who is not married, and

"(iii) $45,000 in the case of a married individual filing a separate return.

For purposes of this subparagraph, marital status shall be determined under section 7703.

"(c) QUALIFYING CHILD.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualifying child' means any individual if—

"(A) the taxpayer is allowed a deduction under section 151 with respect to such individual for the taxable year,

"(B) such individual has not attained the age of 17 (age of 18 in the case of taxable years beginning after 2002) as of the close of the calendar year in which the taxable year of the taxpayer begins, and

"(C) such individual bears a relationship to the taxpayer described in section 32(c)(3)(B).

"(2) EXCEPTION FOR CERTAIN NONCITIZENS.—The term 'qualifying child' shall not include any individual who would not be a dependent if the first sentence of section 152(b)(3) were applied without regard to all that follows 'resident of the United States'.

"(d) TAXABLE YEAR MUST BE FULL TAXABLE YEAR.—Except in the case of a taxable year closed by reason of the death of the taxpayer, no credit shall be allowable under this section in the case of a taxable year covering a period of less than 12 months.

"(e) RECAPTURE OF CREDIT.—

"(1) IN GENERAL.—If—

"(A) during any taxable year any amount is withdrawn from a qualified tuition program or an education individual retirement account maintained for the benefit of a beneficiary and such amount is subject to tax under section 529(f) or 530(c)(3), and

"(B) the amount of the credit allowed under this section for the prior taxable year was contingent on a contribution being made to such a program or account for the benefit of such beneficiary,

the taxpayer's tax imposed by this chapter for the taxable year shall be increased by the lesser of the amount described in subparagraph (A) or the credit described in subparagraph (B).

"(2) NO CREDITS AGAINST TAX, ETC.—Any increase in tax under this subsection shall not be treated as a tax imposed by this chapter for purposes of determining—

"(A) the amount of any credit under this subpart or subpart B or D of this part, and

"(B) the amount of the minimum tax imposed by section 55.

"(f) OTHER DEFINITIONS.—For purposes of this section, the terms 'qualified tuition program' and 'education individual retirement account' have the meanings given such terms by section 529 and 530, respectively.

"(g) PHASE IN OF CREDIT.—In the case of taxable years beginning in 1997—

"(1) subsection (a)(1) shall be applied by substituting '$250' for '$500', and

"(2) subsection (c)(1)(B) shall be applied by substituting 'age of 13' for 'age of 17'."

(b) CONFORMING AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 23 the following new item:

"Sec. 24. Child tax credit."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

Ms. LANDRIEU. Mr. President, I want to begin by thanking my colleagues for their great patience. It has been a long day. I thank our ranking member for his great attention to this matter.

I also want to thank Senators KERRY, JOHNSON, and DURBIN for joining me in cosponsoring this amendment.

Mr. President, this amendment would allow the $500 child tax credit that we have talked so much about in the last few days to be available to 20 million families in America that are working very hard.

Mr. President, under the current draft of the bill, these working families only get to keep about half of this credit. In my State that means 27 percent of the families in my State who are working very hard will not be able to keep the full amount of this credit.

I know this has been considered carefully. But I feel compelled to offer this amendment today. I know that in this bill we are giving tax relief to many Americans. I believe that these Americans should have the opportunity to keep the full $500 tax credit. I ask my colleagues to give favorable consideration. It is budget neutral.

Mr. MOYNIHAN. Mr. President, I would hope that there would be no opposition to this.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Oklahoma.

Mr. NICKLES. Mr. President, much to my colleague's surprise, there is very serious opposition.

I hope we can vote this down by a voice vote.

This amendment would add outlays and increase Uncle Sam's writing of checks for the first 5 years of $9 billion and over 10 years of $19 billion. And this amendment would say that we stack these in order that people get the income education credit, the wage credit, and the tax credit that we are adding to the bill and the EIC. And on top of that, for a family with two children already gets $3,680. Uncle Sam will write the check. We would also give $1,000 on top of it.

I want to raise a point of order.

Mr. MOYNIHAN. Mr. President, I was simply going to say that this matter will surely arise in conference, and there will be support for it. The White House is very much in favor. I hope we can resolve it.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. NICKLES. Mr. President, I raise a point of order under section 302(f) of the Budget Act that the amendment results in the Finance Committee exceeding its spending allocation under section 602 of the Budget Act.

Ms. LANDRIEU addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Mr. President, I want to make a point that this is budget neutral. Technically a point of order could be raised that this is budget neutral in the amendment that I am offering. I would like to, if I could, move to waive and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

VOTE ON MOTION TO WAIVE THE BUDGET ACT

The PRESIDING OFFICER. The question occurs on agreeing to the motion to waive the Budget Act in relation to the Landrieu amendment No. 532. The yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from South Carolina [Mr. HOLLINGS] and the Senator from Hawaii [Mr. INOUYE], are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 39, nays 59, as follows:

[Rollcall Vote No. 156 Leg.]

YEAS—39

Akaka
Biden
Bingaman
Boxer
Breaux
Bumpers
Cleland
Collins
D'Amato
Daschle
Dodd
Domenici
Dorgan
Durbin
Feingold
Feinstein
Ford
Glenn
Harkin
Johnson
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Murray
Reed
Reid
Robb
Sarbanes
Snowe
Specter
Torricelli
Wellstone
Wyden

NAYS—59

Abraham
Allard
Ashcroft
Baucus
Bennett
Bond
Brownback
Bryan
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Conrad
Coverdell
Craig
DeWine
Enzi
Faircloth
Frist
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Jeffords
Kempthorne
Kerrey
Kyl
Lott
Lugar
Mack
McCain
McConnell
Moseley-Braun
Moynihan
Murkowski
Nickles
Roberts
Rockefeller
Roth
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Stevens
Thomas
Thompson
Thurmond
Warner

NOT VOTING—2

Hollings
Inouye

The PRESIDING OFFICER. On this vote the yeas are 39, the nays are 59. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to. The point of order is sustained, and the amendment falls.

Mr. ROTH. Mr. President, I move to reconsider the vote.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROTH. Senator McCAIN is next on the list.

POINT OF ORDER—SECTION 702(D)

Mr. McCAIN. Mr. President, I yield 30 seconds of my 1 minute to raise a point of order to the Senator from Missouri.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, in this budget agreement some of us thought there was too much spending and not enough tax relief. We find that there are even more spending proposals and less tax relief than we thought. This point of order is directed at spending on Amtrak in addition to other things. There is $2.3 billion being spent out of the tax cut section going to Amtrak. I join my colleague from Arizona in asking that these matters be referred to the authorization for Amtrak and urge that the point of order be sustained.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, as chairman of the oversight committee, I want my colleagues to be clear about what is happening. This bill takes $2.3 billion out of the tax relief promised the American people and places it into a trust fund to further subsidize Amtrak. These funds would be appropriated outside of the existing budget caps ensuring that Amtrak would not have to compete with other transportation priorities such as highways or aviation.

Mr. President, I raise the point of order that section 702(d) of the bill violates section 313(b)(1)(A) of the Budget Act, and I ask for the yeas and nays.

The PRESIDING OFFICER. There is nothing to ask for them on yet.

Mr. ROTH. Mr. President, at the completion of my remarks I yield 10 seconds to the distinguished Senator from New Mexico.

There is no truth that this has any impact on tax cuts. The important point to understand is that this point of order is to kill Amtrak.

This is very important, both to Senator MOYNIHAN and to myself. Passenger rail is extremely important to the entire country. What we have done is fully paid for. We do not ask for any special treatment. The rail fund is consistent with the budget resolution agreed to by both Chambers. It has the support of Senator DOMENICI and Senator LAUTENBERG. GAO has testified that Amtrak will not survive past 1998 without this crucial funding.

We could not wait any longer. I first wanted to say, I therefore ask for your votes to this point of order.

The PRESIDING OFFICER. The question is on the motion to waive.

Mr. DOMENICI. I was going to answer the McCain question, but he did not have one. Let me just say this is provided for in the budget resolution. The way it is handled, it is totally deficit-neutral. If the money is not used for Amtrak, we are ahead of the game. If it is used, it is totally neutral. We have done this about 10 times heretofore in budget reconciliation and budget resolutions.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. CHAFEE. Mr. President, I strongly support the provisions within this bill establishing a Rail Trust Fund, and oppose this point of order. Let me first state my view that these provisions do not violate the spirit of the Byrd rule, which is intended to prevent unrelated authorization bills from being brought into the reconciliation process. Section 702 of this bill, which establishes an Intercity Passenger Rail Fund, is primarily tax legislation, which most certainly belongs on legislation entitled "The Tax Fairness Bill".

Establishment of a trust fund is a critical element in providing passenger rail with a stable, predictable source of revenue so that Amtrak can achieve financial viability and effectively serve millions of Americans.

It is certainly no secret that Amtrak is in serious financial trouble. Earlier this year, the GAO continued a regular series of warnings in testifying to the Finance Committee on the precarious financial condition of the railroad. Amtrak President Tom Downs also confirmed to us that his railroad is in difficult shape. A number of States and communities have already felt the brunt of the railroad's financial predicament as often vital rail service has been discontinued.

There are several factors contributing to Amtrak's condition, but primarily it is a result of outdated laws governing Amtrak's operation, as well as inadequate and inconsistent support from the Federal Government. Whatever the cause, I think we can all agree that Amtrak simply cannot continue to operate under the status quo.

Amtrak's financial predicament has resulted in calls to end all Federal support for intercity passenger rail—there are those who would just throw up our hands in frustration and walk away. Mr. President, I am one who does not question the need for a Federal investment in passenger rail. The absence of passenger rail would clog our highways and airports—an additional 7,500 fully-booked 757's, or hundreds of thousands of cars, would be needed between Washington, DC, and New York every year.

All major industrialized nations provide subsidies to passenger rail, usually to a greater extent than our Government's support for Amtrak. In fact, Amtrak covers more of its operating costs—an estimated 84 percent—than any other passenger railroad in the world. Nonetheless, Amtrak operates the only mode of transportation in the United States which does not have a dedicated source of funding.

So the question before the Senate today is how best to provide needed Federal support for Amtrak's critical capital investment needs. After years of congressional hearings, GAO reports and strategic plans, I and many of my colleagues have concluded that dedicating a portion of the Federal gas tax to a Rail Trust Fund is the most appropriate and reliable means of ensuring that passenger rail can continue to meet America's transportation needs. Such a solution provides passenger rail with the same type of Federal support for capital improvements that other modes of transportation have enjoyed for years.

This bill's creation of an Intercity Passenger Rail Fund financed by one-half cent of the gas tax, coupled with the needed operating reforms contained within the Amtrak authorization bill introduced by the Senator from Texas, will allow Amtrak to operate more like a business, end its reliance on Federal operating subsidies, and thus better serve America's transportation needs.

At least for the 3½ years that this Trust Fund is financed, we will start on the path to financial stability and end the annual financial roller coaster to which Amtrak is subjected. It would also avoid a catastrophic shutdown of Amtrak, which has recently been estimated to cost upwards of $5 billion dollars.

Mr. President, Amtrak has presented to Congress a responsible 6-year strategic business plan which outlines how financial viability will be restored to the railroad. Amtrak's President Tom Downs deserves our praise for the monumental efforts he has undertaken to turn things around at his company. Congress should do its part and join him by providing a relatively modest Federal investment in passenger rail. I urge my colleagues to support this motion to waive the Budget Act.

Mr. ROTH. I move this point of order be waived, both for now and for the conference.

The PRESIDING OFFICER. The question is on the motion.

Mr. ROTH. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

VOTE ON MOTION TO WAIVE THE BUDGET ACT

The PRESIDING OFFICER. The question is on the motion to waive the Budget Act. The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Hawaii [Mr. INOUYE] and the Senator from South Carolina [Mr. HOLLINGS] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted, yeas 77, nays 21, as follows:

[Rollcall Vote No. 157 Leg.]

YEAS—77

Akaka
Baucus
Bennett
Biden
Bingaman
Boxer
Breaux
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Cleland
Coats
Cochran
Collins
Conrad
D'Amato
Daschle
DeWine
Dodd
Domenici
Dorgan
Durbin
Enzi
Faircloth
Feingold
Feinstein
Ford
Graham
Grassley
Hagel
Harkin
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Jeffords
Johnson
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Reed
Reid
Robb
Roberts
Rockefeller
Roth
Santorum
Sarbanes
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thurmond
Torricelli
Wellstone
Wyden

NAYS—21

Abraham
Allard
Ashcroft
Bond
Brownback
Coverdell
Craig
Frist
Glenn
Gorton
Gramm
Grams
Gregg
Kempthorne
Kyl
McCain
Sessions
Shelby
Smith (NH)
Thompson
Warner

NOT VOTING—2

Hollings
Inouye

The PRESIDING OFFICER. On this vote, the yeas are 77, the nays are 21. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mr. ROTH. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROTH. The next to be recognized is Senator FEINGOLD.

AMENDMENT NO. 582

(Purpose: To eliminate the percentage depletion allowance for certain minerals)

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Wisconsin [Mr. FEINGOLD], for himself and Mr. BUMPERS, proposes an amendment numbered 582.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 400, between lines 14 and 15, insert the following:

SEC. . CERTAIN MINERALS NOT ELIGIBLE FOR PERCENTAGE DEPLETION.

(a) IN GENERAL.—Section 613(b)(1) (relating to percentage depletion rates) is amended—

(A) in subparagraph (A), by striking "and uranium"; and

(B) in subparagraph (B), by striking "asbestos,", "lead,", and "mercury,".

(b) CONFORMING AMENDMENTS.—

(1) Section 613(b)(3)(A) is amended by inserting "other than lead, mercury, or uranium" after "metal mines".

(2) Section 613(b)(4) is amended by striking "asbestos (if paragraph (1)(B) does not apply),".

(3) Section 613(b)(7) is amended by striking "or" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting ", or", and by inserting after subparagraph (C) the following:

"(D) mercury, uranium, lead, and asbestos."

(4) Section 613(c)(4)(D) is amended by striking "lead," and "uranium,".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, this amendment eliminates percentage depletion allowances for four mined substances—asbestos, lead, mercury, and uranium—and it saves an estimated $83 million over 5 years.

Unlike depreciation or cost depletion, percentage depletion allows companies to deduct far more than their actual costs. This results in a generous loophole for the company and an expensive subsidy for the taxpayer. But it gets worse, Mr. President.

While we spend millions subsidizing corporations to mine these toxic substances, we spend even more on their downstream public health and environmental consequences.

So, as the senior Senator from Arkansas says, this subsidy gives corporate welfare a bad name.

Mr. President, I urge my colleagues to support this provision, and I yield the remainder of my time in deference to the Senator from Nevada.

The PRESIDING OFFICER. Who seeks recognition in opposition? The Senator from Texas.

Mr. GRAMM. Mr. President, it seems to me we have had enough fun now. I think we ought to reject this amendment and get on with final passage of this bill.

This is a tax cut. This is not a place to change the way we do accounting for mining. If you go out and find a body of ore, you don't have an investment you made in a piece of equipment. You have the asset that you are depleting as you produce it.

Every developed nation in the world has depletion allowance, because they want to produce the riches of their lands. This is a bad amendment and ought to be rejected.

Mr. ROTH. Mr. President, the pending amendment is not germane to the provisions of the reconciliation measure. I, therefore, raise a point of order against the amendment under section 305(b)(2) of the Budget Act.

Mr. FEINGOLD. Mr. President, I move to waive the Budget Act and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The PRESIDING OFFICER. The question is on agreeing to the motion to waive the Budget Act.

Mr. NICKLES. There wasn't a second.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. FEINGOLD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NICKLES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FEINGOLD. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

VOTE ON MOTION TO WAIVE THE BUDGET ACT

The PRESIDING OFFICER. The question is on agreeing to the motion to waive the Budget Act. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Hawaii [Mr. INOUYE] and the Senator from South Carolina [Mr. HOLLINGS] are necessarily absent.

The yeas and nays resulted—yeas 37, nays 61, as follows:

[Rollcall Vote No. 158 Leg.]

YEAS—37

Akaka
Biden
Boxer
Bumpers
Coats
Collins
Daschle
Dodd
Durbin
Feingold
Feinstein
Glenn
Graham
Gregg
Harkin
Jeffords
Johnson
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Murray
Reed
Robb
Rockefeller
Sarbanes
Snowe
Specter
Torricelli
Wellstone
Wyden

NAYS—61

Abraham
Allard
Ashcroft
Baucus
Bennett
Bingaman
Bond
Breaux
Brownback
Bryan
Burns
Byrd
Campbell
Chafee
Cleland
Cochran
Conrad
Coverdell
Craig
D'Amato
DeWine
Domenici
Dorgan
Enzi
Faircloth
Ford
Frist
Gorton
Gramm
Grams
Grassley
Hagel
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Kempthorne
Kyl
Landrieu
Lott
Lugar
Mack
McCain
McConnell
Moynihan
Murkowski
Nickles
Reid
Roberts
Roth
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Stevens
Thomas
Thompson
Thurmond
Warner

NOT VOTING—2

Hollings
Inouye

The PRESIDING OFFICER. On this vote the yeas are 37, the nays are 61. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained, and the amendment falls.

Mr. ROTH. I move to reconsider the vote.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. I want to get a unanimous consent.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

AMENDMENTS NOS. 583, 584, 585, 586, 587, 588, AND 589

Mr. ROTH. Mr. President, I ask unanimous consent to send the following amendments to the desk, and I ask unanimous consent that they be considered en bloc: Senator GRAHAM, pension technicals; the second one is Senators NICKLES and BOND, sense of the Senate regarding self-employment tax; the third is Senator SPECTER, penalty-free withdrawal on adoption; the fourth is Senator FAIRCLOTH, tax-exempt bond refunding; the fifth is Senator GORTON, bad debt reserve recapture; the sixth is Senator SANTORUM, sense of the Senate on tax cuts; and the final one is BURNS, income averaging for farmers.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the amendments.

The legislative clerk read as follows:

The Senator from Delaware [Mr. ROTH] proposes amendments numbered 583, 584, 585, 586, 587, 588, and 589.

The amendments are as follows:

AMENDMENT NO. 583

(Purpose: To provide for various amendments)

On page 93, strike lines 13 through 25, and insert:

"(ii) a silver coin described in section 5112(e) of title 31. United States Code,

"(iii) a platinum coin described in section 5112(k) of title 31. United States Code, or

"(iv) a coin issued under the laws of any State, or

"(B) any gold, silver, platinum, or palladium bullion of a fineness equal to or exceeding the minimum fineness required for metals which may be delivered in satisfaction of a regulated futures contract subject to regulation by the Commodity Futures Trading Commission under the Commodity Exchange Act.

On page 205, before line 12, insert the following:

(c) SPECIAL AMORTIZATION RULE.—

(1) CODE AMENDMENT.—Section 412(b)(2) is amended by striking "and" at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting ", and", and by inserting after subparagraph (D) the following:

"(E) the amount necessary to amortize in equal annual installments (until fully amortized) over a period of 20 years the contributions which would be required to be made under the plan but for the provisions of subsection (c)(7)(A)(i)(I).".

(2) ERISA AMENDMENT.—Section 302(b)(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082(b)(2)) is amended by striking "and" at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting ", and", and by inserting after subparagraph (D) the following:

"(E) the amount necessary to amortize in equal annual installments (until fully amortized) over a period of 20 years the contributions which would be required to be made under the plan but for the provisions of subsection (c)(7)(A)(i)(I).".

(3) CONFORMING AMENDMENTS.—

(A) Section 412(c)(7)(D) is amended by adding "and" at the end of clause (i), by striking ", and" at the end of clause (ii) and inserting a period, and by striking clause (iii).

(B) Section 302(c)(7)(D) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082(c)(7)(D)) is amended by adding "and" at the end of clause (i), by striking ", and" at the end of clause (ii) and inserting a period, and by striking clause (iii).

(4) EFFECTIVE DATES.—

(A) IN GENERAL.—The amendments made by this subsection shall apply to plan years beginning after December 31, 1998.

(B) SPECIAL RULE FOR 1999.—In the case of a plan's first year beginning in 1999, there shall be added to the amount required to be amortized under section 412(b)(2)(E) of the Internal Revenue Code of 1986 and section 302(b)(2)(E) of the Employee Retirement Income Security Act of 1974 (as added by paragraphs (1) and (2)) over the 20-year period beginning with such year, the unamortized balance (as of the close of the preceding plan year) of any amount required to be amortized under section 412(c)(7)(D)(iii) of such Code and section 302(c)(7)(D)(iii) of such Act (as repealed by paragraph (3)) for plan years beginning before 1999.

On page 639, between lines 11 and 12, insert:

(4) AMENDMENTS RELATED TO SECTION 1461.—

(A) Section 415(e)(5)(A) is amended to read as follows:

"(A) CERTAIN MINISTERS MAY PARTICIPATE.—For purposes of this part—

"(i) IN GENERAL.—A duly ordained, commissioned, or licensed minister of a church is described in paragraph (3)(B) if, in connection with the exercise of their ministry, the minister—

"(I) is a self-employed individual (within the meaning of section 401(c)(1)(B), or

"(II) is employed by an organization other than an organization which is described in section 501(c)(3) and with respect to which the minister shares common religious bonds.

"(ii) TREATMENT AS EMPLOYER AND EMPLOYEE.—For purposes of sections 403(b)(1)(A) and 404(a)(10), a minister described in clause (i)(I) shall be treated as employed by the minister's own employer which is an organization described in section 501(c)(3) and exempt from tax under section 501(a)."

(B) Section 403(b)(1)(A) is amended by striking "or" at the end of clause (i), by inserting "or" at the end of clause (ii), and by adding at the end the following new clause:

"(iii) for the minister described in section 415(e)(5)(A) by the minister or by an employer,".

AMENDMENT NO. 584

(Purpose: To express the sense of the Senate with respect to the proposed regulations of the Internal Revenue Service with respect to self-employment income for limited partners)

On page 212, between lines 11 and 12, insert the following:

SEC. . SENSE OF THE SENATE WITH RESPECT TO SELF-EMPLOYMENT TAX OF LIMITED PARTNERS.

(a) FINDINGS.—The Senate finds that—

(1) the Department of the Treasury issued Proposed Regulation 1.1402(a)-2 in January 1997 relating to the definition of a limited partner for self-employment tax purposes under section 1402(a)(13) of the Internal Revenue Code;

(2) since 1977, section 1402(a)(13) of such Code has provided that—

(A) a limited partner's net earnings from self-employment include only guaranteed payments made to the individual for services actually rendered and do not include a limited partner's distributive share of the income or loss of the partnership, and

(B) a general partner's net earnings from self-employment include the partner's distributive share;

(3) the proposed regulations provide generally—

(A) that a partner will not be treated as a limited partner if the individual—

(i) has personal liability for partnership debts,

(ii) has authority to contract on behalf of the partnership, or

(iii) participates in the partnership's trade or business for more than 500 hours during the taxable year;

(B) that an individual meeting any one of these three criteria will be treated as a general partner, and net earnings from self-employment will include the partner's distributive share of partnership income and loss, resulting in substantial tax liability because there is a 15.3 percent tax on self-employment income below $65,400 in 1997 and a 2.9 percent hospital insurance tax on self-employment income above that amount;

(4) certain types of entities, such as limited liability companies and limited liability partnerships, were not widely used at the time the present rule relating to limited partners was enacted, and that the proposed regulations attempt to address owners of such entities;

(5) the Senate is concerned that the proposed change in the treatment of individuals who are limited partners under applicable State law exceeds the regulatory authority of the Treasury Department and would effectively change the law administratively without congressional action; and

(6) the proposed regulations address and raise significant policy issues and the proposed definition of a limited partner may have a substantial impact on the tax liability of certain individuals and may also affect individuals' entitlement to social security benefits.

(b) SENSE OF SENATE.—It is the sense of the Senate that—

(1) the Department of the Treasury and the Internal Revenue Service should withdraw Proposed Regulation 1.1402(a)-2 which imposes a tax on limited partners; and

(2) Congress, not the Department of the Treasury or the Internal Revenue Service, should determine the tax law governing self-employment income for limited partners.

AMENDMENT NO. 585

(Purpose: To allow penalty-free IRA withdrawals for adoption expenses)

On page 20, between lines 5 and 6, insert the following:

SEC. 105. ADOPTION EXPENSES.

(a) DISTRIBUTIONS FROM CERTAIN PLANS MAY BE USED WITHOUT PENALTY TO PAY ADOPTION EXPENSES.—

(1) IN GENERAL.—Section 72(t)(2) (relating to exceptions to 10-percent additional tax on early distributions from qualified retirement plans) is amended by adding at the end the following:

"(E) DISTRIBUTIONS FROM CERTAIN PLANS FOR ADOPTION EXPENSES.—Distributions to an individual from an individual retirement plan of so much of the qualified adoption expenses (as defined in section 23(d)(1)) of the individual as does not exceed $2,000.".

(2) CONFORMING AMENDMENT.—Section 72(t)(2)(B) is amended by striking "or (D)" and inserting ", (D) or (E)".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to payments and distributions after December 31, 1996.

AMENDMENT NO. 586

(Purpose: To permit the current refunding of certain tax-exempt bonds)

On page 267, between lines 15 and 16, insert the following:

SECTION . CURRENT REFUNDINGS OF CERTAIN TAX-EXEMPT BONDS.

(a) IN GENERAL.—Subsection (c) of section 10632 of the Revenue Act of 1987 (relating to bonds issued by Indian tribal governments) is amended by adding at the end the following new sentence: "The amendments made by this section shall not apply to any obligation issued after such date if—

"(1) such obligation is issued (or is part of a series of obligations issued) to refund an obligation issued on or before such date,

"(2) the average maturity date of the issue of which the refunding obligation is a part is not later than the average maturity date of the obligations to be refunded by such issue,

"(3) the amount of the refunding obligation does not exceed the outstanding amount of the refunded obligation, and

"(4) the net proceeds of the refunding obligation are used to redeem the refunded obligation not later than 90 days after the date of the issuance of the refunding obligation.

For purposes of paragraph (2), average maturity shall be determined in accordance with section 147(b)(2)(A) of the Internal Revenue Code of 1986."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to refunding obligations issued after the date of the enactment of this Act.

CAROLINA MIRROR CO.

Mr. FAIRCLOTH. Mr. President, I rise to offer this amendment on behalf of the Eastern Band of Cherokee Indians in my home state of North Carolina.

In 1982, the Congress passed legislation to allow Indian tribes to issue tax exempt bonds, just like other units of government. The legislation recognized the rights of the tribes and confirmed their parallel rights to States, counties, and cities.

The 1982 act thus acknowledged just what most of us knew: that Indian tribes are legitimate units of government with wide-ranging responsibilities.

Using the act, the Cherokee Indians in my State issued $31 million in tax-exempt bonds to purchase the Carolina Mirror Co. The tribal leadership viewed the purchase of Carolina Mirror Co. as a means to promote jobs and economic development for their tribe and its members. The Cherokee have faced some tough times over the years. The Carolina Mirror Co. purchase was a way to invest in the future of their tribe and their people.

Carolina Mirror today is the largest manufacturer of mirrors in the Nation. It employees over 500 people. It is an economic engine. It produces jobs and hope for a people that have seen little of both over the years.

In 1986, however, the Congress passed new legislation that narrowed the interpretation of the original 1982 act. It changed the act so that tax-exempt bonds could only be used to finance "essential government functions."

Mr. President, as you know, interest rates are at historically low levels. I know that not enough of us have ever been in business and met a payroll, as I have for the past 50 years. Well, interest rates are the difference between profitability and bankruptcy, between jobs for the community and a lock on the factory gate. Needless to say, the Cherokees are eager to take advantage of lower interest rates and to refinance these bonds.

The interest rate on these bonds is so high that the Carolina Mirror Co. literally spends almost all of its profits on interest payments. This is devastating for the company.

When the company attempted to reissue the bonds, however, some IRS bureaucrat stepped away from the water cooler long enough to say "no." The great minds at the IRS ruled that a refinancing constituted a reissuance and stopped the tribe from its plans to refinance these high interest bonds.

By reissuing bonds at a lower rate, the company could save nearly a million dollars a year, but the IRS does not look at the situation. The 500 jobs do not matter. The investment of the Cherokees in the company does not matter. No, all that matters is that we follow the mindless dictate of an unelected, unaccountable bureaucrat holed up in a Federal office building waiting for the 4 o'clock vanpool back to the suburbs. The outside world is irrelevant. The real jobs of real people are irrelevant.

The amendment that I offer today is a technical bill to allow Indian tribes to refinance tax-exempt bonds issued on or before October 13, 1997. This bill has a very narrow application. In fact, I introduced this bill last year as S. 1676. The Joint Committee on Taxation said last year—and again this year—that this bill will have a "negligible effect on budget receipts."

Let's do the right thing for the Cherokees. Let's tell the IRS that American jobs matter and the Congress stands behind the working men and women of this country.

I urge my colleagues to support the amendment.

Mr. HELMS. Mr. President, this amendment corrects a serious problem Congress created in 1987 when the definition for “essential government functions” was inadvertently changed relating to native American tribes, thereby inhibiting the tribes' use of tax-exempt bonds. Prior to 1987, the Cherokee Tribe and other tribes used tax-exempt bonds to finance “essential government functions.” In 1986, the Eastern Band of Cherokee Indians, in western North Carolina, used this provision to purchase the Carolina Mirror Co. to ensure the Cherokee Tribe's long-term economic development. The Cherokees worked hard and built Carolina Mirror into the largest producer of mirrors in the United States.

Then, Congress changed the rules in the Omnibus Budget Reconciliation Act of 1987, and narrowed the definition of “essential government functions”, and today Carolina Mirror is in default and may be forced to close its Texas operation because of a staggering monthly obligation of $300,000. This amendment would allow these hard-working native Americans to refinance their current bonds at more competitive rates. The Joint Committee on Taxation asserts that this purely technical amendment will have a “negligible effect on the Federal fiscal year budget receipts.”

AMENDMENT NO. 587

(Purpose: Relating to repeal of bad debt reserve method for thrift savings associations)

At the end of title VII, insert:

SEC. . SPECIAL RULE FOR THRIFTS WHICH BECOME LARGE BANKS

(a) IN GENERAL.—Section 593(g)(2) (defining applicable excess reserves) is amended by adding at the end the following new subparagraph:

“(C) SPECIAL RULE FOR THRIFTS WHICH BECAME LARGE BANKS IN 1995.—

“(i) IN GENERAL.—In the case of a bank (as defined in section 581) which became a large bank (as defined in section 585(c)(2)) for its first taxable year beginning after December 31, 1994, the balance taken into account under subparagraph (A)(ii) shall not be less than the amount which would be the balance of such reserves as of the close of its last taxable year beginning before January 1, 1995, if the additions to such reserves for all taxable years had been determined under section 585(b)(2)(A).

“(ii) APPLICATION OF CUT-OFF METHOD; ETC.—In the case of a taxpayer to which this subparagraph applies—

“(I) paragraph (5)(B) shall apply, and

“(II) this subparagraph shall not apply in determining the amount taken into account by the taxpayer under subparagraph (A)(ii) for purposes of paragraph (5) and (6) or subsection (e)(1).”

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendments made by section 1616 of the Small Business Job Protection Act of 1996.

AMENDMENT NO. 588

(Purpose: To express the sense of the Senate that America's middle-class taxpayers shoulder the biggest tax burden and that only those who pay Federal income taxes should benefit from the Federal income tax cuts contained in the Revenue Reconciliation Act of 1997)

On page 267, between lines 15 and 16, insert the following:

SEC. . SENSE OF THE SENATE.

(a) FINDINGS.—The Senate finds that—

(1) Congress has not provided a genuine tax cut for America's middle-class families since 1981;

(2) President Clinton promised middle-class tax cuts in 1992;

(3) President Clinton raised taxes by $240,000,000,000 in 1993;

(4) President Clinton vetoed middle-class tax cuts in 1995;

(5) the middle-class American worker had to work until May 9 in order to earn enough money to pay all Federal, State, and local taxes in 1997;

(6) the Joint Economic Committee reports that real total Government taxes per household in 1994 totaled $18,600;

(7) more than 70 percent of the tax cuts in both the House of Representatives and the Senate tax relief bills will go to Americans earning less than $75,000 annually;

(8) the Joint Economic Committee estimates that a family of 4 earning $30,000 will receive 53 percent of the tax relief under the reconciliation bill;

(9) the earned income tax credit was already expanded in President Clinton's 1993 tax bill;

(10) the fiscal year 1998 budget resolution does not make the $500-per-child tax credit refundable; and

(11) those who receive the earned income tax credit do not pay Federal income taxes but receive a substantial cash transfer from the Federal Government in the form of refund checks above and beyond income tax rebates.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that America's middle-class taxpayers shoulder the biggest tax burden and that only those who pay Federal income taxes should benefit from the Federal income tax cuts contained in the Revenue Reconciliation Act of 1997.

AMENDMENT NO. 589

(Purpose: To allow farmers to income average over 3 years)

On page 267, between lines 15 and 16, insert the following:

SEC. 780. AVERAGING OF FARM INCOME OVER 3 YEARS.

(a) IN GENERAL.—Subpart B of part II of subchapter E of chapter 1 of the Internal Revenue Code of 1986 (relating to taxable year for which items of gross income included) is amended by adding the following new section:

“SEC. 460A. AVERAGING OF FARM INCOME.

“(a) IN GENERAL.—At the election of a taxpayer engaged in a farming business, the tax imposed by section 1 for such taxable year shall be equal to the sum of—

“(1) a tax computed under such section on taxable income reduced by elected farm income, plus

“(2) the increase in tax which would result if taxable income for the 3 prior taxable years were increased by the elected farm income.

“(b) DEFINITIONS.—In this section—

“(1) ELECTED FARM INCOME.—

“(A) IN GENERAL.—The term ‘elected farm income’ means so much of the taxable income for the taxable year—

“(i) which is attributable to any farming business; and

“(ii) which is specified in the election under subsection (a).

“(B) TREATMENT OF GAINS.—For purposes of subparagraph (A), gain from the sale or other disposition of property (other than land) regularly used by the taxpayer in a farming business for a substantial period shall be treated as attributable to a farming business.

“(2) FARMING BUSINESS.—The term ‘farming business’ has the meaning given such term by section 263A(e)(4).”

(b) CLERICAL AMENDMENT.—The table of sections for such subpart B is amended by adding at the end the following new item:

“Sec. 460A. Averaging of farm income.”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act and before January 1, 2001.

Section 503 of the bill is amended on page 161, line 4 by striking “July 31, 1999” and inserting “May 31, 1999.”

Mr. ROTH. Mr. President, I move their adoption.

The PRESIDING OFFICER. Without objection, the amendments are agreed to en bloc.

The amendments en bloc, were agreed to.

Mr. ALLARD addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

AMENDMENT NO. 577

[Purpose: To provide for the indexing of assets to determine capital gain]

Mr. ALLARD. I have at the desk amendment No. 577. I ask that the clerk call it up.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. ALLARD], for himself, Mr. BROWNBACK, and Mr. ABRAHAM, proposes an amendment numbered 577.

Mr. ALLARD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under “Amendments Submitted.”)

Mr. ALLARD. Mr. President, let me briefly explain what this amendment is all about. This is an amendment in which we address the indexing of capital gains. When we index capital gains, what we are talking about is protecting long-term investors from taxation on inflationary gains. This helps the family business, the family farm, and the family ranch. It is the family and the average American out there who owns a capital asset.

Specifically, what the amendment does is—it is pretty much the same indexing provision that was reported out of the House except that it delays the implementation of it to 2002. The holding period of the property would change from 3 to 5 years.

Just briefly, there are two other very important points that I would like to make about this particular amendment.

It is revenue neutral over 10 years, as scored by the Joint Committee on Taxation; and, No. 2, it is germane, and in fact it does blend within the current language of the bill.

I yield back the remainder of my time.

The PRESIDING OFFICER. Who seeks recognition in opposition?

Mr. ROTH. Mr. President, I commend my friend from Colorado on offering this amendment. It is unfortunate that I must vote against it.

The Senator may not be aware of this, but in 1993 I introduced a bill that called for the indexing of capital assets. But today, we are not only dealing with economic issues, President Clinton has said he will veto any tax bill that includes indexing of capital gains.

I have an article from last Thursday's Wall Street Journal. The title of the article is "Clinton Rules Out Indexing of Capital Gains in Tax Bill." The first paragraph says the President "will not sign a tax bill that includes indexing of capital gains for inflation."

We have a historic opportunity today to deliver badly needed tax cuts to Americans. I would like to provide greater tax relief, but we cannot, and "half a loaf" is better than "no loaf."

So I urge my colleagues to vote against this amendment.

I ask for the yeas and nays.

The PRESIDING OFFICER. All time has expired.

Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered. The Clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from South Carolina [Mr. HOLLINGS] and the Senator from Hawaii [Mr. INOUYE] are necessarily absent.

The result was announced—yeas 41, nays 57, as follows:

[Rollcall Vote No. 159 Leg.]

YEAS—41

Abraham
Allard
Ashcroft
Bond
Brownback
Burns
Campbell
Coats
Coverdell
Craig
DeWine
Enzi
Faircloth
Frist
Gramm
Grams
Gregg
Helms
Hutchinson
Hutchison
Inhofe
Kempthorne
Kyl
Lott
Mack
McCain
McConnell
Mikulski
Roberts
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Specter
Thomas
Thompson
Thurmond
Torricelli
Warner
Wyden

NAYS—57

Akaka
Baucus
Bennett
Biden
Bingaman
Boxer
Breaux
Bryan
Bumpers
Byrd
Chafee
Cleland
Cochran
Collins
Conrad
D'Amato
Daschle
Dodd
Domenici
Dorgan
Durbin
Feingold
Feinstein
Ford
Glenn
Gorton
Graham
Grassley
Hagel
Harkin
Hatch
Jeffords
Johnson
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lugar
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Reed
Reid
Robb
Rockefeller
Roth
Sarbanes
Snowe
Stevens
Wellstone

NOT VOTING—2

Hollings
Inouye

The amendment (No. 577) was rejected.

Mr. ROTH. I move to reconsider the vote.

Mr. MOYNIHAN. I move to lay it on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 590

(Purpose: To make the HOPE credit refundable, and for other purposes)

Mr. WELLSTONE. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Minnesota [Mr. WELLSTONE], for himself, Mr. BINGAMAN, Mr. KERRY, Mr. KENNEDY, Mr. REED, Mr. DODD, and Mr. DASCHLE, proposes an amendment numbered 590.

Mr. WELLSTONE. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. WELLSTONE. This is about the HOPE scholarship program. If the tax credits will work for working families, these should be refundable credits. I ask for full support. The offset is responsible.

Everybody is under all this pressure. I ask for a voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 590) was rejected.

AMENDMENT NO. 591

(Purpose: To allow non-Amtrak states to provide alternative intercity transport assistance)

Mr. ROTH. On behalf of Senator ENZI, I ask unanimous consent to send the following amendment to the desk, and I ask it be considered and agreed to.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Delaware [Mr. ROTH], for Mr. ENZI, proposes an amendment numbered 591.

Mr. ROTH. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 190, line 1, strike "(III)" and insert "(IV)" and insert a new subparagraph (A)(ii)(III)—

"(VI) the upgrading and maintenance of intercity primary and rural air service facilities, and the purchase of intercity air service between primary and rural airports and regional hubs; and".

Mr. ROTH. This has been cleared on both sides of the aisle. The amendment corrects a minor drafting error in the bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 591) was agreed to.

QUALIFIED TUITION SAVINGS ACCOUNTS

Mr. McCONNELL. Mr. President, I have come to the floor today in support of the tuition savings provision included in this bill. I believe the Finance Committee has done a thorough job providing broad incentives to help families save and provide for the education of their children.

I commend Senator ROTH and the Finance Committee for their efforts to include many of the provisions in S. 594, the College Savings Act. The Finance Committee has included language to make earnings in qualified tuition savings plans exempt from taxation as well as expanding the definition of qualified education costs to include room and board. Once implemented this legislation will reward all families who plan ahead and save for a child's education.

For the past several years, I have worked hard to make college more affordable by helping families who save. In both the 103d and 104th Congresses, I introduced legislation to make earnings invested in State-sponsored tuition savings plans exempt from Federal taxation. States have also recognized the needs of families and have provided incentives for them to save or prepay their children's education. State savings plans provide families a safe, affordable, and disciplined means of paying for their children's education.

Last year, Congress took the first step in providing tax relief to families investing in these programs. The provisions contained in the Small Business Job Protection Act of 1996 clarified the tax treatment of both the State-sponsored tuition savings plans and the participants' investment. This measure put an end to the tax uncertainty that has hampered the effectiveness of these State-sponsored programs and helped families who are trying to save for their children's education.

Mr. President, this action is long overdue. We have ignored the needs of middle-class families who have seen their income hold steady, while tuition costs go through the roof. According to the GAO, tuition at a 4-year university rose 234 percent between 1980–94.

During this same period, median household income rose 84 percent and the consumer price index rose a mere 74 percent. The College Board reports that tuition costs for the 1996–97 school year will rise 5 percent while average room and board costs will rise between 4 to 6 percent. While education costs have moderated throughout the 1990's, they continue to outstrip the gains in income. Tuition has now become the greatest barrier to attendance.

Due to the rising cost of education, more and more families have come to rely on financial aid to meet tuition costs. In fact, a majority of all college students accept some amount of financial assistance. In 1995, $50 billion in financial aid was available to students from Federal, State, and institutional sources. This was $3 billion higher than the previous year. A majority of this increase has come in the form of loans, which now make up the largest portion of the total Federal-aid package at 57 percent. Grants, which a decade ago made up 49 percent of assistance, have been reduced to 42 percent. This shift toward loans further burden students and families with additional interest costs. It is important that we not forget that compound interest cuts both ways. By saving, participants can keep pace with tuition increases while putting a little away at a time. By borrowing, students must bear added interest costs that add thousands to the total cost of tuition.

State-sponsored tuition savings plans have pioneered efforts to provide families with opportunities to save as a hedge against tuition inflation. States have established affordable tuition investment plans that guarantee parents a minimum level of investment return or guarantee a future education at today's prices. Such guarantees offer middle-class families the piece of mind that their children will be able to meet the tuition obligation and reduce the need to take on thousands of dollars in loans.

States like Michigan, Florida, Ohio, and Kentucky were the first programs to be started in order to help families save for college. Today, there are 15 States with programs in operation. An additional 4 States will implement their programs this year. Also, I am informed by the college savings network that every other State, except Georgia, which has implemented the HOPE Scholarship Program, is preparing legislation or is studying a proposal to help their residents save for college. Today, there are 730,000 participants contributing over $3.23 billion to education savings nationwide. By year end, the college savings plan network estimates that they will have 1 million participants. By 2006, they estimate that over $6 billion will be invested in State-sponsored programs.

Kentucky established its plan in 1988 to provide residents with an affordable means of saving for college. Today, 2,602 Kentucky participants have contributed over $5 million toward their children's education. I am confident with passage of this language these programs will grow dramatically.

Many Kentuckians are drawn to this program because it offers a low-cost, disciplined approach to savings. In fact, the average monthly contribution in Kentucky is just $49. This proposal rewards those who are serious about their future and are committed over the long-term to the education of their children by exempting all interest earnings from State taxes. It is also important to note that 58 percent of the participants earn under $60,000 per year. Clearly, this benefits middle-class families.

Mr. President, the Finance Committee has expanded the language to permit private nonprofit colleges to establish their own tuition savings plans as well as establishing education IRA's. This will ensure that all families have an opportunity to save. This legislation also allows individuals who invested in Savings Bonds to roll them over into the qualified State plan. This is a commonsense provision that will give those who are already saving the flexibility to invest in prepaid plans if available.

It is in our best interest as a nation to maintain a quality and affordable education system for everyone. We need to decide on how we will spend our limited Federal resources to ensure that both access and quality are maintained. It is unrealistic to assume that the Government can afford to provide Federal assistance for everyone. However, at a modest cost, we can help families help themselves by rewarding savings. This reduces the cost of education and will not unnecessarily burden future generations with thousands of dollars in loans.

Let me close by saying that I commend the work of Senator GRAHAM and his staff on the issue of tuition savings. His cooperation and hard work have ensured that this issue enjoys bipartisan support. I would also like to thank the chairman of the Finance Committee for all his efforts in making education savings the cornerstone of this package.

EXTENDING THE SMALL BLENDERS ETHANOL TAX CREDIT TO FARMER-OWNED COOPERATIVES

Mr. WELLSTONE. Mr. President, the tax bill before us includes important tax incentives for the use of ethanol. These tax incentives have been critical to the growth of the ethanol industry, which in my State is monopolized by farmer-owned cooperatives. Farmer-owned coops are now the leading producers of ethanol. They make up 60 percent of the ethanol facilities around the country. By year's end, nine plants will be in operation in Minnesota, producing 126 million gallons annually and creating 500 new jobs. Overall, ethanol contributes between $109 and $260 million yearly to the State's economy. Currently, 71 percent of the gas sold in Minnesota contains ethanol. By the end of the year, 100 percent of the gas sold in Minnesota will be blended with ethanol.

My concern today is with the small blenders tax credit. This income credit is available to ethanol producers who produce no more than 30 million gallons annually; and, it is applied to the first 15 million gallons. That's great. Targeting the credit is what we should do. Unfortunately, the credit works in such a way that cooperatives fail to get any advantage from it.

I would like to ask that when the Senate Finance Committee and the House Ways and Means Committee conference on the two tax bills, that they give serious consideration to changing the way the credit is structured so that cooperatives, like all other ethanol producers, receive the intended benefits of the small blenders tax credit. I appreciate the good efforts of my colleagues on this matter and hope they will work with me to address this technical change in the small blenders tax credit when the committees conference on the tax bills.

I see my colleague from Illinois and know her commitment to the role of ethanol as an alternative fuel. I understand you have two farmer-owned cooperatives proposed for construction in Illinois?

Ms. MOSELEY-BRAUN. The Senator is correct. The total investment is $92 million for both facilities with an expected capacity of 42 million gallons of ethanol annually. This is good for farmers and good for our rural communities. I fully support extending the small blender's tax credit to these cooperatives, and I will urge conferees to support this.

Mr. KERREY. Mr. President, I would like to join my colleagues in highlighting the importance of farmer-owned coops in the production of ethanol, and thank the Senator from Minnesota for his continued leadership on this issue. In Nebraska, two of the six ethanol production facilities are owned by farmer-owned cooperatives. These plants account for approximately one-third of the total amount of ethanol produced in my State and directly employ over 300 Nebraskans. By restructuring the small blenders credit, I am hopeful that not only would we help the existing ethanol plants in Nebraska, but that we would encourage other farmer-owned cooperatives to examine the opportunities for rural economic development provided by ethanol production.

Mr. WELLSTONE. I thank my colleagues for their words of support and look forward to working with them in the coming days to make this change happen.

RAILROAD DEFICIT REDUCTION FUEL TAXES

Mr. CHAFEE. Senator ROTH, as I know you are aware, because of the 1990 and 1993 Reconciliation Acts, our important freight railroads are forced to pay a 5.55 cents per gallon fuel tax into the General Treasury for deficit reduction. All other modes of transportation—highway, air, water—only pay 4.3 cents per gallon for this purpose. This is an obvious inequity. While reducing the Federal budget deficit is an important goal, if the transportation industry is to be singled out, the burden of achieving a balanced budget should be shared equally among all modes of transportation.

I am particularly concerned because S. 949 would transfer the deficit reduction taxes paid by highway users, including truckers which compete with the railroads, into the Highway Trust Fund. Placing additional highway deficit reduction fuel taxes into the Highway Trust Fund for highway improvements would exacerbate the already inequitable situation, placing the railroad industry at an even more unfair competitive disadvantage. In essence, the railroads would continue to contribute to deficit reduction, while their competitors would instead contribute to their own infrastructure.

The House has similarly proposed putting the aviation fuel taxes into the Airport and Aviation Trust Fund for airport infrastructure improvements as part of its tax reconciliation legislation.

This injustice against America's railroads must be remedied at our earliest opportunity. I would ask the distinguished chairman of the Finance Committee if he would be willing to seek a solution to this railroad deficit reduction fuel tax problem during the conference with the House on tax reconciliation legislation.

Mr. ROTH. I appreciate the distinguished Senator from Rhode Island bringing this matter to the attention of the Senate, and yes I am aware of this clear inequity to the railroads. This certainly should be remedied at our earliest opportunity, and I will seek an appropriate solution as we consider the treatment of deficit reduction fuel taxes during the conference with the House on this tax legislation. If we are unable to craft a solution to this problem on this bill, I will certainly strive for a solution as part of the upcoming ISTEA reauthorization legislation.

Mr. CHAFEE. I want to thank Senator ROTH for his commitment to expeditiously find a solution to this problem.

LET US NOT FORGET ABOUT THE U.S. CITIZENS OF PUERTO RICO

Mr. MOYNIHAN. Mr. President, I am pleased to state, on behalf of Senators BREAUX, GRAHAM, KERREY, CHAFEE, and myself, that none of the tax relief measures and growth incentives contained in this tax bill will have a positive impact on the 3.8 million American citizens of Puerto Rico. This result is unfair and should be corrected. The Island's economy has paid dearly as a result of provisions in the tax bills of 1993 and 1996, as revenue offsets from Puerto Rico in those bills exceed $14 billion in the next few years. Yet those bills provided no benefits to our Puerto Rican citizens.

Members from both sides of the aisle, Governors, national organizations, business associations, Hispanic-American groups and the entire Puerto Rican political community, have united forces in seeking a sensible Federal economic development tool in section 30A. This would provide viable pro growth tax incentives which will keep the Puerto Rican economy on a path of sustained growth. We should expand and extend this economic activity credit which is wage-based and promoted jobs and investment. We would urge my colleagues to correct this unfairness in Conference. If this is not possible, we will work to include this measure in legislation that comes before us at the next possible opportunity.

PROVIDE TAX INCENTIVES TO ENCOURAGE PROPERTY OWNERS TO PRESERVE HABITAT FOR SPECIES

Mr. KEMPTHORNE. Mr. President, it was my intention to introduce today an amendment to provide three new tax incentives for private property owners who want to conserve land for the preservation of endangered, threatened, and other species. But the amendments were subject to points of order because they did not have accompanying offsets. Rather than have the amendments lose on a parliamentary procedure, I have accepted Chairman ROTH's offer to work on these issues in conference. For too long, the Federal Government has relied almost exclusively on regulatory mandates and enforcement to preserve habitat for endangered species. That approach has failed to produce the kind of results we want. If we're serious about preserving our rare and unique species, and their habitat, we must make it easier for people to purchase and set aside land for species.

The amendment would have consisted of three provisions. The first provision would have provided an additional 25 percent exclusion from capital gains associated with the sale of property so long as the property is transferred to a qualified organization for conservation purposes.

Mr. ROTH. I agree with Senator KEMPTHORNE's philosophy that conservation benefits us all as a nation. In fact, I included a conservation easement provision in my chairman's mark.

Mr. KEMPTHORNE. The second incentive would have provided property owners an exclusion from estate taxes for property that is set aside in a conservation easement.

Over the past few years, as I've been working on legislation to reauthorize the Endangered Species Act, I've met with a number of farmers and ranchers and other property owners, many of whom own large tracts of land that they are willing to set aside in conservation easements to benefit species. But they are worried about the tax burden that they will leave behind for their children if they do that.

Mr. ROTH. My chairman's mark includes a provision consistent with my colleague's goals. The mark would allow a portion of the value of land subject to a qualified conservation easement to be excluded from the gross estate. This conservation easement is a step in the right direction.

Mr. KEMPTHORNE. My amendment would have allowed property owners who grant conservation easements to exclude the value of property from estate tax. That would make it easier for families to keep their property intact and at the same time will benefit endangered and other species by preserving habitat for them.

My third incentive would have allowed property owners to donate land for conservation purposes to take an enhanced deduction based on the full market value of their property. This will provide an important incentive for property owners who have land or water that provide habitat for endangered and other species to preserve that habitat.

Over the past 3 years, I've met with many property owners who have said, "we would be happy to step forward and preserve habitat for species and we would grant a conservation easement if there was an incentive." Well, this will provide that incentive.

Mr. ROTH. Under our current tax law, a deduction is allowed for contributions of a qualified conservation easement to a qualified organization.

The goal of my colleagues' amendments are well taken and deserve this Nation's serious consideration.

I will work with you in conference on these worthy goals because I share your commitment to saving endangered species, and using incentives to accomplish this goal.

Mr. KEMPTHORNE. I thank the chairman. I appreciate his willingness to work with me on these important amendments to include them in the final bill.

Mr. DODD. Mr. President, I rise today to express my support for the Revenue Reconciliation Act of 1997. First, I would like to commend the Finance Committee on the job it has done. Chairman ROTH and Senator MOYNIHAN should be praised for their efforts to craft a bipartisan bill, something that the House clearly failed to achieve in its tax-writing committee.

The Finance bill contains many good measures, including a $500-per-child tax credit, which brings much needed relief to working Americans. This bill provides tax relief for higher education, making college more accessible to millions of Americans. The underlying bill also expands Individual Retirement Accounts helping many Americans to meet the financial demands of raising a family and planning for retirement. The bill before us today also recognizes the importance providing tax relief for businesses by extending the research tax credit for 31 months, encouraging more investments in research and development.

In addition, the Finance bill provides funding for Amtrak, and creates an inner-city passenger rail fund that would help finance improvements in public transportation. This bill facilitates environmental cleanup efforts in many urban and rural areas, helping to make our country a healthier place to live.

While I appreciate the efforts of my colleagues who worked so hard to craft a bipartisan tax relief bill, I am concerned that this measure misses opportunities to provide meaningful tax relief for American families. During Senate consideration, I voted for a number of amendments to make this bill more equitable. Some of these amendments succeeded. Many did not.

In particular, I was pleased when my colleagues accepted my amendment concerning student loan forgiveness for people who choose a career in community service and public sector work. This amendment will help us to deal with the growing problem of student indebtedness.

I also supported the Nickles amendment to extend self-employment health insurance deductibility to 100 percent. This measure will prove extremely helpful to self-employed business men and women.

I was also pleased to support the Kohl amendment which creates a tax incentive for businesses to provide child care for employees.

Each of these amendments make this bill better for American families. Regrettably, other amendments that would have strengthened this bill did not succeed.

Most notably, I, along with my colleague from Vermont Senator JEFFORDS, offered an amendment that would have increased the child tax credit for most families by making it refundable for the many low-income families with little or no tax liability. It is a fair and equitable measure, one that would have tremendously helped our working families, and I am disappointed that this amendment failed.

In addition, the Daschle amendment would have invested an additional $10 billion in education and more in the child tax credit. Unfortunately, this amendment was defeated.

Finally, my colleague from Massachusetts Senator KERRY offered his own amendment to make the $500-per-child tax credit refundable against payroll taxes, a measure that would have brought much needed relief to many working Americans struggling to raise a family. Once again, an opportunity to make tax relief more equitable was defeated.

Despite my reservations about this bill, and my disappointment in the failure of several amendments, I am encouraged by the fact that today, on the floor of the United States Senate, we came together in a bipartisan manner to enact tax relief to millions of American families. I hope that the conference committee will report a bill that is both fair and equitable, benefitting working families, small businesses and family farms.

Finally, Mr. President, it is imperative that during the conference negotiations, we remain committed to preserving the integrity of the balanced budget agreement. The American people will not be served by a budget that achieves balance briefly in 2002 and then veers back out of balance afterward.

Mr. President, I am pleased to join a bipartisan group of Senators today in supporting the Revenue Reconciliation Act of 1997. It brings us much closer to enacting legislation easing the tax burden which weighs heavily on too many Americans.

PENSION PROVISIONS

Mr. GRAHAM. Mr. President, today I rise to offer my support for the pension provisions which are contained in the tax bill we are considering today. As a result of the bipartisan cooperation which has been demonstrated throughout this process, many American workers will move closer to a secure retirement. These provisions help a broad spectrum of workers and employers, and will contribute toward making pensions more available, equitable, portable and simpler.

First, the provisions will expand coverage among workers at small businesses.

The statistics concerning the lack of retirement coverage among small business workers are astounding. According to the Small Business Administration, only 13 percent of workers in businesses with less than 20 employees have pension plans and only 38 percent of workers in businesses employing between 21 and 100 employees currently have plans.

Two provisions in this bill will address this problem. This bill will encourage even the smallest of small businesses to help their employees save for retirement through IRA payroll deductions. These payroll deductions are the easiest way for workers to save for their retirement. This bill clarifies that if a small business man or woman permits IRA payroll deductions, they will not be threatened with liability under ERISA.

Small businesses will also be encouraged to establish pension plans by allowing partners and self-employed individuals to receive matching contributions under the same rules applicable to incorporated businesses. More small business owners will establish retirement plans because of this change.

Second, this bill will help women. Although women are entering the work force at a larger rate than ever before, 25 million working women still do not have pension plans—this represents nearly 3 out of every 5 women who work in the private sector. Of these 25 million women, 12 million are employed by small businesses.

Unfortunately, many of these working women have no pension plan. Many of these women would like to make contributions to an IRA, but cannot because their husband participates in an employee-sponsored retirement plan and tax law says that she cannot make a deductible contribution to an IRA because his participation is attributed to her.

The Finance Committee bill eliminates a spouse's participation from the considerations relevant to contributing to a deductible IRA. With this provision, all Americans—working women, working men, and homemakers—will now have the opportunity to save, regardless of their spouse's participation in a retirement plan.

Because of our bipartisan work on this issue, Susan Stratton of Tallahassee, FL, will be able to begin contributing to her retirement while her husband Charles continues contributing to his corporate plan.

Susan is the owner of Care Packages, Inc., and will be able to save $2,000 per year in an IRA.

Similarly, John Pollack of Orange County, FL, will be able to begin saving for his retirement because of this bill. As the owner of Allrite-Foto, John has not made any IRA contributions due to his wife Lorraine's corporate plan involvement. If this bill is enacted, John will be able to save for retirement along with his wife.

As you can see by these two examples, this provision—championed by Senator ROTH and Senator BREAUX for many years—will be beneficial for both spouses.

Third, the pension provisions in this bill begin to address a significant need in the pension area—portability. American workers are changing jobs much more frequently than ever before. Over the course of a 40-year career, the average worker will hold seven different jobs. Yet only 50 percent of current 401k plans accept rollovers from other plans.

As a result, it has become imperative that these workers be able to transport their retirement plans when they change jobs.

This bill makes it more attractive for businesses to accept rollovers. The bill provides that a plan will not be disqualified just because funds rolled over from a new employee's previous job come from a fund which has become disqualified.

Although this is a good step, I will in coming days be pushing for more pension portability. Similar defined contribution plans should also be able to roll into each other. Money in a retirement stream should be kept there until retirement. Government plans should be able to roll into private-sector plans. Private sector plans should be able to roll into nonprofit plans and nonprofit plans should be able to roll into Government plans.

Fourth, this bill will make pensions simpler to administer. One of the main reasons employers cite for not establishing or expanding pension coverage is red tape. The Finance Committee bill eliminates some of the paperwork burden it now takes to administer a pension.

This bill asks that the Treasury Department and Department of Labor issue guidance on the use of new forms of electronic pension notification, and provides for the review of current rules to accommodate new technology.

With the help of this new Internet and telecommunication technology, pension information will be more readily available to workers and less costly for employers to produce.

Finally, this bill enhances pension security. Both businesses and workers will be helped by a provision phasing up the 150 percent of current liability limit. Under current law, companies are limited in the amount they can contribute to their employees' defined benefit plan. I believe companies should be able to increase funding of their pension plans in order to fully meet the needs of their future retirees.

Companies can better budget if they have greater flexibility in what they put in their plan—and workers are better off, because the more companies contribute, the more secure their retirement. This bill gives companies that flexibility.

Each of these provisions, as well as others I have not mentioned, will improve our private pension system. It is not all we should do to prepare for retirement in the 21st century, but it is a good start.

I have been honored to work closely with many of my colleagues in bringing about these bipartisan pension changes. Senators HATCH, GRASSLEY, JEFFORDS, BREAUX and MOSELEY-BRAUN have been instrumental in bringing about these reforms, and I would like to commend them, and others, on their efforts.

By finding this common ground on both sides of the political aisle, we are working to ensure that the American workers of today will have a more secure and prosperous retirement for tomorrow.

AVIATION EXCISE TAX

Mr. McCAIN. Mr. President, I rise to express my concern about actions taken in the reconciliation bills by the Senate Finance and the House Ways and Means Committees to modify the current aviation excise tax structure. Although somewhat different from each other, both of the proposed modifications would increase taxes on airline passengers, and represent significant changes in aviation policy.

Last year, Commerce Committee members worked closely with members of the Ways and Means and Finance Committees, during consideration of the Federal Aviation Reauthorization Act of 1996, to establish the National Civil Aviation Review Commission. The members of this Commission have dedicated themselves to developing a consensus within the aviation industry regarding the appropriate financing mechanism for the Federal Aviation Administration [FAA], and the important safety programs it oversees. Together, the committees empaneled the Commission to consider substantive policy changes to the aviation excise tax formula, and I believe that the Commission should be given every opportunity to do so. The reconciliation bill should not make substantive changes to the tax formula without the benefit of the Commission s work.

Mr. LOTT. Mr. President, I would like to agree with the distinguished chairman of the Commerce Committee, of which I am a member. The work of the National Civil Aviation Review Commission could result in a unique opportunity for an often divided aviation industry to reach a consensus on important funding issues. Congress should not force its will on the industry prematurely.

The Commission is in the process of developing legislative recommendations, and plans to complete its work soon. Unfortunately, the reconciliation process is moving faster than the ability of the Commission to reach a comprehensive solution. The Commission recently wrote to the leadership of both the Senate and House on this issue. We should ensure that the reconciliation bill, or budget rules, do not foreclose the ability to consider the commission recommendations in the future. At that time, we will have a full and fair debate on the recommendations themselves.

Mr. McCAIN. I thank the distinguished majority leader for his insight. I plan to continue to work with him and other members of the Commerce Committee to see that the budget reconciliation bill does not foreclose the opportunity for Congress to implement the Commission recommendations in the future. We must continue our efforts to ensure an adequate and stable funding source for the FAA and the safety programs it oversees.

Mr. DASCHLE. Mr. President, I would like to join my distinguished colleagues, the majority leader, the chairman and ranking member of the Commerce Committee, and the chairman and ranking member of the subcommittee, in expressing concern about the reconciliation bill preempting the work of the National Civil Aviation Review Commission. I appointed two of its members, and I would not like to see its important work undermined before it has had an opportunity to achieve a consensus to a very important issue. I believe that after the recommendations of the Commission have been submitted to Congress, we must give them every consideration.

Mr. HOLLINGS. Mr. President, I, too, would like to join my distinguished colleagues in this discussion. The leadership of the Commerce Committee worked very hard in the Senate and during the Senate-House conference to create this Commission. Congress even provided a substantial appropriation to fund its activities. The work of the Commission is extremely important. I know that my colleagues share my concern that aviation monies are not being used for aviation purposes, and we need to work to correct that. During our Commerce Committee markup recently, I expressed my desire to treat the Airport and Airways Trust Fund differently, and many members indicated that we needed to do something different for aviation. The GAO report on airport funding suggests that the airports are in need of $10 billion, according to the airports, and $6.5 billion, according to the FAA, depending upon the type of projects included. The Airport Improvement Program is an important component of the work of the FAA. We cannot meet future growth needs without expanding our airports and modernizing the air traffic control system. The Commission work and recommendations will help us in the debate in finding ways to meet our future aviation system needs.

Mr. GORTON. Mr. President, as chairman of the Aviation Subcommittee, I would like to associate myself with the remarks of the distinguished chairman and ranking member of the Commerce Committee, as well as with those of the majority and minority leaders. An efficient FAA will be crucial if our country is to maintain its role as the world leader in the aeronautical and aerospace industries. The FAA must have adequate resources to transform itself into an efficient and productive agency. The anticipated work of the Commission should provide the Congress with valuable guidance in that respect. The proposed changes to the aviation excise taxes in the reconciliation bill should not be a signal to the commission that its ongoing work is meaningless. I intend to work with the leadership of the Commerce

Committee and Senate to ensure that the future recommendations of the Commission are not prejudiced by any actions taken in this reconciliation bill.

Mr. FORD. Mr. President, I would like to add to the thoughtful remarks of my distinguished colleagues. We started the debate over how to fund the FAA last Congress when we first proposed a fee system. Senator MCCAIN and I worked very hard on the bill and the entire committee agreed that we needed a Commission to provide a blueprint for how to fund the FAA. The FAA bill last year restructured the agency and gave the FAA the ability to do some creative things. Now the Commission must give us their best advice on how to meet the needs of the FAA, or how to cut spending. Those are the dilemmas facing the Commission. I know all of us share a desire to ensure that the work of the Commission is debated and fully aired.

Mr. MCCAIN. I would like to thank the distinguished gentlemen for their remarks. The safety of the flying public and the health of an essential, vital industry are at stake. We must give the Commission a chance to fulfill its statutory mandate.

401(K) PLANS

Mrs. BOXER. Mr. President, I ask my colleagues from Oklahoma, Mr. NICKLES, and Delaware, Mr. ROTH, if they would be willing to enter into a colloquy with me about an amendment I offered last night which was adopted by voice vote.

Mr. NICKLES. I would be pleased to answer any questions that the Senator from California may have.

Mrs. BOXER. As the Senators are aware, the 401(k) has emerged as many baby boomers primary pension plan. 401(k)s now cover more than 22 million employees and invest more than $675 billion in pension assets. Many American workers now have more equity in their 401(k) plans than in their homes.

Unfortunately, Federal law is currently less protective of 401(k)s than traditional defined-benefit pension plans. A company sponsoring a traditional plan is currently prohibited from investing more than 10 percent of its assets in company holdings, such as real property or company stock. This reasonable limitation, however, does not apply to 401(k) plans.

The amendment I offered last night would extend this 10 percent limitation to 401(k) plans, enhancing pension security for millions of workers nationwide.

I want to thank both the chairman and the ranking member of the Finance Committee for their assistance in clearing this important amendment.

The amendment included a small change at the request of the Senator from Oklahoma. The provision requested by the Senator from Oklahoma would allow companies sponsoring 401(k) plans to require that 1 percent of an employee's contribution be invested in qualified employer securities.

Mr. NICKLES. The Senator has accurately described the change to her amendment that I suggested. I believe that employers should be allowed to require employees to contribute 1 percent of their 401(k) contributions to company assets. However, as a member of the Finance Committee and possible conferee on this bill, I will urge my colleagues not to increase the 1-percent cap.

Mrs. BOXER. I certainly appreciate the support of the Senator from Oklahoma. I would ask the Senator from Delaware if he, too, will work to retain the Boxer amendment in conference.

I thank the distinguished chairman of the Finance Committee, the assistant majority leader, and the ranking member of the committee for all their hard work to guarantee pension security for America's working men and women.

COMPUTER TECHNOLOGY AND EQUIPMENT

Mrs. BOXER. I ask my colleagues from Delaware, Mr. ROTH, and New York, Mr. MOYNIHAN, if they would be willing to enter into a colloquy with me regarding providing an enhanced deduction for corporate contributions of computer technology and equipment.

Mr. ROTH. I would be pleased to answer any questions the Senator from California may have.

Mr. MOYNIHAN. I would be pleased to enter into a colloquy with my friend from California.

Mrs. BOXER. As you know, the House-passed Tax Reconciliation Bill included a provision which would provide an enhanced tax deduction for corporate contributions of computer technology and equipment. This provision, authored by Congressman RANDY CUNNINGHAM, is very similar to a bill Senator CHAFEE and I introduced earlier this year. Our bill, the Computer Donation Incentive Act of 1977, provides an incentive for companies to donate new and nearly new computers and software to elementary and secondary schools.

The successful education of America's children is closely linked to the use of innovative educational technologies, particularly computer-based instruction and research. Unfortunately, however, far too many elementary and secondary school classrooms lack the computers they need to take advantage of these new educational technologies. I believe this provision will provide America's schools with the technological resources necessary to prepare both students and teachers for the technologically advanced society in which we now live.

I know that the chairman and ranking member on the Committee on Finance would like to have included the House provision in the Senate tax reconciliation bill, but due to revenue considerations were unable to do so. I hope, however, that my friend from Delaware and my friend from New York would urge the adoption of this very important provision in conference.

Mr. ROTH. I agree that this is a very important provision and I will urge my colleagues to consider this proposal in conference.

Mr. MOYNIHAN. I agree with my friend from California and my friend from Delaware, that this provision should be carefully considered and I too will work to urge my colleagues to give this proposal careful consideration.

Mrs. BOXER. I thank the distinguished chairman and ranking member of the Committee on Finance for their support of my bill and of the House provision.

SUPPLEMENTAL ENTERPRISE ZONES AND ELIGIBILITY FOR BROWNFIELDS BENEFITS

Mrs. FEINSTEIN. Mr. President, I rise to ask if the chairman can clarify for me whether this bill includes a provision that provides the "brownfields" benefits for supplemental empowerment zones.

As a former mayor, I am very committed to promoting economic growth in our urban area. The "brownfields" provision will be significant in the City of Los Angeles' effort to turn abandoned, vacant or underutilized industrial or commercial properties back into productive use. Can the chairman confirm that, under the Senate tax bill, brownfields remediation incentives are also extended to supplemental empowerment zones?

Mr. ROTH. Yes, the committee bill extends the brownfields benefits to supplemental zones as well. Section 768(c)(2) of the bill, entitled "Expensing of Environmental Remediation Costs," extends the brownfields benefits to supplemental zones designated after December 21, 1994, which confers the benefits to the supplemental zones of Los Angeles and Cleveland, OH.

Mrs. FEINSTEIN. I thank the chairman for clarifying the provision and thank the committee for its work on this issues.

COMPUTER ACCESS INCENTIVE

Mr. BAUCUS. Mr. President, I want to take this opportunity to repeat my interest in including funding in the reconciliation bill which would facilitate our schools' efforts to acquire computers and become connected to the Internet.

If our students are going to be fully prepared to face the next millennium with computer skills adequate to the task of competing in a global economy, I believe we in the Federal Government have a responsibility to ensure that our schools have every opportunity to acquire computer equipment.

The House Ways and Means Committee reported a bill which includes funds for an enhanced charitable deduction for those who donate computer equipment to the schools. As you know, based on the experience I have had helping schools in Montana acquire computer equipment, I have been working on a somewhat different approach which provides a tax credit for companies that give a price discount to schools purchasing new equipment.

I ask the chairman to work with me during conference to evaluate the House Ways and Means proposals and my proposals to increase schools' access to the Internet.

Mr. ROTH. I look forward to working with the Senator.

EDUCATION INITIATIVES

Mr. GRAHAM. Mr. President, I would like to take this opportunity to thank Chairman ROTH for working on this tax legislation in a fair, bipartisan manner. In particular, this bill includes several educational initiatives that will have a positive impact not only on the people of my home State of Florida but on the citizens—of every income—in our Nation as a whole.

First, I applaud the chairman's provisions with respect to prepaid college tuition plans. Currently, 16 States offer and manage college savings programs, 5 States are in the process of implementing such programs, and the other 29 States have legislation pending or are studying the feasibility of creating these programs.

Last year, Congress clarified the tax treatment of participation in prepaid college tuition plans. The 1996 Small Business Protection Act provided that any prepaid or savings State entity is tax-exempt. The act also clarified that earnings under prepaid programs are not taxed until distribution, and—when distributed—earnings would be taxed to the student beneficiary.

Under the proposal approved by the Finance Committee, distributions from prepaid college tuition plans will be 100 percent tax-free. In addition, the definition of qualified higher education expenses will be expanded from current law. Under this legislation, tax-exempt benefits will now include room and board, as well as tuition, fees, and related expenses. Thus, families who plan ahead can lock in today's rates for almost all expenses incurred in their children's education.

The legislation will have immeasurable benefits for our Nation's families. For example, Barbara and Jack Alfonso, who live in Miami, FL, have a 10-year-old son, Adrian. Back when Barbara finished high school, her parents could not afford to send her to college. She decided to take out loans to attend secretarial school. It took her 7 years to pay off those loans, so Barbara knows what it's like to be burdened with debt.

Barbara and Jack decided that they didn't want their son to be faced with the same obstacles. So, when Adrian was 5, they invested in the Florida Prepaid College Tuition Program. They will make their last payment in October of this year.

Adrian is a good student, and he deserves the opportunity to further his education. And because his parents chose to put aside money for his future by participating in the State's tuition program, Adrian will have this opportunity. Now Adrian can become one of the first college graduates in the Alfonso family. He can rest assured that his hard work will not have been in vain—that college is not a dream for him but a reality.

As Barbara tells it: "The best thing about this plan is that it gives me peace of mind." Thanks to a prepaid college tuition plan, Barbara knows that her son will be able to go to college. And thanks to this program, two hard-working parents are able to give their child what they never had. Their son will be better off than they were.

With this legislation, families throughout our Nation will be better able to plan and save for their children's education. First, parents can save for their children's education without paying taxes. Second, parents can purchase tuition at today's rates and then withdraw this money when their children begin school. Tomorrow's education can be secured at today's prices.

I would also like to thank Chairman ROTH for including a portion of my school construction tax proposal, which would assist small and rural school districts. The provision that was included in this bill will positively impact issuers of small school construction bonds. These issuers will be exempt from arbitrage rebate requirements up to $10 million. Currently, there is a $5-million limit which applies to all bonds.

With this provision, we are specifically helping small school districts to lower the cost of building new schools. I hope that this legislation is just the beginning of much more which this Congress will do to make a significant and substantial dent in the problem of school construction and rehabilitation needs.

On behalf of all of our Nation's families, I would like to thank Chairman ROTH for his efforts regarding these education initiatives. I think Barbara Alfonso says it best: "We can't cut corners when it comes to education." Barbara is right. This legislation will allow us to invest in our most precious resource—our children—who are, of course, ultimately our future.

RAIL FUEL TAX

Mr. BURNS. Would the esteemed chairman of the Finance Committee be willing to enter a colloquy on the rail deficit reduction fuel tax?

Mr. ROTH. I would be happy to discuss this matter with my colleague from Montana.

Mr. BURNS. As the chairman is aware, the 1990 and 1993 Budget Reconciliation Acts imposed a 2.5-cent-per-gallon and a 4.3-cent-per-gallon diesel fuel tax for deficit reduction on railroads and highway users. Beginning October 1995, 2.5 cents of the trucking industry's deficit reduction tax was directed to the Highway Trust Fund. The remaining highway 4.3 cents remained in place for deficit reduction purposes, while the rail rate was set at 5.55 cents per gallon, also effective October 1995. As a result of these acts, the freight rail industry currently pays 1.25 cents per gallon more for deficit reduction than its primary competitors.

Mr. ROTH. The Senator is correct.

Mr. BURNS. While the Highway Trust Fund provides the financing for construction and maintenance of public roads and bridges used by trucks and automobiles, the railroad industry realizes no similar return on its tax payments. Railroads currently expend more than $7 billion annually in capital to build and maintain their own "roads." These private rights-of-ways are subject to more than $400 million annually in local property taxes. While few Senators are more dedicated to the goal of deficit reduction than I, it seems that the burden of reducing the Federal deficit must be shared equally among competing modes of transportation.

The Senate Finance Committee adopted an amendment to the chairman's Mark which would transfer the 4.3-cent-per-gallon deficit reduction tax paid by highway users to the Highway Trust Fund—minus the new half-cent tax for the Intercity Rail Trust Fund—Amtrak. Additionally, the House Ways and Means Committee transferred the 4.3-cent-per-gallon tax paid by aviation users to the Aviation Trust Fund. Assuming that these amendments remain in the bills, the rail industry will be paying 5.05 cents per gallon for deficit reduction while those in competing industries will be paying nothing for deficit reduction.

Mr. ROTH. Again the Senator is correct in his assessment.

Mr. BURNS. Understanding the demands on the chairman, I would merely like to encourage him to address this situation in conference. If a solution can not be reached in this bill, I would encourage the chairman to give careful consideration to and to work toward a remedy of this situation in the tax title to the upcoming ISTEA reauthorization.

Mr. ROTH. Rest assured that the committee will give every consideration to the addressing the transportation excise tax equity matters raised by my colleague from Montana.

Mr. BURNS. I greatly appreciate the time and consideration given to me by the chairman of the Finance Committee.

PUBLIC SAFETY OFFICER SURVIVOR PENSIONS

Mr. BIDEN. Mr. President, I am pleased that the Senate has passed my amendment to make a modest change in current law. A modest change, but one which will make an enormous difference in the lives of some very special Americans—the families of public safety officers—police officers and firefighters—who have given their lives in the line of duty.

This amendment would forgive Federal tax liability on the annuities received by the families of these fallen heroes. The cost is modest—about $25 million over the next 10 years.

I would also add that this tax treatment would be the same as that for the families of fallen soldiers. In other words, my amendment gives to those who fight and die in domestic battles to keep us safe the same treatment we give to those who fight and die in keeping us safe from foreign battles.

Mr. President, again, I welcome my colleagues support for my amendment—we have stood with the cops, stood with the firefighters, and stood with the paramedics who have given their lives in service to all of us.

STATE-SPONSORED WORKERS' COMPENSATION FUNDS

Mr. BREAUX. I would like to ask a question of the distinguished chairman of the Finance Committee concerning a provision in the tax bill.

Mr. ROTH. I would be pleased to respond to the Senator from Louisiana.

Mr. BREAUX. Section 761 of the bill provides standards that a State-sponsored workers' compensation company must meet in order to be exempt from Federal income tax for future years. As the chairman is aware, a large number of the States, including Louisiana, have State-sponsored workers' compensation companies that have been operating as tax-exempt agencies for several years. It is my understanding that the standards that we have proposed for the future are intended to codify the standards that exist under present law and that a company, such as the one established by the State of Louisiana, that met these standards in prior years should be confident that it is, in fact, tax exempt under current law. Is my understanding correct?

Mr. ROTH. The Senator is correct. The committee thought it was appropriate to provide prospective application for the codification of standards which must be met for tax exemption. However, the committee expressly acknowledged the fact that a number of States had established entities that were operating as tax exempt organizations. The motivation for codifying the standards as part of the Internal Revenue Code was to help these entities and the Internal Revenue Service more easily apply the law. However, our report expressly states that tax exemption may be available to many such State-sponsored entities under present law and no interference was intended to be drawn from our action that the income of those entities was not already tax-exempt.

Mrs. HUTCHISON. Mr. President, I strongly support the provision in the bill that deals with tax-exempt status of State workers' compensation funds. Senator GRAMM and I ask unanimous consent to have printed in the RECORD the text of a letter we received earlier this month from the Governor of the State of Texas urging us to clarify the Federal tax statutes to maintain the tax-exempt status of this fund in light of the important role it plays in stabilizing the market for workers' compensation insurance in Texas.

There being no objection, the text of the letter was ordered to be printed in the RECORD, as follows:

STATE OF TEXAS,
OFFICE OF THE GOVERNOR,
June 5, 1997.

Hon. PHIL GRAMM,
U.S. Senate, Washington, DC.

DEAR SENATOR GRAMM: I understand that the Internal Revenue Service is questioning the source of the Texas Workers' Compensation Insurance Fund's tax exemption.

The Texas Legislature created the Fund in 1991 to resolve a crisis in our workers' compensation insurance market. The Fund carries out its statutory responsibility to ensure that workers' compensation insurance is available for Texas employers in even the smallest or riskiest of businesses.

Workers' compensation insurance is not mandatory for Texas employers. Those businesses that choose to carry workers' compensation coverage for their employees now have access to a much broader variety of carriers, competitive premiums and enhanced employee benefits.

I encourage you to consider clarification of the federal tax statutes to resolve this issue. Arbitrarily and retroactively changing the tax status of the Fund would directly affect the small businesses that depend on the Fund for workers' compensation coverage, and would needlessly inject instability into what is now a healthy segment of the Texas insurance market.

Sincerely,

GEORGE W. BUSH.

Mr. GRAMM. Is it also the chairman's understanding that this provision clarifies the tax-exempt status of these funds under current law by codifying the existing standards?

Mr. ROTH. That is correct.

Mr. GRAMM. I thank the chairman.

AVIATION TAXES

Mr. ABRAHAM. Mr. President, I was wondering if Senator NICKLES and I could engage the chairman of the Finance Committee in a colloquy regarding the proposed tax on the domestic portion of international journeys [DPIJ]. As I understand the new tax, it will impose a new 10-percent tax on domestic legs of international flights. This tax hurts domestic carriers because they typically have domestic stopovers on their international flights, whereas international carriers have more direct flights without stopovers in the United States. Since flights without stopovers are not subject to the new 10-percent tax, the net result is a competitive disadvantage for domestic carriers.

Mr. NICKLES. If the Senator from Michigan would yield, I want to echo the concerns of my friend from Michigan. In fact we were prepared to offer an amendment along with several other colleagues but out of deference to the desire of the chairman to complete action on the bill, we agreed to work with the chairman. It is my understanding that the chairman of the Finance Committee is aware of these concerns and has expressed his intention to resolve this controversy in conference. Would the chairman confirm his intentions regarding the proposed tax on the domestic portion of international journeys?

Mr. ROTH. I would like to assure my colleagues from Michigan and Oklahoma that it is my intention to work with House and Senate conferees to eliminate any competitive advantages that foreign carriers may enjoy and resolve this controversy.

NET OPERATING LOSSES

Mr. SPECTER. Mr. President, on behalf of Senator SANTORUM, I would like to discuss an issue with the chairman and the ranking member of the Finance Committee relating to operating losses of a business.

The tax bill extends the carry forward period for businesses with operating losses for an additional 5 years. But the provision only applies to operating losses incurred in future years.

We are less concerned about the tax impact of allowing existing losses to expire than about the impact on companies for financial accounting purposes. Under the accounting standards, if the operating losses expire, some companies will see a major reduction in asset value.

We would like for the chairman and the ranking member to consider this issue in conference.

Mr. SANTORUM. I would like to associate myself with the comments of my colleague, the senior Senator from Pennsylvania.

Mr. ROCKEFELLER. I understand the issue raised by the Senators from Pennsylvania. I will be pleased to look at the issue in conference.

Mr. MOYNIHAN. I understand the issue raised by the two Senators from Pennsylvania. I will be pleased to look at the issue in conference.

Mr. ROTH. I will also be pleased to look at the issue in conference.

FOR AN ADDITIONAL TOBACCO TAX INCREASE

Mr. SPECTER. Mr. President, I have sought recognition to explain my vote against waiving the Budget Act on the Kennedy amendment for an additional tobacco tax increase. I have long been a leading supporter of providing adequate health coverage to our Nation's children. On the first day of the 105th Congress, I introduced legislation that would provide coverage to the 4.2 million children of the working poor, who are not eligible for Medicaid but whose parents cannot afford private health insurance. During consideration of the budget for fiscal year 1998, the President and Congress reached an agreement to provide $16 billion for health care insurance to protect our Nation's uninsured children. The Senate Finance Committee has added an additional $8 billion for children's health insurance from funds derived from a new tax on tobacco. As a result, the budget reconciliation bill now contains $24 billion for the vital purpose of providing health insurance to America's uninsured children.

The Kennedy amendment would further increase the tobacco tax by an additional 23 cents per pack. The amendment, however, did not specify how this additional tax revenue would be spent. As a consequence, the Senate could be given no assurance that any of the money generated by this new tax would provide health insurance. I believe the American taxpayer is willing to accept a reasonable level of taxation in order to provide health insurance to our Nation's children. However, with the money provided under the budget agreement and the additional funds provided by the Senate Finance Committee, Congress is fairly addressing this need.

IRA WITHDRAWALS FOR K–12

Mr. SPECTER. Mr. President, I supported Senator COVERDELL's amendment to expand the bill's provisions to allow penalty-free withdrawals from Individual Retirement Accounts for education expenses for children in grades K–12 because I believe that parents should have the maximum flexibility to spend their own money on their children's education.

I have consistently opposed the use of public funds to subsidize private school tuition for K–12 educational expenses because I have grave concerns about the constitutional issues of separation of church and State raised in such policy and because I am an advocate of public schools. As chairman of the Appropriations Subcommittee which funds the Education Department, it is among my top priorities to continue to provide increases in Federal support to the Nation's public schools. However, there are many parents who feel that it is in the best interest of their children to attend nonpublic elementary and secondary schools for a variety of reasons and in a variety of settings. I believe they should be free to spend their own resources on such expenses as they see fit.

TAX RELIEF IS FINALLY AT HAND

Mr. KYL. Mr. President, hard-working American families have not seen significant net tax relief since Ronald Reagan's first year in office as President. That was 16 years ago, in 1981. Since then, their tax burden has gone in just one direction—up. Higher payroll taxes, higher taxes on gasoline and Social Security, higher taxes on capital gains and air travel. If you manage to save something for your child's education, the earnings are even taxed.

It is no wonder, then, that the typical American family feels overwhelmed: it now pays more in taxes than it does for food, clothing, and shelter combined. That is wrong, and it has got to change. It is about to change.

Mr. President, there has really been a sea of change in Washington's approach to taxing in recent years. Remember that it was not so long ago, in 1993 to be exact, that President Clinton pushed through the largest tax increase in the Nation's history. Everyone in the country felt the bite of the Clinton gas-tax increase. Retirees even saw their Social Security benefits taxed more. The debate back then was not whether to raise taxes, but how much to raise them.

Two years ago, after Republicans gained control of both Houses of Congress, the debate changed dramatically. The question no longer was whether to raise taxes, or even whether to cut taxes. The question was how much to cut them. The debate has changed so much that President Clinton, who initiated that record-setting tax increase 4 years ago, and who vetoed tax relief just 2 years ago, now tries to claim the tax-cutting mantra as his own.

We began last year to make some incremental progress in offering tax relief. The adoption tax credit, for example, was enacted, as was an increase in the Social Security earnings limitation and new tax incentives for the purchase of long-term health insurance. That was after President Clinton vetoed a far more substantial tax-cut package in December 1995.

The bill before us today takes yet another step in the right direction. When signed into law, it will provide more tax relief than any other bill in 16 years. And three-quarters of the total relief provided by the bill will go to families with annual income of less than $75,000. Again, that is families with income under $75,000 a year that would benefit most.

Make no mistake, it provides nowhere near the level of relief that American families need. The net tax cut of between $77 billion and $85 billion over 5 years represents just 1 percent of the amount that the Treasury would otherwise collect over that period. But given the constraints on tax relief that President Clinton imposed in this year's budget agreement, it is probably the most we can do. It is, in my view, merely a downpayment on the amount of tax relief that we will continue to seek next year and the years after that.

Mr. President, I opposed the budget agreement a few weeks ago, in large part because it so severely restricted the amount of tax relief that we could provide this year. I believed that we should have held out for a better deal for the taxpayers, but a majority of both Houses disagreed, and therefore we have to find a way to live within the constraints the deal imposed. I must say, however, that I believe the Finance Committee has done a good job with the limited resources it had to work with.

The bill includes a $500-per-child tax credit for families with children under the age of 17. The credit would become fully effective next year; it would be limited this year to $250 for every child under the age of 13.

The bill also provides important help to parents who are struggling to find a way to pay for their children's college education. It offers a new $1,500 HOPE tax credit, new tax-preferred Education Savings Accounts, and something that the budget agreement did not contemplate, a new deduction for student-loan interest payments.

These provisions alone—the education-related and child tax credits—make up 82 percent of the tax relief provided by this bill—82 percent. An analysis by the accounting firm of Deloitte & Touche estimates that a married couple with two children and a household income of $35,000 a year would see its tax bill slashed by 40 percent—to $1,573 a year, down from $2,625 now. If one child were in college, the tax relief would rise to 78 percent.

The bill does some other good things as well. It reduces the capital-gains tax rate to 10 percent for individuals in the 15 percent income-tax bracket, and 20 percent for other taxpayers. It provides a capital-gains exclusion for homeowners—up to $250,000 for single taxpayers, $500,000 for married couples. Given that more than half of all taxpayers reporting capital gains have incomes under $50,000—including many seniors who depend upon income from their life-long investments to support them in their golden years—we can be sure that the benefits of these capital-gains reductions will flow to middle America.

And with history as a guide, we know that the Treasury will benefit from a capital-gains tax cut as well. Between 1978 and 1985, for example, the top marginal tax rate on capital gains was cut by almost 45 percent—from 35 percent to 20 percent—but total individual capital-gains tax receipts nearly tripled—from $9.1 to $26.5 billion annually.

When capital-gains tax rates are too high, people need only hold onto their assets to avoid the tax indefinitely. No sale, no tax. But that means less investment, fewer new businesses, and new jobs, and—as historical records show—far less revenue to the Treasury than if capital-gains taxes were set at a lower level. Just as the Target store down the street does not lose money on weekend sales—because volume more than makes up for lower prices—lower capital-gains tax rates can encourage more economic activity, and in turn, produce more revenue for the Government.

With that in mind, many of us believe that the capital-gains tax rate should have been cut deeper—some wanted an earlier effective date, too—but the die was cast against more capital-gains relief when the budget agreement passed earlier this month. Still, even the modest reduction in this bill will begin to unlock the sizable amount of assets currently locked up in the economy because of high tax rates. The American Council for Capital Formation estimates that it will lead to the creation of as many as 150,000 new jobs a year.

The bill also enhances the ability of individuals to save for retirement in IRA accounts. More Americans would be allowed to save in traditional IRA's, including homemakers who have been precluded from participating merely because their spouses are active participants in employer-sponsored plans. Non-deductible contributions of up to $2,000 to new IRA plus accounts would be allowed for anyone; distributions from the accounts would occur on a tax-free basis.

DEATH TAX RELIEF

The legislation includes modest death-tax relief—a phased increase in the unified credit from $600,000 today to $1 million by 2006. An additional $1 million exclusion is allowed for qualified family owned businesses and farms.

Mr. President, although the death-tax provisions represent steps in the right direction, they are totally inadequate to solve the problems associated with the tax. The unified credit has not been adjusted since 1987, when it was set at $192,800, for an effective exemption of $600,000. Had it merely kept pace with inflation, the exemption would now amount to about $840,000. By the time the $1 million exemption is fully phased in in 2006, inflation will have further eroded its value. The family business exclusion is so complex and establishes so many hurdles for families to meet before they could qualify for relief that few families will likely see any relief at all.

And it is family owned businesses, particularly those owned by women and minorities, that are in the greatest need of relief from death taxes. Instead of being able to pass a hard-earned and successful business on to the next generation, many families have to sell the company in order to pay the death tax. The upward mobility of such families is stopped in its tracks. Proponents of this tax say they want to hinder concentrations of wealth. What the death tax really hinders is new American success stories.

Yet, the death-tax provisions in the bill do not save Americans from having to engage in costly estate-tax planning. They provide little in the way of substantive relief. And they likely do little to promote stronger economic growth.

I know that we are not going to be able to do enough this year given the constraints of the budget agreement, so further progress with respect to death-tax relief will have to wait until next year. But we should commit now to seeking that relief when the next opportunity arises.

DEPRECIATION RECAPTURE

There are two other parts of the bill that I hope we can correct this year, hopefully before the bill emerges from the House-Senate conference committee in a few weeks. The first deals with the tax treatment of capital gains earned from the sale or exchange of depreciable real property. Such gains would be taxed at a maximum rate of 24 percent, compared to the lower tax rates that would be applied to gains earned from nondepreciable real estate and other assets.

Most of us are well aware of the significant unlocking effect that a capital-gains tax cut would have: Not only would it stimulate savings, investment, and job creation, but, as I indicated before, historical evidence shows that it would result in increased revenues to the Treasury to assist with deficit reduction. The capital-gains relief recommended in the tax bill mark is a step in the right direction. But unless the reach of that relief is extended to depreciable real property, we cannot ensure that the full benefit of a capital-gains tax cut is realized throughout the economy.

Establishing disparate tax treatment for investment and business real estate would provide little incentive for individuals to sell investment properties, or to recapitalize and modernize multifamily housing, industrial properties, office buildings, retail properties, or single-family rental homes. It would provide little, if any, stimulation in what amounts to a substantial sector of the Nation's economy. Moreover, taxing such property at rates higher than for other assets would establish a bias in the Tax Code that must be avoided.

I would note that the Finance Committee modified the bill to reduce the tax rate, from the 26 percent originally recommended, to 24 percent. But we ought to make sure that by the time the bill reaches the President's desk, depreciable real estate is on par with other types of investments.

CHILDREN'S HEALTH INITIATIVE

Mr. President, I am also concerned about the tobacco-tax provisions of this bill. I realize that the tax is intended in large part to raise additional revenue for the children's health-insurance initiative. Yet, most people recognize that an increased cigarette tax would lead to lower cigarette consumption—in fact, discouraging smoking is one of the prime objectives of a tax increase. But if smoking declines, so do cigarette-tax revenues. The proposal thus creates an expensive new program, the costs of which are likely to increase rapidly, and yet the intended revenue stream is by its very nature designed to dry up. This method of financing the children's health initiative will simply not work over time.

My hope is that the financing mechanism will be modified in conference. I am not prepared, however, to vote against the bill as reported by the Finance Committee on account of that flaw and deny millions of Americans the first significant tax relief they have seen in 16 years.

Mr. President, this bill includes many good provisions: Education tax credits, the family tax credit, IRA incentives, capital-gains, and modest death-tax relief. It extends the work opportunity credit, the research tax credit, and the exclusion for employer-provided educational assistance. Although there are some flaws in the current version, we ought to seize the opportunity to enact these provisions as a downpayment toward the ideal tax package.

I support the bill as it came out of the Finance Committee.

Mr. ROBB. Mr. President, I rise to oppose the tax bill before the Senate. Although I supported the budget resolution which allowed for this bill to proceed, I did so to advance the spending cuts that I voted for and the Senate passed earlier this week. I have consistently stood for the proposition that we shouldn't be reducing revenues until we balance the budget, and I will keep that commitment today.

While I have supported a number of amendments that I felt would make this bill a better package, even if all those amendments had passed, I'd still be opposed to cutting taxes while we still have a budget deficit. Nonetheless, I understand that it is difficult for elected legislators to resist the temptation of tax cuts, and I do not discount the popular appeal of a number of the measures before us, nor do I quarrel with the public demand for them. However, sound fiscal policy compels me to oppose even the tax changes I might otherwise support until such time as the Federal budget actually reaches balance.

By passing and enacting this tax bill, or any other, we singlehandedly undo the hard work we did in 1993 to finally bring annual budget deficits under control. We've made dramatic progress, bringing down annual deficits from $290 billion in 1992 to an expected $60 billion this year. Now, on the precipice of balancing the budget, we are going to pass a tax cut bill which takes us in precisely the opposite direction. While I understand that these tax cuts are provided for in the context of a balanced budget plan, no one can argue that they will increase the deficit and the debt between now and the year we expect to get to a balanced budget, if we get there at all.

Not only will this bill increase the current deficit and the long-term debt, the out-year costs will come due at a time when the costs of our entitlement programs begin to swell due to the retirement of the baby boom generation. From now until 2030, the number of individuals who will qualify for these programs will double, going from 35 million to 70 million. Even if we didn't enact this tax cut, all revenues we collect would be needed just to fund entitlement programs and interest on the debt by 2012, leaving only borrowing to cover defense and discretionary investments in human and physical capital. Enacting a tax cut which doubles in cost every 5 years hardly seems an appropriate course to follow given the demographic challenges we confront early in the next century.

This tax cut would not have been as damaging in the future were we likely to make some of the long-term structural changes in our entitlement programs that would have sufficiently restrained the growth of these expenditures in the future. By abandoning a legislative change for a more accurate measure of the cost-of-living adjustments and the likely elimination of any eligibility changes in Medicare by the time the spending measure becomes law, we compound our long-term fiscal problems with this tax cut.

Mr. President, the truth is that even if we were in budget balance today and for the forseeable future, I couldn't support this particular tax bill. The fact of the matter is that the tax bill before us does little or nothing to simplify the tax code, fails to adequately encourage new savings and investment, and is structured in a way that masks its long-term costs. Instead, it is largely driven more by political payoffs to special interest groups and polling data, rather than rational tax policy.

The child tax credit has been roundly denounced by economists as doing little more than encouraging additional consumption, something we clearly ought not to be encouraging at this point given our robust economy. At least the Senate retained the provision that required that the tax savings be saved for education expenses for those with children between 13 and 16, and I commend my colleagues, including Senators BREAUX, KERREY, and LIEBERMAN, who have fought so hard to ensure that the child tax credit provides some economic value by requiring that it goes to savings and investment.

Many have claimed that both the capital gains provisions and new individual retirement accounts will encourage additional savings and investment, and I would like to believe that is the case. However, the capital gains benefits fail to differentiate between those gains from long-term investment and those from stock speculation, and the new backloaded IRA's will likely result in simply a shift of existing savings to a tax deferred vehicle, resulting in compounding revenue losses over time.

Compounding revenue loss will also result from the structure of the estate tax relief provisions in this bill. I understand the burden these taxes cause for some families, particularly those with family owned farms and businesses, but the slow phase-in of increases in the current $600,000 exemption amount guarantee that the true cost of the tax change won't show up until after 2007.

Mr. President, the most difficult part of opposing this tax bill for me has to do with the education incentives included in this bill. From my days as Governor of the Commonwealth of Virginia, I've made education my top priority, pumping over $1 billion of new funds into education during my tenure as governor without a tax increase. I simply believe that the education of our children is the most important function of government at any level. Because of this commitment, I applaud the President's effort to increase access to education.

I am not opposed to commiting additional resources to education, but my concern about these tax provisions is that they are not likely to encourage students to get a higher education. For the most part, they would simply subsidize those who would have attended anyway. In addition, most education experts believe these tax provisions could result in an increase in tuition costs as institutions use the tax savings to increase their costs, potentially making education expenses even higher for students who can't qualify for these new tax benefits. It also seems to me that those who benefit from these education incentives ought to have some obligation of community service, a cause I have long championed.

In summary, Mr. President, I voted earlier this week for the spending cuts in the first Reconciliation bill because I believe that deficit reduction should be our No. 1 priority. It is for this same reason that I oppose this legislation on principle and for the substantive policy reasons I have outlined. I understand that it is politically difficult in our day and age to resist the siren song of tax cuts. But I hope that those who intend to support this tax package will be prepared to answer for their vote when the revenue losses begin to mount and prevent our budget from staying in balance over the long term.

With that, Mr. President, I yield the floor.

Mr. KENNEDY. Mr. President, I oppose this bill, and I hope that it will be vetoed by the President if it emerges from the House-Senate conference in this unacceptable form. The last thing the American people need is a trickle-down tax relief bill that offers plums to the wealthiest individuals and corporations in our society, and crumbs for everyone else.

Clearly, we need to give tax relief to families, we need to encourage investment in education, we need to encourage investment in small businesses, we need to grant relief from the hardships that are sometimes caused by the estate tax.

The Republican plan takes each of these legitimate points and misuses them as excuses to give enormous tax cuts to the well-heeled and the powerful and it does so as far as the eye can see. This plan violates the fundamental principles that any tax bill must meet: tax fairness and fiscal responsibility.

The Republican bill claims that it will give fair tax relief to families, but the Republican child credit is designed to exclude large numbers of low- and middle-income working families. Forty-seven percent of all American children would not be eligible for the child credit under the Republican proposal. An additional 8 million children would be eligible for only a partial benefit. Clearly, the Republicans have gerrymandered their credit to save money by denying it to as many working families as possible. Yet these are the families who need help the most. Our Democratic proposal offers all of these families an honest tax break. The Republican proposal is a let them eat cake tax break.

I also oppose the education provisions of the Republican bill because they are skewed toward the highest income taxpayers. These Republican provisions clearly violate the firm commitment made under the budget agreement on tax benefits for higher education. The letter signed by NEWT GINGRICH and TRENT LOTT specifically states that tax relief of "roughly $35 billion" will be provided over 5 years for post-secondary education, and that the education tax package "should be consistent with the objectives put forward in the HOPE scholarship and tuition tax proposals contained in the administration's fiscal year 1998 budget to assist middle-class parents."

The administration's proposal had two goals: to help middle-class families during the critical years while students are in college, and to encourage lifelong learning. Students and families across the Nation are concerned about escalating tuition, and this bill does not do enough to help them.

The Republican bill is flawed in another major respect in this area—it utterly fails to address the need to help workers expand their skills and education. We need to give a real benefit to teachers, nurses, auto mechanics, and all others in jobs that need continual upgrading of skills. The workplace depends more and more on highly trained workers. To sustain a strong economy, we must invest in ongoing education throughout life.

The bill also provides a disproportionate education benefit to high income families. It contains three separate provisions to encourage savings for college, at a total cost of over $7 billion over the next 5 years. Lower income families do not have the luxury to save as much as higher income families do, and will not be able to take advantage of these provisions.

I also strongly support funding for crumbling schools. The deterioration of hundreds of schools across the United States is a disgrace. But the Republican bill provides only token help. It offers only Band-Aids to put over leaking roofs.

Similarly, the massive capital gains tax breaks and massive estate tax breaks are also tilted heavily to the wealthy. Largely because of these provisions, more of the benefits of the Republican plan go to the top 1 percent of taxpayers than go to the bottom 60 percent of the taxpayers. Under the Republican plan those who are already well-off are given tens of billions of dollars in unwarranted tax breaks, while those who are struggling are ignored.

Finally, the amount of the Republican tax cuts will explode in the years after 2002, and the deficit will increase enormously. The Center on Budget and Policy Priorities has estimated that the cost of the Republican proposal will increase by between $500 and $600 billion in the 10 years following the current budget period. It will be nearly impossible to balance the budget in those years if this Republican tax giveaway is enacted into law.

The Republican plan is a Trojan horse for giving tax breaks to the wealthy. If we had no tax bill, it would be better than this trickle-down bill.

Mr. FEINGOLD. Mr. President, I intend to vote against this tax bill.

Although I voted for the budget resolution which was designed to bring us to a balanced budget within the next 5 years, I have consistently said that we should actually achieve a balanced budget, before enacting any sweeping new tax cuts. As attractive as new tax cuts may be, I think our first fiscal obligation is to eliminate the deficit. We shouldn't ask our children and grandchildren to foot the bill for our program spending or our tax cuts.

Having said that, let me address several other issues. If we are going to have tax cuts before the budget is actually balanced, then we should focus on the kinds of cuts that at least have some potential to help enhance economic productivity and increase revenues—tax changes that arguably will increase income and resulting revenues will help move us toward a balanced budget.

For these reasons, I have indicated that if we are to have tax cuts before the budget is in balance, we should limit them to changes that will stimulate economic growth. A number of my constituents have presented me with strong arguments that some reductions in the capital gains and estate taxes will enhance economic productivity and growth, and I have been willing to support capital gains and estate tax changes if crafted in ways that target the benefits so as to stimulate growth and economic activity. For Wisconsin, this means, in particular, that capital gains and estate tax changes should be targeted to help family farms and other smaller family businesses that are passed down from one generation to the next.

Arguments for certain types of education tax cuts and child tax credits are not as persuasive. And they become less so when they are not available to those families who might most need such relief. If we are going to provide tax cuts to families with children, then we shouldn't exclude millions of working families with lower and moderate incomes. Over 565,000 kids in Wisconsin, nearly 40 percent, live in families that will not receive the tax credit.

Altogether, as desirable as tax cuts might be, we need to keep our focus on balancing the budget first, then consider tax cuts. American families will benefit enormously by the Federal Government bringing down the deficit and achieving a balanced budget. Anything that diverts us from that course should be resisted until we have finished the job.

Finally, if we must have tax cut legislation as part of the budget agreement, it ought to be both fiscally responsible and fair. This bill fails on both counts. The tax cut bill is heavily back-loaded. While costing $85 billion over the first 5 years, the plan will cost close to $60 billion annually once it is fully in place. That kind of exploding cost moves us away from a balanced budget, and puts us back on the track to rising deficits. It is ironic that those who shout the loudest about the need for a balanced budget amendment to our Constitution are among the biggest supporters of a tax bill that is nothing less than a budget buster.

The tax plan also fails the test of fairness. A package of tax cuts, even one targeted toward economic development, need not be skewed to the wealthiest. Unfortunately, this measure is. According to the tax watchdog group Citizens for Tax Justice, over half the proposed tax cuts in the bill go to the top 5 percent of all taxpayers. And while the 40 percent of families with the lowest income receive no tax benefit, the top 1 percent receive an average benefit of nearly $16,000.

Mr. President, let me emphasize my firm belief that our highest priority must be to balance our Federal budget before we cut taxes. We have come too far and worked too hard to bring our deficit down to jeopardize that effort with a fiscally irresponsible tax cut bill. I support the bipartisan balanced budget agreement negotiated by the congressional leadership and the White House, but this tax package is not consistent with the spirit of that agreement, and needlessly risks the progress we made in the reconciliation package we just passed.

Mr. HATCH. Mr. President, I rise today to speak in strong support of the historic tax relief plan, the Revenue Reconciliation Act of 1997, that is before the Senate today. Change has finally come to Washington and the fruits of that change are beginning to be realized. Who would have thought that 3 years ago that the American people would be receiving a $85 billion tax cut today, especially after the huge $265 billion tax increase that President Clinton pushed through in 1993?

It is a proud day for this body and for the American people to finally witness a Congress with the courage to enact a plan to restrain Federal spending and balance the budget. Also very important is the savings that will be passed on to the American people in the form of tax relief. One thing we easily forget is that tax revenues belong to the taxpayers. This historic bill will simply return the taxpayers' own money back to them.

Mr. President, important to this debate is how this tax package is being received and the work that has gone into making this bill a good piece of legislation. This bill was reported out of the Finance Committee with overwhelming bipartisan support, and I hope that there is overwhelming bipartisan support for its final passage. I want to commend my colleague and chairman of the Senate Finance Committee for the balanced, bipartisan bill he spearheaded.

Mr. President, working families in this country do not take the paying of taxes lightly. How could they? They pay payroll taxes, income taxes, property taxes, and other taxes. In addition to the amount of taxes taken out of every paycheck, families reconcile what income taxes they owe to Uncle Sam every April 15, and millions must send a check to the government for additional taxes. The American taxpayers understand and realize that their tax payments go to providing needed Government benefits and to support the freedoms we enjoy. However, enough is enough. It is time to cut the fat out of Government and lower the Federal tax burden. And, it is time to reduce the burden of budget deficits on taxpayers, mortgage holders, small businessmen, students, and all others having or needing loans. It is time to stop passing off the burden of current spending onto our children and grandchildren.

understand that these tax cuts are provided for in the context of a balanced budget plan, no one can argue that they will increase the deficit and the debt between now and the year we expect to get to a balanced budget, if we get there at all.

Not only will this bill increase the current deficit and the long-term debt, the out-year costs will come due at a time when the costs of our entitlement programs begin to swell due to the retirement of the baby boom generation. From now until 2030, the number of individuals who will qualify for these programs will double, going from 35 million to 70 million. Even if we didn't enact this tax cut, all revenues we collect would be needed just to fund entitlement programs and interest on the debt by 2012, leaving only borrowing to cover defense and discretionary investments in human and physical capital. Enacting a tax cut which doubles in cost every 5 years hardly seems an appropriate course to follow given the demographic challenges we confront early in the next century.

This tax cut would not have been as damaging in the future were we likely to make some of the long-term structural changes in our entitlement programs that would have sufficiently restrained the growth of these expenditures in the future. By abandoning a legislative change for a more accurate measure of the cost-of-living adjustments and the likely elimination of any eligibility changes in Medicare by the time the spending measure becomes law, we compound our long-term fiscal problems with this tax cut.

Mr. President, the truth is that even if we were in budget balance today and for the forseeable future, I couldn't support this particular tax bill. The fact of the matter is that the tax bill before us does little or nothing to simplify the tax code, fails to adequately encourage new savings and investment, and is structured in a way that masks its long-term costs. Instead, it is largely driven more by political payoffs to special interest groups and polling data, rather than rational tax policy.

The child tax credit has been roundly denounced by economists as doing little more than encouraging additional consumption, something we clearly ought not to be encouraging at this point given our robust economy. At least the Senate retained the provision that required that the tax savings be saved for education expenses for those with children between 13 and 16, and I commend my colleagues, including Senators BREAUX, KERREY, and LIEBERMAN, who have fought so hard to ensure that the child tax credit provides some economic value by requiring that it goes to savings and investment.

Many have claimed that both the capital gains provisions and new individual retirement accounts will encourage additional savings and investment, and I would like to believe that is the case. However, the capital gains benefits fail to differentiate between those gains from long-term investment and those from stock speculation, and the new backloaded IRA's will likely result in simply a shift of existing savings to a tax deferred vehicle, resulting in compounding revenue losses over time.

Compounding revenue loss will also result from the structure of the estate tax relief provisions in this bill. I understand the burden these taxes cause for some families, particularly those with family owned farms and businesses, but the slow phase-in of increases in the current $600,000 exemption amount guarantee that the true cost of the tax change won't show up until after 2007.

Mr. President, the most difficult part of opposing this tax bill for me has to do with the education incentives included in this bill. From my days as Governor of the Commonwealth of Virginia, I've made education my top priority, pumping over $1 billion of new funds into education during my tenure as governor without a tax increase. I simply believe that the education of our children is the most important function of government at any level. Because of this commitment, I applaud the President's effort to increase access to education.

I am not opposed to commiting additional resources to education, but my concern about these tax provisions is that they are not likely to encourage students to get a higher education. For the most part, they would simply subsidize those who would have attended anyway. In addition, most education experts believe these tax provisions could result in an increase in tuition costs as institutions use the tax savings to increase their costs, potentially making education expenses even higher for students who can't qualify for these new tax benefits. It also seems to me that those who benefit from these education incentives ought to have some obligation of community service, a cause I have long championed.

In summary, Mr. President, I voted earlier this week for the spending cuts in the first Reconciliation bill because I believe that deficit reduction should be our No. 1 priority. It is for this same reason that I oppose this legislation on principle and for the substantive policy reasons I have outlined. I understand that it is politically difficult in our day and age to resist the siren song of tax cuts. But I hope that those who intend to support this tax package will be prepared to answer for their vote when the revenue losses begin to mount and prevent our budget from staying in balance over the long term.

With that, Mr. President, I yield the floor.

Mr. KENNEDY. Mr. President, I oppose this bill, and I hope that it will be vetoed by the President if it emerges from the House-Senate conference in this unacceptable form. The last thing the American people need is a trickle-down tax relief bill that offers plums to the wealthiest individuals and corporations in our society, and crumbs for everyone else.

Clearly, we need to give tax relief to families, we need to encourage investment in education, we need to encourage investment in small businesses, we need to grant relief from the hardships that are sometimes caused by the estate tax.

The Republican plan takes each of these legitimate points and misuses them as excuses to give enormous tax cuts to the well-heeled and the powerful and it does so as far as the eye can see. This plan violates the fundamental principles that any tax bill must meet: tax fairness and fiscal responsibility.

The Republican bill claims that it will give fair tax relief to families, but the Republican child credit is designed to exclude large numbers of low- and middle-income working families. Forty-seven percent of all American children would not be eligible for the child credit under the Republican proposal. An additional 8 million children would be eligible for only a partial benefit. Clearly, the Republicans have gerrymandered their credit to save money by denying it to as many working families as possible. Yet these are the families who need help the most. Our Democratic proposal offers all of these families an honest tax break. The Republican proposal is a let them eat cake tax break.

I also oppose the education provisions of the Republican bill because they are skewed toward the highest income taxpayers. These Republican provisions clearly violate the firm commitment made under the budget agreement on tax benefits for higher education. The letter signed by NEWT GINGRICH and TRENT LOTT specifically states that tax relief of "roughly $35 billion" will be provided over 5 years for post-secondary education, and that the education tax package "should be consistent with the objectives put forward in the HOPE scholarship and tuition tax proposals contained in the administration's fiscal year 1998 budget to assist middle-class parents."

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Having said that, let me address several other issues. If we are going to have tax cuts before the budget is actually balanced, then we should focus on the kinds of cuts that at least have some potential to help enhance economic productivity and increase revenues—tax changes that arguably will increase income and resulting revenues will help move us toward a balanced budget.

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Mr. President, let me emphasize my firm belief that our highest priority must be to balance our Federal budget before we cut taxes. We have come too far and worked too hard to bring our deficit down to jeopardize that effort with a fiscally irresponsible tax cut bill. I support the bipartisan balanced budget agreement negotiated by the congressional leadership and the White House, but this tax package is not consistent with the spirit of that agreement, and needlessly risks the progress we made in the reconciliation package we just passed.

Mr. HATCH. Mr. President, I rise today to speak in strong support of the historic tax relief plan, the Revenue Reconciliation Act of 1997, that is before the Senate today. Change has finally come to Washington and the fruits of that change are beginning to be realized. Who would have thought that 3 years ago that the American people would be receiving a $85 billion tax cut today, especially after the huge $265 billion tax increase that President Clinton pushed through in 1993?

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Mr. President, important to this debate is how this tax package is being received and the work that has gone into making this bill a good piece of legislation. This bill was reported out of the Finance Committee with overwhelming bipartisan support, and I hope that there is overwhelming bipartisan support for its final passage. I want to commend my colleague and chairman of the Senate Finance Committee for the balanced, bipartisan bill he spearheaded.

Mr. President, working families in this country do not take the paying of taxes lightly. How could they? They pay payroll taxes, income taxes, property taxes, and other taxes. In addition to the amount of taxes taken out of every paycheck, families reconcile what income taxes they owe to Uncle Sam every April 15, and millions must send a check to the government for additional taxes. The American taxpayers understand and realize that their tax payments go to providing needed Government benefits and to support the freedoms we enjoy. However, enough is enough. It is time to cut the fat out of Government and lower the Federal tax burden. And, it is time to reduce the burden of budget deficits on taxpayers, mortgage holders, small businessmen, students, and all others having or needing loans. It is time to stop passing off the burden of current spending onto our children and grandchildren.

Mr. President, this tax relief plan contains significant tax cuts in a variety of areas. I will not take the time to comment on every provision and change in the bill. However, I would like to comment on a few of the main areas of tax relief which I have long advocated.

First, families with children will receive a $500 per child tax credit. Raising children in today's world becomes more expensive each year. This $500 credit will put more money in the hands of parents to help them better afford the high cost of raising children. It's real money back into the bank accounts of American families.

Second, this bill would provide a number of proposals to ease the burden of paying for college. I hear again and again about the high cost of colleges and universities. And, I have some personal knowledge on this point, Mr. President. I not only put myself through both college and law school, I have also, as a father, put my six children through college. I know the sacrifices that are necessary.

This tax bill would provide a tax credit for tuition expenses, a deduction for student loan interest, and an expansion of the current pre-paid tuition programs. And, important to elementary and secondary school teachers, the bill contains a provision to remove from the 2-percent itemized deduction limitation educational expenses related to furthering the skills of the teacher. Teachers have great influence over our children. Well trained teachers are critical to preparing our children for the challenges of the future.

Third, this bill contains important tax cuts to stimulate economic growth and to further the creation of jobs. I have long been an advocate of reducing the tax on capital gains. During debate this week, we have heard a great deal of discussion about the rich versus the poor and who gets what out of this tax bill. Let me make it clear that everybody benefits when jobs are created through economic growth. A capital gains tax cut creates jobs and economic growth. Government investment is limited in what it can do to help people economically. Encouraging private sector investment will foster the most efficient and effective ways to better the economy. I firmly believe that the capital gains tax relief in this bill is the most important thing we can do for economic growth in this country.

Expanding an existing business, starting a new venture, or bringing a new invention to market requires capital investment to make happen. Tax policy has a tremendous impact on the amount of capital investment. Under the current law, gains from capital investments are taxed twice, once when the income is earned and again when that income is distributed to the shareholders. Cutting the capital gains tax rate will encourage more investment which will translate into the creation of more jobs. This change is absolutely critical to maintaining a strong economy well into the future.

I am also pleased to see relief from the death tax in this bill. Nowhere is the damage of onerous taxation more evident than our current estate tax. It is an inefficient tax that really should be abolished. Families should not have to face a tax bill that forces the involuntary sale of assets shortly after putting a loved one to rest. I hope that we can increase exemption from this onerous tax as quickly as possible.

Mr. President, another critically important provision in this bill is the $8 billion in additional money for children's health insurance. This is important for the most vulnerable of our citizens—low-income children. The future of this country lies with our children. We cannot ignore the gap in our health care system that does not currently provide vision or auditory screening, or other preventive health care. The provisions adopted by the Finance Committee, and ratified by the full Senate by an overwhelming vote, are significant and will help address these yet unmet needs in a responsible manner. I applaud my colleagues for their support of this important program.

Mr. President, there are a number of other tax relief provisions in this bill and also many other tax simplification provisions that are very important. I personally wish we could have done more in many of these areas.

But, the fact that we are passing this legislation today, and the promise of the President that he will sign it into law, means that the bill has been a bipartisan effort. As such, it is a compromise and is not perfect from any one Senator's point of view. If you polled all 100 Senators, I am sure each of us would mention provisions we would like to have written differently.

There were a number of amendments offered to this bill that I support and would have liked to vote for. However, when anyone participates in a negotiation and becomes a party to an agreement, he or she cannot willy-nilly support changes to that agreement just because you happened to like someone else's idea better. It stands to reason that you cannot persuade others to compromise if they cannot expect your adherence to whatever agreement is reached. I gave my word to Chairman ROTH and to my colleagues on the Finance Committee to maintain the integrity of the compromise bill that we passed out of the Finance Committee on a strong bipartisan basis. I am also constrained from voting to further increase the cigarette tax even though it could be used to finance laudable objectives in childrens health or to increase the deduction for health insurance premiums paid by those who are self-employed.

Of course, there are also some provisions in this bill that I am not enthusiastic about and would cheerfully drop were they not part of the agreement.

But, taken as a whole, this tax package is a good mix of tax relief provisions that will go a long way to lower the average American families' tax burden. This is an historic piece of legislation, and I am proud to support its passage.

Mr. BINGAMAN. Mr. President, I rise today to comment on the tax bill we are debating, S. 949, the Revenue Reconciliation Act of 1997. This bill is not the bill I would have preferred if I had written all of the details, but it has many redeeming sections which I think do benefit New Mexico and the Nation as a whole.

I want very much for New Mexicans to get needed tax relief. We have a strong economy and are within reach of a balanced budget. It does seem to me that the tax burden of many New Mexicans and others is higher than it needs to be—and while this is not structured the way I would have preferred it—I will support final passage of S. 949 because it does move us further in a positive direction, than it does negative. This bill expands IRA's in a way in which nearly 90 percent of our working population will be eligible for these accounts, in contrast to just 70 percent today. Also, this bill provides both capital gains and estate tax relief, phased in in incremental steps, but nonetheless important to the overall investment climate of the Nation. I hope that a great portion of that investment and economic activity gets directed toward and takes place in New Mexico.

This bill contains about $32 billion in education provisions which will be of benefit to many New Mexicans, particularly those who need support for college tuition. In addition, over 45 percent of New Mexico's families paying taxes of $1,500 or more will be eligible to take advantage of the HOPE scholarship. And while I would have preferred that this figure be far higher, approximately 51 percent of dependent children in New Mexico will be eligible for some portion of the per child tax credit. Another important accomplishment in this bill is that it provides resources to help cover child health insurance for the 10.5 million uninsured kids in America by raising the tobacco tax by 20 cents per pack.

There are other provisions in S. 949 that are worthy of support including permanent extension of the tax credit for employer provided educational assistance which many New Mexican workers and firms have very much wanted. This bill also provides for an exemption from the 2 percent miscellaneous work provision of the Tax Code for hard-working, dedicated teachers who spend their own money on education technology materials and who should be able to fully expense these costs on their tax returns.

However, this bill is far from perfect. S. 949, which provides for an $85 billion net tax decrease, does not provide for the kind of distribution of benefits across our society that I would have preferred. Although the Finance Committee did a far better job of making the tax cuts fairer than did the House Ways and Means Committee, I would have preferred the Democratic alternative which was offered yesterday by Senator DASCHLE.

The bill we are passing today—and which I plan to support on final passage—still hands the lion's share of tax relief to the wealthiest 1 percent of Americans, more than the combined lower 60 percent will receive. By contrast, if we had passed the Daschle bill, working families would have received almost twice the tax relief provided in the Finance Committee plan.

Furthermore, the Democratic proposal had many targeted tax relief measures which would have done much more for small businesses and small farms than the Republican bill achieves. In education, the Democratic amendment would have provided working families more opportunities to help educate their children, rebuild schools and send their children to college.

Perhaps most importantly, the Democratic bill was the more fiscally responsible of the two alternatives. One of my major concerns about S. 949 is that the backloading of estate tax provisions, capital gains provisions, and particularly IRA provisions will balloon the budget deficit enormously just after we finally achieve the discipline to bring the Nation's spending and income into balance.

Let me explain a bit about my concern about the IRA provisions. I completely support the notion that the Nation needs more savings. This will help generate more capital for long-term investment and growth. But I object to allowing only the wealthiest in our society to have the tax incentives and tax havens to save. We should provide incentives across the board--and make sure that all sectors of our society are getting some degree of retirement savings in place. This bill does not do this. In fact, this legislation is a radical departure from our current retirement savings policy which at least purports to establish a level playing field for both high income and low income workers.

Unfortunately, the Finance Committee tax proposal contains two IRA provisions which are at fundamental odds with each other and represent the Cain and Abel of retirement savings policy. On one hand, the bill makes an important contribution to strengthening the national savings system by doubling the income eligibility for deductible IRA's. The proposal makes deductible IRA eligibility available for 90 percent of the population instead of the 70 percent now eligible.

Under this better side of the S. 949, deductible IRA's will be available to everyone with less than $100,000, joint filers, of income. And as is the case with current law, even those with incomes above $100,000 can still make deductible IRA contributions, as long as they have no other employer-sponsored pension plan.

It is also important to understand that under current law, people who have employer-sponsored retirement plans can still make nondeductible contributions to IRA accounts. These people can put an extra $2,000 a year away so that this money can accrue and compound tax-free until retirement. This tax-advantaged savings opportunity provides significant benefits to those who make after tax IRA contributions. So far so good.

But Senator ROTH's IRA Plus proposal, in contrast to the IRA expansion provisions, is a bad step for us to take. A radical departure from past retirement savings policy, IRA Plus overwhelmingly benefits the rich. It also creates a slippery slope towards tax-free havens for other retirement programs and blows a very large hole in the Federal budget deficit in future years. The fact is that because tax advantages in the other Roth provisions are available to both those under $100,000 income levels as well as those at any income level who don't have an employer-sponsored pension plan, only those above $100,000 income levels and who actually have employer-sponsored plans benefit from IRA Plus.

Because all distributions from these IRA Plus accounts are tax free, they provide a certain group of wealthy savers a home grown version of a Swiss bank tax haven. If these IRA Plus accounts are established, there is no doubt that they will be a terrific deal for those who participate. But it's not fair and not good policy to provide a tax windfall to the rich and do nothing for those who are struggling to save smaller sums; those less wealthy taxpayers will continue to pay tax on any distributions.

Furthermore, IRA Plus accounts create a troublesome benchmark vis a vis other savings vehicles. It is reasonable to ask that if IRA Plus accounts are tax free, then why not 401(k)'s or regular IRA's or the Simple Plan or corporate defined benefit programs? It would be terrific if all savings vehicles were tax free, but the fact is that the IRA Plus program alone—given the tremendous backloading in it—will blow a huge hole in the budget deficit in future years.

While the IRA provisions in the Finance Committee tax bill start out costing just $3.3 billion in the first five years, the cost surges to $20.5 billion in the next five years and then to an estimated $88.5 billion in the following ten years. Most of this backloading comes from the establishment of IRA Plus accounts. Furthermore, the irreversibility of this backloading will tie the Nation's hands just as the crush of retiring baby boomers forces very real costs on the Federal Government.

We should think very carefully about the consequences of setting up these IRA Plus accounts. I very much hope that when this bill goes to conference, the conferees will tread carefully and will reconsider this very troublesome provision.

I have other concerns including the signals that I think are being sent to hard-working New Mexican families that you have to have a high level of income and children to fully qualify for the child tax credit we are providing in this bill; 70 percent of New Mexico tax filers report less than $30,000 in annual income, 45 percent have less than $15,000 income. It is obvious that many, many New Mexico children will not be able to benefit significantly from the child tax credit.

Many here attempted to offer amendments which I supported and which would have made the $500 per child tax credit refundable against payroll taxes; or in a different approach, would have allowed tax filers to get their full EITC credit and then figure the per child credit. Either of these would have ensured that millions more children around the Nation and more than 250,000 New Mexico children would have benefited from this provision.

Overall, S. 949 delivers a better package of education, health, and child care spending initiatives and various tax relief provisions than the House bill. I wish we had done better and hope that the conferees will struggle to produce an even better bill than this, rather than dumbing this down to many of the worst provisions in the House companion bill. I yield the floor.

Mr. REED. Mr. President, I rise to express my concerns with the tax bill passed by the Finance Committee, and to express my support for the Democratic alternative. I believe the Finance Committee bill is seriously flawed, and will put us on a path to exploding deficits, rising inflation, and future economic hardship. In a time when we are asking our seniors to absorb $115 billion in Medicare cuts, I think it is irresponsible to enact the large, across-the-board tax cuts that are contemplated in this legislation—tax cuts that will add to the pain of balancing the budget by the year 2002.

Of particular concern is the fact that these tax cuts will disproportionately benefit the wealthiest Americans who have already benefited from the unprecedented performance of our economy and stock market over the last several years. Specifically, 42.8 percent of the tax cuts will go to the top 10 percent of income earners, those who earn more than $120,000. Meanwhile, only 2.7

percent of the benefits will go to the bottom 40 percent of hard-working Americans. To continue this gravy train for the well-to-do, while ignoring the economic anxieties faced by middle and lower income Americans, is unfair. Nevertheless, the Finance Committee tax bill is loaded with breaks for the wealthiest Americans, leaving the average taxpayer holding the bag.

Perhaps most illustrative of this point are three of the plan's largest tax cuts—the capital gains, individual retirement accounts [IRA's], and estate tax provisions. The Joint Tax Committee has estimated that three-quarters of Americans receiving capital gains income have household incomes over $100,000. Similarly, only 1.6 percent of estates are valued high enough to qualify for estate taxes. Finally, increases in the IRA income limitations will benefit only the top 30 percent of taxpayers. As laudable as some of these items are, their combination, without targeting, skews this bill to favor the affluent over middle-income Americans.

Beyond favoring the wealthy, the cost of these tax cuts will ultimately threaten the progress we have made on reducing the deficit, which is at its lowest point as a percentage of gross domestic product [GDP] since 1974. This is because the costs of the tax cuts, which are relatively low in the early years, will explode in later years outside of the budget window. For example, from 1997 to 2002, the combined revenue loss of the capital gains, estate tax, and IRA provisions is $4.3 billion. However, the revenue loss from these provisions rises dramatically between 2003 and 2007 to $68.7 billion. In 2007, the combined costs of the capital gains, IRA, and estate tax provisions grow to $18.2 billion. This is 25 times the average annual cost of these provisions of $720 million, as indicated in the Joint Tax Committee distribution tables for 1997 through 2002 for the Republican tax bill.

In addition, cuts in the capital gains tax rate will likely generate a flurry of unproductive economic activity that may produce an unwelcome side effect—inflation. Because there are no requirements for reinvestment, a significant share of the capital gains realized will likely be consumed. This increased consumption will put upward pressure on prices and fuel the fires of inflation that we have fought so hard to extinguish.

I am supportive of the Democratic alternative because it contains targeted capital gains tax cuts aimed at productive, long-term investment and savings in areas that will best-serve our economy. For example, the bill provides a capital gains reduction for owners of small and startup businesses, which represent the most dynamic sector of the American economy. In addition, the Democratic alternative eliminates IRA provisions in the Finance Committee bill that will lead to dramatic cost increases over time. Moreover, the Democratic bill provides estate tax relief in a manner that will benefit true family-owned businesses and farms that continue to be operated by family members.

The child tax credit is yet another example of the distributional unfairness of the Finance Committee legislation. Because the credit is nonrefundable, many middle- and low-income Americans will be unable to take advantage of the child tax credits. It has been estimated that nationwide, 47 percent of all dependent children will be completely ineligible for the $500 tax credit because their incomes are too low. In my State of Rhode Island, almost 141,000 children, or 46 percent of the dependent children in the State will be ineligible for the credit according to Citizens for Tax Justice.

The fact that almost half of this Nation's children will be denied the tax credit is of great concern, and further reinforces my support for the Democratic tax alternative, which goes a long way toward solving this problem. The Democratic alternative improves the overall distribution of the tax cut by making the child credit refundable against federal payroll taxes. This is significant because most of the families that would otherwise be ineligible for the credit pay far more in payroll taxes than they do in income taxes. The Democratic alternative would also establish an income limitation on the tax credit to target the benefits to low- and middle-income families that truly need the assistance.

Mr. President, in these times of economic prosperity, we can afford to, and indeed we have an obligation to invest in priorities such as education that will have a positive impact on America's future. That is why I have been a strong supporter of the HOPE scholarship tax credit proposed by the President. While I applaud the committee for including education tax credits in their bill, I am concerned about reductions the committee has made in the size of the credit, which will limit its usefulness to many students. For this reason, I believe we should look to the Democratic alternative which allows for the full HOPE credit to be used by students for the first $1,000 in tuition expenses. Additionally, the Democratic alternative establishes a 20 percent tuition deduction that can be used after a student ceases to be eligible for the HOPE credit. Together, these tax credits provide the type of meaningful assistance that many middle-class students will need in order to meet the financial demands of postsecondary education.

Also, the Democratic alternative addresses the problem of crumbling schools that threatens our education system at the most fundamental level—elementary and secondary grades. It has been reported that in order to repair the costs of this country's aging schools, we will have to spend at least $4.8 billion. The Democratic alternative takes a step toward addressing this problem by establishing a program to allocate tax credits among the states for the purpose of repairing and constructing school facilities. We cannot hope to improve access and opportunity to higher education, without first ensuring that our elementary and secondary schools provide a physical environment that is conducive to learning.

Although hailed as the biggest tax cut since the Reagan era, the Finance Committee bill is perhaps a prelude to the biggest tax increase in our history. This is because the bill is loaded with gimmicks that reduce its costs in the early years, and will result in an exponential rise in costs beyond the 5-year budget window. Assuming that we reach a balanced budget by 2002, this bill will make it virtually impossible to keep our budget in balance, without raising taxes. In addition, the bill assumes that the U.S. economy will remain strong in the future—an assumption that flies in the face of the business cycle. An economic downturn would dramatically increase the costs and eliminate the hope of a balanced budget.

The Finance Committee bill will also help those Americans who are least in need of help. The capital gains tax cuts, estate tax cuts, and many of the changes to IRA's will benefit those Americans who have shared most in the economic growth of recent years. I question how we can afford to offer these tax cuts, while asking seniors to pay more for Medicare.

Mr. President, as we debate this bill, I ask my colleagues to consider the Democratic tax alternative. This amendment will provide for a fair distribution of the tax cuts and benefit a greater number of Americans. The amendment will eliminate the fiscal time bombs in the Finance Committee bill that will explode after 2002 and threaten our progress toward a balanced budget. Finally, the amendment rightly focuses on the targeted investments necessary to keep our country moving forward into the 21st century.

Mr. LIEBERMAN. Mr. President, I rise to discuss three provisions of the Revenue Reconciliation Act of 1997. I begin by congratulating my colleagues on the Senate Finance Committee for their efforts on this bill. They have worked hard to craft legislation that is forward looking and sensitive to the needs of our economy, working Americans, and our children. For the next few minutes, I would like to highlight several provisions of the bill that I believe are particularly important to our national economy and my State of Connecticut and are issues that I have supported and worked on over the years.

ECONOMIC GROWTH AND U.S. COMPETITIVENESS IN A GLOBAL ECONOMY

The Revenue Reconciliation Act of 1997 is a timely piece of tax legislation. It comes at a moment when our economy is in the midst of a transition to one that is more global and outward looking, more competitive, and more innovative. American companies and workers, whether they are in manufacturing, high-technology, or service industries, are more dependent on the world economy than ever before. It is with this assumption that we must consider our economic future.

Today in this new global economy, more Americans are taking part in employee ownership programs than ever before. Employees increasingly have a stake in the performance of their company and are sharing in its growth. As a result, our workers are directly benefiting from the dynamic economic expansion that is sweeping across our land. Our economy is once again being driven by aspirations for a better living.

This bill represents an understanding of our new economy and the aspirations of working Americans. It understands that education is the key to social mobility and economic security; it understands that small businesses are the backbone of our economy; it understands that increased savings and investment means greater independence and growth; and it understands that urban renovation means enlarged opportunity. It is a bill that sets our economy on a sound footing for the next millennium.

KIDSAVE

Let me now turn to some of the specific provisions that I believe are at the heart of this tax legislation and the reasons why I will support this bill. First, I am pleased that my colleagues have included in the Revenue Reconciliation Act of 1997 a child tax credit for children under age 17. This provision is a modified version of a proposal Senator KERREY of Nebraska and I first discussed in the 104th Congress. The inclusion of Kidsave reflects forward thinking and, according to a recent New York Times editorial, "a clever way to convert a pro-consumption tax cut * * * into a pro-savings tax cut." I congratulate Senators KERREY and BREAUX and their colleagues from both sides of the aisle on the Finance Committee for their work on this proposal.

The key word here is pro-savings. At a time when one of our greatest challenges is how to create economic opportunity and wealth for the working families of this country, I believe Kidsave helps us meet that challenge in an affordable, responsible way. If there is going to be a tax credit to help families with children, I believe there is no better way to provide that help than to offer parents the opportunity to ensure a sound financial future for their children.

One additional advantage of Kidsave should be noted, although it is harder to quantify at this time. This is the effect of encouraging Americans to save. The ethic of thriftiness seems to have been lost in recent decades, replaced by a credit card mentality. We would compound our problems if we pass such bad habits on to future generations. Kidsave can help us turn the tide of indebtedness into a groundswell of savings and can transform our whole attitude toward money and how to use it to best advantage. That will yield incalculable dividends for our nation down the road.

Kidsave will help our economy today by creating a pool of savings available for investment. As you know, savings and investment rates in the United States are at historic lows: our household savings rate is 4.6 percent of disposable income, compared to Japan's 14.8 percent and Germany's 12.3 percent. Under the provisions of the bill, parents will have the option of depositing $500 into an IRA-like account for children from birth to age 13, and be required to direct $500 into an IRA from age 13 to 16. This money will serve as an education fund for individual children, as well as a long-term retirement account; it will also provide investment capital for our economy. Most importantly, unlike any other proposal that has come before, Kidsave gives our children a tangible, financial head start on the rest of their lives.

CAPITAL GAINS

I am also encouraged that the drafters of the Revenue Reconciliation Act of 1997 decided to include broad-based capital gains cuts and targeted cuts directed toward small businesses. The bill calls for reducing the top rate from 28 percent to 20 percent for the highest earners and down to 10 percent for more modest household incomes. This decision too reflects a forward-looking perspective on our economy. I was pleased to cosponsor similar legislation with Senator HATCH earlier this year.

In today's global economy, small businesses and start-ups must rely on investors willing to take a risk on their venture. And in today's financial markets, investors are not only the wealthy, but include all working Americans. As a result, the benefits of this capital gains cut will not flow just to people of wealth. Anyone who has stock, who has money invested in a mutual fund, who owns a home, who has a stock option plan at work, has a stake in capital gains tax relief. According to the provisions included in this bill, homeowners will now be able to exempt up to $500,000 in gains from the sale of their principal residence. In addition, $1.5 million in assets of a family business will be exempt from estate taxes. All of this means that millions and millions of middle-class American families stand to benefit from this bill.

Small businesses will also particularly benefit from the provision in this bill. In a country where small businesses comprise a growing percentage of GDP, it is critical that their economic growth is not stifled by limited capital, but encouraged through greater investment. The Revenue Reconciliation Act of 1997 increases the size of an eligible corporation for additional favorable capital gains treatment. It also cleans up some of the implementation problems from the 1993 capital gains legislation for smaller firms which I strongly supported at that time. This means that the thousands of smaller companies and start-ups will attract more investors and capital. This will be especially helpful in the capital intensive high-technology and biotechnology industries where much of the growth in our economy is today.

BROWNFIELDS

I am also pleased to see that there is a tax relief provision for restoring brownfields, abandoned commercial and industrial properties believed to be environmentally contaminated. The Revenue Reconciliation Act will provide clear and consistent rules regarding the Federal tax treatment of certain environmental remediation expenses. This too is an issue that I have supported for some time. In fact, earlier this year, I advocated the restoration of brownfields with Senators ABRAHAM and MOSELEY-BRAUN.

In a perfect world, I would like the clean-up of all brownfield sites to begin tomorrow. However, revenue constraints preclude us from doing so. But we do have to start somewhere and what better place to start than Empowerment Zones and Enterprise Communities, areas that have been designated as economically distressed. These are arguably the areas of this country that are most in need of economic development. And that is precisely what this brownfields tax incentive is designed to do—bring economic development to the places that need it most. If this incentive works in our most economically distressed areas, I hope this Chamber will work to have this incentive cover a broader range of areas in the future.

CONCLUSION

In closing, I would like to encourage my colleagues to vote for the Revenue Reconciliation Act of 1997. It is a fair and sensible bill that is pro economic growth and pro-job creation. At a time when we are facing many economic challenges, this bill helps our companies and workers more effectively compete on the global economic stage. But more importantly, it is a bill that will broaden educational opportunities for our children and promote economic security for their retirement.

Mr. BRYAN. Mr. President, I supported this compromise legislation in the Senate Finance Committee, and I intend to support its passage on the floor as well. While there are many aspects of this legislation which I believe could be improved, I applaud Chairman ROTH for his efforts to produce a bipartisan, consensus bill that the great majority of the members of the committee could support.

One of the areas where I believe the bill does not go far enough in correcting flaws in the House Ways and Means bill, however, relates to the treatment of investment in real estate. Since 1963, so-called real estate depreciation recapture resulting from straight line depreciation has been provided the same tax rate as other forms of capital gains. Under current law, this rate is 28 percent. Under the House Ways and Means bill, however, an unfair differential is created between the general capital gains rate, which is capped under the bill at 20 percent, and the tax rate applied to depreciation recapture, which is set at 26 percent.

Many members of the Senate Finance Committee expressed serious concerns with this inequitable treatment of real estate investment, and significant efforts were made during the committee's consideration of this bill to provide equal treatment for depreciation recapture. Unfortunately, revenue concerns limited our ability to provide the 20-percent rate for depreciation recapture, and, in the end, the committee agreed to lower the rate for depreciation recapture to 24 percent.

While a better result than the House Ways and Means Committee's 26-percent rate, the 24-percent rate in the Senate Finance bill still does not place real estate investments on an equal footing with other types of investment.

I urge the leadership of both the Senate Finance Committee and the House Ways and Means Committee to reconsider this issue, and, during conference, to restore equal treatment for real estate investment. At a minimum, I urge the conference committee to resist any effort to increase the tax rate for depreciation recapture any higher than the 24 percent included in the Senate bill.

Mr. BAUCUS. Mr. President, I rise in support of the tax relief legislation before the Senate.

This is a complex bill. Chairman ROTH has done a superb job in working with a vast range of issues and many different groups of taxpayers to produce a generally good bill. And to explain why, I will start by putting numbers aside and reviewing the broad principles our tax policy should reflect.

First, our tax policy should pay the bills.

Second, it should be simple and predictable.

Third, it should be fair.

Fourth, it should promote growth.

And fifth, it should be as low as possible.

Let's begin with the first. We need to pay the bills. To take Alexander Hamilton's words from *Federalist 30*, government must:

> raise troops, build and equip fleets * * * [and pay] for support of the national civil list; for * * * debts contracted, or that may be contracted; and, in general, for all those matters which will call for disbursements out of the national treasury.

These latter disbursements now include health insurance for seniors and the poor. Social Security checks. Highways, education, veterans benefits, scientific research, clean air, clean water, and more. Essential services the people want and should have.

But we also need to pay for them. And in the past the government hasn't entirely paid for them. In 1992, our budget deficit stood at $290 billion. But in the past five years we've done much better. This year, the deficit will be under $65 billion—a fall of nearly 80 percent.

And this bill will take us the rest of the way. By the year 2002, it will balance the federal budget. It will pay the bills.

Second, it will help make our Tax Code fairer. One very important example is our large cut in the estate and gift tax.

This tax is one of the prime causes of misery for farmers and small businesses today. These businesses hold small Montana towns and rural counties together across the generations. And by imposing very high-tax rates and equating land or asset values with large cash inheritances, the estate and gift tax often force families to sell them when an owner dies.

To cite one particular example, let me quote from a letter I received just last week from a veterinarian who runs a small clinic in Kalispell. He fears that:

> if I grow my business any more my heirs will have to sell it to pay estate taxes.

That fear runs from Kalispell clinics to ranches in the Judith Basin to small businesses in every Montana town. And it extends much further. When small businesses, farms, and ranches leave the family, their entire neighborhoods lose something very special. It is not right, and it is not fair.

And this bill will help us put a stop to it. It will let Montana's family-owned farms and businesses exclude up to $1 million in farm and business assets from the estate tax, allow 20-year installment payments for businesses with majority family ownership, and make other reforms that help make sure that young men and women can keep their family businesses in the family.

Third, with respect to simplicity, this bill will mean a much improved Tax Code in one very important area. That is international taxation.

Today, businesses are international. Agriculture is international. Companies in air services, entertainment, high technology and basic manufacturing are international. They comply with Tax Codes in other countries. They hire people all over the world. They work with suppliers and customers in different countries. And our international tax laws, mostly drafted in the 1970's, don't recognize this.

At that time, trade made up only about 12 percent of the American economy. Today it is over 30 percent and growing all the time. And tax provisions which assume that international businesses are a rarity don't make sense any longer. They often make American companies less competitive, and sometimes even create perverse incentives that push firms to avoid hiring American citizens in foreign operations.

This bill will help bring our Tax Code into the 21st century. Not all the way, but part of the way. It changes the passive foreign investment company provisions to eliminate overlaps with other tax provisions. And it ensures that Foreign Sales Corporation treatment applies to software as well as other copyright works.

But I must say with some regret that on the general principle of simplicity, this bill is not an advance.

Our Tax Code today relies on several dozen different income taxes, payroll taxes, excise taxes, Federal Reserve deposit interest receipts, tariffs and Customs fees, corporate taxes and user fees to make up its $1.5 trillion in revenue.

That is confusing and complicated enough. Then add in the 135 major tax credits, deductions, exemptions, exclusions and deferrals, totaling over $500 billion in tax expenditures last year. And it gets even worse.

And this bill will not improve the situation. In fact, in some respects it will worsen the problem by adding to the diversity of tax provisions. That's a drawback—not serious enough to devalue the bill as a whole—but one we must frankly admit and return to in coming years.

Fourth, the bill will help promote growth.

How can we do that? First, by promoting investment for the future. Helping companies create new technologies, new products and new manufacturing processes. Providing some incentives to start firms and create jobs. And improving our basic infrastructure.

With this legislation, we do all those things.

We extend the research and development tax credit for two and a half years.

We use targeted capital gains tax cuts as an incentive for investment in small businesses—the sector which presents the greatest risks and rewards, and which creates the most new jobs.

And we will directly increase our essential public investment in infrastructure by moving the 4.3 cents per gallon in Federal gas tax revenues from general revenues to the Highway Trust Fund.

And most important of all, we will help educate our children. Give them the chance for college. Help them work with new technologies. Make sure the next generation of Americans has the highest level of skills and education in the world.

With this bill, we create a $20 billion HOPE scholarship. We create a new deduction for interest paid on student loans. Promote life-time learning by making the exclusion for employer-provided educational assistance permanent.

Our legislation is not perfect on education. I believe we can and should go further on college opportunity. But it is much better than the status quo.

And let me make a related point. That is, with this bill we help make sure children are ready to learn. We do this by providing $24 billion in this bill and the accompanying entitlement bill for children's health. Today in Montana, about 27,000 have no health insurance at all. Millions more around the country.

That is a moral scandal and a threat to our future. Today in Montana, a typical health insurance plan for a family of four, with a $500 deductible and a partial dental benefit—costs $5,580 a year. That is simply out of reach for many working families.

And we have put together a package with a lot of money for States to insure more kids. Through Medicaid, through assistance for private insurance, or other options that fit a State's circumstances. This is will make our country stronger and healthier in the future, and it is the right thing to do for our kids today.

Finally, the last principle. Taxes should be low.

And this bill will make taxes lower. Over the next 5 years, it will reduce overall taxes by $85 billion.

Small businesses will get some more capital to help them invest and grow.

Farmers and ranchers will find it easier to pass their land on to their sons and daughters.

Families with young children will have some more money to spend at the movies, or in bookstores, or in contributing to charities.

Parents will find it a bit easier to send the kids to college.

That's a good thing for everyone.

In conclusion, Mr. President, this bill lives up to the principles we should expect of our tax policy.

It will pay the bills and balance the budget.

It will make taxation fairer.

In some ways, although it could be better, it will make taxation simpler.

It will promote growth.

And it will make taxes lower.

On the whole, it is a solid, careful, bipartisan bill. And we should be proud of it. I congratulate the chairman for his work, and I hope this bill will get the Senate's support.

Mr. LEVIN. Mr. President, it is with disappointment that I oppose the reconciliation bill before the Senate today. I supported the budget agreement entered into by the congressional leadership and the President and I supported the budget resolution passed by the Congress last month. Both of them provided the broad parameters for a tax reduction package. I was hopeful at that time that the package of tax reductions worked out by the Finance Committee would be targeted to assist working families, particularly those with children. The package before us, however, is too regressive. It does too little to assist working families with education expenses, and it provides too large a tax break to those who need it least, at the expense of those who need it most. For that reason, I supported the Democratic alternative offered by Senator DASCHLE which would have provided a much larger proportion of its benefits, more than half of the tax cut, to middle-income families, the lowest 60 percent of wage earners. Unfortunately, that substitute for the committee's bill was defeated.

The legislation before us is out of balance. More than 42 percent of the benefits of its tax cut provisions go to the top 10 percent of income earners. By contrast the lowest 60 percent, middle-income families and below, receive less than 14 percent of the benefits. In my view this is not equitable.

The broad based capital gains tax cuts and the reductions in the estate tax largely benefit those among us that need it least. In contrast, I support the education tax cuts which the President has proposed, a $500 per child tax credit adequate to provide tax relief to middle-income families with children, and capital gains relief for homeowners. Also, I believe that, if consistent with deficit reduction goals arriving at a balanced budget, that targeted capital gains relief for long-term investments and an incremental approach to estate tax relief should be used.

Mr. President, I am also deeply concerned that this bill may result in large deficits in the years beyond this decade. In 1981, I opposed the Reagan tax cut because I was convinced that it would lead to huge deficits. We have paid dearly for the debt which resulted from that legislation. Only now, 16 years later, do we finally have a realistic opportunity to balance the budget once again. In 1992, the deficit in the Federal budget was $290 billion which represented 4.7 percent of the gross domestic product. The most recent estimate of the deficit for fiscal year 1997 is $67 billion, approximately eight-tenths of 1 percent of the gross domestic product.

Over the 5 years from 1993 to 1998, the deficit has been reduced by about $1 trillion from the deficit for those 5 years projected at the time. This remarkable progress has come about in large part as a result of the deficit reduction package which President Clinton presented in 1993, and which this Senate passed, without a single Republican vote, by a margin of one vote, the Vice President's. We should not now, by passing a tax bill like the one before us, head back down the road toward a new large future deficits. That is why, I supported the Dorgan amendment to sunset elements of the tax cut, if deficit reduction targets were not being met, and that is another important reason I cannot support this bill.

I know that the Senate is about to pass this bill. I hope that the conferees, the House and Senate leadership, and the President will engage in future negotiations which will result in a final product which is more equitable, which does more to invest in our children through their education, and which does not risk large deficits in the years after the turn of the century.

Mr. KERRY. Mr. President, if one looks back in our Nation's history, one cannot help but see numerous examples of both the great strengths and weaknesses of representative democratic government. Compared to other nations and societies in the world, it is more difficult for us to hide or camouflage our mistakes to a considerable degree. If we look closely, we can identify indicators for which we in public service should be watchful, lest we repeat our errors.

I fear we are repeating errors we have made in the past as the Senate passes the Revenue Reconciliation Act of 1997, and the intimately related budget reconciliation bill that passed earlier this week.

For all of us who are politicians and who hold or seek elective office, it is often difficult, Mr. President, to resist the temptation to play to the gallery—to do the popular thing. And there are few things that get political juices flowing more readily than cutting taxes. If one looks only skin deep, a tax cut of almost any kind looks appealing. After all, those who benefit will be pleased to accept the benefit. And a tax cut does not directly take anything away from others.

As is not infrequently the case, however, an honest analysis must look beyond that kind of "quick-and-dirty" first appearance. Tax policy has two dramatic effects on the Nation and its people. It inescapably is the determinant of the resources the Federal Government will have to meet national needs, ranging from defending our national security to preserving the environment to ensuring health care is available to those who need it to managing our national parks and forests to deterring criminal acts and identifying, pursuing, arresting, convicting, and incarcerating those who commit crimes against society.

Mr. President, when the Senate took up the package of two bills produced by the Senate Finance Committee to implement the so-called budget deal that had been negotiated by the White House and the congressional leadership, again and again I was brought back to two stark conclusions.

First, I was terribly disappointed that, once again, the Congress seemed to lose sight of the original objective. We started out on this budget track with the objective of putting in place a fiscal plan that would take us to a balanced budget in 5 years. We knew that, in order to do that, we would have to obtain economies in many important Government services and programs on which Americans in all walks of life depend. Incongruously, somewhere along the way, the urge to take the easy way to political popularity took over, and the effort to develop the budget deal and then the legislation to implement the budget deal was consumed by the passion of making huge tax cuts. At a time when we have agreed that the route to a balanced budget is so painful that we cannot accomplish that objective in less than 5 years, those who developed the plan and the legislation insisted that we cut taxes by $135 billion in gross and $85 billion in net over that period.

Mr. President, a student will not even be out of elementary school mathematics before he or she has the capacity to know that tax cuts of that magnitude represent movement in precisely the opposite direction to the goal of obtaining a balanced budget while not hurting our nation's ability to meet its national needs.

I want to emphasize immediately that I am not categorically opposed to tax reductions. To the contrary, I favor targeted tax cuts of reasonable dimensions designed not just to slash federal revenues but to achieve purposes that are in the Nation's interest. I was a leader in Democratic efforts here on the Senate floor to pass a tax reduction package—a much fairer package than the one presented to the Senate by the Finance Committee and a package that identified clear national interest objectives and devoted its resources to meeting those objectives. I will have more to say about that in a moment.

Second, I was terribly disappointed when I examined the specifics of the budget proposals to see the extent to which its benefits were skewed to those in the highest income brackets. The past several years have been extremely kind to the well-off in our Nation. Those who already possessed a disproportionate share of capability, capital, and opportunity have prospered mightily. Those who crafted this budget package provided the greatest share of its benefits to this privileged portion of our population. Those at the other end of the economic spectrum—those who struggle the hardest to make ends meet, and for whom life is far more of a challenge—would receive virtually nothing, or nothing at all, of its benefits. The word "unfair" is not sufficiently stark to adequately describe the overall effect of this package.

For those of us who, over time, have made the hard judicious, moderate, measured choices to bring the Federal budget into balance, there is tremendous disappointment in this outcome. When this budget process began this year, I enthusiastically wanted to participate in the process and support its outcome. I have long called for our political structure to demonstrate the fiscal discipline to balance the Federal budget, and have insisted that we do so in a way that is fair, and in a way that recognizes the Nation's fundamental needs and does not emasculate our Government's ability to address them. I and many others have worked arduously to break the spiraling deficits which plagued our Nation for a decade and to provide a solid economic foundation for our Nation as we move into the 21st century.

We made a very important installment payment toward this goal in 1993, when Democrats in the Congress, with the leadership of President Clinton—and without a single Republican vote in either House—passed legislation that dramatically cut the deficit and put us in striking range of where we find ourselves today. I have long waited for the day when the benefits of our hard work would be as obvious as they are today. In the four years since that action in 1993, we have witnessed prosperity unprecedented in recent years. In five years, we cut the deficit from $290 billion to $67 billion. Interest rates are subdued. We are seeing the lowest unemployment and inflation rates and the largest drop in poverty rates in a generation. Consumer confidence has shown the greatest improvement since the Eisenhower administation and the value of the stock market has doubled since 1993—the fastest growth since the Second World War.

By enactment of the 1993 budget legislation, Democrats proved that it is possible to take a fiscally responsible course toward a balanced budget and extend health care to children, provide broader educational opportunities, ensure the future for our senior citizens, and safeguard our environment. This certainly is not a picture which is without its problems, and we must address those problems. But the overall picture is a very appealing one, indeed.

Even the possibility of the legislation before us now—a conceptually balanced budget with tax breaks—is testament to the application of Democratic ideals to fiscal policy. We have been successful because, since the Great Depression, our party has stuck by the fundamental belief that sound economic and social policy go hand-in-glove, that our Nation is stronger when all Americans have equivalent economic opportunity. Thomas Jefferson taught us that ours is a nation of the common man and enshrined this belief in one of our most treasured documents when he wrote of the self-evident truth that all men are created equal. Andrew Jackson echoed this creed when he restated the party's commitment to the "humble members of our society—the farmers, mechanics and laborers." That commitment, that core set of beliefs, is, in fact, Mr. President, the essence of the American dream and the foundation of what has become the greatest contribution this Nation has provided to the world's social economic history—the growth of a vibrant middle class.

Universal economic opportunity, sound fiscal policy based on equitable distribution of benefits and assistance to those most in need—those are the fundamentals of Democratic economic policy. That is the goal of the program we put in place in 1993, and that is the end to which our fiscal policies are directed. Franklin Roosevelt reminded us of our commitment to expanding opportunity when he said: "the spirit of opportunity is the kind of spirit that has led us as a nation—not as a small group but as a nation—to meet very great problems."

Mr. President, as Democrats, we believe that deficit reduction is a means to an end. We believe that tax breaks are a means to an end. But, unlike the Republicans, we do not subscribe to the callow notion that deficit reduction is an economic policy in and of itself or that tax breaks are an end which justify any means. We do not believe that cutting vital programs is a courageous or visionary act. We believe that courage lies in advancing economic opportunity: this requires wisdom, innovation, and conscience. It is chilling that this dichotomy of political and economic philosophy remains as obviously demarcated today as it was 100 years ago. Yesterday I re-read the cogent description by William Jennings Bryan of the two opposing ideas of government. He separated the parties into those who "legislate to make the well-to-do prosperous and wait for their prosperity to leak through on those below, or those who legislate to make the masses prosperous and ensuring that their prosperity will find its way up through every class which rests upon them."

Mr. President, as a U.S. Senator, I have an obligation to the constituents who elected me to represent their interests, to act on their behalf and to present their views to this body. I cannot turn away from the long history which has shaped my core sense of fairness, my overarching insistence on making Government work for the common good and the needs of my constituents—all in order to satisfy the parameters of a political deal. Mr. President, for that reason, I voted against the tax portion of the reconciliation bill as I voted against the spending portion.

The problem, when distilled to its essence, Mr. President, is that this legislation, which has been called by some the Tax Fairness Act, would be better called the Tax Unfairness Act.

Mr. President, I have great admiration for the work of the Senator from Delaware, Senator ROTH, who chairs the Finance Committee and my friend from New York, Senator MOYNIHAN, who serves as that committee's ranking member. They produced a tax bill that is improved considerably from the gravely flawed piece of legislation passed by the House of Representatives. But, Mr. President, without additional improvements I cannot support it or its companion spending programs reconciliation bill.

During the course of debate this week, we attempted to shape the legislation so it would address more of the problems of more Americans, and thereby become a fairer piece of legislation, but time and again we were rebuffed by the Republican majority.

Some of my colleagues, who share many of my concerns about the bill and my judgment that, in its current form, it neither is fair nor will in the long run prove beneficial to our Nation, chose today to vote for the tax bill, hoping devoutly that with the President's active involvement in the conference committee that will convene to resolve differences between the Senate-passed bill and the bill the House passed earlier, a better, fairer bill will emerge and will come back to the Senate for its approval. But I believe that the product before us today is so flawed in such critical respects that I could not vote for it in its current form. I join my colleagues who hope for it to be improved in conference committee. I want to be able to vote for a bill that provides tax reductions that will benefit Americans fairly, and will not concentrate its benefits on those who least need them while totally excluding those hard-working, tax-paying Americans who most need the additional assistance.

The Democratic alternative to the Finance Committee's bill which I joined the Democratic leader and other Democratic Senators in offering yesterday was designed so that our education tax breaks, our capital gains and estate tax reductions and our child credit corrected the basic inequity found in the Finance Committee proposal: the flow of benefits chiefly to the wealthiest Americans.

In the committee's package, nearly 43 percent of the breaks go to the wealthiest 10 percent of Americans—those who earn more than $120,000. In its plan, Mr. President, 60 percent of hard-working poor and middle class Americans get only 12.7 percent of the tax breaks, while the richest 1 percent of Americans get 13 percent of the benefits. Mr. President, in the Finance Committee proposal, the poorest 60 percent get only as much in aggregate as the richest 1 percent. This is a new standard of unfairness. This is anathema to the party of Jefferson and Jackson and Truman and Roosevelt.

During the course of the debate, I heard some of my colleagues on the other side of the aisle justify this counterintuitive distribution by arguing that since the rich make the most money, the rich will necessarily benefit the most from a tax cut. But this skewed distribution is not necessary. In our alternative, Democrats showed that it is indeed possible to craft a tax package which is targeted to those who need help and not lavish more on the rich. We designed tax breaks which are affordable and which meet a commonsense and economic test of basic fairness.

In the Democratic alternative, the poorest 60 percent of Americans would have received 46 percent of the tax cuts. These are the same Americans who receive only 13 percent of the breaks in the Finance Committee's plan. In the Finance Committee proposal, middle class Americans—those earning between $30,000 and $85,000—receive a scant 30 percent of the benefits. Under our plan, these middle class Americans would have done twice as well: 57 percent of the benefits in our plan go to hard-working, middle class Americans.

The Democratic alternative would have helped those who actually need a tax break to raise a child, to go to college, to start a business, to generate high-wage 21st century jobs and to grow our economy. Our alternative was based on principles which have guided our party for two centuries, and followed the basic economic philosophy which has served our Nation so well since 1993.

Another feature of the Finance Committee's plan troubles me immensely, and I believe it should trouble all Americans. According to the computations of the Joint Tax Committee and other reputable projections, the cost of the tax cut explodes in future years—it is a fiscal timebomb. In the first 5 years, the cost of these inequitable cuts is $85 billion. I believe we can afford a cut of that size and have stated so publicly—if it is carefully structured, usefully targeted to need and social benefit, and fairly distributed. But, Mr. President, in the second 5 years of the Finance Committee's plan, the cost of these cuts will escalate to $250 billion. And, in the 10 years after that—when baby boomers will be retiring and straining Medicare and Social Security coffers—the cost will be between $650 to $700 billion. That is exactly the type of fiscal irresponsibility we avoided in our alternative.

I was not here in 1981 when the Congress passed a large tax reduction bill, Mr. President. But the entire time I have served here—since 1984—the Congress has struggled to deal with the history-making deficits and resulting all-time-high national debt that resulted from that irresponsible tax cut. I cannot support legislation that, even if of a lesser magnitude as this bill surely is, will have an out-years explosive effect that will saddle Americans in future years, and their elected representatives, with a recurrence of the deficit and debt problems that have beset us for nearly two decades. Most destructively, this explosion will occur just as the baby boomers are reaching retirement age and beginning to place an unprecedented demand on retirement and medical programs and other governmental services. It is a looming problem universally acknowledged. Yet instead of doing everything in our power to reduce its severity and to take gradual steps to resolve it, we are considering and passing legislation that will dramatically increase its dimensions, narrow the range of solutions, and complicate the task of addressing it. That is not leadership, Mr. President. That is folly.

In the Democratic alternative tax proposal, we attempted to reduce the capital gains taxes in a measured way. In the past, broad capital gains tax cuts have been used to spur economic growth when the economy was lagging. In the past, across-the-board capital gains cuts have been used to encourage the movement of capital into investment that would create jobs because unemployment was high. In the past, broad capital gains tax cuts have served as a shot of adrenaline for an ailing economic system. But today, such emergency measures are neither needed nor appropriate.

Mr. President, as a question of fundamental economics, there is no justification for broad capital gains tax cuts at this time. There is no need to expend precious budget resources to reward the wealthiest American families for the sale of art work or Persian rugs or luxury goods they have held for a generation.

Again, Mr. President, I am not saying that we cannot afford a capital gains tax cut. For years, I have believed that a targeted tax break can shape economic policy and can display economic vision. But, I ask, what is the benefit to our economy if a wealthy American only has to pay 20 percent instead of 28 percent on the gains he accrues from selling his yacht? Where is the economic vision in that kind of a Tax Code change?

Mr. President, there are ways to aim a capital gains tax cut—targeted, sensible ways—to use taxation of capital to leverage growth and job creation in those areas. That is a tax policy with vision, with a goal, with an economic priority. The economic priority, Mr. President, is not an across-the-board capital gains cut such as the one presented by the Finance Committee.

The priority is a targeted tax cut in areas which could use the added economic stimulus, such as emerging small businesses, or start-up companies, or parts of the inner cities and rural areas which could use the jobs. That is what we Democrats included in our tax proposal. And that is a policy which I have fought for—along with the senior Senator from Arkansas, Senator BUMPERS and other Senators—for nearly a decade. Mr. President, our plan would have improved on a provision we passed in 1993 by allowing a 50-percent exclusion for capital gains on qualified small business stock held for at least 5 years. Qualified small businesses under this proposal would be defined as having $100 million in assets and would be start-up, small, high-technology ventures.

Our plan would have cost $10 billion—it did not break the budget in the future like the capital gains provision in the Finance Committee plan. Mr. President, more than 90 percent of the cost of the Republican capital gains plan comes after 2002. To use computer terminology, Mr. President, this is a latent virus—it will emerge full blown in later years to exact a terrible toll on those who at that point will have the responsbility for delivering essential services to Americans while operating a balanced Federal budget.

Mr. President, while the Finance Committee plan does a great deal to help wealthy Americans in its capital gains and estate tax cuts, it does not extend the same broad-based cuts to help hard-working middle class families raising children. Our alternative would have done more for precisely those families who can use the help the most. And those are the families—young families with young children—who will be doing the most for our country in the future.

Today, Mr. President, I attempted to correct this basic inequity by offering an amendment which would have improved the bill by transforming the child tax credit so that it would be refundable against payroll taxes paid by all working families. Most Americans pay more in payroll taxes than income taxes. Income taxes have remained stable for most Americans in the past 10 years while payroll taxes have increased 17 percent. Allowing Americans to offset the credit against these payroll taxes would have broadened its application to many additional American families—hard-working families at the lower end of the economic spectrum. This is in distinct contrast with the Finance Committee plan under which nearly 40 percent of America's children are excluded from the tax credit. Those 40 percent are the children of the poorest families in the Nation.

The judgment I reached on Wednesday about the reconciliation bill that applies to mandatory spending programs was similar and related, Mr. President. It is painfully apparent that we must take prudent, fair steps to restrain the growth of some of our so-called entitlement programs so that they do not rage out of control and threaten our ability not only to meet the needs they are designed to meet but the host of other critical national needs to which discretionary programs are addressed. But the objective was lost in the stampede to provide a huge tax cut to upper-income Americans. The spending programs reconciliation bill cut far more deeply into critical programs like Medicare and Medicaid than was required to achieve necessary savings. And for what purpose? To provide the cushion enabling Republicans to increase the size of the tax cut to the wealthy by scores of billions of dollars.

The worst part of this spending bill is the increase in the Medicare eligibility age from 65 to 67. This will cause the number of uninsured older Americans to increase substantially, moving the United States even further away from the goal of universal health coverage. For many seniors age 65 to 67, this will make purchasing private health insurance unaffordable—especially those who have pre-existing conditions. Private policies cost seniors approximately $6,000 a year, and more than $10,000 if they have any pre-existing conditions—if they are able to get insurance coverage at all.

Mr. President, raising the eligibility age is bad policy because most seniors do not have access to employer-provided private health insurance now and the problem is getting worse: according to a recent Commonwealth Fund study, the number of retirees with health insurance from a previous employer decreased from 44 percent in 1988 to 30 percent in 1994.

Although some argue that this increase in the eligibility age is similar to the increase in the age for Social Security eligibility that is being phased in, Social Security still provides early retirement benefits at age 62. Medicare, on the other hand, will not provide an option for health care coverage for early retirees, many of whom have not retired voluntarily. Finally, businesses correctly oppose this provision because they realize the huge cost it will impose upon them. Eighty major corporations and the National Association of Manufacturers recently wrote to the Senate to ask it not to raise the eligibility age.

I am also opposed to the $5 home health visit co-payment which was not part of the balanced budget agreement with the President. This co-payment will primarily hurt elderly women who need this help the most: over half of the group who would no longer be able to afford home health services are women age 75 and older who have incomes below $15,000. I am also concerned that increasing the cost of home health visits is not cost-effective because many poor seniors will be forced into institutions at much greater public cost than continuing to stay at home.

I also oppose the Medical Savings Accounts [MSAs] provisions in the bill. Although the number of MSA enrollees would be limited to 100,000, there is no reason to test MSAs beyond the study begun in the Kassebaum-Kennedy bill. We are spending $1.5 billion through that bill and at the very least we should wait to see the results from that study before we authorize more demonstrations.

I am also deeply concerned about the cuts in the Medicaid Program which is the bedrock health program for children, disabled people, and poor seniors. The spending bill would cut $13.6 billion from the program, the bulk of which comes from cutting payments to hospitals that treat a large number of uninsured patients. These payments, called Disproportionate Share Hospital [DSH] payments, are essential to many hospitals across this country that provide health care to our poorest citizens. Although it may be necessary to more effectively target these funds, this funding has enabled hospitals to continue their role as an institutional safety net for those with no other access to health care.

Mr. President, there unquestionably are some sound provisions in these two bills. There are provisions I strongly support. But my job as the Senator elected by the people of Massachusetts is to examine the overall effects of the legislation the Senate considers and to determine if, on balance, it serves the interests of the Commonwealth and its citizens, and the people across our United States and their interests.

I would like to support a budget package that will reach balance in 2002 since I have long advocated such a step. I would like to support a bill that achieves economies in mandatory spending programs to put us on a pathway toward balance. I would like to support a tax bill that targets tax reductions to Americans who need them and that will help create jobs and extend our current situation of economic strength. I still hold out hope that I will be able to do so when these bills return from conference committee.

But, sadly, they did not pass that test as they came before the Senate for final passage, and I was constrained to vote against them.

CAPITAL GAINS

Mr. GRAHAM. Mr. President, this tax legislation, as passed by the Senate Finance Committee, goes a long way toward assisting our Nation's families. For example, reducing the capital gains tax rate from 28 percent to 20 percent will stimulate savings and investment. This increased investment will, in turn, foster economic growth.

In particular, I would like to draw your attention to a provision that will have considerable impact on our Nation's families: the capital gains exclusion for homeowners who sell their primary residence. Under current law, capital gains from the sale of principal residences is subject to taxation, with two limited exceptions. First, under the rollover provision, taxpayers can rollover gains from the sale of a principal residence into a new residence. They can then defer any capital gains tax—but only if the purchase price of the new home exceeds the adjusted sales price of the old one. And to restrict this even more, the new residence must be purchased within 2 years of the sale of the first home.

A second exemption ties the capital gains tax to age. At age 55, a taxpayer can exclude up to $125,000 of any accumulated gain from the sale of a principal residence. And this is a one-time-only opportunity. Worse yet, even this is restricted. To qualify for the exclusion, the taxpayer must have owned the residence and used it as a principal residence for at least 3 years during the five years before the sale. Also, a taxpayer is eligible for the exclusion only if neither the taxpayer nor the taxpayer's spouse has previously benefitted from the exclusion.

Unfortunately, the very provisions which are supposed to relieve homeowners from taxation often prevent them from making the soundest financial decisions. Under current law, to avoid being taxed, most people wait until they are eligible for the one-time exclusion, or they make what may be imprudent decisions regarding the sale of their homes.

For example, many families, after their children have moved out, would like to sell their home and buy a less expensive one. However, the rollover provision means that they will have to pay taxes on the difference between the profit gained on the sale of their old home and the cost of their new home. As a result, these families often choose to buy more expensive homes or not to sell their home at all. Mr. President, that is not right. People should be able to move when and where they want to, not when the tax code makes it financially possible.

Under the legislation passed by the Finance Committee, taxpayers of any age could exclude gain on the sale of a principal residence of up to $500,000 for married couples filing a joint return, and up to $250,000 for single taxpayers. To be eligible, the taxpayer must have owned and used the home as the principal residence for at least two of the last 5 years prior to the sale. The exclusion will generally be available once every 2 years.

This legislation will give our Nation's families more freedom in deciding where to live. This decision can be based on family circumstances rather than on the Tax Code. The bill would also relieve nearly all families of the burdensome record-keeping requirements and constraints on decision making under current law. The impact on our Nation's families will be tremendous, and I look forward to the enactment of this legislation.

This bill will significantly impact our Nation's families. It will promote investment and boost long-term economic growth. And a healthy economy translates to increased opportunities for American families to secure their future. Our Nation's taxpayers work hard to provide for their families. This legislation is a chance for us to lend them a helping hand in that task.

I thank the Chair.

Mr. BYRD. Mr. President, the halls of the Capitol have been filled recently with cheers and rejoicings for the balanced-budget agreement reached between President Clinton and the Congressional leadership in May of this year. We have been told time and time again that balancing the budget is crucial to the future of our Nation and that enacting this budget agreement will eliminate the Federal deficit. Well, Mr. President, I find it interesting that the reconciliation legislation before the Senate today has nothing to do with balancing the budget. Rather, S. 949, the Revenue Reconciliation Act of 1997, will bring us farther away from our collective goal of balancing the budget by reducing revenues some $76 billion below what they would otherwise be over the next five years.

Mr. President, the Senate has already approved legislation this week to balance the Federal budget. On Wednesday, June 25, the Senate approved S. 947, the Balanced Budget Reconciliation Act of 1997. Despite its deficiencies, that legislation provides for some $127 billion in deficit reduction over the next five years. These savings, coupled with the $96 billion in discretionary savings provided in the Budget Resolution, will likely produce a balanced budget in the next five years. While I had intended to support passage of the first reconciliation bill, I became deeply concerned about a provision in the bill emanating from the Finance Committee that would raise the eligibility age for Medicare from sixty-five to sixty-seven years. As reported, the bill already included a provision to create a National Bipartisan Commission on the Future of Medicare to study ways to preserve and protect the Medicare program for future generations. If the bill thus created a commission to study and propose recommendations to protect Medicare in the future, why was the aforementioned increase in the eligibility age included in this bill? Is that not why we are creating the commission in the first place? Mr. President, the important and controversial issue of raising the eligibility age for Medicare beneficiaries should be decided by a national debate—not in the opaque cloaking of a reconciliation bill. Thus, because of my deep concerns about this provision on both substantive and procedural grounds—and my general frustration with the haste and confusion with which the Senate was considering the overall measure—I decided not to support passage of the first reconciliation bill. However, let me affirm that my vote against this measure in no way reflects any unwillingness on my part to pass spending cuts to balance the budget.

Mr. President, let me now turn back to the pending matter, the Revenue Reconciliation Act of 1997. All Senators should be aware that, on the heels of approving a deficit-reduction plan to balance the budget, we are about to approve subsequent legislation to weaken—and possibly undermine—that very balanced-budget plan. I have not kept secret my fervent opposition to this foolish idea of cutting taxes while simultaneously trying to balance the budget. Doing so is simply so illogical that a third-grade student, with just a pencil, paper, and a modest knowledge of the fundamentals of mathematics, would be sufficiently equipped to reach the same conclusion that tax cuts and deficit reduction do not mix. I am confident that such a student would choose, like this Senator chooses, not to include such tax cuts in a plan to balance the budget.

Mr. President, as I stated in my remarks on the Budget Resolution approved last month, by including these tax cuts in this balanced-budget plan, we are with one hand digging deeper the very hole our other hand is trying so hard to fill. We should not rely on such ambidexterity to balance the budget. We should shelve all tax cuts until after we firmly erase the budget deficits that have so plagued our nation in recent years. Tax cuts were, after all, the primary culprit for the rapid escalation in the federal budget deficit in the 1980's. It is all too easy to enact tax cuts and save the pain for later. We have done it before, and the lessons learned from that exercise should instruct us not to do it again.

Mr. President, traditionally, one of the most powerful arguments in favor of tax cuts has been that they spur economic growth. I do recognize that properly constructed tax cuts can produce some positive economic results in certain circumstances. However, no matter how strongly one believes that tax cuts stimulate economic growth—and there are some in this body who unequivocally adhere to the supply-side dogma—there can be no sound argument made now that tax cuts are necessary to boost the economy at this time. We are currently in our sixth consecutive year of economic growth, the stock market continues to reach record high after record high, unemployment has just dipped below five percent, and inflation has remained in check. Mr. President, such a performance hardly bolsters the case that tax relief is necessary to inject new life into our economy.

If anything, Mr. President, our current economic situation should reinforce the notion that reducing the deficit is more conducive to economic growth than cutting taxes. To illustrate this point, let me remind all Senators what actions have led to four straight years of declining deficits and to one of the healthiest American economies in the last thirty years. According to the Congressional Budget Office, the FY 1997 budget deficit will be approximately $67 billion, or less than one percent of Gross Domestic Product (GDP). Just five years ago, we were facing a budget deficit of $290 billion, or about 4.7 percent of GDP. This considerable improvement in the fiscal order of our nation did not occur by accident. Rather, it can be traced directly to the passage in 1993 of the Omnibus Budget and Reconciliation Act (OBRA-93) by the 103rd Congress and its subsequent signing by President Clinton. That legislation combined responsible spending cuts and revenue increases to begin the painful—but necessary—process of eliminating the deficit. There can be no doubt of the success of OBRA-93 in bringing down the deficit and stimulating economic growth. OBRA-93 achieved such positive economic results not by cutting taxes, but rather by convincing financial markets that we were serious about reducing the deficit. These markets drove interest rates downward and consequently rewarded American taxpayers with lower interest payments on the federal debt, as well as lower interest payments for the purchase of a home, car, or an education.

Mr. President, even if I were convinced that we must cut taxes before balancing the budget, I would also hope that any such proposal would not explode revenue losses in the long term. Unfortunately, S. 949 is flawed when judged by this standard. As reported, this legislation includes a significant backloading of many of its tax cuts to mask their true cost. As such, while the bill purports to reduce taxes by no more than $85 billion over the next five years, I suspect that these tax cuts will cost considerably more in the out years than we are being led to believe. The Joint Committee on Taxation's estimates reveal that the annual cost of these tax cuts would more than double between the years 2002 and 2007—thus reducing federal revenues at the same time our nation is preparing to face the rising entitlement costs that will stem from the retirement of the so-called "Baby Boomers." I defy anyone to explain to me the flawed logic inherent in this proposal.

Finally, Mr. President, let me explain my views on the Democratic alternative amendment that was offered by the distinguished Minority Leader. In looking at the Senator's proposal, I saw that he had made a considerable effort to ensure that these tax cuts are more fairly distributed and that the cuts do not explode in the long term. For this improvement, I applaud Senator DASCHLE and the other Members who have worked on this proposal, which is, in this Senator's opinion, an improvement over the pending legislation. However, I was unable to support his amendment to this legislation because it also provided for tax cuts prior to balancing the budget—a notion that I cannot philosophically accept. I hope that my vote against this proposal is not misconstrued as anything else but a determined, unyielding opposition to tax cuts at this time.

In conclusion, Mr. President, despite my unequivocal opposition to this pending reconciliation bill, I would like to commend the members of the majority and minority leadership, and the Budget and Finance Committees, who have been able to bridge the gap between the White House and both parties in Congress to forge the budget compromise that we have considered this week. I know how difficult such compromise can be to reach, and, more importantly, to sustain. Nevertheless, I would much prefer not to have seen these tax cuts being debated at this time on the Senate floor. Such a debate is akin to arguing with your mother on whether or not you can eat dessert before finishing your broccoli. We may all want to eat the sweet and leave the vegetable, but we should know better—and our mothers would surely remind us so. I fear that the Senate will come to regret the action it takes on this legislation, though only the passage of time can be the final arbiter in this debate.

Mr. President, I yield the floor.

Mr. LOTT. Mr. President, the vote we're about to take will be one of the most important any of us will ever cast.

The decision before us is as important as our families and as large as the American future.

If this is not an historic moment, then it is as close to it as most of us will ever come.

Several weeks ago, when we first reached the broad outlines of an agreement with the President, I called it a victory, not for a party or a person, but for the American people.

We can reaffirm that today. We listened to the American people. We knew what they wanted us to do.

And somehow, by the grace of God and the endurance of PETE DOMENICI and BILL ROTH, we did it.

We set out to lower the tax burden on the American people. We did so. In this bill, more than 75 percent of the tax breaks go to people with incomes under $75,000.

We set out to make the Tax Code family-friendly. We did so. After far too many years of talking about a tax credit for children, we're finally approving one. In addition, we're making it easier for families to save for the costs of education.

On top of that, we're expanding the availability of IRA's to virtually all homemakers in the country. And we're easing the death tax on family farms and businesses.

This bill rides in tandem with the Balanced Budget Act the Senate passed 2 days ago.

That marks a turning point in the way Congress deals with the entitlement programs that have driven our country to the depths of indebtedness.

Even more important, it fulfills our commitment to strengthen and preserve Medicare, not only for today's beneficiaries but for those who will depend on that program in the years ahead.

Taken together, what the Senate and House have done this week gives the American people the assurance of something they have not had in three decades: a long-term balanced budget.

That, of course, is more than an end in itself. It is the surest way to touch off a dynamic economic expansion that will make the first years of the new century an opportunity decade.

What we have done this week, and what we do today, is more than an exercise in bookkeeping. It is a commitment of the heart to an America where every willing worker can find a good job, where industry and thrift are rewarded, and where every family can aspire to a better life.

And yet, this is not a perfect bill. I wish we could have reduced taxes more, just as I wanted to reduce spending more in the Balanced Budget Act.

But we had to craft both pieces of legislation through compromise and consensus. If the American people understood everything we were up against these last few weeks, they would be amazed that we were able to do for them as much as we did.

This is not the end of the story. We have one hurdle left, and that is the highest of them all.

After passing this bill, we will go to conference with the House. I will do all I can to make that conference quick and productive.

Our hurdle—our challenge—will be to preserve the historic work of the Senate and the House in the face of opposition, and perhaps veto threats, from the administration.

On behalf of our entire Republican leadership, and all Senators who will be our conferees, I want to give this pledge to the American people:

We will go the extra mile to advance this legislation that is so vital to you. We will do our utmost to work out disagreements with the President.

But by the same token, we will not agree to any settlement that denies your tax cuts or turns them into the kind of tax fiddling that does nothing to advance opportunity and job creation.

So as we prepare the conference report on these two bills, we will listen in good faith to anyone who speaks in good faith.

We will share credit, take blame, and let others have the spotlight. But we are not going to yield on matters of principle.

With that in mind, Mr. President, I urge the passage of the Taxpayers Relief Act as the Senate's Independence Day salute to the taxpayers of America.

BYRD RULE LIST

Mr. DOMENICI. Mr. President, pursuant to section 313(b)(1)(C) of the Congressional Budget Act, I submit a list on behalf of the Committee on the Budget of the extraneous material in S. 949, the Revenue Reconciliation Act of 1997, as reported.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

FINANCE—REVENUES

Provision	Comments/Violation
Senate	
Sec. 702	Establishment of Intercity Passenger Rail Fund. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 704	Deposit general revenue portion of highway motor fuels taxes into highway trust fund. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 706	Require study of feasibility of moving collection point for distilled spirits excise tax. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 708	Codify BATF regulations on wine labeling. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 731	Delay penalties for failure to make payments through EFTPS until after 6/30/98. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 769	Combined employment tax reporting five-year demonstration project for Montana. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 772	Safety net for marginal oil and gas production when crude oil reference price is below $14. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 777	Modification to eligibility criteria for designation of future enterprise zones in Alaska or Hawaii. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Following provisions are from the Simplification section of S. 949	
Sec. 1023	Due date for furnishing information to partners of large partnerships. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 1025	Treatment of partnership items of individual retirement accounts. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 1083	Repeal of authority to disclose whether prospective juror has been audited. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 1084	Clarification of statute of limitations. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 1109	Adjustments for certain gifts made within three years of decedent's death. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 1113	Authority to waive requirement of United States trustee for qualified domestic trusts. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 1212	Authority to cancel or credit export bonds without submission of records. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 1213	Repeal of required maintenance of records on premises of distilled spirits plant. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 1215	Repeal of requirement for wholesale dealers in liquor to post sign. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 1217	Use of additional ameliorating material in certain wines. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 1220	Authority to allow drawback on exported beer without submission of records. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 1231	Authority for IRS to grant exemptions from excise tax registration requirements. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 1232	Repeal of expired provisions. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 1244	Repeal of expired provisions. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 1252	Redetermination of interest pursuant to motion. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 1305	Elimination of paperwork burdens on plans. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 1307	New technologies in retirement plans. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.

Mr. LOTT. Mr. President, the next vote will be final passage. It will be the last vote of the week before the Senate adjourns today. I will file cloture on the motion on the DOD authorization bill. That cloture vote will occur on Tuesday, July 8, at 2:15. That will be the next vote. Senators that have amendments to submit are urged to do so by Monday, July 7.

Once again, I want to thank all the Senators for their cooperation. I think this has been a historic week. I appreciate the leadership from the chairman of the committee and the ranking member. Thank you all very much.

Mr. ROTH. Third reading.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. ROTH. I ask unanimous consent that the Senate proceed to the House companion bill, H.R. 2014, and all after the enacting clause be stricken, the text of the Senate amendment be inserted, which includes amendment 449 which was inadvertently dropped, the bill be advanced to third reading, and the Senate proceed to passage of H.R. 2014, as amended.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROTH. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Shall the bill pass?

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Hawaii [Mr. INOUYE] and the Senator from South Carolina [Mr. HOLLINGS] are necessarily absent.

I further announce that, if present and voting, the Senator from Hawaii [Mr. INOUYE] would vote "aye."

I further announce that, if present and voting, the Senator from South Carolina [Mr. HOLLINGS] would vote "no."

The result was announced—yeas 80, nays 18, as follows:

[Rollcall Vote No. 160 Leg.]

YEAS—80

Abraham
Akaka
Allard
Ashcroft
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bryan
Burns
Campbell
Chafee
Cleland
Coats
Cochran
Collins
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Domenici
Dorgan
Enzi
Feinstein
Frist
Gorton
Graham
Grassley
Gregg
Hagel
Hatch
Hutchinson
Hutchison
Inhofe
Jeffords
Johnson
Kempthorne
Kerrey
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Reid
Roberts
Rockefeller
Roth
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Torricelli
Warner
Wyden

NAYS—18

Bumpers
Byrd
Durbin
Faircloth
Feingold
Ford
Glenn
Gramm
Grams
Harkin
Helms
Kennedy
Kerry
Levin
Reed
Robb
Sarbanes
Wellstone

NOT VOTING—2

Hollings
Inouye

The bill (H.R. 2014), as amended, was passed, as follows:

[H.R. 2014, as amended and passed, can be found at the end of the Senate proceedings for today.]

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote.

Mr. ROTH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

ORDER FOR MORNING BUSINESS

Mr. LOTT. Mr. President, I ask unanimous consent that following the wrap-up of the chairman and ranking member, there be a period for the transaction of morning business with Senators permitted to speak therein for up to 5 minutes each. I know there are some Senators here wishing to speak. I don't know if the Senators have any wrap-up that they need to do from the Finance Committee. But once that is done, we can continue on to the 5-minute order for morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROTH. Mr. President, I would like to express my sincere gratitude to my colleagues and good friends who have been instrumental to the successful culmination of this important budget reconciliation process. I am gratified by the results. I think we have indeed made history. We have passed a reconciliation package that balances the budget, while offering American families their first real tax cut in 16 years.

I am happy to say that we have done it in a bipartisan way. It never could have happened, in my humble judgment, without the good will, cooperation, and intelligence of the many Members who have contributed to this important piece of legislation.

In the process, Mr. President, we have made significant progress in our ongoing efforts to preserve and strengthen the Medicare Program, a program of critical importance to our senior citizens, and to give State governments greater voice and authority in the administration of Medicaid. We have increased the ability of families and individuals to save their money, to become more self-reliant, and to invest in the future of America. We have passed significant proposals to help our youth and their families with their education. And we have saved who knows how many family small businesses and farms from extinction wrought by death taxes.

We can go home during this Independent Day recess with our heads held high. We have done what our constituents sent us here to do. As I said, we have accomplished these important objectives in a bipartisan spirit.

Mr. President, the Senate's success of the last few days would not have been possible without the leadership and example of my distinguished colleague and close friend, Senator MOYNIHAN. He is a scholar, a statesman and—perhaps, most important—a gentleman and trusted friend.

I appreciate the other Members of the Senate Finance Committee. It was interesting to watch the process as the cooperative spirit on that committee worked to refine and build rather than denigrate and destroy. The cream indeed rose to the top through our days, weeks, even months of hearings, conferences, meetings, and debates. I am proud of every member and, if time permitted, I would give specific examples of how each one of them rose to the challenge that has resulted in the success we produced today.

Mr. President, I would like to thank, again, the many professional staff members whose work and expertise made this possible. No one appreciates these men and women more than those of us who watch their tireless efforts and depend on their support. Our gratitude to them as individuals, and for their work, is perhaps best demonstrated by the incredible trust we place in their judgment and by the way we depend on their advice and support.

Particularly, Mr. President, among our professional staff, I would like to thank: Lindy Paull, Frank Polk, Mark Prater, Rosemary Becchi, Doug Fisher, Brig Gulya, Sam Olchyk, Tom Roesser, Joan Woodward, Ashley Miller, Mark Patterson, Nick Giordano, Patricia McClanahan, Maury Passman, Bill Fant, David Podoff, and also Ken Kies and his capable staff at Joint Tax.

These men and women, along with the leadership of the members on the Finance Committee, share in the tremendous success, a success for which I give them my most sincere thanks and a success, Mr. President, that will bless the lives of all Americans.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, it is characteristic of our revered chairman that he would spend this precious moment at the end of a triumphant legislative process thanking others. It is the part of him that brings us together and brought us together to an extraordinary 80 to 18 vote. I would presume to speak for every member of the committee, and certainly for the Democratic members who have been unanimous on both of these measures in committee, and on the floor today, in expressing our profound appreciation to him, our profound admiration, and our conviction that we will now go on to a successful conference and write some history in our Nation this year.

We shall have a balanced budget. We shall have a health care program for adults and children. And not least, we have had in fact 77 votes in favor of a successful and permanent Amtrak program in this country, a matter of particular concern to him, but both attributable to him. And I thank him.

Again, I thank the Chair, and I yield the floor.

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

● Mr. HOLLINGS. Mr. President, I rise today in opposition of S. 949, the Revenue Reconciliation Act of 1997. I was necessarily absent and unable to vote on the final passage of the bill, but I would like my statement to be recorded in the RECORD.

There has been a great deal of congratulations about how this is the first major tax cut since the Kemp-Roth tax cuts in 1981. I would like to remind everyone of the consequences of that particular measure. Since 1981, our deficits have exploded, growing to as high as $403 billion. Our national debt has soared from under $1 trillion in 1980 to $5.4 trillion this year. The interest costs on this debt have skyrocketed during that period from $74.8 billion to $360 billion, representing spending of $1 billion a day. This money does not go to purchase any new bridges, roads, airports, or any other public good. Instead, it is wasted on servicing this debt. These interest payments, in essence, represent a mammoth tax on the American people which will continue to rise until we can get our fiscal house in order.

Since 1993, we have made substantial progress toward reducing our deficit. Despite the opposition of every Republican in the Senate, we passed a tough deficit reduction bill which included unpopular tax increases and spending cuts. The results have been clear. Our deficit has fallen for 5 years in a row, unemployment is at a 24-year low, inflation is minimal, interest rates are down, 12.1 million new jobs have been created, and business investment is at a post-war high. Yet, instead of building on this progress, we have chosen to abandon ship and engage in the political temptation of tax cuts.

Mr. President, our Nation is experiencing a period of prosperity, partially because we were courageous enough to make the right choice in 1993 and begin to reduce our deficit. We should stay on this course until we truly balance our books. Instead, this year's budget deal engages in the same old trickery of back-loaded tax cuts, borrowed trust funds, and unrealistic economic assumptions. Rather than doing what is right for the American people, we have chosen to do what is right to get us past the next election. I fear, however, that the results of this measure will be felt long after then. ●

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, the Speaker will now be in a period for morning business.

The Senator from Maine.

THE TAXPAYER RELIEF ACT OF 1997

Ms. COLLINS. Mr. President, I rise today to commend the members of the Senate Finance Committee, ably led by chairman ROTH and ranking member MOYNIHAN, for their willingness to work in a bipartisan fashion to bring meaningful and much-needed tax relief to the American people.

The Taxpayer Relief Act of 1997 is extremely important legislation. While it makes many significant changes, I want to focus my remarks on the provisions that will provide long-overdue estate tax relief for family-owned businesses and farms and on those that will help lower- and moderate-income families put their children through college.

The first bill I sponsored as a U.S. Senator was targeted death tax relief for family-owned businesses and farms. This was no accident, for I firmly believe that small, family-owned enterprises hold the key to our economic future. It is these family businesses that will create two-thirds of all new jobs for the people of the United States in the 21st century.

Regrettably, our current tax code penalizes family-owned businesses by making it difficult, if not impossible in some cases, for families to pass the business down from generation to generation. In fact, fewer than one-third of all family-owned businesses survive the transition from the first generation to the second.

Our tax policy should produce the very opposite result, and I am gratified that a strong, bipartisan majority of the Senate Finance Committee recognized this problem and supported action to put us on the right track. Specifically, S. 949 establishes a $1 million exemption from Federal estate taxes for closely-held family businesses, thereby making it easier for parents to pass their business along to their children. My estate tax relief bill, S. 482, contained the very same provision, and I commend the Finance Committee for including it in their legislation which we just passed.

The Finance Committee's proposal will help to make real the dreams of those Americans who work long hours to build a business so they can turn it over to their children. It will help individuals like the potato bag manufacturer in northern Maine who would expand his business and hire more new employees were it not for the money he has to invest in estate planning and insurance. And it will help the small businesswoman in Portland, ME, who wishes to leave her restaurant to her son and avoid the problem she faced when her father died and the family had to sell 24 of their 25 restaurants to pay the estate tax bill.

Mr. President, by preserving family-owned enterprises, we not only strengthen American businesses, we also strengthen American families.

Mr. President, I also want to commend the Finance Committee for including several very important provisions that will help lower- and middle-income families finance college educations for their children. Many of the provisions are similar to those in my legislation, the College Access and Affordability Act of 1997.

For the last 30 years, the Federal Government has helped make post-secondary education available to millions of high school students, thereby giving them a chance to fulfill their potential to the greatest extent possible. The primary vehicles for this invaluable Federal assistance to lower-income and middle-income families have been the Pell grant and student loan programs, both of which I wholeheartedly support.

But our student aid programs have had the unintended consequence of punishing those families who struggle to save for their children's education and then become ineligible for Federal assistance because of their savings. To its credit, the Finance Committee recognized that with the greatly increased cost of a college education, these families also are deserving of help, and it took several important steps in that direction.

First, the bill that we just passed also establishes education investment accounts to help families save for their children's college education. Under this plan, families can contribute up to $2,000 a year to a special savings account and not have to pay taxes on the account's earnings if they use the money for qualified educational expanses, such as room, board, and tuition. Along similar lines, the Finance Committee approved a proposal that allows families who have created Individual Retirement Accounts [IRA's] to withdraw funds for post-secondary and graduate education without penalty.

Second, the Committee's bill allows annual dedications of up to $2,500 for interest paid on student loans. This will help to soften the financial burden on students like the young woman in my State who recently graduated from college with $18,000 in debt and who returned to her home town in rural Maine where high-paying jobs are simply not available.

Finally, the Committee adopted a permanent extension of the section 127 program, which allows employees who receive up to $5,250 in employer-provided tuition assistance to exclude this assistance from their taxable income. We live in times of rapid change when workers may often need new skills to remain employable, and the section 127 program can be the key to making this possible.

Taken together, these proposals represent a major step forward in our efforts to help lower-income and middle-income families finance higher education for themselves and their children. These changes will benefit not only our students but also our Nation, for a better educated population will be better able to compete in our global economy. By making education more affordable for all, we also reaffirm that America is the country of opportunity, where success is there for all who are willing to work for it.

Mr. President, let me conclude my remarks with the observation that S. 949 is notable not only for what it provides but also for how it was produced. Led by their Chair, the members of the Taxation Committee put aside partisan concerns and crafted a bill which can command widespread support both in Congress and in the country. Despite the rhetoric of those bent on sowing the seeds of division, the legislation benefits all Americans, as reflected in the fact that a family of four earning $30,000 will receive a 53 percent tax cut under the plan.

Mr. President, the people of my State want results and not rhetoric, cooperation and not confrontation. The Family Tax Relief Act of 1997 shows what we can accomplish when we honor the wishes of those who sent us here.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

TAX CUTS FOR COLLEGE EDUCATION

Mr. BUMPERS. Mr. President, let me say first of all that in the Senate in 1981 there were only 11 votes cast against the proposal to cut taxes and increase defense spending to balance the budget—11 Senators. President Reagan's popularity was unbelievable, and there was a herd instinct that swept across this body. It was absolutely unstoppable. And in 1994 when we were going to balance the budget the deficit was up to $200 billion.

I hate to say this. But, in my opinion, Mr. President, 18 people who voted "no" today will be more than justly and aptly vindicated when the year 2002 rolls around and we will not have a balanced budget or anything even close to it.

I am chagrined and dismayed that today we are looking at a $67 billion deficit on October 1, and next year, by our own admission and our own actions, the deficit will go to $94 billion—almost $30 billion higher than it is in 1997. To me that is shameful and unforgivable.

The American people have demanded a balanced budget as long as anybody can remember, and today we just forsook the opportunity to meet that nonnegotiable demand of the American people which they have laid on us for years.

Mr. President, I forsook offering an amendment that I felt very strongly about this afternoon. I did it to accommodate our own majority leader who had a plane to catch, and there were a lot of other Senators. I had no disillusions about whether my amendment would pass or not. But I wanted to debate it for 1 minute, and I am perhaps better off taking 5 minutes now to say to whoever may be watching and the Members of this body, ask yourself this question. It goes right to the heart of my amendment.

Do you think the Nation is better off providing a $135 billion tax cut, over 50 percent of which goes to the wealthiest 5 percent of the people in America? Do you think we are better off doing that, or do you think we would be better off providing a college education for the 5 million youngsters whom the New York Times says over the next few years will be excluded from a college education because of skyrocketing costs?

I speak from experience. I spent 3 years in the Marine Corps in World War II. I came home where there was a compassionate, caring, understanding Government which provided the GI bill to my brother and me. I wouldn't be standing on the floor of the Senate today as a U.S. Senator if it had not been for that help from the U.S. Government. Some people think the Government has no obligation to help anybody.

What I am saying is if I had my first choice it would be to put the $135 billion in savings on the deficit, and balance the budget by the year 2000, and no later than 2001. But if we are not going to do that, if we are going to take the $115 billion we cut out of Medicare and spend it on something, I say spend it on college education for youngsters who cannot go to college otherwise.

Mr. President, the greatness of this country has occurred when Members of the U.S. Senate and the House of Representatives had strong convictions about what we need to do as a matter of social, educational, and cultural policy—the GI bill, for example. It takes a giant leap of faith to believe that we can do this—educate every youngster in the country with a college degree.

We found that the average cost of an education in a State-supported university is $7,000 a year. So we simply increased the Pell grant to $7,000. The income criteria would remain as it is now. If you were wealthy or partially wealthy, you wouldn't get the full $7,000. But if you had an income of below a certain amount, you would get the $7,000. We left the two tax provisions that are in this bill that we just passed intact.

Mr. President, I want you to look at this chart so that you can see what I am talking about and where we are headed.

Here are the percentages of people in certain income categories. This is the highest level of income in the country—86 percent of those people go to college. In the next quintile down here, 60 percent, a little less than 60 percent, in 1983 and today, almost 68 percent of those kids go to college. And you get down here in the low-income, and look what happens. It started up—down and up. And now it is down again. If you look at the New York Times article of this past week, you will see that this figure is going to head down.

Mr. President, I am not going to take up a lot of time to say something that everybody knows that we ought to be doing. But I do want to say this. Mr. President, the high school graduates in this country in the past 20 years have lost 18 percent more of their income. When you hear people say the income gap in this country is widening, there it is. High school students lost 18 percent in the last 20 years. Dropouts have lost 25 percent. And, if it continues at the present rate, by the year 2015 high school students will have lost 38 percent of their income because they didn't go to college.

If you want to live in a civilized society, it is this simple. If you want to live in a civilized society, one that is relatively drug free and crime free, if you want to live in a society and in a technological age, we don't have any choice about it. This has to come.

It is one of those things that we need to debate and debate now, and we need to do it. We need to make sure that no child in this country is denied a college education anymore than today we would deny somebody a high school education.

So I forsook offering that amendment even though my staff and I had spent untold hours gathering statistics and information.

I want to conclude as I opened a moment ago. Once again, I ask my brethren in the U.S. Senate and the people of America to ask yourself this one question: Do you think we are better off spending this $135 billion on a tax cut which goes to me, upper-income people, and $12 a year to the stiff out there making $15,000 a year—$12 a year for him? The guy making $15,000 a year gets $12 a year out of this tax bill.

The guy making over $200,000 a year gets $3,500 to $3,700. It is ironic; it does not mean anything to either one of them. To the man making $15,000, $12 does not mean anything in his life; to a man making $200,000, $3,000, or $3,500 does not mean much either. That is what we are doing instead of meeting our obligation. Ask yourself which is more important, that tax cut or educating the children of this country so we can live in a civilized society.

I thank the Chair.

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Montana.

INCOME AVERAGING

Mr. BURNS. Mr. President, I will not take long. There are some folks I would like to extend my appreciation to. In the Senate today, when we passed the income averaging for our farmers and ranchers in Montana, we fulfilled a commitment that we made to those farmers and ranchers when we passed Freedom to Farm. We are in a transition; subsidies are going away, and now we are providing a vehicle, a tool with which we can maybe ride out the good years and prepare for the bad years without too much trouble.

I express my appreciation to the chairman and the ranking member of the Finance Committee for their help, also the efforts made by Senator ROBERTS of Kansas and Senator BUMPERS of Arkansas, Senator CONRAD of North Dakota and Senator BOND of Missouri and Senator HAGEL of Nebraska and my friend and colleague, Senator BAUCUS from Montana.

Without help from those Senators on this issue, I am afraid we would not have been as successful as we were in justifying and trying to pass income averaging. It is very important. Who is it important to? It is important to the young farmers and ranchers just starting. We know they will have good years and we know they will have bad years right behind them due to the elements of Mother Nature, to prices of commodities raised on our farms and ranches. This allows a way to hang on and spread that income out and survive in agriculture. After all, we produce the best food, the most of it, the cheapest of any country in the world. So this is a winner for all of America, not just American agriculture.

I thank you and I yield the floor.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Connecticut.

CHRISTOPHER F. PATTEN, GOVERNOR OF HONG KONG

Mr. DODD. Mr. President, I rise this afternoon to say a thank you on behalf of myself and I feel a thank you as well on behalf of my 99 colleagues to his Excellency, Christopher F. Patten, the outgoing Governor of Hong Kong. Governor Patten has the particular distinction of being the last of 28 British Governors to preside over Hong Kong before this territory reverts back to the People's Republic of China on July 1—in just a few days.

Chris Patten, as those of us in this body have come to know him over the years, is a truly remarkable individual. He has been a superb administrator and an inspiration to the people who he has sought to govern in Hong Kong.

During his 5 years there, Chris Patten has watched the economy flourish under his stewardship. It grew by more than 30 percent in real terms over that period—a truly impressive performance. He has presided over a capable and honest civil service. Crime has fallen. The political situation has been stable and further democratized.

These are all important achievements, but, in my view, the most important legacy of the Patten administration is that it leaves behind the seeds of democracy firmly planted in the minds and hearts of the people of Hong Kong.

Thanks to Governor Patten and the people of Hong Kong, they were able to experience democracy firsthand by electing members of their local legislature, thereby making good on the British commitment to put in place a solidly based democratic administration.

Sadly, Mr. President, the Chinese have already made the decision to dismantle the elected legislature and to replace it with an appointed council, hand-picked by Beijing. That may work for the moment. In time we will know whether the "provisional legislature" installed by Beijing is only a temporary setback to democracy or the first step down a very dark, dark road, indeed. I hope it is not the latter.

Hopefully, Beijing will come to appreciate that it is virtually impossible to totally destroy democratic aspirations. As Governor Patten recently so eloquently put it, "You can dismantle institutions but you can't dismantle benchmarks. People now know what a fair election is like, and they will surely know what an unfair election is like if one takes place."

Many political leaders leave office, Mr. President, less than popular with those that they have governed, some deservedly so and others unfairly so, because they have had to make hard choices that only history will record kindly.

Not in the case of Chris Patten, in my view. Although few have had to make tougher decisions than he has, he leaves Hong Kong enormously popular, with 79 percent of the people of Hong Kong viewing him as having done a very good job, indeed.

On Monday, June 30, Governor Patten and his wife, Lavender, and his daughters, Kate, Laura, and Alice, will depart Hong Kong. I am confident that the people of that place will hold Chris Patten in their hearts for years and years to come. As one who considers him a personal friend, I would like to add my personal congratulations and thanks to him for all that he has endeavored to do, and I know that his many, many friends here in this body and the other and across this country, and particularly in Hong Kong, will not forget the challenges he has placed before the Government of the People's Republic of China.

(The remarks of Mr. DODD pertaining to the introduction of S. 983 and Senate Joint Resolution 34 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DODD. Mr. President, I thank the indulgence of my colleagues, Senator BYRD of West Virginia, Senator GRAHAM of Florida, and Senator BAUCUS of Montana, for their time here this afternoon. I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the distinguished Senator from West Virginia.

Mr. BYRD. Mr. President, I note two other Senators on the floor who will be seeking recognition. May I ask, does either of them have to catch a plane?

Mr. BAUCUS. Yes.

Mr. BYRD. How soon?

Mr. BAUCUS. Tomorrow.

Mr. BYRD. I have to go somewhere tomorrow, too. I thought if the Senator wanted to catch a plane today, I would take my chair again.

Mr. BAUCUS. Thank you.

Mr. BYRD. Mr. President, I ask unanimous consent that I may use as much time as I may consume. I can assure my colleagues it will not be long, but I do not want to be interrupted in the midst of this speech.

The PRESIDING OFFICER. Without objection, it is so ordered.

CELEBRATING THE 4TH OF JULY

Mr. BYRD. Mr. President, last week I was proud to celebrate West Virginia Day, marking the 134th anniversary of the birth of my great State. Born in the midst of a terrible war, the mountain State still bears witness to that difficult four years of struggle, from Harper's Ferry to battle sites across her hills and farmlands. But she also still stands fast, and holds onto the traces of earlier history in her sturdy log barns and cabins and the winding rows of moss-covered stones bounding fields and cemeteries. Crumbling now, these long stone walls are losing their battles to the honeysuckle vines and the frosty upheavals of the centuries, but they remind us still of our forebears who settled this rugged and beautiful country and who bequeathed to us a legacy both tangible and intangible. For just as these early settlers left us these stacked stones, they also left us an even greater gift, a gift no one else on Earth has ever truly shared—our American freedom and the remarkable form of government that keeps Americans free.

Next Friday, on the Fourth of July, we in the United States will celebrate the declaration of our freedom and the announcement of our intent to form a new government, not bound by happenstance of birth or caste, but one that gives each man an equal opportunity to rise above the circumstances of his own beginning and to make of his life whatever his ability and ambition would allow. The government that was painstakingly crafted in the years following this turning point in history combines the best of many forms of government, while avoiding their excesses. I never cease to wonder at our great and lasting fortune in having been blessed with a collection of Founding Fathers who were able to blend so many differing viewpoints and draft a Constitution that is so well thought out, and so finely balanced, that it has survived over the last two centuries with remarkably little change—remarkably little change. It demonstrates an ability to cooperate that has been in rather short supply around here in recent years.

The drafting of the American Constitution was the work of many minds. The Declaration of Independence, though conceived by a committee of five, was penned by a single versatile, very remarkable man. The group formed for this work was comprised of notables including John Adams, Benjamin Franklin, Roger Sherman, Thomas Jefferson, and Robert Livingston—whose namesake graces our Government today with his presence in the other body, Representative and chairman of the Committee on Appropriations in the House of Representatives, BOB LIVINGSTON. These were brave men to undertake what was then an act of treason against the British monarch, King George III. They decided unanimously to select Thomas Jefferson for the delicate job of putting into words the message they wanted to send to George III, and to the world. And of all the powerful and lyrical speeches that have ever been captured on the page, surely the grace, courage, and idealism of the Declaration of Independence ranks high. Thomas Jefferson's legacy to this Nation is a rich one, including the nucleus of our Library of Congress formed from his own collection after the destruction of the War of 1812, his contributions to the Continental Congress, and his service as President. But the soaring majesty of his words—beginning with "When in the course of human events * * *"—would stand alone as a monument to the man. Even as he lay dying at his mountaintop home in Monticello in 1826, Jefferson struggled to last until the fourth of July before succumbing to the call of the angels. John Adams, who died that same day—what a coincidence, what a coincidence—50 years after the Declaration of Independence was adopted, observed with his last breath that the young Nation was safe, because "Jefferson still lives." He did not know that his friend had already died a few hours earlier.

The birth of our Nation, like the birth of my beloved State of West Virginia, was marked by conflict ignited by the Declaration of Independence, and the fireworks that we will watch next Friday serve as a vivid reminder of the price of our freedom. But many of us will watch those fireworks amid gatherings of friends and family, and the sting of battle will be but a distant memory. In West Virginia, the Fourth of July is marked in traditional ways, with parades and large family reunions, gatherings of kin from around the State and around the country. In cities like Weirton and Ripley, high school bands and volunteer firemen will step out smartly behind banners carried by majorettes in sequins that glint in the bright afternoon Sun. Local politicians and beauty queens will decorate the open tops of mirror-polished convertibles. And families will cheer as the Stars and Stripes goes past, carried proudly by an Eagle Scout. The very sight of Old Glory stirs the pride in even the most jaded or unpatriotic among us, when it is surrounded by such homespun and heartfelt pageantry.

After the parades, long tables will be laid under the old trees shading the yard—it may be a churchyard; There may be a cemetery nearby. Many hands will share in the labor of cooking, and the fragrance of meat grilling will blend with the sweet aroma of homemade pies and cakes. Children with watermelon juice dripping down their chins will run past grandparents in lawn chairs, waving their sparklers at the darkening sky as the dogs bark and give chase. When finally the fireflies give way to the stars, fathers will set up the roman candles, fountains, and noisemakers in a spectacular reprise of the "rocket's red glare, the bombs bursting in air," penned by Francis Scott Key as he witnessed the battle over Fort McHenry.

And after the glories of the Fourth of July, after the sleepy children are put to bed and the dishes are washed, the gathered kinfolk will scatter like the fallen rocks of the old stone wall, back to their homes, to be gathered again for next year's reunion. The strength of their families goes with them, and the love and pride they have in their union and their country will be renewed. There is no better nation on Earth, no nation more blessed, than this one. So, for this happy Fourth, I wish my fellow Senators Godspeed as they go to their many homes throughout the several States of the Union. I wish them all a safe journey in their weekend travels. I also wish God's blessings to all Americans traveling or residing abroad, who will gather at U.S. Embassies to celebrate with their fellow Americans on the Fourth of July in reunions of strangers that are still, intangibly, our kin as citizens. So with God's blessings on everyone, everyone who is a part of the U.S. Senate, everyone who is part of the family of the Senate, we will come together again after we have celebrated the invisible yet lasting legacy of the men who gave us the Fourth of July. Henry Van Dyke captured this deep seated pride and kinship we all feel for our country, and never more so than on this holiday, in his poem, "America for Me:"

'Tis fine to see the Old World, and travel up and down
Among the famous palaces and cities of renown,
To admire the crumbly castles and the statues of the kings,—
But now I think I've had enough of antiquated things.

So it's home again, and home again, America for me!
My heart is turning home again, and there I long to be,
In the land of youth and freedom beyond the ocean bars,
Where the air is full of sunlight and the flag is full of stars.

Oh, London is a man's town, there's power in the air;
And Paris is a woman's town, with flowers in her hair;
And it's sweet to dream in Venice, and it's great to study Rome
But when it comes to living there is just no place like home.

I like the German fir-woods, in green battalions drilled;
I like the gardens of Versailles with flashing fountains filled;
But, oh, to take your hand, my dear, and ramble for a day
In friendly West Virginia hills where Nature has her way!

I know that Europe's wonderful, yet something seems to lack:
The Past is too much with her, and the people looking back.
But the glory of the Present is to make the Future free,
We love our land for what she is and what she is to be.

Oh, it's home again, and home again, America for me!
I want a ship that's westward bound to plough the rolling sea,
To the blessed Land of Room Enough beyond the ocean bars,
Where the air is full of sunlight and the flag is full of stars.

Mr. President, I yield the floor.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Florida.

Mr. GRAHAM. Mr. President, it is intimidating to speak after such poetic eloquence. One of the joys of serving in the U.S. Senate is to be part of a permanent class with Senator BYRD. Some students have left for their homes and Fourth of July activities and some of us were able to share in his just concluded statements on behalf of his wonderful State. I thank the Senator.

Mr. BYRD. Mr. President, I thank my honorable friend, the senior Senator from Florida, for his overly gracious and very charitable and kind remarks, and I hope that he and his lovely wife will have a joyous Fourth of July and a safe journey to the great State of Florida and back to Washington when the holiday week is done.

Mr. GRAHAM. I wish the same for Senator BYRD and his family.

(The remarks of Mr. GRAHAM pertaining to the introduction of S. 984 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. GRAHAM. Thank you, Mr. President.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Montana.

TOBACCO PENALTY DEDUCTIBILITY

Mr. BAUCUS. Mr. President, earlier today, Senator HARKIN introduced legislation dealing with the recent agreement between States and the U.S. tobacco industry. Senator HARKIN's provision says simply that the payments from tobacco companies to States should not be tax deductible.

I applaud this effort, and I want to speak for a few moments on the subject and how we might proceed from here.

Last week, a number of State attorneys general reached an agreement with several American tobacco companies. The agreement will compensate the States for their Medicaid spending on people who suffer from smoking-related illnesses, like lung cancer and emphysema, with $368 billion in payments over the next 30 years. It is also supposed to include measures to protect the public health and provide tobacco companies with protections against future losses.

Congress must soon be asked to pass a law implementing this agreement. Because the agreement is very large and very ambitious, we will need a lot of time and study and consultation before we can reach a final judgment. But let me start with a basic principle.

I think we all would agree that a fair negotiated agreement is much better than litigation. But the key word is "fair." The agreement must be fair to States as they pay Medicaid expenses, fair to the Federal Government as it pays for Medicaid and Medicare, fair to kids, fair to the public, and fair to the taxpayers.

Initially, my reaction to the first point is that we should give the attorneys general a lot of deference on fairness to States. After all, they negotiated the agreement. With respect to the Federal contributions to Medicare and Medicaid, though, I am concerned that the agreement may not be fair. On public health, it seems they have come to some very good provisions on advertising, but perhaps weaker provisions on regulation of nicotine.

All this will take some more study. But I see one thing right away which seems to me grossly unfair to taxpayers. That is, under the terms of this agreement, tobacco companies will apparently be able to deduct their compensation payment from their tax bill as ordinary and necessary business expenses.

Thus, the tobacco companies could deduct $368 billion from their taxable income and reduce their tax payments by about $123 billion, assuming we maintain a corporate tax rate of about 33 percent during the course of this agreement. In effect, this would reduce the tobacco companies' payment by $123 billion and force the taxpayers to pick it up instead. That is a full third of the compensation payment to States.

I believe that is wrong. I believe it is unfair. The basis of this whole agreement is the idea that tobacco companies bear some responsibility for the illnesses caused by tobacco and nicotine and should help pick up the tab.

I agree with that. I also feel strongly that ordinary taxpayers are not responsible for the illnesses caused by tobacco, and they should not have to put up $123 billion to pay for the treatment.

Is there a solution to the problem? Yes, there probably is. We should look into the issue, and I believe that the Senate Finance Committee should hold hearings on the tax implications of this settlement.

But already it seems clear that these payments are not necessary business expenses. They are, rather, belated compensation for the health effects of tobacco. I do not think they should be tax deductible. I will explore every means, including legislation if necessary, to make sure this agreement is fair to taxpayers.

REFORM OF THE ENDANGERED SPECIES ACT AND CONSERVATION EASEMENTS

Mr. BAUCUS. Mr. President, on another matter, I wish to inform the Senate that we in the Environment and Public Works Committee are working very diligently to come up with a good solid reform of the Endangered Species Act.

In this respect, I say that Senator KEMPTHORNE, the chairman of the relevant subcommittee, is working very hard with Senator REID, the ranking member of the relevant subcommittee, along with myself and Senator CHAFEE to reform the current Endangered Species Act, including many provisions, such as involving the States much more deeply than they are now, making sure there is peer review by scientific communities, and a host of other changes.

But one change I would like to mention at the moment is an idea in the bill introduced by the Senator from Idaho which very simply states that conservation easements that protect habitat for endangered species should be tax deductible.

I raised this issue in the Finance Committee markup a week ago explaining to members of the committee that this was a new idea, a good idea which would give landowners incentives so that they themselves can protect their own land in a way to avoid problems under the act. But I did not push for the amendment in committee because we were not quite ready for the provisions of the amendment and did not have an appropriate way to pay for it which is called for under the Reconciliation Act.

Senator KEMPTHORNE has introduced a statement today basically calling this matter to the attention of the full Senate, and most particularly to the attention of the conferees.

I say to Senator KEMPTHORNE and others that are interested that I will work diligently, in cooperation with the Senator from Idaho, to see if we can find a way to get that provision passed.

Essentially, Mr. President, we will very soon have a bipartisan Endangered Species Act reauthorization reported out of the Environment and Public Works Committee. I think Senators will be happy in the main with the provisions of this agreement. I compliment, again, Senator KEMPTHORNE, Senator REID, and others who are working, on a very bipartisan basis, to reach this result.

Again, I thank my colleagues for their interest in the tax incentive portion of it because I think that is an important, integral part of this solution.

COMPLIMENTING SENATOR ROTH

Mr. BAUCUS. Mr. President, I very much thank again publicly my chairman of the committee, Senator ROTH, who has heard many, many compliments on his leadership of the committee. I have complimented him many times already. Other Senators have complimented him many, many times. But one cannot compliment him too often because he did a terrific job in coming up with a bipartisan bill, as we know, that passed the Senate not too long ago by a vote of 80 to 18—quite an accomplishment.

Mr. ROTH. If the distinguished Senator from Montana would just yield for a comment. You do not have to stop complimenting. As far as I am concerned, I could sit here all day and listen to it.

Mr. BAUCUS. It may be deserved.

Mr. ROTH. You are very kind. I must say, I think we have all had a great experience of working together. I feel very strongly that this spirit of bipartisanship should continue. I know the Senator from Montana is of the same school as I am.

Mr. BAUCUS. Absolutely. Absolutely.

Mr. ROTH. So have a good recess.

Mr. BAUCUS. You too, Mr. Chairman.

APPOINTMENT BY THE SECRETARY OF THE SENATE

The PRESIDING OFFICER. The Chair announces, on behalf of the Secretary of the Senate, pursuant to Public Law 101-509, his appointment of James F. Blumstein, of Tennessee, to the Advisory Committee on the Records of Congress.

ENCRYPTION POLICY REFORM

Mr. LOTT. Mr. President, I rise today to thank the junior Senator from Montana for his leadership on the important issue. Senator BURNS has led a valiant effort to address an area that I believe is in great need of reform. He has championed the cause of allowing citizens to protect their information through readily available strong information security technology. In the 104th Congress, he introduced legislation that set the stage for our reform efforts in this Congress. Again, last week, Senator BURNS offered a compromise version of his original bill before the Commerce Committee, but unfortunately this measure did not pass. I hope that now we can go through a process to bring all parties together, industry and Government, to try to relieve some of the problems created by current law. We did not accomplish everything that I wanted in Committee, but I am confident that there is still time to improve this legislation. I want to congratulate Senator BURNS and others on the committee like Senator ASHCROFT and Senator DORGAN who have taken the time to understand the technology and to attempt to effectively guide us through these difficult issues.

Mr. President, the demand for strong information security will not abate. Individuals, industry, and governments need the best information security technology to protect their information. The Administration's policy and the McCain-Kerrey bill allow export of 56-bit encryption, with key recovery requirements. How secure is 56-bit encryption? That question was answered the day before the Senate Commerce Committee acted. Responding to a challenge, a secret message encoded with 56-bit encryption was decoded in a brute force supercomputing effort known as the "Deschall Effort." The message that was decoded said "Strong cryptography makes the world a safer place."

Now that 56-bit encryption has been cracked by individuals working together over the Internet, information protected by that technology is vulnerable. The need to allow stronger security to protect information is more acute than ever.

Mr. BURNS. Mr. President, I appreciate the comments of the majority leader. I too was opposed to the legislation approved by the committee last week, but know that we still have the opportunity to pass a meaningful bill that will allow American industry to compete with the rest of the world in the global information marketplace. I believe that we can pass a bill that will not compromise our national security or law enforcement interests. As I sat through the markup last week, it occurred to me that we had allowed the issue of encryption to be framed as the issue of child pornography or gambling. I want to be sure that all parties understand that the reform of encryption security standards is not related to these issues.

I have often said that encryption is simply like putting a stamp on an envelope rather than sending a postcard because you don't want others to read your mail. Encryption is simply about people protecting their private information, about companies and governments protecting their information, from medical records to tax returns to intellectual property from unauthorized access. Hackers, espionage agents, and those just wanting to cause mischief must be restrained from access to private information over the Internet.

When used correctly, encryption can enable citizens in remote locations to have access to the same information, the same technology, the same quality of health care, that citizens of our largest cities have. Perhaps most importantly, it is about ensuring that American companies have the tools they need to continue to develop and provide the leading technology in the global marketplace. Without this leadership, our national security and sovereignty will surely be threatened.

Mr. DORGAN. Mr President, I would like to make a few comments to associate myself with the comments of the majority leader and the Senator from Montana. These two gentlemen have demonstrated great leadership on this issue, and I especially admire their dedication to educate our colleagues about this important issue. I believe that at the bottom line, if we allow this critical technology to be stifled in the United States I believe our national interests will be severely undermined. We must do our best to allow U.S. companies to compete in the world marketplace, and do so without in any way undercutting our national security interests.

I believe that the bill that was reported last week out of the Commerce Committee does not achieve those objectives. In fact, I fear that bill may be nothing more than an attempt to ensure that no bill passes in Congress this year. This would be a victory for the administration, which has rigorously resisted changes to their outdated and obsolete policies. I must say that I try to support the administration on many issues, but on this issue, I have found that their arguments and policies simply do not withstand scrutiny.

And, Mr. President, I was an original sponsor of the Burns bill and I worked very hard with the Senator to help shape the consensus position that was rejected by the committee. I would like to take a few moments to set the record straight about the true differences between the McCain-Kerrey bill and the Burns' approach.

The bill that passed the committee certainly represents a victory for those within the administration opposed to any relaxation of export controls in this area. In fact, it may be a perfect bill from their standpoint. It allows them to begin the process of domestic control while actually freezing exports to a weak enough level of encryption technology that was actually decoded by amateurs the very day before. And it is very unclear to me exactly where the McCain-Kerrey reaches a compromise position.

The Burns' bill however, merely allows that we would allow export of 56-bit encryption immediately, but we would establish a process for understanding the level of encryption that is generally available throughout the world. That review process would include panels and advisory boards consisting of government and industry representatives equipped to determine the security strength of particular software that is available in the world market. Our belief was that it was in the national interest for American software companies to maintain leadership in this area. The very notion that we would let foreign companies get a head start on new technology while forcing American companies to come to a government entity to plead for the right to catch up was troubling enough to both Senator BURNS and myself. But, we agreed to this compromise because we thought it represented the appropriate middle ground.

As the majority leader reminded us, we did not accomplish what many of us had hoped that we would while in Committee, but we will continue to work within the process to improve the legislation. I remain committed to encryption reform and will do everything possible to try to educate my colleagues about this issue.

Mr. ASHCROFT. Mr. President, I would like to add my comments on this important issue. For over 2 years, I have participated in Commerce Committee hearings to learn more about on encryption and the technology issues that it encompasses. Last week, I voted for Senator BURNS' substitute and was disappointed when it was not approved by the committee.

I am concerned about the tone of the discussion at last week's markup. It appeared to me that many on the committee are seeking ways to outlaw the Internet. We are all troubled by any type of child pornography or gambling on the Internet. These are not areas where any member of Congress, any software or hardware vendor, or any member of the general public I know, argues for anything less than the strictest legal provisions. These matters are distasteful and wrong, but even if we eliminated the Internet, we would not eliminate these offensive concerns.

As I said during the markup, we all know that cameras are used in child pornography, but we don't talk of outlawing photography. And, we also know that rental vehicles are often used in terrorist activities, but we don't make it illegal to rent a car or truck.

Mr. President, it appears to me that at the most fundamental level, this debate is about the relationship of our citizens to our Government. We all must take steps to insure that the rights of our citizens are not violated. Our citizens should be able to communicate privately, without the Government listening in—that is one of our most basic rights.

We have to be careful to ensure our law enforcement can have just the necessary amount of access and then only in a manner consistent with our Constitution.

I am persuaded that a number of the new provisions in the McCain-Kerrey bill are not necessary.

I believe that many of the provisions will not even succeed at achieving the end they seek. For example, a false choice has been offered indicating that if the U.S. continues to enforce the export policy on encryption that is currently in place, 40 bit and with special permission up to 56-bit, then law enforcement could apprehend terrorists, stop illegal gamblers and arrest pornographers. However, this argument assumes that these criminals cannot find stronger encryption elsewhere than in the United States. As has been shown several times, this assumption is false. Robust encryption is available. Germany, Japan, and the United Kingdom all have companies, such as Siemens, Nippon and Brokat, that have developed and promote 128 bit encryption. Last week even the supporters of the administration's approach, as expressed in the current legislation, admitted that criminals who want the robust encryption can find access and use strong encryption in their current dealings. This issue is a red herring.

Moreover, the administration announced Wednesday that they will allow the export of 128-bit encryption for bank transaction use involving bank software in an apparent admission of the vulnerability of the 56-bit strength. Also, the administration has continued to tell us during the hearings on encryption and in private meetings with the FBI and NSA, that 128-bit use outside the United States would end in terrible consequences, and now 128-bit use outside the United States is being advocated. We should remember that the Burns compromise only wanted to export 128-bit with key recovery for trusted parties. The administration now advocates 128-bit length encryption without any key recovery device, a position that goes beyond the Burn's compromise, which they opposed. My point, Mr. President is that this debate must change. We cannot continue to focus on the key length since these standards become obsolete on a daily basis. We need to focus on allowing trustworthy parties to use robust encryption, not necessarily to sell as encryption but to use in their transactions and in the development of software and hardware.

No nationwide key recovery system, or a new licensing requirement for certificate authorities should be brought to the floor without thorough examination, analysis and understanding. We must further study the impact of these provisions well before this bill is brought to the Senate floor.

Mr. LOTT. Mr. President, I too would like to work with my colleagues to improve the McCain-Kerrey bill before it is brought to the floor. I would like to ask my good friend from Missouri to pay special attention to this bill while it is under consideration by the Judiciary Committee. I know that I can count on him to work hard to improve this important legislation.

Mr. ASHCROFT. Mr President: I want to indicate my willingness to continue to work on this issue. As the majority leader well knows, I am privileged to serve on the Senate Judiciary Committee where we will address this issue after the July recess. I pledge to work with members on that Committee and with other interested Senators and the leader to try to move a bill in that committee that will capture the essence of Burns substitute.

Mr. LOTT. It remains my hope that we can work with Chairman MCCAIN and other members of the Committee to produce a bill that more of us can support. We need to recognize that American industry will have increased difficulty of competing in the international marketplace unless we provide some real reform. It is as if we erected a 30-foot wall between the United States and the rest of the world. The problem is that in today marketplace, American industry only has a 10-foot ladder while their foreign competition has a 35-foot ladder. Foreign firms are able to climb the wall while our American industry faces an insurmountable obstacle. This is both short-sighted and wrong.

If we follow our current path, we will rue the day when we allowed our policies drive world leadership of the important information security business to shift to Germany, Russia, Japan or China. I fully intend to work toward a legislative solution that will help solve the problem while protecting American security interests. We need to create the mechanisms that will allow American companies to have the same sized ladders that the rest of the world can use.

Mr. President, we all appreciate the legitimate law enforcement and national security issues involved in this debate. Our national security and law enforcement agencies need to work with industry to ensure that our interests are protected. I remain convinced that we can do this in a way that insures that our national security and sovereignty remains protected.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Thursday, June 26, 1997, the Federal debt, stood at $5,338,210,524,473.68. (Five trillion, three hundred thirty-eight billion, two hundred ten million, five hundred twenty-four thousand, four hundred seventy-three dollars and sixty-eight cents)

One year ago, June 26, 1996, the Federal debt, stood at $5,118,104,000,000. (Five trillion, one hundred eighteen billion, one hundred four million)

Five years ago, June 26, 1992, the Federal debt, stood at $3,946,126,000,000. (Three trillion, nine hundred forty-six billion, one hundred twenty-six million)

Ten years ago, June 26, 1987, the Federal debt, stood at $2,292,475,000,000. (Two trillion, two hundred ninety-two billion, four hundred seventy-five million)

Twenty-five years ago, June 25, 1972, the Federal debt, stood at $425,367,000,000 (Four hundred twenty-five billion, three hundred sixty-seven million) which reflects a debt increase of nearly $5 trillion—$4,912,843,524,473.68 (Four trillion, nine hundred twelve billion, eight hundred forty-three million, five hundred twenty-four thousand, four hundred seventy-three dollars and sixty-eight cents) during the past 25 years.

WHERE ARE THE WIPO TREATIES

Mr. HATCH. Mr. President, for some time now the Judiciary Committee has been working on issues dealing with copyright protection on the Internet and the copyright rights of performers and sound recordings. The Digital Performance Right in Sound Recordings Act that I introduced was passed in 1995, and my National Information Infrastructure Copyright Protection Act was the subject of two hearings in the last Congress. The NII Copyright Protection Act was superseded by the Clinton administration's effort to deal with many of the same issues in the context of two new treaties, the World Intellectual Property Organization [WIPO] Copyright Treaty and the WIPO Performances and Phonograms Treaty.

These treaties were concluded successfully in Geneva in December 1996. Since then, I have been eagerly awaiting the administration's draft of implementation legislation. To date, I have not received such legislation, and the Foreign Relations Committee has not received the treaties. I know that the administration shares the respect that I have for copyright, and I commend Bruce Lehman, the Commissioner of Patents and Trademarks, for the splendid work that he did on negotiating the treaties, but I am concerned that 6 months have passed without draft legislation for the committee to work on.

Both WIPO treaties were completed in record time, because there was a sense of urgency about the vulnerability of U.S. copyrighted works to massive infringement by means of Internet access and about insufficient international copyright protection for sound recordings. Where is this sense of urgency now? Nothing has changed. Our copyright industries are still threatened.

In 1994, copyright-related industries contributed more than $385 billion to the American economy, or more than 5 percent of the total gross domestic product. This represents more than $50 billion in foreign sales, which exceeds every other leading industry sector except automotive and agriculture in contributions to a favorable trade balance. From 1977 to 1994, these same industries grew at a rate that was twice the rate of growth of the national economy, and the rate of job growth in these industries since 1987 has outpaced that of the overall economy by more than 100 percent.

Yet these same industries lost an estimated $18 to $22 billion to foreign piracy in 1995. The film industry alone estimates that its losses due to counterfeiting were in excess of $2.3 billion for that year, even though full-length motion pictures are not yet available on the Internet. The recording industry estimates its annual piracy losses in excess of $1.2 billion, with seizures of bootleg CDS up some 1,300 percent in 1995. These figures promise to grow exponentially as technology provides for quicker, more perfect digital reproduction, which is exactly why timely ratification of the WIPO treaties is so important.

I urge the administration to complete its work and to send the treaties to the Senate. I would like to get the treaties ratified and implementation legislation passed during this session of Congress. That goal may already be unachievable because of administration delay. I hope not. I'll try my best.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2382. A communication from the General Counsel, Office of the Secretary, Department of Transportation, transmitting, pursuant to law, thirteen rules relative to the establishment of class E airspace (RIN2120-AA66), received on June 26, 1997; to the Committee on Commerce, Science, and Transportation.

EC-2383. A communication from the General Counsel, Office of the Secretary, Department of Transportation, transmitting, pursuant to law, a report of twenty-two rules including a rule relative to safety and security regulations (RIN2115-AA97), received on June 26, 1997; to the Committee on Commerce, Science, and Transportation.

EC-2384. A communication from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, a report of four rules including a rule entitled "Acid Rain Program" received on June 26, 1997; to the Committee on Environment and Public Works.

EC-2385. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of Notice 97-40 received on June 26, 1997; to the Committee on Finance.

EC-2386. A communication from the Assistant General Counsel for Regulations, Department of Education, transmitting, pursuant to law, the report of a rule relative to "The William D. Ford Federal Direct Loan Program" (RIN1840-AC43) received on June 26, 1997; to the Committee on Labor and Human Resources.

EC-2387. A communication from the Assistant General Counsel for Regulations, Department of Education, transmitting, pursuant to law, the report of a rule relative to the notice of final funding priorities for fiscal years 1997-1998; to the Committee on Labor and Human Resources.

EC-2388. A communication from the Assistant General Counsel for Regulations, Department of Education, transmitting, pursuant to law, the report of a rule relative to the Impact Aid Program (RIN1810-AA84) received on June 26, 1997; to the Committee on Labor and Human Resources.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-147. A resolution adopted by Regional School Board relative to Federal funding under the Individuals With Disabilities Education Act; to the Committee on Appropriations.

POM-148. A petition from citizens of the United States relative to missile testing; to the Committee on Armed Services.

POM-149. A resolution adopted by City Council and Mayor of the City of Youngstown, Ohio relative to the national ambient air quality standards; to the Committee on Environment and Public Works.

POM-150. A resolution adopted by the Board of Supervisors of the County of Los Angeles, California relative to the Intermodal Surface Transportation Efficiency Act; to the Committee on Environment and Public Works.

POM-151. A resolution adopted by the City Council of Clarksville, Tennessee relative to the Land Between the Lakes; to the Committee on Environment and Public Works.

POM-152. A resolution adopted by the Association of Tennessee Valley Governments relative to TVA region; to the Committee on Environment and Public Works.

POM-153. A resolution adopted by the Mayor and Council of the Borough of Little Silver, New Jersey relative to the Mud Dump Site; to the Committee on Environment and Public Works.

POM-154. A resolution adopted by the Governing Body of the Township of Millstone, New Jersey relative to the Mud Dump Site; to the Committee on Environment and Public Works.

POM-155. A resolution adopted by the Township Council of Ocean, Monmouth County, New Jersey relative to the Mud Dump Site; to the Committee on Environment and Public Works.

POM-156. A resolution adopted by the Borough Council of Avalon, Cape May County, New Jersey relative to the Mud Dump Site; to the Committee on Environment and Public Works.

POM-157. A resolution adopted by the Governing Body of the Town of Hammonton, New Jersey relative to the Mud Dump Site; to the Committee on Environment and Public Works.

POM-158. A resolution adopted by the Township Committee of Neptune, New Jersey relative to the Mud Dump Site; to the Committee on Environment and Public Works.

POM-159. A resolution adopted by the Governing Body of the City of Margate City, New Jersey relative to the Mud Dump Site; to the Committee on Environment and Public Works.

POM-160. A resolution adopted by the Commissioners of Osborne County, Kansas relative to the English language; to the Committee on Governmental Affairs.

POM-161. A resolution adopted by City Commissioners of Boyne City, Charlevoix County, Michigan relative to the English language; to the Committee on Governmental Affairs.

POM-162. A resolution adopted by Board of Commissioners of Lapeer County, Michigan relative to the English language; to the Committee on Governmental Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. D'AMATO, from the Committee on Banking, Housing, and Urban Affairs, with amendments:

S. 621. A bill to repeal the Public Utility Holding Company Act of 1935, to enact the Public Utility Holding Company Act of 1997, and for other purposes (Rept. No. 105-41).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BOND:

S. 975. A bill to amend title 23, United States Code, to extend the bridge discretionary program, and for other purposes; to the Committee on Environment and Public Works.

By Mr. BROWNBACK:

S. 976. A bill to reform the financing of Federal elections; to the Committee on Rules and Administration.

By Mr. TORRICELLI (for himself and Mr. KERRY):

S. 977. A bill to amend the Forest and Rangeland Renewable Resources Planning Act of 1974 and related laws to strengthen the protection of native biodiversity and ban clearcutting on Federal lands, and to designate certain Federal lands as Ancient Forests, Roadless Areas, Watershed Protection Areas, Special Areas, and Federal Boundary Areas where logging and other intrusive activities are prohibited; to the Committee on Energy and Natural Resources.

By Mr. SPECTER:

S. 978. A bill to amend the Internal Revenue Code of 1986 to allow employers a credit for a portion of the expenses of providing dependent care services to employees, and for other purposes; to the Committee on Finance.

S. 979. A bill to provide a tax credit to families with elderly family members living in the family home; to the Committee on Finance.

By Mr. DURBIN (for himself, Mr. KERRY, Mr. FEINGOLD, Mrs. FEINSTEIN, and Mr. WELLSTONE):

S. 980. A bill to require the Secretary of the Army to close the United States Army School of the Americas; to the Committee on Armed Services.

By Mr. LEVIN (for himself, Mr. THOMPSON, Mr. GLENN, Mr. ABRAHAM, Mr. ROBB, Mr. ROTH, Mr. ROCKEFELLER, and Mr. STEVENS):

S. 981. A bill to provide for analysis of major rules; to the Committee on Governmental Affairs.

By Mr. MCCONNELL (for himself and Mr. BENNETT):

S. 982. A bill to provide for the protection of the flag of the United States and free speech, and for other purposes; to the Committee on the Judiciary.

By Mr. DODD (for himself and Mr. BIDEN):

S. 983. A bill to prohibit the sale or other transfer of highly advanced weapons to any country in Latin America; to the Committee on Foreign Relations.

By Mr. GRAHAM (for himself, Mr. DEWINE, Mr. MACK, Mr. MCCAIN, and Ms. MOSELEY-BRAUN) (by request):

S. 984. A bill to promote the growth of free enterprise and economic opportunity in the Caribbean Basin region, increase trade and investment between the Caribbean Basin region and the United States, and encourage the adoption by Caribbean Basin countries of policies necessary for participation in the free trade area of the Americas; to the Committee on Finance.

By Mr. TORRICELLI (for himself, Mr. LAUTENBERG, and Mr. HOLLINGS):

S. 985. A bill to designate the post office located at 194 Ward Street in Paterson, New Jersey, as the "Larry Coby Post Office"; to the Committee on Governmental Affairs.

By Mr. SHELBY (for himself, Mr. SESSIONS, Mr. COVERDELL, Mr. MACK, Mr. CLELAND, and Mr. GRAHAM):

S.J. Res. 32. Joint resolution granting the consent of Congress to the Apalachicola-Chattahoochee-Flint River Basin Compact; to the Committee on the Judiciary.

By Mr. SHELBY (for himself, Mr. SESSIONS, Mr. CLELAND, and Mr. COVERDELL):

S.J. Res. 33. Joint resolution granting the consent of Congress to the Alabama-Coosa-Tallapoosa River Basin Compact; to the Committee on the Judiciary.

By Mr. DODD (for himself and Mr. MCCAIN):

S.J. Res. 34. Joint resolution suspending the certification procedures under section 490(b) of the Foreign Assistance Act of 1991 in order to foster greater multilateral cooperation in international counternarcotics programs; to the Committee on Foreign Relations.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. HARKIN (for himself, Mr. LAUTENBERG, and Mr. KENNEDY):

S. Res. 104. Resolution to state the sense of the Senate regarding the tax status of payments made as a result of the recent tobacco liability settlement; to the Committee on Finance.

By Mr. LOTT (for himself, Mr. LIEBERMAN, Mr. MURKOWSKI, Mr. HELMS, Mr. COVERDELL, Mr. MCCONNELL, Mr. ROBB, Mr. THURMOND, Mr. MCCAIN, Mr. NICKLES, Mr. ROTH, Mrs. FEINSTEIN, and Mr. CRAIG):

S. Res. 105. Resolution expressing the sense of the Senate that the people of the United States wish the people of Hong Kong good fortune as they embark on their historic transition of sovereignty from Great Britain to the People's Republic of China; considered and agreed to.

By Mr. MOYNIHAN (for himself and Mr. D'AMATO):

S. Con. Res. 35. Concurrent resolution urging the United States Postal Service to issue a commemorative postage stamp to celebrate the 150th anniversary of the First Women's Rights Convention held in Seneca Falls, NY; to the Committee on Governmental Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BOND:

S. 975. A bill to amend title 23, United States Code, to extend the bridge discretionary program, and for other purposes; to the Committee on Environment and Public Works.

THE SAFE BRIDGES ACT OF 1997

Mr. BOND. Mr. President, this bill I am introducing today is a bridge discretionary bill. We cannot forget in our reauthorization of the Nation's transportation policy the importance of maintaining our bridges.

Missouri has approximately 23,000 bridges in total.

Unfortunately, the State of Missouri, according to Department of Transportation statistics ranks sixth from the bottom on conditions of bridges in this country. This is a deplorable place for the State of Missouri to be.

We must start taking better care of our roads and bridges and begin building roads for the 21st century—with new technologies, new materials, and better designs.

According to the American Association of State Highway and Transportation Officials America must address the deficiencies of over 11,000 bridges per year just to maintain current levels of condition.

According to the Department of Transportation, the cost to improve bridge conditions would require an annual investment of $8.9 billion.

Let us not lose the hard-won gains in our transportation infrastructure. Let's not squander our investment.

Postponing taking care of our bridge needs only means that our investment declines and to make repairs later will cost more. The cliche does say "Pay now or pay More later."

Taking care of our transportation infrastructure can be compared to taking care of your home. If you fail to fix the leaky roof, fail to re-paint, fail to adequately insulate, your costs increase and the value of your home declines.

If we fail to maintain and reinvest in our Nation's bridges not only does the value of our investment decline, but lives are lost and our economic prosperity is jeopardized.

I am pleased to work with my dear friend and House colleague, Congresswoman EMERSON to introduce this bill in both Houses—the Safe Bridges Act of 1997.

The Safe Bridges Act of 1997 is our marker to stress to our colleagues from around the country that bridges are an important and necessary component to this country's transportation system.

Properly maintained and constructed bridges help save lives and provide for the efficient movement of people and goods in this country.

If we want to secure our foundation—we must renew our investment.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 975

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Safe Bridges Act of 1997".

SEC. 2. FINDINGS.

Congress finds that—

(1) bridges are important and necessary components of the surface transportation system of the United States;

(2) bridges are an important factor in the efficient movement of people and goods;

(3) properly maintained and constructed bridges help save lives;

(4) more than 25 percent of the bridges on the Interstate System are classified as deficient or in poor condition; and

(5) an investment of more than $5,000,000,000 annually is needed to maintain the bridges that are in existence as of the date of enactment of this Act.

SEC. 3. BRIDGE DISCRETIONARY PROGRAM.

(a) EXTENSION OF PROGRAM.—Section 144(g) of title 23, United States Code, is amended by striking paragraph (1) and inserting the following:

"(1) DISCRETIONARY BRIDGE PROGRAM.—

"(A) SET ASIDE.—For each fiscal year, before any apportionment is made under subsection (e), the Secretary shall set aside $500,000,000 from the funds authorized to carry out this section.

"(B) USE OF SET ASIDE.—The amount set aside under subparagraph (A) shall be available for obligation in the same manner and to the same extent as the sums apportioned under subsection (e), except that—

"(i) the amount shall be available for obligation at the discretion of the Secretary;

"(ii) for each fiscal year, $8,500,000 of the amount shall be available to carry out section 144A;

"(iii) for each fiscal year, $12,500,000 of the amount shall be available to carry out section 144B;

"(iv) for each fiscal year, $15,000,000 of the amount shall be available to carry out section 144C; and

"(v) the remainder of the amount shall be available in accordance with paragraph (2).

"(C) OTHER STATE FUNDS.—Funds made available to a State under subparagraph (B) shall not be considered in determining the apportionments and allocations that the State shall be entitled to receive, under the other provisions of this title and other law, of amounts in the Highway Trust Fund.".

(b) HIGHWAY TIMBER BRIDGE RESEARCH AND CONSTRUCTION PROGRAM.—

(1) TRANSFER TO TITLE 23.—Section 1039 of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 144 note; 105 Stat. 1990) is—

(A) transferred to title 23, United States Code;

(B) redesignated as section 144A of that title; and

(C) inserted after section 144 of that title.

(2) CONFORMING AMENDMENTS.—

(A) Section 144A of title 23, United States Code (as added by paragraph (1)), is amended—

(i) by striking the section heading and inserting the following:

"§ 144A. Highway timber bridge research and construction program";

(ii) in subsection (e)—

(I) by striking "of title 23, United States Code, for each of fiscal years 1992, 1993, 1994, 1995, 1996, and 1997" and inserting "for each of fiscal years 1998 through 2003"; and

(II) in paragraph (2), by striking "($7,000,000 in the case of fiscal year 1992)"; and

(iii) by striking subsection (f).

(B) The analysis for chapter 1 of title 23, United States Code, is amended by inserting after the item relating to section 144 the following:

"144A. Highway timber bridge research and construction program.".

SEC. 4. INNOVATIVE HIGHWAY STEEL BRIDGE RESEARCH AND CONSTRUCTION PROGRAM.

(a) IN GENERAL.—Chapter 1 of title 23, United States Code, is amended by inserting after section 144A (as added by section 3(b)(1)) the following:

"§ 144B. Innovative highway steel bridge research and construction program

"(a) RESEARCH GRANTS.—The Secretary shall make grants to other Federal agencies, universities, private businesses, nonprofit organizations, and research or engineering entities to carry out research concerning—

"(1) the development of new, cost-effective highway steel bridge applications;

"(2) the development of engineering design criteria for steel products and materials for use in highway bridges and structures to improve steel design properties;

"(3) the development of highway steel bridges and structures that will withstand natural disasters;

"(4) the development of products, materials, and systems for use in highway steel bridges that demonstrate new alternatives to current processes and procedures with respect to performance in various environments; and

"(5) rehabilitation measures that demonstrate effective, safe, and reliable methods for the use of steel in rehabilitating highway bridges and structures.

"(b) TECHNOLOGY AND INFORMATION TRANSFER.—The Secretary shall take such action as is necessary to ensure that the information and technology resulting from research conducted under subsection (a) is made available to State and local transportation departments and other interests as specified by the Secretary.

"(c) CONSTRUCTION GRANTS.—

"(1) AUTHORITY.—The Secretary shall make grants to States for projects for the construction of steel bridges and structures on Federal-aid highways.

"(2) APPLICATIONS.—

"(A) SUBMISSION.—A State that desires to receive a grant under this subsection shall submit an application to the Secretary.

"(B) CONTENTS.—The application shall be in such form and contain such information as the Secretary may require by regulation.

"(3) APPROVAL CRITERIA.—The Secretary shall select and approve applications for grants under this subsection based on whether the project that is the subject of the grant—

"(A) has a design that has both initial and long-term structural integrity;

"(B) has an innovative design, product, material, or system that has the potential for increasing knowledge, cost effectiveness, durability, and future use of the innovation; and

"(C) uses practices and construction techniques that comply with all environmental regulations.

"(d) Federal Share.—The Federal share of the cost of a research or construction project under this section shall be 80 percent.

"(e) Funding.—

"(1) In general.—From the funds reserved from apportionment under section 144(g)(1) for each of fiscal years 1998 through 2003—

"(A) $2,500,000 shall be available to the Secretary to carry out subsections (a) and (b); and

"(B) $10,000,000 shall be available to the Secretary to carry out subsection (c).

"(2) Availability.—Sums made available under paragraph (1) shall remain available until expended.".

(b) Conforming Amendment.—The analysis for chapter 1 of title 23, United States Code, is amended by inserting after the item relating to section 144A (as added by section 3(b)(2)(B)) the following:

"144B. Innovative highway steel bridge research and construction program.".

SEC. 5. CARBON COMPOSITE BRIDGE RETROFIT RESEARCH AND DEMONSTRATION PROGRAM.

(a) In General.—Chapter 1 of title 23, United States Code, is amended by inserting after section 144B (as added by section 4(a)) the following:

"§144C. Carbon composite bridge retrofit research and demonstration program

"(a) Research Grants.—The Secretary shall make grants to other Federal agencies and to universities, private businesses, nonprofit organizations, and research or engineering entities, in the United States, to carry out research concerning—

"(1) the development of new, economical carbon composite highway bridge retrofit systems;

"(2) the development of engineering design criteria for carbon composite products for use in highway bridges in order to improve methods for characterizing carbon composite design properties;

"(3) deployment systems for the incorporation of carbon composites that demonstrate alternative processes for the seismic retrofit of bridges and the rehabilitation of structurally deficient bridge structures;

"(4) alternative carbon composite transportation system structures that demonstrate the development of applications for lighting support, sound barriers, culverts, and retaining walls in highway infrastructure; and

"(5) additional rehabilitation measures that demonstrate effective, safe, and reliable methods for rehabilitating highway infrastructure with carbon composites.

"(b) Technology and Information Transfer.—The Secretary shall take such action as is necessary to ensure that the information and technology resulting from research conducted under subsection (a) is made available to State and local transportation departments and other interests as specified by the Secretary.

"(c) Construction Grants.—

"(1) Authority.—The Secretary shall make grants to States for projects for the reconstruction or seismic retrofit of bridges on the National Highway System.

"(2) Applications.—

"(A) Submission.—A State that desires to receive a grant under this subsection shall submit an application to the Secretary.

"(B) Contents.—The application shall be in such form and contain such information as the Secretary may require by regulation.

"(3) Approval criteria.—The Secretary shall select and approve applications for grants under this subsection based on whether the project that is the subject of the grant—

"(A) has a design that has both initial and long-term structural and environmental integrity;

"(B) has a design that uses carbon composite materials;

"(C) has an innovative design that has the potential for increasing knowledge, cost effectiveness, and future use of the design;

"(D) will ensure the structural integrity of a major river crossing in the New Madrid region during a seismic event;

"(E) will extend the service life of a structurally deficient bridge by at least 15 years; and

"(F) uses bridge retrofit technology and material that are produced in the United States.

"(d) Federal Share.—The Federal share of the cost of a research or construction project under this section shall be 80 percent.

"(e) Funding.—

"(1) In general.—From the funds reserved from apportionment under section 144(g)(1) for each of fiscal years 1998 through 2003—

"(A) $1,000,000 shall be available to the Secretary to carry out subsections (a) and (b); and

"(B) $14,000,000 shall be available to the Secretary to carry out subsection (c).

"(2) Availability.—Sums made available under paragraph (1) shall remain available until expended.".

(b) Conforming Amendment.—The analysis for chapter 1 of title 23, United States Code, is amended by inserting after the item relating to section 144B (as added by section 4(b)) the following:

"144C. Carbon composite bridge retrofit research and demonstration program.".

By Mr. TORRICELLI (for himself and Mr. Kerry):

S. 977. A bill to amend the Forest and Rangeland Renewable Resources Planning Act of 1974 and related laws to strengthen the protection of native biodiversity and ban clearcutting on Federal lands, and to designate certain Federal lands as Ancient Forests, Roadless Areas, Watershed Protection Areas, Special Areas, and Federal Boundary Areas where logging and other intrusive activities are prohibited; to the Committee on Energy and Natural Resources.

THE SAVE AMERICA'S FORESTS ACT

Mr. TORRICELLI. Mr. President, today, Senator Kerry and I are introducing the Save America's Forests Act. I rise to draw this country's attention to the management practices that threaten the health of our Nation's forest lands. When this country was founded over 200 years ago, it is estimated that there was 1 billion acres of forest land across this Nation. Today, 95 percent of those original virgin forests have been cut down.

Forests are unique and valuable public assets. Large, unfragmented forest watersheds provide high-quality water supplies for drinking, agriculture, industry, as well as habitat for recreational and commercial fisheries and other wildlife. The large-scale destruction of natural forests threatens other industries such as tourism and fishing with job loss. As a legacy for the enjoyment, knowledge, and well-being of future generations, provisions must be made for the protection and perpetuation of America's forests. We must also set an example to poorer developing countries to preserve their vast forests so they do not make the same mistakes we did. We cannot call upon these countries to preserve large portions of their rain forests when we do not preserve the last fraction of our own ancient forests.

Clear cutting, even aged logging practices, and timber road construction have been the preferred management practices used on our Federal forests in recent years. These practices have caused widespread forest ecosystem fragmentation and degradation. The result is species extinction, soil erosion, flooding, declining water quality, diminishing commercial and sport fisheries—that is, salmon—and mudslides. Mudslides in Western forest regions during recent winter flooding have caused millions of dollars of environmental and property damage, and resulted in several deaths. An environmentally sustainable alternative to these practices is selection management: the selection system involves the removal of trees of different ages either singly or in small groups in order to preserve the biodiversity of the forest.

Destructive forestry practices such as clearcutting on Federal lands was legalized by the passage of the National Forest Management Act of 1976. From 1984 to 1991, an average of 243,000 acres were clearcut annually on Federal lands. During the same time period an average of only 33,000 acres were harvested using the protective selection management practices. Interpretations of forestry laws have also been used by Federal managers to include the promotion of even age logging and road construction. In addition, the laws are not effective in preserving our forests because in many cases judges do not allow citizens standing in court to ensure that the Forest Service or other agencies follow the environmental protections of the law.

I am introducing this legislation to halt and reverse the effects of deforestation on Federal lands by ending the practice of clearcutting, while promoting environmentally compatible and economically sustainable selection management logging. It is important to note this legislation would only apply to Federal forests which constitute 20 percent of the country's harvestable timber supply, the vast majority of the 490 million acres of harvestable timber are privately owned and unaffected by the bill. This legislation puts forward positive alternatives that will achieve two principle policies for our Federal forests. First, the act would ban logging and road building in remaining core areas of biodiversity throughout the Federal forest system including roadless areas, specially designated areas and 13 million acres of Ancient Forests. Second, in noncore areas it would abolish environmentally dangerous forms of logging such as clearcutting and even aged logging.

The act requires selection management logging practices to be used whereby timber companies would only be allowed to log a certain percentage of the forests over specified periods of time. Further it takes extra steps to protect watersheds and fisheries by prohibiting logging in buffer areas along streams, lakes, and wetlands. The act would also call for an independent panel of scientists to develop a plan to restore and rejuvenate those forests and their ecosystems that are damaged from decades of these logging practices. And finally, the legislation would empower citizen involvement in ensuring compliance with environmental protections of forest management laws by making certain that all citizens have standing to pursue actions in court.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 977

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Act to Save America's Forests".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Purposes and findings.
Sec. 3. Effective date.

TITLE I—AMENDMENTS TO EXISTING LAND MANAGEMENT LAWS

Sec. 101. Amendment of Forest and Rangeland Renewable Resources Planning Act of 1974 relating to National Forest System lands.
Sec. 102. Amendment of Federal Land Policy and Management Act of 1976 relating to the public lands.
Sec. 103. Amendment of National Wildlife Refuge System Administration Act of 1966 relating to the National Wildlife Refuge System.
Sec. 104. Amendment of National Indian Forest Resources Management Act relating to Indian lands.
Sec. 105. Amendment of title 10, United States Code, relating to forest management on military lands.

TITLE II—PROTECTION FOR ANCIENT FORESTS, ROADLESS AREAS, WATERSHED PROTECTION AREAS, SPECIAL AREAS, AND FEDERAL BOUNDARY AREAS

Sec. 201. Definitions and findings.
Sec. 202. Designation of Special Areas.
Sec. 203. Restrictions on management activities in Ancient Forests, Roadless Areas, Watershed Protection Areas, Special Areas, and Federal Boundary Areas.

SEC. 2. PURPOSES AND FINDINGS.

(a) PURPOSES.—The purposes of this Act are, on all Federal public lands, to conserve native biodiversity and to protect all native ecosystems against losses that result from—

(1) clearcutting and other forms of even-age logging; and

(2) logging in Ancient Forests, Roadless Areas, Watershed Protection Areas, Special Areas, and Federal Boundary Areas.

(b) FINDINGS.—Congress finds the following:

(1) Federal agencies of the United States that engage in even-age logging practices include the Forest Service of the Department of Agriculture, the United States Fish and Wildlife Service, Bureau of Land Management, and Bureau of Indian Affairs of the Department of the Interior, and the Army, Navy, and Air Force of the Department of Defense.

(2) Even-age logging causes substantial alterations in native biodiversity by emphasizing the production of a limited number of commercial species of trees on each site, generally only one; by manipulating the vegetation toward greater relative density of such commercial species, by suppressing competing species, and by planting, on numerous sites, a commercial strain that was developed to reduce the relative diversity of genetic strains that previously occurred within the species on the same sites.

(3) Even-age logging kills immobile species and the very young of mobile species of wildlife and depletes the habitat of deep-forest species of animals, including endangered species.

(4) Even-age logging exposes the soil to direct sunlight and the impact of rains, disrupts the surface, and compacts organic layers. It disrupts the run-off restraining capabilities of roots and low-lying vegetation, which results in soil erosion, the leaching our of nutrients, a reduction in the biological content of the soil, and the impoverishment of the soil. All these consequences have a long-range deleterious effect on all land resources, including timber production.

(5) Even-age logging decreases the capability of the soil to retain carbon and, during the critical periods of felling and site preparation, reduces the capacity of the biomass to process and to store carbon, with a resultant of loss of such carbon to the atmosphere, thereby aggravating global warming.

(6) Even-age logging renders the soil increasingly sensitive to acid deposits by causing a decline of soil wood and coarse woody debris, thereby reducing the capacity of the soil to retain water and nutrients, which increases soil heat and impairs the soil's ability to maintain protective carbon compounds on its surface.

(7) Even-age logging results in increased stream sedimentation, the silting of stream bottoms, a decline in water quality, and the impairment of life cycles and spawning processes of aquatic life from benthic organisms to large fish, thereby depleting the sports and commercial fisheries of the United States.

(8) Even-age logging increases harmful edge effects, including blowdowns, invasions by weed species, and heavier losses to predators and competitors.

(9) Even-age logging decreases the land's recreational values, reducing deep, canopied, variegated, permanent forests, thereby limiting areas where the public can fulfill an expending need for recreation. Even-age logging replaces such forests with a surplus of clearings that grow into relatively impenetrable thickets of saplings, and then into monoculture tree plantations.

(10) Human beings depend on native biological resources, including plants, animals, and micro-organisms, for food, medicine, shelter, and other important products, and as a source of intellectual and scientific knowledge, recreation, and aesthetic pleasure.

(11) Alteration of native biodiversity has serious consequences for human welfare as America irretrievably loses resources for research and agricultural, medicinal, and industrial development.

(12) Alteration of biodiversity in Federal forests adversely affects the functions of ecosystems and critical ecosystem processes that moderate climate, govern nutrient cycles and soil conservation and production, control pests and diseases, and degrade wastes and pollutants.

(13) The harm of even-age logging to the natural resources of this Nation and the quality of life of its people are substantial, severe, and avoidable.

(14) By substituting selection management, as prescribed in this Act, for the even-age system, the Federal agencies now engaged in even-age logging would substantially reduce devastation to the environment and would improve the quality of life of the American people.

(15) By protecting native biodiversity, as prescribed in this Act, Federal agencies would maintain vital native ecosystems and would improve the quality of life of the American people.

(16) Selection logging is more job intensive, and therefore provides more employment than even-age logging to manage the same amount of timber production, and produces higher quality sawlogs.

(17) The court remedies now available to enforce Federal forest laws are inadequate, and should be strengthened by providing for injunctions, declaratory judgments, statutory damages, and reasonable costs of suit.

SEC. 3. EFFECTIVE DATE.

(1) IN GENERAL.—This Act and the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) EFFECT ON EXISTING CONTRACTS.—The amendments made by this Act shall not apply with respect to any contract to sell timber which was awarded on or before the date of the enactment of this Act.

TITLE I—AMENDMENTS TO EXISTING LAND MANAGEMENT LAWS

SEC. 101. AMENDMENT OF FOREST AND RANGELAND RENEWABLE RESOURCES PLANNING ACT OF 1974 RELATING TO NATIONAL FOREST SYSTEM LANDS.

(a) CONSERVATION OF NATIVE BIODIVERSITY.—Section 6(g)(3)(B) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604(g)(3)(B)) is amended to read as follows:

"(B) In each stand and each watershed throughout each forested area, the Secretary shall provide for the conservation or restoration of native biodiversity except during the extraction stage of authorized mineral development or during authorized construction projects, in which events the Secretary shall conserve native biodiversity to the extent possible;".

(b) COMMITTEE OF SCIENTISTS.—Section 6(h)(1) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16

U.S.C. 1604(h)(1)) is amended to read as follows:

"(h) COMMITTEE OF SCIENTISTS.—(1) In carrying out the purposes of subsection (g) of this section, the Secretary shall appoint a committee of scientists who are not officers or employees of the Forest Service nor of any other public entity, nor of any entity engaged in whole or in part in the production of wood or wood products, and have not contracted with or represented any such entities within a period of 5 years prior to serving on such committee. The committee shall provide scientific and technical advice and counsel on proposed guidelines and procedures and all other issues involving forestry and native biodiversity to assure that an effective interdisciplinary approach is proposed and adopted. The committee shall terminate after the expiration of 10 years from the date of the enactment of this paragraph.".

(c) RESTRICTION ON USE OF CERTAIN LOGGING PRACTICES.—Section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604) is amended by adding at the end the following:

"(n) RESTRICTION ON USE OF CERTAIN LOGGING PRACTICES.—(1) In each stand and watershed throughout each forested area, the Secretary shall prohibit any even-age logging and any even-age management after the date of the enactment of this subsection.

"(2) On each stand already under even-age management, the Secretary shall (A) prescribe a shift to selection management, or (B) cease managing for timber purposes and actively restore the native biodiversity, or permit each stand to regain its native biodiversity.

"(3) For the purposes of this Act:

"(A) The term 'native biodiversity' means the full range of variety and variability within and among living organisms and the ecological complexes in which they would have occurred in the absence of significant human impact, and encompasses diversity within a species (genetic diversity, species diversity, or age diversity), within a community of species (within-community diversity), between communities of species (between-communities), within a total area such as a watershed (total area), along a plane from ground to sky (vertical), and along the plane of the earth-surface (horizontal). Vertical and horizontal diversity apply to all the other aspects of diversity.

"(B) The terms 'conserve' and 'conservation' refer to protective measures for maintaining existing native biodiversity and active and passive measures for restoring diversity through management efforts, in order to protect, restore, and enhance as much of the variety of species and communities as possible in abundances and distributions that provide for their continued existence and normal functioning, including the viability of populations throughout their natural geographic distributions.

"(C) The term 'within-community diversity' means the distinctive assemblages of species and ecological processes that occur in different physical settings of the biosphere and distinct parts of the world.

"(D) The term 'genetic diversity' means the differences in genetic composition within and among populations of a given species.

"(E) The term 'species diversity' means the richness and variety of native species in a particular location of the world.

"(F) The term 'age diversity' means the naturally occurring range and distribution of age classes within a given species.

"(G) SELECTION MANAGEMENT.—(i) The term 'selection management' means a method of logging that emphasizes the periodic removal of trees, including mature, undesirable, and cull trees in a manner that insures:

"(a) the maintenance of continuous high forest cover where such cover naturally occurs,

"(b) the maintenance or natural regeneration of all native species in a stand, and

"(c) the growth and development of trees through a range of diameter or age classes to provide a sustained yield of forest products.

"(ii) Cutting methods that develop and maintain selection stands are:

"(a) Individual-tree selection, in which individual trees of varying size and age classes are selected and logged in a generally uniform pattern throughout a stand, and

"(b) Group selection, in which small groups of trees are selected and logged.

"(iii) The application of individual-tree selection, group selection, or any other method consistent with selection management shall under no event:

"(a) create a clearing or opening that exceeds in width in any direction the height of the tallest tree standing within 10 feet outside the edge of the clearing or opening, or

"(b) create a stand where the majority of trees are within 10 years of the same age, or

"(c) cut or remove more than 10 percent of the basal area of a stand within 15 years. The foregoing limitation shall not be deemed to establish a 150-year projected felling age as the standard at which individual trees in a stand are to be cut, nor shall native biodiversity be limited to that which occurs within the context of a 150-year projected felling age.

"(H) The term 'stand' means a biological community with enough identity by location, topography, or dominant species to be managed as a unit, not to exceed 100 acres.

"(I) EVEN-AGE LOGGING AND EVEN-AGE MANAGEMENT.—(i) The terms 'even-age logging' and 'even-age management' mean any logging activity which:

"(a) creates a clearing or opening that exceeds in width in any direction the height of the tallest tree standing within 10 feet outside the edge of the clearing or opening, or

"(b) creates a stand where the majority of trees are within 10 years of the same age, or

"(c) cuts or removes more than 10 percent of the basal area of a stand within 15 years.

"(ii) Even-age logging and even-age management include the application of clearcutting, seed-tree cutting, shelterwood cutting, or any other logging method in a manner inconsistent with selection management.

"(J) The term 'clearcutting' means an even-age logging operation that removes all of the trees over a considerable area of a stand at one time.

"(K) The term 'seed-tree' means an even-age logging operation that leaves a small minority of seed trees in a stand for any period of time.

"(L) The term 'shelterwood cut' means an even-age logging operation that leaves a minority (larger than in a seed-tree cut) of the stand as a seed source or protection cover remaining standing for any period of time.

"(M) The term 'timber purposes' shall include the use, sale, lease, or distribution of trees, or the felling of trees or portions of trees except to create land space for a structure or other use.

"(N) The term 'basal area' means the area of the cross section of a tree stem, including the bark, at 4.5 feet above the ground.

"(4)(A)(i) The purpose of this paragraph is to foster the widest possible enforcement of subsection (g)(3)(B) and this subsection.

"(ii) Congress finds that all people of the United States are injured by actions on lands to which subsection (g)(3)(B) and this subsection apply.

"(B) The provisions of subsection (g)(3)(B) and this subsection shall be enforced by the Secretary of Agriculture and the Attorney General of the United States against any person who violates either of them.

"(C)(i) Any citizen harmed by a violation of this Act may enforce any provision of subsection (g)(3)(B) and this subsection by bringing an action for declaratory judgment, temporary restraining order, injunction, statutory damages, and other remedies against any alleged violator including the United States, in any district court of the United States.

"(ii) The court, after determining a violation of either of such subsections, shall impose a damage award of not less than $5,000, shall issue one or more injunctions and other equitable relief, and shall award to the plaintiffs reasonable costs of litigation including attorney's fees, witness fees and other necessary expenses.

"(iii) The standard of proof in all actions brought under this subparagraph shall be the preponderance of the evidence and the trial shall be de novo.

"(D) The damage award authorized by subparagraph (C)(ii) shall be paid by the violator or violators designated by the court to the U.S. Treasury.

"(E) The damage award shall be paid from the U.S. Treasury, as provided by Congress under section 1304 of title 31, United States Code, within 40 days after judgment to the person or persons designated to receive it, to be applied in protecting or restoring native biodiversity in or adjoining Federal land. Any award of costs of litigation and any award of attorney fees shall be paid within 40 days after judgment.

"(F) The United States, including its agents and employees waives its sovereign immunity in all respects in all actions under subsection (g)(3)(B) and this subsection. No notice is required to enforce this subsection.".

(d) REPEAL.—Section 6(g)(3)(F) of the Forest and Rangeland Renewable Resource Planning Act of 1974 (16 U.S.C. 1604(g)(3)(F)) is hereby repealed.

SEC. 102. AMENDMENT OF FEDERAL LAND POLICY AND MANAGEMENT ACT OF 1976 RELATING TO THE PUBLIC LANDS.

(a) CONSERVATION OF NATIVE BIODIVERSITY.—Section 202(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712(c)) is amended—

(1) by redesignating paragraphs (8) and (9) as paragraphs (9) and (10), respectively; and

(2) by inserting after paragraph (7) the following new paragraph (8):

"(8) In each stand and each watershed throughout each forested area, the Secretary shall provide for the conservation or restoration of native biodiversity except during the extraction stage of authorized mineral development or during authorized construction projects, in which events the Secretary shall conserve native biodiversity to the extent possible;".

(b) RESTRICTION ON USE OF CERTAIN LOGGING PRACTICES.—Section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712) is amended by adding at the end the following:

"(g) RESTRICTION ON USE OF CERTAIN LOGGING PRACTICES.—(1) In each stand and watershed throughout each forested area, the Secretary shall prohibit any even-age logging and any even-age management after the date of the enactment of this subsection.

"(2) On each stand already under even-age management, the Secretary shall (A) prescribe a shift to selection management, or (B) cease managing for timber purposes and actively restore the native biodiversity, or permit each stand to regain its native biodiversity.

"(3) For the purposes of this Act:

"(A) The term 'native biodiversity' means the full range of variety and variability within and among living organisms and the ecological complexes in which they would have occurred in the absence of significant human impact, and encompasses diversity within a species (genetic diversity, species diversity, or age diversity), within a community of species (within-community diversity), between communities of species (between-communities), within a total area such as a watershed (total area), along a plane from ground to sky (vertical), and along the plane of the earth-surface (horizontal). Vertical and horizontal diversity apply to all the other aspects of diversity.

"(B) The terms 'conserve' and 'conservation' refer to protective measures for maintaining existing native biodiversity and active and passive measures for restoring diversity through management efforts, in order to protect, restore, and enhance as much of the variety of species and communities as possible in abundances and distributions that provide for their continued existence and normal functioning, including the viability of populations throughout their natural geographic distributions.

"(C) The term 'within-community diversity' means the distinctive assemblages of species and ecological processes that occur in different physical settings of the biosphere and distinct parts of the world.

"(D) The term 'genetic diversity' means the differences in genetic composition within and among populations of a given species.

"(E) The term 'species diversity' means the richness and variety of native species in a particular location of the world.

"(F) The term 'age diversity' means the naturally occurring range and distribution of age classes within a given species.

"(G) SELECTION MANAGEMENT.—(i) The term 'selection management' means a method of logging that emphasizes the periodic removal of trees, including mature, undesirable, and cull trees in a manner that insures:

"(a) the maintenance of continuous high forest cover where such cover naturally occurs,

"(b) the maintenance or natural regeneration of all native species in a stand, and

"(c) the growth and development of trees through a range of diameter or age classes to provide a sustained yield of forest products.

"(ii) Cutting methods that develop and maintain selection stands are:

"(a) Individual-tree selection, in which individual trees of varying size and age classes are selected and logged in a generally uniform pattern throughout a stand, and

"(b) Group selection, in which small groups of trees are selected and logged.

"(iii) The application of individual-tree selection, group selection, or any other method consistent with selection management shall under no event:

"(a) create a clearing or opening that exceeds in width in any direction the height of the tallest tree standing within 10 feet outside the edge of the clearing or opening, or

"(b) create a stand where the majority of trees are within 10 years of the same age, or

"(c) cut or remove more than 10 percent of the basal area of a stand within 15 years. The foregoing imitation shall not be deemed to establish a 150-year projected felling age as the standard at which individual trees in a stand are to be cut, nor shall native biodiversity be limited to that which occurs within the context of a 150-year projected felling age.

"(H) The term, 'stand' means a biological community with enough identify by location, topography, or dominant species to be managed as a unit, not to exceed 100 acres.

"(I) EVEN-AGE LOGGING AND EVEN-AGE MANAGEMENT.—(i) The term 'even-age logging' and 'even-age management' mean any logging activity which:

"(a) creates a clearing or opening that exceeds in width in any direction the height of the tallest tree standing within 10 feet outside the edge of the clearing or opening, or

"(b) creates a stand where the majority of trees are within 10 years of the same age, or

"(c) cuts or removes more than 10 percent of the basal area of a stand within 15 years.

"(ii) Even-age logging and even-age management include the application of clearcutting, seed-tree cutting, shelterwood cutting, or any other logging method in a manner inconsistent with selection management.

"(J) The term 'clearcutting' means an even-age logging operation that removes all of the trees over a considerable area of a stand at one time.

"(K) The term 'seed-tree cut' means an even-age logging operation that leaves a small minority of seed trees in a stand for any period of time.

"(L) The term 'shelterwood cut' means an even-age logging operation that leaves a minority (larger than in a seed-tree cut) of the stand as a seed source or protection cover remaining standing for any period of time.

"(M) The term 'timber purposes' shall include the use, sale, or lease, or distribution of trees, or the felling of trees or portions of trees except to create land space for a structure or other use.

"(N) The term 'basal area' means the area of the cross section of a tree stem, including the bark, at 4.5 feet above the ground.

"(4)(A)(i) The purpose of this paragraph is to foster the widest possible enforcement of subsection (c)(8) and this subsection.

"(ii) Congress finds that all people of the United States are injured by actions on lands to which subsection (c)(8) and this subsection apply.

"(B) The provisions of subsection (c)(8) and this subsection shall be enforced by the Secretary of the Interior and the Attorney General of the United States against any person who violates either of them.

"(C)(i) Any citizen harmed by a violation of this Act may enforce any provision of subsection (c)(8) and this subsection by bringing an action for declaratory judgment, temporary restraining order, injunction, statutory damages, and other remedies against any alleged violator including the United States, in any district court of the United States.

"(ii) The court, after determining a violation of either of such subsections, shall impose a damage award of not less than $5,000, shall issue one or more injunctions and other equitable relief, and shall award to the plaintiffs reasonable costs of litigation including attorney's fees, witness fees and other necessary expenses.

"(iii) The standard of proof in all actions brought under this subparagraph shall be the preponderance of the evidence and the trial shall be de novo.

"(D) The damage award authorized by subparagraph (C)(ii) shall be paid by the violator or violators designated by the court to the U.S. Treasury.

"(E) The damage award shall be paid from the U.S. Treasury, as provided by Congress under section 1304 of title 31, United States Code, within 40 days after judgment to the person or persons designated to receive it, to be applied in protecting or restoring native biodiversity in or adjoining Federal land. Any award of costs of litigation and any award of attorney fees shall be paid within 40 days after judgment.

"(F) The United States, including its agents and employees waives its sovereign immunity in all respects in all actions under subsection (c)(8) and this subsection. No notice is required to enforce this subsection.".

"(c) REPEAL.—Subsection (b) of section 701 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 note) is hereby repealed.

SEC. 103. AMENDMENT OF NATIONAL WILDLIFE REFUGE SYSTEM ADMINISTRATION ACT OF 1966 RELATING TO THE NATIONAL WILDLIFE REFUGE SYSTEM.

Section 4 of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd) is amended by adding at the end the following:

"(j) CONSERVATION OF NATIVE BIODIVERSITY.—In each stand and each watershed throughout each forested area within the System, the Secretary shall provide for the conservation or restoration of native biodiversity, except during the extraction stage of authorized mineral development or during authorized construction projects, in which events the Secretary shall conserve native biodiversity to the extent possible.

"(k) RESTRICTION ON USE OF CERTAIN LOGGING PRACTICES.—(1) In each stand and watershed throughout each forested area, the Secretary shall prohibit any even-age logging and any even-age management after the date of the enactment of this subsection.

"(2) On each stand already under even-age management, the Secretary shall (A) prescribe a shift to selection management, or (B) cease managing for timber purposes and actively restore the native biodiversity, or permit each stand to regain its native biodiversity.

"(3) For the purposes of this subsection:

"(A) The term 'native biodiversity' means the full range of variety and variability within and among living organisms and the ecological complexes in which they would have occurred in the absence of significant human impact, and encompasses diversity within a species (genetic diversity, species diversity, or age diversity), within a community of species (within-community diversity), between communities of species (between-communities), within a total area such as a watershed (total area), along a plane from ground to sky (vertical), and along the plane of the earth-surface (horizontal). Vertical and horizontal diversity apply to all the other aspects of diversity.

"(B) The term 'conserve' and 'conservation' refer to protective measures for maintaining existing native biodiversity and active and passive measures for restoring diversity through management efforts, in order to protect, restore, and enhance as much of the variety of species and communities as possible in abundances and distributions that provide for their continued existence and normal functioning, including the viability of populations throughout their natural geographic distributions.

"(C) The term 'within-community diversity' means the distinctive assemblages of species and ecological processes that occur in different physical settings of the biosphere and distinct parts of the world.

"(D) The term 'genetic diversity' means the differences in genetic composition within and among populations of a given species.

"(E) The term 'species diversity' means the richness and variety of native species in a particular location of the world.

"(F) The term 'age diversity' means the naturally occurring range and distribution of age classes within a given species.

"(G) SELECTION MANAGEMENT.—(i) The term "selection management" means a method of logging that emphasizes the periodic removal of trees, including mature, undesirable, and cull trees in a manner that insures:

(a) the maintenance of continuous high forest cover where such cover naturally occurs,

(b) the maintenance or natural regeneration of all native species in a stand, and

(c) the growth and development of trees through a range of diameter or age classes to provide a sustained yield of forest products.

(ii) Cutting methods that develop and maintain selection stands are:

(a) Individual-tree selection, in which individual trees of varying size and age classes are selected and logged in a generally uniform pattern throughout a stand, and

(b) Group selection, in which small groups of trees are selected and logged.

(iii) The application of individual-tree selection, group selection, or any other method consistent with selection management shall under no event:

(a) create a clearing or opening that exceeds in width in any direction the height of the tallest tree standing within 10 feet outside the edge of the clearing or opening, or

(b) create a stand where the majority of trees are within 10 years of the same age, or

(c) cut or remove more than 10 percent of the basal area of a stand within 15 years. The foregoing limitation shall not be deemed to establish a 150-year projected felling age as the standard at which individual trees in a stand are to be cut, nor shall native biodiversity be limited to that which occurs within the context of a 150-year projected felling age.

"(H) The term "stand" means a biological community with enough identity by location, topography, or dominant species to be managed as a unit, not to exceed 100 acres.

"(I) EVEN-AGE LOGGING AND EVEN-AGE MANAGEMENT.—(i) The terms "even-age logging" and "even-age management" mean any logging activity which:

(a) creates a clearing or opening that exceeds in width in any direction the height of the tallest tree standing within 10 feet outside the edge of the clearing or opening, or

(b) creates a stand where the majority of trees are within 10 years of the same age, or

(c) cuts or removes more than 10 percent of the basal area of a stand within 15 years.

(ii) Even-age logging and even-age management include the application of clearcutting, seed-tree cutting, shelterwood cutting, or any other logging method in a manner inconsistent with selection management.

"(J) The term "clearcutting" means an even-age logging operation that removes all of the trees over a considerable area of a stand at one time.

"(K) The term "seed-tree cut" means an even-age logging operation that leaves a small minority of seed trees in a stand for any period of time.

"(L) The term "shelterwood cut" means an even-age logging operation that leaves a minority (larger than in a seed-tree cut) of the stand as a source or protection cover remaining standing for any period of time.

"(M) The term "timber purposes" shall include the use, sale, lease, or distribution of trees, or the felling of trees or portions of trees except to create land space for a structure or other use.

"(N) The term "basal area" means the area of the cross section of a tree stem, including the bark, at 4.5 feet above the ground.

"(4)(A)(i) The purpose of this paragraph is to foster the widest possible enforcement of subsection (j) and this subsection.

"(ii) Congress finds that all people of the United States are injured by actions on lands to which subsection (j) and this subsection apply.

"(B) The provisions of subsection (j) and this subsection shall be enforced by the Secretary of the Interior and the Attorney General of the United States against any person who violates either of them.

"(C)(i) Any citizen harmed by a violation of this Act may enforce any provisions of this subsection by bringing an action for declaratory judgment, temporary restraining order, injunction, statutory damages, and other remedies against any alleged violator including the United States, in any district court of the United States.

"(ii) The court, after determining a violation of either of such subsections, shall impose a damage award of not less than $5,000, shall issue one or more injunctions and other equitable relief, and shall award to the plaintiffs reasonable costs of litigation including attorney's fees, witness fees and other necessary expenses.

"(iii) The standard of proof in all actions brought under this subparagraph shall be the preponderance of the evidence and the trial shall be de novo.

"(D) The damage award authorized by subparagraph (C)(ii) shall be paid by the violator or violators designed by the court to the U.S. Treasury.

"(E) The damage award shall be paid from the U.S. Treasury, as provided by Congress under section 1304 of title 31, United States Code, within 40 days after judgment to the person or persons designated to receive it, to be applied in protecting or restoring native biodiversity in or adjoining Federal land. Any award of costs of litigation and any award of attorney fees shall be paid within 40 days after judgment.

"(F) The United States, including its agents and employees waives its sovereign immunity in all respects in all actions under subsection (j) and this subsection. No notice is required to enforce this subsection.".

SEC. 104. AMENDMENT OF NATIONAL INDIAN FOREST RESOURCES MANAGEMENT ACT RELATING TO INDIAN LANDS.

Section 305 of the National Indian Forest Resources Management Act (25 U.S.C. 4535) is amended by adding at the end the following new subsections:

"(c) CONSERVATION OF NATIVE BIODIVERSITY.—In each stand and each watershed throughout each forested area on Indian lands, the Secretary shall provide for the conservation or restoration of native biodiversity except during the extraction stage of authorized mineral development or during authorized construction projects, in which events the Secretary shall conserve native biodiversity to the extent possible;".

"(d) RESTRICTION ON USE OF CERTAIN LOGGING PRACTICES.—(1) In each stand and watershed throughout each forested area, the Secretary shall prohibit any even-age logging and any even-age management after the date of the enactment of this subsection.

"(2) On each stand already under even-age management, the Secretary shall (A) prescribe a shift to selection management, or (B) cease managing for timber purposes and actively restore the native biodiversity, or permit each stand to regain its native biodiversity.

"(3) For the purposes of this section:.

"(A) The term "native biodiversity" means the full range of variety and variability within and among living organisms and the ecological complexes in which they would have occurred in the absence of significant human impact, and encompasses diversity within a specie (genetic diversity, species diversity, or age diversity), within a community of species (within-community diversity), between communities of species (between-communities), within a total area such as a watershed (total area), along a plane from ground to sky (vertical), and along the plane of the earth-surface (horizontal). Vertical and horizontal diversity apply to all the other aspects of diversity.

"(B) The terms "conserve" and "conservation" refer to protective measures for maintaining existing native biodiversity and active and passive measures for restoring diversity through management efforts, in order to protect, restore, and enhance as much of the variety of species and communities as possible in abundances and distributions that provide for their continued existence and normal functioning, including the viability of populations throughout their natural geographic distributions.

"(C) The term "within-community diversity" means the distinctive assemblages of species and ecological processes that occur in different physical settings of the biosphere and distinct parts of the world.

"(D) The term "genetic diversity" means the differences in genetic composition within and among populations of a given species.

"(E) The term "species diversity" means the richness and variety of native species in a particular location of the world.

"(F) The term "age diversity" means the naturally occurring range and distribution of age classes within a given species.

"(G) SELECTION MANAGEMENT.—(i) The term "selection management" means a method of logging that emphasizes the periodic removal of trees, including mature, undesirable, and cull trees in a manner that insures:

"(a) the maintenance of continuous high forest cover where such cover naturally occurs.

"(b) the maintenance or natural regeneration of all native species in a stand, and

"(c) the growth and development of trees through a range of diameter or age classes to provide a sustained yield of forest products.

"(ii) Cutting methods that develop and maintain selection stands are:.

"(a) Individual-tree selection, in which individual trees of varying size and age classes are selected and logged in a generally uniform pattern throughout a stand, and

"(b) Group selection, in which small groups of trees are selected and logged.

"(iii) The application of individual-tree selection, group selection, or any other method consistent with selection management shall under no event:

"(a) create a clearing or opening that exceeds in width in any direction the height of the tallest tree standing within 10 feet outside the edge of the clearing or opening, or

"(b) create a stand where the majority of trees are within 10 years of the same age, or

"(c) cut or remove more than 10 percent of the basal area or a stand within 15 years. The foregoing limitation shall not be deemed to establish a 150-year projected felling age as the standard at which individual tress in a stand are to be cut, nor shall native biodiversity be limited to that which occurs within the context of a 150-year projected felling age.

"(H) The term "stand" means a biological community with enough identity by location, topography, or dominant species to be managed as a unit, not to exceed 100 acres

"(I) EVEN-AGE LOGGING AND EVEN-AGE MANAGEMENT.—(i) The terms "even-age logging" and "even-age management" mean any logging activity which:

(a) creates a clearing or opening that exceeds in width in any direction the height of the tallest tree standing within 10 feet outside the edge of the clearing or opening, or

(b) creates a stand where the majority of trees are within 10 years of the same age, or

(c) cuts or removes more than 10 percent of the basal area of a stand within 15 years.

"Even-age logging and even-age management include the application of clearcutting, seed-tree cutting, shelterwood cutting, or any other logging method in a manner inconsistent with selection management.

"(J) The term "clearcutting" means an even-age logging operation that removes all of the trees over a considerable area of a stand at one time.

"(K) The term "seed-tree cut" means an even-age logging operation that leaves a small minority of seed trees in a stand for any period of time.

"(L) The term "shelterwood cut" means an even-age logging operation that leaves a minority (larger than in a seed-tree cut) of the stand as a seed source or protection cover remaining standing for any period of time.

"(M) The term "timber purposes" shall include the use, sale, lease, or distribution of trees, or the felling of trees or portions of trees except to create land space for a structure or other use.

"(N) The term "basal area" means the area of the cross section of a tree stem, including the bark, at 4.5 beet above the ground.

"(4)(A)(i) The purpose of this paragraph is to foster the widest possible enforcement of subsection (c) and this subsection.

"(ii) Congress finds that all people of the United States are injured by actions on lands to which subsection (c) and this subsection apply.

"(B) The provisions of subsection (c) and this subsection shall be enforced by the Secretary of the Interior and the Attorney General of the United States against any person who violates either of them.

"(C)(i) Any citizen harmed by a violation of this Act may enforce any provision of subsection (c) and this subsection by bringing an action for declaratory judgment, temporary restraining order, injunction, statutory damages, and other remedies against any alleged violator including the United States, in any district court of the United States.

"(ii) The court, after determining a violation of either of such subsections shall impose a damage award of not less than $5,000, shall issue one or more injunctions and other equitable relief, and shall award to the plaintiffs reasonable costs of litigation including attorney's fees, witness fees and other necessary expenses.

"(iii) The standard of proof in all actions brought under this subparagraph shall be the preponderance of the evidence and the trial shall be de novo.

"(D) The damage award authorized by subparagraph (C)(ii) shall be paid by the violator or violators designated by the court to the U.S. Treasury.

"(E) The damage award shall be paid from the U.S. Treasury, as provided by Congress under section 1304 of title 31, United States Code, within 40 days after judgment to the person or persons designated to receive it, to be applied in protecting or restoring native biodiversity in or adjoining Federal land. Any award of costs of litigation and any award of attorney fees shall be paid within 40 days after judgment.

"(F) The United States, including its agents and employees waives it sovereign immunity in all respects in all actions under subsection (c) and this subsection. No notice is required to enforce this subsection.".

SEC. 105. AMENDMENT OF TITLE 10, UNITED STATES CODE, RELATING TO FOREST MANAGEMENT ON MILITARY LANDS.

(a) IN GENERAL.—chapter 159 of title 10, United States Code, is amended by adding at the end the following new section:

"SEC. 2694. CONSERVATION OF NATIVE BIODIVERSITY.

"(a) CONSERVATION OF NATIVE BIODIVERSITY.—In each stand and each watershed throughout each forested area on a military installation or projects administered by the Army Corps of Engineers, the Secretary shall provide for the conservation or restoration of native biodiversity, except during authorized construction projects in which events the Secretary shall conserve native biodiversity to the extent possible.

"(b) RESTRICTION ON USE OF CERTAIN LOGGING PRACTICES.—(1) In each stand and watershed throughout each forested area, the Secretary shall prohibit any even-age logging and any even-age management after the date of the enactment of this subsection.

"(2) On each stand already under even-age management, the Secretary shall (A) prescribe a shift to selection management, or (B) cease managing for timber purposes and actively restore the native biodiversity, or permit each stand to regain its native biodiversity.

"(3) In this section:

"(A) The term "native biodiversity" means the full range of variety and variability within and among living organisms and the ecological complexes in which they would have occurred in the absence of significant human impact, and encompasses diversity within a species (genetic diversity, species diversity, or age diversity), within a community of species (within-community diversity), between communities of species (between-communities), within a total area such as a watershed (total area), along a plane from ground to sky (vertical), and along the plane of the earth-surface (horizontal). Vertical and horizontal diversity apply to all the other aspects of diversity.

"(B) The terms "conserve" and "conservation" refer to protective measures for maintaining existing native biodiversity and active and passive measures for restoring diversity through management efforts, in order to protect, restore, and enhance as much of the variety of species and communities as possible in abundances and distributions that provide for their continued existence and normal functioning, including the viability of populations throughout their natural geographic distributions.

"(C) The term "within-community diversity" means the distinctive assemblages of species and ecological processes that occur in different physical settings of the biosphere and distinct parts of the world.

"(D) The term "genetic diversity" means the differences in genetic composition within and among populations of a given species.

"(E) The term "species diversity" means the richness and variety of native species in a particular location of the world.

"(F) The term "age diversity" means the naturally occurring range and distribution of age classes within a given "species."

"(G) SELECTION MANAGEMENT.—(i) The term "selection management" means a method of logging that emphasizes the periodic removal of trees, including mature, undesirable, and cull trees in a manner that insures:

(a) the maintenance of continuous high forest cover where such cover naturally occurs,

(b) the maintenance or natural regeneration of all native species in a stand, and

(c) the growth and development of trees through a range of diameter or age classes to provide a sustained yield of forest products.

(ii) Cutting methods that develop and maintain selection stands are:

(a) Individual-tree selection, in which individual trees of varying size and age classes are selected and logged in a generally uniform pattern throughout a stand, and

(b) Group selection, in which small groups of trees are selected and logged.

(iii) The application of individual-tree selection, group selection, or any other method consistent with selection management shall under no event:

(a) create a clearing or opening that exceeds in width in any direction the height of the tallest tree standing within 10 feet outside the edge of the clearing or opening, or

(b) create a stand where the majority of trees are within 10 years of the same age, or

(c) cut or remove more than 10 percent of the basal area of a stand within 15 years. The foregoing limitation shall not be deemed to establish a 150-year projected felling age as the standard at which individual trees in a stand are to be cut, nor shall native biodiversity be limited to that which occurs within the context of a 150-year projected felling age.

"(H) The term "stand" means a biological community with enough identity by location, topography, or dominant species to be managed as a unit, not to exceed 100 acres.

"(I) EVEN-AGE, LOGGING, AND EVEN-AGE MANAGEMENT.—(i) The terms "even-age logging" and "even-age management" mean any logging activity which:

(a) creates a clearing or opening that exceeds in width in any direction the height of the tallest tree standing within 10 feet outside the edge of the clearing or opening, or

(b) create a stand where the majority of trees are within 10 years of the same age, or

(c) cuts or removes more than 10 percent of the basal area of a stand within 15 years.

(ii) Even-age logging and even-age management include the application of clearcutting, seed-tree cutting, shelterwood cutting, or any other logging method in a manner inconsistent with selection management.

"(J) The term "clearcutting" means an even-age logging operation that removes all of the trees over a considerable area of a stand at one time.

"(K) The term "seed-tree cut" means an even-age logging operation that leaves a small minority of seed trees in a stand for any period of time.

"(L) The term "shelterwood cut" means an even-age logging operation that leaves a minority (larger than in a seed-tree cut) of the stand as a seed source or protection cover remaining standing for any period of time.

"(M) The term "timber purposes" shall include the use, sale, lease, or distribution of trees, or the felling of trees or portions of trees except to create land space for a structure or other use.

"(N) The term "basal area" means the area of the cross section of a tree stem, including the bark, at 4.5 feet above the ground.

"(4)(A)(i) The purpose of this paragraph is to foster the widest possible enforcement of this section.

"(ii) Congress finds that all people of the United States are injured by actions on lands to which this section applies.

"(B) The provisions of this section shall be enforced by the Secretary of Defense and the Attorney General of the United States against any person who violates this section.

"(C)(i) Any citizen harmed by a violation of this Act may enforce any provision of this section by bringing an action for declaratory judgment, temporary restraining order, injunction, statutory damages, and other remedies against any alleged violator including the United States, in any district court of the United States.

"(ii) The court, after determining a violation of this section, shall impose a damage award of not less than $5,000, shall issue one or more injunctions and other equitable relief, and shall award to the plaintiffs reasonable costs of litigation including attorney's fees, witness fees and other necessary expenses.

"(iii) The standard of proof in all actions brought under this subparagraph shall be the preponderance of the evidence and the trial shall be de novo.

"(D) The damage award authorized by subparagraph (C)(ii) shall be paid by the violator or violators designated by the court to the U.S. Treasury.

"(E) The damage award shall be paid from the U.S. Treasury, as provided by Congress under section 1304 of title 31, United States Code, within 40 days after judgment to the person or persons designated to receive it, to be applied in protecting or restoring native biodiversity in or adjoining Federal land. Any award of costs of litigation and any award of attorney fees shall be paid within 40 days after judgment.

"(F) The United States, including its agents and employees waives its sovereign immunity in all respects in all actions under this section. No notice is required to enforce this section.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 159 of title 10, United States Code, is amended by adding at the end the following new item: "2694. Conservation of native biodiversity.".

TITLE II—PROTECTION FOR ANCIENT FORESTS, ROADLESS AREAS, WATERSHED PROTECTION AREAS, SPECIAL AREAS, AND FEDERAL BOUNDARY AREAS

SEC. 201. DEFINITIONS AND FINDINGS.

(a) DEFINITIONS.—For purposes of this title:

(1) EXTRACTIVE LOGGING.—The term "extractive logging" means the cutting or removal of any trees from Federal forest lands for any purpose.

(2) ANCIENT FORESTS.—The term "Ancient Forests" refers to "Northwest Ancient Forests", "East Side Cascade Ancient Forests", and "Sierra Nevada Ancient Forests" as defined below:

(A) The term "Northwest Ancient Forests" refers to—

(i) Federal lands identified as Late-Successional Reserves, Riparian Reserves, and Key Watersheds under the heading "Alternative 1" of the report "Final Supplemental Environmental Impact Statement on Management of Habitat for Late-Successional and Old-Growth Forest Related Species Within the Range of the Northern Spotted Owl, Vol. I.", dated February 1994; and

(ii) Federal lands identified by the term "Medium and Large Conifer Multi-Storied, Canopied Forests" as defined in "Final Supplemental Environmental Impact Statement on Management of Habitat for Late-Successional and Old-Growth Forest Related Species Within the Range of the Northern Spotted Owl, Vol. I.", dated February 1994.

(B) The term "Eastside Cascade Ancient Forests" refers to—

(i) Federal lands identified as "Late-Succession/Old-growth Forest (LS/OG)" depicted on maps for the Colville, Fremont, Malheur, Ochoco, Umatilla, Wallowa-Whitman and Winema National Forests in the document entitled "Interim Protection for Late-Successional Forests, Fisheries, and Watersheds: National Forests East of the Cascade Crest, Oregon, and Washington", prepared by the Eastside Forests Scientific Society Panel (The Wildlife Society, Technical Review 94-2, August 1994);

(ii) Federal lands, east of the Cascade crest in Oregon and Washington defined as "late successional and old-growth forests" in the general definition on page 28 of the report entitled "Interim Protection for Late-Successional Forests, Fisheries, and Watersheds: National Forests East of the Cascade Crest, Oregon, and Washington"; and

(iii) Federal lands classified as "Oregon Aquatic Diversity Areas" as defined in the report entitled "Interim Protection for Late-Successional Forests, Fisheries, and Watersheds: National Forests East of the Cascade Crest, Oregon, and Washington".

(C) The term "Sierra Nevada Ancient forests" refers to

(i) Federal lands identified as "Areas of Late-Successional Emphasis (ALSE)" in the document entitled "Final Report to Congress: Status of the Sierra Nevada", prepared by the Sierra Nevada Ecosystem Project (Wildland Resources Center Report #40, University of California, David, 1996/97);

(ii) Federal lands identified as "Late-Successional/Old-Growth Forests Rank, 3, 4 or 5" in the document entitled "Final Report to Congress: Status of the Sierra Nevada"; and

(iii) Federal lands identified as "Potential Aquatic Diversity Management Areas" in the map on page 1497 of the document entitled "Final Report to Congress: Status of the Sierra Nevada, Volume II".

(3) IMPROVED ROADS.—The term "improved roads" means any roads maintained for travel by standard passenger type vehicles.

(4) ROADLESS AREAS.—The term "Roadless Areas" means those contiguous parcels of Federal land that are devoid of improved roads, except as permitted by subparagraph (B), and—

(A) are greater than or equal to 5,000 acres west of the 100th meridian; or

(B) are greater than or equal to 1,500 acres east of the 100th meridian, but possibly containing up to ½ mile of improved roads per 1,000 acres; or

(C) are less than 5,000 acres, but share a border that is not an improved road with an existing Wilderness Area, Primitive Area, or Wilderness Study Area.

(5) WATERSHED PROTECTION AREAS.—The term "Watershed Protection Areas" refers to Federal lands

(A) extending 300 feet from both sides of the active stream channel of any permanently flowing stream or river, or

(B) extending 100 feet from both sides of the active channel of any intermittent, ephemeral or seasonal stream, or any other non-permanently flowing drainage feature having a definable channel and evidence of annual scour or deposition of flow-related debris, or

(C) extending 300 feet from the edge of the maximum level of any natural lake or pond, or

(D) extending 150 feet from the edge of the maximum level of constructed lakes, ponds, or reservoirs and natural or constructed wetlands including.

(6) SPECIAL AREAS.—The term "Special Areas" means certain area of Federal land designated in section 202.

(7) FEDERAL BOUNDARY AREAS.—The term "Federal Boundary Areas" means lands managed by the Forest Service, Bureau of Land Management, or Fish & Wildlife Service, within 200 feet of a property line.

(8) SECRETARY CONCERNED.—The term "Secretary concerned" means the head of the Federal agency having jurisdiction over Federal lands included within an Ancient Forest, Roadless Area, Watershed Protection Area, Special Area, or Federal Boundary Area.

(b) FINDINGS.—Congress finds the following:

(1) Unfragmented forests on Federal lands are unique an valuable assets to the general public which are damaged by extractive logging.

(2) Less than 10 percent of the original unlogged forests of the Untied States remain. The vast majority of the remnants of America's original forests are located on Federal lands.

(3) Large, unfragmented forest watersheds provide high-quality water supplies for drinking, agriculture, industry, and fisheries across the United States.

(4) The most recent scientific studies indicate that several thousand species of plants and animals are dependent on large, unfragmented forest areas.

(5) Many neotropical migratory songbird species are currently experiencing documented broad-scale population declines and require large, unfragmented forests to ensure their survival.

(6) Destruction of large-scale natural forests has resulted in a tremendous loss of jobs in the fishing, hunting, tourism, recreation, and guiding industries, and has adversely affected sustainable nontimber forest products industries such as the collection of mushrooms and herbs.

(7) Extractive logging programs on Federal lands are carried out at enormous financial costs to the United States Treasury and American taxpayers.

(8) The Ancient Forests continue to be threatened by logging and deforestation and are rapidly disappearing.

(9) Ancient Forests help regulate atmospheric balance, maintain biodiversity, and provide valuable scientific opportunity for monitoring the health of the planet.

(10) Prohibiting extractive logging in the Ancient Forests would create the best conditions for ensuring stable, well distributed, and viable populations of the northern spotted owl, marbled murrelet, American marten, and other vertebrates, invertebrates, vascular plants, and nonvascular plants associated with those forests.

(11) Prohibiting extractive logging in the Ancient Forests would create the best conditions for ensuring stable, well distributed, and viable populations of anadromous salmonids, resident salmonids, and bull trout.

(12) Roadless areas are de facto wilderness that provide wildlife habitat and recreation.

(13) Roadless areas contain many of the largest unfragmented forests on Federal lands. Large unfragmented forests are among the last refuges for native animal and plant biodiversity, and are vital to maintaining viable populations of threatened, endangers, sensitive, and rare species.

(14) Roads cause soil erosion, disrupt wildlife migration, and allow nonnative species of plants and animals to invade native forests.

(15) The morality and reproduction patterns of forest dwelling animal populations are adversely affected by traffic-related fatalities that accompany roads.

(16) The exceptional recreational, biological, scientific, or economic assets of certain special forested areas on Federal lands are valuable to the American public and are damaged by extractive logging in these areas.

(17) In order to gauge the effectiveness and appropriateness of current and future resource management activities, and to continue to broaden and develop our understanding of silvicultural practices, many special forested areas need to remain in a natural, unmanaged state to serve as scientifically established baseline control forests.

(18) Certain special forested areas provide habitat for the survival and recovery of endangered and threatened plant and wildlife species such as grizzly bears, spotted owls, Pacific salmon, and Pacific yew that are harmed by extractive logging.

(19) Many special forested areas on Federal lands are considered sacred sites by native peoples.

(20) Ecological, economic, and aesthetic values on private property are damaged by logging and roadbuilding in Federal Boundary Areas.

(21) As a legacy for the enjoyment, knowledge, and well-being of future generations, provisions must be made for the protection and perpetuation of America's Ancient Forests, Roadless Areas, Watershed Protection Areas, Special Areas, and Federal Boundary Areas.

SEC. 202. DESIGNATION OF SPECIAL AREAS.

(a) DESCRIPTION OF SPECIAL AREAS.—

(1) IN GENERAL.—Special areas are parcels of Federal forest land that posses outstanding biological, scenic, recreational, or cultural values, exemplary on a regional, national, or international level, yet may not meet the definitions of Ancient Forests, Roadless Areas, Watershed Protection Areas, or Federal Boundary Areas.

(2) BIOLOGICAL VALUES.—Biological values include—

(A) the presence of threatened or endangered species of plants or animals;

(B) rare or endangered ecosystems;

(C) key habitats necessary for the recovery of endangered or threatened species;

(D) recovery or restoration areas of rare or underrepresented forest ecosystems;

(E) migration corridors;

(F) areas of outstanding biodiversity;

(G) old growth forests;

(H) commercial fisheries; and

(I) sources of clean water such as key watersheds.

(3) SCENIC VALUES.—Scenic values include—

(A) unusual geological formations;

(B) designated wild and scenic rivers;

(C) unique biota; and

(D) vistas.

(4) RECREATIONAL VALUES.—Recreational values include—

(A) designated National Recreational Trails or Recreational Areas;

(B) popular areas for recreation and sports including—

(i) hunting;

(ii) fishing;

(iii) camping;

(iv) hiking;

(v) aquatic recreation; and

(vi) winter recreation;

(C) Federal lands in regions that are underserved in terms of recreation;

(D) lands adjacent to designated Wilderness Areas; and

(E) solitude.

(5) CULTURAL VALUES.—Cultural values include—

(A) sites with Native American religious significance; and

(B) historic or prehistoric archaeological sites eligible for national historic register.

(b) SIZE VARIATION.—Special areas may vary in size to encompass the outstanding biological, scenic, recreational, or cultural value or values to be protected.

(c) DESIGNATION OF SPECIAL AREAS.—For purposes of this title, there are hereby designated the following Special Areas, which shall be subject to the management restrictions specified in section 203(c):

(1) ALABAMA: SIPSEY WILDERNESS.—Certain lands in the Bankhead National Forest in Alabama, which comprise approximately 20,000 acres, located directly west of Highway 33 and directly north of County Road 60, including all of the Sipsey River Watershed north of Cranal Road, known as the "Sipsey Wilderness".

(2) ALASKA.—

(A) TURNAGAIN ARM.—Certain lands in the Chugach National Forest, Kenai Peninsula, Alaska, which comprise approximately 100,000 acres, known as "Turnagain Arm", extending from sea level to ridgetop surrounding the inlet of Turnagain Arm.

(B) HONKER DIVIDE.—Certain lands in the Tongass National Forest in Alaska, which comprise approximately 75,000 acres, located on north central Prince of Wales Island, comprising the Thorne River and Hatchery Creek watersheds, stretching approximately 40 miles northwest from the vicinity of the town of Thorne Bay to the vicinity of the town of Coffman Cove, generally known as the "Honker Divide".

(3) ARIZONA: NORTH RIM OF THE GRAND CANYON.—Certain lands in the Kaibab National Forest, Arizona, included in the Grand Canyon Game Preserve, which comprise approximately 500,000 acres, abutting the northern side of the Grand Canyon in the area generally known as the "North Rim of the Grand Canyon".

(4) ARKANSAS.—

(A) COW CREEK DRAINAGE, ARKANSAS.—Certain lands in the Ouachita National Forest, Mena Ranger District, Polk County, Arkansas, comprising approximately 7,000 acres, bounded approximately by the following landmarks: on the north by County Road 95; on the south by County Road 157; on the east by County Road 48 and on the west by the Arkansas-Oklahoma border, known as "Cow Creek Drainage, Arkansas".

(B) LEADER AND BRUSH MOUNTAINS.—Certain lands in the Ouachita National Forest of Montgomery and Polk Counties, Arkansas, known as "Leader and Brush Mountains", which comprise approximately 120,000 acres located in the vicinity of the Blaylock Creek Watershed between Long Creek and the South Fork of the Saline River.

(C) POLK CREEK AREA.—Certain lands in the Ouachita National Forest, Mena Ranger District, Arkansas, comprising approximately 20,000 acres bounded by Arkansas Highway 4 and Forest Roads 73 and 43 known as the "Polk Creek Area".

(D) LOWER BUFFALO RIVER WATERSHED.—Certain lands in the Ozark National Forest, Sylamore Ranger District, totaling approximately 60,000 acres, known as "The Lower Buffalo River Watershed". The area is comprised of those Forest Service lands, not already designated as Wilderness, located in the watershed of Big Creek, southwest of the Leatherwood Wilderness Area in Searcy and Marion Counties, Arkansas.

(E) UPPER BUFFALO RIVER WATERSHED.—Certain lands in the Ozark National Forest, Buffalo Ranger District, totaling approximately 220,000 acres known as the "Upper Buffalo River Watershed". This area is located approximately 35 miles from the town of Harrison, in Madison, Newton and Searcy Counties, Arkansas. The Upper Buffalo River Watershed is comprised of those Forest Service lands, not already designated as Wilderness Areas, upstream of the confluence of the Buffalo River and Richland Creek and located in the following watersheds: Buffalo River, the various streams comprising the Headwaters of the Buffalo River, Richland Creek, Little Buffalo Headwaters, Edgmon Creek, Big Creek and Cane Creek.

(5) CALIFORNIA: GIANT SEQUOIA PRESERVE.—Certain lands in the Sequoia and Sierra National Forests in California comprised of 3 discontinuous parcels, totaling approximately 442,425 acres known as the "Giant Sequoia Preserve" located in Fresno, Tulare, and Kern Counties. All 3 parcels are located in the Southern Sierra Nevada mountain range; the Kings River Unit (145,600 acres) and nearby Redwood Mountain Unit (11,730 acres) are located approximately 25 miles east of the city of Fresno. The South Unit (285,095 acres) is approximately 15 miles east of the city of Porterville.

(6) COLORADO: COCHETOPA HILLS.—Certain lands in the Gunnison Basin area administered by the Gunnison, Grand Mesa, Uncompahgre, and Rio Grand National forests, comprising approximately 500,000 acres, known as the "Cochetopa Hills". This area spans the continental divide south and east of Gunnison in Saguache County, Colorado and includes the Elk and West Elk Mountains, Grand Mesa, the Uncompahgre Plateau, the northern San Juan Mountains, the La Garitas Mountains and the Cochetopa Hills.

(7) GEORGIA.—

(A) ARMUCHEE CLUSTER.—Certain lands in the Chattahoochee National Forest, Armuchee Ranger District, totaling approximately 19,700 acres, known as the "Armuchee Cluster". The cluster is comprised of three parcels known as Rocky Face, Johns Mountain and Hidden Creek. The cluster is located approximately 10 miles southwest of Dalton and 14 miles north of Rome, Whitfield, Walker, Chattooga, Floyd, and Gordon Counties, Georgia.

(B) BLUE RIDGE CORRIDOR CLUSTER, GEORGIA AREAS.—Certain lands in the Chattahoochee National Forest, Chestatee Ranger District, totaling approximately 15,000 acres, known as the "Blue Ridge Corridor Cluster, Georgia Areas". The cluster is comprised of the following 5 parcels: Horse Gap, Hogback Mountain, Blackwell Creek, Little Cedar Mountain, and Black Mountain. The cluster is located approximately 15 to 20 miles north of the town of Dahlonega, Union and Lumpkin Counties, Georgia.

(C) CHATTOOGA WATERSHED CLUSTER, GEORGIA AREAS.—Certain lands in the Chattahoochee National Forest, Tallulah Ranger District, comprising 63,500 acres known as the "Chattooga Watershed Cluster, Georgia Areas". This cluster is comprised of 7 areas, located in Rabun County, Georgia, known as the following: Rabun Bald, Three Forks, Ellicott Rock Extension, Rock Gorge, Big Shoals, Thrift's Ferry, and Five Falls. The towns of Clayton, Georgia, and Dillard, South Carolina are situated nearby.

(D) COHUTTA CLUSTER.—Certain lands in the Chattahoochee National Forest, Cohutta Ranger District, totaling approximately 28,000 acres, known as the "Cohutta Cluster". The cluster is comprised of four parcels known as Cohutta Extensions, Grassy Mountain, Emery Creek, and Mountaintown. The cluster is located near the towns of Chatsworth and Ellijay, Murray, Fannin, and Gilmer Counties, Georgia.

(E) DUNCAN RIDGE CLUSTER.—Certain lands in the Chattahoochee National Forest, Brasstown and Toccoa Ranger Districts, comprising approximately 17,000 acres known as the "Duncan Ridge Cluster". The cluster is comprised of the following four parcels: Licklog Mountain, Duncan Ridge, Board Camp, and Cooper Creek Scenic Area Extension. The cluster is located approximately 10 to 15 miles south of the town of Blairsville in Union and Fannin Counties, Georgia.

(F) ED JENKINS NATIONAL RECREATION AREA CLUSTER.—Certain lands in the Chattahoochee National Forest, Toccoa and Chestatee Ranger Districts, totaling approximately 19,300 acres, known as the "Ed Jenkins National Recreation Area Cluster". The cluster is comprised of the Springer Mountain, Mill Creek, and Toonowee parcels. The cluster is located 30 miles north of the town of Dahlonega, Fannin, Dawson, and Lumpkin Counties, Georgia.

(G) GAINESVILLE RIDGES CLUSTER.—Certain lands in the Chattahoochee National Forest, Chattooga Ranger District, totaling approximately 14,200 acres, known as the "Gainesville Ridges Cluster". The cluster is comprised of the following three parcels: Panther Creek, Tugaloo Uplands, and Middle Fork Broad River. The cluster is located approximately 10 miles from the town of Toccoa, Habersham and Stephens Counties, Georgia.

(H) NORTHERN BLUE RIDGE CLUSTER, GEORGIA AREAS.—Certain lands in the Chattahoochee National Forest, Brasstown and Tallulah Ranger Districts, totaling approximately 46,000 acres, known as the "Northern Blue Ridge Cluster, Georgia Areas". The cluster is comprised of the following eight areas: Andrews Cove, Anna Ruby Falls Scenic Area Extension, High Shoals, Tray Mountain Extension, Kelly Ridge-Moccasin Creek, Buzzard Knob, Southern Nantahala Extension, and Patterson Gap. The cluster is located approximately 5 to 15 miles north of Helen, 5 to 15 miles southeast of Hiawassee, north of Clayton and west of Dillard, White, Towns and Rabun Counties, Georgia.

(I) RICH MOUNTAIN CLUSTER.—Certain lands in the Chattahoochee National Forest, Toccoa Ranger District, totaling approximately 9,500 acres known as the "Rich Mountain Cluster". The cluster is comprised of the parcels known as Rich Mountain Extension and Rocky Mountain. The cluster is located 10 to 15 miles northeast of the town of Ellijay, Gilmer and Fannin Counties, Georgia.

(J) WILDERNESS HEARTLANDS CLUSTER, GEORGIA AREAS.—Certain lands in the Chattahoochee National Forest, Chestatee, Brasstown and Chattooga Ranger Districts, comprising approximately 16,500 acres, known as the "Wilderness Heartlands Cluster, Georgia Areas". The cluster is comprised of four parcels known as the following: Blood Mountain Extensions, Raven Cliffs Extensions, Mark Trail Extensions, and Brasstown Extensions. The cluster is located near the towns of Dahlonega, Cleveland, Helen, and Blairsville, Lumpkin, Union, White, and Towns Counties, Georgia.

(8) IDAHO.—

(A) COVE/MALLARD.—Certain lands in the Nez Perce National Forest in Idaho, which comprise approximately 94,000 acres, located approximately 30 miles southwest of the town of Elk City, west of the town of Dixie, in the area generally known as "Cove/Mallard".

(B) MEADOW CREEK.—Certain lands in the Nez Perce National Forest in Idaho, which comprise approximately 180,000 acres, located approximately 8 miles east of the town of Elk City in the area generally known as "Meadow Creek".

(C) FRENCH CREEK/PATRICK BUTTE.—Certain lands in the Payette National Forest in Idaho, which comprise approximately 141,000 acres, located approximately 20 miles north of the town of McCall in the area generally known as "French Creek/Patrick Butte".

(9) ILLINOIS.—

(A) CRIPPS BEND.—Certain lands in the Shawnee National Forest in Illinois, which comprise approximately 39 acres in Jackson County in the Big Muddy River watershed, in the area generally known as "Cripps Bend".

(B) OPPORTUNITY AREA 6.—Certain lands in the Shawnee National Forest in Illinois, which comprise approximately 50,000 acres located in northern Pope County, surrounding Bell Smith Springs Natural Area, in the area generally known as "Opportunity Area 6".

(C) QUARREL CREEK.—Certain lands in the Shawnee National Forest in Illinois, which comprise approximately 490 acres located in northern Pope County, in the Quarrel Creek watershed, in the area generally known as "Quarrel Creek".

(10) MICHIGAN: TRAP HILLS.—Certain lands in the Ottawa National Forest, Bergland Ranger District, totaling approximately 37,120 acres, known as the "Trap Hills", located approximately 5 miles from the town of Bergland, Ontonagon County, Michigan.

(11) MINNESOTA.—

(A) TROUT LAKE AND SUOMI HILLS.—Certain lands in the Chippewa National Forest, comprising approximately 12,000 acres, known as "Trout Lake/Suomi Hills" in Itasca County, Minnesota.

(B) LULLABY WHITE PINE RESERVE.—Certain lands in the Superior National Forest in Minnesota, Gunflint Ranger District, which comprise approximately 2,518 acres, in the South Brule Opportunity Area, northwest of Grand Marais in Cook County, Minnesota, known as the "Lullaby White Pine Reserve".

(12) MISSOURI: ELEVEN POINT-BIG SPRINGS AREA.—Certain lands in the Mark Twain National Forest in Missouri, Eleven Point Ranger District, totaling approximately 200,000 acres, comprised of the administrative area of the Eleven Point Ranger District, known as the "Eleven Point-Big Springs Area".

(13) MONTANA: MOUNT BUSHNELL.—Certain lands in the Lolo National Forest in Montana, which comprise approximately 41,000 acres located approximately 5 miles southwest of the town of Thompson Falls in the area generally known as "Mount Bushnell".

(14) NEW MEXICO.—

(A) ANGOSTURA.—Certain lands in the east half of the Carson National Forest in New Mexico, Camino Real Ranger District, totaling approximately 10,000 acres located in Township 21, Ranges 12 and 13, known as "Angostura". The area's approximate boundaries are as follows: the northeast boundary is formed by Highway 518, the southeast boundary consists of the Angostura Creek watershed boundary, the southern boundary is Trail 19 and the Pecos Wilderness, and on the west, the boundary is formed by the Agua Piedra Creek watershed.

(B) LA MANGA.—Certain lands in the western half of the Carson National Forest, El Rito Ranger District, New Mexico, Vallecitos Sustained Yield Unit, comprising approximately 5,400 acres, known as "La Manga". The parcel is in Township 27, Range 6 and bounded on the north by the Tierra Amarilla Land Grant, on the south by Canada Escondida, on the west by the Sustained Yield Unit boundary and the Tierra Amarilla Land Grant, and on the east by the Rio Vallecitos.

(C) ELK MOUNTAIN.—Certain lands in the Santa Fe National Forest, New Mexico, comprising approximately 7,220 acres, known as "Elk Mountain" and located in Townships 17 and 18 and Ranges 12 and 13. The area is bounded on the north by the Pecos Wilderness, the Cow Creek Watershed forms the eastern boundary and the Cow Creek, itself, forms the western boundary. The southern boundary is formed by Rito de la Osha.

(D) JEMEZ HIGHLANDS.—Certain lands in the Jemez Ranger District of the Santa Fe National Forest, totaling approximately 54,400 acres, known as the "Jemez Highlands", located primarily in Sandoval County, New Mexico.

(15) NORTH CAROLINA.—

(A) CENTRAL NANTAHALA CLUSTER, NORTH CAROLINA AREAS.—Certain lands in the Nantahala National Forest, Tusquitee, Cheoah, and Wayah Ranger Districts, totaling approximately 107,000 acres, known as the "Central Nantahala Cluster, North Carolina Areas". The cluster is comprised of the following nine parcels: Tusquitee Bald, Shooting Creek Bald, Cheoah Bald, Piercy Bald, Wesser Bald, Tellico Bald, Split White Oak, Siler Bald, and Southern Nantahala Extensions. The cluster is located near the towns of Murphy, Franklin, Bryson City, Andrews, and Beechertown, Cherokee, Macon, Clay and Swain Counties, North Carolina.

(B) CHATTOOGA WATERSHED CLUSTER, NORTH CAROLINA AREAS.—Certain lands in the Nantahala National Forest, Highlands Ranger District, totaling approximately 8,000 acres, known as the "Chattooga Watershed Cluster, North Carolina Areas". The cluster is comprised of the Overflow (Blue Valley) and Terrapin Mountain parcels. The cluster is located five miles from the town of Highlands, Macon and Jackson Counties, North Carolina.

(C) TENNESSEE BORDER CLUSTER, NORTH CAROLINA AREAS.—Certain lands in the Nantahala National Forest, Tusquitee and Cheoah Ranger Districts, totaling approximately 28,000 acres, known as the "Tennessee Border Cluster, North Carolina Areas". The cluster is comprised of the four following parcels: Unicoi Mountains, Deaden Tree, Snowbird, and Joyce Kilmer-Slickrock Extension. The cluster is located near the towns of Murphy and Robbinsville, Cherokee and Graham Counties, North Carolina.

(D) BALD MOUNTAINS.—Certain lands in the Pisgah National Forest, French Broad Ranger District, totaling approximately 13,000 acres known as the "Bald Mountains", located 12 miles northeast of Hot Springs, Madison County, North Carolina.

(E) BIG IVY TRACT.—Certain lands in the Pisgah National Forest in North Carolina, which comprise approximately 14,000 acres, located approximately 15 miles west of Mount Mitchell in the area generally known as the "Big Ivy Tract".

(F) BLACK MOUNTAINS CLUSTER, NORTH CAROLINA AREAS.—Certain lands in the Pisgah National Forest, Toecane and Grandfather Ranger Districts, totaling approximately 62,000 acres, known as the "Black

Mountains Cluster, North Carolina Areas". The cluster is comprised of the following five parcels: Craggy Mountains, Black Mountains, Jarrett Creek, Mackey Mountain, and Woods Mountain. The cluster is located near the towns of Burnsville, Montreat and Marion, Buncombe, Yancey and McDowell Counties, North Carolina.

(G) LINVILLE CLUSTER.—Certain lands in the Pisgah National Forest, Grandfather Ranger District, totaling approximately 42,000 acres known as the "Linville Cluster". The cluster is comprised of the following seven parcels: Dobson Knob, Linville Gorge Extension, Steels Creek, Sugar Knob, Harper Creek, Lost Cove and Upper Wilson Creek. The cluster is located near the towns of Marion, Morgantown, Spruce Pine, Linville, and Blowing Rock, Burke, McDowell, Avery and Caldwell Counties, North Carolina.

H) NOLICHUCKY, NORTH CAROLINA AREA.—Certain lands in the Pisgah National Forest, Toecane Ranger District, totaling approximately 4,000 acres, known as the "Nolichucky, North Carolina Area", located 25 miles northwest of Burnsville, Mitchell and Yancy Counties, North Carolina.

(I) PISGAH CLUSTER, NORTH CAROLINA AREAS.—Certain lands in the Pisgah National Forest, Pisgah Ranger District, totaling approximately 52,000 areas, known as the "Pisgah Cluster, North Carolina Areas". The cluster is comprised of the following 5 parcels: Shining rock and Middle Prong Extensions, Daniel Ridge, Cedar Rock Mountain, South Mills River, and Laurel Mountain. The cluster is located 5 to 12 miles north of the town of Brevard and southwest of the city of Asheville, Haywood, Transylvania, and Henderson Counties, North Carolina.

(J) WILDCAT.—Certain lands in the Pisgah National Forest, French Broad Ranger District, totaling approximately 6,500 acres, known as "Wildcat", located 20 miles northwest of the town of Canton, Haywood County, North Carolina.

(16) OHIO.—

(A) ARCHERS FORK COMPLEX.—Certain lands in the Marietta Unit of the Athens Ranger District, in the Wayne National Forest, Washington County, Ohio, known as "Archers Fork Complex", comprising approximately 18,350 acres, located northeast of Newport and bounded by State Highway 26 to the northwest, State Highway 260 to the northeast, the Ohio River to the southeast and Bear Run and Danas Creek to the southwest.

(B) BLUEGRASS RIDGE.—Certain lands in the Ironton Ranger District of the Wayne National Forest, Lawrence County, Ohio, known as "Bluegrass Ridge", comprising approximately 4,000 acres, located three miles east of Etna in Township 4 North, Range 17 West, sections 19–23, 27–30.

(C) BUFFALO CREEK.—Certain lands in the Ironton Ranger District of the Wayne National Forest, Lawrence County, Ohio, known as "Buffalo Creek", comprising approximately 6,500 acres, located four miles northwest of Waterloo in Township 5 North, Range 17 West, sections 3–10, 15–18.

(D) LAKE VESUVIUS.—Certain lands in the Ironton Ranger District of the Wayne National Forest, Lawrence County, Ohio, comprising approximately 4,900 acres, generally known as "Lake Vesuvius", located to the east of Etna and bounded by State Highway 93 to the southwest and State Highway 4 to the northwest in Township 2 North, Range 18 West.

(E) MORGAN SISTERS.—Certain lands in the Ironton Ranger District of the Wayne National Forest, Lawrence County, Ohio, known as "Morgan Sisters", comprising approximately 2,500 acres, located one mile east of Gallia and bounded by State Highway 233 in Township 6 North, Range 17 West, sections 13, 14, 23, 24 and Township 5 North, Range 16 West, sections 18, 19.

(F) UTAH RIDGE.—Certain lands in the Athens Ranger District of the Wayne National Forest, Athens County, Ohio, known as "Utah Ridge", comprising approximately 9,000 acres, located one mile northwest of Chauncey and bounded by State Highway 682 and State Highway 13 to the southeast, US Highway 33 to the southwest and State Highway 216 and State Highway 665 to the north.

(G) WILDCAT HOLLOW.—Certain lands in the Athens Ranger District of the Wayne National Forest, Perry and Morgan Counties, Ohio, known as "Wildcat Hollow", comprising approximately 4,500 acres, located one mile east of Corning in Township 12 North, Range 14 West, sections 1, 2, 11–14, 23, 24, and Township 8 North, Range 13 West, sections 7, 18, 19.

(17) OKLAHOMA: COW CREEK DRAINAGE, OKLAHOMA.—Certain lands in the Ouachita National Forest, Mena Ranger District, Le Flore County, Oklahoma, comprising approximately 3,000 acres, bounded approximately by the Beech Creek National Scenic Area on the west, State Highway 63 on the north and the Arkansas-Oklahoma border on the east, and County Road 9038 on the south, known as "Cow Creek Drainage, Oklahoma".

(18) OREGON: APPLEGATE WILDERNESS.—Certain lands in the Siskiyou National Forest and Rouge River National Forest in Oregon, which comprise approximately 20,000 acres, located approximately 20 miles southwest of the town of Grants Pass and 10 miles south of Williams, in the area generally known as the "Applegate Wilderness".

(19) SOUTH CAROLINA.—

(A) BIG SHOALS, SOUTH CAROLINA AREA.—Certain lands in the Sumter National Forest, Andrew Pickens Ranger District, Oconee County, South Carolina, comprising approximately 2,000 acres known as "Big Shoals, South Carolina Area". This area is located 15 miles south of Highlands, North Carolina.

(B) BRASSTOWN CREEK, SOUTH CAROLINA AREA.—Certain lands in the Sumter National Forest, Andrew Pickens Ranger District, Oconee County, South Carolina, comprising approximately 3,500 acres known as "Brasstown Creek, South Carolina Area". This area is located approximately 15 miles west of Westminster, South Carolina.

(C) CHAUGA.—Certain lands in the Sumter National Forest, Andrew Pickens Ranger District, Oconee County, South Carolina, comprising approximately 16,000 acres known as "Chauga". This area is located approximately 10 miles west of Walhalla, South Carolina.

(D) DARK BOTTOMS.—Certain lands in the Sumter National Forest, Andrew Pickens Ranger District, Oconee County, South Carolina, comprising approximately 4,000 acres known as "Dark Bottoms". This area is located approximately 10 miles northwest of Westminister, South Carolina.

(E) ELLICOTT ROCK EXTENSION, SOUTH CAROLINA AREA.—Certain lands in the Sumter National Forest, Andrew Pickens Ranger District, Oconee County, South Carolina, comprising approximately 2,000 acres known as "Ellioctt Rock Extension, South Carolina Area". This area is located approximately 10 miles south of Cashiers, North Carolina.

(F) FIVE FALLS, SOUTH CAROLINA AREA.—Certain lands in the Sumter National Forest, Andrew Pickens Ranger District, Oconee County, South Carolina, comprising approximately 3,500 acres known as "Five Falls, South Carolina Area". This area is located approximately 10 miles southeast of Clayton, Georgia.

(G) PERSIMMON MOUNTAIN.—Certain lands in the Sumter National Forest, Andrew Pickens Ranger District, Oconee County, South Carolina, comprising approximately 7,000 acres known as "Persimmon Mountain". This area is located approximately 12 miles south of Cashiers, North Carolina.

(H) ROCK GORGE, SOUTH CAROLINA AREA.—Certain lands in the Sumter National Forest, Andrew Pickens Ranger District, Oconee County, South Carolina, comprising approximately 2,000 acres known as "Rock Gorge, South Carolina Area". This area is located 12 miles southeast of Highlands, North Carolina.

(I) TAMASSEE.—Certain lands in the Sumter National Forest, Andrew Pickens Ranger District, Oconee County, South Carolina, comprising approximately 5,500 acres known as "Tamassee". This area is located 10 miles north of Walhalla, South Carolina.

(J) THRIFT'S FERRY, SOUTH CAROLINA AREA.—Certain lands in the Sumter National Forest, Andrew Pickens Ranger District, Oconee County, South Carolina, comprising approximately 5,000 acres known as "Thrift's Ferry, South Carolina Area". This area is located 10 miles east of Clayton, Georgia.

(20) SOUTH DAKOTA.—

(A) BLACK FOX AREA.—Certain lands in the Black Hills National Forest of South Dakota, totaling approximately 12,400 acres, located in the upper reaches of the Rapid Creek watershed known as the "Black Fox Area". The area is roughly bounded by FDR 206 in the north, the steep slopes north of Forest Road 231 form the southern boundary and a fork of Rapid Creek forms the western boundary.

(B) BREAKNECK AREA.—Certain lands in the Black Hills National Forest, South Dakota, totaling 6,700 acres along the northeast edge of the Black Hills in the vicinity of the Black Hills National Cemetery and the Bureau of Land Management's Fort Meade Recreation Area known as the "Breakneck Area". The area is generally bounded by Forest Roads 139 and 169 on the north, west and south. The eastern and western boundaries are also demarcated by the ridge-crests dividing the watershed.

(C) NORBECK PRESERVE.—Certain lands in the Black Hills National Forest of South Dakota, totaling approximately 27,766 acres known as the "Norbeck Preserve" encompassed approximately by the following traverse. Starting at the southeast corner, the area boundary runs north along FDR 753 and U.S. Highway Alt. 16, then along SD 244 to the junction of Palmer Creek Road, which serves generally as a northwest limit. It then heads south from the junction of Highways 87–89, southeast along Highway 87, and east back to FDR 753. A corridor of private land along FDR 345 is excluded.

(D) PIGER MOUNTAIN AREA.—Certain lands in the Black Hills National Forest of South Dakota, comprising approximately 12,600 acres, known as the "Pilger Mountain Area" and located in the Elk Mountains on the southwest edge of the Black Hills. This area is roughly bounded by Forest Roads 318 and 319 on the east and northeast, Road 312 on the north and northwest, and private land to the southwest.

(E) STAGEBARN CANYONS.—Certain lands in the Black Hills National Forest, South Dakota, known as "Stagebarn Canyons", which comprise approximately 7,300 acres located approximately 10 miles west of Rapid City, South Dakota.

(21) TENNESSEE.—

(A) BALD MOUNTAINS CLUSTER, TENNESSEE AREAS.—Certain lands in the Nolichucky and Unaka Ranger Districts of the Cherokee National Forest, Cooke, Green, Washington and Unicoi Counties, Tennessee, comprising approximately 46,133 acres known as the "Bald Mountains Cluster, Tennessee Areas". This Cluster is comprised of the following parcels known as: Laurel Hollow Mountain, Devil's Backbone, Laurel Mountain, Walnut Mountain, Wolf Creek, Meadow Creek Mountain, Brush Creek Mountain, Paint Creek, Bald Mountain and Sampson Mountain Extension. These parcels are located near the towns of Newport, Hot Springs, Greeneville and Erwin, Tennessee.

(B) BIG FROG/COHUTTA CLUSTER.—Certain lands in the Cherokee National Forest, Polk County, Tennessee, Ocoee, Hiwassee, and Tennessee Ranger Districts, comprising approximately 28,800 acres known as the "Big Frog/Cohutta Cluster". This Cluster is comprised of the following parcels: Big Frog Extensions, Little Frog Extensions, Smith Mountain and Rock Creek. These parcels are located near the towns of Copperhill, Ducktown, Turtletown and Benton, Tennessee.

(C) CITICO CREEK WATERSHED CLUSTER TENNESSEE AREAS.—Certain lands in the Tellico Ranger District of the Cherokee National Forest, Monroe County, Tennessee, comprising approximately 14,256 acres known as the "Citico Creek Watershed Cluster, Tennessee Areas". This Cluster is comprised of the following parcels known as: Flats Mountain, Miller Ridge, Cowcamp Ridge and Joyce Kilmer-Slickrock Extension. These parcels are located near the town of Tellico Plains, Tennessee.

(D) IRON MOUNTAINS CLUSTER.—Certain lands in the Cherokee National Forest, Watauga Ranger District, totaling approximately 58,090 acres known as the "Iron Mountains Cluster". The cluster is comprised of the following 8 parcels: Big Laurel Branch Addition, Hickory Flat Branch, Flint Mill, Lower Iron Mountain, Upper Iron Mountain, London Bridge, Beaverdam Creek, and Rodgers Ridge. The cluster is located near the towns of Briston and Elizabethton, Sullivan and Johnson Counties, Tennessee.

(E) NORTHERN UNICOI MOUNTAINS CLUSTER.—Certain lands in the Tellico Ranger District of the Cherokee National Forest, Monroe County, Tennessee, comprising approximately 30,453 acres known as the "Northern Unicoi Mountains Cluster". This Cluster is comprised of the following parcels known as: Bald River Gorge Extension, Upper Bald River, Sycamore Creek and Brushy Ridge. These parcels are located near the town of Tellico Plains, Tennessee.

(F) ROAN MOUNTAINS CLUSTER.—Certain lands in the Cherokee National Forest, Unaka and Watauga Ranger Districts, totaling approximately 23,725 acres known as the "Roan Mountain Cluster". The cluster is comprised of the following seven parcels: Strawberry Mountain, Highlands of Roan, Ripshin Ridge, Doe River Gorge Scenic Area, White Rocks Mountain, Slide Hollow and Watauga Reserve. The cluster is located approximately eight to twenty miles south of the town of Elizabethton, Unicoi, Carter and Johnson Counties, Tennessee.

(G) SOUTHERN UNICOI MOUNTAINS CLUSTER.—Certain lands in the Hiwassee Ranger District of the Cherokee National Forest, Polk, Monroe and McMinn Counties, Tennessee, comprising approximately 11,251 acres known as the "Southern Unicoi Mountains Cluster". This Cluster is comprised of the following parcels known as: Gee Creek Extension, Coker Creek and Buck Bald. These parcels are located near the towns Etowah, Benton and Turtletown, Tennessee.

(H) UNAKA MOUNTAINS CLUSTER, TENNESSEE AREAS.—Certain lands in the Cherokee National Forest, Unaka Ranger District, totaling approximately 15,669 acres known as the "Unaka Mountains Cluster, Tennessee areas". The cluster is comprised of the Nolichucky, Unaka Mountain Extension and Stone Mountain parcels. The cluster is located approximately eight miles from Erwin, Unicoi and Carter Counties, Tennessee.

(22) TEXAS: LONGLEAF RIDGE.—Certain lands in the Angelina National Forest, Jasper and Angelina Counties, Texas, comprising approximately 30,000 acres bounded on the west by Upland Island Wilderness Area, on the south by the Neches River, and on the northeast by Sam Rayburn Reservoir, generally known as "Longleaf Ridge".

(23) VERMONT.—

(A) GLASTENBURY AREA.—Certain lands in the Green Mountain National Forest in Vermont, which comprise approximately 35,000 acres, located 3 miles northeast of Bennington, bounded by Kelly Stand Road to the North, Forest Road 71 to the east, Route 9 to the south and Route 7 to the west, generally known as the "Glastenbury Area".

(B) LAMB BROOK.—Certain lands in the Green Mountain National Forest in Vermont, which comprise approximately 5,500 acres, located 3 miles southwest of Wilmington, bounded on the west and south by Routes 8 and 100, on the north by Route 9, and on the east by New England Power Company lands, generally known as "Lamb Brook".

(C) ROBERT FROST MOUNTAIN AREA.—Certain lands in the Green Mountain National Forest, Vermont, comprising approximately 8,500 acres, known as "Robert Frost Mountain Area", northeast by Middlebury, consisting of the Forest Service lands bounded on the west by Route 116, on the north by Bristol Notch Road, on the east by Lincoln/Ripton Road and on the south by Route 125.

(24) VIRGINIA.—

(A) BEAR CREEK.—Certain lands known as "Bear Creek", in the Jefferson National Forest, Wythe Ranger District, north of Rural Retreat, Smyth and Wythe Counties, Virginia.

(B) CAVE SPRINGS.—Certain lands known as "Cave Springs", in the Jefferson National Forest, Clinch Ranger District, comprising approximately 3,000 acres located between State Route 621 and the North Fork of the Powell River, Lee County, Virginia.

(C) DISMAL CREEK.—Certain lands known as "Dismal Creek" totaling approximately 6,000 acres in the Jefferson National Forest, Blacksburg Ranger District, north of State Route 42, Giles and Bland Counties, Virginia.

(D) STONE COAL CREEK.—Certain lands known as "Stone Coal Creek", totaling approximately 2,000 acres in the Jefferson National Forest, New Castle Ranger District, Craig and Botentourt Counties, Virginia.

(E) WHITE OAK RIDGE: TERRAPIN MOUNTAIN.—Certain lands known as "White Oak Ridge—Terrapin Mountain", totaling approximately 8,000 acres, Glenwood Ranger District of the Jefferson National Forest, east of the Blue Ridge Parkway, Botetourt and Rockbridge Counties, Virginia.

(F) WHITETOP MOUNTAIN.—Certain lands in the Jefferson National Forest, Mt. Rodgers Recreation Area, comprising 3,500 acres in Washington, Smyth and Grayson Counties, Virginia, known as "Whitetop Mountain".

(G) WILSON MOUNTAIN.—Certain lands known as "Wilson Mountain," comprising approximately 5,100 acres in the Jefferson National Forest, Glenwood Ranger District, east of Interstate 81, Botetourt and Rockbridge Counties, Virginia.

(H) FEATHERCAMP.—Certain lands located in the Mt. Rodgers Recreation Area of the Jefferson National Forest, comprising 4,974 acres, known as "Feathercamp," in Washington County, Virginia, located northeast of the town of Damascus and north of State Route 58 on the Feathercamp ridge.

(25) WISCONSIN.—

(A) FLYNN LAKE.—Certain lands in the Chequamegon National Forest, Washburn Ranger District, totaling approximately 5,700 acres within the Flynn Lake Semi-primitive Non-motorized Area, known as "Flynn Lake." The site is located in Bayfield County, Wisconsin.

(B) GHOST LAKE CLUSTER.—Certain lands in the Chequamegon National Forest, Great Divide Ranger District, totaling approximately 6,000 acres, known as "Ghost Lake Cluster" and including parcels known as Chost Lake, Perch Lake, Lower Teal River, Foo Lake, and Bulldog Springs. The cluster is located in Sawyer County, Wisconsin.

(C) LAKE OWENS CLUSTER.—Certain lands in the Chequamegon National Forest, Great Divide and Washburn Ranger Districts, totaling approximately 3,600 acres, known as "Lake Owens Cluster" and including parcels known as or near Lake Owens, Sage, Hidden, and Deer Lick Lakes, Eighteenmile Creek, and Northeast and Sugarbush Lakes. The cluster is in Bayfield County, Wisconsin.

(D) MEDFORD CLUSTER.—Certain lands in the Chequamegon National Forest, Medford-Park Falls Ranger District, totaling approximately 23,000 acres, known as the "Medford Cluster," and including parcels known as County E. Hardwoods, Silver Creek/Mondeaux River Bottoms, Lost Lake Esker, North and South Fork Yellow Rivers, Bear Creek, Brush Creek, Chequamegon Waters, John's and Joseph Creeks, Hay Creek Pine-Flatwoods, 558 Hardwoods, Richter Lake, and Lower Yellow River. The cluster is located in Taylor County, Wisconsin.

(E) PARK FALLS CLUSTER.—Certain lands in the Chequamegon National Forest, Medford-Park Falls Ranger District, totaling approximately 23,000 acres, known as "Park Falls Cluster," and including parcels known as Sixteen Lakes, Chippewa Trail, Tucker and Amik Lakes, Lower Rice Creek, Doering Tract, Foulds Creek, Bootjack Conifers, Pond, Mud and Riley Lake Peatlands, Little Willow Drumlin, and Elk River. The cluster is located in Price and Vilas Counties, Wisconsin.

(F) PENOKEE MOUNTAIN CLUSTER.—Certain lands in the Chequamegon National Forest, Great Divide Ranger District, totaling approximately 23,000 acres, known as "Penokee Mountain Cluster", and including parcels known as or near St. Peters Dome, Brunsweiler River Gorge, Lake Three, Marengo River and Brunsweiler River Semi-primitive Non-motorized Areas, Hell Hole Creek, and the North County Trail Hardwoods. The cluster is located in Ashland and Bayfield Counties, Wisconsin.

(G) SOUTHEAST GREAT DIVIDE CLUSTER.—Certain lands in the Chequamegon National Forest, Medford Park Falls Ranger District, totaling approximately 25,000 acres, known as the "Southeast Great Divide Cluster", and including parcels known as or near Snoose Lake, Cub Lake, Springbrook Hardwoods, upper Moose River, East Fork Chippewa River, upper Torch River, Venison Creek, upper Brunet River, Bear Lake Slough, and No-name Lake. The Cluster is located in Ashland and Sawyer Counties, Wisconsin.

(H) Diamond roof cluster.—Certain lands in the Nicolet National Forest, Lakewood-Laona Ranger District, totaling approximately 6,000 acres, known as "Diamond Roof Cluster", including parcels known as McCaslin Creek, Ada Lake, Section 10 Lake, and Diamond Roof. The cluster is located in Forest, Langlade, and Oconto Counties, Wisconsin.

(I) Argonne forest cluster.—Certain lands in the Nicolet National Forest, Eagle River-Florence Ranger District, totaling approximately 12,000 acres, known as "Argonne Forest Cluster" and including parcels known as Argonne Experimental Forest, Scott Creek, Atkins Lake, and Island Swamp. The cluster is located in Forest County, Wisconsin.

(J) Bonita grade.—Certain lands in the Nicolet National Forest, Lakewood-Laona Ranger District, totaling approximately 1,200 acres, known as "Bonita Grade", and including parcels near Mountain Lakes, Temple Lake, and Second South Branch, First South Branch, and South Branch Oconto River. The cluster is located in Langlade County, Wisconsin.

(K) Franklin and butternut lakes cluster.—Certain lands in the Nicolet National Forest, Eagle River-Florence Ranger District, totaling approximately 12,000 acres, known as "Franklin and Butternut Lakes Cluster", and including parcels known as Bose Lake Hemlocks, Luna White Deer, Echo Lake, Franklin and Butternut Lakes, Wolf Lake, Upper Ninemile, Meadow, and Bailey Creeks. The cluster is located in Forest and Onieda Counties, Wisconsin.

(L) Lauterman lake and kieper creek.—Certain lands in the Nicolet National Forest, Eagle River-Florence Ranger District, totaling approximately 2,500 acres, known as "Lauterman Lake and Kieper Creek", located in Florence County, Wisconsin.

(26) Wyoming: sand creek area.—Certain lands in the Black Hills National Forest, totaling approximately 8,300 acres known as the "Sand Creek Area", located in Crook County, Wyoming. This area is situated in the far northwest corner of the Black Hills. Beginning in the northwest corner and proceeding counterclockwise, the boundary for the Sand Creek Area roughly follows Forest Road 863, 866, 866.1B, a line linking 866.1B to 802.1B, 802.1B, 802.1, an unnamed road, Spotted Tail Creek (excluding all private lands), 8219.1, a line connecting 829.1 with 864, 852.1 and a line connecting 852.1 with 863.

(d) Committee of Scientists.—

(1) Establishment.—The Secretaries concerned shall appoint a committee consisting of scientists who—

(A) are not officers or employees of the Federal Government;

(B) are not officers or employees of any entity engaged in whole or in part in the production of wood or wood products; and

(C) have not contracted with or represented any such entities within a 5-year period prior to serving on the committee.

(2) Recommendations for additional special areas.—Within 2 years of the date of the enactment of this Act, the committee shall provide Congress with recommendations for additional Special Areas.

(3) Candidate areas.—Candidate areas for recommendation as additional Special Area shall have outstanding biological values that are exemplary on a regional, national, or international level. Biological values include—

(A) the presence of threatened or endangered species of plants or animals;

(B) rare or endangered ecosystems;

(C) key habitats necessary for the recovery or endangered or threatened species;

(D) recovery or restoration areas of rare or underrepresented forest ecosystems;

(E) migration corridors;

(F) areas of outstanding biodiversity;

(G) old growth forests;

(H) commercial fisheries; and

(I) sources of clean water such as key watersheds.

(4) Governing principle.—The committee shall adhere to the principles of conservation biology in identifying Special Areas based on biological values.

SEC. 203. RESTRICTIONS ON MANAGEMENT ACTIVITIES IN ANCIENT FORESTS, ROADLESS AREAS, WATERSHED PROTECTION AREAS, SPECIAL AREAS, AND FEDERAL BOUNDARY AREAS.

(a) Restriction of Management Activities in Ancient Forests.—With respect to Ancient Forests on Federal lands, the following prohibitions shall apply:

(1) No roads shall be constructed or reconstructed.

(2) No extractive logging shall be permitted.

(3) No improvements for the purpose of extractive logging shall be permitted.

(b) Restriction of Management Activities in Roadless Areas.—With respect to Roadless Areas on Federal lands except military installations, the following prohibitions shall apply:

(1) No roads shall be constructed or reconstructed.

(2) No extractive logging shall be permitted.

(3) No improvements for the purpose of extractive logging shall be permitted.

(c) Restriction of Management Activities in Watershed Protection Areas.—With respect to Watershed Protection Areas on Federal lands except military installations, the following prohibitions shall apply:

(1) No roads shall be constructed or reconstructed.

(2) No extractive logging shall be permitted.

(3) No improvements for the purpose of extractive logging shall be permitted.

(d) Restriction of Management Activities in Special Areas.—With respect to Special Areas on Federal lands, the following prohibitions shall apply:

(1) No roads shall be constructed or reconstructed.

(2) No extractive logging shall be permitted, and

(3) No improvements for the purpose of extractive logging shall be permitted.

(e) Restriction of Management Activities in Federal Boundary Areas.—With respect to Federal Boundary Areas on Federal lands, the following prohibitions shall apply:

(1) No roads shall be constructed or reconstructed.

(2) No extractive logging shall be permitted, and

(3) No improvements for the purpose of extractive logging shall be permitted.

(f) Maintenance of Existing Roads.—The above restrictions on the reconstruction of roads on Federal lands in Ancient Forests, Roadless, Areas, Watershed Protection Areas, Special Areas, and Federal Boundary Areas does not prohibit the maintenance of an improved road, or any road accessing private inholdings, with the exception that any roads which the Secretary concerned determines to have been abandoned before the enactment of this act shall not be maintained or reconstructed.

(g) Enforcement.—

(1) Purpose and finding.—The purpose of this subsection is to foster the widest possible enforcement of this section. Congress finds that all people of the United States are injured by actions on lands to which this section applies.

(2) Federal enforcement.—The provisions of this section shall be enforced by the Secretary concerned and the Attorney General of the United States against any person who violates this section.

(3) Citizen suits.—Any citizen harmed by a violation of this Act may enforce any provision of this section by bringing an action for declaratory judgment, temporary restraining order, injunction, statutory damages, and other remedies against any alleged violator including the United States, in any district court of the United States.

(4) Standard of proof.—The standard of proof in all actions brought under this subsection shall be the preponderance of the evidence and the trial shall be de novo.

(5) Damage award.—The court, after determining a violation of this section, shall impose a damage award of not less than $5,000, shall issue one or more injunctions and other equitable relief, and shall award to the plaintiffs reasonable costs of litigation including attorney's fees, witness fees and other necessary expenses. The damage award shall be paid by the violator of violators designated by the court to the U.S. Treasury. The damage award shall be paid from the U.S. Treasury, as provided by Congress under section 1304 of title 31, United States Code, within 40 days after judgment to the person or persons designated to receive it, to be applied in protecting or restoring native biodiversity in or adjoining Federal land. Any award of costs of litigation and any award of attorney fees shall be paid within 40 days after judgment.

(6) Waiver.—The United States, including its agents and employees waives its sovereign immunity in all respects in all actions under this subsection. No notice is required to enforce this subsection.

By Mr. SPECTER:

S. 978. A bill to amend the Internal Revenue Code of 1986 to allow employers a credit for a portion of the expenses of providing dependent care services to employees, and for other purposes; to the Committee on Finance.

THE AFFORDABLE CHILD CARE ACT

Mr. SPECTER. Mr. President, I have sought recognition to introduce the Affordable Child Care Act, which will ease the financial burden of child care for working families by reducing the cost of day care. I would like to commend Congressman Jon Fox from Pennsylvania's 13th District, who has sponsored this legislation in the House. Our bill would provide a tax credit for employers who provide on-site or site-adjacent child care to their employees in order to reduce the child care expenses of the employee.

Many employees have expressed support for on-site day care facilities, which allow parents to spend more time with their children during the day, such as over the lunch hour. Onsite child care may not be the best option for all families. Many families rely on relatives, centers operated by churches and other religious organizations, or make other arrangements to provide care for their children while they work. However, it is my view that this bill represents a good start toward reducing the cost of child care for many Americans.

The need for affordable and accessible day care is critical given the increasing numbers of working parents and dual-income families in the United States. According to the Bureau of the Census, in 1975, 31 percent of married mothers with a child younger than age 1 participated in the labor force. By 1995, that figure had risen to 59 percent. Almost 64 percent of married mothers and 53 percent of single mothers with children younger than age six participated in the labor force in 1995.

Yet, as reported by the Pittsburgh Post-Gazette on June 5, 1996, only 13 percent of all major U.S. companies provide some form of on-site day care. Further, it costs at least $1 million to start up such a day care center. About 70 percent of working parents missed at least 1 work day in the past year because of child-related problems, according to Work Family Directions of Boston, a company that advises firms on how to improve work and family programs. A 1991 estimate by the Child Care Action Committee, a national child care advocacy group, found that U.S. businesses lose $3 billion a year because of child care related absences.

The cost of child care for families is also significant. A 1995 report by the Census Bureau showed that in 1993, the average weekly child care cost per arrangement paid by families with employed mothers was $57. Parents using organized child care facilities paid the most per arrangement at around $65 per week. Child care is even more expensive in metropolitan areas than nonmetropolitan areas, averaging $80 per week versus $55 per week. I know that licensed day care centers in some urban areas cost as much as $200 per week, which is quite a burden on families which need the second income. These figures serve to underscore the need for action on the part of the Federal Government to provide the necessary assistance to our Nation's working families.

Accordingly, the legislation I am proposing today would provide a tax credit to businesses that provide licensed, onsite or site-adjacent child care for their employees. Employers would be eligible for a tax credit equal to 50 percent of the net cost of providing dependent care services at a child day care facility for employees. This bill also provides, however, that no credit shall be allocated unless the employer certifies that the amount of such a credit is passed on to the employees using the provider day care in the form of reduced child care costs.

The Affordable Child Care Act complements my recent efforts to assist working families in a number of areas. When Congress debated welfare reform in 1995 and 1996, I worked to ensure that adequate funds were provided for child care, a critical component for welfare mothers who would be required to work to receive new limited welfare benefits. I am pleased that the welfare reform bill that became law provides $20 billion in child care funding over a 6-year period.

Providing health insurance for children is also a top priority of mine, and I have sponsored legislation to establish a discretionary pilot program to cover the 4.2 million children of the working poor, who are not eligible for Medicaid but whose parents cannot afford private insurance. I am also a cosponsor of legislation introduced by my colleagues, Senators CHAFEE and ROCKEFELLER, to expand the Medicaid Program to cover children whose families earn up to 150 percent of the Federal poverty level.

To encourage the adoption of children into healthy and stable families, last April I introduced the Adoption Promotion Act of 1996 (S. 1715) with 13 other Senators to provide tax credits for families that adopt. Subsequently, a broader piece of tax legislation, the Small Business Job Protection Act of 1996, was passed by Congress and signed into law on August 20, 1996. This act included a $5,000 adoption tax credit for qualified adoption expenses and a $6,000 tax credit for special needs adoptions, and was much like our legislation. I recently reintroduced legislation to increase the tax credit for special needs adoptions for $7,500, and permit penalty-free withdrawals from Individual Retirement Accounts up to $2,000 for adoption expenses.

In conclusion, Mr. President, encouraging businesses to provide affordable child care for their employees will help provide peace of mind to those in our Nation struggling to balance career and family. I urge my colleagues to join me in cosponsoring this important legislation, and I urge its swift adoption.

By Mr. SPECTER:

S. 979. A bill to provide a tax credit to families with elderly family members living in the family home; to the Committee on Finance.

TAX CREDIT LEGISLATION

Mr. SPECTER. Mr. President, I have sought recognition to introduce legislation that would provide a $2,500 tax credit for individuals or families with elderly family members living in the family home. As we all know, our Nation's population is living longer. With advances in medical treatment, improvements in the Nation's nutrition, and the development of drugs to combat infectious diseases, our Nation's elderly population is expected to more than double by the year 2050. This demographic change presents a unique challenge to America, and it is our duty to work together to ensure that our Nation's elderly and every generation of American families maintain a high quality of life.

Since the Great Depression, our Government has instituted several extremely successful social insurance programs to protect the elderly. The Social Security Program has provided an income security net, and the Medicare Program has insured that senior citizens are afforded access to medical care. Many families, however, are faced with difficult decisions when elderly family members are no longer able to live alone. Many of these seniors are brought into the family home. Others are placed in institutional nursing facilities.

While multigenerational families are not a new phenomenon in America, a new survey released by the National Alliance for Caregiving illustrates how contemporary multigenerational families are faced with extraordinary pressures. Nearly two of three individuals who provide care to elderly family members are employed full or part time, and about half have reported that their caretaking duties have made them late for work, forced them to come home early or to take time off. These caregivers spend an average of 18 hours a week taking care of loved ones, grocery shopping, managing their medications, and helping with transportation and personal care. Many people needing care are chronically ill. More than one in five caregivers, or about 5 million households nationwide, take care of someone with Alzheimer's disease, confusion, dementia or forgetfulness.

Today, millions of American families face a no-win situation when an elderly family member is no longer able to live independently. Taking a loved one into the family home may be much desired instead of having to see a person impoverished by the Medicaid eligibility rules and left a ward of the State, living in a nursing home. Obviously, on the other hand, very few families can afford to pay for private nursing home care themselves. But, bringing an elderly relative into the family home is costly. Our public policy should recognize this dilemma and support those loving families seeking to care for the elderly with their own resources in their own homes.

Currently, there are more than 33.5 million Americans who are 65 years of age and older. In my own State of Pennsylvania, there are 2 million individuals 65 years of age and older. Many of these seniors live independent lives. However, nationwide approximately 3.9 million of our elderly citizens live with relatives other than their spouse and an additional 1.7 million seniors live in nursing homes. My amendment would provide a $2,500 tax credit to individuals or families who care for an elderly family member in the family home. In order to qualify for this tax credit, the elderly family member would have to be at least 65 years old, would have to reside with their family at least half of the taxable year, and must have been eligible under current law to be claimed as a dependent on the family's tax return.

With this amendment, families will be given the vital assistance necessary to provide care to seniors in their homes. It will also provide flexibility to families who would like to provide care to family members in their home rather than place these seniors in institutionalized care facilities, but are otherwise unable to afford this financial commitment. In Congress, we have made many speeches about strengthening the American family and about providing support for our Nations senior citizens. This bill would accomplish both of these important goals. I urge my colleagues to join with me in support of this bill to find real solutions to the real problems faced by the growing numbers of caregivers and senior citizens in America.

By Mr. DURBIN (for himself, Mr. KERRY, Mr. FEINGOLD, Mrs. FEINSTEIN, and Mr. WELLSTONE):

S. 980. A bill to require the Secretary of the Army to close the U.S. Army School of the Americas; to the Committee on Armed Services.

THE SCHOOL OF THE AMERICAS CLOSURE ACT OF 1997

Mr. DURBIN. Mr. President, I rise today to call upon my colleagues to support a bill to close the School of the Americas.

The School of the Americas is an institute that has outlived its usefulness and its purpose. SOA was established over 50 years ago. Its mission is to provide military education and training to military personnel of Central America, South America, and Caribbean countries. The training provided at the school in tactical intelligence, infantry tactics, combat skills, and battle planning was designed in accordance with U.S. strategy of a bygone era: to create a Latin and South American staging area to thwart the Communist threat. But times have changed and there is no longer a Soviet bloc threatening to attack the United States. Unfortunately, SOA has not successfully adapted to the great changes in the world since the 1992 breakup of the Soviet Union. Despite attempts made over the past couple of years to update the curriculum and improve the selection process for students and the quality of the teaching staff, SOA remains an anachronism.

In the post-cold-war era, we need to strengthen civilian institutions in Latin America and help these countries continue to reform their militaries. This region contains some of the most fragile democracies which need our support in encouraging democratically elected governments, the role of civilian institutions and economic stability. Our focus should be on supporting these nascent civilian governments and helping them shift authority away from their militaries.

I also believe the school should be closed because of its past links to numerous military personnel who have committed some of the most heinous crimes of recent memory. SOA graduates include: Panamanian dictator and drug dealer, Manuel Noriega; 19 Salvadoran soldiers linked to the 1989 murder of 6 Jesuit priests, their housekeeper and her daughter; El Salvador death squad leader, Roberto D'Aubuisson; Argentinian dictator, Leopoldo Galtieri; three of the five officers involved in the 1980 rape and murder of four United States churchwomen in El Salvador; and 10 of the 12 officers responsible for the murder of 900 civilians in the El Salvadoran village, El Mozote. These criminals, multiple murderers, and rapists are former students and graduates of the School of the Americas where they received their military and counterinsurgency training.

The U.S. military has readily admitted that these SOA graduates were guilty of these atrocities. These admissions are an embarrassment to the United States and to our reputation as a leader in promoting human rights throughout the world.

In addition, recently the Pentagon released the training manuals used at SOA from 1982 to 1991. These manuals contained instruction in torture and extortion techniques. These manuals are inconsistent with U.S. policy and democratic ideals. I am concerned that there might be other former students, trained with these manuals and guilty of human rights abuses but who have not as yet come to public attention.

Some have suggested that if SOA is revamped and reorganized that it could still serve a useful purpose. I disagree. SOA cannot be salvaged. Its reputation is too tarnished and its name is too closely linked to the assassins and rapists who were trained there. The United States cannot deny the human rights violations inflicted by the graduates of SOA. But, we still need to find a resolution for these terrible events. I believe that closing SOA is the only way to finally break with this chapter in U.S. history.

Our South American neighbors need to know that human rights and democratic values are held in high esteem in the United States. We are hampered in making this claim as long as the School of the Americas remains open. The continued funding of SOA does not fit into the United States long-term strategy for the Latin American region and undermines our credibility on human rights issues in this hemisphere. I call upon my colleagues to cosponsor this legislation and support the closure of the School of the Americas.

Mr. FEINGOLD. Mr. President, I am pleased to rise as an original cosponsor of the legislation being introduced today by the Senator from Illinois [Mr. DURBIN] to close the U.S. Army School of the Americas [SOA] located at Fort Benning, GA.

SOA was created in 1946 to train Latin American military officers in combat and counterinsurgency skills, with the goal of professionalizing Latin American armies and strengthening democracies. Originally located in Panama, the SOA moved to Fort Benning in 1948. There has been a great deal of controversy surrounding the types of leaders that have graduated from the SOA, leading it to be called the School for Dictators. Some of SOA's graduates include Manuel Noriega, at least 19 Salvadorean officers implicated by El Salvador's Truth Commission in the murder of 6 Jesuit priests, and officers who participated in the coup against former Haitian president Jean-Bertrand Aristide.

In 1991, following an internal investigation, the Pentagon removed certain SOA training manuals from circulation. On September 22, 1996, the Pentagon released the full text of those training manuals and acknowledged that some of those manuals provided instruction in techniques that, in the Pentagon's words, were "clearly objectionable and possibly illegal." The techniques in question included torture, extortion, false arrest, and execution. I and other Senators have written the Department of Defense several times to request additional disclosure of SOA policies, curriculums, training manuals and other materials so that the history of the school can be fully understood.

The horrendous record of the SOA has inspired hundreds of Wisconsin residents to contact my office to express their support for closing this school. Numerous organizations, including Public Citizen, the Washington Office on Latin America and Human Rights Watch also support the elimination of SOA.

As a member of the Senate Committee on Foreign Relations, I am committed to promoting human rights throughout the world. In my view, our Government cannot continue to support the existence of a school that counts so many murderers among its alumni. While I do not doubt that it can be in our national interest to conduct military training with our friends and partners, it is unexcusable that such military training should take place at an institution with the reputation of the School of the Americas. This bill gives Members of the Senate an opportunity to separate the legitimate training exercises conducted by the U.S. military from the sordid acts of many individuals who have been trained at SOA. We must lift the cloud of suspicion that has fallen on these programs by closing SOA once and for all.

Not only are the human costs of this training program unjustifiable, but so are its monetary costs. With a national debt in excess of $5 trillion, every Federal program needs to be carefully scrutinized to ensure that Federal tax dollars are wisely spent. Given the end of the cold war, and in light of documents indicating the SOA training program provided instruction in techniques which violate human rights standards, I feel that the School of Americas is an unwise expenditure, and I support eliminating it as soon as possible.

By Mr. LEVIN (for himself, Mr. THOMPSON, Mr. GLENN, Mr. ABRAHAM, Mr. ROBB, Mr. ROTH, Mr. ROCKEFELLER and Mr. STEVENS):

S. 981. A bill to provide for analysis of major rules; to the Committee on Governmental Affairs.

THE REGULATORY IMPROVEMENT ACT OF 1997

Mr. LEVIN. Mr. President, today Senator THOMPSON and I are joined by Senators GLENN, ABRAHAM, ROBB, ROCKEFELLER, ROTH, and STEVENS in introducing the Regulatory Improvement Act of 1997. The bill would put into law—first, basic requirements for cost-benefit analysis and risk assessment of major rules; second, a process for the review of existing rules where there is a possibility of achieving significantly greater net benefits; and third, executive oversight of the rulemaking process. It builds on the bipartisan Roth-Glenn bill that was unanimously reported out of the Governmental Affairs Committee in 1995.

This bill would require agencies, when issuing rules that have a major impact on the economy or a sector of the economy, to do a cost-benefit analysis to determine whether the benefits of the rule justify its costs and to determine whether the regulatory option chosen by the agency is more cost effective or provides greater net benefits than other regulatory options considered by the agency. If the rule involves a risk to health, safety or the environment, the bill requires the agency to do a risk assessment as part of the analysis of the benefits of the rule.

The bill also requires agencies that issue major rules to establish advisory committees to identify existing rules that the agency should consider for review because they have the potential, if modified, to achieve significantly greater net benefits. It would also codify the review procedure now conducted by the Office of Information and Regulatory Affairs [OIRA] and require public disclosure of OIRA's review process.

The bill is significantly different from S. 343, the Dole-Johnston bill which I strongly opposed and which was rejected by the Senate in the 104th Congress.

It does not create a supermandate that would amend existing laws nor does it contain mandatory decisional criteria that would establish new standards for an agency to meet. It does require agencies to conduct cost-benefit analyses for major rules and explain whether the benefits of the rules justify the costs and whether the rule is cost-effective than the other alternatives considered by the agency. It does not mandate the outcome of the process, only the process itself.

It does not provide for judicial review of the process for, or the contents of, the cost-benefit analysis or risk assessment. The cost-benefit analysis and risk assessment are made part of the rulemaking record for judicial review of whether the final rule is reasonable.

It does not provide for a petition process for challenging existing rules. It provides for advisory committees to identify rules for possible review, gives the agency head the discretion to select rules for review especially taking into account the resources of the agency, and requires the agency to review the rules scheduled for review in 5 years.

Mr. President, many people think that when many of us fought hard against the Dole-Johnston bill that we didn't really want to reform the regulatory process. Well they are wrong. Many of us were disappointed that we were unable to pass a comprehensive regulatory reform bill in the last Congress. We weren't going to support bad reform, but that doesn't mean we didn't want to see good reform. Those of us who believe in the benefits of regulation to protect health and safety have a particular responsibility to make sure that regulations are sensible and cost-effective. When they aren't, the regulatory process—which is so vital to our health and well being —comes under constant attack . By providing a common sense, moderate and open regulatory process, we are contributing to the well being of that process and immunizing it from the attacks on excesses.

Mr. President, I've fought for regulatory reform since 1979, the year I came to the Senate. I even had as part of my platform back in 1978, the legislative veto—which would give Congress the chance to block excessively costly and burdensome regulations before they take effect. That was my battle cry for years. I worked with former Senator Boren, for instance, trying to get an across-the-board legislative veto bill enacted into law. Last Congress we were finally able to get a version of that adopted.

I was also the author of the Regulatory Negotiation Act which was passed in 1990 and reauthorized in 1995 to encourage agencies to use the collegial process of negotiation in developing certain rules in order to avoid the delays and costs inherent in the otherwise adversarial process.

As for an overall regulatory reform bill, I've supported such legislation since 1980, when the Senate first passed S. 1080, the Laxalt-Leahy bill only to have it die later that year in the House.

At the same time, I took a strong stand against several damaging regulatory reform proposals from the House including an overall moratorium of regulations and against the Dole-Johnston bill in the Senate. I will not support any regulatory reform proposal that I believe would roll back important environmental, public health and safety protections. Nor will I support any regulatory reform proposal that I believe will lead to gridlock in the agencies or the courts. We certainly don't need that.

We do need—better cost-benefit analysis and risk assessment, more flexibility for the regulated industries to reach legislative goals in a variety of ways, more cooperative efforts between government and industry and less "us versus them" attitudes.

Based on these common principles, Senator THOMPSON and I have been working for months on this legislative proposal that I hope will yield a more rational and fair regulatory process and better, more flexible, more cost-effective and more enforceable regulations.

Let me highlight some important features of this legislation.

First, we say right from the beginning, in the section on findings, that cost-benefit analysis and risk assessment are useful tools to help agencies issue reasonable regulations. But they are only tools; they are not the sole basis upon which regulations should be developed or issued. They do not, we explicitly state, they do not replace the need for good judgment and the agencies' consideration of social values in deciding when and how to regulate.

We define benefits very broadly—expressly taking into account nonquantifiable benefits. There is nothing in this bill that suggests that the assessment of benefits by an agency should be only quantifiable. On the contrary, this bill explicitly recognizes that many important benefits may be nonquantifiable, and that agencies have the right and authority to fully consider such benefits when doing the cost-benefit analysis and when determining whether the benefits justify the costs. We emphatically do not intend for the benefits part of the equation in the cost-benefit analysis to be limited to merely those benefits that are quantifiable.

We direct the agencies to consider regulatory options that provide flexibility, where possible, to the regulated parties. I have been a longtime proponent of performance standards in regulations and not the so-called command and control approach. This bill urges the agencies to include in its identification of possible regulatory approaches that permit flexibility in achieving the required goal, either through performance standards or market type mechanisms.

The definition of major rule, to which the provisions of this bill apply, is limited to those with a $100 million impact on the economy and those otherwise designated by the Administrator of the Office of Information and Regulatory Affairs [OIRA].

The bill requires an agency issuing a major rule to evaluate the benefits and costs of a "reasonable number of reasonable alternatives reflecting the range of regulatory options that would achieve the objective of the statute as addressed by the rulemaking." I am quoting these words, because they are significant. The bill doesn't require an agency to look at all the possible alternatives, just a reasonable number; but it does require the agency to pick a selection of options that are available to it within the range of the rulemaking objective.

This cost-benefit analysis, of which any risk assessment would be a part, is intended to be transparent to the public; that is, those of us outside the agency—Congress, the regulated community, the beneficiaries of the regulation, the general public—should be able to see and understand the thinking the agency used to select the regulatory option it did, as well as the underlying scientific and/or economic data. Agencies should not hide the important information that forms the basis of their regulatory actions.

Another important provision of this bill is the one that requires the agency to make a reasonable determination whether the benefits of the rule justify the costs and whether the regulatory option selected by the agency is substantially likely to achieve the objective of the rulemaking in a more cost effective manner or with greater net benefits than the other regulatory options considered by the agency. This is not in any way a decisional criteria that the agency must meet. This only requires the agency to make its assessment. And, if, as the agency is free to do, it chooses a regulatory option where the benefits do not justify the costs or that is not more cost effective or does not provide greater net benefits than the other options, the agency is required to explain why it did what it did and list the factors that caused it to so. Those factors could be a statute, a policy judgment, uncertainties in the data and the like. There is no added judicial scrutiny of a rule provided for or intended by this section. The final rule must still stand or fall based on whether the court finds that the rule is arbitrary or capricious in light of the whole rulemaking record. That is the current standard of judicial review.

The bill says that if an agency cannot make the determinations required by the bill, it has to say why it can't. Use of the word cannot does not mean that an agency rule can be overturned by a court for its failure to pick an option that would permit the agency to make the determinations required by the bill. The agency is free to use its discretion to regulate under the substantive statute, and there is no implication that such rule must meet the standards described in the determinations subsection. It does mean, though, that the agency is required to make such determinations and let the public know why it picked the regulatory option that it did, and if it can't say, or determine, that the regulatory option it chose is the most cost effective or provides greatest net benefits, it must say why it chose it. This legislation requires only that the agency be up front with the public as to just how cost beneficial and cost effective its regulatory proposal is.

The risk assessment requirement in this bill, unlike previous bills, is not unduly proscriptive. It establishes basic elements for performing risk assessments, many of which, again, will provide transparency for an agency's development of a rule, and it requires guidelines for such assessments to be issued by OIRA in consultation with the Office of Science and Technology Policy.

Peer review, Mr. President, is required by this bill for both cost-benefit analyses and risk assessments, but only once per rule. Peer review is not required at both the proposed and final rule stages. There is great concern in the public interest community, that there will not be sufficient personnel available with appropriate expertise and independence to serve on each of these peer review bodies. I am hoping to pursue that issue at greater length during our committee hearings.

There is a similar concern by the public interest sector as to the availability of a balanced cross-section of individuals to serve on the advisory committees required for the review of rules. Service on such bodies obviously takes time and expertise and both of those cost money. I hope we can also address the concerns about the possibility of inadequate levels of participation by groups and interests which have fiscal constraints that could preclude their full participation.

Mr. President, the review of rules provision in this bill is also a reasonable approach. Unlike past proposals, it does not provide for an automatic sunset of a rule that is not reviewed pursuant to the schedule. Rather it provides for the agency to determine during the review period of rules it chooses to review whether it is going to continue, modify, or repeal the rule under review. If it fails to make that determination and take the appropriate action, the agency can be sued under the existing provision of the Administrative Procedure Act to force agency action unlawfully withheld.

Rules would be scheduled for review under the provisions of this bill, only at the discretion of the agency head. However, the public would know the list of rules recommended for review by the advisory committee. The advisory committee would recommend those rules for review that, if modified, could result in substantially greater net benefits to society. That is the standard the committees are supposed to apply. The agency must review the recommendations of the advisory committee and develop a schedule for review of rules taking into account the resources available to the agency to conduct such reviews.

Judicial review has been of great concern to those of us who want real regulatory reform without bottling up important regulations in the courts. There is no judicial review permitted of the cost-benefit analysis or risk assessment required by this bill outside of judicial review of the final rule. The analysis and assessment are included in the rulemaking record, but there is no judicial review of the content of those items or the procedural steps followed or not followed by the agency in the development of the analysis or assessment. Only the total failure to actually do the cost-benefit analysis or risk assessment would allow the court to remand the rule to the agency.

Finally, Mr. President, the bill puts into law the requirement that the President establish a process for reviewing rules and coordinating Federal agency regulatory actions. Despite over 15 years of Executive orders that impose such a requirement, Congress has yet to put such a responsibility of the President into law. This bill would do that. And with that responsibility goes the obligation of the President, acting through OIRA, to make public the process and results of its review of agency rules. This is an important element of accountability, and such disclosure should not depend upon the whim of the President but rather on the requirements imposed by permanent law.

So those are some highlights. Senator THOMPSON has committed to hearings on the bill. Everybody will be given an opportunity to comment and identify potential problems and possible improvements.

I believe this bill will improve the regulatory process, will build confidence in the regulatory programs that are so important to this society's well-being, and will result in a better—and I believe—a less contentious regulatory process.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 981

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Regulatory Improvement Act of 1997".

SEC. 2. FINDINGS.

Congress finds the following:

(1) Current regulatory programs can be improved by being more firmly rooted in sound economic and scientific analysis.

(2) Cost-benefit analysis and risk assessment are useful tools to better inform agencies in developing regulations, although they do not replace the need for good judgment and consideration of values.

(3) Cost and risk need to be considered in evaluating regulatory proposals which address health, safety, or the environment. Other factors such as social values, distributional effects, and equity, must also be considered.

(4) Cost-benefit analysis and risk assessment should be presented with a clear statement of the analytical assumptions and uncertainties including an explanation of what is known and not known and what the implications of alternative assumptions might be.

(5) The public has a right to know about the costs and benefits of regulations, the risks addressed, the amount of risk reduced, and the quality of scientific and economic analysis used to support decisions. Such knowledge will promote the quality, integrity and responsiveness of agency actions.

(6) The Administrator of the Office of Information and Regulatory Affairs should oversee regulatory activities to ensure consistent and valid use of cost-benefit analysis and risk assessment among all agencies.

(7) The Federal Government should develop a better understanding of the strengths, weaknesses, and uncertainties of cost-benefit analysis and risk assessment and conduct the research needed to improve these analytical tools.

SEC. 3. REGULATORY ANALYSIS.

(a) IN GENERAL.—Chapter 6 of title 5, United States Code, is amended by adding at the end the following:

"SUBCHAPTER II—REGULATORY ANALYSIS

"§ 621. Definitions

"For purposes of this subchapter the definitions under section 551 shall apply and—

"(1) the term 'benefit' means the reasonably identifiable significant favorable effects, quantifiable and nonquantifiable, including social, health, safety, environmental, economic, and distributional effects, that are expected to result directly or indirectly from implementation of, or compliance with, a rule;

"(2) the term 'cost' means the reasonably identifiable significant adverse effects, quantifiable and nonquantifiable, including social, health, safety, environmental, economic, and distributional effects that are expected to result directly or indirectly from implementation of, or compliance with, a rule;

"(3) the term 'cost-benefit analysis' means an evaluation of the costs and benefits of a rule, quantified to the extent feasible and appropriate and otherwise qualitatively described, that is prepared in accordance with the requirements of this subchapter at the level of detail appropriate and practicable for reasoned decisionmaking on the matter involved, taking into consideration uncertainties, the significance and complexity of the decision, and the need to adequately inform the public;

"(4) the term 'Director' means the Director of the Office of Management and Budget, acting through the Administrator of the Office of Information and Regulatory Affairs;

"(5) the term 'flexible regulatory options' means regulatory options that permit flexibility to regulated persons in achieving the objective of the statute as addressed by the rule making, including regulatory options that use market-based mechanisms, outcome oriented performance-based standards, or other options that promote flexibility;

(6) the term 'major rule' means a rule or a group of closely related rules that—

"(A) the agency proposing the rule or the Director reasonably determines is likely to have an annual effect on the economy of $100,000,000 or more in reasonably quantifiable costs; or

"(B) is otherwise designated a major rule by the Director on the ground that the rule is likely to adversely affect, in a material way, the economy, a sector of the economy, including small business, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments, or communities;

"(7) the term 'reasonable alternative' means a reasonable regulatory option that would achieve the objective of the statute as addressed by the rule making and that the agency has authority to adopt under the statute granting rule making authority, including flexible regulatory options;

"(8) the term 'risk assessment' means the systematic process of organizing hazard and exposure assessments to estimate the potential for specific harm to exposed individuals, populations, or natural resources;

"(9) the term 'risk characterization' means the presentation of risk assessment results including, to the extent feasible, a characterization of the distribution of risk as well as an analysis of uncertainties, variabilities, conflicting information, and inferences and assumptions in the assessment;

"(10) the term 'rule' has the same meaning as in section 551(4), and shall not include—

"(A) a rule exempt from notice and public comment procedure under section 553;

"(B) a rule that involves the internal revenue laws of the United States, or the assessment and collection of taxes, duties, or other revenue or receipts;

"(C) a rule of particular applicability that approves or prescribes for the future rates, wages, prices, services, corporate or financial structures, reorganizations, mergers, acquisitions, accounting practices, or disclosures bearing on any of the foregoing;

"(D) a rule relating to monetary policy proposed or promulgated by the Board of Governors of the Federal Reserve System or by the Federal Open Market Committee;

"(E) a rule relating to the safety or soundness of federally insured depository institutions or any affiliate of such an institution (as defined in section 2(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(k)); credit unions; the Federal Home Loan Banks; government-sponsored housing enterprises; a Farm Credit System Institution; foreign banks, and their branches, agencies, commercial lending companies or representative offices that operate in the United States and any affiliate of such foreign banks (as those terms are defined in the International Banking Act of 1978 (12 U.S.C. 3101)); or a rule relating to the payments system or the protection of deposit insurance funds or Farm Credit Insurance Fund;

"(F) a rule or order relating to the financial responsibility, recordkeeping, or reporting of brokers and dealers (including Government securities brokers and dealers) or futures commission merchants, the safeguarding of investor securities and funds or commodity future or options customer securities and funds, the clearance and settlement of securities, futures, or options transactions, or the suspension of trading under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) or emergency action taken under the Commodity Exchange Act (7 U.S.C. 1 et seq.), or a rule relating to the protection of the Securities Investor Protection Corporation, that is promulgated under the Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa et seq.), or a rule relating to the custody of Government securities by depository institutions under section 3121 or 9110 of title 31;

"(G) a rule issued by the Federal Election Commission or a rule issued by the Federal Communications Commission under sections 312(a)(7) and 315 of the Communications Act of 1934 (47 U.S.C. 312(a)(7) and 315);

"(H) a rule required to be promulgated at least annually pursuant to statute; or

"(I) a rule or agency action relating to the public debt;

"(11) the term 'screening analysis' means an analysis using simple assumptions to arrive at an estimate of upper and lower bounds of risk as appropriate; and

"(12) the term 'substitution risk' means an increased risk to health, safety, or the environment reasonably likely to result from a regulatory option.

"§ 622. Applicability

"Except as provided in section 623(e), this subchapter shall apply to all proposed and final major rules.

"§ 623. Regulatory analysis

"(a)(1) Before publishing a notice of a proposed rule making for any rule, each agency shall determine whether the rule is or is not a major rule covered by this subchapter.

"(2) The Director may designate any rule to be a major rule under section 621(6)(B), if the Director—

"(A) makes such designation no later than 30 days after the close of the comment period for the rule; and

"(B) publishes such determination in the Federal Register together with a succinct statement of the basis for the determination within 30 days after such determination.

"(b)(1)(A) When an agency publishes a notice of proposed rule making for a major rule, the agency shall prepare and place in the rule making file an initial regulatory analysis, and shall include a summary of such analysis consistent with subsection (d) in the notice of proposed rule making.

"(B)(i) When the Director has published a determination that a rule is a major rule after the publication of the notice of proposed rule making for the rule, the agency shall promptly prepare and place in the rule making file an initial regulatory analysis for the rule and shall publish in the Federal Register a summary of such analysis consistent with subsection (d).

"(ii) Following the issuance of an initial regulatory analysis under clause (i), the agency shall give interested persons an opportunity to comment under section 553 in the same manner as if the initial regulatory analysis had been issued with the notice of proposed rule making.

"(2) Each initial regulatory analysis shall contain—

"(A) a cost-benefit analysis of the proposed rule that shall contain—

"(i) an analysis of the benefits of the proposed rule, including any benefits that cannot be quantified, and an explanation of how the agency anticipates that such benefits will be achieved by the proposed rule, including a description of the persons or classes of persons likely to receive such benefits;

"(ii) an analysis of the costs of the proposed rule, including any costs that cannot be quantified, and an explanation of how the agency anticipates that such costs will result from the proposed rule, including a description of the persons or classes of persons likely to bear such costs; and

"(iii) an evaluation of the relationship of the benefits of the proposed rule to its costs, including the determinations required under subsection (c)(3), taking into account the results of any risk assessment;

"(iv) an evaluation of the benefits and costs of a reasonable number of reasonable alternatives reflecting the range of regulatory options that would achieve the objective of the statute as addressed by the rule making, including, where feasible, alternatives that—

"(I) require no government action;

"(II) accommodate differences among geographic regions and among persons with differing levels of resources with which to comply; or

"(III) employ flexible regulatory options;

"(v) a description of the scientific or economic evaluations or information upon which the agency substantially relied in the cost-benefit analysis and risk assessment required under this subchapter, and an explanation of how the agency reached the determinations under subsection (c)(3); and

"(B) if required, the risk assessment in accordance with section 624.

"(c)(1) When the agency publishes a final major rule, the agency shall also prepare and place in the rule making file a final regulatory analysis, and shall prepare a summary of the analysis consistent with subsection (d).

"(2) Each final regulatory analysis shall address each of the requirements for the initial regulatory analysis under subsection (b)(2), revised to reflect—

"(A) any material changes made to the proposed rule by the agency after publication of the notice of proposed rule making;

"(B) any material changes made to the cost-benefit analysis or risk assessment; and

"(C) agency consideration of significant comments received regarding the proposed rule and the initial regulatory analysis, including regulatory review communications under subchapter IV.

"(3)(A) The agency shall include in the statement of basis and purpose for the rule a reasonable determination, based upon the rule making record considered as a whole—

"(i) whether the rule is likely to provide benefits that justify the costs of the rule; and

"(ii) whether the rule is likely to substantially achieve the rule making objective in a more cost-effective manner, or with greater net benefits, than the other reasonable alternatives considered by the agency.

"(B) If the agency head cannot reasonably determine that the final rule is likely to provide benefits that justify the costs of the rule and substantially achieve the rule making objective in a more cost-effective manner or with greater net benefits than the other reasonable alternatives considered by the agency, the agency head shall—

"(i) explain why such determinations cannot be made;

"(ii) identify any statutory provision or other factor that prevents such determinations; and

"(iii) describe a reasonable alternative considered by the agency, if feasible, that would allow the agency to determine that the benefits justify the costs and that the rule making objective would be achieved in a more cost-effective manner or with greater net benefits than the other reasonable alternatives considered by the agency.

"(d) Each agency shall include an executive summary of the regulatory analysis, including any risk assessment, in the regulatory analysis and in the statement of basis and purpose for the rule. Such executive summary shall include a succinct presentation of—

"(1) the benefits and costs expected to result from the rule and any determinations required under subsection (c)(3);

"(2) if applicable, the risk addressed by the rule, including the most plausible estimate of the risk and the results of any risk assessment;

"(3) the benefits and costs of reasonable alternatives considered by the agency; and

"(4) the key assumptions and scientific or economic information upon which the agency relied.

"(e)(1) A major rule may be adopted without prior compliance with this subchapter if—

"(A) the agency for good cause finds that conducting the regulatory analysis under this subchapter is contrary to the public interest due to an emergency, or an imminent threat to health or safety that is likely to result in significant harm to the public or the environment; and

"(B) the agency publishes in the Federal Register, together with such finding, a succinct statement of the basis for the finding.

"(2) If a major rule is adopted under paragraph (1), the agency shall comply with this subchapter as promptly as possible unless compliance would be unreasonable because the rule is, or soon will be, no longer in effect.

"§ 624. Principles for risk assessments

"(a)(1) Subject to paragraph (2), each agency shall design and conduct risk assessments in accordance with this subchapter for each proposed and final major rule the primary purpose of which is to address health, safety, or environmental risk, or which results in a significant substitution risk, in a manner that promotes rational and informed risk management decisions and informed public input into and understanding of the process of making agency decisions.

"(2) If a risk assessment under this subchapter is otherwise required by this section, but the agency determines that—

"(A) a final rule subject to this subchapter is substantially similar to the proposed rule with respect to the risk being addressed;

"(B) a risk assessment for the proposed rule has been carried out in a manner consistent with this subchapter; and

"(C) a new risk assessment for the final rule is not required in order to respond to comments received during the period for comment on the proposed rule,

the agency may publish such determination along with the final rule in lieu of preparing a new risk assessment for the final rule.

"(b) Each agency shall consider in each risk assessment reliable and reasonably available scientific information and shall describe the basis for selecting such scientific information.

"(c)(1) Each agency may use reasonable assumptions to the extent that relevant and reliable scientific information, including site-specific or substance-specific information, is not reasonably available.

"(2) When a risk assessment involves a choice of assumptions, the agency shall—

"(A) identify the assumption and its scientific or policy basis, including the extent to which the assumption has been validated by, or conflicts with, empirical data;

"(B) explain the basis for any choices among assumptions and, where applicable, the basis for combining multiple assumptions; and

"(C) describe reasonable alternative assumptions that were considered but not selected by the agency for use in the risk assessment, how such alternative assumptions would have changed the conclusions of the risk assessment, and the rationale for not using such alternatives.

"(d) Each agency shall provide appropriate opportunity for public comment and participation during the development of a risk assessment.

"(e) Each risk assessment supporting a major rule under this subchapter shall include, as appropriate, each of the following:

"(1) A description of the hazard of concern.

"(2) A description of the populations or natural resources that are the subject of the risk assessment.

"(3) An explanation of the exposure scenarios used in the risk assessment, including an estimate of the corresponding population at risk and the likelihood of such exposure scenarios.

"(4) A description of the nature and severity of the harm that could reasonably occur as a result of exposure to the hazard.

"(5) A description of the major uncertainties in each component of the risk assessment and their influence on the results of the assessment.

"(f) To the extent scientifically appropriate, each agency shall—

"(1) express the overall estimate of risk as a reasonable range or probability distribution that reflects variabilities, uncertainties, and lack of data in the analysis;

"(2) provide the range and distribution of risks and the corresponding exposure scenarios, identifying the range and distribution and likelihood of risk to the general population and, as appropriate, to more highly exposed or sensitive subpopulations, including the most plausible estimates of the risks; and

"(3) where quantitative estimates are not available, describe the qualitative factors influencing the range, distribution, and likelihood of possible risks.

"(g) When scientific information that permits relevant comparisons of risk is reasonably available, each agency shall use the information to place the nature and magnitude of a risk to health, safety, or the environment being analyzed in relationship to other reasonably comparable risks familiar to and routinely encountered by the general public. Such comparisons should consider relevant distinctions among risks, such as the voluntary or involuntary nature of risks.

"(h) When scientifically appropriate information on significant substitution risks to health, safety, or the environment is reasonably available to the agency, the agency shall describe such risks in the risk assessment.

"§ 625. Peer review

"(a) Each agency shall provide for peer review in accordance with this section of any cost benefit analysis and risk assessment required by this subchapter that forms the basis of any major rule covered by this subchapter.

"(b)(1) Peer review required under subsection (a) shall—

"(A) provide for the creation or utilization of peer review panels, expert bodies, or other formal or informal devices that are broadly representative and balanced and that consist of panel members or participants with expertise relevant to the sciences involved in the regulatory decisions and who are independent of the agency program;

"(B) exclude any person as a panel member or participant if such person has a financial interest in the outcome, unless such person fully discloses such interest to the agency and the public;

"(C) provide for the timely completion of the peer review including meeting agency deadlines;

"(D) contain a balanced presentation of all considerations, including minority reports and an agency response to all significant peer review comments; and

"(E) provide adequate protections for confidential business information and trade secrets, including requiring panel members or participants to enter into confidentiality agreements.

"(2) All peer review written comments or conclusions and the agency's written responses to significant peer review comments shall be made available to the public and shall be made part of the rule making record for purposes of judicial review of any final agency action.

"(3) If the head of an agency, with the concurrence of the Director, publishes a determination that a cost-benefit analysis or risk assessment, or any component thereof, has been previously subjected to adequate peer review, no further peer review shall be required under this section for such analysis, assessment, or component.

"§ 626. Deadlines for rule making

"(a) All deadlines in statutes or imposed by a court of the United States, that require an agency to propose or promulgate any major rule during the 2-year period beginning on the effective date of this section shall be suspended until the earlier of—

"(1) the date on which the requirements of this subchapter are satisfied; or

"(2) the date occurring 6 months after the date of the applicable deadline.

"(b) In any case in which the failure to promulgate a major rule by a deadline occurring during the 2-year period beginning on the effective date of this section would create an obligation to regulate through individual adjudications, the deadline shall be suspended until the earlier of—

"(1) the date on which the requirements of this subchapter are satisfied; or

"(2) the date occurring 6 months after the date of the applicable deadline.

"§ 627. Judicial review

"(a) Compliance or noncompliance by an agency with the provisions of this subchapter shall only be subject to judicial review in accordance with this section.

"(b) Any determination of an agency whether a rule is or is not a major rule under section 621(6)(A) shall be set aside by a reviewing court only upon a clear and convincing showing that the determination is erroneous in light of the information available to the agency at the time the agency made the determination.

"(c) Any determination by the Director that a rule is a major rule under section 621(6), or any failure to make such determination, shall not be subject to judicial review in any manner.

"(d) The cost-benefit analysis and any risk assessment required under this subchapter shall not be subject to judicial review separate from review of the final rule to which they apply. The cost-benefit analysis, cost-benefit determination under section 623(c)(3), and any risk assessment shall be part of the whole rule making record for purposes of judicial review of the rule and shall be considered by a court in determining whether the final rule is arbitrary or capricious unless the agency can demonstrate that the analysis or assessment would not be material to the outcome of the rule.

"(e) If an agency fails to perform the cost-benefit analysis, cost-benefit determination, or risk assessment, a court shall remand or invalidate the rule.

"§ 628. Guidelines, interagency coordination, and research

"(a)(1) No later than 9 months after the date of enactment of this section, the Director, in consultation with the Director of the Office of Science and Technology Policy and the relevant agency heads, shall develop guidelines for cost-benefit analyses and risk assessments required by this subchapter or with significant implications for public policy. To the extent feasible such guidelines shall apply the principles of sections 623 and 624. The Director shall oversee and periodically revise such guidelines as appropriate.

"(2) As soon as practicable and no later than 18 months after the date of enactment of this section, each relevant agency shall adopt detailed guidelines for risk assessments required by this subchapter or with significant implications for public policy. Such guidelines shall be consistent with the guidance issued under paragraph (1). Each agency shall periodically revise such agency guidelines as appropriate.

"(3) The guidelines under this subsection shall be developed following notice and public comment. The development and issuance of the guidelines shall not be subject to judicial review, except in accordance with section 706(1) of this title.

"(b) To promote the use of cost-benefit analysis and assessment in a consistent manner and to identify agency research and training needs, the Director, in consultation with the Director of the Office of Science and Technology Policy, shall—

"(1) oversee periodic evaluations of Federal agency cost-benefit analysis and risk assessment;

"(2) provide advice and recommendations to the President and Congress to improve agency use of cost-benefit analysis and risk assessment;

"(3) establish appropriate interagency mechanisms to improve the consistency and quality of cost-benefit analysis and risk assessment among Federal agencies; and

"(4) establish appropriate mechanisms between Federal and State agencies to improve cooperation in the development and application of cost-benefit analysis and risk assessment.

"(c)(1) The head of each agency, in consultation with the Director and the Director of the Office of Science and Technology Policy, shall regularly evaluate and develop a strategy to meet agency needs for research and training in cost-benefit analysis and risk assessment, including research on modelling, the development of generic data, use of assumptions and the identification and quantification of uncertainty and variability.

"(2)(A) No later than 6 months from the date of enactment of this section, the Director, in consultation with the Director of the Office of Science and Technology Policy, shall enter into appropriate arrangements with an accredited scientific institution to conduct research to—

"(i) identify and evaluate a common basis to assist comparative risk analysis and risk communication related to both carcinogens and noncarcinogens; and

"(ii) appropriately incorporate risk assessments into related cost-benefit analyses.

"(B) The results of the research conducted under this paragraph shall be submitted to the Director and Congress no later than 18 months after the date of enactment of this section.

"§ 629. Comparative risk analysis study

"(a) No later than 180 days after the effective date of this section, the Director, in consultation with the Director of the Office of Science and Technology Policy, shall enter into a contract with an accredited scientific institution to conduct a study that provides—

"(1) a systematic comparison of the extent and severity of significant risks to human health, safety, or the environment (hereafter referred to as a comparative risk analysis);

"(2) a study of methodologies for using comparative risk analysis to compare dissimilar risks to human health, safety, or the environment; and

"(3) technical guidance and recommendations on the use of comparative risk analysis to assist in allocating resources within and across agencies to set priorities for the reduction of risks to human health, safety, or the environment.

"(b) The Director shall ensure that the study required under subsection (a) is—

"(1) conducted through an open process providing peer review consistent with section 625 and opportunities for public comment and participation; and

"(2) completed and submitted to Congress and the President no later than 3 years after the effective date of this section.

"(c) No later than 5 years after the effective date of this section, and periodically thereafter, the President shall submit a report to Congress recommending legislative changes to assist in setting priorities to more effectively and efficiently reduce risks to human health, safety, or the environment.

"SUBCHAPTER III—REVIEW OF RULES

"§ 631. Definitions

"For purposes of this subchapter the definitions under sections 551 and 621 shall apply.

"§ 632. Advisory committee on regulations

"(a)(1)(A) No later than 90 days after the date of enactment of this section and every 5 years thereafter, the head of each agency described under subparagraph (B) shall establish an advisory committee for the review of rules.

"(B) An agency referred to under subparagraph (A) is any agency that has promulgated a major rule during the 10-year period preceding the date of the establishment of an advisory committee under subparagraph (A).

"(2) The head of an agency described under paragraph (1) may establish panels under its advisory committee.

"(b)(1) Each such agency head shall appoint a reasonable number of members to serve on the agency's advisory committee and shall designate a chairman from the members of the committee. Membership on the committee shall represent a balanced cross-section of public and private interests affected by the regulations of the agency, including small businesses, small governments, and public interest groups. No employee of the agency establishing the committee shall serve as a member of such agency's committee under this section.

"(2) Each member shall be appointed for the life of the advisory committee. The advisory committee shall terminate 1 year after the date on which the committee is established.

“(3) A vacancy on a committee shall be filled in the same manner as the original appointment.

“(4) Each committee shall solicit public comments and may solicit public participation through appropriate means including hearings, written comments, public meetings, and electronic mail.

“(5) Members of each committee shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703.

“(6) Each committee shall be subject to the provisions of the Federal Advisory Committee Act (5 U.S.C. App.).

“§ 633. Agency regulatory review

“(a) Each advisory committee appointed under section 632 shall develop a list of rules promulgated by the agency that the committee serves, which the committee determines should be reviewed by the agency and can reasonably be reviewed by the agency within a 5-year period. In selecting rules for review, each committee shall consider the extent to which—

“(1) a rule could be revised to substantially increase net benefits, including through flexible regulatory options;

“(2) the rule is important relative to other rules being considered for review; and

“(3) the agency has discretion under the statute authorizing the rule to modify or repeal the rule.

“(b) In developing the list required under subsection (a), each advisory committee shall obtain comments and suggestions from the public.

“(c) No later than 1 year after an advisory committee is established, such committee shall deliver to the agency the committee's recommended list of rules to be reviewed in order of priority. The agency shall immediately publish the list in the Federal Register and forward a copy of the list to the appropriate committees of jurisdiction in the House of Representatives and the Senate.

“(d)(1) No later than 60 days after receiving and reviewing the list of rules from its committee, the agency shall publish in the Federal Register a preliminary schedule for review of rules based on such list.

“(2) The agency shall provide in the Federal Register at the time the preliminary schedule is published an explanation of each modification to the list provided by the advisory committee and shall invite public comment on the preliminary schedule for a period of no less than 60 days.

“(e) The preliminary schedule under this section shall propose deadlines for review of each rule listed thereon, and such deadlines shall occur no later than 5 years from the date of publication of the final schedule.

“(f)(1) No later than 60 days after the close of the comment period, the agency shall publish a final schedule of rules to be reviewed by the agency under this section.

“(2) The schedule shall establish a deadline for completion of the review of each rule listed on the schedule. Each deadline shall occur no later than 5 years from the date of publication of the final schedule.

“(g) In preparing the preliminary and final schedule, the agency shall give deference to the recommendations of its advisory committee but may modify the list of rules to be reviewed, taking into account the factors contained in subsection (a) and the resource constraints of the agency.

“(h)(1) For each rule on the schedule under subsection (e), the agency shall—

“(A) no later than 2 years before the deadline in such schedule, publish in the Federal Register a notice that solicits public comment regarding whether the rule should be continued, amended, or repealed;

“(B) no later than 1 year before the deadline in such schedule, publish in the Federal Register a notice that—

“(i) addresses public comments generated by the notice in subparagraph (A);

“(ii) contains a preliminary analysis by the agency with respect to subsection (a) (1), (2), and (3);

“(iii) contains a preliminary determination whether the rule should be continued, amended, or repealed; and

“(iv) solicits public comment on the preliminary determination for the rule; and

“(C) no later than 60 days before the deadline in such schedule, publish in the Federal Register a final notice on the rule that—

“(i) addresses public comments generated by the notice in subsection (c);

“(ii) contains a determination to continue, amend, or repeal the rule and an explanation of such determination with respect to subsection (a) (1), (2), and (3); and

“(iii) if the agency determines to amend or repeal the rule, contains, if required, a notice of proposed rule making under section 553.

“(2) If the final determination of the agency is to continue the rule, such determination shall constitute final agency action 60 days after the publication in the Federal Register of the notice in paragraph (1)(C).

“(i) If an agency makes a determination to amend or repeal a rule under subsection (h)(1)(C), the agency shall complete final agency action with regard to such rule no later than 2 years after the deadline established for such rule under subsection (f)(2).

“(j) Nothing in this section shall limit the discretion of an agency to decide, after having proposed to modify or repeal a rule, not to promulgate such modification or repeal. Such decision shall constitute final agency action for the purposes of judicial review.

“(k) Agency failure to take the actions required by this section shall be subject to judicial review only under section 706(1). There shall be no judicial review of the preliminary or final schedule.

“(l) A court may remand a determination under subsection (h)(2) only upon a clear and convincing showing that the agency could have adopted a reasonable alternative that would substantially increase net benefits, including through flexible regulatory options, while meeting the objectives of the statute as addressed by the rule making.

“SUBCHAPTER IV—EXECUTIVE OVERSIGHT

“§ 641. Definitions

“For purposes of this subchapter—

“(1) the definitions under sections 551 and 621 shall apply; and

“(2) the term ‘regulatory action’ means any one of the following:

“(A) An agenda or schedule for rule makings.

“(B) Advance notice of proposed rule making.

“(C) Notice of proposed rule making.

“(D) Final rule making, including interim final rule making.

“§ 642. Presidential regulatory review

“(a) The President shall establish a process for the review and coordination of Federal agency regulatory actions. Such process shall be the responsibility of the Director.

“(b) For the purpose of carrying out the review established under subsection (a), the Director shall—

“(1) develop and oversee uniform regulatory policies and procedures, including those by which each agency shall comply with the requirements of this chapter;

“(2) develop policies and procedures for the review of regulatory actions by the Director; and

“(3) develop and oversee an annual governmentwide regulatory planning process that shall include review of planned agency major rules and other significant regulatory actions and publication of—

“(A) a summary of and schedule for promulgation of planned agency major rules;

“(B) agency specific schedules for review of existing rules under subchapter III;

“(C) a summary of regulatory review actions undertaken in the prior year;

“(D) a list of major rules promulgated in the prior year for which an agency could not make the determinations that the benefits of a rule justify the costs under section 623(c)(3);

“(E) identification of significant agency noncompliance with this chapter in the prior year; and

“(F) recommendations for improving compliance with this chapter and increasing the efficiency and effectiveness of the regulatory process.

“(c) The review established under subsection (a) shall be conducted as expeditiously as practicable and the Director's review of any regulatory action shall be limited to no more than 90 days, unless extended for an additional 30 days at the written request of the rule making agency or the Director.

“§ 643. Public disclosure of information

“(a) The Director, in carrying out the provisions of section 642, shall establish procedures to provide public and agency access to information concerning regulatory review actions, including—

“(1) disclosure to the public on an ongoing basis of information regarding the status of regulatory actions undergoing review;

“(2) disclosure to the public, no later than publication of a regulatory action, of—

“(A) all written communications relating to the substance of a regulatory action including drafts of all proposals and associated analyses, between the Director or employees of the Director and the regulatory agency;

“(B) all written communications relating to the substance of a regulatory action between the Director or employees of the Director and any person not employed by the executive branch of the Federal Government;

“(C) a list identifying the dates, names of individuals involved, and subject matter discussed in substantive meetings and telephone conversations relating to the substance of a regulatory action between the Director or employees of the Director and any person not employed by the executive branch of the Federal Government; and

“(D) a written explanation of any review action and the date of such action; and

“(3) disclosure to the regulatory agency, on a timely basis, of—

“(A) all written communications relating to the substance of a regulatory action between the Director or employees of the Director and any person who is not employed by the executive branch of the Federal Government;

“(B) a list identifying the dates, names of individuals involved, and subject matter discussed in substantive meetings and telephone conversations, and an invitation to participate in meetings, relating to the substance of a regulatory action between the Director or employees of the Director and any person not employed by the executive branch of the Federal Government; and

"(C) a written explanation of any review action taken concerning an agency regulatory action.

"(b) Prior to the publication of any proposed or final rule, the agency shall include in the rule making record—

"(1) a document identifying in a complete, clear, and simple manner, the substantive changes between the draft submitted to the Director for review and the rule subsequently announced;

"(2) a document identifying those changes in the rule that were made at the suggestion or recommendation of the Director; and

"(3) all written communications exchanged between the Director and the agency during the review of the rule, including drafts of all proposals and associated analyses.

"§644. Judicial review

"The exercise of the authority granted under this subchapter by the Director or the President shall not be subject to judicial review in any manner.".

(b) PRESIDENTIAL AUTHORITY.—Nothing in this Act shall limit the exercise by the President of the authority and responsibility that the President otherwise possesses under the Constitution and other laws of the United States with respect to regulatory policies, procedures, and programs of departments, agencies, and offices.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Part I of title 5, United States Code, is amended by striking the chapter heading and table of sections for chapter 6 and inserting the following:

"CHAPTER 6—THE ANALYSIS OF REGULATORY FUNCTIONS

"SUBCHAPTER I—ANALYSIS OF REGULATORY FLEXIBILITY

"Sec.
"601. Definitions.
"602. Regulatory agenda.
"603. Initial regulatory flexibility analysis.
"604. Final regulatory flexibility analysis.
"605. Avoidance of duplicative or unnecessary analyses.
"606. Effect on other law.
"607. Preparation of analysis.
"608. Procedure for waiver or delay of completion.
"609. Procedures for gathering comments.
"610. Periodic review of rules.
"611. Judicial review.
"612. Reports and intervention rights.

"SUBCHAPTER II—REGULATORY ANALYSIS

"621. Definitions.
"622. Applicability.
"623. Regulatory analysis.
"624. Principles for risk assessments.
"625. Peer review.
"626. Deadlines for rule making.
"627. Judicial review.
"628. Guidelines, interagency coordination, and research.
"629. Comparative risk analysis study.

"SUBCHAPTER III—REVIEW OF RULES

"631. Definitions.
"632. Advisory committee on regulations.
"633. Agency regulatory review.

"SUBCHAPTER IV—EXECUTIVE OVERSIGHT

"641. Definitions.
"642. Presidential regulatory review.
"643. Public disclosure of information.
"644. Judicial review.".

(2) Chapter 6 of title 5, United States Code, is amended by inserting immediately before section 601, the following subchapter heading:

"SUBCHAPTER I—ANALYSIS OF REGULATORY FLEXIBILITY".

SEC. 4. EFFECTIVE DATE.

Except as otherwise provided in this Act, this Act shall take effect 180 days after the date of enactment of this Act, but shall not apply to any agency rule for which a notice of proposed rulemaking is published on or before August 1, 1997.

SUMMARY OF THE REGULATORY IMPROVEMENT ACT OF 1997

1. Regulatory Analysis (§623). When issuing major rules (costing over $100 million or deemed by OMB to have a significant impact on the economy), Federal agencies must conduct a regulatory analysis, including a cost-benefit analysis and, if relevant, a risk assessment.

a. Cost-benefit analysis. The cost-benefit analysis shall consider: The expected benefits of the rule (quantifiable and nonquantifiable); the expected costs of the rule (quantifiable and nonquantifiable); reasonable alternatives, including flexible regulatory options—such as market-based mechanisms or outcome-oriented performance-based standards;

b. Cost-benefit determination. The agency shall include in the statement of basis and purpose for the rule a reasonable determination: (1) whether the rule is likely to provide benefits that justify the costs of the rule; and (2) whether the rule is likely to substantially achieve the rule making objective in a more cost-effective manner, or with greater net benefits, than the other reasonable alternatives considered by the agency.

If the agency cannot make those determinations, it shall: (1) explain why such determinations cannot be made; (2) identify any statutory provision or other factor that prevents such determinations; and (3) describe a reasonable alternative considered by the agency, if feasible, that would allow the agency to make such determinations.

The agency shall include an executive summary in the regulatory analysis and in the statement of basis and purpose for the rule.

There is an exception from the regulatory analysis requirements when an agency must act expeditiously to address an imminent threat to health, safety or the environment.

2. Risk assessment principles (§624). If the major rule has the primary purpose of addressing health, safety, or environmental risks, or results in a significant substitution risk, the regulatory analysis must also include a risk assessment following general statutory criteria to ensure that the assessment is scientifically sound and transparent, including: Identify and explain assumptions made when measuring risks; provide appropriate opportunities for public comment and participation during the development of the risk assessment; disclose relevant information about the risk, including the range and distribution of risks and corresponding exposure scenarios, identifying the range and distribution and likehood of risk to the general population and any sensitive subpopulations, including the most plausible estimates of the risks; when scientific information permits, compare the risk being analyzed with other reasonably comparable risks familiar to and routinely encountered by the general public.

3. Peer review (§625). Agencies shall conduct independent peer review for risk assessments and cost-benefit analyses related to major rules. Peer review is not required where the agency and OMB certify that an assessment or analysis has previously been subjected to adequate peer review.

4. Deadlines for rule making (§626). For two years after the Act becomes effective, agencies are provided with a 6-month time extension from a regulatory deadline if needed to satisfy the requirements of the Act.

5. Judicial Review (§627). Judicial review is limited to making sure that agencies perform the cost-benefit analyses and risk assessments for major rules. (The process for and content of such analysis is not subject to separate judicial review.) The cost-benefit analysis and risk assessment are to be included in the rule making record for purposes of judicial review of the final rule under the deferential arbitrary and capricious standard.

6. Guidelines, interagency coordination, and research (§628). Within 9 months, OMB is required to consult with OSTP and relevant agencies to develop broad guidelines for risk assessments and cost-benefit analyses consistent with the Act.

Within 18 months, each relevant agency shall develop more detailed guidelines for risk assessments tailored to agency programs consistent with the OMB/OSTP guidelines.

OMB shall consult with OSTP to coordinate and improve agency cost-benefit analysis and risk assessment practices and to develop a strategy to agency research and training needs.

Within 6 months, OMB shall consult with OSTP to arrange for research to identify and evaluate a common basis to assist comparative risk analysis and risk communication related to both carcinogens and noncarcinogens; and to appropriately incorporate risk assessments into cost-benefit analyses.

7. Comparative risk analysis study (§629). OMB, in consultation with OSTP, shall enter into a contract with an accredited scientific institution to conduct a study that provides a comparison of significant health, safety and environmental risks, the methodologies for such comparisons, and technical guidance and recommendations on the use of comparative risk analysis to set priorities within and across agencies.

Within 5 years, the President shall submit a report to Congress recommending legislative changes to assist in setting priorities to more effectively and efficiently reduce risks to health, safety and the environment.

8. Review of Rules (§§631–633). Each agency that has issued a major rule within the last 10 years shall establish a balanced advisory committee to recommend a list of rules that the agency should review to increase net benefits. Membership of the committee shall include a balanced cross-section of the public and private interests affected by agency regulations, including small business, small governments, and public interest groups.

After reviewing the recommendations of the advisory group, the agency shall develop and issue a schedule of rules to be reviewed every 5 years, taking into account the extent of the agencies resources to review such rules. The agency may continue, modify or repeal the reviewed rule pursuant to notice and comment rule making.

9. Executive Oversight (§§641–644). The bill codifies the regulatory review process and sets out responsibilities and authority of the Office of Information and Regulatory Affairs (OIRA) to develop policies and procedures to review regulatory actions and to develop and oversee an annual government-wide regulatory planning process that includes the review of major rules and other significant regulatory actions.

OIRA shall establish procedures to provide public and agency access to information concerning regulatory review actions.

Information to be disclosed to the public includes: the status of regulatory actions;

written communications between OIRA and the agency on the regulatory action; written communications between OIRA and persons outside the Executive Branch; and a list identifying the dates, names of individuals involved, and subject matter discussed in meetings and telephone conversations relating to the regulatory action between OIRA and persons not employed by the Executive Branch.

Information to be disclosed to the regulatory agency includes: written communications between OIRA and persons outside the Executive Branch on a regulatory action; a list identifying the dates, names of individuals involved, and subject matter discussed in meetings and telephone conversations relating to the regulatory action between OIRA and persons not employed by the Executive Branch; and a written explanation of any review action taken.

The agency shall include in the rule making record: a document identifying the substantive changes between the draft submitted to the Director for review and the rule subsequently announced; a document identifying those changes in the rule that were made at the suggestion or recommendation of the Director; and all written communications exchanged between the Director and the agency during the review of the rule, including drafts of all proposals and associated analyses.

10. Effective Date (Section 4). The Act shall take effect 180 days after the date of enactment, but shall not apply to any agency rule for which a notice of proposed rule making is published on or before August 1, 1997.

Mr. THOMPSON. Mr. President, I am pleased to be able to join with Senator LEVIN and several of our colleagues in introducing legislation to improve how the federal government regulates. This legislation is an effort by some of us to devise a common solution to the problems of our regulatory system. We have some real political differences among us, but we all share the same goals: clean air and water, injury free workplaces, safe transportation systems, to name a few of the good things that can come from regulation. We also all share the goal of avoiding regulation which unnecessarily interferes in people's lives and businesses, which costs more than it benefits, or which—inadvertently—causes actual harm.

I am pleased we are introducing this bill with Senators GLENN, ABRAHAM, ROBB, ROTH, ROCKEFELLER and STEVENS. They have all toiled in the fields to improve regulation.

It was in this spirit that the legislation we are introducing today was drafted. The Regulatory Improvement Act will promote the public's right to know how and why agencies regulate, improve the quality of government decisionmaking, and increase Government accountability and responsiveness to the people it serves.

The problem is that agencies sometimes lose sight of common sense as they create regulations. Then even well-intentioned rules can produce disappointing results.

Consider the airbag issue that has been in the news lately. The National Highway Transportation Safety Administration required high-force airbags to maximize the odds of survival for adult males in highway crashes. But the deployment force from these airbags can be so severe that they can injure children, women, and the elderly. Senator KEMPTHORNE has spoken about the tragic death of a young girl from Idaho who was decapitated when an airbag deployed during a low-impact collision. The agency is now considering the use of an airbag cut-off switch to avoid these tragedies. But Mr. President, tragedies like this never should have occurred. We could have avoided needless deaths and injuries if the agency had carefully considered the risks that high-impact airbags pose to certain populations. I hope today's proposal will correct mistakes like this before they occur.

A second example is the removal of asbestos from our schools and other public buildings. Early in the 1980s, government scientists argued that asbestos exposure could cause thousands of deaths. Congress responded by passing a sweeping law that led cities and states to spend nearly $20 billion to remove asbestos from public buildings. After further research, EPA officials eventually concluded that ripping out the asbestos had been an expensive mistake. Ironically, removing the asbestos actually raised the risk to the public—because asbestos fibers become airborne during removal. This mistake never would have occurred if these increased risks had been considered in the first place. I hope that would change under the Regulatory Improvement Act.

Finally, let me mention our Superfund requirements. Superfund was passed with the good intention of cleaning up America's toxic wastesites. Unfortunately, things are not working as well as intended. Superfund has become a legal and regulatory maze where a good 90 percent of insurers' costs and 20 percent of liable parties' costs are spent on lawyers and consultants—not on cleaning up the environment. We also have to ask if we are focusing on the most important priorities. For example, Superfund imposes extremely stringent standards for cleaning up lead in groundwater. Now, this is a good rule in many cases, because lead can be very toxic to children. The problem is that we may be overlooking more direct threats to children from lead. For example, lead paint in old houses can be a greater threat to children's health than lead that may be under some industrial site where there are no children. Last congress, our committee heard testimony about how the Superfund law requires groundwater in a Newark railyard to be cleaner than drinking water—at enormous cost. Now, if land is going to be used for industrial purposes, and no children will be there, does this make sense? The answer may be no—those requirements may not improve the environment much, but they may drive businesses out of Newark. Nobody wants to open a business near a Superfund site and risk being sued. No wonder our inner cities are starved for jobs. In the end, we may be hurting the very people we should be concerned about—the inner-city poor, those who already have to live with many risks in their daily lives, those who do not have clout here in Washington.

Virtually every serious student of the regulatory process agrees we can do better. One study by the Harvard Center for Risk Analysis found that if agencies simply set their priorities in a smarter way, we could save an additional 60,000 lives per year at no additional cost. Mr. President, we don't have a moment to lose when we could save more lives. We can set aside partisan politics, and we all can agree this is the right thing to do.

Since I became chairman of the Governmental Affairs Committee, I have been working closely with Senator LEVIN to forge bipartisan legislation with three major purposes:

First, to promote the public's right to know how and why agencies make regulatory decisions. This legislation helps the public to understand agency decisions by directing agencies to—

Allow the public to comment and participate as rules are developed; disclose the benefits and burdens of major rules; disclose any environmental, health and safety risks a rule is designed to reduce, and make those risks understandable by comparing them with other risks familiar to the public; and identify major assumptions and uncertainties considered in creating rules.

Second, to improve the quality of government decisionmaking. Careful thought, grounded in science, will help us to target problems and to find better solutions. We must carefully craft new rules to be effective and efficient. Agencies will carefully consider the benefits and burdens of rules and use good scientific and technical information. Agencies will seek out smarter ways to regulate, including flexible approaches such as outcome-oriented performance standards and market mechanisms. We must modernize and improve rules already on the books. Independent committees will advise agencies how to revise rules to substantially increase the benefits to the public.

And finally, to increase Government accountability to the people it serves. The Act will require agencies to—

Clearly present regulatory proposals so the public, the Congress, and the President can understand the problem at hand and help find a solution; explain any legal impediment or other factor hindering the agency from issuing cost-effective and sensible regulations, and describe any superior alternatives; disclose realistic estimates of any risks addressed; document changes made to proposed rules when the rules are reviewed by the Office of Management and Budget [OMB]; disclose contacts from persons outside the executive branch with OMB when it is reviewing proposed rules, since such contacts may represent outside influence.

Mr. President, while it is important to review what this legislation will accomplish, it also is important to note that this proposal avoids the contentious issues that thwarted agreement on legislation last Congress.

First, this legislation does not contain a supermandate. That is, while we believe that cost-benefit analysis is an important tool to inform agency decisionmaking, the results of the cost-benefit analysis do not trump existing law. The bill explicitly recognizes that sometimes an agency will issue a rule that would not pass a cost-benefit test. We only ask the agency to explain why it selected such a rule, including any legal impediment that hindered the agency from issuing a cost-justified rule.

Second, this bill does not contain a petition process that would allow outside parties to sue agencies in court to change particular rules that the litigant does not like. While we believe there are fruitful opportunities to update and improve old rules, we do not want to set up a review process that could create a litigation morass. Instead of a petition process, agencies will use independent advisory committees that would recommend a list of rules that could be improved to substantially increase net benefits to the public. The agency would defer to the recommendations of the advisory committee, but they could not be dragged into court if someone wanted a different rule to be reviewed.

Finally, this bill strikes a balanced approach to judicial review. We allow limited judicial review under the deferential arbitrary and capricious standard to ensure that agencies issue reasonable regulations using the tools of cost-benefit analysis and risk assessment. But this legislation does not provide a series of trip wires that could hinder agencies from performing their missions. In other words, we realize the agencies may not be perfect in complying with this law. They may make mistakes from time to time. We won't imperil important regulations because the agency made honest mistakes. We just ask the agency to make reasonable and honest decisions, and the public deserves no less.

Mr. President, we are devoting vast resources to achieve our regulatory goals. By some estimates, the annual regulatory burden is nearly $700 billion per year—almost $7,000 for the average American household. Our regulatory goals are too important, and our resources are too precious, to spend this money unwisely.

The Regulatory Improvement Act will ensure that agencies conduct better economic and scientific analysis before they issue regulations. Government will be more open to the public, will better explain the problem, and will consider the best available information to solve the problem. Agencies will consider the benefits and burdens of different regulatory alternatives so we can reach the most sensible solutions. And agencies will modernize old rules on the books to increase the benefits to the public. In the process, we won't sacrifice our important national goals and values. We can make our Government more effective, more open, and more accountable than ever.

Mr. GLENN. Mr. President, I am very pleased today to cosponsor the Regulatory Improvement Act of 1997. This legislation, introduced today by my colleagues Senator CARL LEVIN and Senator FRED THOMPSON, reflects a bipartisan effort to establish a balanced, comprehensive governmentwide standard for Federal rulemaking.

As former chairman and current ranking member of the Committee on Governmental Affairs, I have worked for over a decade to improve the Federal regulatory process. I must note that with me at every step has been my good friend and colleague, Senator CARL LEVIN. Now, we are joined by our new Committee Chairman, Senator FRED THOMPSON. I am very happy to take part in this bipartisan effort.

Regulatory reform has seen many forms in Congress over the years, from S. 1080 over 15 years ago, to several bipartisan bills in the 104th Congress—S. 291, our unanimous Governmental Affairs Committee bill introduced by Senator ROTH and me, the Dole-Johnston S. 343, and the Glenn-Chafee S. 1001. While these bills differed in many ways, they all had one thing in common, a bipartisan resolve to reform the Federal regulatory process.

The regulatory process is important because in our system of government, Congress relies on agency regulations to ensure the effective implementation of the laws we enact. Improved public health and safety and environmental protection are some of the successes provided by this process.

Unfortunately, despite these successes, congressional oversight has shown there are too many instances where agencies have regulated without sufficiently analyzing the costs and benefits of regulation. Individuals, businesses, and State and local governments pay too high a price for such thoughtless rules. They also are often burdened by statutory requirements that force agencies to impose overly prescriptive requirements, unnecessary unfunded mandates, or unjustified costs.

So, while I have supported many programs to improve health and safety and the environment, I have also worked to improve the regulatory process. This has involved legislation and oversight in several different areas. For example, the Paperwork Reduction Act, which we strengthened in 1995, requires Federal agencies to reduce burdensome information collection activities, such as forms and regulatory reporting requirements. The Unfunded Mandates Act of 1994, which I introduced with Senator DIRK KEMPTHORNE, requires Congress and Federal agencies to account for unfunded legislative and regulatory requirements imposed on State and local governments. Most recently, I supported enactment of the Congressional Review Act, which provides for expedited congressional review of new regulations, so that we, as politically accountable public representatives, can take responsibility for implementation of the laws we enact.

These initiatives addressed several parts of the administrative process. Still lacking is a comprehensive statutory framework for regulatory analysis. The search for the right mix of these regulatory analysis requirements was at the heart of the regulatory reform debate in the early 1980's, in the last Congress, and now again, in the legislation introduced today.

I believe that this legislation would establish the needed reforms in a balanced and fair manner. It would require cost/benefit analysis and risk assessment of major rules, and require periodic review of existing rules. These basic requirements will improve regulatory decisionmaking and ensure that Congress and the public are better informed about regulatory impacts.

I believe that such regulatory reform can improve our Government and reduce regulatory burdens without harming important public protections. As I said many times during the debate in the last Congress, true regulatory reform must strike a balance between the public's concern over too much government and the public's strong support for regulations to protect the environment, public health and safety. The legislation developed by Senator LEVIN and Senator THOMPSON strikes this balance. It requires:

Cost-benefit analysis and risk assessment of major rules; An agency cost justification statement to explain whether a rule's benefits justify its costs and whether it is more cost-effective or has more net benefits than other alternatives. If the agency cannot make that determination, it must explain why not, and if feasible describe an alternative that would, if permitted, be cost justified; peer review of cost-benefit analyses and risk assessments; OMB regulatory review, with sunshine protections for fairness and accountability; judicial review of relevant regulatory analyses, but only in the context of review of the final rule and the rulemaking record; and periodic review of existing rules.

All in all, I believe these are the necessary core elements of an effective regulatory reform bill. Nonetheless, past debates have shown that the devil is in the details. This legislation will be no exception. There are several areas, in fact, that I believe should be examined closely in committee hearings to ensure that the regulatory process is improved and not impeded by this reform effort.

First, the legislation's most fundamental provision is the requirement that all agency major rules must have a cost-benefit analysis. I believe that given 16 years experience with regulatory review under Presidential Executive order, it is appropriate to establish a statutory bottom line that all major rules must be accompanied by a cost-benefit analysis. While a cost-benefit analysis should not control decisionmaking, it is a very useful tool for decisionmaking, and should be used to the extent both practical and permitted.

We need to be sure, however, that this requirement is not used to undermine program-specific statutory requirements that may, for example, preclude consideration of certain costs or alternatives. While I believe that a cost-benefit analysis should be done to inform every major rulemaking decision, if a statute requires a certain approach to decisionmaking, the agency has to be bound by that requirement.

I think it will be very important to discuss this issue during committee hearings and decide whether the bill's formulation is sufficient. A more explicit savings clause may be needed. While we want to improve decisionmaking, we do not want paralysis by analysis. And we do not want to create new avenues for litigation to undermine statutory requirements. If there is a problem with a statute, Congress should be informed and Congress should correct the problem.

The bill's second basic requirement is for evaluating the risks that would be addressed by a major rule. This is also a fundamental provision, but here too, I believe it will be very important to explore the bill's specific risk assessment language in more detail during committee hearings. For example, while science can provide critical data with which to inform a rulemaking decision, often times general observations cannot be reliably reduced to single point conclusions. Thus, I am concerned that the bill's use of the phrase "most plausible estimate of risk" could lead to the arbitrary selection of a single risk figure, when a range of risks is all that the scientific evidence would support. I agree that agencies should not be led by speculation, but we must not lose sight of the fact that caution is always in order when it comes to protecting public health and safety, and the environment.

Finally, committee hearings will also be needed to explore the practical impact of the legislation's requirements for agency advisory panels, both for peer review of regulatory analyses and identifying current rules for review. These panels can provide a fair and effective means of providing important information to agencies. But they can also be used to unfairly sway decisionmakers and obscure behind-the-scenes lobbying. Care must be taken to ensure that such panels are broadly representative and do not introduce undue delay or waste agency resources. Again, our committee hearings will be important to discuss these issues.

Senator LEVIN and Senator THOMPSON are to be commended for the work they have done to sift through the contentious regulatory reform record and draw out the core requirements and many of the needed details for effective regulatory analysis. I believe we are very close to having a bill that should pass the Senate unanimously. I support this legislation and urge my colleagues to support it.

Mr. ROBB. Mr. President, I rise today in support of comprehensive, responsible reform of our regulatory process. It has been a long and tortuous journey. Many thought it could not be done. But I'm pleased that it has been done, and I'm pleased to join Senators LEVIN and THOMPSON as an original sponsor of the Regulatory Improvements Act of 1997.

Efforts to reform the regulatory process began long before this Congress, and the legislation we're introducing today is a testament to the tenacity of Senator LEVIN, who has worked untiringly for responsible changes in the regulatory process for a long time. Senator BUMPERS, as well as our former colleagues Senators Johnston, Nunn and Heflin, toiled in these vineyards for many years.

The reason for this continued effort is clear. Regulations produce enormous benefits for society, protecting workers, conserving our environment, and promoting public health. But regulations also impose a tremendous cost on society. The purpose of regulatory reform is to make sure the benefits of the regulations warrant the costs.

According to the GAO, expenditures relating to pollution abatement alone exceeded $110 billion in 1992. While this represents only a portion of the costs of regulation, it provides some guidance regarding the magnitude of regulation. If we can maintain the level of pollution abatement, but increase the efficiency in how we attain it, consumers will ultimately reap the benefits. And of course every dollar that a business spends beyond what is necessary to protect us and our resources is one less dollar that could otherwise be used to hire an employee, or fund a pay raise, or pay for a plant expansion. Not only will consumers benefit, but so will the economy.

Regulating in a cost-effective fashion simply makes sense. If we can achieve the same environmental benefit for less money, or even better, achieve more environmental benefit for the same money, then it makes sense to do so.

While the debate over regulatory reform has in the past been presented as a choice between the economy and the environment, there is a responsible middle ground. If done wrong, regulatory reform could harm the environment, but if done right, both the economy and the environment benefit.

As noted by Vice President GORE in November 1995, in announcing one of the administration's regulatory reform initiatives:

> For decades, the American political system pitted the economy against the environment in a false conflict. America's business leaders were pitted against America's environmentalists. It seemed that too often for one side to get its way, the other side had to lose ground, and you had to decide which side you were on, business or the environment. Most people didn't like that choice, because most people, in their hearts, really are on both sides and don't see them as being in conflict.

I share the Vice President's view that we can protect both the environment and the economy. The benefits of regulatory reform will come primarily from relieving consumers from unnecessary costs and strengthening people's respect for government. In addition, by developing a responsible approach to regulatory reform, we will be able to prove what most of us having been saying for years—that we can be true to our principles to protect people and preserve our natural resources without being antibusiness and antigrowth.

At the same event in 1995, President Clinton reiterated that growing the economy and preserving our health and environment are compatible goals. The President stated that "protecting the health and safety of our citizens doesn't have to come at the expense of the bottom line," and that "strengthening the economy doesn't have to come at the expense of the air we breathe, the food we eat, the water we drink."

During the last Congress, we witnessed a massive effort to pass an extremely broad regulatory reform bill, offered by former Senator Dole.

Whether intentional or not, that bill could have lowered the standards regulating our health, our safety and our national resources.

In addition, that bill was too reliant on litigation to challenge the enforcement process. For example, the process for reviewing existing rules was driven largely by individual petitions each of which were subject to review by a court. That bill also raised the specter that agency rules could be overturned in court for minor procedural errors that were unlikely to have affected the outcome of the decisionmaking process.

The amount of litigation which would have been created by the original bill, coupled with excessive paperwork requirements, would have led to agency overload. Rather than focusing on producing and enforcing regulations to benefit society, the agencies would have been tied up in court or processing paper. And this problem would only have been exacerbated by deep cuts proposed for many of the affected agencies.

After the original bill failed cloture for the third time, former Senator Johnston, Senator LEVIN and I and our staffs spent a great deal of time and energy trying to find common ground. Many Senators from both sides of the aisle were committed to reforming the regulatory process, and we tried to use the synergy of the expertise of Senators LEVIN and Johnston to develop an acceptable package. Ideas and drafts were frankly exchanged during the many hours of meetings we held. In between meetings, we talked to interested parties, including labor groups, environmental groups, business groups and the administration. The purpose of this excercise of listening and drafting was to determine whether we could craft a responsible middle ground on regulatory reform.

The three of us came very close to settling on a middle ground, but eventually the Presidential campaign made it impossible to complete action. But what evolved from that process last year laid the groundwork for the efforts which began this Congress. With Presidential politics safely behind us, and with a substantially lowered decibel level, Senators THOMPSON and LEVIN were able to focus on the critical elements and develop responsible reform. The scope of the legislation has been narrowed to address only those issues which are essential to improving our regulatory process.

By focusing on the essential requirements of reform, we've avoided many of the pitfalls found in the Dole bill. By narrowing the scope, we've also been able to concentrate our attention on those elements which belong in a regulatory reform bill but which were not resolved satisfactorily in the earlier bill.

For example, we improved the "lookback process" which provides for the review of existing rules. The Dole bill allowed rules to be placed on the schedule for review either through agency action or a petitioning process reviewable by the courts. The petition process was for those who could show that a rule would fail to meet the decisional criteria. Each petition denied would have been separately reviewed by a court.

The bill we're introducing today eliminates the courts from the agency review process altogether. The question of which rules should be reviewed will not be the subject of litigation. In my view, this is one of the major improvements in this new version. Rather than having courts decide, through an adversary process, which rules should be reviewed, the bill takes a more rational approach. Under the new bill, an advisory committee made up of a cross-section of public and private interests affected by an agency's regulations will recommend to the agency which rules to review. Agencies are required to give deference to the committee's list, and undertake a review of the rules selected. This will allow agencies to spend more of their time reviewing rules and less of their time in court.

The most important aspect of a regulatory reform bill is how it will change agency behavior prospectively. We want to encourage agencies to choose the most cost-effective method for achieving the regulatory goal and to select a rule where the benefits justify its costs whenever possible.

Under current law, agencies are not directed to take those factors into account. In fact, agencies are given broad discretion under current law when developing rules to implement statutes. The only guide an agency must use to develop rules is the language of the statute upon which the rule is based. That is the standard against which an agency's action will be judged if challenged in court. The agency must be able to demonstrate that the rule satisfies the statutory requirement.

This legislation requires agencies to consider additional criteria in developing major rules. The rule would not only have to meet the standard contained in the statute upon which the rule is based, as required under current law, but would also have to consider whether the rule is the most cost-effective approach and meets a cost-benefit test. If the agency adopts a rule which is not the most cost-effective, or where the benefits do not justify the costs, the agency must explain why it chose that approach. We think consumers, taxpayers, and those subject to regulation have a right to know what benefits a proposed rule is likely to provide, and what the costs will be to achieve those benefits. We also think people have a right to know why an agency would select a rule other than the most cost-effective for meeting the objective of the statute.

The bill broadly defines "benefits" and "costs," which provides agencies with vast discretion. "Benefits" are defined as "the reasonably identifiable significant favorable effects, quantifiable and nonquantifiable, including social, health, environmental, economic and distributional effects, that are expected to result directly or indirectly from implementation of, or compliance with, a rule." The term "costs" is similarly defined.

As I stated at the beginning of my comments, this has been a long, evolutionary process. But I think this legislation we are introducing today represents a responsible approach to improving the regulatory process. And I think it demonstrates what we can accomplish when we set aside partisan wrangling and rely on reason rather than rhetoric to solve complex problems such as this. Once again, I've been pleased to be involved in this process, and I commend both Senators LEVIN and THOMPSON for their determination to see this through to conclusion. I look forward to working with my colleagues to improving the product and moving this legislation through the process.

By Mr. DODD (for himself and Mr. BIDEN):

S. 983. A bill to prohibit the sale or other transfer of highly advanced weapons to any country in Latin America; to the Committee on Foreign Relations.

THE LATIN AMERICAN ARMS CONTROL ACT OF 1997

Mr. DODD. Mr. President, today, I come to the Senate floor to introduce legislation designed to send a signal to the Clinton administration that the current United States policy of banning the sale or transfer of sophisticated fighter aircraft and other armaments to Latin American countries—which has by and large been United States policy for some 20 years—should not be altered.

The bill I am introducing today would call upon the President to respect the requests of a number of Latin American leaders and prominent political figures to maintain a moratorium on the export of United States advanced weapons to that region. It would also prohibit the issuances of the necessary licenses for such exports unless the President first certificated that such sale was in the national security interest of the United States and the Congress concurred with that finding.

The Clinton administration is currently in the process of reviewing that policy predominantly as a result of heavy lobbying by those who are seeking to open up a new front for high dollar sales of state-of-the-art defense technology to countries in the Western Hemisphere—particularly those in South America.

Mr. President, President Clinton has a record he can be proud of with respect to the Western Hemisphere. The 1994 Summit of the Americas, hosted by the United States, to which all but one head of state in the hemisphere was invited, was hugely successful.

Since that time, the President, together with his colleagues throughout the region, has endeavored to pursue the hemispheric agenda that the region's leaders agreed to during the course of that summit—namely to strengthen democracy, increase trade, bolster national security and combat drug trafficking.

I would respectfully assert that were the United States to alter our policy of arms restraint with respect to the region, we would be undermining efforts to implement those important hemispheric objectives. Heretofore, the President had been on the record in support of arms restraint, particularly with respect to sales to developing countries.

Last year, President Clinton joined with other members of the so called G–7 countries at the Lyon Summit to underscore the importance of developing and transition countries giving priority to avoiding unproductive expenditures, in particular excessive military spending.

The International Monetary Fund (IMF), which is responsible for monitoring economic policies and balance of payments throughout the world, has also given high priority to warning against the dangers of arms purchases.

Most recently, on June 19, during the Article IV consultations with the United States, where the performance of the United States economy was reviewed, the IMF staff, "urged the United States, together with other major countries, to administer their policies on military sales to developing and transition economy countries in a way that avoids encouraging unproductive expenditures and heightening security tensions."

It would be the ultimate irony, after all the time and effort that the President and his administration has expended in helping to plant the seeds of democracy in our own hemisphere, and in so carefully nurturing those seeds as they have germinated and bloomed, if he were to make a decision that would undermine all of those efforts.

I believe that a decision to alter our current policy to permit the export of highly advanced weaponry to the region would do just that. Over the medium term it could only serve to disturb the delicate regional military balance and thereby pose a serious threat to regional peace and economic prosperity.

Mr. President, if you were to listen to American defense contractors you would think that our current policy has prevented them from earning even 1 dollar on arms sales to Latin America. Nothing could be further from the truth. Between 1992–1995 the United States was the single largest supplier of weapons to Latin America, capturing more than 25 percent of that market. According to the Congressional Research Service during fiscal years 1993–1996, U.S. arms sales to Latin American nations averaged nearly $200 million annually.

No one is suggesting that Latin American countries, or that Latin American militaries do not have legitimate defense and national security requirements that can only be met from foreign sources. I would strongly argue that our current policy is absolutely compatible with those countries being able to fulfill their legitimate requirements.

Sales of appropriate U.S. defense articles and equipment have and should continue.

But, collective arms restraint should also be a part of any effort by regional leaders to prepare their armed forces for their role in the 21st century.

In that regard, I believe that the Governments of Argentina and Brazil deserve special recognition for the very significant progress they have made in this area.

Mr. President, the region is at peace. Democracy is the order of the day. The demands on governments throughout the region to meet pressing economic and social needs have never been greater while government resources are severely constrained. Now would seem a perfect opportunity to make real progress in reaching a regional arms control agreement to deter future arms races, and thereby better marshal scarce resources.

The entire region has just recently recovered from a decade of negative growth. And, while growth is now on the upswing in many countries, more than half of them currently have per-capita income levels below those achieved by them 10 years ago. The educational systems throughout the region need major infusions of resources to prepare the children of the Americas for the next decade. Currently, less than half of those children who enter the first grade remain in school through the fifth grade. This is a staggering statistic and one that needs to be changed. However, that isn't going to happen unless government resources are devoted to this objective.

Perhaps that is why there has been no drumbeat from governments throughout the hemisphere that President Clinton abandon our policy of arms restraint. In fact, heads of state from Argentina, Brazil, Uruguay, and Paraguay have publicly expressed their concerns about our altering the current United States policy.

They know better than we do, the kinds of pressures that they will confront from their own militaries once this proverbial cat is out of the bag.

One military instititution after another will seek to justify demands for more and more costly defense expenditures in order to maintain parity with neighboring militaries—in some cases militaries that they have been in conflict within the last 20 years—Peru and Ecuador as recently as 1995.

I am strongly supportive of efforts designed to improve U.S. export performance. Certainly we all want to see U.S. exports continue to grow—exports are critical to the health of our own economy and are a primary source of jobs for hard working American men and women.

However, I would argue that it is shortsighted on our part to push countries in the hemisphere to divert scarce resources for nonproductive, one-time, arms purchases.

These resources could be more wisely spent repairing badly eroded infrastructures and on other productive investments that will reduce unemployment in these countries and generate domestic purchasing power that will provide for a more stable and sustainable market for U.S. nondefense exports.

Mr. President, it is my hope that the legislation I am introducing today will call attention to the issues and concerns I have raised today, and hopefully will provoke a serious debate on the wisdom of altering a policy that has worked so well to promote U.S. interests in this hemisphere.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter from former President Jimmy Carter in support of this legislation, along with the text of the bill.

There being no objection, the bill and letter were ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Latin American Arms Control Act of 1997".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) It has been United States policy since the Presidential directive of May 19, 1977, to refrain from making sales or other transfers to governments of Latin American countries of highly advanced weapons systems that could undermine regional military balances or stimulate an arms race.

(2) There has only been one exception to that policy, the sale of F–16 fighter aircraft to Venezuela in 1982, in response to a perceived Cuban military buildup, including the acquisition by Cuba of Soviet-made MIG–23 fighters.

(3) While United States defense companies have not been able to sell highly advanced weapons to Latin America, they are a major supplier of military equipment to the region and hold the largest share of that market.

(4) From fiscal year 1993 through fiscal year 1996 the United States Government sold $789,000,000 in arms to Latin America.

(5) In August 1996, Secretary of State Warren Christopher stated that his "strong conviction is that we should be very careful about raising the level of competition between countries with respect to arms sales".

(6) There are historic hostilities and mistrust in Latin America that can flare into serious conflict, as evidenced most recently by the 1995 border war between Peru and Ecuador that required international efforts to resolve.

(7) For the first time in modern history, all but one country in the Western Hemisphere is governed by democratically elected leaders.

(8) Latin America has just recovered from a decade of negative growth, as measured on

a real per capita basis, and 18 of the countries in the Western Hemisphere currently have per capita income levels below those achieved by them ten years ago.

(9) Poverty and insufficient educational opportunities continue to be a major challenge to democratic governments in the Western Hemisphere, with less than one-half of the children entering first grade remaining in school until grade five, and with more than 100,000 street children in cities throughout Latin American countries.

(10) At the meeting of the Council of Freely Elected Heads of Government on April 29, 1997, representatives of Latin American governments on the Council discussed the issue of arms sales to Latin American countries, pledged to accept a two-year moratorium on the purchase of highly advanced weapons, called upon countries in the Western Hemisphere to explore ideas to restrain future purchases, and called upon the United States and other governments that sell arms to affirm their support for such a moratorium.

SEC. 3. SENSE OF THE SENATE.

It is the sense of the Senate that the President should respect the request of Latin American heads of government for a two-year moratorium on the sale or other transfer of highly advanced weapons to Latin American countries while proposals for regional arms restraint are studied.

SEC. 4. PROHIBITION.

(a) In General.—Notwithstanding any other provision of law, under the Arms Export Control Act or any other Act—

(1) no sale or other transfer may be made of any highly advanced weapon to any Latin American country,

(2) no license may be issued for the export of any highly advanced weapon to any Latin American country, and

(3) no financing may be extended with respect to a sale or export of any highly advanced weapon to a Latin American country,

unless the requirements of subsection (b) are satisfied and except as provided in subsection (c).

(b) Requirements.—The requirements of this subsection are satisfied if—

(1) the President determines and certifies to Congress in advance that the sale, transfer, or financing, as the case may be, is necessary to further the national security interests of the United States; and

(2) Congress has enacted a joint resolution approving the Presidential determination.

(c) Exception.—Subsection (a) does not apply to any sale, sales, financing, or license permitted by an international agreement that provides for restraint—

(1) in the purchase of highly advanced weapons by countries in Latin America; or

(2) in the sale or other transfer of highly advanced weapons to countries in Latin America.

SEC. 5. DEFINITION OF HIGHLY ADVANCED WEAPONS

In this Act, the term "highly advanced weapons" includes advanced combat fighter aircraft and attack helicopters but does not include transport helicopters.

The Carter Center,
Atlanta, GA, June 25, 1997.

Hon. Christopher Dodd,
U.S. Senate, Committee on Foreign Relations, Washington, DC.

To Senator Christopher Dodd: I have read the draft, Latin American Arms Control Act, that you plan to introduce in the Senate. It is a far-sighted statement, which I hope your colleagues will endorse. Regrettably, the momentum for an arms race in South America seems to be increasing at the very moment that the Cold War is over and democracy has taken root. Your bill offers an alternative to an arms race in a way that respects Latin America.

I sincerely hope your colleagues join you in this important endeavor at discouraging an arms race in Latin America. I commend you for your leadership in Congress on this issue. Let me know if there is anything else I can do to further our shared goal.

Sincerely,

Jimmy Carter.

Mr. BIDEN. Mr. President, I am pleased to join the Senator from Connecticut in sponsoring legislation aimed at preventing the commencement of an arms race in Latin America.

For the past two decades, the United States has prohibited the sale or transfer of advanced military equipment to the region. The ban, instituted by President Carter, has been generally maintained since the late 1970's, including during the administrations of Presidents Reagan and Bush. The lone exception occurred in 1982, in response to a perceived Cuban military buildup, when the United States sold F–16 fighter aircraft to the Government of Venezuela.

The ban was instituted during a different era, when many nations of the region were under the rule of military dictators. To be sure, the nations of Latin America have made important advances since that period. Politically, dictatorship has given way to democracy. Every nation of the hemisphere—with the glaring exception of Cuba—is now governed by a democratically chosen leader. Additionally, after the lost decade of the 1980's—a period of negative economic growth in many nations of the region—the region is beginning to recover economically. Indeed, the nations of the region have made tremendous progress in the past few years, shedding the statist policies of past decades and embracing free markets and free trade.

Although the times have changed, the need for restraint in the sale of arms has not. First, although the region is advancing economically, it is abundantly clear that few nations of the region can afford the high costs that an arms race would impose. Second, an arms race in the region would be destabilizing—not only among nations of Latin America, but within those nations where civilian control of the military is not yet fully consolidated. The Armed Forces remain important institutional actors in many nations of the region; the increased emphasis on arms procurement and arms budgets could undermine the priorities and powers of the civilian leadership.

In the past year, there has been considerable discussion within the Clinton administration, and among the nations of the region, about the wisdom of lifting the U.S. ban on the sale of advanced weapons. In this respect, it is important to note that many senior figures in Latin America have come down on the side of restraint. In April of this year, for example, the Council of Freely Elected Heads of Government—an organization consisting of current and former hemispheric leaders from leading countries in the region—called on Latin American governments to "accept a moratorium of two years before purchasing any sophisticated weapons." In the interim, the Council urged governments of the region to "explore ideas to restrain such arms," and urged governments that sell arms, including the United States, "to affirm their support for such a moratorium."

This legislation that Senator Dodd and I introduce today would heed that request by expressing support for such a moratorium, and banning the transfer to the region of highly advanced weapons by the United States, unless such transfer conforms to an international agreement governing sales to, or purchases by, nations of the region. In other words, if a regional arms control agreement is negotiated permitting some sales but prohibiting others, arms transfers by the United States would be allowed, provided such transfers conform to the arms control agreement then in place.

It should be emphasized that this bill would not ban all sales of military equipment to Latin America. Rather, it would merely continue, in law, the policy and practice adhered to by the executive branch for the past two decades: to not sell sophisticated military equipment such as advanced combat aircraft and attack helicopters to the nations of Latin America. It would permit U.S. firms to continue to sell other military equipment to Latin America—a market in which the United States now holds the largest share, and in which U.S. firms have sold a total of nearly $800 million over the past 4 fiscal years.

Mr. President, it is the policy of the United States to promote greater hemispheric integration—an objective pursued in the process initiated at the Summit of the Americas, which was hosted by President Clinton in 1994. The policy set forth in this bill advances that objective by honoring the request of several Latin American nations that they pursue a regional arms control approach before advanced weapons are introduced into the region. I urge my colleagues and the administration to support this legislation.

By Mr. GRAHAM (for himself, Mr. DeWine, Mr. Mack, Mr. McCain, and Ms. Moseley-Braun) (by request):

S. 984. A bill to promote the growth of free enterprise and economic opportunity in the Caribbean Basin region, increase trade and investment between the Caribbean Basin region and the United States, and encourage the adoption by Caribbean Basin countries of policies necessary for participation in the free trade area of the Americas; to the Committee on Finance.

THE UNITED STATES-CARIBBEAN BASIN TRADE ENHANCEMENT ACT

Mr. GRAHAM. Mr. President, I rise this afternoon to introduce the United States-Caribbean Basin Trade Enhancement Act, and I am proud to be joined by my colleagues Senators DEWINE, MACK, MCCAIN, and MOSELEY-BRAUN.

This bill will enhance both our economic and national security, while at the same time strengthening that of some of our closest and most loyal neighbors and allies—the nations of the Caribbean Basin.

Over the last decade, the United States has played a vital role in the spread of democracy and the growth of free enterprise throughout the Western Hemisphere.

Today, every nation in the Western Hemisphere—with the notable, lamentable exception of Cuba, where despotism and communism are taking their last gasps of life—has a democratic government and is opening its economy in unprecedented ways.

Democratic elections have become the norm rather than the exception, and hemispheric trade integration is a common goal.

But we in the United States must not allow success to breed neglect.

Now is not the time to turn away from Latin America and Caribbean or to turn our back on our backyard, something, unfortunately, that we have done all too often in the past.

Continued attention is required to consolidate and institutionalize these democratic and economic gains.

As we have seen recently in Haiti, economic and political instability in the Caribbean region can have tragic consequences and impose enormous costs to the United States.

We must remain vigilant and engaged to ensure that other nations of the Caribbean Basin do not experience similar turmoil and tragedy.

The United States-Carribean Basin Trade Enhancement Act is part of our effort to consolidate democracy and economic stability in the region.

This act will bring tremendous benefits to the United States as well.

It is in both our economic and our national security interests to enact this legislation.

It will enhance our economic security both by opening new markets for American goods, and by strengthening the economies of our closest neighbors.

Increased economic growth among the nations of the region will provide growing markets for U.S. products.

The United States enjoys a trade surplus with the Caribbean Basin.

Historically, our economy has been the chief beneficiary of a lowering of trade barriers between the Caribbean Basin and the United States.

The United States' trade position relative to the Caribbean Basin countries improved dramatically following the implementation of the 1983 Caribbean Basin Initiative, from a deficit of $700 million in 1985 to a surplus of $2.0 billion in 1993.

On a per capita basis, our surplus with the Caribbean has consistently outplaced our surplus with any other region of the world.

In the past 3 years alone, U.S. exports to the Caribbean Basin countries have increased by 22.8 percent.

This act also provides incentives for continued legal and regulatory reform that will make it easier for U.S. products to compete in the markets of the Caribbean Basin.

By conditioning full benefits on the progress of economic reform, this act will benefit Americans as well as the people of the Caribbean.

It will open Caribbean markets to U.S. goods and services, and expand opportunities for U.S. businesses to enjoy the fruits of economic expansion that is occurring in the region.

Let me give a couple of examples of ways that the incentives in this legislation will help increase U.S. exports to the Caribbean.

First, in order to receive any benefits, a country must demonstrate its commitment to undertake its World Trade Organization obligations on or ahead of schedule, and it must participate in negotiations toward the completion of a hemispheric free-trade agreement. Those are requirements for initial participation in this program.

Second, Caribbean nations must meet certain economic requirements to receive the full benefits of our legislation, which are only available after the initial 3-year period.

These full benefits include equitable and reasonable market access to U.S. companies, protection of intellectual property rights, protection to investors and investments, aggressive action against corruption, transparent and competitive procedures in government procurement, and the adoption of internationally established rules on customs valuation.

This legislation also encourages our trading partners to enhance U.S.-Caribbean cooperation in fighting drug trafficking.

Mr. President, this legislation is not a free ride. It is a two-way street.

We are providing these nations with economic benefits, while at the same time expecting them to take steps that will be good for American economic interests.

This act will strengthen Caribbean economies while providing incentives to implement reforms that will open new markets, and reduce risk, for U.S. companies who wish to compete in the Caribbean market.

It will protect U.S. trademarks from piracy, permit U.S. companies to compete fairly for government procurement contracts, and help to eliminate corruption.

This is a good deal for both the United States the countries of the Caribbean Basin.

Our security interests are also at stake here. We have seen time and again how economic instability can foment political turmoil, which in turn can require American political or military involvement.

In the past, as the citizens of my home State of Florida know all too well, economic and political instability has also resulted in massive refugee flows to the United States, which place an unfair burden on U.S. taxpayers.

Second, the Caribbean has been one of the principal transit regions for drug traffickers moving their poisonous cargo from the source countries of South America.

Several years ago, our efforts at reducing drug trafficking in the Caribbean were so successful that we diverted the traffickers to the Southwest border.

Unfortunately, recent law enforcement efforts along the Southwest border have resulted in intensified relocated, re-energized narcotics trafficking in the Caribbean.

It is critical that the people of the Caribbean Basin have real opportunities in the legal economy so they are not forced to turn to drug trafficking to feed their families.

In addition, the recent World Trade Organization decision on bananas could have a devastating effect on the economies of several countries in the region, thereby exacerbating the potential for people to turn to illegal activities.

Strengthening Caribbean economies through enhanced trade and economic activity will help keep drugs off the streets of America, and out of the hands of America's children.

Mr. President, trade integration will occur in this hemisphere, whether we choose to be part of it or not.

It is in our interest to bring more countries into bilateral and multilateral trade agreements with the United States.

If we fail to seize this opportunity, others will take our place of leadership, and our economy will be the loser.

This legislation gives us an opportunity to set the parameters of trade agreements, so that we can ensure that United States' interests are secured, and that truly fair trading relationships are established.

There is no region in the world in which the United States has a stronger and more mutually beneficial relationship than the Caribbean Basin.

This bill will enhance our trading relationship with our neighbors and have tremendous benefits for the United States.

I urge my colleagues to consider and support the United States-Caribbean Trade Enhancement Act as a demonstration of our commitment to encouraging economic and political stability and to furthering the democratic progress that has been made in our hemisphere, and around the world.

Mr. President, I send the bill to the desk and ask for its appropriate referral, and I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 984

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "United States-Caribbean Basin Trade Enhancement Act".

SEC. 2. FINDINGS AND POLICY.

(a) FINDINGS.—Congress makes the following findings:

(1) The Caribbean Basin Economic Recovery Act (referred to in this Act as "CBERA") represents a permanent commitment by the United States to encourage the development of strong democratic governments and revitalized economies in neighboring countries in the Caribbean Basin.

(2) Thirty-four democratically elected leaders agreed at the 1994 Summit of the Americas to conclude negotiation of a Free Trade Area of the Americas (referred to in this Act as "FTAA") by the year 2005.

(3) The economic security of the countries in the Caribbean Basin will be enhanced by the completion of the FTAA.

(4) Offering temporary benefits to Caribbean Basin countries will enhance trade between the United States and the Caribbean Basin, encourage development of trade and investment policies that will facilitate participation of Caribbean Basin countries in the FTAA, preserve the United States commitment to Caribbean Basin beneficiary countries, help further economic development in the Caribbean Basin region, and accelerate the trend toward more open economies in the region.

(5) Promotion of the growth of free enterprise and economic opportunity in the Caribbean Basin will enhance the national security interests of the United States.

(6) Increased trade and economic activity between the United States and Caribbean Basin beneficiary countries will create expanding export opportunities for United States businesses and workers.

(b) POLICY.—It is the policy of the United States to—

(1) offer Caribbean Basin beneficiary countries willing to prepare to become a party to the FTAA or a comparable trade agreement, tariff treatment essentially equivalent to that accorded to products of NAFTA countries for products not currently eligible for duty-free treatment under the CBERA; and

(2) seek the participation of Caribbean Basin beneficiary countries in the FTAA or a trade agreement comparable to the FTAA at the earliest possible date, with the goal of achieving full participation in such agreement not later than 2005.

SEC. 3. DEFINITIONS.

In this Act:

(1) BENEFICIARY COUNTRY.—The term "beneficiary country" has the meaning given the term in section 212(a)(1)(A) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702(a)(1)(A)).

(2) CBTEA.—The term "CBTEA" means the United States-Caribbean Basin Trade Enhancement Act.

(3) NAFTA.—The term "NAFTA" means the North American Free Trade Agreement entered into between the United States, Mexico, and Canada on December 17, 1992.

(4) NAFTA COUNTRY.—The term "NAFTA country" means any country with respect to which the NAFTA is in force.

(5) WTO AND WTO MEMBER.—The terms "WTO" and "WTO member" have the meanings given those terms in section 2 of the Uruguay Round Agreements Act (19 U.S.C. 3501).

SEC. 4. TEMPORARY PROVISIONS TO PROVIDE ADDITIONAL TRADE BENEFITS TO CERTAIN BENEFICIARY COUNTRIES.

(a) TEMPORARY PROVISIONS.—Section 213(b) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(b)) is amended to read as follows:

"(b) IMPORT-SENSITIVE ARTICLES.—

"(1) IN GENERAL.—Subject to paragraphs (2) through (5), the duty-free treatment provided under this title does not apply to—

"(A) textile and apparel articles which were not eligible articles for purposes of this title on January 1, 1994, as this title was in effect on that date;

"(B) footwear not designated at the time of the effective date of this title as eligible articles for the purpose of the generalized system of preferences under title V of the Trade Act of 1974;

"(C) tuna, prepared or preserved in any manner, in airtight containers;

"(D) petroleum, or any product derived from petroleum, provided for in headings 2709 and 2710 of the HTS;

"(E) watches and watch parts (including cases, bracelets, and straps), of whatever type including, but not limited to, mechanical, quartz digital or quartz analog, if such watches or watch parts contain any material which is the product of any country with respect to which HTS column 2 rates of duty apply; or

"(F) articles to which reduced rates of duty apply under subsection (h).

"(2) TRANSITION PERIOD TREATMENT OF CERTAIN TEXTILE AND APPAREL ARTICLES.—

"(A) PREFERENTIAL TARIFF AND QUOTA TREATMENT.—During the transition period—

"(i) GOODS ORIGINATING IN BENEFICIARY COUNTRY.—Clause (iii) applies with respect to a textile or apparel article that is a CBTEA originating good.

"(ii) CERTAIN OTHER GOODS.—Clause (iii) applies with respect to a textile or apparel article that is imported into the United States from a CBTEA beneficiary country and that—

"(I) is assembled in a CBTEA beneficiary country from fabrics wholly formed and cut in the United States from yarns formed in the United States, and is imported into the United States—

"(aa) under subheading 9802.00.80 of the HTS; or

"(bb) under chapter 61, 62, or 63 of the HTS, if after such assembly the article would have qualified for entry under subheading 9802.00.80 of the HTS but for the fact the article was subjected to stone-washing, enzyme-washing, acid-washing, perma-pressing, oven-baking, bleaching, embroidery, or garment-dyeing; or

"(II) is identified under subparagraph (C) as a handloomed, handmade, or folklore article of such country and is certified as such by the competent authority of such country.

"(iii) TARIFF TREATMENT.—

"(I) IN GENERAL.—The President shall proclaim—

"(aa) with respect to an article described in clause (i) imported into the United States from a CBTEA beneficiary country, a rate of duty equal to the lesser of 'x' or the amount determined by using the formula '.5(x-y) + y', in which the terms 'x' and 'y' have the meanings given such terms in subclause (IV); and

"(bb) with respect to an article described in clause (ii), imported into the United States from a CBTEA beneficiary country, a rate of duty equal to 50 percent of the amount of duty that otherwise would apply to such article.

"(II) ADDITIONAL REDUCTIONS.—On or after the date on which the President submits to Congress the first report required under section 212(f), the President may proclaim further reductions in duty for an article described in clause (i) or (ii) that is a product of a CBTEA beneficiary country if the President determines that the performance of the country is satisfactory under the criteria listed in paragraph (5)(C)(ii). The rate of duty proclaimed by the President shall be no less than—

"(aa) with respect to an article described in clause (i), the amount determined under subclause (III); and

"(bb) with respect to an article described in clause (ii), zero.

"(III) RATE OF DUTY FOR ARTICLES DESCRIBED IN CLAUSE (i).—For purposes of subclause (II)(aa), the amount of duty that the President may proclaim under such subclause with respect to an article described in clause (i) shall be the lesser of—

"(aa) the rate of duty that would apply to an article at the time of importation from a CBTEA beneficiary country but for the enactment of the CBTEA, or

"(bb) the tariff treatment that is accorded to a like article of Mexico under section 2 of the Annex as implemented pursuant to United States law.

"(IV) CERTAIN DEFINITIONS.—For purposes of this clause, the term 'x' means the rate of duty described in subclause (III)(aa) and the term 'y' means the tariff treatment described in subclause (III)(bb).

"(iv) NO QUANTITATIVE RESTRICTIONS.—Except as provided in subparagraph (E), no quantitative restriction or consultation level may be applied to the importation into the United States of any textile or apparel article that—

"(I) is a CBTEA originating good, or

"(II) qualifies for preferential tariff treatment under clause (ii)(I) or (II).

"(B) TRANSITION PERIOD TREATMENT OF CERTAIN NONORIGINATING TEXTILE AND APPAREL ARTICLES.—

"(i) REQUEST FOR PREFERENTIAL TARIFF TREATMENT.—At any time during the transition period, an interested United States person may submit in writing to the President a request that the President proclaim preferential tariff treatment described in clauses (iii) and (iv) with respect to any eligible textile or apparel article described in clause (ii). Upon receiving the request, the President shall determine promptly whether the article is eligible for preferential tariff treatment. If the President determines that the article is eligible for preferential treatment, the President shall proclaim such treatment with respect to the article. If the President does not make a determination within 120 days after the date a request is received, the request shall be treated as approved and all articles listed in the request that are described in clause (ii) shall be accorded the preferential treatment described in clauses (iii) and (iv).

“(ii) Eligible articles.—An article is described in this clause if it is an apparel article provided for in chapter 61 or 62 of the HTS and if—

“(I) it is a product of a CBTEA beneficiary country but does not qualify as a CBTEA originating good;

“(II) it is an article described in the same 8-digit subheading of the HTS as an article that would be eligible for the preferential tariff treatment under Appendix 6.B of the Annex, as implemented pursuant to United States law, if the article were imported from Mexico in quantities that are less than or equal to the quantities specified in Schedule 6.B.1; and

“(III) the President determines that—

“(aa) the fabric from which the article is made is not commercially available from producers in the United States, or

“(bb) if the article is knit-to-shape in a CBTEA beneficiary country, the yarn from which it is knit is not commercially available from producers in the United States.

“(iii) Preferential tariff treatment.—The amount of duty imposed during the transition period on an article receiving preferential tariff treatment under this subparagraph shall be identical to the tariff treatment that would apply to the article under subparagraph (A)(iii) if the article were a CBTEA originating good.

“(iv) Quantity of eligible articles receiving preferential treatment.—In any 12-month period, the quantity of eligible articles in any category imported from a CBTEA beneficiary country that may receive the preferential tariff treatment described in clause (iii) may not exceed ten percent of the quantity of articles in such category imported from such country under subheading 9802.00.80 of the HTS, excluding articles that qualified for preferential tariff treatment under subparagraph (A)(ii) (or would have qualified for such treatment if that paragraph had been in effect with respect to imports of such articles from such country), in the preceding 12-month period.

“(C) Handloomed, handmade, and folklore articles.—For purposes of subparagraph (A), the President, after consultation with the CBTEA beneficiary country concerned, shall determine which, if any, particular textile and apparel goods of the country shall be treated as being handloomed, handmade, or folklore goods of a kind described in section 2.3 (a), (b), or (c) or Appendix 3.1.B.11 of the Annex.

“(D) Transition period adjustment of existing quantitative restrictions.—

“(i) In general.—During the transition period, the President, after negotiating with the CBTEA beneficiary country concerned, may reduce the quantities of textile and apparel articles that can be imported into the United States from that country under existing quantitative restrictions to reflect the quantities of textile and apparel articles from such country that are exempt from quota restrictions pursuant to subparagraph (A)(iv).

“(ii) Transshipments.—Whenever the President finds, based on sufficient evidence, that transshipment within the meaning of clause (iii) has occurred, the President, after consultations with the CBTEA beneficiary countries through whose territories the President finds transshipment to have occurred, may reduce the quantities of textile and apparel articles that can be imported into the United States from each such country by such amount as the President determines.

“(iii) Transshipment described.—Transshipment within the meaning of this clause has occurred when preferential tariff treatment for a textile or apparel article under subparagraph (A) or (B) has been claimed on the basis of material false information concerning the country of origin, manufacture, processing, or assembly of the article or any of its components. For purposes of this clause, false information is material if disclosure of the true information would mean or would have meant that the article is or was ineligible for preferential tariff treatment under subparagraph (A) or (B).

“(E) Bilateral emergency actions.—

“(i) In general.—The President may take—

“(I) bilateral emergency tariff actions of a kind described in section 4 of the Annex with respect to any textile or apparel article imported from a CBTEA beneficiary country if the application of tariff treatment under subparagraph (A) to such article results in conditions that would be cause for the taking of such actions under such section 4 with respect to a like article described in the same 8-digit subheading of the HTS that is imported from Mexico; or

“(II) bilateral emergency quantitative restriction actions of a kind described in section 5 of the Annex with respect to imports of any textile or apparel article of a CBTEA beneficiary country, including articles eligible for preferential tariff treatment under subparagraph (A), if the importation of such an article into the United States results in conditions that would be cause for the taking of such actions under such section 5 with respect to a like article described in the same 8-digit subheading of the HTS that is imported from Mexico.

“(ii) Rules relating to bilateral emergency action.—For purposes of applying bilateral emergency action under this subparagraph—

“(I) the requirements of paragraph (5) of section 4 of the Annex (relating to providing compensation) shall not apply;

“(II) the term ‘transition period’ in sections 4 and 5 of the Annex shall have the meaning given that term in paragraph (5)(G) of this subsection;

“(III) the requirements to consult specified in section 4 or 5 of the Annex shall be treated as satisfied if the President requests consultations with the beneficiary country in question and the country does not agree to consult within the time period specified under section 4 or 5, whichever is applicable;

“(IV) during the first 14 months after imports commence from a CBTEA beneficiary country under paragraph (2)(A) (or recommence because of a redesignation of such country), the minimum quantity of any textile or apparel article from such country subject to quantitative restrictions may be determined under paragraph 7 of section 5 of the Annex based on a reasonable estimate (using available data where possible) of the quantity of such articles imported from such country during the relevant period (as defined in such paragraph 7) that did not qualify or would not have qualified as originating goods; and

“(V) after the 14-month period described in subclause (IV), the minimum quantity of articles subject to such quantitative restrictions shall be determined under paragraph 7 of section 5 of the Annex based on the most recently available Bureau of the Census import statistics.

“(3) Preferential tariff treatment of certain other articles originating in CBTEA beneficiary countries.—

“(A) In general.—During the transition period, the President shall proclaim a rate of duty, with respect to any article referred to in any of subparagraphs (B) through (F) of paragraph (1) that is a CBTEA originating good, equal to the lesser of—

“(i) ‘x’, or

“(ii) the amount determined by using the formula ‘.5(x-y) + y’.

For purposes of the preceding sentence, the terms ‘x’ and ‘y’ have the meanings given such terms in subparagraph (C).

“(B) Additional reductions.—

“(i) In general.—On or after the date on which the President submits to Congress the first report required under section 212(f), the President may proclaim further reductions in the rate of duty for any article described in subparagraph (A) in accordance with this subparagraph if the President determines that the performance of the country is satisfactory under the criteria listed in paragraph (5)(C)(ii).

“(ii) Rate of duty.—The rate of duty proclaimed by the President under this subparagraph shall be no less than the lesser of—

“(I) the rate of duty that would apply to the article at the time of importation from the country but for the enactment of the CBTEA, or

“(II) the tariff treatment that is accorded a like article of Mexico under Annex 302.2 of NAFTA as implemented pursuant to United States law.

“(C) Certain definitions.—For purposes of subparagraph (A), the term ‘x’ means the rate of duty described in subparagraph (B)(ii)(I) and the term ‘y’ means the tariff treatment described in subparagraph (B)(ii)(II).

“(D) Exception.—Paragraphs (A) and (B) do not apply to any article accorded duty-free treatment under U.S. Note 2(b) to subchapter II of chapter 98 of the HTS.

“(E) Relationship to duty reductions under subsection (h).—If at any time during the transition period the rate of duty that would (but for action taken under subparagraph (A) or (B)) apply with respect to any article under subsection (h) is a rate of duty that is lower than the rate of duty resulting from such action, then such lower rate of duty shall be applied.

“(4) Customs procedures.—

“(A) In general.—

“(i) Regulations.—Any importer that claims preferential tariff treatment under paragraph (2) or (3) shall comply with customs procedures similar in all material respects to the requirements of Article 502(1) of the NAFTA as implemented pursuant to United States law, in accordance with regulations promulgated by the Secretary of the Treasury.

“(ii) Determination.—In order to qualify for such preferential tariff treatment and for a Certificate of Origin to be valid with respect to any article for which such treatment is claimed, there shall be in effect a determination by the President that—

“(I) the CBTEA beneficiary country from which the article is exported, and

“(II) each CBTEA beneficiary country in which materials used in the production of the article originate or undergo production that contributes to a claim that the article is a CBTEA originating good, has implemented and follows, or is making substantial progress toward implementing and following, procedures and requirements similar in all material respects to the relevant procedures and requirements under chapter 5 of the NAFTA.

"(B) CERTIFICATE OF ORIGIN.—The Certificate of Origin that otherwise would be required pursuant to the provisions of subparagraph (A) shall not be required in the case of an article imported under paragraph (2) or (3) if such Certificate of Origin would not be required under Article 503 of the NAFTA (as implemented pursuant to United States law), if the article were imported from Mexico.

"(5) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) ANNEX.—The term 'the Annex' means Annex 300–B of the NAFTA.

"(B) CATEGORY.—For purposes of paragraph (2)(B)(iv), 'category' means a category that is described in the most current edition of the Correlation: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States, prepared by the Department of Commerce.

"(C) CBTEA BENEFICIARY COUNTRY.—

"(i) IN GENERAL.—The term 'CBTEA beneficiary country' means any 'beneficiary country', as defined by section 212(a)(1)(A) of this title, which the President determines has demonstrated a commitment to—

"(I) undertake its obligations under the WTO on or ahead of schedule;

"(II) participate in negotiations toward the completion of the FTAA or a comparable trade agreement; and

"(III) undertake other steps necessary for that country to become a party to the FTAA or a comparable trade agreement.

"(ii) CRITERIA FOR DETERMINATION.—In making the determination under clause (i), the President may consider the criteria in sections 212(b) and (c) and other appropriate criteria, including—

"(I) the extent to which the country follows accepted rules of international trade provided for under the agreements listed in section 101(d) of the Uruguay Round Agreements Act;

"(II) the extent to which the country provides protection of intellectual property rights—

"(aa) in accordance with standards established in the Agreement on Trade-Related Aspects of Intellectual Property Rights described in section 101(d)(15) of the Uruguay Round Agreements Act;

"(bb) in accordance with standards established in chapter 17 of the NAFTA; and

"(cc) by granting the holders of copyrights the ability to control the importation and sale of products that embody copyrighted works, extending the period set forth in Article 1711(6) of NAFTA for protecting test data for agricultural chemicals to 10 years, protecting trademarks regardless of their subsequent designation as geographic indications, and providing enforcement against the importation of infringing products at the border;

"(III) the extent to which the country provides protections to investors and investments of the United States substantially equivalent to those set forth in chapter 11 of the NAFTA;

"(IV) the extent to which the country provides the United States and other WTO members nondiscriminatory, equitable, and reasonable market access with respect to the products for which benefits are provided under paragraphs (2) and (3), and in other relevant product sectors as determined by the President;

"(V) the extent to which the country provides internationally recognized worker rights, including—

"(aa) the right of association,

"(bb) the right to organize and bargain collectively,

"(cc) prohibition on the use of any form of coerced or compulsory labor,

"(dd) a minimum age for the employment of children, and

"(ee) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health;

"(VI) the extent to which the country adopts, maintains, and effectively enforces laws providing for high levels of environmental protection;

"(VII) whether the country has met the counter-narcotics certification criteria set forth in section 490 of the Foreign Assistance Act of 1961 for eligibility for United States assistance;

"(VIII) the extent to which the country becomes a party to and implements the Inter-American Convention Against Corruption, and becomes party to a convention regarding the extradition of its nationals.

"(IX) the extent to which the country enters into and implements an agreement with the United States for the exchange of tax information, as described in section 274(h)(6)(C) of the Internal Revenue Code;

"(X) the extent to which the country—

"(aa) supports the multilateral and regional objectives of the United States with respect to government procurement, including the negotiation of government procurement provisions as part of the FTAA and conclusion of a WTO transparency agreement as provided in the declaration of the WTO Ministerial Conference held in Singapore on December 9–13, 1996, and

"(bb) applies transparent and competitive procedures in government procurement equivalent to those contained in the WTO Agreement on Government Procurement (described in section 101(d)(17) of the Uruguay Round Agreements Act);

"(XI) the extent to which the country follows the rules on customs valuation set forth in the WTO Agreement on Implementation of Article VII of the GATT 1994 (described in section 101(d)(8) of the Uruguay Round Agreements Act);

"(XII) the extent to which the country affords to products of the United States which the President determines to be of commercial importance to the United States with respect to such country, and on a nondiscriminatory basis to like products of other WTO members, tariff treatment that is no less favorable than the most favorable tariff treatment provided by the country to any other country pursuant to any free trade agreement to which such country is a party, other than the Central American Common Market or the Caribbean Community and Common Market.

"(D) CBTEA ORIGINATING GOOD.—

"(i) IN GENERAL.—The term 'CBTEA originating good' means a good that meets the rules of origin for a good set forth in chapter 4 of the NAFTA as implemented pursuant to United States law, and, in the case of a good described in Appendix 6.A of the Annex, the requirements stated in Appendix 6.A as implemented pursuant to United States law.

"(ii) APPLICATION OF CHAPTER 4 AND ANNEX 6.A.—In applying chapter 4 and Appendix 6.A with respect to a CBTEA beneficiary country for purposes of this subsection—

"(I) no country other than the United States and a CBTEA beneficiary country may be treated as being a party to the NAFTA;

"(II) any reference to trade between the United States and Mexico shall be deemed to refer to trade between the United States and a CBTEA beneficiary country;

"(III) any reference to a party shall be deemed to refer to a CBTEA beneficiary country or the United States; and

"(IV) any reference to parties shall be deemed to refer to any combination of CBTEA beneficiary countries or to the United States and a CBTEA beneficiary country (or any combination thereof).

"(E) INTERESTED UNITED STATES PERSON.—For purposes of paragraph (2)(B)(i), the term 'interested United States person' means—

"(i) a person doing business in the United States as—

"(I) an importer of wearing apparel or fabric piece goods, or

"(II) a producer of wearing apparel, or

"(ii) a labor union representing workers employed in the United States in the production of wearing apparel.

"(F) TEXTILE OR APPAREL ARTICLE.—The term 'textile or apparel article' means any article referred to in paragraph (1)(A) that is a good listed in Appendix 1.1 of the Annex.

"(G) TRANSITION PERIOD.—The term 'transition period' means, with respect to a CBTEA beneficiary country, the period that begins on the date of enactment of the CBTEA and ends on the earlier of—

"(i) September 30, 2005, or

"(ii) the date on which the FTAA or a comparable trade agreement enters into force with respect to the United States and the CBTEA beneficiary country.

"(H) CBTEA.—The term 'CBTEA' means the United States-Caribbean Basin Trade Enhancement Act.

"(I) FTAA.—The term 'FTAA' means the Free Trade Area of the Americas.".

(b) DETERMINATION REGARDING RETENTION OF DESIGNATION.—Section 212(e) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702(e)) is amended—

(1) in paragraph (1)—

(A) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(B) by inserting "(A)" after "(1)";

(C) by striking "would be barred" and all that follows through the end period and inserting: "no longer satisfies one or more of the conditions for designation as a beneficiary country set forth in subsection (b) or such country fails adequately to meet one or more of the criteria set forth in subsection (c)."; and

(D) by adding at the end the following:

"(B) The President may, after the requirements of subsection (a)(2) and paragraph (2) have been met—

"(i) withdraw or suspend the designation of any country as a CBTEA beneficiary country, or

"(ii) withdraw, suspend, or limit the application of preferential tariff treatment under section 213(b)(2) and (3) to any article of any country, if, after such designation, the President determines that as a result of changed circumstances, the performance of such country is not satisfactory under the criteria set forth in section 213(b)(5)(C)."; and

(2) by adding after paragraph (2) the following new paragraph:

"(3) If preferential treatment under section 213(b)(2) and (3) is withdrawn, suspended, or limited with respect to a CBTEA beneficiary country, such country shall not be deemed to be a 'party' for the purposes of applying section 213(b)(5)(D) to imports of articles for which preferential treatment has been withdrawn, suspended, or limited with respect to such country.".

(c) REPORTING REQUIREMENTS.—Section 212(f) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702(f)) is amended to read as follows:

"(f) Reporting Requirements.—Not later than December 15, 2000, and at the end of each 3-year period thereafter, the President shall submit to Congress a report regarding the operation of this title, including—

"(1) with respect to subsections (b) and (c), the results of a general review of beneficiary countries based on the considerations described in such subsections; and

"(2) the performance of each CBTEA beneficiary country with respect to the criteria set forth in section 213(b)(5)(C)(ii).".

(d) International Trade Commission Reports.—

(1) Section 215(a) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2704(a)) is amended to read as follows:

"(a) Reporting Requirement.—

"(1) In general.—The United States International Trade Commission (in this section referred to as the 'Commission') shall submit to Congress and the President, biennial reports regarding the economic impact of this title on United States industries and consumers.

"(2) First report.—The first report shall be submitted not later than September 30 of the year following the year in which the Caribbean Basin Trade Enhancement Act is enacted. No report shall be required under this section after September 30, 2005.

"(3) Treatment of Puerto Rico, etc.—For purposes of this section, industries in the Commonwealth of Puerto Rico and the insular possessions of the United States are considered to be United States industries.".

(2) Section 206(a) of the Andean Trade Preference Act (19 U.S.C. 3204(a)) is amended to read as follows:

"(a) Reporting Requirements.—

"(1) In general.—The United States International Trade Commission (in this section referred to as the 'Commission') shall submit to Congress and the President, biennial reports regarding the economic impact of this title on United States industries and consumers, and, in conjunction with other agencies, the effectiveness of this title in promoting drug-related crop eradication and crop substitution efforts of the beneficiary countries.

"(2) Submission.—During the period that this title is in effect, the report required by paragraph (1) shall be submitted on September 30 of each year that the report required by section 215 of the Caribbean Basin Economic Recovery Act is not submitted.

"(3) Treatment of Puerto Rico, etc.— For purposes of this section, industries in the Commonwealth of Puerto Rico and the insular possessions of the United States are considered to be United States industries.".

(e) Conforming Amendments.—Section 213(a)(1) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(a)(1)) is amended by inserting "and except as provided in subsection (b) (2) and (3)" after "Tax Reform Act of 1986,".

SEC. 5. ADEQUATE AND EFFECTIVE PROTECTION FOR INTELLECTUAL PROPERTY RIGHTS.

Section 212(c) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702(c)) is amended by adding at the end the following flush sentence:

"Notwithstanding any other law, the President may determine that a country is not providing adequate and effective protection of intellectual property rights under paragraph (9), even if the country is in compliance with the country's obligations under the Agreement on Trade-Related Aspects of Intellectual Property Rights described in section 101(d)(15) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(15)).".

SEC. 6. DEFINITIONS.

Section 212(a)(1) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702(a)(1)) is amended by adding at the end the following new subparagraph:

"(D) The term 'NAFTA' means the North American Free Trade Agreement entered into between the United States, Mexico, and Canada on December 17, 1992.

"(E) The terms 'WTO' and 'WTO member' have the meanings given those terms in section 2 of the Uruguay Round Agreements Act (19 U.S.C. 3501).".

By Mr. TORRICELLI (for himself, Mr. Lautenberg, and Mr. Hollings):

S. 985. A bill to designate the post office located at 194 Ward Street in Paterson, NJ, as the "Larry Doby Post Office"; to the Committee on Governmental Affairs.

LARRY DOBY POST OFFICE LEGISLATION

Mr. TORRICELLI. Mr. President, I rise today with Senator Lautenberg to jointly recognize Larry Doby, the first African-American player in the American League. Mr. Doby's lifelong dedication to major league baseball, his community, and his country is truly remarkable and must be recognized. As an ambassador for baseball, Mr. Doby has served the league for nearly 20 years as a player, as a coach, and currently as a special assistant to the president of the American League.

Mr. Doby, born in Camden, SC, later moved to Paterson, NJ, where he starred in four sports and ultimately garnered numerous offers for athletic scholarships toward his higher education. Although Larry Doby accepted an offer to play basketball for Long Island University, his collegiate athletic career was shortened as he enlisted in the U.S. Navy to serve our country in World War II. Following World War II, Doby played for the Negro League Newark Eagles, where he led the league with a batting average of .458 and 13 home runs.

Some of Larry Doby's major league baseball accomplishments include being the first African-American player in the American League, the first African-American player on a world series team, and the second African-American to manage in the major leagues. Mr. Doby will be recognized by major league baseball at the all-star game in Cleveland. The naming of this post office in Larry Doby's honor in his hometown of Paterson would be a fitting tribute to this great American.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 985

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

Congress finds the following:

(1) Larry Eugene Doby was born in Camden, South Carolina, on December 12, 1923, and moved to Paterson, New Jersey, in 1938.

(2) After playing the 1946 season in the Negro League for the Newark Eagles, Larry Doby's contract was purchased by the Cleveland Indians of the American League on July 3, 1947.

(3) On July 5, 1957, Larry Doby became the first African-American to play in the American League.

(4) Larry Doby played in the American League for 13 years, appearing in 1,533 games and batting .283, with 253 home runs and 969 runs batted in.

(5) Larry Doby was voted to 7 all-star teams, led the American League in home runs twice, and played in 2 World Series. He was the first African-American to play in the World Series and to hit a home run in a World Series game, both in 1948.

(6) Larry Doby was recognized for his remarkable achievements in baseball with his induction into the Baseball Hall of Fame in 1987.

(7) After his stellar playing career ended, Larry Doby continued to make a significant contribution to his community. He has been a pioneer in the cause of civil rights and has received honorary doctorate degrees from Long Island University, Princeton University, and Fairfield University.

SEC. 2. DESIGNATION OF LARRY DOBY POST OFFICE.

(A) In General.—The post office located at 194 Ward Street in Paterson, New Jersey, shall be known and designated as the "Larry Doby Post Office".

(b) References.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the post office referred to in subsection (a) shall be deemed to be a reference to the "Larry Doby Post Office".

Mr. LAUTENBERG. Mr. President, I rise to join with my friend and colleague, Senator Bob Torricelli, in introducing a bill to name a U.S. post office in my hometown of Paterson, NJ after a true American hero, Larry Eugene Doby.

Mr. President, 1997 marks the 50th anniversary of the breaking of major league baseball's color barrier. In April 1947, Jackie Robinson played his first game with the National League's Brooklyn Dodgers and ended segregation in our national pastime; simultaneously, he entered America's pantheon of heroes.

While we rightfully honor Mr. Robinson, we cannot forget that heroes rarely fight their battles alone. Larry Doby is one of those heroes. Only 11 weeks after Jackie Robinson first graced a major league diamond, Larry Doby of Paterson, NJ took the field with the Cleveland Indians, becoming the first African-American player in the American League. Once on the team, he brought an ability and level of consistency to the game that few could match. He was the first African-American player to hit a home run in the world series, and he was named to six straight American League all-star teams. During his 13-year career, he attained a .283 lifetime batting average and hit 253 home runs.

Mr. President, the day Larry Doby first took the field was definitely a great day for baseball enthusiasts. Millions of fans were able to enjoy the excitement he brought to the plate and the skill he brought to the field.

But it was also a great day for every American. Along with Robinson's earlier integration of the National League, Doby's joining the American League was a double play against racism and inequality. And in the early years it wasn't easy. Doby had to meet the challenges of the game, while also facing sometimes angry opponents. But whether he was faced with a curve ball hurled by an opposing pitcher, or a foul remark hurled by a bigoted fan, he handled it with dignity, grace, and skill.

Because of the manner in which he handled such adversity, he not only tore down the walls of exclusion, he also opened the windows of opportunity for many other African-American players, who followed him into the major leagues. Thanks to his example, we all learned that, in the words of Martin Luther King, "We must judge a person on the content of his character, and not the color of his skin."

Mr. President, Larry Doby is rightfully called a legend for his consistency on the field and a hero for his character off the field. But I have the privilege of also calling him a friend. We grew up together on the working class streets of Paterson. As a baseball fan, an American and a friend, I admire the contributions that Larry made to both the game of baseball and to the struggle for equality.

When it comes to Larry, others may have filled his uniform, but no one will ever be able to fill his shoes. Above all, Larry Doby proves that good and great can exist in the same individual.

Mr. President, I urge all my colleagues to join with Senator TORRICELLI and me in celebrating Larry Doby by gracing the post office located at 194 Ward Street in Paterson, NJ with his name.

By Mr. DODD (for himself and Mr. MCCAIN):

S.J. Res. 34. A joint resolution suspending the certification procedures under section 490(b) of the Foreign Assistance Act of 1991 in order to foster greater multilateral cooperation in international counternarcotics programs; to the Committee on Foreign Relations.

Mr. DODD. Mr. President, today I send to the desk a joint resolution on behalf of myself and Senator JOHN MCCAIN which we believe will lead to more cooperative and effective efforts to meet the international threat posed by international drug trafficking.

The resolution that we are introducing today calls upon the President to establish a high level, interdisciplinary task force under the direction of Gen. Barry R. McCaffrey, Director of the Office of National Drug Control Policy, to develop a comprehensive strategy for dealing with the supply and demand side of the drug problem.

It also urges the President to encourage other drug producing and transit countries to undertake similar efforts. Within a year's time it calls for an international summit to be held, at which time, the efforts of all the parties would be merged into a multilateral battle plan to engage the illegal drug trade on every front.

In order to create the kind of international cooperation and mutual respect that must be present if this effort is to produce results, the resolution would also suspend the annual drug certification procedure for a period of 2 years, while efforts are ongoing to develop and implement a new strategy.

As you know, Mr. President, the issue of how best to construct and implement an effective counter narcotics policy has been the subject of much debate in this Chamber, and I would add much disagreement.

My intention in introducing this resolution today is to try to see if there is some way to end what has become a stale annual event that has not brought us any closer to mounting a credible effort to eliminate or even contain the international drug mafia.

We all can agree that drugs are a problem—a big problem. We can agree as well that the international drug trade poses a direct threat to the United States and to international efforts to promote democracy, economic stability, human rights, and the rule of law throughout the world, but most especially in our own hemisphere.

While the international impact is serious and of great concern, of even greater concern to me personally are effects it is having here at home. Today, approximately 12,800,000 Americans use illegal drugs, including 1,500,000 cocaine users, 600,000 heroin addicts, and 9,800,000 smokers of marijuana. This menace isn't just confined to inner cities or the poor. Illegal drug use occurs among members of every ethnic and socioeconomic group in the United States.

The human and economic costs are enormous: Drug related illness, death, and crime cost the United States approximately $67 billion in 1996, including costs for lost productivity, premature death, and incarceration.

This is an enormously lucrative business—drug trafficking generates estimated revenues of $400 billion annually.

The United States has spent more than $25 billion for foreign interdictions and source country counter narcotics programs since 1981, and despite impressive seizures at the border, on the high seas, and in other countries, foreign drugs are cheaper and more readily available in the United States today than two decades ago.

So, despite the fact that we have had this drug certification procedure in place since 1986—more than 10 years—drugs continue to pour into this country and to wreak havoc on our families and communities.

I think it is time to be honest and admit our international drug strategy isn't working and that means the entire certification process. Nor are efforts to revise the certification process to make it easier, politically, for the U.S. Congress to stick a finger in the eye of other governments by unilaterally grading them, likely to materially improve the situation—especially when we are not prepared to subject ourselves to similar unilateral grading by others.

Rather, I believe that we need to reach out to other governments who share our concerns about the threat that drugs pose to the very fabric of their societies and our own. It is arrogant to assume we are the only Nation that cares about such matters. We need to sit down and figure out what each of us can do better to make it harder for drug traffickers to ply their trade. It is in that spirit that I commend the resolution that Senator MCCAIN and I are introducing today to our colleagues.

Together, working collectively we can defeat the traffickers. But if we expend our energies playing the blame game, we are certainly not going to effectively address this threat.

We aren't going to stop one additional teenager from becoming hooked on drugs, or one more citizen from being mugged outside his home by some drug crazed thief.

I would urge my colleagues to give some thought and attention to our legislative initiative. We believe it is worthy of support.

Mr. President, I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 34

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SUSPENSION OF DRUG CERTIFICATION PROCEDURES.

(a) FINDINGS.—Congress makes the following findings:

(1) The international drug trade poses a direct threat to the United States and to international efforts to promote democracy, economic stability, human rights, and the rule of law.

(2) The United States has a vital national interest in combating the financial and other resources of the multinational drug cartels, which resources threaten the integrity of political and financial institutions both in the United States and abroad.

(3) Approximately 12,800,000 Americans use illegal drugs, including 1,500,000 cocaine users, 600,000 heroin addicts, and 9,800,000 marijuana users.

(4) Illegal drug use occurs among members of every ethnic and socioeconomic group in the United States.

(5) Drug-related illness, death, and crime cost the United States approximately

$67,000,000,000 in 1996, including costs for lost productivity, premature death, and incarceration.

(6) Worldwide drug trafficking generates revenues estimated at $400,000,000,000 annually.

(7) The United States has spent more than $25,000,000,000 for drug interdiction and source country counternarcotics programs since 1981, and despite impressive seizures at the border, on the high seas, and in other countries, illegal drugs from foreign sources are cheaper and more readily available in the United States today than 20 years ago.

(8) The 1961 Single Convention on Narcotic Drugs, the 1971 Convention on Psychotropic Substances, and the 1988 Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances form the legal framework for international drug control cooperation.

(9) The United Nations International Drug Control Program, the International Narcotics Control Board, and the Organization of American States can play important roles in facilitating the development and implementation of more effective multilateral programs to combat both domestic and international drug trafficking and consumption.

(10) The annual certification process required by section 490 of the Foreign Assistance Act of 1961 (22 U.S.C. 2291j), which has been in effect since 1986, has failed to foster bilateral or multilateral cooperation with United States counternarcotics programs because its provisions are vague and inconsistently applied and fail to acknowledge that United States narcotics programs have not been fully effective in combating consumption or trafficking in illegal drugs, and related crimes, in the United States.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) existing United States domestic and international counternarcotics program have not reduced the supply of illegal drugs or significantly reduced domestic consumption of such drugs;

(2) The President should appoint a high level task force of foreign policy experts, law enforcement officials, and drug specialists to develop a comprehensive program for addressing domestic and international drug trafficking and drug consumption and related crimes, with particular attention to fashioning a multilateral framework for improving international cooperation in combating illegal drug trafficking, and should designate the Director of the Office of National Drug Policy to chair the task force;

(3) the President should call upon the heads of state of major illicit drug producing countries, major drug transit countries, and major money laundering countries to establish similar high level task forces to work in coordination with the United States; and

(4) not later than one year after the date of enactment of this Act, the President should call for the convening of an international summit of all interested governments to be hosted by the Organization of American States or another international organization mutually agreed to by the parties, for the purpose of reviewing the findings and recommendations of the task forces referred to in paragraphs (1) and (2) and adopting a counternarcotics plan of action for each country.

(c) SUSPENSION OF DRUG CERTIFICATION PROCESS.—(1) Section 490 of the Foreign Assistance Act of 1961 (22 U.S.C. 2291j), relating to annual certification procedures for assistance for certain drug-producing and drug-transit countries, shall not apply in 1998 and 1999.

(2) The President may waive the applicability of that section in 2000 if the President determines that the waiver would facilitate the enhancement of the United States international narcotics control programs.

Mr. McCAIN. Mr. President, I join with my colleague and friend, Senator DODD, in introducing a joint resolution calling on the President to take concrete steps to increase the level of international cooperation in combating the flow of narcotics into this country, and to lead America toward coming to grips with the domestic demand that is tearing this country apart while enriching the drug cartels of Latin America and our own organized crime groups.

This legislation acknowledges the problems endemic in waging the war on drugs while domestic demand continues to remain high. It further recognizes the failure of numerous previous efforts at stemming the flow of illegal narcotics. It consequently expresses the sense of Congress that the President should appoint a high level task force, to be chaired by the Director of the Office of National Drug Policy, to establish a framework for improving international cooperation in these efforts. Finally, and of particular importance, it suspends for 2 years the process by which countries are certified as cooperating in the war on drug.

The drug problem in this country dates at least as far back as the Civil War, when wounded soldiers were turned into morphine addicts as the only way to deaden the horrific pain caused from battle and disease. The problem grew to such an extent that President Nixon felt compelled to establish the Drug Enforcement Administration in order to better coordinate the antidrug effort. President Reagan assigned Vice President Bush to oversee a major escalation in the war on drugs, a war carried on at considerable monetary cost throughout the Bush administration. President Clinton, to his credit, appointed perhaps our finest "drug czar" in Gen. Barry McCaffrey, who has waged the drug war as valiantly as he led troops in combat during Desert Storm.

And still, the flow of illegal narcotics continues virtually unimpeded. Record-breaking seizures serve mainly to remind us of how much more is getting through our porous borders undetected. Street prices alert us to the failure of our best efforts at putting a dent in the problem of drug trafficking. To the extent that one area, for example, cocaine, is tackled with any degree of success, another bigger problem—the resurgence of heroin abuse comes to mind—rises up in its place. Clearly, it is time to step back again and look more critically at every facet of the problem.

I do not believe "chicken-and-egg" debates about which problem, supply or demand, should take higher priority serve any useful purpose. The bill we are offering today addresses both problems. Nor I believe the certification process has accomplished its intended goal any more than such processes ever really do irrespective of the subject matter. In fact, the decision by the White House to decertify Colombia, which has waged a valiant and costly—in both lives and treasure—struggle against extremely powerful and ruthless cartels while recertifying Mexico, whose law enforcement agencies are so rife with corruption that that country's equivalent of General McCaffrey was arrested for drug-related crimes, illuminates all too well the impracticality of the current process.

It is easy to argue that the drug problem has been studied to death. It has not, however, been examined from the perspective, and at the level, recommended in this resolution. If I believed for a second that this resolution represented just another attempt at studying the problem of drugs, I would not have attached my name to it. The recommended steps, however, combined with the suspension of the drug certification process, constitute a real and meaningful effort at focusing the Nation's attention on one of our most serious problems. Drugs are, in every sense of the word, a scourge upon our society. We must take a comprehensive, sober look at the scale of the problem and what realistically can be done about it. We must do this domestically and internationally. We must, once and for all, wage the war on drugs as though we intend to prevail. I hope that my colleagues in the Senate and the House of Representatives will support this legislation.

ADDITIONAL COSPONSORS

S. 61

At the request of Mr. LOTT, the names of the Senator from Hawaii [Mr. INOUYE] and the Senator from Washington [Mr. GORTON] were added as cosponsors of S. 61, a bill to amend title 46, United States Code, to extend eligibility for veterans' burial benefits, funeral benefits, and related benefits for veterans of certain service in the United States merchant marine during World War II.

S. 224

At the request of Mr. WARNER, the name of the Senator from North Dakota [Mr. DORGAN] was added as a cosponsor of S. 224, a bill to amend title 10, United States Code, to permit covered beneficiaries under the military health care system who are also entitled to Medicare to enroll in the Federal Employees Health Benefits Program, and for other purposes.

S. 260

At the request of Mr. ABRAHAM, the name of the Senator from Arizona [Mr. McCAIN] was added as a cosponsor of S.

260, a bill to amend the Controlled Substances Act with respect to penalties for crimes involving cocaine, and for other purposes.

S. 358

At the request of Mr. DEWINE, the name of the Senator from New Jersey [Mr. TORRICELLI] was added as a cosponsor of S. 358, a bill to provide for compassionate payments with regard to individuals with blood-clotting disorders, such as hemophilia, who contracted human immunodeficiency virus due to contaminated blood products, and for other purposes.

S. 387

At the request of Mr. HATCH, the name of the Senator from Ohio [Mr. DEWINE] was added as a cosponsor of S. 387, a bill to amend the Internal Revenue Code of 1986 to provide equity to exports of software.

S. 683

At the request of Mr. STEVENS, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 683, a bill to require the Secretary of the Treasury to mint coins in commemoration of the bicentennial of the Library of Congress.

S. 751

At the request of Mr. SHELBY, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 751, a bill to protect and enhance sportsmen's opportunities and conservation of wildlife, and for other purposes.

S. 863

At the request of Mr. MOYNIHAN, the names of the Senator from Ohio [Mr. DEWINE], the Senator from California [Mrs. FEINSTEIN], and the Senator from Florida [Mr. MACK] were added as cosponsors of S. 863, a bill to authorize the Government of India to establish a memorial to honor Mahatma Gandhi in the District of Columbia.

S. 927

At the request of Ms. SNOWE, the names of the Senator from Alaska [Mr. STEVENS], the Senator from Washington [Mr. GORTON], the Senator from Michigan [Mr. ABRAHAM], the Senator from Hawaii [Mr. INOUYE], the Senator from New York [Mr. MOYNIHAN], the Senator from Maine [Ms. COLLINS], the Senator from Florida [Mr. GRAHAM], the Senator from Virginia [Mr. WARNER], and the Senator from Alaska [Mr. MURKOWSKI] were added as cosponsors of S. 927, a bill to reauthorize the Sea Grant Program.

SENATE JOINT RESOLUTION 6

At the request of Mr. KYL, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of Senate Joint Resolution 6, a joint resolution proposing an amendment to the Constitution of the United States to protect the rights of crime victims.

AMENDMENT NO. 532

At the request of Ms. LANDRIEU the names of the Senator from Massachusetts [Mr. KERRY], the Senator from South Dakota [Mr. JOHNSON], and the Senator from Illinois [Mr. DURBIN] were added as cosponsors of amendment No. 532 proposed to S. 949, an original bill to provide revenue reconciliation pursuant to section 104(b) of the concurrent resolution on the budget for fiscal year 1998.

AMENDMENT NO. 537

At the request of Mr. THURMOND his name was added as a cosponsor of amendment No. 537 proposed to S. 949, an original bill to provide revenue reconciliation pursuant to section 104(b) of the concurrent resolution on the budget for fiscal year 1998.

AMENDMENT NO. 539

At the request of Mr. GRAMM the names of the Senator from Utah [Mr. HATCH] and the Senator from New Hampshire [Mr. GREGG] were added as cosponsors of amendment No. 539 proposed to S. 949, an original bill to provide revenue reconciliation pursuant to section 104(b) of the concurrent resolution on the budget for fiscal year 1998.

AMENDMENT NO. 551

At the request of Mr. NICKLES the names of the Senator from Nebraska [Mr. KERREY] and the Senator from Michigan [Mr. ABRAHAM] were added as cosponsors of amendment No. 551 proposed to S. 949, an original bill to provide revenue reconciliation pursuant to section 104(b) of the concurrent resolution on the budget for fiscal year 1998.

At the request of Mr. KEMPTHORNE his name was added as a cosponsor of amendment No. 551 proposed to S. 949, supra.

At the request of Mr. CRAIG his name was added as a cosponsor of amendment No. 551 proposed to S. 949, supra.

AMENDMENT NO. 555

At the request of Mr. KERRY his name was added as a cosponsor of amendment No. 555 proposed to S. 949, an original bill to provide revenue reconciliation pursuant to section 104(b) of the concurrent resolution on the budget for fiscal year 1998.

At the request of Mr. JEFFORDS the names of the Senator from Rhode Island [Mr. CHAFEE], the Senator from New York [Mr. D'AMATO], the Senator from Oregon [Mr. SMITH], the Senator from Utah [Mr. HATCH], the Senator from Colorado [Mr. CAMPBELL], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Wyoming [Mr. ENZI], the Senator from Colorado [Mr. ALLARD], the Senator from Alaska [Mr. STEVENS], the Senator from Maryland [Ms. MIKULSKI], and the Senator from Florida [Mr. GRAHAM] were added as cosponsors of amendment No. 555 proposed to S. 949, supra.

AMENDMENT NO. 562

At the request of Mr. BIDEN the name of the Senator from Minnesota [Mr. GRAMS] was added as a cosponsor of amendment No. 562 proposed to S. 949, an original bill to provide revenue reconciliation pursuant to section 104(b) of the concurrent resolution on the budget for fiscal year 1998.

SENATE CONCURRENT RESOLUTION 35 URGING ISSUANCE OF A POSTAGE STAMP TO COMMEMORATE THE 150TH ANNIVERSARY OF THE FIRST WOMEN'S RIGHT CONVENTION

Mr. MOYNIHAN (for himself and Mr. D'AMATO) submitted the following concurrent resolution; which was referred to the Committee on Governmental Affairs.

S. CON. RES. 35

Whereas 1998 marks the 150th anniversary of the first Women's Rights Convention, which was held at the Wesleyan Methodist Church in Seneca Falls, New York, on July 19 and 20, 1848;

Whereas the Women's Rights Convention was called to consider "the Social, Civil, and Religious Condition of Women";

Whereas the Women's Rights Convention is considered by many historians to be one of the most important events in the history of the women's movement in the United States;

Whereas the Convention participants issued a Declaration of Sentiments which was modeled after the Declaration of Independence;

Whereas the Declaration of Sentiments further included a list of the "injustices" that were imposed on women over the centuries, such as denying them the right to participate in government, to retain their civil rights after marriage, to own property, to keep their wages, to vote, and to pursue a college education;

Whereas the Women's Rights Convention and the Declaration of Sentiments was a vital early step toward reversing such injustices;

Whereas the participants in the Women's Rights Convention also played a prominent role in the movement to abolish slavery;

Whereas commemorating this historic anniversary will highlight the importance of continuing the struggle for equal rights and opportunity for women in such areas as health care, education, employment, and pay equity;

Whereas Congress recently honored Lucretia Mott and Elizabeth Cady Stanton, the organizers of the Women's Rights Convention, along with Susan B. Anthony, as revolutionary leaders of the women's movement by placing a statue of them in the Capitol Rotunda with statues of other revolutionary leaders of our Nation's history such as George Washington, Abraham Lincoln, and Martin Luther King, Jr.;

Whereas a portion of this statue purposefully was left unfinished in 1921, the year following passage of the 19th Amendment, which gave women the right to vote, to signify the need to continue working for an Equal Rights Amendment, pay and pension equity, and other women's rights;

Whereas, in light of the fact that commemorative stamps have recently been issued to honor the marathon, the lunar new year, and football coaches, honoring a historic convention that led to many breakthroughs in the history of the women's rights movement is highly appropriate;

Whereas honoring the first Women's Rights Convention is educational, historically important, and of widespread national appeal;

Whereas stamp issuance and stamp collecting teach children about our Nation's history and our Nation's culture; and

Whereas in the history of the struggle for equality, the significance of this event is immeasurable: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That—

(1) a postage stamp should be issued to commemorate the 150th anniversary of the first Women's Rights Convention; and

(2) the Citizen's Stamp Advisory Committee of the United States Postal Service should recommend to the Postmaster General that such a stamp be issued.

Mr. MOYNIHAN. Mr. President, I rise along with my friend and colleague, Senator D'AMATO, to submit a resolution that urges the United States Postal Service to issue a commemorative postage stamp to celebrate the 150th anniversary of the first Women's Rights Convention held in Seneca Falls, NY. In 1980 I introduced legislation to commemorate the idea of equal rights for women by creating the Women's Rights National Historic Park in Seneca Falls. That is where the Declaration of Sentiments was signed in 1848, stating that "all men and women are created equal" and that women should have equal political rights with men. From this beginning sprang the 19th amendment and many other advances for women this century and last.

Western New York was home to an emerging reform movement during the 1830's and 1840's. Among reformers settling in Seneca Falls were Quaker women such as Lucretia Mott who took an active role in the effort to end slavery. For Mott, Martha Wright, Mary Ann M'Clintock, and Elizabeth Cady Stanton, reform also included demanding rights for women. In July 1848, they planned the convention and hammered out a formal list of grievances based on the Declaration of Independence, denouncing inequities in property rights, education, employment, religion, marriage and family, and suffrage. On July 19, the Declaration of Sentiments was presented before an audience of 300.

The Women's Rights Convention and the Declaration of Sentiments were a vital early step toward reversing these injustices against women. Many historians consider the convention to be one of the most important events in the history of the women's movement in the United States.

The women of Seneca Falls challenged America to social revolution with a list of demands that touched upon every aspect of life. Testing different approaches, the early women's rights leaders came to view the ballot as the best way to challenge the system, but they did not limit their efforts to this one issue. Fifty years after the convention, women could claim property rights, employment and educational opportunities, divorce and child custody laws, and increased social freedoms. By the early 20th century, a coalition of suffragists, temperance groups, reform-minded politicians, and women's social welfare organizations mustered a successful push for the vote.

Today Congress honors Lucretia Mott and Elizabeth Cady Stanton, along with Susan B. Anthony, as revolutionary leaders of the women's movement by placing a statue of them in the Capitol Rotunda next to statues of other leaders in our Nation's history such as George Washington, Abraham Lincoln, and Martin Luther King, Jr.

It is only fitting that a stamp be issued commemorating this historic anniversary highlighting the importance of continuing this struggle for equal rights and opportunity for women in areas such as health care, education, employment, and pay equity.

Mr. D'AMATO. Mr. President, I rise today with my friend and colleague, the senior Senator from New York, Senator MOYNIHAN, to submit concurrent resolution to commemorate the 150th anniversary of the first Women's Rights Convention through the issuance of a U.S. postage stamp.

American women in the middle part of the 19th century had few distinguishable rights. They did not possess the right to vote, participate in government and if married, were not allowed to own property or keep wages if they worked outside of the home. In the summer of 1848, a group of five women sought to change these circumstances.

On July 19 and 20, 1848, 300 women and men converged on Wesleyan Methodist Church in Seneca Falls, NY to consider "the social, civil and religious condition of women" at that time. Led by Elizabeth Cady Stanton, Lucretia Mott, Jane Hunt, Ann McClintock and Martha Wright, a Declaration of Sentiments was presented to the audience which listed among them "all men and women are created equal" and that "women's political equality with man is the legitimate outgrowth of the fundamental principles of our government as set forth in the Declaration of Independence and the Constitution."

This historic Convention marked a turning point in the condition of women in American society. The public airing of the Declaration of Sentiments began a progressive pursuit of equality for women that has endured to this day.

The issuance of this stamp will honor the courage that these early leaders had in presenting their convictions and pursuing change for all women. Through the issuance of a commemorative stamp, the commitment to women's rights will be celebrated. I encourage my colleagues to join Senator MOYNIHAN and me by cosponsoring this measure.

SENATE RESOLUTION—104—RELATIVE TO THE TAX STATUS OF PAYMENTS IN THE TOBACCO LIABILITY SETTLEMENT

Mr. HARKIN (for himself, Mr. LAUTENBERG, and Mr. KENNEDY) submitted the following resolution, which was referred to the Committee on Finance:

S. RES. 104

Resolved,

Whereas the tobacco industry, State attorneys general, and individual plaintiffs' attorneys have reached an agreement to settle tobacco litigation in 40 States and the tobacco industry has agreed to pay $368.5 billion over 25 years, most of which would go to States;

Whereas under the terms of this agreement, this payment will be counted as a "normal and necessary" business expense and will therefore be considered tax deductible for Federal tax purposes, potentially requiring American taxpayers to subsidize up to $147 billion of the settlement payment; and

Whereas while many of the details of the agreement will require further examination and possible alteration, the United States Senate should go on record stating its concern about this provision's potential impact on federal revenues and the deficit: Therefore be it

Resolved, It is the sense of the Senate that to protect the interests of the American taxpayer, any legislation implementing the tobacco liability settlement shall prohibit parties to the agreement from claiming Federal tax deductions for these payments.

SENATE RESOLUTION 105—RELATIVE TO HONG KONG

Mr. LOTT (for himself, Mr. LIEBERMAN, Mr. MURKOWSKI, Mr. HELMS, Mr. COVERDELL, Mr. MCCONNELL, Mr. ROBB, Mr. THURMOND, Mr. MCCAIN, Mr. NICKLES, Mr. ROTH, Mrs. FEINSTEIN, and Mr. CRAIG) submitted the following resolution; which was considered and agreed to:

S. RES. 105

Whereas at one minute past midnight on July 1, 1997, Hong Kong will cease to be a colonial possession of Great Britain and will return to Chinese sovereignty;

Whereas the people of Hong Kong enjoy civil liberties and political freedoms based on the democratic rule of law and the functions of a free market;

Whereas the People's Republic of china has promised through international agreements and Chinese law to preserve Hong Kong's way of life and to grant the people of Hong Kong substantial autonomy in self-government;

Whereas the United States is committed through the Hong Kong Policy Act of 1992 to monitoring, advocating and reporting on the continuation of Hong Kong's freedoms under Chinese rule; and

Whereas the United States enjoys a longstanding commercial, cultural, and political relationship with Hong Kong and a developing relationship with the People's Republic of China: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the people of the United States wish good fortune to the people of Hong Kong as they embark on their historic transition of sovereignty;

(2) the United States urges the People's Republic of China to honor both the spirit and the letter of its commitments to accord Hong Kong substantial autonomy as a separate administrative region in a China characterized as "one country, two systems;"

(3) the executive branch should exercise due diligence in enforcing the terms and conditions of the Hong Kong Policy Act of 1992 and subsequent acts and provisions concerning the protection of civil liberties and the rule of law in Hong Kong;

(4) the United States looks forward to continuing its close, productive relationship with the people of Hong Kong; and

(5) the United States hopes to develop a positive, productive relationship with the People's Republic of china based upon shared respect for human dignity and responsible behavior in the international community of nations.

AMENDMENTS SUBMITTED

THE REVENUE RECONCILIATION ACT OF 1997

GRAMM AMENDMENT NO. 566

Mr. GRAMM proposed an amendment to the bill (S. 949) to provide revenue reconciliation pursuant to section 104(b) of the concurrent resolution on the budget for fiscal year 1998; from the Committee on Finance; as follows:

At the appropriate place, add the following:

SEC. . GUARANTEED BALANCED BUDGET.

(a) MAXIMUM DEFICIT AMOUNT.—Section 253 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) in subsection (b), in the last sentence by striking the period and inserting "and $10,000,000,000 for fiscal years 1998 and thereafter."; and

(2) by striking subsections (g) and (h) and inserting the following:

"(g) MAXIMUM DEFICIT AMOUNT.—In this section—

"(1) Notwithstanding any provision of this * * * the term 'deficit' shall have the same meaning as the term 'deficit' in section 3(6) of the Congressional Budget and Impoundment Control Act of 1974 as on the day before the date of enactment of the Budget Enforcement Act of 1990; and

"(2) the term 'maximum deficit amount' means—

"(A) with respect to fiscal year 1998, $90,500,000,000;

"(B) with respect to fiscal year 1999, $89,500,000,000;

"(C) with respect to fiscal year 2000, $82,900,000,000;

"(D) with respect to fiscal year 2001, $53,100,000,000;

"(E) with respect to fiscal year 2002 and fiscal years thereafter, zero.".

(b) LOOK-BACK SEQUESTER.—Section 253 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at the end thereof the following new subsection:

"(h) LOOK-BACK SEQUESTER—

"(1) IN GENERAL.—On July 1 of each fiscal year, the Director of OMB shall determine if laws effective during the current fiscal year will cause the deficit to exceed the maximum deficit amount for such fiscal year. If the limit is exceeded, there shall be a preliminary sequester on July 1 to eliminate the excess.

"(2) PERMANENT SEQUESTER.—Budget authority sequestered on July 1 pursuant to paragraph (1) shall be permanently canceled on July 15.

"(3) NO MARGIN.—The margin for determining a sequester under this subsection shall be zero.

"(4) SEQUESTRATION PROCEDURES.—The provision of subsections (c), (d), and (e) of this section shall apply to a sequester under this subsection.".

(c) OFFSETTING TAX CUTS WITH CUTS IN DISCRETIONARY SPENDING.—Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at the end the following:

"(f) OFFSETS WITH DISCRETIONARY SPENDING.—For purposes of subsection (b), revenue reductions increasing the deficit may be offset by reductions in discretionary appropriated amounts reducing the deficit.".

(d) ADJUSTMENT OF DISCRETIONARY SPENDING LEVELS FOR TAX CUTS.—Section 251(b)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at the end the following:

"(I) TAX RELIEF ADJUSTMENTS.—If, for any fiscal year or years, appropriations for discretionary appropriations are reduced that Congress and the President designate in statute as offsets for tax relief, the adjustments shall be the total amount of such reductions in appropriations in discretionary accounts and the outlays flowing in all years from such reductions."

(e) Notwithstanding any provision in this or any other Act, section 253 of the Balanced Budget and Emergency Deficit Control Act is extended through fiscal year 2002.

JEFFORDS AMENDMENT NO. 567

(Ordered to lie on the table.)

Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill, S. 949, supra; as follows:

On page 164, in the matter between lines 16 and 17, insert after the item relating to section 1400B the following:

"Sec. 1400C. Trust Fund for DC schools."

On page 173, line 10, strike "$75,000,000" and insert "$60,000,000".

On page 174, strike lines 21 through 23, and insert:

"(a) EXCLUSION.—

"(1) IN GENERAL.—Gross income shall not include qualified capital gain from the sale or exchange of any DC asset held for more than 5 years.

"(2) SPECIAL 10 PERCENT RATE FOR DC ASSETS ACQUIRED IN 1998.—

"(A) IN GENERAL.—In the case of any DC asset acquired during calendar year 1998—

"(i) paragraph (1) shall not apply to any qualified capital gain from the sale or exchange of such asset, and

"(ii) the qualified capital gain described in clause (i) shall be treated as adjusted net capital gain described in section 1(h)(1)(D) for the taxable year of the sale or exchange (and the amount under section 1(h)(1)(D)(i) for such taxable year shall be increased by the amount of such gain).

"(B) SPECIAL RULE.—For purposes of subparagraph (A), any DC asset the basis of which is determined in whole or in part by reference to the basis of an asset to which subparagraph (A) applies shall be treated as a DC asset acquired during calendar year 1998.

On page 181, between lines 5 and 6, insert the following:

"SEC. 1400C. TRUST FUND FOR DC SCHOOLS.

"(a) CREATION OF FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Trust Fund for DC Schools', consisting of such amounts as may be appropriated or credited to the Fund as provided in this section.

"(b) TRANSFER TO TRUST FUND OF AMOUNTS EQUIVALENT TO CERTAIN TAXES.—

"(1) IN GENERAL.—There are hereby appropriated to the Trust Fund for DC Schools amounts equivalent to the applicable percentage of revenues received in the Treasury from income taxes imposed by this chapter for any taxable year beginning after December 31, 1997, and before January 1, 2008, on individual taxpayers who are residents of the District of Columbia as of the last day of such taxable year.

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the term 'applicable percentage' means the percentage which the Secretary determines necessary to result in the following amounts being appropriated to the Trust Fund under paragraph (1):

"(A) $5,000,000 for each of the calendar years 1998 through 2007.

"(3) TRANSFER OF AMOUNTS.—The amounts appropriated by paragraph (1) shall be transferred at least monthly from the general fund of the Treasury to the Trust Fund for DC Schools on the basis of estimates made by the Secretary of the amounts referred to in such paragraph. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

"(c) EXPENDITURES FROM FUND.—

"(1) IN GENERAL.—Amounts in the Trust Fund for DC Schools are hereby appropriated, and shall be available without fiscal year limitation, for payment by the Secretary of debt service on qualified DC school bonds.

"(2) QUALIFIED DC SCHOOL BONDS.—The term 'qualified DC school bonds' means bonds which—

"(A) are issued after March 31, 1998, by the District of Columbia to finance the construction, rehabilitation, and repair of schools under the jurisdiction of the government of the District of Columbia, and

"(B) are certified by the District of Columbia Control Board as meeting the requirements of subparagraph (A) after giving 60 days notice of any proposed certification to the Subcommittees on the District of Columbia of the Committees on Appropriations of the House of Representatives and the Senate.

"(d) REPORT.—It shall be the duty of the Secretary to hold the Trust Fund for DC Schools and to report to the Congress each year on the financial condition and the results of the operations of such Fund during the preceding fiscal year and on its expected condition and operations during the next fiscal year. Such report shall be printed as a House document of the session of the Congress to which the report is made.

"(e) INVESTMENT.—

"(1) IN GENERAL.—It shall be the duty of the Secretary to invest such portion of the Trust Fund for DC Schools as is not, in the Secretary's judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired—

"(A) on original issue at the issue price, or

"(B) by purchase of outstanding obligations at the market price.

"(2) SALE OF OBLIGATIONS.—Any obligation acquired by the Trust Fund for DC Schools may be sold by the Secretary at the market price.

"(3) INTEREST ON CERTAIN PROCEEDS.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Trust Fund for DC Schools shall be credited to and form a part of the Trust Fund for DC Schools.''

BUMPERS AMENDMENT NO. 568

Mr. BUMPERS proposed an amendment to the bill, S. 949, supra; as follows:

At the appropriate place add the following:

''(f) BUDGETARY TREATMENT OF SALES OF CERTAIN FEDERAL LANDS.—The amounts realized from the sale or lease of lands or interests in lands which are part of the National Park System, the Forest Service System or the U.S. Fish and Wildlife refuge system shall not be scored with respect to the level of budget authority, outlays, or revenues.''

CRAIG AMENDMENT NO. 569

Mr. CRAIG proposed an amendment to the bill, S. 949, supra; as follows:

At the appropriate place insert the following:

SEC. . RESTRICTION ON THE USE OF TAX INCREASES.

(a) IN GENERAL.—In the Senate, for purposes of section 202 of House Concurrent Resolution 67 (104th Congress), it shall not be in order to consider any bill, joint resolution, amendment, motion, or conference report that provides an increase in direct spending offset by an increase in receipts.

(b) WAIVER.—This section may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.

(c) APPEALS.—Appeals in the Senate from the decisions of the Chair relating to any provision of this section shall be limited to 1 hour, to be equally divided between, and controlled by, the appellant and the manager of the concurrent resolution, bill, or joint resolution, as the case may be. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

(d) DETERMINATION OF BUDGET LEVELS.—For purposes of this section, the levels of direct spending and receipts for a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the Senate.

BROWNBACK (AND OTHERS) AMENDMENT NO. 570

Mr. BROWNBACK (for himself, Mr. KOHL, and Mr. MCCAIN) proposed an amendment to the bill, S. 949, supra; as follows:

At the end of the bill, add the following:

TITLE —BUDGET CONTROL

SEC. 01. SHORT TITLE; PURPOSE.

(a) SHORT TITLE.—This title may be cited as the ''Bipartisan Budget Enforcement Act of 1997''.

(b) PURPOSE.—The purpose of this title is—

(1) to ensure a balanced Federal budget by fiscal year 2002;

(2) to ensure that the Bipartisan Budget Agreement is implemented; and

(3) to create a mechanism to monitor total costs of direct spending programs, and, in the event that actual or projected costs exceed targeted levels, to require the President and Congress to address adjustments in direct spending.

SEC. 02. ESTABLISHMENT OF DIRECT SPENDING TARGETS.

(a) IN GENERAL.—The initial direct spending targets for each of fiscal years 1998 through 2002 shall equal total outlays for all direct spending except net interest as determined by the Director of the Office of Management and Budget (hereinafter referred to in this title as the ''Director'') under subsection (b).

(b) INITIAL REPORT BY DIRECTOR.—

(1) IN GENERAL.—Not later than 30 days after the date of enactment of this title, the Director shall submit a report to Congress setting forth projected direct spending targets for each of fiscal years 1998 through 2002.

(2) PROJECTIONS AND ASSUMPTIONS.—The Director's projections shall be based on legislation enacted as of 5 days before the report is submitted under paragraph (1). The Director shall use the same economic and technical assumptions used in preparing the concurrent resolution on the budget for fiscal year 1998 (H.Con.Res. 84).

SEC. 03. ANNUAL REVIEW OF DIRECT SPENDING AND RECEIPTS BY PRESIDENT.

As part of each budget submitted under section 1105(a) of title 31, United States Code, the President shall provide an annual review of direct spending and receipts, which shall include—

(1) information on total outlays for programs covered by the direct spending targets, including actual outlays for the prior fiscal year and projected outlays for the current fiscal year and the 5 succeeding fiscal years; and

(2) information on the major categories of Federal receipts, including a comparison between the levels of those receipts and the levels projected as of the date of enactment of this title.

SEC. 04. SPECIAL DIRECT SPENDING MESSAGE BY PRESIDENT.

(a) TRIGGER.—If the information submitted by the President under section 03 indicates—

(1) that actual outlays for direct spending in the prior fiscal year exceeded the applicable direct spending target; or

(2) that outlays for direct spending for the current or budget year are projected to exceed the applicable direct spending targets,

the President shall include in his budget a special direct spending message meeting the requirements of subsection (b).

(b) CONTENTS.—

(1) INCLUSIONS.—The special direct spending message shall include—

(A) an analysis of the variance in direct spending over the direct spending targets; and

(B) the President's recommendations for addressing the direct spending overages, if any, in the prior, current, or budget year.

(2) ADDITIONAL MATTERS.—The President's recommendations may consist of any of the following:

(A) Proposed legislative changes to recoup or eliminate the overage for the prior, current, and budget years in the current year, the budget year, and the 4 outyears.

(B) Proposed legislative changes to recoup or eliminate part of the overage for the prior, current, and budget year in the current year, the budget year, and the 4 outyears, accompanied by a finding by the President that, because of economic conditions or for other specified reasons, only some of the overage should be recouped or eliminated by outlay reductions or revenue increases, or both.

(C) A proposal to make no legislative changes to recoup or eliminate any overage, accompanied by a finding by the President that, because of economic conditions or for other specified reasons, no legislative changes are warranted.

(c) PROPOSED SPECIAL DIRECT SPENDING RESOLUTION.—If the President recommends reductions consistent with subsection (b)(2)(A) or (B), the special direct spending message shall include the text of a special direct spending resolution implementing the President's recommendations through reconciliation directives instructing the appropriate committees of the House of Representatives and Senate to determine and recommend changes in laws within their jurisdictions. If the President recommends no reductions pursuant to (b)(2)(C), the special direct spending message shall include the text of a special resolution concurring in the President's recommendation of no legislative action.

SEC. 05. REQUIRED RESPONSE BY CONGRESS.

(a) IN GENERAL.—It shall not be in order in the House of Representatives or the Senate to consider a concurrent resolution on the budget unless that concurrent resolution fully addresses the entirety of any overage contained in the applicable report of the President under section 04 through reconciliation directives.

(b) WAIVER AND SUSPENSION.—This section may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn. This section shall be subject to the provisions of section 258 of the Balanced Budget and Emergency Deficit Control Act of 1985.

(c) APPEALS.—Appeals in the Senate from the decisions of the Chair relating to any provision of this section shall be limited to 1 hour, to be equally divided between, and controlled by, the appellant and the manager of the bill or joint resolution, as the case may be. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

SEC. 06. RELATIONSHIP TO BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT.

Reductions in outlays or increases in receipts resulting from legislation reported pursuant to section 05 shall not be taken into account for purposes of any budget enforcement procedures under the Balanced Budget and Emergency Deficit Control Act of 1985.

SEC. 07. ESTIMATING MARGIN.

For any fiscal year for which the overage is less than one-half of 1 percent of the direct spending target for that year, the procedures set forth in sections 04 and 05 shall not apply.

SEC. 08. EFFECTIVE DATE.

This title shall apply to direct spending targets for fiscal years 1998 through 2002 and shall expire at the end of fiscal year 2002.

FRIST (AND OTHERS) AMENDMENT NO. 571

Mr. FRIST (for himself, Mr. CONRAD, Mr. ABRAHAM, Mr. SESSIONS, and Mr. ROBB) proposed an amendment to the bill, S. 949, supra; as follows:

At the appropriate place, add the following:

SEC. . ENFORCEMENT OF BALANCED BUDGET.

(a) IN THE SENATE.—Title III of the Congressional Budget Act of 1974 is amended by adding at the end the following:

"ENFORCEMENT BALANCED BUDGET IN THE SENATE

"SEC. 315. (a) POINT OF ORDER.—It shall not be in order in the Senate to consider any resolution or bill (or amendment, motion, or conference report on such resolution or bill) that provides or would cause a deficit (as determined for purposes of the Bipartisan Budget Agreement of May 16, 1997) for fiscal year 2002 or any fiscal year thereafter.

"(b) WAIVER AND SUSPENSION.—This section may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn. This section shall be subject to the provisions of section 258 of the Balanced Budget and Emergency Deficit Control Act of 1985.

"(c) APPEALS.—Appeals in the Senate from the decisions of the Chair relating to any provision of this section shall be limited to 1 hour, to be equally divided between, and controlled by, the appellant and the manager of the bill or joint resolution, as the case may be. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

"(d) DETERMINATION OF BUDGET LEVELS.—For purposes of this section, the levels of new budget authority, outlays, and revenues for a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the Senate.".

(b) PRESIDENT'S BUDGET.—Section 1105(f) of title 31, United States Code, is amended by adding at the end the following: "The budget shall also be prepared in a manner that does not cause a deficit for fiscal year 2002 or any fiscal year thereafter.".

BYRD AMENDMENT NO. 572

Mr. BYRD proposed an amendment to the bill, S. 949, supra; as follows:

At the appropriate place, insert the following:

SEC. . DEBATE ON A RECONCILIATION BILL.

Section 310(e)(2) of the Congressional Budget Act of 1974 is amended to read as follows:

"(2) For purposes of consideration of any reconciliation bill reported under subsection (b)—

"(A) debate, and all amendments thereto and debatable motions and appeals in connection therewith, shall be limited to not more than 30 hours;

"(B) time on the bill may only be yielded back by consent and a motion to further limit debate shall be debatable with debate limited to ½ hour equally divided;

"(C) time on amendments shall be limited to 30 minutes to be equally divided in the usual form and on any second degree amendment or motion to 20 minutes to be equally divided in the usual form; except that after the 15th hour of consideration of a bill, time on all amendments or motions shall be limited to 30 minutes.

"(D) no first degree amendment may be proposed after the 15th hour of consideration of a bill unless it has been submitted to the Journal Clerk prior to the expiration of the 15th hour;

"(E) no second degree amendment may be proposed after the 20th hour of consideration of a bill unless it has been submitted to the Journal Clerk prior to the expiration of the 20th hour; and

"(F) After no more than thirty hours of consideration of the measure, the Senate shall proceed, without any further debate on any question, to vote on the final disposition thereof to the exclusion of all amendments not then actually pending before the Senate at that time and to the exclusion of all motions, except a motion to table, or to reconsider and one quorum call on demand to establish the presence of a quorum (and motions required to establish a quorum) immediately before the final vote begins."

KENNEDY (AND DASCHLE) AMENDMENT NO. 573

Mr. KENNEDY (for himself and Mr. DASCHLE) proposed an amendment to the bill, S. 949, supra; as follows:

On page 337, beginning with line 14, strike all through page 339, line 15, and insert the following.

(a) CIGARETTES.— Section 5701(b) of the Internal Revenue Code of 1986 is amended—

(1) in paragraph (1), by striking "$12 per thousand ($10 per thousand on cigarettes removed during 1991 or 1992)" and inserting "$33.50 per thousand", and

(2) in paragraph (2), by striking "$25.20 per thousand ($21 per thousand on cigarettes removed during 1991 or 1992)" and inserting "$70.35 per thousand".

(b) CIGARS.—Section 5701(a) of the Internal Revenue Code of 1986 is amended—

(1) in paragraph (1), by striking "$1.125 cents per thousand (93.75 cents per thousand on cigars removed during 1991 or 1992)" and inserting "$3.141 cents per thousand", and

(2) by striking "equal to" and all that follows in paragraph (2) and inserting "equal to 35.59 percent of the price for which sold but not more than $83.75 per thousand."

(c) CIGARETTE PAPERS.—Section 5701(c) of the Internal Revenue Code of 1986 is amended by striking "0.75 cent (0.625 cent on cigarette papers removed during 1991 or 1992)" and inserting "2.09 cents".

(d) CIGARETTE TUBES.—Section 5701(d) of the Internal Revenue Code of 1986 is amended by striking "1.5 cents (1.25 cents on cigarette tubes removed during 1991 or 1992)" and inserting "4.18 cents".

(e) SMOKELESS TOBACCO.—Section 5701(e) of the Internal Revenue code of 1986 is amended—

(1) in paragraph (1), by striking "36 cents (30 cents on snuff removed during 1991 or 1992)" and inserting "$1.00", and

(2) by striking "12 cents (10 cents on chewing tobacco removed during 1991 or 1992)" in paragraph (2) and inserting "33.5 cents".

(f) PIPE TOBACCO.—Section 5701(f) of the Internal Revenue Code of 1986 is amended by striking "67.5 cents (56.25 cents on pipe tobacco removed during 1991 or 1992)" and inserting "$1.88".

(g) IMPOSITION OF EXCISE TAX ON MANUFACTURE OR IMPORTATION OF ROLL-YOUR-OWN TOBACCO.—

(1) IN GENERAL.—Section 5701 (relating to rate of tax) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection.

"(g) ROLL-YOUR-OWN TOBACCO.—On roll-your-own tobacco, manufactured in or imported into the United States, there shall be imposed a tax of $1.74 cents per pound (and a proportionate tax at the like rate on all fractional parts of a pound)."

On page 349, between lines 2 and 3, insert the following:

"(k) APPROPRIATION OF PORTION OF RESULTING REVENUES FROM INCREASE IN TAXES ON TOBACCO PRODUCTS TO CHILDREN'S HEALTH INSURANCE INITIATIVES.—In addition to any amounts otherwise appropriated for the purpose of carrying out title XXI of the Social Security Act (relating to children's health insurance initiatives), there is appropriated from the increase in revenues resulting from the amendments made by this section $2,400,000,000 for each of the fiscal years 1998 through 2002.".

COVERDELL (AND OTHERS) AMENDMENT NO. 574

Mr. COVERDELL (for himself, Mr. ABRAHAM, Mr. COATS, Mr. CRAIG, Mr. SANTORUM, and Mr. ASHCROFT) proposed an amendment to the bill, S. 949, supra, as follows:

On page 19, between lines 14 and 15, insert:

"(D) ADJUSTMENT.—The Secretary shall reduce the dollar amounts otherwise in effect under this paragraph for any calendar year to the extent necessary to increase Federal revenues by the amount the Secretary estimates Federal revenues will be reduced by reason of allowing distributions from education individual retirement accounts under section 530 to be used for qualified elementary and secondary education expenses described in section 530(b)(2)(A)(ii)."

On line 64, beginning with line 8, strike all through page 67, line 15, and insert:

"(1) EDUCATION INDIVIDUAL RETIREMENT ACCOUNT.—The term 'education individual retirement account' means a trust created or organized in the United States exclusively for the purpose of paying the qualified education expenses of the account holder, but only if the written governing instrument creating the trust meets the following requirements:

"(A) No contribution will be accepted—

"(i) unless it is in cash,

"(ii) after the date on which the account holder attains age 18, or

"(iii) except in the case of rollover contributions, if such contribution would result in aggregate contributions for the taxable year exceeding the sum of—

"(I) $2,000, plus

"(II) the amount of the credit allowable under section 25A for the taxable year for 1 qualifying child.

"(B) The trustee is a bank (as defined in section 408(n)) or another person who demonstrates to the satisfaction of the Secretary that the manner in which that person will administer the trust will be consistent with the requirements of this section.

"(C) No part of the trust assets will be invested in life insurance contracts.

"(D) The assets of the trust shall not be commingled with other property except in a common trust fund or common investment fund.

"(E) Upon the death of the account holder, any balance in the account will be distributed as required under section 529(b)(8) (as if such account were a qualified tuition program).

"(F) The account becomes an IRA Plus as of the date the account holder attains age 30 (and meets all requirements for an IRA Plus on and after such date), unless the account holder elects to have sections 529(b)(8) apply as of such date (as if such account were a qualified tuition program).

"(2) QUALIFIED EDUCATION EXPENSES.—

"(A) IN GENERAL.—The term 'qualified education expenses' means—

"(i) qualified higher education expenses (as defined in section 529(e)(3), and

"(ii) in the case of taxable years beginning after December 31, 2000, qualified elementary and secondary education expenses (as defined in paragraph (5)).

"(B) QUALIFIED TUITION PROGRAMS.—Such term shall include amounts paid or incurred to purchase tuition credits or certificates, or to make contributions to an account, under a qualified tuition program (as defined in section 529(b)) for the benefit of the account holder.

"(3) ELIGIBLE EDUCATIONAL INSTITUTION.—The term 'eligible educational institution' has the meaning given such term by section 529(e)(5).

"(4) ACCOUNT HOLDER.—The term 'account holder' means the individual for whose benefit the education individual retirement account is established.

"(5) QUALIFIED ELEMENTARY AND SECONDARY EDUCATION EXPENSES.—

"(A) IN GENERAL.—The term 'qualified elementary and secondary education expenses' means tuition, fees, tutoring, special needs services, books, supplies, equipment, transportation, and supplementary expenses required for the enrollment or attendance at a public, private, or sectarian school of any dependent of the taxpayer with respect to whom the taxpayer is allowed a deduction under section 151.

"(B) SPECIAL RULE FOR HOMESCHOOLING.—Scuh term shall include expenses described in subparagraph (A) required for education provided for homeschooling if the requirements of any applicable State or local law are met with respect to such education.

"(C) SCHOOL.—The term 'school' means any school which provides elementary education or secondary education (through grade 12), as determined under State law.

"(c) TAX TREATMENT OF DISTRIBUTIONS.—

"(1) IN GENERAL.—Any amount paid or distributed shall be includible in gross income to the extent required by section 529(c)(3) (determined as if such account were a qualified tuition program and as if qualified higher education expenses include qualified education expenses).

"(2) SPECIAL RULES FOR APPLYING ESTATE AND GIFT TAXES WITH RESPECT TO ACCOUNT.—Rules similar to the rules of paragraphs (2), (4), and (5) of section 529(c) shall apply for purposes of this section.

"(3) ADDITIONAL TAX FOR DISTRIBUTIONS NOT USED FOR EDUCATIONAL EXPENSES.—

"(A) IN GENERAL.—The tax imposed by section 529(f) shall apply to payments and distributions from an education individual retirement account in the same manner as such tax applies to qualified tuition programs (as defined in section 529), except that section 529(f) shall be applied by reference by qualified education expenses.

KOHL (AND OTHERS) AMENDMENT NO. 575

Mr. KOHL (for himself, Mr. HATCH, Mr. DASCHLE, Mr. D'AMATO, Ms. MOSELEY-BRAUN, Mr. ABRAHAM, Mr. SPECTER, Ms. SNOWE, Mrs. BOXER, Mr. DEWINE, Mrs. MURRAY, and Mr. JOHNSON) proposed an amendment to the bill, S. 949, supra; as follows:

On page 20, between lines 5 and 6, insert:

SEC. 103. ALLOWANCE OF CREDIT FOR EMPLOYER EXPENSES FOR CHILD CARE ASSISTANCE.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by adding at the end the following new section:

"SEC. 45D. EMPLOYER-PROVIDED CHILD CARE CREDIT.

"(a) IN GENERAL.—For purposes of section 38, the employer-provided child care credit determined under this section for the taxable year is an amount equal to 50 percent of the qualified child care expenditures of the taxpayer for such taxable year.

"(b) DOLLAR LIMITATION.—The credit allowable under subsection (a) for any taxable year shall not exceed $150,000.

"(c) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED CHILD CARE EXPENDITURE.—The term 'qualified child care expenditure' means any amount paid or incurred—

"(A) to acquire, construct, rehabilitate, or expand property—

"(i) which is to be used as part of a qualified child care facility of the taxpayer,

"(ii) with respect to which a deduction for depreciation (or amortization in lieu of depreciation) is allowable, and

"(iii) which does not constitute part of the principal residence (within the meaning of section 1034) of the taxpayer or any employee of the taxpayer,

"(B) for the operating costs of a qualified child care facility of the taxpayer, including costs related to the training of employees, to scholarship programs, and to the providing of increased compensation to employees with higher levels of child care training,

"(C) under a contract with a qualified child care facility to provide child care services to employees of the taxpayer, or

"(D) under a contract to provide child care resource and referral services to employees of the taxpayer, or

"(E) for the costs of seeking accreditation from a child care credentialing or accreditation entity.

"(2) QUALIFIED CHILD CARE FACILITY.—

"(A) IN GENERAL.—The term 'qualified child care facility' means a facility—

"(i) the principal use of which is to provide child care assistance, and

"(ii) which meets the requirements of all applicable laws and regulations of the State or local government in which it is located, including, but not limited to, the licensing of the facility as a child care facility.

Clause (i) shall not apply to a facility which is the principal residence (within the meaning of section 1034) of the operator of the facility.

"(B) SPECIAL RULES WITH RESPECT TO A TAXPAYER.—A facility shall not be treated as a qualified child care facility with respect to a taxpayer unless—

"(i) enrollment in the facility is open to employees of the taxpayer during the taxable year,

"(ii) the facility is not the principal trade or business of the taxpayer unless at least 30 percent of the enrollees of such facility are dependents of employees of the taxpayer, and

"(iii) the use of such facility (or the eligibility to use such facility) does not discriminate in favor of employees of the taxpayer who are highly compensated employees (within the meaning of section 414(q)).

"(d) RECAPTURE OF ACQUISITION AND CONSTRUCTION CREDIT.—

"(1) IN GENERAL.—If, as of the close of any taxable year, there is a recapture event with respect to any qualified child care facility of the taxpayer, then the tax of the taxpayer under this chapter for such taxable year shall be increased by an amount equal to the product of—

"(A) the applicable recapture percentage, and

"(B) the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted if the qualified child care expenditures of the taxpayer described in subsection (c)(1)(A) with respect to such facility had been zero.

"(2) APPLICABLE RECAPTURE PERCENTAGE.—

"(A) IN GENERAL.—For purposes of this subsection, the applicable recapture percentage shall be determined from the following table:

"If the recapture event occurs in:	**The applicable recapture percentage is:**
Years 1–3	100
Year 4	85
Year 5	70
Year 6	55
Year 7	40
Year 8	25
Years 9 and 10	10
Years 11 and thereafter	0.

"(B) YEARS.—For purposes of subparagraph (A), year 1 shall begin on the first day of the taxable year in which the qualified child care facility is placed in service by the taxpayer.

"(3) RECAPTURE EVENT DEFINED.—For purposes of this subsection, the term 'recapture event' means—

"(A) CESSATION OF OPERATION.—The cessation of the operation of the facility as a qualified child care facility.

"(B) CHANGE IN OWNERSHIP.—

"(i) IN GENERAL.—Except as provided in clause (ii), the disposition of a taxpayer's interest in a qualified child care facility with respect to which the credit described in subsection (a) was allowable.

"(ii) AGREEMENT TO ASSUME RECAPTURE LIABILITY.—Clause (i) shall not apply if the person acquiring such interest in the facility agrees in writing to assume the recapture liability of the person disposing of such interest in effect immediately before such disposition. In the event of such an assumption, the person acquiring the interest in the facility shall be treated as the taxpayer for purposes of assessing any recapture liability (computed as if there had been no change in ownership).

"(4) SPECIAL RULES.—

"(A) TAX BENEFIT RULE.—The tax for the taxable year shall be increased under paragraph (1) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

"(B) NO CREDITS AGAINST TAX.—Any increase in tax under this subsection shall not be treated as a tax imposed by this chapter for purposes of determining the amount of any credit under subpart A, B, or D of this part.

"(C) NO RECAPTURE BY REASON OF CASUALTY LOSS.—The increase in tax under this subsection shall not apply to a cessation of operation of the facility as a qualified child care facility by reason of a casualty loss to the extent such loss is restored by reconstruction or replacement within a reasonable period established by the Secretary.

"(e) SPECIAL RULES.—For purposes of this section—

"(1) AGGREGATION RULES.—All persons which are treated as a single employer under subsections (a) and (b) of section 52 shall be treated as a single taxpayer.

"(2) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

"(3) ALLOCATION IN THE CASE OF PARTNERSHIPS.—In the case of partnerships, the credit shall be allocated among partners under regulations prescribed by the Secretary.

"(f) NO DOUBLE BENEFIT.—

"(1) REDUCTION IN BASIS.—For purposes of this subtitle—

"(A) IN GENERAL.—If a credit is determined under this section with respect to any property by reason of expenditures described in subsection (c)(1)(A), the basis of such property shall be reduced by the amount of the credit so determined.

"(B) CERTAIN DISPOSITIONS.—If during any taxable year there is a recapture amount determined with respect to any property the basis of which was reduced under subparagraph (A), the basis of such property (immediately before the event resulting in such recapture) shall be increased by an amount equal to such recapture amount. For purposes of the preceding sentence, the term 'recapture amount' means any increase in tax (or adjustment in carrybacks or carryovers) determined under subsection (d).

"(2) OTHER DEDUCTIONS AND CREDITS.—No deduction or credit shall be allowed under any other provision of this chapter with respect to the amount of the credit determined under this section.

"(g) TERMINATION.—This section shall not apply to taxable years beginning after December 31, 1999."

(b) CONFORMING AMENDMENTS.—

(1) Section 38(b) is amended—

(A) by striking out "plus" at the end of paragraph (11),

(B) by striking out the period at the end of paragraph (12), and inserting a comma and "plus", and

(C) by adding at the end the following new paragraph:

"(13) the employer-provided child care credit determined under section 45D."

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

"Sec. 45D. Employer-provided child care credit."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. 104. EXPANSION OF COORDINATED ENFORCEMENT EFFORTS OF INTERNAL REVENUE SERVICE AND HHS OFFICE OF CHILD SUPPORT ENFORCEMENT.

(a) STATE REPORTING OF CUSTODIAL DATA.—Section 454A(e)(4)(D) of the Social Security Act (42 U.S.C. 654(e)(4)(D)) is amended by striking "the birth date of any child" and inserting "the birth date and custodial status of any child".

(b) MATCHING PROGRAM BY IRS OF CUSTODIAL DATA AND TAX STATUS INFORMATION.—

(1) NATIONAL DIRECTORY OF NEW HIRES.—Section 453(i)(3) of the Social Security Act (42 U.S.C. 653(i)(3)) is amended by striking "a claim with respect to employment in a tax return" and inserting "information which is required on a tax return".

(2) FEDERAL CASE REGISTRY OF CHILD SUPPORT ORDERS.—Section 453(h) of the such Act (42 U.S.C. 653(h)) is amended by adding at the end the following:

"(3) ADMINISTRATION OF FEDERAL TAX LAWS.—The Secretary of the Treasury shall have access to the information described in paragraph (2), consisting of the names and social security numbers of the custodial parents linked with the children in the custody of such parents, for the purpose of administering those sections of the Internal Revenue Code of 1986 which grant tax benefits based on support and residence provided dependent children."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1997.

GRAHAM AMENDMENT NO. 576

(Ordered to lie on the table.)

Mr. GRAHAM submitted an amendment intended to be proposed by him to the bill, S. 949, supra; as follows:

On page 93, strike lines 13 through 25, and insert:

"(ii) a silver coin described in section 5112(e) of title 31, United States Code,

"(iii) a platinum coin described in section 5112(k) of title 31, United States Code, or

"(iv) a coin issued under the laws of any State, or

"(B) any gold, silver, platinum, or palladium bullion of a fineness equal to or exceeding the minimum fineness required for metals which may be delivered in satisfaction of a regulated futures contract subject to regulation by the Commodity Futures Trading Commission under the Commodity Exchange Act,".

On page 205, before line 12, insert the following:

(c) SPECIAL AMORTIZATION RULE.—

(1) CODE AMENDMENT.—Section 412(b)(2) is amended by striking "and" at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting ", and", and by inserting after subparagraph (D) the following:

"(E) the amount necessary to amortize in equal annual installments (until fully amortized) over a period of 20 years the contributions which would be required to be made under the plan but for the provisions of subsection (c)(7)(A)(i)(I).".

(2) ERISA AMENDMENT.—Section 302(b)(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082(b)(2)) is amended by striking "and" at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting ", and", and by inserting after subparagraph (D) the following:

"(E) the amount necessary to amortize in equal annual installments (until fully amortized) over a period of 20 years the contributions which would be required to be made under the plan but for the provisions of subsection (c)(7)(A)(i)(I).".

(3) CONFORMING AMENDMENTS.—

(A) Section 412(c)(7)(D) is amended by adding "and" at the end of clause (i), by striking ", and" at the end of clause (ii) and inserting a period, and by striking clause (iii).

(B) Section 302(c)(7)(D) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082(c)(7)(D)) is amended by adding "and" at the end of clause (i), by striking ", and" at the end of clause (ii) and inserting a period, and by striking clause (iii).

(4) EFFECTIVE DATES.—

(A) IN GENERAL.—The amendments made by this subsection shall apply to plan years beginning after December 31, 1998.

(B) SPECIAL RULE FOR 1999.—In the case of a plan's first year beginning in 1999, there shall be added to the amount required to be amortized under section 412(b)(2)(E) of the Internal Revenue Code of 1986 and section 302(b)(2)(E) of the Employee Retirement Income Security Act of 1974 (as added by paragraphs (1) and (2)) over the 20-year period beginning with such year, the unamortized balance (as of the close of the preceding plan year) of any amount required to be amortized under section 412(c)(7)(D)(iii) of such Code and section 302(c)(7)(D)(iii) of such Act (as repealed by paragraph (3)) for plan years beginning before 1999.

On page 639, between lines 11 and 12, insert:

(4) AMENDMENTS RELATED TO SECTION 1461.—

(A) Section 415(e)(5)(A) is amended to read as follows:

"(A) CERTAIN MINISTERS MAY PARTICIPATE.—For purposes of this part—

"(i) IN GENERAL.—A duly ordained, commissioned, or licensed minister of a church is described in paragraph (3)(B) if, in connection with the exercise of their ministry, the minister—

"(I) is a self-employed individual (within the meaning of section 401(c)(1)(B), or

"(II) is employed by an organization other than an organization which is described in section 501(c)(3) and with respect to which the minister shares common religious bonds.

"(ii) TREATMENT AS EMPLOYER AND EMPLOYEE.—For purposes of sections 403(b)(1)(A) and 404(a)(10), a minister described in clause (i)(I) shall be treated as employed by the minister's own employer which is an organization described in section 501(c)(3) and exempt from tax under section 501(a)."

(B) Section 403(b)(1)(A) is amended by striking "or" at the end of clause (i), by inserting "or" at the end of clause (ii), and by adding at the end the following new clause:

"(iii) for the minister described in section 415(e)(5)(A) by the minister or by an employer,".

ALLARD AMENDMENT NO. 577

Mr. ALLARD proposed an amendment to the bill, S. 949, supra; as follows:

Beginning on page 94, line 8, strike all through page 101, line 16, and insert the following:

SEC. 311. 20-PERCENT MAXIMUM CAPITAL GAINS RATE FOR INDIVIDUALS AND INDEXING OF CERTAIN ASSETS ACQUIRED AFTER DECEMBER 31, 2000, FOR PURPOSES OF DETERMINING GAIN.

(a) IN GENERAL.—Subsection (h) of section 1 (relating to maximum capital gains rate) is amended to read as follows:

"(h) MAXIMUM CAPITAL GAINS RATE.—

"(1) IN GENERAL.—If a taxpayer has a net capital gain for any taxable year, the tax imposed by this section for such taxable year shall not exceed the sum of—

"(A) a tax computed at the rates and in the same manner as if this subsection had not been enacted on the greater of—

"(i) taxable income reduced by the net capital gain, or

"(ii) the amount of taxable income taxed at a rate below 28 percent, plus

"(B) 24 percent of the lesser of—

"(i) the unrecaptured section 1250 gain, or

"(ii) the amount of taxable income in excess of the sum of the amount on which tax is determined under subparagraph (A) plus the net capital gain determined without regard to unrecaptured section 1250 gain, plus

"(C) 28 percent of the amount of taxable income in excess of the sum of—

"(i) the adjusted net capital gain, plus

"(ii) the sum of the amounts on which tax is determined under subparagraphs (A) and (B), plus

"(D) 10 percent of so much of the taxpayer's adjusted net capital gain (or, if less, taxable income) as does not exceed the excess (if any) of—

"(i) the amount of taxable income which would (without regard to this paragraph) be taxed at a rate of 15 percent or less, over

"(ii) the taxable income reduced by the adjusted net capital gain, plus

"(E) 20 percent of the taxpayer's adjusted net capital gain (or, if less, taxable income) in excess of the amount on which a tax is determined under subparagraph (D).

"(2) NET CAPITAL GAIN TAKEN INTO ACCOUNT AS INVESTMENT INCOME.—For purposes of this subsection, the net capital gain for any taxable year shall be reduced (but not below zero) by the amount which the taxpayer takes into account as investment income under section 163(d)(4)(B)(iii).

"(3) ADJUSTED NET CAPITAL GAIN.—For purposes of this subsection, the term 'adjusted net capital gain' means net capital gain determined without regard to—

"(A) collectibles gain, and

"(B) unrecaptured section 1250 gain.

"(4) COLLECTIBLES GAIN.—For purposes of paragraph (3)—

"(A) IN GENERAL.—The term 'collectibles gain' means gain from the sale or exchange of a collectible (as defined in section 408(m) without regard to paragraph (3) thereof) which is a capital asset held for more than 1 year but only to the extent such gain is taken into account in computing gross income.

"(B) PARTNERSHIPS, ETC.—For purposes of subparagraph (A), any gain from the sale of an interest in a partnership, S corporation, or trust which is attributable to unrealized appreciation in the value of collectibles shall be treated as gain from the sale or exchange of a collectible. Rules similar to the rules of section 751 shall apply for purposes of the preceding sentence.

"(C) COORDINATION WITH SECTION 1022.—Gain from the disposition of a collectible which is an indexed asset to which section 1022(a) applies shall be disregarded for purposes of this subsection. A taxpayer may elect to treat any collectible specified in such election as not being an indexed asset for purposes of section 1022. Any such election, and any specification therein, once made, shall be irrevocable.

"(5) UNRECAPTURED SECTION 1250 GAIN.—For purposes of this subsection, the term 'unrecaptured section 1250 gain' means the excess (if any) of—

"(A) the amount which would be treated as ordinary income under section 1245 if all section 1250 property disposed of by the taxpayer were section 1245 property, over

"(B) the amount treated as ordinary income under section 1250.

In the case of a taxable year which includes May 7, 1997, unrecaptured section 1250 gain shall be determined by taking into account only the gain properly taken into account for the portion of the taxable year after May 6, 1997.

"(6) PRE-EFFECTIVE DATE GAIN.—

"(A) IN GENERAL.—In the case of a taxable year which includes May 7, 1997, adjusted net capital gain shall be determined without regard to pre-May 7, 1997, gain.

"(B) PRE-MAY 7, 1997, GAIN.—The term 'pre-May 7, 1997, gain' means the amount which would be adjusted net capital gain for the taxable year if adjusted net capital gain were determined by taking into account only the gain or loss properly taken into account for the portion of the taxable year before May 7, 1997.

"(C) SPECIAL RULES FOR PASS-THRU ENTITIES.—In applying subparagraph (A) with respect to any pass-thru entity, the determination of when gains and loss are properly taken into account shall be made at the entity level.

"(D) PASS-THRU ENTITY DEFINED.—For purposes of subparagraph (C), the term 'pass-thru entity' means—

"(i) a regulated investment company,

"(ii) a real estate investment trust,

"(iii) an S corporation,

"(iv) a partnership,

"(v) an estate or trust, and

"(vi) a common trust fund."

(b) MINIMUM TAX.—

(1) IN GENERAL.—Subsection (b) of section 55 is amended by adding at the end the following new paragraph:

"(3) MAXIMUM RATE OF TAX ON NET CAPITAL GAIN OF NONCORPORATE TAXPAYERS.—The amount determined under the first sentence of paragraph (1)(A)(i) shall not exceed the sum of—

"(A) the amount determined under such first sentence computed at the rates and in the same manner as if this paragraph had not been enacted on the taxable excess reduced by the excess of the net capital gain over the sum of the collectibles gain (as defined in section 1(h)(4)) and the pre-effective date gain (as defined in section 1(h)(6)), plus

"(B) 24 percent of the lesser of—

"(i) the unrecaptured section 1250 gain (as defined in section 1(h)(5)), or

"(ii) the amount of taxable excess in excess of the sum of—

"(I) the adjusted net capital gain, plus

"(II) the amount on which a tax is determined under subparagraph (A), plus

"(C) 10 percent of so much of the taxpayer's adjusted net capital gain (or, if less, taxable excess) as does not exceed the amount on which a tax is determined under section 1(h)(1)(B), plus

"(D) 20 percent of the taxpayer's adjusted net capital gain (or, if less, taxable excess) in excess of the amount on which tax is determined under subparagraph (C)."

(2) CONFORMING AMENDMENT.—Clause (ii) of section 55(b)(1)(A) is amended by striking "clause (i)" and inserting "this subsection".

(c) OTHER CONFORMING AMENDMENTS.—

(1) Subsection (d) of section 291 is amended by inserting at the end the following new sentence: "Any capital gain dividend treated as having been paid out of such difference to a shareholder which is not a corporation retains its characters as unrecaptured section 1250 gain for purposes of applying section 1(h) to such shareholder."

(2) Paragraph (1) of section 1445(e) is amended by striking "28 percent" and inserting "20 percent".

(3) The second sentence of section 7518(g)(6)(A), and the second sentence of section 607(h)(6)(A) of the Merchant Marine Act, 1936, are each amended by striking "28 percent" and inserting "20 percent".

(d) INDEXING.—Part II of subchapter O of chapter 1 (relating to basis rules of general application) is amended by inserting after section 1021 the following new section:

"SEC. 1022. INDEXING OF CERTAIN ASSETS ACQUIRED ON OR AFTER APRIL 1, 2002, FOR PURPOSES OF DETERMINING GAIN.

"(a) GENERAL RULE.—

"(1) INDEXED BASIS SUBSTITUTED FOR ADJUSTED BASIS.—Solely for purposes of determining gain on the sale or other disposition by a taxpayer (other than a corporation) of an indexed asset which has been held for more than 5 years, the indexed basis of the asset shall be substituted for its adjusted basis.

"(2) EXCEPTION FOR DEPRECIATION, ETC.—The deductions for depreciation, depletion, and amortization shall be determined without regard to the application of paragraph (1) to the taxpayer or any other person.

"(3) EXCEPTION FOR PRINCIPAL RESIDENCES.—Paragraph (1) shall not apply to any disposition of the principal residence (within the meaning of section 121) of the taxpayer .

"(b) INDEXED ASSET.—

"(1) IN GENERAL.—For purposes of this section, the term 'indexed asset' means—

"(A) common stock in a C corporation (other than a foreign corporation), and

"(B) tangible property,

which is a capital asset or property used in the trade or business (as defined in section 1231(b)).

"(2) STOCK IN CERTAIN FOREIGN CORPORATIONS INCLUDED.—For purposes of this section—

"(A) IN GENERAL.—The term 'indexed asset' includes common stock in a foreign corporation which is regularly traded on an established securities market.

"(B) EXCEPTION.—Subparagraph (A) shall not apply to—

"(i) stock of a foreign investment company (within the meaning of section 1246(b)),

"(ii) stock in a passive foreign investment company (as defined in section 1296),

"(iii) stock in a foreign corporation held by a United States person who meets the requirements of section 1248(a)(2), and

"(iv) stock in a foreign personal holding company (as defined in section 552).

"(C) TREATMENT OF AMERICAN DEPOSITORY RECEIPTS.—An American depository receipt for common stock in a foreign corporation shall be treated as common stock in such corporation.

"(c) INDEXED BASIS.—For purposes of this section—

"(1) GENERAL RULE.—The indexed basis for any asset is—

"(A) the adjusted basis of the asset, increased by

"(B) the applicable inflation adjustment.

"(2) APPLICABLE INFLATION ADJUSTMENT.—The applicable inflation adjustment for any asset is an amount equal to—

"(A) the adjusted basis of the asset, multiplied by

"(B) the percentage (if any) by which—

"(i) the chain-type price index for GDP for the last calendar quarter ending before the asset is disposed of, exceeds

"(ii) the chain-type price index for GDP for the last calendar quarter ending before the asset was acquired by the taxpayer.

The percentage under subparagraph (B) shall be rounded to the nearest ⅒ of 1 percentage point.

"(3) CHAIN-TYPE PRICE INDEX FOR GDP.—The chain-type price index for GDP for any calendar quarter is such index for such quarter (as shown in the last revision thereof released by the Secretary of Commerce before the close of the following calendar quarter).

"(d) SUSPENSION OF HOLDING PERIOD WHERE DIMINISHED RISK OF LOSS; TREATMENT OF SHORT SALES.—

"(1) IN GENERAL.—If the taxpayer (or a related person) enters into any transaction which substantially reduces the risk of loss from holding any asset, such asset shall not be treated as an indexed asset for the period of such reduced risk.

"(2) SHORT SALES.—

"(A) IN GENERAL.—In the case of a short sale of an indexed asset with a short sale period in excess of 5 years, for purposes of this title, the amount realized shall be an amount equal to the amount realized (determined without regard to this paragraph) increased by the applicable inflation adjustment. In applying subsection (c)(2) for purposes of the preceding sentence, the date on which the property is sold short shall be treated as the date of acquisition and the closing date for the sale shall be treated as the date of disposition.

"(B) SHORT SALE PERIOD.—For purposes of subparagraph (A), the short sale period begins on the day that the property is sold and ends on the closing date for the sale.

"(e) Treatment of Regulated Investment Companies and Real Estate Investment Trusts.—

"(1) Adjustments at entity level.—

"(A) In general.—Except as otherwise provided in this paragraph, the adjustment under subsection (a) shall be allowed to any qualified investment entity (including for purposes of determining the earnings and profits of such entity).

"(B) Exception for corporate shareholders.—Under regulations—

"(i) in the case of a distribution by a qualified investment entity (directly or indirectly) to a corporation—

"(I) the determination of whether such distribution is a dividend shall be made without regard to this section, and

"(II) the amount treated as gain by reason of the receipt of any capital gain dividend shall be increased by the percentage by which the entity's net capital gain for the taxable year (determined without regard to this section) exceeds the entity's net capital gain for such year determined with regard to this section, and

"(ii) there shall be other appropriate adjustments (including deemed distributions) so as to ensure that the benefits of this section are not allowed (directly or indirectly) to corporate shareholders of qualified investment entities.

For purposes of the preceding sentence, any amount includible in gross income under section 852(b)(3)(D) shall be treated as a capital gain dividend and an S corporation shall not be treated as a corporation.

"(C) Exception for qualification purposes.—This section shall not apply for purposes of sections 851(b) and 856(c).

"(D) Exception for certain taxes imposed at entity level.—

"(i) Tax on failure to distribute entire gain.—If any amount is subject to tax under section 852(b)(3)(A) for any taxable year, the amount on which tax is imposed under such section shall be increased by the percentage determined under subparagraph (B)(i)(II). A similar rule shall apply in the case of any amount subject to tax under paragraph (2) or (3) of section 857(b) to the extent attributable to the excess of the net capital gain over the deduction for dividends paid determined with reference to capital gain dividends only. The first sentence of this clause shall not apply to so much of the amount subject to tax under section 852(b)(3)(A) as is designated by the company under section 852(b)(3)(D).

"(ii) Other taxes.—This section shall not apply for purposes of determining the amount of any tax imposed by paragraph (4), (5), or (6) of section 857(b).

"(2) Adjustments to interests held in entity.—

"(A) Regulated investment companies.—Stock in a regulated investment company (within the meaning of section 851) shall be an indexed asset for any calendar quarter in the same ratio as—

"(i) the average of the fair market values of the indexed assets held by such company at the close of each month during such quarter, bears to

"(ii) the average of the fair market values of all assets held by such company at the close of each such month.

"(B) Real estate investment trusts.—Stock in a real estate investment trust (within the meaning of section 856) shall be an indexed asset for any calendar quarter in the same ratio as—

"(i) the fair market value of the indexed assets held by such trust at the close of such quarter, bears to

"(ii) the fair market value of all assets held by such trust at the close of such quarter.

"(C) Ratio of 80 percent or more.—If the ratio for any calendar quarter determined under subparagraph (A) or (B) would (but for this subparagraph) be 80 percent or more, such ratio for such quarter shall be 100 percent.

"(D) Ratio of 20 percent or less.—If the ratio for any calendar quarter determined under subparagraph (A) or (B) would (but for this subparagraph) be 20 percent or less, such ratio for such quarter shall be zero.

"(E) Look-thru of partnerships.—For purposes of this paragraph, a qualified investment entity which holds a partnership interest shall be treated (in lieu of holding a partnership interest) as holding its proportionate share of the assets held by the partnership.

"(3) Treatment of return of capital distributions.—Except as otherwise provided by the Secretary, a distribution with respect to stock in a qualified investment entity which is not a dividend and which results in a reduction in the adjusted basis of such stock shall be treated as allocable to stock acquired by the taxpayer in the order in which such stock was acquired.

"(4) Qualified investment entity.—For purposes of this subsection, the term 'qualified investment entity' means—

"(A) a regulated investment company (within the meaning of section 851), and

"(B) a real estate investment trust (within the meaning of section 856).

"(f) Other Pass-Thru Entities.—

"(1) Partnerships.—

"(A) In general.—In the case of a partnership, the adjustment made under subsection (a) at the partnership level shall be passed through to the partners.

"(B) Special rule in the case of section 754 elections.—In the case of a transfer of an interest in a partnership with respect to which the election provided in section 754 is in effect—

"(i) the adjustment under section 743(b)(1) shall, with respect to the transferor partner, be treated as a sale of the partnership assets for purposes of applying this section, and

"(ii) with respect to the transferee partner, the partnership's holding period for purposes of this section in such assets shall be treated as beginning on the date of such adjustment.

"(2) S corporations.—In the case of an S corporation, the adjustment made under subsection (a) at the corporate level shall be passed through to the shareholders. This section shall not apply for purposes of determining the amount of any tax imposed by section 1374 or 1375.

"(3) Common trust funds.—In the case of a common trust fund, the adjustment made under subsection (a) at the trust level shall be passed through to the participants.

"(4) Indexing adjustment disregarded in determining loss on sale of interest in entity.—Notwithstanding the preceding provisions of this subsection, for purposes of determining the amount of any loss on a sale or exchange of an interest in a partnership, S corporation, or common trust fund, the adjustment made under subsection (a) shall not be taken into account in determining the adjusted basis of such interest.

"(g) Dispositions Between Related Persons.—

"(1) In general.—This section shall not apply to any sale or other disposition of property between related persons except to the extent that the basis of such property in the hands of the transferee is a substituted basis.

"(2) Related persons defined.—For purposes of this section, the term 'related persons' means—

"(A) persons bearing a relationship set forth in section 267(b), and

"(B) persons treated as single employer under subsection (b) or (c) of section 414.

"(h) Transfers To Increase Indexing Adjustment.—If any person transfers cash, debt, or any other property to another person and the principal purpose of such transfer is to secure or increase an adjustment under subsection (a), the Secretary may disallow part or all of such adjustment or increase.

"(i) Special Rules.—For purposes of this section—

"(1) Treatment of improvements, etc.—If there is an addition to the adjusted basis of any tangible property or of any stock in a corporation during the taxable year by reason of an improvement to such property or a contribution to capital of such corporation—

"(A) such addition shall never be taken into account under subsection (c)(1)(A) if the aggregate amount thereof during the taxable year with respect to such property or stock is less than $1,000, and

"(B) such addition shall be treated as a separate asset acquired at the close of such taxable year if the aggregate amount thereof during the taxable year with respect to such property or stock is $1,000 or more.

A rule similar to the rule of the preceding sentence shall apply to any other portion of an asset to the extent that separate treatment of such portion is appropriate to carry out the purposes of this section.

"(2) Assets which are not indexed assets throughout holding period.—The applicable inflation adjustment shall be appropriately reduced for periods during which the asset was not an indexed asset.

"(3) Treatment of certain distributions.—A distribution with respect to stock in a corporation which is not a dividend shall be treated as a disposition.

"(4) Acquisition date where there has been prior application of subsection (a)(1) with respect to the taxpayer.—If there has been a prior application of subsection (a)(1) to an asset while such asset was held by the taxpayer, the date of acquisition of such asset by the taxpayer shall be treated as not earlier than the date of the most recent such prior application.

"(5) Collapsible corporations.—The application of section 341(a) (relating to collapsible corporations) shall be determined without regard to this section.

"(j) Regulations.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section."

(e) Clerical Amendment.—The table of sections for part II of subchapter O of chapter 1 is amended by inserting after the item relating to section 1021 the following new item:

"Sec. 1022. Indexing of certain assets acquired on or after April 1, 2002, for purposes of determining gain."

(f) Effective Dates.—

(1) In general.—Except as provided in paragraphs (2) and (3), the amendments made by this section shall apply to taxable years ending after May 6, 1997.

(2) Withholding.—The amendment made by subsection (c)(2) shall apply only to

amounts paid after the date of the enactment of this Act.

(3) Indexing.—

(A) In general.—The amendments made by subsections (d) and (e) shall apply to the disposition of any property the holding period of which begins on or after April 1, 2002.

(B) Certain transactions between related persons.—The amendments made by subsections (d) and (e) shall not apply to the disposition of any property acquired on or after April 1, 2002, from a related person (as defined in section 1022(g)(2) of the Internal Revenue Code of 1986, as added by this section) if—

(i) such property was so acquired for a price less than the property's fair market value, and

(ii) the amendments made by this section did not apply to such property in the hands of such related person.

(g) Election To Recognize Gain on Assets Held on or After April 1, 2002.—For purposes of the Internal Revenue Code of 1986—

(1) In general.—A taxpayer other than a corporation may elect to treat—

(A) any readily tradable stock (which is an indexed asset) held by such taxpayer on or after April 1, 2002, and not sold before the next business day after such date, as having been sold on such next business day for an amount equal to its closing market price on such next business day (and as having been reacquired on such next business day for an amount equal to such closing market price), and

(B) any other indexed asset held by the taxpayer on or after April 1, 2002, as having been sold on such date for an amount equal to its fair market value on such date (and as having been reacquired on such date for an amount equal to such fair market value).

(2) Treatment of gain or loss.—

(A) Any gain resulting from an election under paragraph (1) shall be treated as received or accrued on the date the asset is treated as sold under paragraph (1) and shall be recognized notwithstanding any provision of the Internal Revenue Code of 1986.

(B) Any loss resulting from an election under paragraph (1) shall not be allowed for any taxable year.

(3) Election.—An election under paragraph (1) shall be made in such manner as the Secretary of the Treasury or his delegate may prescribe and shall specify the assets for which such election is made. Such an election, once made with respect to any asset, shall be irrevocable.

(4) Readily tradable stock.—For purposes of this subsection, the term "readily tradable stock" means any stock which, as of April 1, 2002, is readily tradable on an established securities market or otherwise.

TORRICELLI (AND LANDRIEU) AMENDMENT NO. 578

Mr. TORRICELLI (for himself and Ms. Landrieu) proposed an amendment to the bill, S. 949, supra; as follows:

On page 267, between lines 15 and 16, insert the following:

SEC. . EXCLUSION FROM INCOME OF SEVERANCE PAYMENT AMOUNTS; TIME PERIODS FOR CARRYBACK AND CARRYFORWARD OF UNUSED CREDITS.

(a) Exclusion From Income of Severance Payment Amounts.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by redesignating section 138 as section 139 and by inserting after section 137 the following new section:

"SEC. 138. SEVERANCE PAYMENTS.

"(a) In General.—In the case of an individual, gross income shall not include any qualified severance payment.

"(b) Limitation.—The amount to which the exclusion under subsection (a) applies shall not exceed $2,000 with respect to any separation from employment.

"(c) Qualified Severance Payment.—For purposes of this section—

"(1) In general.—The term 'qualified severance payment' means any payment received by an individual if—

"(A) such payment was paid by such individual's employer on account of such individual's separation from employment,

"(B) such separation was in connection with a reduction in the work force of the employer, and

"(C) such individual does not attain employment within 6 months of the date of such separation in which the amount of compensation is equal to or greater than 95 percent of the amount of compensation for the employment that is related to such payment.

"(2) Limitation.—Such term shall not include any payment received by an individual if the aggregate payments received with respect to the separation from employment exceed $125,000."

(b) Time Periods for Carryback and Carryforward of Unused Credits.—Section 39(a) (relating to unused credits) is amended—

(1) in paragraph (1), by striking "3" each place it appears and inserting "1" and by striking "15" each place it appears and inserting "20"; and

(2) in paragraph (2), by striking "18" each place it appears and inserting "22" and by striking "17" each place it appears and inserting "21".

(c) Clerical Amendment.—The table of sections for part III of subchapter B of chapter 1 is amended by striking the item relating to section 138 and inserting the following new items:

"Sec. 138. Severance payments.

"Sec. 139. Cross references to other Acts."

(d) Effective Dates.—

(1) In general.—The amendments made by subsections (a) and (c) shall apply to taxable years beginning after December 31, 1997, and before July 1, 2002.

(2) Subsection (b).—The amendments made by subsection (b) shall apply to the carryback and carryforward of credits arising in taxable years beginning after December 31, 1997.

HARKIN (AND OTHERS) AMENDMENT NO. 579

Mr. HARKIN (for himself, Mr. D'Amato, Mr. Mack, and Mr. Specter) proposed an amendment to the bill, supra; as follows:

On page 1027, between lines 7 and 8, insert the following:

Subtitle N—National Fund for Health Research

SEC. 5995. SHORT TITLE.

This subtitle may be cited as the "National Fund for Health Research Act".

SEC. 5996. FINDINGS.

Congress makes the following findings:

(1) Nearly 4 of 5 peer reviewed research projects deemed worthy of funding by the National Institutes of Health are not funded.

(2) Less than 3 percent of the nearly one trillion dollars our Nation spends on health care is devoted to health research, while the defense industry spends 15 percent of its budget on research and development.

(3) Public opinion surveys have shown that Americans want more Federal resources put into health research and are willing to pay for it.

(4) Ample evidence exists to demonstrate that health research has improved the quality of health care in the United States. Advances such as the development of vaccines, the cure of many childhood cancers, drugs that effectively treat a host of diseases and disorders, a process to protect our Nation's blood supply from the HIV virus, progress against cardiovascular disease including heart attack and stroke, and new strategies for the early detection and treatment of diseases such as colon, breast, and prostate cancer clearly demonstrates the benefits of health research.

(5) Health research which holds the promise of prevention of intentional and unintentional injury and cure and prevention of disease and disability, is critical to holding down health care costs in the long term.

(6) Expanded medical research is also critical to holding down the long-term costs of the medicare program under title XVIII of the Social Security Act. For example, recent research has demonstrated that delaying the onset of debilitating and costly conditions like Alzheimer's disease could reduce general health care and medicare costs by billions of dollars annually.

(7) The state of our Nation's research facilities at the National Institutes of Health and at universities is deteriorating significantly. Renovation and repair of these facilities are badly needed to maintain and improve the quality of research.

(8) Because discretionary spending is likely to decline in real terms over the next 5 years, the Nation's investment in health research through the National Institutes of Health is likely to decline in real terms unless corrective legislative action is taken.

(9) A health research fund is needed to maintain our Nation's commitment to health research and to increase the percentage of approved projects which receive funding at the National Institutes of Health.

SEC. 5997. ESTABLISHMENT OF FUND.

(a) Establishment.—There is established in the Treasury of the United States a fund, to be known as the "National Fund for Health Research" (hereafter in this section referred to as the "Fund"), consisting of such amounts as are transferred to the Fund under subsection (b) any sums specifically designated for such purpose by future acts of Congress, and any interest earned on investment of amounts in the Fund.

(b) Transfers to Fund.—

(1) In general.—The Secretary of the Treasury shall transfer to the Fund amounts equivalent to one half the amounts for each of the fiscal years 1998 through 2002 derived for each such fiscal year under Section 311 through Section 314 of this act that exceeds the amount of Federal revenues estimated by the Joint Tax Committee as of the date of enactment of this act, to be gained from enactment of Section 311 through Section 314 for each such fiscal year.

(B) Determination by secretary.—Not later than 6 months after the end of each of the fiscal years described in subparagraph (A), the Secretary of the Treasury shall—

(i) make a determination as to the amount to be transferred to the Fund for the fiscal year involved under this subsection; and

(ii) subject to subsection (d), transfer such amount to the Fund.

(C) Fund Administered by Health and Human Services.—The Secretary of Health and Human Services shall administer funds transferred into the Fund.

(D) CAP ON TRANSFER.—Amounts transferred to the Fund under this subsection for any year in the 5-fiscal year period beginning on October 1, 1997, shall not in combination with the appropriated amount exceed an amount equal to the amount appropriated for the National Institutes of Health for fiscal year 1997 multiplied by 2.

(c) OBLIGATIONS FROM FUND.—

(1) IN GENERAL.—Subject to the provisions of paragraph (4), with respect to the amounts made available in the Fund in a fiscal year, the Secretary of Health and Human Services shall distribute—

(A) 2 percent of such amounts during any fiscal year to the Office of the Director of the * * *

* * * * *

Act with respect to health information communications; and

(D) the remainder of such amounts during any fiscal year to member institutes and centers, including the Office of AIDS Research, of the National Institutes of Health in the same proportion to the total amount received under this section, as the amount of annual appropriations under appropriations Acts for each member institute and Centers for the fiscal year bears to the total amount of appropriations under appropriations Acts for all member institutes and Centers of the National Institutes of Health for the fiscal year.

(2) PLANS OF ALLOCATION.—The amounts transferred under paragraph (1)(D) shall be allocated by the Director of the National Institutes of Health or the various directors of the institutes and centers, as the case may be, pursuant to allocation plans developed by the various advisory councils to such directors, after consultation with such directors.

(3) GRANTS AND CONTRACTS FULLY FUNDED IN FIRST YEAR.—With respect to any grant or contract funded by amounts distributed under paragraph (1), the full amount of the total obligation of such grant or contract shall be funded in the first year of such grant or contract, and shall remain available until expended.

(4) TRIGGER AND RELEASE OF MONIES.—

(A) TRIGGER AND RELEASE.—No expenditure shall be made under paragraph (1) during any fiscal year in which the annual amount appropriated for the National Institutes of Health is less than the amount so appropriated for the prior fiscal year.

(d) REQUIRED APPROPRIATION.—No transfer may be made for a fiscal year under subsection (b) unless an appropriations Act providing for such a transfer has been enacted with respect to such fiscal year.

KENNEDY (AND D'AMATO) AMENDMENT NO. 580

(Ordered to lie on the table.)

Mr. KENNEDY (for himself, and Mr. D'AMATO) submitted an amendment intended to be proposed by them to the bill, S. 949, supra; as follows:

On page 267, between lines 15 and 16, insert the following:

SEC. 780. TAX TREATMENT OF CONSOLIDATIONS OF LIFE INSURANCE DEPARTMENTS OF MUTUAL SAVINGS BANKS.

(a) GENERAL RULE.—Section 594 (relating to alternative tax for mutual savings banks conducting life insurance business) is amended by adding at the end thereof the following new subsection:

"(c) TREATMENT OF CONSOLIDATIONS.—If 2 or more life insurance departments to which subsection (a) applied are consolidated into a single life insurance company pursuant to a requirement of State law—

"(1) such consolidation shall be treated as a reorganization described in section 368(a)(1)(E), and

"(2) any payments required to be made to policyholders in connection with such consolidation shall be treated as policyholder dividends deductible under section 808 but only if—

"(A) such payments are only with respect to policies in effect immediately before such consolidation,

"(B) such payments are only with respect to policies which are participating before and after such consolidation,

"(C) such payments shall cease with respect to any policy if such policy lapses after such consolidation,

"(D) the policyholders before such consolidation had no divisible right to the surplus of any such department and had no right to vote, and

"(E) the approval of such policyholders was not required for such consolidation."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on December 31, 1991.

MOSELEY-BRAUN (AND OTHERS) AMENDMENT NO. 581

Ms. MOSELEY-BRAUN (for herself, Mr. KENNEDY, and Mr. WELLSTONE) proposed an amendment to the bill, S. 949, supra; as follows:

On page 267, between lines 15 and 16, insert the following:

Subtitle G—Tax Credit for Public Elementary and Secondary School Construction

SEC. 781. TAX CREDIT FOR PUBLIC ELEMENTARY AND SECONDARY SCHOOL CONSTRUCTION.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to general business credits) is amended by adding at the end the following new section:

"SEC. 45B. CREDIT FOR PUBLIC ELEMENTARY AND SECONDARY SCHOOL CONSTRUCTION.

"(a) IN GENERAL.—For purposes of section 38, the amount of the school construction credit determined under this section for an eligible taxpayer for any taxable year with respect to an eligible school construction project shall be an amount equal to the lesser of—

"(1) the applicable percentage of the qualified school construction costs, or

"(2) the excess (if any) of—

"(A) the taxpayer's allocable school construction amount with respect to such project under subsection (d), over

"(B) any portion of such allocable amount used under this section for preceding taxable years.

"(b) ELIGIBLE TAXPAYER; ELIGIBLE SCHOOL CONSTRUCTION PROJECT.—For purposes of this section—

"(1) ELIGIBLE TAXPAYER.—The term 'eligible taxpayer' means any person which—

"(A) has entered into a contract with a local educational agency for the performance of construction or related activities in connection with an eligible school construction project, and

"(B) has received an allocable school construction amount with respect to such contract under subsection (d).

"(2) ELIGIBLE SCHOOL CONSTRUCTION PROJECT.—

"(A) IN GENERAL.—The term 'eligible school construction project' means any project related to a public elementary school or secondary school that is conducted for 1 or more of the following purposes:

"(i) Construction of school facilities in order to ensure the health and safety of all students, which may include—

"(I) the removal of environmental hazards,

"(II) improvements in air quality, plumbing, lighting, heating and air conditioning, electrical systems, or basic school infrastructure, and

"(III) building improvements that increase school safety.

"(ii) Construction activities needed to meet the requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) or of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

"(iii) Construction activities that increase the energy efficiency of school facilities.

"(iv) Construction that facilitates the use of modern educational technologies.

"(v) Construction of new school facilities that are needed to accommodate growth in school enrollments.

"(vi) Such other construction as the Secretary of Education determines appropriate.

"(B) SPECIAL RULES.—For purposes of this paragraph—

"(i) the term 'construction' includes reconstruction, renovation, or other substantial rehabilitation, and

"(ii) an eligible school construction project shall not include the costs of acquiring land (or any costs related to such acquisition).

"(c) QUALIFIED SCHOOL CONSTRUCTION COSTS; APPLICABLE PERCENTAGE.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified school construction costs' means the aggregate amounts paid to an eligible taxpayer during the taxable year under the contract described in subsection (b)(1).

"(2) APPLICABLE PERCENTAGE.—The term 'applicable percentage' means, in the case of an eligible school construction project related to a local educational agency, the higher of the following percentages:

"(A) If the local educational agency has a percentage or number of children described in clause (i)(I) or (ii)(I) of section 1125(c)(2)(A) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6335(c)(2)(A)), the applicable percentage is 10 percent.

"(B) If the local educational agency has a percentage or number of children described in clause (i)(II) or (ii)(II) of such section, the applicable percentage is 15 percent.

"(C) If the local educational agency has a percentage or number of children described in clause (i)(III) or (ii)(III) of such section, the applicable percentage is 20 percent.

"(D) If the local educational agency has a percentage or number of children described in clause (i)(IV) or (ii)(IV) of such section, the applicable percentage is 25 percent.

"(E) If the local educational agency has a percentage or number of children described in clause (i)(V) or (ii)(V) of such section, the applicable percentage is 30 percent.

"(d) ALLOCABLE AMOUNT.—For purposes of this section—

"(1) IN GENERAL.—Subject to paragraph (3), a local educational agency may allocate to any person a school construction amount with respect to any eligible school construction project.

"(2) TIME FOR MAKING ALLOCATION.—An allocation shall be taken into account under paragraph (1) only if the allocation is made at the time the contract described in subsection (b)(1) is entered into (or such later time as the Secretary may by regulation allow).

"(3) COORDINATION WITH STATE PROGRAM.—A local educational agency may not allocate school construction amounts for any calendar year—

"(A) which in the aggregate exceed the amount of the State school construction ceiling allocated to such agency for such calendar year under subsection (e), and

"(B) which is consistent with any specific allocation required by the State or this section.

"(e) STATE CEILINGS AND ALLOCATION.—

"(1) IN GENERAL.—A State educational agency shall allocate to local educational agencies within the State for any calendar year a portion of the State school construction ceiling for such year. Such allocations shall be consistent with the State application which has been approved under subsection (f) and with any requirement of this section.

"(2) STATE SCHOOL CONSTRUCTION CEILING.—

"(A) IN GENERAL.—The State school construction ceiling for any State for any calendar year shall be an amount equal to the State's allocable share of the national school construction amount.

"(B) STATE'S ALLOCABLE SHARE.—The State's allocable share of the national school construction amount for a fiscal year shall bear the same relation to the national school construction amount for the fiscal year as the amount the State received under section 1124 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333) for the preceding fiscal year bears to the total amount received by all States under such section for such preceding fiscal year.

"(C) NATIONAL SCHOOL CONSTRUCTION AMOUNT.—The national school construction amount for any calendar year is the lesser of—

"(i) $1,000,000,000, or

"(ii) the amount made available for such year under the School Infrastructure Improvement Trust Fund established under section 9512,

reduced by any amount described in paragraph (3).

"(3) SPECIAL ALLOCATIONS FOR INDIAN TRIBES AND TERRITORIES.—

"(A) ALLOCATION TO INDIAN TRIBES.—The national school construction amount under paragraph (2)(C) shall be reduced by 1.5 percent for each calendar year and the Secretary of Interior shall allocate such amount among Indian tribes according to their respective need for assistance under this section.

"(B) ALLOCATION TO TERRITORIES.—The national school construction amount under paragraph (2)(C) shall be reduced by 0.5 percent for each calendar year and the Secretary of Education shall allocate such amount among the territories according to their respective need for assistance under this section.

"(4) REALLOCATION.—If the Secretary of Education determines that a State is not making satisfactory progress in carrying out the State's plan for the use of funds allocated to the State under this section, the Secretary may reallocate all or part of the State school construction ceiling to 1 or more other States that are making satisfactory progress.

"(e) STATE APPLICATION.—

"(1) IN GENERAL.—A State educational agency shall not be eligible to allocate any amount to a local educational agency for any calendar year unless the agency submits to the Secretary of Education (and the Secretary approves) an application containing such information as the Secretary may require, including—

"(A) an estimate of the overall condition of school facilities in the State, including the projected cost of upgrading schools to adequate condition;

"(B) an estimate of the capacity of the schools in the State to house projected student enrollments, including the projected cost of expanding school capacity to meet rising student enrollment;

"(C) the extent to which the schools in the State have the basic infrastructure elements necessary to incorporate modern technology into their classrooms, including the projected cost of upgrading school infrastructure to enable the use of modern technology in classrooms;

"(D) the extent to which the schools in the State offer the physical infrastructure needed to provide a high-quality education to all students; and

"(E) an identification of the State agency that will allocate credit amounts to local educational agencies within the State.

"(2) SPECIFIC ITEMS IN ALLOCATION.—The State shall include in the State's application the process by which the State will allocate the credits to local educational agencies within the State. The State shall consider in its allocation process the extent to which—

"(A) the school district served by the local educational agency has—

"(i) a high number or percentage of the total number of children aged 5 to 17, inclusive, in the State who are counted under section 1124(c) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333(c)); or

"(ii) a high percentage of the total number of low-income residents in the State;

"(B) the local educational agency lacks the fiscal capacity, including the ability to raise funds through the full use of such agency's bonding capacity and otherwise, to undertake the eligible school construction project without assistance;

"(C) the local area makes an unusually high local tax effort, or has a history of failed attempts to pass bond referenda;

"(D) the local area contains a significant percentage of federally owned land that is not subject to local taxation;

"(E) the threat the condition of the physical facility poses to the safety and well-being of students;

"(F) there is a demonstrated need for the construction, reconstruction, renovation, or rehabilitation based on the condition of the facility;

"(G) the extent to which the facility is overcrowded; and

"(H) the extent to which assistance provided will be used to support eligible school construction projects that would not otherwise be possible to undertake.

"(3) IDENTIFICATION OF AREAS.—The State shall include in the State's application the process by which the State will identify the areas of greatest needs (whether those areas are in large urban centers, pockets of rural poverty, fast-growing suburbs, or elsewhere) and how the State intends to meet the needs of those areas.

"(4) ALLOCATIONS ON BASIS OF APPLICATION.—The Secretary of Education shall evaluate applications submitted under this subsection and shall approve any such application which meets the requirements of this section.

"(g) REQUIRED ALLOCATIONS.—Notwithstanding any process for allocation under a State application under subsection (f), in the case of a State which contains 1 or more of the 100 school districts within the United States which contains the largest number of poor children (as determined by the Secretary of Education), the State shall allocate each calendar year to the local educational agency serving such districts that portion of the State school construction ceiling which bears the same ratio to such ceiling as the number of children in such district for the preceding calendar year who are counted for purposes of section 1124(c) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333(c)) bears to the total number of children in such State who are so counted.

"(h) DEFINITIONS.—For purposes of this section—

"(1) ELEMENTARY SCHOOL; LOCAL EDUCATIONAL AGENCY; SECONDARY SCHOOL; STATE EDUCATIONAL AGENCY.—The terms 'elementary school', 'local educational agency', 'secondary school', and 'State educational agency' have the meanings given the terms in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

"(2) TERRITORIES.—The term 'territories' means the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

"(3) STATE.—The term 'State' means each of the several States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico."

(b) INCLUSION IN GENERAL BUSINESS CREDIT.—

(1) IN GENERAL.—Section 38(b) is amended by striking "plus" at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting ", plus", and by adding at the end the following new paragraph:

"(13) the school construction credit determined under section 45D(a)."

(2) TRANSITION RULE.—Section 39(d) is amended by adding at the end the following new paragraph:

"(8) NO CARRYBACK OF SECTION 45D CREDIT BEFORE ENACTMENT.—No portion of the unused business credit for any taxable year which is attributable to the school construction credit determined under section 45D may be carried back to a taxable year ending before the date of the enactment of section 45D."

(c) ESTABLISHMENT OF SCHOOL INFRASTRUCTURE IMPROVEMENT TRUST FUND.—

(1) IN GENERAL.—Subchapter A of chapter 98 is amended by adding at the end the following new section:

"SEC. 9512. SCHOOL INFRASTRUCTURE IMPROVEMENT TRUST FUND.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'School Infrastructure Improvement Trust Fund', consisting of such amounts as may be credited or paid to such Trust Fund as provided in this section or section 9602(b).

"(b) TRANSFERS TO TRUST FUND.—

"(1) IN GENERAL.—There are hereby appropriated to the Trust Fund for any calendar year an amount equal to the lesser of—

"(A) the revenue surplus determined under paragraph (2) for the preceding calendar year, or

"(B) $1,000,000,000.

"(2) REVENUE SURPLUS.—The revenue surplus determined under this paragraph for any calendar year is an amount equal to the excess (if any) of—

"(A) the Secretary's estimate of revenues received in the Treasury of the United States for the calendar year, over

"(B) the amount the Director of the Congressional Budget Office estimated would be so received in the report provided to the Committees on the Budget of the House and the Senate pursuant to section 202(f)(1) of the Congressional Budget Act of 1974, as amended.

"(c) EXPENDITURES FROM TRUST FUND.—Amounts in the Trust Fund shall be transferred to the general fund of the Treasury at such times as the Secretary determines appropriate to offset any decrease in Federal revenues by reason of credits allowed under section 38 which are attributable to the school construction credit determined under section 45D."

(2) CONFORMING AMENDMENT.—The table of section for subchapter A of chapter 98 is amended by adding at the end the following new item:

"Sec. 9512. School Infrastructure Improvement Trust Fund.

(d) CONFORMING AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

"Sec. 45B. Credit for public elementary and secondary school construction."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

FEINGOLD (AND BUMPERS) AMENDMENT NO. 582

Mr. FEINGOLD (for himself and Mr. BUMPERS) proposed an amendment to the bill, S. 949, supra; as follows:

On page 400, between lines 14 and 15, insert the following:

SEC. . CERTAIN MINERALS NOT ELIGIBLE FOR PERCENTAGE DEPLETION.

(a) IN GENERAL.—Section 613(b)(1) (relating to percentage depletion rates) is amended—

(A) in subparagraph (A), by striking "and uranium"; and

(B) in subparagraph (B), by striking "asbestos,", "lead,", and "mercury,",

(b) CONFORMING AMENDMENTS.—

(1) Section 613(b)(3)(A) is amended by inserting "other than lead, mercury, or uranium" after "mental mines".

(2) Section 613(b)(4) is amended by striking "asbestos (if paragraph (1)(B) does not apply),".

(3) Section 613(b)(7) is amended by striking "or" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting ", or", and by inserting after subparagraph (C) the following:

"(D) mercury, uranium, lead, and asbestos."

(4) Section 613(c)(4)(D) is amended by striking "lead," and "uranium,".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

GRAHAM AMENDMENT NO. 583

Mr. ROTH (for Mr. GRAHAM) proposed an amendment to the bill, S. 949, supra; as follows:

On page 93, strike lines 13 through 25, and insert:

"(ii) a silver coin described in section 5112(e) of title 31, United States Code,

"(iii) a platinum coin described in section 5112(k) of title 31, United States Code, or

"(iv) a coin issued under the laws of any State, or

"(B) any gold, silver, platinum, or palladium bullion of a fineness equal to or exceeding the minimum fineness required for metals which may be delivered in satisfaction of a regulated futures contract subject to regulation by the Commodity Futures Trading Commission under the Commodity Exchange Act,

On page 205, before line 12, insert the following:

(c) SPECIAL AMORTIZATION RULE.—

(1) CODE AMENDMENT.—Section 412(b)(2) is amended by striking "and" at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting ", and", and by inserting after subparagraph (D) the following:

"(E) the amount necessary to amortize in equal annual installments (until fully amortized) over a period of 20 years the contributions which would be required to be made under the plan but for the provisions of subsection (c)(7)(A)(i)(I).".

(2) ERISA AMENDMENT.—Section 302(b)(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082(b)(2)) is amended by striking "and" at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting ", and", and by inserting after subparagraph (D) the following:

"(E) the amount necessary to amortize in equal annual installments (until fully amortized) over a period of 20 years the contributions which would be required to be made under the plan but for the provisions of subsection (c)(7)(A)(i)(I).".

(3) CONFORMING AMENDMENTS.—

(A) Section 412(c)(7)(D) is amended by adding "and" at the end of clause (i), by striking ", and" at the end of clause (ii) and inserting a period, and by striking clause (iii).

(B) Section 302(c)(7)(D) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082(c)(7)(D)) is amended by adding "and" at the end of clause (i), by striking ", and" at the end of clause (ii) and inserting a period, and by striking clause (iii).

(4) EFFECTIVE DATES.—

(A) IN GENERAL.—The amendments made by this subsection shall apply to plan years beginning after December 31, 1998.

(B) SPECIAL RULE FOR 1999.—In the case of a plan's first year beginning in 1999, there shall be added to the amount required to be amortized under section 412(b)(2)(E) of the Internal Revenue Code of 1986 and section 302(b)(2)(E) of the Employee Retirement Income Security Act of 1974 (as added by paragraphs (1) and (2)) over the 20-year period beginning with such year, the unamortized balance (as of the close of the preceding plan year) of any amount required to be amortized under section 412(c)(7)(D)(iii) of such Code and section 302(c)(7)(D)(iii) of such Act (as repealed by paragraph (3)) for plan years beginning before 1999.

On page 639, between lines 11 and 12, insert:

(4) AMENDMENTS RELATED TO SECTION 1461.—

(A) Section 415(e)(5)(A) is amended to read as follows:

"(A) CERTAIN MINISTERS MAY PARTICIPATE.—For purposes of this part—

"(i) IN GENERAL.—A duly ordained, commissioned, or licensed minister of a church is described in paragraph (3)(B) if, in connection with the exercise of their ministry, the minister—

"(I) is a self-employed individual (within the meaning of section 401(c)(1)(B), or

"(II) is employed by an organization other than an organization which is described in section 501(c)(3) and with respect to which the minister shares common religious bonds.

"(ii) TREATMENT AS EMPLOYER AND EMPLOYEE.—For purposes of sections 403(b)(1)(A) and 404(a)(10), a minister described in clause (i)(I) shall be treated as employed by the minister's own employer which is an organization described in section 501(c)(3) and exempt from tax under section 501(a)."

(B) Section 403(b)(1)(A) is amended by striking "or" at the end of clause (i), by inserting "or" at the end of clause (ii), and by adding at the end the following new clause:

"(iii) for the minister described in section 415(e)(5)(A) by the minister or by an employer.".

NICKLES (AND BOND) AMENDMENT NO. 584

Mr. ROTH (for Mr. NICKLES, for himself and Mr. BOND) proposed an amendment to the bill, S. 949, supra; as follows:

On page 212, between lines 11 and 12, insert the following:

SEC. . SENSE OF THE SENATE WITH RESPECT TO SELF-EMPLOYMENT TAX OF LIMITED PARTNERS.

(a) FINDINGS.—The Senate finds that—

(1) the Department of the Treasury issued Proposed Regulation 1.1402(a)-2 in January 1997 relating to the definition of a limited partner for self-employment tax purposes under section 1402(a)(13) of the Internal Revenue Code;

(2) since 1977, section 1402(a)(13) of such Code has provided that—

(A) a limited partner's net earnings from self-employment include only guaranteed payments made to the individual for services actually rendered and do not include a limited partner's distributive share of the income or loss of the partnership, and

(B) a general partner's net earnings from self-employment include the partner's distributive share;

(3) the proposed regulations provide generally—

(A) that a partner will not be treated as a limited partner if the individual—

(i) has personal liability for partnership debts,

(ii) has authority to contract on behalf of the partnership, or

(iii) participates in the partnership's trade or business for more than 500 hours during the taxable year;

(B) that an individual meeting any one of these three criteria will be treated as a general partner, and net earnings from self-employment will include the partner's distributive share of partnership income and loss, resulting in substantial tax liability because there is a 15.3 percent tax on self-employment income below $65,400 in 1997 and a 2.9 percent hospital insurance tax on self-employment income above that amount;

(4) certain types of entities, such as limited liability companies and limited liability partnerships, were not widely used at the time the present rule relating to limited partners was enacted, and that the proposed regulations attempt to address owners of such entities.

(5) the Senate is concerned that the proposed change in the treatment of individuals who are limited partners under applicable State law exceeds the regulatory authority of the Treasury Department and would effectively change the law administratively without congressional action; and

(6) the proposed regulations address and raise significant policy issues and the proposed definition of a limited partner may have a substantial impact on the tax liability of certain individuals and may also affect

individuals' entitlement to social security benefits.

(b) Sense of Senate.—It is the sense of the Senate that—

(1) the Department of the Treasury and the Internal Revenue Service should withdraw Proposed Regulation 1.1402(a)-(2) which imposes a tax on limited partners; and

(2) Congress, not the Department of the Treasury or the Internal Revenue Service, should determine the tax law governing self-employment income for limited partners.

SPECTER AMENDMENT NO. 585

Mr. ROTH (for Mr. Specter) proposed an amendment to the bill S. 949, supra; as follows:

On page 20, between lines 5 and 6, insert the following;

SEC. 105. ADOPTION EXPENSES.

(a) Distributions From Certain Plans May Be Used Without Penalty To Pay Adoption Expenses.—

(1) In General.—Section 72(t)(2) (relating to exceptions to 10-percent additional tax on early distributions from qualified retirement plans) is amended by adding at the end the following:

"(E) Distributions from certain plans for adoption expenses.—Distributions to an individual from an individual retirement plan of so much of the qualified adoption expenses (as defined in section 23(d)(1)) of the individual as does not exceed $2,000.".

(C) Conforming Amendment.—Section 72(t)(2)(B) is amended by striking "or (D)" and inserting ", (D) or (E)".

(3) Effective Date.—The amendments made by this subsection shall apply to payments and distributions after December 31, 1996.

FAIRCLOTH (AND OTHERS) AMENDMENT NO. 586

Mr. ROTH (for Mr. Faircloth, for himself, Mr. Helms, and Mr. Lott) proposed an amendment to the bill, S. 949, supra; as follows:

On page 267, between lines 15 and 16, insert the following:

SECTION . CURRENT REFUNDINGS OF CERTAIN TAX-EXEMPT BONDS.

(a) In General.—Subsection (c) of section 10632 of the Revenue Act of 1987 (relating to bonds issued by Indian tribal governments) is amended by adding at the end the following new sentence: "The amendments made by this section shall not apply to any obligation issued after such date if—

"(1) such obligation is issued (or is part of a series of obligations issued) to refund an obligation issued on or before such date,

"(2) the average maturity date of the issue of which the refunding obligation is a part is not later than the average maturity date of the obligations to be refunded by such issue,

"(3) the amount of the refunding obligation does not exceed the outstanding amount of the refunded obligation, and

"(4) the net proceeds of the refunding obligation are used to redeem the refunded obligation not later than 90 days after the date of the issuance of the refunding obligation.

For purposes of paragraph (2), average maturity shall be determined in accordance with section 147(b)(2)(A) of the Internal Revenue Code of 1986."

(b) Effective Date.—The amendment made by subsection (a) shall apply to refunding obligations issued after the date of the enactment of this Act.

GORTON AMENDMENT NO. 587

Mr. ROTH (for Mr. Gorton) proposed an amendment to the bill, S. 949, supra; as follows:

At the end of title VII, insert:

SEC. . SPECIAL RULE FOR THRIFTS WHICH BECOME LARGE BANKS.

(a) In General.—Section 593(g)(2) (defining applicable excess reserves) is amended by adding at the end the following new subparagraph:

"(C) Special rule for thrifts which became large banks in 1995.—

"(i) In General.—In the case of a bank (as defined in section 581) which became a large bank (as defined in section 585(c)(2)) for its first taxable year beginning after December 31, 1994, the balance taken into account under subparagraph (A)(ii) shall not be less than the amount which would be the balance of such reserves as of the close of its last taxable year beginning before January 1, 1995, if the additions to such reserves for all taxable years had been determined under section 585(b)(2)(A).

"(ii) Application of cut-off method; etc.—In the case of a taxpayer to which this subparagraph applies—

"(I) paragraph (5)(B) shall apply, and

"(II) this subparagraph shall not apply in determining the amount taken into account by the taxpayer under subparagraph (A)(ii) for purposes of paragraphs (5) and (6) or subsection (e)(1)."

(b) Effective Date.—The amendment made by this section shall take effect as if included in the amendment made by section 1616 of the Small Business Job Protection Act of 1996.

SANTORUM AMENDMENT NO. 588

Mr. ROTH (for Mr. Santorum) proposed an amendment to the bill, S. 949, supra; as follows:

On page 267, between lines 15 and 16, insert the following:

SEC. . SENSE OF THE SENATE.

(a) Findings.—The Senate finds that—

(1) Congress has not provided a genuine tax cut for America's middle-class families since 1981;

(2) President Clinton promised middle-class tax cuts in 1992;

(3) President Clinton raised taxes by $240,000,000,000 in 1993;

(4) President Clinton vetoed middle-class tax cuts in 1995;

(5) the Middle-class American worker had to work until May 9 in order to earn enough money to pay all Federal, State, and local taxes in 1997;

(6) the Joint Economic Committee reports that real total Government taxes per household in 1994 totaled $18,600;

(7) more than 70 percent of the tax cuts in both the House of Representatives and the Senate tax relief bills will go to Americans earning less than $75,000 annually;

(8) the Joint Economic Committee estimates that a family of 4 earning $30,000 will receive 53 percent of the tax relief under the reconciliation bill;

(9) the earned income tax credit was already expanded in President Clinton's 1993 tax bill;

(10) the fiscal year 1998 budget resolution does not make the $500-per-child tax credit refundable; and

(11) those who receive the earned income tax credit do not pay Federal income taxes but receive a substantial cash transfer from the Federal Government in the form of refund checks above and beyond income tax rebates.

(b) Sense of the Senate.—It is the sense of the Senate that America's middle-class taxpayers shoulder the biggest tax burden and that only those who pay Federal income taxes should benefit from the Federal income tax cuts contained in the Revenue Reconciliation Act of 1997.

BURNS AMENDMENT NO 589

Mr. ROTH (for Mr. Burns) proposed an amendment to the bill, S. 949, supra; as follows:

On page 267, between lines 15 and 16, insert the following:

SEC. 780. AVERAGING OF FARM INCOME OVER 3 YEARS.

(a) In General.—Subpart B of part II of subchapter E of chapter 1 of the Internal Revenue Code of 1986 (relating to taxable year for which items of gross income included) is amended by adding the following new section:

"SEC. 460A. AVERAGING OF FARM INCOME.

"(a) In General.—At the election of a taxpayer engaged in a farming business, the tax imposed by section 1 for such taxable year shall be equal to the sum of—

"(1) a tax computed under such section on taxable income reduced by elected farm income, plus

"(2) the increase in tax which would result if taxable income for the 3 prior taxable years were increased by the elected farm income.

"(b) Definitions.—In this section—

"(1) Elected farm income.—

"(A) In general.—The term 'elected farm income' means so much of the taxable income for the taxable year—

"(i) which is attributable to any farming business; and

"(ii) which is specified in the election under subsection (a).

"(B) Treatment of gains.—For purposes of subparagraph (A), gain from the sale or other disposition of property (other than land) regularly used by the taxpayer in a farming business for a substantial period shall be treated as attributable to a farming business.

"(2) Farming business.—The term 'farming business' has the meaning given such term by section 263A(e)(4)."

(b) Clerical Amendment.—The table of sections for such subpart B is amended by adding at the end the following new item:

"Sec. 460A. Averaging of farm income."

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act and before January 1, 2001.

Section 503 of the bill is amended on page 161, line 4 by striking "July 31, 1999" and inserting "May 31, 1999."

WELLSTONE (AND OTHERS) AMENDMENT NO. 590

Mr. WELLSTONE (for himself, Mr. Bingaman, Mr. Kerry, Mr. Kennedy, Mr. Daschle, Mr. Reed, and Mr. Dodd) proposed an amendment to the bill, S. 949, supra; as follows:

Strike section 201 and insert the following:

SEC. 201. REFUNDABLE CHILD TAX CREDIT.

(a) In General.—Subpart C of part IV of subchapter A of chapter 1 (relating to refundable credits) is amended by redesignating section 35 as section 36 and by inserting after section 34 the following new section:

"SEC. 35. HIGHER EDUCATION TUITION AND RELATED EXPENSES.

"(a) ALLOWANCE OF CREDIT.—

"(1) IN GENERAL.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year the amount equal to 50 percent of qualified tuition and related expenses paid by the taxpayer during such taxable year for education furnished during any academic period beginning in such year.

"(2) SPECIAL RULE FOR EDUCATION AT COMMUNITY COLLEGES AND VOCATIONAL SCHOOLS.—In the case of qualified tuition and related expenses for education furnished at a community college or vocational school, paragraph (1) shall be applied by substituting '75 percent' for '50 percent'.

"(b) LIMITATIONS.—

"(1) DOLLAR LIMITATION.—The amount allowed as a credit under subsection (a) for any taxable year with respect to the qualified tuition and related expenses of any 1 individual shall not exceed $1,500.

"(2) ELECTION REQUIRED.—

"(A) IN GENERAL.—No credit shall be allowed under subsection (a) for a taxable year with respect to the qualified tuition and related expenses of an individual unless the taxpayer elects to have this section apply with respect to such individual for such year.

"(B) CREDIT ALLOWED ONLY FOR 2 TAXABLE YEARS.—An election under this paragraph shall not take effect with respect to an individual for any taxable year if an election under this paragraph (by the taxpayer or any other individual) is in effect with respect to such individual for any 2 prior taxable years.

"(C) COORDINATION WITH EXCLUSIONS.—An election under this paragraph shall not take effect with respect to an individual for any taxable year if there is in effect for such taxable year an election under section 529(c)(3)(B) or 530(c)(1) (by the taxpayer or any other individual) to exclude from gross income distributions from a qualified tuition program or education individual retirement account used to pay qualified higher education expenses of the individual.

"(3) CREDIT ALLOWED FOR YEAR ONLY IF INDIVIDUAL IS AT LEAST ½ TIME STUDENT FOR PORTION OF YEAR.—No credit shall be allowed under subsection (a) for a taxable year with respect to the qualified tuition and related expenses of an individual unless such individual is an eligible student for at least one academic period which begins during such year.

"(4) CREDIT ALLOWED ONLY FOR FIRST 2 YEARS OF POSTSECONDARY EDUCATION.—No credit shall be allowed under subsection (a) for any taxable year with respect to the qualified tuition and related expenses of an individual if the individual has completed (before the beginning of such taxable year) the first 2 years of postsecondary education at an eligible educational institution.

"(c) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

"(1) IN GENERAL.—The amount which would (but for this subsection) be taken into account under subsection (a) for the taxable year shall be reduced (but not below zero) by the amount determined under paragraph (2).

"(2) AMOUNT OF REDUCTION.—The amount determined under this paragraph is the amount which bears the same ratio to the amount which would be so taken into account as—

"(A) the excess of—

"(i) the taxpayer's modified adjusted gross income for such taxable year, over

"(ii) $40,000 ($80,000 in the case of a joint return), bears to

"(B) $10,000 ($20,000 in the case of a joint return).

"(3) MODIFIED ADJUSTED GROSS INCOME.—The term 'modified adjusted gross income' means the adjusted gross income of the taxpayer for the taxable year increased by any amount excluded from gross income under section 911, 931, or 933.

"(d) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED TUITION AND RELATED EXPENSES.—

"(A) IN GENERAL.—The term 'qualified tuition and related expenses' means tuition and fees required for the enrollment or attendance of—

"(i) the taxpayer,

"(ii) the taxpayer's spouse, or

"(iii) any dependent of the taxpayer with respect to whom the taxpayer is allowed a deduction under section 151,

at an eligible educational institution and books required for courses of instruction of such individual at such institution.

"(B) EXCEPTION FOR EDUCATION INVOLVING SPORTS, ETC.—Such term does not include expenses with respect to any course or other education involving sports, games, or hobbies, unless such course or other education is part of the individual's degree program.

"(C) EXCEPTION FOR NONACADEMIC FEES.—Such term does not include student activity fees, athletic fees, insurance expenses, or other expenses unrelated to an individual's academic course of instruction.

"(D) REDUCTION FOR SCHOLARSHIPS, ETC.—

"For reduction for scholarships, etc. and limitation based on grants, see subsection (g)(2).

"(2) ELIGIBLE EDUCATIONAL INSTITUTION.—The term 'eligible educational institution' means an institution—

"(A) which is described in section 481 of the Higher Education Act of 1965 (20 U.S.C. 1088), as in effect on the date of the enactment of this section, and

"(B) which is eligible to participate in a program under title IV of such Act.

"(3) ELIGIBLE STUDENT.—The term 'eligible student' means, with respect to any academic period, a student who—

"(A) meets the requirements of section 484(a)(1) of the Higher Education Act of 1965 (20 U.S.C. 1091(a)(1)), as in effect on the date of the enactment of this section, and

"(B) is carrying at least ½ the normal full-time work load for the course of study the student is pursuing.

"(4) COMMUNITY COLLEGE.—The term 'community college' means any institution of higher education (as defined in section 1201 of the Higher Education Act of 1965 (20 U.S.C. 1141)) that awards an associate's degree.

"(5) VOCATIONAL SCHOOL.—The term 'vocational school' means a postsecondary vocational institution (as defined in section 481 of such Act (20 U.S.C. 1088)).

"(e) TREATMENT OF EXPENSES PAID BY DEPENDENT.—If a deduction under section 151 with respect to an individual is allowed to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins—

"(1) no credit shall be allowed under subsection (a) to such individual for such individual's taxable year, and

"(2) qualified tuition and related expenses paid by such individual during such individual's taxable year shall be treated for purposes of this section as paid by such other taxpayer.

"(f) TREATMENT OF CERTAIN PREPAYMENTS.—If qualified tuition and related expenses are paid by the taxpayer during a taxable year for an academic period which begins during the first 3 months following such taxable year, such academic period shall be treated for purposes of this section as beginning during such taxable year.

"(g) SPECIAL RULES.—

"(1) IDENTIFICATION REQUIREMENT.—No credit shall be allowed under subsection (a) to a taxpayer with respect to the qualified tuition and related expenses of an individual unless the taxpayer includes the name and taxpayer identification number of such individual on the return of tax for the taxable year.

"(2) ADJUSTMENT FOR CERTAIN SCHOLARSHIPS, ETC.—

"(A) IN GENERAL.—The amount of qualified tuition and related expenses otherwise taken into account under subsection (a) with respect to an individual for an academic period shall be reduced (before the application of subsections (b) and (c)) by the sum of any amounts paid for the benefit of such individual which are allocable to such period as—

"(i) a qualified scholarship which is excludable from gross income under section 117,

"(ii) an educational assistance allowance under chapter 30, 31, 32, 34, or 35 of title 38, United States Code, or under chapter 1606 of title 10, United States Code, and

"(iii) a payment (other than a gift, bequest, devise, or inheritance within the meaning of section 102(a)) for such individual's educational expenses, or attributable to such individual's enrollment at an eligible educational institution, which is excludable from gross income under any law of the United States.

"(B) EXCEPTION FOR ROOM AND BOARD.—Subject to subparagraph (C), subparagraph (A) shall not apply to that portion of any amount which is properly allocable to room and board relating to the attendance of the individual at an eligible educational institution.

"(C) LIMITATION ON QUALIFIED TUITION AND RELATED EXPENSES.—In no event shall the qualified tuition and related expenses of an individual for any academic period exceed the excess (if any) of—

"(i) the costs of attendance (as defined in section 472 of the Higher Education Act of 1965 (20 U.S.C. 1087ll) of the individual for such period, over

"(ii) the aggregate amounts described in subparagraph (A) for such period (without regard to subparagraph (B)).

"(3) DENIAL OF CREDIT IF STUDENT CONVICTED OF A FELONY DRUG OFFENSE.—No credit shall be allowed under subsection (a) for qualified tuition and related expenses for the enrollment or attendance of a student for any academic period if such student has been convicted of a Federal or State felony offense consisting of the possession or distribution of a controlled substance before the end of the taxable year with or within which such period ends.

"(4) DENIAL OF CREDIT WHERE NO HIGH SCHOOL DEGREE.—No credit shall be allowed under subsection (a) for qualified tuition and related expenses for the enrollment or attendance of a student for any academic period if such student has not received a high school degree (or its equivalent) before the beginning of such period. This paragraph shall not apply to a student if the student did not receive such degree by reason of enrollment in an early admission program to an eligible educational institution.

"(5) DENIAL OF DOUBLE BENEFIT.—No credit shall be allowed under this section for any expense for which a deduction is allowed under any other provision of this chapter.

"(6) No credit for married individuals filing separate returns.—If the taxpayer is a married individual (within the meaning of section 7703), this section shall apply only if the taxpayer and the taxpayer's spouse file a joint return for the taxable year.

"(7) Nonresident aliens.—If the taxpayer is a nonresident alien individual for any portion of the taxable year, this section shall apply only if such individual is treated as a resident alien of the United States for purposes of this chapter by reason of an election under subsection (g) or (h) of section 6013.

"(h) Inflation Adjustments.—

"(1) Dollar limitation on amount of credit.—

"(A) In general.—In the case of a taxable year beginning after 1998, the $1,500 amount in subsection (b)(1) shall be increased by an amount equal to—

"(i) such dollar amount, multiplied by

"(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 1997' for 'calendar year 1992' in subparagraph (B) thereof.

"(B) Rounding.—If any amount as adjusted under subparagraph (A) is not a multiple of $50, such amount shall be rounded to the next lowest multiple of $50.

"(2) Income limits.—

"(A) In general.—In the case of a taxable year beginning after 2000, the $40,000 and $80,000 amounts in subsection (c)(2) shall each be increased by an amount equal to—

"(i) such dollar amount, multiplied by

"(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 1999' for 'calendar year 1992' in subparagraph (B) thereof.

"(B) Rounding.—If any amount as adjusted under subparagraph (A) is not a multiple of $5,000, such amount shall be rounded to the next lowest multiple of $5,000.

"(i) Coordination With Means-Tested Program.—For purposes of any means-tested Federal program, any refund made to an individual (or the spouse of an individual) shall not be treated as income (and shall not be taken into account in determining resources for the month of its receipt and the following month).

"(j) Regulations.—The Secretary may prescribe such regulations as may be necessary or appropriate to carry out this section, including regulations providing for a recapture of credit allowed under this section in cases where there is a refund in a subsequent taxable year of any amount which was taken into account in determining the amount of such credit."

(b) Extension of Procedures Applicable to Mathematical or Clerical Errors.—Paragraph (2) of section 6213(g) (relating to the definition of mathematical or clerical errors) is amended by striking "and" at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting ", and", and by inserting after subparagraph (H) the following new subparagraph:

"(I) an omission of a correct TIN required under section 35(g)(1) (relating to higher education tuition and related expenses) to be included on a return."

(c) Returns Relating to Tuition and Related Expenses.—

(1) In general.—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by inserting after section 6050R the following new section:

"SEC. 6050S. RETURNS RELATING TO HIGHER EDUCATION TUITION AND RELATED EXPENSES.

"(a) In General.—Any person—

"(1) which is an eligible educational institution which receives payments for qualified tuition and related expenses with respect to any individual for any calendar year, or

"(2) which is engaged in a trade or business and which, in the course of such trade or business, makes payments during any calendar year to any individual which constitute reimbursements or refunds (or similar amounts) of qualified tuition and related expenses of such individual,

shall make the return described in subsection (b) with respect to the individual at such time as the Secretary may by regulations prescribe.

"(b) Form and Manner of Returns.—A return is described in this subsection if such return—

"(1) is in such form as the Secretary may prescribe,

"(2) contains—

"(A) the name, address, and TIN of the individual with respect to whom payments described in subsection (a) were received from (or were paid to),

"(B) the name, address, and TIN of any individual certified by the individual described in subparagraph (A) as the taxpayer who will claim the individual as a dependent for purposes of the deduction allowable under section 151 for any taxable year ending with or within the calendar year, and

"(C) the—

"(i) aggregate amount of payments for qualified tuition and related expenses received with respect to the individual described in subparagraph (A) during the calendar year, and

"(ii) aggregate amount of reimbursements or refunds (or similar amounts) paid to such individual during the calendar year, and

"(D) such other information as the Secretary may prescribe.

"(c) Application to Governmental Units.—For purposes of this section—

"(1) a governmental unit or any agency or instrumentality thereof shall be treated as a person, and

"(2) any return required under subsection (a) by such governmental entity shall be made by the officer or employee appropriately designated for the purpose of making such return.

"(d) Statements To Be Furnished to Individuals With Respect to Whom Information Is Required.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return under subparagraph (A) or (B) of subsection (b)(2) a written statement showing—

"(1) the name, address, and phone number of the information contact of the person required to make such return, and

"(2) the aggregate amounts described in subparagraph (C) of subsection (b)(2).

The written statement required under the preceding sentence shall be furnished on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made.

"(e) Definitions.—For purposes of this section, the terms 'eligible educational institution' and 'qualified tuition and related expenses' have the meanings given such terms by section 35.

"(f) Returns Which Would Be Required To Be Made by 2 or More Persons.—Except to the extent provided in regulations prescribed by the Secretary, in the case of any amount received by any person on behalf of another person, only the person first receiving such amount shall be required to make the return under subsection (a).

"(g) Regulations.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section. No penalties shall be imposed under section 6724 with respect to any return or statement required under this section until such time as such regulations are issued."

(2) Assessable penalties.—

(A) Subparagraph (B) of section 6724(d)(1) (relating to definitions) is amended by redesignating clauses (ix) through (xiv) as clauses (x) through (xv), respectively, and by inserting after clause (viii) the following new clause:

"(ix) section 6050S (relating to returns relating to payments for qualified tuition and related expenses),".

(B) Paragraph (2) of section 6724(d) is amended by striking "or" at the end of the next to last subparagraph, by striking the period at the end of the last subparagraph and inserting ", or", and by adding at the end the following new subparagraph:

"(Z) section 6050S(d) (relating to returns relating to qualified tuition and related expenses)."

(3) Clerical amendment.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6050R the following new item:

"Sec. 6050S. Returns relating to higher education tuition and related expenses."

(d) Coordination With Section 135.—Subsection (d) of section 135 is amended by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and by inserting after paragraph (1) the following new paragraph:

"(2) Coordination with higher education credit.—The amount of the qualified higher education expenses otherwise taken into account under subsection (a) with respect to the education of an individual shall be reduced (before the application of subsection (b)) by the amount of such expenses which are taken into account in determining the credit allowable to the taxpayer or any other person under section 35 with respect to such expenses.

(e) Clerical Amendment.—The table of sections for subpart C of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 35 the following new items:

"Sec. 35. Higher education tuition and related expenses.

"Sec. 36. Overpayments of tax."

(f) Effective Date.—The amendments made by this section shall apply to expenses paid after December 31, 1997 (in taxable years ending after such date), for education furnished in academic periods beginning after such date.

On page 13, beginning with line 21, strike all through page 14, line 4, and insert:

"(B) Threshold amount.—For purposes of subparagraph (A), the term 'threshold amount' means—

"(i) $90,000 in the case of a joint return,

"(ii) $70,000 in the case of an individual who is not married, and

"(iii) $45,000 in the case of a married individual filing a separate return.

ENZI AMENDMENT NO. 591

Mr. ROTH (for Mr. ENZI) proposed an amendment to the bill, S. 949, supra; as follows:

On page 190, line 1, strike "(III)" and insert "(IV)" and insert a new subparagraph (A)(ii)(III)—

"(VI) the upgrading and maintenance of intercity primary and rural air service facilities, and the purchase of intercity air service between primary and rural airports and regional hubs; and ".

WELLSTONE (AND OTHERS) AMENDMENT NO. 592

Mr. WELLSTONE (for himself, Mr. DOMENICI, Mr. REID, and Mr. CONRAD) proposed an amendment to the bill, S. 949, supra; as follows:

At the appropriate place, insert:

"SEC. 2107A. MENTAL HEALTH PARITY.

"(a) PROHIBITION.—In the case of a health plan that enrolls children through the use of assistance provided under a grant program conducted under this title, such plan, if the plan provides both medical and surgical benefits and mental health benefits, shall not impose treatment limitations or financial requirements on the coverage of mental health benefits if similar limitations or requirements are not imposed on medical and surgical benefits.

"(b) RULE OF CONSTRUCTION.—Nothing in this section shall be construed—

"(1) as prohibiting a health plan from requiring preadmission screening prior to the authorization of services covered under the plan or from applying other limitations that restrict coverage for mental health services to those services that are medically necessary; and

"(2) as requiring a health plan to provide any mental health benefits.

"(c) SEPARATE APPLICATION TO EACH OPTION OFFERED.—In the case of a health plan that offers a child described in subsection (a) 2 or more benefit package options under the plan, the requirements of this section shall be applied separately with respect to each such option.

"(d) DEFINITIONS.—In this section:

"(1) MEDICAL OR SURGICAL BENEFITS.—The term 'medical or surgical benefits' means benefits with respect to medical or surgical services, as defined under the terms of the plan, but does not include mental health benefits.

"(2) MENTAL HEALTH BENEFITS.—The term 'mental health benefits' means benefits with respect to mental health services, as defined under the terms of the plan, but does not include benefits with respect to the treatment of substance abuse and chemical dependency.

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the full Committee on Energy and Natural Resources to consider the nomination of Patrick A. Shea to be Director of the Bureau of Land Management.

The hearing will take place Thursday, July 17, 1997, at 9:30 a.m. in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

For further information, please call Camille Heninger Flint at (202) 224-5070.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. ROTH. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee to meet on Friday, June 27, after last vote, for a business meeting on issues relating to the matter of issuing subpoenas for the special investigation hearings.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

COMMEMORATING THE LIFE OF JACQUES-YVES COUSTEAU

• Mr. HOLLINGS. Mr. President, in every area of human endeavor, major advances often seem to depend on a single individual whose unique vision and dedication to pursuing that vision break through existing barriers to understanding. On Tuesday, the world lost one of those individuals, a pioneer in the area of oceanography and marine conservation. I am speaking, of course, of Jacques-Yves Cousteau.

I have had the pleasure and honor of knowing Jacques Cousteau as a friend and colleague for more than three decades. Our relationship was based on a common passion for exploring and protecting the oceans. We also shared a lifelong interest in ocean and coastal management and in sustainable development and use of marine resources. One of the most valuable perks of membership in the U.S. Senate is the opportunity it affords us to meet gifted leaders from every walk of life. Few of those leaders have made a greater or more lasting contribution than Jacques-Yves Cousteau.

Jacques' first adventure underwater was in Vermont at age 10. For the next 75 years, he continued his adventures, and he brought the rest of us with him. He was a pioneer in undersea exploration, and I can testify firsthand that diving with him was an unforgettable experience. He developed the first scuba gear, took the first underwater color pictures, and started the first undersea colony.

Probably as important as his scientific and technical achievements, Jacques brought the oceans to life for millions of Americans through breathtaking books, films, and his documentary television series, "The Undersea World of Jacques Cousteau." His film "The Silent World" brought viewers aboard his ship, the *Calypso*, for the first time and won an Oscar for best documentary. He went on to win 2 more Oscars, 10 Emmys, and numerous other awards by astonishing viewers with the life under the waters all over the world from the Red Sea to Antarctica and from the Caribbean to the Indian Ocean.

As Jacques continued to explore the ocean, he became deeply committed to protecting it against pollution and other manmade hazards. In 1971, he accepted the Senate Commerce Committee's invitation to testify and spoke to us about the International Conference on Ocean Pollution. He later testifed before the committee on other ocean issues. His testimony and other activities were key to public realization that the oceans are not a vast and unlimited resource, that human activities do indeed have profound impacts on the oceans, and consequently, that we have a duty to protect the marine environment.

A number of years later, I was privileged to present Jacques with the 1983 Neptune Award of the American Oceanic Organization. The award recognized his extraordinary contribution to promoting the use, understanding, and protection of the oceans. At the award ceremony, Jacques showed his new film on his trip up the Amazon River. None of those present will forget his evocative description of the pink dolphins and flooded forests of the Amazon. Jacques had a rare gift for allowing people to see the wonderful diversity of life beneath the water's surface.

Jacques-Yves Cousteau taught the world how to appreciate, understand, explore, use, and preserve the oceans which cover 71 percent of the Earth's surface. We will greatly miss his wit, wisdom, and zest for life.•

MISS KANSAS

• Mr. ROBERTS. Mr. President, I rise to congratulate Ms. Lesley Moss of Hoxie, KS, who has been crowned Miss Kansas. Lesley began competing in the Miss Kansas pageant at the age of 17—the youngest allowable age for a Miss Kansas participant—and was a top 10 finalist.

Last year Lesley won first runner-up in the Miss Kansas pageant. When the 1996 Miss Kansas, Tara Holland, relinquished her crown after winning the title of Miss America, Moss passed up the chance to take Holland's place, because she wanted to compete for the title again.

Growing up on a farm 3 miles north of Hoxie, Lesley realized that there is a special sense of community throughout rural Kansas.

Lesley developed an original program called Project L.E.A.D. (Learning what leadership is, Exercising personal leadership skills, Acting in collaboration with others, Devoting time and energy into community service) which encourages leadership through volunteerism within schools and communities of all sizes. As Miss Kansas, Lesley will promote leadership to thousands of students at over 200 schools this year. Project L.E.A.D. will also be her platform when she represents Kansas at the Miss America pageant in September.

Mr. President, I am proud of Lesley's commitment to improve the lives of Kansans and commend her for the perseverance and dedication it took to win the title of Miss Kansas. I wish her the best as she travels our great State promoting community leadership in the 21st century.•

WHAT IS RIGHT FOR MEDICARE

• Mr. DORGAN. Mr. President, earlier this week, the Senate voted on a reconciliation bill that will make some of the most significant changes in the 30-year history of the Medicare Program, and I want to explain to my colleagues and constituents why I opposed the Senate's bill.

I opposed the bill with some regret, because, for the most part, it reflects the bipartisan budget agreement, which I have supported. For example, I voted for the bipartisan budget resolution earlier this month. That plan requires the Congress to pass legislation to cut the deficit by just over $200 billion over the next 5 years, with about $115 billion of that deficit reduction to come from slowing down the rate of growth of Medicare. So I am not unwilling to vote for restraining Medicare spending in order to reduce the deficit.

We must put this country on track toward a balanced budget while ensuring the health and stability of the Medicare Program. Doing so requires that we limit the rate of growth of the Medicare Program. The Medicare Program has been growing at a rate of about 10 percent a year, a rate of growth that the country cannot sustain, especially once the baby boomer generation begins retiring and putting additional financial stress on the program.

I had hoped to support the Senate's bill. In fact, the bill includes many items I have supported for a long time, including expanding Medicare's coverage for preventive benefits, expanding the health plan options available to seniors in North Dakota and across the country, and other changes to improve access to health care in rural areas and strengthen our ability to fight fraud and abuse in the program. I voted for a substitute Medicare package offered by Senator REED that included these provisions but did not include the more controversial provisions found in the Senate bill. Most notably, the Reed substitute, like the Senate bill, would have extended the life of the Medicare trust fund for 10 more years, but would have done so without asking Medicare beneficiaries to pay significantly more for their health care and without knocking a number of seniors out of the Medicare Program.

Unfortunately, in several extremely important areas, this bill did not abide by the bipartisan budget agreement achieved during months of negotiations this spring. The Senate bill abandoned this approach by including several provisions that will result in significantly higher out-of-pocket health care expenses for our Nation's older Americans.

The Senate bill included two significant structural changes—an increase in the Medicare eligibility age from 65 to 67 and a means test for the Medicare part B premium paid by upper income older Americans. I voted to strike these provisions from the Senate bill because I think it is inappropriate to make these kinds of central changes to the Medicare Program on the spending side of the budget ledger in order to make room for larger tax cuts on the tax side of the ledger. It is my view that changes made to Medicare should be made for the purpose of strengthening the program—not to provide room for tax cuts, the bulk of which will go to upper income earners in this country. Let's keep Medicare healthy and our older Americans healthy as well.

Why in this bill was it proposed that we ask seniors who make more than $50,000 to pay higher prices for their Medicare policies so that investors who make $500,000 or more could be given tax cuts? There is no denying a direct connection when the Medicare changes were proposed in the context of reconciliation legislation that includes tax cuts. In this reconciliation process, the act of achieving Medicare savings was intertwined with the desire for tax cuts on the revenue side.

There are some signs of reasonableness in this bill. For example, I support this bill's creation of a national, bipartisan commission charged with making recommendations to Congress on the long-term changes necessary to ensuring the extended solvency of the Medicare program. On the advice of this Commission we should confront the demographic changes facing our country over the next 30 to 40 years as the baby boomers retire and our Nation grays. The commission will have one year to study and report its recommendations to Congress. Let's hope that this process will ultimately result in a solid package of changes that the Congress will act on quickly.

With this package of recommendations on long-term solvency I am willing to consider basic structural changes to the program, including means testing and/or increasing the eligibility age if the following conditions are met.

First, if we consider increasing the eligibility age, we must be able to respond to the needs of the retirees between the ages of 65 and 67 who will still need affordable insurance coverage. The Senate bill does not consider this issue. It simply proposes to leave these folks uninsured. Already, the number of retirees with employer-provided health insurance has dropped 14 percent in the six years between 1988 to 1994, and every indication is that this trend would be exacerbated by raising the Medicare eligibility age. Most low- or even middle-income seniors in their mid-sixties will never be able to afford the premiums that will be assessed by the health insurance industry to cover people of that age.

Now, I voted in support of increasing the Social Security retirement age in 1983, as part of a plan to extend the solvency of the Social Security program well into the next century. But I do not agree with those who compare the increase in the eligibility age for Medicare to increasing the Social Security retirement age to 67. Under Social Security, seniors who need or choose to retire before age 67 will still have the option to do so, at a reduced benefit level. The ramifications are very different for increasing the Medicare eligibility age. Under the Senate bill, these seniors will not have an option for getting Medicare benefits before they turn 67 and many of them will become uninsured.

If we raise the Medicare eligibility age from 65 to 67, we must provide some means to guarantee the availability of affordable insurance coverage for the citizens in that age group. One of the issues the Medicare commission created by this bill is charged with studying is whether it is feasible to allow retirees who have not yet reached the eligibility age for Medicare to buy into the program. This idea deserves consideration before we act to increase the eligibility age.

With respect to means testing or income relating, as it is called in the Senate bill, I am willing to support means testing for Medicare, but again, only after careful consideration of the ramifications for the entire Medicare program and for the purpose of extending the solvency of Medicare, not as part of a reconciliation bill that is designed to cut spending for the purpose of accommodating additional tax cuts.

One of the reasons that Medicare has such widespread support is because it provides health insurance coverage for virtually all older Americans. If through means testing we create an incentive for wealthier, healthier people to drop out of the program because they can get a better deal outside of Medicare, then we ought to at least understand and consider the ramifications of that.

There are other things about the Senate bill that create substantial new burdens on low- and moderate-income older Americans. Under this bill, seniors will be asked to pay significant new out-of-pocket costs. In North Dakota, 70 percent of our senior citizens have incomes under $15,000, and on average, they spend $2,500 for prescription drugs and other health care expenses not covered by Medicare or supplemental insurance. Many of these folks simply cannot afford to pay much more.

I am concerned about the new $5 co-payment for home health visits. I voted to eliminate this new cost from the Senate bill. While $5 may not seem like a lot of money to many of us, a lot of the seniors who rely on home health care cannot afford this extra expense and might be forced to enter a hospital or nursing home at significantly greater cost to the Medicare and Medicaid programs.

This bill also erodes the protections that currently exist in Medicare which limit the amount doctors can charge Medicare beneficiaries above and beyond the Medicare-approved amount. This bill results in millions of dollars in new out-of-pocket costs.

The conferees on this bill have an opportunity to address these concerns and to drop troubling provisions from the bill, such as the means testing of the Medicare premium, the increase in the Medicare eligibility age, and the new home health care co-payment. Eliminating these provisions from the final bill would still lengthen the solvency of the Medicare program for 10 more years, and I hope the conference committee will take this action.•

TRIBUTE TO JESSE BROWN, SECRETARY OF VETERANS AFFAIRS

• Mr. ROCKEFELLER. Mr. President, the veterans' community is about to lose one of its best and strongest champions—Secretary of Veterans Affairs, Jesse Brown. After 4 years as the Secretary, Jesse Brown is retiring from Government service. He will be deeply missed by millions of veterans and their families, and everyone else who has had the good fortune of working with him.

Secretary Brown is one of the staunchest advocates the veterans' community has ever known. A veteran himself, injured during the Vietnam war, he articulated passionately and eloquently the needs of veterans, and the obligation of our Government to take care of those who served, often at great personal sacrifice. His oratory could move an audience to tears, and there was never any question but that his concern was genuine and sincere. He truly was a "veterans' veteran," as he was often called, and he fought to the last to further and protect veterans' best interests.

Jesse Brown undertook an ambitious agenda as Secretary. Under his watch, the Veterans Health Administration was reorganized into 22 Veterans Integrated Service Networks [VISNs], the VA health care system began the transition from inpatient to outpatient care, the Veterans Benefits Administration moved to reduce its tremendous backlog of cases, and benefits were extended to Persian Gulf war veterans suffering from undiagnosed illnesses and Vietnam veterans' children born with spina bifida. Most significantly, he was tremendously successful in protecting his department from some of the deep budget cuts suffered by most other Federal agencies.

Secretary Brown's departure is a great loss. I wish him every success in the years ahead—and I have every confidence that he will succeed in whatever he undertakes.•

• Mr. LAUTENBERG. Mr. President, I rise today to pay tribute to Jesse Brown, who will retire as Secretary of Veterans Affairs on July 1, 1997.

Since his appointment to this post on January 22, 1993, Secretary Brown has been the champion of our Nation's 26 million veterans. But his commitment to those who fought for this country began long before he accepted the awesome responsibility of heading the Federal Government's largest Department.

Secretary Brown's service in the Marine Corps formed the foundation for his strong commitment to veterans. He later worked for the Disabled American Veterans, where he was an advocate for the highest quality healthcare and benefits for veterans and their families. Secretary Brown translated his personal experiences into action as he accepted the charge of providing for those who have protected our country.

As a fellow veteran, I appreciate all of Secretary Brown's work on behalf of our Nation's veterans and their families. In the 4½ years since he accepted this challenging post, he has worked diligently to move the VA into the 21st century. His personal commitment to veterans has produced numerous accomplishments.

Secretary Brown has overseen the Department's first national summit on homeless veterans. He has worked to expand the Department's services to women veterans. And under his leadership, the VA has opened community based outpatient clinics, giving more veterans wider access to VA healthcare services. In all that he has done, his commitment to broadening veterans' access to the system has never faltered.

Throughout his service, Secretary Brown has gone out of his way to ensure that those who honorably served their country receive the attention, benefits, and services they deserve. Last year, Secretary Brown visited New Jersey, where he personally met with veterans to address their concerns about benefits and the VA healthcare system. After this meeting, numerous veterans from New Jersey contacted me to convey their appreciation for Secretary Brown's work on their behalf.

Mr. President, Secretary Brown's service to this country will be sorely missed. As a fellow veteran, I join all of the veterans in New Jersey and across the country in thanking him for his work and wishing him well in his future endeavors.•

TRIBUTE TO THE HONORABLE JESSE BROWN

• Mr. BRYAN. Mr. President, I rise today to recognize the innumerable contributions and outstanding leadership that have characterized the tenure of the Honorable Jesse Brown as the Secretary of Veterans Affairs. It is with great appreciation, as well as sadness, that I speak of his accomplishments today, as his term as the chief of the second-largest agency in the Federal Government will come to an end on the first of July. Under his guidance over the past 4½ years, the Department of Veterans Affairs has undergone some of the most fundamental changes in decades. In the past, such groundbreaking reforms and restructuring may have inspired fear on Capitol Hill and in veterans' facilities across the Nation, but with Jesse Brown at the helm, the Department has undergone a transformation with support, hard-earned at times, from both budget-cutters in Congress and from veterans across the country.

When Secretary Brown took office in 1993, he was faced with an outdated health-care delivery system stretched to its limits trying to maintain too many large, aging hospitals. The Secretary rose to the challenge by closing hospitals that did not serve their patients well and beginning an overhaul of the entire VA medical system into a network of 22 regional provider regions. Within these regions, increased attention is being given to the quality of care available as well as to outpatient services. These changes, which are still taking hold in many places, demonstrate the vision that Secretary Brown brought to his work; a vision of changing with the times, but never giving up on the primary focus of providing services to veterans.

Secretary Brown's unyielding drive to ensure that veterans have access to needed services is very important to Nevada, one of only two States in the Nation where the population of veterans is growing. While my State's problems are very different than those of a Northeastern or Midwestern State, Secretary Brown took these differences into account and has been instrumental in helping Nevada be more responsive to the needs of the men and women who have served our country. The Department of Veterans Affairs has begun to reallocate its resources so that Federal funds are made available where veterans' needs are most critical. In southern Nevada, where approximately 118,000 veterans already crowd existing facilities, new projects will allow Nevada's veterans to access doctors, counselors, and other benefits to which they are entitled. The Secretary has helped Nevada's underserved veterans gain access to the services they deserve through his active support for efforts to construct and expand desperately needed medical facilities in southern Nevada. Secretary Brown has come to the aid of Nevada's veterans during crises, as well, stepping in to help find a solution when one of the VA facilities in Nevada faced administrative problems.

While I could go on much longer just discussing Secretary Brown's contributions to Nevada's veterans, I would be amiss if I did not mention the profound impact he has had on all American veterans and their families. He has tackled the most sensitive issues facing veterans, including his work to enact laws authorizing the VA to provide compensation and treatment for Persian Gulf war veterans' undiagnosed illnesses. He also expanded services to women veterans, which is evident at the new Addeliar D. Guy III Ambulatory Care center soon to open in Las Vegas. Finally, Secretary Brown confirmed the VA's commitment to all veterans in need by convening the first summit on the issues facing homeless veterans, and followed up on this by adding homeless programs to the services provided at VA medical centers. Again, this effort has a great impact in Las Vegas, where a large number of homeless veterans have needs that have, until now, largely gone unmet. With the help of the Department of Veterans' Affairs, however, Las Vegas will soon boast a new initiative that joins hands with the city and county to provide assistance to the homeless veterans in Las Vegas.

Mr. President, I have only touched upon a few of the many positive changes and initiatives launched by Secretary Brown, and I have not even made mention of his previous service to his country as a soldier in Vietnam or as the director of the Washington office of the Disabled American Veterans. I am sure that Secretary Brown will continue to make this world more livable and more enjoyable for veterans in whatever challenges he pursues in the future, buoyed by his commitment to "putting veterans first." Whether guaranteeing a home loan for a veteran just returned from a tour overseas, streamlining health care procedures at a local walk-in clinic, or intervening to prevent the eviction of elderly VA nursing home residents, Jesse Brown has proven that he, and the agency he led, do indeed put veterans first. When he announced his resignation, Secretary Brown said he wanted to be remembered as "someone who made a difference in the quality of veterans' lives." I speak for the veterans of Nevada, and across the country, when I say that Jesse Brown will be remembered not only for improving veterans' access to needed benefits, but also for leading this agency with skill, with compassion, and most of all with an appreciation for the noble service of our Nation's veterans.•

BALANCED BUDGET ACT OF 1997

AMENDMENT NO. 450

• Mr. WELLSTONE. Mr. President, I am pleased to join my colleague in offering this amendment.

Last year during the welfare reform debate, as part of the effort to balance the budget, the 104th Congress made dramatic cuts to programs for low-income families. According to the Center on Budget and Policy Priorities, more than 93 percent of the cuts in entitlement programs in the 104th Congress came from programs for low-income people. Congress reduced entitlement programs by $65.6 billion over the period from 1996 to 2002.

I am deeply concerned about the extent to which legal immigrants are being harmed under the Welfare Reform act. The act cut $22 billion in services to legal immigrants—a full 44 percent of the overall legislation.

The House Ways and Means Committee reconciliation mark provided the least generous allocation of funding for legal immigrants as compared to the budget agreement and the Senate Finance Committee mark. The $9 billion allocation in the Ways and Means mark violates the budget agreement, and it covers fewer people. Since it does not cover those who, in the future, could be eligible for SSI assistance, it will leave many without any means of support. According to the Social Security Administration, 125,000 fewer people will be served by the House agreement compared to the Budget Agreement. In Minnesota it puts 1,145 elderly immigrants at risk of losing benefits.

Moreover, it puts an additional 161,000 people at risk of losing their benefits because their citizenship is unknown or difficult to prove. Probably the worst provision in this agreement is that it makes an inhumane and irrational distinction among disabled people based on an arbitrary date on the calendar. If you were disabled and receiving SSI on August 22, 1996, then you retain eligibility. If not, there is no hope for receiving future benefits.

The Durbin/Wellstone amendment restores food stamp benefits to legal immigrant families with children 18 years old and under at a cost of $750 million over 5 years. Our offset is achieved by placing limits on the amount of Federal money that States can use to offset their cost share requirements in the food stamp and Medicaid programs. Our amendment would take a small step toward addressing the use of these funds and target the savings into food stamp benefits for legal immigrants who have dependent children. Over 5 years, we hope to save $1 billion, which fully covers the cost of restoring food stamp benefits.

Unlike other low-income families in this country, legal immigrants are banned from receiving food stamp benefits. Food stamps are the Nation's largest and most successful food assistance program and cuts to this program made up half of the savings in last year's welfare reform effort. According to CBO, 17 percent of the immigrants receiving food stamps are children. This means more than 150,000 children have lost access to this critical program. In Minnesota roughly 15,900 individuals are expected to lose food stamp benefits. According to INS, most of these immigrant families will naturalize within 10 years, making them eligible to apply for food stamps. CBO estimates that it will cost $750 million to restore food stamp benefits for children 18 years and under. Senator DURBIN and I have provided an offset that achieves that amount over 5 years. No matter what your position on the overall budget deal, you must agree that no purpose is served by denying children food.

According to the Food Research and Action Center, approximately 13.6 million children under age 12 are at risk of hunger during some part of the year. FRAC reports that although families who face real issues of hunger may not be hungry every day of the month, or even every month of the year, the hunger affecting most low-income families is not a one-time or infrequent occurrence. It is characterized—and this is according to FRAC—by food shortages and chronic insecurity about whether the family will have enough food.

We are now benefiting from scientific research that points to the significance of the early years on development of the brain. A consistently nutritious diet is one of the most important if not the most important ingredient to a child reaching his or her potential. In a 1995 study entitled Community Childhood Hunger Identification Project; a Survey of Childhood Hunger in the United States, FRAC determined that undernourished children suffer from two to four times as many health problems. I quote from the survey:

> Hungry children are more likely to be ill and absent from school.
>
> The infant mortality rate is closely linked to inadequate quantity or quality in the diet of the infant's mother.
>
> Iron deficiency anemia in children can lead to adverse health effects such as developmental and behavioral disturbances that can affect children's ability to learn and to read or do mathematics. According to the Centers for Disease Control, anemia remains a significant health problem among low-income children.
>
> Hungry children are less likely to interact with other people or to explore or learn from their surroundings. This interferes with their ability to learn from a very early age.

According to the Tufts University Center on Hunger, Poverty and Nutrition Policy,

> evidence from recent research about child nutrition shows that, in addition to having a detrimental effect on the cognitive development of children, undernutrition results in lost knowledge, brainpower, and productivity.
>
> Hunger and insecurity about whether a family will be able to obtain enough food to avoid hunger, also have an emotional impact on children and their parents. Anxiety, negative feelings about self-worth, and hostility toward the outside world can result from chronic hunger and food insecurity.

The food stamp is designed to reach those families most in need and there is plenty of evidence that the children most at risk of hunger are in poor or low-income families. A 1996-study reported about 6.1 million children under 6 were living in poverty in 1994. An additional 4.8 million young children lived near the poverty line, according to Columbia University's National Center for Children in Poverty. Sixty-two percent of poor children lived with at least one parent or relative who worked. Fewer than one-third of the children's families relied exclusively on welfare. The poverty rate grew fastest among Hispanic children, rising 43 percent since 1979, compared with a 38-percent rise among white children and 19 percent among black children.

Last year's reform banned legal immigrant families with dependent children from food stamp benefits. This amendment is about restoring critical food assistance to those children. We cannot say we are for children and then turn our backs on legal immigrant children. This amendment is reasonable. It's paid for and it makes imminent sense.●

DECISION STRIKING DOWN PART OF BRADY LAW

● Mr. KOHL. Mr. President, I rise to discuss today's Brady law decision, in which a deeply divided Supreme Court put judicial activism over public safety. At a time when the United States leads the world in gun carnage, surely the Federal Government is entitled to enlist the aid of States to keep guns out of the hands of felons, illegal immigrants, and the criminally insane. Asking local police to conduct background checks—and nothing more—hardly amounts to a Federal power grab, as the majority has claimed. Instead, the majority's opinion should make us fear what the Supreme Court could do next.

Will the Court prohibit Congress from requiring States to report missing children? Will it bar Congress from requiring states to get lead out of school drinking water? Will it stop Congress from requiring States to publicly disclose where hazardous waste is being stored?

All of these requirements are now current law, and all of them are now in peril.

We will have to consider these troubling issues in the future. But as for today, this decision alone is hardly a fatal blow to the Brady law itself. Since its enactment, Brady background checks have stopped over 186,000 persons from obtaining guns. And these Brady checks will continue for two reasons. First, virtually all of the police officers we have spoken to say they will continue to do the Brady check voluntarily—even if they are not required to do so. The reason why is simple: they know these checks save lives. Second, the provision struck down by the Court only relates to the so-called interim Brady law. By the end of next year, Brady requires that a permanent instant check system be implemented. And that system, operated by Federal officials, will be immune from constitutional challenge.

Still, the Supreme Court's misguided decision opens up the possibility that, before the instant check system becomes fully operational, a handful of rogue police officers will refuse to do background checks. As a result of such inaction, at least a few felons will commit violent crimes with guns they never should have been able to obtain.

For this reason, we are working with the President to draft legislation that will ensure 100 percent Brady compliance—for example, by allowing gun dealers to obtain background checks from any police chief in their State, not just the chief in the jurisdiction where the buyer resides. Because the vast majority of police will continue to conduct Brady checks voluntarily, this approach will clearly preserve our no check, no sale policy.

Mr. President, today's Supreme Court ruling, while unfortunate, does not take away from how effective the Brady law has been or will be. But it is nevertheless a bad decision that will hurt us in our fight against crime. We'll introduce bipartisan legislation to fix it, and I hope my colleagues will support our efforts.●

GARRETT RUSSELL

● Mr. LEVIN. Mr. President, I rise today to recognize the achievements of a remarkable young man from the city of Midland, MI. Garrett Russell, an 8-year-old second grade student at Siebert Elementary School, collected more than 100 bicycles and $25,000 worth of toys to give to victims of the flooding in Grand Forks, ND.

When Garrett saw footage of the flooding he was immediately moved into action. He asked his classmates to help him provide toys to the thousands of the children in Grand Forks who were forced to leave their belongings behind as they fled from their homes. Word of Garrett's "Kids Helping Kids" campaign spread quickly and caught the imagination of the generous people of the Tri-City area. Donations arrived daily, reaching a total of more than 3,000 toys and 100 bicycles.

Garrett, his sister Elise, and his parents, Dean and Kathy Russell, loaded the toys into a truck and drove to Grand Forks to distribute them to the children there. Lutheran Social Services of Grand Forks held a festival on Saturday, June 14, 1997, at which Garrett gave away most of the toys to the 1,200 children who attended. The following day, Garrett and his family gave the rest of the toys away as they visited the homes of families who had lost almost everything they owned.

Garrett has received praise from many people since he began his campaign to brighten the spirits of the children of Grand Forks, especially from his classmates and from the people who benefited from his endeavors. The Midland Daily News quoted his friend, 7-year-old Anna Brown, who said, "I think it was generous of him because most kids don't start a campaign just because they see something on the news." Grand Forks resident Judy Holweger, whose son, Joel, received a bicycle at the festival, said, "It really lifts these kids' spirits. They've lost a lot." Garrett's schoolmate, Claire Liang, may have put it best when she said, "Not everyone has a big heart like Garrett."

We can all take inspiration from Garrett Russell's example of generosity and selflessness. I know my colleagues join me in commending Garrett for his outstanding accomplishments, and in wishing the people of Grand Forks, as well as all those affected by the flooding this spring, a speedy and complete recovery.●

KIRSTEN FROHNMAYER

● Mr. SMITH of Oregon. Mr. President, I rise today to pay tribute to the remarkable life of Kirsten Frohnmayer. Kirsten, the daughter of University of Oregon president Dave Frohnmayer and his wife Lynn, died last week after a courageous battle with Fanconi anemia, a rare genetic disease that also claimed the life of her sister, Katie.

Kirsten lived much of her 24 years on Earth with the knowledge that she was battling a vicious disease. Yet she never gave up, and she never allowed herself to wallow in despair. Rather, as her family and friends have testified, she maintained an optimistic spirit that inspired countless men, women, and children. Kirsten also willingly volunteered to undergo experimental medical procedures, in hopes that others with the same disease might benefit from what doctors learned through the procedure.

Mr. President, the Eugene Register Guard recently published an eloquent tribute to Kirsten which contains her own inspiring words. I ask that this tribute be printed in the RECORD immediately following my remarks.

Mr. President, let me conclude by simply saying that the entire State of

Oregon joins with me in extending our thoughts and prayers to the entire Frohnmayer family.

The tribute follows:

[From the Eugene Register Guard, June 23, 1997]

KIRSTEN

In her graduation speech at South Eugene High School six years ago this month, Kirsten Frohnmayer said: "My family jokes that by having this serious health problem, we provide an important community service. We remind people that things in their own lives may not be as bad as they seem."

That was no joke. Following the joys and sorrows of the Frohnmayer family has been a community activity here for more than two decades. Their lives are at least more instructive than soap operas. Kirsten's own story, her cheerfully determined battle against a mysterious disease with a strange name and a lethal record, has been particularly gripping.

But not all stories have happy endings. This one is particularly sad because all of us were rooting so hard, hoping against hope. The community genuinely grieves with the Frohnmayers, as in some degree does the whole state.

At 24, mentally and spiritually Kirsten had done more living than many people twice her age. She had an immense capacity for life. Partly because of her disease, she had a keen appreciation for each day's possibilities.

Her positive outlook calls to mind the obituary editorial famed Kansas editor William Allen White wrote 76 years ago after his own 16-year-old daughter was killed in a freak riding accident: "Her humor was a continual bubble of joy. . . . No angel was Mary White, but an easy girl to live with, for she never nursed a grouch five minutes in her life."

On the list of personal tragedies to which humankind is vulnerable, the death of a child must rank at the top. It does not matter whether the child is struck by a limb while riding her horse or is worn down over many years and finally defeated by a vicious disease; the loss is tremendously hard to bear.

Hearts go out to David and Lynn Frohnmayer and to Kirsten's three remaining siblings. But we know, too, that they will manage, because they are blessed with intelligence and strength of spirit—and because they understand the wisdom of what Kirsten told her classmates at the close of her remarks in 1991:

"A final thought I'd like to share with you tonight is my belief that sometimes we should live for the day. Too often life consists of anticipation of the future or regrets about the past. But we can't change the past, and we don't know what the future will hold. So, at least some of the time, we should concentrate on the present. Whatever path you've chosen, whether you're talking about college, a job, volunteer work, or family, you're talking about life and life must be fun. Find the fun in life, for as Ferris Bueller said on his day off, 'life moves pretty fast, and if you don't stop and look around once in a while, you are going to miss it.'

"So . . . I hope that you will remember to appreciate and protect what you have, be optimistic and constructive in the face of adversity, and stop to smell the roses. Good night and good luck."●

TAX RELIEF FOR WORKING FAMILIES

● Mrs. MURRAY. Mr. President, today the Senate completed action on S. 949, the Revenue Reconciliation Act of 1997, legislation implementing the tax relief provisions from the historic bipartisan balanced budget agreement. I support this legislation because it does provide real tax relief and adheres to the balanced budget agreement, which we worked hard to achieve. American families need this tax relief and they need our continued commitment to a balanced budget.

I have listened to the concerns of many of my colleagues regarding this legislation and the benefits for working families. There is no disputing the fact that this legislation does benefit upper income families, but it also benefits working families and the tax cuts are not at the expense of vital, investment programs. I have heard a great deal about the inequities in this legislation and I supported the Daschle substitute which would have eliminated many of these inequities. But, I do think it is unfair to make the criticism without examining the entire balanced budget agreement and the tax relief adopted in 1993 for struggling, working families. The bottom line is that working families will benefit from estate tax relief, capital gains tax reductions, education investment tax credits, a per child tax credit and expanded IRAs.

Beyond taxes, my colleagues must remember that the balanced budget agreement was not only about tax relief, but it was also about helping working families by allocating additional resources for health care, education, environmental protection, and nutritional assistance. It also protected Social Security and Medicare for our Nation's senior citizens. Before weighing any inequities, let's make sure we examine the complete picture.

The balanced budget agreement, which this body adopted on June 5, 1997, calls for a significant investment in education. The agreement assumes additional Federal funding for important programs aimed at improving access to quality education for our children. I can assure my colleagues that working families will benefit from improved educational opportunities for their children. Quality education is one of the major priorities for many of the constituents that I talk to in Washington State. And again, there are education tax incentives which will help middle class working families who are facing escalating tuition and higher education costs. The Hope tax credits and the permanent extension of section 127 employer-provided educational assistance tax exemption are the kind of tax relief that my constituents have endorsed.

There is no doubt that this legislation can and should be perfected. We can work to target more relief to the middle class and I will be seeking these changes in conference. I am also hopeful we guarantee that these tax cuts do not result in an explosion in the deficit. I will not sit by and watch our deficit run out of control. When I first came to the Senate in 1993, the deficit was close to $300 billion annually. For 1997, the Congressional Budget Office has estimated that our deficit could be as low as $70 billion. This was not done without some pain and sacrifice. It is imperative that we stay the course and maintain a balanced budget well after 2002.

Now that the Senate has completed action on part II of the budget agreement, I sincerely hope that every effort will be made to correct the problems with S. 947, the spending reconciliation legislation. The Medicare provisions added by the Senate Finance Committee go well beyond protecting Medicare and will jeopardize access to health care for millions of low income senior citizens. I supported a balanced budget agreement that included constraints on spending and tax relief. It is imperative that we enact both parts of the bi-partisan balanced budget agreement, and I will be making every effort to improve S. 947 in conference and I will continue to oppose efforts that seek to undermine the historic, bipartisan balanced budget agreement.●

HAPPY FOURTH OF JULY HOLIDAY

● Mr. BENNETT. Mr. President, as we prepare to celebrate America's national holiday, I would like to take a moment and pay tribute to the founders of our country. James Madison, in particular, is one of my heroes. I didn't know much about James Madison until I went to college. I went to the University of Utah and majored in political science. I became acquainted with James Madison under the direction of G. Homer Durham, who was chairman of the political science department at the University of Utah. He had a very radical notion about education. He said the most important course in the political science department was political science 1. And he said, "Since I am the department head it follows that I should teach the department's most important course." So as an 18-year-old freshman I sat at the feet of Homer Durham and learned about the Constitution and James Madison. I read the Federalist Papers and began a lifelong love affair with political theory and particularly the political theory that undergirds America starting with Thomas Jefferson, James Madison, and the Constitutional Convention.

As we approach the Fourth of July holiday, I am reminded of another important item which we all cherish: the American flag. The flag of the United States is a unique symbol of national unity and represents the values of liberty, justice, and equality that make this Nation an example unmatched throughout the world. The American flag is recognized around the world as an icon of freedom, representing all that we hold dear as citizens of the United States. This preeminent symbol of our Nation has flown in every conflict where American blood has been threatened and shed, and will always deserve our unbending respect and protection.

I rise today to support a bill which protects these two sacred items: the Constitution and the American flag. Many of my Republican colleagues advocate passing a constitutional amendment to prohibit flag desecration. I admire and agree with their intent to show proper respect to our flag, but I disagree with their belief that a new constitutional amendment banning flag burning is the best way to protect the flag and punish flag burners. To this end I, along with Senator McCONNELL, introduce legislation which will successfully and legally prevent the desecration of our national symbol.

Our bill provides for the imprisonment and fining of those who damage an American flag intending to incite a breach of the peace. It also punishes anyone who steals a flag belonging to the Federal Government or a flag displayed on Federal property. In a review of our bill, senior constitutional legal experts at the U.S. Library of Congress stated that if enacted, the bill would withstand Supreme Court constitutional scrutiny. I agree with this analysis and believe it is possible to punish the despicable behavior of flag desecration, while still preserving the stability of a document that has served us well for over 200 years.

With these comments, I wish my colleagues a happy Fourth of July holiday. May we always remember the liberties and blessings which are ours due to the sacrifice and inspiration of our American patriots.•

HONG KONG REVERSION

• Mr. GLENN. Mr. President, next week the eyes of the world will be focused on Hong Kong when the British dependent territory reverts to Chinese control. The end result of a negotiated agreement between the United Kingdom and China, the reversion itself is widely accepted and not a matter of controversy. Nevertheless, how China will handle the dynamic and thriving territory of Hong Kong in the near and longer term future is a matter of great interest, and of considerable difference of opinion.

I count myself among those who are cautiously, I underscore cautiously, optimistic about the future of Hong Kong. The principle reason for my cautious optimism is a belief that, in this area, China will be guided primarily by consideration of its economic self interest. Many have likened Hong Kong to the goose that laid the golden egg. That characterization is well deserved. Simply put, China has an enormous stake in continued economic growth and prosperity in Hong Kong. Over the last several years, economic growth in Hong Kong has averaged 5 to 6 percent a year; Hong Kong is now the eighth largest trader in the world; and its GDP of almost $24,000 per capita exceeds that of several western industrialized nations. Hong Kong is an international business and financial center. The Hong Kong and Chinese economies are already intertwined and codependent. Hong Kong is a source of substantial investment in China and a conduit for Chinese exports around the world.

To a large extent the Chinese leadership has staked its legitimacy and its future on the ability to bring growth to China's economy and an improving standard of living to its people. Over the next 5 years China will have to find jobs for an estimated 216 million new or displaced workers. Reason would argue that China simply cannot afford to substantially tamper with the economic growth engine that is Hong Kong.

In addition to the negative economic consequences of mishandling the Hong Kong reversion, China has other incentives to try hard to make things work. China has advertised the Hong Kong one country-two systems principle as a model for any potential future discussions on reunification of Taiwan with the mainland. While it's still unclear whether or not this is even a feasible proposition, you can be sure if things do not go well in Hong Kong, any possibility of talks with Taiwan on reunification will continue to remain remote for the foreseeable future. Finally, the success or failure of the Hong Kong transition will have a substantial impact on United States-Chinese bilateral relations, as well as on the worldwide perception of China.

Having outlined the reasons for my optimism, I must now explain why I temper that optimism with a healthy dose of caution. I am not sure, Mr. President, that the leadership in Beijing understands what it takes to nurture the robust and thriving socioeconomic system of Hong Kong, particularly the relationship between the political and economic spheres. I am not sure that the Chinese leadership will necessarily favor their economic interests over political or perceived security interests, if the two sets of interests collide.

The record of the period of preparation for reversion is mixed. Hong Kong continues to thrive economically and business confidence remains high. China has agreed to Hong Kong's continued membership in international institutions as a separate entity and to the continuation of Hong Kong's experienced and professional civil service. On the other hand, China's decision to replace the elected legislature, Legco, with an appointed provisional legislature and certain statements by Chinese officials concerning definition of freedom of the press have caused considerable unease among Hong Kong's democratic political organizations, in the United States and in Britain.

The great unanswered question is whether the Chinese leadership will be willing and able to effectively implement the one country-two systems model, preserving Hong Kong's economic prosperity as well as the political freedoms the people began to enjoy under British rule. If alternatively, they begin to roll back the political freedoms and individual liberties, in my view, the economy will not be immune, and they may well end up sacrificing that fabled golden goose.

We may not know the answer to that question for several years. As I said earlier, the eyes of the world will be on Hong Kong next week. But, those eyes will not be taken off Hong Kong on July 2. You can be sure the world will continue to watch China's stewardship of Hong Kong with intense interest for many years.

And, we shouldn't just watch. The United States should do everything it can to support the people of Hong Kong. The United States should encourage China to see and understand that its own interests are best served by maintaining true autonomy for Hong Kong. Anything less would be a failure.•

WILL ISEA PART WAYS WITH THE NEA?

Mr. GRASSLEY. Mr. President, I know that all of us agree there is no greater national treasure this Nation has than our children. Nurturing and encouraging them to live up to their potential is one of the most important things we can do. That is why our educational system must be the best it can be and our Nation's educators must be the best they can be. But there is something that I believe all the members of congress need to be aware of because it may have a profound and lasting effect on educators throughout the country. I am referring to the ongoing merger talks between the National Education Association and the American Federation of Teachers.

This matter is of prime importance to NEA members across the United States and I know it is of tremendous importance to the Iowa State Education Association. It is disturbing that many members of the NEA are not aware of this because this is not just joining of two teachers' organizations. Given the AFT's affiliation with the AFL–CIO and the apparent willingness of the NEA to accede to the demands of the AFT. Should the merger go through, this new organization would be a member of the AFL–CIO, which could have tremendous policy implications for the largest organization representing educators. For that reason, I urge other members of congress to read the article I am submitting for consideration.

The article follows:

WILL ISEA PART WAYS WITH THE NEA?

(By James Flansburg)

The Iowa State Education Association is thinking about dropping its affiliation with the National Education Association.

At ISEA's annual meeting in Ames in early April, a number of members said they fear that the NEA is moving toward a militant unionism that could severely harm professionalism in teaching.

The course being followed by the NEA would take away the independence of local and State affiliates, while, at the same time, putting them deeply into partisan politics and formal efforts to control local school boards and policies.

ISEA represents about 35,000 Iowa teachers, and a vast majority of them have misgivings over terms of a proposed merger between NEA and the late Albert Shanker's American Federation of Teachers, AFL–CIO.

Critics of the proposed merger contend that, more than an endeavor to improve the lot of teachers, it's a surreptitious effort aimed at strengthening the labor movement and rebuilding the Democratic Party.

NEA has a membership of about 2.2 million and AFT about 800,000, but the merger terms being pushed by NEA's national leaders endorse AFT's way of doing business instead of the more moderate approach of the traditional NEA.

An indication of that came in a February speech by NEA President Robert Chase at a National Press Club luncheon.

"I came here this afternoon to introduce the new National Education Association—the new union we are striving to create in public education," he said.

Chase called for "building an entirely new union-management relationship in public education."

No one knows more than teachers what schools need, he said: "higher academic standards; stricter discipline; an end to social promotions; less bureaucracy; more resources where they count, in the classroom; schools that are richly connected to parents and to the communities that surround them."

"To this end," he continued "we aim not so much to redirect the NEA, as to reinvent it.

"The new direction . . . is about action. It is about changing how each of our local affiliates does business, changing how they bargain, changing what issues they put on the table, changing the ways they help their members to become the best teachers they can be."

The union's goal? "An agreement that allows teachers, in effect, to co-manage the school district."

Terms of the NEA–AFT merger would make the new organization a member of the AFL–CIO, with the power to override the concerns of local and State affiliates.

Such things as student welfare and professional teachers' concerns and local school conditions could be lost in the dust of battle over union politics, local and national, and wages, hours and working conditions.

Local concerns would come behind the union's national priorities. A community might find itself held hostage by national union goals that have nothing to do with the community itself.

The new national organization would have the power to take control of local and state organizations for refusing to follow the national organization's policy and political lines.

In effect, it would have the power to trample the professional and ethical considerations that have led the huge majority of teachers in Iowa and the nation to join a professional association such as ISEA rather than a local of the AFT.

The Iowa and New Jersey state affiliates of NEA have been the most vocal critics of the merger terms, which seem basically dictated by the AFT's power sources in New York and other big urban centers.

Although a substantial majority of teachers across the country may oppose merger terms, top NEA officials and staffers have the power to bring it off.

That's because a number of state organizations are financially dependent on NEA and have little choice except to do its bidding.

ISEA, in contrast, is not financially dependent on NEA. But it might have to drop its affiliation with NEA to avoid being taken over by the newly merged organization.

So the ISEA has no alternative but to think about and start making contingency plans to cancel its NEA affiliation.

The details of that dominated a number of private discussions at the ISEA's delegate assembly at the Hilton Coliseum at Ames in April.

In most places, the merger seems a well-kept secret.

The idea is to keep the implications of the merger from the teachers in the states where local organizations and their leaders are beholden to NEA and AFT leaders.

ISEA has kept Iowa teachers up to date on the merger talks, and has advocated that other state organizations mirror the effort.

"The more information that comes out on the proposed merger, the more the membership seems disinclined to do it," said one person who has been following the merger talks.

It's probably not hard to find people who would dismiss all this as intramural arm wrestling between two unions.

That may well be. For the public, it may not make any difference which view prevails.

I've fought with ISEA over the years, and have been soundly denounced by dozens of teachers for dismissing it as little more than a trade union.

Whatever. If I were an Iowa teacher, I'd be against the merger because it surely would take away all hopes of the organization ever becoming a professional association that cared about anything except wages and hours.

On a practical basis, moreover, a merger would take away the implicit threat that many teachers' groups now are able to use.

Deal with the moderate ISEA or its equivalent, they lead the school boards and others to believe, or you may end up with the bloodletting unionism of the AFT.

On the other hand, I'd choose the AFT's militance before I'd relegate Iowa teachers to the kind of second-class citizenship—lots of respect and no money and no say about their working conditions—they suffered under before they acquired the ability to collectively bargain with the school districts about 25 years ago.●

THE BALANCED BUDGET ACT OF 1997 AND MEDICARE

● Mr. DODD. Mr. President, with Wednesday's passage of the Balanced Budget Act of 1997, the Senate with some trepidation, has taken a number of courageous steps toward ensuring long-term solvency of the Medicare Program.

Specifically, I believe that the adoption of means testing of Medicare premiums moves us in the right direction toward the long-term solvency of this critically important program. It is important to remember that this provision will affect only those seniors with individual annual incomes over $50,000 and married seniors with incomes above $75,000, on a sliding-scale basis. While some tried to portray this provision as a retreat from protecting our Nation's seniors, I view it as a step toward ensuring that our seniors will be well served for a long time to come. The adoption of this provision simply says that those Americans who can afford to contribute a little more for their health care should do so. Such a measure is surely needed if we are to sustain the safety net that Medicare provides to millions of senior citizens.

While I supported that particular part of the bill, I must share my deep concern over other provisions that I feel go too far. I find particularly unacceptable the provision which will raise the age at which individuals are eligible to receive Medicare from 65 to 67. The likelihood of these seniors finding affordable private insurance is slim—many will be forced to forego coverage. At a time when the number of uninsured individuals in this country is growing and employer-sponsored insurance is declining, I find it astonishing that some would choose to exacerbate the current problem further with this measure.

I also opposed a provision that will require the poorest and sickest seniors to pay up to $700 a year in home health costs. One-quarter of the home health users are over 85; 43 percent have incomes below $10,000. Forcing the most vulnerable Medicare beneficiaries to bear this significant financial burden under the guise of addressing the long-term financial challenges of this program is indefensible.

Because of these concerns, I was unable to support this bill. It is my sincere hope, however, that these issues will be resolved in conference and that ultimately we will pass into law a measure that truly will protect our Nation's seniors and the vital safety net that Medicare provides to them.●

AN INDEPENDENCE DAY TRIBUTE

● Mr. SESSIONS. Mr. President, I rise today so that this great body may momentarily reflect upon the importance of our upcoming Fourth of July celebration.

Over 200 years ago, this country began a historic experiment. Our Founding Fathers were told it would fail. Yet, after many trials and tribulations, the United States of America stands, it can fairly be argued, as the greatest Nation in the history of the world. Independence Day is our annual celebration of this achievement.

Yet, we must have the courage and honesty to admit that we are not all that we hope to be. We have much work to do, and we have many dreams to make a reality. This is our American journey. And let us not forget the debt we owe to those who sacrificed to make this journey possible, the men and women who have stood sentry as our country marched to greatness. Today, they protect the finest democracy the world has ever known and keep watch around the globe. They are a beacon of hope, freedom, and justice to all the world's nations. Today, we trumpet the personal courage of our forefathers and the continuing sacrifices of the members of our armed services.

Who are these veterans and service members? We all know them. He was your friend in school. She was the kid next door. You go to church with them, and you pass them in the grocery store. They are Americans just like you and me, but when our Nation called, they willingly put themselves in harm's way. We asked them to serve their country and they obliged us. They have made this celebration possible.

Many of these regular Americans found themselves in extraordinary circumstances. They were only expected to do their duty, but they found the strength to do more. It is for these uncommon displays of valor that we have reserved the Congressional Medal of Honor. It is the highest honor which we can bestow on a member of the Armed Forces, and it is but a small demonstration of our gratitude for their acting above and beyond the call of duty.

The men who have earned this award do not ask for recognition or acclaim. They believe they were only doing their jobs. They consider themselves ordinary soldiers, sailors, and airmen. But, we call them heroes. I dedicate this day to them, and I humbly thank them for their special sacrifice to guarantee the privileges we too often take for granted.

I am proud to say that Alabama is home to 27 of these great Americans. Seven of these Alabama Congressional Medal of Honor winners are still alive today. Henry Eugene "Red" Erwin, Robert Lewis Howard, William Robert Lawley, Jr., Ola Lee Mize, Michael J. Novolsel, James Michael Sprayberry, and Harold Edward "Speedy" Wilson all have different heroic tales but common heroic traits. They steeled themselves with tremendous gallantry and fought without regard for their safety. From where did this courage come? For some, it was their loyalty to a fellow serviceman. For others, it was the strength of their convictions. And most certainly, it was done with God's help.

Let us today take a moment to congratulate each veteran we know for a job well done and come before them with a spirit of the humblest gratitude as we enjoy the bounty of this great, independent Nation. For we are the Nation that people in every corner of the world wish to call their own. We are a people who will not stop short of greatness, a nation who earns her prosperity with the labor of her citizens, and the land of opportunity whose hand extends for both rich and poor alike. We need not only be proud of our veterans but also of every citizen who holds the same ideals and dreams for America. She is great because of the businessmen who fuel her economy, the religious leaders who guide her morals, the farmers who provide her bountiful sustenance, and the many other Americans who are free to fulfill their dreams each day.

God bless those who have stood and fought on her behalf and, most of all, God bless America.

TRIBUTE TO JAMES S. TODD, M.D.

• Mr. FRIST. Mr. President, today, I rise to pay tribute to Dr. James S. Todd, executive vice president and chief executive officer of the American Medical Association from 1990 until 1996.

Dr. Todd was a dynamic leader and advocate for physicians and patients throughout the country. His advice and example were invaluable to lawmakers in Washington and to his peers throughout the Nation.

He steered the AMA through a time of stress and change in American medicine, and made great strides in preparing the AMA to lead the medical profession into the next century. But, more than anything, Dr. Todd loved his profession. He called medicine "the most demanding, regarding, and enjoyable profession there could possibly be."

One of Dr. Todd's many accomplishments included guiding the American Medical Association through the implementation of a dramatic revision in the Medicare payment system. His efforts changed the old "reasonable and customary fee" basis to a system that takes into account the resources that doctors bring to their profession, including education, and training.

Dr. Todd worked aggressively with a coalition of companies providing professional liability insurance for physicians, on ways to curb the escalating cost of malpractice insurance. He was deeply involved in drafting the guidelines for the practice of various medical specialties to reduce the number of errors committed by doctors.

As executive vice president, Dr. Todd also oversaw preparations for the establishment of the National Patient Safety Foundation. Its chief mission is to protect patients by identifying and correcting errors in medical systems, notably in the hospital system.

The physicians and patients of America alike have lost a friend and champion. We will miss Dr. Todd's spirit, integrity, and love for medicine.

Born in 1931, Dr. Todd graduated cum laude from Harvard College and Harvard Medical School. He interned and served his residency in surgery at Columbia Presbyterian Medical Center in New York City, becoming chief resident in 1963. He was a Diplomate of the American Board of Surgery and a Fellow of the American College of Surgeons. He was in private practice many years in New Jersey.

Dr. Todd, who retired in 1996 after 6 yeas as executive vice-president, was first elected a member of the board of trustees in 1980. He became senior deputy executive vice president in 1985, and was named executive vice president in 1990.

Dr. Todd is survived by his wife, Marjorie Patricia Thorn Todd, and his son, Kendall Scott Todd.•

CHANGES TO THE BUDGET RESOLUTION DISCRETIONARY SPENDING LIMITS, APPROPRIATE BUDGETARY AGGREGATES, AND APPROPRIATIONS COMMITTEE ALLOCATION

• Mr. DOMENICI. Mr. President, section 202 of House Concurrent Resolution 84, the concurrent resolution on the budget for fiscal year 1998, requires the chairman of the Senate Budget Committee to adjust the discretionary spending limits, the appropriate budgetary aggregates and the Appropriations Committee's allocation contained in the most recently adopted budget resolution—in this case, House Concurrent Resolution 84—to reflect additional new budget authority for an increase in the maximum amount available to the Secretary of the Treasury pursuant to section 17 of the Bretton Woods Agreement Act, as amended from time to time—New Arrangements to Borrow.

Section 202 of House Concurrent Resolution 84, the concurrent resolution on the budget for fiscal year 1998, requires the chairman of the Senate Budget Committee to adjust the discretionary spending limits, the appropriate budgetary aggregates and the Appropriations Committee's allocation contained in the most recently adopted budget resolution—in this case, House Concurrent Resolution 84—to reflect additional new budget authority and outlays for an appropriation for arrearages for international organizations, international peacekeeping, and multilateral development banks.

I hereby submit revisions to the nondefense discretionary spending limits for fiscal year 1998 contained in section 201 of House Concurrent Resolution 84 in the following amounts:

	1998
Budget authority:	
Current nondefense discretionary spending limit	$257,857,000,000
Adjustment	3,741,000,000
Revised nondefense discretionary spending limit	261,598,000,000
Outlays:	
Current nondefense discretionary spending limit	286,445,000,000
Adjustment	13,000,000
Revised nondefense discretionary spending limit	286,458,000,000

I hereby submit revisions to the budget authority, outlays, and deficit aggregates for fiscal year 1998 contained in section 101 of House Concurrent Resolution 84 in the following amounts:

	1998
Budget authority:	
Current aggregate	$1,386,700,000,000
Adjustment	3,741,000,000
Revised aggregate	1,390,441,000,000
Outlays:	
Current aggregate	1,372,000,000,000
Adjustment	13,000,000
Revised aggregate	1,372,013,000,000
Deficit:	
Current aggregate	173,000,000,000
Adjustment	13,000,000
Revised aggregate	173,013,000,000

I hereby submit revisions to the 1998 Senate Appropriations Committee budget authority and outlay allocations, pursuant to section 302 of the Congressional Budget Act, in the following amounts:

	1998
Budget authority:	
Current Appropriations Committee allocation	$788,769,000,000
Adjustment	3,741,000,000
Revised Appropriations Committee allocation	792,510,000,000
Outlays:	
Current Appropriations Committee allocation	824,665,000,000
Adjustment	13,000,000
Revised Appropriations Committee allocation	824,678,000,000●

ORDER OF PROCEDURE

Mr. BAUCUS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONGRATULATING SENATOR ENZI

Mr. LOTT. Mr. President, I want to observe what an excellent job the Presiding Officer has done over the last 2 days. He was there until the wee hours, or late hours last night, and has been in the chair most of the day. The Senator from Wyoming has done an excellent job. We appreciate his work.

ORDER OF PROCEDURE

Mr. LOTT. Mr. President, I announce when the Senate returns following the Independence Day recess, the Senate will return to consideration of the Department of Defense authorization bill. I want all Senators to know in advance it is my intent to complete action on that bill—the DOD authorization bill—that week, and I intend to stay with it even though it means votes on Friday, July 11, and even on Saturday, if necessary.

We have a lot of work to do. Earlier this year, because we were in a new Congress, some of the committees were not able to get their bills out, but we now have a lot of bills that are coming to the floor. The appropriations bills will be coming in rapid order. We have bills such as the FDA reform legislation, wildlife refuge bill, Amtrak reform, a whole number of bills. We are just going to have to work on Fridays, and we should begin, certainly, with the Department of Defense authorization bill.

In order to expedite action on the bill, I want any amendments that are going to be offered to be delivered to the committee. We would like for them to be given to the Armed Services Committee as soon as possible next week. The Armed Services staff will work through the recess to clear the amendments of any Senators that do have amendments they want to offer. So we urge Senators to make us aware of the amendments they have.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1998

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate turn to S. 936, the Department of Defense authorization bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

> A bill (S. 936) to authorize appropriations for fiscal year 1998 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

The Senate proceeded to consider the bill.

CLOTURE MOTION

Mr. LOTT. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair, directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

> We the undersigned Senators in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on calendar No. 88, S. 936, the National Defense Authorization Act for fiscal year 1998: Trent Lott, Strom Thurmond, Jesse Helms, Pete Domenici, R. F. Bennett, Dan Coats, John Warner, Phil Gramm, Thad Cochran, Larry E. Craig, Ted Stevens, Tim Hutchinson, Jon Kyl, Rick Santorum, Mike DeWine, and Spencer Abraham.

Mr. LOTT. Mr. President, we will go to the DOD authorization bill on Monday, July 7. Senators who have amendments are urged to offer them during the day on Monday. However, no votes will occur during Monday's session of the Senate.

Mr. President, I ask unanimous consent that the cloture vote occur at 2:15 p.m. on Tuesday, July 8, and the mandatory quorum of rule XXII be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Under rule XXII, all first-degree amendments must be filed with the clerk by 1 p.m. on Monday, July 7. All second-degree amendments must be filed just prior to the cloture vote on Tuesday.

UNANIMOUS-CONSENT AGREEMENT—H.R. 2014

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate now resume consideration of H.R. 2014, the Tax Fairness Act and that the Senate insist on its amendment, request a conference with the House on the disagreeing votes, and the Chair be authorized to appoint conferees on the part of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROTH. Mr. President, I did not hear that. Are we talking about the appointment of conferees?

Mr. LOTT. We are, Mr. Chairman.

Mr. ROTH. Mr. President, reserving the right to object, I suggest that I would like to have an opportunity to confer with the leader on this matter.

Mr. LOTT. Mr. President, before I resume my unanimous-consent request, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Mr. President, I believe we had gotten unanimous consent that the Senate insist on its amendment and request a conference with regard to H.R. 2014, and to authorize appointment of conferees on the part of the Senate. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

There being no objection, the Chair appointed, from the Committee on Finance, Mr. ROTH, Mr. LOTT, and Mr. MOYNIHAN; from the Committee on Budget, Mr. DOMENICI, Mr. GRASSLEY, Mr. NICKLES, Mr. LAUTENBERG, and Mr. CONRAD, conferees on the part of the Senate.

UNANIMOUS-CONSENT AGREEMENT—H.R. 2015

Mr. LOTT. I now ask unanimous consent the Senate resume consideration of H.R. 2015, the Balanced Budget Act, and the Senate insist on its amendment and request a conference with the House on disagreeing votes, and the Chair be authorized to appoint conferees on the part of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair appointed, from the Committee on the Budget, Mr. DOMENICI, Mr. GRASSLEY, Mr. NICKLES, Mr. GRAMM, Mr. LAUTENBERG, Mr. CONRAD, and Mrs. BOXER; from the Committee on Agriculture, Nutrition, and Forestry, Mr. LUGAR, Mr. HELMS, and Mr. HARKIN; from the Committee on Banking, Housing, and Urban Affairs, Mr. D'AMATO, Mr. SHELBY, and Mr. SARBANES; from the Committee on Commerce, Science, and Transportation, Mr. MCCAIN, Mr. STEVENS, and Mr. HOLLINGS; from the Committee on Energy and Natural Resources, Mr. MURKOSWKI, Mr. CRAIG, and Mr. BUMPERS; from the Committee on Finance, Mr. ROTH, Mr. LOTT, and Mr. MOYNIHAN; from the Committee on Governmental Affairs, Mr. THOMPSON, Ms. COLLINS, and Mr. GLENN; from the Committee on Labor and Human Resources, Mr. JEFFORDS, Mr. COATS, and Mr. KENNEDY; and from the Committee on Veterans' Affairs, Mr. SPECTER, Mr. THURMOND, and Mr. ROCKEFELLER, conferees on the part of the Senate.

ORDER TO PRINT

Mr. LOTT. Mr. President, I ask unanimous consent the Senate amendment to H.R. 2014 be printed as passed.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nomination on the Executive Calendar, Calendar No. 122, 132, 138, 140 through 159, and all nominations placed at the Secretary's desk in the Air Force, Army, Coast Guard, Marine Corps, and Navy; I further ask unanimous consent that the nominations be confirmed, the motion to reconsider be laid on the table, and any statements relating to the nominations appear at this point in the RECORD, and the President be immediately notified of the Senate's action and the Senate then return to legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

THE JUDICIARY

Alan S. Gold, of Florida, to be U.S. District Judge for the Southern District of Florida.

DEPARTMENT OF LABOR

Kathryn O'Leary Higgins, of South Dakota, to be Deputy Secretary of Labor.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Richard J. Tarplin, of New York, to be an Assistant Secretary of Health and Human Services.

IN THE AIR FORCE

The following-named officer for appointment in the Reserve of the Air Force to the grade indicated under title 10, United States Code, section 12203:

To be major general

Brig. Gen. Wallace W. Whaley, 1451

IN THE ARMY

The following U.S. Army Reserve officers for promotion in the Reserve of the Army to the grades indicated under title 10, United States Code, sections 14101, 14315 and 12203(a):

To be brigadier general

Col. Herbert L. Altshuler, 8024

The following-named officer for appointment in the U.S. Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Henry T. Glisson, 2048

The following-named officers for promotion in the Regular Army of the United States to the grade indicated under title 10, United States Code, sections 611(a) and 624:

To be major general

Brig. Gen. Phillip R. Anderson, 3613
Brig. Gen. Burwell B. Bell III, 7158
Brig. Gen. Bryan D. Brown, 2565
Brig. Gen. Julian H. Burns, Jr., 6198
Brig. Gen. Michael T. Byrnes, 3271
Brig. Gen. John S. Caldwell, Jr., 8372
Brig. Gen. Reginal G. Clemmons, 8649
Brig. Gen. George F. Close, Jr., 3767
Brig. Gen. Carl H. Freeman, 0411
Brig. Gen. Joseph R. Inge, 8482
Brig. Gen. Philip R. Kensinger, Jr., 0022
Brig. Gen. Donald L. Kerrick, 7369
Brig. Gen. Larry J. Lust, 3201
Brig. Gen. John J. Marcello, 0589
Brig. Gen. Timothy J. Maude, 3591
Brig. Gen. Dan K. McNeill, 4203
Brig. Gen. Paul T. Mikolashek, 2507
Brig. Gen. Mary E. Morgan, 3594
Brig. Gen. Bruce K. Scott, 8736
Brig. Gen. Jerry L. Sinn, 7044
Brig. Gen. James R. Snider, 6531
Brig. Gen. Edward Soriano, 3068
Brig. Gen. Julian A. Sullivan, Jr., 0245
Brig. Gen. John D. Thomas, Jr., 4220
Brig. Gen. Howard J. von Kaenel, 8603
Brig. Gen. William S. Wallace, 1708
Brig. Gen. William E. Ward, 9000
Brig. Gen. David S. Weisman, 2064

The following-named officer for appointment in the U.S. Army to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. David K. Heebner, 6059

The following Army National Guard of the United States officers for appointment in the Reserve of the Army to the grade indicated under title 10, United States Code, section 12203:

To be major general

Brig. Gen. Darrel P. Baker, 3645
Brig. Gen. Murrel J. Bowen, Jr., 3419
Brig. Gen. John D. Havens, 8278
Brig. Gen. Eugene S. Imai, 4043
Brig. Gen. Thomas D. Kinley, 4548
Brig. Gen. Federico Lopez III, 0744
Brig. Gen. Joel W. Norman, 9456
Brig. Gen. John C. Rowland, 0461

To be brigadier general

Col. John C. Atkinson, 8232
Col. John A. Bathke, 6037
Col. William H. Hall, 6256
Col. Dennis A. Kamimura, 1117
Col. Eugene P. Klynoot, 5848
Col. Dennis D. Krsnak, 8983
Col. Benny M. Paulino, 5606
Col. James L. Pruitt, 4524
Col. Edwin H. Roberts, Jr., 0530
Col. Charles L. Rosenfeld, 2361
Col. John R. Scales, 7861
Col. John A. Tymeson, 5473
Col. Brian D. Winter, 0493

The following-named officer for appointment in the U.S. Army to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Richard A. Chilcoat, 0462

The following-named officer for appointment in the U.S. Army to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Thomas N. Burnette, Jr., 2524

The following-named officer for appointment in the U.S. Army to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Paul J. Kern, 5577

The following-named officer for appointment in the U.S. Army to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be general

Lt. Ben. Eric K. Shinesko, 3256

The following-named officer for appointment in the U.S. Army to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Robert S. Coffey, 3824

The following-named officer for appointment in the U.S. Army to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. John W. Hendrix, 7900

IN THE MARINE CORPS

The following-named officer for appointment in the U.S. Marine Corps to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Frank Libutti, 7862

The following-named officer for appointment in the U.S. Marine Corps to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. John E. Rhodes, 6880

IN THE NAVY

The following-named officers for appointment in the Reserve of the Navy to the grade indicated under title 10, United States Code, section 12203:

To be rear admiral

Rear Adm. (lh) William H. Butler, 0815
Rear Adm. (lh) Casey W. Coane, 8883
Rear Adm. (lh) William E. Herron, 9271
Rear Adm. (lh) Stephen T. Keith, 7895
Rear Adm. (lh) William J. Logan, 2986

The following-named officer for appointment in the U.S. Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be vice admiral

Rear Adm. Henry C. Griffin III, 4832

The following-named officers for appointment in the U.S. Navy to the grade indicated under title 10, United States Code, section 624:

To be rear admiral

Rear Adm. (lh) Timothy R. Beard, 3629
Rear Adm. (lh) David L. Brewer III, 8778
Rear Adm. (lh) Stanley W. Bryant, 0482
Rear Adm. (lh) Toney M. Bucchi, 9527
Rear Adm. (lh) William W. Copeland, Jr., 7826
Rear Adm. (lh) John W. Craine, Jr., 9037
Rear Adm. (lh) Robert E. Frick, 6699
Rear Adm. (lh) Paul G. Gaffney II, 0479
Rear Adm. (lh) Edmund P. Giambastiani, Jr., 83818
Rear Adm. (lh) John J. Grossenbacher, 5514
Rear Adm. (lh) James B. Hinkle, 6582
Rear Adm. (lh) Gordon S. Holder, 2235
Rear Adm. (lh) Martin J. Mayer, 0493
Rear Adm. (lh) Barbara E. McGann, 1961
Rear Adm. (lh) Charles W. Moore, Jr., 5696
Rear Adm. (lh) John B. Nathman, 6751
Rear Adm. (lh) William R. Schmidt, 6316
Rear Adm. (lh) Robert C. Williamson, 8427

The following-named officer for appointment in the U.S. Navy to the grade indicated under title 10, United States Code, section 624:

To be rear admiral (lower half)

Capt. Joseph W. Dyer, Jr., 0881

IN THE ARMY

The following-named officer for appointment in the U.S. Army to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. David J. Kelley, 7993

The following-named officer for appointment in the U.S. Army to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Randolph W. House, 7507

IN THE AIR FORCE, ARMY, COAST GUARD, MARINE CORPS, NAVY

Air Force nomination of Andrew J. Jorgensen, which was received by the Senate and appeared in the Congressional Record of May 15, 1997.

Army nominations beginning John A. Adams, and ending Kenneth M. Younger, which nominations were received by the Senate and appeared in the Congressional Record of January 9, 1997.

Army nominations beginning Robert T. Anderson, and ending Robert J. Wygonski, which nominations were received by the Senate and appeared in the Congressional Record of February 5, 1997.

Army nominations beginning Charles R. Bailey, and ending John L. Wydeven, which nominations were received by the Senate and appeared in the Congressional Record of May 15, 1997.

Army nominations beginning Chessley R. Atchison, and *Stephen E. Schless, which nominations were received by the Senate and appeared in the Congressional Record of May 15, 1997.

Army nominations beginning Robert R. Bottin, Jr., and ending Diane P. Rousseau, which nominations were received by the Senate and appeared in the Congressional Record of June 5, 1997.

Army nominations beginning Doreen M. * Agin, and ending Donald G. *Zugner, which nominations were received by the Senate and appeared in the Congressional Record of June 10, 1997.

Army nominations beginning Bret T. Ackermann, and ending Joan H. Zeller, which nominations were received by the Senate and appeared in the Congressional Record of June 10, 1997.

Coast Guard nominations beginning Catherine M. Kelly, and ending Ronald W. Reusch, which nominations were received by the Senate and appeared in the Congressional Record of February 27, 1997.

Coast Guard nomination of Richard W. Sanders, which was received by the Senate and appeared in the Congressional Record of May 15, 1997.

Marine Corps nomination of Gilda A. Jackson, which was received by the Senate and appeared in the Congressional Record of April 7, 1997.

Marine Corps nomination of Richard L. Songer, which was received by the Senate and appeared in the Congressional Record of May 15, 1997.

Marine Corps nominations beginning Robert E. Ballard, and ending Patrick K. Wyman, which nominations were received by the Senate and appeared in the Congressional Record of May 15, 1997.

Marine Corps nominations David J. Biow, and ending Andrew D. Zinn, which nominations were received by the Senate and appeared in the Congressional Record of June 2, 1997.

Marine Corps nomination of John M. Metterle, which was received by the Senate and appeared in the Congressional Record of June 10, 1997.

Marine Corps nomination of John J. Egan, which was received by the Senate and appeared in the Congressional Record of June 10, 1997.

Navy nomination of Timothy S. Garrold, which was received by the Senate and appeared in the Congressional Record of May 15, 1997.

KATHRYN O'LEARY HIGGINS

Mr. DASCHLE. Mr. President, I wholeheartedly endorse the confirmation of Kathryn O'Leary Higgins as Deputy Secretary of Labor. Kitty Higgins is the right person with the right experience at the right time. As chief of staff for former Labor Secretary Robert Reich, she showed that she knows how to pull the levers, she knows how to motivate people, she knows how the Labor Department works and she knows how to make the Department work for people.

I've known and admired Kitty Higgins for years. She is the kind of person we need more of in Government. She's intelligent and efficient and tenacious. She's idealistic and pragmatic. And, if that's not enough, she's from South Dakota. In fact, she is the highest-ranking South Dakotan in the administration.

Kitty Higgins has spent her entire career in public service. For the last 2 years, she has served as Assistant to the President and Cabinet Secretary in the White House. Before that, she was Bob Reich's chief of staff at Labor. She is a former administrative assistant to Congressman SANDER LEVIN and a former minority staff director for the Senate Labor and Human Resources Committee under Senator KENNEDY. In addition, she has served as the former assistant director for domestic policy during the Carter administration and a former Manpower specialist with the Department of Labor.

She understands the executive branch of Government, the House and the Senate. More importantly, she understands what each of us needs to be able to work in good faith with the others to get results.

There is one other chapter in Kitty Higgins life that I believe makes her the right person at the right time. Kitty Higgins started her working life at the Department of Labor as a clerk-typist. When her two sons were still young, her husband, Bill, died. She raised her sons as a single mother. She knows what it's like to be stretched thin between work and home. She understands the pressures that so many families are under today and she is determined to help alleviate those pressures for other working parents.

The national economy is the best its been in years. The deficit is down, interest rates are down. The stock market is up, as well as employment and business investment and home ownership and virtually every other economic indicator that ought to be up. But there are still people left out of this recovery. Making sure that working families benefit from this economic recovery—keeping the American dream alive—is the most important thing this Congress can do. And it is the most important thing the Labor Department can do. Kitty Higgins has the right qualities and the right background to help both institutions live up to that responsibility. I wish her the best of luck.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

AMENDING THE FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949

Mr. LOTT. Mr. President, I ask unanimous consent the Senate now proceed to consideration of Calendar No. 102, H.R. 173.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 173) to amend the Federal Property and Administrative Services Act of 1949, to authorize donation of surplus Federal law enforcement canines to their handlers.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. LOTT. I ask unanimous consent the bill be considered read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill appear at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 173) was read the third time, and passed.

ENERGY POLICY AND CONSERVATION ACT AMENDMENTS

Mr. LOTT. Mr. President, I ask unanimous consent the Senate now proceed to consideration of Calendar No. 77, S. 417.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 417) to extend energy conservation programs under the Energy Policy and Conservation Act through September 30, 2002.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. ENERGY POLICY AND CONSERVATION ACT AMENDMENTS.

The Energy Policy and Conservation Act is amended—

(1) at the end of section 154 by adding the following new subsection:

"(f) No later than October 1, 1997, the Secretary shall prepare a statement of policy on Strategic Petroleum Reserve development, maintenance and drawdown. The statement of policy shall evaluate the effect of sales of petroleum from the Strategic Petroleum Reserve under authorities other than those provided by this Act on the ability of the United States to fulfill its obligations under the international energy program. The statement of policy shall evaluate the effectiveness of the Strategic petroleum Reserve at reducing the impact of severe energy supply interruptions, in light of existing quantities of petroleum in the Strategic Petroleum Reserve, and the likelihood of purchases of additional petroleum for storage. The statement of policy shall set forth alternative strategies for drawdown and the criteria to be employed at the time of drawdown to select among such strategies. The statement of policy shall be published in the Federal Register and be subject to public comment, and may be prepared without regard to the requirements of section 553 of title 5, United States Code, section 501 of the Department of Energy Organization Act (42 U.S.C. 7191), and section 523 of this Act.";

(2) by amending section 166 (42 U.S.C. 6246) to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 166. There are authorized to be appropriated for each of fiscal years 1998 through 2000 such sums as may be necessary to implement this part.";

(3) at the end of part B of title I by adding the following new section:

"USE OF UNDERUTILIZED FACILITIES

"SEC. 168. (a) Notwithstanding section 649(b) of the Department of Energy Organization Act (42 U.S.C. 7259(b)), the Secretary is authorized to store in underutilized Strategic Petroleum Reserve facilities, by lease or otherwise, petroleum product owned by a foreign government or its representatives. Petroleum product stored under this section is not part of the Strategic Petroleum Reserve, is not subject to part C of this title, and notwithstanding any provision of this Act, may be exported from the United States.

"(b) Beginning on October 1, 2002, funds resulting from the leasing or other use of a Reserve facility under subsection (a) shall be available to the Secretary, without further appropriation, for the purchase of petroleum products for the Reserve.";

(4) in section 181 (42 U.S.C. 6251) by striking "1997" other places it appears and inserting in lieu thereof "2000";

(5) by striking "section 252(l)(1)" in section 251(e)(1) (42 U.S.C. 6271(e)(1)) and inserting "section 252(k)(1)";

(6) in section 252 (42 U.S.C. 6272)—

(A) in subsections (a)(1) and (b), by striking "allocation and information provisions of the international energy program" and inserting "international emergency response provisions";

(B) in subsection (d)(3), by striking "known" and inserting after "circumstances" "known at the time of approval";

(C) in subsection (e)(2) by striking "shall" and inserting "may";

(D) in subsection (f)(2) by inserting "voluntary agreement or" after "approved";

(E) by amending subsection (h) to read as follows:

"(h) Section 708 of the Defense Production Act of 1950 shall not apply to any agreement or action undertaken for the purpose of developing or carrying out—

"(1) the international energy program, or

"(2) any allocation, price control, or similar program with respect to petroleum products under this Act.";

(F) in subsection (k) by amending paragraph (2) to read as follows:

"(2) The term 'international emergency response provisions' means—

"(A) the provisions of the international energy program which relate to international allocation of petroleum products and to the information system provided in the program, and

"(B) the emergency response measures adopted by the Governing Board of the International Energy Agency (including the July 11, 1984, decision by the Governing Board on 'Stocks and Supply Disruptions') for—

"(i) the coordinated drawdown of stocks of petroleum products held or controlled by governments; and

"(ii) complementary actions taken by governments during an existing or impending international oil supply disruption"; and

(G) by amending subsection (l) to read as follows:

"(l) The antitrust defense under subsection (f) shall not extend to the international allocation of petroleum products unless allocation is required by chapters III and IV of the international energy program during an international energy supply emergency.";

(7) by amending the last sentence of section 256(h) (42 U.S.C. 6276(h)) to read as follows: "There are authorized to be appropriated for each of fiscal years 1998 through 2002 such sums as may be necessary to carry out this part.";

(8) in section 281 (42 U.S.C. 6285) by striking "1997" both places it appears and inserting in lieu thereof "2002".;

(9) in section 365(f)(1) (42 U.S.C. 6325(f)(1)) by striking "not to exceed" and all that follows through "fiscal year 1993" and inserting in lieu thereof "for each of fiscal years 1998 through 2002 such sums as may be necessary";

(10) by amending section 397 (42 U.S.C. 6371f) to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 397. For the purpose of carrying out this part, there are authorized to be appropriated for each of fiscal years 1998 through 2002 such sums as may be necessary."; and

(11) in section 400BB(b) (42 U.S.C. 6374a(b)) by amending paragraph (1) to read as follows:

"(1) There are authorized to be appropriated to the Secretary for carrying out this section such sums as may be necessary for each of fiscal years 1998 through 2002, to remain available until expended.".

SEC. 2. PURCHASES FROM STRATEGIC PETROLEUM RESERVE BY ENTITIES IN INSULAR AREAS OF UNITED STATES AND FREELY ASSOCIATED STATES.

(a) Section 161 of the Energy Policy and Conservation Act (42 U.S.C. 6241) is amended by adding at the end the following:

"(j) PURCHASES FROM STRATEGIC PETROLEUM RESERVE BY ENTITIES IN INSULAR AREAS OF UNITED STATES AND FREELY ASSOCIATED STATES.—

"(1) DEFINITIONS.—In this subsection:

"(A) BINDING OFFER.—The term 'binding offer' means a bid submitted by the State of Hawaii for an assured award of a specific quantity of petroleum product, with a price to be calculated pursuant to paragraph (2) of this subsection, that obligates the offeror to take title to the petroleum product without further negotiation or recourse to withdraw the offer.

"(B) CATEGORY OF PETROLEUM PRODUCT.—The term 'category of petroleum product' means a master line item within a notice of sale.

"(C) ELIGIBLE ENTITY.—The term 'eligible entity' means an entity that owns or controls a refinery that is located within the State of Hawaii.

"(D) FULL TANKER LOAD.—The term 'full tanker load' means a tanker of approximately 700,000 barrels of capacity, or such lesser tanker capacity as may be designated by the State of Hawaii.

"(E) INSULAR AREA.—The term 'insular area' means the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, Guam, American Samoa, and the Freely Associated States of the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

"(F) OFFERING.—The term 'offering' means a solicitation for bids for a quantity or quantities of petroleum product from the Strategic Petroleum Reserve as specified in the notice of sale.

"(G) NOTICE OF SALE.—The term 'notice of sale' means the document that announces—

"(i) the sale of Strategic Petroleum Reserve products;

"(ii) the quantity, characteristics, and location of the petroleum product being sold;

"(iii) the delivery period for the sale; and

"(iv) the procedures for submitting offers.

"(2) IN GENERAL.—In the case of an offering of a quantity of petroleum product during a drawdown of the Strategic Petroleum Reserve—

"(A) the State of Hawaii, in addition to having the opportunity to submit a competitive bid, may—

"(i) submit a binding offer, and shall on submission of the offer, be entitled to purchase a category of a petroleum product specified in a notice of sale at a price equal to the volumetrically weighted average of the successful bids made for the remaining quantity of the petroleum product within the category that is the subject of the offering; and

"(ii) submit 1 or more alternative offers, for other categories of the petroleum product, that will be binding if no price competitive contract is awarded for the category of petroleum product on which a binding offer is submitted under clause (i); and

"(B) at the request of the Governor of the State of Hawaii, a petroleum product purchased by the State of Hawaii at a competitive sale or through a binding offer shall have first preference in scheduling for lifting.

"(3) LIMITATION ON QUANTITY.—

"(A) IN GENERAL.—In administering this subsection, in the case of each offering, the Secretary may impose the limitation described in subparagraph (B) or (C) that result in the purchase of the lesser quantity of petroleum product.

"(B) PORTION OF QUANTITY OF PREVIOUS IMPORTS.—The Secretary may limit the quantity of a petroleum product that the State of Hawaii may purchase through a binding offer at any offering to 1/12 of the total quantity of imports of the petroleum product brought into the State during the previous year (or other period determined by the Secretary to be representative).

"(C) PERCENTAGE OF OFFERING.—The Secretary may limit the quantity that may be purchased through binding offers at any offering to 3 percent of the offering.

"(4) ADJUSTMENTS.—

"(A) IN GENERAL.—Notwithstanding any limitation imposed under paragraph (3), in administering this subsection, in the case of each offering, the Secretary shall, at the request of the Governor of the State of Hawaii, or an eligible entity certified under paragraph (7), adjust the quantity to be sold to the State of Hawaii in accordance with this paragraph.

"(B) UPWARD ADJUSTMENT.—The Secretary shall adjust upward to the next whole number increment of a full tanker load if the quantity to be sold is—

"(i) less than 1 full tanker load; or

"(ii) greater than or equal to 50 percent of a full tanker load more than a whole number increment of a full tanker load.

"(C) DOWNWARD ADJUSTMENT.—The Secretary shall adjust downward to the next whole number increment of a full tanker load if the quantity to be sold is less than 50 percent of a full tanker load more than a whole number increment of a full tanker load.

"(5) DELIVERY TO OTHER LOCATIONS.—The State of Hawaii may enter into an exchange or a processing agreement that requires delivery to other locations, if a petroleum product of similar value or quantity is delivered to the State of Hawaii.

"(6) STANDARD SALES PROVISIONS.—Except as otherwise provided in this Act, the Secretary may require the State of Hawaii to comply with the standard sales provisions applicable to purchasers of petroleum product at competitive sales.

"(7) ELIGIBLE ENTITIES.—

"(A) IN GENERAL.—Subject to subparagraphs (B) and (C) and notwithstanding any other provision of this paragraph, if the Governor of the State of Hawaii certifies to the Secretary that the State has entered into an agreement with an eligible entity to carry out this Act, the eligible entity may act on behalf of the State of Hawaii to carry out this subsection.

"(B) LIMITATION.—The Governor of the State of Hawaii shall not certify more than 1 eligible entity under this paragraph for each notice of sale.

"(C) BARRED COMPANY.—If the Secretary has notified the Governor of the State of Hawaii that a company has been barred from bidding (either prior to, or at the time that a notice of sale is issued), the Governor shall not certify the company under this paragraph.

"(8) SUPPLIES OF PETROLEUM PRODUCTS.—At the request of the governor of an insular area, or President of a Freely Associated State, the Secretary shall, for a period not to exceed 180 days following a drawdown of the Strategic Petroleum Reserve, assist the insular area in its efforts to maintain adequate supplies of petroleum products from traditional and non-traditional suppliers.".

(b) REGULATIONS.—

(1) IN GENERAL.—The Secretary of Energy shall issue such regulations as are necessary to carry out the amendment made by subsection (a).

(2) ADMINISTRATIVE PROCEDURE.—Regulations issued to carry out the amendment made by subsection (a) shall not be subject to—

(A) section 523 of the Energy Policy and Conservation Act (42 U.S.C. 6393); or

(B) section 501 of the Department of Energy Organization Act (42 U.S.C. 7191).

(c) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on the earlier of—

(1) the date that is 180 days after the date of enactment of this Act; or

(2) the date that final regulations are issued under subsection (b).

SEC. 3. ENERGY POLICY ACT OF 1992 AMENDMENT.

Section 2603 of the Energy Policy Act of 1992 (25 U.S.C. 3503) is amended in subsection (c) by striking "and 1997" each place it appears and inserting "1997, 1998, 1999, and 2000" in lieu thereof.

SEC. 4. ENERGY CONSERVATION AND PRODUCTION ACT AMENDMENT.

Section 422 of the Energy Conservation and Production Act (42 U.S.C. 6872) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 422. For the purpose of carrying out the weatherization program under this part, there are authorized to be appointed for each of fiscal years 1998 through 2002 such sums as may be necessary.

Mr. LOTT. I ask unanimous consent the committee substitute amendment be agreed to and the bill be considered read a third time and passed, the motion to reconsider laid on the table, and any statements relating to the bill appear at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendment was agreed to.

The bill (S. 417) was read the third time, and passed.

AMENDING SECTIONS OF THE DEPARTMENT OF ENERGY ORGANIZATION ACT

Mr. LOTT. Mr. President, I ask unanimous consent the Senate proceed to consideration of Calendar No. 78, H.R. 649.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 649) to amend sections of the Department of Energy Organization Act that are obsolete or inconsistent with other statutes and to repeal a related section of the Federal Energy Administration Act of 1974.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. LOTT. I ask unanimous consent the bill be considered read a third time and passed, the motion to reconsider be laid on the table, and any statements relating to the bill appear at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 649) was read the third time, and passed.

AUTHORITY FOR COMMITTEES TO REPORT

Mr. LOTT. Mr. President, I ask unanimous consent that on Tuesday, July 1, committees have between the hours of 10 and 2 p.m., in order to file reported legislative and executive matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

WISHING THE PEOPLE OF HONG KONG GOOD FORTUNE

Mr. LOTT. I ask unanimous consent that the Senate proceed to the immediate of Senate Resolution 105, submitted earlier today by Senators LIEBERMAN and MACK.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 105) expressing the sense of the Senate that the people of the United States wish the people of Hong Kong good fortune as they embark on their historic transition of sovereignty from Great Britain to the People's Republic of China.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. LOTT. I ask unanimous consent the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table and that any statements relating to the resolution appear at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 105) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 105

Whereas at one minute past midnight on July 1, Hong Kong will cease to be a colonial possession of Great Britain and will return to Chinese sovereignty;

Whereas the people of Hong Kong enjoy civil liberties and political freedoms based on the democratic rule of law and the functions of a free market;

Whereas the People's Republic of China has promised through international agreements and Chinese law to preserve Hong Kong's way of life and to grant the people of Hong Kong substantial autonomy in self-government;

Whereas the United States is committed through the Hong Kong Policy Act of 1992 to monitoring, advocating and reporting on the continuation of Hong Kong's freedoms under Chinese rule; and

Whereas the United States enjoys a long-standing commercial, cultural and political relationship with Hong Kong and a developing relationship with the People's Republic of China: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the people of the United States wish good fortune to the people of Hong Kong as they embark on their historic transition of sovereignty;

(2) the United States urges the People's Republic of China to honor both the spirit and the letter of its commitments to accord Hong Kong substantial autonomy as a separate administrative region in a China characterized as "one country, two systems;"

(3) the executive branch should exercise due diligence in enforcing the terms and conditions of the Hong Kong Policy Act of 1992 and subsequent acts and provisions concerning the protection of civil liberties and the rule of law in Hong Kong;

(4) the United States looks forward to continuing its close, productive relationship with the people of Hong Kong; and

(5) the United States hopes to develop a positive, productive relationship with the People's Republic of China based upon shared respect for human dignity and responsible behavior in the international community of nations.

OUR LIVES WERE CHANGED FOREVER

Mr. LOTT. Mr. President, the loss of child is probably the greatest heartache that any parent can experience or could conceivably experience.

Last fall, Senator SANTORUM and his wife, Karen, faced that tragedy. Most of us, I am sure, had occasion to speak with them then and were impressed by their faith and their courage.

Senator SANTORUM talks about his family's experience in an article in the May 23 issue of "National Right to Life News." Its title is "A Brief Life That Changed Our Lives Forever." It is very powerful, and I urge my colleagues to take the opportunity to read this article, because I think it will affect their lives also.

I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the National Right to Life News, May 23, 1997]

A BRIEF LIFE THAT CHANGED OUR LIVES FOREVER

(By Rick Santorum)

On September 26, 1996, the Senate voted to sustain President Clinton's veto of the partial-Birth Abortion Ban. I led the fight to override the veto on the floor of the Senate.

Central to the debate was the assertion by opponents of the ban that this procedure is necessary later in pregnancy in cases when a severe fetal defect is discovered. I was told that I could not understand what these women, who experienced this procedure, has gone through. "It has never touched your life," one senator said.

This is a story of how just one week after that vote, it did.

We had been through the joyous sonogram routine before—the technician would turn out the lights, spread gel on Karen's growing adbomen, and then right there on the screen in front of our eyes we would get the first glimpse of our baby—a fuzzy, back-and-white picture that told us all was well.

This time, however, was different. Sitting in the darkened room explaining what we were seeing to our three children—ages 5, 3, and 1—everything seemed fine. But the woman with the instrument was strangely quiet, examining and re-examining a dark circle on the screen. The doctor entered and silently repeated the routine. Finally, we were coldly given the verdict: "Your child has a fetal defect and is going to die."

It's not that the world stopped, nor that is moved in slow motion, it was just that the world took on a new meaning. Suddenly, our child whom we loved, prayed for, dreamed about, and longed to meet was diagnosed with a fatal condition. Through our tears erupted the most basis of all parental emotions—we were going to save our child.

I took the kids out into the hallway to the phone and called Dr. N. Scott Adzick, who is the surgeon in chief of pediatrics at Children's Hospital in Philadelphia. Six months earlier, I had gone to Children's Hospital and seen a world I had never known existed—a world of Dr. Adzick's creation—a world of surgery and care for children still in their mother's womb. I remembered his amazing skill and how I sensed an aura of peace and a certainty of purpose surrounding his mission.

I frantically described what had transpired and asked if he could help. Before he peppered me with questions, he calmly reassured me that all was not lost. He had seen cases like this before and knew immediately that it had to be post-urethral valve syndrome. Scott's principal concern had to do with the absence of fluid in the amniotic sac, which meant that our baby likely had a complete obstruction of his urinary tract—in short, a very rare condition that carried with it a 100% mortality rate if untreated.

Not typically understood is that the element comprising the amniotic fluid encompassing the baby during development is the baby's urine. The fluid not only provides a barrier of protection from outside trauma, but it is necessary in the development of the baby's lungs. Without the fluid his lungs would not develop enough for him to survive outside the womb. In addition, this condition would cause the kidneys to cease functioning.

Dr. Adzick arranged for tests to be done the next day at The Pennsylvania Hospital. The initial results did not look good. Seated in front of our second sonogram machine in as many days, Dr. Adzick and Dr. Alan Donnenfeld, an ob/gyn and perinatologist, told us that the kidneys looked like their function was severely compromised. Dr. Adzick told us that though he, too, was discouraged, there was an occasion where he had seen damaged kidneys have sufficient levels of function, enabling a baby to survive until a transplant.

We adjourned to a supply room next to the treatment area. The purpose of the meeting was to discuss options. Dr. Donnenfeld took the lead, saying that things were grave, and presenting us with three options. "Your first option is to terminate the pregnancy." As the word pregnancy left his lips the room instantly went dark. The doctor quickly reached up and turned on the light, which was on a timer. Through nervous and awkward laughter I said, "I guess that answers your question."

We knew that abortion was a legal option, it just wasn't a sane one. It was inconceivable to us as parents to kill our baby because he wasn't perfect or because he might not live a long life. While we couldn't look into his eyes or hold him in our arms, he was no less our child than our other three children. And we loved him every bit as much. He was our gift from God from the moment we found out Karen was pregnant. In our mind, from that time on our job as parents of this tiny life was to do everything we could to nurture him through life. Karen and I have this saying, "life is about being there," and we were going to be there for our baby.

The second option was to do nothing. In this case our son would live only as long as he was in the womb. While in the womb our baby's lungs and kidneys were not necessary for him to survive—Karen was performing those functions for him.

The third option would entail several tests and possibly intrauterine surgery. Karen's immediate response was to do whatever it took to save our son.

Our son went through two days of tests to determine kidney function. If there was no kidney function there would be no point in proceeding further—he would not develop enough in the womb to survive outside. The first day the test results were so bad that we discussed whether it was worth going through a second painful day for Karen. Dr. Adzick said we needed a miracle overnight to get those kidneys to work better.

We prayed more than I can remember for our son, who we named that day Gabriel Michael, after the great Archangels. The next day our prayers were answered with a miraculous improvement; the kidneys were not just okay, but functioning normally! We could now do the surgery that would save his life.

Had this occurred in our lives years earlier, I don't know how we would have dealt with it. But in the past several years we had found a closer relationship with God.

Shortly after being elected to the Senate, Sen. Don Nickles of Oklahoma invited me to come to a small Bible study. I went that day and I have attended faithfully ever since. I found the piece that fit what C.S. Lewis has called that "great, God-shaped hole in our soul." I found a new and better relationship with God. And I learned one of life's best lessons: that I can't do anything alone, that I had to give up my illusion of control and put my trust in God.

Karen's story is little different than mine. For the past several years Karen has pursued her faith on an ever ascending level. Through prayer, studying the Bible and Catholic catechism, and now attending daily mass, she too learned to try to give up her control and rely on God's grace.

Thanks to Lloyd Ogilvie, the Chaplain of the Senate, our parish priests and the prayers of our friends, this crisis was not so much a "faith check" for us as it was a time of reassurance. For we knew that no matter what happened, God held all of us in his hands. With that knowledge there is a peace beyond human understanding.

The surgical procedure to drain the urine into the amniotic sac, in an effort to create the proper fluid environment for Gabriel, was scheduled at The Pennsylvania Hospital with Dr. Bud Wiener. Dr. Wiener had done more of these procedures than anyone else on the East Coast and had pioneered the plastic tube that would be inserted in Gabriel's bladder to drain the urine.

The idea that surgery on a child in only his 20th week of life inside the womb boggles the mind. And watching Dr. Wiener at work was something to behold as he guided the tube into place. We would check in three days to see if the tube was working, and of course there is the customary surgical concern about infection.

Two days later while we were at home in Pittsburgh, Karen began feeling both chills and cramping—the chills were a sign of infection and the cramping was the beginning of labor.

Hoping desperately that it was food poisoning or the flu, Karen fought to hold it together. A call to Dr. Donnenfeld was met with an order to rush to Magee Women's Hospital.

There a doctor performed another sonogram. What we saw made this moment even more tragic. The fuzzy picture on the screen showed an active baby jumping and moving freely in a sac of amniotic fluid. The procedure had worked like a charm, but there was infection.

Karen was seized with horrible chills. Huddled under a dozen blankets her temperature soared to over 105. By this point there was little that could be done. Intra-uterine infections are untreatable as long as the source of the infection—the amniotic sac—is in place. We knew that at 20 weeks [4½ months], Gabriel could not survive outside the womb. But, unless the amniotic sac and thereby our son was delivered, Karen would soon die, and Gabriel with her.

Karen was given an antibiotic which reduced the fever, made her comfortable and took her out of immediate danger. She clung to the baby with all her strength, but nature was relentless. Soon the labor intensified—the body had identified the source of the problem and took measures to eliminate the infection. She did everything she could to delay the inevitable, putting her own life in danger in the process. I talked to everyone I knew to see if there was something that could be done. There was no answer to be found.

Here again the doctors told us that abortion was a legal option to protect Karen's health and possibly save her life. But with the support of Dr. Cynthia Simms we arrived at another way—a way that gave our son the love and respect he deserved, and gave Karen and me a gift that we will forever cherish.

Our call to Dr. Adzick, who had become a supportive force for us throughout, put an end to our search for alternatives. He told Karen that Gabriel would have to be delivered. I thanked God for the presence of Karen's parents who provided so much love and support and our friend Monsignor Bill Kerr who was also there providing spiritual guidance.

We knew the end was very near, so we tried to pack a lifetime of love into those few hours. I put my hands on Karen's abdomen. We prayed and we cried. We told him how much we loved him—how much we will miss mothering and fathering him, and how his brothers and sisters will miss his presence in their lives.

Within hours, at 12:45 a.m., our son was born. He was a beautiful, fully formed creation—a small, pink package of joy, sorrow, hope, and questions. We bundled him up and put a little hat on his head to keep him warm. We held him, sang to him and cried for him. He was too small to make a sound, but he spoke so powerfully to our hearts. His eyes never opened to see his mommy and daddy, but he allowed us to see in him the face of God.

Two hours later, he died in my arms.

We tried to make Gabriel's short time on earth filled with love, only love. We told him that soon he would experience something we are striving for. He will be with God in heaven. Finally, we pledged to him that we would rededicate ourselves to joining him someday.

This is our story. The irony of finding ourselves confronted with a baby with a fetal defect—when only a few days before some considered the absence of such experience to disqualify me from the debate on partial-birth abortion—was truly overwhelming. On two occasions, we too could have chosen the option to abort. We knew that Gabriel's life would probably be measured in minutes and hours, not in years and decades. We chose to let Gabriel live and die in the fullness of time—being held and loved and nurtured by two parents who loved him.

We wouldn't have traded the gift of those two hours with our son for anything in the world. And we know that he wouldn't have either.

In the midst of the debate that fall, worried about the impact of the gruesome description of the procedure, one of the senators opposing the ban said that a partial-birth abortion, like a simple appendectomy was bloody—that was just the nature of the event.

The Washington Post described what happened next.

"Republican Sen. Rick Santorum turned to face the opposition and in a high, pleading voice cried out, 'Where do we draw the line? Some people have likened this procedure to an appendectomy. That's not an appendix,' he shouted, pointing to a drawing of a fetus. 'That is not a blob of tissue. It is a baby. It's a baby.'

"And then, impossibly, in an already hushed gallery, in one of those moments when the floor of the Senate looks like a stage set, with its small wooden desks somehow too small for the matters at hand, the cry of a baby pierced the room, echoing across the chamber from an outside hallway.

"No one mentioned the cry, but for a few seconds no one spoke at all."

A freak occurrence—a visitor's baby was crying in the hallway as a door to the floor was opened and few seconds later closed.

A freak occurrence perhaps—or maybe, a cry from the son whose voice we never heard, but whose life has forever changed ours.

MEASURE RETURNED TO CALENDAR—S. 949

Mr. LOTT. Mr. President, I ask unanimous consent that Calendar No. 92, S. 949, be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR MONDAY, JULY 7, 1997

Mr. LOTT. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment under the provisions of House Concurrent Resolution 108 until the hour of 12 noon on Monday, July 7. I further ask unanimous consent that on Monday, immediately following the prayer, the routine requests through the morning hour be granted and the Senate immediately resume consideration of the defense authorization bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Mr. President, I ask unanimous consent that Senator COVERDELL and Senator DASCHLE, or his designee, each be recognized for up to 1 hour during Monday's session of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. LOTT. Mr. President, again, I remind all Senators, when the Senate returns from the July 4th recess, we will resume consideration of the defense authorization bill. As announced earlier, no rollcall votes will occur on Monday, July 7. However, Senators should be prepared to offer their amendments to the defense bill so that progress can be made on that important legislation. A cloture motion was filed to the defense bill this afternoon, and under that order, a cloture vote will occur at 2:15 p.m. on Tuesday, July 8.

ADJOURNMENT UNTIL MONDAY, JULY 7, 1997

Mr. LOTT. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the provisions of House Concurrent Resolution 108.

There being no objection, the Senate, at 6:56 p.m., adjourned until Monday, July 7, 1997, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate June 27, 1997:

THE JUDICIARY

JAMES S. WARE, OF CALIFORNIA, TO BE U.S. CIRCUIT JUDGE FOR THE NINTH CIRCUIT, VICE J. CLIFFORD WALLACE, RETIRED.

IN THE MARINE CORPS

THE FOLLOWING-NAMED LIMITED DUTY OFFICERS FOR APPOINTMENT TO THE GRADES INDICATED IN THE U.S. MARINE CORPS UNDER TITLE 10, UNITED STATES CODE SECTION 624:

To be lieutenant colonel

DEMETRICE M. BABB, 8470
JOHN W. BLOODWORTH, JR. 0404
DEBRA A. FLETCHER, 9803
HAROLD J. GUILLORY, 0582
MARIE G. JULIANO, 1041
MARSHALL L. KINDRED, 4959
PETER J. KOUTROUBA, 2361
MICHAEL P. LINEHAM, 7026
ALBERT A. LUCKEY, 4151
DANIEL P. LYBERT, 9335

HECTOR L. MELENDEZ, 2129
LARRY T. MESSNER, 7180
MICHAEL C. MONTCRIEFF, 7075
WILLIAM J. RESAVY, JR., 5522
TIMOTHY R. ROLLINS, 5489
STANLEY D. TEMPLE, 9820
JOHN M. THORNTON, 7389
BERNDT H. TIETJEN, 7965
MICHAEL K. TOELLNER, 6463

To be major

ERNEST D. BANKS, 2355
THOMAS P. BARZDITIS, 9968
BRAD W. BERGMAN, 7738
WILLIAM BEROTTE, JR., 1089
MICHAEL J. BISSONNETTE, 1967
CARMINE J. BORRELLI, 4952
JACK V. BUTLER, JR., 5259
RICHARD W. BYNO, JR., 0503
FRED M. CALLIES, 8627
ARTHUR P. COCHRAN, 5493
ROBERT N. CONQUEST, 5707
JOSEPH A. COPPOLA, 4547
NELLO E. DACHMAN, 0732
GERARD F. DORRE, 7233
ROURK A. ELLQUIST, 4065
DOUGLAS M. FARLEY, 2738
DAVID W. FISHER, 4887
VERNON R. FREDERICK, JR., 3610
MICHAEL J. GALLAGHER, 6143
LOWELL B. GOUTREMOUT, JR., 1093
RAYMOND L. KESSLER, 4526
MARK A. KNOWLES, 0210
RICHARD D. KOSS, 5774
MICHAEL J. LEWIS, 1238
JAMES R. LOGAN, 0186
KEVIN F. MASON, 6165
THOMAS P. MCCABE, 1507
DANIEL J. MCLEAN, 7229
WILLIAM A. MEZNARICH, JR., 1646
WILLIE J. MOORE, 8842
ROBERT M. REILLY, 9185
THOMAS R. RICE, 2428
GUILLERMO R. RIVERO, 3917
CARL J. SCHEIDT, 0768
SHANE D. SELLERS, 3033
DANIEL L. SPEEDY, 5702
LARRY E. SPICER, 1650
STANLEY E. THOMAS, 7681
DARRELL W. TIBBETS, JR., 0045
JAMES E. TURNER, 3275
GEORGE M. WYGANT, 8767
JOHN E. ZEGER, JR., 7228

IN THE ARMY

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, UNITED STATES CODE, SECTIONS 12203 AND 1552:

To be colonel

TERRY L. BELVIN, 6451
MYRON J. BERMAN, 5030
ERWIN A. BURTNICK, 5184
GARY W. GARDENHIRE, 5966
GEORGE C. GOLLER II, 0750
KNUTE M. MILLER, 2974
JERRY W. RESHETAR, 0799
JAMES SPECHT, 9496
MARK O. WALSH, 8701
GEORGE W. WELLS, JR., 9978
JAMES A. ZERNICKE, 8400

DEPARTMENT OF HEALTH AND HUMAN SERVICES

NANCY-ANN MINN DEPARLE, OF TENNESSEE, TO BE ADMINISTRATOR OF THE HEALTH CARE FINANCING ADMINISTRATION, VICE BRUCE C. VLADECK.

DEPARTMENT OF THE TREASURY

DAVID A. LIPTON, OF MASSACHUSETTS, TO BE AN UNDER SECRETARY OF THE TREASURY, VICE JEFFREY R. SHAFER, RESIGNED.

CONFIRMATIONS

Executive nominations confirmed by the Senate June 27, 1997:

DEPARTMENT OF LABOR

KATHRYN O'LEARY HIGGINS, OF SOUTH DAKOTA, TO BE DEPUTY SECRETARY OF LABOR.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

RICHARD J. TARPLIN, OF NEW YORK, TO BE AN ASSISTANT SECRETARY OF HEALTH AND HUMAN SERVICES.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

THE JUDICIARY

ALAN S. GOLD, OF FLORIDA, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF FLORIDA.

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTION 12203:

To be major general

BRIG. GEN. WALLACE W. WHALEY, 1451

IN THE ARMY

THE FOLLOWING U.S. ARMY RESERVE OFFICERS FOR PROMOTION IN THE RESERVE OF THE ARMY TO THE GRADES INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTIONS 14101, 14315 AND 12203(A):

To be brigadier general

COL. HERBERT L. ALSHULER, 8024

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. HENRY T. GLISSON, 2048

THE FOLLOWING-NAMED OFFICERS FOR PROMOTION IN THE REGULAR ARMY OF THE UNITED STATES TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTIONS 611(A) AND 624:

To be major general

BRIG. GEN. PHILLIP R. ANDERSON, 3613
BRIG. GEN. BURWELL B. BELL III, 7158
BRIG. GEN. BRYAN D. BROWN, 2565
BRIG. GEN. JULIAN H. BURNS, JR., 6198
BRIG. GEN. MICHAEL T. BYRNES, 3271
BRIG. GEN. JOHN S. CALDWELL, JR., 8372
BRIG. GEN. REGINAL G. CLEMMONS, 8649
BRIG. GEN. GEORGE F. CLOSE, JR., 3767
BRIG. GEN. CARL H. FREEMAN, 0411
BRIG. GEN. JOSEPH R. INGE, 8482
BRIG. GEN. PHILIP R. KENSINGER, JR., 0022
BRIG. GEN. DONALD L. KERRICK, 7369
BRIG. GEN. LARRY J. LUST, 3201
BRIG. GEN. JOHN J. MARCELLO, 0589
BRIG. GEN. TIMOTHY J. MAUDE, 3591
BRIG. GEN. DAN K. MCNEILL, 4203
BRIG. GEN. PAUL T. MIKOLASHEK, 2507
BRIG. GEN. MARY E. MORGAN, 3594
BRIG. GEN. BRUCE K. SCOTT, 8736
BRIG. GEN. JERRY L. SINN, 7044
BRIG. GEN. JAMES R. SNIDER, 6531
BRIG. GEN. EDWARD SORIANO, 3068
BRIG. GEN. JULIAN A. SULLIVAN, JR., 0245
BRIG. GEN. JOHN D. THOMAS, JR., 4220
BRIG. GEN. HOWARD J. VON KAENEL, 8603
BRIG. GEN. WILLIAM S. WALLACE, 1708
BRIG. GEN. WILLIAM E. WARD, 9000
BRIG. GEN. DAVID S. WEISMAN, 2064

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. DAVID K. HEEBNER, 6059

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTION 12203:

To be major general

BRIG. GEN. DARREL P. BAKER, 3645
BRIG. GEN. MURREL J. BOWEN, JR., 3419
BRIG. GEN. JOHN D. HAVENS, 8278
BRIG. GEN. EUGENE S. IMAI, 4034
BRIG. GEN. THOMAS D. KINLEY, 4548
BRIG. GEN. FEDERICO LOPEZ III, 0744
BRIG. GEN. JOEL W. NORMAN, 9456
BRIG. GEN. JOHN C. ROWLAND, 0461

To be brigadier general

COL. JOHN C. ATKINSON, 8232
COL. JOHN A. BATHKE, 6037
COL. WILLIAM H. HALL, 6256
COL. DENNIS A. KAMIMURA, 1117
COL. EUGENE P. KYLNOOT, 5848
COL. DENNIS D. KRSNAK, 8983
COL. BENNY M. PAULINO, 5606
COL. JAMES L. PRUITT, 4524
COL. EDWIN H. ROBERTS, JR., 0530
COL. CHARLES L. ROSENFELD, 2361
COL. JOHN R. SCALES, 7861
COL. JOHN A. TYMESON, 5473
COL. BRIAN D. WINTER, 0493

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. RICHARD A. CHILCOAT, 0462

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. THOMAS N. BURNETTE, JR., 2524

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. PAUL J. KERN, 5577

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be general

LT. GEN. ERIC K. SHINSEKI, 3256

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. ROBERT S. COFFEY, 3824

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. JOHN W. HENDRIX, 7900

IN THE MARINE CORPS

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. MARINE CORPS TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. FRANK LIBUTTI, 7862

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. MARINE CORPS TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. JOHN E. RHODES, 6880

IN THE NAVY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE RESERVE TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTION 12203:

To be rear admiral

REAR ADM. (LH) WILLIAM H. BUTLER, 0815
REAR ADM. (LH) CASEY W. COANE, 8883
REAR ADM. (LH) WILLIAM E. HERRON, 9271
REAR ADM. (LH) STEPHEN T. KEITH, 7895
REAR ADM. (LH) WILLIAM J. LOGAN, 2986

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be vice admiral

REAR ADM. (LH) HENRY C. GIFFIN III, 4832

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. NAVY TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTION 624:

To be rear admiral

REAR ADM. (LH) TIMOTHY R. BEARD, 3629
REAR ADM. (LH) DAVID L. BREWER III, 8778
REAR ADM. (LH) STANLEY W. BRYANT, 0482
REAR ADM. (LH) TONEY M. BUCCHI, 9527
REAR ADM. (LH) WILLIAM W. COPELAND, JR., 7826
REAR ADM. (LH) JOHN W. CRAINE, JR., 9037
REAR ADM. (LH) ROBERT E. FRICK, 6699
REAR ADM. (LH) PAUL G. GAFFNEY II, 0479
REAR ADM. (LH) EDMUND P. GIAMBASTIANI, JR., 8318
REAR ADM. (LH) JOHN J. GROSSENBACHER, 5514
REAR ADM. (LH) JAMES B. HINKLE, 6582
REAR ADM. (LH) GORDON S. HOLDER, 2235
REAR ADM. (LH) MARTIN J. MAYER, 0493
REAR ADM. (LH) BARBARA E. MCGANN, 1961
REAR ADM. (LH) CHARLES W. MOORE, JR., 5696
REAR ADM. (LH) JOHN B. NATHMAN, 6751
REAR ADM. (LH) WILLIAM R. SCHMIDT, 6316
REAR ADM. (LH) ROBERT C. WILLIAMSON, 8427

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. NAVY TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTION 624:

To be rear admiral (lower half)

CAPT. JOSEPH W. DYER, JR., 0881

IN THE ARMY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. DAVID J. KELLEY, 7993

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. RANDOLPH W. HOUSE, 7507

IN THE AIR FORCE

AIR FORCE NOMINATION OF ANDREW J. JORGENSEN, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF MAY 15, 1997.

IN THE ARMY

ARMY NOMINATIONS BEGINNING JOHN A. ADAMS, AND ENDING KENNETH M. YOUNGER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 9, 1997.

ARMY NOMINATIONS BEGINNING ROBERT T. ANDERSON, AND ENDING ROBERT J. WYGONSKI, WHICH WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF FEBRUARY 5, 1997.

ARMY NOMINATIONS BEGINNING CHARLES R. BAILEY, AND ENDING JOHN L. WYDEVEN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF MAY 15, 1997.

ARMY NOMINATIONS BEGINNING CHESSLEY R. ATCHISON, AND ENDING *STEPHEN E. SCHLESS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF MAY 15, 1997.

ARMY NOMINATIONS BEGINNING ROBERT R. BOTTIN, JR., AND ENDING DIANE P. ROUSSEAU, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JUNE 5, 1997.

ARMY NOMINATIONS BEGINNING DOREEN M* AGIN, AND ENDING DONALD G. ZUGNER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JUNE 10, 1997.

ARMY NOMINATIONS BEGINNING BRET T. ACKERMANN, AND ENDING JOAN H. ZELLER, WHICH WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JUNE 10, 1997.

IN THE COAST GUARD

COAST GUARD NOMINATIONS BEGINNING CATHERINE M. KELLY, AND ENDING RONALD W. REUSCH, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF FEBRUARY 27, 1997.

COAST GUARD NOMINATIONS OF RICHARD W. SANDERS, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF MAY 15, 1997.

IN THE MARINE CORPS

MARINE CORPS NOMINATION OF GILDA A. JACKSON, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF APRIL 7, 1997.

MARINE CORPS NOMINATION OF RICHARD L. SONGER, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF MAY 15, 1997.

MARINE CORPS NOMINATIONS BEGINNING ROBERT E. BALLARD, AND ENDING PATRICK K WYMAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF MAY 15, 1997.

MARINE CORPS NOMINATIONS BEGINNING DAVID J. BIOW, AND ENDING ANDREW D. ZINN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JUNE 2, 1997.

MARINE CORPS NOMINATION OF JOHN M. METTERLE, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JUNE 10, 1997.

MARINE CORPS NOMINATION OF JOHN J. EGAN, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JUNE 10, 1997.

IN THE NAVY

NAVY NOMINATION OF TIMOTHY S. GARROLD, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF MAY 15, 1997.

NAVY NOMINATIONS BEGINNING JAMES P ADAMS, AND ENDING LEONARD A. ZINGARELLI, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JUNE 2, 1997.

NAVY NOMINATIONS BEGINNING CHRISTINE L ABELEIN, AND ENDING LARRY L YOUNGER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JUNE 11, 1997.

H.R. 2014, AS AMENDED AND PASSED

Resolved, That the bill from the House of Representatives (H.R. 2014) entitled "An Act to provide for reconciliation pursuant to subsections (b)(2) and (d) of section 105 of the concurrent resolution on the budget for fiscal year 1998.", do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Revenue Reconciliation Act of 1997".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; amendment of 1986 Code; table of contents.

TITLE I—CHILD TAX CREDIT AND OTHER FAMILY TAX RELIEF

Sec. 101. Child tax credit.
Sec. 102. Adjustment of minimum tax exemption amounts for taxpayers other than corporations.
Sec. 103. Allowance of credit for employer expenses for child care assistance.
Sec. 104. Expansion of coordinated enforcement efforts of Internal Revenue Service and HHS Office of Child Support Enforcement.
Sec. 105. Adoption expenses.

TITLE II—EDUCATION INCENTIVES

Subtitle A—Tax Benefits Relating to Education Expenses

Sec. 201. HOPE credit for higher education tuition and related expenses.
Sec. 202. Deduction for interest on education loans.
Sec. 203. Penalty-free withdrawals from individual retirement plans for higher education expenses.

Subtitle B—Expanded Education Investment Savings Opportunities

PART I—QUALIFIED TUITION PROGRAMS

Sec. 211. Exclusion from gross income of education distributions from qualified tuition programs.
Sec. 212. Eligible educational institutions permitted to maintain qualified tuition programs; other modifications of qualified State tuition programs.

PART II—EDUCATION INDIVIDUAL RETIREMENT ACCOUNTS

Sec. 213. Education individual retirement accounts.

Subtitle C—Other Education Initiatives

Sec. 221. Extension of exclusion for employer-provided educational assistance.
Sec. 222. Repeal of limitation on qualified 501(c)(3) bonds other than hospital bonds.
Sec. 223. Increase in arbitrage rebate exception for governmental bonds used to finance education facilities.
Sec. 224. 2-percent floor on miscellaneous itemized deductions not to apply to certain continuing education expenses of elementary and secondary school teachers.
Sec. 225. Treatment of cancellation of certain student loans.

TITLE III—SAVINGS AND INVESTMENT INCENTIVES

Subtitle A—Retirement Savings

Sec. 301. Restoration of IRA deduction for certain taxpayers.
Sec. 302. Establishment of nondeductible tax-free individual retirement accounts.
Sec. 303. Distributions from certain plans may be used without penalty to purchase first homes and when unemployed.
Sec. 304. Certain bullion not treated as collectibles.

Subtitle B—Capital Gains

Sec. 311. 20 percent maximum capital gains rate for individuals.
Sec. 312. Modifications to exclusion of gain on certain small business stock.
Sec. 313. Rollover of gain from sale of qualified stock.
Sec. 314. Exemption from tax for gain on sale of principal residence.

TITLE IV—ESTATE, GIFT, AND GENERATION-SKIPPING TAX PROVISIONS

Sec. 401. Cost-of-living adjustments relating to estate and gift tax provisions.
Sec. 402. Family-owned business exclusion.
Sec. 403. Treatment of land subject to a qualified conservation easement.
Sec. 404. 20-year installment payment where estate consists largely of interest in closely held business.
Sec. 405. No interest on certain portion of estate tax extended under section 6166, reduced interest on remaining portion, and no deduction for such reduced interest.
Sec. 406. Extension of treatment of certain rents under section 2032A to lineal descendants.
Sec. 407. Expansion of exception from generation-skipping transfer tax for transfers to individuals with deceased parents.

TITLE V—EXTENSIONS

Sec. 501. Research tax credit.
Sec. 502. Contributions of stock to private foundations.
Sec. 503. Work opportunity tax credit.
Sec. 504. Orphan drug tax credit.

TITLE VI—INCENTIVES FOR REVITALIZATION OF THE DISTRICT OF COLUMBIA

Sec. 601. Tax incentives for revitalization of the District of Columbia.

TITLE VII—MISCELLANEOUS PROVISIONS

Subtitle A—Provisions Relating to Excise Taxes

Sec. 701. Repeal of tax on diesel fuel used in recreational boats.
Sec. 702. Intercity passenger rail fund.
Sec. 703. Modification of tax treatment of hard cider.
Sec. 704. General revenue portion of highway motor fuels taxes deposited into Highway Trust Fund.
Sec. 705. Rate of tax on certain special fuels determined on basis of Btu equivalency with gasoline.
Sec. 706. Study of feasibility of moving collection point for distilled spirits excise tax.
Sec. 707. Extension and modification of subsidies for alcohol fuels.
Sec. 708. Clarification of authority to use semi-generic designations on wine labels.

Subtitle B—Provisions Relating to Pensions and Fringe Benefits

Sec. 711. Treatment of multiemployer plans under section 415.
Sec. 712. Technical correction relating to partial termination of pension plans.
Sec. 713. Increase in current liability funding limit.
Sec. 714. Spousal consent required for certain distributions and loans under qualified cash or deferred arrangement.

Sec. 715. Special rules for church plans.
Sec. 716. Repeal of application of unrelated business income tax to ESOPs.
Sec. 717. Diversification in section 401(k) plan investments.

Subtitle C—Revisions Relating to Disasters

Sec. 721. Treatment of livestock sold on account of weather-related conditions.
Sec. 722. Gain or loss from sale of livestock disregarded for purposes of earned income credit.
Sec. 723. Mortgage financing for residences located in disaster areas.
Sec. 724. Distributions from individual retirement accounts may be used without penalty to replace or repair property damaged in presidentially declared disaster areas.
Sec. 725. Elimination of 10 percent floor for disaster losses.
Sec. 726. Abatement of interest on underpayments by taxpayers in presidentially declared disaster areas.

Subtitle D—Provisions Relating to Small Businesses

Sec. 731. Waiver of penalty through June 30, 1998, on small businesses failing to make electronic fund transfers of taxes.
Sec. 732. Minimum tax not to apply to farmers' installment sales.
Sec. 733. Increase in deduction for health insurance costs of self-employed individuals.
Sec. 734. Sense of the Senate with respect to self-employment tax of limited partners.

Subtitle E—Foreign Provisions

PART I—GENERAL PROVISIONS

Sec. 741. Treatment of computer software as FSC export property.
Sec. 742. Denial of treaty benefits for certain payments through hybrid entities.
Sec. 743. United States property not to include certain assets acquired by dealers in ordinary course of trade or business.
Sec. 744. Exemption for active financing income.
Sec. 745. Treatment of nonresident aliens engaged in international transportation services.

PART II—TREATMENT OF PASSIVE FOREIGN INVESTMENT COMPANIES

Sec. 751. United States shareholders of controlled foreign corporations not subject to PFIC inclusion.
Sec. 752. Election of mark to market for marketable stock in passive foreign investment company.
Sec. 753. Effective date.

Subtitle F—Other Provisions

Sec. 761. Tax-exempt status for certain State worker's compensation act companies.
Sec. 762. Election to continue exception from treatment of publicly traded partnerships as corporations.
Sec. 763. Exclusion from unrelated business taxable income for certain sponsorship payments.
Sec. 764. Associations of holders of timeshare interests to be taxed like other homeowners associations.
Sec. 765. Increased deductibility of business meal expenses for individuals subject to Federal hours of service and seafood processors.
Sec. 766. Deduction in computing adjusted gross income for expenses in connection with service performed by certain officials.
Sec. 767. Increase in standard mileage rate expense deduction for charitable use of passenger automobile.
Sec. 768. Expensing of environmental remediation costs.
Sec. 769. Combined employment tax reporting demonstration project.
Sec. 770. Increased maximum capital expenditure limit for qualified small issue bonds.
Sec. 771. Extension of credit for electricity produced from certain renewable resources.
Sec. 772. Taxable income limit on percentage depletion not to apply to marginal production.
Sec. 773. Clarification of treatment of certain receivables purchased by cooperative hospital service organizations.
Sec. 774. Exception for bonds guaranteed by Federal Home Loan Bank Board from restriction on Federal guarantee of bonds.
Sec. 775. Increased period for deduction for traveling expenses while working away from home.
Sec. 776. Charitable contribution deduction for certain expenses incurred in support of Native Alaskan subsistence whaling.
Sec. 777. Modification to eligibility criteria for designation of future enterprise zones in Alaska or Hawaii.
Sec. 778. Clarification of de minimis fringe benefit rules to no-charge employee meals.
Sec. 779. Clarification of standard to be used in determining employment tax status of securities brokers.
Sec. 780. Sense of the Senate regarding reform of the Internal Revenue Code of 1986.
Sec. 781. Sense of the Senate regarding tax treatment of stock options.
Sec. 782. Sense of the Senate on estate taxes.
Sec. 783. Qualified games of chance.
Sec. 784. Survivor benefits for public safety officers killed in the line of duty.
Sec. 785. Treatment of certain disability benefits received by former police officers or firefighters.
Sec. 786. Removal of dollar limitation on benefit payments from a defined benefit plan maintained for certain police and fire employees.
Sec. 787. Debate on a reconciliation bill.
Sec. 788. Exclusion from income of severance payment amounts; time periods for carryback and carryforward of unused credits.
Sec. 789. Current refundings of certain tax-exempt bonds.
Sec. 790. Special rule for thrifts which become large banks.
Sec. 791. Sense of the Senate regarding middle-class taxpayers benefiting from tax cuts.
Sec. 792. Averaging of farm income over 3 years.

TITLE VIII—REVENUES

Subtitle A—Financial Products

Sec. 801. Constructive sales treatment for appreciated financial positions.
Sec. 802. Limitation on exception for investment companies under section 351.
Sec. 803. Gains and losses from certain terminations with respect to property.

Subtitle B—Corporate Organizations and Reorganizations

Sec. 811. Tax treatment of certain extraordinary dividends.
Sec. 812. Application of section 355 to distributions followed by acquisitions and to intragroup transactions.
Sec. 813. Tax treatment of redemptions involving related corporations.
Sec. 814. Modification of holding period applicable to dividends received deduction.

Subtitle C—Other Corporate Provisions

Sec. 821. Registration and other provisions relating to confidential corporate tax shelters.
Sec. 822. Certain preferred stock treated as boot.

Subtitle D—Administrative Provisions

Sec. 831. Decrease of threshold for reporting payments to corporations performing services for Federal agencies.
Sec. 832. Disclosure of return information for administration of certain veterans programs.
Sec. 833. Returns of beneficiaries of estates and trusts required to file returns consistent with estate or trust return or to notify Secretary of inconsistency.
Sec. 834. Continuous levy on certain payments.
Sec. 835. Modification of levy exemption.
Sec. 836. Confidentiality and disclosure of returns and return information.

Subtitle E—Excise Tax Provisions

Sec. 841. Extension and modification of Airport and Airway Trust Fund taxes.
Sec. 842. Restoration of Leaking Underground Storage Tank Trust Fund taxes.
Sec. 843. Application of communications tax to long-distance prepaid telephone cards.
Sec. 844. Uniform rate of tax on vaccines.
Sec. 845. Credit for tire tax in lieu of exclusion of value of tires in computing price.
Sec. 846. Increase in excise taxes on tobacco products.

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TITLE I—CHILD TAX CREDIT AND OTHER FAMILY TAX RELIEF

SEC. 101. CHILD TAX CREDIT.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 23 the following new section:

"SEC. 24. CHILD TAX CREDIT.

"(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year with respect to each qualifying child of the taxpayer an amount equal to $500.

"(b) LIMITATIONS.—

"(1) CREDIT LIMITED TO EDUCATION SAVINGS FOR CERTAIN CHILDREN.—In the case of a qualifying child who has attained the age of 13 as of the close of the calendar year in which the taxable year of the taxpayer begins, the amount of the credit allowed under subsection (a) for such taxable year with respect to such child (after the application of paragraphs (2) and (3)) shall not exceed the excess of—

"(A) the aggregate amount contributed by the taxpayer for such taxable year for the benefit of such child to qualified tuition programs (as defined in section 529) and education individual retirement accounts (as defined in section 530), over

"(B) the aggregate amount distributed during such taxable year from such programs and accounts (the beneficiary of which is such child) which is subject to tax under section 529(f) or 530(c)(3).

"(2) LIMITATION BASED ON ADJUSTED GROSS INCOME.—

"(A) IN GENERAL.—The $500 amount in subsection (a) shall be reduced (but not below zero) by $25 for each $1,000 (or fraction thereof) by which the taxpayer's modified adjusted gross income exceeds the threshold amount. For purposes of the preceding sentence, the term 'modified adjusted gross income' means adjusted gross income increased by any amount excluded from gross income under section 911, 931, or 933.

"(B) THRESHOLD AMOUNT.—For purposes of subparagraph (A), the term 'threshold amount' means—

"(i) $110,000 in the case of a joint return,

"(ii) $75,000 in the case of an individual who is not married, and

"(iii) $55,000 in the case of a married individual filing a separate return.

For purposes of this subparagraph, marital status shall be determined under section 7703.

"(3) LIMITATION BASED ON AMOUNT OF TAX.—The aggregate credit allowed by subsection (a) (determined after paragraph (2)) shall not exceed the excess (if any) of—

"(A) the taxpayer's regular tax liability for the taxable year reduced by the credits allowable against such tax under this subpart (other than this section), over

"(B) the sum of—

"(i) the taxpayer's tentative minimum tax for such taxable year (determined without regard to the alternative minimum tax foreign tax credit), plus

"(ii) 50 percent of the credit allowed for the taxable year under section 32.

Any reduction in the credit otherwise allowable by subsection (a) by reason of this paragraph shall be allocated pro rata among all qualifying children for purposes of applying paragraph (1).

"(c) QUALIFYING CHILD.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualifying child' means any individual if—

"(A) the taxpayer is allowed a deduction under section 151 with respect to such individual for the taxable year,

"(B) such individual has not attained the age of 17 (age of 18 in the case of taxable years beginning after 2002) as of the close of the calendar year in which the taxable year of the taxpayer begins, and

"(C) such individual bears a relationship to the taxpayer described in section 32(c)(3)(B).

"(2) EXCEPTION FOR CERTAIN NONCITIZENS.—The term 'qualifying child' shall not include any individual who would not be a dependent if the first sentence of section 152(b)(3) were applied without regard to all that follows 'resident of the United States'.

"(d) TAXABLE YEAR MUST BE FULL TAXABLE YEAR.—Except in the case of a taxable year closed by reason of the death of the taxpayer, no credit shall be allowable under this section in the case of a taxable year covering a period of less than 12 months.

"(e) RECAPTURE OF CREDIT.—

"(1) IN GENERAL.—If—

"(A) during any taxable year any amount is withdrawn from a qualified tuition program or an education individual retirement account maintained for the benefit of a beneficiary and such amount is subject to tax under section 529(f) or 530(c)(3), and

"(B) the amount of the credit allowed under this section for the prior taxable year was contingent on a contribution being made to such a program or account for the benefit of such beneficiary,

the taxpayer's tax imposed by this chapter for the taxable year shall be increased by the lesser of the amount described in subparagraph (A) or the credit described in subparagraph (B).

"(2) NO CREDITS AGAINST TAX, ETC.—Any increase in tax under this subsection shall not be treated as a tax imposed by this chapter for purposes of determining—

"(A) the amount of any credit under this subpart or subpart B or D of this part, and

"(B) the amount of the minimum tax imposed by section 55.

"(f) OTHER DEFINITIONS.—For purposes of this section, the terms 'qualified tuition program' and 'education individual retirement account' have the meanings given such terms by section 529 and 530, respectively.

"(g) PHASE-IN OF CREDIT.—In the case of taxable years beginning in 1997—

"(1) subsection (a)(1) shall be applied by substituting '$250' for '$500', and

"(2) subsection (c)(1)(B) shall be applied by substituting 'age of 13' for 'age of 17'.".

(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 26 is amended by inserting "(other than the credit allowed by section 24)" after "credits allowed by this subpart".

(2) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 23 the following new item:

"Sec. 24. Child tax credit.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

SEC. 102. ADJUSTMENT OF MINIMUM TAX EXEMPTION AMOUNTS FOR TAXPAYERS OTHER THAN CORPORATIONS.

(a) IN GENERAL.—Subsection (d) of section 55 is amended by adding at the end the following new paragraph:

"(4) ADJUSTMENT OF EXEMPTION AMOUNTS FOR TAXPAYERS OTHER THAN CORPORATIONS.—

"(A) TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 2000 AND BEFORE JANUARY 1, 2003.—In the case of any calendar year after 2000 and before 2003—

"(i) the dollar amount applicable under paragraph (1)(A) for such a calendar year shall be $600 greater than the dollar amount applicable under paragraph (1)(A) for the prior calendar year, and

"(ii) the dollar amount applicable under paragraph (1)(B) for such a calendar year shall be $450 greater than the dollar amount applicable under paragraph (1)(B) for the prior calendar year.

"(B) TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 2002.—In the case of any calendar year after 2002—

"(i) the dollar amount applicable under paragraph (1)(A) for such a calendar year shall be $950 greater than the dollar amount applicable under paragraph (1)(A) for the prior calendar year, and

"(ii) the dollar amount applicable under paragraph (1)(B) for such a calendar year shall be $700 greater than the dollar amount applicable under paragraph (1)(B) for the prior calendar year.

"(C) APPLICATION OF TAXABLE YEARS.—The dollar amount applicable under this paragraph to any calendar year shall apply to taxable years beginning in such calendar year.

"(D) ADJUSTMENT.—The Secretary shall reduce the dollar amounts otherwise in effect under this paragraph for any calendar year to the extent necessary to increase Federal revenues by the amount the Secretary estimates Federal revenues will be reduced by reason of allowing distributions from education individual retirement accounts under section 530 to be used for qualified elementary and secondary education expenses described in section 530(b)(2)(A)(ii).".

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (C) of section 55(d)(1) is amended by striking "$22,500" and inserting "the amount equal to ½ the dollar amount applicable under subparagraph (A) for the taxable year".

(2) The last sentence of section 55(d)(3) is amended by striking "$165,000 or (ii) $22,500" and inserting "the minimum amount of such income (as so determined) for which the exemption amount under paragraph (1)(C) is zero, or (ii) such exemption amount (determined without regard to this paragraph)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

SEC. 103. ALLOWANCE OF CREDIT FOR EMPLOYER EXPENSES FOR CHILD CARE ASSISTANCE.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by adding at the end the following new section:

"SEC. 45D. EMPLOYER-PROVIDED CHILD CARE CREDIT.

"(a) IN GENERAL.—For purposes of section 38, the employer-provided child care credit determined under this section for the taxable year is an amount equal to 50 percent of the qualified child care expenditures of the taxpayer for such taxable year.

"(b) DOLLAR LIMITATION.—The credit allowable under subsection (a) for any taxable year shall not exceed $150,000.

"(c) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED CHILD CARE EXPENDITURE.—The term 'qualified child care expenditure' means any amount paid or incurred—

"(A) to acquire, construct, rehabilitate, or expand property—

"(i) which is to be used as part of a qualified child care facility of the taxpayer,

"(ii) with respect to which a deduction for depreciation (or amortization in lieu of depreciation) is allowable, and

"(iii) which does not constitute part of the principal residence (within the meaning of section 1034) of the taxpayer or any employee of the taxpayer,

"(B) for the operating costs of a qualified child care facility of the taxpayer, including costs related to the training of employees, to scholarship programs, and to the providing of increased compensation to employees with higher levels of child care training,

"(C) under a contract with a qualified child care facility to provide child care services to employees of the taxpayer,

"(D) under a contract to provide child care resource and referral services to employees of the taxpayer, or

"(E) for the costs of seeking accreditation from a child care credentialing or accreditation entity.

"(2) QUALIFIED CHILD CARE FACILITY.—

"(A) IN GENERAL.—The term 'qualified child care facility' means a facility—

"(i) the principal use of which is to provide child care assistance, and

"(ii) which meets the requirements of all applicable laws and regulations of the State or local government in which it is located, including, but not limited to, the licensing of the facility as a child care facility.

Clause (i) shall not apply to a facility which is the principal residence (within the meaning of section 1034) of the operator of the facility.

"(B) SPECIAL RULES WITH RESPECT TO A TAXPAYER.—A facility shall not be treated as a qualified child care facility with respect to a taxpayer unless—

"(i) enrollment in the facility is open to employees of the taxpayer during the taxable year,

"(ii) the facility is not the principal trade or business of the taxpayer unless at least 30 percent of the enrollees of such facility are dependents of employees of the taxpayer, and

"(iii) the use of such facility (or the eligibility to use such facility) does not discriminate in favor of employees of the taxpayer who are highly compensated employees (within the meaning of section 414(q)).

"(d) RECAPTURE OF ACQUISITION AND CONSTRUCTION CREDIT.—

"(1) IN GENERAL.—If, as of the close of any taxable year, there is a recapture event with respect to any qualified child care facility of the taxpayer, then the tax of the taxpayer under this chapter for such taxable year shall be increased by an amount equal to the product of—

"(A) the applicable recapture percentage, and

"(B) the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted if the qualified child care expenditures of the taxpayer described in subsection (c)(1)(A) with respect to such facility had been zero.

"(2) APPLICABLE RECAPTURE PERCENTAGE.—

"(A) IN GENERAL.—For purposes of this subsection, the applicable recapture percentage shall be determined from the following table:

"If the recapture event occurs in:	The applicable recapture percentage is:
Years 1–3	100
Year 4	85
Year 5	70
Year 6	55
Year 7	40
Year 8	25

"If the recapture event occurs in:	The applicable recapture percentage is:
Years 9 and 10	10
Years 11 and thereafter ..	0.

"(B) Years.—For purposes of subparagraph (A), year 1 shall begin on the first day of the taxable year in which the qualified child care facility is placed in service by the taxpayer.

"(3) Recapture event defined.—For purposes of this subsection, the term 'recapture event' means—

"(A) Cessation of operation.—The cessation of the operation of the facility as a qualified child care facility.

"(B) Change in ownership.—

"(i) In general.—Except as provided in clause (ii), the disposition of a taxpayer's interest in a qualified child care facility with respect to which the credit described in subsection (a) was allowable.

"(ii) Agreement to assume recapture liability.—Clause (i) shall not apply if the person acquiring such interest in the facility agrees in writing to assume the recapture liability of the person disposing of such interest in effect immediately before such disposition. In the event of such an assumption, the person acquiring the interest in the facility shall be treated as the taxpayer for purposes of assessing any recapture liability (computed as if there had been no change in ownership).

"(4) Special rules.—

"(A) Tax benefit rule.—The tax for the taxable year shall be increased under paragraph (1) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

"(B) No credits against tax.—Any increase in tax under this subsection shall not be treated as a tax imposed by this chapter for purposes of determining the amount of any credit under subpart A, B, or D of this part.

"(C) No recapture by reason of casualty loss.—The increase in tax under this subsection shall not apply to a cessation of operation of the facility as a qualified child care facility by reason of a casualty loss to the extent such loss is restored by reconstruction or replacement within a reasonable period established by the Secretary.

"(e) Special Rules.—For purposes of this section—

"(1) Aggregation rules.—All persons which are treated as a single employer under subsections (a) and (b) of section 52 shall be treated as a single taxpayer.

"(2) Pass-thru in the case of estates and trusts.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

"(3) Allocation in the case of partnerships.—In the case of partnerships, the credit shall be allocated among partners under regulations prescribed by the Secretary.

"(f) No Double Benefit.—

"(1) Reduction in basis.—For purposes of this subtitle—

"(A) In general.—If a credit is determined under this section with respect to any property by reason of expenditures described in subsection (c)(1)(A), the basis of such property shall be reduced by the amount of the credit so determined.

"(B) Certain dispositions.—If during any taxable year there is a recapture amount determined with respect to any property the basis of which was reduced under subparagraph (A), the basis of such property (immediately before the event resulting in such recapture) shall be increased by an amount equal to such recapture amount. For purposes of the preceding sentence, the term 'recapture amount' means any increase in tax (or adjustment in carrybacks or carryovers) determined under subsection (d).

"(2) Other deductions and credits.—No deduction or credit shall be allowed under any other provision of this chapter with respect to the amount of the credit determined under this section.

"(g) Termination.—This section shall not apply to taxable years beginning after December 31, 1999.".

(b) Conforming Amendments.—

(1) Section 38(b) is amended—

(A) by striking out "plus" at the end of paragraph (11),

(B) by striking out the period at the end of paragraph (12), and inserting a comma and "plus", and

(C) by adding at the end the following new paragraph:

"(13) the employer-provided child care credit determined under section 45D.".

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

"Sec. 45D. Employer-provided child care credit.".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. 104. EXPANSION OF COORDINATED ENFORCEMENT EFFORTS OF INTERNAL REVENUE SERVICE AND HHS OFFICE OF CHILD SUPPORT ENFORCEMENT.

(a) State Reporting of Custodial Data.—Section 454A(e)(4)(D) of the Social Security Act (42 U.S.C. 654(e)(4)(D)) is amended by striking "the birth date of any child" and inserting "the birth date and custodial status of any child".

(b) Matching Program by IRS of Custodial Data and Tax Status Information.—

(1) National directory of new hires.—Section 453(i)(3) of the Social Security Act (42 U.S.C. 653(i)(3)) is amended by striking "a claim with respect to employment in a tax return" and inserting "information which is required on a tax return".

(2) Federal case registry of child support orders.—Section 453(h) of the such Act (42 U.S.C. 653(h)) is amended by adding at the end the following:

"(3) Administration of federal tax laws.—The Secretary of the Treasury shall have access to the information described in paragraph (2), consisting of the names and social security numbers of the custodial parents linked with the children in the custody of such parents, for the purpose of administering those sections of the Internal Revenue Code of 1986 which grant tax benefits based on support and residence provided dependent children.".

(c) Effective Date.—The amendments made by this section shall take effect on October 1, 1997.

SEC. 105. ADOPTION EXPENSES.

(a) Distributions From Certain Plans May Be Used Without Penalty To Pay Adoption Expenses.—

(1) In General.—Section 72(t)(2) (relating to exceptions to 10-percent additional tax on early distributions from qualified retirement plans) is amended by adding at the end the following:

"(E) Distributions from certain plans for adoption expenses.—Distributions to an individual from an individual retirement plan of so much of the qualified adoption expenses (as defined in section 23(d)(1)) of the individual as does not exceed $2,000.".

(2) Conforming Amendment.—Section 72(t)(2)(B) is amended by striking "or (D)" and inserting ", (D) or (E)".

(3) Effective Date.—The amendments made by this subsection shall apply to payments and distributions after December 31, 1996.

TITLE II—EDUCATION INCENTIVES

Subtitle A—Tax Benefits Relating to Education Expenses

SEC. 201. HOPE CREDIT FOR HIGHER EDUCATION TUITION AND RELATED EXPENSES.

(a) In General.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 25 the following new section:

"SEC. 25A. HIGHER EDUCATION TUITION AND RELATED EXPENSES.

"(a) Allowance of Credit.—

"(1) In general.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year the amount equal to 50 percent of qualified tuition and related expenses paid by the taxpayer during such taxable year for education furnished during any academic period beginning in such year.

"(2) Special rule for education at community colleges and vocational schools.—In the case of qualified tuition and related expenses for education furnished at a community college or vocational school, paragraph (1) shall be applied by substituting '75 percent' for '50 percent'.

"(b) Limitations.—

"(1) Dollar limitation.—The amount allowed as a credit under subsection (a) for any taxable year with respect to the qualified tuition and related expenses of any 1 individual shall not exceed $1,500.

"(2) Election required.—

"(A) In general.—No credit shall be allowed under subsection (a) for a taxable year with respect to the qualified tuition and related expenses of an individual unless the taxpayer elects to have this section apply with respect to such individual for such year.

"(B) Credit allowed only for 2 taxable years.—An election under this paragraph shall not take effect with respect to an individual for any taxable year if an election under this paragraph (by the taxpayer or any other individual) is in effect with respect to such individual for any 2 prior taxable years.

"(C) Coordination with exclusions.—An election under this paragraph shall not take effect with respect to an individual for any taxable year if there is in effect for such taxable year an election under section 529(c)(3)(B) or 530(c)(1) (by the taxpayer or any other individual) to exclude from gross income distributions from a qualified tuition program or education individual retirement account used to pay qualified higher education expenses of the individual.

"(3) Credit allowed for year only if individual is at least ½ time student for portion of year.—No credit shall be allowed under subsection (a) for a taxable year with respect to the qualified tuition and related expenses of an individual unless such individual is an eligible student for at least one academic period which begins during such year.

"(4) Credit allowed only for first two years of postsecondary education.—No credit shall be allowed under subsection (a) for a taxable year with respect to the qualified tuition and related expenses of an individual if the individual has completed (before the beginning of such taxable year) the first 2 years of postsecondary education at an eligible educational institution.

"(c) Limitation Based on Modified Adjusted Gross Income.—

"(1) In general.—The amount which would (but for this subsection) be taken into account under subsection (a) for the taxable year shall be reduced (but not below zero) by the amount determined under paragraph (2).

"(2) Amount of reduction.—The amount determined under this paragraph is the amount which bears the same ratio to the amount which would be so taken into account as—

"(A) the excess of—

"(i) the taxpayer's modified adjusted gross income for such taxable year, over

"(ii) $40,000 ($80,000 in the case of a joint return), bears to

"(B) $10,000 ($20,000 in the case of a joint return).

"(3) MODIFIED ADJUSTED GROSS INCOME.—The term 'modified adjusted gross income' means the adjusted gross income of the taxpayer for the taxable year increased by any amount excluded from gross income under section 911, 931, or 933.

"(d) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED TUITION AND RELATED EXPENSES.—

"(A) IN GENERAL.—The term 'qualified tuition and related expenses' means tuition and fees required for the enrollment or attendance of—

"(i) the taxpayer,

"(ii) the taxpayer's spouse, or

"(iii) any dependent of the taxpayer with respect to whom the taxpayer is allowed a deduction under section 151,

at an eligible educational institution and books required for courses of instruction of such individual at such institution.

"(B) EXCEPTION FOR EDUCATION INVOLVING SPORTS, ETC.—Such term does not include expenses with respect to any course or other education involving sports, games, or hobbies, unless such course or other education is part of the individual's degree program.

"(C) EXCEPTION FOR NONACADEMIC FEES.—Such term does not include student activity fees, athletic fees, insurance expenses, or other expenses unrelated to an individual's academic course of instruction.

"(2) ELIGIBLE EDUCATIONAL INSTITUTION.—The term 'eligible educational institution' means an institution—

"(A) which is described in section 481 of the Higher Education Act of 1965 (20 U.S.C. 1088), as in effect on the date of the enactment of this section, and

"(B) which is eligible to participate in a program under title IV of such Act.

"(3) ELIGIBLE STUDENT.—The term 'eligible student' means, with respect to any academic period, a student who—

"(A) meets the requirements of section 484(a)(1) of the Higher Education Act of 1965 (20 U.S.C. 1091(a)(1)), as in effect on the date of the enactment of this section, and

"(B) is carrying at least ½ the normal full-time work load for the course of study the student is pursuing.

"(4) COMMUNITY COLLEGE.—The term 'community college' means any institution of higher education (as defined in section 1201 of the Higher Education Act of 1965 (20 U.S.C. 1141)) that awards an associate's degree.

"(5) VOCATIONAL SCHOOL.—The term 'vocational school' means a postsecondary vocational institution (as defined in section 481 of such Act (20 U.S.C. 1088)).

"(e) TREATMENT OF EXPENSES PAID BY DEPENDENT.—If a deduction under section 151 with respect to an individual is allowed to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins—

"(1) no credit shall be allowed under subsection (a) to such individual for such individual's taxable year, and

"(2) qualified tuition and related expenses paid by such individual during such individual's taxable year shall be treated for purposes of this section as paid by such other taxpayer.

"(f) TREATMENT OF CERTAIN PREPAYMENTS.—If qualified tuition and related expenses are paid by the taxpayer during a taxable year for an academic period which begins during the first 3 months following such taxable year, such academic period shall be treated for purposes of this section as beginning during such taxable year.

"(g) SPECIAL RULES.—

"(1) IDENTIFICATION REQUIREMENT.—No credit shall be allowed under subsection (a) to a taxpayer with respect to the qualified tuition and related expenses of an individual unless the taxpayer includes the name and taxpayer identification number of such individual on the return of tax for the taxable year.

"(2) ADJUSTMENT FOR CERTAIN SCHOLARSHIPS, ETC.—The amount of qualified tuition and related expenses otherwise taken into account under subsection (a) with respect to an individual for an academic period shall be reduced (before the application of subsections (b) and (c)) by the sum of any amounts paid for the benefit of such individual which are allocable to such period as—

"(A) a qualified scholarship which is excludable from gross income under section 117,

"(B) an educational assistance allowance under chapter 30, 31, 32, 34, or 35 of title 38, United States Code, or under chapter 1606 of title 10, United States Code, and

"(C) a payment (other than a gift, bequest, devise, or inheritance within the meaning of section 102(a)) for such individual's educational expenses, or attributable to such individual's enrollment at an eligible educational institution, which is excludable from gross income under any law of the United States.

"(3) DENIAL OF CREDIT IF STUDENT CONVICTED OF A FELONY DRUG OFFENSE.—No credit shall be allowed under subsection (a) for qualified tuition and related expenses for the enrollment or attendance of a student for any academic period if such student has been convicted of a Federal or State felony offense consisting of the possession or distribution of a controlled substance before the end of the taxable year with or within which such period ends.

"(4) DENIAL OF CREDIT WHERE NO HIGH SCHOOL DEGREE.—No credit shall be allowed under subsection (a) for qualified tuition and related expenses for the enrollment or attendance of a student for any academic period if such student has not received a high school degree (or its equivalent) before the beginning of such period. This paragraph shall not apply to a student if the student did not receive such degree by reason of enrollment in an early admission program to an eligible educational institution.

"(5) DENIAL OF DOUBLE BENEFIT.—No credit shall be allowed under this section for any expense for which a deduction is allowed under any other provision of this chapter.

"(6) NO CREDIT FOR MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—If the taxpayer is a married individual (within the meaning of section 7703), this section shall apply only if the taxpayer and the taxpayer's spouse file a joint return for the taxable year.

"(7) NONRESIDENT ALIENS.—If the taxpayer is a nonresident alien individual for any portion of the taxable year, this section shall apply only if such individual is treated as a resident alien of the United States for purposes of this chapter by reason of an election under subsection (g) or (h) of section 6013.

"(h) INFLATION ADJUSTMENTS.—

"(1) DOLLAR LIMITATION ON AMOUNT OF CREDIT.—

"(A) IN GENERAL.—In the case of a taxable year beginning after 1998, the $1,500 amount in subsection (b)(1) shall be increased by an amount equal to—

"(i) such dollar amount, multiplied by

"(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 1997' for 'calendar year 1992' in subparagraph (B) thereof.

"(B) ROUNDING.—If any amount as adjusted under subparagraph (A) is not a multiple of $50, such amount shall be rounded to the next lowest multiple of $50.

"(2) INCOME LIMITS.—

"(A) IN GENERAL.—In the case of a taxable year beginning after 2000, the $40,000 and $80,000 amounts in subsection (c)(2) shall each be increased by an amount equal to—

"(i) such dollar amount, multiplied by

"(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 1999' for 'calendar year 1992' in subparagraph (B) thereof.

"(B) ROUNDING.—If any amount as adjusted under subparagraph (A) is not a multiple of $5,000, such amount shall be rounded to the next lowest multiple of $5,000.

"(i) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary or appropriate to carry out this section, including regulations providing for a recapture of credit allowed under this section in cases where there is a refund in a subsequent taxable year of any amount which was taken into account in determining the amount of such credit.".

(b) EXTENSION OF PROCEDURES APPLICABLE TO MATHEMATICAL OR CLERICAL ERRORS.—Paragraph (2) of section 6213(g) (relating to the definition of mathematical or clerical errors) is amended by striking "and" at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting ", and", and by inserting after subparagraph (H) the following new subparagraph:

"(I) an omission of a correct TIN required under section 25A(g)(1) (relating to higher education tuition and related expenses) to be included on a return.".

(c) RETURNS RELATING TO TUITION AND RELATED EXPENSES.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by inserting after section 6050R the following new section:

"SEC. 6050S. RETURNS RELATING TO HIGHER EDUCATION TUITION AND RELATED EXPENSES.

"(a) IN GENERAL.—Any person—

"(1) which is an eligible educational institution which receives payments for qualified tuition and related expenses with respect to any individual for any calendar year, or

"(2) which is engaged in a trade or business and which, in the course of such trade or business, makes payments during any calendar year to any individual which constitute reimbursements or refunds (or similar amounts) of qualified tuition and related expenses of such individual,

shall make the return described in subsection (b) with respect to the individual at such time as the Secretary may by regulations prescribe.

"(b) FORM AND MANNER OF RETURNS.—A return is described in this subsection if such return—

"(1) is in such form as the Secretary may prescribe,

"(2) contains—

"(A) the name, address, and TIN of the individual with respect to whom payments described in subsection (a) were received from (or were paid to),

"(B) the name, address, and TIN of any individual certified by the individual described in subparagraph (A) as the taxpayer who will claim the individual as a dependent for purposes of the deduction allowable under section 151 for any taxable year ending with or within the calendar year, and

“(C) the—

“(i) aggregate amount of payments for qualified tuition and related expenses received with respect to the individual described in subparagraph (A) during the calendar year, and

“(ii) aggregate amount of reimbursements or refunds (or similar amounts) paid to such individual during the calendar year, and

“(D) such other information as the Secretary may prescribe.

“(c) APPLICATION TO GOVERNMENTAL UNITS.—For purposes of this section—

“(1) a governmental unit or any agency or instrumentality thereof shall be treated as a person, and

“(2) any return required under subsection (a) by such governmental entity shall be made by the officer or employee appropriately designated for the purpose of making such return.

“(d) STATEMENTS TO BE FURNISHED TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return under subparagraph (A) or (B) of subsection (b)(2) a written statement showing—

“(1) the name, address, and phone number of the information contact of the person required to make such return, and

“(2) the aggregate amounts described in subparagraph (C) of subsection (b)(2).

The written statement required under the preceding sentence shall be furnished on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made.

“(e) DEFINITIONS.—For purposes of this section, the terms ‘eligible educational institution’ and ‘qualified tuition and related expenses’ have the meanings given such terms by section 25A.

“(f) RETURNS WHICH WOULD BE REQUIRED TO BE MADE BY 2 OR MORE PERSONS.—Except to the extent provided in regulations prescribed by the Secretary, in the case of any amount received by any person on behalf of another person, only the person first receiving such amount shall be required to make the return under subsection (a).

“(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section. No penalties shall be imposed under section 6724 with respect to any return or statement required under this section until such time as such regulations are issued.”.

(2) ASSESSABLE PENALTIES.—

(A) Subparagraph (B) of section 6724(d)(1) (relating to definitions) is amended by redesignating clauses (ix) through (xiv) as clauses (x) through (xv), respectively, and by inserting after clause (viii) the following new clause:

“(ix) section 6050S (relating to returns relating to payments for qualified tuition and related expenses),”.

(B) Paragraph (2) of section 6724(d) is amended by striking “or” at the end of the next to last subparagraph, by striking the period at the end of the last subparagraph and inserting “, or”, and by adding at the end the following new subparagraph:

“(Z) section 6050S(d) (relating to returns relating to qualified tuition and related expenses).”.

(3) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6050R the following new item:

“Sec. 6050S. Returns relating to higher education tuition and related expenses.”.

(d) COORDINATION WITH SECTION 135.—Subsection (d) of section 135 is amended by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and by inserting after paragraph (1) the following new paragraph:

“(2) COORDINATION WITH HIGHER EDUCATION CREDIT.—The amount of the qualified higher education expenses otherwise taken into account under subsection (a) with respect to the education of an individual shall be reduced (before the application of subsection (b)) by the amount of such expenses which are taken into account in determining the credit allowable to the taxpayer or any other person under section 25A with respect to such expenses.”.

(e) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 25 the following new item:

“Sec. 25A. Higher education tuition and related expenses.”.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to expenses paid after December 31, 1997 (in taxable years ending after such date), for education furnished in academic periods beginning after such date.

SEC. 202. DEDUCTION FOR INTEREST ON EDUCATION LOANS.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 (relating to additional itemized deductions for individuals) is amended by redesignating section 221 as section 222 and by inserting after section 220 the following new section:

“SEC. 221. INTEREST ON EDUCATION LOANS.

“(a) ALLOWANCE OF DEDUCTION.—In the case of an individual, there shall be allowed as a deduction for the taxable year an amount equal to the interest paid by the taxpayer during the taxable year on any qualified education loan.

“(b) MAXIMUM DEDUCTION.—

“(1) IN GENERAL.—Except as provided in paragraph (2), the deduction allowed by subsection (a) for the taxable year shall not exceed $2,500.

“(2) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

“(A) IN GENERAL.—The amount which would (but for this paragraph) be allowable as a deduction under this section shall be reduced (but not below zero) by the amount determined under paragraph (2).

“(B) AMOUNT OF REDUCTION.—The amount determined under this paragraph is the amount which bears the same ratio to the amount which would be so taken into account as—

“(i) the excess of—

“(I) the taxpayer's modified adjusted gross income for such taxable year, over

“(II) $40,000 ($80,000 in the case of a joint return), bears to

“(ii) $10,000 ($20,000 in the case of a joint return).

“(C) MODIFIED ADJUSTED GROSS INCOME.—The term ‘modified adjusted gross income’ means adjusted gross income determined—

“(i) without regard to this section and sections 135, 911, 931, and 933, and

“(ii) after application of sections 86, 219, and 469.

For purposes of sections 86, 135, 219, and 469, adjusted gross income shall be determined without regard to the deduction allowed under this section.

“(c) DEPENDENTS NOT ELIGIBLE FOR DEDUCTION.—No deduction shall be allowed by this section to an individual for the taxable year if a deduction under section 151 with respect to such individual is allowed to another taxpayer for the taxable year beginning in the calendar year in which such individual's taxable year begins.

“(d) LIMIT ON PERIOD DEDUCTION ALLOWED.—A deduction shall be allowed under this section only with respect to interest paid on any qualified education loan during the first 60 months (whether or not consecutive) in which interest payments are required. For purposes of this paragraph, any loan and all refinancings of such loan shall be treated as 1 loan.

“(e) DEFINITIONS.—For purposes of this section—

“(1) QUALIFIED EDUCATION LOAN.—The term ‘qualified education loan’ means any indebtedness incurred to pay qualified higher education expenses—

“(A) which are incurred on behalf of the taxpayer, the taxpayer's spouse, or any dependent of the taxpayer as of the time the indebtedness was incurred,

“(B) which are paid or incurred within a reasonable period of time before or after the indebtedness is incurred, and

“(C) which are attributable to education furnished during a period during which the recipient was an eligible student.

Such term includes indebtedness used to refinance indebtedness which qualifies as a qualified education loan. The term ‘qualified education loan’ shall not include any indebtedness owed to a person who is related (within the meaning of section 267(b) or 707(b)(1)) to the taxpayer.

“(2) QUALIFIED HIGHER EDUCATION EXPENSES.—The term ‘qualified higher education expenses’ means the cost of attendance (as defined in section 472 of the Higher Education Act of 1965, 20 U.S.C. 1087ll, as in effect on the day before the date of the enactment of this Act) at an eligible educational institution, reduced by the sum of—

“(A) the amount excluded from gross income under section 135, 529, or 530 by reason of such expenses, and

“(B) the amount of any scholarship, allowance, or payment described in section 25A(g)(2).

For purposes of the preceding sentence, the term ‘eligible educational institution’ has the same meaning given such term by section 25A(d)(2), except that such term shall also include an institution conducting an internship or residency program leading to a degree or certificate awarded by an institution of higher education, a hospital, or a health care facility which offers postgraduate training.

“(3) ELIGIBLE STUDENT.—The term ‘eligible student’ has the meaning given such term by section 25A(d)(3).

“(4) DEPENDENT.—The term ‘dependent’ has the meaning given such term by section 152.

“(f) SPECIAL RULES.—

“(1) DENIAL OF DOUBLE BENEFIT.—No deduction shall be allowed under this section for any amount for which a deduction is allowable under any other provision of this chapter.

“(2) MARRIED COUPLES MUST FILE JOINT RETURN.—If the taxpayer is married at the close of the taxable year, the deduction shall be allowed under subsection (a) only if the taxpayer and the taxpayer's spouse file a joint return for the taxable year.

“(3) MARITAL STATUS.—Marital status shall be determined in accordance with section 7703.

“(g) INFLATION ADJUSTMENTS.—

“(1) DOLLAR LIMITATION ON AMOUNT OF CREDIT.—

“(A) IN GENERAL.—In the case of a taxable year beginning after 1998, the $2,500 amount in subsection (b)(1) shall be increased by an amount equal to—

“(i) such dollar amount, multiplied by

“(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting ‘calendar year 1997’ for ‘calendar year 1992’ in subparagraph (B) thereof.

“(B) ROUNDING.—If any amount as adjusted under subparagraph (A) is not a multiple of $50, such amount shall be rounded to the next lowest multiple of $50.

"(2) INCOME LIMITS.—In the case of a taxable year beginning in a calendar year after 2000, the $40,000 and $80,000 amounts in subsection (b)(2) shall each be increased by the amount the $40,000 and $80,000 amounts under section 25A(c)(2) are increased for taxable years beginning in such calendar year.".

(b) DEDUCTION ALLOWED WHETHER OR NOT TAXPAYER ITEMIZES OTHER DEDUCTIONS.—Subsection (a) of section 62 is amended by inserting after paragraph (16) the following new paragraph:

"(17) INTEREST ON EDUCATION LOANS.—The deduction allowed by section 221.".

(c) REPORTING REQUIREMENT.—

(1) IN GENERAL.—Section 6050S(a)(2) (relating to returns relating to higher education tuition and related expenses) is amended to read as follows:

"(2) which is engaged in a trade or business and which, in the course of such trade or business—

"(A) makes payments during any calendar year to any individual which constitutes reimbursements or refunds (or similar amounts) of qualified tuition and related expenses of such individual, or

"(B) except as provided in regulations, receives from any individual interest aggregating $600 or more for any calendar year on 1 or more qualified education loans,".

(2) INFORMATION.—Section 6050S(b)(2) is amended—

(A) by inserting "or interest" after "payments" in subparagraph (A), and

(B) in subparagraph (C), by striking "and" at the end of clause (i), by inserting "and" at the end of clause (ii), and by inserting after clause (ii) the following:

"(iii) aggregate amount of interest received for the calendar year from such individual,".

(3) DEFINITION.—Section 6050S(e) is amended by inserting ", and except as provided in regulations, the term 'qualified education loan' has the meaning given such term by section 221(e)(1)" after "section 25A".

(d) CLERICAL AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 is amended by striking the last item and inserting the following new items:

"Sec. 221. Interest on education loans.

"Sec. 222. Cross reference.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to any qualified education loan (as defined in section 221(e)(1) of the Internal Revenue Code of 1986, as added by this section) incurred on, before, or after the date of the enactment of this Act, but only with respect to—

(1) any loan interest payment due after December 31, 1996, and

(2) the portion of the 60-month period referred to in section 221(d) of the Internal Revenue Code of 1986 (as added by this section) after December 31, 1996.

SEC. 203. PENALTY-FREE WITHDRAWALS FROM INDIVIDUAL RETIREMENT PLANS FOR HIGHER EDUCATION EXPENSES.

(a) IN GENERAL.—Paragraph (2) of section 72(t) (relating to exceptions to 10-percent additional tax on early distributions from qualified retirement plans) is amended by adding at the end the following new subparagraph:

"(E) DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT PLANS FOR HIGHER EDUCATION EXPENSES.—Distributions to an individual from an individual retirement plan to the extent such distributions do not exceed the qualified higher education expenses (as defined in paragraph (7)) of the taxpayer for the taxable year. Distributions shall not be taken into account under the preceding sentence if such distributions are described in subparagraph (A), (C), or (D) or to the extent paragraph (1) does not apply to such distributions by reason of subparagraph (B).".

(b) DEFINITION.—Section 72(t) is amended by adding at the end the following new paragraph:

"(7) QUALIFIED HIGHER EDUCATION EXPENSES.—For purposes of paragraph (2)(E)—

"(A) IN GENERAL.—The term 'qualified higher education expenses' means qualified higher education expenses (as defined in section 529(e)(3)) for education furnished to—

"(i) the taxpayer,

"(ii) the taxpayer's spouse, or

"(iii) any child (as defined in section 151(c)(3)) or grandchild of the taxpayer or the taxpayer's spouse,

at an eligible educational institution (as defined in section 529(e)(5)).

"(B) COORDINATION WITH OTHER BENEFITS.—The amount of qualified higher education expenses for any taxable year shall be reduced as provided in section 25A(g)(2).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after December 31, 1997, with respect to expenses paid after such date (in taxable years ending after such date), for education furnished in academic periods beginning after such date.

Subtitle B—Expanded Education Investment Savings Opportunities

PART I—QUALIFIED TUITION PROGRAMS

SEC. 211. EXCLUSION FROM GROSS INCOME OF EDUCATION DISTRIBUTIONS FROM QUALIFIED TUITION PROGRAMS.

(a) IN GENERAL.—Subparagraph (B) of section 529(c)(3) (relating to distributions) is amended to read as follows:

"(B) DISTRIBUTIONS FOR QUALIFIED HIGHER EDUCATION EXPENSES.—If a distributee elects the application of this subparagraph for any taxable year—

"(i) no amount shall be includible in gross income by reason of a distribution which consists of providing a benefit to the distributee which, if paid for by the distributee, would constitute payment of a qualified higher education expense, and

"(ii) the amount which (but for the election) would be includible in gross income by reason of any other distribution shall not be so includible in an amount which bears the same ratio to the amount which would be so includible as the amount of the qualified higher education expenses of the distributee bears to the amount of the distribution.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after December 31, 1997, for education furnished in academic periods beginning after such date.

SEC. 212. ELIGIBLE EDUCATIONAL INSTITUTIONS PERMITTED TO MAINTAIN QUALIFIED TUITION PROGRAMS; OTHER MODIFICATIONS OF QUALIFIED STATE TUITION PROGRAMS.

(a) ELIGIBLE EDUCATIONAL INSTITUTIONS PERMITTED TO MAINTAIN QUALIFIED TUITION PROGRAMS.—Paragraph (1) of section 529(b) (defining qualified State tuition program) is amended by inserting "or by one or more eligible educational institutions" after "maintained by a State or agency or instrumentality thereof".

(b) QUALIFIED HIGHER EDUCATION EXPENSES TO INCLUDE ROOM AND BOARD.—Paragraph (3) of section 529(e) (defining qualified higher education expenses) is amended to read as follows:

"(3) QUALIFIED HIGHER EDUCATION EXPENSES.—

"(A) IN GENERAL.—The term 'qualified higher education expenses' means tuition, fees, books, supplies, and equipment required for the enrollment or attendance of a designated beneficiary at an eligible education institution.

"(B) ROOM AND BOARD INCLUDED FOR STUDENTS WHO ARE AT LEAST HALF-TIME.—In the case of an individual who is an eligible student (as defined in section 25A(d)(3)) for any academic period, such term shall also include reasonable costs for such period (as determined under the qualified tuition program) incurred by the designated beneficiary for room and board while attending such institution. The amount treated as qualified higher education expenses by reason of the preceding sentence shall not exceed the minimum amount (applicable to the student) included for room and board for such period in the cost of attendance (as defined in section 472 of the Higher Education Act of 1965, 20 U.S.C. 1087ll, as in effect on the date of the enactment of this paragraph) for the eligible educational institution for such period.".

(c) ADDITIONAL MODIFICATIONS.—

(1) MEMBER OF FAMILY.—Paragraph (2) of section 529(e) (relating to other definitions and special rules) is amended to read as follows:

"(2) MEMBER OF FAMILY.—The term 'member of the family' means—

"(A) an individual who bears a relationship to another individual which is a relationship described in paragraphs (1) through (8) of section 152(a), and

"(B) the spouse of any individual described in subparagraph (A).".

(2) ELIGIBLE EDUCATIONAL INSTITUTION.—Section 529(e) is amended by adding at the end the following:

"(5) ELIGIBLE EDUCATIONAL INSTITUTION.—The term 'eligible educational institution' means an institution—

"(A) which is described in section 481 of the Higher Education Act of 1965 (20 U.S.C. 1088), as in effect on the date of the enactment of this paragraph, and

"(B) which is eligible to participate in a program under title IV of such Act.".

(3) NO CONTRIBUTIONS AFTER BENEFICIARY ATTAINS AGE 18; DISTRIBUTIONS REQUIRED IN CERTAIN CASES.—

(A) IN GENERAL.—Subsection (b) of section 529 is amended by adding at the end the following new paragraph:

"(8) RESTRICTIONS RELATING TO AGE OF BENEFICIARY; COMPLETION OF EDUCATION.—

"(A) IN GENERAL.—A program shall be treated as a qualified tuition program only if—

"(i) no contribution is accepted on behalf of a designated beneficiary after the date on which such beneficiary attains age 18, and

"(ii) any balance to the credit of a designated beneficiary (if any) on the account termination date shall be distributed within 30 days after such date to such beneficiary (or in the case of death, the estate of the beneficiary).

"(B) ACCOUNT TERMINATION DATE.—For purposes of subparagraph (A), the term 'account termination date' means whichever of the following dates is the earliest:

"(i) The date on which the designated beneficiary attains age 30.

"(ii) The date on which the designated beneficiary dies.".

(B) ROLLOVERS.—Section 529(c)(3) is amended by adding at the end the following:

"(E) ROLLOVERS TO IRA PLUS ACCOUNTS AT AGE 30.—Subparagraph (A) shall not apply to any distribution to the designated beneficiary required under subsection (b)(8) by reason of the beneficiary attaining age 30 to the extent the beneficiary, within 60 days of the distribution, transfers such distribution to an IRA Plus account established on the individual's behalf.".

(C) CONFORMING AMENDMENTS.—

(i) Section 408(a)(1) is amended by striking "or 403(b)(8)" and inserting "403(b)(8), or 529(c)(3)(E)".

(ii) Subparagraph (A) of section 4973(b)(1) is amended by striking "or 408(b)(3)" and inserting "408(b)(3), or 529(c)(3)(E)".

(4) ESTATE AND GIFT TAX TREATMENT.—

(A) GIFT TAX TREATMENT.—

(i) Paragraph (2) of section 529(c) is amended to read as follows:

"(2) GIFT TAX TREATMENT OF CONTRIBUTIONS.—For purposes of chapters 12 and 13, any contribution to a qualified tuition program on behalf of any designated beneficiary shall not be treated as a taxable gift.".

(ii) Paragraph (5) of section 529(c) is amended to read as follows:

"(5) OTHER GIFT TAX RULES.—For purposes of chapters 12 and 13—

"(A) TREATMENT OF DISTRIBUTIONS.—In no event shall a distribution from a qualified tuition program be treated as a taxable gift.

"(B) TREATMENT OF DESIGNATION OF NEW BENEFICIARY.—The taxes imposed by chapters 12 and 13 shall apply to a transfer by reason of a change in the designated beneficiary under the program (or a rollover to the account of a new beneficiary) only if the new beneficiary is a generation below the generation of the old beneficiary (determined in accordance with section 2651).".

(B) ESTATE TAX TREATMENT.—Paragraph (4) of section 529(c) is amended to read as follows:

"(4) ESTATE TAX TREATMENT.—

"(A) IN GENERAL.—No amount shall be includible in the gross estate of any individual for purposes of chapter 11 by reason of an interest in a qualified tuition program.

"(B) AMOUNTS INCLUDIBLE IN ESTATE OF DESIGNATED BENEFICIARY IN CERTAIN CASES.—Subparagraph (A) shall not apply to amounts distributed on account of the death of a beneficiary.".

(5) LIMITATION ON CONTRIBUTIONS TO QUALIFIED TUITION PROGRAMS NOT MAINTAINED BY A STATE.—Subsection (b) of section 529 is amended by adding at the end the following new paragraph:

"(9) LIMITATION ON CONTRIBUTIONS TO QUALIFIED TUITION PROGRAMS NOT MAINTAINED BY A STATE.—In the case of a program not maintained by a State or agency or instrumentality thereof, such program shall not be treated as a qualified tuition program unless it limits the annual contribution to the program on behalf of a designated beneficiary to the sum of $2,000 plus the amount of the credit allowable under section 25A for 1 qualifying child.".

(d) ADDITIONAL TAX ON AMOUNTS NOT USED FOR HIGHER EDUCATION EXPENSES.—Section 529 is amended by adding at the end the following new subsection:

"(f) IMPOSITION OF ADDITIONAL TAX.—

"(1) IN GENERAL.—In the case of a qualified tuition program not maintained by a State or any agency or instrumentality thereof, the tax imposed by this chapter for any taxable year on any taxpayer who receives a payment or distribution from such program which is includible in gross income shall be increased by 10 percent of the amount which is so includible.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply if the payment or distribution is—

"(A) made to a beneficiary (or to the estate of the designated beneficiary) on or after the death of the designated beneficiary,

"(B) attributable to the designated beneficiary's being disabled (within the meaning of section 72(m)(7)), or

"(C) made on account of a scholarship, allowance, or payment described in section 25A(g)(2) received by the account holder to the extent the amount of the payment or distribution does not exceed the amount of the scholarship, allowance, or payment.

"(3) EXCESS CONTRIBUTIONS RETURNED BEFORE DUE DATE OF RETURN.—In the case of a qualified tuition program not maintained by a State or any agency or instrumentality thereof, paragraph (1) shall not apply to the distribution to a contributor of any contribution made during a taxable year on behalf of a designated beneficiary to the extent that such contribution exceeds the limitation in section 4973(e) if—

"(A) such distribution is received on or before the day prescribed by law (including extensions of time) for filing such contributor's return for such taxable year, and

"(B) such distribution is accompanied by the amount of net income attributable to such excess contribution.

Any net income described in subparagraph (B) shall be included in the gross income of the contributor for the taxable year in which such excess contribution was made.".

(e) COORDINATION WITH EDUCATION SAVINGS BOND.—Section 135(c)(2) (defining qualified higher education expenses) is amended by adding at the end the following:

"(C) CONTRIBUTIONS TO QUALIFIED TUITION PROGRAM.—Such term shall include any contribution to a qualified tuition program (as defined in section 529) on behalf of a designated beneficiary (as defined in such section) who is an individual described in subparagraph (A); but there shall be no increase in the investment in the contract for purposes of applying section 72 by reason of any portion of such contribution which is not includible in gross income by reason of this subparagraph.".

(f) TAX ON EXCESS CONTRIBUTIONS.—

(1) IN GENERAL.—Subsection (a) of section 4973 is amended by striking "or" at the end of paragraph (2) and by inserting after paragraph (3) the following new paragraphs:

"(4) a qualified tuition program (as defined in section 529) not maintained by a State or any agency or instrumentality thereof, or

"(5) an education individual retirement account (as defined in section 530),".

(2) EXCESS CONTRIBUTIONS DEFINED.—Section 4973 is amended by adding at the end the following new subsection:

"(e) EXCESS CONTRIBUTIONS TO PRIVATE QUALIFIED TUITION PROGRAM AND EDUCATION INDIVIDUAL RETIREMENT ACCOUNTS.—For purposes of this section—

"(1) IN GENERAL.—In the case of private education investment accounts maintained for the benefit of any 1 beneficiary, the term 'excess contributions' means the amount by which the amount contributed for the taxable year to such accounts exceeds the sum of $2,000 plus the amount of the credit allowed under section 25A for such beneficiary for such taxable year.

"(2) PRIVATE EDUCATION INVESTMENT ACCOUNT.—For purposes of paragraph (1), the term 'private education investment account' means—

"(A) a qualified tuition program (as defined in section 529) not maintained by a State or any agency or instrumentality thereof, and

"(B) an education individual retirement account (as defined in section 530).

"(3) SPECIAL RULES.—For purposes of paragraph (1), the following contributions shall not be taken into account:

"(A) Any contribution which is distributed out of the education individual retirement account in a distribution to which section 530(c)(3)(B) applies.

"(B) Any contribution to a qualified tuition program (as so defined) described in section 530(b)(2)(B) from any such account.

"(C) Any rollover contribution.".

(g) CLARIFICATION OF TAXATION OF DISTRIBUTIONS.—Subparagraph (A) of section 529(c)(3) is amended to read as follows:

"(A) IN GENERAL.—Any distribution from a qualified tuition program—

"(i) shall be includible in the gross income of the distributee to the extent allocable to income under the program, and

"(ii) shall not be includible in gross income to the extent allocable to the investment in the contract.

For purposes of the preceding sentence, rules similar to the rules of section 72(e)(3) shall apply.".

(h) TECHNICAL AMENDMENTS.—

(1) Paragraph (2) of section 26(b) is amended by redesignating subparagraphs (E) through (P) as subparagraphs (F) through (Q), respectively, and by inserting after subparagraph (D) the following new subparagraph:

"(E) section 529(f) (relating to additional tax on certain distributions from qualified tuition programs),".

(2) The text of section 529 is amended by striking "qualified State tuition program" each place it appears and inserting "qualified tuition program".

(3)(A) The section heading of section 529 is amended to read as follows:

"SEC. 529. QUALIFIED TUITION PROGRAMS.".

(B) The item relating to section 529 in the table of sections for part VIII of subchapter F of chapter 1 is amended by striking "State".

(4)(A) The heading for part VIII of subchapter F of chapter 1 is amended to read as follows:

"PART VIII—HIGHER EDUCATION SAVINGS ENTITIES".

(B) The table of parts for subchapter F of chapter 1 is amended by striking the item relating to part VIII and inserting:

"Part VIII. Higher education savings entities.".

(5)(A) Section 529(d) is amended to read as follows:

"(d) REPORTS.—Each officer or employee having control of the qualified tuition program or their designee shall make such reports regarding such program to the Secretary and to designated beneficiaries with respect to contributions, distributions, and such other matters as the Secretary may require under regulations. The reports required by this subsection shall be filed at such time and in such manner and furnished to such individuals at such time and in such manner as may be required by those regulations.".

(B) Paragraph (2) of section 6693(a) (relating to failure to provide reports on individual retirement accounts or annuities) is amended by striking "and" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", and", and by adding at the end the following new subparagraph:

"(C) Section 529(d) (relating to qualified tuition programs).".

*(C) The section heading for section 6693 is amended by striking "**INDIVIDUAL RETIREMENT**" and inserting "**CERTAIN TAX-FAVORED**".*

(D) The item relating to section 6693 in the table of sections for part I of subchapter B of chapter 68 is amended by striking "individual retirement" and inserting "certain tax-favored".

(i) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall take effect on January 1, 1998.

(2) EXPENSES TO INCLUDE ROOM AND BOARD, ETC.—The amendments made by subsection (b) and (c)(2) shall apply to distributions after December 31, 1997, with respect to expenses paid after such date (in taxable years ending after such date), for education furnished in academic periods beginning after such date.

(3) COORDINATION WITH EDUCATION SAVINGS BONDS.—The amendment made by subsection (e) shall apply to taxable years beginning after December 31, 1997.

(4) ESTATE AND GIFT TAX CHANGES.—

(A) GIFT TAX CHANGES.—Paragraphs (2) and (5) of section 529(c) of the Internal Revenue Code of 1986, as amended by this section, shall apply to transfers (including designations of new beneficiaries) made after the date of the enactment of this Act.

(B) ESTATE TAX CHANGES.—Paragraph (4) of such section 529(c) shall apply to estates of decedents dying after June 8, 1997.

(5) REPORTING.—The amendments made by subsection (g) shall apply after June 16, 1997.

PART II—EDUCATION INDIVIDUAL RETIREMENT ACCOUNTS

SEC. 213. EDUCATION INDIVIDUAL RETIREMENT ACCOUNTS.

(a) IN GENERAL.—Part VIII of subchapter F of chapter 1 (relating.to qualified State tuition programs) is amended by adding at the end the following new section:

"SEC. 530. EDUCATION INDIVIDUAL RETIREMENT ACCOUNTS.

"(a) GENERAL RULE.—An education individual retirement account shall be exempt from taxation under this subtitle. Notwithstanding the preceding sentence, the education individual retirement account shall be subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated business income of charitable organizations).

"(b) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) EDUCATION INDIVIDUAL RETIREMENT ACCOUNT.—The term 'education individual retirement account' means a trust created or organized in the United States exclusively for the purpose of paying the qualified education expenses of the account holder, but only if the written governing instrument creating the trust meets the following requirements:

"(A) No contribution will be accepted—

"(i) unless it is in cash,

"(ii) after the date on which the account holder attains age 18, or

"(iii) except in the case of rollover contributions, if such contribution would result in aggregate contributions for the taxable year exceeding the sum of—

"(I) $2,000, plus

"(II) the amount of the credit allowable under section 25A for the taxable year for 1 qualifying child.

"(B) The trustee is a bank (as defined in section 408(n)) or another person who demonstrates to the satisfaction of the Secretary that the manner in which that person will administer the trust will be consistent with the requirements of this section.

"(C) No part of the trust assets will be invested in life insurance contracts.

"(D) The assets of the trust shall not be commingled with other property except in a common trust fund or common investment fund.

"(E) Upon the death of the account holder, any balance in the account will be distributed as required under section 529(b)(8) (as if such account were a qualified tuition program).

"(F) The account becomes an IRA Plus as of the date the account holder attains age 30 (and meets all requirements for an IRA Plus on and after such date), unless the account holder elects to have sections 529(b)(8) apply as of such date (as if such account were a qualified tuition program).

"(2) QUALIFIED EDUCATION EXPENSES.—

"(A) IN GENERAL.—The term 'qualified education expenses' means—

"(i) qualified higher education expenses (as defined in section 529(e)(3), and

"(ii) in the case of taxable years beginning after December 31, 2000, qualified elementary and secondary education expenses (as defined in paragraph (5)).

"(B) QUALIFIED TUITION PROGRAMS.—Such term shall include amounts paid or incurred to purchase tuition credits or certificates, or to make contributions to an account, under a qualified tuition program (as defined in section 529(b)) for the benefit of the account holder.

"(3) ELIGIBLE EDUCATIONAL INSTITUTION.—The term 'eligible educational institution' has the meaning given such term by section 529(e)(5).

"(4) ACCOUNT HOLDER.—The term 'account holder' means the individual for whose benefit the education individual retirement account is established.

"(5) QUALIFIED ELEMENTARY AND SECONDARY EDUCATION EXPENSES.—

"(A) IN GENERAL.—The term 'qualified elementary and secondary education expenses' means tuition, fees, tutoring, special needs services, books, supplies, equipment, transportation, and supplementary expenses required for the enrollment or attendance at a public, private, or sectarian school of any dependent of the taxpayer with respect to whom the taxpayer is allowed a deduction under section 151.

"(B) SPECIAL RULE FOR HOMESCHOOLING.—Such term shall include expenses described in subparagraph (A) required for education provided for homeschooling if the requirements of any applicable State or local law are met with respect to such education.

"(C) SCHOOL.—The term 'school' means any school which provides elementary education or secondary education (through grade 12), as determined under State law.

"(c) TAX TREATMENT OF DISTRIBUTIONS.—

"(1) IN GENERAL.—Any amount paid or distributed shall be includible in gross income to the extent required by section 529(c)(3) (determined as if such account were a qualified tuition program and as if qualified higher education expenses include qualified education expenses).

"(2) SPECIAL RULES FOR APPLYING ESTATE AND GIFT TAXES WITH RESPECT TO ACCOUNT.—Rules similar to the rules of paragraphs (2), (4), and (5) of section 529(c) shall apply for purposes of this section.

"(3) ADDITIONAL TAX FOR DISTRIBUTIONS NOT USED FOR EDUCATIONAL EXPENSES.—

"(A) IN GENERAL.—The tax imposed by section 529(f) shall apply to payments and distributions from an education individual retirement account in the same manner as such tax applies to qualified tuition programs (as defined in section 529), except that section 529(f) shall be applied by reference to qualified education expenses.

"(B) EXCESS CONTRIBUTIONS RETURNED BEFORE DUE DATE OF RETURN.—Subparagraph (A) shall not apply to the distribution to a contributor of any contribution paid during a taxable year to an education individual retirement account to the extent that such contribution exceeds the limitation in section 4973(e) if such distribution (and the net income with respect to such excess contribution) meet requirements comparable to the requirements of section 529(f)(3).

"(4) ROLLOVER CONTRIBUTIONS.—Paragraph (1) shall not apply to any amount paid or distributed from an education individual retirement account to the extent that the amount received is paid into another education individual retirement account for the benefit of the account holder or a member of the family (within the meaning of section 529(e)(2)) of the account holder not later than the 60th day after the date of such payment or distribution. The preceding sentence shall not apply to any payment or distribution if it applied to any prior payment or distribution during the 12-month period ending on the date of the payment or distribution.

"(5) CHANGE IN ACCOUNT HOLDER.—Any change in the account holder of an education individual retirement account shall not be treated as a distribution for purposes of paragraph (1) if the new account holder is a member of the family (as so defined) of the old account holder.

"(6) SPECIAL RULES FOR DEATH AND DIVORCE.—Rules similar to the rules of paragraphs (7) and (8) of section 220(f) shall apply.

"(d) TAX TREATMENT OF ACCOUNTS.—Rules similar to the rules of paragraphs (2) and (4) of section 408(e) shall apply to any education individual retirement account.

"(e) COMMUNITY PROPERTY LAWS.—This section shall be applied without regard to any community property laws.

"(f) CUSTODIAL ACCOUNTS.—For purposes of this section, a custodial account shall be treated as a trust if the assets of such account are held by a bank (as defined in section 408(n)) or another person who demonstrates, to the satisfaction of the Secretary, that the manner in which he will administer the account will be consistent with the requirements of this section, and if the custodial account would, except for the fact that it is not a trust, constitute an account described in subsection (b)(1). For purposes of this title, in the case of a custodial account treated as a trust by reason of the preceding sentence, the custodian of such account shall be treated as the trustee thereof.

"(g) REPORTS.—The trustee of an education individual retirement account shall make such reports regarding such account to the Secretary and to the account holder with respect to contributions, distributions, and such other matters as the Secretary may require under regulations. The reports required by this subsection shall be filed at such time and in such manner and furnished to such individuals at such time and in such manner as may be required by those regulations.".

(b) TAX ON PROHIBITED TRANSACTIONS.—

(1) IN GENERAL.—Paragraph (1) of section 4975(e) (relating to prohibited transactions) is amended by striking "or" at the end of subparagraph (D), by redesignating subparagraph (E) as subparagraph (F), and by inserting after subparagraph (D) the following new subparagraph:

"(E) an education individual retirement account described in section 530, or".

(2) SPECIAL RULE.—Subsection (c) of section 4975 is amended by adding at the end of subsection (c) the following new paragraph:

"(5) SPECIAL RULE FOR EDUCATION INDIVIDUAL RETIREMENT ACCOUNTS.—An individual for whose benefit an education individual retirement account is established and any contributor to such account shall be exempt from the tax imposed by this section with respect to any transaction concerning such account (which would otherwise be taxable under this section) if section 530(d) applies with respect to such transaction.".

(c) FAILURE TO PROVIDE REPORTS ON EDUCATION INDIVIDUAL RETIREMENT ACCOUNTS.—Paragraph (2) of section 6693(a) (relating to failure to provide reports on individual retirement accounts or annuities) is amended by striking "and" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting ", and", and by adding at the end the following new subparagraph:

"(D) Section 530(g) (relating to education individual retirement accounts).".

(d) TECHNICAL AMENDMENTS.—

(1) Subparagraph (F) of section 26(b)(2), as added by the preceding section, is amended by inserting before the comma "and section 530(c)(3) (relating to additional tax on certain distributions from education individual retirement accounts)".

(2) Subparagraph (C) of section 135(c)(2), as added by the preceding section, is amended by inserting ", or to an education individual retirement account (as defined in section 530) on behalf of an account holder (as defined in such section)," after "(as defined in such section)".

(3) The table of sections for part VIII of subchapter F of chapter 1 is amended by adding at the end the following new item:

"Sec. 530. Education individual retirement accounts.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

Subtitle C—Other Education Initiatives

SEC. 221. EXTENSION OF EXCLUSION FOR EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE.

(a) IN GENERAL.—Section 127 (relating to educational assistance programs) is amended by striking subsection (d) and by redesignating subsection (e) as subsection (d).

(b) REPEAL OF LIMITATION ON GRADUATE EDUCATION.—The last sentence of section 127(c)(1) is amended by striking ", and such term also does not include any payment for, or the provision of any benefits with respect to, any graduate level course of a kind normally taken by an individual pursuing a program leading to a law, business, medical, or other advanced academic or professional degree".

(c) EFFECTIVE DATES.—

(1) EXTENSION.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1996.

(2) GRADUATE EDUCATION.—The amendment made by subsection (b) shall apply with respect to expenses relating to courses beginning after December 31, 1996.

SEC. 222. REPEAL OF LIMITATION ON QUALIFIED 501(c)(3) BONDS OTHER THAN HOSPITAL BONDS.

Section 145(b) (relating to qualified 501(c)(3) bond) is amended by adding at the end the following new paragraph:

"(5) TERMINATION OF LIMITATION.—This subsection shall not apply with respect to bonds issued after the date of the enactment of this paragraph to finance capital expenditures incurred after such date.".

SEC. 223. INCREASE IN ARBITRAGE REBATE EXCEPTION FOR GOVERNMENTAL BONDS USED TO FINANCE EDUCATION FACILITIES.

(a) IN GENERAL.—Section 148(f)(4)(D) (relating to exception for governmental units issuing $5,000,000 or less of bonds) is amended by adding at the end the following new clause:

"(vii) INCREASE IN EXCEPTION FOR BONDS FINANCING PUBLIC SCHOOL CAPITAL EXPENDITURES.—Each of the $5,000,000 amounts in the preceding provisions of this subparagraph shall be increased by the lesser of $5,000,000 or so much of the aggregate face amount of the bonds as are attributable to financing the construction (within the meaning of subparagraph (C)(iv)) of public school facilities.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after December 31, 1997.

SEC. 224. 2-PERCENT FLOOR ON MISCELLANEOUS ITEMIZED DEDUCTIONS NOT TO APPLY TO CERTAIN CONTINUING EDUCATION EXPENSES OF ELEMENTARY AND SECONDARY SCHOOL TEACHERS.

(a) IN GENERAL.—Section 67(b) (defining miscellaneous itemized deductions) is amended by striking "and" at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting ", and", and by adding at the end the following:

"(13) any deduction allowable for the qualified professional development expenses of an eligible teacher.".

(b) DEFINITIONS.—Section 67 is amended by adding at the end the following new subsection:

"(g) QUALIFIED PROFESSIONAL DEVELOPMENT EXPENSES OF ELIGIBLE TEACHERS.—For purposes of subsection (b)(13)—

"(1) QUALIFIED PROFESSIONAL DEVELOPMENT EXPENSES.—

"(A) IN GENERAL.—The term 'qualified professional development expenses' means expenses—

"(i) for tuition, fees, books, supplies, equipment, and transportation required for the enrollment or attendance of an individual in a qualified course of instruction, and

"(ii) with respect to which a deduction is allowable under section 162 (determined without regard to this section).

"(B) QUALIFIED COURSE OF INSTRUCTION.—The term 'qualified course of instruction' means a course of instruction which—

"(i) is at an institution of higher education (as defined in section 481 of the Higher Education Act of 1965 (20 U.S.C. 1088), as in effect on the date of the enactment of this subsection), and

"(ii) is part of a program of professional development which is approved and certified by the appropriate local educational agency as directly related to—

"(I) an increase in the individual's knowledge of content areas the individual is required to teach,

"(II) the improvement of the individual's capacity to teach students to the standards of the local educational agency, or

"(III) the improvement of the individual's capacity to use learning technology in teaching.

"(C) LOCAL EDUCATIONAL AGENCY.—The term 'local educational agency' has the meaning given such term by section 14101 of the Elementary and Secondary Education Act of 1965, as so in effect.

"(2) ELIGIBLE TEACHER.—

"(A) IN GENERAL.—The term 'eligible teacher' means an individual who—

"(i) is a kindergarten through grade 12 teacher in an elementary or secondary school, and

"(ii) has completed at least 2 academic years as a teacher described in subparagraph (A) before the qualified professional development expenses of the individual have been incurred.

"(B) ELEMENTARY OR SECONDARY SCHOOL.—The terms 'elementary school' and 'secondary school' have the meanings given such terms by section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801), as so in effect.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. 225. TREATMENT OF CANCELLATION OF CERTAIN STUDENT LOANS.

(a) CERTAIN LOANS BY EXEMPT ORGANIZATIONS.—

(1) IN GENERAL.—Paragraph (2) of section 108(f) (defining student loan) is amended by striking "or" at the end of subparagraph (B) and by striking subparagraph (D) and inserting the following:

"(D) any educational organization described in section 170(b)(1)(A)(ii) if such loan is made—

"(i) pursuant to an agreement with any entity described in subparagraph (A), (B), or (C) under which the funds from which the loan was made were provided to such educational organization, or

"(ii) pursuant to a program of such educational organization which is designed to encourage its students to serve in occupations with unmet needs or in areas with unmet needs and under which the services provided by the students (or former students) are for or under the direction of a governmental unit or an organization described in section 501(c)(3) and exempt from tax under section 501(a).

The term 'student loan' includes any loan made by an educational organization so described or by an organization exempt from tax under section 501(a) to refinance a loan meeting the requirements of the preceding sentence.".

(2) EXCEPTION FOR DISCHARGES ON ACCOUNT OF SERVICES PERFORMED FOR CERTAIN LENDERS.—Subsection (f) of section 108 is amended by adding at the end the following new paragraph:

"(3) EXCEPTION FOR DISCHARGES ON ACCOUNT OF SERVICES PERFORMED FOR CERTAIN LENDERS.—Paragraph (1) shall not apply to the discharge of a loan made by an organization described in paragraph (2)(D) (or by an organization described in paragraph (2)(E) from funds provided by an organization described in paragraph (2)(D)) if the discharge is on account of services performed for either such organization.".

(b) CERTAIN STUDENT LOANS THE REPAYMENT OF WHICH IS INCOME CONTINGENT.—Paragraph (1) of section 108(f) is amended by striking "any student loan if" and all that follows and inserting "any student loan if—

"(A) such discharge was pursuant to a provision of such loan under which all or part of the indebtedness of the individual would be discharged if the individual worked for a certain period of time in certain professions for any of a broad class of employers, or

"(B) in the case of a loan made under part D of title IV of the Higher Education Act of 1965 which has a repayment schedule established under section 455(e)(4) of such Act (relating to income contingent repayments), such discharge is after the maximum repayment period under such loan (as prescribed under such part).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to discharges of indebtedness after the date of the enactment of this Act.

TITLE III—SAVINGS AND INVESTMENT INCENTIVES

Subtitle A—Retirement Savings

SEC. 301. RESTORATION OF IRA DEDUCTION FOR CERTAIN TAXPAYERS.

(a) INCREASE IN INCOME LIMITS APPLICABLE TO ACTIVE PARTICIPANTS.—

(1) IN GENERAL.—Subparagraph (B) of section 219(g)(3) (relating to applicable dollar amount) is amended to read as follows:

"(B) APPLICABLE DOLLAR AMOUNT.—The term 'applicable dollar amount' means the following:

"(i) In the case of a taxpayer filing a joint return:

"For taxable years beginning in:	*The applicable dollar amount is:*
1998 or 1999	*$50,000*
2000 or 2001	*$60,000*
2002 or 2003	*$70,000*
2004 and thereafter	*$80,000.*

"(ii) In the case of any other taxpayer (other than a married individual filing a separate return):

"For taxable years beginning in:	*The applicable dollar amount is:*
1998 or 1999	*$30,000*
2000 or 2001	*$35,000*
2002 or 2003	*$40,000*
2004 and thereafter	*$50,000.*

"(iii) In the case of a married individual filing a separate return, zero.".

(2) INCREASE IN PHASE-OUT RANGE FOR JOINT RETURNS.—Clause (ii) of section 219(g)(2)(A) is amended by inserting "($20,000 in the case of a joint return for a taxable year beginning after December 31, 2003)".

(b) LIMITATIONS FOR ACTIVE PARTICIPATION NOT BASED ON SPOUSE'S PARTICIPATION.—Paragraph (1) of section 219(g) (relating to limitation on deduction for active participants in certain pension plans) is amended by striking "or the individual's spouse".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. 302. ESTABLISHMENT OF NONDEDUCTIBLE TAX-FREE INDIVIDUAL RETIREMENT ACCOUNTS.

(a) IN GENERAL.—Subpart A of part I of subchapter D of chapter 1 (relating to pension, profit-sharing, stock bonus plans, etc.) is amended by inserting after section 408 the following new section:

"SEC. 408A. IRA PLUS ACCOUNTS.

"(a) GENERAL RULE.—Except as provided in this section, an IRA Plus account shall be treated for purposes of this title in the same manner as an individual retirement plan.

"(b) IRA PLUS ACCOUNT.—For purposes of this title, the term 'IRA Plus account' means an individual retirement plan (as defined in section 7701(a)(37)) which is designated (in such manner as the Secretary may prescribe) at the time of establishment of the plan as an IRA Plus account. Such designation shall be made in such manner as the Secretary may prescribe.

"(c) TREATMENT OF CONTRIBUTIONS.—

"(1) NO DEDUCTION ALLOWED.—No deduction shall be allowed under section 219 for a contribution to an IRA Plus account.

"(2) CONTRIBUTION LIMIT.—The aggregate amount of contributions for any taxable year to all IRA Plus accounts maintained for the benefit of an individual shall not exceed the excess (if any) of—

"(A) the maximum amount allowable as a deduction under section 219 with respect to such individual for such taxable year (computed without regard to subsection (g) of such section), over

"(B) the amount so allowed.

"(3) CONTRIBUTIONS PERMITTED AFTER AGE 70½.—Contributions to an IRA Plus account may be made even after the individual for whom the account is maintained has attained age 70½.

"(4) MANDATORY DISTRIBUTION RULES NOT TO APPLY, ETC.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), subsections (a)(6) and (b)(3) of section 408 (relating to required distributions) and section 4974 (relating to excise tax on certain accumulations in qualified retirement plans) shall not apply to any IRA Plus account.

"(B) POST-DEATH DISTRIBUTIONS.—Rules similar to the rules of section 401(a)(9) (other than subparagraph (A) thereof) shall apply for purposes of this section.

"(5) ROLLOVER CONTRIBUTIONS.—

"(A) IN GENERAL.—No rollover contribution may be made to an IRA Plus account unless it is a qualified rollover contribution.

"(B) COORDINATION WITH LIMIT.—A qualified rollover contribution shall not be taken into account for purposes of paragraph (2).

"(6) TIME WHEN CONTRIBUTIONS MADE.—For purposes of this section, the rule of section 219(f)(3) shall apply.

"(d) DISTRIBUTION RULES.—For purposes of this title—

"(1) GENERAL RULES.—

"(A) EXCLUSIONS FROM GROSS INCOME.—Any qualified distribution from an IRA Plus account shall not be includible in gross income.

"(B) NONQUALIFIED DISTRIBUTIONS.—In applying section 72 to any distribution from an IRA Plus account which is not a qualified distribution, such distribution shall be treated as made from contributions to the IRA Plus account to the extent that such distribution, when added to all previous distributions from the IRA Plus account, does not exceed the aggregate amount of contributions to the IRA Plus account. For purposes of the preceding sentence, all IRA Plus accounts maintained for the benefit of an individual shall be treated as 1 account.

"(2) QUALIFIED DISTRIBUTION.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified distribution' means any payment or distribution—

"(i) made on or after the date on which the individual attains age 59½,

"(ii) made to a beneficiary (or to the estate of the individual) on or after the death of the individual,

"(iii) attributable to the individual's being disabled (within the meaning of section 72(m)(7)), or

"(iv) which is a qualified special purpose distribution.

"(B) CERTAIN DISTRIBUTIONS WITHIN 5 YEARS.—A payment or distribution shall not be treated as a qualified distribution under subparagraph (A) if—

"(i) it is made within the 5-taxable year period beginning with the 1st taxable year for which the individual made a contribution to an IRA Plus account (or such individual's spouse made a contribution to an IRA Plus account) established for such individual, or

"(ii) in the case of a payment or distribution properly allocable (as determined in the manner prescribed by the Secretary) to a qualified rollover contribution (or income allocable thereto), it is made within the 5-taxable year period beginning with the taxable year in which the rollover contribution was made.

Clause (ii) shall not apply to a qualified rollover contribution from an IRA plus account.

"(3) ROLLOVERS.—

"(A) IN GENERAL.—Any distribution which is transferred in a qualified rollover contribution to an IRA Plus account shall not be included in gross income.

"(B) INCOME INCLUSION FOR ROLLOVERS FROM NON-PLUS IRAS.—

"(i) IN GENERAL.—In the case of any distribution to which this subparagraph applies—

"(I) sections 72(t) and 408(d)(3) shall not apply, and

"(II) any amount required to be included in gross income by reason of this paragraph shall be so included ratably over the 4-taxable year period beginning with the taxable year in which the payment or distribution is made.

"(ii) DISTRIBUTIONS TO WHICH SUBPARAGRAPH APPLIES.—This subparagraph shall apply to a distribution from an individual retirement plan (other than an IRA Plus account) maintained for the benefit of an individual to an IRA Plus account maintained for the benefit of such individual if such distribution would be a qualified rollover contribution were such individual retirement plan an IRA Plus account. Clause (i)(II) shall only apply to distributions before January 1, 1999.

"(iii) CONVERSIONS.—The conversion of an individual retirement plan (other than an IRA Plus account) to an IRA Plus account shall be treated for purposes of this subparagraph as a distribution from such plan to such IRA Plus account.

"(C) ADDITIONAL REPORTING REQUIREMENTS.—The Secretary shall require that trustees of IRA Plus accounts, trustees of individual retirement plans, or both, whichever is appropriate, shall include such additional information in reports required under section 408(i) as is necessary to ensure that amounts required to be included in gross income under subparagraph (B) are so included.

"(4) COORDINATION WITH INDIVIDUAL RETIREMENT ACCOUNTS.—Section 408(d)(2) shall not apply to IRA Plus accounts.

"(5) QUALIFIED SPECIAL PURPOSE DISTRIBUTION.—For purposes of this section, the term 'qualified special purpose distribution' means any distribution to which subparagraph (D) or (F) of section 72(t)(2) applies.

"(e) QUALIFIED ROLLOVER CONTRIBUTION.—For purposes of this section, the term 'qualified rollover contribution' means a rollover contribution to an IRA Plus account from another such account, or from an individual retirement plan, but only if such rollover contribution meets the requirements of section 408(d)(3). For purposes of section 408(d)(3)(B), there shall be disregarded any qualified rollover contribution from an individual retirement plan (other than an IRA Plus account) to an IRA Plus account.".

(b) EXCESS CONTRIBUTIONS.—

(1) Section 4973 is amended by adding at the end the following new subsection:

"(f) EXCESS CONTRIBUTIONS TO IRA PLUS ACCOUNTS.—For purposes of this section, in the case of IRA Plus accounts, the term 'excess contributions' means the amount by which the amount contributed for the taxable year to such accounts exceeds the limitation in section 408A(c)(2).".

(2) Subsection (b) of section 4973 is amended by adding at the end the following new sentence: "For purposes of this subsection, an IRA Plus account shall not be treated as an individual retirement plan.".

(c) SPOUSAL IRA.—Clause (ii) of section 219(c)(1)(B) is amended to read as follows:

"(ii) the compensation includible in the gross income of such individual's spouse for the taxable year reduced by—

"(I) the amount allowed as a deduction under subsection (a) to such spouse for such taxable year, and

"(II) the amount of any contribution on behalf of such spouse to an IRA Plus account under section 408A for such taxable year.".

(d) REPEAL OF NONDEDUCTIBLE CONTRIBUTIONS.—

(1) Subsection (f) of section 219 is amended by striking paragraph (7).

(2) Paragraph (5) of section 408(d) is amended by striking the last sentence.

(3) Section 408(o) is amended by adding at the end the following new paragraph:

"(5) TERMINATION.—This subsection shall not apply to any designated nondeductible contribution for any taxable year beginning after December 31, 1997.".

(4) Section 4973(b) is amended by striking the last sentence.

(e) CONFORMING AMENDMENT.—The table of sections for subpart A of part I of subchapter D of chapter 1 is amended by inserting after the item relating to section 408 the following new item:

"Sec. 408A. IRA Plus accounts.".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. 303. DISTRIBUTIONS FROM CERTAIN PLANS MAY BE USED WITHOUT PENALTY TO PURCHASE FIRST HOMES AND WHEN UNEMPLOYED.

(a) FIRST HOMES.—

(1) IN GENERAL.—Paragraph (2) of section 72(t) (relating to exceptions to 10-percent additional tax on early distributions from qualified retirement plans), as amended by section 203, is amended by adding at the end the following new subparagraph:

"(F) DISTRIBUTIONS FROM CERTAIN PLANS FOR FIRST HOME PURCHASES.—Distributions to an individual from an individual retirement plan which are qualified first-time homebuyer distributions (as defined in paragraph (8)). Distributions shall not be taken into account under the preceding sentence if such distributions are described in subparagraph (A), (C), (D), or (E) or to the extent paragraph (1) does not apply to such distributions by reason of subparagraph (B).".

(2) DEFINITIONS.—Section 72(t), as amended by section 203, is amended by adding at the end the following new paragraphs:

"(8) QUALIFIED FIRST-TIME HOMEBUYER DISTRIBUTIONS.—For purposes of paragraph (2)(F)—

"(A) IN GENERAL.—The term 'qualified first-time homebuyer distribution' means any payment or distribution received by an individual to the extent such payment or distribution is used by the individual before the close of the 120th day after the day on which such payment or distribution is received to pay qualified acquisition costs with respect to a principal residence

of a first-time homebuyer who is such individual, the spouse of such individual, or any child, grandchild, or ancestor of such individual or the individual's spouse.

"(B) Lifetime Dollar Limitation.—The aggregate amount of payments or distributions received by an individual which may be treated as qualified first-time homebuyer distributions for any taxable year shall not exceed the excess (if any) of—

"(i) $10,000, over

"(ii) the aggregate amounts treated as qualified first-time homebuyer distributions with respect to such individual for all prior taxable years.

"(C) Qualified Acquisition Costs.—For purposes of this paragraph, the term 'qualified acquisition costs' means the costs of acquiring, constructing, or reconstructing a residence. Such term includes any usual or reasonable settlement, financing, or other closing costs.

"(D) First-Time Homebuyer; Other Definitions.—For purposes of this paragraph—

"(i) First-Time Homebuyer.—The term 'first-time homebuyer' means any individual if—

"(I) such individual (and if married, such individual's spouse) had no present ownership interest in a principal residence during the 2-year period ending on the date of acquisition of the principal residence to which this paragraph applies, and

"(II) subsection (h) or (k) of section 1034 (as in effect on the day before the date of the enactment of this paragraph) did not suspend the running of any period of time specified in section 1034 (as so in effect) with respect to such individual on the day before the date the distribution is applied pursuant to subparagraph (A).

"(ii) Principal Residence.—The term 'principal residence' has the same meaning as when used in section 121.

"(iii) Date of Acquisition.—The term 'date of acquisition' means the date—

"(I) on which a binding contract to acquire the principal residence to which subparagraph (A) applies is entered into, or

"(II) on which construction or reconstruction of such a principal residence is commenced.

"(E) Special Rule Where Delay in Acquisition.—If any distribution from any individual retirement plan fails to meet the requirements of subparagraph (A) solely by reason of a delay or cancellation of the purchase or construction of the residence, the amount of the distribution may be contributed to an individual retirement plan as provided in section 408(d)(3)(A)(i) (determined by substituting '120 days' for '60 days' in such section), except that—

"(i) section 408(d)(3)(B) shall not be applied to such contribution, and

"(ii) such amount shall not be taken into account in determining whether section 408(d)(3)(A)(i) applies to any other amount.".

(b) Penalty-Free Distributions for Certain Unemployed Individuals.—Subparagraph (D) of section 72(t)(2) is amended—

(1) in clause (i), by inserting "and" at the end of subclause (I), by striking ", and" at the end of subclause (II) and inserting a period, and by striking subclause (III), and

(2) by striking "for health insurance premiums" in the heading thereof.

(c) Effective Date.—The amendments made by this section shall apply to payments and distributions in taxable years beginning after December 31, 1997.

SEC. 304. CERTAIN BULLION NOT TREATED AS COLLECTIBLES.

(a) In General.—Paragraph (3) of section 408(m) (relating to exception for certain coins) is amended to read as follows:

"(3) Exception for Certain Coins and Bullion.—For purposes of this subsection, the term 'collectible' shall not include—

"(A) any coin which is—

"(i) a gold coin described in paragraph (7), (8), (9), or (10) of section 5112(a) of title 31, United States Code,

"(ii) a silver coin described in section 5112(e) of title 31, United States Code,

"(iii) a platinum coin described in section 5112(k) of title 31, United States Code, or

"(iv) a coin issued under the laws of any State, or

"(B) any gold, silver, platinum, or palladium bullion of a fineness equal to or exceeding the minimum fineness required for metals which may be delivered in satisfaction of a regulated futures contract subject to regulation by the Commodity Futures Trading Commission under the Commodity Exchange Act,

if such bullion is in the physical possession of a trustee described under subsection (a) of this section.".

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 1997.

Subtitle B—Capital Gains

SEC. 311. 20-PERCENT MAXIMUM CAPITAL GAINS RATE FOR INDIVIDUALS.

(a) In General.—Subsection (h) of section 1 (relating to maximum capital gains rate) is amended to read as follows:

"(h) Maximum Capital Gains Rate.—

"(1) In General.—If a taxpayer has a net capital gain for any taxable year, the tax imposed by this section for such taxable year shall not exceed the sum of—

"(A) a tax computed at the rates and in the same manner as if this subsection had not been enacted on the greater of—

"(i) taxable income reduced by the net capital gain, or

"(ii) the amount of taxable income taxed at a rate below 28 percent, plus

"(B) 24 percent of the lesser of—

"(i) the unrecaptured section 1250 gain, or

"(ii) the amount of taxable income in excess of the sum of the amount on which tax is determined under subparagraph (A) plus the net capital gain determined without regard to unrecaptured section 1250 gain, plus

"(C) 28 percent of the amount of taxable income in excess of the sum of—

"(i) the adjusted net capital gain, plus

"(ii) the sum of the amounts on which tax is determined under subparagraphs (A) and (B), plus

"(D) 10 percent of so much of the taxpayer's adjusted net capital gain (or, if less, taxable income) as does not exceed the excess (if any) of—

"(i) the amount of taxable income which would (without regard to this paragraph) be taxed at a rate of 15 percent or less, over

"(ii) the taxable income reduced by the adjusted net capital gain, plus

"(E) 20 percent of the taxpayer's adjusted net capital gain (or, if less, taxable income) in excess of the amount on which a tax is determined under subparagraph (D).

"(2) Net Capital Gain Taken Into Account as Investment Income.—For purposes of this subsection, the net capital gain for any taxable year shall be reduced (but not below zero) by the amount which the taxpayer takes into account as investment income under section 163(d)(4)(B)(iii).

"(3) Adjusted Net Capital Gain.—For purposes of this subsection, the term 'adjusted net capital gain' means net capital gain determined without regard to—

"(A) collectibles gain, and

"(B) unrecaptured section 1250 gain.

"(4) Collectibles Gain.—For purposes of paragraph (3)—

"(A) In General.—The term 'collectibles gain' means gain from the sale or exchange of a collectible (as defined in section 408(m) without regard to paragraph (3) thereof) which is a capital asset held for more than 1 year but only to the extent such gain is taken into account in computing gross income.

"(B) Partnerships, Etc.—For purposes of subparagraph (A), any gain from the sale of an interest in a partnership, S corporation, or trust which is attributable to unrealized appreciation in the value of collectibles shall be treated as gain from the sale or exchange of a collectible. Rules similar to the rules of section 751 shall apply for purposes of the preceding sentence.

"(5) Unrecaptured Section 1250 Gain.—For purposes of this subsection, the term 'unrecaptured section 1250 gain' means the excess (if any) of—

"(A) the amount which would be treated as ordinary income under section 1245 if all section 1250 property disposed of by the taxpayer were section 1245 property, over

"(B) the amount treated as ordinary income under section 1250.

In the case of a taxable year which includes May 7, 1997, unrecaptured section 1250 gain shall be determined by taking into account only the gain properly taken into account for the portion of the taxable year after May 6, 1997.

"(6) Pre-Effective Date Gain.—

"(A) In General.—In the case of a taxable year which includes May 7, 1997, adjusted net capital gain shall be determined without regard to pre-May 7, 1997, gain.

"(B) Pre-May 7, 1997, Gain.—The term 'pre-May 7, 1997, gain' means the amount which would be adjusted net capital gain for the taxable year if adjusted net capital gain were determined by taking into account only the gain or loss properly taken into account for the portion of the taxable year before May 7, 1997.

"(C) Special Rules for Pass-Thru Entities.—In applying subparagraph (A) with respect to any pass-thru entity, the determination of when gains and loss are properly taken into account shall be made at the entity level.

"(D) Pass-Thru Entity Defined.—For purposes of subparagraph (C), the term 'pass-thru entity' means—

"(i) a regulated investment company,

"(ii) a real estate investment trust,

"(iii) an S corporation,

"(iv) a partnership,

"(v) an estate or trust, and

"(vi) a common trust fund.".

(b) Minimum Tax.—

(1) In General.—Subsection (b) of section 55 is amended by adding at the end the following new paragraph:

"(3) Maximum Rate of Tax on Net Capital Gain of Noncorporate Taxpayers.—The amount determined under the first sentence of paragraph (1)(A)(i) shall not exceed the sum of—

"(A) the amount determined under such first sentence computed at the rates and in the same manner as if this paragraph had not been enacted on the taxable excess reduced by the excess of the net capital gain over the sum of the collectibles gain (as defined in section 1(h)(4)) and the pre-effective date gain (as defined in section 1(h)(6)), plus

"(B) 24 percent of the lesser of—

"(i) the unrecaptured section 1250 gain (as defined in section 1(h)(5)), or

"(ii) the amount of taxable excess in excess of the sum of—

"(I) the adjusted net capital gain, plus

"(II) the amount on which a tax is determined under subparagraph (A), plus

"(C) 10 percent of so much of the taxpayer's adjusted net capital gain (or, if less, taxable excess) as does not exceed the amount on which a tax is determined under section 1(h)(1)(B), plus

"(D) 20 percent of the taxpayer's adjusted net capital gain (or, if less, taxable excess) in excess *of the amount on which tax is determined under subparagraph (C).".*

(2) CONFORMING AMENDMENT.—Clause (ii) of section 55(b)(1)(A) is amended by striking "clause (i)" and inserting "this subsection".

(c) OTHER CONFORMING AMENDMENTS.—

(1) Subsection (d) of section 291 is amended by inserting at the end the following new sentence: "Any capital gain dividend treated as having been paid out of such difference to a shareholder which is not a corporation retains its characters as unrecaptured section 1250 gain for purposes of applying section 1(h) to such shareholder.".

(2) Paragraph (1) of section 1445(e) is amended by striking "28 percent" and inserting "20 percent".

(3) The second sentence of section 7518(g)(6)(A), and the second sentence of section 607(h)(6)(A) of the Merchant Marine Act, 1936, are each amended by striking "28 percent" and inserting "20 percent".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years ending after May 6, 1997.

(2) WITHHOLDING.—The amendment made by subsection (c)(2) shall apply only to amounts paid after the date of the enactment of this Act.

SEC. 312. MODIFICATIONS TO EXCLUSION OF GAIN ON CERTAIN SMALL BUSINESS STOCK.

(a) EXCLUSION AVAILABLE TO CORPORATIONS.—

(1) IN GENERAL.—Subsection (a) of section 1202 is amended by striking "In the case of a taxpayer other than a corporation, gross" and inserting "Gross".

(2) TECHNICAL AMENDMENT.—Subsection (c) of section 1202 is amended by adding at the end the following new paragraph:

"(4) STOCK HELD AMONG MEMBERS OF CONTROLLED GROUP NOT ELIGIBLE.—Stock of a member of a parent-subsidiary controlled group (as defined in subsection (c)(3)) shall not be treated as qualified small business stock while held by another member of such group.".

(b) REPEAL OF MINIMUM TAX PREFERENCE.—

(1) Subsection (a) of section 57 is amended by striking paragraph (7).

(2) Subclause (II) of section 53(d)(1)(B)(ii) is amended by striking ", (5), and (7)" and inserting "and (5)".

(c) STOCK OF LARGER BUSINESSES ELIGIBLE FOR REDUCED RATES.—Paragraph (1) of section 1202(d) is amended by striking "$50,000,000" each place it appears and inserting "$100,000,000".

(d) REPEAL OF PER-ISSUER LIMITATION.—Section 1202 is amended by striking subsection (b).

(e) OTHER MODIFICATIONS.—

(1) REPEAL OF WORKING CAPITAL LIMITATION.—Paragraph (6) of section 1202(e) is amended—

(A) by striking "2 years" in subparagraph (B) and inserting "5 years", and

(B) by striking the last sentence.

(2) EXCEPTION FROM REDEMPTION RULES WHERE BUSINESS PURPOSE.—Paragraph (3) of section 1202(c) is amended by adding at the end the following new subparagraph:

"(D) WAIVER WHERE BUSINESS PURPOSE.—A purchase of stock by the issuing corporation shall be disregarded for purposes of subparagraph (B) if the issuing corporation establishes that there was a business purpose for such purchase and one of the principal purposes of the purchase was not to avoid the limitations of this section.".

(f) CONFORMING AMENDMENTS.—

(1) Subsection (c) of section 1202 is amended by striking "subsections (f) and (h)" and inserting "subsections (e) and (g)".

(2) Paragraph (2) of section 1202(c) is amended—

(A) by striking "subsection (e)" each place it appears and inserting "subsection (d)", and

(B) by striking "subsection (e)(4)" in subparagraph (B)(ii) and inserting "subsection (d)(4)".

(3) Paragraph (1) of section 1202(e) is amended by striking "subsection (c)(2)" and inserting "subsection (b)(2)".

(4) Paragraph (1) of section 1202(g) is amended to read as follows:

"(1) IN GENERAL.—If any amount included in gross income by reason of holding an interest in a pass-thru entity meets the requirements of paragraph (2), such amount shall be treated as gain from the sale or exchange of any qualified small business stock held for more than 5 years.".

(5) Section 1202, as amended by the preceding provisions of this section, is amended by redesignating subsections (c) through (k) as subsections (b) through (j), respectively.

(6) So much of paragraph (2) of section 172(d) as precedes subparagraph (A) thereof is amended to read as follows:

"(2) CAPITAL GAINS AND LOSSES.—In the case of any taxpayer—".

(g) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to stock issued after August 10, 1993.

(2) SUBSECTIONS (a) and (c).—The amendments made by subsections (a) and (c) shall apply to stock issued after the date of the enactment of this Act.

SEC. 313. ROLLOVER OF GAIN FROM SALE OF QUALIFIED STOCK.

(a) IN GENERAL.—Part III of subchapter O of chapter 1 is amended by adding at the end the following new section:

"SEC. 1045. ROLLOVER OF GAIN FROM QUALIFIED SMALL BUSINESS STOCK TO ANOTHER QUALIFIED SMALL BUSINESS STOCK.

"(a) NONRECOGNITION OF GAIN.—In the case of any sale of qualified small business stock with respect to which the taxpayer elects the application of this section, eligible gain from such sale shall be recognized only to the extent that the amount realized on such sale exceeds—

"(1) the cost of any qualified small business stock purchased by the taxpayer during the 60-day period beginning on the date of such sale, reduced by

"(2) any portion of such cost previously taken into account under this section.

This section shall not apply to any gain which is treated as ordinary income for purposes of this title.

"(b) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) QUALIFIED SMALL BUSINESS STOCK.—The term 'qualified small business stock' has the meaning given such term by section 1202(b).

"(2) ELIGIBLE GAIN.—The term 'eligible gain' means any gain from the sale or exchange of qualified small business stock held for more than 5 years.

"(3) PURCHASE.—A taxpayer shall be treated as having purchased any property if, but for paragraph (4), the unadjusted basis of such property in the hands of the taxpayer would be its cost (within the meaning of section 1012).

"(4) BASIS ADJUSTMENTS.—If gain from any sale is not recognized by reason of subsection (a), such gain shall be applied to reduce (in the order acquired) the basis for determining gain or loss of any qualified small business stock which is purchased by the taxpayer during the 60-day period described in subsection (a).

"(c) SPECIAL RULES FOR TREATMENT OF REPLACEMENT STOCK.—

"(1) HOLDING PERIOD FOR ACCRUED GAIN.—For purposes of this chapter, gain from the disposition of any replacement qualified small business stock shall be treated as gain from the sale or exchange of qualified small business stock held more than 5 years to the extent that the amount of such gain does not exceed the amount of the reduction in the basis of such stock by reason of subsection (b)(4).

"(2) TACKING OF HOLDING PERIOD FOR PURPOSES OF DEFERRAL.—Solely for purposes of applying this section, if any replacement qualified small business stock is disposed of before the taxpayer has held such stock for more than 5 years, gain from such stock shall be treated eligible gain for purposes of subsection (a).

"(3) REPLACEMENT QUALIFIED SMALL BUSINESS STOCK.—For purposes of this subsection, the term 'replacement qualified small business stock' means any qualified small business stock the basis of which was reduced under subsection (b)(4).".

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a)(23) is amended—

(A) by striking "or 1044" and inserting ", 1044, or 1045", and

(B) by striking "or 1044(d)" and inserting ", 1044(d), or 1045(b)(4)".

(2) The table of sections for part III of subchapter O of chapter 1 is amended by adding at the end the following new item:

"Sec. 1045. Rollover of gain from qualified small business stock to another qualified small business stock.".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to stock issued after August 10, 1993.

(2) STOCK HELD BY A CORPORATION.—In the case of stock held by a corporation, the amendments made by this section shall apply to stock issued after the date of the enactment of this Act.

SEC. 314. EXEMPTION FROM TAX FOR GAIN ON SALE OF PRINCIPAL RESIDENCE.

(a) IN GENERAL.—Section 121 (relating to one-time exclusion of gain from sale of principal residence by individual who has attained age 55) is amended to read as follows:

"SEC. 121. EXCLUSION OF GAIN FROM SALE OF PRINCIPAL RESIDENCE.

"(a) EXCLUSION.—Gross income shall not include gain from the sale or exchange of property if, during the 5-year period ending on the date of the sale or exchange, such property has been owned and used by the taxpayer as the taxpayer's principal residence for periods aggregating 2 years or more.

"(b) LIMITATIONS.—

"(1) IN GENERAL.—The amount of gain excluded from gross income under subsection (a) with respect to any sale or exchange shall not exceed $250,000.

"(2) $500,000 LIMITATION FOR CERTAIN JOINT RETURNS.—Paragraph (1) shall be applied by substituting '$500,000' for '$250,000' if—

"(A) a husband and wife make a joint return for the taxable year of the sale or exchange of the property,

"(B) either spouse meets the ownership requirements of subsection (a) with respect to such property,

"(C) both spouses meet the use requirements of subsection (a) with respect to such property, and

"(D) neither spouse is ineligible for the benefits of subsection (a) with respect to such property by reason of paragraph (3).

"(3) APPLICATION TO ONLY 1 SALE OR EXCHANGE EVERY 2 YEARS.—

"(A) IN GENERAL.—Subsection (a) shall not apply to any sale or exchange by the taxpayer if, during the 2-year period ending on the date of such sale or exchange, there was any other sale or exchange by the taxpayer to which subsection (a) applied.

"(B) PRE-MAY 7, 1997, SALES NOT TAKEN INTO ACCOUNT.—Subparagraph (A) shall be applied without regard to any sale or exchange before May 7, 1997.

"(c) EXCLUSION FOR TAXPAYERS FAILING TO MEET CERTAIN REQUIREMENTS.—

"(1) IN GENERAL.—In the case of a sale or exchange to which this subsection applies, the ownership and use requirements of subsection (a) shall not apply and subsection (b)(3) shall not apply; but the amount of gain excluded from gross income under subsection (a) with respect to such sale or exchange shall not exceed—

"(A) the amount which bears the same ratio to the amount which would be so excluded if such requirements had been met, as

"(B) the shorter of—

"(i) the aggregate periods, during the 5-year period ending on the date of such sale or exchange, such property has been owned and used by the taxpayer as the taxpayer's principal residence, or

"(ii) the period after the date of the most recent prior sale or exchange by the taxpayer to which subsection (a) applied and before the date of such sale or exchange,

bears to 2 years.

"(2) SALES AND EXCHANGES TO WHICH SUBSECTION APPLIES.—This subsection shall apply to any sale or exchange if—

"(A) subsection (a) would not (but for this subsection) apply to such sale or exchange by reason of—

"(i) a failure to meet the ownership and use requirements of subsection (a), or

"(ii) subsection (b)(3), and

"(B) such sale or exchange is by reason of a change in place of employment, health, or, to the extent provided in regulations, unforeseen circumstances.

"(d) SPECIAL RULES.—

"(1) PROPERTY OF DECEASED SPOUSE.—For purposes of this section, in the case of an unmarried individual whose spouse is deceased on the date of the sale or exchange of property, the period such unmarried individual owned such property shall include the period such deceased spouse owned such property before death.

"(2) PROPERTY OWNED BY SPOUSE OR FORMER SPOUSE.—For purposes of this section—

"(A) PROPERTY TRANSFERRED TO INDIVIDUAL FROM SPOUSE OR FORMER SPOUSE.—In the case of an individual holding property transferred to such individual in a transaction described in section 1041(a), the period such individual owns such property shall include the period the transferor owned the property.

"(B) PROPERTY USED BY FORMER SPOUSE PURSUANT TO DIVORCE DECREE, ETC.—Solely for purposes of this section, an individual shall be treated as using property as such individual's principal residence during any period of ownership while such individual's spouse or former spouse is granted use of the property under a divorce or separation instrument (as defined in section 71(b)(2)).

"(3) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—For purposes of this section, if the taxpayer holds stock as a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), then—

"(A) the holding requirements of subsection (a) shall be applied to the holding of such stock, and

"(B) the use requirements of subsection (a) shall be applied to the house or apartment which the taxpayer was entitled to occupy as such stockholder.

"(4) INVOLUNTARY CONVERSIONS.—

"(A) IN GENERAL.—For purposes of this section, the destruction, theft, seizure, requisition, or condemnation of property shall be treated as the sale of such property.

"(B) APPLICATION OF SECTION 1033.—In applying section 1033 (relating to involuntary conversions), the amount realized from the sale or exchange of property shall be treated as being the amount determined without regard to this section, reduced by the amount of gain not included in gross income pursuant to this section.

"(C) PROPERTY ACQUIRED AFTER INVOLUNTARY CONVERSION.—If the basis of the property sold or exchanged is determined (in whole or in part) under section 1033(b) (relating to basis of property acquired through involuntary conversion), then the holding and use by the taxpayer of the converted property shall be treated as holding and use by the taxpayer of the property sold or exchanged.

"(5) RECOGNITION OF GAIN ATTRIBUTABLE TO DEPRECIATION.—Subsection (a) shall not apply to so much of the gain from the sale of any property as does not exceed the portion of the depreciation adjustments (as defined in section 1250(b)(3)) attributable to periods after May 6, 1997, in respect of such property.

"(6) DETERMINATION OF USE DURING PERIODS OF OUT-OF-RESIDENCE CARE.—In the case of a taxpayer who—

"(A) becomes physically or mentally incapable of self-care, and

"(B) owns property and uses such property as the taxpayer's principal residence during the 5-year period described in subsection (a) for periods aggregating at least 1 year,

then the taxpayer shall be treated as using such property as the taxpayer's principal residence during any time during such 5-year period in which the taxpayer owns the property and resides in any facility (including a nursing home) licensed by a State or political subdivision to care for an individual in the taxpayer's condition.

"(7) DETERMINATION OF MARITAL STATUS.—In the case of any sale or exchange, for purposes of this section—

"(A) the determination of whether an individual is married shall be made as of the date of the sale or exchange, and

"(B) an individual legally separated from his spouse under a decree of divorce or of separate maintenance shall not be considered as married.

"(8) SALES OF REMAINDER INTERESTS.—For purposes of this section—

"(A) IN GENERAL.—At the election of the taxpayer, this section shall not fail to apply to the sale or exchange of an interest in a principal residence by reason of such interest being a remainder interest in such residence, but this section shall not apply to any other interest in such residence which is sold or exchanged separately.

"(B) EXCEPTION FOR SALES TO RELATED PARTIES.—Subparagraph (A) shall not apply to any sale to, or exchange with, any person who bears a relationship to the taxpayer which is described in section 267(b) or 707(b).

"(e) DENIAL OF EXCLUSION FOR EXPATRIATES.—This section shall not apply to any sale or exchange by an individual if the treatment provided by section 877(a)(1) applies to such individual.

"(f) ELECTION TO HAVE SECTION NOT APPLY.—This section shall not apply to any sale or exchange with respect to which the taxpayer elects not to have this section apply.

"(g) RESIDENCES ACQUIRED IN ROLLOVERS UNDER SECTION 1034.—For purposes of this section, in the case of property the acquisition of which by the taxpayer resulted under section 1034 (as in effect on the day before the date of the enactment of this section) in the nonrecognition of any part of the gain realized on the sale or exchange of another residence, in determining the period for which the taxpayer has owned and used such property as the taxpayer's principal residence, there shall be included the aggregate periods for which such other residence (and each prior residence taken into account under section 1223(7) in determining the holding period of such property) had been so owned and used.".

(b) REPEAL OF NONRECOGNITION OF GAIN ON ROLLOVER OF PRINCIPAL RESIDENCE.—Section 1034 (relating to rollover of gain on sale of principal residence) is hereby repealed.

(c) EXCEPTION FROM REPORTING.—Subsection (e) of section 6045 (relating to return required in the case of real estate transactions) is amended by adding at the end the following new paragraph:

"(5) EXCEPTION FOR SALES OR EXCHANGES OF CERTAIN PRINCIPAL RESIDENCES.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to any sale or exchange of a residence for $250,000 or less if the person referred to in paragraph (2) receives written assurance in a form acceptable to the Secretary from the seller that—

"(i) such residence is the principal residence (within the meaning of section 121) of the seller,

"(ii) if the Secretary requires the inclusion on the return under subsection (a) of information as to whether there is federally subsidized mortgage financing assistance with respect to the mortgage on residences, that there is no such assistance with respect to the mortgage on such residence, and

"(iii) the full amount of the gain on such sale or exchange is excludable from gross income under section 121.

If such assurance includes an assurance that the seller is married, the preceding sentence shall be applied by substituting '$500,000' for '$250,000'.

"(B) SELLER.—For purposes of this paragraph, the term 'seller' includes the person relinquishing the residence in an exchange.".

(d) CONFORMING AMENDMENTS.—

(1) The following provisions of the Internal Revenue Code of 1986 are each amended by striking "section 1034" and inserting "section 121": sections 25(e)(7), 56(e)(1)(A), 56(e)(3)(B)(i), 143(i)(1)(C)(i)(I), 163(h)(4)(A)(i)(I), 280A(d)(4)(A), 464(f)(3)(B)(i), 1033(h)(4), 1274(c)(3)(B), 6334(a)(13), and 7872(f)(11)(A).

(2) Paragraph (4) of section 32(c) is amended by striking "(as defined in section 1034(h)(3))" and by adding at the end the following new sentence: "For purposes of the preceding sentence, the term 'extended active duty' means any period of active duty pursuant to a call or order to such duty for a period in excess of 90 days or for an indefinite period.".

(3) Subparagraph (A) of 143(m)(6) is amended by inserting "(as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1997)" after "1034(e)".

(4) Subsection (e) of section 216 is amended by striking "such exchange qualifies for nonrecognition of gain under section 1034(f)" and inserting "such dwelling unit is used as his principal residence (within the meaning of section 121)".

(5) Section 512(a)(3)(D) is amended by inserting "(as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1997)" after "1034".

(6) Paragraph (7) of section 1016(a) is amended by inserting "(as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1997)" after "1034" and by inserting "(as so in effect)" after "1034(e)".

(7) Paragraph (3) of section 1033(k) is amended to read as follows:

"(3) For exclusion from gross income of gain from involuntary conversion of principal residence, see section 121.".

(8) Subsection (e) of section 1038 is amended to read as follows:

"(e) PRINCIPAL RESIDENCES.—If—

"(1) subsection (a) applies to a reacquisition of real property with respect to the sale of which gain was not recognized under section 121 (relating to gain on sale of principal residence); and

"(2) within 1 year after the date of the reacquisition of such property by the seller, such property is resold by him,

then, under regulations prescribed by the Secretary, subsections (b), (c), and (d) of this section shall not apply to the reacquisition of such property and, for purposes of applying section 121, the resale of such property shall be treated as a part of the transaction constituting the original sale of such property.".

(9) Paragraph (7) of section 1223 is amended by inserting "(as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1997)" after "1034".

(10)(A) Subsection (d) of section 1250 is amended by striking paragraph (7) and by redesignating paragraphs (9) and (10) as paragraphs (7) and (8), respectively.

(B) Subsection (e) of section 1250 is amended by striking paragraph (3).

(11) Subsection (c) of section 6012 is amended by striking "(relating to one-time exclusion of gain from sale of principal residence by individual who has attained age 55)" and inserting "(relating to gain from sale of principal residence)".

(12) Paragraph (2) of section 6212(c) is amended by striking subparagraph (C) and by redesignating the succeeding subparagraphs accordingly.

(13) Section 6504 is amended by striking paragraph (4) and by redesignating the succeeding paragraphs accordingly.

(14) The item relating to section 121 in the table of sections for part III of subchapter B of chapter 1 is amended to read as follows:

"Sec. 121. Exclusion of gain from sale of principal residence.".

(15) The table of sections for part III of subchapter O of chapter 1 of such Code is amended by striking the item relating to section 1034.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to sales and exchanges after May 6, 1997.

(2) SALES BEFORE DATE OF ENACTMENT.—At the election of the taxpayer, the amendments made by this section shall not apply to any sale or exchange before the date of the enactment of this Act.

(3) BINDING CONTRACTS.—At the election of the taxpayer, the amendments made by this section shall not apply to a sale or exchange after the date of the enactment of this Act, if—

(A) such sale or exchange is pursuant to a contract which was binding on such date, or

(B) without regard to such amendments, gain would not be recognized under section 1034 of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of this Act) on such sale or exchange by reason of a new residence acquired on or before such date or with respect to the acquisition of which by the taxpayer a binding contract was in effect on such date.

This paragraph shall not apply to any sale or exchange by an individual if the treatment provided by section 877(a)(1) of the Internal Revenue Code of 1986 applies to such individual.

TITLE IV—ESTATE, GIFT, AND GENERATION-SKIPPING TAX PROVISIONS

SEC. 401. COST-OF-LIVING ADJUSTMENTS RELATING TO ESTATE AND GIFT TAX PROVISIONS.

(a) INCREASE IN UNIFIED ESTATE AND GIFT TAX CREDIT.—

(1) ESTATE TAX CREDIT.—

(A) IN GENERAL.—Subsection (a) of section 2010 (relating to unified credit against estate tax) is amended by striking "$192,800" and inserting "the applicable credit amount".

(B) APPLICABLE CREDIT AMOUNT.—Section 2010 is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) APPLICABLE CREDIT AMOUNT.—For purposes of this section—

"(1) IN GENERAL.—For purposes of this section, the applicable credit amount is the amount of the tentative tax which would be determined under the rate schedule set forth in section 2001(c) if the amount with respect to which such tentative tax is to be computed were the applicable exclusion amount determined in accordance with the following table:

"In the case of estates of decedents dying, and gifts made, during:	The applicable exclusion amount is:
1998	$ 625,000
1999	$ 640,000
2000	$ 660,000
2001	$ 675,000
2002	$ 725,000
2003	$ 750,000
2004	$ 800,000
2005	$ 900,000
2006 or thereafter	$1,000,000.

"(2) COST-OF-LIVING ADJUSTMENT.—In the case of any decedent dying, and gift made, in a calendar year after 2006, the $1,000,000 amount set forth in paragraph (1) shall be increased by an amount equal to—

"(A) $1,000,000, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 2005' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $10,000, such amount shall be rounded to the next lowest multiple of $10,000.".

(C) ESTATE TAX RETURNS.—Paragraph (1) of section 6018(a) is amended by striking "$600,000" and inserting "the applicable exclusion amount in effect under section 2010(c) for the calendar year which includes the date of death".

(D) PHASEOUT OF GRADUATED RATES AND UNIFIED CREDIT.—Paragraph (2) of section 2001(c) is amended by striking "$21,040,000" and inserting "the amount at which the average tax rate under this section is 55 percent".

(E) ESTATES OF NONRESIDENTS NOT CITIZENS.—Subparagraph (A) of section 2102(c)(3) is amended by striking "$192,800" and inserting "the applicable credit amount in effect under section 2010(c) for the calendar year which includes the date of death".

(2) UNIFIED GIFT TAX CREDIT.—Paragraph (1) of section 2505(a) is amended by striking "$192,800" and inserting "the applicable credit amount in effect under section 2010(c) for such calendar year".

(b) ALTERNATE VALUATION OF CERTAIN FARM, ETC., REAL PROPERTY.—Subsection (a) of section 2032A is amended by adding at the end the following new paragraph:

"(3) INFLATION ADJUSTMENT.—In the case of estates of decedents dying in a calendar year after 1998, the $750,000 amount contained in paragraph (2) shall be increased by an amount equal to—

"(A) $750,000, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 1997' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $10,000, such amount shall be rounded to the next lowest multiple of $10,000.".

(c) ANNUAL GIFT TAX EXCLUSION.—Subsection (b) of section 2503 is amended—

(1) by striking the subsection heading and inserting the following:

"(b) EXCLUSIONS FROM GIFTS.—

"(1) IN GENERAL.—",

(2) by moving the text 2 ems to the right, and

(3) by adding at the end the following new paragraph:

"(2) INFLATION ADJUSTMENT.—In the case of gifts made in a calendar year after 1998, the $10,000 amount contained in paragraph (1) shall be increased by an amount equal to—

"(A) $10,000, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 1997' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $1,000, such amount shall be rounded to the next lowest multiple of $1,000.".

(d) EXEMPTION FROM GENERATION-SKIPPING TAX.—Section 2631 (relating to GST exemption) is amended by adding at the end the following new subsection:

"(c) INFLATION ADJUSTMENT.—In the case of an individual who dies in any calendar year after 1998, the $1,000,000 amount contained in subsection (a) shall be increased by an amount equal to—

"(1) $1,000,000, multiplied by

"(2) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 1997' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $10,000, such amount shall be rounded to the next lowest multiple of $10,000.".

(e) AMOUNT SUBJECT TO REDUCED RATE WHERE EXTENSION OF TIME FOR PAYMENT OF ESTATE TAX ON CLOSELY HELD BUSINESS.—Subsection (j) of section 6601 is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) INFLATION ADJUSTMENT.—In the case of estates of decedents dying in a calendar year after 1998, the $1,000,000 amount contained in paragraph (2)(A) shall be increased by an amount equal to—

"(A) $1,000,000, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 1997' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $10,000, such amount shall be rounded to the next lowest multiple of $10,000.".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to the estates of decedents dying, and gifts made, after December 31, 1997.

SEC. 402. FAMILY-OWNED BUSINESS EXCLUSION.

(a) IN GENERAL.—Part III of subchapter A of chapter 11 (relating to gross estate) is amended by inserting after section 2033 the following new section:

"SEC. 2033A. FAMILY-OWNED BUSINESS EXCLUSION.

"(a) IN GENERAL.—In the case of an estate of a decedent to which this section applies, the value of the gross estate shall not include the lesser of—

"(1) the adjusted value of the qualified family-owned business interests of the decedent otherwise includible in the estate, or

"(2) $1,000,000.

"(b) ESTATES TO WHICH SECTION APPLIES.—

"(1) IN GENERAL.—This section shall apply to an estate if—

"(A) the decedent was (at the date of the decedent's death) a citizen or resident of the United States, *"(B) the executor elects the application of this section and files the agreement referred to in subsection (h),*

"(C) the sum of—

"(i) the adjusted value of the qualified family-owned business interests described in paragraph (2), plus

"(ii) the amount of the gifts of such interests determined under paragraph (3),

exceeds 50 percent of the adjusted gross estate, and

"(D) during the 8-year period ending on the date of the decedent's death there have been periods aggregating 5 years or more during which—

"(i) such interests were owned by the decedent or a member of the decedent's family, and

"(ii) there was material participation (within the meaning of section 2032A(e)(6)) by the decedent or a member of the decedent's family in the operation of the business to which such interests relate.

"(2) INCLUDIBLE QUALIFIED FAMILY-OWNED BUSINESS INTERESTS.—The qualified family-owned business interests described in this paragraph are the interests which—

"(A) are included in determining the value of the gross estate (without regard to this section), and

"(B) are acquired by any qualified heir from, or passed to any qualified heir from, the decedent (within the meaning of section 2032A(e)(9)).

"(3) INCLUDIBLE GIFTS OF INTERESTS.—The amount of the gifts of qualified family-owned business interests determined under this paragraph is the excess of—

"(A) the sum of—

"(i) the amount of such gifts from the decedent to members of the decedent's family taken into account under subsection 2001(b)(1)(B), plus

"(ii) the amount of such gifts otherwise excluded under section 2503(b),

to the extent such interests are continuously held by members of such family (other than the decedent's spouse) between the date of the gift and the date of the decedent's death, over

"(B) the amount of such gifts from the decedent to members of the decedent's family otherwise included in the gross estate.

"(c) ADJUSTED GROSS ESTATE.—For purposes of this section, the term 'adjusted gross estate' means the value of the gross estate (determined without regard to this section)—

"(1) reduced by any amount deductible under paragraph (3) or (4) of section 2053(a), and

"(2) increased by the excess of—

"(A) the sum of—

"(i) the amount of gifts determined under subsection (b)(3), plus

"(ii) the amount (if more than de minimis) of other transfers from the decedent to the decedent's spouse (at the time of the transfer) within 10 years of the date of the decedent's death, plus

"(iii) the amount of other gifts (not included under clause (i) or (ii)) from the decedent within 3 years of such date, other than gifts to members of the decedent's family otherwise excluded under section 2503(b), over

"(B) the sum of the amounts described in clauses (i), (ii), and (iii) of subparagraph (A) which are otherwise includible in the gross estate.

For purposes of the preceding sentence, the Secretary may provide that de minimis gifts to persons other than members of the decedent's family shall not be taken into account.

"(d) ADJUSTED VALUE OF THE QUALIFIED FAMILY-OWNED BUSINESS INTERESTS.—For purposes of this section, the adjusted value of any qualified family-owned business interest is the value of such interest for purposes of this chapter (determined without regard to this section), reduced by the excess of—

"(1) any amount deductible under paragraph (3) or (4) of section 2053(a), over

"(2) the sum of—

"(A) any indebtedness on any qualified residence of the decedent the interest on which is deductible under section 163(h)(3), plus

"(B) any indebtedness to the extent the taxpayer establishes that the proceeds of such indebtedness were used for the payment of educational and medical expenses of the decedent, the decedent's spouse, or the decedent's dependents (within the meaning of section 152), plus

"(C) any indebtedness not described in subparagraph (A) or (B), to the extent such indebtedness does not exceed $10,000.

"(e) QUALIFIED FAMILY-OWNED BUSINESS INTEREST.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified family-owned business interest' means—

"(A) an interest as a proprietor in a trade or business carried on as a proprietorship, or

"(B) an interest in an entity carrying on a trade or business, if—

"(i) at least—

"(I) 50 percent of such entity is owned (directly or indirectly) by the decedent and members of the decedent's family,

"(II) 70 percent of such entity is so owned by members of 2 families, or

"(III) 90 percent of such entity is so owned by members of 3 families, and

"(ii) for purposes of subclause (II) or (III) of clause (i), at least 30 percent of such entity is so owned by the decedent and members of the decedent's family.

"(2) LIMITATION.—Such term shall not include—

"(A) any interest in a trade or business the principal place of business of which is not located in the United States,

"(B) any interest in an entity, if the stock or debt of such entity or a controlled group (as defined in section 267(f)(1)) of which such entity was a member was readily tradable on an established securities market or secondary market (as defined by the Secretary) at any time within 3 years of the date of the decedent's death,

"(C) any interest in a trade or business not described in section 542(c)(2), if more than 35 percent of the adjusted ordinary gross income of such trade or business for the taxable year which includes the date of the decedent's death would qualify as personal holding company income (as defined in section 543(a)),

"(D) that portion of an interest in a trade or business that is attributable to—

"(i) cash or marketable securities, or both, in excess of the reasonably expected day-to-day working capital needs of such trade or business, and

"(ii) any other assets of the trade or business (other than assets used in the active conduct of a trade or business described in section 542(c)(2)), which produce, or are held for the production of, income of which is described in section 543(a) or in section 954(c)(1) (determined without regard to subparagraph (A) thereof and by substituting 'trade or business' for 'controlled foreign corporation').

"(3) RULES REGARDING OWNERSHIP.—

"(A) OWNERSHIP OF ENTITIES.—For purposes of paragraph (1)(B)—

"(i) CORPORATIONS.—Ownership of a corporation shall be determined by the holding of stock possessing the appropriate percentage of the total combined voting power of all classes of stock entitled to vote and the appropriate percentage of the total value of shares of all classes of stock.

"(ii) PARTNERSHIPS.—Ownership of a partnership shall be determined by the owning of the appropriate percentage of the capital interest in such partnership.

"(B) OWNERSHIP OF TIERED ENTITIES.—For purposes of this section, if by reason of holding an interest in a trade or business, a decedent, any member of the decedent's family, any qualified heir, or any member of any qualified heir's family is treated as holding an interest in any other trade or business—

"(i) such ownership interest in the other trade or business shall be disregarded in determining if the ownership interest in the first trade or business is a qualified family-owned business interest, and

"(ii) this section shall be applied separately in determining if such interest in any other trade or business is a qualified family-owned business interest.

"(C) INDIVIDUAL OWNERSHIP RULES.—For purposes of this section, an interest owned, directly or indirectly, by or for an entity described in paragraph (1)(B) shall be considered as being owned proportionately by or for the entity's shareholders, partners, or beneficiaries. A person shall be treated as a beneficiary of any trust only if such person has a present interest in such trust.

"(f) TAX TREATMENT OF FAILURE TO MATERIALLY PARTICIPATE IN BUSINESS OR DISPOSITIONS OF INTERESTS.—

"(1) IN GENERAL.—There is imposed an additional estate tax if, within 10 years after the date of the decedent's death and before the date of the qualified heir's death—

"(A) the material participation requirements described in section 2032A(c)(6)(B) are not met with respect to the qualified family-owned business interest which was acquired (or passed) from the decedent,

"(B) the qualified heir disposes of any portion of a qualified family-owned business interest (other than by a disposition to a member of the qualified heir's family or through a qualified conservation contribution under section 170(h)),

"(C) the qualified heir loses United States citizenship (within the meaning of section 877) or with respect to whom an event described in subparagraph (A) or (B) of section 877(e)(1) occurs, and such heir does not comply with the requirements of subsection (g), or

"(D) the principal place of business of a trade or business of the qualified family-owned business interest ceases to be located in the United States.

"(2) ADDITIONAL ESTATE TAX.—

"(A) IN GENERAL.—The amount of the additional estate tax imposed by paragraph (1) shall be equal to—

"(i) the applicable percentage of the adjusted tax difference attributable to the qualified family-owned business interest (as determined under rules similar to the rules of section 2032A(c)(2)(B)), plus

"(ii) interest on the amount determined under clause (i) at the underpayment rate established under section 6621 for the period beginning on the date the estate tax liability was due under this chapter and ending on the date such additional estate tax is due.

"(B) APPLICABLE PERCENTAGE.—For purposes of this paragraph, the applicable percentage shall be determined under the following table:

"If the event described in paragraph (1) occurs in the following year of material participation:	***The applicable percentage is:***
1 through 6	*100*
7	*80*
8	*60*
9	*40*
10	*20.*

"(g) SECURITY REQUIREMENTS FOR NONCITIZEN QUALIFIED HEIRS.—

"(1) IN GENERAL.—Except upon the application of subparagraph (F) or (M) of subsection (i)(3), if a qualified heir is not a citizen of the

United States, any interest under this section passing to or acquired by such heir (including any interest held by such heir at a time described in subsection (f)(1)(C)) shall be treated as a qualified family-owned business interest only if the interest passes or is acquired (or is held) in a qualified trust.

"(2) QUALIFIED TRUST.—The term 'qualified trust' means a trust—

"(A) which is organized under, and governed by, the laws of the United States or a State, and

"(B) except as otherwise provided in regulations, with respect to which the trust instrument requires that at least 1 trustee of the trust be an individual citizen of the United States or a domestic corporation.

"(h) AGREEMENT.—The agreement referred to in this subsection is a written agreement signed by each person in being who has an interest (whether or not in possession) in any property designated in such agreement consenting to the application of subsection (f) with respect to such property.

"(i) OTHER DEFINITIONS AND APPLICABLE RULES.—For purposes of this section—

"(1) QUALIFIED HEIR.—The term 'qualified heir'—

"(A) has the meaning given to such term by section 2032A(e)(1), and

"(B) includes any active employee of the trade or business to which the qualified family-owned business interest relates if such employee has been employed by such trade or business for a period of at least 10 years before the date of the decedent's death.

"(2) MEMBER OF THE FAMILY.—The term 'member of the family' has the meaning given to such term by section 2032A(e)(2).

"(3) APPLICABLE RULES.—Rules similar to the following rules shall apply:

"(A) Section 2032A(b)(4) (relating to decedents who are retired or disabled).

"(B) Section 2032A(b)(5) (relating to special rules for surviving spouses).

"(C) Section 2032A(c)(2)(D) (relating to partial dispositions).

"(D) Section 2032A(c)(3) (relating to only 1 additional tax imposed with respect to any 1 portion).

"(E) Section 2032A(c)(4) (relating to due date).

"(F) Section 2032A(c)(5) (relating to liability for tax; furnishing of bond).

"(G) Section 2032A(c)(7) (relating to no tax if use begins within 2 years; active management by eligible qualified heir treated as material participation).

"(H) Paragraphs (1) and (3) of section 2032A(d) (relating to election; agreement).

"(I) Section 2032A(e)(10) (relating to community property).

"(J) Section 2032A(e)(14) (relating to treatment of replacement property acquired in section 1031 or 1033 transactions).

"(K) Section 2032A(f) (relating to statute of limitations).

"(L) Section 6166(b)(3) (relating to farmhouses and certain other structures taken into account).

"(M) Subparagraphs (B), (C), and (D) of section 6166(g)(1) (relating to acceleration of payment).

"(N) Section 6324B (relating to special lien for additional estate tax).".

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter A of chapter 11 is amended by inserting after the item relating to section 2033 the following new item:

"Sec. 2033A. Family-owned business exclusion.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after December 31, 1997.

SEC. 403. TREATMENT OF LAND SUBJECT TO A QUALIFIED CONSERVATION EASEMENT.

(a) ESTATE TAX WITH RESPECT TO LAND SUBJECT TO A QUALIFIED CONSERVATION EASEMENT.—Section 2031 (relating to the definition of gross estate) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) ESTATE TAX WITH RESPECT TO LAND SUBJECT TO A QUALIFIED CONSERVATION EASEMENT.—

"(1) IN GENERAL.—If the executor makes the election described in paragraph (4), then, except as otherwise provided in this subsection, there shall be excluded from the gross estate the lesser of—

"(A) the applicable percentage of the value of land subject to a qualified conservation easement, reduced by the amount of any deduction under section 2055(f) with respect to such land, or

"(B) the excess (if any) of—

"(i) $1,000,000, over

"(ii) the exclusion allowed with respect to the qualified family-owned business interests of the decedent under section 2033A.

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the term 'applicable percentage' means 40 percent reduced (but not below zero) by 2 percentage points for each percentage point (or fraction thereof) by which the value of the qualified conservation easement is less than 30 percent of the value of the land (determined without regard to the value of such easement and reduced by the value of any retained development right (as defined in paragraph (4)).

"(3) TREATMENT OF CERTAIN INDEBTEDNESS.—

"(A) IN GENERAL.—The exclusion provided in paragraph (1) shall not apply to the extent that the land is debt-financed property.

"(B) DEFINITIONS.—For purposes of this paragraph—

"(i) DEBT-FINANCED PROPERTY.—The term 'debt-financed property' means any property with respect to which there is an acquisition indebtedness (as defined in clause (ii)) on the date of the decedent's death.

"(ii) ACQUISITION INDEBTEDNESS.—The term 'acquisition indebtedness' means, with respect to debt-financed property, the unpaid amount of—

"(I) the indebtedness incurred by the donor in acquiring such property,

"(II) the indebtedness incurred before the acquisition of such property if such indebtedness would not have been incurred but for such acquisition,

"(III) the indebtedness incurred after the acquisition of such property if such indebtedness would not have been incurred but for such acquisition and the incurrence of such indebtedness was reasonably foreseeable at the time of such acquisition, and

"(IV) the extension, renewal, or refinancing of an acquisition indebtedness.

"(4) TREATMENT OF RETAINED DEVELOPMENT RIGHT.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to the value of any development right retained by the donor in the conveyance of a qualified conservation easement.

"(B) TERMINATION OF RETAINED DEVELOPMENT RIGHT.—If every person in being who has an interest (whether or not in possession) in the land executes an agreement to extinguish permanently some or all of any development rights (as defined in subparagraph (D)) retained by the donor on or before the date for filing the return of the tax imposed by section 2001, then any tax imposed by section 2001 shall be reduced accordingly. Such agreement shall be filed with the return of the tax imposed by section 2001. The agreement shall be in such form as the Secretary shall prescribe.

"(C) ADDITIONAL TAX.—Any failure to implement the agreement described in subparagraph (B) not later than the earlier of—

"(i) the date which is 2 years after the date of the decedent's death, or

"(ii) the date of the sale of such land subject to the qualified conservation easement,

shall result in the imposition of an additional tax in the amount of the tax which would have been due on the retained development rights subject to such agreement. Such additional tax shall be due and payable on the last day of the 6th month following such date.

"(D) DEVELOPMENT RIGHT DEFINED.—For purposes of this paragraph, the term 'development right' means any right to use the land subject to the qualified conservation easement in which such right is retained for any commercial purpose which is not subordinate to and directly supportive of the use of such land as a farm for farming purposes (within the meaning of section 6420(c)).

"(4) ELECTION.—The election under this subsection shall be made on the return of the tax imposed by section 2001. Such an election, once made, shall be irrevocable.

"(5) CALCULATION OF ESTATE TAX DUE.—An executor making the election described in paragraph (4) shall, for purposes of calculating the amount of tax imposed by section 2001, include the value of any development right (as defined in paragraph (3)) retained by the donor in the conveyance of such qualified conservation easement. The computation of tax on any retained development right prescribed in this paragraph shall be done in such manner and on such forms as the Secretary shall prescribe.

"(6) DEFINITIONS.—For purposes of this subsection—

"(A) LAND SUBJECT TO A QUALIFIED CONSERVATION EASEMENT.—The term 'land subject to a qualified conservation easement' means land—

"(i) which is located—

"(I) in or within 25 miles of an area which, on the date of the decedent's death, is a metropolitan area (as defined by the Office of Management and Budget),

"(II) in or within 25 miles of an area which, on the date of the decedent's death, is a national park or wilderness area designated as part of the National Wilderness Preservation System (unless it is determined by the Secretary that land in or within 25 miles of such a park or wilderness area is not under significant development pressure), or

"(III) in or within 10 miles of an area which, on the date of the decedent's death, is an Urban National Forest (as designated by the Forest Service),

"(ii) which was owned by the decedent or a member of the decedent's family at all times during the 3-year period ending on the date of the decedent's death, and

"(iii) with respect to which a qualified conservation easement has been made by the decedent or a member of the decedent's family.

"(B) QUALIFIED CONSERVATION EASEMENT.—The term 'qualified conservation easement' means a qualified conservation contribution (as defined in section 170(h)(1)) of a qualified real property interest (as defined in section 170(h)(2)(C)), except that clause (iv) of section 170(h)(4)(A) shall not apply, and the restriction on the use of such interest described in section 170(h)(2)(C) shall include a prohibition on commercial recreational activity.

"(C) MEMBER OF FAMILY.—The term 'member of the decedent's family' means any member of the family (as defined in section 2032A(e)(2)) of the decedent.

"(7) APPLICATION OF THIS SECTION TO INTERESTS IN PARTNERSHIPS, CORPORATIONS, AND TRUSTS.—This section shall apply to an interest in a partnership, corporation, or trust if at least

30 percent of the entity is owned (directly or indirectly) by the decedent, as determined under the rules described in section 2033A(e)(3).".

(b) CARRYOVER BASIS.—Section 1014(a) (relating to basis of property acquired from a decedent), as amended by section 502(b), is amended by striking the period at the end of paragraph (4) and inserting ", or" and by adding at the end the following new paragraph:

"(5) to the extent of the applicability of the exclusion described in section 2031(c), the basis in the hands of the decedent.".

(c) QUALIFIED CONSERVATION CONTRIBUTION IS NOT A DISPOSITION.—Subsection (c) of section 2032A (relating to alternative valuation method) is amended by adding at the end the following new paragraph:

"(8) QUALIFIED CONSERVATION CONTRIBUTION IS NOT A DISPOSITION.—A qualified conservation contribution (as defined in section 170(h)) by gift or otherwise shall not be deemed a disposition under subsection (c)(1)(A).".

(d) QUALIFIED CONSERVATION CONTRIBUTION WHERE SURFACE AND MINERAL RIGHTS ARE SEPARATED.—Section 170(h)(5)(B)(ii) (relating to special rule) is amended to read as follows:

"(ii) SPECIAL RULE.—With respect to any contribution of property in which the ownership of the surface estate and mineral interests has been and remains separated, subparagraph (A) shall be treated as met if the probability of surface mining occurring on such property is so remote as to be negligible.".

(e) EFFECTIVE DATES.—

(1) EXCLUSION.—The amendments made by subsections (a) and (b) shall apply to estates of decedents dying after December 31, 1997.

(2) EASEMENTS.—The amendments made by subsections (c) and (d) shall apply to easements granted after December 31, 1997.

SEC. 404. 20-YEAR INSTALLMENT PAYMENT WHERE ESTATE CONSISTS LARGELY OF INTEREST IN CLOSELY HELD BUSINESS.

(a) IN GENERAL.—Section 6166(a) (relating to extension of time for payment of estate tax where estate consists largely of interest in closely held business) is amended by striking "10" in paragraph (1) and the heading thereof and inserting "20".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after December 31, 1997.

SEC. 405. NO INTEREST ON CERTAIN PORTION OF ESTATE TAX EXTENDED UNDER SECTION 6166, REDUCED INTEREST ON REMAINING PORTION, AND NO DEDUCTION FOR SUCH REDUCED INTEREST.

(a) NO INTEREST AND REDUCED INTEREST.—

(1) IN GENERAL.—Paragraphs (1) and (2) of section 6601(j) (relating to 4-percent rate on certain portion of estate tax extended under section 6166), as amended by section 501(e), are amended to read as follows:

"(1) IN GENERAL.—If the time for payment of an amount of tax imposed by chapter 11 is extended as provided in section 6166, then in lieu of the annual rate provided by subsection (a)—

"(A) no interest shall be paid on the no-interest portion of such amount, and

"(B) interest on so much of such amount as exceeds such no-interest portion shall be paid at a rate equal to 45 percent of the annual rate provided by subsection (a).

For purposes of this subsection, the amount of any deficiency which is prorated to installments payable under section 6166 shall be treated as an amount of tax payable in installments under such section.

"(2) NO-INTEREST PORTION.—For purposes of this section, the term 'no-interest portion' means the lesser of—

"(A)(i) the amount of the tentative tax which would be determined under the rate schedule set forth in section 2001(c) if the amount with respect to which such tentative tax is to be computed were the sum of $1,000,000 and the applicable exclusion amount in effect under section 2010(c), reduced by

"(ii) the applicable credit amount in effect under section 2010(c), or

"(B) the amount of the tax imposed by chapter 11 which is extended as provided in section 6166.".

(2) CONFORMING AMENDMENTS.—

(A) Section 6601(j), as amended by section 501, is amended—

(i) by striking "4-percent" each place it appears in paragraph (3) and inserting "no-interest", and

(ii) by striking "4-PERCENT RATE ON CERTAIN PORTION OF" in the heading and inserting "RATE ON".

(B) Section 6166(b)(7)(A)(iii) is amended to read as follows:

"(iii) for purposes of applying section 6601(j) (relating to rate on estate tax extended under section 6166), the no-interest portion shall be zero.".

(C) Section 6166(b)(8)(A)(iii) is amended to read as follows:

"(iii) NO-INTEREST PORTION NOT TO APPLY.—For purposes of applying section 6601(j) (relating to rate on estate tax extended under section 6166), the no-interest portion shall be zero.".

(b) DISALLOWANCE OF INTEREST DEDUCTION.—

(1) ESTATE TAX.—Paragraph (1) of section 2053(c) is amended by adding at the end the following new subparagraph:

"(D) SECTION 6166 INTEREST.—No deduction shall be allowed under this section for any interest payable under section 6601 on any unpaid portion of the tax imposed by section 2001 for the period during which an extension of time for payment of such tax is in effect under section 6166.".

(2) INCOME TAX.—Subparagraph (E) of section 163(h)(2) is amended by striking "or 6166".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after December 31, 1997.

SEC. 406. EXTENSION OF TREATMENT OF CERTAIN RENTS UNDER SECTION 2032A TO LINEAL DESCENDANTS.

(a) GENERAL RULE.—Paragraph (7) of section 2032A(c) (relating to special rules for tax treatment of dispositions and failures to use for qualified use) is amended by adding at the end the following new subparagraph:

"(E) CERTAIN RENTS TREATED AS QUALIFIED USE.—For purposes of this subsection, a surviving spouse or lineal descendant of the decedent shall not be treated as failing to use qualified real property in a qualified use solely because such spouse or descendant rents such property to a member of the family of such spouse or descendant on a net cash basis. For purposes of the preceding sentence, a legally adopted child of an individual shall be treated as the child of such individual by blood.".

(b) CONFORMING AMENDMENT.—Section 2032A(b)(5)(A) is amended by striking the last sentence.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to leases entered into after December 31, 1976.

SEC. 407. EXPANSION OF EXCEPTION FROM GENERATION-SKIPPING TRANSFER TAX FOR TRANSFERS TO INDIVIDUALS WITH DECEASED PARENTS.

(a) IN GENERAL.—Section 2651 (relating to generation assignment) is amended by redesignating subsection (e) as subsection (f), and by inserting after subsection (d) the following new subsection:

"(e) SPECIAL RULE FOR PERSONS WITH A DECEASED PARENT.—

"(1) IN GENERAL.—For purposes of determining whether any transfer is a generation-skipping transfer, if—

"(A) an individual is a descendant of a parent of the transferor (or the transferor's spouse or former spouse), and

"(B) such individual's parent who is a lineal descendant of the parent of the transferor (or the transferor's spouse or former spouse) is dead at the time the transfer (from which an interest of such individual is established or derived) is subject to a tax imposed by chapter 11 or 12 upon the transferor (and if there shall be more than 1 such time, then at the earliest such time), such individual shall be treated as if such individual were a member of the generation which is 1 generation below the lower of the transferor's generation or the generation assignment of the youngest living ancestor of such individual who is also a descendant of the parent of the transferor (or the transferor's spouse or former spouse), and the generation assignment of any descendant of such individual shall be adjusted accordingly.

"(2) LIMITED APPLICATION OF SUBSECTION TO COLLATERAL HEIRS.—This subsection shall not apply with respect to a transfer to any individual who is not a lineal descendant of the transferor (or the transferor's spouse or former spouse) if, at the time of the transfer, such transferor has any living lineal descendant.".

(b) CONFORMING AMENDMENTS.—

(1) Section 2612(c) (defining direct skip) is amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(2) Section 2612(c)(2) (as so redesignated) is amended by striking "section 2651(e)(2)" and inserting "section 2651(f)(2)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to terminations, distributions, and transfers occurring after December 31, 1997.

TITLE V—EXTENSIONS

SEC. 501. RESEARCH TAX CREDIT.

(a) IN GENERAL.—Paragraph (1) of section 41(h) (relating to termination) is amended—

(1) by striking "May 31, 1997" and inserting "May 31, 1999", and

(2) by striking in the last sentence "during the first 11 months of such taxable year." and inserting "during the 35-month period beginning with the first month of such year. The 35 months referred to in the preceding sentence shall be reduced by the number of full months after June 1996 (and before the first month of such first taxable year) during which the taxpayer paid or incurred any amount which is taken into account in determining the credit under this section.".

(b) TECHNICAL AMENDMENTS.—

(1) Subparagraph (B) of section 41(c)(4) is amended to read as follows:

"(B) ELECTION.—An election under this paragraph shall apply to the taxable year for which made and all succeeding taxable years unless revoked with the consent of the Secretary.".

(2) Paragraph (1) of section 45C(b) is amended by striking "May 31, 1997" and inserting "May 31, 1999".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after May 31, 1997.

SEC. 502. CONTRIBUTIONS OF STOCK TO PRIVATE FOUNDATIONS.

(a) IN GENERAL.—Clause (ii) of section 170(e)(5)(D) (relating to termination) is amended by striking "May 31, 1997" and inserting "May 31, 1999".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to contributions made after May 31, 1997.

SEC. 503. WORK OPPORTUNITY TAX CREDIT.

(a) EXTENSION.—Subparagraph (B) of section 51(c)(4) (relating to termination) is amended by striking "September 30, 1997" and inserting "May 31, 1999".

(b) MODIFICATION OF ELIGIBILITY REQUIREMENT BASED ON PERIOD ON WELFARE.—

(1) IN GENERAL.—Subparagraph (A) of section 51(d)(2) (defining qualified IV–A recipient) is amended by striking all that follows "a IV–A program" and inserting "for any 9 months during the 18-month period ending on the hiring date.".

(2) CONFORMING AMENDMENT.—Subparagraph (A) of section 51(d)(3) is amended to read as follows:

"(A) IN GENERAL.—The term 'qualified veteran' means any veteran who is certified by the designated local agency as being a member of a family receiving assistance under a food stamp program under the Food Stamp Act of 1977 for at least a 3-month period ending during the 12-month period ending on the hiring date.".

(c) QUALIFIED SSI RECIPIENTS TREATED AS MEMBERS OF TARGETED GROUPS.—

(1) IN GENERAL.—Section 51(d)(1) (relating to members of targeted groups) is amended by striking "or" at the end of subparagraph (F), by striking the period at the end of subparagraph (G) and inserting ", or", and by adding at the end the following new subparagraph:

"(H) a qualified SSI recipient.".

(2) QUALIFIED SSI RECIPIENTS.—Section 51(d) is amended by redesignating paragraphs (9), (10), and (11) as paragraphs (10), (11), and (12), respectively, and by inserting after paragraph (8) the following new paragraph:

"(9) QUALIFIED SSI RECIPIENT.—The term 'qualified SSI recipient' means any individual who is certified by the designated local agency as receiving supplemental security income benefits under title XVI of the Social Security Act (including supplemental security income benefits of the type described in section 1616 of such Act or section 212 of Public Law 93–66) for any month ending within the 60-day period ending on the hiring date.".

(d) PERCENTAGE OF WAGES ALLOWED AS CREDIT.—

(1) IN GENERAL.—Subsection (a) of section 51 (relating to determination of amount) is amended by striking "35 percent" and inserting "40 percent".

(2) APPLICATION OF CREDIT FOR INDIVIDUALS PERFORMING FEWER THAN 400 HOURS OF SERVICES.—Paragraph (3) of section 51(i) is amended to read as follows:

"(3) INDIVIDUALS NOT MEETING MINIMUM EMPLOYMENT PERIODS.—

"(A) REDUCTION OF CREDIT FOR INDIVIDUALS PERFORMING FEWER THAN 400 HOURS OF SERVICES.—In the case of an individual who has completed at least 120 hours, but less than 400 hours, of services performed for the employer, subsection (a) shall be applied by substituting '25 percent' for '40 percent'.

"(B) DENIAL OF CREDIT FOR INDIVIDUALS PERFORMING FEWER THAN 120 HOURS OF SERVICES.—No wages shall be taken into account under subsection (a) with respect to any individual unless such individual has completed at least 120 hours of services performed for the employer.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to individuals who begin work for the employer after September 30, 1997.

SEC. 504. ORPHAN DRUG TAX CREDIT.

(a) IN GENERAL.—Section 45C (relating to clinical testing expenses for certain drugs for rare diseases or conditions) is amended by striking subsection (e).

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts paid or incurred after May 31, 1997.

TITLE VI—INCENTIVES FOR REVITALIZATION OF THE DISTRICT OF COLUMBIA

SEC. 601. TAX INCENTIVES FOR REVITALIZATION OF THE DISTRICT OF COLUMBIA.

(a) IN GENERAL.—Chapter 1 is amended by adding at the end the following new subchapter:

"Subchapter W—Incentives for the Revitalization of the District of Columbia

"Sec. 1400. First-time homebuyer credit for District of Columbia.
"Sec. 1400A. Credit for equity investments in and loans to District of Columbia businesses.
"Sec. 1400B. Zero percent capital gains rate.
"Sec. 1400C. Trust Fund for DC schools.

"SEC. 1400. FIRST-TIME HOMEBUYER CREDIT FOR DISTRICT OF COLUMBIA.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual who is a first-time homebuyer of a principal residence in the District of Columbia during any taxable year, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to so much of the purchase price of the residence as does not exceed $5,000.

"(b) FIRST-TIME HOMEBUYER.—For purposes of this section—

"(1) IN GENERAL.—The term 'first-time homebuyer' has the same meaning as when used in section 72(t)(8)(D)(i), except that 'principal residence in the District of Columbia during the 1-year period' shall be substituted for 'principal residence during the 2-year period' in subclause (I) thereof.

"(2) ONE-TIME ONLY.—If an individual is treated as a first-time homebuyer with respect to any principal residence, such individual may not be treated as a first-time homebuyer with respect to any other principal residence.

"(3) PRINCIPAL RESIDENCE.—The term 'principal residence' has the same meaning as when used in section 121.

"(4) DATE OF ACQUISITION.—The term 'date of acquisition' has the same meaning as when used in section 72t(8)(D)(iii).

"(c) CARRYOVER OF CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under subpart A of part IV of subchapter A (other than this section and section 25), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year.

"(d) SPECIAL RULES.—For purposes of this section—

"(1) ALLOCATION OF DOLLAR LIMITATION.—

"(A) MARRIED INDIVIDUALS FILING JOINTLY.—In the case of a husband and wife who file a joint return, the $5,000 limitation under subsection (a) shall apply to the joint return.

"(B) MARRIED INDIVIDUALS FILING SEPARATELY.—In the case of a married individual filing a separate return, subsection (a) shall be applied by substituting '$2,500' for '$5,000'.

"(C) OTHER TAXPAYERS.—If 2 or more individuals who are not married purchase a principal residence, the amount of the credit allowed under subsection (a) shall be allocated among such individuals in such manner as the Secretary may prescribe, except that the total amount of the credits allowed to all such individuals shall not exceed $5,000.

"(2) PURCHASE.—The term 'purchase' means any acquisition, but only if—

"(A) the property is not acquired from a person whose relationship to the person acquiring it would result in the disallowance of losses under section 267 or 707(b) (but, in applying section 267 (b) and (c) for purposes of this section, paragraph (4) of section 267(c) shall be treated as providing that the family of an individual shall include only his spouse, ancestors, and lineal descendants), and

"(B) the basis of the property in the hands of the person acquiring it is not determined—

"(i) in whole or in part by reference to the adjusted basis of such property in the hands of the person from whom acquired, or

"(ii) under section 1014(a) (relating to property acquired from a decedent).

"(3) PURCHASE PRICE.—The term 'purchase price' means the adjusted basis of the principal residence on the date of acquisition.

"(d) REPORTING.—If the Secretary requires information reporting under section 6045 to verify the eligibility of taxpayers for the credit allowable by this section, the exception provided by section 6045(e)(5) shall not apply.

"(e) CREDIT TREATED AS NONREFUNDABLE PERSONAL CREDIT.—For purposes of this title, the credit allowed by this section shall be treated as a credit allowable under subpart A of part IV of subchapter A of this chapter.

"SEC. 1400A. CREDIT FOR EQUITY INVESTMENTS IN AND LOANS TO DISTRICT OF COLUMBIA BUSINESSES.

"(a) GENERAL RULE.—For purposes of section 38, the DC investment credit determined under this section for any taxable year is—

"(1) the qualified lender credit for such year, and

"(2) the qualified equity investment credit for such year.

"(b) QUALIFIED LENDER CREDIT.—For purposes of this section—

"(1) IN GENERAL.—The qualified lender credit for any taxable year is the amount of credit specified for such year by the Economic Development Corporation with respect to qualified District loans made by the taxpayer.

"(2) LIMITATION.—In no event may the qualified lender credit with respect to any loan exceed 25 percent of the cost of the property purchased with the proceeds of the loan.

"(3) QUALIFIED DISTRICT LOAN.—For purposes of paragraph (1), the term 'qualified district loan' means any loan for the purchase (as defined in section 179(d)(2)) of property to which section 168 applies (or would apply but for section 179) (or land which is functionally related and subordinate to such property) and substantially all of the use of which is in the District of Columbia and is in the active conduct of a trade or business in the District of Columbia. A rule similar to the rule of section 1397C(a)(2) shall apply for purposes of the preceding sentence.

"(c) QUALIFIED EQUITY INVESTMENT CREDIT.—

"(1) IN GENERAL.—For purposes of this section, the qualified equity investment credit determined under this section for any taxable year is an amount equal to the percentage specified by the Economic Development Corporation (but not greater than 25 percent) of the aggregate amount paid in cash by the taxpayer during the taxable year for the purchase of District business investments.

"(2) DISTRICT BUSINESS INVESTMENT.—For purposes of this subsection, the term 'District business investment' means—

"(A) any District business stock, and

"(B) any District partnership interest.

"(3) DISTRICT BUSINESS STOCK.—For purposes of this subsection—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'District business stock' means any stock in a domestic corporation if—

"(i) such stock is acquired by the taxpayer at its original issue (directly or through an underwriter) solely in exchange for cash, and

"(ii) as of the time such stock was issued, such corporation was engaged in a trade or business in the District of Columbia (or, in the case of a new corporation, such corporation was being organized for purposes of engaging in such a trade or business).

"(B) REDEMPTIONS.—A rule similar to the rule of section 1202(c)(3) shall apply for purposes of this paragraph.

"(4) QUALIFIED DISTRICT PARTNERSHIP INTEREST.—For purposes of this subsection, the term 'qualified District partnership interest' means any interest in a partnership if—

"(A) such interest is acquired by the taxpayer from the partnership solely in exchange for cash, and

"(B) as of the time such interest was acquired, such partnership was engaging in a trade or business in the District of Columbia (or, in the case of a new partnership, such partnership was being organized for purposes of engaging in such a trade or business).

A rule similar to the rule of paragraph (3)(B) shall apply for purposes of this paragraph.

"(5) RECAPTURE OF CREDIT UPON CERTAIN DISPOSITIONS OF DISTRICT BUSINESS INVESTMENTS.—

"(A) IN GENERAL.—If a taxpayer disposes of any District business investment (or any other property the basis of which is determined in whole or in part by reference to the adjusted basis of such investment) before the end of the 5-year period beginning on the date such investment was acquired by the taxpayer, the taxpayer's tax imposed by this chapter for the taxable year in which such distribution occurs shall be increased by the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted solely from reducing to zero any credit determined under this section with respect to such investment.

"(B) EXCEPTIONS.—Subparagraph (A) shall not apply to any gift, transfer, or transaction described in paragraph (1), (2), or (3) of section 1245(b).

"(C) SPECIAL RULE.—Any increase in tax under subparagraph (A) shall not be treated as a tax imposed by this chapter for purposes of—

"(i) determining the amount of any credit allowable under this chapter, and

"(ii) determining the amount of the tax imposed by section 55.

"(6) BASIS REDUCTION.—For purposes of this title, the basis of any District business investment shall be reduced by the amount of the credit determined under this section with respect to such investment.

"(d) LIMITATION ON AMOUNT OF CREDIT.—

"(1) IN GENERAL.—The amount of the DC investment credit determined under this section with respect to any taxpayer for any taxable year shall not exceed the credit amount allocated to such taxpayer for such taxable year by the Economic Development Corporation.

"(2) OVERALL LIMITATION.—The aggregate credit amount which may be allocated by the Economic Development Corporation under this section shall not exceed $60,000,000.

"(3) CRITERIA FOR ALLOCATING CREDIT AMOUNTS.—The allocation of credit amounts under this section shall be made in accordance with criteria established by the Economic Development Corporation. In establishing such criteria, such Corporation shall take into account—

"(A) the degree to which the business receiving the loan or investment will provide job opportunities for low and moderate income residents of a targeted area, and

"(B) whether such business is within a targeted area.

"(4) TARGETED AREA.—For purposes of paragraph (3), the term 'targeted area' means—

"(A) any census tract located in the District of Columbia which is part of an enterprise community designated under subchapter U before the date of the enactment of this subchapter, and

"(B) any other census tract which is located in the District of Columbia and which has a poverty rate of not less than 35 percent.

"(e) ECONOMIC DEVELOPMENT CORPORATION.—For purposes of this section, the term 'Economic Development Corporation' has the meaning given such term by section 1400A(b).

"(f) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out this section.

"(g) APPLICATION OF SECTION.—This section shall apply to any credit amount allocated for taxable years beginning after December 31, 1997, and before January 1, 2003.

"SEC. 1400B. ZERO PERCENT CAPITAL GAINS RATE.

"(a) EXCLUSION.—

"(1) IN GENERAL.—Gross income shall not include qualified capital gain from the sale or exchange of any DC asset held for more than 5 years.

"(2) SPECIAL 10 PERCENT RATE FOR DC ASSETS ACQUIRED IN 1998.—

"(A) IN GENERAL.—In the case of any DC asset acquired during calendar year 1998—

"(i) paragraph (1) shall not apply to any qualified capital gain from the sale or exchange of such asset, and

"(ii) the qualified capital gain described in clause (i) shall be treated as adjusted net capital gain described in section 1(h)(1)(D) for the taxable year of the sale or exchange (and the amount under section 1(h)(1)(D)(i) for such taxable year shall be increased by the amount of such gain).

"(B) SPECIAL RULE.—For purposes of subparagraph (A), any DC asset the basis of which is determined in whole or in part by reference to the basis of an asset to which subparagraph (A) applies shall be treated as a DC asset acquired during calendar year 1998.

"(b) DC ASSET.—For purposes of this section—

"(1) IN GENERAL.—The term 'DC asset' means—

"(A) any DC business stock,

"(B) any DC partnership interest, and

"(C) any DC business property.

"(2) DC BUSINESS STOCK.—

"(A) IN GENERAL.—The term 'DC business stock' means any stock in a domestic corporation which is originally issued after December 31, 1997, if—

"(i) such stock is acquired by the taxpayer, before January 1, 2003, at its original issue (directly or through an underwriter) solely in exchange for cash,

"(ii) as of the time such stock was issued, such corporation was a DC business (or, in the case of a new corporation, such corporation was being organized for purposes of being a DC business), and

"(iii) during substantially all of the taxpayer's holding period for such stock, such corporation qualified as a DC business.

"(B) REDEMPTIONS.—A rule similar to the rule of section 1202(c)(3) shall apply for purposes of this paragraph.

"(3) DC PARTNERSHIP INTEREST.—The term 'DC partnership interest' means any capital or profits interest in a domestic partnership which is originally issued after December 31, 1997, if—

"(A) such interest is acquired by the taxpayer, before January 1, 2003, from the partnership solely in exchange for cash,

"(B) as of the time such interest was acquired, such partnership was a DC business (or, in the case of a new partnership, such partnership was being organized for purposes of being a DC business), and

"(C) during substantially all of the taxpayer's holding period for such interest, such partnership qualified as a DC business.

A rule similar to the rule of paragraph (2)(B) shall apply for purposes of this paragraph.

"(4) DC BUSINESS PROPERTY.—

"(A) IN GENERAL.—The term 'DC business property' means tangible property if—

"(i) such property was acquired by the taxpayer by purchase (as defined in section 179(d)(2)) after December 31, 1997, and before January 1, 2003,

"(ii) the original use of such property in the District of Columbia commences with the taxpayer, and

"(iii) during substantially all of the taxpayer's holding period for such property, substantially all of the use of such property was in a DC business of the taxpayer.

"(B) SPECIAL RULE FOR BUILDINGS WHICH ARE SUBSTANTIALLY IMPROVED.—

"(i) IN GENERAL.—The requirements of clauses (i) and (ii) of subparagraph (A) shall be treated as met with respect to—

"(I) property which is substantially improved by the taxpayer before January 1, 2003, and

"(II) any land on which such property is located.

"(ii) SUBSTANTIAL IMPROVEMENT.—For purposes of clause (i), property shall be treated as substantially improved by the taxpayer only if, during any 24-month period beginning after December 31, 1997, additions to basis with respect to such property in the hands of the taxpayer exceed the greater of—

"(I) an amount equal to the adjusted basis of such property at the beginning of such 24-month period in the hands of the taxpayer, or

"(II) $5,000.

"(6) TREATMENT OF SUBSEQUENT PURCHASERS, ETC.—The term 'DC asset' includes any property which would be a DC asset but for paragraph (2)(A)(i), (3)(A), or (4)(A)(ii) in the hands of the taxpayer if such property was a DC asset in the hands of a prior holder.

"(7) 5-YEAR SAFE HARBOR.—If any property ceases to be a DC asset by reason of paragraph (2)(A)(iii), (3)(C), or (4)(A)(iii) after the 5-year period beginning on the date the taxpayer acquired such property, such property shall continue to be treated as meeting the requirements of such paragraph; except that the amount of gain to which subsection (a) applies on any sale or exchange of such property shall not exceed the amount which would be qualified capital gain had such property been sold on the date of such cessation.

"(c) DC BUSINESS.—For purposes of this section, the term 'DC business' means any entity which is an enterprise zone business (as defined in section 1397B), determined—

"(1) by treating the District of Columbia as an empowerment zone and as if no other area is an empowerment zone or enterprise community, and

"(2) without regard to subsections (b)(6) and (c)(5) of section 1397B.

"(d) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) QUALIFIED CAPITAL GAIN.—Except as otherwise provided in this subsection, the term 'qualified capital gain' means any gain recognized on the sale or exchange of—

"(A) a capital asset, or

"(B) property used in the trade or business (as defined in section 1231(b)).

"(2) GAIN BEFORE 1998 NOT QUALIFIED.—The term 'qualified capital gain' shall not include any gain attributable to periods before January 1, 1998.

"(3) CERTAIN GAIN ON REAL PROPERTY NOT QUALIFIED.—The term 'qualified capital gain' shall not include any gain which would be treated as ordinary income under section 1250 if section 1250 applied to all depreciation rather than the additional depreciation.

"(4) INTANGIBLES AND LAND NOT INTEGRAL PART OF DC BUSINESS.—The term 'qualified capital gain' shall not include any gain which is attributable to real property, or an intangible asset, which is not an integral part of a DC business.

"(5) RELATED PARTY TRANSACTIONS.—The term 'qualified capital gain' shall not include any gain attributable, directly or indirectly, in whole or in part, to a transaction with a related person. For purposes of this paragraph, persons are related to each other if such persons are described in section 267(b) or 707(b)(1).

"(e) CERTAIN OTHER RULES TO APPLY.—Rules similar to the rules of subsections (g), (h), (i)(2), and (j) of section 1202 shall apply for purposes of this section.

"(f) SALES AND EXCHANGES OF INTERESTS IN PARTNERSHIPS AND S CORPORATIONS WHICH ARE DC BUSINESSES.—In the case of the sale or exchange of an interest in a partnership, or of stock in an S corporation, which was a DC business during substantially all of the period the taxpayer held such interest or stock, the amount of qualified capital gain shall be determined without regard to—

"(1) any gain which is attributable to real property, or an intangible asset, which is not an integral part of a DC business, and

"(2) any gain attributable to periods before January 1, 1998.

"SEC. 1400C. TRUST FUND FOR DC SCHOOLS.

"(a) CREATION OF FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Trust Fund for DC Schools', consisting of such amounts as may be appropriated or credited to the Fund as provided in this section.

"(b) TRANSFER TO TRUST FUND OF AMOUNTS EQUIVALENT TO CERTAIN TAXES.—

"(1) IN GENERAL.—There are hereby appropriated to the Trust Fund for DC Schools amounts equivalent to the applicable percentage of revenues received in the Treasury from income taxes imposed by this chapter for any taxable year beginning after December 31, 1997, and before January 1, 2008, on individual taxpayers who are residents of the District of Columbia as of the last day of such taxable year.

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the term 'applicable percentage' means the percentage which the Secretary determines necessary to result in $5,000,000 being appropriated to the Trust Fund under paragraph (1) for each of the calendar years 1998 through 2007.

"(3) TRANSFER OF AMOUNTS.—The amounts appropriated by paragraph (1) shall be transferred at least monthly from the general fund of the Treasury to the Trust Fund for DC Schools on the basis of estimates made by the Secretary of the amounts referred to in such paragraph. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

"(c) EXPENDITURES FROM FUND.—

"(1) IN GENERAL.—Amounts in the Trust Fund for DC Schools are hereby appropriated, and shall be available without fiscal year limitation, for payment by the Secretary of debt service on qualified DC school bonds.

"(2) QUALIFIED DC SCHOOL BONDS.—The term 'qualified DC school bonds' means bonds which—

"(A) are issued after March 31, 1998, by the District of Columbia to finance the construction, rehabilitation, and repair of schools under the jurisdiction of the government of the District of Columbia, and

"(B) are certified by the District of Columbia Control Board as meeting the requirements of subparagraph (A) after giving 60 days notice of any proposed certification to the Subcommittees on the District of Columbia of the Committees on Appropriations of the House of Representatives and the Senate.

"(d) REPORT.—It shall be the duty of the Secretary to hold the Trust Fund for DC Schools and to report to the Congress each year on the financial condition and the results of the operations of such Fund during the preceding fiscal year and on its expected condition and operations during the next fiscal year. Such report shall be printed as a House document of the session of the Congress to which the report is made.

"(e) INVESTMENT.—

"(1) IN GENERAL.—It shall be the duty of the Secretary to invest such portion of the Trust Fund for DC Schools as is not, in the Secretary's judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired—

"(A) on original issue at the issue price, or

"(B) by purchase of outstanding obligations at the market price.

"(2) SALE OF OBLIGATIONS.—Any obligation acquired by the Trust Fund for DC Schools may be sold by the Secretary at the market price.

"(3) INTEREST ON CERTAIN PROCEEDS.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Trust Fund for DC Schools shall be credited to and form a part of the Trust Fund for DC Schools.".

(b) CREDITS MADE PART OF GENERAL BUSINESS CREDIT.—

(1) Subsection (b) of section 38 is amended by striking "plus" at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting ", plus", and by adding at the end the following new paragraph:

"(13) the DC investment credit determined under section 1400A(a).".

(2) Subsection (d) of section 39 is amended by adding at the end the following new paragraph:

"(8) NO CARRYBACK OF DC CREDITS BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the credit under section 1400A, or to the credits under subchapter U by reason of section 1400, may be carried back to a taxable year ending before the date of the enactment of sections 1400A and 1400.".

(3) Subsection (c) of section 196 is amended by striking "and" at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting ", and", and by adding at the end the following new paragraph:

"(8) the DC investment credit determined under section 1400A(a).".

(c) CLERICAL AMENDMENT.—The table of subchapters for chapter 1 is amended by adding at the end the following new item:

"Subchapter W. Incentives for the Revitalization of the District of Columbia.".

(d) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act.

TITLE VII—MISCELLANEOUS PROVISIONS

Subtitle A—Provisions Relating to Excise Taxes

SEC. 701. REPEAL OF TAX ON DIESEL FUEL USED IN RECREATIONAL BOATS.

(a) IN GENERAL.—Subparagraph (B) of section 6421(e)(2) (defining off-highway business use) is amended by striking clauses (iii) and (iv).

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (A) of section 4041(a)(1) is amended—

(A) by striking ", a diesel-powered train, or a diesel-powered boat" each place it appears and inserting "or a diesel-powered train", and

(B) by striking "vehicle, train, or boat" and inserting "vehicle or train".

(2) Paragraph (1) of section 4041(a) is amended by striking subparagraph (D).

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1998.

SEC. 702. INTERCITY PASSENGER RAIL FUND.

(a) ESTABLISHMENT OF FUND.—The Internal Revenue Code of 1986 is amended by adding at the end the following new subtitle:

"Subtitle L—Intercity Passenger Rail Fund

"Sec. 9901. Intercity passenger rail fund.

"SEC. 9901. INTERCITY PASSENGER RAIL FUND.

"(a) CREATION OF FUND.—There is established in the Treasury of the United States a fund to be known as the 'Intercity Passenger Rail Fund', consisting of such amounts as may be appropriated to the Fund as provided in this section.

"(b) TRANSFER TO INTERCITY PASSENGER RAIL FUND OF AMOUNTS EQUIVALENT TO CERTAIN TAXES.—

"(1) IN GENERAL.—There are hereby appropriated to the Intercity Passenger Rail Fund amounts equivalent to the net revenues received in the Treasury from the applicable portion of the taxes imposed by sections 4041, 4042, 4081, and 4091 after September 30, 1997, and before April 16, 2001.

"(2) APPLICABLE PORTION.—For purposes of paragraph (1), the term 'applicable portion' means the lesser of—

"(A) 0.5 cent multiplied by the number of gallons on which the taxes described in paragraph (1) are imposed, or

"(B) the portion of such taxes not otherwise appropriated to a trust fund under subchapter A of chapter 98.

"(3) NET REVENUES.—For purposes of paragraph (1), the term 'net revenues' means the amount estimated by the Secretary based on the excess of—

"(A) the applicable portion of the taxes received in the Treasury under sections 4041, 4042, 4081, and 4091, over

"(B) the decrease in the tax imposed by chapter 1 resulting from the applicable portion of the taxes imposed by sections 4041, 4042, 4081, and 4091.

"(4) TRANSFER OF AMOUNTS.—The amounts appropriated by paragraph (1) shall be transferred at least monthly from the general fund of the Treasury to the Intercity Passenger Rail Fund on the basis of estimates made by the Secretary of the amounts referred to in such paragraph. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

"(c) EXPENDITURES FROM FUND.—

"(1) IN GENERAL.—In addition to any amounts appropriated from the general fund of the Treasury of the United States for fiscal years 1998 through 2001 to enable the Secretary of Transportation to make grants to the National Railroad Passenger Corporation, amounts in the Intercity Passenger Rail Fund shall be available, as provided by appropriation Acts, to finance qualified expenses of—

"(A) the National Railroad Passenger Corporation, and

"(B) each non-Amtrak State, to the extent determined under paragraph (3).

The amount available for any fiscal year under the preceding sentence shall be the amount dedicated to such Fund for such fiscal year (and no other amount) and shall remain available until expended.

"(2) MAXIMUM AMOUNT OF FUNDS TO NON-AMTRAK STATES.—Each non-Amtrak State shall receive under this subsection an amount equal to the lesser of—

"(A) the State's qualified expenses for the fiscal year, or

"(B) the product of—

"(i) 1/12 of 1 percent of the aggregate amounts appropriated from the Intercity Passenger Rail Fund for such fiscal year under paragraph (1), and

"(ii) the number of months such State is a non-Amtrak State in such fiscal year.

If the amount determined under subparagraph (B) exceeds the amount under subparagraph (A) for any fiscal year, the amount under subparagraph (B) for the following fiscal year shall be increased by the amount of such excess.

"(3) TRANSFERS FROM FUND FOR CERTAIN REPAYMENTS AND CREDITS.—

"(A) IN GENERAL.—The Secretary shall pay from time to time from the Intercity Passenger

Rail Fund into the general fund of the Treasury amounts equivalent to—

"(i) the amounts paid before October 1, 2001, under—

"(I) section 6420 (relating to amounts paid in respect of gasoline used on farms),

"(II) section 6421 (relating to amounts paid in respect of gasoline used for certain nonhighway purposes or by local transit systems), and

"(III) section 6427 (relating to fuels not used for taxable purposes),

on the basis of claims filed for periods ending before April 16, 2001, and

"(ii) the credits allowed under section 34 (relating to credit for certain uses of gasoline and special fuels) with respect to gasoline and special fuels used before April 16, 2001.

The amounts payable from the Intercity Passenger Rail Fund under this subparagraph shall be determined by taking into account only amounts transferred to such Fund.

"(B) TRANSFERS BASED ON ESTIMATES.—Transfers under subparagraph (A) shall be made on the basis of estimates by the Secretary, and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess or less than the amounts required to be transferred.

"(d) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED EXPENSES.—The term 'qualified expenses' means expenses incurred after September 30, 1997, and before April 16, 2001—

"(A) for—

"(i) in the case of the National Railroad Passenger Corporation—

"(I) the acquisition of equipment, rolling stock, and other capital improvements, the upgrading of maintenance facilities, and the maintenance of existing equipment, in intercity passenger rail service, and

"(II) the payment of interest and principal on obligations incurred for such acquisition, upgrading, and maintenance, and

"(ii) in the case of a non-Amtrak State—

"(I) the acquisition of equipment, rolling stock, and other capital improvements, the upgrading of maintenance facilities, and the maintenance of existing equipment, in intercity passenger rail or bus service,

"(II) the purchase of intercity passenger rail services from the National Railroad Passenger Corporation,

"(III) capital expenditures related to rail operations for Class II or Class III rail carriers in the State,

"(IV) any project that is eligible to receive funding under section 5309, 5310, or 5311 of title 49, United States Code,

"(V) any project that is eligible to receive funding under section 130 of title 23, United States Code,

"(VI) the upgrading and maintenance of intercity primary and rural air service facilities, and the purchase of intercity air service between primary and rural airports and regional hubs, and

"(VII) the payment of interest and principal on obligations incurred for such acquisition, upgrading, maintenance, and purchase, and

"(B) certified by the Secretary of Transportation as meeting the requirements of subparagraph (A).

"(2) NON-AMTRAK STATE.—The term 'non-Amtrak State' means any State which does not receive intercity passenger rail service from the National Railroad Passenger Corporation.

"(e) TAX TREATMENT OF FUND EXPENDITURES.—With respect to any payment of qualified expenses described in subsection (d)(1)(A)(i) from the Intercity Passenger Rail Fund during any taxable year to a taxpayer—

"(1) such payment shall not be included in the gross income of the taxpayer for such taxable year,

"(2) no deduction shall be allowed to the taxpayer with respect to any amount paid or incurred which is attributable to such payment, and

"(3) the basis of any property shall be reduced by the portion of the cost of such property which is attributable to such payment.

"(f) REPORT.—It shall be the duty of the Secretary to hold the Intercity Passenger Rail Fund and to report to the Congress each year on the financial condition and the results of the operations of such Fund during the preceding fiscal year and on its expected condition and operations during the next fiscal year. Such report shall be printed as a House document of the session of the Congress to which the report is made.

"(g) INVESTMENT.—

"(1) IN GENERAL.—It shall be the duty of the Secretary to invest such portion of the Intercity Passenger Rail Fund as is not, in the Secretary's judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired—

"(A) on original issue at the issue price, or

"(B) by purchase of outstanding obligations at the market price.

"(2) SALE OF OBLIGATIONS.—Any obligation acquired by the Intercity Passenger Rail Fund may be sold by the Secretary at the market price.

"(3) INTEREST ON CERTAIN PROCEEDS.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Intercity Passenger Rail Fund shall be credited to the general fund of the Treasury of the United States.

"(h) TERMINATION.—The Secretary shall determine and retain, not later than October 1, 2001, the amount in the Intercity Passenger Rail Fund necessary to pay any outstanding qualified expenses, and shall transfer any amount not so retained to the general fund of the Treasury.".

(b) CONFORMING AMENDMENT.—The table of subtitles for such Code is amended by adding at the end the following new item:

"SUBTITLE L. Intercity Passenger Rail Fund.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to taxes imposed after September 30, 1997.

(d) BUDGETARY TREATMENT OF AMOUNTS DEPOSITED INTO INTERCITY PASSENGER RAIL FUND.—Pursuant to section 207 of such H. Con. Res. 84, of the total revenues raised by this Act, amounts equal to the amounts deposited into the Intercity Passenger Rail Fund for each fiscal year are hereby dedicated to finance such Fund.

SEC. 703. MODIFICATION OF TAX TREATMENT OF HARD CIDER.

(a) HARD CIDER CONTAINING NOT MORE THAN 7 PERCENT ALCOHOL TAXED AS WINE.—Subsection (b) of section 5041 (relating to imposition and rate of tax) is amended by striking "and" at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting "; and", and by adding at the end the following new paragraph:

"(6) On hard cider derived primarily from apples or apple concentrate and water, containing no other fruit product, and containing at least one-half of 1 percent and not more than 7 percent of alcohol by volume, 22.6 cents per wine gallon.".

(b) EXCLUSION FROM SMALL PRODUCER CREDIT.—Paragraph (1) of section 5041(c) (relating to credit for small domestic producers) is amended by striking "subsection (b)(4)" and inserting "paragraphs (4) and (6) of subsection (b)".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1997.

SEC. 704. GENERAL REVENUE PORTION OF HIGHWAY MOTOR FUELS TAXES DEPOSITED INTO HIGHWAY TRUST FUND.

(a) IN GENERAL.—Paragraph (4) of section 9503(b) is amended by striking "and" at the end of subparagraph (A), and by striking subparagraph (B) and inserting the following new subparagraphs:

"(B) there shall not be taken into account the taxes imposed by sections 4041 and 4081 to the extent attributable to—

"(i) the Leaking Underground Storage Tank Trust Fund financing rate, or

"(ii) fuel used in a train,

"(C) in the case of fuels used as described in paragraph (4)(D), (5)(B), or (6)(D) of subsection (c), there shall not be taken into account—

"(i) in the case of gasoline and special motor fuels, so much of the rate of tax as exceeds 11.5 cents per gallon, and

"(ii) in the case of diesel fuel, so much of the rate of tax as exceeds 17.5 cents per gallon, and

"(D) there shall not be taken into account so much of the rate of the taxes received in the Treasury after June 30, 2000, as exceeds the excess of 4.3 cents per gallon over the portion (if any) of such rate as is taken into account in determining the amount appropriated to the Intercity Passenger Rail Fund under section 9901.".

(b) LIMITATION ON EXPENDITURES.—Subsection (c) of section 9503 is amended by adding at the end the following new paragraph:

"(7) LIMITATION ON EXPENDITURES.—Notwithstanding any other provision of law, in calculating amounts under section 157(a) of title 23, United States Code, and sections 1013(c), 1015(a), and 1015(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 1914), deposits in the Highway Trust Fund resulting from the amendments made by the Revenue Reconciliation Act of 1997 shall not be taken into account.".

(c) TECHNICAL AMENDMENTS.—

(1) Section 9503 is amended by striking subsection (f).

(2) Paragraphs (4)(D), (5)(B), and (6)(D) of section 9503(c) are each amended by striking "attributable to the Highway Trust Fund financing rate" and inserting "attributable to taxes taken into account in determining transfers under subparagraph (C) of subsection (b)(4)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxes received in the Treasury after September 30, 1997.

SEC. 705. RATE OF TAX ON CERTAIN SPECIAL FUELS DETERMINED ON BASIS OF BTU EQUIVALENCY WITH GASOLINE.

(a) SPECIAL MOTOR FUELS.—Paragraph (2) of section 4041(a) (relating to special motor fuels) is amended to read as follows:

"(2) SPECIAL MOTOR FUELS.—

"(A) IN GENERAL.—There is hereby imposed a tax on benzol, benzene, naphtha, liquefied petroleum gas, casing head and natural gasoline, or any other liquid (other than kerosene, gas oil, or fuel oil, or any product taxable under section 4081)—

"(i) sold by any person to an owner, lessee, or other operator of a motor vehicle or motorboat for use as a fuel in such motor vehicle or motorboat, or

"(ii) used by any person as a fuel in a motor vehicle or motorboat unless there was a taxable sale of such liquid under clause (i).

"(B) RATE OF TAX.—The rate of the tax imposed by this paragraph shall be—

"(i) except as otherwise provided in this subparagraph, the rate of tax specified in section 4081(a)(2)(A)(i) which is in effect at the time of such sale or use,

"(ii) 13.6 cents per gallon in the case of liquefied petroleum gas, and

"(iii) 11.9 cents per gallon in the case of liquefied natural gas.

In the case of any sale or use after September 30, 1999, clause (ii) shall be applied by substituting '3.2 cents' for '13.6 cents', and clause (iii) shall be applied by substituting '2.8 cents' for '11.9 cents'.".

(b) METHANOL FUEL PRODUCED FROM NATURAL GAS.—

(1) IN GENERAL.—Subparagraph (A) of section 4041(m)(1) is amended by striking clause (i) and inserting the following new clause:

"(i) after September 30, 1997, and before October 1, 1999—

"(I) in the case of fuel none of the alcohol in which consists of ethanol, 9.15 cents per gallon, and

"(II) in any other case, 11.3 cents per gallon, and".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 706. STUDY OF FEASIBILITY OF MOVING COLLECTION POINT FOR DISTILLED SPIRITS EXCISE TAX.

(a) IN GENERAL.—The Secretary of the Treasury or his delegate shall conduct a study of options for changing the event on which the tax imposed by section 5001 of the Internal Revenue Code of 1986 is determined. One such option which shall be studied is determining such tax on removal from registered wholesale warehouses. In studying each such option, such Secretary shall focus on administrative issues including—

(1) tax compliance,

(2) the number of taxpayers required to pay the tax,

(3) the types of financial responsibility requirements that might be required, and

(4) special requirements regarding segregation of nontax-paid distilled spirits from other products.

Such study shall review the effects of each such option on the Department of the Treasury (including staffing and other demands on budgetary resources) and the change in the period between the time such tax is currently paid and the time such tax would be paid under each such option.

(b) REPORT.—The report of such study shall be submitted to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives not later than January 31, 1998.

SEC. 707. EXTENSION AND MODIFICATION OF SUBSIDIES FOR ALCOHOL FUELS.

(a) EXTENSIONS.—

(1) ALCOHOL FUELS CREDIT.—Subsection (e) of section 40 is amended—

(A) by striking "December 31, 2000" and inserting "December 31, 2007", and

(B) by striking "January 1, 2001" and inserting "January 1, 2007".

(2) EXCISE TAXES.—

(A) Section 4041(b)(2)(C) is amended by striking "October 1, 2000" and inserting "October 1, 2007".

(B) Sections 4041(k)(3), 4081(c)(8), 4091(c)(5), and 6427(f)(4) are each amended by striking "September 30, 2000" and inserting "September 30, 2007".

(b) MODIFICATION.—

(1) IN GENERAL.—Subsection (h) of section 40 is amended to read as follows:

"(h) REDUCED CREDIT FOR ETHANOL BLENDERS.—

"(1) IN GENERAL.—In the case of any alcohol mixture credit or alcohol credit with respect to any alcohol which is ethanol—

"(A) subsections (b)(1)(A) and (b)(2)(A) shall be applied by substituting 'the blender amount' for '60 cents';

"(B) subsection (b)(3) shall be applied by substituting 'the low-proof blender amount' for '45 cents' and 'the blender amount' for '60 cents'; and

"(C) subparagraphs (A) and (B) of subsection (d)(3) shall be applied by substituting 'the blender amount' for '60 cents' and 'the low-proof blender amount' for '45 cents'.

"(2) AMOUNTS.—For purposes of paragraph (1), the blender amount and the low-proof blender amount shall be determined in accordance with the following table:

	53 cents	39.26 cents
	52 cents	38.52 cents
2005 or thereafter	51 cents	37.78 cents.".

(2) Subparagraph (A) of section 4041(b)(2) is amended by striking "5.4 cents" and inserting "the applicable blender rate" and by adding at the end the following flush sentence:

"For purposes of clause (i), the applicable blender rate is 1/10 of the blender amount applicable under section 40(h)(2) for the calendar year in which the sale or use occurs.".

(3) Paragraphs (4)(A) and (5) of section 4081(c) are each amended by striking "5.4 cents" each place it appears and inserting "the applicable blender rate (as defined in section 4041(b)(2)(A))".

(4) Paragraph (1) of section 4091(c) is amended by striking "13.4 cents" each place it appears and inserting "the applicable blender amount" and by adding at the end the following new sentence: "For purposes of this paragraph, the term 'applicable blender amount' means 13.3 cents in the case of any sale or use during 2001 or 2002, 13.2 cents in the case of any sale or use during 2003 or 2004, and 13.1 cents in the case of any sale or use during 2005 or thereafter.".

(c) EFFECTIVE DATE.—

(1) SUBSECTION (a).—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall take effect on January 1, 2001.

SEC. 708. CLARIFICATION OF AUTHORITY TO USE SEMI-GENERIC DESIGNATIONS ON WINE LABELS.

(a) IN GENERAL.—Section 5388 (relating to designation of wines) is amended by adding at the end the following new subsection:

"(c) USE OF SEMI-GENERIC DESIGNATIONS.—A name of geographic significance, which is also the designation of a class or type of wine, shall be deemed to have become semi-generic only if so found by the Secretary. Semi-generic designations may be used to designate wines of an origin other than that indicated by such name only if—

"(1) there appears in direct conjunction therewith an appropriate appellation of origin disclosing the true place of origin of the wine, and

"(2) the wine so designated conforms to the standard of identity, if any, for such wine contained in the regulations in this section or, if there be no such standard, to the trade understanding of such class or type.

Examples of semi-generic names which are also type designations for grape wines are Angelica, Burgundy, Claret, Chablis, Champagne, Chianti, Malaga, Marsala, Madeira, Moselle, Port, Rhine Wine (syn. Hock), Sauterne, Haut Sauterne, Sherry, Tokay.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

Subtitle B—Provisions Relating to Pensions and Fringe Benefits

SEC. 711. TREATMENT OF MULTIEMPLOYER PLANS UNDER SECTION 415.

(a) IN GENERAL.—Section 415(b)(11) is amended—

(1) by inserting "or a multiemployer plan (as defined in section 414(f))" after "section 414(d))", and

(2) by inserting "AND MULTIEMPLOYER" after "GOVERNMENTAL" in the heading thereof.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1997.

SEC. 712. TECHNICAL CORRECTION RELATING TO PARTIAL TERMINATION OF PENSION PLANS.

(a) IN GENERAL.—So much of section 552 of the Tax Reform Act of 1984 (Public Law 98–369) as precedes subparagraph (A) of paragraph (1) is amended to read as follows:

"For purposes of interpreting or applying section 411(d)(3) of the Internal Revenue Code of 1986 (relating to minimum vesting standards in the case of partial termination), any other provision of Federal law, and any provision of any plan or trust which directly or indirectly incorporates, or is determined by reference to, such section 411(d)(3), a partial termination shall not have occurred based in whole or in part on a decline in plan participation if—

"(1) the decline in plan participation—".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the provisions of section 552 of the Tax Reform Act of 1984.

SEC. 713. INCREASE IN CURRENT LIABILITY FUNDING LIMIT.

(a) AMENDMENT TO 1986 CODE.—Section 412(c)(7) (relating to full-funding limitation) is amended—

(A) by striking "150 percent" in subparagraph (A)(i)(I) and inserting "the applicable percentage", and

(B) by adding at the end the following:

"(F) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A)(i)(I), the applicable percentage shall be determined in accordance with the following table:

"In the case of any plan year beginning in—	The applicable percentage is—
1999 or 2000	155
2001 or 2002	160
2003 or 2004	165
2005 and succeeding years	170.".

(b) AMENDMENT TO ERISA.—Section 302(c)(7) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082(c)(7)) is amended—

(A) by striking "150 percent" in subparagraph (A)(i)(I) and inserting "the applicable percentage", and

(B) by adding at the end the following:

"(F) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A)(i)(I), the applicable percentage shall be determined in accordance with the following table:

"In the case of any plan year beginning in—	The applicable percentage is—
1999 or 2000	155
2001 or 2002	160
2003 or 2004	165
2005 and succeeding years	170.".

(c) SPECIAL AMORTIZATION RULE.—

(1) CODE AMENDMENT.—Section 412(b)(2) is amended by striking "and" at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting ", and", and by inserting after subparagraph (D) the following:

"(E) the amount necessary to amortize in equal annual installments (until fully amortized) over a period of 20 years the contributions which would be required to be made under the plan but for the provisions of subsection (c)(7)(A)(i)(I).".

(2) ERISA AMENDMENT.—Section 302(b)(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082(b)(2)) is amended by striking "and" at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting ", and", and by inserting after subparagraph (D) the following:

"(E) the amount necessary to amortize in equal annual installments (until fully amortized) over a period of 20 years the contributions which would be required to be made under the plan but for the provisions of subsection (c)(7)(A)(i)(I).''.

(3) Conforming amendments.—

(A) Section 412(c)(7)(D) is amended by adding ''and'' at the end of clause (i), by striking '', and'' at the end of clause (ii) and inserting a period, and by striking clause (iii).

(B) Section 302(c)(7)(D) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082(c)(7)(D)) is amended by adding ''and'' at the end of clause (i), by striking '', and'' at the end of clause (ii) and inserting a period, and by striking clause (iii).

(4) Effective dates.—

(A) In general.—The amendments made by this subsection shall apply to plan years beginning after December 31, 1998.

(B) Special rule for 1999.—In the case of a plan's first year beginning in 1999, there shall be added to the amount required to be amortized under section 412(b)(2)(E) of the Internal Revenue Code of 1986 and section 302(b)(2)(E) of the Employee Retirement Income Security Act of 1974 (as added by paragraphs (1) and (2)) over the 20-year period beginning with such year, the unamortized balance (as of the close of the preceding plan year) of any amount required to be amortized under section 412(c)(7)(D)(iii) of such Code and section 302(c)(7)(D)(iii) of such Act (as repealed by paragraph (3)) for plan years beginning before 1999.

SEC. 714. SPOUSAL CONSENT REQUIRED FOR CERTAIN DISTRIBUTIONS AND LOANS UNDER QUALIFIED CASH OR DEFERRED ARRANGEMENT.

(a) In General.—Section 401(k) is amended by adding at the end the following new paragraph:

''(13) Spousal consent required.—

''(A) In general.—An arrangement shall not be treated as a qualified cash or deferred arrangement unless—

''(i) a distribution under the plan of which such arrangement is a part, or

''(ii) a loan all or part of which is secured by the participant's interest in the plan of which such arrangement is a part,

may not be made without the written consent of the spouse.

''(B) Exceptions.—Subparagraph (A) shall not apply—

''(i) to distributions described in section 402(c)(4)(A) or 411(a)(11), or

''(ii) in any case described in section 417(a)(2) (relating to cases where spouse cannot be located).

''(C) Other rules.—The Secretary shall prescribe rules similar to the rules under section 417 for the form and timing of any consent required by this paragraph.''.

(b) Effective Date.—

(1) In general.—The amendment made by this section shall apply to plan years beginning after December 31, 1998.

(2) Plan amendments.—A plan shall not be treated as failing to meet the requirements of section 411(d)(6) of the Internal Revenue Code of 1986 or section 204(g) of the Employee Retirement Income Security Act of 1974 merely because it is amended to meet the requirements of section 401(k)(4)(13) of such Code (as added by subsection (a)).

SEC. 715. SPECIAL RULES FOR CHURCH PLANS.

(a) In General.—Section 414(e)(5) relating to special rules for chaplains and self-employed ministers is amended—

(1) by striking ''not eligible to participate'' in subparagraph (C) and inserting ''not otherwise participating'', and

(2) by adding at the end the following new subparagraph:

''(E) Exclusion.—In the case of a contribution to a church plan made on behalf of a minister described in subparagraph (A)(i)(II), such contribution shall not be included in the gross income of the minister to the extent that such contribution would not be so included if the minister was an employee of a church.''.

(b) Effective Date.—The amendments made by this section shall apply to years beginning after December 31, 1997.

SEC. 716. REPEAL OF APPLICATION OF UNRELATED BUSINESS INCOME TAX TO ESOPS.

(a) In General.—Section 512(e) is amended—

(1) by striking ''described in section 1361(c)(7)'' in paragraph (1) and inserting ''described in section 501(c)(3) and exempt from taxation under section 501(a)'',.and

(2) by inserting ''Charitable Organizations Holding Stock in'' after ''Applicable to'' in the heading.

(b) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. 717. DIVERSIFICATION IN SECTION 401(k) PLAN INVESTMENTS.

(a) Limitations on Investment in Employer Securities and Employer Real Property by Cash or Deferred Arrangements.—Section 407(d)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1107(d)(3)) is amended by adding at the end the following:

''(D)(i) The term 'eligible individual account plan' does not include that portion of an individual account plan that consists of elective deferrals (as defined in section 402(g)(3) of the Internal Revenue Code of 1986) pursuant to a qualified cash or deferred arrangement as defined in section 401(k) of the Internal Revenue Code of 1986 (and earnings allocable thereto), if such elective deferrals (or earnings allocable thereto) are required to be invested in qualifying employer securities or quallfying employer real property or both pursuant to the documents and instruments governing the plan or at the direction of a person other than the participant on whose behalf such elective deferrals are made to the plan (or the participant's beneficiary).

''(ii) For purposes of subsection (a), such portion shall be treated as a separate plan.

''(iii) This subparagraph shall not apply to an individual account plan if the fair market value of the assets of all individual account plans maintained by the employer equals not more than 10 percent of the fair market value of the assets of all pension plans maintained by the employer.

''(iv) This subparagraph shall not apply to an individual account plan that is an employee stock ownership plan as defined in section 409(a) or 4975(e)(7) of the Internal Revenue Code.

''(v) This subparagraph shall not apply to an individual account plan if not more than 1 percent of an employees eligible compensation deposited to the plan as an elective deferral (as so defined) is required to be invested in the qualifying employer securities.''.

(b) Effective Date.—

(1) In general.—The amendments made by this section shall apply to employer securities and employer real property acquired after the beginning of the first plan year beginning after the 90th day after the date of enactment of this Act.

(2) Special rule for certain acquisitions.—Employer securities and employer real property acquired pursuant to a binding written contract to acquire such securities and real property in effect on the date of enactment of this Act and at all times thereafter, shall be treated as acquired immediately before such date.

Subtitle C—Revisions Relating to Disasters

SEC. 721. TREATMENT OF LIVESTOCK SOLD ON ACCOUNT OF WEATHER-RELATED CONDITIONS.

(a) Deferral of Income Inclusion.—Subsection (e) of section 451 (relating to special rules for proceeds from livestock sold on account of drought) is amended—

(1) by striking ''drought conditions, and that these drought conditions'' in paragraph (1) and inserting ''drought, flood, or other weather-related conditions, and that such conditions''; and

(2) by inserting '', Flood, or Other Weather-Related Conditions'' after ''Drought'' in the subsection heading.

(b) Involuntary Conversions.—Subsection (e) of section 1033 (relating to livestock sold on account of drought) is amended—

(1) by inserting '', flood, or other weather-related conditions'' before the period at the end thereof; and

(2) by inserting '', Flood, or Other Weather-Related Conditions'' after ''Drought'' in the subsection heading.

(c) Effective Date.—The amendments made by this section shall apply to sales and exchanges after December 31, 1996.

SEC. 722. GAIN OR LOSS FROM SALE OF LIVESTOCK DISREGARDED FOR PURPOSES OF EARNED INCOME CREDIT.

(a) In General.—Section 32(i)(2)(D) (relating to disqualified income) is amended by inserting ''determined without regard to gain or loss from the sale of livestock described in section 1231(b)(3),'' after ''taxable year,''.

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 723. MORTGAGE FINANCING FOR RESIDENCES LOCATED IN DISASTER AREAS.

Subsection (k) of section 143 (relating to mortgage revenue bonds; qualified mortgage bond and qualified veteran's mortgage bond) is amended by adding at the end the following new paragraph:

''(11) Special rules for residences located in disaster areas.—In the case of a residence located in an area determined by the President to warrant assistance from the Federal Government under the Disaster Relief and Emergency Assistance Act (as in effect on the date of the enactment of the Revenue Reconciliation Act of 1997), this section shall be applied with the following modifications to financing provided with respect to such residence within 1 year after the date of the disaster declaration:

''(A) Subsection (d) (relating to 3-year requirement) shall not apply.

''(B) Subsections (e) and (f) (relating to purchase price requirement and income requirement) shall be applied as if such residence were a targeted area residence.

The preceding sentence shall apply only with respect to bonds issued after December 31, 1996, and before January 1, 1999.''.

SEC. 724. DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT ACCOUNTS MAY BE USED WITHOUT PENALTY TO REPLACE OR REPAIR PROPERTY DAMAGED IN PRESIDENTIALLY DECLARED DISASTER AREAS.

(a) In General.—Section 72(t)(2) (relating to exceptions to 10-percent additional tax on early distributions), as amended by sections 203 and 303, is amended by adding at the end the following new subparagraph:

''(G) Distributions for disaster-related expenses.—Distributions from an individual retirement plan which are qualified disaster-related distributions.''.

(b) Qualified Disaster-Related Distributions.—Section 72(t), as amended by sections 203 and 303, is amended by adding at the end the following new paragraph:

''(9) Qualified disaster-related distributions.—For purposes of paragraph (2)(E)—

''(A) In general.—The term 'qualified disaster-related distribution' means any payment or distribution received by an individual to the extent that the payment or distribution is used by such individual within 60 days of the payment or distribution to pay for the repair or replacement of tangible property which is disaster-damaged property.

"(B) LIMITATIONS.—

"(i) ONLY DISTRIBUTIONS WITHIN 2 YEARS.—The term 'qualified disaster-related distribution' shall only include any payment or distribution which is made during the 2-year period beginning on the date of the determination referred to in subparagraph (D).

"(ii) DOLLAR LIMITATION.—Such term shall not include distributions to the extent the amount of such distributions exceeds $10,000 during the 2-year period described in clause (i).

"(C) DISASTER-DAMAGED PROPERTY.—The term 'disaster-damaged property' means property—

"(i) which was located in a disaster area on the date of the determination referred to in subparagraph (C), and

"(ii) which was destroyed or substantially damaged as a result of the disaster occurring in such area.

"(D) DISASTER AREA.—The term 'disaster area' means an area determined by the President during 1997 to warrant assistance by the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments and distributions after December 31, 1996, with respect to disasters occurring after such date.

SEC. 725. ELIMINATION OF 10 PERCENT FLOOR FOR DISASTER LOSSES.

(a) GENERAL RULE.—Section 165(h)(2)(A) (relating to net casualty loss allowed only to the extent it exceeds 10 percent of adjusted gross income) is amended by striking clauses (i) and (ii) and inserting the following new clauses:

"(i) the amount of the personal casualty gains for the taxable year,

"(ii) the amount of the federally declared disaster losses for the taxable year (or, if lesser, the net casualty loss), plus

"(iii) the portion of the net casualty loss which is not deductible under clause (ii) but only to the extent such portion exceeds 10 percent of the adjusted gross income of the individual.

For purposes of the preceding sentence, the term 'net casualty loss' means the excess of personal casualty losses for the taxable year over personal casualty gains.".

(b) FEDERALLY DECLARED DISASTER LOSS DEFINED.—Section 165(h)(3) (relating to treatment of casualty gains and losses) is amended by adding at the end the following new subparagraph:

"(C) FEDERALLY DECLARED DISASTER LOSS.—

"(i) IN GENERAL.—The term 'federally declared disaster loss' means any personal casualty loss attributable to a disaster occurring during 1997 in an area subsequently determined by the President of the United States to warrant assistance by the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

"(ii) DOLLAR LIMITATION.—Such term shall not include personal casualty losses to the extent such losses exceed $10,000 for the taxable year.".

(c) CONFORMING AMENDMENT.—The heading for section 165(h)(2) is amended by striking "NET CASUALTY LOSS" and inserting "NET NONDISASTER CASUALTY LOSS".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to losses attributable to disasters occurring after December 31, 1996, including for purposes of determining the portion of such losses allowable in taxable years ending before such date pursuant to an election under section 165(i) of the Internal Revenue Code of 1986.

SEC. 726. ABATEMENT OF INTEREST ON UNDERPAYMENTS BY TAXPAYERS IN PRESIDENTIALLY DECLARED DISASTER AREAS.

(a) IN GENERAL.—Section 6404 (relating to abatements) is amended by adding at the end the following:

"(h) ABATEMENT OF INTEREST ON UNDERPAYMENTS BY TAXPAYERS IN PRESIDENTIALLY DECLARED DISASTER AREAS.—

"(1) IN GENERAL.—If the Secretary extends for any period the time for filing income tax returns under section 6081 and the time for paying income tax with respect to such returns under section 6161 (and waives any penalties relating to the failure to so file or so pay) for any individual located in a Presidentially declared disaster area, the Secretary shall abate for such period the assessment of any interest prescribed under section 6601 on such income tax.

"(2) PRESIDENTIALLY DECLARED DISASTER AREA.—For purposes of paragraph (1), the term 'Presidentially declared disaster area' means, with respect to any individual, any area which the President has determined during 1997 warrants assistance by the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

"(3) INDIVIDUAL.—For purposes of this subsection, the term 'individual' shall not include any estate or trust.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to disasters declared after December 31, 1996.

Subtitle D—Provisions Relating to Small Businesses

SEC. 731. WAIVER OF PENALTY THROUGH JUNE 30, 1998, ON SMALL BUSINESSES FAILING TO MAKE ELECTRONIC FUND TRANSFERS OF TAXES.

No penalty shall be imposed under the Internal Revenue Code of 1986 solely by reason of a failure by a person to use the electronic fund transfer system established under section 6302(h) of such Code if—

(1) such person is a member of a class of taxpayers first required to use such system on or after July 1, 1997, and

(2) such failure occurs before July 1, 1998.

SEC. 732. MINIMUM TAX NOT TO APPLY TO FARMERS' INSTALLMENT SALES.

(a) IN GENERAL.—Subsection (a) of section 56 is amended by striking paragraph (6) (relating to treatment of installment sales).

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by this section shall apply to dispositions in taxable years beginning after December 31, 1987.

(2) SPECIAL RULE FOR 1987.—In the case of taxable years beginning in 1987, the last sentence of section 56(a)(6) of the Internal Revenue Code of 1986 (as in effect for such taxable years) shall be applied by inserting "or in the case of a taxpayer using the cash receipts and disbursements method of accounting, any disposition described in section 453C(e)(1)(B)(ii)" after "section 453C(e)(4)".

SEC. 733. INCREASE IN DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) IN GENERAL.—The table contained in section 162(l)(1)(B) is amended to read as follows:

"For taxable years beginning in calendar year—	The applicable percentage is—
1997	50
1998	50
1999 through 2001	60
2002	60
2003	70
2004	80
2005	85
2006	90
2007	100.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1996.

SEC. 734. SENSE OF THE SENATE WITH RESPECT TO SELF-EMPLOYMENT TAX OF LIMITED PARTNERS.

(a) FINDINGS.—The Senate finds that—

(1) the Department of the Treasury issued Proposed Regulation 1.1402(a)–2 in January 1997 relating to the definition of a limited partner for self-employment tax purposes under section 1402(a)(13) of the Internal Revenue Code;

(2) since 1977, section 1402(a)(13) of such Code has provided that—

(A) a limited partner's net earnings from self-employment include only guaranteed payments made to the individual for services actually rendered and do not include a limited partner's distributive share of the income or loss of the partnership, and

(B) a general partner's net earnings from self-employment include the partner's distributive share;

(3) the proposed regulations provide generally—

(A) that a partner will not be treated as a limited partner if the individual—

(i) has personal liability for partnership debts,

(ii) has authority to contract on behalf of the partnership, or

(iii) participates in the partnership's trade or business for more than 500 hours during the taxable year;

(B) that an individual meeting any one of these three criteria will be treated as a general partner, and net earnings from self-employment will include the partner's distributive share of partnership income and loss, resulting in substantial tax liability because there is a 15.3 percent tax on self-employment income below $65,400 in 1997 and a 2.9 percent hospital insurance tax on self-employment income above that amount;

(4) certain types of entities, such as limited liability companies and limited liability partnerships, were not widely used at the time the present rule relating to limited partners was enacted, and that the proposed regulations attempt to address owners of such entities;

(5) the Senate is concerned that the proposed change in the treatment of individuals who are limited partners under applicable State law exceeds the regulatory authority of the Treasury Department and would effectively change the law administratively without congressional action; and

(6) the proposed regulations address and raise significant policy issues and the proposed definition of a limited partner may have a substantial impact on the tax liability of certain individuals and may also affect individuals' entitlement to social security benefits.

(b) SENSE OF SENATE.—It is the sense of the Senate that—

(1) the Department of the Treasury and the Internal Revenue Service should withdraw Proposed Regulation 1.1402(a)–2 which imposes a tax on limited partners; and

(2) Congress, not the Department of the Treasury or the Internal Revenue Service, should determine the tax law governing self-employment income for limited partners.

Subtitle E—Foreign Provisions

PART I—GENERAL PROVISIONS

SEC. 741. TREATMENT OF COMPUTER SOFTWARE AS FSC EXPORT PROPERTY.

(a) IN GENERAL.—Subparagraph (B) of section 927(a)(2) (relating to property excluded from eligibility as FSC export property) is amended by inserting ", and other than computer software (whether or not patented)" before ", for commercial or home use".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to gross receipts *attributable to periods after December 31, 1997, in taxable years ending after such date.*

SEC. 742. DENIAL OF TREATY BENEFITS FOR CERTAIN PAYMENTS THROUGH HYBRID ENTITIES.

(a) IN GENERAL.—Section 894 (relating to income affected by treaty) is amended by inserting after subsection (b) the following new subsection:

"(c) DENIAL OF TREATY BENEFITS FOR CERTAIN PAYMENTS THROUGH HYBRID ENTITIES.—The Secretary shall prescribe such regulations as may be necessary or appropriate to determine the extent to which a taxpayer shall be denied benefits under any income tax treaty of the United States with respect to any payment received by, or income attributable to any activities of, an entity organized in any jurisdiction (including the United States) that is treated as a partnership or is otherwise treated as fiscally transparent for United States Federal income tax purposes (including a common investment trust under section 584, a grantor trust, or an entity that is disregarded for United States Federal income tax purposes) and is treated as fiscally nontransparent for purposes of the tax laws of the jurisdiction of residence of the taxpayer.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply upon the date of enactment of this Act.

SEC. 743. UNITED STATES PROPERTY NOT TO INCLUDE CERTAIN ASSETS ACQUIRED BY DEALERS IN ORDINARY COURSE OF TRADE OR BUSINESS.

(a) IN GENERAL.—Section 956(c)(2) is amended by striking "and" at the end of subparagraph (H), by striking the period at the end of subparagraph (I) and inserting a semicolon, and by adding at the end the following new subparagraphs:

"(J) deposits of cash or securities made or received on commercial terms in the ordinary course of a United States or foreign person's business as a dealer in securities or in commodities, but only to the extent such deposits are made or received as collateral or margin for (i) a securities loan, notional principal contract, options contract, forward contract, or futures contract, or (ii) any other financial transaction in which the Secretary determines that it is customary to post collateral or margin; and

"(K) an obligation of a United States person to the extent the principal amount of the obligation does not exceed the fair market value of readily marketable securities sold or purchased pursuant to a sale and repurchase agreement or otherwise posted or received as collateral for the obligation in the ordinary course of its business by a United States or foreign person which is a dealer in securities or commodities.

For purposes of subparagraphs (J) and (K), the term 'dealer in securities' has the meaning given such term by section 475(c)(1), and the term 'dealer in commodities' means a futures commission merchant or any person which would be a dealer in securities if securities under section 475(c)(2) included commodities, evidences of an interest in commodities, and derivative instruments in respect of commodities (other than any activity gain or loss from which is described in section 1256(a)(3)).".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 1997, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end.

SEC. 744. EXEMPTION FOR ACTIVE FINANCING INCOME.

(a) EXEMPTION FROM FOREIGN PERSONAL HOLDING COMPANY INCOME.—Subsection (c) of section 954 is amended by adding at the end the following new paragraph:

"(4) CERTAIN INCOME DERIVED IN ACTIVE CONDUCT OF TRADE OR BUSINESS.—

"(A) IN GENERAL.—For purposes of paragraph (1), foreign personal holding company income shall not include income which is—

"(i) derived in or incident to the active conduct by a controlled foreign corporation of a banking, financing, or similar business, but only if the corporation is predominantly engaged in the active conduct of such business,

"(ii) received from a person other than a related person (within the meaning of subsection (d)(3)) and derived from the investments made by a qualifying insurance company of its unearned premiums or reserves ordinary and necessary for the proper conduct of its insurance business, or

"(iii) received from a person other than a related person (within the meaning of subsection (d)(3)) and derived from investments made by a qualifying insurance company of an amount of its assets equal to—

"(I) in the case of contracts regulated in the country in which sold as property, casualty, or health insurance contracts, one-third of its premiums earned on insurance contracts during the taxable year (as defined in section 832(b)(4)), and

"(II) in the case of contracts regulated in the country in which sold as life insurance or annuity contracts, the greater of 10 percent of the reserves described in clause (ii) or $10,000,000,

which are not directly or indirectly attributable to the insurance or reinsurance of risks of persons who are related persons (within the meaning of subsection (d)(3)).

"(B) APPLICABLE PRINCIPLES.—

"(i) BANKING, ETC. INCOME.—The Secretary shall prescribe regulations which interpret subparagraph (A)(i) in accordance with the applicable principles of section 904(d)(2)(C), except that in prescribing such regulations, the Secretary shall include income from all leases in income from a banking, financing, or similar business.

"(ii) LOOK-THRU RULES.—The Secretary shall prescribe regulations consistent with the principles of section 904(d)(3) which provide that dividends, interest, income equivalent to interest, rents, or royalties received or accrued from a related person (within the meaning of subsection (d)(3)) shall be subject to look-thru treatment for purposes of this section.

"(iii) SPECIAL RULE FOR BANKING OR SECURITIES BUSINESS.—In the case of a corporation described in subparagraph (C)(ii), the regulations under clauses (i) and (ii) shall be consistent with the applicable principles of section 1296(b) (as in effect on the day before the enactment of the Revenue Reconciliation Act of 1997).

"(C) PREDOMINANTLY ENGAGED.—For purposes of subparagraph (A)(i), a corporation shall be deemed predominantly engaged in the active conduct of a banking, financing, or similar business only if—

"(i) more than 70 percent of its gross income from such business is derived from transactions with unrelated persons (as defined in subsection (d)(3)), and more than 20 percent of its gross income from that business is derived from transactions with unrelated persons (as so defined) located within the country under the laws of which the controlled foreign corporation is created or organized, or

"(ii) the corporation is—

"(I) predominantly engaged in the active conduct of a banking or securities business (within the meaning of section 1296(b), as in effect before the enactment of the Revenue Reconciliation Act of 1997), or

"(II) a qualified bank affiliate or a qualified securities affiliate for purposes of section 1296(b) (as so in effect).

"(D) QUALIFYING INSURANCE COMPANY.—For purposes of clauses (ii) and (iii) of subparagraph (A), the term 'qualifying insurance company' means any entity which is subject to regulation as an insurance company under the laws of its country of incorporation and which realizes at least 50 percent of its gross income (other than gross income derived from investments) from premiums written on risks situated within its country of incorporation.

"(E) APPLICATION.—This paragraph shall apply to taxable years of foreign corporations beginning after December 31, 1997, and before January 1, 1999, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end.".

(b) EXEMPTION FROM FOREIGN BASE COMPANY SERVICES INCOME.—Paragraph (2) of section 954(e) is amended by striking "or" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", or", and by adding at the end the following:

"(C) in the case of taxable years described in subsection (c)(4)(E), the active conduct by a controlled foreign corporation of a banking, financing, insurance, or similar business, but only if the corporation is predominantly engaged in the active conduct of that business (within the meaning of subsection (c)(4)(C)).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 1997, and before January 1, 1999, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end.

SEC. 745. TREATMENT OF NONRESIDENT ALIENS ENGAGED IN INTERNATIONAL TRANSPORTATION SERVICES.

(a) SOURCING RULES.—

(1) IN GENERAL.—Section 861(a)(3) is amended by adding at the end the following new flush sentence:

"In addition, compensation for labor or services performed in the United States shall not be deemed to be income from sources within the United States if the labor or services are performed by a nonresident alien individual in connection with the individual's temporary presence in the United States as a regular member of the crew of a foreign vessel engaged in transportation between the United States and a foreign country or a possession of the United States.".

(2) TRANSPORTATION INCOME.—Subparagraph (B) of section 863(c)(2) is amended by adding at the end the following flush sentence:

"In the case of transportation income derived from, or in connection with, a vessel, this subparagraph shall only apply if the taxpayer is a citizen or resident alien.".

(3) CONFORMING AMENDMENT.—Section 410(b)(3)(C) is amended by inserting "without regard to the last sentence thereof" after "section 861(a)(3)".

(b) EXCLUSION FROM INCOME.—Section 872(b) is amended by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively, and by inserting after paragraph (5) the following new paragraph:

"(6) PERSONAL SERVICES OF CREW MEMBERS.—Income derived by an individual resident of a foreign country from personal services as a regular crew member on board a vessel to which paragraph (1) applies.".

(c) PRESENCE IN UNITED STATES.—

(1) IN GENERAL.—Paragraph (7) of section 7701(b) is amended by adding at the end the following new subparagraph:

"(D) CREW MEMBERS TEMPORARILY PRESENT.—If an individual is temporarily present in the United States as a regular member of the crew of a foreign vessel engaged in transportation between the United States and a foreign country or a possession of the United States, such individual shall not be treated as present in the United States on any such day.".

(2) CONFORMING AMENDMENT.—Subparagraph (A) of section 7701(b)(7) is amended by striking "or (C)" and inserting ", (C), or (D)".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to remuneration for services performed in taxable years beginning after December 31, 1997.

(2) PRESENCE.—The amendment made by subsection (c) shall apply to taxable years beginning after December 31, 1997.

PART II—TREATMENT OF PASSIVE FOREIGN INVESTMENT COMPANIES

SEC. 751. UNITED STATES SHAREHOLDERS OF CONTROLLED FOREIGN CORPORATIONS NOT SUBJECT TO PFIC INCLUSION.

Section 1296 is amended by adding at the end the following new subsection:

"(e) EXCEPTION FOR UNITED STATES SHAREHOLDERS OF CONTROLLED FOREIGN CORPORATIONS.—

"(1) IN GENERAL.—For purposes of this part, a corporation shall not be treated with respect to a shareholder as a passive foreign investment company during the qualified portion of such shareholder's holding period with respect to stock in such corporation.

"(2) QUALIFIED PORTION.—For purposes of this subsection, the term 'qualified portion' means the portion of the shareholder's holding period—

"(A) which is after December 31, 1997, and

"(B) during which the shareholder is a United States shareholder (as defined in section 951(b)) of the corporation and the corporation is a controlled foreign corporation.

"(3) NEW HOLDING PERIOD IF QUALIFIED PORTION ENDS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), if the qualified portion of a shareholder's holding period with respect to any stock ends after December 31, 1997, solely for purposes of this part, the shareholder's holding period with respect to such stock shall be treated as beginning as of the first day following such period.

"(B) EXCEPTION.—Subparagraph (A) shall not apply if such stock was, with respect to such shareholder, stock in a passive foreign investment company at any time before the qualified portion of the shareholder's holding period with respect to such stock and no election under section 1298(b)(1) is made.".

SEC. 752. ELECTION OF MARK TO MARKET FOR MARKETABLE STOCK IN PASSIVE FOREIGN INVESTMENT COMPANY.

(a) IN GENERAL.—Part VI of subchapter P of chapter 1 is amended by redesignating subpart C as subpart D, by redesignating sections 1296 and 1297 as sections 1297 and 1298, respectively, and by inserting after subpart B the following new subpart:

"Subpart C—Election of Mark to Market For Marketable Stock

"Sec. 1296. Election of mark to market for marketable stock.

"SEC. 1296. ELECTION OF MARK TO MARKET FOR MARKETABLE STOCK.

"(a) GENERAL RULE.—In the case of marketable stock in a passive foreign investment company which is owned (or treated under subsection (g) as owned) by a United States person at the close of any taxable year of such person, at the election of such person—

"(1) If the fair market value of such stock as of the close of such taxable year exceeds its adjusted basis, such United States person shall include in gross income for such taxable year an amount equal to the amount of such excess.

"(2) If the adjusted basis of such stock exceeds the fair market value of such stock as of the close of such taxable year, such United States person shall be allowed a deduction for such taxable year equal to the lesser of—

"(A) the amount of such excess, or

"(B) the unreversed inclusions with respect to such stock.

"(b) BASIS ADJUSTMENTS.—

"(1) IN GENERAL.—The adjusted basis of stock in a passive foreign investment company—

"(A) shall be increased by the amount included in the gross income of the United States person under subsection (a)(1) with respect to such stock, and

"(B) shall be decreased by the amount allowed as a deduction to the United States person under subsection (a)(2) with respect to such stock.

"(2) SPECIAL RULE FOR STOCK CONSTRUCTIVELY OWNED.—In the case of stock in a passive foreign investment company which the United States person is treated as owning under subsection (g)—

"(A) the adjustments under paragraph (1) shall apply to such stock in the hands of the person actually holding such stock but only for purposes of determining the subsequent treatment under this chapter of the United States person with respect to such stock, and

"(B) similar adjustments shall be made to the adjusted basis of the property by reason of which the United States person is treated as owning such stock.

"(c) CHARACTER AND SOURCE RULES.—

"(1) ORDINARY TREATMENT.—

"(A) GAIN.—Any amount included in gross income under subsection (a)(1), and any gain on the sale or other disposition of marketable stock in a passive foreign investment company (with respect to which an election under this section is in effect), shall be treated as ordinary income.

"(B) LOSS.—Any—

"(i) amount allowed as a deduction under subsection (a)(2), and

"(ii) loss on the sale or other disposition of marketable stock in a passive foreign investment company (with respect to which an election under this section is in effect) to the extent that the amount of such loss does not exceed the unreversed inclusions with respect to such stock, shall be treated as an ordinary loss. The amount so treated shall be treated as a deduction allowable in computing adjusted gross income.

"(2) SOURCE.—The source of any amount included in gross income under subsection (a)(1) (or allowed as a deduction under subsection (a)(2)) shall be determined in the same manner as if such amount were gain or loss (as the case may be) from the sale of stock in the passive foreign investment company.

"(d) UNREVERSED INCLUSIONS.—For purposes of this section, the term 'unreversed inclusions' means, with respect to any stock in a passive foreign investment company, the excess (if any) of—

"(1) the amount included in gross income of the taxpayer under subsection (a)(1) with respect to such stock for prior taxable years, over

"(2) the amount allowed as a deduction under subsection (a)(2) with respect to such stock for prior taxable years.

The amount referred to in paragraph (1) shall include any amount which would have been included in gross income under subsection (a)(1) with respect to such stock for any prior taxable year but for section 1291.

"(e) MARKETABLE STOCK.—For purposes of this section—

"(1) IN GENERAL.—The term 'marketable stock' means—

"(A) any stock which is regularly traded on—

"(i) a national securities exchange which is registered with the Securities and Exchange Commission or the national market system established pursuant to section 11A of the Securities and Exchange Act of 1934, or

"(ii) any exchange or other market which the Secretary determines has rules adequate to carry out the purposes of this part,

"(B) to the extent provided in regulations, stock in any foreign corporation which is comparable to a regulated investment company and which offers for sale or has outstanding any stock of which it is the issuer and which is redeemable at its net asset value, and

"(C) to the extent provided in regulations, any option on stock described in subparagraph (A) or (B).

"(2) SPECIAL RULE FOR REGULATED INVESTMENT COMPANIES.—In the case of any regulated investment company which is offering for sale or has outstanding any stock of which it is the issuer and which is redeemable at its net asset value, all stock in a passive foreign investment company which it owns directly or indirectly shall be treated as marketable stock for purposes of this section. Except as provided in regulations, similar treatment as marketable stock shall apply in the case of any other regulated investment company which publishes net asset valuations at least annually.

"(f) TREATMENT OF CONTROLLED FOREIGN CORPORATIONS WHICH ARE SHAREHOLDERS IN PASSIVE FOREIGN INVESTMENT COMPANIES.—In the case of a foreign corporation which is a controlled foreign corporation and which owns (or is treated under subsection (g) as owning) stock in a passive foreign investment company—

"(1) this section (other than subsection (c)(2)) shall apply to such foreign corporation in the same manner as if such corporation were a United States person, and

"(2) for purposes of subpart F of part III of subchapter N—

"(A) any amount included in gross income under subsection (a)(1) shall be treated as foreign personal holding company income described in section 954(c)(1)(A), and

"(B) any amount allowed as a deduction under subsection (a)(2) shall be treated as a deduction allocable to foreign personal holding company income so described.

"(g) STOCK OWNED THROUGH CERTAIN FOREIGN ENTITIES.—Except as provided in regulations—

"(1) IN GENERAL.—For purposes of this section, stock owned, directly or indirectly, by or for a foreign partnership or foreign trust or foreign estate shall be considered as being owned proportionately by its partners or beneficiaries. Stock considered to be owned by a person by reason of the application of the preceding sentence shall, for purposes of applying such sentence, be treated as actually owned by such person.

"(2) TREATMENT OF CERTAIN DISPOSITIONS.—In any case in which a United States person is treated as owning stock in a passive foreign investment company by reason of paragraph (1)—

"(A) any disposition by the United States person or by any other person which results in the United States person being treated as no longer owning such stock, and

"(B) any disposition by the person owning such stock,

shall be treated as a disposition by the United States person of the stock in the passive foreign investment company.

"(h) COORDINATION WITH SECTION 851(b).—For purposes of paragraphs (2) and (3) of section 851(b), any amount included in gross income under subsection (a) shall be treated as a dividend.

"(i) STOCK ACQUIRED FROM A DECEDENT.—In the case of stock of a passive foreign investment company which is acquired by bequest, devise, or inheritance (or by the decedent's estate) and with respect to which an election under this section was in effect as of the date of the decedent's death, notwithstanding section 1014, the basis of such stock in the hands of the person so acquiring it shall be the adjusted basis of such stock in the hands of the decedent immediately

before his death (or, if lesser, the basis which would have been determined under section 1014 without regard to this subsection).

"(j) COORDINATION WITH SECTION 1291 FOR FIRST YEAR OF ELECTION.—

"(1) TAXPAYERS OTHER THAN REGULATED INVESTMENT COMPANIES.—

"(A) IN GENERAL.—If the taxpayer elects the application of this section with respect to any marketable stock in a corporation after the beginning of the taxpayer's holding period in such stock, and if the requirements of subparagraph (B) are not satisfied, section 1291 shall apply to—

"(i) any distributions with respect to, or disposition of, such stock in the first taxable year of the taxpayer for which such election is made, and

"(ii) any amount which, but for section 1291, would have been included in gross income under subsection (a) with respect to such stock for such taxable year in the same manner as if such amount were gain on the disposition of such stock.

"(B) REQUIREMENTS.—The requirements of this subparagraph are met if, with respect to each of such corporation's taxable years for which such corporation was a passive foreign investment company and which begin after December 31, 1986, and included any portion of the taxpayer's holding period in such stock, such corporation was treated as a qualified electing fund under this part with respect to the taxpayer.

"(2) SPECIAL RULES FOR REGULATED INVESTMENT COMPANIES.—

"(A) IN GENERAL.—If a regulated investment company elects the application of this section with respect to any marketable stock in a corporation after the beginning of the taxpayer's holding period in such stock, then, with respect to such company's first taxable year for which such company elects the application of this section with respect to such stock—

"(i) section 1291 shall not apply to such stock with respect to any distribution or disposition during, or amount included in gross income under this section for, such first taxable year, but

"(ii) such regulated investment company's tax under this chapter for such first taxable year shall be increased by the aggregate amount of interest which would have been determined under section 1291(c)(3) if section 1291 were applied without regard to this subparagraph.

Clause (ii) shall not apply if for the preceding taxable year the company elected to mark to market the stock held by such company as of the last day of such preceding taxable year.

"(B) DISALLOWANCE OF DEDUCTION.—No deduction shall be allowed to any regulated investment company for the increase in tax under subparagraph (A)(ii).

"(k) ELECTION.—This section shall apply to marketable stock in a passive foreign investment company which is held by a United States person only if such person elects to apply this section with respect to such stock. Such an election shall apply to the taxable year for which made and all subsequent taxable years unless—

"(1) such stock ceases to be marketable stock, or

"(2) the Secretary consents to the revocation of such election.

"(l) TRANSITION RULE FOR INDIVIDUALS BECOMING SUBJECT TO UNITED STATES TAX.—If any individual becomes a United States person in a taxable year beginning after December 31, 1997, solely for purposes of this section, the adjusted basis (before adjustments under subsection (b)) of any marketable stock in a passive foreign investment company owned by such individual on the first day of such taxable year shall be treated as being the greater of its fair market value on such first day or its adjusted basis on such first day.".

(b) COORDINATION WITH INTEREST CHARGE, ETC.—

(1) Paragraph (1) of section 1291(d) is amended by adding at the end the following new flush sentence:

"Except as provided in section 1296(j), this section also shall not apply if an election under section 1296(k) is in effect for the taxpayer's taxable year.".

(2) The subsection heading for subsection (d) of section 1291 is amended by striking "SUBPART B" and inserting "SUBPARTS B AND C".

(3) Subparagraph (A) of section 1291(a)(3) is amended to read as follows:

"(A) HOLDING PERIOD.—The taxpayer's holding period shall be determined under section 1223; except that—

"(i) for purposes of applying this section to an excess distribution, such holding period shall be treated as ending on the date of such distribution, and

"(ii) if section 1296 applied to such stock with respect to the taxpayer for any prior taxable year, such holding period shall be treated as beginning on the first day of the first taxable year beginning after the last taxable year for which section 1296 so applied.".

(c) TREATMENT OF MARK-TO-MARKET GAIN UNDER SECTION 4982.—

(1) Subsection (e) of section 4982 is amended by adding at the end thereof the following new paragraph:

"(6) TREATMENT OF GAIN RECOGNIZED UNDER SECTION 1296.—For purposes of determining a regulated investment company's ordinary income—

"(A) notwithstanding paragraph (1)(C), section 1296 shall be applied as if such company's taxable year ended on October 31, and

"(B) any ordinary gain or loss from an actual disposition of stock in a passive foreign investment company during the portion of the calendar year after October 31 shall be taken into account in determining such regulated investment company's ordinary income for the following calendar year.

In the case of a company making an election under paragraph (4), the preceding sentence shall be applied by substituting the last day of the company's taxable year for October 31.".

(2) Subsection (b) of section 852 is amended by adding at the end thereof the following new paragraph:

"(10) SPECIAL RULE FOR CERTAIN LOSSES ON STOCK IN PASSIVE FOREIGN INVESTMENT COMPANY.—To the extent provided in regulations, the taxable income of a regulated investment company (other than a company to which an election under section 4982(e)(4) applies) shall be computed without regard to any net reduction in the value of any stock of a passive foreign investment company with respect to which an election under section 1296(k) is in effect occurring after October 31 of the taxable year, and any such reduction shall be treated as occurring on the first day of the following taxable year.".

(3) Subsection (c) of section 852 is amended by inserting after "October 31 of such year" the following: ", without regard to any net reduction in the value of any stock of a passive foreign investment company with respect to which an election under section 1296(k) is in effect occurring after October 31 of such year,".

(d) CONFORMING AMENDMENTS.—

(1) Sections 532(b)(4) and 542(c)(10) are each amended by striking "section 1296" and inserting "section 1297".

(2) Subsection (f) of section 551 is amended by striking "section 1297(b)(5)" and inserting "section 1298(b)(5)".

(3) Subsections (a)(1) and (d) of section 1293 are each amended by striking "section 1297(a)" and inserting "section 1298(a)".

(4) Paragraph (3) of section 1297(b), as redesignated by subsection (a), is hereby repealed.

(5) The table of sections for subpart D of part VI of subchapter P of chapter 1, as redesignated by subsection (a), is amended to read as follows:

"Sec. 1297. Passive foreign investment company.

"Sec. 1298. Special rules.".

(6) The table of subparts for part VI of subchapter P of chapter 1 is amended by striking the last item and inserting the following new items:

"Subpart C. Election of mark to market for marketable stock.

"Subpart D. General provisions.".

(e) CLARIFICATION OF GAIN RECOGNITION ELECTION.—The last sentence of section 1298(b)(1), as so redesignated, is amended by inserting "(determined without regard to the preceding sentence)" after "investment company".

SEC. 753. EFFECTIVE DATE.

The amendments made by this part shall apply to—

(1) taxable years of United States persons beginning after December 31, 1997, and

(2) taxable years of foreign corporations ending with or within such taxable years of United States persons.

Subtitle F—Other Provisions

SEC. 761. TAX-EXEMPT STATUS FOR CERTAIN STATE WORKER'S COMPENSATION ACT COMPANIES.

(a) IN GENERAL.—Section 501(c)(27) (relating to membership organizations under workmen's compensation acts) is amended by adding at the end the following:

"(B) Any organization (including a mutual insurance company) if—

"(i) such organization is created by State law and is organized and operated under State law exclusively to—

"(I) provide workmen's compensation insurance which is required by State law or with respect to which State law provides significant disincentives if such insurance is not purchased by an employer, and

"(II) provide related coverage which is incidental to workmen's compensation insurance,

"(ii) such organization must provide workmen's compensation insurance to any employer in the State (for employees in the State or temporarily assigned out-of-State) which seeks such insurance and meets other reasonable requirements relating thereto,

"(iii)(I) the State makes a financial commitment with respect to such organization either by extending the full faith and credit of the State to debt of such organization or by providing the initial operating capital of such organization and (II) in the case of periods after the date of enactment of this subparagraph, the assets of such organization revert to the State upon dissolution, and

"(iv) the majority of the board of directors or oversight body of such organization are appointed by the chief executive officer or other executive branch official of the State, by the State legislature, or by both.".

(b) CONFORMING AMENDMENTS.—Section 501(c)(27) of such Code is amended by inserting "(A)" after "(27)", by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively, and by redesignating clauses (i) and (ii) of subparagraphs (B) and (C) (before redesignation) as subclauses (I) and (II), respectively.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. 762. ELECTION TO CONTINUE EXCEPTION FROM TREATMENT OF PUBLICLY TRADED PARTNERSHIPS AS CORPORATIONS.

(a) IN GENERAL.—Section 7704 is amended by adding at the end thereof the following new subsection:

"(g) EXCEPTION FOR EXISTING PUBLICLY TRADED PARTNERSHIPS.—

"(1) IN GENERAL.—Subsection (a) shall not apply to an existing publicly traded partnership which elects the application of this subsection and consents to the application of the tax imposed by paragraph (3).

"(2) EXISTING PUBLICLY TRADED PARTNERSHIP.—For purposes of this section, the term 'existing publicly traded partnership' means any publicly traded partnership to which subsection (a) does not apply as of the date of the enactment of this paragraph (other than by reason of subsection (c)(1)).

"(3) ADDITIONAL TAX ON ELECTING PUBLICLY TRADED PARTNERSHIPS.—

"(A) IMPOSITION OF TAX.—There is hereby imposed for each taxable year on the income of every electing publicly traded partnership a tax equal to 3.5 percent of the gross income for such taxable year from the active conduct of trades and businesses by the partnership.

"(B) ELECTING PUBLICLY TRADED PARTNERSHIP.—For purposes of this paragraph, the term 'electing publicly traded partnership' means any partnership for which the consent under paragraph (1) is in effect.

"(C) ADJUSTMENTS IN THE CASE OF TIERED PARTNERSHIPS.—For purposes of this paragraph, if the income of the partnership includes its distributive share of income from another partnership for any taxable year, the gross income referred to in subparagraph (A) shall include the gross income of such other partnership from the active conduct of trades and businesses of such other partnership (in lieu of such distributive share). A similar rule shall apply in the case of lower-tiered partnerships.

"(D) TREATMENT OF TAX.—For purposes of this title, the tax imposed by this paragraph shall be treated as imposed by chapter 1 other than for purposes of determining the amount of any credit allowable under chapter 1.

"(4) ELECTION.—An election and consent under this subsection shall apply to the taxable year for which made and all subsequent taxable years unless revoked by the partnership. Such revocation may be made without the consent of the Secretary, but, once so revoked, may not be reinstated.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. 763. EXCLUSION FROM UNRELATED BUSINESS TAXABLE INCOME FOR CERTAIN SPONSORSHIP PAYMENTS.

(a) IN GENERAL.—Section 513 (relating to unrelated trade or business income) is amended by adding at the end the following new subsection:

"(i) TREATMENT OF CERTAIN SPONSORSHIP PAYMENTS.—

"(1) IN GENERAL.—The term 'unrelated trade or business' does not include the activity of soliciting and receiving qualified sponsorship payments.

"(2) QUALIFIED SPONSORSHIP PAYMENTS.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified sponsorship payment' means any payment made by any person engaged in a trade or business with respect to which there is no arrangement or expectation that such person will receive any substantial return benefit other than the use or acknowledgement of the name or logo (or product lines) of such person's trade or business in connection with the activities of the organization that receives such payment. Such a use or acknowledgement does not include advertising such person's products or services (including messages containing qualitative or comparative language, price information or other indications of savings or value, an endorsement, or an inducement to purchase, sell, or use such products or services).

"(B) LIMITATIONS.—

"(i) CONTINGENT PAYMENTS.—The term 'qualified sponsorship payment' does not include any payment if the amount of such payment is contingent upon the level of attendance at one or more events, broadcast ratings, or other factors indicating the degree of public exposure to one or more events.

"(ii) ACKNOWLEDGEMENTS OR ADVERTISING IN PERIODICALS.—The term 'qualified sponsorship payment' does not include any payment which entitles the payor to an acknowledgement or advertising in regularly scheduled and printed material published by or on behalf of the payee organization that is not related to and primarily distributed in connection with a specific event conducted by the payee organization.

"(3) ALLOCATION OF PORTIONS OF SINGLE PAYMENT.—For purposes of this subsection, to the extent that a portion of a payment would (if made as a separate payment) be a qualified sponsorship payment, such portion of such payment and the other portion of such payment shall be treated as separate payments.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to payments solicited or received after December 31, 1997.

SEC. 764. ASSOCIATIONS OF HOLDERS OF TIMESHARE INTERESTS TO BE TAXED LIKE OTHER HOMEOWNERS ASSOCIATIONS.

(a) TIMESHARE ASSOCIATIONS INCLUDED AS HOMEOWNER ASSOCIATIONS.—

(1) IN GENERAL.—Paragraph (1) of section 528(c) (defining homeowners association) is amended—

(A) by striking "or a residential real estate management association" and inserting ", a residential real estate management association, or a timeshare association" in the material preceding subparagraph (A),

(B) by striking "or" at the end of clause (i) of subparagraph (B), by striking the period at the end of clause (ii) of subparagraph (B) and inserting ", or", and by adding at the end of subparagraph (B) the following new clause:

"(iii) owners of timeshare rights to use, or timeshare ownership interests in, association property in the case of a timeshare association,", and

(C) by inserting "and, in the case of a timeshare association, for activities provided to or on behalf of members of the association" before the comma at the end of subparagraph (C).

(2) TIMESHARE ASSOCIATION DEFINED.—Subsection (c) of section 528 is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) TIMESHARE ASSOCIATION.—The term 'timeshare association' means any organization (other than a condominium management association) meeting the requirement of subparagraph (A) of paragraph (1) if any member thereof holds a timeshare right to use, or a timeshare ownership interest in, real property constituting association property.".

(b) EXEMPT FUNCTION INCOME.—Paragraph (3) of section 528(d) is amended by striking "or" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", or", and by adding at the end the following new subparagraph:

"(C) owners of timeshare rights to use, or timeshare ownership interests in, real property in the case of a timeshare association.".

(c) ASSOCIATION PROPERTY.—Paragraph (5) of section 528(c), as redesignated by paragraph (2), is amended by adding at the end the following new flush sentence:

"In the case of a timeshare association, such term includes property in which the timeshare association, or members of the association, have rights arising out of recorded easements, covenants, or other recorded instruments to use property related to the timeshare project.".

(d) RATE OF TAX.—Subsection (b) of section 528 (relating to certain homeowners associations) is amended by inserting before the period "(32 percent of such income in the case of a timeshare association)".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

SEC. 765. INCREASED DEDUCTIBILITY OF BUSINESS MEAL EXPENSES FOR INDIVIDUALS SUBJECT TO FEDERAL HOURS OF SERVICE AND SEAFOOD PROCESSORS.

(a) IN GENERAL.—Section 274(n) (relating to only 50 percent of meal and entertainment expenses allowed as deduction) is amended by adding at the end the following new paragraph:

"(3) SPECIAL RULE FOR INDIVIDUALS SUBJECT TO FEDERAL HOURS OF SERVICE AND SEAFOOD PROCESSORS.—

"(A) IN GENERAL.—In the case of any expenses for food or beverages consumed—

"(i) while away from home (within the meaning of section 162(a)(2)) by an individual during, or incident to, the period of duty subject to the hours of service limitations of the Department of Transportation, or

"(ii) by an individual in connection with the individual's employment at a seafood processing facility located in the United States, North of 53 degrees North latitude,

paragraph (1) shall be applied by substituting 'the applicable percentage' for '50 percent'.

"(B) APPLICABLE PERCENTAGE.—For purposes of this paragraph, the term 'applicable percentage' means the percentage determined under the following table:

"For taxable years beginning in calendar year—	The applicable percentage is—
1998 or 1999	55
2000 or 2001	60
2002 or 2003	65
2004 or 2005	70
2006 or 2007	75
2008 or thereafter	80.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1997.

SEC. 766. DEDUCTION IN COMPUTING ADJUSTED GROSS INCOME FOR EXPENSES IN CONNECTION WITH SERVICE PERFORMED BY CERTAIN OFFICIALS.

(a) IN GENERAL.—Paragraph (2) of section 62(a) (defining adjusted gross income) is amended by adding at the end the following new subparagraph:

"(C) CERTAIN EXPENSES OF OFFICIALS.—The deductions allowed by section 162 which consist of expenses paid or incurred with respect to services performed by an official as an employee of a State or a political subdivision thereof in a position compensated in whole or in part on a fee basis.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to expenses paid or incurred in taxable years beginning after December 31, 1997.

SEC. 767. INCREASE IN STANDARD MILEAGE RATE EXPENSE DEDUCTION FOR CHARITABLE USE OF PASSENGER AUTOMOBILE.

(a) IN GENERAL.—Section 170(i) (relating to standard mileage rate for use of passenger automobile) is amended to read as follows:

"(i) STANDARD MILEAGE RATE FOR USE OF PASSENGER AUTOMOBILE.—

"(1) GENERAL RULE.—Except as provided in paragraph (2), for purposes of computing the deduction under this section for use of a passenger automobile, the standard mileage rate shall be 15 cents per mile.

"(2) INDEXING AFTER 1998.—In the case of taxable years beginning in a calendar year after 1998, the 15-cent amount under paragraph (1) shall be increased by an amount equal to the product of such amount and the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, except that subparagraph (B) thereof shall be applied by substituting '1997' for '1992'. If the amount as increased under the preceding sentence is not a multiple of 1 cent, such amount shall be rounded to the next lowest multiple of 1 cent.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1997.

SEC. 768. EXPENSING OF ENVIRONMENTAL REMEDIATION COSTS.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 is amended by adding at the end the following new section:

"SEC. 198. EXPENSING OF ENVIRONMENTAL REMEDIATION COSTS.

"(a) IN GENERAL.—A taxpayer may elect to treat any qualified environmental remediation expenditure which is paid or incurred by the taxpayer as an expense which is not chargeable to capital account. Any expenditure which is so treated shall be allowed as a deduction for the taxable year in which it is paid or incurred.

"(b) QUALIFIED ENVIRONMENTAL REMEDIATION EXPENDITURE.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified environmental remediation expenditure' means any expenditure—

"(A) which is otherwise chargeable to capital account, and

"(B) which is paid or incurred in connection with the abatement or control of hazardous substances at a qualified contaminated site.

"(2) SPECIAL RULE FOR EXPENDITURES FOR DEPRECIABLE PROPERTY.—Such term shall not include any expenditure for the acquisition of property of a character subject to the allowance for depreciation which is used in connection with the abatement or control of hazardous substances at a qualified contaminated site; except that the portion of the allowance under section 167 for such property which is otherwise allocated to such site shall be treated as a qualified environmental remediation expenditure.

"(c) QUALIFIED CONTAMINATED SITE.—For purposes of this section—

"(1) QUALIFIED CONTAMINATED SITE.—

"(A) IN GENERAL.—The term 'qualified contaminated site' means any area—

"(i) which is held by the taxpayer for use in a trade or business or for the production of income, or which is property described in section 1221(1) in the hands of the taxpayer,

"(ii) which is within a targeted area, and

"(iii) at or on which there has been a release (or threat of release) or disposal of any hazardous substance.

"(B) TAXPAYER MUST RECEIVE STATEMENT FROM STATE ENVIRONMENTAL AGENCY.—An area shall be treated as a qualified contaminated site with respect to expenditures paid or incurred during any taxable year only if the taxpayer receives a statement from the appropriate agency of the State in which such area is located that such area meets the requirements of clauses (ii) and (iii) of subparagraph (A).

"(C) APPROPRIATE STATE AGENCY.— For purposes of subparagraph (B), the appropriate agency of a State is the agency designated by the Administrator of the Environmental Protection Agency for purposes of this section. If no agency of a State is designated under the preceding sentence, the appropriate agency for such State shall be the Environmental Protection Agency.

"(2) TARGETED AREA.—

"(A) IN GENERAL.—The term 'targeted area' means—

"(i) any empowerment zone or enterprise community (and any supplemental zone designated on December 21, 1994), and

"(ii) any site announced before February 1, 1997, as being included as a brownfields pilot project of the Environmental Protection Agency.

"(B) NATIONAL PRIORITIES LISTED SITES NOT INCLUDED.—Such term shall not include any site which is on, or proposed for, the national priorities list under section 105(a)(8)(B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (as in effect on the date of the enactment of this section).

"(C) CERTAIN RULES TO APPLY.—For purposes of this paragraph the rules of sections 1392(b)(4) and 1393(a)(9) shall apply.

"(d) HAZARDOUS SUBSTANCE.—For purposes of this section—

"(1) IN GENERAL.—The term 'hazardous substance' means—

"(A) any substance which is a hazardous substance as defined in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and

"(B) any substance which is designated as a hazardous substance under section 102 of such Act.

"(2) EXCEPTION.—Such term shall not include any substance with respect to which a removal or remedial action is not permitted under section 104 of such Act by reason of subsection (a)(3) thereof.

"(e) DEDUCTION RECAPTURED AS ORDINARY INCOME ON SALE, ETC.—Solely for purposes of section 1245, in the case of property to which a qualified environmental remediation expenditure would have been capitalized but for this section—

"(1) the deduction allowed by this section for such expenditure shall be treated as a deduction for depreciation, and

"(2) such property (if not otherwise section 1245 property) shall be treated as section 1245 property solely for purposes of applying section 1245 to such deduction.

"(f) COORDINATION WITH OTHER PROVISIONS.—Sections 280B and 468 shall not apply to amounts which are treated as expenses under this section.

"(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.".

(b) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1 is amended by adding at the end the following new item:

"Sec. 198. Expensing of environmental remediation costs.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures paid or incurred after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 769. COMBINED EMPLOYMENT TAX REPORTING DEMONSTRATION PROJECT.

(a) IN GENERAL.—The Secretary of the Treasury shall provide for a demonstration project to assess the feasibility and desirability of expanding combined Federal and State tax reporting.

(b) DESCRIPTION OF DEMONSTRATION PROJECT.—The demonstration project under subsection (a) shall be—

(1) carried out between the Internal Revenue Service and the State of Montana for a period ending with the date which is 5 years after the date of the enactment of this Act,

(2) limited to the reporting of employment taxes, and

(3) limited to the disclosure of the taxpayer identity (as defined in section 6103(b)(6) of such Code) and the signature of the taxpayer.

Such identity and signature may be disclosed notwithstanding section 6103 of the Internal Revenue Code of 1986.

SEC. 770. INCREASED MAXIMUM CAPITAL EXPENDITURE LIMIT FOR QUALIFIED SMALL ISSUE BONDS.

(a) IN GENERAL.—Subparagraph (A) of section 144(a)(4) (relating to $10,000,000 limit in certain cases) is amended by adding at the end the following new flush sentence:

"Capital expenditures which would (but for this sentence) be taken into account under clause (ii) shall be taken into account only to the extent such expenditures exceed $10,000,000.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to—

(1) obligations issued after December 31, 1997, and

(2) capital expenditures made after such date with respect to obligations issued on or before such date.

SEC. 771. EXTENSION OF CREDIT FOR ELECTRICITY PRODUCED FROM CERTAIN RENEWABLE RESOURCES.

Paragraph (3) of section 45(c) is amended by striking "July 1, 1999" and inserting "July 1, 2001".

SEC. 772. TAXABLE INCOME LIMIT ON PERCENTAGE DEPLETION NOT TO APPLY TO MARGINAL PRODUCTION.

(a) IN GENERAL.—Paragraph (6) of section 613A(c) is amended by adding at the end the following new subparagraph:

"(H) EXEMPTION FROM TAXABLE INCOME LIMIT WHERE REFERENCE PRICE BELOW $14.—The second sentence of subsection (a) of section 613 shall not apply to so much of the allowance for depletion as is determined under subparagraph (A) for any taxable year beginning in a calendar year for which the reference price (as defined in section 29(d)(2)(C)) is below $14.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1997.

SEC. 773. CLARIFICATION OF TREATMENT OF CERTAIN RECEIVABLES PURCHASED BY COOPERATIVE HOSPITAL SERVICE ORGANIZATIONS.

(a) IN GENERAL.—Subparagraph (A) of section 501(e)(1) is amended by inserting "(including the purchase of patron accounts receivable on a recourse basis)" after "billing and collection".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1996.

SEC. 774. EXCEPTION FOR BONDS GUARANTEED BY FEDERAL HOME LOAN BANK BOARD FROM RESTRICTION ON FEDERAL GUARANTEE OF BONDS.

(a) IN GENERAL.—Clause (i) of section 149(b)(3)(A) is amended by striking "or the Government National Mortgage Association" and inserting "the Government National Mortgage Association, or the Federal Home Loan Bank Board".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to bonds issued after the date of the enactment of this Act.

SEC. 775. INCREASED PERIOD FOR DEDUCTION FOR TRAVELING EXPENSES WHILE WORKING AWAY FROM HOME.

(a) IN GENERAL.—Section 162 (relating to trade or business expenses) is amended—

(1) in subsection (a)—

(A) in paragraph (2), by inserting "subject to subsection (o)," before "traveling expenses", and

(B) by striking the last sentence, and

(2) by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

"(o) EXPENSES WHILE AWAY FROM HOME.—For purposes of subsection (a)(2)—

"(1) IN GENERAL.—A taxpayer shall not be treated as being temporarily away from home during any period of employment if such period exceeds 1 year.

"(2) SPECIAL RULES FOR CONSTRUCTION PROJECTS.—

"(A) 18-MONTH PERIOD FOR CERTAIN PROJECTS.—If—

"(i) the employment described in paragraph (1) is in connection with an identifiable construction project with a completion date that is reasonably expected to occur within 5 years after the starting date of such project, and

"(ii) the taxpayer continues to maintain a household as his principal residence and incur duplicative expenses at such residence,

paragraph (1) shall be applied by substituting '18 months' for '1 year'.

"(B) 2-YEAR PERIOD FOR PROJECTS IN AREAS LACKING FAMILY SUPPORT INFRASTRUCTURE.—If the employment described in paragraph (1) is in connection with an identifiable construction project described in subparagraph (A) which is located in an area which lacks adequate housing, educational, medical, or other facilities necessary for families, paragraph (1) shall be applied by substituting '2 years' for '1 year'.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to costs paid or incurred in taxable years beginning after December 31, 1997.

SEC. 776. CHARITABLE CONTRIBUTION DEDUCTION FOR CERTAIN EXPENSES INCURRED IN SUPPORT OF NATIVE ALASKAN SUBSISTENCE WHALING.

(a) IN GENERAL.—Section 170 (relating to charitable, etc., contributions and gifts) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) EXPENSES PAID BY CERTAIN WHALING CAPTAINS IN SUPPORT OF NATIVE ALASKAN SUBSISTENCE WHALING.—

"(1) IN GENERAL.—In the case of an individual who is recognized by the Alaska Eskimo Whaling Commission as a whaling captain charged with the responsibility of maintaining and carrying out sanctioned whaling activities and who engages in such activities during the taxable year, the amount described in paragraph (2) (to the extent such amount does not exceed $7,500 for the taxable year) shall be treated for purposes of this section as a charitable contribution.

"(2) AMOUNT DESCRIBED.—The amount described in this paragraph is the aggregate of the reasonable and necessary whaling expenses paid by the taxpayer during the taxable year in carrying out sanctioned whaling activities. For purposes of the preceding sentence, the term 'whaling expenses' includes expenses for—

"(A) the acquisition and maintenance of whaling boats, weapons, and gear used in sanctioned whaling activities,

"(B) the supplying of food for the crew and other provisions for carrying out such activities, and

"(C) storage and distribution of the catch from such activities.

"(3) SANCTIONED WHALING ACTIVITIES.—For purposes of this subsection, the term 'sanctioned whaling activities' means subsistence bowhead whale hunting activities conducted pursuant to the management plan of the Alaska Eskimo Whaling Commission.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 777. MODIFICATION TO ELIGIBILITY CRITERIA FOR DESIGNATION OF FUTURE ENTERPRISE ZONES IN ALASKA OR HAWAII.

Section 1392 (relating to eligibility criteria) is amended by adding at the end the following new subsection:

"(d) SPECIAL ELIGIBILITY FOR NOMINATED AREAS LOCATED IN ALASKA OR HAWAII.—A nominated area in Alaska or Hawaii shall be treated as meeting the requirements of paragraphs (2), (3), and (4) of subsection (a) if for each census tract or block group within such area 20 percent or more of the families have income which is 50 percent or less of the statewide median family income (as determined under section 143).".

SEC. 778. CLARIFICATION OF DE MINIMIS FRINGE BENEFIT RULES TO NO-CHARGE EMPLOYEE MEALS.

(a) IN GENERAL.—Paragraph (2) of section 132(e) (defining de minimis fringe) is amended by adding at the end the following new sentence: "For purposes of subparagraph (B), an employee entitled under section 119 to exclude the value of a meal provided at such facility shall be treated as having paid an amount for such meal equal to the direct operating costs of the facility attributable to such meal.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. 779. CLARIFICATION OF STANDARD TO BE USED IN DETERMINING EMPLOYMENT TAX STATUS OF SECURITIES BROKERS.

(a) IN GENERAL.—In determining for purposes of chapter 1 of the Internal Revenue Code of 1986 whether a registered representative of a securities broker-dealer is an employee (as defined in section 3121(d) of the Internal Revenue Code of 1986), no weight shall be given to instructions from the service recipient which are imposed only in compliance with investor protection standards imposed by the Federal Government, any State government, or a governing body pursuant to a delegation by a Federal or State agency.

(b) EFFECTIVE DATE.—Subsection (a) shall apply to services performed after December 31, 1997.

SEC. 780. SENSE OF THE SENATE REGARDING REFORM OF THE INTERNAL REVENUE CODE OF 1986.

(a) FINDINGS.—The Senate finds that—

(1) the Internal Revenue Code of 1986 ("tax code") is unnecessarily complex, having grown from 14 pages at its inception to 3,458 pages by 1995;

(2) this complexity resulted in taxpayers spending about 5,300,000,000 hours and $225,000,000,000 trying to comply with the tax code in 1996;

(3) the current congressional budgetary process is weighted too heavily toward tax increases, as evidenced by the fact that since 1954 there have been 27 major bills enacted that increased Federal income taxes and only 9 bills that decreased Federal income taxes, 3 of which were de minimis decreases;

(4) the tax burden on working families has reached an unsustainable level, as evidenced by the fact that in 1948 the average American family with children paid only 4.3 percent of its income to the Federal Government in direct taxes and today the average family pays about 25 percent;

(5) the tax code unfairly penalizes saving and investment by double taxing these activities while only taxing income used for consumption once, and as a result the United States has one of the lowest saving rates, at 4.7 percent, in the industrialized world;

(6) the tax code stifles economic growth by discouraging work and capital formation through excessively high tax rates;

(7) Congress and the President have found it necessary, on 2 separate occasions, to enact laws to protect taxpayers from the abuses of the Internal Revenue Service and a third bill has been introduced in the one hundred fifth Congress; and

(8) the complexity of the tax code has increased the number of Internal Revenue Service employees responsible for administering the tax laws to 110,000 and this costs the taxpayers $9,800,000,000 each year.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the Internal Revenue Code of 1986 needs broad-based reform; and

(2) the President should submit to Congress a comprehensive proposal to reform the Internal Revenue Code of 1986.

SEC. 781. SENSE OF THE SENATE REGARDING TAX TREATMENT OF STOCK OPTIONS.

(a) FINDINGS.—The Senate finds that—

(1) currently businesses can deduct the value of stock options as a business expense on their income tax returns, even though the stock options are not treated as an expense on the books of those same businesses; and

(2) stock options are the only form of compensation that is treated in this way.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Committee on Finance of the Senate should hold hearings on the tax treatment of stock options.

SEC. 782. SENSE OF THE SENATE ON ESTATE TAXES.

(a) FINDINGS.—The Senate finds that whereas—

(1) the Federal estate tax punishes hard working small business owners and discourages savings and growth;

(2) the Federal estate tax imposes an unfair economic burden on small businesses and reduces their ability to survive and compete with large corporations; and

(3) a reduction in Federal estate taxes for family-owned farms and enterprises will help to prevent the liquidation of small businesses that strengthen American communities by providing jobs and security.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the estate tax relief provided in this bill is an important step that will enable more family-owned farms and small businesses to survive and continue to provide economic security and job creation in American communities; and

(2) Congress should eliminate the Federal estate tax liability for family-owned businesses by the end of 2002 on a deficit-neutral basis.

SEC. 783. QUALIFIED GAMES OF CHANCE.

(a) IN GENERAL.—The term "unrelated trade or business" does not include the activity of qualified games of chance.

(b) QUALIFIED GAMES OF CHANCE.—For purposes of this subsection, the term "qualified games of chance" means any game of chance, other than provided in subsection (f), conducted by an organization if—

(1) such organization is licensed pursuant to State law to conduct such game;

(2) only organizations which are organized as nonprofit corporations or are exempt from tax under section 501(a) may be so licensed to conduct such game within the State; and

(3) the conduct of such game does not violate State or local law.

SEC. 784. SURVIVOR BENEFITS FOR PUBLIC SAFETY OFFICERS KILLED IN THE LINE OF DUTY.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by redesignating section 138 as section 139 and by inserting after section 137 the following new section:

"SEC. 138. SURVIVOR BENEFITS ATTRIBUTABLE TO SERVICE BY A PUBLIC SAFETY OFFICER WHO IS KILLED IN THE LINE OF DUTY.

"(a) IN GENERAL.—Gross income shall not include any amount paid as a survivor annuity on account of the death of a public safety officer (as such term is defined in section 1204 of the Omnibus Crime Control and Safe Streets Act of 1968) killed in the line of duty—

"(1) if such annuity is provided under a governmental plan which meets the requirements of section 401(1) to the spouse (or a former spouse) of the public safety officer or to a child of such officer; and

"(2) to the extent such annuity is attributable to such officer's service as a public safety officer.

"(b) EXCEPTIONS.—

"(1) IN GENERAL.—Subsection (a) shall not apply with respect to the death of any public safety officer if—

"(A) the death was caused by the intentional misconduct of the officer or by such officer's intention to bring about such officer's death;

"(B) the officer was voluntarily intoxicated (as defined in section 1204 of the Omnibus Crime Control and Safe Streets Act of 1968) at the time of death; or

"(C) the officer was performing such officer's duties in a grossly negligent manner at the time of death.

"(2) EXCEPTION FOR BENEFITS PAID TO CERTAIN INDIVIDUALS.—Subsection (a) shall not apply to any payment to an individual whose actions were a substantial contributing factor to the death of the officer.".

(b) EFFECTIVE DATE.—The amendments made by this subsection shall apply to amounts received in taxable years beginning after December 31, 1996, with respect to individuals dying after such date.

SEC. 785. TREATMENT OF CERTAIN DISABILITY BENEFITS RECEIVED BY FORMER POLICE OFFICERS OR FIREFIGHTERS.

(a) GENERAL RULE.—For purposes of determining whether any amount to which this section applies is excludable from gross income under section 104(a)(1) of the Internal Revenue Code of 1986, the following conditions shall be treated as personal injuries or sickness in the course of employment:

(1) Heart disease.

(2) Hypertension.

(b) AMOUNTS TO WHICH SECTION APPLIES.—This section shall apply to any amount—

(1) which is payable—

(A) to an individual (or to the survivors of an individual) who was a full-time employee of any police department or fire department which is organized and operated by a State, by any political subdivision thereof, or by any agency or instrumentality of a State or political subdivision thereof, and

(B) under a State law (as in existence on July 1, 1992) which irrebuttably presumed that heart disease and hypertension are work-related illnesses but only for employees separating from service before such date; and

(2) which is received in calendar year 1989, 1990, or 1991.

For purposes of the preceding sentence, the term "State" includes the District of Columbia.

(c) WAIVER OF STATUTE OF LIMITATIONS.—If, on the date of the enactment of this Act (or at any time within the 1-year period beginning on such date of enactment) credit or refund of any overpayment of tax resulting from the provisions of this section is barred by any law or rule of law, credit or refund of such overpayment shall, nevertheless, be allowed or made if claim therefore is filed before the date 1 year after such date of enactment.

SEC. 786. REMOVAL OF DOLLAR LIMITATION ON BENEFIT PAYMENTS FROM A DEFINED BENEFIT PLAN MAINTAINED FOR CERTAIN POLICE AND FIRE EMPLOYEES.

(a) IN GENERAL.—Subparagraph (G) of section 415(b)(2) of the Internal Revenue Code of 1986 is amended by striking "participant—" and all that follows and inserting "participant, subparagraphs (C) and (D) of this paragraph and subparagraph (B) of paragraph (1) shall not apply.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to years beginning after December 31, 1996.

SEC. 787. DEBATE ON A RECONCILIATION BILL.

Section 310(e)(2) of the Congressional Budget Act of 1974 is amended to read as follows:

"(2) For purposes of consideration of any reconciliation bill reported under subsection (b)—

"(A) debate, and all amendments thereto and debatable motions and appeals in connection therewith, shall be limited to not more than 30 hours;

"(B) time on the bill may only be yielded back by consent and a motion to further limit debate shall be debatable with debate limited to ½ hour equally divided;

"(C) time on amendments shall be limited to 30 minutes to be equally divided in the usual form and on any second degree amendment or motion to 20 minutes to be equally divided in the usual form, except that after the 15th hour of consideration of a bill, time on all amendments or motions shall be limited to 20 minutes;

"(D) no first degree amendment may be proposed after the 15th hour of consideration of a bill unless it has been submitted to the Journal Clerk prior to the expiration of the 15th hour;

"(E) no second degree amendment may be proposed after the 20th hour of consideration of a bill unless it has been submitted to the Journal Clerk prior to the expiration of the 20th hour; and

"(F) after no more than thirty hours of consideration of the measure, the Senate shall proceed, without any further debate on any question, to vote on the final disposition thereof to the exclusion of all amendments not then actually pending before the Senate at that time and to the exclusion of all motions, except a motion to table, or to reconsider and one quorum call on demand to establish the presence of a quorum (and motions required to establish a quorum) immediately before the final vote begins.".

SEC. 788. EXCLUSION FROM INCOME OF SEVERANCE PAYMENT AMOUNTS; TIME PERIODS FOR CARRYBACK AND CARRYFORWARD OF UNUSED CREDITS.

(a) EXCLUSION FROM INCOME OF SEVERANCE PAYMENT AMOUNTS.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by redesignating section 138 as section 139 and by inserting after section 137 the following new section:

"SEC. 138. SEVERANCE PAYMENTS.

"(a) IN GENERAL.—In the case of an individual, gross income shall not include any qualified severance payment.

"(b) LIMITATION.—The amount to which the exclusion under subsection (a) applies shall not exceed $2,000 with respect to any separation from employment.

"(c) QUALIFIED SEVERANCE PAYMENT.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified severance payment' means any payment received by an individual if—

"(A) such payment was paid by such individual's employer on account of such individual's separation from employment,

"(B) such separation was in connection with a reduction in the work force of the employer, and

"(C) such individual does not attain employment within 6 months of the date of such separation in which the amount of compensation is equal to or greater than 95 percent of the amount of compensation for the employment that is related to such payment.

"(2) LIMITATION.—Such term shall not include any payment received by an individual if the aggregate payments received with respect to the separation from employment exceed $125,000.".

(b) TIME PERIODS FOR CARRYBACK AND CARRYFORWARD OF UNUSED CREDITS.—Section 39(a) (relating to unused credits) is amended—

(1) in paragraph (1), by striking "3" each place it appears and inserting "1" and by striking "15" each place it appears and inserting "20"; and

(2) in paragraph (2), by striking "18" each place it appears and inserting "22" and by striking "17" each place it appears and inserting "21".

(c) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 is amended by striking the item relating to section 138 and inserting the following new items:

"Sec. 138. Severance payments.

"Sec. 139. Cross references to other Acts.".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a) and (c) shall apply to taxable years beginning after December 31, 1997, and before July 1, 2002.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to the carryback and carryforward of credits arising in taxable years beginning after December 31, 1997.

SEC. 789. CURRENT REFUNDINGS OF CERTAIN TAX-EXEMPT BONDS.

(a) IN GENERAL.—Subsection (c) of section 10632 of the Revenue Act of 1987 (relating to bonds issued by Indian tribal governments) is amended by adding at the end the following new sentence: "The amendments made by this section shall not apply to any obligation issued after such date if—

"(1) such obligation is issued (or is part of a series of obligations issued) to refund an obligation issued on or before such date,

"(2) the average maturity date of the issue of which the refunding obligation is a part is not later than the average maturity date of the obligations to be refunded by such issue,

"(3) the amount of the refunding obligation does not exceed the outstanding amount of the refunded obligation, and

"(4) the net proceeds of the refunding obligation are used to redeem the refunded obligation not later than 90 days after the date of the issuance of the refunding obligation.

For purposes of paragraph (2), average maturity shall be determined in accordance with section 147(b)(2)(A) of the Internal Revenue Code of 1986.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to refunding obligations issued after the date of the enactment of this Act.

SEC. 790. SPECIAL RULE FOR THRIFTS WHICH BECOME LARGE BANKS.

(a) IN GENERAL.—Section 593(g)(2) (defining applicable excess reserves) is amended by adding at the end the following new subparagraph:

"(C) SPECIAL RULE FOR THRIFTS WHICH BECAME LARGE BANKS IN 1995.—

"(i) IN GENERAL.—In the case of a bank (as defined in section 581) which became a large bank (as defined in section 585(c)(2)) for its first taxable year beginning after December 31, 1994, the balance taken into account under subparagraph (A)(ii) shall not be less than the amount which would be the balance of such reserves as of the close of its last taxable year beginning before January 1, 1995, if the additions to such reserves for all taxable years had been determined under section 585(b)(2)(A).

"(ii) APPLICATION OF CUT-OFF METHOD; ETC.—In the case of a taxpayer to which this subparagraph applies—

"(I) paragraph (5)(B) shall apply, and

"(II) this subparagraph shall not apply in determining the amount taken into account by the taxpayer under subparagraph (A)(ii) for purposes of paragraphs (5) and (6) or subsection (e)(1).".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendments made by section 1616 of the Small Business Job Protection Act of 1996.

SEC. 791. SENSE OF THE SENATE REGARDING MIDDLE-CLASS TAXPAYERS BENEFITING FROM TAX CUTS.

(a) FINDINGS.—The Senate finds that—

(1) Congress has not provided a genuine tax cut for America's middle-class families since 1981;

(2) President Clinton promised middle-class tax cuts in 1992;

(3) President Clinton raised taxes by $240,000,000,000 in 1993;

(4) President Clinton vetoed middle-class tax cuts in 1995;

(5) the middle-class American worker had to work until May 9 in order to earn enough money to pay all Federal, State, and local taxes in 1997;

(6) the Joint Economic Committee reports that real total Government taxes per household in 1994 totaled $18,600;

(7) more than 70 percent of the tax cuts in both the House of Representatives and the Senate tax relief bills will go to Americans earning less than $75,000 annually;

(8) the Joint Economic Committee estimates that a family of 4 earning $30,000 will receive 53 percent of the tax relief under the reconciliation bill;

(9) the earned income tax credit was already expanded in President Clinton's 1993 tax bill;

(10) the fiscal year 1998 budget resolution does not make the $500-per-child tax credit refundable; and

(11) those who receive the earned income tax credit do not pay Federal income taxes but receive a substantial cash transfer from the Federal Government in the form of refund checks above and beyond income tax rebates.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that America's middle-class taxpayers shoulder the biggest tax burden and that only those who pay Federal income taxes should benefit from the Federal income tax cuts contained in the Revenue Reconciliation Act of 1997.

SEC. 792. AVERAGING OF FARM INCOME OVER 3 YEARS.

(a) IN GENERAL.—Subpart B of part II of subchapter E of chapter 1 of the Internal Revenue Code of 1986 (relating to taxable year for which items of gross income included) is amended by adding the following new section:

"SEC. 460A. AVERAGING OF FARM INCOME.

"(a) IN GENERAL.—At the election of a taxpayer engaged in a farming business, the tax imposed by section 1 for such taxable year shall be equal to the sum of—

"(1) a tax computed under such section on taxable income reduced by elected farm income, plus

"(2) the increase in tax which would result if taxable income for the 3 prior taxable years were increased by the elected farm income.

"(b) DEFINITIONS.—In this section—

"(1) ELECTED FARM INCOME.—

"(A) IN GENERAL.—The term 'elected farm income' means so much of the taxable income for the taxable year—

"(i) which is attributable to any farming business; and

"(ii) which is specified in the election under subsection (a).

"(B) TREATMENT OF GAINS.—For purposes of subparagraph (A), gain from the sale or other disposition of property (other than land) regularly used by the taxpayer in a farming business for a substantial period shall be treated as attributable to a farming business.

"(2) FARMING BUSINESS.—The term 'farming business' has the meaning given such term by section 263A(e)(4).".

(b) CLERICAL AMENDMENT.—The table of sections for such subpart B is amended by adding at the end the following new item:

"Sec. 460A. Averaging of farm income.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act and before January 1, 2001.

TITLE VIII—REVENUES

Subtitle A—Financial Products

SEC. 801. CONSTRUCTIVE SALES TREATMENT FOR APPRECIATED FINANCIAL POSITIONS.

(a) IN GENERAL.—Part IV of subchapter P of chapter 1 is amended by adding at the end the following new section:

"SEC. 1259. CONSTRUCTIVE SALES TREATMENT FOR APPRECIATED FINANCIAL POSITIONS.

"(a) IN GENERAL.—If there is a constructive sale of an appreciated financial position—

"(1) the taxpayer shall recognize gain as if such position were sold, assigned, or otherwise terminated at its fair market value on the date of such constructive sale (and any gain shall be taken into account for the taxable year which includes such date), and

"(2) for purposes of applying this title for periods after the constructive sale—

"(A) proper adjustment shall be made in the amount of any gain or loss subsequently realized with respect to such position for any gain taken into account by reason of paragraph (1), and

"(B) the holding period of such position shall be determined as if such position were originally acquired on the date of such constructive sale.

"(b) APPRECIATED FINANCIAL POSITION.—For purposes of this section—

"(1) IN GENERAL.—Except as provided in paragraph (2), the term 'appreciated financial position' means any position with respect to any stock, debt instrument, or partnership interest if there would be gain were such position sold, assigned, or otherwise terminated at its fair market value.

"(2) EXCEPTIONS.—The term 'appreciated financial position' shall not include—

"(A) any position with respect to debt if—

"(i) the interest payments (or other similar amounts) with respect to such debt meet the requirements of clause (i) of section 860G(a)(1)(B), and

"(ii) such debt is not convertible (directly or indirectly) into stock of the issuer or any related person, and

"(B) any position which is marked to market under any provision of this title or the regulations thereunder.

"(3) POSITION.—The term 'position' means an interest, including a futures or forward contract, short sale, or option.

"(c) CONSTRUCTIVE SALE.—For purposes of this section—

"(1) IN GENERAL.—A taxpayer shall be treated as having made a constructive sale of an appreciated financial position if the taxpayer (or a related person)—

"(A) enters into a short sale of the same or substantially identical property,

"(B) enters into an offsetting notional principal contract with respect to the same or substantially identical property,

"(C) enters into a futures or forward contract to deliver the same or substantially identical property,

"(D) in the case of an appreciated financial position that is a short sale or a contract described in subparagraph (B) or (C) with respect to any property, acquires the same or substantially identical property, or

"(E) to the extent prescribed by the Secretary in regulations, enters into 1 or more other transactions (or acquires 1 or more positions) that have substantially the same effect as a transaction described in any of the preceding subparagraphs.

"(2) EXCEPTION FOR SALES OF NONPUBLICLY TRADED PROPERTY.—The term 'constructive sale' shall not include any contract for sale of any stock, debt instrument, or partnership interest which is not a marketable security (as defined in section 453(f)) if the contract settles within 1 year after the date such contract is entered into.

"(3) EXCEPTION FOR CERTAIN CLOSED TRANSACTIONS.—In applying this section, there shall be disregarded any transaction (which would otherwise be treated as a constructive sale) during the taxable year if—

"(A) such transaction is closed before the end of the 30th day after the close of such taxable year, and

"(B) in the case of a transaction which is closed during the 90-day period ending on such 30th day—

"(i) the taxpayer holds the appreciated financial position throughout the 60-day period beginning on the date such transaction is closed, and

"(ii) at no time during such 60-day period is the taxpayer's risk of loss with respect to such position reduced by reason of a circumstance which would be described in section 246(c)(4) if references to stock included references to such position.

If a position with respect to a transaction which is closed during the 90-day period as described in subparagraph (B) is reestablished, then such transaction shall be disregarded in applying this section if the reestablished position is closed during such 90-day period in a transaction which meets the requirements of subparagraph (B).

"(4) RELATED PERSON.—A person is related to another person with respect to a transaction if—

"(A) the relationship is described in section 267 or 707(b), and

"(B) such transaction is entered into with a view toward avoiding the purposes of this section.

"(d) OTHER DEFINITIONS.—For purposes of this section—

"(1) FORWARD CONTRACT.—The term 'forward contract' means a contract to deliver a substantially fixed amount of property for a substantially fixed price.

"(2) OFFSETTING NOTIONAL PRINCIPAL CONTRACT.—The term 'offsetting notional principal contract' means, with respect to any property, an agreement which includes—

"(A) a requirement to pay (or provide credit for) all or substantially all of the investment yield (including appreciation) on such property for a specified period, and

"(B) a right to be reimbursed for (or receive credit for) all or substantially all of any decline in the value of such property.

"(e) SPECIAL RULES.—

"(1) TREATMENT OF SUBSEQUENT SALE OF POSITION WHICH WAS DEEMED SOLD.—If—

"(A) there is a constructive sale of any appreciated financial position,

"(B) such position is subsequently disposed of, and

"(C) at the time of such disposition, the transaction resulting in the constructive sale of such position is open with respect to the taxpayer or any related person,

solely for purposes of determining whether the taxpayer has entered into a constructive sale of any other appreciated financial position held by the taxpayer, the taxpayer shall be treated as entering into such transaction immediately after such disposition. For purposes of the preceding sentence, an assignment or other termination shall be treated as a disposition.

"(2) CERTAIN TRUST INSTRUMENTS TREATED AS STOCK.—For purposes of this section, an interest *in a trust which is actively traded (within the meaning of section 1092(d)(1)) shall be treated as stock.*

"(3) MULTIPLE POSITIONS IN PROPERTY.—If a taxpayer holds multiple positions in property, the determination of whether a specific transaction is a constructive sale and, if so, which appreciated financial position is deemed sold shall be made in the same manner as actual sales.

"(f) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.".

(b) ELECTION OF MARK TO MARKET FOR SECURITIES TRADERS AND FOR TRADERS AND DEALERS IN COMMODITIES.—Subsection (d) of section 475 (relating to mark to market accounting method for dealers in securities) is amended by adding at the end the following new paragraph:

"(4) ELECTION OF MARK TO MARKET FOR SECURITIES TRADERS AND FOR TRADERS AND DEALERS IN COMMODITIES.—

"(A) IN GENERAL.—In the case of a person—

"(i) who is engaged in a trade or business to which this paragraph applies, and

"(ii) who elects to be treated as a dealer in securities for purposes of this section with respect to such trade or business,

subsections (a), (b)(3), (c)(3), and (e) and the preceding provisions of this subsection (or, in the case of a dealer in commodities, this section) shall apply to all commodities and securities held by such person in any trade or business with respect to which such election is in effect in the same manner as if such person were a dealer in securities and all references to securities included references to commodities.

"(B) APPLICATION OF PARAGRAPH.—This paragraph shall apply to any active trade or business—

"(i) as a trader in securities, or

"(ii) as a trader or dealer in commodities.

"(C) EXCEPTION FOR CERTAIN HOLDINGS OF TRADERS.—In the case of a trader in securities or commodities, subsection (a) shall not apply to any security or commodity (to which subsection (a) would otherwise apply solely by reason of this paragraph) if such security or commodity is clearly identified in the trader's records (before the close of the day applicable under subsection (b)(2)) as being held other than in a trade or business to which the election under subparagraph (A) is in effect. A security or commodity so identified shall be treated as described in subsection (b)(1).

"(D) COMMODITY.—For purposes of this paragraph, the term 'commodities' includes only commodities of a kind customarily dealt in on an organized commodity exchange.

"(E) ELECTION.—An election under this paragraph may be made separately for each trade or business and without the consent of the Secretary. Such an election, once made, shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.".

(c) CLERICAL AMENDMENT.—The table of sections for part IV of subchapter P of chapter 1 is amended by adding at the end the following new item:

"Sec. 1259. Constructive sales treatment for appreciated financial positions.".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to any constructive sale after June 8, 1997.

(2) EXCEPTION FOR SALES OF POSITIONS, ETC. HELD BEFORE JUNE 9, 1997.—A constructive sale before June 9, 1997, and the property to which the position involved in the transaction relates, shall not be taken into account in determining whether any other constructive sale after June 8, 1997, has occurred if, within before the close of the 30-day period beginning on the date of the enactment of this Act, such position and property are clearly identified in the taxpayer's records as offsetting. The preceding sentence shall cease to apply as of the date the taxpayer ceases to hold such position or property.

(3) SPECIAL RULE.—In the case of a decedent dying after June 8, 1997, if—

(A) there was a constructive sale on or before such date of any appreciated financial position,

(B) the transaction resulting in such constructive sale of such position remains open (with respect to the decedent or any related person) for not less than 2 years after the date of such transaction (whether such period is before or after June 8, 1997), and

(C) such transaction is not closed within the 30-day period beginning on the date of the enactment of this Act,

then, for purposes of such Code, such position (and any property related thereto, as determined under the principles of section 1259(d)(1) of such Code (as so added)) shall be treated as property constituting rights to receive an item of income in respect of a decedent under section 691 of such Code.

(4) ELECTION OF SECURITIES TRADERS, AND FOR TRADERS AND DEALERS IN COMMODITIES, TO BE TREATED AS DEALERS IN SECURITIES.—

(A) IN GENERAL.—The amendment made by subsection (b) shall apply to taxable years ending after the date of the enactment of this Act.

(B) 4-YEAR SPREAD OF ADJUSTMENTS.—In the case of a taxpayer who elects under section 475(d)(4) of the Internal Revenue Code of 1986 (as added by this section) to change its method of accounting for its first taxable year ending after the date of the enactment of this Act, the net amount of the adjustments required to be taken into account by the taxpayer under section 481 of the Internal Revenue Code of 1986 shall be taken into account ratably over the 4-taxable year period beginning with such first taxable year.

SEC. 802. LIMITATION ON EXCEPTION FOR INVESTMENT COMPANIES UNDER SECTION 351.

(a) IN GENERAL.—Paragraph (1) of section 351(e) (relating to exceptions) is amended by adding at the end the following: "For purposes of the preceding sentence, the determination of whether a company is an investment company shall be made—

"(A) by taking into account all stock and securities held by the company, and

"(B) by treating as securities—

"(i) money,

"(ii) stocks and other equity interests in a corporation, evidences of indebtedness, options, forward or futures contracts, notional principal contracts and derivatives,

"(iii) any foreign currency,

"(iv) any interest in a real estate investment trust, a common trust fund, a regulated investment company, a publicly-traded partnership (as defined in section 7704(b)) or any other equity interest (other than in a corporation) which pursuant to its terms or any other arrangement is readily convertible into, or exchangeable for, any asset described in any preceding clause, this clause or clause (v) or (viii),

"(v) except to the extent provided in regulations prescribed by the Secretary, any interest in a precious metal, unless such metal is used or held in the active conduct of a trade or business after the contribution,

"(vi) except as otherwise provided in regulations prescribed by the Secretary, interests in any entity if substantially all of the assets of such entity consist (directly or indirectly) of any assets described in any preceding clause or clause (viii),

"(vii) to the extent provided in regulations prescribed by the Secretary, any interest in any entity not described in clause (vi), but only to the extent of the value of such interest that is attributable to assets listed in clauses (i) through (v) or clause (viii), or

"(viii) any other asset specified in regulations prescribed by the Secretary.

The Secretary may prescribe regulations that, under appropriate circumstances, treat any asset described in clauses (i) through (v) as not so listed.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to transfers after June 8, 1997, in taxable years ending after such date.

(2) BINDING CONTRACTS.—The amendment made by subsection (a) shall not apply to any transfer pursuant to a written binding contract in effect on June 8, 1997, that provides for the transfer of a fixed amount of property, and at all times thereafter before such transfer.

SEC. 803. GAINS AND LOSSES FROM CERTAIN TERMINATIONS WITH RESPECT TO PROPERTY.

(a) APPLICATION OF CAPITAL TREATMENT TO PROPERTY OTHER THAN PERSONAL PROPERTY.—

(1) IN GENERAL.—Paragraph (1) of section 1234A (relating to gains and losses from certain terminations) is amended by striking "personal property (as defined in section 1092(d)(1))" and inserting "property".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to terminations more than 30 days after the date of the enactment of this Act.

(b) APPLICATION OF CAPITAL TREATMENT, ETC. TO OBLIGATIONS ISSUED BY NATURAL PERSONS.—

(1) IN GENERAL.—Section 1271(b) is amended to read as follows:

"(b) EXCEPTION FOR CERTAIN OBLIGATIONS.—

"(1) IN GENERAL.—This section shall not apply to—

"(A) any obligation issued by a natural person before June 9, 1997, and

"(B) any obligation issued before July 2, 1982, by an issuer which is not a corporation and is not a government or political subdivision thereof.

"(2) TERMINATION.—Paragraph (1) shall not apply to any obligation acquired after June 8, 1997, unless the basis of the obligation in the hands of the acquirer is determined solely by reference to the adjusted basis of the obligation in the hands of the person from whom acquired.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of enactment of this Act.

Subtitle B—Corporate Organizations and Reorganizations

SEC. 811. TAX TREATMENT OF CERTAIN EXTRAORDINARY DIVIDENDS.

(a) TREATMENT OF EXTRAORDINARY DIVIDENDS IN EXCESS OF BASIS.—Paragraph (2) of section 1059(a) (relating to corporate shareholder's recognition of gain attributable to nontaxed portion of extraordinary dividends) is amended to read as follows:

"(2) AMOUNTS IN EXCESS OF BASIS.—If the nontaxed portion of such dividends exceeds such basis, such excess shall be treated as gain from the sale or exchange of such stock for the taxable year in which the extraordinary dividend is received.".

(b) TREATMENT OF REDEMPTIONS WHERE OPTIONS INVOLVED.—Paragraph (1) of section 1059(e) (relating to treatment of partial liquidations and non-pro rata redemptions) is amended to read as follows:

"(1) TREATMENT OF PARTIAL LIQUIDATIONS AND CERTAIN REDEMPTIONS.—Except as otherwise provided in regulations—

"(A) REDEMPTIONS.—In the case of any redemption of stock—

"(i) which is part of a partial liquidation (within the meaning of section 302(e)) of the redeeming corporation,

"(ii) which is not pro rata as to all shareholders, or

"(iii) which would not have been treated (in whole or in part) as a dividend if any options had not been taken into account under section 318(a)(4),

any amount treated as a dividend with respect to such redemption shall be treated as an extraordinary dividend to which paragraphs (1) and (2) of subsection (a) apply without regard to the period the taxpayer held such stock. In the case of a redemption described in clause (iii), only the basis in the stock redeemed shall be taken into account under subsection (a).

"(B) REORGANIZATIONS, ETC.—An exchange described in section 356 which is treated as a dividend shall be treated as a redemption of stock for purposes of applying subparagraph (A).".

(c) TIME FOR REDUCTION.—Paragraph (1) of section 1059(d) is amended to read as follows:

"(1) TIME FOR REDUCTION.—Any reduction in basis under subsection (a)(1) shall be treated as occurring at the beginning of the ex-dividend date of the extraordinary dividend to which the reduction relates.".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to distributions after May 3, 1995.

(2) TRANSITION RULE.—The amendments made by this section shall not apply to any distribution made pursuant to the terms of—

(A) a written binding contract in effect on May 3, 1995, and at all times thereafter before such distribution, or

(B) a tender offer outstanding on May 3, 1995.

(3) CERTAIN DIVIDENDS NOT PURSUANT TO CERTAIN REDEMPTIONS.—In determining whether the amendment made by subsection (a) applies to any extraordinary dividend other than a dividend treated as an extraordinary dividend under section 1059(e)(1) of the Internal Revenue Code of 1986 (as amended by this Act), paragraphs (1) and (2) shall be applied by substituting "September 13, 1995" for "May 3, 1995".

SEC. 812. APPLICATION OF SECTION 355 TO DISTRIBUTIONS FOLLOWED BY ACQUISITIONS AND TO INTRAGROUP TRANSACTIONS.

(a) DISTRIBUTIONS FOLLOWED BY ACQUISITIONS.—Section 355 (relating to distribution of stock and securities of a controlled corporation) is amended by adding at the end the following new subsection:

"(e) RECOGNITION OF GAIN WHERE CERTAIN DISTRIBUTIONS OF STOCK OR SECURITIES ARE FOLLOWED BY ACQUISITION.—

"(1) GENERAL RULE.—If there is a distribution to which this subsection applies, the following rules shall apply:

"(A) ACQUISITION OF CONTROLLED CORPORATION.—If there is an acquisition described in paragraph (2)(A)(ii) with respect to any controlled corporation, any stock or securities in the controlled corporation shall not be treated as qualified property for purposes of subsection (c)(2) of this section or section 361(c)(2).

"(B) ACQUISITION OF DISTRIBUTING CORPORATION.—If there is an acquisition described in paragraph (2)(A)(ii) with respect to the distributing corporation, the controlled corporation shall recognize gain in an amount equal to the amount of net gain which would be recognized if all the assets of the distributing corporation (immediately after the distribution) were sold (at such time) for fair market value. Any gain recognized under the preceding sentence shall be treated as long-term capital gain and shall be taken into account for the taxable year which includes the day after the date of such distribution.

"(2) DISTRIBUTIONS TO WHICH SUBSECTION APPLIES.—

"(A) IN GENERAL.—This subsection shall apply to any distribution—

"(i) to which this section (or so much of section 356 as relates to this section) applies, and

"(ii) which is part of a plan (or series of related transactions) pursuant to which 1 or more persons acquire directly or indirectly stock representing a 50-percent or greater interest in the distributing corporation or any controlled corporation.

"(B) PLAN PRESUMED TO EXIST IN CERTAIN CASES.—If 1 or more persons acquire directly or indirectly stock representing a 50-percent or greater interest in the distributing corporation or any controlled corporation during the 4-year period beginning on the date which is 2 years before the date of the distribution, such acquisition shall be treated as pursuant to a plan described in subparagraph (A)(ii) unless it is established that the distribution and the acquisition are not pursuant to a plan or series of related transactions.

"(C) COORDINATION WITH SUBSECTION (d).—This subsection shall not apply to any distribution to which subsection (d) applies.

"(3) SPECIAL RULES RELATING TO ACQUISITIONS.—

"(A) CERTAIN ACQUISITIONS NOT TAKEN INTO ACCOUNT.—Except as provided in regulations, the following acquisitions shall not be treated as described in paragraph (2)(A)(ii):

"(i) The acquisition of stock in any controlled corporation by the distributing corporation.

"(ii) The acquisition by a person of stock in any controlled corporation by reason of holding stock or securities in the distributing corporation.

"(iii) The acquisition by a person of stock in any successor corporation of the distributing corporation or any controlled corporation by reason of holding stock or securities in such distributing or controlled corporation.

"(iv) The acquisition of stock in a corporation if shareholders owning directly or indirectly stock possessing—

"(I) more than 50 percent of the total combined voting power of all classes of stock entitled to vote, and

"(II) more than 50 percent of the total value of shares of all classes of stock,

in the distributing corporation or any controlled corporation before such acquisition own indirectly stock possessing such vote and value in such distributing or controlled corporation after such acquisition.

This subparagraph shall not apply to any acquisition if the stock held before the acquisition was acquired pursuant to a plan (or series of related transactions) described in subparagraph (A)(ii).

"(B) ASSET ACQUISITIONS.—Except as provided in regulations, for purposes of this subsection, if the assets of the distributing corporation or any controlled corporation are acquired by a successor corporation in a transaction described in subparagraph (A), (C), or (D) of section 368(a)(1) or any other transaction specified in regulations by the Secretary, the shareholders (immediately before the acquisition) of the corporation acquiring such assets shall be treated as acquiring stock in the corporation from which the assets were acquired.

"(4) DEFINITION AND SPECIAL RULES.—For purposes of this subsection—

"(A) 50-PERCENT OR GREATER INTEREST.—The term '50-percent or greater interest' has the meaning given such term by subsection (d)(4).

"(B) DISTRIBUTIONS IN TITLE 11 OR SIMILAR CASE.—Paragraph (1) shall not apply to any distribution made in a title 11 or similar case (as defined in section 368(a)(3)).

"(C) AGGREGATION AND ATTRIBUTION RULES.—

"(i) AGGREGATION.—The rules of paragraph (7)(A) of subsection (d) shall apply.

"(ii) ATTRIBUTION.—Section 355(d)(8)(A) shall apply in determining whether a person holds stock or securities in any corporation.

"(D) SUCCESSORS AND PREDECESSORS.—For purposes of this subsection, any reference to a controlled corporation or a distributing corporation shall include a reference to any predecessor or successor of such corporation.

"(E) STATUTE OF LIMITATIONS.—If there is an acquisition to which paragraph (1) (A) or (B) applies—

"(i) the statutory period for the assessment of any deficiency attributable to any part of the gain recognized under this subsection by reason of such acquisition shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may by regulations prescribe) that such acquisition occurred, and

"(ii) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.

"(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection, including regulations—

"(A) providing for the application of this subsection where there is more than 1 controlled corporation,

"(B) treating 2 or more distributions as 1 distribution where necessary to prevent the avoidance of such purposes, and

"(C) providing for the application of rules similar to the rules of subsection (d)(6) where appropriate for purposes of paragraph (2)(B).".

(b) SPECIAL RULES FOR CERTAIN INTRAGROUP TRANSACTIONS.—

(1) SECTION 355 NOT TO APPLY.—Section 355, as amended by subsection (a), is amended by adding at the end the following new subsection:

"(f) SECTION NOT TO APPLY TO CERTAIN INTRAGROUP DISTRIBUTIONS.—Except as provided in regulations, this section (or so much of section 356 as relates to this section) shall not apply to the distribution of stock from 1 member of an affiliated group (as defined in section 1504(a)) to another member of such group if such distribution is part of a plan (or series of related transactions) described in subsection (e)(2)(A)(ii).".

(2) ADJUSTMENTS TO BASIS.—Section 358 (relating to basis to distributees) is amended by adding at the end the following new subsection:

"(g) ADJUSTMENTS IN INTRAGROUP TRANSACTIONS INVOLVING SECTION 355.—In the case of an exchange to which section 355 (or so much of section 356 as relates to section 355) applies and which involves the distribution of stock from 1 member of an affiliated group (as defined in section 1504(a)) to another member of such group, the Secretary may, notwithstanding any other provision of this section, provide adjustments to the adjusted basis of any stock which—

"(1) is in a corporation which is a member of such group, and

"(2) is held by another member of such group, to appropriately reflect the proper treatment of such distribution.".

(c) DETERMINATION OF CONTROL IN CERTAIN DIVISIVE TRANSACTIONS.—

(1) SECTION 351 TRANSACTIONS.—Section 351(c) (relating to special rule) is amended to read as follows:

"(c) SPECIAL RULES WHERE DISTRIBUTION TO SHAREHOLDERS.—In determining control for purposes of this section—

"(1) the fact that any corporate transferor distributes part or all of the stock in the corporation which it receives in the exchange to its

shareholders shall not be taken into account, and

"(2) if the requirements of section 355 are met with respect to such distribution, the shareholders shall be treated as in control of such corporation immediately after the exchange if the shareholders hold (immediately after the distribution) stock possessing—

"(A) more than 50 percent of the total combined voting power of all classes of stock of such corporation entitled to vote, and

"(B) more than 50 percent of the total value of shares of all classes of stock of such corporation.".

(2) D REORGANIZATIONS.—Section 368(a)(2)(H) (relating to special rule for determining whether certain transactions are qualified under paragraph (1)(D)) is amended to read as follows:

"(H) SPECIAL RULES FOR DETERMINING WHETHER CERTAIN TRANSACTIONS ARE QUALIFIED UNDER PARAGRAPH (1)(D).—For purposes of determining whether a transaction qualifies under paragraph (1)(D)—

"(i) in the case of a transaction with respect to which the requirements of subparagraphs (A) and (B) of section 354(b)(1) are met, the term 'control' has the meaning given such term by section 304(c), and

"(ii) in the case of a transaction with respect to which the requirements of section 355 are met, the shareholders described in paragraph (1)(D) shall be treated as having control of the corporation to which the assets are transferred if such shareholders hold (immediately after the transfer) stock possessing—

"(I) more than 50 percent of the total combined voting power of all classes of stock of such corporation entitled to vote, and

"(II) more than 50 percent of the total value of shares of all classes of stock of such corporation.".

(d) EFFECTIVE DATES.—

(1) SECTION 355 RULES.—The amendments made by subsections (a) and (b) shall apply to distributions after April 16, 1997.

(2) DIVISIVE TRANSACTIONS.—The amendments made by subsection (c) shall apply to transfers after the date of the enactment of this Act.

(3) TRANSITION RULE.—The amendments made by this section shall not apply to any distribution pursuant to an acquisition described in section 355(e)(2)(A)(ii) of the Internal Revenue Code of 1986 (or, in the case of the amendments made by subsection (c), any transfer) after April 16, 1997, if such acquisition or transfer is—

(A) made pursuant to a written agreement which was (subject to customary conditions) binding on such date and at all times thereafter,

(B) described in a ruling request submitted to the Internal Revenue Service on or before such date, or

(C) described on or before such date in a public announcement or in a filing with the Securities and Exchange Commission required solely by reason of the distribution.

This paragraph shall not apply to any written agreement, ruling request, or public announcement or filing unless it identifies the acquirer of the distributing corporation or any controlled corporation, or the transfer or transferee, whichever is applicable.

SEC. 813. TAX TREATMENT OF REDEMPTIONS INVOLVING RELATED CORPORATIONS.

(a) STOCK PURCHASES BY RELATED CORPORATIONS.—The last sentence of section 304(a)(1) (relating to acquisition by related corporation other than subsidiary) is amended to read as follows: "To the extent that such distribution is treated as a distribution to which section 301 applies, the transferor and the acquiring corporation shall be treated in the same manner as if the transferor had transferred the stock so acquired to the acquiring corporation in exchange for stock of the acquiring corporation in a transaction to which section 351(a) applies, and then the acquiring corporation had redeemed the stock it was treated as issuing in such transaction.".

(b) COORDINATION WITH SECTION 1059.—Clause (iii) of section 1059(e)(1)(A), as amended by this title, is amended to read as follows:

"(iii) which would not have been treated (in whole or in part) as a dividend if—

"(I) any options had not been taken into account under section 318(a)(4), or

"(II) section 304(a) had not applied,".

(c) SPECIAL RULE FOR ACQUISITIONS BY FOREIGN CORPORATIONS.—Section 304(b) (relating to special rules for application of subsection (a)) is amended by adding at the end the following new paragraph:

"(5) ACQUISITIONS BY FOREIGN CORPORATIONS.—

"(A) IN GENERAL.—In the case of any acquisition to which subsection (a) applies in which the acquiring corporation is a foreign corporation, the only earnings and profits taken into account under paragraph (2)(A) shall be those earnings and profits—

"(i) which are attributable (under regulations prescribed by the Secretary) to stock of the acquiring corporation owned (within the meaning of section 958(a)) by a corporation or individual which is—

"(I) a United States shareholder (within the meaning of section 951(b)) of the acquiring corporation, and

"(II) the transferor or a person who bears a relationship to the transferor described in section 267(b) or 707(b), and

"(ii) which were accumulated during the period or periods such stock was owned by such person while the acquiring corporation was a controlled foreign corporation.

"(B) APPLICATION OF SECTION 1248.—For purposes of subparagraph (A), the rules of section 1248(d) shall apply except to the extent otherwise provided by the Secretary.

"(C) REGULATIONS.—The Secretary shall prescribe such regulations as are appropriate to carry out the purposes of this paragraph.".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to distributions and acquisitions after June 8, 1997.

(2) TRANSITION RULE.—The amendments made by this section shall not apply to any distribution or acquisition after June 8, 1997, if such distribution or acquisition is—

(A) made pursuant to a written agreement which was binding on such date and at all times thereafter,

(B) described in a ruling request submitted to the Internal Revenue Service on or before such date, or

(C) described in a public announcement or filing with the Securities and Exchange Commission on or before such date.

SEC. 814. MODIFICATION OF HOLDING PERIOD APPLICABLE TO DIVIDENDS RECEIVED DEDUCTION.

(a) IN GENERAL.—Subparagraph (A) of section 246(c)(1) is amended to read as follows:

"(A) which is held by the taxpayer for 45 days or less during the 90-day period beginning on the date which is 45 days before the date on which such share becomes ex-dividend with respect to such dividend, or".

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 246(c) is amended to read as follows:

"(2) 90-DAY RULE IN THE CASE OF CERTAIN PREFERENCE DIVIDENDS.—In the case of stock having preference in dividends, if the taxpayer receives dividends with respect to such stock which are attributable to a period or periods aggregating in excess of 366 days, paragraph (1)(A) shall be applied—

"(A) by substituting '90 days' for '45 days' each place it appears, and

"(B) by substituting '180-day period' for '90-day period'.".

(2) Paragraph (3) of section 246(c) is amended by adding "and" at the end of subparagraph (A), by striking subparagraph (B), and by redesignating subparagraph (C) as subparagraph (B).

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to dividends received or accrued after the 30th day after the date of the enactment of this Act.

(2) TRANSITIONAL RULE.—The amendments made by this section shall not apply to dividends received or accrued during the 2-year period beginning on the date of the enactment of this Act if—

(A) the dividend is paid with respect to stock held by the taxpayer on June 8, 1997, and all times thereafter until the dividend is received,

(B) such stock is continuously subject to a position described in section 246(c)(4) of the Internal Revenue Code of 1986 on June 8, 1997, and all times thereafter until the dividend is received, and

(C) such stock and position are clearly identified in the taxpayer's records within 30 days after the date of the enactment of this Act.

Stock shall not be treated as meeting the requirement of subparagraph (B) if the position is sold, closed, or otherwise terminated and reestablished.

Subtitle C—Other Corporate Provisions

SEC. 821. REGISTRATION AND OTHER PROVISIONS RELATING TO CONFIDENTIAL CORPORATE TAX SHELTERS.

(a) IN GENERAL.—Section 6111 (relating to registration of tax shelters) is amended by redesignating subsections (d) and (e) as subsections (e) and (f), respectively, and by inserting after subsection (c) the following new subsection:

"(d) CERTAIN CONFIDENTIAL ARRANGEMENTS TREATED AS TAX SHELTERS.—

"(1) IN GENERAL.—For purposes of this section, the term 'tax shelter' includes any entity, plan, arrangement, or transaction—

"(A) a significant purpose of the structure of which is the avoidance or evasion of Federal income tax for a direct or indirect participant which is a corporation,

"(B) which is offered to any potential participant under conditions of confidentiality, and

"(C) for which the tax shelter promoters may receive fees in excess of $100,000 in the aggregate.

"(2) CONDITIONS OF CONFIDENTIALITY.—For purposes of paragraph (1)(B), an offer is under conditions of confidentiality if—

"(A) the potential participant to whom the offer is made (or any other person acting on behalf of such participant) has an understanding or agreement with or for the benefit of any promoter of the tax shelter that such participant (or such other person) will limit disclosure of the tax shelter or any significant tax features of the tax shelter, or

"(B) any promoter of the tax shelter—

"(i) claims, knows, or has reason to know,

"(ii) knows or has reason to know that any other person (other than the potential participant) claims, or

"(iii) causes another person to claim,

that the tax shelter (or any aspect thereof) is proprietary to any person other than the potential participant or is otherwise protected from disclosure to or use by others.

For purposes of this subsection, the term 'promoter' means any person or any related person (within the meaning of section 267 or 707) who participates in the organization, management, or sale of the tax shelter.

"(3) PERSONS OTHER THAN PROMOTER REQUIRED TO REGISTER IN CERTAIN CASES.—

"(A) IN GENERAL.—If—

"(i) the requirements of subsection (a) are not met with respect to any tax shelter (as defined in paragraph (1)) by any tax shelter promoter, and

"(ii) no tax shelter promoter is a United States person,

then each United States person who discussed participation in such shelter shall register such shelter under subsection (a).

"(B) EXCEPTION.—Subparagraph (A) shall not apply to a United States person who discussed participation in a tax shelter if—

"(i) such person notified the promoter in writing (not later than the close of the 90th day after the day on which such discussions began) that such person would not participate in such shelter, and

"(ii) such person does not participate in such shelter.

"(4) OFFER TO PARTICIPATE TREATED AS OFFER FOR SALE.—For purposes of subsections (a) and (b), an offer to participate in a tax shelter (as defined in paragraph (1)) shall be treated as an offer for sale.".

(b) PENALTY.—Subsection (a) of section 6707 (relating to failure to furnish information regarding tax shelters) is amended by adding at the end the following new paragraph:

"(3) CONFIDENTIAL ARRANGEMENTS.—

"(A) IN GENERAL.—In the case of a tax shelter (as defined in section 6111(d)), the penalty imposed under paragraph (1) shall be an amount equal to the greater of—

"(i) 50 percent of the fees paid to all promoters of the tax shelter with respect to offerings made before the date such shelter is registered under section 6111, or

"(ii) $10,000.

Clause (i) shall be applied by substituting '75 percent' for '50 percent' in the case of an intentional failure or act described in paragraph (1).

"(B) SPECIAL RULE FOR PARTICIPANTS REQUIRED TO REGISTER SHELTER.—In the case of a person required to register such a tax shelter by reason of section 6111(d)(3)—

"(i) such person shall be required to pay the penalty under paragraph (1) only if such person actually participated in such shelter,

"(ii) the amount of such penalty shall be determined by taking into account under subparagraph (A)(i) only the fees paid by such person, and

"(iii) such penalty shall be in addition to the penalty imposed on any other person for failing to register such shelter.".

(c) MODIFICATIONS TO SUBSTANTIAL UNDERSTATEMENT PENALTY.—

(1) RESTRICTION ON REASONABLE BASIS FOR CORPORATE UNDERSTATEMENT OF INCOME TAX.—Subparagraph (B) of section 6662(d)(2) is amended by adding at the end the following new flush sentence:

"For purposes of clause (ii)(II), in no event shall a corporation be treated as having a reasonable basis for its tax treatment of an item attributable to a multiple-party financing transaction if such treatment does not clearly reflect the income of the corporation.".

(2) MODIFICATION TO DEFINITION OF TAX SHELTER.—Clause (iii) of section 6662(d)(2)(C) is amended by striking "the principal purpose" and inserting "a significant purpose".

(d) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 6707(a) is amended by striking "The penalty" and inserting "Except as provided in paragraph (3), the penalty".

(2) Subparagraph (A) of section 6707(a)(1) is amended by striking "paragraph (2)" and inserting "paragraph (2) or (3), as the case may be".

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to any tax shelter (as defined in section 6111(d) of the Internal Revenue Code of 1986, as amended by this section) interests in which are offered to potential participants after the Secretary of the Treasury prescribes guidance with respect to meeting requirements added by such amendments.

(2) MODIFICATIONS TO SUBSTANTIAL UNDERSTATEMENT PENALTY.—The amendments made by subsection (c) shall apply to items with respect to transactions entered into after the date of the enactment of this Act.

SEC. 822. CERTAIN PREFERRED STOCK TREATED AS BOOT.

(a) SECTION 351.—Section 351 (relating to transfer to corporation controlled by transferor) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) NONQUALIFIED PREFERRED STOCK NOT TREATED AS STOCK.—

"(1) IN GENERAL.—For purposes of subsections (a) and (b), the term 'stock' shall not include nonqualified preferred stock.

"(2) NONQUALIFIED PREFERRED STOCK.—For purposes of paragraph (1)—

"(A) IN GENERAL.—The term 'nonqualified preferred stock' means preferred stock if—

"(i) the holder of such stock has the right to require the issuer or a related person to redeem or purchase the stock,

"(ii) the issuer or a related person is required to redeem or purchase such stock,

"(iii) the issuer or a related person has the right to redeem or purchase the stock and, as of the issue date, it is more likely than not that such right will be exercised, or

"(iv) the dividend rate on such stock varies in whole or in part (directly or indirectly) with reference to interest rates, commodity prices, or other similar indices.

"(B) LIMITATIONS.—Clauses (i), (ii), and (iii) of subparagraph (A) shall apply only if the right or obligation referred to therein may be exercised within the 20-year period beginning on the issue date of such stock and such right or obligation is not subject to a contingency which, as of the issue date, makes remote the likelihood of the redemption or purchase.

"(C) EXCEPTIONS FOR CERTAIN RIGHTS OR OBLIGATIONS.—

"(i) IN GENERAL.—A right or obligation shall not be treated as described in clause (i), (ii), or (iii) of subparagraph (A) if—

"(I) it may be exercised only upon the death, disability, or mental incompetency of the holder, or

"(II) in the case of a right or obligation to redeem or purchase stock transferred in connection with the performance of services for the issuer or a related person (and which represents reasonable compensation), it may be exercised only upon the holder's separation from service from the issuer or a related person.

"(ii) EXCEPTION.—Clause (i)(I) shall not apply if the stock relinquished in the exchange, or the stock acquired in the exchange is in—

"(I) a corporation if any class of stock in such corporation or a related party is readily tradable on an established securities market or otherwise, or

"(II) any other corporation if such exchange is part of a transaction or series of transactions in which such corporation is to become a corporation described in subclause (I).

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) PREFERRED STOCK.—The term 'preferred stock' means stock which is limited and preferred as to dividends and does not participate (including through a conversion privilege) in corporate growth to any significant extent.

"(B) RELATED PERSON.—A person shall be treated as related to another person if they bear a relationship to such other person described in section 267(b) or 707(b).

"(4) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection and sections 354(a)(2)(C), 355(a)(3)(D), and 356(e). The Secretary may also prescribe regulations, consistent with the treatment under this subsection and such sections, for the treatment of nonqualified preferred stock under other provisions of this title.".

(b) SECTION 354.—Paragraph (2) of section 354(a) (relating to exchanges of stock and securities in certain reorganizations) is amended by adding at the end the following new subparagraph:

"(C) NONQUALIFIED PREFERRED STOCK.—

"(i) IN GENERAL.—Nonqualified preferred stock (as defined in section 351(g)(2)) received in exchange for stock other than nonqualified preferred stock (as so defined) shall not be treated as stock or securities.

"(ii) RECAPITALIZATIONS OF FAMILY-OWNED CORPORATIONS.—

"(I) IN GENERAL.—Clause (i) shall not apply in the case of a recapitalization under section 368(a)(1)(E) of a family-owned corporation.

"(II) FAMILY-OWNED CORPORATION.—For purposes of this clause, except as provided in regulations, the term 'family-owned corporation' means any corporation which is described in clause (i) of section 447(d)(2)(C) throughout the 8-year period beginning on the date which is 5 years before the date of the recapitalization. For purposes of the preceding sentence, stock shall not be treated as owned by a family member during any period described in section 355(d)(6)(B).".

(c) SECTION 355.—Paragraph (3) of section 355(a) is amended by adding at the end the following new subparagraph:

"(D) NONQUALIFIED PREFERRED STOCK.—Nonqualified preferred stock (as defined in section 351(g)(2)) received in a distribution with respect to stock other than nonqualified preferred stock (as so defined) shall not be treated as stock or securities.".

(d) SECTION 356.—Section 356 is amended by redesignating subsections (e) and (f) as subsections (f) and (g), respectively, and by inserting after subsection (d) the following new subsection:

"(e) NONQUALIFIED PREFERRED STOCK TREATED AS OTHER PROPERTY.—For purposes of this section—

"(1) IN GENERAL.—Except as provided in paragraph (2), the term 'other property' includes nonqualified preferred stock (as defined in section 351(g)(2)).

"(2) EXCEPTION.—The term 'other property' does not include nonqualified preferred stock (as so defined) to the extent that, under section 354 or 355, such preferred stock would be permitted to be received without the recognition of gain.".

(e) CONFORMING AMENDMENTS.—

(1) Subparagraph (B) of section 354(a)(2) and subparagraph (C) of section 355(a)(3)(C) are each amended by inserting "(including nonqualified preferred stock, as defined in section 351(g)(2))" after "stock".

(2) Subparagraph (A) of section 354(a)(3) and subparagraph (A) of section 355(a)(4) are each amended by inserting "nonqualified preferred stock and" after "including".

(3) Section 1036 is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

"(b) NONQUALIFIED PREFERRED STOCK NOT TREATED AS STOCK.—For purposes of this section, nonqualified preferred stock (as defined in section 351(g)(2)) shall be treated as property other than stock.".

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to transactions after June 8, 1997.

(2) TRANSITION RULE.—The amendments made by this section shall not apply to any transaction after June 8, 1997, if such transaction is—

(A) made pursuant to a written agreement which was binding on such date and at all times thereafter,

(B) described in a ruling request submitted to the Internal Revenue Service on or before such date, or

(C) described on or before such date in a public announcement or in a filing with the Securities and Exchange Commission required solely by reason of the transaction.

Subtitle D—Administrative Provisions

SEC. 831. DECREASE OF THRESHOLD FOR REPORTING PAYMENTS TO CORPORATIONS PERFORMING SERVICES FOR FEDERAL AGENCIES.

(a) IN GENERAL.—Subsection (d) of section 6041A (relating to returns regarding payments of remuneration for services and direct sales) is amended by adding at the end the following new paragraph:

"(3) PAYMENTS TO CORPORATIONS BY FEDERAL EXECUTIVE AGENCIES.—

"(A) IN GENERAL.—Notwithstanding any regulation prescribed by the Secretary before the date of the enactment of this paragraph, subsection (a) shall apply to remuneration paid to a corporation by any Federal executive agency (as defined in section 6050M(b)).

"(B) EXCEPTION.—Subparagraph (A) shall not apply to—

"(i) services under contracts described in section 6050M(e)(3) with respect to which the requirements of section 6050M(e)(2) are met, and

"(ii) such other services as the Secretary may specify in regulations prescribed after the date of the enactment of this paragraph.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to returns the due date for which (determined without regard to any extension) is more than 90 days after the date of the enactment of this Act.

SEC. 832. DISCLOSURE OF RETURN INFORMATION FOR ADMINISTRATION OF CERTAIN VETERANS PROGRAMS.

(a) GENERAL RULE.—Subparagraph (D) of section 6103(l)(7) (relating to disclosure of return information to Federal, State, and local agencies administering certain programs) is amended by striking "Clause (viii) shall not apply after September 30, 1998.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 833. RETURNS OF BENEFICIARIES OF ESTATES AND TRUSTS REQUIRED TO FILE RETURNS CONSISTENT WITH ESTATE OR TRUST RETURN OR TO NOTIFY SECRETARY OF INCONSISTENCY.

(a) DOMESTIC ESTATES AND TRUSTS.—Section 6034A (relating to information to beneficiaries of estates and trusts) is amended by adding at the end the following new subsection:

"(c) BENEFICIARY'S RETURN MUST BE CONSISTENT WITH ESTATE OR TRUST RETURN OR SECRETARY NOTIFIED OF INCONSISTENCY.—

"(1) IN GENERAL.—A beneficiary of any estate or trust to which subsection (a) applies shall, on such beneficiary's return, treat any reported item in a manner which is consistent with the treatment of such item on the applicable entity's return.

"(2) NOTIFICATION OF INCONSISTENT TREATMENT.—

"(A) IN GENERAL.—In the case of any reported item, if—

"(i)(I) the applicable entity has filed a return but the beneficiary's treatment on such beneficiary's return is (or may be) inconsistent with the treatment of the item on the applicable entity's return, or

"(II) the applicable entity has not filed a return, and

"(ii) the beneficiary files with the Secretary a statement identifying the inconsistency,

paragraph (1) shall not apply to such item.

"(B) BENEFICIARY RECEIVING INCORRECT INFORMATION.—A beneficiary shall be treated as having complied with clause (ii) of subparagraph (A) with respect to a reported item if the beneficiary—

"(i) demonstrates to the satisfaction of the Secretary that the treatment of the reported item on the beneficiary's return is consistent with the treatment of the item on the statement furnished under subsection (a) to the beneficiary by the applicable entity, and

"(ii) elects to have this paragraph apply with respect to that item.

"(3) EFFECT OF FAILURE TO NOTIFY.—In any case—

"(A) described in subparagraph (A)(i)(I) of paragraph (2), and

"(B) in which the beneficiary does not comply with subparagraph (A)(ii) of paragraph (2),

any adjustment required to make the treatment of the items by such beneficiary consistent with the treatment of the items on the applicable entity's return shall be treated as arising out of mathematical or clerical errors and assessed according to section 6213(b)(1). Paragraph (2) of section 6213(b) shall not apply to any assessment referred to in the preceding sentence.

"(4) DEFINITIONS.—For purposes of this subsection—

"(A) REPORTED ITEM.—The term 'reported item' means any item for which information is required to be furnished under subsection (a).

"(B) APPLICABLE ENTITY.—The term 'applicable entity' means the estate or trust of which the taxpayer is the beneficiary.

"(5) ADDITION TO TAX FOR FAILURE TO COMPLY WITH SECTION.—For addition to tax in the case of a beneficiary's negligence in connection with, or disregard of, the requirements of this section, see part II of subchapter A of chapter 68.".

(b) FOREIGN TRUSTS.—Subsection (d) of section 6048 (relating to information with respect to certain foreign trusts) is amended by adding at the end the following new paragraph:

"(5) UNITED STATES PERSON'S RETURN MUST BE CONSISTENT WITH TRUST RETURN OR SECRETARY NOTIFIED OF INCONSISTENCY.—Rules similar to the rules of section 6034A(c) shall apply to items reported by a trust under subsection (b)(1)(B) and to United States persons referred to in such subsection.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns of beneficiaries and owners filed after the date of the enactment of this Act.

SEC. 834. CONTINUOUS LEVY ON CERTAIN PAYMENTS.

(a) IN GENERAL.—Section 6331 (relating to levy and distraint) is amended—

(1) by redesignating subsection (h) as subsection (i), and

(2) by inserting after subsection (g) the following new subsection:

"(h) CONTINUING LEVY ON CERTAIN PAYMENTS.—

"(1) IN GENERAL.—The effect of a levy on specified payments to or received by a taxpayer shall be continuous from the date such levy is first made until such levy is released. Notwithstanding section 6334, such continuous levy shall attach to up to 15 percent of any specified payment due to the taxpayer.

"(2) SPECIFIED PAYMENT.—For the purposes of paragraph (1), the term 'specified payment' means—

"(A) any Federal payment other than a payment for which eligibility is based on the income or assets (or both) of a payee, and

"(B) any payment described in paragraph (4), (7), (9), or (11) of section 6334(a).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to levies issued after the date of the enactment of this Act.

SEC. 835. MODIFICATION OF LEVY EXEMPTION.

(a) IN GENERAL.—Section 6334 (relating to property exempt from levy) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) LEVY ALLOWED ON CERTAIN SPECIFIED PAYMENTS.—Any payment described in subparagraph (B) of section 6331(h)(2) shall not be exempt from levy if the Secretary approves the levy thereon under section 6331(h).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to levies issued after the date of the enactment of this Act.

SEC. 836. CONFIDENTIALITY AND DISCLOSURE OF RETURNS AND RETURN INFORMATION.

(a) IN GENERAL.—Subsection (k) of section 6103 is amended by adding at the end the following new paragraph:

"(8) LEVIES ON CERTAIN GOVERNMENT PAYMENTS.—

"(A) DISCLOSURE OF RETURN INFORMATION IN LEVIES ON FINANCIAL MANAGEMENT SERVICE.—In serving a notice of levy, or release of such levy, with respect to any applicable government payment, the Secretary may disclose to officers and employees of the Financial Management Service—

"(i) return information, including taxpayer identity information,

"(ii) the amount of any unpaid liability under this title (including penalties and interest), and

"(iii) the type of tax and tax period to which such unpaid liability relates.

"(B) RESTRICTION ON USE OF DISCLOSED INFORMATION.—Return information disclosed under subparagraph (A) may be used by officers and employees of the Financial Management Service only for the purpose of, and to the extent necessary in, transferring levied funds in satisfaction of the levy, maintaining appropriate agency records in regard to such levy or the release thereof, notifying the taxpayer and the agency certifying such payment that the levy has been honored, or in the defense of any litigation ensuing from the honor of such levy.

"(C) APPLICABLE GOVERNMENT PAYMENT.—For purposes of this paragraph, the term 'applicable government payment' means—

"(i) any Federal payment (other than a payment for which eligibility is based on the income or assets (or both) of a payee) certified to the Financial Management Service for disbursement, and

"(ii) any other payment which is certified to the Financial Management Service for disbursement and which the Secretary designates by published notice.".

(b) CONFORMING AMENDMENTS.—

(1) Section 6301(p) is amended—

(A) in paragraph (3)(A), by striking "(2), or (6)" and inserting "(2), (6), or (8)", and

(B) in paragraph (4), by inserting "(k)(8)," after "(j) (1) or (2)," each place it appears.

(2) Section 552a(a)(8)(B) of title 5, United States Code, is amended by striking "or" at the end of clause (v), by adding "or" at the end of clause (vi), and by adding at the end the following new clause:

"(vii) matches performed incident to a levy described in section 6103(k)(8) of the Internal Revenue Code of 1986;".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to levies issued after the date of the enactment of this Act.

Subtitle E—Excise Tax Provisions

SEC. 841. EXTENSION AND MODIFICATION OF AIRPORT AND AIRWAY TRUST FUND TAXES.

(a) FUEL TAXES.—

(1) AVIATION FUEL.—Clause (ii) of section 4091(b)(3)(A) is amended by striking "September 30, 1997" and inserting "September 30, 2007".

(2) AVIATION GASOLINE.—Subparagraph (B) of section 4081(d)(2) is amended by striking "September 30, 1997" and inserting "September 30, 2007".

(3) NONCOMMERCIAL AVIATION.—Subparagraph (B) of section 4041(c)(3) is amended by striking "September 30, 1997" and inserting "September 30, 2007".

(b) TICKET TAXES.—

(1) PERSONS.—Clause (ii) of section 4261(g)(1)(A) is amended by striking "September 30, 1997" and inserting "September 30, 2007".

(2) PROPERTY.—Clause (ii) of section 4271(d)(1)(A) is amended by striking "September 30, 1997" and inserting "September 30, 2007".

(c) MODIFICATIONS.—

(1) USE OF INTERNATIONAL TRAVEL FACILITIES.—Subsection (c) of section 4261 is amended to read as follows:

"(c) USE OF INTERNATIONAL TRAVEL FACILITIES.—

"(1) IN GENERAL.—There is hereby imposed a tax of $8 on any amount paid (whether within or without the United States) for any transportation of any person by air, if such transportation begins or ends in the United States.

"(2) EXCEPTION FOR TRANSPORTATION ENTIRELY TAXABLE UNDER SUBSECTION (a).—This subsection shall not apply to any transportation all of which is taxable under subsection (a) (determined without regard to sections 4281 and 4282).

"(3) SPECIAL RULE FOR ALASKA AND HAWAII.—In any case in which the tax imposed by paragraph (1) applies to a segment between the continental United States and Alaska or Hawaii or between Alaska and Hawaii, such tax shall apply only to departures and shall be at the rate of $6.".

(2) SPECIAL RULES.—Section 4261 is amended by redesignating subsections (e), (f), and (g), as subsections (f), (g), and (h), respectively, and by inserting after subsection (d) the following new subsection:

"(e) SPECIAL RULES.—

"(1) APPLICATION OF SUBSECTION (a) TO DOMESTIC SEGMENTS OF INTERNATIONAL TRANSPORTATION.—

"(A) IN GENERAL.—In the case of taxable transportation described in section 4262(a)(2), the tax imposed by subsection (a) shall be applied by taking into account only an amount which bears the same ratio to the amount paid for such transportation as the number of specified miles in the domestic segments of such transportation bears to the total number of specified miles in such transportation.

"(B) SPECIFIED MILES.—For purposes of subparagraph (A), the term 'specified miles' means the great circle miles (as specified by the Secretary) between the 2 points of each segment. The Secretary may specify mileage which shall apply in lieu of the mileage determined under the preceding sentence with respect to any 2 points if the Secretary determines that the mileage on the route customarily traveled by air between such points is different from the mileage determined under the preceding sentence.

"(C) DOMESTIC SEGMENT.—For purposes of this section, the term 'domestic segment' means any segment which is taxable transportation described in section 4262(a)(1).

"(2) REDUCED RATE OF TAX FOR SEGMENTS TO AND FROM RURAL AIRPORTS.—

"(A) IN GENERAL.—Subsections (a) and (b) shall be applied by substituting '7.5 percent' for '10 percent' in the case of any segment beginning or ending at an airport which is a rural airport for the calendar year in which such segment begins or ends (as the case may be).

"(B) RURAL AIRPORT.—For purposes of subparagraph (A), the term 'rural airport' means, with respect to any calendar year, any airport if—

"(i) there were fewer than 100,000 commercial passengers departing by air during the second preceding calendar year from such airport, and

"(ii) such airport—

"(I) is not located within 75 miles of another airport which is not described in clause (i), or

"(II) is receiving essential air service subsidies as of the date of the enactment of this paragraph.

"(C) TRANSPORTATION INVOLVING MULTIPLE SEGMENTS.—In the case of transportation involving more than 1 segment at least 1 of which does not begin or end at a rural airport, subparagraph (A) shall be applied by taking into account only an amount which bears the same ratio to the amount paid for such transportation as the number of specified miles in segments which begin or end at a rural airport bears to the total number of specified miles in such transportation.

"(3) AMOUNTS PAID FOR RIGHT TO AWARD FREE OR REDUCED RATE AIR TRANSPORTATION.—Any amount paid (or other benefit provided) to an air carrier (or any related person) for the right to provide mileage awards for (or other reductions in the cost of) any transportation of persons by air shall be treated for purposes of subsection (a) as an amount paid for taxable transportation, and such amount shall be taxable under subsection (a) without regard to any other provision of this subchapter. The Secretary shall prescribe rules which reallocate items of income, deduction, credit, exclusion, or other allowance to the extent necessary to prevent the avoidance of tax imposed by reason of this paragraph.".

(3) SECONDARY LIABILITY OF CARRIER FOR UNPAID TAX.—Subsection (c) of section 4263 is amended by striking "subchapter—" and all that follows and inserting "subchapter, such tax shall be paid by the carrier providing the initial segment of such transportation which begins or ends in the United States.".

(4) TECHNICAL AMENDMENTS.—

(A) Paragraph (2) of section 4262(a) is amended by striking "United States, but" and all that follows and inserting "United States.".

(B) Subsection (c) of section 4262 is amended by striking paragraph (3).

(d) EFFECTIVE DATES.—

(1) FUEL TAXES.—The amendments made by subsection (a) shall apply take effect on October 1, 1997.

(2) TICKET TAXES.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the amendments made by subsections (b) and (c) shall apply to transportation beginning on or after October 1, 1997.

(B) TREATMENT OF AMOUNTS PAID FOR TICKETS PURCHASED BEFORE DATE OF ENACTMENT.—The amendments made by subsection (c) shall not apply to amounts paid for a ticket purchased before the date of the enactment of this Act for a specified flight beginning on or after October 1, 1997.

(C) AMOUNTS PAID FOR RIGHT TO AWARD MILEAGE AWARDS.—

(i) IN GENERAL.—Paragraph (2) of section 4261(e) of the Internal Revenue Code of 1986 (as added by the amendment made by subsection (c)) shall apply to amounts paid after September 30, 1997.

(ii) PAYMENTS WITHIN CONTROLLED GROUP.—For purposes of clause (i), any amount paid after June 16, 1997, and before October 1, 1997, by 1 member of a controlled group for a right which is described in such section 4261(e)(2) and is furnished by another member of such group after September 30, 1997, shall be treated as paid after September 30, 1997. For purposes of the preceding sentence, all persons treated as a single employer under subsection (a) or (b) of section 52 of such Code shall be treated as members of a controlled group.

(e) DELAYED DEPOSITS OF AIRLINE TICKET TAX REVENUES.—In the case of deposits of taxes imposed by section 4261 of the Internal Revenue Code of 1986, the due date for any such deposit which would (but for this subsection) be required to be made—

(1) after August 14, 1997, and before October 1, 1997, shall be October 10, 1997, and

(2) after July 1, 2001, and before October 1, 2001, shall be October 10, 2001.

SEC. 842. RESTORATION OF LEAKING UNDERGROUND STORAGE TANK TRUST FUND TAXES.

Paragraph (3) of section 4081(d) is amended by striking "shall not apply after December 31, 1995" and inserting "shall apply after September 30, 1997, and before October 1, 2007".

SEC. 843. APPLICATION OF COMMUNICATIONS TAX TO LONG-DISTANCE PREPAID TELEPHONE CARDS.

(a) IN GENERAL.—Section 4251 is amended by adding at the end the following new subsection:

"(d) TREATMENT OF PREPAID TELEPHONE CARDS.—

"(1) IN GENERAL.—For purposes of this subchapter, in the case of communications services acquired by means of a prepaid telephone card—

"(A) the purchase of such card shall not be treated as an amount paid for communications services, but

"(B) the amount paid to any telephone carrier from any person who is not such a provider on account of the use of such a card to acquire communications services shall be treated as an amount paid for such communications services.

"(2) PREPAID TELEPHONE CARD.—For purposes of paragraph (1), the term 'prepaid telephone card' means any card or other similar arrangement which permits its holder to obtain communications services and pay for such services in advance.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid on or after the date of the enactment of this Act.

SEC. 844. UNIFORM RATE OF TAX ON VACCINES.

(a) IN GENERAL.—Subsection (b) of section 4131 is amended to read as follows:

"(b) AMOUNT OF TAX.—

"(1) IN GENERAL.—The amount of the tax imposed by subsection (a) shall be 84 cents per dose of any taxable vaccine.

"(2) COMBINATIONS OF VACCINES.—If any taxable vaccine is described in more than 1 subparagraph of section 4132(a)(1), the amount of the tax imposed by subsection (a) on such vaccine shall be the sum of the amounts for the vaccines which are so included.".

(b) TAXABLE VACCINES.—Paragraph (1) of section 4132(a) is amended to read as follows:

"(1) TAXABLE VACCINE.—The term 'taxable vaccine' means any of the following vaccines which are manufactured or produced in the United States or entered into the United States for consumption, use, or warehousing:

"(A) Any vaccine containing diphtheria toxoid.

"(B) Any vaccine containing tetanus toxoid.

"(C) Any vaccine containing pertussis bacteria, extracted or partial cell bacteria, or specific pertussis antigens.

"(D) Any vaccine against measles.

"(E) Any vaccine against mumps.

"(F) Any vaccine against rubella.

"(G) Any vaccine containing polio virus.

"(H) Any HIB vaccine.

"(I) Any vaccine against hepatitis B.

"(J) Any vaccine against chicken pox.".

(c) CONFORMING AMENDMENT.—Subsection (a) of section 4132 is amended by striking paragraphs (2), (3), and (4) and by redesignating paragraphs (5) through (8) as paragraphs (2) through (5), respectively.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1997.

(e) LIMITATION ON CERTAIN CREDITS OR REFUNDS.—For purposes of applying section 4132(b) of the Internal Revenue Code of 1986 with respect to any claim for credit or refund filed before April 1, 1998, the amount of tax taken into account shall not exceed the tax computed under the rate in effect on October 1, 1997.

SEC. 845. CREDIT FOR TIRE TAX IN LIEU OF EXCLUSION OF VALUE OF TIRES IN COMPUTING PRICE.

(a) IN GENERAL.—Subsection (e) of section 4051 is amended to read as follows:

"(e) CREDIT AGAINST TAX FOR TIRE TAX.—If—

"(1) tires are sold on or in connection with the sale of any article, and

"(2) tax is imposed by this subchapter on the sale of such tires,

there shall be allowed as a credit against the tax imposed by this subchapter an amount equal to the tax (if any) imposed by section 4071 on such tires.".

(b) CONFORMING AMENDMENT.—Subparagraph (B) of section 4052(b)(1) is amended by striking clause (iii), by adding "and" at the end of clause (ii), and by redesignating clause (iv) as clause (iii).

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1998.

SEC. 846. INCREASE IN EXCISE TAXES ON TOBACCO PRODUCTS.

(a) CIGARETTES.—Subsection (b) of section 5701 is amended—

(1) by striking "$12 per thousand ($10 per thousand on cigarettes removed during 1991 or 1992)" in paragraph (1) and inserting "$22 per thousand", and

(2) by striking "$25.20 per thousand ($21 per thousand on cigarettes removed during 1991 or 1992)" in paragraph (2) and inserting "$46.20 per thousand".

(b) CIGARS.—Subsection (a) of section 5701 is amended—

(1) by striking "$1.125 cents per thousand (93.75 cents per thousand on cigars removed during 1991 or 1992)" in paragraph (1) and inserting "$2.063 cents per thousand", and

(2) by striking "equal to" and all that follows in paragraph (2) and inserting "equal to 23.375 percent of the price for which sold but not more than $55 per thousand.".

(c) CIGARETTE PAPERS.—Subsection (c) of section 5701 is amended by striking "0.75 cent (0.625 cent on cigarette papers removed during 1991 or 1992)" and inserting "1.38 cents".

(d) CIGARETTE TUBES.—Subsection (d) of section 5701 is amended by striking "1.5 cents (1.25 cents on cigarette tubes removed during 1991 or 1992)" and inserting "2.75 cents".

(e) SMOKELESS TOBACCO.—Subsection (e) of section 5701 is amended—

(1) by striking "36 cents (30 cents on snuff removed during 1991 or 1992)" in paragraph (1) and inserting "66 cents", and

(2) by striking "12 cents (10 cents on chewing tobacco removed during 1991 or 1992)" in paragraph (2) and inserting "22 cents".

(f) PIPE TOBACCO.—Subsection (f) of section 5701 is amended by striking "67.5 cents (56.25 cents on pipe tobacco removed during 1991 or 1992)" and inserting "$1.2375 cents".

(g) IMPOSITION OF EXCISE TAX ON MANUFACTURE OR IMPORTATION OF ROLL-YOUR-OWN TOBACCO.—

(1) IN GENERAL.—Section 5701 (relating to rate of tax) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) ROLL-YOUR-OWN TOBACCO.—On roll-your-own tobacco, manufactured in or imported into the United States, there shall be imposed a tax of 66 cents per pound (and a proportionate tax at the like rate on all fractional parts of a pound).".

(2) ROLL-YOUR-OWN TOBACCO.—Section 5702 (relating to definitions) is amended by adding at the end the following new subsection:

"(p) ROLL-YOUR-OWN TOBACCO.—The term 'roll-your-own tobacco' means any tobacco which, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes.".

(3) TECHNICAL AMENDMENTS.—

(A) Subsection (c) of section 5702 is amended by striking "and pipe tobacco" and inserting "pipe tobacco, and roll-your-own tobacco".

(B) Subsection (d) of section 5702 is amended—

(i) in the material preceding paragraph (1), by striking "or pipe tobacco" and inserting "pipe tobacco, or roll-your-own tobacco", and

(ii) by striking paragraph (1) and inserting the following new paragraph:

"(1) a person who produces cigars, cigarettes, smokeless tobacco, pipe tobacco, or roll-your-own tobacco solely for the person's own personal consumption or use, and".

(C) The chapter heading for chapter 52 is amended to read as follows:

"CHAPTER 52—TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES".

(D) The table of chapters for subtitle E is amended by striking the item relating to chapter 52 and inserting the following new item:

"CHAPTER 52. Tobacco products and cigarette papers and tubes.".

(h) MODIFICATIONS OF CERTAIN TOBACCO TAX PROVISIONS.—

(1) EXEMPTION FOR EXPORTED TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES TO APPLY ONLY TO ARTICLES MARKED FOR EXPORT.—

(A) Subsection (b) of section 5704 is amended by adding at the end the following new sentence: "Tobacco products and cigarette papers and tubes may not be transferred or removed under this subsection unless such products or papers and tubes bear such marks, labels, or notices as the Secretary shall by regulations prescribe.".

(B) Section 5761 is amended by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new subsection:

"(c) SALE OF TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES FOR EXPORT.—Except as provided in subsections (b) and (d) of section 5704—

"(1) every person who sells, relands, or receives within the jurisdiction of the United States any tobacco products or cigarette papers or tubes which have been labeled or shipped for exportation under this chapter,

"(2) every person who sells or receives such relanded tobacco products or cigarette papers or tubes, and

"(3) every person who aids or abets in such selling, relanding, or receiving,

shall, in addition to the tax and any other penalty provided in this title, be liable for a penalty equal to the greater of $1,000 or 5 times the amount of the tax imposed by this chapter. All tobacco products and cigarette papers and tubes relanded within the jurisdiction of the United States, and all vessels, vehicles, and aircraft used in such relanding or in removing such products, papers, and tubes from the place where relanded, shall be forfeited to the United States.".

(C) Subsection (a) of section 5761 is amended by striking "subsection (b)" and inserting "subsection (b) or (c)".

(D) Subsection (d) of section 5761, as redesignated by subparagraph (B), is amended by striking "The penalty imposed by subsection (b)" and inserting "The penalties imposed by subsections (b) and (c)".

(E)(i) Subpart F of chapter 52 is amended by adding at the end the following new section:

"SEC. 5754. RESTRICTION ON IMPORTATION OF PREVIOUSLY EXPORTED TOBACCO PRODUCTS.

"(a) IN GENERAL.—Tobacco products and cigarette papers and tubes previously exported from the United States may be imported or brought into the United States only as provided in section 5704(d). For purposes of this section, section 5704(d), section 5761, and such other provisions as the Secretary may specify by regulations, references to exportation shall be treated as including a reference to shipment to the Commonwealth of Puerto Rico.

"(b) CROSS REFERENCE.—

"For penalty for the sale of tobacco products and cigarette papers and tubes in the United States which are labeled for export, see section 5761(c).".

(ii) The table of sections for subpart F of chapter 52 is amended by adding at the end the following new item:

"Sec. 5754. Restriction on importation of previously exported tobacco products.".

(2) IMPORTERS REQUIRED TO BE QUALIFIED.—

(A) Sections 5712, 5713(a), 5721, 5722, 5762(a)(1), and 5763 (b) and (c) are each amended by inserting "or importer" after "manufacturer".

(B) The heading of subsection (b) of section 5763 is amended by inserting "QUALIFIED IMPORTERS," after "MANUFACTURERS,".

(C) The heading for subchapter B of chapter 52 is amended by inserting "**and Importers**" after "**Manufacturers**".

(D) The item relating to subchapter B in the table of subchapters for chapter 52 is amended by inserting "and importers" after "manufacturers".

(3) BOOKS OF 25 OR FEWER CIGARETTE PAPERS SUBJECT TO TAX.—Subsection (c) of section 5701 is amended by striking "On each book or set of cigarette papers containing more than 25 papers," and inserting "On cigarette papers,".

(4) STORAGE OF TOBACCO PRODUCTS.—Subsection (k) of section 5702 is amended by inserting "under section 5704" after "internal revenue bond".

(5) AUTHORITY TO PRESCRIBE MINIMUM MANUFACTURING ACTIVITY REQUIREMENTS.—Section 5712 is amended by striking "or" at the end of paragraph (1), by redesignating paragraph (2) as paragraph (3), and by inserting after paragraph (1) the following new paragraph:

"(2) the activity proposed to be carried out at such premises does not meet such minimum capacity or activity requirements as the Secretary may prescribe, or".

(i) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to articles removed (as defined in section 5702(k) of the Internal Revenue Code of 1986, as amended by this section) after September 30, 1997.

(2) TRANSITIONAL RULE.—Any person who—

(A) on the date of the enactment of this Act is engaged in business as a manufacturer of roll-your-own tobacco or as an importer of tobacco products or cigarette papers and tubes, and

(B) before October 1, 1997, submits an application under subchapter B of chapter 52 of such Code to engage in such business, *may, notwithstanding such subchapter B, continue to engage in such business pending final action on such application. Pending such final action, all provisions of such chapter 52 shall apply to such applicant in the same manner and to the same extent as if such applicant were a holder of a permit under such chapter 52 to engage in such business.*

(j) FLOOR STOCKS TAXES.—

(1) IMPOSITION OF TAX.—On tobacco products and cigarette papers and tubes manufactured in or imported into the United States which are removed before October 1, 1997, and held on such date for sale by any person, there is hereby imposed a tax in an amount equal to the excess of—

(A) the tax which would be imposed under section 5701 of the Internal Revenue Code of 1986 on the article if the article had been removed on such date, over

(B) the prior tax (if any) imposed under section 5701 of such Code on such article.

(2) AUTHORITY TO EXEMPT CIGARETTES HELD IN VENDING MACHINES.—To the extent provided in regulations prescribed by the Secretary, no tax shall be imposed by paragraph (1) on cigarettes held for retail sale on October 1, 1997, by any person in any vending machine. If the Secretary provides such a benefit with respect to any person, the Secretary may reduce the $500 amount in paragraph (3) with respect to such person.

(3) CREDIT AGAINST TAX.—Each person shall be allowed as a credit against the taxes imposed by paragraph (1) an amount equal to $500. Such credit shall not exceed the amount of taxes imposed by paragraph (1) on October 1, 1997, for which such person is liable.

(4) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding cigarettes on October 1, 1997, to which any tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe by regulations.

(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid on or before January 2, 1998.

(5) ARTICLES IN FOREIGN TRADE ZONES.—Notwithstanding the Act of June 18, 1934 (48 Stat. 998, 19 U.S.C. 81a) and any other provision of law, any article which is located in a foreign trade zone on October 1, 1997, shall be subject to the tax imposed by paragraph (1) if—

(A) internal revenue taxes have been determined, or customs duties liquidated, with respect to such article before such date pursuant to a request made under the 1st proviso of section 3(a) of such Act, or

(B) such article is held on such date under the supervision of a customs officer pursuant to the 2d proviso of such section 3(a).

(6) DEFINITIONS.—For purposes of this subsection—

(A) IN GENERAL.—Terms used in this subsection which are also used in section 5702 of the Internal Revenue Code of 1986 shall have the respective meanings such terms have in such section, as amended by this Act.

(B) SECRETARY.—The term "Secretary" means the Secretary of the Treasury or the Secretary's delegate.

(7) CONTROLLED GROUPS.—Rules similar to the rules of section 5061(e)(3) of such Code shall apply for purposes of this subsection.

(8) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 5701 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply to the floor stocks taxes imposed by paragraph (1), to the same extent as if such taxes were imposed by such section 5701. The Secretary may treat any person who bore the ultimate burden of the tax imposed by paragraph (1) as the person to whom a credit or refund under such provisions may be allowed or made.

Subtitle F—Provisions Relating to Tax-Exempt Entities

SEC. 851. EXPANSION OF LOOK-THRU RULE FOR INTEREST, ANNUITIES, ROYALTIES, AND RENTS DERIVED BY SUBSIDIARIES OF TAX-EXEMPT ORGANIZATIONS.

(a) IN GENERAL.—Paragraph (13) of section 512(b) is amended to read as follows:

"(13) SPECIAL RULES FOR CERTAIN AMOUNTS RECEIVED FROM CONTROLLED ENTITIES.—

"(A) IN GENERAL.—If an organization (in this paragraph referred to as the 'controlling organization') receives (directly or indirectly) a specified payment from another entity which it controls (in this paragraph referred to as the 'controlled entity'), notwithstanding paragraphs (1), (2), and (3), the controlling organization shall include such payment as an item of gross income derived from an unrelated trade or business to the extent such payment reduces the net unrelated income of the controlled entity (or increases any net unrelated loss of the controlled entity). There shall be allowed all deductions of the controlling organization directly connected with amounts treated as derived from an unrelated trade or business under the preceding sentence.

"(B) NET UNRELATED INCOME OR LOSS.—For purposes of this paragraph—

"(i) NET UNRELATED INCOME.—The term 'net unrelated income' means—

"(I) in the case of a controlled entity which is not exempt from tax under section 501(a), the portion of such entity's taxable income which would be unrelated business taxable income if such entity were exempt from tax under section 501(a) and had the same exempt purposes (as defined in section 513A(a)(5)(A)) as the controlling organization, or

"(II) in the case of a controlled entity which is exempt from tax under section 501(a), the amount of the unrelated business taxable income of the controlled entity.

"(ii) NET UNRELATED LOSS.—The term 'net unrelated loss' means the net operating loss adjusted under rules similar to the rules of clause (i).

"(C) SPECIFIED PAYMENT.—For purposes of this paragraph, the term 'specified payment' means any interest, annuity, royalty, or rent.

"(D) DEFINITION OF CONTROL.—For purposes of this paragraph—

"(i) CONTROL.—The term 'control' means—

"(I) in the case of a corporation, ownership (by vote or value) of more than 50 percent of the stock in such corporation,

"(II) in the case of a partnership, ownership of more than 50 percent of the profits interests or capital interests in such partnership, or

"(III) in any other case, ownership of more than 50 percent of the beneficial interests in the entity.

"(ii) CONSTRUCTIVE OWNERSHIP.—Section 318 (relating to constructive ownership of stock) shall apply for purposes of determining ownership of stock in a corporation. Similar principles shall apply for purposes of determining ownership of interests in any other entity.

"(E) RELATED PERSONS.—The Secretary shall prescribe such rules as may be necessary or appropriate to prevent avoidance of the purposes of this paragraph through the use of related persons.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

(2) CONTROL TEST.—In the case of taxable years beginning before January 1, 1999, an organization shall be treated as controlling another organization for purposes of section 512(b)(13) of the Internal Revenue Code of 1986 (as amended by this section) only if it controls such organization within the meaning of such section, determined by substituting "80 percent" for "50 percent" each place it appears in subparagraph (D) thereof.

SEC. 852. LIMITATION ON INCREASE IN BASIS OF PROPERTY RESULTING FROM SALE BY TAX-EXEMPT ENTITY TO A RELATED PERSON.

(a) IN GENERAL.—Part IV of subchapter O of chapter 1 (relating to special rules for gain or loss on disposition of property) is amended by redesignating section 1061 as section 1062 and by inserting after section 1060 the following new section:

"SEC. 1061. BASIS LIMITATION FOR SALE OR EXCHANGE OF PROPERTY BY TAX-EXEMPT ENTITY TO RELATED PERSON.

"(a) GENERAL RULE.—In the case of a sale or exchange of property directly or indirectly between a tax-exempt entity and a related person, the basis of the related person in the property acquired shall not exceed the adjusted basis of such property (immediately before the exchange) in the hands of the tax-exempt entity, increased by the amount of gain recognized to the tax-exempt entity on the transfer which is subject to tax under section 511.

"(b) DEFINITIONS.—For purposes of this section—

"(1) TAX-EXEMPT ENTITY.—The term 'tax-exempt entity' has the meaning given such term by section 168(h)(2) determined without regard to subparagraph (A)(iii) thereof.

"(2) RELATED PERSON.—The term 'related person' means any person bearing a relationship to the tax-exempt entity which is described in section 267(b) or 707(b)(1). For purposes of applying section 267(b)(2) under the preceding sentence, such an entity shall be treated as if it were an individual.".

(b) CLERICAL AMENDMENT.—The table of sections for part IV of subchapter O of chapter 1 is amended by striking the last item and inserting the following:

"Sec. 1061. Basis limitation for sale or exchange of property by tax-exempt entity to related person.

"Sec. 1062. Cross references.".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to sales and exchanges after June 8, 1997.

(2) BINDING CONTRACTS.—The amendments made by this section shall not apply to any sale or exchange pursuant to a written contract which was binding on June 8, 1997, and at all times thereafter before the sale or exchange.

SEC. 853. TERMINATION OF EXCEPTION FROM RULES RELATING TO EXEMPT ORGANIZATIONS WHICH PROVIDE COMMERCIAL-TYPE INSURANCE.

(a) IN GENERAL.—Subparagraph (A) of section 1012(c)(4) of the Tax Reform Act of 1986 shall not apply to any taxable year beginning after December 31, 1997.

(b) SPECIAL RULES.—In the case of an organization to which section 501(m) of the Internal Revenue Code of 1986 applies solely by reason of the amendment made by subsection (a)—

(1) no adjustment shall be made under section 481 (or any other provision) of such Code on account of a change in its method of accounting for its first taxable year beginning after December 31, 1997, and

(2) for purposes of determining gain or loss, the adjusted basis of any asset held on the 1st day of such taxable year shall be treated as equal to its fair market value as of such day.

(c) RESERVE WEAKENING AFTER JUNE 8, 1997.—Any reserve weakening after June 8, 1997, by an

organization described in subsection (b) shall be treated as occurring in such organizations 1st taxable year beginning after December 31, 1997.

(d) Regulations.—The Secretary of the Treasury or his delegate may prescribe rules for providing proper adjustments for organizations described in subsection (b) with respect to short taxable years which begin during 1998 by reason of section 843 of the Internal Revenue Code of 1986.

Subtitle G—Foreign Provisions

SEC. 861. DEFINITION OF FOREIGN PERSONAL HOLDING COMPANY INCOME.

(a) Income From Notional Principal Contracts and Payments in Lieu of Dividends.—

(1) In general.—Paragraph (1) of section 954(c) (defining foreign personal holding company income) is amended by adding at the end the following new subparagraphs:

"(F) Income from notional principal contracts.—Net income from notional principal contracts. Any item of income, gain, deduction, or loss from a notional principal contract entered into for purposes of hedging any item described in any preceding subparagraph shall not be taken into account for purposes of this subparagraph but shall be taken into account under such other subparagraph.

"(G) Payments in lieu of dividends.—Payments in lieu of dividends which are made pursuant to an agreement to which section 1058 applies.".

(2) Conforming amendment.—Subparagraph (B) of section 954(c)(1) is amended—

(A) by striking the second sentence, and

(B) by striking "also" in the last sentence.

(b) Exception for Dealers.—Paragraph (2) of section 954(c) is amended by adding at the end the following new subparagraph:

"(C) Exception for dealers.—Except as provided in subparagraph (A), (E), or (G) of paragraph (1) or by regulations, in the case of a regular dealer in property (within the meaning of paragraph (1)(B)), forward contracts, option contracts, or similar financial instruments (including notional principal contracts and all instruments referenced to commodities), there shall not be taken into account in computing foreign personal holding income any item of income, gain, deduction, or loss from any transaction (including hedging transactions) entered into in the ordinary course of such dealer's trade or business as such a dealer.".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 862. PERSONAL PROPERTY USED PREDOMINANTLY IN THE UNITED STATES TREATED AS NOT PROPERTY OF A LIKE KIND WITH RESPECT TO PROPERTY USED PREDOMINANTLY OUTSIDE THE UNITED STATES.

(a) In General.—Subsection (h) of section 1031 (relating to exchange of property held for productive use or investment) is amended to read as follows:

"(h) Special Rules for Foreign Real and Personal Property.—For purposes of this section—

"(1) Real property.—Real property located in the United States and real property located outside the United States are not property of a like kind.

"(2) Personal property.—

"(A) In general.—Personal property used predominantly within the United States and personal property used predominantly outside the United States are not property of a like kind.

"(B) Predominant use.—Except as provided in subparagraph (C) and (D), the predominant use of any property shall be determined based on—

"(i) in the case of the property relinquished in the exchange, the 2-year period ending on the date of such relinquishment, and

"(ii) in the case of the property acquired in the exchange, the 2-year period beginning on the date of such acquisition.

"(C) Property held for less than 2 years.—Except in the case of an exchange which is part of a transaction (or series of transactions) structured to avoid the purposes of this subsection—

"(i) only the periods the property was held by the person relinquishing the property (or any related person) shall be taken into account under subparagraph (B)(i), and

"(ii) only the periods the property was held by the person acquiring the property (or any related person) shall be taken into account under subparagraph (B)(ii).

"(D) Special rule for certain property.—Property described in any subparagraph of section 168(g)(4) shall be treated as used predominantly in the United States.".

(b) Effective Date.—

(1) In general.—The amendment made by this section shall apply to transfers after June 8, 1997, in taxable years ending after such date.

(2) Binding contracts.—The amendment made by this section shall not apply to any transfer pursuant to a written binding contract in effect on June 8, 1997, and at all times thereafter before the disposition of property. A contract shall not fail to meet the requirements of the preceding sentence solely because—

(A) it provides for a sale in lieu of an exchange, or

(B) the property to be acquired as replacement property was not identified under such contract before June 9, 1997.

SEC. 863. HOLDING PERIOD REQUIREMENT FOR CERTAIN FOREIGN TAXES.

(a) In General.—Section 901 is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

"(k) Minimum Holding Period for Certain Taxes.—

"(1) Withholding taxes.—

"(A) In general.—In no event shall a credit be allowed under subsection (a) for any withholding tax on a dividend with respect to stock in a corporation if—

"(i) such stock is held by the recipient of the dividend for 15 days or less during the 30-day period beginning on the date which is 15 days before the date on which such share becomes ex-dividend with respect to such dividend, or

"(ii) to the extent that the recipient of the dividend is under an obligation (whether pursuant to a short sale or otherwise) to make related payments with respect to positions in substantially similar or related property.

"(B) Withholding tax.—For purposes of this paragraph, the term 'withholding tax' includes any tax determined on a gross basis; but does not include any tax which is in the nature of a prepayment of a tax imposed on a net basis.

"(2) Deemed paid taxes.—In the case of income, war profits, or excess profits taxes deemed paid under section 853, 902, or 960 through a chain of ownership of stock in 1 or more corporations, no credit shall be allowed under subsection (a) for such taxes if—

"(A) any stock of any corporation in such chain (the ownership of which is required to obtain credit under subsection (a) for such taxes) is held for less than the period described in paragraph (1)(A)(i), or

"(B) the corporation holding the stock is under an obligation referred to in paragraph (1)(A)(ii).

"(3) 45-day rule in the case of certain preference dividends.—In the case of stock having preference in dividends and dividends with respect to such stock which are attributable to a period or periods aggregating in excess of 366 days, paragraph (1)(A)(i) shall be applied—

"(A) by substituting '45 days' for '15 days' each place it appears, and

"(B) by substituting '90-day period' for '30-day period'.

"(4) Exception for certain taxes paid by securities dealers.—

"(A) In general.—Paragraphs (1) and (2) shall not apply to any qualified tax with respect to any security held in the active conduct in a foreign country of a securities business of any person—

"(i) who is registered as a securities broker or dealer under section 15(a) of the Securities Exchange Act of 1934,

"(ii) who is registered as a Government securities broker or dealer under section 15C(a) of such Act, or

"(iii) who is licensed or authorized in such foreign country to conduct securities activities in such country and is subject to bona fide regulation by a securities regulating authority of such country.

"(B) Qualified tax.—For purposes of subparagraph (A), the term 'qualified tax' means a tax paid to a foreign country (other than the foreign country referred to in subparagraph (A)) if—

"(i) the dividend to which such tax is attributable is subject to taxation on a net basis by the country referred to in subparagraph (A), and

"(ii) such country allows a credit against its net basis tax for the full amount of the tax paid to such other foreign country.

"(C) Regulations.—The Secretary may prescribe such regulations as may be appropriate to prevent the abuse of the exception provided by this paragraph.

"(5) Certain rules to apply.—For purposes of this subsection, the rules of paragraphs (3) and (4) of section 246(c) shall apply.

"(6) Treatment of bona fide sales.—If a person's holding period is reduced by reason of the application of the rules of section 246(c)(4) to any contract for the bona fide sale of stock, the determination of whether such person's holding period meets the requirements of paragraph (2) with respect to taxes deemed paid under section 902 or 960 shall be made as of the date such contract is entered into.

"(7) Taxes allowed as deduction, etc.—Sections 275 and 78 shall not apply to any tax which is not allowable as a credit under subsection (a) by reason of this subsection.".

(b) Notice of Withholding Taxes Paid by Regulated Investment Company.—Subsection (c) of section 853 (relating to foreign tax credit allowed to shareholders) is amended by adding at the end the following new sentence: "Such notice shall also include the amount of such taxes which (without regard to the election under this section) would not be allowable as a credit under section 901(a) to the regulated investment company by reason of section 901(k).".

(c) Effective Date.—The amendments made by this section shall apply to dividends paid or accrued more than 30 days after the date of the enactment of this Act.

SEC. 864. SOURCE RULES FOR INVENTORY PROPERTY.

(a) In General.—Section 865(b) is amended by adding at the end the following new paragraph:

"(2) Certain sales for use in United States.—If—

"(A) a United States resident sells (directly or indirectly) inventory property to another United States resident for use, consumption, or disposition in the United States, and

"(B) such sale is not attributable to an office or other fixed place of business maintained by the seller outside the United States,

any income of such United States resident (or any related person) from such sale shall be sourced in the United States.”.

(b) CONFORMING AMENDMENTS.—Section 865(b) is amended—

(1) by striking “In the case of” and inserting: “(1) IN GENERAL.—In the case of”, and

(2) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 865. INTEREST ON UNDERPAYMENTS NOT REDUCED BY FOREIGN TAX CREDIT CARRYBACKS.

(a) IN GENERAL.—Subsection (d) of section 6601 is amended by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and by inserting after paragraph (1) the following new paragraph:

“(2) FOREIGN TAX CREDIT CARRYBACKS.—If any credit allowed for any taxable year is increased by reason of a carryback of tax paid or accrued to foreign countries or possessions of the United States, such increase shall not affect the computation of interest under this section for the period ending with the filing date for the taxable year in which such taxes were in fact paid or accrued, or, with respect to any portion of such credit carryback from a taxable year attributable to a net operating loss carryback or a capital loss carryback from a subsequent taxable year, such increase shall not affect the computation of interest under this section for the period ending with the filing date for such subsequent taxable year.”.

(b) CONFORMING AMENDMENT TO REFUNDS ATTRIBUTABLE TO FOREIGN TAX CREDIT CARRYBACKS.—

(1) IN GENERAL.—Subsection (f) of section 6611 is amended by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and by inserting after paragraph (1) the following new paragraph:

“(2) FOREIGN TAX CREDIT CARRYBACKS.—For purposes of subsection (a), if any overpayment of tax imposed by subtitle A results from a carryback of tax paid or accrued to foreign countries or possessions of the United States, such overpayment shall be deemed not to have been made before the filing date for the taxable year in which such taxes were in fact paid or accrued, or, with respect to any portion of such credit carryback from a taxable year attributable to a net operating loss carryback or a capital loss carryback from a subsequent taxable year, such overpayment shall be deemed not to have been made before the filing date for such subsequent taxable year.”.

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (4) of section 6611(f) (as so redesignated) is amended—

(i) by striking “PARAGRAPHS (1) AND (2)” and inserting “PARAGRAPHS (1), (2), AND (3)”, and

(ii) by striking “paragraph (1) or (2)” each place it appears and inserting “paragraph (1), (2), or (3)”.

(B) Clause (ii) of section 6611(f)(4)(B) (as so redesignated) is amended by striking “and” at the end of subclause (I), by redesignating subclause (II) as subclause (III), and by inserting after subclause (I) the following new subclause:

“(II) in the case of a carryback of taxes paid or accrued to foreign countries or possessions of the United States, the taxable year in which such taxes were in fact paid or accrued (or, with respect to any portion of such carryback from a taxable year attributable to a net operating loss carryback or a capital loss carryback from a subsequent taxable year, such subsequent taxable year), and”.

(C) Subclause (III) of section 6611(f)(4)(B)(ii) (as so redesignated) is amended by inserting “(as defined in paragraph (3)(B))” after “credit carryback” the first place it appears.

(D) Section 6611 is amended by striking subsection (g) and by redesignating subsections (h) and (i) as subsections (g) and (h), respectively.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to carrybacks arising in taxable years beginning after the date of the enactment of this Act.

SEC. 866. CLARIFICATION OF PERIOD OF LIMITATIONS ON CLAIM FOR CREDIT OR REFUND ATTRIBUTABLE TO FOREIGN TAX CREDIT CARRYFORWARD.

(a) IN GENERAL.—Subparagraph (A) of section 6511(d)(3) is amended by striking “for the year with respect to which the claim is made” and inserting “for the year in which such taxes were actually paid or accrued”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxes paid or accrued in taxable years beginning after the date of the enactment of this Act.

SEC. 867. MODIFICATION TO FOREIGN TAX CREDIT CARRYBACK AND CARRYOVER PERIODS.

(a) IN GENERAL.—Subsection (c) of section 904 (relating to limitation on credit) is amended—

(1) by striking “in the second preceding taxable year,”, and

(2) by striking “or fifth” and inserting “fifth, sixth, or seventh”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to credits arising in taxable years beginning after December 31, 1997.

SEC. 868. REPEAL OF EXCEPTION TO ALTERNATIVE MINIMUM FOREIGN TAX CREDIT LIMIT.

(a) IN GENERAL.—Section 59(a)(2) (relating to limitation to 90 percent of tax) is amended by striking subparagraph (C).

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

Subtitle H—Other Revenue Provisions

SEC. 871. TERMINATION OF SUSPENSE ACCOUNTS FOR FAMILY CORPORATIONS REQUIRED TO USE ACCRUAL METHOD OF ACCOUNTING.

(a) IN GENERAL.—Subsection (i) of section 447 (relating to method of accounting for corporations engaged in farming) is amended by striking paragraph (3), by redesignating paragraphs (4), (5), and (6) as paragraphs (3), (4), and (5), respectively, and by adding at the end the following new paragraph:

“(6) TERMINATION.—

“(A) IN GENERAL.—No suspense account may be established under this subsection by any corporation required by this section to change its method of accounting for any taxable year ending after June 8, 1997.

“(B) PHASEOUT OF EXISTING SUSPENSE ACCOUNTS.—

“(i) IN GENERAL.—Each suspense account under this subsection shall be reduced (but not below zero) for each taxable year beginning after June 8, 1997, by an amount equal to the lesser of—

“(I) the applicable portion of such account, or

“(II) 50 percent of the taxable income of the corporation for the taxable year, or, if the corporation has no taxable income for such year, the amount of any net operating loss (as defined in section 172(c)) for such taxable year.

For purposes of the preceding sentence, the amount of taxable income and net operating loss shall be determined without regard to this paragraph.

“(ii) COORDINATION WITH OTHER REDUCTIONS.—The amount of the applicable portion for any taxable year shall be reduced (but not below zero) by the amount of any reduction required for such taxable year under any other provision of this subsection.

“(iv) INCLUSION IN INCOME.—Any reduction in a suspense account under this paragraph shall be included in gross income for the taxable year of the reduction.

“(C) APPLICABLE PORTION.—For purposes of subparagraph (B), the term ‘applicable portion’ means, for any taxable year, the amount which would ratably reduce the amount in the account (after taking into account prior reductions) to zero over the period consisting of such taxable year and the remaining taxable years in such first 20 taxable years.

“(D) AMOUNTS AFTER 20TH YEAR.—Any amount in the account as of the close of the 20th year referred to in subparagraph (C) shall be treated as the applicable portion for each succeeding year thereafter to the extent not reduced under this paragraph for any prior taxable year after such 20th year.”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after June 8, 1997.

SEC. 872. MODIFICATION OF TAXABLE YEARS TO WHICH NET OPERATING LOSSES MAY BE CARRIED.

(a) IN GENERAL.—Subparagraph (A) of section 172(b)(1) (relating to years to which loss may be carried) is amended—

(1) by striking “3” in clause (i) and inserting “2”, and

(2) by striking “15” in clause (ii) and inserting “20”.

(b) RETENTION OF 3-YEAR CARRYBACK FOR CASUALTY LOSSES OF INDIVIDUALS.—Paragraph (1) of section 172(b) is amended by adding at the end the following new subparagraph:

“(F) RETENTION OF 3-YEAR CARRYBACK IN CERTAIN CASES.—

“(i) IN GENERAL.—Subparagraph (A)(i) shall be applied by substituting ‘3 years’ for ‘2 years’ with respect to the portion of the net operating loss for the taxable year which is an eligible loss with respect to the taxpayer.

“(ii) ELIGIBLE LOSS.—For purposes of clause (i), the term ‘eligible loss’ means—

“(I) in the case of an individual, losses of property arising from fire, storm, shipwreck, or other casualty, or from theft,

“(II) in the case of a taxpayer which is a small business, losses attributable to Presidentially declared disasters (as defined in section 1033(h)(3)), and

“(III) in the case of a taxpayer engaged in the trade or business of farming (as defined in section 263A(e)(4)), losses attributable to such Presidentially declared disasters.

“(iii) SMALL BUSINESS.—For purposes of this subparagraph, the term ‘small business’ means a corporation or partnership which meets the gross receipts test of section 448(c) for the taxable year in which the loss arose (or, in the case of a sole proprietorship, which would meet such test if such proprietorship were a corporation).”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to net operating losses for taxable years beginning after the date of the enactment of this Act.

SEC. 873. EXPANSION OF DENIAL OF DEDUCTION FOR CERTAIN AMOUNTS PAID IN CONNECTION WITH INSURANCE.

(a) DENIAL OF DEDUCTION FOR PREMIUMS.—Paragraph (1) of section 264(a) is amended to read as follows:

“(1) Premiums on any life insurance policy, or endowment or annuity contract, if the taxpayer is directly or indirectly a beneficiary under the policy or contract.”.

(b) INTEREST ON POLICY LOANS.—Paragraph (4) of section 264(a) is amended by striking “individual, who” and all that follows and inserting “individual.”.

(c) PRO RATA ALLOCATION OF INTEREST EXPENSE TO POLICY CASH VALUES.—Section 264 is amended by adding at the end the following new subsection:

"(e) PRO RATA ALLOCATION OF INTEREST EXPENSE TO POLICY CASH VALUES.—

"(1) IN GENERAL.—No deduction shall be allowed for that portion of the taxpayer's interest expense which is allocable to unborrowed policy cash values.

"(2) ALLOCATION.—For purposes of paragraph (1), the portion of the taxpayer's interest expense which is allocable to unborrowed policy cash values is an amount which bears the same ratio to such interest expense as—

"(A) the taxpayer's average unborrowed policy cash values of life insurance policies, and annuity and endowment contracts, issued after June 8, 1997, bears to

"(B) the average adjusted bases (within the meaning of section 1016) for all assets of the taxpayer.

"(3) UNBORROWED POLICY CASH VALUES.—The term 'unborrowed policy cash value' means, with respect to any life insurance policy or annuity or endowment contract, the excess of—

"(A) the cash surrender value of such policy or contract determined without regard to any surrender charge, over

"(B) the amount of any loan in respect of such policy or contract.

"(4) EXCEPTION FOR CERTAIN POLICIES AND CONTRACTS COVERING OFFICERS, DIRECTORS, AND EMPLOYEES.—Paragraph (1) shall not apply to any policy or contract owned by an entity engaged in a trade or business which covers any individual who is an officer, director, or employee of such trade or business at the time first covered by the policy or contract, and such policies and contracts shall not be taken into account under paragraph (2).

"(5) EXCEPTION FOR POLICIES AND CONTRACTS HELD BY NATURAL PERSONS; TREATMENT OF PARTNERSHIPS AND S CORPORATIONS.—

"(A) POLICIES AND CONTRACTS HELD BY NATURAL PERSONS.—

"(i) IN GENERAL.—This subsection shall not apply to any policy or contract held by a natural person.

"(ii) EXCEPTION WHERE BUSINESS IS BENEFICIARY.—If a trade or business is directly or indirectly the beneficiary under any policy or contract, to the extent of the unborrowed cash value of such policy or contract, such policy or contract shall be treated as held by such trade or business and not by a natural person.

"(iii) SPECIAL RULES.—

"(I) CERTAIN TRADES OR BUSINESSES NOT TAKEN INTO ACCOUNT.—Clause (ii) shall not apply to any trade or business carried on as a sole proprietorship and to any trade or business performing services as an employee.

"(II) LIMITATION ON UNBORROWED CASH VALUE.—The amount of the unborrowed cash value of any policy or contract which is taken into account by reason of clause (ii) shall not exceed the benefit to which the trade or business is entitled under the policy or contract.

"(iv) REPORTING.—The Secretary shall require such reporting from policyholders and issuers as is necessary to carry out clause (ii). Any report required under the preceding sentence shall be treated as a statement referred to in section 6724(d)(1).

"(B) TREATMENT OF PARTNERSHIPS AND S CORPORATIONS.—In the case of a partnership or S corporation, this subsection shall be applied at the partnership and corporate levels.

"(6) SPECIAL RULES.—

"(A) COORDINATION WITH SUBSECTION (a) AND SECTION 265.—If interest on any indebtedness is disallowed under subsection (a) or section 265—

"(i) such disallowed interest shall not be taken into account for purposes of applying this subsection, and

"(ii) for purposes of applying paragraph (2)(B), the adjusted bases otherwise taken into account shall be reduced (but not below zero) by the amount of such indebtedness.

"(B) COORDINATION WITH SECTION 263A.—This subsection shall be applied before the application of section 263A (relating to capitalization of certain expenses where taxpayer produces property).".

"(7) INTEREST EXPENSE.—The term 'interest expense' means the aggregate amount allowable to the taxpayer as a deduction for interest (within the meaning of section 265(b)(4)) for the taxable year (determined without regard to this subsection, section 265(b), and section 291).

"(8) AGGREGATION RULES.—

"(A) IN GENERAL.—All members of a controlled group (within the meaning of subsection (d)(5)(B)) shall be treated as 1 taxpayer for purposes of this subsection.

"(B) TREATMENT OF INSURANCE COMPANIES.—This subsection shall not apply to an insurance company, and subparagraph (A) shall be applied without regard to any insurance company.".

(b) TREATMENT OF INSURANCE COMPANIES.—

(1) Clause (ii) of section 805(a)(4)(C) is amended by inserting ", or out of the increase for the taxable year in policy cash values (within the meaning of section 264(e)(3)(A)) of life insurance policies and annuity and endowment contracts to which section 264(e) applies" after "tax-exempt interest".

(2) Clause (iii) of section 805(a)(4)(D) is amended by striking "and" and inserting ", the increase for the taxable year in policy cash values (within the meaning of section 264(e)(3)(A)) of life insurance policies and annuity and endowment contracts to which section 264(e) applies, and".

(3) Subparagraph (B) of section 807(a)(2) is amended by striking "interest," and inserting "interest and the amount of the policyholder's share of the increase for the taxable year in policy cash values (within the meaning of section 264(e)(3)(A)) of life insurance policies and annuity and endowment contracts to which section 264(e) applies,".

(4) Subparagraph (B) of section 807(b)(1) is amended by striking "interest," and inserting "interest and the amount of the policyholder's share of the increase for the taxable year in policy cash values (within the meaning of section 264(e)(3)(A)) of life insurance policies and annuity and endowment contracts to which section 264(e) applies,".

(5) Paragraph (1) of section 812(d) is amended by striking "and" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting ", and", and by adding at the end the following new subparagraph:

"(D) the increase for any taxable year in the policy cash values (within the meaning of section 264(e)(3)(A)) of life insurance policies and annuity and endowment contracts to which section 264(e) applies.".

(6) Subparagraph (B) of section 832(b)(5) is amended by striking "and" at the end of clause (i), by striking the period at the end of clause (ii) and inserting ", and", and by adding at the end the following new clause:

"(iii) the increase for the taxable year in policy cash values (within the meaning of section 264(e)(3)(A)) of life insurance policies and annuity and endowment contracts to which section 264(e) applies.".

(c) CONFORMING AMENDMENT.—Subparagraph (A) of section 265(b)(4) is amended by inserting ", section 264," before "and section 291".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to contracts issued after June 8, 1997, in taxable years ending after such date. For purposes of the preceding sentence, any material increase in the death benefit or other material change in the contract shall be treated as a new contract but the addition of covered lives shall be treated as a new contract only with respect to such additional covered lives. For purposes of this subsection, an increase in the death benefit under a policy or contract issued in connection with a lapse described in section 501(d)(2) of the Health Insurance Portability and Accountability Act of 1996 shall not be treated as a new contract.

SEC. 874. ALLOCATION OF BASIS AMONG PROPERTIES DISTRIBUTED BY PARTNERSHIP.

(a) IN GENERAL.—Subsection (c) of section 732 is amended to read as follows:

"(c) ALLOCATION OF BASIS.—

"(1) IN GENERAL.—The basis of distributed properties to which subsection (a)(2) or (b) is applicable shall be allocated—

"(A)(i) first to any unrealized receivables (as defined in section 751(c)) and inventory items (as defined in section 751(d)(2)) in an amount equal to the adjusted basis of each such property to the partnership, and

"(ii) if the basis to be allocated is less than the sum of the adjusted bases of such properties to the partnership, then, to the extent any decrease is required in order to have the adjusted bases of such properties equal the basis to be allocated, in the manner provided in paragraph (3), and

"(B) to the extent of any basis not allocated under subparagraph (A), to other distributed properties—

"(i) first by assigning to each such other property such other property's adjusted basis to the partnership, and

"(ii) then, to the extent any increase or decrease in basis is required in order to have the adjusted bases of such other distributed properties equal such remaining basis, in the manner provided in paragraph (2) or (3), whichever is appropriate.

"(2) METHOD OF ALLOCATING INCREASE.—Any increase required under paragraph (1)(B) shall be allocated among the properties—

"(A) first to properties with unrealized appreciation in proportion to their respective amounts of unrealized appreciation before such increase (but only to the extent of each property's unrealized appreciation), and

"(B) then, to the extent such increase is not allocated under subparagraph (A), in proportion to their respective fair market values.

"(3) METHOD OF ALLOCATING DECREASE.—Any decrease required under paragraph (1)(A) or (1)(B) shall be allocated—

"(A) first to properties with unrealized depreciation in proportion to their respective amounts of unrealized depreciation before such decrease (but only to the extent of each property's unrealized depreciation), and

"(B) then, to the extent such decrease is not allocated under subparagraph (A), in proportion to their respective adjusted bases (as adjusted under subparagraph (A)).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to distributions after the date of the enactment of this Act.

SEC. 875. REPEAL OF REQUIREMENT THAT INVENTORY BE SUBSTANTIALLY APPRECIATED.

(a) IN GENERAL.—Paragraph (2) of section 751(a) is amended to read as follows:

"(2) inventory items of the partnership,".

(b) CONFORMING AMENDMENTS.—

(1) Subsection (d) of section 751 is amended to read as follows:

"(d) INVENTORY ITEMS.—For purposes of this subchapter, the term 'inventory items' means—

"(1) property of the partnership of the kind described in section 1221(1),

"(2) any other property of the partnership which, on sale or exchange by the partnership,

would be considered property other than a capital asset and other than property described in section 1231.

"(3) any other property of the partnership which, if sold or exchanged by the partnership, would result in a gain taxable under subsection (a) of section 1246 (relating to gain on foreign investment company stock), and

"(4) any other property held by the partnership which, if held by the selling or distributee partner, would be considered property of the type described in paragraph (1), (2), or (3).".

(2) Sections 724(d)(2), 731(a)(2)(B), 731(c)(6), 732(c)(1)(A) (as amended by the preceding section), 735(a)(2), and 735(c)(1) are each amended by striking "section 751(d)(2)" and inserting "section 751(d)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales, exchanges, and distributions after the date of the enactment of this Act.

SEC. 876. LIMITATION ON PROPERTY FOR WHICH INCOME FORECAST METHOD MAY BE USED.

(a) LIMITATION.—Subsection (g) of section 167 is amended by adding at the end the following new paragraph:

"(6) LIMITATION ON PROPERTY FOR WHICH INCOME FORECAST METHOD MAY BE USED.—The depreciation deduction allowable under this section may be determined under the income forecast method or any similar method only with respect to—

"(A) property described in paragraph (3) or (4) of section 168(f),

"(B) copyrights,

"(C) books,

"(D) patents, and

"(E) other property specified in regulations.

Such methods may not be used with respect to any amortizable section 197 intangible (as defined in section 197(c)).".

(b) DEPRECIATION PERIOD FOR RENT-TO-OWN PROPERTY.—

(1) IN GENERAL.—Subparagraph (A) of section 168(e)(3) (relating to 3-year property) is amended by striking "and" at the end of clause (i), by striking the period at the end of clause (ii) and inserting ", and", and by adding at the end the following new clause:

"(iii) any qualified rent-to-own property.".

(2) 4-YEAR CLASS LIFE.—The table contained in section 168(g)(3)(B) is amended by inserting before the first item the following new item:

"(A)(iii) .... 4".

(3) DEFINITION OF QUALIFIED RENT-TO-OWN PROPERTY.—Subsection (i) of section 168 is amended by adding at the end the following new paragraph:

"(14) QUALIFIED RENT-TO-OWN PROPERTY.—

"(A) IN GENERAL.—The term 'qualified rent-to-own property' means property held by a rent-to-own dealer for purposes of being subject to a rent-to-own contract.

"(B) RENT-TO-OWN DEALER.—The term 'rent-to-own dealer' means a person that, in the ordinary course of business, regularly enters into rent-to-own contracts with customers for the use of consumer property, if a substantial portion of those contracts terminate and the property is returned to such person before the receipt of all payments required to transfer ownership of the property from such person to the customer.

"(C) CONSUMER PROPERTY.—The term 'consumer property' means tangible personal property of a type generally used within the home. Such term shall not include cellular telephones and any computer or peripheral equipment (as defined in section 168(i)).

"(D) RENT-TO-OWN CONTRACT.—The term 'rent-to-own contract' means any lease for the use of consumer property between a rent-to-own dealer and a customer who is an individual which—

"(i) is titled 'Rent-to-Own Agreement' or 'Lease Agreement with Ownership Option,' or uses other similar language,

"(ii) provides for level, regular periodic payments (for a payment period which is a week or month),

"(iii) provides that legal title to such property remains with the rent-to-own dealer until the customer makes all the payments described in clause (ii) or early purchase payments required under the contract to acquire legal title to the item of property,

"(iv) provides a beginning date and a maximum period of time for which the contract may be in effect that does not exceed 156 weeks or 36 months from such beginning date (including renewals or options to extend),

"(v) provides for level payments within the 156-week or 36-month period that, in the aggregate, generally exceed the normal retail price of the consumer property plus interest,

"(vi) provides for payments under the contract that, in the aggregate, do not exceed $10,000 per item of consumer property,

"(vii) provides that the customer does not have any legal obligation to make all the payments referred to in clause (ii) set forth under the contract, and that at the end of each payment period the customer may either continue to use the consumer property by making the payment for the next payment period or return such property to the rent-to-own dealer in good working order, in which case the customer does not incur any further obligations under the contract and is not entitled to a return of any payments previously made under the contract, and

"(viii) provides that the customer has no right to sell, sublease, mortgage, pawn, pledge, encumber, or otherwise dispose of the consumer property until all the payments stated in the contract have been made.".

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after the date of the enactment of this Act.

SEC. 877. EXPANSION OF REQUIREMENT THAT INVOLUNTARILY CONVERTED PROPERTY BE REPLACED WITH PROPERTY ACQUIRED FROM AN UNRELATED PERSON.

(a) IN GENERAL.—Subsection (i) of section 1033 is amended to read as follows:

"(i) REPLACEMENT PROPERTY MUST BE ACQUIRED FROM UNRELATED PERSON IN CERTAIN CASES.—

"(1) IN GENERAL.—If the property which is involuntarily converted is held by a taxpayer to which this subsection applies, subsection (a) shall not apply if the replacement property or stock is acquired from a related person. The preceding sentence shall not apply to the extent that the related person acquired the replacement property or stock from an unrelated person during the period applicable under subsection (a)(2)(B).

"(2) TAXPAYERS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to—

"(A) a C corporation,

"(B) a partnership in which 1 or more C corporations own, directly or indirectly (determined in accordance with section 707(b)(3)), more than 50 percent of the capital interest, or profits interest, in such partnership at the time of the involuntary conversion, and

"(C) any other taxpayer if, with respect to property which is involuntarily converted during the taxable year, the aggregate of the amount of realized gain on such property on which there is realized gain exceeds $100,000.

In the case of a partnership, subparagraph (C) shall apply with respect to the partnership and with respect to each partner. A similar rule shall apply in the case of an S corporation and its shareholders.

"(3) RELATED PERSON.—For purposes of this subsection, a person is related to another person if the person bears a relationship to the other person described in section 267(b) or 707(b)(1).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to involuntary conversions occurring after June 8, 1997.

SEC. 878. TREATMENT OF EXCEPTION FROM INSTALLMENT SALES RULES FOR SALES OF PROPERTY BY A MANUFACTURER TO A DEALER.

(a) IN GENERAL.—Paragraph (2) of section 811(c) of the Tax Reform Act of 1986 is hereby repealed.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall apply to taxable years beginning more than 1 year after the date of the enactment of this Act.

(2) COORDINATION WITH SECTION 481.—In the case of any taxpayer required by this section to change its method of accounting for any taxable year—

(A) such changes shall be treated as initiated by the taxpayer,

(B) such changes shall be treated as made with the consent of the Secretary, and

(C) the net amount of the adjustments required to be taken into account under section 481(a) of the Internal Revenue Code of 1986 shall be taken into account ratably over the 4 taxable year period beginning with the first taxable year beginning after the date of the enactment of this Act.

SEC. 879. MINIMUM PENSION ACCRUED BENEFIT DISTRIBUTABLE WITHOUT CONSENT INCREASED TO $5,000.

(a) AMENDMENT TO 1986 CODE.—

(1) IN GENERAL.—Subparagraph (A) of section 411(a)(11) (relating to restrictions on certain mandatory distributions) is amended by striking "$3,500" and inserting "the applicable limit".

(2) APPLICABLE LIMIT.—Paragraph (11) of section 411(a) is amended by adding at the end the following new subparagraph:

"(D) APPLICABLE LIMIT.—

"(i) IN GENERAL.—For purposes of subparagraph (A), the applicable limit is $5,000.

"(ii) INFLATION ADJUSTMENT.—In the case of plan years beginning in a calendar year after 1997, the dollar amount contained in clause (i) shall be increased by an amount equal to—

"(I) such dollar amount, multiplied by

"(II) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 1996' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $50, such amount shall be rounded to the next lowest multiple of $50.".

(3) CONFORMING AMENDMENTS.—

(A) Section 411(a)(7)(B), paragraphs (1) and (2) of section 417(e), and section 457(e)(9) are each amended by striking "$3,500" each place it appears (other than the headings) and inserting "the applicable limit under section 411(a)(11)(D)".

(B) The headings for paragraphs (1) and (2) of section 417(e) and subparagraph (A) of section 457(e)(9) are each amended by striking "$3,500" and inserting "APPLICABLE LIMIT".

(b) AMENDMENTS TO ERISA.—

(1) IN GENERAL.—Section 203(e)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1053(e)(1)) is amended by striking "$3,500" and inserting "the applicable limit under section 411(a)(11) of the Internal Revenue Code of 1986 for the plan year".

(2) CONFORMING AMENDMENTS.—Sections 204(d)(1) and 205(g) (1) and (2) (29 U.S.C. 1054(d)(1) and 1055(g) (1) and (2)) are each amended by striking "$3,500" and inserting "the applicable limit under section 411(a)(11) of the Internal Revenue Code of 1986 for the plan year".

(c) Effective Date.—The amendments made by this section shall apply to plan years beginning after the date of the enactment of this Act.

SEC. 880. ELECTION TO RECEIVE TAXABLE CASH COMPENSATION IN LIEU OF NONTAXABLE PARKING BENEFITS.

(a) In General.—Section 132(f)(4) (relating to benefits not in lieu of compensation) is amended by adding at the end the following new sentence: "This paragraph shall not apply to any qualified parking provided in lieu of compensation which otherwise would have been includible in gross income of the employee, and no amount shall be included in the gross income of the employee solely because the employee may choose between the qualified parking and compensation.".

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. 881. EXTENSION OF TEMPORARY UNEMPLOYMENT TAX.

Section 3301 (relating to rate of unemployment tax) is amended—

(1) by striking "1998" in paragraph (1) and inserting "2007", and

(2) by striking "1999" in paragraph (2) and inserting "2008".

SEC. 882. REPEAL OF EXCESS DISTRIBUTION AND EXCESS RETIREMENT ACCUMULATION TAX.

(a) Repeal of Excess Distribution and Excess Retirement Accumulation Tax.—Section 4980A (relating to excess distributions from qualified retirement plans) is repealed.

(b) Conforming Amendments.—

(1) Section 691(c)(1) is amended by striking subparagraph (C).

(2) Section 2013 is amended by striking subsection (g).

(3) Section 2053(c)(1)(B) is amended by striking the last sentence.

(4) Section 6018(a) is amended by striking paragraph (4).

(c) Effective Dates.—

(1) Excess distribution tax repeal.—Except as provided in paragraph (2), the repeal made by subsection (a) shall apply to excess distributions received after December 31, 1996.

(2) Excess retirement accumulation tax repeal.—The repeal made by subsection (a) with respect to section 4980A(d) of the Internal Revenue Code of 1986 and the amendments made by subsection (b) shall apply to estates of decedents dying after December 31, 1996.

SEC. 883. LIMITATION ON CHARITABLE REMAINDER TRUST ELIGIBILITY FOR CERTAIN TRUSTS.

(a) In General.—Paragraphs (1)(A) and (2)(A) of section 664(d) (relating to charitable remainder annuity trust) are each amended by inserting "nor more than 50 percent" after "not less than 5 percent".

(b) Effective Date.—The amendments made by this section shall apply to transfers in trust after June 18, 1997.

SEC. 884. INCREASE IN TAX ON PROHIBITED TRANSACTIONS.

(a) In General.—Section 4975(a) is amended by striking "10 percent" and inserting "15 percent".

(b) Effective Date.—The amendment made by this section shall apply to prohibited transactions occurring after the date of the enactment of this Act.

SEC. 885. BASIS RECOVERY RULES FOR ANNUITIES OVER MORE THAN ONE LIFE.

(a) In General.—Section 72(d)(1)(B) is amended by adding at the end the following new clause:

"(iv) Number of anticipated payments where more than one life.—If the annuity is payable over the lives of more than 1 individual, the number of anticipated payments shall be determined as follows:

"If the combined ages of annuitants are:	*The number is:*
Not more than 110	*410*
More than 110 but not more than 120	*360*
More than 120 but not more than 130	*310*
More than 130 but not more than 140	*260*
More than 140	*210.".*

(b) Conforming Amendment.—Section 72(d)(1)(B)(iii) is amended—

(1) by inserting "If the annuity is payable over the life of a single individual, the number of anticipated payments shall be determined as follows:" after the heading and before the table, and

(2) by striking "primary" in the table.

(c) Effective Date.—The amendments made by this section shall apply with respect to annuity starting dates beginning after December 31, 1997.

TITLE IX—FOREIGN-RELATED SIMPLIFICATION PROVISIONS

Subtitle A—General Provisions

SEC. 901. CERTAIN INDIVIDUALS EXEMPT FROM FOREIGN TAX CREDIT LIMITATION.

(a) General Rule.—Section 904 (relating to limitations on foreign tax credit) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) Certain Individuals Exempt.—

"(1) In general.—In the case of an individual to whom this subsection applies for any taxable year—

"(A) the limitation of subsection (a) shall not apply,

"(B) no taxes paid or accrued by the individual during such taxable year may be deemed paid or accrued under subsection (c) in any other taxable year, and

"(C) no taxes paid or accrued by the individual during any other taxable year may be deemed paid or accrued under subsection (c) in such taxable year.

"(2) Individuals to whom subsection applies.—This subsection shall apply to an individual for any taxable year if—

"(A) the entire amount of such individual's gross income for the taxable year from sources without the United States consists of qualified passive income,

"(B) the amount of the creditable foreign taxes paid or accrued by the individual during the taxable year does not exceed $300 ($600 in the case of a joint return), and

"(C) such individual elects to have this subsection apply for the taxable year.

"(3) Definitions.—For purposes of this subsection—

"(A) Qualified passive income.—The term 'qualified passive income' means any item of gross income if—

"(i) such item of income is passive income (as defined in subsection (d)(2)(A) without regard to clause (iii) thereof), and

"(ii) such item of income is shown on a payee statement furnished to the individual.

"(B) Creditable foreign taxes.—The term 'creditable foreign taxes' means any taxes for which a credit is allowable under section 901; except that such term shall not include any tax unless such tax is shown on a payee statement furnished to such individual.

"(C) Payee statement.—The term 'payee statement' has the meaning given to such term by section 6724(d)(2).

"(D) Estates and trusts not eligible.—This subsection shall not apply to any estate or trust.".

(b) Effective Date.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1997.

SEC. 902. EXCHANGE RATE USED IN TRANSLATING FOREIGN TAXES.

(a) Accrued Taxes Translated by Using Average Rate for Year to Which Taxes Relate.—

(1) In general.—Subsection (a) of section 986 (relating to translation of foreign taxes) is amended to read as follows:

"(a) Foreign Income Taxes.—

"(1) Translation of accrued taxes.—

"(A) In general.—For purposes of determining the amount of the foreign tax credit, in the case of a taxpayer who takes foreign income taxes into account when accrued, the amount of any foreign income taxes (and any adjustment thereto) shall be translated into dollars by using the average exchange rate for the taxable year to which such taxes relate.

"(B) Exception for certain taxes.—Subparagraph (A) shall not apply to any foreign income taxes—

"(i) paid after the date 2 years after the close of the taxable year to which such taxes relate, or

"(ii) paid before the beginning of the taxable year to which such taxes relate.

"(C) Exception for inflationary currencies.—Subparagraph (A) shall not apply to any foreign income taxes the liability for which is denominated in any inflationary currency (as determined under regulations).

"(D) Cross reference.—

"For adjustments where tax is not paid within 2 years, see section 905(c).

"(2) Translation of taxes to which paragraph (1) does not apply.—For purposes of determining the amount of the foreign tax credit, in the case of any foreign income taxes to which subparagraph (A) of paragraph (1) does not apply—

"(A) such taxes shall be translated into dollars using the exchange rates as of the time such taxes were paid to the foreign country or possession of the United States, and

"(B) any adjustment to the amount of such taxes shall be translated into dollars using—

"(i) except as provided in clause (ii), the exchange rate as of the time when such adjustment is paid to the foreign country or possession, or

"(ii) in the case of any refund or credit of foreign income taxes, using the exchange rate as of the time of the original payment of such foreign income taxes.

"(3) Foreign income taxes.—For purposes of this subsection, the term 'foreign income taxes' means any income, war profits, or excess profits taxes paid or accrued to any foreign country or to any possession of the United States.".

(2) Adjustment when not paid within 2 years after year to which taxes relate.—Subsection (c) of section 905 is amended to read as follows:

"(c) Adjustments to Accrued Taxes.—

"(1) In general.—If—

"(A) accrued taxes when paid differ from the amounts claimed as credits by the taxpayer,

"(B) accrued taxes are not paid before the date 2 years after the close of the taxable year to which such taxes relate, or

"(C) any tax paid is refunded in whole or in part,

the taxpayer shall notify the Secretary, who shall redetermine the amount of the tax for the year or years affected. The Secretary may prescribe adjustments to the pools of post-1986 foreign income taxes under sections 902 and 960 in lieu of the redetermination under the preceding sentence.

"(2) Special rule for taxes not paid within 2 years.—

"(A) In general.—Except as provided in subparagraph (B), in making the redetermination under paragraph (1), no credit shall be allowed for accrued taxes not paid before the date referred to in subparagraph (B) of paragraph (1).

"(B) Taxes subsequently paid.—Any such taxes if subsequently paid—

"(i) shall be taken into account—

"(I) in the case of taxes deemed paid under section 902 or section 960, for the taxable year in which paid (and no redetermination shall be made under this section by reason of such payment), and

"(II) in any other case, for the taxable year to which such taxes relate, and

"(ii) shall be translated as provided in section 986(a)(2)(A).

"(3) ADJUSTMENTS.—The amount of tax (if any) due on any redetermination under paragraph (1) shall be paid by the taxpayer on notice and demand by the Secretary, and the amount of tax overpaid (if any) shall be credited or refunded to the taxpayer in accordance with subchapter B of chapter 66 (section 6511 et seq.).

"(4) BOND REQUIREMENTS.—In the case of any tax accrued but not paid, the Secretary, as a condition precedent to the allowance of the credit provided in this subpart, may require the taxpayer to give a bond, with sureties satisfactory to and approved by the Secretary, in such sum as the Secretary may require, conditioned on the payment by the taxpayer of any amount of tax found due on any such redetermination. Any such bond shall contain such further conditions as the Secretary may require.

"(5) OTHER SPECIAL RULES.—In any redetermination under paragraph (1) by the Secretary of the amount of tax due from the taxpayer for the year or years affected by a refund, the amount of the taxes refunded for which credit has been allowed under this section shall be reduced by the amount of any tax described in section 901 imposed by the foreign country or possession of the United States with respect to such refund; but no credit under this subpart, or deduction under section 164, shall be allowed for any taxable year with respect to any such tax imposed on the refund. No interest shall be assessed or collected on any amount of tax due on any redetermination by the Secretary, resulting from a refund to the taxpayer, for any period before the receipt of such refund, except to the extent interest was paid by the foreign country or possession of the United States on such refund for such period.".

(b) AUTHORITY TO USE AVERAGE RATES.—

(1) IN GENERAL.—Subsection (a) of section 986 (as amended by subsection (a)) is amended by redesignating paragraph (3) as paragraph (4) and inserting after paragraph (2) the following new paragraph:

"(3) AUTHORITY TO PERMIT USE OF AVERAGE RATES.—To the extent prescribed in regulations, the average exchange rate for the period (specified in such regulations) during which the taxes or adjustment is paid may be used instead of the exchange rate as of the time of such payment.".

(2) DETERMINATION OF AVERAGE RATES.—Subsection (c) of section 989 is amended by striking "and" at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting ", and", and by adding at the end thereof the following new paragraph:

"(6) setting forth procedures for determining the average exchange rate for any period.".

(3) CONFORMING AMENDMENTS.—Subsection (b) of section 989 is amended by striking "weighted" each place it appears.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a)(1) and (b) shall apply to taxes paid or accrued in taxable years beginning after December 31, 1997.

(2) SUBSECTION (a)(2).—The amendment made by subsection (a)(2) shall apply to taxes which relate to taxable years beginning after December 31, 1997.

SEC. 903. ELECTION TO USE SIMPLIFIED SECTION 904 LIMITATION FOR ALTERNATIVE MINIMUM TAX.

(a) GENERAL RULE.—Subsection (a) of section 59 (relating to alternative minimum tax foreign tax credit) is amended by adding at the end thereof the following new paragraph:

"(3) ELECTION TO USE SIMPLIFIED SECTION 904 LIMITATION.—

"(A) IN GENERAL.—In determining the alternative minimum tax foreign tax credit for any taxable year to which an election under this paragraph applies—

"(i) subparagraph (B) of paragraph (1) shall not apply, and

"(ii) the limitation of section 904 shall be based on the proportion which—

"(I) the taxpayer's taxable income (as determined for purposes of the regular tax) from sources without the United States (but not in excess of the taxpayer's entire alternative minimum taxable income), bears to

"(II) the taxpayer's entire alternative minimum taxable income for the taxable year.

"(B) ELECTION.—

"(i) IN GENERAL.—An election under this paragraph may be made only for the taxpayer's first taxable year which begins after December 31, 1997, and for which the taxpayer claims an alternative minimum tax foreign tax credit.

"(ii) ELECTION REVOCABLE ONLY WITH CONSENT.—An election under this paragraph, once made, shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. 904. TREATMENT OF PERSONAL TRANSACTIONS BY INDIVIDUALS UNDER FOREIGN CURRENCY RULES.

(a) GENERAL RULE.—Subsection (e) of section 988 (relating to application to individuals) is amended to read as follows:

"(e) APPLICATION TO INDIVIDUALS.—

"(1) IN GENERAL.—The preceding provisions of this section shall not apply to any section 988 transaction entered into by an individual which is a personal transaction.

"(2) EXCLUSION FOR CERTAIN PERSONAL TRANSACTIONS.—If—

"(A) nonfunctional currency is disposed of by an individual in any transaction, and

"(B) such transaction is a personal transaction,

no gain shall be recognized for purposes of this subtitle by reason of changes in exchange rates after such currency was acquired by such individual and before such disposition. The preceding sentence shall not apply if the gain which would otherwise be recognized on the transaction exceeds $200.

"(3) PERSONAL TRANSACTIONS.—For purposes of this subsection, the term 'personal transaction' means any transaction entered into by an individual, except that such term shall not include any transaction to the extent that expenses properly allocable to such transaction meet the requirements of section 162 or 212 (other than that part of section 212 dealing with expenses incurred in connection with taxes).".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

Subtitle B—Treatment of Controlled Foreign Corporations

SEC. 911. GAIN ON CERTAIN STOCK SALES BY CONTROLLED FOREIGN CORPORATIONS TREATED AS DIVIDENDS.

(a) GENERAL RULE.—Section 964 (relating to miscellaneous provisions) is amended by adding at the end thereof the following new subsection:

"(e) GAIN ON CERTAIN STOCK SALES BY CONTROLLED FOREIGN CORPORATIONS TREATED AS DIVIDENDS.—

"(1) IN GENERAL.—If a controlled foreign corporation sells or exchanges stock in any other foreign corporation, gain recognized on such sale or exchange shall be included in the gross income of such controlled foreign corporation as a dividend to the same extent that it would have been so included under section 1248(a) if such controlled foreign corporation were a United States person. For purposes of determining the amount which would have been so includible, the determination of whether such other foreign corporation was a controlled foreign corporation shall be made without regard to the preceding sentence.

"(2) SAME COUNTRY EXCEPTION NOT APPLICABLE.—Clause (i) of section 954(c)(3)(A) shall not apply to any amount treated as a dividend by reason of paragraph (1).

"(3) CLARIFICATION OF DEEMED SALES.—For purposes of this subsection, a controlled foreign corporation shall be treated as having sold or exchanged any stock if, under any provision of this subtitle, such controlled foreign corporation is treated as having gain from the sale or exchange of such stock.".

(b) AMENDMENT OF SECTION 904(d).—Clause (i) of section 904(d)(2)(E) is amended by striking "and except as provided in regulations, the taxpayer was a United States shareholder in such corporation".

(c) EFFECTIVE DATES.—

(1) The amendment made by subsection (a) shall apply to gain recognized on transactions occurring after the date of the enactment of this Act.

(2) The amendment made by subsection (b) shall apply to distributions after the date of the enactment of this Act.

SEC. 912. MISCELLANEOUS MODIFICATIONS TO SUBPART F.

(a) SECTION 1248 GAIN TAKEN INTO ACCOUNT IN DETERMINING PRO RATA SHARE.—

(1) IN GENERAL.—Paragraph (2) of section 951(a) (defining pro rata share of subpart F income) is amended by adding at the end thereof the following new sentence: "For purposes of subparagraph (B), any gain included in the gross income of any person as a dividend under section 1248 shall be treated as a distribution received by such person with respect to the stock involved.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to dispositions after the date of the enactment of this Act.

(b) BASIS ADJUSTMENTS IN STOCK HELD BY FOREIGN CORPORATION.—

(1) IN GENERAL.—Section 961 (relating to adjustments to basis of stock in controlled foreign corporations and of other property) is amended by adding at the end thereof the following new subsection:

"(c) BASIS ADJUSTMENTS IN STOCK HELD BY FOREIGN CORPORATION.—Under regulations prescribed by the Secretary, if a United States shareholder is treated under section 958(a)(2) as owning any stock in a controlled foreign corporation which is actually owned by another controlled foreign corporation, adjustments similar to the adjustments provided by subsections (a) and (b) shall be made to the basis of such stock in the hands of such other controlled foreign corporation, but only for the purposes of determining the amount included under section 951 in the gross income of such United States shareholder (or any other United States shareholder who acquires from any person any portion of the interest of such United States shareholder by reason of which such shareholder was treated as owning such stock, but only to the extent of such portion, and subject to such proof of identity of such interest as the Secretary may prescribe by regulations).".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply for purposes of determining inclusions for taxable years of United States shareholders beginning after December 31, 1997.

(c) CLARIFICATION OF TREATMENT OF BRANCH TAX EXEMPTIONS OR REDUCTIONS.—

(1) IN GENERAL.—Subsection (b) of section 952 is amended by adding at the end thereof the following new sentence: "For purposes of this subsection, any exemption (or reduction) with respect to the tax imposed by section 884 shall not be taken into account.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1986.

SEC. 913. INDIRECT FOREIGN TAX CREDIT ALLOWED FOR CERTAIN LOWER TIER COMPANIES.

(a) SECTION 902 CREDIT.—

(1) IN GENERAL.—Subsection (b) of section 902 (relating to deemed taxes increased in case of certain 2nd and 3rd tier foreign corporations) is amended to read as follows:

"(b) DEEMED TAXES INCREASED IN CASE OF CERTAIN LOWER TIER CORPORATIONS.—

"(1) IN GENERAL.—If—

"(A) any foreign corporation is a member of a qualified group, and

"(B) such foreign corporation owns 10 percent or more of the voting stock of another member of such group from which it receives dividends in any taxable year,

such foreign corporation shall be deemed to have paid the same proportion of such other member's post-1986 foreign income taxes as would be determined under subsection (a) if such foreign corporation were a domestic corporation.

"(2) QUALIFIED GROUP.—For purposes of paragraph (1), the term 'qualified group' means—

"(A) the foreign corporation described in subsection (a), and

"(B) any other foreign corporation if—

"(i) the domestic corporation owns at least 5 percent of the voting stock of such other foreign corporation indirectly through a chain of foreign corporations connected through stock ownership of at least 10 percent of their voting stock,

"(ii) the foreign corporation described in subsection (a) is the first tier corporation in such chain, and

"(iii) such other corporation is not below the sixth tier in such chain.

The term 'qualified group' shall not include any foreign corporation below the third tier in the chain referred to in clause (i) unless such foreign corporation is a controlled foreign corporation (as defined in section 957) and the domestic corporation is a United States shareholder (as defined in section 951(b)) in such foreign corporation. Paragraph (1) shall apply to those taxes paid by a member of the qualified group below the third tier only with respect to periods during which it was a controlled foreign corporation.".

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (B) of section 902(c)(3) is amended by adding "or" at the end of clause (i) and by striking clauses (ii) and (iii) and inserting the following new clause:

"(ii) the requirements of subsection (b)(2) are met with respect to such foreign corporation.".

(B) Subparagraph (B) of section 902(c)(4) is amended by striking "3rd foreign corporation" and inserting "sixth tier foreign corporation".

(C) The heading for paragraph (3) of section 902(c) is amended by striking "WHERE DOMESTIC CORPORATION ACQUIRES 10 PERCENT OF FOREIGN CORPORATION" and inserting "WHERE FOREIGN CORPORATION FIRST QUALIFIES".

(D) Paragraph (3) of section 902(c) is amended by striking "ownership" each place it appears.

(b) SECTION 960 CREDIT.—Paragraph (1) of section 960(a) (relating to special rules for foreign tax credits) is amended to read as follows:

"(1) DEEMED PAID CREDIT.—For purposes of subpart A of this part, if there is included under section 951(a) in the gross income of a domestic corporation any amount attributable to earnings and profits of a foreign corporation which is a member of a qualified group (as defined in section 902(b)) with respect to the domestic corporation, then, except to the extent provided in regulations, section 902 shall be applied as if the amount so included were a dividend paid by such foreign corporation (determined by applying section 902(c) in accordance with section 904(d)(3)(B)).".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxes of foreign corporations for taxable years of such corporations beginning after the date of enactment of this Act.

(2) SPECIAL RULE.—In the case of any chain of foreign corporations described in clauses (i) and (ii) of section 902(b)(2)(B) of the Internal Revenue Code of 1986 (as amended by this section), no liquidation, reorganization, or similar transaction in a taxable year beginning after the date of the enactment of this Act shall have the effect of permitting taxes to be taken into account under section 902 of the Internal Revenue Code of 1986 which could not have been taken into account under such section but for such transaction.

Subtitle C—Repeal of Excise Tax on Transfers to Foreign Entities

SEC. 921. REPEAL OF EXCISE TAX ON TRANSFERS TO FOREIGN ENTITIES; RECOGNITION OF GAIN ON CERTAIN TRANSFERS TO FOREIGN TRUSTS AND ESTATES.

(a) REPEAL OF EXCISE TAX.—Chapter 5 (relating to transfers to avoid income tax) is hereby repealed.

(b) RECOGNITION OF GAIN ON CERTAIN TRANSFERS TO FOREIGN TRUSTS AND ESTATES.—Subpart F of part I of subchapter J of chapter 1 is amended by adding at the end the following new section:

"SEC. 684. RECOGNITION OF GAIN ON CERTAIN TRANSFERS TO CERTAIN FOREIGN TRUSTS AND ESTATES.

"(a) IN GENERAL.—Except as provided in regulations, in the case of any transfer of property by a United States person to a foreign estate or trust, for purposes of this subtitle, such transfer shall be treated as a sale or exchange for an amount equal to the fair market value of the property transferred, and the transferor shall recognize as gain the excess of—

"(1) the fair market value of the property so transferred, over

"(2) the adjusted basis (for purposes of determining gain) of such property in the hands of the transferor.

"(b) EXCEPTION.—Subsection (a) shall not apply to a transfer to a trust by a United States person to the extent that any person is treated as the owner of such trust under section 671.".

(b) OTHER ANTI-AVOIDANCE PROVISIONS REPLACING REPEALED EXCISE TAX.—

(1) GAIN RECOGNITION ON EXCHANGES INVOLVING FOREIGN PERSONS.—Section 1035 is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) EXCHANGES INVOLVING FOREIGN PERSONS.—To the extent provided in regulations, subsection (a) shall not apply to any exchange having the effect of transferring property to any person other than a United States person.".

(2) TRANSFERS TO FOREIGN CORPORATIONS.—Section 367 is amended by adding at the end the following new subsection:

"(f) OTHER TRANSFERS.—To the extent provided in regulations, if a United States person transfers property to a foreign corporation as paid-in surplus or as a contribution to capital (in a transaction not otherwise described in this section), such foreign corporation shall not, for purposes of determining the extent to which gain shall be recognized on such transfer, be considered to be a corporation.".

(3) CERTAIN TRANSFERS TO PARTNERSHIPS.—Section 721 is amended by adding at the end the following new subsection:

"(c) REGULATIONS RELATING TO CERTAIN TRANSFERS TO PARTNERSHIPS.—The Secretary may provide by regulations that subsection (a) shall not apply to gain realized on the transfer of property to a partnership if such gain, when recognized, will be includible in the gross income of a person other than a United States person.".

(4) REPEAL OF UNITED STATES SOURCE TREATMENT OF DEEMED ROYALTIES.—Subparagraph (C) of section 367(d)(2) is amended to read as follows:

"(C) AMOUNTS RECEIVED TREATED AS ORDINARY INCOME.—For purposes of this chapter, any amount included in gross income by reason of this subsection shall be treated as ordinary income.".

(5) TRANSFERS OF INTANGIBLES TO PARTNERSHIPS.—

(A) Subsection (d) of section 367 is amended by adding at the end the following new paragraph:

"(3) REGULATIONS RELATING TO TRANSFERS OF INTANGIBLES TO PARTNERSHIPS.—The Secretary may provide by regulations that the rules of paragraph (2) also apply to the transfer of intangible property by a United States person to a partnership in circumstances consistent with the purposes of this subsection.".

(B) Section 721 is amended by adding at the end the following new subsection:

"(d) TRANSFERS OF INTANGIBLES.—

"For regulatory authority to treat intangibles transferred to a partnership as sold, see section 367(d)(3).".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Subsection (h) of section 814 is amended by striking "or 1491".

(2) Section 1057 (relating to election to treat transfer to foreign trust, etc., as taxable exchange) is hereby repealed.

(3) Section 6422 is amended by striking paragraph (5) and by redesignating paragraphs (6) through (13) as paragraphs (5) through (12), respectively.

(4) The table of chapters for subtitle A is amended by striking the item relating to chapter 5.

(5) The table of sections for part IV of subchapter O of chapter 1 is amended by striking the item relating to section 1057.

(6) The table of sections for subpart F of part I of subchapter J of chapter 1 is amended by adding at the end the following new item:

"Sec. 684. Recognition of gain on certain transfers to certain foreign trusts and estates.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

Subtitle D—Information Reporting

SEC. 931. CLARIFICATION OF APPLICATION OF RETURN REQUIREMENT TO FOREIGN PARTNERSHIPS.

(a) IN GENERAL.—Section 6031 (relating to return of partnership income) is amended by adding at the end the following new subsection:

"(e) FOREIGN PARTNERSHIPS.—

"(1) EXCEPTION FOR FOREIGN PARTNERSHIP.—Except as provided in paragraph (2), the preceding provisions of this section shall not apply to a foreign partnership.

"(2) CERTAIN FOREIGN PARTNERSHIPS REQUIRED TO FILE RETURN.—Except as provided in regulations prescribed by the Secretary, this section shall apply to a foreign partnership for any taxable year if for such year, such partnership has—

"(A) gross income derived from sources within the United States, or

"(B) gross income which is effectively connected with the conduct of a trade or business within the United States.

The Secretary may provide simplified filing procedures for foreign partnerships to which this section applies.".

(b) SANCTION FOR FAILURE BY FOREIGN PARTNERSHIP TO COMPLY WITH SECTION 6031 TO INCLUDE DENIAL OF DEDUCTIONS.—Subsection (f) of section 6231 is amended—

(1) by striking "LOSSES AND" in the heading and inserting "DEDUCTIONS, LOSSES, AND", and

(2) by striking "loss or" each place it appears and inserting "deduction, loss, or".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 932. CONTROLLED FOREIGN PARTNERSHIPS SUBJECT TO INFORMATION REPORTING COMPARABLE TO INFORMATION REPORTING FOR CONTROLLED FOREIGN CORPORATIONS.

(a) IN GENERAL.—So much of section 6038 (relating to information with respect to certain foreign corporations) as precedes paragraph (2) of subsection (a) is amended to read as follows:

"SEC. 6038. INFORMATION REPORTING WITH RESPECT TO CERTAIN FOREIGN CORPORATIONS AND PARTNERSHIPS.

"(a) REQUIREMENT.—

"(1) IN GENERAL.—Every United States person shall furnish, with respect to any foreign business entity which such person controls, such information as the Secretary may prescribe relating to—

"(A) the name, the principal place of business, and the nature of business of such entity, and the country under whose laws such entity is incorporated (or organized in the case of a partnership);

"(B) in the case of a foreign corporation, its post-1986 undistributed earnings (as defined in section 902(c));

"(C) a balance sheet for such entity listing assets, liabilities, and capital;

"(D) transactions between such entity and—

"(i) such person,

"(ii) any corporation or partnership which such person controls, and

"(iii) any United States person owning, at the time the transaction takes place—

"(I) in the case of a foreign corporation, 10 percent or more of the value of any class of stock outstanding of such corporation, and

"(II) in the case of a foreign partnership, at least a 10-percent interest in such partnership; and

"(E)(i) in the case of a foreign corporation, a description of the various classes of stock outstanding, and a list showing the name and address of, and number of shares held by, each United States person who is a shareholder of record owning at any time during the annual accounting period 5 percent or more in value of any class of stock outstanding of such foreign corporation, and

"(ii) information comparable to the information described in clause (i) in the case of a foreign partnership.

The Secretary may also require the furnishing of any other information which is similar or related in nature to that specified in the preceding sentence or which the Secretary determines to be appropriate to carry out the provisions of this title.".

(b) DEFINITIONS.—

(1) IN GENERAL.—Subsection (e) of section 6038 (relating to definitions) is amended—

(A) by redesignating paragraphs (1) and (2) as paragraphs (2) and (4), respectively,

(B) by inserting before paragraph (2) (as so redesignated) the following new paragraph:

"(1) FOREIGN BUSINESS ENTITY.—The term 'foreign business entity' means a foreign corporation and a foreign partnership.", and

(C) by inserting after paragraph (2) (as so redesignated) the following new paragraph:

"(3) PARTNERSHIP-RELATED DEFINITIONS.—

"(A) CONTROL.—A person is in control of a partnership if such person owns directly or indirectly more than a 50 percent interest in such partnership.

"(B) 50-PERCENT INTEREST.—For purposes of subparagraph (A), a 50-percent interest in a partnership is—

"(i) an interest equal to 50 percent of the capital interest, or 50 percent of the profits interest, in such partnership, or

"(ii) to the extent provided in regulations, an interest to which 50 percent of the deductions or losses of such partnership are allocated.

For purposes of the preceding sentence, rules similar to the rules of section 267(c) (other than paragraph (3)) shall apply, except so as to consider a United States person as owning such an interest which is owned by a person which is not a United States person.

"(C) 10-PERCENT INTEREST.—A 10-percent interest in a partnership is an interest which would be described in subparagraph (B) if '10 percent' were substituted for '50 percent' each place it appears.".

(2) CLERICAL AMENDMENT.—The paragraph heading for paragraph (2) of section 6038(e) (as so redesignated) is amended by inserting "OF CORPORATION" after "CONTROL".

(c) MODIFICATION OF SANCTIONS ON PARTNERSHIPS AND CORPORATIONS FOR FAILURE TO FURNISH INFORMATION.—

(1) IN GENERAL.—Subsection (b) of section 6038 is amended—

(A) by striking "$1,000" each place it appears and inserting "$10,000", and

(B) by striking "$24,000" in paragraph (2) and inserting "$50,000".

(d) REPORTING BY 10-PERCENT PARTNERS.—Subsection (a) of section 6038 is amended by adding at the end the following new paragraph:

"(5) INFORMATION REQUIRED FROM 10-PERCENT PARTNER OF CONTROLLED FOREIGN PARTNERSHIP.—In the case of a foreign partnership which is controlled by United States persons holding at least 10-percent interests (but not by any one United States person), the Secretary may require each United States person who holds a 10-percent interest in such partnership to furnish information relating to such partnership, including information relating to such partner's ownership interests in the partnership and allocations to such partner of partnership items.".

(e) TECHNICAL AMENDMENTS.—

(1) The following provisions of section 6038 are each amended by striking "foreign corporation" each place it appears and inserting "foreign business entity":

(A) Paragraphs (2) and (3) of subsection (a).

(B) Subsection (b).

(C) Subsection (c) other than paragraph (1)(B) thereof.

(D) Subsection (d).

(E) Subsection (e)(4) (as redesignated by subsection (b)).

(2) Subparagraph (B) of section 6038(c)(1) is amended by inserting "in the case of a foreign business entity which is a foreign corporation," after "(B)".

(3) Paragraph (8) of section 318(b) is amended by striking "6038(d)(1)" and inserting "6038(d)(2)".

(4) Paragraph (4) of section 901(k) is amended by striking "foreign corporation" and inserting "foreign corporation or partnership".

(5) The table of sections for subpart A of part III of subchapter A of chapter 61 is amended by striking the item relating to section 6038 and inserting the following new item:

"Sec. 6038. Information reporting with respect to certain foreign corporations and partnerships.".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to annual accounting periods of foreign partnerships beginning after the date of the enactment of this Act.

SEC. 933. MODIFICATIONS RELATING TO RETURNS REQUIRED TO BE FILED BY REASON OF CHANGES IN OWNERSHIP INTERESTS IN FOREIGN PARTNERSHIP.

(a) NO RETURN REQUIRED UNLESS CHANGES INVOLVE 10-PERCENT INTEREST IN PARTNERSHIP.—

(1) IN GENERAL.—Subsection (a) of section 6046A (relating to returns as to interests in foreign partnerships) is amended by adding at the end the following new sentence: "Paragraphs (1) and (2) shall apply to any acquisition or disposition only if the United States person directly or indirectly holds at least a 10-percent interest in such partnership either before or after such acquisition or disposition, and paragraph (3) shall apply to any change only if the change is equivalent to at least a 10-percent interest in such partnership.".

(2) 10-PERCENT INTEREST.—Section 6046A is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) 10-PERCENT INTEREST.—For purposes of subsection (a), a 10-percent interest in a partnership is an interest described in section 6038(e)(3)(C).".

(b) MODIFICATION OF PENALTY ON FAILURE TO REPORT CHANGES IN OWNERSHIP INTERESTS IN FOREIGN CORPORATIONS AND PARTNERSHIPS.—Subsection (a) of section 6679 (relating to failure to file returns, etc., with respect to foreign corporations or foreign partnerships) is amended to read as follows:

"(a) CIVIL PENALTY.—

"(1) IN GENERAL.—In addition to any criminal penalty provided by law, any person required to file a return under section 6035, 6046, or 6046A who fails to file such return at the time provided in such section, or who files a return which does not show the information required pursuant to such section, shall pay a penalty of $10,000, unless it is shown that such failure is due to reasonable cause.

"(2) INCREASE IN PENALTY WHERE FAILURE CONTINUES AFTER NOTIFICATION.—If any failure described in paragraph (1) continues for more than 90 days after the day on which the Secretary mails notice of such failure to the United States person, such person shall pay a penalty (in addition to the amount required under paragraph (1)) of $10,000 for each 30-day period (or fraction thereof) during which such failure continues after the expiration of such 90-day period. The increase in any penalty under this paragraph shall not exceed $50,000.

"(3) REDUCED PENALTY FOR RETURNS RELATING TO FOREIGN PERSONAL HOLDING COMPANIES.—In the case of a return required under section 6035, paragraph (1) shall be applied by substituting '$1,000' for '$10,000', and paragraph (2) shall not apply.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers and changes after the date of the enactment of this Act.

SEC. 934. TRANSFERS OF PROPERTY TO FOREIGN PARTNERSHIPS SUBJECT TO INFORMATION REPORTING COMPARABLE TO INFORMATION REPORTING FOR SUCH TRANSFERS TO FOREIGN CORPORATIONS.

(a) IN GENERAL.—Paragraph (1) of section 6038B(a) (relating to notice of certain transfers to foreign corporations) is amended to read as follows:

"(1) transfers property to—

"(A) a foreign corporation in an exchange described in section 332, 351, 354, 355, 356, or 361, or

"(B) a foreign partnership in a contribution described in section 721 or in any other contribution described in regulations prescribed by the Secretary,".

(b) EXCEPTIONS.—Section 6038B is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

"(b) EXCEPTIONS FOR CERTAIN TRANSFERS TO FOREIGN PARTNERSHIPS; SPECIAL RULE.—

"(1) EXCEPTIONS.—Subsection (a)(1)(B) shall apply to a transfer by a United States person to a foreign partnership only if—

"(A) the United States person holds (immediately after the transfer) directly or indirectly at least a 10-percent interest (as defined in section 6046A(d)) in the partnership, or

"(B) the value of the property transferred (when added to the value of the property transferred by such person or any related person to such partnership or a related partnership during the 12-month period ending on the date of the transfer) exceeds $100,000.

For purposes of the preceding sentence, the value of any transferred property is its fair market value at the time of its transfer.

"(2) SPECIAL RULE.—If by reason of an adjustment under section 482 or otherwise, a contribution described in subsection (a)(1) is deemed to have been made, such contribution shall be treated for purposes of this section as having been made not earlier than the date specified by the Secretary.".

(c) MODIFICATION OF PENALTY APPLICABLE TO FOREIGN CORPORATIONS AND PARTNERSHIPS.—

(1) IN GENERAL.—Paragraph (1) of section 6038B(b) is amended by striking "equal to" and all that follows and inserting "equal to 10 percent of the fair market value of the property at the time of the exchange (and, in the case of a contribution described in subsection (a)(1)(B), such person shall recognize gain as if the contributed property had been sold for such value at the time of such contribution).".

(2) LIMIT ON PENALTY.—Section 6038B(b) is amended by adding at the end the following new paragraph:

"(3) LIMIT ON PENALTY.—The penalty under paragraph (1) with respect to any exchange shall not exceed $100,000 unless the failure with respect to such exchange was due to intentional disregard.".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to transfers made after the date of the enactment of this Act.

(2) ELECTION OF RETROACTIVE EFFECT.—Section 1494(c) of the Internal Revenue Code of 1986 shall not apply to any transfer after August 20, 1996, if all applicable reporting requirements under section 6038B of such Code (as amended by this section) are satisfied. The Secretary of the Treasury or his delegate may prescribe simplified reporting under the preceding sentence.

SEC. 935. EXTENSION OF STATUTE OF LIMITATION FOR FOREIGN TRANSFERS.

(a) IN GENERAL.—Paragraph (8) of section 6501(c) (relating to failure to notify Secretary under section 6038B) is amended to read as follows:

"(8) FAILURE TO NOTIFY SECRETARY OF CERTAIN FOREIGN TRANSFERS.—In the case of any information which is required to be reported to the Secretary under section 6038, 6038A, 6038B, 6046, 6046A, or 6048, the time for assessment of any tax imposed by this title with respect to any event or period to which such information relates shall not expire before the date which is 3 years after the date on which the Secretary is furnished the information required to be reported under such section.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to information the due date for the reporting of which is after the date of the enactment of this Act.

SEC. 936. INCREASE IN FILING THRESHOLDS FOR RETURNS AS TO ORGANIZATION OF FOREIGN CORPORATIONS AND ACQUISITIONS OF STOCK IN SUCH CORPORATIONS.

(a) IN GENERAL.—Subsection (a) of section 6046 (relating to returns as to organization or reorganization of foreign corporations and as to acquisitions of their stock) is amended to read as follows:

"(a) REQUIREMENT OF RETURN.—

"(1) IN GENERAL.—A return complying with the requirements of subsection (b) shall be made by—

"(A) each United States citizen or resident who becomes an officer or director of a foreign corporation if a United States person (as defined in section 7701(a)(30)) meets the stock ownership requirements of paragraph (2) with respect to such corporation,

"(B) each United States person—

"(i) who acquires stock which, when added to any stock owned on the date of such acquisition, meets the stock ownership requirements of paragraph (2) with respect to a foreign corporation, or

"(ii) who acquires stock which, without regard to stock owned on the date of such acquisition, meets the stock ownership requirements of paragraph (2) with respect to a foreign corporation,

"(C) each person (not described in subparagraph (B)) who is treated as a United States shareholder under section 953(c) with respect to a foreign corporation, and

"(D) each person who becomes a United States person while meeting the stock ownership requirements of paragraph (2) with respect to stock of a foreign corporation.

In the case of a foreign corporation with respect to which any person is treated as a United States shareholder under section 953(c), subparagraph (A) shall be treated as including a reference to each United States person who is an officer or director of such corporation.

"(2) STOCK OWNERSHIP REQUIREMENTS.—A person meets the stock ownership requirements of this paragraph with respect to any corporation if such person owns 10 percent or more of—

"(A) the total combined voting power of all classes of stock of such corporation entitled to vote, or

"(B) the total value of the stock of such corporation.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on January 1, 1998.

Subtitle E—Determination of Foreign or Domestic Status of Partnerships

SEC. 941. DETERMINATION OF FOREIGN OR DOMESTIC STATUS OF PARTNERSHIPS.

(a) IN GENERAL.—Paragraph (4) of section 7701(a) is amended by inserting before the period "unless, in the case of a partnership, the Secretary provides otherwise by regulations".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

Subtitle F—Other Simplification Provisions

SEC. 951. TRANSITION RULE FOR CERTAIN TRUSTS.

(a) IN GENERAL.—Paragraph (3) of section 1907(a) of the Small Business Job Protection Act of 1996 is amended by adding at the end the following flush sentence:

"To the extent prescribed in regulations by the Secretary of the Treasury or his delegate, a trust which was in existence on August 20, 1996 (other than a trust treated as owned by the grantor under subpart E of part I of subchapter J of chapter 1 of the Internal Revenue Code of 1986), and which was treated as a United States person on the day before the date of the enactment of this Act may elect to continue to be treated as a United States person notwithstanding section 7701(a)(30)(E) of such Code.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the amendments made by section 1907(a) of the Small Business Job Protection Act of 1996.

SEC. 952. REPEAL OF STOCK AND SECURITIES SAFE HARBOR REQUIREMENT THAT PRINCIPAL OFFICE BE OUTSIDE THE UNITED STATES.

(a) IN GENERAL.—The last sentence of clause (ii) of section 864(b)(2)(A) (relating to stock or securities) is amended by striking ", or in the case of a corporation" and all that follows and inserting a period.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1997.

SEC. 953. MISCELLANEOUS CLARIFICATIONS.

(a) ATTRIBUTION OF DEEMED PAID FOREIGN TAXES TO PRIOR DISTRIBUTIONS.—Subparagraph (B) of section 902(c)(2) is amended by striking "deemed paid with respect to" and inserting "attributable to".

(b) FINANCIAL SERVICES INCOME DETERMINED WITHOUT REGARD TO HIGH-TAXED INCOME.—Subclause (II) of section 904(d)(2)(C)(i) is amended by striking "subclause (I)" and inserting "subclauses (I) and (III)".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

TITLE X—SIMPLIFICATION PROVISIONS RELATING TO INDIVIDUALS AND BUSINESSES

Subtitle A—Provisions Relating to Individuals

SEC. 1001. BASIC STANDARD DEDUCTION AND MINIMUM TAX EXEMPTION AMOUNT FOR CERTAIN DEPENDENTS.

(a) BASIC STANDARD DEDUCTION.—

(1) IN GENERAL.—Paragraph (5) of section 63(c) (relating to limitation on basic standard deduction in the case of certain dependents) is amended by striking "shall not exceed" and all that follows and inserting "shall not exceed the greater of—

"(A) $500, or

"(B) the sum of $250 and such individual's earned income.".

(2) CONFORMING AMENDMENT.—Paragraph (4) of section 63(c) is amended—

(A) by striking "(5)(A)" in the material preceding subparagraph (A) and inserting "(5)", and

(B) by striking "by substituting" and all that follows in subparagraph (B) and inserting "by substituting for 'calendar year 1992' in subparagraph (B) thereof—

"(i) 'calendar year 1987' in the case of the dollar amounts contained in paragraph (2) or (5)(A) or subsection (f), and

"(ii) 'calendar year 1997' in the case of the dollar amount contained in paragraph (5)(B).".

(b) MINIMUM TAX EXEMPTION AMOUNT.—Subsection (j) of section 59 is amended to read as follows:

"(j) TREATMENT OF UNEARNED INCOME OF MINOR CHILDREN.—

"(1) IN GENERAL.—In the case of a child to whom section 1(g) applies, the exemption amount for purposes of section 55 shall not exceed the sum of—

"(A) such child's earned income (as defined in section 911(d)(2)) for the taxable year, plus

"(B) $5,000.

"(2) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 1998, the dollar amount in paragraph

(1)(B) shall be increased by an amount equal to the product of—

"(A) such dollar amount, and

"(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting '1997' for '1992' in subparagraph (B) thereof.

If any increase determined under the preceding sentence is not a multiple of $50, such increase shall be rounded to the nearest multiple of $50.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. 1002. INCREASE IN AMOUNT OF TAX EXEMPT FROM ESTIMATED TAX REQUIREMENTS.

(a) IN GENERAL.—Paragraph (1) of section 6654(e) (relating to exception where tax is small amount) is amended by striking "$500" and inserting "$1,000".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. 1003. TREATMENT OF CERTAIN REIMBURSED EXPENSES OF RURAL MAIL CARRIERS.

(a) IN GENERAL.—Section 162 (relating to trade or business expenses), as amended by title VII, is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

"(p) TREATMENT OF CERTAIN REIMBURSED EXPENSES OF RURAL MAIL CARRIERS.—

"(1) GENERAL RULE.—In the case of any employee of the United States Postal Service who performs services involving the collection and delivery of mail on a rural route and who receives qualified reimbursements for the expenses incurred by such employee for the use of a vehicle in performing such services—

"(A) the amount allowable as a deduction under this chapter for the use of a vehicle in performing such services shall be equal to the amount of such qualified reimbursements; and

"(B) such qualified reimbursements shall be treated as paid under a reimbursement or other expense allowance arrangement for purposes of section 62(a)(2)(A) (and section 62(c) shall not apply to such qualified reimbursements).

"(2) DEFINITION OF QUALIFIED REIMBURSEMENTS.—For purposes of this subsection, the term 'qualified reimbursements' means the amounts paid by the United States Postal Service to employees as an equipment maintenance allowance under the 1991 collective bargaining agreement between the United States Postal Service and the National Rural Letter Carriers' Association. Amounts paid as an equipment maintenance allowance by such Postal Service under later collective bargaining agreements that supersede the 1991 agreement shall be considered qualified reimbursements if such amounts do not exceed the amounts that would have been paid under the 1991 agreement, adjusted for changes in the Consumer Price Index (as defined in section 1(f)(5)) since 1991.".

(b) TECHNICAL AMENDMENT.—Section 6008 of the Technical and Miscellaneous Revenue Act of 1988 is hereby repealed.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. 1004. TREATMENT OF TRAVELING EXPENSES OF CERTAIN FEDERAL EMPLOYEES ENGAGED IN CRIMINAL INVESTIGATIONS.

(a) IN GENERAL.—Subsection (o) of section 162, as added by title VII, is amended by adding at the end the following new paragraph:

"(3) TRAVELING EXPENSES OF CERTAIN FEDERAL EMPLOYEES ENGAGED IN CRIMINAL INVESTIGATIONS.—Paragraph (1) shall not apply to any Federal employee during any period for which such employee is certified by the Attorney General (or the designee thereof) as traveling on behalf of the United States in temporary duty status to investigate, or provide support services for the investigation of, a Federal crime.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts paid or incurred with respect to taxable years ending after the date of the enactment of this Act.

Subtitle B—Provisions Relating to Businesses Generally

SEC. 1011. MODIFICATIONS TO LOOK-BACK METHOD FOR LONG-TERM CONTRACTS.

(a) LOOK-BACK METHOD NOT TO APPLY IN CERTAIN CASES.—Subsection (b) of section 460 (relating to percentage of completion method) is amended by adding at the end the following new paragraph:

"(6) ELECTION TO HAVE LOOK-BACK METHOD NOT APPLY IN DE MINIMIS CASES.—

"(A) AMOUNTS TAKEN INTO ACCOUNT AFTER COMPLETION OF CONTRACT.—Paragraph (1)(B) shall not apply with respect to any taxable year (beginning after the taxable year in which the contract is completed) if—

"(i) the cumulative taxable income (or loss) under the contract as of the close of such taxable year, is within

"(ii) 10 percent of the cumulative look-back taxable income (or loss) under the contract as of the close of the most recent taxable year to which paragraph (1)(B) applied (or would have applied but for subparagraph (B)).

"(B) DE MINIMIS DISCREPANCIES.—Paragraph (1)(B) shall not apply in any case to which it would otherwise apply if—

"(i) the cumulative taxable income (or loss) under the contract as of the close of each prior contract year, is within

"(ii) 10 percent of the cumulative look-back income (or loss) under the contract as of the close of such prior contract year.

"(C) DEFINITIONS.—For purposes of this paragraph—

"(i) CONTRACT YEAR.—The term 'contract year' means any taxable year for which income is taken into account under the contract.

"(ii) LOOK-BACK INCOME OR LOSS.—The look-back income (or loss) is the amount which would be the taxable income (or loss) under the contract if the allocation method set forth in paragraph (2)(A) were used in determining taxable income.

"(iii) DISCOUNTING NOT APPLICABLE.—The amounts taken into account after the completion of the contract shall be determined without regard to any discounting under the 2nd sentence of paragraph (2).

"(D) CONTRACTS TO WHICH PARAGRAPH APPLIES.—This paragraph shall only apply if the taxpayer makes an election under this subparagraph. Unless revoked with the consent of the Secretary, such an election shall apply to all long-term contracts completed during the taxable year for which election is made or during any subsequent taxable year.".

(b) MODIFICATION OF INTEREST RATE.—

(1) IN GENERAL.—Subparagraph (C) of section 460(b)(2) is amended by striking "the overpayment rate established by section 6621" and inserting "the adjusted overpayment rate (as defined in paragraph (7))".

(2) ADJUSTED OVERPAYMENT RATE.—Subsection (b) of section 460 is amended by adding at the end the following new paragraph:

"(7) ADJUSTED OVERPAYMENT RATE.—

"(A) IN GENERAL.—The adjusted overpayment rate for any interest accrual period is the overpayment rate in effect under section 6621 for the calendar quarter in which such interest accrual period begins.

"(B) INTEREST ACCRUAL PERIOD.—For purposes of subparagraph (A), the term 'interest accrual period' means the period—

"(i) beginning on the day after the return due date for any taxable year of the taxpayer, and

"(ii) ending on the return due date for the following taxable year.

For purposes of the preceding sentence, the term 'return due date' means the date prescribed for filing the return of the tax imposed by this chapter (determined without regard to extensions).".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to contracts completed in taxable years ending after the date of the enactment of this Act.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply for purposes of section 167(g) of the Internal Revenue Code of 1986 to property placed in service after September 13, 1995.

SEC. 1012. MINIMUM TAX TREATMENT OF CERTAIN PROPERTY AND CASUALTY INSURANCE COMPANIES.

(a) IN GENERAL.—Clause (i) of section 56(g)(4)(B) (relating to inclusion of items included for purposes of computing earnings and profits) is amended by adding at the end the following new sentence: "In the case of any insurance company taxable under section 831(b), this clause shall not apply to any amount not described in section 834(b).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1997.

SEC. 1013. USE OF ESTIMATES OF SHRINKAGE FOR INVENTORY ACCOUNTING.

(a) IN GENERAL.—Section 471 (relating to general rule for inventories) is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

"(b) ESTIMATES OF INVENTORY SHRINKAGE PERMITTED.—A method of determining inventories shall not be deemed not to clearly reflect income solely because it utilizes estimates of inventory shrinkage that are confirmed by a physical count only after the last day of the taxable year if—

"(1) the taxpayer normally does a physical count of inventories at each location on a regular and consistent basis, and

"(2) the taxpayer makes proper adjustments to such inventories and to its estimating methods to the extent such estimates are greater than or less than the actual shrinkage.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall apply to taxable years ending after the date of the enactment of this Act.

(2) COORDINATION WITH SECTION 481.—In the case of any taxpayer permitted by this section to change its method of accounting to a permissible method for any taxable year—

(A) such changes shall be treated as initiated by the taxpayer,

(B) such changes shall be treated as made with the consent of the Secretary, and

(C) the period for taking into account the adjustments under section 481 by reason of such change shall be 4 years.

SEC. 1014. QUALIFIED LESSEE CONSTRUCTION ALLOWANCES FOR SHORT-TERM LEASES.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 is amended by inserting after section 109 the following new section:

"SEC. 110. QUALIFIED LESSEE CONSTRUCTION ALLOWANCES FOR SHORT-TERM LEASES.

"(a) IN GENERAL.—Gross income of a lessee does not include any amount received in cash (or treated as a rent reduction) by a lessee from a lessor—

"(1) under a short-term lease of retail space, and

“(2) for the purpose of such lessee's constructing or improving qualified long-term real property for use in such lessee's trade or business at such retail space,

but only to the extent that such amount does not exceed the amount expended by the lessee for such construction or improvement.

“(b) CONSISTENT TREATMENT BY LESSOR.—Qualified long-term real property constructed or improved in connection with any amount excluded from a lessee's income by reason of subsection (a) shall be treated as nonresidential real property by the lessor.

“(c) DEFINITIONS.—For purposes of this section—

“(1) QUALIFIED LONG-TERM REAL PROPERTY.—The term ‘qualified long-term real property’ means nonresidential real property which is part of, or otherwise present at, the retail space referred to in subsection (a) and which reverts to the lessor at the termination of the lease.

“(2) SHORT-TERM LEASE.—The term ‘short-term lease’ means a lease (or other agreement for occupancy or use) of retail space for 15 years or less (as determined under the rules of section 168(i)(3)).

“(3) RETAIL SPACE.—The term ‘retail space’ means real property leased, occupied, or otherwise used by a lessee in its trade or business of selling tangible personal property or services to the general public.

“(d) INFORMATION REQUIRED TO BE FURNISHED TO SECRETARY.—Under regulations, the lessee and lessor described in subsection (a) shall, at such times and in such manner as may be provided in such regulations, furnish to the Secretary—

“(1) information concerning the amounts received (or treated as a rent reduction) and expended as described in subsection (a), and

“(2) any other information which the Secretary deems necessary to carry out the provisions of this section.”.

(b) TREATMENT AS INFORMATION RETURN.—Subparagraph (A) of section 6724(d)(1)(A) is amended by striking “or” at the end of clause (vii), by adding “or” at the end of clause (viii), and by adding at the end the following new clause:

“(ix) section 110(d) (relating to qualified lessee construction allowances for short-term leases),”.

(c) CROSS REFERENCE.—Paragraph (8) of section 168(i) (relating to treatment of leasehold improvements) is amended by adding at the end the following new subparagraph:

“(C) CROSS REFERENCE.—

“For treatment of qualified long-term real property constructed or improved in connection with cash or rent reduction from lessor to lessee, see section 110(b).”.

(d) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 is amended by inserting after the item relating to section 109 the following new item:

“Sec. 110. Qualified lessee construction allowances for short-term leases.”.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to leases entered into after the date of the enactment of this Act.

Subtitle C—Simplification Relating to Electing Large Partnerships

PART I—GENERAL PROVISIONS

SEC. 1021. SIMPLIFIED FLOW-THROUGH FOR ELECTING LARGE PARTNERSHIPS.

(a) GENERAL RULE.—Subchapter K (relating to partners and partnerships) is amended by adding at the end the following new part:

“PART IV—SPECIAL RULES FOR ELECTING LARGE PARTNERSHIPS

“Sec. 771. Application of subchapter to electing large partnerships.
“Sec. 772. Simplified flow-through.
“Sec. 773. Computations at partnership level.
“Sec. 774. Other modifications.
“Sec. 775. Electing large partnership defined.
“Sec. 776. Special rules for partnerships holding oil and gas properties.
“Sec. 777. Regulations.

“SEC. 771. APPLICATION OF SUBCHAPTER TO ELECTING LARGE PARTNERSHIPS.

“The preceding provisions of this subchapter to the extent inconsistent with the provisions of this part shall not apply to an electing large partnership and its partners.

“SEC. 772. SIMPLIFIED FLOW-THROUGH.

“(a) GENERAL RULE.—In determining the income tax of a partner of an electing large partnership, such partner shall take into account separately such partner's distributive share of the partnership's—

“(1) taxable income or loss from passive loss limitation activities,

“(2) taxable income or loss from other activities,

“(3) net capital gain (or net capital loss)—

“(A) to the extent allocable to passive loss limitation activities, and

“(B) to the extent allocable to other activities,

“(4) tax-exempt interest,

“(5) applicable net AMT adjustment separately computed for—

“(A) passive loss limitation activities, and

“(B) other activities,

“(6) general credits,

“(7) low-income housing credit determined under section 42,

“(8) rehabilitation credit determined under section 47,

“(9) foreign income taxes,

“(10) the credit allowable under section 29, and

“(11) other items to the extent that the Secretary determines that the separate treatment of such items is appropriate.

“(b) SEPARATE COMPUTATIONS.—In determining the amounts required under subsection (a) to be separately taken into account by any partner, this section and section 773 shall be applied separately with respect to such partner by taking into account such partner's distributive share of the items of income, gain, loss, deduction, or credit of the partnership.

“(c) TREATMENT AT PARTNER LEVEL.—

“(1) IN GENERAL.—Except as provided in this subsection, rules similar to the rules of section 702(b) shall apply to any partner's distributive share of the amounts referred to in subsection (a).

“(2) INCOME OR LOSS FROM PASSIVE LOSS LIMITATION ACTIVITIES.—For purposes of this chapter, any partner's distributive share of any income or loss described in subsection (a)(1) shall be treated as an item of income or loss (as the case may be) from the conduct of a trade or business which is a single passive activity (as defined in section 469). A similar rule shall apply to a partner's distributive share of amounts referred to in paragraphs (3)(A) and (5)(A) of subsection (a).

“(3) INCOME OR LOSS FROM OTHER ACTIVITIES.—

“(A) IN GENERAL.—For purposes of this chapter, any partner's distributive share of any income or loss described in subsection (a)(2) shall be treated as an item of income or expense (as the case may be) with respect to property held for investment.

“(B) DEDUCTIONS FOR LOSS NOT SUBJECT TO SECTION 67.—The deduction under section 212 for any loss described in subparagraph (A) shall not be treated as a miscellaneous itemized deduction for purposes of section 67.

“(4) TREATMENT OF NET CAPITAL GAIN OR LOSS.—For purposes of this chapter, any partner's distributive share of any gain or loss described in subsection (a)(3) shall be treated as a long-term capital gain or loss, as the case may be.

“(5) MINIMUM TAX TREATMENT.—In determining the alternative minimum taxable income of any partner, such partner's distributive share of any applicable net AMT adjustment shall be taken into account in lieu of making the separate adjustments provided in sections 56, 57, and 58 with respect to the items of the partnership. Except as provided in regulations, the applicable net AMT adjustment shall be treated, for purposes of section 53, as an adjustment or item of tax preference not specified in section 53(d)(1)(B)(ii).

“(6) GENERAL CREDITS.—A partner's distributive share of the amount referred to in paragraph (6) of subsection (a) shall be taken into account as a current year business credit.

“(d) OPERATING RULES.—For purposes of this section—

“(1) PASSIVE LOSS LIMITATION ACTIVITY.—The term ‘passive loss limitation activity’ means—

“(A) any activity which involves the conduct of a trade or business, and

“(B) any rental activity.

For purposes of the preceding sentence, the term ‘trade or business’ includes any activity treated as a trade or business under paragraph (5) or (6) of section 469(c).

“(2) TAX-EXEMPT INTEREST.—The term ‘tax-exempt interest’ means interest excludable from gross income under section 103.

“(3) APPLICABLE NET AMT ADJUSTMENT.—

“(A) IN GENERAL.—The applicable net AMT adjustment is—

“(i) with respect to taxpayers other than corporations, the net adjustment determined by using the adjustments applicable to individuals, and

“(ii) with respect to corporations, the net adjustment determined by using the adjustments applicable to corporations.

“(B) NET ADJUSTMENT.—The term ‘net adjustment’ means the net adjustment in the items attributable to passive loss activities or other activities (as the case may be) which would result if such items were determined with the adjustments of sections 56, 57, and 58.

“(4) TREATMENT OF CERTAIN SEPARATELY STATED ITEMS.—

“(A) EXCLUSION FOR CERTAIN PURPOSES.—In determining the amounts referred to in paragraphs (1) and (2) of subsection (a), any net capital gain or net capital loss (as the case may be), and any item referred to in subsection (a)(11), shall be excluded.

“(B) ALLOCATION RULES.—The net capital gain shall be treated—

“(i) as allocable to passive loss limitation activities to the extent the net capital gain does not exceed the net capital gain determined by only taking into account gains and losses from sales and exchanges of property used in connection with such activities, and

“(ii) as allocable to other activities to the extent such gain exceeds the amount allocated under clause (i).

A similar rule shall apply for purposes of allocating any net capital loss.

“(C) NET CAPITAL LOSS.—The term ‘net capital loss’ means the excess of the losses from sales or exchanges of capital assets over the gains from sales or exchange of capital assets.

“(5) GENERAL CREDITS.—The term ‘general credits’ means any credit other than the low-income housing credit, the rehabilitation credit, the foreign tax credit, and the credit allowable under section 29.

“(6) FOREIGN INCOME TAXES.—The term ‘foreign income taxes’ means taxes described in section 901 which are paid or accrued to foreign countries and to possessions of the United States.

“(e) SPECIAL RULE FOR UNRELATED BUSINESS TAX.—In the case of a partner which is an organization subject to tax under section 511, such partner's distributive share of any items shall be taken into account separately to the extent necessary to comply with the provisions of section 512(c)(1).

“(f) SPECIAL RULES FOR APPLYING PASSIVE LOSS LIMITATIONS.—If any person holds an interest in an electing large partnership other than as a limited partner—

“(1) paragraph (2) of subsection (c) shall not apply to such partner, and

“(2) such partner's distributive share of the partnership items allocable to passive loss limitation activities shall be taken into account separately to the extent necessary to comply with the provisions of section 469.

The preceding sentence shall not apply to any items allocable to an interest held as a limited partner.

“SEC. 773. COMPUTATIONS AT PARTNERSHIP LEVEL.

“(a) GENERAL RULE.—

“(1) TAXABLE INCOME.—The taxable income of an electing large partnership shall be computed in the same manner as in the case of an individual except that—

“(A) the items described in section 772(a) shall be separately stated, and

“(B) the modifications of subsection (b) shall apply.

“(2) ELECTIONS.—All elections affecting the computation of the taxable income of an electing large partnership or the computation of any credit of an electing large partnership shall be made by the partnership; except that the election under section 901, and any election under section 108, shall be made by each partner separately.

“(3) LIMITATIONS, ETC.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), all limitations and other provisions affecting the computation of the taxable income of an electing large partnership or the computation of any credit of an electing large partnership shall be applied at the partnership level (and not at the partner level).

“(B) CERTAIN LIMITATIONS APPLIED AT PARTNER LEVEL.—The following provisions shall be applied at the partner level (and not at the partnership level):

“(i) Section 68 (relating to overall limitation on itemized deductions).

“(ii) Sections 49 and 465 (relating to at risk limitations).

“(iii) Section 469 (relating to limitation on passive activity losses and credits).

“(iv) Any other provision specified in regulations.

“(4) COORDINATION WITH OTHER PROVISIONS.—Paragraphs (2) and (3) shall apply notwithstanding any other provision of this chapter other than this part.

“(b) MODIFICATIONS TO DETERMINATION OF TAXABLE INCOME.—In determining the taxable income of an electing large partnership—

“(1) CERTAIN DEDUCTIONS NOT ALLOWED.—The following deductions shall not be allowed:

“(A) The deduction for personal exemptions provided in section 151.

“(B) The net operating loss deduction provided in section 172.

“(C) The additional itemized deductions for individuals provided in part VII of subchapter B (other than section 212 thereof).

“(2) CHARITABLE DEDUCTIONS.—In determining the amount allowable under section 170, the limitation of section 170(b)(2) shall apply.

“(3) COORDINATION WITH SECTION 67.—In lieu of applying section 67, 70 percent of the amount of the miscellaneous itemized deductions shall be disallowed.

“(c) SPECIAL RULES FOR INCOME FROM DISCHARGE OF INDEBTEDNESS.—If an electing large partnership has income from the discharge of any indebtedness—

“(1) such income shall be excluded in determining the amounts referred to in section 772(a), and

“(2) in determining the income tax of any partner of such partnership—

“(A) such income shall be treated as an item required to be separately taken into account under section 772(a), and

“(B) the provisions of section 108 shall be applied without regard to this part.

“SEC. 774. OTHER MODIFICATIONS.

“(a) TREATMENT OF CERTAIN OPTIONAL ADJUSTMENTS, ETC.—In the case of an electing large partnership—

“(1) computations under section 773 shall be made without regard to any adjustment under section 743(b) or 108(b), but

“(2) a partner's distributive share of any amount referred to in section 772(a) shall be appropriately adjusted to take into account any adjustment under section 743(b) or 108(b) with respect to such partner.

“(b) CREDIT RECAPTURE DETERMINED AT PARTNERSHIP LEVEL.—

“(1) IN GENERAL.—In the case of an electing large partnership—

“(A) any credit recapture shall be taken into account by the partnership, and

“(B) the amount of such recapture shall be determined as if the credit with respect to which the recapture is made had been fully utilized to reduce tax.

“(2) METHOD OF TAKING RECAPTURE INTO ACCOUNT.—An electing large partnership shall take into account a credit recapture by reducing the amount of the appropriate current year credit to the extent thereof, and if such recapture exceeds the amount of such current year credit, the partnership shall be liable to pay such excess.

“(3) DISPOSITIONS NOT TO TRIGGER RECAPTURE.—No credit recapture shall be required by reason of any transfer of an interest in an electing large partnership.

“(4) CREDIT RECAPTURE.—For purposes of this subsection, the term ‘credit recapture’ means any increase in tax under section 42(j) or 50(a).

“(c) PARTNERSHIP NOT TERMINATED BY REASON OF CHANGE IN OWNERSHIP.—Subparagraph (B) of section 708(b)(1) shall not apply to an electing large partnership.

“(d) PARTNERSHIP ENTITLED TO CERTAIN CREDITS.—The following shall be allowed to an electing large partnership and shall not be taken into account by the partners of such partnership:

“(1) The credit provided by section 34.

“(2) Any credit or refund under section 852(b)(3)(D).

“(e) TREATMENT OF REMIC RESIDUALS.—For purposes of applying section 860E(e)(6) to any electing large partnership—

“(1) all interests in such partnership shall be treated as held by disqualified organizations,

“(2) in lieu of applying subparagraph (C) of section 860E(e)(6), the amount subject to tax under section 860E(e)(6) shall be excluded from the gross income of such partnership, and

“(3) subparagraph (D) of section 860E(e)(6) shall not apply.

“(f) SPECIAL RULES FOR APPLYING CERTAIN INSTALLMENT SALE RULES.—In the case of an electing large partnership—

“(1) the provisions of sections 453(l)(3) and 453A shall be applied at the partnership level, and

“(2) in determining the amount of interest payable under such sections, such partnership shall be treated as subject to tax under this chapter at the highest rate of tax in effect under section 1 or 11.

“SEC. 775. ELECTING LARGE PARTNERSHIP DEFINED.

“(a) GENERAL RULE.—For purposes of this part—

“(1) IN GENERAL.—The term ‘electing large partnership’ means, with respect to any partnership taxable year, any partnership if—

“(A) the number of persons who were partners in such partnership in the preceding partnership taxable year equaled or exceeded 100, and

“(B) such partnership elects the application of this part.

To the extent provided in regulations, a partnership shall cease to be treated as an electing large partnership for any partnership taxable year if in such taxable year fewer than 100 persons were partners in such partnership.

“(2) ELECTION.—The election under this subsection shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.

“(b) SPECIAL RULES FOR CERTAIN SERVICE PARTNERSHIPS.—

“(1) CERTAIN PARTNERS NOT COUNTED.—For purposes of this section, the term ‘partner’ does not include any individual performing substantial services in connection with the activities of the partnership and holding an interest in such partnership, or an individual who formerly performed substantial services in connection with such activities and who held an interest in such partnership at the time the individual performed such services.

“(2) EXCLUSION.—For purposes of this part, an election under subsection (a) shall not be effective with respect to any partnership if substantially all the partners of such partnership—

“(A) are individuals performing substantial services in connection with the activities of such partnership or are personal service corporations (as defined in section 269A(b)) the owner-employees (as defined in section 269A(b)) of which perform such substantial services,

“(B) are retired partners who had performed such substantial services, or

“(C) are spouses of partners who are performing (or had previously performed) such substantial services.

“(3) SPECIAL RULE FOR LOWER TIER PARTNERSHIPS.—For purposes of this subsection, the activities of a partnership shall include the activities of any other partnership in which the partnership owns directly an interest in the capital and profits of at least 80 percent.

“(c) EXCLUSION OF COMMODITY POOLS.—For purposes of this part, an election under subsection (a) shall not be effective with respect to any partnership the principal activity of which is the buying and selling of commodities (not described in section 1221(1)), or options, futures, or forwards with respect to such commodities.

“(d) SECRETARY MAY RELY ON TREATMENT ON RETURN.—If, on the partnership return of any partnership, such partnership is treated as an electing large partnership, such treatment shall be binding on such partnership and all partners of such partnership but not on the Secretary.

“SEC. 776. SPECIAL RULES FOR PARTNERSHIPS HOLDING OIL AND GAS PROPERTIES.

“(a) COMPUTATION OF PERCENTAGE DEPLETION.—In the case of an electing large partnership, except as provided in subsection (b)—

“(1) the allowance for depletion under section 611 with respect to any partnership oil or gas property shall be computed at the partnership level without regard to any provision of section 613A requiring such allowance to be computed separately by each partner,

“(2) such allowance shall be determined without regard to the provisions of section 613A(c) limiting the amount of production for which percentage depletion is allowable and without regard to paragraph (1) of section 613A(d), and

“(3) paragraph (3) of section 705(a) shall not apply.

“(b) TREATMENT OF CERTAIN PARTNERS.—

“(1) IN GENERAL.—In the case of a disqualified person, the treatment under this chapter of such

person's distributive share of any item of income, gain, loss, deduction, or credit attributable to any partnership oil or gas property shall be determined without regard to this part. Such person's distributive share of any such items shall be excluded for purposes of making determinations under sections 772 and 773.

"(2) DISQUALIFIED PERSON.—For purposes of paragraph (1), the term 'disqualified person' means, with respect to any partnership taxable year—

"(A) any person referred to in paragraph (2) or (4) of section 613A(d) for such person's taxable year in which such partnership taxable year ends, and

"(B) any other person if such person's average daily production of domestic crude oil and natural gas for such person's taxable year in which such partnership taxable year ends exceeds 500 barrels.

"(3) AVERAGE DAILY PRODUCTION.—For purposes of paragraph (2), a person's average daily production of domestic crude oil and natural gas for any taxable year shall be computed as provided in section 613A(c)(2)—

"(A) by taking into account all production of domestic crude oil and natural gas (including such person's proportionate share of any production of a partnership),

"(B) by treating 6,000 cubic feet of natural gas as a barrel of crude oil, and

"(C) by treating as 1 person all persons treated as 1 taxpayer under section 613A(c)(8) or among whom allocations are required under such section.

"SEC. 777. REGULATIONS.

"The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this part.".

(b) CLERICAL AMENDMENT.—The table of parts for subchapter K of chapter 1 is amended by adding at the end the following new item:

"Part IV. Special rules for electing large partnerships.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership taxable years beginning after December 31, 1997.

SEC. 1022. SIMPLIFIED AUDIT PROCEDURES FOR ELECTING LARGE PARTNERSHIPS.

(a) GENERAL RULE.—Chapter 63 is amended by adding at the end thereof the following new subchapter:

"Subchapter D—Treatment of electing large partnerships

"Part I. Treatment of partnership items and adjustments.

"Part II. Partnership level adjustments.

"Part III. Definitions and special rules.

"PART I—TREATMENT OF PARTNERSHIP ITEMS AND ADJUSTMENTS

"Sec. 6240. Application of subchapter.

"Sec. 6241. Partner's return must be consistent with partnership return.

"Sec. 6242. Procedures for taking partnership adjustments into account.

"SEC. 6240. APPLICATION OF SUBCHAPTER.

"(a) GENERAL RULE.—This subchapter shall only apply to electing large partnerships and partners in such partnerships.

"(b) COORDINATION WITH OTHER PARTNERSHIP AUDIT PROCEDURES.—

"(1) IN GENERAL.—Subchapter C of this chapter shall not apply to any electing large partnership other than in its capacity as a partner in another partnership which is not an electing large partnership.

"(2) TREATMENT WHERE PARTNER IN OTHER PARTNERSHIP.—If an electing large partnership is a partner in another partnership which is not an electing large partnership—

"(A) subchapter C of this chapter shall apply to items of such electing large partnership which are partnership items with respect to such other partnership, but

"(B) any adjustment under such subchapter C shall be taken into account in the manner provided by section 6242.

"SEC. 6241. PARTNER'S RETURN MUST BE CONSISTENT WITH PARTNERSHIP RETURN.

"(a) GENERAL RULE.—A partner of any electing large partnership shall, on the partner's return, treat each partnership item attributable to such partnership in a manner which is consistent with the treatment of such partnership item on the partnership return.

"(b) UNDERPAYMENT DUE TO INCONSISTENT TREATMENT ASSESSED AS MATH ERROR.—Any underpayment of tax by a partner by reason of failing to comply with the requirements of subsection (a) shall be assessed and collected in the same manner as if such underpayment were on account of a mathematical or clerical error appearing on the partner's return. Paragraph (2) of section 6213(b) shall not apply to any assessment of an underpayment referred to in the preceding sentence.

"(c) ADJUSTMENTS NOT TO AFFECT PRIOR YEAR OF PARTNERS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), subsections (a) and (b) shall apply without regard to any adjustment to the partnership item under part II.

"(2) CERTAIN CHANGES IN DISTRIBUTIVE SHARE TAKEN INTO ACCOUNT BY PARTNER.—

"(A) IN GENERAL.—To the extent that any adjustment under part II involves a change under section 704 in a partner's distributive share of the amount of any partnership item shown on the partnership return, such adjustment shall be taken into account in applying this title to such partner for the partner's taxable year for which such item was required to be taken into account.

"(B) COORDINATION WITH DEFICIENCY PROCEDURES.—

"(i) IN GENERAL.—Subchapter B shall not apply to the assessment or collection of any underpayment of tax attributable to an adjustment referred to in subparagraph (A).

"(ii) ADJUSTMENT NOT PRECLUDED.—Notwithstanding any other law or rule of law, nothing in subchapter B (or in any proceeding under subchapter B) shall preclude the assessment or collection of any underpayment of tax (or the allowance of any credit or refund of any overpayment of tax) attributable to an adjustment referred to in subparagraph (A) and such assessment or collection or allowance (or any notice thereof) shall not preclude any notice, proceeding, or determination under subchapter B.

"(C) PERIOD OF LIMITATIONS.—The period for—

"(i) assessing any underpayment of tax, or

"(ii) filing a claim for credit or refund of any overpayment of tax,

attributable to an adjustment referred to in subparagraph (A) shall not expire before the close of the period prescribed by section 6248 for making adjustments with respect to the partnership taxable year involved.

"(D) TIERED STRUCTURES.—If the partner referred to in subparagraph (A) is another partnership or an S corporation, the rules of this paragraph shall also apply to persons holding interests in such partnership or S corporation (as the case may be); except that, if such partner is an electing large partnership, the adjustment referred to in subparagraph (A) shall be taken into account in the manner provided by section 6242.

"(d) ADDITION TO TAX FOR FAILURE TO COMPLY WITH SECTION.—

"For addition to tax in case of partner's disregard of requirements of this section, see part II of subchapter A of chapter 68.

"SEC. 6242. PROCEDURES FOR TAKING PARTNERSHIP ADJUSTMENTS INTO ACCOUNT.

"(a) ADJUSTMENTS FLOW THROUGH TO PARTNERS FOR YEAR IN WHICH ADJUSTMENT TAKES EFFECT.—

"(1) IN GENERAL.—If any partnership adjustment with respect to any partnership item takes effect (within the meaning of subsection (d)(2)) during any partnership taxable year and if an election under paragraph (2) does not apply to such adjustment, such adjustment shall be taken into account in determining the amount of such item for the partnership taxable year in which such adjustment takes effect. In applying this title to any person who is (directly or indirectly) a partner in such partnership during such partnership taxable year, such adjustment shall be treated as an item actually arising during such taxable year.

"(2) PARTNERSHIP LIABLE IN CERTAIN CASES.—If—

"(A) a partnership elects under this paragraph to not take an adjustment into account under paragraph (1),

"(B) a partnership does not make such an election but in filing its return for any partnership taxable year fails to take fully into account any partnership adjustment as required under paragraph (1), or

"(C) any partnership adjustment involves a reduction in a credit which exceeds the amount of such credit determined for the partnership taxable year in which the adjustment takes effect,

the partnership shall pay to the Secretary an amount determined by applying the rules of subsection (b)(4) to the adjustments not so taken into account and any excess referred to in subparagraph (C).

"(3) OFFSETTING ADJUSTMENTS TAKEN INTO ACCOUNT.—If a partnership adjustment requires another adjustment in a taxable year after the adjusted year and before the partnership taxable year in which such partnership adjustment takes effect, such other adjustment shall be taken into account under this subsection for the partnership taxable year in which such partnership adjustment takes effect.

"(4) COORDINATION WITH PART II.—Amounts taken into account under this subsection for any partnership taxable year shall continue to be treated as adjustments for the adjusted year for purposes of determining whether such amounts may be readjusted under part II.

"(b) PARTNERSHIP LIABLE FOR INTEREST AND PENALTIES.—

"(1) IN GENERAL.—If a partnership adjustment takes effect during any partnership taxable year and such adjustment results in an imputed underpayment for the adjusted year, the partnership—

"(A) shall pay to the Secretary interest computed under paragraph (2), and

"(B) shall be liable for any penalty, addition to tax, or additional amount as provided in paragraph (3).

"(2) DETERMINATION OF AMOUNT OF INTEREST.—The interest computed under this paragraph with respect to any partnership adjustment is the interest which would be determined under chapter 67—

"(A) on the imputed underpayment determined under paragraph (4) with respect to such adjustment,

"(B) for the period beginning on the day after the return due date for the adjusted year and ending on the return due date for the partnership taxable year in which such adjustment takes effect (or, if earlier, in the case of any adjustment to which subsection (a)(2) applies, the date on which the payment under subsection (a)(2) is made).

Proper adjustments in the amount determined under the preceding sentence shall be made for adjustments required for partnership taxable years after the adjusted year and before the year in which the partnership adjustment takes effect by reason of such partnership adjustment.

"(3) PENALTIES.—A partnership shall be liable for any penalty, addition to tax, or additional amount for which it would have been liable if such partnership had been an individual subject to tax under chapter 1 for the adjusted year and the imputed underpayment determined under paragraph (4) were an actual underpayment (or understatement) for such year.

"(4) IMPUTED UNDERPAYMENT.—For purposes of this subsection, the imputed underpayment determined under this paragraph with respect to any partnership adjustment is the underpayment (if any) which would result—

"(A) by netting all adjustments to items of income, gain, loss, or deduction and by treating any net increase in income as an underpayment equal to the amount of such net increase multiplied by the highest rate of tax in effect under section 1 or 11 for the adjusted year, and

"(B) by taking adjustments to credits into account as increases or decreases (whichever is appropriate) in the amount of tax.

For purposes of the preceding sentence, any net decrease in a loss shall be treated as an increase in income and a similar rule shall apply to a net increase in a loss.

"(c) ADMINISTRATIVE PROVISIONS.—

"(1) IN GENERAL.—Any payment required by subsection (a)(2) or (b)(1)(A)—

"(A) shall be assessed and collected in the same manner as if it were a tax imposed by subtitle C, and

"(B) shall be paid on or before the return due date for the partnership taxable year in which the partnership adjustment takes effect.

"(2) INTEREST.—For purposes of determining interest, any payment required by subsection (a)(2) or (b)(1)(A) shall be treated as an underpayment of tax.

"(3) PENALTIES.—

"(A) IN GENERAL.—In the case of any failure by any partnership to pay on the date prescribed therefor any amount required by subsection (a)(2) or (b)(1)(A), there is hereby imposed on such partnership a penalty of 10 percent of the underpayment. For purposes of the preceding sentence, the term 'underpayment' means the excess of any payment required under this section over the amount (if any) paid on or before the date prescribed therefor.

"(B) ACCURACY-RELATED AND FRAUD PENALTIES MADE APPLICABLE.—For purposes of part II of subchapter A of chapter 68, any payment required by subsection (a)(2) shall be treated as an underpayment of tax.

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) PARTNERSHIP ADJUSTMENT.—The term 'partnership adjustment' means any adjustment in the amount of any partnership item of an electing large partnership.

"(2) WHEN ADJUSTMENT TAKES EFFECT.—A partnership adjustment takes effect—

"(A) in the case of an adjustment pursuant to the decision of a court in a proceeding brought under part II, when such decision becomes final,

"(B) in the case of an adjustment pursuant to any administrative adjustment request under section 6251, when such adjustment is allowed by the Secretary, or

"(C) in any other case, when such adjustment is made.

"(3) ADJUSTED YEAR.—The term 'adjusted year' means the partnership taxable year to which the item being adjusted relates.

"(4) RETURN DUE DATE.—The term 'return due date' means, with respect to any taxable year, the date prescribed for filing the partnership return for such taxable year (determined without regard to extensions).

"(5) ADJUSTMENTS INVOLVING CHANGES IN CHARACTER.—Under regulations, appropriate adjustments in the application of this section shall be made for purposes of taking into account partnership adjustments which involve a change in the character of any item of income, gain, loss, or deduction.

"(e) PAYMENTS NONDEDUCTIBLE.—No deduction shall be allowed under subtitle A for any payment required to be made by an electing large partnership under this section.

"PART II—PARTNERSHIP LEVEL ADJUSTMENTS

"Subpart A. Adjustments by Secretary.

"Subpart B. Claims for adjustments by partnership.

"Subpart A—Adjustments by Secretary

"Sec. 6245. Secretarial authority.

"Sec. 6246. Restrictions on partnership adjustments.

"Sec. 6247. Judicial review of partnership adjustment.

"Sec. 6248. Period of limitations for making adjustments.

"SEC. 6245. SECRETARIAL AUTHORITY.

"(a) GENERAL RULE.—The Secretary is authorized and directed to make adjustments at the partnership level in any partnership item to the extent necessary to have such item be treated in the manner required.

"(b) NOTICE OF PARTNERSHIP ADJUSTMENT.—

"(1) IN GENERAL.—If the Secretary determines that a partnership adjustment is required, the Secretary is authorized to send notice of such adjustment to the partnership by certified mail or registered mail. Such notice shall be sufficient if mailed to the partnership at its last known address even if the partnership has terminated its existence.

"(2) FURTHER NOTICES RESTRICTED.—If the Secretary mails a notice of a partnership adjustment to any partnership for any partnership taxable year and the partnership files a petition under section 6247 with respect to such notice, in the absence of a showing of fraud, malfeasance, or misrepresentation of a material fact, the Secretary shall not mail another such notice to such partnership with respect to such taxable year.

"(3) AUTHORITY TO RESCIND NOTICE WITH PARTNERSHIP CONSENT.—The Secretary may, with the consent of the partnership, rescind any notice of a partnership adjustment mailed to such partnership. Any notice so rescinded shall not be treated as a notice of a partnership adjustment, for purposes of this section, section 6246, and section 6247, and the taxpayer shall have no right to bring a proceeding under section 6247 with respect to such notice. Nothing in this subsection shall affect any suspension of the running of any period of limitations during any period during which the rescinded notice was outstanding.

"SEC. 6246. RESTRICTIONS ON PARTNERSHIP ADJUSTMENTS.

"(a) GENERAL RULE.—Except as otherwise provided in this chapter, no adjustment to any partnership item may be made (and no levy or proceeding in any court for the collection of any amount resulting from such adjustment may be made, begun or prosecuted) before—

"(1) the close of the 90th day after the day on which a notice of a partnership adjustment was mailed to the partnership, and

"(2) if a petition is filed under section 6247 with respect to such notice, the decision of the court has become final.

"(b) PREMATURE ACTION MAY BE ENJOINED.—Notwithstanding section 7421(a), any action which violates subsection (a) may be enjoined in the proper court, including the Tax Court. The Tax Court shall have no jurisdiction to enjoin any action under this subsection unless a timely petition has been filed under section 6247 and then only in respect of the adjustments that are the subject of such petition.

"(c) EXCEPTIONS TO RESTRICTIONS ON ADJUSTMENTS.—

"(1) ADJUSTMENTS ARISING OUT OF MATH OR CLERICAL ERRORS.—

"(A) IN GENERAL.—If the partnership is notified that, on account of a mathematical or clerical error appearing on the partnership return, an adjustment to a partnership item is required, rules similar to the rules of paragraphs (1) and (2) of section 6213(b) shall apply to such adjustment.

"(B) SPECIAL RULE.—If an electing large partnership is a partner in another electing large partnership, any adjustment on account of such partnership's failure to comply with the requirements of section 6241(a) with respect to its interest in such other partnership shall be treated as an adjustment referred to in subparagraph (A), except that paragraph (2) of section 6213(b) shall not apply to such adjustment.

"(2) PARTNERSHIP MAY WAIVE RESTRICTIONS.—The partnership shall at any time (whether or not a notice of partnership adjustment has been issued) have the right, by a signed notice in writing filed with the Secretary, to waive the restrictions provided in subsection (a) on the making of any partnership adjustment.

"(d) LIMIT WHERE NO PROCEEDING BEGUN.—If no proceeding under section 6247 is begun with respect to any notice of a partnership adjustment during the 90-day period described in subsection (a), the amount for which the partnership is liable under section 6242 (and any increase in any partner's liability for tax under chapter 1 by reason of any adjustment under section 6242(a)) shall not exceed the amount determined in accordance with such notice.

"SEC. 6247. JUDICIAL REVIEW OF PARTNERSHIP ADJUSTMENT.

"(a) GENERAL RULE.—Within 90 days after the date on which a notice of a partnership adjustment is mailed to the partnership with respect to any partnership taxable year, the partnership may file a petition for a readjustment of the partnership items for such taxable year with—

"(1) the Tax Court,

"(2) the district court of the United States for the district in which the partnership's principal place of business is located, or

"(3) the Claims Court.

"(b) JURISDICTIONAL REQUIREMENT FOR BRINGING ACTION IN DISTRICT COURT OR CLAIMS COURT.—

"(1) IN GENERAL.—A readjustment petition under this section may be filed in a district court of the United States or the Claims Court only if the partnership filing the petition deposits with the Secretary, on or before the date the petition is filed, the amount for which the partnership would be liable under section 6242(b) (as of the date of the filing of the petition) if the partnership items were adjusted as provided by the notice of partnership adjustment. The court may by order provide that the jurisdictional requirements of this paragraph are satisfied where there has been a good faith attempt to satisfy such requirement and any shortfall of the amount required to be deposited is timely corrected.

"(2) INTEREST PAYABLE.—Any amount deposited under paragraph (1), while deposited, shall not be treated as a payment of tax for purposes of this title (other than chapter 67).

"(c) SCOPE OF JUDICIAL REVIEW.—A court with which a petition is filed in accordance with this section shall have jurisdiction to determine all partnership items of the partnership for the partnership taxable year to which the notice of partnership adjustment relates and the proper allocation of such items among the partners (and the applicability of any penalty, addition *to tax, or additional amount for which the partnership may be liable under section 6242(b)).*

"(d) DETERMINATION OF COURT REVIEWABLE.—Any determination by a court under this section shall have the force and effect of a decision of the Tax Court or a final judgment or decree of the district court or the Claims Court, as the case may be, and shall be reviewable as such. The date of any such determination shall be treated as being the date of the court's order entering the decision.

"(e) EFFECT OF DECISION DISMISSING ACTION.—If an action brought under this section is dismissed other than by reason of a rescission under section 6245(b)(3), the decision of the court dismissing the action shall be considered as its decision that the notice of partnership adjustment is correct, and an appropriate order shall be entered in the records of the court.

"SEC. 6248. PERIOD OF LIMITATIONS FOR MAKING ADJUSTMENTS.

"(a) GENERAL RULE.—Except as otherwise provided in this section, no adjustment under this subpart to any partnership item for any partnership taxable year may be made after the date which is 3 years after the later of—

"(1) the date on which the partnership return for such taxable year was filed, or

"(2) the last day for filing such return for such year (determined without regard to extensions).

"(b) EXTENSION BY AGREEMENT.—The period described in subsection (a) (including an extension period under this subsection) may be extended by an agreement entered into by the Secretary and the partnership before the expiration of such period.

"(c) SPECIAL RULE IN CASE OF FRAUD, ETC.—

"(1) FALSE RETURN.—In the case of a false or fraudulent partnership return with intent to evade tax, the adjustment may be made at any time.

"(2) SUBSTANTIAL OMISSION OF INCOME.—If any partnership omits from gross income an amount properly includible therein which is in excess of 25 percent of the amount of gross income stated in its return, subsection (a) shall be applied by substituting '6 years' for '3 years'.

"(3) NO RETURN.—In the case of a failure by a partnership to file a return for any taxable year, the adjustment may be made at any time.

"(4) RETURN FILED BY SECRETARY.—For purposes of this section, a return executed by the Secretary under subsection (b) of section 6020 on behalf of the partnership shall not be treated as a return of the partnership.

"(d) SUSPENSION WHEN SECRETARY MAILS NOTICE OF ADJUSTMENT.—If notice of a partnership adjustment with respect to any taxable year is mailed to the partnership, the running of the period specified in subsection (a) (as modified by the other provisions of this section) shall be suspended—

"(1) for the period during which an action may be brought under section 6247 (and, if a petition is filed under section 6247 with respect to such notice, until the decision of the court becomes final), and

"(2) for 1 year thereafter.

"Subpart B—Claims for Adjustments by Partnership

"Sec. 6251. Administrative adjustment requests.

"Sec. 6252. Judicial review where administrative adjustment request is not allowed in full.

"SEC. 6251. ADMINISTRATIVE ADJUSTMENT REQUESTS.

"(a) GENERAL RULE.—A partnership may file a request for an administrative adjustment of partnership items for any partnership taxable year at any time which is—

"(1) within 3 years after the later of—

"(A) the date on which the partnership return for such year is filed, or

"(B) the last day for filing the partnership return for such year (determined without regard to extensions), and

"(2) before the mailing to the partnership of a notice of a partnership adjustment with respect to such taxable year.

"(b) SECRETARIAL ACTION.—If a partnership files an administrative adjustment request under subsection (a), the Secretary may allow any part of the requested adjustments.

"(c) SPECIAL RULE IN CASE OF EXTENSION UNDER SECTION 6248.—If the period described in section 6248(a) is extended pursuant to an agreement under section 6248(b), the period prescribed by subsection (a)(1) shall not expire before the date 6 months after the expiration of the extension under section 6248(b).

"SEC. 6252. JUDICIAL REVIEW WHERE ADMINISTRATIVE ADJUSTMENT REQUEST IS NOT ALLOWED IN FULL.

"(a) IN GENERAL.—If any part of an administrative adjustment request filed under section 6251 is not allowed by the Secretary, the partnership may file a petition for an adjustment with respect to the partnership items to which such part of the request relates with—

"(1) the Tax Court,

"(2) the district court of the United States for the district in which the principal place of business of the partnership is located, or

"(3) the Claims Court.

"(b) PERIOD FOR FILING PETITION.—A petition may be filed under subsection (a) with respect to partnership items for a partnership taxable year only—

"(1) after the expiration of 6 months from the date of filing of the request under section 6251, and

"(2) before the date which is 2 years after the date of such request.

The 2-year period set forth in paragraph (2) shall be extended for such period as may be agreed upon in writing by the partnership and the Secretary.

"(c) COORDINATION WITH SUBPART A.—

"(1) NOTICE OF PARTNERSHIP ADJUSTMENT BEFORE FILING OF PETITION.—No petition may be filed under this section after the Secretary mails to the partnership a notice of a partnership adjustment for the partnership taxable year to which the request under section 6251 relates.

"(2) NOTICE OF PARTNERSHIP ADJUSTMENT AFTER FILING BUT BEFORE HEARING OF PETITION.—If the Secretary mails to the partnership a notice of a partnership adjustment for the partnership taxable year to which the request under section 6251 relates after the filing of a petition under this subsection but before the hearing of such petition, such petition shall be treated as an action brought under section 6247 with respect to such notice, except that subsection (b) of section 6247 shall not apply.

"(3) NOTICE MUST BE BEFORE EXPIRATION OF STATUTE OF LIMITATIONS.—A notice of a partnership adjustment for the partnership taxable year shall be taken into account under paragraphs (1) and (2) only if such notice is mailed before the expiration of the period prescribed by section 6248 for making adjustments to partnership items for such taxable year.

"(d) SCOPE OF JUDICIAL REVIEW.—Except in the case described in paragraph (2) of subsection (c), a court with which a petition is filed in accordance with this section shall have jurisdiction to determine only those partnership items to which the part of the request under section 6251 not allowed by the Secretary relates and those items with respect to which the Secretary asserts adjustments as offsets to the adjustments requested by the partnership.

"(e) DETERMINATION OF COURT REVIEWABLE.—Any determination by a court under this subsection shall have the force and effect of a decision of the Tax Court or a final judgment or decree of the district court or the Claims Court, as the case may be, and shall be reviewable as such. The date of any such determination shall be treated as being the date of the court's order entering the decision.

"PART III—DEFINITIONS AND SPECIAL RULES

"Sec. 6255. Definitions and special rules.

"SEC. 6255. DEFINITIONS AND SPECIAL RULES.

"(a) DEFINITIONS.—For purposes of this subchapter—

"(1) ELECTING LARGE PARTNERSHIP.—The term 'electing large partnership' has the meaning given to such term by section 775.

"(2) PARTNERSHIP ITEM.—The term 'partnership item' has the meaning given to such term by section 6231(a)(3).

"(b) PARTNERS BOUND BY ACTIONS OF PARTNERSHIP, ETC.—

"(1) DESIGNATION OF PARTNER.—Each electing large partnership shall designate (in the manner prescribed by the Secretary) a partner (or other person) who shall have the sole authority to act on behalf of such partnership under this subchapter. In any case in which such a designation is not in effect, the Secretary may select any partner as the partner with such authority.

"(2) BINDING EFFECT.—An electing large partnership and all partners of such partnership shall be bound—

"(A) by actions taken under this subchapter by the partnership, and

"(B) by any decision in a proceeding brought under this subchapter.

"(c) PARTNERSHIPS HAVING PRINCIPAL PLACE OF BUSINESS OUTSIDE THE UNITED STATES.—For purposes of sections 6247 and 6252, a principal place of business located outside the United States shall be treated as located in the District of Columbia.

"(d) TREATMENT WHERE PARTNERSHIP CEASES TO EXIST.—If a partnership ceases to exist before a partnership adjustment under this subchapter takes effect, such adjustment shall be taken into account by the former partners of such partnership under regulations prescribed by the Secretary.

"(e) DATE DECISION BECOMES FINAL.—For purposes of this subchapter, the principles of section 7481(a) shall be applied in determining the date on which a decision of a district court or the Claims Court becomes final.

"(f) PARTNERSHIPS IN CASES UNDER TITLE 11 OF THE UNITED STATES CODE.—The running of any period of limitations provided in this subchapter on making a partnership adjustment (or provided by section 6501 or 6502 on the assessment or collection of any amount required to be paid under section 6242) shall, in a case under title 11 of the United States Code, be suspended during the period during which the Secretary is prohibited by reason of such case from making the adjustment (or assessment or collection) and—

"(1) for adjustment or assessment, 60 days thereafter, and

"(2) for collection, 6 months thereafter.

"(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this subchapter, including regulations—

"(1) to prevent abuse through manipulation of the provisions of this subchapter, and

"(2) providing that this subchapter shall not apply to any case described in section 6231(c)(1) (or the regulations prescribed thereunder) where the application of this subchapter to such a case would interfere with the effective and efficient enforcement of this title.

In any case to which this subchapter does not apply by reason of paragraph (2), rules similar to the rules of sections 6229(f) and 6255(f) shall apply.".

(b) CLERICAL AMENDMENT.—The table of subchapters for chapter 63 is amended by adding at the end thereof the following new item:

"SUBCHAPTER D. Treatment of electing large partnerships.".

SEC. 1023. DUE DATE FOR FURNISHING INFORMATION TO PARTNERS OF ELECTING LARGE PARTNERSHIPS.

(a) GENERAL RULE.—Subsection (b) of section 6031 (relating to copies to partners) is amended by adding at the end the following new sentence: "In the case of an electing large partnership (as defined in section 775), such information shall be furnished on or before the first March 15 following the close of such taxable year.".

(b) TREATMENT AS INFORMATION RETURN.—Section 6724 is amended by adding at the end the following new subsection:

"(e) SPECIAL RULE FOR CERTAIN PARTNERSHIP RETURNS.—If any partnership return under section 6031(a) is required under section 6011(e) to be filed on magnetic media or in other machine-readable form, for purposes of this part, each schedule required to be included with such return with respect to each partner shall be treated as a separate information return.".

SEC. 1024. RETURNS MAY BE REQUIRED ON MAGNETIC MEDIA.

Paragraph (2) of section 6011(e) (relating to returns on magnetic media) is amended by adding at the end thereof the following new sentence:

"Notwithstanding the preceding sentence, the Secretary shall require partnerships having more than 100 partners to file returns on magnetic media.".

SEC. 1025. TREATMENT OF PARTNERSHIP ITEMS OF INDIVIDUAL RETIREMENT ACCOUNTS.

Subsection (b) of section 6012 is amended by adding at the end thereof the following new paragraph:

"(6) IRA SHARE OF PARTNERSHIP INCOME.—In the case of a trust which is exempt from taxation under section 408(e), for purposes of this section, the trust's distributive share of items of gross income and gain of any partnership to which subchapter C or D of chapter 63 applies shall be treated as equal to the trust's distributive share of the taxable income of such partnership.".

SEC. 1026. EFFECTIVE DATE.

The amendments made by this part shall apply to partnership taxable years ending on or after December 31, 1997.

PART II—PROVISIONS RELATED TO TEFRA PARTNERSHIP PROCEEDINGS

SEC. 1031. TREATMENT OF PARTNERSHIP ITEMS IN DEFICIENCY PROCEEDINGS.

(a) IN GENERAL.—Subchapter C of chapter 63 is amended by adding at the end the following new section:

"SEC. 6234. DECLARATORY JUDGMENT RELATING TO TREATMENT OF ITEMS OTHER THAN PARTNERSHIP ITEMS WITH RESPECT TO AN OVERSHELTERED RETURN.

"(a) GENERAL RULE.—If—

"(1) a taxpayer files an oversheltered return for a taxable year,

"(2) the Secretary makes a determination with respect to the treatment of items (other than partnership items) of such taxpayer for such taxable year, and

"(3) the adjustments resulting from such determination do not give rise to a deficiency (as defined in section 6211) but would give rise to a deficiency if there were no net loss from partnership items,

the Secretary is authorized to send a notice of adjustment reflecting such determination to the taxpayer by certified or registered mail.

"(b) OVERSHELTERED RETURN.—For purposes of this section, the term 'oversheltered return' means an income tax return which—

"(1) shows no taxable income for the taxable year, and

"(2) shows a net loss from partnership items.

"(c) JUDICIAL REVIEW IN THE TAX COURT.—Within 90 days, or 150 days if the notice is addressed to a person outside the United States, after the day on which the notice of adjustment authorized in subsection (a) is mailed to the taxpayer, the taxpayer may file a petition with the Tax Court for redetermination of the adjustments. Upon the filing of such a petition, the Tax Court shall have jurisdiction to make a declaration with respect to all items (other than partnership items and affected items which require partner level determinations as described in section 6230(a)(2)(A)(i)) for the taxable year to which the notice of adjustment relates, in accordance with the principles of section 6214(a). Any such declaration shall have the force and effect of a decision of the Tax Court and shall be reviewable as such.

"(d) FAILURE TO FILE PETITION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), if the taxpayer does not file a petition with the Tax Court within the time prescribed in subsection (c), the determination of the Secretary set forth in the notice of adjustment that was mailed to the taxpayer shall be deemed to be correct.

"(2) EXCEPTION.—Paragraph (1) shall not apply after the date that the taxpayer—

"(A) files a petition with the Tax Court within the time prescribed in subsection (c) with respect to a subsequent notice of adjustment relating to the same taxable year, or

"(B) files a claim for refund of an overpayment of tax under section 6511 for the taxable year involved.

If a claim for refund is filed by the taxpayer, then solely for purposes of determining (for the taxable year involved) the amount of any computational adjustment in connection with a partnership proceeding under this subchapter (other than under this section) or the amount of any deficiency attributable to affected items in a proceeding under section 6230(a)(2), the items that are the subject of the notice of adjustment shall be presumed to have been correctly reported on the taxpayer's return during the pendency of the refund claim (and, if within the time prescribed by section 6532 the taxpayer commences a civil action for refund under section 7422, until the decision in the refund action becomes final).

"(e) LIMITATIONS PERIOD.—

"(1) IN GENERAL.—Any notice to a taxpayer under subsection (a) shall be mailed before the expiration of the period prescribed by section 6501 (relating to the period of limitations on assessment).

"(2) SUSPENSION WHEN SECRETARY MAILS NOTICE OF ADJUSTMENT.—If the Secretary mails a notice of adjustment to the taxpayer for a taxable year, the period of limitations on the making of assessments shall be suspended for the period during which the Secretary is prohibited from making the assessment (and, in any event, if a proceeding in respect of the notice of adjustment is placed on the docket of the Tax Court, until the decision of the Tax Court becomes final), and for 60 days thereafter.

"(3) RESTRICTIONS ON ASSESSMENT.—Except as otherwise provided in section 6851, 6852, or 6861, no assessment of a deficiency with respect to any tax imposed by subtitle A attributable to any item (other than a partnership item or any item affected by a partnership item) shall be made—

"(A) until the expiration of the applicable 90-day or 150-day period set forth in subsection (c) for filing a petition with the Tax Court, or

"(B) if a petition has been filed with the Tax Court, until the decision of the Tax Court has become final.

"(f) FURTHER NOTICES OF ADJUSTMENT RESTRICTED.—If the Secretary mails a notice of adjustment to the taxpayer for a taxable year and the taxpayer files a petition with the Tax Court within the time prescribed in subsection (c), the Secretary may not mail another such notice to the taxpayer with respect to the same taxable year in the absence of a showing of fraud, malfeasance, or misrepresentation of a material fact.

"(g) COORDINATION WITH OTHER PROCEEDINGS UNDER THIS SUBCHAPTER.—

"(1) IN GENERAL.—The treatment of any item that has been determined pursuant to subsection (c) or (d) shall be taken into account in determining the amount of any computational adjustment that is made in connection with a partnership proceeding under this subchapter (other than under this section), or the amount of any deficiency attributable to affected items in a proceeding under section 6230(a)(2), for the taxable year involved. Notwithstanding any other law or rule of law pertaining to the period of limitations on the making of assessments, for purposes of the preceding sentence, any adjustment made in accordance with this section shall be taken into account regardless of whether any assessment has been made with respect to such adjustment.

"(2) SPECIAL RULE IN CASE OF COMPUTATIONAL ADJUSTMENT.—In the case of a computational adjustment that is made in connection with a partnership proceeding under this subchapter (other than under this section), the provisions of paragraph (1) shall apply only if the computational adjustment is made within the period prescribed by section 6229 for assessing any tax under subtitle A which is attributable to any partnership item or affected item for the taxable year involved.

"(3) CONVERSION TO DEFICIENCY PROCEEDING.—If—

"(A) after the notice referred to in subsection (a) is mailed to a taxpayer for a taxable year but before the expiration of the period for filing a petition with the Tax Court under subsection (c) (or, if a petition is filed with the Tax Court, before the Tax Court makes a declaration for that taxable year), the treatment of any partnership item for the taxable year is finally determined, or any such item ceases to be a partnership item pursuant to section 6231(b), and

"(B) as a result of that final determination or cessation, a deficiency can be determined with respect to the items that are the subject of the notice of adjustment,

the notice of adjustment shall be treated as a notice of deficiency under section 6212 and any petition filed in respect of the notice shall be treated as an action brought under section 6213.

"(4) FINALLY DETERMINED.—For purposes of this subsection, the treatment of partnership items shall be treated as finally determined if—

"(A) the Secretary enters into a settlement agreement (within the meaning of section 6224) with the taxpayer regarding such items,

"(B) a notice of final partnership administrative adjustment has been issued and—

"(i) no petition has been filed under section 6226 and the time for doing so has expired, or

"(ii) a petition has been filed under section 6226 and the decision of the court has become final, or

"(C) the period within which any tax attributable to such items may be assessed against the taxpayer has expired.

"(h) SPECIAL RULES IF SECRETARY INCORRECTLY DETERMINES APPLICABLE PROCEDURE.—

"(1) SPECIAL RULE IF SECRETARY ERRONEOUSLY MAILS NOTICE OF ADJUSTMENT.—If the Secretary erroneously determines that subchapter B does not apply to a taxable year of a taxpayer and consistent with that determination timely mails a notice of adjustment to the taxpayer pursuant *to subsection (a) of this section, the notice of adjustment shall be treated as a notice of deficiency under section 6212 and any petition that is filed in respect of the notice shall be treated as an action brought under section 6213.*

"(2) Special rule if secretary erroneously mails notice of deficiency.—If the Secretary erroneously determines that subchapter B applies to a taxable year of a taxpayer and consistent with that determination timely mails a notice of deficiency to the taxpayer pursuant to section 6212, the notice of deficiency shall be treated as a notice of adjustment under subsection (a) and any petition that is filed in respect of the notice shall be treated as an action brought under subsection (c).".

(b) Treatment of Partnership Items in Deficiency Proceedings.—Section 6211 (defining deficiency) is amended by adding at the end the following new subsection:

"(c) Coordination With Subchapter C.—In determining the amount of any deficiency for purposes of this subchapter, adjustments to partnership items shall be made only as provided in subchapter C.".

(c) Clerical Amendment.—The table of sections for subchapter C of chapter 63 is amended by adding at the end the following new item:

"Sec. 6234. Declaratory judgment relating to treatment of items other than partnership items with respect to an oversheltered return.".

(d) Effective Date.—The amendments made by this section shall apply to partnership taxable years ending after the date of the enactment of this Act.

SEC. 1032. PARTNERSHIP RETURN TO BE DETERMINATIVE OF AUDIT PROCEDURES TO BE FOLLOWED.

(a) In General.—Section 6231 (relating to definitions and special rules) is amended by adding at the end the following new subsection:

"(g) Partnership Return To Be Determinative of Whether Subchapter Applies.—

"(1) Determination that subchapter applies.—If, on the basis of a partnership return for a taxable year, the Secretary reasonably determines that this subchapter applies to such partnership for such year but such determination is erroneous, then the provisions of this subchapter are hereby extended to such partnership (and its items) for such taxable year and to partners of such partnership.

"(2) Determination that subchapter does not apply.—If, on the basis of a partnership return for a taxable year, the Secretary reasonably determines that this subchapter does not apply to such partnership for such year but such determination is erroneous, then the provisions of this subchapter shall not apply to such partnership (and its items) for such taxable year or to partners of such partnership.".

(b) Effective Date.—The amendment made by this section shall apply to partnership taxable years ending after the date of the enactment of this Act.

SEC. 1033. PROVISIONS RELATING TO STATUTE OF LIMITATIONS.

(a) Suspension of Statute Where Untimely Petition Filed.—Paragraph (1) of section 6229(d) (relating to suspension where Secretary makes administrative adjustment) is amended by striking all that follows "section 6226" and inserting the following: "(and, if a petition is filed under section 6226 with respect to such administrative adjustment, until the decision of the court becomes final), and".

(b) Suspension of Statute During Bankruptcy Proceeding.—Section 6229 is amended by adding at the end the following new subsection:

"(h) Suspension During Pendency of Bankruptcy Proceeding.—If a petition is filed naming a partner as a debtor in a bankruptcy proceeding under title 11 of the United States Code, the running of the period of limitations provided in this section with respect to such partner shall be suspended—

"(1) for the period during which the Secretary is prohibited by reason of such bankruptcy proceeding from making an assessment, and

"(2) for 60 days thereafter.".

(c) Tax Matters Partner in Bankruptcy.—Section 6229(b) is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

"(2) Special rule with respect to debtors in title 11 cases.—Notwithstanding any other law or rule of law, if an agreement is entered into under paragraph (1)(B) and the agreement is signed by a person who would be the tax matters partner but for the fact that, at the time that the agreement is executed, the person is a debtor in a bankruptcy proceeding under title 11 of the United States Code, such agreement shall be binding on all partners in the partnership unless the Secretary has been notified of the bankruptcy proceeding in accordance with regulations prescribed by the Secretary.".

(d) Effective Dates.—

(1) Subsections (a) and (b).—The amendments made by subsections (a) and (b) shall apply to partnership taxable years with respect to which the period under section 6229 of the Internal Revenue Code of 1986 for assessing tax has not expired on or before the date of the enactment of this Act.

(2) Subsection (c).—The amendment made by subsection (c) shall apply to agreements entered into after the date of the enactment of this Act.

SEC. 1034. EXPANSION OF SMALL PARTNERSHIP EXCEPTION.

(a) In General.—Clause (i) of section 6231(a)(1)(B) (relating to exception for small partnerships) is amended to read as follows:

"(i) In general.—The term 'partnership' shall not include any partnership having 10 or fewer partners each of whom is an individual (other than a nonresident alien), a C corporation, or an estate of a deceased partner. For purposes of the preceding sentence, a husband and wife (and their estates) shall be treated as 1 partner.".

(b) Effective Date.—The amendment made by this section shall apply to partnership taxable years ending after the date of the enactment of this Act.

SEC. 1035. EXCLUSION OF PARTIAL SETTLEMENTS FROM 1-YEAR LIMITATION ON ASSESSMENT.

(a) In General.—Subsection (f) of section 6229 (relating to items becoming nonpartnership items) is amended—

(1) by striking "(f) Items Becoming Nonpartnership Items.—If" and inserting the following:

"(f) Special Rules.—

"(1) Items becoming nonpartnership items.—If",

(2) by moving the text of such subsection 2 ems to the right, and

(3) by adding at the end the following new paragraph:

"(2) Special rule for partial settlement agreements.—If a partner enters into a settlement agreement with the Secretary with respect to the treatment of some of the partnership items in dispute for a partnership taxable year but other partnership items for such year remain in dispute, the period of limitations for assessing any tax attributable to the settled items shall be determined as if such agreement had not been entered into.".

(b) Effective Date.—The amendment made by this section shall apply to settlements entered into after the date of the enactment of this Act.

SEC. 1036. EXTENSION OF TIME FOR FILING A REQUEST FOR ADMINISTRATIVE ADJUSTMENT.

(a) In General.—Section 6227 (relating to administrative adjustment requests) is amended by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and by inserting after subsection (a) the following new subsection:

"(b) Special Rule in Case of Extension of Period of Limitations Under Section 6229.—The period prescribed by subsection (a)(1) for filing of a request for an administrative adjustment shall be extended—

"(1) for the period within which an assessment may be made pursuant to an agreement (or any extension thereof) under section 6229(b), and

"(2) for 6 months thereafter.".

(b) Effective Date.—The amendment made by this section shall take effect as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982.

SEC. 1037. AVAILABILITY OF INNOCENT SPOUSE RELIEF IN CONTEXT OF PARTNERSHIP PROCEEDINGS.

(a) In General.—Subsection (a) of section 6230 is amended by adding at the end the following new paragraph:

"(3) Special rule in case of assertion by partner's spouse of innocent spouse relief.—

"(A) Notwithstanding section 6404(b), if the spouse of a partner asserts that section 6013(e) applies with respect to a liability that is attributable to any adjustment to a partnership item, then such spouse may file with the Secretary within 60 days after the notice of computational adjustment is mailed to the spouse a request for abatement of the assessment specified in such notice. Upon receipt of such request, the Secretary shall abate the assessment. Any reassessment of the tax with respect to which an abatement is made under this subparagraph shall be subject to the deficiency procedures prescribed by subchapter B. The period for making any such reassessment shall not expire before the expiration of 60 days after the date of such abatement.

"(B) If the spouse files a petition with the Tax Court pursuant to section 6213 with respect to the request for abatement described in subparagraph (A), the Tax Court shall only have jurisdiction pursuant to this section to determine whether the requirements of section 6013(e) have been satisfied. For purposes of such determination, the treatment of partnership items under the settlement, the final partnership administrative adjustment, or the decision of the court (whichever is appropriate) that gave rise to the liability in question shall be conclusive.

"(C) Rules similar to the rules contained in subparagraphs (B) and (C) of paragraph (2) shall apply for purposes of this paragraph.".

(b) Claims for Refund.—Subsection (c) of section 6230 is amended by adding at the end the following new paragraph:

"(5) Rules for seeking innocent spouse relief.—

"(A) In general.—The spouse of a partner may file a claim for refund on the ground that the Secretary failed to relieve the spouse under section 6013(e) from a liability that is attributable to an adjustment to a partnership item.

"(B) Time for filing claim.—Any claim under subparagraph (A) shall be filed within 6 months after the day on which the Secretary mails to the spouse the notice of computational adjustment referred to in subsection (a)(3)(A).

"(C) Suit if claim not allowed.—If the claim under subparagraph (B) is not allowed, the spouse may bring suit with respect to the claim within the period specified in paragraph (3).

"(D) Prior determinations are binding.—For purposes of any claim or suit under this

paragraph, the treatment of partnership items under the settlement, the final partnership administrative adjustment, or the decision of the court (whichever is appropriate) that gave rise to the liability in question shall be conclusive.".

(c) TECHNICAL AMENDMENTS.—

(1) Paragraph (1) of section 6230(a) is amended by striking "paragraph (2)" and inserting "paragraph (2) or (3)".

(2) Subsection (a) of section 6503 is amended by striking "section 6230(a)(2)(A)" and inserting "paragraph (2)(A) or (3) of section 6230(a)".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982.

SEC. 1038. DETERMINATION OF PENALTIES AT PARTNERSHIP LEVEL.

(a) IN GENERAL.—Section 6221 (relating to tax treatment determined at partnership level) is amended by striking "item" and inserting "item (and the applicability of any penalty, addition to tax, or additional amount which relates to an adjustment to a partnership item)".

(b) CONFORMING AMENDMENTS.—

(1) Subsection (f) of section 6226 is amended—

(A) by striking "relates and" and inserting "relates,", and

(B) by inserting before the period ", and the applicability of any penalty, addition to tax, or additional amount which relates to an adjustment to a partnership item".

(2) Clause (i) of section 6230(a)(2)(A) is amended to read as follows:

"(i) affected items which require partner level determinations (other than penalties, additions to tax, and additional amounts that relate to adjustments to partnership items), or".

(3)(A) Subparagraph (A) of section 6230(a)(3), as added by section 14317, is amended by inserting "(including any liability for any penalty, addition to tax, or additional amount relating to such adjustment)" after "partnership item".

(B) Subparagraph (B) of such section is amended by inserting "(and the applicability of any penalties, additions to tax, or additional amounts)" after "partnership items".

(C) Subparagraph (A) of section 6230(c)(5), as added by section 14317, is amended by inserting before the period "(including any liability for any penalties, additions to tax, or additional amounts relating to such adjustment)".

(D) Subparagraph (D) of section 6230(c)(5), as added by section 14317, is amended by inserting "(and the applicability of any penalties, additions to tax, or additional amounts)" after "partnership items".

(4) Paragraph (1) of section 6230(c) is amended by striking "or" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", or", and by adding at the end the following new subparagraph:

"(C) the Secretary erroneously imposed any penalty, addition to tax, or additional amount which relates to an adjustment to a partnership item.".

(5) So much of subparagraph (A) of section 6230(c)(2) as precedes "shall be filed" is amended to read as follows:

"(A) UNDER PARAGRAPH (1) (A) OR (C).—Any claim under subparagraph (A) or (C) of paragraph (1)".

(6) Paragraph (4) of section 6230(c) is amended by adding at the end the following: "In addition, the determination under the final partnership administrative adjustment or under the decision of the court (whichever is appropriate) concerning the applicability of any penalty, addition to tax, or additional amount which relates to an adjustment to a partnership item shall also be conclusive. Notwithstanding the preceding sentence, the partner shall be allowed to assert any partner level defenses that may apply or to challenge the amount of the computational adjustment.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership taxable years ending after the date of the enactment of this Act.

SEC. 1039. PROVISIONS RELATING TO COURT JURISDICTION, ETC.

(a) TAX COURT JURISDICTION TO ENJOIN PREMATURE ASSESSMENTS OF DEFICIENCIES ATTRIBUTABLE TO PARTNERSHIP ITEMS.—Subsection (b) of section 6225 is amended by striking "the proper court." and inserting "the proper court, including the Tax Court. The Tax Court shall have no jurisdiction to enjoin any action or proceeding under this subsection unless a timely petition for a readjustment of the partnership items for the taxable year has been filed and then only in respect of the adjustments that are the subject of such petition.".

(b) JURISDICTION TO CONSIDER STATUTE OF LIMITATIONS WITH RESPECT TO PARTNERS.—Paragraph (1) of section 6226(d) is amended by adding at the end the following new sentence: "Notwithstanding subparagraph (B), any person treated under subsection (c) as a party to an action shall be permitted to participate in such action (or file a readjustment petition under subsection (b) or paragraph (2) of this subsection) solely for the purpose of asserting that the period of limitations for assessing any tax attributable to partnership items has expired with respect to such person, and the court having jurisdiction of such action shall have jurisdiction to consider such assertion.".

(c) TAX COURT JURISDICTION TO DETERMINE OVERPAYMENTS ATTRIBUTABLE TO AFFECTED ITEMS.—

(1) Paragraph (6) of section 6230(d) is amended by striking "(or an affected item)".

(2) Paragraph (3) of section 6512(b) is amended by adding at the end the following new sentence:

"In the case of a credit or refund relating to an affected item (within the meaning of section 6231(a)(5)), the preceding sentence shall be applied by substituting the periods under sections 6229 and 6230(d) for the periods under section 6511(b)(2), (c), and (d).".

(d) VENUE ON APPEAL.—

(1) Paragraph (1) of section 7482(b) is amended by striking "or" at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting ", or", and by inserting after subparagraph (E) the following new subparagraph:

"(F) in the case of a petition under section 6234(c)—

"(i) the legal residence of the petitioner if the petitioner is not a corporation, and

"(ii) the place or office applicable under subparagraph (B) if the petitioner is a corporation.".

(2) The last sentence of section 7482(b)(1) is amended by striking "or 6228(a)" and inserting ", 6228(a), or 6234(c)".

(e) OTHER PROVISIONS.—

(1) Subsection (c) of section 7459 is amended by striking "or section 6228(a)" and inserting ", 6228(a), or 6234(c)".

(2) Subsection (o) of section 6501 is amended by adding at the end the following new paragraph:

"(3) For declaratory judgment relating to treatment of items other than partnership items with respect to an oversheltered return, see section 6234.".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership taxable years ending after the date of the enactment of this Act.

SEC. 1040. TREATMENT OF PREMATURE PETITIONS FILED BY NOTICE PARTNERS OR 5-PERCENT GROUPS.

(a) IN GENERAL.—Subsection (b) of section 6226 (relating to judicial review of final partnership administrative adjustments) is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

"(5) TREATMENT OF PREMATURE PETITIONS.—If—

"(A) a petition for a readjustment of partnership items for the taxable year involved is filed by a notice partner (or a 5-percent group) during the 90-day period described in subsection (a), and

"(B) no action is brought under paragraph (1) during the 60-day period described therein with respect to such taxable year which is not dismissed,

such petition shall be treated for purposes of paragraph (1) as filed on the last day of such 60-day period.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to petitions filed after the date of the enactment of this Act.

SEC. 1041. BONDS IN CASE OF APPEALS FROM CERTAIN PROCEEDING.

(a) IN GENERAL.—Subsection (b) of section 7485 (relating to bonds to stay assessment of collection) is amended—

(1) by inserting "penalties," after "any interest,", and

(2) by striking "aggregate of such deficiencies" and inserting "aggregate liability of the parties to the action".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982.

SEC. 1042. SUSPENSION OF INTEREST WHERE DELAY IN COMPUTATIONAL ADJUSTMENT RESULTING FROM CERTAIN SETTLEMENTS.

(a) IN GENERAL.—Subsection (c) of section 6601 (relating to interest on underpayment, nonpayment, or extension of time for payment, of tax) is amended by adding at the end the following new sentence: "In the case of a settlement under section 6224(c) which results in the conversion of partnership items to nonpartnership items pursuant to section 6231(b)(1)(C), the preceding sentence shall apply to a computational adjustment resulting from such settlement in the same manner as if such adjustment were a deficiency and such settlement were a waiver referred to in the preceding sentence.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to adjustments with respect to partnership taxable years beginning after the date of the enactment of this Act.

SEC. 1043. SPECIAL RULES FOR ADMINISTRATIVE ADJUSTMENT REQUESTS WITH RESPECT TO BAD DEBTS OR WORTHLESS SECURITIES.

(a) GENERAL RULE.—Section 6227 (relating to administrative adjustment requests) is amended by adding at the end the following new subsection:

"(e) REQUESTS WITH RESPECT TO BAD DEBTS OR WORTHLESS SECURITIES.—In the case of that portion of any request for an administrative adjustment which relates to the deductibility by the partnership under section 166 of a debt as a debt which became worthless, or under section 165(g) of a loss from worthlessness of a security, the period prescribed in subsection (a)(1) shall be 7 years from the last day for filing the partnership return for the year with respect to which such request is made (determined without regard to extensions).".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall take effect as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982.

(2) TREATMENT OF REQUESTS FILED BEFORE DATE OF ENACTMENT.—In the case of that portion of any request (filed before the date of the enactment of this Act) for an administrative adjustment which relates to the deductibility of a

debt as a debt which became worthless or the deductibility of a loss from the worthlessness of a security—

(A) paragraph (2) of section 6227(a) of the Internal Revenue Code of 1986 shall not apply,

(B) the period for filing a petition under section 6228 of the Internal Revenue Code of 1986 with respect to such request shall not expire before the date 6 months after the date of the enactment of this Act, and

(C) such a petition may be filed without regard to whether there was a notice of the beginning of an administrative proceeding or a final partnership administrative adjustment.

PART III—PROVISION RELATING TO CLOSING OF PARTNERSHIP TAXABLE YEAR WITH RESPECT TO DECEASED PARTNER, ETC.

SEC. 1046. CLOSING OF PARTNERSHIP TAXABLE YEAR WITH RESPECT TO DECEASED PARTNER, ETC.

(a) GENERAL RULE.—Subparagraph (A) of section 706(c)(2) (relating to disposition of entire interest) is amended to read as follows:

"(A) DISPOSITION OF ENTIRE INTEREST.—The taxable year of a partnership shall close with respect to a partner whose entire interest in the partnership terminates (whether by reason of death, liquidation, or otherwise).".

(b) CLERICAL AMENDMENT.—The paragraph heading for paragraph (2) of section 706(c) is amended to read as follows:

"(2) TREATMENT OF DISPOSITIONS.—".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership taxable years beginning after December 31, 1997.

Subtitle D—Provisions Relating to Real Estate Investment Trusts

SEC. 1051. CLARIFICATION OF LIMITATION ON MAXIMUM NUMBER OF SHAREHOLDERS.

(a) RULES RELATING TO DETERMINATION OF OWNERSHIP.—

(1) FAILURE TO ISSUE SHAREHOLDER DEMAND LETTER NOT TO DISQUALIFY REIT.—Section 857(a) (relating to requirements applicable to real estate investment trusts) is amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(2) SHAREHOLDER DEMAND LETTER REQUIREMENT; PENALTY.—Section 857 (relating to taxation of real estate investment trusts and their beneficiaries) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) REAL ESTATE INVESTMENT TRUSTS TO ASCERTAIN OWNERSHIP.—

"(1) IN GENERAL.—Each real estate investment trust shall each taxable year comply with regulations prescribed by the Secretary for the purposes of ascertaining the actual ownership of the outstanding shares, or certificates of beneficial interest, of such trust.

"(2) FAILURE TO COMPLY.—

"(A) IN GENERAL.—If a real estate investment trust fails to comply with the requirements of paragraph (1) for a taxable year, such trust shall pay (on notice and demand by the Secretary and in the same manner as tax) a penalty of $25,000.

"(B) INTENTIONAL DISREGARD.—If any failure under paragraph (1) is due to intentional disregard of the requirement under paragraph (1), the penalty under subparagraph (A) shall be $50,000.

"(C) FAILURE TO COMPLY AFTER NOTICE.—The Secretary may require a real estate investment trust to take such actions as the Secretary determines appropriate to ascertain actual ownership if the trust fails to meet the requirements of paragraph (1). If the trust fails to take such actions, the trust shall pay (on notice and demand by the Secretary and in the same manner as tax) an additional penalty equal to the penalty determined under subparagraph (A) or (B), whichever is applicable.

"(D) REASONABLE CAUSE.—No penalty shall be imposed under this paragraph with respect to any failure if it is shown that such failure is due to reasonable cause and not to willful neglect.".

(b) COMPLIANCE WITH CLOSELY HELD PROHIBITION.—

(1) IN GENERAL.—Section 856 (defining real estate investment trust) is amended by adding at the end the following new subsection:

"(k) REQUIREMENT THAT ENTITY NOT BE CLOSELY HELD TREATED AS MET IN CERTAIN CASES.—A corporation, trust, or association—

"(1) which for a taxable year meets the requirements of section 857(f)(1), and

"(2) which does not know, or exercising reasonable diligence would not have known, whether the entity failed to meet the requirement of subsection (a)(6),

shall be treated as having met the requirement of subsection (a)(6) for the taxable year.".

(2) CONFORMING AMENDMENT.—Paragraph (6) of section 856(a) is amended by inserting "subject to the provisions of subsection (k)," before "which is not".

SEC. 1052. DE MINIMIS RULE FOR TENANT SERVICES INCOME.

(a) IN GENERAL.—Paragraph (2) of section 856(d) (defining rents from real property) is amended by striking subparagraph (C) and the last sentence and inserting:

"(C) any impermissible tenant service income (as defined in paragraph (7)).".

(b) IMPERMISSIBLE TENANT SERVICE INCOME.—Section 856(d) is amended by adding at the end the following new paragraph:

"(7) IMPERMISSIBLE TENANT SERVICE INCOME.—For purposes of paragraph (2)(C)—

"(A) IN GENERAL.—The term 'impermissible tenant service income' means, with respect to any real or personal property, any amount received or accrued directly or indirectly by the real estate investment trust for—

"(i) services furnished or rendered by the trust to the tenants of such property, or

"(ii) managing or operating such property.

"(B) DISQUALIFICATION OF ALL AMOUNTS WHERE MORE THAN DE MINIMIS AMOUNT.—If the amount described in subparagraph (A) with respect to a property for any taxable year exceeds 1 percent of all amounts received or accrued during such taxable year directly or indirectly by the real estate investment trust with respect to such property, the impermissible tenant service income of the trust with respect to the property shall include all such amounts.

"(C) EXCEPTIONS.—For purposes of subparagraph (A)—

"(i) services furnished or rendered, or management or operation provided, through an independent contractor from whom the trust itself does not derive or receive any income shall not be treated as furnished, rendered, or provided by the trust, and

"(ii) there shall not be taken into account any amount which would be excluded from unrelated business taxable income under section 512(b)(3) if received by an organization described in section 511(a)(2).

"(D) AMOUNT ATTRIBUTABLE TO IMPERMISSIBLE SERVICES.—For purposes of subparagraph (A), the amount treated as received for any service (or management or operation) shall not be less than 150 percent of the direct cost of the trust in furnishing or rendering the service (or providing the management or operation).

"(E) COORDINATION WITH LIMITATIONS.—For purposes of paragraphs (2) and (3) of subsection (c), amounts described in subparagraph (A) shall be included in the gross income of the corporation, trust, or association.".

SEC. 1053. ATTRIBUTION RULES APPLICABLE TO TENANT OWNERSHIP.

Section 856(d)(5) (relating to constructive ownership of stock) is amended by adding at the end the following: "For purposes of paragraph (2)(B), section 318(a)(3)(A) shall be applied under the preceding sentence in the case of a partnership by taking into account only partners who own (directly or indirectly) 25 percent or more of the capital interest, or the profits interest, in the partnership.".

SEC. 1054. CREDIT FOR TAX PAID BY REIT ON RETAINED CAPITAL GAINS.

(a) GENERAL RULE.—Paragraph (3) of section 857(b) (relating to capital gains) is amended by redesignating subparagraph (D) as subparagraph (E) and by inserting after subparagraph (C) the following new subparagraph:

"(D) TREATMENT BY SHAREHOLDERS OF UNDISTRIBUTED CAPITAL GAINS.—

"(i) Every shareholder of a real estate investment trust at the close of the trust's taxable year shall include, in computing his long-term capital gains in his return for his taxable year in which the last day of the trust's taxable year falls, such amount as the trust shall designate in respect of such shares in a written notice mailed to its shareholders at any time prior to the expiration of 60 days after the close of its taxable year (or mailed to its shareholders or holders of beneficial interests with its annual report for the taxable year), but the amount so includible by any shareholder shall not exceed that part of the amount subjected to tax in subparagraph (A)(ii) which he would have received if all of such amount had been distributed as capital gain dividends by the trust to the holders of such shares at the close of its taxable year.

"(ii) For purposes of this title, every such shareholder shall be deemed to have paid, for his taxable year under clause (i), the tax imposed by subparagraph (A)(ii) on the amounts required by this subparagraph to be included in respect of such shares in computing his long-term capital gains for that year; and such shareholders shall be allowed credit or refund as the case may be, for the tax so deemed to have been paid by him.

"(iii) The adjusted basis of such shares in the hands of the holder shall be increased with respect to the amounts required by this subparagraph to be included in computing his long-term capital gains, by the difference between the amount of such includible gains and the tax deemed paid by such shareholder in respect of such shares under clause (ii).

"(iv) In the event of such designation, the tax imposed by subparagraph (A)(ii) shall be paid by the real estate investment trust within 30 days after the close of its taxable year.

"(v) The earnings and profits of such real estate investment trust, and the earnings and profits of any such shareholder which is a corporation, shall be appropriately adjusted in accordance with regulations prescribed by the Secretary.

"(vi) As used in this subparagraph, the terms 'shares' and 'shareholders' shall include beneficial interests and holders of beneficial interests, respectively.".

(b) CONFORMING AMENDMENTS.—

(1) Clause (i) of section 857(b)(7)(A) is amended by striking "subparagraph (B)" and inserting "subparagraph (B) or (D)".

(2) Clause (iii) of section 852(b)(3)(D) is amended by striking "by 65 percent" and all that follows and inserting "by the difference between the amount of such includible gains and the tax deemed paid by such shareholder in respect of such shares under clause (ii).".

SEC. 1055. REPEAL OF 30-PERCENT GROSS INCOME REQUIREMENT.

(a) GENERAL RULE.—Subsection (c) of section 856 (relating to limitations) is amended—

(1) by adding "and" at the end of paragraph (3),

(2) by striking paragraphs (4) and (8), and

(3) by redesignating paragraphs (5), (6), and (7) as paragraphs (4), (5), and (6), respectively.

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (G) of section 856(c)(5), as redesignated by subsection (a), is amended by striking "and such agreement shall be treated as a security for purposes of paragraph (4)(A)".

(2) Paragraph (5) of section 857(b) is amended by striking "section 856(c)(7)" and inserting "section 856(c)(6)".

(3) Subparagraph (C) of section 857(b)(6) is amended by striking "section 856(c)(6)(B)" and inserting "section 856(c)(5)(B)".

SEC. 1056. MODIFICATION OF EARNINGS AND PROFITS RULES FOR DETERMINING WHETHER REIT HAS EARNINGS AND PROFITS FROM NON-REIT YEAR.

Subsection (d) of section 857 is amended by adding at the end the following new paragraph:

"(3) DISTRIBUTIONS TO MEET REQUIREMENTS OF SUBSECTION (a)(2)(B).—Any distribution which is made in order to comply with the requirements of subsection (a)(2)(B)—

"(A) shall be treated for purposes of this subsection and subsection (a)(2)(B) as made from the earliest accumulated earnings and profits (other than earnings and profits to which subsection (a)(2)(A) applies) rather than the most recently accumulated earnings and profits, and

"(B) to the extent treated under subparagraph (A) as made from accumulated earnings and profits, shall not be treated as a distribution for purposes of subsection (b)(2)(B).".

SEC. 1057. TREATMENT OF FORECLOSURE PROPERTY.

(a) GRACE PERIODS.—

(1) INITIAL PERIOD.—Paragraph (2) of section 856(e) (relating to special rules for foreclosure property) is amended by striking "on the date which is 2 years after the date the trust acquired such property" and inserting "as of the close of the 3d taxable year following the taxable year in which the trust acquired such property".

(2) EXTENSION.—Paragraph (3) of section 856(e) is amended—

(A) by striking "or more extensions" and inserting "extension", and

(B) by striking the last sentence and inserting: "Any such extension shall not extend the grace period beyond the close of the 3d taxable year following the last taxable year in the period under paragraph (2).".

(b) REVOCATION OF ELECTION.—Paragraph (5) of section 856(e) is amended by striking the last sentence and inserting: "A real estate investment trust may revoke any such election for a taxable year by filing the revocation (in the manner provided by the Secretary) on or before the due date (including any extension of time) for filing its return of tax under this chapter for the taxable year. If a trust revokes an election for any property, no election may be made by the trust under this paragraph with respect to the property for any subsequent taxable year.".

(c) CERTAIN ACTIVITIES NOT TO DISQUALIFY PROPERTY.—Paragraph (4) of section 856(e) is amended by adding at the end the following new flush sentence:

"For purposes of subparagraph (C), property shall not be treated as used in a trade or business by reason of any activities of the real estate investment trust with respect to such property to the extent that such activities would not result in amounts received or accrued, directly or indirectly, with respect to such property being treated as other than rents from real property.".

SEC. 1058. PAYMENTS UNDER HEDGING INSTRUMENTS.

Section 856(c)(5)(G) (relating to treatment of certain interest rate agreements), as redesignated by section 1255, is amended to read as follows:

"(G) TREATMENT OF CERTAIN HEDGING INSTRUMENTS.—Except to the extent provided by regulations, any—

"(i) payment to a real estate investment trust under an interest rate swap or cap agreement, option, futures contract, forward rate agreement, or any similar financial instrument, entered into by the trust in a transaction to reduce the interest rate risks with respect to any indebtedness incurred or to be incurred by the trust to acquire or carry real estate assets, and

"(ii) gain from the sale or other disposition of any such investment,

shall be treated as income qualifying under paragraph (2).".

SEC. 1059. EXCESS NONCASH INCOME.

Section 857(e)(2) (relating to determination of amount of excess noncash income) is amended—

(1) by striking subparagraph (B),

(2) by striking the period at the end of subparagraph (C) and inserting a comma,

(3) by redesignating subparagraph (C) (as amended by paragraph (2)) as subparagraph (B), and

(4) by adding at the end the following new subparagraphs:

"(C) the amount (if any) by which—

"(i) the amounts includible in gross income with respect to instruments to which section 860E(a) or 1272 applies, exceed

"(ii) the amount of money and the fair market value of other property received during the taxable year under such instruments, and

"(D) amounts includible in income by reason of cancellation of indebtedness.".

SEC. 1060. PROHIBITED TRANSACTION SAFE HARBOR.

Clause (iii) of section 857(b)(6)(C) (relating to certain sales not to constitute prohibited transactions) is amended by striking "(other than foreclosure property)" in subclauses (I) and (II) and inserting "(other than sales of foreclosure property or sales to which section 1033 applies)".

SEC. 1061. SHARED APPRECIATION MORTGAGES.

(a) BANKRUPTCY SAFE HARBOR.—Section 856(j) (relating to treatment of shared appreciation mortgages) is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) COORDINATION WITH 4-YEAR HOLDING PERIOD.—

"(A) IN GENERAL.—For purposes of section 857(b)(6)(C), if a real estate investment trust is treated as having sold secured property under paragraph (3)(A), the trust shall be treated as having held such property for at least 4 years if—

"(i) the secured property is sold or otherwise disposed of pursuant to a case under title 11 of the United States Code,

"(ii) the seller is under the jurisdiction of the court in such case, and

"(iii) the disposition is required by the court or is pursuant to a plan approved by the court.

"(B) EXCEPTION.—Subparagraph (A) shall not apply if—

"(i) the secured property was acquired by the trust with the intent to evict or foreclose, or

"(ii) the trust knew or had reason to know that default on the obligation described in paragraph (5)(A) would occur.".

(b) CLARIFICATION OF DEFINITION OF SHARED APPRECIATION PROVISION.—Clause (ii) of section 856(j)(5)(A) is amended by inserting before the period "or appreciation in value as of any specified date".

SEC. 1062. WHOLLY OWNED SUBSIDIARIES.

Section 856(i)(2) (defining qualified REIT subsidiary) is amended by striking "at all times during the period such corporation was in existence".

SEC. 1063. EFFECTIVE DATE.

The amendments made by this part shall apply to taxable years beginning after the date of the enactment of this Act.

Subtitle E—Provisions Relating to Regulated Investment Companies

SEC. 1071. REPEAL OF 30-PERCENT GROSS INCOME LIMITATION.

(a) GENERAL RULE.—Subsection (b) of section 851 (relating to limitations) is amended by striking paragraph (3), by adding "and" at the end of paragraph (2), and by redesignating paragraph (4) as paragraph (3).

(b) TECHNICAL AMENDMENTS.—

(1) The material following paragraph (3) of section 851(b) (as redesignated by subsection (a)) is amended—

(A) by striking out "paragraphs (2) and (3)" and inserting "paragraph (2)", and

(B) by striking out the last sentence thereof.

(2) Subsection (c) of section 851 is amended by striking "subsection (b)(4)" each place it appears (including the heading) and inserting "subsection (b)(3)".

(3) Subsection (d) of section 851 is amended by striking "subsections (b)(4)" and inserting "subsections (b)(3)".

(4) Paragraph (1) of section 851(e) is amended by striking "subsection (b)(4)" and inserting "subsection (b)(3)".

(5) Paragraph (4) of section 851(e) is amended by striking "subsections (b)(4)" and inserting "subsections (b)(3)".

(6) Section 851 is amended by striking subsection (g) and redesignating subsection (h) as subsection (g).

(7) Subsection (g) of section 851 (as redesignated by paragraph (6)) is amended by striking paragraph (3).

(8) Section 817(h)(2) is amended—

(A) by striking "851(b)(4)" in subparagraph (A) and inserting "851(b)(3)", and

(B) by striking "851(b)(4)(A)(i)" in subparagraph (B) and inserting "851(b)(3)(A)(i)".

(9) Section 1092(f)(2) is amended by striking "Except for purposes of section 851(b)(3), the" and inserting "The".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

Subtitle F—Taxpayer Protections

SEC. 1081. REASONABLE CAUSE EXCEPTION FOR CERTAIN PENALTIES.

(a) INFORMATION ON DEDUCTIBLE EMPLOYEE CONTRIBUTIONS.—Subsection (g) of section 6652 (relating to information required in connection with deductible employee contributions) is amended by adding at the end the following new sentence: "No penalty shall be imposed under this subsection on any failure which is shown to be due to reasonable cause and not willful neglect.".

(b) REPORTS ON STATUS AS QUALIFIED SMALL BUSINESS.—Subsection (k) of section 6652 (relating to failure to make reports required under section 1202) is amended by adding at the end the following new sentence: "No penalty shall be imposed under this subsection on any failure which is shown to be due to reasonable cause and not willful neglect.".

(c) RETURNS OF PERSONAL HOLDING COMPANY TAX BY FOREIGN CORPORATIONS.—Section 6683 (relating to failure of foreign corporation to file return of personal holding company tax) is amended by adding at the end the following new sentence: "No penalty shall be imposed under this section on any failure which is shown to be due to reasonable cause and not willful neglect.".

(d) FAILURE TO MAKE REQUIRED PAYMENTS.—Subparagraph (A) of section 7519(f)(4) is amended by adding at the end the following new sentence: "No penalty shall be imposed under this

subparagraph on any failure which is shown to be due to reasonable cause and not willful neglect.".

(e) Effective Date.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 1082. CLARIFICATION OF PERIOD FOR FILING CLAIMS FOR REFUNDS.

(a) In General.—Paragraph (3) of section 6512(b) (relating to overpayment determined by Tax Court) is amended by adding at the end the following flush sentence:

"In a case described in subparagraph (B) where the date of the mailing of the notice of deficiency is during the third year after the due date (with extensions) for filing the return of tax and no return was filed before such date, the applicable period under subsections (a) and (b)(2) of section 6511 shall be 3 years.".

(b) Effective Date.—The amendment made by subsection (a) shall apply to claims for credit or refund for taxable years ending after the date of the enactment of this Act.

SEC. 1083. REPEAL OF AUTHORITY TO DISCLOSE WHETHER PROSPECTIVE JUROR HAS BEEN AUDITED.

(a) In General.—Subsection (h) of section 6103 (relating to disclosure to certain Federal officers and employees for purposes of tax administration, etc.) is amended by striking paragraph (5) and by redesignating paragraph (6) as paragraph (5).

(b) Conforming Amendment.—Paragraph (4) of section 6103(p) is amended by striking "(h)(6)" each place it appears and inserting "(h)(5)".

(c) Effective Date.—The amendments made by this section shall apply to judicial proceedings commenced after the date of the enactment of this Act.

SEC. 1084. CLARIFICATION OF STATUTE OF LIMITATIONS.

(a) In General.—Subsection (a) of section 6501 (relating to limitations on assessment and collection) is amended by adding at the end thereof the following new sentence: "For purposes of this chapter, the term 'return' means the return required to be filed by the taxpayer (and does not include a return of any person from whom the taxpayer has received an item of income, gain, loss, deduction, or credit).".

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 1085. PENALTY FOR UNAUTHORIZED INSPECTION OF TAX RETURNS OR TAX RETURN INFORMATION.

(a) In General.—Part I of subchapter A of chapter 75 (relating to crimes, other offenses, and forfeitures) is amended by adding after section 7213 the following new section:

"SEC. 7213A. UNAUTHORIZED INSPECTION OF RETURNS OR RETURN INFORMATION.

"(a) Prohibitions.—

"(1) Federal employees and other persons.—It shall be unlawful for—

"(A) any officer or employee of the United States, or

"(B) any person described in section 6103(n) or an officer or employee of any such person,

willfully to inspect, except as authorized in this title, any return or return information.

"(2) State and other employees.—It shall be unlawful for any person (not described in paragraph (1)) willfully to inspect, except as authorized in this title, any return or return information acquired by such person or another person under a provision of section 6103 referred to in section 7213(a)(2).

"(b) Penalty.—

"(1) In general.—Any violation of subsection (a) shall be punishable upon conviction by a fine in any amount not exceeding $1,000, or imprisonment of not more than 1 year, or both, together with the costs of prosecution.

"(2) Federal officers or employees.—An officer or employee of the United States who is convicted of any violation of subsection (a) shall, in addition to any other punishment, be dismissed from office or discharged from employment.

"(c) Definitions.—For purposes of this section, the terms 'inspect', 'return', and 'return information' have the respective meanings given such terms by section 6103(b).".

(b) Technical Amendments.—

(1) Paragraph (2) of section 7213(a) is amended by inserting "(5)," after "(m)(2), (4),".

(2) The table of sections for part I of subchapter A of chapter 75 is amended by inserting after the item relating to section 7213 the following new item:

"Sec. 7213A. Unauthorized inspection of returns or return information.".

(c) Effective Date.—The amendments made by this section shall apply to violations occurring on and after the date of the enactment of this Act.

SEC. 1086. CIVIL DAMAGES FOR UNAUTHORIZED INSPECTION OF RETURNS AND RETURN INFORMATION; NOTIFICATION OF UNLAWFUL INSPECTION OR DISCLOSURE.

(a) Civil Damages for Unauthorized Inspection.—Subsection (a) of section 7431 is amended—

(1) by striking "Disclosure" in the headings for paragraphs (1) and (2) and inserting "Inspection or disclosure", and

(2) by striking "discloses" in paragraphs (1) and (2) and inserting "inspects or discloses".

(b) Notification of Unlawful Inspection or Disclosure.—Section 7431 is amended by redesignating subsections (e) and (f) as subsections (f) and (g), respectively, and by inserting after subsection (d) the following new subsection:

"(e) Notification of Unlawful Inspection and Disclosure.—If any person is criminally charged by indictment or information with inspection or disclosure of a taxpayer's return or return information in violation of—

"(1) paragraph (1) or (2) of section 7213(a),

"(2) section 7213A(a), or

"(3) subparagraph (B) of section 1030(a)(2) of title 18, United States Code,

the Secretary shall notify such taxpayer as soon as practicable of such inspection or disclosure.".

(c) No Damages for Inspection Requested by Taxpayer.—Subsection (b) of section 7431 is amended to read as follows:

"(b) Exceptions.—No liability shall arise under this section with respect to any inspection or disclosure—

"(1) which results from a good faith, but erroneous, interpretation of section 6103, or

"(2) which is requested by the taxpayer.".

(d) Conforming Amendments.—

(1) Subsections (c)(1)(A), (c)(1)(B)(i), and (d) of section 7431 are each amended by inserting "inspection or" before "disclosure".

(2) Clause (ii) of section 7431(c)(1)(B) is amended by striking "willful disclosure or a disclosure" and inserting "willful inspection or disclosure or an inspection or disclosure".

(3) Subsection (f) of section 7431, as redesignated by subsection (b), is amended to read as follows:

"(f) Definitions.—For purposes of this section, the terms 'inspect', 'inspection', 'return', and 'return information' have the respective meanings given such terms by section 6103(b).".

*(4) The section heading for section 7431 is amended by inserting "**INSPECTION OR**" before "**DISCLOSURE**".*

(5) The table of sections for subchapter B of chapter 76 is amended by inserting "inspection or" before "disclosure" in the item relating to section 7431.

(6) Paragraph (2) of section 7431(g), as redesignated by subsection (b), is amended by striking "any use" and inserting "any inspection or use".

(e) Effective Date.—The amendments made by this section shall apply to inspections and disclosures occurring on and after the date of the enactment of this Act.

TITLE XI—SIMPLIFICATION PROVISIONS RELATING TO ESTATE AND GIFT TAXES

SEC. 1101. GIFTS TO CHARITIES EXEMPT FROM GIFT TAX FILING REQUIREMENTS.

(a) In General.—Section 6019 is amended by striking "or" at the end of paragraph (1), by adding "or" at the end of paragraph (2), and by inserting after paragraph (2) the following new paragraph:

"(3) a transfer with respect to which a deduction is allowed under section 2522, except that this paragraph shall apply with respect to a transfer of property (other than a transfer described in section 2522(d)) only if the entire value of such property is allowed as a deduction under section 2522,".

(b) Effective Date.—The amendment made by this section shall apply to gifts made after the date of the enactment of this Act.

SEC. 1102. CLARIFICATION OF WAIVER OF CERTAIN RIGHTS OF RECOVERY.

(a) Amendment to Section 2207A.—Paragraph (2) of section 2207A(a) (relating to right of recovery in the case of certain marital deduction property) is amended to read as follows:

"(2) Decedent may otherwise direct.—Paragraph (1) shall not apply with respect to any property to the extent that the decedent in his will (or a revocable trust) specifically indicates an intent to waive any right of recovery under this subchapter with respect to such property.".

(b) Amendment to Section 2207B.—Paragraph (2) of section 2207B(a) (relating to right of recovery where decedent retained interest) is amended to read as follows:

"(2) Decedent may otherwise direct.—Paragraph (1) shall not apply with respect to any property to the extent that the decedent in his will (or a revocable trust) specifically indicates an intent to waive any right of recovery under this subchapter with respect to such property.".

(c) Effective Date.—The amendments made by this section shall apply with respect to the estates of decedents dying after the date of the enactment of this Act.

SEC. 1103. TRANSITIONAL RULE UNDER SECTION 2056A.

(a) General Rule.—In the case of any trust created under an instrument executed before the date of the enactment of the Revenue Reconciliation Act of 1990, such trust shall be treated as meeting the requirements of paragraph (1) of section 2056A(a) of the Internal Revenue Code of 1986 if the trust instrument requires that all trustees of the trust be individual citizens of the United States or domestic corporations.

(b) Effective Date.—The provisions of subsection (a) shall take effect as if included in the provisions of section 11702(g) of the Revenue Reconciliation Act of 1990.

SEC. 1104. TREATMENT FOR ESTATE TAX PURPOSES OF SHORT-TERM OBLIGATIONS HELD BY NONRESIDENT ALIENS.

(a) In General.—Subsection (b) of section 2105 is amended by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting ", and", and by inserting after paragraph (3) the following new paragraph:

"(4) obligations which would be original issue discount obligations as defined in section

871(g)(1) but for subparagraph (B)(i) thereof, if any interest thereon (were such interest received by the decedent at the time of his death) would not be effectively connected with the conduct of a trade or business within the United States.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to estates of decedents dying after the date of the enactment of this Act.

SEC. 1105. DISTRIBUTIONS DURING FIRST 65 DAYS OF TAXABLE YEAR OF ESTATE.

(a) IN GENERAL.—Subsection (b) of section 663 (relating to distributions in first 65 days of taxable year) is amended by inserting "an estate or" before "a trust" each place it appears.

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 663(b) is amended by striking "the fiduciary of such trust" and inserting "the executor of such estate or the fiduciary of such trust (as the case may be)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 1106. SEPARATE SHARE RULES AVAILABLE TO ESTATES.

(a) IN GENERAL.—Subsection (c) of section 663 (relating to separate shares treated as separate trusts) is amended—

(1) by inserting before the last sentence the following new sentence: "Rules similar to the rules of the preceding provisions of this subsection shall apply to treat substantially separate and independent shares of different beneficiaries in an estate having more than 1 beneficiary as separate estates.", and

(2) by inserting "or estates" after "trusts" in the last sentence.

(b) CONFORMING AMENDMENT.—The subsection heading of section 663(c) is amended by inserting "ESTATES OR" before "TRUSTS".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after the date of the enactment of this Act.

SEC. 1107. EXECUTOR OF ESTATE AND BENEFICIARIES TREATED AS RELATED PERSONS FOR DISALLOWANCE OF LOSSES, ETC.

(a) DISALLOWANCE OF LOSSES.—Subsection (b) of section 267 (relating to losses, expenses, and interest with respect to transactions between related taxpayers) is amended by striking "or" at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting "; or", and by adding at the end the following new paragraph:

"(13) Except in the case of a sale or exchange in satisfaction of a pecuniary bequest, an executor of an estate and a beneficiary of such estate.".

(b) ORDINARY INCOME FROM GAIN FROM SALE OF DEPRECIABLE PROPERTY.—Subsection (b) of section 1239 is amended by striking the period at the end of paragraph (2) and inserting ", and" and by adding at the end the following new paragraph:

"(3) except in the case of a sale or exchange in satisfaction of a pecuniary bequest, an executor of an estate and a beneficiary of such estate.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 1108. TREATMENT OF FUNERAL TRUSTS.

(a) IN GENERAL.—Subpart F of part I of subchapter J of chapter 1 is amended by adding at the end the following new section:

"SEC. 684. TREATMENT OF FUNERAL TRUSTS.

"(a) IN GENERAL.—In the case of a qualified funeral trust—

"(1) subparts B, C, D, and E shall not apply, and

"(2) no deduction shall be allowed by section 642(b).

"(b) QUALIFIED FUNERAL TRUST.—For purposes of this subsection, the term 'qualified funeral trust' means any trust (other than a foreign trust) if—

"(1) the trust arises as a result of a contract with a person engaged in the trade or business of providing funeral or burial services or property necessary to provide such services,

"(2) the sole purpose of the trust is to hold, invest, and reinvest funds in the trust and to use such funds solely to make payments for such services or property for the benefit of the beneficiaries of the trust,

"(3) the only beneficiaries of such trust are individuals who have entered into contracts described in paragraph (1) to have such services or property provided at their death,

"(4) the only contributions to the trust are contributions by or for the benefit of such beneficiaries,

"(5) the trustee elects the application of this subsection, and

"(6) the trust would (but for the election described in paragraph (5)) be treated as owned by the beneficiaries under subpart E.

"(c) DOLLAR LIMITATION ON CONTRIBUTIONS.—

"(1) IN GENERAL.—The term 'qualified funeral trust' shall not include any trust which accepts aggregate contributions by or for the benefit of an individual in excess of $7,000.

"(2) RELATED TRUSTS.—For purposes of paragraph (1), all trusts having trustees which are related persons shall be treated as 1 trust. For purposes of the preceding sentence, persons are related if—

"(A) the relationship between such persons is described in section 267 or 707(b),

"(B) such persons are treated as a single employer under subsection (a) or (b) of section 52, or

"(C) the Secretary determines that treating such persons as related is necessary to prevent avoidance of the purposes of this section.

"(3) INFLATION ADJUSTMENT.—In the case of any contract referred to in subsection (b)(1) which is entered into during any calendar year after 1998, the dollar amount referred to paragraph (1) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, by substituting 'calendar year 1997' for 'calendar year 1992' in subparagraph (B) thereof.

If any dollar amount after being increased under the preceding sentence is not a multiple of $100, such dollar amount shall be rounded to the nearest multiple of $100.

"(d) APPLICATION OF RATE SCHEDULE.—Section 1(e) shall be applied to each qualified funeral trust by treating each beneficiary's interest in each such trust as a separate trust.

"(e) TREATMENT OF AMOUNTS REFUNDED TO BENEFICIARY ON CANCELLATION.—No gain or loss shall be recognized to a beneficiary described in subsection (b)(3) of any qualified funeral trust by reason of any payment from such trust to such beneficiary by reason of cancellation of a contract referred to in subsection (b)(1). If any payment referred to in the preceding sentence consists of property other than money, the basis of such property in the hands of such beneficiary shall be the same as the trust's basis in such property immediately before the payment.

"(f) SIMPLIFIED REPORTING.—The Secretary may prescribe rules for simplified reporting of all trusts having a single trustee.".

(b) CLERICAL AMENDMENT.—The table of sections for subpart F of part I of subchapter J of chapter 1 is amended by adding at the end the following new item:

"Sec. 684. Treatment of funeral trusts.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 1109. ADJUSTMENTS FOR GIFTS WITHIN 3 YEARS OF DECEDENT'S DEATH.

(a) GENERAL RULE.—Section 2035 is amended to read as follows:

"SEC. 2035. ADJUSTMENTS FOR CERTAIN GIFTS MADE WITHIN 3 YEARS OF DECEDENT'S DEATH.

"(a) INCLUSION OF CERTAIN PROPERTY IN GROSS ESTATE.—If—

"(1) the decedent made a transfer (by trust or otherwise) of an interest in any property, or relinquished a power with respect to any property, during the 3-year period ending on the date of the decedent's death, and

"(2) the value of such property (or an interest therein) would have been included in the decedent's gross estate under section 2036, 2037, 2038, or 2042 if such transferred interest or relinquished power had been retained by the decedent on the date of his death, the value of the gross estate shall include the value of any property (or interest therein) which would have been so included.

"(b) INCLUSION OF GIFT TAX ON GIFTS MADE DURING 3 YEARS BEFORE DECEDENT'S DEATH.—The amount of the gross estate (determined without regard to this subsection) shall be increased by the amount of any tax paid under chapter 12 by the decedent or his estate on any gift made by the decedent or his spouse during the 3-year period ending on the date of the decedent's death.

"(c) OTHER RULES RELATING TO TRANSFERS WITHIN 3 YEARS OF DEATH.—

"(1) IN GENERAL.—For purposes of—

"(A) section 303(b) (relating to distributions in redemption of stock to pay death taxes),

"(B) section 2032A (relating to special valuation of certain farms, etc., real property), and

"(C) subchapter C of chapter 64 (relating to lien for taxes),

the value of the gross estate shall include the value of all property to the extent of any interest therein of which the decedent has at any time made a transfer, by trust or otherwise, during the 3-year period ending on the date of the decedent's death.

"(2) COORDINATION WITH SECTION 6166.—An estate shall be treated as meeting the 35 percent of adjusted gross estate requirement of section 6166(a)(1) only if the estate meets such requirement both with and without the application of paragraph (1).

"(3) MARITAL AND SMALL TRANSFERS.—Paragraph (1) shall not apply to any transfer (other than a transfer with respect to a life insurance policy) made during a calendar year to any donee if the decedent was not required by section 6019 (other than by reason of section 6019(2)) to file any gift tax return for such year with respect to transfers to such donee.

"(d) EXCEPTION.—Subsection (a) shall not apply to any bona fide sale for an adequate and full consideration in money or money's worth.

"(e) TREATMENT OF CERTAIN TRANSFERS FROM REVOCABLE TRUSTS.—For purposes of this section and section 2038, any transfer from any portion of a trust during any period that such portion was treated under section 676 as owned by the decedent by reason of a power in the grantor (determined without regard to section 672(e)) shall be treated as a transfer made directly by the decedent.".

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter A of chapter 11 is amended by striking "gifts" in the item relating to section 2035 and inserting "certain gifts".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to the estates of decedents dying after the date of the enactment of this Act.

SEC. 1110. CLARIFICATION OF TREATMENT OF SURVIVOR ANNUITIES UNDER QUALIFIED TERMINABLE INTEREST RULES.

(a) In General.—Subparagraph (C) of section 2056(b)(7) is amended by inserting "(or, in the case of an interest in an annuity arising under the community property laws of a State, included in the gross estate of the decedent under section 2033)" after "section 2039".

(b) Effective Date.—The amendment made by this section shall apply to estates of decedents dying after the date of the enactment of this Act.

SEC. 1111. TREATMENT UNDER QUALIFIED DOMESTIC TRUST RULES OF FORMS OF OWNERSHIP WHICH ARE NOT TRUSTS.

(a) In General.—Subsection (c) of section 2056A (defining qualified domestic trust) is amended by adding at the end the following new paragraph:

"(3) Trust.—To the extent provided in regulations prescribed by the Secretary, the term 'trust' includes other arrangements which have substantially the same effect as a trust.".

(b) Effective Date.—The amendment made by this section shall apply to estates of decedents dying after the date of the enactment of this Act.

SEC. 1112. OPPORTUNITY TO CORRECT CERTAIN FAILURES UNDER SECTION 2032A.

(a) General Rule.—Paragraph (3) of section 2032A(d) (relating to modification of election and agreement to be permitted) is amended to read as follows:

"(3) Modification of election and agreement to be permitted.—The Secretary shall prescribe procedures which provide that in any case in which the executor makes an election under paragraph (1) (and submits the agreement referred to in paragraph (2)) within the time prescribed therefor, but—

"(A) the notice of election, as filed, does not contain all required information, or

"(B) signatures of 1 or more persons required to enter into the agreement described in paragraph (2) are not included on the agreement as filed, or the agreement does not contain all required information,

the executor will have a reasonable period of time (not exceeding 90 days) after notification of such failures to provide such information or signatures.".

(b) Effective Date.—The amendment made by subsection (a) shall apply to the estates of decedents dying after the date of the enactment of this Act.

SEC. 1113. AUTHORITY TO WAIVE REQUIREMENT OF UNITED STATES TRUSTEE FOR QUALIFIED DOMESTIC TRUSTS.

(a) In General.—Subparagraph (A) of section 2056A(a)(1) is amended by inserting "except as provided in regulations prescribed by the Secretary," before "requires".

(b) Effective Date.—The amendment made by this section shall apply to estates of decedents dying after the date of the enactment of this Act.

TITLE XII—SIMPLIFICATION PROVISIONS RELATING TO EXCISE TAXES, TAX-EXEMPT BONDS, AND OTHER MATTERS

Subtitle A—Excise Tax Simplification

PART I—EXCISE TAXES ON HEAVY TRUCKS AND LUXURY CARS

SEC. 1201. INCREASE IN DE MINIMIS LIMIT FOR AFTER-MARKET ALTERATIONS FOR HEAVY TRUCKS AND LUXURY CARS.

(a) In General.—Sections 4003(a)(3)(C) and 4051(b)(2)(B) (relating to exceptions) are each amended by striking "$200" and inserting "$1,000".

(b) Effective Date.—The amendments made by subsection (a) shall apply to installations on vehicles sold after the date of the enactment of this Act.

PART II—PROVISIONS RELATED TO DISTILLED SPIRITS, WINES, AND BEER

SEC. 1211. CREDIT OR REFUND FOR IMPORTED BOTTLED DISTILLED SPIRITS RETURNED TO DISTILLED SPIRITS PLANT.

(a) In General.—Section 5008(c)(1) (relating to distilled spirits returned to bonded premises) is amended by striking "withdrawn from bonded premises on payment or determination of tax" and inserting "on which tax has been determined or paid".

(b) Effective Date.—The amendment made by subsection (a) shall take effect on the 1st day of the 1st calendar quarter that begins at least 90 days after the date of the enactment of this Act.

SEC. 1212. AUTHORITY TO CANCEL OR CREDIT EXPORT BONDS WITHOUT SUBMISSION OF RECORDS.

(a) In General.—Section 5175(c) (relating to cancellation of credit of export bonds) is amended by striking "on the submission of" and all that follows and inserting "if there is such proof of exportation as the Secretary may by regulations require.".

(b) Effective Date.—The amendment made by subsection (a) shall take effect on the 1st day of the 1st calendar quarter that begins at least 90 days after the date of the enactment of this Act.

SEC. 1213. REPEAL OF REQUIRED MAINTENANCE OF RECORDS ON PREMISES OF DISTILLED SPIRITS PLANT.

(a) In General.—Section 5207(c) (relating to preservation and inspection) is amended by striking "shall be kept on the premises where the operations covered by the record are carried on and".

(b) Effective Date.—The amendment made by subsection (a) shall take effect on the 1st day of the 1st calendar quarter that begins at least 90 days after the date of the enactment of this Act.

SEC. 1214. FERMENTED MATERIAL FROM ANY BREWERY MAY BE RECEIVED AT A DISTILLED SPIRITS PLANT.

(a) In General.—Section 5222(b)(2) (relating to receipt) is amended to read as follows:

"(2) beer conveyed without payment of tax from brewery premises, beer which has been lawfully removed from brewery premises upon determination of tax, or".

(b) Clarification of Authority To Permit Removal of Beer Without Payment of Tax for Use as Distilling Material.—Section 5053 (relating to exemptions) is amended by redesignating subsection (f) as subsection (i) and by inserting after subsection (e) the following new subsection:

"(f) Removal for Use as Distilling Material.—Subject to such regulations as the Secretary may prescribe, beer may be removed from a brewery without payment of tax to any distilled spirits plant for use as distilling material.".

(c) Clarification of Refund and Credit of Tax.—Section 5056 (relating to refund and credit of tax, or relief from liability) is amended—

(1) by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) Beer Received at a Distilled Spirits Plant.—Any tax paid by any brewer on beer produced in the United States may be refunded or credited to the brewer, without interest, or if the tax has not been paid, the brewer may be relieved of liability therefor, under regulations as the Secretary may prescribe, if such beer is received on the bonded premises of a distilled spirits plant pursuant to the provisions of section 5222(b)(2), for use in the production of distilled spirits.", and

(2) by striking "or rendering unmerchantable" in subsection (d) (as so redesignated) and inserting "rendering unmerchantable, or receipt on the bonded premises of a distilled spirits plant".

(d) Effective Date.—The amendments made by this section shall take effect on the 1st day of the 1st calendar quarter that begins at least 90 days after the date of the enactment of this Act.

SEC. 1215. REPEAL OF REQUIREMENT FOR WHOLESALE DEALERS IN LIQUORS TO POST SIGN.

(a) In General.—Section 5115 (relating to sign required on premises) is hereby repealed.

(b) Conforming Amendments.—

(1) Section 5681(a) is amended by striking ", and every wholesale dealer in liquors," and by striking "section 5115(a) or".

(2) Section 5681(c) is amended—

(A) by striking "or wholesale liquor establishment, on which no sign required by section 5115(a) or" and inserting "on which no sign required by", and

(B) by striking "or wholesale liquor establishment, or who" and inserting "or who".

(3) The table of sections for subpart D of part II of subchapter A of chapter 51 is amended by striking the item relating to section 5115.

(c) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 1216. REFUND OF TAX TO WINE RETURNED TO BOND NOT LIMITED TO UNMERCHANTABLE WINE.

(a) In General.—Section 5044(a) (relating to refund of tax on unmerchantable wine) is amended by striking "as unmerchantable".

(b) Conforming Amendments.—

(1) Section 5361 is amended by striking "unmerchantable".

(2) The section heading for section 5044 is amended by striking "unmerchantable".

(3) The item relating to section 5044 in the table of sections for subpart C of part I of subchapter A of chapter 51 is amended by striking "unmerchantable".

(c) Effective Date.—The amendments made by this section shall take effect on the 1st day of the 1st calendar quarter that begins at least 90 days after the date of the enactment of this Act.

SEC. 1217. USE OF ADDITIONAL AMELIORATING MATERIAL IN CERTAIN WINES.

(a) In General.—Section 5384(b)(2)(D) (relating to ameliorated fruit and berry wines) is amended by striking "loganberries, currants, or gooseberries," and inserting "any fruit or berry with a natural fixed acid of 20 parts per thousand or more (before any correction of such fruit or berry)".

(b) Effective Date.—The amendment made by this section shall take effect on the 1st day of the 1st calendar quarter that begins at least 90 days after the date of the enactment of this Act.

SEC. 1218. DOMESTICALLY PRODUCED BEER MAY BE WITHDRAWN FREE OF TAX FOR USE OF FOREIGN EMBASSIES, LEGATIONS, ETC.

(a) In General.—Section 5053 (relating to exemptions), as amended by section 1414(b), is amended by inserting after subsection (f) the following new subsection:

"(g) Removals for Use of Foreign Embassies, Legations, Etc.—

"(1) In general.—Subject to such regulations as the Secretary may prescribe—

"(A) beer may be withdrawn from the brewery without payment of tax for transfer to any customs bonded warehouse for entry pending withdrawal therefrom as provided in subparagraph (B), and

"(B) beer entered into any customs bonded warehouse under subparagraph (A) may be

withdrawn for consumption in the United States by, and for the official and family use of, such foreign governments, organizations, and individuals as are entitled to withdraw imported beer from such warehouses free of tax.

Beer transferred to any customs bonded warehouse under subparagraph (A) shall be entered, stored, and accounted for in such warehouse under such regulations and bonds as the Secretary may prescribe, and may be withdrawn therefrom by such governments, organizations, and individuals free of tax under the same conditions and procedures as imported beer.

"(2) OTHER RULES TO APPLY.—Rules similar to the rules of paragraphs (2) and (3) of section 5362(e) shall apply for purposes of this subsection.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the 1st day of the 1st calendar quarter that begins at least 90 days after the date of the enactment of this Act.

SEC. 1219. BEER MAY BE WITHDRAWN FREE OF TAX FOR DESTRUCTION.

(a) IN GENERAL.—Section 5053 (relating to exemptions), as amended by section 1418(a), is amended by inserting after subsection (g) the following new subsection:

"(h) REMOVALS FOR DESTRUCTION.—Subject to such regulations as the Secretary may prescribe, beer may be removed from the brewery without payment of tax for destruction.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the 1st day of the 1st calendar quarter that begins at least 90 days after the date of the enactment of this Act.

SEC. 1220. AUTHORITY TO ALLOW DRAWBACK ON EXPORTED BEER WITHOUT SUBMISSION OF RECORDS.

(a) IN GENERAL.—The first sentence of section 5055 (relating to drawback of tax on beer) is amended by striking "found to have been paid" and all that follows and inserting "paid on such beer if there is such proof of exportation as the Secretary may by regulations require.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the 1st day of the 1st calendar quarter that begins at least 90 days after the date of the enactment of this Act.

SEC. 1221. TRANSFER TO BREWERY OF BEER IMPORTED IN BULK WITHOUT PAYMENT OF TAX.

(a) IN GENERAL.—Part II of subchapter G of chapter 51 is amended by adding at the end the following new section:

"SEC. 5418. BEER IMPORTED IN BULK.

"Beer imported or brought into the United States in bulk containers may, under such regulations as the Secretary may prescribe, be withdrawn from customs custody and transferred in such bulk containers to the premises of a brewery without payment of the internal revenue tax imposed on such beer. The proprietor of a brewery to which such beer is transferred shall become liable for the tax on the beer withdrawn from customs custody under this section upon release of the beer from customs custody, and the importer, or the person bringing such beer into the United States, shall thereupon be relieved of the liability for such tax.".

(b) CLERICAL AMENDMENT.—The table of sections for such part II is amended by adding at the end the following new item:

"Sec. 5418. Beer imported in bulk.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the 1st day of the 1st calendar quarter that begins at least 90 days after the date of the enactment of this Act.

SEC. 1222. TRANSFER TO BONDED WINE CELLARS OF WINE IMPORTED IN BULK WITHOUT PAYMENT OF TAX.

(a) IN GENERAL.—Part II of subchapter F of chapter 51 is amended by inserting after section 5363 the following new section:

"SEC. 5364. WINE IMPORTED IN BULK.

"Wine imported or brought into the United States in bulk containers may, under such regulations as the Secretary may prescribe, be withdrawn from customs custody and transferred in such bulk containers to the premises of a bonded wine cellar without payment of the internal revenue tax imposed on such wine. The proprietor of a bonded wine cellar to which such wine is transferred shall become liable for the tax on the wine withdrawn from customs custody under this section upon release of the wine from customs custody, and the importer, or the person bringing such wine into the United States, shall thereupon be relieved of the liability for such tax.".

(b) CLERICAL AMENDMENT.—The table of sections for such part II is amended by inserting after the item relating to section 5363 the following new item:

"Sec. 5364. Wine imported in bulk.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the 1st day of the 1st calendar quarter that begins at least 90 days after the date of the enactment of this Act.

PART III—OTHER EXCISE TAX PROVISIONS

SEC. 1231. AUTHORITY TO GRANT EXEMPTIONS FROM REGISTRATION REQUIREMENTS.

(a) IN GENERAL.—Section 4222(b)(2) (relating to export) is amended—

(1) by striking "in the case of any sale or resale for export,", and

(2) by striking "EXPORT" and inserting "UNDER REGULATIONS".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 1232. REPEAL OF EXPIRED PROVISIONS.

(a) PIGGY-BACK TRAILERS.—Section 4051 (relating to imposition of tax on heavy trucks and trailers sold at retail) is amended by striking subsection (d) and by redesignating subsection (e) as subsection (d).

(b) DEEP SEABED MINING.—

(1) IN GENERAL.—Subchapter F of chapter 36 (relating to tax on removal of hard mineral resources from deep seabed) is hereby repealed.

(2) CONFORMING AMENDMENT.—The table of subchapters for chapter 36 is amended by striking the item relating to subchapter F.

(c) OZONE-DEPLETING CHEMICALS.—

(1) Paragraph (1) of section 4681(b) is amended by striking subparagraphs (B) and (C) and inserting the following new subparagraph:

"(B) BASE TAX AMOUNT.—The base tax amount for purposes of subparagraph (A) with respect to any sale or use during any calendar year after 1995 shall be $5.35 increased by 45 cents for each year after 1995.".

(2) Subsection (g) of section 4682 is amended to read as follows:

"(g) CHEMICALS USED AS PROPELLANTS IN METERED-DOSE INHALERS.—

"(1) EXEMPTION FROM TAX.—

"(A) IN GENERAL.—No tax shall be imposed by section 4681 on—

"(i) any use of any substance as a propellant in metered-dose inhalers, or

"(ii) any qualified sale by the manufacturer, producer, or importer of any substance.

"(B) QUALIFIED SALE.—For purposes of subparagraph (A), the term 'qualified sale' means any sale by the manufacturer, producer, or importer of any substance—

"(i) for use by the purchaser as a propellant in metered dose inhalers, or

"(ii) for resale by the purchaser to a 2d purchaser for such use by the 2d purchaser.

The preceding sentence shall apply only if the manufacturer, producer, and importer, and the 1st and 2d purchasers (if any) meet such registration requirements as may be prescribed by the Secretary.

"(2) OVERPAYMENTS.—If any substance on which tax was paid under this subchapter is used by any person as a propellant in metered-dose inhalers, credit or refund without interest shall be allowed to such person in an amount equal to the tax so paid. Amounts payable under the preceding sentence with respect to uses during the taxable year shall be treated as described in section 34(a) for such year unless claim thereof has been timely filed under this paragraph.".

SEC. 1233. SIMPLIFICATION OF IMPOSITION OF EXCISE TAX ON ARROWS.

(a) IN GENERAL.—Subsection (b) of section 4161 (relating to imposition of tax) is amended to read as follows:

"(b) BOWS AND ARROWS, ETC.—

"(1) BOWS.—

"(A) IN GENERAL.—There is hereby imposed on the sale by the manufacturer, producer, or importer of any bow which has a draw weight of 10 pounds or more, a tax equal to 11 percent of the price for which so sold.

"(B) PARTS AND ACCESSORIES.—There is hereby imposed upon the sale by the manufacturer, producer, or importer—

"(i) of any part of accessory suitable for inclusion in or attachment to a bow described in subparagraph (A), and

"(ii) of any quiver suitable for use with arrows described in paragraph (2),

a tax equivalent to 11 percent of the price for which so sold.

"(2) ARROWS.—There is hereby imposed on the sale by the manufacturer, producer, or importer of any shaft, point, nock, or vane of a type used in the manufacture of any arrow which after its assembly—

"(A) measures 18 inches overall or more in length, or

"(B) measures less than 18 inches overall in length but is suitable for use with a bow described in paragraph (1)(A),

a tax equal to 12.4 percent of the price for which so sold.

"(3) COORDINATION WITH SUBSECTION (a).—No tax shall be imposed under this subsection with respect to any article taxable under subsection (a).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to articles sold by the manufacturer, producer, or importer after September 30 1997.

SEC. 1234. MODIFICATIONS TO RETAIL TAX ON HEAVY TRUCKS.

(a) CERTAIN REPAIRS AND MODIFICATIONS NOT TREATED AS MANUFACTURE.—Section 4052 is amended by redesignating the subsection defining a long-term lease as subsection (e) and by adding at the end the following new subsection:

"(f) CERTAIN REPAIRS AND MODIFICATIONS NOT TREATED AS MANUFACTURE.—

"(1) IN GENERAL.—An article described in section 4051(a)(1) shall not be treated as manufactured or produced solely by reason of repairs or modifications to the article (including any modification which changes the transportation function of the article or restores a wrecked article to a functional condition) if the cost of such repairs and modifications does not exceed 75 percent of the retail price of a comparable new article.

"(2) EXCEPTION.—Paragraph (1) shall not apply if the article (as repaired or modified) would, if new, be taxable under section 4051 and the article when new was not taxable under this section or the corresponding provision of prior law.".

(b) SIMPLIFICATION OF CERTIFICATION PROCEDURES WITH RESPECT TO SALES OF TAXABLE ARTICLES.—

(1) REPEAL OF REGISTRATION REQUIREMENT.—Subsection (d) of section 4052 is amended by striking "rules of—" and all that follows through "shall apply" and inserting "rules of subsections (c) and (d) of section 4216 (relating to partial payments) shall apply".

(2) REQUIREMENT TO MODIFY REGULATIONS.—Section 4052 is amended by adding at the end the following new subsection:

"(g) REGULATIONS.—The Secretary shall prescribe regulations which permit, in lieu of any other certification, persons who are purchasing articles taxable under this subchapter for resale or leasing in a long-term lease to execute a statement (made under penalties of perjury) on the sale invoice that such sale is for resale. The Secretary shall not impose any registration requirement as a condition of using such procedure.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1998.

SEC. 1235. SKYDIVING FLIGHTS EXEMPT FROM TAX ON TRANSPORTATION OF PERSONS BY AIR.

(a) IN GENERAL.—Section 4261 (relating to imposition of tax on transportation of persons by air) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) EXEMPTION FOR SKYDIVING USES.—No tax shall be imposed by this section or section 4271 on any air transportation exclusively for the purpose of skydiving.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to transportation beginning after September 30, 1997.

SEC. 1236. ALLOWANCE OR CREDIT OF REFUND FOR TAX-PAID AVIATION FUEL PURCHASED BY REGISTERED PRODUCER OF AVIATION FUEL.

(a) IN GENERAL.—Subsection (l) of section 6467 (relating to nontaxable uses of diesel fuel and aviation fuel) is amended by adding at the end the following new paragraph:

"(6) REFUND OF TAX-PAID AVIATION FUEL TO REGISTERED PRODUCER OF FUEL.—For purposes of this subsection, the term 'nontaxable use' includes the taxable sale of aviation fuel by a producer of such fuel who is registered under section 4101 if a prior tax imposed by section 4091 was paid (and not credited or refunded) on such fuel.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to sales by the producer after September 30, 1997.

Subtitle B—Tax-Exempt Bond Provisions

SEC. 1241. REPEAL OF $100,000 LIMITATION ON UNSPENT PROCEEDS UNDER 1-YEAR EXCEPTION FROM REBATE.

Subclause (I) of section 148(f)(4)(B)(ii) (relating to additional period for certain bonds) is amended by striking "the lesser of 5 percent of the proceeds of the issue or $100,000" and inserting "5 percent of the proceeds of the issue".

SEC. 1242. EXCEPTION FROM REBATE FOR EARNINGS ON BONA FIDE DEBT SERVICE FUND UNDER CONSTRUCTION BOND RULES.

Subparagraph (C) of section 148(f)(4) is amended by adding at the end the following new clause:

"(xvii) TREATMENT OF BONA FIDE DEBT SERVICE FUNDS.—If the spending requirements of clause (ii) are met with respect to the available construction proceeds of a construction issue, then paragraph (2) shall not apply to earnings on a bona fide debt service fund for such issue.".

SEC. 1243. REPEAL OF DEBT SERVICE-BASED LIMITATION ON INVESTMENT IN CERTAIN NONPURPOSE INVESTMENTS.

Subsection (d) of section 148 (relating to special rules for reasonably required reserve or replacement fund) is amended by striking paragraph (3).

SEC. 1244. REPEAL OF EXPIRED PROVISIONS.

(a) Paragraph (2) of section 148(c) is amended by striking subparagraph (B) and by redesignating subparagraphs (C), (D), and (E) as subparagraphs (B), (C), and (D), respectively.

(b) Paragraph (4) of section 148(f) is amended by striking subparagraph (E).

SEC. 1245. EFFECTIVE DATE.

The amendments made by this subtitle shall apply to bonds issued after the date of the enactment of this Act.

Subtitle C—Tax Court Procedures

SEC. 1251. OVERPAYMENT DETERMINATIONS OF TAX COURT.

(a) APPEAL OF ORDER.—Paragraph (2) of section 6512(b) (relating to jurisdiction to enforce) is amended by adding at the end the following new sentence: "An order of the Tax Court disposing of a motion under this paragraph shall be reviewable in the same manner as a decision of the Tax Court, but only with respect to the matters determined in such order.".

(b) DENIAL OF JURISDICTION REGARDING CERTAIN CREDITS AND REDUCTIONS.—Subsection (b) of section 6512 (relating to overpayment determined by Tax Court) is amended by adding at the end the following new paragraph:

"(4) DENIAL OF JURISDICTION REGARDING CERTAIN CREDITS AND REDUCTIONS.—The Tax Court shall have no jurisdiction under this subsection to restrain or review any credit or reduction made by the Secretary under section 6402.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 1252. REDETERMINATION OF INTEREST PURSUANT TO MOTION.

(a) IN GENERAL.—Subsection (c) of section 7481 (relating to jurisdiction over interest determinations) is amended to read as follows:

"(c) JURISDICTION OVER INTEREST DETERMINATIONS.—

"(1) IN GENERAL.—Notwithstanding subsection (a), if, within 1 year after the date the decision of the Tax Court becomes final under subsection (a) in a case to which this subsection applies, the taxpayer files a motion in the Tax Court for a redetermination of the amount of interest involved, then the Tax Court may reopen the case solely to determine whether the taxpayer has made an overpayment of such interest or the Secretary has made an underpayment of such interest and the amount thereof.

"(2) CASES TO WHICH THIS SUBSECTION APPLIES.—This subsection shall apply where—

"(A)(i) an assessment has been made by the Secretary under section 6215 which includes interest as imposed by this title, and

"(ii) the taxpayer has paid the entire amount of the deficiency plus interest claimed by the Secretary, and

"(B) the Tax Court finds under section 6512(b) that the taxpayer has made an overpayment.

"(3) SPECIAL RULES.—If the Tax Court determines under this subsection that the taxpayer has made an overpayment of interest or that the Secretary has made an underpayment of interest, then that determination shall be treated under section 6512(b)(1) as a determination of an overpayment of tax. An order of the Tax Court redetermining interest, when entered upon the records of the court, shall be reviewable in the same manner as a decision of the Tax Court.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 1253. APPLICATION OF NET WORTH REQUIREMENT FOR AWARDS OF LITIGATION COSTS.

(a) IN GENERAL.—Paragraph (4) of section 7430(c) (defining prevailing party) is amended by adding at the end thereof the following new subparagraph:

"(D) SPECIAL RULES FOR APPLYING NET WORTH REQUIREMENT.—In applying the requirements of section 2412(d)(2)(B) of title 28, United States Code, for purposes of subparagraph (A)(iii) of this paragraph—

"(i) the net worth limitation in clause (i) of such section shall apply to—

"(I) an estate but shall be determined as of the date of the decedent's death, and

"(II) a trust but shall be determined as of the last day of the taxable year involved in the proceeding, and

"(ii) individuals filing a joint return shall be treated as separate individuals for purposes of clause (i) of such section.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to proceedings commenced after the date of the enactment of this Act.

SEC. 1254. PROCEEDINGS FOR DETERMINATION OF EMPLOYMENT STATUS.

(a) IN GENERAL.—Subchapter B of chapter 76 (relating to proceedings by taxpayers and third parties) is amended by redesignating section 7435 as section 7436 and by inserting after section 7434 the following new section:

"SEC. 7435. PROCEEDINGS FOR DETERMINATION OF EMPLOYMENT STATUS.

"(a) CREATION OF REMEDY.—If, in connection with an audit of any person, there is an actual controversy involving a determination by the Secretary as part of an examination that—

"(1) one or more individuals performing services for such person are employees of such person for purposes of subtitle C, or

"(2) such person is not entitled to the treatment under subsection (a) of section 530 of the Revenue Act of 1978 with respect to such an individual,

upon the filing of an appropriate pleading, the Tax Court may determine whether such a determination by the Secretary is correct. Any such determination by the Tax Court shall have the force and effect of a decision of the Tax Court and shall be reviewable as such.

"(b) LIMITATIONS.—

"(1) PETITIONER.—A pleading may be filed under this section only by the person for whom the services are performed.

"(2) TIME FOR FILING ACTION.—If the Secretary sends by certified or registered mail notice to the petitioner of a determination by the Secretary described in subsection (a), no proceeding may be initiated under this section with respect to such determination unless the pleading is filed before the 91st day after the date of such mailing.

"(3) NO ADVERSE INFERENCE FROM TREATMENT WHILE ACTION IS PENDING.—If, during the pendency of any proceeding brought under this section, the petitioner changes his treatment for employment tax purposes of any individual whose employment status as an employee is involved in such proceeding (or of any individual holding a substantially similar position) to treatment as an employee, such change shall not be taken into account in the Tax Court's determination under this section.

"(c) SMALL CASE PROCEDURES.—

"(1) IN GENERAL.—At the option of the petitioner, concurred in by the Tax Court or a division thereof before the hearing of the case, proceedings under this section may (notwithstanding the provisions of section 7453) be conducted subject to the rules of evidence, practice, and procedure applicable under section 7463 if the amount of employment taxes placed in dispute is $10,000 or less for each calendar quarter involved.

"(2) FINALITY OF DECISIONS.—A decision entered in any proceeding conducted under this subsection shall not be reviewed in any other court and shall not be treated as a precedent for any other case not involving the same petitioner and the same determinations.

"(3) CERTAIN RULES TO APPLY.—Rules similar to the rules of the last sentence of subsection (a), and subsections (c), (d), and (e), of section 7463 shall apply to proceedings conducted under this subsection.

"(d) SPECIAL RULES.—

"(1) RESTRICTIONS ON ASSESSMENT AND COLLECTION PENDING ACTION, ETC.—The principles of subsections (a), (b), and (d) of section 6213, section 6214(a), section 6215, section 6503(a), and section 6512 shall apply to proceedings brought under this section in the same manner as if the Secretary's determination described in subsection (a) were a notice of deficiency.

"(2) AWARDING OF COSTS AND CERTAIN FEES.—Section 7430 shall apply to proceedings brought under this section.

"(e) EMPLOYMENT TAX.—The term 'employment tax' means any tax imposed by subtitle C.".

(b) CONFORMING AMENDMENTS.—

(1) Subsection (d) of section 6511 is amended by adding at the end the following new paragraph:

"(7) SPECIAL PERIOD OF LIMITATION WITH RESPECT TO SELF-EMPLOYMENT TAX IN CERTAIN CASES.—If—

"(A) the claim for credit or refund relates to an overpayment of the tax imposed by chapter 2 (relating to the tax on self-employment income) attributable to Tax Court determination in a proceeding under section 7435, and

"(B) the allowance of a credit or refund of such overpayment is otherwise prevented by the operation of any law or rule of law other than section 7122 (relating to compromises),

such credit or refund may be allowed or made if claim therefor is filed on or before the last day of the second year after the calendar year in which such determination becomes final.".

(2) Sections 7453 and 7481(b) are each amended by striking "section 7463" and inserting "section 7435(c) or 7463".

(3) The table of sections for subchapter B of chapter 76 is amended by striking the last item and inserting the following:

"Sec. 7435. Proceedings for determination of employment status.

"Sec. 7436. Cross references.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

Subtitle D—Other Provisions

SEC. 1261. EXTENSION OF DUE DATE OF FIRST QUARTER ESTIMATED TAX PAYMENT BY PRIVATE FOUNDATIONS.

(a) IN GENERAL.—Paragraph (3) of section 6655(g) is amended by adding at the end the following new sentence: "In the case of a private foundation, subsection (c)(2) shall be applied by substituting 'May 15' for 'April 15'.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply for purposes of determining underpayments of estimated tax for taxable years beginning after the date of the enactment of this Act.

SEC. 1262. CLARIFICATION OF AUTHORITY TO WITHHOLD PUERTO RICO INCOME TAXES FROM SALARIES OF FEDERAL EMPLOYEES.

(a) IN GENERAL.—Subsection (c) of section 5517 of title 5, United States Code, is amended by striking "or territory or possession" and inserting ", territory, possession, or commonwealth".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 1998.

SEC. 1263. CERTAIN NOTICES DISREGARDED UNDER PROVISION INCREASING INTEREST RATE ON LARGE CORPORATE UNDERPAYMENTS.

(a) GENERAL RULE.—Subparagraph (B) of section 6621(c)(2) (defining applicable date) is amended by adding at the end the following new clause:

"(iii) EXCEPTION FOR LETTERS OR NOTICES INVOLVING SMALL AMOUNTS.—For purposes of this paragraph, any letter or notice shall be disregarded if the amount of the deficiency or proposed deficiency (or the assessment or proposed assessment) set forth in such letter or notice is not greater than $100,000 (determined by not taking into account any interest, penalties, or additions to tax).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply for purposes of determining interest for periods after December 31, 1997.

TITLE XIII—PENSION SIMPLIFICATION

SEC. 1301. MATCHING CONTRIBUTIONS OF SELF-EMPLOYED INDIVIDUALS NOT TREATED AS ELECTIVE EMPLOYER CONTRIBUTIONS.

(a) IN GENERAL.—Section 402(g) (relating to limitation on exclusion for elective deferrals) is amended by adding at the end the following:

"(9) MATCHING CONTRIBUTIONS ON BEHALF OF SELF-EMPLOYED INDIVIDUALS NOT TREATED AS ELECTIVE EMPLOYER CONTRIBUTIONS.—Any matching contribution described in section 401(m)(4)(A)) which is made on behalf of a self-employed individual (as defined in section 401(c)) shall not be treated as an elective employer contribution under a qualified cash or deferred arrangement (as defined in section 401(k)) for purposes of this title.".

(b) CONFORMING AMENDMENT FOR SIMPLE RETIREMENT ACCOUNTS.—Section 408(p) (relating to simple retirement accounts) is amended by adding at the end the following:

"(8) MATCHING CONTRIBUTIONS ON BEHALF OF SELF-EMPLOYED INDIVIDUALS NOT TREATED AS ELECTIVE EMPLOYER CONTRIBUTIONS.—Any matching contribution described in paragraph (2)(A)(iii) which is made on behalf of a self-employed individual (as defined in section 401(c)) shall not be treated as an elective employer contribution to a simple retirement account for purposes of this title.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1997.

SEC. 1302. CONTRIBUTIONS TO IRAS THROUGH PAYROLL DEDUCTIONS.

(a) DEFINITIONS.—For purposes of this section:

(1) CONTRIBUTION CERTIFICATE.—The term "contribution certificate" means a certificate submitted by an eligible employee to the employee's employer which—

(A) identifies the employee by name, address, and social security number,

(B) includes a certification by the employee that the employee is an eligible employee,

(C) identifies the individual retirement plan to which the employee wishes to make contributions through payroll deductions,

(D) identifies the amount of such contributions, not to exceed the amount allowed under section 408 of the Internal Revenue Code of 1986 to an individual retirement plan for such year.

(2) ELIGIBLE EMPLOYEE.—

(A) IN GENERAL.—The term "eligible employee" means, with respect to any taxable year, an employee whose employer does not sponsor a plan, contract, pension, account, or trust described in section 219(g)(5) (A) or (B) of the Internal Revenue Code of 1986.

(B) EMPLOYEE.—The term "employee" does not include an employee as defined in section 401(c)(1) of such Code.

(3) INDIVIDUAL RETIREMENT PLANS.—The term "individual retirement plan" has the meaning given the term by section 7701(a)(37) of the Internal Revenue Code of 1986.

(4) SECRETARY.—The term "Secretary" means the Secretary of the Treasury.

(b) ESTABLISHMENT OF PAYROLL DEDUCTION SYSTEM.—An employer may establish a system under which eligible employees, through employer payroll deductions, may make contributions to individual retirement plans. An employer shall not incur any liability under title I of the Employee Retirement Income Security Act of 1974 in providing for such a system.

(c) CONTRIBUTIONS TO INDIVIDUAL RETIREMENT PLANS.—

(1) IN GENERAL.—The system established under subsection (b) shall provide that contributions made to an individual retirement plan for any taxable year are—

(A) contributions through employer payroll deductions, and

(B) if the employer so elects, additional contributions by the employee which, when added to contributions under subparagraph (A), do not exceed the amount allowed under section 408 of the Internal Revenue Code of 1986 for the taxable year.

(2) EMPLOYER PAYROLL DEDUCTIONS.—

(A) IN GENERAL.—The system established under subsection (b) shall provide that an eligible employee may establish and maintain an individual retirement plan simply by—

(i) completing a contribution certificate, and

(ii) submitting such certificate to the eligible employee's employer in the manner provided under subparagraph (D).

(B) EASE OF ADMINISTRATION.—An eligible employee establishing and maintaining an individual retirement plan under subparagraph (A) may change the amount of an employer payroll deduction in the same manner as under subparagraph (A).

(C) SIMPLIFIED CONTRIBUTION CERTIFICATE.—The Secretary shall develop a model contribution certificate for purposes of this paragraph which is written in a clear and easily understandable manner.

(D) USE OF CERTIFICATE.—Each employer electing to adopt a system under subsection (b) shall, upon receipt of a contribution certificate from an eligible employee, deduct the appropriate contribution as determined by such certificate from the employee's wages in equal amounts during the remaining payroll periods for the taxable year and shall remit such amounts for investment in the employee's individual retirement plan not later than the close of the 30-day period following the last day of the month in which such payroll period occurs.

(E) FAILURE TO REMIT PAYROLL DEDUCTIONS.—For purposes of the Internal Revenue Code of 1986, any amount which an employer fails to remit on behalf of an eligible employee pursuant to a contribution certificate of such employee shall not be allowed as a deduction to the employer under such Code.

SEC. 1303. PLANS NOT DISQUALIFIED MERELY BY ACCEPTING ROLLOVER CONTRIBUTIONS.

(a) IN GENERAL.—Section 401(a) (relating to qualified pension, profit-sharing, and stock bonus plans) is amended by inserting after paragraph (34) the following:

"(35) PLANS NOT DISQUALIFIED MERELY BY ACCEPTING ROLLOVER CONTRIBUTIONS.—A trust which is part of a plan shall not fail to be a qualified trust under this section solely because the plan accepts a contribution of an eligible rollover distribution as described in section 402(c)(4) from another plan without such a qualified trust if, at the time of the transfer, the trustee of the other plan provided notice of the other plan's intention to have such a qualified trust.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to rollover contributions made after December 31, 1997.

SEC. 1304. MODIFICATION OF PROHIBITION OF ASSIGNMENT OR ALIENATION.

(a) AMENDMENT TO ERISA.—Section 206(d) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1056(d)) is amended by adding at the end the following:

"(4) Paragraph (1) shall not apply to any offset of a participant's accrued benefit in an employee pension benefit plan against an amount that the participant is ordered or required to pay to the plan if—

"(A) the order or requirement to pay arises—

"(i) under a judgment of conviction for a crime involving such plan,

"(ii) under a civil judgment (including a consent order or decree) entered by a court in an action brought in connection with a violation (or alleged violation) of part 4 of this subtitle, or

"(iii) pursuant to a settlement agreement between the Secretary and the participant, or a settlement agreement between the Pension Benefit Guaranty Corporation and the participant, in connection with a violation (or alleged violation) of part 4 of this subtitle by a fiduciary or any other person,

"(B) the judgment, order, decree, or settlement agreement expressly provides for the offset of all or part of the amount ordered or required to be paid to the plan against the participant's accrued benefit in the plan, and

"(C) if the participant has a spouse at the time at which the offset is to be made—

"(i) such spouse has consented in writing to such offset and such consent is witnessed by a notary public or representative of the plan,

"(ii) such spouse is ordered or required in such judgment, order, decree, or settlement to pay an amount to the plan in connection with a violation of part 4 of this subtitle, or

"(iii) in such judgment, order, decree, or settlement, such spouse retains the right to receive the value of the survivor annuity under a qualified joint and survivor annuity provided pursuant to section 205(a)(1) and under a qualified preretirement survivor annuity provided pursuant to section 205(a)(2), determined in accordance with paragraph (5).

A plan shall not be treated as failing to meet the requirements of section 205 solely by reason of an offset under this paragraph.

"(5)(A) The value of the survivor annuity described in paragraph (4)(C)(iii) shall be determined as if—

"(i) the participant terminated employment on the date of the offset,

"(ii) there was no offset,

"(iii) the plan permitted retirement only on or after normal retirement age,

"(iv) the plan provided only the minimum-required qualified joint and survivor annuity, and

"(v) the amount of the qualified preretirement survivor annuity under the plan is equal to the amount of the survivor annuity payable under the minimum-required qualified joint and survivor annuity.

"(B) For purposes of this paragraph, the term 'minimum-required qualified joint and survivor annuity' means the qualified joint and survivor annuity which is the actuarial equivalent of a single annuity for the life of the participant and under which the survivor annuity is 50 percent of the amount of the annuity which is payable during the joint lives of the participant and the spouse.".

(b) AMENDMENT TO 1986 CODE.—Section 401(a)(13) (relating to assignment and alienation) is made by adding at the end the following:

"(C) SPECIAL RULE FOR CERTAIN JUDGMENTS AND SETTLEMENTS.—Subparagraph (A) shall not apply to any offset of a participant's accrued benefit in an employee pension benefit plan against an amount that the participant is ordered or required to pay to the plan if—

"(i) the order or requirement to pay arises—

"(I) under a judgment of conviction for a crime involving such plan,

"(II) under a civil judgment (including a consent order or decree) entered by a court in an action brought in connection with a violation (or alleged violation) of part 4 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, or

"(III) pursuant to a settlement agreement between the Secretary and the participant, or a settlement agreement between the Pension Benefit Guaranty Corporation and the participant, in connection with a violation (or alleged violation) of part 4 of such subtitle by a fiduciary or any other person,

"(ii) the judgment, order, decree, or settlement agreement expressly provides for the offset of all or part of the amount ordered or required to be paid to the plan against the participant's accrued benefit in the plan, and

"(iii) if the participant has a spouse at the time at which the offset is to be made—

"(I) such spouse has consented in writing to such offset and such consent is witnessed by a notary public or representative of the plan,

"(II) such spouse is ordered or required in such judgment, order, decree, or settlement to pay an amount to the plan in connection with a violation of part 4 of such subtitle, or

"(III) in such judgment, order, decree, or settlement, such spouse retains the right to receive the value of the survivor annuity under a qualified joint and survivor annuity provided pursuant to section 401(a)(11)(A)(i) and under a qualified preretirement survivor annuity provided pursuant to section 401(a)(11)(A)(ii), determined in accordance with subparagraph (D).

A plan shall not be treated as failing to meet the requirements of this subsection, subsection (k), section 403(b), or section 409(d) solely by reason of an offset described in this subparagraph.

"(D) VALUATION OF SURVIVOR ANNUITY.—

"(i) IN GENERAL.—The value of the survivor annuity described in subparagraph (C)(iii)(III) shall be determined as if—

"(I) the participant terminated employment on the date of the offset,

"(II) there was no offset,

"(III) the plan permitted retirement only on or after normal retirement age,

"(IV) the plan provided only the minimum-required qualified joint and survivor annuity, and

"(V) the amount of the qualified preretirement survivor annuity under the plan is equal to the amount of the survivor annuity payable under the minimum-required qualified joint and survivor annuity.

"(ii) DEFINITION.—For purposes of this subparagraph, the term 'minimum-required qualified joint and survivor annuity' means the qualified joint and survivor annuity which is the actuarial equivalent of a single annuity for the life of the participant and under which the survivor annuity is 50 percent of the amount of the annuity which is payable during the joint lives of the participant and the spouse.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to judgments, orders, and decrees issued, and settlement agreements entered into, on or after the date of the enactment of this Act.

SEC. 1305. ELIMINATION OF PAPERWORK BURDENS ON PLANS.

(a) ELIMINATION OF UNNECESSARY FILING REQUIREMENTS.—Section 101(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021(b)) is amended by striking paragraphs (1), (2), and (3) and by redesignating paragraphs (4) and (5) as paragraphs (1) and (2), respectively.

(b) ELIMINATION OF PLAN DESCRIPTION.—

(1) IN GENERAL.—Section 102(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1022(a)) is amended—

(A) by striking paragraph (2), and

(B) by striking "(a)(1)" and inserting "(a)".

(2) CONFORMING AMENDMENTS.—

(A) Section 102(b) of such Act (29 U.S.C. 1022(b)) is amended by striking "The plan description and summary plan description shall contain" and inserting "The summary plan description shall contain".

(B) The heading for section 102 of such Act is amended by striking "PLAN DESCRIPTION AND".

(c) FURNISHING OF REPORTS.—

(1) IN GENERAL.—Section 104(a)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1024(a)(1)) is amended to read as follows:

"SEC. 104. (a)(1) The administrator of any employee benefit plan subject to this part shall file with the Secretary the annual report for a plan year within 210 days after the close of such year (or within such time as may be required by regulations promulgated by the Secretary in order to reduce duplicative filing). The Secretary shall make copies of such annual reports available for inspection in the public document room of the Department of Labor.".

(2) SECRETARY MAY REQUEST DOCUMENTS.—

(A) IN GENERAL.—Section 104(a) of such Act (29 U.S.C. 1024(a)) is amended by adding at the end the following:

"(6) The administrator of any employee benefit plan subject to this part shall furnish to the Secretary, upon request, any documents relating to the employee benefit plan, including but not limited to, the latest summary plan description (including any summaries of plan changes not contained in the summary plan description), and the bargaining agreement, trust agreement, contract, or other instrument under which the plan is established or operated.".

(B) PENALTY.—Section 502(c) of such Act (29 U.S.C. 1132(c)) is amended by redesignating paragraph (6) as paragraph (7) and by inserting after paragraph (5) the following:

"(6) If, within 30 days of a request by the Secretary to a plan administrator for documents under section 104(a)(6), the plan administrator fails to furnish the material requested to the Secretary, the Secretary may assess a civil penalty against the plan administrator of up to $100 a day from the date of such failure (but in no event in excess of $1,000 per request). No penalty shall be imposed under this paragraph for any failure resulting from matters reasonably beyond the control of the plan administrator.".

(d) CONFORMING AMENDMENTS.—

(1) Section 104(b)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1024(b)(1)) is amended by striking "section 102(a)(1)" each place it appears and inserting "section 102(a)".

(2) Section 104(b)(2) of such Act (29 U.S.C. 1024(b)(2)) is amended by striking "the plan description and" and inserting "the latest updated summary plan description and".

(3) Section 104(b)(4) of such Act (29 U.S.C. 1024(b)(4)) is amended by striking "plan description".

(4) Section 106(a) of such Act (29 U.S.C. 1026(a)) is amended by striking "descriptions,".

(5) Section 107 of such Act (29 U.S.C. 1027) is amended by striking "description or".

(6) Paragraph (2)(B) of section 108 of such Act (29 U.S.C. 1028) is amended to read as follows: "(B) after publishing or filing the annual reports,".

(7) Section 502(a)(6) of such Act (29 U.S.C. 1132(a)(6)) is amended by striking "or (5)" and inserting "(5), or (6)".

(e) TECHNICAL CORRECTION.—Section 1144(c) of the Social Security Act (42 U.S.C. 1320b–14(c))

is amended by redesignating paragraph (9) as paragraph (8).

SEC. 1306. MODIFICATION OF 403(b) EXCLUSION ALLOWANCE TO CONFORM TO 415 MODIFICATIONS.

(a) DEFINITION OF COMPENSATION.—

(1) IN GENERAL.—Section 403(b)(3) (defining includible compensation) is amended by adding at the end the following: "Such term includes—

"(A) any elective deferral (as defined in section 402(g)(3)), and

"(B) any amount which is contributed or deferred by the employer at the election of the employee and which is not includible in the gross income of the employee by reason of section 125 or 457.".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to years beginning after December 31, 1997.

(b) REPEAL OF RULES IN SECTION 415(e).—The Secretary of the Treasury shall modify the regulations regarding the exclusion allowance under section 403(b)(2) of the Internal Revenue Code of 1986 to reflect the amendment made by section 1452(a) of the Small Business Job Protection Act of 1996. Such modification shall take effect for limitation years beginning after December 31, 1999.

SEC. 1307. NEW TECHNOLOGIES IN RETIREMENT PLANS.

(a) IN GENERAL.—Not later than December 31, 1998, the Secretary of the Treasury and the Secretary of Labor shall each issue guidance which is designed to—

(1) interpret the notice, election, consent, disclosure, and time requirements (and related recordkeeping requirements) under the Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974 relating to retirement plans as applied to the use of new technologies by plan sponsors and administrators while maintaining the protection of the rights of participants and beneficiaries, and

(2) clarify the extent to which writing requirements under the Internal Revenue Code of 1986 relating to retirement plans shall be interpreted to permit paperless transactions.

(b) APPLICABILITY OF FINAL REGULATIONS.—Final regulations applicable to the guidance regarding new technologies described in subsection (a) shall not be effective until the first plan year beginning at least 6 months after the issuance of such final regulations.

SEC. 1308. EXTENSION OF MORATORIUM ON APPLICATION OF CERTAIN NONDISCRIMINATION RULES TO STATE AND LOCAL GOVERNMENTS.

(a) GENERAL NONDISCRIMINATION AND PARTICIPATION RULES.—

(1) NONDISCRIMINATION REQUIREMENTS.—Section 401(a)(5) (relating to qualified pension, profit-sharing, and stock bonus plans) is amended by adding at the end the following:

"(G) GOVERNMENTAL PLANS.—Paragraphs (3) and (4) shall not apply to a governmental plan (within the meaning of section 414(d)).".

(2) ADDITIONAL PARTICIPATION REQUIREMENTS.—Section 401(a)(26)(H) (relating to additional participation requirements) is amended to read as follows:

"(H) EXCEPTION FOR GOVERNMENTAL PLANS.—This paragraph shall not apply to a governmental plan (within the meaning of section 414(d)).".

(3) MINIMUM PARTICIPATION STANDARDS.—Section 410(c)(2) (relating to application of participation standards to certain plans) is amended to read as follows:

"(2) A plan described in paragraph (1) shall be treated as meeting the requirements of this section for purposes of section 401(a), except that in the case of a plan described in subparagraph (B), (C), or (D) of paragraph (1), this paragraph shall only apply if such plan meets the requirements of section 401(a)(3) (as in effect on September 1, 1974).".

(b) PARTICIPATION STANDARDS FOR QUALIFIED CASH OR DEFERRED ARRANGEMENTS.—

(1) IN GENERAL.—Section 401(k)(3) (relating to application of participation and discrimination standards) is amended by adding at the end the following:

"(G) The requirements of subparagraph (A)(i) and (C) shall not apply to a governmental plan (within the meaning of section 414(d)).".

(2) MATCHING CONTRIBUTIONS.—Section 401(m)(2) is amended by adding at the end the following new subparagraph:

"(C) SPECIAL RULE FOR GOVERNMENTAL PLANS.—A defined contribution plan which is a governmental plan (as defined in section 414(d)) shall be treated as meeting the requirements of this paragraph.".

(c) NONDISCRIMINATION RULES FOR SECTION 403(b) PLANS.—Section 403(b)(12) (relating to nondiscrimination requirements) is amended by adding at the end the following:

"(C) GOVERNMENTAL PLANS.—For purposes of paragraph (1)(D), the requirements of subparagraph (A)(i) (other than those relating to section 401(a)(17)) shall not apply to a governmental plan (within the meaning of section 414(d)).".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section apply to taxable years beginning on or after the date of enactment of this Act.

(2) TREATMENT FOR YEARS BEGINNING BEFORE DATE OF ENACTMENT.—A governmental plan (within the meaning of section 414(d) of the Internal Revenue Code of 1986) shall be treated as satisfying the requirements of sections 401(a)(3), 401(a)(4). 401(a)(26), 401(k), 401(m), 403 (b)(1)(D) and (b)(12), and 410 of such Code for all taxable years beginning before the date of enactment of this Act.

SEC. 1309. CLARIFICATION OF CERTAIN RULES RELATING TO EMPLOYEE STOCK OWNERSHIP PLANS OF S CORPORATIONS.

(a) CERTAIN CASH DISTRIBUTIONS PERMITTED.—

(1) Paragraph (2) of section 409(h) is amended by adding at the end the following new subparagraph:

"(B) PLAN MAINTAINED BY S CORPORATION.—In the case of a plan established and maintained by an S corporation which otherwise meets the requirements of this subsection or section 4975(e)(7), such plan shall not be treated as failing to meet the requirements of this subsection or section 401(a) merely because it does not permit a participant to exercise the right described in paragraph (1)(A) if such plan provides that the participant entitled to a distribution has a right to receive the distribution in cash.".

(2) Paragraph (2) of section 409(h) is amended—

(A) by striking "a plan which" in the first sentence and inserting the following:

"(A) IN GENERAL.—A plan which", and

(B) by moving the text before subparagraph (B) 2 ems to the right.

(b) CERTAIN SHAREHOLDER-EMPLOYEES NOT TREATED AS OWNER-EMPLOYEES.—

(1) AMENDMENT TO 1986 CODE.—The last sentence of section 4975(d) is amended by inserting ", except that this sentence shall not apply for purposes of any sale of stock by such a shareholder-employee to an employee stock ownership plan (as defined in subsection (e)(7))" after "owner-employee".

(2) AMENDMENT TO ERISA.—The last sentence of section 408(d) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1108(d)) is amended by inserting ", except that this sentence shall not apply for purposes of any sale of stock by such a shareholder-employee to an employee stock ownership plan (as defined in section 4975(e)(7) of the Internal Revenue Code of 1986)" after "owner-employee".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. 1310. MODIFICATION OF 10 PERCENT TAX FOR NONDEDUCTIBLE CONTRIBUTIONS.

(a) IN GENERAL.—Section 4972(c)(6)(B) (relating to exceptions) is amended to read as follows:

"(B) so much of the contributions to 1 or more defined contribution plans which are not deductible when contributed solely because of section 404(a)(7) as does not exceed the greater of—

"(i) the amount of contributions not in excess of 6 percent of compensation (within the meaning of section 404(a)) paid or accrued (during the taxable year for which the contributions were made) to beneficiaries under the plans, or

"(ii) the sum of—

"(I) the amount of contributions described in section 401(m)(4)(A), plus

"(II) the amount of contributions described in section 402(g)(3)(A).".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. 1311. MODIFICATION OF FUNDING REQUIREMENTS FOR CERTAIN PLANS.

(a) FUNDING RULES FOR CERTAIN PLANS.—Section 769 of the Retirement Protection Act of 1994 is amended by adding at the end the following new subsection:

"(c) TRANSITION RULES FOR CERTAIN PLANS.—

"(1) IN GENERAL.—In the case of a plan that—

"(A) was not required to pay a variable rate premium for the plan year beginning in 1996;

"(B) has not, in any plan year beginning after 1995 and before 2009, merged with another plan (other than a plan sponsored by an employer that was in 1996 within the controlled group of the plan sponsor); and

"(C) is sponsored by a company that is engaged primarily in the interurban or interstate passenger bus service,

the transition rules described in paragraph (2) shall apply for any plan year beginning after 1996 and before 2010.

"(2) TRANSITION RULES.—The transition rules described in this paragraph are as follows:

"(A) For purposes of section 412(l)(9)(A) of the Internal Revenue Code of 1986 and section 302(d)(9)(A) of the Employee Retirement Income Security Act of 1974—

"(i) the funded current liability percentage for any plan year beginning after 1996 and before 2005 shall be treated as not less than 90 percent if for such plan year the funded current liability percentage is at least 85 percent, and

"(ii) the funded current liability percentage for any plan year beginning after 2004 and before 2010 shall be treated as not less than 90 percent if for such plan year the funded current liability percentage satisfies the minimum percentage determined according to the following table:

"In the case of a plan year beginning in:	**The minimum percentage is:**
2005	86 percent
2006	87 percent
2007	88 percent
2008	89 percent
2009 and thereafter	90 percent.

"(B) Sections 412(c)(7)(E)(i)(I) of such Code and 302(c)(7)(E)(i)(I) of such Act shall be applied—

"(i) by substituting '85 percent' for '90 percent' for plan years beginning after 1996 and before 2005, and

"(ii) by substituting the minimum percentage specified in the table contained in subparagraph (A)(ii) for '90 percent' for plan years beginning after 2004 and before 2010.

"(C) In the event the funded current liability percentage of a plan is less than 85 percent for any plan year beginning after 1996 and before 2005, the transition rules under subparagraphs (A) and (B) shall continue to apply to the plan if contributions for such a plan year are made to the plan in an amount equal to the lesser of—

"(i) the amount necessary to result in a funded current liability percentage of 85 percent, or

"(ii) the greater of—

"(I) 2 percent of the plan's current liability as of the beginning of such plan year, or

"(II) the amount necessary to result in a funded current liability percentage of 80 percent as of the end of such plan year.

For the plan year beginning in 2005 and for the 3 succeeding plan years, the transition rules under subparagraphs (A) and (B) shall continue to apply to the plan for such plan year only if contributions to the plan equal at least the expected increase in current liability due to benefits accruing during such plan year.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions due after December 31, 1997.

TITLE XIV—TECHNICAL AMENDMENTS RELATED TO SMALL BUSINESS JOB PROTECTION ACT OF 1996 AND OTHER LEGISLATION

SEC. 1401. AMENDMENTS RELATED TO SMALL BUSINESS JOB PROTECTION ACT OF 1996.

(a) AMENDMENTS RELATED TO SUBTITLE A.—

(1) AMENDMENT RELATED TO SECTION 1116.—Paragraph (1) of section 6050R(c) is amended by striking "name and address" and inserting "name, address, and phone number of the information contact".

(2) AMENDMENT TO SECTION 1116.—Paragraphs (1) and (2)(C) of section 1116(b) of the Small Business Job Protection Act of 1996 shall each be applied as if the reference to chapter 68 were a reference to chapter 61.

(b) AMENDMENT RELATED TO SUBTITLE B.—Subsection (c) of section 52 is amended by striking "targeted jobs credit" and inserting "work opportunity credit".

(c) AMENDMENTS RELATED TO SUBTITLE C.—

(1) AMENDMENT RELATED TO SECTION 1302.—Subparagraph (B) of section 1361(e)(1) is amended by striking "and" at the end of clause (i), striking the period at the end of clause (ii) and inserting ", and", and adding at the end the following new clause:

"(iii) any charitable remainder annuity trust or charitable remainder unitrust (as defined in section 664(d)).".

(2) EFFECTIVE DATE FOR SECTION 1307.—

(A) Notwithstanding section 1317 of the Small Business Job Protection Act of 1996, the amendments made by subsections (a) and (b) of section 1307 of such Act shall apply to determinations made after December 31, 1996.

(B) In no event shall the 120-day period referred to in section 1377(b)(1)(B) of the Internal Revenue Code of 1986 (as added by such section 1307) expire before the end of the 120-day period beginning on the date of the enactment of this Act.

(3) AMENDMENT RELATED TO SECTION 1308.—Subparagraph (A) of section 1361(b)(3) is amended by striking "For purposes of this title" and inserting "Except as provided in regulations prescribed by the Secretary, for purposes of this title".

(4) AMENDMENTS RELATED TO SECTION 1316.—

(A) Paragraph (2) of section 512(e) is amended by striking "within the meaning of section 1012" and inserting "as defined in section 1361(e)(1)(C)".

(B) Paragraph (7) of section 1361(c) is redesignated as paragraph (6).

(C) Subparagraph (B) of section 1361(b)(1) is amended by striking "subsection (c)(7)" and inserting "subsection (c)(6)".

(D) Paragraph (1) of section 512(e) is amended by striking "section 1361(c)(7)" and inserting "section 1361(e)(6)".

(d) AMENDMENTS RELATED TO SUBTITLE D.—

(1) AMENDMENTS RELATED TO SECTION 1421.—

(A) Subsection (i) of section 408 is amended in the last sentence by striking "30 days" and inserting "31 days".

(B) Subparagraph (H) of section 408(k)(6) is amended by striking "if the terms of such pension" and inserting "of an employer if the terms of simplified employee pensions of such employer".

(C)(i) Subparagraph (B) of section 408(l)(2) is amended—

(I) by inserting "and the issuer of an annuity established under such an arrangement" after "under subsection (p)", and

(II) in clause (i), by inserting "or issuer" after "trustee".

(ii) Paragraph (2) of section 6693(c) is amended—

(I) by inserting "or issuer" after "trustee", and

(II) in the heading, by inserting "AND ISSUER" after "trustee".

(D) Subsection (p) of section 408 is amended by adding at the end the following new paragraph:

"(8) COORDINATION WITH MAXIMUM LIMITATION UNDER SUBSECTION (a).—In the case of any simple retirement account, subsections (a)(1) and (b)(2) shall be applied by substituting 'the sum of the dollar amount in effect under paragraph (2)(A)(ii) of this subsection and the employer contribution required under subparagraph (A)(iii) or (B)(i) of paragraph (2) of this subsection, whichever is applicable' for '$2,000'.".

(E) Clause (i) of section 408(p)(2)(D) is amended by adding at the end the following new sentence: "If only individuals other than employees described in subparagraph (A) or (B) of section 410(b)(3) are eligible to participate in such arrangement, then the preceding sentence shall be applied without regard to any qualified plan in which only employees so described are eligible to participate.".

(F) Subparagraph (D) of section 408(p)(2) is amended by adding at the end the following new clause:

"(iii) GRACE PERIOD.—In the case of an employer who establishes and maintains a plan under this subsection for 1 or more years and who fails to meet any requirement of this subsection for any subsequent year due to any acquisition, disposition, or similar transaction involving another such employer, rules similar to the rules of section 410(b)(6)(C) shall apply for purposes of this subparagraph.".

(G) Paragraph (5) of section 408(p) is amended in the text preceding subparagraph (A) by striking "simplified" and inserting "simple".

(2) AMENDMENTS RELATED TO SECTION 1422.—

(A) Clause (ii) of section 401(k)(11)(D) is amended by striking the period and inserting "if such plan allows only contributions required under this paragraph.".

(B) Paragraph (11) of section 401(k) is amended by adding at the end the following new subparagraph:

"(E) COST-OF-LIVING ADJUSTMENT.—The Secretary shall adjust the $6,000 amount under subparagraph (B)(i)(I) at the same time and in the same manner as under section 408(p)(2)(E).".

(C) Subparagraph (A) of section 404(a)(3) is amended—

(i) in clause (i), by striking "not in excess of" and all that follows and inserting the following: "not in excess of the greater of—

"(I) 15 percent of the compensation otherwise paid or accrued during the taxable year to the beneficiaries under the stock bonus or profit-sharing plan, or

"(II) the amount such employer is required to contribute to such trust under section 401(k)(11) for such year.", and

(ii) in clause (ii), by striking "15 percent" and all that follows and inserting the following "the amount described in subclause (I) or (II) of clause (i), whichever is greater, with respect to such taxable year.".

(D) Subparagraph (B) of section 401(k)(11) is amended by adding at the end the following new clause:

"(iii) ADMINISTRATIVE REQUIREMENTS.—

"(I) IN GENERAL.—Rules similar to the rules of subparagraphs (B) and (C) of section 408(p)(5) shall apply for purposes of this subparagraph.

"(II) NOTICE OF ELECTION PERIOD.—The requirements of this subparagraph shall not be treated as met with respect to any year unless the employer notifies each employee eligible to participate, within a reasonable period of time before the 60th day before the beginning of such year (and, for the first year the employee is so eligible, the 60th day before the first day such employee is so eligible), of the rules similar to the rules of section 408(p)(5)(C) which apply by reason of subclause (I).".

(3) AMENDMENT RELATED TO SECTION 1433.—The heading of paragraph (11) of section 401(m) is amended by striking "ALTERNATIVE" and inserting "ADDITIONAL ALTERNATIVE".

(4) AMENDMENTS RELATED TO SECTION 1461.—

(A) Section 415(e)(5)(A) is amended to read as follows:

"(A) CERTAIN MINISTERS MAY PARTICIPATE.—For purposes of this part—

"(i) IN GENERAL.—A duly ordained, commissioned, or licensed minister of a church is described in paragraph (3)(B) if, in connection with the exercise of their ministry, the minister—

"(I) is a self-employed individual (within the meaning of section 401(c)(1)(B), or

"(II) is employed by an organization other than an organization which is described in section 501(c)(3) and with respect to which the minister shares common religious bonds.

"(ii) TREATMENT AS EMPLOYER AND EMPLOYEE.—For purposes of sections 403(b)(1)(A) and 404(a)(10), a minister described in clause (i)(I) shall be treated as employed by the minister's own employer which is an organization described in section 501(c)(3) and exempt from tax under section 501(a).".

(B) Section 403(b)(1)(A) is amended by striking "or" at the end of clause (i), by inserting "or" at the end of clause (ii), and by adding at the end the following new clause:

"(iii) for the minister described in section 415(e)(5)(A) by the minister or by an employer,".

(5) AMENDMENT RELATED TO SECTION 1462.—The paragraph (7) of section 414(q) added by section 1462 of the Small Business Job Protection Act of 1996 is redesignated as paragraph (9).

(6) CLARIFICATION OF SECTION 1450.—

(A) Section 403(b)(11) of the Internal Revenue Code of 1986 shall not apply with respect to a distribution from a contract described in section 1450(b)(1) of such Act to the extent that such distribution is not includible in income by reason of section 403(b)(8) of such Code (determined after the application of section 1450(b)(2) of such Act).

(B) This paragraph shall apply as if included in section 1450 of the Small Business Job Protection Act of 1996.

(e) AMENDMENT RELATED TO SUBTITLE E.—Subparagraph (A) of section 956(b)(1) is amended by inserting "to the extent such amount was accumulated in prior taxable years" after "section 316(a)(1)".

(f) AMENDMENTS RELATED TO SUBTITLE F.—

(1) AMENDMENTS RELATED TO SECTION 1601.—

(A) The heading of section 30A is amended to read as follows:

"SEC. 30A. PUERTO RICO ECONOMIC ACTIVITY CREDIT.".

(B) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended in the item relating to section 30A by striking "Puerto Rican" and inserting "Puerto Rico".

(C) Paragraph (1) of section 55(c) is amended by striking "Puerto Rican" and inserting "Puerto Rico".

(2) AMENDMENTS RELATED TO SECTION 1606.—

(A) Clause (ii) of section 9503(c)(2)(A) is amended by striking "(or with respect to qualified diesel-powered highway vehicles purchased before January 1, 1999)".

(B) Subparagraph (A) of section 9503(e)(5) is amended by striking "; except that" and all that follows and inserting a period.

(3) AMENDMENTS RELATED TO SECTION 1607.—

(A) Subsection (f) of section 4001 (relating to phasedown of tax on luxury passenger automobiles) is amended—

(i) by inserting "and section 4003(a)" after "subsection (a)", and

(ii) by inserting ", each place it appears," before "the percentage".

(B) Subsection (g) of section 4001 (relating to termination) is amended by striking "tax imposed by this section" and inserting "taxes imposed by this section and section 4003" and by striking "or use" and inserting ", use, or installation".

(4) AMENDMENTS RELATED TO SECTION 1609.—

(A) Subsection (l) of section 4041 is amended—

(i) by inserting "or a fixed-wing aircraft" after "helicopter", and

(ii) in the heading, by striking "HELICOPTER".

(B) The last sentence of section 4041(a)(2) is amended by striking "section 4081(a)(2)(A)" and inserting "section 4081(a)(2)(A)(i)".

(C) Subsection (b) of section 4092 is amended by striking "section 4041(c)(4)" and inserting "section 4041(c)(2)".

(D) Subsection (g) of section 4261 (as redesignated by title X) is amended by inserting "on that flight" after "dedicated".

(E) Paragraph (1) of section 1609(h) of such Act is amended by striking "paragraph (3)(A)(i)" and inserting "paragraph (3)(A)".

(F) Paragraph (4) of section 1609(h) of such Act is amended by inserting before the period "or exclusively for the use described in section 4092(b) of such Code".

(5) AMENDMENTS RELATED TO SECTION 1616.—

(A) Subparagraph (A) of section 593(e)(1) is amended by inserting "(and, in the case of an S corporation, the accumulated adjustments account, as defined in section 1368(e)(1))" after "1951,".

(B) Paragraph (7) of section 1374(d) is amended by adding at the end the following new sentence: "For purposes of applying this section to any amount includible in income by reason of section 593(e), the preceding sentence shall be applied without regard to the phrase '10-year'.".

(6) AMENDMENTS RELATED TO SECTION 1621.—

(A) Subparagraph (A) of section 860L(b)(1) is amended in the text preceding clause (i) by striking "after the startup date" and inserting "on or after the startup date".

(B) Paragraph (2) of section 860L(d) is amended by striking "section 860I(c)(2)" and inserting "section 860I(b)(2)".

(C) Subparagraph (B) of section 860L(e)(2) is amended by inserting "other than foreclosure property" after "any permitted asset".

(D) Subparagraph (A) of section 860L(e)(3) is amended by striking "if the FASIT" and all that follows and inserting the following new flush text after clause (ii):

"if the FASIT were treated as a REMIC and permitted assets (other than cash or cash equivalents) were treated as qualified mortgages.".

(E)(i) Paragraph (3) of section 860L(e) is amended by adding at the end the following new subparagraph:

"(D) INCOME FROM DISPOSITIONS OF FORMER HEDGE ASSETS.—Paragraph (2)(A) shall not apply to income derived from the disposition of—

"(i) an asset which was described in subsection (c)(1)(D) when first acquired by the FASIT but on the date of such disposition was no longer described in subsection (c)(1)(D)(ii), or

"(ii) a contract right to acquire an asset described in clause (i).".

(ii) Subparagraph (A) of section 860L(e)(2) is amended by inserting "except as provided in paragraph (3)," before "the receipt".

(g) AMENDMENTS RELATED TO SUBTITLE G.—

(1) EXTENSION OF PERIOD FOR CLAIMING REFUNDS FOR ALCOHOL FUELS.—Notwithstanding section 6427(i)(3)(C) of the Internal Revenue Code of 1986, a claim filed under section 6427(f) of such Code for any period after September 30, 1995, and before October 1, 1996, shall be treated as timely filed if filed before the 60th day after the date of the enactment of this Act.

(2) AMENDMENTS TO SECTIONS 1703 AND 1704.—Sections 1703(n)(8) and 1704(j)(4)(B) of the Small Business Job Protection Act of 1996 shall each be applied as if such sections referred to section 1702 instead of section 1602.

(h) AMENDMENTS RELATED TO SUBTITLE H.—

(1) AMENDMENTS RELATED TO SECTION 1806.—

(A) Subparagraph (B) of section 529(e)(1) is amended by striking "subsection (c)(2)(C)" and inserting "subsection (c)(3)(C)".

(B) Subparagraph (C) of section 529(e)(1) is amended by inserting "(or agency or instrumentality thereof)" after "local government".

(C) Paragraph (2) of section 1806(c) of the Small Business Job Protection Act of 1996 is amended by striking so much of the first sentence as follows subparagraph (B)(ii) and inserting the following:

"then such program (as in effect on August 20, 1996) shall be treated as a qualified State tuition program with respect to contributions (and earnings allocable thereto) pursuant to contracts entered into under such program before the first date on which such program meets such requirements (determined without regard to this paragraph) and the provisions of such program (as so in effect) shall apply in lieu of section 529(b) of the Internal Revenue Code of 1986 with respect to such contributions and earnings.".

(2) AMENDMENTS RELATED TO SECTION 1807.—

(A) Paragraph (2) of section 23(a) is amended to read as follows:

"(2) YEAR CREDIT ALLOWED.—The credit under paragraph (1) with respect to any expense shall be allowed—

"(A) in the case of any expense paid or incurred before the taxable year in which such adoption becomes final, for the taxable year following the taxable year during which such expense is paid or incurred, and

"(B) in the case of an expense paid or incurred during or after the taxable year in which such adoption becomes final, for the taxable year in which such expense is paid or incurred.".

(B) Subparagraph (B) of section 23(b)(2) is amended by striking "determined—" and all that follows and inserting the following: "determined without regard to sections 911, 931, and 933.".

(C) Paragraph (1) of section 137(b) (relating to adoption assistance programs) is amended by striking "amount excludable from gross income" and inserting "of the amounts paid or expenses incurred which may be taken into account".

(D)(i) Subparagraph (C) of section 414(n)(3) is amended by inserting "137," after "132,".

(ii) Paragraph (2) of section 414(t) is amended by inserting "137," after "132,".

(iii) Paragraph (1) of section 6039D(d) is amended by striking "or 129" and inserting "129, or 137".

(i) AMENDMENTS RELATED TO SUBTITLE I.—

(1) AMENDMENT RELATED TO SECTION 1901.—Subsection (b) of section 6048 is amended in the heading by striking "GRANTOR" and inserting "OWNER".

(2) AMENDMENTS RELATED TO SECTION 1903.—

Clauses (ii) and (iii) of section 679(a)(3)(C) are each amended by inserting ", owner," after "grantor".

(3) AMENDMENTS RELATED TO SECTION 1907.—

(A) Clause (ii) of section 7701(a)(30)(E) is amended by striking "fiduciaries" and inserting "persons".

(B) Subsection (b) of section 641 is amended by adding at the end the following new sentence: "For purposes of this subsection, a foreign trust or foreign estate shall be treated as a nonresident alien individual who is not present in the United States at any time.".

(4) EFFECTIVE DATE RELATED TO SUBTITLE I.—The Secretary of the Treasury may by regulations or other administrative guidance provide that the amendments made by section 1907(a) of the Small Business Job Protection Act of 1996 shall not apply to a trust with respect to a reasonable period beginning on the date of the enactment of such Act, if—

(A) such trust is in existence on August 20, 1996, and is a United States person for purposes of the Internal Revenue Code of 1986 on such date (determined without regard to such amendments),

(B) no election is in effect under section 1907(a)(3)(B) of such Act with respect to such trust,

(C) before the expiration of such reasonable period, such trust makes the modifications necessary to be treated as a United States person for purposes of such Code (determined with regard to such amendments), and

(D) such trust meets such other conditions as the Secretary may require.

(j) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect as if included in the provisions of the Small Business Job Protection Act of 1996 to which they relate.

(2) CERTAIN ADMINISTRATIVE REQUIREMENTS WITH RESPECT TO CERTAIN PENSION PLANS.—The amendment made by subsection (d)(2)(D) shall apply to calendar years beginning after the date of the enactment of this Act.

SEC. 1402. AMENDMENTS RELATED TO HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996.

(a) AMENDMENTS RELATED TO SECTION 301.—

(1) Paragraph (2) of section 26(b) is amended by striking "and" at the end of subparagraph (N), by striking the period at the end of subparagraph (O) and inserting ", and", and by adding at the end the following new subparagraph:

"(P) section 220(f)(4) (relating to additional tax on medical savings account distributions not used for qualified medical expenses).".

(2) Paragraph (3) of section 220(c) is amended by striking subparagraph (A) and redesignating subparagraphs (B) through (D) as subparagraphs (A) through (C), respectively.

(3) Subparagraph (C) of section 220(d)(2) is amended by striking "an eligible individual" and inserting "described in clauses (i) and (ii) of subsection (c)(1)(A)".

(4) Subsection (a) of section 6693 is amended by adding at the end the following new sentence:

"This subsection shall not apply to any report which is an information return described in section 6724(d)(1)(C)(i) or a payee statement described in section 6724(d)(2)(X).".

(5) Paragraph (4) of section 4975(d) is amended by striking "if, with respect to such transaction" and all that follows and inserting the following: "if section 220(e)(2) applies to such transaction.".

(b) AMENDMENT RELATED TO SECTION 321.—Subparagraph (B) of section 7702B(c)(2) is amended in the last sentence by inserting "described in subparagraph (A)(i)" after "chronically ill individual".

(c) AMENDMENT RELATED TO SECTION 322.—Subparagraph (B) of section 162(l)(2) is amended by adding at the end the following new sentence: "The preceding sentence shall be applied separately with respect to—

"(i) plans which include coverage for qualified long-term care services (as defined in section 7702B(c)) or are qualified long-term care insurance contracts (as defined in section 7702B(b)), and

"(ii) plans which do not include such coverage and are not such contracts.".

(d) AMENDMENTS RELATED TO SECTION 323.—

(1) Paragraph (1) of section 6050Q(b) is amended by inserting ", address, and phone number of the information contact" after "name".

(2)(A) Paragraph (2) of section 6724(d) is amended by striking so much as follows subparagraph (Q) and precedes the last sentence, and inserting the following new subparagraphs:

"(R) section 6050R(c) (relating to returns relating to certain purchases of fish),

"(S) section 6051 (relating to receipts for employees),

"(T) section 6052(b) (relating to returns regarding payment of wages in the form of group-term life insurance),

"(U) section 6053(b) or (c) (relating to reports of tips),

"(V) section 6048(b)(1)(B) (relating to foreign trust reporting requirements),

"(W) section 4093(c)(4)(B) (relating to certain purchasers of diesel and aviation fuels),

"(X) section 408(i) (relating to reports with respect to individual retirement plans) to any person other than the Secretary with respect to the amount of payments made to such person, or

"(Y) section 6047(d) (relating to reports by plan administrators) to any person other than the Secretary with respect to the amount of payments made to such person.".

(B) Subsection (e) of section 6652 is amended in the last sentence by striking "section 6724(d)(2)(X)" and inserting "section 6724(d)(2)(Y)".

(e) AMENDMENT RELATED TO SECTION 325.—Clauses (ii) and (iii) of section 7702B(g)(4)(B) are each amended by striking "Secretary" and inserting "appropriate State regulatory agency".

(f) AMENDMENTS RELATED TO SECTION 501.—

(1) Paragraph (4) of section 264(a) is amended by striking subparagraph (A) and all that follows through "by the taxpayer." and inserting the following:

"(A) is or was an officer or employee, or

"(B) is or was financially interested in,

any trade or business carried on (currently or formerly) by the taxpayer.".

(2) The last 2 sentences of section 264(d)(2)(B)(ii) are amended to read as follows: "For purposes of subclause (II), the term 'applicable period' means the 12-month period beginning on the date the policy is issued (and each successive 12-month period thereafter) unless the taxpayer elects a number of months (not greater than 12) other than such 12-month period to be its applicable period. Such an election shall be made not later than the 90th day after the date of the enactment of this sentence and, if made, shall apply to the taxpayer's first taxable year ending on or after October 13, 1995, and all subsequent taxable years unless revoked with the consent of the Secretary.".

(3) Subparagraph (B) of section 264(d)(4) is amended by striking "the employer" and inserting "the taxpayer".

(4) Subsection (c) of section 501 of the Health Insurance Portability and Accountability Act of 1996 is amended by striking paragraph (3).

(5) Paragraph (2) of section 501(d) of such Act is amended by striking "no additional premiums" and all that follows and inserting the following: "a lapse occurring by reason of no additional premiums being received under the contract after October 13, 1995.".

(g) AMENDMENTS RELATED TO SECTION 511.—

(1) Subparagraph (B) of section 877(d)(2) is amended by striking "the 10-year period described in subsection (a)" and inserting "the 10-year period beginning on the date the individual loses United States citizenship".

(2) Subparagraph (D) of section 877(d)(2) is amended by adding at the end the following new sentence: "In the case of any exchange occurring during such 5 years, any gain recognized under this subparagraph shall be recognized immediately after such loss of citizenship.".

(3) Paragraph (3) of section 877(d) is amended by inserting "and the period applicable under paragraph (2)" after "subsection (a)".

(4) Subparagraph (A) of section 877(d)(4) is amended—

(A) by inserting "during the 10-year period beginning on the date the individual loses United States citizenship" after "contributes property" in clause (i),

(B) by inserting "immediately before such contribution" after "from such property", and

(C) by striking "during the 10-year period referred to in subsection (a),".

(5) Subparagraph (C) of section 2501(a)(3) is amended by striking "decedent" and inserting "donor".

(6)(A) Clause (i) of section 2107(c)(2)(A) is amended by striking "such foreign country in respect of property included in the gross estate" and inserting "such foreign country".

(B) Subparagraph (C) of section 2107(c)(2) is amended to read as follows:

"(C) PROPORTIONATE SHARE.—In the case of property which is included in the gross estate solely by reason of subsection (b), such property's proportionate share is the percentage which the value of such property bears to the total value of all property included in the gross estate solely by reason of subsection (b).".

(h) AMENDMENTS RELATED TO SECTION 512.—

(1) Subpart A of part III of subchapter A of chapter 61 is amended by redesignating the section 6039F added by section 512 of the Health Insurance Portability and Accountability Act of 1996 as section 6039G and by moving such section 6039G to immediately after the section 6039F added by section 1905 of the Small Business Job Protection Act of 1996.

(2) The table of sections for subpart A of part III of subchapter A of chapter 61 is amended by striking the item relating to the section 6039F related to information on individuals losing United States citizenship and inserting after the item relating to the section 6039F related to notice of large gifts received from foreign persons the following new item:

"Sec. 6039G. Information on individuals losing United States citizenship.".

(3) Paragraph (1) of section 877(e) is amended by striking "6039F" and inserting "6039G".

(i) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of the Health Insurance Portability and Accountability Act of 1996 to which such amendments relate.

SEC. 1403. AMENDMENTS RELATED TO TAXPAYER BILL OF RIGHTS 2.

(a) AMENDMENT RELATED TO SECTION 1311.—Subsection (b) of section 4962 is amended by striking "subchapter A or C" and inserting "subchapter A, C, or D".

(b) AMENDMENTS RELATED TO SECTION 1312.—

(1)(A) Paragraph (10) of section 6033(b) is amended by striking all that precedes subparagraph (A) and inserting the following:

"(10) the respective amounts (if any) of the taxes imposed on the organization, or any organization manager of the organization, during the taxable year under any of the following provisions (and the respective amounts (if any) of reimbursements paid by the organization during the taxable year with respect to taxes imposed on any such organization manager under any of such provisions):".

(B) Subparagraph (C) of section 6033(b)(10) is amended by adding at the end the following: "except to the extent that, by reason of section 4962, the taxes imposed under such section are not required to be paid or are credited or refunded,".

(2) Paragraph (11) of section 6033(b) is amended to read as follows:

"(11) the respective amounts (if any) of—

"(A) the taxes imposed with respect to the organization on any organization manager, or any disqualified person, during the taxable year under section 4958 (relating to taxes on private excess benefit from certain charitable organizations), and

"(B) reimbursements paid by the organization during the taxable year with respect to taxes imposed under such section,

except to the extent that, by reason of section 4962, the taxes imposed under such section are not required to be paid or are credited or refunded,".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of the Taxpayer Bill of Rights 2 to which such amendments relate.

SEC. 1404. MISCELLANEOUS PROVISIONS.

(a) AMENDMENTS RELATED TO ENERGY POLICY ACT OF 1992.—

(1) Paragraph (1) of section 263(a) is amended by striking "or" at the end of subparagraph (F), by striking the period at the end of subparagraph (G) and inserting "; or", and by adding at the end the following new subparagraph:

"(H) expenditures for which a deduction is allowed under section 179A.".

(2) Subparagraph (B) of section 312(k)(3) is amended—

(A) by striking "179" in the heading and the first place it appears in the text and inserting "179 or 179A", and

(B) by striking "179" the last place it appears and inserting "179 or 179A, as the case may be".

(3) Paragraphs (2)(C) and (3)(C) of section 1245(a) are each amended by inserting "179A," after "179,".

(4) The amendments made by this subsection shall take effect as if included in the amendments made by section 1913 of the Energy Policy Act of 1992.

(b) AMENDMENTS RELATED TO URUGUAY ROUND AGREEMENTS ACT.—

(1) Paragraph (1) of section 6621(a) is amended in the last sentence by striking "subsection (c)(3))" and inserting "subsection (c)(3), applied by substituting 'overpayment' for 'underpayment')".

(2) Subclause (II) of section 412(m)(5)(E)(ii) is amended by striking "clause (i)" and inserting "subclause (I)".

(3) Subparagraph (A) of section 767(d)(3) of the Uruguay Round Agreements Act is amended in the last sentence by striking "(except that" and all that follows through "into account)".

(4) The amendments made by this subsection shall take effect as if included in the sections of the Uruguay Round Agreements Act to which they relate.

(c) AMENDMENT RELATED TO TAX REFORM ACT OF 1986.—Paragraph (3) of section 1059(d) is *amended by striking "subsection (a)(2)" and inserting "subsection (a)".*

(d) AMENDMENT RELATED TO TAX REFORM ACT OF 1984.—

(1) Section 267(f) is amended by adding at the end the following new paragraph:

"(4) DETERMINATION OF RELATIONSHIP RESULTING IN DISALLOWANCE OF LOSS, FOR PURPOSES OF OTHER PROVISIONS.—For purposes of any other section of this title which refers to a relationship which would result in a disallowance of losses under this section, deferral under paragraph (2) shall be treated as disallowance.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in section 174(b) of the Tax Reform Act of 1984.

(e) CLERICAL AMENDMENTS.—

(1) Clause (iii) of section 163(j)(2)(B) is amended by striking "clause (i)" and inserting "clause (ii)".

(2) Paragraph (1) of section 665(d) is amended in the last sentence by striking "or 669(d) and (e)".

(3) Subsection (g) of section 1441 (relating to cross reference) is amended by striking "one-half" and inserting "85 percent".

(4) Paragraph (1) of section 2523(g) is amended by striking "qualified remainder trust" and inserting "qualified charitable remainder trust".

(5) Subsection (d) of section 9502 is amended by redesignating the paragraph added by section 806 of the Federal Aviation Reauthorization Act of 1996 as paragraph (6).

TITLE XV—CHILDREN'S HEALTH INSURANCE INITIATIVES

SEC. 1501. ESTABLISHMENT OF CHILDREN'S HEALTH INSURANCE INITIATIVES.

(a) IN GENERAL.—The Social Security Act is amended by adding at the end the following:

"TITLE XXI—CHILD HEALTH INSURANCE INITIATIVES

"SEC. 2101. PURPOSE.

"The purpose of this title is to provide funds to States to enable such States to expand the provision of health insurance coverage for low-income children. Funds provided under this title shall be used to achieve this purpose through outreach activities described in section 2106(a) and, at the option of the State through—

"(1) a grant program conducted in accordance with section 2107 and the other requirements of this title; or

"(2) expansion of coverage of such children under the State medicaid program who are not required to be provided medical assistance under section 1902(l) (taking into account the process of individuals aging into eligibility under subsection (l)(1)(D)).

"SEC. 2102. DEFINITIONS.

"In this title:

"(1) BASE-YEAR COVERED LOW-INCOME CHILD POPULATION.—The term 'base-year covered low-income child population' means the total number of low-income children with respect to whom, as of fiscal year 1996, an eligible State provides or pays the cost of health benefits either through a State funded program or through expanded eligibility under the State plan under title XIX (including under a waiver of such plan), as determined by the Secretary. Such term does not include any low-income child described in paragraph (3)(A) that a State must cover in order to be considered an eligible State under this title.

"(2) CHILD.—The term 'child' means an individual under 19 years of age.

"(3) ELIGIBLE STATE.—The term 'eligible State' means, with respect to a fiscal year, a State that—

"(A) provides, under section 1902(l)(1)(D) or under a waiver, for eligibility for medical assistance under a State plan under title XIX of individuals under 17 years of age in fiscal year 1998, and under 19 years of age in fiscal year 2000, regardless of date of birth;

"(B) has submitted to the Secretary under section 2104 a program outline that—

"(i) sets forth how the State intends to use the funds provided under this title to provide health insurance coverage for low-income children consistent with the provisions of this title; and

"(ii) is approved under section 2104; and

"(iii) otherwise satisfies the requirements of this title; and

"(C) satisfies the maintenance of effort requirement described in section 2105(c)(5).

"(4) FEDERAL MEDICAL ASSISTANCE PERCENTAGE.—The term 'Federal medical assistance percentage' means, with respect to a State, the meaning given that term under section 1905(b). Any cost-sharing imposed under this title may not be included in determining Federal medical assistance percentage for reimbursement of expenditures under a State program funded under this title.

"(5) FEHBP-EQUIVALENT CHILDREN'S HEALTH INSURANCE COVERAGE.—The term 'FEHBP-equivalent children's health insurance coverage' means, with respect to a State, any plan or arrangement that provides, or pays the cost of, health benefits that the Secretary has certified are equivalent to or better than the services covered for a child, including hearing and vision services, under the standard Blue Cross/Blue Shield preferred provider option service benefit plan offered under chapter 89 of title 5, United States Code.

"(6) INDIANS.—The term 'Indians' has the meaning given that term in section 4(c) of the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.).

"(7) LOW-INCOME CHILD.—The term 'low-income child' means a child in a family whose income is below 200 percent of the poverty line for a family of the size involved.

"(8) POVERTY LINE.—The term 'poverty line' has the meaning given that term in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by such section.

"(9) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services.

"(10) STATE.—The term 'State' means each of the 50 States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands.

"(11) STATE CHILDREN'S HEALTH EXPENDITURES.—The term 'State children's health expenditures' means the State share of expenditures by the State for providing children with health care items and services under—

"(A) the State plan for medical assistance under title XIX;

"(B) the maternal and child health services block grant program under title V;

"(C) the preventive health services block grant program under part A of title XIX of the Public Health Services Act (42 U.S.C. 300w et seq.);

"(D) State-funded programs that are designed to provide health care items and services to children;

"(E) school-based health services programs;

"(F) State programs that provide uncompensated or indigent health care;

"(G) county-indigent care programs for which the State requires a matching share by a county government or for which there are intergovernmental transfers from a county to State government; and

"(H) any other program under which the Secretary determines the State incurs uncompensated expenditures for providing children with health care items and services.

"(12) STATE MEDICAID PROGRAM.—The term 'State medicaid program' means the program of medical assistance provided under title XIX.

"SEC. 2103. APPROPRIATION.

"(a) APPROPRIATION.—

"(1) IN GENERAL.—Subject to subsection (b), out of any money in the Treasury of the United States not otherwise appropriated, there is appropriated for the purpose of carrying out this title—

"(A) for each of fiscal years 1998 and 1999, $1,000,000,000;

"(B) for each of fiscal years 2000 through 2002, $2,000,000,000; and

"(C) for each of fiscal years 2003 through 2007, $0.

"(2) AVAILABILITY.—Funds appropriated under this section shall remain available without fiscal year limitation, as provided under section 2105(b)(4).

"(b) REDUCTION FOR INCREASED MEDICAID EXPENDITURES.—With respect to each of the fiscal years described in subsection (a)(1), the amount appropriated under subsection (a)(1) for each such fiscal year shall be reduced by an amount equal to the amount of the total Federal outlays under the medicaid program under title XIX resulting from—

"(1) the amendment made by section 5732 of the Balanced Budget Act of 1997 (regarding the State option to provide 12-month continuous eligibility for children);

"(2) increased enrollment under State plans approved under such program as a result of outreach activities under section 2106(a); and

"(3) the requirement under section 2102(3)A) to provide eligibility for medical assistance under the State plan under title XIX for all children under 19 years of age who have families with income that is at or below the poverty line.

"(c) STATE ENTITLEMENT.—This title constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide for the payment to States of amounts provided in accordance with the provisions of this title.

"(d) EFFECTIVE DATE.—No State is eligible for payments under section 2105 for any calendar quarter beginning before October 1, 1997.

"SEC. 2104. PROGRAM OUTLINE.

"(a) GENERAL DESCRIPTION.—A State shall submit to the Secretary for approval a program outline, consistent with the requirements of this title, that—

"(1) identifies, on or after the date of enactment of the Balanced Budget Act of 1997, which of the 2 options described in section 2101 the State intends to use to provide low-income children in the State with health insurance coverage;

"(2) describes the manner in which such coverage shall be provided; and

"(3) provides such other information as the Secretary may require.

"(b) OTHER REQUIREMENTS.—The program outline submitted under this section shall include the following:

"(1) ELIGIBILITY STANDARDS AND METHODOLOGIES.—A summary of the standards and methodologies used to determine the eligibility of low-income children for health insurance coverage under a State program funded under this title.

"(2) ELIGIBILITY SCREENING; COORDINATION WITH OTHER HEALTH COVERAGE.—A description of the procedures to be used to ensure—

"(A) through both intake and followup screening, that only low-income children are furnished health insurance coverage through funds provided under this title; and

"(B) that any health insurance coverage provided for children through funds under this title does not reduce the number of children who are provided such coverage through any other publicly or privately funded health plan.

"(3) INDIANS.—A description of how the State will ensure that Indians are served through a State program funded under this title.

"(c) DEADLINE FOR SUBMISSION.—A State program outline shall be submitted to the Secretary by not later than March 31 of any fiscal year (October 1, 1997, in the case of fiscal year 1998).

"SEC. 2105. DISTRIBUTION OF FUNDS.

"(a) ESTABLISHMENT OF FUNDING POOLS.—

"(1) IN GENERAL.—From the amount appropriated under section 2103(a)(1) for each fiscal year, determined after the reduction required under section 2103(b), the Secretary shall, for purposes of fiscal year 1998, reserve 85 percent of such amount for distribution to eligible States through the basic allotment pool under subsection (b) and 15 percent of such amount for distribution through the new coverage incentive pool under subsection (c)(2)(B)(ii).

"(2) ANNUAL ADJUSTMENT OF RESERVE PERCENTAGES.—The Secretary shall annually adjust the amount of the percentages described in paragraph (1) in order to provide sufficient basic allotments and sufficient new coverage incentives to achieve the purpose of this title.

"(b) DISTRIBUTION OF FUNDS UNDER THE BASIC ALLOTMENT POOL.—

"(1) STATES.—

"(A) IN GENERAL.—From the total amount reserved under subsection (a) for a fiscal year for distribution through the basic allotment pool, the Secretary shall first set aside 0.25 percent for distribution under paragraph (2) and shall allot from the amount remaining to each eligible State not described in such paragraph the State's allotment percentage for such fiscal year.

"(B) STATE'S ALLOTMENT PERCENTAGE.—

"(i) IN GENERAL.—For purposes of subparagraph (A), the allotment percentage for a fiscal year for each State is the percentage equal to the ratio of the number of low-income children in the base period in the State to the total number of low-income children in the base period in all States not described in paragraph (2).

"(ii) NUMBER OF LOW-INCOME CHILDREN IN THE BASE PERIOD.—In clause (i), the number of low-income children in the base period for a fiscal year in a State is equal to the average of the number of low-income children in the State for the period beginning on October 1, 1992, and ending on September 30, 1995, as reported in the March 1994, March 1995, and March 1996 supplements to the Current Population Survey of the Bureau of the Census.

"(2) OTHER STATES.—

"(A) IN GENERAL.—From the amount set aside under paragraph (1)(A) for each fiscal year, the Secretary shall make allotments for such fiscal year in accordance with the percentages specified in subparagraph (B) to Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands, if such States are eligible States for such fiscal year.

"(B) PERCENTAGES SPECIFIED.—The percentages specified in this subparagraph are in the case of—

"(i) Puerto Rico, 91.6 percent;

"(ii) Guam, 3.5 percent;

"(iii) the Virgin Islands, 2.6 percent;

"(iv) American Samoa, 1.2 percent; and

"(v) the Northern Mariana Islands, 1.1 percent.

"(3) THREE-YEAR AVAILABILITY OF AMOUNTS ALLOTTED.—Amounts allotted to a State pursuant to this subsection for a fiscal year shall remain available for expenditure by the State through the end of the second succeeding fiscal year.

"(4) PROCEDURE FOR DISTRIBUTION OF UNUSED FUNDS.—The Secretary shall determine an appropriate procedure for distribution of funds to eligible States that remain unused under this subsection after the expiration of the availability of funds required under paragraph (3). Such procedure shall be developed and administered in a manner that is consistent with the purpose of this title.

"(c) PAYMENTS.—

"(1) IN GENERAL.—The Secretary shall—

"(A) before October 1 of any fiscal year, pay an eligible State an amount equal to 1 percent of the amount allotted to the State under subsection (b) for conducting the outreach activities required under section 2106(a); and

"(B) make quarterly fiscal year payments to an eligible State from the amount remaining of such allotment for such fiscal year in an amount equal to the Federal medical assistance percentage for the State (as defined under section 2102(4) and determined without regard to the amount of Federal funds received by the State under title XIX before the date of enactment of this title) of the Federal and State incurred cost of providing health insurance coverage for a low-income child in the State plus the applicable bonus amount.

"(2) APPLICABLE BONUS.—

"(A) IN GENERAL.—For purposes of paragraph (1), the applicable bonus amount is—

"(i) 5 percent of the Federal and State incurred cost, with respect to a period, of providing health insurance coverage for children covered at State option among the base-year covered low-income child population (measured in full year equivalency) (including such children covered by the State through expanded eligibility under the medicaid program under title XIX before the date of enactment of this title, but excluding any low-income child described in section 2102(3)(A) that a State must cover in order to be considered an eligible State under this title); and

"(ii) 10 percent of the Federal and State incurred cost, with respect to a period, of providing health insurance coverage for children covered at State option among the number (as so measured) of low-income children that are in excess of such population.

"(B) SOURCE OF BONUSES.—

"(i) BASE-YEAR COVERED LOW-INCOME CHILD POPULATION.—A bonus described in subparagraph (A)(i) shall be paid out of an eligible State's allotment for a fiscal year.

"(ii) FOR OTHER LOW-INCOME CHILD POPULATIONS.—A bonus described in subparagraph (A)(ii) shall be paid out of the new coverage incentive pool reserved under subsection (a)(1).

"(3) DEFINITION OF COST OF PROVIDING HEALTH INSURANCE COVERAGE.—For purposes of this subsection the cost of providing health insurance coverage for a low-income child in the State means—

"(A) in the case of an eligible State that opts to use funds provided under this title through the medicaid program, the cost of providing such child with medical assistance under the State plan under title XIX; and

"(B) in the case of an eligible State that opts to use funds provided under this title under section 2107, the cost of providing such child with health insurance coverage under such section.

"(4) LIMITATION ON TOTAL PAYMENTS.—With respect to a fiscal year, the total amount paid to an eligible State under this title (including any bonus payments) shall not exceed 85 percent of the total cost of a State program conducted under this title for such fiscal year.

"(5) MAINTENANCE OF EFFORT.—

"(A) DEEMED COMPLIANCE.—A State shall be deemed to be in compliance with this provision if—

"(i) it does not adopt income and resource standards and methodologies that are more restrictive than those applied as of June 1, 1997, for purposes of determining a child's eligibility for medical assistance under the State plan under title XIX; and

"(ii) in the case of fiscal year 1998 and each fiscal year thereafter, the State children's health expenditures defined in section 2102(11) are not less than the amount of such expenditures for fiscal year 1996.

"(B) FAILURE TO MAINTAIN MEDICAID STANDARDS AND METHODOLOGIES.—A State that fails to meet the conditions described in subparagraph (A) shall not receive—

"(i) funds under this title for any child that would be determined eligible for medical assistance under the State plan under title XIX using the income and resource standards and methodologies applied under such plan as of June 1, 1997; and

"(ii) any bonus amounts described in paragraph (2)(A)(ii).

"(C) FAILURE TO MAINTAIN SPENDING ON CHILD HEALTH PROGRAMS.—A State that fails to meet the condition described in subparagraph (A)(ii) shall not receive funding under this title.

"(6) ADVANCE PAYMENT; RETROSPECTIVE ADJUSTMENT.—The Secretary may make payments under this subsection for each quarter on the basis of advance estimates of expenditures submitted by the State and such other investigation as the Secretary may find necessary, and shall reduce or increase the payments as necessary to adjust for any overpayment or underpayment for prior quarters.

"SEC. 2106. USE OF FUNDS.

"(a) SET-ASIDE FOR OUTREACH ACTIVITIES.—

"(1) IN GENERAL.—From the amount allotted to a State under section 2105(b) for a fiscal year, each State shall conduct outreach activities described in paragraph (2).

"(2) OUTREACH ACTIVITIES DESCRIBED.—The outreach activities described in this paragraph include activities to—

"(A) identify and enroll children who are eligible for medical assistance under the State plan under title XIX; and

"(B) conduct public awareness campaigns to encourage employers to provide health insurance coverage for children.

"(b) STATE OPTIONS FOR REMAINDER.—A State may use the amount remaining of the allotment to a State under section 2105(b) for a fiscal year, determined after the payment required under section 2105(c)(1)(A), in accordance with section 2107 or the State medicaid program (but not both). Nothing in the preceding sentence shall be construed as limiting a State's eligibility for receiving the 5 percent bonus described in section 2105(c)(2)(A)(i) for children covered by the State through expanded eligibility under the medicaid program under title XIX before the date of enactment of this title.

"(c) PROHIBITION ON USE OF FUNDS.—No funds provided under this title may be used to provide health insurance coverage for—

"(1) families of State public employees; or

"(2) children who are committed to a penal institution.

"(d) USE LIMITED TO STATE PROGRAM EXPENDITURES.—Funds provided to an eligible State under this title shall only be used to carry out the purpose of this title (as described in section 2101), and any health insurance coverage provided with such funds may include coverage of abortion only if necessary to save the life of the mother or if the pregnancy is the result of an act of rape or incest.

"(e) ADMINISTRATIVE EXPENDITURES.—

"(1) IN GENERAL.—Not more than the applicable percentage of the amount allotted to a State under section 2105(b) for a fiscal year, determined after the payment required under section 2105(c)(1)(A), shall be used for administrative expenditures for the program funded under this title.

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage with respect to a fiscal year is—

"(A) for the first 2 years of a State program funded under this title, 10 percent;

"(B) for the third year of a State program funded under this title, 7.5 percent; and

"(C) for the fourth year of a State program funded under this title and each year thereafter, 5 percent.

"(f) NONAPPLICATION OF FIVE-YEAR LIMITED ELIGIBILITY FOR MEANS-TESTED PUBLIC BENEFITS.—The provisions of section 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613) shall not apply with respect to a State program funded under this title.

"(g) AUDITS.—The provisions of section 506(b) shall apply to funds expended under this title to the same extent as they apply to title V.

"(h) REQUIREMENT TO FOLLOW STATE PROGRAM OUTLINE.—The State shall conduct the program in accordance with the program outline approved by the Secretary under section 2104.

"SEC. 2107. STATE OPTION FOR THE PURCHASE OR PROVISION OF CHILDREN'S HEALTH INSURANCE.

"(a) STATE OPTION.—

"(1) IN GENERAL.—An eligible State that opts to use funds provided under this title under this section shall use such funds to provide FEHBP-equivalent children's health insurance coverage for low-income children who reside in the State.

"(2) PRIORITY FOR LOW-INCOME CHILDREN.—A State that uses funds provided under this title under this section shall not cover low-income children with higher family income without covering such children with a lower family income.

"(3) DETERMINATION OF ELIGIBILITY AND FORM OF ASSISTANCE.—An eligible State may establish any additional eligibility criteria for the provision of health insurance coverage for a low-income child through funds provided under this title, so long as such criteria and assistance are consistent with the purpose and provisions of this title.

"(4) AFFORDABILITY.—An eligible State may impose any family premium obligations or cost-sharing requirements otherwise permitted under this title on low-income children with family incomes that exceed 150 percent of the poverty line. In the case of a low-income child whose family income is at or below 150 percent of the poverty line, limits on beneficiary costs generally applicable under title XIX apply to coverage provided such children under this section.

"(b) NONENTITLEMENT.—Nothing in this section shall be construed as providing an entitlement for an individual or person to any health insurance coverage, assistance, or service provided through a State program funded under this title. If, with respect to a fiscal year, an eligible State determines that the funds provided under this title are not sufficient to provide health insurance coverage for all the low-income children that the State proposes to cover in the State program outline submitted under section 2104 for such fiscal year, the State may adjust the applicable eligibility criteria for such children appropriately or adjust the State program in another manner specified by the Secretary, so long as any such adjustments are consistent with the purpose of this title.

"SEC. 2107A. MENTAL HEALTH PARITY.

"(a) PROHIBITION.—In the case of a health plan that enrolls children through the use of assistance provided under a grant program conducted under this title, such plan, if the plan provides both medical and surgical benefits and mental health benefits, shall not impose treatment limitations or financial requirements on the coverage of mental health benefits if similar limitations or requirements are not imposed on medical and surgical benefits.

"(b) RULE OF CONSTRUCTION.—Nothing in this section shall be construed—

"(1) as prohibiting a health plan from requiring preadmission screening prior to the authorization of services covered under the plan or from applying other limitations that restrict coverage for mental health services to those services that are medically necessary; and

"(2) as requiring a health plan to provide any mental health benefits.

"(c) SEPARATE APPLICATION TO EACH OPTION OFFERED.—In the case of a health plan that offers a child described in subsection (a) 2 or more benefit package options under the plan, the requirements of this section shall be applied separately with respect to each such option.

"(d) DEFINITIONS.—In this section:

"(1) MEDICAL OR SURGICAL BENEFITS.—The term 'medical or surgical benefits' means benefits with respect to medical or surgical services, as defined under the terms of the plan, but does not include mental health benefits.

"(2) MENTAL HEALTH BENEFITS.—The term 'mental health benefits' means benefits with respect to mental health services, as defined under the terms of the plan, but does not include benefits with respect to the treatment of substance abuse and chemical dependency.

"SEC. 2108. PROGRAM INTEGRITY.

"The following provisions of the Social Security Act shall apply to eligible States under this title in the same manner as such provisions apply to a State under title XIX:

"(1) Section 1116 (relating to administrative and judicial review).

"(2) Section 1124 (relating to disclosure of ownership and related information).

"(3) Section 1126 (relating to disclosure of information about certain convicted individuals).

"(4) Section 1128 (relating to exclusion from individuals and entities from participation in State health care plans).

"(5) Section 1128A (relating to civil monetary penalties).

"(6) Section 1128B (relating to criminal penalties).

"(7) Section 1132 (relating to periods within which claims must be filed).

"(8) Section 1902(a)(4)(C) (relating to conflict of interest standards).

"(9) Section 1903(i) (relating to limitations on payment).

"(10) Section 1903(m)(5) (as in effect on the day before the date of enactment of the Balanced Budget Act of 1997).

"(11) Section 1903(w) (relating to limitations on provider taxes and donations).

"(12) Section 1905(a)(B) (relating to the exclusion of care or services for any individual who has not attained 65 years of age and who is a patient in an institution for mental diseases from the definition of medical assistance).

"(13) Section 1921 (relating to state licensure authorities).

"(14) Sections 1902(a)(25), 1912(a)(1)(A), and 1903(o) (insofar as such sections relate to third party liability).

"(15) Sections 1948 and 1949 (as added by section 5701(a)(2) of the Balanced Budget Act of 1997).

"SEC. 2109. ANNUAL REPORTS.

"(a) ANNUAL STATE ASSESSMENT OF PROGRESS.—An eligible State shall—

"(1) assess the operation of the State program funded under this title in each fiscal year, including the progress made in providing health insurance coverage for low-income children; and

"(2) report to the Secretary, by January 1 following the end of the fiscal year, on the result of the assessment.

"(b) REPORT OF THE SECRETARY.—The Secretary shall submit to the appropriate committees of Congress an annual report and evaluation of the State programs funded under this title based on the State assessments and reports submitted under subsection (a). Such report shall include any conclusions and recommendations that the Secretary considers appropriate.".

(b) CONFORMING AMENDMENT.—Section 1128(h) (42 U.S.C. 1320a–7(h)) is amended by—

(1) in paragraph (2), by striking "or" at the end;

(2) in paragraph (3), by striking the period and inserting ", or"; and

(3) by adding at the end the following:

"(4) a program funded under title XXI.".

SEC. 1502. APPLICABILITY.

If, on the date of enactment of this Act, the Social Security Act contains a title XXI, the amendments made to the Social Security Act by this title shall not take effect, except that amounts appropriated under such title XXI for a fiscal year shall be increased by the amounts that would have been appropriated for such fiscal year under section 2103 of the Social Security Act, as added by this title.

TITLE XVI—BUDGET ENFORCEMENT

Subtitle A—Amendments to the Congressional Budget and Impoundment Control Act of 1974

SEC. 1601. AMENDMENTS TO SECTION 201.

Section 201 of the Congressional Budget Act of 1974 is amended by redesignating subsection (g) (relating to revenue estimates) as subsection (f).

SEC. 1602. AMENDMENTS TO SECTION 202.

(a) ASSISTANCE TO BUDGET COMMITTEES.—The first sentence of section 202(a) of the Congressional Budget Act of 1974 is amended by inserting "primary" before "duty".

(b) ELIMINATION OF EXECUTED PROVISION.—Section 202 of the Congressional Budget Act of 1974 is amended by striking subsection (e) and by redesignating subsections (f), (g), and (h) as subsections (e), (f), and (g), respectively.

SEC. 1603. AMENDMENT TO SECTION 300.

The item relating to February 25 in the timetable set forth in section 300 of the Congressional Budget Act of 1974 is amended by striking "February 25" and inserting "Within 6 weeks after President submits budget".

SEC. 1604. AMENDMENTS TO SECTION 301.

(a) TERMS OF BUDGET RESOLUTIONS.—Section 301(a) of the Congressional Budget Act of 1974 is amended by striking ", and planning levels for each of the two ensuing fiscal years," and inserting "and for at least each of the 4 ensuing fiscal years".

(b) CONTENTS OF BUDGET RESOLUTIONS.—Paragraphs (1) and (4) of section 301(a) of the Congressional Budget Act of 1974 are amended by striking ", budget outlays, direct loan obligations, and primary loan guarantee commitments" each place it appears and inserting "and budget outlays".

(c) ADDITIONAL MATTERS.—Section 301(b) of the Congressional Budget Act of 1974 is amended by—

(1) amending paragraph (7) to read as follows—

"(7) set forth pay-as-you-go procedures in the Senate whereby committee allocations, aggregates, and other levels can be revised for legislation if such legislation would not increase the deficit or would not increase the deficit when taken with other legislation enacted after the adoption of the resolution for the first fiscal year or the total period of fiscal years covered by the resolution;";

(2) in paragraph 8, striking the period and inserting "; and"; and

(3) adding the following new paragraph:

"(9) set forth direct loan obligations and primary loan commitment guarantee levels.".

(d) VIEWS AND ESTIMATES.—The first sentence of section 301(d) of the Congressional Budget Act of 1974 is amended by inserting "or at such time as may be requested by the Committee on the Budget," after "Code,".

(e) HEARINGS AND REPORT.—Section 301(e) of the Congressional Budget Act of 1974 is amended—

(1) by striking "In developing" and inserting the following:

"(1) IN GENERAL.—In developing"; and

(2) by striking the sentence beginning with "The report accompanying " and all that follows through the end of the subsection and inserting the following:

"(2) REQUIRED CONTENTS OF REPORT.—The report accompanying such concurrent resolution shall include—

"(A) a comparison of the appropriate levels of total new budget authority, total budget outlays, and total revenues as set forth in such concurrent resolution with those requested in the budget submitted by the President;

"(B) with respect to each major functional category, an estimate of total new budget authority and total outlays with the estimates divided between permanent authority and funds provided in appropriations Acts;

"(C) the economic assumptions which underlie each of the matters set forth in such concurrent resolution and any alternative economic assumptions and objectives that the committee considered;

"(D) projections for the period of 5 fiscal years beginning with such fiscal year, of the estimated levels of total new budget authority, total outlays and total revenues and the surplus or deficit for each fiscal year;

"(E) information, data, and comparisons indicating the manner in which, and the basis on which, the committee determined each of the matters set forth in the concurrent resolutions;

"(F) the estimated levels of tax expenditures (the tax expenditures budget) by major items and functional categories for the President's budget and in the concurrent resolution; and

"(G) allocations described in section 302(a).

"(3) ADDITIONAL CONTENTS OF REPORT.—The report accompanying such concurrent resolution may include—

"(A) a statement of any significant changes in the proposed levels of Federal assistance to State and local governments;

"(B) an allocation of the level of Federal revenues recommended in the concurrent resolution among the major sources of such revenues;

"(C) information, data, and comparisons on the share of total Federal budget outlays and of gross domestic product devoted to investment in the budget submitted by the President and in the concurrent resolution; and

"(D) other matters, relating to the budget and fiscal policy, the committee deems appropriate.".

(f) SOCIAL SECURITY CORRECTIONS.—Section 301(i) of the Congressional Budget Act of 1974 is amended by—

(1) inserting "SOCIAL SECURITY POINT OF ORDER.—" after "(i)"; and

(2) striking "as reported to the Senate" and inserting "(or amendment, motion, or conference report on such a resolution)".

(g) REPEAL OF BUDGET RESOLUTION PROVISION.—Section 22 of House Concurrent Resolution 218 (103d Congress) is repealed.

SEC. 1605. AMENDMENTS TO SECTION 302.

(a) ALLOCATIONS AND SUBALLOCATIONS.—Subsections (a) and (b) of section 302 of the Congressional Budget Act of 1974 are amended to read as follows:

"(a) COMMITTEE SPENDING ALLOCATIONS.—

"(1) HOUSE OF REPRESENTATIVES.—

"(A) ALLOCATION AMONG COMMITTEES.—The joint explanatory statement accompanying a conference report on a budget resolution shall include allocations, consistent with the resolution recommended in the conference report, of the appropriate levels (for each fiscal year covered by that resolution and a total for all such years) of—

"(i) total new budget authority;

"(ii) total entitlement authority; and

"(iii) total outlays;

among each committee of the House of Representatives that has jurisdiction over legislation providing or creating such amounts.

"(B) NO DOUBLE COUNTING.—Any item allocated to one committee of the House of Representatives may not be allocated to another such committee.

"(C) FURTHER DIVISION OF AMOUNTS.—The amounts allocated to each committee for each fiscal year, other than the Committee on Appropriations, shall be further divided between amounts provided or required by law on the date of filing of that conference report and amounts not so provided or required. The amounts allocated to the Committee on Appropriations for each fiscal year shall be further divided between discretionary and mandatory amounts or programs, as appropriate.

"(2) SENATE ALLOCATION AMONG COMMITTEES.—The joint explanatory statement accompanying a conference report on a budget resolution shall include an allocation, consistent with the resolution recommended in the conference report, of the appropriate levels of—

"(A) total new budget authority; and

"(B) total outlays;

among each committee of the Senate that has jurisdiction over legislation providing or creating such amounts.

"(3) AMOUNTS NOT ALLOCATED.—

"(A) IN THE HOUSE.—In the House of Representatives, if a committee receives no allocation of new budget authority, entitlement authority, or outlays, that committee shall be deemed to have received an allocation equal to zero for new budget authority, entitlement authority, or outlays.

"(B) IN THE SENATE.—In the Senate, if a committee receives no allocation of new budget authority, outlays, or social security outlays, that committee shall be deemed to have received an allocation equal to zero for new budget authority, outlays, or social security outlays.

"(4) SCOPE OF ALLOCATIONS IN THE SENATE.—In the Senate, the allocations made pursuant to paragraph (2) shall be made for all committees for the first fiscal year covered by the resolution and for all committees other than the Committee on Appropriations for the period of fiscal years covered by such resolution.

"(b) SUBALLOCATIONS BY APPROPRIATION COMMITTEES.—As soon as practicable after a concurrent resolution on the budget is agreed to, the Committee on Appropriations of each House (after consulting with the Committee on Appropriations of the other House) shall suballocate each amount allocated to it for the budget year under subsection (a)(1)(A) or (a)(2) among its subcommittees. Each Committee on Appropriations shall promptly report to its House suballocations made or revised under this paragraph.".

(b) POINT OF ORDER.—Section 302(c) of the Congressional Budget Act of 1974 is amended to read as follows:

"(c) POINT OF ORDER.—After the Committee on Appropriations has received an allocation pursuant to subsection (a) for a fiscal year, it shall not be in order in the House of Representatives or the Senate to consider any bill, joint resolution, amendment, motion, or conference report providing new budget authority for that fiscal year within the jurisdiction of that committee, until such committee makes the suballocations required by subsection (b).".

(c) ENFORCEMENT OF POINT OF ORDER.—Section 302(f)(2) of the Congressional Budget Act of 1974 is amended to read as follows:

"(2) ENFORCEMENT OF COMMITTEE ALLOCATIONS AND SUBALLOCATIONS.—After a concurrent resolution on the budget is agreed to, it shall not be in order in the Senate to consider any bill, joint resolution, amendment, motion, or conference report that would cause—

"(A) in the case of any committee except the Committee on Appropriations, the appropriate allocation of new budget authority or outlays under subsection (a) to be exceeded; or

"(B) in the case of the Committee on Appropriations, the appropriate suballocation of new budget authority or outlays under subsection (b) to be exceeded.".

(d) SEPARATE ALLOCATIONS.—Section 302(g) is amended to read as follows:

"(g) SEPARATE ALLOCATIONS.—The Committees on Appropriations and the Budget shall make separate allocations under subsections (a) and (b) consistent with the categories in section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985.".

SEC. 1606. AMENDMENTS TO SECTION 303.

(a) IN GENERAL.—Section 303 of the Congressional Budget Act of 1974 is amended—

(1) by striking "NEW CREDIT AUTHORITY," in the center heading;

(2) by striking paragraph (4) of subsection (a) and be redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively;

(3) in subsection (b)(1)(A), by inserting "advanced, discretionary" before "new budget authority"; and

(4) by striking subsection (c).

(b) CONFORMING AMENDMENT.—The item relating to section 303 in the table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking "new credit authority,".

SEC. 1607. AMENDMENT TO SECTION 305.

Section 305(a)(1) of the Congressional Budget Act of 1974 is amended by inserting "when the House is not in session" after "holidays" each place it appears.

SEC. 1608. AMENDMENT TO SECTION 308.

(a) ELIMINATION OF REFERENCES TO CREDIT AUTHORITY.—Section 308 of the Congressional Budget Act of 1974 is amended—

(1) by striking the center heading and inserting the following:

"REPORTS ON SPENDING AND REVENUE LEGISLATION";

(2) in paragraphs (1) and (2) of subsection (a), by striking "or new credit authority," each place it appears and insert "and" before "new spending" each place it appears;

(3) in subsection (b)(1), by striking "or new credit authority," and insert "and" before "new spending"; and

(4) in subsection (c), by inserting "and" after the semicolon at the end of paragraph (3), strike "; and" at the end of paragraph (4) and insert a period; and strike paragraph (5).

(b) CONFORMING AMENDMENT.—The item relating to section 308 in the table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking "or new credit authority" and by inserting "and" after the first comma.

SEC. 1609. AMENDMENTS TO SECTION 311.

Section 311 of the Congressional Budget Act of 1974 is amended to read as follows:

"NEW BUDGET AUTHORITY, NEW SPENDING AUTHORITY, AND REVENUE LEGISLATION MUST BE WITHIN APPROPRIATE LEVELS

"SEC. 311. (a) ENFORCEMENT OF BUDGET AGGREGATES.—

"(1) IN THE HOUSE OF REPRESENTATIVES.—Except as provided by subsection (c), after the Congress has completed action on a concurrent resolution on the budget for a fiscal year, it shall not be in order in the House of Representatives to consider any bill, joint resolution, amendment, motion, or conference report providing new budget authority for such fiscal year, providing new entitlement authority effective during such fiscal year, or reducing revenues for such fiscal year, if—

"(A) the enactment of such bill or resolution as reported;

"(B) the adoption and enactment of such amendment; or

"(C) the enactment of such bill or resolution in the form recommended in such conference report;

would cause the appropriate level of total new budget authority or total budget outlays set forth in the most recently agreed to concurrent resolution on the budget for such fiscal year to be exceeded, or would cause revenues to be less than the appropriate level of total revenues set forth in such concurrent resolution except in the case that a declaration of war by the Congress is in effect.

"(2) IN THE SENATE.—After a concurrent resolution on the budget is agreed to, it shall not be in order in the Senate to consider any bill, resolution, amendment, motion, or conference report that—

"(A) would cause the appropriate level of total new budget authority or total outlays set forth for the first fiscal year in such resolution to be exceeded; or

"(B) would cause revenues to be less than the appropriate level of total revenues set forth for the first fiscal year covered by such resolution or for the period including the first fiscal year plus the following 4 fiscal years in such resolution.

"(3) ENFORCEMENT OF SOCIAL SECURITY LEVELS IN THE SENATE.—After a concurrent resolution on the budget is agreed to, it shall not be in order in the Senate to consider any bill, resolution, amendment, motion, or conference report that would cause a decrease in social security surpluses or an increase in social security deficits derived from the levels of social security revenues and social security outlays set forth for the first fiscal year covered by the resolution and for the period including the first fiscal year plus the following 4 fiscal years in such resolution.

"(b) SOCIAL SECURITY LEVELS.—

"(1) IN GENERAL.—For the purposes of subsection (a)(3), social security surpluses equal the excess of social security revenues over social security outlays in a fiscal year or years with such an excess and social security deficits equal the excess of social security outlays over social security revenues in a fiscal year or years with such an excess.

"(2) TAX TREATMENT.—For the purposes of this section, no provision of any legislation involving a change in chapter 1 of the Internal Revenue Code of 1986 shall be treated as affecting the amount of social security revenues or outlays unless such provision changes the income tax treatment of social security benefits.

"(c) EXCEPTION IN THE HOUSE OF REPRESENTATIVES.—Subsection (a)(1) shall not apply in the House of Representatives to any bill, resolution, or amendment which provides new budget authority or new entitlement authority effective during such fiscal year, or to any conference report on any such bill or resolution, if—

"(1) the enactment of such bill or resolution as reported;

"(2) the adoption and enactment of such amendment; or

"(3) the enactment of such bill or resolution in the form recommended in such conference report;

would not cause the appropriate allocation of new discretionary budget authority or new entitlement authority made pursuant to section 302(a) for such fiscal year, for the committee within whose jurisdiction such bill, resolution, or amendment falls, to be exceeded.".

SEC. 1610. AMENDMENT TO SECTION 312.

(a) IN GENERAL.—Section 312 of the Congressional Budget Act of 1974 is amended to read as follows:

"POINTS OF ORDER

"SEC. 312. (a) DETERMINATIONS.—For purposes of this title and title IV, the levels of new budget authority, budget outlays, spending authority as described in section 401(c)(2), direct spending, new entitlement authority, and revenues for a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the House of Representatives or the Senate, as the case may be.

"(b) DISCRETIONARY SPENDING POINT OF ORDER IN THE SENATE.—

"(1) Except as otherwise provided in this subsection, it shall not be in order in the Senate to consider any concurrent resolution on the budget (or amendment, motion, or conference report on such a resolution) that would exceed any of the discretionary spending limits in section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985.

"(2) This subsection shall not apply if a declaration of war by the Congress is in effect or if a joint resolution pursuant to section 258 of the Balanced Budget and Emergency Deficit Control Act of 1985 has been enacted.

"(c) MAXIMUM DEFICIT AMOUNT POINT OF ORDER IN THE SENATE.—It shall not be in order in the Senate to consider any concurrent resolution on the budget for a fiscal year under section 301, or to consider any amendment to that concurrent resolution, or to consider a conference report on that concurrent resolution—

"(1) if the level of total budget outlays for the first fiscal year that is set forth in that concurrent resolution or conference report exceeds the recommended level of Federal revenues set forth for that year by an amount that is greater than the maximum deficit amount, if any, specified in the Balanced Budget and Emergency Deficit Control Act of 1985 for such fiscal year; or

"(2) if the adoption of such amendment would result in a level of total budget outlays for that fiscal year which exceeds the recommended level of Federal revenues for that fiscal year, by an amount that is greater than the maximum deficit amount, if any, specified in the Balanced Budget and Emergency Deficit Control Act of 1985 for such fiscal year.

"(d) TIMING OF POINTS OF ORDER IN THE SENATE.—A point of order under this Act may not be raised against a bill, resolution, amendment, motion, or conference report while an amendment or motion, the adoption of which would remedy the violation of this Act, is pending before the Senate.

"(e) POINTS OF ORDER IN THE SENATE AGAINST AMENDMENTS BETWEEN THE HOUSES.—Each provision of this Act that establishes a point of order against an amendment also establishes a point of order in the Senate against an amendment between the Houses. If a point of order under this Act is raised in the Senate against an amendment between the Houses, and the point of order is sustained, the effect shall be the same as if the Senate had disagreed to the amendment.

"(f) EFFECT OF A POINT OF ORDER ON A BILL IN THE SENATE.—In the Senate, if the Chair sustains a point of order under this Act against a bill, the Chair shall then send the bill to the committee of appropriate jurisdiction for further consideration.".

(b) CONFORMING AMENDMENTS.—Sections 302(g), 311(c), and 313(e) of the Congressional Budget Act of 1974 are repealed.

SEC. 1611. ADJUSTMENTS.

(a) IN GENERAL.—Title III of the Congressional Budget Act of 1974 is amended by adding at the end the following new sections:

"ADJUSTMENTS

"SEC. 314. (a) ADJUSTMENTS.—When—

"(1)(A) the Committee on Appropriations reports an appropriation measure for fiscal year 1998, 1999, 2000, 2001, or 2002 that specifies an amount for emergencies pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 or for continuing disability reviews pursuant to section 251(b)(2)(C) of that Act;

"(B) any other committee reports emergency legislation described in section 252(e) of that Act;

"(C) the Committee on Appropriations reports an appropriation measure for fiscal year 1998, 1999, 2000, 2001, or 2002 that includes an appropriation with respect to clause (i) or (ii), the adjustment shall be the amount of budget authority in the measure that is the dollar equivalent, in terms of Special Drawing Rights, of—

"(i) an increase in the United States quota as part of the International Monetary Fund Eleventh General Review of Quotas (United States Quota); or

"(ii) an increase in the maximum amount available to the Secretary of the Treasury pursuant to section 17 of the Bretton Woods Agreements Act, as amended from time to time (New Arrangements to Borrow); or

"(D) the Committee on Appropriations reports an appropriation measure for fiscal year 1998, 1999, or 2000 that includes an appropriation for arrearages for international organizations, international peacekeeping, and multilateral development banks during that fiscal year, and the sum of the appropriations for the period of fiscal years 1998 through 2000 does not exceed $1,884,000,000 in budget authority; or

"(2) a conference committee submits a conference report thereon;

the chairman of the Committee on the Budget of the Senate or House of Representatives (whichever is appropriate) shall make the adjustments referred to in subsection (c) to reflect the additional new budget authority for such matter provided in that measure or conference report and the additional outlays flowing from such amounts for such matter.

"(b) APPLICATION OF ADJUSTMENTS.—The adjustments and revisions to allocations, aggregates, and limits made by the Chairman of the Committee on the Budget pursuant to subsection (a) for legislation shall only apply while such legislation is under consideration shall only permanently take effect upon the enactment of that legislation.

"(c) CONTENT OF ADJUSTMENTS.—The adjustments referred to in subsection (a) shall consist of adjustments, as appropriate, to—

"(1) the discretionary spending limits as set forth in the most recently adopted concurrent resolution on the budget;

"(2) the allocations made pursuant to the most recently adopted concurrent resolution on the budget pursuant to section 302(a); and

"(3) the budgetary aggregates as set forth in the most recently adopted concurrent resolution on the budget.

"(d) REPORTING REVISED SUBALLOCATIONS.—Following the adjustments made under subsection (a), the Committees on Appropriations of the Senate and the House of Representatives shall report appropriately revised suballocations pursuant to section 302(b) to carry out this subsection.

"(e) DEFINITIONS.—As used in subsection (a)(1)(A), when referring to continuing disability reviews, the terms 'continuing disability reviews', 'additional new budget authority', and 'additional outlays' shall have the same meanings as provided in section 251(b)(2)(C)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985.".

(b) TABLE OF CONTENTS.—The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by—

(1) striking the item for section 312 and inserting the following:

"Sec. 312. Points of order."; and

(2) adding after the item relating to section 313 the following new item:

"Sec. 314. Adjustments.".

SEC. 1612. AMENDMENTS TO TITLE V.

(a) SECTION 502.—Section 502 of the Federal Credit Reform Act of 1990 is amended as follows:

(1) In the second sentence of paragraph (1), insert "and refinancing arrangements that defer

payment for more than 90 days, including the sale of a government asset on credit terms" before the period.

(2) In paragraph (5)(A), insert "or modification thereof" before the first comma.

(3) In paragraph (5)(B)(iii), strike "and other recoveries" and insert ", other recoveries, and routine workouts of troubled loans or loans in imminent default when those workouts are to maximize repayments to the Government or to minimize claims on the Government".

(4) In paragraph (5)(C), strike ", and" at the end of clause (i), strike "the" in clause (ii) and strike the period and insert ", and" at the end of that clause, and at the end add the following new clause:

"(iii) routine workouts of troubled loans or loans in imminent default when those workouts are to maximize the repayments to the Government or to minimize claims on the Government.".

(5) In paragraph (5), amend subparagraph (D) to read as follows:

"(D) The cost of a modification is the difference in cost that results from the modification of a direct loan or loan guarantee (or direct loan obligation or loan guarantee commitment). This difference in cost is the difference between the currently estimated net present value of the remaining cash flows under the terms of the direct loan or loan guarantee contract assumed in the most recent President's budget submitted to Congress, and the currently estimated net present value of the remaining cash flows under the terms of the contract, as modified. Except for interest rates, the estimates shall be consistent with the economic and technical assumptions underlying the most recent President's budget submitted to Congress.".

(6) Redesignate paragraph (9) as paragraph (10) and after paragraph (8) add the following new paragraph:

"(9) The term 'modification' means any Government action that alters the estimated cost of an outstanding direct loan (or direct loan obligation) or an outstanding loan guarantee (or loan guarantee commitment) from the estimate based on the cash flows contained in the most recent President's budget submitted to Congress. This includes the sale of loan assets, with or without recourse, and the purchase of guaranteed loans. This also includes any action resulting from new legislation, or from the exercise of administrative discretion under existing law, that directly or indirectly alters the estimated cost of outstanding direct loans (or direct loan obligations) or loan guarantees (or loan guarantee commitments) such as a change in collection procedures. The term 'modification' does not include the routine administrative workouts of troubled loans or loans in imminent default. Work-outs are actions undertaken to maximize the repayments to the Government under existing direct loans or to minimize claims under existing loan guarantees. The expected effects of such work-outs shall be included in the original estimate of the cash flows. Insofar as the effects on cash flows are more or less than originally estimated, the differences in cash flows shall be included in a reestimate of the cost. The term 'modification' does not include changes in loan or guarantee terms resulting from the exercise by the borrower of an option included in the loan or guarantee contract. The expected effects of such changes in terms shall be included in the original estimate of the cash flow. Insofar as the effects on cash flow are more or less than originally estimated, the differences in cash flow shall be included in a reestimate of the cost; and".

(b) SECTION 504.—Section 504 of the Federal Credit Reform Act of 1990 is amended as follows:

(1) Amend subsection (b)(1) to read as follows:

"(1) new budget authority to cover their costs is provided in advance in appropriation Acts;".

(2) In subsection (b)(2), strike "enacted" and insert "provided in an appropriation Act".

(3) In subsection (d)(1), strike "directly or indirectly alter the costs of outstanding direct loans and loan guarantees" and insert "modify outstanding direct loans (or direct loan obligations) or loan guarantees (or loan guarantee commitments)".

(4) In subsection (e), strike "A direct loan obligation or loan guarantee commitment" and insert "An outstanding direct loan (or direct loan obligation) or loan guarantee (or loan guarantee commitment)", after "unless" insert "new", and strike "or from other budgetary resources".

(c) SECTION 505.—Section 505 of the Federal Credit Reform Act of 1990 is amended as follows:

(1) In subsection (c), by inserting before the period at the end of the second sentence the following: ", except that the rate of interest charged by the Secretary on lending to financing accounts (including amounts treated as lending to financing accounts by the Federal Financing Bank (hereinafter in this subsection referred to as the 'Bank') pursuant to section 406(b)) and the rate of interest paid to financing accounts on uninvested balances in financing accounts shall be the same as the rate determined pursuant to section 502(5)(E). For guaranteed loans financed by the Bank and treated as direct loans by a Federal agency pursuant to section 406(b), any fee or interest surcharge (the amount by which the interest rate charged exceeds the rate determined pursuant to section 502(5)(E)) that the Bank charges to a private borrower pursuant to section 6(c) of the Federal Financing Bank Act of 1973 shall be considered a cash flow to the Government for the purposes of determining the cost of the direct loan pursuant to section 502(5). All such amounts shall be credited to the appropriate financing account. The Bank is authorized to require reimbursement from a Federal agency to cover the administrative expenses of the Bank that are attributable to the direct loans financed for that agency. All such payments by an agency shall be considered administrative expenses subject to section 504(g). This section shall apply to transactions related to direct loan obligations or loan guarantee commitments made on or after October 1, 1991.".

(2) In subsection (c), by striking "supercede" and inserting "supersede".

(3) By amending subsection (d) to read as follows:

"(d) AUTHORIZATION FOR LIQUIDATING ACCOUNTS.—(1) Amounts in liquidating accounts shall be available only for payments resulting from direct loan obligations or loan guarantee commitments made prior to October 1, 1991. These payments shall include—

"(A) interest payments and principal repayments to the Treasury or the Federal Financing Bank for amounts borrowed;

"(B) disbursements of loans;

"(C) default and other guarantee claim payments;

"(D) interest supplement payments;

"(E) payments for the costs of foreclosing, managing, and selling collateral that are capitalized or routinely deducted from the proceeds of sales;

"(F) payments to financing accounts when required for modifications;

"(G) administrative expenses, if—

"(i) amounts credited to the liquidating account would have been available for administrative expenses under a provision of law in effect prior to October 1, 1991; and

"(ii) no direct loan obligation or loan guarantee commitment has been made, or any modification of a direct loan or loan guarantee has been made, since September 30, 1991; and

"(H) such other payments as are necessary for the liquidation of such direct loan obligations and loan guarantee commitments.

"(2) Amounts credited to liquidating accounts in any year shall be available only for payments required in that year. Any unobligated balances in liquidating accounts at the end of a fiscal year shall be transferred to miscellaneous receipts as soon as practicable after the end of the fiscal year.

"(3) If funds in liquidating accounts are insufficient to satisfy obligations and commitments of said accounts, there is hereby provided permanent, indefinite authority to make any payments required to be made on such obligations and commitments.".

SEC. 1613. REPEAL OF TITLE VI.

(a) REPEALER.—Title VI of the Congressional Budget Act of 1974 is repealed.

(b) CONFORMING AMENDMENTS.—Title VI of the table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is repealed.

SEC. 1614. AMENDMENTS TO SECTION 904.

(a) WAIVERS.—Section 904(c) of the Congressional Budget Act of 1974 is amended to read as follows:

"(c) WAIVERS.—

"(1) Sections 305(b)(2), 305(c)(4), 306, 310(d)(2), 313, 904(c), and 904(d) of this Act may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.

"(2) Sections 301(i), 302(c), 302(f), 310(g), 311(a), 312(b), and 312(c) of this Act and sections 258(a)(4)(C), 258A(b)(3)(C)(I), 258B(f)(1), 258B(h)(1), 258(h)(3), 258C(a)(5), and 258C(b)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985 may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.".

(b) APPEALS.—Section 904(d) of the Congressional Budget Act of 1974 is amended to read as follows:

"(d) APPEALS.—

"(1) Appeals in the Senate from the decisions of the Chair relating to any provision of title III or IV or section 1017 shall, except as otherwise provided therein, be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the resolution, concurrent resolution, reconciliation bill, or rescission bill, as the case may be.

"(2) An affirmative vote of three-fifths of the Members, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under sections 305(b)(2), 305(c)(4), 306, 310(d)(2), 313, 904(c), and 904(d) of this Act.

"(3) An affirmative vote of three-fifths of the Members, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under sections 301(i), 302(c), 302(f), 310(g), 311(a), 312(b), and 312(c) of this Act and sections 258(a)(4)(C), 258A(b)(3)(C)(I), 258B(f)(1), 258B(h)(1), 258(h)(3), 258C(a)(5), and 258C(b)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985.".

(c) EXPIRATION OF SUPERMAJORITY VOTING REQUIREMENTS.—Section 904 of the Congressional Budget Act of 1974 is amended by adding at the end the following:

"(e) EXPIRATION OF CERTAIN SUPERMAJORITY VOTING REQUIREMENTS.—Subsections (c)(2) and (d)(3) shall expire on September 30, 2002.".

SEC. 1615. REPEAL OF SECTIONS 905 AND 906.

(a) REPEALER.—Sections 905 and 906 of the Congressional Budget and Impoundment Control Act of 1974 are repealed.

(b) CONFORMING AMENDMENTS.—The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking the items relating to sections 905 and 906.

SEC. 1616. AMENDMENTS TO SECTIONS 1022 AND 1024.

(a) SECTION 1022.—Section 1022(b)(1)(F) of Congressional Budget and Impoundment Control Act of 1974 is amended by striking "section 601" and inserting "section 251(c) the Balanced Budget and Emergency Deficit Control Act of 1985".

(b) SECTION 1024.—Section 1024(a)(1)(B) of Congressional Budget and Impoundment Control Act of 1974 is amended by striking "section 601(a)(2)" and inserting "section 251(c) the Balanced Budget and Emergency Deficit Control Act of 1985".

SEC. 1617. AMENDMENT TO SECTION 1026.

Section 1026(7)(A)(iv) of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking "and" the second place it appears and inserting "or".

Subtitle B—Amendments to the Balanced Budget and Emergency Deficit Control Act of 1985

SEC. 1651. PURPOSE.

This subtitle extends discretionary spending limits and pay-as-you-go requirements.

SEC. 1652. GENERAL STATEMENT AND DEFINITIONS.

(a) GENERAL STATEMENT.—Section 250(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking the first two sentences and inserting the following: "This part provides for the enforcement of a balanced budget by fiscal year 2002 as called for in House Concurrent Resolution 84 (105th Congress, 1st session).".

(b) DEFINITIONS.—Section 250(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) by striking paragraph (4) and inserting the following:

"(4) The term 'category' means defense, nondefense, and violent crime reduction discretionary appropriations as specified in the joint explanatory statement accompanying a conference report on the Balanced Budget Act of 1997. New accounts or activities shall be categorized only after consultation with the committees on Appropriations and the Budget of the House of Representatives and the Senate and such consultation shall include written communication to such committees that affords such committees the opportunity to comment before official action is taken with respect to new accounts or activities.";

(2) by striking paragraph (6) and inserting the following:

"(6) The term 'budgetary resources' means new budget authority, unobligated balances, direct spending authority, and obligation limitations.";

(3) in paragraph (9), by striking "submission of the fiscal year 1992 budget that are not included with a budget submission" and inserting "that budget submission that are not included with that budget submission";

(4) in paragraph (14), by inserting "first 4" before "fiscal years" and by striking "1995" and inserting "2006"; and

(5) by striking paragraphs (17) and (20) and by redesignating paragraphs (18), (19), and (21) as paragraphs (17), (18), and (19), respectively.

SEC. 1653. ENFORCING DISCRETIONARY SPENDING LIMITS.

(a) EXTENSION THROUGH FISCAL YEAR 2002.—Section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) in the side heading of subsection (a), by striking "1991–1998" and inserting "1997–2002";

(2) in subsection (a)(7), by inserting "(excluding Saturdays, Sundays, and legal holidays)" after "days";

(3) in the first sentence of subsection (b)(1), by striking "1992, 1993, 1994, 1995, 1996, 1997 or 1998" and inserting "1997 or any fiscal year thereafter through 2002" and by striking "through 1998" and inserting "through 2002";

(4) in subsection (b)(1), by striking "the following:" and all that follows through "in concepts and definitions" the first place it appears and inserting "the following: the adjustments" and by striking subparagraphs (B) and (C);

(5) in subsection (b)(1), as amended, by striking the last sentence and inserting "Changes in concepts and definitions may only be made after consultation with the committees on Appropriations and the Budget of the House of Representatives and the Senate and such consultation shall include written communication to such committees that affords such committees the opportunity to comment before official action is taken with respect to such changes.";

(6) in subsection (b)(2), by striking "1991, 1992, 1993, 1994, 1995, 1996, 1997, or 1998" and inserting "1997 or any fiscal year thereafter through 2002", by striking "through 1998" and inserting "through 2002", and by striking subparagraphs (A), (B), (C), (E), and (G), and by redesignating subparagraphs (D), (F), and (H) as subparagraphs (A), (B), and (C), respectively;

(7) in subsection (b)(2)(A), as redesignated, by striking "(i)", by striking clause (ii), and by inserting "fiscal" before "years";

(8) in subsection (b)(2)(B), as redesignated, by striking everything after "the adjustment in outlays" and inserting "for a fiscal year is the amount of the excess but not to exceed 0.5 percent of the adjusted discretionary spending limit on outlays for that fiscal year in fiscal year 1997 or any fiscal year thereafter through 2002;

(9) in subsection (b)(2)(C)(i), as redesignated—

(A) in subclause (III) by striking "$245,000,000" and inserting "$290,000,000";

(B) in subclause (IV), by striking "$280,000,000" and inserting "$520,000,000";

(C) in subclause (V), by striking "$317,500,000" and inserting "$520,000,000";

(D) in subclause (VI), by striking "$317,500,000" and inserting "$520,000,000"; and

(E) in subclause (VII), by striking "$317,000,000" and inserting "$520,000,000"; and

(10) by adding at the end of subsection (b)(2) the following:

"(D) ALLOWANCE FOR IMF.—If an appropriations bill or joint resolution is enacted for fiscal year 1998, 1999, 2000, 2001, or 2002 that includes an appropriation with respect to clause (i) or (ii), the adjustment shall be the amount of budget authority in the measure that is the dollar equivalent, in terms of Special Drawing Rights, of—

"(i) an increase in the United States quota as part of the International Monetary Fund Eleventh General Review of Quotas (United States Quota); or

"(ii) any increase in the maximum amount available to the Secretary of the Treasury pursuant to section 17 of the Bretton Woods Agreements Act, as amended from time to time (New Arrangements to Borrow).

"(E) ALLOWANCE FOR INTERNATIONAL ARREARAGES.—

"(i) ADJUSTMENTS.—If an appropriations bill or joint resolution is enacted for fiscal year 1998, 1999 or 2000 that includes an appropriation for arrearages for international organizations, international peacekeeping, and multilateral development banks for that fiscal year, the adjustment shall be the amount of budget authority in such measure and the outlays flowing in all fiscal years from such budget authority.

"(ii) LIMITATIONS.—The total amount of adjustments made pursuant to this subparagraph shall not exceed $1,884,000,000 in budget authority.

"(F) ALLOWANCES FOR TRANSPORTATION.—

"(i) IN GENERAL.—If during the 105th Congress, revenue increases or direct spending reductions creditable under section 252 are enacted for transportation reserve funds as provided in sections 207, 207A, 208, or 209 of House Concurrent Resolution 84 (105th Congress), OMB shall determine the amount of the budget authority adjustment for the applicable program for each fiscal year through 2002.

"(ii) ADJUSTMENTS.—If for fiscal years 1998 through 2002, discretionary appropriations are enacted for a fiscal year that designates funding for the applicable program, the adjustment is the amount of the discretionary budget authority appropriated for such program in such fiscal year and the outlays in all years flowing from such discretionary budget authority, but not to exceed the amount available for such program pursuant to this subparagraph.

"(iii) LIMITATIONS.—(I) Revenue increases and direct spending reductions credited under this subparagraph shall be so designated in statute and shall not be credited under section 252.

"(II) The amount of the budget authority adjustment determined for a fiscal year under clause (ii) shall not exceed the amount of the revenue increase or direct spending reduction credited for a fiscal year under clause (i) and shall meet the terms and conditions of sections 207, 207A, 208, or 209 of House Concurrent Resolution 84 (105th Congress), as applicable.

(b) SHIFTING OF DISCRETIONARY SPENDING LIMITS INTO GRAMM-RUDMAN.—

(1) IN GENERAL.—Section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at the end the following:

"(c) DISCRETIONARY SPENDING LIMIT.—As used in this part, the term 'discretionary spending limit' means—

"(1) with respect to fiscal year 1997, for the discretionary category, the current adjusted amount of new budget authority and outlays;

"(2) with respect to fiscal year 1998—

"(A) for the defense category: $269,000,000,000 in new budget authority and $266,823,000,000 in outlays;

"(B) for the nondefense category: $252,357,000,000 in new budget authority and $282,853,000,000 in outlays; and

"(C) for the violent crime reduction category: $5,500,000,000 in new budget authority and $3,592,000,000 in outlays;

"(3) with respect to fiscal year 1999—

"(A) for the defense category: $271,500,000,000 in new budget authority and $266,518,000,000 in outlays;

"(B) for the nondefense category: $255,699,000,000 in new budget authority and $287,850,000,000 in outlays; and

"(C) for the violent crime reduction category: $5,800,000,000 in new budget authority and $4,953,000,000 in outlays;

"(4) with respect to fiscal year 2000—

"(A) for the discretionary category: $532,693,000,000 in new budget authority and $558,711,000,000 in outlays; and

"(B) for the violent crime reduction category: $4,500,000,000 in new budget authority and $5,554,000,000 in outlays;

"(5) with respect to fiscal year 2001—

"(A) for the discretionary category: $537,677,000,000 in new budget authority and $558,460,000,000 in outlays; and

"(B) for the violent crime reduction category: $4,355,000,000 in new budget authority and $5,936,000,000 in outlays;

"(6) with respect to fiscal year 2002—

"(A) for the discretionary category: $546,619,000,000 in new budget authority and $556,314,000,000 in outlays; and

"(B) for the violent crime reduction category: $4,455,000,000 in new budget authority and $4,485,000,000 in outlays;

as adjusted in strict conformance with subsection (b).".

(2) Transfers into the fund.—On the first day of the following fiscal years, the following amounts shall be transferred from the general fund to the Violent Crime Reduction Trust Fund—

(A) for fiscal year 2001, $4,355,000,000; and

(B) for fiscal year 2002, $4,455,000,000.

(3) Repeal of duplicative provisions.—Sections 201, 202, and 206 of House Concurrent Resolution 84 (105th Congress) are repealed.

SEC. 1654. VIOLENT CRIME REDUCTION TRUST FUND.

(a) Sequestration Regarding Violent Crime Reduction Trust Fund.—Section 251A of the Balanced Budget and Emergency Deficit Control Act of 1985 is repealed.

(b) Conforming Amendment.—Section 310002 of Public Law 103–322 (42 U.S.C. 14212) is repealed.

SEC. 1655. ENFORCING PAY-AS-YOU-GO.

(a) Extension.—Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) by striking subsections (a) and (b) and inserting the following:

"(a) Purpose.—The purpose of this section is to assure that any legislation enacted prior to September 30, 2002, affecting direct spending or receipts that increases the deficit will trigger an offsetting sequestration.

"(b) Sequestration.—

"(1) Timing.—For fiscal years 1998 through 2002, within 15 calendar days after Congress adjourns to end a session and on the same day as a sequestration (if any) under sections 251 and 253, there shall be a sequestration to offset the amount of any net deficit increase in the budget year caused by all direct spending and receipts legislation (after adjusting for any prior sequestration as provided by paragraph (2)) plus any net deficit increase in the prior fiscal year caused by all direct spending and receipts legislation not reflected in the final OMB sequestration report for that year.

"(2) Calculation of deficit increase.—OMB shall calculate the amount of deficit increase, if any, in the budget year by adding—

"(A) all applicable estimates of direct spending and receipts legislation transmitted under subsection (d) applicable to the budget year, other than any amounts included in such estimates resulting from—

"(i) full funding of, and continuation of, the deposit insurance guarantee commitment in effect under current law; and

"(ii) emergency provisions as designated under subsection (e);

"(B) the estimated amount of savings in direct spending programs applicable to the budget year resulting from the prior year's sequestration under this section or section 253, if any (except for any amounts sequestered as a result of any deficit increase in the fiscal year immediately preceding the prior fiscal year), as published in OMB's final sequestration report for that prior year; and

"(C) all applicable estimates of direct spending and receipts legislation transmitted under subsection (d) for the current year that are not reflected in the final OMB sequestration report for that year, other than any amounts included in such estimates resulting from—

"(i) full funding of, and continuation of, the deposit insurance guarantee commitment in effect under current law; and

"(ii) emergency provisions as designated under subsection (e).";

(2) by amending subsection (d) to read as follows:

"(d) Estimates.—

"(1) CBO estimates.—As soon as practicable after Congress completes action on any direct spending or receipts legislation, CBO shall provide an estimate to OMB of the legislation.

"(2) OMB estimates.—Not later than 5 calendar days (excluding Saturdays, Sundays, and legal holidays) after the enactment of any direct spending or receipts legislation, OMB shall transmit a report to the House of Representatives and to the Senate containing—

"(A) the CBO estimate of that legislation;

"(B) an OMB estimate of that legislation using current economic and technical assumptions; and

"(C) an explanation of any difference between the 2 estimates.

"(3) Scope of estimates.—The estimates shall be prepared in conformance with scorekeeping guidelines and shall include the amount of change in outlays or receipts, as the case may be, for the current year (if applicable), the budget year, and each outyear.

"(4) Consultation.—OMB and CBO, after consultation with each other and the Committees on the Budget of the House of Representatives and the Senate, shall—

"(A) determine scorekeeping guidelines; and

"(B) in conformance with such guidelines, prepare estimates under this subsection."; and

(3) in subsection (e), by striking ", for any fiscal year from 1991 through 1998," and by striking "through 1995".

SEC. 1656. REPORTS AND ORDERS.

Section 254 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) by striking subsection (c) and redesignating subsections (d) through (k) as (c) through (j), respectively;

(2) in subsection (c)(2) (as redesignated), by striking "1998" and inserting "2002";

(3)(A) in subsection (f)(2)(A) (as redesignated), by striking "1998" and inserting "2002"; and

(B) in subsection (f)(3) (as redesignated), by striking "through 1998"; and

(4) by striking subsection (h), as redesignated, and redesignating subsection (i), as redesignated, as subsection (h).

SEC. 1657. EXEMPT PROGRAMS AND ACTIVITIES.

(a) Veterans Programs.—Section 255(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended as follows:

(1) In the item relating to Veterans Insurance and Indemnity, strike "Indemnity" and insert "Indemnities".

(2) In the item relating to Veterans' Canteen Service Revolving Fund, strike "Veterans'".

(3) In the item relating to Benefits under chapter 21 of title 38, strike "(36–0137–0–1–702)" and insert "(36–0120–0–1–701)".

(4) In the item relating to Veterans' compensation, strike "Veterans' compensation" and insert "Compensation".

(5) In the item relating to Veterans' pensions, strike "Veterans' pensions" and insert "Pensions".

(6) After the last item, insert the following new items:

"Benefits under chapter 35 of title 38, United States Code, related to educational assistance for survivors and dependents of certain veterans with service-connected disabilities (36–0137–0–1–702);

"Assistance and services under chapter 31 of title 38, United States Code, relating to training and rehabilitation for certain veterans with service-connected disabilities (36–0137–0–1–702);

"Benefits under subchapters I, II, and III of chapter 37 of title 38, United States Code, relating to housing loans for certain veterans and for the spouses and surviving spouses of certain veterans Guaranty and Indemnity Program Account (36–1119–0–1–704);

"Loan Guaranty Program Account (36–1025–0–1–704); and

"Direct Loan Program Account (36–1024–0–1–704).".

(b) Certain Program Bases.—Section 255(f) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended to read as follows:

"(f) Optional Exemption of Military Personnel.—

"(1) The President may, with respect to any military personnel account, exempt from sequestration or provide for a lower uniform percentage reduction than would otherwise apply.

"(2) The President may not use the authority provided by paragraph (1) unless he notifies the Congress of the manner in which such authority will be exercised on or before the date specified in section 254(d) for the budget year.".

(c) Other Programs and Activities.—(1) Section 255(g)(1)(A) of the Balanced Budget Emergency Deficit Control Act of 1985 is amended as follows:

(A) After the first item, insert the following new item:

"Activities financed by voluntary payments to the Government for goods or services to be provided for such payments;".

(B) Strike "Thrift Savings Fund (26–8141–0–7–602);".

(C) In the first item relating to the Bureau of Indian Affairs, insert "Indian land and water claims settlements and" after the comma.

(D) In the second item relating to the Bureau of Indian Affairs, strike "miscellaneous" and ", tribal trust funds" and insert "Miscellaneous" before "trust funds".

(E) Strike "Claims, defense (97–0102–0–1–051);".

(F) In the item relating to Claims, judgments, and relief acts, strike "806" and insert "808".

(G) Strike "Coinage profit fund (20–5811–0–2–803);".

(H) Insert "Compact of Free Association (14–0415–0–1–808);" after the item relating to claims, judgments, and relief acts.

(I) Insert "Conservation Reserve Program (12–2319–0–1–302);" after the item relating to the Compensation of the President.

(J) In the item relating to the Customs Service, strike "852" and insert "806".

(K) In the item relating to the Comptroller of the Currency, insert ", Assessment funds (20–8413–0–8–373)" before the semicolon.

(L) Strike "Director of the Office of Thrift Supervision;".

(M) Strike "Eastern Indian land claims settlement fund (14–2202–0–1–806);".

(N) After the item relating to the Exchange stabilization fund, insert the following new items:

"Farm Credit Administration, Limitation on Administrative Expenses (78–4131–0–3–351);

"Farm Credit System Financial Assistance Corporation, interest payment (20–1850–0–1–908);".

(O) Strike "Federal Deposit Insurance Corporation;".

(P) In the first item relating to the Federal Deposit Insurance Corporation, insert "(51–4064–0–3–373)" before the semicolon.

(Q) In the second item relating to the Federal Deposit Insurance Corporation, insert "(51–4065–0–3–373)" before the semicolon.

(R) In the third item relating to the Federal Deposit Insurance Corporation, insert "(51–4066–0–3–373)" before the semicolon.

(S) In the item relating to the Federal Housing Finance Board, insert "(95–4039–0–3–371)" before the semicolon.

(T) In the item relating to the Federal payment to the railroad retirement account, strike "account" and insert "accounts".

(U) In the item relating to the health professions graduate student loan insurance fund, insert "program account" after "fund" and strike "(Health Education Assistance Loan Program) (75–4305–0–3–553)" and insert "(75–0340–0–1–552)".

(V) In the item relating to Higher education facilities, strike "and insurance".

(W) In the item relating to Internal revenue collections for Puerto Rico, strike "852" and insert "806".

(X) Amend the item relating to the Panama Canal Commission to read as follows:

"Panama Canal Commission, Panama Canal Revolving Fund (95–4061–0–3–403);".

(Y) In the item relating to the Medical facilities guarantee and loan fund, strike "(75–4430–0–3–551)" and insert "(75–9931–0–3–550)".

(Z) In the first item relating to the National Credit Union Administration, insert "operating fund (25–4056–0–3–373)" before the semicolon.

(AA) In the second item relating to the National Credit Union Administration, strike "central" and insert "Central" and insert "(25–4470–0–3–373)" before the semicolon.

(BB) In the third item relating to the National Credit Union Administration, strike "credit" and insert "Credit" and insert "(25–4468–0–3–373)" before the semicolon.

(CC) After the third item relating to the National Credit Union Administration, insert the following new item:

"Office of Thrift Supervision (20–4108–0–3–373);".

(DD) In the item relating to Payments to health care trust funds, strike "572" and insert "571".

(EE) Strike "Compact of Free Association, economic assistance pursuant to Public Law 99–658 (14–0415–0–1–806);".

(FF) In the item relating to Payments to social security trust funds, strike "571" and insert "651".

(GG) Strike "Payments to state and local government fiscal assistance trust fund (20–2111–0–1–851);".

(HH) In the item relating to Payments to the United States territories, strike "852" and insert "806".

(II) Strike "Resolution Funding Corporation;".

(JJ) In the item relating to the Resolution Trust Corporation, insert "Revolving Fund (22–4055–0–3–373)" before the semicolon.

(KK) After the item relating to the Tennessee Valley Authority funds, insert the following new items:

"Thrift Savings Fund;

"United States Enrichment Corporation (95–4054–0–3–271);

"Vaccine Injury Compensation (75–0320–0–1–551);

"Vaccine Injury Compensation Program Trust Fund (20–8175–0–7–551);".

(2) Section 255(g)(1)(B) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended as follows:

(A) Strike "The following budget" and insert "The following Federal retirement and disability".

(B) In the item relating to Black lung benefits, strike "lung benefits" and insert "Lung Disability Trust Fund".

(C) In the item relating to the Court of Federal Claims Court Judges' Retirement Fund, strike "Court of Federal".

(D) In the item relating to Longshoremen's compensation benefits, insert "Special workers compensation expenses," before "Longshoremen's".

(E) In the item relating to Railroad retirement tier II, insert "Industry Pension Fund" after "tier II", and strike "retirement tier II".

(3) Section 255(g)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended as follows:

(A) Strike the following items:

"Agency for International Development, Housing, and other credit guarantee programs (72–4340–0–3–151);

"Agricultural credit insurance fund (12–4140–0–1–351);".

(B) In the item relating to Check forgery, strike "Check" and insert "United States Treasury check".

(C) Strike "Community development grant loan guarantees (86–0162–0–1–451);".

(D) After the item relating to the United States Treasury Check forgery insurance fund, insert the following new item:

"Credit liquidating accounts;".

(E) Strike the following items:

"Credit union share insurance fund (25–4468–0–3–371);

"Economic development revolving fund (13–4406–0–3);

"Export-Import Bank of the United States, Limitation of program activity (83–4027–0–1–155);

"Federal deposit Insurance Corporation (51–8419–0–8–371);

"Federal Housing Administration fund (86–4070–0–3–371);

"Federal ship financing fund (69–4301–0–3–403);

"Federal ship financing fund, fishing vessels (13–4417–0–3–376);

"Government National Mortgage Association, Guarantees of mortgage-backed securities (86–4238–0–3–371);

"Health education loans (75–4307–0–3–553);

"Indian loan guarantee and insurance fund (14–4410–0–3–452);

"Railroad rehabilitation and improvement financing fund (69–4411–0–3–401);

"Rural development insurance fund (12–4155–0–3–452);

"Rural electric and telephone revolving fund (12–4230–8–3–271);

"Rural housing insurance fund (12–4141–0–3–371);

"Small Business Administration, Business loan and investment fund (73–4154–0–3–376);

"Small Business Administration, Lease guarantees revolving fund (73–4157–0–3–376);

"Small Business Administration, Pollution control equipment contract guarantee revolving fund (73–4147–0–3–376);

"Small Business Administration, Surety bond guarantees revolving fund (73–4156–0–3–376);

"Department of Veterans Affairs Loan guaranty revolving fund (36–4025–0–3–704);".

(d) LOW-INCOME PROGRAMS.—Section 255(h) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended as follows:

(1) In the item relating to Aid to families with dependent children, strike "0412" and insert "1501".

(2) Amend the item relating to Child nutrition to read as follows:

"State child nutrition programs (with the exception of special milk programs) (12–3539–0–1–605);".

(3) After the item relating to State child nutrition programs, insert the following new item:

"Commodity supplemental food program (12–3512–0–1–605);".

(4) Amend the item relating to the Women, infants, and children program to read as follows:

"Special supplemental nutrition program for women, infants, and children (WIC) (12–3510–0–1–605).".

(e) IDENTIFICATION OF PROGRAMS.—Section 255(i) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended to read as follows:

"(i) IDENTIFICATION OF PROGRAMS.—For purposes of subsections (b), (g), and (h), each account is identified by the designated budget account identification code number set forth in the Budget of the United States Government 1998–Appendix, and an activity within an account is designated by the name of the activity and the identification code number of the account.".

(f) OPTIONAL EXEMPTION OF MILITARY PERSONNEL.—Section 255(h) of the Balanced Budget and Emergency Deficit Control Act of 1985 is repealed.

SEC. 1658. GENERAL AND SPECIAL SEQUESTRATION RULES.

(a) CONFORMING AMENDMENTS.—

(1) SECTION HEADING.—The section heading of section 256 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking "***EXCEPTIONS, LIMITATIONS, AND SPECIAL RULES***" *and inserting* "***GENERAL AND SPECIAL SEQUESTRATION RULES***".

(2) TABLE OF CONTENTS.—The item relating to section 256 in the table contents set forth in section 250(a) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended to read as follows:

"Sec. 256. General and special sequestration rules.".

(b) AUTOMATIC SPENDING INCREASES.—Section 256(a) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking paragraph (1) and redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(c) GUARANTEED STUDENT LOAN PROGRAM.—Section 256(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended to read as follows:

"(b) STUDENT LOANS.—For all student loans under part B or D of title IV of the Higher Education Act of 1965 made during the period when a sequestration order under section 254 is in effect, origination fees under sections 438(c)(2) and 456(c) of that Act shall be increased by a uniform percentage sufficient to produce the dollar savings in student loan programs (as a result of that sequestration order) required by section 252 or 253, as applicable.".

(d) HEALTH CENTERS.—Section 256(e)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking the dash and all that follows thereafter and inserting "2 percent.".

(e) TREATMENT OF FEDERAL ADMINISTRATIVE EXPENSES.—Section 256(h)(4) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking subparagraphs (D) and (H), by redesignating subparagraphs (E), (F), (G), and (I), as subparagraphs (D), (E), (F), and (G), respectively, and by adding at the end the following new subparagraph:

"(H) Farm Credit Administration.".

(f) COMMODITY CREDIT CORPORATION.—Section 256(j)(5) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended to read as follows:

"(5) DAIRY PROGRAM.—Notwithstanding other provisions of this subsection, as the sole means of achieving any reduction in outlays under the milk price support program, the Secretary of Agriculture shall provide for a reduction to be made in the price received by producers for all milk produced in the United States and marketed by producers for commercial use. That price reduction (measured in cents per hundred weight of milk marketed) shall occur under section 201(d)(2)(A) of the Agricultural Act of 1949 (7 U.S.C. 1446(d)(2)(A)), shall begin on the day any sequestration order is issued under section 254, and shall not exceed the aggregate amount of the reduction in outlays under the milk price support program that otherwise would have been achieved by reducing payments for the purchase of milk or the products of milk under this subsection during the applicable fiscal year.".

(g) EFFECTS OF SEQUESTRATION.—Section 256(k) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended as follows:

(1) in paragraph (1), strike "other than a trust or special fund account" and insert ", except as provided in paragraph (5)" before the period; and

(2) strike paragraph (4), redesignate paragraphs (5) and (6) as paragraphs (4) and (5), respectively, and amend paragraph (5) (as redesignated) to read as follows:

"(5) Budgetary resources sequestered in revolving, trust, and special fund accounts, and offsetting collections sequestered in appropriation accounts shall not be available for obligation during the fiscal year in which the sequestration occurs, but shall be available in subsequent years to the extent otherwise provided in law.".

SEC. 1659. THE BASELINE.

(a) IN GENERAL.—Section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) by striking subsection (b)(2)(A) and inserting the following:

"(A)(i) No program with estimated current year outlays greater than $50,000,000 shall be assumed to expire in the budget year or the outyears except as provided in clause (ii).

"(ii) If legislation eliminates direct spending authority for a program for the budget year or any outyear and such legislation provides that the Federal Government has no legal authority or obligation to incur financial obligations for such program, clause (i) shall not apply and CBO and OMB, as appropriate, may score such legislation with the budget authority and outlay effects resulting from terminating such program as provided in such legislation and the baseline may assume the expiration of that program as provided in such legislation.";

(2) by adding the end of subsection (b)(2) the following new subparagraph:

"(D) If any law expires before the budget year or any outyear, then any program with estimated current year outlays greater than $50,000,000 which operates under that law shall be assumed to continue to operate under that law as in effect immediately before its expiration.";

(3) in subsection (c)(5), in the second sentence, by striking "national product fixed-weight price index" and inserting "domestic product chain-type price index"; and

(4) by striking subsection (e) and inserting the following:

"(e) ASSET SALES.—Amounts realized from the sale of an asset shall not be counted for purposes of sections 251, 252, and 253 against legislation if that sale would result in a financial cost to the Federal Government.".

(b) BUDGETARY TREATMENT OF CERTAIN TRUST FUND OPERATIONS.—Section 710 of the Social Security Act (42 U.S.C. 911) is amended to read as follows:

"BUDGETARY TREATMENT OF TRUST FUND OPERATIONS

"SEC. 710. (a) The receipts and disbursements of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund and the taxes imposed under sections 1401 and 3101 of the Internal Revenue Code of 1986 shall not be included in the totals of the budget of the United States Government as submitted by the President or of the congressional budget and shall be exempt from any general budget limitation imposed by statute on expenditures and net lending (budget outlays) of the United States Government.

"(b) No provision of law enacted after the date of enactment of the Balanced Budget and Emergency Deficit Control Act of 1985 (other than a provision of an appropriation Act that appropriated funds authorized under the Social Security Act as in effect on the date of the enactment of the Balanced Budget and Emergency Deficit control Act of 1985) may provide for payments from the general fund of the Treasury to any Trust Fund specified in paragraph (1) or for payments from any such Trust Fund to the general fund of the Treasury.".

SEC. 1660. TECHNICAL CORRECTION.

Section 258 of the Balanced Budget and Emergency Deficit Control Act of 1985, entitled "Modification of Presidential Order", is repealed.

SEC. 1661. JUDICIAL REVIEW.

Section 274 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended as follows:

(1) Strike "252" or "252(b)" each place it appears and insert "254".

(2) In subsection (d)(1)(A), strike "257(l) to the extent that" and insert "256(a) if", strike the parenthetical phrase, and at the end insert "or".

(3) In subsection (d)(1)(B), strike "new budget" and all that follows through "spending authority" and insert "budgetary resources" and strike "or" after the comma.

(4) Strike subsection (d)(1)(C).

(5) Strike subsection (f) and redesignate subsections (g) and (h) as subsections (f) and (g), respectively.

(6) In subsection (g) (as redesignated), strike "base levels of total revenues and total budget outlays, as" and insert "figures", and "251(a)(2)(B) or (c)(2)," and insert "254".

SEC. 1662. EFFECTIVE DATE.

(a) EXPIRATION.—Section 275(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) by striking "Part C of this title, section" and inserting "Sections 251, 252, 253, 258B, and";

(2) by striking "1995" and inserting "2002"; and

(3) by adding at the end the following new sentence: "The remaining sections of part C of this title shall expire September 30, 2006.".

(b) EXPIRATION.—Section 14002(c)(3) of the Omnibus Budget Reconciliation Act of 1993 is repealed.

SEC. 1663. REDUCTION OF PREEXISTING BALANCES AND EXCLUSION OF EFFECTS OF THIS ACT FROM PAYGO SCORECARD.

Upon the enactment of this Act, the Director of the Office of Management and Budget shall—

(1) reduce any balances of direct spending and receipts legislation for any fiscal year under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 to zero; and

(2) not make any estimates of changes in direct spending outlays and receipts under subsection (d) of such section 252 for any fiscal year resulting from the enactment of this Act or any Act enacted pursuant to section 104 or 105 of House Concurrent Resolution 84 (105th Congress).

EXTENSIONS OF REMARKS

IMMIGRATION

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1997

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, June 25, 1997 into the CONGRESSIONAL RECORD.

A NATION OF IMMIGRANTS

Americans have long taken pride in our heritage as a nation of immigrants. From its beginnings as a nation, America has been a refuge for individuals fleeing persecution and an opportunity for new beginnings. Immigrants built our country. Southern Indiana, for example, was largely settled by a wave of German immigrants in the last century. We are now experiencing a new wave of immigration.

CURRENT SITUATION

The U.S. Immigration and Naturalization Service predicts that in the 1990s the U.S. will receive the largest number of immigrants of any decade in our nation's history: 10 million people, almost twice the population of Indiana. This surpasses the previous record decade for immigration, 1901–1910, which had less than 9 million immigrants.

However, because our population has grown greatly since the early 1900s, the percentage of foreign-born people is actually far less than earlier in this century. Foreign-born people currently represents 9% of the American population, which is half the proportion they made up in 1910. Indiana ranks among states with fewest immigrants. Legal and illegal immigrants are only about 1% of the state's population, with a smaller percentage in Southern Indiana.

THE ISSUE

Views on immigration vary widely. Some believe we should be open to all who seek new opportunities and hope to escape persecution. Others believe that immigration policies must be tempered to prevent newcomers from taking away American jobs. Some support immigration as a source of low-wage labor. Others are concerned that immigration is bringing about a cultural change in America. They often speak of a total moratorium on immigration.

Most Hoosiers favor decreasing legal immigration, and are upset about the presence of illegal immigrants. Nationwide, polls show that 80% of Americans favor reduced immigration levels.

WHO IS COMING

In 1995, the U.S. took in about 720,000 legal immigrants. Most (64%) were admitted because they are immediate family members of U.S. citizens.

The second-largest group (16%) was composed of refugees and asylum-seekers fleeing persecution in their homelands and seeking freedom in our country. A relatively small number (12%) were admitted because they possess special professional skills and high education which would significantly contribute to our economy and society. The smallest category (7%) included people admitted to bring about greater geographic diversity in the immigrant pool. Most were from Western European countries.

ECONOMIC IMPACT

Some Americans believe that immigrants cause a drain on the economy, since they benefit from social services such as welfare, education, and health care. However, there is strong evidence that immigrants overall help the economy. A recent study by the National Academy of Sciences found that the average immigrant contributes $1800 more in taxes each year than he or she receives in benefits. The study said this is because immigrants tend to be highly motivated and experience faster wage growth than native-born Americans.

Immigrants sometimes take jobs away from native-born Americans, with the greatest impact on unskilled jobs in big cities. But it is also the case that immigrants have created many new jobs by spending their wages, establishing businesses, buying services, and paying taxes.

Immigration also helps shore up the Social Security system, adding to the labor force at a time when fewer workers will have to support more retirees. Europe and Japan, which take in fewer immigrants than we do, are straining under the burden of aging populations.

Overall, the best available figures suggest that the government spends more per capita for native-born Americans than for immigrants, roughly $3800 versus $2200 per year. In short, immigrants on average put more into the public coffers and take out less than native-Americans.

SOCIAL IMPACT

Those who wish to reduce immigration often claim that large-scale immigration is associated with crime and social breakdown, especially in big cities with high concentrations of newcomers such as New York, Los Angeles, and Chicago. Yet others point out that immigration seems to bring some social benefits, too. Experts believe that one reason for New York City's economic renaissance and falling crime rate is the influx of hard-working, enterprising immigrants who have helped rebuild formerly run-down neighborhoods.

A more serious problem is the cultural challenge posed by the changing character of immigration. Modern transportation and communications technology has made it easier for today's newcomers—primarily from Latin America and Asia—to keep their old language and culture. In addition, immigration from Mexico is concentrated in the Southwest, which inhibits the full integration of this group into the broader society and culture.

CONCLUSION

It is popular to blame immigrants, both legal and illegal, for many American problems. There is always the temptation for politicians to demonize aliens. My conclusion is that while immigration produces both costs and benefits, on balance it strengthens our nation.

I believe that Congress must pay more attention to immigration. Our responsibility is to set reasonable limits on numbers and rearrange preferences to maximize the positive aspects of immigration. For example, I doubt that it is in our interest to continue to emphasize family preferences to the detriment of highly skilled applicants.

If we fail to reduce the rate of legal immigration, and do not crack down on illegal immigration, the quality of life in this country will decline. But we cannot completely bar the door to newcomers. Immigrants bring vitality, freshness, and diversity that enriches the country. I believe that a well-regulated system of legal immigration is in our national interest.

The motto that appears on our currency—"E Pluribus Unum", out of many, one—reminds us that maintaining the unity of our nation of immigrants is one of America's greatest historic achievements. It will also be one of our greatest challenges in the years ahead.

TRIBUTE TO MICHAEL CARL KERN

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1997

Mr. BARCIA. Mr. Speaker, in addition to providing for their families, volunteers spend long tireless hours helping others while in return they receive no financial compensation. Volunteers selflessly sacrifice their free time to improve the quality of life for others. One of my constituents, Michael Carl Kern, has proven his dedication to his Nation, his State and his community time and time again by devoting his efforts and energy to the citizens of this country. A Vietnam era veteran, he is a long time veterans advocate, an outstanding patriot and an effective community activist.

Mike was born on May 13, 1942, and spent most of his life in my home town of Bay City, MI. He recently moved to Las Vegas, NV, but, his positive influence and efforts are sorely missed by Bay County's residents. Perhaps he is best known and recognized for his 23 years with American Legion Youth Programs.

Taking over in 1989, after the passing of Leon "Leo" Malechi, Mike served as the general manager for 7 years. Mike had big shoes to fill as Leo was awarded the "State Baseball Man of the Year" Mike said. He learned and implemented Leo's teachings effectively and efficiently. Mike was voted the 1997 American Legion Baseball man of the Year for his contribution to the State Legion baseball program.

American Legion baseball was established 77 years ago and is the oldest organized program of its kind. Mike committed countless hours to raising money to ensure its success in Bay County. He faithfully worked to improve Legion baseball in the State of Michigan by serving on the State American Legion Baseball Committee as 10th District Chairman and 4th Zone Chairman.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Not only did Mike work to provide children with baseball opportunities, he also provided many services for his fellow veterans. Serving as post commander at the American Legion Harding-Oak-Craidge Post 18, in Bay City, MI, he was the first person to be elected for three terms. Mike has been a member of the post for 25 years and has held several other influential positions. He is also a valuable member of the Vietnam Veteran Chapter 484, the Loyal Order of Moose Lodge 164, and the Matt Urban AMVETS's Post 46. He also served as the Bay County chairman of the Michigan veterans trust fund.

Mr. Speaker, every volunteer and veteran deserves our thanks for all that they have done for our country. We owe a special thanks to those, like Michael Carl Kern, who served our country in time of war and were able to find a way to serve in peace. He has paved the way for a bright future for our children and should be commended for all of his efforts.

PERSONAL EXPLANATION

HON. CAROLYN C. KILPATRICK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1997

Ms. KILPATRICK. Mr. Speaker, because I was unavoidably detained in the 15th Congressional District of Michigan, I was not present at rollcall vote numbers 225, 226, and 227. Had I been present for these votes, I would have voted "aye" for all of these rollcall votes.

HELP REFORM OPIC

HON. DONALD A. MANZULLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1997

Mr. MANZULLO. Mr. Speaker, it is with a distinct privilege and honor that I introduced legislation yesterday designed to reform the Overseas Private Investment Corp. or OPIC. As we begin the appropriations process this year, one of the most hotly debated issues in future funding for trade promotion agencies, including OPIC. OPIC provides political risk insurance, in addition to project finance, for U.S. investments overseas in developing nations and emerging economies. OPIC's insurance covers one of three broad areas of political risk: currency inconvertibility, expropriation, and political violence. OPIC's project finance provides direct loans of between $2 million and $10 million for small businesses and loan guarantees for businesses of any size, which typically range between $10 to $75 million. This legislation I introduced along with 34 bipartisan original cosponsors retains what is best about OPIC and proposes to make a variety of reforms to make it even a stronger agency.

OPIC makes money for the U.S. Treasury. For 25 years, OPIC has operated at a surplus, accumulating more than $2.7 billion in reserves and has written off only $11 million in losses over that same time period, which is a record no bank or insurance company can match. These reserves are used by the U.S. Treasury to reduce the budget deficit. In 1996, OPIC took in $209 million more than it spent through the collection of user fees from corporations. This amount is considered a net contribution to the 150 or the International Affairs Account. Even if OPIC was forced to put this money in a mattress and made no interest on these reserves, OPIC would still make money for the taxpayer to more than cover its annual operating expense through user fees imposed on corporations. Thus, by definition, OPIC is not corporate welfare.

OPIC also generates U.S. exports and creates U.S. jobs. Where foreign investments start, U.S. exports soon follow. OPIC-backed investments have generated $52.8 billion in U.S. exports and have created more than 225,000 U.S. jobs. In 1996, OPIC-backed projects generated $9.6 billion in U.S. exports and supported approximately 30,000 U.S. jobs. OPIC is specifically mandated in law that no project it supports costs U.S. jobs, and this legislation keeps current law.

OPIC fills a commercial void in the private sector. The international trade playing field is not level. All of our major trade competitors have OPIC-like national agencies providing similar products. OPIC never provides all of the financing required in a venture, which is a risk shared with the private sector. However, in dealing with developing economics, only a government agency can provide political risk insurance, especially over the long term.

For those who advocate that we should sell OPIC to the private sector because it makes money for the Government, privatization will cost the taxpayer money. According to a 1996 study by the respected J.P. Morgan Securities firm, the taxpayer would have to put up between $700 and $900 million to privatize OPIC because the commercial banks and insurance companies will not purchase OPIC's $2.7 billion in reserves dollar for dollar because of the loss of Government backing.

One key benefit of OPIC that cannot be duplicated by the private sector is that OPIC also advances U.S. foreign policy goals. OPIC mobilizes private sector activity in support of overarching U.S. foreign policy aims including free market economic reform and democratization in developing nations and in formerly Communist countries while, at the same time, maintaining stringent environmental, health and safety standards, and supporting internationally recognized worker rights.

There are still some legitimate concerns about OPIC, and this legislation attempts to address the specific issues raised by constructive critics of the agency. First, the legislation authorizes a separate inspector general for OPIC and for the Trade and Development Agency [TDA]. This would provide for very close oversight of these agencies to insure that taxpayer money was fully protected. Even though OPIC has written off only $11 million in losses over 25 years, an IG would be charged to continue this excellent track record to make sure OPIC accounts adequately protect the interests of the taxpayer.

The legislation also includes a safety net provision that ensures any OPIC project commitment of more than $200 million are sent to Congress for a 35-day waiting period prior to final OPIC board action. This provision is similar to policies already in place at the Export-Import Bank of the United States [Ex-Im]. This will give an opportunity for the appropriate congressional committees to become aware of impending action of this magnitude and to be able to comment to the OPIC Board regarding their views on this proposal. While OPIC has never entered into any deal throughout its 25 year history that breached the $200 million mark, there may be such opportunities in the future.

The bill also requires the administration to negotiate with other countries providing OPIC-like services an arrangement that would provide greater transparency, better notification, and maximum common terms for all such financing and insurance programs. Critics of OPIC often forget that other foreign governments have much more aggressive export promotion programs, and this provision, I hope, will bring the opponents and supporters of OPIC together in a common cause to multilaterally reduce foreign government-sponsored investment assistance. To let OPIC expire without addressing the massive export promotion spending by other countries would amount to unilaterally disarmament by the United States in the global trade wars.

Another key feature of the legislation is a requirement that OPIC develop transparent and public participation guidelines as part of its policies to implement obligations relating to protection of the environment. OPIC has been criticized in the past for supplying insufficient information in a timely manner to the pubic about some of its projects. It is already part of OPIC policy that no project it supports can harm the environment. Anyone can see the clear difference United States investment can make in places like Russia where a diamond mine supported by OPIC is, in terms of environmental protection, light years ahead of their Russian-owned counterparts. But this provision would ensure that adequate information is provided to the public and to Congress on the implementation of OPIC's environmental protection obligations.

The bill would also create a 12-member export promotion commission comprised of individuals from both the private and public sectors to examine all Federal Government export promotion programs, including OPIC. The commission would be charged with making recommendations to Congress as to which programs should be retained, terminated, or merged with similar programs in other agencies. There are 19 different Federal agencies that are part of the Trade Promotion Coordinating Committee [TPCC]. Once and for all, we will resolve the question of which export promotion programs are necessary to maintaining our competitiveness and which programs deserve to end.

While this report is being prepared, the TPCC would be charged in this legislation to develop a comprehensive strategic export plan to encourage more small- and medium-sized businesses to export. This has been an issue close to my heart, as chairman of the Small Business Exports Subcommittee, where I have learned after holding 10 hearings on the subject of trade of the large number of small businesses that do not know where to got to take the first steps of finding customers overseas.

This strategic export plan would reorient Federal export promotion agencies to be more proactive in reaching out to small businesses. The plan would also require more coordination of export promotion programs at the Federal, State, and local levels.

The bill also abolishes the separate ceilings on financing and investment insurance, combining the two in one overall ceiling and increase this combined ceiling by a total of $6 billion through 1999. This allows OPIC to manage its resources more effectively and thus does not require the higher ceiling level that was proposed in the previous OPIC reauthorization bill that the House debated last year—H.R. 3759. In addition, a 2-year authorization also allows for more frequent congressional input, as opposed to a 5-year authorization that was contained in H.R. 3759.

Finally, the legislation would enable the administration to appoint the most skillful and able officials and vice chairman of the OPIC Board. Current law requires that the Administrator of the Agency for International Development [AID] and the U.S. Trade Representative [USTR] or the Deputy USTR to serve on the board in these positions. This reform would allow the executive branch to appoint individuals who could best serve OPIC without having their time and attention devoted to their other important duties.

Mr. Speaker, I urge my colleagues to join me and the 34 other Members from both sides of the aisle in helping to reform and reauthorize OPIC by cosponsoring H.R. 2064.

IN HONOR OF FATHER IBRAHIM IBRAHIM

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1997

Mr. KUCINICH. Mr. Speaker, I rise to honor Father Ibrahim of St. Elias Church in Cleveland, OH, on the 10th anniversary of his ordination into the priesthood.

Father Ibrahim was born in a small village in South Lebanon. There, he attended school and entered the Seminary of Saint Savior of the Basilian Salvatorian Order. He took his first religious vows in 1980, then moved to Jiita to start his college education.

In 1984, he was sent to Rome to continue studying philosophy and theology. On November 3, 1985, he took his perpetual vows. After returning to Lebanon to receive his deaconal ordination on July 9, 1987, and his ordination to the priesthood on July 18, 1987, he continued his studies in Rome, specializing in moral theology.

Father Ibrahim overcame the obstacles of war and worked to educate future priests in Lebanon for 2 years as the director of the seminary of his order. In 1991, he was assigned as pastor of St. Elias Church in Cleveland, OH. Since his arrival, he has been appointed protopresbyter for the midwest region for the Diocese of Newton and was awarded the Interfaith Commission Award by Bishop Anthony Pilla.

My fellow colleagues, please join me in recognizing Father Ibrahim in his efforts to promote Christian unity and interreligious dialog. The parishioners of St. Elias and the city of Cleveland are lucky to have such a positive and dynamic force in their midst.

TRIBUTE TO THE LONG ISLAND LADIES OF THE COURT

HON. CAROLYN McCARTHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1997

Mrs. McCARTHY of New York. Mr. Speaker, I rise today to commend the women of the Long Island Ladies of the Court. Recently, this four woman basketball team from Nassau County participated in the U.S. National Senior Olympics in Tucson, AZ. I am pleased to announce that our Long Island team made up of women between 55 and 60 years of age, captured the Silver Medal at the games—a very strong showing in a competition where over 10,500 men and women at least 50 years old from 48 States participated in 20 sports. We are very proud of our seniors and their basketball abilities.

I am a strong believer in sports, team participation and competition. I played basketball as a young girl growing up on Long Island and eventually played for Mineola High School. I experienced what recent studies have demonstrated that participating in team sports is essential for developing self-esteem and social skills in young women. Self-confidence grows with each successful lay-up, jump shot and slam dunk. And for seniors, exercise is a proven benefit—it slows down the aging process and helps people live longer and healthier lives. The Ladies of Long Island's excellent showing in the Senior Games clearly demonstrates that we can all benefit from team sports.

Mr. Speaker, I join today with my fellow residents from Long Island in offering a hearty congratulations to the Long Island Ladies of the Court and all participants at the U.S. National Senior Games. Great job to all of you!

AVIATION TAX PROPOSALS BAD FOR AVIATION

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1997

Mr. LIPINSKI. Mr. Speaker, I rise today to bring to my colleagues' attention the devastating impact this Taxpayer Relief Act will have on one single industry—the aviation industry. It is impossible to balance the budget and give taxpayers billions in tax cuts at the same time without raising revenues. Therefore, through massive tax increases, the Ways and Means Committee has decided to use the airlines, and the airline consumer, as the primary source of revenue. Of the total $48 billion in tax increases over the next five years, $34 billion, or 70 percent, will be raised from the aviation industry.

The airline passenger will now have to pay both a ticket tax and a new per flight segment head tax of $2.00, which will progressively increase each year, yet the passenger will not benefit from the increased revenues. This is because the revenue raised from increased aviation taxes will be used to accomplish other unrelated tax cuts in this package. There is absolutely no relationship between the additional taxes and the programs that these taxes are supposed to support. The additional taxes will not fund new safety and security measures; they will not fund air traffic control modernization efforts; and, they will not fund critical airport improvement projects. In fact, under the budget agreement, federal funding of air traffic control operations and airport development will likely decline over the next five years as these new taxes are increased.

It is important to note that the increased revenues will be paid entirely by the airline passenger. It is the consumer who pays the ticket tax, the head tax, the departure and the arrival tax. However, the cargo waybill tax, which is paid by the profitable cargo airline industry, is simply extended in this tax package. Cargo companies, which fly hundreds of planes domestically and internationally each day at a profit, will not pay a cent more.

Last year, when the aviation excise taxes lapsed, the airline industry and the Congress began to examine how to improve the way the Federal Aviation Administration is financed and how to provide a more reliable funding stream. As the ranking member of the House Subcommittee on Aviation, I decided to take the lead in developing a fair and equitable "user fee" funding mechanism that would more closely align the funding of the FAA to the costs imposed on the system by the airlines. In addition, Congress created the National Civil Aviation Review Commission to study and recommend a new financing system. This Commission, which has a federal budget of $1.2 million, is composed of representatives of all segments of the aviation industry and is chaired by former Chairman of the Committee on Transportation and Infrastructure, Norm Mineta. However, a month before the Commission's expected recommendations, the Ways and Means Committee stepped in and raised aviation revenues without even waiting to hear what the $1.2 million taxpayer financed Commission has to say about aviation revenues and spending. Although I will continue to draft my user fee legislation, and the Commission will continue its important work, this aviation tax proposal will make it extremely difficult to make the necessary changes in the aviation financing system. By raising aviation taxes to offset other tax cuts, this proposal widens the existing gap between aviation revenues and spending in the budget process.

In 1995 and 1996, the airline industry posted record profits. However, this success follows years of economic hardship when the airlines had to operate in the red, cutting service and eliminating jobs. If we take an additional $5 billion from the airlines over the next five years, as we propose to do today, we will completely eliminate their profit margin. We will kill the airlines that are already struggling today and will dash all others' hope for future growth. Aviation is an integral part of our economy. Economic stimulus from aviation-related activities is now estimated to be $700 billion dollars annually and is expected to grow to $900 billion by the end of the century. However, this tax package today will take the air out of the aviation industry. This massive tax increase will once again bring the dark skies of economic hardship over the aviation industry, effectively grounding it.

A TRIBUTE TO RABBI MICHEL TWERSKI

HON. THOMAS M. BARRETT

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1997

Mr. BARRETT of Wisconsin. Mr. Speaker, I pay tribute today to one of Milwaukee's truly outstanding citizens, Rabbi Michel Twerski. On July 6, 1997, Congregation Beth Jehudah will gather with friends from Milwaukee and around the world at Milwaukee's historic Pabst Theater to pay tribute to Rabbi Twerski. I would like to take a moment to reflect on Rabbi Twerski's contributions to Milwaukee, the Chassidic community, and the world of music.

Rabbi Twerski has been an inspirational force in the local and international Chassidic community for many years. He is both a spiritual leader and a renowned composer, whose works have been listened to and enjoyed throughout the world of Jewish music. Indeed, on July 6, the Milwaukee Symphony Orchestra will be giving a concert in celebration of Rabbi Twerski's music.

In addition to his musical accomplishments, Rabbi Twerski has been a leader in his community throughout his lifetime. With the values instilled by his parents, he has reached out to his community to share the teachings of his faith. He led efforts to create an elementary school and Kollel audit learning program in Milwaukee, both of which have been significant to the Orthodox life in the city. Both he and his wife, Rebbetzin Feige Twerski, present programs throughout the world to those who want to learn more about traditional Jewish life and have become known internationally as counselors on difficult personal and religious matters.

Rabbi Twerski not only serves Milwaukee as a religious leader but is a friend, counselor, and teacher to his community and a leader to the Milwaukee community as a whole. It gives me great pleasure to congratulate Rabbi Twerski on his many accomplishments and commend him on his service to Milwaukee and people throughout the world.

IN HONOR OF BISHOP FREDERIC BARAGA

HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1997

Mr. STUPAK. Mr. Speaker, I have the opportunity this weekend to attend an unusual birthday party in my congressional district in Michigan for a very special individual. This month we celebrate the birth of Frederic Baraga, born 200 years ago in a town called Mala vas in what is now the independent nation of Slovenia.

Frederic Baraga was a pioneer who wandered in the wilds of the Great Lakes area in the early 1800's, braving the snows and bitter winters, the swamps, and swarms of insects of Michigan, Wisconsin, and Minnesota.

Frederic Baraga was a teacher; a learned man who mastered Slovenian, English, Latin, German, French, and Italian, he went on to speak the native American Ojibwa language, eventually writing a grammar and an Ojibwa dictionary that is still in use today.

Frederic Baraga was a missionary, whose work was God's work. He left a family that had gained a title of nobility in Europe, taking the vow of poverty and accepting the dangers of a new world to bring the Christian faith to the New World, America.

Frederic Baraga was a man, with the afflictions and failings of a man, but he was unique in his dedication to his mission and to his faith. The dedication of this man, who stood 5 feet, 4 inches tall and referred to himself as "the little missionary," has earned the love and respect of the people of northern Michigan, who are supporting efforts to canonize him a saint in the Catholic Church.

There are many details of his life which have been passed down to us, tales of his falling through thin ice in mid-winter on his religious rounds, stories that paint a picture of a man with a twinkle in his eye and a tendency to break up a long day of work or travel with a midday nap. With these anecdotes we catch a glimpse through the mists of history of a real person, not merely a symbol of an ideal.

Mr. Speaker, we in northern Michigan look at Bishop Frederic Baraga as more than just our native son. A man of Europe, later a man of the native American people of the Great Lakes area, he may finally become a man of the world, whose humility, dedication, commitment to learning, and qualities of character are a model for all of mankind, yesterday, today, and tomorrow.

The nation of Slovenia has honored Bishop Baraga with a commemorative stamp. I have asked the U.S. Postal Service to give new consideration to a similar honor. I know this review process takes time, but I and the supporters of the efforts to honor Bishop Baraga, look forward to the day when we can send our invitations to another birthday party for this very special individual with stamps bearing his visage.

PROVIDING HOPE BY FAITH

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1997

Mr. BARCIA. Mr. Speaker, I rise today to pay tribute to St. Anthony's Church as they celebrate their centennial anniversary. For the past 100 years the church has been the foundation that has allowed the congregation to serve as a bridge to the community, relentlessly providing their unselfish services not only in times of hardship but also in daily life.

St. Anthony's Church was founded in a farming community to bring together friends and neighbors. The church has helped the community by creating programs that assist those in need. One of the most outstanding programs created by the church is the Center for Families. This center provides emotional or marriage counseling, day care, and a playground for their children. Families supporting one another is the key to a flourishing community, and St. Anthony's has provided the assistance that continues to create strong families, who provide an excellent example for the community as they reach out to their fellow neighbors.

Throughout the past 100 years the congregation has been committed to helping those who have nowhere to turn. For over 20 years, St. Anthony's members have organized a food pantry that gives the less fortunate in the community not only food but hope for the future. Since the first plank of the church was nailed, the congregation has been providing assistance through the Emergency Need Program. This program provides the payment of past due electricity bills, rent payments, and heating bills for families who have fallen on hard times.

The congregation of St. Anthony's Church pass along their strong Christian values to future generations by maintaining a K–5 parochial school. The school is dedicated to teaching the Christian principles to students at an early age, so that they will have their faith to guide them through life's many challenges. Once the youth in Fisherville move toward adulthood, St. Anthony's does not abandon them. Baccalaureate, a graduation ceremony, is performed by the parish, so that students have a spiritual blessing to continue to guide them through adulthood.

Mr. Speaker, St. Anthony's Church will strive to provide an invaluable base for the community, so I urge you and your colleagues to join me in celebrating St. Anthony of Pauda's centennial anniversary which truly is a journey in faith.

IN HONOR OF WMZQ

HON. THOMAS M. DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1997

Mr. DAVIS of Virginia. Mr. Speaker, it gives me great pleasure to rise today to pay tribute to one of the top rated radio stations in the Washington area, WMZQ. June 22 marks their 20th anniversary on the air as a country music station, serving the musical and community needs of our region.

On June 22, 1977, WMZQ 98.7 FM signed on the air with the song "Are You Ready for the Country?" Since that time, the Washington metropolitan area has benefited from the talent and commitment of their staff. The Country Music Association [CMA] has honored WMZQ's contribution to country music by naming WMZQ the CMA Station of the Year in 1989. The radio industry has also recognized WMZQ's programming excellence with several Achievement in Radio [AIR] Awards.

WMZQ's staff is intertwined with the Greater Washington community. WMZQ has supported many charitable organizations like the American Heart Association, the March of Dimes, Children's Hospital, the American Red Cross and Toys for Tots through event participation and public affairs programming. WMZQ's loyal listeners' generous response to the Annual St. Jude Children's Research Hospital Radiothon has raised over $2 million in just 5 years. Listener's contributions during the Coats for Kids campaigns has kept thousands of children warm during the winter months. WMZQ's Christmas in April home renovation projects has provided many elderly, low-income and handicapped neighbors with safer living conditions.

On June 22 of this month, the WMZQ staff and 15,000 of their most loyal fans celebrated the radio station's 20th anniversary at the Bull Run Country Jamboree. This year they were proud to host Paul Brantly, LeAnne Rimes, Neil McCoy, and Wynonna. Over the last 7 years this annual event has raised over $600,000 for the Northern Virginia Park Authority. This year, WMZQ general manager, Charlie Ochs, rededicated the efforts of the WMZQ staff to better serve the country music listener and to continue to work to make the Washington area a better place to live.

Mr. Speaker, I know my colleagues join me in celebrating the special anniversary of WMZQ. Not only do they provide the region with good country music, but they have supported our community through many volunteer programs. They have enriched the lives of their listeners, have enhanced the quality of life in our region and have grown to be on the of top rated country stations in the Nation.

PERSONAL EXPLANATION

SPEECH OF

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1997

Mr. CRANE. Mr. Speaker, on rollcall No. 235, on agreeing to the Rohrabacher amendment, had I been present, I would have voted "aye."

ON CHAD CHARLES EDWARD SMITH'S ATTAINMENT OF EAGLE SCOUT

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1997

Mr. KUCINICH. Mr. Speaker, I rise to honor Chad Smith of Bay Village, OH, who will be honored this weekend for his attainment of Eagle Scout.

The attainment of Eagle Scout is a high and rare honor requiring years of dedication to self-improvement, hard work, and the community. Each Eagle Scout must earn 21 merit badges, 12 of which are required, including badges in: lifesaving; first aid; citizenship in the community; citizenship in the nation; citizenship in the world; personal management of time and money; family life; environmental science; and camping.

In addition to acquiring and proving proficiency in those and other skills, an Eagle Scout must hold leadership positions within the troop where he learns to earn the respect and hear the criticism of those he leads.

The Eagle Scout must live by the Scouting Law, which holds that he must be: trustworthy, loyal, brave, helpful, friendly, courteous, kind, obedient, cheerful, thrifty, clean, and reverent.

And the Eagle Scout must complete an Eagle project, which he must plan, finance, and evaluate on his own. It is no wonder that only 2 percent of all boys entering Scouting achieve this rank.

My fellow colleagues, let us recognize and praise Chad for his achievement.

UKRAINIAN CONSTITUTION

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1997

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, today is an important day to Americans of Ukrainian descent, supporters of Ukrainian democracy, and of course, to the Ukrainian people themselves. Today is the first anniversary of the Ukrainian constitution.

Ukraine was one of he 15 republics that declared independence from the former U.S.S.R. After generations of soviet occupation, the people of Ukraine threw off the yoke of bondage and moved an entire nation closer and closer to free-markets and democratic rule.

Like our own Constitution, the Ukrainian constitution is the pillar of law in the country. Its objective is the fulfillment of individual freedom, liberty, and government of the people.

Americans can be proud of Ukraine today, for the role Americans played in Ukrainian independence is significant. Our democracy is one of the most durable in the world. Our Constitution is clearly one of the strongest, and it has inspired more than Americans united in citizenship. It has indeed inspired freedom seekers throughout the world to choose liberty over bondage—to risk their very lives for the prospect of their children' freedom.

The adoption of the Ukrainian constitution on June 28, 1996 was one of the most significant events in Ukraine since its declaration of independence. The Ukrainian constitution is in fact more than a government document, it is a symbol of great progress and hope for all of eastern Europe, in fact for all of the world.

The Ukrainian constitution is proof again that freedom works—that a democratic movement can spring from the midst of totalitarian occupation. The Ukrainian constitution is proof that the captive can become leaders, and the oppressed can build prosperity. The Ukrainian constitution drives the stake of freedom even deeper into the heart of communism, and further dashes the hopes of the radical left, that they might one day reoccupy Ukraine.

Mr. Speaker, the American people should know that in celebration of the first anniversary of the Ukrainian constitution, that Ukrainian officials here in Washington are invoking the name of our first president George Washington. Tonight, His Excellency Yuri Scherbak, Ambassador of Ukraine will be speaking at a special commemoration. At that ceremony, he will open and dedicate the George Washington Memorial Room in the Embassy of Ukraine. The dedication is offered as a gift to the city of Washington and to the American people.

The gesture is also a sign of the strong friendship and partnership between the American people and the people of Ukraine. George Washington, the Father of the American Constitution, the General, the Commander of the Revolution, War, the President, only dreamed of days like these when democracies around the world rise from the clutches of tyranny, just as Washington led Americans to do, 221 years ago, next week.

Ambassador Shcherbak, on today's observance, said, "Today we have to create a new, completely new legal system of independent Ukraine, which main ideology should be the superiority of human rights and international law; implementation of rule of law; absolute respect to private property and its effective protection; orientation to Western legal standards; as well as integration into the Western political, legal and economic space."

Mr. Speaker, as an American of Ukrainian ancestry, I am very proud to celebrate this day with the people of Ukraine. The fall of communism in Eastern Europe is a tribute to the power of free people. In this regard America is proud to stand shoulder to shoulder with Ukraine to keep the torch of freedom burning bright.

Indeed we should heed the words of General Washington especially this day, "Let us therefore animate and encourage each other, and show the whole world that a Freeman, contending for liberty on his own ground, is superior to any slavish mercenary on earth."—George Washington, July 2, 1776.

May the people of Ukraine enjoy the continued blessings of liberty. May God abundantly bless Ukraine and her people with prosperity and health. May Ukraine long serve as a haven for democracy and an example of courage.

Congratulations to the people of Ukraine on the anniversary of your constitution.

TRIBUTE TO ELIZA SIXKILLER PADGETT

HON. STEVE LARGENT

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1997

Mr. LARGENT. Mr. Speaker, I rise today to recognize Eliza Sixkiller Padgett as a full-blood Cherokee Indian. Eliza Sixkiller Padgett was the daughter of Jacob Sixkiller and Winnie Walkingstick Sixkiller, both full-blood Cherokee Indians. Her five brothers and sisters are listed on the roll of the Cherokee Nation as full-blood members. I would like to honor and recognize Eliza Sixkiller Padgett as a full-blood member of the Cherokee Nation.

HONORING EUGENE L. MCCABE, PRESIDENT AND CHIEF EXECUTIVE OFFICER, NORTH GENERAL HOSPITAL

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1997

Mr. TOWNS. Mr. Speaker, I rise today to honor Eugene L. McCabe, a dedicated advocate of social and economic empowerment.

During his tenure as president and chief executive officer of North General Hospital in Harlem, the hospital became a model for primary health care and community development initiatives. A unique aspect of this model is an integrated computer network and innovative financing which Mr. McCabe played a key role in marketing this future delivery system concept.

Prior to joining North General, Mr. McCabe was affiliated with Deleuw Cather/Parsons and Associates. As the firm's regional director, Mr. McCabe directed the agency's New York staff in activities to launch a $2 billion rail transportation joint venture involving seven private firms. Mr. McCabe has over 20 years of experience in management consulting including Booz, Allen & Hamilton, Inc., an international consulting firm.

Mr. McCabe's board memberships and community affiliations parallel his commitment to economic and social progress. He is vice chairman of the Apollo Theater Foundation, the operating entity for the world famous Apollo Theater, vice chairman of the Manhattan Empowerment Zone Development Corporation, member of the Harlem Business Alliance, the National Executive Service Corps [NESC], and other organizations involved in rebuilding the community.

As a Member of Congress, I salute Mr. McCabe as a shining beacon of hope for the community. His tireless efforts have blazed a path for many to follow.

Mr. Speaker, I ask you to join me in saluting Mr. Eugene L. McCabe for his outstanding contributions to the community and to the nation.

HONORING BOB LENT

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1997

Mr. KILDEE. Mr. Speaker, it is an honor to rise before you today to pay tribute to a loyal friend and tireless advocate of America's working class citizens. On June 29, 1997, members and friends of the United Automobile, Aerospace, and Agricultural Implement Workers of America will honor Mr. Bob Lent, as he retires from his position as director of Michigan UAW's region 1 after many dedicated years of service.

It is nearly impossible to imagine the State of Michigan's labor movement without the benefit of the wisdom and leadership of Bob Lent. His is a career that has spanned half a century measured by time, but several lifetimes based on those individuals throughout the State, the country, and the world, who have come into contact with Bob.

Bob Lent's career began in 1949, when at the age of 19 he was hired by Dodge Motor Co. as a spray painter. He later left Dodge for the U.S. Army, serving as a paratrooper from 1951 to 1953. Upon his return to civilian life, Bob found employment with Chrysler and reestablished his association with the UAW. As a member of Local 869, Bob served in a number of capacities, including alternate chief steward, trustee chairman, vice president, and a 4-year tenure as president. Bob was appointed as education representative of region 1B in 1972, and became assistant director in 1982. When region 1 and region 1B merged to form a larger, stronger region 1 in 1983, Bob was elected director, the position he has held to this day.

In addition to his illustrious career with the UAW, Bob has also developed a high degree of respect in the political, educational, and civic arenas as well. He has been a precinct delegate, and serves on Labor Advisory committees at Oakland University in Rochester and Wayne State University in Detroit. He is a life member of the NAACP, serves on the board of directors of the United Way of Pontiac-Oakland County, and the Detroit Area United Foundation.

Mr. Speaker, we in the great State of Michigan are more than proud of our reputation as the automotive capital of the world, having recently celebrated the 100th anniversary of the automobile. Just as we are proud of the product, we are proud and grateful for the men and women who day in and day out work to provide these quality products and bolster our pride. Bob Lent is one of those people. I ask my colleagues to join me in wishing Bob, his wife Earline, and their son, Steven all the best.

PERSONAL EXPLANATION FOR JUNE 20, 1997

HON. GEORGE R. NETHERCUTT, JR.

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1997

Mr. NETHERCUTT. Mr. Speaker, due to prior commitments in my district, I was unable to vote on rollcall votes 219 through 224. Had I been present, I would have voted "aye" on votes 219 and 220, "nay" on vote 221, and "aye" on rollcall votes 222, 223, and 224.

IN MEMORY OF THE VERY REV. STEPHEN HANKAVICH

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1997

Mr. KUCINICH. Mr. Speaker, I rise to honor the memory of the Very Rev. Hankavich who was the pastor of St. Vladimir Ukrainian Orthodox Cathedral in Parma, OH for 37 years.

Very Rev. Hankavich graduated from St. Andrew Ukrainian Orthodox Seminary in Winnipeg, Manitoba, Canada and was ordained in 1950. Hew was first assigned as pastor of Assumption of the Blessed Virgin Mary Ukrainian Orthodox Church in North Hampton, PA, where he remained until his transfer to St. Vladimir 10 years later. He also served as dean of the Penn-Ohio Deanery of the Ukrainian Orthodox Church.

He is survived by his wife of 47 years, Anne; daughters, Mary Ann O'Neill, of Baltimore and Donna Kominko of Independence; five grandchildren; and a brother. His lifetime of accomplishments are evident in his loving family, his parish and the community as a whole. He will be greatly missed by the parishioners of St. Vladimir and by all who knew him.

THE INTRODUCTION OF THE COMMON SENSE CAMPAIGN REFORMS OF 1997

HON. BOB GOODLATTE

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1997

Mr. GOODLATTE. Mr. Speaker, when I arrived in this House back in 1993, I was amazed at how desperately Congress was in need of fundamental reform. While we've come a long way since then, we still have a long way to go. Today, I am continuing the effort I began in 1993 to bring fundamental changes to the way our Federal Government operates by introducing a package of five bills to reform our flawed Federal election laws. These bills have been developed in cooperation with renowned political analyst Larry Sabato, professor of government at the University of Virginia and the coauthor of "Dirty Little Secrets," a brilliant yet scathing indictment of our political system and a blueprint for how we can make the changes that are needed to restore the public's faith in its system of government.

The five bills are as follows: The first would make it illegal to receive or solicit political contributions in the White House, Camp David, or any other official residence or retreat of the President or Vice President. This would address the ambiguity in current law that has led to the controversy surrounding the current administration. The second bill would clarify that House Members cannot pay their congressional staff to work on their reelection campaigns while also on the congressional payroll. The third bill would require the electronic filing of Federal Election Commission reports and expedite the reporting of large contributions to principal campaign committees. The fourth bill would address the problem of push-polling, a practice by which unnamed persons conduct smear campaigns against opponents by providing misleading or false information while conducting a telephone poll. The bill would require the person or group supporting the push poll to identify themselves if the poll uses a sample of over 1,200 people and is conducted during the final 10 days of a campaign.

Finally, the fifth bill would make a number of changes to improve and remove flaws from the motor-voter law enacted in 1993. The bill would require proof of citizenship and/or a Social Security number to register for Federal elections. It would also allow for the removal of certain registrants from the official list of eligible voters. It also permits States to require individuals to produce a photo ID in order to vote in a Federal election. The bill also repeals the provisions of the Voter Registration Act of 1993 that mandate registration by mail. The bill would require a registrant's signature at the time of voting which, if necessary, could eventually be compared to the signature on the registration card. Finally, the bill would repeal the provisions of the act that allows individuals who have recently moved within a county or district to vote at the voting location of either the new or former address.

These bills face an uphill fight in the Congress. But, I believe they represent good ideas which bring real reform to a Federal Government that often remains out of touch and unaccountable to the American families and businesses that we are supposed to be representing. Thank you.

HONORING ILLINOIS LAW ENFORCEMENT MEDAL RECIPIENTS

HON. J. DENNIS HASTERT

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1997

Mr. HASTERT. Mr. Speaker, I rise today to honor the recent recipients of the Illinois Law Enforcement Medal of Honor, for bravery and performance above and beyond the call of duty.

I want to particularly commend one of the recipients of that honor from Illinois Governor, Jim Edgar, an officer from my district, Officer Kevin Bretz of the Batavia, IL, Police Department.

Mr. Speaker, on February 3, 1996, Officer Bretz was involved in the pursuit of a suspect who was attempting to flee in his car. While on foot on the grounds of the Kane County Correctional Complex, Officer Bretz put himself in danger by pulling another officer, Officer Jeff Burton of the Geneva, IL, Police, to safety and out of the path of the oncoming suspect's vehicle. The suspect was arrested a short time later, and has since been sentenced to 12 years in prison, and has reportedly admitted that he would have struck Officer Burton with his car had Officer Bretz not been there to pull Burton to safety.

For his heroic actions on that day, and for putting himself at risk to save a fellow officer, Officer Kevin Bretz deserves to be commended for his actions. I applaud Governor Edgar for his selection of Officer Bretz for the Illinois Law Enforcement Medal of Honor, and I thank him personally for his efforts on behalf of the American people and the citizens of my district.

TRIBUTE TO MAJ. GEN. DAVID A. RICHWINE

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1997

Mr. SKELTON. Mr. Speaker, on July 1, 1997, Maj. Gen. David A. Richwine, U.S. Marine Corps, will retire after 32 years of faithful and dedicated service to his country. It is only fitting that his distinguished service record be brought to the attention of the House of Representatives and the American public.

In June of 1965, Maj. Gen. Richwine was commissioned a second lieutenant in the Marine Corps. He then attended the Basic School at Quantico, Virginia following which, he joined the 3d Battalion, 4th Marines in Vietnam in January of 1966. There he served as platoon commander, company executive officer, commanding officer, and the battalion S–4 officer.

Following Vietnam, and duty as the officer selection officer in Indianapolis, IN, Captain Richwine reported to Williams Air Force Base in Chandler, Arizona to begin his pilot training. He was designated as Naval Aviator in April of 1971.

After tours with FMFAT–201. VT–4. graduation from Amphibious Warfare School, and further tours with FMFA–531, VMFA–232, and VMFA–212, Major Richwine was assigned as Aide-de-Camp to the Commanding General at Headquarters, Fleet Marine Force, Pacific. In 1978 he attended Air Command and Staff College in Montgomery, AL, graduated, and was assigned to MAG–31, in Beaufort, SC.

Beaufort provided a number of assignments for Maj. Gen. Richwine. He served as the assistant group S–4 officer of MAG–31, the executive officer of Headquarters and Maintenance Squadron-31 and the commanding officer of FMFA–251. He then joined MAG–15 in Iwakuni, Japan as the group operations officer and then became the Group Executive Officer.

In Washington, DC, Maj. Gen. Richwine served as the assistant for Special Analyses to the Assistant Under Secretary of Defense for Policy and Resources and then attended the National War College. He was assigned as commanding officer of MCAS Beaufort in 1986.

Returning to Washington, DC, Major General Richwine was assistant head and then head, Aviation Plans, Programs, Doctrine, Joint Matters and Budget Branch. He then was the special assistant, Marine Corps Aide to the Secretary of the Navy. He then was selected as Commander, Marine Corps Bases, Eastern Area, MCAS Cherry Point, NC.

Major General Richwine served his final tour in Washington, DC as the Deputy for Expeditionary Forces Programs, Office of the Assistant Secretary of the Navy for Research, Development and Acquisition, and his final position of Assistant Chief of Staff, Command Control, Communications, Computer and Intelligence (C41), director of Intelligence, Headquarters, U.S. Marine Corps, Washington, DC.

Major General Richwine has earned all of the decorations he wears, among which are a Silver Star, Legion of Merit with a gold star, Purple Heart and a Defense Meritorious Service Medal. He has served his country well, and will continue to do so in the future. He is a fine marine.

A TRIBUTE TO LALO GUERRERO, LEGENDARY MEXICAN-AMERICAN SINGER AND COMPOSER

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1997

Mr. TORRES. Mr. Speaker, I rise today to recognize the legendary Mexican-American singer and composer, Lalo Guerrero, internationally regarded as the "Father of Chicano Music." On Sunday, June 29, 1997, Lalo Guerrero will perform a free concert for the residents of Pico Rivera, in my congressional district. This concert will officially close a month long exhibit, "The Way We Were, Pico Rivera: 1900–1945," sponsored by the Pico Rivera Arts and Cultural Committee and the Pico Rivera Centre for the Arts.

Declared a "National Folk Treasure" in 1980 by the Smithsonian Institution, Lalo Guerrero has received numerous awards and recognitions for his extraordinary career of more than six decades. His career began with the classic "Cancion Mexicana" which he composed as a teenager in his native and beloved Tucson, Arizona. "Cancion Mexicana" remains the unofficial anthem of Mexico.

He has been inducted into the Tejano Hall of Fame and honored with the lifetime achievement awards from the Mexican Cultural Institute, Luis Valdez's Teatro Campesino, and Ricardo Montalban's Nosotros organization. The City of Los Angeles and Palm Springs, California, have declared "Laol Guerrero Day" in honor of his distinguished career. In 1991, he received a National Heritage Fellowship from the National Endowment for the Arts. And in 1995, was nominated for a Grammy for his collaborative work with rock band Los Lobos on a bilingual children's album, "Papa's Dream."

Presented by President Clinton and First Lady Hilary Rodham Clinton in January 1997, Lalo Guerrero received the 1996 National Medal of the Arts at a White House ceremony in recognition for a lifetime of creative achievement. He regards this occasion as the pinnacle of his career.

His extensive music collection has entertained generations and has provided a voice for the Mexican-American community. His songs, known as "corridos," have told of the triumphs and struggles of Mexican-American heroes like Cesar Chavez and Ruben Salazar. His spirited music has brought their stories to international audiences.

Mr. Speaker, on Sunday, June 29, 1997, resident of Pico Rivera will gather to honor this exceptional entertainer. It is with pride that I ask my colleagues to join me in saluting Lalo Guerrero for his extraordinary career as a singer and composer.

HONORING HAZEL N. DUKES, PRESIDENT, NEW YORK STATE CONFERENCE NAACP

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1997

Mr. TOWNS. Mr. Speaker, I rise today to honor Hazel L. Dukes, president of the New York State Conference of NAACP Branches.

Ms. Dukes is a great woman of courage and strength, dedicated to equality for all Americans. As an active champion of the community, Ms. Dukes is known for her unselfish devotion to economic and social justice.

Ms. Duke's tremendous commitment is shown by her involvement in numerous organizations including Delta Sigma Theta; State University of New York, Board of Trustees; Stillman College, Board of Trustees; Phelps Stokes Institute, Board of Trustees; State of New York Martin Luther King Commissions, Board of Directors; and Metro Manhattan Links Chapter, Inc., Executive Committee, to name a few.

As a champion of justice, Ms. Dukes has been the recipient of numerous awards including Academy of Distinction—Adelphi University; Academy of Women Achievers Award—YWCA City of New York; John La Farge Award for Interracial Justice—The Catholic Interracial Council of New York; Distinguished Service Award—The Federation of Negro National Civil Service Organization; Women's Honor Roll—Town of Hempstead; Guy R. Brewer Humanitarian Award—New York State Black and Puerto Rican Caucus.

As a Member of Congress, I salute Ms. Dukes as a shining beacon of hope, and a trailblazer in our community's struggle for justice.

Mr. Speaker, I ask you to join me in saluting Ms. Hazel Dukes for her outstanding contributions to the community and to the nation.

IN HONOR OF EDDIE BLAZONCZYK

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1997

Mr. KUCINICH. Mr. Speaker, I rise to honor Eddie Blazonczyk, whose name is synonymous with polka music.

Eddie Blazonczyk is an innovator, composer, band leader, and virtuoso. Eddie's innovation has been in combining his Polish polka roots with '50's rock'n roll, Cajun flavor, and country flair. The sound, known as Chicago hop or hop style, has reached new audiences around the country.

Eddie has recorded 47 albums since he got his start in 1963. In 1986, Eddie won a Grammy award for his album, "Another Polka Celebration." Ten other albums have been nominated for Grammy awards.

Eddie and his band, the Versatones, have played all over the country. The founding Versatones were: Chet Kowalski and Jerry Chocholek on trumpet, Bob Sendra on drums, Ricj Sendra on accordion, and Jim Bagrowski on clarinet and sax.

Mr. Speaker, Eddie Blazonczyk is a giant among musicians and an ambassador to the world. As Eddie says, "you don't have to be Polish-American, Slovenian-American, Ukranian-American, or German-American. All you've gotta do is have ears!"

INTRODUCTION OF H.R. 1870—YOUNG AMERICAN WORKERS BILL OF RIGHTS

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1997

Mr. LANTOS. Mr. Speaker, several days ago our colleagues in this House rose in support of the Flag Burning Amendment. We voted to protect our flag and all that it stands for in America's past as well as its future. Today, I rise to urge my colleagues in this Congress to consider and adopt legislation that will protect the children who live under that flag.

I welcome the fact that a number of our colleagues have begun to look at the problems American children are facing. Our colleague from Texas, NICK LAMPSON, and our colleague from Alabama, ROBERT E. (BUD) CRAMER, JR., should be recognized for their efforts in establishing the Caucus on Missing and Exploited Children. We also owe particular gratitude for the bipartisan efforts of our colleague from Florida, ILEANA ROS-LEHTINEN, and our colleague from Texas, SHEILA JACKSON-LEE, who have begun to set the agenda for the newly formed Children's Caucus. These two caucuses reflect the concern of Members of Congress and the concern of the American people for our children.

Mr. Speaker, it is within this framework that I am delighted to inform my colleagues that I have introduced H.R. 1870, The Young American Workers' Bill of Rights. I am pleased that our distinguished colleague and my neighbor in California, TOM CAMPBELL, has joined me as the principal cosponsor along with another 30 of our colleagues have joined us in introducing this legislation. This bipartisan bill is an example of the way all of us must work together to make our children's lives safer and more secure as they enter the work force. No bill introduced in the 105th Congress will have greater potential for protecting and helping our nation's young people.

As the former chairman of the House Government Operations Subcommittee on Employment and Housing for several years in previous Congresses, I learned first hand about how exploitation, injuries and death have taken their toll on America's young workers. In hearings on child labor, I heard horror stories about young people losing their lives to deliver pizza within a 30-minute time limit. I heard of others who lost their lives or suffered permanent and crippling injuries because they were using equipment which they were not sufficiently trained or sufficiently experienced to use. Unfortunately, the exploitation of child labor in America, which I found during those hearings of the Employment and Housing Subcommittee, is not a thing of the past. It remains a serious problem, it is a growing problem, and it continues to threaten the welfare and education of American teenagers.

At the same time, however, we recognize the importance of work and the value of the work experience. The Speaker of the House, Mr. GINGRICH, has spoken about the need to encourage the development of a positive work ethnic in this country. I concur. We must do all we can to help our children prepare for their future in the Nation's work force. At the same time, however, we must be certain that our children have safe and secure places to work when they do work as teenagers, and we must be certain that the work experience does not interfere with the education of our young people. Mr. Speaker, it is to address these concerns that we have introduced H.R. 1870.

Mr. Speaker, the first matter that our legislation addresses is the concern for our children's safety. A study covering the period 1992–95 by the Bureau of Labor Statistics reported that during that four year period, 720 young people suffered work-related fatalities. Other studies have concluded that an additional 200,000 young people suffer serious work-related injuries each year.

Several provisions of our legislation are crafted to deal with this serious matter of workplace safety. Our bill specifies that young people may not use or clean certain types of particularly hazardous equipment and many not work in certain hazardous occupations. The bill also specifies that children are not to work late hours, the times when the most serious injuries and fatalities take place. It also establishes new criminal sanctions for willful violations of child labor laws that result in the death or serious injury of a child. Civil penalties would be established for willfull and repeated violators of our child labor laws.

The second concern that our legislation addresses is the problem of work interfering with our children's education. It is essential that we send a message to these young workers that education must be their number one priority. Our legislation makes it clear that excessive work in unsafe environments will no longer be tolerated. The Young American Worker's Bill of Rights will address the needs of children under the age of 18 or those who are eighteen and still a full-time high school student. Students need to spend much of their day in classrooms, libraries and involved in their school's activities. They need to experience young adulthood, not make the quick leap from childhood to adulthood. By entering the world of adults before they are ready, many of these young people become vulnerable to alcohol and drug abuse. They frequently fail to hand in school assignments, if they bother attending school at all.

Today many of our teenagers are working more than many adults who are employed full time. Many are working more than 40 hours per week in addition to attempting to attend school. It is no wonder one of the most common phrases heard by teachers from their students today is, "I am so stressed." Testimony of many experts on education have alerted us to the dangers of too much work. In addition to the substance abuse studies, other studies have been done on the effect too many hours have on the grades our children are getting. A study of students in New Hampshire concludes that there is a direct correlation between grades in English and the number of hours worked. The more hours a student works, the slower the student's grade. Teachers often comment that a job is the reason some students drop out.

In order to assure that education is given proper priority, the legislation establishes limits on the number of hours that children can work when school is in session, and limits late hours on school days. Teenagers attending school would not be employed more than 4 hours per day while school is in session and they would not be permitted to work after 10 p.m. on school nights. The law also has provisions to insure that schools are informed if students are working.

Mr. Speaker, as we enter the next century, we must modernize our Nation's child labor laws. Our legislation amends the Fair Labor Standards Act of 1938 to reflect conditions in today's world. We must remind ourselves that the romantic notion of an after school job of the 50's and 60's is a thing of the past. Some employers have for too long been able to write off the death of a child as merely the cost of doing business as they pay a modest fine. The Young American Worker's Bill of Rights will impose stricter civil as well as criminal penalties for employers who willingly violate the law to assure protection for our young men and women.

Mr. Speaker, I never again want to stand next to parents and listen as they tell of the senseless death of their children. I never again want to listen to the testimony of young workers as they sit before me missing arms or legs because they were asked to operate unsafe equipment or machinery which they were not trained to use. I never want to see the frustration on the faces of teachers who tell me about their students falling asleep in class, failing to hand in assignments, or who just drop out because they cannot keep up both work and school.

Mr. Speaker, I am delighted to announce the support of the National PTA for H.R. 1870, The Young American Workers Bill of Rights. The PTA is celebrating its 100th anniversary this year. It is interesting to note that in their first year of existence they asked the Congress to do something to protect our nation's children in the workplace. It is a sad commentary that today they are still asking us to protect our teenagers. Some 50 other organizations which focus on youth and education have indicated their support for this legislation.

Mr. Speaker, it is time that we took that action. I invite my colleagues to join me and my colleagues to cosponsor this important legislation.

HONORING RUBY MOY, DIRECTOR OF U.S. CIVIL RIGHTS COMMISSION

HON. EARL F. HILLIARD

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1997

Mr. HILLIARD. Mr. Speaker, I stand before you today to congratulate the President for his wise choice of Ms. Ruby Moy as the new staff director of the U.S. Commission on Civil Rights. I am confident she will do a wonderful job in her new position.

Before Ruby Moy was nominated for this position, she was well known for the expertise and acumen of her position as the executive assistant to the Director of the White House Office of Public Liaison, now the Secretary of Labor, the Honorable Alexis Herman. Ruby Moy held this position for 4 years, and was intricately involved in constituency outreach programs and official White House events.

Prior to working for the President, she served as the chief of staff to Congressman Frank Horton of New York from 1973 until 1992. In this capacity, Ruby Moy was very involved in public policy, and the development of legislation.

As the new staff director for the U.S. Commission on Civil Rights, Ruby Moy will bring an understanding and dedication to a position of extreme importance to the minority communities of America. She will be shepherding a program whose purpose is freedom and equality for all. As the vice chairman of the Congressional Black Caucus, I commend President Clinton for his choice of Ruby Moy. I expect her to be one of the finest Directors that the U.S. Commission on Civil Rights has ever had. I also direct her to be an advocate for the least, the last, and the lost of our society. We are depending on her to walk the second mile in this most important position.

THE JONES ACT

HON. JOHN JOSEPH MOAKLEY

OF MASSACHUSSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1997

Mr. MOAKLEY. Mr. Speaker, I rise today to report to my colleagues on the continuing success of House Concurrent Resolution 65, which endorses the Jones Act. As many of you know, the Jones Act requires that waterborne cargo moving between two points in the United States must be transported on American-built, American-owned, American-flagged, and American-crewed vessels.

In just 2 months, 178 Members have cosponsored this important resolution. Most striking is the bipartisan nature of this support. Cosponsors include Democrats and Republicans, liberals and conservatives. Support for the Jones Act cuts across philosophical and partylines. The one thing these cosponsors have in common is an understanding about the important national security, economic, safety and environmental benefits of the act.

The support among the Members of the subcommittees of jurisdiction is particularly strong. Two House Subcommittees have jurisdiction: the Merchant Marine panel of the National Security Committee and the Maritime Transportation Subcommittee of the Transportation and Infrastructure Committee. Of the 19 members of these two panels, 17 have shown their clear commitment to the Jones Act by signing dear colleague letters and opposing changes to the Jones Act.

I am pleased to be the sponsor of House Concurrent Resolution 65 and I am delighted, although not particularly surprised, by its extraordinary bipartisan support and success.

TRIBUTE TO MAYOR JACK EVANS

HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1997

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise today to honor and remember a friend and one of the great mayors of Dallas, Mr. Jack Evans. His vision and drive have made Dallas a great place to live, and it is illustrated by his civic achievements over his lifetime for our city.

Jack Evans served as mayor of Dallas for one term from 1981 to 1983. He is cited by many as a mayor who accomplished a great deal during his short term. He believed in building alliances, creating opportunities and solving problems, and he accomplished this by working with people. Jack Evans truly was a mayor for all of Dallas. He rode with paramedics in ambulances, he helped patrol the streets with police and he picked up trash with sanitation workers. He did this because he wanted a sense of what really made the city work on a day-to-day basis, and it served him well in public service and as a businessman.

Without Jack Evans, there would be no Downtown Dallas Art's District. He saw an area of land next to downtown Dallas and has the forethought to create a thriving area which would allow everyone from the Metroplex to experience the best of arts and entertainment through museums, galleries and city living. Another major accomplishment, while Jack Evans was mayor in the 80's, was his strong push to make sure that businesses invested in southern Dallas. He knew the value of contributing to our community, and how the benefits would be received for many years after the initial investment.

Jack Evans' work ethic and commitment to public service was learned at an early age. As a young man working in his family's east Dallas grocery store, he learned the value of business and used his knowledge to work his way through the grocery business to eventually hold the position of president of the Tom Thumb grocery store chain.

During his years as the chairman of the Dallas Citizens Council, Mr. Evans carried the message of equal opportunity to the corporate world. Also, he was awarded the Henry Cohn Humanitarian Award from the Anti-Defamation League for his unwavering commitment to stamping out bigotry and preserving human rights.

Mr. Speaker, I ask all of my colleagues to rise with me in this tribute and take a moment to remember a great man and a good friend, Mr. Jack Evans, a man who truly exemplifies the best of Dallas.

TRIBUTE TO SUSAN E. GRAHAM

HON. MARTIN FROST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1997

Mr. FROST. Mr. Speaker, I rise today to pay tribute to an extraordinary woman who, over a span of almost three decades, has touched the lives and helped to shape the futures of untold thousands of Texas children. As such, she is representative of a group of largely unsung heroes and heroines, our public school teachers.

Susan E. Graham, of Roquemore Elementary School in Arlington, TX, will retire next month after devoting 28 years of her life to the education of elementary school children. Early in her career she taught various grade levels at several different schools in Texas. Her last eighteen years, however, have been at Roquemore Elementary School, and the last ten of those years were spent teaching and nurturing a lot of very lucky first graders. She was named Teacher of the Year at Roquemore for the 1992–93 school year, and was nominated for the AWARE Foundation Award in 1995.

I've had the personal privilege of visiting Susan's class and witnessing the fruits of her labor in the bright, shining, energetic faces of her children; I have no doubt that the foundation which she gives those children puts them on very solid footing for all future educational endeavors.

For the last 6 or so years, Susan has had the full-time volunteer assistance of her husband, Jay Graham, and her students have been doubly enriched by the dedication of this remarkable couple.

In a few weeks Susan will officially retire. However, it comes as no surprise that she, and Jay, plan to continue doing volunteer work at Roquemore, especially with their HOSTS, mentoring, program. On July 3d it will be my pleasure to visit Susan's class for the last time and talk with her students about our U.S. flag and the meaning of Independence Day. And, I will extend to Susan and Jay my personal gratitude and best wishes for their well-deserved retirement.

IN HONOR OF THE RECIPIENTS OF THE NASA ADMINISTRATOR'S FELLOWSHIP PROGRAM

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1997

Mr. KUCINICH. Mr. Speaker, I rise to honor the accomplishments of the 1997-98 NASA Administrator's Fellows of Cleveland, OH.

Four NASA employees of the Lewis Research Center; Maria E. Perez-Davis, Jon C. Goldsby, Yolanda R. Hicks, and Mark D. Kankam have received this award.

They plan to teach and conduct research at various universities for a period of 6 months to 2 academic years. Their knowledge of NASA programs and real world experience will assist them in the teaching process.

The Fellowship Program is designed to enhance the development of science, mathematics, and engineering faculty at historically black colleges and universities, Hispanic-serving institutions and tribal colleges.

Let us join NASA in acknowledging the efforts and accomplishments of Maria E. Perez-Davis, Jon C. Goldsby, Yolanda R. Hicks, and Mark D. Kankam.

TRIBUTE TO FRANK J. CARROLL

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1997

Ms. DELAURO. Mr. Speaker, on Saturday, June 28, the International Brotherhood of Electrical Workers will honor Frank J. Carroll, Jr. for his recent appointment to the office of International vice president, 2d district, I.B.E.W. I am very pleased to rise today to congratulate my good friend, Frank Carroll.

As a proud member of I.B.E.W. for over 30 years, Frank has dedicated his life to advocating on behalf of workers. I have known and worked with Frank for a number of years and I consider him a great friend. His commitment to working people is extraordinary and his work on behalf of I.B.E.W. is a testament to his deeply held belief in the power of unions to make life better for workers. Frank has spent a lifetime working hard to ensure that union members are guaranteed decent wages, a safe workplace and fair conditions. He has long been a champion of electrical workers, coming from a family with a long history in the profession.

The best example I can offer to illustrate Frank's commitment to protecting workers on the job is his actions after the L'Ambiance Plaza collapse on April 23, 1987. Twenty-eight union members were killed in Bridgeport on that terrible day after substandard building conditions caused the building to collapse. This tragedy placed a national spotlight on the need for strict standards to ensure the safety of workers. In response, Frank played an instrumental role in supporting legislation which would ban the lift-slab construction method used at L'Ambiance Plaza. Frank's testimony was pivotal to passing this legislation and this method of construction is no longer in use. I applaud Frank's efforts on this and other safety issues that are so crucial to our Nation's workers.

Frank is the first person from Connecticut to assume the position of international vice president, 2d district. This new position will provide an opportunity for his experience and wisdom to benefit all I.B.E.W. members throughout New England. I know that he will bring his activism, energy and enthusiasm to this new role and his tenure will be creative and productive.

I am very pleased to join Frank's wife, Patty, and his children, Frank III, Raymond and Amy Lynn in congratulating his on his new appointment. I feel confident that Frank will once again, prove successful as he takes on these new challenges. I wish him all the best.

IN HONOR OF RAPHAEL VITALE FOR DISTINGUISHED AND DEDICATED SERVICE TO HUDSON COUNTY

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1997

Mr. MENENDEZ. Mr. Speaker, I rise today to pay tribute to a special gentleman, Raphael Vitale, who has distinguished himself through his continuous dedication to the residents of my district. Mr. Vitale will be honored by his family and friends on June 29, 1997 at Anthony's Restaurant in his hometown of Hoboken, NJ. Sunday's celebration recognizes his long history of selfless service to his community.

Throughout his long career, Mr. Vitale has been a religious man, a model citizen and devoted family man. He entered the St. Francis Seminary in New York at the age of 17. He later joined the film and production industry as a member of the Spotlight Production Co. in New York. In 1941, he became the production coordinator for Koven's in Dover, NJ where he supervised the production of military equipment for our country's effort in World War II.

Mr. Vitale embarked on his public career in 1959 when he took his first assignment as a park attendant, helping to ensure the safety of his community. In 1961, he assumed the responsibilities of deputy director of health and welfare, and pursued the high safety and health standards of our area's restaurants, hospitals and clinics. In 1963, he started his tenure as Hoboken's director of Public Works, Revenue and Finance. In 1979, Mr. Vitale began serving Hudson County, as its production coordinator. In this position, he was the county troubleshooter for numerous vital issues, particularly budgeting and allocation of public funds.

His 19 years of service to Hoboken and his 9 years to Hudson County are an example of commitment and loyal service. His record stands on its own. He is a firm believer that hard work is the best way to meet the challenges of the future.

Family has always played a major role in Mr. Vitale's life. This year Mr. Vitale's wife, Lina, his three sons, Michael, William and Joseph, and his two stepsons, Michael and Matthew Canarozzi, celebrated his 80th birthday on June 2, 1997. Raphael and Lina are the proud grandparents of nine grandchildren and the great grandparents of one child.

Mr. Vitale epitomizes excellence in community service, and has had a positive impact on many lives. It is an honor and pleasure to have such a remarkable individual residing in my district.

THE 25TH ANNIVERSARY OF TITLE IX

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1997

Ms. PELOSI. Mr. Speaker, I join with my colleagues today in commemorating the 25th anniversary of a civil rights law that has changed the way American girls and women think about themselves and their futures.

Title IX prohibits gender discrimination in education programs. Title IX is not just about access to sports and it is an integral player in gender equity. Greater atheltic opportunity does build leadership and teamwork skills that serve every person throughout his or her life. More women have received higher education in the past 25 years through athletic scholarships. The ratio of high school girls playing sports has gone from 1 in 27 to 1 in 3.

With the recent success of women Olympic athletes and the unveiling of a new professional women's basketball league, we do not lack athletic role models for young girls. Women's participation in collegiate sports has risen from 2 percent in 1972 to 35 percent in 1996. But title IX has also provided more lasting academic results, increasing the participation of girls and women in non-traditional educational and professional environments—math, science, engineering and technology.

Today we celebrate 25 years of women's achievement through sports and education. But we know that the progress we have made is not near enough. Today the National Coalition of Girls and Women in Education ranked the United States with a grade of 'C" in gender equity in education. Enforcement of title IX has been inconsistent at best over the last 25 years All but two states have eliminated or reduced title IX enforcement staff positions, despite the federal law's requirement that each state department of education must have a Title IX designee.

Title IX services provide training for school districts on sexual harassment in schools, identify and address gender bias in classrooms, support programs to infuse women's history into school curriculums. They assist young women in forming a strong identity, receiving support from peers and learning how to interact effectively with others.

Title IX and other programs supportive of girls' education send a clear message to American girls that their education and future is important. As a mother of four adult daughters, I have seen the positive results. We are seeing a generation of young women growing in an environment that does not make them limit themselves by identifying roles or opportunities as "men's" or "women's". Young women today believe than can do anything. And they can. And we have a great repsonsibility to do all that we can to support them in that belief.

TRIBUTE TO AMANDA BUCKNER

HON. ROBERT B. ADERHOLT

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1997

Mr. ADERHOLT. Mr. Speaker, I rise to pay tribute to Miss Amanda Buckner of Gadsden, AL. Miss Buckner won statewide first place honors in the Veterans of Foreign Wars' Voice of Democracy Contest and third place honors in the national contest. I ask unanimous consent to have printed in the RECORD her prize winning script. I am very proud of Miss Buckner's accomplishments, and of the way she represented Alabama in our Nation's capital.

DEMOCRACY ABOVE AND BEYOND

Welcome fans, to the 49th Olympics. You are about to see the relay event. On America's team we have five exceptional runners. The first is George Washington. Next we have Abraham Lincoln. On the third leg is Franklin D. Roosevelt. Ronald Reagan takes the fourth leg. The last leg is a bit different. America has a surprise runner. I will announce his name later. Ladies and Gentlemen, this team should carry democracy above and beyond.

The runners take their marks. One . . . Two . . . Three . . . Go! Washington holds his baton of democracy tight and begins the run. Not only is he running, he is shaping this race for freedom. Washington is setting the pace for democracy with grace, authority, and peace. Earlier in an interview, Washington said he hopes this team prospers, focuses on their goals and sticks together. He wants to show everyone what a wonderful experience freedom can be. And boy has he! Although the older, stronger countries are trying to push him out of the way, he fights on. Washington has carried democracy above and beyond, but now he must pass it along.

Honest Abe takes control. At this point democracy has fallen behind in the race. Slavery and economic unrest seem to be slowing them down. Yes, it looks as if they are at war with themselves. . . Wait, Lincoln refuses to let the injury of ignorance and racial discord tear this team apart. He is holding his own. He is showing the rest of the world that freedom will rise, and democracy will continue above and beyond. Lincoln is brave to continue after such an injury. It looks as if he still has the lead. Ladies and gentlemen, freedom may survive this tragedy after all.

Franklin Delano Roosevelt has the baton now. The crowd has fallen into despair and lost all belief in team USA. But Roosevelt still holds on. Social Security, the Works Project Administration, and many other revolutionary new programs bring this crowd out of the depression. Many are saying Roosevelt is the best runner yet. We got a chance to speak with Roosevelt before he started the race, and he told this reporter that America would not succumb to this trial. Showing his astute leadership he told me, "There is nothing to fear but fear itself." And his dedication will not allow any of his fears to get in the way of his winning this race. FDR fights through all the turmoil and comes ahead. The crowd is on its feet now.

Roosevelt passes the baton to Ronald Reagan. This is a man who stole America's heart with his lopsided grin and his optimism. The crowd has hope for the future now that Reagan has the stick. The American dream is alive and well. Reagan took democracy above and beyond anything we had envisioned. He revitalized the economy and ended the cold war. After Reagan finished his end of the race, he told me the same thing he said in his inaugural address, "We are too great a nation to limit ourselves to small dreams."

Now, the last runner of the race for freedom. Are you wondering who it is?! Well, I'll tell you. The runner of the last leg is . . . you! That's right, it's all of you. America is ahead and thriving, but it all depends on how you run this race. Can you fight past the homeless, past the hatred, past the children who cry for a warm meal? It is up to you to make the difference. If you don't . . . who will?

Run. Run for those who ran before you. Run for those who ache for the chance. If you run this race well, we should enter the 21st century the powerful and thriving country we have always been. All of America's teams have done fine jobs. They have kept this country on the road to greatness. All democracy needs now is a strong runner to bring home the gold. Let's watch and see how you finish this race. Will you win the race for freedom? Will you carry democracy above and beyond? As you stand and hear the anthem they are playing for you, you realize that there are those who will die and never know freedom. Run for them. Run for the country that swells you with pride. Run for peace. And run for freedom. Hold your head high as the flag is raised in your honor. Feel it to the marrow of your soul . . . Run.

TRIBUTE TO MIKE MARSHALL

HON. JOHN N. HOSTETTLER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1997

Mr. HOSTETTLER. Mr. Speaker, I rise today to honor one of my most acccomplished constituents. On July 1, 1997, Mike Marshall of Princeton, IN, will end his term as the president of the U.S. Junior Chamber of Commerce. It is a distinct pleasure for me to join the residents of Gibson County in recognizing Mike Marshall for his endless work in helping to prepare future leaders as well as to bring to the forefront of public debate such issues as the future of Social Security, the fight against teen smoking, and the importance of small business to the future of our country.

Mike Marshall first joined the Junior Chamber of Commerce in 1984 after graduating from Ball State University and moving back to his hometown of Princeton, IN. Since becoming a member of the Princeton Jaycees, Mike has dedicated himself to bettering his community through many worthwhile Jaycee projects such as the Needy Kids Christmas gift giving program, the Annual Princeton Christmas parade, the MDA Pledge Center, the Annual Community Easter Egg Hunt, and other worthwhile projects. His dedication to his community and his organization has led to him holding many distinguished positions in the Junior Chamber of Commerce, including President of the Indiana Jaycees, Chaplain of the U.S. Junior Chamber of Commerce, and culminating in his election last year as President of the U.S. Junior Chamber of Commerce.

As a successful entrepreneur who founded "First Place Trophies & Awards", Mike Marshall has shown that the American dream thrives in small communities around the country. Now, as U.S. Junior Chamber of Commerce President, Mike has been a shining example of what is right with America and its younger generation. Mike Marshall has represented Gibson County, the State of Indiana, and the United States honorably in his travels throughout the world during his year as President of the U.S. Jaycees.

Mr. Speaker, I ask you and all Members to join me in paying tribute to Mike Marshall. He is an exemplary individual who has dedicated his life to making his state, and his country a better place. I applaud Mike Marshall's dedication and wish him continued success in his endeavors.

KUDOS TO KSU

HON. BOB BARR

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1997

Mr. BARR of Georgia. Mr. Speaker, I would like to submit an extension of remarks into the

CONGRESSIONAL RECORD "Kudos to KSU," an article that appeared in the Marietta Daily Journal on June 24, 1997, congratulating Kennesaw State University for its selection of Clarice C. Bagwell as its recipient of an honorary doctorate of humane letters. This article quite accurately reflects the tremendous work that Ms. Bagwell has accomplished over the years, in support of the Georgia and National Parent-Teacher Association [PTA]. I lend my voice to that of this esteemed newspaper in congratulating Ms. Clarice Bagwell on receiving Kennesaw State University's very first honorary degree.

KUDOS TO KSU

We applaud Kennesaw State University administration's choice for its first honorary degree.

KSU's President Betty L. Siegel presented an honorary doctorate of humane letters to Clarice C. Bagwell. A longtime educator, Mrs. Bagwell served as president of the Georgia PTA for three years and on the PTA's national board of directors for six years in the 1960s. Her late husband, Leland Bagwell, taught high school chemistry in Canton before founding American Proteins, now the world's largest producer of poultry by-products. When he died in 1972, Mrs. Bagwell helped their son take charge of the company.

Early this year, American Proteins gave Kennesaw State the largest gift it has ever received—680 acres of land in Bartow County—on behalf of the Bagwell family. KSU subsequently named its College of Education after Leland and Clarice Bagwell.

Mrs. Bagwell not only has given the university monetary gifts, she has volunteered many hours of service as a member of the KSU Foundation Board of Trustees for 15 years, serving on the board's Executive Committee and heading the Special Projects Committee. She maintains a busy schedule as the co-owner and chairman of the board of American Proteins and as a volunteer with scouting organizations and an elementary school in Forsyth County, where she lives today.

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EXPANDING FEHBP TO COVER MEDICARE-ELIGIBLE RETIREES

HON. CLIFF STEARNS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1997

Mr. STEARNS. Mr. Speaker, because the need for expanded health care for military retirees is so important, I am reintroducing my bill to permit Medicare-eligible retired members of the Armed Forces and their Medicare-eligible dependents to enroll in the Federal Employees Health Benefits Program [FEHBP].

We made a commitment to those who chose to serve in defense of our country. Military retirees were promised health care for life. However, there is a catch-22 situation for Medicare-eligible retired military because once they either turn age 65 or qualify for disability treatment, they lose their CHAMPUS benefits. Unfortunately, they are placed last on the priority for treatment at military treatment facilities, and they are prevented from participating in the new TRICARE Program.

This bill is identical to H.R. 3368, which I introduced in the last Congress. I plan to press for passage of this legislation because I believe we must fulfill our commitment to our Nation's military retirees and veterans.

RECOGNIZING SUSANNE STEINMETZ FOR OUTSTANDING SERVICE TO THE RESIDENTS OF CALIFORNIA'S 16TH CONGRESSIONAL DISTRICT

HON. ZOE LOFGREN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1997

Ms. LOFGREN. Mr. Speaker, I rise today to recognize a woman whose record of public service spans over 4 decades. Ms. Susanne E. Steinmetz, a constituent of mine from Gilroy, CA, has devoted over two thirds of her life to working for the city of Gilroy and will be retiring after 45 years of faithful service.

Ms. Steinmetz began her career with the city at age 15, working part-time after school and later, while attending college, she was offered a full-time position with the city at $300 a month. In 1960, Ms. Steinmetz was appointed City Clerk, a position she held until her retirement.

Born and raised in Gilroy, Susanne's dedication to public service was perhaps inevitable. Her family has a long history of service to this small, close-knit community. Her maternal great-great grandfather, Jacob Kiether, was a city trustee before the city was incorporated in 1870, later serving on the city council, and as mayor. Her father, Ben Thomas, served three terms on the city council.

No matter how busy or stressful her workload was, Ms. Steinmetz was always willing to stop and answer questions from the public and co-workers. She is a unique individual who served her community extremely well, and still found the time to raise not one but two sets of twins, Jill and Jayne, age 28, and Tym and Thom, age 25.

Mr. Speaker, I would like to congratulate Susanne Steinmetz on her many years of dedicated public service and invite my colleagues in the U.S. House of Representatives to join me in thanking her and wishing Ms. Steinmetz and her family many years of continued success and happiness.

TRIBUTE TO THE NEEDLES MUSTANGS

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1997

Mr. LEWIS of California. Mr. Speaker, I am proud to bring to your attention, once again, the avid pursuit and spirit of excellence from the young women and men of Needles, CA. I am speaking of the Needles High School Lady 'Stangs softball and Mustang baseball teams. These individuals will be remembered for their talent, hard work, perseverance, and commitment to work as a team. To me, and the proud friends, families, and citizens of Needles, CA, they are winners in every sense of the word.

The Lady 'Stangs who entered their championship tournament undefeated, approached their most worthy opponents with the faces of optimism and true strength. Although their opposition had a very impressive record of 24–4, the young women of Needles answered the challenge by outplaying their competitors in every game. Over the three game tournament the Lady 'Stangs blew out the competition by outscoring them 40 to 3.

A unique feature of this year's team was the winning contributions on all levels. From the new first year head coach and coaching staff, to the outstanding seasoned veteran seniors, the vital energy of the younger teammates, and the enduring support from parents and fans, these women had the winning combination for the State championship.

The city of Needles celebrated not one but two State championships that hot Saturday afternoon. I must mention an equally impressive Mustang baseball team whose battle to take the championship was a true fight to the end.

It was the Mustangs seventh time facing their AA Conference rivals and going into the championship game they each won three. The men had fought hard to pull themselves back from the loser's bracket and become contenders once again for the title. In the second inning of the final game the Mustangs pulled away with a 7 to 0 advantage.

That was the last time they scored.

Their strong opponents capitalized on the men's fatigue and came back in the next five innings to a too close for comfort score of 7 to 6, advantage Needles. These Mustang men, with the support of teammates, friends, families, and fans held off and like the song goes: "For it's one, two, three strikes, you're out at the old ball game." The Mustangs found themselves the 1997 men's baseball State champions.

Mr. Speaker, these young men and women have gone above and beyond to exemplify the spirit of excellence. They played with the fire of champions and never faltered in their quest. Their courage and determination provides an example for all of us to admire and emulate. To all the people who make Needles their home, it was truly a championship year.

FOOD STAMP PROGRAM AND THE 1998 BUDGET AGREEMENT

HON. ROBERT SMITH

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

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Mr. SMITH of Oregon. Mr. Speaker, the Committee on Agriculture reported bipartisan legislation increasing spending in the Food Stamp Program by $1.5 billion over 5 years, in accord with the 1998 budget agreement.

The committee provided a total of $1.1 billion, over 5 years, for food stamp employment and training programs—$680 million in new money—and provided States the authority to grant waivers from the work rule for an additional 75,000 people.

Also, the committee required a maintenance of effort by States, at the request of the administration and committee Democrats. Maintenance of effort was not part of the budget agreement. Therefore, a State, as a condition of receipt of the new employment and training funds, must continue its State funding for employment and training programs.

The administration maintained the committee bill did not meet the 1998 budget agreement. I disagree. Nevertheless, extensive discussions were held with White House and other administration officials.

The administration wants all employment and training funds dedicated to workfare slots, which do not lead to gainful employment but only serve to keep able-bodied 18- to 50-year-old persons eligible for food stamps. They objected to the policy adopted by the committee because they preferred that all of the employment and training funds—as opposed to the 75 percent included in the committee bill—be dedicated to able-bodied 18- to 50-year-old persons with no dependents. Additionally, the administration objected to the inclusion of job search as an allowable activity for use of food stamp employment and training funds.

Therefore two changes were made to the committee bill to address the objections raised by the administration.

First, 80 percent of the total employment and training funds will be used to provide employment and training services to able-bodied 18- to 50-year-old persons.

Second, none of the employment and training funds required to be spent on able-bodied 18- to 50-year-old persons may be used for job search activities.

I recognize that these discussions will continue during our conference with the Senate. It is my hope that the committee will be able to continue its emphasis on flexibility for Governors and employment and training programs that actually result in jobs for able-bodied 18- to 50-year-old persons.

WARTIME VIOLATION OF ITALIAN AMERICAN CIVIL LIBERTIES ACT

HON. RICK LAZIO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1997

Mr. LAZIO of New York. Mr. Speaker, today I am introducing a resolution to draw attention to a seldom remembered episode in America's past. During World War II, shortly after the bombing of Pearl Harbor, thousands of Italian-Americans were deprived of their basic civil liberties. We must acknowledge this terrible tragedy to pay tribute to those who suffered, and to ensure that such a breach of liberties will never happen again.

In 1942, Italians, numbering close to 23 million people, were the largest foreign-born group in the United States. While thousands of Italian-Americans were fighting for our country in Europe and the Pacific, Italian-Americans who had not attained citizenship were deemed enemy aliens. Whole Italian-American communities on the West Coast were evacuated. Shopkeepers, fishermen, and farm workers were ordered to move inland. As a result, families were separated. Jobs, homes, businesses, even some lives were lost. So many Italian-Americans suffered. Yet 50 years later, theirs is a largely untold story.

My resolution calls for the President to acknowledge the injustices suffered by Italian-Americans during World War II. Furthermore, the resolution calls on the Justice Department to publish a report, documenting the specific violations of their basic civil rights during this period. In order to heighten public awareness of these events, this resolution urges Federal agencies, such as the Department of Education and the National Endowment for the Humanities, to sponsor conferences, seminars, and exhibits detailing this chapter of our Nation's history.

Italian-Americans are proud and loyal Americans. The impact of this wartime experience has had a devastating impact on their communities. As we work for equality and justice in America today, we cannot ignore the mistakes of our past. Italian-Americans deserve to have their story told.

TRIBUTE TO MARION KIRBY AND MAC MORRIS

HON. HOWARD COBLE

OF NORTH CAROLINA

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Mr. COBLE. Mr. Speaker, I rise today to recognize and honor two distinguished gentlemen from the Sixth District of North Carolina. Mr. Marion Kirby and Mr. Mac Morris of Greensboro, NC, have dedicated themselves to educating America's youth and to striving for excellence in high school athletics. Coach Morris was head coach of the Page High School Pirates' basketball teams for 25 years and Coach Kirby was head coach of the Pirates' football teams for 23 years.

Mr. Speaker, it is my honor to announce that on September 17, 1997, the football stadium and the gymnasium at Walter Hines Page High School will be named and dedicated after Marion Kirby and Mac Morris, respectively.

Coach Morris won three State basketball championships over 3 decades with Page High School, but more important than these victories is Mr. Morris' genuine concern for his students and players. Mac could always be counted on to push his athletes to work just a little bit harder, and to urge his students to set their goals just a little bit higher. Through his rigorous work ethic, Coach Morris earned the respect of his students, both on the court and in the classroom.

Coach Kirby won four State football championships for the Pirates, and has always set an example for his players and students. Marion always seemed to be a miracle worker. He took teams which seemed to have mediocre talent and somehow turned them into contenders for a State championship. Coach Kirby has always led by example, taught from experience, and listened to the students with genuine concern.

Both of these men are role models in the teaching and coaching communities. These gentlemen have earned the respect of every student who has entered their classrooms, and every athlete who has set foot upon the basketball court or the football field. They have always conducted themselves with the highest integrity and they insisted that their teams played within the rules.

This honor is truly befitting of these two gentlemen. Their dedication to America's youth and their perserverance in striving for excellence are examples to us all. We are certainly proud of Mr. Kirby and Mr. Morris. We thank them for their dedication, and we wish them the best of luck in the future.

TRIBUTE TO ALAN PAUL HASKVITZ—1997 INDUCTEE NATIONAL TEACHERS HALL OF FAME

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Mr. BROWN of California. Mr. Speaker, I rise today to recognize the outstanding achievement of Mr. Alan Paul Haskvitz who will be inducted into the Teacher's Hall of Fame this Saturday, June 28, 1997.

Mr. Haskvitz, a sixth grade teacher at Suzanne Middle School in Walnut, CA, who lives in Alta Loma, CA, has spent a total of 23 years in the classroom. His distinguished career has earned him numerous awards, including Professional Best Teacher, Learning Magazine; Hero in Education, Reader's Digest; the President's Award for Environmental Education; the Christa McAuliffe National Award; and the Outstanding Social Studies Program for Los Angeles County and the State of California.

Mr. Haskvitz has led the children he has taught to a remarkable number of achievements. His students have developed plans to end graffiti in schools and the community, sponsored seeing eye dogs, and created a Feed the Homeless garden that uses all recycle materials and water.

Mr. Haskvitz has made a valuable contribution to the lives of hundreds of students. His teaching and leadership benefit not only the school in which he works, but also the community in which he lives. Both Walnut and Alta Loma benefit from Alan Haskvitz's efforts to energize and mobilize students to embrace learning and give back to their communities. I am proud to represent Mr. Haskvitz in Congress and offer my warmest congratulations on a job, and a career, well done.

CONGRESSIONAL RECORD "Kudos to KSU," an article that appeared in the Marietta Daily Journal on June 24, 1997, congratulating Kennesaw State University for its selection of Clarice C. Bagwell as its recipient of an honorary doctorate of humane letters. This article quite accurately reflects the tremendous work that Ms. Bagwell has accomplished over the years, in support of the Georgia and National Parent-Teacher Association [PTA]. I lend my voice to that of this esteemed newspaper in congratulating Ms. Clarice Bagwell on receiving Kennesaw State University's very first honorary degree.

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CONGRATULATING KAHUKU HIGH SCHOOL'S "WE THE PEOPLE" TEAM

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1997

Mrs. MINK of Hawaii. Mr. Speaker, I rise to offer my warmest congratulations to Kahuku High School on the outstanding performance of their team in the recent "We the People...The Citizen and the Constitution" competition held in Washington, DC, April 26–28, 1997. These students from the Island of Oahu, State of Hawaii, held their own against 50 other competing classes from across the Nation during this annual event, displaying a keen comprehension about the basics of our country's Constitution and its government.

Congratulations to students Melodie Akoi, Marc Allred, Brooke Barnhill, Paul Brewer, Josh Cameron, Jodeen Enesa, Daniel Evans, Akiko Jackson, Hazel Keil, Joshua Lee, Moana Minton, Kupa'a Oleole, Paul Rama, Kristal Williams, Julie Wrathall, and Steven Yuh, and to their teacher Sandra Cashman. It was quite an accomplishment for this group of young people to rise above other teams on the State level and have the opportunity to compete at the national finals in this renowned contest.

I had the pleasure to meet this team when they visited Washington, DC, and found it a pleasure to talk with them about their ideas relating to the Federal Government and the Constitution. I am delighted that these students are thinking about the role that government has in their lives and contemplating ways to fix and improve it, in order to better their own lives.

Congratulations once again, Kahuku High School! Hawaii is proud to have had you as its representative to the "We the People..." competition.

PERSONAL EXPLANATION

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1997

Mr. SCHUMER. Mr. Speaker, I was unable to be in Washington on Monday, June 23d. Had I been here I would have voted for the Dellums-Kasich amendment to reduce funding for the B–2 bomber.

TRIBUTE TO SISTER DOROTHY ANN KELLY

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1997

Mrs. LOWEY. Mr. Speaker, I rise to honor Sister Dorothy Ann Kelly, OSU, who on July 1 will complete 25 years of outstanding service as president of the College of New Rochelle. I am privileged, as the Member of Congress who represents the college, to have worked with Sister Dorothy Ann. I know her to be a widely respected and admired national leader in the areas of higher education and women's issues, who also has found the time to play an active role in community organizations and events.

Innovative, insightful, instrumental—these are merely a few words that can be used to characterize Sr. Dorothy Ann Kelly, who has served as president of the College of New Rochelle for the past 25 years. Under her determined leadership, the college has grown from one school of 800 students in 1972 to four schools with seven campuses and a current student population of over 6,500.

Sr. Dorothy Ann played a vital role in the establishment of three of the college's four schools—the graduate school, now offering programs in art, communication arts, education and human services, the School of New Resources, an international model in adult education, and the School of Nursing, which remains on the cutting edge in preparing nurses to meet today's health care needs. The School of Arts and Sciences, the original unit of the college, still enrolls only women students as it did when founded in 1904.

Throughout her 40-year career in education as associate professor of history, academic dean, acting president, and now president, Sr. Dorothy Ann has demonstrated a deep devotion to providing equal rights and access to education for all, regardless of general or ethnic background. This commitment is particularly evident in the School of New Resources' innovative baccalaureate degree program designed specifically for adults and the college's bold act of bringing the new resources program directly into the community, crossing all perceived barriers of geography and socioeconomic background. The school now maintains seven branch campuses in the New York metropolitan area, including in the South Bronx, Harlem, and Brooklyn.

Sr. Dorothy Ann is no stranger to being the first or only woman to achieve a particular goal or status. In 1995, she was the only women's college president appointed by the President of the United States to be a member of the official U.S. delegation to the United Nations Fourth World Conference on Women, held in Beijing, China. In recognition of her leadership role in independent higher education, in 1994, Sr. Dorothy Ann became the first woman to receive the Henry D. Paley Memorial Award from the National Association of Independent Colleges and Universities [NAICU] and in 1978, Sr. Dorothy Ann became the first woman chair of the New York State Commission on Independent Colleges and Universities.

She currently serves on the boards of the Teachers Insurance and Annuity Association—College Retirement Equities Fund [TIAA—CREF] Community of the Peace People, U.S.A.; The Catholic University of America; the Commission on Higher Education—Middle States Association; the Advisory Board of The National Museum of Women in the Arts; Sound Shore Hospital Medical Center in Westchester County, NY; and The Ursuline School in New Rochelle, NY.

For these, and many other reasons, Sister Dorothy Ann Kelly truly deserves our thanks and congratulations, as she moves on to the newly created position of chancellor of the College of New Rochelle.

TRIBUTE TO THE MEN OF COMPANY "B"

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1997

Mr. VISCLOSKY. Mr. Speaker, it is my distinct honor to recognize Carl B. Stankovic and the men of the Eighth Armored Division Association. These brave men served in Company "B" of the 78th Medical Battalion during World War II.

The men of Company "B" will be celebrating their 48th Annual Convention Reunion in King of Prussia, PA. Along with their families, they will be engaging in a week of festivities, taking them through the Fourth of July weekend. The 78th Medical Battalion acquired the reputation for excellence in their assistance and treatment of the wounded during World War II. The battalion is proud that not one life was lost while tending to the injured and evacuating them from the front lines.

This unique group of veterans should take pride in their versatility at having been able to transfer their successes from country-to-country, as they traveled through England, France, Belgium, Holland, Germany, and Czechoslovakia. They coined themselves "The Thundering Herd," which undoubtedly refers to their unfaltering strength while traversing vast country sides.

The great sacrifices made by those who served in World War II have resulted in the freedom and prosperity of our country and in countries around the world. The responsibility rests within each of us to build upon the valiant efforts of these soldiers, so that the United States and the world will be a more free and prosperous place. To properly honor the heroism of our troops, we must make the most of our freedom secured by their efforts.

We will be forever indebted to our veterans and their families for the sacrifices they made for our freedom. Mr. Speaker, I ask you and my colleagues to join me in saluting the men of the 78th Medical Battalion, Company "B" as they observe the 48th anniversary of their battles for freedom.

DISAPPROVAL OF MOST-FAVORED-NATION TREATMENT FOR CHINA

SPEECH OF

HON. WILLIAM D. DELAHUNT

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1997

Mr. DELAHUNT. Mr. Speaker, this vote is about many things. Human rights. Global security. Free—and fair—trade. But most importantly, it's about American credibility.

Yesterday, a bill was on the calendar to prohibit financial transactions with terrorist nations like Iran, Libya, and Syria. It would have passed without debate.

How ironic. China has provided Iran with advanced missile and chemical weapons technology. Sent missile-related components to Syria. And sold Libya materials to produce nuclear weapons.

I suggest we have a credibility problem.

And what of human rights? Last year Congress enacted the Helms-Burton Act to tighten the screws on the Castro government. Why? Because we decry the human rights abuses perpetrated by the Castro regime. Some of our staunchest allies threatened economic reprisals if this law were implemented. But that didn't stop us.

Yet when it comes to China, we ignore our own State Department report that the human rights situation actually got worse in 1996.

I suggest we have a credibility problem.

Then, of course, there's trade. We rant and rave about the unfair trade practices of the Japanese. Yet, to quote from Sunday's Los Angeles Times, "China has developed a labyrinth of tariff and non-tariff barriers against United States goods and services that would make the Japanese blush."

That's why the Wall Street Journal reported this week that our trade deficit with China will soon surpass our deficit with Japan. Our trade relationship with China means a net loss of thousands of American jobs, and a projected deficit of fifty billion dollars this year.

And we complain about the Japanese.

I suggest we have a credibility problem.

In fact, I submit that this vote is fundamentally about American credibility. Whether our policies will be consistent with our principles: On human rights. Global security. Free and fair trade.

If, in fact, these are our principles, then we cannot demand compliance from the rest of the world and set a different standard for China. Vote yes on the resolution.

WARTIME VIOLATION OF ITALIAN-AMERICAN CIVIL LIBERTIES ACT

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1997

Mr. ENGEL. Mr. Speaker, I rise today with my colleague from New York, Congressman LAZIO, to introduce a bill that calls on the President, on behalf of the United States Government, to formally acknowledge that the civil liberties of Italian-Americans were violated during World War II.

In 1994, the American Italian Historical Association released a historical document entitled "Una Storia Segreta," (A Secret History) that recounts the lives of Italian-Americans from 1939 to 1945. Many of its findings are disturbing. For example, on December 7, 1941, Federal agents, without regard for the basic constitutional right of due process, detained hundreds of Italian-Americans, classified them as "dangerous aliens" and shipped them to internment camps. By 1942, all Italian-Americans were forbidden to travel beyond a 5-mile radius of home and required to carry a photo ID. What was their crime? Suspicion that they might be dangerous in time of war because they were of Italian ancestry.

Our Government owes it to the Italian-American community to heighten public awareness of this unfortunate chapter in our Nation's history. This story needs to be told in order to acknowledge that these events happened, to remember those whose lives were unjustly disrupted and whose freedoms were violated, and to help repair the damage to the Italian-American community. This legislation calls for the formation of an advisory committee to assist in the compilation of relevant information and urges the President and Congress to provide direct financial support for the education of the American public through such initiatives as the production of a film documentary.

Most importantly, this bill requests the Department of Justice to prepare and publish a report detailing the United States Government's role in this tragic episode. The purpose of this report would be to compile facts and figures associated with the Italian-American community during the early 1940's including names of all Italian-Americans who were forced into custodial detention, prevented from working or arrested for curfew or other minor violations, and those prevented from working. Furthermore, the report would illustrate our Government's unfortunate policies and practices during this period, including an examination of the Government's apparent denial and disregard of due process and adequate legal protection to a large segment of its citizenry.

Mr. Speaker, our legislation calls upon the President to formally acknowledge our Government's systemic denial of basic human rights and freedoms to Italian-Americans. By bringing to light this unfortunate episode we help to ensure that similar injustices and violations of civil liberties do not occur in the future.

Mr. Speaker, I have attached the opening remarks by Hon. Dominic R. Massaro, Justice of the Supreme Court of New York, during the opening ceremony of the Storia Segreta exhibit in New York. His remarks accurately portray the injustices done to the Italian-Americans during World War II. I ask you to read the Honorable Massaro's statement and urge you to cosponsor this important piece of legislation.

NOVEMBER 6, 1995: OPENING REMARKS BY HON. DOMINIC R. MASSARO, JUSTICE OF THE SUPREME COURT OF NEW YORK, OPENING CEREMONY, "UNA STORIA SEGRETA: WHEN ITALIAN AMERICANS WERE 'ENEMY ALIENS,'" GRADUATE SCHOOL AND UNIVERSITY CENTER, CITY UNIVERSITY OF NEW YORK [CUNY], NEW YORK, N.Y.

Dr. Scelsa, director of the Calandra Institute, our distinguished Consul General in New York, Minister Mistretta, the Governor's representative, Ms. Massimo-Berns, President Horowitz and Provost Zadorian of CUNY, our Curator Ms. Scherini, friends.

We are gathered to pay tribute to those who have suffered injustice, and to recognize that our community, in many ways, continues to suffer because of their plight. To Martini Battistessa, age 65, who threw himself in front of a passing railroad train. To Giuseppe Micheli, age 57, who cut his throat with a butcher knife. To Giovanni Sanguenetti, age 62, who hanged himself. To Stefano Terranova, age 65, who leaped to his death from a three story building. Terranova left a chilling note: "I believe myself to be good, but find myself deceived. I don't know why." The "why?" reverberates even today. Each man, by Executive Order of the President of the United States, had been declared an "enemy alien"; and directed by the Department of Justice to evacuate his California home.

Few readers of morning newspapers that February in 1942 probably paid much attention to the scant reportage of these last desperate acts, dwarfed as they were by news of global warfare. But these four deaths—in Richmond, Vallejo, Stockton and San Francisco—incidental as they might have seemed in the rush of momentous events in the early months of World War II, were nonetheless important pieces in a larger mosaic of an American tragedy.

"Una Storia Segreta: When Italian Americans Were 'Enemy Aliens'" memorializes that tragedy. I first viewed this exhibit in Sacramento with the lawyer, Bill Cerruti, who has done so much to make these long-buried events find their rightful place as historical reality. It is a bold exhibit, as well as a strong refusal by Americans of Italian descent to keep silent about a largely unknown story of arrest, relocation and internment during World War II. It is a story that has remained hidden for a half century because of the silence first imposed by Government, then adopted as a protective cover of shame by those scarred. The exhibit documents and records a painful episode of the Italian experience in America. It is a moving portrayal of the enormity of human deprivation and suffering brought about by Government efforts that violated basic civil rights, efforts motivated largely by ethnic bias, wartime hysteria and a failure of political leadership.

Most Americans know about the internment of Japanese Americans during the Second World War, but few, even in our community, are aware that the Federal Government, also without adequate security reasons, restricted the freedom of 600,000 Italians, legal residents of the United States for decades, many of whom had lived here since the turn of the century and, in fact, were also American citizens.

At the time World War II broke out in 1941, Americans of Italian descent were the largest immigrant group residing in the United States. In addition to the 600,000 foreign-born, millions more were American born. They resided thoughout the country. That more Italian Americans were affected by wartime restrictions than Japanese Americans is not of the moment, for injustice can never be quantified; each instance is absolute.

I am pleased to see that the Order Sons of Italy in America's Commission for Social Justice is a co-sponsor of this noteworthy effort. For it was late in the night of December 7, 1941, a day that will indeed live in infamy, and only hours after the bombing at Pearl Harbor, that Filippo Molinari, a founding member of the Order in San Francisco, was confronted at home by three policemen. He was arrested on unspecified charges, detained at the Santa Clara County jail, and thereafter shipped to a detention center in far off Fort Missoula, Montana.

And while it was the Order that later was to galvanize Italian American opposition and political clout, first on the East Coast and then throughout the nation that eventually would end the hateful "enemy alien" status on Columbus Day, 1942, Molinari was not alone on that fateful night. Within 72 hours of war, thousands of community leaders, newspaper editors and teachers of the language were similarly arrested; and during the course of the year, Government edicts would be directed nationwide at all those of Italian ancestry. Italian language schools were closed; Italian American organizations were harrassed; Italian American meetings became suspect. Curfews, residence restrictions and travel curtailments were put in place; searches and seizures of personal property were conducted without the color of law—not to speak of the paranoia, bigotry and military policy that conspired on the West Coast to arrest, relocate and intern some 10,000 of our people. And in community after community across the nation, Italian immigrants were required to register and carry identification cards.

Archibald McLeisch, the poet, tells us that "America was promise." "America" is imprecise as a descriptive geographical term, standing neither for a particular country nor a clearly defined land mass. But it perfectly defines a state of expectation. And this expectation, this promise has always equated with fundamental rights. We were the first people to found a nation on the basis of rights, and individual rights are the foundation of the American identity. No society recognizes a greater range of individual rights entitled to fulfillment under its laws than the United States. Even our failures as a nation are measured in terms of rights. The Declaration of Independence offered the promise of a Government based on rights, and the Constitution not only enumerated them, but guaranteed them as "inalienable," pre-existing rights anterior to and superior to the state.

Yet these inalienable rights were violated with impunity in the early days of World War II, on the flimsiest of accusation, without any finding of wrongdoing or basis in fact. It would be correct to say that the crime was merely being of Italian ancestry. This on the heels of a zenophobic, then existing national origins quota system that had discriminatorily sought to exclude our grandparents as immigrants for two previous decades.

A powerful message was sent and received in Italian American communities nationwide: Italian language and culture, and those who prompted either or both, were not desirable, and represented an inimical danger to the American way. The language was silenced; the culture was suppressed. And the effects remain: the decimation of great national organizations, the loss of Italian language facility by succeeding generations, the cultural amnesia of many Italian Americans, the super-patriotism of many others.

Thousands were forced from their homes, denied the opportunity to pursue their livelihoods, their businesses closed, their assets dissipated, their lives disrupted. And the arrests, the relocations, the internments—these were accomplished without due process of law, notwithstanding the fact that not a single instance was ever documented of an individual of Italian ancestry aiding the enemy, committing an act of espionage, sabotage or fifth column activity. On the contrary, upwards of one half million Italian American men-at-arms, the greatest number of any American ethnic group, were at that moment battling on two war fronts to preserve liberty and justice for all. Clearly, Government claims of military necessity at the time have since been demolished by a generation of scholars; indeed, by the graphic illustrations presented by this exhibit.

The conduct of the Federal Government toward persons who had done no wrong is unquestionably one of the most shameful in the history of our Republic. This grave and fundamental injustice of treatment of those of Italian ancestry has yet to be acknowledged; in point of fact, it is truly unknown or purposely ignored, or even worse, flatly denied. The exhibit informs the public about this wartime tragedy. Not only does it pay tribute to those who were victimized and stigmatized, but it testifies in significant respects to the contemporary state of Italian Americana. Most important, perhaps, it contributes to a better understanding of how the venom of intolerance can give rise to the maelstrom of persecution to make for such events; and how respect for the rule of law can prevent such occurrences vis-a-vis any minority group, regardless of race, creed, color or national origin.

The American Italian Historical Society is to be commended for organizing a presentation that sheds new light on an historically and socially relevant experience, as is the Calandra Institute of this great University for bringing it to the spiritual capital of the Italian in America—the City of New York. I thank both these distinguished academic entities for having invited me to open it here today.

DISAPPROVAL OF MOST-FAVORED-NATION TREATMENT FOR CHINA

SPEECH OF

HON. GEORGE R. NETHERCUTT, JR.

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1997

Mr. NETHERCUTT. Mr. Speaker, I want to express my support for normal trade relations with China, which is our best option for promoting long-term progress in Chinese society. I am deeply concerned by the efforts of the Chinese Government to interfere with the basic human rights of Chinese citizens, including freedom of faith and religious practice, freedom of speech and thought and the freedom to assemble and petition the government without being crushed by tanks. I believe that every government, every leader has the duty to respect basic human rights, and that no government may use tradition as an excuse for oppressing its own citizens.

I support MFN status for China because I deplore the repressive tactics of the Chinese Government. I believe in the appeal of the United States and the values of freedom this country represents. Engagement with China means a continuation of the trade, investment and personal interaction which breaks down the tyranny of the Chinese state. While engagement has not improved human rights conditions in China as rapidly as any of us would like, I believe interaction with the world economy and American values will help the Chinese people create the conditions necessary for social change. By increasing access to phones, faxes, the Internet and Western media, American engagement has helped the Chinese people circumvent government controls over information. By spurring stupendous growth in China's coastal regions, trade has helped break down government controls over migration from province to province. By introducing western ideas, engagement has spurred a growing "home-church" movement of Chinese who refuse to entrust their souls to state-sanctioned, state-controlled churches. This is real progress.

Severing normal trade relations with China would disrupt the process of social change. This action would hurt the people we really want to help, like the citizens of Hong Kong and the Chinese who now owe their livelihood not to the mercy of the Chinese state but to their own contribution to the free market system. Now is not the time to walk away from our ability to promote change.

Severing normal trade relations with China would also harm American workers, American unions and American businesses. I have recently spoken with aerospace workers and union leaders who disagree with the anti-trade position of their national organizations and who support continued trade with China. They fear that, if Congress chooses to raise trade barriers, American businesses will lose the China airplane market to Airbus and thousands of good, hard-working Americans will lose their jobs without any real change in Chinese policy. The union workers' arguments are persuasive. In 1980, the farmers of Washington State were devastated by a futile attempt to change Soviet policy with a unilateral grain embargo. I hope we will not be destructive and short-sighted as we once again contemplate unilateral trade sanctions. We owe it to the workers and farmers of Washington State and this Nation to learn from the painful, embarrassing experience of 1980 and refrain from adopting more unilateral sanctions.

Finally, severing normal trade relations with China would impose costs on American consumers. The Congressional Research Service has recently estimated that denying China MFN status would cost American families 27 to 29 billion dollars in higher prices. This resolution of disapproval represents a hidden tax on my constituents, fewer jobs for my State and, most important, less freedom for the people of China. I support normal trade relations with China and I hope to work with my colleagues to develop constructive policies which expand freedom in China and convince China's leaders to change their behavior.

REGARDING COST OF GOVERNMENT DAY

SPEECH OF

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1997

Mr. SCHAFFER of Colorado. Mr. Speaker, it's ironic, the proximity of the Fourth of July and Cost of Government Day. Of course the national celebration recalling our independence is a day to ponder the blessings of liberty.

Cost of Government Day, however, is quite the opposite, a dramatic reminder of just how much freedom Americans have relinquished to the excesses of big government and profligate spending. This year, Cost of Government Day falls on July 3d.

A somber event, Cost of Government Day occurs later and later each year. The date is determined by calculating the number of days Americans must work in order to earn enough money to pay for the government. This year, it will take 183 days of work to afford to pay for Federal, State, and local taxes and regulatory costs.

The total cost of government in 1997 is estimated at $3.52 trillion, up from $3.38 trillion in 1996. This expense translates into a burden averaging $13,500.00 for every man, woman and child.

If that's not enough to make your sparkler fizzle, think about this: Even with the celebrated balanced budget Congress is forgoing, the Federal Government will spend $19.2 trillion over the next 10 years and after that, spending for the following ten years is projected to surge to $29.3 trillion.

Many people think their April 15th tax payment satisfies their civic toll. Unfortunately, it's just the beginning. In addition to taxes, there is a plethora of regulations and government programs which only increase consumer costs, reduce job opportunities, waste valuable time, suppress productivity, and control our lives. The estimated total cost of government regulations for 1997 is $688 billion which is a 25 percent increase since 1988.

What would Thomas Jefferson, or John Adams say about the government they helped design if they could see it today? Suppose you were to observe the pair discussing the matter over dinner at your favorite neighborhood eatery. According to the Americans for Tax Reform Foundations, $11.00 of their $40.00 restaurant bill goes directly to taxes. The remaining $29.00 covers all other costs of preparing and serving the meal.

The taxes on meals includes federal, state, and local income taxes, Social Security taxes, property taxes, unemployment insurance taxes, workers compensation taxes, utility taxes, licensing fees, and possibly other taxes depending on the state.

In addition to taxes, the restaurant has to deal with various regulatory agencies like OHSA, EPA, IRS, USDA, BATF, NLRB, the local health department, zoning and licensing boards, and more. After that, the proprietor pays his suppliers, his staff, the mortgages, and if he's lucky, he'll have a little left over for himself.

Surely the Signers of the Declaration of Independence has something much different in mind on July 4, 1776, when they affirmed, "Prudence, indeed will dictate that Governments long established should not be changed for light and transient causes; and accordingly all experience hath shown, that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed.

"But when a long train of abuses and usurpations, pursuing invariably the same objective evinces a design to reduce them under absolute Despotism, it is their right, it is their duty, to throw off such Government, and to provide new Guards for their future security."

Fortunately, our founding heroes designed a system allowing us to throw off the yoke of bondage peaceably, at the ballot box. For this reason, the Fourth of July is a festive celebration overshadowing Cost of Government Day.

Taken together, the back-to-back occasions should serve as a clarion call to those of us who still believe the America dream is worth preserving. Indeed, our Forefathers waged a revolution against far less than American taxpayers are willing to tolerate today.

Independence Day should be our parapet, a demarcation beyond which the cost of government must not intrude. Our objective in Congress, should be to dramatically relieve the tax burden on American families so as to increase economic freedom and to honor life, liberty and the pursuit of happiness as the providential birthright of all citizens who revel in our glorious independence.

IN HONOR OF THE PHILIPPINE AMERICAN SOCIETY OF OHIO

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1997

Mr. KUCINICH. Mr. Speaker, I rise to honor the Philippine American Society of Ohio [PASO] as the group inaugurates the PASO Cultural and Civic Center on June 29, 1997.

PASO was founded in 1967 with the purpose of uniting all Filipinos in the Cleveland area. The handful of pioneers has grown over the past 30 years into a solid organization which embraces cultural, civic, social, and humanitarian programs.

Since World War II, Filipinos, mostly professionals, emigrated to America in the thousands. The Filipino population in the Cleveland area is estimated to be close to 3,000 families. The rich traditions of Philippine culture in Cleveland continue to flourish with the help of PASO. In 1985, PASO purchased a 4.9 acre piece of land on which these visionaries hoped to build a Cultural Center. On June 29, after many years of hard work and fundraising, the organization will celebrate the groundbreaking for its Cultural and Civic Center in Parma, OH.

With the completion of the Cultural Center, PASO will be able to hold more events and activities in order to better accomplish the goals and objectives of the organization. My fellow colleagues, please join me in honoring PASO in its efforts to keep the Philippine culture alive in Cleveland.

TESTIMONY OF PETE STARK

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1997

Mr. STARK. Mr. Speaker, I would like to submit for the ='04'>Record recent testimony I presented to President Clinton's Advisory Commission on Consumer Protections and Quality in the Health Care Industry. The need for consumer protections in managed care is great—I urge my colleagues to pass legislation to protect the millions of patients in managed care plans:

TESTIMONY OF CONGRESSMAN PETE STARK BEFORE THE ADVISORY COMMISSION ON CONSUMER PROTECTION AND QUALITY IN THE HEALTH CARE INDUSTRY

Secretary Shalala, Secretary Herman, and Members of the Commission: Thank you for this opportunity to present testimony concerning critically needed consumer protections for the millions of Americans in managed care plans.

BACKGROUND

Health care consumers who entrust their lives to managed care plans have consistently found that many plans are more interested in profits than in providing appropriate care. In the process of containing costs patients are often harmed. My constituent mail has been full of horror stories explaining the abuses that occur at the hands of HMOs and other forms of managed care.

For example, David Ching of Fremont, California had a positive experience in a Kaiser Permanente plan and then joined an employer sponsored HMO expecting similar service. He soon learned that some plans would rather let patients die than authorize appropriate treatment. His wife developed colon cancer, but went undiagnosed for 3 months after the first symptoms. Her physician refused to make the appropriate specialist referral because of financial incentives and could not discuss proper treatment because of the health plan's policy. Mrs. Ching is now dead.

This tragedy and others like it might have been avoided if the patient had known about the financial incentives not to treat, or if the physicians had not been gagged from discussing treatment options, or if there had been legislation forcing health plans to provide timely grievance procedures and timely access to care. It is too late for some victims, but it is not too late to provide these protections for the millions of people in managed care today.

A few years ago, Congress recognized a crisis in the health care industry. Expenditures were soaring and overutilization was the rule. At that time, I chose to address this problem with laws that prohibited physicians from making unnecessary referrals to health organizations or services that they owned.

Others responded by pushing Americans into new managed care plans that switched the financial incentives from a system that overserves to a system that underserves. They got what they asked for. The current system rewards the most irresponsible plans with huge profits, outrageous executive salaries, and a license to escape accountability. Unfortunately, patients are dying unnecessarily in the wake of this health care delivery revolution. It must stop.

Several states have already addressed the managed care crisis. In 1996, more than 1,000 pieces of managed care legislation flooded state legislatures. As a result, HMO regulations were passed in 33 states addressing issues like coverage of emergency services, utilization review, post-delivery care and information disclosure. Unfortunately, many states did not pass these needed safeguards resulting in a piecemeal web of protections that lacks continuity. The states have spoken; now it is time for federal legislation to finish the job and provide consumer protections to all Americans in managed care.

H.R. 337—THE MANAGED CARE CONSUMER PROTECTION ACT OF 1997

I have introduced a bill—H.R. 337—The Managed Care Consumer Protection Act of 1997 which includes a comprehensive set of protections that will force managed care plans to be accountable to all of their patients and to provide the standard of care they deserve.

This legislation includes measures to protect patients from the abuses of managed care on several fronts. One particular provision in the bill would require the managed care plan to at least see the patient and perform some form of preventive health screening before the Federal government pays the monthly capitated dollar amount. We should not continue to pay plans a monthly fee when many times, the plan has never seen the beneficiary face-to-face. If one of the goals of managed care is to focus on preventive care, the patient must—at the very least—first be seen by the managed care plan.

I am pleased that many of the provisions in my bill were included in the recent Medicare proposals in both the Ways and Means and the Commerce Committees. I have attached a summary of the bill for your review.

Many Members testifying today have introduced legislation with similar provisions. In that light, I will focus on only a few issues.

A PLEA TO REVISIT THE PHYSICIAN FINANCIAL INCENTIVE ISSUE

I am the author of the law limiting physician financial incentives to withhold care. I am very disappointed in the regulation implementing this law.

The regulation allows a plan to place a doctor 25 percent at risk.

How many of you flew here on an airline that gave 25 percent bonuses to its airplane mechanics NOT to spend too much time checking the plane's safety? Good luck going home.

What is particularly disappointing about the 25 percent figure is that there is some data that the industry average is closer to 19 percent. The 25 percent figure should be lowered. I urge you to recommend that it be phased down over a period of years to a level where the average patient would not be offended or suspicious.

If you think the 25 percent figure is okay and won't change behavior in strange ways, I refer you to a Wall Street Journal article of two weeks ago, which talked about doctors selling Amway products to their patients to make extra money on the side. The doctor featured in the article had seen his income from $400,000 a year to $300,000, so he was selling soap to everyone in sight. Think about it.

NEED TO REFORM GOVERNMENT OVERSIGHT STRUCTURE

HCFA has an impossible task: to promote managed care and at the same time to try to regulate it on behalf of consumers. The two missions are inconsistent: you can't do both well. Note the current controversy over the Grijalva case, where HCFA has come down on the side of the HMO companies, much to the anger of every consumer group in the nation.

We need a new structure of governance as managed care grows.

I urge the Commission to recommend a restructuring of government to address this problem. Let HCFA be the promoter and payer of managed care plans. That is certainly their bureaucratic culture and history.

For the public and the consumer, we need a new, independent consumer commission that will make coverage, consumer appeals and grievance, and quality measurement decisions. I recommend to you the SEC-type model suggested in several books and articles by Professor Marc Rodwin of Indiana University. This Commission should be composed of consumers and must be structured so it is never captured by the industry.

We need an independent consumer commission now. We will need it more each passing day. I do not believe that HCFA has yet made Medicare coverage decisions on the basis of cost to the program. But as the Baby Boom generation retires and the financial pressures on the program become more intense, will people be able to trust their government to make medically honest coverage decisions? Will HCFA become a rationing system that controls costs but may not be good for our health? Various right-to-life groups are already questioning the program. An independent consumer commission that would address coverage issues would prevent this government rationing issue from becoming a future divisive issue in our aging society.

A wise industry would support such a Commission: it is their only hope to show the public that there is an independent, honest ombudsmen whom families can turn to in matters of life and death concerning health care. The managed care industry is facing a weekly drumbeat of ridicule in the one place that truly has the pulse of the American public—the nation's comic strips and political cartoons. The last page of my testimony attaches two cartoons from just the Washington Post of the last week. What would it be worth to the HMO industry for these cartoons to go away? They will go away when the public no longer things they are funny and when they no longer resonate. An independent, pro-consumer Commission is the single best answer to ending the ridicule and bad press.

THE IMPENDING CRISIS IN RURAL MANAGED CARE

I urge the Commission to take a special look at what I believe is an impending crisis in rural health care.

In the Medicare Reconciliation bill, Congress is preparing to place a very high floor on payments to managed care plans in rural counties—a floor far above their cost of serving the beneficiaries who live in those communities. At the same time, we are making it easy for local doctors and hospitals to form Provider Sponsored Organizations or "baby HMOs" that serve as few as 500 enrollees. PSOs in rural America, where there is already a shortage of providers, will certainly look like monopolies.

The combination of the high managed care payments and the new PSOs will work to force most rural Americans into brand new HMO-type organizations. The good news is that the payment floors will be so high that (if the ACRs are calculated honestly) rural Americans will be offered a wide range of extra benefits. The bad news is that it may be hard for rural Americans to get referrals to urban or out-of-area providers who can provide better quality care than their local rural PSO.

I believe we will need some special measurements of these new rural PSOs to ensure that we are not trapping millions of rural residents in monopolistic low-quality plans.

MANAGED CARE AND ANTI-FRAUD

The HHS Inspector General, in cooperation with the GAO, has undertaken a system-wide audit of Medicare. Their report will be issued in about three weeks.

According to press reports, they will find that in fee-for-service Medicare last year we lost about $23 billion to fraud, waste, and abuse. Over five years that would be about $115 billion—the exact size of the Medicare Budget cuts the House passed yesterday.

Some will say that this proves we need to move faster to managed care. I submit there is substantial fraud in managed care as well. I urge the Commission to encourage HCFA to do a better job of rooting out managed care fraud.

There is the fraud of under-service and denial of care—the fraud that can kill.

There is the fraud of the Adjusted Community Rates (ACR) that companies tell us equal the cost of serving their commercial business. Time after time an HMO does not provide extra benefits and says that its ACR does not require such extra benefits. Then when a second or third managed care plan enters the market, all of a sudden the plan finds that it can offer zero premiums, drug benefits, and eyeglasses. On its face, the plan that for years offered no or few extra benefits was committing a type of fraud.

I've attached an exchange of correspondence with the OIG that makes the point that if fee-for-service Medicare has a 10 to 14 percent fraud, waste, and abuse factor built into its rates, we certainly should not base managed care payment rates on that fraudulent, inflated base. It is a mathematical fact that the payment rate to HMOs should be less than 90 percent of the current fee-for-service rate—unless you want to pay twice for fraud.

Thank you for this opportunity to present my ideas about much needed consumer protections in managed care.

FOR MARY JO TRIMBELL AND SUSAN SMITH'S DEDICATION TO COMMUNITY SERVICE

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1997

Mr. POSHARD. Mr. Speaker, this week we recognized the winners of the annual Congressional High School Art Competition. I served as honorary chairman in the event in my congressional district, which took place April 20, 1997. This art competition, known as "An Artistic Discovery," is a tribute to the boundless creativity of our many young people. This program was launched in 1982, and the nationwide art competition has already produced thousands of local competitions which involve over 500,000 high school students. The winners have their works displayed in the Capitol complex for the next year, so we can all enjoy the fruits of their talents. This contest depends on the efforts of many at the local level. I want to recognize both Mary Jo Trimbell, president of the Little Egypt Arts Association, and Susan Smith, Decatur Area Arts Council executive director, and the members of these organizations for co-chairing the 16th Annual Congressional High School Art Competition. Arranging an event of this caliber requires much time, energy, personal sacrifice, and many dedicated long hours.

Mr. Speaker, Decatur and Marion, IL, may not be towns that come to mind when you think of art, but they are representative of many areas in my district and across the Nation that recognize the importance of art in our lives. The people in the 19th Congressional District recognize this need and this event is an appreciation of our gifted, young artists. It is always nice to see so many people volunteer and make this event fun, as Michael Bryant, Marie Samuel, and John Yack did—they took time out to judge the entries.

The overall winner of the Congressional Art Competition in the 19th Congressional District was Amber Droste, a recent Robinson High School Graduate. The two winners of the People's Choice Awards were Toby Grubb of MacArthur High School in Decatur and James

Moseman of Marion High School, who was a winner of two awards. Joining Grubb and Moseman as finalists were Ginnie Gessell of Benton, Kenna Funneman and Elizabeth Ordner from Teutopolis High School, Kevin Edwards of Stewardson-Strasburg High School, Kranston Kincaid of Herrin High School, and Brad Maynor of Pope County High School.

Mr. Speaker, this event helps to acknowledge the many talented youngsters who have dedicated countless hours to their art. It takes a fine mind to transfer the artists' interpretation of art onto paper, or express it through some other medium. Southern and central Illinois, according to world standards, may not be considered artistic meccas, but they certainly were on April 20, 1997. This competition provides an opportunity for our youth all to shine, and I am grateful for the help and encouragement provided by those who helped. I would like to congratulate all of the participants in the Congressional Art Competition this year, and all the people who helped make it possible. Mr. Speaker, what a wonderful "Artistic Discovery."

THE INTRODUCTION OF THE PUBLIC SAFETY OFFICERS MEMORIAL SCHOLARSHIP ACT

HON. SUE W. KELLY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1997

Mrs. KELLY. Mr. Speaker, I rise today to introduce legislation which seeks to support the family members of public safety officers who are killed in the line of duty.

Police officers and firefighters lay their lives on the line on a daily basis, Mr. Speaker, and sadly, all too often they make the ultimate sacrifice in the service of their communities. This tragic fact was illustrated most recently in my district in New York when a volunteer firefighter, Michael Neuner, who was also a police officer, was killed while fighting a fire in the town of Southeast.

This unfortunate story is repeated around the country, Mr. Speaker. These are our friends, our neighbors, our loved ones, and they leave behind families who must continue on. The death of a father or mother takes an obvious emotional toll, but it also impacts the financial security of the family, particularly when it comes to meeting educational expenses.

The Public Safety Officers Memorial Scholarship Act seeks to address this particular problem. Specifically, the bill authorizes the Secretary of Education to award education scholarships to the spouse or dependent child of a public safety officer—police or firefighter—who is killed in the line of duty. These scholarships may be used to cover education expenses associated with elementary and secondary education (K–12), or to attend a post secondary institution as a full-time or part-time student.

Last year, Congress adopted similar legislation to award education assistance to family members of Federal law enforcement officers killed in the line of duty. I was pleased to support that legislation, and even more pleased to introduce this bill, which takes the next logical step and extends this benefit to the families of all public safety officers who are killed while serving their communities.

I urge my colleagues to join me in support of this important legislation.

TRIBUTE TO FRANK FREGIATO

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1997

Mr. NEY. Mr. Speaker, I ask my colleagues to join me today in congratulating Frank Fregiato, Belmont County Court judge. Judge Fregiato, who began serving the Belmont County Court on January 1, 1997, is the first Italian judge in Belmont County History.

Judge Fregiato began his career in law at the Ohio State University College of Law. After graduating, he joined the Thomas, Fregiato, Myser, Hanson, & Davies law firm in Bridgeport, OH. Since beginning his work in private practice, Judge Fregiato has been an active member in the legal community. He is a member of the Ohio State Bar Association and Belmont County Bar Association, which he has served as president. In addition, he is a member of the St. Clairsville Rotary, the Knights of Columbus, and the Sons of Italy.

The Ohio Valley is fortunate to have Judge Fregiato as a member of the Belmont County Court. I am sure that Judge Fregiato will continue to serve the court and the citizens of Belmont County honorably, and will show the same dedication to the bench as he has shown throughout his career. I ask my colleagues to join me today in recognizing Judge Fregiato's achievement and to wish him further success.

THE HAMPTON JAZZ FESTIVAL

HON. ROBERT C. SCOTT

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1997

Mr. SCOTT. Mr. Speaker, I rise today to draw the attention of my colleagues to the 30th anniversary of the Hampton Jazz Festival, which takes place from June 26th through June 29th. In what has now become known as the "Festival of Legends," the Hampton Jazz Festival is clearly one of the greatest gatherings of musicians in the Nation. This year once again, when over 10,000 jazz fans come together each night in the Hampton Coliseum, they will be treated to some of the finest, most enduring examples of this most American of music forms. I only scratch the surface when I list a few of the luminaries who will be appearing on stage this week: George Benson, Peabo Bryson, Patti LaBelle, Gladys Knight, Robert Cray, and the incomparable B.B. King. Although a few of our perennial favorites can no longer appear—greats like Count Basie, Earl "Fatha" Hines, Dizzy Gillespie, and Duke Ellington—I am thrilled at the new artists who continue to keep the Hampton Jazz Festival fresh, innovative, and absolutely entertaining.

It was 30 years ago when the Hampton Jazz Festival was born on the campus of Hampton University, in part as the result of the hard work of a student committee headed by John Scott. A few years later the city of Hampton got involved, offering its new coliseum as the home of the annual event. This unique partnership has helped make our festival such a success. Today, John Scott is the local organizer and George Wein the producer of what has evolved into one of America's greatest jazz get-togethers. I, like the thousands of fans who will throng to the Hampton Jazz Festival later this week, look forward to another great festival of legends and commend the city of Hampton, the festival organizers, and the great artists who will share their talent to help make this 4-day event music to our ears.

BLAIR SCOLDS BRITISH "WORKLESS CLASS" IN OUTLINE OF WELFARE PLAN

HON. JAMES A. LEACH

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1997

Mr. LEACH. Mr. Speaker, I urge my colleagues to read excerpts from the attached article from the June 3, 1997, edition of the New York Times. The article recounts a recent speech given by British Prime Minister Tony Blair regarding what he describes as a culture of dependency on government. In the speech, given outside a notoriously neglected housing project in South London, Prime Minister Blair called for an "ethic of mutual responsibility," where government institutions are re-fashioned.

During the House's consideration of H.R. 2, the Housing Opportunity and Responsibility Act of 1997, I urged my colleagues from the other side of the aisle to abandon the policies of extreme liberalism and consider the recent electoral success of the new, pragmatic Labor Party in Britain. Many of the concepts expressed by Prime Minister Blair in his speech are surprisingly similar to the ideals contained in the House's public housing reform bill. Much like Prime Minister Blair's "New Labor" philosophies, H.R. 2 creates a mutuality of obligation between public housing residents and the Federal Government. The approach contained in the House bill is intended to help end the cycle of property, where generation follows generation in an environment devoid of hope and opportunity, and instead encourage self-sufficiency and the process of moving people from welfare to work.

In anticipation of House consideration of the conference report on the House and Senate housing bills later this year, I commend the attached article to Members' attention.

[From the New York Times, June 3, 1997]

BLAIR SCOLDS BRITISH "WORKLESS CLASS" IN OUTLINE OF WELFARE PLAN

(By Sarah Lyall)

LONDON.—Appearing at a notoriously neglected housing project in South London, Prime Minister Tony Blair today denounced the culture of dependency on government that he said had created a "workless class" of people who live off the state and have no motivation to find jobs.

Mr. Blair, who has resolutely moved his party away from its old working-class roots and remodeled it as a centrist movement that he calls "New Labor," said one of the cornerstones of his Government would be getting people off welfare and putting them back to work.

In doing so, he called for a "radical shift in our values and attitudes" and said that the welfare state, long associated with the old Labor Party, had to change along with the times.

"Earlier this century, leaders faced the challenge of creating a welfare state that could provide security for the new working class," he said. "Today the greatest challenge for any democratic government is to refashion our institutions to bring this new workless class back into society and into useful work."

* * * The Prime Minister's speech came as his Labor Government, which swept into power with an overwhelming majority a month ago, prepares a major overhaul of the country's welfare system. In its review, Mr. Blair said, the Government would ask a simple question about all of Britain's benefits: "Do they give people a chance to work? Or do they trap them on benefits for the most productive years of their lives?"

* * * But Mr. Blair warned that young people would have responsibilities of their own. "There will be and should be no option of an inactive life on benefit," he said. "Where opportunities are given, for example, to young people, for real jobs and skills, there should be a reciprocal duty to take them up."

Mr. Blair called for an "ethic of mutual responsibility" in Britain. "It is something for something," he said. "A society where we play by the rules. You only take out if you put in. That's the bargain."

* * * Mr. Blair said: "In the 1960's, people thought Government was always the solution. In the 1980's people said Government was the problem. In the 1990's, we know that we cannot solve the problems of the workless class without Government, but that Government itself must change if it is to be part of the solution."

CHINA-RELATED CHALLENGES

HON. TILLIE K. FOWLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1997

Mrs. FOWLER. Mr. Speaker, although China policy is in the news right now, most Americans remain unaware of one of the most serious China-related challenges our nation faces—the Clinton administration's dramatic loosening of export controls on sensitive militarily-related technology. Much of that technology is going to the People's Republic of China, which could spell trouble for our national security and interests abroad.

The Clinton policy has resulted in the transfer to the Chinese of devices and technology ranging from telecommunications equipment that is impervious to eavesdropping, to highly sophisticated machine tools needed to build fighter aircraft, strategic bombers and cruise missiles. The policy has also resulted in the decontrol of high-speed supercomputers, leading to the sale of 46 of them to the PRC over the last 15 months, as revealed in a recent congressional hearing.

The United States should remain engaged with China, which is an emerging superpower. However, we must not forget that it is a Communist country that has undertaken a large-scale defense buildup with the clear intent of increasing its ability to project military power. The U.S. should not be contributing to that goal. As I said yesterday during the debate on MFN, free trade is something to be desired, but commerce at all costs is not—especially when it provides a more level battlefield, which no American wants.

I would like to request that two items be included in the RECORD following my remarks: first, an article detailing the history and details of the current policy of decontrol—and its many flaws—which recently appeared in the independent newspaper Heterodoxy; and second, the text of a resolution passed by the Board of Directors of the Jewish Institute for National Security Affairs [JINSA] regarding the sale or transfer of supercomputers.

[From the Heterodoxy, April/May, 1997]

CLINTON AND THE AMERICAN EXPERIENCE IN CHINA—ARMING THE ENEMY

(By Dr. Stephen Bryen and Michael Ledeen)

At the end of the Cold War, the U.S. towered over the world, the sole surviving superpower, the source of inspiration for a global democratic revolution that had destroyed tyrannies ranging from Spain and Portugal in the '70s, to virtually all of Latin America and then Central and Eastern Europe in the '80s culminating in the fall of the Soviet Empire itself. Washington became the Mecca of a new democratic faith, and the prophets and followers of democracy, from Havel and Walesa to Pope John Paul II and Nelson Mandela, came in a sort of democratic hajj to pay reverent tribute. They all went to Congress and gave thanks to America for having made it all possible, and continued to the White House to pay their respects.

Any other nation in such a position would have extended its dominion over others, and many nations in the rest of the world fully expected us to do just that. They were stunned to learn that America was not interested in greater dominion. Indeed, America was barely interested in them at all. Having won the third world war of the twentieth century, we were about to repeat the same error we had made after the first two: withdraw from the world as quickly as we could, bring the boys home, cut back on military power, and worry about our own problems. Americans are the first people in the history of the world to believe that peace is the normal condition of mankind, and our leaders were eager to return to "normal." And they were encouraged to define this word in a way that included truckling to China and helping it emerge as a major threat to U.S. interests.

Thus was born a policy of criminal irresponsibility, a policy that has not only failed to protect us and our allies against the inevitable rise of new enemies, but actually facilitated, indeed even encouraged, the emergence of new military threats. It began with George Bush, Jim Baker, Brent Scowcroft, and Dick Cheney and continued at a far more rapid rate with Bill Clinton, Warren Christopher, Ron Brown, William Perry, and Anthony Lake. All of them have helped dismantle the philosophy and apparatus created by Ronald Reagan and his team—most notably Defense Secretary Caspar Weinberger—to defeat the Soviet Union by denying it access to advanced technology and thus protect American military superiority for years to come. To understand our current plight with China, it is necessary to understand what we unilaterally dismantled under Bush and Clinton.

It is widely believed that the fall of the Soviet Empire was a great "implosion" produced by the failure of the Soviet economic system and the visionary policies of Mikhail Gorbachev. This is the leftwing view of recent events, a view intended to deny credit to democracy and America in forcing the outcomes. Western policies are rarely credited with a key role in this drama, but in fact they were the crucial ingredients. The Soviet economic system, for example, had failed long ago. In fact, it had failed from the very beginning, as each disastrous "plan" was replaced with another. Russia was the world's greatest grain exporter before World War I, and half a century later had become the world's greatest grain importer. That is not an easy accomplishment, and testifies to the shambles created by the Communist regime.

Things were not much better in the industrial complex, even the vaunted military sector. The Soviets were rarely able to design and manufacture advanced technologies on their own. Without exception, when the Soviets needed to modernize an assembly line, they went back to the original source and asked the Western company to build them a new one. They were especially dependent on Western technology in areas like electronics, computers, and advanced machine tools. This gave the West a great opportunity to get a stranglehold on Soviet military technology, and, under Reagan, the opportunity was exploited. An international organization Combat Command (COCOM) was created to control the flow of military useful technology from West to East. A list of dangerous technologies was agreed upon, and all members of COCOM undertook to embargo all of them for sale to the Soviets, or to any country willing to resell to the Soviet Union or its allies. Unanimous agreement was required for any exception.

Despite predictions that such a system could not possibly work, it proved to be devastating, as shown by the behavior of Gorbachev himself. Hardly a week went by without Gorbachev or Shevardnadze or other Soviet leaders begging the West to treat the USSR like a "normal" country, and thus dismantle COCOM. Their cries of pain were fully justified, for the gap between Soviet and Western military technology grew relentlessly during the Reagan years. So much so that when the Soviet crisis arrived, the Kremlin could not even dream of solving it by a successful military action against us.

It does not require an advanced degree in international relations to understand the great value of such a system of export controls in a hostile world, and it should have been maintained after the Cold War, especially if we were going to dramatically reduce our research and development of new weapons systems and technologies to upgrade existing systems. The one thing we should not have wanted was to see potential enemies acquiring the very technologies that had given us such great military superiority.

And of all the countries we should have worried about, China was Number One, with Iran a distant second.

There were, and are, two main reasons to think long and hard about China. The first is size: China has the world's largest population, and can therefore put into the field the largest army. And the likelihood of conflict with China stems from reason number two for thinking long and hard about this threat: China is the last major Communist dictatorship, and the history of the twentieth century is one of repeated aggression by dictators. Simple prudence dictated that, until and unless China joined the society of democratic nations, we should have tried to maintain a decisive military advantage. Call it deterrence.

Instead, for reasons that will intrigue the psychohistorians for many years to come, we have not only bent over backwards to be generous to Coins (our enormous trade deficit leaves no doubt about our largesse), but we have been busily arming the People's Republic so that it can give us grief.

For China to effectively project power in the future, it would have to get the technologies for its army that the U.S. used to rout the Iraqi forces—actually superior to China's in many regards—during Desert Storm. But from where?

China has four main sources of supply. The most prominent in Russia. Russia has been able to offer China important help in aerospace, missiles, and submarine technology. China has bought Surkhoi fighter aircraft and Kilo-class diesel submarines from Russia, and the Russians have provided assistance to many other Chinese Army projects. But the Russian connection is only a stopgap for China, not a solution, because, while Russian technology is, in most cases, better than China's, it is not the equal of the United States. Russian military systems have well-known weaknesses: poor reliability, mediocre performance, and outdated technology. Russian arms lack the electronics found in Americas systems; the computers are more than one generation behind, and the radars and "com" links are old-fashioned. The Chinese now all too well how easily American stealth and smart bombs overwhelmed what the Russians supplied Iraq. In need of a "quick fix" to be able to bully its neighbors, China has been taking the Russian technology, but it needs much more.

A second source of armaments and military technology is Western Europe. European weapons are better than Russian, and come close to American standards. But European systems are frightfully expensive, and, for extras, the Europeans have generally been unwilling to sell the manufacturing technology for weapons. They want to sell the systems, and then supply the spare parts in the future. The Chinese want their own manufacturing capacity. Like any country preparing seriously for war, China doesn't want to be dependent on others for weapons.

A third source is Israel. Israel has been willing to sell arms and arms technology to China, and has done so for a number of years. Starting with air-to-air missile technology, Israel appears to have sold Lavi 3rd-generation fighter aircraft technology to China and its now trying to get the Chinese to buy an Israeli version of the advanced early warning radar aircraft. AWACS, which played such a big role in the Gulf war by providing early warning and vectoring allied aircraft against Iraqi planes, operating at stand-off ranges in excess of one hundred miles.

But Israel's assistance to China is limited in a number of ways. Because China sells arms to Iran and Iraq, and has sold missiles to Saudi Arabia and Syria, Israel has to exercise extreme caution about what it sells to China. The Chinese suspect—and they are surely right—that Israel is not going to sell China a system that Israelis cannot defeat.

Another difficulty for China buying from Israel is that Israel is not a one-stop solution. The Lavi is a good example. The Lavi is a modern, lightweight, single-engine, high-performance fighter plane with an advanced engine, composite structures, advanced computers and electronics, ECM pods, and missile and weapons launch capabilities. But China wants to manufacture the aircraft, and many of the parts come from the U.S. and were provided to Israel under carefully controlled munitions export licenses. In most cases the manufacturing knowhow was not even released to Israel, and other valuable design and manufacturing secrets were also withheld. The engine is an even graver problem: the only two sources for a suitable Lavi engine are American companies, Pratt & Whitney and General Electric. There is no other engine with the performance and weight to match it. While some have suggested the Russians could soon give the Chinese an acceptable engine, none has yet appeared. The U.S. engines are a generation ahead of anything the Russians have. So the Chinese have been able to acquire some of the technology from Israel. But to get the rest they need the United States.

It is often said that, in the world of advanced technology, embargoes or export controls cannot possibly work, because it they don't get it from us, they'll get it from somebody else. This is false. To compete with the U.S. militarily. China has to get our technology, and, most of the time, that means getting it directly from us.

It's easy to understand why the Chinese want our technology, it's far more difficult to comprehend why the American government would let them get it. We know that the Chinese routinely sell advanced weapons to 'rogue nations" that rank among our worst enemies; Iraq, Iran, Syria, and Libya. We know China is a totalitarian regime. And we know that the stronger China becomes the easier it will be for Peking to maintain its evil regime.

There are some extraordinary cases in which it might make sense to sell a limited amount of advanced military technology to China, but there aren't many of them. (It might make sense to sell them devices for nuclear safely, or for certain military systems with important civilian applications—satellite launchers, for example.) But that is not what is going on. The American government is allowing massive sales of highly advanced military technology to China, and the policy has reached dimensions and achieved a momentum that make clear that we are not doing so on a limited, special-case basis. It is a deliberate policy that appears to have full approval from the highest levels of the Clinton Administration, despite strong objections from government agencies or from individual officials outraged at what is happening. The Clinton Administration has not done this openly and honestly, by going to Congress and asking for a change in legislation. It has, for the most part, acted secretly, resorting to clever bureaucratic maneuver. Take the case of the aircraft engines for the Lavi, for example.

Powerful aircraft engines contain special technology that greatly enhances their thrust, and this technology has long been on the so-called "Munitions List" of goods and services that would endanger American security if they were sold to hostile or potentially hostile countries. It is illegal to sell anything on that list to anyone, anywhere, without formal approval from the State Department, which in practice almost always clears its decisions with the military services. Moreover, hard on the heels of the Tiananmen Massacre in Peking, Congress passed laws forbidding the sale of anything on the list to China, unless the president felt it so important that he were willing to issue a formal waiver. In the eight years since Tiananmen, this has happened just once, when a waiver was issued for technology having to do with the launch of commercial satellites on the Long March rocket (a military rocket).

The administration was unwilling to openly issue any other waivers, knowing there would be a political firestorm. So Clinton and his people did it slickly, by taking the engine technology off the Munitions List and shifting control from State to Commerce, where the president's buddy Ron Brown held court. Within days, Commerce issued licenses permitting U.S. engine producers to sell the technology to China. And since the sales have the explicit approval of the government, we can be sure that American corporations will do everything they can to help set up the manufacturing facilities. The result of all this maneuvering is that China will soon have the world's finest engines in its fighter aircraft.

The story is repeated elsewhere. Supercomputers, for instance, are the crown jewels of computers, and are in use at some of our best national laboratories such as Lawrence Livermore, Sandia, and Los Alamos. The U.S. National Security Agency uses supercomputers to keep track of our adversaries. The Defense Department, and leading defense contractors, use supercomputers to develop stealth technology and simulate testing of precision guided weapons, advanced weapons platforms, and delivery systems.

Only two countries, the United States and Japan, build competent supercomputers. And both countries, recognizing that the random sale of supercomputers would constitute a grave risk to Western security, agreed in 1986 to cooperate and coordinate sales of supercomputers. This agreement made it impossible to sell supercomputers to China. But that was then, and this is now, and Clinton & Co. have sabotaged any effective control over supercomputer sales to China.

The first move was to change the definition of supercomputers. In the Bush administration, it was generally agreed that a computer with a speed of 195 million theoretical operations per second (MTOPS) was a "supercomputer," and therefore strategic. Two years later, the Clinton administration lifted the ceiling to 2,000 MTOPS. This tenfold increase wasn't nearly enough, though, and shortly thereafter the administration unilaterally renounced the existing regulatory controls, such that China could get supercomputers up to 7,000 MTOPS. This drastic move provoked violent protests from many of our allies, including several that did not even manufacture such computers, and hence had no commercial interest in the matter. We thumbed our nose at them.

But even this was not enough, because it would still have been possible for the Department of Defense to oppose supercomputer sales to China on strategic grounds. The solution was to redefine the computers for "civilian use," and within the past 15 months. U.S. companies including IBM, Convex (later, Hewlett Packard), and Silicon Graphics (and perhaps others) have sold the Chinese at least 46 supercomputers, many of them going into China's defense industry, or being put to use in nuclear weapons design.

This represents a truly terrifying hemorrhage, for supercomputers are the central nervous system of modern warfare. The sales of 46 supercomputers give the Chinese more of these crucial devices than are in use in the Pentagon, the military services, and the intelligence community combined. They enable the Chinese to more rapidly design state-of-the-art weapons, add stealth capability to their missiles and aircraft, improve their anti-submarine warfare technology, and dramatically enhance their ability to design and build smaller nuclear weapons suitable for cruise missiles. Thanks to the folly of the Clinton Administration, the Chinese can now conduct tests of nuclear weapons, conventional explosives, and chemical and biological weapons by simulating them on supercomputers. Not only can they now make better weapons of mass destruction, but they can do a lot of the work secretly, thus threatening us with an additional element of surprise.

Finally, since supercomputers are the key to encryption, we have now made it easier for the People's Republic to crack commercial and, perhaps, even government secret codes.

There are many other areas where the American public has been told almost nothing about our arming of China, and reports indicating major problems with the Chinese have been suppressed or buried. In the past two years, for example, the Customs Department has interdicted 15 shipments of military parts going from the United States to China. Some of these were parts from our latest air-to-air missiles and from fighter aircraft like the F-15. These parts were "scrapped" by the U.S. military, but were never demilitarized. At much less than a penny on the dollar, Chinese agents were buying the parts and shipping them back to China. Customs acted in the belief that the sales were illegal, yet not a single charge has been filed against the exporters.

Worse still, China has been buying up whole defense factories in the United States, and the administration, fully aware of what is going on (in fact, the Defense Intelligence Agency has sent some of its top Washington experts to witness some of these transactions), let it happen.

As America downsizes its defense programs, many defense factories are being shut down. Some produced state-of-the-art fighter aircraft for the Air Force and Navy. Others were involved in building intercontinental ballistic missiles. Still others were developing advanced electronics. One building at a Defense site contained sophisticated spectrometers, clean rooms, special plasma furnaces and lasers, and special measurement antennas operating at very high radar frequencies. It was a laboratory for testing "stealth" technology, and everything in it was sold, for a pittance, to the Chinese. So we have not only guaranteed that the Chinese will have superb fighter planes, we have ensured that we won't be able to "see" them in combat.

Defense factories being "decommissioned" have provided a bonanza for the PRC. For example, a multi-axis machine tool profiler (measuring hundreds of feet long), designed to build main wing spans for the F-14 fighter plane, which originally cost over $3 million, was gobbled up by the Chinese—for under $25,000. There is more: Global Positioning System manufacturing know-how, which will make Chinese cruise missiles uncannily accurate, was licensed for sale by the administration, as were small jet engines for a "training aircraft" that doesn't exist. The Chinese are working to copy those jet engines to modernize their Silkworm cruise missiles, and substantially extend their range and payload.

There are so many scandals swirling around Washington these days that it is difficult to get anyone to pay attention to another one. Yet the policy of arming China involves more than punishing people who stole from the public trough, or lied to Congress, or destroyed the lives of innocent public servants. This criminality could threaten the lives of our children in years to come by forcing them to fight the largest army in the world, equipped with the finest weapons American technology could design.

A great deal of the damage done to our security by the Clinton Administration—and to a lesser degree by the Bush Administration before—is irreversible, and ultimately we will undoubtedly have to spend a lot of money and effort to ensure that we have military technology even better than what we've given the Chinese. But it is long past time for Congressional leaders to stop the hemorrhage. Export controls must be enforced; the Munitions List must be tightened; we must once again try to piece together workable agreements with our allies. Above all, our politicians have to start earning their money. Is there not a single committee in the House and Senate capable of holding hearings on this madness? Is there not a single "news" organization that judges this scandal worthy of daily coverage? Or must we wait for another Pearl Harbor?

JINSA BOARD OF DIRECTORS RESOLUTION: SUPERCOMPUTERS AND U.S. EXPORT CONTROL POLICY

U.S. policy regarding the sale or transfer of supercomputers is a sensitive national security issue which may ultimately help to determine which countries are able to develop nuclear capabilities and which are stymied in their attempt.

In 1986, the U.S. Japan Supercomputer Agreement set up a system whereby the two major producers of supercomputers agreed to carefully monitor and regulate sales to third countries. This cooperation demonstrated that two highly competitive countries could work out an effective means to regulate trade in this sensitive equipment, and take it out of the realm of "national discretion."

The Agreement was primarily to guard against nuclear proliferation in non-communist countries. (COCOM, the Paris-based Coordinating Committee on Export Controls was controlling sensitive exports to the communist countries.) However, in 1993, after the demise of COCOM, the U.S. massively liberalized its controls on supercomputers without consulting Japan. For the most part, the Clinton administration has decided that only a very limited subset of supercomputers would qualify as strategic. And even those are under a weak control system that cannot effectively safeguard against the transfer of these machines to third countries.

Some argue that supercomputers are not strategic systems, noting that many of America's nuclear weapons and delivery systems such as ballistic missiles and long-range bombers were built on computers whose performance is inferior to the supercomputers of today. But, America needs supercomputers to design the next generation of defense systems, reduce costs and improve performance ensuring our strategic security. Furthermore, supercomputers make it possible to do effective design engineering with less risk taking, and less expensive and dangerous testing to increase the safety of nuclear weapons and other systems including ballistic missiles and smart weapons. Therefore, their acquisition by hostile countries would vastly enhance the capabilities of those countries.

The landmark government study on nuclear weapons design concluded that, "The use of high-speed computers and mathematical models to simulate complex physical process has been and continues to be the cornerstone of the nuclear weapons design program [of the United States]." The study also considered the "efficiency" of the process. With supercomputers, a new nuclear weapons design or concept involves exponentially fewer explosive tests. For example, in 1955 a new concept would require 180 tests; in 1986 the number of tests required was reduced to 5. As even more powerful machines are available today, it is highly probable that the number of tests may be reduced even further, or testing altogether eliminated.

This means that a country that gets supercomputers can develop nuclear weapons covertly, and have plausible deniability if challenged. It means that we may totally misjudge the capabilities of a hostile country or potential adversary, as we did in the case of Iraq. It also means that the cost of developing nuclear weapons can be significantly reduced if supercomputers are available. This is important because many countries lack both the requisite technical experts and the infrastructure to develop nuclear weapons.

For Russia and China the acquisition of supercomputers is of great importance in allowing them to develop a viable nuclear strike capability. Russia has been seeking supercomputers for more than two decades after the investment of billions of rubles trying to design their own supercomputers resulted in failure. Consequently, the Soviet government and then the Russian government sought to get such machines from the West, and pressed hard for disbanding COCOM in order to remove export restrictions.

China has gone down a similar path. Last year, when China carried out aggressive military exercises in the Taiwan strait, effectively closing the strait to both shipping and air traffic, the United States—sensing China might turn the exercise into a full scale invasion of Taiwan—moved two carrier task forces into the area. As the tension rose, a high ranking Chinese official threatened to launch nuclear ballistic missiles against Los Angeles. Such threats, and the willingness to make such threats, should make it clear that there are serious dangers today, and we should not want to exacerbate them by providing technology that will increase the risk and danger, as supercomputers will.

In light of these issues, it is hard to imagine how the administration decided to make it easy to export and buy supercomputers. For most transactions, the administration's supercomputer export controls are no more burdensome than export controls on personal computers.

Put simply, the regulation says that high performance computers can be exported without individual validated licenses, but there are some restrictions based generally on the country and end user—with countries organized into three groups or "tiers." The makeup of each tier is, to a certain extent, bizarre.

For example, the middle tier (Tier 2) countries that can receive supercomputers less than 10,000 Millions of Theoretical Operations Per Second (MTOPS)—includes Antigua and Barbuda, Bangladesh, Belize, Equatorial Guinea, Haiti, Liberia, Nicaragua, Poland, the Slovak Republic, Somalia and Togo, as examples. Keep in mind that the entire Defense Department owns only two computers more powerful than these and hardly any computers in this middle category.

Israel resides in Tier 3, a motley collection of countries including Angola, Belarus, India, Oman, Saudi Arabia and Tajikistan. They can get computers in the range of 2,000 to 7,000 MTOPS. Israel, a staunch U.S. ally and country with which our Defense Department and defense industries cooperate on an ongoing basis, is lumped in with Angola, Belarus and India, hardly traditional friends of the U.S.

Tier 1 includes our allies and a few others whose presence is hard to understand. For example, it includes Iceland, which was never a COCOM member and never cooperated with the U.S. on export controls. The same holds for Liechtenstein and Luxembourg, from which technology diversions were common in the 1970's and 1980's. San Marino is there. Tier 1 countries can receive any level of performance supercomputer.

The caveats in the regulation are applied only where the end use or end user is nuclear, chemical, biological, or missile related. This sounds good, but in practice it is meangingless because it requires the selling company to "know" whether or not the "buyer" falls into a restricted category. Burt since there are no licenses and scant record keeping is required, even these minimal restrictions are hard to enforce.

The 1996 sale of supercomputers by Silicon Graphics that somehow" ended up in a nuclear design installation in Russia is a case in point. Exactly how it happened is still under investigation and Silicon Graphics says it would never knowingly have made a sale to the Russian Scientific Research Institute for Technical Physics. But there is no doubt the computers now serve Russia's nuclear weapons industry. This is the first time any supercomputer has been lost or gone to a nuclear weapons designer.

Part of the problem clearly is that once a supercomputer is delivered it can be retransferred and the U.S. government and the company are, in fact, out of the loop. For example, a supercomputer sold to a shoemaker in Iceland can be resold to a Chinese missile factory. Because there is no international licensing system or other mechanism, it is reasonable to conclude that there is next to nothing we can do about such a re-export transaction.

The United States needs supercomputers, particularly in this era of restricted budgets; they will be the keystones for future defense systems which, more and more, will be based on high technology—and less and less on politically sensitive testing.

However, there are still those who want even more liberalization of export controls on supercomputers.

Supercomputers are a critical tool for developing defense systems for the next century. Making such machines freely available to the world under the flawed system we now have will help erode both our technology leadership and our national security. If the United States wants to retain its superiority in an era of collapsing defense budgets, it is critical to hold the line on these sensitive exports and keep these machines out of the hands of potential adversaries or proliferators. At the same time, we must make sure that the military departments and research activities of the Department of Defense have access to the best computing technology.

Therefore, the Board of Directors of JINSA urges Congress to:

1. Suspend the current regulations on High Performance Computers, restoring the previous validated licensing requirements for supercomputers.
2. Demand a full accounting of supercomputer sales under the current export regime.
3. Conduct a full assessment of the impact of computer sales on national security and on weapons proliferation.
4. Assess, using the CIA and Defense Intelligence Agency, who is seeking supercomputers and why they are wanted.
5. Develop and propose an effective multilateral export licensing system.

Passed unanimously 2 June 1997.

ORPHAN FOUNDATION DINNER

HON. J.C. WATTS, JR.

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1997

Mr. WATTS of Oklahoma. Mr. Speaker, last week I was honored to be a part of the Orphan Foundation dinner which gives private dollar college scholarships to parentless foster youth. These kids have achieved against the odds—many of them growing up in poor rural and urban centers.

At that event, the Congressman from Georgia—the Speaker, Mr. Gingrich gave a speech that is a great example of the route we need to take for positive race relations and the urban agenda that could reshape the landscape of this great nation. I commend this speech to the Record and thank you for allowing us to share these words.

Address by Speaker Newt Gingrich to the Orphan Foundation of America

Thank you, Jim Taylor, for that very nice introduction. Even more, thank you and the Gateway 2000 Foundation for underwriting the scholarships for these remarkable young people. I would also like to thank Eileen McCaffrey as President of the Orphan Foundation of America for her leadership in organizing the 4th Annual OLIVER Project in support of foster youth attending college.

The Orphan Foundation is but one part of a worldwide movement toward helping people. We are a movement of people who believe that combining the wisdom of the founding fathers, with the opportunities of the Information Age and the world market, will help each person exercise their Creator-endowed right to pursue happiness and will eventually lead to freedom, prosperity, and safety everywhere. It seems to me that that is a good description of what Eileen, Jim and everyone associated with the success of this year's OLIVER Project hope to achieve.

I understand that the young people honored here tonight were in foster care for a long time. Thankfully, you were able to reach out on your own to private organizations like the Orphan Foundation to find mentors and parents that have been more helpful in brightening your future than any government bureaucracy.

For example, David DiBernardo, now a freshman at Slippery Rock University in Pennsylvania survived twenty-nine foster care placements before he found the Orphan Foundation. This illustrates the fact that investing in our youth and strengthening permanent families is not accomplished by any government program—it happens one child at a time.

It is essential that we learn from organizations like The Orphan Foundation and specifically the OLIVER Project, which honors foster youth attending college. Their goal is to replicate the OLIVER Project in the states for high school students.

As we pursue these endeavors to brighten the future of every young American, it is important that we listen and learn from the real experts: the young people here with us tonight. For example, Elizabeth DeBroux, a senior at Oglethorpe University in Atlanta, and her friends can advise us in Georgia on the most effective policies to help young people.

The Orphan Foundation has the right idea and is the right model: It saw a need and chose to provide an opportunity. You have seen what these young people have managed to accomplish so far. You have faith in them that they will be achievers. You have assisted them in helping them make their dreams come true. You have given them a precious opportunity to now have the tools to exercise their Creator-endowed right to pursue happiness. In your eyes, there is no black or white or any other color. There is only a genuine need and the possibility to offer an opportunity. What you are doing is uniquely American—in more ways than you may realize. When we look around this room, and we see children of many, many hues, we learn, frankly, that it is the common bonds of experience which truly bring us together. These bonds have as much influence on our lives, our successes and our ultimate futures than something that is as ultimately superficial as race.

Consider the experience of the orphan: Whether because of war, famine, accident, irresponsibility or illness, a child is suddenly alone in the world. The obstacles that child has to overcome and the opportunities that organizations such as the Orphan Foundation provide for that child—those experiences shape them in a particular way. And so one orphan—black, white, Asian, Muslim, Christian or whatever combination of those characteristics you can imagine—can look to another and say, "Yes, I've been down the same road that you've traveled and regardless of how you may look or how you may worship, I can see that you and I share the same experience."

This is a particularly apt metaphor for America writ large. America is a nation of immigrants. In certain ways, the experience of the immigrant and the experience of the orphan mirror one another. We have, in America, people who have, for various reasons come to America for a better opportunity. Before there was a nation called the United States, Pilgrims, fleeing religious persecution, landed in a place they called the New World. In the 1800's the Irish came to these shores fleeing a famine which had devastated their country. As recently as the 1970s, Vietnamese fled a homeland wounded by decades of war. These and so many others saw hope and opportunity in America. They came here for a chance to succeed. They made the conscious decision to become part of a new family—to become Americans. And becoming an American is a unique experience, which comes with certain responsibilities, certain habits that one has to absorb and accept to successfully finish the process.

An American is not "French" the way the French are or "German" the way Germans are. You can live in either of those countries for years and never become French or German. I think one of the reasons Tiger Woods has had such a big impact is because he is an American. He defines himself as an American. I think we need to be prepared to say, the truth is we want all Americans to be, quite simply, Americans. That doesn't deprive anyone of the right to define further define their heritage—I go to celebrations such as the Greek festival in my district every year. It doesn't deprive us of the right to have ethnic pride, to have some sense of our origins. But it is wrong for some Americans to begin creating subgroups to which they have a higher loyalty than to America at large. The genius of America has always been its ability to draw people from everywhere and to give all of them an opportunity to pursue happiness in a way that no other society has been able to manage.

That is a particularly useful way of discussing the question of race which I raised at the beginning of the year, when I was reelected Speaker, and which the President addressed this past weekend in California. This question of race is at the heart of America's darkest moments—slavery, the Civil War, segregation—and yet dealing with it in the public sphere also produced two of our most brilliant and influential leaders—Abraham Lincoln and Martin Luther King, Jr. Such has been the tragedy and the triumph of race in America. As W.E.B. DuBois observed, the 20th century has in some ways been defined by the "color line". As we move into a new century, we have to look at what has worked when it comes to race, what hasn't and what lessons we should learn. Because, as the old adage goes, there is no surer sign of insanity than doing the same thing over and over again—and expecting a different result each time.

Looking to the new rather than repeat a failed pattern is a very American truth. To those who doubt whether America holds promise even in the most hostile of circumstances, we need only turn to the "Narrative of the Life of Frederick Douglass, An American Slave"—his autobiograph. While the question of a federal apology for slavery can be discussed by reasonable people of all persuasions, let us not forget someone like Douglass who didn't wait for an apology. He allowed bonds neither physical nor mental to prevent him in one lifetime to go from being a slave to becoming an adviser to the President. That is quintessentially an American story. That is a story like many others in this unique nation. It stands as one of many historic lessons which all Americans can benefit from learning. Slavery was an awful period in this country's existence—one which we as a country—must never forget. That's why I was glad that J.C. Watts introduced his "June Teenth" resolution yesterday, observing the day many African-Americans celebrate as the traditional end of slavery. The more Americans learn about America—the triumphs and the tragedies—the more we mature as a nation. But while Americans must respect the past, part of being an American is about looking forward.

The scholarships being awarded here tonight are a good place to continue the dialogue on race—because they are awards of pure achievement, pure merit rewarding individuals for their superior work as individuals. They are not being granted because somebody felt sorry for you or thought you needed assistance because you were a particular race or gender. You are being rewarded for your hard work as individuals. That is the way we must approach the issue of opportunity. We will not be successful in moving our society forward if we submerge individuals into groups.

Unfortunately, government policy has concentrated on groupings over the last thirty years. The results of the group-think approach are in and they have proven tragic. Let me draw a distinction. I was an Army brat. I was born in Harrisburg, PA. I grew up in an integrated institution. I went to the South as a teenager and was in Columbus, Georgia when there was still legal segregation. Segregation was the legal imposition by the state of a set of unfair rules. Ending segregation was an inherently political fight. It made perfect sense for people who wanted to advance the cause of freedom and end government-imposed segregation to focus on politics and government. Since the results of segregation were focused on a specific group, it made sense that the focus was on removing the impediments at the group level.

Having ended segregation, however, the next struggle, frankly, is and has been economic and educational achievement. Government is a peculiarly ineffective institution in those areas. This is a lesson we now tell the Chinese, we tell the Russians, we say everywhere around the planet. Centralized, bureaucratic, command-and-control systems don't work. Well, guess what? They don't work very well in the inner cities of Washington, D.C., New York or Detroit, either. And they have proven tragically not to work on Indian reservations.

We need to treat individuals as individuals and we need to address discrete problems for the problems they are—and not presume them to be part of an intractable racial issue which will never be torn out.

Consider education as an example. Following the removal of racial quotas in the University of California system, Berkeley experienced a precipitous drop in accepted black students for their fall classes. The old way of thinking assumes this to be a racial problem that must be addressed in a race-specific manner. That is exactly the wrong kind of thinking. If in fact, enough young people are not being educated well enough to get into Berkeley, the focus should be on what's wrong with the schools that are producing them and how we improve those schools. And if the need is for more tutoring . . . and if the need is for better education . . . if the need is for a way to dramatically overhaul the schools—then let's overhaul the schools.

Similarly, if there are not enough young blacks in particular—young Hispanics to a lesser extent—going out and creating small businesses, then let's look at what are the inhibitions to creating small businesses. All of the set-asides in the world will not change Anacostia or other such pockets of poverty. We have to have a profound fundamental rethinking of the assumptions that have failed for thirty years.

As you look at the success of West Indian, first-generation immigrants or of Koreans or you look at the success, for that matter, of people who have come here from Africa in the last thirty years, the fact is a surprising number of people of color rise surprisingly rapidly. And by rising I mean get wealthier, buy property, have freedom and go on nice vacations. They rise very rapidly. They rise because they have the right habits, skills and networking ability. But if you trap people into public housing with anti-work and anti-achievement regulations, send them to schools that fail, teach them a set of habits about not working, create an environment where no one near them gets up on Monday to go to a job, have nobody in the neighborhood who opens a small business, it shouldn't shock you that we end up with cycles of despair which repeat for generations.

What we've done is artificially create, both on Indian reservations and in the inner city, zones of despair and depression where people have no hope. So we need to talk about a very different model. The President's commission needs to begin with this new, more powerful approach. In America everyone is an individual. Everyone in America has the creator-endowed right to pursue happiness. In America, we pragmatically solve problems by asking, "Why isn't this happening?" For example, "Why aren't children learning in a particular neighborhood?" Then systematically break the problem into components and solve it. In many cases, a solution will require a replacement rather than a repair. That's why we developed a replacement for the failed welfare system. You couldn't repair the old welfare system of passivity and lifetime dependency. It had to be replaced with a different model that emphasized training work and self-help. I would argue the same is true with much of the public housing rules. You can't repair them. You have got to replace them with a different model.

If you do create a replacement system at a practical level, what behaviors are you trying to encourage among large numbers of people? You want to make it easy to open a small business. Most big cities make it hard. Hernando DeSoto fifteen years ago wrote "The Other Path." It is based on anti-job rules in Lima, Peru. It applies as well to Washington, D.C., Atlanta, Miami, New York, Los Angeles and virtually all large American cities. So the very place we want more business—we're going to face this problem of local anti-job taxes and rules now. I'm the leading advocate for tax breaks for Washington, D.C. We have nearly $580 million in tax breaks (over ten years) in the tax bill for our nation's capital. We have fought hard to protect these tax breaks. Yet D.C. city taxes are one-third higher than the surrounding counties' taxes. Now, it is not hard for any student of Adam Smith to figure out why, if you are a rational small businessperson, you go to Prince George's County. It's safer, it's cheaper and the local government doesn't make it so difficult for the entrepreneur to succeed.

It doesn't matter how many quotas you have. If you're not willing to confront the central need to reform and replace the systems that have failed, they will continue to fail. I would hope the President's commission will have the moral courage to erase the assumption that we are a "group" society. If they will look to Canada right now, they will see profound reasons for Americans to want to avoid our decaying into a series of groups. I hope this commission will decide that its goal must be to have every American succeed as an individual within the framework of their Creator-endowed rights.

We must focus on individuals and their personal educational and economic achievements. Obsessing on race will not allow us to move beyond race. We must follow the example of the Orphan Foundation and recognize specific needs and provide principles that will allow Americans of all backgrounds to open the doors of opportunity.

We have to start with the development of a solid foundation—with an economic and social pillar—which will allow us to build a true opportunity society. We must emphasize continuing economic growth with low inflation and rising take-home pay. Within this economic growth we must emphasize creating opportunities for minorities to create new small businesses. Our goal should be to encourage at least a three-fold growth in black-owned small businesses over the next few years. This will require reductions in taxation, litigation and regulation to make it dramatically easier to launch small businesses. It also will require an aggressive outreach program to encourage minority individuals to create their own business as an alternative to working for others.

In addition to expanded economic opportunity we should insist on solving other challenges which affect all Americans but bear particularly harshly on minority populations. I imagine it is January 1, 2001, the first day of a new century and a new millennium. It is a Monday morning. Imagine waking up to an America that was virtually drug-free, in which practically every child was learning at their best rate, and in which almost all children were born into or adopted into families that could nurture and raise them.

I am not describing a utopia. This is the America I went to high school in in 1960. Drug use was marginal. There was an expectation you could read the diploma before they gave it to you. Self-esteem was earned not given. Young males knew that fatherhood was a responsibility not just a biological side effect of hedonism.

All of America will be better off if we create a drug-free, learning-oriented America of children growing up in families—minority Americans in general and black Americans in particular—would find their lives dramatically improved by these changes.

Stopping drug addiction, drug-related violence, and drug-generated wealth will do more to improve the lives of young blacks and the prospects of poor neighborhoods than all of the quotas and set-asides combined. When neighborhoods are drug-free and crime free, businesses will return, jobs will reappear and economic opportunity will be re-established.

True learning is infinitely more powerful than social promotion combined with quotas and set-asides. Every child of every background in every neighborhood deserves their full rights to pursue happiness as their Creator endowed them. Recently, I attended an 8th grade graduation at St. Augustine private School here in Washington. 98% of the private school children will graduate. The public schools which cost three to four times as much will graduate less than half as many of their entering children. Saving the children who are dropping out requires new approaches not new quotas.

We know we can dramatically reduce single teen pregnancy because it is being done. Kay Granger, former mayor of Forth Worth and now a freshman member of Congress, worked on a YWCA project for 800-at-risk teenage girls. Statistically 70% should have become pregnant. The program taught these young girls ambition, integrity, and motivation. Instead of 560 becoming pregnant, only two did. We can break the cycles of dependency and despair in our poor neighborhoods.

This is not a proposal for a massive new government program. If centralized bureaucracies in Washington could have stopped drugs, guaranteed learning and ended single teen pregnancy, the job would have been done—we have created the bureaucracy and spent the money. It was just the wrong model.

America is a great country filled with good people. Tocqueville pointed out in the 1840s that volunteerism, local leadership and faith based charities were the unique attributes that gave America its dynamic character. Marvin Olasky recaptured these principles of American success in his 1994 book "The Tragedy of American Compassion."

Instead of focusing on broad sweeping generalizations about race, the President's commission needs to focus on practical, doable, immediate action steps that can solve America's problems. If Americans get busy enough working together to achieve real goals, racism will recede. Perspiration and teamwork will dissolve racism faster than therapy and dialogue.

I'm sure most of you saw the Bulls-Jazz championship game last week. In the closing moments, when Michael Jordan looked to find an open man for a winning shot, he didn't look for the closest black player. He looked for the nearest jersey. That happened to be Steve Kerr who is white. This is the example for society to follow: A group of individuals so focused on a common goal of winning—that they don't have time to worry about what color the other is. I will also remind everyone here and watching on C-SPAN that Michael Jordan tragically lost his father a few years ago. Steve Kerr, while a college freshman, lost his father to Middle East violence. They are also good examples of overcoming adversity and triumphing in the face of it.

We thank the President for wishing to continue the dialogue on race last weekend. But frankly, there has been much talk on this issue and very little action of the sort which will dramatically change people's lives. Let me now suggest 10 practical steps which, started today can build a better America and, in the process, close the racial divide.

1. Learning: We must create better opportunities for all children to learn by breaking the stranglehold of the teachers' unions and giving parents the financial opportunity to choose the public, private, or parochial school that's best for their children (as outlined in Majority Leader Armey's Educational Opportunity Scholarships for District of Columbia students).

2. Small business: We must set a goal of tripling the number of minority-owned small businesses by bringing successful small business leaders together to identify—and then eliminate—the government-imposed barriers to entrepreneurship.

3. Urban renewal: We must create 100 Renewal Communities in impoverished areas through targeted, pro-growth tax benefits, regulatory relief, low-income scholarships, savings accounts, brownfields clean-up, and home-ownership opportunities (as outlined in Jim Talent and J.C. Watts' American Community Renewal Act).

4. Civil rights: The Equal Employment Opportunity Commission should clear its existing backlog of discrimination cases by enforcing existing civil rights laws, rather than trying to create new ones by regulatory decree.

5. Equal opportunity: We must make America a country with equal opportunity for all and special privilege for none by treating all individuals as equals before the law and doing away with quotas, preferences, and set-asides in government contracts, hiring, and university admissions (as outlined in the Canady-McConnell-Hatch Civil Rights Act of 1997).

6. Racial classification: We must break down rigid racial classifications. A first step could be to add a "multiracial" category to the census and other government forms to begin to phase out the outdated, divisive, and rigid classification of Americans as "blacks" or "whites" or other single races. Ultimately, our goal is to have one classification—"American".

7. Home ownership: We must ease the path toward home ownership by giving local communities and housing authorities the flexibility and authority to more effectively and efficiently house low-income Americans (as outlined in the Housing Opportunity and Responsibility Act). We must also expand faith-based charities such as Habitat for Humanity, which grow families as well as build homes.

8. Violent crime: We must make our cities safe and secure places to live and work through community policing, tougher sentences for violent criminals, and innovative anti-crime programs (as outlined in the Juvenile Crime Control Act of 1997). We must also dramatically expand the community-based anti-drug coalition efforts and insist on a victory plan for the war on drugs.

9. Economic growth: We must expand economic opportunities for all Americans by promoting continued economic growth with low inflation and rising take-home pay, through tax cuts, tax simplifications, litigation reform, less regulation and overhaul of the burden of government on small businesses. After all, for welfare-to-work to be successful, work needs to be available.

10. Welfare reform: We must take the next step in welfare reform by fostering and promoting innovative local job training, and entry-level employment programs to move welfare recipients into the workforce (as outlined in the Personal Responsibility Act of 1996 and the welfare-to-work initiatives of Governor George Bush of Texas and others).

These ten steps are examples of the kind of practical, down-to-earth, problem-solving efforts which will improve the lives of all Americans, but have an especially important and dramatic impact on the lives of poor Americans and minority communities.

I hope the President's commission will establish a goal of practical reforms and practical changes and will hold hearings designed to elicit pragmatic, down-to-earth proposals for real change.

The commission would do well to start right here with the Orphan Foundation. This is a uniquely American institution—in your generosity of spirit, in your inner strength and in your boundless optimism. But most of all, you are uniquely American because in giving these and many other young people the rarest of treasures—a sense of hope, a sense of place and a sense of possibility—you are in fact helping show them what it means to be citizens and part of the American family. And those are the greatest gifts of all. You are part of a worldwide movement of freedom and faith. You are all making our jobs a little bit easier. I thank the Foundation for its work; I salute this year's scholarship winners and I thank you for allowing me to join you this evening.

BALANCED BUDGET ACT OF 1997

SPEECH OF

HON. DARLENE HOOLEY

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1997

Ms. HOOLEY of Oregon. Mr. Speaker, I rise today to express my support for this historic budget agreement. We have a remarkable opportunity to balance the budget while protecting our values, and I believe we should do everything we can to craft a budget plan that will be good for all Americans.

Balancing the budget and putting our fiscal house in order is the single most important thing we can do for our children, and for our future. We have made important strides toward balancing the budget and shrinking the deficit while maintaining a healthy, growing economy. But there is still a long way to go.

While I am voting in support of the measure, the bill is far from perfect. In the past 2 days important improvements have been made to the legislation. The leadership should be commended for continuing negotiations. However, further changes are needed in key areas including children's health care, reproductive choice and medical savings accounts.

I am very concerned about the inclusion of the Hyde amendment restrictions in the children's health initiative. I believe the inclusion of this anti-choice rider is an inappropriate infringement on reproductive rights.

I am pleased that the bill includes the $16 billion in funding for the children's health care initiative, as outlined by the budget resolution. Making health care affordable and accessible to our country's 10 million uninsured children must remain a core budget priority. Even though I believe we should provide States with much-needed flexibility in implementing the initiative, we must ensure that States use the new funds to expand health services for children in need.

Many States have already acted in very aggressive and innovative ways to expand health coverage to uninsured kids. Unfortunately, the formula included in this bill is structured so it penalizes States like Oregon that have already taken action to provide health care to more children. The distribution of funds is unfair and it is bad policy. We should be rewarding Oregon, and other States that have already invested in creative policies for expanding coverage. Instead, the bill rewards inaction and punishes innovation.

Finally, I must express some deep reservations over the inclusion of a large medical savings account demonstration project for Medicare beneficiaries. I am very concerned about the effects MSA's could have on Medicare beneficiaries. In my view, a 500,000-person demonstration project is much too large to test the impact of MSAs on Medicare. Because of the uncertainties associated with MSA's, any demonstration project must proceed with caution.

Today is another step in this important budget process. I support this step, and urge my colleagues and the administration to continue our hard work for budget legislation that will best serve the American people.

BALANCED BUDGET ACT OF 1997

SPEECH OF

HON. WILLIAM J. COYNE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1997

Mr. COYNE. Mr. Speaker, I rise today in opposition to the portion of the 1997 reconciliation bill that we are considering today. I oppose this bill because there a number of provisions contained in it that are so objectionable that I cannot support this legislation in its current form. Let me outline my objections to this bill.

Until this morning, the House welfare legislation would have allowed States to pay welfare recipients less than the minimum wage for publicly sponsored work programs. This isn't right. Work is work. Everybody should earn a living wage. States should not be permitted to treat individuals on welfare differently from other workers. Afraid of the political repercussions of such a patently unfair policy, the majority has modified its legislation in the Rules Committee. While I am pleased that the House leadership has conceded that welfare workers ought to be paid at least the minimum wage, I think that the changes that were made to this legislation do not go far enough. Welfare workers still will not be ensured of adequate protection from sexual harassment, discrimination, or health and safety violations in the workplace. Welfare workers also will not be assured that they will receive the same benefits and working conditions as other workers doing the same type of work for the same employer.

The House bill would allow States to privatize their Medicaid and food stamps eligibility processes. I believe that making eligibility determinations is an inherently governmental function that should not be privatized, and that the privatization of eligibility determinations could lead to many unfair and inappropriate eligibility determinations.

The welfare portion of the House bill also overturns an appeals court ruling mandating that States use alternative base periods for determining unemployment compensation eligibility. By overturning the court's ruling, the bill denies many low-wage, intermittent workers access to unemployment insurance benefits at the times when they need them most. It seems to me that states should use workers' most recent earnings history to determine eligibility for unemployment compensation benefits.

Finally, the welfare portion of the reconciliation bill breaks both the spirit and the letter of the budget agreement in its treatment of legal immigrants. The budget agreement stipulated that legal immigrants in the United States by August 22, 1996, but who become disabled after that date would be eligible. Under the House bill, only legal immigrants who were on the SSI rolls as of August 22, 1996 would continue to be eligible for SSI payments.

In addition to the welfare provisions of this legislation, I object to a number of the bill's Medicare provisions as well. The Medicare portion of the reconciliation legislation includes a provision authorizing a demonstration project of 500,000 medical savings account [MSA's]. At a time when we are fighting to preserve the Medicare program, we should not be giving hand-outs to the healthiest and wealthiest Medicare beneficiaries—especially when these hand-outs cost the Medicare program money.

The Medicare portion of the legislation falls short with regard to managed care consumer protection provisions as well. It does not include some critically important managed care consumer protection provisions, like the ability of beneficiaries to obtain expedited appeals of denied claims in urgent situations. The bill also allows the Secretary of Health and Human Services to waive the 50-50 rule for managed care plans. This rule traditionally ensured that managed care plans provided quality care to Medicare beneficiaries. It is not certain that other, more comprehensive, measures of quality will be established before the 50-50 rule is waived. In short, this legislation does not ensure that Medicare's managed care beneficiaries will receive the highest quality of medical care.

In addition, the bill does not allow graduate medical education [GME] and disproportionate share hospital [DSH] payments to go directly to the institutions that train medical residents and take care of Medicare beneficiaries. Instead, these payments will continue to go to managed care companies, middlemen who do not perform these critically important functions, but whom many people believe often fail to pass the full GME and DSH payments on to the hospitals. It is only fair that these payments go to those institutions that incur the costs of GME and DSH. The GME and DSH provisions of this bill desperately need to be changed.

The bill also includes some unwarranted weakening of our medical malpractice laws. The malpractice provisions in the legislation way weaken the ability of our legal system to deter medical malpractice.

Finally, the bill does not include some important protections against waste, fraud and abuse in the Medicare program that were offered by the Democrats on the House Ways and Means Committee when this bill was marked up. It has been estimated that waste, fraud and abuse cost the Medicare program about $23 billion last year alone. The Republican majority refused to incorporate several provisions that would have helped the Medicare program to avoid rampant waste, fraud and abuse. This bill should be changed to include those provisions.

I am also opposed to several of the Medicaid provisions contained in this legislation. Specifically, I am very concerned that the level of disproportionate share hospital payments that go to hospitals who treat large numbers of the poor will render these facilities unable to continue providing services to this vulnerable population.

Further, I am opposed to repeal of the Boren amendment, which requires states to pay hospitals and nursing homes a reasonable and adequate rate for treating and taking care of Medicaid recipients. It is only fair that health care institutions charged with caring for Medicaid recipients be assured that they receive adequate compensation for doing so. I believe that repeal of the Boren amendment could have disastrous consequences for many hospitals and nursing homes that care for the poor.

Mr. Speaker, these are the main reasons that I have decided to oppose this legislation. I urge my colleagues to work with me to produce a reconciliation bill that we can all support—one that provides for the neediest, most vulnerable members of our society in a fiscally responsible fashion.

SENATE—*Monday, July 7, 1997*

The Senate met at 12 noon, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, as we return from a week of recess celebrating the 221st birthday of our Nation, we praise You for Your providential care all through our history. Now, with renewed patriotism and dedication, we confront the demanding schedule of the month ahead. Bless the Senators, and all of us who work with them, with the humble trust in You that opens the floodgates of Your power. This is a time of our history that demands greatness. We thank You for the wisdom, vision, and creativity You give to leaders who acknowledge their dependence on You and seek Your guidance and direction. There's no limit to what You can do through leaders who give You the glory. Here are our challenges, reveal Your solutions for them; here are our minds, think through them; here are our hearts, express Your love and care through them; here are our voices, speak through them. We commit our lives and leadership to You. Shape the next phase of Your strategy for our Nation through the men and women of this Senate. Through our Lord and Saviour. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader is recognized.

Mr. HAGEL. Thank you, Mr. President.

SCHEDULE

Mr. HAGEL. Mr. President, for the information of all Senators, today the Senate will resume consideration of S. 936, the Department of Defense Authorization Act. As previously announced, there will be no rollcall votes during today's session of the Senate. Any votes ordered today with respect to amendments to the DOD bill will be set aside to occur at a time to be determined later. Under the consent agreement, there will be a cloture vote on the DOD bill at 2:15 p.m. Tuesday afternoon. As a reminder, all first-degree amendments to the bill must be filed by 1 p.m. this afternoon. It is the hope of the majority leader that we will make significant progress on the bill today so that we can complete action on the defense bill this week.

Beginning next week, the Senate will begin consideration of the available appropriations bills. Senators should be prepared for a busy legislative period between now and the August recess as we consider these appropriations bills as well as the conference reports to accompany the Balanced Budget Act and the Taxpayers Fairness Act. There is much work to do in the next 4 weeks, and the majority leader thanks all Members in advance for their cooperation.

Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HAGEL). Without objection, it is so ordered.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

ORDER OF PROCEDURE

Mr. DORGAN. Mr. President, let me inquire of the chairman of the committee, my understanding is that the Senate is technically on the defense authorization bill now, and that there is also anticipated time for morning business during the day. If not inappropriate, I will proceed to discuss a couple of items in morning business. But I do not want to do that at any time today that would interrupt the consideration of the bill. I will do it at the pleasure of the Senator from South Carolina.

Mr. THURMOND. Mr. President, we are awaiting Senator LEVIN to come. I suggest that the Senator go ahead if he desires to do so.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I appreciate very much the courtesy of the Senator from South Carolina, Senator THURMOND.

Mr. THURMOND. Since the bill is up for consideration, I think we have to return to the morning hour and then the Senator can speak in morning business. I ask unanimous consent that we do so.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from North Dakota.

Mr. DORGAN. Mr. President, I want to visit about some issues today; two of them deal with trade and one deals with the issue of safer schools.

UNITED STATES TRADE RELATIONSHIP WITH CANADA

Mr. DORGAN. Let me begin by talking just for a moment about trade.

I generally come to the floor to talk about NAFTA, which is our trade relationship with our neighbor to the north, Canada, and our neighbor to the south, Mexico. Let me limit that this morning to our trade with Canada.

I say on a broader scale that our NAFTA trade agreement in my judgment has been a failure. We now have a $40 billion combined deficit with our two neighbors, Canada and Mexico. Prior to the enactment of NAFTA, the trade agreement with our two neighbors, we had a much more positive balance of trade. But since the enactment of NAFTA, we now see a nearly $40 billion combined trade deficit, which I think is a very serious problem. It is a growing problem, and one that we must deal with.

But let me just deal with one part of the trade problem with Canada today. There is an avalanche of Canadian grain that is moving across our border, flooding into our marketplace, and that is depressing grain prices here in this country and taking money out of the pockets of American farmers.

This might be a fairly boring subject to some, but not if you are a farmer. If you are a farmer out there struggling, and you see the prices drop for wheat, Durum, barley, and other things you are producing, and then see Canada flood our markets with Canadian grain, you get pretty angry about it, and justifiably so.

We had an agreement with Canada, something called tariff rate quotas, for a year which established levels of Canadian shipments of wheat, Durum, and other wheat coming into this country. That tariff rate quota expired, but the administration indicated they would unilaterally enforce that quota. Well, at this point Canada has shipped a quantity of grain into this country that is already above the tariff rate quota for this marketing year. And it is shipping Durum wheat into this country at a level that will exceed the tariff rate quota as well. It has not yet done so, but will exceed the tariff rate quota.

Canada seems not to care very much about what this country thinks about these trade arrangements. We had a consultation with Canada about a week or two ago in Montreal, I believe, and the Canadians responded in a way that was wholly unsatisfactory to these issues. In essence, the Canadians seemed to be saying, I am told, that they intend to do nothing about it and

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

they intend to continue to ship their grain into this country.

I am asking the President to do a couple things. One, inasmuch as the Canadians are not exercising a good neighbor policy on this trade, we should take some action.

Just to back up for a moment, when the United States-Canada Free Trade Agreement was enacted by Congress, the Trade Ambassador, then Trade Ambassador Clayton Yeutter, said to Congress that the evidence of good faith in this trade relationship is that there will not be an increase in grain coming across our border following the enactment of this trade agreement. Well, that was not worth the paper it was written on. But that is the assurance he gave in writing to Congress. Of course, we have been flooded with Canadian grain ever since.

Here is what we ought to do. First, the United States ought to target Canadian foreign markets overseas. We ought to use our export enhancement funds in Venezuela, South Africa, West Africa, Tunisia, for example, to replace Canada as a major wheat supplier to those markets. If Canada is going to cause injury to our domestic marketplace for wheat, then it is time for us to go after their foreign markets and have them pay a price for their behavior under this trade agreement.

Second, I think the administration ought to take immediate action to unilaterally stop Canadian wheat shipments from coming into this country. They said they would unilaterally enforce the tariff rate quota. Canada has already exceeded that tariff rate quota on spring wheat and other wheat, and will exceed it on Durum. The administration should shut the border to additional wheat shipments coming into this country.

Third, the Canadian Wheat Ambassador is coming to this country, I believe, this week. I intend to seek a meeting with the Canadian Trade Minister, and ask some of my colleagues to participate in that. I am also going to seek a meeting with the Trade Ambassador and deliver to him personally my concern about what is happening with Canadian grain.

The fact is, grain prices are collapsing in this country. Family farmers are struggling to make a living, and at the same time they are seeing their prices collapse and their income go down. The Canadian grain is flooding across our border. It does not make any sense at all.

I will share one additional point with my colleagues. I went to our border with Canada. I of course come from North Dakota, and we share a long border with Canada. I went to the border in a little, orange, 12-year-old truck with some Durum wheat in the back. We went to the border to take that Durum wheat into Canada. And all the way to the border we saw 18-wheel trucks coming from Canada to the United States hauling Canadian grain—all the way to the border, truck after truck after truck after truck, coming into the United States hauling Canadian grain.

We got to the border in this little, orange, 12-year-old truck with a little Durum in the back. And guess what. You could not take one grocery sack full of American Durum wheat into Canada, not one. Not only couldn't you get this little, orange truck with Durum into Canada, you could not take a grocery bag full of wheat into Canada. That trade relationship is unfair, and it ought to be changed.

TRADE WITH CHINA

Mr. DORGAN. Mr. President, let me turn to a second trade issue just very briefly. That is the issue of trade with China. We are going to confront, in the coming weeks, the issue of most-favored-nation trading status with China.

I was in Beijing a few months ago and met—along with Senator DASCHLE, the minority leader, and some others, Senator KEMPTHORNE, Senator GLENN, and Senator LEAHY—with the President of China. The President of China talked about the trade between the United States and China, and said that they were enjoying this trade relationship. They should. This trade relationship is too much now a one-way relationship between the United States and China. China now has a $40 billion trade surplus with the United States, or, to put it another way, we have a $40 billion merchandise trade deficit with China. It is unforgivable that kind of failure in trade should occur.

Now, let me talk just a little about that. I have put on the easel a chart that shows merchandise trade deficits. We have had a lot of talk in this Chamber about budget deficits and a lot of work to deal with budget deficits. Nobody talks about trade deficits. We have the largest merchandise trade deficit in American history right now. What does that mean? That translates into jobs leaving this country. That is what the merchandise trade deficit means—a weaker manufacturing sector in America and jobs moving overseas.

Now, the largest merchandise trade deficit in history occurs because we have a significant merchandise trade deficit with a number of countries, one of which is China. Here is what has happened in merchandise trade deficits with China in recent years. Go back 10 years and what you will see is a massive increase in the merchandise trade deficit with China, now nearly $40 billion. The growth in United States exports to China is not nearly as strong as the growth in imports from China.

Now, people say if you read a newspaper about our trade with China, here is the way they do it. It is like dancing the jig. They say, did you know our exports from the United States to China are up triple? We have tripled our exports. Yes, that is right here. It went from $3.6 billion in 1980 to $11.9 billion in 1996. So we read that in the paper, and they do this all the time, we have tripled our exports from the United States to China. You think, gee, what a terrific thing for our country. They do not tell you the other half of the story. Imports from China are up 46 times—not triple, 46 times. They went from $1 billion to $51 billion. So the people that give you only half the story say, gee, we have tripled our exports to China, but they don't tell you that the amount of imports from China are up 46 times.

Now, just a short trade quiz. To which countries did the United States export more goods than it did to China in 1996? Did we import more goods to Australia than we do to China? China has 1.2 billion people. Did we export more to Australia than to China? What about Belgium? Did we export more to Belgium than China or Brazil or the Netherlands or Singapore? Did we export more to those countries than China? To which of these countries did we export more than to China? The answer is, all of them. We are a sponge for China, sending us all of their goods. Very close to half of all Chinese exports come to the United States of America.

What does China buy from us? Well, here is what they buy from us. In the trade flow with China they buy cereal, textile fibers, fertilizers, and some aircraft. What do we buy from China? Electronics, heavy machinery, toys and games, and footwear. This trade relationship is not fair, it does not make sense, and it weakens our country.

All of the debate here in Congress is about the most-favored-nation status and human rights. I was in China the day they sent Wang Dan to prison—I think for 9 years—sent him to prison because he criticized the government. If you criticize this Government, is somebody going to send you to prison? No, we have something called a Constitution. You are welcome to criticize this Government. It is part of what this country is about; the hallmark of freedom is free speech. In China, Wang Dan found free speech might be free but only up to a limit. You criticize your government, you spend years and years in prison.

So, human rights are important. Yes, we ought to be concerned about human rights with respect to China and with respect to most-favored-nation status. But even if the human rights issue were addressed and even if that issue were resolved, what about the abiding trade problem with China with respect to the imbalance of trade, a $40 billion trade deficit and growing? What about that? What about the other deficit, the trade deficit?

This administration and this Congress needs to deal with the other deficit, and that is part of this issue. I hope the journalists, newspapers, and others would also start writing about this, carry some op-ed pieces about it. You cannot even get this information in an op-ed piece. They will not carry it.

What about the $40 billion trade deficit? Why ought not we as Americans expect that if we buy all of these goods from China, they ought to buy a massive quantity of American-manufactured goods as well? China says it wants airplanes, needs airplanes. Guess what? Instead of saying we will buy your airplanes manufactured in the United States, they say we want American manufacturers to manufacture their airplanes in China. It makes no sense. That is not fair trade.

We will have a discussion this month about most-favored-nation status with China, and yes, part of it should be about the issue of human rights. But part of it also needs to be about the abiding, growing and dangerous trade deficit that we now have with China and about reciprocal trade treatment that would require China to understand that when it sells into our marketplace, it must also then buy in the American marketplace goods that China needs and uses.

(The remarks of Mr. DORGAN pertaining to the introduction of S. 989 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DORGAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1998

The PRESIDING OFFICER. The Senate will now resume consideration of S. 936, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 936) to authorize appropriations for fiscal year 1998 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Cochran/Durbin amendment No. 420, to require a license to export computers with composite theoretical performance equal to or greater than 2,000 million theoretical operations per second.

Grams Amendment No. 422 (to amendment No. 420), to require the Comptroller General of the United States to conduct a study on the availability and potential risks relating to the sale of certain computers.

Coverdell (for Inhofe/Coverdell/Cleland) amendment No. 423, to define depot-level maintenance and repair, to limit contracting for depot-level maintenance and repair at installations approved for closure or realignment in 1995, and to modify authorities and requirements relating to the performance of core logistics functions.

Mr. LUGAR addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

Mr. LUGAR. Mr. President, momentarily, when the draft of my amendment arrives, I will send it to the desk. For the moment, I will simply mention that the amendment I am about to offer, I will offer on behalf of myself, Senator BINGAMAN, Senator DOMENICI, and Senator LEVIN.

Mr. President, I indicate that additional original cosponsors will be Senators HAGEL, JEFFORDS, CHAFEE, SPECTER, D'AMATO, FRIST, GORTON, SNOWE, COLLINS, KENNEDY, BIDEN, KERREY of Nebraska, LIEBERMAN, BYRD, REED of Rhode Island, DASCHLE, and ROBB.

I want to especially recognize Senator DOMENICI for his contribution to our work on this amendment.

Mr. President, let me state at the outset that Congress established, in 1991, with strong bipartisan support, what is known as the Nunn-Lugar Cooperative Threat Reduction Program, the CTR.

Last year, the Senate, in a 96 to 0 vote, amended and enlarged this important program through the Nunn-Lugar-Domenici legislation entitled the Defense Against Weapons of Mass Destruction Act.

The CTR program at the Department of Defense, along with its companion programs at the Department of Energy—namely, the Materials Protection Control and Accounting Program [MPC&A] and the International Nuclear Safety Program—have played significant roles in our efforts to reduce the risk to the United States from loose nukes and the dangers inherent in the operations of Soviet-designed nuclear reactors.

Each of these programs plays a key role in enhancing stability around the world and contributes to circumscribing the threats that emanate from weapons and materials of mass destruction.

The defense authorization bill for fiscal year 1998, as reported out of the Committee on Armed Services, cut the funding for the Cooperative Threat Reduction Program and the Materials Protection, Control and Accounting Program and totally eliminated all funding for the International Nuclear Safety Program.

Our amendment is designed to restore the funding cuts in these three programs.

REDUCTION IN THE CTR REQUEST

Mr. President, the Armed Services Committee has recommended a cut of $60 million in the President's request of $382.2 million for the fiscal year 1998 for the Cooperative Threat Reduction Program. The sponsors of this amendment believe that this is a mistake.

The Nunn-Lugar program's impact on the threat posed by former Soviet weapons of mass destruction can be measured in the 81 ICBM's destroyed, 125 ICBM silos eliminated, 20 bombers destroyed, 64 SLBM launchers eliminated, 58 nuclear test tunnels sealed, and the 4,500 warheads taken off strategic systems aimed at us—Mr. President, let me repeat that, 4,500 former Soviet warheads which were pointed at the United States have been removed by the Nunn-Lugar program—all at a cost of less than one-third of 1 percent of the Department of Defense's annual budget. Without our Cooperation Threat Reduction Program, Ukraine, Kazakstan, and Belarus would still have thousands of nuclear weapons. Instead, all three countries are nuclear-weapons-free.

Although the CTR Program has accomplished much, much work essential to U.S. national security interests remains to be done. This includes:

The elimination of ICBM's, SLBM's, and heavy bombers as required under the START I Treaty, followed by START II and perhaps START III; increase safety and security for the transport and storage of remaining Russian nuclear warheads; an end to production of weapons-grade plutonium; chemical weapons reduction; and other efforts to reduce weapons of mass destruction in the former Soviet Union and the threat of proliferation.

The President's fiscal year 1998 budget request of $382.2 million was a barebones request based on a difficult prioritization of potential projects.

Stated simply, Mr. President, there are tens of things which need to be done, a long list prioritized and squeezed into the $382.2 million bare bones request. Many programs that the Congress supported in the past failed to make the list. Indeed, there are several key projects that cannot be funded even at the $382.2 million level which would accelerate our strategic arms elimination programs in Russia and Ukraine.

I am told that the committee reduction in the President's request was motivated in part because:

Unobligated moneys remain for Belarus, which cannot be spent as long as that country has not been recertified for the CTR program; the Government of Japan has suggested it might purchase fissile material containers for a major CTR project at Mayak in Russia, thereby freeing up some CTR funds previously planned for that project; and finally, unobligated funds for the Cooperative Threat Reduction Programs.

In fact, Mr. President, there are no extra funds available. There are no unobligated funds that have not been designated for specific projects and specific countries.

BELARUS DECERTIFICATION

The decision by the President not to recertify Belarus for the time being resulted in $37.2 million that cannot be obligated until Belarus is certified. The Department of Defense plans to use $15 million of this sum to partially fund a classified project that has been briefed to Members and notified to the Congress. A copy of that notification is available in S–407 for any Member to read. The remainder of the Belarus funds are intended to remain in reserve to implement previously notified projects in Belarus in the event that Belarus is recertified in fiscal year 1998.

Mr. President, I support the maintenance of these funds in a reserve to implement previously notified projects. Even though the SS–25's have left Belarus for Russia, much remains to be done in the area of strategic system infrastructure elimination. SS–25's are mobile; they could be returned under certain circumstances. Thus, while Belarus is currently nuclear weapons free, much remains to be done to insure that it remains in that status.

JAPANESE CONTAINER PURCHASE

The Japanese are negotiating with the United States manufacturer, Westinghouse, to purchase some fissile material storage containers for a storage facility at Mayak, Russia. This project is a major component of the CTR program. While the Department of Defense is not yet certain how many, if any, the Japanese will purchase, it could be that a Japanese purchase would decrease the DOD requirements for container purchases by as much as $15 million. Accordingly, the Department of Defense plans to use this $15 million to augment some of the funds from the Belarus account for the classified project. The remaining fiscal year 1997 container funding in the amount of $23.5 million are being notified to Congress to enable purchase of containers to complete the 50,000 container requirement.

In short, Mr. President, the Congress has been notified on a new, classified nonproliferation project which will use all of the CTR funds no longer needed for fissile material container, and many of the obligated funds previously planned for Belarus in the event Belarus is not recertified. This project is important and time-sensitive and deserves our support.

UNOBLIGATED CTR FUNDS

Mr. President, the issue of unobligated CTR funds is an annual one. Inevitable delays in obligating funds in a given fiscal year result from the annual certification process, a very complicated process from the beginning of the nonnuclear legislative efforts in 1991.

For example, the Department of Defense did not have authority to spend fiscal year 1997 CTR funds until April 1997, following completion of the certification process and notification to Congress of intent to obligate the fiscal year 1997 funds.

Mr. President, this means simply that well over half of the year was consumed due to the legislative requirements of the certification process and the notification of intent to Congress.

Over the life of the CTR Program, DOD has notified to the Congress intent to obligate approximately $1.8 billion. Of this amount, $1.3 billion has been obligated, and an additional $38.5 million soon will be notified. Therefore, DOD has $513 million—not $700 million—in currently unobligated CTR funds.

For fiscal year 1997, DOD has so far obligated $208 million, with plans to obligate another $200 million by the end of the fiscal year. As defined in the CTR Multi-year Program Plan reported to Congress earlier this month, the remaining $313 million in unobligated funds have been committed to specific countries by signed agreement and are earmarked for specific CTR projects. For example, we have agreements and have earmarked funds for SS–18 ICBM elimination in Russia and SS–24 elimination in Ukraine.

The bottom line, Mr. President, is that execution of these funds has been thoroughly planned, and agreements with recipient nations have been signed to allow this assistance for eliminating these strategic systems to proceed per the DOD plan.

THE MATERIAL PROTECTION, CONTROL, AND ACCOUNTING PROGRAM

Mr. President, let me turn to the second program for which we seek to restore full funding through this amendment—this is, the Material Protection, Control, and Accounting Program.

Mr. President, most Members can appreciate the direct benefits to our security from assisting in the elimination of strategic weapons systems targeted on the United States. Perhaps more difficult to comprehend is the threat posed by the potential leakage of weapons-grade nuclear materials.

The Material Protection, Control, and Accounting Program seeks to secure hundreds of tons of weapons-usable nuclear materials in the former Soviet Union and elsewhere which are inadequately secured and are at risk of falling into the hands of criminal elements, terrorist organizations and rogue states. In sort, this programs works to prevent the theft or diversion of weapons-usable materials—plutonium and highly enriched uranium.

The Department of Energy, in cooperation with Russia, the newly independent states, and the Baltic States, has put in place equipment at 18 sites to safeguard plutonium and weapons-usable uranium, and agreements are in place to enhance safety and security at over 30 additional sites, including research laboratories and storage sites. If this program is reduced by the $25 million recommended by the committee, there would be delays of at least 2 years in securing these sites and an estimated increased cost of $70 million.

In short, Mr. President, after a slow start in the early 1990's, MPC&A improvements are now underway at over 50 sites in Russia, the new independent states, and the Baltic States. Let me give some specific examples: MPC&A upgrades at Obninsk and Kurchatov in Russia have radically improved security for several tons of weapons-usable material; upgraded MPC&A systems for all weapons-usable nuclear materials in Latvia, Lithuania, Uzbekistan, Georgia, and Belarus are complete; nuclear material detectors have been installed at all pedestrian pathways at the Siberian Chemical Combine (Tomsk–7) and the Chelyabinsk–70 nuclear weapons design institute. These monitors provide a major improvement to the security of many tons of weapons-usable nuclear material at these sites; a national MPC&A training center has been established at Obninsk, Russia, with support from DOE and the European Union; by the end of this month, more than 1,000 nuclear specialists from the former Soviet Union will have participated in MPC&A training courses and technical exchanges under the auspices of the program; work is underway to strengthen Russia's nuclear regulatory system; and MPC&A upgrades for the Russian Navy, some 8 to 10 facilities in 1998, the icebreaker fleet, and for nuclear materials during transportation are underway at several sites.

Mr. President, it is noteworthy that the National Research Council recently completed an independent external assessment of this MPC&A program, and the National Research Council concluded; and I quote:

> U.S. commitment to the program should be sustained and funding should be continued at least at the level of FY 1996 (funding) for several more years, and increased if high-impact opportunities arise.

In short, the Energy Department through this program has enhanced the security surrounding hundreds of tons of nuclear weapons material, but the vast majority of material remains poorly secured.

Mr. President, fiscal year 1998 is one of the peak-activity years for the program, with work in progress at all large Russian nuclear sites compromising many hundreds of tons of highly enriched uranium and plutonium. If we reduce the fiscal year 1998 budget by $25 million, it would kill program momentum, a momentum based on years of negotiations, confidence building, and windows of opportunity.

Mr. President, if we do not restore these program cuts, then I fear that work that has already been done to secure U.S. security interests and establish project foundations would need to be done again at considerable financial, time, and political costs. These costs would be especially great for the high-priority dismantlement and navy sites that we are attempting to secure. For example, security of fresh highly enriched uranium naval fuels is at a crucial stage. It is the largest project with the Russian Ministry of Defense—a key player in the overall nuclear-material security picture. It is crucial to maintain the program momentum. Security upgrades at the first facility are underway, and 6 to 12 additional facilities will be targeted in the 1998–2002 timeframe.

Mr. President, the bottom line is that, in my judgment, the MPC&A Program is one of the two most critical programs the U.S. Government conducts for ensuring the strategic national security of this country. It ranks alongside the equally critical Stockpile Stewardship Program for maintaining the credibility and reliability of the U.S. nuclear deterrent.

INTERNATIONAL NUCLEAR SAFETY PROGRAM

Last, Mr. President, our amendment seeks to restore funds to the International Nuclear Safety Program. The Department of Energy is working with the international community to increase nuclear safety worldwide, particularly in those countries of Eastern and Central Europe and the former Soviet Union that operate Soviet-design nuclear reactors.

The program's focus is on projects that improve the operation, physical condition, and safety culture at nuclear power plants; the establishment of nuclear safety centers in the United States and countries of the former Soviet Union; and technical leadership to promote sound management of nuclear materials and facilities.

Mr. President, by way of background, it should be noted that the 1986 Chernobyl nuclear reactor disaster highlighted the dangers associated with all operating Soviet-designed nuclear power reactors, particularly those of the older, Chernobyl-type design. The safety of these reactors is very much in the interest of the United States. Another nuclear accident could well destabilize political and economic conditions in the nascent democracies of the former Soviet Union and Eastern Europe and cost the United States vast sums in relief assistance.

This International Nuclear Safety initiative is designed to address, through cooperative and technical innovation, the serious global problems in the interrelated fields of nuclear safety and nonproliferation. This activity involves engineers, manufacturers, and scientists from many countries, and upon the DOE expertise in nuclear matters and our national laboratories to conduct this cooperation.

Thus far, Mr. President, the Department of Energy has implemented under this program more than 150 plant-specific safety projects, involving 17 plant sites throughout the former Soviet Union and Eastern and Central Europe, eight design and scientific institutes, and 21 United States commercial companies. Already, under this program, a number of key activities have been completed, including:

Establishing nuclear safety training centers in Russia and Ukraine; transferring United States-style emergency operating procedures to a major Russian plant; completing nuclear safety system improvements at three Russian plants; and establishing the Ukraine International Research Center on Nuclear Safety, Radioactive Waste, and Radioecology.

Mr. President, this last program activity is particularly important. The objectives of the Ukraine Center, located near the Chernobyl plant, include: Providing support for safety improvements for all nuclear power plants in Ukraine; to providing a focal point for international cooperation in addressing the environmental, health and safety issues created by the Chernobyl accident; and reducing the socioeconomic impacts of closing the Chernobyl plant.

Mr. President, the Department of Energy also implements the United States program to assist Ukraine in shutting down the Chernobyl nuclear power plant, including measures for dealing with the deteriorating sarcophagus covering the damaged unit. These activities, however, are funded through another program.

Mr. President, unless we restore the moneys to this program as this amendment seeks to do, we will be unable to proceed with some priority activities in 1998, that include:

Management and operational safety improvements at Soviet-designed nuclear power sites; engineering and technology upgrades at Soviet-designed nuclear power sites; additional detailed plant-specific safety assessments; assistance in the development of an independent nuclear regulator; and support for international nuclear safety data exchanges and cooperative research and development between the Russian International Nuclear Safety Center and the United States Center at Argonne National Laboratory in Idaho.

This program is part of a larger international effort designed to reduce the risks inherent in these Soviet-designed reactors in the near term and to assist Russia and the newly independent states to implement self-sustaining nuclear safety programs and to achieve international nuclear reactor safety norms.

Mr. President, I cannot assure this body that if we fully restore the funding for this program, another Chernobyl will never take place. But I can say that this program request is one of the best policy instruments available to reduce the risk that the world will face another Chernobyl-like disaster.

In summary, our proposed amendment would restore the cuts made by the committee to these programs: $60 million in the cooperative threat reduction programs; $25 million to the MPC&A Program; and $50 million to the International Nuclear Safety Program.

In my view, failure to restore these funds to these important programs could have severe consequences. It could diminish our ability to further reduce the prospect that terrorist or rogue states would acquire weapons-grade material; it could diminish our ability to assist in the permanent removal of missiles, launchers, and other delivery vehicles from the former Soviet strategic arsenal; and it could handcuff our ability, in cooperation with others, to improve operating safety at high-risk nuclear reactor sites in the former Soviet Union and elsewhere, and thus dramatically reduce the risk of further Chernobyls.

I am most hopeful that all of my colleagues will support this amendment.

Mr. President, I ask unanimous consent to lay aside the Grams amendment.

The PRESIDING OFFICER (Mr. THOMAS). Without objection, it is so ordered.

AMENDMENT NO. 658

(Purpose: To increase (with offsets) the funding, and to improve the authority, for cooperative threat reduction programs and related Department of Energy programs)

Mr. LUGAR. Mr. President, I send my amendment to the desk and ask unanimous consent it be made in order.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The bill clerk read as follows:

The Senator from Indiana [Mr. LUGAR], for himself, Mr. HAGEL, Mr. JEFFORDS, Mr. CHAFEE, Mr. SPECTER, Mr. D'AMATO, Mr. FRIST, Mr. GORTON, Ms. SNOWE, Ms. COLLINS, Mr. KENNEDY, Mr. BIDEN, Mr. KERREY, Mr. LIEBERMAN, Mr. BYRD, Mr. REED, Mr. DASCHLE, Mr. ROBB, Mr. BINGAMAN, Mr. DOMENICI, and Mr. LEVIN proposes an amendment numbered 658.

Mr. LUGAR. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 272, between lines 1 and 2, insert the following:

SEC. 1009. COOPERATIVE THREAT REDUCTION PROGRAMS AND RELATED DEPARTMENT OF ENERGY PROGRAMS.

(a) DECREASE IN AUTHORIZATION OF APPROPRIATIONS FOR ENVIRONMENTAL MANAGEMENT SCIENCE PROGRAM.—Notwithstanding any other provision of this Act, the amount authorized to be appropriated by section 3102(f) is hereby decreased by $40,000,000.

(b) DECREASE IN AUTHORIZATION OF APPROPRIATIONS FOR ENVIRONMENT, SAFETY AND HEALTH, DEFENSE.—Notwithstanding any other provision of this Act, the amount authorized to be appropriated by section 3103(6) is hereby decreased by $19,000,000.

(c) DECREASE IN AUTHORIZATION OF APPROPRIATIONS FOR OTHER PROCUREMENT, NAVY.—Notwithstanding any other provision of this Act, the amount authorized to be appropriated by section 102(c)(5) is hereby decreased by $56,000,000.

(d) DECREASE IN AUTHORIZATION OF APPROPRIATIONS FOR OPERATION AND MAINTENANCE, DEFENSE-WIDE.—Notwithstanding any other provision of law, the amount authorized to be appropriated by section 301(5) is hereby decreased by $20,000,000.

(e) INCREASE IN AUTHORIZATION OF APPROPRIATIONS FOR FORMER SOVIET UNION THREAT REDUCTION PROGRAMS.—Notwithstanding any other provision of this Act, the amount authorized to be appropriated by section 301(22) is hereby increased by $60,000,000.

(f) INCREASE IN AUTHORIZATION OF APPROPRIATIONS FOR DEPARTMENT OF ENERGY FOR OTHER DEFENSE ACTIVITIES.—Notwithstanding any other provision of this Act, the total amount authorized to be appropriated by section 3103 is hereby increased by $56,000,000.

(g) INCREASE IN AUTHORIZATION OF APPROPRIATIONS FOR DEPARTMENT OF ENERGY FOR ARMS CONTROLS.—Notwithstanding any other provision of this Act, the amount authorized to be appropriated by section 3103(1)(B) is hereby increased by $25,000,000 (in addition to any increase under subsection (e) that is allocated to the authorization of appropriations under such section 3103(1)(B)).

(h) AUTHORIZATION OF APPROPRIATIONS FOR DEPARTMENT OF ENERGY FOR INTERNATIONAL NUCLEAR SAFETY PROGRAMS.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1998 for other defense activities in carrying out programs relating to international nuclear safety that are necessary for national security in the amount of $50,000,000.

(i) TRAINING FOR UNITED STATES BORDER SECURITY.—Section 1421 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-201; 110 Stat. 2725; 50 U.S.C. 2331) is amended—

(1) by striking out "and" at the end of paragraph (2);

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following:

"(4) training programs and assistance relating to the use of such equipment, materials, and technology and for the development of programs relating to such use.".

(j) INTERNATIONAL BORDER SECURITY THROUGH FISCAL YEAR 1999.—Section 1424(b) of the National Defense Authorization Act for Fiscal Year 1997 (110 Stat. 2726; 10 U.S.C. 2333(b)) is amended by adding at the end the following: "Amounts available under the proceeding sentence shall be available until September 30, 1999.".

(j) AUTHORITY TO VARY AMOUNTS AVAILABLE FOR COOPERATIVE THREAT REDUCTION PROGRAMS.—(1) Section 1502(b) of the National Defense Authorization Act for Fiscal Year 1997 (110 Stat. 2732) is amended—

(A) in the subsection heading, by striking out "LIMITED"; and

(B) in the first sentence of paragraph (1), by striking out ", but not in excess of 115 percent of that amount".

(2) Section 1202(b) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 110 Stat. 469) is amended—

(A) in the subsection heading, by striking out "LIMITED"; and

(B) in the first sentence of paragraph (1), by striking out ", but not in excess of 115 percent of that amount".

Mr. LUGAR. Mr. President, I thank the Chair, I thank Members for allowing me to offer this important amendment at this time, and I reiterate my hopes that all colleagues will support this activity. I point out the debate describes the substantial achievements of the cooperative threat reduction programs. The difficulty is always getting moneys through the pipeline, but I believe the statement I have given is self-explanatory with regard to these major issues.

Mr. LEVIN. Mr. President, I wonder if the Senator from Indiana would respond to this question before I make my own statement in strong support of his amendment, in gratitude for his amendment, and his leadership in this area. Did I understand the Senator said that he asked consent to lay his amendment aside?

Mr. LUGAR. No. May I respond to the distinguished Senator. I asked the Grams amendment be laid aside and then, having gotten agreement by the Chair, I sent my amendment to the desk and asked for unanimous consent it be made in order, which the Chair granted.

Mr. LEVIN. I thank the Senator. We are hopeful this amendment can be accepted, so I am glad this amendment would not be laid aside. Again, I commend the Senator from Indiana for the extraordinary leadership that he and Senator Nunn, when Senator Nunn was in this body, have shown in this area which contributes so much to the security of this Nation.

One of the most cost-effective and successful defense programs that we have to reduce threats to our country and to enhance our national security is the Cooperative Threat Reduction Program that Senator LUGAR and Senator Nunn started in 1991. This program at the Department of Defense, and its companion programs at the Department of Energy, have produced important results in reducing the threat of proliferation of weapons of mass destruction, including nuclear, chemical and biological weapons and their materials. I was disappointed that the bill before the Senate, as it came before the Senate, does not authorize the funding level requested by the administration for these important programs, so I fully support the Lugar amendment.

In addition to commending Senator LUGAR, I particularly want to commend Senator BINGAMAN for his effort to restore these funds during the Armed Services Committee markup process. Since 1991, these threat reduction programs helped three Newly Independent States, Ukraine, Belarus, and Kazakhstan, to completely rid themselves of some 6,000 nuclear weapons that they inherited from the former Soviet Union. The CTR programs have also permitted Russia to implement the START I treaty ahead of schedule, helping eliminate over 800 Russian nuclear missiles and bombers. These are weapons that will never again threaten the United States.

The Department of Energy has worked to secure tons of nuclear weapons materials, primarily plutonium and highly enriched uranium, that were and to a significant extent still are under inadequate safeguards and vulnerable to theft or diversion. Keeping these dangerous materials out of the hands of would-be proliferators reduces the likelihood that nuclear weapons will threaten us. There is just no more important thing that we can do for our Nation's security than to secure these nuclear materials and to eliminate these missiles.

The job, though, is only partly finished, and much more needs to be done. That is why it was so disappointing that the committee bill reduced the budget request for these programs by $135 million, including a reduction of $60 million for the Department of Defense cooperative threat reduction programs; a reduction of $25 million for the Department of Energy Materials Protection, Control and Accounting Program; and a reduction of $50 million, which was the total amount requested for the DOE International Nuclear Safety Program.

Given the great concern that the committee has appropriately expressed for the danger of nuclear, chemical and biological weapons and materials and the committee's interest in taking steps to reduce this danger, those reductions were surprising indeed. In my view we should be considering what additional efforts we can take to reduce these threats. While the threat from such proliferation is more likely and immediate than the threat from a ballistic missile attack on the United States, Congress has pushed to increase funding for national missile defense while reducing funding for cooperative threat reduction. We are underfunding the latter program at our clear peril.

There are numerous cooperative threat reduction programs that need to be funded on an urgent basis. For example, Ukraine decided in mid-May to eliminate all of its SS–24 intercontinental ballistic missiles, a decision which the United States encouraged and welcomed. We should help Ukraine eliminate these missiles so that they can never again be used.

Furthermore, there remain large quantities of nuclear materials that need to be secured and accounted for. The list of unfunded cooperative threat reduction and related DOE projects is long and it represents an urgent opportunity for the United States to take tangible and permanent steps to reduce threats to our security. For a tiny fraction of the defense budget we can accomplish extraordinary gains. The proliferation in nuclear safety problems remains considerably larger and more serious than the response has been so far.

One of the allegations which was made which supported these cuts in committee was that there was $700 million in unobligated cooperative threat reduction funds floating around, and thus it was argued that the cooperative threat reduction programs could absorb a $60 million cut. But that is not the case. The cooperative threat reduction has $513 million in unobligated funds but of this, $200 million will be obligated by the end of the year and all of the remaining $313 million has been committed to specific countries by signed agreements.

On another part of this program, which was the reduction in the DOE Materials Protection, Control and Accounting Program, by the end of June 1997, all of the fiscal year 1997 funds were obligated and sent to the laboratories for implementation. The assumption that the 1998 fiscal year request can be reduced and offset with uncosted balances from fiscal year 1997 or fiscal year 1996 without programmatic impact is incorrect. The net result of a reduction of fiscal year 1998 funds would be a reduction in the planned programmatic activities. There is a critical need for this program. The materials protection, control and accounting programs have a clear and direct relationship to the national security policy of reducing the amount of fissile material available for threat or diversion.

So, I hope we can be fully up to the challenge of taking advantage of this opportunity to eliminate some of the most serious threats to our security. In order to take advantage of this opportunity, we must at least fully fund these threat-reduction and safety programs at the requested level. I hope in the future the administration and the Congress will agree to provide higher levels of funding for these programs, which, again, are as important to our national security as any programs that I know. So, I am pleased to join as a cosponsor of the Lugar amendment and I hope all of our colleagues will support this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, behind me are some charts that may help Members understand the issues that we are discussing today. I cited, in my opening statement, as did the distinguished Senator from Michigan, the extraordinary work that has been done with cooperative threat reduction over the years. This chart makes it graphically clear—4,500 warheads deactivated. The background of this situation was one that, at the end of the Soviet Union, the time of the dissolution of the Soviet Union, a number of military officers came to this country from Russia, a number came from Ukraine and Belarus, Kazakhstan and other new states—but the four that I cite originally were all nuclear states, and the questions they posed to the administration of our country and Members of Congress who are interested in this, was strictly, we believe—they said, "You have a vested interest in working with us to deactivate warheads," and indeed we did. Mr. President, these 4,500 warheads that have been deactivated were all aimed at us. That is the heart of the cooperative threat reduction programs—cooperation in reducing the threat to us, of warheads aimed at us.

Likewise, 99 ICBM's have been destroyed. They are no longer in the picture at all, in the process of working through, especially, the nonnuclear status for Ukraine, for Kazakhstan; 140 ICBM silos have been eliminated, they are totally out of the picture, in cooperative threat reduction; 20 bombers have been destroyed, and so forth.

From time to time over the 6 years of the cooperative threat Nunn-Lugar reduction program debates, Members come on this scene—perhaps new to the entire argument—and ask why are we spending money in Russia? Why are we working with Russians on nuclear matters? Mr. President, we are working with Russians to destroy ICBM's, silos, warheads that are aimed at us. In my judgment we ought to do as much of this as we can. I would simply say the thought that some moneys might be nibbled away from the program simply does not meet the security needs of our country. Clearly, we ought to have a high-priority reactivation of all projects that will lead to our security in this area.

Mr. President, let me describe a process that has been discussed in each of the last 6 years. It is namely how do you get from the priority of what you want to do, to money that is available, obligated, and spent? The cooperative threat reduction programs each year have many challenges to overcome before funds can be obligated. In my opening statement I cited the fact it was April of this year before the funds the Congress appropriated last October could get into action. Why? Because, from the very beginning of the Nunn-Lugar CTR program, an extraordinary number of procedural challenges have been placed in the legislation.

They were placed there by those who were, frankly, skeptical that money ought to be spent with the Russians for any purpose. But, in any event, by April of this year, we finally had gone through all the hoops of that situation.

The program requires government-to-government agreement, negotiations then with Russia, with Ukraine, with Kazakhstan, with Belarus, to establish the legal framework for each of these transactions. Each of the implementing agreements has to be negotiated for each project with the ministry responsible in that country for the project.

Once the agreements are in place by country, by project, by ministry, then a definition phase of the project can begin and that can be lengthy as the Department of Defense negotiates the details with the recipient country.

Then a contracting process follows. The Department of Defense uses its standard Federal acquisition regulations for all CTR assistance, normally contracting with United States firms to provide that assistance. That assistance mandates free and open competition and maximum protection of taxpayer dollars, but it is lengthy, Mr. President, having gone through all the hoops of the implementing arrangements and the requirement definitions, then the contracting process, identically the same as it is with the Department of Defense for everything else in the world with U.S. firms, open competition. All of that must occur.

Finally, on an annual basis, DOD must certify the recipient nations are still eligible. We have heard now that Belarus is not, for a variety of reasons, but may become eligible again as its politics and situation may change. Our security problems, with regard to Belarus and those weapons, have not changed, I might add. But once certification, again, is complete, DOD must notify Congress in considerable detail as to how it intends to obligate the appropriated funds. After that notification, and only after that notification, can new agreements of amendments to the existing implementing agreements be negotiated, and only then can DOD obligate the funds which begin the procurement cycle.

Mr. President, from time to time during this 6-year period of time, this lengthy process of certification and notification and renegotiation and bidding and notification of Congress has taken so long that the whole fiscal year is complete, appropriations committees have taken the moneys off the table, and we go back through the whole process of reappropriating what already had been appropriated.

I do not argue with the procedures. I simply say they are tediously careful to make sure that everybody has a very good idea of precisely what is occurring, how U.S. firms, in competition with each other, might deal with it and with full notification of the Congress of all of this.

I reiterated this because I heard in the distinguished other body debate during which it was blandly asserted that there is plenty of money in the pipeline. The argument in the other body no longer centered around the validity of the program but simply said there is lots of money available, no need, really, to further appropriate any more.

I am asserting there is no more money available, as a matter of fact, for a long list of priority things our country should do for our own security, and to nibble away and cut pieces here and there is not in our national interest, it is not good public policy, and that is why it is time to take time to simply reiterate, through the charts, that dollar for dollar, year for year the money is obligated, it is called for, it is spoken for, it is competed for, and it is examined.

Mr. President, we ought to get on with the process so that there is no ambiguity if we want to continue to work with the Russians to destroy ICBM's, take warheads off ICBM's, if we want to contain fissile material that is dangerous, if we want to work with Chernobyl-type reactors so they don't explode, not only creating damage in the countries in which the explosion occurs, but through the fallout damage throughout the world.

This is grim and serious business. For these reasons, I really ask strong support of our amendment. I thank the Chair.

Mr. BINGAMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I want to speak briefly in support of this amendment that Senator LUGAR has offered and commend him for his leadership on this very important issue. Senator LUGAR and Senator Nunn established this program, promoted this program, and have led the Senate in gaining support for this program over these last several years. I see it as one of the few shining examples that we can point to to indicate that we are aware of the new reality, the new post-cold-war reality that we face with Russia and with other former Soviet Union countries.

Let me briefly describe, as Senator LUGAR has and Senator LEVIN has, what the amendment does. It would add or restore to the bill before us amounts that were cut at the subcommittee level to get it back to the level of funding that the administration requested in three different areas. One is what is referred to as MPC&A funds—that stands for materials protection control and accounting funds—for the Department of Energy. The second is $50 million being restored for the International Nuclear Safety Program, again, in the Department of Energy. And the third item is $60 million that is being restored in the cooperative threat reduction programs which are operated and administered by the Department of Defense.

Mr. President, the legislative provisions that accompany this provide greater flexibility in administering the CTR Program. They allow fiscal year 1997 funds for international border security to be available for obligation for 3 years and allow the Customs Service to use fiscal year 1997 funds that were provided to purchase new equipment to also be used to provide assistance to employees to allow that new equipment to be fully integrated into the operations of the Customs Service.

This amendment and the funds that these programs contain are intended to reduce the danger of so-called loose nukes, or nuclear weapons that might fall into the hands of terrorists, might fall into the hands of people not authorized to have those weapons; also, to help reduce the danger that fissile material, material that is essential to making of new nuclear weapons, not fall into those same hands. The funds are intended to help destroy ICBM silos and launchers in the former Soviet Union and to generally help reduce the risk in the near term from the operation of Soviet-designed nuclear powerplants.

Mr. President, the arguments have been well laid out by Senator LUGAR and Senator LEVIN, as well. This is a program that has accomplished a tremendous amount already in reducing the risk of nuclear weapons.

I had the good fortune earlier this year, about 2 months ago, to travel to Russia and to visit some of the facilities that we are spending funds at to work on these cooperative programs with the Russians. I traveled there with Mr. Paul Robinson, who is head of Sandia National Laboratory, and with others who work with him at Sandia National Laboratory on these cooperative threat reduction programs and Department of Energy programs. I also traveled there with others from the Department of Energy Los Alamos National Laboratory. The general impression I received in visiting Chelyabinsk-70, which is one of the closed cities that the Russians established in order to develop and promote their nuclear weapons activity, the general impression was that these funds are being extremely well used and are, in fact, increasing the security that surrounds fissile materials and other materials that could be used in connection with nuclear weapons.

We met with Minister Mikhaylov who is head of the Ministry of Atomic Energy, MINATOM, and, again, I was impressed with the willingness to continue the cooperation to work with our own Department of Energy in making progress on these programs.

We met with admirals from the Russian Navy. They have a very significant problem of fresh uranium that can be used as fuel in their nuclear reactors, how to secure that, how to protect it from possible seizure by terrorists. They clearly wanted our help. They are obtaining our help. They need substantially more help in the years ahead. I felt good about the level of cooperation that is occurring there.

My general conclusion from the trip was the same as the one stated by Senator LUGAR in his statement earlier, and that is that there is a long list of useful projects that funds in these programs can be put to. We are not short of useful activities to work on. The contrary is the case. There are a great many things that the Russians need to do to protect and to reduce the risk of theft of nuclear materials. We are just now beginning to make serious progress on that. The funds that will be restored by this amendment are essential to making that progress. I very much believe that when you look at the entire U.S. defense budget and say, which of the funds are the most cost-effective, where are we getting the most national security return for the dollars spent, the funds being spent in these programs are clearly very high on that list.

So I urge my colleagues to support this amendment, and I hope that we can get a unanimous vote. This is a program that needs bipartisan support. This is not a program that should become the subject of partisan dispute in the U.S. Senate. It is too important to our safety and to our future and to the future of the world for us to find ourselves in some kind of partisan dispute over funds like this or programs like these.

Mr. President, in concluding, I ask unanimous consent that a letter to me from the Secretary of Energy, Federico Peña, dated June 19, expressing his strong support for this amendment be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF ENERGY,
Washington, DC, June 19, 1997.

Hon. JEFF BINGAMAN,
Ranking Minority Member, Subcommittee on Strategic Forces, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR SENATOR BINGAMAN: I am writing to offer my strong support for an amendment that I understand will be offered in the Senate to restore the Administration's budget request for the Department of Energy's Materials Protection, Control and Accounting and International Nuclear Safety programs. Additionally, I support restoration of funds for the Department of Defense Cooperative Threat Reduction program. These programs serve vital U.S. national security interests and seek to forestall the far greater costs that could result from inadequately secured nuclear material and weapons or a nuclear accident like Chornobyl.

The Materials Protection Control and Accounting (MPC&A) program is working to secure hundreds of tons of weapon-usable nuclear materials in the former Soviet Union that are inadequately secured and at risk of falling into the hands of criminal elements, terrorist organizations and rogue nations. If the program were reduced by $25 million as recommended by the Committee, there will be a significant increase in total program costs and a delay in achieving the program objectives by approximately two years. Time and program momentum matter. Less than three years ago, we secured kilograms of material at one site in Russia. Today, the

MPC&A program has secured tens of tons of material at 25 sites, and is working at a total of 50 sites where nuclear material is at risk in Russia, the Newly Independent States, and the Baltics. However, unless funds are restored to this program, the work that could secure hundreds of tons of nuclear material at the largest defense-related sites will be in jeopardy. I urge your support for full funding to continue this vital work.

The International Nuclear Safety program is the best policy instrument available to ensure that the world will not face another Chornobyl-like disaster. It is vital to our overall national security goal of helping to stabilize the former Soviet Union. It supports the independence of Ukraine and Lithuania and the emerging free market democracies of Central and Eastern Europe. The focus is on projects that improve the operation and physical condition of nuclear power plants in the region. The program also enhances the nuclear safety culture and regulatory infrastructure of countries with Soviet designed reactors. Such reactors left behind by the Soviet government continue to operate with deficiencies that, if not corrected, could result in a serious nuclear accident that would severely impact the region's political and economic stability, the environment and our national interests. Restoration of the $50 million program request is essential to help prevent that from happening.

The Cooperative Threat Reduction (CTR) program has been essential to destroying and dismantling hundreds of ballistic missile launchers, silos, heavy bombers and removal of warheads from strategic systems. Without this program, Ukraine, Belarus and Kazakstan might retain nuclear weapons, instead of being nuclear weapons free. The CTR program also supports implementation of an agreement between the U.S. and Russia to ensure that production of weapons-grade plutonium in Russia is stopped by converting the three plutonium production reactors exclusively to a power-producing mode. I support the complete restoration of funds to this vitally important program.

In each of the three areas mentioned, the costs of preventive are much less than the costs of inaction. I urge you to uphold America's leadership, interests and commitments by preserving and fully funding these essential programs.

Sincerely,

FEDERICO PEÑA.

Mr. BINGAMAN. Mr. President, 6 years ago, the Congress voted to take some dramatic steps to reduce the threat of nuclear terrorism when it approved the Nunn-Lugar Cooperative Threat Reduction Program—CTR. Since that time, as a result of work being done by CTR programs, over 1,400 nuclear warheads that were aimed at the United States or our allies have been removed; 64 submarine ballistic missile launchers have been eliminated; 54 intercontinental ballistic missile silos, 61 SS–18 ICBM's, and 23 strategic bombers have been eliminated. Today, Ukraine, Belarus, and Kazakhstan no longer have any nuclear weapons with which to threaten the United States or our allies.

Support for the Cooperative Threat Reduction Program has run high and enjoys bipartisan support. Last year in the Senate, in a 96-to-0 vote, we enacted the Nunn-Lugar-Domenici Defense Against Weapons of Mass Destruction. This program and its companion programs in the Department of Energy have repeatedly withstood attempts to undo the progress that has been made in reducing the threat of nuclear terror. Legislators from both sides of the aisle are able to see the important benefits to the United States, and to understand the need to move beyond cold war attitudes that prevent us from meeting today's national security needs to prevent nuclear terrorism.

This year, the Senate Armed Services Committee voted along partisan lines to cut $135 million from the CTR Program, the Materials Protection Control and Accounting Program, and the International Nuclear Safety Program. The benefits gained from those programs are so important that I must appeal to my colleagues on the floor of the Senate to restore those funds so we can continue the valuable work being done to minimize the possibility that some person or some rogue country could threaten the United States or any other nation with nuclear weapons.

I've already mentioned some of the benefits gained through the CTR Program. Much more work remains to be done to dismantle Russian missile launchers, silos, and aircraft. I urge my colleagues to continue to support this program which reduces the threat to the United States in such a direct manner. The $60 million cut by partisan vote in the committee should be restored in order to continue work that is essential to our national security interests.

The Materials Protection Control and Accounting—MPC&A—Program in the Department of Energy—DOE—is intended to prevent theft of smuggling of nuclear materials that could be used in nuclear weapons or for other forms of terrorism. DOE has put security equipment in place at 18 sites to safeguard those nuclear materials, and agreements are in place to expand security procedures and equipment at 30 additional sites. I recently observed the work being done by this program first hand during a visit to Russia's nuclear research facilities. I felt relieved to know that the Russians are now better able to control and monitor their own nuclear materials than ever before. I am also aware, however, that the Russians have hundreds of nuclear sites needing additional security measures to prevent theft and unauthorized use. A great deal of work needs to be done, and it is important that the Congress continue to fully fund the MPC&A Program in our own national security interest. I ask my colleagues in the Senate to support our amendment to restore $25 million to the MPC&A Program so that this valuable work can continue without pause.

The committee also voted on partisan lines to cut all of the funding requested for the International Nuclear Safety Program—INSP. This program began in the wake of international concerns over the damage done by the Chernobyl nuclear reactor disaster. The Russians continue to operate reactors that are similar in design to the one at Chernobyl, and that pose a similar risk of a catastrophic accident. The INSP Program, managed by the Department of Energy, is designed to reduce those risks for Russia's older reactors and to help Russia and Newly Independent States to establish self-sustaining nuclear safety programs that enable them to reach international nuclear reactor safety standards. It is in our national and international interest to do what we can to ensure that those reactors are safe. I urge my colleagues to vote to restore this important program.

As I suggested earlier, the Congress has repeatedly demonstrated its conviction that CTR, MPC&A, INSP, and related programs serve our national security interests. To those who say these programs are a form of foreign aid to the Russians, I concur that ultimately the Russians must assume full responsibility for these programs. Until they are financially and technologically capable of doing so, it is essential to our own interests that we assist them in putting effective security programs into place. We know how expensive it is to support the strategic offensive and defensive weapons systems designed to ensure our security against nuclear weapons. We also know how dangerous and vulnerable this country could be to nuclear terrorism which, in some cases, we may not be able to effectively protect ourselves from. For those modest expenditures for CTR, MPC&A, and INSP, we buy ourselves a significant measure of security worth many times the funds invested. I urge my colleagues in the Senate to continue their bipartisan support for these programs and vote to restore their funding.

Mr. President, I yield the floor.

Mr. LUGAR addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I ask unanimous consent that a strong letter of support from the Secretary of State, Madeleine Albright, and a strong letter of support from William Cohen, Secretary of Defense, for our amendment be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THE SECRETARY OF STATE,
Washington, DC, June 24, 1997.

HON. STROM THURMOND,
Chairman, Committee on Armed Services,
U.S. Senate.

DEAR MR. CHAIRMAN: I am writing to urge you to support restoration of the $135 million cut from the FY 98 Defense Authorization Bill by the Senate Armed Services Committee for three key arms control and nonproliferation initiatives: the Cooperative

Threat Reduction Program, the Material Protection Control and Accounting program and the International Nuclear Safety program.

Reducing threats to U.S. national security from the former Soviet arsenal of nuclear, chemical and biological weapons continues to be one of our highest security priorities. Ukraine, Belarus and Kazakstan are today nuclear weapons-free, largely through encouragement and direct assistance from the DOD Cooperative Threat Reduction program. This program has been essential to the destruction and/or dismantlement of nuclear weapons.

The Department of Energy's Material Protection and Accounting (MPC&A) program and its International Nuclear Safety program are also providing essential assistance. The MPC&A program is targeted at improving the security of nuclear material at 40 facilities in the former Soviet Union. Over time, this could prove just as productive as the initial Cooperative Threat Reduction programs in eliminating nuclear weapons. The International Nuclear Safety program, a principal instrument of our efforts to improve the safety of Soviet-era civilian nuclear power reactors, could head off another Chernobyl in the New Independent States and the countries of Eastern and Central Europe.

Congressional reductions in these programs risk eroding our ability to come up with solutions to important security problems and undermine the effectiveness of our initiatives in this region. These programs are making a difference against today's threats to the American people. I urge your support in restoring these funds.

Sincerely,

MADELEINE K. ALBRIGHT.

THE SECRETARY OF DEFENSE,
Washington, DC, June 19, 1997.

Hon. STROM THURMOND,
Chairman, Committee on Armed Services,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Senate Armed Services Committee (SASC) reduced by $60 million the President's budget request for the Cooperative Threat Reduction (CTR) program during its consideration of S. 450, the National Defense Authorization Act for Fiscal Year 1998. This cut to CTR funding undermines our ability to accomplish the program's important national security goals for FY98, and will put at risk the objectives for fiscal year 1999. I strongly urge the Senate to restore the full CTR request.

The CTR program has been essential to the reduction of hundreds of submarine-launched ballistic missile launchers, intercontinental ballistic missile silos and heavy bombers in the former Soviet Union, and to the removal of 4000 warheads from strategic systems. Without CTR, Ukraine, Belarus and Kazakstan might still have thousands of nuclear weapons; instead, they are all nuclear-weapons-free. Although the CTR program has accomplished much, essential work remains to be done. This includes: the elimination of intercontinental ballistic missiles and silos, submarine-launched ballistic missile launchers and heavy bombers under START I, followed by START II and III; increased safety and security for the transport and storage of remaining Russian nuclear warheads; an end to production of weapons-grade plutonium; chemical weapons destruction; and other efforts to reduce weapons of mass destruction in the former Soviet Union and the threat of their proliferation.

Contrary to the SASC rationale for the cut, the loss to the program cannot be made up with prior years' funds. All unobligated CTR funds have already been earmarked for specific projects. The FY98 budget request of $382.2 million is a bare-bones request based on a difficult prioritization of a long list of potential projects. Indeed, there are several worthwhile projects, which would accelerate our strategic arms elimination program sin Russia and Ukraine, that we are not able to fund at even the $382.2 million level. The CTR program is achieving demonstrable results with a very tight budget.

Again, I strongly urge the Senate to support this important national security program.

Sincerely,

BILL COHEN.

AMENDMENT NO. 658, AS MODIFIED

Mr. LUGAR. Mr. President, I ask unanimous consent to modify my amendment. On page 2 of the amendment, change line 12, which currently reads, "$56 million" to "$40 million." I send that modification to the desk.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The modification follows:

On page 2 of the amendment change line 12, which currently reads "$56 million" to "40 million dollars".

Mr. LEVIN. Mr. President, Senator BIDEN of Delaware, who is a cochairman of the Senate's NATO Observer Group, is necessarily absent to attend the NATO summit in Madrid. Senator BIDEN is an initial cosponsor of Senator LUGAR's and my amendment, and I ask unanimous consent that his statement of strong support for this amendment be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

• Mr. BIDEN. The amendment of Senator LUGAR and others will correct a situation that threatens the very security of the United States. Unless recent efforts to cut the Nunn-Lugar Cooperative Threat Reduction Program and similar programs of the Department of Energy are overturned, we and our children will all be in greater danger. I am proud to be an original cosponsor of this amendment and I urge my colleagues to support it.

The administration's request for the important Nunn-Lugar program is for $382.2 million. Last week, the Armed Services Committee cut $60 million from that important program. At the same time, the House National Security Committee cut $97.5 million from the Nunn-Lugar account, and reportedly those cuts were from different parts of the program. Thus, over 40 percent of the Nunn-Lugar program is now at risk.

The Armed Services Committee also cut $25 million from the Energy Department's program of international assistance in nuclear materials protection, control and accountability, as well as all $50 million in its program of international nuclear safety assistance. The former program is vital to protecting the American people against the diversion of nuclear material from former Soviet laboratories to countries like Iran, Iraq or Libya that would like to build or buy nuclear weapons. It also helps keep nuclear material out of the hands of terrorists, who could use it to poison innocent people in Moscow or Tokyo or Tel Aviv—or right here in Washington. Nuclear safety assistance helps guard against future Chernobyl incidents, which pose fallout dangers far beyond the borders of the former Soviet countries in which they might occur.

The Nunn-Lugar program makes significant contributions to the national security of our country. Through this program, we have helped Russia to remove over 1,400 strategic nuclear warheads from deployment sites to storage areas, to await dismantlement. We have helped Russia to eliminate 64 SLBM launchers, 54 ICBM silo launchers, 61 SS–18 ICBM's and 23 strategic bombers. And we have helped Belarus, Kazakstan, and Ukraine to eliminate their strategic nuclear forces and to repatriate all their nuclear warheads to Russia.

But the work of the Nunn-Lugar program is far from completed. Over 400 Russian SLBM launchers remain to be eliminated. Nearly 100 ICBM silo launchers must still be destroyed, along with over 190 SS–18 missiles and another 7 strategic bombers. Over 130 tunnels must be closed at a former nuclear test site in Kazakstan. Massive stocks of old, but still very dangerous, chemical weapons must be destroyed. And security must be improved in Russian storage and transportation of nuclear material.

There are two basic ways to increase our national security. One is to maintain the finest military and intelligence services in the world. We do that, and I am very glad that we do.

But we do that at great expense, and at some risk. For none of us can guarantee that nuclear deterrence will work forever, especially in a Russia where troops and officers and nuclear scientists go for months without pay—Russia where, within the past year, generals and lab directors have closed the door to their offices and put bullets through their heads, out of despair over what has happened to their programs and their personnel.

The other basic way to increase our national security is to work with potential foes to reduce the threat that they pose to U.S. interests or U.S. forces. We do some of this through arms control agreements, but often we wonder whether other countries are obeying those agreements.

The Nunn-Lugar program is a way to make sure that Russia and other former Soviet states actually do reduce their bloated strategic nuclear forces. It isn't free. The administration has asked for $382 million for this program in fiscal year 1998.

But let's put that in perspective. The defense budget reported out by the

Armed Services Committee is $268 billion. So a fully-funded Nunn-Lugar program would cost only one-seventh of 1 percent of the defense budget. The Armed Services Committee added $2.6 billion to the administration's request for defense spending. So the Nunn-Lugar program costs only 14 percent of the increase. And the Armed Services Committee's cut in this program could be restored using only 2.3 percent of that increase.

The Energy Department's program of international assistance in nuclear materials protection, control and accountability—known as MPC&A—is similarly vital to our national security. Just as the Nunn-Lugar program helps the Russian military to improve its security for nuclear materials, the MPC&A program helps dozens of laboratories in the former Soviet Union to improve their security for nuclear materials.

What are we talking about here? Often it's as simple as bars on the windows, locks on the doors, and doors that will take more than a crowbar to open. Just as often, however, the need is for completely revised accountability schemes so that institutions with nuclear materials will always know where those materials are. That is a complicated task, and it requires a change in mind-set as much as changes in forms or procedures.

DOD personnel who participate in Nunn-Lugar programs can relate to the military officers who man Russia's strategic nuclear forces. But it takes scientists to build peer relationships at former Soviet laboratories and spread the word about nuclear control.

Just last month, a committee of the National Research Council [NRC]—an arm of the National Academy of Sciences—reported that the MPC&A program is beginning to have some real success. The NRC committee says: "progress attributable to the joint efforts of U.S. and Russian specialists in MPC&A greatly accelerated in 1995 and 1996" and calls that "a significant political and organizational achievement."

At the same time, however, the NRC committee found that "the task has not been completed at any Russian facility and serious efforts are only beginning at most facilities." The committee says that "much remains to be done." Its principal recommendation on this program is as follows:

> For the near term it is essential that the United States sustain its involvement until counterpart institutions are in a position to assume the full burden of upgrading and maintaining MPC&A programs over the long term.

This program is just taking off. If you cut it back now, it may crash. But if, instead, we sustain and encourage this program, we can help former Soviet scientists to turn around what remains, frankly, a truly dangerous situation.

President Yeltsin can assure us, as he does, that Russia would never give or sell a nuclear weapon to another state. But he cannot assure us today that the dozens of Russian laboratories with nuclear materials will not let potential weapons material leak out to criminals, or to terrorists, or to rogue states that we know are willing to pay good money for the material and technology that would enable them to threaten the peace of the world and of our country.

President Yeltsin cannot, by himself, turn this situation around. But we can help him, and that is what the MPC&A program does.

I do not pretend to know what should be cut in the defense bill. But I do know that Nunn-Lugar and the similar Energy Department program are not cash cows to be milked for other defense purposes.

Just as Senator J. William Fullbright will always be remembered for the Fullbright fellowship program, so will Senators SAM NUNN and DICK LUGAR be remembered for the simple, brilliant idea that it's more humane and a lot cheaper to pay for destroying Russian weapons than it is to fight against them. Nunn-Lugar Cooperative Threat Reduction projects and the Energy Department's MPC&A and International Nuclear Safety assistance are vital programs. They are successful programs. And they deserve our full support.

I urge my colleagues to vote for Senator LUGAR's amendment, which will help make this a safer world for all of us.●

Mr. LEVIN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HAGEL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HAGEL. Mr. President, I returned with six of my colleagues over the weekend from a day in Bosnia. Majority Leader LOTT and five of our other colleagues spent the Fourth of July early in the morning until late at night with our troops and officials in Bosnia.

I think it is appropriate that as we debate the fiscal year 1998 defense authorization bill we reflect just for a moment on the men and women on the ground in Bosnia and the men and women who secure our liberties around the world.

Much of the debate, much of the policy reflect numbers, reflect general overall direction. Increasingly, that policy direction is debated, and should be. But we tend to forget the humanness, the very men and women of what our Armed Forces are all about.

As my colleagues and I, on the Fourth of July in Bosnia, spent a great deal of time with the 8,500 American men and women who are part of that large contingent in Bosnia, I could not help but reflect on what an outstanding job these men and women do for this country, for peace, stability around the world.

I want to add the human dynamic to this debate today, and that will go into tomorrow, on the DOD authorization bill. Because, after all, it is the men and women who are on the ground who are there every day and every night who secure those liberties, for not only this country but for the people in the area of Bosnia.

I tend to think also, when I was an infantryman in Vietnam in 1968, our policy in Vietnam might have been better served, Mr. President, if the Secretary of Defense and more Members of the House and the Senate had come to Vietnam, had spent time with the troops, listening to what they think, listening to their issues and concerns and qualifications, and not unlike wars and peacekeeping missions throughout our history it still is the man and the woman on the ground that we count on to secure those liberties.

Mr. President, I appreciate the time. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I ask unanimous consent to lay the amendment of Senator LUGAR aside temporarily, and we will come back to it.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 718

(Purpose: To increase the amount required to be derived from sales of strategic and critical materials in the National Defense Stockpile by fiscal year 2007)

Mr. THURMOND. Mr. President, I offer a technical amendment to ensure that the revenues received from stockpile sales are sufficient to offset the cost associated with other provisions of the bill.

Mr. LEVIN. The amendment has been cleared on this side.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from South Carolina [Mr. THURMOND] proposes an amendment numbered 718.

Mr. THURMOND. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 460, line 6, strike out "$295,886,000" and insert in lieu thereof "$331,886,000".

Mr. THURMOND. I believe this amendment has been cleared by the other side. I urge the Senate adopt this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 718) was agreed to.

Mr. THURMOND. I move to reconsider the vote.

Mr. LEVIN. I move to lay it on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 719

(Purpose: To clarify the protections relating to disclosures of classified material to Congress)

Mr. LEVIN. Mr. President, I offer an amendment that would clarify and refine the language contained in section 1068 of the bill by deleting a reference to disclosure of information by making explicit that the provision does not affect existing law relating to contract or whistle-blowers.

I believe this amendment has been cleared by the other side.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN] proposes an amendment numbered 719.

Mr. LEVIN. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 339, line 14, strike out "the executive branch or".

On page 340, between lines 16 and 17, insert the following:

(d) DISCLOSURES OF CLASSIFIED INFORMATION TO CONGRESS OR THE DEPARTMENT OF JUSTICE BY CONTRACTOR EMPLOYEES.—It is the sense of Congress that the Inspector General of the Department of Defense should continue to exercise the authority provided in section 2409 of title 10, United States Code, regarding reprisals for disclosures of classified information as well as reprisals for disclosures of unclassified information.

Mr. THURMOND. I urge the Senate to adopt this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 719) was agreed to.

Mr. LEVIN. I move to reconsider the vote.

Mr. THURMOND. I move to lay it on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 720

(Purpose: To prohibit the provision of burial benefits under Federal law to individuals convicted of capital offenses under Federal law)

Mr. THURMOND. Mr. President, I offer an amendment that would suspend all burial entitlements in Arlington National Cemetery, and any other cemetery in the National Cemetery System, to any person convicted of a Federal capital offense.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND] proposes an amendment numbered 720.

Mr. THURMOND. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of title X, add the following:

SEC. . PROHIBITION ON PROVISION OF BURIAL BENEFITS TO INDIVIDUALS CONVICTED OF FEDERAL CAPITAL OFFENSES.

Notwithstanding any other provision of law, an individual convicted of a capital offense under Federal law shall not be entitled to the following:

(1) Interment or inurnment in Arlington National Cemetery, the Soldiers' and Airmen's National Cemetery, any cemetery in the National Cemetery System, or any other cemetery administered by the Secretary of a military department or by the Secretary of Veterans Affairs.

(2) Any other burial benefit under Federal law.

Mr. THURMOND. Mr. President, on behalf of myself and Senator INHOFE, I propose an amendment that would suspend all burial entitlements in Arlington National Cemetery or any other cemetery administered by the Secretary of a military department to any person convicted of a Federal capital offense.

On Wednesday, June 18, the Senate passed S. 923, denying veterans benefits in Federal capital cases, by a vote of 98 to 0. This legislation was introduced by Senator SPECTER, chairman of the Veterans' Affairs Committee, and was intended to preclude persons convicted of a capital Federal offense, entitlement to veterans benefits, including burial in a national cemetery.

Mr. President, Arlington National Cemetery, the Soldiers and Airmen's Home Cemetery in Washington, DC and various cemeteries on military installations around the country are administered by the armed services and, as such, are not affected by the change to title 38, United States Code. The amendment that I propose today will deny any person convicted of a Federal capital offense the entitlement to burial in Arlington National Cemetery, the Soldiers and Airmen's Home Cemetery, or any other cemetery administered by the Secretary of a military department.

This amendment complements the bill introduced by Senator SPECTER and passed by the Senate this past Wednesday, and completes what I believe was the intent of the Senate in that vote.

I urge my colleagues to support this amendment.

Mr. LEVIN. Mr. President, we support the amendment. It has been cleared on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The amendment (No. 720) was agreed to.

Mr. THURMOND. I move to reconsider the vote.

Mr. LEVIN. I move to lay it on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 721

(Purpose: To provide the force structure necessary for maintaining five Air National Guard C–130 aircraft units with 12 primary aircraft authorized, one each at Martinsburg, West Virginia, Louisville, Kentucky, Charlotte, North Carolina, Nashville, Tennessee, and Channel Island, California, and for preserving the number of primary aircraft authorized for Air Force Reserve C–130 aircraft units at General Mitchell International Airport and Air Reserve Station, Wisconsin, Peterson Air Force Base, Colorado, and Willow Grove Air Reserve Station, Pennsylvania)

Mr. LEVIN. Mr. President, on behalf of Senator BYRD, I offer an amendment that would maintain the Air National Guard and Air Force Reserve C–130 units at the current force structure level of 12 aircraft.

I believe the other side has cleared this amendment.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN] for Mr. BYRD, proposes an amendment numbered 721.

Mr. LEVIN. I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In section 301(9), strike out "$1,624,420,000" and insert in lieu thereof "$1,631,200,000".

In section 301(11), strike out "$2,991,219,000" and insert in lieu thereof "$3,004,282,000".

In section 411(a)(5), strike out "107,377" and insert in lieu thereof "108,002".

In section 411(a)(6), strike out "73,431" and insert in lieu thereof "73,542".

In section 412(5), strike out "10,616" and insert in lieu thereof "10,671".

At the end of subtitle B of title IV, add the following:

SEC. 413. ADDITION TO END STRENGTHS FOR MILITARY TECHNICIANS.

(a) AIR NATIONAL GUARD.—In addition to the number of military technicians for the Air National Guard of the United States as of the last day of fiscal year 1998 for which funds are authorized to be appropriated in this Act, 100 military technicians are authorized for fiscal year 1998 for five Air National Guard C–130 aircraft units.

(b) AIR FORCE RESERVE.—In addition to the number of military technicians for the Air Force Reserve as of the last day of fiscal year 1998 for which funds are authorized to be appropriated in this Act, 21 military technicians are authorized for fiscal year 1998 for three Air Force Reserve C–130 aircraft units.

On page 108, line 11, reduce the amount by $20,000,000.

Mr. BYRD. Mr. President, the amendment which I am offering enables Air National Guard units in West Virginia, North Carolina, Tennessee, Kentucky, and California to maintain their full complement of 12 C–130's. Without $13 million in operations and maintenance funds and $4 million in personnel funds, these units would be forced, prematurely and perhaps unwisely, to reduce their airlift capacity to 8 aircraft per unit.

The President's Budget for Fiscal Year 1998 reduces the Air National Guard inventory of C–130's in these five states from 12 aircraft per unit to 8 aircraft in accordance with earlier Air Force program decisions. However, it makes no sense to reduce the C–130 units until the completion of the Quadrennial Defense Review [QDR] process by the Department of Defense. The purpose of the QDR is to reassess the U.S. defense strategy, force structure, readiness, modernization and infrastructure. Why not have the benefit of that reassessment before we make such decisions?

The Air National Guard C–130 units are major players in the air mobility plan of the United States Air Force. It is my belief that a reduction of the type proposed in the budget is premature, without the final conclusions of the QDR process. More and more reliance is being placed upon our reserve component forces as the active duty military establishment downsizes. It is not prudent to reduce the aircraft and manpower levels of the very organization that is expected to respond to global crisis situations, while supporting numerous U.S. Air Force mobility missions in Bosnia, Southwest Asia, Central America and throughout the United States. Consequently, the amendment I am offering will restore the force structure, personnel, and funds necessary to continue to operate these units at 12 aircraft.

Mr. President, the view I have expressed is supported by General Ronald Fogleman, Chief of Staff of the Air Force, who wrote to the distinguished Minority Whip, Mr. FORD, on May 21, 1997, as follows:

> The QDR report released on May 19 clearly conveys a greater reliance by the Total Air Force on the reserve components. Given the concerns you have raised and our focus on reserve components during the QDR, it is clear that the C–130 force structure requires greater scrutiny before any reductions are made. Therefore, I have rescinded plans to restructure ANG C–130 units in Kentucky, West Virginia, California, North Carolina or Tennessee. These units will remain at the current force structure level of 12 PAA. As a result, I would greatly appreciate your support in maintaining these levels.

Mr. President, in a similar vein, with regard to the Air Force Reserve, the President's Budget for Fiscal Year 1998 proposes to reduce C–130 units in Pennsylvania, Wisconsin, and Colorado from 12 aircraft to 8 aircraft. In order to maintain these units at their full complement of 12 aircraft, an amount of $6.8 million is required in operations and maintenance funds and $1.4 million in personnel funds.

In summary, the amendment I am offering would assure that Air National Guard units in West Virginia, North Carolina, Tennessee, Kentucky and California, and Air Force Reserve units in Pennsylvania, Wisconsin, and Colorado are able to continue to maintain their full complement of 12 C–130 aircraft as recommended by the Chief of Staff of the United States Air Force.

I urge the adoption of the amendment.

Mr. THURMOND. Mr. President, the amendment has been cleared. I urge the Senate to adopt the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 721) was agreed to.

Mr. LEVIN. I move to reconsider the vote.

Mr. THURMOND. I move to lay it on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 722

(Purpose: To modify authority for the conveyance of certain lands at Rocky Mountain Arsenal, CO)

Mr. THURMOND. On behalf of Senator ALLARD of Colorado, I offer an amendment which would clarify existing law to facilitate the transfer of property from Rocky Mountain Arsenal to Commerce City, CO, in a negotiated sale at a fair market value.

Mr. President, I believe this amendment has been cleared by the other side. Mr. President, I urge the Senate to adopt this amendment.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from South Carolina [Mr. THURMOND], for Mr. ALLARD, proposes an amendment numbered 722.

Mr. THURMOND. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> At the end of subtitle B of title XXVIII, add the following:
>
> **SEC. 28 . MODIFICATION OF LAND CONVEYANCE AUTHORITY, ROCKY MOUNTAIN ARSENAL, COLORADO.**
>
> Section 5(c)(1) of the Rocky Mountain Arsenal National Wildlife Refuge Act of 1992 (Public Law 102–402; 106 Stat. 1966; 16 U.S.C. 668dd note) is amended by striking out the second sentence and inserting in lieu thereof the following new sentence: "The Administrator shall convey the transferred property to Commerce City, Colorado, upon the approval of the City, for consideration equal to the fair market value of the property (as determined jointly by the Administrator and the City).".

Mr. ALLARD. Mr. President, I am here today to offer an amendment that would continue the development and transformation of the Rocky Mountain Arsenal to the Rocky Mountain Arsenal Wildlife Refuge. This has been an ongoing cooperative effort between the Department of the Army, the Environmental Protection Agency, U.S. Fish and Wildlife Service, Shell Oil Co., and local, State, and Federal elected officials.

The Rocky Mountain Arsenal contains 17,000 acres northwest of Denver, CO, that was purchased by the Army in 1942 to manufacture chemical weapons. The Army leased the property after World War II to various chemical manufacturers through 1982. Needless to say, this had an incredible environmental impact. However, through all of this environmental abuse wildlife flourished. In fact, in 1986 a winter communal roost of bald eagles was discovered on site, an incredible occurrence considering the circumstances.

Because of its protected status, the arsenal became a haven for close to 300 wildlife species including deer, coyotes, owls, and eagles. Efforts were undertaken to preserve the wildlife habitat. These efforts were rewarded in 1992 when Congress passed the Rocky Mountain Arsenal National Wildlife Refuge Act, legislation that I supported as a Member of the other body.

Today, cleanup efforts are still underway, but great progress has been made. Groundwater treatment facilities are in place, 350 abandoned wells have been closed, and soil remediation is in progress. This has allowed portions of the arsenal to be opened to the public for wildlife viewing. This amendment allows the public the opportunity for greater access to the refuge.

The exact purpose of this amendment is to clarify existing law to facilitate the transfer of property at the Rocky Mountain Arsenal to Commerce City, CO, in a negotiated sale at fair market value. The city will hold this land, develop it in accordance with plans made in connection with the Fish and Wildlife Service and other governmental entities, and ultimately sell some of this land, making proceeds available for the continuing development of the Rocky Mountain Wildlife Refuge visitor center.

The Government Services Administration objected to the original language in Public Law 102–402. We have worked with GSA in formulating legislative language that meets the requirements of GSA as well as my intent and the intent of Commerce City.

I am always pleased when the Federal Government can work with local governments to provide a public benefit at no cost to the taxpayer. This is one such case.

Finally, I would like to thank Chairman THURMOND for his assistance and leadership on this amendment, and appreciate the hard work and diligence of his staff.

Mr. LEVIN. The amendment has been cleared on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 722) was agreed to.

Mr. THURMOND. I move to reconsider the vote.

Mr. LEVIN. I move to lay it on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 723

(Purpose: To require a study of eye safety at small arms firing ranges of the Armed Forces and the development of an eye injury reporting protocol for the ranges)

Mr. LEVIN. On behalf of Senator ROCKEFELLER, I offer an amendment that would direct the Secretary of Defense to conduct a study of eye safety in military small arms firing ranges and the development of an eye injury prevention program.

I think this amendment has been cleared. It is a very good amendment.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mr. ROCKEFELLER, proposes an amendment numbered 723.

Mr. THURMOND. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of subtitle D of title X, add the following:

SEC. . EYE SAFETY AT SMALL ARMS FIRING RANGES.

(a) ACTIONS REQUIRED.—The Secretary of the Defense shall—

(1) conduct a study of eye safety at small arms firing ranges of the Armed Forces; and

(2) develop for the use of the Armed Forces a protocol for reporting eye injuries incurred in small arms firing activities at the ranges.

(b) AGENCY TASKING.—The Secretary may delegate authority to carry out the responsibilities set forth in subsection (a) to the United States Army Center for Health Promotion and Preventive Medicine or any other element of the Department of Defense that the Secretary considers well qualified to carry out those responsibilities.

(c) CONTENT OF STUDY.—The study shall include the following:

(1) An evaluation of the existing policies, procedures, and practices of the Armed Forces regarding medical surveillance of eye injuries resulting from weapons fire at the small arms ranges.

(2) An examination of the existing policies, procedures, and practices of the Armed Forces regarding reporting on vision safety issues resulting from weapons fire at the small arms ranges.

(3) Determination of rates of eye injuries, and trends in eye injuries, resulting from weapons fire at the small arms ranges.

(4) An evaluation of the costs and benefits of a requirement for use of eye protection devices by all personnel firing small arms at the ranges.

(d) REPORT.—The Secretary shall submit a report on the activities required under this section to the Committees on Armed Services and on Veterans' Affairs of the Senate and the Committees on National Security and on Veterans' Affairs of the House of Representatives. The report shall include—

(1) the findings resulting from the study required under paragraph (1) of subsection (a); and

(2) the protocol developed under paragraph (2) of such subsection.

(e) SCHEDULE.—(1) The Secretary shall ensure that the study is commenced not later than October 1, 1997, and is completed within six months after it is commenced.

(2) The Secretary shall submit the report required under subsection (d) not later than 30 days after the completion of the study.

Mr. ROCKEFELLER. Mr. President, as ranking member of the Committee on Veterans' Affairs, I have an especially strong interest in preventing unnecessary injuries and illness among the men and women who serve in our Nation's military forces. The risks that these brave men and women face in combat are reduced through superior equipment and excellent training, but some risks remain unavoidable. As we continue to learn from the lessons of the gulf war, 6 years after the battle, the complete risks of military service are still not known. Thus, it is simple common sense to ensure that we do all we can to prevent those risks outside of combat that are foreseeable. One such foreseeable and preventable risk is eye injury on military firing ranges.

I thus propose an amendment to the Department of Defense authorization bill, the military eye injury assessment amendment. This amendment would address a military public health and prevention issue that was brought to my attention by a retired Air Force optometrist, Dr. John Meinhold. Dr. Meinhold was concerned about the rate of eye injuries that occurred in the Armed Services, particularly at military firing ranges. Unlike other public and private firing ranges throughout the country, military firing ranges do not require the mandatory use of safety eyewear to prevent eye injuries. Most, if not all, eye injuries at firing ranges could be completely prevented with a very inexpensive and low technology intervention, safety eyewear.

The requirement for protective eyewear at public and private firing ranges is a liability issue, rather than one controlled by State or Federal regulations. However, there is no threat of liability for the armed services because of the so-called Feres doctrine, which is based on a Supreme Court decision that ruled that service members generally cannot sue the Government for injuries occurred during service. These unnecessary eye injuries potentially affect military readiness, and in cases of severe injury, a soldier's military career may be suddenly ended. The lifetime costs of a single catastrophic eye injury has been estimated to be $1 million per eye by the Bureau of Labor Statistics, but the human costs are immeasurable.

A study by the Army found that eye injury data are not always tracked at the local level, and minor eye injuries may not always be reported to safety offices. It is estimated that while 90 percent of all eye injuries are preventable, the incidence of wartime eye injuries has increased steadily over the last 20 years.

Given these statistics and the human costs of such injuries, I wrote the Department of Defense earlier this year to ask about this important safety issue. After a series of letters and inquiries, the official response I received was that no further action was needed to prevent eye injuries since DOD officials had determined that the risk was too low to warrant spending funds on prevention. In reviewing the Department of Defense's very own statistics and studies, and in talking with their health professionals, I cannot come to the same conclusion.

Any preventable injury that puts our service men and women at risk is sufficient for our concern, especially when it is one which is as easily prevented as this one. Even one service member who suffers from a permanent eye injury at a firing range is one too many when that injury could have been avoided. I am proposing that we simply assess whether our military firing ranges should be brought up to the same safety standard that all other firing ranges in our country must meet.

My amendment would require the Secretary of Defense to provide funding for a 6-month study of eye safety at military firing ranges. This study would evaluate the current medical surveillance of eye injuries at small arms firing ranges across the service branches, and examine current safety reporting practices and other analyses as necessary to establish military eye injury rates and trends. It would also develop a uniform protocol for reporting eye injuries across the service branches. The results would be reported to the Senate Armed Services Committee and the Senate Veterans' Affairs Committee upon completion of the study.

I am proud to offer this amendment to protect the safety of the members of our armed services, and I encourage my colleagues to join me in this effort. I would like to thank the chairman and ranking member of the Armed Services Committee for their support and their fine staff for helping to perfect this amendment.

Mr. THURMOND. I urge the Senate to adopt this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 723) was agreed to.

Mr. LEVIN. I move to reconsider the vote.

Mr. THURMOND. I move to lay it on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 724

(Purpose: To extend to the Secretary of Transportation the authority to pay a reserve affiliation agreement bonus)

Mr. THURMOND. On behalf of Senator KEMPTHORNE, I offer an amendment that would extend the reserve affiliation agreement bonus to the Coast Guard.

I believe this amendment has been cleared by the other side. I urge the Senate to adopt it.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND], for Mr. KEMPTHORNE, proposes an amendment numbered 724.

Mr. THURMOND. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of subtitle C of title VI, add the following:

SEC. 642. RESERVE AFFILIATION AGREEMENT BONUS FOR THE COAST GUARD.

Section 308e of title 37, United States Code, is amended—

(1) in subsection (a), by striking out "Secretary of a military department" in the matter preceding paragraph (1) and inserting in lieu thereof "Secretary concerned"; and

(2) by adding at the end the following:

"(f) The authority in subsection (a) does not apply to the Secretary of Commerce and the Secretary of Health and Human Services.".

Mr. KEMPTHORNE. Mr. President, I propose an amendment that would extend the Reserve affiliation bonus to the Coast Guard.

The Coast Guard approached the committee after our markup was over requesting that they be included in the Reserve affiliation bonus. The Coast Guard has been experiencing difficulty in recruiting for the Coast Guard Reserve and believe that the Reserve affiliation bonus will assist by providing an additional incentive for members of the Coast Guard who are leaving active duty to enlist directly in the Coast Guard Reserve.

I will point out that this authority is discretionary and was requested by the Coast Guard.

Mr. President, I urge the adoption of the amendment.

Mr. LEVIN. The amendment has been cleared on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 724) was agreed to.

The motion to lay on the table was agreed to.

Mr. THURMOND. I move to reconsider the vote.

Mr. LEVIN. I move to lay it on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 725

(Purpose: To increase the number of years of commissioned service provided for mandatory retirement of generals and admirals serving in grades above major general and rear admiral)

Mr. THURMOND. On behalf of Senator KEMPTHORNE, I offer an amendment that would increase the number of years of active commission service provided for mandatory retirement of three- and four-star generals and admirals.

Mr. President, I believe this amendment has been cleared on the other side. I urge the Senate to adopt it.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND], for Mr. KEMPTHORNE, proposes an amendment numbered 725.

Mr. THURMOND. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of subtitle A of title V, add the following:

SEC. 505. INCREASED YEARS OF COMMISSIONED SERVICE FOR MANDATORY RETIREMENT OF REGULAR GENERALS AND ADMIRALS ABOVE MAJOR GENERAL AND REAR ADMIRAL.

(a) YEARS OF SERVICE.—Section 636 of title 10, United States Code, is amended—

(1) by striking out "Except" and inserting in lieu thereof "(a) MAJOR GENERALS AND REAR ADMIRALS SERVING IN GRADE.—Except as provided in subsection (b) or (c) of this section and"; and

(2) by adding at the end the following:

"(b) LIEUTENANT GENERALS AND VICE ADMIRALS.—In the administration of subsection (a) in the case of an officer who is serving in the grade of lieutenant general or vice admiral, the number of years of active commissioned service applicable to the officer is 38 years.

"(c) GENERALS AND ADMIRALS.—In the administration of subsection (a) in the case of an officer who is serving in the grade of general or admiral, the number of years of active commissioned service applicable to the officer is 40 years.".

(b) SECTION HEADING.—The heading of such section is amended to read as follows:

"§ 636. Retirement for years of service: regular officers in grades above brigadier general and rear admiral (lower half)".

(c) CLERICAL AMENDMENT.—The item relating to such section in the table of sections at the beginning of subchapter III of chapter 36 of title 10, United States Code, is amended to read as follows:

"636. Retirement for years of service: regular officers in grades above brigadier general and rear admiral (lower half).".

Mr. KEMPTHORNE. Mr. President, I propose an amendment that would increase the number of years of active commissioned service provided for mandatory retirement of generals and admirals serving in grades of lieutenant general or vice admiral and general or admiral.

The committee has noted over the past several years that the military services are moving senior officers through critical command and staff positions very quickly. One reason that these senior officers move so frequently is that there are only a few years in which a three-or four-star general or admiral can serve before reaching the mandatory retirement point of 35 years of service. This amendment raises the mandatory retirement point for three stars from 35 years to 38 years of service and the mandatory retirement point for four-star officers from 35 years to 40 years of service.

This amendment does not increase the number of general or flag officers. Nor does it require that three- and four-star officers serve to the mandatory retirement point. The services still have the officer management tools currently in effect which permit the service Chief and the service Secretary to manage their officer force in the best interests of their service.

Mr. President, I urge the adoption of the amendment.

Mr. LEVIN. The amendment has been cleared on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 725) was agreed to.

Mr. THURMOND. I move to reconsider the vote.

Mr. LEVIN. I move to lay it on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 726

(Purpose: To authorize a land conveyance at the Army Reserve Center, Greensboro, Alabama)

Mr. THURMOND. On behalf of Senator SHELBY, I offer an amendment which would convey 5 acres of land to Hale County, AL. The property was originally donated to the Federal Government for the construction of an Army Reserve Center which, due to a change in priority, was canceled.

I believe this amendment has been cleared by the other side. I urge the Senate to adopt it.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND], for Mr. SHELBY, proposes an amendment numbered 726.

Mr. THURMOND. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of subtitle B of title XXVIII, add the following:

SEC. 2819. LAND CONVEYANCE, ARMY RESERVE CENTER, GREENSBORO, ALABAMA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without consideration, to Hale County, Alabama, all right, title, and interest of the United States in and to a parcel of real property consisting of approximately 5.17 acres and located at the Army Reserve Center, Greensboro, Alabama, that was conveyed by Hale County, Alabama, to the United States by warranty deed dated September 12, 1988.

(b) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property conveyed under subsection (a) shall be as described in the deed referred to in that subsection.

(c) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

Mr. THURMOND. Mr. President, I rise in support of Senator SHELBY'S amendment. The amendment would return property that Hale County, Alabama donated in 1988 to the Federal Government for the purpose of constructing an Army Reserve center. Now the Army, due to changes in priority, cannot construct on the site until after fiscal year 2000.

Since the community donated the property with expectations of a Reserve center and the Army has not lived up to these expectations, I believe that returning the property using this special legislation is appropriate. I urge the Senate to adopt the amendment.

Mr. LEVIN. The amendment has been cleared on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 726) was agreed to.

Mr. THURMOND. I move to reconsider the vote.

Mr. LEVIN. I move to lay it on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 727

(Purpose: To require the display of the POW/MIA flag on various occasions and in various locations)

Mr. THURMOND. On behalf of Senator CAMPBELL, I offer an amendment which would require the display of the POW/MIA flag on various occasions and in various locations.

I believe this amendment has been cleared by the other side. I urge the Senate to adopt it.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND], for Mr. CAMPBELL, proposes an amendment numbered 727.

Mr. THURMOND. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so.

The amendment is as follows:

At the end of subtitle E of title X, add the following:

SEC. . NATIONAL POW/MIA RECOGNITION DAY.

(a) FINDINGS.—Congress makes the following findings:

(1) The United States has fought in many wars, and thousands of Americans who served in those wars were captured by the enemy or listed as missing in action.

(2) Many of these Americans are still missing and unaccounted for, and the uncertainty surrounding their fates has caused their families to suffer tragic and continuing hardships.

(3) As a symbol of the Nation's concern and commitment to accounting as fully as possible for all Americans still held prisoner, missing, or unaccounted for by reason of their service in the Armed Forces and to honor the Americans who in future wars may be captured or listed as missing or unaccounted for, Congress has officially recognized the National League of Families POW/MIA flag.

(4) The American people observe and honor with appropriate ceremony and activity the third Friday of September each year as National POW/MIA Recognition Day.

(b) DISPLAY OF POW/MIA FLAG.—The POW/MIA flag shall be displayed on Armed Forces Day, Memorial Day, Flag Day, Independence Day, Veterans Day, National POW/MIA Recognition Day, and on the last business day before each of the preceding holidays, on the grounds or in the public lobbies of—

(1) the Capitol;

(2) major military installations (as designated by the Secretary of Defense);

(3) Federal national cemeteries;

(4) the national Korean War Veterans Memorial;

(5) the national Vietnam Veterans Memorial;

(6) the White House;

(7) the official office of the—

(A) Secretary of State;

(B) Secretary of Defense;

(C) Secretary of Veterans Affairs; and

(D) Director of the Selective Service System; and

(8) United States Postal Service post offices.

(c) POW/MIA FLAG DEFINED.—In this section, the term "POW/MIA flag" means the National League of Families POW/MIA flag recognized and designated by section 2 of Public Law 101–355 (104 Stat. 416).

(d) REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the agency or department responsible for a location listed in subsection (b) shall prescribe any regulation necessary to carry out this section.

(e) REPEAL OF PROVISION RELATING TO DISPLAY OF POW/MIA FLAG.—Section 1084 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (36 U.S.C. 189 note, Public Law 102–190) is repealed.

Mr. LEVIN. The amendment is cleared on this side.

The PRESIDING OFFICER (Mrs. HUTCHISON). The question is on agreeing to the amendment.

The amendment (No. 727) was agreed to.

Mr. THURMOND. Madam President, I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CAMPBELL. Madam President, I take this opportunity to thank the distinguished managers of S. 936, the Department of Defense authorization bill, for incorporating my amendment to authorize the flying of the POW/MIA flag over certain Federal facilities and post offices.

This amendment contains the text of S. 528, the bill I introduced on April 9, 1997. I am pleased that 23 of our colleagues joined in cosponsoring S. 528. These cosponsors include Senators CONRAD, CLELAND, KEMPTHORNE, WARNER, COLLINS, MOSELEY-BRAUN, TORRICELLI, FAIRCLOTH, D'AMATO, STEVENS, HUTCHINSON, SMITH, DEWINE, LOTT, MCCONNELL, MURKOWSKI, GREGG, LAUTENBERG, ALLARD, SHELBY, CRAIG, GRAMS, and ASHCROFT.

This amendment would authorize the POW/MIA flag to be displayed over military installations and memorials around the Nation and at other appropriate places of significance on Armed Forces Day, Memorial Day, Flag Day, Independence Day, Veterans Day, National POW/MIA Recognition Day, and on the last business day before each of the preceding holidays. A similar amendment was included in the House of Representatives Defense authorization bill.

Congress has officially recognized the National League of Families POW/MIA flag. Displaying this flag would be a powerful symbol to all Americans that we have not forgotten—and will not forget.

As you know, the United States has fought in many wars and thousands of Americans who served in those wars were captured by enemy or listed missing in action. In 20th century wars alone, more than 147,000 Americans were captured and became prisoners of war; of that number more than 15,000 died while in captivity. When we add to this number, those who are still missing in action, we realize that more can be done to honor their commitment to duty, honor, and country.

The display of the POW/MIA flag would be a forceful reminder that we care not only for them, but for their families who personally carry with them the burden of sacrifice. We want them to know that they do not stand alone, that we stand with them and beside them, as they remember the loyalty and devotion of those who served.

As a veteran who served in Korea, I personally know that the remembrance of another's sacrifice in battle is one of the highest and most noble acts we can do. Let us now demonstrate our indebtedness and gratitude for those who served that we might live in freedom.

I thank the managers of the DOD authorization bill for their assistance with this amendment and urge its immediate adoption.

I thank the Chair and yield the floor.

AMENDMENT NO. 728

(Purpose: To provide a Federal charter for the Air Force Sergeants Association)

Mr. THURMOND. Madam President, I send an amendment to the desk on behalf of Senator McCAIN and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND], for Mr. McCAIN, proposes an amendment numbered 728.

Mr. THURMOND. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Insert after title XI, the following new title:

TITLE XII—FEDERAL CHARTER FOR THE AIR FORCE SERGEANTS ASSOCIATION

SEC. 1201. RECOGNITION AND GRANT OF FEDERAL CHARTER.

The Air Force Sergeants Association, a nonprofit corporation organized under the laws of the District of Columbia, is recognized as such and granted a Federal charter.

SEC. 1202. POWERS.

The Air Force Sergeants Association (in this title referred to as the "association") shall have only those powers granted to it through its bylaws and articles of incorporation filed in the District of Columbia and subject to the laws of the District of Columbia.

SEC. 1203. PURPOSES.

The purposes of the association are those provided in its bylaws and articles of incorporation and shall include the following:

(1) To help maintain a highly dedicated and professional corps of enlisted personnel within the United States Air Force, including the United States Air Force Reserve, and the Air National Guard.

(2) To support fair and equitable legislation and Department of the Air Force policies and to influence by lawful means departmental plans, programs, policies, and legislative proposals that affect enlisted personnel of the Regular Air Force, the Air Force Reserve, and the Air National Guard, its retirees, and other veterans of enlisted service in the Air Force.

(3) To actively publicize the roles of enlisted personnel in the United States Air Force.

(4) To participate in civil and military activities, youth programs, and fundraising campaigns that benefit the United States Air Force.

(5) To provide for the mutual welfare of members of the association and their families.

(6) To assist in recruiting for the United States Air Force.

(7) To assemble together for social activities.

(8) To maintain an adequate Air Force for our beloved country.

(9) To foster among the members of the association a devotion to fellow airmen.

(10) To serve the United States and the United States Air Force loyally, and to do all else necessary to uphold and defend the Constitution of the United States.

SEC. 1204. SERVICE OF PROCESS.

With respect to service of process, the association shall comply with the laws of the District of Columbia and those States in which it carries on its activities in furtherance of its corporate purposes.

SEC. 1205. MEMBERSHIP.

Except as provided in section 1208(g), eligibility for membership in the association and the rights and privileges of members shall be as provided in the bylaws and articles of incorporation of the association.

SEC. 1206. BOARD OF DIRECTORS.

Except as provided in section 1208(g), the composition of the board of directors of the association and the responsibilities of the board shall be as provided in the bylaws and articles of incorporation of the association and in conformity with the laws of the District of Columbia.

SEC. 1207. OFFICERS.

Except as provided in section 1208(g), the positions of officers of the association and the election of members to such positions shall be as provided in the bylaws and articles of incorporation of the association and in conformity with the laws of the District of Columbia.

SEC. 1208. RESTRICTIONS.

(a) INCOME AND COMPENSATION.—No part of the income or assets of the association may inure to the benefit of any member, officer, or director of the association or be distributed to any such individual during the life of this charter. Nothing in this subsection may be construed to prevent the payment of reasonable compensation to the officers and employees of the association or reimbursement for actual and necessary expenses in amounts approved by the board of directors.

(b) LOANS.—The association may not make any loan to any member, officer, director, or employee of the association.

(c) ISSUANCE OF STOCK AND PAYMENT OF DIVIDENDS.—The association may not issue any shares of stock or declare or pay any dividends.

(d) DISCLAIMER OF CONGRESSIONAL OR FEDERAL APPROVAL.—The association may not claim the approval of the Congress or the authorization of the Federal Government for any of its activities by virtue of this title.

(e) CORPORATE STATUS.—The association shall maintain its status as a corporation organized and incorporated under the laws of the District of Columbia.

(f) CORPORATE FUNCTION.—The association shall function as an educational, patriotic, civic, historical, and research organization under the laws of the District of Columbia.

(g) NONDISCRIMINATION.—In establishing the conditions of membership in the association and in determining the requirements for serving on the board of directors or as an officer of the association, the association may not discriminate on the basis of race, color, religion, sex, handicap, age, or national origin.

SEC. 1209. LIABILITY.

The association shall be liable for the acts of its officers, directors, employees, and agents whenever such individuals act within the scope of their authority.

SEC. 1210. MAINTENANCE AND INSPECTION OF BOOKS AND RECORDS.

(a) BOOKS AND RECORDS OF ACCOUNT.—The association shall keep correct and complete books and records of account and minutes of any proceeding of the association involving any of its members, the board of directors, or any committee having authority under the board of directors.

(b) NAMES AND ADDRESSES OF MEMBERS.—The association shall keep at its principal office a record of the names and addresses of all members having the right to vote in any proceeding of the association.

(c) RIGHT TO INSPECT BOOKS AND RECORDS.—All books and records of the association may be inspected by any member having the right to vote in any proceeding of the association, or by any agent or attorney of such member, for any proper purpose at any reasonable time.

(d) APPLICATION OF STATE LAW.—This section may not be construed to contravene any applicable State law.

SEC. 1211. AUDIT OF FINANCIAL TRANSACTIONS.

The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1101), is amended—

(1) by redesignating the paragraph (77) added by section 1811 of Public Law 104-201 (110 Stat. 2762) as paragraph (78); and

(2) by adding at the end the following:

"(79) Air Force Sergeants Association.".

SEC. 1212. ANNUAL REPORT.

The association shall annually submit to Congress a report concerning the activities of the association during the preceding fiscal year. The annual report shall be submitted on the same date as the report of the audit required by reason of the amendment made in section 1211. The annual report shall not be printed as a public document.

SEC. 1213. RESERVATION OF RIGHT TO ALTER, AMEND, OR REPEAL CHARTER.

The right to alter, amend, or repeal this title is expressly reserved to Congress.

SEC. 1214. TAX-EXEMPT STATUS REQUIRED AS CONDITION OF CHARTER.

If the association fails to maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code of 1986 the charter granted in this title shall terminate.

SEC. 1215. TERMINATION.

The charter granted in this title shall expire if the association fails to comply with any of the provisions of this title.

SEC. 1216. DEFINITION OF STATE.

For purposes of this title, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and the territories and possessions of the United States.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 728) was agreed to.

Mr. THURMOND. I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. THURMOND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 658

Mr. DOMENICI. Parliamentary inquiry, Mr. President. Is the pending business the Lugar amendment?

The PRESIDING OFFICER. That is the pending matter.

Mr. DOMENICI. I am a cosponsor and I intend to speak on that. Are there any limitations?

The PRESIDING OFFICER. There are none.

Mr. DOMENICI. I thank the Chair. I hope that doesn't give me a license to speak too long, but I will do my best.

Mr. President, the amendment I'm cosponsoring today is vital to continuing the progress of our Nation's programs focused on reducing the threat of proliferation of weapons of mass destruction. Our colleagues Senators Nunn and LUGAR initiated the Cooperative Threat Reduction program in 1991, and I was proud to join with them in the Nunn-Lugar-Domenici Defense Against Weapons of Mass Destruction Act last year. Your votes by a 96-to-0 margin last year showed the concern that all of you shared with me that proliferation of weapons of mass destruction is a very real threat to the security of the Nation and one of the greatest destabilizing forces that could be unleashed on this Planet.

In setting up the original Nunn-Lugar program and in passing the Defense Against Weapons of Mass Destruction Act, the Congress agreed that our Nation's national security interests are best served by preventing the proliferation of any of the former Soviet weapons, components, materials, technologies, or technologists. Congress labeled the Nunn-Lugar programs as cooperative threat reduction and that phrase was chosen very deliberately. The programs are indeed cooperative—they involve our establishment cooperating with their establishment, and the programs involve threat reduction—reducing the threat to our Nation.

Senator Nunn presents a series of powerful arguments on these programs in a foreword he recently authored for the book "Dismantling the Cold War." He discusses the transition over the last few years from a world characterized by a high risk of nuclear conflict but also high stability, thanks to the sharply bilateral nature of that world and the fear of using any nuclear weapons. Now we have a period of low risk of massive global nuclear conflict, but also very low stability because of intensification of a wide range of real and potential conflicts around the globe. He notes that the current key question "is whether the U.S. and Russia, now as partners and as friends, can keep the world safe from weapons of mass destruction as we reduce our arsenals." He argues convincingly against using the Nunn-Lugar program as a form of bribery to encourage Russia to undertake specific actions, simply because these programs are so strongly in our own best interest. In his view, "proliferation of weapons of mass destruction clearly is the number one national security challenge we face."

When we passed the Defense Against Weapons of Mass Destruction Act, we required the President to develop an integrated administration plan for defending Americans against weapons of mass destruction. The President's budget submission for fiscal year 1998 should have been coordinated with his plan. But we haven't seen that plan to date—and the country needs it. I'm very concerned with the lack of coordination in national activities against weapons of mass destruction that this plan would enable and I call upon the administration to develop and release that plan. Further, I encourage that the final House-Senate conference report reiterate the concern from Congress that this plan needs to be a high priority item for the administration. But whether or not the administration fulfills this requirement, I believe that Congress needs to show its national leadership by fully funding the cooperative threat reduction efforts. With full funding, Congress can again emphasize, just as we did last year, that we treat the issue of proliferation of weapons of mass destruction very very seriously.

John Deutch visited with a group of Senators just a few weeks ago to discuss his concerns with proliferation of weapons of mass destruction. He and his colleagues argued very persuasively for increasing the funds for defending our Nation against this threat above the administration's request. He argued that if the 105th Congress does not continue to strengthen U.S. capabilities to prevent and respond to the full range of nuclear-biological-chemical terrorist attacks, the country will remain unacceptably vulnerable to mass destruction terrorism. He stated that "the theat of terrorist attack with weapons of mass destruction delivered by unconventional means is an even clearer and more present danger to American lives and liberty than the threat of attack by ballistic missiles." He also took strong issue with the current administration's lack of coordination of efforts to defend against weapons of mass destruction, and recommended that Congress take the lead in directing the administration to improve the coordination efforts. As I've already noted, this absence of a coordinating plan from the administration is serious and Congress must continue to demonstrate its leadership in this area by reiterating the national need for this plan.

The United States is safer today thanks to the Nunn-Lugar-Domenici and Nunn-Lugar initiatives. This amendment will continue our progress to reduce the risk from "loose nukes" or aging reactors of Soviet design. Through the cooperative threat reduction programs, there are over 1,400 fewer nuclear warheads deployed and many ballistic missile launchers are no longer a threat to our citizens, along with many other major improvements. Three nations—Ukraine, Belarus, and Kazakhstan—no longer have nuclear weapons.

The International Nuclear Safety Program's funding is also being restored by this amendment, and it is critical to prevention of another Chernobyl. We need to apply the expertise of our national laboratories to help the former Soviet states reduce any risks present in these reactors. To some, the solution is to shut down these reactors, but it isn't that simple when they are supplying power that is critically important to their regions. The International Nuclear Safety Program is working and must remain at full strength.

Of the three programs being restored in this amendment, I'm most familiar with the Materials Protection Control and Accounting Program. This program is absolutely essential to minimize the threat of nuclear materials moving to rogue states or terrorist groups. By far the greatest challenge to any of these groups considering creation of nuclear weapons is obtaining the special nuclear materials—the highly enriched uranium or plutonium that provide the fission energy source for the bomb.

In the old Soviet Union, nuclear materials were protected with guards and guns. The guards were well paid with stable jobs. Today, those guards may not have been paid by their government for months. Those guards may be wondering where their next meal is coming from, and more willing to consider compromising the material they are charged with protecting. Workers in the nuclear facilities are in similar straits, and within the last few months we saw the suicide of the director of the Russian Chelyabinsk facility out of frustration for his inability to pay his workers.

We simply cannot rely on outdated ways of protecting nuclear materials in a country faced with the economic hardships and turmoil prevalent in the former Soviet Union. We need modern systems monitoring and controlling these materials, systems of the type that have been developed in this country and are in place wherever nuclear materials are found in the United States.

This program is an outstanding example of international cooperation. Work is in progress at more than 50 sites in Russia, Kazakhstan, Ukraine, Belarus, Uzbekistan, Georgia, Lithuania, and Latvia. These sites are estimated to have 90 percent or more of the fissile materials outside of actual weapons—enough for tens of thousands of new weapons. The program is also an outstanding example of cooperation among our national laboratories—Los Alamos, Sandia, Livermore, Brookhaven, Pacific Northwest, and Oak Ridge National Laboratories are all playing key roles.

As just one example of the program's accomplishments, at the Siberian chemical facility at Tomsk-7, by some measures the largest nuclear facility in the world, upwards of 100 tons of highly enriched uranium and plutonium are stored. Radiation monitors have now been installed at the exit portals of the facility, significantly improving security of all the material. And a wide range of additional security measures are in progress as well.

The conference report language for the Nuclear Defense Authorization Act for 1998 raises the concern that the Department of Energy is not expending its allocated funds in this program. I've checked on the details of this concern and learned that the accounting processes required for this program cause as much as an 8 to 10 month delay between when funds are allocated to a specific project and when they are reported as spent after the work is done. We maintain good accounting for these funds by demanding that the projects be finished before final payment. Yet the funds must be in the Department at the time a contract is initiated. In contrast to the conference report, I learned that all fiscal year 1996 funds are committed and all fiscal year 1997 funds that the committee questioned will be fully utilized. Most of the fiscal year 1997 funds not reported as spent are already committed to contracts.

The Materials Protection Control and Accounting Program must continue its efforts to reduce this serious threat. We have just recently seen new opportunities for the program to expand to include more of the Russian naval reactor fuels. We are on a course to have most of the known fissile material in Russia under some degree of protection by 2002. Significant security improvements have been completed in Latvia, Lithuania, Uzbekistan, Georgia, and Belarus; 16 additional sites, 12 in Russia, 2 in Ukraine, 2 in Kazakhstan, are scheduled for completion by the end of 1997. Fiscal years 1998 and 1999 are the most critical for implementing security upgrades at the very large defense facilities with most of the material.

With our amendment today, we keep these key programs on target, focused on reducing the threat of weapons of mass destruction. This amendment is a significant re-emphasis of the leadership demonstrated by Congress in the past in preventing proliferation of weapons of mass destruction. These programs are a significant contribution toward a safer and more stable world for citizens of both the United States and world, both for the current generation and far into the future.

I urge the Senate to adopt the amendment, which will replenish the three programs I have just briefly outlined, without which I believe we will be taking a giant step backward in the elimination, using the most modern means, of the proliferation of weapons of mass destruction, starting with nuclear and leading on into chemical and biological. We have to get started on the latter. Time is wasting and it is getting more and more difficult and dangerous.

I yield the floor.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. THURMOND. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Madam President, I just want to make a statement that if Senators have amendments now is the time to come forward. We are waiting to take up these amendments. We are ready to take up these amendments. There is no use in keeping the Senate in session without doing business here. To do business here we have to take up these amendments. We already disposed of a number of amendments here by consent this morning. But if anybody has an amendment now is the time to come and offer it. It may be too late later.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Madam President, I join the chairman's call for those who have amendments to bring them to the floor, if possible, today or tomorrow. One of the problems is, however, that we are facing a cloture motion vote, and, if that is approved—and it must be the first vote—a number of amendments that people have indicated they want to offer would not be germane.

I want to spend just a moment or two on the situation that we are now in relative to this pending cloture motion.

The bill before the Senate is the product of 4 days of debate and thoughtful consideration during markup by the Senate Armed Services Committee. At the end of the markup, the committee voted unanimously to report this bill to the floor. It was an 18-to-0 vote.

This bill is consistent with the bipartisan budget agreement, and I fully expect that at the proper time the Senate will give the bill a strong bipartisan vote. We have not reached that time yet.

In recent years the Senate has debated more than 100 amendments to the defense authorization bill and has taken 10 to 20 rollcall votes a year. This has typically taken up to 50 to 60 hours over a period of a week or so. Last year, for example, we disposed of 159 amendments with 19 rollcall votes, and over 63 hours of debate.

I don't see any reason to expect that Members will be offering any fewer amendments, although we always can hope that might be the case, or that it will take significantly less time to dispose of them this year than it has in the past. Like previous defense authorization bills, the bill before us is almost 500 pages long, and includes more than 300 separate provisions.

But on Friday before the recess when the majority leader filed a cloture motion the Senate had been considering this bill—and it is a complex bill—for less than 8 hours, mostly on a Friday morning after most Members had left town and after the majority leader said there would be no votes. Not a single nongermane amendment has been adopted until this recent series of amendments, and no major defense-related amendment has yet been offered.

The major issues before us—the base closure issue, the depot issue, possibly missile defense, Bosnia, NATO enlargement—have yet to be raised. To say the least, I was surprised to see a cloture motion filed at this early stage of the Senate's deliberations. That approach might make some sense if there were sign of obstruction or delay in the consideration of the bill. But that has not been the case. The floor managers on both sides, as the chairman has said, are prepared to consider and debate any amendment that may be forthcoming. We are prepared to address issues and to move on with the Senate's business. But we have not had an opportunity to do that. And we are not going to have an opportunity to vote on any amendment prior to the vote on cloture tomorrow since, as I understand the schedule established by the majority leader, no votes can be scheduled for today and the first vote tomorrow will be the cloture vote.

Members well know that the rules constrain consideration of amendments in a postcloture situation. And they are extremely confining rules. To be in order an amendment must also be relevant but germane under a very strict definition of germaneness. Under postcloture rules any amendment, no matter how relevant to the defense of the Nation, is nongermane if it expands powers available under the bill, if it introduces a new subject matter, or if it funds a program not already funded in the bill. Any portion of an amendment that is not germane makes the whole amendment out of order, and an amendment may not be modified without the unanimous consent of the Senate.

If we were to vote cloture the major amendments that we all expect to consider in the course of the debate would be nongermane and could not be voted on by the Senate. For example, we have pending before us this afternoon an amendment relative to the funding of the Nunn-Lugar Cooperative Threat Reduction Program. Unless we act on that amendment this afternoon—that is an amendment which is addressing one of the greatest threats that is faced by this country—that amendment would not be in order, and we could not even vote on it.

Senators who question the administration's proposal for distributing the workload of the two air logistics centers closed in the last BRAC round would be denied the opportunity to raise the issue on this bill if cloture passes. That is whether or not they come and debate it this afternoon, and that is whether or not they come and debate it tomorrow morning. The reason is because it is not germane technically to the bill in a postcloture situation.

I don't happen to support adding those provisions to this bill. I don't think we ought to add provisions to this bill that reallocate workloads. I think we ought to leave that to a fair process. But that is not the point.

Senators were asked to deliver amendments relating to this subject of distributing the workload at the two air logistics centers which were closed in the last BRAC round, and they would have no opportunity to bring their amendments back on that subject if cloture were voted on tomorrow.

Again, under the unanimous-consent rule that we are operating under, cloture is the first rollcall vote that this Senate is going to be able to have.

There is another major issue that should be debated and that we know will be debated. That has to do with future base closure rounds. We had a very lively discussion and debate on that in the Armed Services Committee.

There are many of us who talked in support of the amendment of Senator McCAIN relative to two new rounds of base closures. If we deny those two new rounds we will be denying one of the highest priorities of the Secretary of Defense and the Joint Chiefs of Staff. But at least we ought to have a vote on the subject, and if we vote on cloture tomorrow—which must be the first vote regardless of when the BRAC amendment is offered, whether it is offered this afternoon or offered tomorrow, since under the unanimous-consent agreement that we are operating under the first vote must be on cloture—and if that vote passes tomorrow, then we would not be able to vote on whether or not to add two new rounds or perhaps one new round of base closure. That is just not right.

Amendments regarding foreign policy issues that are not currently addressed in the bill various Senators may want to offer. Amendments may be offered on Bosnia or on NATO expansion. Those amendments would be out of order if cloture is voted tomorrow. The House version of this bill has a major Bosnia-related provision. It would cut off funds for United States ground troops in Bosnia after June 30 of next year. That is a highly significant issue. While we don't have to debate it in this bill, I think that some Senators may feel otherwise. I don't think they ought to be barred from raising the issue should they choose, even though I may not agree with their amendment.

Many other amendments that Members are planning to offer this year would be out of order. Amendments involving the funding formula for the National Guard Challenge Program, amendments relative to the North Dakota flood close claims of Air Force personnel, amendments relative to the reauthorization of the Sikes Act, to facilitate the preparation of integrated natural resources management plans for military lands, amendments to provide recruiter access to juvenile court records, and so forth.

This is not the way that we should be doing business. We should not be voting on cloture before we have had an opportunity to vote on important amendments, and we will not have that opportunity under the unanimous-consent agreement that we are operating under. We should not be denying Members the opportunity to offer key amendments which will require rollcall votes before the amendment process is even begun in earnest.

I hope that we can continue to clear as many amendments as possible this afternoon and tomorrow morning.

I happen to agree with the chairman. People who have amendments should come down here and debate them. But the problem this cloture motion creates for us is that we can't have rollcall votes until after the vote on cloture tomorrow. And we know that a number of amendments are going to require rollcall votes—legitimate amendments involving base closures and involving the depot issue which so many of our Members feel so strongly about.

That is why I hope we will not invoke cloture tomorrow. I think that invoking cloture would be unfair to Members who want to bring up amendments which require rollcall votes and to have us dispose of those amendments.

So, Madam President, again, whether or not cloture may be needed at a later stage in the debate of the bill, it would surely be premature to invoke cloture tomorrow before the disposition of many important amendments, controversial amendments and tested amendments, which arguably require rollcall votes.

I yield the floor.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

AMENDMENT NO. 420

Mr. COCHRAN. Madam President, I know I don't need to ask consent to return to the Cochran amendment. But the Lugar amendment has been offered and has been the pending business. I ask that we return to the regular order, to amendment No. 420.

The PRESIDING OFFICER. The Senator has that right.

That is now the pending amendment.

Mr. COCHRAN. Madam President, amendment No. 420 was offered by me, and is cosponsored by the distinguished Senator from Illinois, Senator DURBIN. It seeks to modify the existing export control policy that had been instituted by the administration with respect to the exporting of high-performance or so-called supercomputers.

SUPERCOMPUTER EXPORT CONTROLS

Madam President, on November 14, 1994, President Clinton issued Executive Order 12938, the Emergency Regarding Weapons of Mass Destruction, declaring that the proliferation of weapons of mass destruction and the means of delivering them constitute "an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States," and that he had therefore decided to "declare a national emergency to deal with that threat." The President reaffirmed this Executive order on November 15, 1995, and again on November 11, 1996.

We have had several hearings recently on the subject of proliferation in my Governmental Affairs Subcommittee on International Security, Proliferation, and Federal Services. And the distinguished ranking member of the full committee, Senator LEVIN, is the ranking member of that subcommittee.

We have examined cases of proliferation by the People's Republic of China and proliferation by Russia, and I can tell you that the facts—brought out in open session—are disturbing. The facts tell a story of both Chinese and Russian sales of technology, components, and delivery systems for weapons of mass destruction, as well as sales of highly capable advanced conventional weapons and other critical military technologies, to nations like Iran. The facts demonstrate that President Clinton was entirely correct in describing this problem as a national emergency.

Just last month, the Director of Central Intelligence sent Congress an unclassified report entitled, "The Acquisition of Technology Relating to Weapons of Mass Destruction and Advanced Conventional Munitions." The report covers only the period July through December 1996 and levies serious proliferation charges against, among others, Russia and China. The report says:

> China was the most significant supplier of WMD-related goods and technology to foreign countries. The Chinese provided a tremendous variety of assistance to both Iran's and Pakistan's ballistic missile programs. China also was the primary source of nuclear-related equipment and technology to Pakistan, and a key supplier to Iran during this reporting period. Iran also obtained considerable CW-related assistance from China in the form of production equipment and technology.

The intelligence community report—and I note that this report is not the product of any single part of the intelligence community, but represents the consensus view of the entire intelligence community—goes on to say, and again I quote:

> Russia supplied a variety of ballistic missile-related goods to foreign countries during the reporting period, especially to Iran. Russia was an important source for nuclear programs in Iran and, to a lesser extent, India and Pakistan.

Madam President, the facts that emerged during my subcommittee's hearings on Russian and Chinese proliferation are completely supported by this latest report of the intelligence community. And we should not be comforted by the fact that it reports on the proliferant behavior of these nations only during the last half of 1996. For those who claim that Chinese and Russian behavior on proliferation is getting better, the best I can say is that it certainly is not yet good enough.

I raise the issue of proliferation because it is the principal reason we have offered this amendment on supercomputer export controls. The use of high-performance computers to upgrade existing weapons capabilities or develop new ones is not some fantasy or something that might happen in the future. It is known fact. High-performance computers help make it possible to develop and improve weapons capabilities that threaten the United States. Keeping them out of the wrong hands makes America safer. Dr. Seymour Goodman, in a report used by the administration as its basis for weakening U.S. export controls on high-performance computers, wrote:

> . . . continued export controls will slow the exacerbation of existing nuclear threats. Control of HPC [high-performance computer] exports, by limiting those exports or imposing appropriate safeguards, to countries known to possess nuclear weapons will impede their development of improved weapons and reduce their confidence in their existing stockpile by limiting the opportunity to conduct simulations in lieu of live tests. Similar or more rigorous controls on HPC exports to countries with nuclear weapons development programs could impede their development of second-generation weapons.

The June 1997 Intelligence Community report to Congress couldn't be more clear on this issue. It states:

> . . . countries of concern continued last year to acquire substantial amounts of WMD-related equipment, materials, and technology, as well as modern conventional weapons. China and Russia continued to be the primary suppliers, and are key to any future efforts to stem the flow of dual-use goods and modern weapons to countries to concern.

This amendment will help reduce the proliferation danger facing the United States by requiring an individual validated license to export all supercomputers to so-called Tier 3 countries, which include China and Russia. Because of the new export control policy for supercomputers announced by the Clinton administration on October 6, 1995, there currently is no such requirement. We must act to change that policy now.

This policy, which has been in place for almost 18 months, groups all nations into four country tiers and establishes export licensing requirements for high-performance computers based upon their country of destination. Tier 1 countries, consisting primarily of our NATO allies, are free to receive high-performance computers of unlimited capability without an export license from the United States, while, at the other end of the spectrum, Tier 4 countries, consisting of the last trustworthy, cannot legally receive any of these supercomputers. Almost all countries in South America, Central America, the Caribbean, and Africa are in Tier 2, and can receive supercomputers capable of up to 10,000 MTOPS—MTOPS are Millions of Theoretical Operations per Second, the standard measure of computing capability—before an export license is required.

The end-use and end-user are the critical factors for exports to any of the 50 nations comprising Tier 3. If the end-use and user are civilian, the policy allows exports of supercomputers capable of up to 7,000 MTOPS before an export license is required. If the Tier 3 end-use or user is military, U.S. export licenses are required for any high-performance computer capable of more than 2,000 MTOPS. But it is the U.S. exporter, not the administration, which has the responsibility under this policy for determining the end-use and user for Tier 3 exports between 2,000 MTOPS and 7,000 MTOPS. This responsibility, difficult under any circumstances, is complicated by a company's natural focus on making sales. Our amendment addresses only these Tier 3 exports, as depicted by the diagonally-striped area on this chart, which I am going to show the Senate at some point in this discussion.

Our amendment applies to only a small portion of high-performance computer exports. In fact, according to the Commerce Department's Bureau of Export Administration, of the 1,436 supercomputers exported from the United States from the date the new policy went into effect through March 1997, only 91 went to Tier 3 countries. That amounts to 6.34 percent of total supercomputer exports. Does it not make sense for our Government to be willing to check to make sure that 6.34 percent of our supercomputer exports go to the right place? Is it unreasonable to require the administration to be sure that American supercomputer sales aren't going to people and places who would damage American national security?

Our amendment doesn't prohibit the transfer of a single supercomputer. It requires that the existing standards for transfers be monitored by our Government. Our amendment changes only one aspect of the policy, shifting the burden of determining end-use and end-user in Tier 3 countries from the exporter to the administration. Why is this so important? Listen to another part of last month's report to Congress by the Intelligence Community, which says, "Many Third World countries—with Iran being the most prominent example—are responding to Western counterproliferation efforts by relying more on legitimate commercial firms as procurement fronts and by developing more convoluted procurement networks."

American exporters are not capable of determining whether a potential purchaser is a "procurement front" or part of a "more convoluted procurement network," and it is wrong to place this burden on them.

The administration, and many exporters, will tell you that the current policy is working, that closer scrutiny isn't required, but look at this chart and what it shows you. There are American supercomputers in Russia's and China's nuclear weapons complexes. According to Russia's Minister of Atomic Energy, these supercomputers are "10 times faster than any previously available in Russia." According to the Chinese Academy of Sciences—which works on everything from the D–5 ICBM, capable of reaching the United States, to uranium enrichment for nuclear weapons—its American supercomputer provides the Academy with "computational power previously unknown" and is available—this is a quote from them—to "all the major scientific and technological institutes across China." American high performance computers are now available to help these countries improve their nuclear weapons and improve that which they are proliferating, courtesy of a policy that can be called many things, but can't reasonably labelled as "working."

Just last week we learned through press reports that an American supercomputer sent to Hong Kong is now in China under the control of the People's Liberation Army. In addition to the 47 American supercomputers that have been shipped to China since this new policy took effect, 20 unlicensed American supercomputers have been shipped to Hong Kong. At least now we know where one of the Hong Kong supercomputers is. What about the others? does this look to anyone like a policy that's working? This is a real problem. It is a problem that exists now. It is not a hypothetical problem. It is not a problem that may develop in the future. This is a serious problem that threatens our national security.

There are some opposing this amendment who claim that setting the threshold at 2,000 MTOPS is too low, and consequently will make it impossible for American computer manufacturers to sell personal computers—PC's—abroad. That is just not true. It is a last minute desperation shot at the Cochran-Durbin amendment. Let's look at the facts:

The first fact is the 2,000 MTOPS threshold opponents express concern over was not dreamed up by us. It is the administration's limit.

No. 2, industry suggests that by some time in the fourth quarter of 1998—this date came, incidentally, from IBM's Director of public policy, who recently visited with my staff about this amendment—IBM will produce, according to him, a PC capable of just over 2,000 MTOPS for sale in the international marketplace, he said. But IBM couldn't answer several basic questions about this PC. Its Director of public policy didn't know the name of the PC, the expected price that would be charged for it, how many would be produced for the U.S. market, how many would be produced for potential foreign market sales, or even how many would be produced for this Tier 3 market, which this amendment is narrowly related to. It is worth remembering that this amendment that we are talking about only affects Tier 3 countries, and he's talking to us as if our amendment affects all sales to everybody—in the United States, foreign countries, everywhere—and that is just not true.

IBM doesn't just build these machines overnight on an impulse or a whim or a guess about what is out there in terms of potential sales. If it is going to have a new top-of-the-line PC out within 15 to 16 months, as they claim through this director of public policy, it must already have ordered the chip to run this PC. Doesn't it stand to reason that if such a PC were just around the corner, IBM would be able to answer some of these basic questions that I said the director could not answer? If not, is it possible that IBM is being overly optimistic about its capability, its projections, about the timeframe involved, and all the other arguments that have been advanced against this amendment?

Fact No. 3: Right now, according to William Reinsch, who is the Under Secretary of Commerce for Export Administration, "High end Pentium-based personal computers sold today at retail outlets perform at about 200 to 250 MTOPS."

Did you hear that? We are not talking about 2,000 to 7,000 MTOPS, like some of these computer lobbyists are saying to Senators are going to be affected by this amendment. The PC's that are out on the market today are at much lower ranges of capability.

Let's give Secretary Reinsch the benefit of the doubt and say today's top-end PCs are capable of running at 250 MTOPS. Secretary Reinsch said on June 11 before my subcommittee in an open hearing that "computer power doubles every 18 months, and this has been the axiom in the industry for, I think, about 15 years."

This axiom is known as Moore's Law. The math is straightforward. If top-end PC's are capable of 250 MTOPS today, 18 months from now they will be capable of 500 MTOPS; 36 months from now, they will be capable of 1,000 MTOPS; 54 months from now, in 4½ years, they will be capable of 2,000 MTOPS. Fifty-four months from now is not, contrary to the claims of some computer manufacturers, the fourth quarter of next year, as was suggested to us by the director of public policy of IBM. Of course, Moore's Law doesn't even mean that 54 months from now there will be PC's on the market capable of 2,000 MTOPS. It only suggests that our manufacturers should be able to build these powerful PC's 54 months from now, if Moore's Law continues to be sustained. None of our manufacturers will build PC's this powerful unless there is a broad market demand for such a highly capable PC, and it is unclear if the market will even be demanding such a powerful PC many times more powerful than today's top-of-the-line PC's in just under 5 years.

If 4 or 5 years from now industry's optimism proves to be correct, I will be pleased to return to this floor and offer legislation modifying the 2,000 MTOPS level. But the suggestion that by next year we will have PC's many times more powerful than our most powerful today can only be guesswork, wishful thinking.

Fact No. 4: IBM currently sells, again according to its director of public policy, a workstation that is capable of just over 2,000 MTOPS. Wouldn't it make sense that future demand for the much anticipated 2,000 MTOPS PC should be similar to the current demand for the workstation that is already on the market?

According to the Commerce Department, from January 25, 1996, when the administration's supercomputer export control liberalization took effect, to March of 1997, 1,436 American high-performance computers were exported to countries in tiers 1, 2, and 3. Of these 1,436, just 91, or 6.34 percent, went to tier 3 countries. I do not know how many of these 91 were IBM's workstation that is just over 2,000 MTOPS. We know that at least 6 of the 91 were not manufactured by IBM—4 Silicon Graphics machines that are now running at Russia's nuclear weapons labs; one Silicon Graphics machine in the Chinese Academy of Sciences, which is a key part of China's nuclear weapons complex; and one Sun Microsystems machine that we just learned last week is now running at a Chinese military facility in Chungsha after being diverted from Hong Kong. So up to 85 of the 91 exported over 14 months to tier 3 countries could have been this IBM workstation, though I doubt that all of them consisted of that one machine. But even if all 85 were these IBM workstations, does this sound like the kind of volume that will overwhelm the Government's licensing apparatus? Certainly not.

The specter of American jobs being lost to unwieldy export controls is just another part of the argument against the Cochran-Durbin amendment that is not based on the facts.

Another argument made against our amendment is that the right way to keep organizations from getting American supercomputer technology who shouldn't be receiving it is for the Department of Commerce to publish a list of prohibited end users with individual validated licenses required for any high-performance computer export to a country or entity on the list. This argument against the amendment at least has the virtue of implicitly admitting that American supercomputers should not be in Russia's and China's nuclear weapons design labs, but it is another argument that is simply not based on the facts.

Shortly before the recent July Fourth recess, I spoke on the floor of the Senate explaining why such a list would be, in many ways, worse than the current situation. I won't go through all those reasons again in the interest of time now, but I continue to believe that such a list would be necessarily incomplete because of the requirement to protect intelligence sources and methods. It could be used as the Department of Commerce's guide for proliferators, and it would make it only too easy to make a sale to a location not on the list, thus encouraging makers of weapons of mass destruction to establish phony front organizations for the purposes of acquiring U.S. supercomputers. They wouldn't be on that list.

In fact, the Department of Commerce on June 30 published such a list, and its inadequacy is obvious. The June 30 list, called by the Commerce Department the "Entities List," consists of 13 locations in 5 tier 3 countries that can receive an American supercomputer only if you have a license, only subject to a license. So now the total list of proscribed end users consists of 15 entities. On this list are Chelyabinsk-70 and Arzamas-16 in Russia which have already received at least five American supercomputers and parts of the Chinese Academy of Sciences, which also is now manufacturing more modern nuclear weapons with America's finest technology.

Because of this list, now America's computer exporters know that they need a license to ship a high-performance computer to any of these entities. What about other entities, though? What about the Chinese company that shipped ring magnets to Pakistan last year for use in its nuclear program? Why isn't that company on the list? It has been subjected to sanctions imposed by our Government, and it is not on our Government's list as a prohibited end user. What about the Chinese company or government entity that shipped M-11 missiles to Pakistan and now, according to press reports, is helping Pakistan build a factory for the indigenous manufacture of M-11 missiles? Why isn't that entity on the list? What about the Russian company or government entity helping Iran to upgrade its nuclear program and ballistic missile programs, why aren't they on the list?

Madam President, this list does not solve the problem. If anything, it makes it more confused, it makes it more difficult for American exporters to determine who should or should not receive American high-performance computers. In many ways, this list is worse than nothing.

There are many who believe the entire high-performance computer export control policy of this administration is a failure. However one views this policy as a whole, there is one aspect of it that we know is not working and it can be fixed now.

We know that American supercomputers are now in Chinese and Russian nuclear weapons labs. We know that they should not be there. We know that our Government, with the resources of the intelligence community, is better able to determine the identity of end users and end uses than is industry. Industry has no way to be able to determine the end use and user of its products to the degree of confidence that our intelligence agencies can do.

Right now we have the opportunity not to impose new restrictions on our supercomputer manufacturers but to shift the burden of making end-use and end-user determinations from industry to Government.

Look at this chart again and you will see that we are talking about only a very small part of the overall policy. The entire chart describes the policy and shows the number of tiers, 1 through 4, the varying capabilities on the basis of millions of theoretical operations per second, MTOPS, along the left side. And the only part of the entire export business of American supercomputers that is affected by this amendment is this part shown in the diagonal lines. The fact is, we are talking about only 6.34 percent of supercomputer exports under this policy that will be affected by this amendment.

The Cochran-Durbin amendment will not prevent a single supercomputer export to anyone who should have one, but it will help ensure, though, that only those who should have them will have them. The only supercomputer sales that would be blocked by our amendment are those going to foreign entities who the U.S. Government determines shouldn't have it. It will not prevent legitimate sales to legitimate users in the U.S. or outside the U.S., but it will help prevent a repeat of the errors that have allowed American supercomputers to go to Russia and to go to China and be used in their nuclear weapons labs.

Let's be clear what this debate is about. It is about U.S. national security. If you think Russia and China shouldn't be using American supercomputers to improve the quality of their nuclear arsenals and the quality of the weapons systems and components and technology that they are selling in turn to others, vote for the Cochran-Durbin amendment.

President Clinton was right when he called the proliferation of weapons of mass destruction "an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States," and that it constitutes a "national emergency." These weapons, delivery systems and technologies are more readily developed and enhanced by high-performance computers, and who makes those computers? The United States.

If the United States is going to demonstrate that it is serious about this issue, we must do more than complain to Russia and China every time one of those nations engage in proliferation.

The American fight against proliferation must start at our own borders.

I urge Senators to vote against the Grams-Boxer substitute and support the Cochran-Durbin amendment.

Madam President, I ask unanimous consent that the distinguished Senator from New Hampshire [Mr. SMITH] be added as a cosponsor to our amendment.

The PRESIDING OFFICER (Ms. COLLINS). Without objection, it is so ordered.

Mr. DURBIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. I rise to speak on behalf of the same amendment which my colleague, the Senator from Mississippi, Senator COCHRAN, has just described.

I am happy to join him as a cosponsor on this important amendment. I only wish my colleagues and many others who are listening to this debate could have been there when Senator COCHRAN's subcommittee met just several weeks ago and really talked in depth about what we are doing.

For the average layman, the average person in the United States, there are some very technical terms involved in this debate. But the purpose of this amendment is very clear and very straightforward. We understand that if we give to another country certain information or technology, they are able in many ways to use it for positive reasons. We fear however that if that same information and technology is given to a country which might use it for negative purposes, that it is inconsistent with the national security of the United States.

The Cochran-Durbin amendment is an effort to make certain that we continue to sell technology around the world, but take care not to sell it in those countries where it may be misused.

Unfortunately, the Clinton administration over the last years has had a change in its policy, with a more expansive, more liberal trade policy when it comes to supercomputers. It has been my fear, and the fear of the Senator from Mississippi, that some of these computers which are being purchased for nominally peaceful reasons are in fact going to be used for military purposes.

One of the examples which the Senator from Mississippi used in closing was the whole question of weapons testing. Some 35 years ago when President Kennedy spoke to the Nation, he challenged us as a world to reduce nuclear arms testing so as to make this a more peaceful planet. I think President Kennedy was right. And I support a weapons test ban. I think the United States should continue to show leadership.

But we live in a different world some 3 decades later where a country with a new computer, the supercomputers that we are describing, that country may have the capability to test a nuclear weapon without ever detonating it. They can set up all of the parameters within the computer, test the weapon, and show its impact.

So if you are talking about reducing the proliferation of dangerous weapons—nuclear, chemical, and biological weapons—you must necessarily get involved in this debate, which Senator COCHRAN has initiated and I have been more than happy to assist in.

Some questions have been raised. And I wonder, just for purposes of clarification, if I could ask Senator COCHRAN a question or two for the record here. I know the Senator has covered most of this in his opening statement, but I think we ought to make a clear record for our colleagues on the amendment.

One of the first things that is said is, well, you set the standard too low. If a company wants to sell this computer, which we describe as a 2,000 MTOPS computer, you have set it too low, set it at a standard so that the computers that are going to be licensed, there is going to be surveillance at such a level. It will not hit the ordinary business computers.

I would like you to respond. And I know you did respond in the course of your opening remarks to that particular criticism. If you would, please, I yield to the Senator.

Mr. COCHRAN. If the distinguished Senator would yield, I appreciate very much not only his question but also his very helpful involvement in this issue and cosponsoring the amendment.

But he gets to the central point of the debate here. It is not that this amendment sets any new levels of prohibition or granting authority for export sales. It does not change any of those levels. The level that is established by the administration is the 2,000 MTOPS level. We do not change that for tier 3 countries, as demonstrated in the chart I showed a while ago.

We were told in our hearing that 250 MTOPS is about the current power of a PC which is sold in the market here in the country now. And that under the so-called Moore's Law that doubles every 18 months. So it would be 4½ years before you get to a level where you would even reach the 2,000 MTOPS level which is the trigger level for tier 3 countries that have to have a license if the end use or the end user is military. If they're civilian, you do not have to have a license at all.

What this amendment changes is who determines the end use or the end user. Our amendment says it should be the administration's responsibility. Current policy is that exporters have the responsibility of making that determination. That is the only thing we change.

Mr. DURBIN. If I could pose another question to my cosponsor on this amendment, Senator COCHRAN.

There have been others that have said, well, why is the United States doing this? If we stop selling computers around the world, whatever their capability, some other country is going to sell them. So we are tying the hands of American business in a futile effort to stop this march of technology.

I would appreciate it if my colleague, the Senator from Mississippi, would address that particular complaint.

Mr. COCHRAN. Our information, derived at our hearings through expert witnesses, was that we have the highest capability of any country in the world in terms of supercomputer manufacturing technology. We manufacture the state-of-the-art supercomputers. We do not have any competitors. Japan manufactures some high-performance supercomputers but their export policy is more restrictive than ours. They require licensing, we do not.

What we are suggesting here is that the policy of our administration is flawed in that it ought to make the determination in those questions where end use and end user is relevant as to whether you can or cannot make the sale, the Government ought to monitor and verify that this sale is permissible. And it applies to only 6.34 percent of the total computer sales of all American exporters in the export market.

Mr. DURBIN. I thank my colleague.

I think he noted in the course of his remarks that last week or perhaps the week before the administration said, well, let us put out a list of 13 or 14 different entities that we think we should take care not to sell to. And I agree completely with the Senator from Mississippi that it is hardly a comfort in this argument that we are protecting the interest of the United States with this list.

It is hard to believe that our intelligence operations would make a complete disclosure of every potentially bad purchaser around the world without in fact disclosing very sensitive classified information. It is far better to take the approach which the Cochran-Durbin amendment does, which says that on a case-by-case basis there will be a license issued by the Government to determine whether the would-be purchaser in any way raises a suspicion that this technology is going to be misused, used against the United States.

I think our approach to it gives the Government the power it needs to police the sales, says to the seller, the computer company, you can come to the Government now and entrust that decision to an entity which should know as to which purchasers should not be trusted. And that I think would give the industry some peace of mind. It has to be a major embarrassment to these companies to realize now that they have sold these supercomputers in China and in Russia and that they may be used for military purposes against the United States.

Certainly, these companies in the United States value our security, they are as patriotic as many others, and they would want to do the right thing. The Cochran-Durbin amendment sets up I think a good framework for the right decision to be made. I certainly hope that when this amendment comes up for consideration that many of our colleagues on both sides of the aisle will stop and pause and reflect on it. Because I think it in a way takes a look at the world as it currently exists and says we do not want to sell to potential enemies or to suspect nations that power that might come back someday to haunt us. It is important to increase trade, but not at the expense of the security of the United States.

I thank my colleague from Mississippi for his leadership. And I am happy to join him in this effort.

I yield back.

Mr. COCHRAN. Madam President, I ask unanimous consent that there be printed in the RECORD a chart on exports of high-performance computers; and an unclassified report from the Director of Central Intelligence, as mentioned in my earlier remarks; and an editorial from the St. Louis Post-Dispatch suggesting that the administration should not wait, that it must act now on this issue.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXPORTS OF HIGH PERFORMANCE COMPUTERS FROM JANUARY 25, 1996 TO MARCH 1997

[Number of systems by country]

Argentina	4
Australia	63
Austria	17
Belgium	38
Brazil	15
Canada	11
China	47
Colombia	5
Croatia	1
Czech Rep.	4
Denmark	10
Egypt	2
Finland	2
France	86
Germany	232
Greece	1
Hong Kong	20
Hungary	3
India	7
Indonesia	6
Ireland	6
Israel	17
Italy	42
Jamaica	1
Japan	150
Kenya	1
Korea, South	133
Luxembourg	2
Malaysia	33
Mexico	24
Netherlands	23
New Zealand	15
Nigeria	2
Norway	7
Peru	7
Philippines	4
Poland	2
Portugal	8
Romania	4
Russia	10
Saudi Arabia	2
Singapore	24
Slovak Rep.	1
Slovenia	2
S. Africa	12
Spain	37
Sweden	38
Switzerland	41
Taiwan	6
Thailand	10
Turkey	4
UAE	1
UK	187
Uruguay	1
Venezuela	4
Zimbabwe	1
Total number of systems	1436

THE ACQUISITION OF TECHNOLOGY RELATING TO WEAPONS OF MASS DESTRUCTION AND ADVANCED CONVENTIONAL MUNITIONS

SCOPE NOTE

The DCI submitted this biannual report in response to a Congressionally directed action in Section 721 of the FY 1997 Intelligence Authorization Act:

"(a) Not later than 6 months after the date of the enactment of this Act, and every 6 months thereafter, the Director of Central Intelligence shall submit to Congress a report on

(1) the acquisition by foreign countries during the preceding 6 months of dual-use and other technology useful for the development or production of weapons of mass destruction (including nuclear weapons, chemical weapons, and biological weapons) and advanced conventional munitions; and

(2) trends in the acquisition of such technology by such countries."

At the DCI's request, the Nonproliferation Center (NPC) drafted this report and coordinated it throughout the Intelligence Community. As directed by Section 721, subsection (b) of the Act, it is unclassified.

INTRODUCTION

The threat from the proliferation of weapons of mass destruction and missiles is one of the highest priorities for intelligence. In the US effort to counter weapons proliferation, the Intelligence Community has taken an active role in supporting US government initiatives to strengthen export controls in supplier countries and to work with other countries to prevent the sale of weapons of mass destruction (WMD), advanced conventional weapons, and their related technologies. While it is an extremely difficult problem, US government efforts have made some progress, making both the acquisition and development of WMD more difficult and costly for proliferators.

Interdiction of WMD and the technologies necessary to acquire a WMD capability is a key component in the acquisition prevention effort. We see interdiction efforts falling into three basic categories:

Preventing the transfer of materials through export controls and international nonproliferation regimes;

Halting the transfer or the negotiation of transfer of materials through diplomatic and liaison initiatives;

Seizing proscribed materials in transit, through law enforcement agencies in cooperation with the Intelligence Community.

Interdiction efforts are an extremely important part of our overall nonproliferation strategy. By themselves, however, they generally do not get countries out of the business of proliferation. They do, though, buy time for other initiatives that may be more successful in halting or rolling back a WMD program. These other initiatives can include:

Diplomatic efforts designed to reduce the perceived need for a WMD capability;

Education efforts to show that WMD-related funds would be better spent elsewhere;

Bilateral or multilateral incentives. Such incentives could be financial, including membership in an international economic forum, in exchange for halting or rolling back a WMD program;

Military assistance or security guarantees.

The US clearly leads the way in programs in all three classes of interdiction efforts. US export license applications of concern are scrutinized by a number of agencies, including the Intelligence Community. The US also is developing procedures to share appropriate end user information with key allies in an effort to strengthen our mutual export control activities. In addition, the procedures for alerting other governments of impending transfers and tracking resulting actions are in place and working. Interdictions of shipments are occurring.

An example of a successful interdiction would be the seizure of chemical precursors destined for Libya. Although such a seizure would not halt Tripoli's aggressive chemical weapons development program, at a minimum it would:

Slow Tripoli's ability to begin serial production of chemical agents;

Provide the US time to persuade supplier nations or companies to halt future shipments to Libya;

Allow the Intelligence Community and US law enforcement agencies to identify and target new intelligence sources that could contribute to rolling back Libya's CW program;

Increase the cost to Libya of its CW development program.

Interdiction successes rest, in large measure, not on the quantity of information available to the policymaker, but on the quality. This is true for all three classes of interdictions. In licensing, for example, policymakers need unambiguous intelligence information before making a decision to deny a license, thereby denying a sale for the US company. Likewise, demarches to other governments must be accurate or the US will be accused of crying wolf and lose support from even friendly countries. And interdictions of shipments in transit often become international incidents, and potential embarrassment if the targeted material is not found in the shipment.

Actionable intelligence in support of interdiction efforts requires more than cooperation between US intelligence, policy, and law enforcement agencies. It demands close working relationships between the United States and other foreign governments committed to halting the proliferation of WMD. Such relationships will, of course, include intelligence sharing arrangements, but equally important are diplomatic, military, and scientific exchanges at all levels.

As noted above, interdiction programs by themselves cannot halt the proliferation of WMD. Alternative suppliers and technologies, increasing use of denial and deception, and a growing ability to produce indigenously weapons or their component parts are opening new avenues to states or organizations determined to obtain a WMD capability. The increasing diffusion of modern technology through the growth of the world market is making it harder to detect illicit diversions of materials and technologies relevant to a weapons program.

We are addressing these new challenges with more aggressive efforts, which go beyond traditional cold-war efforts aimed merely at understanding weapons and associated plans. We are better integrating technical analysis with political, military, and diplomatic analysis to provide policymakers with information on the motivations that drive foreign actions and decisions, and on influential opposition forces that could support initiatives to diminish or eliminate the proliferation threat.

Our concerns are not limited to interdicting materials and technologies to state-sponsored WMD development programs. As worrisome, in our judgment, are terrorist groups and cults that seek to acquire or develop chemical and biological weapons on their own. For example, the incidents staged in March 1995 by the Japanese cult Aurn Shinrikyo demonstrate the use of WMD is not longer restricted to the battlefield. Terrorist groups and violent sub-national groups need not acquire a massive infrastructure to create a deadly, arsenal. Only small quantities of precursors, available on the open market, are needed.

Interdiction efforts are further complicated by the fact that most WMD programs are based on dual-use technologies and materials that have legitimate civilian or military applications unrelated to WMD. For example, chemicals used to make nerve agents are also used to make plastics and to process foodstuffs; trade in those technologies cannot be banned.

Nonproliferation regimes provide international standards to gauge and address behavior. They provide diplomatic tools to isolate and punish violators. The past few years, many states have joined these regimes and outsiders are encountering new pressures to join. Procurement costs have risen because of the need for convoluted efforts to hide purchases. That said, these regimes can be deceived by determined proliferators. The sheer volume of international commerce, increased self-sufficiency, and the global diffusion of technology and its dual-use nature make the regimes' road ahead a difficult one. Intelligence will play an increasingly important role in maintaining their effectiveness. Protecting sources throughout this process will be a challenge.

Following are summaries by country of ACW- and WMD-related acquisition activities (solicitations, negotiations, contracts, and deliveries) that occurred between 1 July and 31 December 1996.

ACQUISITION BY COUNTRY

We chose to exclude countries that already have substantial ACW and WMD programs such as China and Russia, as well as countries of lower priority that demonstrated little acquisition activity of concern.

EGYPT

During the last half of 1996, Egypt obtained Scud-related ballistic missile equipment from North Korea and Russia.

INDIA

India sought some items for its ballistic missile program during the reporting period from a variety of sources. It also sought nuclear-related items, some of which may have been intended for its nuclear weapons program.

IRAN

Iran continues to be one of the most active countries seeking to acquire all types of WMD technology and advanced conventional weapons. Its efforts in the last half of 1996 have focused on acquiring production technology that will give Iran an indigenous production capability for all types of WMD. Numerous interdiction efforts by the US government have interfered with Iranian attempts to purchase arms and WMD-related goods, but Iran's acquisition efforts remain unrelenting.

For the reporting period, China and Russia have been primary sources for missile-related goods. Iran obtained the bulk of its CW equipment from China and India. Iran sought dual-use biotech equipment from Europe and Asia, ostensibly for civilian uses. Iran was actively seeking modern tanks, SAMs, and other arms from the Commonwealth of Independent States (CIS), China, and Europe. Besides some large projects with China, Iranian nuclear-related purchases were not focused on any particular countries and were only indirectly related to nuclear weapons production.

IRAQ

We have not observed Iraq purchasing advanced conventional weapons or WMD-related goods, although it has purchased numerous dual-use items.

LIBYA

Despite the UN embargo, Libya continued to aggressively seek ballistic missile-related equipment, materials, and technology from Europe, the CIS, and the Far East. CW-related purchases diminished, however.

NORTH KOREA

North Korea's WMD programs are largely indigenous. We observed no significant procurement involving ACW or WMD-related goods.

PAKISTAN

Pakistan was very aggressive in seeking our equipment, material, and technology for its nuclear weapons program, with China as its principal supplier. Pakistan also sought a wide variety of nuclear-related goods from many Western nations, including the United States. China also was a major supplier to Pakistan's ballistic missile program, providing technology and assistance. Of note, Pakistan has made strong efforts to acquire an indigenous capability in missile production technologies.

SYRIA

Syria continued to seek CW- and Scud-related goods during the reporting period. Russia and Eastern Europe were the primary target for CW-related purchases, while North Korea and Iran have become important suppliers of Scud-related equipment and materials.

KEY SUPPLIERS

CHINA

During the last half of 1996, China was the most significant supplier of WMD-related goods and technology of foreign countries. The Chinese provided a tremendous variety of assistance to both Iran's and Pakistan's ballistic missile programs. China also was the primary source of nuclear-related equipment and technology to Pakistan, and a key supplier to Iran during this reporting period. Iran also obtained considerable CW-related assistance from China in the form of production equipment and technology.

RUSSIA

Russia supplied a variety of ballistic missile-related goods to foreign countries during the reporting period, especially to Iran. Russia was an important source for nuclear programs in Iran and, to a lesser extent, India and Pakistan. Russia also negotiated the sale of advanced weapon systems, such as the SA-10 to Cyprus, and is an important target for Middle Eastern countries seeking to upgrade and replace their existing arms.

NORTH KOREA

North Korea continued to export Scud-related equipment and materials to countries of concern during this reporting period.

GERMANY

Among Western nations, Germany was the favorite target for foreign WMD programs. German export controls were effective in thwarting many of these attempts, but some dual-use goods were exported, purportedly to civilian end users.

TRENDS

Despite our efforts, countries of concern continued last year to acquire substantial amounts of WMD-related equipment, materials, and technology, as well as modern conventional weapons. China and Russia continued to be the primary suppliers, and are key to any future efforts to stem the flow of dual-use goods and modern weapons to countries of concern.

Countries determined to maintain WMD programs over the long term have been placing significant emphasis on securing their programs against interdiction and disruption. In response to broader, more effective export controls, these countries have been tying to reduce their dependence on imports by developing an indigenous production capability. Many Third World countries—with Iran being the most prominent example—are responding to Western counterproliferation efforts by relying more on legitimate commercial firms as procurement fronts and by developing more convoluted procurement networks. Should countries such as Iran ever become self-sufficient producers and exporters of WMD-related goods and conventional weapons, however, opportunities to prevent acquisition will be dramatically limited.

[From the St. Louis Post-Dispatch, July 6, 1997]

CHINA'S DANGEROUS COMPUTER DIVERSION

The Chinese have done it again—diverted machinery supposedly purchased for commercial purposes to military uses. Predictably, China denies all, but the U.S. State and Commerce departments say they have proof that China diverted a supercomputer that can be used to upgrade military hardware. The Clinton administration is rightly calling attention to the problem, but may have been lax in allowing it to happen in the first place.

Supercomputers can process so much data so quickly that any nation possessing one can significantly upgrade its weapons. That's why sales of supercomputers for military purposes require a license. But under a Clinton edict adopted in 1995, sales of supercomputers for commercial purposes don't. That appears to have been a mistake.

U.S. officials have discovered that a supercomputer manufactured by Sun Microsystems was sold to a Hong Kong company, then purchased by the Chinese government. It was supposed to be sent to a science institute in Beijing, but ended up instead in Changsha where it is being used for military applications, the U.S. says.

China denies it, as it also rejects State Department charges that it has been selling nuclear and ballistic missile technology to Pakistan and Iran. These wouldn't be China's first untruths; last year, China diverted a huge metal stamping machine sold by McDonnell Douglas for commercial airline manufacture to military use.

All supercomputers are capable of so-called dual use, that is, of being employed for both peaceful and military purposes, so they must be carefully monitored. Though the United States has been fairly successful in that effort with its sales to Russia, China has been largely uncooperative. Congress is so concerned that the House has passed a bill reinstating the requirement that all supercomputers sold abroad for any purpose be licensed—and their use be tracked.

In 1995, the administration deregulated the sale of supercomputers for peaceful purposes on the ground that if America doesn't sell its machines, the Europeans or the Japanese would sell theirs. But the importance of slowing the spread of higher grade nuclear weapons and ballistic missiles requires the U.S. to prevent the sale of supercomputers which defeat that purpose, never mind helping the computer industry compete abroad. Only strict licensing is safe, and our competitors should be pressured to follow that policy. The administration shouldn't wait for Congress, but require it now.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Madam President, I would like to make a parliamentary inquiry.

Would the Cochran amendment be germane in a postcloture situation if cloture were approved tomorrow?

The PRESIDING OFFICER. At this time the amendment does not appear to be germane in a postcloture situation, but the sponsor of the amendment has not had the opportunity to make his case for germaneness, and the Chair would rule on germaneness only after cloture had been invoked and after the sponsor had an opportunity to make his arguments for the amendment being germane.

Mr. LEVIN. I appreciate the Chair's care.

Mr. COCHRAN. If the Senator will yield in response to that response by the Chair.

Mr. LEVIN. I am happy to yield.

Mr. COCHRAN. Would there be any way to modify the amendment to make it germane in a postcloture situation?

The PRESIDING OFFICER. Once cloture is invoked, it would take unanimous consent to modify the amendment.

Mr. COCHRAN. I thank the Chair.

Mr. LEVIN. The reason I raise this, Madam President, is this is an example of where we are prematurely faced with a cloture vote. I say premature, because we have not had an opportunity to vote on key amendments and will not have an opportunity to vote on key amendments, including the Cochran amendment, before cloture. Because under the unanimous-consent agreement that we are operating under, cloture is going to be voted on first. That is the first vote tomorrow.

It strikes me as being unfair to amendments and to those sponsors of amendments who have put in a serious effort on major security issues.

I do not know how I am going to vote on the Cochran amendment. I am studying the amendment. It raises a very significant issue relative to American security. But it is not technically germane because of our postcloture rules. It surely is relevant to this bill in any, I think, general sense. We are talking about the security of this Nation and we are trying to weigh the issue here, the pros and cons of the Cochran amendment. Surely, it is a serious national security issue which the Senator from Mississippi has raised, the chairman of a subcommittee which has had hearings into a very important issue.

So I urged before that we not invoke cloture tomorrow for a number of reasons and stated that there were a number of very significant pending amendments that would be or might be ruled nongermane after cloture, and I failed to list this amendment as an example of that type of amendment that could very well fall although I think by any reasonable definition of national security this surely is relevant to that issue.

So I commend my good friend from Mississippi for raising this issue.

Again, it is an issue that I am going to be giving some real study to this evening. It is a very thoughtful amendment. It is a carefully drawn amendment. It is based on a current classification. And I want to commend him on it and hope that he will be able to at least have a vote on his amendment. That very well will be impossible if cloture were invoked tomorrow.

Madam President, I want to ask another parliamentary inquiry because there is a second-degree amendment which is also pending, a second-degree amendment to the Cochran amendment. I ask the Chair the following question.

Would the question put relative to the Grams amendment receive the same response from the Chair as my question relative to the Cochran amendment?

The PRESIDING OFFICER. After conferring with the Parliamentarian, the Chair would give the same response to the question with regard to the Grams amendment.

Mr. LEVIN. I thank the Chair.

Mr. THURMOND. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THURMOND. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Madam President, I am just notifying Senators that if they have any amendments, come over and we'll take them up. This is the time and this is the place. We are just killing time here, wasting time, wasting the Government's time, wasting our time waiting on people to come in and offer amendments. I want to say to my colleagues, if you have an amendment, come on over here and let's take it up and get action on it. I am here waiting to cooperate. Thank you very much.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. I thank the distinguished chairman of the Armed Services Committee for asking the quorum call be rescinded and I thank the Chair for waiting. I knew today we would be discussing the Department of Defense authorization bill. As soon as I completed work on our hearings for tomorrow, the Government Operations Committee, I notified the floor that I would be coming over and I thank the Chair for waiting and I thank the distinguished chairman for waiting.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I have sought recognition to discuss an amendment which has been circulated with both the majority and minority, which refers to establishing procedures for a report not later than 90 days after the enactment of the defense authorization bill, for the Secretary of Defense to submit to the congressional defense committees a report containing the following: No. 1, an assessment of the current policies and practices of the Department of Defense with respect to the protection of members of the Armed Forces against terrorist attack abroad, including any modifications of such policies or practices that are proposed or implemented as a result of the assessment; and, second, an assessment of the procedures of the military departments intended to determine accountability, if any, in the command structure in instances in which a terrorist attack results in the loss of life at an installation or facility of the Armed Forces abroad.

This report is being sought because of what happened on June 25, 1996, when a bomb detonated not more than 80 feet from the Air Force housing complex known as Khobar Towers in Dhahran, Saudi Arabia, killing 19 members of the Air Force and injuring hundreds more, as many as 400 more.

This incident came under very intensive scrutiny by the Intelligence Committee, which I chaired last year. I have very serious reservations as to the adequacy of the Department of Defense response to the kind of threat which was posed by having those living quarters within 80 feet of a fence.

The Department of Defense had a report on June 13, 1996 from the Bureau of Intelligence and Research, Department of State, highlighting security concerns in the region in which Dhahran was located. Previously, in January 1996, the Office of Special Investigations of the Air Force issued a vulnerability assessment for the complex, and that assessment highlighted the vulnerability of perimeter security at the complex, given the proximity of the complex to a boundary fence and the lack of the protective coating mylar on its windows. And then, just 8 days before the terrorist attack, the Department of Defense received an intelligence report detailing a high level of risk to the complex. That report went to the highest levels of the Department of Defense and had the picture of Khobar Towers on it.

Immediately after the incident occurred, the Secretary of Defense, William J. Perry, said that it was very unusual to have a bomb of the magnitude of 3,000 to 5,000 pounds used in the Mideast. I took issue with that statement on a factual basis that on October 23, 1983, according to the results of the Long Commission, a bomb weighing 12,000 pounds had killed 283 marines in Beirut, in the Mideast. That is the same region where, regrettably, terrorist attacks have become all too commonplace. So it struck me as strange that the Secretary of Defense would say that a bomb weighing 3,000 to 5,000 pounds was unusual in the Mideast, when there had been a bomb of 12,000 pounds, as I say, in 1983, detonated, giving tremendous warning for just this kind of attack; and that, in fact, a reading of the Long Commission report, for anybody who had read it, would have demonstrated the kind of threat which was posed by a high-powered bomb detonated near a fence in that area.

I personally saw that fence in August 1996 when I visited Khobar Towers in Dhahran as part of my effort and the Intelligence Committee's efforts to try to find out exactly what had happened there. We had testimony from General Peay, who was the four-star commander in the area, who testified before a Senate committee in early July. Asked about the closeness of the perimeter fence to those living quarters, "Was it too close?" he said words to the effect of, "I don't know. I just don't know."

Certainly after the fact it is hard to understand how a ranking general would not know that that fence was too close to the living quarters and, realistically, before the fact, it seems hard to understand how the commanding general would not know about the extraordinary and unwarranted danger which was faced by the airmen who were living in those quarters.

The Chairman of the Joint Chiefs of Staff, General Shalikashvili, had visited Dhahran in the spring of 1996 and was within sight of Khobar Towers, although, as I understand it, he did not actually visit Khobar. But a question to be raised and a question to be answered, which has not yet been answered by the Department of Defense, is why the Chairman of the Joint Chiefs of Staff when in the area, within sight of Khobar Towers, knowing what the security risks were, did not take a look at that facility and make an assessment as to the vulnerability, since he was on the spot. That is especially true in light of the fact that there had been an attack in Riyahd, Saudi Arabia, in November 1995, killing a number of Americans, and that four Saudis had been executed by the Saudi Government in late May 1996, which would give rise to a concern as to what the militants in Saudi Arabia would do next. That was especially troublesome to the United States from a number of points of view, one of which was that the FBI, charged with investigating those matters overseas, had not been given access to those terrorists before they were executed.

So, here you have the general on the spot, a brigadier general, with the fence 80 feet from the towers, you have the four-star general in command of the overall area even after the fact, not knowing whether there was an unacceptable risk, and you have the Chairman of the Joint Chiefs of Staff in the vicinity, within sight of Khobar Towers, and no corrective action taken notwithstanding all of these warnings which had been given in a number of contexts about the danger which was present there.

Following the attack on Khobar Towers, a commission was formed with General Downing, a retired four-star general, in command. When he testified before the Intelligence Committee on September 19, 1996, among other questions I asked him about a series of criteria established by the Secretary of

Defense, Secretary William J. Perry, about what the responsibility was of the Secretary of Defense.

General Downing testified that even under Secretary Perry's two standards they were not met. The first two standards articulated by Secretary Perry were "establishing the policies and guidance for our commanders, including the policy and guidance for force protection."

I asked General Downing:

> . . . Was there an adequate policy and guidance on force protection?

General Downing's response:

> No, there was not, Senator.

Then I asked about Secretary Perry's second criterion, organizing and structuring the Department of Defense in such a way that force protection is optimal. Then the question was:

> So did they meet the second criterion which stated "organizing and structuring the Department of Defense in such a way that force protection is optimal?"

General Downing:

> The answer is no.

I ask unanimous consent, Mr. President, that at the conclusion of my remarks this extract from the hearings before the Intelligence Committee be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SPECTER. Mr. President, in sequence, the committee then learned that there had been a report on the force protection issue, "Force Protection in Southwest Asia, An Air Force Perspective," dated September 17. Our committee learned about this as a result of a report in the press, the Washington Post specifically, on October 10, 1996. So by letter dated October 17, 1996, Senator ROBERT KERREY, vice chairman of the Intelligence Committee, and I, in my capacity as chairman, wrote to Secretary of the Air Force, Sheila Widnall, asking for a copy of that report.

I ask unanimous consent that the letter dated October 17, 1996, be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. SPECTER. Mr. President, the next sequence of events was a letter which I sent to Secretary Perry, with a copy to Air Force Secretary Widnall, dated November 5, 1996, which reads as follows:

> This letter constitutes a formal complaint on the obstruction by you, others and the Department of Defense on the inquiry by the Intelligence Committee to determine whether there was an intelligence failure relating to the terrorist attack in Dhahran on June 25, 1996 on the following:
>
> 1. Prohibiting key witnesses from being interviewed by this Committee (Brigadier General Terryl Schwalier, Colonel Gary Boyle, Lt. Colonel James Traister).

Notwithstanding our efforts to interview these key personnel, the Department of Defense precluded the Intelligence Committee from conducting those interviews.

Second, in my letter to Secretary Perry, I pointed out the concerns we had on prohibiting General Downing from testifying before the Intelligence Committee except on the terms set forth by the Secretary of Defense with that questioning only being in closed session. With our interest in having an open session, with General Downing having told the Intelligence Committee that he was employed by the Department of Defense and had to comply with instructions not to testify in open session, the impact of that was obvious. When General Downing testified in closed session that Secretary Perry had not even followed the Secretary's own criteria for force protection, it was not much of an impact contrasted to what it would have been had it been in open session.

The third item:

> Refusing to give this committee access to an Air Force report which, as reported in the Washington Post on October 10.

Then, finally, on November 6, after this letter was faxed on November 5, we received a response from General Trapp dated November 6, 1996, which I ask unanimous consent be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 3.)

Mr. SPECTER. Then there is my reply dated December 5 stating that that reply was insufficient, and referring to other letters. I ask unanimous consent that my letter of December 5 be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 4.)

Mr. SPECTER. Mr. President, I then note an article in the New York Times dated December 12, 1996, which discussed release of another report which apparently had been leaked to the New York Times for reasons set forth in the New York Times article, which said:

> Officials sympathetic to the Air Force position made available Wednesday selected parts of a classified review the Air Force conducted into the bombing. The review, written by Lt. Gen. James F. Record, commander of the 12th Air Force, cites, for example, the assessment of a senior U.S. intelligence official in Riyadh, the Saudi capital, that the intelligence reports given to General Schwalier "did not give a target" for the terrorist attack.

So, by this time, some of the Air Force were dissatisfied with General Downing's report and wanted a report which would satisfy them. So another report had been commissioned, this time to be written by Lt. Gen. James F. Record.

On seeing that additional news leak of the report, which the Intelligence Committee did not have a copy of, Mr. President, I then wrote to Secretary Widnall on the same day, December 12, noting the access by the New York Times but no access by the Senate Intelligence Committee.

Again, I ask unanimous consent that the New York Times article of December 12, and my letter to Secretary Widnall dated December 12 be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibits 5 and 6.)

Mr. SPECTER. Mr. President, in the next series of events, I note a story in the New York Times which, again, makes reference to these reports which the Intelligence Committee never had access to, quoting "Gen. Ronald Fogleman, the Air Force Chief of Staff, arguing that the case for accountability is nothing more than a Washington scalp hunt."

I then wrote, again, to Secretary of the Air Force, Sheila Widnall, on April 25, 1997, noting the comments by General Fogleman and again asking that these reports be made available to the Senate, to me, and to the Senate Intelligence Committee.

I again ask unanimous consent that at the conclusion of my remarks copies of the New York Times article dated April 15, 1997, together with my letter dated April 25, 1997, be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibits 7 and 8.)

Mr. SPECTER. Mr. President, all of these letters to Secretary of the Air Force went unanswered. Then, on May 21 of this year, the Air Force had the responsibility of coming to the Defense Appropriations Subcommittee. I had an opportunity, finally, to ask Secretary Widnall these questions and why there had not been any response to any of these letters of inquiry and the question of General Fogleman on this subject.

Finally, subsequent to that meeting, I received a very brief letter from Secretary Widnall, in fact, after I had bumped into her in the hallway on the 7th floor of the Hart Building and said to her, "Madam Secretary, why don't you at least respond to the letters saying that you can't respond if that is your point because there is an inquiry underway?"

In the context of all the letters which had been written and that conversation, I finally received a letter saying she could not respond, the matter was being reviewed now by the new Secretary of Defense, and that, in due course, a copy of the report would be obtained by Senators.

Here we are on July 7, 1997 and still no copy of the report has been made available to this Senator or, to the best of my knowledge, to other Senators, but copies of the report were made available to the news media as it suits the purposes of the Department of the Air Force and the Department of Defense.

Mr. President, in offering this amendment, it is my hope we will have a statement of law requiring a report so we know what action is being considered in the future to protect personnel of the Department of Defense from terrorist attacks. News reports of the past week, an article in the Washington Post a week ago yesterday, reported the Secretary of Defense expected to make a finding sometime during the month of July. It is my hope that when the Secretary of Defense speaks on the subject, that he will go beyond the conduct of General Schwalier, which was criticized in the early report, and will pick up the issues of the conduct of the Department of Defense generally.

Brigadier General Schwalier's conduct was criticized in the Downing report, but, to my way of thinking, that is not nearly enough of an answer as to the conduct beyond Brigadier General Schwalier, moving to a four-star general, moving to the Chairman of the Joint Chiefs of Staff, General Shalikashvili, and moving to the Secretary of Defense himself, William J. Perry.

In this context, it is my judgment that the record shows forcefully and conclusively that there were warnings all along the line; that when you have a fence 80 feet from living quarters of hundreds of Air Force personnel within easy distance of a large bomb, a bomb, according to defense estimates, the Secretary of Defense, of 3,000 to 5,000 pounds, substantially smaller than the experience of the 12,000-pound bomb in Beirut in 1983, that there was forceful, obvious, and conclusive neglect of duty. It goes beyond the brigadier general on the scene. It goes to the commanding four star general, it goes to the Chairman of the Joint Chiefs of Staff and it goes to the Secretary of Defense.

If we are to have confidence in what the Secretary of Defense does in putting young men and women in harm's way, then there has to be accountability for the 19 airmen who died on June 25 in Khobar Towers and for the 400 who were wounded. That, Mr. President, is what I hope will come from the findings of the Secretary of Defense.

In the meantime, this requirement for a report will be some help to the future. But if we permit on this record those responsible, those in the chain of command to go by unscathed, unreprimanded, unaccounted for, then it is a blank check and open invitation for this kind of conduct to be repeated in the future.

The problems of terrorism are too serious to turn our back on what happened at Dhahran on June 25, 1996. I personally consider inexcusable that we have had more than a year pass and nothing has been said in an official way by the Department of Defense, the Department of the Air Force, and all of the components, this is to say nothing about who the terrorists are who have escaped punishment, and that is a matter which yet has to be reckoned with.

But within our own Department of Defense, we have a right to expect better, and I, for one, am awaiting the report of the Secretary of Defense to see what the position of the Department of Defense is. But at least as to the future, we will have some indication as to what precautionary measures will be taken for the future, but there also has to be an answer for the past. I thank the Chair. I yield the floor.

EXHIBIT 1

SENATE SELECT COMMITTEE ON INTELLIGENCE CLOSED HEARING: THE DOWNING REPORT ON KHOBOR TOWERS, SEPTEMBER 19, 1996

Chairman SPECTER. I am going to try to finish up in the course of the next few minutes. It's been a long morning for you, I know, gentlemen.

I want to go to Secretary Perry's testimony on his articulation of the responsibility of the Secretary of Defense, and what I want to try to do is get your insights, your judgment, General Downing, having headed the task force and having done the investigation, having a lot of experience in the military, from 1962 when you graduated from West Point, to 1996, when you had retired, this is what Secretary Perry said as to his responsibility.

I manifest this responsibility in four important ways. First of all, by establishing the policies and guidance for our commanders, including the policy and guidance for force protection.

I think I already know your answer from your report, but was there an adequate policy and guidance on force protection?

General DOWNING. No, there was not, Senator.

Chairman SPECTER. Secondly, by organizing and structuring the Department of Defense in such a way that force protection is optimal. And I would include in that his testimony later where he said, quote, "But General Downing is correct in saying that we do not have a budgetary focus on force protection, nor do we have a budgetary focus in our resource allocation process, in the institutional process by which we decide how to pass funds out to different programs." So did they meet the, quote, "organizing and structuring the Department of Defense in such a way that force protection is optimal."

General DOWNING. The answer is no. We gave them some recommendations on how to do that better.

Chairman SPECTER. And third, and I guess this is included in what I just said, by allocating resources to our commanders, including resources for force protection.

General DOWNING. Sir, we—that was one where we did not find—we found that—there was not a good structure for it, but that they had not been denied funds for force protection. The field had not been denied funds for force protection.

Chairman SPECTER. And finally, by carefully selecting and supervising the military and civilian leadership in the Department of Defense—and I asked you if that was meant, first as to the Secretary, and then as to the Joint Chiefs of Staff, who have these reports up from General Peay's unit as to delegation of authority and guidance, etc. Was that criterion met?

General DOWNING. Senator, I believe that the Secretary met that and that the inherent responsibility of commanders for force protection is something I don't believe the Secretary of Defense has to tell a commander he needs to do.

Chairman SPECTER. How about as to the Joint Chiefs of Staff?

General DOWNING. The Joint Chiefs of Staff, we felt and we recommended that they change those command relationships.

EXHIBIT 2

U.S. SENATE,
SELECT COMMITTEE ON INTELLIGENCE,
Washington, DC, October 17, 1996.

Hon. SHEILA E. WIDNALL,
Secretary of the Air Force,
The Pentagon, Washington, DC.

DEAR SECRETARY WIDNALL: As you know, the Committee is reviewing the adequacy of intelligence support and its use by consumers in the context of the recent terrorism incidents affecting your forces in Saudi Arabia. Recently it came to our attention that the Air Force completed a report entitled "Force Protection in Southwest Asia, An Air Force Perspective," dated 17 September 1996. This report was quoted in Washington Post article appearing October 10, 1996.

Since we have been unable to obtain a copy of the report through your legislative liaison office, we are forwarding our request for a copy of this report directly to you and ask for your assistance. Given the widespread coverage of the report in the media and its importance to our ongoing oversight responsibilities, there can be little justification for not promptly providing a copy to the Committee.

Sincerely,

ARLEN SPECTER,
Chairman.
J. ROBERT KERREY,
Vice Chairman.

EXHIBIT 3

DEPARTMENT OF THE AIR FORCE,
Washington, DC, November 6, 1996.

Hon. ARLEN SPECTER,
Chairman, Select Committee on Intelligence,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This is in response to your joint letter of October 17, 1996, regarding what you describe as a document concerning force protection in Southwest Asia that was referred to in a Washington Post article on October 10, 1996.

Contrary to the implications in the article, the Air Force has not issued a report entitled "Force Protection in Southwest Asia, An Air Force Perspective." Rather, a preliminary briefing was prepared by the Office of the Deputy Chief of Staff, Plans and Operations, for internal use on the consideration and evaluation of the protection of our forces against terrorism following the bombing of Khobar Towers in Saudi Arabia. That preliminary briefing has now been given to Lieutenant General Record for his use in reviewing this matter and considering issues of accountability. When Lieutenant General Record's process is complete, we will be glad to provide the Committee with the results of his review and related official documents.

A similar letter is being provided to Vice Chairman Kerrey who joined you in your letter.

Sincerely,

LANSFORD E. TRAPP, JR.,
Director, Legislative Liaison.

EXHIBIT 4

U.S. SENATE,
SELECT COMMITTEE ON INTELLIGENCE,
Washington, DC, December 5, 1996.

Hon. SHEILA E. WIDNALL,
Secretary of the Air Force,
The Pentagon, Washington, DC.

DEAR SECRETARY WIDNALL: I want you to know that I consider the letter from Brig. Gen. Lansford E. Trapp, Jr., of November 6, 1996, *totally insufficient* in response to the letter from Senator Kerrey and me to you dated October 17, 1996, and the copy of the letter which I sent to you dated November 5, 1996, with the original going to Secretary Perry.

Sincerely,

ARLEN SPECTER.

EXHIBIT 5

[From the New York Times, Dec. 12, 1996]

AIR FORCE INQUIRY CLEARS GENERAL IN SAUDI BOMBING THAT KILLED 19

(By Eric Schmitt)

WASHINGTON.—The Air Force has concluded that the general in charge of a military housing complex in Saudi Arabia where 19 Americans were killed and 500 wounded in a terrorist truck-bombing last June took reasonable steps to protect against attack and should not be punished in any way.

The finding contradicts a major conclusion of a separate Pentagon investigation in September that singled out the Air Force officer, Brig. Gen. Terryl Schwalier, for failing to adequately safeguard the Khobar Towers complex in Dhahran, where the blast occurred.

Senior Pentagon officials, who described the results of the Air Force inquiry Wednesday on condition of anonymity, said the Air Force found the deaths a terrible tragedy, but not the fault of Schwalier.

The officials said the inquiry concludes that none of the 10 officers responsible for the safety of the troops in Dhahran violated any laws, Air Force regulations or codes of conduct.

Under military law, the Air Force decides who, if anyone, should be held accountable for a disaster like the Dhahran bombing. The punishments range from mild reprimands to court-martial proceedings that can lead to prison terms. In this case, the Air Force recommended that no punishment of any kind was warranted.

Officials said Air Force Secretary Sheila Widnall and Gen. Ronald Fogleman, the Air Force chief of staff, had approved the decision to exonerate the officers. They said that the finding was expected to be announced later this month. Defense Secretary William Perry has the authority to overrule the Air Force decision, but Pentagon officials said that he would be unlikely to do so.

"Surely there is a desire to hang somebody for this," said a senior Pentagon official who supports the Air Force decision. "But as you look back over the evidence it's pretty hard without 20-20 hindsight to say, 'I'd have done that.' "

The truck bomb exploded on Schwalier's last day as commander of the air base and housing complex in Dhahran. He is now in a Pentagon job overseeing Air Force operations and is awaiting a promotion to major general.

"It's the wrong call," one official involved in the initial Pentagon investigation said of the Air Force's decision to exonerate the general. "It just bothers me from standpoint of the families. It's not right."

The question of responsibility in the bombing has caused deep strains among the armed services.

While some senior officers have been reprimanded for their roles in recent military disasters, it is rare for a general to face court-martial.

When two Air Force F-15 fighters flying over northern Iraq mistakenly shot down two U.S. Army helicopters in 1994, killing all 26 people aboard, only a captain serving as a weapons-control officer in an AWACS control place went to trial. He was acquitted.

Similarly, none of the 16 officers, including two generals, who were disciplined in connection with the crash in April in Croatia that killed Commerce Secretary Ron Brown and 34 others, were court-martialed.

But a Defense Department investigation, headed by a retired Army officer, Gen. Wayne A. Downing, issued a scathing report that said Schwalier "did not protect his forces from a terrorist attack."

The Pentagon report said Schwalier did not heed intelligence reports that Khobar Towers was highly vulnerable to terrorist attack, even though there had already been one deadly terrorist bombing against U.S. troops in Saudi Arabia.

Among a number of warnings was one eerily prescient. A security officer wrote that the tightened security on the base could lead terrorists to strike with a truck bomb at the base's fence.

Air Force officials said they weighed the same evidence that Downing's commission examined, but came to very different conclusions about culpability.

Officials sympathetic to the Air Force position made available Wednesday selected parts of a classified review the Air Force conducted into the bombing. The review, written by Lt. Gen. James F. Record, commander of the 12th Air Force, cites, for example, the assessment of a senior U.S. intelligence official in Riyadh, the Saudi capital, that the intelligence reports given to Schwalier "did not give a target" for a terrorist attack.

In addition, Record's review quotes the U.S. consul general in Dhahran, David Winn, saying, "No one really thought that anything would happen in Dhahran."

Air Force officials also said Schwalier took several steps to protect the housing complex, from increasing the number of guard posts to installing a double row of concrete highway barriers around the fence-line.

Air Force officials acknowledged that those measures were inadequate. "There's no disagreement there," said the senior Pentagon official who supports the Air Force decision. "The fact is, 19 people were killed. But then the issue becomes, was there dereliction of duty?"

Record, who had the power to recommend Schwalier face court-martial, concluded there was no such neglect of duty. Widnall and Fogleman concurred.

"People need to understand that accountability is a two-edged sword," said the senior Pentagon official who supports the Air Force decision. "If you examine someone's actions and you find them wanting, you hold them accountable. But if you define that as court-martialing everyone, I can't live by your definition.

"At the same time, if you believe that person is not culpable," the Pentagon official continued, "then it's every bit your obligation to stand up and defend that person. If you don't do that, you'll erode the fighting spirit of commanders. You'll have people looking over their shoulders. They'll always know they'll be second-guessed by people in Washington."

The attack in Saudi Arabia continues to create thorny problems for the Clinton administration. In response to FBI complaints that Saudi officials had been uncooperative in what was to have been a joint inquiry, Riyadh has recently turned over information to support its contention that the bombing plot was heavily supported by Iran.

The information included videotaped interviews with some of the several dozens suspects arrested after the bombing. But some law enforcement officials expressed skepticism over the interviews, saying they lacked credibility because the confessions may have been obtained under duress.

The Air Force signaled months ago it did not believe Schwalier was to blame. In an internal review that paralleled Downing's inquiry, Air Force officials said Schwalier's responsibility extended only to the fenced perimeter of the base.

Beyond that, the responsibility for security belonged to the Saudis. The truck bomb exploded in a parking lot just outside the base's property.

EXHIBIT 6

U.S. SENATE,
SELECT COMMITTEE ON INTELLIGENCE,
Washington, DC, December 12, 1996.

Hon. SHEILA E. WIDNALL,
Secretary of the Air Force, The Pentagon, Washington, DC.

DEAR SECRETARY WIDNALL: Please reference my letters to you of October 17, November 5, and December 5, 1996.

According to The New York Times today, selected portions of the Air Force report on Dhahran have already been made available to the news media by representatives of the Air Force who are favorably disposed to the Air Force report.

I would like your prompt advice as to whether that news report is accurate.

In any event, this is a formal demand that the report be turned over to the Intelligence Committee forthwith.

Sincerely,

ARLEN SPECTER.

EXHIBIT 7

[From the New York Times, Apr. 15, 1997]

SECRETARY COHEN'S CALL

It will be interesting to see if Defense Secretary William Cohen has the moxie to hold the Air Force accountable for security failures in Saudi Arabia last year. So far the Pentagon's handling of the terrorist bombing in Dhahran that killed 19 American airmen and wounded 500 has followed a dismally familiar script. The Air force high command has sloughed off responsibility, betting that top civilians will once again bow to the shopworn argument that punishing individual commanders is unfair and would damage morale.

Mr. Cohen, who knew how to cut through thicker Pentagon smokescreens as a Senator, can set an admirably exacting standard for his stewardship as Defense Secretary by overturning the Air Force decision. The principle of civilian leadership of the military requires the application of independent judgment in cases like this. Since Air Force Secretary Sheila Widnall seems a willing captive of her service, Mr. Cohen must show that accountability in the American military is not governed by the protective instincts of the officer corps.

The security breakdown at the Khobar Towers apartment complex in Dhahran last June is beyond dispute. Though safeguards were enforced to prevent a suicide truck bomber from entering the compound, the towers were left exposed to attack from a nearby parking area. When a large truck bomb was detonated there last June, the explosion sheared off the northern facade of two towers.

The perimeter security fence was barely 35 yards from the buildings. Despite intelligence warnings about a possible terrorist attack, Air Force commanders made only a feeble effort to extend the perimeter. Even the most elementary and inexpensive defense—covering windows with a plastic film to prevent shattering—was not used. Many of the deaths and injuries were caused by flying glass.

These and other lapses were made plain in a Pentagon investigation conducted by a retired Army general, Wayne Downing. The Downing report concluded that Brig. Gen. Terryl Schwalier, the Air Force commander in Dhahran, "did not adequately protect his forces from a terrorist attack." General Schwalier did not even bother to make security a primary concern on his watch.

Now comes Gen. Ronald Fogleman, the Air Force Chief of Staff, arguing that the case for accountability is nothing more than a Washington scalp hunt. His view, in essence, is that General Schwalier and his staff did everything they reasonably could to secure the compound and that the method and explosive power of the bombing exceeded any threat that could have been anticipated.

Yet the destruction of the Alfred Murrah Federal Building in Oklahoma City 14 months before the Dhahran attack showed the power of a large truck bomb placed near but not inside a high-rise building. It was lesson enough for the Secret Service, which quickly closed a stretch of Pennsylvania Avenue to expand the security perimeter around the White House.

General Fogleman mistakes his own blind loyalty for leadership. Morale is not served by dodging responsibility and circling the wagons around a fellow officer. Perhaps honor and duty are just quaint notions these days, but Mr. Cohen might actually do wonders for the morale of Americans in uniform if he rules that the Air Force cannot escape responsibility for its failures in Dhahran.

EXHIBIT 8

U.S. SENATE,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, DC, April 25, 1997.

Hon. SHEILA WIDNALL,
Secretary, Department of the Air Force, Washington, DC.

DEAR SECRETARY WIDNALL: I have noted repeated press accounts on an Air Force report on the responsibility, if any, for the terrorist attack at Dhahran on June 25, 1996.

As you know, I have made repeated requests for copies of all DoD, including Air Force, reports on this incident.

According to press reports, Secretary of Defense William Cohen is personally reviewing this matter.

I would very much appreciate it if you would promptly provide to me a copy of any report on assessing responsibility for the Dhahran terrorist attack of June 25, 1996.

Sincerely,

ARLEN SPECTER.

Mr. SPECTER. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBB. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBB. Mr. President, I would like to take just a few minutes to discuss an amendment I am offering to this year's DOD authorization bill that will make a real difference in the lives of all members of the naval service—and eventually all members of our Armed Forces. It will eliminate many long lines and hours of frustration, it will substantially reduce recordkeeping errors and it will save the DOD and the taxpayers hundreds of millions of dollars. And it represents the next phase of the effective utilization of smart card technology—a technology I have been encouraging and working on for many years.

Mr. President, when a new recruit joins the service today, he or she faces a long and tedious registration process. A typical new recruit faces hours of waiting in line to fill out forms with his or her name, date of birth, rank, military I.D. number, and so forth, only to be sent over to another line to fill out another form with much of the same information again. Not only is this process aggravating for our new recruits—it is a waste of the Armed Service's time and personnel. It takes dozens of people countless hours to process in each new recruit through this inefficient system, costing the service valuable time and money, that it could be putting to better use elsewhere.

Once registered, a new recruit is issued a handful of ID's and cards to carry. A typical service member today might be required to carry a general ID card, an immunization card, a meal card, an equipment card, a weapons card, a military driver's license, a vehicle registration, a card to pick up mail, a card to carry if staying as a guest at another base, and if lucky enough to be stationed near some good fishing, a fishing permit. With so much clutter, it is not uncommon for a service member to misplace one of their cards, which wastes even more of the military's time and resources replacing them.

For years, I have been looking at ways that the military could streamline the methods it uses for its registration and recordkeeping, looking for a way to improve what I saw as an outdated and inefficient system of issuing multiple cards containing duplicate information.

The Government and the private sector have been using cards for years as a means of information storage. Many of the earliest cards had just a name and number much like the Social Security card that is still in use today. As the need for increased security and efficiency in the transfer of information from a card grew however, we saw the introduction of cards that relied on new information storage systems like bar codes and magnetic stripes, much like the kind found on today's credit cards, ATM cards, telephone calling cards, and in dozens of other card-based applications. And as the technological capabilities of cards have increased, so has the number of cards that each of us carries every time we leave our residence.

Mr. President, we now stand on the brink of a new explosion in card technology, one that promises to offer us even greater convenience and efficiency in everyday life, saving money and time while increasing our control over the information we provide to others. After years of research and development, I am pleased to report that a new user-friendly card technology will soon allow us to replace the handful of cards now used in the DOD with a single, multiapplication "smart" card.

Mr. President, with the amendment that I am offering today, next year, under a pilot program that I have been working closely with the Department of Defense and the Department of the Navy to develop, a new recruit will not face the long and wasteful lines, the duplication of information or the cumbersome bundles of cards that many of us remember. Instead, upon arriving at boot camp, each new sailor and marine will be issued a single card: the MARC card. Short for Multitechnology Automated Reader Card this card will be used across the entire Navy and Marine Corps next year, and if it works as well as some of us believe it will, we will then extend it to all of the Armed Forces.

The MARC card is a remarkable achievement. The MARC card can carry your security clearance. The MARC card can carry your meal information. The MARC card can hold your immunization records. The MARC card can serve as your room key.

Mr. President, the long-term savings that will result from this program will be substantial; the improvements in the increased speed and quality of services will be enormous. With the MARC card, we can reduce support infrastructure, thereby improving our tooth-to-tail ratio while making our sailors' and marines' lives easier.

The MARC card is one of the first widespread applications of the most exciting new card technology on the market today: the smart card. Smart cards, like the MARC card, rely on an integrated circuit chip—a microchip—to store more information and data than was ever before possible on a single card. Within each card is a small microprocessor along with a sizable memory capacity, which gives each smart card the capabilities of a small microcomputer.

The capabilities of the smart card are so great that a single card can perform all of the functions that this entire stack of cards that I am holding up right here used to perform of still perform today, for that matter, and will perform dozens of new time-saving applications as well. Unlike older cards, the smart card is easily updatable, and has the capability to constantly take on new information.

Yet the real strength of smart cards, like the MARC card lies not in the convenience of carrying so much information on a single card, but in the money that we can save as a result. By harnessing the strength and memory of a small computer inside of a portable plastic card, a multitude of new applications can be offered that will increase the efficiency of Government, cutting down expensive and unnecessary administrative costs while reducing waste, fraud, and abuse at all levels of government.

Mr. President, I have seen this card in action, and the savings and increased efficiency it can offer the members of our Armed Forces are really impressive.

In the past, when our sailors would dock at a naval base upon their return from sea they faced a long and tedious process of waiting in line after line to check in to their shore station. Often taking up to a week a sailor would need to fill out countless forms to register for quarters, for medical treatment, for security clearance, for his next assignment, for the mess hall et cetera.

But today at the Smart Base in Pascagoula, MS, the first naval base to automate its operations using the MARC card, a sailor who arrives off of the U.S.S. *Yorktown* faces a check-in time of just a few minutes. By simply walking up to a kiosk, he can insert his MARC card into a reader not unlike an automatic teller machine, and within seconds be assigned his quarters and other necessary information, while personal data needed by the command is simultaneously zipped electronically around the rest of the base. His MARC card even serves as his room key.

Not only does this process save sailors a lot of wasted time, but it reduces the number of administrative staff needed to check in an entire ship. To process every sailor from an arriving ship, a base need only have a handful of staff on hand and a few kiosks that interact with the MARC card.

Mr. President, the MARC card can improve the efficiency of every operation across the military. Let me give you an example. Today, when a sailor or marine heads to a mess hall to eat, he has to show his ID card, as well as his meal card to one of the duty personnel, who tediously records the information from both cards by hand into a ledger. After each meal another officer must spend hours reconciling who ate what on that particular day, at a great expense both in the time involved and the money it costs. On average, it takes a mess hall 4 to 6 hours a day to account for all the meals that are eaten.

With the MARC card, however, sailors and marines will simply swipe their cards through a reader as they enter the mess hall and be automatically accounted for by a computer. Anyone who tries to sneak an extra meal without paying is caught in the act, which helps the Navy reduce fraud. After each meal, the officer in charge of the mess hall will only need to call up a file on their computer to account for the meals served. The total time involved is reduced from several hours to just a few minutes.

Not only will this project save the Navy time and money—the food service savings alone will save over $2 million in the first year, a savings of 49 percent—it will also allow our Armed Forces to allocate more resources to the duties they most need to focus on. From security access to dining hall access, from checking out weapons to checking out library books, the MARC card can save the Armed Forces thousands of hours a year in wasted administrative costs.

The $36 million I am asking for in this amendment does not authorize any new spending—it only redirects the use of $36 million within the Navy and Marines O&M account that has already been authorized by the committee. Because the MARC card program has been so effective in reducing the costs of general administration in the military, our investment of $36 million in an expansion of the MARC program will save the Navy and Marines O&M account many millions more in fiscal year 1998 and beyond.

By investing $36 million, in the MARC program, the Navy's project manager, estimates that the savings to O&M from using the three MARC applications, already in place across the Navy and Marines will top $134 million in FY 98.

Now that's just the savings from using the MARC card in three applications—Food Service, Security Access, and Clearance Verification.

As other applications are deployed, the savings may top $200 million in just FY 98, and well over $500 million over the next 5 years.

Mr. President, with the budget situation, that we face today we are compelled to look to all areas of the government to eliminate needless administrative services and streamline the many duties that our government performs.

In this era of reinventing government, smart card technology has potential applications not just in the military but all across the government.

By eliminating long waits in lines at government agencies, by eliminating the manual entry of data all across government agencies, by doing away with duplication of data across the government by eliminating fraud, smart cards can slash the administrative costs of government while improving the quality and speed with which many government services are delivered.

Mr. President, the technology is here, in our hands, and the savings to be had are real, immediate, and substantial. I firmly believe that we should move forward with applying smart card technology, not only in the military, but all across the government.

Mr. President, I realize that smart cards are still a new technology right now, and that they're unfamiliar to many potential users.

I am aware that some people are uncomfortable with the idea of having a single card for everything they need.

Placing so much information on a single card raises more than a few eyebrows over privacy and security concerns.

And I know that a lot of people are concerned that by placing so much personal information on a single card an employer might have access to medical records, or a librarian might be able to find out what you ate for lunch that day.

Let me say that I share these concerns.

But in fact, Mr. President, while all this information may be carried on a single card, powerful encryption technology ensures that personal information is seen only by those who the individual wants to see it.

The technology available today allows us to select what information is carried on our smart card and guarantees that we are the only ones who can grant access to that information.

Even though we can store our financial and medical records on the same smart card the card's microchip is divided into separate compartments that make it impossible for our bank to see our medical records and our doctor to see our last bank deposit.

And if we should lose our card, anybody who finds it will discover that it's useless to them.

Because without the proper authorization code that only the individual knows—and with more sensitive applications, without biometric authentication like hand geometry scanners—the card won't work in the hands of anybody but its owner.

Just as our ATM card is useless to a thief without the proper PIN number, a thief will find that, without authentication by its owner, a stolen smart card is a worthless piece of plastic.

In an era where our personal information is becoming increasingly easier for others to access, where our very personal and private activities can be electronically tracked, smart cards are a way to return control over this information where it belongs: in the hands of the individual.

And with modern-day encryption and other security measures built into the chip on a smart card, the information on this card is more secure from theft or fraud than any credit card or ATM card in use today.

Mr. President, there is no doubt of the need for increased efficiency, security, and portability of information across all sectors of our Government.

We have the technology, literally, in our hands to make it happen.

Already, several other Government agencies have begun to implement this technology in a variety of applications across Government.

Today, for example, smart cards are used as identification and security badges in Government buildings.

In States like Wyoming, pilot programs are underway to use smart cards to electronically disburse WIC and food stamp benefits.

In several western States, a smart card called the health passport is being used to increase the portability and accessibility of an individual's medical records while safeguarding their confidentiality.

At colleges like the University of Michigan, a single smart card can call up a student's financial aid records, buy her books, and open the door of her dorm.

On our subways, and our military bases, in our hospitals, and our schools, across the public and private sector, smart cards can cut down the time we spend on burdensome administrative work and save us valuable time and resources.

But the reason I'm so enthusiastic about this new technology, Mr. President, is not just because smart cards can eliminate waste.

I'm not here speaking today simply because smart cards can save us time and money.

I'm strongly supportive of this new technology because smart cards can make our lives better and easier.

Whether it's reducing the time we wait in line at a government office or providing a doctor the information needed to save a life smart cards can make our entire infrastructure more user-friendly and efficient; smart cards make technology work better for us.

I am confident that pilot smart card programs, like the MARC program, will demonstrate the effectiveness of smart cards and the need for this technology across government, and will lead to increased use of this technology in our future.

That's why I'm so excited about it, and that's why I'm so pleased the managers seem willing to include this provision in their manager's amendment.

With that, Mr. President, I thank the chair, and I yield the floor.

Mr. LEVIN. Mr. President, I just want to commend the Senator from Virginia on his amendment. It is a very thoughtful amendment, the product of months, and, indeed, years of work by Senator ROBB. I hope that in the next day or two we will be able to work with the majority to see this amendment is adopted.

I want to commend the Senator on his constant attack on waste and his constant effort to achieve efficiency, not just in the military, but all branches of Government.

Mr. ROBB. I thank the distinguished Senator from Michigan. I did not display my own MARC card here, but it is my hope that in the not-too-distant future not only will all members of the Armed Services, but all members who interact or interface with our Federal Government will have one of these and be able to use them in the same efficient way that the MARC card is being used today, and is being used in this particular experiment.

I yield the floor.

Mr. THURMOND. I want to say to the able Senator from Virginia, Senator ROBB, that you made a very interesting discourse here. What the Senator is recommending appears to deserve serious consideration. That consideration, I am sure, will be given by the committee.

Mr. ROBB. I thank the distinguished chairman of the committee and the senior Senator from South Carolina.

MORNING BUSINESS

Mr. THURMOND. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business with Senators permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO J. MELVILLE BROUGHTON, JR

Mr. HELMS. Mr. President, North Carolina lost a very special, very valuable and very distinguished leader this past April. He was known affectionately and respectfully across our State, and far beyond in every direction, simply as Mel Broughton. His full name was J. Melville Broughton, Jr., but you seldom heard all of that name.

Mel Broughton, by all measurements, was one of those nature's noblemen who comes along only once in a while. Though his family was one of North Carolina's most distinguished, Mel Broughton was one of the least pretentious men I have ever known.

His grandfather was North Carolina's Governor during the World War II years, 1941 to 1944. And in November 1948, former Governor Broughton was elected to the U.S. Senate. But fate was to allow Senator Broughton to serve in the U.S. Senate only a few months, because he had been sworn in as a Senator shortly after his having been elected in November 1948 but he died of a heart attack the following March.

Incidentally, Mr. President, misfortune hovered over North Carolina throughout the 10-year period between the late 1940's and the following 10 years. Our State had a succession of 10 U.S. Senators during that decade. Five of them died in office; three were defeated in their reelection bids; and the two surviving Senators of that decade were Sam J. Ervin, Jr. and B. Everett Jordan. Senator Ervin served 20 years; Senator Jordan served 17.

But let me return, Mr. President, to Mel Broughton, Jr., who was honored by North Carolina's general assembly on June 26 of this year when both Houses of our State legislature adopted "A joint resolution honoring the life and memory of J. Melville Broughton, Jr."

As that resolution states, Mel Broughton was devoted to North Carolina and to the people of our State. And he served in countless ways. Only once did he venture into Federal service, and that was when President Ford nominated him to serve on the board of directors of the U.S. Legal Services Corporation. And during those years, one of his colleagues on the Legal Services Corporation board was a young lady who today is the First Lady of America, Mrs. Hillary Rodham Clinton.

Mr. President, needless to say, Dot Helms and I have long been devoted to the Mel Broughton family. As a matter of fact, Mel's parents, Governor and Mrs. Broughton, were very dear to us and thoughtful to us in so many ways.

And last, but certainly not least, I am privileged that Mel Broughton's son—one of them—whom all of us call Jimmy, is administrative assistant and thereby leader of the Helms Senate family. I do not have a staff. The fine, dedicated people in our offices are truly a family.

Mr. President, I ask unanimous consent the text of the June 26, 1997, resolution adopted by the North Carolina General Assembly honoring Mel Broughton be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JOINT RESOLUTION BY THE GENERAL ASSEMBLY OF NORTH CAROLINA JUNE 26, 1997 HONORING THE LIFE AND MEMORY OF J. MELVILLE BROUGHTON, JR.—JUNE 26, 1997

Whereas, J. Melville Broughton, Jr., a lifelong resident of the City of Raleigh was born on March 24, 1922, and attended Wake Forest University, Duke University, and graduated from the University of North Carolina School of Law; and

Whereas, J. Melville Broughton, Jr., proudly served his country in World War II as a First Lieutenant in the United States Marine Corps; and

Whereas, following his admission to the North Carolina State Bar, J. Melville Broughton, Jr., served for four years as a prosecutor in Raleigh Municipal Court and then entered the general practice of law with the firm founded by his father (now known as Broughton, Wilkins, Webb and Sugg) where he remained for 45 years; and

Whereas, from 1957 to 1961, J. Melville Broughton, Jr., served as Chairman of the North Carolina Highway Commission, and later under Governor Dan K. Moore served as the Chairman of the North Carolina Democratic Party; and finally in 1968, ran for the Democratic nomination for Governor against then Lieutenant Governor Robert Scott and Reginald Hawkins, finishing second in the primary; and

Whereas, J. Melville Broughton, Jr., was devoted to his State above all else and counted among his friends and those he supported at the polls both Democrats and Republicans; and, indeed, his bipartisanship was such that in 1975, President Gerald Ford nominated him to the National Legal Services Board, which was dedicated to providing legal representation to indigent persons; and

Whereas, J. Melville Broughton, Jr., was an active and lifelong member of Christ Episcopal Church in Raleigh and was involved in the Laubach Literacy national movement; and

Whereas, J. Melville Broughton, Jr., was a beloved figure in this General Assembly and in our entire State, warming us with his easy laugh and ready smile; his tall, rumpled figure, with his coat pocket full of pencil stubs, moving gregariously among all sorts and conditions of men, encouraging, listening, advising, and at all times embodying the very essence of a true Christian gentleman; and

Whereas, J. Melville Broughton, Jr., passed away on April 17, 1997, and is survived by his wife, Mary Ann Cooper Broughton; his daughter, Harriet B. Gruber; two sons, J. Melville Broughton, III and James Wesley Cooper Broughton; and five grandchildren;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The General Assembly expresses its high regard for the life and service of J. Melville Broughton, Jr., and mourns the loss to this date of such a distinguished citizen.

Section 2. The Secretary of State shall transmit a certified copy of this resolution to the family of J. Melville Broughton, Jr.

Section 3. This resolution is effective upon ratification.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business Thursday, July 3, 1997, the Federal debt stood at $5,356,041,465,566.82. (Five trillion, three hundred fifty-six billion, forty-one million, four hundred sixty-five thousand, five hundred sixty-six dollars and eighty-two cents)

One year ago, July 3, 1996, the Federal debt stood at $5,151,168,000,000. (Five trillion, one hundred fifty-one billion, one hundred sixty-eight million)

Five years ago, July 3, 1992, the Federal debt stood at $3,982,257,000,000. (Three trillion, nine hundred eighty-two billion, two hundred fifty-seven million)

Ten years ago, July 3, 1987, the Federal debt stood at $2,316,907,000,000. (Two trillion, three hundred sixteen billion, nine hundred seven million)

Twenty-five years ago, July 3, 1972, the Federal debt stood at $428,504,000,000 (Four hundred twenty-eight billion, five hundred four million) which reflects a debt increase of nearly $5 trillion—$4,927,537,465,566.82 (Four trillion, nine hundred twenty-seven billion, five hundred thirty-seven million, four hundred sixty-five thousand, five hundred sixty-six dollars and eighty-two cents) during the past 25 years.

MESSAGES FROM THE HOUSE

At 12:01 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 1119. An act to authorize appropriations for fiscal year 1998 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

MEASURE PLACED ON THE CALENDAR

The following measure was read the first and second times by unanimous consent and placed on the calendar:

H.R. 1119. An act to authorize appropriations for fiscal year 1998 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–2389. A communication from the Secretary of Energy, transmitting, pursuant to law, the thirteenth Annual Report on activities and expenditures of the Office of Civilian Radioactive Waste Management for Fiscal Year 1996; to the Committee on Energy and Natural Resources.

REPORTS OF COMMITTEES SUBMITTED DURING ADJOURNMENT

Under the authority of the order of the Senate of June 27, 1997, the following reports of committees were submitted on July 1, 1997:

By Mr. HATCH, from the Committee on the Judiciary:

Report to accompany the bill (S. 507) to establish the United States Patent and Trademark Organization as a Government corporation, to amend the provisions of title 35, United States Code, relating to procedures for patent applications, commercial use of patents, reexamination reform, and for other purposes (Rept. No. 105–42).

By Mr. JEFFORDS, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 830: A bill to amend the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act to improve the regulation of food, drugs, devices, and biological products, and for other purposes (Rept. No. 105–43).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. SPECTER (by request):

S. 986. A bill to amend title 38, United States Code, to make certain improvements in the housing loan programs for veterans and eligible persons, and for other purposes; to the Committee on Veterans Affairs.

S. 987. A bill to amend title 38, United States Code, to authorize a cost-of-living adjustment in the rates of disability compensation for veterans with service-connected disabilities and dependency and indemnity compensation for survivors of such veterans and to revise and improve certain veterans compensation, pension, and memorial affairs programs; and for other purposes; to the Committee on Veterans Affairs.

S. 988. A bill to amend chapter 72 of title 38, United States Code, to reform the retirement provisions relating to the Court's judicial component, to provide for a staggered judicial retirement option to avoid the large case backlog increase that would arise in the event of simultaneous judicial vacancies, to rename the United States Court of Veterans Appeals as the United States Court of Appeals for Veterans Claims, and for other purposes; to the Committee on Veterans Affairs.

By Mr. DORGAN (for himself and Mrs. Feinstein):

S. 989. A bill entitled the "Safer Schools Act of 1997"; to the Committee on Labor and Human Resources.

By Mr. FAIRCLOTH:

S. 990. A bill to amend the Public Health Service Act to establish the National Institute of Biomedical Imaging; to the Committee on Labor and Human Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SPECTER (by request):

S. 986. A bill to amend title 38, United States Code, to make certain improvements in the housing loan programs for veterans and eligible persons, and for other purposes; to the Committee on Veterans' Affairs.

THE VETERANS' HOUSING LOAN IMPROVEMENTS ACT OF 1997

Mr. SPECTER. Mr. President, as chairman of the Committee on Veterans' Affairs, I have today introduced, at the request of the Secretary of Veterans Affairs, S. 986, the proposed Veterans' Housing Loan Improvements Act of 1997. The Secretary of Veterans Affairs submitted this legislation to the President of the Senate by letter dated June 4, 1997.

My introduction of this measure is in keeping with the policy which I have adopted of generally introducing—so that there will be specific bills to which my colleagues and others may direct their attention and comments—all administration-proposed draft legislation referred to the Committee on Veterans' Affairs. Thus, I reserve the right to support or oppose the provisions of, as well as any amendment to, this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record, together with the transmittal letter and the enclosed section-by-section analysis of the draft legislation which accompanied it.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 986

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE.

(a) SHORT TITLE.—This Act may be cited as the "Veterans' Housing Loan Improvements Act of 1997."

(b) REFERENCES TO TITLE 38.—Except as otherwise may be specifically provided, whenever in the Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 2. LOAN FEE.

(a) Section 3729 is amended by striking out everything after the catchline, and inserting in lieu thereof:

"(a)(1) Except as provided in subsection (c) of the section, a fee shall be collected from each person obtaining a housing load guaranteed, insured, or made under this chapter, and each person assuming a loan to which section 3714 of this title applies. Such a loan may not be guaranteed, insured, made, or assumed until the fee payable under this section has been remitted to the Secretary.

"(2) The fee may be included in the loan and paid from the proceeds thereof.

"(b)(1) The amount of the fee shall be determined from the table in subsection (d) of this section. The fee is expressed as a percentage of the total amount of the loan guaranteed, insured, or made, or, in the case of a loan assumption, the unpaid principal balance of the loan on the date of the transfer of the property.

"(2) Any reference to a section in the Type of Loan column in subsection (d) of this section refers to a section of this title.

"(3) For the purposes of this section:

"(A) The term 'Active Duty Veteran' means any veteran eligible for the benefits of this chapter other than a Reservist;

"(B) The term 'Reservist' means a veteran described in section 3701(b)(5)(A);

"(C) The term 'Other Obligor' means a person who is not a veteran, as defined by section 101 or other provision of this chapter;

"(D) The term 'initial loan described in section 3710' means a loan obtained by a veteran pursuant to section 3710 of this title if the veteran has never obtained a loan guaranteed under section 3710 or more under section 3711;

"(E) the term 'subsequent loan described in section 3710' means a loan obtained by a veteran pursuant to section 3710 title if the veteran has previously obtained a loan guaranteed under section 3710 or made under section 3711. The term shall not refer to an interest rate reduction refinancing loan;

"(F) The term 'interest rate reduction refinancing loan' means a loan described in section 3710(a)(8), 3710(a)(9)(B)(i), 7310(a)(11), 3712(a)(1)(F), or 3762(h);

"(G) The term '0-down' means a downpayment, if any, of less than 5 percent of the total purchase price or construction cost of the dwelling;

"(H) The term '5-down' means a downpayment of at least 5 percent but less than 10 percent of the total purchase price or construction cost of the dwelling;

"(I) The term '10-down' means a downpayment of 10 percent or more of the total purchase price or construction cost of the dwelling;

"(c) A fee may not be collected under this section from a veteran who is receiving compensation (or who but for the receipt of retirement pay would be entitled to receive compensation) or from a surviving spouse of any veteran (including a person who died in the active military, naval, or air service) who died from a service-connected disability.

"(d) The following table establishes the percentages of fees to be collected under this section:

"LOAN FEE TABLE

"Type of loan	Active duty veteran	Reservist	Other obligor
"Initial loan described in section 3710(a) to purchase or construct a dwelling with 0-down, or any other initial loan described in section 3710(a)	2.00	2.75	NA
"Subsequent loan described in section 3710(a) to purchase or construct a dwelling with 0-down, or any other subsequent loan described in section 3710(a)	3.00	3.00	NA
"Loan described in section 3710(a) to purchase or construct a dwelling with 5-down	1.50	2.25	NA
"Loan described in section 3710(a) to purchase or construct a dwelling with 10-down	1.25	2.00	NA
"Interest rate reduction refinancing loan	0.50	0.50	NA
"Direct loan made under section 3711	1.00	1.00	NA
"Manufactured home loan described in section 3712 (other than an interest rate reduction refinancing loan)	1.00	1.00	NA
"Loan to Native American veteran made under section 3762 (other than an interest rate reduction refinancing loan)	1.25	1.25	NA
"Assuming a loan to which section 3714 applies	0.50	0.50	0.50
"Loan made under section 3733(a)	2.25	2.25	2.25

"(e) Notwithstanding subsection (d) of this section, the Secretary, by regulation, may prescribe a different percentage for the fee applicable to loans made under section 3733(a), if the Secretary finds a different amount is necessary so that the fee charged for such loans is consistent with the fees charged by other departments of the Government for similar loans available to the public, or if the Secretary determines that considerations of the market for properties sold by the Secretary necessitate a different fee.".

(b) This section applies to any loan closed after September 30, 1997.

SEC. 3. EXTENSION OF NO-BID FORMULA.

Section 3732(c) is amended by striking out paragraph (11) in its entirety.

SEC. 4. ENHANCED VENDEE LOAN SALES.

Section 3720(h) is amended by:

(a) striking out paragraph (2) in its entirety; and

(b) striking out "(h)(1)" and inserting in lieu thereof "(h)".

SEC. 5. REPEAL OF LOAN DEBT COLLECTION RESTRICTIONS.

Subchapter III of chapter 37 is amended by striking out section 3726 in its entirety.

SEC. 6. ACCOUNT CONSOLIDATION.

(a) Subchapter III of chapter 37 is amended by striking out sections 3723, 3724, and 3725 in their entirety.

(b) Such subchapter is further amended by inserting after section 3721 the following new section:

"§ 3722. Veterans Housing Benefit Program Fund

"(a) There is hereby established in the Treasury of the United States a fund known as the Veterans Housing Benefit Program Fund.

"(b) The Veterans Housing Benefit Program Fund shall be available to the Secretary, without fiscal year limitation, for all housing loan operations under this chapter, consistent with the Federal Credit Reform Act of 1990.

"(c) There shall be deposited in the Veterans Housing Benefit Program Fund:

"(1) All money as of September 30, 1997, in: (A) the Direct Loan Revolving Fund established by section 513 of the Servicemen's Readjustment Act of 1944; (B) the Department of Veterans Affairs Loan Guaranty Revolving Fund established by section 7(a) of Public Law 86–665; and (C) the Guaranty and Indemnity Fund established by section 302(a)(1) of Public Law 101–237;

"(2) All money hereafter appropriated for such Fund;

"(3) All fees collected by the Secretary on or after October 1, 1997, pursuant to section 3729, or any other provision of law or regulation established by the Secretary imposing fees on persons or other entities participating in the housing loan program under this chapter; and

"(4) All other amounts received by the Secretary on or after October 1, 1997, incident to housing loan operations under this chapter including, but not limited to, collections of principal and interest, proceeds from the sale, rental, use, or other disposition of property acquired under this chapter, proceeds from the sale of loans pursuant to sections 3720(h) and 3733(a)(3), and penalties collected pursuant to section 3710(g)(4)(B).

"(d) For purposes of this section, the term 'housing loan' shall not include a loan made pursuant to subchapter V of this chapter.".

(c) The amendments made by this section shall take effect October 1, 1997.

SEC. 7. EXTENSION OF PILOT PROGRAM FOR DIRECT LOANS TO NATIVE AMERICAN VETERANS.

Section 3761(c) is amended by striking out "1997." and inserting in lieu thereof "1999.".

SEC. 8. CONFORMING AMENDMENTS.

(a) Section 2106(e) is amended by striking out "either the direct loan or loan guaranty revolving fund established by section 3723 or 3724 of this title, respectively." and inserting in lieu thereof "the Veterans Housing Benefit Program Fund established by section 3722 of this title.".

(b) Section 3703(e)(1) is amended by striking out "3729(c)(1)" and inserting in lieu thereof "3729(c)".

(c) Section 3711(k) is amended by striking out "and section 3723 of this title" both places it appears.

(d) Section 3720 is amended by striking out subsection (e) in its entirety and inserting in lieu thereof—

"(e) [Repealed.]".

(e) Section 3727(c) is amended by striking out "funds established pursuant to sections 3723 and 3724 of this title, as applicable." and inserting in lieu thereof "fund established pursuant to section 3722 of this title.".

(f) Section 3733(a)(6) is amended by—

(1) striking out "Department of Veterans Affairs Loan Guaranty Revolving" and inserting in lieu thereof "Veterans Housing Benefit Program"; and

(2) striking out "3724(a)" and inserting in lieu thereof "3722(a)".

(g) Section 3733 is further amended by striking out subsection (e) in its entirety.

(h) Section 3734 is amended by—

(1) striking out, in the catchline, "Loan Guaranty Revolving Fund and the Guaranty and Indemnity" and inserting in lieu thereof "Veterans Housing Benefit Program";

(2) striking out, in subsection (a)(1), "Loan Guaranty Revolving Fund and the Guaranty and Indemnity" and inserting in lieu thereof "Veterans Housing Benefit Program";

(3) striking out, in subsection (a)(2), "funds," and inserting in lieu thereof "fund,";

(4) striking out, in subsection (b), "each" and inserting in lieu thereof "the"; and

(5) striking out, in paragraph (2) of subsection (b), subparagraphs (B), (C), and (D) in their entirety, and redesignating subparagraphs (E), (F), and (G) as (B), (C), and (D), respectively.

(i) Section 3735(a)(3)(A)(i) is amended by striking out "Loan Guaranty Revolving Fund and the Guaranty and Indemnity" and inserting in lieu thereof "Veterans Housing Benefit Program".

(j) The catchline for section 3763 is amended by striking out "Housing" and inserting in lieu thereof "Native American veteran housing".

(k) The table of sections for subchapter III of chapter 37 is amended by—

(1) striking out the items relating to sections 3722, 3723, 3724, 3725, and 3726 and inserting in lieu thereof—

"3722. Veterans Housing Benefit Program Fund.
"[3723. Repealed.]
"[3724. Repealed.]
"[3725. Repealed.]
"[3726. Repealed.]";

(2) striking out, in the item relating to section 3734, "Loan Guaranty Revolving Fund and the Guaranty and Indemnity" and inserting in lieu thereof "Veterans Housing Benefit Program"; and

(3) inserting at the end thereof the following new item:

"3736. Portfolio Loan Servicing.".

(l) The table of sections for subchapter V of chapter 37 is amended by striking out, in the item related to section 3763, "Housing" and inserting in lieu thereof "Native American veteran housing".

(m) Section 7(h)(2)(B) of Public Law 102-54, as amended (38 U.S.C. 1718 note), is amended by striking out "Loan Guaranty Revolving" and inserting in lieu thereof "Veterans Housing Benefit Program".

SECTION-BY-SECTION ANALYSIS

SEC. 1. Subsection (a) provides that the draft bill may be cited as the "Veterans' Housing Loan Improvements Act of 1997."

Subsection (b) provides that, unless otherwise specified, whenever in the Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 2. Subsection (a) of section 2 would replace the existing section 3729, which imposes fees on most persons obtaining or assuming a loan guaranteed or made by VA, with new, simplified language. The new section 3729 would contain an easy to read chart showing the appropriate fee depending on the type of loan and category of borrower.

The revised section would make permanent the increases in the fees enacted by section 12007 of the Omnibus Budget Reconciliation Act of 1993 (OBRA 93). That enactment increased the fees for most VA guaranteed housing loans by 75 basis points, or 0.75 percent of the loan amount, and imposed a fee of 3 percent of the loan on most veterans who had previously obtained a VA housing loan. These provisions are now set to expire on September 30, 1998.

In addition, the revised section 3729 increases the fee from 1.00 to 2.25 percent on loans made by VA in connection with the sale of VA-owned properties (vendee loans). Vendee loans are available to members of the public and are not a veterans benefit. This new fee would be set at the maximum initial mortgage insurance premium that the Federal Housing Administration (FHA) is permitted to charge for most single family mortgages. FHA also charges annual premiums that would not be authorized for VA. This section would also give VA discretion to issue regulations changing the fee charged for vendee loans if VA finds that a different amount is necessary so that this fee is consistent with the fees charged by other departments for similar loans, or if the Secretary determines that considerations of the market for properties sold by VA necessitate a different fee.

Except as noted above, the fee structure remains unchanged. The exemption from the fee in the current law given to certain disabled veterans and surviving spouses remains unchanged.

Subsection (b) would make the increased fee for vendee loans apply to all loans closed on or after October 1, 1997.

SEC. 3. Section 3 would repeal paragraph (11) of section 3732(c). This would make the no-bid formula permanent. As amended by section 12006 of OBRA 93, the no-bid formula requires VA to consider, in addition to other costs, VA's loss on the resale of the property. The no-bid formula currently applies to all loans closed before October 1, 1998, regardless of the date the loan is terminated. This amendment would repeal the sunset.

SEC. 4. Section 4 would make permanent VA's authority, contained in 38 U.S.C. §3720(h), to guarantee the certificates sold to investors when VA vendee loans are securitized. Since June 1988, vendee loans have been sold to a trust, which issues securities based on the pooled loans. Prior to the enactment of Public Law 102-291 in 1992, VA provided a full faith and credit guaranty on the vendee loans sold to the trust. VA could not, however, directly guarantee the certificates issued by the trust. Guaranteeing the certificates rather than the loans significantly increases the VA's net proceeds from such sales, but does not significantly change VA's exposure to loss. VA's authority to guarantee the certificates currently has a sunset of December 31, 1997.

SEC. 5. Section 5 would repeal section 3726. Section 3726 currently prohibits VA, in most cases, from offsetting against Federal payments, other than VA benefits, debts owed to the Government resulting from the foreclosure of VA guaranteed or direct housing loans. This provision would permit VA to collect these debts by offsetting Federal salaries and income tax refunds as permitted by other Federal debt collection laws. The right of veterans to challenge the existence and amount of the debt through VA's normal administrative process, including review by the Court of Veterans Appeals, and to seek waiver of the debt under current law would not be altered.

SEC. 6. Section 6 would consolidate the funding sources for the VA housing loan programs (except the pilot program for direct loans to native American Veterans) into a new fund in the Treasury.

Subsection (a) would repeal sections 3723, 3724, and 3725 which provide for the Direct Loan Revolving Fund (DLRF), the Loan Guaranty Revolving Fund (LGRF), and the Guaranty and Indemnity Fund (GIF), respectively. Those three funds currently provide the source of moneys for the VA housing loan programs (except the pilot program for direct loans to Native American veterans).

Subsection (b) would add a new section 3722 which would establish in the Treasury a new fund to be known as the "Veterans Housing Benefit Program Fund." This new fund, consistent with the Federal Credit Reform Act of 1990, would be available, without fiscal year limitation, for all VA housing loan operations (except the pilot program for direct loans to Native American veterans).

The total available balances of the DLRF, LGRF, and GIF as of September 30, 1997, would be deposited into this new fund. Beginning October 1, 1997, all appropriations to the VA housing loan program would go into this new fund. In addition, beginning on that date, the new Veterans Housing Benefit Program Fund would receive all income from the loan program including, but not limited to, loan repayments, income from the sale, rental, or other use of acquired foreclosed properties, income from the sale of loans, and loan user fees.

Subsection (c) would make this section effective October 1, 1997.

SEC. 7. Section 7 would extend for two years; i.e., until September 30, 1999, the sunset for VA's pilot program (sections 3761-3764) to make direct loans to Native American veterans living on trust land.

SEC. 8. Section 8 would make conforming amendments to various sections of title 38 and other statutes.

Subsection (a) would make a conforming amendment to section 2106(e).

Subsection (b) would make a conforming amendment to section 3703(e)(1).

Subsection (c) would make a conforming amendment to section 3711(k).

Subsection (d) would repeal the obsolete subsection (e) of section 3720. That subsection authorized VA to sell participation certificates in connection with the Federal National Mortgage Association. Such certificates have not been sold since the 1960s and all outstanding certificates have been redeemed.

Subsection (e) would make a conforming amendment to section 3727(c).

Subsection (f) would make conforming amendments to section 3733(a)(6).

Subsection (g) would also remove the obsolete section 3733(e). That provision, pertaining to the crediting of the proceeds from the sale of loans by VA, was repealed by implication by the Federal Credit Reform Act of 1990.

Subsection (h) would make conforming amendments to section 3734. It would also strike out the requirement for VA to report to the Congress regarding Government credits and investment income to the GIF, which were repealed by implication by the Federal Credit Reform Act of 1990.

Subsection (i) would make a conforming amendment to section 3735(a)(3)(A)(i).

Subsection (j) would make a technical correction to the catchline for section 3763.

Subsection (k) would make conforming amendments to the table of sections for subchapter III of chapter 37.

Subsection (l) would make a conforming amendment to the table of sections for subchapter V of chapter 37.

Subsection (m) would make a conforming amendment to section 7(h)(2)(B) of Public Law 102-54, as amended, (38 U.S.C. §1718 note).

THE SECRETARY OF VETERANS AFFAIRS,
Washington, DC, June 4, 1997.

Hon. ALBERT GORE, Jr.,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: There is transmitted herewith a draft bill "[t]o amend title 38, United States Code, to make certain improvements in the housing loan programs for veterans and eligible persons, and for other purposes." I request that this bill be referred to the appropriate committee for prompt consideration and enactment.

This measure, entitled the "Veterans' Housing Loan Improvements Act of 1997," would make amendments to the Department of Veterans Affairs' housing loan programs that would save costs, provide management efficiencies, and extend the sunset on two expiring authorities.

The draft bill would permanently extend several cost-saving measures originally enacted by the Omnibus Budget Reconciliation Act (OBRA) of 1993, increase the funding fee for "vendee" loans available to the general public, consolidate the funding for the housing loan program into one new account, and permit VA to collect housing loan debts through offset against other Federal payments in the same manner as all other Federal debts are now being collected. The bill would also make permanent VA's enhanced vendee loan sales authority, and extend for 2 years the pilot program for direct loans to Native American veterans.

A detailed section-by-section analysis of the draft bill is enclosed.

VA estimates that enactment of the draft bill would produce first year loan subsidy savings of approximately $156 million in FY 1998 and $3.283 billion over five years. Extending the OBRA 93 provisions, increasing the fee on vendee loans, and allowing VA to collect housing loan debts by setoff will produce subsidy savings. There is no additional subsidy appropriation required to extend the pilot program for direct loans to Native American veterans since the program has not fully expended the subsidy initially appropriated by Public Law 102-389.

The Office of Management and Budget advises that there is no objection to the submission of this draft bill to the Congress, and that it's enactment would be in accord with the Administration's program.

Sincerely,

JESSE BROWN.

Enclosures.

By Mr. SPECTER (by request):

S. 987. A bill to amend title 38, United States Code, to authorize a cost-of-living adjustment in the rates of disability compensation for veterans with service-connected disabilities and dependency and indemnity compensation for survivors of such veterans and to revise and improve certain veterans compensation, pension, and memorial affairs programs; and for other purposes; to the Committee on Veterans' Affairs.

THE VETERANS' COMPENSATION COST-OF-LIVING ADJUSTMENT AND BENEFITS PROGRAM IMPROVEMENT ACT OF 1997

Mr. SPECTER. Mr. President, as chairman of the Committee on Veterans' Affairs, I have today introduced, at the request of the Secretary of Veterans' Affairs, S. 987, the proposed Veterans' Compensation Cost-of-Living Adjustment and Benefits Program Improvement Act of 1997. The Secretary of Veterans Affairs submitted this legislation to the President of the Senate by letter dated May 9, 1997.

My introduction of this measure is in keeping with the policy which I have adopted of generally introducing—so that there will be specific bills to which my colleagues and others may direct their attention and comments—all administration-proposed draft legislation referred to the Committee on Veterans' Affairs. Thus, I reserve the right to support or oppose the provisions of, as well as any amendment to, this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD, together with the transmittal letter which accompanied it.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 987

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE.

(a) SHORT TITLE.—This Act may be cited as the "Veterans' Compensation Cost-of-Living Adjustment and Benefit Programs Improvement Act of 1997".

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—COMPENSATION AND PENSIONS

SEC. 101. INCREASE IN COMPENSATION RATES AND LIMITATIONS.

(a) IN GENERAL.—(1) The Secretary of Veterans Affairs shall, as provided in paragraph (2), increase, effective December 1, 1997, the rates of and limitations on Department of Veterans Affairs disability compensation and dependency and indemnity compensations.

(2) The Secretary shall increase each of the rates and limitations in sections 1114, 1115(1), 1162, 1311, 1313, and 1314 of title 38, United States Code, that were increased by the amendments made by the Veterans' Compensation Cost-of-Living Adjustment Act of 1996 (Public Law 104-263; 110 Stat. 3212). This increase shall be made in such rates and limitations as in effect on November 30, 1997, and shall be by the same percentage that benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased effective December 1, 1997, as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).

(b) SPECIAL RULE.—The Secretary may adjust administratively, consistent with the increases made under subsection (a)(2), the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 (72 Stat. 1263) who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

(c) PUBLICATION REQUIREMENT.—At the same time as the matters specified in section 215(i)(2)(D) of the Social Security Act (42 U.S.C. 415(i)(2)(D)) are required to be published by reason of a determination made under section 215(i) of such Act during fiscal year 1998, the Secretary shall publish in the Federal Register the rates and limitations referred to in subsection (a)(2) as increased under this section.

SEC. 102. ROUNDING DOWN OF COMPENSATION-RATE INCREASES

In computing rates and limitations pursuant to legislation enacted for fiscal years 1998 and thereafter which increases by a specified percentage, or which directs the Secretary of Veterans Affairs to adjust administratively, the rates and limitations in sections 1114, 1115(1), 1162, 1311, 1313, and 1314 of title 38, United States Code, the Secretary of Veterans Affairs shall round down to the next lower whole-dollar amount any amount which as so computed is not an even multiple of $1.

SEC. 103. EXTENSION OF INCOME-VERIFICATION AUTHORITY.

(a) Section 5317 is amended by striking out subsection (g).

(b) Subparagraph (D) of section 6103(1)(7) of the Internal Revenue Code of 1986 (relating to disclosure of return information to Federal, State, and local agencies administering certain programs) is amended by striking "Clause (viii) shall not apply after September 30, 1998.".

SEC. 104. EXTENSION OF LIMITATION ON PENSION FOR CERTAIN RECIPIENTS OF MEDICAID-COVERED NURSING HOME CARE.

Section 5503(f) is amended by striking out paragraph (7).

SEC. 105. PROHIBITION REGARDING PAYMENT OF COMPENSATION FOR DISABILITY OR DEATH DUE TO TOBACCO USE.

(a) SERVICE CONNECTION.—Chapter 11 is amended by adding at the end of subchapter I the following new section:

"§ 1103. Special provisions relating to claims based upon effects of tobacco products

"(a) Notwithstanding any other provision of law, a veteran's disability or death shall not be considered to have resulted from personal injury suffered or disease contracted in line of duty in the active military, naval, or air service for purposes of this title on the basis that it resulted from injury or disease attributable in whole or in part to the use of tobacco products by the veteran during the veteran's service.

"(b) Nothing in subsection (a) shall be construed as precluding the establishment of service connection for disability or death from a disease or injury which became manifest or was aggravated in active military, naval or air service or became manifest to the requisite degree of disability during any applicable presumptive period specified in section 1112 or 1116 of this title.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 11 is amended by adding the following new item after the item relating to section 1102: "1103. Special provisions relating to claims based upon effects of tobacco products.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to claims filed after the date of enactment of this Act.

SEC. 106. REIMBURSEMENT OF COSTS ASSOCIATED WITH COMPENSATION AND PENSION MEDICAL EXAMINATIONS.

(a) AUTHORIZATION.—Chapter 77 of title 38, United States Code, is amended by adding at the end of subchapter I the following new section:

"7705. Reimbursement for compensation and pension medical examinations

"(a) REIMBURSEMENT.—The Under Secretary for Benefits is authorized to reimburse the Veterans Health Administration for costs associated with the conduct of medical examinations requested by the Veterans Benefits Administration in connection with claims for benefits under this title.

"(b) SOURCE OF FUNDS.—Reimbursements under this section shall be made from amounts available to the Secretary of Veterans Affairs for payment of general operating expenses.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 77 is amended by adding the following new item after the item relating to section 7703: "7705. Reimbursement for compensation and pension medical examinations.".

TITLE II—MEMORIAL AFFAIRS

SEC. 201. STATE CEMETERY GRANTS PROGRAM.

(a)(1) AMOUNT OF GRANT RELATIVE TO PROJECT COST.—Section 2408(b) is amended by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) The amount of any grant under this section may not exceed—

"(A) in the case of the establishment of a new cemetery, the total of—

"(i) the cost of improvements to be made on the land to be converted into a cemetery, and

"(ii) the initial cost of equipment necessary to operate the cemetery; or

"(B) in the case of the expansion or improvement of an existing cemetery, the total of—

"(i) the cost of improvements to be made on any land to be added to the cemetery, and

"(ii) the cost of any improvements to be made to the existing cemetery.

"(2) If the amount of a grant under this section is less than the amount of costs referred to in paragraph (1), the State receiving the grant shall contribute the amount by which the costs exceed the grant, in addition to any land acquired or dedicated by the State for the cemetery.".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall become effective 60 days after the date of enactment of this Act.

(b) AUTHORIZATION OF NO-YEAR APPROPRIATIONS.—Section 2408(d) is amended by striking out "the end of the second fiscal year following the fiscal year for which they are appropriated" and inserting in lieu thereof "expended".

THE SECRETARY OF VETERANS AFFAIRS,
Washington, DC, May 9, 1997.
Hon. ALBERT GORE, Jr.,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: Transmitted herewith is a draft bill, the "Veterans' Compensation Cost-of-Living Adjustment and Benefit programs Improvement Act of 1997," to authorize a cost-of-living adjustment (COLA) for fiscal year (FY) 1998 in the rates of disability compensation and dependency and indemnity compensation (DIC), and to revise and improve certain veterans compensation, pension, and memorial affairs programs, and for other purposes. I request that this draft bill be referred to the appropriate committee for prompt consideration and enactment.

Section 101 of the draft bill would direct the Secretary of Veterans Affairs to increase administratively the rates of compensation for service-disabled veterans and of DIC for the survivors of veterans whose deaths are service related, effective December 1, 1997. The rate of increase would be the same as the COLA that will be provided under current law to veterans' pension and Social Security recipients, which is currently estimated to be 2.7 percent. We believe this proposed COLA is necessary and appropriate in order to protect the benefits of these most deserving recipients from the eroding effects of inflation. We estimate that enactment of this section, in conjunction with section 102 of this draft bill, would result in benefit costs of $330.7 million during FY 1998 and $1.94 billion over the five-year period beginning in FY 1998. The costs associated with the compensation COLA are considered to be part of the compensation baseline and not subject to the pay-as-you-go provisions of the Omnibus Budget Reconciliation Act of 1990.

Section 102 would require the Secretary of Veterans Affairs, in computing new rates of (or limitations affecting) disability compensation and DIC pursuant to the enactment of any legislation requiring the Secretary to increase such rates to provide a COLA for fiscal year 1998 and thereafter, to round down to the next lower whole dollar any rate that is not evenly divisible by one dollar. This proposal is consistent with the congressionally-mandated calculation methods applied to COLA's for fiscal years 1994, 1995, and 1996. We estimate this proposal would reduce FY 1998 benefit cost associated with the COLA proposed in section 101 of this draft bill by $17 million and reduce the five-year benefit cost for FY 1998 through FY 2002 by $287 million, as compared to the cost of the COLA and future COLAs based on rounding odd dollar amounts to the nearest whole dollar. The savings are subject to the pay-as-you-go provisions of the Omnibus Budget Reconciliation Act of 1990.

Section 103 would amend titles 26 and 38 of the United States Code to make permanent the authority of the Department of Veterans Affairs (VA) to access unearned income information from the Internal Revenue Services (IRS) and wage, self-employment, and retirement income information from the Social Security Administration (SSA) for purposes of income verification in determining eligibility for VA means-tested benefits such as pension and medical care for certain nonservice-related illnesses or conditions.

Experience has shown that authority to match unearned income information from IRS and wage, self-employment, and retirement income information from SSA with VA data for purposes of income verification in determining eligibility for or the proper amount of VA means-tested benefits has been an effective savings measure and has had a significant program-abuse deterrent effect. We estimate that enactment of this proposal would result in savings in monetary benefits of $10 million in FY 1999 and $120 million during the four-year period beginning in FY 1999. These savings are subject to the pay-as-you-go provisions of the Omnibus Budget Reconciliation Act of 1990.

Section 104 should amend section 5503(f) of title 38, United States Code, to make permanent the $90 limitation on monthly VA pension payments that may be made to beneficiaries, without dependents, who are receiving Medicaid-covered nursing-home care. The current payment limitation, which is due to expire at the end of fiscal year 1998, works to the advantage of these nursing-home residents because it permits them to keep the $90 to apply toward personal expenses rather than have it "pass through" to the Medicaid program. This section would simply remove the existing September 30, 1998, expiration date for section 5503(f). We estimate this proposal would result in government-wide savings because a beneficiary's nursing-home care costs, previously paid for with VA pension benefits, would be paid for by the Medicaid program, which shares a portion of the costs with the States. Government-wide savings are estimated to be $206 million in FY 1999 and a total of $893 million during the four-year period beginning in FY 1999.

Under current law, direct service connection of a disability or death may be established if the evidence establishes that injury or disease resulted from tobacco use in line of duty in the active military, naval, or air service, notwithstanding that the disability or death did not occur until after service and expiration of any applicable presumptive period. Section 105 would amend tile 38, United States Code, by adding a new section that would have the effect of prohibiting service connection of a death or disability on the basis that it resulted from injury or disease attributable, in whole or in part, to the use of tobacco products by the veteran during the veteran's service. This amendment is consistent with the 1990 budget reconciliation act, in which Congress prohibited compensation for disabilities which are the result of veterans' abuse of alcohol and drugs. This was fiscally responsible action which enhanced the integrity of our compensation program, and our proposal regarding tobacco use is offered in that same spirit. In addition, claims based upon tobacco-related disorders present medical and legal issues which could impede ongoing efforts to speed claim processing by placing significant additional demands on the adjudicative system. This provision would not preclude establishment of service connection for disability or death from a disease or injury which became manifest or was aggravated during active service or became manifest to the requisite degree of disability during any applicable presumptive period specified in section 1112 or 1116 of title 38, United States Code. This amendment would apply to claims filed after the date of its enactment.

This provision would result in some level of benefit cost avoidance and avoid potential delays in claim processing resulting from increased workload.

Section 106 would authorize the Veterans Benefits Administration (VBA) to reimburse, from the general operating expenses account, the Veterans Health Administration (VHA) for the cost of medical examinations conducted with respect to veterans' claims for compensation or pension. Currently, such examinations are paid for out of VA's medical-care fund.

In order to assure the funding for compensation and pension medical examinations is available throughout FY 1998, appropriate language would need to be included in both the "Medical care" and "General operating expenses" appropriations. It is contemplated that VBA will enter into a memorandum of understanding with VHA to provide that, should funds budgeted under general operating expenses for the purpose of "purchasing" compensation and pension medical examinations prove insufficient, alternate funding under "Medical care" would be available to permit VHA to continue to provide these examinations. Medical care funds would be used for this purpose only in the event of a shortfall in general operating expenses. There are no costs or savings associated with this proposal.

Section 201(a) would amend section 2408(b) of title 38, United States Code, to make state cemetery grants more attractive to States. Section 2408 authorizes the Secretary of Veterans Affairs to make grants to States to assist them in establishing, expanding, or improving State veterans' cemeteries. Currently, the amount of a State cemetery grant is limited to 50 percent of the total of the value of the land to be acquired or dedicated for a cemetery and the cost of improvement to be made on the land. The remaining amount must be contributed by the State receiving the grant. Pursuant to the amendments proposed in this section, the amount of a State cemetery grant could not exceed, in the case of the establishment of a new cemetery, the total of the cost of improvements to be made on land to be converted into a cemetery and the initial cost of equipment necessary to operate the cemetery. In the case of the expansion or improvement of an existing cemetery, the amount of the grant could not exceed the total of the cost of improvements to be made on any land to be added to the cemetery combined with the cost of improvements to be made to the existing cemetery. If the amount of a grant should, for any reason, be less than the amount of those costs, the State receiving the grant would be required to contribute the remaining amount, in addition to providing any land necessary for the cemetery project.

Also, under current law, if at the time of a grant the State receiving the grant dedicates for the cemetery land which it already owns, the value of the land may constitute up to 50 percent of the State's contribution. Once that land value is so used, it may not constitute part of the State's contribution for any subsequent grant under section 2408. Under the amendments proposed in section 201(a) of this draft bill, a State would be responsible for providing any land required for a cemetery project, since the grant amount would not longer be based partly on the value of land to be acquired or dedicated for a cemetery.

We believe that excluding the value of land to be acquired for a cemetery from the basis of a grant would encourage states to be active partners in the cemetery grants program. In our experience, no State has acquired land for a cemetery in connection with a grant under section 2408. In every case, the State has dedicated land that was donated or transferred for that purpose, or land that it already owned. Further, any reduction of the basis from which a grant is calculated may be offset by an increase from 50 percent to up to 100 percent in the proportion of the amount of a project's cost that could be assumed by the Federal Government. Moreover, since, under the proposal, a grant may cover the entire cost of improvements (and initial cost of equipment in certain cases), a State may not have to contribute cash toward the initial cost of a project.

Another feature that would make grants more attractive to States is the inclusion in the basis of a grant of the initial cost of equipment necessary to operate the cemetery. Providing funds to acquire the equipment necessary to operate a cemetery will, we believe, be a critical financial incentive to encourage States to establish new cemeteries. Such equipment is as essential to the establishment of an operational cemetery as are the land and the improvements made on it. However, because our proposed amendment includes only the initial cost of equipment for the establishment of a cemetery, the State would retain the responsibility for long-term maintenance and operation of the cemetery, including costs associated with the acquisition of replacement equipment. Each Federal grant would assist in the establishment and activation of new veterans' cemeteries, or in the expansion or improvement of existing cemeteries, but the States would bear the costs of continuing operation and long-term maintenance.

Section 201(b) of the draft bill would authorize "no-year" appropriations for the State cemetery grants program. Under current 38 U.S.C. §2408(d), funds appropriated for State cemetery grants remain available only until the end of the second fiscal year following the fiscal year for which they are appropriated. However, in Public Law No. 104-204, 110 Stat. 2874 (1996), Congress appropriated funds for State cemetery grants, "to remain available until expended." Section 201(b) would amend section 2408(d) to reflect this no-year-funding policy.

The Office of Management and Budget advises that there is no objection to the submission of this draft bill to the Congress, and that its enactment would be in accord with the Administration's program.

Sincerely yours,

JESSE BROWN.

By Mr. SPECTER (by request):

S. 988. A bill to amend chapter 72 of title 38, United States Code, to reform the retirement provisions relating to the Court's judicial component, to provide for a staggered judicial retirement option to avoid the large case backlog increase that would arise in the event of simultaneous judicial vacancies, to rename the United States Court of Veterans Appeals as the United States Court of Appeals for Veterans Claims, and for other purposes; to the Committee on Veterans' Affairs.

THE COURT OF VETERANS APPEALS AMENDMENTS OF 1997

Mr. SPECTER. Mr. President, as chairman of the Committee on Veterans' Affairs, I have today introduced, at the request of the chief judge, U.S. Court of Veterans Appeals, S. 988, the proposed Court of Veterans Appeals Amendments of 1997. The chief judge submitted this proposed legislation to me, as chairman of the Committee on Veterans' Affairs, by letter dated June 16, 1997.

My introduction of this measure is in keeping with the policy which I have adopted of generally introducing—so that there will be specific bills to which my colleagues and others may direct their attention and comments—proposed draft legislation referred to the Committee on Veterans' Affairs by the chief judge, Court of Veterans Appeals. Thus, I reserve the right to support or oppose the provisions of, as well as any amendment to, this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD, together with the transmittal letter and the enclosed summary and explanation of the draft legislation which accompanied it.

There being no obligation, the material was ordered to be printed in the RECORD, as follows:

S. 988

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. SHORT TITLE.

This Act may be cited as the "Court of Veterans Appeals Amendments of 1997".

TITLE I—COMPARABILITY

SEC. 101. AUTHORITY TO PRESCRIBE RULES AND REGULATIONS.

Section 7254 of title 38, United States Code, in amended by adding at the end thereof the following new subsection:

"(f) The Court shall have the authority to prescribe rules and regulations that are necessary or appropriate to carry out the provisions of subchapters III and V of chapter 72 of this title and that are consistent with such chapter and any other applicable provision of law.".

SEC. 102. CALCULATION OF YEARS OF SERVICE AS A JUDGE.

Section 7296(b) of title 38, United States code, is amended by adding at the end thereof the following new paragraph:

"(4) For purposes of calculating the years of service of an individual under this subsection and subsection (c), only those years of service as a judge of the Court shall be credited, and that portion of the aggregate number of years of such service that is a fractional part of 1 year shall not be credited if it is less than 6 months, and shall be credited if it is 6 months or more.".

SEC. 103. LIMITATION ON COST-OF-LIVING ADJUSTMENT TO RETIRED PAY.

Section 7296 of title 38, United States Code, is amended by adding at the end thereof the following new subsection:

"(*l*) Notwithstanding any other provision of law, cost-of-living adjustments made or accruing to any retired pay that is paid under this section shall not result in such retired pay exceeding the rate of pay in effect under section 7253(e) of this title for a judge performing active service.".

SEC. 104. SURVIVOR ANNUITIES.

(a) ELECTION TO PARTICIPATE.—Section 7297(b) of title 38, United States Code, is amended in the first sentence by inserting before the period "or within 6 months after the date on which the judge marries if the judge has retired under section 7296 of this title".

(b) REDUCTION OF CONTRIBUTIONS OF ACTIVE JUDGES.—(1) Section 7297(c) of title 38, United States Code, is amended by striking out "3.5 percent of the judge's pay" and inserting in lieu thereof "2.2 percent of the judge's salary received under section 7253(e) of this title, 3.5 percent of the judge's retired pay received under section 7296 of this title when the judge is not serving in recall status under section 7257 of this title, and 2.2 percent of the judge's retired pay received under such section 7296 when the judge is serving in recall status under such section 7257".

(2) The amendment made by this subsection shall take effect on the first day of the first pay period beginning on or after January 1, 1995.

(c) INTEREST PAYMENTS.—Section 7297(d) of title 38, United States Code, is amended—

(1) by inserting "(1)" after "(d)"; and

(2) by adding at the end thereof the following new paragraph:

"(2) If a judge has previously performed a period of service as a judge, or has performed service as a judicial official as defined under section 376(a)(1) of title 28, a Member of Congress, or a congressional employee, the interest required under the first sentence of paragraph (1) shall not be required for any period—

"(A) during which a judge was separated from all such service; and

"(B) during which the judge was not receiving retired pay or a retirement annuity based on service as a judge or as a judicial official.".

(d) SERVICE ELIGIBILITY.—(1) Section 7297(f) of title 38, United States Code, is amended—

(A) in paragraph (1) in the matter preceding subparagraph (A)—

(i) by striking out "at least 5 years" and inserting in lieu thereof "at least 18 months"; and

(ii) by striking out "last 5 years" and inserting in lieu thereof "last 18 months"; and

(B) by adding at the end thereof the following new paragraph:

"(5) If a judge dies as a result of an assassination and leaves a survivor or survivors who are entitled to receive annuity benefits under this section, the matter in paragraph (1) preceding subparagraph (A) shall not apply.".

(2) Section 7297(a) of title 38, United States Code, is amended—

(A) by inserting "who is in active service or who has retired under section 7296 of this title" after "Court" in paragraph (2);

(B) by striking "(c)" in paragraph (3);

(C) by redesignating paragraphs (1) through (3) as paragraphs (2) through (4), respectively; and

(D) by inserting before paragraph (2) (as redesignated by clause (C) of this paragraph) the following new paragraph:

"(1) The term 'assassination' means the killing of a judge that is motivated by the performance by that judge of the judge's official duties.".

(3) AGE REQUIREMENT OF SURVIVING SPOUSE.—Section 7297(f)(1)(A) of title 38, United States Code, is further amended by striking out "or following the surviving spouse's attainment of the age of 50 years, whichever is later".

(f) COLA FOR SURVIVORS ANNUITIES.—Section 7297(o) of title 38, United States Code, is amended to read as follows:

"(o) Each survivor annuity payable from the retirement fund shall be increased at the same time as, and by the same percentage by which, annuities payable from the Judicial Survivors' Annuities Fund are increased pursuant to section 376(m) of title 28.".

SEC. 105. EXEMPTION OF RETIREMENT FUND FROM SEQUESTRATION ORDERS

Section 7298 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(g) For purpose of section 255(g)(1)(B) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. §905(g)(1)(B)), the retirement fund shall be treated in the same manner as the Court of Federal Claims Judges' Retirement Fund.".

SEC. 106. LIMITATION ON ACTIVITIES OF RETIRED JUDGES.

(a) IN GENERAL.—Chapter 72 of title 38, United States Code (as amended by this Act), is further amended by adding at the end thereof the following new section:

"§7299. Limitation on activities of retired judges

"Any judge of the Court of Appeals for Veterans Claims who retires from the Court under section 7296 of this title or under chapter 83 or 84 of title 5 and who thereafter in the practice of law represents (or supervises or directs the representation of) a client in making any civil claim relating to veterans' benefits against the United States or any agency thereof shall forfeit all rights to retired pay under such provisions for any period during which the judge engages in any such activity and for one year immediately following the cessation of such activity."

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 72 of title 38, United States Code, is amended by adding at the end thereof the following:

"7299. Limitation on activities of retired judges.".

TITLE II—STAGGERED RETIREMENT AND RECALL PROVISIONS

SEC. 201. STAGGERED RETIREMENT.

(A) ELIGIBILITY.—One individual each year shall be eligible to retire under this section starting in the year 1999 and ending in the year 2003. An individual is eligible to retire under this section, if the individual, at the time of retirement,

(1) is an associate judge of the United States Court of Appeals for Veterans Claims (as renamed by Title III of this Act) who has at least 10 years of service creditable under section 7296 of title 38, United States Code;

(2) has made an election to receive retired pay under section 7296 of such title;

(3) has at least 20 years of service allowable under section 7297(*l*) of such title;

(4) is at least fifty-five years of age;

(5) has years of age, years of service creditable under section 7296 of such title, and years of service allowable under section 7297(*l*) of such title not creditable under section 7296 of such title, that total at least 80; and

(6) has the greatest seniority as a judge of the United States Court of Appeals for Veterans Claims (as renamed by Title III of this Act) of the judges who provide notification in accordance with subsection (b).

(b) NOTIFICATION.—A judge who desires to retire under subsection (c) shall provide the President of the United States and the chief judge of the United States Court of Appeals for Veterans Claims (as renamed by Title III of this Act) with written notification to that effect not later than April 1 of any year specified in subsection (a). Such notification shall specify the retirement date in accordance with subsection (c). Notification provided under this subsection shall be irrevocable.

(c) RETIREMENT.—A judge who is eligible to retire under subsection (a) shall retire during the fiscal year in which notification is provided pursuant to subsection (b), but, in no event, earlier than 90 days after such notification is provided. Notwithstanding any other provision of law, such judge shall be deemed, for all purposes, to be retiring under section 7296(b)(1) of title 38, United States Code, except that, the rate of retired pay for a judge retiring under this section shall, on the date of such judge's separation from service, be equal to the rate described in section 7296(c)(1) of such title multiplied by the percentage represented by the fraction in which the numerator is the sum of the number represented by years of service as a judge of the United States Court of Appeals for Veterans Claims (as renamed by Title III of this Act) creditable under section 7296 of such title and the age of such judge, and the denominator is 80.

(d) DUTY OF ACTUARY.—Section 7298(e)(2) of title 38, United States Code, is amended—

(1) by redesignating subparagraph (C) as subparagraph (D); and

(2) by adding the following new subparagraph:

"(C) For purposes of subparagraph (B) of this paragraph, notwithstanding any other provision of law, 'present value' includes a value determined by an actuary with respect to a payment that may be made under subsection (b) from the retirement fund within the contemplation of law."

SEC. 202. RECALL OF RETIRED JUDGES.

(a) IN GENERAL.—Chapter 72 of title 38, United States Code (as amended by section 102 of this Act), is further amended by inserting after section 7256 the following new section:

"§7257. Recall of retired judges of the Court of Appeals for Veterans Claims

"(a) A judge of the United States Court of Appeals for Veterans Claims who has retired from the Court under the provisions of section 7296 of this title or the provisions of chapter 83 or 84 of title 5 shall be eligible for recall upon providing the chief judge of the Court of Appeals for Veterans Claims with written notification to that effect. In the event of a vacancy in the position of associate judge of the Court or otherwise as necessary to meet anticipated case workload, the chief judge may recall such a judge upon written certification by the chief judge that substantial service is expected to be performed by the eligible judge for such period as determined by the chief judge to be necessary to meet the needs of the Court, and to which certification the eligible judge agrees in writing.

"(b) A judge recalled under this section may exercise all of the powers and duties of the office of a judge in active service.

"(c) A judge recalled under this section shall be paid pay, during the period for which the judge serves in recall status, at the rate of pay in effect under section 7253(e) of this title for a judge performing active service, less the amount the judge is paid in retired pay under section 7296 of this title or an annuity under the applicable provisions in chapter 83 or 84 of title 5.

"(d) Except as provided in subsection (c), a judge recalled under this section who retired under the applicable provisions of title 5 shall be considered to be a reemployed annuitant under chapter 83 or chapter 84, as applicable, of title 5.

"(e) Nothing in this section shall affect the right of a judge who retired under the provisions of chapter 83 or 84 of title 5 to serve otherwise as a reemployed annuitant in accordance with the provisions of title 5."

(b) TECHNICAL AND CONFORMING AMENDMENTS.—The table of sections for chapter 72 of title 38, United States Code (as amended by section 106(b) of this Act), is further amended by inserting after the item relating to section 7256 the following:

"7257. Recall of retired judges of the Court of Veterans Appeals.".

TITLE III—RENAMING PROVISIONS

SEC. 300. REFERENCES TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in section 301 an amendment or repeal is expressed in terms of an amendment, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 301. RENAMING OF THE COURT OF VETERANS APPEALS.

(a) IN GENERAL.—(1) The United States Court of Veterans Appeals shall hereafter be known and designated as the United States Court of Appeals for Veterans Claims.

(2) Section 7251 is amended by striking out "United States Court of Veterans Appeals" and inserting in lieu thereof "United States Court of Appeals for Veterans Claims".

(b) CONFORMING AMENDMENTS.—

(1) The following sections are amended by striking out "Court of Veterans Appeals" each place it appears and inserting in lieu thereof "Court of Appeals for Veterans Claims": sections 5904, 7101(b), 7252(a), 7253, 7254, 7255, 7256, 7261, 7262, 7263, 7264, 7266(a)(1), 7267(a), 7268(a), 7269, 7281(a), 7282(a), 7283, 7284, 7285(a), 7286, 7291, 7292, 7296, 7297, and 7298.

(2)(A)(i) The heading of section 7286 is amended to read as follows:

"§7286. Judicial Conference of the Court of Appeals for Veterans Claims".

(ii) The item relating to section 7286 in the table of sections at the beginning of chapter 72 (as amended by sections 106(b) and 202(b) of this Act) is further amended to read as follows:

"7286. Judicial Conference of the Court of Appeals for Veterans Claims.".

(B)(i) The heading of section 7291 is amended to read as follows:

"§7291. Date when Court of Appeals for Veterans Claims decision becomes final".

(ii) The item relating to section 7291 in the table of sections at the beginning of chapter 72 (as amended by sections 106(b), 202(b), and subsection (b)(2)A)(ii) of this section) is further amended to read as follows:

"7291. Date when Court of Appeals for Veterans Claims decision becomes final.".

(C)(i) The heading of section 7298 is amended to read as follows:

"§ 7298. Court of Appeals for Veterans Claims Retirement Fund".

(ii) The item relating to section 7298 in the table of sections at the beginning of chapter 72 (as amended by sections 106(b), 202(b), and subsection (b)(2)(A)(ii) and (B)(ii) of this section) is further amended to read as follows:

"7298. Court of Appeals for Veterans Claims Retirement Fund.".

(3) The item relating to chapter 72 in the table of chapters at the beginning of title 38 and the item relating to such chapter in the table of chapters at the beginning of part V are amended to read as follows:

"72. United States Court of Appeals for Veterans Claims .... 7251."

(c) CONFORMING AMENDMENTS TO OTHER LAWS.—

(1) The following provisions of law are amended by striking out "Court of Veterans Appeals" each place it appears and inserting in lieu thereof "Court of Appeals for Veterans Claims":

(A) Section 8440d of title 5, United States Code.

(B) Section 2412 of title 28, United States Code.

(C) Section 906 of title 44, United States Code.

(D) Section 109 of the Ethics in Government Act of 1978 (5 U.S.C. App.).

(2)(A) The heading of section 8440d of title 5, United States Code, is amended to read as follows:

"§8440d. Judges of the United States Court of Appeals for Veterans Claims".

(B) The item relating to such section in the table of sections at the beginning of chapter 84 of such title is amended to read as follows:

"8440d. Judges of the United States Court of Appeals for Veterans Claims.".

(d) OTHER LEGAL REFERENCES.—Any reference in a law, regulation, document, paper, or other record of the United States to the United States Court of Veterans Appeals shall be deemed to be a reference to the United States Court of Appeals for Veterans Claims.

SUMMARY AND EXPLANATION OF COURT OF VETERANS APPEALS AMENDMENTS OF 1997

Section 1: Short title

Summary: Section 1 would provide that the short title of the proposed legislation [hereinafter 'the Proposal''] is the "Court of Veterans Appeals Amendments of 1997".

Explanation: Self-explanatory.

TITLE I—COMPARABILITY

Title I contains provisions designed to provide comparability in a number of respects between the retirement/survivor program applicable to judges of the U.S. Court of Veterans Appeals (to be renamed by section 301 of the Proposal as the U.S. Court of Appeals for Veterans Claims) [hereinafter "this Court" or "the Court"] and the program applicable to judges of other Article I courts. The explanation that follows each section in this title sets forth the comparable provisions that form the basis for the provision in the Proposal. Full comparability is not being proposed with other federal courts because the Court is not requesting elimination of the judge's contribution for participation in the Court retirement program.

Section-by-Section Analysis

Section 101: Authority to prescribe rules and regulations

Summary: Section 101 would provide to the Court the express authority to prescribe rules and regulations necessary or appropriate to carry out the provisions of subchapters III and V of chapter 72 of title 38, pertaining to the Court's administration and retirement/survivor system. Any rules and regulations prescribed would be required to be consistent with chapter 72 and all other applicable provisions of law.

Explanation: The Director of the Administrative Office of the United States Courts (Director) has express authority, subject to the supervision of the Judicial Conference of the United States, to regulate a wide range of activities that pertain to Article III, U.S. Court of Federal Claims (Claims), and U.S. Bankruptcy and Magistrate (B&M) Judges.[1] The Judicial Conference of the United States also has express authority to promulgate rules and regulations.[2] The U.S. Court of Appeals for the Armed Forces, formerly the U.S. Court of Military Appeals (COMA) [hereinafter so referenced to coordinate with references to "COMA" in Dennis W. Snook & Jennifer A. Neisner, Congressional Research Service Report for Congress, Income Protection for Judges of Selected Federal Courts, dated December 29, 1993, (CRS Report)] is located for administrative purposes in the Department of Defense.[3] Unlike these courts, this Court is a freestanding court in the judicial branch that is independently responsible for its own administration but that presently has no express statutory authority to prescribe rules and regulations.

Section 102: Calculation of years of service as a judge

Summry: Section 102 would provide that a fractional year of judicial service of less than 6 months would not be credited toward judicial service and that a fractional year of 6 months or more of judicial service would be calculated as a full year of service.

Explanation: This proposal would bring this Court's Judges in lien with Claims and U.S. Tax Court (Tax) Judges and is similar to how fractional years are credited for COMA Judges.[4]

Section 103: Limitation on cost-of-living adjustment to retired pay

Summary: Section 103 would provide for a cap on a cost-of-living adjustment (COLA) to this Court's judicial retired pay so that it may not exceed active pay.

Explanation: Article III and Article I Judges who have retired, as well as other federal retirees, have provisions for post-retirement increases in their annuities.[5] The B & M provision is the only existing provision that specifically prohibits an adjusted annuity from exceeding active pay. Section 103 adopts this restriction.[6] Although section 103 would permit COLA to accrue, the accrued COLA could not be paid unless the level of active pay permitted it.[7]

Section 104: Survivor annuities

Summary: Section 104 would revise this Court's survivor annuity system to incorporate certain provisions applicable under the Joint Survivors' Annuity System (JSAS), the system applicable to Article III, Claims, and B & M Judges, as follows:

a. Expand the period to elect participation while in office (38 U.S.C. §7297(b)) to permit a retired judge who marries to elect participation within 6 months after marriage, as provided for by JSAS.[8]

b. Reduce, effective the first day of the first pay period beginning on or after January 1, 1995, the contributions of judges in active service and on recall from 3.5 percent (38 U.S.C. §7297(c)) to 2.2 percent of salary and retired pay, respectively, the JSAS levels.[9]

c. Exclude from the 3-percent per annum interest payment requirement (38 U.S.C. §7297(d)) any period during which a judge was separated from certain previous service (as a judge, a judicial official under section 376(a)(1) of title 28, a Member of Congress, or a congressional employee) and was not receiving a retirement annuity based on service as a judge or judicial official, since such interest payment is not required by JSAS.[10]

d. Reduce the minimum period of civilian service needed for purposes of eligibility for a survivor annuity from 5 years (38 U.S.C. §7297(f)(1), (h)(1)) to 18 months,[11] and provide for an exemption from the 18-month requirement where the judge has been assassinated,[12] both as provided for in JSAS.

e. Eliminate the requirement that the surviving spouse be at least 50 years of age in order to receive a survivor annuity (38 U.S.C. §7297(f)(1)A)) since no minimum age is provided for in JSAS.[13]

f. Substitute the same COLA as provided under JSAS for the COLA presently in place (38 U.S.C. §7297(o) provides for a fractional COLA only when the cost of living rises by 5 percent or more in any 1 year).[14]

Explanation: These changes would bring the supervisors' annuity program for this Court into line with that for Article III, Claims, and B&M Judges, all of whom are covered by JSAS.

Section 105: Gramm-Rudman exemption

Summary: Section 105 would exempt this Court's Retirement Fund from possible Gramm-Rudman sequestration.

Explanation: This proposal would bring this Court's judicial retirement program into line with the retirement programs for Article III, Claims, Tax, COMA, and B&M Judges.[15]

Seciton 106: Limitation on activities or retired judges

Summary: Section 106 would provide that a Judge retired from this Court would forfeit that judge's retirement annuity, upon practicing law involving representation of any client in a federal claim for veterans' benefits, during the period in which the judge engages in the proscribed activity and for one year immediately following the cessation of such activity.

Explanation: Claims, Tax, and B&M Judges who have retired from active service are subject to statutory provisions that significantly restrict such judges from the practice of law in the representation of clients in the subject areas that came before their respective courts.[16] In addition to the proposed section 106, this Court's judges in active service are presently subject to the Code of Conduct for United States Judges[17] and, upon enactment of section 202, also will be subject to that Code under certain circumstances during retirement, including when in recall status. The Code of Conduct imposes prohibitions and restrictions on the activities of judges subject to that Code beyond those imposed by statute.

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[1] Footnotes at end of article.

TITLE II—STAGGERED RETIREMENT AND RECALL

Title II contains a provision to address the looming problem of having as many as four simultaneous associate judgeship vacancies on the Court in 2005 by creating a staggered retirement option designed to encourage the sequencing of associate judge retirements starting in 1999. It also contains a provision to provide for recall of retired judges in the event of judicial vacancies or increased workload.

Section 201: Staggered retirement

Summary: Section 201 would provide a mechanism, in a transitional provision, to permit the early retirement of one associate judge per year starting in the year 1999 and ending in the year 2003. In order to be eligible, each retiring judge would need at least ten years of service on this Court; be a participant in this Court's retirement system; have at least 20 years of federal service allowable under 38 U.S.C. §7297(*l*); be at least 55 years of age; have years of age, years of service creditable under 38 U.S.C. §7296, and years of service allowable under 38 U.S.C. §7297(*l*) not creditable under section 7296, that total at least 80; and have the greatest seniority as a judge of this Court among this Court's judges who provide notification of intent to seek early retirement in the fiscal year in question. (The combination of 10 years of service on this Court and the ending year of 2003 would restrict this provision's availability to the Court's original associate judges.) Written notification will be provided to the President and Chief Judge not later than April 1 of years 1999 through 2003, specifying a retirement date not earlier than 90 days thereafter nor later than the end (September 30) of the fiscal year in which notification is provided. Notification shall be irrevocable once provided. Retired pay of an early retiring judge will be based upon a modified rule of 80 in which the rate described in 38 U.S.C. §7296(c)(1) is reduced proportionally in accordance with the extent to which the retiring judge's combined years of service as a CVA judge and age do not reach 80.

Section 201 would further provide that 38 U.S.C. §7298(e)(2), which can presently be used with respect to funding actuarily determined present value of all benefits payable from the Court's Retirement Fund, be amended to permit the Court to use that provision also with respect to benefits that may be paid from the Retirement Fund within the contemplation of existing law.

Explanation: Section 201 would provide a mechanism to deal with a serious problem of judge turnover, the magnitude of which the Court has not previously appreciated. The Court was created in 1988 without any antecedent structure and with no judges in place (Veterans' Judicial Review Act, Pub. L. 100–687, Div. A., 102 Stat. 4105 (Nov. 18, 1988)). All 6 of the Court's original associate judges assumed office within a period of approximately 1 year of each other. The 15-year terms of the court's remaining 5 original associate judges will expire within a period of approximately 1 year of each other. Even assuming the application of the Rule of 80 under 38 U.S.C. §7296(b)(1) (and assuming no reappointments under 38 U.S.C. §7296(2)), 4 of 5 of the court's original associate judges will retire within 11 months of each other, beginning in September 2004 (two in September 2004, one in January 2005, and one in August 2005; the fifth associate judge would be eligible for retirement under the Rule of 80 in November 2002).

Given the length of time likely to be involved in the nomination and confirmation process, especially considering the election of a President in November 2004, 3 of the Court's judgeships are very likely to be simultaneously vacant during a substantial part of 2005, and it is quite possible that a majority of the judgeships could be simultaneously vacant during part of that year and possibly thereafter. Then, even after the judgeships are filled, there could well be considerable lack of experience among the majority of the Court's judges. This situation would almost certainly dramatically increase the Court's backlog—initially during the vacancies and continuing during the startup period for the replacement judges. As well, during the vacancy period the Court could be in a situation where two or three judges might be able to overrule prior Court precedent.

In order to preclude such problems, section 201 creates a staggered-retirement option designed to encourage the sequencing of associate judge retirements starting in 1999. It is important to bear in mind when considering the staggered-retirement provision that the formula for an early-retirement annuity must provide sufficient financial incentive for an associate judge to elect to forego the full retirement benefit that would be available upon completion of the 15-year term or satisfaction of the Rule of 80. There is no sense whatsoever in legislating a formula that will not produce the early retirements that are essential to avoid the serious adverse consequences that would result for the Court from having 3-4 simultaneous judicial vacancies in 2005 and possibly beyond.

Implementation of section 201 may be achievable without seeking additional appropriations for this purpose. In this regard, subsection (d)(2) of the proposed section 201 would add a subparagraph (C) to permit the Court to utilize 38 U.S.C. §7298(2)(A) in anticipation of a payment that may have to be made from the Court's Retirement Fund. It should be noted that, even absent staggered retirement, the proposed subparagraph (C) would allow the Court to provide for much better management of a judge's anticipated entry, under 38 U.S.C. §7296(d)(1)(A), into the Court's retirement system.

Precedent exists in 3 other Article I courts for fractional retirement based on completion of less than a full statutory term of service. In 2 of these 3 courts, as described below, the fractional retirement annuity may be enhanced by either a CSRS/Federal Employees Retirement System (FERS) annuity or by an additional component of court retirement calculated under CSRS, respectively.

When COMA was enlarged in 1989 from 3 to 5 active judges, one of the new judgeships was for a term of 13 years and the other for a term of 7 years.[18] The COMA Judges appointed to 7- and 13-year terms are eligible, upon completion of those terms, for immediate special annuities calculated by multiplying the last salary prior to retirement by a fraction based on a numerator of years of service and a denominator of 15.[19]

B & M Judges who have served at least 8 years are each entitled to a Judicial Retirement System (JRS) annuity, upon reaching age 65, calculated by multiplying the last salary prior to retirement by a fraction based on a numerator of years of service and a denominator of 14 (the number of years of a full term). This annuity is reduced by 2 percent for each year the annuitant was under age 65 at the time the annuitant left office not to exceed a 20-percent reduction.[20] The reduction is not applicable if a B & M Judge fails to be reappointed after serving a full term.[21] An alternative hybrid JRS annuity is available, in a transitional provision, to each full-time B & M Judge who was in office on November 15, 1988, regardless of the number of years of judicial service, calculated in the same manner as a regular IRS annuity for those years of judicial service designated by such judge for the period on or after October 1, 1979, plus a CSRS or FERS annuity for federal service prior to the designation.[22]

District of Columbia courts (D.C.) Judges are eligible for retirement upon completion of 10 years of judicial service, with retirement salary beginning at age 50, if they have 20 or more years of judicial service, or at age 60 if they have less than 20 years of such service, or at a reduced salary if they are between ages 55 and 60.[23] The retirement salary is the amount determined by multiplying the last judicial salary by that fraction where the numerator is total years of judicial service and the denominator is 30.[24] Provision is also made for an add-on to retirement salary, based on qualifying federal civilian and military service, generally computed on the basis of CSRS law. Two unique features of the add-on are that the deposit by the retiring judge in the D.C. Judges' Retirement Fund[25] is 3.5 percent of the salary earned for civilian service plus interest and that average pay for purposes of CSRS service is the last pre-retirement salary of the judge.[26] The total retirement salary, upon retirement, may not exceed 80 percent of the last judicial salary.[27] A judge who retires between ages 55 and 60 who has less than 20 years of judicial service and elects a reduced retirement salary shall have that salary reduced by 1/12th of 1 percent for each month the judge is under the age of 60 at the time of retirement.[28] In the case of a judge described in the preceding sentence whose calculation of retirement salary benefits, based on both fractional judicial service and CSRS law, results in an amount exceeding the 80% cap, the reduction based on age will be made to such calculation to the extent of the difference between such calculation and such cap.

In addition to the fractional retirement provisions noted above with respect to COMA, B & M, and D.C. Judges, there are a number of other provisions that permit full retirement where less than a full judicial term has been completed. A disabled Article III Judge, Claims Judge, or Tax Judge, with 10 years of judicial service on such judge's court, is entitled to the salary of an active judge.[29] A disabled Judge on this Court with 10 years of judicial service is entitled to the retired pay that he or she would have received had he or she completed his or her term.[30] In certain cases involving misconduct or disability, length-of-service requirements can be waived for Article III, Claims, and this Court's Judges.[31]

Finally, three other provisions should be noted. Claims and B & M Judges may retire under CSRS at age 60 with 10 years of judicial service. COMA Judges may retire under CSRS at any time without regard to age-and-service requirements, with a reduction in the annuity of a judge retiring under age 60. Retired Article III Judges are permitted separate annuities, without offset, one for judicial service, and one for nonjudicial service that qualifies for a CSRS/FERS annuity.[32]

Section 202: Recall of retired judges

Summary: Section 202 would provide that a retired judge of the Court would be eligible for recall, by providing the chief judge with written notification to that effect. Recall of such a judge, in the event of judicial vacancy or otherwise to meet case workload, would occur when the chief judge certifies that substantial service is expected to be performed by such retired judge, for such period as the chief judge determines to be necessary, and such retired judge agrees to such certification. During the period of recall service, the retired judge would receive, in addition to the judge's retired pay, the difference between that pay and pay of an active judge of the Court.

Explanation: All Article III and Article I Judges, except B & M and this Court's Judges, have specific provision for both senior status and post retirement judicial service.[33] B & M Judges have specific provision for postretirement judicial service.[34] Only this Court's Judges have no specific provision for either.

Article III, Claims, Tax, and COMA Judges automatically receive senior status upon retirement, and D.C. Judges may be appointed to such status subsequent to retirement and upon favorable recommendation of the District of Columbia Commission on Judicial Disabilities and Tenure.[35] Retired Article III Judges who perform the equivalent of the average 2-month workload of an active judge, and retired Claims and Tax Judges who make themselves available for work not to exceed 90 days per year receive pay of the office.[36] Those retired Article III Judges who perform service only upon their consent, and all retired COMA and B & M Judges, who may be recalled only upon their consent, receive their respective retirement annuities plus a cost-of-living adjustment (COLA).[37]

Retired senior D.C. Judges may be recalled only upon their consent.[38] Both retired senior and nonsenior D.C. Judges receive their annuities plus COLA.[39] Recalled COMA Judges receive pay of the office in lieu of retirement annuities.[40] Recalled B & M Judges and D.C. Judges receive, in addition to retirement annuities, an amount equal to the difference between annuity and pay of the office.[41]

As is the case with B & M Judges, section 202 would provide only for recall service, but would not provide for senior status. The latter generally involves substantially higher costs for judicial pay, space for chambers, and support staff.

TITLE III—RENAMING PROVISION

Section 301: Renaming of the Court of Veterans Appeals

Summary: Section 301 renames the United States Court of Veterans Appeals as the United States Court of Appeals for Veterans Claims.

Explanation: Section 301 is virtually identical to section 201 of H.R. 1092, 105th Cong., 1st Sess., which was passed by the House on April 16, 1997, and provides for the renaming of the Court. House Report No. 105–97, which accompanied the House-passed bill, states on page 3:

> The bill would amend section 7251 of title 38, United States Code, to rename the United States Court of Veterans Appeals ("the Court") as the United States Court of Appeals for Veterans Claims. According to Chief Judge Frank Q. Nebeker, many veterans and attorneys believe that the Court is an administrative tribunal of the Department of Veterans Affairs rather than an independent judicial entity.

Moreover, the Court's common acronym "CVA" is not readily distinguishable from "BVA", and acronym for the Board of Veterans' Appeals which is an administrative tribunal of the Department of Veterans Affairs. Adoption of the name "United States Court of Appeals for Veterans Claims" would also be consistent with recent name changes in other courts established by Congress under Article I of the United States Constitution. In 1994, the United States Court of Military Appeals was renamed the United States Court of Appeals for the Armed Forces. In 1992, the United States Court of Claims was renamed the United States Court of Federal Claims.

FOOTNOTES

[1] *See* 28 U.S.C. §604.

[2] *See, e.g., infra* note 41.

[3] *See* 10 U.S.C. §941.

[4] For Claims Judges, *see* 28 U.S.C. §178(g); *see also* *Pub. L. No. 101-650, §306(a)(1), 104 Stat. 5107; for Tax Judges, *see* 26 U.S.C. §7447(d)(2)(B); for COMA Judges, *see* 10 U.S.C. §942(b)(2); *see also* National Defense Authorization Act for Fiscal Years 1990 and 1991, *Pub. L. 101-189, §1301 (c), (g), 103 Stat. 1352, 1570, 1575-76 (Nov. 29, 1989). [Note: Starred references (*) were enacted in the same year as, or subsequent to, enactment of the Veterans' Judicial Review Act, Pub. L. No. 100-687, Div. A., 102 Stat. 4105 (1988).].

[5] For CSRS/FERS retirees, *see* 5 U.S.C. §§8340, 8462; for Article III Judges, *see* CRS Report at 17; 28 U.S.C. §371(b); for Claims Judges, *see* CRS Report at 17; 28 U.S.C. §178(a), (b); *see also* *Pub. L. 101-650, §306, 104 Stat. at 5105-12; for Tax Judges, *see* CRS Report at 17; 26 U.S.C. §7447(d)(1); for COMA Judges, *see* CRS Report at 17; 10 U.S.C. §945(e); *see also* *Pub. L. No. 101-189, §1301(c), 103 Stat. at 1577; for B & M Judges, *see* CRS Report at 8, 17; Memorandum, CVA Committee on Legislative Matters, Nov. 14, 1994, item 6; 28 U.S.C. §377(e); *see also* Retirement and Survivors' Annuities for Bankruptcy Judges and Magistrates Act of 1988, *Pub. L. No. 100-659, §2(a), 102 Stat. 3910, 3911 (Nov. 15, 1988); for D.C. Judges, *see* 11 D.C. Code Ann. §1571(a)(1981).

[6] *Ibid.*

[7] *Ibid.*

[8] For JSAS, *see* CRS Report at 22; 28 U.S.C. §376(a)(1)(ii); for Claims Judges, *see also* *Pub. L. No. 101-650, §306(b), 104 Stat. at 5109-10; for B & M Judges, *see also* *Pub. L. No. 100-659, §3(a), 102 Stat. at 3917-18.

[9] For JSAS, *see* 28 U.S.C. §376(b)(1); *see also* *Pub. L. No. 102-572, §201(b), 106 Stat. at 4508-09.

[10] For JSAS, *see* 28 U.S.C. §376(d); for Claims Judges, *see also* *Pub. L. No. 101-650, §306(b), 104 Stat. at 5109-10; for B & M Judges, *see also* *Pub. L. No. 100-659, §3(a), 102 Stat. at 3917-3918.

[11] For JSAS, *see* CRS Report at 12; 28 U.S.C. §376(o)(1)(A), (B); for Claims Judges, *see also* *Pub. L. No. 101-650, §306(b), 104 Stat. at 5109-10; for B & M Judges, *see also* *Pub. L. No. 100-659, §3(a), 102 Stat. at 3917-18.

[12] For JSAS, *see* 28 U.S.C. §376(o)(2); *see also* *Pub. L. No. 101-650, §322(e)(4), 104 Stat. 5119.

[13] For JSAS, *see* CRS Report at 12; 28 U.S.C. §376(h)(1)(i); for Claims Judges, *see also* *Pub. L. No. 101-650, §306(b), 104 Stat. at 5109-10; for B & M Judges, *see also* *Pub. L. No. 100-659, §3(a), 102 Stat. at 3917-18.

[14] For JSAS, *see* CRS Report at 12, 26; 28 U.S.C. §376(m); *see also* Judicial Improvements and Access to Justice Act, *Pub. L. No. 100-702, §1017(a), 102 Stat. 4642, 4670 (Nov. 19, 1988).

[15] For Article III, Claims, Tax, COMA, and B & M Judges, *see* 2 U.S.C. §905(g)(1)(B); for Claims and B & M Judges, *see also* Federal Courts Administration Act of 1992, *Pub. L. No. 102-572, §601(a), 106 Stat. 4506, 4514 (Oct. 29, 1992).

[16] For Claims Judges, *see* CRS Report at 20; 28 U.S.C. §178(j)(1), (4)); *see also* *Pub. L. No. 101-650, §306(a), 104 Stat. at 5107; for Tax Judges, *see* CRS Report at 20; 26 U.S.C. §7447(f)(2), (4); for B & M Judges, *see* CRS Report at 20; 28 U.S.C. §377(m)(1)); *see also* *Pub. L. No. 100-659, §2, 102 Stat. at 3913.

[17] *See* Guide to Judiciary Policies and Procedures, vol. 2, ch. 1, I-46, §C (1994).

[18] *See* *Pub. L. No. 101-189, §1301(d), 103 Stat. at 1574 (found at 10 U.S.C. §942 note).

[19] *See* *Pub. L. No. 101-189, §1301(e)(3), 103 Stat. at 1575 (found at 10 U.S.C. §942 note).

[20] *See* CRS Report at 16; 28 U.S.C. §377(c); *see also* *Pub. L. No. 100-659, §2(a), 102 Stat. at 3910-11.

[21] *See* CRS Report at 16; 28 U.S.C. §377(b); *see also* *Pub. L. No. 100-659, §2(a), 102 Stat. at 3910.

[22] *See* CRS Report at 7, *Eligibility and Choices; see also* *Pub. L. No. 100-59, §2(c)(1), 102 Stat. at 3916-17.

[23] *See* 11 D.C. Code Ann. §1562 (1981). D.C. Judges have a term of 15 years. *See* 11 D.C. Code Ann. §1502 (1981).

[24] *See* 11 D.C. Code Ann. §1564(a) (1981).

[25] *See* 11 D.C. Code Ann. §1564(c), (d)(1) (1981).

[26] *See* 11 D.C. Code Ann. §1564(c) (1981).

[27] *See* 11 D.C. Code Ann. §1564(a) (1981).

[28] *Ibid.*

[29] For disabled Article III, Claims, and Tax Judges, *see* CRS Report at 20; 28 U.S.C. §178(c)(2) (Article III); 28 U.S.C. §372(a) (Claims); 26 U.S.C. §7447(d)(2)(A) (Tax); for Claims Judges, *see also* *Pub. L. No. 101-650, §306(a)(1), 104 Stat. at 5105-09.

[30] *See* CRS Report at 11. 38 U.S.C. §7296(b)(3), (c)(2).

[31] For Article III Judges, *see* 28 U.S.C. §372(c)(6)(B)(iii); for Claims Judges, *see* 28 U.S.C. §372(c)(18); for CVA Judges, *see* 38 U.S.C. §7253(g)(1).

[32] For Claims and B&M Judges, *see* CRS Report at 9, *Special Early Retirement;* 5 U.S.C. §8336(k); *see also* *Pub. L. 101-650, §306(c)(3), 104 Stat. at 5110; for COMA Judges, *see* CRS Report at 11, *Special Early Retirement;* 5 U.S.C. §8336(b); for Article III Judges, *see* CRS Report at 6, *Contributions;* 28 U.S.C. §371.

[33] For Article III and Article I Judges, *see* CRS Report at 16-17, 19; 11 D.C. Code Ann. §1504(a), (b); for Claims Judges, *see also* *Pub. L. No. 101-650, §306(a), 104 Stat. at 5106.

[34] *See* CRS Report at 19; 28 U.S.C. §155(b), 375(b), 636(h); *see also* *Pub. L. No. 100-659, §4, 102 Stat. at 3918.

[35] For Article III, Claims, Tax, and COMA Judges, *see* CRS Report at 16, 17, 19; for Claims Judges, *see also* *Pub. L. No. 100-659, §4, 102 Stat. at 3918; for D.C. Judges, *see* 11 D.C. Code Ann. §1504 (1981).

[36] For Article III, Claims, and Tax Judges, *see* CRS Report at 17, 19; for Claims Judges, *see also* *Pub. L. No. 101-650, §306(a), 104 Stat. at 5106.

[37] *See infra* note 41.

[38] *See* 11 D.C. Code Ann. §1504(a)(1) (1981).

[39] *See* 11 D.C. Code §1571.

[40] *See* CRS Report at 19; 10 U.S.C. §942(e)(1), (2).

[41] For B & M Judges, *see* CRS Report at 19; 28 U.S.C. §155(b) (generic recall for Bankruptcy Judges); Regulations of the Judicial Conference of the United States Governing the Recall of Retired Bankruptcy Judges, sec. 5, Period of Service (1987) (appearing in Administrative Office of the U.S. Courts, Retirement Benefits for Bankruptcy Judges and Magistrate Judges (1995) [hereinafter B & M Retirement Benefits], App. E) (providing for 1-year renewable recall terms); *Regulations of the Judicial Conference of the United States Governing the Extended Recall Service of Retired Bankruptcy Judges, sec. 7, Period of Service (1987) (appearing in B & M Retirement Benefits, App. F) (providing for 3-year renewable recall terms); 28 U.S.C. §636(h) (generic recall for Magistrate Judges); Regulations of the Judicial Conference of the United States Establishing Standards and Procedures for the Recall of United States Magistrate Judges, sec. 5, Period of Service (1987) (appearing in B & M Retirement Benefits App. D) (providing for 1-year renewable recall terms); *see* CRS Report at 19; 28 U.S.C. §375(a)(1) (providing for 5-year renewable recall terms for B & M Judges); not implemented by regulation (B & M Retirement Benefits, sec. 8.a.); for D.C. Judges, *see* 11 D.C. Code Ann. §1565 (1981); for B & M Judges, *see* also *Pub. L. No. 101-659, §4, 102 Stat. at 3918.

U.S. COURT OF VETERANS APPEALS,
Washington, DC, June 16, 1997.

Hon. ARLEN SPECTER,
Chairman, Committee on Veterans' Affairs, 412 Senate Russell Office Building, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to submit to you a legislative proposal that replaces the one I sent you in June 1996. As I indicated in my letter of February 4, 1997, the Court had experienced a substantial change in case filings for the prior 10 months. With a monthly average of new case filings of over 160 during the past year, I am convinced that the downsizing proposal transmitted last June is no longer advisable.

For the reasons stated in my February 4, 1997, letter, and as set forth in my budget testimony in the last several months, the Court now anticipates that case filings in fiscal year 1997 will be over 1900—a figure that could increase further if the Board of Veterans' Appeals continues to increase its output of final, appealable decisions. Moreover, the workload in each of the judge's chambers will increase if the long delays in case processing, due to numerous filing extensions granted to the Secretary, occasioned by the staffing difficulties in Group VII of the Department's General Counsel's office, are reduced; this matter has recently received considerable attention by the Court and the General Counsel herself. In that regard, I am enclosing an April 8, 1997, letter (with attachment) to me from the General Counsel that addresses this problem.

Against this background of a substantial caseload increase, I am submitting a new, single legislative proposal that incorporates as Title I the provisions of Title II from last year's proposal. These provisions are designed to provide comparability in a number of respects between the retirement/survivor annuity programs available for this Court's judges and those applicable to judges of other Article I Courts. Enactment of section 104 will be of particular benefit to the widow of Judge Hart Mankin, who died last year, because section 104 would rectify the disparity between her survivor annuity and the annuities of survivors of deceased Article I Judges under the Joint Survivors' Annuity System.

The Court's new legislative proposal adds a new Title II to deal with a serious problem of judge turnover, the magnitude of which the Court had not previously appreciated. As I indicated in my February 4, 1997, letter, the Court was created in 1988 without any antecedent structure and with no judges in place (Veterans' Judicial Review Act, Pub. L. No. 100–687, Div. A., 102 Stat. 4105 (Nov. 18, 1988)). All 6 of the Court's original associate judges assumed office within a period of approximately 1 year of each other. The 15-year terms of the Court's remaining 5 original associate judges will expire within a period of approximately 1 year of each. Even assuming the application of the Rule of 80 under 38 U.S.C. §7296(b)(1) (and assuming no reappointments under 38 U.S.C. §7296(2)), 4 of 5 of the court's original associate judges will retire within 11 months of each other, beginning in September 2004.

Given the length of time likely to be involved in the nomination and confirmation process, especially considering the election of a President in November 2004, 3 of the Court's judgeships are very likely to be simultaneously vacant during a substantial part of 2005, and it is quite possible that a majority of the judgeships could be simultaneously vacant during part of that year and possibly thereafter. Then, even after the judgeships are filled, there could well be considerable lack of experience among the majority of the Court's judges. This situation would almost certainly dramatically increase the Court's backlog—initially during the vacancies and continuing during the startup period for the replacement judges. As well, during the vacancy period the Court could be in a situation where two or three judges might be able to overrule prior Court precedent. In order to preclude such problems, the enclosed legislative proposal includes, as section 201, a provision to create a staggered-retirement option designed to encourage the sequencing of associate judge retirements starting in 1999. It is important to bear in mind, when considering the staggered-retirement provision, that the formula for an early retirement annuity must provide sufficient financial incentive for an associate judge to elect to forego the full retirement benefit that would be available upon completion of the 15-year term or satisfaction of the Rule of 80. There is no sense whatsoever in legislating a formula that will not produce the early retirements that are essential to avoid the serious adverse consequences that would result for the Court from having 3–4 simultaneous judicial vacancies for an extended period of time.

Moreover, as I also indicated in my February 4, 1997, letter, implementation of this proposed Title II may be achievable without seeking additional appropriations for this purpose. In this regard, subsection (d) of the proposed section 201 would permit the Court to utilize 38 U.S.C. §7298(e)(2)(A) in anticipation of a payment that may have to be made from the Court's retirement fund. It should be noted that, even absent staggered retirement, the proposed subsection (d) would allow the Court to provide for much better management of a judge's anticipated entry, under 38 U.S.C. §7296(d)(1)(A), into the Court's retirement system.

In addition, in order to provide for recall of retired judges in the event of judicial vacancies or increased workload, included in the legislative proposal as section 202 is the same basic provision that was included in last year's proposal as section 102. In order to help with the simultaneous vacancy problem described above, the provision has been revised to make specific reference to a voluntary recall in the event of a vacancy in an associate judge position. However, this recall provision could not itself prevent the simultaneous vacancies that section 201 is designed to forestall.

Finally, for completeness sake, the proposal includes, as Title III, a provision to change the Court's name to the United States Court of Appeals for Veterans Claims, which I proposed in my February 4, 1997, letter and which passed the House on April 16, 1997, in section 201 of H.R. 1092. Title III differs from section 201 only so as to accommodate the former to the style of the rest of the proposal.

Enclosed, for your information, is an overview, a cost estimate, a draft bill, and a detailed section-by-section summary and explanation.

Thank you for your assistance. I urge that you and the Committee give favorable consideration to the enclosed legislative proposal to reform the Court's judicial retirement provisions and provide for a staggered-retirement option designed to avoid the impact of simultaneous judicial vacancies. I am sending the same letter and enclosures to Chairman Stump, and Ranking Minority Members Rockefeller and Evans.

Sincerely,

FRANK Q. NEBEKER,
Chief Judge.

By Mr. DORGAN (for himself and Mrs. FEINSTEIN):

S. 989. A bill entitled the "Safer Schools Act of 1997"; to the Committee on Labor and Human Resources.

THE SAFER SCHOOLS ACT OF 1997

Mr. DORGAN. Mr. President, I am going to introduce a piece of legislation today that I will describe briefly.

In the Senate a couple of years ago, I authored, with Senator FEINSTEIN from California, and several others, a piece of legislation that says we ought to have zero tolerance in this country for guns in schools, zero tolerance for guns in schools. We said in the legislation that school districts in this country should have in place a policy that says if a student is caught bringing a gun to school, the student will be expelled for a year. Mr. President, over 6,000 students have now suffered expulsion as a result of bringing weapons to school.

Weapons in school are serious. You cannot learn unless a school is a safe place for learning. Yet, even today we see the news stories. On February 17, this year, a 16-year-old Miami Edison Senior High School student shot a 9th grade girl at school. In Memphis, TN, on March 28, this year, a 16-year-old student was shot on the campus of Chicksaw Junior High by a 15-year-old student. On February 11, two students were shot and wounded in Bronx high schools. On March 29, Detroit, MI, a 16-year-old student was shot seven times while standing in the back hallways of a high school. On February 18 this year, a 13-year-old middle school student was charged with attempting to murder his teacher.

I was at a school not too many blocks from this building a couple of years ago. You go through metal detectors; there are security guards seated at the front of the school. The school is a lock-down school. When the students get in, they lock the door. You have to go through metal detectors to get in. About a month after I was there, a student bumped another one at the water fountain and the other student pulled a gun and shot him four times. That is a school within blocks of this U.S. Capitol building.

We passed a piece of legislation that says there shall be zero tolerance for guns in schools, and students bringing guns to school shall be expelled from school for a year. That has worked in the sense that it has taken those who brought guns to school out of school to make sure other students are safe. But something has happened in the meantime. After we passed that legislation and it became law, a court in New York issued a ruling that was about as goofy a court ruling as any I have ever heard. In New York, in a school, a young boy came in one day wearing a leather jacket and went through the front door of the school and began walking down a hallway. The security guard noticed a bulge under the leather jacket near the waistline, so he apprehended the student and reached under this jacket and took from the student a loaded pistol—a loaded pistol was in the possession of this 16-year-old boy walking down the hallway. The 16-year-old boy was obviously taken from school that day and put in a disciplinary proceeding and expelled, and a number of things happened. The boy appealed it, and a court in New York decided that the evidence of a gun on a 16-year-old boy in school had to be discarded because the security guard did not have probable cause to search the student in the hallway of the school.

Now, when I saw the decision by the New York court, it occurred to me to be so nonsensical as to require nothing from any of us. Then I decided that if we do nothing, it means that somehow someone believes that court was thinking straight. Well, it was not, and I introduced in the last session, and will reintroduce today on behalf of myself and Senator FEINSTEIN, a piece of legislation that makes it clear that evidence of a gun seized in school cannot be dismissed as evidence. Evidence of a gun can be used in a school disciplinary proceeding.

There is no right to carry a gun in school. If that 16-year-old boy had gone to National Airport to try to board a plane, they would have forced him to go through a metal detector and they would have said you cannot get on a commercial airplane if you are carrying a pistol. But the judge's decision seems to say somehow that the security guard was at fault. The security guard noticed a gun on this young student, or at least a bulge in the leather jacket, and took a loaded pistol from this boy in a public school, and the security guard is at fault for obtaining evidence inappropriately? I do not think so. That is not the way this country should work. If we say you cannot take a loaded gun on an airplane, we ought to be able to say a 16-year-old boy cannot take a loaded pistol into a school. If we do not have the opportunity and ability to say that and make it stick, there is precious little hope for education in this country.

This legislation will make sure that no judge ever again is able to say that a security guard erred in taking away a loaded pistol from a 16-year-old boy walking in the hallways of our public schools. When we passed the Gun Free Schools Act and said that there shall be expulsion all across this country for kids bringing guns to schools, we wanted to send a national message to every student in this country, "Don't even think about bringing a gun to school, because there will be certain and immediate results. The results will be you will be expelled, no ifs, ands, or buts."

It has been successful. Have we prevented every act of violence in school? No, but thousands of children who brought guns to school are now not in the classroom threatening other students. They are expelled from those classrooms, many of them probably in some alternative setting, but they are not in the classroom terrorizing other students.

I am so appalled by the decision of the court in New York that I want a Federal law to complete the Gun Free Schools Act with the legislation we introduce today called the Safer Schools Act. Any young person who brings a gun to school should expect that a security guard at the front door can remove that gun from them and that it will later be used as evidence in a school disciplinary proceeding.

Mr. President, I appreciate the courtesy of the Senator from South Carolina. I know that the piece of legislation that he brings to the floor of the Senate, called the defense authorization bill, is one of the largest pieces of legislation that we deal with at any time during the year here in Congress. It contains important matters dealing with America's preparedness. I am anxious to debate parts of that bill and I wanted to compliment the Senator from South Carolina, Senator THURMOND, for his leadership and Senator LEVIN from Michigan for his leadership. I hope we can make significant progress this week on the legislation. I hope my speaking in morning business has not impeded that in any way. I appreciate the Senator's courtesy.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 989

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Safer Schools Act of 1997".

SEC. 2. SAFER SCHOOLS.

(a) IN GENERAL.—Section 14601(b)(1) of the Gun-Free Schools Act of 1994 (20 U.S.C. 8921(b)(1)) is amended—

(1) by striking "under this Act shall have" and inserting the following: "under this Act—

"(A) shall have";

(2) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(B) beginning not later than 2 years after the date of enactment of the Safer Schools Act of 1997, shall have in effect a State law or regulation providing that evidence that a student brought a weapon to a school under the jurisdiction of the local educational agencies in that State, that is obtained as a result of a search or seizure conducted on school premises, shall not be excluded in any school disciplinary proceeding on the ground that the search or seizure was in violation of the fourth amendment to the Constitution of the United States.".

(b) REPORT TO STATE.—Section 14601(d) of the Gun-Free Schools Act of 1994 (20 U.S.C. 8921(d)) is amended—

(1) in paragraph (1), by striking "the State law required by" and inserting "each State law or regulation"; and

(2) in paragraph (2), by striking "subsection (b)" and inserting "subsection (b)(1)(A)".

(c) REPORT TO CONGRESS.—Section 14601(f) of the Gun-Free Schools Act of 1994 (20 U.S.C. 8921(f)) is amended by inserting "of subsection (b)(1)(A)" before "of this".

By Mr. FAIRCLOTH:

S. 990. A bill to amend the Public Health Service Act to establish the National Institute of Biomedical Imaging; to the Committee on Labor and Human Resources.

NATIONAL INSTITUTE OF BIOMEDICAL IMAGING ESTABLISHMENT ACT

Mr. FAIRCLOTH. Mr. President, I am today introducing the National Institute of Biomedical Imaging Establishment Act.

This legislation would consolidate imaging research activities that are currently dispersed throughout the National Institutes of Health under a single administrative structure. This consolidation is needed to ensure that the American taxpayer receives the maximum possible return on our investment in critical new medical technologies. My legislation does not authorize any new spending; instead, it restructures existing programs in order to increase efficiency, provide greater accountability, and improve the process of setting priorities and allocating valuable resources for research. It also establishes a mechanism to coordinate the imaging research that is currently funded—without an overall plan—by federal agencies outside NIH.

The NIH is a national treasure, but it is organized to support research into specific diseases and organ systems. Its structure is less well suited to a technology that cuts across these lines and is applicable to virtually all diseases and organs. This legislation will create a research infrastructure at NIH to develop the imaging technologies of the 21st century. Based on the remarkable record of imaging innovations in the past 25 years, breakthroughs in the coming years will allow physicians to detect, diagnose, and treat disease more effectively, less invasively, and less expensively. Nearly every American who needs health care services will benefit from this proposal.

I urge my colleagues to join in this effort to meet the scientific and budgetary challenges we face in medical research.

ADDITIONAL COSPONSORS

S. 28

At the request of Mr. THURMOND, the name of the Senator from Minnesota [Mr. GRAMS] was added as a cosponsor of S. 28, a bill to amend title 17, United States Code, with respect to certain exemptions from copyright, and for other purposes.

S. 230

At the request of Mr. THURMOND, the name of the Senator from Arkansas [Mr. HUTCHINSON] was added as a cosponsor of S. 230, a bill to amend section 1951 of title 18, United States Code (commonly known as the Hobbs Act), and for other purposes.

S. 489

At the request of Mr. KYL, the name of the Senator from Georgia [Mr. COVERDELL] was added as a cosponsor of S. 489, a bill to improve the criminal law relating to fraud against consumers.

S. 493

At the request of Mr. KYL, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of S. 493, a bill to amend section

1029 of title 18, United States Code, with respect to cellular telephone cloning paraphernalia.

S. 511

At the request of Mr. CHAFEE, the names of the Senator from Illinois [Mr. DURBIN] and the Senator from New Jersey [Mr. TORRICELLI] were added as cosponsors of S. 511, a bill to require that the health and safety of a child be considered in any foster care or adoption placement, to eliminate barriers to the termination of parental rights in appropriate cases, to promote the adoption of children with special needs, and for other purposes.

S. 649

At the request of Ms. SNOWE, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 649, a bill to amend title XVIII of the Social Security Act to provide for coverage of bone mass measurements for certian individuals under part B of the medicare program.

S. 766

At the request of Ms. SNOWE, the names of the Senator from Pennsylvania [Mr. SPECTER] and the Senator from New Mexico [Mr. BINGAMAN] were added as cosponsors of S. 766, a bill to require equitable coverage of prescription contraceptive drugs and devices, and contraceptive services under health plans.

S. 834

At the request of Mr. HARKIN, the name of the Senator from Washington [Mrs. MURRAY] was added as a cosponsor of S. 834, a bill to amend the Public Health Service Act to ensure adequate research and education regarding the drug DES.

S. 912

At the request of Mr. BOND, the name of the Senator from Missouri [Mr. ASHCROFT] was added as a cosponsor of S. 912, a bill to provide for certain military retirees and dependents a special medicare part B enrollment period during which the late enrollment penalty is waived and a special medigap open period during which no under-writing is permitted.

SENATE CONCURRENT RESOLUTION 30

At the request of Mr. HELMS, the name of the Senator from Ohio [Mr. DEWINE] was added as a cosponsor of Senate Concurrent Resolution 30, a concurrent resolution expressing the sense of the Congress that the Republic of China should be admitted to multilateral economic institutions, including the International Monetary Fund and the International Bank for Reconstruction and Development.

SENATE RESOLUTION 99

At the request of Mr. DASCHLE, the name of the Senator from North Dakota [Mr. DORGAN] was added as a cosponsor of Senate Resolution 99, a resolution to encourage consumers to consult with their pharmacists in connection with the purchase and use of over-the-counter drug products.

AMENDMENT NO. 420

At the request of Mr. COCHRAN the name of the Senator from New Hampshire [Mr. SMITH] was added as a cosponsor of amendment No. 420 proposed to S. 936, an original bill to authorize appropriations for fiscal year 1998 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENTS SUBMITTED

DEPARTMENT OF DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1997

MURRAY (AND OTHERS) AMENDMENT NO. 593

(Ordered to lie on the table.)

Mrs. MURRAY (for herself, Mrs. SNOWE, Mr. ROBB, Mr. KENNEDY, and Mr. LAUTENBERG) submitted an amendment intended to be proposed by them to the bill, S. 936, to authorize appropriations for fiscal year 1998 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of title VII add the following:

SEC. 708. RESTORATION OF PREVIOUS POLICY REGARDING RESTRICTIONS ON USE OF DEPARTMENT OF DEFENSE MEDICAL FACILITIES.

Section 1093 of title 10, United States Code, is amended—

(1) by striking out subsection (b); and

(2) in subsection (a), by striking out "(a) RESTRICTIONS ON USE OF FUNDS.—".

WYDEN AMENDMENTS NOS. 594–595

(Ordered to lie on the table.)

Mr. WYDEN submitted two amendments intended to be proposed by him to the bill, S. 936, supra; as follows:

AMENDMENT NO. 594

At the end of subtitle E of title X, add the following:

SEC. 1075. RESTRICTIONS ON USE OF HUMANS AND EXPERIMENTAL SUBJECTS IN BIOLOGICAL AND CHEMICAL WEAPONS RESEARCH.

(a) PROHIBITED ACTIVITIES.—no officer or employee of the United States may, directly or by contract—

(1) conduct any test or experiment involving the use of any chemical or biological agent on a civilian population; or

(2) otherwise conduct any testing of biological or chemical agents on human subjects.

(b) INAPPLICABILITY TO CERTAIN ACTIONS.—The prohibition in subsection (a) does not apply to any action carried out for any of the following purposes:

(1) Any peaceful purpose that is related to a medical, therapeutic, pharmaceutical, agricultural, industrial, research, or other activity.

(2) Any purpose that is directly related to protection against toxic chemical and to protection against chemical weapons.

(3) Any military purpose of the United States that is not connected with the use of a chemical weapon and is not dependent on the use of the toxic or poisonous properties of the chemical weapon to cause death or other harm.

(4) Any law enforcement purpose, including any domestic riot control purpose and any imposition of capital punishment.

(c) BIOLOGICAL AGENT DEFINED.—In this section, the term "biological agent" means any micro-organism (including bacteria, viruses, fungi, rickettsiac, or protozoa), pathogen, or infectious substance, and any naturally occurring, bioengineered, or synthesized component of any such micro-organism, pathogen, or infectious substance, whatever its origin or method of production, that is capable of causing—

(1) death, disease, or other biological malfunction in a human, an animal, a plant, or another living organism;

(2) deterioration of food, water, equipment, supplies, or materials of any kind; or

(3) deleterious alteration of the environment.

(d) REPORT AND CERTIFICATION.—Section 1703(b) of the National Defense Authorization Act for Fiscal Year 1994 (50 U.S.C. 1523(b)) is amended by adding at the end the following:

"(9) A description of any program involving the testing of biological or chemical agents on human subjects that was carried out by the Department of Defense during the period covered by the report, together with a detailed justification for the testing, a detailed explanation of the purposes of the testing, the chemical or biological agents tested, and the Secretary's certification that informed consent to the testing was obtained from each human subject in advance of the testing on that subject.".

(e) REPEAL OF DUPLICATIVE, SUPERSEDED, AND EXECUTED LAWS.—(1) Section 808 of the Department of Defense Appropriation Authorization Act, 1978 (50 U.S.C. 1520) is repealed.

(2)(A) Section 980 of title 10, United States Code, is repealed.

(B) The table of sections at the beginning of chapter 49 of such title is amended by striking out the item relating to section 980.

AMENDMENT NO. 595

At the end of subtitle E of tile X, add the following:

SEC. . SUPPORT FOR FAMILIES OF VICTIMS OF MILITARY AIRCRAFT DISASTERS.

(a) NOTIFICATION REQUIREMENTS.—(1) Chapter 88 of title 10, United States Code, is amended by adding at the end the following:

"SUBCHAPTER III—MISCELLANEOUS

"Sec.
"2000. Assistance for families of victims of military aircraft disasters.

§2000. Assistance for families of victims of military aircraft disasters

"(a) RESPONSIBILITIES OF SECRETARY OF DEFENSE.—(1) In the case of an accident involving an aircraft of the armed forces that results in any loss of life of Department of Defense personnel, the Secretary of Defense shall have the primary responsibility within the Federal Government for facilitating the recovery and identification of the personnel.

"(2) Immediately after being notified of such an accident, the Secretary of Defense shall—

"(A) designate an employee of the Department of Defense as the director of family support services for the accident to carry out the responsibilities set forth in subsection (b); and

"(B) designate an organization described in subsection (c) as the coordinator of family care for the accident to carry out the responsibilities set forth in that subsection.

"(3) During the investigation of the accident by the Department of Defense, the Secretary of Defense shall ensure that the members of the families of persons involved in the accident—

"(A) are briefed about the accident, its causes, and any other findings from the investigation before any public briefing on such matters is provided; and

"(B) are individually informed of, and allowed to attend, any public hearings and meetings of the Department of Defense about the accident.

"(b) DIRECTOR OF FAMILY SUPPORT SERVICES.—(1) The director of family support services designated for an aircraft accident under subsection (a)(2)(A) shall be the point of contact for the Federal Government for providing the families of victims of the accident with information on the accident and the assistance available to the families from the Federal Government. The Secretary of Defense shall ensure that the director's name and telephone number are publicized.

"(2) As soon as is practicable after the occurrence of the accident, the director of family support services shall compile a list of the persons who were aboard the aircraft involved in the accident. The list shall be compiled from the best information available within the Department of Defense when compiled.

"(c) COORDINATOR OF FAMILY CARE.—(1) The organization designated as the coordinator of family care for an accident under subsection (a)(2)(B) shall be an independent nonprofit organization with experience in disasters and post-trauma communication with families of victims of disasters. The Secretary of Defense may enter into any contract or other agreement that is necessary to engage such an organization to serve as the coordinator of family care for the accident.

"(2) The coordinator of family care for an accident shall have the primary responsibility for coordinating the emotional care and support of the families of victims of the accident. To carry out its responsibility, the coordinator shall have the following duties:

"(A) To provide mental health and counseling services, in coordination with the disaster response team of the Department of Defense.

"(B) To take such actions as may be necessary to afford the families a meaningful opportunity to grieve privately.

"(C) To meet with families who travel to the location of the accident, to contact the families who do not travel to such location, and to contact all of the families periodically until such time as the organization, in consultation with the director of family support services designated for the accident under subsection (a)(2)(A), determines that further assistance is no longer needed.

"(D) To inform the families on the roles of the coordinator of family care, the Department of Defense, and other Federal Government agencies with respect to the accident and the post-accident activities.

"(E) To arrange a suitable memorial service, in consultation with the families.

"(4) To the maximum extent practicable—

"(A) the Secretary of Defense shall provide the coordinator of family care with resources of the Department of Defense to support the coordinator in the performance of its responsibilities; and

"(B) the coordinator shall coordinate its activities with the Department of Defense for that purpose.

"(d) LIST OF VICTIMS.—(1) As soon as the director of family support services for an aircraft accident compiles a list of persons involved in the accident under subsection (b)(2), the director shall make the list available to the coordinator of family care for the accident. The coordinator may request the director to provide the list to the coordinator.

"(2) The director of family support services or the coordinator of family care shall provide the name of a person on the list to the family of that person if the director or the organization, respectively, considers it appropriate to do so.

"(3) Neither the director nor the organization may disclose the name of any person on the list to any person not authorized to receive the information under paragraph (1) or (2).

"(e) PROHIBITED ACTIONS.—(1) No person, State, or political subdivision of a State may impede—

"(A) the Department of Defense (including the director of family support services designated for an accident under subsection(a)(2)(A)) or a coordinator of family care designated for an accident under subsection (a)(2)(B) in the performance of responsibilities under this section: or

"(B) the ability of any member of a family of a person involved in the accident to contact any member of a family of any other person involved in the accident.

"(2) No attorney and no potential party to litigation regarding an accident described in subsection (a) may communicate with any person injured in the accident, or any relative of a person involved in the accident, within 30 days after the date of the accident unless the communication is solicited by that person or relative of a person.

"(g) AIRCRAFT ACCIDENT DEFINED.—In this section, the term 'aircraft accident' means any Department of Defense aviation disaster regardless of its cause or suspected cause.".

(2) The table of subchapters at the beginning of such chapter is amended by adding at the end the following:

"III. Miscellaneous .... 2000"

(b) REVIEW OF AVIATION SAFETY PROCEDURES.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall review the aviation safety and maintenance procedures of the Department of Defense and submit to Congress a report on the Secretary's findings resulting from the review, including any recommendations for improving aviation safety maintenance and procedures.

LEAHY (AND JEFFORDS) AMENDMENT NO. 596

(Ordered to lie on the table.)

Mr. LEAHY (for himself and Mr. JEFFORDS submitted an amendment intended to be proposed by them to the bill, S. 936, supra; as follows:

On page 382, line 15, strike out "$155,416,000" and insert in lieu thereof "$162,135,000".

BYRD AMENDMENT NO. 597

(Ordered to lie on the table.)

Mr. BYRD submitted an amendment intended to be proposed by him to the bill, S. 936, supra; as follows:

In section 301(9), strike out "$1,624,420,000" and insert in lieu thereof "$1,631,200,000".

In section 301(11), strike out "$2,991,219,000" and insert in lieu thereof "$3,004,282,000".

In section 411(a)(5), strike out "107,377" and insert in lieu thereof "108,002".

In section 411(a)(6), strike out "73,431" and insert in lieu thereof "73,542".

In section 412(5), strike out "10,616" and insert in lieu thereof "10,671".

At the end of subtitle B of title IV, add the following:

SEC. 413. ADDITION TO END STRENGTHS FOR MILITARY TECHNICIANS.

(a) AIR NATIONAL GUARD.—In addition to the number of military technicians for the Air National Guard of the United States as of the last day of fiscal year 1998 for which funds are authorized to be appropriated in this Act, 100 military technicians are authorized for fiscal year 1998 for five Air National Guard C–130 aircraft units.

(b) AIR FORCE RESERVE.—In addition to the number of military technicians for the Air Force Reserve as of the last day of fiscal year 1998 for which funds are authorized to be appropriated in this Act, 21 military technicians are authorized for fiscal year 1998 for three Air Force Reserve C–130 aircraft units.

On page 108, line 11, reduce the amount by $20,000,000.

DODD AMENDMENT NO. 598

(Ordered to lie on the table.)

Mr. DODD submitted an amendment intended to be proposed by him to the bill, S. 936, supra; as follows:

On page 226, between lines 2 and 3, insert the following:

Subtitle B—Persian Gulf Illnesses

SEC. 721. DEFINITIONS.

For purposes of this subtitle:

(1) The term "Gulf War illness" means any one of the complex of illnesses and symptoms that might have been contracted by members of the Armed Forces as a result of service in the Southwest Asia theater of operations during the Persian Gulf War.

(2) The term "Persian Gulf War" has the meaning given that term in section 101 of title 38, United States Code.

(3) The term "Persian Gulf veteran" means an individual who served on active duty in the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf War.

(4) The term "contingency operation" has the meaning given that term in section 101(a) of title 10, United States Code, and includes a humanitarian operation, peacekeeping operation, or similar operation.

SEC. 722. PLAN FOR HEALTH CARE SERVICES FOR PERSIAN GULF VETERANS.

(a) PLAN REQUIRED.—The Secretary of Defense and the Secretary of Veterans Affairs, acting jointly, shall prepare a plan to provide appropriate health care to Persian Gulf veterans (and their dependents) who suffer from a Gulf War illness.

(b) CONTENT OF PLAN.—In preparing the plan, the Secretaries shall—

(1) use the presumptions of service connection and illness specified in paragraphs (1) and (2) of section 721(d) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 10 U.S.C. 1074 note) to determine the Persian Gulf veterans (and the dependents of Persian Gulf veterans) who should be covered by the plan;

(2) consider the need and methods available to provide health care services to Persian Gulf veterans who are no longer on active duty in the Armed Forces, such as Persian Gulf veterans who are members of the

reserve components and Persian Gulf veterans who have been separated from the Armed Forces; and

(3) estimate the costs to the Government of providing full or partial health care services under the plan to covered Persian Gulf veterans (and their covered dependents).

(c) FOLLOWUP TREATMENT.—The plan required by subsection (a) shall specifically address the measures to be used to monitor the quality, appropriateness, and effectiveness of, and patient satisfaction with, health care services provided to Persian Gulf veterans after their initial medical examination as part of registration in the Persian Gulf War Veterans Health Registry or the Comprehensive Clinical Evaluation Program.

(d) SUBMISSION OF PLAN.—Not later than March 1, 1998, the Secretaries shall submit to Congress the plan required by subsection (a).

SEC. 723. COMPTROLLER GENERAL STUDY OF REVISED DISABILITY CRITERIA FOR PHYSICAL EVALUATION BOARDS.

Not later than March 1, 1998, the Comptroller General shall submit to Congress a study evaluating the revisions that were made by the Secretary of Defense to the criteria used by physical evaluation boards to set disability ratings for members of the Armed Forces who are no longer medically qualified for continuation on active duty so as to ensure accurate disability ratings related to a diagnosis of a Persian Gulf illness pursuant to section 721(e) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103-337; 10 U.S.C. 1074 note).

SEC. 724. IMPROVED MEDICAL TRACKING SYSTEM FOR MEMBERS DEPLOYED OVERSEAS IN CONTINGENCY OR COMBAT OPERATIONS.

(a) SYSTEM REQUIRED.—Chapter 55 of title 10, United States Code, is amended by inserting after section 1074d the following new section:

"§1074e. Medical tracking system for members deployed overseas

"(a) SYSTEM REQUIRED.—The Secretary of Defense shall establish a system to assess the medical condition of members of the armed forces (including members of the reserve components) who are deployed outside the United States or its territories or possessions as part of a contingency operation (including a humanitarian operation, peacekeeping operation, or similar operation) or combat operation.

"(b) ELEMENTS OF SYSTEM.—The system shall include the use of predeployment medical examinations and postdeployment medical examinations (including an assessment of mental health and the drawing of blood samples) to accurately record the medical condition of members before their deployment and any changes in their medical condition during the course of their deployment. The postdeployment examination shall be conducted when the member is redeployed or otherwise leaves an area in which the system is in operation (or as soon as possible thereafter).

"(c) RECORDKEEPING.—The results of all medical examinations conducted under the system, records of all health care services (including immunizations) received by members described in subsection (a) in anticipation of their deployment or during the course of their deployment, and records of events occurring in the deployment area that may affect the health of such members shall be retained and maintained in a centralized location to improve future access to the records.

"(d) QUALITY ASSURANCE.—The Secretary of Defense shall establish a quality assurance program to evaluate the success of the system in ensuring that members described in subsection (a) receive predeployment medical examinations and postdeployment medical examinations and that the recordkeeping requirements are met.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1074d the following new item:

"1074e. Medical tracking system for members deployed overseas.".

SEC. 725. REPORT ON PLANS TO TRACK LOCATION OF MEMBERS IN A THEATER OF OPERATIONS.

Not later than March 1, 1998, the Secretary of Defense shall submit to Congress a report containing a plan for collecting and maintaining information regarding the daily location of units of the Armed Forces, and to the extent practicable individual members of such units, serving in a theater of operations during a contingency operation or combat operation.

SEC. 726. REPORT ON PLANS TO IMPROVE DETECTION AND MONITORING OF CHEMICAL, BIOLOGICAL, AND SIMILAR HAZARDS IN A THEATER OF OPERATIONS.

Not later than March 1, 1998, the Secretary of Defense shall submit to Congress a report containing a plan regarding the deployment, in a theater of operations during a contingency operation or combat operation, of a specialized unit of the Armed Forces with the capability and expertise to detect and monitor the presence of chemical hazards, biological hazards, and similar hazards to which members of the Armed Forces may be exposed.

SEC. 727. NOTICE OF USE OF INVESTIGATIONAL NEW DRUGS.

(a) NOTICE REQUIREMENTS.—Chapter 55 of title 10, United States Code, is amended by adding at the end the following new section:

"§1107. Notice of use of investigational new drugs

"(a) NOTICE REQUIRED.—(1) Whenever the Secretary of Defense requests or requires a member of the armed forces to receive an investigational new drug, the Secretary shall provide the member with notice containing the information specified in subsection (d).

"(2) The Secretary shall also ensure that medical care providers who administer an investigational new drug or who are likely to treat members who receive an investigational new drug receive the information required to be provided under paragraphs (3) and (4) of subsection (d).

"(b) TIME FOR NOTICE.—The notice required to be provided to a member under subsection (a)(1) shall be provided before the investigational new drug is first administered to the member, if practicable, but in no case later than 30 days after the investigational new drug is first administered to the member.

"(c) FORM OF NOTICE.—The notice required under subsection (a)(1) shall be provided in writing unless the Secretary of Defense determines that the use of written notice is impractical because of the number of members receiving the investigational new drug, time constraints, or similar reasons. If the Secretary provides notice under subsection (a)(1) in a form other than in writing, the Secretary shall submit to Congress a report describing the notification method used and the reasons for the use of the alternative method.

"(d) CONTENT OF NOTICE.—The notice required under subsection (a)(1) shall include the following:

"(1) Clear notice that the drug being administered is an investigational new drug.

"(2) The reasons why the investigational new drug is being administered.

"(3) Information regarding the possible side effects of the investigational new drug, including any known side effects possible as a result of the interaction of the investigational new drug with other drugs or treatments being administered to the members receiving the investigational new drug.

"(4) Such other information that, as a condition for authorizing the use of the investigational new drug, the Secretary of Health and Human Services may require to be disclosed.

"(e) RECORDS OF USE.—The Secretary of Defense shall ensure that the medical records of members accurately document the receipt by members of any investigational new drug and the notice required by subsection (d).

"(f) DEFINITION.—In this section, the term 'investigational new drug' means a drug covered by section 505(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(i)).".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1107. Notice of use of investigational new drugs.".

SEC. 728. REPORT ON EFFECTIVENESS OF RESEARCH EFFORTS REGARDING GULF WAR ILLNESSES.

Not later than March 1, 1998, the Secretary of Defense shall submit to Congress a report evaluating the effectiveness of medical research initiatives regarding Gulf War illnesses. The report shall address the following:

(1) The type and effectiveness of previous research efforts, including the activities undertaken pursuant to section 743 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-201; 10 U.S.C. 1074 note), section 722 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103-337; 10 U.S.C. 1074 note), and sections 270 and 271 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 107 Stat. 1613).

(2) Recommendations regarding additional research regarding Gulf War illnesses, including research regarding the nature and causes of Gulf War illnesses and appropriate treatments for such illnesses.

(3) The adequacy of Federal funding and the need for additional funding for medical research initiatives regarding Gulf War illnesses.

SEC. 729. PERSIAN GULF ILLNESS CLINICAL TRIALS PROGRAM.

(a) FINDINGS.—Congress finds the following:

(1) There are many ongoing studies that investigate risk factors which may be associated with the health problems experienced by Persian Gulf veterans; however, there have been no studies that examine health outcomes and the effectiveness of the treatment received by such veterans.

(2) The medical literature and testimony presented in hearings on Gulf War illnesses indicate that there are therapies, such as cognitive behavioral therapy, that have been effective in treating patients with symptoms similar to those seen in many Persian Gulf veterans.

(b) ESTABLISHMENT OF PROGRAM.—The Secretary of Defense and the Secretary of Veterans Affairs, acting jointly, shall establish a program of cooperative clinical trials at multiple sites to assess the effectiveness of protocols for treating Persian Gulf veterans who suffer from ill-defined or undiagnosed conditions. Such protocols shall include a multidisciplinary treatment model, of which cognitive behavioral therapy is a component.

(c) FUNDING.—Of the amount authorized to be appropriated in section 201(1), the sum of $4,500,000 shall be available for program element 62787A (medical technology) in the budget of the Department of Defense for fiscal year 1998 to carry out the clinical trials program established pursuant to subsection (b).

On page 217, between lines 15 and 16, insert the following:

Subtitle A—General Matters

MOYNIHAN (AND D'AMATO) AMENDMENT NO. 599

(Ordered to lie on the table.)

Mr. MOYNIHAN (for himself and Mr. D'AMATO) submitted an amendment intended to be proposed by them to the bill, S. 936, supra; as follows:

On page 409, between lines 13 and 14, insert the following:

SEC. 2819. LAND CONVEYANCE, HANCOCK FIELD, SYRACUSE, NEW YORK

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Air Force may convey, without consideration, to Onondaga County, New York (in this section referred to as the "County"), all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately 14.9 acres and located at Hancock Field, Syracuse, New York, the site of facilities no longer required for use by the 152nd Air Control Group of the New York Air National Guard.

(b) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the County.

(c) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

ROCKEFELLER AMENDMENT NO. 600

(Ordered to lie on the table.)

Mr. ROCKEFELLER submitted an amendment intended to be proposed by him to the bill, S. 936, supra; as follows:

At the end of subtitle D of title X, add the following:

SEC. . EYE SAFETY AT SMALL ARMS FIRING RANGES.

(a) ACTIONS REQUIRED.—The Secretary of the Defense shall—

(1) conduct a study of eye safety at small arms firing ranges of the Armed Forces; and

(2) develop for the use of the Armed Forces a protocol for reporting eye injuries incurred in small arms firing activities at the ranges.

(b) AGENCY TASKING.—The Secretary may delegate authority to carry out the responsibilities set forth in subsection (a) to the United States Army Center for Health Promotion and Preventive Medicine or any other element of the Department of Defense that the Secretary considers well qualified to carry out those responsibilities.

(c) CONTENT OF STUDY.—The study shall include the following:

(1) An evaluation of the existing policies, procedures, and practices of the Armed Forces regarding medical surveillance of eye injuries resulting from weapons fire at the small arms ranges.

(2) An examination of the existing policies, procedures, and practices of the Armed Forces regarding reporting on vision safety issues resulting from weapons fire at the small arms ranges.

(3) Determination of rates of eye injuries, and trends in eye injuries, resulting from weapons fire at the small arms ranges.

(4) An evaluation of the costs and benefits of a requirement for use of eye protection devices by all personnel firing small arms at the ranges.

(d) REPORT.—The Secretary shall submit a report on the activities required under this section to the Committees on Armed Services and on Veterans' Affairs of the Senate and the Committees on National Security and on Veterans' Affairs of the House of Representatives. The report shall include—

(1) the findings resulting from the study required under paragraph (1) of subsection (a); and

(2) the protocol developed under paragraph (2) of such subsection.

(e) SCHEDULE.—(1) The Secretary shall ensure that the study is commenced not later than October 1, 1997, and is completed within six months after it is commenced.

(2) The Secretary shall submit the report required under subsection (d) not later than 30 days after the completion of the study.

CONRAD (AND OTHERS) AMENDMENT NO. 601

(Ordered to lie on the table.)

Mr. CONRAD (for himself, Mr. DORGAN, Mr. BREAUX, and Ms. LANDRIEU) submitted an amendment intended to be proposed by them to the bill, S. 936, supra; as follows:

At the end of subtitle E of title I, add the following:

SEC. 144. AIR FORCE AIRCRAFT ENGINE MODERNIZATION PROGRAM.

(a) ENGINE REPLACEMENT PROGRAM.—(1) The Secretary of the Air Force may carry out an acquisition reform demonstration program to replace existing engines on B–52H aircraft in active service with commercial aircraft engines. Any such replacement engine may only be an engine that is a commercial item described in section 4(12)(A) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)(A)).

(2) An engine modernization program carried out under this section may include (in addition to other elements) any or all of the following elements:

(A) Integration of replacement engines and related equipment into existing aircraft and testing of the integrated engines and related equipment.

(B) Fabrication and installation of the replacement engines and related equipment.

(C) Acquisition of the replacement engines and related equipment by means of leasing under commercial terms and conditions, including commercial terms and conditions pertaining to indemnification.

(D) Acquisition of the logistical support for the replacement engines and related equipment.

(b) MULTIPLE CONTRACTS AUTHORIZED.—The Secretary may enter into more than one contract for the purposes of subsection (a).

(c) LEASE TERMS AND CONDITIONS.—(1) A contract for the lease of aircraft engines and related equipment under this section may be for a period not to exceed 20 years.

(2) Any contract for the lease of aircraft engines and related equipment under this section may provide for the termination liability of the United States under the contract. Any such termination liability shall be subject to a limitation in the contract that any obligation of the United States to pay the termination liability is subject to the availability of funds specifically appropriated for that purpose pursuant to an authorization of appropriations specifically for that purpose.

(3)(A) Any contract for the lease of aircraft engines and related equipment entered into under this section may provide for the United States to indemnify the lessor for any covered loss (except as provided in subparagraph (C)).

(B) A covered loss under this paragraph may, to the extent provided in the contract, include any loss, injury, or damage to the lessor, any employee of the lessor, or any third party, or to any property of the lessor or a third party, that arises out of, or is related to, the lease.

(C) Any such requirement for indemnification shall be subject to a limitation in the contract that any obligation of the United States to pay such indemnification is subject to the availability of funds specifically appropriated for that purpose pursuant to an authorization of appropriations specifically for that purpose.

(D) The United States shall be required to indemnify a lessor, and a contract under this section may not obligate the United States to indemnify a lessor, for a loss, injury, or damage that is caused by willful misconduct of managerial personnel of the lessor or of the engine supplier.

(d) SOURCE OF FUNDS.—Notwithstanding any other provision of law (including any law regarding fiscal year limitations), payments under any such contract for a fiscal year may be made from funds appropriated for the Air Force for that fiscal year for operations and maintenance.

(e) WAIVER OF CERTAIN PROVISIONS OF LAW.—The Secretary of the Air Force may enter into contracts and incur obligations under this section without regard to the following provisions of law:

(1) The limitations on making and authorizing an obligation and involving the United States in a contract or obligation that are set forth in section 1341 of title 31, United States Code.

(2) The limitations on accepting voluntary services and employing personal services that are set forth in section 1342 of such title.

(3) The limitations on availability of funds that are set forth in section 1502 of such title.

(4) Any apportionment or other division of appropriations, any other administrative restriction, and any reporting requirement that, but for this paragraph, would otherwise apply to the contract or obligation under subchapter II of chapter 15 of such title.

(5) The limitations on contracting and purchasing that are set forth in section 3732(a) of the Revised Statutes (41 U.S.C. 11(a)).

(f) BUDGETARY TREATMENT OF LEASES.—(1) The Secretary of Defense, the Secretary of the Air Force, and the Director of the Office of Management and Budget shall treat a contract for a lease entered into pursuant to this section as an operating lease for all purposes of the Federal budget without regard to any provision of law relating to the Federal budget, including part C of title II of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900 et seq.) and any regulation or directive (including any directive of the Office of Management and Budget) issued thereunder.

(2) The Secretary may enter into contracts under this section only to the extent, and in the amount, specifically provided in an Act enacted after the date of the enactment of this Act. A provision in an Act enacted after the date of the enactment of this Act that provides specific authority to enter into a contract under this section, subject to a specific maximum dollar amount, shall not be considered to be budget authority for any purpose, and appropriations provided in annual appropriations Acts for payments of United States obligations under such a contract as those payments become due shall be considered to be budget authority.

(g) PRIOR CONGRESSIONAL NOTIFICATION.—Before entering into a contract under this section, the Secretary shall notify the congressional defense committees and the Committees on the Budget of the Senate and House of Representatives of the Secretary's intent to enter into the contract and certify to those committees that such contract is in the national interest. The contract may then be entered into only after the end of the 30-day period beginning on the date of such notification and certification.

CONRAD (AND OTHERS) AMENDMENT NO. 602

(Ordered to lie on the table.)

Mr. CONRAD (for himself, Mr. DORGAN, and Mr. WELLSTONE) submitted an amendment intended to be proposed by them to the bill, S. 936, supra; as follows:

At the end of title X, add the following:

SEC. . CLAIMS BY MEMBERS OF THE ARMED FORCES FOR LOSS OF PERSONAL PROPERTY DUE TO FLOODING IN THE RED RIVER BASIN.

(a) FINDINGS.—Congress makes the following findings:

(1) The flooding that occurred in the portion of the Red River Basin encompassing East Grand Forks, Minnesota, and Grand Forks, North Dakota, during April and May 1997 is the worst flooding to occur in that region in the last 500 years.

(2) Over 700 military personnel stationed in the vicinity of Grand Forks Air Force Base reside in that portion of the Red River Basin.

(3) The military personnel stationed in the vicinity of Grand Forks Air Force Base have been stationed there entirely for the convenience of the Government.

(4) There is insufficient military family housing at Grand Forks Air Force Base for all of those military personnel, and the available off-base housing is almost entirely within the areas adversely affected by the flood.

(5) Many of the military personnel have suffered catastrophic losses, including total losses of personal property by some of the personnel.

(6) It is vital to the national security interests of the United States that the military personnel adversely affected by the flood recover as quickly and completely as possible.

(b) AUTHORIZATION.—The Secretary of the military department concerned may pay claims for loss and damage to personal property suffered as a direct result of the flooding in the Red River Basin during April and May 1997, by members of the Armed Forces residing in the vicinity of Grand Forks Air Force Base, North Dakota, without regard to the provisions of section 3721(e) of title 31, United States Code.

GRASSLEY AMENDMENT NO. 603

(Ordered to lie on the table.)

Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill, S. 936, supra; as follows:

At the end of subtitle D of title X, add the following:

SEC. 1041. REPORT ON COSTS OF EXECUTIVE COMPENSATION REIMBURSED TO CONTRACTORS.

(a) REQUIREMENT.—Not later than October 1, 1997, the Secretary of Defense shall submit to Congress a report on Department of Defense payments of contract costs attributable to executive compensation.

(b) CONTENT OF REPORT.—(1) The report shall contain, for each of the five fiscal years preceding fiscal year 1997, the following:

(A) The total amount of executive compensation that was reimbursed to contractors as allowable costs under Department of Defense contracts.

(B) The total number of contractor executives whose compensation was reimbursed, in whole or in part, by the payment of such contracts costs.

(C) The total number of contractors that were paid such costs.

(D) If any such total amount or number is estimated for the report, a discussion of why the actual total amount or number could not be established.

(2) The report shall also contain—

(A) a discussion of whether the information required under subparagraphs (A), (B), and (C) of paragraph (1) is readily available or is difficult to compile; and

(B) if it is difficult to compile the information, a discussion of the reasons for the difficulty.

SHELBY AMENDMENT NO. 604

(Ordered to lie on the table.)

Mr. SHELBY submitted an amendment intended to be proposed by him to the bill, S. 936, supra; as follows:

At the end of subtitle B of title XXVIII, add the following:

SEC. 2819. LAND CONVEYANCE, ARMY RESERVE CENTER, GREENSBORO, ALABAMA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without consideration, to Hale County, Alabama, all right, title, and interest of the United States in and to a parcel of real property consisting of approximately 5.17 acres and located at the Army Reserve Center, Greensboro, Alabama, that was conveyed by Hale County, Alabama, to the United States by warranty deed September 12, 1988.

(b) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property conveyed under subsection (a) shall be as described in the deed referred to in that subsection.

(c) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

KYL AMENDMENT NO. 605

(Ordered to lie on the table.)

Mr. KYL submitted an amendment intended to be proposed by him to the bill, S. 936, supra; as follows:

On page 347, between lines 15 and 16, insert the following:

SEC. 1075. ADVICE TO THE PRESIDENT AND CONGRESS REGARDING THE SAFETY, SECURITY, AND RELIABILITY OF UNITED STATES NUCLEAR WEAPONS STOCKPILE.

(a) FINDINGS.—Congress makes the following findings:

(1) Nuclear weapons are the most destructive weapons on earth. The United States and its allies continue to rely on nuclear weapons to deter potential adversaries from using weapons of mass destruction. The safety and reliability of the nuclear stockpile are essential to ensure its credibility as a deterrent.

(2) On September 24, 1996, President Clinton signed the Comprehensive Test Ban Treaty.

(3) Effective as of September 30, 1996, the United States is prohibited by relevant provisions of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–377) from conducting underground nuclear tests "unless a foreign state conducts a nuclear test after this date, at which time the prohibition on United States nuclear testing is lifted".

(4) Section 1436(b) of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100–456; 42 U.S.C. 2121 note) requires the Secretary of Energy to "establish and support a program to assure that the United States is in a position to maintain the reliability, safety, and continued deterrent effect of its stockpile of existing nuclear weapons designs in the event that a low-threshold or comprehensive test ban on nuclear explosive testing is negotiated and ratified.".

(5) Section 3138(d) of the National Defense Authorization Act for Fiscal Year 1994 requires the President to submit an annual report to Congress which sets forth "any concerns with respect to the safety, security, effectiveness, or reliability of existing United States nuclear weapons raised by the Stockpile Stewardship Program of the Department of Energy".

(6) President Clinton declared in July 1993 that "to assure that our nuclear deterrent remains unquestioned under a test ban, we will explore other means of maintaining our confidence in the safety, reliability, and the performance of our weapons". This decision was codified in a Presidential Directive.

(7) Section 3138 of the National Defense Authorization Act for Fiscal Year 1994 also requires that the Secretary of Energy establish a "stewardship program to ensure the preservation of the core intellectual and technical competencies of the United States in nuclear weapons".

(8) The plan of the Department of Energy to maintain the safety and reliability of the United States nuclear stockpile is known as the Stockpile Stewardship and Management Program. This approach is yet unproven. The ability of the United States to maintain warheads without testing will require development of new and sophisticated diagnostic technologies, methods, and procedures. Current diagnostic technologies and laboratory testing techniques are insufficient to certify the future safety and reliability of the United States nuclear stockpile. In the past these laboratory and diagnostic tools were used in conjunction with nuclear testing.

(9) On August 11, 1995, President Clinton directed "the establishment of a new annual reporting and certification requirement [to] ensure that our nuclear weapons remain safe and reliable under a comprehensive test ban".

(10) On the same day, the President noted that the Secretary of Defense and the Secretary of Energy have the responsibility,

after being "advised by the Nuclear Weapons Council, the Directors of DOE's nuclear weapons laboratories, and the Commander of United States Strategic Command", to provide the President with the information to make the certification referred to in paragraph (9).

(11) The Joint Nuclear Weapons Council established by section 179 of title 10, United States Code, is responsible for providing advice to the Secretary of Energy and Secretary of Defense regarding nuclear weapons issues, including "considering safety, security, and control issues for existing weapons". The Council plays a critical role in advising Congress in matters relating to nuclear weapons.

(12) It is essential that the President receive well-informed, objective, and honest opinions from his advisors and technical experts regarding the safety, security, and reliability of the nuclear weapons stockpile.

(b) POLICY.—

(1) IN GENERAL.—It is the policy of the United States—

(A) to maintain a safe, secure, and reliable nuclear weapons stockpile; and

(B) as long as other nations covet or control nuclear weapons or other weapons of mass destruction, to retain a credible nuclear deterrent.

(2) NUCLEAR WEAPONS STOCKPILE.—It is in the security interest of the United States to sustain the United States nuclear weapons stockpile through programs relating to stockpile stewardship, subcritical experiments, maintenance of the weapons laboratories, and protection of the infrastructure of the weapons complex.

(3) SENSE OF CONGRESS.—It is the sense of Congress that—

(A) the United States should retain a triad of strategic nuclear forces sufficient to deter any future hostile foreign leadership with access to strategic nuclear forces from acting against our vital interests;

(B) the United States should continue to maintain nuclear forces of sufficient size and capability to hold at risk a broad range of assets valued by such political and military leaders; and

(C) the advice of the persons required to provide the President and Congress with assurances of the safety, security and reliability of the nuclear weapons force should be scientifically based, without regard for politics, and of the highest quality and integrity.

(c) ADVICE AND OPINIONS REGARDING NUCLEAR WEAPONS STOCKPILE.—Any director of a nuclear weapons laboratory or member of the Joint Nuclear Weapons Council, or the Commander of United States Strategic Command, may submit to the President or Congress advice or opinion in disagreement with, or in addition to, the advice presented by the Secretary of Energy or Secretary of Defense to the President, the National Security Council, or Congress, as the case may be, regarding the safety, security, and reliability of the nuclear weapons stockpile.

(d) EXPRESSION OF INDIVIDUAL VIEWS.—No representative of a government agency or managing contractor for a nuclear weapons laboratory may in any way constrain a director of a nuclear weapons laboratory, a member of the Joint Nuclear Weapons Council, or the Commander of United States Strategic Command from presenting individual views to the President, the National Security Council, or Congress regarding the safety, security, and reliability of the nuclear weapons stockpile.

(e) PROHIBITED PERSONNEL ACTIONS.—No representative of a government agency or managing contractor may take any administrative or personnel action against a director of a nuclear weapons laboratory, a member of the Joint Nuclear Weapons Council, or the Commander of the United States Strategic Command, in order to prevent such individual from expressing views under subsection (c) or (d) or as retribution for expressing such views.

(f) DEFINITIONS.—

(1) REPRESENTATIVE OF A GOVERNMENT AGENCY.—The term "representative of a government agency" means any person employed by, or receiving compensation from, any department or agency of the Federal Government.

(2) MANAGING CONTRACTOR.—The term "managing contractor" means the non-government entity specified by contract to carry out the administrative functions of a nuclear weapons laboratory.

(3) NUCLEAR WEAPONS LABORATORY.—The term "nuclear weapons laboratory" means any of the following:

(A) Los Alamos National Laboratory.

(B) Livermore National Laboratory.

(C) Sandia National Laboratories.

ALLARD AMENDMENT NO. 606

(Ordered to lie on the table.)

Mr. ALLARD submitted an amendment intended to be proposed by him to the bill, S. 936, supra; as follows:

At the end of subtitle B of title XXVIII, add the following:

SEC. 28 . MODIFICATION OF LAND CONVEYANCE AUTHORITY, ROCKY MOUNTAIN ARSENAL, COLORADO.

Section 5(c)(1) of the Rocky Mountain Arsenal National Wildlife Refuge Act of 1992 (Public Law 102–402; 106 Stat. 1966; 16 U.S.C. 668dd note) is amended by striking out the second sentence and inserting in lieu thereof the following new sentence: "The Administrator shall convey the transferred property to Commerce City, Colorado, upon the approval of the City, for consideration equal to the fair market value of the property (as determined jointly by the Administrator and the City).".

KYL AMENDMENT NO. 607

(Ordered to lie on the table.)

Mr. KYL submitted an amendment intended to be proposed by him to the bill, S. 936, supra; as follows:

At the end of subtitle E of title X, add the following:

SEC. 1075. LIMITATION ON USE OF COOPERATIVE THREAT REDUCTION FUNDS FOR DESTRUCTION OF CHEMICAL WEAPONS.

(a) LIMITATION.—No funds authorized to be appropriated under this or any other Act for fiscal year 1998 for Cooperative Threat Reduction programs may be obligated or expended for chemical weapons destruction activities, including for the planning, design, or construction of a chemical weapons destruction facility or for the dismantlement of an existing chemical weapons production facility, until the date that is 15 days after a certification is made under subsection (b).

(b) PRESIDENTIAL CERTIFICATION.—A certification under this subsection is a certification by the President to Congress that—

(1) Russia is making reasonable progress toward the implementation of the Bilateral Destruction Agreement;

(2) the United States and Russia have resolved, to the satisfaction of the United States, outstanding compliance issues under the Wyoming Memorandum of Understanding and the Bilateral Destruction Agreement;

(3) Russia has fully and accurately declared all information regarding its unitary and binary chemical weapons, chemical weapons facilities, and other facilities associated with chemical weapons;

(4) Russia has deposited its instrument of ratification of the Chemical Weapons Convention; and

(5) Russia and the United States have concluded an agreement that—

(A) provides for a limitation on the United States financial contribution for the chemical weapons destruction activities; and

(B) commits Russia to pay a portion of the cost for a chemical weapons destruction facility in an amount that demonstrates that Russia has a substantial stake in financing the implementation of both the Bilateral Destruction Agreement and the Chemical Weapons Convention, as called for in the condition provided in section 2(14) of the Senate Resolution entitled "A resolution to advise and consent to the ratification of the Chemical Weapons Convention, subject to certain conditions", agreed to by the Senate on April 24, 1997.

(c) DEFINITIONS.—In this section:

(1) The term "Bilateral Destruction Agreement" means the Agreement Between the United States of America and the Union of Soviet Socialist Republics on Destruction and Nonproduction of Chemical Weapons and on Measures to Facilitate the Multilateral Convention on Banning Chemical Weapons, signed on June 1, 1990.

(2) The term "Chemical Weapons Convention" means the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, opened for signature on January 13, 1993.

(3) The term "Cooperative Threat Reduction program" means a program specified in section 1501(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201: 110 Stat. 2731; 50 U.S.C. 2362 note).

(4) The term "Wyoming Memorandum of Understanding" means the Memorandum of Understanding Between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics Regarding a Bilateral Verification Experiment and Data Exchange Related to Prohibition on Chemical Weapons, signed at Jackson Hole, Wyoming, on September 23, 1989.

THURMOND AMENDMENTS NOS. 608–609

(Ordered to lie on the table.)

Mr. THURMOND submitted two amendments intended to be proposed by him to the bill, S. 936, supra; as follows:

AMENDMENT NO. 608

At the end of subtitle B of title II, insert the following:

SEC. 220. F–22 AIRCRAFT PROGRAM.

Of the funds authorized to be appropriated under section 201(3), $1,651,000,000 is available for engineering manufacturing and development of the F–22 aircraft program.

AMENDMENT NO. 609

On page 37, line 9, strike out "6,006" and insert in lieu thereof "6,206".

On page 278, line 12, strike out "under section 301(20) for fiscal year 1998".

On page 365, between lines 18 and 19, insert the following:

SEC. 2206. INCREASE IN AUTHORIZATION FOR MILITARY CONSTRUCTION PROJECTS AT ROOSEVELT ROADS NAVAL STATION, PUERTO RICO.

(a) Increase.—The table in section 2201(b) of the Military Construction Authorization Act for Fiscal Year 1997 (division B of Public Law 104–201; 110 Stat. 2767) is amended in the amount column of the item relating to Naval Station, Roosevelt Roads, Puerto Rico, by striking out "$23,600,000" and inserting in lieu thereof "$24,100,000".

(b) Conforming Amendment.—Section 2204(b)(4) of such Act (110 Stat. 2770) is amended by striking out "$14,100,000" and inserting in lieu thereof "$14,600,000".

On page 400, after line 25, insert the following:

(d) Authority Contingent on Appropriations Acts.—The Secretary may exercise the authority under subsection (a) only to the extent and in the amounts provided in advance in appropriations Acts.

On page 409, line 23, insert ", to the extent provided in appropriations Acts," after "shall".

On page 417, line 23, strike out "$1,265,481,000" and insert in lieu thereof "$1,266,021,000".

On page 418, line 5, strike out "$84,367,000" and insert in lieu thereof "$84,907,000".

On page 419, line 17, strike out "$2,173,000" and insert in lieu thereof "$2,713,000".

On page 420, strike out lines 3 through 9.

On page 420, line 10, strike out "(g)" and insert in lieu thereof "(f)".

On page 421, line 10, strike out "$54,000,000" and insert in lieu thereof "$35,000,000".

On page 481, line 16, insert "of the Supervisory Board of the" before "Commission".

INOUYE AMENDMENT NO. 610

(Ordered to lie on the table.)

Mr. INOUYE submitted an amendment intended to be proposed by him to the bill, S. 936, supra; as follows:

On page 366, in the table following line 5, insert after the item relating to Robins Air Force Base, Georgia, the following new item:

Hawaii	Bellows Air Force Station.	$5,232,000

On page 366, in the table following line 5, strike out "$540,920,000" in the amount column in the item relating to the total and insert in lieu thereof "$542,152,000".

On page 369, line 9, strike out "$1,793,949,000" and insert in lieu thereof "$1,799,181,000".

On page 369, line 13, strike out "$540,920,000" and insert in lieu thereof "$546,152,000".

KENNEDY AMENDMENTS NOS. 611–613

(Ordered to lie on the table.)

Mr. KENNEDY submitted three amendments to be proposed by him to the bill, S. 936, supra; as follows:

Amendment No. 611

In section 201(1), strike out "$4,750,462,000" and insert in lieu thereof "$4,745,462,000".

In section 201(4), in the matter preceding subparagraph (A), strike out "$10,072,347,000" and insert in lieu thereof "$10,077,347,000".

Amendment No. 612

Strike out section 824.

Amendment No. 613

On page 94, strike out line 22 and all that follows through page 95, line 8, and insert in lieu thereof the following:

"(c) Effect of Notification.—(1) Upon the submission of a copy of a notification to the President under subsection (a), the President shall take appropriate action to address the issues raised by the notification, including, if necessary, delaying the effective date of the administrative action covered with respect to the Department of Defense pending a decision on further action.

"(2) Not later than 30 days after receipt of the copy of a notification, the President shall notify the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives of all actions taken or proposed to be taken to address the issues raised by the notification or, if no action has been taken or is proposed to be taken, the reasons why no action is necessary.

BUMPERS AMENDMENTS NOS. 614–617

(Ordered to lie on the table.)

Mr. BUMPERS submitted four amendments intended to be proposed by him to the bill, S. 936, supra; as follows:

Amendment No. 614

At the appropriate place in the bill, add the following: "of the amount authorized for O&M, Army National Guard, $6,854,000 shall be available for the operation of Fort Chaffee, Arkansas."

Amendment No. 615

Strike from line 17 on page 32 through the end of page 34, and substitute the following: "Of the funds authorized to the Air Force in this title, none shall be obligated or expended for the F–22 fighter program, other than necessary termination expenses."

Amendment No. 616

Strike line 10 on page 317 through line 10 on page 322.

Amendment No. 617

Strike line 18 on page 45 through line 6 on page 46.

GLENN (AND OTHERS) AMENDMENT NO. 618

(Ordered to lie on the table.)

Mr. GLENN (for himself, Mr. THOMPSON, and Mr. COCHRAN) submitted an amendment intended to be proposed by them to the bill, S. 936, supra; as follows:

Strike out section 1040.

Mr. GLENN. Mr. President, section 1040 of the fiscal year 1998 DOD authorization bill (S. 936) amends title 31 of the United States Code to effectively prevent the General Accounting Office [GAO] from conducting self-initiated audits—work performed under GAO's inherent authority without a formal Member request—unless all congressional requests then-pending have been completed.

Since 1921, the Comptroller General has had broad authority to evaluate programs and investigate—on his own initiative—"all matters relating to the receipt, disbursement, and use of public money." Self-initiated authority has provided GAO the flexibility to pursue critical issues that auditors and investigators uncover in the course of their work. It is essential to the maintenance of generally accepted standards of independence and impartiality.

Title 31 is under the purview of the Governmental Affairs Committee [GAC], which has jurisdiction over GAO's organization, management, and authority. It represents a major policy shift in the role and operation of GAO, adopted without benefit of any hearings, legislative record, or prior consultation with GAC.

At GAC's June 17, 1997, reconciliation markup, Senators LEVIN, GLENN, THOMPSON, and DOMENICI discussed this provision and indicated their strong reservations. Following that markup, Chairman THOMPSON and Senator GLENN sent a letter to the chairman and ranking member of the Armed Services Committee [SASC] requesting a sequential referral of the bill for the purpose of reviewing this provision as contained in title X. We were unable to get the consent needed for such a referral.

GLENN AMENDMENTS NOS. 619–623

(Ordered to lie on the table.)

Mr. GLENN submitted five amendments intended to be proposed by him to the bill, S. 936, supra; as follows:

Amendment No. 619

On page 400, between lines 12 and 13, insert the following:

(e) Limitation on Conveyance Authority.—(1) The Secretary may not make the conveyance authorized by subsection (a) unless the Administrator of General Services determines that the property to be conveyed is surplus to the United States.

(2) The Administrator shall make the determination based on a screening of the property. The Administrator shall complete the screening not later than 30 days after the date of enactment of this Act.

Amendment No. 620

On page 402, between lines 16 and 17, insert the following:

(g) Limitation on Conveyance Authority.—(1) The Secretary may not make the conveyance authorized by subsection (a) unless the Administrator of General Services determines that the property to be conveyed is surplus to the United States.

(2) The Administrator shall make the determination based on a screening of the property. The Administrator shall complete the screening not later than 30 days after the date of enactment of this Act.

Amendment No. 621

On page 405, between lines 4 and 5, insert the following:

(e) Limitation on Conveyance Authority.—(1) The Secretary may not make the conveyance authorized by subsection (a) unless the Administrator of General Services determines that the property to be conveyed is surplus to the United States.

(2) The Administrator shall make the determination based on a screening of the

property. The Administrator shall complete the screening not later than 30 days after the date of enactment of this Act.

AMENDMENT NO. 622

On page 406, between lines 16 and 17, insert the following:

(g) LIMITATION ON CONVEYANCE AUTHORITY.—(1) The Secretary may not make the conveyance authorized by subsection (a) unless the Administrator of General Services determines that the property to be conveyed is surplus to the United States.

(2) The Administrator shall make the determination based on a screening of the property. The Administrator shall complete the screening not later than 30 days after the date of enactment of this Act.

AMENDMENT NO. 623

On page 409, between lines 13 and 14, insert the following:

(g) LIMITATION ON CONVEYANCE AUTHORITY.—(1) The Secretary may not make the conveyance authorized by subsection (a) unless the Administrator of General Services determines that the property to be conveyed is surplus to the United States.

(2) The Administrator shall make the determination based on a screening of the property. The Administrator shall complete the screening not later than 30 days after the date of enactment of this Act.

ROBB AMENDMENT NO. 624

(Ordered to lie on the table.)

Mr. ROBB submitted an amendment intended to be proposed by him to the bill, S. 936, supra; as follows:

At the end of subtitle E of title III, add the following:

SEC. 369. MULTITECHNOLOGY AUTOMATED READER CARD DEMONSTRATION PROGRAM.

(a) PROGRAM REQUIRED.—The Secretary of the Navy shall carry out a program to demonstrate expanded use of multitechnology automated reader cards throughout the Navy and the Marine Corps. The demonstration program shall include demonstration of the use of the so-called "smartship" technology of the ship-to-shore work load/off load program of the Navy.

(b) PERIOD OF PROGRAM.—The Secretary shall carry out the demonstration program for two years beginning not later than January 1, 1998.

(c) REPORT.—Not later than 90 days after termination of the demonstration program, the Secretary shall submit a report on the experience under the program to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives.

(d) FUNDING.—Of the total amount authorized to be appropriated under paragraphs (2) and (3) of section 301, $36,000,000 shall be available for the demonstration program under this section, of which $6,300,000 shall be available for demonstration of the use of the so-called "smartship" technology of the ship-to-shore work load/off load program of the Navy.

HELMS AMENDMENTS NOS. 625–626

(Ordered to lie on the table.)

Mr. HELMS submitted two amendments intended to be proposed by him to the bill, S. 936, supra; as follows:

AMENDMENT NO. 625

At the end of subtitle E of title X, add the following:

SEC. 1075. DONATION OF EXCESS ARMY CHAPEL PROPERTY TO CHURCHES DAMAGED OR DESTROYED BY ARSON OR OTHER ACTS OF TERRORISM.

(a) AUTHORITY.—Notwithstanding any other provision of law, the Secretary of the Army may donate property described in subsection (b) to an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that is a religious organization in order to assist the organization in restoring or replacing property of the organization that has been damaged or destroyed as a result of an act of arson or terrorism, as determined pursuant to procedures prescribed by the Secretary.

(b) PROPERTY COVERED.—The property authorized to be donated under subsection (a) is furniture and other property that is in, or formerly in, chapels closed or being closed and is determined as being excess to the requirements of the Army. No real property may be donated under this section.

(c) DONEES NOT TO BE CHARGED.—No charge may be imposed by the Secretary on a donee of property under this section in connection with the donation. However, the donee shall defray any expense for shipping or other transportation of property donated under this section from the location of the property when donated to any other location.

AMENDMENT NO. 626

At the appropriate place in the bill, add the following:

SEC. . LAND CONVEYANCE, FORT BRAGG, NORTH CAROLINA.

(a) CONVEYANCE AUTHORIZED.—Subject to the provisions of this section and notwithstanding any other law, the Secretary of the Army shall convey, without consideration, by fee simple absolute deed to Harnett County, North Carolina, all right, title, and interest of the United States of America in and to two parcels of land containing a total of 300 acres, more or less, located at Fort Bragg, North Carolina, together with any improvements thereon, for educational and economic development purposes.

(b) TERMS AND CONDITIONS.—The conveyance by the United States under this section shall be subject to the following conditions to protect the interests of the United States, including:

(1) the County shall pay all costs associated with the conveyance, authorized by this section, including but not limited to environmental analysis and documentation, survey costs and recording fees.

(2) not withstanding the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. 9601) et the Solid Waste Disposal Act, as amended (42 U.S.C. 6901 et seq.) or any other law, the County, and not the United States, shall be responsible for any environmental restoration or remediation required on the property conveyed and the United States shall be forever released and held harmless from any obligation to conduct such restoration or remediation and any claims or causes of action stemming from such remediation.

(c) LEGAL DESCRIPTION OF REAL PROPERTY AND PAYMENT OF COSTS.—The exact acreage and legal description of the real property described in subsection (a) shall be determined by a survey, the costs of which the County shall bear.

THOMPSON AMENDMENT NO. 627

(Ordered to lie on the table.)

Mr. THOMPSON submitted an amendment intended to be proposed by him to the bill, S. 936, supra; as follows:

At the end of subtitle B of title V, add the following:

SEC. 515. DETERMINATIONS OF AVAILABILITY OF FEDERAL-DISTRICT COURT JUDGES FOR MOBILIZATION AS MEMBERS OF RESERVE COMPONENTS.

(a) CASE-BY-CASE DETERMINATIONS.—Chapter 1007 of title 10, United States Code, is amended by adding at the end the following:

§ 10217. Screening Ready Reserve for members in key Federal positions: United States district court judges

"(a) CASE-BY-CASE DETERMINATIONS.—For purposes of screening members of the reserve components regarding whether the members are available for active duty immediately during a mobilization, war, or national emergency, or in response to an order of the President to augment active forces for an operational mission—

"(1) the position of judge of a district court of the United States may not automatically be considered as being a key Federal position; and

"(2) the procedures and criteria that are applicable generally for determinations of whether a member of a reserve component is in a key Federal position shall be applied in the determination of whether a member of a reserve component who is a judge of a district court of the United States is serving in a key Federal position.

"(b) KEY FEDERAL POSITION DEFINED.—In this section, the term 'key Federal position' means a Federal Government position that cannot be vacated during a national emergency or mobilization without seriously impairing the capability of the Federal agency or office concerned to function effectively.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following:

"10217. Screening Ready Reserve for members in key Federal positions: United States district court judges.".

MURKOWSKI AMENDMENTS NOS. 628–630

(Ordered to lie on the table.)

Mr. MURKOWSKI submitted three amendments intended to be proposed by him to the bill, S. 936, supra; as follows:

AMENDMENT NO. 628

At an appropriate place in title III, insert the following:

SEC. . REPORT ON OPTIONS FOR THE DISPOSAL OF CHEMICAL WEAPONS AND AGENTS.

(a) REQUIREMENT.—Not later than March 15, 1998, the Secretary of Defense shall submit to Congress a report on the options available to the Department of Defense for the disposal of chemical weapons and agents in order to facilitate the disposal of such weapons and agents without the construction of additional chemical weapons disposal facilities in the continental United States.

(b) ELEMENTS.—The report shall include the following:

(1) a description of each option evaluated;

(2) an assessment of the lifecycle costs and risks associated with each option evaluated;

(3) a statement of any technical, regulatory, or other requirements or obstacles with respect to each option, including with respect to any transportation of weapons or agents that is required for the option;

(4) an assessment of incentives required for sites to accept munitions or agents from outside their own locales, as well as incentives to enable transportation of these items across state lines;

(5) an assessment of the cost savings that could be achieved through either the application of uniform federal transportation or safety requirements and any other initiatives consistent with the transportation and safe disposal of stockpile and nonstockpile chemical weapons and agents; and

(6) proposed legislative language necessary to implement options determined by the Secretary to be worthy of consideration by the Congress.

AMENDMENT NO. 629

On page 439, after line 3, add the following new subsection:

"(e) Notwithstanding the provisions of subsection (d), the Secretary is authorized to expend funds to perform surveillance and maintenance activities necessary to maintain the Fast Flux Test Facility at Hanford, Washington, in standby status and to conduct evaluations of technical, cost and safety issues related to potential uses for the Fast Flux Test Facility, including tritium production.".

AMENDMENT NO. 630

At the appropriate place in the bill add the following new section:

"SEC. . TRITIUM PRODUCTION.

Section 91 of the Atomic Energy Act of 1954 (42 U.S.C. 2121) is amended by adding after subsection c. the following new subsection—

"d. In order to demonstrate the feasibility of the production of tritium for defense related requirements in facilities licensed under section 13 or 104 b., the Secretary of Energy may acquire by lease, purchase, or agreement with the owner or operator of a facility, facilities or services for such purposes. If the Secretary purchases a facility for production of tritium, the Secretary is a person for purposes of section 103 of this Act.".

CRAIG AMENDMENT NO. 631

(Ordered to lie on the table.)

Mr. CRAIG submitted an amendment intended to be proposed by him to the bill, S. 936, supra; as follows:

At the end of title XI, add the following:

SEC. 1107. GARNISHMENT AND INVOLUNTARY ALLOTMENT.

Section 5520a of title 5, United States Code, is amended—

(1) in subsection (j), by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) Such regulations shall provide that an agency's administrative costs in executing a garnishment action may be added to the garnishment, and that the agency may retain costs recovered as offsetting collections.";

(2) in subsection (k)—

(A) by striking out paragraph (3); and

(B) by redesignating paragraph (4) as paragraph (3); and

(3) by striking out subsection (l).

DOMENICI AMENDMENTS NOS. 632–633

(Ordered to lie on the table.)

Mr. DOMENICI submitted two amendments intended to be proposed by him to the bill, S. 936, supra; as follows:

AMENDMENT NO. 632

On page 30, line 12, Title II, Air Force research, development, test, and evaluation, strike "$14,302,264,000" and add "$14,311,264,000."

AMENDMENT NO. 633

At the end of title XXIII, add the following:

SEC. 2306 CONSTRUCTION OF MILITARY FAMILY HOUSING AT CANNON AIR FORCE BASE, NEW MEXICO.

Of the amount authorized to be appropriated in section 2304(a)(1), $8,900,000 shall be available for the construction of 147 units of military family housing at Cannon Air Force Base, New Mexico.

THURMOND AMENDMENTS NOS. 634–635

(Ordered to lie on the table.)

Mr. THURMOND submitted two amendments intended to be proposed by him to the bill. S. 936, supra; as follows:

AMENDMENT NO. 634

At the end of title VII, add the following:

SEC. 708. CHIROPRACTIC HEALTH CARE DEMONSTRATION PROGRAM.

(a) TWO-YEAR EXTENSION.—Subsection (b) of section 731 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103-337; 108 Stat. 2809; 10 U.S.C. 1092 note) is amended by striking out "1997" and inserting in lieu thereof "1999".

(b) EXPANSION TO AT LEAST THREE ADDITIONAL TREATMENT FACILITIES.—Subsection (a)(2) of such section is amended by striking out "not less than 10" and inserting in lieu thereof "the National Naval Medical Center, the Walter Reed Army Medical Center, and not less than 11 other"

(c) REPORTS.—Subsection (c) of such section is amended—

(1) in paragraph (1), by striking out "Committees on Armed Services of the Senate and" and inserting in lieu thereof "Committee on Armed Services of the Senate and the Committee on National Security of";

(2) by redesignating paragraph (3) as paragraph (4);

(3) by inserting after paragraph (2) the following new paragraph (3):

"(3)(A) Not later than January 30, 1998, the Secretary of Defense shall submit to the committees referred to in paragraph (1) a report that identifies the additional treatment facilities designated to furnish chiropractic care under the program that were not so designated before the report required by paragraph (1) was prepared, together with the plan for the conduct of the program at the additional treatment facilities.

"(B) Not later than May 1, 1998, the Secretary of Defense shall modify the plan for evaluating the program submitted pursuant to paragraph (2) in order to provide for the evaluation of program at all of the designated treatment facilities, including the treatment facilities referred to in subparagraph (B)."; and

(4) in paragraph (4), as redesignated by paragraph (2), by striking out "The Secretary" and inserting in lieu thereof "Not later than May 1, 2000, the Secretary".

AMENDMENT NO. 635

At the end of subtitle C of title V, add the following:

SEC. 525. ACTIVE DUTY ASSIGNMENT SELECTION PROCEDURES FOR GRADUATES OF SENIOR MILITARY COLLEGES.

(a) AUTHORITY.—Chapter 103 of title 10, United States Code, is amended by adding at the end the following:

"§ 2111b. Senior military colleges: active duty assignments for graduating members of the program

"(a) INITIAL APPROVAL AUTHORITY.—Upon the request of a graduating member of the program at a senior military college who is to be commissioned as an officer in the Army, the commander of the Reserve Officers' Training Corps Cadet Command of the Army may approve the member to be ordered to active duty for a period of more than 30 days.

"(b) PROCESSING OF REQUESTS.—(1) The senior commissioned officer for the Reserve Officers' Training Corps unit of a member of the program requesting orders to active duty under this section shall review the member's personnel and academic records and forward the member's request, together with a recommendation for approval or disapproval of the request, to the commander of the Reserve Officers' Training Corps Cadet Command.

"(2) The commander of the Reserve Officers' Training Corps Cadet Command shall personally review the personnel and academic records of any member of the program submitting a request for active duty under this section.

"(3) The commander of the Reserve Officers' Training Corps Cadet Command shall forward each request of a member of the program for orders to active duty under this section, together with the member's personnel and academic records, to the selection and branching board of the Army, without regard to whether the commander approved or disapproved the request.

"(c) ACTION AT DEPARTMENT OF THE ARMY STAFF LEVEL.—The selection and branching board of the Army shall—

"(1) review the personnel and academic records of each member of the program requesting orders for active duty for more than 30 days under this section;

"(2) designate a branch assignment for the member; and

"(3) in the case of a member whose request for orders to active duty under this section has been disapproved by the commander of the Reserve Officers' Training Corps Cadet Command, review the request and either—

"(A) approve the member to be ordered to active duty for a period of more than 30 days, notwithstanding the action of the commander of the Reserve Officers' Training Corps Cadet Command; or

"(B) designate the member for other duty in a reserve component.

"(d) FAIR TREATMENT FOR GRADUATES OF OTHER SCHOOLS.—The Secretary of the Army shall ensure that members of the program graduating from schools other than senior military colleges are afforded an opportunity for selection for active duty assignments that is not less than the opportunity that was afforded before October 1, 1997, to persons who graduated as members of the program from schools other than senior military colleges before that date.

"(e) SENIOR MILITARY COLLEGE DEFINED.—In this section, the term 'senior military college' means a college named in section 2111a(d) of this title.".

(b) STYLISTIC CONFORMING AMENDMENT.—The heading of section 2111a is amended to read as follows:

"§2111a. Senior military colleges: detail of officers".

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by striking out the item relating to section 2111a and inserting in lieu thereof the following:

"2111a. Senior military colleges: detail of officers.".
"2111b. Senior military colleges: active duty assignments for graduating members of the program.".

BOXER (AND OTHERS) AMENDMENT NO. 636

(Ordered to lie on the table.)

Mrs. BOXER (for herself, Mr. GRASSLEY, and Mr. HARKIN) submitted an amendment intended to be proposed by them to the bill, S. 936, supra; as follows:

Strike out section 804, and insert in lieu thereof the following:

SEC. 804. REIMBURSEMENT FOR EXCESSIVE COMPENSATION OF DEFENSE CONTRACTOR PERSONNEL PROHIBITED.

(a) EXCESSIVE COMPENSATION AS NOT ALLOWABLE AS CONTRACT COSTS.—Subsection (e)(1) of section 2324 of title 10, United States Code, is amended by adding at the end the following:

"(P) Costs of compensation paid with respect to the services of any one individual, to the extent that the total amount of the compensation paid in fiscal year exceeds the rate of pay provided by law for the President.".

(b) DEFINITIONS.—subseciton (l) of such section is amended by adding at the end the following:

"(4) The term 'compensation', for a fiscal year, means the total amount of wages, salary, bonuses and deferred compensation for the fiscal year, whether paid, earned, or otherwise accruing, as recorded in an employer's cost accounting records for the fiscal year.

(b) CERTAIN COMPENSATION NOT ALLOWABLE AS COSTS UNDER NON-DEFENSE CONTRACTS.—(1) Subsection (e)(1) of section 306 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 256) is amended by adding at the end the following:

"(P) Costs of compensation paid with respect to the services of any one individual, to the extent that the total amount of the compensation paid in a fiscal year exceeds the rate of pay provided by law for the President.".

(2) Such section is further amended by adding at the end the following:

"(m) OTHER DEFINITIONS.—In this section:

"(1) The term 'compensation', for a fiscal year, means the total amount of wages, salary, bonuses and deferred compensation for the fiscal year, whether paid, earned, or otherwise accruing, as recorded in an employer's cost accounting records for the fiscal year.

(c) EFFECTIVE DATE.—(1) The amendments made by this section shall take effect on the date that is 90 days after the date of the enactment of this Act and shall apply with respect to payments that become due from the United States after that date under covered contracts entered into before, on, or after that date.

(2) In paragraph (1), the term "covered contract" has the meaning given such term in section 2324(l) of title 10, United States Code, and section 306(l) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 256(l)).

BOXER AMENDMENTS NOS. 637–638

(Ordered to lie on the table.)

Mrs. BOXER submitted two amendments intended to be proposed by her to the bill, S. 936, supra; as follows:

AMENDMENT NO. 637

At the appropriate place in the bill, insert the following new section:

SEC. . COMPLIANCE WITH REGULATIONS RELATING TO LOCAL PREFERENCE IN HIRING.

The Secretary of Defense shall require any business concern submitting an application to the Secretary for a contract for the performance of services at a military installation that is affected by closure or realignment under a base closure law to submit, as part of the application, a description of how the business concern (if awarded the contract) would meet the requirements of DFARS regulations subpart 226,71, governing local preference in hiring.

AMENDMENT NO. 638

At the appropriate place in the bill, insert the following:

Of the funds authorized to be appropriated by this Act to the Department of Energy, $3,500,000 are authorized to be appropriated for fiscal year 1998, and $3,800,000 are authorized to be appropriated for fiscal year 1999, for improvement to Greenville Road in Livermore, California.

LAUTENBERG AMENDMENTS NOS. 639–640

(Ordered to lie on the table.)

Mr. LAUTENBERG submitted two amendments intended to be proposed by him to the bill, S. 936, supra; as follows:

AMENDMENT NO. 639

At the end of subtitle B of title XXVIII, add the following:

SEC. 2819. LAND CONVEYANCE, PERTH AMBOY NAVAL RESERVE CENTER, PERTH AMBOY, NEW JERSEY.

(a) CONVEYANCE AUTHORIZED.—(1) The Secretary of the Navy may convey, without consideration, to the City of Perth Amboy, New Jersey (in this section referred to as the "City"), all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of approximately 3 acres and located in Perth Amboy, New Jersey, the site of the Perth Amboy Naval Reserve Center. The purpose of the conveyance is to facilitate the economic development activities of the City.

(2) The real property referred to in paragraph (1) may, at the election of the Secretary, exclude a traffic monitoring tower located on the property.

(b) CONDITION OF CONVEYANCE.—The conveyance authorized by subsection (a) shall be subject to the condition that the City accept the conveyed property subject to such easements and rights of way in favor of the United States as the Secretary considers appropriate, including easements to provide access to the traffic monitoring tower described in paragraph (2) of that subsection.

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the City.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

AMENDMENT NO. 640

At the end of subtitle B of title XXVIII, add the following:

SEC. 2819. LAND CONVEYANCE, NIKE BATTERY 80 FAMILY HOUSING SITE, EAST HANOVER TOWNSHIP, NEW JERSEY.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without consideration, to the Township Council of East Hanover, New Jersey (in this section referred to as the "Council"), all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of approximately 13.88 acres and located near the unincorporated area of Hanover Neck in East Hanover Township, New Jersey, north of the Town of Florham Park, New Jersey, the Nike Battery 80 Family Housing Site. The purpose of the conveyance is to assist the Council in implementing a plan to develop the site for low-income and moderate-income housing, senior housing, and a park.

(b) DESCRIPTION OF THE PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the Council.

(c) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

BAUCUS AMENDMENT NO. 641

(Ordered to lie on the table.)

Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill, S. 936, supra; as follows:

On page 409, between lines 13 and 14, insert the following:

SEC. 2819. LAND CONVEYANCE, HAVRE AIR FORCE STATION, MONTANA, AND HAVRE TRAINING SITE, MONTANA.

(a) CONVEYANCE AUTHORIZED.—(1) The Secretary of the Air Force may convey, without consideration, to the Bear Paw Development Corporation, Havre, Montana (in this section referred to as the "Corporation"), all, right, title, and interest of the United States in and to the real property described in paragraph (2).

(2) The authority in paragraph (1) applies to the following real property:

(A) A parcel of real property, including any improvements thereon, consisting of approximately 85 acres and comprising the Havre Air Force Station, Montana.

(B) A parcel of real property, including any improvements thereon, consisting of approximately 9 acres and comprising the Havre Training Site, Montana.

(b) CONDITIONS OF CONVEYANCE.—The conveyance authorized by subsection (a) shall be subject to the following conditions:

(1) That the Corporation—

(A) convey to the Box Elder School District 13G, Montana, 10 single-family homes located on the property to be conveyed under that subsection as jointly agreed upon by the Corporation and the school district; and

(B) grant the school district access to the property for purposes of removing such homes from the property.

(2) That the Corporation—

(A) convey to the Hays/Lodgepole School District 50, Montana—

(i) 27 single-family homes located on the property to be conveyed under that subsection as jointly agreed upon by the Corporation and the school district; and

(ii) one duplex housing unit located on the property; and

(B) grant the school district access to the property for purposes of removing such homes and the housing unit from the property.

(c) Description of Property.—The exact acreages and legal description of the parcels of property conveyed under subsection (a) shall be determined by surveys satisfactory to the Secretary. The cost of the surveys shall be borne by the Corporation.

(d) Additional Terms and Conditions.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

FAIRCLOTH AMENDMENT NO. 642

(Ordered to lie on the table.)

Mr. FAIRCLOTH submitted an amendment intended to be proposed by him to the bill, S. 936, supra; as follows:

On page 366, in the table following line 5, strike out "$8,356,000" in the amount column in the item relating to Pope Air Force Base, North Carolina, and insert in lieu "$13,365,000".

On page 336, in the table following line 5, strike out "$540,920,000" in the amount column in the item relating to the total and insert in lieu thereof "$545,920,000".

On page 367, in the table following line 7, strike out "$29,100,000" in the amount column in the item relating Classified Location, Overseas Classified, and insert in lieu thereof "$24,100,000".

On page 367, in the table following line 7, strike out "$89,345,000" in the amount column in the item relating to the total and insert in lieu thereof "$84,345,000".

On page 369, line 13, strike out "$540,920,000" and insert in lieu thereof "$545,920,000".

On page 369, line 16, strike out "$89,345,000" and insert in lieu thereof "$84,920,000".

KEMPTHORNE AMENDMENTS NOS. 643–644

(Ordered to lie on the table.)

Mr. KEMPTHORNE submitted two amendments intended to be proposed by him to the bill, S. 936, supra; as follows:

Amendment No. 643

At the end of subtitle D of title V, add the following:

SEC. 235. TRUE LOCK SAFETY RETAINING SYSTEM FOR MILITARY VEHICLES.

(a) Testing Required.—The Secretary of the Army shall test the use of the safety retaining system known as the true lock safety retaining system for use on active and reserve component vehicles.

(b) Report.—Not later than March 31, 1998, the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the results of the testing required under subsection (a). The report shall include the following:

(1) An analysis of the costs and benefits of installing the true lock safety retaining system on active and reserve component vehicles of the Army.

(2) A comparison of the true lock safety retaining system with the safety retaining system or systems in use on Army vehicles.

(3) Any savings and enhanced reliability that can be derived from the installation of the true lock safety retaining system on active and reserve component vehicles of the Army.

Amendment No. 644

At the end of subtitle D of title V, add the following:

SEC. 535. RETROACTIVITY OF MEDAL OF HONOR SPECIAL PENSION.

(a) Entitlement.—In the case of Vernon J. Baker, Edward A. Carter, Junior, and Charles L. Thomas, who were awarded the Medal of Honor pursuant to section 561 of Public Law 104–201 (110 Stat. 2529) and whose names have been entered and recorded on the Army, Navy, Air Force, and Coast Guard Medal of Honor Roll, the entitlement of those persons to the special pension provided under section 1562 of title 38, United States Code (and antecedent provisions of law), shall be effective as follows:

(1) In the case of Vernon J. Baker, for months that begin after April 1945.

(2) In the case of Edward A. Carter, Junior, for months that begin after March 1945.

(3) In the case of Charles L. Thomas, for months that begin after December 1944.

(b) Amount.—The amount of the special pension payable under subsection (a) for a month beginning before the date of the enactment of this Act shall be the amount of the special pension provided by law for that month for persons entered and recorded on the Army, Navy, Air Force, and Coast Guard Medal of Honor Roll (or an antecedent Medal of Honor Roll required by law).

(c) Payment to Next of Kin.—In the case of a person referred to in subsection (a) who died before receiving full payment of the pension pursuant to this section, the Secretary of Veterans Affairs shall pay the total amount of the accrued pension, upon receipt of application for payment within one year after the date of the enactment of this Act, to the deceased person's spouse or, if there is no surviving spouse, then to the deceased person's children, per stirpes, in equal shares.

GORTON AMENDMENTS NOS. 645–646

(Ordered to lie on the table.)

Mr. GORTON submitted two amendments intended to be proposed by him to the bill, S. 936, supra; as follows:

Amendment No. 645

Page 217, after line 15, insert the following new subtitle heading:

Subtitle A—Health Care Services

Page 226, after line 2, insert the following new subtitle:

Subtitle B—Uniformed Services Treatment Facilities

SEC. 711. IMPLEMENTATION OF DESIGNATED PROVIDER AGREEMENTS FOR UNIFORMED SERVICES TREATMENT FACILITIES.

(a) Commencement of Health Care Services Under Agreement.—Subsection (c) of section 722 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201, 10 U.S.C. 1073 note) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B);

(2) by inserting "(1)" before "Unless"; and

(3) by adding at the end the following new paragraph:

"(2) The Secretary may modify the effective date established under paragraph (1) for an agreement to permit a transition period of not more than six months between the date on which the agreement is executed by the parties and the date on which the designated provider commences the delivery of health care services under the agreement.".

(b) Temporary Continuation of Existing Participation Agreements.—Subsection (d) of such section is amended by inserting before the period at the end the following: ", including any transitional period provided by the Secretary under paragraph (2) of such subsection".

(c) Arbitration.—Subsection (c) of such section is further amended by adding at the end the following new paragraph:

"(3) In the case of a designated provider whose service area has a managed care support contract implemented under the TRICARE program as of September 23, 1996, the Secretary and the designated provider shall submit to binding arbitration if the agreement has not been executed by October 1, 1997. The arbitrator, mutually agreed upon by the Secretary and the designated provider, shall be selected from the American Arbitration Association. The arbitrator shall develop an agreement that shall be executed by the Secretary and the designated provider by January 1, 1998. Notwithstanding paragraph (1), the effective date for such agreement shall be not more than six months after the date on which the agreement is executed.".

(d) Contracting Out of Primary Care Services.—Subsection (f)(2) of such section is amended by inserting at the end the following new sentence: "Such limitation on contracting our primary care services shall only apply to contracting out to a health maintenance organization, or to a licensed insurer that is not controlled directly or indirectly by the designated provider, except in the case of primary care contracts between a designated provider and a contractor in force as of September 23, 1996. Subject to the overall enrollment restriction under section 724 and limited to the historical service area of the designated provider, professional service agreements or independent contractor agreements with primary care physicians or groups of primary care physicians, however organized, and employment agreements with such physicians shall not be considered to be the type of contracts that are subject to the limitation of this subsection, so long as the designated provider itself remains at risk under its agreement with the Secretary in the provision of services by any such contract physicians or groups of physicians.".

(e) Uniform Benefit.—Section 723(b) of the National Defense Authorization Act for Fiscal Year 1997 (PL 104–201, 10 U.S.C. 1073 note) is amended—

(1) in subsection (1), by inserting before the period at the end the following: ", subject to any modification to the effective date the Secretary may provide pursuant to section 722(c)(2)", and

(2) in subsection (2), by inserting the period at the end the following: ", or the effective date of agreements negotiated pursuant to section 722(c)(3)".

SEC. 712. LIMITATION ON TOTAL PAYMENTS.

Section 726(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201, 10 U.S.C. 1073 note) is amended by adding at the end the following new sentence: "In establishing the ceiling rate for enrollees with the designated providers who are also eligible for the Civilian Health and Medical Program of the Uniformed Services, the Secretary of Defense shall take into account the health status of the enrollees.".

SEC. 713. CONTINUED ACQUISITION OF REDUCED-COST DRUGS.

Section 722 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 10 U.S.C. 1073 note) is amended by adding at the end the following new subsection:

"(g) CONTINUED ACQUISITION OF REDUCED-COST DRUGS.—A designated provider shall be treated as part of the Department of Defense for purposes of section 8126 of title 38, United States Code, in connection with the provision by the designated provider of health care services to covered beneficiaries pursuant to the participation agreement of the designated provider under section 718(c) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 42 U.S.C. 248c note) or pursuant to the agreement entered into under subsection (b).".

AMENDMENT NO. 646

On page 226, between lines 2 and 3, insert the following:

SEC. 708. TRANSITION OF UNIFORMED SERVICES TREATMENT FACILITIES TO DESIGNATED PROVIDERS WITHIN THE UNIFORMED SERVICES HEALTH CARE DELIVERY SYSTEM.

(a) DESIGNATED PROVIDER AGREEMENTS.—(1) Subsection (c) of section 722 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 10 U.S.C. 1073 note) is amended—

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(B) by striking out "Unless an earlier effective date is agreed upon by the Secretary and the designated provider" and inserting in lieu thereof "(1) Unless an earlier effective date is agreed upon by the Secretary and the designated provider or a later effective date is established pursuant to paragraph (2)"; and

(C) by adding at the end the following new paragraph:

"(2) The Secretary may establish the effective date for an agreement as being a date later than that otherwise provided under paragraph (1) in order to provide a transition period of not more than six months between the date on which the agreement is entered into by the Secretary and a designated provider and the date on which the designated provider commences the delivery of health care services under the agreement.".

(2)(A) Subsection (b) of such section is amended—

(i) by redesignating paragraph (3) as paragraph (4); and

(ii) by inserting after paragraph (2) the following new paragraph (3):

"(3)(A) If the Secretary and a designated provider described in subparagraph (B) do not enter into an agreement under this section before October 1, 1997, an arbitrator shall establish the terms and conditions of the agreement. The arbitrator shall complete the agreement in time for the Secretary and the designated provider to execute the agreement before January 1, 1998, and the Secretary and the designated provider shall execute the agreement before that date.

"(B) The designated provider referred to in subparagraph (A) is a designated provider whose service area has a managed care support contract implemented under the TRICARE program as of September 23, 1996.

"(C) The arbitrator, mutually agreed upon by the Secretary and the designated provider, shall be selected from among the persons on a list of arbitrators provided by the American Arbitration Association.".

(B) Subsection (c) of such section, as amended by paragraph (1), is further amended by adding at the end the following:

"(3) Notwithstanding paragraphs (1) and (2), the effective date of an agreement arbitrated under subsection (b)(3) shall be the date provided in the agreement, which shall be a date that is not more than six months after the date on which the agreement is executed.".

(3) Such section is further amended—

(A) in subsection (f)—

(i) by striking out "(1)" in paragraph (1); and

(ii) by striking out paragraph (2); and

(B) by adding at the end the following:

"(g) LIMITATION ON CONTRACTING OUT PRIMARY CARE.—(1) Except as provided in paragraphs (2) and (3), a designated provider may not, without the approval of the Secretary, contract out more than five percent of its primary care enrollment to a health maintenance organization, or to a licensed insurer, that is not controlled directly or indirectly by the designated provider.

"(2) The limitation in paragraph (1) does not apply to any contract between a designated provider and a contractor that was in force as of September 23, 1996.

"(3)(A) Subject to the overall enrollment restriction under section 724, the limitation in paragraph (1) does not apply with respect to primary care services provided for a designated provider within the historical service area of the designated provider under any agreement described in subparagraph (B) if the designated provider remains at risk under its agreement with the Secretary for the provision of services under the described agreement.

"(B) An agreement referred to in subparagraph (A) is any of the following agreements of the designated provider:

"(i) A professional service agreement, or independent contractor agreement, with one or more primary care physicians or groups of primary care physicians (however organized).

"(ii) Any employment agreement with a primary care physician.".

(b) PROVISION OF UNIFORM BENEFIT.—Section 723(b) of the National Defense Authorization Act for Fiscal Year 1997 is amended by adding at the end the following:

"(3) The effective date of an agreement entered into with the Secretary under section 722 (if different than the dates referred to in paragraphs (1) and (2)).".

(c) CONSIDERATION OF HEALTH STATUS OF CHAMPUS ELIGIBLE ENROLLEES FOR LIMITATION ON TOTAL PAYMENTS.—(1) Section 726(b) of such Act is amended by adding at the end the following new sentence: "In determining the cost that would have been incurred for enrollees who are also eligible for care under the Civilian Health and Medical Program of the Uniformed Services, the Secretary of Defense shall take into account the health status of the enrollees.".

(2) Section 721 of such Act is amended by adding at the end the following:

"(10) The term 'Civilian Health and Medical Program of the Uniformed Services' has the meaning given such term in section 1072(4) of title 10, United States Code.".

(d) CONTINUED ACQUISITION OF REDUCED-COST DRUGS.—Section 722 of such Act, as amended by subsection (a)(3), is further amended by adding at the end the following new subsection:

"(h) CONTINUED ACQUISITION OF REDUCED-COST DRUGS.—A designated provider shall be treated as part of the Department of Defense for purposes of section 8126 of title 38, United States Code, in connection with the provision by the designated provider of health care services to covered beneficiaries pursuant to either of the following agreements of the designated provider:

"(1) An agreement entered into under subsection (b).

"(2) A participation agreement extended under subsection (d).".

BINGAMAN AMENDMENTS NOS. 647–654

(Ordered to lie on the table.)

Mr. BINGAMAN submitted eight amendments intended to be proposed by him to the bill, S. 936, supra; as follows:

AMENDMENT NO. 647

On page 458, between lines 3 and 4, insert the following:

SEC. 3159. PARTICIPATION OF NATIONAL SECURITY ACTIVITIES IN HISPANIC OUTREACH INITIATIVE OF THE DEPARTMENT OF ENERGY.

The Secretary of Energy shall take appropriate actions, including the allocation of funds, to ensure the participation of the national security activities of the Department of Energy in the Hispanic Outreach Initiative of the Department of Energy.

AMENDMENT NO. 648

On page 306, between lines 4 and 5, insert the following:

SEC. 1041. REPORT ON POLICIES AND PROGRAMS TO PROMOTE HEALTHY LIFESTYLES AMONG MEMBERS OF THE ARMED FORCES AND THEIR DEPENDENTS.

(a) REPORT.—Not later than March 30, 1998, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the effectiveness of the policies and programs of the Department of Defense intended to promote healthy lifestyles among members of the Armed Forces and their dependents.

(b) COVERED POLICIES AND PROGRAMS.—The report under subsection (a) shall address the following:

(1) Programs intended to educate members of the Armed Forces and their dependents about the potential health consequences of the use of alcohol and tobacco.

(2) Policies of the commissaries, post exchanges, service clubs, and entertainment activities relating to the sale and use of alcohol and tobacco.

(3) Programs intended to provide support to members of the Armed Forces and dependents who elect to reduce or eliminate their use of alcohol or tobacco.

(4) Any other policies or programs intended to promote healthy lifestyles among members of the Armed Forces and their dependents.

AMENDMENT NO. 649

At the end of subtitle C of title V, add the following:

SEC. . FLEXIBILITY IN MANAGEMENT OF JUNIOR RESERVE OFFICERS' TRAINING CORPS.

(a) AUTHORITY OF THE SECRETARY OF DEFENSE.—Chapter 102 of title 10, United States Code, is amended by adding at the end the following:

"§ 2032. Responsibility of the Secretary of Defense

"(a) COORDINATION BY SECRETARY OF DEFENSE.—The Secretary of Defense shall coordinate the establishment and maintenance of Junior Reserve Officers' Training Corps units by the Secretaries of the military departments in order to maximize enrollment in the Corps and to enhance administrative efficiency in the management of the Corps. The Secretary may impose such requirements regarding establishment of units and transfer of existing units as the Secretary considers necessary to achieve the objectives set forth in the preceding sentence.

"(b) CONSIDERATION OF NEW SCHOOL OPENINGS AND CONSOLIDATIONS.—In carrying out subsection (a), the Secretary shall take into consideration openings of new schools, consolidations of schools, and the desirability of continuing the opportunity for participation in the Corps by participants whose continued participation would otherwise be adversely affected by new school openings and consolidations of schools.

"(c) FUNDING.—If amounts available for the Junior Reserve Officers' Training Corps are insufficient for taking actions considered necessary by the Secretary under subsection (a), the Secretary shall seek additional funding for units from the local educational administration agencies concerned.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following:

"2032. Responsibility of the Secretary of Defense.".

AMENDMENT NO. 650

At the end of title VII, add the following:

SEC. 708. AUTHORITY FOR AGREEMENT FOR USE OF MEDICAL RESOURCE FACILITY, ALAMAGORDO, NEW MEXICO.

(a) AUTHORITY.—The Secretary of the Air Force may enter into an agreement with Gerald Champion Hospital, Alamagordo, New Mexico (in this section referred to as the "Hospital"), providing for the Secretary to furnish health care services to eligible individuals in a medical resource facility in Alamagordo, New Mexico, that is constructed, in part, using funds provided by the Secretary under the agreement.

(b) CONTENT OF AGREEMENT.—Any agreement entered into under subsection (a) shall, at a minimum, specify the following:

(1) The relationship between the Hospital and the Secretary in the provision of health care services to eligible individuals in the facility, including—

(A) whether or not the Secretary and the Hospital is to use and administer the facility jointly or independently; and

(B) under what circumstances the Hospital is to act as a provider of health care services under the TRICARE managed care program.

(2) Matters relating to the administration of the agreement, including—

(A) the duration of the agreement;

(B) the rights and obligations of the Secretary and the Hospital under the agreement, including any contracting or grievance procedures applicable under the agreement;

(C) the types of care to be provided to eligible individuals under the agreement, including the cost to the Department of the Air Force of providing the care to eligible individuals during the term of the agreement;

(D) the access of Air Force medical personnel to the facility under the agreement;

(E) the rights and responsibilities of the Secretary and the Hospital upon termination of the agreement; and

(F) any other matters jointly identified by the Secretary and the Hospital.

(3) The amount of the funds available under subsection (c) that the Secretary is to contribute for the construction of the facility.

(4) Any conditions or restrictions relating to the construction or use of the facility.

(c) AVAILABILITY OF FUNDS FOR CONSTRUCTION.—Of the amount authorized to be appropriated by section 301(21), not more than $7,000,000 shall be available for the contribution of the Secretary referred to in subsection (b)(3) to the construction of the facility described in subsection (a).

(d) NOTICE AND WAIT.—The Secretary may not enter into the agreement authorized by subsection (a) until 90 days after the Secretary submits to the congressional defense committees a report describing the agreement. The report shall set forth the memorandum of agreement under subsection (b), information regarding the long-term costs and benefits of the agreement, and such other information with respect to the agreement as the Secretary considers appropriate.

(e) ELIGIBLE INDIVIDUAL DEFINED.—In this section, the term "eligible individual" means any individual eligible for medical and dental care under chapter 55 of title 10, United States Code, including any individual entitled to such care under section 1074(a) of that title.

AMENDMENT NO. 651

On page 425, line 12, strike "$2,000,000" and insert "$5,000,000".

AMENDMENT NO. 652

At the end of subtitle A of title X, add the following:

SEC. 1009. INCREASED AMOUNTS FOR CHEMICAL AND BIOLOGICAL DEFENSE COUNTERPROLIFERATION PROGRAMS.

(a) INCREASES.—Notwithstanding any other provision of this Act—

(1) the amount authorized to be appropriated under section 104 for chemical and biological defense counterproliferation programs is hereby increased by $67,000,000;

(2) the amount authorized to be appropriated under section 201(4) for chemical and biological defense counterproliferation programs is hereby increased by $36,000,000; and

(3) the amount authorized under section 301(5) is hereby increased by $15,000,000.

(b) DECREASE.—Notwithstanding any other provision of this Act, the total amount authorized to be appropriated under section 201(4) for the Space-Based Laser program is hereby decreased by $118,000,000.

AMENDMENT NO. 653

At the end of subtitle A of title X, add the following:

SEC. 1009. INCREASED AMOUNTS FOR CHEMICAL AND BIOLOGICAL DEFENSE COUNTERPROLIFERATION PROGRAMS.

(a) INCREASE.—Notwithstanding any other provision of this Act, the total amount authorized to be appropriated under titles I, II, and III for chemical and biological defense counterproliferation programs is hereby increased by $118,000,000.

(b) DECREASE.—Notwithstanding any other provision of this Act, the total amount authorized to be appropriated under section 201(4) for the Space-Based Laser program is hereby decreased by $118,000,000.

AMENDMENT NO. 654

On page 306, between lines 4 and 5, insert the following:

SEC. 1041. REPORT ON HELSINKI JOINT STATEMENT.

(a) REQUIREMENT.—Not later than March 31, 1998, the President shall submit to the congressional defense committees a report on the Helsinki joint statement. The report shall include the following:

(1) A description of the options available to the United States to meet the objective of between 2,000 and 2,500 strategic nuclear warheads as contemplated under a potential third agreement between the United States and the Russian Federation on reductions and limitations of strategic offensive arms.

(2) An assessment of the military and budgetary consequences of each such option.

(3) An assessment of the mechanisms available to verify compliance with each such option.

(4) A description and assessment of the options available to deactivate the strategic nuclear warhead delivery systems that are required to be deactivated by December 31, 2003, under the START II Treaty, including mechanisms to ensure the verification of such deactivation and to ensure the reversibility of such deactivation.

(5) A description and assessment of the options available to limit the numbers of long-range sea-launched nuclear cruise missiles and the numbers of tactical nuclear weapons.

(6) A description and assessment of the options available to monitor and verify reductions in inventories of strategic nuclear weapons, tactical nuclear weapons, and related nuclear materials.

(b) DEFINITIONS.—In this section:

(1) The term "Helsinki Joint Statement" means the agreements between the President of the United States and the President of the Russian Federation as contained in the Joint Statement on Parameters on Future Reductions in Nuclear Forces issued at Helsinki in March 1997.

(2) The term "START II Treaty" means the Treaty Between the United States of America and the Russian Federation on Further Reduction and Limitation on Strategic Offensive Arms, signed at Moscow on January 3, 1993, including any protocols and memoranda of understanding associated with the treaty.

CONRAD (AND OTHERS) AMENDMENTS NO. 655

(Ordered to lie on the table.)

Mr. CONRAD (for himself, Mr. DORGAN, and Mr. BREAUX, and Ms. LANDRIEU) submitted an amendment intended to be proposed by them to the bill, S. 936, supra; as follows:

At the end of subtitle E of title I, add the following:

SEC. 144. AIR FORCE AIRCRAFT ENGINE MODERNIZATION DEMONSTRATION PROGRAM.

(a) ENGINE REPLACEMENT PROGRAM.—(1) The Secretary of the Air Force may carry out a program to demonstrate the replacement of existing engines on Air Force aircraft in active service with commercial aircraft engines. Under the program, the Secretary shall replace the engines on B-52H aircraft with engines that are commercial items described in section 4(12)(A) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)(A)).

(2) An engine modernization demonstration program carried out under this section may include (in addition to other elements) any or all of the following elements:

(A) Integration of replacement engines and related equipment into existing aircraft and testing of the integrated engines and related equipment.

(B) Fabrication and installation of the replacement engines and related equipment.

(C) Acquisition of the replacement engines and related equipment by means of leasing under commercial terms and conditions, including commercial terms and conditions pertaining to indemnification.

(D) Acquisition of the logistical support for the replacement engines and related equipment.

(b) MULTIPLE CONTRACTS AUTHORIZED.—The Secretary may enter into more than one contract for the purposes of subsection (a).

(c) LEASE TERMS AND CONDITIONS.—(1) A contract for the lease of aircraft engines and related equipment under this section may be for a period not to exceed 30 years.

(2) Any contract for the lease of aircraft engines and related equipment under this section may provide for the termination liability of the United States under the contract. Any such termination liability shall be subject to a limitation in the contract that any obligation of the United States to pay the termination liability is subject to the availability of funds specifically appropriated for that purpose pursuant to an authorization of appropriations specifically for that purpose.

(3)(A) Any contract for the lease of aircraft engines and related equipment entered into under this section may provide for the United States to indemnify the lessor for any covered loss (except as provided in subparagraph (C)).

(B) A covered loss under this paragraph may, to the extent provided in the contract, include any loss, injury, or damage to the lessor, any employee of the lessor, or any third party, or to any property of the lessor or a third party, that arises out of, or is related to, the lease.

(C) Any such requirement for indemnification shall be subject to a limitation in the contract that any obligation of the United States to pay such indemnification is subject to the availability of funds specifically appropriated for that purpose pursuant to an authorization of appropriations specifically for that purpose.

(D) The United States shall not be required to indemnify a lessor, and a contract under this section may not obligate the United States to indemnify a lessor, for a loss, injury, or damage that is caused by willful misconduct of managerial personnel of the lessor or of the engine supplier.

(d) SOURCE OF FUNDS.—Notwithstanding any other provision of law (including any law regarding fiscal year limitations), payments under any such contract for a fiscal year may be made from funds appropriated for the Air Force for that fiscal year for operations and maintenance.

(e) WAIVER OF CERTAIN PROVISIONS OF LAW.—The Secretary of the Air Force may enter into contracts and incur obligations under this section without regard to the following provisions of law:

(1) The limitations on making and authorizing an obligation and involving the United States in a contract or obligation that are set forth in section 1341 of title 31, United States Code.

(2) The limitations on accepting voluntary services and employing personal services that are set forth in section 1342 of such title.

(3) The limitations on availability of funds that are set forth in section 1502 of such title.

(4) Any apportionment or other division of appropriations, any other administrative restriction, and any reporting requirement that, but for this paragraph, would otherwise apply to the contract or obligation under subchapter II of chapter 15 of such title.

(5) The limitations on contracting and purchasing that are set forth in section 3732(a) of the Revised Statutes (41 U.S.C. 11(a)).

(f) BUDGETARY TREATMENT OF LEASES.—(1) The Secretary of Defense, the Secretary of the Air Force, and the Director of the Office of Management and Budget shall treat a contract for a lease entered into pursuant to this section as an operating lease for all purposes of the Federal budget without regard to any provision of law relating to the Federal budget, including part C of title II of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900 et seq.) and any regulation or directive (including any directive of the Office of Management and Budget) issued thereunder.

(2) The Secretary may enter into contracts under this section only to the extent, and in the amount, specifically provided in an Act enacted after the date of the enactment of this Act. A provision in an Act enacted after the date of the enactment of this Act that provides specific authority to enter into a contract under this section, subject to a specific maximum dollar amount, shall not be considered to be budget authority for any purpose, and appropriations provided in annual appropriations Acts for payments of United States obligations under such a contract as those payments become due shall be considered to be budget authority.

(g) PRIOR CONGRESSIONAL NOTIFICATION.—Before entering into a contract under this section, the Secretary shall notify the congressional defense committees and the Committees on the Budget of the Senate and House of Representatives of the Secretary's intent to enter into the contract and certify to those committees that such contract is in the national interest. The contract may then be entered into only after the end of the 30-day period beginning on the date of such notification and certification.

CONRAD (AND OTHERS) AMENDMENT NO. 656

(Ordered to lie on the table.)

Mr. CONRAD (for himself, Mr. DORGAN, Mr. WELLSTONE, and Mr. JOHNSON) submitted an amendment intended to be proposed by them to the bill, S. 936, supra; as follows:

At the end of title X, add the following:

SEC. . CLAIMS BY MEMBERS OF THE ARMED FORCES FOR LOSS OF PERSONAL PROPERTY DUE TO FLOODING IN THE RED RIVER BASIN.

(a) FINDINGS.—Congress makes the following findings:

(1) The flooding that occurred in the portion of the Red River Basin encompassing East Grand Forks, Minnesota, and Grand Forks, North Dakota, during April and May 1997 is the worst flooding to occur in that region in the last 500 years.

(2) Over 700 military personnel stationed in the vicinity of Grand Forks Air Force Base reside in that portion of the Red River Basin.

(3) The military personnel stationed in the vicinity of Grand Forks Air Force Base have been stationed there entirely for the convenience of the Government.

(4) There is insufficient military family housing at Grand Forks Air Force Base for all of those military personnel, and the available off-base housing is almost entirely within the areas adversely affected by the flood.

(5) Many of the military personnel have suffered catastrophic losses, including total losses of personal property by some of the personnel.

(6) It is vital to the national security interests of the United States that the military personnel adversely affected by the flood recover as quickly and completely as possible.

(b) AUTHORIZATION.—The Secretary of the military department concerned may pay claims for loss and damage to personal property suffered as a direct result of the flooding in the Red River Basin during April and May 1997, by members of the Armed Forces residing in the vicinity of Grand Forks Air Force Base, North Dakota, without regard to the provisions of section 3721(e) of title 31, United States Code.

DURBIN AMENDMENT NO. 657

(Ordered to lie on the table.)

Mr. DURBIN submitted an amendment to be proposed by him to the bill, S. 936, supra; as follows:

At the end of subtitle E of title X, add the following:

SEC. 1075. DEFENSE BURDENSHARING.

(a) EFFORTS TO INCREASE ALLIED BURDENSHARING.—The President shall seek to have each nation that has cooperative military relations with the United States (including security agreements, basing arrangements, or mutual participation in multinational military organizations or operations) take one or more of the following actions:

(1) For any nation in which United States military personnel are assigned to permanent duty ashore, increase its financial contributions to the payment of the nonpersonnel costs incurred by the United States Government for stationing United States military personnel in that nation, with a goal of achieving by September 30, 2000, 75 percent of such costs. An increase in financial contributions by any nation under this paragraph may include the elimination of taxes, fees, or other charges levied on United States military personnel, equipment, or facilities stationed in that nation.

(2) Increase its annual budgetary outlays for national defense as a percentage of its gross domestic product by 10 percent or at least to a level commensurate to that of the United States by September 30, 1998.

(3) Increase its annual budgetary outlays for foreign assistance (to promote democratization, economic stabilization, transparency arrangements, defense economic conversion, respect for the rule of law, and internationally recognized human rights) by 10 percent or at least to a level commensurate to that of the United States by September 30, 1998.

(4) Increase the amount of military assets (including personnel, equipment, logistics, support and other resources) that it contributes, or would be prepared to contribute, to multinational military activities worldwide.

(b) AUTHORITIES TO ENCOURAGE ACTIONS BY UNITED STATES ALLIES.—In seeking the actions described in subsection (a) with respect to any nation, or in response to a failure by any nation to undertake one or more of such actions, the President may take any of the following measures to the extent otherwise authorized by law:

(1) Reduce the end strength level of members of the Armed Forces assigned to permanent duty ashore in that nation.

(2) Impose on that nation fees or other charges similar to those that such nation imposes on United States forces stationed in that nation.

(3) Reduce (through rescission, impoundment, or other appropriate procedures as authorized by law) the amount the United

States contributes to the NATO Civil Budget, Military Budget, or Security Investment Program.

(4) Suspend, modify, or terminate any bilateral security agreement the United States has with that nation, consistent with the terms of such agreement.

(5) Reduce (through rescission, impoundment or other appropriate procedures as authorized by law) any United States bilateral assistance appropriated for that nation.

(6) Take any other action the President determines to be appropriate as authorized by law.

(c) Report on Progress in Increasing Allied Burdensharing.—Not later than March 1, 1998, the Secretary of Defense shall submit to Congress a report on—

(1) steps taken by other nations to complete the actions described in subsection (a);

(2) all measures taken by the President, including those authorized in subsection (b), to achieve the actions described in subsection (a);

(3) the difference between the amount allocated by other nations for each of the actions described in subsection (a) during the period beginning on March 1, 1996, and ending on February 28, 1997, and during the period beginning on March 1, 1997, and ending on February 28, 1998; and

(4) the budgetary savings to the United States that are expected to accrue as a result of the steps described under paragraph (1).

(d) Report on National Security Bases for Forward Deployment and Burdensharing Relationships.—(1) In order to ensure the best allocation of budgetary resources, the President shall undertake a review of the status of elements of the United States Armed Forces that are permanently stationed outside the United States. The review shall include an assessment of the following:

(A) The alliance requirements that are to be found in agreements between the United States and other countries.

(B) The national security interests that support permanently stationing elements of the United States Armed Forces outside the United States.

(C) The stationing costs associated with the forward deployment of elements of the United States Armed Forces.

(D) The alternatives available to forward deployment (such as material prepositioning, enhanced airlift and sealift, or joint training operations) to meet such alliance requirements or national security interests, with such alternatives identified and described in detail.

(E) The costs and force structure configurations associated with such alternatives to forward deployment.

(F) The financial contributions that allies of the United States make to common defense efforts (to promote democratization, economic stabilization, transparency arrangements, defense economic conversion, respect for the rule of law, and internationally recognized human rights).

(G) The contributions that allies of the United States make to meeting the stationing costs associated with the forward deployment of elements of the United States Armed Forces.

(H) The annual expenditures of the United States and its allies on national defense, and the relative percentages of each nation's gross domestic product constituted by those expenditures.

(2) The President shall submit to Congress a report on the review under paragraph (1). The report shall be submitted not later than March 1, 1998, in classified and unclassified form.

LUGAR (AND OTHERS) AMENDMENT NO. 658

Mr. LUGAR (for himself, Mr. Hagel, Mr. Jeffords, Mr. Chafee, Mr. Specter, Mr. D'Amato, Mr. Frist, Mr. Gorton, Ms. Snowe, Ms. Collins, Mr. Kennedy, Mr. Biden, Mr. Kerrey, Mr. Lieberman, Mr. Byrd, Mr. Reed, Mr. Daschle, Mr. Robb, Mr. Bingaman, Mr. Domenici, and Mr. Levin) proposed an amendment to the bill, S. 936, supra; as follows:

On page 272, between lines 1 and 2, insert the following:

SEC. 1009. COOPERATIVE THREAT REDUCTION PROGRAMS AND RELATED DEPARTMENT OF ENERGY PROGRAMS.

(a) Decrease in Authorization of Appropriations for Environmental Management Science Program.—Notwithstanding any other provision of this Act, the amount authorized to be appropriated by section 3102(f) is hereby decreased by $40,000,000.

(b) Decrease in Authorization of Appropriations for Environment, Safety and Health, Defense.—Notwithstanding any other provision of this Act, the amount authorized to be appropriated by section 3103(6) is hereby decreased by $19,000,000.

(c) Decrease in Authorization of Appropriations for Other Procurement, Navy.—Notwithstanding any other provision of this Act, the amount authorized to be appropriated by section 102(Q)(5) is hereby decreased by $56,000,000.

(d) Decrease in Authorization of Appropriations for Operation and Maintenance, Defense-Wide.—Notwithstanding any other provision of law, the amount authorized to be appropriated by section 301(5) is hereby decreased by $20,000,000.

(e) Increase in Authorization of Appropriations for Former Soviet Union Threat Reduction Programs.—Notwithstanding any other provision of this Act, the amount authorized to be appropriated by section 301(22) is hereby increased by $60,000,000.

(f) Increase in Authorization of Appropriations for Department of Energy for Other Defense Activities.—Notwithstanding any other provision of this Act, the total amount authorized to be appropriated by section 3103 is hereby increased by $56,000,000.

(g) Increase in Authorization of Appropriations for Department of Energy for Arms Control.—Notwithstanding any other provision of this Act, the amount authorized to be appropriated by section 3103(1)(B) is hereby increased by $25,000,000 (in addition to any increase under subsection (e) that is allocated to the authorization of appropriations under such section 3103(1)(B)).

(h) Authorization of Appropriations for Department of Energy for International Nuclear Safety Programs.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1998 for other defense activities in carrying out programs relating to international nuclear safety that are necessary for national security in the amount of $50,000,000.

(i) Training for United States Border Security.—Section 1421 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-201; 110 Stat. 2725; 50 U.S.C. 2331) is amended—

(1) by striking out "and" at the end of paragraph (2);

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following:

"(4) training programs and assistance relating to the use of such equipment, materials, and technology and for the development of programs relating to such use.".

(j) International Border Security Through Fiscal Year 1999.—Section 1424(b) of the National Defense Authorization Act for Fiscal Year 1997 (110 Stat. 2726; 10 U.S.C. 2333(b)) is amended by adding at the end the following: "Amounts available under the proceeding sentence shall be available until September 30, 1999.".

(j) Authority To Vary Amounts Available for Cooperative Threat Reduction Programs.—(1) Section 1502(b) of the National Defense Authorization Act for Fiscal Year 1997 (110 Stat. 2732) is amended—

(A) in the subsection heading, by striking out "Limited"; and

(B) in the first sentence of paragraph (1), by striking out ", but not in excess of 115 percent of that amount".

(2) Section 1202(b) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 110 Stat. 469) is amended—

(A) in the subsection heading, by striking out "Limited"; and

(B) in the first sentence of paragraph (1), by striking out ", but not in excess of 115 percent of that amount".

LIEBERMAN AMENDMENT NO. 659

(Ordered to lie on the table.)

Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill, S. 936, supra; as follows:

At the end of subtitle E of title I, add the following:

SEC. 144. NATO JOINT SURVEILLANCE/TARGET ATTACK RADAR SYSTEM.

(a) Funding.—Amounts authorized to be appropriated under this title and title II are available for a NATO alliance ground surveillance capability that is based on the Joint Surveillance/Target Attack Radar System of the United States, as follows:

(1) Of the amount authorized to be appropriated under section 101(5), $26,153,000.

(2) Of the amount authorized to be appropriated under section 103(1), $10,000,000.

(3) Of the amount authorized to be appropriated under section 201(1), $13,500,000.

(4) Of the amount authorized to be appropriated under section 201(3), $26,061,000.

(b) Authority.—(1) Subject to paragraph (2), the Secretary of Defense may utilize authority under section 2350b of title 10, United States Code, for contracting for the purposes of Phase I of a NATO Alliance Ground Surveillance capability that is based on the Joint Surveillance/Target Attack Radar System of the United States, notwithstanding the condition in such section that the authority be utilized for carrying out contracts or obligations incurred under section 27(d) of the Arms Export Control Act (22 U.S.C. 2767(d)).

(2) The authority under paragraph (1) applies during the period that the conclusion of a cooperative project agreement for a NATO Alliance Ground Surveillance capability under section 27(d) of the Arms Export Control Act is pending, as determined by the Secretary of Defense.

(c) Modification of Air Force Aircraft.—Amounts available pursuant to paragraphs (2) and (4) of subsection (a) may be used to provide for modifying two Air Force Joint

Surveillance/Target Attack Radar System production aircraft to have a NATO Alliance Ground Surveillance capability that is based on the Joint Surveillance/Target Attack Radar System of the United States.

BREAUX (AND OTHERS) AMENDMENT NO. 660

(Ordered to lie on the table.)

Mr. BREAUX (for himself, Mr. LOTT, Mr. THURMOND, Mr. STEVENS, Mr. BYRD, Mr. INOUYE, Mr. FORD, Mr. CLELAND, Mr. MURKOWSKI, Mr. AKAKA, Ms. MOSELEY-BRAUN, Mr. DURBIN, Ms. LANDRIEU, Mr. COCHRAN, Mr. FAIRCLOTH, Mr. ROCKEFELLER, Mr. KOHL, Mr. BURNS, Mr. HOLLINGS, Mr. CAMPBELL, Mr. REID, and Mr. WYDEN) submitted an amendment intended to be proposed by them to the bill, S. 936, supra; as follows:

Strike out section 1052, and insert in lieu thereof the following:

SEC. 1052. NATIONAL GUARD CIVILIAN YOUTH OPPORTUNITIES PROGRAM.

(a) THREE-YEAR EXTENSION OF PROGRAM.—Subsection (a) of section 1091 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 32 U.S.C. 501 note) is amended by striking out "During fiscal years 1993 through 1995" and inserting in lieu thereof "(1) During fiscal years 1993 through 2000".

(b) NEW STATE PROGRAMS FOR FISCAL YEAR 1998.—Subsection (a) of such section, as amended by subsection (a), is further amended by adding at the end the following:

"(2) The Secretary of Defense shall enter into agreements under subsection (d) to initiate participation in the program by at least five additional States in fiscal year 1998. The Secretary shall enter into the agreements with those States in the order in which applications for the agreements have been received by the National Guard Bureau from those States.".

(c) COST-SHARING WITH SOURCES OUTSIDE THE DEPARTMENT OF DEFENSE.—(1) Such section is amended by striking out subsection (k) and inserting in lieu thereof the following:

"(k) COST-SHARING.—(1) The Secretary of Defense shall pay the share of the total cost of carrying out the program in a State that is not required to be paid by sources outside the Department of Defense under this subsection.

"(2) In the case of a State that begins to participate in the program after fiscal year 1997, the Secretary of Defense shall pay the total cost of carrying out the program in that State in the first fiscal year.

"(3) Except as provided in paragraph (2), sources outside the Department of Defense shall pay a share of the total cost of carrying out the program in a State in any fiscal year after fiscal year 1997 as follows:

"(A) For fiscal year 1998, 25 percent.

"(B) For a fiscal year after fiscal year 1998, 50 percent.

"(4) The fair market value (as determined under regulations prescribed by the Secretary) of in-kind contributions to the program by a source or sources outside the Department of Defense shall be counted toward satisfaction of the share of the cost of the program required under paragraph (3) to be paid by sources outside the Department of Defense.".

(2) Subsection (d)(3) of such section is amended by inserting ", subject to subsection (k)," after "provide funds".

(d) RECHARACTERIZATION OF PROGRAM.—(1) Such section is further amended by striking out "pilot" each place it appears.

(2) The heading of such section is amended by striking out "**PILOT**".

(e) CONFORMING REPEAL.—Section 573 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 355; 32 U.S.C. 501 note) is repealed.

(f) FUNDING.—(1) Of the amount authorized to be appropriated under section 301(5), $48,000,000 is available only for the National Guard Civilian Youth Opportunities Program established under section 1091 of the National Defense Authorization Act for Fiscal Year 1993.

(2) The amount authorized to be appropriated under section 421 is hereby reduced by $28,000,000.

HARKIN AMENDMENT NO. 661

(Ordered to lie on the table.)

Mr. HARKIN submitted an amendment intended to be proposed by him to the bill, S. 936, supra; as follows:

After section 3, insert the following:

SEC. 4. GENERAL LIMITATION.

Notwithstanding any other provision of this Act, the total amount authorized to be appropriated for fiscal year 1998 for the national defense function under the provisions of this Act is $265,600,000,000.

HARKIN (AND DURBIN) AMENDMENT NO. 662

(Ordered to lie on the table.)

Mr. HARKIN (for himself and Mr. DURBIN) submitted an amendment intended to be proposed by them to the bill, S. 936, supra; as follows:

On page 59, after line 14, add the following new paragraph (3):

"(3) The Secretary of a military department may conduct a pilot program, consistent with applicable requirements of law, to test any practices referred to in paragraph (2) that the Secretary determines could improve the efficiency and effectiveness of depot-level operations, improve the support provided by depot-level activities for the armed forces user of the services of such activities, and enhance readiness by reducing the time that it takes to repair equipment.

On page 101, between lines 21 and 22, insert the following:

(3) For the purposes of this section, the term "best commercial inventory practice" includes a so-called prime vendor arrangement and any other practice that the Director determines will enable the Defense Logistics Agency to reduce inventory levels and holding costs while improving the responsiveness of the supply system to user needs.

On page 268, line 8, strike out "(L)" and insert in lieu thereof the following:

(L) Actions that can be taken to ensure that each comptroller position and each comparable position in the Department of Defense, whether filled by a member of the Armed Forces or a civilian employee, is filled by a person who, by reason of education, technical competence, and experience, has the core competencies for financial management.

(M)

ROBB AMENDMENTS NOS. 663–664

(Ordered to lie on the table.)

Mr. ROBB submitted two amendments intended to be proposed by him to the bill, S. 936, supra; as follows:

AMENDMENT NO. 663

At the end of subtitle A of title VIII, add the following:

SEC. 809. ALLOWABILITY OF COSTS OF EMPLOYEE STOCK OWNERSHIP PLANS.

(a) PROHIBITION.—Under section 2324 of title 10, United States Code, the Secretary of Defense may not determine the allowability of costs of employee stock ownership plans under contracts with the Department of Defense in accordance with the rule described in subsection (b).

(b) RULE.—The rule referred to in subsection (a) is the rule that was—

(1) proposed by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council on November 7, 1995, and referred to as FAR Case 92–024, Employee Stock Ownership Plans (60 Federal Register 56216); and

(2) withdrawn by such Councils on April 8, 1996 (61 Federal Register 14944).

AMENDMENT NO. 664

At the end of subtitle A of title X, add the following:

SEC. 1009. TRANSFER FOR ELECTRON SCRUBBER TECHNOLOGY.

Not later than January 1, 1998, the Secretary of Defense shall transfer $10,000,000, out of funds appropriated for the Environmental Security Technology Certification Program under title IV of the Department of Defense Appropriations Act, 1997 (section 101(b) of Public Law 104–208), to the Department of Energy for the Pittsburgh Energy Technology Center for the project on electron scrubbing to remove unwanted by-products.

HARKIN AMENDMENT NO. 665

(Ordered to lie on the table.)

Mr. HARKIN submitted an amendment intended to be proposed by him to the bill, S. 936, supra; as follows:

At the end of subtitle E of title V, add the following:

SEC. 664. SUBSISTENCE OF MEMBERS OF THE ARMED FORCES ABOVE THE POVERTY LEVEL.

(a) FINDINGS.—Congress makes the following findings:

(1) The morale and welfare of members of the Armed Forces and their families are key components of the readiness of the Armed Forces.

(2) Several studies have documented significant instances of members of the Armed Forces and their families relying on various forms of income support under programs of the Federal Government, including assistance under the Food Stamp Act of 1977 (7 U.S.C. 2012(o) and assistance under the special supplemental nutrition program for women, infants, and children under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786).

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Defense should strive—

(1) to eliminate the need for members of the Armed Forces and their families to subsist at, near, or below the poverty level; and

(2) to improve the wellbeing and welfare of members of the Armed Forces and their families by implementing, and programming full funding for, programs that have proven effective in elevating the standard of living of members and their families significantly above the poverty level.

(c) STUDY REQUIRED.—(1) The Secretary of Defense shall conduct a study of members of the Armed Forces and their families who subsist at, near, or below the poverty level.

(2) The study shall include the following:

(A) An analysis of potential solutions for mitigating or eliminating the need for members of the Armed Forces and their families to subsist at, near, or below the poverty level, including potential solutions involving changes in the systems and rates of basic allowance for subsistence, basic allowance for quarters, and variable housing allowance.

(B) Identification of the populations most likely to need income support under Federal Government programs, including—

(i) the populations living in areas of the United States where housing costs are notably high;

(ii) the populations living outside the United States; and

(iii) the number of persons in each identified population.

(C) The desirability of increasing rates of basic pay and allowances over a defined period of years by a range of percentages that provides for higher percentage increases for lower ranking personnel than for higher ranking personnel.

(d) IMPLEMENTATION OF DEPARTMENT OF DEFENSE SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR PERSONNEL OUTSIDE THE UNITED STATES.—(1) Section 1060a(a) of title 10, United States Code, is amended by striking out "may" and inserting in lieu thereof "shall".

(2) The Secretary of Defense shall implement the program required under section 1060a of title 10, United States Code, not later than the date that is 180 days after the date of the enactment of this Act.

(3) Section 1060a(b) of title 10, United States Code, is amended to read as follows:

"(b) FEDERAL PAYMENTS AND COMMODITIES.—For the purpose of obtaining Federal payments and commodities in order to carry out the program referred to in subsection (a), the Secretary of Agriculture shall make available to the Secretary of Defense the same payments and commodities as are made for the special supplemental food program in the United States under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786). The Secretary of Agriculture shall use funds appropriated for such program under section 17 of such Act to make the payments and commodities available. Funds available for the Department of Defense shall be used for carrying out the program under subsection (a) pending receipt of funds from the Secretary of Agriculture.".

(4) Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a plan for implementing the program referred to in paragraph (2).

WELLSTONE AMENDMENTS NOS. 666–668

(Ordered to lie on the table.)

Mr. WELLSTONE submitted three amendments intended to be proposed by him to the bill, S. 936, supra; as follows:

AMENDMENT NO. 666

At the end of subtitle D of title X, add the following:

SEC. . TRANSFER OF FUNDS FOR FEDERAL PELL GRANTS.

(a) TRANSFER REQUIRED.—The Secretary of Defense shall transfer to the Secretary of Education $2,600,000,000 of the funds appropriated for the Department of Defense for fiscal year 1998.

(b) USE OF TRANSFERRED FUNDS.—Funds transferred to the Secretary of Education pursuant to subsection (a) shall be available to carry out subpart 1 of part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070a) for fiscal year 1998.

AMENDMENT NO. 667

At the end of Division A, add the following:

TITLE XII—SCHOOL CONSTRUCTION ASSISTANCE

SEC. 12001. SHORT TITLE.

This title may be cited as the "Partnership to Rebuild America's Schools Act of 1997".

SEC. 12002. TABLE OF CONTENTS.

The table of contents for this title is as follows:

TITLE XII—SCHOOL CONSTRUCTION ASSISTANCE

Sec. 12001. Short title.
Sec. 12002. Table of contents.
Sec. 12003. Findings and purpose.
Sec. 12004. Definitions.

Subtitle A—School Construction Assistance Program

CHAPTER 1—FUNDING; ALLOCATION OF FUNDS

Sec. 12111. Funding.
Sec. 12112. Allocation of funds.

CHAPTER 2—GRANTS TO STATES

Sec. 12121. Allocation of funds.
Sec. 12122. Eligible State agency.
Sec. 12123. Allowable uses of funds.
Sec. 12124. Eligible construction projects; period for initiation.
Sec. 12125. Selection of localities and projects.
Sec. 12126. State applications.
Sec. 12127. Amount of Federal subsidy.
Sec. 12128. Separate funds or accounts; prudent investment.
Sec. 12129. State reports.

CHAPTER 3—DIRECT GRANTS TO LOCAL EDUCATIONAL AGENCIES

Sec. 12131. Eligible local educational agencies.
Sec. 12132. Grantees.
Sec. 12133. Allowable uses of funds.
Sec. 12134. Eligible construction projects; redistribution.
Sec. 12135. Local applications.
Sec. 12136. Formula grants.
Sec. 12137. Competitive grants.
Sec. 12138. Amount of Federal subsidy.
Sec. 12139. Separate funds or accounts; prudent investment.
Sec. 12140. Local reports.

Subtitle B—General Provisions

Sec. 12201. Technical employees.
Sec. 12202. Wage rates.
Sec. 12203. No liability of Federal Government.
Sec. 12204. Consultation with Secretary of the Treasury.

SEC. 12003. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds as follows:

(1) According to the General Accounting Office, one-third of all elementary and secondary schools in the United States, serving 14,000,000 students, need extensive repair or renovation.

(2) School infrastructure problems exist across the country, but are most severe in central cities and in schools with high proportions of poor and minority children.

(3) Many States and school districts will need to build new schools in order to accommodate increasing student enrollments; the Department of Education has predicted that the Nation will need 6,000 more schools by the year 2006.

(4) Many schools do not have the physical infrastructure to take advantage of computers and other technology needed to meet the challenges of the next century.

(5) While school construction and maintenance are primarily a State and local concern, States and communities have not, on their own, met the increasing burden of providing acceptable school facilities for all students, and the poorest communities have had the greatest difficulty meeting this need.

(6) The Federal Government, by providing interest subsidies and similar types of support, can lower the costs of State and local school infrastructure investment, creating an incentive for States and localities to increase their own infrastructure improvement efforts and helping ensure that all students are able to attend schools that are equipped for the 21st century.

(b) PURPOSE.—The purpose of this title is to provide Federal interest subsidies, or similar assistance, to States and localities to help them bring all public school facilities up to an acceptable standard and build the additional public schools needed to educate the additional numbers of students who will enroll in the next decade.

SEC. 12004. DEFINITIONS.

Except as otherwise provided, as used in this title, the following terms have the following meanings:

(1) CHARTER SCHOOL.—The term "charter school" has the meaning given that term in section 10306 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8066).

(2) COMMUNITY SCHOOL.—The term "community school" means a school, or part of a school, that serves as a center for after-school and summer programs and delivery of education, tutoring, cultural, and recreational services, and as a safe haven for all members of the community by—

(A) collaborating with other public and private nonprofit agencies (including libraries and other educational, human-service, cultural, and recreational entities) and private businesses in the provision of services;

(B) providing services such as literacy and reading programs; senior citizen programs; children's day-care services; nutrition services; services for individuals with disabilities; employment counseling, training, and placement; and other educational, health, cultural, and recreational services; and

(C) providing those services outside the normal school day and school year, such as through safe and drug-free safe havens for learning.

(3) CONSTRUCTION.—(A) The term "construction" means—

(i) the preparation of drawings and specifications for school facilities;

(ii) erecting, building, acquiring, remodeling, renovating, improving, repairing or extending school facilities;

(iii) demolition, in preparation for rebuilding school facilities; and

(iv) the inspection and supervision of the construction of school facilities.

(B) The term "construction" does not include the acquisition of any interest in real property.

(4) LOCAL EDUCATIONAL AGENCY.—The term "local educational agency" has the meaning given that term in subparagraphs (A) and (B) of section 14101(18) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801(18)).

(5) SCHOOL FACILITY.—(A) Term "school facility" means—

(i) a public structure suitable for use as a classroom, laboratory, library, media center, or related facility, whose primary purpose is the instruction of public elementary or secondary students; and

(ii) initial equipment, machinery, and utilities necessary or appropriate for school purposes.

(B) The term "school facility" does not include an athletic stadium, or any other structure or facility intended primarily for athletic exhibitions, contests, games, or events for which admission is charged to the general public.

(6) SECRETARY.—The term "Secretary" means the Secretary of Education.

(7) STATE.—The term "State" means each of the 50 States and the Commonwealth of Puerto Rico.

(8) STATE EDUCATIONAL AGENCY.—The term "State educational agency" has the meaning given that term in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

Subtitle A—School Construction Assistance Program

CHAPTER 1—FUNDING; ALLOCATION OF FUNDS

SEC. 12111. FUNDING.

The Secretary of Defense shall transfer to the Secretary of Education, for the purpose of carrying out this title, $2,600,000,000 of the funds appropriated for the Department of Defense for fiscal year 1998.

SEC. 12112. ALLOCATION OF FUNDS.

(a) RESERVATION FOR THE SECRETARY OF THE INTERIOR AND THE OUTLYING AREAS.—(1) The Secretary of Education shall reserve up to 2 percent of the funds made available by section 12111 to—

(A) provide assistance to the Secretary of the Interior, which the Secretary of the Interior shall use for the school construction priorities described in section 1125(c) of the Education Amendments of 1978 (25 U.S.C. 2005(c)); and

(B) make grants to American Samoa, Guam, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands, in accordance with their respective needs, as determined by the Secretary.

(2) Grants provided under paragraph (1)(B) shall be used for activities that the Secretary of Education determines best meet the school infrastructure needs of the areas identified in that paragraph, subject to the terms and conditions, consistent with the purpose of this title, that the Secretary may establish.

(b) ALLOCATION OF REMAINING FUNDS.—Of the remaining funds made available by section 12111—

(1) 50 percent shall be used for formula grants to States under section 12121;

(2) 35 percent shall be used for direct formula grants to local educational agencies under section 12136; and

(3) 15 percent shall be used for competitive grants to local educational agencies under section 12137.

CHAPTER 2—GRANTS TO STATES

SEC. 12121. ALLOCATION OF FUNDS.

(a) FORMULA GRANTS TO STATES.—Subject to subsection (b), the Secretary of Education shall allocate the funds available under section 12112(b)(1) among the States in proportion to the relative amounts each State would have received for basic grants under subpart 2 of part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6331 et seq.) for the most recent fiscal year if the Secretary had disregarded the numbers of children counted under that subpart who were enrolled in schools of local educational agencies that are eligible to receive formula grants under section 12136 of this title.

(b) ADJUSTMENTS TO ALLOCATIONS.—The Secretary shall adjust the allocations under subsection (a), as necessary, to ensure that, of the total amount allocated to States under subsection (a) and to local educational agencies under section 12136, the percentage allocated to a State under this section and to localities in the State under section 12136 is at least the minimum percentage for the State described in section 1124(d) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6334(d)) for the previous fiscal year.

(c) REALLOCATIONS.—If a State does not apply for its allocation, applies for less than its full allocation, or fails to submit an approvable application, the Secretary may reallocate all or a portion of the State's allocation, as the case may be, to the remaining States in the same proportions as the original allocations were made to those States under subsections (a) and (b).

SEC. 12122. ELIGIBLE STATE AGENCY.

The Secretary shall award each State's grant to the State agency, such as a State educational agency, a State school construction agency, or a State bond bank, that the Governor, with the agreement of the chief State school officer, designates as best able to administer the grant.

SEC. 12123. ALLOWABLE USES OF FUNDS.

Each State shall use its grant under this chapter only for one or more of the following activities to subsidize the cost of eligible school construction projects described in section 12124:

(1) Providing a portion of the interest cost (or of another financing cost approved by the Secretary) on bonds, certificates of participation, purchase or lease arrangements, or other forms of indebtedness issued or entered into by a State or its instrumentality for the purpose of financing eligible projects.

(2) State-level expenditures approved by the Secretary for credit enhancement for the debt or financing instruments described in paragraph (1).

(3) Making subgrants, or making loans through a State revolving fund, to local educational agencies or (with the agreement of the affected local educational agency) to other qualified public agencies to subsidize—

(A) the interest cost (or another financing cost approved by the Secretary) of bonds, certificates of participation, purchase or lease arrangements, or other forms of indebtedness issued or entered into by a local educational agency or other agency or unit of local government for the purpose of financing eligible projects; or

(B) local expenditures approved by the Secretary for credit enhancement for the debt or financing instruments described in subparagraph (A).

(4) Other State and local expenditures approved by the Secretary that leverage funds for additional school construction.

SEC. 12124. ELIGIBLE CONSTRUCTION PROJECTS; PERIOD FOR INITIATION.

(a) ELIGIBLE PROJECTS.—States and their subgrantees may use funds under this chapter, in accordance with section 12123, to subsidize the cost of—

(1) construction of elementary and secondary school facilities in order to ensure the health and safety of all students, which may include the removal of environmental hazards; improvements in air quality, plumbing, lighting, heating and air conditioning, electrical systems, or basic school infrastructure; and building improvements that increase school safety;

(2) construction activities needed to meet the requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) or of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.);

(3) construction activities that increase the energy efficiency of school facilities;

(4) construction that facilitates the use of modern educational technologies;

(5) construction of new school facilities that are needed to accommodate growth in school enrollments; or

(6) construction projects needed to facilitate the establishment of charter schools and community schools.

(b) PERIOD FOR INITIATION OF PROJECT.—(1) Each State shall use its grant under this chapter only to subsidize construction projects described in subsection (a) that the State or its localities have chosen to initiate, through the vote of a school board, passage of a bond issue, or similar public decision, made between July 11, 1996 and September 30, 2001.

(2) If a State determines, after September 30, 2001, that an eligible project for which it has obligated funds under this chapter will not be carried out, the State may use those funds (or any available portion of those funds) for other eligible projects selected in accordance with this chapter.

(c) REALLOCATION.—If the Secretary determines, by a date before September 30, 2001, selected by the Secretary, that a State is not making satisfactory progress in carrying out its plan for the use of the funds allocated to it under this chapter, the Secretary may reallocate all or part of those funds, including any interest earned by the State on those funds, to one or more other States that are making satisfactory progress.

SEC. 12125. SELECTION OF LOCALITIES AND PROJECTS.

(a) PRIORITIES.—In determining which localities and activities to support with grant funds, each State shall give the highest priority to—

(1) localities with the greatest needs, as demonstrated by inadequate educational facilities, coupled with a low level of resources available to meet school construction needs; and

(2) localities that will achieve the greatest leveraging effect on school construction from assistance under this chapter.

(b) ADDITIONAL CRITERIA.—In addition to the priorities required by subsection (a), each State shall consider each of the following in determining the use of its grant funds under this chapter:

(1) The condition of the school facilities in different communities in the State.

(2) The energy efficiency and the effect on the environment of projects proposed by communities, and the extent to which these projects use cost-efficient architectural design.

(3) The commitment of communities to finance school construction and renovation projects with assistance from the State's grant, as demonstrated by their incurring indebtedness or by similar public or private commitments for the purposes described in section 12124(a).

(4) The ability of communities to repay bonds or other forms of indebtedness supported with grant funds.

(5) The particular needs, if any, of rural communities in the State for assistance under this title.

(6) The receipt by local educational agencies in the State of grants under chapter 3, except that a local educational agency is not ineligible for a subgrant under this chapter solely because it receives such a grant.

SEC. 12126. STATE APPLICATIONS.

(a) Application Required.—A State that wishes to receive a grant under this chapter shall submit an application to the Secretary, in the manner the Secretary may require, not later than two years after the date of enactment of this Act.

(b) Development of Application.—(1) The State agency designated under section 12122 shall develop the State's application under this chapter only after broadly consulting with the State board of education, and representatives of local school boards, school administrators, the business community, parents, and teachers in the State about the best means of carrying out this chapter.

(2) If the State educational agency is not the State agency designated under section 12122, the designated agency shall consult with the State educational agency and obtain its approval before submitting the State's application.

(c) State Survey.—(1) Before submitting the State's application, the State agency designated under section 12122, with the involvement of local school officials and experts in building construction and management, shall survey the needs throughout the State (including in localities receiving grants under chapter 3) for construction and renovation of school facilities, including, at a minimum—

(A) the overall condition of school facilities in the State, including health and safety problems;

(B) the capacity of the schools in the State to house projected enrollments; and

(C) the extent to which the schools in the State offer the physical infrastructure needed to provide a high-quality education to all students.

(2) A State need not conduct a new survey under paragraph (1) if it has previously completed a survey that meets the requirements of that paragraph and that the Secretary finds is sufficiently recent for the purpose of carrying out this chapter.

(d) Application Contents.—Each State application under this chapter shall include—

(1) an identification of the State agency designated by the Governor under section 12122 to receive the State's grant under this chapter;

(2) a summary of the results of the State's survey of its school facility needs, as described in subsection (c);

(3) a description of how the State will implement its program under this chapter;

(4) a description of how the State will allocate its grant funds, including a description of how the State will implement the priorities and criteria described in section 12125;

(5)(A) a description of the mechanisms that will be used to finance construction projects supported by grant funds; and

(B) a statement of how the State will determine the amount of the Federal subsidy to be applied, in accordance with section 12127(a), to each local project that the State will support;

(6) a description of how the State will ensure that the requirements of this chapter are met by subgrantees under this chapter;

(7) a description of the steps the State will take to ensure that local educational agencies will adequately maintain the facilities that are constructed or improved with funds under this chapter;

(8) an assurance that the State will use its grant only to supplement the funds that the State, and the localities receiving subgrants, would spend on school construction and renovation in the absence of a grant under this chapter, and not to supplant those funds;

(9) an assurance that, during the four-year period beginning with the year the State receives its grant, the combined expenditures for school construction by the State and the localities that benefit from the State's program under this chapter (which, at the State's option, may include private contributions) will be at least 125 percent of those combined expenditures for that purpose for the four preceding years; and

(10) other information and assurances that the Secretary may require.

(e) Waiver of Requirement To Increase Expenditures.—The Secretary may waive or modify the requirement of subsection (d)(9) for a particular State if the State demonstrates to the Secretary's satisfaction that that requirement is unduly burdensome because the State or its localities have incurred a particularly high level of school construction expenditures during the previous four years.

SEC. 12127. AMOUNT OF FEDERAL SUBSIDY.

(a) Projects Funded With Subgrants.—For each construction project assisted by a State through a subgrant to a locality, the State shall determine the amount of the Federal subsidy under this chapter, taking into account the number or percentage of children from low-income families residing in the locality, subject to the following limits:

(1) If the locality will use the subgrant to help meet the costs of repaying bonds issued for a school construction project, the Federal subsidy shall be not more than one-half of the total interest cost of those bonds, determined in accordance with paragraph (4).

(2) If the bonds to be subsidized are general obligation bonds issued to finance more than one type of activity (including school construction), the Federal subsidy shall be not more than one-half of the interest cost for that portion of the bonds that will be used for school construction purposes, determined in accordance with paragraph (4).

(3) If the locality elects to use its subgrant for an allowable activity not described in paragraph (1) or (2), such as for certificates of participation, purchase or lease arrangements, reduction of the amount of principal to be borrowed, or credit enhancements for individual construction projects, the Federal subsidy shall be not more than one-half of the interest cost, as determined by the State in accordance with paragraph (4), that would have been incurred if bonds had been used to finance the project.

(4) The interest cost referred to in paragraphs (1), (2), and (3) shall be—

(A) calculated on the basis of net present value; and

(B) determined in accordance with an amortization schedule and any other criteria and conditions the Secretary considers necessary, including provisions to ensure comparable treatment of different financing mechanisms.

(b) State-Funded Projects.—For a construction project under this chapter funded directly by the State through the use of State-issued bonds or other financial instruments, the Secretary shall determine the Federal subsidy in accordance with subsection (a).

(c) Non-Federal Share.—A State, and localities in the State receiving subgrants under this chapter, may use any non-Federal funds, including State, local, and private-sector funds, for the financing costs that are not covered by the Federal subsidy under subsection (a).

SEC. 12128. SEPARATE FUNDS OR ACCOUNTS; PRUDENT INVESTMENT.

(a) Separate Funds or Accounts Required.—Each State that receives a grant, and each recipient of a subgrant under this chapter, shall deposit the grant or subgrant proceeds in a separate fund or account, from which it shall make bond repayments and pay other expenses allowable under this chapter.

(b) Prudent Investment Required.—Each State that receives a grant, and each recipient of a subgrant under this chapter, shall—

(1) invest the grant or subgrant in a fiscally prudent manner, in order to generate amounts needed to make repayments on bonds and other forms of indebtedness described in section 12123; and

(2) notwithstanding section 6503 of title 31, United States Code or any other law, use the proceeds of that investment to carry out this chapter.

SEC. 12129. STATE REPORTS.

(a) Reports Required.—

(1) Each State receiving a grant under this chapter shall report to the Secretary on its activities under this chapter, in the form and manner the Secretary may prescribe.

(2) If the State educational agency is not the State agency designated under section 12122, the State's report shall include the approval of the State educational agency or its comments on the report.

(b) Contents.—Each report shall—

(1) describe the State's implementation of this chapter, including how the State has met the requirements of this chapter;

(2) identify the specific school facilities constructed, renovated, or modernized with support from the grant, and the mechanisms used to finance those activities;

(3) identify the level of Federal subsidy provided to each construction project carried out with support from the State's grant; and

(4) include any other information the Secretary may require.

(c) Frequency.—(1) Each State shall submit its first report under this section not later than 24 months after it receives its grant under this chapter.

(2) Each State shall submit an annual report for each of the three years after submitting its first report, and subsequently shall submit periodic reports as long as the State or localities in the State are using grant funds.

CHAPTER 3—DIRECT GRANTS TO LOCAL EDUCATIONAL AGENCIES

SEC. 12131. ELIGIBLE LOCAL EDUCATIONAL AGENCIES.

(a) Eligible Agencies.—Except as provided in subsection (b), the local educational agencies that are eligible to receive formula grants under section 12136 and competitive grants under section 12137 from the Secretary are the 100 local educational agencies with the largest numbers of children aged 5 through 17 from families living below the poverty level, as determined by the Secretary using the most recent data available from the Department of Commerce that are satisfactory to the Secretary.

(b) Certain Jurisdictions Ineligible.—For the purpose of this chapter, the local educational agencies for Hawaii and the Commonwealth of Puerto Rico are not eligible local educational agencies.

SEC. 12132. GRANTEES.

For each local educational agency described in section 12131(a) for which an approvable application is submitted, the Secretary shall make any grant under this chapter to the local educational agency or to another public agency, on behalf of the local educational agency, if the Secretary determines, on the basis of the local educational agency's recommendation, that the other agency is better able to carry out activities under this chapter.

SEC. 12133. ALLOWABLE USES OF FUNDS.

Each grantee under this chapter shall use its grant only for one or more of the following activities to reduce the cost of financing eligible school construction projects described in section 12134:

(1) Providing a portion of the interest cost (or of any other financing cost approved by the Secretary) on bonds, certificates of participation, purchase or lease arrangements, or other forms of indebtedness issued or entered into by a local educational agency or other unit or agency of local government for the purpose of financing eligible school construction projects.

(2) Local expenditures approved by the Secretary for credit enhancement for the debt or financing instruments described in paragraph (1).

(3) Other local expenditures approved by the Secretary that leverage funds for additional school construction.

SEC. 12134. ELIGIBLE CONSTRUCTION PROJECTS; REDISTRIBUTION.

(a) Eligible Projects.—A grantee under this chapter may use its grant, in accordance with section 12133, to subsidize the cost of the activities described in section 12124(a) for projects that the local educational agency has chosen to initiate, through the vote of the school board, passage of a bond issue, or similar public decision, made between July 11, 1996 and September 30, 2001.

(b) Redistribution.—If the Secretary determines, by a date before September 30, 2001 selected by the Secretary, that a local educational agency is not making satisfactory progress in carrying out its plan for the use of funds awarded to it under this chapter, the Secretary may redistribute all or part of those funds, and any interest earned by that agency on those funds, to one or more other local educational agencies that are making satisfactory progress.

SEC. 12135. LOCAL APPLICATIONS.

(a) Application Required.—A local educational agency, or an alternative agency described in section 12132 (both referred to in this chapter as the "local agency"), that wishes to receive a grant under this chapter shall submit an application to the Secretary, in the manner the Secretary may require, not later than two years after the date of enactment of this Act.

(b) Development of Application.—(1) The local agency shall develop the local application under this chapter only after broadly consulting with parents, administrators, teachers, the business community, and other members of the local community about the best means of carrying out this chapter.

(2) If the local educational agency is not the applicant, the applicant shall consult with the local educational agency, and shall obtain its approval before submitting its application to the Secretary.

(c) Local Survey.—(1) Before submitting its application, the local agency, with the involvement of local school officials and experts in building construction and management, shall survey the local need for construction and renovation of school facilities, including, at a minimum—

(A) the overall condition of school facilities in the local educational agency, including health and safety problems;

(B) the capacity of the local educational agency's schools to house projected enrollments; and

(C) the extent to which the local educational agency's schools offer the physical infrastructure needed to provide a high-quality education to all students.

(2) A local educational agency need not conduct a new survey under paragraph (1) if it has previously completed a survey that meets the requirements of that paragraph and that the Secretary finds is sufficiently recent for the purpose of carrying out this chapter.

(d) Application Contents.—Each local application under this chapter shall include—

(1) an identification of the local agency to receive the grant under this chapter;

(2) a summary of the results of the survey of school facility needs, as described in subsection (c);

(3) a description of how the local agency will implement its program under this chapter;

(4) a description of the criteria the local agency has used to determine which construction projects to support with grant funds;

(5) a description of the construction projects that will be supported with grant funds;

(6) a description of the mechanisms that will be used to finance construction projects supported by grant funds;

(7) a requested level of Federal subsidy, with a justification for that level, for each construction project to be supported by the grant, in accordance with section 12138(a), including the financial and demographic information the Secretary may require;

(8) a description of the steps the agency will take to ensure that facilities constructed or improved with funds under this chapter will be adequately maintained;

(9) an assurance that the agency will use its grant only to supplement the funds that the locality would spend on school construction and renovation in the absence of a grant under this chapter, and not to supplant those funds;

(10) an assurance that, during the four-year period beginning with the year the local educational agency receives its grant, its expenditures for school construction (which, at that agency's option, may include private contributions) will be at least 125 percent of its expenditures for that purpose for the four preceding years; and

(11) other information and assurances that the Secretary may require.

(e) Waiver of Requirement To Increase Expenditures.—The Secretary may waive or modify the requirement of subsection (d)(10) for a local educational agency that demonstrates to the Secretary's satisfaction that that requirement is unduly burdensome because that agency has incurred a particularly high level of school construction expenditures during the previous four years.

SEC. 12136. FORMULA GRANTS.

(a) Allocations.—The Secretary shall allocate the funds available under section 12112(b)(2) to the local educational agencies identified under section 12131(a) on the basis of their relative allocations under section 1124 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333) in the most recent year for which that information is available to the Secretary.

(b) Reallocations.—If a local educational agency does not apply for its allocation, applies for less than its full allocation, or fails to submit an approvable application, the Secretary may reallocate all or a portion of its allocation, as the case may be, to the remaining local educational agencies in the same proportions as the original allocations were made to those agencies under subsection (a).

SEC. 12137. COMPETITIVE GRANTS.

(a) Grants Authorized.—The Secretary shall use funds available under section 12112(b)(3) to make additional grants, on a competitive basis, to recipients of formula grants under section 12136.

(b) Additional Application Materials.—Any eligible applicant under section 12136 that wishes to receive additional funds under this section shall include in its application under section 12135 the following additional information:

(1) The amount of funds requested under this section, in accordance with ranges or limits that the Secretary may establish based on factors such as relative size of the eligible applicants.

(2) A description of the additional construction activities that the applicant would carry out with those funds.

(3) Information on the current financial effort the applicant is making for elementary and secondary education, including support from private sources, relative to its resources.

(4) Information on the extent to which the applicant will increase its own (or other public or private) spending for school construction in the year in which it receives a grant under this section, above the average annual amount for construction activity during the preceding four years.

(5) A description of the energy efficiency and the effect on the environment of the projects that the applicant will undertake, both with its grant under this section and its grant under section 12136, and of the extent to which those projects will use cost-efficient architectural design.

(6) Other information that the Secretary may require.

(c) Selection of Grantees.—The Secretary shall select grantees under this section on the basis of criteria, consistent with the purpose of this title, that the Secretary may establish, which shall include—

(1) the relative need of applicants, as demonstrated by inadequate educational facilities and a low level of resources to meet their school construction needs; and

(2) the commitment of applicants to meet their school construction needs and the leveraging effect that assistance under this chapter would have, as demonstrated by the additional resources that they will provide, from non-Federal sources, to meet those needs, in accordance with subsection (b)(4).

SEC. 12138. AMOUNT OF FEDERAL SUBSIDY.

(a) Amount of Federal Subsidy.—For each construction project assisted under this chapter, the Secretary shall determine the amount of the Federal subsidy in accordance with section 12127(a).

(b) Non-Federal Share.—A grantee under this chapter may use any non-Federal funds, including State, local, and private-sector funds, for the financing costs that are not covered by the Federal subsidy under subsection (a).

SEC. 12139. SEPARATE FUNDS OR ACCOUNTS; PRUDENT INVESTMENT.

(a) Separate Funds or Accounts Required.—Each grantee under this chapter shall deposit the grant proceeds in a separate fund or account, from which it shall make bond repayments and pay other expenses allowable under this chapter.

(b) Prudent Investment Required.—Each grantee under this chapter shall—

(1) invest the grant funds in a fiscally prudent manner, in order to generate amounts needed to make repayments on bonds and other forms of indebtedness; and

(2) notwithstanding section 6503 of title 31, United States Code or any other law, use the proceeds of that investment to carry out this chapter.

SEC. 12140. LOCAL REPORTS.

(a) REPORTS REQUIRED.—(1) Each grantee under this chapter shall report to the Secretary on its activities under this chapter, in the form and manner the Secretary may prescribe.

(2) If the local educational agency is not the grantee under this chapter, the grantee's report shall include the approval of the local educational agency or its comments on the report.

(b) CONTENTS.—Each report shall—

(1) describe the grantee's implementation of this chapter, including how it has met the requirements of this chapter;

(2) identify the specific school facilities constructed, renovated, or modernized with support from the grant, and the mechanisms used to finance those activities; and

(3) other information the Secretary may require.

(c) FREQUENCY.—(1) Each grantee shall submit its first report under this section not later than 24 months after it receives its grant under this chapter.

(2) Each grantee shall submit an annual report for each of the three years after submitting its first report, and subsequently shall submit periodic reports as long as it is using grant funds.

Subtitle B—General Provisions

SEC. 12201. TECHNICAL EMPLOYEES.

For the purpose of carrying out this title, the Secretary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, may appoint not more than 10 technical employees who may be paid without regard to the provisions of chapter 51 and subchapter IV of chapter 53 of that title relating to classification and General Schedule pay rates.

SEC. 12202. WAGE RATES.

(a) PREVAILING WAGE.—The Secretary shall ensure that all laborers and mechanics employed by contractors and subcontractors on any project assisted under this title are paid wages at rates not less than those prevailing as determined by the Secretary of Labor in accordance with the Act of March 3, 1931, as amended (40 U.S.C. 276a et seq.). The Secretary of Labor has, with respect to this section, the authority and functions established in Reorganization Plan Numbered 14 of 1950 (effective May 24, 1950, 64 Stat. 1267) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c).

(b) WAIVER FOR VOLUNTEERS.—Section 7305 of the Federal Acquisition Streamlining Act of 1994 (40 U.S.C. 276d-3) is amended—

(1) in paragraph (4), by striking out the "and" at the end thereof;

(2) in paragraph (5), by striking out the period at the end thereof and inserting a semicolon and "and"; and

(3) by adding at the end thereof the following new paragraph:

"(6) the Partnership to Rebuild America's Schools Act of 1997.".

SEC. 12203. NO LIABILITY OF FEDERAL GOVERNMENT.

(a) NO FEDERAL LIABILITY.—Any financial instruments, including but not limited to contracts, bonds, bills, notes, certificates of participation, or purchase or lease arrangements, issued by States, localities or instrumentalities thereof in connection with any assistance provided by the Secretary under this title are obligations of such States, localities or instrumentalities and not obligations of the United States and are not guaranteed by the full faith and credit of the United States.

(b) NOTICE REQUIREMENT.—Documents relating to any financial instruments, including but not limited to contracts, bonds, bills, notes, offering statements, certificates of participation, or purchase or lease arrangements, issued by States, localities or instrumentalities thereof in connection with any assistance provided under this title, shall include a prominent statement providing notice that the financial instruments are not obligations of the United States and are not guaranteed by the full faith and credit of the United States.

SEC. 12204. CONSULTATION WITH SECRETARY OF THE TREASURY.

The Secretary of Education shall consult with the Secretary of the Treasury in carrying out this title.

AMENDMENT NO. 668

At the end of subtitle D of title X, add the following:

SEC.   . TRANSFER FOR VETERANS' HEALTH CARE AND OTHER PURPOSES.

(a) TRANSFER REQUIRED.—The Secretary of Defense shall transfer to the Secretary of Veterans' Affairs $400,000,000 of the funds appropriated for the Department of Defense for fiscal year 1998.

(b) USE OF TRANSFERRED FUNDS.—Funds transferred to the Secretary of Veterans' Affairs shall be for the purposes of providing benefits under the laws administered by the Secretary of Veterans' Affairs, other than compensation and pension benefits provided under Chapters 11 and 13 of title 38, United States Code.

WELLSTONE (AND ROCKEFELLER) AMENDMENT NO. 669

(Ordered to lie on the table.)

Mr. WELLSTONE (for himself and Mr. ROCKEFELLER) submitted an amendment intended to be proposed by them to the bill, S. 936, supra; as follows:

On page 46, between lines 6 and 7, insert the following:

SEC. 220. BIOASSAY TESTING OF VETERANS EXPOSED TO IONIZING RADIATION DURING MILITARY SERVICE.

(a) NUCLEAR TEST PERSONNEL PROGRAM.—Of the amount provided in section 201(4), $500,000 shall be available for testing described in subsection (b) at the Brookhaven National Laboratory in support of the Nuclear Test Personnel Program conducted by the Defense Special Weapons Agency.

(b) COVERED TESTING.—Subsection (a) applies to the third phase of bioassay testing of individuals who are radiation-exposed veterans (as defined in section 1112(c)(3) of title 38, United States Code) who participated in radiation-risk activities (as defined in such paragraph).

WELLSTONE AMENDMENT NO. 670

(Ordered to lie on the table.)

Mr. WELLSTONE submitted an amendment intended to be proposed by him to the bill, S. 936, supra; as follows:

At the end of subtitle D of title X, add the following:

SEC.   . TRANSFER FOR OUTREACH AND STARTUP FOR THE SCHOOL BREAKFAST PROGRAM.

(a) TRANSFER REQUIRED.—In each of fiscal years 1998, 1999, 2000, 2001, and 2002, the Secretary of Defense shall transfer to the Secretary of Agriculture—

(1) $5,000,000 of the funds appropriated for the Department of Defense for that fiscal year; and

(2) any additional amount that the Secretary of Agriculture determines necessary to pay any increase in the cost of the meals provided to children under the school breakfast program as a result of the amendment made by subsection (b).

(b) USE OF TRANSFERRED FUNDS.—Section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) is amended by adding at the end the following:

"(f) STARTUP AND EXPANSION COSTS.—

"(1) DEFINITIONS.—In this subsection:

"(A) ELIGIBLE SCHOOL.—The term 'eligible school' means a school—

"(i) attended by children, a significant percentage of whom are members of low-income families;

"(ii)(I) as used with respect to a school breakfast program, that agrees to operate the school breakfast program established or expanded with the assistance provided under this subsection for a period of not less than 3 years; and

"(II) as used with respect to a summer food service program for children, that agrees to operate the summer food service program for children established or expanded with the assistance provided under this subsection for a period of not less than 3 years.

"(B) SERVICE INSTITUTION.—The term 'service institution' means an institution or organization described in paragraph (1)(B) or (7) of section 13(a) of the National School Lunch Act (42 U.S.C. 1761(a)).

"(C) SUMMER FOOD SERVICE PROGRAM FOR CHILDREN.—The term 'summer food service program for children' means a program authorized by section 13 of the National School Lunch Act (42 U.S.C. 1761).

"(2) USE OF FUNDS.—Out of any amounts made available under section   (a)(1) of the National Defense Authorization Act for Fiscal Year 1998, the Secretary of Agriculture shall make payments on a competitive basis and in the following order of priority (subject to the other provisions of this subsection), to—

"(A) State educational agencies in a substantial number of States for distribution to eligible schools to assist the schools with nonrecurring expenses incurred in—

"(i) initiating a school breakfast program under this section; or

"(ii) expanding a school breakfast program; and

"(B) a substantial number of States for distribution to service institutions to assist the institutions with nonrecurring expenses incurred in—

"(i) initiating a summer food service program for children; or

"(ii) expanding a summer food service program for children.

"(3) PAYMENTS ADDITIONAL.—Payments received under this subsection shall be in addition to payments to which State agencies are entitled under subsection (b) of this section and section 13 of the National School Lunch Act (42 U.S.C. 1761).

"(4) STATE PLAN.—To be eligible to receive a payment under this subsection, a State educational agency shall submit to the Secretary of Agriculture a plan to initiate or expand school breakfast programs conducted in the State, including a description of the manner in which the agency will provide technical assistance and funding to schools in the State to initiate or expand the programs.

"(5) SCHOOL BREAKFAST PROGRAM PREFERENCES.—In making payments under this subsection for any fiscal year to initiate or expand school breakfast programs, the Secretary shall provide a preference to State educational agencies that—

"(A) have in effect a State law that requires the expansion of the programs during the year;

"(B) have significant public or private resources that have been assembled to carry out the expansion of the programs during the year;

"(C) do not have a school breakfast program available to a large number of low-income children in the State; or

"(D) serve an unmet need among low-income children, as determined by the Secretary.

"(6) SUMMER FOOD SERVICE PROGRAM PREFERENCES.—In making payments under this subsection for any fiscal year to initiate or expand summer food service programs for children, the Secretary shall provide a preference to States—

"(A)(i) in which the numbers of children participating in the summer food service program for children represent the lowest percentages of the number of children receiving free or reduced price meals under the school lunch program established under the National School Lunch Act (42 U.S.C. 1751 et seq.); or

"(ii) that do not have a summer food service program for children available to a large number of low-income children in the State; and

"(B) that submit to the Secretary a plan to expand the summer food service programs for children conducted in the State, including a description of—

"(i) the manner in which the State will provide technical assistance and funding to service institutions in the State to expand the programs; and

"(ii) significant public or private resources that have been assembled to carry out the expansion of the programs during the year.

"(7) RECOVERY AND REALLOCATION.—The Secretary shall act in a timely manner to recover and reallocate to other States any amounts provided to a State educational agency or State under this subsection that are not used by the agency or State within a reasonable period (as determined by the Secretary).

"(8) ANNUAL APPLICATION.—The Secretary shall allow States to apply on an annual basis for assistance under this subsection.

"(9) GREATEST NEED.—Each State agency and State, in allocating funds within the State, shall give preference for assistance under this subsection to eligible schools and service institutions that demonstrate the greatest need for a school breakfast program or a summer food service program for children, respectively.

"(10) MAINTENANCE OF EFFORT.—Expenditures of funds from State and local sources for the maintenance of the school breakfast program and the summer food service program for children shall not be diminished as a result of payments received under this subsection.".

LIEBERMAN AMENDMENT NO. 671

(Ordered to lie on the table.)

Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill, S. 936, supra; as follows:

At the appropriate place, insert the following:

SEC. . STUDY CONCERNING THE PROVISION OF COMPARATIVE INFORMATION.

(a) STUDY.—The Secretary of Defense shall conduct a study concerning the provision of the information described in subsection (b) to beneficiaries under the TRICARE program established under the authority of chapter 55 of title 10, United States Code, and prepare and submit to the appropriate committees of Congress a report concerning such study.

(b) PROVISION OF COMPARATIVE INFORMATION.—Information described in this subsection, with respect to a managed care entity that contracts with the Secretary of Defense to provide medical assistance under the program described in subsection (a), shall include the following:

(1) BENEFITS.—The benefits covered by the entity involved, including—

(A) covered items and services beyond those provided under a traditional free-for-service program;

(B) any beneficiary cost sharing; and

(C) any maximum limitations on out-of-pocket expenses.

(2) PREMIUMS.—The net monthly premium, if any, under the entity.

(3) SERVICE AREA.—The service area of the entity.

(4) QUALITY AND PERFORMANCE.—To the extent available, quality and performance indicators for the benefits under the entity (and how they compare to such indicators under the traditional fee-for-service programs in the area involved), including—

(A) disenrollment rates for enrollees electing to receive benefits through the entity for the previous 2 years (excluding disenrollment due to death or moving outside the service area of the entity);

(B) information on enrollee satisfaction;

(C) information on health process and outcomes;

(D) grievance procedures;

(E) the extent to which an enrollee may select the health care provider of their choice, including health care providers within the network of the entity and out-of-network health care providers (if the entity covers out-of-network items and services); and

(F) an indication of enrollee exposure to balance billing and the restrictions on coverage of items and services provided to such enrollee by out-of-network health care provider.

(5) SUPPLEMENTAL BENEFITS OPTIONS.—Whether the entity offers optional supplemental benefits and the terms and conditions (including premiums) for such coverage.

(6) PHYSICIAN COMPENSATION.—An overall summary description as to the method of compensation of participating physicians.

BUMPERS AMENDMENT NO. 672

(Ordered to lie on the table.)

Mr. BUMPERS submitted an amendment intended to be proposed by him to the bill, S. 936, supra; as follows:

Strike line 10 on page 310 through line 10 on page 315.

GRASSLEY AMENDMENT NO. 673

(Ordered to lie on the table.)

Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill, S. 936, supra; as follows:

At the appropriate place insert:

Chapter 27 of title 18, United States Code, is amended by inserting the following new section:

"Whoever fraudulently or knowingly exports or sends from the United States, or attempts to export or send from the United States, any merchandise, article or object contrary to any law or regulation of the United States, or receives, conceals, buys sells, or in any manner facilitates the transportation, concealment, or sale of such merchandise, article or object, prior to exportation, knowing the same to be intended for exportation contrary to any law or regulation of the United States, shall be fined under this title or imprisoned not more than five years, or both. Proof of defendant's possession of such goods, unless explained to the satisfaction of the jury, may be deemed evidence sufficient to authorize conviction for violation of this section. The term 'United States' as used in this section shall have the same meaning as that provided in section 545 of this title."

FEINGOLD AMENDMENTS NOS. 674–677

(Ordered to lie on the table.)

Mr. FEINGOLD submitted four amendments intended to be proposed by him to the bill, S. 936, supra; as follows:

AMENDMENT NO. 674

On page 53, line 14, after "follows", add the following: ": *Provided*, That none of the funds authorized pursuant to this section may be obligated for the deployment of any ground elements of the United States Armed Forces in the Republic of Bosnia and Herzegovina after June 30, 1998, except that the limitation in this clause shall not apply to the extent necessary to support a limited number of United States military personnel sufficient only to protect United States diplomatic facilities in existence on the date of the enactment of this Act, and noncombat military personnel sufficient only to advise the commanders North Atlantic Treaty Organization peacekeeping operations in the Republic of Bosnia and Herzegovina, or actions taken by the President in order to protect the lives of United States citizens".

AMENDMENT NO. 675

At the end of subtitle C of title I, add the following:

SEC. 125. F/A–18 E/F TACTICAL FIGHTER AIRCRAFT PROGRAM.

Amounts authorized to be appropriated by this Act may not be used to provide for the procurement of more than 12 F/A–18 E/F tactical fighter aircraft.

AMENDMENT NO. 676

On page 16, on line 1, insert before the period the following: ", of which funds may not be obligated for the procurement of more than 12 F/A–18 E/F tactical fighter aircraft"

AMENDMENT NO. 677

At the end of subtitle E of title, I, add the following:

SEC. 144. NEW TACTICAL FIGHTER AIRCRAFT PROGRAMS.

(a) REPORT.—Not later than 60 days after the date of the enactment of this Act. The Secretary of Defense shall submit to Congress a report containing the Secretary's recommendation on which one of the three new tactical fighter aircraft programs should be terminated if only two of such programs were to be funded. The report shall also contain an analysis of how the two remaining new tactical fighter aircraft programs (not including the tactical fighter aircraft program recommended for termination), together with the current tactical aircraft assets of the Armed Forces, will provide the Armed Forces with an effective, affordable tactical fighter force structure that is capable of meeting projected threats well into the twenty-first century.

(b) COVERED AIRCRAFT PROGRAMS.—The three new tactical fighter aircraft programs referred to in subsection (a) are as follows:

(1) The F/A-18 E/F aircraft program.

(2) The F-22 aircraft program.

(3) The Joint Strike Fighter aircraft program.

FEINSTEIN (AND BOXER) AMENDMENT NO. 678

(Ordered to lie on the table.)

Mrs. FEINSTEIN (for herself and Mrs. BOXER) submitted an amendment intended to be proposed by them to the bill, S. 936, supra; as follows:

On page 347, between lines 15 and 16, insert the following:

SEC. 1075. AUTHORITY TO TRANSFER SURPLUS PROPERTY FOR USE FOR LAW ENFORCEMENT OR FIRE AND RESCUE PURPOSES.

Section 203(p)(1) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(p)(1)) is amended in the first sentence by striking out "required" and all that follows through "as approved by the Attorney General" and inserting in lieu thereof "needed for use by the transferee or grantee for a law enforcement or fire and rescue purpose".

FEINSTEIN AMENDMENT NO. 679

(Ordered to lie on the table.)

Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill, S. 936, supra; as follows:

At the end of Subtitle B of Title XXVIII, add the following,

SEC. . LAND CONVEYANCE, HAMILTON FIELD, NOVATO, CALIFORNIA.

(a) CONVEYANCE REQUIRED.—The Secretary of the Navy shall convey to the City of Novato, California (in this section referred to as the "City"), or a department or agency of the City, all right, title, and interest of the United States in and to the surplus Department of Defense housing facilities at former Hamilton Field in the City of Novato.

(b) CONSIDERATION.—(1) As consideration for the conveyance under subsection (a), the City shall pay to the United States an amount equal to the fair market value of the real property, as determined in accordance with this subsection. The fair market value shall be determined on the basis of the assumption that the property will be developed in accordance with the approved redevelopment plan prepared by the local redevelopment authority for the property.

(c) TIME FOR CONVEYANCE.—The Secretary shall endeavor to complete the conveyance under subsection (a) on or before November 15, 1997.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the City.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

KERRY AMENDMENTS NOS. 680–681

(Ordered to lie on the table.)

Mr. KERRY submitted two amendments intended to be proposed by him to the bill, S. 936, supra; as follows:

AMENDMENT NO. 680

Beginning on page 336, line 20, strike all beginning "SEC. 1067. POW/MIA" through "(50 U.S.C. 401a)." on line 3 of page 338.

AMENDMENT NO. 681

Add at the appropriate point in the bill the following

SEC. . AUTHORITY OF THE SECRETARY OF DEFENSE CONCERNING DISPOSAL OF ASSETS UNDER COOPERATIVE AGREEMENTS ON AIR DEFENSE IN CENTRAL EUROPE.

(a) GENERAL AUTHORITIES.—The Secretary of Defense, pursuant to an amendment or amendments to the European air defense agreements, may dispose of any defense articles owned by the United States and acquired to carry out such agreements by providing such articles to the Federal Republic of Germany. In carrying out such disposal, the Secretary—

(1) may provide without monetary charge to the Federal Republic of Germany articles specified in the agreements; and

(2) may accept from the Federal Republic of Germany (in exchange for the articles provided under paragraph (1)) articles, services, or any other consideration, as determined appropriate by the Secretary.

(b) DEFINITION OF EUROPEAN AIR DEFENSE AGREEMENTS.—For the purposes of this section the term "European air defense agreements" means

(1) the agreement entitled "Agreement between the Secretary of Defense of the United States of America and the Minister of Defense of the Federal Republic of Germany on Cooperative Measures for Enhancing Air Defense for Central Europe", signed on December 6, 1983; and

(2) the agreement entitled "Agreement between the Secretary of Defense of the United States of America and the Minister of Defense of the Federal Republic of Germany in implementation of the 6 December 1983 Agreement on Cooperative Measures for Enhancing Air Defense for Central Europe", signed on July 12, 1984.

D'AMATO AMENDMENT NO. 682

(Ordered to lie on the table.)

Mr. D'AMATO submitted an amendment intended to be proposed by him to the bill, S. 936, supra; as follows:

At the appropriate place in the bill, insert the following:

None of the funds authorized for development of the ALR-69 radar warning receiver may be obligated or expended until the active Air Force, the Air National Guard and the Air Force Reserve conduct a Cost and Operation Effectiveness Analysis (COEA) to determine the best path to follow in making this upgrade and report their findings to the Congressional Defense Committees.

DOMENICI AMENDMENTS NOS. 683–684

(Ordered to lie on the table.)

Mr. DOMENICI submitted two amendments intended to be proposed by him to the bill, S. 936, supra; as follows:

AMENDMENT NO. 683

At the appropriate place in the bill, insert the following:

In addition to the amount authorized to be appropriated for the Department of Defense health care program, add $7 million for the Gerald Champion Memorial Hospital/Holloman Air Force Base shared hospital facility.

AMENDMENT NO. 684

At the appropriate place in the bill, insert the following:

On page 53, title III, Operations and Maintenance, line 18, Air Force Operations and Maintenance, strike "$18,861,685,000" and insert "$18,871,685,000".

COATS (AND OTHERS) AMENDMENT NO. 685

(Ordered to lie on the table.)

Mr. COATS (for himself, Mr. BREAUX, Mr. SMITH of Oregon, and Mr. BROWNBACK) submitted an amendment intended to be proposed by them to the bill, S. 936, supra; as follows:

At the end of subtitle E of title X, add the following:

SEC. 1075. SENSE OF THE SENATE REGARDING EXPANSION OF THE NORTH ATLANTIC TREATY ORGANIZATION.

(a) FINDINGS.—The Senate makes the following findings:

(1) The North Atlantic Treaty Organization (NATO) will meet July 8 and 9, 1997, in Madrid, Spain, to issue invitations to several countries in Central Europe and Eastern Europe to begin accession talks to join NATO.

(2) Congress has expressed its support for the process of NATO enlargement by approving the NATO Enlargement Facilitation Act of 1996 (Public Law 104-208; 22 U.S.C. 1928 note) by a vote of 81-16 in the Senate, and 353-65 in the House of Representatives.

(3) The Clinton Administration has determined that the United States Government will support inviting three countries—Poland, Hungary, and the Czech Republic—to join NATO at the Madrid summit.

(4) The United States should ensure that the process of enlarging NATO continues after the first round of invitations are issued this July.

(5) Romania and Slovenia are to be commended for their progress toward political and economic reform and their meeting the guidelines for prospective NATO membership.

(6) In furthering NATO's purpose and objective of promoting stability and well-being in the North Atlantic area, Romania, Slovenia, and any other democratic states of Central and Eastern Europe should be invited to become NATO members as expeditiously as possible upon satisfaction of all relevant criteria.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that NATO should set a date certain by which the heads of state of NATO members will meet to issue a second round of invitations to Central and Eastern European states that have met the criteria for NATO membership.

SNOWE AMENDMENT NO. 686

(Ordered to lie on the table.)

Ms. SNOWE submitted an amendment intended to be proposed by her to the bill, S. 936, supra; as follows:

On page 410, between lines 2 and 3, insert the following:

SEC. 2832. UTILIZATION OF SAVINGS DERIVED FROM BASE CLOSURE PROCESS.

(a) Findings.—Congress makes the following findings:

(1) Since 1988, the Department of Defense has conducted 4 rounds of closures and realignments of military installations in the United States, resulting in the closure of 97 installations.

(2) The cost of carrying out the closure or realignment of installations covered by such rounds is estimated by the Secretary of Defense to be $23,000,000,000.

(3) The savings expected as a result of the closure or realignment of such installations are estimated by the Secretary to be $10,300,000,000 through fiscal year 1996 and $36,600,000,000 through 2001.

(4) In addition to such savings, the Secretary has estimated recurring savings as a result of the closure or realignment of such installations of approximately $5,600,000,000 annually.

(5) The fiscal year 1997 budget request for the Department assumes a savings of between $2,000,000,000 and $3,000,000,000 as a result of the closure or realignment of such installations, which savings were to be dedicated to modernization of the Armed Forces. The savings assumed in the budget request were not realized.

(6) The fiscal year 1998 budget request for the Department assumes a savings of $5,000,000,000 as a result of the closure or realignment of such installations, which savings are to be dedicated to modernization of the Armed Forces.

(b) Report on Prior Costs and Savings.—The Secretary of Defense shall submit to Congress in 1998, together with the President's budget for fiscal year 1999 under section 1105(a) of title 31, United States Code, a report containing a complete accounting of the costs attributable to and the savings realized as a result of the closure and realignment of military installations under the base closure laws through fiscal year 1997.

(c) Reports on Future Costs and Savings.—The Secretary shall submit to Congress in 1999 and each year thereafter, together with the President's budget for the succeeding fiscal year under that section, a report containing a complete accounting of the costs attributable to and the savings realized as a result of the closure and realignment of installations under the base closure laws during the preceding fiscal year.

(d) Additional Report Requirements.—(1) Each report under subsections (b) and (c) shall contain, in addition to the matters required under such subsections, a statement of the estimated costs to be attributed to and savings to be realized as a result of the closure and realignment of installations under the base closure laws during the six-year period beginning on the date of the report.

(2) Each report shall set forth costs and savings, using data consistent with budget data, by Armed Force, type of installation, and fiscal year.

(3) The Secretary shall, to the maximum extent practicable, ensure that the military departments utilize a common methodology in determining costs attributable to and savings realized as a result of the closure and realignment of installations under the base closure laws.

(e) Purpose of Reports.—The purpose of the reports under this section is to provide Congress with an full and accurate accounting of the costs attributable to and the savings realized as a result of the base closure process.

(f) Sense of Senate on Use of Savings.—It is the sense of the Senate that the savings reported under this section be made available to the Department solely for purposes of modernization of new weapon systems (including research, development, test, and evaluation relating to such modernization) and be used by the Department solely for such purposes.

(g) Definitions.—In this section:

(1) Base closure laws.—The term "base closure laws" means the following:

(A) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note).

(B) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

(C) Any Act enacted after the date of enactment of this Act the provisions of which authorize or require the closure or realignment of a military installation.

(2) Savings realized.—The term "savings realized", with respect to military installations closed or realigned under the base closure laws, means the costs the Department would otherwise have incurred with respect to such installations if not for the closure or realignment of such installations under such laws.

JEFFORDS AMENDMENT NO. 687

(Ordered to lie on the table.)

Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill, S. 936, supra: as follows:

On page 84, after line 23, add the following:

SEC. 340. PROCUREMENT OF RECYCLED COPIER PAPER.

(a) Requirement.—(1) Except as provided in subsection (b), a department or agency of the Department of Defense may not procure copying machine paper after a date set forth in paragraph (2) unless the percentage of post-consumer recycled content of the paper meets the percentage set forth with respect to such date in that paragraph.

(2) The percentage of post-consumer recycled content of paper required under paragraph (1) is as follows:

(A) 20 percent as of January 1, 1998.

(B) 30 percent as of January 1, 1999.

(C) 50 percent as of January 1, 2004.

(b) Exceptions.—A department or agency may procure copying machine paper having a percentage of post-consumer recycled content that does not meet the applicable requirement in subsection (a) if—

(1) the cost of procuring copying machine paper under such requirement would exceed by more than 7 percent the cost of procuring copying machine paper having a percentage of post-consumer recycled content that does not meet such requirement;

(2) copying machine paper having a percentage of post-consumer recycled content meeting such requirement is not reasonably available within a reasonable period of time;

(3) copying machine paper having a percentage of post-consumer recycled content meeting such requirement does not meet performance standards of the department or agency for copying machine paper; or

(4) in the case of the requirement in paragraph (2)(C) of that subsection, the Secretary of Defense makes the certification described in subsection (c).

(c) Certification of Inability to Meet Goal in 2004.—If the Secretary determines that any department or agency of the Department will be unable to meet the goal specified in subsection (a)(2)(C) by the date specified in that subsection, the Secretary shall certify that determination to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives. The Secretary shall submit such certification, if at all, not later than January 1, 2003.

HUTCHISON AMENDMENTS NOS. 688–696

(Ordered to lie on the table.)

Mrs. HUTCHISON submitted nine amendments intended to be proposed by her to the bill, S. 936, supra; as follows:

Amendment No. 688

At the end of title XXV, add the following (and conform the table of contents accordingly:)

SEC. . SENSE OF CONGRESS REGARDING THE NORTH ATLANTIC TREATY.

(a) Findings.—Congress finds the following:

(1) The NATO alliance is expected to expand its membership;

(2) The unity, resolve, and strength of the North Atlantic Treaty Organization was the principle factor behind that victory;

(3) The North Atlantic Treaty was signed in April 1949 and remains substantively unchanged for nearly a half-century, despite the dramatic changes it has wrought;

(4) The President of the United States and leaders of other NATO countries have indicated their intention to expand alliance membership to include at least three new countries;

(5) The period since the end of the Cold War has been marked by tragic and violent border, ethnic, religious, and nationalist disputes in Europe;

(6) Current and prospective NATO members are not immune to such disputes, and share borders with countries directly involved in the ongoing military standoff in the former Yugoslavia;

(7) The United States has spent more than $6 billion for its share of the peacekeeping responsibilities in the former Yugoslavia;

(8) The United States is bound by Article Five of the North Atlantic Treaty to respond to an attack on any NATO member as it would to an attack on the United States itself;

(9) The North Atlantic Treaty does not provide for dispute resolution process by which members can resolve differences among themselves without undermining Article Five obligations;

(b) Sense of Congress.—It is the sense of Congress that the North Atlantic Treaty Organization should undertake to renegotiate the underlying treaty to provide for a process of internal dispute resolution as a precondition for the final entry of any additional members into the alliance.

Amendment No. 689

At the end of title XXV, add the following (and conform the table of contents accordingly:)

SEC. . SENSE OF CONGRESS REGARDING THE NORTH ATLANTIC TREATY.

(a) Findings.—Congress finds the following:

(1) The NATO alliance is expected to expand its membership by an as yet undetermined number of nations over the next several years;

(2) The nations seeking entry into the Atlantic alliance deploy militaries that are badly in need of modernization;

(3) Seamless command and control abilities are needed if the militaries of NATO's member nations are to be inter-operable;

(4) Candidates for NATO membership are expecting U.S. foreign assistance in order to upgrade their command and control capabilities;

(5) Estimates of annual costs to the U.S. for NATO expansion have varied from $150 million to over $5 billion dollars;

(6) The present Administration has consistently failed to provide modernization funds of anywhere near the $60 billion annual expenditure that is widely considered to be the baseline figure needed to modernize America's military;

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Department of Defense related expenditures for the purpose of facilitating the expansion of NATO shall not exceed $150 million a year between Fiscal Years 1998 and 2005.

AMENDMENT NO. 690

Beginning on page 32, line 16, strike all starting with "Section 212" through page 34, end of line 24.

AMENDMENT NO. 691

At the appropriate place, insert:

SEC. 544. LEGAL SERVICES CORPORATION.

PUBLIC DISCLOSURE.—(1) Not later than January 1, 1998, the Legal Services Corporation shall implement a system of case information disclosure which shall apply to all basic field programs which receive funds from the Legal Services Corporation from funds appropriated by the Congress.

(2) Any basic field program which receives federal funds from the Legal Services Corporation from the funds appropriated in this Act must disclose to the public in written form, upon request, and to the Legal Services Corporation in quarterly reports, the following information about each case by its attorneys in any court—

(A) the name and full address of each party to the legal action;

(B) the cause(s) of action in the case;

(C) the name and address of the court in which the case was filed and the case number assigned to the legal action.

(3) The case information disclosed in quarterly reports to the Legal Services Corporation shall be subject to disclosure under the Freedom of Information Act (5 U.S.C. Sec. 552).

AMENDMENT NO. 692

On page 68, between lines 17 and 18, insert the following:

SEC. 319. LIMITATION ON USE OF FUNDS FOR CONSTRUCTION OF INDUSTRIAL FACILITIES AT MILITARY DEPOTS.

Notwithstanding any other provision of law, no funds authorized to be appropriated or otherwise made available to the Department of Defense may be obligated or expended for the construction of industrial facilities at a military depot in order to provide for the transfer of additional workload to the depot until the Secretary of the military department concerned certifies that—

(1) there is not available in the private sector sufficient industrial capacity to perform the additional workload;

(2) the private sector cannot perform the additional workload in a satisfactory manner for less cost;

(3) the additional workload cannot be performed in an existing military depot or military facility without construction of the facilities concerned;

(4) the additional workload is inherently public in nature; and

(5) the military readiness of the military department concerned will be adversely affected if the facilities are not constructed.

AMENDMENT NO. 693

On page 308, between lines 20 and 21, insert the following:

(d) TREATMENT OF SEABORNE CONSERVATION CORPS AS CIVILIAN YOUTH OPPORTUNITIES PROGRAM.—The Secretary of Defense shall treat the Seaborne Conservation Corps, a youth opportunities program sponsored by the Department of Defense, the Department of the Navy, and the Texas National Guard, as a program carried out under subsection (d) of section 1091 of the National Defense Authorization Act for Fiscal Year 1993 for purposes of the pilot program under that section.

AMENDMENT NO. 694

At the end of the subtitle of title III relating to depot-level activities, add the following:

SEC. ___. REQUIREMENT FOR COMPETITION IN SECURING PERFORMANCE OF CERTAIN DEPOT-LEVEL MAINTENANCE AND REPAIR.

Notwithstanding any other provision of law, in any case in which the Secretary of the military department concerned, or the Secretary of Defense in the case of a Defense Agency, proposes to enter into a contract for the performance of depot-level maintenance and repair in excess of $3,000,000, or provide for the transfer of the performance of such maintenance and repair in excess of that amount, such Secretary shall—

(1) provide for full and open competition between any appropriate depot of the Department of Defense and the private sector with respect to the performance of such maintenance and repair; and

(2) provide for the performance of such maintenance and repair by the depot or private contractor submitting the lowest-cost bid for such performance.

AMENDMENT NO. 695

At the end of the subtitle in title III relating to depot-level activities, add the following:

SEC. ___. LIMITATION ON TRANSFER OF WORKLOADS TO FACILITIES ON THE NATIONAL PRIORITIES LIST.

Notwithstanding any other provision of law, the Secretary of the military department concerned, or the Secretary of Defense in the case of a Defense Agency, may not transfer any depot-level maintenance and repair workload to a facility listed on the National Priorities List until a plan has been developed for remedial action with respect to the facility.

AMENDMENT NO. 696

In title II, beginning with the heading of section 221, strike out all through the heading of section 222, and insert in lieu thereof the following:

SEC. 221. SHORT TITLE.

This subtitle may be cited as the "Defend America Act of 1997".

SEC. 222. FINDINGS.

Congress makes the following findings:

(1) Although the United States possesses the technological means to develop and deploy defensive systems that would be highly effective in countering limited ballistic missile threats to its territory, the United States has not deployed such systems and currently has no policy to do so.

(2) The threat that is posed to the national security of the United States by the proliferation of ballistic missiles is significant and growing, both quantitatively and qualitatively.

(3) The trend in ballistic missile proliferation is toward longer range and increasingly sophisticated missiles.

(4) Several countries that are hostile to the United States (including North Korea, Iran, Libya, and Iraq) have demonstrated an interest in acquiring ballistic missiles capable of reaching the United States.

(5) The Intelligence Community of the United States has confirmed that North Korea is developing an intercontinental ballistic missile that will be capable of reaching Alaska or beyond once deployed.

(6) There are ways for determined countries to acquire missiles capable of threatening the United States with little warning by means other than indigenous development.

(7) Because of the dire consequences to the United States of not being prepared to defend itself against a rogue missile attack and the long-lead time associated with preparing an effective defense, it is prudent to commence a national missile defense deployment effort before new ballistic missile threats to the United States are unambiguously confirmed.

(8) The timely deployment by the United States of an effective national missile defense system will reduce the incentives for countries to develop or otherwise acquire intercontinental ballistic missiles, thereby inhibiting as well as countering the proliferation of missiles and weapons of mass destruction.

(9) Deployment by the United States of a national missile defense system will reduce concerns about the threat of an accidental or unauthorized ballistic missile attack on the United States.

(10) The offense-only approach to strategic deterrence presently followed by the United States and Russia is fundamentally adversarial and is not a suitable basis for stability in a world in which the United States and the states of the former Soviet Union are seeking to normalize relations and eliminate Cold War attitudes and arrangements.

(11) Pursuing a transition to a form of strategic deterrence based increasingly on defensive capabilities and strategies is in the interest of all countries seeking to preserve and enhance strategic stability.

(12) The deployment of a national missile defense system capable of defending the United States against limited ballistic missile attacks would (A) strengthen deterrence at the levels of forces agreed to by the United States and Russia under the START I Treaty, and (B) further strengthen deterrence if reductions below START I levels are implemented in the future.

(13) Article XIII of the ABM Treaty envisions "possible changes in the strategic situation which have a bearing on the provisions of this treaty".

(14) Articles XIII and XIV of the treaty establish means for the parties to amend the treaty, and the parties have in the past used those means to amend the treaty.

(15) Article XV of the treaty establishes the means for a party to withdraw from the treaty, upon six months notice "if it decides that extraordinary events related to the subject matter of this treaty have jeopardized its supreme interests".

(16) Previous discussions between the United States and Russia, based on Russian President Yeltsin's proposal for a Global

Protection System, envisioned an agreement to amend the ABM Treaty to allow (among other measures) deployment of as many as four ground-based interceptor sites in addition to the one site permitted under the ABM Treaty and unrestricted exploitation of sensors based within the atmosphere and in space.

SEC. 223. NATIONAL MISSILE DEFENSE POLICY.

(a) It is the policy of the United States to deploy by the end of 2003 a National Missile Defense system that—

(1) is capable of providing a highly-effective defense of the territory of the United States against limited, unauthorized, or accidental ballistic missile attacks; and

(2) will be augmented over time to provide a layered defense against larger and more sophisticated ballistic missile threats as they emerge.

(b) It is the policy of the United States to seek a cooperative transition to a regime that does not feature an offense-only form of deterrence as the basis for strategic stability.

SEC. 224. NATIONAL MISSILE DEFENSE SYSTEM ARCHITECTURE.

(a) REQUIREMENT FOR DEVELOPMENT OF SYSTEM.—To implement the policy established in section 223(a), the Secretary of Defense shall develop for deployment an affordable and operationally effective National Missile Defense (NMD) system which shall achieve an initial operational capability (IOC) by the end of 2003.

(b) ELEMENTS OF THE NMD SYSTEM.—The system to be developed for deployment shall include the following elements:

(1) An interceptor system that optimizes defensive coverage of the continental United States, Alaska, and Hawaii against limited, accidental, or unauthorized ballistic missile attacks and includes one or a combination of the following:

(A) Ground-based interceptors.

(B) Sea-based interceptors.

(C) Space-based kinetic energy interceptors.

(D) Space-based directed energy systems.

(2) Fixed ground-based radars.

(3) Space-based sensors, including the Space and Missile Tracking System.

(4) Battle management, command, control, and communications (BM/C^{3}).

SEC. 225. IMPLEMENTATION OF NATIONAL MISSILE DEFENSE SYSTEM.

The Secretary of Defense shall—

(1) upon the enactment of this Act, promptly initiate required preparatory and planning actions that are necessary so as to be capable of meeting the initial operational capability (IOC) date specified in section 224(a);

(2) plan to conduct by the end of 1998 an integrated systems test which uses elements (including BM/C^{3} elements) that are representative of, and traceable to, the national missile defense system architecture specified in section 224(b);

(3) prescribe and use streamlined acquisition policies and procedures to reduce the cost and increase the efficiency of developing the system specified in section 224(a); and

(4) develop an affordable national missile defense follow-on program that—

(A) leverages off of the national missile defense system specified in section 224(a), and

(B) augments that system, as the threat changes, to provide for a layered defense.

SEC. 226. REPORT ON PLAN FOR NATIONAL MISSILE DEFENSE SYSTEM DEVELOPMENT AND DEPLOYMENT.

Not later than March 15, 1998, the Secretary of Defense shall submit to Congress a report on the Secretary's plan for development and deployment of a national missile defense system pursuant to this subtitle. The report shall include the following matters:

(1) The Secretary's plan for carrying out this subtitle, including—

(A) a detailed description of the system architecture selected for development under section 224(b); and

(B) a discussion of the justification for the selection of that particular architecture.

(2) The Secretary's estimate of the amount of appropriations required for research, development, test, evaluation, and for procurement, for each of fiscal years 1998 through 2003 in order to achieve the initial operational capability date specified in section 224(a).

(3) A cost and operational effectiveness analysis of follow-on options to improve the effectiveness of such system.

(4) A determination of the point at which any activity that is required to be carried out under this subtitle would conflict with the terms of the ABM Treaty, together with a description of any such activity, the legal basis for the Secretary's determination, and an estimate of the time at which such point would be reached in order to meet the initial operational capability date specified in section 224(a).

SEC. 227. POLICY REGARDING THE ABM TREATY.

(a) ABM TREATY NEGOTIATIONS.—In light of the findings in section 222 and the policy established in section 223, Congress urges the President to pursue high-level discussions with the Russian Federation to achieve an agreement to amend the ABM Treaty to allow deployment of the national missile defense system being developed for deployment under section 224.

(b) REQUIREMENT FOR SENATE ADVICE AND CONSENT.—If an agreement described in subsection (a) is achieved in discussions described in that subsection, the President shall present that agreement to the Senate for its advice and consent. No funds appropriated or otherwise available for any fiscal year may be obligated or expended to implement such an amendment to the ABM Treaty unless the amendment is made in the same manner as the manner by which a treaty is made.

(c) ACTION UPON FAILURE TO ACHIEVE NEGOTIATED CHANGES WITHIN ONE YEAR.—If an agreement described in subsection (a) is not achieved in discussions described in that subsection within one year after the date of the enactment of this Act, the President and Congress, in consultation with each other, shall consider exercising the option of withdrawing the United States from the ABM Treaty in accordance with the provisions of Article XV of that treaty.

SEC. 228. FUNDING FOR FISCAL YEAR 1998.

Of the funds authorized to be appropriated under section 201(4), $1,840,606,000 shall be available for the national missile defense program.

SEC. 229. ABM TREATY DEFINED.

For purposes of this subtitle, the term "ABM Treaty" means the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems, and signed at Moscow on May 26, 1972, and includes the Protocols to that Treaty, signed at Moscow on July 3, 1974.

SEC. 230. REVERSAL OF DECISION TO TRANSFER PROCUREMENT FUNDS FROM THE BALLISTIC MISSILE DEFENSE ORGANIZATION.

GRAMM AMENDMENTS NO. 697–698

(Ordered to lie on the table.)

Mr. GRAMM submitted two amendments intended to be proposed by him to the bill, S. 936, supra; as follows:

AMENDMENT NO. 697

At the appropriate place, add the following:

SEC. . CONTINUATION OF SUPPORT TO SENIOR MILITARY COLLEGES.

(a) DEFINITION OF SENIOR MILITARY COLLEGES.—For purposed of this section, the term "senior military colleges" means the following:

(1) Texas A&M University.

(2) Norwich University.

(3) The Virginia Military Institute.

(4) The Citadel.

(5) Virginia Polytechnic Institute and State University.

(6) North Georgia College and State University.

(b) FINDINGS.—Congress finds the following:

(1) The senior military colleges consistently have provided substantial numbers of highly qualified, long-serving leaders to the Armed Forces.

(2) The quality of the military leaders produced by the senior military colleges is, in part, the result of the rigorous military environment imposed on students attending the senior military colleges by the colleges, as well as the result of the long-standing close support relationship between the Corps of Cadets at each college and the Reserve Officer Training Corps personnel at the colleges who serve a effective leadership role models and mentors.

(3) In recognition of the quality of the young leaders produced by the senior military colleges, the Department of Defense and the military service have traditionally maintained special relationships with the colleges, including the policy to grant active duty service in the Army to graduates of the colleges who desire such service and who are recommended for such service by their ROTC professors of military science.

(4) Each of the senior military colleges has demonstrated an ability to adapt its systems and operations to changing conditions in, and requirements of, the Armed Forces without compromising the quality of leaders produced and without interruption of the close relationship between the colleges and the Department of Defense.

(c) SENSE OF CONGRESS.—In light of the findings in subsection (b), it is the sense of Congress that—

(1) the proposed initiative of the Secretary of the Army to end the commitment to active duty service for all graduates of senior military colleges who desire such service and who are recommended for such service by their ROTC professors of military science is short-sighted and contrary to the long-term interests of the Army;

(2) as they have in the past, the senior military colleges can and will continue to accommodate to changing military requirements to ensure that future graduates entering military service continue to be officers of superb quality who are quickly assimilated by the Armed Forces and fully prepared to make significant contributions to the Armed Forces through extended military careers; and

(3) decisions of the Secretary of Defense or the Secretary of a military department that fundamentally and unilaterally change the long-standing relationship of the Armed Forces with the senior military colleges are not in the best interests of the Department of Defense or the Armed Forces and are patently unfair to students who made decisions to enroll in the senior military colleges on the basis of existing Department and Armed Forces policy.

(d) Continuation of Support for Senior Military Colleges.—Section 2111a of title 10, United States Code, is amended—

(1) by redesignating subsection (d) as subsection (g); and

(2) by inserting after subsection (c) the following new subsections:

"(d) Additional Support.—(1) The Secretaries of the military departments shall ensure that each unit of the Senior Reserve Officers' Training Corps at a senior military college provides support to the Corps of Cadets at the college over and above the level of support associated with the conduct of the formal Senior Reserve Officers' Training Corps course of instruction.

"(2) This additional support shall include the following:

"(A) Mentoring, teaching, coaching, counseling and advising cadets and cadet leaders in the areas of leadership, military, and academic performance.

"(B) Involvement in cadet leadership training, development, and evaluation, as well as drill, ceremonies, parades, and inspections.

"(3) This additional support may include the following:

"(A) Advising cadet teams, clubs, and organizations.

"(B) Involvement in matters of discipline and administration of the Corps of Cadets so long as such involvement does not interfere with the conduct of the formal Senior Reserve Officers' Training Corps course of instruction or the support required by paragraph (2).

"(e) Termination or Reduction of Program Prohibited.—The Secretary of Defense and the Secretaries of the military departments may not take or authorize any action to terminate or reduce a unit of the Senior Reserve Officers' Training Corps at a senior military college unless the termination or reduction is specifically requested by the college.

"(f) Assignment to Active Duty.—(1) The Secretary of the Army shall ensure that a graduate of a senior military college who desires to serve as a commissioned officer on active duty upon graduation from the college, who is medically and physically qualified for active duty, and who is recommended for such duty by the professor of military science at the college, shall be assigned to active duty. This paragraph shall apply to a member of the program at a senior military college who graduates from the college after March 31, 1997.

"(2) Nothing in this section shall be construed to prohibit the Secretary of the Army from requiring a member of the program who graduates from a senior military college to serve on active duty.".

(e) Technical Corrections.—Subsection (g) of such section, as redesignated by subsection (d)(1), is amended—

(1) in paragraph (2), by striking out "College" and inserting in lieu thereof "University"; and

(2) in paragraph (6), by inserting before the period the following: "and State University".

(f) Clerical Amendments.—(1) The heading of such section is amended to read as follows:

"§2111a. Support for senior military colleges".

(2) The item relating to such section in the table of sections at the beginning of chapter 103 of title 10, United States Code, is amended to read as follows:

"2111a. Support for senior military colleges.".

Amendment No. 698

At the appropriate place, add the following:

SEC. . WAIVER OF PERCENTAGE LIMITATION

(a) Notwithstanding any other provision of law, the percentage limitation of Title 10 U.S. Code, Section 2466(a) [the "60/40 rule"] is hereby waived for any DoD depot facility where, after a full and open public-private competition, it is determined by the Defense Depot Maintenance Council that savings of at least 10% can be realized by awarding work currently performed at the depot at the depot to a private contractor.

(b) When calculating the cost savings, DoD shall include all costs to operate DoD depots, including all overhead and retirement costs, in order to provide the best value to the taxpayer.

HELMS AMENDMENT NO. 699

(Ordered to lie on the table.)

Mr. HELMS submitted an amendment intended to be proposed by him to the bill, S. 936, supra; as follows:

At §2813, add the following:

(a) Conveyance Authorized.—Subject to the provisions of this section and notwithstanding any other law, the Secretary of the Army shall convey, without consideration, by fee simple absolute deed to Harnett County, North Carolina, all right, title, and interest of the United States of America in and to two parcels of land containing a total of 300 acres, more or less, located at Fort Bragg, North Carolina, together with any improvements thereon, for educational and economic development purposes.

(b) Terms and Conditions.—The conveyance by the United States under this section shall be subject to the following conditions to protect the interests of the United States, including:

(1) the County shall pay all costs associated with the conveyance, authorized by this section, including but not limited to environmental analysis and documentation, survey costs and recording fees.

(2) not withstanding the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 USC 9601) et the Solid Waste Disposal Act, as amended (42 USC 6901 et seq.) or any other law, the County, and not the United States, shall be responsible for any environmental restoration or remediation required on the property conveyed and the United States shall be forever released and held harmless from any obligation to conduct such restoration or remediation and any claims or causes of action stemming from such remediation.

(c) Legal Description of Real Property and Payment of Costs.—The exact acreage and legal description of the real property described in subsection (a) shall be determined by a survey, the costs of which the County shall bear.

McCAIN AMENDMENT NO. 700

(Ordered to lie on the table.)

Mr. McCAIN submitted an amendment intended to be proposed by him to the bill, S. 936, supra; as follows:

At the end of subtitle D of title X, add the following:

SEC. 1042. REPORT ON ESTABLISHMENT OF FOREIGN-OWNED BUSINESS ACTIVITIES AT MILITARY INSTALLATIONS IN THE UNITED STATES.

(a) Report Required.—The President shall submit to Congress a report on the national security implications of the establishment of any foreign-owned business activity on or in the vicinity of a military installation within the United States.

(b) Inapplicability to Certain Cases.—This section does not apply in the case of a foreign business entity if the principal place of business of that entity is in a country that does not restrict the establishment of United States-owned business activities in the vicinity of military installations of that country.

CAMPBELL AMENDMENT NO. 701

(Ordered to lie on the table.)

Mr. CAMPBELL submitted an amendment intended to be proposed by him to the bill, S. 936, supra; as follows:

In title XXXIV, strike out the heading of section 3402 and all that follows through the heading of section 3403 and insert in lieu thereof the following:

SEC. 3402. TRANSFER OF JURISDICTION, NAVAL OIL SHALE RESERVES NUMBERED 1 AND 3.

(a) Transfer Required.—Chapter 641 of title 10, United States Code, is amended by adding at the end the following new section:

"§7439. Certain oil shale reserves: transfer of jurisdiction and petroleum exploration, development, and production

"(a) Transfer Required.—(1) Upon the enactment of the National Defense Authorization Act for Fiscal Year 1998, the Secretary of Energy shall transfer to the Secretary of the Interior administrative jurisdiction over all public domain lands included within Oil Shale Reserve Numbered 1.

"(2) Not later than one year after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1998, the Secretary of Energy shall transfer to the Secretary of the Interior administrative jurisdiction over those public domain lands included within the developed tract of Oil Shale Reserve Numbered 3, which consists of approximately 6,000 acres and 24 natural gas wells, together with pipelines and associated facilities.

"(3)(A) Except as provided in subparagraph (B), the Secretary of Energy shall continue after the transfer of administrative jurisdiction over public domain lands within an oil shale reserve under this subsection to be responsible for taking any actions that are necessary to ensure that the oil shale reserve is in compliance with the requirements of Federal and State environmental laws that are applicable to the reserve.

"(B) The responsibility of the Secretary of Energy with respect to public domain lands of an oil shale reserve under subparagraph (A) shall terminate upon certification by the Secretary to the Secretary of the Interior that the oil shale reserve is in compliance with the requirements of Federal and State environmental laws that are applicable to the reserve.

"(4) Upon the transfer to the Secretary of the Interior of jurisdiction over public domain lands under this subsection, the other sections of this chapter shall cease to apply with respect to the transferred lands.

"(b) Authority to Lease.—(1) Beginning on the date of the enactment of the National

Defense Authorization Act for Fiscal Year 1998, or as soon thereafter as practicable, the Secretary of the Interior shall enter into leases with one or more private entities for the purpose of exploration for, and development and production of, petroleum (other than in the form of oil shale) located on or in public domain lands in Oil Shale Reserve Numbered 1 and the developed tract of Oil Shale Reserve Numbered 3. Any such lease shall be made in accordance with the requirements of the Act entitled "An Act to promote the mining of coal, phosphate, oil, oil shale, gas, and sodium on the public domain", approved February 25, 1920 (commonly known as the "Mineral Leasing Act") (30 U.S.C. 181 et seq.), regarding the lease of oil and gas lands and shall be subject to valid existing rights.

"(2) Notwithstanding the delayed transfer of the developed tract of Oil Shale Reserve Numbered 3 under subsection (a)(2), the Secretary of the Interior shall enter into a lease under paragraph (1) with respect to the developed tract before the end of the one-year period beginning on the date of the enactment of this section.

"(c) MANAGEMENT.—The Secretary of the Interior, acting through the Director of the Bureau of Land Management, shall manage the lands transferred under subsection (a) in accordance with the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) and other laws applicable to the public lands.

"(d) TRANSFER OF EXISTING EQUIPMENT.—The lease of lands by the Secretary of the Interior under this section may include the transfer, at fair market value, of any well, gathering line, or related equipment owned by the United States on the lands transferred under subsection (a) and suitable for use in the exploration for, or development or production of, petroleum on the lands.

"(e) COST MINIMIZATION.—The cost of any environmental assessment required pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) in connection with a proposed lease under this section shall be paid out of unobligated amounts available for administrative expenses of the Bureau of Land Management.

"(f) DISTRIBUTION OF RECEIPTS.—Notwithstanding any other provision of law, all moneys received from a lease under this section (including sales, bonuses, royalties (including interest charges collected under the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.)), and rentals) shall be paid and distributed under section 35 of the Act entitled "An Act to promote the mining of coal, phosphate, oil, oil shale, gas, and sodium on the public domain", approved February 25, 1920 (commonly known as the "Mineral Leasing Act") (30 U.S.C. 191), in the same manner as moneys derived from other oil and gas leases involving public domain lands other than naval petroleum reserves.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"7439. Certain oil shale reserves: transfer of jurisdiction and petroleum exploration, development, and production.".

SEC. 3403. LEASING OF OIL SHALE RESERVE NUMBERED 2.

(a) AUTHORITY TO LEASE.—The Secretary of Energy may lease, subject to valid existing rights, the United States interest in Oil Shale Reserve Numbered 2 to one or more private entities for the purpose of providing for the exploration of such reserve for, and the development and production of, petroleum.

(b) MAXIMIZATION OF FINANCIAL RETURN TO THE UNITED STATES.—A lease under this section shall be made under terms that result in the maximum practicable financial return to the United States, without regard to production limitations provided under chapter 641 of title 10, United States Code.

(c) DISPOSITION OF WELLS, GATHERING LINES, AND EQUIPMENT.—A lease of a reserve under subsection (a) may include the sale or other disposition, at fair market value, of any well, gathering line, or related equipment owned by the United States that is located at the reserve and is suitable for use in the exploration for, or development or production of, petroleum on the reserve.

(d) DISPOSITION OF ROYALTIES AND OTHER PROCEEDS.—All royalties and other proceeds accruing to the United States from a lease under this section shall be disposed of in accordance with section 7433 of title 10, United States Code.

(e) INAPPLICABILITY OF CERTAIN SECTIONS OF TITLE 10, UNITED STATES CODE.—The following provisions of chapter 641 of title 10, United States Code, do not apply to the leasing of a reserve under this section nor to a reserve while under a lease entered into under this section: section 7422(b), subsections (d), (e), (g), and (k) of section 7430, section 7431, and section 7438(c)(1).

(f) DEFINITIONS.—In this section:

(1) The term "Oil Shale Reserve Numbered 2" means the oil shale reserves identified as Oil Shale Reserve Numbered 2 in section 7420(2) of title 10, United States Code.

(2) The term "petroleum" has the meaning given such term in section 7420(3) of such title.

SEC. 3404. REPEAL OF REQUIREMENT TO ASSIGN NAVY OFFICERS TO OFFICE OF NAVAL PETROLEUM AND OIL SHALE RESERVES.

McCAIN AMENDMENTS NOS. 702-704

(Ordered to lie on the table.)

Mr. McCAIN submitted three amendments intended to be proposed by him to the bill, S. 936, supra; as follows:

AMENDMENT NO. 702

Insert after title XI, the following new title:

TITLE XII—FEDERAL CHARTER FOR THE AIR FORCE SERGEANTS ASSOCIATION

SEC. 1201. RECOGNITION AND GRANT OF FEDERAL CHARTER.

The Air Force Sergeants Association, a nonprofit corporation organized under the laws of the District of Columbia, is recognized as such and granted a Federal charter.

SEC. 1202. POWERS.

The Air Force Sergeants Association (in this title referred to as the "association") shall have only those powers granted to it through its bylaws and articles of incorporation filed in the District of Columbia and subject to the laws of the District of Columbia.

SEC. 1203. PURPOSES.

The purposes of the association are those provided in its bylaws and articles of incorporation and shall include the following:

(1) To help maintain a highly dedicated and professional corps of enlisted personnel within the United States Air Force, including the United States Air Force Reserve, and the Air National Guard.

(2) To support fair and equitable legislation and Department of the Air Force policies and to influence by lawful means departmental plans, programs, policies, and legislative proposals that affect enlisted personnel of the Regular Air Force, the Air Force Reserve, and the Air National Guard, its retirees, and other veterans of enlisted service in the Air Force.

(3) To actively publicize the roles of enlisted personnel in the United States Air Force.

(4) To participate in civil and military activities, youth programs, and fundraising campaigns that benefit the United States Air Force.

(5) To provide for the mutual welfare of members of the association and their families.

(6) To assist in recruiting for the United States Air Force.

(7) To assemble together for social activities.

(8) To maintain an adequate Air Force for our beloved country.

(9) To foster among the members of the association a devotion to fellow airmen.

(10) To serve the United States and the United States Air Force loyally, and to do all else necessary to uphold and defend the Constitution of the United States.

SEC. 1204. SERVICE OF PROCESS.

With respect to service of process, the association shall comply with the laws of the District of Columbia and those States in which it carries on its activities in furtherance of its corporate purposes.

SEC. 1205. MEMBERSHIP.

Except as provided in section 1208(g), eligibility for membership in the association and the rights and privileges of members shall be as provided in the bylaws and articles of incorporation of the association.

SEC. 1206. BOARD OF DIRECTORS.

Except as provided in section 1208(g), the composition of the board of directors of the association and the responsibilities of the board shall be as provided in the bylaws and articles of incorporation of the association and in conformity with the laws of the District of Columbia.

SEC. 1207. OFFICERS.

Except as provided in section 1208(g), the positions of officers of the association and the election of members to such positions shall be as provided in the bylaws and articles of incorporation of the association and in conformity with the laws of the District of Columbia.

SEC. 1208. RESTRICTIONS.

(a) INCOME AND COMPENSATION.—No part of the income or assets of the association may inure to the benefit of any member, officer, or director of the association or be distributed to any such individual during the life of this charter. Nothing in this subsection may be construed to prevent the payment of reasonable compensation to the officers and employees of the association or reimbursement for actual and necessary expenses in amounts approved by the board of directors.

(b) LOANS.—The association may not make any loan to any member, officer, director, or employee of the association.

(c) ISSUANCE OF STOCK AND PAYMENT OF DIVIDENDS.—The association may not issue any shares of stock or declare or pay any dividends.

(d) DISCLAIMER OF CONGRESSIONAL OR FEDERAL APPROVAL.—The association may not claim the approval of the Congress or the authorization of the Federal Government for any of its activities by virtue of this title.

(e) CORPORATE STATUS.—The association shall maintain its status as a corporation organized and incorporated under the laws of the District of Columbia.

(f) Corporate Function.—The association shall function as an educational, patriotic, civic, historical, and research organization under the laws of the District of Columbia.

(g) Nondiscrimination.—In establishing the conditions of membership in the association and in determining the requirements for serving on the board of directors or as an officer of the association, the association may not discriminate on the basis of race, color, religion, sex, handicap, age, or national origin.

SEC. 1209. LIABILITY.

The association shall be liable for the acts of its officers, directors, employees, and agents whenever such individuals act within the scope of their authority.

SEC. 1210. MAINTENANCE AND INSPECTION OF BOOKS AND RECORDS.

(a) Books and Records of Account.—The association shall keep correct and complete books and records of account and minutes of any proceeding of the association involving any of its members, the board of directors, or any committee having authority under the board of directors.

(b) Names and Addresses of Members.—The association shall keep at its principal office a record of the names and addresses of all members having the right to vote in any proceeding of the association.

(c) Right to Inspect Books and Records.—All books and records of the association may be inspected by any member having the right to vote in any proceeding of the association, or by any agent or attorney of such member, for any proper purpose at any reasonable time.

(d) Application of State Law.—This section may not be construed to contravene any applicable State law.

SEC. 1211. AUDIT OF FINANCIAL TRANSACTIONS.

The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1101), is amended—

(1) by redesignating the paragraph (77) added by section 1811 of Public Law 104–201 (110 Stat. 2762) as paragraph (78); and

(2) by adding at the end the following:

"(79) Air Force Sergeants Association.".

SEC. 1212. ANNUAL REPORT.

The association shall annually submit to Congress a report concerning the activities of the association during the preceding fiscal year. The annual report shall be submitted on the same date as the report of the audit required by reason of the amendment made in section 1211. The annual report shall not be printed as a public document.

SEC. 1213. RESERVATION OF RIGHT TO ALTER, AMEND, OR REPEAL CHARTER.

The right to alter, amend, or repeal this title is expressly reserved to Congress.

SEC. 1214. TAX-EXEMPT STATUS REQUIRED AS CONDITION OF CHARTER.

If the association fails to maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code of 1986 the charter granted in this title shall terminate.

SEC. 1215. TERMINATION.

The charter granted in this title shall expire if the association fails to comply with any of the provisions of this title.

SEC. 1216. DEFINITION OF STATE.

For purposes of this title, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and the territories and possessions of the United States.

Amendment No. 703

At the end of subtitle A of title VIII, add the following:

SEC. 809. BLANKET WAIVER OF CERTAIN DOMESTIC SOURCE REQUIREMENTS FOR FOREIGN COUNTRIES WITH CERTAIN COOPERATIVE OR RECIPROCAL RELATIONSHIPS WITH THE UNITED STATES.

(a) Authority.—(1) Section 2534 of title 10, United States Code, is amended by adding at the end the following:

"(i) Waiver Generally Applicable to a Country.—The Secretary of Defense shall waive the limitation in subsection (a) with respect to a foreign country generally if the Secretary determines that the application of the limitation with respect to that country would impede cooperative programs entered into between the Department of Defense and the foreign country, or would impede the reciprocal procurement of defense items entered into under section 2531 of this title, and the country does not discriminate against defense items produced in the United States to a greater degree than the United States discriminates against defense items produced in that country.".

(2) The amendment made by paragraph (1) shall apply with respect to—

(A) contracts entered into on or after the date of the enactment of this Act; and

(B) options for the procurement of items that are exercised after such date under contracts that are entered into before such date.

(b) Conforming Amendment.—The heading of subsection (d) of such section is amended by inserting "for Particular Procurements" after "Waiver Authority".

Amendment No. 704

At the appropriate place, insert:

"(a) Priority.—The Comptroller General may commence an audit, evaluation, other review, or report in a fiscal year on any issue under the jurisdiction of the Committee on Armed Services of the Senate or the Committee on National Security of the House of Representatives only after the Comptroller General certifies in writing to Congress during such fiscal year that the General Accounting Office has completed all audits, evaluations, other reviews, and reports on any such issue that were requested of that office by Congress before the date of the certification.

McCAIN (AND OTHERS) AMENDMENT NO. 705

(Ordered to lie on the table.)

Mr. McCAIN (for himself, Mr. Levin, Mr. Coats, and Mr. Robb) submitted an amendment intended to be proposed by them to the bill, S. 936, supra; as follows:

On page 410, between lines 2 and 3, insert the following:

SEC. 2832. AUTHORITY TO CARRY OUT BASE CLOSURE ROUNDS IN 1999 AND 2001.

(a) Commission Matters.—

(1) Appointment.—Subsection (c)(1) of section 2902 of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended—

(A) in subparagraph (B)—

(i) by striking out "and" at the end of clause (ii);

(ii) by striking out the period at the end of clause (iii) and inserting in lieu thereof a semicolon; and

(iii) by adding at the end the following:

"(iv) by no later than January 3, 1999, in the case of members of the Commission whose terms will expire at the end of the first session of the 106th Congress; and

"(v) by no later than January 3, 2001, in the case of members of the Commission whose terms will expire at the end of the first session of the 107th Congress."; and

(B) in subparagraph (C), by striking out "or for 1995 in clause (iii) of such subparagraph" and inserting in lieu thereof ", for 1995 in clause (iii) of that subparagraph, for 1999 in clause (iv) of that subparagraph, or for 2001 in clause (v) of that subparagraph".

(2) Meetings.—Subsection (e) of that section is amended by striking out "and 1995" and inserting in lieu thereof "1995, 1999, and 2001".

(3) Staff.—Subsection (i)(6) of that section is amended in the matter preceding subparagraph (A) by striking out "and 1994" and inserting in lieu thereof ", 1994, 1998, and 2000".

(4) Termination.—Subsection (l) of that section is amended by striking out "December 31, 1995" and inserting in lieu thereof "December 31, 2001".

(b) Procedures.—

(1) Force-structure plan.—Subsection (a)(1) of section 2903 of that Act is amended by striking out "and 1996," and inserting in lieu thereof "1996, 2000, and 2002,".

(2) Selection criteria.—Subsection (b)(1) of such section 2903 is amended by inserting "and not later than December 31, 1998, for purposes of activities of the Commission under this part in 1999 and 2001," after "December 31, 1990,".

(3) Department of defense recommendations.—Subsection (c)(1) of such section 2903 is amended by striking out "and March 1, 1995," and inserting in lieu thereof "March 1, 1995, March 1, 1999, and March 1, 2001,".

(c) Privatization in Place.—Section 2904(a) of that Act is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(2) by inserting after paragraph (2) the following new paragraph (3):

"(3) carry out the privatization in place of a military installation recommended for closure or realignment by the Commission in each such report only if privatization in place is a method of closure or realignment of the installation specified in the recommendation of the Commission in such report and is determined to be the most-cost effective method of implementation of the recommendation;".

(d) Requirements Applicable to Rounds After 1997.—

(1) Requirements.—That Act is further amended by inserting after section 2904 the following new section:

"SEC. 2904A. REQUIREMENTS APPLICABLE TO BASE CLOSURE ROUNDS AFTER 1997.

"(a) Report on Need for Additional Rounds.—The President may not transmit nominations for members of the Commission under section 2902(c)(1)(B) after 1997 until 180 days after the date on which the Secretary submits to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the need, if any, the closure or realignment of military installations after such date. The report shall include the following:

"(1) An estimate of excess capacity at military installations as of the date of the report, set forth—

"(A) as a percentage of the total capacity of the installations of the Armed Forces with respect to all installations of the Armed Forces;

"(B) as a percentage of the total capacity of the installations of each armed force with respect to the installations of such armed force; and

"(C) as a percentage of the total capacity of a type of installation with respect to installations of such type.

"(2) The types of installations that would be recommended for closure or realignment in the event of one or more additional base closure rounds, set forth by armed force.

"(3) The criteria to be used by the Secretary in evaluating installations for closure or realignment in such event.

"(4) The methodologies to be used by the Secretary in identifying installations for closure or realignment in such event.

"(5) An estimate of the costs and savings to be achieved as a result of the closure or realignment of installations in such event, set forth by armed force and by year.

"(6) The status of the report required by section 277(e) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 242), including the additional legislation to be identified in that report.

"(b) SELECTION CRITERIA.—The selection criteria used by the Secretary in making recommendations regarding the closure or realignment of military installations under section 2903(c) in any year after 1997 shall take into account the costs, if any, of any environmental activities that will be required with respect to such installations solely as a result of the closure or realignment of such installations under this part.

"(c) RECOMMENDATIONS.—

"(1) DOD RECOMMENDATIONS.—

"(A) NOTICE FROM LOCAL GOVERNMENTS.—In making recommendations to the Commission under section 2903(c) in any year after 1997, the Secretary shall consider any notice received from a local government in the vicinity of a military installation that the government would approve of the closure or realignment of the installation.

"(B) RELATIONSHIP TO SELECTION CRITERIA.—Notwithstanding the requirement in subparagraph (A), the Secretary shall make such recommendations based on the force-structure plan and final criteria otherwise applicable to such recommendations under section 2903.

"(C) PUBLICATION OF RESULTS.—The recommendations made by the Secretary under section 2903(c) in any year after 1997 shall include a statement of the result of the consideration of any notice received with respect to an installation covered by such recommendations. The statement shall set forth the reasons for the result.

"(2) COMMISSION RECOMMENDATIONS.—In making recommendations to the President under subsection (d) or (e)(3) of section 2903 in any year after 1997, the Commission may recommend only the following actions with respect to a military installation:

"(A) Closure of the installation.

"(B) Realignment of the installation.

"(C) No action with respect to the installation.

"(d) UTILIZATION OF SAVINGS.—(1) Not later than December 1, 1997, the Secretary shall credit to the accounts referred to in paragraph (3) an amount equal to the aggregate amount of savings estimated by the Secretary to have been achieved as a result of the closure or realignment of military installations under this part and the provisions of title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note) as of September 30, 1997.

"(2) Not later than December 1 of each year after 1997, the Secretary shall credit to the accounts referred to in paragraph (3) an amount equal to the aggregate amount of savings estimated by the Secretary to have been achieved as a result of the closure or realignment of military installations under this part and the provisions of law referred to in paragraph (1) during the preceding fiscal year.

"(3)(A) The Secretary shall credit amounts under paragraphs (1) and (2) to such accounts providing funds for the Department of Defense for procurement, or for research, development, test, and evaluation, as the Secretary shall elect.

"(B) Amounts credited under subparagraph (A) shall be merged with the funds in the account to which credited and shall be available for the same purposes, and subject to the same limitations, as the funds with which merged.

"(e) REVIEW BY CONGRESSIONAL BUDGET OFFICE.—Not later than July 31 of any year after 1997 in which the Commission makes recommendations under section 2903(d), the Congressional Budget Office shall submit to the committees referred to in subsection (a) a detailed analysis of the costs to be incurred and the savings to be achieved as a result of the implementation of the recommendations.".

(2) SENSE OF CONGRESS.—

(A) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Defense, in making recommendations to the Commission on the closure or realignment of military installations under the 1990 base closure law after 1997, and the Commission, in determining whether to recommend installations for closure or realignment under that law in addition to those recommended by the Secretary, should consider in particular types of installations having the most excess capacity.

(B) DEFINITIONS.—In this paragraph:

(i) The term "1990 base closure law" means the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

(ii) The term "Commission" means the Defense Base Closure and Realignment Commission established by section 2902(a) of the 1990 base closure law.

(e) RELATIONSHIP TO OTHER BASE CLOSURE AUTHORITY.—Section 2909 of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended by striking out "December 31, 1995," and inserting in lieu thereof "December 31, 2001,".

(f) TECHNICAL AND CLARIFYING AMENDMENTS.—

(1) COMMISSION FUNDING.—Section 2902(k) of that Act is amended by adding at the end the following:

"(4) If no funds are appropriated to the Commission by the end of the first session of the 105th Congress, the Secretary may transfer to the Commission funds from the account established by section 2906(a). Such funds shall remain available until expended.".

(2) COMMENCEMENT OF PERIOD FOR NOTICE OF INTEREST IN PROPERTY FOR HOMELESS.—Section 2905(b)(7)(D)(ii)(I) of that Act is amended by striking out "that date" and inserting in lieu thereof "the date of publication of such determination in a newspaper of general circulation in the communities in the vicinity of the installation under subparagraph (B)(i)(IV)".

(3) OTHER CLARIFYING AMENDMENTS.—

(A) That Act is further amended by inserting "or realignment" after "closure" each place it appears in the following provisions:

(i) Section 2905(b)(3).
(ii) Section 2905(b)(4)(B)(ii).
(iii) Section 2905(b)(5).
(iv) Section 2905(b)(7)(B)(iv).
(v) Section 2905(b)(7)(N).
(vi) Section 2910(10)(B).

(B) That Act is further amended by inserting "or realigned" after "closed" each place in appears in the following provisions:

(i) Section 2905(b)(3)(C)(ii).
(ii) Section 2905(b)(3)(D).
(iii) Section 2905(b)(3)(E).
(iv) Section 2905(b)(4)(A).
(v) Section 2905(b)(5)(A).
(vi) Section 2910(9).
(vii) Section 2910(10).

(C) Section 2905(e)(1)(B) of that Act is amended by inserting ", or realigned or to be realigned," after "closed or to be closed'.

CHAFEE (AND BAUCUS) AMENDMENT NO. 706

(Ordered to lie on the table.)

Mr. CHAFEE (for himself and Mr. BAUCUS) submitted an amendment intended to be proposed by them to the bill, S. 936, supra; as follows:

At the end of title III, add the following:

Subtitle —Sikes Act Improvement

SEC. 3 1. SHORT TITLE; REFERENCES.

(a) SHORT TITLE.—This subtitle may be cited as the "Sikes Act Improvement Act of 1997".

(b) REFERENCES TO SIKES ACT.—In this subtitle, the term "Sikes Act" means the Act entitled "An Act to promote effectual planning, development, maintenance, and coordination of wildlife, fish, and game conservation and rehabilitation in military reservations", approved September 15, 1960 (commonly known as the "Sikes Act") (16 U.S.C. 670a et seq.).

SEC. 3 2. PREPARATION OF INTEGRATED NATURAL RESOURCES MANAGEMENT PLANS.

(a) IN GENERAL.—Section 101 of the Sikes Act (16 U.S.C. 670a(a)) is amended by striking subsection (a) and inserting the following:

"(a) AUTHORITY OF SECRETARY OF DEFENSE.—

"(1) PROGRAM.—

"(A) IN GENERAL.—The Secretary of Defense shall carry out a program to provide for the conservation and rehabilitation of natural resources on military installations.

"(B) INTEGRATED NATURAL RESOURCES MANAGEMENT PLAN.—To facilitate the program, the Secretary of each military department shall prepare and implement an integrated natural resources management plan for each military installation in the United States under the jurisdiction of the Secretary, unless the Secretary determines that the absence of significant natural resources on a particular installation makes preparation of such a plan inappropriate.

"(2) COOPERATIVE PREPARATION.—The Secretary of a military department shall prepare each integrated natural resources management plan for which the Secretary is responsible in cooperation with the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service, and the head of each appropriate State fish and wildlife agency for the State in which the military installation concerned is located. Consistent with paragraph (4), the resulting plan for the military installation shall reflect the mutual agreement of the parties concerning conservation, protection, and management of fish and wildlife resources.

"(3) PURPOSES OF PROGRAM.—Consistent with the use of military installations to ensure the preparedness of the Armed Forces, the Secretaries of the military departments shall carry out the program required by this subsection to provide for—

"(A) the conservation and rehabilitation of natural resources on military installations;

"(B) the sustainable multipurpose use of the resources, which shall include hunting, fishing, trapping, and nonconsumptive uses; and

"(C) subject to safety requirements and military security, public access to military installations to facilitate the use.

"(4) EFFECT ON OTHER LAW.—Nothing in this title—

"(A)(i) affects any provision of a Federal law governing the conservation or protection of fish and wildlife resources; or

"(ii) enlarges or diminishes the responsibility and authority of any State for the protection and management of fish and resident wildlife; or

"(B) except as specifically provided in the other provisions of this section and in section 102, authorizes the Secretary of a military department to require a Federal license or permit to hunt, fish, or trap on a military installation.".

(b) CONFORMING AMENDMENTS.—

(1) Section 101 of the Sikes Act (16 U.S.C. 670a) is amended—

(A) in subsection (b)(4), by striking "cooperative plan" each place it appears and inserting "integrated natural resources management plan";

(B) in subsection (c), in the matter preceding paragraph (1), by striking "a cooperative plan" and inserting "an integrated natural resources management plan";

(C) in subsection (d), in the matter preceding paragraph (1), by striking "cooperative plans" and inserting "integrated natural resources management plans"; and

(D) in subsection (e), by striking "Cooperative plans" and inserting "Integrated natural resources management plans".

(2) Section 102 of the Sikes Act (16 U.S.C. 670b) is amended by striking "a cooperative plan" and inserting "an integrated natural resources management plan".

(3) Section 103 of the Sikes Act (16 U.S.C. 670c) is amended by striking "a cooperative plan" and inserting "an integrated natural resources management plan".

(4) Section 106 of the Sikes Act (16 U.S.C. 670f) is amended—

(A) in subsection (a), by striking "cooperative plans" and inserting "integrated natural resources management plans"; and

(B) in subsection (c), by striking "cooperative plans" and inserting "integrated natural resources management plans".

(c) REQUIRED ELEMENTS OF PLANS.—Section 101(b) of the Sikes Act (16 U.S.C. 670a(b)) is amended—

(1) by striking "(b) Each cooperative" and all that follows through the end of paragraph (1) and inserting the following:

"(b) REQUIRED ELEMENTS OF PLANS.—Consistent with the use of military installations to ensure the preparedness of the Armed Forces, each integrated natural resources management plan prepared under subsection (a)—

"(1) shall, to the extent appropriate and applicable, provide for—

"(A) fish and wildlife management, land management, forest management, and fish- and wildlife-oriented recreation;

"(B) fish and wildlife habitat enhancement or modifications;

"(C) wetland protection, enhancement, and restoration, where necessary for support of fish, wildlife, or plants;

"(D) integration of, and consistency among, the various activities conducted under the plan;

"(E) establishment of specific natural resource management goals and objectives and time frames for proposed action;

"(F) sustainable use by the public of natural resources to the extent that the use is not inconsistent with the needs of fish and wildlife resources;

"(G) public access to the military installation that is necessary or appropriate for the use described in subparagraph (F), subject to requirements necessary to ensure safety and military security;

"(H) enforcement of applicable natural resource laws (including regulations);

"(I) no net loss in the capability of military installation lands to support the military mission of the installation; and

"(J) such other activities as the Secretary of the military department determines appropriate;";

(2) in paragraph (2), by adding "and" at the end;

(3) by striking paragraph (3);

(4) by redesignating paragraph (4) as paragraph (3); and

(5) in paragraph (3)(A) (as so redesignated), by striking "collect the fees therefor," and inserting "collect, spend, administer, and account for fees for the permits,".

SEC. 3 3. REVIEW FOR PREPARATION OF INTEGRATED NATURAL RESOURCES MANAGEMENT PLANS.

(a) DEFINITIONS.—In this section, the terms "military installation" and "United States" have the meanings provided in section 100 of the Sikes Act (as added by section 3 9).

(b) REVIEW OF MILITARY INSTALLATIONS.—

(1) REVIEW.—Not later than 270 days after the date of enactment of this Act, the Secretary of each military department shall—

(A) review each military installation in the United States that is under the jurisdiction of that Secretary to determine the military installations for which the preparation of an integrated natural resources management plan under section 101 of the Sikes Act (as amended by this subtitle) is appropriate; and

(B) submit to the Secretary of Defense a report on the determinations.

(2) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Secretary of Defense shall submit to Congress a report on the reviews conducted under paragraph (1). The report shall include—

(A) a list of the military installations reviewed under paragraph (1) for which the Secretary of the appropriate military department determines that the preparation of an integrated natural resources management plan is not appropriate; and

(B) for each of the military installations listed under subparagraph (A), an explanation of each reason such a plan is not appropriate.

(c) DEADLINE FOR INTEGRATED NATURAL RESOURCES MANAGEMENT PLANS.—Not later than 3 years after the date of the submission of the report required under subsection (b)(2), the Secretary of each military department shall, for each military installation with respect to which the Secretary has not determined under subsection (b)(2)(A) that preparation of an integrated natural resources management plan is not appropriate—

(1) prepare and begin implementing such a plan in accordance with section 101(a) of the Sikes Act (as amended by this subtitle); or

(2) in the case of a military installation for which there is in effect a cooperative plan under section 101(a) of the Sikes Act on the day before the date of enactment of this Act, complete negotiations with the Secretary of the Interior and the heads of the appropriate State agencies regarding changes to the plan that are necessary for the plan to constitute an integrated natural resources management plan that complies with that section, as amended by this subtitle.

(d) PUBLIC COMMENT.—The Secretary of each military department shall provide an opportunity for the submission of public comments on—

(1) integrated natural resources management plans proposed under subsection (c)(1); and

(2) changes to cooperative plans proposed under subsection (c)(2).

SEC. 3 4. TRANSFER OF WILDLIFE CONSERVATION FEES FROM CLOSED MILITARY INSTALLATIONS.

Section 101(b)(3)(B) of the Sikes Act (16 U.S.C. 670a(b)) (as redesignated by section 3 2(c)(4)) is amended by inserting before the period at the end the following: ", unless the military installation is subsequently closed, in which case the fees may be transferred to another military installation to be used for the same purposes".

SEC. 3 5. ANNUAL REVIEWS AND REPORTS.

Section 101 of the Sikes Act (16 U.S.C. 670a) is amended by adding at the end the following:

"(f) REVIEWS AND REPORTS.—

"(1) SECRETARY OF DEFENSE.—Not later than March 1 of each year, the Secretary of Defense shall review the extent to which integrated natural resources management plans were prepared or were in effect and implemented in accordance with this title in the preceding year, and submit a report on the findings of the review to the committees. Each report shall include—

"(A) the number of integrated natural resources management plans in effect in the year covered by the report, including the date on which each plan was issued in final form or most recently revised;

"(B) the amounts expended on conservation activities conducted pursuant to the plans in the year covered by the report; and

"(C) an assessment of the extent to which the plans comply with this title.

"(2) SECRETARY OF THE INTERIOR.—Not later than March 1 of each year and in consultation with the heads of State fish and wildlife agencies, the Secretary of the Interior shall submit a report to the committees on the amounts expended by the Department of the Interior and the State fish and wildlife agencies in the year covered by the report on conservation activities conducted pursuant to integrated natural resources management plans.

"(3) DEFINITION OF COMMITTEES.—In this subsection, the term 'committees' means—

"(A) the Committee on Resources and the Committee on National Security of the House of Representatives; and

"(B) the Committee on Armed Services and the Committee on Environment and Public Works of the Senate.".

SEC. 3 6. COOPERATIVE AGREEMENTS.

Section 103a of the Sikes Act (16 U.S.C. 670c–1) is amended—

(1) in subsection (a), by striking "Secretary of Defense" and inserting "Secretary of a military department";

(2) by striking subsection (b);

(3) by redesignating subsection (c) as subsection (b); and

(4) by adding at the end the following:

“(c) MULTIYEAR AGREEMENTS.—Funds made available to the Department of Defense for a fiscal year may be obligated to cover the cost of goods and services provided under a cooperative agreement entered into under subsection (a) or through an agency agreement under section 1535 of title 31, United States Code, during any 18-month period beginning in the fiscal year, regardless of the fact that the agreement extends for more than 1 fiscal year.”.

SEC. 3__7. FEDERAL ENFORCEMENT.

Title I of the Sikes Act (16 U.S.C. 670a et seq.) is amended—

(1) by redesignating section 106 as section 108; and

(2) by inserting after section 105 the following:

“SEC. 106. FEDERAL ENFORCEMENT OF OTHER LAWS.

“All Federal laws relating to the management of natural resources on Federal land may be enforced by the Secretary of Defense with respect to violations of the laws that occur on military installations within the United States.”.

SEC. 3__8. NATURAL RESOURCE MANAGEMENT SERVICES.

Title I of the Sikes Act (16 U.S.C. 670a et seq.) is amended by inserting after section 106 (as added by section 3__7) the following:

“SEC. 107. NATURAL RESOURCE MANAGEMENT SERVICES.

“To the extent practicable using available resources, the Secretary of each military department shall ensure that sufficient numbers of professionally trained natural resource management personnel and natural resource law enforcement personnel are available and assigned responsibility to perform tasks necessary to carry out this title, including the preparation and implementation of integrated natural resources management plans.”.

SEC. 3__9. DEFINITIONS.

Title I of the Sikes Act (16 U.S.C. 670a et seq.) is amended by inserting before section 101 the following:

“SEC. 100. DEFINITIONS.

“In this title:

“(1) MILITARY INSTALLATION.—The term ‘military installation’—

“(A) means any land or interest in land owned by the United States and administered by the Secretary of Defense or the Secretary of a military department, except land under the jurisdiction of the Assistant Secretary of the Army having responsibility for civil works;

“(B) includes all public lands withdrawn from all forms of appropriation under public land laws and reserved for use by the Secretary of Defense or the Secretary of a military department; and

“(C) does not include any land described in subparagraph (A) or (B) that is subject to an approved recommendation for closure under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

“(2) STATE FISH AND WILDLIFE AGENCY.—The term ‘State fish and wildlife agency’ means the 1 or more agencies of State government that are responsible under State law for managing fish or wildlife resources.

“(3) UNITED STATES.—The term ‘United States’ means the States, the District of Columbia, and the territories and possessions of the United States.”.

SEC. 3__0. REPEAL.

Section 2 of Public Law 99–561 (16 U.S.C. 670a–1) is repealed.

SEC. 3__1. TECHNICAL AMENDMENTS.

(a) The Sikes Act (16 U.S.C. 670a et seq.) is amended by inserting before title I the following:

“SECTION 1. SHORT TITLE.

“This Act may be cited as the ‘Sikes Act’.”.

(b) The title heading for title I of the Sikes Act (16 U.S.C. prec. 670a) is amended by striking “MILITARY RESERVATIONS” and inserting “MILITARY INSTALLATIONS”.

(c) Section 101 of the Sikes Act (16 U.S.C. 670a) is amended—

(1) in subsection (b)(3) (as redesignated by section 3__2(c)(4))—

(A) in subparagraph (A), by striking “the reservation” and inserting “the military installation”; and

(B) in subparagraph (B), by striking “the military reservation” and inserting “the military installation”;

(2) in subsection (c)—

(A) in paragraph (1), by striking “a military reservation” and inserting “a military installation”; and

(B) in paragraph (2), by striking “the reservation” and inserting “the military installation”; and

(3) in subsection (e), by striking “the Federal Grant and Cooperative Agreement Act of 1977 (41 U.S.C. 501 et seq.)” and inserting “chapter 63 of title 31, United States Code”.

(d) Section 102 of the Sikes Act (16 U.S.C. 670b) is amended by striking “military reservations” and inserting “military installations”.

(e) Section 103 of the Sikes Act (16 U.S.C. 670c) is amended—

(1) by striking “military reservations” and inserting “military installations”; and

(2) by striking “such reservations” and inserting “the installations”.

SEC. 3__2. AUTHORIZATIONS OF APPROPRIATIONS.

(a) CONSERVATION PROGRAMS ON MILITARY INSTALLATIONS.—Subsections (b) and (c) of section 108 of the Sikes Act (as redesignated by section 3__7(1)) are each amended by striking “1983” and all that follows through “1993,” and inserting “1998 through 2003,”.

(b) CONSERVATION PROGRAMS ON PUBLIC LANDS.—Section 209 of the Sikes Act (16 U.S.C. 670o) is amended—

(1) in subsection (a), by striking “the sum of $10,000,000” and all that follows through “to enable the Secretary of the Interior” and inserting “$4,000,000 for each of fiscal years 1998 through 2003, to enable the Secretary of the Interior”; and

(2) in subsection (b), by striking “the sum of $12,000,000” and all that follows through “to enable the Secretary of Agriculture” and inserting “$5,000,000 for each of fiscal years 1998 through 2003, to enable the Secretary of Agriculture”.

THOMPSON (AND FRIST) AMENDMENT NO. 707

(Ordered to lie on the table.)

Mr. THOMPSON (for himself and Mr. FRIST) submitted an amendment intended to be proposed by them to the bill, S. 936, supra; as follows:

At the appropriate place, insert:

SEC. . DESIGNATING THE Y-12 PLANT IN OAK RIDGE, TENNESSEE AS THE NATIONAL PROTOTYPE CENTER.

The Y–12 plant in Oak Ridge, Tennessee is designated as the National Prototype Center. Other executive agencies are encouraged to utilize this center, where appropriate, to maximize their efficiency and cost effectiveness.

SPECTER AMENDMENTS NOS. 708–709

(Ordered to lie on the table.)

Mr. SPECTER submitted two amendments intended to be proposed by him to the bill, S. 936, supra; as follows:

AMENDMENT NO. 708

At the appropriate place in the bill, insert the following:

SEC. . FORCE PROTECTION PLAN AND ACCOUNTABILITY REPORT.

(a) Congress finds that:

(1) On June 25, 1996 a bomb detonated not more than 80 feet from the United States Air Force housing complex known as Khobar Towers in Dhahran, Saudi Arabia, killing 19 airmen and injuring hundreds more;

(2) On June 13, 1996, a Department of State Bureau of Intelligence and Research report highlighted security concerns in the region;

(3) On June 17, 1996 the Pentagon received an intelligence report detailing the high risk to the American military installation in Dhahran;

(4) Base commanders approached the Saudis in November, 1995 and requested to move the perimeter fence further out, a request that was still pending when the bombing occurred;

(5) In January, 1996, the Air Force Office of Special Investigations published its vulnerability assessment for Khobar Towers, which highlighted the vulnerability of perimeter security given the proximity of the fence to the housing complex and the lack of the protective coating Mylar on the windows;

(6) The Air Force recommendation concerning Mylar was made part of a five-year plan, but not implemented prior to the bombing, resulting in needless death and injury from flying glass;

(7) An Air Force investigation into the incident held no one accountable for the tragedy;

(8) Former Defense Secretary Perry and Chairman of the Joint Chiefs of Staff Shalikashvili have yet to acknowledge that such matters should be reported up the chain of command; and

(9) The Air Force did not cooperate with the Senate Intelligence Committee request to interview Air Force personnel or review Air Force material on the incident and has continued to fail to comply with Congressional requests to review Air Force reports on the incident;

(b) FORCE PROTECTION PLAN AND ACCOUNTABILITY PROCEDURES REPORT REQUIRED.—Not later than 90 days after the date of enactment of this Act, the Secretary shall submit to the relevant congressional committees:

(1) a plan to improve current policies and practices of the Department to protect United States armed forces from terrorism; and

(2) a report that assesses the accountability procedures within the armed forces governing incidents where there is loss of life due to terrorism in a noncombat situation at a United States armed forces facility.

(c) DEFINITION.—As used in this section, the term “relevant congressional committee” means—

(1) the Committee on National Security, the Committee on Appropriations, and the Permanent Select Committee on Intelligence of the House of Representatives; and

(2) the Committee on Armed Services, the Committee on Appropriations, and the Select Committee on Intelligence of the Senate.

AMENDMENT NO. 709

At the appropriate place in the bill, insert the following:

SEC. . Notwithstanding any other provision of this bill related to the question of privatization in place, the realignment of the ground communication-electronics work to Tobyhanna Army Depot in Pennsylvania will adhere to the schedule provided for by the Defense Depot Maintenance Council on March 13, 1997, which states that 20% of the transfer will begin in fiscal year 1998, 40% in fiscal year 1999 and 40% in fiscal year 2000.

BOND AMENDMENT NO. 710

(Ordered to lie on the table.)

Mr. BOND submitted an amendment intended to be proposed by him to the bill, S. 936, supra; as follows:

On page 382, line 15, strike out "$155,416,000" and insert in lieu thereof "$158,626,000".

DURBIN (AND ROCKEFELLER) AMENDMENT NO. 711

(Ordered to lie on the table.)

Mr. DURBIN (for himself and Mr. ROCKEFELLER) submitted an amendment intended to be proposed by them to the bill, S. 936, supra; as follows:

On page 46, between lines 6 and 7, insert the following:

SEC. 220. DOD/VA COOPERATIVE RESEARCH PROGRAM.

Of the amount authorized to be appropriated by section 201(4), $20,000,000 shall be available for the DoD/VA Cooperative Research Program.

CLELAND AMENDMENT NO. 712

(Ordered to lie on the table.)

Mr. CLELAND submitted an amendment intended to be proposed by him to the bill, S. 936, supra; as follows:

At the end of title VII, add the following:

SEC. 708. SENSE OF CONGRESS REGARDING QUALITY HEALTH CARE FOR RETIREES.

(a) FINDINGS.—Congress makes the following findings:

(1) Many retired military personnel believe that they were promised lifetime health care in exchange for 20 or more years of service.

(2) Military retirees are the only Federal Government personnel who have been prevented from using their employer-provided health care at or after 65 years of age.

(3) Military health care has become increasingly difficult to obtain for military retirees as the Department of Defense reduces its health care infrastructure.

(4) Military retirees deserve to have a health care program at least comparable with that of retirees from civilian employment by the Federal Government.

(5) The availability of quality, lifetime health care is a critical recruiting incentive for the Armed Forces.

(6) Quality health care is a critical aspect of the quality of life of the men and women serving in the Armed Forces.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the United States has incurred a moral obligation to provide health care to retirees from service in the Armed Forces;

(2) it is, therefore, necessary to provide quality, affordable health care to such retirees; and

(3) Congress and the President should take steps to address the problems associated with health care for such retirees within two years after the date of the enactment of this Act.

MURRAY AMENDMENT NO. 713

(Ordered to lie on the table.)

Mrs. MURRAY submitted an amendment intended to be proposed by her to the bill, S. 936, supra; as follows:

Section 3102(b)(2) is amended as follows—add—Project ___, tank farm characterization and remediation, Richland, Washington, $50,000,000.

Section 3104 is amended—

at line 7, change to read—$462,000,000 [increase of $247 mm];

at line 12, change to read—"age, Idaho Falls, Idaho, $37,000,000." [increase of $10 mm];

at line 17,change to read—"$35,000,000" [increase of $10mm; SR];

at line 19, change to read—"tem phase 1, Hanford, Washington, $300,000,000." [increase of $191 mm];

after line 19, add—Project 98—PVT—___, waste disposal, Oak Ridge, Tennessee, $25,000,000. [increase of $25mm];

after line ___, add—Project 98—PVT—___, Ohio silo 3 waste treatement, Fernald, Ohio, $11,000,000. [increase of $11mm]

Offsets.—

Section 3102(c). Environmental Restoration and Waste Management—line 16, change—"grams in the amoutn of $252,881,000." [decrease of $15mm]

Section 3104. Defense Environmental Management Privatization—at line 10 [regarding Carlsbad, NM], change—"$21,000,000." [decrease of $8mm]

Title I Procurement.—An equal amount from each account to equal $274,000,000. [decrease of $274mm]

SESSIONS AMENDMENT NO. 714

(Ordered to lie on the table.)

Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill, S. 936, supra; as follows

At the end of subtitle D of title II, add the following:

SEC. 235. DEMONSTRATION PROGRAM ON EXPLOSIVES DEMILITARIZATION TECHNOLOGY.

(a) PROGRAM REQUIRED.—During fiscal year 1998, the Secretary of the Army shall conduct at Anniston Army Depot, Alabama, an alternative technology explosive munitions demilitarization demonstration program in accordance with this section.

(b) COMMERCIAL BLAST CHAMBER TECHNOLOGY.—Under the demonstration program, the Secretary shall demonstrate the use of existing, commercially available blast chamber technology for incineration of explosive munitions as an alternative to the open burning, open pit detonation of such munitions.

(c) ASSESSMENT.—The Secretary shall assess the relative benefits of the blast chamber technology and the open burning, open pit detonation process with respect to the levels of emissions and noise resulting from use of the respective processes.

(d) REPORT.—Not later than the date on which the President submits the budget for fiscal year 2000 to Congress pursuant to section 1105(a) of title 31, United States Code, the Secretary of the Army shall submit a report on the results of the demonstration program to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives. The report shall include the Secretary's assessment under subsection (c).

(e) FUNDING.—(1) Of the amount authorized to be appropriated under section 201(4), $6,000,000 is available for the demonstration program under this section.

(2) The amount provided under section 201(4) is hereby increased by $6,000,000.

(3) The amount provided under section is hereby decreased by $6,000,000.

COVERDELL (AND CLELAND) AMENDMENT NO. 715

(Ordered to lie on the table.)

Mr. COVERDELL (for himself and Mr. CLELAND) submitted an amendment intended to be proposed by them to the bill, S. 936, supra; as follows:

In section 103(1), strike out "$6,048,915,000" and insert in lieu thereof "$6,038,915,000".

In section 301, add at the end the following:

(25) Add for contracted flight training services, $10,000,000.

CHAFEE AMENDMENT NO. 716

(Ordered to lie on the table.)

Mr. CHAFEE submitted an amendment intended to be proposed by him to the bill, S. 936, supra; as follows:

Beginning on page 93, strike line 12 and all that follows through the end of the matter preceding line 15 on page 95.

DOMENICI AMENDMENT NO. 717

(Ordered to lie on the table.)

Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill, S. 936, supra; as follows:

Insert where appropriate:

SEC. . LOS ALAMOS LAND TRANSFER.

(a) The Secretary of Energy on behalf of the federal government shall convey without consideration fee title to government-owned land under the administrative control of the Department of Energy to the Incorporated County of Los Alamos, Los Alamos, New Mexico, or its designee, and to the Secretary of the Interior in trust for the Pueblo of San Ildefonso for purposes of preservation, community self-sufficiency or economic diversification in accordance with this section.

(b) In order to carry out the requirement of subsection (a) the Secretary shall:

(1) within three months from the date of enactment of this Act, submit to the appropriate committees of Congress a report identifying parcels of land considered suitable for conveyance, taking into account the need to provide lands—

(A) which are not required to meet the national security missions of the Department of Energy;

(B) which are likely to be available for transfer within ten years, and;

(C) which have been identified by the Department, the County of Los Alamos, or the Pueblo of San Ildefonso, as being able to meet the purposes stated in subsection (a).

(2) within 21 months from the date of enactment of this Act, complete any review required by the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4375) with respect to anticipated environmental impact of the conveyance of the parcels of land identified in the report to Congress, and;

(3) within three months from completion of the review required by paragraph (2) submit to the appropriate committees of Congress an agreement between the Pueblo of San

Ildefonso and the County of Los Alamos allocating the parcels of lands identified under paragraph (1); and

(4) as soon as possible, but no later than nine months after the date of submission of the agreement under paragraph (3), complete the conveyance of all portions of the lands identified in the agreement.

(c) If the Secretary finds that a parcel of land identified in section (b) continues to be necessary for national security purposes for a limited period of time or that remediation of hazardous substances in accordance with applicable laws has not been completed, and the finding will delay the parcel's conveyance beyond the time limits provided in paragraph (4), the Secretary shall convey title of the parcel upon completion of the remediation or after the parcel is no longer necessary for national security purposes.

SEC. . NORTHERN NEW MEXICO EDUCATIONAL FOUNDATION.

(a) Until June 30, 2003, the Secretary of Energy, to the extent provided in advance in appropriations Act, may make annual payments for the purpose of endowing a private not-for-profit educational foundation chartered to enhance the educational enrichment activities in public schools in the area around the Los Alamos National Laboratory. The amounts made available by appropriations for this purpose shall be used solely for the endowment fund corpus. The private not-for-profit educational foundation shall invest the endowment fund corpus and use the income generated from such an investment to fund programs designed to support the educational needs of public schools in Northern New Mexico educating children in the area around the Los Alamos National Laboratory.

THURMOND AMENDMENT NO. 718

Mr. THURMOND proposed an amendment to the bill, S. 936, supra; as follows:

On page 460, line 6, strike out "$295,886,000" and insert in lieu thereof "$331,886,000".

LEVIN AMENDMENT NO. 719

Mr. LEVIN proposed an amendment to the bill, S. 936, supra; as follows:

On page 339, line 14, strike out "the executive branch or".

On page 340, between lines 16 and 17, insert the following:

(d) DISCLOSURES OF CLASSIFIED INFORMATION TO CONGRESS OR THE DEPARTMENT OF JUSTICE BY CONTRACTOR EMPLOYEES.—It is the sense of Congress that the Inspector General of the Department of Defense should continue to exercise the authority provided in section 2409 of title 10, United States Code, regarding reprisals for disclosures of classified information as well as reprisals for disclosures of unclassified information.

THURMOND AMENDMENT NO. 720

Mr. THURMOND proposed an amendment to the bill, S. 936, supra; as follows:

At the end of title X, add the following:

SEC. . PROHIBITION ON PROVISION OF BURIAL BENEFITS TO INDIVIDUALS CONVICTED OF FEDERAL CAPITAL OFFENSES.

Notwithstanding any other provision of law, an individual convicted of a capital offense under Federal law shall not be entitled to the following:

(1) Interment or inurnment in Arlington National Cemetery, the Soldiers' and Airmen's National Cemetery, any cemetery in the National Cemetery System, or any other cemetery administered by the Secretary of a military department or by the Secretary of Veterans Affairs.

(2) Any other burial benefit under Federal law.

BYRD AMENDMENT NO. 721

Mr. LEVIN (for Mr. BYRD) proposed an amendment to the bill, S. 936, supra; as follows:

In section 301(9), strike out "$1,624,420,000" and insert in lieu thereof "$1,631,200.000".

In section 301(11), strike out "$2,991,219,000" and insert in lieu thereof "$3,004,282,000".

In section 411(a)(5), strike out "107.377" and insert in lieu thereof "108,002".

In section 411(a)(6), strike out "73,431" and insert in lieu thereof "73,542".

In section 412(5), strike out "10,616" and insert in lieu thereof "10,671".

At the end of subtitle B of title IV, add the following:

SEC. 413. ADDITION TO END STRENGTHS FOR MILITARY TECHNICIANS.

(a) AIR NATIONAL GUARD.—In addition to the number of military technicians for the Air National Guard of the United States as of the last day of fiscal year 1998 for which funds are authorized to be appropriated in this Act, 100 military technicians are authorized for fiscal year 1998 for five Air National Guard C–130 aircraft units.

(b) AIR FORCE RESERVE.—In addition to the number of military technicians for the Air Force Reserve as of the last day of fiscal year 1998 for which funds are authorized to be appropriated in this Act, 21 military technicians are authorized for fiscal year 1998 for three Air Force Reserve C–130 aircraft units.

On page 108, line 11, reduce the amount by $20,000,000.

ALLARD AMENDMENT NO. 722

Mr. THURMOND (for Mr. ALLARD) proposed an amendment to the bill, S. 936, supra; as follows:

At the end of subtitle B of title XXVIII, add the following:

SEC. 28 . MODIFICATION OF LAND CONVEYANCE AUTHORITY, ROCKY MOUNTAIN ARSENAL, COLORADO.

Section 5(c)(1) of the Rocky Mountain Arsenal National Wildlife Refuge Act of 1992 (Public Law 102–402; 106 Stat. 1966; 16 U.S.C. 668dd note) is amended by striking out the second sentence and inserting in lieu thereof the following new sentence: "The Administrator shall convey the transferred property to Commerce City, Colorado, upon the approval of the City, for consideration equal to the fair market value of the property (as determined jointly by the Administrator and the City).".

ROCKEFELLER AMENDMENT NO. 723

Mr. LEVIN (for Mr. ROCKEFELLER) proposed an amendment to the bill, S. 936, supra; as follows:

At the end of subtitle D of title X, add the following:

SEC. . EYE SAFETY AT SMALL ARMS FIRING RANGES.

(a) ACTIONS REQUIRED.—The Secretary of the Defense shall—

(1) conduct a study of eye safety at small arms firing ranges of the Armed Forces; and

(2) develop for the use of the Armed Forces a protocol for reporting eye injuries incurred in small arms firing activities at the ranges.

(b) AGENCY TASKING.—The Secretary may delegate authority to carry out the responsibilities set forth in subsection (a) to the United States Army Center for Health Promotion and Preventive Medicine or any other element of the Department of Defense that the Secretary considers well qualified to carry out those responsibilities.

(c) CONTENT OF STUDY.—The study shall include the following:

(1) An evaluation of the existing policies, procedures, and practices of the Armed Forces regarding medical surveillance of eye injuries resulting from weapons fire at the small arms ranges.

(2) An examination of the existing policies, procedures, and practices of the Armed Forces regarding reporting on vision safety issues resulting from weapons fire at the small arms ranges.

(3) Determination of rates of eye injuries, and trends in eye injuries, resulting from weapons fire at the small arms ranges.

(4) An evaluation of the costs and benefits of a requirement for use of eye protection devices by all personnel firing small arms at the ranges.

(d) REPORT.—The Secretary shall submit a report on the activities required under this section to the Committees on Armed Services and on Veterans' Affairs of the Senate and the Committees on National Security and on Veterans' Affairs of the House of Representatives. The report shall include—

(1) the findings resulting from the study required under paragraph (1) of subsection (a); and

(2) the protocol developed under paragraph (2) of such subsection.

(e) SCHEDULE.—(1) The Secretary shall ensure that the study is commenced not later than October 1, 1997, and is completed within six months after it is commenced.

(2) The Secretary shall submit the report required under subsection (d) not later than 30 days after the completion of the study.

KEMPTHORNE AMENDMENT NO. 724

Mr. THURMOND (for Mr. KEMPTHORNE) proposed an amendment to the bill, S. 936. Supra; as follows:

At the end of subtitle C of title VI, add the following:

SEC. 642. RESERVE AFFILIATION AGREEMENT BONUS FOR THE COAST GUARD.

Section 308e of title 37, United States Code, is amended—

(1) in subsection (a), by striking out "Secretary of a military department" in the matter preceding paragraph (1) and inserting in lieu thereof "Secretary concerned"; and

(2) by adding at the end the following:

"(f) The authority in subsection (a) does not apply to the Secretary of Commerce and the Secretary of Health and Human Services.".

KEMPTHORNE AMENDMENT NO. 725

Mr. THURMOND (for Mr. KEMPTHORNE) proposed an amendment to the bill, S. 936, supra; as follows:

At the end of subtitle A of title V, add the following:

SEC. 505. INCREASED YEARS OF COMMISSIONED SERVICE FOR MANDATORY RETIREMENT OF REGULAR GENERALS AND ADMIRALS ABOVE MAJOR GENERAL AND REAR ADMIRAL.

(a) YEARS OF SERVICE.—Section 636 of title 10, United States Code, is amended—

(1) by striking out "Except" and inserting in lieu thereof "(a) Major Generals and Rear Admirals Serving in Grade.—Except as provided in subsection (b) or (c) of this section and"; and

(2) by adding at the end the following:

"(b) Lieutenant Generals and Vice Admirals.—In the administration of subsection (a) in the case of an officer who is serving in the grade of lieutenant general or vice admiral, the number of years of active commissioned service applicable to the officer is 38 years.

"(c) Generals and Admirals.—In the administration of subsection (a) in the case of an officer who is serving in the grade of general or admiral, the number of years of active commissioned service applicable to the officer is 40 years.".

(b) Section Heading.—The heading of such section is amended to read as follows:

"§636. Retirement for years of service: regular officers in grades above brigadier general and rear admiral (lower half)".

(c) Clerical Amendment.—The item relating to such section in the table of sections at the beginning of subchapter III of chapter 36 of title 10, United States Code, is amended to read as follows:

"636. Retirement for years of service: regular officers in grades above brigadier general and rear admiral (lower half).".

SHELBY AMENDMENT NO. 726

Mr. THURMOND (for Mr. SHELBY) proposed an amendment to the bill, S. 936, supra; as follows:

At the end of subtitle B of title XXVIII, add the following:

SEC. 2819. LAND CONVEYANCE, ARMY RESERVE CENTER, GREENSBORO, ALABAMA.

(a) Conveyance Authorized.—The Secretary of the Army may convey, without consideration, to Hale County, Alabama, all right, title, and interest of the United States in and to a parcel of real property consisting of approximately 5.17 acres and located at the Army Reserve Center, Greensboro, Alabama, that was conveyed by Hale County, Alabama, to the United States by warranty deed dated September 12, 1988.

(b) Description of Property.—The exact acreage and legal description of the property conveyed under subsection (a) shall be as described in the deed referred to in that subsection.

(c) Additional Terms and Conditions.—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

CAMPBELL AMENDMENT NO. 727

Mr. THURMOND (for Mr. CAMPBELL) proposed an amendment to the bill, S. 936, supra; as follows:

At the end of subtitle E of title X, add the following:

SEC. . NATIONAL POW/MIA RECOGNITION DAY.

(a) Findings.—Congress makes the following findings:

(1) The United States has fought in many wars, and thousands of Americans who served in those wars were captured by the enemy or listed as missing in action.

(2) Many of these Americans are still missing and unaccounted for, and the uncertainty surrounding their fates has caused their families to suffer tragic and continuing hardships.

(3) As a symbol of the Nation's concern and commitment to accounting as fully as possible for all Americans still held prisoner, missing, or unaccounted for by reason of their service in the Armed Forces and to honor the Americans who in future wars may be captured or listed as missing or unaccounted for, Congress has officially recognized the National League of Families POW/MIA flag.

(4) The American people observe and honor with appropriate ceremony and activity the third Friday of September each year as National POW/MIA Recognition Day.

(b) Display of POW/MIA Flag—The POW/MIA flag shall be displayed on Armed Forces Day, Memorial Day, Flag Day, Independence Day, Veterans Day, National POW/MIA Recognition Day, and on the last business day before each of the preceding holidays, on the grounds or in the public lobbies of—

(1) major military installations (as designated by the Secretary of Defense);

(2) Federal national cemeteries;

(3) the National Korean War Veterans Memorial;

(4) the National Vietnam Veterans Memorial;

(5) the White House;

(6) the official office of the—

(A) Secretary of State;

(B) Secretary of Defense;

(C) Secretary of Veterans Affairs; and

(D) Director of the Selective Service System; and

(7) United States Postal Service post offices.

(c) POW/MIA Flag Defined.—In this section, the term "POW/MIA flag" means the National League of Families POW/MIA flag recognized and designated by section 2 of Public Law 101-355 (104 Stat. 416).

(d) Regulations.—Not later than 180 days after the date of enactment of this Act, the agency or department responsible for a location listed in subsection (b) shall prescribe any regulation necessary to carry out this section.

(e) Repeal of Provision Relating to Display of POW/MIA Flag.—Section 1084 of the National Defense Authorization Act for Fiscal years 1992 and 1993 (36 U.S.C. 189 note, Public Law 102-190) is repealed.

McCAIN AMENDMENT NO. 728

Mr. THURMOND (for Mr. McCAIN) proposed an amendment to the bill, S. 936, supra; as follows:

Insert after title XI, the following new title:

TITLE XII—FEDERAL CHARTER FOR THE AIR FORCE SERGEANTS ASSOCIATION

SEC. 1201. RECOGNITION AND GRANT OF FEDERAL CHARTER.

The Air Force Sergeants Association, a nonprofit corporation organized under the laws of the District of Columbia, is recognized as such and granted a Federal charter.

SEC. 1202. POWERS.

The Air Force Sergeants Association (in this title referred to as the "association") shall have only those powers granted to it through its bylaws and articles of incorporation filed in the District of Columbia and subject to the laws of the District of Columbia.

SEC. 1203. PURPOSES.

The purposes of the association are those provided in its bylaws and articles of incorporation and shall include the following:

(1) To help maintain a highly dedicated and professional corps of enlisted personnel within the United States Air Force, including the United States Air Force Reserve, and the Air National Guard.

(2) To support fair and equitable legislation and Department of the Air Force policies and to influence by lawful means departmental plans, programs, policies, and legislative proposals that affect enlisted personnel of the Regular Air Force, the Air Force Reserve, and the Air National Guard, its retirees, and other veterans of enlisted service in the Air Force.

(3) To actively publicize the roles of enlisted personnel in the United States Air Force.

(4) To participate in civil and military activities, youth programs, and fundraising campaigns that benefit the United States Air Force.

(5) To provide for the mutual welfare of members of the association and their families.

(6) To assist in recruiting for the United States Air Force.

(7) To assemble together for social activities.

(8) To maintain an adequate Air Force for our beloved country.

(9) To foster among the members of the association a devotion to fellow airmen.

(10) To serve the United States and the United States Air Force loyally, and to do all else necessary to uphold and defend the Constitution of the United States.

SEC. 1204. SERVICE OF PROCESS.

With respect to service of process, the association shall comply with the laws of the District of Columbia and those States in which it carries on its activities in furtherance of its corporate purposes.

SEC. 1205. MEMBERSHIP.

Except as provided in section 1208(g), eligibility for membership in the association and the rights and privileges of members shall be as provided in the bylaws and articles of incorporation of the association.

SEC. 1206. BOARD OF DIRECTORS.

Except as provided in section 1208(g), the composition of the board of directors of the association and the responsibilities of the board shall be as provided in the bylaws and articles of incorporation of the association and in conformity with the laws of the District of Columbia.

SEC. 1207. OFFICERS.

Except as provided in section 1208(g), the positions of officers of the association and the election of members to such positions shall be as provided in the bylaws and articles of incorporation of the association and in conformity with the laws of the District of Columbia.

SEC. 1208. RESTRICTIONS.

(a) Income and Compensation.—No part of the income or assets of the association may inure to the benefit of any member, officer, or director of the association or be distributed to any such individual during the life of this charter. Nothing in this subsection may be construed to prevent the payment of reasonable compensation to the officers and employees of the association or reimbursement for actual and necessary expenses in amounts approved by the board of directors.

(b) Loans.—The association may not make any loan to any member, officer, director, or employee of the association.

(c) Issuance of Stock and Payment of Dividends.—The association may not issue any shares of stock or declare or pay any dividends.

(d) DISCLAIMER OF CONGRESSIONAL OR FEDERAL APPROVAL.—The association may not claim the approval of the Congress or the authorization of the Federal Government for any of its activities by virtue of this title.

(e) CORPORATE STATUS.—The association shall maintain its status as a corporation organized and incorporated under the laws of the District of Columbia.

(f) CORPORATE FUNCTION.—The association shall function as an educational, patriotic, civic, historical, and research organization under the laws of the District of Columbia.

(g) NONDISCRIMINATION.—In establishing the conditions of membership in the association and in determining the requirements for serving on the board of directors or as an officer of the association, the association may not discriminate on the basis of race, color, religion, sex, handicap, age, or national origin.

SEC. 1209. LIABILITY.

The association shall be liable for the acts of its officers, directors, employees, and agents whenever such individuals act within the scope of their authority.

SEC. 1210. MAINTENANCE AND INSPECTION OF BOOKS AND RECORDS.

(a) BOOKS AND RECORDS OF ACCOUNT.—The association shall keep correct and complete books and records of account and minutes of any proceeding of the association involving any of its members, the board of directors, or any committee having authority under the board of directors.

(b) NAMES AND ADDRESSES OF MEMBERS.—The association shall keep at its principal office a record of the names and addresses of all members having the right to vote in any proceeding of the association.

(c) RIGHT TO INSPECT BOOKS AND RECORDS.—All books and records of the association may be inspected by any member having the right to vote in any proceeding of the association, or by any agent or attorney of such member, for any proper purpose at any reasonable time.

(d) APPLICATION OF STATE LAW.—This section may not be construed to contravene any applicable State law.

SEC. 1211. AUDIT OF FINANCIAL TRANSACTIONS.

The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1101), is amended—

(1) by redesignating the paragraph (77) added by section 1811 of Public Law 104-201 (110 Stat. 2762) as paragraph (78); and

(2) by adding at the end the following:

"(79) Air Force Sergeants Association.".

SEC. 1212. ANNUAL REPORT.

The association shall annually submit to Congress a report concerning the activities of the association during the preceding fiscal year. The annual report shall be submitted on the same date as the report of the audit required by reason of the amendment made in section 1211. The annual report shall not be printed as a public document.

SEC. 1213. RESERVATION OF RIGHT TO ALTER, AMEND, OR REPEAL CHARTER.

The right to alter, amend, or repeal this title is expressly reserved to Congress.

SEC. 1214. TAX-EXEMPT STATUS REQUIRED AS CONDITION OF CHARTER.

If the association fails to maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code of 1986 the charter granted in this title shall terminate.

SEC. 1215. TERMINATION.

The charter granted in this title shall expire if the association fails to comply with any of the provisions of this title.

SEC. 1216. DEFINITION OF STATE.

For purposes of this title, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and the territories and possessions of the United States.

COVERDELL AMENDMENT NO. 729

(Ordered to lie on the table.)

Mr. COVERDELL submitted an amendment intended to be proposed by him to the bill, S. 936, supra; as follows:

On page 276, line 19, insert ", with the concurrence of the Secretary of State," after "Secretary of Defense may".

On page 278, line 20, strike out "paragraph (2)" and insert in lieu thereof "paragraph (3)".

On page 280, line 24, strike out "(2)", and insert in lieu thereof the following:

"(2) The Secretary may not obligate or expend funds to provide a government with support under this section until the Secretary of Defense, in coordination with the heads of other Federal agencies involved in international counter-drug activities, has developed a riverine counter-drug plan and submitted the plan to the committees referred to in paragraph (3). The plan shall set forth a riverine counter-drug program that can be sustained by the supported governments within five years, a schedule for establishing the program, and a detailed discussion of how the riverine counter-drug program supports national drug control strategy of the United States.

"(3)".

NOTICES OF HEARINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will meet on Thursday, July 10, 1997 at 2:00 p.m. to conduct an oversight hearing on the Administration's proposal to restructure Indian gaming fee assessments. The hearing will be held in room 562 of the Dirksen Senate Office Building.

Those wishing additional information should contact the Committee on Indian Affairs at 224-2251.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. WARNER. Mr. President, I wish to announce that the Committee on Rules and Administration will hold a Business Meeting in SR-301, Russell Senate Office Building, on Wednesday, July 9, 1997, at 2:30 p.m. for a briefing on the status of the investigation into the contested Louisiana Senate election. The meeting will continue at 9:30 a.m. on Friday, July 11, 1997.

For further information concerning this hearing, please contact Bruce Kasold of the Rules Committee staff at 224-3448.

ORDERS FOR TUESDAY, JULY 8, 1997

Mr. THURMOND. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 10 o'clock a.m. on Tuesday, July 8. I further ask unanimous consent that on Tuesday, immediately following the prayer, the routine requests through the morning hour be granted, and there then be a period of morning business until the hour of 11 a.m. with Senators to speak for up to 5 minutes, with the following exceptions: Senator MURRAY, 10 minutes; Senator FEINGOLD, 15 minutes; Senator LOTT or his designee, 30 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I further ask unanimous consent that at 11 a.m. the Senate resume consideration of S. 936, the Defense authorization bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I also ask unanimous consent from the hours of 12:30 to 2:15 p.m. the Senate stand in recess for the weekly policy luncheons to meet.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. THURMOND. Mr. President, on behalf of the majority leader, I announce that tomorrow the Senate will be in a period of morning business until 11 a.m. At 11 a.m, the Senate will resume consideration of S. 936, the Defense authorization bill.

Under a previous consent, at 2:15 p.m. the Senate will proceed to cloture vote on the Defense authorization bill.

As a reminder, under rule XXII, Senators have until 12:30 on Tuesday in order to file second-degree amendments to the defense bill. Following the cloture vote, the Senate will continue debating amendments to the bill in the hope of making substantial progress on the bill.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. THURMOND. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 5:10 p.m., adjourned until Tuesday, July 8, 1997, at 10 a.m.

EXTENSIONS OF REMARKS

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, July 8, 1997, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JULY 9

9:00 a.m.

Armed Services

To hold hearings on the nominations of Gen. Wesley K. Clark, USA, to be Commander-in-Chief, United States European Command, and Lt. Gen. Anthony C. Zinni, USMC, to be Commander-in-Chief, United States Central Command.

SR–222

10:00 a.m.

Banking, Housing, and Urban Affairs

Financial Institutions and Regulatory Relief Subcommittee

Housing Opportunity and Community Development Subcommittee

To hold hearings on problems surrounding the mortgage origination process and the implementation of the Real Estate Settlement Procedures Act and the Truth in Lending Act.

SD–538

Governmental Affairs

To continue hearings to examine certain matters with regard to the committee's special investigation on campaign financing.

SH–216

Judiciary

To hold hearings to examine encryption, recovery, and privacy protection issues in the information age.

SD–226

Joint Economic

To hold hearings to examine tradable emissions, focusing on proposals to establish a Federal tradable emissions initiative to reduce environmental problems such as rain and minimize regulatory costs, preserve jobs, and lower production and consumer costs.

2325 Rayburn Building

11:00 a.m.

Energy and Natural Resources

To hold joint hearings with the House Resources Committee to review the final draft of the Tongass Land Management Plan.

SD–366

2:30 p.m.

Rules and Administration

To hold a briefing on the status of the investigation into the contested U.S. Senate election held in Louisiana in November 1996.

SR–301

Select on Intelligence

To hold closed hearings on intelligence matters.

SH–219

JULY 10

9:30 a.m.

Energy and Natural Resources

To continue joint hearings with the House Resources Committee to review the final draft of the Tongass Land Management Plan.

SD–366

Environment and Public Works

To hold hearings to examine issues relating to climate change.

SD–406

Labor and Human Resources

Employment and Training Subcommittee

To hold hearings on proposed legislation authorizing funds for vocational education programs.

SD–430

10:00 a.m.

Appropriations

District of Columbia Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1998 for the government of the District of Columbia.

SD–192

Banking, Housing, and Urban Affairs

Financial Services and Technology Subcommittee

To hold oversight hearings on financial institutions in the year 2000.

SD–538

Foreign Relations

To hold hearings on the nominations of Ralph Frank, of Washington, to be Ambassdor to the Kingdom of Nepal, John C. Holzman, of Hawaii, to be Ambassador to the People's Republic of Bangladesh, and Karl Frederick Inderfurth, of North Carolina, to be Assistant Secretary of State for South Asian Affairs.

SD–419

Governmental Affairs

To continue hearings to examine certain matters with regard to the committee's special investigation on campaign financing.

SH–216

Judiciary

Business meeting, to mark up S. 10, to reduce violent juvenile crime, promote accountability by juvenile criminals, and punish and deter violent gang crime, and S. 53, to require the general application of the antitrust laws to major league baseball.

SD–226

1:30 p.m.

Conferees on H.R. 2015, to provide for reconciliation pursuant to subsections (b)(1) and (c) of section 105 of the concurrent resolution on the budget for fiscal year 1998.

S–5, Capitol

2:00 p.m.

Appropriations

Business meeting, to mark up proposed legislation making appropriations for the Department of Defense, energy and water development programs, and the Legislative Branch for the fiscal year ending September 30, 1998.

SD–106

Energy and Natural Resources

National Parks, Historic Preservation, and Recreation Subcommittee

To hold oversight hearings to review the preliminary findings of the General Accounting Office concerning a study on the health, condition, and viability of the range and wildlife populations in Yellowstone National Park.

SD–366

Labor and Human Resources

Public Health and Safety Subcommittee

To hold oversight hearings on the Occupational Safety and Health Administration.

SD–430

Indian Affairs

To hold oversight hearings on the Administration's proposal to restructure Indian gaming fee assessments.

SD–562

JULY 11

9:00 a.m.

Appropriations

Commerce, Justice, State, and the Judiciary Subcommittee

Business meeting, to mark up proposed legislation making appropriations for the Departments of Commerce, Justice, State, and the Judiciary, and related agencies for the fiscal year ending September 30, 1998.

S–146, Capitol

9:30 a.m.

Rules and Administration

To resume a briefing on the status of the investigation into the contested U.S. Senate election held in Louisiana in November 1996.

SR–301

JULY 15

10:00 a.m.

Governmental Affairs

To resume hearings to examine certain matters with regard to the committee's special investigation on campaign financing.

SR–325

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

JULY 16

9:00 a.m.

Agriculture, Nutrition, and Forestry

To hold hearings to examine the importance of alternative fuels in addressing future national security concerns, focusing on agriculture's vulnerability to energy price volatility, the contribution of home-grown renewable alternative fuels, and the role of new technologies in making agriculture more energy efficient while increasing yields.

SR–332

Labor and Human Resources

Business meeting, to consider pending calendar business.

SD–430

10:00 a.m.

Governmental Affairs

To continue hearings to examine certain matters with regard to the committee's special investigation on campaign financing.

SR–325

Judiciary

To hold hearings to review the Global Tobacco settlement.

SH–216

2:00 p.m.

Judiciary

Antitrust, Business Rights, and Competition Subcommittee

To hold hearings on S. 539, to exempt agreements relating to voluntary guidelines governing telecast material from the applicability of the antitrust laws.

SD–226

JULY 17

9:30 a.m.

Energy and Natural Resources

To hold hearings on the nomination of Patrick A. Shea, of Utah, to be Director of the Bureau of Land Management, Department of the Interior.

SD–366

Environment and Public Works

To resume hearings to examine issues relating to climate change.

SD–406

10:00 a.m.

Governmental Affairs

To continue hearings to examine certain matters with regard to the committee's special investigation on campaign financing.

SR–325

2:00 p.m.

Judiciary

Immigration Subcommittee

To hold hearings on proposals to extend the Visa Waiver Pilot Program, including S. 290, to establish a visa waiver pilot program for national of Korea who are traveling in tour groups to the United States.

SD–226

Labor and Human Resources

To hold hearings to examine the quality of child care.

SD–430

JULY 22

10:00 a.m.

Governmental Affairs

To resume hearings to examine certain matters with regard to the committee's special investigation on campaign financing.

SR–325

Labor and Human Resources

To hold hearings to examine women's health issues.

SD–430

JULY 23

10:00 a.m.

Governmental Affairs

To continue hearings to examine certain matters with regard to the committee's special investigation on campaign financing.

SR–325

JULY 24

10:00 a.m.

Governmental Affairs

To continue hearings to examine certain matters with regard to the committee's special investigation on campaign financing.

SR–325

2:00 p.m.

Labor and Human Resources

Public Health and Safety Subcommittee

To hold hearings on proposed legislation authorizing funds for the National Institutes of Health, Department of Health and Human Services.

SD–430

JULY 29

9:00 a.m.

Agriculture, Nutrition, and Forestry

To hold hearings to examine the effect of the Federal Agriculture Improvement and Reform Act (P.L. 104–127) on price and income volatility, and the properrole of the Federal government to manage volatility and protect the integrity of agricultural markets.

SR–332

10:00 a.m.

Governmental Affairs

To resume hearings to examine certain matters with regard to the committee's special investigation on campaign financing.

SR–325

JULY 30

10:00 a.m.

Governmental Affairs

To resume hearings to examine certain matters with regard to the committee's special investigation on campaign financing.

SR–325

JULY 31

9:00 a.m.

Agriculture, Nutrition, and Forestry

To hold hearings to examine how trade opportunities and international agricultural research can stimulate economic growth in Africa, thereby enhancing African food security and increasing U.S. exports.

SR–332

10:00 a.m.

Governmental Affairs

To continue hearings to examine certain matters with regard to the committee's special investigation on campaign financing.

SR–325

POSTPONEMENTS

JULY 9

2:00 p.m.

Judiciary

Immigration Subcommittee

To hold hearings to examine the economic and fiscal impact of immigration.

SD–226

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